UNITED STATES OF AMERICA

Congressional Record

PROCEEDINGS AND DEBATES OF THE *103d* CONGRESS
FIRST SESSION

VOLUME 139—PART 13

AUGUST 2, 1993 TO AUGUST 5, 1993
(PAGES 18067 TO 19530)

GENERAL SERVICES ADMINISTRATION
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UNITED STATES GOVERNMENT PRINTING OFFICE, WASHINGTON, 1993

69-059 O—97 Vol. 139 (Pt. 13) 1

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PROCEEDINGS AND DEBATES OF THE 103^{d} CONGRESS, FIRST SESSION

SENATE—*Monday, August 2, 1993*

(Legislative day of Wednesday, June 30, 1993)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the Honorable PATTY MURRAY, a Senator from the State of Washington.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

If any of you lack wisdom, let him ask of God, that giveth to all liberally, and upbraideth not; and it shall be given him.—James 1:5.

Eternal God, prominent, powerful, proud people find it difficult to acknowledge their need of Divine help. But the men and women of the Senate are dealing with cosmic problems which have global significance for millions of people. Help them to realize their own inadequacy and the limitations of legislation. Grant to the Senators grace to seek transcendent guidance.

Father in Heaven, grant special wisdom in dealing with bureaucracy in government which develops a life of its own. As cancer to the body, bureaucracy is to the institution. Feeding on healthy tissue around it, it is uncontrolled growth, self-perpetuating, and destructive. Give special wisdom, gracious God, in dealing with this voracious monster.

In Jesus' name Who is Life and Light. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, August 2, 1993.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable PATTY MURRAY, a Senator from the State of Washington, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mrs. MURRAY thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business, not to extend beyond the hour of 10:30 a.m., with Senators permitted to speak therein for up to 5 minutes each, with the time until 10:30 a.m. to be equally divided between the Senator from Michigan [Mr. LEVIN], and the Senator from North Dakota [Mr. DORGAN].

Mr. DORGAN addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from North Dakota.

NORTH AMERICAN FREE-TRADE AGREEMENT

Mr. DORGAN. Madam President, today Senator LEVIN and I are going to send a letter to President Clinton that will be signed by six of us in the U.S. Senate, dealing with the subject of the North American Free-Trade Agreement. We send this to President Clinton as supporters of the President, as friends of this administration, but we send it hoping that this President will not send to this Congress the North American Free-Trade Agreement, or the United States-Mexico Free-Trade Agreement, for implementation.

We are saying in the letter:

> We do not think it is possible to fix a fundamentally bad agreement, and we ask you today not to submit this agreement to Congress. We ask you to reject this flawed agreement and renegotiate one that represents the best economic interests of this country.

This trade agreement, called NAFTA, but more properly a free-trade agreement between the United States and Mexico, was negotiated by the Bush administration, inherited by the Clinton administration, and the Clinton administration says it intends to advance it. In my judgment, that would be a very serious mistake.

We have some experience with free-trade agreements. Some work, some do not. The most recent free-trade agreement was with Canada. My experience with that, coming from the agricultural area of this country, is that the United States negotiators of the United States-Canada Free-Trade Agreement just sold out the American Farm Belt, just sold out our interests, and they gained, I am sure, some other concessions for that in the agreement with Canada. But they sold out our economic interests in a way that is very detrimental to the Farm Belt. We are now trying to straighten out and deal with the problems of the United States-Canada Free-Trade Agreement, and we are trying, largely unsuccessfully, to solve those problems.

I regret the Bush administration saw fit to run off and try and develop another trade agreement before it had solved the problems in the United States-Canada Free-Trade Agreement. But, nonetheless, it did that.

Let me give some examples. We were promised in writing by the Reagan administration that the United States-Canada Free-Trade Agreement had an implicit understanding between the negotiators that there would not be a flood of grain coming down into our country. There would not be a flood of subsidized or unfair trade in the area of grain trade coming into our country, following the ratification of the United States-Canada Free-Trade Agreement. But, of course, that was not worth the paper it was written on. The minute that trade agreement was implemented by the Congress, we began seeing a flood of unfairly subsidized Canadian grain that competes in durum markets, wheat markets, barley markets in a

● This "bullet" symbol identifies statements or insertions which are not spoken by a member of the Senate on the floor.

way that our farmers simply cannot compete with.

When we tried to respond to that, when we tried to seek the remedies under law that existed for that, we were thwarted at virtually every turn because of the agreements our trade negotiators had made with the Canadians.

So I have had some experience with the trail of broken promises in free-trade agreements.

For that reason, I am not anxious to see another trade agreement come to the floor of the Senate or the House. I might say that our Trade Ambassador, Mickey Kantor, is a breath of fresh air these days because at least he is weighing in, in a helpful way, with the Canadians. That certainly was not the case with Ambassador Hills, and certainly was not the case with Ambassador Yeutter.

I do compliment the current Trade Ambassador, Mickey Kantor. He is wrestling with these problems. Had the United States-Canada Free-Trade Agreement been negotiated properly, we would not have these problems to wrestle with. Now we are being asked, before we resolve those problems, let us go to Mexico, let us have a NAFTA or United States-Mexico Free-Trade Agreement. And the issue here with Mexico is the same as the issues with Canada except it differs in one important respect. We have radically dissimilar economies, Mexico versus the United States. When the European Community tried to put together a common market they had a real problem with Spain and Portugal because their economies were radically dissimilar to the rest. So they put a pile of money together and a long, long transition period and then began to phase them in. But not in this United States-Mexico Free-Trade Agreement. It says just latch together two economies, one of which has one-tenth the wage level as the other. The fact is, it will cause severe dislocations.

The issue, in my judgment, is not just agriculture—and there are plenty of agricultural issues with the United States-Mexican Free-Trade Agreement. Some say, "Well, agriculture is for this." Some of agriculture is for it. The big food companies are certainly for it.

This is a trade agreement written for and driven by the largest economic enterprises in this country. They want to produce elsewhere and sell in our markets. It is true with the giant food corporations, the food processing companies—it is true with virtually all of big American economic enterprise. They would love to produce where they can get dollar-an-hour wages and then sell back into our marketplace.

I recently read a report that most everyone, I am sure, read. It said 1,000 jobs were moved from Mexico to the United States. Gosh, it was in the news over an entire weekend, a big story: A thousand jobs were moved from Mexico back to the United States, as if it were a trend. It is a very interesting public relations approach.

Here is a report put out by the Hemispheric Education Resource Center at Albuquerque, NM, a nonprofit organization. This report talks about 100,000 jobs—just those they have been able to chronicle—that have moved from the United States to Mexico. You have not seen too many stories about that, but when 1,000 jobs move from Mexico to the United States, it is news for 4 days. We have lost hundreds of thousands of jobs. This chronicles 100,000 of them. We are going to lose many, many more jobs unless this agreement is scuttled and a new agreement is developed.

Recently, Lester Thoreau, an economist, testified before a committee I serve on, and I asked him: Is it not inevitable that wages will be homogenized across the United States and Mexico with respect to these free-trade agreements?

Will we inevitably see lower wages in the United States as a result of trade agreements such as the Mexican agreement? And he said only for two-thirds of the American workers.

Let me repeat that. Will wage rates go down in this country inevitably as a result of agreements like the Mexican trade agreement? Only for two-thirds of the American workers, he says. The other third will probably see an increase in wages.

We are off now with an attempt to take what the Bush administration negotiated and add side agreements and hope that the side agreements will persuade enough people that a flawed trade agreement is sufficient so that they would vote for it.

Ann Richards of Texas used to talk about putting earrings on a hog. She says, "You can put earrings on a hog and call it Monique, but it is still a hog."

Side agreements from now until Sunday are not going to change the basis of this trade agreement. This trade agreement, in my judgment, will cost us hundreds of thousands of jobs, will erode the economic strength of this country, and is antithetical to everything we are talking about with respect to creating new jobs with the Clinton economic plan.

I would support the development of trade agreements in this hemisphere in which we can better compete with other trade blocks, the Pacific rim, the EC, and others. But to run off and create a trade agreement within this hemisphere in which we set up competition for jobs between us and Mexico makes no sense at all. That will weaken, not strengthen, our country.

My hope is that we would decide we will not advance this United States-Mexican Free-Trade Agreement, this administration will not push it, and we will develop a new trade strategy, one in which you can tell the difference between the Bush administration and the Clinton administration. We need a new trade strategy that says it is in our interest to strengthen our economy by maintaining long-term manufacturing strength in our country's future.

The Hufbauer-Schott Report, which is the study most frequently cited to advance the claims in the United States-Mexico Free-Trade Agreement, is very interesting. I simply want to call this study to my colleagues' attention because it is important if you believe, as some argue, that rather than losing jobs, this United States-Mexico or NAFTA agreement will actually create new jobs in America. I say look carefully at the studies. The most frequently cited study to support the claim that this is good for America is the Hufbauer-Schott study.

An interesting point about this study: Two-thirds of the new investment in Mexico today comes from the United States. This authoritative study assumes that of the new investment in Mexico following the implementation of the United States-Mexican agreement, none of the new investment in Mexico will come from the United States—none, zero.

It assumes that as we implement this free-trade agreement, this country has full employment. The fact is, those who cite these kinds of studies to support the economic claims for this trade agreement, in my judgment, make a critical error. And we cannot afford an error, we cannot afford a mistake when we are talking about the kind of economy we have and the kind of economy we are trying to build.

We have plenty of trouble in this country, Madam President. We have to go about finding new jobs for the American people and create economic conditions in which we have expansion and new economic opportunity. But that will not happen if we advance fundamentally flawed trade agreements which will take from rather than give jobs to those in our future.

That is why Senator LEVIN and I and others of our colleagues have signed a letter to President Clinton respectfully asking that this administration consider not sending this trade agreement to Congress for ratification. We believe it would be a mistake. We are not some group of people who should be painted as isolationists who are opposed to all trade agreements. We do believe, however, that there is a difference between an agreement which represents our best economic interest and an agreement of the type we have seen that is being discussed today that is called NAFTA.

We hope, in the months ahead, as this is discussed, the administration will conclude it is not in the country's economic interest to advance this trade proposal.

I am pleased to be a coauthor of this letter with my colleague, Senator

LEVIN, from Michigan, who I think has done a lot of excellent work on trade and other issues and whose views I respect deeply.

Madam President, I yield the floor.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Michigan controls the time from now until 10:30.

NAFTA IS UNFAIR FOR THE UNITED STATES

Mr. LEVIN. Madam President, I thank the Senator from North Dakota for the work he has done on NAFTA, the way he points out that a fundamentally flawed agreement cannot be cured with side agreements; it should be renegotiated. The letter which we are sending to the President with a number of our colleagues makes that point. NAFTA also should not be sold with studies that ignore half the picture, with studies such as the Department of Commerce report, which shows what jobs might be created State by State with additional exports to Mexico, ignoring totally imports from Mexico which reduce jobs here and leave us with a net job gain or job loss. But it is that net which should be looked at, not just jobs that might result from exports.

Madam President, there are a number of parts of the text of the North American Free-Trade Agreement that make it an unfair agreement to the United States. Today, I wish to point out a number of flawed provisions in NAFTA's auto section and urge the President to reopen the NAFTA text to correct these and other flaws.

First, as this chart shows, under NAFTA, Mexico's discriminatory trade laws against United States manufactured automobiles would not be eliminated for 10 years. Mexico discriminates against United States-assembled autos by requiring auto manufacturers to produce in Mexico in order to sell in Mexico and requiring manufacturers in Mexico to export $1 worth of automobiles for each dollar's worth of imported automobiles. The result of these Mexican laws is that almost no United States-assembled cars can be shipped to Mexico. These discriminatory restrictions against United States-assembled cars are only slowly phased out over a 10-year period under NAFTA.

As you can see from this red line at the bottom of the chart, the United States has no equivalent restrictions.

Further, as the next chart shows, Mexico's current laws require auto manufacturers in Mexico to purchase 36 percent of the parts from Mexican parts manufacturers.

Mexico's discriminatory law would also not be eliminated for 10 years under NAFTA. It would drop from 36 to 34 percent for 5 years, and then drop 1 percent per year to 29 percent in the last year before termination.

Again, as you can see from this red line representing the United States, the United States has no such protection. Mexico's discriminatory laws have helped Mexico dramatically increase her manufacturing of automobiles.

If we allow discriminatory provisions to remain for even 1 year, that is a 1-year additional drain on American jobs. If this is supposed to be a balanced agreement, why do we allow Mexico's discriminatory restrictions to exist for 10 more years? Why do we not put the same restrictions on cars assembled in Mexico that they place on ours and phase out our restrictions over 10 years at the same pace that they phase out their restrictions on our cars?

It is tough enough to compete against $1 an hour labor and weak enforcement of environmental, safety, and child labor laws without tolerating discriminatory restrictions against our products for even 1 more year.

President Clinton was right on February 22, 1993, when he stated that in terms of international trade agreements "we can no longer afford to wait for 10 years while someone does something to us that we do not respond to." NAFTA's auto provisions do not meet that guiding principle.

Second, NAFTA should contain a North American content requirement high enough to ensure that vehicles and parts passing duty free across the Canadian and Mexican borders actually have been built in the three NAFTA countries. The NAFTA rule of origin formula is deficient by allowing many nonmanufacturing expenses, such as royalties and interest on debt, to be counted toward the value of the vehicle.

Third, certain provisions contained in the NAFTA text will encourage small car and light truck production to relocate from the United States to Mexico. Relative to cars, the NAFTA text allows cars produced in Mexico to be counted as domestic American cars after 3 years for purposes of corporate average fuel economy [CAFE] standards. This will provide American automakers an incentive to shift small car production to Mexico since they no longer would need to make the most fuel efficient cars in the United States to help them meet overall fuel economy standards for their domestic fleet.

This chart shows that almost half of the Big Three's domestic fleet is made up of small cars, the manufacture of which could move to Mexico and still count as domestic under NAFTA.

Why would we make such a huge unreciprocated concession to Mexico, and why would we allow this concession to be phased in within 3 years when Mexico will not phase out its discriminatory practices against our vehicles for 10 years?

Relative to light trucks, the reduction of the United States tariff on light trucks from 25 to 10 percent immediately and to zero in 5 years combined with Mexico's low wages also provides a strong incentive for light truck production to be established or relocated to Mexico.

Notice that our truck tariff is eliminated over 5 years. Contrast that to the phaseout or phasedown over 10 years that are allowed Mexico for their discriminatory practices against our products. It is beyond me why American negotiators would agree to such unequal incremental phaseouts. That is not a level playing field.

Fourth, the auto tariff phaseout under NAFTA is even more unfairly skewed in Mexico's favor. The U.S. tariff on imported autos of only 2½ percent is immediately reduced to zero under NAFTA. Mexico's auto tariff stands at 20 percent and will be reduced only to 10 percent in the first year, and then only slowly phased out to the end of the century.

These are just some of the unfair auto provisions in NAFTA. And they must be considered in the broader context of Mexico's growing auto production.

Mexico's auto production and auto sector employment have grown by 833 percent from 1982 to 1991. Not only is Mexico's auto market undergoing extraordinary expansion, it is increasingly exporting its vehicles to the United States and Canada. Mexican car production for export grew from only 18 percent in 1986 to 478 percent by 1991.

This means that most of the growth in Mexico's auto market production is coming to the United States and Canada, not staying in Mexico for consumption. Mexico's exponential growth in auto production and employment is coming at a time when American auto production and employment is experiencing decline and overcapacity. The United States auto industry lost 33 percent in auto production and 24 percent in auto sector employment over the same period.

The argument is made, look, you have lost jobs before NAFTA—and that is true. It is true because we allowed discriminatory restrictions against American-made cars without placing equivalent restrictions on cars made in Mexico coming here.

The answer is not to make Mexico's discriminatory provisions part of our law under NAFTA and just phase them down or out over 10 years. The answer is to place the same restrictions on Mexican-made cars that they place on United States cars and to phase our restrictions out on their cars at the same pace that they phase their restrictions out on ours.

So, Madam President, under NAFTA, Mexican auto protections and restrictions would be allowed to remain in place on a gradual phase down basis for 10 years while the United States has no equivalent protections or restrictions.

We have already lost in this country 2½ million manufacturing jobs since 1979. NAFTA will only add to that tragic number. We should be looking for ways to create manufacturing jobs in the United States, not shift them to low-wage countries. NAFTA will be draining more auto manufacturing jobs from the United States to Mexico, and that is why the side agreements will not do the job. The NAFTA text needs to be reopened so that its inherent flaws can be corrected.

Madam President, I thank the Chair. I thank my good friend from North Dakota for his great effort in this regard.

I yield the floor.

Mr. BAUCUS addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Montana.

Mr. BAUCUS. Madam President, parliamentary inquiry: Would the Chair please state the present parliamentary situation?

The ACTING PRESIDENT pro tempore. The Senate is conducting morning business until the hour of 10:30.

Mr. BAUCUS. Madam President, seeing no other speakers who wish to speak on the subject, I ask unanimous consent to speak as if in morning business for 15 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BAUCUS. Madam President, thank you.

REACTION TO TAX CONFERENCE

Mr. BAUCUS. Madam President, I rise today to congratulate Chairman MOYNIHAN and Chairman ROSTENKOWSKI on the conference report to the President's budget plan.

The final agreement on the package is now imminent, and without their courage, their leadership, this monumental package would not have been possible. We all owe them a great debt of gratitude.

But, Madam President, in the conscientious debate over one particular portion of that budget—the energy tax—a number of misconceptions have arisen that I feel compelled to correct.

First, I believe this Nation would benefit from a broad-based energy tax as the President originally proposed. I was and am prepared to vote for a broad-based energy tax. Unfortunately, that is not what passed the Senate. That is not what is included in the conference report. Instead, the broad-based tax has been replaced with a simple gasoline tax about which I have serious reservations. A gas tax may be simple to administer, but the increased gas tax in this bill has none of the environmental and conservation virtues of a broad-based tax. Nevertheless, it is set at a very high level which would be very burdensome for consumers. The gas tax does little to stimulate conservation and protect the environment. Drivers do not have choices of alternative fuels and most have no choice but to drive to work and to get groceries. By and large, they just pay the tax and do not change their behavior. So there are no real environmental benefits. The gasoline tax in the conference report is a revenue plug, not an environmental tax.

Second, the most important reason that I oppose the gas tax is that it is a tax directly upon the middle class, something we pledged to avoid in the election. If I was convinced we had exhausted all other options—spending cuts, taxes on the wealthy, and taxes on large corporations to control the deficit—then I would be willing to look at taxes on the middle class.

But, Madam President, we have not exhausted any of those options. I believe there is room for still more spending cuts. There are good programs like the superconducting super collider that I have supported in the past that I will vote to cut this year because we simply do not have the money. We will soon be forced to do more with entitlements.

There is also revenue to be gained from cutting corporate loopholes like the so-called section 936 provision. I have difficulty supporting a tax on middle class to pay for corporate loopholes. Most troubling is that we have cut the gas tax on large corporations with more than $10 million in taxable income below that paid by individuals. That rate could easily be made equal to the top individual rate to generate billions of dollars.

I believe there is also more money that could come from the wealthy. But all of the interests I have just mentioned are defended by powerful lobbies and are thus hard to cut or tax.

The middle class have no lobbyists. If we had squeezed more deficit reduction from spending cuts, I would support taxes on the middle class. But with more to be done in each of those areas, I have serious concerns about taxing the middle class.

Finally, as President Clinton argued during the campaign, the gas tax is simply a "bad tax." It is regressive, and it falls most heavily on individuals living in rural areas. There has been a rash of misinformation and irrelevant information on this issue. So I would like to introduce a table from the Department of Transportation indicating per capita gas consumption by States and a study on the topic from the Congressional Budget Office.

I ask unanimous consent that this material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Consumption ranked by State

	Gallons per capita
Wyoming	987
North Dakota	707
Arkansas	677
Montana	673
Georgia	670
South Dakota	669
New Mexico	668
Alabama	652
Missouri	635
Oklahoma	623
Nevada	620
Mississippi	615
Kentucky	613
Nebraska	609
South Carolina	608
Indiana	602
Vermont	595
Idaho	590
Tennessee	584
Kansas	578
Texas	578
Iowa	572
North Carolina	571
Maine	569
Delaware	559
Virginia	556
West Virginia	555
Arizona	539
Washington	534
Minnesota	530
Florida	521
United States average	519
Louisiana	518
Wisconsin	514
Michigan	509
New Hampshire	507
Utah	504
Ohio	494
Maryland	491
Colorado	491
New Jersey	488
Oregon	485
Alaska	482
California	479
Illinois	457
Connecticut	457
Pennsylvania	456
Massachussetts	427
Rhode Island	407
Hawaii	369
New York	348
District of Columbia	282

Cost per capita ranked by State

	Percent of personal income
Wyoming	0.413
Arkansas	.320
Mississippi	.319
New Mexico	.319
North Dakota	.306
Montana	.306
South Dakota	.295
Alabama	.293
Oklahoma	.281
South Carolina	.278
Kentucky	.271
Georgia	.270
West Virginia	.269
Idaho	.268
Missouri	.246
Tennessee	.246
Indiana	.244
Louisiana	.241
Utah	.240
North Carolina	.236
Texas	.236
Nebraska	.233
Vermont	.231
Arizona	.230
Iowa	.228
Maine	.228
Nevada	.223
Kansas	.218

	Percent of personal income
Wisconsin	.200
Virginia	.197
Florida	.196
Oregon	.195
Ohio	.194
Minnesota	.193
Washington	.191
United States average	.191
Michigan	.190
Delaware	.190
Colorado	.178
California	.164
Pennsylvania	.164
Alaska	.163
New Hampshire	.161
Maryland	.156
Illinois	.154
Rhode Island	.146
New Jersey	.135
Massachusetts	.130
Hawaii	.127
Connecticut	.124
New York	.108
District of Columbia	.078

CBO STUDY—ADDITIONAL POLICY CONCERNS IN THE DESIGN OF TAXES

In comparing energy taxes or any other taxes, one should also consider the distribution of the tax burden among income groups and regions, the effects of the tax on specific energy-using industries and producers of energy, and the cost of administering the tax.

EFFECTS OF ENERGY TAXES AMONG INCOME GROUPS

Energy taxes will raise the cost of energy consumed by households and industry. Households will ultimately also pay for the increased energy costs to industry in the form of higher prices of goods and services that use energy in their production and distribution. In short, an energy tax is a form of a tax on consumption with different impacts on consumers, depending on the proportions of different goods and services they consume.

One measure of the tax burden is the ratio of annual taxes to the cash income of families. By this measure, taxes on consumption are regressive; the tax burden on low-income families as a portion of their annual income is larger than the tax burden on high-income families. The reason is that, in general, families with higher incomes consume a smaller fraction of their income in any year than do lower-income families.

The use of annual data, however, overstates the degree to which consumption taxes disproportionately affect low-income families. People whose income is temporarily low typically do not reduce consumption by as much as their drop in income. At the same time, people whose income is temporarily high save a large proportion of their increase in income. People consume a smaller fraction of their income in their middle years, when their earnings are relatively high, than they consume when young or old. Economists who have measured consumption taxes on a lifetime basis find that they are still regressive, but not as regressive as annual measures show.

Energy taxes can be more or less regressive than more broadly-based consumption taxes, depending on whether the ratio of energy consumption to total consumption declines or increases with income. The distributional burden of energy taxes also depends on the relative rates applied to different forms of energy. Taxes on consumption of energy products that account for a relatively large share of expenditures of low-income families (such as electricity) are more regressive than taxes on energy products, which account for a relatively larger share of consumption by middle-income families of items such as gasoline.

CBO has made preliminary estimates of the distributional effect among income groups of increases in energy taxes. These estimates distribute the burden of direct increases in costs of energy products (home-heating oil, natural gas used by households, electricity, and highway motor fuels) to families in proportion to their consumption of those products. The estimates then distribute the burden of increases in the costs of industry to families in proportion to their consumption of all goods and services (see Table 2).

TABLE 2.—ENERGY TAX AS PROPORTION OF CASH INCOME

[In percent]

	Families ranked by income quintile				
	Bottom	Second	Third	Fourth	Top
President's Btu tax	1.1	0.7	0.6	0.5	0.3
Btu tax	1.1	.7	.6	.5	.3
Oil excise tax	1.0	.7	.6	.5	.3
Motor fuels tax	1.0	.7	.6	.5	.2
Ad valorem energy tax on households	1.3	.8	.6	.5	.2

Note.—The President's Btu option is simulated at 1994 levels with the tax fully phased in. All options increase revenues by the same amount. The tax change includes both the direct tax on energy consumed by households and the indirect effects of taxes on energy consumption by businesses. It also includes the effects of increased benefits and lower taxes that result from indexing COLA's and income tax exemptions, the standard deduction, and bracket widths to reflect the effect of energy taxes on the consumer price index. Family rankings include an adjustment for differences in family size.

Source: CBO tax simulation model. Consumption data from U.S. Bureau of Labor Statistics, Consumer Expenditure Survey and U.S. Bureau of Economic Analysis, National Income and Product Accounts.

Although all of the energy tax alternatives are regressive when measured as a percentage of income, some are less so than others. For proposals that raise the same total revenue, an ad valorem tax on final energy consumption would impose the largest tax burden relative to income on families in the lowest income quintile and a motor fuels tax or oil excise tax would impose the smallest burden. The president's proposal and a general Btu gas would impose approximately the same burden as a share of income on the lowest quintile—less than an ad valorem tax on all energy, but more than a motor fuels tax. All of the alternatives would impose approximately the same burden on households in the top three quintiles.

All the proposals except for the ad valorem energy tax increase taxes as a percentage of total expenditures by about the same amount in each income quintile (see Table 3). Thus, the President's proposal has about the same distributional burden as a general tax on all consumption. An ad valorem energy tax would be slightly more regressive than a general consumption tax.

The distribution of the tax burden among income groups depends on the entire gas system, and just the relatively small share of total taxes that the proposed energy tax or an alternative consumption tax will raise. It is possible to offset the impact on low-income families by a combination of other changes in tax and spending programs. For example, the Administration's budget proposal will assist some low-income families by increasing the earned income tax credit and will raise most of its additional revenue from high-income by increasing income taxes on tax returns with taxable income in excess of $115,000.

TABLE 3.—ENERGY TAXES AS A PROPOSITION OF TOTAL EXPENDITURES

[In percent]

	Families ranked by income quintile				
	Bottom	Second	Third	Fourth	Top
President's Btu tax	0.5	0.5	0.6	0.6	0.5
Btu tax	.5	.5	.6	.6	.5
Oil excise tax	.5	.6	.6	.6	.5
Motor fuels tax	.5	.6	.6	.6	.5
Ad Valorem energy tax on households	.6	.5	.6	.5	.4

Note.—The President's Btu option is simulated at 1994 levels with the tax fully phases in. All options increase revenues by the same amount. The tax change includes both the direct tax on energy consumed by households and the indirect effects of taxes on energy consumption by businesses. It also includes the effects of increased benefits and lower taxes that result from indexing COLAs and income tax exemptions, the standard deduction, and bracket widths to reflect the effect of energy taxes on the consumer price index. Family rankings include an adjustment differences in family size.

Source: CBO tax simulation model. Consumption data from U.S. Bureau of Labor Statistics, Consumer Expenditure Survey and U.S. Bureau of Economic Analysis, National Income and Product Accounts.

EFFECTS OF ENERGY TAXES ON REGIONS

Alternative proposals for taxing energy will affect households in various regions of the country quite differently, depending on their patterns of direct consumption of energy. Households in the Northeast, for example, use much more home heating oil than households in other regions; households in the West and South use somewhat more gasoline (see Table 4).

All of the taxes increase direct energy costs more for rural households (about 15 percent of the population) than for urban households. Moreover, all of the taxes except for the motor fuels taxes raise costs relatively less for households in the West. The President's proposal and an oil excise tax would raise costs relatively more for households in the Northeast.

The direct impact on households generally is largest for the ad valorem on final energy consumption because final consumers pay the entire tax. In contrast, because businesses pay a portion of the other taxes, they affect the prices of all goods that households consumes and not just energy. The President's proposal and the single-rate Btu tax have the smallest direct effects on households. Because these taxes include both industrial uses and coal (which is mostly used by industry and affects households directly only through purchases of power generated by coalfired utilities), they have the smallest direct effect on household energy costs.

TABLE 4.—INCREASED DIRECT ENERGY COSTS PER HOUSEHOLD

[In 1994 dollars]

	Urban Households					
	Northeast	Midwest	South	West	Rural	Total
President's Btu tax	107	103	102	94	128	105
Btu tax	98	98	94	83	111	96
Oil excise tax	130	116	122	119	169	128
Motor fuels tax	157	170	181	179	219	179
Ad Valorem energy tax on households	240	243	241	206	289	241

Note.—These taxes all raise the same amount of revenue, but vary in the degree to which households pay the higher fuel costs directly. For example, the Ad Valorem tax would impose a larger direct burden on households, but would not impose a larger total burden when indirect effects on industry are taken into consideration.

Source: See table 2 for sources.

INDUSTRIES

Another way to see which individuals would be most affected by particular energy taxes is to look at which industries are most affected. Just because an industry uses a lot of energy, it does not mean it will be harmed by higher energy costs. As I mentioned earlier, the real losses that an industry and its employees will incur will depend on the ability of that industry to switch to lower-taxed fuels (or conserve energy) and the competitive circumstances that would allow them to pass any higher costs on to consumers.

Excluding the energy-producing and conversion sectors, iron mining, chemicals, primary iron and steel manufacturing, and plastics (in that order) would experience the biggest increase in their output costs resulting from any across-the-board increase in energy prices. The competitive ability of each of these industries to pass on higher taxes is probably limited, given the global scope of their markets.

However, the technical ability of each industry to switch out of high-taxed fuels at low cost (either to low-taxed fuels or to capital and labor by way of conservation) would vary significantly. Plastics and chemicals that depend on oil inputs would have little alternative and would be most harmed by oil taxes unless, as in the President's proposal, they are exempt. Other industries that use energy mainly as a source of heat could switch more easily among energy sources over time.

ENERGY PRODUCERS

A further concern about distribution relates to how much of the tax consumers pay (in terms of higher post-tax energy prices) and how much domestic energy producers pay (in terms of lower pretax energy prices). The relative incidence of the tax on energy consumers and producers will vary with the particular forms of energy being taxed and the changes in demand for energy that result from changes in relative energy prices to users at the end point.

Costs to any particular group of fossil energy producers will not be commensurate with the size of the tax on that energy source; they will generally be much less. For example, under the President's proposal, the Btu tax on petroleum would have a minimal effect on crude oil prices to producers and demand for domestic crude oil, since the marginal source of oil is imported and domestic prices are determined by world markets. As a result, the burden of the tax would fall heavily on oil consumers.

The burden of any tax on natural gas is likely to be split among producers and consumers if relative taxes are such that natural gas demand would fall. Gas supply is not very sensitive to changes in price, so pretax prices to natural gas producers could drop if the demand for gas fell. However, the net effect of the President's plan on the demand for gas is not clear. The natural gas market may pick up some new customers who switch from oil. At the same time, it will be threatened by increased competition from electricity.

Despite high increases in coal prices under the Clinton and other plans, pretax coal prices would change little, since coal supply responds nicely to price changes. Coal production would fall if the demand for coal dropped, which would increase the burden on coal producers. However, demand for coal itself may not change under the energy tax described by the President or other broad-based tax proposals. The percentage increase in coal prices with a new tax is not as important as the resulting percentage increase in electricity prices relative to competing energy forms.

THE COST OF ADMINISTRATION

In general, the costs of administering any tax are minimized by collecting the tax from fewer sources. For energy, this process would mean assessing the tax on crude oil or refined products at the refinery, on natural gas at the hookup to trunk pipelines, coal at the minemouth, and electricity at the utility.

Further cost advantages exist where the new tax can take advantage of existing mechanism for collecting taxes (for example, superfund taxes on oil, black-lung taxes on coal, and federal excise taxes on gasoline).

Some important considerations affect the cost of administering any broad-based energy tax. A Btu tax assessed on crude oil at the refinery gate would be easier to administer than one on all products (unless, perhaps, the unit tax would vary with the heat content of every oil shipment). Petroleum product taxes assessed upstream (at the refinery or some wholesale distribution point) would be easier to administer than those assessed at the retail level, since there would be fewer collection points to monitor. The same consideration applies to coal taxes. If collected at the minemouth, they could be relatively cheap to administer. If the unit taxes varied with the heat content of each coal source, however, the costs would rise. One cost-effective point for taxing natural gas would be at the place it enters the main interstate or intrastate trunk pipelines, since it would leave only a small number of pipeline companies to monitor. Another point might be at the city gate.

A VALUE-ADDED TAX

Taxes imposed on energy use primarily affect consumers by increasing the cost of operating motor vehicles, heating homes, and using electricity. Moreover, because the production and distribution of other goods for consumption require energy, energy taxes raise the prices of these goods too, but by much less.

Broad-based consumption taxes such as the retail sales tax or the value-added tax (VAT) are levied on consumption in a more evenhanded way. Because they do not single out energy use, they have a much more neutral effect on consumer behavior. But by having a more neutral effect on behavior, they do not encourage energy conservation.

A value-added tax is similar to a retail sales tax, but it is collected in a different way. Instead of collecting the tax on consumer purchases all at once at the retail level, a VAT collects the tax in stages as goods and services are produced and marketed. Collecting the VAT in stages discourage tax evasion and allows businesses to recoup the tax they pay on their purchases.

An important disadvantage of a VAT is the high cost of administering and complying with the tax. Based on typical costs for administering and complying with a VAT in Europe, CBO estimates that the annual cost in the United States would be $5 billion to $8 billion, involving at least 7 million businesses. Thus, a VAT would not be particularly cost effective if it were adopted at a rate that only brought in the revenue that the President has called for from his proposed energy tax ($22 billion annually).

In contrast, energy taxes would be collected from a relatively small number of energy producers, refiners, and utilities. In addition, the energy tax could be "piggybacked" on the existing mechanism for tax collection (including superfund taxes on oil, black-lung taxes on coal, and federal excise taxes on motor gasoline) and collected at a relatively low cost. Granting tax exemptions or tax rebates to energy users for any reason, however, would increase the complexity of an energy tax and add to the costs of administering and complying with it.

CONCLUSION

No one likes taxes, but if we are to deal meaningfully with the rising deficit, we must be prepared to swallow the strong medicine of reduced spending, increased taxes, or both. A broad-based energy tax can be a constructive component of a tax package, with the added benefit of contributing modestly to environmental and energy security goals. An even broad-based value added tax could also contribute constructively to increased tax revenues, although at the level of revenues proposed by the President ($22 billion in 1998), a VAT would not be cost-effective for the United States.

Mr. BAUCUS. The Department of Transportation chart demonstrates that citizens in rural States like Arkansas, North Dakota, South Dakota, Wyoming, and Montana, are forced to consume two to three times as much gasoline as citizens of New York and the District of Columbia. Thus, citizens of rural States may pay two to three times as much under a gasoline tax. The CBO confirms this point by noting that citizens of rural States, on average, pay 20 to 25 percent more than citizens of urban States under a gas tax. That simply is not fair.

Some have offered statistics on commuting time and other factors and argue that gas prices are relatively low, to counter this point. But those arguments simply do not hold water. Commuting time has little to do with the actual burden of gasoline taxes, since much of the commuting, particularly in urban areas, is done by means other than driving, such as the subway.

The fact that gas prices are now low is of little relevance. The prices may be low now; remember, this is a 5-year budget package. Will prices be low in 5 years? Even if they were, is that a reason in and of itself to apply a regressive and unfair tax? I do not think so.

If we are truly trying to reduce the deficit, we should look for cuts in taxes that fairly distribute the burden, not those that unfairly hit one area or another.

For all those reasons, Madam President, I have argued against the gasoline tax. But this conference report has a 4.3 cent per gallon gasoline tax in it, and I will vote for the package. I will vote for it because I do not want to let perfection be the enemy of the good.

The deficits we have run up have already laid a $4 trillion debt on the backs of our children. Fast action on the deficit is the best way to increase business confidence and keep interest rates low so jobs can be created by expanding businesses, and people can refinance their mortgages. To achieve those important goals, I will tolerate the small gas tax but, make no mistake about it, the gas tax is a weak spot in the package, and I have serious concerns about any future expansion of it.

TAKING STOCK OF THE CLEAN AIR ACT AMENDMENTS OF 1990

Mr. BAUCUS. Madam President, earlier this year when I became Chairman of the Committee on Environment and Public Works, I decided that before the committee jumped head-first into reauthorizing our various environmental statutes, we needed to take a step back—to evaluate the progress we have made over the last several decades in meeting our environmental challenges. What works? What does not work? These are the questions that we needed to address.

Since the beginning of this year, our committee has held a series of what I call taking stock hearings. We have heard from representatives of government, industry, environmental groups, and many others. These hearings have been critical in helping me and other members of the committee define what obstacles we face and, more importantly, what our environmental priorities should be in the years ahead.

These hearings also demonstrated two very important matters: First, that while we have made a great deal of progress during the last 20 years in tackling many of our environmental problems, we now face new ones which are more subtle, more complex, and more politically challenging than those we have faced in a very long time.

At our last taking stock hearing, held several weeks ago, we heard from two former EPA Administrators—William Ruckelshaus and Russell Train—as well as the two cochairs of President Clinton's Commission on Sustainable Development—Jonathan Lash and David Buzzelli.

While they disagreed on many issues, there was a striking consensus among the panelists that, of all our environmental statutes, the Clean Air Act is one of the most effective laws Congress has passed to improve the quality of our environment.

As one of the primary sponsors of the 1990 Clean Air Act Amendments, I was particularly gratified by their evaluation of our last major environmental achievement. But, that assessment, frankly, sounded too good to be true.

The Clean Air Act has been successful in addressing some of the major environmental problems in our Nation, such as virtually wiping out air pollution caused by lead—a highly toxic chemical. But, the fate of the Clean Air Act Amendments of 1990 is still up in the air—the bright promise of that innovative legislation remains largely unfulfilled.

Therefore, the Environment and Public Works Committee will undertake a serious review of the progress being made in implementing the Clean Air Act amendments. Tomorrow, the committee will begin an exhaustive series of oversight hearings on the implementation of the Clean Air Act Amendments of 1990. I asked Senator LIEBERMAN, chairman of the Subcommittee on Clean Air and Nuclear Regulation, to begin these hearings with a review of the implementation of particular titles of the act, looking first at State implementation plans. When we return in September, the full EPW Committee will continue with a comprehensive oversight hearing looking at a broader range of implementation issues.

Madam President, this is not the time, in my opinion, to pat ourselves on the back for passing an effective law or, alternatively, to point fingers where the job has not been done to our satisfaction. Rather, it is time to get to the bottom of what is working and what is broken in the process of implementing the Clean Air Act amendments, and figure out how to fix that break.

Let us face it, we passed an ambitious and groundbreaking law that placed a tremendous burden of execution on the Environmental Protection Agency. Within the first 2 years alone, EPA was required to issue 175 regulations, write more than 30 guidance documents, conduct 50 research efforts, and prepare 25 reports to Congress.

One of the most innovative provisions of the law, set up a market-based system of allowances for trading emissions that cause acid rain. The first auction was held last March. Furthermore, EPA has successfully implemented a program to phase out CFC's, which are highly destructive of the stratospheric ozone layer. In doing so, EPA has both helped to solve a serious domestic problem and lived up to the international commitments of the United States in the Montreal protocol. On both these efforts, EPA and industry worked together and consequently met deadlines without major litigation or bureaucratic holdups.

However, because implementation of the other major provisions of the law has been delayed, air pollution continues to get worse. The historical trends paint a dark picture. From 1982 to 1991, only minimal gains were made in reducing emissions of five of the six most prevalent air pollutants. For example, during that time, ozone emissions decreased only 13 percent, particulate matter emissions decreased a mere 5 percent, and sulfur dioxide emissions decreased an abysmal 2 percent.

No one believed that we could reverse the horrible trends in air pollution overnight. In fact, the Clean Air Act amendments recognized that to make significant progress would take time. But, the work must begin in earnest now. It should have started sooner.

So today I challenge the EPA and all the participants involved in Clean Air Act implementation to take stock of whether they have done all they can to live up to their responsibilities under the Clean Air Act. I challenge Administrator Browner to dig deep into her Agency's resources and make a firm commitment to me and to the Congress that implementation of the Clean Air Act will be a top priority for her at EPA.

And I will commit myself to work with other members of my committee, and my fellow Members of Congress to focus our attention on the Clean Air Act amendments and find a constructive way to improve the implementation process. I do not believe that the answer to this problem is to rethink our original goals for the act, or to minimize the burdens on any of the responsible parties.

On the contrary, in the spirit of the Clean Air Act amendments themselves, it is time for us to be creative and to rededicate ourselves to getting the job done. If we do not, then all our efforts in enacting the Clean Air Act Amendments of 1990 can be chalked up to simply blowing smoke.

Mr. BINGAMAN addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from New Mexico is recognized.

Mr. BINGAMAN. Madam President, I ask unanimous consent that I be allowed 10 minutes as in morning business, to be charged against the time that is reserved for the first nomination to be considered today, which the Senator from Minnesota is managing.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

THE UNITED STATES TRADE IMBALANCE WITH CHINA

Mr. BINGAMAN. Madam President, I am here to speak about another of our trade problems. A few minutes ago, the Senator from North Dakota and the Senator from Michigan were here talking about their concerns about the North American Free-Trade Agreement and the potential loss of jobs that would result from that. I share some of those concerns, but I am here today to talk about the trade imbalance that we have developed with China.

Madam President, I chair a subcommittee of the Joint Economic Committee which, each year, receives a report from the Central Intelligence Agency about the China economy. This last Friday, we received that report for this year. We had a hearing on the subject, and the growth in our trade imbalance with China, I believe, is a cause for concern for all of us here in the Congress and in the Government.

The United States bilateral trade deficit with China increased this last year, 1992, to $18.2 billion, a rise of 42 percent over 1991.

In 1991, our trade imbalance was $12.7 billion. United States-China trade relations were in rough balance in the early 1980's, and in 1982 the United States ran a modest surplus with China. In 1983, we began running a modest deficit. In 1985, the deficit was only $6 million.

But by 1986, that bilateral trade deficit had taken a quantum leap to $1.4

billion, and it has been leaping every year since then. It doubled to $2.8 billion in 1987 and increased to $3.5 billion in 1988. And, in 1989, the first year that President Bush was in office, our bilateral trade deficit with China was $6.2 billion.

A year later it went to $10.6 billion. Again in 1991, the deficit was at $12.7 billion, and in 1992 up over $18 billion.

Madam President, this chart which I have here today, I think reflects that there has been some very modest increase in imports during that period. But there has been a very dramatic increase of imports from China to the United States.

The trend, I would also point out to my colleagues, is no accident. It is apparent that Chinese Government policy has been devoted very substantially to an export-led growth policy. Exports have been promoted. Imports have been restricted. And the primary target for those exports has been the U.S. market.

We have complained about unfair trade practices, high tariff, nontariff barriers, quotas, absolute bans on some of the goods we would sell to China; arbitrary changes in the laws and regulations, restricted access to the domestic markets, and violation of intellectual property rights.

We have had a number of negotiations with China regarding unfair trade policies. And the Government in Beijing has several times promised to liberalize some of those policies. So far that has been mainly promises.

China's economic situation today I fear holds the likelihood that that trade deficit we have with China will do nothing but continue to increase over the next several years. China has been growing at an unsustainably rapid rate and inflationary pressures have been building up and threatening to get out of control.

The CIA estimates that urban inflation in China increased about 30 percent during the last 12 months. The Government has already taken steps to cool this overheated economy, and one of the traditional steps that they take is to further limit imports. Indeed, the CIA testified before our committee this last Friday that because of this expected change in policy, this expected plan to limit imports, we can expect the deficit to continue growing and perhaps reach as much as $24 billion to $25 billion in this calendar year.

Madam President, one of the most disturbing things about the deficit we have with China in our trade relations is that it is out of sync with the trade relations China has with the rest of the world. With the rest of the world last year, China ran a very small trade surplus and, in fact, this year it is running a trade deficit with the rest of the world. That is at the same time that China's trade deficit with the United States continues to grow.

Madam President, I raise this issue for people to focus on at this point because China is the 900-pound gorilla in the world economic picture today. China was the 11th largest trading nation in 1992, but according to the International Monetary Fund it was the third largest economy in the world.

At the same time that it is a relatively large economy relative to the size of its economy—it has just begun to export—only 7 percent of its economic activity is presently engaged in trade.

There is a tremendous opportunity on China's part to increase its trade with the rest of the world, and if present trends continue, that increased trade will come at the expense of the United States.

Our President was recently in Japan talking about the uneven trade relations with Japan and the chronic trade deficit of $50 billion we are running with that country.

I would suggest today, Madam President, that the trade deficit we run with Japan may well be eclipsed one of these years by our trade deficit with China unless we take strong action to come to grips with this problem at this point.

Madam President, I ask unanimous consent that a table describing our trade deficit with China from the period 1984 through 1993 be printed in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

U.S. trade deficits with China, 1984–93

1984 (million)	$60.0
1985 (million)	6.0
1986 (billion)	1.4
1987 (billion)	2.8
1988 (billion)	3.5
1989 (billion)	6.2
1990 (billion)	10.4
1991 (billion)	12.7
1992 (billion)	18.2
1993 (billion—estimate)	23.0

Mr. BINGAMAN. Madam President, I appreciate the courtesy of the Senator from Minnesota, and I yield the floor.

IRRESPONSIBLE CONGRESS? HERE'S TODAY'S BOXSCORE

Mr. HELMS. Mr. President, as anyone even remotely familiar with the U.S. Constitution knows, no President can spend a dime of Federal tax money that has not first been approved by Congress, both the House of Representatives and the U.S. Senate.

So when you hear a politician or an editor or a commentator declare that "Reagan ran up the Federal debt" or that "Bush ran it up," bear in mind that it was, and is, the constitutional duty of Congress to control Federal spending. And to determine how much it shall be. Congress has failed miserably for about 50 years.

The fiscal irresponsibility of Congress has created a Federal debt which stood at $4,352,487,844,872.15 as of the close of business on Thursday, July 29. Averaged out, every man, woman, and child in America owes a share of this massive debt, and that per capita share is $16,945.05.

TRIBUTE TO COL. LAWRENCE C. MOHR, M.D.

Mr. THURMOND. Madam President, I rise today to pay tribute to Col. Lawrence C. Mohr, M.D., a great man and outstanding physician, who recently retired from a long and distinguished Army career.

I was honored to attend Dr. Mohr's retirement ceremony last week at the White House, where he has served as physician since 1987. In addition to attending to Presidents Reagan, Bush, and Clinton, Dr. Mohr has been my personal physician for a number of years. In that time, I have gotten to know him very well. In the course of my remarks at the White House, I was pleased to praise the good doctor for his many years of unparalleled service, for his excellent record as a competent physician, and for his service as a combat soldier before becoming a doctor.

We are all proud of Dr. Mohr's contributions to the U.S. Army and our great Nation. He is a man of high character who serves as a shining example of dedication, compassion, and professionalism for others to follow. It is my hope that this most capable doctor will come to South Carolina and continue his practice there. I know that he would be a welcome addition to my State's already excellent medical community.

Madam President, Dr. Mohr will certainly be missed by his peers, his patients, and by me; but, I wish him and his family good health and happiness in the years to come. I ask unanimous consent that a history of Dr. Mohr's impressive Army career be included in the RECORD following my remarks.

HISTORY OF MILITARY SERVICE

(By Col. Lawrence C. Mohr, M.D., U.S. Army)

Colonel Lawrence C. Mohr was born on 8 July 1947 in Staten Island New York. He entered the United States Army in 1966 as a private. While in basic training at Fort Gordon, Georgia, he was selected to attend Officer Candidate School at Fort Sill, Oklahoma. Upon graduation from Officer Candidate School in 1967 he was commissioned in the Field Artillery and assigned to the 18th Airborne Corps Artillery at Fort Bragg, North Carolina. He subsequently completed Airborne School at Fort Benning, Georgia, and the Jungle Operations Course at the School of the Americas, Fort Sherman, Panama.

From 1968 to 1970 Colonel Mohr served in a variety of combat assignments in the Republic of Vietnam. He was initially assigned to the 1st Cavalry Division (Airmobile), where he served for one year with both infantry and field artillery units. During that time he saw extensive action in Quang Tri province and War Zone "D" and participated in more than 50 combat air assaults. In November 1968 he was wounded in action during a battle near the Cambodian border. He returned to combat duty and was subsequently assigned to the 101st Airborne Division, where he served as commanding officer of a field artillery unit. His unit conducted combat operations in the Ashau Valley and northern I Corps and was presented the Valorous Unit Award for extraordinary heroism in action.

In 1970 Colonel Mohr returned to Fort Bragg, North Carolina, where he served as commanding officer of a field artillery unit in the 18th Airborne Corps Artillery. His unit received numerous commendations and awards for military proficiency and was the first to air-transport a tactical nuclear weapon. From 1972 to 1973 Colonel Mohr attended the Field Artillery Officer Advanced Course at fort Sill, Oklahoma, where he graduated on the Commandant's List and was presented the Distinguished Writing Award for his class.

Colonel Mohr was then selected for Army sponsored higher education. He attended the College of Arts and Sciences at the University of North Carolina where he received a baccalaureate degree with highest honors, was elected to Phi Beta Kappa and was awarded the Merck Award for Excellence in Chemistry. At that time he decided to pursue a career in military medicine. He attended the School of Medicine at the University of North Carolina on an Army Health Professions Scholarship and was awarded the M.D. degree in 1979.

Colonel Mohr was then assigned to Walter Reed Army Medical Center, where he completed an internship and residency training in Internal Medicine. He was presented the Erskine Award as the outstanding resident in his class and was selected to remain at Walter Reed as Chief Resident in the Department of Medicine.

In 1983 Colonel Mohr was assigned to the 9th Infantry Division at Fort Lewis, Washington, where he served as Command Surgeon for the Division Support Command. During that time the 9th Division was the Army's High Technology Test Bed and Colonel Mohr had the additional mission of developing and field testing new concepts and equipment for combat medical support. His work was instrumental in modernizing medical care on the battlefield and has since been incorporated into Army doctrine.

Colonel Mohr subsequently returned to Walter Reed, where he served as Attending Physician in the Department of Medicine and Assistant Professor of Medicine at the Uniformed Services University of the Health Sciences. While at Walter Reed he completed one year of fellowship training in Pulmonary Medicine and conducted clinical research on medical problems at high altitude. During that time he also served on the Department of Defense Committee for Military Medical Residency Programs, was an instructor at the Armed Forces Combat Casualty Course, served on the Army Working Group for Deployable Medical Systems and was Scientific Director for the American Andes Biomedical Research Expedition.

In 1987 Colonel Mohr was selected as White House Physician and joined the staff of President Ronald Reagan. He has continued to serve in that position, joining the staff of President George Bush in 1989 and the staff of President Bill Clinton in 1993.

While assigned at the White House, Colonel Mohr helped to plan and coordinate multiple humanitarian assistance projects for underdeveloped and newly independent nations. In 1990 he served as United States Representative at two international conferences on medical assistance to the emerging democracies of Eastern Europe and the former Soviet Union.

Colonel Mohr is a graduate of the United States Marine Corps Command and Staff College. He is a Diplomate of the American Board of Internal Medicine, a Fellow of the American College of Physicians and a Fellow of the American College of Chest Physicians. He has authored 17 scientific publications and book chapters and currently serves as Associate Clinical Professor of Medicine and Emergency Medicine at both the Uniformed Services University of the Health Sciences and George Washington University.

During his military career, Colonel Mohr has received numerous honors for valor on the battlefield and for distinguished service. His many awards and decorations include the Defense Distinguished Service Medal, the Silver Star, two awards of the Bronze Star with "V" device for heroism in ground combat, two awards of the Bronze Star for meritorious service against an armed hostile force, the Purple Heart, two awards of the Meritorious Service Medal, the Air Medal, two awards of the Army Commendation Medal, the Parachute Badge, the Expert Field Medical Badge and the Presidential Service Badge.

WOLF CONTROL EFFORTS IN ALASKA

Mr. STEVENS. Mr. President, I come to the floor once again to discuss an Alaskan issue and the fact that once more, without solid understanding of an Alaska issue, non-Alaskans have decided they are better qualified than we are to make a decision affecting the resources of our State.

One group has made a lot of noise, caused a ruckus and produced a problem where otherwise one would not have existed.

On the excuse of consideration for animals, some activists have tried to second-guess—without a shred of factual information—the decisions of trained biologists in my State.

The concern of these vocal non-Alaskans is the management of Alaska's world population.

In 99 percent of my State—almost all of its 586,000 square miles—predator and prey populations are able to survive without active management.

But, in one area of Alaska, a 40-by-50 mile area in the foothills of the Alaska Range, roughly just this one very small portion of Alaska—and I brought this map to show the areas that are all outlined, or shaded, are Federal areas that have been reserved for various purposes, for wildlife management in particular.

Over 85 percent of the wildlife refuges in the United States are in Alaska in terms of acreage. The area I am discussing is not part of a wildlife refuge. This is the area of the resident Delta caribou herd, which has declined by an alarming 60 percent over the past few years.

To stem this decline, our Alaska State game biologists determined that a portion of the wolf population, which preys upon the caribou in that area, required management. The population of the Delta caribou herd dropped from more than 10,000 in 1989 to currently less than 4,000.

That is despite the fact that we stopped all hunting for Delta caribou in 1991. Let me repeat that, we stopped hunting in this area, this small 40-by-50 mile area. Notwithstanding that—there are no longer any takings of these caribou by hunters—the population of the caribou continues to drop.

After an intensive study, the Alaskan Department of Fish and Game planned a wolf control effort in that small area. Incidentally, in that 40-to-50 square mile area are 3 percent of the wolves that live in Alaska. Long research by our Department of Fish and Game has proved that a temporary reduction in wolf population in a specific area can restore depressed wildlife species.

The main factor in the continued decline of the caribou herd is the predation of wolves, and that has been found to be the case by wildlife biologists.

Announcement of the management plan caused an outcry from these uninformed critics who have no knowledge of the facts. They have manipulated the story to suit their purposes. These protesters even took out newspaper advertisements, threatened our tourist industry, really, with blackmail, and they spread false information on the purpose of this game management plan. It has become so bad that Alaska's Attorney General is suing them now for false advertising, which it was. They have completely ignored the truth.

Not once have these people addressed the two most important factors involved in the control decision. The first fact they failed to admit is that wolf numbers of Alaska declined by lack of prey, not because of man's annual harvest or lack of habitat. The Delta caribou herd is critical to the wolves' survival in that area. If the herd numbers are down, the wolf population itself will suffer.

The second fact is that human beings are an integral part of the equation in Alaska. Approximately 60 percent of Alaskans hunt for their food, yet hunters take only 2 to 3 percent of all the caribou. Eighty percent of the caribou killed each year are killed by predators; the rest die naturally.

More wolves are taken by hunters in Minnesota each year than in all of Alaska, even though my State has 3 million lakes and Minnesota is proud to be called the Land of 10,000 Lakes. We have a great deal more area, and we have a great many more wolves. Hunters in Minnesota take more wolves, yet we get criticized for a program of management which is designed to try and preserve the balance of both the caribou and the wolf population.

All indications are that without intervention, this delta caribou herd will continue to decline and could disappear completely. That would be a great detriment to the herd, obviously, and the wolves and other wildlife, but the people I speak for are the people in the area who rely upon this caribou herd for their food.

It is not just a new problem. As we were looking back through the history of this issue before the Congress, we found that 50 years ago, just minutes before he learned of President Roosevelt's death, Vice President Harry Truman, as the President of the Senate, presented to the Senate a request from the Alaska Territorial Legislature to allow the taking of wolves in Alaska. I have a copy of that petition, Mr. President. It is on page 3283 of the April 12, 1945, edition of the CONGRESSIONAL RECORD. It explained why the Alaska Legislature asked the Senate to act.

The problem was similar to the one we face today. The wolves were decimating then the reindeer herds of the Territory of Alaska. Presenting that petition to the Senate, incidentally, was one of Harry Truman's last official acts as President of the Senate and Vice President of the United States.

What I am here to make my remarks on today is despite what opponents of Alaska's management plan might indicate, our Alaska Board of Fish and Game did not authorize aerial shooting of wolves; did not authorize trapping or land-and-shoot hunting; did not allow year-round hunting or trapping of wolves; did not pay a bounty; they did not authorize radio collars and will not use radio telemetry in dealing with wolves.

The control effort will run between October of this year and April 1994. To maintain the reduced population of caribou herd and assist in its return to its original size, biologists say that between 50 and 75 wolves will have to be taken per year for 2 years.

Just across the border in Canada, Mr. President, they take 10 times that many without an outcry from these extremists. I cannot understand why we cannot have sound wildlife management take place in our State to preserve this caribou herd which is of substantial importance to the people who live in the Delta region.

The Alaska Department of Fish and Game will review this effort again and consider alternatives and options at its next spring meeting. The board of game authorized a control period of up to 3 years, if necessary. Afforded protection both as big game and its fur bearing species, wolves are stable-to-increasing in Alaska. They are not game animals in the sense that they are in other areas of the country. Those who live with wolves and those who depend on the caribou for their very existence during the winter months understand the need to control wolf populations that grow in this manner.

I hope that the Senate and all Americans will hear the truth and understand this. This is a legitimate management issue; it is not one for the ultraextremists trying to, once again, attack a sound management policy in my State.

Thank you, Mr. President.

REMEMBERING THE BATTLE OF PLOESTI

Mr. PRYOR. Mr. President, I rise today to pay tribute to the Army Air Force pilots who fought the Battle of Ploesti in World War II. Yesterday, August 1, 1993, marked the 50th anniversary of this important air battle. On August 1, 1943, while our Nation was engaged in a world war, five men overcame extraordinary obstacles and piloted their bombers with such skill and heroism that they were awarded the Congressional Medal of Honor, our Nation's highest award for military heroism. Of these five men, three were killed during the battle and were awarded the medal posthumously; they made the ultimate sacrifice. This battle resulted in more Medal of Honor recipients than any other air battle during the Second World War.

Now, 50 years later, this battle is largely remembered only by those who fought and survived. However, one young college student in Arkansas wrote me and asked that this battle not be forgotten. Darrell Whitledge, of Austin, AR, wrote an eloquent and highly informative research paper regarding this battle for his history class at the University of Central Arkansas. After reading his paper and in particular his final sentence, in which he made an appeal to forever remember the brave men who fought this battle, I felt moved to pay tribute to their bravery and sacrifice.

TRIBUTE TO ABE SACHAR, FIRST PRESIDENT OF BRANDEIS UNIVERSITY

Mr. KENNEDY. Mr. President, it is a privilege to take this opportunity to pay tribute to Abe Sachar, the first president and chancellor emeritus of Brandeis University, who died at age 94 on July 24.

Abe Sachar was an advocate, scholar, author, educator, and extraordinary American. In 1948, beginning with 107 students, 13 faculty members, and three empty buildings at the site of a former medical college in Waltham, MA, he created a world-renowned university that has made brilliant contributions to scholarship, learning, and tolerance in America. The story of his achievement in leading Brandeis University to such eminence is unparalleled in the modern history of American higher education.

Abram L. Sachar was born in 1899 in New York City to immigrant parents. His mother had been born in Jerusalem and his father in Lithuania. He served with the U.S. Army in World War I, earned simultaneous B.A. and M.A. degrees at Washington University in St. Louis in 1920, and a Ph.D. in history at Emmanuel College of Cambridge University in England in 1923. That year, he joined the history faculty at the University of Illinois, where he remained for many years. In 1929, he published his famous book, "A History of the Jews."

Abe Sachar was also one of the early leaders of the Hillel Foundation, which sponsored youth centers for Jewish students on college campuses, and provided jobs, housing services, and loans for needy students. He served as national director of the foundation from 1933 to 1948, and he fought to eliminate discrimination and quotas against Jews in American higher education.

In 1948, he was invited to become the first president of Brandeis University, named in memory of the great Supreme Court Justice, Louis D. Brandeis. The office represented an opportunity to fulfill his lifelong ideals, and Abe Sachar made the most of it.

Under his leadership, Brandeis grew from small beginnings to the magnificent institution it is today. During Dr. Sachar's years as president and chancellor, Brandeis achieved a national and international reputation for academic excellence. Its graduates have left a profound mark on our State, our region, our country, and our planet.

Abe Sachar's vision and achievements have been an inspiration to millions of Americans. I join many others in celebrating his extraordinary life, and I extend my deepest sympathy on his death to his wife Thelma and his sons David and Howard. I ask unanimous consent that two articles and an editorial from the Boston Globe on Dr. Sachar's outstanding life and career may be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Boston Globe, July 27, 1993]

ABRAM L. SACHAR

Abram L. Sachar, founding president of Brandeis University, was an institution builder of exceptional talent.

In 1948, Sachar created the nation's only nonsectarian university sponsored by the American Jewish community. He was perfectly suited to the task. As national director of the Hillel Foundation, he had confronted the quotas that limited the admissions of Jewish students into prestigious colleges. With his colossal fund-raising abilities, he did something about it.

Brandeis University opened with 107 students and 13 faculty members. Eleanor Roosevelt gave the first commencement address in 1952.

In just two decades under Sachar, Brandeis blossomed into one of the top liberal arts institutions in the country. Today Brandeis has 360 full-time faculty members and more than 3,700 undergraduate and graduate students. Each academic department was built to make a distinctive contribution to scholarship. That was Sachar's vision, and it worked.

Lawrence Fuchs, a former dean of faculty, spoke of the diminutive Sachar's "outsized abilities"—his intensity of focus, his articulateness and his capacity to see the big picture. These qualities shone through, evidenced by Sachar's ability to raise $250 million as Brandeis' president and later as chancellor.

Sachar was not well suited to retirement or emeritus status, as subsequent Brandeis presidents would learn. His was an era when leaders were described as "giants." Sachar's organizational ability would rival that of any of today's top university presidents, but this was not his main contribution. His principal legacy is the extraordinary quality of Brandeis University and his singlemindedness in achieving it.

Those saddened by his death Saturday at age 94 extend far beyond the campus.

[From the Boston Globe, July 25, 1993]

ABRAM L. SACHAR, WAS EDUCATOR, WRITER, BRANDEIS PRESIDENT; AT 94

Abram L. Sachar, author, historian and founding president of Brandeis University in Waltham, died yesterday at his home in Newton after a long illness. He was 94.

Mr. Sachar won recognition as the driving force behind molding Brandeis into a major research university and the only nonsectarian college or university sponsored by the American Jewish community. In his 20 years as its president, from 1948 to 1968, Mr. Sachar propelled the university toward national recognition. Begun in 1948 with 107 students and 13 faculty members, Brandeis today has 360 full-time and 114 part-time faculty members and more than 3,700 undergraduate and graduate students.

Mr. Sachar raised more than $250 million for Brandeis during his tenure as president and later as chancellor.

During his lifetime, Mr. Sachar achieved national and international recognition for his contributions to higher education. The West German government awarded him its Grosse Verdienstkreuz mit Stern decoration in 1969, in recognition of the program that brings foreign students to Brandeis with the obligation of returning to their countries to offer their specialized training.

Mr. Sachar was the recipient of honorary degrees from more than 30 American colleges and universities, including Brandeis; his alma mater, Washington University; Tufts University; Providence College; Hebrew Union College and Harvard University. In 1973, Brandeis dedicated the Abram L. and Thelma Sachar International Center, which houses the Lemberg Program in International Economics and Finance.

Mr. Sachar was born in New York City, to immigrant parents. When he was 7 years old, he moved with his family to St. Louis, Mo.

He received his bachelor's and master's degrees in history from Washington University, St. Louis. He undertook special research in England on the Victorian House of Lords and was awarded his PhD from Emmanuel College, Cambridge University, in 1923.

Upon his return from England in 1923, he joined the history faculty of the University of Illinois, where he remained for 24 years. At the University of Illinois, he became one of the pioneers of the Hillel Foundation, which began there.

Mr. Sachar was chairman of the National Hillel Foundation from 1948 to 1955. He served as its national director from 1933 to 1948, before retiring to accept the presidency of Brandeis University.

He wrote a number of books, including "The Course of Our Times"; "A History of the Jews"; "The Redemption of the Unwanted"; and a chronicle of Brandeis, "A Host at Last."

Mr. Sachar leaves his wife, Thelma (Horowitz) of Newton, whom he married in 1926; and two sons, David B. And Howard M.

[From the Boston Globe, Feb. 15, 1984]

STILL THIRSTING FOR CHALLENGES

(By Martin Pave)

People who have heard his speeches would probably agree that Dr. Abram L. Sachar, founding president of Brandeis University, could recite the telephone book and get a standing ovation.

"I've been listening to him for 35 years and his ability to move me has not diminished," says Atty. Paul Levenson, a Brandeis trustee and student union president in the school's first graduating class in 1952. "He has what very few people have—the capacity to evoke an inspirational emotion. Abe Sachar taught me that it is possible to make dreams come true."

Sachar, who celebrates his 85th birthday today, is a complex personality: charming and sensitive, but obstinate and persistent; controlled, yet wildly visionary; argumentative with those who do not share his view, but even more exasperated by those who have no opinion.

A MAN OF ENERGY

Transcending all are his boundless energy and intensity, optimism and humor, and an unquenchable thirst for challenges.

Energy: He rises at 6 a.m. in his Newtonville home, devours his newspapers, magazines and correspondence as eagerly as his breakfast, and usually arrives at his Brandeis office before his staff. His workday ends late in the evening at home where he says, "I think with my typewriter and write with my ears." Says Thelma Sachar, his wife of 58 years: "Sleep is almost a waste of time to him."

Intensity: His son, Howard, a history professor at George Washington University, recalls the many times his father would drive to the post office and then "he'd walk back to his office, intently reading his letters, or a newspaper, and forget about the car with the motor running."

Optimism: Sachar jokes that his autobiography is not imminent. "I'm too young, I'm going to wait until I mature to get perspective. Maybe I'll do it after my next book."

Which leads to Sachar's latest challenge, one of transition.

Even though he keeps office hours at Brandeis—in the building named for him—Sachar is slowly moving away from administration (he became chancellor emeritus three years ago) and back to an earlier pursuit, writing history.

Sachar will fly to the Orient in May to interview political leaders as part of a new volume of modern history. "When I finish my latest book [The Redemption of the Unwanted] last year, my publisher asked me if I had another one in my belly," says Sachar. "Then I told him of my ambition, to take another view of the world, to document dramatic changes of the last 25 years. I chided my publisher [Richard Marek] and said he was tempting God by giving me a 30-month contract."

But Sachar was always equal to tough tasks.

In the 1930's and 1940's, as a founder and national chairman of 126 Hillel chapters of American college campuses, he fought to overcome resistance at some schools to the Jewish cultural, social and religious centers.

In 1948, after buying a home in California, he decided to become president of Brandeis, the country's first Jewish-sponsored, but non-sectarian university. The first class of 107 students and 13 professors at a small, defunct medical school in Waltham became a 270-acre campus with an international reputation, 80 buildings, 400 faculty and 3700 students.

"He used to fly in from Dallas or L.A., sometimes after traveling all night, because of his fundraising for the school, to get to his weekly history lectures," recalls 'Carol Rabinovitz, his former student and now executive director of the Brandeis National Womens' Committee. "As a teaching president he made history come alive. As a president, he knew how to use power, but he also wanted to be loved and respected."

DESCRIBED AS MASTER BUILDER

John P. Roche, academic dean of the Fletcher School of Diplomacy in Tufts, said Sachar was a master builder, "one of the two or three greatest architects of an educational institution I've ever known. he is a strange mixture of scholar, dreamer and impressario, a man of many parts.

"After working for Abe Sachar, Lyndon Johnson was a cinch. [Roche was an adviser to President Johnson for two years]. When I was chairman of the Politics Department at Brandeis, he used to say to me 'you find the best person for your department and I'll find the money' Sachar was the original existential administrator."

Sachar, during 20 years as president, another 12 as chancellor, and in three ensuing years, has personally raised more than $250 million for Brandeis, in large measure through eloquent speeches, delivered from two pages of scrawled notes.

"I have to hold my audience with gesture, context and analogy," says Sachar, and impeccably dressed man whose Brandeis office is lined with books written by faculty members. "After all, I'm a small man with a high-pitched voice, so my appearance isn't going to hold them.

"There's a lot of my grandfather in me. He was the chief rabbi of St. Louis and after World War I he would appeal for aid for Polish Jewish refugees. The congregation, which was not affluent, would nevertheless come to the pulpit and donate coins and jewelry because of the way he moved them."

INFLUENCED BY TEACHER

Sachar's use of descriptive language was a direct influence from his history professor at Washington University, Roland Usher. "When he described Joan of Arc at the Stake," Sachar recalls, "I could smell the smoke." The course led to Sachar's early career as a history professor at the University of Illinois. There was a two-year wait for his classes.

"There was always something fresh, new and exciting about his lecturers, an excitement he never lost," says his wife, who was secretary of the society at Washington University that invited Sachar to lecture at his alma mater in 1924. The were married two years later, he jokes, because "I courted her with 12 books of James Barrie, and I had to marry her to get them back."

Thelma Sachar is her husband's constant companion and editor. When Sachar interviewed historical figures like David Ben-Gurion, Eamon deValera or Earl Warren, her advice and mental notes lent a sense of perspective to his finished product, whether in print or on educational television.

The couple has two other sons, Edward, head of psychiatry at Columbia University Medical School, and David, an associate in gastro-enterology at Mt. Sinai Hospital in New York.

Sachar, the son of immigrant parents, has written five previous books, including "A History of the Jews," which has been translated into several languages and is now in its 26th printing; "The Course of Our Times," a contemporary world history based on his public television lecture series; and, most recently, "The Redemption of the Unwanted," which chronicles the liberation of the Jews from Nazi death camps and the founding of the State of Israel.

TOURED EUROPE IN 1938

He traveled through Europe in 1938 while updating his history of the Jewish people, and, he says today, "I still, recall the faces of eventual victims of genocide." Sachar's voice trails off when he talks of losing 54 family members in the Holocaust, but rises when he sounds a warning:

"You may see a little group that's being persecuted or repressed and say it's not my business and become unconcerned, and then of course, the shadow becomes a cloud and then it becomes a storm. It happens so often in history."

Next month, he will deliver four lectures on the "Redemption" on the West Coast, follow that with a talk in St. Louis on how elderly people can cope with the present and future, attend a three-day symposium in Milwaukee and end the month with a speaking date at Holy Cross College.

"He still has at least 12 things going at once," his secretary of 14 years, Eleanor Charter, says. "We go home exhausted and he thrives on it."

NOMINATION OF THOMAS DODD TO BE AMBASSADOR TO THE REPUBLIC OF URUGUAY

Mr. SARBANES. Madam President, I rise today to express my strong support for the President's nomination of Thomas Dodd to be Ambassador to the Republic of Uruguay.

As a distinguished scholar in Latin American studies, Thomas Dodd brings to this post years of academic and professional experience which will serve him and our country well during his term as Ambassador to Uruguay. Dr. Dodd, the brother of our colleague from Connecticut, Senator CHRISTOPHER DODD, has been a professor of Latin American history at Georgetown University's School of Foreign Service since 1966. At Georgetown, he has served as director of the Latin American Studies Program. In addition to having received numerous awards including grants and fellowships for his widely published writings and research on various aspects of Latin American history and politics, Dr. Dodd has lived and studied in Central and South America and is fluent in Spanish.

As a recognized authority on Latin America, Dr. Dodd has also served as a consultant to and lectured in government, including the Foreign Service Institute, the Inter-American Defense College, the National Defense University, and the Department of State. I am confident that the breadth of Thomas Dodd's academic and professional background will give our country and the President excellent representation in Uruguay.

Madam President, I commend the President for his choice of Thomas Dodd to be Ambassador to Uruguay and I strongly concur with the Senate's confirmation of this nomination last Friday.

THE ENVIRONMENTAL IMPLICATIONS OF THE NAFTA

Mr. BAUCUS. Madam President, 2 weeks ago, I discussed the environmental conditions on the United States-Mexico border and the need for a strong side agreement on the environment if the NAFTA is to benefit our country. Today I will respond to two arguments that call for voting for NAFTA regardless of the side agreement. These are:

First, the contention that by spurring economic growth in Mexico, the NAFTA will automatically promote environmental protection; and

Second, the argument that the NAFTA is already the "greenest trade agreement in history" and doesn't need a strong side agreement.

DOES GROWTH BRING ENVIRONMENTAL PROTECTION ANYWAY?

Proponents of the first argument frequently cite a Dartmouth study arguing that when a country reaches a level of about $5,000 per capita, its environmental protection rapidly and dramatically improves. Up to that point, industrialization creates terrible environmental problems. Afterwards, it gets cleaned up.

This may well occur in some cases. However, it is not GDP per capital itself that spurs environmental protection. Poor people don't like drinking industrial chemicals any more than rich people. But poor farmers and unskilled workers are politically weak, and have difficulty making their Government protect them.

Richer countries are more likely than poorer countries to be democracies with a strong middle class. Middle-class people and citizens of democracies have more political influence that poor farmers, manual laborers, and citizens of dictatorships. They are strong enough to demand environmental protection. That's why environmental standards often rise as countries develop.

If we did not have a long common border with our NAFTA partner—if this were a free trade agreement with, say, Bolivia—the issue would not affect us directly. One could say, well, who cares if Bolivia gets polluted? Let's conduct an experiment. Let's see if the problem solves itself as the country develops. No skin off our noses.

But we do have that border. We cannot ignore the problem. Pollution in Mexico is pollution in America, and it directly affects the health and safety of American citizens. We cannot afford to wait. We need environmental enforcement now.

THE MAQUILADORA EXPERIENCE

With a strong environmental side agreement, we can get environmental enforcement. Conversely, passing the NAFTA without a strong side agreement could well cause a disaster.

To understand why, look at our existing free trade with Mexico—the maquiladora program on the border. It lets Mexico import raw materials and components of industrial goods from the United States duty-free, assemble them into final form, and reexport them to the United States duty-free. We created it in 1965. As I recall, nobody thought about the environment at all.

The result? Eight out of ten United States-owned maquilas operate in violation of Mexican environmental law. Governor Richards of Texas estimates it will cost $4.2 billion to clean up her section of the border alone. Estimates for the full border area go as high as $30 billion. Infectious hepatitis in El Paso runs at five times our national rate. In Juarez alone, 55 million gallons of industrial sludge and 24 million gallons of raw sewage flow into the Rio Grande every day. All largely because of the operation of maquiladoras on the border.

These plants cut costs by dumping waste and garbage into the Rio Grande, and they make us pay the bill. They give themselves a pollution subsidy at the expense of law-abiding firms.

Disease spreads in America as well as Mexico. We spend more tax money on environmental cleanup. There is no end in sight.

This was not inevitable. If we had thought ahead, and coupled the maquiladora program with an enforceable guarantee against environmental abuses, we could have avoided it.

We must not repeat our mistake. We must learn from it instead. By pushing for a side agreement with trade sanctions as enforcement, we show that we have learned something.

IS NAFTA THE GREENEST TRADE AGREEMENT IN HISTORY?

A second argument is that the NAFTA is already the greenest trade agreement in history and will mean significant environmental improvement. Thus, one would be silly to oppose it if the environmental side agreement does not measure up. To do so would make a perfect agreement the enemy of a good agreement, and damage both trade and the environment.

If this were correct, it would be an unanswerable argument for the NAFTA. It deserves a serious response.

In a rhetorical sense, NAFTA may well be the greenest trade agreement ever. But in reality it is business as usual. Let me review the NAFTA's environmental provisions:

First, its preamble says sustainable development is a goal. That is all well and good. But it does nothing on the ground.

Second, it contains a provision saying that if Mexico is using weak environmental enforcement to attract investment, we can request consultation on the issue. Well, we can request consultation now, if we have a quarter to make the phone call. That does not mean we will achieve anything.

Third, it explicitly protects some of our existing rights. These are the Federal Government's ability to inspect meat and vegetables at the border, and the right of States to pass environmental laws stronger than Federal standards.

This provision simply protects existing laws. In no way does it improve the status quo. It does not even protect all our laws. Mexico has not given up the right to attack our process standards—as it did a few years ago in successfully using the GATT to attack our effort to protect dolphins.

To sum up: NAFTA has nice rhetoric. In some areas it protects the status quo. In no area does it improve the status quo. And it offers no protection against the kind of gush of pollution the maquiladora program caused. It is not good enough.

WHY WE NEED STRONG SIDE AGREEMENTS

When a plant gives itself a pollution subsidy and harms law-abiding firms, and Government will not enforce the law, the plant should lose the benefits of the NAFTA. Our side agreement proposal will make sure it does.

We are not asking Mexico to write new laws. We are not even asking for the perfect environmental NAFTA. For example, we have not asked to change the text to protect our process standards. We simply ask Mexico to enforce its existing law. That's all.

We failed to do that when we created the maquiladora system. We made a giant mistake. I will not stand by as we repeat it. If we get a strong environmental side agreement, I will support the NAFTA. If we cannot, I will not. It's that simple.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is now closed.

The Chair recognizes the Senator from Minnesota.

EXECUTIVE SESSION

Mr. WELLSTONE. Madam President, on behalf of the majority leader, I ask unanimous consent that the Senate proceed to executive session to consider the nomination of Thomas Payzant under the time agreement. This request has been cleared with the minority.

There being no objection, the Senate proceeded to the consideration of executive business.

Mr. WELLSTONE. I thank the Chair.

The ACTING PRESIDENT pro tempore. The nomination will be stated.

DEPARTMENT OF EDUCATION

The assistant legislative clerk read the nomination of Thomas W. Payzant, of California, to be Assistant Secretary for Elementary and Secondary Education.

Mr. WELLSTONE. Madam President, I yield 15 minutes to the Senator from South Carolina to speak as if in morning business.

The ACTING PRESIDENT pro tempore. The Senator from South Carolina.

Mr. HOLLINGS. I thank the distinguished Senator from Minnesota. I do appreciate it, and I will try not to even take that amount of time.

THE BUDGET

Mr. HOLLINGS. Madam President, somehow, we have to expose the Washington speak with respect to this budget plan, especially the disingenuous excuse "I cannot vote for it now because it does not do the job." Heavens above, we have known for months that this plan does not eliminate the deficits, that it is only the first step.

Specifically, while this plan does not do the job, neither did Dole-Domenici, neither did Nunn-Domenici in 1992. None of them do the job because no single plan can solve entirely the fiscal disaster given the President of the United States here in January.

President Clinton has been down in Arkansas for 10 years balancing budgets. I think he knows what does the job. I wanted to make sure of that myself in February, and I had the advantage of speaking at length with the President with respect to a plan to do the job, stating at that particular time:

Madam President, as you know, you are going to have deficits in excess of $250 billion per year for the 5 years. You are going to add at least $1.2 trillion to $1.4 trillion to the national debt even with your plan.

And the President was concerned at the particular time—I will never forget it, because he had had a meeting with the Prime Minister of Britain, John Major. Major had told him that Europe, the European Community was a basket case, that they were not going to have economic growth this year. He noted also that the Pacific rim is in trouble economically, and that the United States of America must lead the way as the locomotive of world economic growth.

So, in addition to the inherited deficit and debt, on the one hand, our President in taking over the reins of Government and has the task of keeping the engine of Government moving and at the same time trying to provide leadership to the economic recovery of the global economy itself. He has had a most difficult task.

I have been in this game now for the past 12 years. We knew it would be a disaster when President Reagan drastically cut revenues in 1981, which David Stockman now says was the original cause of the budget mess in Washington. The Republicans covered their tracks by calling for growth, growth, growth. Now they have changed their litany; now it is cut spending first, cut spending first, cut spending first.

Madam President, this particular plan does, indeed, cut spending. It does not cut the deficit. It cuts spending.

When you look at the deficit right now in excess of $300-some billion—they change the figure with the reestimates of around $321 billion—and you look at the deficit next year, it has not been cut. You look at the following year, it has not been cut. You look at it over the 5 years, the deficit itself has not been cut.

We still have an enormous deficit and, in my judgment, it is going to exceed $300 billion the fifth year out.

So if you have over a $300 billion deficit this minute here in August 1993, and you look where you are 5 years out in 1998, you still have over $300 billion, then you are in trouble. That is agreed. That is understood.

So the distinguished Senator from Oklahoma, in headlines this morning when I got back in town, had changed his vote from last month in support of the President's plan and now does not support it because he says it does not do the job. Come on. Nothing has changed. That is nonsense. No one makes any claim that this puts us in the black or actually reduces the debt. So when you look at the fifth year out at the deficit, the deficit is still around $300 billion.

What this plan does is to reduce spending $500 billion over the 5-year period. That ought to be understood from the word go. I fault the media for not explaining it properly. I fault us here in Washington for not explaining it to the American people.

As Lewis Carroll wrote in "Through the Looking Glass," to stay where you are you have to run as fast as you can. To get ahead, you have to run even faster.

This Republican crowd ought to be ashamed of themselves. They are the ones who put this deficit and debt on automatic pilot. Taxes? Cut spending first? They put taxes first, deficit taxes.

This morning, Monday, at 8 o'clock, the very first thing we did is go down and borrow another billion and add it to the debt. So the debt goes up, up, and away; the deficit goes up, up, and away to pay for what I call interest taxes.

Now, no one is saying—not in the Dole-Domenici plan, not in the Nunn-Domenici plan, not in the Perot plan, not in the Kasich plan—none of them claim to eliminate the interest costs of $300-some billion so that we can stop the growth of the deficit and the debt. It is going up $1 billion a day. And that is the dilemma the President finds himself in, and the lack of public understanding, Ross Perot included.

They all want the litany of cut spending first, do not raise taxes. But we do not have the luxury of choice. We need all of the above.

We tried the freeze. We tried the cuts in spending. We tried taxes. Now, none of them alone is enough. You have to do even more.

And with respect to a freeze and cuts in spending, President Clinton has done so in accord with no-nonsense CBO figures. I voted against that 1990 budget summit fraud and stood on this floor right here at this desk and pointed out the bogus projections of growth, bogus projections of interest rates, and so on. CBO told us the real numbers. So I said: This is a fraud and you know it; quit misleading the American people.

Instead of cutting the deficit $500 billion, as they claimed in 1990, we have a 1-year deficit this year of almost $400 billion. Yet, a majority of the Republicans voted for the 1990 plan, but you cannot get a single vote for the Clinton plan today. The majority of the Republicans—DOMENICI, DOLE, that whole crowd—voted in 1990 for the so-called cut in the deficit of $500 billion, yet we have a deficit growing this year alone at almost $400 billion. They supported the Bush plan then, but now there is not a single Republican vote for the Clinton plan.

Instead, we are bogged down in pollster politics, with the rhetoric on every TV show: Cut spending first, cut spending first, cut spending first.

Right this minute, we have a discretionary outlay figure of $548 billion for 1993. That includes domestic discretionary, defense spending, and international spending. That is the outlay figure for the 1993 fiscal year budget.

That is George Bush's spending. Incidentally, he never vetoed a red cent of spending. He never vetoed a red cent of spending. Forty-three vetoes, and he never vetoed spending.

So they are the manufacturers of their own fate on the other side of the aisle. They act as if they had nothing to do with it; that President Clinton invented the deficit. But discretionary outlays are $548 billion this year, and that is George Bush's budget.

Yet, President Clinton, in this 1994 reconciliation budget deficit for the same three areas—domestic, defense, and international—is $538 billion. That is an absolute cut of $10 billion compared to fiscal year 1993.

So what did we do? The President of the United States came forward and said, "Look, I am cutting my own staff 25 percent." This Senator cut the Commerce, Science, and Transportation Committee 10 percent. We eliminated 100,000 jobs in the Federal Government. We have come around and frozen your pay, my pay, and everybody else's pay. And they are fussing about that still.

In the Budget Committee, my same Republican colleagues, when we were in the markup, they said we could not freeze pay 1 year, particularly for the military. And then they proposed a 5-year freeze when they got out on the floor. There has been total hypocrisy.

They said in the Budget Committee we could not have Social Security taxes on the recipients above the $40,000 income level at 85 percent, which would still be less than the average pensioner pays on his benefits. Then they came on the floor and said: We want to cut, for the senior citizens, Medicare and Medicaid $177 billion. It is devastating. You could not find a doctor for a senior citizen.

So they went through those things, but they never came out with a plan of specific cuts. All they offered were broad percentage cuts, with nothing specific.

That Republican cut of $177 billion in Medicare and Medicaid would have put it where no senior citizen would have access to a doctor.

Madam President, let us not allow the perfect to be the enemy of the good. This is the first President who has come to town and categorically analyzed the problem and said we need it all—spending cuts and tax increases. He did not give us this "read my lips" baloney. He said we are going to have some cuts, we are going to have some freezes, and we are going to have some taxes.

And he originally proposed a broad-based consumption tax, a Btu tax. He tried his best to hold it. He held it in the House, but could not hold it here. But that is the reality.

But it was not President Clinton who could not hold that broad-based consumption tax. He told me back in February he did not think he had enough strength in the land for such a tax. Americans have been in a spoiled condition of demanding instant Government, of not paying for services, of opposing taxes as the great enemy. Republicans pander to those sentiments.

They proposed a broad-based consumption tax; namely, when the Center for Strategic and International Studies came forward with the Nunn-Domenici plan, which called for a broad-based consumption tax. But now, all of a sudden, they say the President has not cut spending first. They are playing parliamentary and political games out here on the floor of this Congress.

We have a good first step in the President's budget plan. And in this first step, we all should be supporting it and not coming forth claiming, oh, we discovered now it does not do the whole job. No one contemplated it would do the whole job, because the job is too enormous, quite frankly, for any President to do here in 2 years, 3 years, or 4 years.

I would try to do even more. And I have tried to impress upon the President that we are going to have to have a large 5 percent across-the-board value-added tax to bring in more than $100 billion, allocating it to the deficit and the debt. Even that will not do the job in 1 year. It will take several years to do it.

I see my leader, the Senator from Minnesota, is ready to move on to the Executive Calendar and his appointments.

I appreciate him yielding at this particular time, to say that we must not be under any illusions about doing the whole job. And I said at the time I voted that it would not do the whole job. We all know that; anybody with any sense knows it.

But you have to start somewhere. President Clinton has given the leadership. He has had the political courage to get out here and call it as it is, and try to use every angle at his disposal to get a budget plan passed.

Republicans ought to be ashamed of themselves, voting in a majority just 2 years ago for the present dilemma that they have caused, and coming back around now and saying that the Clinton plan will not do the job and, therefore, you get none of our votes on it.

I yield the floor and I thank the distinguished Senator from Minnesota.

Mr. WELLSTONE addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Minnesota.

Mr. WELLSTONE. Thank you, Madam President.

I thank the Senator from South Carolina for his remarks.

As I understand what the Senator from South Carolina was trying to say, I remember reading a book by, I think, several journalists from the Philadelphia Inquirer—I think they won a Pulitzer for it—entitled "America: What Went Wrong."

Their point was that it was a good many years, a decade plus, of sweeping problems under the rug, including the debt, the budget deficit and the debt.

So when you are dealing with that kind of legacy, I think what the Senator from South Carolina is saying is not doing the job means that in one stroke of public policy you do not fully address that problem, but you begin to change the course, you begin to change the direction. And that is the way the Senator from South Carolina has interpreted the President's plan.

Mr. HOLLINGS. That is exactly right. The President has come in here with not only all those cuts—we cut back the veterans' programs, we cut back the farm program, we had to cut back legal services—we cut them and people do not seem to understand. The FCC—it was $7.2 billion, we have raised all kinds of fees. We are struggling around here trying to find new sources and the President is not given the credit because he is not solving the whole problem, or doing the whole job.

Who are they kidding, anyway?

The PRESIDING OFFICER (Mr. DORGAN). The Senator from Minnesota is recognized.

Mr. WELLSTONE. Mr. President, I will add, before I go forward with a floor statement, I think there is another problem in the equation. We should treat people in the country with intelligence because I think there is a great deal of intelligence out there in this budget debate. The other problem is that we have a very fragile economy still, with a high level of unemployment officially defined, much less subemployment, including people who work full time for poverty wages or people who are only part-time employed, much less people who do not have jobs they can count on, jobs with decent wages and decent fringe benefits.

So there comes a point when you cut even further and further, you run the risk of plunging this country right back into a recession. I do not think there has been near enough said in this debate about the whole question of investment in this economy and that whole issue.

EXECUTIVE SESSION

NOMINATION OF THOMAS W. PAYZANT, OF CALIFORNIA, TO BE ASSISTANT SECRETARY FOR ELEMENTARY AND SECONDARY EDUCATION

The Senate continued with the consideration of the nomination.

Mr. WELLSTONE. Mr. President, I am pleased to speak on behalf of Tom Payzant as Assistant Secretary for Elementary and Secondary Education. If confirmed, he will be one of the most qualified individuals ever to serve in this position. He brings over 30 years of success as a teacher, principal, and superintendent. He has served as a superintendent in four States, Pennsylvania, Oklahoma, Oregon, and California, each time finishing with a distinguished record of accomplishment.

Under his leadership, San Diego gained a reputation as one of the best managed and most successful urban school districts in the country. The reasons are clear: increased academic achievement as measured by overall test scores, the number of students taking advanced placement courses, and the number of students going to college; a 50-percent reduction in dropouts, a 30-percent reduction in central administration during a time of increasing enrollment; maintenance of strong relationships with teacher unions while making a cut of $50 million in the budget; institution of comprehensive services for children; and, finally, a successful voluntary desegregation effort. This record was acknowledged this year when Dr. Payzant was awarded the prestigious McGraw Award for Excellence in Education.

It is not surprising, therefore, that Dr. Payzant has won support from all ends of the political spectrum. At the Labor Committee hearing, Dr. Payzant was introduced by two California Congressmen: a Democrat, BOB FILNER, and a Republican, DUKE CUNNINGHAM. Congressman CUNNINGHAM expressed the sentiments of many when he told us:

> Mr. Chairman, there is only one other time I have supported a Democrat in a position like this, and that was when my dad was elected Mayor * * * if you take California politics and put someone in there for ten years—and I am considered a very conservative Republican—and you can win 99 percent of the support across-the-board, that record stands for itself, and I am very proud to stand up for Dr. Payzant.

Dr. Payzant has also won the support of the community. The list of letters of support we have received fills almost five pages. Let me cite a few of those letters:

> National PTA: "Dr. Payzant possesses a professional balance that is unique for a national education leader. He, first and foremost, cares about children. Children have been the driving force of his career and the nucleus of his public service."
>
> San Diego Unified PTA Council: "Dr. Payzant's vision of schools where * * * administrators, staff, and parents work collaboratively to create an optimum and living and learning environment for the particular students at that school is a vision which our PTA Council shares."
>
> Donald Stewart, President, College Board: "Tom has demonstrated his outstanding leadership skills and his comprehensive knowledge of education issues."
>
> Oklahoma State Senator John Rogers: "I believe education leaders should be exemplary in their conduct and in every instance I found Dr. Payzant to be of the highest moral character and possessed of the best qualities of leadership."

I could go on and on, but I think it will be very clear to my colleagues that we have a nominee who is not just an outstanding educator, but also a person of integrity and decency that we would all want for a national education leader.

Dr. Payzant, like virtually every superintendent in the country, has critics who do not share his views of children's needs and the best way for a superintendent to address them. He answered those critics openly, honestly, and fully on July 1 at a Labor Committee hearing, and he received bipartisan support of the committee with a vote of 13 to 4 on July 14.

The time for further debate is passed. This body does not have time to endlessly debate peripheral issues. It is time to confirm Dr. Payzant and let him get to work on helping to solve the deep educational problems of this country.

Mr. President, that is an opening statement. I do not yet see other colleagues on the floor, so I suggest the absence of a quorum and ask unanimous consent that the time of the quorum call be charged equally to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. KASSEBAUM. Mr. President, I rise in support of the nomination of Dr. Thomas Payzant, to be Assistant Secretary for Elementary and Secondary Education. By all accounts, Dr. Payzant is a fine educator with more than 30 years of experience, first, as a classroom teacher, and then for the past two decades as superintendent of school systems in Pennsylvania, Oregon, Oklahoma, and San Diego, CA, where he has served for over 10 years.

Evidence of Dr. Payzant's qualifications and credentials for this position are underscored by his long tenure as chief of an urban school district like San Diego, a rare accomplishment these days when the average tenure of an inner-city school superintendent averages about 3 years. As a former member of a school board, I have fully recognized what a risky position a school superintendent has today.

Dr. Payzant's decade of service as chief of San Diego Unified School District is a further measure of his ability to satisfy the competing needs and demands of the system's 10,000 teachers and employees, its 125,000 students, their parents, and the increasingly diverse community it serves. That is not an easy position to hold these days, and I think his ability to do so indicates a skill in bringing consensus and thoughtfulness to educational matters.

The primary controversy surrounding this nomination has been his support for the school board's decision to discontinue a special program sponsored by the Boy Scouts which was conducted in a handful of San Diego schools during regular school hours. The school board discontinued this special program on the grounds that the Boy Scouts as a national organization violated the school board's recently adopted nondiscrimination policy regarding sexual orientation. Dr. Payzant supported the school board's nondiscrimination policy against sexual orientation and the school board's decision to discontinue the special program sponsored by the Boy Scouts to the extent it operated during regular school hours.

Contrary to many press reports, the school board's decision did not affect the traditional Boy Scout after-school programs that continue to operate throughout the San Diego school district on and in school property.

Although opponents have attempted to assert that Dr. Payzant recommended the removal of the Boy Scouts from the school district altogether, I could find no truth to those charges. I believe Dr. Payzant's statements that he supports continued access to school facilities for the Boy Scouts' traditional after-school programs. It should be noted for the record that the Boy Scouts would not have been allowed to operate their special nontraditional programs during regular school hours had Dr. Payzant not given them specific authorization. It should also be noted that he is both a former Boy Scout, a former member of the local Boy Scout board, and a parent of former Scouts.

This being said, Mr. President, I wish to emphasize that I strongly disagree with the San Diego School Board's decision even though it applied only to a special Boy Scout program that operated during the regular school hours. Although I question whether any outside group should be allowed to operate programs during regular school hours, because I have tended to believe activities outside the curriculum of the school should be held after school hours, I firmly believe that if any outside group is allowed to operate during regular school hours, the Boy Scouts should be given the same privilege. Moreover, had Dr. Payzant in fact recommended that the Boy Scouts be denied special access to conduct their traditional after-school programs, I would have voted against his nomination. Dr. Payzant, however, simply did not make such a recommendation.

While I do not agree with Dr. Payzant regarding the school board's antidiscrimination policy as it was applied to the special nontraditional Boy Scout program that operated during regular school hours, I believe that this specific issue should be examined in the context of his entire professional record. Dr. Payzant has demonstrated the qualities of leadership and the commitment to improve public education that are essential in his position as Assistant Secretary.

I think it is interesting, Mr. President, to note that this morning there are a number of Boy Scouts in attendance, and I think it is a special honor for us today to have so many visiting Capitol Hill as they are holding their national meeting here in the area over the past weekend.

Putting the school board's decision in its proper context, I find it is indicative of a disturbing trend throughout our country where schools and school boards are becoming increasingly embroiled in issues that detract from the primary mission of teachers and administrators, which is providing the best possible education for every single child in the United States.

The time and energy and value of discussions that go way beyond what I believe need to be the focus of our educational agenda are very troubling to me.

Accomplishments of that task will require someone with substantial experience and a tireless commitment to improving the quality of public education in America. Dr. Payzant certainly has substantial experience, and I believe he has a tireless commitment. I will vote for this nomination. Congress will soon be reauthorizing the Elementary and Secondary Education Act. This legislation presents a real opportunity to better focus our Nation's educational goals. I look forward to working with Dr. Payzant in this endeavor.

I ask unanimous consent, Mr. President, to have printed in the RECORD my questions to Dr. Payzant and his responses, as well as other material relating to this nomination.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

QUESTIONS FOR THE RECORD BY SENATOR KASSEBAUM FOR TOM PAYZANT, NOMINEE FOR ASSISTANT SECRETARY FOR ELEMENTARY AND SECONDARY EDUCATION

1. Are the Boy Scouts currently prohibited from San Diego schools facilities for meetings and other events after school?

No. Boy Scouts are not prohibited from using San Diego City Schools' facilities for meetings and other Scout events.

2. Could you explain the events and circumstances that resulted in the school board's decision to terminate the Boy Scout program that was conducted during regular school hours?

The San Diego City Schools Board of Education adopted a non-discrimination policy in December 1992 which included sexual orientation. The policy was at odds with the policy of the Boy Scouts who sponsored several programs during the school day when students are in compulsory attendance. The Scouts also sponsor after school programs in school facilities. I recommended that the School district continue the widespread use of school facilities for Scouting programs after normal school hours, but disallow such programs during the regular day when students are in compulsory attendance. The Board unanimously agreed.

3. Did you ever recommend to the school board that the Boy Scouts not be able to use the facilities after school?

No. I never recommended that the School Board prohibit Boy Scout use of school facilities after school hours.

4. Why were the Boy Scouts affected by the non-discrimination policy and not the Girl Scouts or Camp Fire Girls?

The Girls Scouts and Camp Fire were not affected by the School District's non-discrimination policy because they do not discriminate based on sexual orientation.

5. In March of 1992 you formed a Committee on Gay, Lesbian and Bisexual Issues in Education. The Committee produced a report in June of 1992 with a variety of recommendations. Other than the proposal to add sexual orientation to the school districts anti-discrimination policy did the district adopt any of the other recommendations?

Do you support or endorse all the recommendations in the Committee's report?

The School District implemented the recommendation to add sexual orientation to its non-discrimination policy. The district also is committed to efforts that will result in the elimination of slurs and name calling consistent with the committee's recommendation. The committee recommendations on staff development will be implemented during the 1993-94 school year. The school district has not adopted the committee's other recommendations.

No. I do not support or endorse all recommendations in the Committee's report.

6. It has been reported in the various newsletters in opposition to your nomination that you sponsored and successfully advocated special rights for "homosexual kids within the public school system." Is this accurate?

No. I did not advocate special rights, for, "homosexual kids within the public school system". I believe that every student is special and that his or her needs should be met regardless of gender, race, religion sexual orientation, disability or any other unique characteristic.

7. It has been represented that you sought to bring a workshop entitled Project 10 to the San Diego school district. Could you explain what is Project 10 and what if any role you played in bring it to the San Diego school district?

Project 10 is a counseling program which responds to the needs of and provides support for gay and lesbian youth. It operates in the Los Angeles Unified School District. The Program is not in San Diego City Schools. In September, 1990 the School District In-service Coordinator invited the director of Project 10 to speak at a San Diego workshop for teachers and counselors to discuss the needs of gay and lesbian students. Although I was not directly involved in inviting a representative from Project 10 to participate in the San Diego workshop, I do strongly support staff development programs which will enable educators to better meet the needs of all young people in the schools.

8. It has been reported that you instituted a program that eliminated the F grade from San Diego schools and adopted a policy of automatically promoting elementary students. Could you explain the district grading and promotion policies?

The San Diego Dropout Prevention Roundtable, a group of educators, parents and community people, recommended that the "F" grade in secondary schools be replaced by "no credit". A student not meeting standards to receive a passing grade in a course would be allowed to retake the course under this proposal but would not receive credit and a passing grade until course standards were met. I endorsed the proposal. The Board of Education adopted a modified policy which retains the "F" grade, but allows a student to retake the course and replace the "F" with the new grade. The school district does not have an automatic promotion policy. Students in San Diego are retained when they do not meet promotion standards.

9. You have received national attention and respect for reducing the bureaucracy of the San Diego school district and making individual schools more responsible for their own decision. Could you explain these reforms?

For several years San Diego has been engaged in restructuring to improve teaching and learning for all students. The central office was downsized by about one third during by tenure while student enrollment grew from 108,000 to 125,000. Each school has a governance team of school staff and parents who work together to make significant decisions about the school's programs and operations. A core academic curriculum has been established. New forms of assessment are being developed and field tested. Over 400 partnerships between schools, businesses and community organizations have been established. School district relationships with employee unions have become more collaborative and nonadversarial. Dropout rates have fallen significantly and student achievement has improved.

10. What will be your most important goal and priority as Assistant Secretary for Elementary and Secondary Education?

My most important short term goal is to work with the Secretary of Education and the Congress on the reauthorization of the Elementary and Secondary Education Act. A continuing goal is to use my 30 years experience as an educator with school districts in seven regions of America to help shape policy that will result in improvement of teaching and learning for all children.

11. What do you believe is the most critical challenge facing public education today?

There are many challenging issues facing public education. I believe we must convince all Americans, not just those with school-age children, that their support of public education is essential and in the interest of everyone. I believe we must form new partnerships between parents and educators as well as the home and the school, while we work together to help all students reach high standards of excellence. I believe we must create safe, positive learning environments in our schools which will enable teachers to engage students in productive learning.

SAN DIEGO UNIFIED SCHOOL DISTRICT,
San Diego, CA, July 29, 1993.

Hon. EDWARD KENNEDY,
Hon. NANCY KASSEBAUM,
U.S. Senate, Washington, DC.

DEAR SENATORS KENNEDY AND KASSEBAUM: Please accept this letter in response to inquiries relating to San Diego Unified School District requirements for the processing and approval of district contracts. Pursuant to District procedure number 1570, all contracts must be approved by the district's governing body, the Board of Education, unless the power to contract has been delegated by the Board to a district officer.

A person who originally desires approval of a particular contract must have the proposed contract approved by his/her division administrator. For example, a school principal desiring to enter into a contract with a vendor would first be required to obtain the approval of the assistant superintendent to whom that school is assigned. Following such approval by the assistant superintendent, the proposed contract must then be approved by the district's legal office as to form and legality. The contract must next be approved by the district controller to assure that funds are available for expenditure under the agreement. Once the foregoing approvals have been obtained the proposed contract is submitted to the Board of Education for its approval. The Superintendent has no involvement in the approval of contracts. After Board approval the contract is executed on behalf of the district, typically by the district's deputy superintendent in the case of school-related contracts.

All contracts with Social Advocates for Youth (SAY) were generated and processed in the above noted manner. There were six contracts between the district and SAY in recent years. The approval of a contract by the district's superintendent is neither required, nor contemplated, by district procedures. As indicated above, discretionary approvals are required only from the division assistant superintendent and the Board of Education.

With respect to the grievance filed by counselors at O'Farrell regarding the use of the family advocates hired by SAY, that grievance has been settled. The counselors contended the advocate positions should have been staffed with school counselors rather than outside staff hired by SAY. In the settlement of that grievance the parties agreed that the family advocate positions were not the same as school counselor positions. The positions remain staffed with the advocates recruited by SAY.

Please feel free to contact our office if we may be of additional assistance.

Sincerely,
Christina L. Dyer,
General Counsel.
Mélanie Petersen,
Deputy General Counsel.

JULY 29, 1993.

Hon. EDWARD KENNEDY,
Hon. NANCY KASSEBAUM,
U.S. Senate, Washington, DC.

DEAR SENATORS KENNEDY AND KASSEBAUM: This statement is submitted for the purpose of explaining the history to the agreement between the District and SAY, San Diego for the provision of family advocate services.

O'Farrell Community School was reopened in 1990 under my leadership as Chief Educational Officer with the support of a community planning committee. The director of the San Diego County Department of Social Services, Community Action Partnership (CAP), Mrs. Georgia Tate, was an active member of the planning committee and was very interested in the success of our school.

In 1990, the San Diego Unified School District's Board of Education and the San Diego County Board of Supervisors approved a partnership between O'Farrell Community School and the San Diego County Department of Social Services to co-fund family advocate positions at O'Farrell school. In an effort to improve the coordination of the educational and social service communities, O'Farrell staff, with the assistance of CAP, wrote a Request For Proposals for the provision of family advocate services in conjunction with the similar services to be provided by the San Diego County Department of Social Services. The Request for Proposals was distributed to numerous community organizations in the county.

All written responses to the Request for Proposals were reviewed by a team of O'Farrell staff and staff from the San Diego County Department of Social Services, CAP. SAY was selected for award of a contract by the team which reviewed the responses to the Request for Proposals. The team's decision was based solely on the merits of SAY's proposal. The contract with SAY has been renewed annually since that time.

Dr. Thomas Payzant was not involved in the decision to contract with SAY. The only District personnel involved in the selection of SAY for award of a contract were teachers at O'Farrell and me. Dr. Payzant's wife, Ellen, who I believe at the time was associated with SAY, was also not involved with the decision to award a contract to SAY.

Should you need any further information regarding this matter, please feel free to contact me at (619) 789-7769 (home) or (619) 263-3009 (work).

DR. BOB STEIN,
Chief Educational Officer,
O'Farrell Community School.

Mrs. KASSEBAUM. Mr. President, I look forward to his confirmation. I look forward to our working together as a Congress with the administration in a renewal of dedication to quality education. It cannot just come from Washington. It must come from all of us working together, and if there cannot be the support from the community and parents to reach that endeavor, no amount of legislation we can pass will accomplish the purpose. But certainly having those such as Dr. Payzant step forward as Assistant Secretary for Elementary and Secondary Education will be a major step in assisting us in being a participant in those efforts toward quality education.

I yield the floor and suggest the absence of a quorum, Mr. President.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. KASSEBAUM. Mr. President, I further ask that the call of this quorum be equally divided in time.

The PRESIDING OFFICER. Is there objection? The Chair hears none. It is so ordered.

Mrs. KASSEBAUM. Now I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, is leader time reserved?

The PRESIDING OFFICER. That is correct.

THE PRESIDENT'S ECONOMIC PLAN

Mr. DOLE. Mr. President, I understand that later today the distinguished majority leader and the chairman of the Senate Finance Committee, Senator MOYNIHAN, and other key Democrat negotiators, who have been working for the past week behind closed doors, are expected to announce the final details of the Clinton economic plan.

As far as Republicans are concerned, nothing we have heard so far changes the fact that we think this is a bad plan that will be bad news for the economy and will not solve the deficit problem.

The glue that holds the Republican Party together is the absolute conviction that the United States cannot spend its way into prosperity and cannot tax its way into prosperity.

No last minute cosmetic changes can hide the fact that the centerpiece for the Clinton economic plan is the largest tax increase in history. This is a "tax-now, cut spending later" plan that will slow down the economy and destroy thousands and thousands of jobs.

We learned yesterday, I must say with great surprise and some shock, I think, that the income tax hikes in this bill will go into effect January 1 of 1993—not next year, but they have already been going on in January, February, March, April, May, June, July and now August. A lot of people are going to find out when this passes that they have been paying taxes all year at a higher rate and did not know it.

Those affected by these new taxes, who file as individuals, have 4 months left to pay for an almost 30-percent increase in their tax bill—a 30-percent increase. For a lot of small business men and women, this increase will have the same effect as a 67 percent tax hike for the remainder of this year.

Keep in mind there are 21 million small businesses and a lot of self employed people who will not pay any increase in tax. Of those 21 million subchapter S corporations and partnerships and sole proprietors, 4 percent create 70 percent of the jobs. Of all of the corporate returns filed, I think 7 percent are subchapter S corporations, and they do not pay corporate rates, the 35 percent. They are going to pay the 45 percent, because it is retroactive to January 1; it is going to be a 67-percent tax hike for the remainder of this year.

On the spending side, the vast majority—I do not think anybody quarrels with this number—80 percent of the promised spending cuts in the plan are delayed until after the 1996 elections. In fact, yesterday, Chairman MOYNIHAN repeated that this plan really does not cut anything; it simply slows the rate of projected spending increases. That has happened in all administrations, but I think most Americans think if you are going to cut, you really cut. We are slowing the increases in Medicare as it affects providers, hospitals and doctors and others, who in the past have been able to shift their costs, but now they cannot do that. It is going to be very difficult and tough on a lot of small hospitals in rural areas.

So I do not believe that is a good deal for America.

Not one Republican voted for the President's budget plan in either the House or the Senate. I cannot speak for my colleagues in the House, but based on what we know about the conference report, it is worse than it was when it left the Senate. I do not see how a single Republican in the Senate can change his or her mind and vote for this package. In fact, it is even worse than the Senate bill because, according to the information we have seen, the conference report has at least as many taxes as the Senate bill.

The income tax increases for businesses and individuals are now retroactive to January 1, all the way back to the Bush administration. You would think that as a courtesy they would move it to when President Clinton was sworn in and not give President Bush credit for the higher taxes.

That is a change for the worse. The conference report has fewer spending cuts and less deficit reduction than the Senate-passed bill.

Anybody who voted against the Senate bill is going to have a tough time explaining how this package is a better deal for America. Some people say, "What have the Republicans done?" I watched Ross Perot struggle a bit on Meet the Press yesterday when he was asked about his plan. He said had he known they were going to ask, he would have brought his charts and figures.

For the record, we have tried to improve the President's plan on this side of the aisle. When the Senate debated the budget resolution in March, Senator NICKLES offered an amendment to eliminate the President's $73 billion energy tax. The amendment was paid for with cuts in the President's proposed spending increases, and the Republicans were united in our support to for this. But, unfortunately, 53 Democrats voted to defeat the Nickles amendment.

Senators LOTT and MACK offered an amendment to eliminate the President's $32 billion social security tax increase, and, again, the amendment was paid for with cuts in the President's proposed spending increases; and, again, we Republicans were united in support of this amendment. But, unfortunately, 52 Senate Democrats voted to kill the amendment.

Later, Senator GRAMM and Senator LOTT offered an amendment to reduce the individual income tax increases, eliminate the energy tax and eliminate the Social Security tax, to be paid for by cutting back on the President's proposed spending increases. Once again, Republicans were united in their support for this amendment, but 55 Senate Democrats voted to kill it.

Adopting the Gramm-Lott amendment would have dramatically improved the President's plan by reducing the proposed tax increases by $206 billion over 5 years without sacrificing any deficit reduction.

Even if the Gramm-Lott amendment had been adopted, the budget would still have called for $89 billion in increased corporate and individual income taxes and user fees over the next 5 years. So even that package had taxes in it. When I hear some of my colleagues say no taxes, I remind them that they offered an amendment with about $90 billion of taxes in it.

Along with the distinguished ranking member of the Budget Committee and my Republican colleagues, I offered a comprehensive Republican alternative to the Clinton economic plan. It would have reduced the deficit by $367 billion over 5 years without raising taxes—without raising taxes. I emphasize that point. Again, that was defeated. Our tax-free alternative was defeated.

So I make the point that I think everybody in the Chamber, Democrat or Republican, wants to reduce the deficit. Certainly the President does. I think everybody agrees with him. There may be some Republicans who think the deficit does not matter, but they are few and far between these days.

Republicans do not believe that all these promised future spending cuts will materialize.

If you ask the average American voter—and I was in North Carolina Saturday and in Ohio yesterday, and we had a chance to see people trying to make ends meet, trying to pay bills and educate their children, and trying to get ahead. They are pretty cynical about Congress and about any administration. They think they know what is happening, and they are probably right. They know we going to have tax increases. The administration says, "Do not worry about it, it is just going to be taxing the rich." I do not think that is the case. A lot of people are going to get a increase from 31 to 45 percent. It started last January.

Most of the people I saw in Ohio and North Carolina said, "I know you are going to raise my taxes, and you are never going to cut spending." If they are right, then we should all be in difficulty around here when it comes election time.

So, Mr. President, everybody wants to reduce the deficit. This is why we support a balanced budget amendment to the Constitution. This is why Republicans favor the line-item veto. We remain fundamentally opposed to the President's plan, because we believe that the best way to reduce the deficit and balance the budget is to cut spending first. A lot of Americans may be willing to make the sacrifice to reduce the deficit, but they are not willing to accept higher taxes for business as usual, and that is what this plan offers.

Across the country, Republicans are working together with Independents and some Democrats to try to defeat the Clinton plan. The Democrats control the White House and both Houses of Congress, so this is an uphill battle. But it is not out of reach. Some of us have been criticized for it. I have said this, and I will say it again: If the package fails, I think we have a responsibility to sit down with the President, without any preconditions or predisposition, and see what we can do to reduce the deficit.

I know it is a tough vote for my colleagues on the other side of the aisle, but I think it is fair to say that there are always tough votes. I recall in 1985 when we were trying to reduce the deficit without taxes, cutting spending $329 billion over 5 years. One Senate Democrat, Ed Zorinsky, voted with us, and every other Democrat opposed our package.

So it is not unusual for these matters to be fairly partisan.

But, it is still not too late to send a wake-up call to the President. If we can convince the six Senate Democrats who voted against the Senate bill to hold firm and persuade one more Senate Democrat to vote against this plan—and I understand the Senator from Oklahoma said he will vote against the plan—we will have won a major victory for the American people.

I underscore. I am not trying to embarrass the President. I am trying to help him develop a better plan and not get carried away with White House hype.

The statements from the White House boiler room sound like they were written by chicken little. The White House wants us to believe that the world will come to an end if the President's plan is defeated. It will not. If we are successful and defeat the Clinton plan, the sky will not fall.

Again, I go back to January when the Congressional Budget Office, the one the President wants us to rely on, said if we did not do anything the economy would create 9.4 million jobs over the next 4 years. The President said last week if we pass his package we will create only 8 million jobs. It would appear to the average observer we lose a 1.5 million jobs by considering the President's plan. We would like the President to scrap this plan.

If he does, President Clinton can count on help from lots of Republicans who stand ready to meet with him and the Democrat leadership in Congress. No preconditions.

Now, that is not an endorsement of a so-called summit,—I have been to some of them—and it is not an endorsement of tax increases. It is just a commitment by Republicans to try to help the President develop a real deficit reduction plan that works.

We think we can do better than this plan, and we hope to convince the President and his fellow Democrats that we can do it by cutting spending first, and we think that is the way to go.

There are also other ideas, we think, at least ought to be looked at: retroactive and prospective indexing of capital gains and repeal of the stepped-up basis at death. We believe those changes would release a lot of opportunities and create jobs, and we think that it would produce revenue, not lose revenue as the initial estimate is indicated from the Joint Tax Committee.

But, finally, I guess the bottom line is what should we do for the country? What should we do for the taxpayers in the country?

And many taxpayers in the Midwest in about 9 or 10 States, particularly those who live along the Mississippi River, Missouri River, and other rivers are going to have it pretty tough this year when they find out taxes have been retroactively increased to January 1, and if they live in my State of Kansas or any other of the 9 States, it is going to be a blow. They already had one blow. They do not need another blow like this.

It is not too late. It is not too late. I assume we are going to vote on this package Friday. The majority leader said yesterday he has the votes. But it is still not too late for my colleagues to take a good look at this package and reject it for the reasons we have outlined.

Mr. President, I reserve the remainder of my time, and I suggest the absence of a quorum.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Minnesota.

Mr. WELLSTONE. Mr. President, is there a quorum call now?

The PRESIDING OFFICER. The Chair will advise there is not yet a quorum call.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Kansas.

Mr. DOLE. Mr. President, I have been asked to request that the time I used be charged against the pending nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Minnesota.

Mr. WELLSTONE. Thank you, Mr. President.

Mr. President, I know that Senator FEINSTEIN is going to be down here to speak for Dr. Payzant, but she is not here yet.

So in a moment I think what I will do is suggest the absence of a quorum and the quorum call time be divided equally between both sides.

THE BUDGET

Mr. WELLSTONE. Mr. President, just for a moment I want to stray from the business at hand and maybe respond to the minority leader very briefly.

I feel that in working closely with the minority leader, with the Republicans and Democrats from the Midwestern States, certainly the distinguished Chair knows full well the real devastation and the pain of people who are really struggling in all of our States.

Sometime this week we will bring the disaster relief bill to the floor. I think we must improve on what has been done in the House. I think the first dollar sign is not going to be enough. I think there is going to be yet another disaster relief bill.

I think we have worked to develop a formula for agriculture, and I am committed to changing that, and many, many Democrats and Republicans are. In my own mind I would like to keep that issue separate from the reconciliation bill because I think that one of the things that is significant about this reconciliation bill is that for the first time—and I emphasize this, Mr. President—in a long, long, long, long time people in the country are now seeing some discussion about who pays additional revenue or taxes based upon some principle of fairness. This really is quite a departure. It is a 180 degree turn from what we saw during the decade of the eighties where we made the most regressive tax policy imaginable for people on the top, seeing the marginal rates drastically reduced, and the people in the middle, working people, really having it socked to them.

I emphasize what the President emphasizes over and over again, what the majority leader has emphasized when we are talking about individuals and households with incomes—I forget the exact figure—$115,000 or $140,000-plus as being the ones that will pay a little more in terms of what needs to be done by way of sacrifice either for deficit reduction or for what little investment there is here that is based upon a principle of fairness that the vast majority of people support in this country.

I think what people have really reacted to and really are angry about is when they feel they are ripped off and they feel it is the same people who have the wealth and the income and the power who get all the breaks. This is quite different. I think this establishes a principle of fairness, which we should have had in our tax policy all along and then we never would have built up all of this debt and we would have been able to invest in ourselves and our country.

I just want to express a slight disagreement.

EXECUTIVE SESSION

NOMINATION OF THOMAS W. PAYZANT, OF CALIFORNIA, TO BE ASSISTANT SECRETARY FOR ELEMENTARY AND SECONDARY EDUCATION

The Senate continued with the consideration of the nomination.

Mr. WELLSTONE. Mr. President, I do notice the Senator from California is here and I understand that the Senator would like 5 minutes, and I yield

5 minutes to the Senator from California.

The PRESIDING OFFICER. The Senator from California [Mrs. FEINSTEIN] is recognized for 5 minutes.

Mrs. FEINSTEIN. Mr. President, I thank you very much, and I thank the Senator from Minnesota for the time.

Mr. President, if there is one job that is difficult to do today it is to be a superintendent of public instruction in the State of California. Our classrooms are overcrowded, our supplies are not adequate, and the needs of our young people are burgeoning.

I rise in support today of Dr. Thomas Payzant, President Clinton's nominee to become Assistant Secretary for Elementary and Secondary Education. I am very proud of this, because Dr. Payzant, I believe, is one of the finest superintendents of public instruction in all of the United States of America.

For the past 30 years, Dr. Payzant has served as an educator and as a superintendent of schools in virtually every region of the Nation. Since 1982, my State of California has benefited from his leadership, and he has lifted the San Diego Unified School District into America's elite class of innovative learning communities.

In December 1992, Dr. Payzant received the Harold McGraw, Jr., Education Prize, which is one of the most prestigious awards in American education.

He has just completed 10½ years as superintendent of San Diego city schools, making him one of only three recent big city superintendents that have survived more than 10 years—contract renegotiation, problems of dealing with the local school board, all the panoply of distress that cause urban superintendents of public instruction very often to go somewhere else.

Leading the San Diego Unified School District is no exception to the problems. It is the eighth largest urban school district in America, and like many of the districts in my State, it has been going through some dramatic demographic changes and an extended period of declining resources.

Despite these challenges, Dr. Payzant has guided the district around pitfalls that have frustrated improvement efforts in many other districts across the country. Let me give you an example: Through his efforts, San Diego has been recognized as one of the country's best urban school districts and a model for other districts to follow. I remember when I was running for Governor and I said to the Department of Education in my city, "Who is the best superintendent to go and see?" They said, "Go to San Diego. They are doing some of the most interesting educational work." His reforms have produced awards and results, and let me give you some of them.

Through the 1980's student achievement in reading, language arts, and math has improved steadily in San Diego. It is especially important to know that progress was made in the beginning to close the achievement gap which exists between African-Americans, Hispanics, Asians, and white students. During Dr. Payzant's tenure, a core curriculum was implemented requiring all students to take rigorous courses in basic academic subjects.

One of the things that I have found that has been the product of education of the last, oh, I would say 15, 20 years, is that we have strayed away from teaching youngsters the basic fundamentals. I submit to you, Mr. President, as I look out at these young faces of pages, I say if you do not have your basic fundamentals, if you cannot read and write, subtract, multiply, divide and add, recognize China on a map, or do the things that are necessary to get that fundamental education, I am convinced you cannot succeed in the workplace as it is today.

It is that much of an imperative.

Dr. Payzant has recognized this and he has provided the leadership that has stressed excellence in education. And that is something that we should never, never compromise.

As a former big city mayor, I am especially impressed with his ability to bring many different people together from different economic, social, and racial environments and form a consensus and move the district on, rather than let the district get tied up in moribund indecision between various groups.

Equally important, he is not only respected for his good administrative and leadership abilities, but for his personal integrity as well. Throughout his tenure in San Francisco, he has upheld his responsibility to educate our young people in the finest of traditions. Those traditions are excellence, learn your fundamentals—reading and writing and arithmetic.

The children of San Diego are better off for the superintendency of Dr. Thomas Payzant. For these reasons, I urge your support of Thomas Payzant.

I thank the Senator.

The PRESIDING OFFICER. The time of the Senator from California has expired.

Mr. PELL. Mr. President, I want to express my strong and enthusiastic support of the nomination of Dr. Thomas Payzant to be the Assistant Secretary for the Office of Elementary and Secondary Education. This is a nomination that merits overwhelming approval.

Dr. Payzant is without question a man of great integrity. As one of our Nation's longest-serving and most accomplished urban school superintendents he has gained the respect of educators and administrators nationwide. His superb record has won him national recognition as one of only three recipients of the 1992 Harold W. McGraw, Jr. Prize in Education. The Executive Educator has named him one of the 100 best school administrators in North America.

As superintendent of the eighth largest and often-troubled urban school district in the Nation, he has repaired the school district's integration program, mended the relationship between the business community and the school district, and made progress in beginning to close the achievement gap which exists between African-Americans, Hispanics, Asians, and white students. He has expanded the access to an enrollment in advanced placement programs as well as implementing a rigorous core curriculum. Under Dr. Payzant's leadership, the San Diego City School District has become a national leader in its field testing of alternative assessment of student achievement, as well as faculty and student accountability. His list of accomplishments as a visionary and innovative leader is never-ending.

Most importantly, Dr. Payzant possesses a true commitment to our children, the hope and strength of our future. He has dedicated his life to helping to provide our students with a world-class education, to empowering our teaching force and to encouraging our parents to invest in their children's education. By entrusting the Office of Elementary and Secondary Education to Dr. Payzant we will undoubtedly be ensuring the best possible opportunity for our children to succeed and therefore, for our Nation to succeed.

As we stand poised for what could prove to be a historic reauthorization of the Elementary and Secondary Education Act, it is of immense importance that we have an individual of his recognized leadership and expertise as our Assistant Secretary for Elementary and Secondary Education.

I urge my colleagues to join me in confirming Dr. Thomas Payzant.

The PRESIDING OFFICER. Who yields time?

The Chair would advise that the Senator from Minnesota controls 2 minutes and 22 seconds, the minority side has 32 minutes remaining.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. HELMS. Mr. President, let me participate in what is perhaps a convoluted debate on various nominations constructed under unanimous consent wherein there are, by actual count, three Senators, including the distinguished occupant of the chair, in this Chamber.

So we can thank the Lord, maybe, for C-SPAN, for television in the Senate. And I must say that I voted against television in the Senate, because I feared it would create some prima donnas when the Senate already had enough of those. But, in any case, I now welcome the great work done by C-SPAN.

Mr. President, Senators may recall the campaign undertaken last year by the homosexual crowd and their allies to try to force the Boy Scouts of America to accept, as leaders and members, homosexuals along with boys who refuse to accept the Scout oath of allegiance to God and country.

Who would have guessed then that if Bill Clinton were elected President, some of the leaders of these arrogant dissidents would be nominated for high-level jobs in the U.S. Government?

Either this year, President Clinton nominated—and the Senate confirmed—Roberta Achtenberg to be Assistant Secretary of Housing for Civil Rights—the same Roberta Achtenberg who led the fight in San Francisco to expel the Boy Scouts from the San Francisco schools and to cut off their United Way funding.

Today, the Senate has before it, and will presumably vote on tomorrow, President Clinton's nominee for Assistant Secretary for Elementary and Secondary Education a man named Thomas Payzant, who, as superintendent of San Diego's public schools, led a similar and successful effort to kick the Scouts out of San Diego's schools.

Where Roberta Achtenberg asked the citizens of San Francisco if they really want [their] children learning the values of an organization such as [the Boy Scouts]—Mr. Payzant told the citizens of San Diego last December in reference to the Boy Scouts:

> We can't tolerate that kind of organization [the Boy Scouts] working with young people." [LA Times 12/16/92]
>
> Since the Boy Scouts have a national policy which forbids homosexuals from being in leadership positions, it would be a violation of district policy * * * to allow them to continue with sponsorship of programs during the regular school day. [San Diego Union-Tribune 12/16/92]

Then, in January, Mr. Payzant said:

> What I can't accept is the underlying assumption that if somebody is gay or lesbian, then there is a greater chance of irresponsibility in terms of improper behavior toward young people. [LA Times 1/11/93]

Mr. President, Mr. Payzant's problem is that he has abused the public trust to discriminate against the Boy Scouts because they do accept the assumption, as do their parents and the majority of Americans, that homosexuals pose a greater than average threat to young people. The statistics prove it.

In light of all the problems currently plaguing our young people—drug abuse, teen pregnancy, gang violence, to name a few—most Americans are proud of the Boy Scouts for standing up for traditional family values in the schools. As the Scouts' San Francisco regional director, Buford Hill, put it:

> It is unthinkable that in a time when worries about drugs, crime, education, youth, and gangs are at an all time high, some would direct their efforts at attacking an organization that has been a bulwark for values and the family.

The leaders in the homosexual movement find the Boy Scouts threatening, very threatening, to the perverse lifestyle of homosexuals. The Scouts are a bulwark for values and the family. The Scouts—and the values they represent—stand as a singularly significant pillar against the homosexuals' efforts to redefine the family to include homosexual couples and to force the rest of us to accept their lifestyle as normal.

Mr. President, some may wish to accept that lifestyle as normal, but not this Senator.

What makes Mr. Payzant's disdain for the Boy Scouts so important is that President Clinton proposes to put him in charge of national policy regarding high schools and elementary schools across the country.

U.S. News & World Report published an article last December, "Hidden Power in Washington: The Federal Jobs That Really Make a Difference," that had this to say about the position to which Mr. Payzant had been nominated:

> One of the hottest spots in Washington. * * * Whoever has this job will be the point person for most of the Clinton school reform agenda. The assistant secretary administers a $9 billion budget, nearly one-third of the department's total, covering everything from Chapter 1 funds to disadvantaged students to teacher training programs.

If confirmed, Mr. Payzant can use his office, and the power of Federal funding, to assert to parents all across the country, as he did to parents in San Diego, that having the Boy Scouts organization working with young people should not be tolerated.

To that I say, "horsefeathers."

Mr. President, Mr. Payzant has other educational ideas worthy of the attention of American parents. In 1982, superintendent of the Oklahoma City public schools, he attacked what he characterized as the ineffectiveness of religious schools. A rather curious statement, he said:

> You don't learn science, history, and government through an entirely religious background. It is not effective. [Daily Oklahoman 3/29/82]

He better look at the statistics on that and the products of church and religious schools. I have a daughter who is a principal of an Episcopal school. She happens to be a Baptist, but that shows how tolerant the Episcopalians are—maybe because she is a pretty good principal.

I can tell you that that school turns out crackerjack young people, and I will compare them with any schools anybody wants to talk about.

Mr. President, during Mr. Payzant's tenure in San Diego, he prohibited teachers from giving failing grades, and mandated that no elementary student be held back to repeat a grade. A principal in one of San Diego's schools summed it up best when he concluded "[t]his [policy] will lead to a position of no standards. It's nonsense."

Also during his time in San Diego, Payzant successfully urged the school board to permit girls to compete with boys in contact sports such as varsity football and wrestling.

From 1985 through 1991 he led an ultimately successful campaign, and despite overwhelming public opposition, established school health clinics that include reproductive, abortion, and contraceptive counseling, referrals, and services among the health programs they offer students from kindergarten through 12th grade.

Payzant also instituted a program in the schools called Project 10 that informs students—falsely—that 1 in 10 of them is homosexual; it also refers children with normal questions about puberty to homosexual groups for counseling where they are often told they are having adjustment problems because they are homosexual.

Superintendent Payzant also set up a system for school programs—like the gifted and talented program—to ensure that the diversity of the student body would be represented in every program. This was simply a requirement that quotas based on race—not merit—would determine which students were able to participate in school programs.

Bear in mind the job for which President Clinton has nominated this man, which nomination the United States Senate is going to confirm tomorrow with a few dissenting votes—the vote of JESSE HELMS being one of them.

Mr. President, the bottom line is that Mr. Payzant's chief interest is not in educating our children, but rather in imposing upon the Nation's schools his own leftwing extremist social agenda. The Los Angeles Times reported in 1986 that:

> Payzant's relish for tackling social issues has embroiled the [San Diego] school board in delicate questions of contraception, family values, privacy, equal rights, and international politics.

But Larry Lester, former San Diego School Board member, perhaps said it best:

> Tom is promoting a social agenda. He is clearly giving direction to the staff to support his ideas of what is appropriate public policy. It is not the business of the school system to be promoting social change. That's beyond its legitimate function. [LA Times 7/27/86]

Mr. President, the wisdom of putting someone in charge of America's Federal elementary and secondary education policy who believes the values of the Boy Scouts of America are unfit for children to learn is like putting the fox in charge of the hen house. For that we can thank the President of the United States.

I shall not vote to put this man in charge of educating America's children. Sooner or later, I suspect the American people will be asking Who did vote to confirm Mr. Payzant.

Mr. President, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. LIEBERMAN). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WELLSTONE. Mr. President, let me just respond for a moment or two to the comments of the Senator from North Carolina. From listening to the Senator, you might think that Tom Payzant was involved in an effort to ban the Boy Scouts from San Diego, or you might think that in some sort of way he was anti-Scout. Let me first of all say that kind of attack is one of the things I think has bothered Mr. Payzant most. He was a Scout himself. His son is a Scout. And his daughter is a Girl Scout.

To just simply get the facts straight for the RECORD, for the Senate, what Tom Payzant did in San Diego was he stopped the Learning For Life Program.

This particular program was a program carried out in 15 out of 155 schools during school time. Sixty Scout groups continued to meet outside school time unaffected and they continued to have their program. So there was no banning of the Boy Scouts from San Diego.

In addition, I also need to make it crystal clear that the issue for Mr. Payzant was an issue of equal employment opportunities, that there should not be any discrimination in this regard. That was the why of the decision. The elected school board in San Diego unanimously—unanimously—supported his proposals.

I might also point out on the floor of the Senate right now, by way of response, that Big Brother, Big Sisters, and the Girl Scouts have the same kind of antidiscrimination policy that includes sexual orientation.

Mr. President, I do not have time, given the time I have left on the floor of the Senate, to respond to all that the Senator from North Carolina had to say. But one more time I want to make the point that Tom Payzant is one of the most qualified individuals ever to come before the Senate to be Assistant Secretary for Elementary and Secondary Education. There was bipartisan support in our committee, bipartisan support from both Representatives in San Diego, enumerable accomplishments in San Diego and, for that matter, in other schools in other States, the recipient of the prestigious McGraw Award for Excellence in Education.

I think these attacks are peripheral and marginal and get away from the real issue.

Mr. President, I ask unanimous consent to print additional information in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF EDUCATION,
Washington, DC.

Hon. EDWARD KENNEDY,
Hon. PAUL WELLSTONE,
U.S. Senate, Washington, DC.

DEAR SENATORS KENNEDY AND WELLSTONE: I would like to respond to some comments made recently concerning my nomination.

The suggestion that San Diego City Schools are unique in permitting girls to participate in traditionally all-male sports is false. San Diego is not at all unique in this regard. In fact Title IX requires school districts nationwide to provide equal access for boys and girls to participate in sports. Students cannot be barred from participation based on gender if they wish to participate in those sports. As Superintendent of San Diego City Schools I took seriously the responsibility of following the law.

San Diego City Schools did not eliminate the "F" grade from its grading system. Several years ago the San Diego Drop Out Prevention and Recovery Roundtable, a group of educators and community people appointed by the school district, recommended that the "F" grade be replaced by "no credit" in the grading system used in secondary schools. As Superintendent I backed the group's recommendation, but the Board of Education decided to retain the "F" grade in the secondary schools' grading system and allow students to replace the "F" grade once they retake a course and pass it.

Project 10, a program designed to counsel gay and lesbian students, currently operates in the Los Angeles City Schools. It does not now, nor has it ever operated in the San Diego City Schools. As Superintendent, I did not recommend the adoption of Project 10 in San Diego. Several years ago, SDSD began to hear concerns raised about the district's lack of attention to the issues facing gay and lesbian students. The district's response was to arrange a one day staff development program for some district staff. A resource person who works with Project 10 was invited to San Diego for the counselor's workshop on that day. Again, SDSD did not establish a Project 10 program.

With regard to the Boy Scouts, the elected Board of Education adopted a nondiscrimination policy which included sexual orientation. This policy appeared to be at odds with Boy Scout sponsored programs which took place during the regular school day when students were in compulsory attendance. A Boy Scout myself, and long supportive of the programs the Boy Scouts sponsor, I was faced with a very hard decision. After long and thoughtful discussion, I recommended that the school District continue the widespread use of school facilities for Scouting programs after normal school hours, but disallow such programs during the regular day when students are in compulsory attendance. The board unanimously agreed.

The policy affected in-school Boy Scout programs in only four of one hundred and ten elementary schools. The secondary school Career Awareness Program, sponsored by the Scouts was eliminated in eleven secondary schools. After school programs continue in more than sixty elementary schools.

I was quoted in a December 6, 1992 Los Angeles Times article as saying, "we can't tolerate that kind of organization working with young people." This quotation does not reflect the full context in which it was made. I was making the point that it would not be proper to have any outside organization that violates the San Diego City Schools non-discrimination policy work with children during the regular school day when students are in compulsory attendance.

The same article also quoted me speaking about my experiences as a scout in the early 1950s when I ". . . was taught the value of tolerance and inclusiveness and to challenge those who engage in stereotypes and discrimination." "It's ironic," I also was quoted as saying, "that I'm using what I learned as a scout to challenge that organization now . . . the time to discriminate is past if we really believe in those values."

Finally, while school-based health clinics exist in some San Diego city schools, they are prohibited from distributing any kind of contraception. The suggestion that school-based health clinics in San Diego offer advice in the area of abortion is false.

Thank you for permitting me to set the record straight on these issues.

Sincerely,

THOMAS W. PAYZANT.

[From the San Diego Union-Tribune, Mar. 11, 1993]

THE PAYZANT RECORD: STUDENTS BENEFITED FROM HIS REFORMS

The San Diego Unified School District faces an exceptional challenge in finding a replacement for Superintendent Tom Payzant, who is joining the Clinton administration as assistant secretary of education for elementary and secondary education.

During his 10-year tenure in San Diego, Payzant has guided the country's eighth-largest school district around pitfalls that have confounded superintendents in other urban districts.

In the process, he built a national reputation as a reformer who could produce practical results. The 125,000 students here have been better off for his decision to stick with San Diego far longer than is typical for superintendents of major school districts.

San Diego Unified is something of an anomaly among urban districts. It is comparatively free of the violence that plagues New York, Los Angeles, Chicago, Detroit and Philadelphia. The bitter racial and ethnic tensions that have created animosity in these school districts are not common here. To the contrary, integration of the city schools has proceeded during the last 10 years without close court supervision or a corresponding decline in student achievement.

Payzant deserves much of the credit for that.

He was determined from the outset to get the community more involved in schools. Central to his strategy was site-based management, under which administrators, teachers and parents share in the desicion-making at individual schools. This spirit of cooperation has paid dividends both inside and outside the classroom.

San Diego students routinely score above the state and national averages on standardized tests. This is particularly impressive when you consider the diverse nature of the student population.

In fact, San Diego Unified has maintained its student achievement level while undergoing dramatic demographic changes that have lowered test scores in other urban school systems.

Payzant has earned praise for expanding the district's magnet program to promote voluntary racial integration. He pushed for a core curriculum in high schools to ensure that all students have a solid grounding in the basics. He raised the district's graduation requirements. He persuaded more than

400 local businesses and service organizations to give kids a helping hand through tutoring and mentoring programs. And his New Beginnings program at Hamilton Elementary has enabled parents and students to avail themselves of counseling, immunization, dental care and other county social services.

Although this newspaper has differed with Payzant on several policy issues, we've always known him to be a principled proponent of public education. The person chosen to succeed him should be no less committed to the reforms that have helped make San Diego Unified one of the nation's better urban school districts.

[Editorial by Vice President and General Manager Ed Quinn, KGTV, June 21 and 26, 1993]

CONFIRM DR. PAYZANT

A Boy Scout basher? Tom Payzant? We don't think so.

But some folks are calling him that, saying that when Payzant sat here in the board room as San Diego's school superintendent, he tossed the scouts out and promoted gay values.

These accusations could spell trouble for Payzant's nomination to be an assistant secretary of education. A Senate committee may hold hearings on the nomination because of the protests from a few folks filled with misinformation and inaccuracies.

The fact is that Payzant followed district policy when he said scouts couldn't do activities during class periods because they ban homosexuals from leadership positions. But he also made sure scouts could meet at schools after classes—that's fair.

We think Tom Payzant ought to be confirmed by the Senate, and that Senate committees have a lot better things to do with their time than engage in a witch hunt. We hope Payzant's confirmation comes soon.

That's our opinion. What's yours?

[From the San Diego Union, Feb. 10, 1990]

CHALLENGES

During his seven-year tenure as superintendent of the San Diego Unified School District, Tom Payzant has often generated progress and controversy in equal measure. This newspaper has never hesitated to criticize his policies whenever they appeared not to serve the best interests of students. Nevertheless we have always respected Mr. Payzant as a consummate professional. More importantly, the record shows that he has brought about significant improvements in the city schools.

We endorse, therefore, the school board's unanimous desire to persuade Superintendent Payzant to remain in San Diego rather than accept a potential offer to head the school system in Dade County, Fla.

Mr. Payzant's primary interest in the Miami job appears to stem from the challenge of guiding the nation's fourth-largest school district. But the challenge of making the nation's eighth-largest district the best it can be is no less compelling.

Despite Mr. Payzant's many accomplishments in San Diego, much remains to be done. For instance, overall student test scores have risen steadily during the last seven years. Yet the scores of black and Hispanic students have been slow to improve. To address this problem, he has begun to implement a common core curriculum throughout the district, ensuring that all students receive a solid grounding in the basics. But it will be several years before the curriculum is in place at all schools.

The district's successful magnet program, promoted strongly by Mr. Payzant, has helped to integrate the school system and enabled thousands of students from widely different backgrounds to receive specialized instruction. On the other hand, Gompers Secondary School, which has long been the pride of the magnets, has developed serious problems that need to be resolved.

Superintendent Payzant deserves credit for the district's ambitious restructuring program to promote school-based decision-making in place of micromanagement from the Education Center. This concept, which empowers principals and teachers to make major decisions that directly affect their students, has been adopted by 40 of the district's 152 schools. This good idea has improved staff morale and should bring about greater accountability. The continuation of this program could well depend on whether Mr. Payzant remains on the job.

Although Mr. Payzant's drug and dropout prevention programs have pointed the district in the right direction, a continuity of committed, aggressive leadership is required to make headway in solving these problems, which inflict thousands of San Diego students each year.

Since assuming his duties seven years ago, Superintendent Payzant has thrived on the challenge of raising the educational standards in the city schools. Having guided the district to new heights, he now has the opportunity to take it even higher.

[From the Los Angeles Times, Aug. 3, 1986]

HIGH MARKS FOR PAYZANT

Ever since the civil rights movement began in the 1950s, local school boards have often been given the unwelcome task of refereeing between factions pushing for and resisting social change.

The trustees of the San Diego city schools have faced a steady series of difficult social problems in recent years, perhaps not entirely coincidentally during the tenure of Supt. Thomas W. Payzant.

Looking at the social issues Payzant has brought to the board—as Times staff writer Leonard Bernstein recently did for the current year—one finds topics that have only a symbolic relationship with education, such as condemning South African apartheid, and those that go to the heart of educational opportunity, such as eliminating the unfair practice of "tracking" students.

Also represented are controversies over attempts to address the societal problems students bring with them to class, such as Payzant's decision to allow undercover narcotics officers to infiltrate campuses and his unsuccessful proposal to create a school health clinic.

Critics of Payzant have accused him of having a liberal social agenda that he seeks to impose on the school board. But he argues that most of the issues have come to the surface in a natural way, and he has simply brought them to the board's attention. He plans to continue doing that, without knowing what the next prickly topic to confront them will be.

It is unfair to paint a one-dimensional portrait of Payzant as a superintendent more interested in social change than education. He got high marks from the school board in his recent job performance review.

Although he was admonished to improve communications with principals and teachers, he was praised for improving student discipline and reducing absenteeism, implementing several new education programs and conducting a study of the district's future enrollment.

It is inevitable that social issues will continue to burden the schools as long as society's conflicts are propelled by people wanting more out of life for their children—and as long as the public school represents the fulcrum of American aspiration.

Although we have not always agreed with the ultimate decisions, we think the superintendent and the current school board generally have dealt with these issues in a responsible way and to their credit.

Tom Payzant has showed that he's both sensitive and realistic about these problems, and in his four years here he's handled them well.

LETTERS RECEIVED CONCERNING THE NOMINATION OF DR. THOMAS W. PAYZANT AS THE ASSISTANT SECRETARY OF EDUCATION FOR ELEMENTARY AND SECONDARY SCHOOLS

LETTERS OF SUPPORT

Education groups

1. Keith Geiger, President, National Education Association
2. Gordon M. Ambach, Council of Chief State Officers
3. Richard D. Miller, Executive Director, American Association of School Administrators
4. Shirley N. Weber, President of Board of Education, San Diego City Schools
5. Samuel G. Sava, Executive Director, National Association of Elementary School Principals
6. William M. Soult, President, National School Boards Association
7. Albert Shanker, President, American Federation of Teachers
8. Dr. Timothy J. Dyer, Executive Director, The National Association of Secondary School Principals
9. Dena G. Stoner, Executive Director, Council for Educational Development and Research
10. Stanley N. Katz, President. American Council of Learned Societies
11. Pat S. Henry, President, The National PTA
12. William Crane, President, San Diego Teachers Association
13. Donald M. Stewart, President, The College Board
14. Ruth Mitchell, Associate Director, Council for Basic Education
15. A. Graham Down, President, Council for Basic Education
16. Dale Carson. Assistant Superintendent for the California Learning Assessment System, California Department of Education
17. Davis Campbell, Executive Director, California School Boards Association
18. Carol M. Barker, Secretary and Vice President, Associational Affairs, The College Board
19. Peter D. Relic, President, National Association of Independent Schools
20. Gregory R. Anrig, President, Educational Testing Service
21. Harry C. Weinberg, San Diego Superintendent of Schools
22. William E. Ritter, Jr., President, San Diego City Schools Peace Officers Association
23. Karen Leveridge, Director, Education Department, Oklahoma State Chamber of Commerce and Industry
24. Laura F. Murray, Principal, Homewood-Flossmoor Community High School District 233
25. Dr. Peter B. Holland, Superintendent of Schools, Belmont, Mass.
26. Sarah S. Heckcher, College Board Trustee, Springside School
27. Patt Sloan, President, San Diego Unified PTA Council

28. William D. Dawson, Acting State Superintendent of Public Instruction, Sacramento, Calif.

29. Arnold L. Mitchem, Ph.D., Executive Director, National Council of Educational Opportunity Associations

30. Michael Casserly, Executive Director, The Council of the Great City Schools

31. Santee C. Ruffin, Jr., Executive Director, National Alliance of Black School Educators, Washington, D.C.

32. Homer D. Peabody, Jr., M.D., Director, Rees-Stealy Research Foundation

33. Vahac Mardirosian, Executive Director, Parent Institute for Quality Education

34. James J. O'Connell, Executive Director, Council of School Superintendents

Business/Chamber of Commerce

1. Kay Davis, Executive Director, Greater San Diego Chamber of Commerce

2. William H. Kolberg, President, National Alliance of Business

3. Philip C. Blair, President, MANPOWER Temporary Services, Washington, D.C.

4. Mel Katz, Executive Director, MANPOWER Temporary Services, Washington, D.C.

5. Gilbert Partida, President Greater San Diego Chamber of Commerce

6. Sophie Sa, Executive Director, Panasonic Foundation, New York, NY

7. Murray L. Galinson, President, San Diego National Bank

8. David E. Janssen, Chief Administrative Officer, County of San Diego

9. Harold W. McGraw, Chairman Emeritus, McGraw-Hill, Inc.

10. Frances R. McCrackin, Assistant Vice President, San Diego Trust and Savings Bank

11. Jack McGory, City Manager, The City of San Diego

Universities

1. Jerome T. Murphy, Professor and Dean, Harvard University

2. Dennis Palmer Wolf, Senior Research Associate, Harvard University

3. Evonne Seron Schulze, Board of Trustees, San Diego Community College District

4. Fred M. Newmann, Director of Center on Organization and Restructuring of Schools, University of Wisconsin

5. Author E. Hughes, President, University of San Diego

6. Richard C. Atkinson, Chancellor, University of California, San Diego

7. A.P. Gallego, Chancellor, The San Diego Community College District

8. Elizabeth K. Stage, California Science Project, University of California

9. Theodorew R. Sizer, Chairman, Coalition of Essential Schools, Brown University

10. Stanley Chodorow, Associate Vice Chancellor—Academic Planning—Dean of Arts and Humanities, University of California, San Diego

11. Thomas B. Day, President, San Diego State University, California

12. Audrey Cohen, President, Audrey Cohen College

13. Lauren B. Resnick, Direct or, LRDC Co-Director, New Standards

14. Paul Saltman, Professor, University of California, San Diego

Civic groups

1. The Rev. George W. Smith, Christ United Presbyterian Church of San Diego

2. Richard A. Collato, President, YMCA of San Diego County

3. R.E. Dingeman, Scripps Ranch Civic Association

Government

1. David E. Janssen, Chief Administrative Officer, County of San Diego

2. Jack McGroy, City Manager, The City of San Diego

3. Jim Roache, Sheriff, County of San Diego

4. Lucy Killea, California State Senator

5. Mike Gotch, Assembly California Legislature

6. Freddye Williams, Oklahoma House of Representatives

7. Tom Connolly, Assembly California Legislature

8. George H. Russell, Director, Lane County Human Resources and Management Services Department

9. Valerie Stallings, Councilmember, The City of San Diego

10. Deirdre Alpert, Assembly California Legislature

Personal letters

1. Richard A. Loescher, M.D., Eugene, Oregon

2. Thomas L.W. Roe, Eugene, Oregon

3. Steven J. Davis, M.D., La Mesa, California

4. Marion C. Krider, Silver Spring, Maryland

5. Leon W. Parma, La Jolla, California

6. Richard A. Burt, San Diego, California

7. Dorothy L.W. Smith, San Diego, California

8. Kate H. Klumpp, San Diego, California

9. Kenneth R. Rearwin, California

The PRESIDING OFFICER. Who yields time?

The Chair notes that the minority controls 15 minutes 26 seconds yet remaining on this nomination.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, parliamentary inquiry. Since the manager of the bill for the nomination is here—and I think I can speak for the Republicans—is it proper to ask for the yeas and nays now, even though there is not a sufficient second by arithmetic?

I ask for the yeas and nays on the nomination.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. Mr. President, I will suggest that Senator COATS is on his way to speak on this nomination.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. COATS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COATS. Mr. President, I know we are running close to time on the Dr. Payzant nomination.

Let me ask, how much time is remaining?

The PRESIDING OFFICER. The Senator has 30 seconds remaining.

Mr. COATS. I wonder if in that 30 seconds I could ask unanimous consent to speak for 5 minutes on the nomination.

The PRESIDING OFFICER. Is there objection? The Chair hears no objection, and it is so ordered.

The Senator from Indiana has the floor.

Mr. COATS. I thank the Chair.

Mr. President, today the Senate is considering several nominations, two of which have come through the committee on which I serve, the Labor and Human Resources Committee.

First, let me just briefly talk about the nomination of Dr. Sheldon Hackney to be Chairman of the National Endowment for the Humanities. As you know, there has been some controversy relative to his nomination. I have carefully looked at the material, read the evidence. I have personally met with Dr. Hackney for an extended discussion in my office. I questioned him at length in committee.

On that basis, while I do have reservations about his past actions and some of his judgment, I have found these to be reservations and questions, not disqualifications. And so I intend to support the nomination of Dr. Hackney when it comes to this floor. I know that will be the next item. I will have more to say, or at least submit a more detailed statement on that.

Mr. President, as to the nomination of Dr. Thomas Payzant to be Assistant Secretary of Elementary and Secondary Education, I opposed his nomination in committee and intend to vote against him in this chamber.

I am doing so because I have not been able to satisfy in my own mind Dr. Payzant's position relative to a number of issues. His policies, like them or not, are more of the same which has lead our public school system to the level of mediocrity I think most who have looked at the situation understand. Dr. Payzant is simply going to continue, in my opinion, the same types of policies, maybe with a little more zest and a little more enthusiasm but I do not believe with any more successful results than what has been tried in the past decade or two.

But my main concern, the thing that disturbs me the most has been Dr. Payzant's personal involvement in removing the Boy Scouts from the San Diego public school system.

At the recommendation of his own task force on gay, lesbian and bisexual issues Dr. Payzant changed the schools' discrimination code to include sexual orientation as a protected class, and then used it to drive the Boy Scouts out of the school. Dr. Payzant was quoted in the Los Angeles Times in December of 1992 as saying of the Boy Scouts; "We cannot tolerate that kind of organization working with young people."

During the hearing I asked Dr. Payzant directly. I said, Dr. Payzant, did you really mean that statement? Is that statement an accurate quotation from you by the Los Angeles Times? Did you really mean that we cannot tolerate the Boy Scouts working with young people? I did not talk about working with young people during the school day or after the school day or what type of program they were providing in the school. I just simply said is that an accurate statement and do you stand by it? And he absolutely reaffirmed that statement and said I absolutely do stand by it.

He resigned from the board of directors of the San Diego Boy Scout chapter as a consequence of that.

It is important to note I think that Dr. Payzant at that hearing affirmed that the program that the Boy Scouts were bringing to the San Diego public schools in no way discriminated against homosexuals or promoted any type of antigay agenda. It had nothing to do with that. It was a program that had to do with an entirely different subject, and Dr. Payzant admitted that what the Boy Scouts were teaching and assisting with in the schools absolutely had nothing to do with the policy that he had initiated. But he said we cannot tolerate that type of organization working with young people, which I find not only disturbing, but very, very curious.

On two separate occasions the San Diego school district legal office stated that the Learning for Life Program taught by the Boy Scouts was not discriminatory. I quote from their legal opinion.

> Neither the Learning for Life Program nor the in-school scouting program contains any discussions relating to gay rights issues. Consequently, we see no support for the contention that sexual orientation discrimination is occurring within these programs.

That is Dr. Payzant's legal counsel. This is not our legal counsel. This is not legal counsel for the Boy Scouts. This is Dr. Payzant's legal counsel, the people he turned to to say, give me your legal opinion as to whether the Learning for Life Program presented by the Boy Scouts in any way discriminates or violates this ordnance that I put through.

So Dr. Payzant took these actions against the Boy Scouts despite his own legal counsel's opinion, despite the fact that the parents in his school district, by apparently more than a 3-to-1 ratio, according to the Los Angeles Times article, wanted the Scouts to stay involved in the program. The local Parent Teacher Associations formally asked that the Scouts not be ousted, with Dr. Payzant's move very, very directly to have them removed.

Mr. President, it seems to me that the Clinton administration has a real distaste for the Boy Scouts of America because they keep sending us nominations of individuals who appear to have taken it on almost as a crusade to drive the Boy Scouts from their respective jurisdictions.

First, we saw Assistant Secretary for Housing at HUD, Roberta Achtenberg, come before this body. She was, as has been pointed out on this Senate floor, very actively involved in removing Boy Scouts from the San Francisco area, funding of their program and so forth.

Second, we have seen the Clinton Interior Department support a decision to ban the Boy Scouts from volunteering in national forests in the West to help clear the trails as the Scouts have done for many, many years—typical Scouting activity. But because the organization does not believe that when you are working with young boys it is a wise policy to have acknowledged homosexuals as Scout leaders camping out, working with the boys because they feel that presents some problems, they now, with the support of the Clinton administration, are no longer able to help clear trails or clear brush or do the things that Scouts engage in in our national forests.

Now we see a nominee for Assistant Secretary for Education holding a very important position, Dr. Thomas Payzant, who says we cannot tolerate that kind of organization working with young people.

I do not understand what the administration has against the Boy Scouts. I do not understand why they continue to send nominees that have been so actively involved in removing Scouts from a number of jurisdictions and organizations in this country. That disturbs me. I could not get what I thought were reassuring or reaffirming answers from Dr. Payzant when he came before our committee.

Mr. President, the most disturbing thing of all is what appears to be now the spin coming out of the White House. Apparently somebody down there has decided that they are in a little bit of political heat, sending up these nominees and having all of this anti-Scout focus pointed toward the administration. So they have now come up with something to present the opposite image. It is ironic that today, August 2, the very day we are discussing the nomination of the man who says we cannot tolerate that kind of organization working with our young people, this very day, the President and Mrs. Clinton are hosting members of the Boy Scouts at the White House. They have put out a memorandum to all Members of Congress:

> Today is "Scouts in Uniform Day" at the White House. Monday, August 2, 1993, from 8 until 12 noon, any Scout in uniform is invited to the White House. No tickets are required. Admission is on a first-come first-serve basis.

The memorandum states President and Mrs. Clinton are pleased to invite all Members of the Boy Scouts to a special Monday, self-guided tour of the White House. They tell them where to park and so forth.

> If the groups are interested in giving the First Family souvenirs or commemorative patches, they would be most pleased to accept them. The patches will become part of a permanent collection. The First Family is excited about having these young people visit the White House and we hope that your constituents will take advantage of this opportunity.

Some people would call that spin doctor. The White House has done a much better job at it since it hired Mr. Gergen. I have no idea whether this is Mr. Gergen's idea or not. All I know is that the public relations office at the White House has done a lot better job of trying to cover their tracks when they find themselves in political trouble. And as such, someone has decided that—Mr. President, I wonder if I could have 1 more minute; I ask unanimous consent.

The PRESIDING OFFICER. Is there objection?

Mr. WELLSTONE. Reserving right to object, I will not object. I just wanted to apologize to the Senator. The reason I am a little reluctant to go any further is I have been here for several hours ready to debate. I have to leave.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Indiana is recognized for 1 additional minute.

Mr. COATS. I thank my friend from Minnesota. I thank the Chair.

I find it more than ironic, I really find it hypocritical, that on the day the White House would bring up the nomination, and the Senate would bring up the nomination of an individual who said we cannot tolerate that kind of organization working with young people, that the President and First Lady have issued an invitation to those same young people to cordially invite them to the White House, and say that they are excited about having them visit them in the White House.

The White House cannot have it both ways. Either this is an organization that they are proud to host in the White House and to have present souvenirs and commemoratives to the President and First Lady, or they are supportive of individuals who occupy high positions in this administration who are bound and determined to undermine and destroy this fine organization.

They ought to decide which one it is. Because in doing the public relations spin at the White House on the same day they are bringing up an individual who says we cannot tolerate these kinds of young people, this kind of organization working with young people, to me is an irreconcilable difference.

With that, I thank the Chair, and I yield back whatever time I have remaining.

Mr. GORTON. Mr. President:

> The only freedom which deserves the name, is that of pursuing our own good in our own way, so long as we do not attempt to deprive others of theirs, or impede their efforts to obtain it.

President Clinton has sent this Senate several nominees whose actions and stated ideologies are in direct conflict with this classic principle of tolerance articulated by John Stuart Mill. The Constitution empowers a President to choose whomever he wants to serve in his administration, but the Senate has the responsibility to give its advice and consent to the President's choices. With respect to nominees who serve at the President's pleasure, I have always been inclined to grant the President a wide latitude in his choices. Consequently, I have consented to nearly all of the President's nominees, including many with whom I disagree philosophically. The Secretary of the Department of Labor, Robert Reich, and the Secretary of the Department of Health and Human Services, Donna Shalala are two individuals whose nominations I consented despite profoundly different political views.

What is unacceptable to me and to many thoughtful Americans are nominees who are intolerant of conflicting views, who have used or are likely to use political power to punish their opponents or to pursue policies destructive of the social fabric which binds us together as Americans, or who are indifferent to fundamental constitutional principles. President Clinton, regrettably, has sent the Senate at least four such nominees including Roberta Achtenberg, Lani Guinier, Sheldon Hackney, and now, Thomas Payzant.

The central question for Members of the U.S. Senate debating the nomination of Thomas Payzant to be Assistant Secretary for the Office of Elementary and Secondary Education is his acceptance or rejection of the classic principle of tolerance articulated by John Stuart Mill. The blatant intolerance and hostility the nominee has shown in public office and the misuse of his political power to inhibit the programs and the exercise of the rights of those with whom he disagrees.

There is a crucial distinction between legitimate advocacy of an agenda and a hostile and irresponsible intolerance of those who do not share that agenda, between spirited advocacy and punitive harassment.

Dr. Payzant crossed this line during his well-known campaign against the Boy Scouts of America while he served as superintendent of the San Diego City School District.

In March 1992, Payzant formed a Committee on Gay, Lesbian, and Bisexual Issues in Education. The committee produced a report in June 1992, with a variety of recommendations including a proposal to add sexual orientation to the school district's antidiscrimination policy.

In November 1992, Payzant brought the findings and recommendations of the committee to the school board which unanimously adopted the recommendation to add sexual orientation to the antidiscrimination policy.

In December 1992, Payzant recommended to the school board that based on the new district antidiscrimination policy and the Boy Scouts membership policy prohibiting homosexual troop leaders, the Boy Scouts be prohibited from conducting programs during regular school hours. After-school programs were permitted to continue. During this debate, Payzant stated that:

> Growing up in the last 1940's and early 50's as a Boy Scout, I was taught the values of tolerance and inclusiveness and I find it rather ironic some 40 to 50 years later, that I am using what I learned as a Scout to challenge an organization that in the 1990's apparently doesn't understand that you can't have values in conflict and mixed signals to send * * * we can't tolerate an organization with that kind of policy working with young people.

Mr. President, the Boy Scouts of America have been an integral part of the American experience for more than 80 years, developing character, resourcefulness, and patriotism in more than 90 million young men. It is a voluntary, private association that has made membership and participation choices well within the American tradition while not relying on public funds. Just recently, a Federal court of appeals held that the Boy Scouts can retain their "duty to God" pledge and deny membership to those who refuse to take the oath. The court said civil rights laws do no apply because Boy Scouts is a private organization, not a "place of public accommodation." The Scouting movement deserves respect and support and is entitled at least to tolerance from those who disagree with it.

Like Roberta Achtenberg, Bill Clinton's choice for Assistant Secretary at the Department of Housing and Urban Development, Payzant seems to tolerate only those with whom he agrees. He brands as intolerant those who simply disagree with his agenda. Most troubling, he has used the power of his public office to pursue his agenda by forcing the Boy Scouts out of school during school hours.

That misuse of power, that narrow intolerance, disqualifies him from a position of far greater power to implement and enforce Federal education policy designed to create a more educated, open and tolerant society.

Regrettably, Dr. Payzant, Ms. Achtenberg, Dr. Hackney, and Ms. Guinier have failed what I call the Barnette test of tolerance. In 1943 the Supreme Court held, in West Virginia Board of Education versus Barnette, that it was unconstitutional to compel public school students to salute the flag. In that famous opinion rejecting the use of political power to impose a regime of religious intolerance, Justice Robert H. Jackson wrote:

> If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force citizens to confess by word or act their faith therein.

I cannot vote to confirm Dr. Payzant, or nominees to other offices, who do not meet that standard of fairness and tolerance of diversity, a standard at the heart of our American tradition.

The PRESIDING OFFICER. All time has therefore expired on this nomination.

The yeas and nays having been ordered. The vote will occur Tuesday, August 3, in accordance with the order of July 30.

The Chair recognizes the Senator from Pennsylvania, Mr. WOFFORD.

NOMINATION OF SHELDON HACKNEY OF PENNSYLVANIA TO BE CHAIRPERSON OF THE NATIONAL ENDOWMENT FOR THE HUMANITIES

Mr. WOFFORD. Mr. President, I rise now to ask unanimous consent that the Senate proceed to the nomination of Sheldon Hackney under a time agreement previously entered into. This request has been cleared by the minority.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the nomination.

The assistant legislative clerk read the nomination of Sheldon Hackney of Pennsylvania to be Chairperson of the National Endowment for the Humanities.

The PRESIDING OFFICER. Under the previous order, the debate on this nomination is limited to 5 hours, equally divided, and controlled between the Senator from Massachusetts, Mr. KENNEDY, or his designee and the Senator from Kansas, Mrs. KASSEBAUM, or her designee.

Mr. HELMS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. WOFFORD. Mr. President, I rise in strong support of the nomination of Sheldon Hackney to head the National Endowment for the Humanities. And I appreciate the Senator from Indiana noting his support, as was the case with all members of the Labor and Human Resources Committee.

Sheldon Hackney is a son of the South, but he is also an adopted son of Pennsylvania. We have seen him in action as the president of the University of Pennsylvania for the past 12 years as he has ably steered the university and helped build its reputation for excellence and scholarship. He has earned our respect, friendship, and support.

Sheldon Hackney is a distinguished scholar, writer, and teacher. As a historian of the South, he has received the Southern Historical Association's prize for best work in southern history and the Albert Bevridge Prize in American history. He has served with great distinction as the provost of Princeton University, the president of Tulane

University, and most recently, as president of the University of Pennsylvania.

In his 12 years at Penn, Dr. Hackney has forged much closer ties to the community, rebuilt and strengthened the undergraduate curriculum, and enhanced the university's role as one of the leading research institutions in the world.

The chairman of Penn's board of trustees, Alvin Shoemaker, recently said:

> Penn's accomplishments since Sheldon's arrival in February 1981 are without parallel in higher education. He has clearly been one of Penn's greatest chief executives.

I ask unanimous consent that the citation for the honorary degree given this June to Sheldon Hackney be printed at this point in the RECORD, along with Mr. Shoemaker's letter.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

> [University of Pennsylvania, Philadelphia]
>
> FRANCIS SHELDON HACKNEY
>
> A prize-winning historian in the Progressive tradition, you honed your analytical skills—while learning to learn from history—in scholarly studies of the society and the defining myths of the South. In a succession of leadership roles at elite institutions, you invariably reached out to less privileged communities of learners, acting on a deeply-held belief that today's educator has responsibility to all of our children.
>
> Arriving at the University of Pennsylvania from the presidency of Tulane, you set your imprimatur on the community—by setting up house in West Philadelphia, the first chief executive to live at the heart of campus since colonial times. Your cordial welcome to all groups is fabled—as is your hospitality to all points of view, your conviction that disagreement and dissent are the hallmark of a healthy university. A listener and a voice of moderation yourself, as Penn's 21st head, now practically the longest-lived president in the Ivy League, you "Planned Penn's Future"—and did not meet a student who wasn't having a terrific time. Overseeing a preeminent strategic planning process, a renewal of undergraduate education along with an expanding research base, and the work of conservation and development at the nation's most beautiful urban campus, as the University's endowment quadrupled you helped cultivate the world's most generous alumni and friends in an ambitious, highly successful Campaign. For over a decade, you dealt with the ambiguities and contentiousness of a huge, complex, diverse, multi-national university—and still found time to teach that other notable era, "The Decade of the Sixties."
>
> As life, yet again, happens while you were planning something else, we will miss your exemplary civility, inclusivity and humor—if not always your Commencement movie reviews. Congratulating you on an outstanding watch at Penn, Sheldon Hackney—officer, gentleman, and both teacher and maker of history—with glee, and some sadness, we now turn the tables to confer on you a well-earned token of your university's appreciation, the honorary degree, Doctor of Laws.

Mr. WOFFORD. In a previous life, I spent 12 years as a college president. I know something of the challenges of heading a university, especially in a time of sharp debate in a diverse and changing society. We are all aware that there has been some controversy at the University of Pennsylvania this spring. But I know from experience that hardly a season goes by without controversy on a college campus. Most college presidents are charged with being too liberal by some and too conservative by others, too interventionist by some, and too removed by others.

That is the life of a college president. So if absence of controversy is the standard for confirmation, then no college president need apply.

We have all heard—and undoubtedly will hear more—about two widely publicized cases on the Penn campus. In one case, Dr. Hackney was criticized for not intervening in the university's judicial process that clearly had gone awry. When I was a college president, I witnessed how these judicial procedures and codes were growing and longed for the days when a college president or dean could rely on the more traditional, direct techniques of calling students into their offices to immediately resolve problems.

According to the chairman of Penn's board of trustees:

> One can debate whether Penn's student judicial procedures are effective or appropriate. But having established such a process, the university's president could not intervene in the middle of it.

And before leaving Penn, Sheldon Hackney initiated a comprehensive review of established guidelines and called for an end to the policy that inappropriately relied on judicial processes to resolve this type of incident on campus.

Questions have also been raised about an incident involving a group of students who confiscated an entire edition of the school's newspaper, the Daily Pennsylvanian. During his confirmation hearing before the Labor and Human Resources Committee, members of the committee, led by Senator ORRIN HATCH, asked thoughtful, constructive, probing questions. Sheldon Hackney responded in a forceful, clear, and direct way. The way he answered our questions and the way he took on the controversies at Penn convinced even the most skeptical members of the committee. Two of the members from the other side of the aisle indeed told me after the hearing that it was one of those rare occasions when they came in with their minds fixed, they thought, against him, and after the long, careful probing they had a chance to do, they changed their minds.

That is why every member of the Labor Committee, Democratic and Republican, liberal, moderate, and conservative, voted to confirm Sheldon Hackney. Every member. We might not each agree with every statement that was made or action that was taken at Penn, but we were all convinced that at no time did he compromise his commitment to free speech or academic freedom. At the time of the incident, as in response to a question from Senator HATCH, Dr. Hackney made clear that free expression is the paramount value of the university.

I was proud that the Senate Labor Committee did not use this Presidential nomination to—now I am paraphrasing Senator DANFORTH's remarks, which I will return to later, "* * * make a political point or further a philosophical position to establish our own moral superiority or to embarrass a President. The American people are tired of that politically lucrative form of divisiveness." But others feel it is perfectly fair to condense a career of over 30 years into a couple of well-publicized incidents. Nominees are used as pawns by extremist groups to advance their own political agendas.

Citizens United, a group that brought us the infamous Willie Horton ads of 1988, is now leading the charge against Sheldon Hackney. Not known for their support of or interest in the humanities, as far as I know, Citizens United is now portraying itself as the protector of first amendment rights. Their real goal was made clear by the group's political director, David Bossie, who said: "Free speech is not our main focus. Our goal was and is to defeat Bill Clinton."

The now routine practice of trashing political appointees was described by Senator DANFORTH. Writing in the Washington Post, Senator DANFORTH said:

> Why risk the reputation you worked so hard to earn by subjecting yourself to what can become of Presidential nominees? All that you worked a lifetime to build can be wiped out in the months that will pass between your nomination and the confirmation that may or may not follow. * * *
>
> The real issue is whether there are any limits as to how far we can go in using a presidential nomination for purpose of making a political point or furthering a philosophical position or establishing our own moral superiority or embarrassing the President of the United States, whatever party may at the time occupy the White House.
>
> Today, there are no such limits, and no limits will or should be supplied by rule of law. If there is to be some minimum standards of decency we accord Presidential nominees, it will arise from an expression of disgust by the American people for what we are doing to nominees who previously have lived exemplary lives, and that disgust will reflect our sense that those who have been nominated are more than stand-ins for political positions; they are human beings. Until that recognition dawns upon us, my advice is, if the President calls, just say no.

I ask unanimous consent that Senator DANFORTH's article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, June 25, 1993]

A PRESIDENTIAL NOMINATION? FORGET IT

(By John C. Danforth)

If the president calls to say that he will nominate you for a job subject to confirmation by the Senate, just say no.

The president's call should be a cause of great personal satisfaction. Presidents don't offer nominations to just anyone. That he has offered you an important position in his administration shows that a lifetime of hard work has paid off. Your achievements are known even to the president of the United States. Thank the president profusely for the honor. Then just say no.

Why risk the reputation you have worked so hard to earn by subjecting yourself to what can become of presidential nominees? All that you have worked a lifetime to build can be wiped out in the months that will pass between your nomination and the confirmation that may or may not follow.

First you will submit to the administration details about the most intimate aspects of your life. Have you ever smoked dope? How about your sex life? What clubs do you belong to? Often, if officials in the administration feel that you are not an obvious embarrassment, your files will be turned over to the FBI for a background check. That means that the FBI will make house calls on at least three-dozen of your neighbors, friends and business associates.

What the FBI uncovers is supposed to be confidential. Don't count on it. Your file will be reviewed by the administration and then by at least one member of each party in the Senate. College-age drug use, while generally not a cause of disqualification, may be leaked to the media to the humiliation of you and your family. The fact that public disclosure of FBI files is a violation of both federal law and Senate rules should be of no comfort to you. Determined opponents are not deterred if leaking information will serve the purpose of defeating a nomination. Media recipients of the leak will claim the highest principle of their trade when they protect the leaker.

The carnage of presidential nominations now litters the landscape of Washington. Hiring illegal aliens, whether or not it violated the law, now is grounds for withdrawal of a nomination. So is failure to file Social Security tax returns for babysitters. A request for a deposition by the Securities and Exchange Commission can end a nomination, as can provocative law review articles written by a professor. And, in the * * * of an assistant secretary of Housing and Urban Development, the nominee's sex life, while not sufficient to cause her defeat, became the subject of a nationwide telephone campaign.

This trashing of presidential nominees is not done in private. It is not a matter of something coming up quietly that suggests the nominee is unfit for the job at hand. Rather, the whole episode is played out on the front pages of the daily press and at the top of the evening news. Forevermore, the esteemed jurist will be known as the person with the illegal babysitter, and the writer of scholarly articles will be known as a Quota Queen.

The next controversial nominee will be Sheldon Hackney, the president's choice to chair the National Endowment for the Humanities. Hackney is under fire for his "politically correct" handling of various racial controversies during his presidency of the University of Pennsylvania.

One would hope that university campuses would be centers of civil discourse, where racial and ethnic groups live in harmony. But, alas, that is not always the case. Young people, eager to try out the new experience of freedom from parental control, test the limits of the university's commitment to free speech. The result is speech that is intentionally outrageous and offensive. Meanwhile, members of minority groups, sensitive to insults, challenge the school's administration to prove its commitment to respecting minority rights.

It is a difficult challenge for university administrators to keep the peace on campuses where uproar is more the rule than the exception. Some administrators do the job better than others. Some seem too ready to appease one group or another in the name of preserving campus order. A case can be made that Hackney went too far in his efforts to placate outraged black students and that free expression suffered.

But what is the point in raising this issue in the context of Hackney's nomination? He is not being considered for a new position in university administration, and his ability to deal with campus crises seems irrelevant to the job of chairing the NEH. The president has chosen this man to implement the administration's policies. The president will be accountable for his performance in office. The mission of the NEH is to "promote progress in the humanities" by making grants to individuals, institutions and organizations. Surely Hackney's background as a distinguished scholar, author and teacher qualifies him for this work.

The attack on Hackney for his management of the University of Pennsylvania, while unrelated to the mission of the NEH, is directly related to the politically lucrative field of racial and ethnic divisiveness. If the racial turmoil of a university campus can be transported to Washington, the political benefits are enormous.

The real issue is whether there are any limits to how far we can go in using a presidential nomination for the purpose of making a political point, or furthering a philosophical position, or establishing our own moral superiority or embarrassing the president of the United States, whatever party may at the time occupy the White House.

Today there are no such limits, and no limits will or should be supplied by rule or law. If there is to be some minimum standard of decency we accord presidential nominees, it will arise from an expression of disgust by the American people for what we are doing to nominees who previously have lived exemplary lives. And that disgust will reflect our sense that those who have been nominated are more than stand-ins for political positions. They are human beings.

Until that recognition dawns upon us, my advice is: If the president calls; just say no.

Mr. WOFFORD. Mr. President, I am glad that Sheldon Hackney did not say "no" when the President asked him to take this challenging assignment.

During the confirmation hearing, we saw the real Sheldon Hackney, not the caricature that so many have tried to draw. We saw a man of accomplishment as a scholar and administrator at the University of Pennsylvania, Princeton, and Tulane. We heard a man who understands how the humanities can transform lives. And I ask unanimous consent that the full statement of Sheldon Hackney before our committee be put in the RECORD by unanimous consent at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT OF SHELDON HACKNEY, NOMINEE FOR THE POSITION OF CHAIRMAN, NATIONAL ENDOWMENT FOR THE HUMANITIES, JUNE 25, 1993

At first glance, my life does not appear to be one that was ever in need of transformation, yet I can bear personal witness to the sort of personal transformation that I believe the humanities have the power to accomplish.

I was born and raised in Birmingham, Alabama, the third son of a thoroughly Methodist family that eventually included five sons, the offspring of a marriage that is now in its sixty-fourth year. My childhood was spent in the Great Depression and World War II, and I was acutely aware that my world was one of scarcity and vulnerability. Nevertheless, my childhood was unproblematic, at least if one doesn't count my being continuously terrorized by my older brothers.

My father was a newspaperman before the war. As that was not the era of the journalist as hero, and as his family was large, when he returned from the Navy he set himself up in business buying and reselling war surplus material. His business evolved, and he eventually did very well.

As I went through public school in Birmingham, like most children of middle-income families, I could imagine various futures for myself, each of them honorable and productive, but I never imagined the life I have actually had. That life was opened up for me in part because of two superb History teachers at Ramsay High School, Mary McPhaul and Ellen Callen, and in part because I loved to read. My mother read to us a lot when we were young, and when I was a bit older I remember listening wondrously to her practicing the dramatic book readings that she did for literary clubs around the city, legitimate theater not having a very lively presence in Birmingham then. Although reading was a bit of magic for me, I was thoroughly imprisoned in the myth that real boys did not work very hard in school and real men were men of action rather than thought.

The major reason, however, that the world was saved from having yet another lawyer was my older brother, Fain, whom I worshipped. He was charismatic and multi-talented and very imaginative, so that he was always the leader in the neighborhood and the one who would organize our play, not only the standard games like kick-the-can and hide-and-seek, but elaborate war games and a game we called "town" in which everyone had a role selling something, and Fain was always the banker because he could draw so well and make beautiful dollar bills. My brother, Morris, always got the lemonade concession and ended up with all the money that Fain had issued from the bank.

Fain was a young man of grandiose projects, usually too grand ever to finish but always exciting enough to draw in everyone else. Despite all his talent, he had an uneven academic record, reflecting his enthusiasms and his lack of focus, but he had a great time and made all those around him have a great time also. He went off to the University of Alabama where parties were then known to occur. He had a wonderful time his freshman year, and his abysmal grades showed it.

Something happened to him that following summer, and I don't know what the transforming event or experience was. In any case, he became a different person. He started reading books that were not required for school. He began to listen to classical music, to write poetry, and to talk of serious subjects. He transferred to Birmingham Southern College and started to work at his courses. I was fascinated.

Part of his plan for remarking his life was to become a Navy pilot, which he did. When I went off to Vanderbilt on a Naval ROTC scholarship, he was on the West Coast and then in Japan flying amphibious patrol planes. Letters from him were not only reports of adventures in exotic places but accounts of what he was reading and thinking and guilt-producing questions about my intellectual life, which even at Vanderbilt could be as sparse as one wanted it to be.

It was at about this time, because of Fain's example, if not his specific recommendation, that I was captured by the novels of William Faulkner, Ernest Hemingway, and especially Thomas Wolfe. I am almost embarrassed to remember how much I identified with Eugene Gant, a young Southerner coming of age by trying to read his way through the Harvard library. Vanderbilt was saturated, of course, with the tradition of the Fugitive poets and the Agrarians, and I studied them with appreciation. Though the Agrarians had taken their stand twenty years before in very different times and had since then taken diverse political paths, the big questions they had raised (about what is the good life, and what is the value of tradition, and what is the function of government, and what are the perils of modernity) were common and lively topics of debate among my friends.

We also talked of race relations, an omnipresent concern of Southerners black and white that was intensified by the Supreme Court's ruling in the Brown case that put an exclamation mark in the middle of my college years. For reasons that I find difficult to explain, but that probably have to do with my religious training, I had broken away from southern white orthodoxy even before going to college and had concluded that racial segregation was wrong. As a historian, I have continued my interest in race because it is a major factor in American history. As an individual, I have continued my commitment to racial equality because I believe it is right and that group relationships are one of the major unresolved questions on the domestic scene. In the more formal curriculum at Vanderbilt, Dewey Grantham, Herb Baily and Henry Swint in the History Department increased my interest in History.

I was devastated by the death of my brother in a military plane crash in Japan in 1954 during the summer after my sophomore year. He had meant so many things to me that it was not until years later that I realized that his most important gift to me was to give me permission to use my mind in serious ways, to risk pursuing a subject that I enjoyed, to spend my life in pursuit of education for myself and for others. Watching him change, and being lured into the pleasures of thought as a way of enhancing experience, transformed my life and gave it purpose.

After three years on a destroyer and two years teaching weapons at the United States Naval Academy in Annapolis, I went to Yale to study under C. Vann Woodward, the leading historian of the South and the man who became the most important influence on my career as a historian and on my devotion to academic freedom, intellectual honesty, free speech, and the obligations of collegiality. I had been attracted to Woodward not only by his reinterpretation of the history of the South from Reconstruction to World War I, but by his subtle exploration, in the essays collected in The Burden of Southern History, of what it means to be a Southerner and what the history of the South means to the nation and the world.

After Yale, I joined the faculty of Princeton where I worked away at becoming the best teacher and scholar I could possibly be while raising a family and doing the sort of committee assignments and quasi-administrative tasks that faculty are called upon to do. My career as a historian, fact, was diverted because I kept saying yes to such requests. When William G. Bowen became President of Princeton in 1972, he invited me to become Provost. The slippery slope turned into a water chute. I became President of Tulane University in 1975 and the University of Pennsylvania in 1981. This confirms the truth of the aphorism that life is what happens to you while you are planning something else.

I believe my twenty years of major responsibility in universities has prepared me to lead the National Endowment for the Humanities. For the past generation, universities have provided tough environments. University presidents operate in a sea of powerful and conflicting currents. To succeed, one must have a clear sense of strategic direction, a fundamental commitment to the core values of the University, the strength to persevere through contentious times, and the ability to gain and keep the support of a variety of constituencies. I have not only survived in that environment, I have proposed, and my institutions have thrived.

Among the values that I hold dear is a belief that a university ought to be open to all points of view, even if some of those views expressed are personally abhorrent. I take some pride in having protected the right to speak of such diverse controversial figures as Robert Shockley at Princeton, King Hussein of Jordan at Tulane, and Louis Farrakhan at Penn. The university should belong to all of its members and not be the exclusive domain of any particular person, group, or point of view.

During my twelve and a half years at Penn, I have made the undergraduate experience my highest priority. Penn has revamped the general education components of the curriculum in each of its four undergraduate schools, provided a livelier sense of community through the creation of freshman houses within the residential system, added a reading project that asks freshmen to read a common book and then to discuss that book in seminars during orientation week and throughout the year, revised our advising system, revitalized the freshman seminar program, and drawn senior faculty into the teaching of introductory courses. I have increased the diversity of the Penn student body and worked hard to sustain an inclusive and supportive atmosphere on campus, to provide a campus in which everyone has a very strong sense of belonging and in which our animated debates are carried out with civility. I have also created a new sense of partnership with the neighborhoods around us, as a close working relationship with the school system of the City of Philadelphia, and a national model program of volunteerism that I institutionalized a year ago by establishing the Center for Community Partnerships to stimulate and coordinate the involvement of faculty, staff and students in off-campus service activities.

Universities exist to create new knowledge and to preserve and communicate knowledge. The NEH, as a sort of university without walls, through its research, education, and public programs, is engaged in the same effort. I am dedicated to the proposition that we can improve the human condition through knowledge and that our hope for tomorrow in this troubled world depends on the sort of understanding that can come through learning.

I have great respect for the NEH. It is the single most important institution in American life promoting the humanities, and it has a long record of accomplishment. I believe there are things that can be done to extend and broaden the impact of the NEH as it fulfills its statutory task of stimulating the humanities.

I like to think of the humanities as human beings recording and thinking about human experience and the human condition, preserving the best of the past and deriving new insights in the present. One of the things that the NEH can do is to conduct a national conversation around the big questions: what is the meaning of life, what is a just society, what is the nature of duty, and so on. In this big conversation, it is not the function of the NEH to provide answers but to insure a discussion, to create a forum in which all voices can be heard.

Because they are not just for the few but for everyone, no single approach to the NEH mandate is adequate. There is a need for balance among research aimed at creating new knowledge, educational programs to insure that the humanities are creatively and invitingly represented in the curricula of our schools and colleges, and public programs to draw everyone into the big conversation. Those three activities should be related to each other and should be mutually supportive.

The country has never needed the humanities more. We not only face the challenges of a new geopolitical situation and the problems of adjusting to economic competition in a new global marketplace, but we face a crisis of values at home. What is happening to family and community? Who are we as a nation and where are we going? What holds us together as a nation and what do citizens owe to each other? What is the relationship of the individual to the group in a society whose political order is based upon individual rights and in which group membership is still a powerful social influence.

Even more importantly, the humanities have the capacity to deepen and extend to new dimensions the meaning of life for each and everyone of us. They have the capacity to transform individual lives, not necessarily in the external circumstances of those lives, but in their internal meaning.

Every human experience is enhanced by higher levels of knowledge. When I listen to a piece of music, I may like it and think it beautiful, but the person who knows the historical context of its composition understands what the composer was trying to accomplish technically and can compare the composition and the performance to others will get infinitely more out of the experience than I will. That is why I enjoy talking about common experiences with people who will see it through a lens different from mine. The task of the NEH is to enrich the conversation and bring more people into it.

The premise of my approach to the tasks of the National Endowment for the Humanities is simple but profound. The more you know, the more you hear and see and feel. The more you know, the more you can know. The more you know, the more meaningful life is. Such can be the gift of the NEH to the American people.

Mrs. BOXER assumed the Chair.

Mr. WOFFORD. Madam President, I find it hard to believe anyone can read that full statement without being moved as members of the committee were. We heard a man of strong clear convictions.

Madam President, I have known Sheldon Hackney for many years now. He is thoughtful, quiet, careful. But do not for 1 minute underestimate the strength and leadership that underlies these traits. He is steady, strong, and wise. It is these characteristics that the Labor Committee saw and heard, and it is these characteristics that will make Sheldon Hackney an outstanding chair of the National Endowment for the Humanities.

In considering Sheldon Hackney's nomination, the Labor and Human Resources Committee lived up to its tradition of fairness and bipartisanship in unanimously recommending this nomination. I hope that the full Senate will act in that same spirit and that the better angels of our nature, as Lincoln hoped, will rise to the occasion again today.

I urge my colleagues to support this nomination.

I yield the floor and reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. I thank the Chair.

Madam President, all of us are aware of what George Bush called "the political correctness thing." It is a thing, all right, but when one examines it closely, including the cause-and-effect aspects of it, political correctness is—as someone has noted—a radical philosophy which despises, and seeks to rewrite, the history of our Nation and Western civilization.

It has the unmistakable appearance of advocating that rights and benefits be awarded and distributed on the basis of group identity and not on individual merit.

Madam President, if you pause to think about it, it becomes clear that the adherents of political correctness somehow almost always challenge any dissent from their beliefs. And they do it with what has been described as group intimidation, forced re-education or official censure.

Which gets me around to the problem with Sheldon Hackney, the nominee for Chairman of the NEH; Mr. Hackney's problem is that he is recognized as one of the most prominent apologists for political correctness.

Which may be exactly what President Clinton wants as his Chairman of the National Endowment for the Humanities; it may be what every other Senator is willing to accept; but this Senator simply cannot, in good faith, support Dr. Hackney's nomination based on the record. I bear him no personal animus, but I cannot be a party to confirming his nomination.

It is both interesting and instructive that Dr. Hackney has run into opposition from such disparate voices as the Wall Street Journal, Charles Krauthammer and Richard Cohen of the Washington Post, Nat Hentoff of the Village Voice, George Will, and the Washington Times. All of these, and many others, have declared that Dr. Hackney is the wrong choice to head the National Endowment for the Humanities [NEH].

Charles Krauthammer may have put it best when he said and I quote him directly:

> Sheldon Hackney * * * is, unfortunately, a perfect example of the failure of nerve—the failure of intellectual honesty, the failure to defend principle—that is the shame of American academic leadership. To elevate Hackney to the Chairmanship of the National Endowment is to endorse those failures

Madam President, one is obliged to wonder if President Clinton was aware of these failures when he submitted Dr. Hackney's name to the Senate.

For example, Dr. Hackney supported an effort to prohibit the ROTC—the Reserve Officer Training Corps—from operating at the University of Pennsylvania because, guess why, the military refuses to permit open homosexuals to serve in the Armed Forces.

Also, Senators may have heard of the student at Penn who in frustration referred to a rowdy group of black sorority women as "water buffalo" when the commotion they were making outside his dormitory interrupted his studies. Even though water buffalo is not now, and has never been, a racial slur, the student was prosecuted for having made a racially offensive statement under the speech code at Dr. Hackney's university. Come on. What phony baloney—and Dr. Hackney was a part of it.

In 1985, a popular instructor at the University of Pennsylvania was forced to apologize and undergo a sensitivity and racial awareness session after a group of minority students objected to his reference in class to himself, blacks and Jews as ex-slaves, even though the teacher is himself Jewish.

And just a few months ago, Dr. Hackney defended the actions of a group of minority students at his university who stole 14,000 copies—almost the entire run—of the campus newspaper because they disagreed with an editorial in that edition of the paper. Dr. Hackney saw nothing wrong with that. Many others see a whole lot wrong with it.

Mr. President, I will ask unanimous consent that a more detailed discussion of these events—all of which occurred during Dr. Hackney's tenure at Penn—be printed in the RECORD at the conclusion of my remarks.

Madam President, this is the same Sheldon Hackney who so vigorously defended the alleged right of the National Endowment for the Arts to use taxpayer funds to pay for sickening obscenity parading under the false flag of "art."

I am putting quotation marks around "art" because it is not art. It is pornography.

For example, Dr. Hackney wrote the following, and I regard it as nonsense, in the September 1989 issue of the Chronicle of Higher Education: He wrote:

> The issue is not whether Mr. Mapplethorpe's images are pornographic or Mr. Serrano's sacriligious, or about whether their work is art or whether they are artists.

I say paranthetically, to heck it is not the issue. It is exactly the issue when you are expending public funds for anything.

Dr. Hackney continued, I quote:

> The question is whether our government, having decided to support the arts, should be involved in attempting to suppress certain forms of expression in an attempt to cleanse public discourse of offensive material.

Then he goes on to say:

> Some people or groups will be offended from time to time but * * * the price of excellence—

An interesting choice of words, I might add, but let me finish the quote:

> and the price of a vibrant artistic scene is the risk of occasional offense to someone's sense of what is appropriate to display or say in public.

But let us compare this statement, Madam President, with what Dr. Hackney wrote less than 10 months later, because Dr. Hackney is not even consistent. Note what he had to say in the July 1990 issue of Academe magazine in defense of his university's so-called hate speech code prohibiting all speech that "creates an offensive living or work environment." He tries to have it both ways. Dr. Hackney wrote:

> My own judgment is that we should be able to define racial harassment in such a tight way, perhaps as words uttered in a face-to-face encounter that are intended to inflict emotional damage, that we will be able to outlaw verbal terrorism without chilling the open expression of ideas.

If ever there was a convoluted, backfilling statement on an issue of philosophy, that is it. He cannot have it both ways, but frankly a lot of people are letting him have it both ways including, I am sad to say, the members of the Labor Committee that conducted his nomination hearings.

That Madam President, is an example of Dr. Hackney's convoluted double standards. According to Dr. Hackney, Congress is and should be prohibited from imposing any restriction on the content of offensive art or speech paid for by the taxpayers, but the University of Pennsylvania and Dr. Hackney can punish and censor any student or professor for speaking freely—in cases where no taxpayer money is involved—if Dr. Hackney and his associates happen not to approve of the speech.

Dr. Hackney's "free speech for me, but not for thee" double standard would be amusing if it were not for President Clinton's efforts to grant Dr. Hackney the power to make a significant impact on this Nation's culture.

I recall, Madam President, about 10 years ago a fellow named Bill Bennett came to Washington to become Chairman of the NEH. This was prior to his later becoming Secretary of Education. One of Bill Bennett's great contributions to the NEH was his infusing the agency with the courage to stand up to the smug bureaucrats and their acolytes in academia who, until then, had pretty much dictated who and what was favored in the disbursement of NEH funds.

Madam President, the problem is that, once confirmed, Dr. Hackney will undo the good Bill Bennett achieved at the NEH. Dr. Hackney's record gives fair warning that that will be the case, and that is reason enough for this Senator to oppose his nomination.

I do not like to vote against him. I know he is a fine man and all the rest of it, but his record goes against him.

Perhaps the Wall Street Journal said it best in its editorial on June 25 when the Journal's editors wrote:

> Simply put, the question before Senators is whether a university president who has compiled so sorry a record of appeasement in line with the prevailing political winds as Mr. Hackney has, should sit at the helm of the National Endowment for the Humanities, disbursing huge sums of taxpayer money in the form of grants. Imbuing NEH, that is, with the ethos of the American campus today.
>
> If Senators had any real concern for the message the confirmation of Mr. Hackney would send about university free speech and the importance of choosing leaders to defend it, they would vote no on his confirmation.

Madam President, before Dr. Sheldon Hackney is granted the power to influence and shape our Nation's culture as Chairman of the National Endowment for the Humanities, let us take a closer look at his record as president of the University of Pennsylvania and the events I have alrady alluded to that occurred during his tenure.

(1) THE "WATER BUFFALO" CASE

This past January an Orthodox Jewish student at Penn—Eden Jacobowitz—called a rowdy group of black sorority women water buffalo when the commotion they were making outside his dormitory window made it impossible for him to study.

Young Mr. Jacobowitz was immediately charged with making a racially offensive statement under Penn's hate speech code. Even after anthropologists and others were willing to testify that the term "water buffalo" is not now—and never has been—a recognized racial slur, the university's judicial officer still ruthlessly pursued the case—even asking Jacobowitz if he had been thinking racist thoughts at the time.

She did offer him a deal, however. If he would: First, allow the University to permanently label him a racist on his college transcript; and second, undergo sensitivity training, then she would allow him to remain a student at Penn. Some deal.

Eden Jacobowitz understandably refused being branded a racist for life without even a hearing on the merits. Hooray for him. He knows the difference between right and wrong and has the courage to stand by those convictions, unlike Sheldon Hackney, who refused to intervene on behalf of common sense and fairness—even after the university's prosecution of Mr. Jacobowitz became patently absurd.

As the Wall Street Journal pointed out, only after a "national outpouring of scorn and mockery for the university's obvious loss of prudence, adult judgment, and common sense * * * did Mr. Hackney conclude that the university's legal machinery, designed to punish offensive speech, needed overhauling."

(2) HOMOSEXUALS FIRST, AMERICA'S SECURITY SECOND

Dr. Hackney recently spoke out in favor of the homosexual community's efforts to kick the ROTC off the University of Pennsylvania campus because the military refuses to allow open homosexuals to serve in the Armed Forces. By supporting this campaign, Dr. Hackney demonstrated a callous disregard for the students at his university who want to serve their country by joining ROTC.

(3) THE EX-SLAVE COMMENT

In 1985, a popular instructor at Penn, Murray Dolfman, was forced to apologize and undergo a sensitivity and racial awareness session in order to keep his job. His offense: the previous fall he had offended four black students by referring—as he had for years—to himself, blacks and Jews as ex-slaves. Mr. Dolfman, who is himself Jewish, made this reference in an effort to make the class discussion about the 13th amendments's prohibition on slavery more pointed.

Several times during the months following his comments, Mr. Dolfman had his classes interrupted by protesting students. Dr. Hackney did nothing to stop the interruptions and instead acquiesced in Mr. Dolfman being harangued and punished by Dr. Hackney's subordinates at the university.

(4) THE CAMPUS NEWSPAPER CASE

Shortly after the water buffalo

Dr. Hackney's staff at the university refused to punish or even reprimand these students for stealing and destroying the newspapers. Incredibly, the only person university authorities charged with any infraction in the incident was the library security guard—for trying to stop the minority students from stealing the papers.

Dr. Hackney downplayed this blatant theft, destruction of property and denial of the first amendment rights of the students who had written the newspaper. He dismissed the theft of the newspapers as a protest activity and stated that "two university values, diversity and open expression stand in conflict * * * we must work to narrow the distance * * * precluding their peaceful coexistence."

Claptrap, Madam President. I rarely agree with liberal Washington Post columnist Richard Cohen, but he hit the nail on the head about this gutless moral equivocating by Dr. Hackney when he wrote:

> Hackney's refusal to vigorously condemn the seizure of the paper and to punish the offending students creates an insurmountable hurdle to his nomination.

Madam President, these are a few of the events cited by the varied voices opposing Dr. Hackney's nomination. So that Senators may have a more complete picture of Dr. Hackney than has been presented by his supporters, I ask unanimous consent that the following articles be inserted in the RECORD at the conclusion of my remarks.

First, the June 25, June 9, and April 26, 1993, editorials on Sheldon Hackney's nomination from the Wall Street Journal, respectively titled, "Mr. Hackney's Nomination," "The Other Guiniers," and "Buffaloed at Penn."

Second, Charles Krauthammer's June 25, 1993, column in the Washington Post titled, "Spineless at Penn."

Third, Richard Cohen's July 6, 1993, column in the Washington Post titled, "Sheldon Hackney's Dangerous Balance."

Fourth, Nat Hentoff's May 4, 1993, column in the Village Voice titled, "Civil Wars on Campus."

Fifth, George Will's April 29, 1993 column in the Charlotte Observer titled, "The PC Nominee: Clinton's choice for endowment sacrifices freedom of expression to political correctness."

Sixth, the May 2, 1993 Washington Post editorial titled, "Speech Code Silliness."

Seventh, the June 25, 1993, Washington Times editorial titled, "Sheldon Hackney's Turn."

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, June 25, 1993]

MR. HACKNEY'S NOMINATION

The Senator's sitting at the hearings—to begin this morning—on President Clinton's nominee for head of the National Endowment for the Humanities can be certain of at least one thing. They will not be toiling in obscurity. Thanks to recent notorious events at the University of Pennsylvania, led until recently by President Sheldon Hackney, the Senate Labor and Human Resources Committee's deliberations over Mr. Hackney's nomination will have, to say the least, an attentive national audience.

It's hardly necessary by now to explain why. Mr. Hackney is the university head who presided over the world-famous water buffalo case, which saw a Penn freshman charged with "racial harassment" and Penn's administration in full cry, pressing the case. They did this, Mr. Hackney told us early on, because the administration had to "abide by the procedures that are in place." Moreover, he went on, those procedures were in his view "just and fair."

He has evidently since changed his mind, in light of the national outpouring of scorn and mockery that greeted the university's obvious loss of prudence, adult judgment or common sense. Only after the publicity—and after the sorority women dropped their charges—did Mr. Hackney conclude that the university's legal machinery, designed to punish "offensive" speech, needed overhauling.

No overhauling can fix what is wrong with university harassment codes, which deserve to be consigned to oblivion along with their bizarre "legal" machinery. But more to the point, those codes and their machinery did not come out of thin air. They were produced by compliant university administrators cut from the same fine cloth as Sheldon Hackney, who end up arguing that they have no choice but to follow the "procedures." Over the past decade, obliging administrators brought those procedures and "solutions" into being in order to appease the grievances of activist students and professors. The administrators wrought what they no doubt believed to be considered rules and guidelines for the punishment of "offensive" speech and the maintenance of "civility"—and the cadres of the politically correct ran with them.

Empowered thus by administrators, and imbued with a chronic sense of victimization, the campus activists commenced to do what activists are most interested in doing—which is to act. Confronted with the resulting tide of absurd accusations and prosecutions over "insensitive" or "harassing" language, university administrators retreat, as Mr. Hackney has repeatedly done, into right-minded meditations on the importance of civility and free expression. Talk, as they say, is cheap.

The Senators at today's hearings might begin by asking some hard questions about Mr. Hackney's response to the seizure, by a group of minority activists, of an entire press run of the Penn student paper, the Daily Pennsylvanian. It would tell them volumes about the candidate's ability to act in defense of free speech, as opposed to his ability to form eloquent meditations on the subject.

Mr. Hackney and friends have spent considerable time in recent weeks complaining that "conservatives" have distorted his views and that he roundly condemned the taking of the papers. What Mr. Hackney in fact did after the theft was to issue a statement awash in pious evenhandedness, which repeatedly exculpated the seizure of the papers as "a protest activity."

A note from CBS's Mike Wallace, published in our letters column last week, chides us for judging Mr. Hackney by his mistakes and adds: "he has inevitably fumbled. Who hasn't?" We were deeply moved by Mr. Wallace's solicitiousness on behalf of those who make mistakes, and wait with interest to see whether his concern for fairness might one day be extended to the public figures mercilessly flayed and garroted on "60 Minutes" every week.

Like Mr. Wallace, other supporters of Mr. Hackney attest again and again to his civility and sensitivity. These are stellar virtues indeed. But perhaps there is something in the air breathed around university buildings that disconnects them utterly from the virtues of courage and leadership.

Mr. Hackney's mishandling of the water buffalo affair and newspaper thefts is bad enough. But the much more insidious problem with the Sheldon Hackneys of American university life, and their number is legion, is that instead of courage, we must listen to their casuistry about "tolerance"; instead of leadership, we must bear their silent complicity in the suppression of honest opinion.

We all know about Eden Jacobowitz; we'll never know hoe many professors or students gag words and opinions down their throats now, lest some 19-year-old authoritarian call out the disciplinary machinery, cheerleading faculty and TV cameras—while the school's president draws the blinds to let "the procedures" grind forward.

When Penn scholar Murray Dolfman—accused of a ludicrous charge of racism for trying to bring home the significance of the 13th Amendment—had his classroom invaded by "protesters." President Hackney had not a word to say in defense of Mr. Dolfman's academic freedom, nor was he moved to discipline the disrupters. On the contrary, it was Mr. Dolfman whom "the procedures" forced to make a public apology and to attend a "sensitivity" training class.

Simply put, the question before the Senators is whether a university president who has compiled so sorry a record of appeasement in line with the prevailing political winds as Mr. Hackney has, should sit at the helm of the National Endowment for the Humanities, disbursing huge sums of taxpayer money in the form of grants. Imbuing NEH, that is, with the ethos of the American campus today.

If the Senators had any real concern for the message the confirmation of Mr. Hackney would send about university free speech and the importance of choosing leaders actually willing to defend it, they would vote no on his nomination. As it is, this Democratic nominee will be voted upon by Democrats Ted Kennedy, Claiborne Pell, Howard Metzenbaum, Chris Dodd, Paul Simon, Tom Harkin, Barbara Mikulski, Jeff Bingaman, Paul Wellstone and Harris Wofford. We hope all those self-gagged professors who think their beliefs and interests are tied to Democratic politics will attend to the content and outcome of today's hearing.

[From the Wall Street Journal, June 9, 1993]

THE OTHER GUINIERS

Though President Clinton has cut his losses with Lani Guinier, the lingering question is why she was ever appointed. What does it say about a White House appointment process when a President himself has to read law review articles before anyone notices a problem?

That question seems especially apt because of two other widely rumored Clinton nominees who could be this President's next confirmation headaches. Word is that Sheldon Hackney will get the nod at the National Endowment for the Humanities (NEH), while Stanley Katz will run the National Archives. Their appointment would identify Mr. Clinton with the academic elites who have made "political correctness" the dominant ethic on American campuses.

Mr. Hackney is by now well known as the president of Penn who tried to prosecute a freshman for shouting "water buffalo" at some raucous black women. This was deemed a crime against "diversity." Only after near-universal uproar and ridicule in the press (here and abroad) did Mr. Hackney drop the prosecution.

But in fact, Mr. Hackney's correctness campaign is long-running. In 1991 he spoke out in favor of kicking ROTC from Penn unless the military began to admit openly gay men and lesbians. And Mr. Hackney saw only a "conflict" between "diversity and open expression" when some Penn students stole 13,000 copies of a student newspaper they found offensive.

Nat Hentoff, the liberal columnist, has written about a Penn lecturer, Murray Dolfman, who was forced to apologize and undergo a "sensitivity and racial awareness" session a few years back. Mr. Dolfman's sin? He had tried to make his popular lectures on the 13th amendment more pointed by referring to blacks and Jews (referring to ancient Egypt) as "ex-slaves."

On the other hand, Mr. Hackney was quick to denounce Jesse Helms for his attacks on federal subsidies for "PissChrist" and other "art." The "best protection we have found for a democracy is an unregulated market in expression," he wrote at the time, apparently without irony. Mr. Hackney's double standard suggests a man who'd dispense federal arts money according to a similar bias.

As for Mr. Katz, he was a lead prosecutor in the celebrated 1991 campaign against Carol Iannone's nomination to the advisory board of the NEH. As president of something called the American Council of Learned Societies (CLS). Mr. Katz ginned up a letter campaign to Democratic senators, who defeated her as somehow unqualified. But her real sin, as Democratic Senator Daniel Patrick Moynihan pointed out in defending Ms. Iannone, was that she had attacked "political correctness" in articles in Commentary magazine.

The learned Mr. Katz then fired off a letter so amazing that Mr. Moynihan had it placed in the Congressional Record. "ACLS is the largest humanities organization in the world," Mr. Katz wrote to his home state Senator. "Might it not have been a good idea for someone on your staff to inquire into our reasons for opposing Iannone? Or don't you care what we think? Or why we think it? I am simply appalled that a fellow Democrat, intellectual and academic should resort to such scandalous and irresponsible imputation of bad motives. What should I make of your own?"

Mr. Moynihan must now be wondering what he should make of a White House that would nominate someone who had so insulted the chairman of the Senate Finance Committee. Were Mr. Clinton's personnel aides all asleep during the Iannone fight? Did they bother even to clear their choice with the Senator they need more than any other to pass the wobbly Clinton tax program?

The Katz choice would suggest a White House arrogance that borders on the delusional. At least the Hackney nomination is attributable to personal ties, since Mr. Hackney's wife served on the board of the Children's Defense Fund with Hillary Clinton. But this is the same Hillary Clinton who recently gave a fine speech at Penn deploring political correctness. She could prove this was more than rhetoric by asking her husband to drop the Hackney nomination.

The bigger point here is that Mr. Clinton needs a personnel process that can somehow avoid such potential disasters. Instead he has aides who think Lani Guinier and Sheldon Hackney are in the mainstream. It's a mystery to us that Al From of the centrist Democratic Leadership Council is writing op-eds in the New York Times instead of flagging these potential disasters from inside the White House. Without such advice, the President will only suffer more Lani Guiniers.

[From the Wall Street Journal, Apr. 26, 1993]

BUFFALOED AT PENN

A freshman, the latest victim of the ideological fever known as political correctness, goes on trial at the University of Pennsylvania today. It's not irrelevant to note that the head of this institution, Sheldon Hackney, is President Clinton's nominee to head the National Endowment for the Humanities—and a man, university spokesmen insist, committed to free speech. That's reassuring to know, especially in light of the goings on at Penn.

There the disciplinary furies of the speech police have descended on freshman Eden Jocobowitz for shouting out of the window. Mr. Jacobowitz, it seems, was studying in his dorm room after midnight, when women members of a black sorority camped outside his window began stamping their feet and screaming and generally whooping it up. Irate, Mr. Jacobowitz yelled that they were water-buffalo and that if they wanted to party there was a zoo nearby.

Thus began one of the more Kafkaesque chapters in the ongoing campus follies. The campus police rushed up and asked other dorm residents—some of whom in fact had been shouting racial slurs—if they had yelled out of the window. All of them denied it. Only Eden Jacobowitz stepped forward to say he had been yelling out of the window. The police asked the dorm residents if they knew the race of the noisemakers, and were told no—except for Eden Jacobowitz, who said yes. But that, he told the police, had nothing to do with his anger.

Mr. Jacobowitz, who thought one should not lie to the police would pay a price for his forthrightness. He had yet to learn what they don't teach at freshman orientation; namely he had now entered a world where a change of racism or sexism is as good as a conviction.

The racial harassment case mounted against him reads like something from the theater of the absurd. The campus judicial inquiry officer, Robin Read, determined that the student had intended a racial slur by the reference to water buffalo, which she said suggested "large black animals that like in Africa." The student's reference to "zoo," Ms. Read charged, was also racial—notwithstanding the fact that it is a term commonly applied on campuses to noisy fraternity houses, as in the movie "Animal House." In the course of her continuing inquiry, Ms. Read asked Mr. Jacobowitz if he had been having "racist thoughts" the night of the crime. He had no such thoughts, he assured her.

Despite this official's determined believe that "water buffalo" is a racial slur, a variety of experts who could be expected to know a racial slur when they hear one, disagreed. Dr. Elijah Anderson, a leading black ethnographer and sociologist at Penn, has offered to testify in Mr. Jacobowitz's behalf, that water buffalo is not a racial slur, direct or indirect. Professor John Roberts, director of Afro-American Studies at Penn, and several other of the university's authorities on Afro-American culture and black-white relations emphatically agree.

Penn Professor Dan Ben-Amos, an expert in black folklore provided the key to the question of the water buffalo referenced. When he determined that the student had attended Yeshiva and knew Hebrew, he suggested that the student had quickly translated an extremely common Hebrew word, "behameh," which literally means "water oxen" but is used in everyday language to mean fool or thoughtless person. It has no racial connotations whatsoever.

In the course of her interrogations, Ms. Read offered the freshman a deal. There would be no further charges if he would agree to hold a racial sensitivity seminar in his form and also agree to have a harassment charge noted on his transcript. Mr. Jacobowitz refused the offer, which is why he is now on trial, facing the possibility of expulsion from Penn if found guilty. What happens to him at today's tribunal should be of interest to anyone concerned with the state of reason and sanity on the campuses today.

[From the Washington Post, June 25, 1993]

(By Charles Krauthammer)

SPINELESS AT PENN

The only reason to regret Bill Clinton's abandonment of Lani Guinier is that it deprived the country of an open debate on the question of racial quotas. If the president sticks by another friend, Sheldon Hackney, his nominee for chairman of the National Endowment for the Humanities, and if the Senate Labor and Human Resources Committee holding hearings on his nomination today has any gumption, we shall have a debate on political correctness.

Hackney, president of the University of Pennsylvania, became a symbol of political correctness when, on April 15, a group of minority students, offended by a rightwing columnist at the student newspaper, The Daily Pennsylvania, stole and destroyed nearly its whole press run of 14,000 copies.

President Hackney's statement "On the Campus Controversy of April 15–16," as he delicately called this little piece of campus fascism, gives the fecklessness new meaning. It forthrightly promised to reassign to desk duty a campus security officer involved in the "altercations" that occurred when he tried to prevent the theft or, as Hackney put it, "in the ensuing altercations between security personnel and some of the students involved in this protest activity against the editorial policies in the Daily Pennsylvania," (More delicacy. Destruction of a press run is a "protest activity." But then, what is any book-burning if not a protest against editorial policy?)

Hackney also appointed two committees to investigate the strained relations between minority students and campus police. A separate brief statement promised that "any violation" of university policy banning newspaper confiscations "will be pursued through the university judicial system."

What was Hackney's view of this violation of free speech? "Two important university values now stand in conflict," namely "diversity and open expression," he wrote. "We must work together to narrow the distance that now seems to preclude their peaceful coexistence."

This spineless moral equivalence between writing a newspaper and destroying a newspaper was too much for 16 Pennsylvania Law School faculty. They jointly signed a letter saying the obvious: "The important university values of diversity and open expression were not in conflict here. The offensive columns in no way prevented the university from carrying out its policy of diversity. . . . Removal of the newspaper struck at the heart of the most fundamental diversity which the university should foster—diversity of thought, views and expression."

Hackney is a man who at a 1990 conference on "Academic Freedom and Artistic Expression" denounced Jesse Helms for trying to cut off federal funding for the Mapplethorpe exhibit. "My own career is built on knowing when and when not to compromise," he said flatteringly. "I generally see compromise as a virtue, but I get very nervous when fundamental principles are at stake."

So, protecting federal funding for Mapplethorpe is a fundamental principle not to be compromised. But protecting his own student newspaper from destruction by an offended group is another matter. In this case, Hackney's duty is to try "narrowing the distance"—the subtitle of his craven statement on the "campus controversy"—between writer and trasher.

President Hackney's other brushes with free speech have occurred when, under his leadership, Penn adopted codes that ban hurtful—racist, sexist etc.—speech.

One can debate the merit of speech codes. But there is no debating the merit of the defense of speech codes that Penn issued on April 28. It is a disgrace. The suppression of free speech is presented as yet another clash of values: "freedom of expression" vs. "freedom of expression for all."

What does this mean? Try to follow. "Racist hate speech," says the university, can have the effect of preventing the "full participation" of those subject to that hate speech "in the academic community." Indeed it can have the effect of "preventing some members of the community from exercising their right to participate in [the] marketplace of ideas." How? Presumably, the emotional distress produced in those offended inhibits them from speaking. Hence allowing unfettered free speech really prevents "freedom of expression for all" (i.e., for the offended).

Now, had the university been honest it would simply have said: On the one hand there is open expression, and on the other there is the pain that such open expression can cause. And on those occasions where the pain is very great, we care enough about those pained that we are prepared to curtail free speech. Hence speech codes.

Not a great argument, not very constitutional, but at least honest. Penn's argument, on the other hand, that curtailing speech is really an expansion ("for all") of free speech is a travesty, a classic Orwellianism—unfreedom is really greater freedom—of the kind one now routinely finds in that swamp of political correctness that is the American academy.

Sheldon Hackney has had a distinguished academic career. He is a noted historian. He is a man of obvious good intentions. He is also, unfortunately, a perfect example of the failure of nerve—the failure of intellectual honesty, the failure to defend principle—that is the shame of American academic leadership. To elevate Hackney (the most exquisitely named public figure since former Perot spokesman Orson Swindle) to the chairmanship of the National Endowment is to endorse those failures.

[From the Washington Post, July 6, 1993]

SHELDON HACKNEY'S DANGEROUS BALANCE

(By Richard Cohen)

Gregory Pavlik is not my cup of tea. The 21-year-old former columnist for the University of Pennsylvania's student newspaper is a mighty conservative young man. He thinks Martin Luther King is unworthy of a commemorative holiday and does not like affirmative action one bit, especially as it has been applied at Penn. Some who have read him regularly say he's an acolyte of Pat Buchanan—one of those guys who punctuates his writing with a sneer.

Pavlik is about to become famous. He figures in the controversial nomination of former Penn president Sheldon Hackney to be chairman of the National Endowment for the Humanities. Pavlik's columns so infuriated many of Penn's black students that in April they seized the entire press run of the Daily Pennsylvanian and trashed all 14,200 copies of it. In letters and statements, the black students explained why—their feelings had been hurt.

Hackney understood. He condemned the seizure of the newspaper but commiserated with the black students. "Two important university values now stand in conflict," he said in a statement released after the papers were trashed. One was freedom of the press, and the other was Penn's attempt to make minority students feel "comfortable." Penn must uphold "freedom of expression as the supreme common value," Hackney wrote, but it must also become "a diverse and welcoming community." With that, he took no action against the students who had seized the newspaper.

The statement falls only a tad short of the outright supine. It is hardly a ringing defense of the First Amendment—a constitutional right, not a "value"—nor a vociferous condemnation of what amounted to a fascistic snit. The balance that Hackney attempted—he twice referred to the "pain" felt by the black students—is a bogus one. It's immaterial that someone's feelings were hurt.

What matters is truth or, at minimum, the attempt to get at it. This is what a university is all about. After all, opposition to affirmative action is hardly limited to white racists. Arthur Ashe was similarly disposed. As for the suitability of Martin Luther King as a national hero, I happen to disagree with Pavlik—but so what? The offended black students ought to ask themselves what would have happened if King's speeches and writings—offensive to many whites at the time—were censored. Freedom of the press is not a protection afforded the press; it's a protection afforded the people.

The black students seemed not to appreciate that point. Fine. They are young, and angry and have little historical perspective. That's where the university steps in. It is a custodian of our culture. Its role is to instruct, to show that a bad idea is rebutted by a better one—not by what amounts to violence. Bruised egos are often the collateral damage, as the Pentagon might put it, of a frank exchange of ideas. But in a letter to the Philadelphia Inquirer, 202 black students and faculty members expressed only one concern: Their feelings were hurt, and they did not feel welcome on campus.

Hackney's tour de force in other-handedness, coupled with some other genuflections in the direction of political correctness (his passive acceptance of speech codes, for instance) has made him the target of conservatives. This leaves me perplexed: How did conservatives become the sole guardians of our First Amendment rights and intellectual inquiry in general?

The answer is this: Too many liberals, steeped in a knowledge of racial injustice and its consequences, have crossed the line from empathy with the plight of minorities to a sympathy for whatever they do. I understand what the black students are saying, but my empathy with their wounded feelings does not extend to sympathy for their actions. The kind of "pain" Hackney mentioned is not life-threatening and is subjective. As any newspaper reader knows, pain—along with the comics—is part of the package.

Sheldon Hackney is a virtuous man, the personification of a cliche: both a gentleman and a scholar. But his nomination to a prestigious federal post presents liberals with the opportunity to assert that the values they held dear during the McCarthy period and Watergate, the ones they fought for when the government abused its power during the Vietnam era or, to be almost quaint, when it censored books and movies, are still part of our ideological creed.

Hackney's refusal to vigorously condemn the seizure of the paper and to punish the offending students creates an insurmountable hurdle to his nomination. A longtime civil rights advocate, he meant well, but by being so solicitous to the black students, he patronized them as people and failed them as their teacher. He is an odd choice for a post whose title contains the word "humanities." In fact, he is the wrong choice.

[From the Village Voice, May 4, 1993]

CIVIL WARS ON CAMPUS

(By Nat Hentoff)

No group is a reliable defender of free speech—although individuals within groups may be. During the 1970s, much of the Jewish Establishment in the United States was vicious in attacking those Jews, including some rabbis—active in the civil rights and antiwar movements—who objected to Israel's human rights violations in the Occupied Territories. I knew a rabbi in St. Louis who was treated as if he was a traitor to all the Jews who ever lived. And from vigilantes, I received death threats because of what I had written about Palestinian rights being violated.

Recenty, a white conservative columnist in the Daily Pennsylvanian angered a number of black students at the University of Pennsylvania. Instead of writing an answer or picketing the paper or boycotting the paper, they confiscated just about the entire run of an issue—some 14,000 copies—and threw them into the garbage.

A group calling itself the Working Committee of Concerned Black and Latino Students said the protest had been directed at "the blatant and covert racism continually perpetrated by both institutions and individuals on the University of Pennsylvania campus."

If white students had done the same thing in furious reaction to what a black columnist had written, I expect these Concerned Black and Latino Students might have demonstrated against so raw a violation of the black columnist's free-speech rights.

I've covered many censorship stories around the country—by perpetrators on the right and on the left—and no one has ever admitted being a censor. They all say they had the right to suppress speech that was harmful.

At the University of Pennsylvania, the Concerned Black and Latino Students not only claim they had the moral right to try to destroy all the copies of the daily newspaper but they also insist that it was a "legal protest."

Now dig this. This ranks as one of the lamest excuses for what was undeniably a deliberate suppression of speech. The Concerned Black and Latino Students—as Mary Jordan reported in The Washington Post (April 17)—declared that "not only are the papers free, but there exists no explicit restriction on the numbers of papers that any given student may remove."

Can you imagine Malcolm X—if he had ever done anything like this, which he never did—diluting the impact of his act in order to swivel out of any real responsibility for it?

Meanwhile, the head of the University of Pennsylvania, Sheldon Hackney—who is the very model of a politically correct university president—tepidly said he regretted that because of this hijacking of the papers, "two important university values—diversity and open expression—seem to be in conflict."

This is a man with the courage of a Bill Clinton. Hackney will soon be in charge of the National Endowment for the Humanities—chosen by Clinton. Some opponents of his predecessor, Lynn Cheney, think Hackney will be open of mind and heart. They will instead be in the presence of a cautious company man. Unorthodox applicants for grants—independent and irreverent in their view and research—are not likely to be welcomed.

Now look at what Hackney implied in his statement on the stolen papers. If you have diversity on campus—more blacks, more Asians, more Latinos, etc.—then there's going to be a conflict with open expression. Where the hell does Hackney get the idea that all blacks, Latinos, and Asians want to suppress expression they don't like? Some do. Some Jews do. Some Catholics do. But to reach the utterly shallow notion that diversity and open expression are in chronic conflict is to set up yet another prejudicial stereo-type of blacks and Latinos.

What Hackney should have said, if he'd had the courage, was that in this particular instance open expression in the newspaper had been treated with destructive contempt, and the culpability should be the same for the Concerned Black and Latino Students as it would be for any white group that destroyed a day's run of a newspaper.

Hackney and some other college presidents are engaging in a form of patronizing paternalism. These young black students—so the reasoning goes—cannot be expected to take full responsibility for such acts as preventing other students from reading their newspaper. The black students are frustrated and angry, and we must understand that.

Many of them are indeed frustrated and angry. But the answer is to deal straight—to do something real about the roots of the frustration and anger. Not treat them as if they were "special" kinds of people. That's not respect. That's a con game.

I've lectured at a lot of colleges, and with very few exceptions—as at Oberlin in Ohio and Kean College in New Jersey—the presidents I meet are ignorant of how to get people who do not look like each other to see "the others" as individuals. You don't have to like all of them, or most of them, as individuals. But it's a start to breaking down group stereotypes.

Depending on the size of the college and the composition of the student body, there are a number of ways to begin direct, uninhibited dialogue among diverse students; between diverse students and faculty; and between diverse students and administrators.

A couple of year ago, I saw truly open expression among students during a nearly three-hour meeting at a college with blacks, whites, Asians, gays, and lesbians. There was rage and parody and hurt and frustration and cleansing anger, among many other emotions. But there was no longer any mistaking of individuals for groups, although there was, not a large extent, group loyalty. I hope those kinds of meetings continued there. They ought to take place at every campus.

Some months ago, I was in Washington at a meeting of the B'nai B'rith Hillel Foundations Center for Campus Study. Among those speaking were student leaders at the Hillel centers of their colleges. They were talking about Jewish-black tensions on their campuses.

* * * * *

Andi Milens of Washington University in St. Louis said she became friendly with officials of the Association of Black Students, and then told of this incident:

"A Jewish student on campus is a blatant racist. In response to a book sale where one of the black sororities was selling an obviously anti-Semitic book, he had a watermelon sale. Another Jewish student intervened, talked to the black students and said, 'Look, He doesn't speak for us.' And I called up my friend in the Association of Black Students and said, 'What do you want me to do? You know he's a racist, and that we don't ascribe to his beliefs. What do you want to hear from me?' " He told her, and she issued a Hillel statement saying just what she told him.

The Jewish racist got worse, putting up flyers falsely quoting black speakers. Andi Milens and her friend from the Association of Black Students conferred, and he suggested that a letter be printed in the paper "from as many Jewish organizations as possible saying that this person doesn't represent the Jewish community."

Ten Jewish organizations signed the letter, and it was resoundingly clear, throughout the campus, that the Jewish racist represented only his noxious self.

Then came the notorious ad that appeared in a number of college papers around the country. The ad said that the Holocaust had never taken place. It's like telling blacks that slavery had never taken place.

The Jewish students at Washington University held a protest—a protest against the ad, not against the college paper's right to print it. There were Christian organizations at the protest, along with the Gay and Lesbian Community Alliance. But what about the Association of Black Students? Andi Milens called a leader of the association, and he said, "Tell us what to do. That's it." Members of the Association of Black Students came to the protest, and one of its leaders spoke. He emphasized that racism and anti-Semitism go hand in hand, and you can't fight one without fighting the other.

* * * * *

At some campuses, Jews understand that black students have no patience with anyone telling them whom they can or cannot invite. Some black students tell the students from Hillel, "You want to protest, go ahead. But don't tell me whom I can and can't have."

And Jewish students have indeed protested the appearance of—among others—Leonard Jeffries at Harvard and other campuses.

Andi Milens said at the Hillel meeting in Washington: "We're learning that the black students and the Jewish students have very different agendas. They're doing their own thing, and we have to respect that."

That respect, however, is not synonymous with bland passivity when black students invite an anti-Semitic speaker to campus. You can respect the right of a black student group to invite whomever they want while also maintaining your own self-respect by passing out leaflets—as Jewish students did at a recent Leonard Jeffries appearance at Duke University—saying, "We're against racism!" Against prejudice directed at anyone on campus.

Ross Werner of the University of Virginia said of the administration there that it seems "very interested in maintaining peace and calm. However, I have found very few individuals within the administration who are actually dedicated to working out some of the deeper underlying problems—and trying to create a less segregated university. It seems to me that the university is often interested in window-dressing, not in addressing many of the intergroup relations problems."

To begin to end the civil rights wars on campus, blacks, Jews, and others can count only on themselves. Not on the administration or the faculty. They have to form alliances based on mutual understanding and respect. It's as corny and simple and effective as that.

[From the Charlotte Observer, Apr. 29, 1993]

THE PC NOMINEE

(By George Will)

WASHINGTON.—An institution, we are told, is the lengthening shadow of a man. If so, official mischief at the University of Pennsylvania is of interest because Penn's president, Sheldon Hackney, is President Clinton's nominee to head the National Endowment of the Humanities. So consider the cases of Gregory Pavlik and Eden Jacobowitz.

Pavlik is one of many columnists for the student newspaper, The Daily Pennsylvanian. Robustly right-wing, he is comprehensively offensive to the politically correct. He is often extreme and heavy-handed, which is to say he is squarely in the tradition of undergraduate journalism.

And he is the reason why, two weeks ago, some black students met delivery trucks early in the morning, seized almost all 14,000 copies of the paper and dumped them in trash bins. The trashers offered this defense: "Not only are the papers free, but these exists no explicit restriction on the number of papers that any given student may remove." President Hackney's mincing description of this assault on press freedom. Papers "were removed from their regular distribution points."

Hackney's first statement was of regret that "two important university values, diversity and open expression, seem to be in conflict." A remarkable statement, that. It is clearly craven yet has no clear meaning. (Does the "diversity" value mean that some groups but not all groups that are part of the university's diversity have a right not to be annoyed?)

A few days later Hackney's even limper defense of the First Amendment was: "Taking newspapers is wrong." But also: "I recognize that the concerns of members of Penn's minority community that gave rise to the last week's protests are serious and legitimate." What "concerns" are "legitimate"—concerns that right-wing opinion is being published?

The university will investigate whether—yes, whether—the trashing of the paper violated freedom of expression. The severity of this investigation can be gauged by all official's statement that the university will take into account the fact that those who suppressed the newspaper "did not see their protest in the context of its being an infringement of free speech."

Hackney's credential as a defender of free speech are academically orthodox. He defends federal subsidies for Robert Mapplethorpe's homoerotic exhibits and says disapproving things about Sen. Jesse Helms, thoughts not perilous on campus. He is a First Amendment fundamentalist, but with a selectivity that suggests political calculation.

ALLEGED SLURS

The latest victim of Hackney's doctrine of balancing "diversity" (or "sensitivity") against free expression is Eden Jacobowitz. Late one evening he and others in his dorm were bothered by a noise gathering of black students outside. He and others shouted at the noisy students. Some persons shouted racial epithets. Jacobowitz shouted "Will you water buffalos get out of here?"

When campus police arrived, others who had shouted denied doing so. Jacobowitz said he had, and that he knew the race of the people he was shouting at, but he adamantly, denied shouting any racial slurs.

In subsequent proceedings against Jacobowitz, one of the university administration's thought and speech enforcers demanded to know if Jacobowitz had been having "racist thoughts" that night, and insisted that the phrase "water buffalo" was racist. However, various scholars, black and white, have defended Jacobowitz. He was for 12 years a Yeshiva student and on the fateful night be used the English translation of the Hebrew word "behameh." It means water oxen, and in slang means a thoughtless, foolish person.

The Hackney administration tried to get Jacobowitz to plea bargain. I would stop persecuting him if he would accept the punishment preferred by totalitarian regimes and American campus liberals—re-education, in the form of "sensitivity" training. He refused.

Hackney's university is mild, "understanding" almost condoning when a politically incorrect columnist is a black group's excuse for brownshirt tactics against a newspaper. But the university is ludicrously aroused by Jacobowitz's supposed violation.

As Hackney heads for Washington to superintend the disbursement of millions of dollars to scholars, the Chronicle of Higher Education reports: "Scholars praise Hackney as even-handed, moderate."

[From the Washington Post, May 2, 1993]

SPEECH CODE SILLINESS

Campus Speech Codes outlawing racially offensive speech have not, on the whole, fared well in the courts: Those at the universities of Michigan and Wisconsin, for instance, were successfully challenged as unconstitutionally "overbroad and vague." For an illustration of those terms and the absurd difficulties and injustice to which they can lead, a disciplinary saga unfolding at the University of Pennsylvania provides a sobering example.

The facts of the case, which has gotten extra attention because University of Pennsylvania President Sheldon Hackney is President Clinton's nominee to chair the National Endowment for the Humanities, have an antic quality. A freshman named Eden Jacobowitz is said to have shouted out his dorm window at a group of black sorority students who were making noise, calling them "water buffalo" and saying there was a zoo nearby if they wanted to party. When school authorities asked if anyone in the dorm had shouted racial epithets—apparently some other students had—Mr. Jacobowitz told them what he had shouted but said it was not a racial epithet. Nonetheless, school disciplinary authorities are now investigating whether his words are actionable under Penn's speech code. One college official reportedly asked him whether he had been thinking "racist thoughts" at the time.

As a constitutional matter, "overbroad" means that a policy can cover behavior that isn't prohibited as well as behavior that is; "vague" means the person engaging in the behavior can't tell beforehand whether it will be ruled prohibited or not. That's speech regulation in a nutshell. Bad enough that this incident has led to lunacies like the involvement of a panel of racial epithet scholars, who combed through linguistic history to ascertain that "water buffalo" has never been used as an ethnic slur toward blacks; that another expert should rejoin that Mr. Jacobowitz may have been translating a Hebrew, non-racial insult meaning "oxen"; that one faculty member would characterize water buffalo as "large, dark primitive animals that live in Africa," only to debate whether water buffalo live in Africa. All of that merely amplifies what should have been clear already, the futility and intrinsic self-destructiveness in clamping down on speech because it offends somebody.

The Penn speech code has been characterized by a local ACLU chapter as "one of the worst" at universities, and its prohibitions include any "verbal or symbolic behavior" that, among other criteria, "is intended by the speaker or actor only to inflict direct injury on the person or persons to whom the behavior is directed; or is sufficiently abusive or demeaning that a reasonable, disinterested observer would conclude that the behavior is so intended; or occurs in such a context such that an intent only to inflict direct injury may reasonably be inferred." We have added the italics; note that this astonishingly expansive formula does not allow the speaker's interpretation of his own words to be accepted over the interpretation of a listener or third party.

Educational institutions should educate, not least about racism and the need to fight it with stronger arguments; this, not suppression, continues to be the best way to combat offensive speech when, inevitably, it occurs. But that responsibility to educate is also a serious one. It's shameful and ridiculous for such institutions to then squander the moral high ground in the argument by pressing insupportable, trivial positions. Mr. Hackney ought to speak on this subject before he is confirmed to his new job, which after all is about education too.

[From the Washington Times, June 25, 1993]

SHELDON HACKNEY'S TURN

Being a Clinton administration nominee is clearly not a bed of roses. But hope springs eternal, and today yet another ambitious soul will trust his name and reputation to the White House handlers who are supposed to steer him through the Senate confirmation process. His name is Sheldon Hackney.

Mr. Hackney is president of the University of Pennsylvania. He is seeking the chairmanship of the National Endowment for the Humanities (NEH). But many people will know him better as the man who made water buffaloes the most discussed animals of the spring season after Stephen Spielberg's dinosaurs.

Will Mr. Hackney be the right man to step into the footsteps of Lynne Cheney, the endowment's previous and highly capable chairman? Observers of the academic scene have found him personally to be a man of integrity and a scholar of note. His long career has included posts at Princeton and Tulane universities.

However, the incidents relating to Penn's speech code that have come to light in the past few months have not been reassuring. The speech code promulgated under Mr. Hackney's stewardship has been used selectively, and sometimes irrationally, against those whose views are construed not to be in line with mainstream (that is, in this context, left-wing or Marxist) political views on campus. In the case of Eden Abramowitz, the student who yelled "water buffaloes" at a group of noisy nighttime revelers who happened to be black girls and almost got himself expelled as a result, Mr. Hackney's failure to stop a patently absurd and unfair prosecution does not reflect favorably on his judgment or leadership abilities.

Perhaps Mr. Hackney himself believes that Draconian punishment is truly needed to stamp out the pervasive evils of racism, homophobism and other assorted -isms, on the nation's campuses. He may well believe that—many academics do these days—and if he does, it will be illuminating to hear him say so. A lot of people do not share that view, of course, believing that the greater danger today is the restrictions on freedom of expression that occur whenever the content offends a particular, "politically correct" constituency.

On the other hand, it may be that Mr. Hackney himself is uncomfortable with the prevailing trends in academia but is not confident enough or strong enough to buck them. It could be that Penn's student-life program has been run mainly by officials with their own agendas. Mr. Hackney has eloquently defended the free exchange of ideas, though as far as can be told, mostly when the ideas in question belonged to the left-liberal part of the political spectrum. Some years ago, he vigorously defended Penn's exhibition of Robert Mapplethorpe photos. However, when it came to defending the campus newspaper's right to publish columns critical of the university's affirmative action program, his response has been pretty lukewarm. Suspicions of a double standard at work would seem justified.

As in the case of the National Endowment for the Arts, it is clear that people don't have a constitutional right to federal funding, be it of their art or their research. Still, the least one should expect from an agency such as the NEH is that grant applications be judged on their educational value or their scholarly merit, as opposed to their political affiliation. An NEH chairman has to believe in high standards and open academic inquiry. That is why the Senate Committee on Labor and Human Resources today must ask of Mr. Hackney whether he does indeed believe in these things. If he does not, then clearly he is not the man for the job. If he does, the senators will need assurances that he can stand up to the pressures of the quota crowd and the politically correct academic community. There is no doubt those pressures will be intense.

Mr. HELMS. Madam President, let me say something most sincerely, as I conclude, Madam President. I do hope that all of Dr. Hackney's critics will be proved wrong. I pray that I will be proved wrong. And if I am proved wrong, I will acknowledge it publicly and apologize to Dr. Hackney. But seeing no possibility of that happening, I feel obliged to vote in opposition to his nomination.

Mr. WOFFORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

MR. WOFFORD. Madam President, my colleague from North Carolina raises serious issues. Members of the Labor and Human Resources Committee raised similar questions—all of those questions, indeed—and more during Sheldon Hackney's confirmation hearing.

My colleagues on the committee asked difficult, thoughtful, probing questions. These questions were answered to our satisfaction and the committee voted unanimously to confirm Dr. Hackney.

This past spring was not an easy time at the University of Pennsylvania. The Labor Committee fully examined each incident. The members of the Labor Committee did not agree with every action that was taken by the university or every statement that was made. But I think each Senator left the hearing with a greater understanding of the challenges facing university presidents today.

Now, as to the specific points just made by the Senator from North Carolina, let me at least respond to the most notable errors of fact.

The first example of what was called a failure of nerve had to do with the ROTC, where it was stated that he had opposed the ROTC on campus. Senator KASSEBAUM put that question to Sheldon Hackney.

I ask unanimous consent that all of her questions and Sheldon Hackney's responses be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

QUESTIONS FOR THE RECORD BY SENATOR KASSEBAUM FOR SHELDON HACKNEY, NOMINEE FOR CHAIRMAN OF THE NATIONAL ENDOWMENT OF THE HUMANITIES

1. Regarding the Eden Jacobowitz affair, did you think the charge of racial harassment against Mr. Jacobowitz was justified? If so, please explain why.

I did not think the charge of racial harassment was justified. Penn's policy is very narrowly focused. It applies only in situations in which racial or ethnic slurs are used in face to face encounters and with no other intent than to inflict harm. The facts of the case do not meet these criteria. In addition, because of the misapplication of the policy and the confusions that abound in this case, I have come to feel that even though civility is very important in an educational setting it is a mistake to try to enforce it among members of the campus community through rules and penalties administered through a judicial system.

2. In retrospect, do you believe you should have intervened in the university judicial process brought against Mr. Jacobowitz, or do you stand by your action not to intervene?

As awful as the spring was, I still think it was not appropriate for me to intervene in the judicial procedure. There is no provision for the President or for any officer of the University to intervene. To have intervened would have called into question the legitimacy of the entire system that handles dozens of cases every year, denied to the complainants their right to have their complaint adjudicated by a faculty-student hearing panel, and thrown the campus into an even more divisive crisis than the one through which it actually lived. Had the system worked properly, and a hearing panel heard the case, I believe that justice would have prevailed. As it turned out, the case came to a close when the complainants withdrew their charges.

3. In the episode involving the theft of 14,000 copies of the Daily Pennsylvanian, the University's student newspaper, in April, 1993, please explain your reaction at the time of the incident, including the complete statement issued by your office.

I append the statements issued at the time of the incident. I believe they make clear that I recognized the seriousness of the violation and emphasized the primacy of free speech on a university campus.

4. Please describe in detail what your administration did to identify and bring charges against those responsible for the

Daily Pennsylvanian theft? Has anyone ever been charged in the theft? If so, what was the result in terms of penalties meted out?

The Committee on Open Expression (an important faculty-student committee that monitors the Open Expression guidelines) has ruled that the incident was a violation of the Open Expression Guidelines, thus making clear that charges would be brought. A number of students apparently involved in the incident have been identified and will face judicial procedures when they return to campus for the fall term. The one senior involved has had a "judicial hold" put on his transcript, meaning that he must clear up his disciplinary status before receiving his degree or being able to have his transcript sent to employers or graduate schools. In view of the seriousness of this case, the Vice Provost for University Life has appointed a respected senior faculty member to serve as the Special Judicial Inquiry Officer for this case.

5. Do you believe your response to the incident was appropriate considering the seriousness of the act in the context of First Amendment rights to free expression?

Yes, although I do wish now that in my original statement I had not used a formulation that was so easily taken out of context and misrepresented. If I could write the document again, I would undoubtedly use language that was even clearer and stronger in condemning the confiscations.

6. Your responses to the Jacobowitz affair and to the newspaper theft incident have been characterized as employing a double standard on the issue of free expression. What is your response to that charge?

The charge is absolutely false. Throughout my career, I have defended free inquiry, free speech, and academic freedom for people from all parts of the political spectrum, left, right and center. I have repeatedly done so when under considerable pressure to cancel appearances of controversial speakers or to discipline students or faculty who have earned the disapproval of persons or groups on the campus and off. The list of speakers whose security arrangements I have personally supervised is a veritable who's who of controversy over the past 20 years, from William Shockley to Louis Farrakhan and all shades of opinion between.

One incident in particular has been used to suggest that I am less than even handed. In the early 1980s, the South African Ambassador to the United States accepted an invitation to speak from a student group. The student group was then informed that University policy (which preceded my arrival at Penn) required host groups to pay all the costs of invited speakers, including security costs. Special security required for the South African Ambassador would have incurred substantial costs. The student group therefore withdrew the invitation. As soon as I heard of this situation and realized that it was based on a University policy, I changed the policy. The University isn't really open to all points of view if a host group is required to be rich enough to pay the costs involved in keeping opponents of the speaker from disrupting the event. The new policy was thus in effect when all subsequent speakers, including Louis Farrakhan, have been invited to speak on campus.

7. The Wall Street Journal reported that at the time of speaking engagement by artist Andres Serrano on the University of Penn campus in 1989-90, you refused to order the removal of campus sidewalk graffiti depicting anti-religious and graphic sexual symbols. Please explain what occurred.

As with so much that the Wall Street Journal has reported about me, the facts are wrong in important respects, highly distorted in other respects, and the story presented in a misleading way. Early on the morning of April 13, 1993, members of Penn's groundskeeping crew arrived on campus to find, written in chalk, graffiti depicting religious and sexually graphic and offensive symbols and slogans on Locust Walk, the main pedestrian thoroughfare intersecting the Penn campus. The groundskeeping crew, on its own initiative, immediately washed off this graffiti. Later that day the students—members of a gay rights group on campus—who had originally done the graffiti writing, protested to Penn's Assistant Vice Provost for Student Life that the erasure of the graffiti violated the University's Guidelines on Open Expression. The Committee on Open Expression, following precedent, found that the graffiti was protected speech as long as the graffiti was temporary and did not permanently deface University property. Members of the group returned the next day and renewed their graffiti writing. The issue was handled under regular University open expression policies and procedures. I was not personally involved in it. The incident did not related to Andres Serrano's visit to Penn, which took place on December 5, 1990.

8. Please explain your criticism of the Helms Amendment as it pertained to the work of artists, Robert Mapplethorpe and Andres Serrano.

I did criticize the language of the Senate amendment to the NEA-NEH appropriation bill for FY90 (the Helms Amendment) because I believed that the language of the bill—which Congress wisely did not include in the final version of the appropriations legisaltion—was impossibly vague and overbroad. The Helms amendment to the FY90 appropriations bill would have imposed unworkable content restrictions, and I believe that Congress has been wise in its judgment not to adopt it.

9. The Wall Street Journal reported that you proposed banning ROTC from the University of Pennsylvania campus in 1990 because of the military's prohibition on gays and lesbians serving in the military. Is this true?

As with a number of other assertions made by the Wall Street Journal, this is simply untrue. I am a supporter of ROTC on campus. Indeed, I am a product of the NROTC program at Vanderbilt University, and I have spoken frequently on campus about why I think it is a good program.

10. You have been quoted in the past as stating that the impact of "political correctness" on American university campuses is "greatly exaggerated." Do you believe that "political correctness" contributes to the free exchange of ideas and tolerance of different points of view in American academia today?

The term "political correctness" is almost hopelessly vague and imprecise. It began as a term of self-derision, and now it has taken on a life of its own as a caricature of a certain kind of liberal left orthodoxy that is so solicitous of the interests of groups that can claim the status of having been victimized by society that the general interests of the University are of secondary importance and at times even the search for truth is threatened. Fortunately, "political correctness" does not dominate. American campuses, thought it is something about which faculty and academic leaders ought to worry about. I believe that I am representative of the broad mainstream of the American professoriate that sees danger in any potentially intolerant orthodoxy, but that may also see partial merit in some ideas that may be part of a "politically correct" position.

Mr. WOFFORD. She said:

The Wall Street Journal reported that you proposed banning ROTC from the University of Pennsylvania campus because of the military's prohibition on gays and lesbians serving in the military. Is this true?

Dr. Sheldon answered:

As with a number of other assertions made by the Wall Street Journal, this is simply untrue. I am a supporter of ROTC on campus. Indeed, I am a product of the NROTC program at Vanderbilt University, and I have spoken frequently on campus about why I think it is a good program.

I might add, if you note the biography of Sheldon Hackney, you see he gave distinguished service in the military service in connection with and after his service in the ROTC.

Then it was said that the trashing, the destruction of copies of the Daily Pennsylvanian in April 1993 had evoked no opposition from Sheldon Hackney. That is also not true. The distinguished Senator from North Carolina has stated that Sheldon Hackney saw nothing wrong with the destruction of those papers.

I submit the statement for the RECORD of April 22. I ask unanimous consent the full statement be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT APRIL 22, 1993

The following statement was issued by University of Pennsylvania President Sheldon Hackney today in response to last week's events involving the removal of copies of the independent student newspaper, *The Daily Pennsylvanian*, by students protesting its editorial policies:

Freedom of expression is essential to academic life. At Penn it is foremost among our core values, and we are committed to upholding it. The University has long-established policies to protect it.

Taking newspapers is wrong, as I made clear in a policy statement four years ago and reiterated at the time of last week's events and restated again this week.

Those who are accused of violations of University policies will be subject to the provisions of the University's judicial system. Due process in determining the guilt or innocence of any accused party is essential. We shall not take shortcuts.

I recognize that the concerns of members of Penn's minority community that gave rise to last week's protest are serious and legitimate. We have worked hard to make Penn a place in which everyone could feel full membership. The University is, and will remain, committed to that goal, and it is working diligently to achieve it.

In the final analysis, the aim of a diverse and free forum for ideas in which all are welcome and able to participate will be achieved only when all members of the community listen more carefully and respond less defensively to the views and concerns of others. I urge the Daily Pennsylvanian's staff and editors and those who object to its editorial, reportorial and staffing practices to work together to resolve their common concerns.

Allegations have also arisen of police misconduct in the handling of last week's events by University police and security personnel. There is now a process in place to determine what occurred and to respond appropriately once those facts have been determined.

These events have also highlighted questions about the appropriateness of some standard police procedures within the special circumstances of a university community. Those questions are being reviewed by a special commission, and the University's Division of Public Safety will use its findings to revise its training and procedures as appropriate.

A modern university is the focus for all of the tensions that exist in our society. As such, it must remain steadfast in its commitment to all of its core values, especially when those tensions produce conflicts that we must work to resolve. We shall not do less.

SHELDON HACKNEY,
President.

Mr. WOFFORD. I will just read the following excerpts.

Freedom of expression is essential to academic life. At Penn it is foremost among our core values, and we are committed to upholding it. The University has long established policies to protect it.

Taking newspapers is wrong, as I made clear in a policy statement four years ago and reiterated at the time of last week's events and restated again this week.

It is wrong also to say that no action was taken in regard to the students who destroyed those newspapers.

On the contrary, a number of those who were apprehended and apparently seizing the newspapers were, in fact, arrested. Some of them were handcuffed. All of them who have been identified are part of a university process of discipline. The one student who graduated before the proceedings could come to a close this fall had his papers withheld, which means that he cannot use his transcript to be sent to employers or to graduate schools until the matter has been cleared up.

In view of the seriousness of this case, the vice provost for university life has appointed a respected senior faculty member to serve as a special judicial inquiry officer in the case of those students who seized that newspaper.

Those are just a few examples of how the caricature of Sheldon Hackney that has appeared in some publications has no basis in fact.

Mr. WOFFORD. Madam President, I suggest the absence of a quorum. I ask unanimous consent the time be charged equally to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WOFFORD. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WOFFORD. Madam President, Senator PELL is the Senate sponsor of the legislation that established the National Endowment for the Humanities in 1965. He has chaired or been the ranking member of the subcommittee on Education, Arts and Humanities since then. He has a continuing involvement with the life of this agency.

Mr. PELL. Madam President, I rise to add my strong endorsement to the nomination of Dr. Sheldon Hackney to be Chairman of the National Endowment for the Humanities.

Dr. Hackney is a man of tremendous stature and intelligence who will bring years of scholarly and administrative experience to this important position. His impressive record includes 18 years as the president of two major universities—Tulane and the University of Pennsylvania. Prior to this he was provost and professor at Princeton University.

As my colleagues know, I have long been involved in the life of the Humanities Endowment and will continue to do all I can to support and encourage its work. I know that it will be a great pleasure working with Dr. Hackney in the years ahead.

Much has been made in the press of a few incidents that occurred at the University of Pennsylvania during Dr. Hackney's tenure there. Dr. Hackney provided such thorough and satisfying answers when asked about these issues in his confirmation hearing that committee members voted unanimously—17–0—to recommend his confirmation to the full Senate.

Finally I want to say how fortunate we are that President Clinton has nominated such an outstanding figure in the academic community to take on this leadership role in the humanities. I applaud the President for his inspired choice.

I urge my colleagues to join me in voting to confirm Sheldon Hackney.

Mr. KENNEDY. Madam President, I am pleased to recommend that the Senate confirm the nomination of Dr. Sheldon Hackney to be Chairman of the National Endowment for the Humanities.

Dr. Hackney is a superb appointment for this position—he is a distinguished historian, scholar, and college administrator. The has been a leader in our national academic community for the past 30 years, bringing great distinction to himself and the institutions he has served.

The Labor and Human Resources Committee approved the nomination unanimously—and that consensus is a great tribute to Dr. Hackney's brilliant credentials. With bipartisan support and this strong mandate, Dr. Hackney will be able to provide strong leadership at the Humanities Endowment.

The Endowment is an important agency that offers Federal support for advanced scholarly research. It plays an effective role in encouraging academic work in the humanities.

Dr. Hackney has had a remarkable career and lifelong commitment to public service. He has outstanding professional qualifications for this position.

One impressive aspect of Dr. Hackney's career is his unequivocal view that the humanities belong in all of our lives.

At the University of Pennsylvania, where he most recently served as president, Dr. Hackney undertook a series of initiatives to make the university a more effective part of its community in the city of Philadelphia.

During the confirmation process, a handful of critics raised questions about two incidents that occurred recently on the Penn campus. The hearing in the Labor Committee provided ample opportunity to examine these incidents in full.

Dr. Hackney was able to explain the facts to the satisfaction of the committee members—and discount the flimsy allegations against him.

I am convinced that Dr. Hackney is a strong advocate for free expression. He has often spoken of the importance of including all points of view in the humanities. He will oppose any attempt to impose any concept or orthodoxy or political correctness on the grantmaking process.

I am especially pleased that Dr. Hackney, by training, is an historian. His knowledge, understanding and perspective in this area will be of great value to the agency. He has a clear sense of the Nation's past and an equally clear vision of its future.

His stature in the academic community will also be a great asset to the Agency which, along with its sister Agency, the National Endowment for the Arts, has been on a political rollercoaster in recent years.

Dr. Hackney offers the Humanities Endowment a vision and temperment that will set the course for the Agency for its second quarter century. Under his leadership the Agency will, I am sure, do an effective job of achieving its promise.

I commend President Clinton for his nomination of Dr. Hackney, I urge the Senate to confirm him.

Mr. WOFFORD. Madam President, this is not a partisan matter. I do not know of any nomination that has had such bipartisan support.

I ask unanimous consent to print in the RECORD and read, in part, the letter from Mrs. Walter H. Annenberg.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

WYNNEWOOD, PA,
June 3, 1993.

Hon. EDWARD M. KENNEDY,
Chairman, Senate Committee on Labor and Human Resources, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR KENNEDY: As a member of the Board of Trustees of the University of Pennsylvania, I offer the strongest endorsement of Sheldon Hackney for the position of

Chairman of the National Endowment for the Humanities and I urge the Senate Labor and Human Resources Committee to approve his appointment without reservation.

Since becoming Penn's 21st chief executive in 1981, Dr. Hackney has focused on a range of institutional needs, including curricular reform, research enhancement, development and long-range planning, public involvement, and internationalization, and he has achieved an exceptional record as a national leader in each of these areas. In spite of this, in difficult situations, Dr. Hackney has proven that he can bring together complicating elements to produce a constructive solution. But such accomplishments are even more meaningful in the context of Dr. Hackney's deep and abiding commitment to freedom of expression.

In recent months, two incidents on the Penn campus have put Dr. Hackney's personal and institutional values to the test. In both cases, in spite of intense media coverage, President Hackney demonstrated not only remarkable restraint in dealing with the deluge of publicity but also great integrity in helping to continue a "wholesome and mutually supportive campus community."

One episode involved the printing of racially hostile commentaries in the independently operated campus newspaper and the resulting confiscation of that publication by some minority students. The second episode involved a white student's alleged racist slur in response to excessive noise by several black sorority women. Both incidents raised a host of complicated legal issues, especially First Amendment protections. In his handling of these and other incidents throughout his term as president, Sheldon Hackney has steadfastly articulated freedom of expression, civility, and respect as the core values of the University. He has made it clear on numerous occasions that the Bill of Rights provides for certain freedoms but it does not give people the freedom to abuse that concept.

Walter and respectfully ask you to give Sheldon Hackney an opportunity to serve his country with the same strong devotion, energy, and fairness that has guided his presidency at the University of Pennsylvania.

Senator Kennedy, please give this your most careful consideration. I cannot imagine President Clinton putting forward a better candidate from either the Republican or Democrat standpoint.

Sincerely,

MRS. WALTER H. ANNENBERG.

Mr. WOFFORD. Madam President, she writes:

As a member of the Board of Trustees of the University of Pennsylvania, I offer the strongest endorsement of Sheldon Hackney for the position of Chairman of the National Endowment for the Humanities.

* * * he has achieved an exceptional record * * * remarkable restraint in dealing with the deluge of publicity but also great integrity helping to continue a "wholesome and mutually supportive campus community."

She mentions the incidents we have talked about and then says:

In his handling of these and other incidents throughout his term as president, Sheldon Hackney has steadfastly articulated freedom of expression, civility and core values of the university. He has made it clear on numerous occasions that the Bill of Rights provides for certain freedoms but it does not give people the freedom to abuse that concept.

Walter and I respectfully ask you to give Sheldon Hackney an opportunity to serve his country with the same strong devotion, energy, and fairness that has guided his presidency at the University of Pennsylvania.

Please give this your most careful consideration. I cannot imagine President Clinton putting forward a better candidate from either the Republican or Democrat standpoint.

Madam President, I also ask unanimous consent to print in the RECORD a letter from the cultural adviser to Gov. Robert Casey, of Pennsylvania, Sondra Myers.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

OFFICE OF THE GOVERNOR,
Harrisburg, PA, June 10, 1993.

Senator HARRIS WOFFORD,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR HARRIS: It is with great enthusiasm that I commend to you the confirmation of Sheldon Hackney as Chairman of the National Endowment for the Humanities. I bring to this endorsement extensive knowledge of an experience with the Endowment and with Dr. Hackney.

As a former chair of the Pennsylvania Humanities Council and a past president of the Federation of State Humanities Councils, I have worked with the Endowment for over twenty years. The agency, although modest in size, is of primary importance in fostering and supporting research and dissemination of ideas which are critical to Americans' understanding of our own history and of our knowledge of the world and our place in it.

As a nation we are at a crossroads. We are entering a new millennium, one which presents us with the challenges of maintaining our precious legacy of democracy in a climate of a domestic and international change. The NEH is the leading federal agency to nurture understanding of ourselves and others. It requires, more than ever before, the leadership of one who is deeply grounded in the disciplines of the humanities and who has the skills, experience and vision to guide this major agency into the future.

I have had the privilege of knowing Sheldon Hackney since he came to Pennsylvania to assume the presidency of one of our premier academic institutions. During this tenure at the University of Pennsylvania, the institution has made enormous strides in developing—academically and economically, and, critically important, too, in its responsibility to the community.

Dr. Hackney is amply qualified for a position of national leadership. His intellectual acuity, his integrity of character and his overriding concern for the public good are qualities that insure a well conceived and well managed Endowment, one which will preserve the principles and purposes which informed its creation by the Congress. It will be an agency for the people.

Dr. Hackney is not a ideologue; he is a pragmatic idealist, in the tradition of our Founding Fathers, who has a passionate commitment to learning and a profound knowledge of its importance to the future of American democracy.

I have full confidence that he would serve the Nation Endowment for the Humanities with honor and distinctions. Hope and trust that the committee will confirm his nomination with all due speed and confidence.

Sincerely,

SONDRA MYERS,
Cultural Advisor to the Governor.

Mr. WOFFORD. "I also ask unanimous consent to print in the RECORD several other items, including a letter from the president of the American Council on Education.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMERICAN COUNCIL ON EDUCATION,
Washington, DC, July 22, 1993.

Time Magazine Letters,
Time & Life Building, Rockefeller Center, New York, NY.

TO THE EDITOR: In its haste to tell a sensational story at the expense of former University of Pennsylvania president Sheldon Hackney, President Clinton's nominee to head the National Endowment for the Humanities ("Wine and Cheese Liberal—At Taxpayer's Expense," July 26, 1993), Time neglected to tell the whole story.

The piece claims that Penn "admitted misspending. . . nearly $1 million in federal grants earmarked for academic research." But the story fails to note that Penn received over $890 million in research grants during the five years covered by a government audit. In other words, the amount in question is roughly one-tenth of one percent (.001) of the total received. Time also neglected to mention that Penn repaid the money in dispute.

Few organizations, public or private, can match this performance. Indeed, if Dr. Hackney demonstrates equally good stewardship of the taxpayers' money as chairman of HEH, he should get a medal.

Sincerely,

ROBERT H. ATWELL,
President.

JUNE 24, 1993.

Hon. HARRIS WOFFORD,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR HARRIS: Enclosed please find a letter which has been forwarded to the Philadelphia Inquirer, the Philadelphia Daily News and the Philadelphia Tribune. It is the feeling of the people whose names are typed below that Sheldon Hackney deserves the support of this entire region by reason of the major contributions he has made on all our behalves. We hope that he will have your support in the United States Congress. That support will be very much appreciated by all of those whose names appear below the letter and by the undersigned.

Sincerely,

MILTON A. FELDMAN.

ESTĒE LAUDER COMPANIES,
New York, NY, June 24, 1993.

Hon. EDWARD M. KENNEDY,
U.S. Senate, Washington, DC.

DEAR SENATOR KENNEDY: I'm writing you in support of the nomination of Dr. Sheldon Hackney to head the National Endowment for the Humanities. I serve on the Board of Trustees of the University of Pennsylvania, and therefore have known Sheldon Hackney intimately over the entire time of his tenure at the University. Simply stated, he is a man of extraordinary talent, brilliance, and deep humanitarian convictions.

I urge you and your fellow Senators to confirm his appointment . . . it will be a great step for the Nation.

With warmest personal regards.

Sincerely,

LENARD A. LAUDER.

HOUSE OF REPRESENTATIVES,
Washington, DC, June 23, 1993.
Hon. EDWARD M. KENNEDY,
Chairman, Committee on Labor and Human Resources, Dirksen Building, DC.

DEAR TED: I want to add my voice to those supporting Sheldon Hackney to be Chairman of the National Endowment for the Humanities.

The nation is fortunate that an individual of Dr. Hackney's caliber has been nominated to head the NEH. Dr. Hackney has served with distinction for the past 12 years as president of the University of Pennsylvania. He served as president of Tulane University from 1975 to 1981 and as provost of Princeton University from 1972 to 1975.

Dr. Hackney is a noted scholar of the Southern United States and an award-winning author. He is also a professor of history at Penn who regularly teaches undergraduates. He has conducted one of the most successful fund-raising campaigns in higher education history at Penn and has been an effective leader in community activities and education organizations.

Dr. Hackney's efforts have built the University of Pennsylvania's reputation as a leading research university that provides a superb undergraduate education. He has emphasized teaching, research and service as the three central missions of modern research universities.

I believe his outstanding record and life achievements make him ideally suited to head the NEH. I have complete confidence in his abilities and judgment, and I urge you and the members of the Committee to give his nomination favorable consideration.

Sincerely,

JOSEPH M. MCDADE,
Member of Congress.

THE METROPOLITAN MUSEUM OF ART,
New York, NY, June 21, 1993.
Hon. EDWARD M. KENNEDY,
Senate Russell Office Building, Washington, DC.

DEAR TED: I am writing you to express support for Sheldon Hackney to be Chairman of the National Endowment for the Humanities. Your support for his candidacy is critical to his approval by the Senate.

I have known Sheldon well for 15 years and have watched his entire presidency at the University of Pennsylvania. Indeed, my son was one of the many young people who were privileged to be at Penn during Sheldon's tenure. We have seen Sheldon and his wife on many occasions over these years. We shared "donors" to the Met and the University of Pennsylvania so I know him to be a much respected and effective president, fundraiser, and soul-mate in the non-profit world.

My sense of Sheldon is based on long years of discussion and observation during my years as American Ambassador to Venezuela, then to Czechoslovakia and for the last seven years as a museum president. He is a strong, intelligent and humane leader, the likes of which the U.S. Government only rarely attracts into its service. Throughout his career and indeed, throughout his life, Sheldon has advocated and practiced policies that encourage free and open expression of competing views.

Sheldon will bring to this important job the humanist tradition of a historian and a family tradition rooted in the same spirit. For more than a decade he has run one of our finest universities with a sterling record during a difficult time for the academy. Few university presidents have accomplished as much with so little uproar during this past twelve years as Sheldon.

When you look closely at his record, I am sure you will determine that he will make an outstanding leader of the National Endowment for the Humanities. I hope that you will be one of those who welcome his appointment.

Sincerely,

WILLIAM H. LUERS,
President.

Below, the Chairman of the Trustees of the University of Pennsylvania shares with the campus his message to the Trustees upon the resignation of President Sheldon Hackney.

A MESSAGE TO THE UNIVERSITY COMMUNITY, APRIL 16, 1993

We were delighted to learn earlier this week of President Clinton's intention to nominate Sheldon Hackney as the next Chairman of the National Endowment for the Humanities. While it is difficult indeed to imagine Penn without Sheldon, this is a magnificent opportunity for him and one that reflects well not only on him but also on Penn.

Sheldon's appointment, which is yet subject to Senate confirmation, has accelerated what has been his intention to step down at the successful conclusion of the Campaign for Penn. However, taking many factors into account, including the uncertain timing of the Senate hearings, Sheldon informed me earlier this week that he intends to resign as president of Penn no later than June 30, 1993, to give the Trustees the opportunity to begin immediately the search for Penn's next president and to identify an acting president to serve in the interim. The executive committee met yesterday on campus; we have begun to convene the consultative committee to advise us on Penn's next president and will be prepared to announce the acting president next week.

Penn's accomplishments since Sheldon's arrival in February 1981 are without parallel in higher education. He has clearly been one of Penn's greatest chief executives, leading one of higher education's most thorough and effective institutional planning processes. While maintaining its strong regional base, Penn's student body has become nationally and internationally diverse. Looking toward Penn's long-term future as well as its current operations, Sheldon has continued our tradition of solid fiscal management. His presidency has seen endowment increase five-fold to top $1 billion for the first time in history. The Campaign for Penn is fast becoming one of higher education's legends, already having raised $955.3 million toward the $1 billion goal, and providing funding for 122 endowed chairs, the highest number in the history of higher education development efforts.

Beyond these successes, Sheldon leaves the lasting imprint of his multifaceted efforts that strengthened Penn's reputation as a leading research university that provides a superb undergraduate education, his leadership of nationally-recognized activities that place Penn in the vanguard of university-community partnerships, and his firm and clear devotion to creating a humane and civil environment for all members of Penn's community.

As we look to the future, we do so with a strong foundation of outstanding faculty, students, administrators and staff, a solid financial base, and a reputation for being the best managed institution of higher education in the country. Thanks to Sheldon and all of those who have been part of his team, the University of Pennsylvania is well positioned to continue its emergence as, in his words, "the leading international research institution that really cares about undergraduate education." As we move to form the consultative committee to advise the Board of Trustees on candidates for Penn's next president, we do so with confidence. Penn is an exciting place to be, and its leadership is one of higher education's most compelling posts. I have no doubt that we will attract an outstanding group of candidates.

Finally, I am sure you join me in wishing Sheldon and Lucy the very best as they move into the next phase of their extraordinary lives.

Sincerely,

ALVIN V. SHOEMAKER.

THE SHELDON HACKNEY I ADMIRE

The Lani Guinier battle is over, but another one looms, this time not about a professor at the University of Pennsylvania, but about the president of that same Ivy League redoubt, Sheldon Hackney, whom Bill Clinton has nominated to chair the National Endowment for the Humanities, where Lynne Cheney used to sit.

For the past dozen years, Mr. Hackney has run Penn admirably. Before that he was president of Tulane University and earlier, provost at Princeton. He is a teaching historian by trade, his major scholarly preoccupation his beloved South. Unlike Ms. Guinier, it is not his writings that have triggered hostile reaction to his nomination from the editorial writers of The Wall Street Journal; instead, what has riled his critics are recent events at Penn in which Mr. Hackney, you aver, went out of his way to coddle minorities. You paint him as the wimpish captive of the forces of political correctness.

I should explain that this man is my friend and that I know him well enough to suggest that perhaps you should get to know him and his academic management style better before you fulminate against him further, for this is a strong, gentle, quietly courageous man whose years in academe have been distinguished and almost universally applauded.

It is obvious that university campuses today are yeasty, sometimes quarrelsome places, especially urban campuses like Penn, where each year more and more minorities come to study, to exercise their intellects and their emotions. Each year new tensions develop, new muscles are flexed, group for group, minority for minority. But Mr. Hackney has labored to make Penn a place of comity despite the conflict quotient; and this at a time that Penn's undergraduate minority enrollment has grown from 13% to 30%.

He is about to undergo the Washington ritual of Senate confirmation hearings, during which no doubt he'll be asked, among other things, about those recent events described by one writer as "racial sensitivity gone haywire," which called down on him the wrath of those aforementioned critics. In the best of all worlds, perhaps, university campuses would spawn more light, less heat, but those—apparently—are not the conditions that prevail at many campuses across America.

Mr. Hackney has dealt with various eruptions over the years, including protests against the predictable spectrum of invited speakers from Farrakhan to Reagan; despite all, he has succeeded by and large in keeping the peace at Penn. Addicted to freedom of speech for all comers, he has inevitably stumbled. Who hasn't? But for his critics to define him, his convictions and his career in terms of those virtually solitary fumbles is unfair and dishonest.

If Sheldon Hackney's fine stewardship of a great university can be so misrepresented, it is not difficult to comprehend why capable others who might be called upon to serve in Washington would think thrice before subjecting themselves to similar misinformed, occasionally malicious, politically motivated calumny.

MIKE WALLACE,
Correspondent,
CBS/60 Minutes.

NEW YORK.

THE NATIONAL HUMANITIES ALLIANCE

ACTIVE MEMBERS OF THE NATIONAL HUMANITIES ALLIANCE

American Academy of Religion
American Anthropological Association
American Association of Museums
American Association for State and Local History
American Council of Learned Societies
American Folklore Society
American Historical Association
American Musicological Society
American Philological Association
American Philosophical Association
American Political Science Association
American Society for Aesthetics
American Society for Eighteenth-Century Studies
American Society for Legal History
American Sociological Association
American Studies Association
Association for Asian Studies
Association for Jewish Studies
Association of American Colleges
Association of American Geographers
Association of Research Libraries
College Art Association
Commission on Preservation and Access
Shelby Cullom Davis Center for Historical Studies Princeton University
Federation of State Humanities Councils
The George Washington University
History of Science Society
Independent Research Libraries Association
Linguistic Society of America
Medieval Academy of America
Middle East Studies Association
Modern Language Association
National Council of Teachers of English
National Humanities Center
Organization of American Historians
Phi Beta Kappa Society
Renaissance Society of America
Research Libraries Group
Social Science Research Council
Society for the History of Technology
Society of Biblical Literature
Special Libraries Association
Speech Communication Association
Teachers for a Democratic Culture

ASSOCIATE MEMBERS OF THE NATIONAL HUMANITIES ALLIANCE

African Studies Association
American Dialect Society
American Library Association
American Numismatic Society
American Society for Theatre Research
Association of American Law Schools
Association of American University Presses
Center for the Humanities, Wesleyan University, Connecticut
College English Association
Commowealth Center for Literary and Cultural Change, University of Virginia
Community College Humanities Association
The Council of the Humanities, Princeton University
The Hastings Center
Institute for Advanced Study
Institute for the Humanities, University of Michigan
Institute for the Medical Humanities, University of Texas Medical Branch, Galveston
Institute of Early American History and Culture, College of William and Mary
International Research and Exchanges Board
Midwest Modern Language Association
Northeast Document Conservation Center
Philological Association of the Pacific Coast
Popular Culture Association
Shakespeare Association of America
Sixteenth Century Studies Conference
Society for Ethnomusicology
Society of Architectural Historians
Society of Christian Ethics
South Atlantic Modern Language Association
South Central Modern Language Association
Doreen B. Townsend Center for the Humanities, University of California, Berkeley
University of California Humanities Research Institute, University of California, Irvine
Virginia Center for the Humanities

Mr. WOFFORD. I yield the floor.

Mr. LIEBERMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Madam President, I yield myself up to 12 minutes of the time allocated to the minority, in opposition to this nomination.

The PRESIDING OFFICER. The Senator is recognized.

Mr. LIEBERMAN. Madam President, I rise regretfully in opposition to the nomination of Dr. Sheldon Hackney to be Chairman of the National Endowment for the Humanities. I do so without pleasure, may I say, because this nominee is, by all accounts, a distinguished scholar and a decent man. Indeed, I spoke to Dr. Hackney recently and found him to be as thoughtful, charming, and well-intentioned as his many supporters promised me he would be. But I have decided that I cannot in good conscience vote to support his nomination for this particular office.

The National Endowment for the Humanities and our great universities, including the University of Pennsylvania, share an important and principled mandate: the pursuit of knowledge through the unfettered expression of facts, opinions and values, disciplined only by the requirement that such expression be open to debate and to scrutiny.

The first amendment of our Constitution embodies this principle with respect to government. For obvious reasons, our private universities have no such constitutional counterpart. We must rely primarily on the steadfastness to this principle by our universities' leaders for its preservation and for its vitality.

History is unfortunately replete with examples of the damage that can result when members and leaders of university communities, however well-intentioned, succumb to the pressures of the moment. The noble fight against Soviet communism led to the blacklisting of some faculty. The ignoble specter of racism and bigotry led otherwise honorable men and women in our academic communities to impose quotas—religious, ethnic, racial quotas—on the admission of students from various minority groups or prevented scholars who were members of those minority groups from becoming tenured faculty members.

We now look back on these and other periods with shame and remorse, as well we should. I am convinced that we will also look back on today's speech codes and similar examples of the rule of political correctness with that same shame and remorse. Speech codes, however well-motivated, violate the principle of free speech and are ultimately patronizing because they suggest that the targets of offensive speech are incapable of confronting that offensive speech, of fighting its insensitivity or intolerance or ignorance directly by refuting it. In fact, the very effort to explore the meaning, motivation, and effect of specific expressions of speech in a judicial setting has, in my opinion, a chilling effect on university communities and takes us down a path that can lead to no good.

So, too, obviously, do attempts to explain or justify attempts to prevent the distribution of unpopular opinions and ideas.

And that brings me now to these two episodes at the University of Pennsylvania during this past spring.

In one, a group of students who did not like the tone and content of a series of columns that had appeared in the student newspaper, the Daily Pennsylvanian, took it upon themselves to confiscate 14,000 copies of one edition on a given day of that newspaper before it was distributed.

Instead of condemning that act in unequivocal terms for what it was—an outrageous assault on freedom of speech, freedom of the press, and a criminal act, namely, the theft of newspapers that did not belong to them—instead of doing that, Dr. Hackney's immediate reaction was to express sympathy with the students' frustration that led them to steal the newspapers. That is nonsense and, sadly, it is nonsense that, according to a column by Nat Hentoff in this Saturday's Washington Post, is being repeated at too many of our great universities across the country today.

Dr. Hackney did pay tribute in his statement to the preeminence of free speech in our society. But as I read that statement, that elevation of free speech was smothered in a statement that was otherwise loaded with the kind of Orwellian truisms on the so-called conflict between free speech and diversity that also have become too common on our campuses.

Sixteen professors at the University of Pennsylvania's Law School saw this. They understood the need for a statement of unequivocal clarity on this event; namely, the theft of these newspapers. They spoke out. I applaud them for it, and I ask unanimous consent that a copy of their public statement, their letter, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

ON REMOVAL OF DPs

(The following was submitted under the title "Open Letter to President Hackney.")

The undersigned are members of the Law Faculty. We believe that the deliberate removal from circulation of 14,000 copies of The Daily Pennsylvanian calls for us to state three points with unequivocal clarity.

First, the removal of the newspaper because it published writings by one columnist which some students found offensive was a flagrant violation of freedom of thought and freedom of discussion. It was a direct denial of the principle which is most basic to the University's mission. It was conduct which cannot be excused or tolerated.

Second, the fact that the newspapers were confiscated as an act of protest cannot excuse it or make it any less tolerable. Those who disagree are, of course, entitled to protest, but not be attempting to silence those with whom they disagree.

Third, the important University values of diversity and open discussion were not in conflict here. The offensive columns in no way prevented the University from carrying out its policy of diversity and its many programs to promote understanding.

Removal of the newspapers struck at the heart of the most fundamental diversity which the University should foster—diversity of thought, views and expression. It may well be that the University has not done all that should be done to promote racial diversity. That must occupy a high place on the continuing agenda. But we disserve democratic values if, in our efforts to promote that diversity, we chill diversity of expression.

Clyde W. Summers, Jefferson B. Fordham Professor Emeritus.

Stephen B. Burbank, Robert G. Fuller, Jr. Professor.

Colin S. Diver, Dean and Bernard G. Segal Professor.

William B. Ewald, Assistant Professor.

Michael A. Fitts, Professor.

Frank I. Goodman, Professor.

Robert A. Gorman, Kenneth W. Gemmill Professor.

John O. Honnold, William A. Schnader Professor.

Leo Katz, Professor.

Seth F. Kreimer, Professor.

A. Leo Levin, Leon Meltzer Professor Emeritus.

Richard G. Lonsdorf, Professor of Psychiatry and Law.

Charles W. Mooney, Jr., Professor.

Stephen J. Morse, Ferdinand Wakeman Hubbell Professor.

Edward B. Rock, Assistant Professor.

Edmund B. Spaeth, Jr., Senior Fellow.

Mr. LIEBERMAN. Madam President, as an example of the slippery slope, the dangerous path down which these proceedings can go, I ask unanimous consent to print in the RECORD excerpts from the report of a panel of university administrators appointed to study the theft of those copies of the Daily Pennsylvanian on April 15, 1993.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, July 26, 1993]

DOUBLETHINK AT THE UNIVERSITY OF PENNSYLVANIA

Following are excerpts from the report of a panel of University of Pennsylvania administrators appointed to study the theft of one entire press run of the student newspaper. The papers were seized all over campus by black activist students opposed to The Daily Pennsylvanian's editorial content.

The report, which criticizes security guards, absolves the students of any wrongdoing—except failure to show I.D. cards. The panel analyzed what supposedly transpired at each of the campus sites involved.

A related editorial appears today.

INDIVIDUAL INCIDENTS ON APRIL 15, 1993

1. Biomedical Library/Johnson Pavilion (6:52 a.m.): Incident involving two students and two officers responding to a call from a School of Medicine security guard.

The panel found that one officer behaved in a discourteous manner toward the students by ordering them to leave before determining who they were or giving them an opportunity to explain their presence. The panel found that his actions violated Section 8.4.02 of the "UPPD [University of Pennsylvania Police Department] Policies and Procedures Manual" and should be reviewed by his supervisor for possible disciplinary action.

The panel found that the Medical School security guard behaved appropriately by contacting the UPPD.

The panel recommended that all security personnel receive training on working and interacting with people from diverse backgrounds. This training should include information about the diversity of the Penn community and the expectation that all members of the community should be treated with civility and respect regardless of race, color, sex, sexual orientation, religion, national or ethic [sic] origin, age, disability, or status as a disabled or Vietnam era veteran.

2. Blockley Hall/Johnson Pavilion (7:48 a.m.): Incident involving two students, one Medical School security officer, one Medical School Supervisor of Security, one security officer . . . and four police officers responding to a call to UPPD that "A black male at Blockley Hall tried to take all the DP's [Daily Pennsylvanians]."

The panel found that one officer behaved in an unprofessional manner in violation of Section 8.4.02 of the "UPPD Policies and Procedures Manual" by cursing at the student and used excessive force . . . by striking the student with his baton. The panel also found that the officer failed to conduct a proper and thorough investigation because he neglected to interview the security personnel who were in pursuit.

3. David Rittenhouse Laboratories (8:20 a.m.): Incident involving two students, four officers, and the UPPD dispatcher. When two officers stopped the students carrying a large trash bag outside of DRL, they were informed by the students that this was a protest action.

The panel found that the responding officer . . . violated Section 5.22.0 of the "UPPD Policies and Procedures Manual" by not requesting that a supervisor be dispatched to the scene in response to a demonstration.

The panel found that the dispatcher violated UPPD Divisional Directive 92.08 by making a command decision without consulting a supervisor.

4. University Museum/Sports Medicine (8:16 a.m.): Incident involving two students, a Museum security guard, a Museum administrator and two officers. The Museum administrator pursued the students, who took the DP's from Kress Gallery, and caught up with them in Weightman Hall, where he made a "citizen's arrest" and detained the students.

The panel found that the Museum administrator's actions in pursuit of the students were inappropriate after they left the property of the University Museum and not in accordance with the authority and responsibility of his job functions. His actions should be reviewed by his supervisor for possible disciplinary action.

The panel found that the students should have shown their Penn cards.

In summary, the panel concluded that once the incident occurred at DRL [David Rittenhouse Laboratories], the UPPD should have recognized that the removal of the DP's from at least three different locations was a form of student protest and not an indicator of criminal behavior. According to the University's "Emergency Procedures Protocols" . . . the UPPD should have contacted the Office of the Vice Provost for University Life as soon as it recognized that the students were involved in a form of protest. Once the VPUL was notified of the protest, Open Expression Monitors would have been dispatched to observe and monitor the students' actions, in compliance with the existing Open Expression Guidelines. Since this act was a form of protest and not a criminal offense, it would have been more appropriate for Open Expression Monitors, not police officers, to mediate and attempt to resolve any further conflicts that resulted from the removal of the DP's. The Open Expression Monitors could have informed the students about the Open Expression Guidelines, notified them if their actions violated the Guidelines, and identified students who violated the Guidelines.

RECOMMENDATIONS

It is vital that all UPPD personnel receive additional training about appropriate responses . . . to student demonstrations and protests. This training must include extensive information on the University's Open Expression Guidelines [and] the role and responsibility of Open Expression Monitors.

The UPPD Policy on handcuffs, Section 5.7.06, should be reviewed . . . to ascertain if there are circumstances when it may be inappropriate to handcuff detainees . . . The application of any newly implemented policy should be monitored . . . to ensure that the policy is applied consistently, is nondiscriminatory, and has no adverse impact on any group of people. After the policy is implemented, data should be maintained by the Department on the race and sex of individuals handcuffed, nature of offenses, and reasons for handcuffing.

As an example, in going from episode to episode, describing students taking the newspapers, being seen by security officers of the university:

The panel found that one officer behaved in a discourteous manner toward the students by ordering them to leave before determining who they were or giving them an opportunity to explain their presence. The panel found that his actions violated section 8.402 of the

"University of Pennsylvania Police Department Policies and Procedures Manual" and should be reviewed by his supervisor for possible disciplinary action.

Another incident in which they describe a museum administrator, two officers and a security guard saw students taking these newspapers from a university art gallery, caught up with them in a neighboring building, pursuing them, where one made a so-called citizens arrest and detained the students. And I quote:

> The panel found that the museum administrator's actions in pursuit of the students were inappropriate after they left the university museum and not in accordance with the authority and responsibility of his job functions. His actions should be reviewed by his supervisor for possible disciplinary action.

No mention of the fact that we have here a university official who has just seen students—I do not know whether he was able to identify them—at that point running off with something that did not belong to them, a large number of copies of the newspaper. Finally, and I quote again:

> In summary, the panel concluded that once the incident occurred at David Rittenhouse Laboratories, the University of Pennsylvania Police Department should have recognized that the removal of the Daily Pennsylvanians from at least three different locations was a form of student protest and not an indicator of criminal behavior.

I just disagree with that and again present it as evidence of the problems that occur when we do not give freedom of speech the absolute accord that it deserves.

The second episode this spring, again showing while the speech clauses in the theory of their formulators may be reasonable efforts to promote civilized discourse, in application they are not only unworkable but destructive—in the second episode a group of students in one of the dormitories shouted at another group of students who were celebrating noisily outside the dormitory late one night. Some of the comments shouted out, it is alleged, were obnoxious; some, it is alleged, may have included racial epithets. Only one of the students in the dormitory owned up to shouting anything.

Now, again, obnoxious statements are, unfortunately, not atypical of late-night shouting on college campuses. But here, because of this speech code, the full machinery of the University of Pennsylvania speech code came into play. Complaints were actually filed by the students who had been allegedly making noise against the one student who acknowledged that he had shouted out the window. He was subjected to an investigation of his alleged violation of the University of Pennsylvania speech code.

At an early stage of the proceeding, after an initial investigation by one member of the investigatory panel—I gather a faculty member—the student was effectively offered a plea bargain. I am taking a little bit of liberty in using the term plea bargain, but a suggestion was made to him that if he agreed to go through sensitivity training the complainants would probably drop the complaint and it would all be over.

That just should not happen at a university community, no matter how outrageous a statement. The outrageousness of a statement should be confronted with facts or by simply walking away and not giving any heed to those statements, not by creating a mechanism which had an investigator suggest to this student that if he goes for sensitivity training the complaint would be withdrawn.

He, the student, refused that suggestion. Ultimately, the complainants decided not to pursue their complaints and that case has ended. But, unfortunately, it again illustrates the destructive nature of these codes, which require a judicial-like setting to evaluate the nature of speech—which is the beginning of a problem right there in our society—as to content and meaning, and require a panel or judicial tribunal to determine whether that speech should be punished or not.

A free society, Madam President, cannot countenance the establishment of such judges, no matter how well-intentioned, of what we or our children at universities can or cannot say. That, as I have said, is a slippery slope all of us should have the instinct not just to avoid but to condemn clearly and unequivocally.

In response to criticism in the Wall Street Journal of his behavior in these cases, and particularly in this case I have just described, Dr. Hackney wrote a letter to the Wall Street Journal this spring, and again in it I think we see that he is well intentioned but ultimately I think too ambivalent and off point on the critical role and respect we should give to free speech. Dr. Hackney says:

> Freedom of expression is the paramount value at Penn and we are unwavering in our commitment to protect it. To that end we have well-established policies to protect open expression, and we have very deliberate and fair procedures for judging alleged violations.

Then he goes on to say:

> Penn is a special kind of community. Not only does it put the free exchange of ideas at the core of its being, but it strives to ensure no member of the community is prevented from full participation in those debates by intimidating and abusive racial slurs intended only to wound, rather than to enlighten.

Once we begin to strive to ensure that no member of the community is prevented from full participation by being intimidated by speech, we are on the road to censoring speech and undercutting the basic freedom of a university community.

Madam President, I ask that the full text of Dr. Hackney's letter to the Wall Street Journal be printed in the RECORD.

There being no objection, the letter to the editor was ordered to be printed in the RECORD, as follows:

LETTER TO THE EDITOR

> I write to correct the unfortunate impressional left by your editorial of April 26 "Buffaloed at Penn," about a student disciplinary case now pending the University of Pennsylvania. Although I am not permitted by federal law or university policy to discuss the facts of the case, I can put in into context.
>
> Freedom of expression is the paramount value of Penn, and we are unwavering in our commitment to protect it. To that end, we have well-established policies to protect open expression, and we have very deliberate and fair procedures for judging alleged violations.
>
> Penn is a special kind of community. Not only does it put the free exchange of ideas at the core of its being, but it strives to ensure no member of the community is prevented from full participation in those debates by intimidating and abusive racial slurs intended only to wound, rather than to enlighten.
>
> Whether a student has engaged in racial harassment according to our very narrowly defined policy is now up to a judicial panel of students and faculty to determine. If errors are made, ample avenues of appeal are available after the judicial panel has reached its conclusion.
>
> Those who think they know what the outcome should be are impatient with the process, but that process must be allowed to run its course.—Sheldon Hackney, President, University of Pennsylvania.

The PRESIDING OFFICER. The Chair might advise the Senator he has spoken for 15 minutes and 53 seconds.

Mr. LIEBERMAN. I thank the Chair. I ask unanimous consent for an additional 5 minutes to conclude my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LIEBERMAN. Madam President, to sum up, let me say this. Speech obviously can be noxious and it can be hateful. In such circumstances, it is perfectly appropriate—indeed, it is essential—for members of the university community and especially the leader of a university community, its president, to speak out and confront those ideas. That is the proper role of education and of educators. But it is not proper for an educator, for a university president to condone, tolerate or seek to put in perspective either the suppression of free speech, as evidenced by the criminal act of stealing newspapers, or the chilling discouragement of free speech in a proceeding that presumes that certain kind of offensive words must be sanctioned and punished as evidenced in the second case that occurred this spring.

Madam President, speech codes and other attempts to suppress what is not politically correct, what is not politically fashionable at a given moment in our history simply cannot be tolerated. And in our time, they must be stopped, they must be eliminated, they must be withdrawn from our university life.

Leaders in that battle should be leaders of the university community, the presidents of our universities. I respectfully suggest that in this battle there really is no room for equivocation or compromise. The president of a university is the trustee of a great and proud tradition of freedom in university communities. That goes back through the course of Western civilization, and has been upheld with intensity, force, and zeal, particularly in America's university system.

Being a university president is a great privilege. And with it comes great responsibilities.

I fear that if we overlook the violation of those responsibilities, we will have only ourselves to blame for the further diminishment of one of the most fundamental principles upon which this society rests. So, although I know that in most regards Dr. Hackney was, by the testimony offered by Senator WOFFORD and others, a superb president of the University of Pennsylvania, and while I accept the fact that he is a distinguished scholar and certainly a decent man, I believe that the same critical principles that I have discussed, the primary principle of freedom of speech which distinguishes our society, is at the heart of the work of the National Endowment for the Humanities which Dr. Hackney has been nominated to head. And because I am profoundly troubled by the way in which he presided over the University of Pennsylvania during the time when it adopted and enforced speech codes, and because I am profoundly troubled by the ambivalence of his response to the theft of those 14,000 copies of the college newspaper, I shall vote against the nomination of Sheldon Hackney to lead the National Endowment for the Humanities.

I thank my colleagues for their charity in the time given to make this statement.

I yield the floor.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Madam President, I think the fact that we have the nomination of Dr. Hackney and Ms. Acheson both before us for consideration, Dr. Hackney to head the National Endowment for the Humanities and Ms. Acheson to be an Assistant Attorney General, it is a sad commentary on the partisanship that prevails within these committees. If this had taken place under a Republican President with both of those nominees being Republicans, there is no way in the world they would have come to this floor. On Dr. Hackney, they would have said he trampled all over the freedom of speech. On Ms. Acheson they would have said, "Oh, she belonged to a club that discriminated and only resigned just in time when she was nominated." Those are the exact facts. She belonged to the country club in Brookline for many years that clearly had discriminated.

It seems to me very, very unfortunate that we have this double standard existing within the committees because we all served during the years when President Reagan and President Bush were nominating various candidates. An entirely different standard, different than that applied to Ms. Acheson and Dr. Hackney, applied.

I am going to vote for both of those nominees. I do not think the transgression that Dr. Hackney made was something that we can applaud by a long shot. But I have heard from many who have known him for many, many years and do not think that one or two transgressions, if you would, should cause his nomination to fail.

So I am going to give them the benefit of the doubt. I do not think our Republic is going to collapse if Dr. Hackney is nominated, and indeed many people think he is an excellent individual.

Ms. Acheson, likewise. I will support her because I think that somebody who belongs to a club that perhaps she was not very active in, and a club in some fashion discriminates—I do not think that makes that person a bigot. But I think we ought to have the same rules apply to everybody who comes before us for a nomination.

Madam President, I would like to go on and say I think this whole nomination process has gotten out of hand. On the Environment and Public Works Committee we deal with the nominees to sit on the board of the TVA. The TVA is hardly an organization that ranks up in the top in sensitivity or the disclosure of national secrets of some fashion. Yet, the background checks of both of those individuals that came before us, the FBI said they spoke to 46 different people—46 different people for a nominee to be on the board of the TVA. The system has gone haywire around here.

I would like to point out, Madam President, that I was nominated by the President to be Secretary of the Navy in 1969, January. That was a new administration that had just come in January 1969. That was an administration of a different party. The previous party had been that of President Johnson, the Democratic Party. And I was processed, investigated, confirmed, and sworn in by January 31.

The new Secretary of the Navy, chosen under exactly the same circumstances, a new administration coming from a different administration from the prior one, a different political party, was sworn in the end of July. That is 6 months' difference. Indeed, there is a paltry number of individuals sworn into office over at the Pentagon right now. And so it is through all of the departments.

I just think that we have to sit back and review what we are doing. Walter Mondale confirmed by the Senate to be Ambassador to Japan on July 30, last Friday. Walter Mondale who served as U.S. Senator, who served as a Vice President of the United States, what better qualifications do we want? Yet, it took to get him through the process, the FBI checks, all that goes with it, up until July 30, 6 months—more than 6, 7 months after this administration came to office.

So, Madam President, I would hope that everybody would say to themselves the system has gone haywire, that a nominee, let us look at him, those that we know something about. It does not mean we have to have 47 background checks by the FBI. Walter Mondale, we all know him. He has certainly kept the secrets of the Nation and carried out his duties with superb form during the years that he was Vice President.

Happily he finally was confirmed. In all fairness, it was not the Senate that slowed that up. It took forever to get the nomination up here. I do not know what the clearances were that they sought. Clearly as Vice President he had every clearance known to man, every security clearance.

So, Madam President, I would hope that not only in these cases we would move forward with dispatch, and get the debate done. I think 5 hours of debate on Mr. Hackney is going beyond something that is reasonable. There are plenty who have thoughtful views on him, pro and con. Let us hear them. Let us get on with the vote. But in the future, let us not have 47 interviews by the FBI for a nominee for the TVA authority.

I thank the Chair.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Madam President,

> If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion or other matters of opinion or force citizens to confess by word or act their faith therein.

That famous celebration of tolerance was written by Justice Robert H. Jackson, in a 1943 Supreme Court decision, West Virginia Board of Education versus Barnette, which held unconstitutional an attempt to compel public school students to salute the flag.

I have used this standard, the Barnette test of tolerance, to judge several of the nominees President Clinton has chosen to join his administration.

Despite my usual deference to any President in choosing his administration, including people with whom I profoundly disagree, like Robert Reich, the Secretary of Labor, Donna Shalala, the Secretary of Health and Human Services, and Jocelyn Elders for Surgeon General, I reject those nominees who fail the Barnette test—those who are inch tolerant of conflicting views, who have used or are likely to use political power to punish their opponents or to pursue policies destructive of the social fabric which binds us together as Americans or who are indifferent to constitutional principles.

President Clinton, regrettably has sent the Senate four such nominees, Roberta Achtenberg, Lani Guinier, Thomas Payzant and now Sheldon Hackney, the President's choice for the National Endowment for the Humanities.

Three well-documented and publicized events during Dr. Hackney's tenure at the University of Pennsylvania illustrate his lack of potential for effective leadership of the National Endowment for the Humanities, a position entrusted with more than $150 million a year in taxpayer money to spend for the advancement of the humanities.

In each case, Dr. Hackney showed an alarming willingness to act or to fail to act only in conformance with the most extreme academic doctrine of political correctness and totally inconsistent with the very qualities of courage, balance, reason and fairness, which should mark the humanitarian spirit.

Dr. Hackney has time and time again shown indifference when an advocate for the truth was needed, silence when a spokesman for justice was needed, an appeasement where leadership was required, and a willingness to persecute where courage was required.

Sheldon Hackney falls miserably short of the qualities required of our Nation's chief spokesman for the humanities.

Take, first, the university's infamous paper chase.

On the night of April 15, a number of black students engaged in a campus-wide coordinated assault to retrieve 14,200 copies, the entire press run, of the campus newspaper, the Daily Pennsylvanian. Their target: A column written by a conservative student writer, Gregory Pavlik, the paper's only conservative among a legion of liberals, who had written articles critical of affirmative action and Martin Luther King.

In fact, the university administration informed Mr. Pavlik in February that based on his newspaper columns, he was charged with 31 violations of the university's infamous speech code and was under investigation for racial harassment.

The plot to steal the newspapers as an act of protest was conceived when the university decided to drop the charges against Mr. Pavlik. This was apparently the only instance in which the proposed use of the university's speech code against a nonpolitically correct speech was extreme enough to bestir Sheldon Hackney to action. But he equated the right to publish an opinion with the right to destroy that publication.

At this point, Madam President, I ask unanimous consent that the testimony of Mr. Pavlik be printed in the RECORD at the end of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. GORTON. This destruction of a newspaper run was such a violation of freedom of expression as to cause most students to anticipate total condemnation by the university administration. Instead, in words that would send chills down the spines of those who value the first amendment to the Constitution, Sheldon Hackney responded with these immortal words:

> Two important university values—diversity and open expression—seem to be in conflict.

He also expressed sympathy with the concerns of those who confiscated the paper and referred to the theft as simply papers which "were removed from their regular distribution points"—a definition perfect for a dictionary of politically correct language.

Mr. President, Dr. Hackney's comments about this incident reflect what columnist Richard Cohen accurately described as "Sheldon Hackney's dangerous balance."

Shortly thereafter, several alarmed law professors at the university wrote Hackney:

> The important University values of diversity and open expression were not in conflict here. The offensive columns in no way prevented the University of carrying out its policy of diversity and its many programs to promote understanding. Removal of the newspapers struck at the heart of the most fundamental diversity which the University should foster—diversity of thought, views and expression.

Rather than condemning this grievous violation of the first amendment and listening to voices of balance and reason, Sheldon Hackney followed a currently popular course of action on the part of many university presidents these days as they are accustomed to doing in the face of criticism. He appointed a blue ribbon panel to investigate the events of April 15. He chose silence when a spokesman for justice was needed.

Recently, that blue ribbon panel completed its deliberations. Its findings are noteworthy because they illustrate the impact Sheldon Hackney has had on his university's ability to pursue reason and to love justice. The report found that the confiscation of the newspaper run was not criminal, but rather a legitimate form of protest and so absolved the students of any serious wrongdoing. In fact, the report criticized security personnel who tried to prevent some of the thefts and recommended sensitivity training for the officers involved with the "protest." The report concluded by recommending that:

> It is vital that all [university police] personnel receive additional training about appropriate responses * * * to student demonstrations and protests. This training must include extensive information on the University's Open Expression Guidelines [and] the role and responsibility of open expression Monitors.

At the University of Pennsylvania, when one group stole thousands of newspapers, the police who attempted to frustrate the theft were scolded, and one was suspended for failing to conduct an Orwellian enforcer of campus political correctness. One may question whether a fraternity, if its members found a liberal column offensive and conducted a similar raid on the campus newspaper, would have been immune to condemnation from the university President. If the college Republicans coordinated such an assault on fundamental constitutional principles based on their anger and offense of the Republican Party, would that too be labeled a "protest"? Fat chance.

Madam President, Sheldon Hackney's inaction and abdication of leadership in this case can rightly be contrasted with his remarks several years later when Louis Farrakhan was invited to speak at his university. At that time, he told a university audience:

> We can't have free speech only some of the time, for only some people. Either we have it, or we don't.

Madam President, either Dr. Hackney has since decided we don't have free speech, or he has artfully calculated the occasions on which he is willing to defend the first amendment.

For instance, a year after his Farrakhan speech, when Dr. Hackney became an outspoken advocate for the National Endowment for the Arts during its controversial funding of Robert Mapplethorpe's pornographic display, he criticized NEA critics at a 1990 conference an academic freedom and artistic expression by stating:

> My own career is built on knowing when and when not to compromise * * * I generally seek compromise as a virtue, but I get very nervous when fundamental principles are at stake.

Madam President, what boldness and courage it must have taken to denounce the senior Senator from North Carolina at a conference of academics. But where was such boldness and courage in defense of the first amendment after the campus newspaper raid? When, if at all, has Dr. Hackney found an attack on conservatives an occasion at which fundamental issues were at stake? It is precisely his well-recognized capitulation to the politically correct and selective defense of fundamental principles that make this Senator, and the American taxpayer, unconvinced and skeptical of his dedication to open and free expression for all.

Mr. KERREY assumed the chair.

Mr. GORTON. Mr. President, under the leadership of Sheldon Hackney, the University of Pennsylvania became a model of political correctness when it instituted one of the Nation's more absurd speech and conduct codes. According to author of "Illiberal Education," Dinesh D'Souza:

> Examples of violations of the University President's Policy on Harassment, for which the penalty ranges from a reprimand to expulsion, include "the use of derogatory names," "inconsiderate jokes," and even "misdirected laughter and conspicuous exclusion from conversation."

Such nonsense is worth harpooning until it is taken seriously by the university administration that promulgated it. Ask Eden Jacobowitz, an Israeli born freshman at Penn who spent his freshman year at college learning a frightening lesson in prosecution and coercion by the administration of Sheldon Hackney.

Late one night last January, Mr. Jacobowitz and others in his dorm were disturbed by a loud group of shouting and celebrating black sorority women outside their dormitory windows. While several racist slurs were hurled at the women, Mr. Jacobowitz shouted "Shut up you water buffalo!" When confronted by university officials responding to charges by the black women that the university's code had been violated, Jacobowitz was the only one in the dorm who admitted to have shouted at the women, but vigorously denied that the term "water buffalo" was used as a racist comment.

Mr. President, at this point I ask unanimous consent that Mr. Jacobowitz' testimony on this matter be printed in the RECORD.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

STATEMENT BY EDEN JACOBOWITZ, FRESHMAN AT THE UNIVERSITY OF PENNSYLVANIA, JUNE 25, 1993

Mr name is Eden Jacobowitz, and I am a freshman at the University of Pennsylvania. I am here this morning to tell my story and explain to the American people why I believe Sheldon Hackney's nomination should receive very close scrutiny by the U.S. Senate. First of all, I'd like to say that as an eighteen year old, I voted for the first time this year. I cast my ballot for Bill Clinton, believing, like many others that he was a new Democrat and would bring real change to America. I voted for Bill Clinton to help protect freedom of speech and expression in our country and especially on college campuses.

My story like so many others at Penn reflect the university's and Mr. Hackney's tendency to restrict free speech whenever the voice is not speaking correctly in their view. That is—politically correct in their view. As you probably already know on Wednesday, January 13, I shouted "Shut up you water buffalo!" at a group of sorority women who were stomping their feet, shouting and screaming outside my dormitory window at approximately 11:30 p.m. I later learned that because of this truly innocent response to disruptive noise, racial harassment charges had been filed against me. I was in complete shock that anyone had taken my words racially, and I made it clear to the university's judicial officers and to Dr. Hackney that the race of the women was of total indifference to me. I explained that as an Israeli-born orthodox Jew raised on Hebrew, the term "water buffalo" derived from the Hebrew word "beheman" which translates literally into "water oxen" and simply means "foolish person" in Hebrew slang. I do not understand how a university which prides itself on diversity, did not accept my culture.

I worked within the University Judicial System and presented the testimony of many witnesses who had heard what I shouted and agreed that the words had absolutely no racial meaning, I even presented testimony from professors at the university who are experts in African American culture and linguistics, stating that the term was not a racial slur. But it soon becameobvious to me that all the evidence in the world could not help me. It did not matter that "water buffalo" had absolutely no racial meaning because the university had chosen me as a scape-goat for those who shouted the truly racist words that night—words that I did not even know had been shouted.

It took four and a half months, or 131 days for the charges to be dropped and Dr. Hackney knew the facts of this case for 130 of those painfully difficult days. I met with him on January 15, were I told him everything that had transpired up to that point. I told him everything that I had said, and also informed him that on the night of the incident the complainants came to my dormitory room and shouted, "You white boy! We are going to get you expelled from school."

But neither President Hackney, nor his campus thought police found it strange that I was under investigation for racial harassment. I did not file counter charges, because I believe in the complainants' rights to freedom of speech, even, indeed especially, when they were angry and annoyed. Since January 13, all I wanted to do was to meet with the complainants and explain to them that I had absolutely no racial intentions, and apologize for shouting something that was at worst, a little rude. But neither the University's Judicial officers nor Dr. Hackney put any real effort into creating this type of friendly and constructive meeting between the complainants and me.

The University of Pennsylvania's Judicial Officers also committed many violations of their policies and procedures at my expense. As outlined in my testimony, at different points in the absurd proceedings the University employed a double standard, placed a gag order on me, prohibited one of my witnesses from testifying, and attempted to create a hearing on a date in which none of my witnesses could be present. My advisor notified President Hackney of every severe violation that had been committed by University Judicial Officials, yet, he did not find just cause for intervention even though it was obvious that I was being tried by a kangaroo court.

As stated in my Senate testimony, on May 28, after the charges were dropped by the complainants, (not the University) President Hackney sent a disturbing letter to everyone who had written to him. In his letter, President Hackney tried to convey that many people "do not share the same sense of crisis and calumny that has been so much in the news." This message is grossly inaccurate. Many noble individuals, primarily alumni, have written me letters expressing great concern, and many have felt compelled to withhold donations from the university. Most students, black and white, including those who organized a free speech rally at the university in early May, have been disgusted by the university's mishandling of the situation.

It is abominable that President Hackney does not share this sense of crisis. Because of serious racial tensions on campus, which should definitely concern President Hackney, an innocent freshman had an entire semester ruined by unjust charges. The Judicial Officers attempted to ruin my future by creating a judicial record for me and adding notations to my transcript. These damaging and very serious charges hung over my head from January to late May and created extraordinarily painful circumstances. The abuses of a grossly imperfect judicial system and the unjust suffering of a student should certainly concern a university president.

President Hackney has continuously asked to allow "the process to run its course." But I gave the process over four months, far more time than necessary, to realize that "water buffalo" was not a racial epithet. This process has taken away something irreplaceable—a semester of my freshman year. I was supposed to learn how to deal with college students this year, not college Judicial Officers.

Finally, I would like to make it clear that the real issue here is not racial harassment. The real issue is freedom of speech. I established my innocence from the beginning. The reason this case was able to drag on so long is because the university has a speech code limiting the Constitutional rights of students. By the standards of that speech code, I should have been found innocent. But because it was in the hands of incompetent and cruel judicial officers and an apathetic University President, my future was almost ruined.

Thank you.

Mr. GORTON. However, speech code enforcers interrogated Jacobowitz, asking him, among other things, whether he had any racist thoughts that night, and assumed that the term "water buffalo" was a racist epithet. Jacobowitz quickly understood that the administration intended to pursue this prosecution to the fullest extent possible. Two days after the incident, a distraught Jacobowitz approached Hackney and appealed to the university president for reason and fairness. Sheldon Hackney now doesn't remember this appeal. At that point, Dr. Hackney could have intervened and brought the matter to a close. Instead, he did nothing, and the judicial officer continued to pursue the case despite findings by several university language experts who concluded that the term "water buffalo" was, as Jacobowitz stated repeatedly, derived from the Hebrew slang word "behemah," meaning "foolish person."

As the semester and these proceedings progressed, Dr. Hackney continued to distance himself from the controversy as it began to gain national attention and scorn for the university. According to Jacobowitz' testimony Dr. Hackney was aware of the Jacobowitz complaint about the irregularities in the judicial proceedings, but that there was no cause for intervention even though he was now well informed about everything that transpired, though at the time he cannot remember Mr. Jacobowitz' anguished personal appeal shortly after the incident.

At the end of May, just as a skeptical local and national press were writing editorials blasting the idiocy of the case against Jacobowitz and the irresponsibility of the Hackney administration, the sorority women who had brought the charges of racial harassment called a press conference to announce that they were dropping all charges. Their explanation:

> The media coverage deprived us of our right to an impartial panel, and therefore, a fair hearing. Realizing that justice could not be served, and in efforts to clarify our position, we have decided to formally withdraw our grievance.

Jacobowitz responded with the following statement:

> President Hackney has continuously asked to allow "the process to run its course." But I gave the process over four months, far more time than necessary, to realize that water buffalo is not a racial epithet. * * * The only reason this case was able to drag on so long is because the university has a speech code limiting the constitutional rights of students * * *

Mr. President, no one here envies the often impossible task of a modern university administrator, but that task is made more difficult by a failure of character and leadership in difficult and controversial times. When his university's speech code was implemented by out-of-control zealots of political correctness, all part of his administration, Sheldon Hackney should have intervened and stopped the nonsense. Mr. Hackney, was, indifferent when an advocate for truth and justice was needed.

In his testimony before the Senate Labor and Human Resources Committee, several of Dr. Hackney's remarks indicate some confusion over his ability to intervene. At one point in describing the student level judicial system by which Mr. Jacobowitz was raked, he said:

> * * * the student judicial system at Penn is set up to be independent of me; I am not involved in it, nor is the provost.

Later, Senator COATS from Indiana asked Dr. Hackney:

> Was there any point in that process where your authority as president of the university came to bear in the decisions that were made up to the point where the complaint was dismissed?

Dr. Hackney responded:

> My role was first to try to get the case to a hearing panel, because I was relatively confident then that it would come out right, so I did state my opinion about that to the judicial administrator that it would be good if this case could be heard by a panel this spring. I don't think that was intervening in the substance of it at all; it was just an admonition to him.

With regard to the time at which the student level proceedings were completed and the case was sent to a faculty-student panel, Dr. Hackney stated:

> So charges were brought after an investigation, and at that point the procedure was off, and I was not in a position to intervene although I was urged to do so throughout the spring. I think it would have been perhaps better for me to have intervened in an extraordinary way, but it would have undermined the whole judicial system, and it would have been a terrible thing, I think for the university. So I did not do that, and I think that was still the correct decision.

Senator COATS then asked a question relating to the early dismissal of charges in the case of Gregory Pavlik and the delay in justice for Mr. Jacobowitz. Senator COATS asked:

> What was the difference between this case and Mr. Jacobowitz's case, and why would one be resolved within days and the other take six months; and who interceded in Mr. Pavlik's case to bypass the process?

Dr. Hackney responded:

> Yes, I did play a role there, but it was completely appropriate, and that I will leave for you to judge. Professor Cours did call me when Mr. Pavlik had been approached by the judicial inquiry officer (JIO), and Professor Cours explained to me what was transpiring. It sounded to me absurd in the extreme that someone who wrote things in the student newspaper could even be deemed to be in violation of this policy, that there was no relationship at all between the policy and someone who expresses opinions in the newspaper. * * * My assistant then asked the JIO what was going on. This was during the investigation period. And I think the JIO reassessed the situation and saw it in a much better light and dropped the charges, which I think was absolutely appropriate.

So sometimes Sheldon Hackney intervened and sometimes he did not. But always the process was more important than the justice of the result.

In addition, Sheldon Hackney had no recollection of a distressed Jacobowitz, remember, appealing for his assistance in assuring a fair outcome.

In his testimony, Dr. Hackney stated:

> I really did not know about the Eden Jacobowitz case until after it was in full cry, so I was not able to do anything about it.

According to Jacobowitz, after the charges were dropped by the complainants, Hackney wrote a letter inferring that many people do not share the same sense of crisis and calumny that has been so much in the news—reassuring words from a university president whose indifference inspired a college freshman to insist recently: "The damage Sheldon Hackney has done to me is immeasurable. * * * My future was almost ruined."

So, Mr. President, from his testimony several things are painfully clear: Sheldon Hackney had the right—I think he had the duty to intervene even at the student level proceedings. He had in fact intervened in the past to dismiss a case, and he certainly should have done so in the case of Eden Jacobowitz. Apparently, Mr. Hackney's decision to intervene rests on his finding that there was what he called "absurdity in the extreme." Perhaps mere absurdity was not sufficient grounds to intervene. Instead, Mr. Hackney chose indifference when a spokesman for reason and fairness was needed.

A classic case of absurdity and hypocrisy by the Hackney administration was the politically correct pursuit and punishment of Prof. Murray Dolfman in 1984—a case which received no or little media attention. According to a university report investigating the incident professor at the University of Pennsylvania who taught in the traditional, hard-questioning, Socratic method to prepare his students for a future in the law:

> Mr. Dolfman asked the class what Constitutional Amendment related to the concept of involuntary servitude. There was no response. Mr. Dolfman observed that if anyone should know the answer it would be the black students. He then asked the black students in the class * * * if they could recite the 13th Amendment. When none could do so, Mr. Dolfman asked one black student to stand and read the amendment out loud. Mr. Dolfman then expressed some surprise that while he, as a Jew and "former slave," celebrated Passover, the black students, whom he likewise called "former slaves," or "ex-slaves," did not celebrate the passage of the 13th Amendment.

What happened next was well-researched and discussed by Dinesh D'Souza, author of the 1991 book, "Illiberal Education." D'Souza wrote:

> Shortly afterwards, a few minority students came up to Dolfman and accused him of racial insensitivity. A second charge against Dolfman was that he had once told a black student to change his pronunciations from "de" to "the." Dolfman said that he met with the students, and apologized if they had taken offense. "I told them that I understood and shared their concerns, that I am Jewish and during *seder* we pray: When we were slaves unto Pharaoh." Dolfman also pointed out that it would be important for students, in courtroom arguments in later years, to speak in a clear and comprehensible manner.
>
> They seemed to understand, "Dolfman recalled, and the matter was dropped for a few months. But after that, during Black History Month, it was brought up again and again, Dolfman said," to illustrate just how bad things are at Penn.
>
> The adrenalin generated by the Black History Month rhetoric brought about a demonstration of minority students, several dozen of whom occupied Dolfman's class and prevented him from teaching. "They read a document of indictment to my students," Dolfman said. President Sheldon Hackney met with Dolfman and asked to refrain from public comment, even to abstain from defending himself against accusations. Then Hackney joined the ranks of his accusers, telling the campus newspaper that conduct such as Dolfman's was "absolutely intolerable." Dolfman was pressured to issue what he termed a "forced apology," and to attend "racial awareness" sessions on campus. The university subsequently decided not to renew Dolfman's teaching contract for a year.
>
> Dolfman is now back at Penn, a chastened man. "The message has been driven home very clearly," Dolfman said. "You can't open your mouth on these issues now without fear of being humiliated.

This case exemplifies the vulnerability of the politically correct cadres, including Sheldon Hackney, to the double standards of their anti-intellectual world. In a clear violation of the campus conduct code, about 200 black students demonstrated and disrupted one of Dolfman's lectures without any accountability. In a clear violation of principles of academic freedom and due process, Hackney intervened in the Dolfmans inquiry, strongly advised him not to defend himself, and badgered him into an apology before the investigation was completed. Instead of providing leadership in the pursuit of academic freedom and fairness, Mr. Hackney pursued an agenda of political correctness and appeasement.

In some respects, this may have been the worst of all Sheldon Hackney's failures—a craven surrender to a mindless attack on a teaching method validated by centuries of success.

In his opening statement during his confirmation hearings before the Senate Labor and Human Resources Committee, Sheldon Hackney stated that:

> Among the values that I hold dear is a belief that a university ought to be open to all points of view, even if some of those views expressed are personally abhorrent. * * * The university should belong to all of its members and not be the exclusive domain of any particular person, group, or point of view.

His presidency demonstrates that those views guide his actions only in easy cases. Indeed, it seems almost as if Shelby Steele, author of "Content of Our Character" had Sheldon Hackney in mind when he wrote:

> Men and women who run universities—whites, mostly—participate in the politics of difference because they handle their guilt differently than do many of their students. They don't deny it, but still they don't want to feel it. And to avoid this feeling of guilt they have tended to go along with whatever blacks put on the table rather than work with them to assess their real needs. University administrators have too often been afraid of guilt and have relied on negotiations and capitulation more to appease their own guilt than to help blacks and other minorities.

Dr. Hackney's statement during this testimony before the Labor Committee that "Some of my best friends are members of the NAS," a moderate group of scholars opposed to the politically correct movement, recalls some of the historic statements of the least believable supporters of fairness and basic freedoms with respect to racial and religious minorities in the not at all distant past.

The Chairman of the NEH is entrusted with $150 million of taxpaper money every year to make balanced, rational, and fair judgments in promoting the humanities, a desperate cause these days, through films, exhibitions, and publications. Hackney's lack of fortitude in the pursuit of intellectual honesty is a striking contrast to the straightforwardness his predecessor, former NEH Chair Lynne Cheney who wrote recently:

> Balance is not just a passive task. You actually need to fight against a swift current of political correctness. If you aren't anchored by a firm belief in fairness, you will quickly drift into the orthodoxy of the day, even with the best of intentions.

By his leadership at the University of Pennsylvania, Hackney has implemented and enforced a speech code that is in direct conflict with basic constitutional freedoms of expression; acquiesced to illegal behavior and condoned blatant violations of freedom of expression; stood by while an administration out of control pursued a ridiculous charge of racism and almost destroyed a young man's career; and presided over the hysterical pursuit and humiliation of a non-PC professor.

Taxpayers demand accountability in government. If Sheldon Hackney cannot accept accountability for his actions at the University of Pennsylvania, how can the Senate possibly expect him to be accountable to the taxpayers as NEH chairman? An editorial in the Philadelphia Daily News accurately rephrased this inquiry as follows:

> Heading the National Endowment for the Humanities calls for genuine sensitivity (not alternately buckling to conflicting pressures), the ability to deal with delicate situations, and above all, profound respect for and insistence on free expression. Does that describe Sheldon Hackney?

No, Mr. President it does not.

There is nothing pleasant about criticizing a gifted and well-meaning man. However, having followed the events which unfolded under his leadership at Penn, I will vote against his confirmation and conclude by concurring with the eloquent remarks of Charles Krauthammer in his June 25 column:

> Sheldon Hackney has had a distinguished academic career. He is a noted historian. He is a man of obvious good intentions. He is also, unfortunately, a perfect example of the failure of nerve—the failure of intellectual honesty, the failure to defend principle—that is the shame of American academic leadership. To elevate Hackney * * * to the chairmanship of the National Endowment is to endorse those failures.

EXHIBIT 1

Comments for the Senate:

I must say frankly, and from the start, that I am unequivocally opposed to the confirmation of the nominee Sheldon Hackney. I have witnessed the repression that occurs at the University of Pennsylvania both from a distance and also first hand. Under the administration that Hackney has personally crafted over the last twelve years, the community of the University of Pennsylvania is quite literally one that is subject to a reign of what can only be described as intellectual fascism. Individuals at Penn are systematically subject to threats and harrassment under the auspices of "tolerance." While proclaiming the munificence of "diversity," the minions of Sheldon Hackney have made it their business to actively silence voices with which, for whatever reason, they disagree. Sheldon Hackney has by no means been in the dark with regards to what has happened at the university. In fact, he has been the principle architect of what the University of Pennsylvania has become.

My first encounter with the tactics of the Hackney administration occurred in February 1993. I am an editorial writer for the Daily Pennsylvanian, a newspaper that is wholly independent from the school. I was doing investigative work for a column that was scheduled to run the next day. I contacted a prominent member of the Hackney administration to confirm details for my coming essay, which dealt with the issue of racial double standards at Penn. At the end of the conversation, I was told that if the information I brought up appeared in the paper, "you're dead." The column was subsequently published, and seven days later I was awakened at my home by a phone call from Catherine Schifter, the acting Judicial Inquiry Officer for the University of Pennsylvania. Ms. Schifter informed me that there were 31 charges of racial harrassment filed against me based solely on the fact that I had written unpopular opinion, and that I was under investigation by the university. I asked Ms. Schifter why, and her only retort was, "you need to ask?" Then came one of the most Orwellian statements that I have ever heard. Ms. Schifter intimated to me that if I were to sit down in a session with the 31 students that had taken offense to my column and open a dialogue, the charges might be dropped. The thought of participating in a "hate session" to be accused of harboring incorrect thoughts and to be villified by 31 angry students in order to be granted absolution for disagreeing with them is perhaps one of the most blatant and chilling attempts to stifle free speech and a free press that I have ever heard of. The alternative was to face a court system that could have rendered a decision of expulsion. According to his own administration in future conversations, Sheldon Hackney was fully aware of what was happening from the start.

This is not only a case of zealots trying to suppress free expression at the university, it was also a violation of the policies of the University of Pennsylvania. The university has a signed agreement with the paper that stipulates that no students will be prosecuted by the judicial system based on the content of their writing. This was willfully violated by the Hackney administration, with Hackney's knowledge. The University of Pennsylvania also has a policy called the Open Expression Guidelines which state that, "The freedom to voice criticism of existing practices and values are fundamental rights that must be upheld and practiced by the University in a free society." This too had to be willfully violated by the Hackney administration.

After the intervention of a prominent faculty member, I was told that the charges were going to be dropped, although it was a month before I was notified in writing that the investigation was going to be ended. In the meantime, I was then invited to a "multicultural" sensitivity seminar, where I would presumably confess my sins. Carrying a full engineering load and coping with the onslaught of the Hackney administration has been one of the least pleasant experiences of my life.

The next experience I had with the Hackney administration occurred when a contingent of campus radicals seized and disposed of nearly all 14,200 copies of the Daily Pennsylvanian, on the day that my last column of the semester ran. Of course one would expect condemnation of tactics that are so reminiscent of those used by Nazi brownshirts. Sheldon Hackney, however, was only bold enough to say that there existed a "conflict between open expression and diversity." He did not condemn the theft! I also am not sure why my opinions are not considered to be a part of that vaunted diversity, as I am the only conservative writer on the paper. The other thirteen columnists were decidedly oriented to the left. Once again, and this time in person, the message of Hackney's regime was simple: If we disagree, you do not have the right to speak or think freely.

The nominee has sent out letters to those concerned saying that people do not know the whole story. This is correct. If people understood the gravity and depth of the intimidation and atmosphere of oppression that has been created, the whole story of what Hackney's administration has done, there can be no doubt that they would have reacted even more strongly than they have. Penn is a campus where students look over their shoulders before they speak, for fear of being overheard and disciplined. It is also a campus where friends whisper while walking from class to class, for fear a politically incorrect phrase will cause them to be detained, and reprogrammed.

The post of the National Endowment for the Humanities should be open to a qualified scholar who will proceed with good judgment and fairness. On these counts, based on personal experience, I know that Sheldon Hackney is not qualified. The damage he has done to me, and to the campus community is immeasurable. Sheldon Hackney is ready and willing to play favorites and to dump on those with whom he simply disagrees. Our university has no place in a free society, and Hackney's vision which shaped the university must not be extended to the country as a whole. Please consider carefully your decision, for your choice will not only shape national policy, it will help shape the policy of university's across the country.

Mr. WOFFORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. WOFFORD. The Senator from Rhode Island [Mr. CHAFEE] called for nonpartisanship in regard to nominations such as this nomination.

I want to point out that whatever partisanship has been applied to nominations in the past, so far, until this afternoon, the process regarding the nomination of Sheldon Hackney has been one of extraordinary nonpartisanship.

I would like to believe that the Senator from Washington and the Senator from Connecticut, if they had been through our committee hearings with the long and careful probing of colleagues from both sides of the aisle, would have come to the same conclusion that all members of the committee came to, to vote in favor of Sheldon Hackney's nomination—Senator KASSEBAUM, Senator JEFFORDS, Senator COATS, Senator GREGG, Senator THURMOND, Senator HATCH, and Senator DURENBERGER.

We heard a little while ago about quotas, political correctness, and speech and justice.

As to quotas, I do not know anyone in this body who would oppose them more than I do. But I know that Sheldon Hackney would oppose quotas himself. He and his family have a long record of courageous support of efforts to overcome discrimination, and in no way does anything I know of Sheldon Hackney's views or his record suggest that he favors racial or any other kind of quotas.

As to political correctness, if political correctness is defined as the Senator from North Carolina defines it, I do not know anyone in academia who opposes that kind of political correctness more than Sheldon Hackney, and I certainly would, too.

As to concern for substance of justice and not just for procedure, Sheldon Hackney's life has been a story of concern about justice, the substance of justice, and the substance of free speech.

I do not believe you would find Leonore Annenberg and Walter Annenberg writing to ask us to "give Sheldon Hackney an opportunity to serve this country with the same strong devotion, energy, and fairness that has guided his presidency at the University of Pennsylvania," where, Mrs. Annenberg said, "he steadfastly articulated freedom of expression, civility, and respect as the core values of the University." I do not believe if he were a champion of political correctness the Annenbergs would be saying they cannot imagine President Clinton putting forward a better candidate from either the Republican or Democratic standpoint.

As to speech codes, I find by and large they are an abomination. I think the first amendment is sufficient. As I said earlier, as a college president I yearn for the days when academia was not run so much by faculty and deans and student committees, and college presidents had their duty to intervene, act correctly, and call in students and deal with matters directly.

I know we are living in a somewhat different world. For a long time academia has been faculty-governed and full of student/faculty committees. And the process of adopting speech codes has spread all across the Nation. I hope that process will be reversed.

Sheldon Hackney has said that looking back on the experience at the University of Pennsylvania this year, he would like to see that process reversed. He has set up a committee to review the experiences of last year in search of revisions in Pennsylvania's speech code that will not lead to the inappropriate actions that were taken.

Sheldon Hackney has also pointed out to our committee that the student judicial system that was set up, that went into action after the water buffalo incident—after the two sets of rowdy students were shouting at each other and one student admitted that he had called out "water buffalo"—that student process is initiated under procedures that have been adopted by the university; wrongly, I think. They were designed specifically to set up an independent process, independent of the administration, and particularly independent of the university president.

If you read the record you will see Sheldon Hackney has called for a full review of the appropriateness of such procedures and he himself has said to the committee that he thinks this was a misapplication of any such policy and a great mistake for the matter to have been pursued as it has been pursued.

It has repeatedly been said that he did not speak up about the confiscation and destruction of copies of the Daily Pennsylvanian. That simply is not true. He spoke up in all of his statements issued in the days that followed. He appended those statements to our RECORD. I have read from some of them, but I just repeat his statement in which he said,

> Confiscation of publications on campus is inconsistent with university policies. Neither I nor the University of Pennsylvania condone the confiscation of issues of the Daily Pennsylvanian. The Daily Pennsylvanian enjoys all the protections of the first amendment.
>
> In addition, because of the overriding importance of freedom of expression to the very purposes of the University of Pennsylvania, it has explicit guidelines on open expression that govern and affirm the expression of diverse views in the university community. Any violation of this or other university policies will be investigated in accordance with established university procedures and those procedures call for the Vice Provost to set up a review board to look into the matter.

A review board has proceeded with disciplinary proceedings that are underway now, and led to one senior involved having his records withheld until this matter has received the full hearing of that panel.

Sheldon Hackney said the following statement on April 22:

> Taking newspapers is wrong as I made clear in a policy statement 4 years ago and reiterated at the time of last week's events and restated again this week.

Of course it is wrong, Mr. President. In the very article put into the RECORD by Nat Hentoff, he has pointed out this wrong, which I denounce, which Sheldon Hackney denounced, has been spreading around the country and it should be stopped. Nat Hentoff's article in the RECORD now tells of incidents with the Yale Daily News, Dartmouth Review, the Trenton State College publication in Trenton, NJ, Southeastern Louisiana University at Hammond, and Penn State University, to name only a few.

That kind of action should be suspended by students and there should be full disciplinary action against students who undertake to undermine the fundamental principle of the first amendment on campus.

It has also been said he has not applied the principle of free speech evenhandedly over his career. He gave the committee many examples of just the opposite. It ranged from his support for campus speeches of Dr. Shockly, of Louis Farrakhan, and the King of Jordan, under attack in each case because they were controversial and contrary to what a large number of students in those institutions supported.

As to the faculty letter that was sent to him which has been quoted to us, which says "Removal of the newspaper struck at the heart of the most fundamental values which the university should foster, diversity of thoughts, views and expression," Senator HATCH in our hearing said, "Do you agree with that?"

Sheldon Hackney said, "I do."

Senator HATCH said, "OK, that is important because if you did not I probably could not support your nomination."

Sheldon Hackney said, "I absolutely do." And the record shows that he does.

Senator HATCH concluded, after the long probing by him and by his colleagues, "Frankly, I don't think you deserve all of the criticism you have got. Frankly, I don't have to give you the benefit of the doubt. I believe that you mean what you say and you are going to do the best you can and I intend to support you in this committee and on the floor."

Mr. President, I yield the floor.

Mr. WOFFORD. Mr. President, I would like the understanding that we have had that in quorum calls, time runs equally against both sides to be noted and confirmed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WOFFORD. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. WELLSTONE). Without objection, it is so ordered.

Mrs. KASSEBAUM. Mr. President, Dr. Sheldon Hackney is a distinguished scholar with strong academic credentials for the position of Chairman for the National Endowment for the Humanities. Dr. Hackney is a graduate of Vanderbilt and Yale Universities; he is a past provost at Princeton; and the president of Tulane University and the University of Pennsylvania.

My colleague, the Senator from Pennsylvania [Mr. WOFFORD] has spoken quite eloquently to the recommendations of Dr. Hackney for this position.

He underwent some lengthy review before the Labor and Human Resources Committee, and in the course of my own review of this nomination, I carefully examined not only his academic record but also his actions with respect to a number of incidents at the University of Pennsylvania which were widely reported in the news media and which have been covered here on the Senate floor to some extent this afternoon.

Based on the review that I undertook, Mr. President, I have determined that Dr. Hackney's actions in those situations did not disqualify him for the position of NEH Chairman.

For the record, I asked Dr. Hackney whether he felt the charge of racial harassment against Mr. Jacobowitz was justified. Dr. Hackney stated he did not believe it was justified, noting that the University of Pennsylvania's speech policy is very narrowly focused and is to be applied only in situations in which racial or ethnic slurs are used in face-to-face encounters.

Dr. Hackney stated the facts of the case did not meet this criteria.

Dr. Hackney stated he did not intervene in the case because, as currently structured, there is no provision for such intervention into the university's judicial process even when it is clearly misapplied.

In some ways, I think it is unfortunate, and perhaps through all of these incidents that have happened at the University of Pennsylvania, they will set up a different process.

To have intervened, Dr. Hackney argued, would have jeopardized the legitimacy of the university's judicial process, disrupting the numerous cases being properly adjudicated. Dr. Hackney stated that such disruption would have resulted in a divisive campus crisis.

Although Dr. Hackney states his confidence that the judicial process would have ultimately dismissed the charges against Mr. Jacobowitz, Dr. Hackney now believes the speech code and judicial process should be reexamined in the light of that incident.

Regarding the theft of 14,000 copies of the university students' newspaper, Dr. Hackney asserted that his statements at the time of the incident recognized the seriousness of the violation and emphasized the privacy of free speech on a university campus.

Dr. Hackney stated that, in retrospect, he would have made this point in a more forceful manner. He added that the students involved are currently facing charges of misconduct. He went on to point out, Mr. President, that throughout his career, he has defended free inquiry, free speech, and academic freedom for people from all parts of the political spectrum.

In this regard, he noted the diversity of speakers that he had provided security for on the campus and believed that everyone should have their views heard in a university and campus setting.

As to the charge that Dr. Hackney proposed banning the ROTC program for the University of Pennsylvania campus, he responded that the charge is completely false, noting that he is both a product and vocal supporter of the ROTC program.

Mr. President, although I do not think the various allegations asserted against Dr. Hackney should disqualify him for the position of the National Endowment for the Humanities chairmanship, I do believe it will be necessary for Dr. Hackney to exercise strong leadership as he takes the helm of the endowment. The National Endowment for the Humanities is a publicly funded entity. As such, the NEH should be distinguished from the privately funded universities over which Dr. Hackney has served as provost and president.

Ultimately, Dr. Hackney will be accountable for the stewardship of NEH funds—a responsibility which demands a sensitivity to the humanities as well as to the tax-paying public. Firm guidance from the top is essential to assuring that the endowment is not constantly embroiled in side issues and that process is not substituted for judgment.

It is with the advice that he exercise strong and independent guidance against the pressures of ideological bias that I will look forward to supporting Dr. Hackney and will vote for him when the vote will be called tomorrow.

I ask unanimous consent that my questions and Dr. Hackney's responses be printed in the RECORD at this time.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

QUESTIONS FOR THE RECORD BY SENATOR KASSEBAUM FOR SHELDON HACKNEY, NOMINEE FOR CHAIRMAN OF THE NATIONAL ENDOWMENT OF THE HUMANITIES

1. Regarding the Eden Jacobowitz affair, did you think the charge of racial harassment against Mr. Jacobowitz was justified? If so, please explain why.

I did not think the charge of racial harassment was justified. Penn's policy is very narrowly focused. It applies only in situations in which racial or ethnic slurs are used in face to face encounters and with no other intent than to inflict harm. The facts of the case do not meet these criteria. In addition, because of the misapplication of the policy and the confusions that abound in this case, I have come to feel that even though civility is very important in an educational setting it is a mistake to try to enforce it among members of the campus community through rules and penalties administered through a judicial system.

2. In retrospect, do you believe you should have intervened in the university judicial process brought against Mr. Jacobowitz, or do you stand by your action not to intervene?

As awful as the spring was, I still think it was not appropriate for me to intervene in the judicial procedure. There is no provision for the President or for an officer of the University to intervene. To have intervened would have called into question the legitimacy of the entire system that handles dozens of cases every year, denied to the complainants their right to have their complaint adjudicated by a faculty-student hearing panel, and thrown the campus into an even more divisive crisis than the one through which it actually lived. Had the system worked properly, and a hearing panel heard the case, I believe that justice would have prevailed. As it turned out, the case came to a close when the complainants withdrew their charges.

3. In the episode involving the theft of 14,000 copies of the Daily Pennsylvanian, the University's student newspaper, in April, 1993, please explain your reaction at the time of the incident, including the complete statement issued by your office.

I append the statements issued at the time of the incident. I believe they make clear that I recognized the seriousness of the violation and emphasized the primacy of free speech on a university campus.

4. Please describe in detail what your administration did to identify and bring charges against those responsible for the Daily Pennsylvanian theft? Has anyone ever been charged in the theft? If so, what was the result in terms of penalties meted out?

The Committee on Open Expression (an important faculty-student committee that monitors the Open Expression Guidelines) has ruled that the incident was a violation of the Open Expression Guidelines, thus making clear that charges would be brought. A number of students apparently involved in the incident have been identified and will face judicial procedures when they return to campus for the fall term. The one senior involved has had a "judicial hold" put on his transcript, meaning that he must clear up his disciplinary status before receiving his degree or being able to have his transcript sent to employers or graduate schools. In view of the seriousness of this case, the Vice Provost for University Life has appointed a respected senior faculty member to serve as the Special Judicial Inquiry Officer for this case.

5. Do you believe your response to the incident was appropriate considering the seriousness of the act in the context of First Amendment rights to free expression?

Yes, although I do wish now that in my original statement I had not used a formulation that was so easily taken out of context and misrepresented. If I could write the document again, I would undoubtedly use language that was even clearer and stronger in condemning the confiscations.

6. Your responses to the Jacobowitz affair and to the newspaper theft incident have been characterized as employing a double standard on the issue of free expression. What is your response to that charge.

The charge is absolutely false. Throughout my career, I have defended free inquiry, free speech, and academic freedom for people from all parts of the political spectrum, left, right and center. I have repeatedly done so when under considerable pressure to cancel appearances of controversial speakers or to discipline students or faculty who have earned the disapproval of persons or groups on the campus and off. The list of speakers whose security arrangements I have personally supervised is a veritable who's who of controversy over the past 20 years, from William Shockley to Louis Farrakhan and all shades of opinion between.

One incident in particular has been used to suggest that I am less than even handed. In the early 1980s, the South African Ambassador to the United States accepted an invitation to speak from a student group. The student group was then informed that University policy (which preceded my arrival at Penn) required host groups to pay all the costs of invited speakers, including security costs. Special security required for the South African Ambassador would have incurred substantial costs. The student group therefore withdrew the invitation. As soon as I heard of this situation and realized that it was based on a University policy, I changed the policy. The University isn't really open to all points of view if a host group is required to be rich enough to pay the costs involved in keeping opponents of the speaker from disrupting the event. The new policy was thus in effect when all subsequent speakers, including Louis Farrakhan, have been invited to speak on campus.

7. The Wall Street Journal reported that at the time of a speaking engagement by artist Andres Serrano on the University of Penn campus in 1989–90, you refused to order the removal of campus sidewalk graffiti depicting anti-religious and graphic sexual symbols. Please explain what occurred.

As with so much that the Wall Street Journal has reported about me, the facts are wrong in important respects, highly distorted in other respects, and the story presented in a misleading way. Early on the morning of April 13, 1993, members of Penn's groundskeeping crew arrived on campus to find, written in chalk, graffiti depicting religious and sexually graphic and offensive symbols and slogans on Locust Walk, the main pedestrian thoroughfare intersecting the Penn campus. The groundskeeping crew, on its own initiative, immediately washed off this graffiti. Later that day the students—members of a gay rights group on campus—who had originally done the graffiti writing, protested to Penn's Assistant Vice Provost for Student Life that the erasure of the graffiti violated the University's Guidelines on Open Expression. The Committee on Open Expression, following precedent, found that the graffiti was protected speech as long as the graffiti was temporary and did not permanently deface University property. Members of the group returned the next day and renewed their graffiti writing. The issue was handled under regular University open expression policies and procedures. I was not personally involved in it. The incident did not relate to Andres Serrano's visit to Penn, which took place on December 5, 1990.

8. Please explain your criticism of the Helms Amendment as it pertained to the work of artists, Robert Mapplethorpe and Andres Serrano.

I did criticize the language of the Senate amendment to the NEA-NEH appropriation bill for FY90 (the Helms Amendment) because I believed that the language of the bill—which Congress wisely did not include in the final version of the appropriations legislation—was impossibly vague and overbroad. The Helms amendment to the FY90 appropriations bill would have imposed unworkable content restrictions, and I believe that Congress has been wise in its judgement not to adopt it.

9. The Wall Street Journal reported that you proposed banning ROTC from the University of Pennsylvania campus in 1990 because of the military's prohibition on gays and lesbians serving in the military. Is this true?

As with a number of other assertions made by the Wall Street Journal, this is simply untrue. I am a supporter of ROTC on campus. Indeed, I am a product of the NROTC program at Vanderbilt University, and I have spoken frequently on campus about why I think it is a good program.

10. You have been quoted in the past as stating that the impact of "political correctness" on American university campuses is "greatly exaggerated." Do you believe that "political correctness" contributes to the free exchange of ideas and tolerance of different points of view in American academia today?

The term "political correctness" is almost hopelessly vague and imprecise. It began as a term of self-derision, and now it has taken on a life of its own as a caricature of a certain kind of liberal left orthodoxy that is so solicitous of the interests of groups that can claim the status of having been victimized by society that the general interests of the University are of secondary importance and at times even the search for truth is threatened. Fortunately, "political correctness" does not dominate American campuses, though it is something about which faculty and academic leaders ought to worry about. I believe that I am representative of the broad mainstream of the American professoriate that sees danger in any potentially intolerant orthodoxy, but that may also see partial merit in some ideas that may be part of a "politically correct" position.

Mrs. KASSEBAUM. I just reiterate my strong support for him at this time in this position. I feel it offers an opportunity not only for his scholarly and intellectual interests, but for his opportunity to bring an evenhandedness and a firm sense of direction to the National Endowment for the Humanities.

I yield the floor, Mr. President.

Mr. WOFFORD. I thank the Senator from Kansas for her thoughtful statement with which I agree, and for her care and concern and instructive approach to this nomination. It is a tradition that I have so far experienced in the Labor and Human Resources Committee, and in no small part due to the Senator from Kansas.

I also, once again, pay tribute to Senator HATCH's probing, critical questions that led to his support of Sheldon Hackney, and to note that as a former college president, time and again, I found Senator HATCH's observations as to what happens to university and college presidents extraordinarily perceptive, as well as witty and humane.

I pay tribute also to the members of the other side of the aisle in our committee who came into the committee hearings thinking they were going to be against Dr. Hackney, and after the hearing unfolded and their questions were answered, they joined in the unanimous recommendation for the nomination of Sheldon Hackney.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WOFFORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Mr. President, today I express my support of the confirmation of Dr. Sheldon Hackney to serve as Chairperson of the National Endowment for the Humanities. Dr. Hackney's reputation as an outstanding educator is well known both on the national level and across the Commonwealth of Pennsylvania, where he most recently served as president of the University of Pennsylvania. Having been appointed to this office in 1981 after serving as president of Tulane University and as provost of Princeton University, Dr. Hackney was responsible for all academic and administrative functions of Penn's 12 schools, its medical center, and the more than 20,000 employees responsible for making the university the largest employer in Philadelphia, other than the municipal government, as well as personally teaching classes at Penn.

Dr. Hackney has an outstanding record in academia. He received his bachelor of arts degree from Vanderbilt University in 1955. After serving his country in the U.S. Navy from 1956–61, he earned his masters and doctorate degrees from Yale University in 1963 and 1966, respectively. He is an accomplished historian, having written several books on the American South; he has received numerous honorary degrees; and Dr. Hackney has served on numerous panels and commissions in academia.

Although his reputation is most notably one of educational leadership, Dr. Hackney has many accomplishments outside the University of Pennsylvania. Through his chairmanship of the West Philadelphia Partnership, Dr. Hackney directed the growth of a working partnership among Penn, neighboring institutions, and the residents and business people of West Philadelphia. Dr. Hackney has also served as a member of the board of directors of the Greater Philadelphia Chamber of Commerce, the Greater Philadelphia Urban Affairs Coalition and the University City Science Center.

Overall, my knowledge of Dr. Hackney while he has served the University of Pennsylvania and the surrounding community has been positive. Recently, however, I became very concerned with his handling of two widely publicized incidents at Penn: One, of a student shouting an alleged racial epithet—"water buffalo"—at a group of African-American students; and second, the confiscation and destruction of 14,000 copies of an issue of the campus independent student newspaper by African-American students because of their objections to a columnist who wrote for the paper.

Regrettably, these highly publicized events left something to be desired; however, these matters are substantially outweighed by the balance of his record.

One word of caution: I am concerned about Dr. Hackney's move from academia to the rough and tumble of Washington politics. He will face many tough challenges from advocates at various positions on the political spectrum. I am optimistic that Dr. Hackney will be able to adapt to this challenge, and I urge him to keep this factor in mind as he takes on this new assignment.

Mr. HEFLIN. Mr. President, I am pleased to rise in strong support of Dr. Francis Sheldon Hackney's nomination to be the President's Chairman of the National Endowment of the Humanities. I have known Dr. Hackney, his wife Lucy, and his parents for a number of years, and know firsthand of his impeccable credentials and unique qualifications for this position.

Sheldon is currently serving as president of the University of Pennsylvania. In his capacity as Penn's 21st chief executive, he is responsible for all academic and administrative functions of its 12 schools, its medical center, and the more than 20,000 employees who make the university the largest employer in Philadelphia outside the local government there. Sheldon is also a history professor at Penn. Before joining Penn, Sheldon was president of Tulane University from 1975 to 1981 and was Provost of Princeton University from 1972 to 1975.

Under Sheldon's capable leadership, Penn has experienced a 347-percent growth in its endowment and a 300-percent increase in annual voluntary contributions. At the same time, Penn's operating expenditures have increased almost 220 percent to $1.3 billion for the fiscal year ending June 30, 1992. In October 1989, the university launched its 5-year Campaign for Penn. The fundraising campaign's goal of $1 billion makes it the largest such effort ever undertaken by an Ivy League institution and the second largest by any American university.

As the university's primary representative to the Philadelphia community, he is responsible for a major expansion of Penn's direct involvement with the issues and challenges facing the West Philadelphia community adjoining the campus. Through his chairmanship of the West Philadelphia partnership, Sheldon has directed the growth of a working partnership among Penn, neighboring institutions, and the residents and business community of West Philadelphia.

Sheldon attended my undergraduate alma mater—Birmingham Southern—for 1 year, and later earned his bachelor of arts degree at Vanderbilt. He later took his master of arts and doctoral degrees at Yale. When he is confirmed to head the National Endowment for the Humanities, Sheldon will oversee a Federal agency with an annual budget of more than $175 million. The Endowment awards grants to scholars, teachers, and libraries working in the humanities.

Born in Birmingham, AL, Sheldon is a noted historian and authority on the American South. He authored the winner of the 1969 Albert J. Sevridge prize for the best book on American history that year, "Populism to Progressivism in Alabama." He is also the author of "Populism: The Critical Issues," published 2 years later. His articles on southern history have appeared in the leading academic journals. From 1972 to 1975, Sheldon was a member of the board of editors of the "Journals of Southern History." He edited "Understanding the American Experience: Recent Interpretations" and wrote the introduction to Gerald Gaither's "Blacks and the Populist Revolt."

Sheldon enjoys a reputation as one of the foremost experts on Southern history and culture, which makes this southern Democrat especially pleased to support him. But as we all know, he has established himself in the field in so many other ways as well. He has served on the Rockefeller Commission on the Humanities and the American Council of Education's Commission on Women in Higher Education. In the early 1980's, he chaired the board of directors of the Carnegie Foundation for the Advancement of Teaching. He is still a member of that board. In 1987 and 1988, he chaired the Consortium on Financing Higher Education.

Although Sheldon has spent his adult life away from his native State, he attributes much of his success to the lessons he learned while growing up in Alabama. He recently said, "I attribute a good bit of the shaping of my values to the Methodist Church. That was very important to me. Even in high school, a group of friends and I went to Methodist youth fellowship every Sunday night." He also credits his parents with helping to shape the values by which he lives today.

Mr. President, Sheldon Hackney has a distinguished record as a first-rate scholar, author, educator, and astute, fair, and temperate administrator. He is uniquely suited for the challenge of heading the agency and carrying out its mission to support public programs, education and research in the humanities.

I wholeheartedly endorse this nomination and urge my colleagues to vote favorably on Sheldon Hackney's appointment to be National Endowment for the Humanities Chairman. I have every confidence that he will bring enormous energy to the agency and a dynamic approach to promoting the humanities in this country.

Mr. JEFFORDS. Mr. President, I rise today to express my support for the confirmation of Dr. Sheldon Hackney as chair of the National Endowment for the Humanities.

Controversy has arisen over Dr. Hackney's nomination because of two events on the campus of the University of Pennsylvania. The events focused on the conflict between the freedom of expression and diversity. Unfortunately, tensions like these have existed at the University of Vermont, as well as virtually every other college campus in America. And unfortunately, tensions like these are indeed an effect of many of the burning social problems in America's cities today.

I am not going to go into detail on these incidents, for I believe everyone is aware of them. Rather, I would like to say that I have spoken very candidly with Dr. Hackney about this very difficult issue. It is a tough issue, one to which there is no clear or easy answer. Should he have handled the situation a bit differently? Probably. Nevertheless, he assured me of his commitment to the freedom of expression, something he has adamantly advocated throughout his life. Dr. Hackney is certainly not the first university president to handle such a difficult issue, nor will he be the last.

In my mind, the debate over whether he did the right thing or the wrong thing is not the concern here. The real concern is choosing a chairperson to effectively lead the NEH.

The National Endowment for the Humanities is an agency that has sailed through rough waters in recent years. Its existence and functions must be stabilized and depoliticized. Despite the attacks it has endured, the NEH has been a major force in intellectual life in America for the past 28 years. In Vermont, the Vermont Council on the Humanities is using NEH grant money to support literacy programs in an effort to achieve full literacy in my State by the turn of the century.

The NEH needs a fair, reasonable, and visionary leader. As a man who has devoted his professional life to the academic community, and as a man who has led a prestigious university through uncertain times, Sheldon Hackney has proven he is up to the task. Clearly, he will bring this leadership to the NEH.

On July 14, the Labor and Human Resources Committee unanimously approved his nomination. I believe the full Senate should do the same.

Mr. LEAHY. Mr. President, I rise to support the confirmation of Sheldon Hackney to be the next Chairman of the National Endowment for the Humanities. The NEH has an important and difficult mission to fulfill. It is responsible for supporting and sustaining the highest level of scholarly inquiry and to share the riches of thought in the humanities with the public. Over the years, NEH has helped interpret great works in American thought to our citizens, and has developed our traditions more deeply through its grants and programs. Through the State humanities councils, NEH reaches people through libraries, public forums, media presentations, and exhibits, and literally has taught thousands of Americans to read, bringing them into the mainstream of the democracy and economy.

Dr. Hackney's well-publicized nomination recently was voted out of Senator KENNEDY's Labor and Human Resources Committee by a unanimous 17–0 vote. Senators across the political spectrum gave him a fair hearing, listened to his positions on academic freedom and free speech. They listened to a distinguished southern historian, president of the University of Pennsylvania for 12 years, and found a man who can lead the NEH to fulfill its mission, and bring the humanities—areas of study that bring us the deeds and thoughts of other times—into everyday life.

Dr. Hackney's nomination should not be politicized any further. He needs our bipartisan support to lead the National Endowment for the Humanities in a difficult time. He should be confirmed.

Mr. COATS. Mr. President, the National Endowment for the Humanities is an organization under considerable stress. There is a swift current in the academic community that moves toward the left. That current threatens to take institutions like the NEH along with it. And if that happens, a public trust is violated and public support is squandered.

The Chairman of the NEH needs to be an activist for balance, fairness, and free speech. When Federal money is involved, no Chairman can be allowed to pick favorites in academic debates—no matter what pressure is applied. No matter how unenlightened that a principles fairness may seem.

Dr. Hackney has indicated he shares this view, and on the basis of my personal discussion with him, and his responses to my questioning of him during his confirmation hearing, I believe him.

But his past record does raise some questions. About his treatment of free speech and a free press. And about his forcefulness in opposing the strident voices of the politically correct.

But these are questions, not disqualifications. And I will vote for Dr. Hackney. But I hope he will remember that, for a number of us, our concerns will not end with his confirmation. Dr. Hackney has an opportunity to prove that his comments before the Labor Committee truly reflected not only his views but his actions.

I trust that Dr. Hackney will take advantage of this opportunity. I wish him well, and intend to work with him to advance the vision and goals for the NEH that I believe we both share.

Mr. WOFFORD. Mr. President, when I received the appointment to this body I vowed that I wanted to do everything I could to make something good come out of the tragic loss of John Heinz.

I would like to conclude my part of this debate today with a statement that Teresa Heinz, the widow of Senator Heinz, sent me this morning on behalf of Sheldon Hackney. She writes:

> I have known Sheldon Hackney for a number of years. His work as an educator and as a leader in the field of humanities is well known and well respected. Dr. Hackney will bring valuable leadership and expertise to the National Endowment for the Humanities. I know he will make Pennsylvanians very proud, and I am very, very proud to call him my friend and to endorse his nomination.

Mr. President, I yield back all time on this nomination.

This request has been cleared by the minority. And I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, for 7 minutes I would like to speak as if in morning business and I ask unanimous consent to do that.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, in the 1980's, conservatives advocated executive power. Coincidentally, during the 1980's, conservatives had executive power. The way some conservatives talked when they occupied the White House, you would've thought they subscribed to the vision of a President "with the diadem sparkling on his brow and the imperial purple flowing in his train * * * seated on a throne surrounded with minions and mistresses, giving audience to the envoys of foreign potentates in all the supercilious pomp of majesty," as Alexander Hamilton lampooned.

Some who have noted the recent convergence of Pennsylvania Avenue and Rodeo Drive might think the anti-Federalists' fears of an American imperial court have been realized. But the President is not a monarch, a shah, a sultan, or a grand poobah—even when Hollywood celebrities normally found in the pages of the National Enquirer roam the White House with staff ID's.

Contrary to the beliefs of many of my fellow conservatives, the framers intended the legislature to be the preeminent branch of Government, and that Congress should conduct vigorous oversight of the executive.

During the Reagan and Bush administrations, I frequently differed from my Republican colleagues in my unwillingness to blindly defer to the judgment of the White House. I did not make any friends in my party by subpoenaing the Attorney General before my subcommittee, and holding him in contempt, 2 weeks before a Presidential election. But I never saw my role as cozying up in the lap of the White House. I believed then, as I do today, that the imperial President has no constitutional clothes.

Our Constitution gives the most dangerous powers of Government to the Congress, it is the most representative body that is responsible for legislation, for the public fisc, for declarations of war and regulation of the armed forces, for the regulation of commerce—for the functions the framers most strongly wished to restrain. In contrast, the President's enumerated powers are quite limited. He is the commander in chief of the armed forces, responsible for making treaties with foreign powers, and charged with ensuring that the laws are faithfully executed. If the Constitution really made the President the one-man quasi-legislature many conservatives have advocated, it probably wouldn't have been ratified.

Our Federal system of Republican government ensures the preservation of liberty through the atomization of power. The centralization of power in a single individual was anathema to the Americans of the 1780's, who had endured the tyranny of monarchs. They were willing to tolerate creation of a President only so long as his powers were strictly limited. They were willing to grant those powers to an individual rather than a committee, primarily because delegation to an individual guaranteed greater accountability.

Unfortunately, the massive growth of the Federal Government in the 20th century has resulted in the accretion of vast new power in the executive. In a heavily regulated industrial society, the faithful execution of the laws is far more important than it was in a sparsely populated agrarian society.

This growth in the executive is the result of the increasingly regulatory posture of Congress, which has frequently pushed the bounds of its powers beyond the constitutional envelope. But conservatives err when they contend that the best counter to congressional power is to grant even more power to the President.

In a recent edition of Roll Call, Llewellyn Rockwell, Jr., sets out an excellent case for "why conservatives are foolish to push [an] imperial Presidency." I recommend Rockwell's piece to my colleagues, and ask unanimous consent that the text of the article be printed in the RECORD as following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. GRASSLEY. Mr. President, Rockwell makes the case that conservatives' partisan advocacy of executive power is both constitutionally and politically inappropriate.

The Congress, with its direct and constant link to the people, is the branch of Government conservatives should look to for assurance of liberty through limited government. The President, presiding over the massive Federal bureaucracy and law enforcement mechanism, is the officer of Government most capable of limiting liberty. Congress is the best bulwark against the bureaucratic tyranny of an expansive Federal Government—as recent events have demonstrated.

While recognizing the primacy of the legislature, we must also recognize the need for congressional reform. Though Congress is the most accountable branch, it must be made more accountable. Congress should adhere to the laws it prescribes for the rest of society. We should have committee term limits, and the President should have line-item veto power. These and other reforms would enhance our democracy.

Congressional reform is necessary to erase the damage done to the constitutional system by decades of partisan entrenchment and fiscal logrolling. As the many Americans looking for new, independent leadership recognize, we need to destroy politics as usual to save democracy. We need to redesign the budget and appropriations processes, and replace polls and interest groups with genuine exercises in public judgment.

Now that conservatives have left the White House, I hope they will realize that it is myopic to argue that the arrogation of power by Congress is best countered by an imperial executive. The way to avoid Federal bureaucratic tyranny is not to consolidate power in the chief bureaucrat. Instead of concentrating Federal power, we should dilute it. Conservatives should counter congressional arrogance by returning power to States and municipalities. While a liberal's idea of reinventing government is reaffirming bureaucracy, conservatives know that by reforming Congress and reviving federalism, we can reinvent democracy.

EXHIBIT 1

[From Roll Call, July 12, 1993]

WHY CONSERVATIVES ARE FOOLISH TO PUSH IMPERIAL PRESIDENCY

(By Llewellyn H. Rockwell, Jr.)

Conservatives are going through another of their periodic intellectual spasms over the relationship between the executive branch and Congress. The controversy, which dates back to at least the New Deal, centers on which branch of government should have the say in budgets, regulatory policy, foreign affairs, and judicial appointments.

Even though the Constitution makes Congress the preeminent branch of government, during the 1980's conservatives argued for an imperial presidency. Of course, they didn't call it that. Instead, they argued that Congress was imperial, a trespasser on the justly expansive powers of the president.

Conservatives had been semi-imperialists on this question when Nixon was chief executive, but they started salaaming the White House when Congress questioned Ronald Reagan's foreign mercenary armies, and naturally, the argument spilled over into domestic policy.

By the late 1980s, it was an article of the conservative faith that the president had, and should have, autonomous policy authority. Conservatives even called the president the nation's "commander-in-chief," as if he were in charge of civil society.

The president should have the line-item veto, they told us, because it would gut Congressional authority over spending. All laws applying to the public ought to apply to Congress, too, even though this would empower minor bureaucrats over legislators. Congressional terms should be limited while bureaucrats serve for decades, further enhancing the arbitrary power of the executive branch.

The President, the Wall Street Journal told us, should even assume the power to change tax laws on his own say-so, such as lowering the capital-gains tax. The Journal also wanted the president to assume, by executive fiat, the line-item veto, and to have full authority over international trade.

Maybe they thought they'd never lose the White House. Yet now, conservatives' only friends are in the legislative branch. Congress, in fact, is the only bulwark against full Clintonian statism. Only by using the powers and tactics—filibusters, demagogic speeches, agitation about the rules, etc.—that the Democrats used in the 1980s against Reagan's adventurism can a liberal president be hampered.

None of this squares, of course, with the 1980s' conservative belief that Congress' role is to shut up, vote money, and salute the prez. But if Congressional Republicans today bowed down before him the way they wanted the Democrats to under Reagan, Clinton would have had a permanent honeymoon out of "respect for the offices of the presidency."

And although grass-roots conservatives cheered on Bob Dole's attack on Clinton's "stimulus," the conservative leadership is still mired in error.

A prominent conservative think tank in Washington, DC, has mailed out a million copies of The Ruling Class by Eric Felten, which traces all of America's troubles to a handful of Hill staffers, and former Bush speechwriter Tony Snow, now a columnist for the Detroit News, argues on National Public Radio for a Caesarist presidency and a rubber-stamp Congress.

Yet if any of Bill and Hillary's new taxes, new spending, and socialized medicine is stopped, it will be thanks to Congress.

The habit of presidential deification may be so ingrained that it cannot be broken. But conservatives should do their best.

It is far better to trust a Congress controlled by either party than a president whose minions spend 99.9 percent of the federal budget and regulate our businesses, families, and communities with such menacing meticulousness.

For example, Congress is far closer to the people. A Member never gets through the day without some contact with his or her constituents, people who pay the taxes and have to live under the laws voted on. Yes, many are seeking favors and privileges. But more complain about high taxes and the burdens of the federal bureaucracy, and Members and their staffs have to listen.

The millions of unelected bureaucrats in the executive branch, on the other hand, have contact with us only when they place their boots on our backs. And the president watches abstractions like the polls.

Congressional supremacy is far from a perfect system, but it's leagues ahead of the executive tyranny that the Founders, and their English parliamentary predecessors, hated and feared.

If we get through the next years without 100 percent of the Clintonian program being fastened on us, we can thank Congress. Conservatives ought to be leading the applause.

Mr. GRASSLEY. I yield the floor.

Mr. CRAIG addressed the Chair.

Mr. PRESIDING OFFICER. The Senator from Iowa is recognized.

EXECUTIVE SESSION

NOMINATION OF SHELDON HACKNEY, OF PENNSYLVANIA, TO BE CHAIRPERSON OF THE NATIONAL ENDOWMENT FOR THE HUMANITIES

The Senate continued with the consideration of the nomination.

Mr. CRAIG. Mr. President, I am here today to talk about a good, decent, intelligent man and a highly regarded scholar. Because, after meeting Dr. Sheldon Hackney, after reading the record of his achievements and reviewing the transcript of the hearing held by the Labor and Human Resources Committee, I am convinced he is a decent and scholarly man.

Surely that is the sort of person we need to head the National Endowment for Humanities—the organization that advances what is highest and noblest in human culture by supporting scholarship in all the branches of learning that investigate human constructs and concerns. The head of that organization should reflect the kind of scholarship and culture that we expect the organization to support.

Mr. President, based on those requirements, an individual as decent and scholarly as Dr. Sheldon Hackney must surely be eminently well-qualified to serve as head of the National Endowment for the Humanities.

There is just one thing that has me concerned.

Dr. Hackney said during his testimony before the Labor and Human Resources Committee that "university presidents operate in a sea of powerful and conflicting currents." I would submit that Federal grant-making organizations like the National Endowment for Humanities operate in stormy seas the likes of which Sheldon Hackney has not even begun to describe.

And for that reason, NEH does not need a noble figurehead; it needs a rugged captain who can stick his oar in the water and give the organization a strong shove in the right direction—against formidable forces, when necessary.

Can Dr. Hackney captain the NEH?

Well, when the spotlight shone on Dr. Hackney's reputation as a stalwart defender of free speech, some questioned why the South African consul was not allowed to speak at Penn because of the opposition of minority students, although Penn paid most of the speaking fees and security for hate-mongerer Louis Farrakhan to speak at the university.

What was the problem here? What was the difference?

Now, Dr. Hackney explains to me that the first episode took place early in his presidency—the denial of the South African consul—and, as a result of that, the university changed its policy and that is why Louis Farrakhan was allowed to speak.

In this case, Dr. Hackney certainly stuck his oar in the water and put the boat back on course. Perhaps a little late. He did not tell me if there was any attempt after changing the policy to reinvite the South African consul. But maybe the students were not interested anymore in hearing those views. Surely we could not characterize this as a tendency to protect speech from one point of view but not speech from another point of view.

And I applaud him for the statement he made to the students protesting the Farrakhan speech: "In an academic community, open expression is the most fundamental value. We can't have free speech just some of the time for some of the people."

There is no question where he stands on freedom of expression in art. He ardently defended the decision of Penn's Institute of Contemporary Art to exhibit the Mapplethorpe photographs. Now, during his confirmation hearing, he agreed that there is a big difference between a university displaying controversial art and a National Endowment making a decision about subsidizing a particular project with tax funds. Perhaps he regrets denouncing one of our Senate colleagues who understood that same distinction and was trying to get NEA to be more responsible in handling those taxpayer dollars. And although Dr. Hackney said at the time that it is part of the function of art to shock people, perhaps he does not feel that is the function of studies in humanities.

In any event, this decent and scholarly man certainly deserves commendation for the stand he took on freedom of expression at the time, when he wrote "the best protection we have found for a democracy is an unregulated market in expression."

Those two statements I have quoted have quite a ring to them. And they certainly reflect an uncompromising stand on freedom of expression.

Maybe that's why his latest statement on the issue which has caused such a storm of criticism, is somewhat of a frustration. When students stole an entire run of the Penn student newspaper carrying articles that some claimed the minority community found offensive, Dr. Hackney said confiscation of newspapers was wrong. Unfortunately, he didn't say it as clearly nor as immediately as he had responded in the past when freedom of expression was threatened. There seems to be a time lag here, when the shoe is on the other foot. Instead, he said "this is an instance in which two groups important to the university community valued members of Penn's minority community and students exercising their rights to freedom of expression, and two important university values, diversity and open expression, seem to be in conflict."

That doesn't quite have the ring to it that his earlier statements had. In other words, Dr. Hackney, sometimes you appear to be very loud and clear in your defense of freedom of expression. But sometimes you appear to withdraw or to be considerably hesitant. And that has me concerned.

But because Sheldon Hackney is a decent and scholarly man, we can be sure that he intended to be equally stalwart in his defense of these articles critical of the university's admission and disciplinary policies. Maybe he did not push quite so hard on his oar that time, but he says it was in the water.

Dr. Hackney also explained some apparent inconsistencies in the application of the antiharassment code at the university. The author of the offensive newspaper articles had been charged previously with racial harassment under the school's antiharassment policy. When another teacher intervened and went to Dr. Hackney, the investigation was dropped within 9 days. Yet in the famous "Water Buffalo" case, Eden Jacobowitz spoke to Dr. Hackney about the case and Dr. Hackney did not intervene. Mr. Jacobowitz went through weeks uncertain of his future, before the case was finally dropped. Dr. Hackney says it is not his role to intervene and he does not remember speaking to Mr. Jacobowitz, even though witnesses do recall the conversation.

But Dr. Hackney is a decent and scholarly man, and surely that is all the explanation we need for that apparent inconsistency.

We will have to wait until next school year to discover what happens to the students charged with stealing that newspaper. Dr. Hackney explained that there was not enough time left in the school year to begin the disciplinary process against them. Maybe that was because the students were never charged by the administration and only weeks after the event was a complaint filed by a faculty member. However, there was enough time to begin an investigation of a security officer who detained some of the students caught stealing the paper.

Again, am I to question Dr. Hackney for failure to respond quickly in one area and ever so quickly in another? That security officer was reassigned to desk work until the investigation was complete.

But as we know, Dr. Hackney is not to blame because he was not really in charge of the disciplinary process. He was only the president of the university. It is regrettable that those in charge did not reflect the good qualities of Dr. Hackney—for surely then they would have swiftly sanctioned this attack on freedom of expression.

Then, there was the question about misspending of about $1 million in Federal research funds, funds for alumni fundraising activities, overhead and expenses for the university-provided president's mansion—items specifically prohibited by Federal guidelines. But

Dr. Hackney explained that the University of Pennsylvania itself had begun to uncover these problems before the Federal auditors even arrived, because when another major university was audited on the use of its research grants, he decided Penn should look into its own spending. Again, that oar was in the water before the Federal Government knew it had reason to complain. I think it is good fortune for the American taxpayers that Dr. Hackney has learned this lesson before he takes over the leadership of this organization.

These incidents have been repeated again and again during the confirmation proceedings. Dr. Hackney has given his explanations over and over. None of them disprove the fact that he is a decent and scholarly man.

But there is one conflict I just can't get past. It is about Penn's antiharassment code—sometimes called a speech code.

Some of my colleagues have heard me talk about these codes in the past. I am unalterably opposed to them. As Senators, we are probably more aware than others of the importance of words. We make our living using words to persuade our colleagues to take certain actions. We know how changing a single word in a law can radically alter the impact of that law. Daily, we use words as weapons—and as shields.

So I hope my colleagues can also understand how words can do more than just express thoughts—they can also shape thoughts. But if any of my colleagues are uncertain about he folly and evil of speech codes, let me bring this debate home for you. This is where I have to begin to question the credentials of Dr. Hackney.

Imagine, for a moment, that we had the same kinds of restrictions in the U.S. Senate that exist on some college campuses today, and that for a time existed at Penn.

Imagine what it would be like to have a Senate colleague stop you in the middle of debate and say to you: I don't like that argument you're making. Even though you haven't mentioned me or my State directly, I don't like your ideas. As a matter of fact, I am personally offended by the argument you are making. You have no right to say things that offend me.

That is where freedom of speech stops: You have no right to say things that offend me. Not fighting words—we know that words which provoke immediate violence are entitled to constitutional protection. But offensive words are not necessarily fighting words, and most assuredly they are not protected as constitutional.

And imagine that the Presiding Officer of the Senate says to you: "Your colleague is exactly right. In this Senate we believe that the only way to conduct a healthy debate is a supportive environment. Each Senator has the right to dictate what he or she finds offensive. If your words or ideas are offensive to any other Senator, you are not allowed to express them. And if you do express them, you will be sanctioned. You could even be expelled."

That is what some of the policies are like and have been like at some of our university campuses. With politically correct speech. The kind that for a time Dr. Sheldon Hackney really did not know whether he could support or would support or did not support. And finally had the policies changed.

Imagine what debate would be like under those rules. Imagine the burden you'd feel under those restrictions. You would have to weigh every word carefully. You would start to censor yourself before you even began to speak. You might even decide not to speak at all, because undoubtedly someone would be offended by what you have to say—or might at least claim to be offended.

Now let me ask my colleagues: Are these the rules of debate you would want in the greatest deliberative body in the world?

No, of course not. You would tell me these kinds of restrictions would destroy the very foundations of the Senate; that these kinds of restrictions are unconstitutional; that the best way to destroy offensive ideas is through robust and open debate, not censorship.

You would tell me all this—and you would be right.

You would be right as an American but, more important, you would be constitutionally right because it was the very thing our Founding Fathers wanted to ensure through free speech.

If the day ever comes that one Senator is allowed to dictate to another Senator what is an appropriate subject for debate, or an appropriate word to be used, or an appropriate argument to make, when that day comes, we might as well just close up shop as a deliberative body, lock the door and throw away the key to our freedom—our freedom of speech and our open, free debate.

It may seem unthinkable for speech codes ever to exist in the U.S. Senate, but let me warn my colleagues, it was not many years ago that these kinds of restrictions would have been equally unthinkable on college campuses. The bastion of free thought and what happened? Well, it was not a revolution. Nobody stormed the citadel. There was not any rioting in the streets demanding speech codes. We did not see headlines in newspapers about students being stripped of their rights. No, it was not a war; it was a surrendering. Good, decent, intelligent scholarly people, like Sheldon Hackney, simply opened the door and delivered the college campuses to a kind of intellectual tyranny.

Today, when you talk to many academics, you will be treated to an incredible doublespeak about this very important issue. I have had college presidents tell me in one breath that speech codes have no effect on students, but they are critically important in maintaining order on campus; if we do not have speech codes, we cannot maintain order and civility. I have heard from one university talk that speech codes cannot constitutionally restrict—certainly not—legitimate classroom discussion. Yet the courts ruled that particular school's speech code to be unconstitutional because it was used to do exactly what it said it was not doing.

I have had scholars tell me that there cannot be free and open discussion in a classroom for the culturally disadvantaged students unless certain words or ideas are censored and not a part of the classroom discussion or the open debate in a forum on campus.

I have had a college president tell me that the university ought to be open to all points of view, even if some of those views expressed are personally wrong, and even cited with pride an example of his support for a riot of a controversial speaker to preach racism and bigotry on his campus. And yet at the same time, that college president imposed speech codes on students of that university. That college president was Dr. Sheldon Hackney.

In his answer to the committee, Dr. Hackney acknowledged that political correctness exists and it would be a serious problem if it were to become the orthodoxy of a campus, shutting out other points of view. How much more orthodox can it be than to become a part of the official student code of a university?

Dr. Hackney instituted the speech code at Penn. It was not long before the court decided such codes were unconstitutional and students objected to them. To his credit, Dr. Hackney responded. He worked with the students and he changed the code. I applaud his willingness to change, but why not abandon the code entirely?

How is it possible for an individual to defend a principle he believes in and betray it at the same time? I think there are only two explanations: Either the individual is misrepresenting his beliefs or he is unable to understand the impact of his action.

I cannot believe that Dr. Hackney would misrepresent his beliefs because Dr. Hackney is a decent and scholarly man. So I can only believe that he is wearing academic blinders, like others in his profession today, who truly believe there is a way to censor some views but not others and say that it is all the time in the name of academic freedom.

My chief concern about this nomination is that Dr. Hackney will not be able to keep those academic blinders off long enough to realize that some of his respected friends and colleagues are enemies of the very freedoms that he is now going to have to defend in a fair way. With what he himself identifies as more direct control over decisionmaking, that could result in the National Endowment for the Humanities sharply veering off course.

Dr. Hackney, you have your work cut out for you, and I am quite concerned at this moment of who this good, intelligent, scholarly figurehead will be. Will he be the person who arbitrarily restricted free speech and then made a change? Or will he be the stalwart who directs in a fair and balanced way the moneys of this great institution?

Those are the questions at hand, and in the coming weeks and months, I am sure we will know because I expect the doctor to be confirmed. But I will tell you that he is not a strong and decisive captain. He is a man who has allowed his ship to be blown off course by the winds of change and not to remain a stalwart defender of constitutional and basic American principles and rights.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. KERREY). Without objection, it is so ordered.

Mr. DOLE. I ask unanimous consent to proceed as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

SALUTE TO EWING KAUFFMAN

Mr. DOLE. Mr. President, a rags-to-riches success story; baseball; a devotion to the philosophy of neighbor helping neighbor; what do these have in common? All three are a unique part of the American culture. And all three were also part of the uniquely American life of Ewing Kauffman, who passed away Saturday in Kansas City, MO.

In 1950, Ewing Kauffman started a pharmaceutical business in the garage of his home. And over the years, Marion Laboratories grew from a one-man operation to a $1 billion corporation.

Mr. Kauffman said the reason behind his business success could be found in his motto—"Those who produce, share." Mr. Kauffman never used the word "employee," referring to everyone—from vice presidents, to secretaries, to janitors as "associates."

In 1969, Mr. Kauffman earned the affection of the people of Missouri and Kansas, when he purchased a new major league baseball franchise and brought it to Kansas City. And for the past 24 years, the Kansas City Royals have been one of the most successful franchises in baseball.

Under Mr. Kauffman's ownership, the Royals won six American League Western Division titles and made two trips to the World Series, winning the World Championship in 1985.

The Royals were also winners off the field, as well. Mr. Kauffman knew that his team really didn't belong to him; it belonged to the people of the Kansas City area—in fact, for that matter, all the Midwest. And his leadership ensured that the Royals were also available to make appearances on behalf of worthy causes and to reach out to young people.

Young people were also the focus of many of Mr. Kauffman's philanthropic efforts. His Kauffman Foundation financed countless projects, including a program to teach children how to resist peer pressure at the age when they are most vulnerable to involvement with drugs.

Mr. Kauffman also made a life-changing promise to over 1,000 high school freshmen in Kansas City, KS, and in his hometown of Westport, MO—a promise that he would pay the entire cost of their college or vocational training if they steered clear of drugs, alcohol, teenage parenthood, and received their high school diploma.

Mr. President, when Mr. Kauffman was diagnosed with bone cancer, he typically did not think of himself; he thought of others; and he established a trust which would keep the Royals in Kansas City after his death.

Ewing Kauffman is survived by his wife, Muriel, three children, nine grandchildren, and three great grandchildren. He is also survived by countless men, women, and children whose lives are better because of the leadership and generosity of this remarkable American.

SALUTE TO CONGRESSMAN PAUL HENRY

Mr. DOLE. Mr. President, I know that all Members of the Senate join me in extending our sympathies to the family, friends, colleagues, and constituents of Congressman PAUL HENRY of Michigan.

Congressman HENRY passed away Saturday after a courageous fight against brain cancer.

Regarded by many as one of the rising stars of the Republican Party, PAUL HENRY made a career of making a difference in the lives of others.

As a Peace Corps volunteer, he made a difference in the lives of the people of Ethiopia and Liberia.

As a political science professor, he made a difference in the lives of his students.

And as a 5-year member of the Michigan State Legislature and a five-term Member of Congress, PAUL HENRY made a difference for Michigan and America.

Mr. President, I was proud to call Congressman HENRY my friend, and know that I am just one of many in this Chamber who will miss this truly outstanding public servant.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOMINATION OF RUTH BADER GINSBURG

Mr. HELMS. Mr. President, it had been my tentative inclination prior to this past weekend to vote to confirm Ruth Bader Ginsburg to serve on the U.S. Supreme Court despite disagreement with some of her declarations about constitutional matters and other matters. I have a small habit which I have not been able to break, I am not inclined to break, and I have not tried to break, that is, on each major nomination to come before the Senate I assemble all available information about the nominee including testimony before the committee hearing of his or her nomination.

I did that this past weekend. I spent a part of the weekend reviewing various documents regarding Mrs. Ginsburg, and never have I been more disappointed in a nominee. This lady, whom I have regarded as a pleasant, intellectual liberal is, in fact, a woman whose beliefs are 180 degrees in opposition to some fundamental principles that are important not only to me but, I believe, to the majority of other Americans as well.

Therefore, it would be hypocritical of me to keep silent about Mrs. Ginsburg's beliefs, let alone her nomination to be quietly confirmed by the Senate, like a ship passing in the night.

I confess great disappointment that the Senate Judiciary Committee in conducting the hearing on Mrs. Ginsburg's nomination did not press her on a number of matters—for example, her outrageously simplistic and callous position on abortion. The lady used a great deal of doubletalk and, sad to say, the Judiciary Committee let her get by with it.

Mr. President, I did not find one syllable of challenge by any member of the Judiciary Committee to this outrageous oversimplification by a nominee whose demeanor appeared to be one of amused tolerance of Senators too timid to ask questions that needed to be asked. Why, Mr. President, in the name of God did someone not ask, "But, Mrs. Ginsburg, what about that unborn innocent and helpless child's right to be left alone, that child who is about to be destroyed because of specious reasoning by people like Ruth Bader Ginsburg?"

Mrs. Ginsburg also made such unchallenged declarations as that the Hyde amendment is unconstitutional;

that the implication—that went unchallenged—was that, as a member of the Supreme Court, she is likely to uphold the homosexual agenda; and, three, the States should be required to pay for abortions.

There were other such remarkable assertions. But the able Senator from Pennsylvania, Mr. SPECTER, did put it aptly when he said:

> I'm not suggesting that Judge Ginsburg will be defeated, or that she should be, but I am suggesting that her coronation in advance is irresponsible.

And that is putting it mildly, Mr. President.

Let me emphasize, in conclusion, Mr. President, that I hold no personal animus for Mrs. Ginsburg. But based on what she has said, and what she clearly meant, I cannot support her nomination. She will be confirmed, yes. And I may be the only Senator opposing her. But I pray that as a sitting Justice of the Supreme Court, she will rethink some of her positions.

Mr. President, I ask unanimous consent that two items be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COALITIONS FOR AMERICA,
Washington, DC, July 23, 1993.

To: Interested parties.
From: Thomas L. Jipping, J.D., Legal Affairs Analyst.

Judge Ruth Bader Ginsburg told the Senate Judiciary Committee on July 20 that her nomination should be evaluated on the basis of her 34-year written record. That record provides a solid, and perhaps even compelling, basis for Senators to vote against her nomination. First, she believes courts should make policy and implement judges' own social vision. Second, her social vision is very liberal. Third, her supporters believe she will work to implement that vision on the Supreme Court.

I. JUDGE GINSBURG BELIEVES THAT COURTS SHOULD MAKE POLICY AND IMPLEMENT JUDGES' OWN SOCIAL VISION

She approves of courts changing their interpretation of the Constitution because of "a growing comprehension by jurists of a pervasive change in society at large."[1]

She approves of instances where "[p]ervasive social changes" undermined previous Supreme Court decisions she felt impeded women's right.[2]

She approves of cases where the Supreme Court "has creatively interpreted clauses of the Constitution * * * to accommodate a modern vision" of society.[3]

She approves of "[b]oldly dynamic interpretation, departing radically from the original understanding" to achieve certain results.[4]

She believes courts should be restrained only when legislatures are activist.[5]

She believes courts should "repair" or "rewrite" unconstitutional legislation to reach desirable results rather than striking it down and letting legislatures do the legislating.[6]

She testified at her hearing that courts should sometimes act as "interim legislatures."

She believes factors that "tug judges toward the middle" on appellate courts are not present on the Supreme Court, which faces "grand constitutional questions."[7]

II. JUDGE GINSBURG'S SOCIAL VISION IS EXTREMELY LIBERAL

Judge Ginsburg served on the national board of the ACLU when it adopted positions opposing any restrictions on pornography (including child pornography), opposing any restrictions on prostitution, and opposing the criminalization of adult/child sex.

Judge Ginsburg testified during her hearing that she opposes discrimination on the basis of sexual preference.

Judge Ginsburg has written that the Supreme Court's decisions that the Constitution does not require the public funding of abortion are "incongruous"[8] and represent the "[m]ost unsettling of the losses" for women's rights.[9]

Judge Ginsburg co-authored a report for the U.S. Commission on Civil Rights purporting to identify "Federal laws which allow implicit or explicit sex-based discrimination" and offering recommendations.[10] Her social vision, as outlined in this report, includes:

Drafting women,[11] and sending them into combat.[12]

Legalizing prostitution, which she believes is protected by the Constitution.[13]

Lowering the age of consent for sexual acts to 12 years.[14]

Terminating all public financial support of 4-H Boys and Girls Clubs,[15] Boy Scouts, Girl Scouts, Boys' Clubs of America, Big Brothers of America, and other organizations until they open their membership to both sexes, change their name by using only sex-neutral language, and purging any activities and purposes that "perpetuate sex-role stereotypes."[16]

Single-sex prisons.[17]

Replacing fraternities and sororities at colleges and universities with single-sex "social societies."[18]

Constitutional protection of bigamy.[19]

Judge Ginsburg even included the statute establishing Mother's Day and Father's Day as separate holidays as one that allows "implicit or explicit sex-based discrimination" though did not offer a specific recommendation for correcting this problem.[20]

III. JUDGE GINSBURG'S ALLIES AND FRIENDS BELIEVE SHE WILL IMPLEMENT HER SOCIAL VISION ON THE SUPREME COURT

On July 22, the woman who replaced Judge Ginsburg as director of the ACLU's Women's Rights Project told PBS that Judge Ginsburg has a definite social vision and will have no restraints on implementing that vision when she gets on the Supreme Court.

On July 20, Eleanor Homes Norton, the District of Columbia's congressional delegate, introduced Judge Ginsburg to the Judiciary Committee and stated that Judge Ginsburg would make great strides for women's rights on the Supreme Court just as she had while an advocate and scholar.

The left-wing Alliance for Justice asserts that any prediction that Judge Ginsburg will be a moderate member of the Supreme Court is "at best premature."[21] Indeed, the Alliance believes that "it is the battles she fought prior to her service on the bench that portend" the kind of Supreme Court Justice she will be.[22]

IV. CONCLUSION

Judge Ginsburg said her nomination should be evaluated on the written record, supplemented by her testimony before the Judiciary Committee. By that standard, there is ample ground for opposing the appointment of this judicial activist to the Supreme Court. She takes a fundamental political approach to the law, believing that courts can and should work to implement judges' social vision. Her own social vision—the one she will enforce on the Supreme Court—is extremely liberal. Her allies and supporters believe that she will in fact work, in the unconstrained environment on the Supreme Court, to implement that vision in much the same fashion that she pursued her agenda as an advocate.

Any Senator claiming the label "conservative" or even "moderate" will find it difficult to explain voting for someone with such a clearly activist record. Judge Ginsburg's record is more hostile to conservatives than Judge David Souter's record was to liberals. The vote on Souter's 1990 nomination was 90–9.

FOOTNOTES

[1] Ginsburg, "Remarks on Women Becoming Part of the Constitution," 6 Law & Inequality 17,20 (1988).

[2] Ginsburg, "Sex Discrimination," in L. Levy, K. Karst & D. Mahoney (eds.), Encyclopedia of the American Constitution (1986), at 1667.

[3] Id. at 1673.

[4] Ginsburg, "Sexual Equality Under the Fourteenth and Equal Rights Amendments," 1979 Washington University Law Quarterly 161,161.

[5] Ginsburg, "Inviting Judicial Activism: A 'Liberal' or 'Conservative' Technique?" 15 Georgia Law Review 539,550 (1981).

[6] Ginsburg, "Some Thoughts on Judicial Authority to Repair Unconstitutional Legislation," 28 Cleveland State Law Review 301 (1979).

[7] Ginsburg, "Styles of Collegial Judging: One Judge's Perspective," Federal Bar News and Journal, March/April 1992, at 200.

[8] Ginsburg, "Some Thoughts on Autonomy and Equality in Relation to Roe v. Wade," 63 North Carolina Law Review 373,386 (1985).

[9] Ginsburg, supra note 2, at 224.

[10] U.S. Commission on Civil Rights, Sex Bias in the U.S. Code (April 1977). The report states that "the initial research and draft of this report was developed by contractors, Ruth Bader Ginsburg and Brenda Feigen Fasteau." Id. at iii. Fasteau is a former director of the American Civil Liberties Union's Women's Rights Project.

[11] Id. at 218.

[12] Id. at 26.

[13] Id. at 97.

[14] Id. at 102.

[15] Id. at 138.

[16] Id. at 148.

[17] Id. at 101.

[18] Id. at 169.

[19] Id. at 195–96.

[20] Id. at 146.

[21] Alliance for Justice, Report on the Nomination of Judge Ruth Bader Ginsburg to the United States Supreme Court, at 5.

[22] Id. at 2.

[From the Family Research Council, Washington, DC]

JUDGE RUTH BADER GINSBURG: GROUNDS FOR QUESTIONS

(By David M. Wagner, Director of Legal Policy)

In choosing Appeals Court Judge Ruth Bader Ginsburg for the U.S. Supreme Court, President Clinton has achieved a triple goal: An easy confirmation process; political credit for selecting a "moderate"; and a probably reliable liberal vote on key social issues, with the legal acumen to make her opinions influential.

In deciding whether to oppose Judge Ginsburg's confirmation, conservative and pro-family groups have to weigh how much worse Clinton's selection could have been, against how much damage can be done by a careful liberal jurist with a non-negotiable commitment to far-reaching, if slow-paced, social change.

Footnotes appear at end of article.

This paper will set forth some areas of Judge Ginsburg's record that should provide material for questioning when she appears before the Senate Judiciary Committee, or for the casting of an informed vote by members of the Senate.

GINSBURG ON ABORTION

It is being said that Judge Ginsburg has "criticized Roe v. Wade." Technically this is true; in fact, her most recent "criticism" of Roe came in a speech delivered just last March, shortly before Justice Byron White announced his intention to resign. That speech may well account for the absence of Judge Ginsburg's name from most observers' lists of possible nominees throughout April and May.

However, in these "critiques" of Roe there is actually less than meets the eye. Judge Ginsburg's criticisms of Roe are basically two:

1. By laying down a framework for all subsequent abortion law, the Court in Roe forced a more rapid reform than most state legislatures were willing to allow, thereby strengthening the right-to-life movement. Had the Court been content merely to strike down the Texas statute that was at issue in Roe, without announcing the rigid "trimester" system, the pro-abortion drift of the state legislatures would have continued without interruption. In other words, Judge Ginsburg criticizes Roe for being a less effective vehicle for abortion rights than it could have been.

In her recent speech she noted that Roe "halted a political process that was moving in a reform direction and thereby, I believe, prolonged divisiveness and deferred stable settlement of the issue."[1] And she wrote in a 1990 article: "There was at the time [of Roe], as Justice Blackmun noted in his opinion, a trend 'toward liberalization of the abortion statutes.' Had the Court written smaller and shorter, the legislative trend might have continued in the direction in which it was clearly headed in the early 1970s."[2]

Furthermore, as she noted in a 1985 article based on a 1984 speech: "The sweep and detail of the opinion stimulated the mobilization of a right-to-life movement and an attendant reaction in Congress and state legislatures."[3]

2. Roe grounded the abortion right on personal privacy and autonomy, rather than on sex discrimination. In contrast, Judge Ginsburg believes the Court should have grounded the abortion right on the theory that, since only women become pregnant, all restrictions on abortion discriminate on the basis of sex, and therefore violate the Equal Protection Clause of the Fourteenth Amendment. Closely allied to this legal argument is the overtly political argument that abortion is necessary to the civic and professional equality of women.[4]

Displaying her penchant for announcing her own views by quoting approvingly from others, Judge Ginsburg wrote in 1985:

"Professor Paul Freund explained where he thought the Court went astray in Roe, and I agree with his statement. The Court properly invalidated the Texas proscription, he indicated, because '[a] law that absolutely made criminal all kinds and forms of abortion could not stand up; it is not a reasonable accommodation of interests.' * * *

"I commented at the outset that I believe the Court presented an incomplete justification for its action. Academic criticism of Roe, charging the Court with reading its own values into the due process clause, might have been less pointed had the Court placed the woman alone, rather than the woman tied to her physician, at the center of its attention. Professor Karst's commentary is indicative of the perspective not developed in the High Court's opinion: he solidly linked abortion prohibitions with discrimination against women. The issue in Roe, he wrote, deeply touched and concerned 'women's position in society in relation to men.'[5]"

It should be particularly noted that, while some abortion regulations survive scrutiny under the Roe test as modified by Planned Parenthood v. Casey,[6] Judge Ginsburg's equal protection analysis would strike down any and all abortion regulations (though a ban on sex-selection abortion might present an arguable question for her), on the theory that any and all abortion regulations create unequal burdens on women and men.

Judge Ginsburg also points out that her theory would even require striking down the Hyde Amendment—i.e., it would require the federal government to fund abortions. She wrote: "If the Court had acknowledged a woman's equality aspect, not simply a patient-physician autonomy dimension to the abortion issue, a majority might perhaps have seen the public assistance cases as instances in which, borrowing a phrase from Justice Stevens, the sovereign had violated its 'duty to govern impartially.'"[7]

Thus, just at the time the Clinton administration is fine-tuning its health care plan and proposing to include abortion coverage in it, the court is getting a new Justice who believes the Constitution requires the federal government to fund abortion.

GINSBURG ON JUDICIAL METHOD

Another claim made about Judge Ginsburg is that she is a believer in, and a practitioner of, judicial restraint. But as Thomas Jipping of the Free Congress Foundation points out, one must distinguish between judicial restraint as a principle and judicial restraint as a style.

Judge Ginsburg's record includes many praiseworthy instances of judicial restraint. For instance, in a case involving a homosexual serviceman who argued that the military's policy on homosexuals violated his constitutional right to privacy, Judge Ginsburg concurred with her D.C. Circuit colleagues in turning down the plaintiff's petition for en banc review of the panel opinion rejecting his claim.[8] At that time, the Supreme Court had not yet definitively ruled on whether homosexual acts were covered by the constitutional right of privacy,[9] so in theory, Judge Ginsburg could have voted in favor of making some new law in this area. She did not do so. Judicial restraint is clearly part of her judicial style.

However, her career as the chief activist-litigator for the ACLU's Women's Rights Project was dedicated to persuading the courts that the language of the 14th Amendment requires a social revolution beyond anything that those who wrote and ratified the 14th Amendment dreamed of. This is the essence of judicial activism—the theory that the words of the Constitution are blank check to be filled in by judges, in light of whatever understanding they have of what contemporary thinking demands or what contemporary society needs. This form of judging necessarily entails the substitution of the values of federal judges—which for demographic reasons tend to be the values of the "knowledge class"—for the values of the rank and file of the American people.

In a brief paper given as part of a Federalist Society conference,[10] Judge Ginsburg defended the Supreme Court's sex-equality decisions of the 1970s primarily by pointing out how overwhelmingly the Burger Court adopted the view of the Equal Protection Clause that Ginsburg, as advocate, had promoted, and by suggesting how unjust would be the predicament of women today had those decisions not come down the way they did. Apparently her view is that judicial activism (at least where sex equality is concerned) is justified by its high degree of support on the Court, and by its good results.

In her 1981 Georgia Law Review article,[11] Judge Ginsburg seeks to debunk the view that judicial activism is exclusively a tool of political liberals, by pointing out instances in which conservatives have repaired to the courtroom to seek to reverse a legislative or executive outcome, e.g. over the Panama Canal issue, and over President Carter's termination of the mutual defense treaty with Taiwan.[12]

The article concludes with a solemn warning against "attempts to politicize the judiciary,"[13] in which Judge Ginsburg's prime exhibit is the testimony given by a conservative organization, United Families of America, in opposition to her own confirmation for her present seat on the Court of Appeals for the D.C. Circuit.[14]

UFA had suggested to the Judiciary Committee a list of questions for judicial nominees. Some of these questions were such that, in our view, a responsible nominee would have to decline to answer them, because to answer would be to make a premature commitment to a given outcome on an issue likely to come before the court.[15] The view that demanding outcome commitments from a judicial nominee amounts to an unacceptable politicization of the judiciary is bedrock conservative legal doctrine—a point that Judge Ginsburg hammers home by backing up her critique of the UFA questions with a quote from then-Justice Rehnquist.[16]

But before we give Judge Ginsburg a standing ovation and a leatherbound copy of The Federalist Papers, one might ask: did the politicization of the judiciary start with UFA's little list? From the vantage point of 1981, after two decades in which American society was significantly remade by judicial decisions reading the liberal agenda into the Fourteenth Amendment, is it not a touch disingenuous to imply that the threat of a politicized judiciary comes primarily from the conservatives? Especially when one happens to have been the legal architect of a portion of the judicial revolution? Does not this sort of argument suggest the presence of an unconfessed but powerful commitment to the liberal agenda?

The evidence suggests that judicial restraint is part of Judge Ginsburg's judicial style, but not part of her judicial philosophy; that she is cautious in her rulings, but does not believe that the judiciary has any overarching obligation to refrain from reading liberalism into the Constitution.

GINSBURG, THE ACLU, AND STATUTORY RAPE

According to a transcript obtained and quoted by the conservative weekly Human Events, the ACLU, honing down its position on homosexual rights at a board meeting in December 1975, adopted the view that the state has a legitimate interest in "protecting children from sexual abuse, an interest underlying some laws concerned with sexual conduct between adults and minors."[17]

This was substitute language. The first draft had articulated the state's interest in somewhat stronger terms: "[t]he state has a legitimate interest in controlling sexual behavior between adults and minors by criminal sanctions."[18]

Footnotes appear at end of article.

The change is explained in the transcript as follows:

"In the second paragraph of the policy statement, dealing with relations between adults and minors, Ruth Bader Ginsburg made a motion to eliminate the sentence reading: 'The state has a legitimate interest in controlling sexual behavior between adults and minors by criminal sanctions.' She argued that this implied approval of statutory rape laws, which are of questionable constitutionality.[19]"

Assuming that the scribe faithfully recorded then-Prof. Ginsburg's objection to the stronger anti-pederastly language, the transcript still does not tell us what her constitutional argument against statutory rape laws was or is. But given the predominance of the theme of sex-equality in her constitutional writings, it is not fanciful to assume that she objects to the different ages of consent for girls and for boys that are typically found in such statutes. But surely such "discrimination" reflects a judgment by the legislatures that young women are more in need of protection against what we would now call sexual harassment than young men are. Is this an unconstitutional policy judgment, requiring that our statutory rape laws be overthrown?

By no stretch can then-Prof. Ginsburg's intervention here be read as supportive of pedophilia. As noted, she was concerned with an appearance of endorsement for statutory rape laws that she considered unconstitutional.

Nonetheless, the Judiciary Committee should ask her to clarify the views reflected in this transcript.

GINSBURG AS FEMINIST BLUE-PENCILLER

Attention has already been called to Judge Ginsburg's preference for adopting the statements of others, rather than announcing her views in her own words. Yet, despite the debt that she implicitly acknowledges to those whom she approvingly quotes, she nonetheless feels that their choice of words is in need ot updating, in light of the rules laid down by "political corrections."

Thus, in her article in the Georgia Law Review,[20] she quotes from Judge Carl McGowan on the subject of legislators becoming plaintiffs. Judge McGowan describes this sort of plaintiff as "a legislator who has failed to persuade his colleagues."[21] In Judge Ginsburg's quotation of this line, however, the words "or her" have been added in brackets between the word "his" and the word "colleague."[22]

Likewise, she quotes Judge Irving L. Goldberg defending judicial activism in some circumstances. As quoted by Judge Ginsburg, Judge Goldberg said that "the [judicial] fire[fighters] must respond to all calls."[23] Judge Ginsburg has added the word "judicial" in brackets, just to clarify that Judge Goldberg was invoking a metaphor for judging rather than defining the duties of fire departments.

Thus, in order to steal a glance at the original phrase as written by Judge Goldberg, the eye is inclined to suppress the word "judicial". Continuing with this procedure, the eye then also suppresses the word "fighters," since this is also in brackets. We therefore seem to have Judge Goldberg saying "the fire must respond to all calls," which makes very little sense. But then, one realizes shrewdly that Judge Ginsburg is not adding the word "fighters," but changing "firemen" to "firefighters."

A few pages further on, faced with a politically incorrect usage by such an exalted figure as Supreme Court Justice Felix Frankfurter, the blue pencil hesitates. The result is that we find Justice Frankfurter quoted as saying: "There is a good deal of shallow talk that the judicial robe does not change the man [and today we would add, or woman] within it * * *"[24]

Perhaps it is the appeals court judge's deeply engrained respect for "Higher Authority"[25] that keeps Judge Ginsburg from simply dropping "[or woman]" straight into the text, without the patronizing apology for the benighted era in which Justice Frankfurter lived and which he was evidently unable to transcend. (Further on in the passage, Judge Ginsburg does in fact drop in an unadorned "[or women]", when Frankfurter discussed how "men are loyal to the obligation with which they are entrusted."[26]

Only once in this article does Judge Ginsburg forgo an opportunity to correct a politically incorrect usage. This lapse of vigilance occurs when she quotes from Gilbert and Sullivan's opera Iolanthe; specifically, from Private Willis' observation that the brainlessness of most modern members of Parliament may be a good thing after all, because:

"* * * [the prospect of] a lot of dull MPs
In close proximity,
All thinking for themselves, is what
No man can bear with equanimity.[27]"

The judge's decision to withhold her legislative hand at this point is probably due less to reverence for fellow-lawyer W. S. Gilbert's text than to a commendable regard for scansion.

There are many possible views on the propriety of enforcing gender-neutral language. Our only point here is that it takes a high degree of partisan zeal to deny to a peer the right to choose his own words, and to insist instead that everyone's usage be made to conform to a given ideological imperative, however noble. A conservative jurist exhibiting similar zeal for his own cause would be subjected, both in the media and by the Senate Judiciary Committee, to a searching inquiry as to his judicial temperament.

CONCLUSION

Let us return to the passage by Justice Frankfurter, quoted by Judge Ginsburg in her Georgia Law Review article. It reads (without Judge Ginsburg's edits):

"There is a good deal of shallow talk that the judicial robe does not change the man within it. It does. The fact is that on the whole judges do lay aside private views in discharging their judicial functions. This is achieved through training, professional habits, self-discipline and that fortunate alchemy by which men are loyal to the obligation with which they are entrusted.[28]"

To the extent that Judge Ginsburg is here engaging in her well-tested practice of stating her own views through quotation of others, we take heart. Even the most activist of attorneys is capable of making the transition to the very different mindset of the judge, and Judge Ginsburg's own career is an example of the transition.

Nonetheless, it would be an abdication of a grave responsibility if Senators, especially those of the opposition party, fail to ask her questions about, inter alia:

What regulations of abortion, if any, would survive a consistent application of the test she outlined in her North Carolina Law Review article (note: she could answer this without committing herself to using that test as a Supreme Court Justice);

What the original intent behind the Fourteenth Amendment was, and how, if at all, this intent should influence constitutional judging today;

What the principles that undergird judicial restraint are, and how she has or has not lived up to those principles.

Far from a fire-breathing ideologue of the left, but a committed liberal nonetheless—that is our impression of Judge Ginsburg, based on her writings, and that is how we expect she will appear after questioning by the Judiciary Committee. The President who appointed her, and the Senators who will probably vote to confirm her, should receive both full credit and full blame for what they are presently rushing to do.

FOOTNOTES

[1] *Ginsburg Lament Roe's Lack of Restraint*, LEGAL TIMES, April 5, 1993, at 11.

[2] Ginsburg, *On Muteness, Confidence, and Collegiality: A Response to Professor Nagel*, 61 U. OF COLO. L.REV. 715, 718–719 (1990).

[3] Ginsburg, *Some Thoughts on Autonomy and Equality in Relation to Roe v. Wade*, 63 NORTH CAROLINA LAW REVIEW 375, 381 (1985).

[4] A majority of the present Court has already endorsed this view; *see* Planned Parenthood v. Casey, 11 S.Ct. 2791, 2809 (1992).

[5] Ginsburg, *supra* n.3, at 381, citing Freund, *Storms over the Supreme Court*, 69 A.B.A. J. 1474, 1480 (1983) (adapted from inaugural Harold Leventhal Lecture at Columbia Law School), and Karst, *Foreword: Equal Citizenship Under the Fourteenth Amendment*, 91 HARV.L.REV. 1, 53–59 (1977), at 58.

[6] *Casey, supra* n.4.

[7] Ginsburg, *supra* n.3, at 385 (citing *Harris v. McRae*, 448 U.S. at 357 [Stevens, J., dissenting]).

[8] Dronenburg v. Zech, 746 F.2d 1579 (1984) (order on appellant's suggestion for rehearing *en banc*).

[9] *See* Doe v. Commonwealth's Attorney, 425 U.S. 901, 96 S.Ct. 1489 (1976), *aff'g mem.* 403 F. Supp. 1199 (E.D. Va. 1975). Bowers v. Hardwick, 478 U.S. 186, 106 S.Ct. 2841 (1986), had not yet been decided at the time of the *Dronenburg* litigation.

[10] Ginsburg, *Interpretations of the Equal Protection Clause*, 9 HARV.J.L.&PUB.POL. 43 (1986). The Federalist Society is a nationwide organization of conservative and libertarian lawyers, law students, and law professors. Greatly to her credit, Judge Ginsburg has been a frequent participant in conferences sponsored by the Federalist Society and other conservative groups.

[11] Ginsburg, *Inviting Judicial Activism: a "Liberal" or "Conservative" Technique?*, 15 GEORGIA L.REV. 539 (1981).

[12] *Id.* at 542.

[13] *Id.* 553.

[14] *Id.* at 553–4, citing: Hearing before the Senate Committee on the Judiciary on the Nomination of Ruth Bader Ginsburg for United States Circuit Judge, Statement of Sandy MacDonald on behalf of United Families of America (June 4, 1980) (typescript copy).

[15] Id. Examples of overly-specific questions on the UFA list were questions on busing, parental consent for abortion, and rescission of ERA ratification. On the other hand, at least one UFA question cited by Judge Ginsburg—"What principles ought federal judges to follow in deciding social policy cases?"—can and should be answered fully by even the most scrupulous nominee.

[16] Id. at 554–5, citing Rehnquist, Act Well Your Part: Therein all Honor Lies, 7 PEPPERDINE LAW REVIEW 227, 229–30 (1980).

[17] How "Moderate" is Ruth Ginsburg?, HUMAN EVENTS, June 26, 1993, at 1.

[18] Id.

[19] Id. at 17.

[20] Ginsburg, supra n. 11.

[21] Id. at 542, citing McGowan, Congressmen in Court: The New Plaintiffs, id. at 241.

[22] Id. at 542.

[23] Id. at 547, citing Reynolds v. Allstate Insurance Co., 629 F.2d 1111, 1112 (5th Cir. 1980).

[24] Id. at 555, citing Public Utils. Comm'n v. Pollak, 343 U.S. 451, 466 (1952).

[25] See Dronenburg v. Zech, 746 F.2d. 1579, 1581, n. 1 (D.C. Cir., denial of request for rehearing en banc, 1984) (Ginsburg, J., concurring).

[26] Supra n. 15.

[27] Id. at 557 (cited in prose, beneath indented passage). See GILBERT & SULLIVAN, IOLANTHE, Act II (1882) (Aria: "When All Night Long").

[28] Supra n. 15.

Mr. HELMS. Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BIDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. WOFFORD). Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

DEPARTMENT OF JUSTICE

NOMINATION OF ELEANOR ACHESON TO BE AN ASSISTANT ATTORNEY GENERAL

Mr. BIDEN. Mr. President, on behalf of the majority leader, I ask unanimous consent that the Senate proceed to the nomination of Eleanor Acheson; that any statements be inserted in the RECORD as if read; that time on both sides by yielded back; and that the nominee be confirmed. That is my unanimous-consent request, and this request has been cleared by the minority.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nomination was considered and confirmed as follows:

DEPARTMENT OF JUSTICE

Eleanor Acheson, of Massachusetts, to be an Assistant Attorney General.

Mr. PRESSLER. Mr. President, today, we take up the nomination of Eleanor Acheson, who has been nominated to be Assistant Attorney General for Policy Development. Until recently, Ms. Acheson belonged to an exclusive club in the Boston area perceived by some to discriminate in their admissions practices. Let me make one point very, very clear: it has never been my intent to condemn either Ms. Acheson or the club to which she belonged. Indeed, I have not held up her nomination for even 1 day. However, as a new member on the Judiciary Committee, I am puzzled as to what standard to apply to this nomination with respect to her membership in this club.

Mr. President, I see the distinguished chairman of the Judiciary Committee, Senator BIDEN, on the floor and would like to discuss with him the issue of membership of judicial and executive branch nominees in clubs which discriminate, or which are alleged to discriminate. This issue is not new. Many times in the past, the Judiciary Committee has wrestled with this issue, but the issue is far from settled. Recent nominations demonstrate that club membership is an issue which will not go away and needs additional attention.

In August 1990, the Judiciary Committee unanimously adopted a resolution concerning membership in clubs that engage in discrimination. The resolution applies to clubs that intentionally discriminate on the basis of race, color, religion, sex, disability, or national origin. Membership in such discriminatory clubs is considered inappropriate for persons who desire to serve in the Federal judiciary or the Department of Justice because such club membership conflicts with the appearance of impartiality required of such persons. However, membership in a discriminatory club can be mitigated if the nominee is actively engaged in bona fide efforts to eliminate the discriminatory practices.

The resolution applies to clubs that intentionally discriminate. Therefore, before the provisions of the resolution can be invoked, an initial showing of intentional discrimination must be made. However, the term "intentionally discriminate" is not defined. The resolution begs the question as to the meaning of this term. Senators are left without further guidance to make the determination as to whether or not a given club is discriminatory. Therein lies the rub. As a result, it is easy for a Senator to use an otherwise nonpartisan resolution for partisan political purposes.

As I said earlier, I was not a member of the committee at the time of its adoption. I did not join until this year. However, since the passage of the resolution, several nominees—some Republicans, some Democrats—who belonged to allegedly discriminatory clubs have come before the committee. I am concerned that the committee treat all nominees consistently.

My intent is not to revisit past nomination battles. Nor do I wish to start a debate about past and present nominees. Committee standards should be applied uniformly. My goal today is to clarify what the rules are for future nominees. What message are we sending them? Under what circumstances will their membership in a club be used against them? What behavior is appropriate? When must they resign?

Mr. President, could the chairman explain for me the standard to be applied to judicial nominees who have a club problem?

Mr. BIDEN. Mr. President, let me review for the Senator from South Dakota the way the Judiciary Committee has handled the issue of discriminatory clubs.

In August 1990, the Judiciary Committee unanimously passed a resolution stating that it was the sense of the committee that it was inappropriate for a nominee to maintain membership in:

> Clubs where business is conducted that by policy or practice intentionally discriminate on the basis of race, color, religion, sex, disability or national origin.

The resolution states that such membership is inappropriate: "Unless such persons are actively engaged in bona fide efforts to eliminate the discriminatory practices.

In determining whether a club intentionally discriminates, the committee has asked the following types of questions:

1. Do the club's by-laws contain provisions that limit privileges of members based upon their race, color, religion, sex, disability or national origin?
2. Does the club intentionally discriminate through its practices? For example, does it discriminate in its guest policy?
3. Next we ask whether any African-Americans, women or other minorities have applied for, and been turned down for, membership and the reasons therefore?
4. Also relevant would be whether the club has indicated any willingness to accept African-Americans or other minorities as members.

Once the committee investigators compile the information, it is circulated to members of the committee who then determine whether they are concerned about the nominee's membership in the club.

Of course, any Senator is free to make a decision based on whatever factors he or she wishes to take into account, subject only to the constraints of the Constitution, Federal law, the Senate rules, and the dictates of that Senator's conscience. In particular, the committee's resolution states that a nominee's "Membership is an important factor which Senators should consider in evaluating such persons, in conjunction with other factors which may reflect upon their fitness and ability."

The resolution does not, and indeed it cannot, require a Senator to vote in accordance with its terms.

One final note. Senator GRASSLEY, in an effort to avoid risking setting up some elaborate title VII-type regime that we are clearly unable to fairly administer suggested, and the committee agreed, that questions of intentional discrimination be determined by review of a club's policy and practices.

Mr. PRESSLER. Mr. President, I thank the chairman for his explanation. It is helpful to me. However, let me ask Senator BIDEN another question.

During the 1991 confirmation hearing of a nominee who belonged to an allegedly discriminatory club, one Member on your side of the aisle said that the committee's investigation of the nominee's club "suggests that it had a longstanding practice of discrimination against blacks and Jews, or at the very least there was a widespread perception of such discrimination." Another Senator on your side of the aisle apparently shared this view. When voting against that nominee, he stated, "it is the community perception, the appearance of justice, which is the cornerstone of both the ABA canon and the Judiciary Committee resolution on discriminatory clubs."

These remarks about the perception of discrimination by the community trouble me. They imply that even if no actual evidence of intentional discrimination is demonstrated, a nominee's membership in a club perceived to be discriminatory could nonetheless be used as a reason to vote against the nominee. If that is the case, then the committee's resolution is rather useless and we are right back to politics as usual.

Mr. President, let me ask the committee chairman whether it is his belief that the mere perception of discrimination, without evidence of intentional discrimination, is sufficient proof to trigger the provisions of the resolution?

Mr. BIDEN. In my view, that a club is perceived as being discriminatory does not, in and of itself, disqualify anyone under the terms of the committee resolution. Such a perception can be a clue that a club's policies and practices need to be scrutinized by the committee—but perception is not, in and of itself, disqualifying.

Again in my view, the nominee referred to by the Senator from South Dakota was not rejected by the Judiciary Committee solely because of his club membership. Far from it. He was denied a Federal Appeals Court position because, in my view and in the view of other members of the committee, he demonstrated a pattern of insensitivity to racial issues and an alarming disregard for precedent. I recognize that several other committee members strongly disagree with those criticisms of the nominee.

However, I do not need to review the details of that case. The reasons my colleagues and I voted against the nominee are clearly explained in the RECORD.

Mr. PRESSLER. So, if I understand the chairman correctly, he is saying that perception alone is not enough to trigger the resolution.

Mr. BIDEN. In my view, perception by members of the community that the club in question engages in discrimination is not, in and of itself, enough to satisfy the club's resolution provision regarding intentional discrimination.

Mr. PRESSLER. In light of the chairman's response, would that mean that perception, in and of itself, does not trigger a thorough investigation of a club's policies and practices?

Mr. BIDEN. As long as this Senator is chairman, the Judiciary Committee will regard all indications of discrimination with the seriousness they deserve. The committee will fully investigate all such allegations which are brought to its attention. However, if the Senator from South Dakota is asking whether witnesses will always be invited to testify whenever any allegation of discrimination is made against a club, the answer is "No."

Mr. PRESSLER. Mr. President, let me pose another question by way of a hypothetical: if a nominee who were to come before the committee belonged to a club whose bylaws contained discriminatory provisions but the nominee was actively engaged in good faith efforts to eliminate the discriminatory provision, if the nominee had been unable to accomplish the change at the time of his or her nomination, would the nominee be expected to resign from the club?

Mr. BIDEN. It is difficult to respond absent additional information about the club's practices. There is no hard and fast answer to the question. As I stated earlier, the resolution is a guide. Each Senator would have to determine whether the nominee truly did engage in good faith efforts to remedy intentional discrimination at the club. If the determination is that the nominee is making a bona fide effort, but is thus far unsuccessful, each Senator would have to accord whatever weight each feels is appropriate to that mitigating factor. The resolution does not dictate with clarity or specificity circumstances under which a nominee would be required to resign from a discriminatory club. The resolution only states that "membership in a discriminatory club is an important factor which Senators should consider in evaluating such persons, in conjunction with other factors which may reflect upon their fitness and ability."

Perhaps an example of an analogous situation would be helpful. Recently, a nominee was confirmed by the Judiciary Committee and the Senate and now sits as a Federal District Court judge. He belonged to an all male aviation fraternity, which although technically not within the ambit of the club's resolution, had a troubling provision in its "code".

This code provision made it clear that women and non-pilots were not allowed to attend organization meetings or parties under any circumstances other than in the capacity of professional entertainers.

Although this individual was unaware of the specific bylaw provision until just before the hearing, at his hearing he was asked—and agreed—to resign his membership from the club.

Mr. PRESSLER. Again, I thank the chairman. His comments are helpful to me in understanding the standard to apply in these cases. Our discussion today has clarified how the rules would apply to clubs which have the perception of discrimination but no evidence of intentional discrimination. To ensure that the committee's standards are applied to nominees in a nonpartisan manner, I stand ready to work with the chairman or any other committee member to further clarify other problem areas regarding this issue.

Mr. METZENBAUM. Mr. President, I rise to support the nomination of Eleanor Acheson to be Assistant Attorney General for Policy Development at the U.S. Department of Justice.

Ms. Acheson is highly qualified to hold this important post and should be confirmed by this body without delay.

It is clear to me that Ms. Acheson developed a sharp legal mind through her work as a civil litigator in private practice. However, what impressed me the most about Ms. Acheson is that she devoted herself to the kinds of pro bono legal work that made the city of Boston a better place to live, despite the heavy demands of private practice.

I was particularly impressed with Ms. Acheson's 12 years of work as counsel and a member of the board of directors for Women, Inc., a residential rehabilitation program, for drug and alcohol addicted women and their children. In addition, Ms. Acheson actively recruited other lawyers to serve the community. She received an award from the Boston Bar Association in 1991 for initiating a pro bono program for lawyers at her firm.

Ms. Acheson's commitment to law and to her community will serve her well as head of the office of policy development. This office helps to select Federal judges and U.S. attorneys. It also plays a crucial role in developing and advancing the Department's policy initiatives. That means that Ms. Acheson will be working with experts both inside and outside the Department of Justice to develop the Department's response to some of the most pressing problems facing this country.

One of the most difficult tasks Ms. Acheson will face is developing innovative crime prevention programs that stress prevention and early intervention. As sponsor of the Brady handgun control bill and a ban on semiautomatic assault weapons, I appreciate keenly the importance of developing sensible programs to prevent our Nation's youth from turning to crime and violence as a way of life. I believe that Ms. Acheson's work on behalf of the victims of crime and violence will give her a real-world view of how to tackle those very difficult problems.

I am aware that Ms. Acheson has been criticized by some for belonging to a private club in Boston that currently has no black members. Whatever you think about that criticism, the fact is that it has generated an outpouring of support for Ms. Acheson from the people whose lives she has touched, including many people of color. I was particularly struck by a letter from the president of the Boston chapter of the coalition of 100 Black Women. She wrote:

> I cannot believe there is any question about [Ms. Acheson's] commitment to equality and fairness. This is a woman who has gone to bat for Roxbury Community College as a trustee and many individuals of color in this community. Eldie's list of outstanding contributions in Boston's communities of color go on and on.

I, for one, have no doubt that Ms. Acheson is committed to equal justice for all people regardless of their race. I urge my colleagues to join me in voting to confirm her to be the next Assistant Attorney General for Policy Development at the U.S. Department of Justice.

Mr. KENNEDY. Mr. President, I strongly support the nomination of Eleanor Dean Acheson to be Assistant Attorney General in charge of the Office of Policy Development in the Department of Justice.

Following her graduation from Wellesley College and George Washington University Law School, Ms. Acheson served as a law clerk to Judge Edward Gignoux on the Federal district court in Maine. Since 1974, she has been with the Boston law firm of Ropes & Gray, where she earned an excellent reputation as a skillful, effective, and conscientious attorney and litigator.

Ms. Acheson has also made very significant contributions to the lives of the less fortunate in her community. Since 1987, she has served as a trustee of Roxbury Community College in Boston's African-American community. The president of that college, Dr. Grace Carolyn Brown, wrote to the Judiciary Committee in strong support of Ms. Acheson's nomination and her "continuing commitment to access and quality education for minorities and communities of color."

Ms. Acheson also provided pro bono representation for 12 years to Women, Inc., a residential treatment facility for women suffering from drug or alcohol dependence that serves predominately women of color. And she has been an effective advocate within the Boston Bar for community service by private lawyers. In 1991, Ms. Acheson earned the pro bono award of the Boston Bar Association's Committee on Public Interest Involvement.

Questions were raised by one member of the Judiciary Committee regarding Ms. Acheson's former membership in The Country Club of Brookline. In August 1990, the Judiciary Committee unanimously passed a resolution which I proposed along with several of my colleagues, setting forth the sense of the committee regarding membership in clubs that are alleged to engage in discrimination. That resolution, which took effect in January 1991, provides that:

> It is inappropriate for a person who may be nominated to a position on the federal bench or at the Justice Department to belong to a club where business is done that by policy or practice intentionally discriminates on the basis of race, color, religion, gender, national origin or disability, unless the person is actively involved in good faith efforts to tend the discrimination.

As it does whenever there is an allegation regarding a club membership, the Judiciary Committee investigated the club to BIDEN has reported, the evidence is clear that during the time period at issue the club to which Ms. Acheson belonged did not discriminate.

Ms. Acheson was a member of The Country Club of Brookline from 1985 until she moved to Washington in March to work for the Justice Department. That club has accepted an African-American member, who is now on the waiting list to join, along with other persons who were accepted for membership before he was.

Another African-American, Deval Patrick, a prominent attorney in Boston and a former civil rights lawyer for the NAACP Legal Defense and Educational Fund, has been invited three times to join the club. He wrote to the Judiciary Committee to confirm these facts. His letter states:

> I am familiar with the club, have been a guest there on many occasions, and have even been invited three time to join. As a product of the South Side of Chicago, I still find it difficult to imagine myself as a golfer, and so have chosen to decline. But if I am any indication, the club does not have a commitment to the exclusion of African Americans. Although membership certainly appears to have been rather narrow in the past. I understand that I am not alone among African Americans in having been invited to join.

Mr. Patrick is fully supportive of Ms. Acheson's nomination.

African-Americans have been frequent guests at the club and have reported that they have encountered no discrimination. My office received a letter from Roscoe Trimmier, a partner at the law firm of Ropes & Gray. Mr. Trimmier states:

> I am an African American and longtime resident of Newton and Brookline. I am not aware of any exclusionary policy regarding membership or guest privileges at the Country Club. I have on a number of occasions attended Ropes & Gray office functions and other social gatherings at the Country Club. At no time have I experienced any hostility or felt the least bit uncomfortable in the Club surroundings. Quite the contrary, I have been made to feel most at ease and cordially received by members and non-members alike. I am also aware of several members of the minority community to have used the Club facilities as guests of members and who have reported that they experienced only friendship and hospitality in a congenial atmosphere.

Mr. Trimmier fully supports Ms. Acheson's nomination.

It is true that until 1989, the club admitted women only as associate members, not full members. That policy changed in 1989, and the committee investigators have determined that many women are full members. Ms. Acheson communicated with club officers about the need for changing that policy.

Some have suggested that the Judiciary Committee is applying a double standard to the Acheson nomination. That is sheer nonsense.

President Bush's nominee to be Assistant Attorney General in charge of the Criminal Division, Robert Mueller, was a member of the Country Club of Brookline, when he was confirmed by the Judiciary Committee and the Senate in the fall of 1990. I know Mr. Mueller; he is a talented lawyer, and I was pleased to support his nomination. But there was no criticism of Mr. Mueller's membership in the same club. According to the committee staff, during the past 6 years, many nominees—more than a dozen—who had belonged to clubs with few minorities were confirmed where there was evidence that the club in question did not discriminate.

The President of the National Women's Political Caucus, Harriett Woods, addressed this issue in a letter she wrote to the Judiciary Committee:

> For any Senator to raise the issue of [Ms. Acheson's] associate membership in the Country Club in Brookline is to apply a double standard. At least one earlier male nominee was confirmed by the Senate Judiciary Committee without any criticism of his full and continued membership in the very same club. It is a particularly cynical maneuver to raise such an issue about Eldie because her life demonstrates a deep commitment to minority and women's rights. Her associate membership at Brookline in the late 1980s helped to open up the club to subsequent full membership for women. She supported efforts to increase the number of club members of color.

The National Women's Political Caucus recognized that if there is a double standard being used, it is being used by those who are seeking to cast aspersions on this very talented nominee.

Some have also sought to compare Ms. Acheson's nomination to that of Judge Kenneth Ryskamp to the Court of Appeals for the Eleventh Circuit. The Judiciary Committee defeated Judge Ryskamp's nomination, in part because of his longstanding membership in the Riviera Country Club, which has been repeatedly singled out in the press for its discrimination against Jews, blacks, and Hispanics.

Sitting Federal judges have long been barred from being members of clubs that practice invidious discrimination. The Coral Gables City Commission refused to hold public functions at the club, at a time when Ryskamp was a sitting Federal judge and a member of the club. Judge Ryskamp resigned the week before his 1991 confirmation hearing, at a time when the club still had no black members.

The committee also defeated Judge Ryskamp's nomination because of a number of highly insensitive comments he made, both on the bench and in connection with his confirmation. He said to the plaintiff in a civil rights case, who had had his testicles brutally torn by police dogs:

> It might not be inappropriate to carry around a few scars to remind you of your wrongdoing in the past * * *.

He told Senator SIMON's staff that "in Miami you send out two wedding invitations, one with Anglo time for Anglos and another for Cubans, Cubans always show up two hours later."

And in Fullington versus Wells Fargo, Judge Ryskamp found that a statement by a supervisor that he was—"going to get that Black son of a bitch''—was not direct evidence of racial discrimination.

While sitting on the Federal bench, Judge Ryskamp showed shocking insensitivity to discrimination, both in court and in his community. By contrast, Eldie Acheson has fought discrimination, and sought to build bridges across racial lines in her community.

Eldie Acheson will bring to the Office of Policy Development intelligence, energy and a deep commitment to securing for all Americans the Constitution's great promise of equal justice under law.

I commend President Clinton for selecting her, and I urge that her nomination be promptly confirmed.

And I ask unanimous consent that copies of all the letters I have referred to be place in the RECORD.

There being no objection, the ordered to be printed in the RECORD, as follows:

ROXBURY COMMUNITY COLLEGE,
Roxbury Crossing, MA, June 15, 1993.

Hon. EDWARD M. KENNEDY,
U.S. Senate, Washington, DC.

DEAR SENATOR KENNEDY: I have known Ms. Eleanor Acheson since November 1992 in my capacity as President of Roxbury Community College, the most diverse institution of higher education in New England. Ms. Acheson served as a member of the Roxbury Community College Board of Trustees from April 1987 to April 1993, receiving a plaque from the College community in appreciation for her sincere commitment and dedication to the mission and purpose of the College. The trustees, faculty, staff and students have also made me aware of Ms. Acheson's previous and continuing commitment to access and quality education for minorities and communities of color.

Sincerely yours,
DR. GRACE CAROLYN BROWN,
President.

HILL & BARLOW,
Boston, MA, June 18, 1993.

Hon. JOSEPH R. BIDEN, Jr.,
Chairman, Senate Judiciary Committee, Washington, DC.

Re: Eleanor D. Acheson, Nominee for Assistant Attorney General for Policy Development

DEAR SENATOR BIDEN: I write to offer my support for confirmation of Eleanor Dean Acheson, nominee for the position of Assistant Attorney General for Policy Development. I know Eldie well as a prominent member of the Boston legal community who has made her time and her talent available to less fortunate and disenfranchised citizens.

As you may know, Ms. Acheson has been a long-time director of Roxbury Community College, which is not only the only junior college in the predominately black neighborhood of Roxbury, but which is itself a symbol of hope and upward mobility for African-Americans in this area. Ms. Acheson has also been involved since its inception with Women Incorporated, a drug treatment intervention program for women based in Roxbury. Through these and other initiatives in the community, Ms. Acheson has demonstrated her commitment to addressing in specific and constructive ways the suffering disproportionately borne by African-Americans in Boston. She has also demonstrated a view of herself as truly a citizen of the whole community.

Thus, it was with some dismay that I learned of concerns about her membership in a private country club in Brookline, from which she resigned this spring. I am familiar with the club, have been a guest there on many occasions, and have even been invited three times to join. As a product of the south side of Chicago, I still find it difficult to imagine myself as a golfer, and so have chosen to decline. But if I am any indication, the club does not have a commitment to the exclusion of African Americans. Although membership certainly appears to have been rather narrow in the past, I understand that I am not alone among African-Americans in having been invited to join.

In light of her professional record, I hope that Ms. Acheson's one-time membership in this country club will not be disqualifying, and that you will join in supporting her confirmation.

Yours respectfully,
DEVAL L. PATRICK.

ROPES & GRAY,
Boston, MA, June 15, 1993.

Sen. EDWARD M. KENNEDY,
U.S. Senate, Washington, DC.

Attn: Jeff Blattner.

Re: Eleanor D. Acheson.

DEAR SENATOR KENNEDY: I understand that, in connection with the confirmation of the nomination of my friend and colleague Eleanor Acheson for Assistant Attorney General, a question has arisen regarding her former membership at The Country Club in Brookline, Massachusetts. Specifically, I understand the issue to be whether The Country Club was, or created the appearance of being, exclusionary or inhospitable to minorities. I am an African American and long-time resident of Newton and Brookline. I am not aware of any exclusionary policy regarding membership or guest privileges at The Country Club. I have, on a number of occasions, attended Ropes & Gray office functions and other social gatherings at The Country Club. At no time have I experienced any hostility or felt the least bit uncomfortable in the Club surroundings. Quite the contrary, I have been made to feel most at ease and cordially received by members and nonmembers alike. I am also aware of several members of the minority community who have used the Club facilities as guests of members and who have reported that they experienced only friendship and hospitality in a congenial atmosphere.

I should also state that I have been a friend and colleague of Eldie Acheson since we started as associates at Ropes & Gray in 1974. I am almost embarrassed to have to say this, but I know no one who is as firmly and outspokenly committed to the principles of equal rights, diversity and non-discrimination as is Eldie Acheson. She has been an agent for positive change in every activity and organization of which she has been a part, including our firm, the Roxbury Community College and several professional bar organizations. I hope this information will be helpful in the confirmation process and trust that you will let me know if there is anything further I may do to assist.

Very truly yours,
ROSCOE TRIMMIER, Jr.

NWPC,
July 12, 1993.

Hon. JOSEPH R. BIDEN, Jr.,
Chair, Senate Judiciary Committee, U.S. Senate, Washington, DC.

DEAR SENATOR BIDEN: Eleanor Acheson is a highly qualified nominee to be Assistant Attorney General for the Office of Policy Development. She should be confirmed promptly.

For any Senator to raise the issue of her associate membership in the Country Club in Brookline, MA is to apply a double standard. At least one earlier male nominee was confirmed by the Senate Judiciary Committee without any criticism of his full and continued membership in the very same club.

It is a particularly cynical maneuver to raise such an issue about Eldie because her life demonstrates a deep commitment to minority and women's rights. Her associate membership at Brookline in the late 1980's helped to open up the club to subsequent full membership for women. She supported efforts to increase the number of club members of color.

In 1990, Robert S. Mueller, III, was confirmed by the Committee to be Assistant Attorney General for the Criminal Division although he listed membership in the Brookline Club on his Judiciary Committee questionnaire without any challenge.

Knowing your own emphasis on fairness, I trust that you will not allow the Committee to be embarrassed by any unsubstantial and inequitable charges designed only to delay the confirmation of this excellent woman candidate.

Sincerely,
HARRIETT WOODS,
President.

Mr. SIMPSON. Mr. President, I rise in support of the nomination of Eleanor D. Acheson for Assistant Attorney General for Policy Development. I believe Mrs. Acheson's education, background, and legal experience qualify her for the position.

However, my purpose today is to address the issue of club membership which was raised by Senator PRESSLER. I commend my colleague from South Dakota for raising the issue of using a double standard as we consider nominations under the club membership rule we adopted in the Judiciary Committee 3 years ago. He has worked doggedly to bring this issue to the attention of the committee and the Senate, and I believe he has hit upon a real hypocrisy.

I do not believe that Eleanor Acheson belonged to a club which she knew to intentionally discriminate on account of race, color, religion, disability, or national origin. However, as Senator PRESSLER pointed out during the committee's consideration of the Acheson nomination, Mrs. Acheson's club situation in Massachusetts was remarkably similar to that of a Republican nominee which the committee refused to approve because of his club membership.

I believe it is important that all members of the committee do understand the standard to be applied to judicial nominees who have a club problem. We must have consistency and a single standard, no matter whether the nominee was appointed by a Republican President or a Democratic President.

I commend the Senator from South Dakota and the chairman of the Judiciary Committee for their colloquy which has clarified the standard which the committee will apply to clubs which have the perception of discrimination, but which do not intentionally discriminate in their membership policy.

Mr. BIDEN. Thank you very much.

The PRESIDING OFFICER. The Chair will state the following. Pursuant to the following order, the motion to reconsider is laid upon the table and the President will be notified of the Senate's action.

Mr. BIDEN. I thank the Chair, and I thank my Republican colleague.

SUPREME COURT OF THE UNITED STATES

Mr. BIDEN. Mr. President, is it in order at this moment now to proceed to the nomination for discussion of Ruth Bader Ginsburg to be an Associate Justice of the Supreme Court.

The PRESIDING OFFICER. The Senate majority leader has that authority.

Mr. BIDEN. Mr. President, I have been designated by the majority leader to do that, and I now ask unanimous consent to proceed to the consideration of the nomination of Ruth Bader Ginsburg, of New York, to be an Associate Justice.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nomination will be stated.

The legislative clerk read the nomination of Ruth Bader Ginsburg, of New York, to be an Associate Justice.

Mr. BIDEN. Thank you, Mr. President.

Mr. President, there are several Senators who would like to speak on this nomination. This is one of the real joys of my tenure as chairperson of the Judiciary Committee to have a nominee of such high quality and distinction and one that has received such broad and overwhelming support not only in the Senate but from every quarter of the legal and academic community as well as the citizens at large.

On March 19, 1993, when Justice Byron White announced that he would retire from the U.S. Supreme Court at the end of this term in June, there was a good deal of speculation of what would occur. Into what had already become the supercharged atmosphere of Supreme Court nominations, President Clinton stepped forward as the first Democratic President in 26 years to have an opportunity to name an Associate Justice, or any Justice, including Chief Justice, to the Supreme Court.

But the anticipated storm that the political pundits and, I must admit, the Senator from Delaware, chairman of the committee, and others had suggested might occur never arrived, to our great satisfaction and, I think, to the benefit of the country.

On June 14, 1993, President Clinton nominated Ruth Bader Ginsburg to be the 107th Justice of the U.S. Supreme Court and, as I indicated, to the wide acclaim of everyone who was in earshot.

In record time, the Judiciary Committee—and I might add in no small part due to the help, cooperation, and honorable way in which the ranking minority member of the committee, the distinguished Senator from Utah, Senator HATCH proceeded—in record time the Judiciary Committee reviewed the nominee's written record—she had over 300 published opinions that she had written and had completed the hearings—and unanimously voted to recommend the confirmation at the end of the hearings. All 18 members of the Senate Judiciary Committee—and I know I need not tell the Presiding Officer that every political spectrum represented in the Senate as a whole is represented on that committee, nonetheless, 18 to 0 we voted to recommend the confirmation of Ruth Bader Ginsburg to the full Senate. The confirmation process from start to finish was less contentious than any in recent history, and the reasons for that, I believe, are fairly simple.

First of all, the process worked because President Clinton respected the constitutional role of the U.S. Senate. He sought the Senate's advice and consent to nominees of the Court; he consulted with the leadership of both parties, and he listened to the advice he received by moderating his choice of a nominee.

That is how it is supposed to work Mr. President, and has not in a while.

Second, the process worked because of the nominee herself. In Ruth Bader Ginsburg we have a nominee whose qualifications and judicial temperament are indisputable. They are evident from her extensive record as a scholar, a Supreme Court advocate, and a Federal appellate judge; Judge Ginsburg is anything but a stealth candidate—widely written, widely discussed, widely known, widely before the Supreme Court as advocate, and also has published many written opinions.

Most important, Judge Ginsburg's judicial record and style mark her as a true consensus candidate. Judge Ginsburg is a nominee who holds a rich vision of what our Constitution's promises of liberty and equality mean, balanced by a measured approach to the job of judging.

This balance is what earned Judge Ginsburg the unanimous support of the Judiciary Committee—and it is what has earned her my support.

As with past Supreme Court nominees, the key inquiry I undertook with respect to Judge Ginsburg was to gain a sense of her judicial philosophy and, in particular, of her approach to interpreting the Constitution, of her understanding of that document and its meaning in the year 1993.

Judge Ginsburg accepts the Constitution as an evolving charter of government and liberty—as a limited grant of power from the people to the government—not a narrow list of enumerated rights.

At the same time, she speaks and practices judicial restraint, understanding that a judge must work within our constitutional system, respecting history, precedent, and the respective roles of the other two branches of Government, the executive and legislative branches.

On the first point, Judge Ginsburg has stated unequivocally that she believes our Constitution is a living document that adjusts as society changes, thereby retaining its vitality for over 200 years.

In a 1988 speech, she said:

> We still have, cherish, and live under our eighteenth century constitution because, through a combination of three factors or forces—change in society's practices, constitutional amendment, and judicial interpretation—a broadened system of participatory democracy has evolved, one in which we take just pride.

In testimony before the committee, Judge Ginsburg spoke directly to whether the Constitution protects individual rights and liberties beyond those that are expressly mentioned in that document, and as most Americans know much cherished and protected liberties are not mentioned in that document, such as the right to marry, a whole range of rights we take for granted and are constitutionally protected.

And in clear and unequivocal terms, she expressed support for the concept of unenumerated rights, that is constitutionally protected individual rights that are not specifically listed in the Constitution, such as the right to marry;

Her testimony left no doubt that she supports the Supreme Court's recognition of a broad, unenumerated right to privacy, one that protects such personal decisions as whom to marry, where to live, whether and how to raise one's children.

Judge Ginsburg stated that:

> There is a constitutional right to privacy which consists * * * of at least two distinguishable parts.
>
> One is the privacy expressed most vividly in the fourth amendment—that is the Government shall not break into my home or office without a warrant, * * * the Government shall leave me alone.
>
> The other is the notion of personal autonomy; the Government shall not make my decisions for me—I shall make, as an individual, uninhibited, uncontrolled by my Government, the decisions that affect my life's course.

To determine whether an asserted unenumerated right is recognized as being within the broad concept of liberty contained in the 14th amendment's due-process clause, Judge Ginsburg cited the approach articulated by Justice Harlan in Poe versus Ullman, as illustrating her methodology.

Justice Harlan's opinion is an eloquent statement of a flexible conception of due process and of liberty, not limited by the specific rights named in the Constitution. In choosing this model, Judge Ginsburg selected a method for identifying unenumerated rights in keeping with the Constitution's majestic and capacious language.

Justice Harlan's approach is also one of measured change and rooted evolution—and in this respect as well he appears to be Judge Ginsburg's model.

Judge Ginsburg's written record and her testimony both attest to her belief that a judge best seeks proper interpretations by being cautious and restrained.

And if anyone communicated caution and restraint in the going on 21 years I have been here, it was Ruth Bader Ginsburg.

A careful adherent to a case-by-case method of slow evolution in the law, she believes courts should move in measured motions.

Judge Ginsburg articulated her view of how judges should go about interpreting our evolving Constitution in her recent Madison lecture, sounding one overarching theme: The Court should generally lay markers along the road to doctrinal change, rather than making abrupt changes that lack secure foundations.

Her style is always cautious and restrained, not ideological and not result-oriented. She is, as she described herself at the hearings, neither conservative nor liberal in her approach to judging.

The balance that Ruth Bader Ginsburg achieves—between her vision of what our society can and should become, and the limits on a judge's ability to hurry that evolution along—will serve her well and will serve us well during her tenure on the Supreme Court.

Based on my review of Judge Ginsburg's entire record—as an advocate, as an appellate judge, and as a nominee to the Supreme Court—I will, as is no surprise, vote to support and vote to have put on the Court, Judge Ruth Bader Ginsburg.

I urge each of my colleagues to do the same when the Senate votes tomorrow on the confirmation of Ruth Bader Ginsburg to be an Associate Justice of the U.S. Supreme Court.

And my wish and hope, Mr. President, as I close, is that if President Clinton has an opportunity and an obligation to nominate anyone else to the Court during his tenure, that he is as wise and as insightful as he has been in choosing Ruth Bader Ginsburg.

I yield the floor.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I listened to the comments of my distinguished colleague from Delaware. I appreciate serving with him on the Judiciary Committee. He has done a very good job as chairman and he has been very fair and decent to our side. I want him to personally know that I think he did a good job of handling this first nominee in this Congress, Ruth Bader Ginsburg.

Mr. President, I will vote for the confirmation of Judge Ruth Bader Ginsburg to be Associate Justice of the Supreme Court of the United States. Let me briefly outline the reasons why.

President Clinton and I are unlikely ever to agree on the ideal nominee to be a Supreme Court Justice. Indeed, there have been many prominently mentioned potential nominees whom I would in all likelihood vigorously oppose. But I do believe that a President is entitled to some deference in the selection of a Supreme Court Justice. If a nominee is experienced in the law, highly intelligent, of good character and temperament, and—most important—gives clear and convincing evidence that he or she understands and respects the proper role of the judiciary in our system of government, the mere fact that I might have selected a different nominee will not lead me to oppose the President's nominee.

In the case of Judge Ginsburg, her long and distinguished record as a judge on the U.S. Court of Appeals for the District of Columbia circuit is the critical factor that leads me to support her. Her judicial record demonstrates that she is willing and able to issue rulings called for by the Constitution and the Federal statutes, even though Judge Ginsburg, were she a legislator, might personally have preferred different results as a matter of policy. Several examples may illustrate this point:

In *Women's Equity Action League* v. *Cavazos*, 906 F.2d 742 (D.C. Cir. 1990), Judge Ginsburg wrote an opinion holding that because Congress did not intend to give a cause of action to civil rights groups or anyone else to sue Federal officials to force them to enforce civil rights laws as those groups would have them enforced, the courts had no authority to create such a cause of action for these civil rights groups. Judge Ginsburg declined an opportunity to legislate from the bench, even though from her background as a women's rights lawyer she might have been thought to be sympathetic to the plaintiffs.

In *Coker* v. *Sullivan*, 902 F.2d 84 (D.C. Cir. 1990), Judge Ginsburg wrote an opinion holding that because Congress did not provide any such cause of action, homeless persons and advocacy groups could not sue to force the Department of Health and Human Services to monitor and enforce State compliance with Federal emergency assistance guidelines. Quite obviously, homeless persons and their advocacy groups are sympathetic.

In *Randall* v. *Meese*, 854 F.2d 472 (D.C. Cir. 1988), Judge Ginsburg wrote an opinion that was joined by Judge Silberman, a Reagan appointee, and from which Judge Mikva, a Carter appointee, dissented. In that opinion, she ruled that an alien who was present in this country on a visitor's visa, and who was denied adjustment of status to permanent resident alien, had to first exhaust her administrative remedies provided for by law before seeking judicial recourse. This is an elementary principle of administrative law that, when properly adhered to as Judge Ginsburg did in this case, reduces litigation and permits adjudication, if it must finally occur, to be based on a fully developed record.

In *Dronenburg* v. *Zech*, 746 F.2d 1579 (D.C. Cir. 1984), Judge Ginsburg, alone of the Carter appointees on the D.C. circuit, agreed with Judges Robert Bork and Antonin Scalia that a homosexual sailor's constitutional challenge to the military's homosexual-exclusion policy was precluded by a controlling Supreme Court decision that had summarily affirmed a district court decision upholding a Virginia statute criminalizing homosexual conduct. Her liberal colleagues on the Court wanted to extend the right of privacy announced in other cases to this situation, but she properly, in my view, concluded that the Supreme Court's summary affirmance was controlling, and whatever her own views on the right to privacy, there was no latitude to apply it there. That was the correct decision, regardless of where you are on gay rights.

In *Conair Corp.* v. *NLRB*, 721 F.2d 1355 (D.C. Cir. 1983), in a significant loss for labor unions, Judge Ginsburg wrote an opinion that was joined by then-Judge Scalia over the dissent of Judge Wald. There, it had been found that an employer had engaged in outrageous and pervasive unfair labor practices in connection with an election to determine whether a union should represent the employees. The union, however, had not shown that it ever had majority support among the employees. Judge Ginsburg ruled that the NLRB therefore could not impose a bargaining order to order on the employer. She reasoned that to do so in the absence of an expression of majority sentiment would violate the National Labor Relations Act principles of freedom of choice and majority rule. In reaching this result, she disagreed with Warren court dictum.

Judge Ginsburg has been anything but a lockstep liberal. As one article noted,

> According to a computerized study of the appeals court's 1987 voting patterns published in Legal Times, Judge Ginsburg voted more consistently with her Republican-appointed colleagues than with her fellow Democratic-appointed colleagues. For example, in 1987 case that produced a division on the court, she voted with Judge Bork 85 percent of the time and with Judge Patricia M. Wald 38 percent of the time.

That is found in the New York Times, on June 27, 1993, at page 20.

Similarly, according to a study by Judge Harry Edwards of the D.C. circuit, in the 1983–84 year. Judge Ginsburg voted with Judge Bork 100 percent of the time, and with then-Judge Scalia 95 percent of the time. Edwards, "Public Misperceptions Concerning The Politics of Judging," 56 Colo. L. Rev. 619, 644 (1985). The high regard in which Judge Ginsburg is held by her conservative judicial colleagues provides further assurance that she is unlikely to be a liberal judicial activist.

I also take comfort from some of Judge Ginsburg's testimony before the committee. As she explained, "No judge is appointed to apply his or her personal values." Instead,

> [T]he spirit of liberty must lie in the hearts of the women and men of this country. It would be really easy, wouldn't it, to appoint platonic guardians who would rule wisely for all of us, but then we wouldn't have a democracy, would we? * * * Judges must be mindful of what their place is in this system and must always remember that we live in a democracy that can be destroyed if judges take it upon themselves to rule as platonic guardians.

Likewise, in testimony that has not received the attention that it deserves, Judge Ginsburg exploded the judicial activist notion that the ninth amendment is somehow a font of unenumerated rights for judges to elaborate. In her words, the ninth amendment is "peculiarly directed to Congress to guard" and is an "instruction first and foremost to Congress itself," not to the courts.

Let me add that there were other aspects of Judge Ginsburg's testimony that I found disturbing. For example, her view that a right to abortion could be based on the equal protection clause is, I believe, ultimately untenable. I am also concerned that some of her jurisprudential musings give insufficient attention to the legitimacy or illegitimacy of certain courses of judicial action.

In addition, I disagree very much with some of Judge Ginsburg's academic and advocacy writings. I believe, however, that Judge Ginsburg recognizes the distinction between her role as an academic and advocate and her role as a judge.

I do not expect to agree with any nominee, especially one chosen by a President of the other party, on every issue that may come before the judicial branch. Because I am opposed to the politicization of the judiciary, I believe that it is improper to apply any single-issue litmus test to Supreme Court nominees. A cumulation of unsound positions by contrast, might warrant the conclusion that a nominee does not understand and respect the proper role of the Supreme Court and is therefore unsuited to serve on that institution, irrespective of his or her other qualifications Here, Judge Ginsburg's long record of, on balance, restrained and responsible judging is sufficient to outweigh the genuine concerns that have arisen. I will therefore vote to confirm her nomination.

I might also add that I personally like this judge. I think she is a very fine person. I know she has a great judicial temperament. She is a fine scholar on the law. She is ethical, and I think is a person who will do a good job on the Supreme Court.

I wish we agreed more, but that is not my province. It is the province of the President of the United States. I believe he has made an eminently wise and good choice here that in the coming years will, hopefully, prove to be a judge who will not be a judicial activist on the bench.

I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, there are several other Senators who have indicated a desire to speak on this nomination and we are checking right now in the cloakroom to see if they are available to come over.

In the meantime, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, on the Ginsburg nomination, I yield myself such time as I might consume.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, the hearings on Judge Ginsburg's nomination demonstrated once again that the confirmation process has been unduly politicized. The critics on both the right and left have bemoaned Judge Ginsburg's reticence regarding how she would approach specific areas of the law. I retain my conviction that the advise and consent responsibilities of the U.S. Senate should not involve rating the nominee on a checklist of discrete political issues.

In addition to the obvious criteria that any nominee for the Supreme Court ought to have—I suppose any nominee for any position on the judiciary ought to have—those of intellect, of integrity, and of judicial temperament, it is very appropriate for the Senate to inquire into a nominee's judicial philosophy.

Of course that includes the nominee's fidelity to the Constitution. It involves that nominee's understanding of the limited role of the courts, and it involves what I hope is a commitment to judicial restraint. On that latter point some of my colleagues would obviously disagree on what that might be, judicial restraint. For me, it is being very cautious to make sure you only interpret the law and do not make the law, and that you interpret the Constitution within its original intent.

But this need not include a detailed discussion of the precise reasoning a judge would use in every hypothetical that any individual Senator might propose to a nominee, particularly for the Supreme Court. While Judge Ginsburg rightly declined to answer questions about specific cases, she gave us a thorough understanding of her judicial philosophy. Judge Ginsburg showed us that, while she is a political liberal, she is a judicial moderate.

Judge Ginsburg has the requisite intellect, integrity, and temperament. I have reservations about her judicial philosophy because her record and her testimony indicated a willingness to legislate from the bench on occasion. But let me emphasize: On occasion. Fortunately, this activism is an exception, an exception to her usual moderation. And, on balance, I conclude that Judge Ginsburg should be confirmed by this body.

During the hearing many members of the Judiciary Committee urged the judge to lead society. I will not give any names. It is all on the record. Perhaps some of my more liberal friends in this body believe that a Supreme Court nominee ought to be out in front, in their words, "leading us in a certain direction." I do not happen to agree with that. This is where Judge Ginsburg satisfies those who may have doubts about anyone a Democratic President suggests for the Supreme Court.

She insisted both to conservative members of the Judiciary Committee, as well as more liberal members of the Judiciary Committee, that her job is to follow the dictates of the law. Judge Ginsburg recognized the job of a judge is not pleasing the home crowd or following opinion polls, but instead a very faithful application of the Constitution and of the law, as she explained, and this is a quote that will probably be used many times on this floor as it relates to Judge Ginsburg, but I want to quote what she said:

> The Constitution did not create a tricameral system. Judges must be mindful of what their place is in this system and must always remember that we live in a democracy that can be destroyed if judges take it upon themselves to rule as platonic guardians.

Judge Ginsburg then rightly declines the invitation to activism. She rejects the suggestion of some that the general public is incapable of wisely ruling itself without the guidance of a judicial elite that thinks it knows what is good, or maybe what is the very best, for our society.

Adherence to judicial restraint is apparent in Judge Ginsburg's opinions, especially those involving statutory construction. As a general rule, Judge

Ginsburg finds herself limited by the terms of the statute as illuminated by legislative history. She resists the temptation to rewrite statutes, but from time to time, she has seen the role for the Supreme Court in interstitial legislating and, as you lawyers know better than me, the opportunity then to rewrite laws on occasion instead of striking them down and allowing Congress to do the rewriting.

Judge Ginsburg usually exhibits restraint in constitutional matters. She does endorse the Constitution's protection of so-called unenumerated rights, but she recognizes that those rights are very limited and that defining economic and social rights are the job of the legislature.

Judge Ginsburg's record does show an occasional lack of judicial restraint. I suppose most of the time a nominee will be satisfactory to most people—right or left—but there will be some occasions, when they do not quite come up to the personal standards that we would set if we were selecting somebody. So we can all say that there are some differences, and I suppose there is an occasional lack of judicial restraint that gives me some fear that maybe I am feeling too good about this nomination. But then there are Presidents as well—you know, even a President Reagan or a President Bush who nominates somebody to the Supreme Court, I bet those ex-Presidents look back upon those appointments and say, "Well, this person did not do in this particular case exactly what I would have wanted my nominee to do."

But then, you see, we put people on the Supreme Court not running for that office or being elected to it, but selecting them for a place where there is a great deal of protection: They have lifetime appointments and their salaries cannot be reduced while they are in office. These constitutional protections ensure that these people sitting across the street as Supreme Court Justices can make those decisions, not influenced by the political winds that a transient majority might be foisting upon us from day to day. Their job is to look for the long term and to protect our Constitution, protect our processes of decisionmaking.

So, maybe she does not always—as I would want her to do—show judicial restraint.

It seems to me that in one area, the area of granting standing, she often goes out of her way to give people standing where she finds the case compelling. I spoke about this in the Judiciary Committee. I even asked her about this. In NRC versus Dellums, she found a plaintiff within the zone of interests protected in the South African sanctions law, based upon the law's statement of what Congress predicted ought to happen. It was a set of predictions that Congress put in the law that was a reason for Congress passing that law.

I take the view that in that particular case, it is not very wise for even us—we hope certain end results come from statutes we pass, but as a practical matter, judges cannot put much basis in what we predict might happen. We have to put it into the language of the statute. So she allowed standing in that particular case.

In another case, it seems to me that she exaggerated constitutional protection, in the DKT case where she argued that the United States cannot constitutionally refuse to fund foreign abortion-related family planning.

Fortunately, though, her activist cases are aberrations in her record of judicial moderation. Only time will tell whether Judge Ginsburg's cautious approach will persist. But even her obvious personal integrity—and given this, because she does have personal integrity—I am hopeful she will resist the temptation to lead society as some sort of judicial philosopher queen.

There is one other thing I want to add and this is probably because at the grassroots, there might be public concern about this nomination that is beginning to pop up, probably from some conservative newsletters that are going out to membership raising some concerns about Judge Ginsburg, without anything very specific in them. I do not know that for a fact. I have not seen those newsletters. But somewhere out at the grassroots, as I go home almost every weekend to keep in touch with grassroots opinion, I am sensing that there is some growing concern about Judge Ginsburg.

Obviously, we are going to confirm this nomination tomorrow. So if there is some concern growing out there, I do not think it is going to be adequately felt within the Congress, and we should not hold up this nomination.

All I can say is that I have a great deal of respect for a lot of conservative groups in this country who are concerned about who is going to be on the Supreme Court. Maybe 5, 10 years from now, I will look back at my speech on Judge Ginsburg and wonder why there was not more concern in my mind. I do not happen to think today I have to worry about that. But as I indicated, there are some Presidents who have appointed people to the Supreme Court who years later wondered why they appointed them or they were not being the Justices they anticipated they would be. In any way, maybe I will look back and see that.

Today, I see there is some concern out there. As kind of a point of political education of my constituents—not just in Iowa but all over the country, because I am saddened to say I do not think we educate our people enough about the processes of Government, and there is a lot of lack of credibility in politicians, a lack of credibility in Congress and our whole decisionmaking process of all three branches of Government because we do not do a good enough job of teaching it—I will simply say this: That for conservatives who want a so-called conservative on the Supreme Court and probably would expect conservatives in Congress to vote against Judge Ginsburg because maybe she does not fit some litmus test that we have out there—first of all, we have chided liberals in this body because they have tried to foist upon nominees litmus tests from the Reagan and Bush era, and we felt that was wrong.

So if it is wrong for Democrats to put a litmus test on a Republican nominee to the Supreme Court, then it seems to me it has to be wrong for us as Republicans when we have a Democrat President to put some sort of litmus test upon Democratic nominees to the Supreme Court.

The other thing is that we conservatives lost the election and, for the next 4 years, the right to nominate people to the Supreme Court. It does not mean we in this body dig a hole for ourselves and pull it in after us and forget our advise and consent responsibilities. We have that. But it seems to me we as Senators have to look at advise and consent, when we have a Democrat nominee for the Supreme Court, just as we expect Democrats in this body to do when we have a Republican selecting somebody to the Supreme Court.

So that is the second point I would make to my friends at the grassroots who maybe have a growing concern about Judge Ginsburg.

And then lastly, I would point out that she and other people appointed to the Supreme Court are going to be there for a long time. That is the way our system was set up—and we wish them a long, positive life on the Supreme Court—to be a check on our legislative process, the extremes that go on in the congressional branch of Government and in the executive branch of Government. And that whatever might be the political issues of this day, even abortion, for instance, people out there at the grassroots who are conservatives might be concerned about Judge Ginsburg, that she has views we questioned her about or even things we did not question her about. They have concerns about those issues today because those are issues in 1993. But in the year 2003 or 2013 they probably will not be issues for the most part. Judge Ginsburg is going to be adjudicating a lot of questions and interpreting a lot of law, and even our Constitution, in the years in the future that we may not be thinking of today.

So we have to judge what her instinct is—if her instinct is to be very cautious, if her instinct is to interpret law rather than make law and, as she indicated, look for legislative history on laws being made to try to find out congressional intent.

It seems to me that is about all we can hope for in the way of a Supreme Court Justice, if they are otherwise very qualified for the job, if they are people of high integrity and they have judicial temperament.

Every time I vote for a Supreme Court Justice, I might have some concern about all of these things, and I have found some Republicans I have voted for who have not always ruled the way I would like to have them rule on a particular case. But in our system of Government, whatever independence they have, I think has proven the necessity for us supporting and applauding that independence and doing what we can to maintain it even if it does not always work to exactly our approach to Government.

So I support Judge Ginsburg, and I ask people who may have some doubts about her to think in terms of the future, not just the present.

I yield the floor.

Mr. BIDEN. Mr. President, before the Senator from South Dakota speaks—and I will only take a second—I too stand to pay a compliment to my friend from Iowa, a fellow member of the Judiciary Committee, because he has been a man of his word.

I was just saying to my staff I am not at all certain, were the tables turned, there might not be some who would forget their earlier statements about being consistent and conclude it was in their interest not to be consistent because the particular nominee did not meet all of their requirements on the hard right or hard left agenda. But the Senator from Iowa has indicated—and I have no illusions there may be another nominee, where he has a very different view—that he has no illusions about where this nominee is, at least on one important issue, on the conservative agenda. Nonetheless, he has been consistent with his philosophy, which is that the President gets to choose and there should be no litmus test and on balance you have to make a judgment whether or not the nominee is good or bad.

He has been saying that for 12 years. Obviously, in the last 12 years it has been easier for him to say with a Republican President. It is not as easy for him to say and do this time, with a Democrat, and I wish to recognize that he has been consistent. I admire him for it and I thank him for it.

Mr. GRASSLEY. Madam President, if the Senator will yield, I just simply say I thank the Senator very much. I hope I am as consistent as he said. It is my intention to be that consistent.

I thank the Senator. I yield the floor.

The PRESIDING OFFICER (Ms. MOSELEY-BRAUN). The Senator from South Dakota.

Mr. PRESSLER. Madam President, I rise in support of the nomination of Ruth Bader Ginsburg to be Associate Justice of the Supreme Court of the United States. I believe in the time I have served in the Senate we have confirmed five Supreme Court nominees. I believe the President of the United States basically should get his or her nominee, barring some major ethical problem or competence problem. I feel that Mrs. Ginsburg has been an outstanding judge. I think she will be an outstanding Justice of the Supreme Court.

I did say in the committee that I was disappointed we did not have more answers to some of the Indian Country questions I asked.

The nationwide Indian newspaper, Indian Country Today, ran an account of my questions regarding Indian country legal issues. These legal issues vary from questions of gaming to land claims to hunting and fishing rights, asked from both Native Americans' point of view and non-Native Americans' point of view.

Much of the Indian Country law that has come about in the last 20 years has been made in the courts because of either Congressional unwillingness to act or the feeling on the part of the courts for the need to act. For example, the reservation land, fee patent issue—Congress decided that about 100 years ago. Ever since then the courts have been deciding issues relating to this Nation. But they have been doing it in a piecemeal fashion, with district judges in different parts of the country arriving at different decisions.

I did meet with Mrs. Ginsburg early on and told her what questions I would be asking. I also sent her copies of the questions. But as a Senator, I was disappointed she did not answer them, or at least did not answer them very fully. This would not cause me to vote against her because, indeed, Supreme Court nominees do not have to answer all questions asked of them by Senators.

We tried to frame the questions in such a way that they would not address a particular pending case. Both Indians and non-Indians were looking for answers, or some indication from her long career as a teacher and as a jurist, to get some feel for her sensitivity to this large body of law.

I also asked her some questions about the Court's decision in U.S. versus the Sioux Nation of Indians which involved land claims, for which compensation was given.

I must say that I have put a lot of work into these issues in my time in the House and the Senate. I devote one staff member's time to Indian country issues. They are becoming greater with Indian gaming in many States, not just the States west of the Mississippi.

When the attorneys general meet, those west of the Mississippi, Indian country issues are key issues; they also are key issues in States east of the Mississippi. I read in the papers of land claims in Connecticut, of Indian gaming issues in Florida, New York, and other States.

Madam President, I ask unanimous consent to have printed at this point in the RECORD the account of my questioning of Ms. Ginsburg on Indian matters that appeared in Indian Country Today.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From Indian Country Today, July 28, 1993]

HIGH COURT NOMINEE ASKED TO ADDRESS SOVEREIGNTY ISSUES

(By Bunty Anquoe)

WASHINGTON.—Judge Ruth Bader Ginsburg, President Clinton's nominee to the Supreme Court, discussed a wide array of legal and political issues last week in her testimony before the Senate Judiciary Committee—including tribal sovereignty and treaty rights.

In a lengthy exchange with Sen. Larry Pressler, R-S.D., Judge Ginsburg demonstrated an understanding of the legal underpinnings of tribal sovereignty and the federal-Indian trust relationship.

As is the standard practice with nominees, she said she could not give her views on specific issues, such as Indian gaming and the Sioux Nation's Black Hills land claim, because they are questions that may come before the court in the future. Other topics, such as Bill of Rights enforcement on Indian lands and tribal civil jurisdiction over non-Indians, she said, are issues under the within of Congress.

"It would be wrong for me to say or preview in this legislative chamber how I would cast my vote on questions the Supreme Court may be called upon to decide," she said. "A judge sworn to impartiality can offer no forecast, no hints, for that would show not only disregard for the specifics of the particular case, it would display disdain for the entire judicial process."

Judge Ginsburg frequently underscored the legal relationship between Congress and Indian tribal governments that is rooted in the Constitution and grounded in federal law, treaties and court decisions over the past 200 years.

The Supreme Court, over the last 15 years, has become increasingly conservative and has handed down opinions adverse to tribal sovereignty, say tribal leaders.

Sen. Pressler asked the nominee whether she has an "expansive or restrictive" view of tribal sovereignty.

"I take whatever view Congress has instructed" Judge Ginsburg replied. "Senator, the Congress has full power over Indian affairs under the Constitution and the Supreme Court has so confirmed most recently in *Morton vs. Mancari* * * * so judges are bound to accord the tribes whatever sovereignty Congress has given them or left them. As a judge, I would be bound to apply whatever policy Congress has set in this very difficult area. But the control is in the hands of Congress and the courts are obliged to faithfully execute such laws as Congress has chosen to enact."

The 1974 Supreme Court decision in *Morton vs. Mancari* upheld the federal Indian hiring preference because, like special health and education benefits derived from the tribal trust relationship, the preference is not based on race. Instead, the court said, the hiring preference is based on a government-to-government relationship between the United States and tribes.

Judge Ginsburg told the 18-member judiciary committee that only Congress can nullify treaties with Indian tribes. If it has not done so, "the treaties would be binding on the executive." She also applied this principle to the federal-Indian trust relationship.

"I think that ever since the (1832) Cherokee Nation case, it has been the precedent of the Court that when Congress says in a treaty, makes it evident in a treaty or a statute that Congress has accepted, assumed a trust relationship with a recognized tribe, that the court would then apply that policy."

ON JURISDICTION

Senator Pressler told the nominee that law enforcement and jurisdictional disputes between tribal and state authorities are particular problems in South Dakota where much Indian land is "checkerboarded" with non-Indian land.

He pressed the nominee on issues focusing on state and non-Indian rights on Indian land and often phrased his questions from the perspective of non-Indian interests.

After the confirmation hearing, which concluded late last Thursday. Sen. Pressler denied that his questions favored any particular point of views. He told *Indian Country Today* that he was disappointed Judge Ginsburg didn't respond more to his questions.

"I wasn't trying to ask for one side or the other," he said in a telephone interview. "I would have liked to ask a broader range of questions because these are important issues of concern. I also talked to (Sen. Ben Nightorse Campbell) about what kinds of questions I should ask."

The senator said his staff complied his list of questions.

He specifically asked the nominee for her views on state law enforcement on tribal lands in light of the high court's 1990 *Duro vs. Reina* decision, which created a jurisdictional void by denying tribal authority over non-member Indians on reservation lands.

The senator queried. "Can you envisage a way state authorities might be able to exercise jurisdiction in Indian country in those instances where law enforcement voids appear to exist?" The nominee said Congress, not the courts, could decide that question and said the 1990 court "got it wrong" in its ruling in light of subsequent congressional restoration of tribal authority over all Indians on its lands.

"Congress can certainly give the states such authority," she said. "I think the example that you gave, the *Duro vs. Reina* case, is a case where the courts, in Congress' judgement, got it wrong and Congress corrected that."

Sen. Pressler resurrected the heated issue of whether federal courts should have limited review of tribal court decisions. Several members of Congress are seeking to push such review on tribal governments. Sen. Slade Gorton. R–Wash., attached an amendment to a recent bill designed to strengthen tribal courts. The amendment would study federal court review of tribal court decisions with respect to the 1968 Civil Rights Act.

Judge Ginsburg said Congress, in its plenary authority, can authorize such review, but added "Whether Congress should do that is a question that the Constitution plainly commits to the first branch and not to the third branch of government."

She parried another question from Sen. Pressler focusing on whether tribal governments can impose civil jurisdiction on non-Indians who live on non-trust land within reservation boundaries.

"Again, this seems to be peculiarly a policy question that is committed to the judgment of Congress and it is the function of the judges to apply whatever solution the legislature chooses to enact," she said. Recent Supreme Court decisions have taken a different approach and actively limited tribal authority over non-Indians within a reservation.

The high court's 1978 decision in *Oliphant vs. Suquamish Indian Tribe* held that tribes cannot exercise criminal jurisdiction over non-Indians. The court's 1981 decision in *Montana vs. United States* found that the Crow Tribe cannot regulate hunting and fishing by non-Indians within reservation boundaries, and may exercise general civil jurisdiction over non-Indians only if an important tribal interest is at stake or if the non-Indians enter into consensual or commercial relations with the tribe or its members.

The Supreme Court most recently ruled tribes do not have the authority to regulate non-Indian hunting and fishing on federally owned fee land within reservation boundaries. Sen. Pressler wanted to know what impact the 1993 case, *South Dakota vs. Bourland*, would have in future tribal jurisdiction cases.

Judge Ginsburg answered. "That is a precedent that may require interpretation in cases that may come up, so I feel that it would not be proper for me to comment on how that precedent will be interpreted in the next case when the next case may be before a court on which I serve."

If confirmed by the Senate, the 60-year-old jurist would become the nation's 107th justice and the second woman on the high court. She would join Justice Sandra Day O'Connor, who was named to the court by President Ronald Reagan in 1981. Judge Ginsburg would also be the first justice in 26 years nominated by a Democratic president.

Sen. Carol Moseley-Braun, D–Ill., noted strong civil rights stances the Supreme Court took under Chief Justice Earl Warren in the 1960s. Sen. Moseley called Judge Ginsburg "a brilliant jurist and legal scholar, adding that she hoped the nominee would assume the mantle of retired Justice William Brennan and the late Justice Thurgood Marshall to "give voice within the court to the aspirations and hopes of the forgotten members of our society."

The Senate Judiciary Committee is expected to vote on her nomination Thursday with a full vote of the Senate following soon after.

Mr. PRESSLER. I also ask unanimous consent to have printed in the RECORD my minority view published in the report of the Committee of the Judiciary on the nomination of Ruth Bader Ginsburg. It summarizes my concerns with some of the questions I asked her on this subject and her answers.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR LARRY PRESSLER REGARDING THE CONFIRMATION OF JUDGE RUTH BADER GINSBURG TO BE ASSOCIATE JUSTICE OF THE U.S. SUPREME COURT—MINORITY VIEW; REPORT OF THE COMMITTEE ON THE JUDICIARY

This was the first confirmation hearing of a Supreme Court nominee in which I participated. Because of this fact, I have considered carefully my vote on Judge Ginsburg's confirmation. Our vote today is a recommendation to the rest of our colleagues in the Senate whether or not they should confirm Judge Ginsburg. Prior to joining the Committee, I always placed great weight on the Committee's recommendations. I believe other Senators do also.

On one basic point, there is no argument: Judge Ginsburg is exceptionally well-qualified to be an Associate Justice of the U.S. Supreme Court. Her background is impressive. She has authored volumes of law review articles published throughout the world and in several languages. She was one of the first twenty female law professors in this country. She won five of the six cases she personally argued before the Supreme Court, including several landmark cases. For the past thirteen years, she has served with distinction as a federal appellate court judge on the D.C. Circuit. Her legal career clearly deserves our admiration and respect.

However, having said all this, I must express my disappointment with the nominee's responses to my questions during the hearings. Almost exclusively, I used my questioning periods to explore her understanding of Indian Country issues, which routinely come before the Court. My purpose in doing so was not to elicit a promise or commitment from her, or even an idea of how she would decide these issues so crucial to people in my part of the country. Rather, I had hoped to be satisfied that Judge Ginsburg had a good understanding and solid grasp of this complex and murky area of the law. Unfortunately, I was not satisfied.

While not as glamorous as other issues, Indian cases do frequently come before the Court. In the last decade, the Court has accepted approximately forty cases dealing the sovereignty, civil rights, law enforcement, or jurisdiction of American Indians and their tribes. I understand such cases never come before the D.C. Circuit Court of Appeals. Therefore, I did not expect Judge Ginsburg to be an expert on Indian law prior to her nomination. In an attempt to impress upon her the importance of these issues, I told Judge Ginsburg of my intent to inquire into her understanding of Indian Country law when she visited my office the day after her nomination. Additionally, I sent her references to several key Indian law cases a few weeks ago as well as a copy of the questions I intended to ask during the hearings.

Therefore, I was disappointed with Judge Ginsburg's answers to my questions. I felt they were largely non-responsive and somewhat simplistic. She failed to demonstrate a basic or general philosophy toward, or even an interest in, Indian Country issues. To her credit, she did promise to approach these cases in the same thorough, meticulous way she prepares for all cases. I commend her for that. But I disagree with her if she believes a Supreme Court Justice really does not need to possess knowledge of Indian Country issues and the problems of the West prior to taking the bench. It is exactly that lack of an overall philosophy that has led to the patchwork of court decisions which characterizes Indian law today.

As I have stated before, Congress certainly shares equally in the blame for this situation. All too often, this body has failed to act in a responsible and sensible manner regarding the concerns of citizens in Indian Country. But in the absence of congressional action or clear intent, the Supreme Court must make the law that Congress is unwilling or unable to make. Through its decisions, the Supreme Court has the responsibility of providing guidance for lower courts on Indian Country matters. It is therefore easy to see the importance of selecting nominees who have a basic understanding of the complex history of the American Indians and their unique relationship with the United States government.

Though I am not yet convinced that Judge Ginsburg has this understanding, I am voting for her confirmation. But I also want to put future Supreme Court nominees on notice that I will insist they have an interest and understanding of Indian Country law. After today, I will not vote for a nominee unless I am satisfied that they have demonstrated this concern.

But I am not here to make threats. I do wish Judge Ginsburg all the best. I hope she has a long and productive career on the highest court in the land.

Mr. PRESSLER. Madam Chairman, I thank the Chair. I yield the floor.

Ms. MIKULSKI. Madam President, I rise today to support our newest Supreme Court nominee. There's no doubt in my mind, that Judge Ruth Bader Ginsburg will be an outstanding Supreme Court Justice. I have met with Judge Ginsburg and spoken with her at length.

Judge Ginsburg has had to overcome many barriers to get where she is now—the professional and personal barriers of a grudging establishment. Many would have crumbled against this sort of resistance. But, Judge Ginsburg has always been a person of grace and strength. Instead of crumbling, she has consistently fought to ensure that the fairness that was denied her be denied no other American.

Madam President, each time I am faced with the task of evaluating a Supreme Court nominee—and I have four times before in my Senate career—I apply the same criteria to all Supreme Court nominees.

First, is the nominee competent? Second, does the nominee possess the highest personal and professional integrity? Third, will the nominee protect and preserve the core constitutional values and guarantees that are central to our system of government, specifically freedom of speech and religion, equal protection of the law, and the right to privacy?

On every score, Madam President, Judge Ginsburg qualifies.

First, is Judge Ginsburg competent? Not only is she competent, but she's tough too. Judge Ginsburg has shown herself to have a first-rate mind and character. She's gotten numerous awards and honors to prove it, including a dozen honorary academic degrees from various universities and colleges.

Second, does Judge Ginsburg possess the highest personal and professional integrity? Like so many women of our generation, she had to fight to get ahead. And at that time, women had an especially hard time attending college, much less going to law school—and yet she did both.

Madam President, Judge Ginsburg didn't merely attend college and law school—an achievement in itself for a woman in the 1950's—she achieved great academic distinction while there, graduating Phi Beta Kappa from Cornell University in 1954 and top of her class at Columbia University Law School in 1959.

And in between these two dates, Judge Ginsburg got married, had a child, and served as an editor for both the Harvard and Columbia law reviews.

Today, you would expect that any young lawyer with such a record would have a certain and secure future. But it was not so easy to Judge Ginsburg.

Unlike her male contemporaries at Harvard and Columbia, she was unable to find a law firm that would hire her—very few would even grant her an interview. As she put it:

> To be a woman, a Jew, and mother to boot, that combination was a bit much.

The male-dominated legal establishment just wasn't ready for her. But eventually that hard work and determination got her the job.

Judge Ginsburg has helped to transform the rights of women. The day our President nominated her, she spoke of how things have changed for women and gave tribute to her late mother by saying:

> I pray that I may be all that she would have been had she lived in an age when women could aspire and achieve—and daughters are cherished as much as sons.

Madam President, that's a powerful statement. It captures the spirit of Judge Ginsburg.

And finally, Madam President, I ask, will Judge Ginsburg protect and preserve the core constitutional values and guarantees that are central to our system of government? I have no doubt that she will.

Judge Ginsburg is a great supporter of fairness. As a lawyer, she worked hard through the equal protection cases that she argued before the Supreme Court to see that everyone, especially women, are judged by their competence and character.

As a lawyer, she argued several landmark cases before the Supreme Court in which the equal protection of men and women under the law was at stake. She has written decisions on topics from the freedom of religion and the right to privacy to the freedom of speech.

Judge Ginsburg has shown herself as one of the foremost defenders of the twin ideals which lies at the heart of our Nation and our Constitution—fairness and equality.

Her passion for fairness has marked her years on the D.C. Circuit Court. On the bench, she has earned the esteem of her colleagues from across the spectrum of the legal profession for her fairness and competence.

Her writings on the freedom of speech and the right to privacy, give me confidence that she will be a staunch defender of those rights, the rights that all Americans hold dear.

Madam President, in this country we, the people, are dependent upon the Constitution and its interpretation to protect our most basic rights. In that context, the Supreme Court is the final arbiter on decisions that are grave and complicated.

That is why we in the Senate have a great and indeed tremendous responsibility. And that is why I hold all nominees to the same criteria without exception and without bias. They are the standards against which I measured—Justice Kennedy, Judge Bork, Justice Souter, and Justice Thomas. You may recall that I voted against each of these nominees.

But, today Madam President, I will vote for Judge Ginsburg.

Her presence on the Court will mean a great deal. She has said that she hoped her appointment to the Court would contribute:

> To the end of the days when women—at least half the talent pool in our society—appear in high places only as one-at-a-time performers.

Madam President, Judge Ginsburg deserves to take a seat on this High Court and I strongly support her nomination.

Mr. KENNEDY. Madam President, I give my strong support of the nomination of Ruth Bader Ginsburg to be an Associate Justice of the Supreme Court.

The Judiciary Committee's recent hearings on her nomination reminded all of us of the genius of the framers of our Constitution and of the central role of the Supreme Court in preserving and protecting our constitutional legacy. The Constitution simultaneously establishes our democracy and protects minorities from occasional excesses by the majority. The framers recognized that an independent judiciary is necessary to enforce the limits on abusive government enshrined in our Constitution, and they entrusted the Supreme Court the solemn power to protect the fundamental rights and liberties of the people.

Ruth Bader Ginsburg's brilliant career as a law professor and advocate for the rights of women, and her distinguished career as a judge on the Federal Court of Appeals, makes it clear that she is extremely well qualified to sit on the Supreme Court.

Her carefully designed and brilliantly executed strategy for securing constitutional protection for the rights of women has made America a better and fairer land. Before 1971, when Judge Ginsburg argued her first case in the Supreme Court, the courts consistently upheld laws that discriminated against women. The most blatant of these measures were outright prohibitions on the entry of women into certain professions, including the legal profession itself. Other laws established more subtle gender classifications that perpetuated harmful and unjust stereotypes about women and their role in society.

Ruth Bader Ginsburg courageously took on these unfair laws. She carefully selected cases that highlighted the arbitrary nature of sex discrimination. By choosing cases where men appeared to be victimized by laws that seemed to favor women, she was able to convince the nine male members of the

Supreme Court that sex discrimination was unfair and unconstitutional. Building case after case, she gradually persuaded the Court to recognize that most gender classifications—even those purporting to protect women—actually worked to relegate women to second-class status.

While on the bench, Judge Ginsburg impressed both liberals and conservatives with her scholarly and careful approach. At the same time, she has demonstrated great sensitivity to the need to afford access to the courts and meaningful relief to victims of discrimination.

Judge Ginsburg is clearly committed to construing the civil rights laws in the manner that Congress intended. She described those laws as "broad charters * * * stat[ing] grand principles representing the highest aspirations of our Nation to be a Nation that is open and free where all people will have opportunity."

Too often in recent years, the Supreme Court has adopted excessively narrow interpretations of these laws, contrary to Congress' intentions, and has placed needless obstacles in the path of victims of discrimination. Justice Ginsburg will reject that destructive trend in the Court's jurisprudence on civil rights, and she will be a strong voice for equal justice for all citizens on the Supreme Court.

Judge Ginsburg's testimony before the committee demonstrated her profound commitment to constitutional protection for the right to privacy, and in particular for a woman's right to choose. She made clear, in no uncertain terms, that the right of a woman to decide whether to terminate her pregnancy is, and must be, protected by the Constitution. As she stated, "This is something central to a woman's life, to her dignity. It is a decision that she must make for herself. And when government controls that decision for her, she is being treated as less than a fully adult human responsible for her own choices."

Judge Ginsburg will bring to her work on the Supreme Court an outstanding intellect, excellent judgment, and a deep understanding of the role of that Court in protecting the constitutional rights and liberties of all Americans.

President Clinton has made an outstanding choice, and it is a privilege to vote for her confirmation.

Mr. HARKIN. Madam President, I am pleased to rise in support of the nomination of Judge Ruth Bader Ginsburg to serve as an Associate Justice of the Supreme Court of the United States.

Judge Ginsburg has established a distinguished record as a judge of the D.C. Circuit Court, which is widely considered to be the most influential and important circuit in the Nation. An analysis of her record reveals a deep commitment to individual rights. She is known as a thoughtful judge who approaches each case individually, and makes an effort to apply the law to the facts. Although I would not endorse her decision in every case, that is not, and should not be, the criteria we should apply to nominees.

However, as I stated nearly 2 years ago during the confirmation of Justice Thomas, I believe it is appropriate for Senators to consider a nominee's overall understanding of the Constitution, and particularly the scope of constitutionally protected rights. I am particularly concerned with the erosion of the right to privacy.

A nominee's view of the right to privacy is indicative of that person's overall judicial philosophy, and their views of protected rights. I believe that the right to privacy is as fundamental as other protected rights, such as the right to free speech. As I stated during the Thomas confirmation, just as I would not vote for a nominee who did not acknowledge the right to free speech as a broadly applicable individual right, I cannot support a nominee who does not believe in the right of privacy. In the instance of Justice Thomas, I was compelled to vote "no." In this instance, application of that same standard allows me to vote in favor of this nominee.

The controversy over Judge Ginsburg's views on this point were raised in a speech she gave at the New York University School of Law, where she suggested that the right to choose could have been guaranteed under the equal protection clause, rather than the due process clause right to privacy.

However, in her testimony before the Judiciary Committee, she unambiguously endorsed the existence of a constitutionally protected right to privacy. Ginsburg endorsed the constitutional right to privacy, which she stated consists of at least two distinguishable parts. One part is the privacy of the fourth amendment, that government shall not break into a person's home or office without a warrant based on probable cause. The other part is personal autonomy, that the government shall not make my decisions for me. These statements satisfy my concerns on this issue.

In addition to this issue, however, I have been impressed by this nominee's personal history. From her repeated experiences with gender discrimination to her landmark argument before the Supreme Court that changed the landscape of civil rights law, she has demonstrated a commitment to defending the rights of individuals. I believe that Judge Ginsburg is well-qualified to serve on the Court, and I am pleased to cast my vote in favor of her nomination.

Mr. HEFLIN. Madam President, I am pleased to support the appointment of Ruth Bader Ginsburg to the Supreme Court. Her record is one of unbroken success at all levels, and I am confident that the Supreme Court will be a fitting capstone on a career that is already distinguished.

Ruth Bader Ginsburg has already proved to be a genuinely outstanding jurist, and I recommend her confirmation for the Supreme Court with no reservations.

As a scholar, this nominee's brilliance is undisputed. At every turn of her career, she has earned recognition for the quality of her legal mind. As an advocate, her strategies for dismantling gender discrimination won her five victories in six Supreme Court arguments. In reviewing her career and her scholarship, the American Bar Association unanimously honors her with its highest ranking, the label of well-qualified.

At the same time, Madam President, though she has lived a life in the law, Ruth Bader Ginsburg has not been locked in a judicial ivory tower: As I watched the light in Judge Ginsburg's eye when she described her clients, I understood that she shares a knowledge which all great lawyers share—a recognition that when she devised a strategy for winning cases, she was also devising a strategy for making the lives of clients like Sally Reed and Steven Wiesenfeld better.

Just as important, Judge Ginsburg demonstrates the evenhandedness that is a precondition of a sound judging philosophy. Her service on the Nation's most prominent appeals court has won praise from scholars of every political stripe: ELEANOR HOLMES NORTON and Robert Bork are on the same side of this nomination, and that sight at first had my head spinning. While other jurists have been identified in politician's labels, as part of either a right or left leaning bloc, Judge Ginsburg's independence has been her trademark. On the D.C. circuit, the record shows that she has put aside her advocate's stance, and any ideological agenda that might have come with it.

This judge's mind has indeed been an open one. In the field of civil rights she has charted a middle ground between legitimate remedies for past discrimination and so-called remedies that merely divide us. For example, in O'Donnell Construction versus District of Columbia, her separate opinion rejects an affirmative action plan that swept too broadly, while still holding the door open for measures that are a reasonable response to our discriminatory history. With regard to the first amendment, Judge Ginsburg has never lost sight of the right to speak and be heard—yet she is no absolutist, writing often of the need to weigh the speaker's rights against legitimate, significant government interests.

In the context of the criminal law, Judge Ginsburg's record acknowledges the needs of our law-enforcement officials while still maintaining a sharp instinct for the individual's rights. On several occasions, she refused to side with knee-jerk criticisms of drug-courier profiles and the strategy of preventive detention; while some have brought their ideological blinders to the debate over law-enforcement techniques, Judge Ginsburg has been responsive, and not intolerant, to the demands of the war on crime.

At the same time, she has vigilantly protected the proper, established boundaries of the fourth amendment. In United States versus Ross, in a landmark opinion for the circuit sitting banc, Judge Ginsburg refused to weaken constitutional safeguards against improper searches of automobiles. She has also consistently overturned convictions marred by improper trial procedures or inadequate jury instructions. By any impartial analysis, her record has been sensitive rather than activist, in securing defendants' rights.

In all three of these ideological fire zones—civil rights, the first amendment, and criminal procedure—Ruth Bader Ginsburg has woven an independent, middle-of-the road path. She has shown an immunity from the polarizations of the left and right. This resistance to ideological dogma is, in my opinion, a trademark of a fair, open mind, and of a willingness to listen without prejudging.

Madam President, I view this nomination as, at the very least, a ceasefire—a pause between the broadsides of politics and ideology. I am deeply hopeful that it can be even more: Judge Ginsburg's selection can mark a renewed emphasis on excellence and judicial accomplishment.

In choosing a nominee of this caliber, a professional who can be described as a lawyer's lawyer and a judge's judge, President Clinton has signaled a high standard. If this standard is indeed a beacon for appointments to come, we will enter an era of jurists who reflect honor on the Constitution and the ideals preserved within it. This will indeed be a Supreme Court that we are confirming, and it will reflect honor on the American people.

Mr. KOHL. Madam President, I join my colleagues in congratulating Chairman BIDEN and Senator HATCH for their work on the Ginsburg nomination. The chairman and the ranking member deserve credit for handling the entire process with dignity and intelligence. All of us on the committee are grateful that, rather than shocking America, this hearing may have instead reassured Americans, and helped to restore their faith in our institutions of Government.

I do have some reservations about the extent to which Judge Ginsburg answered our questions. But I have no reservations about her ability to serve on the Court. Let me tell you why I voted for her.

First, Judge Ginsburg has demonstrated the necessary character, competence and integrity to sit on our Nation's highest court. As a law student, she achieved honors at a time when few women were even permitted to attend law school. As an advocate, she led the fight to ensure gender equality for women. As an appellate judge, she served with distinction. And at the hearing, she confirmed that she possesses the exceptional intellect required of a Supreme Court Justice.

Second, both on the bench and before this committee, Judge Ginsburg displayed an understanding of, and respect for, the values which form the core of our constitutional system of government. She rejected the doctrine of original intent, which could undermine many of the Court's most important achievements. She accepted an approach to statutory interpretation that relies on legislative history as an anchor for understanding. She spoke forcefully in support of the right to privacy, and, in opposition to all forms of discrimination. In her 13 years on the bench, she has demonstrated an uncommon fidelity to applying precedent, to judicial restraint, and to the Rule of Law.

Most importantly, Judge Ginsburg seemed committed to protecting the civil rights and civil liberties of all Americans. As she told this committee, "the whole thrust of the Constitution is, people have rights and government must be kept from trampling on them." I could not agree more.

Despite my admiration for Judge Ginsburg, I was disappointed by her don't ask, don't tell, don't pursue strategy of responding to questions. And others on the committee—among them Senators SPECTER, COHEN, and MOSELEY-BRAUN—have also expressed disappointment in some of her responses. Of course, Judge Ginsburg did not need to disclose how she would vote on cases that might come before her. But she should have revealed more about how she would approach these cases, what reasoning and methodology she would apply to them, and which factors and materials she would find relevant. Judge Ginsburg was hardly a stealth candidate, but she was—at times—a stealth witness.

We all recognize the movements in the dance of the confirmation: Nominees answer about as many questions as they believe they have to in order to be confirmed. Nevertheless, I would not advise future Supreme Court nominees—with less comprehensive paper trails—to adopt a similarly evasive approach. After all, as Judge Ginsburg herself noted, "In an appointment to the U.S. Supreme Court, the Senate comes second, but is not secondary." I hope that the next nominee will take Judge Ginsburg's own advice to heart.

Still, as I reflect on the confirmation hearing, I keep on returning to how Judge Ginsburg told me she wanted to be remembered, "As someone who cares about people and does the best she can with the talent she has to make a contribution to a better world."

I believe Judge Ginsburg will be such a Justice, and that is why I voted in favor of her confirmation.

Mr. DODD. Madam President, I rise today in strong support of the nomination of Judge Ruth Bader Ginsburg to be a Justice of the U.S. Supreme Court. Based on my review of her qualifications, including her academic writings, judicial opinions, and testimony before the Senate Judiciary Committee, I am confident that Judge Ginsburg has the requisite skills, character, and commitment to the Constitution for service on our Nation's highest court.

As Senators, we bear an enormous responsibility when fulfilling our constitutional duty to provide advice and consent to the President—and to the American people—on judicial nominations. These decisions are particularly important given the nature of judicial appointments. Nominees to the Federal bench, if confirmed, enjoy life tenure and are charged with the awesome responsibility of interpreting and applying the Constitution. Consequently, Federal judges—particularly Justices of the Supreme Court—have an opportunity to influence the policies of this Nation for years to come.

Although article II of the Constitution gives the Senate the responsibility to provide advice and consent on judicial nominations, it does not delineate the factors by which each Senator should evaluate the fitness of a judicial nominee. Accordingly, each Senator must determine for himself or herself the appropriate criteria for considering the qualifications of a nominee.

I have explained my approach to this responsibility on several occasions in the past. In my view, each Senator must begin and end his or her evaluation of the nominee with one overriding question: Is confirmation of this nominee in the best interest of the United States?

Answering this question in the affirmative first requires that each Senator be satisfied that the nominee possesses the technical and legal skills that we must demand of Federal judges.

Since 1980, Judge Ginsburg has served with distinction on the U.S. Court of Appeals for the District of Columbia. Prior to that, she taught at both Columbia University Law School and Rutgers University Law School. Of course, it was during her tenure at Columbia that Judge Ginsburg briefed and argued a key series of cases before the Supreme Court, which resulted in the invalidation of laws discriminating against women—from Frontiero versus Richardson in 1973 to Duren versus Missouri in 1979. In light of that exemplary career, it is not surprising that the American Bar Association gave her its highest rating. Clearly, Judge Ginsburg possesses the appropriate legal skills.

Our next task is to determine whether the nominee is of the highest character and free from any conflicts of interest. Throughout the confirmation process, the Senate has heard nothing but the highest praise for Judge Ginsburg's character and integrity.

Finally, we must carefully consider the nominee's record to determine whether he or she is capable of, and committed to, upholding the Constitution and protecting the individual rights and liberties guaranteed therein. Toward that end, we must ask whether the nominee has the judicial temperament necessary to give a practical meaning to our Constitution's guarantees. We may disagree about the interpretation of various constitutional provisions, but the nominee's views must be within the appropriate range, and his or her approach must reflect a deep commitment to our constitutional ideals.

An analysis of Judge Ginsburg's career and testimony before the Senate Judiciary Committee reveals that she has a deep and abiding commitment to our constitutional ideals. Both her early battles against discrimination and her judicial rulings suggest that she will protect the rights and liberties of all individuals after her elevation to the Supreme Court.

Judge Ginsburg's statements recounting the discrimination she faced, both religious and gender-related, are particularly moving. Recalling her childhood, Judge Ginsburg noted passing a resort in Pennsylvania that had a sign stating, "No dogs or Jews allowed."

When she attended Harvard Law School there were only 8 other women in her class of 400, and the Dean asked her to justify taking a place in the class that otherwise would have gone to a man. Despite that slight and other indignities, she would go on to serve on the Harvard Law Review and, after transferring to Columbia University's Law School for financial and family reasons, graduate near the top of her class.

Despite that impressive academic background, only two law firms in New York City offered her a second interview, and neither of them offered her a job. Additionally, Supreme Court Justice Felix Frankfurter brushed aside her attempt to obtain a clerkship because he did not think that the Court was ready for female clerks.

Despite those injustices, and who knows how many others, Judge Ginsburg battled on. I have already mentioned her groundbreaking work in the area of gender discrimination—an effort that serves as an inspiration to all Americans. But perhaps more important, Judge Ginsburg's judicial decisions indicate that she has not forgotten the lessons of the past. She has repeatedly ruled in favor of individuals challenging discriminatory practices and unreasonable restrictions on basic civil rights.

Additionally, she reaffirmed her commitment to constitutional ideals throughout her testimony before the Senate Judiciary Committee. For example, in response to a question about discrimination based on sexual orientation, she stated that: "Rank discrimination is not a part of our Nation's culture—tolerance is." Her defense of abortion rights was also clear and concise: "[It] is something central to a woman's life, to her dignity. It's a decision that she must make for herself. And when Government controls that decision for her, she's being treated as less than a fully adult human responsible for her own choices."

As invariably happens, some Senators voiced concerns about the extent to which Judge Ginsburg answered certain questions during the confirmation hearings. But when her testimony—which actually covered a fairly wide range of issues—is considered in conjunction with her record, a fairly clear picture of her judicial philosophy emerges. She approaches each case prudently, with a sensitivity to the role of a judge in our democracy, and with an understanding that the Constitution holds basic individual rights inviolate.

In short, confirmation of Judge Ginsburg would be in the best interest of the United States, and when the Senate votes tomorrow on the nomination, I will vote to confirm.

Before concluding my remarks, I would like to commend the chairman of the Judiciary Committee, Senator BIDEN, and ranking minority member, Senator HATCH, on the changes they made in the committee's procedures relating to confirmation hearings—changes that are intended to be standard procedure in the future. From now on, the committee will go into executive session to hear any allegations of wrongdoing against the nominee. If any of the allegations warrant further investigation, the committee will then conduct public hearings on the matter. Additionally, the committee will now open up investigative matters to every Senator.

I understand that there were no allegations against Judge Ginsburg. Nonetheless, it is important to have these procedures in place. After the hearings on the nomination of Clarence Thomas, I noted that the committee's investigation would have been more effective if conducted in executive session and that gavel-to-gavel coverage under television's bright lights was not necessarily the best way to discern the truth. Hopefully, the committee's new procedures will help the Senate carry out its advice and consent duties, while protecting not only the rights of the nominee but also the public's right to know.

Mr. THURMOND. Madam President, we are now considering the nomination of Judge Ruth Bader Ginsburg to become an Associate Justice of the Supreme Court.

For 3 days before the Judiciary Committee, Judge Ginsburg publicly testified and answered questions concerning her qualifications and fitness to serve on the Supreme Court. She responded to inquiries concerning her opinions on the DC Circuit Court of Appeals as well as cases in which she had been involved, articles she had written, and speeches delivered.

There was some encouragement in her testimony particularly where she stated, and I quote, "Judges must be mindful of what their place is in this system and must always remember that we live in a democracy that can be destroyed if judges take it upon themselves to rule as platonic guardians." While that statement gives us optimism, she also stated that she would look beyond the text of the Constitution when determining rights to be protected by the Court.

Additionally, Judge Ginsburg was crystal clear in her support for abortion rights during an exchange with our distinguished colleague, Senator BROWN. Yet, she repeatedly refused to be as forthcoming on the issue of capital punishment, which has been declared constitutional by the Supreme Court. She would only go so far as to acknowledge that the Court has held it constitutional since 1976. To find comfort in that answer on this issue, we must have faith in her adherence to precedents and stare decisis.

In other remarks, Judge Ginsburg suggested that the Court at times has a role to legislate. She stated and I quote, "When political avenues become dead-end streets, judicial intervention in the politics of the people may be essential in order to have effective politics." At other times, she embraced the principle of judicial restraint and appeared determined to decide cases narrowly and on the facts.

During another exchange, Judge Ginsburg found acceptable the broad reach of the Missouri versus Jenkins decision in which the Supreme Court, in my opinion, engaged in judicial activism by authorizing the Federal courts to order tax increases as a judicial remedy. I was disappointed with her answer on this matter.

However, Judge Ginsburg is a woman of integrity. She displayed a depth of knowledge concerning the law and demonstrated her ability to master and articulate complex issues. While Judge Ginsburg chose not to answer responsively a great number of questions, each Member must determine if she otherwise satisfied their standards for serving on the Supreme Court.

Madam President, I am mindful that Judge Ginsburg is President Clinton's nominee, and I did not expect to agree with her on all of the issues. Based on her lack of specificity in a number of areas, I cannot be certain as to where we disagree. Although I have reservations about this nominee, I like to support the President in choosing his nominees when I can. I shall give her the benefit of any doubts I have and shall support her.

Mrs. BOXER. Madam President, I am very proud to rise today in support of the nomination of Ruth Bader Ginsburg to be an Associate Justice of the U.S. Supreme Court.

During the campaign, President Clinton promised the American people that he would select Justices who possessed outstanding legal minds and big hearts. In nominating Judge Ginsburg, the President made good on his promise.

To the highest court in the land, Judge Ginsburg will bring a special combination of conviction, experience, and skill. She will bring the heart of a passionate advocate, who fought an historic and tireless battle against gender discrimination. She will bring the fine mind of a distinguished legal scholar, who both as a law professor and as a Federal judge, defied those who wanted to pigeonhole her as a liberal or a conservative and earned her reputation for independence.

Judge Ginsburg's work on behalf of the women of America has been heroic. She understands what it means to be discriminated against. Despite having graduated first in her class from Columbia Law School, no law firm would hire her. Even as a law professor, she was forced to hide her pregnancy, fearing that she would lose her job if anyone found out.

She has fought against discrimination by using the Constitution as a tool to challenge laws that limit women's opportunities. By convincing the Supreme Court that these laws violated the Constitution's grand promise of equal opportunity, Judge Ginsburg forced open those doors of equality, doors through which generations of women—including me and my daughter—have been able to walk.

Throughout her career, Judge Ginsburg has insisted that a woman's ability to be equal was dependent upon her right to choose. In a series of writing and speeches, Judge Ginsburg has reminded us that laws restricting a woman's right to choose deny us equal status under the law, keep us from competing equally in the workplace, and block us from being independent and equal participants in our Nation's future.

But, Madam President, despite her zealous advocacy for women's rights, Judge Ginsburg has kept her solemn promise to dispense impartial justice. In her 13 years as a judge on the D.C. Circuit Court of Appeals, she has never let ideology cloud her legal reasoning, she has never, in her own words, bent the rules to please the home crowd.

Finally, I really want to commend President Clinton for making this courageous and historic nomination. President Reagan deserves credit for nominating the first woman—Justice Sandra Day O'Connor—to serve on the Supreme Court. But, President Clinton understands that real equality is about moving beyond and breaking through the ceiling of the first woman, the first African-American, the first Latino. Real equality is about true representation, it is about nominating the second woman, the third, the fourth, and the fifth. It is about the nomination of Ruth Bader Ginsburg.

In her speech accepting President Clinton's nomination, Judge Ginsburg, remarked that she hoped it would mark the end of the days when women were seen as one-at-a-time performers. I could not agree with her more. Madam President, I am so proud to have this historic opportunity to vote in favor of Ruth Bader Ginsburg to become the second woman Justice on the U.S. Supreme Court.

Mr. RIEGLE. Madam President, it is with great pleasure that I rise today in support of the nomination of Judge Ruth Bader Ginsburg as Associate Justice to the U.S. Supreme Court. As his first nomination to the Supreme Court, President Clinton has chosen a jurist with superior academic and judicial credentials who will lend an important perspective to the Court.

On issues ranging from antitrust law to privacy rights, Judge Ginsburg has demonstrated a measured, equitable approach which transcends the simplistic political labels of conservative or progressive, Republican or Democrat. And while no Senator may be in agreement with each decision she has written or article she has published, I believe that all Senators can agree that Judge Ginsburg embodies the kind of reflective wisdom and independent judgment found in very great jurist and Supreme Court Justice in history.

Ruth Bader Ginsburg is responsible for the establishment of an entirely new branch of legal rights and equal protection. In numerous appearances before the Supreme Court in the 1970's, she won several landmark gender discrimination cases, invalidating the structural discrimination pervasive at that time. Through her groundbreaking work and successful litigation before the Court, Judge Ginsburg is personally responsible for launching the equal treatment of women in the workplace now required by law.

And although sex discrimination is still an unfortunate reality in our society, the tremendous legal progress of the past two decades is directly attributable to Judge Ginsburg's tireless efforts in this area. Drawing from her own firsthand experiences with gender discrimination, Judge Ginsburg brings an uncommon insight and perspective to the bench—a perspective that has been severely underrepresented on the Supreme Court.

As a judge and a law professor, Ruth Bader Ginsburg has received numerous awards and honors. She has been given the highest recommendation possible by the American Bar Association—they unanimously voted her exceptionally well-qualified to be an Associate Justice. Judge Ginsburg has repeatedly been signed out as a top centrist judge by legal journals and judicial observers. And in her years as a professor, she was chosen by her peers as an outstanding law professor and received national recognition for her academic contributions.

I believe that in choosing this highly qualified candidate, President Clinton has shown his solid commitment to bringing the Court closer to the cultural diversity and gender composition of today's society.

I am pleased to support such a worthy candidate for Supreme Court Justice, and I urge my colleagues to confirm Judge Ginsburg unanimously.

Mr. BIDEN. Madam President, although we are not voting until tomorrow, I would like to ask for the yeas and nays on the Ginsburg nomination.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BIDEN. I thank the Chair.

Madam President, as I understand it, the distinguished Republican leader wishes to speak on this nomination in a few moments. He is at so many things which he is doing right now, I am not sure exactly when he will be down to speak. But other than the distinguished Senator from Kansas, I do not think there are any other Members seeking recognition to speak now or this afternoon.

So what I would like to suggest is to put in a quorum call in the expectation that the Senator from Kansas will be down shortly.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BIDEN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIDEN. Madam President, I see the distinguished Senator from New York has arrived. He is the chief sponsor, if you will, in the Senate of Ruth Bader Ginsburg. He is a man who, I might add, Madam President, told me and others about the intellectual prowess and judicial temperament of this fine nominee long before she was named to the Court. He cannot say this, but I can. When asked by the President of the United States who he would consider nominating for the Court if it were his Court, unequivocally and without hesitation he said Ruth Bader Ginsburg.

So I commend him on his being, as usual, way ahead of the curve. And I compliment the President and his staff for listening to the distinguished Senator from New York. I will now yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Thank you, Madam President.

May I thank the distinguished chairman of the committee who so successfully, gracefully brought this high matter of constitutional responsibility to this floor. This could not have happened without his efforts and that of his able, respected associate, Senator HATCH.

Madam President, exercising its constitutional responsibility to advise and consent, the Senate is perhaps most acutely attentive to its duty when it considers a nominee to the Supreme Court. That this is so reflects not only the importance of our Nation's highest tribunal, but also our recognition that while Members of the Congress and Presidents come and go—chief magistrates, as Woodrow Wilson described the Presidency—the tenure of a Supreme Court Justice can span generations.

We in the Senate, together with the President, create the third branch of the National Government; that is the judiciary. We thus owe special care that those charged with watchful vigilance over our constitutional charter be up to that task. So it was that in the past weeks the Committee on the Judiciary, led by Senators BIDEN and ORRIN G. HATCH, engaged in the most searching inquiry of Judge Ruth Bader Ginsburg.

That the committee unanimously determined that Judge Ginsburg should be the 107th Justice of the Supreme Court of the United States is further testament to a extraordinary career of 34 years in the law. Judge Ginsburg is perhaps best known as the lawyer and litigator who raised the issue of equal rights for women, equal protection of women under the Constitution, to the level of constitutional principle. She has also distinguished herself in a wide range of legal studies, and for the last 13 years has been one of our Nation's most respected jurists on the U.S. Court of Appeals for the District of Columbia Circuit.

For some months, I had hoped that the country would have the opportunity, as it has in these past weeks, to discern the qualities which make Judge Ginsburg so right for the job.

Senator BIDEN having mentioned it, I will own to the fact that on May 12, on a flight to New York, President Clinton very generously asked me who I would like to see appointed to the Court, and I replied that I thought there was only one name—Ruth Bader Ginsburg.

Later, as the administration was considering that recommendation, I would pass on to the White House remarks made in 1985 by Erwin N. Griswold, former Solicitor General of the United States and dean of the Harvard Law School at the time Judge Ginsburg was a student there. Speaking before a special session of the Supreme Court commemorating the 50th anniversary of the opening of the Supreme Court Building—which they moved into in 1935—Dean Griswold made note of the work of attorneys who had appeared before the Court on behalf of special interest groups, as against individual appellants. He said:

> I think, for example, of the work done in the early days of the NAACP, which was represented here by one of the country's great lawyers, Charles Hamilton Houston, work which was carried on later with great ability by Thurgood Marshall. And I may mention the work done by lawyers representing groups interested in the rights of women, of whom Ruth Bader Ginsburg was an outstanding example.

I must tell you that we in New York take special pride in her nomination. She was born and raised in Brooklyn. The day after her nomination, the front page of the New York Daily News exclaimed "A Judge Grows in Brooklyn." Judge Ginsburg attended Cornell University where she was elected to Phi Beta Kappa and graduated with high honors in government and distinction in all subjects, and later Columbia Law School, where she tied for the top rank in her class. Indeed, she actually attended two law schools, beginning at Harvard Law School, and finishing at Columbia so that she could be with her husband Martin, who had returned to New York to begin the practice of law. Never before Ruth Bader Ginsburg had anyone been a member of both the Harvard and Columbia Law Reviews.

With such a record, we would not think it surprising that she would be recommended to serve as a law clerk to Supreme Court Justice Felix Frankfurter. But in the world of that day, the legal profession was mostly for men only. That time is not far distant, Madam President; I was here in Washington in the Kennedy administration at the time that Justice Frankfurter stepped down. Arthur Goldberg succeeded him. We can just reach out and touch that time. And Justice Frankfurter was not prepared to hire a woman—it seemed it would not be right and not perhaps even fair. I can imagine him thinking that. And such was also the case with New York law firms, which had no place for her really—only two showing any interest.

She persevered, she triumphed, she transcended along this—working as a law clerk for Judge Edmund L. Palmieri of the U.S. District Court for the Southern District of New York, as an associate director at the Columbia Law School Project on International Procedure, as a professor of law at Rutgers University Law School. She was one of the first tenured female law professors, in the country, and the first at Columbia University, where Michael Sovern was pleased to see that she was the first tenured appointment he would make once he became dean.

While at Colombia, then Professor Ginsburg became the moving force behind the Women's Rights Project of the American Civil Liberties Union. The prime architect of the fight to invalidate discriminatory laws or practices against individuals on the basis of gender, her imprint could be found in virtually every gender case which reached the court in the 1970's. She herself argued six cases before the Supreme Court winning five, and in the process fashioning lasting precedent for women's rights. To know something of even a couple of these cases is to understand the fundamental change which she brought about.

In one, Frontiero versus Richardson, Ruth Bader Ginsburg secured for women serving in our Armed Forces equal benefits for their dependents. Another case, Weinberger versus Wiesenfeld, involved a section of the Social Security Act providing survivor benefits to a widow with minor children, but not to a widower with minor children. Professor Ginsburg prevailed upon the Supreme Court to invalidate this provision as discriminatory, rejecting the gender-based stereotype that women's work is less worthy than men's.

Upon her nomination in 1980 to the U.S. Court of Appeals, the American Bar Association gave her its highest rating. Time has not dampened the ABA's enthusiasm, having offered its highest evaluation to Judge Ginsburg as a nominee to the Supreme Court. As a jurist, she embodies the view she expressed in the Sibley lecture at the University of Georgia School of Law in 1981:

> [The] greatest figures [of the American judiciary] * * * have been independent-thinking individuals with open, but not empty minds, individuals willing to listen and to learn. They have been skeptical of party lines and they have exhibited a readiness to reexamine their own premises, liberal or conservative, as thoroughly as those of others.

She believes that all of us, not just judges, have a duty to protect constitutional rights. As she put it in her opening statement before the Committee on the Judiciary, our Constitution "strives for a community where the least shall be heard and considered side by side with the greatest." Her opinions show a respect for the other branches of Government,

Ever mindful of our frailties, Judge Ginsburg put it so well in her statement before the Judiciary Committee when she embraced Judge Learned Hand's view of the spirit of liberty, as "one which is not too sure that it is right, and so seeks to understand the minds of other men and women and to weigh the interests of others alongside its own without bias."

Later, she quoted with approval the words of another New Yorker, Justice Benjamin Nathan Cardozo, who said: "Justice is not to be taken by storm. She is to be wooed by slow advances."

In confirming Ruth Bader Ginsburg as an Associate Justice of the Supreme Court of the United States, we do honor to ourselves and to the most vital traditions of our jurisprudence, which have worked to keep our society both ordered and free.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Madam President. It is a great honor that I rise to express my whole-hearted support for this nomination.

During my service in the Senate, I have developed three fundamental criteria by which I judge a nominee's suitability for service on the Supreme Court: Is the nominee ethical, qualified, and within the philosophical mainstream of modern jurisprudence?

In the case of Judge Ginsburg, the answer on each of these three criteria is a resounding "Yes."

Madam President, I suggest the absence of a quorum.

First, Judge Ginsburg is superbly qualified. Any nominee for the highest court in the land must be in the forefront of the legal profession. This is clearly the case with Judge Ginsburg.

During her years as an advocate, Ruth Bader Ginsburg earned her place as pioneer in the then evolving area of gender discrimination law. And, today, countless women across America are better off because of her efforts.

While serving as counsel to the American Civil Liberties Union, Judge Ginsburg won five landmark cases before the Supreme Court. These cases resulted in a gradual expansion of the Court's interpretation of the equal protection clause as it is applied to gender discrimination cases.

Even with her success as an advocate, there is a absolutely no question about Judge Ginsburg's judicial temperament. She is within the mainstream of American jurisprudence. Although she began her judicial career with the background of a liberal, Judge Ginsburg is a clear and independent thinker. Her opinions show an abiding respect for the rule of law. On a wide range of legal issues she has proven herself to be a thoughtful, deliberate judge. She crafts her opinions narrowly and with deep respect for both precedent and the prerogatives of the two other branches of Government.

Moreover, throughout her career, Judge Ginsburg has observed the highest ethical standards. Beyond merely complying with the law, Judge Ginsburg has gone out of her way to avoid even the appearance of impropriety. For instance, out of protest, she and her husband have resigned from two private clubs that appeared to have discriminatory membership policies. She understands that judges ought to live by the rules they set for the rest of us.

In closing, I congratulate President Clinton for making this fine nomination. I am confident that Judge Ginsburg will make a great Justice of the U.S. Supreme Court.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. MATHEWS). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McCAIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCAIN. Mr. President, I ask unanimous consent to address the Senate as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

BEYOND GOOD INTENTIONS: USING FORCE IN BOSNIA AND SOMALIA

Mr. McCAIN. Mr. President, today and this week, we are understandably focused on domestic issues. A national debate is raging over the President's proposed deficit-reduction plan and, understandably, the focus of the American people and to some extent, the world is focused on this overriding domestic issue.

But I think it is important to point out that we stand at a defining moment of the post-cold-war era. Once again, we are present at the creation, just as we were at the end of World War II; once again, we must redefine our role in the world.

Mr. President, I am calling today for President Clinton to come to the Congress and the American people and explain what our goals and strategy are in Bosnia and Somalia. Will we commit American military force to Bosnia? If so, under what circumstances? What are the military and strategic goals? How long do we expect the United States to be militarily engaged? And what are the rules of the engagement?

In the media, there are ample reports that the United States intends to use air power in Bosnia. The use of air power may be justified. I think that all Americans would strongly support military action to prevent a massacre of innocent civilians, whether it be in Sarajevo or anyplace else in the world. But, Mr. President, the American people need to know the parameters of this military involvement, what we intend to accomplish in the long term, as well as the short term, and how we intend to do it.

On numerous occasions when the United States has been involved militarily in places throughout the world, Members of this body, especially on the other side of the aisle, have come to this floor and called for the invocation of the War Powers Act. I am not saying that that is appropriate at this time. But I am saying that consultation with Congress and the American people is critical before we send young men and women into conflict in the region.

I have to tell you, Mr. President, I am deeply disappointed that so far the Clinton administration has not consulted with the American people or with Members on this side of the aisle as to what military action is being contemplated. Those are my constituents in the military whose lives may be at risk, just as they are the President's.

There has been a tradition since World War II that partisanship ends at the water's edge. There has been virtually no consultation between the President of the United States and Members of this body on this side of the aisle. I strongly recommend that he do so before initiating military action.

I want to emphasize Americans are not ready to watch people get massacred if they can prevent it. An open-ended military commitment in the region, such as we are seeing in Somalia, is something that the American people will not support. We have ample proof that unless we have the support of the American people, military enterprises of any duration are doomed to failure.

Mr. President, we must develop a clear and consistent policy for peace enforcement and nation building. We must choose how to reshape American strategy and American forces, and we must choose carefully indeed.

Day by day we are discovering in Bosnia and Somalia that the end of the cold war does not mean the end of history. We are discovering that we still have to deal with 20–30 conflicts and crisis points throughout the world—just as we did every day of every year after World War II. We are discovering that there are sharp limits to the peace dividends we can draw before we risk a level of weakness that will lead to new wars.

We are confronted by a critical dilemma. If we remain indifferent to the world, then the world's problems will inevitably come to visit us in our homeland. They may not be military threats, but they will be threats to our economy, our interests, and our allies. They will threaten our political and moral values, and they will inevitably unleash the use of weapons of mass destruction.

If, however, we commit our prestige and our forces carelessly, we will waste resources we cannot afford. Our good intentions will lead us down the road to military intervention as a substitute for statesmanship and inevitably to political and military failure.

PAVING THE ROAD TO HELL WITH GOOD INTENTIONS

There are many roads to hell that are not paved with good intentions. Good intentions alone, however, are not a substitute for strategy, for policy, for clearly defined goals and objectives, and for conditioning the use of our military forces to a clear assessment of risks and a high confidence that we will be successful.

In the name of humanitarian causes, peacekeeping, and other ideals, we may blunder in where we then have to blunder out. We will waste our precious moral and political capital, and potentially that of the United Nations as well.

Rhetoric about cooperative security, and invoking the name of the United Nations, are not a substitute for a clearly defined foreign policy. Nor, is reacting out of disarray to the events of the day is not a substitute for a sustainable implementation of that foreign policy.

Making a limited commitment of U.S. military forces without a clearly defined plan that takes into account the risk of escalation or retreat, is not a substitute for military planning and military expertise.

CAUTION AND THE USE OF ARMS

It is easy for politicians and civilians to talk blithely about using military force, or accuse the military of being hesitant and obstructive. Politicians risk little, and arm chair generals risk even less.

The fact, is, however, that military force is only successful if it serves a clearly defined policy, if it has clearly defined objectives, if it is capable of dealing with the inevitable uncertainties of war, and if the cost of using that force is matched with the value of the objective. If force is truly an extension of diplomacy by other means, it is sometimes successful. If it is intended as answer to the failure of diplomacy, it is almost never successful.

Many of yesterday's doves have forgotten this as they become today's hawks. However, we cannot afford to remember the gulf war, Panama, and Grenada without remembering Vietnam and Lebanon, or the high cost of the Korean war. We cannot afford to act on the impulse of the moment, no matter how noble that impulse is, and not think through the possible consequences of our actions.

Military leaders have good reason to remember the cost of trying to use force without a basis in sound policy, without clearly defined objective, without adequate means, without the ability to retreat or escalate, and—most importantly—without public support.

They have reasons for caution that long predate America's recent problems. Nearly 2,500 years ago, Xenophon wrote the first classic military biography. The "Anabasos," about a force trapped into retreating from a political disaster. At virtually the same time, Thucydides wrote the "Peloponnesian Wars," the first real military history.

This lesson describes Athens' reckless commitment to intervention in Syracuse that was the key factor in the destruction of the world's first real experiment in democracy and in creating a new world order.

Thucydides' words are as relevant today as they were then:

> This was the greatest event in the war, or in my opinion, in Greek history; at once most glorious to the victors and most calamitous to the conquered. They were beaten at all points and altogether; their sufferings in every way were great. They were totally destroyed—their fleet, their army, everything—and few of many returned home. So ended the Sicilian expedition.

I do not believe we face any such risk. We are too strong to suffer a major defeat of arms. We can, however, suffer a defeat that is even more important if we go into Bosnia without clearly defined and obtainable goals, or if we allow ourselves to take sides in the civil war in Somalia without having any ability to bring that war to a successful end.

We can waste our credibility and capability, and that of the United Nations, in failure. If we do, we are unlikely to have similar opportunities again. The American people and the world will accept sacrifice in the name of good causes if that sacrifice is the result of sound policies, achievable objectives, and is cogently explained to them. I do not believe, however, that they will support costly open-ended engagements that cost lives and vast amounts of resources.

WARFARE BY WEATHERVANE

At present, the administration gives the appearance of being a weathervane. Its policies not only seem to be in disarray, they seem to blow with the wind. They shift with the crisis of the day, what is on our television screens, or what seems expedient at the moment.

Consider how the winds shift in the case of Bosnia. We will use force, we will not use force. We must have European support, we will act alone. We will protect the U.N. peacekeepers, we will help the Serbs protect themselves. We will provide humanitarian relief, we will help shape a peace. Vance-Owen is in, Vance-Owen is out. We will follow the lead of the U.N. we have the authority to act alone.

In the case of Somalia, the winds have blown us from a narrow well-defined humanitarian mission to taking sides in a prolonged hunt for a Somali warlord. We have moved from relief effort to peace enforcement to taking sides, and we seem to be on the edge of moving towards nation building. We know whom we are chasing. We may not know why we are chasing him, or what we will do if we catch him.

THE QUESTIONS THAT PRESIDENT CLINTON MUST ANSWER

This is why I believe that it is vital that President Clinton clearly define his policy towards peacekeeping, explain his goals for using force in Bosnia, and explain his goals for using force in Somalia.

To be specific, we need the President to come firmly and publicly to grips with six key issues:

First, the President has been in office long enough to tell us his vision of the role of the United States in peace keeping, peace enforcement, and nation building. We need a Clinton doctrine. We need one we can debate and use to shape a national and international consensus.

Second, the President needs to clearly define his conditions for using military force, and how he intends to consult the Congress. We need a clear picture of the criteria the President will use in judging whether to risk American lives. We need to know under what conditions he will be willing to escalate or sustain American military commitments. We need to know whether he will seek the approval of the Congress, and how he will seek that approval.

Third, the President needs to clearly define the role of the United States relative to the United Nations and our allies. We cannot keep shifting basic policy towards our relationship with the U.N. and Europe. We must set clear criteria for how we will treat U.N. decisions and for our involvement in U.N. actions. We must set clear criteria for what we want Europe to do, and to stick with them. We must put a firm end to reversing our position from day to day, and often in the full view of the entire world.

Fourth, the President needs to clearly define his policy towards military intervention in Bosnia. It is painfully clear that he is not sure from moment to moment whether we are protecting the U.N. peacekeepers, protecting the Muslims, pressuring the Serbs and Croats to accept partition, or pressuring the Serbs and Croats to accept a different kind of peace.

If we are to commit force, we need to know the extent to which we truly insist on U.N. and European support. We need to know the extent to which we are prepared to escalate and where we will halt. We need to make it clear to all sides what our goal really is, and we need to be certain our military and the American people can support and sustain the effort to meet the goal.

Fifth, the President needs to define why we are in Somalia and what we intend to do there. He needs to state clearly whether we have accepted an open-ended commitment to peace enforcement and nation building. He needs to define what we expect from the United Nations and other nations, and the limits to our involvement. He needs to go beyond the manhunt and the headlines, and define our ultimate goal and how he intends to achieve it.

Finally, the President urgently needs to redefine the goal of his military strategy, defense budget, and bottom up review. It is painfully clear that we cannot shape our strategy or forces simply by setting an arbitrary budget ceiling, and then try to meet new commitments within that ceiling. We need a clear picture of where we will keep our forces, how we will reshape them for peace enforcement and humanitarian missions, how we will adapt them to work with the U.N. and other nations, and how we will give them the readiness and decisive technical edge to ensure their success.

Mr. President, at the end of this week Congress will go out of session. Members will be scattered to the four corners of this country.

We need to discuss this issue and debate it, and come to a conclusion in Congress if the President intends to dramatically escalate the use of American military force in Bosnia. And we need to do so soon.

Otherwise, we will have scant chance of building a consensus here in the Congress or in the country.

Mr. President, I yield the floor.

SUPREME COURT OF THE UNITED STATES

The nomination of Ruth Bader Ginsburg, of New York, to be an Associate Justice of the Supreme Court of the United States.

The Senate continued with the consideration of the nomination.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. DOLE. Mr. President, is the Ginsburg nomination the pending business?

The PRESIDING OFFICER. The Senator is correct.

JUDGE RUTH BADER GINSBURG

Mr. DOLE. Mr. President, tomorrow, I will vote to confirm the nomination of Judge Ruth Bader Ginsburg.

A top student at both Harvard and Columbia Law Schools, a law professor at Rutgers University, and a respected judge on the D.C. Court of Appeals for nearly 13 years, Judge Ginsburg certainly has a record of academic and professional achievement that would prepare anyone for service on the Nation's highest Court. By any measure, she is qualified to become the Supreme Court's ninth Justice.

Judge Ginsburg also has the temperament that one would want, and expect, in a Supreme Court Justice. During her hearings before the Senate Judiciary Committee, she displayed both a cool rationality and an open mind, a combination that inspires both respect and confidence.

Now, I do not agree with all of Judge Ginsburg's past judicial decisions, nor do I agree with every position she has taken in her considerable body of academic writings. If a Republican were in the White House, Judge Ginsburg would not have been nominated.

Nevertheless, I am convinced that Judge Ginsburg understands the proper role of a Supreme Court Justice and the function of the judiciary in our three-branch democracy.

Judges must apply the law neutrally to the particular facts of each particular case. They must look to precedent when reaching their decisions. But they must not impose their own personal policy preferences in order to achieve favored outcomes. The job of legislating belongs to Congress and to the State legislatures, not to the Supreme Court.

I believe Judge Ginsburg understands this. During her tenure as a court of appeals judge, she may have shown a streak of judicial activism on occasion, but for the most part her record is that of a moderate, reasoning by precedent and mindful of the importance of restraint and caution. In fact, some have criticized Judge Ginsburg for being more interested in the fine print rather than the big picture, and for being a legal technician rather than an interpretive philosopher—criticisms that Judge Ginsburg should wear as a badge of honor.

Finally, Mr. President, I want to commend Senator BIDEN, the chairman of the Judiciary Committee, and the committee's ranking member, Senator HATCH, for conducting a closed-session hearing as part of their deliberations on the Ginsburg nomination. For future nominees. I hope the committee continues this practice. It is perhaps the only way to protect nominees from the considerable embarrassment that may result when groundless or easily explainable charges of a personal nature are given a public airing. My only regret is that the committee did not resort to a closed session when personal attacks were made against the last Supreme Court nominee, Justice Thomas.

We have learned from that. I think that is probably the reason now.

I think it has already been stated by the chairman of the committee. But I want to reemphasize the record to show again that the Judiciary committee began its hearings on July 20, a mere 36 days after the Ginsburg nomination was formally announced by President Clinton. No Republican nominee to the Court in recent history has been considered so expeditiously.

I wish Judge Ginsburg the very best as she assumes that awesome responsibility of sitting on our Nation's highest Court. Needless to say, I look forward to having a neighbor that I can proudly call Madam Justice.

Mr. BIDEN. Mr. President, I would like to thank the Republican leader for his compliment and acknowledgement. What he said about the speed with which we moved is absolutely accurate. I hope the Democrats do keep that in mind if things change in 3 years. I also point out that however long it may be, but as long as I am chair of the committee—and I think my view is shared by all members of the committee—we will continue to have a closed hearing. I believe it is a necessary change and innovation for the very reasons the Senator has indicated.

Last, I point out a little known fact—and I mean it sincerely—I did offer to the President of the United States and I did offer to the nominee, who was referred to, an opportunity to have that entire matter in a closed hearing. It was the choice of the nominee, and I do not criticize that choice. I understand it, in light of the fact that the charges were already made public against him. It was almost impossible for him to agree to that. But there was the opportunity offered, under rule XXVI of the Senate, to go in closed session relating to those charges. It was probably beyond anybody's control at that point. I do not say that by way of excuse, only by way of explanation.

I thank the Republican leader for his comments and, hopefully, we can move as expeditiously on Republican nominees as we have on Democratic if and when that time returns.

Mr. DOLE. Mr. President, I thank the distinguished chairman, my friend. There is no doubt about it, they did their job well, and I think that is why it moved so expeditiously.

I would like, if I may, to proceed as in morning business on another matter for about two minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

EISENHOWER NATIONAL SYSTEM OF INTERSTATE AND DEFENSE HIGHWAYS

Mr. DOLE. Mr. President, on July 29, I was honored to participate in a ceremony held here in the Capitol, to honor President Dwight D. Eisenhower and unveil the new Eisenhower Interstate System sign.

I was joined by President Eisenhower's son and granddaughter Susan, the Secretary of Transportation, and several of my colleagues in both the House and the Senate, in honoring the vision of a man who worked tirelessly to see the Interstate Highway System come to reality.

The unveiling of the newly appointed sign, which will be placed throughout the Nation, commemorates Dwight D. Eisenhower's dedication and perseverance. Our colleague, the late Senator John Heinz should also be recognized and honored for being a sponsor of the 1990 legislation which redesignated the National System of Interstate and Defense Highways as the Dwight D. Eisenhower System of Interstate and Defense Highways. President George Bush signed this legislation on October 15, 1990.

In 1991, the Congress enacted legislation requiring the Secretary of Transportation to conduct a study and report to Congress on a recommended sign to be placed on the interstate highways. This legislation was signed by President Bush on December 18, 1991. The report, which recommended a sign be developed, was completed and forwarded to Congress on January 14 of this year. Ralph Becker deserves a great deal of credit for his hard work and devotion to this project and for his work in the development of this new Eisenhower Interstate System sign.

Each State will be encouraged to place the sign along the Interstate System throughout the country. For both Republicans and Democrats alike, as friends of the Eisenhower family, it was an honor to be a part of this tribute to Dwight D. Eisenhower.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BIDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOMINATION OF JEFFREY E. GARTEN OF NEW YORK REFERRED TO COMMITTEE ON FINANCE AND COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. BIDEN. Mr. President, as in executive session, I ask unanimous consent that the nomination of Jeffrey E. Garten, of New York, to be Under Secretary of Commerce for International Trade, presently being held at the desk, be jointly referred to the Committee on Finance and the Committee on Banking, Housing, and Urban Affairs.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. BIDEN. I ask that there now be a period for morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE PASSING OF CONGRESSMAN PAUL HENRY

Mr. RIEGLE. Madam President, I rise to call attention to the very sad fact of the passing of our much esteemed House colleague, PAUL HENRY, of Michigan.

PAUL has waged, over the last several months, a very courageous battle against a brain cancer condition and did so with great dignity and with the love and support of his family and his staff and everyone in Michigan who knew him. We lost him on Sunday, just a day ago. His loss is a very great loss, not just for our State but for the country as well.

I want to extend my deepest sympathies today to his wife, Karen, and his children, Megan and Jordan and Kara. I know above everything else PAUL was a devoted husband and loving father, and I know how deeply they miss him now.

Tomorrow morning we will be having a ceremony for him in Michigan. I will be traveling now with other members of the delegation. I will not be able to be here for the votes tomorrow morning. I so announce now. I will attempt to either find pairs for those votes or try to at least declare how I would have voted if I were here. But I feel it appropriate to be present for his service in Grand Rapids tomorrow morning.

He will be remembered by all as an intelligent and conscientious public servant who had the courage to act upon his convictions. And he was not afraid to buck the party line when he thought it was the right thing to do. He was a very thoughtful person, a natural teacher, and was a teacher, prior to his coming to the Congress, who tried hard to help people understand the issues and to persuade them to agree with him by the use of logic and reasoning.

He found great strength in his religious values throughout his public service career. As a professor of political science at Calvin College and as a Michigan State legislator and then, finally, as a U.S. Congressman, there was discernible throughout his work a very steadfast grounding of devotion to the religious beliefs that he held, and those remained visible and strong throughout his entire public life.

Just a few months ago he himself wrote very moving words to the constituents of his congressional district. He said, "I will never be able to adequately thank all of you for your support, kindness, and love. My life is in God's hands, as it has always been. My walk with him goes on."

Those words were so typical of him and his orientation in the way he lived his life. It guided his daily work and personal life in every way.

So this was a very special Member of the House. He will be greatly missed by all who knew him. While he lost this fight that he was waging against the cancer problem, in doing so in the manner in which he did, he won the affection and respect of everyone.

His staff served him extraordinarily well during the difficult months of this year, and great tribute is due them for the service that they have rendered. As everyone struggled with the hope that there might be a turn in his medical circumstances and that he might be able to gain ground, no one ever surrendered that hope, but his staff performed magnificently during this period of time. I know they grieve now for him. I want to acknowledge with great respect the work that they have done to represent the district in the Grand Rapids area.

PAUL HENRY accomplished much in the time that he was given. And he is now in the healing arms of God's grace.

I yield the floor.

SINK THE SINC

Mr. PRESSLER. Mr. President, 18 of my colleagues and I recently sent a letter to the reconciliation bill conferees on an important provision for small business.

This provision, dubbed the so-called service industry noncompliance initiative or SINC would create a massive new blizzard of paperwork for small business. This proposal requires businesses to file 1099 forms with the Internal Revenue Service anytime they purchase more than $600 in services from any incorporated business.

During Senate consideration of the reconciliation bill, I offered an amendment to strip this provision from the bill. The Senate unanimously voted, 0–98, against a motion to table my amendment, and subsequently, unanimously adopted it.

Mr. President, the SINC initiative is bad policy for small business and for this country. This requirement represents a massive new paperwork burden for America's entrepreneurs. The Small Business Legislative Council has said "extending information reporting to corporate service providers would vastly expand the amount of recordkeeping and reporting necessary." The health insurance industry has threatened increased rates. The National Federation of Independent Business, an organization opposed to this reporting requirement from the beginning, said in a letter to all Members of Congress that "the enormous cost of this provision of the business community far outweighs any taxes that would be collected through increased compliance." From the Tax Executives Institute we hear that, "there continues to be no convincing evidence that the IRS would be able to process the millions of additional pieces of paper that would be generated under the proposal." Even the New York Times described this provision as "a blizzard of paperwork."

Obviously, the SINC proposal creators did not take small business into consideration when they were designing this new requirement. This propaperwork idea is typical of the big-government folks in Congress and the administration. Their philosophy is simple: enact any provision that will increase government revenue no matter how much it will cost small businesses to comply.

I would also like to point out that my counterpart in the House, Congresswoman JAN MEYERS, ranking member of the House Small Business Committee, together with Committee Chairman JOHN LAFALCE sent a letter to conferees signed by 70 Representatives stating their opposition to this small business nightmare.

It is our hope the conferees will recede to the Senate language, which stripped the new paperwork provision from the reconciliation bill. If this proposal is enacted, America's small business men and women will be spending time filling out forms for the Government rather than expanding their businesses and creating jobs.

I ask unanimous consent that the letter to the conferees, together with two articles about the Senate's action to strike the SINC provision, be printed in the RECORD immediately following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, July 19, 1993.

DEAR CONFEREE: The House-passed version of the Omnibus Budget Reconciliation Act of 1993 included a provision, section 14251, implementing the IRS's "Service Industry Non-Compliance (SINC) Initiative". During its debate on the Budget Reconciliation bill, the Senate unanimously adopted an amendment to delete the SINC provision, by a roll-call vote of 98-0. We strongly urge you not to include SINC in the Conference Report on H.R. 2264.

Section 14251 would require a business taxpayer to file a Form 1099 with the IRS, if more than $600 in services are purchased from a corporate service provider during the tax year. The proponents of the provision assert that "when taxpayers know that the IRS has received information reports on payments made to them, they are more likely to file tax returns and to report their income accurately." The proponents also argue that the SINC Initiative would generate substantial tax revenues.

While there are substantial questions regarding the practical utility of the SINC Initiative or the amount of revenue that would actually be generated, we believe there is no question that the SINC Initiative would bury small businesses in a blizzard of paperwork requirements. Small business owners would be required to establish new and costly recordkeeping systems that would track expenditures for each of the many, many corporations, large and small, from which they are quite likely to obtain services. All that information gathering would be useless, if the $600 threshold was not reached. Once the threshold was reached, SINC would require the small business owner to send the IRS a 1099 report regarding each corporate service provider and to incur the cost of sending a copy of the form to the firm from which the services had been obtained.

This recordkeeping burden is in addition to the burden of obtaining other information needed to complete the IRS Form 1099, such as an accurate and complete mailing address for the corporate service provider and the firm's taxpayer identification number. When dealing with larger, more established firms, this information collection effort would impose an onerous burden, but would be doable. With many other service providers, it might be nearly impossible in practical terms. One only has to think about the substantial challenge often encountered in trying to obtain a simple payment receipt from a Washington taxi driver.

The millions of hours of paperwork burden heaped upon the small business community appears even more unreasonable, when there are very real questions regarding whether the IRS possesses the technical capability to make any effective use of the millions of additional Form 1099s that would be generated. While the IRS claimed that the SINC Initiative would bring in $6.1 billion in additional revenue over five years, the Joint Committee on Taxation believes that $411 million is a more accurate estimate. Given the costs associated with the new paperwork requirements, the Tax Executives Institute said, "there is a strong possibility that the cost to the payer community would exceed the revenues flowing to the Treasury." Without question those economic and management resources which the small business owner will have to divert to the new recordkeeping and reporting requirements, if the SINC Initiative is enacted, will not be available for economic growth and job creation.

While the goal of improving the tax code compliance of corporate service providers is laudable, it appears that the SINC Initiative, although under development by IRS for a number of years, is not ready for enactment. Indeed, if the IRS tried to impose this massive paperwork burden without a statutory mandate, it would not pass muster under the standards imposed by the Paperwork Reduction Act of 1980.

Enclosed is a reprint of an article from the New York Times, which provides an analysis of the issues presented by the SINC Initiative. Some have even suggested that if included the SINC Initiative has the potential to become the "Section 89" of the 1993 Budget Reconciliation Act.

In the pursuit of deficit reduction, we must not succumb to the temptation to heap real and costly recordkeeping and reporting burdens on the small business community for the hollow promise of additional tax revenues through improved compliance.

Sincerely,

Larry Pressler, Dale Bumpers, Christopher S. Bond, Malcolm Wallop, Paul Coverdell, Lauch Faircloth, Conrad Burns, Robert F. Bennett, Dan Coats, Dirk Kempthorne, Sam Nunn, Joseph I. Lieberman, Harris Wofford, Dianne Feinstein, Herb Kohl, Carl Levin, Carol Moseley-Braun, Howell Heflin, Frank H. Murkowski.

PAPERWORK REQUIREMENT WOULD INCREASE BURDEN

(By David Voight)

Senator Larry Pressler (R-S.D.), the top ranking Republican on the Senate Small Business Committee, was an active player in trying to make the tax portion of the budget reconciliation bill less onerous for small business. Of his two major initiatives, he was successful in one and lost the other even though he was able to get majority support for his position (procedural rules required a super majority of 60 votes—his amendment actually got 56).

His successful effort was to strike from the Senate bill a provision called the Service Industry Non-Compliance (SINC) initiative which would have tremendously increased the amount of paperwork required of small business. This initiative would require businesses to file 1099 forms for payments made for services to corporations as well as unincorporated individuals. Businesses owners would have to 1) require taxpayer identification numbers from every corporation they purchase a service from; 2) aggregate all payments for services made to any corporation during the year; and 3) fill out 1099 Forms for any corporation paid more than $600 for services in a year.

The intent of this massive new paperwork requirement is to assist the IRS in increasing revenue by catching cheaters who are not filing or underreporting income. Ironically, however, the IRS already receives over one billion 1099 forms a year. Adding several hundred million more would simply overwhelm the unsophisticated IRS computer system. It would not enhance enforcement. It would become simply another senseless burden for small business.

Even though Pressler was successful in knocking this out of the Senate bill, it remains in the House passed version. This means that it is an item that House and Senate members will have to work out in a conference committee. Final action should come shortly before Congress begins an August work break. Groups will be working to make sure that the Pressler position prevails.

Pressler also teamed up with Sens. Roth (R.-Del.) and Wallop (R.-Wyo.) to attempt to exempt income retained in a small business or family farm from increases in individual tax rates that are contained in the budget bill. The U.S. Chamber pointed out some months ago that the proposed increases in individual rates would be especially hard on small businesses, including Subchapter S corporations.

Under the Roth-Wallop-Pressler proposal small businesses could continue to pay at the old rate for all income retained or reinvested. This would clearly be a tremendous help for expansion, modernization, and job creation by small business. Even though the sponsors of this amendment were able to get 56 votes, budget act rules required 60 votes for approval. The sponsors will now be looking for another way to advance their idea.

SINK THE SINC

Hooray for Senator Pressler! During the Senate debate, the Senator authored an amendment to the budget reconciliation bill that was one of the few amendments adopted by the Senate. His proposal deleted a provision with the innocuous title of the Service Industry Noncompliance (SINC) initiative. We hope the conferees will agree with the Senate action, and drop the provision. The provision would generate only more paperwork for small business. Let us explain.

Currently, businesses that pay $600 or more in a calendar year for services from "any person" (the service provider in IRS jargon) are required to file information returns with the IRS and the service provider (Form 1099-MISC) giving the provider's name, taxpayer identification number (TIN), and amount paid. Under SINC, beginning in 1994, payments to corporations would no longer be exempted from this filing requirement, although the IRS could still exempt certain categories of corporations or payments.

Extending information reporting to corporate service providers would vastly expand the amount of recordkeeping and reporting. It would also magnify some existing problems that have been relatively unimportant until now. To cite a few: Clearer rules would be needed as to what constitutes reportable services, and how to separate the services portion of combined or unidentified payments; Payors and employees who buy services on their behalf, and are now reimbursed through fairly simple expense reports, would have to capture much more information from vendors, including whether the vendor was part of a larger company or was a franchisee using its name; For businesses operating from many locations, either each location would be allowed to issue 1099s (greatly multiplying the number of 1099s) or the head office would have to aggregate payments from all locations (greatly aggravating the payor's recordkeeping burden). In short, a lot of aggravation and a lot of paperwork.

The IRS is likely to get little or no benefit from SINC for several reasons. First, the IRS does not efficiently use the one billion 1099s it already receives and is not far enough along in modernizing its computers to cope with hundreds of millions to billions more. Second, even if the IRS could consolidate all of the information returns it had received for a service provider, the IRS would not be able to reconcile the 1099s with the company's tax return. For the many corporations on accrual accounting or a non-calendar tax year, calendar year cash receipts have no connection to tax return data. Also, a company's gross receipts include income from sales of goods, services totaling less than $600, and other items not subject to 1099 reporting. Thus, there is little reason to believe that service providers would become more compliant on the basis on 1099s they know are incomplete, inaccurate, and beyond the ability of the IRS to use.

Rather than sinking companies and the IRS under a mass of senseless documents, the IRS should make better use of the information it already receives; should tell Congress and service recipients and providers how it proposes to handle problems like those discussed above before reporting requirements are expanded; should also prove it is capable of handling the data from expanded reporting by conducting limited tests with selected groups of service recipients and providers before making the system universal.

(Our thanks to Kenneth Simonson (American Trucking Associations), Chairman of the SBLC Committee on Taxation, for this article.)

THE FLOOD SITUATION

Mr. GRASSLEY. Madam President, I hold in front of me yesterday's Des Moines Sunday Register. I think it has a picture that tells more about the flood situation and tells a story for those of us from rural America better than anything else that can be said.

Before I make some reference to this, let me say the Des Moines Register has for a long, long period of time been listed as one of the top 10 newspapers in the United States. So we are reading from stories of a staff that has a very, very good reputation.

This picture is of a farmer, a Mr. Richardson from Sidney, IA, which is down in the southwest corner of Iowa where the Missouri River and a smaller river called the East Nishnabotha, was out of its banks and flooding. This farmer is looking out over a field that contained part of his farming operation of 1,500 acres of corn and about 1,000 acres of soybeans. And it is all under water, he said, except for 150 acres of corn and about 40 acres of soybeans. When you are 32 years old, as this young fellow is—and my son has a farming operation, and he is 32 years old and has a young son like this his young boy in the photo who is under 4 years of age. So that is the present generation of farmers, although the average age of farmers in my State is really 58 years of age. So this 32-year-old farmer is a very young farmer. But this is the future generation of farmers. From this disaster that they are looking at, not only a year's work has kind of gone down the drain, but it could be the future of this family and a lot of other families, as well.

I thought it would be helpful to us, as we are getting ready to debate—I think tomorrow—the disaster bill, just what the situation here is for some of these farmers. As they look to the damage that is done as a result of the flood, they must consider that there is probably greater damage on the horizon out there. As the subheadline says: "Crops are Puny, Behind Schedule." They are about 1 month behind schedule, which means that if we have a frost before the middle of October, even the crops that are growing today will not produce much grain; and what grain will be produced will be very poor quality.

Another subheadline says: "Farmers Unease is Watered by Floods and Fed by Fears of More Weather Problems." That weather problem tends to be more a fear of a potential frost.

Quoting:

> During the dawn hours of July 23, Uwe Richardson and his family fled their farm in the rich bottomlands along the Missouri River, taking grain, equipment, furniture—anything they could haul away.
>
> Now, as Richardson waits for the flooded rivers to recede, he's not so sure he even wants to return to see what remains of the crops that he tended.
>
> "Most of it's totally gone," Richardson, 32, said last week as he tried to find chores to keep himself occupied at his temporary home , the farm of Darrel McAlexander.
>
> "There's maybe 150 acres of corn left of 1,500 we planted, and you can't really see how good it's going to be. And the beans—there's probably 40 acres left of a thousand."
>
> While Richardson's plight is extreme, it is hardly unique. Across the State, anxiety is growing as farmers realize the extent of the devastation wrought in every county by months of unending rain. It's not just the farmers with land under water who are in trouble; many others had to plant late, and their crops are puny, thin and weeks behind schedule.
>
> And if crop yields are cut as much as some predict, the economic impact on Main Street could be significant.

Quoting Alan Tubbs, a banker and former chairman of the American Bankers Association, who says:

> "I think it's too soon to predict the aggregate consequences, but it's clear the Iowa economy is not going to be the same in the future as it would have been."
>
> Des Moines Register reporters fanned out across rural Iowa last week, talking with dozens of farmers, elevator operators, implement dealers, merchants bankers, and others connected with farm communities. Most Iowans said the outlook is bleak for as much as one-third of this year's crop, unless the weather is near perfect between now and the first frost.
>
> "We need to get through October, and that's a real tall order," said Galen Zeman, branch manager of the Co-op Grain and Products Company in Armstrong in northwest Iowa.
>
> Last week's crop report, issued by Iowa Agricultural Statistics, showed 30 percent of the State's corn fields in poor or very poor condition and 51 percent in fair shape. Only 15 percent of the corn was showing tassels—nearly 70 percentage points behind the normal 83 percent.
>
> State officials have estimated Iowa's crops have suffered nearly $1 billion in damage so far this year, with the clock ticking as summer wanes and the first frost approaches.
>
> Steve Smith, a farmer and pork producer from Ionia, said it takes 60 days for tasselling until corn is mature. "If we get a frost during the first or second week of September, like we have the past couple of years around here, there won't be much to combine," Smith said.
>
> From the fence row, some corn and soybeans look deceivingly healthy.
>
> "The taller corn is hiding a lot of short corn that won't make anything," said Duane Moon, 63, a dairy farmer from Luana and Clayton County in northeast Iowa. "Even on the places where the field is tiled, the tile won't take the water. You've got 10 acres out of every 40 acres that's too wet."
>
> From a plane, the picture is clearer. Robert Boeding, a northeast Iowa farmer-flier from Lawler in Chickasaw County, flew over much of Iowa on July 15, plotting the huge holes he saw in the middle of the corn fields across the State.

Where the crops were not growing, he has an assessment he gives.

I could read on and on, but I am not going to do so. I ask my colleagues if they want a really up-to-date analysis of what the situation is in one of the nine States that have been affected negatively by the flood, I wish they would look at the Des Moines Sunday Register for yesterday, August 1, 1993, and there are several pages in the front section that I could read or insert in the RECORD. I do not think I should spend the taxpayers' money to do that when it can be read directly from the paper.

But the point is, as we discuss the disaster aid bill that will be up, we are not only talking, as I referred here, about what happened to agriculture, the massive amount of loss in that area. We must also remember small businesses and thousands of people who have had their homes inundated with water, and what has to go into cleaning up and repairing those homes, what has to go into helping small businesses get started again. A lot of public infrastructure that has been damaged will have to be repaired. This all adds into the billions of dollars for the over 9- or 10-State area that has been affected. Right now, we are seeing, day after day, the situation in Missouri and southern Illinois, much like it was in Iowa prior to a week ago.

So I commend this latest information, which I think is a very good analysis of the situation, so that if any Members of this body have any doubts about the legitimacy of it, they will have an opportunity to read what the situation is.

I yield the floor.

Mr. BIDEN. Madam President, I ask unanimous consent to continue as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIDEN. Madam President, I thank the Senator from Iowa for calling to our attention the detail he has. The human side of this tragedy going on in the Midwest is the response of the American people from the east coast and the west coast, from the south and the north, who are not part of the Midwest dilemma. That is really what this country is all about.

I hope when we debate the disaster relief legislation tomorrow or the next day, whenever it is going to be, that we all keep in mind that one of the purposes of this country and the way we have always operated is to come to the aid of other people in the country who are in trouble. That is not limited just to natural disasters as a consequence of rain and flooding.

In my own State of Delaware right now, the Governor has asked that our counties be declared disaster areas because, irony of all ironies, while the Midwest is literally drowning and the Midwest farmers are in trouble, on the east coast, in Delaware—the largest industry in my State is agriculture, small as my State is, it is the largest industry—we have had this gosh awful heat wave that we had several weeks ago and a drought. As a consequence, the corn is not tasseled, the beans in the field are dying, and we are likely to have a terrible year.

I think that one of the good things—my mother, God bless her, always said out of something bad always comes something good—one of the good things that maybe comes out of this is that we remind ourselves as Americans we really are in this thing together.

I remember on the floor debating my distinguished former colleague from the State of Colorado, Senator Armstrong, not too many years ago about funding for a particular program that had to do with what would help primarily municipalities and large municipalities, funding for the mass transportation. The then President of the United States had said something to the effect—and I am paraphrasing—why should the woman from Albuquerque pay to subsidize a commuter in the city of Philadelphia going to work, and the debate related to that issue on Amtrak with my friend from Colorado.

I pointed out to him that until I became an adult I never had the opportunity to fly across this great country. I never will forget the first time I flew across the country. Flying over his State of Colorado, I noticed these great concentric circles in the ground and I did not know what they were. They looked arid. They looked like a plateau desert area, mountain desert, except for these great concentric circles. I later learned from the steward on the airplane that they were great irrigation facilities, allowing the farmers in Colorado to farm.

It is because the woman in Philadelphia—going to work at 6:30 in the morning, getting on that mass transit, part of which is subsidized—is paying her tax dollars to dam the Colorado River and other rivers, allowing the multibillion dollar projects to provide water for that woman in Albuquerque, NM, or in Boulder, CO, or any other part of the State of Colorado to be able to not only irrigate their fields but literally be able to drink any water.

I tried to remind my colleague that I thought one of the purposes of this more perfect Union we sought to form a couple hundred years ago is to rely on the strengths of the other States to compensate for the temporary weaknesses of a particular State, whether it was a consequence of a natural disaster, or a consequence of other disasters.

I recall when the Mariel boat lift came to Florida, Senator Chiles—now Governor Chiles—stood on the floor and asked for help, and this body stood up and said, no, this is a Florida problem.

I do not know how it was a Florida problem when an entire flotilla left one country and landed on the nearest point of debarkation they could, which happened to be the State of Florida. Why that was not a national problem and was specifically a Florida problem?

So, as we debate this disaster relief, the overwhelming impetus we should have is to deal with this awful crisis that is facing homeowners, businesspersons, and farmers in that 10-State area in the Midwest that has been met with this 500-year phenomenon, that is so rare it only occurs once every 500 years. That is what I am told. That is our major focus.

While doing that, we should keep in mind there are other natural disasters that are inflicted upon States as a consequence of their locale, as a consequence of their geography, and consequence of many things beyond their control that make them American problems, not just Iowa problems or Delaware problems or Illinois problems.

I know that the officer presiding in the chair has been as adamant and as emotional and intellectually committed as the Senator from Iowa if something happened in the southern part of her State in particular, as a consequence of this weather.

I will cease now, but will suggest only to my colleagues, that as we look at these natural disasters. There are many natural disasters that are not a consequence of mother nature, that hit this Nation and hit regions of the country that put them at serious disadvantage, and although we may not be passing natural disaster relief legislation in terms of dollars to help those areas of the country, there are programmatic initiatives and things which we should and must do to make sure that every American is given a shot.

Each of the regions of the country has a different strength and concomitant weakness, and the strength of this Nation has always been those parts of the country that are strongest in a certain area have compensated for those parts of the country that are weakest. Each of us, as I said, have our strengths and our weaknesses.

I would hope that next time we have a debate and, hopefully, we would not—I recall in the seventies the debate on bailing out New York City and hearing here on the floor of the U.S. Senate—that is how long I have been here—my colleagues, Democratic and Republican, who were not east coast or west coast Senators, ganging up and talking about how that is New York City's problem; that is New York City's problem.

The fact that most of the immigrants that come into the country land in New York City and do not leave, the fact that people flock to New York City that are well beyond the control of New York City, not New Yorkers, somehow that was viewed as only a New York problem and not a national problem.

We got the aid through, and New York City righted itself.

But whether it is a city struck by natural disaster or whether it is a rural community, the strength of this Nation has always been those who have at the time, give to those who do not have. And we should do it. We must meet whatever need is required to be met in the Midwest now. But when this is over, I hope we do not forget that it is not just the farmers of America; it is blacks and Hispanics in inner cities; it is people trapped in the deluge of despair as people who are, as a consequence of a hurricane or as a consequence of a Mariel boat lift or a consequence of a drought.

I plan on doing all I can to help my colleagues in the Midwest, see to it their constituents are given a fighting chance. And I hope we remember that when we come to other natural disasters that, in fact, are inflicted upon parts of this country that may not be inflicted by mother nature but may be inflicted as a consequence of other much more complicated factors.

So I thank the Chair.

THE PASSING OF CONGRESSMAN PAUL HENRY

Mr. HATFIELD. Madam President, I rise with a sense of deep sorrow to pay tribute to my friend and colleague, Congressman PAUL HENRY of Michigan, who passed away Saturday. Congressman HENRY had waged a valiant struggle against brain cancer since being diagnosed with that deadly condition over 8 month ago. I know I share the feelings of the many Members of this body who knew PAUL HENRY in expressing my regret and in wishing his family and staff my heartfelt sympathy for their loss.

PAUL HENRY was a devoted husband and father. Anyone who worked with him knew of his tremendous love for his wife, Karen, and his three children, Kara, Jordan, and Megan. Nothing was more important to him than his family. This he certainly absorbed from his mother, Helga, and his father Prof. Carl F.H. Henry—a world renown and respected evangelical leader and editor of Christianity Today and the author of a number of books on theology. Their son was so talented and accomplished and they must have been so proud of everything he did. Our thoughts and prayer go to the entire Henry family.

PAUL HENRY viewed his life as a walk with Christ, and this healthy view of life drew people to him for fellowship and leadership. He integrated his well-defined faith in—and commitment to—Christ with understanding and compassion. Throughout his lifetime, he demonstrated a sense of personal balance, confidence, and humor that is the hallmark of truly great public servants.

In 1976, I traveled to Grand Rapids, MI, to speak to a group of students and faculty at Calvin College. While there I saw Prof. PAUL HENRY, a very thoughtful and energetic young professor. Professor HENRY was one of the more popular professors at the college, largely due to his innate ability to evoke from his students constructive and thoughtful dialog on almost any issue or topic—controversial or not. He sought to bring people together and often did. This is a rare gift, and PAUL HENRY shared it with so many others throughout his lifetime. After serving the State of Michigan for over a decade as a member of the State board of education and as a State Legislator, PAUL HENRY was elected to Congress in 1984, filling the seat once held by President Gerald Ford. He served with distinction as a member of the House Committee on Education and Labor, the Committee on Science, Space, and Technology, and the Select Committee on Aging.

Congressman HENRY and I shared a common interest on a number of issues. As former educators, we shared a lifelong commitment to education, including an increased emphasis on math and science education. We worked most closely together on a recycling measure known as the bottle bill, which we introduced for a number of years as companion measures in Congress. On this issue, there was no more effective advocate than PAUL HENRY. This was again vividly demonstrated to me and many others last September when Congressman HENRY graciously agreed to testify before the Energy and Natural Resources Committee's hearing on the bottle bill. His eloquence and intellect greatly focused and advanced discussion on the issue and his absence will leave an immense void for this and so many other issues.

Again, I join many others in expressing my grief at the passing of a friend and colleague, PAUL HENRY. For the Henry family, members of this committed staff, the citizens of Michigan, and those who served with him in Congress, the passing PAUL HENRY is a chance to celebrate the life and accomplishments of a devoted family man, deeply committed public servant, and an inspirational man of God, I know few I more deeply admired in my 43 years of public office than my colleague and brother PAUL HENRY. He will be missed.

I yield the floor.

AUTHORITY FOR COMMITTEES TO FILE

Mr. BIDEN. Mr. President, I ask unanimous consent that, during the recess or adjournment of the Senate, the Senate committees may file committee reported Legislative and Executive Calendar business on Tuesday, August 24, 1993, from 11 a.m. to 3 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENT BY THE PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, pursuant to Public Law 102–521, appoints the following individuals to the Commission on Child and Family Welfare: Mary Cathcart of Maine; Kathryn Monaghan Ainsworth of Maine; Marna S. Tucker of Maryland; and Nancy Duff Campbell of the District of Columbia.

APPOINTMENT OF THE MAJORITY LEADER

The PRESIDING OFFICER. The Chair announces, on behalf of the majority leader, pursuant to Public Law 102–325, the appointment of the following individuals to the National Commission on Independent Higher Education: John V. Hartung of Iowa, and Dorothy Moore of Maine.

Mr. BIDEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBB. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

A message from the President of the United States was communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate a message from the President of the United States submitting a nomination which was referred to the Committee on Foreign Relations.

CONCERNING THE NATIONAL EMERGENCY WITH RESPECT TO IRAQ—MESSAGE FROM THE PRESIDENT—PM 38

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing and Urban Affairs:

To the Congress of the United States:

I hereby report to the Congress on the developments since my last report of February 16, 1993, concerning the national emergency with respect to Iraq that was declared in Executive Order No. 12722 of August 2, 1990. This report is submitted pursuant to section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c).

Executive Order No. 12722 ordered the immediate blocking of all property and interests in property of the Government of Iraq (including the Central Bank of Iraq), then or thereafter located in the United States or within the possession or control of a U.S. person. That order also prohibited the importation into the United States of goods and services of Iraqi origin, as well as the exportation of goods, services, and technology from the United States to Iraq. The order prohibited travel-related transactions to or from Iraq and the performance of any contract in support of any industrial, commercial, or governmental project in Iraq. U.S. persons were also prohibited from granting or extending credit or loans to the Government of Iraq.

The foregoing prohibitions (as well as the blocking of Government of Iraq property) were continued and augmented on August 9, 1990, by Executive Order No. 12724, which was issued in order to align the sanctions imposed by the United States with United Nations Security Council Resolution 661 of August 6, 1990.

Executive Order No. 12817 was issued on October 21, 1992, to implement in the United States measures adopted in United Nations Security Council Resolution 778 of October 2, 1992. Resolution 778 requires U.N. member states temporarily to transfer to a U.N. escrow account up to $200 million apiece in Iraqi oil sale proceeds paid by purchasers after the imposition of U.N. sanctions on Iraq. These funds finance Iraq's obligations for U.N. activities with respect to Iraq, including expenses to verify Iraqi weapons destruction, and to provide humanitarian assistance in Iraq on a nonpartisan basis. A portion of the escrowed funds will also fund the activities of the U.N. Compensation Commission in Geneva, which will handle claims from victims of the Iraqi invasion of Kuwait. The funds placed in the escrow account are to be returned, with interest, to the member states that transferred them to the United Nations, as funds are received from future sales of Iraqi oil authorized by the United Nations Security Council. No member state is required to fund more than half of the total contributions to the escrow account.

This report discusses only matters concerning the national emergency with respect to Iraq that was declared in Executive Order No. 12722 and matters relating to Executive Orders Nos. 12724 and 12817 (the "Executive Orders"). The report covers events from February 2, 1993, through August 1, 1993.

1. There have been no amendments to the Iraqi Sanctions Regulations during the reporting period.

2. Investigations of possible violations of the Iraqi sanctions continue to be pursued and appropriate enforcement actions taken. These are intended to deter future activities in violation of the sanctions. Additional civil penalty notices were prepared during the reporting period for violations of the International Emergency Economic Powers Act and Iraqi Sanctions Regulations with respect to transactions involving Iraq.

3. Investigation also continues into the roles played by various individuals and firms outside Iraq in the Iraqi government procurement network. These investigations may lead to additions to the Office of Foreign Assets Control's listing of individuals and organizations determined to be Specially Designated Nationals of the Government of Iraq.

4. Pursuant to Executive Order No. 12817 implementing United Nations Security Council Resolution 778, on October 26, 1992, the Office of Foreign Assets Control directed the Federal Reserve Bank of New York to establish a blocked account for receipt of certain post-August 6, 1990, Iraqi oil sales proceeds, and to hold, invest, and transfer these funds as required by the order. On May 18, 1993, following the payment of $1,492,537.30 by the Government of the United Kingdom to a special United Nations-controlled account, entitled United Nations Security Council Resolution 778 Escrow Account, the Federal Reserve Bank of New York was directed to transfer a corresponding amount of $1,492,537.30 from the blocked account it holds to the United Nations-controlled account. Future transfers from the blocked Federal Reserve Bank of New York account will be made on a matching basis up to the $200 million for which the United States is potentially obligated pursuant to United Nations Security Council Resolution 778.

5. Since the last report, there have been developments in two cases filed against the Government of Iraq. Another ruling was issued in *Consarc Corporation* v. *Iraqi Ministry of Industry and Minerals et al.*, No. 90-2269 (D.D.C., March 9, 1993), which arose out of a contract for the sale of furnaces by plaintiff to the Iraqi Ministry of Industry and Minerals, an Iraqi governmental entity. In connection with the contract, the Iraqi defendants opened an irrevocable letter of credit with an Iraqi bank in favor of Consarc, which was advised by Pittsburgh National Bank, with the Bank of New York entering into a confirmed reimbursement agreement with the advising bank. Funds were set aside at the Bank of New York, in an account of the Iraqi bank, for reimbursement of the Bank of New York if Pittsburgh National Bank made a payment to Consarc on the letter of credit and sought reimbursement from the Bank of New York. Consarc received a down payment from the Iraqi Ministry of Industry and Minerals and substantially manufactured the furnaces. No goods were shipped prior to imposition of sanctions on August 2, 1990, and the United States asserted that the funds on deposit in the Iraqi bank account at the Bank of New York, as well as the furnaces manufactured for the Iraqi government or the process of any sale of those furnaces to third parties, were blocked. The district court ruled on December 29, 1992, that the furnaces or their sales proceeds were properly blocked pursuant to the declaration of the national emergency and blocking of Iraqi government property interests. However, according to the court, due to fraud on the part of the Ministry of Industry and Minerals in concluding the sales contract, the funds on deposit in an Iraqi bank account at the Bank of New York were not the property of the Government of Iraq. The court ordered the Office of Foreign Assets Control to unblock these funds, and required Consarc to block the proceeds from the sale of one furnace and to hold the remaining furnace as blocked property. On January 27, 1993, the Office of Foreign Assets Control complied with the court's order and licensed the unblocking of $6.4 million plus interest to Consarc. On March 9, 1993, the court affirmed its ruling in response to Consarc's motion to clarify the December 29 order and the Office of Foreign Assets Control's motion to correct the judgment to conform to the December 29 opinion. The Office of Foreign Assets Control and Consarc have each appealed the district court's ruling.

In *Brewer* v. *The Socialist People's Republic of Iraq*, No. 91-5325 (D.C. Cir., 1993) the United States Court of Appeals for the District of Columbia Circuit affirmed the district court's ruling denying appellant's motion to attach U.S.-located assets of the Government of Iraq and its state tourism organization. Following the holding of *Dames & Moore* v. *Regan*, 453 U.S. 654 (1981), the court upheld the power of the President to freeze foreign assets and prevent their attachment by private litigants in times of national emergency.

6. The Office of Foreign Assets Control has issued a total of 391 specific licenses regarding transactions pertaining to Iraq or Iraqi assets since August 1990. Since my last report, 54 specific licenses have been issued. Licenses were issued for transactions such as the filing of legal actions against Iraqi governmental entities, for legal representation of Iraq, and the exportation to Iraq of donated medicine, medical supplies, and food intended for humanitarian relief purposes.

7. The expenses incurred by the Federal Government in the 6-month period from February 2, 1993, through August 1, 1993, that are directly attributable to the exercise of powers and authorities conferred by the declaration of a national emergency with respect to Iraq are estimated at about $2.5 million, most of which represents wage and salary costs for Federal personnel. Personnel costs were largely centered in the Department of the Treasury (particularly in the Office of Foreign Assets Control, the U.S. Customs Service, the Office of the Assistant Secretary for Enforcement, and the Office of the General Counsel), the Department of State (particularly the Bureau of Economic and Business Affairs, the Bureau of Near East and South Asian Affairs, the Bureau of International Organizations, and the Office of the Legal Adviser), and the Department of Transportation (particularly the U.S. Coast Guard).

8. The United States imposed economic sanctions on Iraq in response to Iraq's invasion and illegal occupation of Kuwait, a clear act of brutal aggression. The United States, together with the international community, is maintaining economic sanctions against Iraq because the Iraqi regime has failed to comply fully with United Nations Security Council resolutions, including those calling for the elimination of Iraqi weapons of mass destruction, the inviolability of the Iraq-Kuwait boundary, the release of Kuwaiti and other third country nationals, compensation for victims of Iraqi aggression, long-term monitoring of weapons of mass destruction capabilities, and the return of Kuwaiti assets stolen during Iraq's illegal occupation of Kuwait. The U.N. sanctions remain in place; the United States will continue to enforce those sanctions under domestic authority.

The Baghdad government continued to violate basic human rights by repressing the Iraqi civilian population and depriving it of humanitarian assistance. The United Nations Security Council passed resolutions that permit Iraq to sell $1.6 billion of oil under U.N. auspices to fund the provision of food, medicine, and other humanitarian supplies to the people of Iraq. Under the U.N. resolutions, the equitable distribution within Iraq of this assistance would be supervised and monitored by the United Nations. The Iraqi regime so far has refused to accept these resolutions and has thereby chosen to perpetuate the suffering of its civilian population. Discussions on implementing these resolutions resumed at the United Nations on July 7, 1993.

The policies and actions of the Saddam Hussein regime continue to pose an unusual and extraordinary threat to the national security and foreign policy of the United States, as well as to regional peace and security. Because of Iraq's failure to comply fully with United Nations Security Council resolutions, the United States will therefore continue to apply economic sanctions to deter Iraq from threatening peace and stability in the region, and I will continue to report periodically to the Congress on significant developments, pursuant to 50 U.S.C. 1703(c).

WILLIAM J. CLINTON.

THE WHITE HOUSE, *August 2, 1993*.

MESSAGES FROM THE HOUSE

At 3:15 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 33. A concurrent resolution to waive the provisions of the Legislative Reorganization Act of 1970 which require the adjournment of the House and Senate by July 31.

The message also announced that the House has passed the following bills in which it requests the concurrence of the Senate:

H.R. 2010. An act to amend the National and Community Service Act of 1990 to establish a Corporation for National Service, enhance opportunities for national service, and provide national service educational awards to persons participating in such service, and for other purposes;

H.R. 2150. An act to authorize appropriations for fiscal year 1994 for the United States Coast Guard, and for other purposes; and

H.R. 2200. An act to authorize appropriations to the National Aeronautics and Space Administration for research and development, space flight, control, and data communications, construction of facilities, research and program management, and Inspector General, and for other purposes.

The message further announced that the House has agreed to the amendments of the Senate to the bill (H.R. 798) to amend title 38, United States Code, to codify the rates of disability compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for survivors of such veterans as such rates took effect on December 1, 1992.

The message further announced that the House has agreed to the following resolution:

H. Res. 232. A resolution relative to the death of the Honorable Paul B. Henry, a Representative from the State of Michigan.

At 6 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, without amendment.

S. 1295. An act to amend the Rehabilitation Act of 1973 and the Education of the Deaf Act of 1986 to make technical and conforming amendments to the act, and for other purposes.

The message also announced that the House disagrees to the amendments of the Senate to the bill (H.R. 2493) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1994, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. DURBIN, Mr. WHITTEN, Ms. KAPTUR, Mr. THORTON, Ms. DELAURO, Mr. PETERSON of Florida, Mr. PASTOR, Mr. SMITH of Iowa, Mr. NATCHER, Mr. SKEEN, Mr. MYERS of Indiana, Mrs. VUCANOVICH, Mr. WALSH, and Mr. MCDADE as managers of the conference on the part of the House.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent and referred as indicated:

H.R. 2150. An act to authorize appropriations for fiscal year 1994 for the United States Coast Guard, and for other purposes; to the Committee on Commerce, Science, and Transportation.

H.R. 2200. An act to authorize appropriations to the National Aeronautics and Space Administration for research and development, space flight, control, and data communications, construction of facilities, research and program management, and Inspector General, and for other purposes; to the Committee on Commerce, Science, and Transportation.

MEASURES PLACED ON THE CALENDAR

The following bill was read the first time and placed on the Calendar:

H.R. 2010. An act to amend the National and Community Service Act of 1990 to establish a Corporation for National Service, enhance opportunities for national service, and provide national service educational awards to persons participating in such services, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-1313. A communication from the Principal Deputy Comptroller, Department of Defense, transmitting, pursuant to law, a report relative to violations of the Antideficiency Act; to the Committee on Appropriations.

EC-1314. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report on a soil conservation service plan for the Doyle Creek Watershed of Kansas; to the Committee on Environment and Public Works.

EC-1315. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report on a soil conservation service plan for the McCoy Wash Watershed of California; to the Committee on Environment and Public Works.

EC-1316. A communication from the Principal Deputy Comptroller, Department of Defense, transmitting, pursuant to law, a report relative to the proposed allocation of funds for the Republic of Belarus; to the Committee on Armed Services.

EC-1317. A communication from the Principal Deputy Comptroller, Department of Defense, transmitting, pursuant to law, identification of a funding source for aid the Russian Federation; to the Committee on Armed Services.

EC-1318. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, a draft of proposed legislation to reform requirements for the disposition of multifamily property owned by the Secretary of Housing and Urban Development, enhance program flexibility, authorize a program to combat crime, and for other purposes; to the Committee on Banking, Housing and Urban Affairs.

EC-1319. A communication from the Assistant Secretary (Legislative Affairs), Department of State, transmitting, pursuant to law, a report relative to shrimp harvesting in Honduras; to the Committee on Commerce, Science and Transportation.

EC-1320. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report relative to foreign shipbuilding subsidies; to the Committee on Commerce, Science and Transportation.

EC-1321. A communication from the Commissioner of the Bureau of Reclamation, Department of the Interior, transmitting, pursuant to law, a report relative to modifications of the Cold Springs Dam; to the Committee on Energy and Natural Resources.

EC-1322. A communication from the Director of the Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report relative to the gas and oil reources on the Outer Continental Shelf; to the Committee on Energy and Natural Resources.

EC-1323. A communication from the Chairman of the International Trade Commission, tranmitting, pursuant to law, a report relative to the operation of the United States Trade Agreements Program; to the Committee on Finance.

EC-1324. A communication from the Acting Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10-59 adopted by the Council on July 20, 1993; to the Committee on Governmental Affairs.

EC-1325. A communication from the Acting Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10-60 adopted by the Council on July 21, 1993; to the Committee on Governmental Affairs.

EC-1326. A communication from the Vice President of the Farm Credit Bank of Texas, transmitting, pursuant to law, the annual report and audited financial statement for the Bank's pension plan for the year ended December 31, 1992; to the Committee on Governmental Affairs.

EC-1327. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report relative to the Coast Guard's retirement system; to the Committee on Governmental Affairs.

EC-1328. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report on maltreatment of children in alcohol abusing families; to the Committee on Labor and Human Resources.

EC-1329. A communication from the Acting Chairman of the Securities and Exchange Commission, transmitting, pursuant to law, the annual report of the Securities Investor Protection Corporation; to the Committee on Banking, Housing and Urban Affairs.

EC-1330. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report relative to the uniformity of transit half-fare policies; to the Committee on Commerce, Science and Transportation.

EC-1331. A communication from the Deputy Associate Director for Compliance of the Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report relative to refunds of offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-1332. A communication from the Acting Assistant Secretary for Fossil Energy, Department of Energy, transmitting, pursuant to law, the environmental report of the Strategic Petroleum Reserve for calendar year 1992; to the Committee on Energy and Natural Resources.

EC-1333. A communication from the Acting Energy Information Administrator, Department of Energy, transmitting, pursuant to law, the annual energy review of the Energy Information Administration for calendar year 1992; to the Committee on Energy and Natural Resources.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-228. A concurrent resolution adopted by the Legislature of the State of Hawaii to the Committee on Indian Affairs.

"HOUSE CONCURRENT RESOLUTION 213

"Whereas, the nation of Hawaii became a kingdom, later unified by Kamehameha I in 1810 which was recognized and duly respected by other nations and kingdoms of the world; and

"Whereas, in 1887, King Kalakaua was coerced under threat of military force to sign the so called "Bayonet Constitution" that made him a ceremonial figurehead; and

"Whereas, on January 17, 1893, the United States government through its military forces, under the authority of U.S. Minister John L. Stevens, aided in the overthrow of the constitutional Hawaiian government headed by Queen Liliuokalani, and helped to establish a Provisional Government, which took full possession of all government functions and buildings of the Hawaiian Islands; and

"Whereas, on December 18, 1893, President Grover Cleveland submitted to the Congress of the United States a full report that condemned the role of the American minister and the U.S. Marines in the overthrow of the Hawaiian monarchy and called for the restoration of the Hawaiian monarchy; and

"Whereas, in 1895, Queen Liliuokalani was arrested by the Republic of Hawaii, tried and found guilty of misprision of treason, was sentenced to five years at hard labor, fined $5,000, held prisoner at Iolani Palace for eight months, later held under house arrest at Washington Place for five months, and restricted to the island of Oahu for another eight months; and

"Whereas, in 1898, Congress ignored President Cleveland's previous request and annexed the Hawaiian Islands through the "Newlands Resolution", which was legally questioned as to whether the U.S. Congress had the authority to admit territory into the union by joint resolution, for it is not specified that Congress had the power to acquire territory through any means other than conquest or treaty; and

"Whereas, the actions taken by the United States in the illegal invasion of 1893 are the basis for legal claims for the restoration of human, civil, property, and sovereign rights of Hawaii's indigenous people; and

"Whereas, the seriousness and implications of the unlawful overthrow has yet to be adequately addressed and remedied for over a century of human interaction in Hawaii; and

"Whereas, the year 1993 holds special significance for Hawaii for it marks the one hundred year anniversary of the illegal overthrow of the independent nation of Hawaii with the participation of the United States military and diplomatic representatives; and

"Whereas, such loss of independence and self-determination of the indigenous Hawaiian people remains an important cultural and political factor today; and

"Whereas, there is increasing discussion and debate in Hawaii and in the Congress of the United States of the adverse consequences of such overt acts of military aggression against a peaceful, independent nation, and to the citizens and descendants of that nation today; and

"Whereas, the even broader issue of equality for all people, irrespective of race, to exercise the right of self-determination in their homelands should be recognized; and

"Whereas, the full range of consideration of Hawaii's peoples' rights and freedoms must be completely explored in order to bring about harmony within Hawaii's society: Now, therefore, be it

"*Resolved by the House of Representatives of the Seventeenth Legislature of the State of Hawaii, Regular Session of 1993, the Senate concurring*, That the Legislature declares that 1993 should serve Hawaii, our nation, and the world as a year of special reflection on the rights and dignities of the indigenous people of Hawaii; and be it further

"*Resolved*, That the Legislature recommits and reaffirms its efforts and support of indigenous Hawaiian's in their struggles to address the federal government's illegal and immoral wrongdoings committed against them; and be it further

"*Resolved*, That certified copies of this Concurrent Resolution be transmitted to the President of the United States, the Vice President of the United States, the Secretary of the Interior, the Speaker of the United States House of Representatives, Hawaii's Congressional Delegation, and the Governor of the State of Hawaii."

POM-231. A resolution adopted by the General Assembly of the State of New Jersey; to the Committee on Labor and Human Resources.

"ASSEMBLY RESOLUTION NO. 134

"Whereas, Few industries have been as committed to community as the pharmaceutical companies of New Jersey; and

"Whereas, There are many examples of ways in which pharmaceutical companies have responded to the needs of the State; and

"Whereas, Hoffmann-LaRoche, Inc. has devised a concept to teach geometry through art and is bringing the method to teachers across the State; and

"Whereas, Johnson & Johnson has remained in New Brunswick in order to contribute to the vitality of an inner city; and

"Whereas, Warner-Lambert Company has adopted a low income neighborhood school and raised the educational attainments and hopes of the students at that school; and

"Whereas, Bristol-Myers Squibb Company has helped to feed the hungry and the homeless in motels in the U.S. Route 1 corridor; and

"Whereas, Schering-Plough Corporation has viewed culture and the arts as venues to unite communities and enrich the quality of life of neighborhood residents; and

"Whereas, CIBA-GEIGY Corporation has consistently run the largest Boy Scout food drive in the country; and

"Whereas, Sandoz Corporation has sponsored educational programs to help children better understand the aging process in senior citizens; and

"Whereas, Becton Dickinson & Company and Hoechst Celanese Corporation have targeted efforts to improve the lives of people suffering from diabetes; and

"Whereas, Merck & Company, Inc. has provided immunizations to children, supplied an inner-city medical van to bring medical help to underprivileged children and contributed to the building of a performing arts center in Newark; and

"Whereas, All of these examples are testimony to the fact that the pharmaceutical industry has been distinguished in its efforts to make New Jersey a better place in which to live and work: Now, therefore, be it

"*Resolved by the General Assembly of the State of New Jersey:*

"1. The Legislature of the State of New Jersey memorializes the Congress of the United States to take into consideration the valuable contributions made by the pharmaceutical industry in the State in the field of corporate philanthropy when it deliberates health care reform and considers cost containment measures and possible price controls on pharmaceuticals.

"2. A duly authenticated copy of this resolution, signed by the Speaker of the General Assembly and attested by the Clerk of the General Assembly, shall be transmitted to the presiding officers of the United States Senate and the House of Representatives, and to each member of Congress elected from this State."

POM-232. A joint resolution adopted by the General Assembly of the State of Illinois; to the Committee on Labor and Human Resources.

"HOUSE JOINT RESOLUTION NO. 6

"Whereas, more than 150 drugs which may be of benefit to women are currently being investigated by the U.S. Food and Drug Administration, and many have been under investigation for as long as ten years; and

"Whereas, we recognize the need for thorough testing, but believe that unnecessary delays and the low priority often given to women's health care problems have resulted in much suffering that could be avoided by expediting the approval process: Therefore, be it

"*Resolved, by the House of Representatives of the Eighty-Eighth General Assembly of the State of Illinois, the Senate concurring herein,* That we urge the U.S. Food and Drug Administration to expedite the approval of drugs that address women's health problems; and be it further

"*Resolved,* That suitable copies of this preamble and resolution be presented to the Illinois Congressional Delegation and the U.S. Food and Drug Administration."

POM-233. A resolution adopted by the American Bar Association, relative to the Soldiers' and Sailors' Civil Relief Act; to the Committee on Veterans' Affairs.

POM-234. A joint resolution adopted by the Legislature of the State of Nevada; to the Committee on Energy and Natural Resources.

"SENATE JOINT RESOLUTION NO. 27

"Whereas, the State of Nevada has a strong moral claim upon the public land retained by the Federal Government within Nevada's borders; and

"Whereas, on October 31, 1864, the Territory of Nevada was admitted to statehood on the condition that it forever disclaim all right and title to unappropriated public land within its boundaries; and

"Whereas, Nevada received the least amount of land, 2,572,478 acres, and the smallest percentage of its total area, 3.9 percent, of the land grant states in the Far West admitted after 1864, while states of comparable location and soil, including Arizona, New Mexico and Utah, received approximately 11 percent of their total area in federal land grants; and

"Whereas, the State of Texas, when admitted to the Union in 1845, retained ownership of all unappropriated land within its borders; and

"Whereas, the federal holdings in the State of Nevada constitute 86.7 percent of the area of the state, and in Esmeralda, Lincoln, Mineral, Nye and White Pine counties the Federal Government controls from 97 to 99 percent of the land; and

"Whereas, the Federal jurisdiction over the public domain is shared among several federal agencies or departments which causes problems concerning the proper management of the land and disrupts the normal relationship between a state, its residents and its property; and

"Whereas, the intent of the framers of the Constitution of the United States was to guarantee to each of the states sovereignty over all matters within its boundaries except for those powers specifically granted to the United States as agent of the states; and

"Whereas, the exercise of dominion and control of the public lands within the State of Nevada by the United States works a severe, continuous and debilitating hardship upon the people of the State of Nevada; now, therefore, be it

"*Resolved by the Senate and Assembly of the State of Nevada, jointly,* That the ordinance of the constitution of the State of Nevada be amended to read as follows:

"In obedience to the requirements of an act of the Congress of the United States, approved March twenty-first, A.D. eighteen hundred and sixty-four, to enable the people of Nevada to form a constitution and state government, this convention, elected and convened in obedience to said enabling act, do ordain as follows, and this ordinance shall be irrevocable, without the consent of the United States and the people of the State of Nevada:

"First. That there shall be in this state neither slavery nor involuntary servitude, otherwise than in the punishment for crimes, whereof the party shall have been duly convicted.

"Second. That perfect toleration of religious sentiment shall be secured, and no inhabitant of said shall ever be molested, in person or property, on account of his or her mode of religious worship.

"Third. That the people inhabiting said territory do agree and declare, that [they forever disclaim all right and title to the unappropriated public lands lying within said territory, and that the same shall be and remain at the sole and entire disposition of the United States; and that] lands belonging to citizens of the United States, residing without the said state, shall never be taxed higher than the land belonging to the residents thereof; and that no taxes shall be imposed by said state on lands or property therein belonging to, or which may hereafter be purchased by, the United States, unless otherwise provided by the Congress of the United States. And be it further

Resolved, That the Legislature of the State of Nevada hereby urges the Congress of the United States to consent to the amendment of the ordinance of the Nevada constitution to remove the disclaimer concerning the right of the Federal Government to sole and entire disposition of the unappropriated public lands in Nevada; and be it further

Resolved, That, upon approval and ratification of the amendment proposed by this resolution by the people of the State of Nevada, copies of this resolution be prepared and transmitted by the Secretary of the Senate to the Vice President of the United States as presiding officer of the Senate, the Speaker of the House of Representatives and each member of the Nevada Congressional Delegation; and be it further

Resolved, That this resolution becomes effective upon passage and approval, except that, notwithstanding any other provision of law, the proposed amendment to the ordinance of the constitution of the State of Nevada, if approved and ratified by the people of the State of Nevada, does not become effective until the Congress of the United States consents to the amendment or upon a legal determination that such consent is not necessary."

POM-235. A resolution adopted by the House of the Northern Marianas Commonwealth Legislature; to the Committee on Energy and Natural Resources.

"H.R. NO. 8-103

"Whereas, our self government has evolved through formative years under the administration of the United States Navy, the Trust Territory Government and the Congress of Micronesia; and

"Remembering that the aspirations of the people of the Northern Marianas for an affirmative political status led us toward a closer political association with the United States; and

"Evidenced on March 13, 1971 when President Richard M. Nixon appointed Ambassador Franklin Haydn Williams, the President of the Asia Foundation, as his personal representative for political status negotiations with the Marianas Political Status Commission; and

"Diligently laboring through five rounds of negotiations between 1972 and 1975, Ambassador F. Haydn Williams worked arduously as Chairman of the United States' delegation with the Marianas Political Status Commission to accordantly create the document that would ultimately embody the political desires of the people of the Northern Mariana Islands; and

"Whereas, their cooperative efforts came to fruition in the signing of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America on February 15, 1975; and

"Subsequently the people of the Northern Marianas gave their express endorsement of the Covenant by the unanimous approval of the Mariana District Legislature and the overwhelming approval by the public of the plebiscite of June 17, 1975;

"Resulting in Presidential approval by Gerald Ford of the Covenant on March 24, 1976 which effectuated the achievement of Ambassador F. Haydn Williams and the Marianas Political Status Commission into U.S. Public Law 94-241: 90 Stat. 263; and

"Whereas, Ambassador F. Haydn Williams has since continued to support the political endeavors of the Commonwealth through consultations as recently evidenced by his visit to our islands, during which he presented his valuable knowledge and approving opinion to the House Committee on Federal and Foreign Relations on the establishment of a Delegate from the Northern Mariana Islands to the United States Congress: Now, therefore, be it

"*Resolved, by the House of Representatives, Eight Northern Marianas Commonwealth Legislature,* That the House expresses its heartfelt appreciation to Ambassador Franklin Haydn Williams for his dedication and assistance to the people of the Northern Mariana Islands in the realization of their political destiny: and be it further

"*Resolved,* The the Speaker of the House shall certify and the House Clerk shall attest to the adoption of this resolution and thereafter transmit copies to: The Honorable Bill Clinton, President of the United States; Ambassador Franklin Haydn Williams; the Honorable Lorenzo I. De Leon Guerrero, Governor of the Commonwealth of the Northern Mariana Islands; the Honorable Thomas Foley, Speaker of the U.S. House of Representatives; the Honorable Richard Gephardt, Majority Leader of the U.S. House of Representatives; the Honorable Robert H. Michel, Minority Leader of the U.S. House of Representatives; the Honorable George Miller, U.S. House of Representatives; the Honorable Don Young, U.S. House of Representatives; the Honorable Ron De Lugo, U.S. House of Representatives; the Honorable Elton Gallegly, U.S. House of Representatives; the Honorable Eni F.H. Faleomavaega, U.S. House of Representatives; the Honorable Eleanor Holmes Horton, U.S. House of Representatives; the Honorable Carlos Romero-Barcelo, U.S. House of Representatives; the Honorable Robert Underwood, U.S. House of Representatives; the Honorable Al Gore, Vice President of the United States and President of the U.S. Senate; the Honorable George Mitchell, Majority Leader of the U.S. Senate; the Honorable Robert Dole, Minority Leader of the U.S. Senate; the Honorable J. Bennet Johnston, U.S. Senate; the Honorable Malcolm Wallop, U.S. Senate; the Honorable Bruce Babbitt, Secretary of the

U.S. Department of the Interior; and the Honorable Leslie M. Turner, Assistant Secretary Designee for Territorial and International Affairs."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. NUNN, from the Committee on Armed Services, without amendment:

S. 1337. An original bill to authorize appropriations for fiscal year 1994 for military activities of the Department of Defense, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

S. 1338. An original bill to authorize appropriations for fiscal year 1994 for military construction, and for other purposes.

S. 1339. An original bill to authorize appropriations for fiscal year 1994 for defense activities of the Department of Energy, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEE

The following executive reports of committee were submitted:

By Mr. PELL, from the Committee on Foreign Relations: Treaty Doc. 102-37, Treaty on Open Skies, (Exec. Report 103-5).

RESOLUTION OF ADVICE AND CONSENT TO RATIFICATION SUBMITTED BY THE COMMITTEE ON FOREIGN RELATIONS

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Treaty on Open Skies signed at Helsinki on March 24, 1992, including annexes on Quotas and maximum Flight Distances; Information on Sensors, with an Appendix on Annotation of Data Collected During an Observation Flight; Information on Observation Aircraft; Certification of Observation Aircraft and Sensors, with an Appendix on Methodologies for the Verification of the Performance of Sensors Installed on an Observation Aircraft; Procedures for Arrivals and Departures, with an appendix on Designation of Sites; Pre-Flight Inspections and Demonstration Flights; Flight Monitors, Flight Representatives, and Representatives; Co-ordination of Planned Observation Flights; Information on Airspace and Flights in Hazardous Airspace; Montreux Convention; Information on Film Processors, Duplicators and Photographic Films, and Procedures for Monitoring the Processing of Photographic Film; and Open Skies Consultative Commission (all transmitted within Treaty Doc. 102-37); all such documents being integral parts of and collectively referred to as the "Open Skies Treaty", subject to the following:

(a) CONDITIONS.—The Senate's advice and consent to the ratification of the Open Skies Treaty is subject to the following conditions, which shall be binding upon the President:

(1) CHANGES TO SENSORS.—In the event that a State Party or States Parties seek to obtain agreement, within the framework of the Open Skies Consultative Commission in accordance with Article IV, paragraph 3, and Article X, paragraph 5, of the Open Skies Treaty, to the introduction of additional categories of sensors, or to additions to the capabilities of existing sensors provided for pursuant to the Treaty, as an improvement to the viability and effectiveness of the Treaty not requiring an amendment to the Treaty, and the United States intends to agree to such proposed improvement, the President—

(A) shall provide prompt notification to the President of the Senate of each such proposed improvement, to include an analysis of the legal, cost, and national security implications of such proposed improvement; and

(B) shall not provide United States agreement to each such proposed improvement, or otherwise permit adoption of each such proposed improvement by consensus within the framework of the Open Skies Consultative Commission, until at least 30 days have elapsed from the date of notification to the Senate of the intention of the President to agree to such proposed improvement.

(2) NUMBER OF UNITED STATES OBSERVATION AIRCRAFT.—The Senate finds that United States interests may not require the utilization of the full quota of allowed observation flights or the procurement of more than one or two observation aircraft. Accordingly, within 60 days following completion of the first year after entry into force of the Open Skies Treaty, the President shall submit to the Senate a report setting forth:

(A) an analysis of the first year of operation of the Treaty, highlighting any ambiguities, differences, or problems that arose in the course of implementation, as well as any benefits that have accrued to the United States by its participation in the Open Skies regime;

(B) a determination of the estimated number of observation flights to be conducted annually by the United States for the duration of the Treaty; and

(C) an assessment of the number of United States observation aircraft required to carry out the observation flights described in subparagraph (B) above, taking into consideration the potential utilization of non-United States aircraft.

(b) DECLARATION.—The Senate's advice and consent to ratification of the Open Skies Treaty is subject to the following declaration, which expresses the intent of the Senate:

TREATY INTERPRETATION.—The Senate affirms the applicability to all treaties of the constitutionally based principles of treaty interpretation set forth in Condition (1) of the Resolution of Ratification with respect to the INF Treaty, approved by the Senate on May 27, 1988.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. NUNN:

S. 1337. An original bill to authorize appropriations for fiscal year 1994 for military activities of the Department of Defense, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; from the Committee on Armed Services; placed on the calendar.

S. 1338. An original bill to authorize appropriations for fiscal year 1994 for military construction, and for other purposes; from the Committee on Armed Services; placed on the calendar.

S. 1339. An original bill to authorize appropriations for fiscal year 1994 for defense activities of the Department of Energy, and for other purposes; from the Committee on Armed Services; placed on the calendar.

By Mr. BINGAMAN:

S. 1340. A bill to establish a National Community Garden Grant Program to promote the prevention and elimination of urban blight and to meet community developmental needs, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. LAUTENBERG:

S.J. Res. 118. A joint resolution to designate the week of October 17, 1993, through October 23, 1993, as "National Radon Action Week"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BINGAMAN:

S. 1340. A bill to establish a National Community Garden Grant Program to promote the prevention and elimination of urban blight and to meet community developmental needs, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

NATIONAL COMMUNITY GARDEN GRANT PROGRAM ACT OF 1993

Mr. BINGAMAN. Mr. President, I rise today to offer legislation to help community gardening projects. Community gardens programs have proven important tools in bringing together diverse groups of people. They contribute to the rejuvenation of our inner cities, the knowledge of our students, and, in some cases, the nutrition of our citizens.

Unfortunately, the Federal Government is not doing all that is possible to help these important projects. For years we have had an urban gardening program under the auspices of the cooperative extension service in the Department of Agriculture. Although this program has provided support for urban garden projects, we do not have adequate data on garden projects receiving Federal funding from other sources, including block grant programs. We also do not seem to have a systematic method of allowing community gardens access to surplus Federal property.

My legislation addresses each of these issues. It would establish a Community Garden Grant Program, authorized to grant 100 community gardening projects up to $20,000, with a 75-percent non-Federal match. It also directs the Secretary of Agriculture to collect data on other Federal support of community gardening efforts. Finally, it makes clear that community gardens are suitable recipients of surplus Federal property. It is my hope that this modest proposal to solidify Federal support for community gardens will help improve communities across the Nation.

I ask unanimous consent that the full text of the National Community Garden Grant Program Act of 1993 be printed in the RECORD following this statement.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1340

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Community Garden Grant Program Act of 1993".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) in communities across the United States there are thousands of acres of vacant lots, the number of which is rapidly increasing;

(2) these vacant lots contribute to the deterioration of neighborhoods and engender feelings of hopelessness among residents and community leaders; and

(3) a National Community Garden Grant Program will aid in the prevention and elimination of urban blight by beautifying neighborhoods, developing communities and community leadership, and increasing nutritional awareness and gardening skills.

(b) PURPOSE.—The purpose of this Act is to create a National Community Garden Grant Program, which will be a national partnership of the Secretary of Agriculture, the Secretary of Housing and Urban Development, the Secretary of Health and Human Services, the Administrator of General Services, citizens, private organizations, and representatives of State and local agencies from all parts of the United States, for the promotion of community gardens.

SEC. 3. DEFINITIONS.

As used in this Act (unless the context otherwise requires):

(1) COMMUNITY GARDEN PROGRAM.—The term "community garden program" means a gardening program that incorporates 1 or more of the following elements:

(A) Methods of gardening that promote improved nutrition and nutrition education.

(B) Gardening education.

(C) Community beautification.

(2) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

SEC. 4. NATIONAL COMMUNITY GARDEN GRANT PROGRAM.

(a) GRANTS AUTHORIZED.—

(1) IN GENERAL.—The Secretary shall award grants to eligible applicants to conduct community garden programs in accordance with this Act.

(2) ELIGIBLE APPLICANTS.—For purposes of paragraph (1), an eligible applicant for a grant under this Act is a unit of general local government or a nonprofit organization that is, or is capable of, carrying out a community garden program in accordance with this Act.

(3) MAXIMUM AMOUNT AND NUMBER.—The Secretary shall award up to 100 grants, each of which may not exceed $20,000.

(4) FEDERAL, STATE, AND LOCAL CONTRIBUTIONS.—

(A) IN GENERAL.—The Federal share attributable to this section of the cost of carrying out a program for which a grant is made under this section shall be 25 percent.

(B) CALCULATION.—In providing for the remaining share of the cost of carrying out such a program, each grantee under this section—

(i) shall provide for such share through a payment in cash or in kind, fairly evaluated, including facilities, equipment, or services; and

(ii) may provide for such share through State sources, local sources, or Federal sources (other than funds made available under this section).

(5) DISTRIBUTION.—The Secretary shall award grants in a manner that reflects the geographical diversity of the United States, to the maximum extent practicable.

(6) SET-ASIDE.—The Secretary shall allocate at least 20 percent of the grant funds made available under this section to grantees located in communities with populations not exceeding 50,000 inhabitants.

(b) APPLICATIONS.—

(1) IN GENERAL.—The Secretary, in conjunction with the Secretary of the Department of Health and Human Services and the Secretary of Housing and Urban Development, shall develop selection criteria and application procedures consistent with the purposes of this Act.

(2) FACTORS.—In selecting grantees, at a minimum, the Secretary shall consider the following criteria:

(A) The extent to which the applicant will maximize the use of public-private partnerships and available surplus property.

(B) The extent to which the applicant will target minority, underserved, and high-risk populations.

(C) The likelihood of the applicant developing a sustainable community gardening program.

(3) CERTIFICATION OF ELIGIBILITY.—The Secretary shall certify the eligibility of each grantee.

(4) OTHER FUNDS.—Funds from other sources may be used by a grantee in conjunction with funds made available under this Act. This Act shall not affect any guidelines governing the use of other funds.

SEC. 5. DATA COLLECTION.

(a) IN GENERAL.—The Secretary shall establish a database to compile information submitted under subsection (b) and information related to the effectiveness of the National Community Garden Grant Program in each participating community.

(b) FEDERAL FUNDS.—Grantees shall furnish the Secretary with information regarding the amount of Federal funds received by each grantee, including funds from the Secretary, the Administrator of General Services, and the Secretary of Housing and Urban Development.

SEC. 6. DONATION OF PROPERTY.

A grantee under this Act may use surplus property obtained from the Administrator of General Services and the Secretary of Defense to carry out a community garden program.

SEC. 7. PROFITS FROM COMMUNITY GARDEN PROJECTS.

If a grantee derives a profit from the sale of a product produced by a community garden program that receives funds under this Act, the grantee shall use the profits only to further carry out such program.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this Act, $2,000,000 for fiscal year 1994 and $2,000,000 for each of fiscal years 1996, 1997, and 1998.

By Mr. LAUTENBERG:

S.J. Res. 118. A joint resolution to designate the week of October 17, 1993, through October 23, 1993, as "National Radon Action Week"; to the Committee on the Judiciary.

NATIONAL RADON ACTION WEEK

Mr. LAUTENBERG. Mr. President, today I am introducing a Senate Joint Resolution which would designate the week of October 17, 1993, as "National Radon Action Week." The Senate passed similar resolution in each of the last 3 years.

Radon exposure poses a serious health risk to the people of our Nation. The EPA estimates that 14,000 people die annually from lung cancer caused by exposure to radon. Fortunately, elevated radon levels can be reduced successfully at relatively low cost.

Testing in homes and schools and educating people about the risks associated with radon exposure are the first steps we can take to protect ourselves and our children from the harmful effects of radon. My resolution calls for the establishment of a National Radon Action Week to encourage these activities.

This resolution has been endorsed by a broad range of groups and associations, including the American Lung Association, the American Cancer Society, the National Congress of Parent Teachers Associations, the National Education Association, the Consumer Federation of America, and the State and Territorial Air Pollution Control Administrators.

I encourage my colleagues to cosponsor this resolution and I ask unanimous consent that a copy of the resolution appear in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 118

Whereas exposure to radon poses a serious threat to the health of the people of this Nation;

Whereas the Environmental Protection Agency estimates that lung cancer attributable to radon exposure causes approximately 14,000 deaths a year in the United States;

Whereas the United States has set a long-term national goal of making the air inside buildings as free of radon as the ambient air;

Whereas excessively high levels of radon in homes and schools can be reduced successfully and economically with appropriate treatment;

Whereas only about 6 percent of the homes in this Nation have been tested for radon levels;

Whereas the people of this Nation should be educated about the dangers of exposure to radon; and

Whereas people should be encouraged to conduct tests for radon in their homes and schools and to make the repairs required to reduce excessive radon level: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of October 17, 1993; through October 23, 1993, is designated as "National Radon Action Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that week with appropriate ceremonies and activities.

ADDITIONAL COSPONSORS

S. 261

At the request of Mr. LAUTENBERG, the name of the Senator from Minnesota [Mr. WELLSTONE] was added as a cosponsor of S. 261, a bill to protect children from exposure to environmental tobacco smoke in the provision of children's services, and for other purposes.

S. 262

At the request of Mr. LAUTENBERG, the name of the Senator from Minnesota [Mr. WELLSTONE] was added as a cosponsor of S. 262, a bill to require the Administrator of the Environmental Protection Agency to promulgate guidelines for instituting a nonsmoking policy in buildings owned or leased by Federal agencies, and for other purposes.

S. 565

At the request of Mr. WARNER, the name of the Senator from Missouri [Mr. BOND] was added as a cosponsor of S. 565, a bill to amend the Internal Revenue Code of 1986 to improve disclosure requirements for tax-exempt organizations.

S. 599

At the request of Mr. GRASSLEY, the name of the Senator from Illinois [Ms. MOSELEY-BRAUN] was added as a cosponsor of S. 599, a bill to amend the Internal Revenue Code of 1986 to provide a permanent extension for the issuance of first-time farmer bonds.

S. 636

At the request of Mr. KENNEDY, the name of the Senator from Ohio [Mr. GLENN] was added as a cosponsor of S. 636, a bill to amend the Public Health Service Act to permit individuals to have freedom of access to certain medical clinics and facilities, and for other purposes.

S. 653

At the request of Mr. METZENBAUM, the name of the Senator from Kansas [Mrs. KASSEBAUM] was added as a cosponsor of S. 653, a bill to prohibit the transfer or possession of semiautomatic assault weapons, and for other purposes.

S. 1111

At the request of Mr. KERREY, the names of the Senator from Minnesota [Mr. WELLSTONE], the Senator from Alaska [Mr. STEVENS], the Senator from Mississippi [Mr. LOTT], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Alaska [Mr. MURKOWSKI], and the Senator from New Mexico [Mr. BINGAMAN] were added as cosponsors of S. 1111, a bill to authorize the minting of coins to commemorate the Vietnam Veterans' Memorial in Washington, D.C.

S. 1116

At the request of Mr. BURNS, the name of the Senator from Utah [Mr. BENNETT] was added as a cosponsor of S. 1116, a bill to amend the Internal Revenue Code of 1986 to clarify the deduction for expenses of certain home offices, and for other purposes.

S. 1160

At the request of Mr. HATFIELD, the names of the Senator from Alaska [Mr. STEVENS], the Senator from Illinois [Mr. SIMON], the Senator from Wyoming [Mr. SIMPSON], the Senator from Tennessee [Mr. MATHEWS], and the Senator from Arkansas [Mr. BUMPERS] were added as cosponsors of S. 1160, a bill to amend the Public Health Service Act to provide grants to entities in rural areas that design and implement innovative approaches to improve the availability and quality of health care in such rural areas, and for other purposes.

S. 1234

At the request of Mr. BAUCUS, the name of the Senator from Washington [Mrs. MURRAY] was added as a cosponsor of S. 1234, a bill to authorize the payment of Servicemen's Group Life Insurance in accordance with title 38, United States Code, as amended effective on December 1, 1992, in the case of certain members of the Armed Forces killed in an aircraft accident on November 30, 1992.

SENATE JOINT RESOLUTION 117

At the request of Mr. BIDEN, the names of the Senator from Rhode Island [Mr. PELL], the Senator from Pennsylvania [Mr. SPECTER], and the Senator from South Dakota [Mr. PRESSLER] were added as cosponsors of Senate Joint Resolution 117, a joint resolution to designate August 1, 1993, as "National Incest and Sexual Abuse Healing Day."

SENATE CONCURRENT RESOLUTION 21

At the request of Ms. MOSELEY-BRAUN, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of Senate Concurrent Resolution 21, a concurrent resolution expressing the sense of the Congress that expert testimony concerning the nature and effect of domestic violence, including descriptions of the experiences of battered women, should be admissible if offered in a State court by a defendant in a criminal case.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. BIDEN. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on August 2, 1993, at 2:30 p.m. on the nominations of James E. Hall to be a member of the National Transportation Safety Board, Louise Frankel Stoll to be Assistant Secretary of Transportation for Budget and Programs and Frank Eugene Kruesi to be Assistant Secretary of Transportation for Transportation Policy.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. BIDEN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Monday, August 2, 1993, at 3 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. BIDEN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations, be authorized to meet during the session of the Senate on Monday, August 2, 1993, at 4 p.m. to hold a nomination hearing on Mr. Joe Grandmaison, to be Director of the Trade and Development Agency.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. BIDEN. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources' Subcommittee on Labor be authorized to meet for a hearing on recent court decisions and executive life annuities, during the session of the Senate on Monday, August 2, 1993, at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON COURTS AND ADMINISTRATIVE PRACTICE

Mr. BIDEN. Mr. President, I ask unanimous consent that the Subcommittee on Courts and Administrative Practice of the Committee on the Judiciary, be authorized to meet during the session of the Senate on Monday, August 2, 1993, at 10:30 a.m., to hold a hearing on Manville bankruptcy.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

NOMINATION OF RUTH BADER GINSBURG, OF NEW YORK, TO BE AN ASSOCIATE JUSTICE OF THE SUPREME COURT

The Senate continued with the consideration of the nomination.

Mr. ROBB. Mr. President, I rise today to speak in support of the nomination of Ruth Bader Ginsburg to be an Associate Justice of the Supreme Court of the United States.

It has been 26 years since a Democrat has had the opportunity to choose a nominee for the U.S. Supreme Court, and President Clinton has made a superb choice. His nomination of Ruth Bader Ginsburg is one based on her sterling reputation as a talented judge, her role as one of the foremost legal advocates for women's rights during the 1970's, and her potential to build consensus on the Supreme Court.

Not only has Judge Ginsburg received the highest possible rating of the American Bar Association—a unanimous judgment by a 15-member panel that she is well-qualified for the job—but she has also been favorably reported out of the Senate Judiciary Committee by a unanimous vote. She has received bipartisan acclaim from Senators on the Judiciary Committee, who have praised her as an outstanding choice. She has impressed those Senators as serious, intelligent, and confident.

Colleagues of Judge Ginsburg have described her as a restrained, fair-minded, and moderate jurist with a keen intellect.

I am especially impressed with Judge Ginsburg's activism and advocacy regarding women's rights. As founder of the Women's Rights Project of the American Civil Liberties Union, Judge Ginsburg worked hard to make changes. She skillfully invoked the equal protection clause to combat gender distinctions in the law. This approach was groundbreaking because the U.S. Supreme Court had not previously applied the 14th amendment to gender-based discrimination. Through five victories in six Supreme Court cases, she used the 14th amendment to erase gender lines in areas ranging from military benefits to jury duty to the administration of estates. This series of victories provided the impetus for altering hundreds of laws and regulations across the country. Becoming the second woman on the Supreme Court seems to be the perfect culmination of Judge Ginsburg's lifelong commitment to systematically removing barriers for women in the United States.

While at the ACLU, Judge Ginsburg did something which speaks volumes about why she has received virtually unqualified support from my colleagues. While working on a case to persuade the Supreme Court to reverse its decisions on three major 20th century cases that had sustained sex discrimination, she prepared a brief in which she listed the names of two other attorneys as counsel for the plaintiff.

This in itself was not unusual since attorneys usually list cocounsel as a matter of course. What was unusual, and instructive, in this case was that the two attorneys she listed did not write a word of the brief, but paved the way for its creation. The two attorneys listed by Judge Ginsburg were Dorothy Kenyon and Pauli Murray, true pioneers in the fight for equal treatment for women.

While judges are required to follow the decisions of those who came before them, we as human beings often fail to recognize and give due respect to those who came before us and those whose past sacrifices have made possible the successes we achieve today. Judge Ginsburg not only recognizes stare decisis, which as a judge she is compelled to do, she also recognizes the debt we owe to those who have struggled before us.

This speaks not only to her attributes as a judge, but also to her character as a person. This quality of judicial restraint tempered with human feeling makes her an especially appropriate choice for this seat.

As one article points out, Judge Ginsburg is not

> * * * interested in the dogmatic pursuit of a political or ideological agenda. Rather, we can expect her to focus on cultivating the evolution of constitutional principles that are firmly grounded in important national values and reflect a mutually respectful relationship with the other branches and levels of government. That perspective may not accord with the fancies of judicial activities right or left, but it's one well worth strengthening on the Court.

Judge Ginsburg has adopted a moderate approach to judging, following the letter of the law and leaving policy choices to the legislators.

I am convinced Ruth Bader Ginsburg will be able to skillfully integrate her vast wealth of knowledge—acquired from her experiences as a wife, mother, and respected jurist, who has lived through many struggles, both personal and political—into the tough decisions put before her.

It is for these reasons and more that I strongly urge my colleagues to vote to confirm Ruth Bader Ginsburg to the Supreme Court. After having reviewed her background and life experience, I am confident that she will serve with poise, wisdom, and distinction.

Mr. President, I yield the floor.

I thank the Chair and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BIDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. BIDEN. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. BIDEN. Mr. President, I ask unanimous consent that there be a period for morning business, with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. BIDEN. Mr. President, I ask unanimous consent that the votes ordered relative to the nominations considered during today's session occur on Tuesday, August 3, as follows: That upon the disposition of H.R. 2010, the national service bill, the Senate proceed to executive session to vote on the confirmation of Judge Ruth Bader Ginsburg, and that the remaining nominees, Messrs. Payzant and Hackney, be voted on in the order in which they were debated, with all of the above occurring without intervening action or debate; that the first two votes in the voting sequence be the usual duration, that is, 15 minutes plus the extra 5 minutes, if needed, and the remaining two votes in the sequence be 10 minutes in duration; further, that upon conclusion of the last vote in the sequence, the Senate then return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BIDEN. Mr. President, I request that Senators, when they cast their vote on the Ginsburg nomination, cast their votes from their desks for that nomination.

ORDERS FOR TUESDAY, AUGUST 3, 1993

Mr. BIDEN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9:40 a.m. Tuesday, August 3; that following the prayer, the Journal of proceedings be deemed approved to date; that the time for the two leaders be reserved for their use later in the day; and that immediately following the Chair's announcement, the Senate resume consideration of S. 919, as provided for under the provisions of a previous unanimous consent agreement; that upon disposition of the Hackney nomination and the Senate returning to legislative session, that the Senate then resume consideration of H.R. 2403, the Treasury, Postal Service appropriations bill; that on Tuesday, the Senate stand in recess from 12:30 p.m. to 2:15 p.m., in order to accommodate the respective party conferences.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL TOMORROW AT 9:40 A.M.

Mr. BIDEN. Mr. President, if there is no further business to come before the Senate today, I ask unanimous consent that the Senate stand in recess, as previously ordered.

There being no objection, the Senate, at 7:23 p.m., recessed until Tuesday, August 3, 1993, at 9:40 a.m.

NOMINATIONS

Executive nominations received by the Senate August 2, 1993:

DEPARTMENT OF STATE

William Green Miller, of Virginia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Ukraine.

CONFIRMATION

Executive nomination confirmed by the Senate August 2, 1993:

DEPARTMENT OF JUSTICE

ELEANOR ACHESON, OF MASSACHUSETTS, TO BE AN ASSISTANT ATTORNEY GENERAL.

HOUSE OF REPRESENTATIVES—*Monday, August 2, 1993*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

O gracious God, we give thanks for all Your blessings and specially, this day, we give thanks for the life and witness of our friend and colleague, PAUL HENRY. We are grateful that You raise up people of good will to dedicate their lives to service as teachers or as leaders in government and to serve people whatever their need. We are grateful for the dedication of Your servant PAUL and his commitment to the welfare of others. We know that he was raised as Your child, O God, and was nurtured by Your grace for service in Your kingdom. May Your benediction that is new every morning, be with his family and all who mourn this day and forevermore. In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. The Chair recognizes the gentleman from North Carolina [Mr. BALLENGER] to lead us in the Pledge of Allegiance.

Mr. BALLENGER led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 557. An act to combat telemarketing fraud;

S. 1273. An act to enhance the availability of credit in disaster areas by reducing the regulatory burden imposed upon insured depository institutions to the extent such action is consistent with the safety and soundness of the institutions; and

S. 1274. An act to reduce the subsidy cost for the Guaranteed Business Loan Program of the Small Business Administration, and for other purposes.

The message also announced that pursuant to Public Law 102-392, the Chair, on behalf of the Republican leader, announces his appointment of Mr. HATFIELD, to the Commission of the Bicentennial of the U.S. Capitol.

The message also announced that pursuant to Public Law 102-393, the Chair, on behalf of the majority leader, after consultation with the chairman of the Finance Committee, appoints Patricia M. Owens of New York and Robert J. Myers of Maryland, as members of the Commission on the Social Security "notch" issue.

PASSING OF THE HONORABLE PAUL B. HENRY, REPRESENTATIVE FROM MICHIGAN

(Mr. MICHEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICHEL. Mr. Speaker, I will shortly be offering a resolution with respect to our departed friend, PAUL HENRY. May I simply, in the Chaplain's presence, thank him for the subject of his prayer as we began today's session.

SUPPORT MIDDLE EAST PEACE PROCESS

(Mr. HASTINGS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HASTINGS. Mr. Speaker, I would like to express my concern with the recent spate of violent activity on the Israel-Lebanon border. While I am heartened with the current détente, I am concerned that any more activity will forge a new class of Lebanese refugees and yet another generation of Israelis who have reason to fear for their safety.

Those of us who are interested in finding a meaningful and lasting peace for the region must encourage Arab regimes to stop Hezbollah from using violence against Israel as a way to derail the Middle East peace process. We must impress upon the Government of Lebanon the need to oust the Hezbollah stronghold in the south.

We cannot let extremist regimes control the peace process through their terrorist puppets. We cannot let the recent successes be forgotten—when you get back to your office call the Ambassadors of the Middle East nations and encourage their governments to support the Middle East peace process. Many lives depend on it.

REBUKE EPA'S TOBACCO PSEUDO-SCIENCE

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, the Environmental Protection Agency [EPA] has gone too far. Administrator Carol Browner, while testifying before the House Energy and Commerce Subcommittee on Health and the Environment, defended the EPA's controversial study on the second-hand effects on using legal tobacco products.

Ms. Browner stated that the EPA is officially recommending that American citizens refrain from smoking cigarettes, even in the privacy of their own homes. This comment provides even more evidence that the clear intent of the Clinton administration is to control every aspect of American life. Tobacco is a legal product in this country. Adults are capable of making their own decisions with regard to purchasing cigarettes or any other lawful commodity.

It seems Ms. Browner and the EPA bureaucrats could better spend their time researching improved ways to eliminating pollution from the air, rivers, streams, and lakes rather than pushing lifestyle regulations to control personal behavior.

Mr. Speaker, let us end this unscientific attack on the tobacco industry. EPA will lose its credibility if it continues to engage in manipulation of scientific data to achieve politically correct results.

DEMJANJUK CITIZENSHIP SHOULD BE PROPERLY REVIEWED

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute.)

Mr. TRAFICANT. Mr. Speaker, the saga of John Demjanjuk, convicted as Ivan the Terrible, continues up and down, like a puppet on a string. And it is not Israel's fault. God bless Israel and the freedom that came out in that tough decision.

But the truth is, our Government, the Justice Department, withheld critical evidence. Marchenko is Ivan the Terrible, not Demjanjuk.

Second of all, did Demjanjuk lie on his immigration papers to conceal he was a Nazi war criminal? And, if so, he should never come back.

But, Mr. Speaker, if he lied because of his Soviet identity, to be repatriated under the terms of the Yalta agreement, stood in front of a firing squad by Stalin, that is a different matter.

I will be submitting a sense of the Congress resolution that basically says Congress supports that an appropriate court of jurisdiction review the matter of this man's citizenship. If he is a war criminal, I do not support him. But if he is not, Mr. Speaker, Congress, the bastion of freedom of last resort, should finally show some backbone. I am asking for your help.

CLINTON MUST SHOW LEADERSHIP IN BOSNIAN CRISIS

(Mr. ROTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROTH. Mr. Speaker, it is inconceivable to me, and I hope to all rational thinking people, the alacrity with which the Clinton administration is marching us into the nightmare in Bosnia.

No thought given to the consequences.

No thought given to how we will extricate ourselves once we are embroiled.

No plan, no forethought, their only mission being to get the United States involved.

They have no sense of history.

They are the same group of heroes who in the 1960's—when America was involved in another war—ran off to foreign countries to demonstrate and organize demonstrations against our troops and our country.

If Clinton sends Americans into Bosnia, he must lead them not send them.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MONTGOMERY). The Chair welcomes our guests in the gallery, but they are not to participate through applause in the debate on the floor.

VISA PROCESSING PROCEDURE MUST BE REVISED

(Mr. GLICKMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GLICKMAN. Mr. Speaker, the current system for processing visas is badly in need of repair. Chairman HAMILTON of the Committee on Foreign Affairs and my Committee on Intelligence have been looking at that. The circumstances surrounding the issuance of U.S. visas to the sheik and others require an immediate revision on the way we permit entry into this country.

Mr. Speaker, the gentleman from Indiana [Mr. HAMILTON] and I have written a letter to Secretary Christopher. We are trying to get the Secretary to do some things immediately that do not take legislative action.

No. 1, we need a legal interpretation of existing immigration law to go to all embassies and consulates, telling them what is and what is not required with respect to entering this country. Right now they are making that decision ad hoc. They do not know what is required out there, and other sheiks could be entering this country without a clear determination.

In addition, we need to upgrade the hardware and software associated with the consular lookout and support system. We need to assign more experienced officers to Embassies and consulates, particularly in areas of the world that are potentially hot spots for trouble makers.

Mr. Speaker, I urge the Secretary of State in the strongest possible terms to take the action now that he should be doing to make sure terrorists are not permitted entry into this country.

□ 1210

THE TAXPAYER'S WATCHDOG

(Mr. THOMAS of Wyoming asked and was given permission to address the House for 1 minute.)

Mr. THOMAS of Wyoming. Mr. Speaker, certain Members of the Democratic majority have accused Republicans of being attack dogs for opposing the President's world class tax plan.

I guess you would have to add Senator DAVID BOREN to that list of attack dogs.

BOREN and Republicans oppose the President's plan, not because we are attack dogs, but because we are watchdogs.

We are the taxpayer's watchdogs. We speak out to making certain that the taxpayer is not blindsided by another huge tax increase.

We bark loud when we see that the President wants to pass the largest tax increase in history.

And we cry out in disdain when we see the President promising spending cuts, but giving us spending increases in reality.

Mr. Speaker, the middle-class taxpayers want more watchdogs who will look after their interests here in Washington. The last thing they want is a lapdog, who is content voting for the largest tax increase in history.

SHAME ON UNITED AIR LINES

(Mr. MILLER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MILLER of California. Mr. Speaker, last Saturday the friendly skies of United Air Lines were not so friendly to Rick Douglas, who is the Executive Director of the President's Committee on Employment of People With Disabilities.

Mr. Douglas, on his way to a conference, had to drag himself up five stairs into the air lines run by United Air Lines to get to that conference, because no employee would help him out of his wheelchair into the airliner and into his seat.

When the airliner arrived at its destination, Mr. Douglas, after all passengers disembarked, had to get himself out of his seat, dragging himself back down the stairs onto the tarmac and finally into the wheelchair. As his wife said, as she watched him, "To watch him do this made me cry."

United Air Lines should be ashamed of itself. It owes Mr. Douglas a very serious apology, and the FAA owes United Air Lines a very serious investigation of this matter. They owe it to Mr. Douglas and to all disabled people in the United States.

DOUBLESPEAK

(Mr. LINDER asked and was given permission to address the House for 1 minute.)

Mr. LINDER. Mr. Speaker, I have seen the future, and it is now. George Orwell, your time has come, 9 years later. Doublespeak is here. Good is bad. Up is down. Cuts are increases. Change is the status quo.

The Clinton administration has decided to abandon the facts of its plan in favor of body language. Look at the document it has put out in order to promote its tax increase.

"Hallelujah! Change is coming." I quote from this document:

> Anytime you're asked about a specific in the economic plan, look for ways to bring it back to the general points that this is good for the country, and this is real change * * * Never forget that the optimism, energy, enthusiasm you project is vital * * * Your body language, attitude and confidence will be infectious. If you become a merchant of pain, you'll find that the middle class isn't buying * * *

Well, Mr. Speaker, the middle class is not buying. The administration is a merchant of death to many small businesses that create the bulk of the jobs.

Bad is bad, down is down, and increased spending and taxes are just that. No manner of body language can stop the truth.

TONE DOWN THE DIALOG

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, this weekend, I was called a witch, a snake, and a wicked woman by none other than Randall Terry, who was visiting Denver, CO, in preparation for the papal visit.

He addressed hundreds of people and told them that they had to get very tough and stop being fraidy cats.

I really hope Members in this body start trying to chill out this kind of dialog. We have been very concerned about papal security while he visits in Denver. But I guess we better start getting concerned about personal security also, because it seems that people no longer want to just engage in debate. They want to make threats, and they want to encourage people to do much more than that.

I find this absolutely appalling, and it only shows the level of violence to which this country has risen. I think it is incumbent upon this body that believes in debate and free speech and the meeting of ideas to call upon people such as Randall Terry to change the tone of this dialog.

IN OPPOSITION TO THE DEFICIT REDUCTION BILL

(Mr. LAZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LAZIO. Mr. Speaker, I congratulate my colleagues on the other side of the aisle for apparently agreeing on a deficit reduction bill. I know this was difficult and I know the hard part—passing this legislation without the vote of a single Republican—is before them.

I speak only for this Member, but the principal reason for withholding my vote is only partly because I was completely excluded from the process. Rather, my objection is that I find too many of the provisions highly objectionable and, because of my exclusion, I had no chance to even nudge the legislation in my direction.

One of my major objections to this legislation is that it does not go as far as is being claimed by its supporters. This agreement is being falsely advertised as cutting the deficit $490 to $500 billion when the actual savings are at least $44 billion less.

Some $36 billion in savings from cuts in discretionary spending for fiscal years 1994 and 1995 are being claimed as part of this year's budget package, even though they will be the direct and independent result of statutory provisions in the 1990 legislation. Adding interest savings brings this double counting to $44 billion.

Mr. Speaker, it is true that President Bush renounced his role in the Budget Enforcement Act of 1990, but that does not give President Clinton and congressional Democrats the right to claim savings achieved in that agreement as part of this year's deficit reduction package.

JOINT REFERRAL OF H.R. 2800 TO COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY AND COMMITTEE ON POST OFFICE AND CIVIL SERVICE

Mr. CLAY. Mr. Speaker, I ask unanimous consent that the bill (H.R. 2800), to promote and support management reorganization of the National Aeronautics and Space Administration, be rereferred jointly to the Committee on Science, Space, and Technology and the Committee on Post Office and Civil Service.

The SPEAKER pro tempore (Mrs. SCHROEDER). Is there objection to the request of the gentleman from Missouri?

There was no objection.

FREEDOM LOST

(Mr. SMITH of Michigan asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH. Madam Speaker, when I looked at the Capitol dome this morning on my way into the Capitol, I couldn't help but see a bit of irony. The statue of freedom has been lifted from the Capitol dome. I thought Congress has lost part of its freedom to decide how to spend its tax revenues.

The discretionary portion of the Federal budget is disappearing because of burgeoning interest payments. Automatic interest payments on the public debt is $295 billion this year. That is roughly 60 percent of all the personal income tax revenues!

Most alarming is that there is no end in sight. Under the budget that is being pushed through this body the public debt will go from $4.3 trillion to $6.2 trillion by 1998 and interest payments could be cost to $450 billion a year.

It seems to me this is madness.

We must show some spending restraint now, before it is too late. Next time you look up at the Capitol dome, remember that as we repair statue of Freedom, let us resolve to limit the size of big Government spendng and the growth of our public debt that take away our freedoms as individuals and as a society. We have to cut spending and get the budget deficit under control.

THE LATE HON. PAUL. B. HENRY, A REPRESENTATIVE FROM MICHIGAN

Mr. DINGELL. Madam Speaker, I offer a privileged resolution (H. Res. 232) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 232

Resolved, That the House has heard with profound sorrow of the death of the Honorable Paul B. Henry, a Representative from the State of Michigan.

Resolved, That a committee of such Members of the House as the Speaker may designate, together with such Members of the Senate as may be joined, be appointed to attend the funeral.

Resolved, That the Sergeant at Arms of the House be authorized and directed to take such steps as may be necessary for carrying out the provisions of these resolutions and that the necessary expenses in connection therewith be paid out of the contingent fund of the House.

Resolved, That the Clerk communicate these resolutions to the Senate and transmit a copy thereof to the family of the deceased.

Resolved, That when the House adjourns today, it adjourn as a further mark of respect to the memory of the deceased.

The SPEAKER pro tempore. The gentleman from Michigan [Mr. DINGELL] is recognized for 1 hour.

GENERAL LEAVE

Mr. DINGELL. Madam Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks on the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan.

There was no objection.

Mr. DINGELL. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I announce with great sadness the death of the Honorable PAUL B. HENRY, a Representative of the Congress from the State of Michigan.

☐ 1220

The gentleman from Michigan [Mr. HENRY] has served with great distinction here. He was respected by his colleagues as a man of courage, decency, and respect. He was a likable man, a family man, was very much loved by his family and by his constituents. His colleagues in the Congress on both sides of the aisle, and especially those of us who served with him from Michigan, had a particular fondness and respect for him because of his decency and because of the dedication with which he served his people and his State.

Madam Speaker, he died after a long an severe illness which he fought with great courage and with great dignity. All of us who knew him and loved him will be praying that the good Lord will receive him graciously, and although we are sad that he has left us, we rejoice that he will no longer suffer the great pain which he had known for so long while we contended with this serious, difficult, and debilitating illness.

Madam Speaker, I ask unanimous consent that my dear friend, the gentleman from Michigan [Mr. UPTON], be permitted to control the balance of the time which has been yielded to me.

The SPEAKER pro tempore (Mrs. SCHROEDER). Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. UPTON. Madam Speaker, I yield such time as he may consume to the gentleman from Illinois [Mr. MICHEL], the Republican leader.

Mr. MICHEL. Madam Speaker, PAUL HENRY was first elected to this House in 1984, and was really one of the great men of this House in the limited time in which he lived to serve. An evangelical Christian, a former Peace Corps volunteer, and a level-headed intellectual, PAUL exemplified the word "integrity." His dignified bearing, his thoughtfulness, and his willingness to listen improved this House. His life should serve as a model to all who follow him.

PAUL HENRY was a good man, a great American, and a shining credit to this institution. He is certainly going to be sorely missed. I offer my deepest regrets to PAUL's wife, Karen Anne, and their three children. It will be my sad obligation and responsibility at his funeral tomorrow to deliver one of the eulogies, so I will defer at this juncture, with the hope that even with this busy week we will have an opportunity for special orders possibly Wednesday evening, after all business of the House has been disposed of, so that all Members might participate in a special order.

Madam Speaker, I ask unanimous consent to include with my remarks today the editorial obituaries of the New York Times from Sunday and the Washington Post for PAUL HENRY.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

[From the Washington Post, Aug. 1, 1993]

MICHIGAN REPRESENTATIVE PAUL B. HENRY DIES

GRAND RAPIDS, MI—Paul B. Henry, 51, a Michigan Republican who had served in the House of Representatives since 1985 and whose hard work and moderate views made him a rising star in his party, died of cancer July 31 at his home in Grand Rapids Township.

In October, he had been found to have glioblastoma multiforme, a type of brain cancer, after complaining of headaches while campaigning for his fifth term. On Oct. 21, surgeons removed most of a three-inch malignant tumor from the right frontal lobe of his brain. The popular politician easily won reelection two weeks later. Thousands of letters of support flooded his home and offices. Since late spring, Mr. Henry had been mostly bedridden at his Michigan home.

First elected to Congress in 1984, he had won by increasing margins in each of his runs for Congress.

In 1990, he was named one of 11 "rising stars" by the National Journal magazine. He was said to be a strong contender for the 1994 race against Sen. Donald W. Riegle Jr. (D-Mich).

Mr. Henry's 3rd District, in western Lower Michigan, included Grand Rapids and surrounding Kent County, as well as neighboring Barry and Ionia counties.

Mr. Henry, a Chicago native, was a 1963 graduate of Wheaton College in Illinois. He served with the Peace Corps in Ethiopia and Liberia for two years before receiving a master's degree and doctorate from Duke University.

He taught political science at Duke in 1969 and at Calvin College in Grand Rapids from 1970 to 1978 before being elected to the Michigan legislature in 1979. He served in the state House from 1979 to 1982, and in the state Senate in 1983 and 1984. He also had served on the Michigan State Board of Education from 1975 to 1978.

He was elected to the seat in the U.S. House of Representatives that once was held by Gerald Ford.

Mr. Henry served on the House committees on education and labor and on science, space and technology, and on the Select Committee on Aging.

Survivors include his wife, the former Karen Anne Borthistle, of Grand Rapids Township; and three children.

[From the New York Times, Aug. 1, 1993]

REPRESENTATIVE PAUL B. HENRY, 51, DIES AFTER BATTLING BRAIN CANCER

GRAND RAPIDS, MI, July 31—Representative Paul B. Henry, whose hard work and moderate views made him a rising star in the national Republican Party, died Saturday at his home here. He was 51.

Mr. Henry died of brain cancer, which was diagnosed in October after he complained of headaches while compaigning for his fifth term, according to a statement released by his office.

On Oct. 21, doctors removed most of a 3-inch malignant tumor from the right frontal lobe of Mr. Henry's brain. Despite the surgery and prognosis, he easily won re-election two weeks later. Thousands of letters of support flooded his home and offices.

While Mr. Henry's doctors initially expressed optimism, cancer experts said patients with his type of cancer, glioblastoma multiforme, survived an average of about a year, and fewer than 5 percent survived five years.

Increasing Margins of Victory

In the months after the surgery, Mr. Henry, his family and staff members tried to remain upbeat and did not address the possibility of his resignation. But by late spring, he was mostly bedridden, and by midsummer, his staff said that he could no longer communicate and that they were not sure if he recognized friends.

First elected to Congress in 1984, Mr. Henry earned increasing margins of victory in each election.

In 1990, he was named one of the 11 "rising stars" by the National Journal. He was said to be a strong contender for the 1994 race against Senator Donald W. Riegle, Jr., a Democrat.

The district Mr. Henry represented is in western lower Michigan and included Grand Rapids.

Taught Political Science

A Chicago native, Mr. Henry graduated from Wheaton College in Illinois and then served with the Peace Corps in Ethiopia and Liberia for two years before earning a master's degree and doctorate from Duke University.

He taught political science at Duke in 1969 and at Calvin College from 1970 to 1978 before being elected to the Michigan Legislature in 1979. He served in the state House from 1979 to 1982, and in the state Senate in 1983 and 1984.

He was elected to Congress in 1984, to the seat once held by former President Gerald R. Ford.

Mr. Henry served on the House Committees on Education and Labor and Science, Space, and Technology, as well as the Select Committee on Aging. Shortly after the cancer was diagnosed, he failed in an effort to win a seat on the House Ways and Means Committee.

He was survived by his wife, Karen, and his three children, Kara, Jordan and Megan.

Mr. UPTON. Madam Speaker, I yield such time as he may consume to the gentleman from Michigan [Mr. SMITH].

Mr. SMITH of Michigan. Madam Speaker, I thank the gentleman for yielding to me.

PAUL HENRY was a great American. All that knew him are saddened by his death. Bonnie's and my prayers go to his wife, Karen, and their family.

PAUL and I were both first elected to the Michigan Legislature in 1978. Our careers were somewhat parallel entering the Michigan Senate in 1982. We were seatmates and our offices were next to each other. We had many discussions and I respected his careful deliberations on issues and determination to do good. I looked forward to serving with PAUL in Congress.

PAUL was a leader in his efforts to improve education in Michigan and the Nation. In January, I became a member of the Science, Space, and Technology Committee where PAUL also served. His work on that committee and on the Education and Labor Committee has been very much respected by his colleagues.

His and Karen's support of their community and their religious values have been a wonderful example to all who know them. Congressman PAUL HENRY'S contributions to his community and to the country will be missed. His influence to improve public policy at the State and Federal level will live on.

I join with other Members of Congress in supporting this resolution honoring a great man Congressman PAUL HENRY.

Mr. UPTON. Madam Speaker, I join with the dean of our Michigan delegation, obviously, in very strong support of this resolution. PAUL HENRY was a very special friend to all in this House, Members and staff alike. For me he was a mentor, he was a trusted friend, and our prayers are extended to Karen Anne, Kara, Jordan, and Megan.

He represented his district, our State, and our Nation so well. He had so many successes on this floor. He was widely respected by both sides of the aisle, and I know that on Wednesday night when we have our special orders in honor of PAUL, that many Members will take this floor to laud his many achievements, both personal as well as legislative.

Madam Speaker, I yield back the balance of my time in support of this resolution.

The SPEAKER pro tempore. The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

VETERANS' COMPENSATION RATES CODIFICATION ACT OF 1993

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 798) to amend title 38, United States Code, to codify the rates of disability compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for survivors of such veterans as such rates took effect on December 1, 1992, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Strike out all after the enacting clause and insert:

SECTION 1. DISABILITY COMPENSATION.

Section 1114 of title 38, United States Code, is amended—

(1) by striking out "$83" in subsection (a) and inserting in lieu thereof "$85";

(2) by striking out "$157" in subsection (b) and inserting in lieu thereof "$162";

(3) by striking out "$240" in subsection (c) and inserting in lieu thereof "$247";

(4) by striking out "$342" in subsection (d) and inserting in lieu thereof "$352";

(5) by striking out "$487" in subsection (e) and inserting in lieu thereof "$502";

(6) by striking out "$614" in subsection (f) and inserting in lieu thereof "$632";

(7) by striking out "$776" in subsection (g) and inserting in lieu thereof "$799";

(8) by striking out "$897" in subsection (h) and inserting in lieu thereof "$924";

(9) by striking out "$1,010" in subsection (i) and inserting in lieu thereof "$1,040";

(10) by striking out "$1,680" in subsection (j) and inserting in lieu thereof "$1,730";

(11) by striking out "$2,089", "$68", and "$2,927" in subsection (k) and inserting in lieu thereof "$2,152", "$70", and "$3,015", respectively;

(12) by striking out "$2,089" in subsection (l) and inserting in lieu thereof "$2,152";

(13) by striking out "$2,302" in subsection (m) and inserting in lieu thereof "$2,371";

(14) by striking out "$2,619" in subsection (n) and inserting in lieu thereof "$2,698";

(15) by striking out "$2,927" each place it appears in subsections (o) and (p) and inserting in lieu thereof "$3,015";

(16) by striking out "$1,257" and "$1,872" in subsection (r) and inserting in lieu thereof "$1,295" and "$1,928", respectively; and

(17) by striking out "$1,879" in subsection (s) and inserting in lieu thereof "$1,935".

SEC. 2. ADDITIONAL COMPENSATION FOR DEPENDENTS.

Section 1115(1) of title 38, United States Code, is amended—

(1) by striking out "$100" in subparagraph (A) and inserting in lieu thereof "$103";

(2) by striking out "$169" and "$52" in subparagraph (B) and inserting in lieu thereof "$174" and "$54", respectively;

(3) by striking out "$69" and "$52" in subparagraph (C) and inserting in lieu thereof "$71" and "$54", respectively;

(4) by striking out "$80" in subparagraph (D) and inserting in lieu thereof "$82";

(5) by striking out "$185" in subparagraph (E) and inserting in lieu thereof "$191"; and

(6) by striking out "$155" in subparagraph (F) and inserting in lieu thereof "$160".

SEC. 3. CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS.

Section 1162 of title 38, United States Code, is amended by striking out "$452" and inserting in lieu thereof "$466."

SEC. 4. DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES.

Section 1311 of title 38, United States Code, is amended—

(1) by striking out the table in subsection (a)(3) and inserting in lieu thereof the following:

"Pay grade	*Monthly rate*	*Pay grade*	*Monthly rate*
E–1	*$634*	*W–4*	*$911*
E–2	*654*	*O–1*	*803*
E–3	*672*	*O–2*	*829*
E–4	*714*	*O–3*	*888*
E–5	*732*	*O–4*	*939*
E–6	*749*	*O–5*	*1,035*
E–7	*785*	*O–6*	*1,168*
E–8	*829*	*O–7*	*1,262*
E–9	*[1]866*	*O–8*	*1,383*
W–1	*803*	*O–9*	*1,483*
W–2	*835*	*O–10*	*[2]1,627*
W–3	*860*		

"[1] If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $934.

"[2] If the veteran served as Chairman or Vice-Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, or Commandant of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $1,744.";

(2) by striking out "$185" in subsection (c) and inserting in lieu thereof "$191"; and

(3) by striking out "$90" in subsection (d) and inserting in lieu thereof "$93".

SEC. 5. DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN.

(a) DIC FOR ORPHAN CHILDREN.—Section 1313(a) of title 38, United States Code, is amended—

(1) by striking out "$310" in paragraph (1) and inserting in lieu thereof "$319";

(2) by striking out "$447" in paragraph (2) and inserting in lieu thereof "$460";

(3) by striking out "$578" in paragraph (3) and inserting in lieu thereof "$595"; and

(4) by striking out "$578" and "$114" in paragraph (4) and inserting in lieu thereof "$595" and "$117", respectively.

(b) SUPPLEMENTAL DIC FOR DISABLED ADULT CHILDREN.—Section 1314 of such title is amended—

(1) by striking out "$185" in subsection (a) and inserting in lieu thereof "$191";

(2) by striking out "$310" in subsection (b) and inserting in lieu thereof "$319"; and

(3) by striking out "$157" in subsection (c) and inserting in lieu thereof "$162".

SEC. 6. TECHNICAL CORRECTION RELATING TO THE FINANCING OF DISCOUNT POINTS.

Section 3703(c)(4)(B) of title 38, United States Code, is amended in the second sentence by striking out "Discount" and inserting in lieu thereof "Except in the case of a loan for the purpose specified in section 3710(a)(8), 3710(b)(7), or 3712(a)(1)(F) of this title, discount".

SEC. 7. RATE ADJUSTMENTS FOR ADJUSTABLE RATE MORTGAGES.

Section 3707(b)(2) of title 38, United States Code, is amended by striking out "on the anniversary of the date on which the loan was closed".

Mr. MONTGOMERY (during the reading). Madam Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

Mr. STUMP. Madam Speaker, reserving the right to object, and I shall not object, I yield to the chairman of the committee for a brief explanation.

Mr. MONTGOMERY. Madam Speaker, will the gentleman yield?

Mr. STUMP. I yield to the gentleman from Mississippi.

Mr. MONTGOMERY. Madam Speaker, on April 27, H.R. 798 passed the House. It would codify the increased compensation and DIC rates enacted late last year. The other body has added two technical housing amendments. No other changes were made to the bill which passed the House.

Madam Speaker, I would hope we could get full support on ratifying the codifying of the compensation for our veterans.

Mr. SLATTERY. Madam Speaker, as Chairman MONTGOMERY has indicated, this bill would codify the cost-of-living adjustment in the rates of disability compensation and DIC which were authorized by Public Law 102–510. The increased rates became effective on December 1 of last year.

At the time we enacted last year's COLA, the fourth quarter change in the Consumer Price Index was not available to us. In order to ensure that veterans and their survivors would receive the proper COLA in their benefits, we enacted an administrative mechanism authorizing the Secretary of Veterans Affairs to increase these benefit rates by the same percentage as the increase provided for Social Security benefits. That increase turned out to be 3 percent.

This bill simply amends title 38, United States Code, to correctly reflect these new rates, and let me say again that these rates have been in effect since December 1, 1992.

Also, so that there will be no confusion, I want to make clear that this bill does not provide a COLA in these rates for fiscal year 1994. This year's COLA is addressed in a separate bill I have introduced, H.R. 2341, which we will consider at a later date.

I want to thank my chairman, Mr. STUMP, and Mr. BILIRAKIS for their support of this bill, and I also want to thank Chairman ROCKEFELLER and Senator SPECTER for moving this bill through the other body.

Mr. STUMP. Madam Speaker, as explained, these amendments are technical in nature, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Mississippi?

There was no objection.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken after debate has concluded on all motions to suspend the rules.

SERVICEMEN'S GROUP LIFE INSURANCE AMENDMENTS OF 1993

Mr. MONTGOMERY. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 2647) to amend title 38, United States Code, to provide that the effective date of any changes in benefits under the Servicemen's Group Life Insurance Program shall be based on the International Date Line, as amended.

The Clerk read as follows:

H.R. 2647

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EFFECTIVE DATE FOR CHANGES IN SERVICEMEN'S GROUP LIFE INSURANCE PROGRAM.

(A) USE OF INTERNATIONAL DATE LINE.—Section 1967 of title 38, United States Code, is amended by adding at the end the following new subsection:

"(f) The effective date and time for any change in benefits under the Servicemen's Group Life Insurance program shall be based on the date and time according to the time zone immediately west of the International Date Line.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to amendments to chapter 19 of title 38, United States Code, that take effect after November 29, 1992.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Mississippi [Mr. MONTGOMERY] will be recognized for 20 minutes, and the gentleman from Arizona [Mr. STUMP] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. MONTGOMERY].

GENERAL LEAVE

Mr. MONTGOMERY. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on this bill, H.R. 2647, and on the subsequent two bills, H.R. 821 and H.R. 2535.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. MONTGOMERY. Madam Speaker, I yield myself such time as I may consume, and I rise in strong support of H.R. 2647, as amended.

H.R. 2647 would change the time used in determining eligibility for benefits under the Servicemen's Group Life Insurance Program.

I want to thank my colleagues, MIKE KREIDLER and BUDDY DARDEN, for sponsoring this legislation.

I want to thank the very able chairman of the Subcommittee on Compensation, Pension, and Insurance, Mr. SLATTERY of Kansas, and the ranking minority member of the subcommittee, MIKE BILIRAKIS of Florida, for allowing the bill to be brought before the House so quickly. Mr. KREIDLER introduced the bill on July 15 and Mr. SLATTERY, with the concurrence of Mr. BILIRAKIS, asked that it be considered by the full committee on July 27.

□ 1230

Madam Speaker, I yield such time as he may consume to the distinguished chairman of the subcommittee, the gentleman from Kansas [Mr. SLATTERY] for a further explanation of the bill.

Mr. SLATTERY. Madam Speaker, I thank the chairman of the committee for his kind remarks.

Madam Speaker, H.R. 2647, as amended, would establish a more equitable manner for setting the effective date for changes the Congress makes to the Servicemen's Group Life Insurance Program, which we refer to as the SGLI Program.

Last year, as part of our veterans' benefits package that reformed the DIC Program, we increased the maximum coverage available under the SGLI Program from $100,000 to $200,000, with the proviso that coverage above $100,000 must now be elected by service members. By law, the increased coverage went into effect on December 1, 1992.

On the evening of November 30, 1992, two separate Air Force crashes occurred in Montana and Texas, resulting in the deaths of 17 crewmembers. According to the Department of Veterans Affairs, 11 of the service members had completed application for increased SGLI coverage prior to their deaths. The VA ruled that these deaths occurred prior to December 1, 1992, according to the local time and, as a result, their coverage under the SGLI Program was limited to whatever amount may have been in effect at that time, up to $100,000.

The VA's decision was technically correct under current law. According to the Uniform Time Act of 1966, if a change is made in law which affects an individual's rights or obligations, the change is considered to become effective in accordance with the local time zone in which the person is located.

In the case of the two Air Force crashes, the hour of midnight, December 1, had not yet occurred according to local time. This produced what many believe is an unfair result, particularly since these individuals had expressed their intention to receive the additional coverage.

In response to this, the gentleman from Washington [Mr. KREIDLER] introduced H.R. 2647, to provide legislative relief for the survivors of these service members. Very simply, the bill states that when determining the effective date for a change in the SGLI Program, the time zone immediately west of the international date line will be used, rather than the local time in the 24 time zones around the world. This establishes a uniform manner for determining when a SGLI change is to go into effect, and I commend the gentleman highly for his quick action and leadership.

I also want to commend Chairman MONTGOMERY and the gentleman from Arizona [Mr. STUMP], as well as the ranking minority member of my subcommittee, Mr. BILIRAKIS, for their excellent work in bringing this bill out of the committee so quickly.

I urge my colleagues to support this very fine bill.

Mr. STUMP. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in support of H.R. 2647, a bill to provide increased insurance coverage to those service personnel who died just hours before the effective date of the law increasing their servicemen's group life insurance from $100,000 to $200,000.

I commend my colleague, MIKE KREIDLER, for introducing H.R. 2647. It will ensure that the survivors of those who had applied for the additional life insurance receive it.

Madam Speaker, I also wish to applaud my good friend, SONNY MONTGOMERY, chairman of the Veterans' Affairs Committee, for his efforts in bringing this bill to the floor in such a timely manner.

Additional recognition should also go to the gentleman from Kansas [Mr. SLATTERY], chairman of the Subcommittee on Compensation, Pension, and Insurance, and the gentleman from Florida [Mr. BILIRAKIS], the subcommittee's ranking member, for their support of this measure.

I recommend that H.R. 2647 be passed.

Madam Speaker, I reserve the balance of my time.

Mr. MONTGOMERY. Madam Speaker, I too want to thank the very able ranking minority member of the full committee, the gentleman from Arizona [Mr. STUMP], for the excellent cooperation he has given in bringing this bill to the full House so quickly.

Madam Speaker, I yield 4 minutes to the gentleman from Washington [Mr. KREIDLER], the chief sponsor of this legislation, and also a member of the Committee on Veterans' Affairs.

Mr. KREIDLER. Madam Speaker, I especially want to thank the gentleman from Mississippi [Mr. MONTGOMERY], chairman of our committee, and our ranking minority member, and the gentleman from Arizona [Mr.

STUMP]. But I particularly also want to thank the members of the subcommittee who were most involved here, the gentleman from Kansas [Mr. SLATTERY] and the gentleman from Florida [Mr. BILIRAKIS], for their able assistance in bringing this matter to the floor.

As was pointed out by the gentleman from Kansas [Mr. SLATTERY], the Veterans Benefit Act of 1992, was enacted on October 29, 1992 and increased the benefits for the Servicemen's Group Life Insurance Program from $100,000 to $200,000.

The new law also established a requirement for participants to voluntarily elect this increased coverage.

This is in contrast with how the benefits had been invested in years past where it had been a negative check-off system. This one required a positive indication of voluntary signing up for the increased benefits. That provision, along with the expansion of the benefits, took place on December 1, 1992.

As was pointed out, on November 30, 1992, two C-141's from McChord Air Force Base crashed over Montana. That crash, and another one involving a B-1B from Texas, claimed the lives of 17 U.S. airmen.

In addition to these 17 deaths, 10 other service members are believed to have died on November 30, 1992. We have been informed by Jesse Brown, Secretary of Veterans Affairs, that 11 of these service members had signed up for increased benefits.

Today, those crashes and the aftermath are an ongoing nightmare for the 11 qualified survivors, because they have been denied increased insurance benefits.

And why?

For one simple tragic reason. These airmen happened to have 2½ hours before the effective date of their new insurance policies, according to local time.

The irony of this situation is that the crashes occurred 16 to 18 hours after it became December 1 west of the international dateline.

The denial of increased benefits to the 11 qualified survivors demonstrates that the current law governing effective dates in SGLI is archaic and outdated.

Eligibility, Madam Speaker, is by law based entirely on local time. Each time new benefits under the SGLI program are provided by laws, the benefits are phased in at 24 local separate times zones, beginning at the international dateline and ending in the Pacific region.

So, we arrive at a tragic situation when a crash over Montana occurs 2½ hours before December 1, local time, although it had been December 1 in most of the rest of the world.

I might also point out that these training activities that involve these military personnel are dangerous. They are the type of necessary training that the military must complete as a part of their activities, but they certainly would not be condoned in the more usual civilian-type activities. So these are military-related training activities that cause these deaths.

What is the true meaning of those 2½ hours? Just take a few minutes and think about Lori Parent, the widow of Capt. Edward D. Parent, Jr., who was my constituent at the time of the crash.

"The pain of losing my husband is at times almost unbearable," she wrote to me. "I know his big gentle heart would break if he knew the circumstances following his death. Especially if he knew that his last wishes had been denied."

☐ 1240

He had signed up for insurance, thought his dependents were covered, and found out, if he had lived, that, indeed, they were not.

Madam Speaker, my bill, H.R. 2647, resolves this problem. It provides full benefits to all qualified survivors of service members who died November 30, 1992.

It does so by changing the underlying problem, as was pointed out by the gentleman from Kansas [Mr. SLATTERY], by using the international dateline so that benefits would take effect for everyone once that particular date had been reached.

Secretary Brown, who supports this bill, has informed us there is no pay-as-you-go effect of this legislation since the increased SGLI coverage will come from the SGLI contingency reserve fund.

The Secretary also informed us that the Office of Management and Budget has no objections to this bill.

Again, Mr. Speaker, I thank you for your consideration and I ask my colleagues today to pass H.R. 2647.

Mr. MONTGOMERY. Madam Speaker, I yield 2 minutes to the gentleman from Georgia [Mr. DARDEN].

Mr. DARDEN. Madam Speaker, I thank the distinguished chairman for yielding me this time.

Madam Speaker, I have had an opportunity and honor to serve in this body now for almost 10 years, and during that time I have had a lot of contact with all of the committees in the House of Representatives and a few in the Senate as well. But I think that my colleagues and I will agree that no committee is more responsive or cooperative than the Veterans' Committee, and I want to thank its chairman, the gentleman from Mississippi [Mr. MONTGOMERY], the ranking member, the gentleman from Arizona [Mr. STUMP], his staff, and all others who have moved so rapidly to expedite the consideration of this bill.

Madam Speaker, I rise in strong support of H.R. 2647, the Servicemen's Group Life Insurance Amendments of 1993. This bill would benefit the same group of families targeted by legislation I introduced earlier this year. Although the House will not be taking up the bill I introduced, I support H.R. 2647 and have cosponsored this bill. I also want to commend the House Veterans' Affairs Committee for bringing this legislation to the floor quickly.

On November 30, 1992, 13 Air Force crewmen died in a midair collision over Harlem, MT. Nine of the thirteen had signed up for supplemental veterans insurance of $100,000 as they were entitled to under the Dependency and Indemnity Compensation Reform Act (Public Law 102-568). However, the accident occurred approximately 10 p.m. mountain standard time—2 hours before the insurance coverage went into effect. The Department of Veterans Affairs ruled that the crewmen were therefore not covered.

To be frank I was very disappointed to learn of the Department of Veterans Affairs decision. It would be a travesty, Madam Speaker, if the families of the deceased were denied these benefits due to a mere 2-hour technicality.

The legislation I introduced in June of this year, H.R. 2372, would establish an earlier effective date for the increase in serviceman's group life insurance coverage for the servicemembers who died in the Harlem, MT tragedy. By its terms H.R. 2647 would provide coverage for the families of these men by providing that the effective date would be based on the international date line.

I took a personal interest in this matter when I learned that one of the Air Force officers who died in the Montana tragedy was Capt. Jimmy Lee Jenkins. Captain Jenkins, 27, was originally from Marietta, GA, and had been on active duty with the Air Force for 9 years. Captain Jenkins was an outstanding Air Force officer and was a credit to his State and country.

H.R. 2647 will allow the families of the Montana crash victims to receive the benefits they are entitled to. I urge my colleagues to support this bill. It is the right thing to do.

Mr. MONTGOMERY. Madam Speaker, I yield 3 minutes to the gentleman from Washington [Mr. DICKS], also a cosponsor of this bill.

Mr. DICKS. Madam Speaker, I want to say thank you very much to the chairman, the gentleman from Mississippi [Mr. MONTGOMERY], for yielding me this time and also for the prompt work of his committee and the help of my classmate, the gentleman from Arizona [Mr. STUMP], and the gentleman from Kansas [Mr. SLATTERY], subcommittee chairman, for the great work they did in reporting out the bill introduced by my colleague, the gentleman from Washington [Mr. KREIDLER], H.R. 2647.

This bill would amend Federal law to clarify the effective date of changes in the Servicemen's Group Life Insurance Program.

As we have heard, the gentleman from Washington [Mr. KREIDLER] has come up, I think, with a uniform way to deal with the problems that have occurred because of this local time requirement, and I think it rectifies a terribly inequitable situation where 13 Air Force servicemen, flying out of McChord Air Force Base from Tacoma, WA, were killed when two C-141 aircraft collided over Montana last fall.

I must say, I guess, that the Department of Veterans Affairs had no choice but to make the ruling that they did. But I am glad that we here in the Congress are able to rectify this situation today and to equitably correct a situation and to extend the $100,000 in supplemental life insurance policies which the Veterans Affairs Department had determined they were not eligible for because of the time difference.

So I just want to say that I hope that my colleagues on both sides of the aisle will support this bill. I think the gentleman from Washington [Mr. KREIDLER] has come up with a very good way of dealing with it, and, Madam Speaker, I am going to enter the rest of my statement in the RECORD and urge my colleagues to support this bill and, again, thank the chairman and the leadership of this committee for their prompt action on the legislation introduced by the gentleman from Washington [Mr. KREIDLER].

Madam Speaker, I rise in strong support of H.R. 2647, a bill that would amend Federal law to clarify the effective date of changes to the Servicemen's Group Life Insurance Program.

This legislation has been made necessary by a terrible unfortunate situation: Thirteen Air Force servicemen flying out of McChord Air Force Base in Washington State were killed when two C-141 aircraft collided over Montana last fall.

But the Department of Veterans Affairs has told the families of nine of these personnel that their loved ones died 2½ hours too early.

These crewmembers of the tanker aircraft had $100,000 supplemental life insurance policies which the Veterans Affairs Department has determined were not in effect at the exact time of the crash. The families have been told that since the crash occurred at 9:30 p.m. on the evening of November 30, and the effective date of the new Government-sponsored supplemental life insurance program was December 1, 1992, they are not eligible for any benefits.

One of the family members has noted that the U.S. military operates universally on Greenwich mean time, and that even the clock in the cockpit of the aircraft that was destroyed was set at Greenwich mean time. According to Greenwich mean time, the crash occurred on the morning of December 1, and thus the families of the crash victims would be eligible to receive the supplemental benefits. What this means is that if this crash occurred over the Atlantic Ocean at the same exact moment, these personnel would have been covered by the supplemental insurance.

My colleague from Washington State, Congressman MIKE KREIDLER, has prepared a legislative solution that will alter, retroactively, the effective date and time of the serviceman's group life insurance increased benefits.

H.R. 2647 would accomplish two main goals. It would provide the appropriate amount of servicemen's group life insurance [SGLI] benefits to the nine military personnel who died while in service to their country—as well as to four airmen killed that same night in the crash of a B-1 bomber—and, it would establish a more rational and equitable effective date policy for changes to SGLI. I believe we all agree that American personnel should be treated equally, not with regard to which time zone they're serving their country in at that moment. I call on my colleagues to support H.R. 2647, to guarantee that every eligible participant of this insurance program is covered at the same moment in time around the world.

[From the Associated Press, July 14, 1993]

VA RULES MID-AIR CRASH VICTIMS DIED 2½ HOURS TOO EARLY; DENIES INSURANCE

GREAT FALLS, MT.—The families of nine airmen killed in an air collision are being denied $100,000 each in insurance benefits because the crash occurred 2½ hours before the policies took effect.

Thirteen Air Force fliers from McChord Air Force Base near Tacoma, Wash., were killed last fall when two C-141B jet transports collided during a night aerial refueling mission over Montana and exploded.

Nine of the victims had signed up for a $100,000 supplemental life insurance policy, scheduled to take effect Dec. 1.

But the crash occurred about 9:30 on Nov. 30. Paul Koons of the Department of Veterans Affairs said no benefits can be paid.

"Given the number of people we cover, somebody is always going to die five minutes, 10 minutes, or a half an hour before a new policy takes effect," Koons said.

But the dead men's wives and parents say the ruling is unfair. They also note that the military operates on Greenwich Mean Time, an international time standard that is seven hours ahead of Mountain Standard Time.

"My husband dedicated his life to the Air Force, and the clock in his cockpit said it was December first when that plane went down." said Lori Parent, who now lives near Chico, Calif.

Koons said the VA would be happy to pay the benefits if Congress approves a retroactive change in the effective date. He said that has happened before, notably after a 1985 crash of a military transport in Gander, Newfoundland, and for some victims in the Persian Gulf War.

"If we can find a way to pay the survivors, we'd certainly like to do so," he said.

Mr. STUMP. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MONTGOMERY. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, the administration totally supports this legislation, and I urge my colleagues to adopt this bill.

Mr. BISHOP. Madam Speaker, 13 airmen were killed on November 30, at 8:20 p.m. mountain standard time in a Montana midair collision. And four airmen died in a Texas crash on November 30, at 11 p.m. central standard time. These crashes came 16 to 18 hours after it became December 1 just west of the international dateline. Under H.R. 2647, supplemental life insurance benefits would be extended to survivors of the airmen who died just hours before the effective date of coverage. This bill will do what is proper, Madam Speaker, and it will do what it right. That is to increase the maximum Servicemen's Group Life Insurance coverage from $100,000 to $200,000 based on the international dateline, so that the families of these service members will receive those benefits. I support this effort, and I urge my distinguished colleagues on both sides of this Chamber to join me.

Mr. MONTGOMERY. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. SCHROEDER). The question is on the motion offered by the gentleman from Mississippi [Mr. MONTGOMERY] that the House suspend the rules and pass the bill, H.R. 2647, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

RESERVISTS' ELIGIBILITY FOR BURIAL IN NATIONAL CEMETERIES

Mr. MONTGOMERY. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 821) to amend title 38, United States Code, to extend eligibility for burial in national cemeteries to persons who have 20 years of service creditable for retired pay as members of a Reserve component of the Armed Forces.

The Clerk read as follows:

H.R. 821

Be it enacted by the Senate and House of Representatives for the United States of America in Congress assembled,

SECTION 1. ELIGIBILITY FOR BURIAL IN NATIONAL CEMETERIES.

(a) IN GENERAL.—Section 2402 of title 38, United States Code, is amended—

(1) by redesignating paragraph (6) as paragraph (7); and

(2) by adding after paragraph (5) the following new paragraph:

"(6) Any person who at the time of death was entitled to retired pay under chapter 67 of title 10 or would have been entitled to retired pay under that chapter but for the fact that the person was under 60 years of age.".

(b) CONFORMING AMENDMENTS.—(1) Section 2301(e) of such title is amended by striking out "section 2402(6)" and inserting in lieu thereof "section 2402(7)".

(2) Section 2306(a)(2) of such title is amended by striking out "(6)" and inserting in lieu thereof "(7)".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Mississippi [Mr. MONTGOMERY] will be recognized for 20 minutes, and the gentleman from Arizona [Mr. STUMP] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. MONTGOMERY].

Mr. MONTGOMERY. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in strong support of this legislation.

H.R. 821 extends eligibility for burial in the national cemeteries for certain reserve and National Guard members.

I want to thank the distinguished chairman of the Subcommittee on Housing and Memorial Affairs, Mr. SANGMEISTER, for his support of the bill and for the outstanding leadership he is providing as chairman of this subcommittee. He will explain this bill.

I also appreciate the cooperation we have received from the gentleman from Indiana [Mr. BURTON], ranking minority members of the subcommittee.

Madam Speaker, I yield such time as he may consume to the gentleman from Illinois [Mr. SANGMEISTER].

Mr. SANGMEISTER. Madam Speaker, I would like to thank and commend the gentleman from Mississippi [Mr. MONTGOMERY], the chairman of the full committee for his leadership and ongoing support of this measure. I would also like to thank the gentleman from Arizona [Mr. STUMP] and the gentleman from Indiana [Mr. BURTON], the ranking minority members of the full committee and subcommittee for their efforts and support. In particular, I would like to thank HENRY BONILLA who introduced this bipartisan bill along with CHARLIE STENHOLM, TOM DELAY, and Veterans' Affairs Committee members FRANK TEJEDA and STEPHEN BUYER. This legislation would extend eligibility for burial in national cemeteries to members of the Reserves and National Guard who have qualified service of 20 or more years.

Madam Speaker, under current law, the only members of Reserve components of the Armed Forces who are eligible for burial in a national cemetery are those who:

First, die under honorable conditions while hospitalized or undergoing treatment, at the expense of the United States, for injury or disease contracted or incurred while such member is performing active duty for training, inactive duty training or traveling to and from such duty;

Second, are disabled or die from disease or injury incurred or aggravated in line of duty during or en route to or from active duty for training; or

Third, are disabled or die from injury, but not disease, incurred or aggravated in line of duty during or en route to or from inactive duty training.

However, members of the Reserves who have spent 20 years in a state of continual readiness to defend our Nation at a moments notice are not eligible for burial in our national cemeteries.

Our Nation has long depended upon and recognized the contribution of our citizen soldiers. From the Minutemen of the Revolution to the valiant men and women who served during Desert Storm, our reserve and National Guard members must satisfy the full mobilization requirements of all Active Duty Forces. He or she may be called upon to perform capably in a highly complex, hostile, and demanding environment, to operate sophisticated military equipment, and to not only augment Active Forces but to actually perform a wide range of critical functions whose skills exist entirely within the reserve components. Additionally, these dedicated individuals also honor their obligations to family, home, and civilian employers. During a 20-year career the men and women of our Reserve Forces perform more than 2 years of collective military service, an amount of time equivalent to that which currently qualifies active duty veterans for burial in a national cemetery.

Madam Speaker, in the report of the Sixth Quadrennial Review of Military Compensation [6th QRMC], it was noted that, with the advent of the All Volunteer Force, the scope, size, and importance of missions assigned to Reserve components have increased dramatically. The Armed Forces now depend heavily on reservists as a key part of the total force. This was demonstrated most recently during the Persian Gulf war, during which a total of about 228,000 reservists were ultimately activated in support of Operation Desert Storm. Additionally, reservists stand ready to assist their fellow Americans when a disaster hits home such as the flooding along the Mississippi corridor, hurricane relief along coastal areas, and the maintenance of law and order and provision of humanitarian assistance whenever and wherever needed.

In view of this expanded role, the 6th QRMC recommended that all members of the Selected Reserve, plus reservists in any category who have completed the service requirements for retired pay, 20 years, under chapter 67, title 10, or who are in receipt of such pay, should be added to the list of persons qualified for burial in a national cemetery.

According to the Sixth QRMC, extension of this benefit to such members is clearly warranted. Their participation requirements, their mobilization vulnerability, and the requirement that they be prepared to report within 24 hours of notification underscore the fact that today's selected reservists are continuous members of the total force. National Guard and Reserve members who have maintained a commitment to the Armed Forces for at least 20 years should also be afforded eligibility for burial in our national cemeteries as a reflection of the service they have voluntarily rendered their country.

Madam Speaker, as you are aware, similar legislation, H.R. 4368, which provided the burial benefits specified in H.R. 821 passed the full House of Representatives during the 102d Congress.

Madam Speaker, I urge favorable consideration of this bill.

Mr. STUMP. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in support of H.R. 821, a bill to provide full burial benefits in national cemeteries to National Guard and Reserve retirees who have completed 20 years or more as members of a Reserve component of the armed services.

I commend my colleague, HENRY BONILLA, for introducing H.R. 821. The bill will ensure that our Reserve component forces receive the Nation's full recognition as a final tribute for their service.

Madam Speaker, I also wish to thank my good friend SONNY MONTGOMERY, chairman of the Veterans' Affairs Committee, for his timely action on this bill.

In addition, I wish to recognize the gentleman from Illinois [Mr. SANGMEISTER], chairman of the Subcommittee on Housing and Memorial Affairs, and the gentleman from Indiana [Mr. BURTON], the subcommittee's ranking member, for their consideration of this measure.

I recommend that H.R. 821 be passed.

□ 1250

Madam Speaker, I yield 3 minutes to the gentleman from Texas [Mr. BONILLA].

Mr. BONILLA. Madam Speaker, on behalf of over 1 million reservists and their families across this great Nation, I appreciate the opportunity to offer this bill—H.R. 821—for consideration by the House of Representatives. This bipartisan measure received strong support from members of the Veterans' Affairs Committee. As you know, this legislation would extend eligibility for burial in national cemeteries to members of the Reserve components of our Armed Forces who have at least 20 years of service creditable for retired pay.

Under current law, the only members of the Reserve components of the Armed Forces who are eligible for burial in a national cemetery are those who: First, die under honorable conditions while hospitalized or undergoing treatment at the expense of the United States, for injury or disease contracted or incurred while such member is performing active duty for training, inactive duty training or traveling to or from such duty; second, are disabled or die from disease or injury incurred or aggravated in line of duty during or enroute to or from inactive duty training; or third, are disabled or die from injury—but not disease—incurred or aggravated in line of duty during or enroute to or from active duty training.

However, members of the Reserves who have spent 20 years preparing both physically and mentally to defend our Nation at a moments notice are not eligible for burial in the National Cemetery System.

Reservists have served this Nation admirably over the years. Reserve units participated in large numbers and were key elements of operations such as: Urgent Fury in Grenada; Just Cause and Kindle Liberty in Panama; and Desert Shield/Desert Storm. Reservists also stand ready to assist Americans when a disaster hits home such as Hurricane Andrew—after which we saw Reserve forces maintaining law and order and providing humanitarian assistance in south Florida.

These instances that I have just noted are only a few of the ways in which reservists serve our Nation. I believe that this dedicated service must be fully acknowledged. Our reservists should be provided the benefit of burial in a national cemetery.

Madam Speaker, as you know, H.R. 821 passed through subcommittee and full committee markup with broad bipartisan support, and I believe that we should do as the Members of the 102d Congress did in recognizing that reservists who dedicate years to their country should be accorded burial rights in our national cemeteries.

Madam Speaker, I urge all Members to support this bill.

Mr. MONTGOMERY. Madam Speaker, I yield 2 minutes to the gentleman from Washington [Mr. KREIDLER].

Mr. KREIDLER. I thank the chairman for yielding this time to me.

Madam Speaker, I rise also to commend the individuals involved with this legislation: the chairman of the Committee on Veterans' Affairs, the gentleman from Mississippi [Mr. MONTGOMERY]; the chairman of the subcommittee, the gentleman from Illinois [Mr. SANGMEISTER]; and the ranking Republican on the committee, the gentleman from Arizona [Mr. STUMP]; and the sponsor of this bill, the gentleman from Texas [Mr. BONILLA], for introducing this legislation.

Madam Speaker, as an Army reservist with 20 years' eligibility, this has some bearing on me personally. I have 23 months of active-duty service time, not 24 months, which would be the requirement now for interment in one of the veterans cemeteries. As a result, still serving for 20 months during the Vietnam war and 3 months during Operation Desert Shield and Storm, I still would not be eligible. With this legislation, I would be eligible.

I might point out that there are very few individuals who have 20 years of eligible service in the Reserve and Guard who do not have 2 years of active-duty time in conjunction. So, this applies to a very relatively small number of individuals like myself. But it does give us the opportunity to select, if we so desire, the opportunity to be buried and interred in a national cemetery, as this bill would authorize.

So, I commend the individuals involved with this legislation and very much appreciate the opportunity to be a part of urging other Members to join us in this legislation.

Mr. STUMP. Madam Speaker, I yield 3 minutes to the gentleman from Indiana [Mr. BUYER], a member of the committee.

Mr. BUYER. I thank the gentleman for yielding this time to me.

Madam Speaker, I rise today to lend my strong support to H.R. 821, which extends eligibility for burial in national cemeteries to those who have 20 years of service as members of the Reserve component of the Armed Services.

I recognize with distinction the efforts of the gentleman from Illinois [Mr. SANGMEISTER], along with the efforts of the gentleman from Indiana [Mr. BURTON]; the gentleman from Mississippi [Mr. MONTGOMERY], chairman of the committee on Veterans' Affairs; and the gentleman from Arizona [Mr. STUMP] for their efforts and their leadership.

We hear a great deal about the fears of our military leaders who caution about the return of the hollow force, the hollow military.

In 1973, at the end of the Vietnam conflict, the beginning of an All-Volunteer Force, the hollow force was a reality.

In an effort to rectify this problem, then-Secretary of Defense, James Schlesinger, with the advice and support of the Joint Chiefs of Staff, created the total-force policy. This policy called for an increase in interdependence of active-duty forces along with the integration of the National Guard.

At the same time, it stated that, "The integration of planning, programming, and budgeting for the manning, equipping, and maintaining and training of the mix of active and Reserve forces is essential for meeting the initial contingency demands for our forces," that is, the total-force concept.

Nowhere was this interdependence more evident than during Operations Desert Shield and Desert Storm. Within 10 days of invasion, President Bush authorized the callup of 200,000 Reserve and National Guard personnel in response to this national emergency. These citizen-soldiers, the modern-day Minutemen and Minutewomen, served with distinction in every aspect of this campaign. The concept of the total force must go far beyond the training and integration with the active component first envisioned by those planners 20 years ago. If our reservists and National Guard must share the dangers or the possibilities of these dangers, then they should share in the benefits as well.

This bill takes another step in helping these dedicated men and women reap the benefits of their service.

H.R. 821 will provide burial eligibility to those who make the long-term commitment to their country while serving in the Reserves and the National Guard. While they may never be called to active duty or federalized in response to a national emergency, I feel their readiness and dedication to serve should be rewarded with benefits for having given 20 years to this country.

I urge my colleagues to support this legislation and to help honor those who are twice the citizen by having served their Nation and in our hometowns across America. With great compliments, I extend to HENRY BONILLA for introducing and bringing this legislation to the floor.

Mr. STUMP. Madam Speaker, I urge my colleagues to support H.R. 821.

Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MONTGOMERY. Madam Speaker, I yield myself 30 seconds.

Madam Speaker, this bill sends a clear signal that the role of the members of the Reserve forces is very important to the defense of our country. It recognizes the total-force concept, and I urge my colleagues to adopt this legislation.

Madam Speaker, I yield 2 minutes to the gentleman from Texas [Mr. DE LA GARZA], the chairman of the Committee on Agriculture, who has also been interested in this legislation.

Mr. DE LA GARZA. I thank the chairman for yielding this time to me.

Madam Speaker and Mr. Chairman, I appreciate this opportunity. Let me say that what has been said here this morning about members of the National Guard serving their country, that in that respect, three of my National Guardsmen recently were killed while on their 2-week training period at Fort Hood. They died as heroes in a tragic accident. But this exemplifies what is being attempted here in this legislation, because they served during Desert Storm in every phase from training in one area to the actual front. They will be treated as full military service casualties. But the fact that they served during peacetime in the National Guard should not be forgotten. I think this would be a tribute to the three military men who died in the service of their country recently, that they also should receive some of the rewards that we give to all those who serve.

I join with the chairman in support of this legislation.

Mr. MONTGOMERY. Madam Speaker, will the gentleman yield?

Mr. DE LA GARZA. I yield to the chairman of the committee, the gentleman from Mississippi [Mr. MONTGOMERY].

Mr. MONTGOMERY. I thank the gentleman for yielding.

Madam Speaker, I thank the gentleman for bringing up this sad tragedy which happened on a training mission. These guardsmen were on active-duty training, on their 15-day annual training. When you deal with ammunition and with heavy equipment, you do have sadness and people do get hurt.

I want to thank the gentleman for coming over here and participating. These National Guard men and reservists are part of the total force now.

□ 1300

As we reduce the military, these guardsmen and reservists have to take more responsibility, and this is just one way to show our appreciation.

If the gentleman has any problems, I am not sure, but if these three guardsmen, I believe since they were on active duty they might be eligible to be buried in a national cemetery, but if problems do develop, our committee certainly would like to be of help.

Mr. DE LA GARZA. The military is conducting the necessary investigation. There has been one problem with one of them. They are buried already.

Both the Texas National Guard and the Regular Army are working with the families, I am working with the families.

The point I wanted to make was that whether you are in the Reserves or in the National Guard, you are always in the service of your country. When you deal in this type of training, you are never out of harm's way, and anything that we can do for them I think is merited and more.

Mr. BUYER. Madam Speaker, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from Indiana.

Mr. BUYER. Madam Speaker, to clarify the record, this is a bill that extends eligibility to those National Guard men who have given 20 years and having perhaps never having served in Federal service beyond their annual training.

While I sit here with great distinction and honor for the three men who lost their lives in the National Guard, this bill in particular does not extend burial rights to them unless they were beyond 20 years of service.

Would that be correct?

Mr. MONTGOMERY. Madam Speaker, if the gentleman will yield further, that is correct.

The SPEAKER pro tempore (Mrs. SCHROEDER). The time of the gentleman from Texas has expired.

Mr. MONTGOMERY. Madam Speaker, I yield 1 additional minute to the gentleman from Texas.

Mr. DE LA GARZA. That is perfectly understood. My purpose here is to say that these three signify that they also served and were in harm's way. What we do here is for their buddies who will serve similarly and serve their 20 years, that we enhance their position through this legislation.

Those who died in this tragic accident will be considered as and receive the benefits of the Regular Army, having died on active duty. That is being handled by the regular military at this time.

Mr. BUYER. And their sacrifice is defined as the total force concept, and the total integration of the National Guard and Reserves in the active component for the service of our country.

Mr. SANGMEISTER. Madam Speaker, will the gentleman yield?

Mr. DE LA GARZA. I am happy to yield to the gentleman from Illinois.

Mr. SANGMEISTER. Just as a bit of clarification, Madam Speaker, I am not quite sure what the facts were surrounding these National Guard people, but I understood they were on active duty at that point, is that correct?

Mr. DE LA GARZA. The gentleman is correct.

Mr. SANGMEISTER. If you are on active duty, in my opinion, they are covered by the legislation, so they would qualify.

Mr. DE LA GARZA. It has been handled as if they were Regular Army, serving on active duty. That is not an issue at this time. The investigation is continuing.

My intervention at this point is to thank these gentlemen for what they do for their buddies who served in the National Guard in peacetime and that if they served their 20 years, then they should be compensated similarly, because they are always in harm's way, regardless of whether they are just training on weekends or they are training for 2 weeks, but when they wear the uniform of either the Texas National Guard, which translates to the military of the United States of America, they should be treated with the same honor and respect and credits that we can do.

This is a measure which in part enhances their position.

Mr. BISHOP. Madam Speaker, I rise in support of H.R. 821. This bill would make our loyal military reservists who have 20 years of service eligible for burial in national cemeteries. This action is a long time coming, Madam Speaker, and a just reward for these men and women who have dedicated their lives to serving our country and for their families, who also make the sacrifice. Our reservists stand ready for the call, Madam Speaker, as many proved during the Persian Gulf war. Under this bill, reservists entitled to retirement pay but who are under 60 years of age could be buried beside their comrades. Many of my constituents are military reservists, Madam Speaker, and many of them served in the Persian Gulf as part of their duty. Now it is our duty, Madam Speaker, to bestow upon them this honor.

Mr. GILMAN. Madam Speaker, I am honored to rise in support of H.R. 821. I commend my distinguished colleague from Texas, Mr. BONILLA, for introducing this worthwhile legislation. I would also like to praise the Committee on Veterans' Affairs. Under the leadership of the chairman of the committee, my colleague from Mississippi, Mr. MONTGOMERY, and the ranking minority member, my colleague from Arizona, Mr. STUMP, a continued commitment has been shown to veterans' issues.

I am pleased to support this legislation which will extend eligibility of national cemetery burial benefits to National Guard and reservist retirees who have completed 20 or more years of service. Under current law, members of the Reserves may be buried in national cemeteries only if they are disabled or die as a result of active duty. I believe that H.R. 821 is worthy legislation enabling our Nation to pay final tribute to National Guard and reservist retirees who have given so much of themselves to our country.

I am pleased that the House is reviewing this important issue. The death of a loved one causes an unfortunately emotional strain. However, the death of a loved one should not cause a financial strain too. Accordingly, it is for that reason that I have introduced legislation, H.R. 34, that will boost funeral benefits to a level previously afforded to all our wartime veterans.

Prior to 1981, a burial allowance of up to $300 was provided in all cases where a veteran died: First, of service-connected disability; second, if he was a veteran of any war; third, if he was discharged for a disability incurred or aggravated in the line of duty; or fourth, if he was in receipt of, or entitled to, disability compensation.

Under the Omnibus Budget Reconciliation Act of 1981, the veterans' burial benefits were decreased significantly by limiting funeral benefits to veterans receiving pension or compensation benefits, or residing in a VA-supported health facility at the time of death. That reduction mistakenly placed an economic value on a benefit given by Congress to ensure that all veterans would be buried with dignity and respect, regardless of their income or social standing at time of death. I believe this is also in direct violation of the longstanding principle held by the American Legion which calls for equal benefits for equal service.

The 1990 Omnibus Budget Reconciliation Act further limited burial plot allowances. The 1990 veterans benefits and services reconciliation conference agreement eliminates the plot allowance of $150, with the exception of veterans who are in receipt of DVA disability benefits, such as compenstion or pension.

H.R. 34 restores the pre-1981 eligibility for veterans for the purposes of receiving funeral benefits, increases the amount of those benefits from $300 to $400, and increases the plot allowance from $150 to $300.

As a nation, we have a moral obligation to provide our service men and women with funeral benefits. For this reason I am pleased to support H.R. 821. However, I believe that we must go a step further. I urge my colleagues to support my legislation which will reinstate our veterans' funeral benefits. By doing this we will fulfill our obligation to all those who have fought and risked their lives to protect the ideals and the people of our great Nation. We should do no less, for those who have given so much to defend our freedom.

Accordingly, I urge my colleagues to support H.R. 821, as an important step in acknowledging the devotion by our veterans to our Nation.

Mr. STUMP. Madam Speaker, I yield back the balance of my time.

Mr. MONTGOMERY. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. MONTGOMERY] that the House suspend the rules and pass the bill, H.R. 821.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

PRIORITY VA HEALTH CARE FOR PERSIAN GULF VETERANS

Mr. MONTGOMERY. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 2535) to amend title 38, United States Code, to provide additional authority for the Secretary of Veterans Affairs to provide health care for veterans of the Persian Gulf war, as amended.

The Clerk read as follows:

H.R. 2535

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORITY TO PROVIDE PRIORITY HEALTH CARE.

(a) AUTHORIZED INPATIENT CARE.—(1) Section 1710(a)(1)(G) of title 38, United States Code, is amended by striking out "or radiation" and inserting in lieu thereof ", radiation, or environmental hazard".

(2) Section 1710(e) of such title is amended—

(A) by inserting at the end of paragraph (1) the following new subparagraph:

"(C) Subject to paragraphs (2) and (3) of this subsection, a veteran who the Secretary finds may have been exposed while serving on active duty in the Southwest Asia theater of operations during the Persian Gulf War to a toxic substance or environmental hazard is eligible for hospital care and nursing home care under subsection (a)(1)(G) of this section for any disability which becomes manifest before October 1, 1996, notwithstanding that there is insufficient medical evidence to conclude that such disability may be associated with such exposure.";

(B) in paragraph (2), by striking out "subparagraph (A) or (B)" and inserting in lieu thereof "subparagraph (A), (B), or (C)"; and

(C) in paragraph (3), by striking out the period at the end and inserting in lieu thereof ", or, in the case of care for a veteran described in paragraph (1)(C), after September 30, 1998.".

(b) AUTHORIZED OUTPATIENT CARE.—Section 1712(a) of such title is amended—

(1) in paragraph (1)—

(A) by striking out "and" at the end of subparagraph (B);

(B) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof "; and"; and

(C) by adding at the end the following:

"(D) during the period before October 1, 1998, for any disability which becomes manifest before October 1, 1996, in the case of a veteran who served on active duty in the Southwest Asia theater of operations during the Persian Gulf War and who the Secretary finds may have been exposed to a toxic substance or environmental hazard during such service, notwithstanding that there is insufficient medical evidence to conclude that the disability may be associated with such exposure."; and

(2) by adding at the end the following new paragraph:

"(7) Medical services may not be furnished under paragraph (1)(D) with respect to a disability that is found, in accordance with guidelines issued by the Under Secretary for Health, to have resulted from a cause other than an exposure described in that paragraph.".

SEC. 2. EFFECTIVE DATE.

(a) EFFECTIVE DATE.—The amendments made by section 1 shall take effect as of August 2, 1990.

(b) PROCEDURE FOR REFUNDS OF PRIOR PAYMENTS.—Upon application of a veteran submitted after the date of the enactment of this Act, the Secretary of Veterans Affairs shall refund to the veteran any amount paid by the veteran to the Secretary before the date of the enactment of this Act in accordance with sections 1710(f) and 1712(f) of title 38, United States Code, for care and services covered by the amendments made by section 1.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Mississippi [Mr. MONTGOMERY] will be recognized for 20 minutes, and the gentleman from Arizona [Mr. STUMP] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. MONTGOMERY].

Mr. MONTGOMERY. Madam Speaker, I yield myself such time as I may consume.

This bill would provide additional authority for the Secretary of Veterans Affairs to provide health care for veterans of the Persian Gulf war.

I want to thank the distinguished chairman of the Subcommittee on Hospitals and Health Care of the Committee on Veterans' Affairs, the gentleman from Georgia [Mr. ROWLAND] for his leadership and the leadership of the ranking minority member of the subcommittee, the gentleman from New Jersey [Mr. SMITH] and the ranking minority member, the gentleman from Arizona [Mr. STUMP] for their cooperation.

I also want to acknowledge the good work of the chairman of the Subcommittee on Oversight and Investigations, the gentleman from Illinois [Mr. EVANS], whose oversight hearings disclosed very clearly the health problems so many Persian Gulf veterans are having since returning home.

Madam Speaker, I am pleased to yield such time as he may consume to the chairman of the Subcommittee on Hospitals and Health Care of the Committee on Veterans' Affairs, the gentleman from Georgia [Mr. ROWLAND].

Mr. ROWLAND. Madam Speaker, I appreciate the gentleman yielding this time to me.

I commend the gentleman from Mississippi and the gentleman from Arizona [Mr. STUMP], the ranking member of the Committee on Veterans' Affairs, for the support and assistance they have given in developing this legislation and bringing it to the floor.

Madam Speaker, I rise in support of H.R. 2535, as amended, legislation granting VA authority to provide health care on a priority basis to veterans of the Persian Gulf war.

There have been many concerns raised that U.S. troops were exposed to potential environmental and chemical hazards during their service in the Persian Gulf war and that these potential hazards are now causing health problems in some returning veterans. These concerns prompted several hearings by two different subcommittees.

The Subcommittee on Oversight and Investigations of the Committee on Veterans' Affairs, chaired by the gentleman from Illinois [Mr. EVANS] held two hearings.

The hearings provided a basis to examine what had been learned to date about the health effects and risks of exposure to environmental and chemical factors in the Persian Gulf as well as the health status of Persian Gulf veterans. As a result of the testimony received during the hearings, our members saw the need for legislation.

I particularly want to thank the gentleman from Tennessee [Mr. CLEMENT], the gentleman from Illinois [Mr. EVANS], the gentleman from Massachusetts [Mr. KENNEDY], the gentleman from Illinois [Mr. GUTIERREZ] for the work they have done on this, and for the work of the ranking member of the subcommittee, the gentleman from New Jersey [Mr. SMITH]. I really appreciate his help as well in putting this bill together.

Madam Speaker, H.R. 2535, as amended, would authorize the VA to provide health care on a priority basis to veterans who may have been exposed to toxic substances or environmental hazards while on active duty in-theater during the Persian Gulf war. This authority would expire on September 30, 1998.

Such care or treatment, whether inpatient, outpatient, or long-term care would be available for any condition which manifests itself prior to October 1, 1996. This would include all conditions, other than conditions which the VA finds have resulted from a cause other than an exposure to either toxic substances or environmental hazards. This authority would be retroactive to August 2, 1990, in order to avoid any veteran being billed for care that the VA has already provided to that veteran.

I think this is a good bill and thank my colleagues for their input into its drafting. This bill assures comprehensive treatment for a reasonable period, while giving us time to do oversight and see if there is a need to go further.

Madam Speaker, I urge my colleagues to support the bill.

Mr. STUMP. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I want to commend Chairman MONTGOMERY for his leadership on this issue.

I also want to thank the subcommittee chairman, the gentleman from Georgia [Mr. ROWLAND], and the ranking minority member, the gentleman from New Jersey [Mr. SMITH] for their leadership and expertise as well.

In addition, I would like to acknowledge also the gentleman from Illinois [Mr. EVANS] for his work on this issue as chairman of the Subcommittee on Oversight and Investigations of the Committee on Veterans' Affairs.

I also think the gentleman from Indiana [Mr. BUYER] should be recognized for all his hard work on behalf of the men and women who served in the Persian Gulf.

Last year, the House passed legislation, Public Law 102-585, which allowed Persian Gulf veterans the opportunity to receive health examinations, counseling, and to participate in a health-related registry.

H.R. 2535, as amended, gives the VA additional authority to provide health care to Persian Gulf war veterans on a priority basis.

It is my hope that this legislation in combination with Public Law 102-585 will address the health care problems of these veterans.

Madam Speaker, I support this bill and urge the support of my colleagues.

□ 1310

Madam Speaker, I yield 3 minutes to the gentleman from New Jersey [Mr. SMITH], the ranking member of the Subcommittee on Hospitals and Health Care.

Mr. SMITH of New Jersey. Madam Speaker, I rise today in strong support of H.R. 2535, legislation to authorize the Department of Veterans Affairs to provide priority health care to veterans who may have been exposed to toxic substances or environmental hazards while on active duty during the Persian Gulf war.

In what is clearly a lesson learned from the agent orange issue, I am pleased to see that legislation to assist our gulf war veterans has moved so quickly to the House floor. Chairman MONTGOMERY and Mr. ROWLAND are to be commended for putting this issue at the top of the committee's agenda.

Madam Speaker, H.R. 2535 is truly a comprehensive bill. Inpatient hospital care and outpatient services are both required under this measure. Likewise, nursing home services are also authorized for veterans. All medical conditions which become manifest before October 1, 1996, are also covered under H.R. 2535 unless specifically found by the Under Secretary for Health not to be caused by environmental hazards or toxic substances.

The Secretary shall also refund any copayments made by veterans for care provided prior to enactment. To ensure that all veterans are covered under the provisions of this bill, its effective date is retroactive to August 2, 1990. During fiscal year 1992, the Department of Veterans Affairs had treated 242 gulf war veterans in New Jersey on an outpatient basis.

Madam Speaker, the Veterans' Affairs Committee has conducted several crucial hearings on the lingering health problems associated with service in the Persian Gulf. Last year's Hospitals and Health Care Subcommittee hearing resulted in the creation of the Persian Gulf Registry. Also, the recent hearings called by Chairman LANE EVANS in the Oversight and Investigations Subcommittee underscored the need for a specific authorization for the VA to provide care to gulf veterans for those mysterious conditions which could be connected to their service.

Madam Speaker, the terms toxic substances or environmental hazard were also used to provide the VA with the greatest leeway in determining eligibility. The bill's report language will list several specific definitions, but eligibility will not be limited to those enumerated.

During Operation Desert Storm, Madam Speaker, our service men and women were subjected to myriad toxic substances and environmental threats which may prove hazardous to their health. Among the risks faced were the many oil well fires and burning landfills, the chemical agents and pharmaceuticals dispensed by the Department of Defense to protect our soldiers from Iraqi poison gas or biological weapons, and the indigenous diseases or infections which were transmitted by parasites. In addition, the pesticides which were used on a widespread basis to limit insects could also pose significant medical risks. Finally, there was the risk presented by depleted uranium [DU]. American tanks fired projectiles hardened with depleted uranium to increase their punch and stopping power. The shells produced a residue after exploding that could prove quite dangerous. Some veterans ingested the residue or had wounds contaminated with the DU shrapnel. At least two veterans from New Jersey have been treated by the VA for exposure to DU. Their conditions—and the other such exposed veterans—will be carefully monitored.

Despite the astonishingly few combat casualties and the remarkably few nonbattle injuries sustained during the conflict, the DOD wisely performed physical examinations on each of the 675,000 service men and women who were stationed in the gulf. This information, combined with findings from the VA resulting from the Persian Gulf Health Registry—which now holds records on approximately 75,000 veterans—will form the basis for an epidemiological research study to find the answers to the mysterious illnesses which are afflicting gulf veterans. Thus far, 45 New Jersey gulf war veterans have had registry examinations. They report 51 different diagnoses including headaches, fatigue, hair loss, and depression. In addition, several more unusual symptoms were reported such as bleeding gums, thyroid conditions, and anemia.

Madam Speaker, as a cosponsor of H.R. 2535, I wholeheartedly endorse its adoption by the House.

Mr. MONTGOMERY. Madam Speaker, I yield 2 minutes to the gentleman from Illinois [Mr. EVANS], a cosponsor of this legislation.

Mr. EVANS. Madam Speaker, I want to first thank Chairman MONTGOMERY and the ranking Republican member, the gentleman from Arizona [Mr. STUMP], for helping us move through this legislation, along with the subcommittee chairman, the gentleman from Georgia [Mr. ROWLAND], the chairman of the Subcommittee on Hospitals and Health Care, for moving this legislation through very quickly.

I also want to thank my subcommittee members, the gentleman from Massachusetts [Mr. KENNEDY], the gentleman from Illinois [Mr. GUTIERREZ], the gentleman from Indiana [Mr. BUYER], and the gentleman from Tennessee [Mr. CLEMENT], for their hard work in getting this legislation through and their attendance at both hearings.

On June 9, the Committee on Veterans' Affairs' Subcommittee on Oversights and Investigations held a 9-hour hearing which received testimony stating that there were perhaps 4,000 Persian Gulf veterans, including our colleague, the gentleman from Indiana [Mr. BUYER], who suffered from health problems related to their service to our country in the gulf. These men and women went to battle for our country, and it is the VA's duty to care for them now.

Nonetheless, the subcommittee also heard that some veterans were denied the health care they needed because they could not prove that their illnesses were service connected.

This is absurd. The VA's inability to diagnose their illnesses should not hinder their ability to receive care. These are veterans that need our help and need it now.

Furthermore, these veterans should not be forced to pay out of their pocket for the illnesses that they are suffering from and for their treatment. Since the VA was not able to diagnose those illnesses, many veterans have been charged copayments for health care. This is unfair, because other service-connected veterans do not pay for VA-related health care.

Madam Speaker, this legislation would ensure these veterans access to VA health care, forgive outstanding bills, and force the VA to repay those bills these veterans have paid. That is why I strongly support the legislation. But I urge my colleagues to take a close look at this issue. I believe more will need to be done. The gentlewoman from Colorado [Mrs. SCHROEDER] and the gentleman from California [Mr. DELLUMS] have included legislation in the DOD legislation that we passed out of committee the other night funding for studies concerning multiple chemical sensitivity and depleted uranium. We thank them for their strong support for Persian Gulf veterans, and all of our colleagues for their hard work.

Mr. STUMP. Madam Speaker, I yield 3 minutes to the gentleman from Indiana [Mr. BUYER], a member of the committee.

Mr. BUYER. Madam Speaker, I rise today on the third anniversary of the beginning of the Persian Gulf war to speak in strong support of H.R. 2535. It is fitting that on this anniversary that the Congress consider this legislation that will provide additional authority for the Secretary of Veterans Affairs to provide health care for veterans of this conflict.

In listening to the hours of testimony before the Committee on Veterans' Affairs' Subcommittee on Oversight, led by the gentleman from Illinois [Mr. EVANS] along with the gentleman from Alabama [Mr. BACHUS], I was struck by the widespread incidence of mysterious symptoms suffered by many of the veterans of this war.

At the same time I was very concerned that both the Department of Defense and the Veterans' Administration were categorizing these veterans as having post-traumatic stress disorder, chronic fatigue syndrome, or other unidentified mental disorders. It was obvious from the testimony that there was more to this than what meets the eye. However, the military and the VA medical communities were giving us a catch-all diagnosis, which is entirely disappointing to this Member.

In addition, I was also surprised to learn that over 73,000 gulf war veterans have sought outpatient medical treatment for various medical problems over the past 3 years. Yet only 26 veterans have been admitted to special gulf referral centers with diagnostic workups.

I am encouraged by the quick action, though, taken by this Congress to rectify the problem. I note it was brought up earlier that the National Academy of Sciences released its report on the health effects of herbicides used in Vietnam. The debate over the agent orange issue still haunts the veterans of the Vietnam era. We have learned from that experience and will not repeat the same mistakes.

The veterans all across America can be well assured that the lineup of the Committee on Veterans' Affairs in the House of Representatives is in fact the lineup that stands strong for the veterans and can work in a bipartisan effort to move legislation quickly through this House.

I would like to thank my colleagues, the gentleman from Illinois [Mr. EVANS], the gentleman from Massachusetts [Mr. KENNEDY], the gentleman from Tennessee [Mr. CLEMENT], the gentleman from Illinois [Mr. GUTIERREZ], the gentleman from New Jersey [Mr. SMITH], and the gentleman from Alabama [Mr. BACHUS], for their hard work on this issue.

I would also like to thank the gentleman from Georgia [Mr. ROWLAND], the gentleman from Mississippi [Mr. MONTGOMERY], and the gentleman from Arizona [Mr. STUMP] for their quick action and leadership in bringing this bill to the floor. This bill, in essence, gives priority car to the gulf war veterans as the military and the VA medical community set the diagnostic criteria, and at the same time allows us to continue the oversight responsibilities of the gulf war illness.

I strongly urge my colleagues to support this legislation so that those who served this Nation in a time of crisis can receive the health care they deserve.

I also note and appreciate with great distinction the gentlewoman from Colorado [Mrs. SCHROEDER] for her Subcommittee on Research and Technology of the Committee on Armed Services, to include legislation that would have the testing of multiple chemical sensitivity on an environmental unit that will allow and push the bounds of medical science, which is extremely important, since we have tens of thousands of gulf war veterans out there, and ensure that it will be gender and racial coded.

Mr. MONTGOMERY. Madam Speaker, I yield myself 30 seconds.

Madam Speaker, I would also like to thank you, as the chairman of the Subcommittee on Research that helped us on the Committee on Armed Services so we could move ahead with testing. I just want to say, thank you very much.

Madam Speaker, I yield 4 minutes to the gentleman from Massachusetts [Mr. KENNEDY], a member of both the committee and the subcommittee.

The SPEAKER pro tempore. The Chair also wants to thank both of the Members for helping with that study.

Mr. KENNEDY. Madam Speaker, I rise in strong support of H.R. 2535, legislation to provide priority health care to the brave men and women who served our Nation in the Persian Gulf war. This legislation is the first part of a comprehensive legislative package I have introduced with several colleagues of the Committee on Veterans' Affairs to address the immediate health care needs of Persian Gulf veterans and needed research on the health effects of exposure to multiple chemicals and toxic substances, and to depleted uranium in the gulf war. Our next step must be passage of these two research initiatives which are pending as part of the Department of Defense authorization bill.

I would like to recognize the leadership of Representatives LANE EVANS, BOB CLEMENT, STEVE BUYER, and LUIS GUTIERREZ in this truly bipartisan effort. I would also like to thank Chairman MONTGOMERY and Subcommittee on Hospitals and Health Care Chairman ROWLAND for expediting consideration of this legislation.

Literally, thousands of former Persian Gulf troops are reporting a number of serious and often disabling illnesses. Over 6,125 have been tracked by the Persian Gulf Registry. They were exposed to a unique array of environmental hazards and chemical agents administered by the Department of Defense including: petrochemicals, depleted uranium, vaccines, pesticides, and parasites. Under this legislation, Persian Gulf veterans are given the benefit of the doubt. They will be eligible for hospital, nursing home, and outpatient care at the VA for illnesses that may have resulted from exposures to toxic substances and other environmental hazards while serving in the gulf.

The Clinton administration and Secretary of Veterans Affairs Jesse Brown have come a long way in recognizing the severity of this problem—from the previous administration's attempt to sweep the health care concerns of Persian Gulf veterans under the carpet and dismiss them as "all in veterans' heads."

But, there are still some wrinkles in the carpet. For this policy to work, it must be implemented by all of VA's medical centers and clinics. Recent, troubling accounts from the Houston Medical Center—one of only three special referral centers set up in the Nation to treat complex Persian Gulf cases—reveal that the VA is currently not making the grade. For the chief of staff of the Houston Referral Center—designed especially for Persian Gulf veterans—to write off their physical illnesses with ridicule is absolutely unacceptable.

Now, the VA must fulfill their mission—to take veterans health concerns seriously, and to respond to them accordingly. After all, the Department of Veterans Affairs was created for veterans and is charged with providing an atmosphere where veterans feel they can seek the health care to which they are entitled.

Lessons learned from the Vietnam experience instruct us that we must move forward to address the full range of health consequences that resulted from serving in the gulf. Last week's release of the National Academy of Sciences report on agent orange reinforces that the decades of Government indifference with respect to Vietnam vets and exposure to agent orange must not be repeated and will not be tolerated.

The urgent health care needs of the men and women who served our country so honorably in the gulf demand our immediate action. This legislation provides the framework for Persian Gulf war veterans to get the critical medical care they deserve. I urge my colleagues to support this important bill.

□ 1320

Mr. BUYER. Madam Speaker, will the gentleman yield?

Mr. KENNEDY. I yield to the gentleman from Indiana.

Mr. BUYER. Madam Speaker, I want to congratulate the gentleman from Massachusetts [Mr. KENNEDY] for breaking through tremendous barriers at a time when nobody would seek recognition of the problem. The gentleman stepped forward, along with the gentleman from Illinois [Mr. EVANS] and the gentleman from New Jersey [Mr. SMITH] and the gentleman from Massachusetts in particular.

Madam Speaker, why this is so important is, the gentleman is absolutely right. It shows how bipartisan effort can work to move a cause forward. What happened and what we have done here is set a tone for gulf war veterans throughout the world, because other countries were not recognizing gulf war illnesses. Now, all of a sudden, we have stepped forward and move forward.

Now, 3 weeks ago, Great Britain recognized it. And as of last week, last Friday, Prague of Czechoslovakia, the Ministry of Defense have recognized gulf war illnesses.

Madam Speaker, I would like to congratulate the gentleman from Massachusetts [Mr. KENNEDY].

Mr. STUMP. Madam Speaker, I yield 3 minutes to the gentleman from Alabama [Mr. BACHUS].

Mr. BACHUS of Alabama. Madam Speaker, I rise today in support of H.R. 2535. This legislation is an important step in recognizing the fact that some soldiers who served in Operation Desert Shield/Desert Storm have been exposed to environmentally hazardous materials that have produced long-term effects.

In this regard, I would like to share with the Members of this Congress the fact that my hometown newspaper, the Birmingham News, recognized early on that some of the veterans living in and around Birmingham had health problems so severe that they were unable to work. Their indepth investigation not only raised public awareness; it also alerted me to the desperate plight of many Alabama veterans. As a result of their work, many of these same veterans traveled to Washington and shared their experiences with the oversight committee.

Last week, the House Committee on Veterans' Affairs unanimously passed this legislation, which gives veterans who manifest conditions related to their service in the gulf priority treatment within the VA system.

I am proud to say that I am a cosponsor of this legislation.

I want to commend Mr. ROWLAND for his leadership in this matter; the gentleman from Illinois [Mr. EVANS], who I, as the ranking Republican present, had the opportunity to work with at the oversight committee hearings; and the gentleman from Mississippi [Mr. MONTGOMERY].

As a Republican, I am especially proud of my colleagues the gentleman from Indiana [Mr. BUYER], who himself gave such strong and convincing testimony; the gentleman from New Jersey [Mr. SMITH]; and the ranking minority member, the gentleman from Arizona [Mr. STUMP]. I consider it a privilege to have worked with them on this side of the aisle.

The gentleman from Indiana [Mr. BUYER] has correctly stated that it was a real show of bipartisan concern by our entire committee.

But our task is not over. To ensure the successful treatment of these veterans, the VA, the Department of Defense, the medical community, and this Congress must not only continue to recognize the urgency of this situation, but also to join together in providing these veterans continued adequate care and treatment.

This cooperation and willingness to work together, we found, is absolutely essential and must continue.

There is no excuse for allowing these veterans, who have so valiantly risked life and limb in service to our country, to have their service-connected illness ignored or their treatment delayed.

Rest assured, the Committee on Veterans' Affairs will continue to encourage an open dialog on this issue and support any further legislative initiatives which may be necessary to address the health care problems of these veterans.

Again, I would like to commend and tell my fellow Members of the Committee on Veterans' Affairs how proud I am of them for their work in this matter.

Mr. MONTGOMERY. Madam Speaker, I yield 4 minutes to the gentleman from Tennessee [Mr. CLEMENT], who is also a sponsor of this legislation. I want to thank him for the help he gives us on the full committee.

Mr. CLEMENT. Madam Speaker, I also applaud our chairman of the Committee on Veterans' Affairs. As the only Tennessee Congressman on the Committee on Veterans' Affairs, I wish to note how responsive this committee is and how Democrats and Republicans alike work together as a cohesive team. We surely do not have gridlock in the Committee on Veterans' Affairs. This legislation is important to all of us, providing health care for Persian Gulf veterans that deserve health care.

I rise in strong support of H.R. 2535 and urge my colleagues to support this legislation.

Madam Speaker, our committee heard testimony from veterans suffering from symptoms they believe are linked to their service in the gulf, testimony from officials with the Department of Veterans Affairs, and testimony from outside medical experts. In addition, I have researched another 70 cases. Based on this information, I can reach no other conclusion but that the maladies these individuals are complaining of are real.

More than 72,000 veterans have visited the VA since their return home from the gulf. Of these 72,000 only 6,000 exams have been recorded in the Persian Gulf Registry data base. When comparing these numbers it is apparent that there has been a breakdown somewhere. One explanation could be that since there is no identifiable cause or diagnosis and thus no service connection, VA doctors have been caught in a quagmire.

Madam Speaker, I want to reiterate that this legislation was requested by the Department of Veterans Affairs and is needed to ensure that the VA has the legal authority to treat veterans of the Persian Gulf experiencing the mysterious ailments. It is my hope that giving the VA this additional authority will not only ensure that the veterans receive treatment but will eliminate the quagmire confronting VA physicians and result in a more accurate assessment of the situation.

This bill before us today is the product of a highly productive, bipartisan discussion on the Clement and Evans bills. It is not a bill to end all, but it will allow the suffering veterans to receive treatment while research is conducted into the cause of their ailments.

For my colleagues concerned about malingerers, let me assure you that H.R. 2535 states that eligibility is dependant on a determination that the symptoms experienced by the veteran must be reasonably connected to service in the gulf. This is not a catchall. These veterans are sick. They are not asking for a hand out. They simply want to receive the care that they are entitled to as a veteran.

Madam Speaker, allow me to express my appreciation to Chairman MONTGOMERY, Mr. ROWLAND, and Mr. STUMP, the ranking member of the committee, and the gentleman from New Jersey [Mr. SMITH], the ranking member on the subcommittee. I am thankful for their willingness to move this bill expeditiously and to work with Mr. EVANS, Mr. KENNEDY, and myself to ensure that this bill is reflective of our views.

In addition, Madam Speaker, I want to recognize the contribution of Mr. GUTIERREZ and Mr. BUYER. Though both are new to this body they have already contributed greatly to the quality of debate within the committee. In particular, I want to commend Mr. BUYER and the other veterans who appeared before the committee. It took tremendous courage to face the skeptics. I am convinced we would not be here if it had not been for their emotional and moving testimony.

Madam Speaker, there is an immediate need for this legislation and I urge my colleagues to support this bill.

□ 1340

Mr. STUMP. Madam Speaker, I yield 3 minutes to the gentleman from Florida [Mr. STEARNS], a member of the Committee on Veterans' Affairs.

Mr. STEARNS. Madam Speaker, I rise in support of H.R. 2535. I want to commend Chairman MONTGOMERY and the ranking minority member, the gentleman from Arizona [Mr. STUMP], for bringing H.R. 2535, the Priority VA Health Care For Persian Gulf Veterans Act to the floor.

For the past 3 years, the Veterans' Committee has heard disturbing testimony on health problems from veterans who served in Operations Desert Shield and Desert Storm.

A constituent of mine—Michael C. Adcock—of Ocala, FL—served in the gulf war. He suffered the symptoms many other gulf war vets have endured—persistent nausea, skin rashes, aching joints, hair loss, bleeding gums, blurred vision, lack of energy.

At 22 years of age, Michael Adcock died. It is sad enough that his life came to such an early end, but that Michael may have died from the cumulative effects of prolonged exposure to toxins during his stint in the gulf war—that would be truly tragic.

While the ground war in the gulf was over in 100 hours, many of our troops—from the national guard to active duty personnel—were stationed in-theater for months on end. They breathed the fallout from Kuwait's torched oil fields. They were exposed to radiation from rounds of depleted uranium. Some experienced reactions from vaccines, and others believed they were exposed to gas attacks.

I have read that Army Maj. Gen. Ronald Blanck—the commander of the Walter Reed Army Medical Center—said that these illnesses are not psychosomatic. In his words, "It is real, but I do not know what it is."

Madam Speaker, let us find out what caused these illnesses. Let us do that so we can avoid the same mistakes. In the meantime, let us take care of the brave men and women suffering the symptoms. They put their lives on the line once in the gulf. Now, after the shooting has stopped, their lives are at risk again. This bill begin the process. More may be required and, if so, I am sure that the committee will be the challenge.

Last year, the Veterans' Committee and the House passed legislation that established the Persian Gulf War Veterans Registry. This bill provided the necessary statutory authority for the VA to begin its physical examinations of gulf veterans, and to place those findings into a national computer database. H.R. 2535 builds on the commitment this committee has made to our gulf war veterans.

H.R. 2535 will require the VA to provide health care on a priority basis, through September 30, 1998, to veterans who may have been exposed to toxins while on active duty in-theater during the Persian Gulf war. The bill mandates that the VA provide health care to any veterans regardless of income level who may have been exposed to toxic substances or environmental hazards while serving in the Persian Gulf war. Such care will be available for the treatment of any condition which becomes apparent before October 1, 1996, other than a condition which the VA finds to have resulted from a cause other than exposure to a toxic substance or environmental hazard, in accordance with the guidelines issued by the Under Secretary for Health.

This bill would not close the books on health problems experienced by our gulf war veterans. However, it does move in the right direction and will go a long way to deliver the health care of our service men and women deserve.

Mr. MONTGOMERY. Madam Speaker, I yield 3 minutes to the gentleman from Illinois [Mr. GUTIERREZ], a member of the Committee on Veterans' Affairs.

Mr. GUTIERREZ. Madam Speaker, I am very pleased to be a part of this process this morning. I am glad that we have taken steps—quick steps—to deal with an issue that deserves nothing less than our full and speedy attention.

It was only a few weeks ago that some of us had the opportunity to take part in hearings chaired by the gentleman from Illinois, LANE EVANS, where we heard testimony from men and women who fought a war half way around the world, but had to fight to get the medical treatment that they deserve right here at home.

After those hearings, I felt frustration, sorrow, and even anger.

I felt this way because I heard about—and heard from—men and women who turned away a tyrant, but who were then turned away by those who were supposed to treat their wounds.

Today, I am happy that there is a way to address those problems, through the passage of H.R. 2535.

Madam Speaker, this past memorial day and Fourth of July, we all had the opportunity to visit grand monuments and simple headstones that pay tribute to those who have fought for us in battle long ago.

Let us keep in mind that not all of our heroes fought long ago—for some, the soldiers of Desert Shield and Desert Storm, the battle ended recently. Some, in fact, still wear the uniform.

These recent heroes—today's heroes—are heroes just the same.

And while we justifiably build quiet monuments of stone to honor some wars, today we have the opportunity to honor these soldiers with a tribute more fitting to their particular needs. We can honor them—we must honor them—by giving them hope and by giving them action.

That is what passage of H.R. 2535 means to me. And that is what it means to the veterans of the United States.

I am glad to have had the opportunity to participate in the passage of this legislation, and glad to have worked with several Members who have led us to this timely action today: Chairman MONTGOMERY; Dr. ROWLAND, chair of the Hospitals and Healthcare Subcommittee; my friend LANE EVANS, chair of the Subcommittee on Oversight; and Mr. KENNEDY; Mr. CLEMENT; and Mr. BUYER.

I know firsthand that the veterans of the Fourth District appreciate the work that we have done.

Mr. STUMP. Madam Speaker, once again, I rise in strong support of H.R. 2535, and I yield back the balance of my time.

Mr. MONTGOMERY. Madam Speaker, I yield myself 30 seconds.

Madam Speaker, I hope the rest of the week we could have this bipartisan feeling that we have seen here today on this veterans legislation.

I would like to point out to my colleagues that the blue sheets here that are on the leader's table are available. They further explain the bills we have passed.

Mr. GILMAN. Madam Speaker, I am honored to rise in support of H.R. 2535, legislation that will ensure that veterans of the Persian Gulf war receive priority VA health care. I wish to commend the distinguished gentleman from Georgia [Mr. ROWLAND] for introducing this worthy legislation.

Madam Speaker, I am pleased that today, on August 2, 1993, the House of Representatives is discussing this worthwhile legislation that will benefit our American soldiers who gave so much during the Persian Gulf war. I would like to note that today, the second of August, is the anniversary of the date when our service men and women were officially called to active duty in the Persian Gulf. I believe it is therefore appropriate, that today, we are discussing legislation that will provide those, who gave so much during the Persian Gulf war, with the medical services and care that they need.

This legislation is of importance as it will authorize the Department of Veterans Affairs to provide medical treatment to any veteran who may have been exposed to harmful or even toxic substances while on active duty during the Persian Gulf war. Recently, some veterans of the gulf war have experienced unusual symptoms that have, in some cases, lead to serious illness. It is believed that these symptoms are caused by prolonged exposure to toxic substances that were prevalent during the Persian Gulf war. I am pleased to join my colleagues in support of this legislation that will provide medical compensation and benefits to an unknowing victim of the Persian Gulf war—the American soldier.

The 103d Congress, under the leadership and guidance of the Veterans' Affairs Committee has been active in ensuring that our Nation's veterans are provided with the medical service, the compensation, and the benefits that they have earned. This legislation will continue to strengthen the services that our veterans are provided.

Our sympathy and best wishes go to each and every veteran who has experienced medical problems that are associated with his or her service during the Persian Gulf war. I am hopeful that today, the second of August, the 103d Congress will continue the tradition of assisting our Nation's service men and women, by approving this legislation that will ensure that our Persian Gulf veterans receive priority health care.

Mr. BISHOP. Madam Speaker, our military service personnel answered a call from their country when they fought in the Persian Gulf war. Now it is time for us to answer the call of many of those in our Armed Forces who were exposed to toxic substances and who are now suffering a variety of illnesses. Passing H.R. 2535 will let our military personnel know, Madam Speaker, that we are not afraid to stand by them in their time of need, and that we are not afraid to do what is necessary to help them become well again. When many of the men and women who served in Operation Desert Storm returned home, Madam Speaker, the war was not over. They now are battling rashes and pain that we can't possibly imagine. I urge my colleagues on both sides of this Chamber to support this measure, Madam Speaker, to help ease the pain of worrying about medical care when they need it most.

Mr. MONTGOMERY. Madam Speaker, I yield back the balance of my time;

The SPEAKER pro tempore (Mrs. SCHROEDER). The question is on the motion offered by the gentleman from Mississippi [Mr. MONTGOMERY] that the House suspend the rules and pass the bill, H.R. 2535, as amended.

The question was taken.

Mr. BUYER. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

FULL FAITH AND CREDIT FOR CHILD SUPPORT ORDERS ACT

Mr. BROOKS. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 454) to provide that a State court may not modify an order of another State court requiring the payment of child support unless the recipient of child support payments resides in the State in which the modification is sought, or consents to seeking the modification in such other State court, as amended.

The Clerk read as follows:

H.R. 454

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Full Faith and Credit for Child Support Orders Act".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) there is a large and growing number of child support cases annually involving disputes between parents who reside in different States;

(2) the laws by which the courts of these jurisdictions determine their authority to establish child support orders are not uniform;

(3) those laws, along with the limits imposed by the Federal system on the authority of each State to take certain actions outside its own boundaries

(A) encourage noncustodial parents to relocate outside the States where their children and the custodial parents reside to avoid the jurisdiction of the courts of such States, resulting in an increase in the amount of interstate travel and communication required to establish and collect on child support orders and a burden on custodial parents that is expensive, time consuming, and disruptive of occupations and commercial activity;

(B) contribute to the pressing problem of relatively low levels of child support payments in interstate cases and to inequities in child support payments levels which are based solely on the noncustodial parent's choice of residence;

(C) encourage a disregard of court orders resulting in massive arrearages nationwide;

(D) allow noncustodial parents to avoid the payment of regularly scheduled child support payments for extensive periods of time, resulting in substantial hardship for the children for whom support is due and for their custodians; and

(E) lead to the excessive relitigation of cases and to the establishment of conflicting orders by the courts of various jurisdictions, resulting in confusing, waste of judicial resources, disrespect for the courts, and a diminution of public confidence in the rule of law; and

(4) among the results of these conditions is the failure of the courts of the States to give full faith and credit to the judicial proceedings of the other States, the deprivation of rights of liberty and property without due process of law, burdens on commerce among the States, and harm to the welfare of children and their parents and other custodians.

(b) STATEMENT OF POLICY.—For the reasons set forth in subsection (a), it is necessary to establish national standards under which the courts of different States will determine their jurisdiction to issue a child support order and the effect to be given by each State to child support orders issued by the courts of other States.

(c) PURPOSES.—The purposes of this Act are to—

(1) facilitate the enforcement of child support orders among the States;

(2) discourage continuing interstate controversies over child support in the interest of greater financial stability and secure family relationships for the child; and

(3) avoid jurisdictional competition and conflict among State courts in the establishment of child support orders.

SEC. 3. FULL FAITH AND CREDIT GIVEN TO CHILD SUPPORT ORDERS.

(a) IN GENERAL.—Chapter 115 of title 28, United States Code, is amended by inserting after section 1738A the following new section:

"§ 1738B. Full faith and credit given to child support orders

"(a) GENERAL RULE.—The appropriate authorities of each State shall enforce according to its terms, and shall not modify except as provided in subsection (e), any child support order made consistently with the provisions of this section by a court of another State.

"(b) DEFINITIONS.—As used in this section, the term—

"(1) 'child' means any person under the 18 years of age, and includes an individual 18 or more years of age for whom a child support order has been issued pursuant to the laws of a State;

"(2) 'child's State' means the State in which a child currently resides;

"(3) 'child support order' means a judgment, decree, or order of a court requiring the payment of money, or the provision of a benefit, including health insurance, whether in periodic amounts or lump sum, for the support of a child and includes permanent and temporary orders, initial orders and modifications, ongoing support, reimbursements, and arrearages;

"(4) 'child support' means a payment of money or provision of a benefit described in paragraph (3) for the support of a child;

"(5) 'contestant' means a person, including a parent, who claims a right to receive child support or is under a child support order, and the term 'contestant' includes States and political subdivisions to whom the right to obtain child support has been assigned;

"(6) 'court' means a court or administrative agency of a State which is authorized by State law to establish the amount of child support payable by a contestant or modify the amount of child support payable by a contestant;

"(7) 'modification' and 'modify' refer to a change in a child support order which affects the amount, scope, or duration of such order and modifies, replaces, supersedes, or otherwise is made subsequent to such child support order, whether or not made by the same court as such child support order; and

"(8) 'State' means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the territories and possessions of the United States, and Indian country as defined in section 1151 of title 18.

"(c) REQUIREMENTS OF CHILD SUPPORT ORDERS.—A child support order made by a court of a State is consistent with the provisions of this section only if—

"(1) such court, pursuant to the laws of the State in which such court is located, had jurisdiction to hear the matter and enter such an order and had personal jurisdiction over the contestants; and

"(2) reasonable notice and opportunity to be heard was given to the contestants.

"(d) CONTINUING JURISDICTION.—A court of a State which has made a child support order consistently with the provisions of this section has continuing, exclusive jurisdiction of that order when such State is the child's State or the residence of any individual who is a contestant unless another State, acting in accordance with subsection (e), has modified that order.

"(e) AUTHORITY TO MODIFY ORDERS.—A court of a State may modify a child support order with respect to a child that is made by a court of another State, if—

"(1) it has jurisdiction to make such a child support order; and

"(2) the court of the other State no longer has continuing, exclusive jurisdiction of the child support order because such State no longer is the child's State or the residence of any individual who is a contestant, or each contestant has filed written consent for the State to modify the order and assume continuing, exclusive jurisdiction of such order.

"(f) ENFORCEMENT OF PRIOR ORDERS.—A court of a State which no longer has continuing, exclusive jurisdiction of a child support order may enforce such order with respect to nonmodifiable obligations, and with respect to unsatisfied obligations which accrued before the date on which a modification of such order is made under subsection (e).".

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 115 of title 28, United States Code, is amended by inserting after the item relating to section 1738A the following:

"1738B. Full faith and credit given to child support orders.".

SEC. 4. DEFINITION.

As used in section 2, the term "State" has the meaning given that term in section 1738B(b) of title 28, United States Code, as added by section 3 of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas [Mr. BROOKS] will be recognized for 20 minutes, and the gentleman from Virginia [Mr. GOODLATTE] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in support of H.R. 454, the Full Faith and Credit for Child Support Orders Act.

H.R. 454 requires the authorities of each State to enforce—without modification—the child support orders of sister States, except in limited circumstances. There are two circumstances where modification by another State are in order. One is where none of the parties nor the child reside any longer in the State that issued the original order. The other is where all the parties to a child support order of one State consent to the exercise of jurisdiction by another State.

Madam Speaker, this bill helps to address the serious problem of parents who move to other States and then try to get out of their child support obligations through the use of the courts of their new State. The statistics in interstate child support cases are telling—indeed, they are tragic—with only $1 collected out of every $10 owed to the children and their custodial parents.

I want to compliment the gentleman from Texas [Mr. BRYANT], who chairs the Judiciary Committee's Subcommittee on Administrative Law and Governmental Relations, for his good work on the bill. I also compliment the gentleman from Massachusetts [Mr. FRANK] for introducing this bill and being such an ardent supporter in its behalf.

H.R. 454 is an important piece of legislation for children and for families, and I urge the Members to cast their votes in support of it.

Madam Speaker, I reserve the balance of my time.

Mr. GOODLATTE. Madam Speaker, I yield myself such time as I may consume, and I rise in support of H.R. 454.

This legislation will be of considerable importance in responding to the problem created when State courts modify the child support order of different States. This occurs at the petition of one of the spouses, usually the noncustodial parent, and its effect is to undercut the entire child support system.

The Constitution requires States to give full faith and credit to the "acts, records and judicial proceedings" of other States—article IV, section 1. This has, however, been construed not to apply to orders for future child support payments because these are not considered final for purposes of full faith and credit. As a result, a parent who leaves a State where a child support order has been entered can seek to have that order modified in the new State of his or her domicile. This creates myriad problems for the efficiency of the child support payment structure, ranging from problems inherent in locating delinquent parents to the difficulty in coordinating the court systems of the different States.

H.R. 454 adopts in essence a proposal of the U.S. Commission on Interstate Child Support that full faith and credit be extended to orders for child support. The bill sets out the requirements that a court must adhere to in entering its original order and prescribes the conditions another State must satisfy before modifying that order—conditions assuring that both parties are participatory.

This bill was passed by the House under suspension during the 102d Congress, too late, unfortunately, for Senate action.

Madam Speaker, I urge my colleagues to support this legislation.

□ 1440

Mr. BROOKS. Madam Speaker, I yield 2 minutes to the distinguished gentleman from Massachusetts [Mr. FRANK], author of the bill.

Mr. FRANK of Massachusetts. Madam Speaker, I appreciate the leadership the chairman has shown and the bipartisan support we have had. The gentleman from Virginia, who has been the ranking minority member of the committee, has been very constructive, and the gentleman from Texas who chairs the subcommittee.

The bill has been well explained. I just want to add one thought about its history.

This bill came about because last summer a woman named Susan Riley, who lived in my district in Massachusetts, wrote to me to tell me that she had been the victim of an out-of-State court action reducing the child support to which she was entitled, with adverse economic consequences.

Based on that letter, I began consultations with my colleagues, and that is why we are here today. I cite that because I would like people to understand that this system does work when it is dealt with appropriately. Here was a case of a woman who was aggrieved. She had a very legitimate concern. She brought it to our attention, and frankly, within a year of her having brought that to our attention we are in the process of sending a bill over to the other body, and I believe it has the sponsorship of the junior Senator from Illinois as well as support from others. I think it is going to become law.

So I want to thank those who have helped us get to this point. This is a very appropriate use of the Federal Government's power to protect children. It is not interfering in any State's right to make judicial decisions about its own legitimate issues. It is saying if you bring a child into the world, the State where that child is living, where the court order was issued, that should govern.

It is a reasonable proposal. I thank my colleagues for their support.

Mrs. KENNELLY. Madam Speaker, I would like to lend my support to H.R. 454, the Full Faith and Credit for Child Support Orders Act. This is an important step toward ensuring that children who deserve and need child support get the assistance they need.

Requiring States to recognize and enforce support orders issued by other States will help to restrict the ability of individuals to avoid payments by moving across State lines.

As a member of the U.S. Commission on Interstate Child Support, I have been most involved with this issue over the past several years. I support this effort we have before us today, and I hope that this is just the first step in our attempt to modify the current child support system.

Mr. GOODLATTE. Mr. Speaker, I urge adoption of the bill, and I yield back the balance of my time.

Mr. BROOKS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Texas [Mr. BROOKS] that the House suspend the rules and pass the bill, H.R. 454, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that all Members shall have 5 legislative days to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

UTAH SCHOOLS AND LANDS IMPROVEMENT ACT OF 1993

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 184) to provide for the exchange of certain lands within the State of Utah, and for other purposes, as amended.

The Clerk read as follows:

S. 184

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Utah Schools and Lands Improvement Act of 1993".

SEC. 2. UTAH-NAVAJO LAND EXCHANGE.

(a) ADDITIONS TO RESERVATION.—For the purpose of securing in trust for the Navajo Nation certain lands belonging to the State of Utah, which comprise approximately thirty-eight thousand five hundred acres of surface and subsurface estate, and approximately an additional nine thousand five hundred areas of subsurface estate, as generally depicted on the map entitled "Utah-Navajo Land Exchange", dated May 18, 1992, such lands are hereby declared to be part of the Navajo Indian Reservation in the State of Utah effective upon the completion of conveyance from the State of Utah and acceptance of title by the United States.

(b) AUTHORIZATION.—The Secretary of the Interior is authorized to acquire through exchange those lands and interests in land described in subsection (a) which are owned by the State of Utah, subject to valid existing rights.

SEC. 3. STATE LANDS WITHIN THE GOSHUTE INDIAN RESERVATION.

(a) ADDITIONS TO RESERVATION.—For the purpose of securing in trust for the Goshute Indian Tribe certain lands belonging to the State of Utah, which comprise approximately nine hundred eighty acres of surface and subsurface estate, and an additional four hundred and eighty acres of subsurface estate, as generally depicted on the map entitled "Utah-Goshute Land Exchange", dated May 18, 1992, such lands are hereby declared to be part of the Goshute Indian Reservation in the State of Utah effective upon the completion of conveyance from the State of Utah and acceptance of title by the United States.

(b) AUTHORIZATION.—The Secretary of the Interior is authorized to acquire through exchange those lands and interests in land described in subsection (a) which are owned by the State of Utah, subject to valid existing rights.

(c) OTHER LAND.—(1) The following tract of Federal land located in the State of Nevada, comprising approximately five acres more or less, together with all improvements thereon, is hereby declared to be part of the Goshute Indian Reservation, and shall be held in trust for the Goshute Indian Tribe: Township 30 North, Range 69 East, lots 5, 6, 7, 9, 11, and 14 of section 34.

(2) No part of the lands referred to in paragraph (1) shall be used for gaming or any related purpose.

SEC. 4. IMPLEMENTATION.

The exchanges authorized by sections 2 and 3 of this Act shall be conducted without cost to the Navajo Nation and the Goshute Indian Tribe.

SEC. 5. STATE LANDS WITHIN THE NATIONAL FOREST SYSTEM.

(a) AUTHORIZATION.—The Secretary of Agriculture is authorized to accept on behalf of the United States title to the school and institutional trust lands by the State of Utah within units of the National Forest System, comprising approximately seventy-six thousand acres as depicted on a map entitled "Utah Forest Land Exchange", dated May 18, 1992.

(b) STATUS.—Any lands acquired by the United States pursuant to this section shall become a part of the national forest within which such lands are located and shall be subject to all the laws and regulations applicable to the National Forest System.

SEC. 6. STATE LANDS WITHIN THE NATIONAL PARK SYSTEM.

(a) AUTHORIZATION.—The Secretary of the Interior is hereby authorized to accept on behalf of the United States title to all school and institutional trust lands owned by the State of Utah located within all units of the National Park System, comprising approximately eighty thousand acres, located within the State of Utah on the date of enactment of this Act.

(b) STATUS.—(1) Notwithstanding any other provision of law, all lands of the State of Utah within units of the National Park System that are conveyed to the United States pursuant to this section shall become a part of the appropriate unit of the National Park System, and shall be subject to all laws and regulations applicable to that unit of the National Park System.

(2) The Secretary of the Interior shall, as a part of the exchange process of this Act, compensate the State of Utah for the fair market value of five hundred eighty and sixty-four one-hundredths acres within Capitol Reef National Park that were conveyed by the State of Utah to the United States on July 2, 1971, for which the State has never been compensated. The fair market value of these lands shall be established pursuant to section 8 of this Act.

SEC. 7. OFFER TO STATE.

(a) SPECIFIC OFFERS.—Within thirty days after enactment of this Act, the Secretary of the Interior shall transmit to the State of Utah a list of lands, or interests in lands, within the State of Utah for transfer to the State of Utah in exchange for the state lands and interests described in sections 2, 3, 5, and 6 of this Act. Such list shall include only the following Federal lands, or interests therein:

(1) Blue Mountain Telecommunications Site, fee estate, approximately six hundred and forty acres.

(2) Beaver Mountain Ski Resort site, fee estate, approximately three thousand acres, as generally depicted on the map entitled "Beaver Mountain Ski Resort" dated September 16, 1992.

(3) The unleased coal located in the Winter Quarters Tract.

(4) The unleased coal located in the Crandall Canyon Tract.

(5) All royalties receivable by the United States with respect to coal leases in the Quitchupah (Convulsion Canyon) Tract.

(6) The unleased coal located in the Cottonwood Canyon Tract.

(7) The unleased coal located in the Soldier Creek Tract.

(b) ADDITIONAL OFFERS.—(1) In addition to the lands and interests specified in subsection (a), the Secretary of the Interior shall offer to the State of Utah a portion of the royalties receivable by the United States with respect to Federal geothermal, oil, gas, or other mineral interests in Utah which on December 31, 1992, were under lease and covered by an approved permit to drill or plan of development and plan of reclamation, were in production, and were not under administrative or judicial appeal.

(2) No offer under this subsection shall be for royalties aggregating more than 50 per centum of the total appraised value of the State lands described in sections 2, 3, 5, and 6.

(3) The Secretary shall make no offer under this subsection which would enable the State of Utah to receive royalties under this section exceeding $25,000,000.

(4) If the total value of lands and interests therein and royalties offered to the State pursuant to subsections (a) and (b) is less than the total value of the State lands described in sections 2, 3, 5, and 6, the Secretary shall provide the State a list of all public lands in Utah that as of December 31, 1992, the Secretary, in resource management plans prepared pursuant to the Federal Land Policy and Management Act of 1976, had identified as suitable for disposal by exchange or otherwise, and shall offer to transfer to the State any or all of such lands, as selected by the State, in partial exchange for such State lands, to the extent consistent with other applicable laws and regulations.

SEC. 8. APPRAISAL OF LANDS TO BE EXCHANGED.

(a) EQUAL VALUE.—All exchanges authorized under this Act shall be for equal value. No later than ninety days after enactment of this Act, the Secretary of the Interior, the Secretary of Agriculture, and the Governor of the State of Utah shall provide for an appraisal of the lands or interests therein involved in the exchanges authorized by this Act. A detailed appraisal report shall utilize nationally recognized appraisal standards including, to the extent appropriate, the uniform appraisal standards for Federal land acquisition.

(b) DEADLINE AND DISPUTE RESOLUTION.—(1) If after two years from the date of enactment of this Act, the parties have not agreed upon the final terms of some or all of the exchanges authorized by this Act, including the value of the lands involved in some or all of such exchanges, notwithstanding any other provisions of law, *any appropriate United States District Court, including but not limited to* the United States District Court for the District of Utah, Central Division, shall have jurisdiction to hear, determine, and render judgment on the value of any and all lands, or interests therein, involved in the exchange.

(2) No action provided for in this subsection may be filed with the Court sooner than two years and later than five years after the date of enactment of this Act. Any decision of a District Court under this Act may be appealed in accordance with the applicable laws and rules.

(c) ADJUSTMENT.—If the State shares revenue from the selected Federal properties, the value of such properties shall be the value otherwise established under this section, less the percentage which represents the Federal revenue sharing obligation, but such adjustment shall not be considered as reflecting a property right of the State of Utah.

(d) INTEREST.—Any royalty offer by the Secretary pursuant to subsection 7(b) shall be adjusted to reflect net present value as of the effective date of the exchange. The State shall be entitled to receive a reasonable rate of interest at a rate equivalent to a five-year Treasury note on the balance of the value owed by the United States from the effective date of the exchange until full value is received by the State and mineral rights revert to the United States as prescribed by subsection 9(a)(3).

SEC. 9. TRANSFER OF TITLE.

(a) TERMS.—(1) The State of Utah shall be entitled to receive so much of those lands or interests in lands and additional royalties described in section 7 that are offered by the Secretary of the Interior and accepted by the State as are equal in value to the State lands and interests described in sections 2, 3, 5, and 6.

(2) For those properties where fee simple title is to be conveyed to the State of Utah, the Secretary of the Interior shall convey, subject to valid existing rights, all right, title, and interest, subject to the provisions of subsection (b). For those properties where less than fee simple is to be conveyed to the State of Utah, the Secretary shall reserve to the United States all remaining right, title, and interest of the United States.

(3) All right, title, and interest in any mineral rights described in section 7 that are conveyed to the State of Utah pursuant to this Act shall revert to the United States upon removal of minerals equal in value to the value attributed to such rights in connection with an exchange under this Act.

(4) If the State of Utah accepts the offers provided for in this Act, the State shall convey to the United States, subject to valid existing rights, all right, title, and interest of the State to all school and institutional trust lands described in sections 2, 3, 5, and 6 of this Act. Except as provided in section 7(b), conveyance of all lands or interests in lands shall take place within sixty days following agreement by the Secretary of the Interior and the Governor of the State of Utah, or entry of an appropriate order of judgment by the District Court.

(b) INSPECTIONS.—Both parties shall inspect all pertinent records and shall conduct a physical inspection of the lands to be exchanged pursuant to this Act for the presence of any hazardous materials as presently defined by applicable law. The results of those inspections shall be made available to the parties. Responsibility for costs of remedial action related to materials identified by such inspections shall be borne by those entities responsible under existing law.

(c) CONDITIONS.—(1) With respect to the lands and interests described in section 7*(a)*, enactment of this Act shall be construed as satisfying the provisions of section 206(a) of the Federal Land Policy and Management Act of 1976 requiring that exchanges of lands be in the public interest.

(2) Development of any mineral interest transferred to the State of Utah pursuant to this Act shall be subject to all laws, rules, and regulations applicable to development of non-Federal mineral interests, including, where appropriate, laws, rules, and regulations applicable to such development within National Forests. Extraction of any coal resources described in section 7(a) shall occur only through underground coal mining operations.

SEC. 10. LEGAL DESCRIPTIONS.

(a) IN GENERAL.—As soon as practicable after the date of enactment of this Act, a map and legal description of the lands added to the Navajo and Goshute Indian Reservations and all lands exchanged under this Act shall be filed by the appropriate Secretary with the Committee on Natural Resources of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, and each such map and description shall have the same force and effect as if included in this Act, except that the appropriate Secretary may correct clerical and typographical errors in each such legal description and map. Each such map and legal description shall be on file and available for public inspection in the offices of the Secretary of Agriculture and the Secretary of the Interior and the Utah offices of the appropriate agencies of the Department of the Interior and Department of Agriculture.

(b) PILT.—Section 6902(b) of title 31, United States Code, is amended by striking "acquisition." and inserting in lieu thereof "acquisition, nor does this subsection apply to payments for lands in Utah acquired by the United States if at the time of such acquisition units, under applicable State law, were entitled to receive payments from the State for such lands, but in such case no payment under this chapter with respect to such acquired lands shall exceed the payment that would have been made under State law if such lands had not been acquired.".

(c) INTENT.—The lands and interests described in section 7 are an offer related only to the State lands and interests described in this Act, and nothing in this Act shall be construed as precluding conveyance of other lands or interests to the State of Utah pursuant to other exchanges under applicable existing law or subsequent act of Congress. It is the intent of Congress that the State should establish a funding mechanism, or some other mechanism, to assure that counties within the State are treated equitably as a result of this exchange.

(d) COSTS.—The United States and the State of Utah shall each bear its own respective costs incurred in the implementation of this Act.

(e) DEFINITION.—As used in this Act, the term (1) "School and Institutional Trust Lands" means those properties granted by the United States in the Utah Enabling Act to the State of Utah in trust and other lands which under State law must be managed for the benefit of the public school system or the institutions of the State which are designated by the Utah Enabling Act; and (2) "Secretary" means the Secretary of the Interior; unless specifically defined otherwise.

SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from Utah [Mr. HANSEN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 184 is the Senate-passed companion bill to a measure introduced by my friends and colleagues on the committee, the gentleman from Utah [Mr. JIM HANSEN] and the gentlewoman from Utah [Ms. KAREN SHEPHERD], both members of the Committee on Natural Resources, who have worked tirelessly along with the State administration to enable us to bring this measure to the floor today.

The bill which passed the Senate was similar but not identical to a version sponsored by our former colleague from Utah, Mr. OWENS, that the House in fact passed late last year, and we bring it to the floor today.

Principally the bill includes amendments adopted in the Committee on Natural Resources that are intended to bridge the differences between the 1992 bill and the bill the Senate passed last month. There was not time, even though we had passed this last year, to conclude action on it in the 102d Congress.

Principally what the bill does is deal with a mixed land ownership pattern in the State of Utah that grows out of its earliest history in terms of becoming a State. There is a significant amount of land that is transferred to the State of Utah for the support of schools and for other purposes. What this bill does is try to rationalize and trade off so we could have competent management by the national land management agencies and the State of Utah of some of the lands which have this mixed pattern of ownership.

There is a long history to it, and I am certain that my colleagues from Utah on the committee, Mr. JIM HANSEN and Ms. KAREN SHEPHERD, will explain that. But essentially what it does is exchanges about 202,000 acres of land, both surface and subsurface lands which are in national parks, they are in national forests, and some are in native American lands, Indian reservations which exist in the great State of Utah.

So what happens in return is the National Government offers lands, it offers various types of high-value sites that would be compatible, and would not again replicate the problem of mixed land ownership patterns that we are trying to resolve. And finally, it would offer some minimal leases and/or royalty payments from active leases in the State of Utah.

It does provide a mechanism to come to a common understanding with regards to the value of the lands that are being exchanged, and provides for a court action in the event that the parties themselves cannot agree.

As I said, there is a long history to this, but this should clear up the problem for the Forest Service, for the Park Service lands and for the native American lands in the State of Utah. So it is a big step forward.

I commend the bill to my colleagues and thank my colleagues from the State of Utah for their work on this matter.

Mr. Speaker, S. 184 is the Senate-passed companion bill to a measure introduced by Representatives HANSEN and SHEPHERD of Utah, both members of the Natural Resources Committee, who have worked tirelessly, along with the State administration, to enable us to bring it to the floor today.

As passed by the Senate, the bill was similar but not identical to a version, sponsored by our former colleague from Utah, Mr. Owens, that the House passed last year. As we bring it to the floor today, the bill includes amendments adopted in the Natural Resources Committee that are intended to bridge the differences between the 1992 House bill and the bill the Senate passed last month.

The bill provides for transfer to the National Government of more than 202,600 acres of State-owned lands and minerals located within Utah units of the National Park and National Forest Systems and Indian reservations, in return for which the State will receive equal value in the form of a mix of specified lands, minerals, and an increased share of the royalties from existing, producing Federal mineral leases in Utah.

The Natural Resources Committee adopted an amendment which would provide a lower limit on such additional revenue sharing than would have been permitted under the Senate-passed bill.

The bill is called the Utah Schools and Lands Improvement Act because the transfers to the State will benefit the school trust established at the time of Utah's statehood and because the bill addresses land-management problems that have their roots in the history of the American people's public domain.

Mr. Speaker, the current pattern of land ownership in Utah, as in other Western States, leaves much to be desired. The National Government granted more than 7.5 million acres of land to the new State of Utah at the time of its admission to the Union. These grants were intended to promote economic development and, through the largest of the several grants to the State, to benefit Utah's public schools.

Unfortunately, because the grants were based on the arbitrary straight lines of surveyors rather than on topography or other characteristics of the land, the result has been to fragment land ownership patterns in ways that present difficult problems for all concerned, especially for those responsible for managing the lands held by the State and National Governments.

More than 10 years ago, under the leadership of Utah's former Governor, the late Scott Matheson, the State government developed a proposal—known as Project Bold—for broad-scale adjustment of the land-ownership pattern in Utah through the exchange of State lands for lands held by the National Government on behalf of the American people. While legislation was introduced to facilitate such a large-scale adjustment of ownership, after Governor Matheson's retirement from office, the State administration decided to try to implement administrative exchanges instead, rather than seek new legislation.

However, that attempt was unsuccessful, primarily because there was no mutually acceptable method to resolve disagreements between the State and National administrations about the values to be assigned to the lands and interests proposed for exchange.

Last year, the State and the National administration did reach agreement on the outline of a legislative proposal. The bill now before the House, like the bill the House passed last year, reflects that proposal.

The bill requires appraisal of all the lands and interests to be exchanged, and provides that disagreements over valuation can be resolved through judicial action in Federal court. The purpose is to keep such disagreements from frustrating completion of the overall exchange, by assuring that once an issue of valuation has been referred to the courts, unless they agree to a settlement, both the United States and the State of Utah will be committed to accept a final judicial decision on that issue.

Mr. Speaker, the bill is explained in more detail in the report of the Committee on Natural Resources, so I will conclude by saying that this is a very significant measure and by again expressing my appreciation for the hard work of the gentleman from Utah [Mr. HANSEN], and the leadership of the gentlewoman from Utah [Mrs. SHEPHERD], on this bill—a bill that honors the memory of Governor Matheson, a bill that is in the interest both of the State of Utah and the National Government, and a bill that deserves the approval of the House.

Mr. Speaker, I reserve the balance of my time.

Mr. HANSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I appreciate my friend and chairman of the committee, the gentleman from Minnesota [Mr. VENTO] for all of the help he has given us on this particular piece of legislation.

Mr. Speaker, I rise today in support of S. 184, the Utah school trust lands bill. The idea behind this legislation began in the early 1970's and it was my good friend Gov. Scott Matheson who provided the foresight and the courage to propose what was then called Project BOLD. Governor Matheson's idea was to make Utah's land ownership more manageable through extensive land exchanges. Finally, in 1984, I introduced this legislation and we have been working diligently ever since to perfect it and to reach a consensus. Although the school trust lands involved in S. 184 are but a portion of the original Project BOLD, I thank the late Governor Matheson and this legislation is a tribute to his leadership.

S. 184 is vitally important to the children of Utah and the future of our State. Although Utah spends nearly half of its annual budget on educating our youth, our children are last in expenditures per pupil. This continually growing problem is due in large part to the State's inability to reap the benefits of the State school trust lands that are land locked by Federal reservations. In fact, Utah receives less income from its school trust lands than any other Western State. We believe S. 184 will cure this problem and provide a secure future for our educational system.

Mr. Speaker, S. 184 is not perfect in everyone's eyes but it does represent compromise by many divergent groups. I would like to thank the many people who have helped bring this legislation this far, including former Senator Jake Garn, former Governor Bangeter, current Governor Leavitt, Congresswoman SHEPHERD, Congressman ORTON and Senators HATCH and BENNETT. I urge my colleagues' support of S. 184.

Mr. Speaker, I reserve the balance of my time.

□ 1350

Mr. VENTO. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Utah [Ms. SHEPHERD], one of the principal architects of this legislation.

Ms. SHEPHERD. Mr. Speaker, I appreciate this opportunity to speak in support of the Utah Schools and Lands Improvement Act of 1993. First, I would like to thank the chairman for his instrumental help in bringing this bill to the floor today.

There are many who have worked tirelessly on this issue and who have brought a spirit of optimism and collaboration to a process that frequently is lacking in these qualities. A broad-based coalition came together last year under the leadership of my predecessor, Wayne Owens, Congressman HANSEN, and continued this year with representives from Utah's congressional delegation, Gov. Mike Leavitt's office, Attorney General Jan Graham's office, the environmental community, the Utah Education Association and local government. This group has successfully crafted a bill that enjoys wide bipartisan support and will result in real money for Utah's schoolchildren.

Because about 66 percent of the land in Utah is owned by the Federal Government, this leaves only about one-third available to develop an economic base to help support our schools. It is because of this fact that the school trust lands are so very important to the schoolchildren of Utah. In Utah there is no fat to trim. There is no waste to cut. There is no other source to look to. Utah already makes the greatest financial effort of any State to fund education, spending half of the State's annual budget, including 100 percent of its income tax, on the classroom. Still it falls last among the 50 States in per capita student funding. Our bottom line is inescapable. We have a narrow tax base and a lot of children. Generating funds from Utah's school trust lands is of critical importance to us.

The bill that we have before us takes a giant step toward resolving the problem. In exchange for the State school trust lands within all of Utah's national parks as well as some lands within national forests and Indian reservations, Utah will select from a specific menu of lands and interests in order to receive full compensation for the appraised value of the lands.

Only 200,000 acres out of more than 3 million possible acres of State school lands are involved in this exchange. Clearly, this bill is just one of many steps we must make to fulfill the promise the Federal Government made when the lands were originally granted to the State. Undoubtedly, there are other ways to receive value for State school lands in Utah, but what we have done here in this bill will work, and without delay, to bring money into the State school trust as soon as possible. All of Utah's schoolchildren—from San Juan County in the canyons of southern Utah to Salt Lake County in the urban north—will benefit from this infusion of many millions of dollars to the schools.

In addition, passage of this bill will mean better and more consistent management of Utah's natural lands. It will mean that the next generations of children from all of the United States and the rest of the world will have these outdoor classrooms to learn from and enjoy. The threat of inappropriate development within Utah's national parks will be gone and this bill will serve as a precedent for future agreements addressing remaining inholdings on public land. Most of all, passage of this bill will make possible partial realization of the promise offered by the Federal Government at the time of statehood—that these lands are for the support of Utah's schools.

Mr. Speaker, Utah has waited a long time for a solution to this perplexing dilemma. I look forward to final passage for this bill today.

Mr. HANSEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, this is a good bill. It deserves to be passed. I commend the sponsors.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. FRANK of Massachusetts). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the Senate bill, S. 184, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

ATLANTIC COASTAL FISHERIES COOPERATIVE MANAGEMENT ACT OF 1993

Mr. STUDDS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2134) to improve the conservation and management of interjurisdictional fisheries along the Atlantic coast by providing for greater cooperation among the States in implementing conservation and management programs, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2134

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Atlantic Coastal Fisheries Cooperative Management Act of 1993".

SEC. 2. STATE-FEDERAL COOPERATION IN ATLANTIC COASTAL FISHERIES MANAGEMENT.

(a) FEDERAL SUPPORT FOR STATE COASTAL FISHERIES PROGRAMS.—The Secretaries shall develop and implement a program to support the fisheries management programs of the Commission. The program shall include elements to support and enhance State cooperation in—

(1) collection, management, and analysis of fisheries data;

(2) law enforcement;

(3) habitat conservation;

(4) fisheries research, including biological and socioeconomic research; and

(5) fishery management planning.

(b) FEDERAL REGULATIONS PERTAINING TO AN ATLANTIC OCEAN FISHERY COVERED BY AN INTERSTATE FISHERY MANAGEMENT PLAN.—

(1) IN GENERAL.—The Secretary, after consultation with the Councils having jurisdiction over fisheries to which an interstate fishery management plan applies, may prescribe regulations to govern fishing in the exclusive economic zone that are necessary to support the effective implementation of the interstate fishery management plan adopted for a fishery for which no Federal fishery management plan is in effect. These regulations may include measures recommended by the Commission that are necessary to support the provisions of the interstate fishery management plan for that fishery.

(2) SUPERSEDING REGULATIONS.—Regulations issued by the Secretary to implement a Federal fishery management plan for a fishery shall supersede regulations issued by the Secretary under this section for that fishery.

(3) ENFORCEMENT.—The provisions of sections 307, 308, 309, 310, and 311 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1857, 1858, 1859, 1860, and 1861) regarding prohibited acts, civil penalties, criminal offenses, civil forfeitures, and enforcement shall apply with respect to regulations prescribed under this section.

SEC. 3. ADOPTION AND IMPLEMENTATION OF INTERSTATE FISHERY MANAGEMENT PLANS.

(a) ADOPTION OF PLANS.—

(1) IN GENERAL.—The Commission shall prepare and adopt fishery management plans or amendments to fishery management plans in accordance with this section to provide for the conservation and management of coastal fishery resources.

(2) CONSULTATION.—In preparing a fishery management plan or amendment, the Commission shall consult with the appropriate Councils to determine ways Federal fishery management plans and interstate fishery management plans may complement each other.

(3) CONTENTS.—Each fishery management plan or amendment prepared under this subsection shall—

(A) contain information regarding the status of the coastal fishery resources and fisheries covered by the plan or amendment;

(B) identify each State that is required to implement and enforce the plan or amendment;

(C) specify actions to be taken by States to implement and comply with the plan or amendment; and

(D) recommend actions for the Secretary to take in the exclusive economic zone to conserve and manage the fishery resources and fisheries covered by the plan or amendment.

(4) TIME FRAME FOR IMPLEMENTATION AND ENFORCEMENT BY STATES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), a State that is identified in an interstate fishery management plan pursuant to paragraph (3)(B) shall implement and enforce the plan within the time established in the plan.

(B) EXISTING PLANS.—Not later than 90 days after the date of the enactment of this Act, the Commission shall develop a schedule for States to implement and enforce of interstate fishery management plans adopted by the Commission before the date of the enactment of this Act. The schedule shall require each State with a declared interest in a plan to implement and enforce that plan within 1 year after the date of the enactment of this Act.

(5) ADOPTION OF STANDARDS AND PROCEDURES FOR THE PREPARATION OF INTERSTATE FISHERY MANAGEMENT PLANS.—Within 1 year after the date of enactment of this Act, the Commission shall establish standards and procedures to govern the preparation of interstate fishery management plans under this Act, including standards and procedures to ensure that—

(A) such plans promote the conservation of fish stocks throughout their ranges and are based on the best scientific information available, and

(B) the Commission provides adequate opportunity for public participation in the plan preparation process.".

(b) COMMISSION MONITORING OF STATE IMPLEMENTATION AND ENFORCEMENT.—Within 1 year after the date of the enactment of this Act and at least annually thereafter, the Commission shall—

(1) review each interstate fishery management plan and determine whether each State which has declared an interest in the plan, or that is required under the plan to implement and enforce the plan, has implemented and enforced the plan; and

(2) submit a report on the results of that review to the Secretaries.

SEC. 4. STATE NONCOMPLIANCE WITH INTERSTATE FISHERY MANAGEMENT PLANS.

(a) DETERMINATION.—The Commission shall determine that a State is not in compliance with an interstate fishery management plan if it finds that the State has not implemented and enforced the plan within the period established under section 3(a)(4).

(b) NOTIFICATION.—If the Commission determines under subsection (a) that a State is not in compliance with an interstate fishery management plan, the Commission shall notify the Secretaries of that determination within 10 working days. The notification shall include the reasons for making the determination and specify an explicit list of actions that the affected State must take to comply with the interstate fishery management plan. The Commission shall provide a copy of the notification to the State.

(c) MONITORING; WITHDRAWAL OF DETERMINATION.—After making a determination under subsection (a) regarding a State, the Commission shall continue to monitor implementation and enforcement of the plan by the State. On finding that a State has taken all actions specified in the notification issued under subsection (b), the Commission shall promptly notify the Secretaries that the State is in compliance.

SEC. 5. SECRETARIAL ACTION.

(a) SECRETARIAL REVIEW OF COMMISSION DETERMINATION OF NONCOMPLIANCE.—Within

30 days after receiving a notification regarding a State from the Commission under section 4(b), the Secretary, in consultation with the Secretary of the Interior, shall review the Commission's determination of noncompliance and determine whether—

(1) the State has failed to implement and enforce the interstate fishery management plan in question;

(2) the measures which the State has failed to implement and enforce are necessary to conserve and manage the fishery in question; and

(3) in the case of an interstate fishery management plan adopted after January 1, 1995, the plan in question was prepared under the standards and procedures required to be established by the Commission under section 3(a)(5).

(b) COMMENTS.—In making a determination under subsection (a), the Secretary shall—

(1) give careful consideration to the comments of the State that the Commission has determined under section 4(a) is not in compliance with an interstate fishery management plan, and provide that State, upon request, the opportunity to meet with and present its comments directly to the Secretary; and

(2) solicit, review, and consider the comments of the Commission and the appropriate councils.

(c) DECLARATION OF MORATORIUM.—On determining under subsection (a) that a State has failed to implement and enforce an interstate fishery management plan, the Secretary shall declare a moratorium on fishing for the species covered by the plan within the waters of that State. The Secretary shall establish the effective date of the moratorium to commence at any time within 6 months following the declaration.

(d) SUSPENSION OF MORATORIUM.—On notification by the Commission under section 4(c) that a State is in compliance with an interstate fishery management plan, the Secretary shall terminate the moratorium declared under subsection (c) affecting fish species covered by that plan.

(e) REGULATIONS.—

(1) IN GENERAL.—The Secretary shall prescribe regulations necessary to implement this Act.

(2) CONTENT.—These regulations—

(A) may provide for the possession and use of fish which have been produced in an aquaculture operation, subject to applicable State regulations; and

(B) shall allow for the retention of fish that are subject to a moratorium declared under subsection (c) and unavoidably taken as incidental catch in fisheries directed toward menhaden, if—

(i) discarding the retained fish is impracticable;

(ii) the retained fish do not constitute a significant portion of the catch of the vessel; and

(iii) the retention of the fish will not, in the judgment of the Secretary, adversely affect the conservation of the species of fish retained.

(f) PROHIBITED ACTS DURING MORATORIUM.—During a moratorium a person may not—

(1) engage in fishing for a species of fish subject to a moratorium within waters of the State subject to the moratorium;

(2) land, attempt to land, or possess fish that are caught, taken, or harvested in violation of the moratorium, this Act, or any regulation promulgated under this Act;

(3) fail to return to the water immediately, with a minimum of injury, any fish subject to a moratorium taken in waters of a State under a moratorium incidental to fishing for species other than those to which the moratorium applies, except as provided by regulations prescribed under subsection (e);

(4) land, within a State that is subject to a moratorium, any fish subject to a moratorium, regardless of where it was caught;

(5) refuse to permit an authorized officer to board a fishing vessel to conduct a search or inspection in connection with the enforcement of this Act;

(6) forcibly assault, resist, oppose, impede, intimidate, or interfere with an authorized officer attempting to conduct a search or inspection under this Act;

(7) resist a lawful arrest for an act prohibited by this section;

(8) ship, transport, offer for sale, sell, purchase, import, or have custody, control, or possession of, fish taken or possessed in violation of this Act; or

(9) interfere with, delay, or prevent, by any means, the apprehension or arrest of a person, knowing that person has committed any act prohibited by this section.

(g) PENALTIES.—

(1) CIVIL PENALTY.—A person violating subsection (f) of this section shall be liable to the United States for a civil penalty as provided by section 308 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1858). Subsections (b) through (e) of section 308 of the Magnuson Fishery Conservation and Management Act apply to persons assessed a penalty under this paragraph.

(2) CRIMINAL PENALTIES.—A person violating subsection (f)(5), (6), (7), or (9) is guilty of an offense punishable under subsections (a)(1) and (b) of section 309 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1859).

(h) CIVIL FORFEITURES.—

(1) FORFEITURE.—A vessel (including its gear, equipment, appurtenances, stores, and cargo) used in connection with an act unlawful under subsection (f), and any fish (or the fair market value thereof) taken or retained, in any manner, in connection with, or the result of, the commission of an act prohibited under subsection (f), shall be subject to forfeiture to the United States as provided in section 310 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1860).

(2) DISPOSAL OF FISH.—Any fish seized pursuant to this Act may be disposed of under an order of a court of competent jurisdiction or, if perishable, in a manner provided by regulation prescribed by the Secretary.

(i) ENFORCEMENT.—A moratorium declared under subsection (c) shall be enforced by the Secretaries and the Secretary of the Department in which the Coast Guard is operating, as provided in section 311 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1861 et seq.). The Secretaries may, by agreement, on a reimbursable basis or otherwise, use the personnel, services, equipment (including aircraft and vessels), and facilities of any other Federal department or agency and of any agency of a State in carrying out that enforcement.

SEC. 6. FINANCIAL ASSISTANCE.

The Secretaries may provide financial assistance to the Commission and to the States to carry out their respective responsibilities under this Act, including—

(1) the preparation, implementation, and enforcement of interstate fishery management plans; and

(2) State activities that are specifically required in interstate fishery management plans.

SEC. 7. DEFINITIONS.

For the purposes of this Act, the term—

(1) "coastal fishery resource" means any species of fish that move among, or are broadly distributed across—

(A) waters under the jurisdiction of 2 or more States that border the Atlantic Ocean; or

(B) waters under the jurisdiction of any State that borders the Atlantic Ocean and waters of the exclusive economic zone;

(2) "Commission" means the Atlantic States Marine Fisheries Commission constituted under the interstate compact consented to and approved by the Congress in the Acts of May 4, 1942 (56 Stat. 267), and August 19, 1950 (64 Stat. 467);

(3) "Councils" means the Regional Fishery Management Councils established under section 302 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852) with jurisdiction over fisheries in the Atlantic Ocean;

(4) "exclusive economic zone" means that portion in the Atlantic Ocean of the exclusive economic zone established by Presidential Proclamation Number 5030, dated March 10, 1983;

(5) "Federal Fishery management plan" means a fishery management plan prepared by a Council or the Secretary under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.);

(6) "fish" means finfish, mollusks, crustaceans, and all other forms of marine animal life other than marine mammals and birds;

(7) "fishery" has the meaning given that term in section 3 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1802);

(8) "fishing" has the meaning given that term in section 3 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1802);

(9) "implement and enforce" means the enactment or adoption laws, regulations, or rules as required to—

(A) comply with the provisions of an interstate fishery management plan; and

(B) assure compliance with such laws, regulations, or rules by persons participating in a fishery that is subject to such plans;

(10) "interstate fishery management plan" means—

(A) a fishery management plan or amendment adopted by the Commission under section 3; or

(B) a fishery management plan or amendment for managing a coastal fishery resource adopted by the Commission before the date of the enactment of this Act;

(11) "Secretaries" means the Secretary of Commerce and the Secretary of the Interior;

(12) "Secretary" means the Secretary of Commerce; and

(13) "State" means each of Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, Florida, the District of Columbia, and the Potomac River Fisheries Commission.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretaries for the purposes of carrying out the provisions of this Act $2,000,000 for each of the fiscal years 1994, 1995, and 1996.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Massachusetts [Mr. STUDDS] will be recognized for 20 minutes, and the gentleman from Texas [Mr. FIELDS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2134, the Atlantic Coastal Fisheries Cooperative Management Act, is modeled after the successful Striped Bass Act of 1984. It creates a partnership between the States and the Federal Government to protect and rebuild our fish stocks along the Atlantic seaboard.

The statistics for these fisheries are alarming; weakfish landings down by 85 percent in the past decade; summer flounder by 70 percent in just the past 4 years. The Atlantic States Marine Fisheries Commission has management plans for many of these species, and while some States, like Massachusetts, have adopted the necessary conservation measures in good faith, other States have not been as consistent in their implementation efforts. As a result, fishermen in my district, already facing economic devastation due to the decline of offshore groundfish stocks, are watching their coastal fisheries disappear as well, despite the sacrifices they have made in the name of conservation.

H.R. 2134 authorizes a cooperative effort between the States and the Federal Government to ensure that everyone shares the responsibility for conserving and rebuilding these species. It also makes the States' and Commission's job of managing the fisheries easier by providing money for research and making the resources of the Federal Government available, if needed, to enforce Commission rules. The bill represents more than 2 years of work by the States, the Commission, fisheries managers and user groups, and others interested in the long-term productivity of our coastal fisheries. We have addressed almost all of the concerns expressed by Members in our committee bill. We have gone to great lengths to ensure that coastal States retain their authority to manage their own fisheries. With the passage of this legislation, we will implement a coordinated management program to ensure that our small coastal communities can continue to rely on these resources for their livelihoods and recreation now and in the future.

Mr. Speaker, I reserve the balance of my time.

Mr. FIELDS of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. FIELDS of Texas. Mr. Speaker, I rise in support of H.R. 2134, a bill to manage interjurisdictional fisheries of the Atlantic coast.

Interjurisdictional fisheries are those stocks that migrate between waters of different States, or between State and Federal waters. The Magnuson Fishery Conservation and Management Act gave management authority to the States for fisheries that are predominantly harvested in State waters. These fisheries are managed by State marine fisheries commissions rather than by regional fishery management councils.

The commissions develop cooperative fisheries management plans that are to be implemented by the States. The commissions have oversight responsibilities for the fisheries, however, they do not have enforcement authority to ensure that States comply with or implement the plans. As a result, some stocks of coastal fisheries, most notably along the Atlantic seaboard, have declined to seriously low levels. The failure of one State to comply with a management plan imposes a disproportionate share of the conservation of fish stocks on the other States, while that State reaps benefits by continuing to harvest without restriction.

Let me point out, this bill only affects the Atlantic States Marine Fisheries Commission [ASMFC]. This Commission is plagued by the failure of some States to fully implement the interstate fishery management plans. Because the ASMFC has 15 member States, consensus is never easy. However, conservation efforts by some States should not be jeopardized by the inaction of other States.

H.R. 2134 would impose a regulatory scheme similar to the current and successful one in the Atlantic Striped Bass Conservation Act. Under this bill, if the Commission finds that a State is not in compliance with a plan, the Secretary of Commerce would impose a fishing moratorium in the waters of that State.

This is a noncontroversial bill and I urge my colleagues to join me in supporting it.

Mr. Speaker, I reserve the balance of my time.

Mr. STUDDS. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. MANTON], the distinguished chairman of the Subcommittee on Fisheries.

Mr. MANTON. Mr. Speaker, I rise to support H.R. 2134, legislation to help conserve fish within State waters along the east coast. H.R. 2134 was one of the first matters considered by the newly created Fishery Management Subcommittee, which I chair, and it demonstrates the considerable need for Congress to devote greater attention to marine conservation issues. H.R. 2134 is an important fish conservation bill that will reinforce and strengthen the Federal fishery management and conservation system established by the Magnuson Fishery Conservation and Management Act.

To develop coordinated responses to fishery problems, coastal States have established interstate fishery commissions. Under current law, a State may choose to implement a Commission approved conservation plan, take another course of action—or the State may choose inaction.

When a State chooses inaction, it undermines the conservation effort. While fishermen from neighboring States reduce their catches so as to allow the stock to grow, fishermen in the noncomplying State continue the practices that initially forced the Commission to recommend restrictions.

If a State failed to act responsibly, the Secretary of Commerce would be required to impose a fishing moratorium on that State. The moratorium would prohibit fishing for the species covered by the plan, within the waters of the noncomplying State.

H.R. 2134 would impose strong sanctions on a State that failed to take appropriate conservation steps, but these steps are necessary and essential if we are to responsibly manage and conserve our marine fisheries.

In conclusion, I thank Chairman STUDDS for his assistance with this bill and I urge my colleagues to join me in supporting this important conservation initiative.

Mr. YOUNG of Alaska. Mr. Speaker, I rise in support of H.R. 2134, a bill to improve the conservation and management of interjurisdictional fisheries along the Atlantic coast. I urge passage of this legislation.

The States along the Atlantic coast have faced many obstacles in coordinating the management of the fisheries found in State waters. Regulatory action by one State may have no success due to the inaction of another State. As a result, many once commercially valuable species like weakfish and summer flounder have suffered significant declines which appear to be leading to commercial extinction of the resources.

The options to provide for better control of the fisheries are fewer and further between. I must note that I have serious concerns about Federal preemption of the rights of the States to manage their own natural resources. However, the bill seems to contain sufficient safeguards for maintaining State rights. The very serious nature of this problem mandates Federal intervention as the Atlantic coast States have not achieved cooperation in their management attempts.

During the last decade, another Atlantic coast species, the striped bass, faced similar hurdles. In 1984, the Congress passed the Atlantic Striped Bass Conservation Act (Public Law 98–613) which provided Federal oversight to the fishery to ensure cooperation among the Atlantic Coast States. This act is credited with restoring the striped bass to the waters of the Atlantic coast. H.R. 2134 parallels the provisions of the Striped Bass Act. I hope it has the ability to save other fisheries as well.

Congressional action appears to be a viable solution for the declining fisheries. I urge adoption of H.R. 2134.

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Mr. FIELDS of Texas. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. STUDDS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. FRANK of Massachusetts). The question is on the motion offered by the gentleman from Massachusetts [Mr. STUDDS] that the House suspend the rules and pass the bill, H.R. 2134, as amended.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

DIRECTING CONVEYANCE OF SENECAVILLE NATIONAL FISH HATCHERY TO THE STATE OF OHIO

Mr. STUDDS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2495) to direct the Secretary of the Interior to convey to the State of Ohio the Senecaville National Fish Hatchery.

The Clerk read as follows:

H.R. 2495

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONVEYANCE OF SENECAVILLE NATIONAL FISH HATCHERY.

(a) CONVEYANCE AUTHORIZED.—Notwithstanding any other provision of law and within 180 days after the date of the enactment of this Act, the Secretary of the Interior shall convey to the State of Ohio without reimbursement all right, title, and interest of the United States in and to the property known as the Senecaville National Fish Hatchery, located in Senacaville, Ohio, including—

(1) all easements and water rights relating to that property, and

(2) all land, improvements, and related personal property comprising that hatchery.

(b) USE OF PROPERTY.—All property and interests conveyed under this section shall be used by the Ohio Department of Natural Resources for the Ohio fishery resources management program.

(c) REVERSIONARY INTEREST.—All right, title, and interest in and to all property and interests conveyed under this section shall revert to the United States on any date on which any of the property or interests are used other than for the Ohio fishery resources management program.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Massachusetts [Mr. STUDDS] will be recognized for 20 minutes and the gentleman from Texas [Mr. FIELDS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2495, introduced by the gentleman from Ohio [Mr. APPLEGATE] directs the Secretary of the Interior to convey ownership of the Senacaville National Fish Hatchery in Senacaville, OH, to the State.

The hatchery is part of the National Fish Hatchery Program, which is administered by the U.S. Fish and Wildlife Service. Its primary function is to raise sportfish—like walleye, hybrid striped bass, and sauger—for the Great Lakes region. Although considered a part of the Federal program, Senacaville Hatchery operations have been funded and administered by the Ohio Department of Natural Resources since 1987 at a cost of $350,000 a year. The State is now interested in making some necessary repairs and upgrading the facility, but would like title to the facility before making such a large capital investment.

H.R. 2495 would transfer ownership of the hatchery and the property on which it is located to the State of Ohio. Should the State decide at some time in the future that it no longer wants or needs to operate the hatchery or wants to use the facility for some other purpose, ownership of the facility and the land would revert back to the Federal Government.

The bill is supported by both the State and the U.S. Fish and Wildlife Service, and I urge Members to support this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. FIELDS of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 2495, a bill to transfer ownership of the Senacaville National Fish Hatchery to the State of Ohio.

Although this fish hatchery has been a part of the Federal program, the Ohio Department of Natural Resources has been effectively funding and managing the facility since 1987. The State uses the facility to raise selected species of walleye, striped bass, and channel catfish.

Let me note there is a provision in this bill that would return the facility and the adjacent land to the U.S. Fish and Wildlife Service should the State cease operation of the hatchery.

This is a noncontroversial bill and I urge my colleagues to support it.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. STUDDS. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. MANTON], the chairman of the subcommittee.

Mr. MANTON. I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise to support H.R. 2495, legislation introduced by my distinguished colleague from Ohio, DOUG APPLEGATE.

H.R. 2495 directs the Secretary of the Interior to transfer a federally owned fish hatchery to the State of Ohio. The State of Ohio assumed financial responsibility for this hatchery in 1987. H.R. 2495 will complete this shift of responsibility by transferring the ownership of the hatchery to the State. Under H.R. 2495, all responsibility for this hatchery, along with all costs and burdens of running the facility will be transferred to the State.

This is wise legislation that will reduce Federal expenditures and relieve the Federal Government of liability and responsibility for this hatchery. I urge my colleagues to join me in supporting this bill.

Mr. STUDDS. Mr. Speaker, I yield 2 minutes to the author of the legislation, the distinguished gentleman from Ohio [Mr. APPLEGATE].

Mr. APPLEGATE. I thank the chairman of the committee very much for the opportunity to speak and for bringing this up.

I merely want to say that I thank the gentleman from Massachusetts, the chairman of the committee, Mr. STUDDS, and the chairman of the subcommittee, the gentleman from New York [Mr. MANTON], as well as the ranking minority member, the gentleman from Texas [Mr. FIELDS], and though I do not see him here, the gentleman from Alaska [Mr. YOUNG].

It has been very properly explained, and I appreciate the expediency with which it handled and brought to the floor.

I know the people of Ohio will be happy for the way it turned out.

Mr. YOUNG of Alaska. Mr. Speaker, I rise in support of H.R. 2495, directing the conveyance of the Senecaville National Fish Hatchery to the State of Ohio, and urge adoption of this legislation.

Providing the most appropriate use of funding and personnel should be a priority for the Federal Government. Providing State ownership in certain property that the Federal Government no longer desires or directs is also important. H.R. 2495 achieves both goals.

Since 1987, the State of Ohio has funded and managed the Senecaville National Fish Hatchery where it raises striped bass, walleye, and catfish. It seems only appropriate that the State be given title to the facility and the surrounding land so that it can best oversee the hatchery without the threat of unnecessary intervention by the Federal Government that no longer has any interest in the property. The legislation also provides proper safeguards to ensure that the State continues the appropriate use of the fish hatchery.

H.R. 2495 represents a win-win situation for all parties involved. I urge its adoption.

Mr. STUDDS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. STUDDS] that the House suspend the rules and pass the bill, H.R. 2495.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

WHITE HOUSE SMALL BUSINESS CONFERENCE AMENDMENTS

Mr. LAFALCE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2746) to amend the White House Conference on Small Business Authorization Act, as amended.

The Clerk read as follows:

H.R. 2746

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the White House Conference on Small Business Authorization Act (15 U.S.C. 631 note) is amended—

(1) in section 2 by striking from subsection (a) "not earlier than January 1, 1994, and not later than April 1, 1994" and by inserting in lieu thereof "not earlier than May 1, 1995, and not later than September 30, 1995";

(2) in section 2 by striking from subsection (a) "December 1, 1992" and by inserting in lieu thereof "March 1, 1994";

(3) in section 5 by striking the second sentence of subsection (a) and by inserting in lieu thereof the following: "Subsequent to the date of enactment of this Act, but not later than 30 days after the date of enactment of this Act, the President shall select and appoint eleven individuals to the Commission."; and

(4) in section 9 by striking from subsection (a) "$5,000,000" and by inserting in lieu thereof "$7,000,000".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York [Mr. LAFALCE] will be recognized for 20 minutes and the gentlewoman from Kansas [Mrs. MEYERS] will be recognized for 20 minutes.

The Chair recognized the gentleman from New York [Mr. LAFALCE].

Mr. LAFALCE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 2746, amendments to the White House Conference on Small Business Authorization Act.

Mr. Speaker, this law, Public Law 101-409, was enacted on October 5, 1990. It authorizes and directs the President to conduct a National White House Conference on Small Business to be held between January 1 and April 1, 1994. This National Conference would be held after State and regional conferences. These should have commenced 6 months ago. The Conference would be administered by an executive director under guidance from an 11-member Commission appointed by the President.

Most of the delegates to the National Conference would be elected by participants at the State conferences; in addition, however, each Governor and each Member of the U.S. House of Representatives and each member of the U.S. Senate would appoint one delegate. The President would also appoint an additional 100 delegates.

Within 4 months after the conclusion of the National Conference, a final report would be submitted to the President and the Congress. The report would include the findings and recommendations of the Conference, as well as proposals for legislative action to implement them.

Unfortunately, the previous administration did not begin preparations for the Conference and allowed the law to lie dormant for more than 2 years. This lack of preparation and planning, of course, necessitates that we delay the dates of the Conference.

The bill now under consideration provides that the State conferences should begin as soon after March 1, 1994, as is possible. They would then be completed and the Washington Conference would be held some time between May 1, 1995, and September 30, 1995.

In addition, the bill would authorize and direct the President to appoint new Commissioners to run the Conference and to do so within 30 days of the date of enactment of this bill.

This would be the third White House Conference on Small Business. The prior National Conferences were held in 1980 and 1986. Both were well attended by small business delegates totaling some 2,000 per conference.

Mr. Speaker, these conferences are significant and influential affairs for the small business community. Delegates must volunteer their own time to participate in this process and pay their own expenses. They have done so in the past in large numbers. It is this commitment to the development of meaningful recommendation for small business legislative and regulatory action that leads to successful Conferences.

I am confident that this level of interest and commitment still exists today, both on the part of the small business sector and this administration. With the planning time provided by this bill, and the provision for appointment of Commissioners, I am hopeful that the 1995 Conference can be the best we have had yet.

Mr. Speaker, this bill received the unanimous approval of the Small Business Committee and deserves the support of all Members of the House.

Attached is a sectional summary of this legislation:

SECTIONAL SUMMARY OF H.R. 2746 (AMENDED), WHITE HOUSE SMALL BUSINESS CONFERENCE AMENDMENTS

Section 1(1) and (2) delay the dates for the White House Conference on Small Business. The state meetings would begin not earlier than March 1, 1994 (instead of not earlier than December 1, 1992), and the national conference would be held between May 1, 1995 and September 30, 1995 (instead of between January 1, 1994 and April 1, 1994 under existing law).

Section 1(3) provides that the President shall appoint commissioners to oversee the conference, and that such appointments shall be made after the enactment of this Act but not later than 30 days after the date of such enactment.

Section 1(4) also increases the authorization for the conference to $7 million (now $5 million).

Mr. Speaker, I reserve the balance of my time.

Mrs. MEYERS of Kansas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am proud to rise in support of H.R. 2764 during the 40th anniversary of the Small Business Administration. I congratulate the chairman of the House Small Business Committee, Mr. LAFALCE, for his leadership in bringing the bill to the floor.

Mr. Speaker, I am also very proud to help put in motion a very important event—the White House Conference on Small Business.

This forum brings thousands upon thousands of small business owners of every race, creed, color, and gender together, exercising their most profound and fundamental right—to express their opinions freely.

H.R. 2746 is a bipartisan bill that represents a compromise reached between the majority and minority elements of the Small Business Committee, in consultation and concurrence with the Small Business Administration. While there were some differences of opinion on when the State and national conferences should be held, there is no disagreement in our strong belief that small businesses should have this opportunity to send a message to Congress on their priorities with one voice.

One of the reasons the White House Conference on Small Business has been so successful is that it was organized in recognition of the importance of involving all small businesses from the ground up. Beginning next March, small enterprise owners from coast to coast will begin gathering to voice their opinions in State conferences. Representatives from those conventions will carry their recommendations to regional symposiums where the ideas will be argued, refined, and condensed again. Freely elected small business owners will then travel to a National Conference to take the best of the best, and forge them into 60 recommendations that will guide us into the 21st century.

I regret that this admirable process has not already begun. Unfortunately, the previous administration did not have plans for the conferences sufficiently underway in such a manner that would have allowed the new administration to keep the timetable set in current law. However, through swift passage of this legislation, I hope that Administrator Bowles and his team at the Small Business Administration will move forward quickly with plans to make the 1995 White House Conference on Small Business the most successful ever.

I would like to thank the chairman for his most cooperative efforts in bringing about this bipartisan legislation, and I strongly urge our colleagues to support enactment of H.R. 2746.

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Mrs. MEYERS of Kansas. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. LAFALCE. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. FRANK of Massachusetts). The question is on the motion offered by the gentleman from New York [Mr. LAFALCE] that House suspend the rules and pass the bill, H.R. 2746, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. LAFALCE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on H.R. 2746, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

CERTIFIED DEVELOPMENT COMPANY AUTHORIZATION INCREASES

Mr. LAFALCE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2747), to increase the authorization for the development company loan and debenture guarantee program administered by the Small Business Administration.

The Clerk read as follows:

H.R. 2747

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 20 of the Small Business Act (15 U.S.C. 631 note) is amended—

(1) in subsection (g)(2) by striking "$7,030,000,000" and by inserting in lieu thereof "$7,155,000,000";

(2) in subsection (g)(2) by striking "$775,000,000" and by inserting in lieu thereof "$900,000,000";

(3) in subsection (i)(2) by striking "$8,083,000,000" and by inserting in lieu thereof "$8,458,000,000"; and

(4) in subsection (i)(2) by striking "825,000,000" and by inserting in lieu thereof "$1,200,000,000".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York [Mr. LAFALCE] will be recognized for 20 minutes, and the gentlewoman from Kansas [Mrs. MEYERS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. LAFALCE].

Mr. LAFALCE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 2747, which would increase the authorization for the development company loan and debenture guarantee program.

The Small Business Administration, acting through a financial intermediary called a development company, provides financing to small businesses for plant and equipment needs.

These development companies receive charters from a State or local government in the area of their operation. Also licensed by SBA, they issue debentures or long-term notes which are guaranteed by the Government. The debentures are then sold to private investors and the proceeds of this sale are then re-lent by the development company to small businesses to finance part of the cost of plant acquisition, construction, conversion or expansion, including the acquisition of land.

The financing packages obtained through a development company by a small business typically include 50-percent funding from a commercial lender who takes a first mortgage lien on the property. An additional 40 percent of the project cost is provided through the development company from the debenture proceeds and a second mortgage lien is placed upon the property to secure this financing. The final share, 10 percent, is provided by the small business concern.

This program is highly successful and is directed toward those small firms which either create jobs or which carry out certain specified public policy goals such as business district revitalization, expansion of exports or minority small business development, rural development or enhanced economic competition.

The demand for this program has increased substantially during this fiscal year. The program is currently authorized to provide $775 million in debenture guarantees this fiscal year and $825 million in debenture guarantees during fiscal year 1994. Demand is such that if these limits are not increased, the program will be forced to suspend operations before the end of this year and again next year.

The bill proposes to increase the authorization for this year to $900 million and, for next year, to $1.2 billion.

I want to point out that this program is one of the most effective in the Federal Government today. Under the Credit Reform Act of 1990, we are required to appropriate the cost of the program up front as is the case with other loan programs. The cost of the Certified Development Company Loan Program is less than one-half of 1 percent.

Thus the increase in the 1993 authorization would cost $625,000 and the increase in next year's authorization would cost less than $2 million.

In addition to the benefits accruing from the jobs generated and maintained, I want to point out to the Members that even the minimal additional cost of expanding the program will not require the appropriation of supplemental moneys. It is anticipated that SBA, subject to the usual procedures for approval by Congress and the executive branch, will shift unused money from other programs to pay for this increase.

Mr. Speaker, this is a great program and it yields tremendous dividends to our economy. The bill was unanimously approved by the Small Business Committee, and I urge support for the bill.

I am attaching to my statement a sectional summary of its provisions, as follows:

SECTIONAL SUMMARY OF H.R. 2747, CERTIFIED DEVELOPMENT COMPANY AUTHORIZATION AMENDMENTS

Section 1(1) increases the total authorization for loan and debenture guarantees by the Small Business Administration in fiscal year 1993 from $7.03 billion to $7.155 billion, and within these amounts section 1(2) increases the authorization for debenture and loan guarantees for development companies from $775 million to $900 million.

Section 1(3) increases the total authorization for loan and debenture guarantees by the Small Business Administration in fiscal year 1994 from $8.083 billion to $8.458 billion, and within these amounts section 1(4) increases the authorization for debenture and loan guarantees for development companies from $825 million to $1.2 billion.

Mrs. MEYERS of Kansas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 2747. The section 504 Certified Development Company Program provides vital long-term, fixed-rate financing to small businesses for capital improvements. This is a bricks and mortar program for new construction, expansion, renovation, and equipment purchases. The 504 program has an impressive loss rate of only one-half of 1 percent, and it requires cooperation between the small business, the development company, and community institutions for its financing packages. Mr. Speaker, this is one of the few Government programs that has a job creation requirement; creating one job for every $8,900 in loan guarantees—a figure we would be hard pressed to duplicate elsewhere.

This bill will simply increase the 504 Development Company Program's authorization, allowing the SBA to reprogram funds from a lesser utilized program. It will require no new appropriations and it will prevent the 504 Development Company Program from shutting down prior to the end of fiscal year 1993. Without this new authority, the program will be out of funds by mid-September and small business will face the loss of one of its best sources of long-term financing. I urge my colleagues to join me in supporting adoption of H.R. 2747.

Mr. HOYER. Mr. Speaker, I rise in strong support of H.R. 2747, the Small Business Development Companies Loan Guarantees Act. I believe this bill supports an increasingly important Small Business Administration program. The authorization reflects the new attention focused on this program by increasing the funding for the program's loan guarantees by approximately 40 percent in the next fiscal year.

The Small Business Development Company Program combines the resources of the Federal, State, and local governments with commercial lenders to provide the necessary long-term financing businesses need to expand or convert their fixed assets. For many small businesses, this program will mean the difference between closing their doors or retooling to compete in a rapidly changing economic environment.

At a time when our economy is slowly coming out of a long-term recession, businesses need the money now to finance their capital. Unfortunately, as any small business person in this country can tell you, the type of funding they need for such capital improvements is very difficult to get from today's financial markets.

I believe the funding increases included in this legislation will help lay the foundation for a stronger and sustained economic recovery, particularly in areas of our country which have been hard hit.

I urge my colleagues to support this bill, and support the idea that public and private partnerships can work together and can strengthen our recovery by helping the real engine of our national economy—small business. I urge my colleagues to support H.R. 2747.

Mrs. MEYERS of Kansas. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. LAFALCE. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HASTINGS). The question is on the motion offered by the gentleman from New York [Mr. LAFALCE] that the House suspend the rules and pass the bill, H.R. 2747.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. LAFALCE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on H.R. 2747, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

SMALL BUSINESS DEVELOPMENT CENTER PROGRAM AMENDMENTS

Mr. LAFALCE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2748) to amend the Small Business Development Center Program, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2748

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 21(c)(7) of the Small Business Act (15 U.S.C. 648) is amended by striking "system which will" and by inserting in lieu thereof the following: "system. Subject to amount approved in advance in appropriations acts, the Administration may make grants or enter cooperative agreements with one or more centers to carry out the provisions of this paragraph. Said grants or cooperative agreements shall be awarded for periods of no more than five years duration. The matching funds provisions of subsection (a) shall not be applicable to grants to cooperative agreements under this paragraph. The system shall".

(b) Section 25(i) of the Small Business Act (15 U.S.C. 652) is amended by striking "$8,000,000 for fiscal year 1993" and by inserting in lieu thereof "$2,000,000 for each of fiscal years 1993, 1994, 1995, and 1996".

(c) Section 223 of the Small Business Credit and Business Opportunity Enhancement Act of 1992 (106 Stat. 986) is amended by striking the last sentence of subsection (b).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York [Mr. LAFALCE] will be recognized for 20 minutes and the gentlewoman from Kansas [Mrs. MEYERS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. LAFALCE].

Mr. LAFALCE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 2748, which would make minor amendments to the Small Business Development Center Program administered by the Small Business Administration.

Most Members are aware of the financial needs of the small business community and know that we attempt to address part of these needs through loan guarantee programs administered by the Small Business Administration. Of equal importance to the small business community, however, is the need for adequate knowledge and training on how to operate a small business.

We have addressed this need primarily by establishing the Small Business Development Center Program as a partnership between the Federal Government and the States. Each State is authorized to develop a network of centers, which generally are at universities, to provide management and technical assistance and training to small businesses within the State. The cost of the program is shared between the Federal Government and State and local interests, but, by statute, the Federal Government may not pay more than 50 percent of the cost of operating the program.

This is a highly successful program and represents a good leveraging of Federal moneys.

During fiscal year 1992, the program, which now exists in every State, delivered over 1.1 million hours of counseling to 222,500 small firms.

In order to effectively utilize the program resources, the Small Business Act authorizes SBA to establish a reference library of materials which is available for the use of all of the Small Business Development Centers and the 700 subcenters throughout the United States. This information sharing network or clearinghouse is partly funded by SBA at a cost of approximately $250,000 per year. In examining the operation of this clearinghouse, it became apparent that the most logical mechanism to fund it would be to allow the Agency to negotiate the work with one of the SBDC's. This approach clearly would be better than contracting out this network to those who have neither expertise in assisting small business nor a basic library upon which the clearinghouse could build.

Accordingly, the bill simply changes the funding mechanism to allow SBA to negotiate with an SBDC to carry out this function and to pay for it through a grant or cooperative agreement mechanism.

Because the SBDC concept has been so successful in the United States, several years ago we established a pilot program to see if we could teach several countries in Central Europe how to assist their small businesses by establishing their own SBDC program. This pilot program is now underway in three countries and the bill proposes to extend the authorization for 3 additional years at a cost of not to exceed $2 million per year. Once the teaching phase of this pilot program is completed, the cost of the continued operation would be borne by the host country, not by the Small Business Administration.

Finally, the bill makes a technical amendment which would authorize the Small Business Administration to implement regulations governing the operation of the program in the United States.

Mr. Speaker, this legislation was unanimously approved by the Small Business Committee on a bipartisan basis and I urge its approval by the House.

Attached is a sectional summary of this legislation:

SECTIONAL SUMMARY OF H.R. 2748, SMALL BUSINESS DEVELOPMENT CENTER PROGRAM AMENDMENTS

Section 1 authorizes the Small Business Administration to fund Small Business Development Center information sharing systems (i.e., a library of materials) by making grants or cooperative agreements with one or more such centers instead of by issuing a contract after soliciting proposals.

Subsection (b) reduces the authorization for the Small Business Development Center replication program in Central Europe for 1993 from $8 million to $2 million and authorizes a similar amount for each of fiscal years 1994 through 1996.

Subsection (c) strikes a provision of current law which prohibits the Small Business Administration from publishing regulations on the Small Business Development Center Program in the Federal Register.

Mrs. MEYERS of Kansas. Mr. Speaker, I yield myself such time as I might consume.

Mr. Speaker, I rise in strong support of H.R. 2748. This bill will make three improvements in the Small Business Development Center [SBDC] Program. First, it authorizes competitive grant procedures for placement of the SBDC information sharing network to replace the current confusing and burdensome contracting system. The Small Business Development Centers provide counseling and support for small businesses through colleges and universities, and this information network will aid them in their efforts to help the small business community grow and prosper.

Second, H.R. 2748 will change the authorization for the Central European Development Center Program. As Eastern Europe struggles to develop market economies, these Development Centers will help support and encourage their entrepreneurs. The change will spread the previous authorization of $8 million in fiscal year 1993 to $2 million in each of fiscal years 1993, 1994, 1995, and 1996. This allows us to offer more consistent support to these emerging economies for the same amount of money.

Finally, this bill will remove the legislative impediment to the issuance of regulations for the SBDC Program. This will allow the SBA to implement its oversight authority and issue clear guidelines on the function of the SBDC Program.

Mr. Speaker, let me reiterate my support for H.R. 2748 and thank Chairman LAFALCE for his efforts in getting it to the floor so swiftly.

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Mr. LAFALCE. Mr. Speaker, I yield back the balance of my time.

Mrs. MEYERS of Kansas. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. FRANK of Massachusetts). The question is on the motion offered by the gentleman from New York [Mr. LAFALCE] that the House suspend the rules and pass the bill, H.R. 2748, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. LAFALCE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include extraneous matter, on H.R. 2748, as amended, the bill, just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

SMALL BUSINESS 7(a) LOAN AMENDMENTS

Mr. LAFALCE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2766) to amend the 7(a) Loan Program, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2766

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 2. AUTHORITY TO IMPOSE SECONDARY MARKET FEES.

(a) Section 5(g) of the Small Business Act (15 U.S.C. 634) is amended by striking paragraph (4) and by inserting in lieu thereof the following:

"(4) The Administration may collect the following fees for loan guarantees sold into the secondary market pursuant to the provisions of subsection (f): an amount equal to (A) not more than .4 percent per year on the outstanding balance of such loan guaranteed by the Administration, and (B) not more than 50 percent of that*Provided*, That such fees shall not be charged to the borrower whose loan is guaranteed: and, *Provided further*, That nothing herein shall preclude any agent of the Administration from collecting a fee approved by the Administration for the functions described in subsection (h)(2).".

(b) Any new fees imposed by the Administration pursuant to the authority conferred by subsection (a) shall be applicable only to loans initially sold in the secondary market pursuant to the provisions of section 5(f) of the Small Business Act after August 31, 1993.

SEC. 3. AUTHORITY TO REDUCE LOAN GUARANTEE PERCENTAGES.

(a) Section 7(a)(2) of the Small Business Act (15 U.S.C. 636) is amended—

(1) by striking from the end of clause (B)(i) the word "and" and by redesignating clause (B)(ii) as (B)(iv) and by inserting the following after clause (B)(i):

"(ii) not less than 75 percent of the financing outstanding at the time of disbursement, if such financing is more than $155,000 and the period of maturity of such financing is more than 10 years, except that the participation by the Administration may be reduced below 75 percent upon request of the participating lender;

"(iii) not less than 85 percent of the financing outstanding at the time of disbursement, if such financing is more than $155,000 and the period of maturity of such financing is 10 years or less, except that the participation by the Administration may be reduced below 85 percent upon request of the participating lender; and";

(2) by striking the words "85 percent under subparagraph (B)" and by inserting in lieu thereof the following: "the above specified percentums";

(3) by striking from paragraph (B) the words "not less than 80 percent, except upon" and by inserting in lieu thereof the following: "not less than 70 percent unless a lesser percent is required by clause (B)(ii) or upon the"; and

(4) by inserting after the third sentence the following: "The maximum interest rate for a loan guaranteed under the Preferred Lenders Program shall not exceed the maximum interest rate, as determined by the Administration, which is made applicable to other loan guarantees under section 7(a).".

(b) The amendments made by subsection (a) shall be effective September 1, 1993, but shall not be applicable to loan guarantee applications received by the Administration prior to August 21, 1993.

SEC. 4. STUDY AND REPORT

The Administration shall study, monitor and evaluate the impact of the amendments made by sections 2 and 3 of this Act on the ability of small business concerns and small business concerns owned and controlled by minorities and women, to obtain financing and the impact of such sections on the effectiveness, viability and growth of the secondary market authorized by section 5(f) of the Small Business Act. Not later than 16 months after the date of enactment, and annually thereafter, the Administration shall submit to the Committees on Small Business of the Senate and the House of Representatives a report containing the Administration's findings and recommendations on such impact, specifically including changes in the interest rates on financings provided to small business concerns and small business concerns owned and controlled by minorities and women, through the use of the secondary market. The Administration shall segregate such findings and recommendations in the study according to the ethnic and gender components in these categories. Solely for the purposes of the study authorized herein, the term "small business concerns owned and controlled by minorities", includes businesses owned and controlled by individuals belonging to one of the designated groups listed in section 8(d)(3)(C) of the Small Business Act.

SEC. 5. REPEALER.

Sections 2 and 3 of this Act are hereby repealed on September 30, 1996.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York [Mr. LAFALCE] will be recognized for 20 minutes and the gentlewoman from Kansas [Mrs. MEYERS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. LAFALCE].

Mr. LAFALCE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 2766, the Small Business 7(a) Loan Program amendments.

For the past several years, the demand for loan guarantees under this program has increased annually in the magnitude of 35 to 40 percent per year, largely coinciding with the credit crunch which is affecting the small business community.

In fiscal years 1992 and 1993, supplemental appropriations were needed to continue the program. Members will recall that the program actually closed for 10 weeks this year until such a supplemental could be enacted. This reliance upon supplemental appropriations, and the turning on and off of the small business loan faucet, is not a good way to administer this program, or any program. A better solution must be found.

Under existing law, the maximum SBA exposure on a 7(a) loan guarantee is $750,000 per borrower. SBA and the lender share in any loan loss in a ratio depending upon the percentage of the loan guaranteed.

On small loans, those under $155,000, the maximum guarantee is 90 percent; on larger loans, the maximum guarantee is 85 percent; but either size loan, if made under the Preferred Lenders Program under which SBA authorizes the lender to approve the loan on SBA's behalf and without prior SBA review, receives a maximum guarantee of 80 percent.

Under the Credit Reform Act of 1990, Congress must appropriate in advance amounts calculated to pay the ultimate cost of any losses due to the loan guarantees. This calculation is termed the "subsidy rate" and is annually adjusted by the lending agency, subject to approval by the Office of Management and Budget. Unless program changes are made, the subsidy rate will be 4.7 percent for 1994.

It appears that Congress will appropriate approximately the amount requested by the administration for this program, $155 million, and that will support loan guarantees of $3.3 billion. But, we have received estimates of demand in excess of $7 billion, an amount slightly above this year's appropriated level of $6.8 billion.

The President's budget request proposes program changes which would reduce the subsidy rate to 2.13 percent. This would provide $7.3 billion in loan guarantees. The President's proposal would reduce the subsidy primarily by reducing the guarantee on all loans. For example, the administration's proposal includes reducing the guarantee on small real estate loans to 70 percent, instead of the current level of 90 percent.

I believe some changes can be made, but in ways which will less adversely impact on small business borrowers.

Let me note for the record that I do not advocate any of the proposed changes, including my own proposal, except insofar as they are necessary to enlarge the program size. Nor do I think the President advocates them, except for this same reason. But, I do not believe we can secure a substantial increase in the appropriation, and we must somehow stretch our budget and reduce the Federal deficit.

I believe we can make savings of the magnitude the administration proposes, but in a slightly different manner. This bill would do so in four ways.

First, the Government and the lender would share large premiums on secondary market sales. The Small Business Administration would receive one-half of all premiums above 110 on 7(a) loan guarantees sold in the secondary market. In other words, if the lender sells the guaranteed portion of an SBA loan to an investor, the Government would share equally with the lender in any amount of the sales price above 10 percent of the principal amount of the loan.

Second, the bill would authorize a reduction in the preferred lenders guarantee. This is a program under which certain experienced and proficient lenders receive authority to make guaranteed loans without SBA's prior approval. The guarantee on 7(a) loans made under the preferred lenders program would be reduced to 70 percent whereas it is now 80 percent.

Third, the bill would authorize a reduction in the guarantee on large real estate loans. The guarantee on real estate loans over $155,000 with terms over 10 years would be reduced to 75 percent, whereas it is now 85 percent on amounts over that amount unless the loan is made through the Preferred Lenders Program.

And fourth, the bill would authorize the Small Business Administration to impose a secondary market fee of two-fifths of 1 percent annually on the outstanding principal amount of all 7(a) loans sold in the secondary market. This would be a new fee and would apply to future sales only.

These changes would provide a program level of $7 billion in loan guarantees.

Mr. Speaker, I believe we must reduce the subsidy to make the 7(a) loan guarantee program available to more small businesses.

I believe part of the solution lies in higher fees and part in lower guarantees, but I believe these changes should be made selectively; they should take into consideration those prospective borrowers least likely to be hurt and provide the most assistance to those who need it the most.

To me, this means that the fees should be imposed on the loans sold in the secondary market to investors; the fees should not be imposed on all banks simply because they participate in the 7(a) program as they already pay in the form of guarantee fees imposed up front at the time the loan is approved. Moreover, across the board fees are most likely to be charged to the borrower.

It is the large borrowers with good collateral that should be the ones receiving lower guarantee support. Lenders are still likely to fund these loans even with a lower guarantee as these collateralized loans are much less risky than are small, non-real-estate loans.

Finally, let me point out that smaller loans are less apt to be sold in the secondary market than are larger ones; thus my amendment is less likely to result in a fee being imposed on smaller loans.

I believe this bill represents the best combination of cost saving measures.

The committee, however, is concerned about the possible adverse impact of these changes upon small business borrowers, particularly minority small businesses and women-owned small business. We will monitor the impact very closely and have directed SBA to do likewise and to report to Congress annually with their findings and recommendations.

If we determine that there is a problem, we will move to correct it.

Mr. Speaker, I believe that this bill provides the best use of our very limited loan guarantee dollars. It was ordered reported on a bipartisan basis by a vote of 39-4. I urge its passage.

Attached is a sectional summary of this legislation.

SECTIONAL SUMMARY OF H.R. 2766 (AMENDED), SECTION 7(a) LOAN PROGRAM AMENDMENTS

Section 2(a) authorizes the Small Business Administration to collect two fees on new loans sold into the secondary market: first, SBA could impose a fee not to exceed ⅖ of 1% annually on the outstanding balance of loans sold in such market; and second, SBA could impose a fee of 50% of that portion of the sales price of any loan for a premium in excess of 110 percent of the outstanding principal amount.

Subsection (b) limits the new fees to loans sold in the secondary market for the first time after August 31, 1993.

Section 3(a) authorizes SBA to reduce the maximum loan guarantee on real estate loans above $155,000 to 75% (instead of 85% as provided under existing law). It also authorizes SBA to reduce the maximum loan guarantee on loans made under the Preferred Lenders Program to 70% (instead of 80% as provided under existing law).

Subsection (b) permits the SBA to apply the lower percentages to loans approved after August 31, 1993, but it exempts loan guarantee requests which were pending at the Agency prior to August 21st.

Section 4 requires SBA to study the impact of these changes upon the ability of small businesses to obtain financing, including the interest rate, and upon the viability of the secondary market in SBA guaranteed loans. The study would look at small business impact generally, and also specifically identify the impact on minority-owned and women-owned small business. SBA annually would report thereon to the Small Business Committees beginning 16 months after the date of enactment of this bill.

Section 5 repeals the changes made by sections 2 and 3 at the end of fiscal year 1996, which provides a three-year trial period.

Mr. Speaker, I reserve the balance of my time.

Mrs. MEYERS of Kansas. Mr. Speaker, I yield myself such time as I may consume.

Mrs. MEYERS of Kansas. Mr. Speaker, I rise in reluctant support of H.R. 2766.

H.R. 2766 seeks changes in the Small Business Administration's 7(a) general business guaranteed loan program. As Chairman LAFALCE noted, these changes are necessary if we are to meet the current demand for the guarantees with the level of funds the House and Senate are likely to appropriate for fiscal year 1994.

Some of the proposals aren't new. Both the Reagan and Bush administrations sought similar adjustments to promote deficit reduction while maintaining a viable program level to help small businesses secure loans. There were many reasons—both policy considerations and political differences—why Congress rejected the proposals.

Perhaps the greatest concern, however, was whether lenders, faced with lower guarantee levels, and increased fees of some kind or another, would continue to use the program to make loans to small firms.

This risk remains, and it threatens small businesses—enterprises that are already having grave difficulties finding the capital they need to maintain, or expand, operations.

However, I will reluctantly support changes in the 7(a) program as deficit reduction is vital to the economic well-being of our Nation. If we can make more loans for less money, while still protecting the taxpayers against losses, perhaps we should make the attempt.

During testimony before the Small Business Committee, the new SBA Administrator, Erskine Bowles, a former venture capitalist and small businessman himself, expressed his confidence that these changes would work. I'll accept his prediction based on that expertise.

Mr. Speaker, I have some very serious problems with a process that forces us to make program changes at breakneck speeds simply because of what the appropriators have done. The better and saner approach would be to first assess how these changes would affect the small business community and then weigh our options.

Regrettably, that choice is gone to us at this point. So in the interest of giving the SBA a fighting chance of helping small enterprises, I urge our colleagues to support passage of H.R. 2766.

Mr. Speaker, I yield back the balance of my time.

Mr. LAFALCE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, again I want to extend my very heartfelt thanks to the distinguished ranking minority member for the tremendous spirit of cooperation she and all the Members of her side of the aisle have shown on this difficult task of making a bigger pie with fewer ingredients, but, because of this bipartisan spirit, we were able to accomplish that, and for that I again thank her.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. LAFALCE] that the House suspend the rules and pass the bill, H.R. 2766, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. LAFALCE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and also to include extraneous matter, on H.R. 2766, as amended, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York.

There was no objection.

REHABILITATION ACT AMENDMENTS OF 1993

Mr. OWENS. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1295) to amend the Rehabilitation Act of 1973 and the Education of the Deaf Act of 1986 to make technical and conforming amendments to the act, and for other purposes.

The Clerk read as follows:

S. 1295

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Rehabilitation Act Amendments of 1993".

TITLE I—REHABILITATION ACT OF 1973

SEC. 101. REFERENCES.

Except as otherwise specifically provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.).

SEC. 102. REHABILITATION ACT AMENDMENTS OF 1992.

The Rehabilitation Act Amendments of 1992 (Public Law 102–569; 106 Stat. 4344 et seq.) is amended—

(1) in section 102(a)(2) (relating to a section 7(3)), by adding closing quotations after "101(a)(1)(A).";

(2) in section 102(p)(7)(E) (relating to a section 101(a)(13)(B)), by striking "conditions" and inserting "condition";

(3) in section 138(b) (29 U.S.C. 701 note), to read as follows:

"(b) COMPLIANCE.—Each State agency subject to the provisions of title I of the Rehabilitation Act of 1973 shall comply with the amendments made by this subtitle, as soon as is practicable after the date of enactment of this Act, consistent with the effective and efficient administration of the Rehabilitation Act of 1973, but not later than October 1, 1993."; and

(4) in section 203(g)(5) (relating to a section 202(g)), by striking "adding at the end" and inserting "inserting after paragraph (3)".

SEC. 103. DEFINITIONS.

Section 7 (29 U.S.C. 706) is amended—

(1) in paragraph (3)—

(A) by striking "The term 'designated State unit' means" and inserting the following:

"(B) The term 'designated State unit' means"; and

(B) in subparagraph (B) (as designated by subparagraph (A) of this paragraph), in clause (ii), by striking "101(a)(B)(i)" and inserting "101(a)(1)(B)(i)";

(2) in paragraph (8)—

(A) in subparagraph (A), by striking "titles I, II, III, VI, and VIII" and inserting "title I, III, VI, or VIII"; and

(B) in subparagraph (B), by striking "IV and V" and inserting "II, IV, V, and VII";

(3) in paragraph (15)(A), in the matter preceding clause (i), by inserting a comma after "subparagraph (C)";

(4) in paragraph (18)(A)(ii)—

(A) by inserting "for the period, and any extension, described in paragraph (34)(C)" after "employment services";

(B) by striking "or" and inserting "and"; and

(C) by inserting "after the transition described in paragraph (27)(C)" after "extended services"; and

(5) in paragraph (26)(B), by striking "III, IV, V, and VIII" and inserting "IV, V, and VII".

SEC. 104. CARRYOVER.

Section 19(a) (29 U.S.C. 718(a)) is amended to read as follows:

"(a) IN GENERAL.—Except as provided in subsection (b), and notwithstanding any other provision of law—

"(1) any funds appropriated for a fiscal year to carry out any grant program under part B or C of title I, section 509 (except as provided in section 509(b)), part C of title VI, part B or C of chapter 1 of title VII, or chapter 2 of title VII (except as provided in section 752(b)), including any funds reallotted under any such grant program, that are not obligated and expended by recipients prior to the beginning of the succeeding fiscal year; or

"(2) any amounts of program income, including reimbursement payments under the Social Security Act (42 U.S.C. 301 et seq.), received by recipients under any grant program specified in paragraph (1) that are not obligated and expended by recipients prior to the beginning of the fiscal year succeeding the fiscal year in which such amounts were received,

shall remain available for obligation and expenditure by such recipients during such succeeding fiscal year.".

SEC. 105. CLIENT ASSISTANCE INFORMATION.

Section 20 (29 U.S.C. 718a) is amended by striking "such individuals, or the parents," and inserting "such individuals who are applicants for or recipients of the services, or the parents,".

SEC. 106. TRADITIONALLY UNDERSERVED POPULATIONS.

Section 21(b) (29 U.S.C. 719b(b)) is amended—

(1) by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively; and

(2) by redesignating the second paragraph (3) as paragraph (4).

SEC. 107. VOCATIONAL REHABILITATION SERVICES.

(a) STATE PLANS.—Section 101(a) (29 U.S.C. 721(a)) is amended—

(1) in paragraph (10)(A), by striking "described in subparagraph (C)" and inserting "described in subparagraph (D)";

(2) in paragraph (32), by inserting "or independent commission described in paragraph (36)" after "Council";

(3) in paragraph (34)(B) by striking "part B" and inserting "section 110"; and

(4) in paragraph (36)—

(A) by amending subparagraph (B)(i) to read as follows:

"(i) is responsible under State law for operating, or overseeing the operation of, the vocational rehabilitation program in the State;"; and

(B) in subparagraph (C)—

(i) by amending clause (i) to read as follows:

"(i) an independent commission is responsible under State law for operating, or overseeing the operation of, the vocational rehabilitation programs of both such agencies and meets the requirements of clauses (ii) and (iv) of subparagraph (B);"; and

(ii) by striking clause (ii) and inserting the following:

"(ii)(I) an independent commission is responsible under State law for operating, or overseeing the operation of, the vocational rehabilitation program in the State for individuals who are blind, is consumer-controlled by and represents individuals who are blind, and undertakes the function set forth in section 105(c)(3); and

"(II) an independent commission is responsible under State law for operating, or overseeing the operation of, the vocational rehabilitation program in the State for all individuals with disabilities except for individuals who are blind and meets the requirements of clauses (ii) and (iv) of subparagraph (B); or

"(iii)(I) an independent commission is responsible under State law for operating, or overseeing the operation of, the vocational rehabilitation program in the State for individuals who are blind, is consumer-controlled by and represents individuals who are blind, and undertakes the function set forth in section 105(c)(3); and

"(II) the State has established a State Rehabilitation Advisory Council that meets the criteria set forth in section 105 and carries out the duties of such a Council with respect to functions for, and services provided to, individuals with disabilities except for individuals who are blind.".

(b) INDIVIDUALIZED WRITTEN REHABILITATION PROGRAM.—Section 102 (29 U.S.C. 722) is amended—

(1) in subsection (a)(5)(B), by striking "section 7(22)(A)(iii)" and inserting "section 7(22)(A)(ii)"; and

(2) in subsection (d)—

(A) in paragraph (2)(C)(ii)(I), by striking "who were appointed under one of subparagraphs (E) through (H) of section 105(b)(1);" and inserting "who were appointed under one of clauses (v) through (viii) of section 105(b)(1)(A), or under one of clauses (v) through (ix) of section 105(b)(1)(B), as appropriate;"; and

(B) in paragraph (6)(B), by redesignating paragraphs (1) through (4) as clauses (i) through (iv), respectively.

(c) VOCATIONAL REHABILITATION SERVICES.—Section 103(a) (29 U.S.C. 723(a)) is amended—

(1) in paragraph (4)—

(A) in subparagraph (D), by striking "a physician skilled in the diseases of the eye or by an optometrist, whichever the individual may select," and inserting "qualified personnel, under State licensure laws, that are selected by the individual,"; and

(B) in subparagraph (F), by striking "a physician or licensed psychologist" and all that follows and inserting "qualified personnel under State licensure laws;"; and

(2) in paragraph (6), by striking "those individuals" and all that follows and inserting "those individuals determined to be blind after an examination by qualified personnel under State licensure laws;".

(d) STATE REHABILITATION ADVISORY COUNCIL.—

(1) AMENDMENTS.—Section 105 (29 U.S.C. 725) is amended—

(A) in subsection (b)—

(i) by striking paragraph (1) and inserting the following:

"(1) COMPOSITION.—

"(A) IN GENERAL.—Except in the case of a separate Council established under subsection (a)(2), the Council shall be composed of—

"(i) at least one representative of the Statewide Independent Living Council established under section 705, which representative may be the chairperson or other designee of the Council;

"(ii) at least one representative of a parent training and information center established pursuant to section 631(e)(1) of the Individuals with Disabilities Education Act (20 U.S.C. 1431(e)(1));

"(iii) at least one representative of the client assistance program established under section 112;

"(iv) at least one vocational rehabilitation counselor, with knowledge of and experience with vocational rehabilitation programs, who shall serve as an ex officio, nonvoting member of the Council if the counselor is an employee of the designated State agency;

"(v) at least one representative of community rehabilitation program service providers;

"(vi) four representatives of business, industry, and labor;

"(vii) representatives of disability advocacy groups representing a cross section of—

"(I) individuals with physical, cognitive, sensory, and mental disabilities; and

"(II) parents, family members, guardians, advocates, or authorized representatives, of individuals with disabilities who have difficulty in representing themselves or are unable due to their disabilities to represent themselves; and

"(viii) current or former applicants for, or recipients of, vocational rehabilitation services.

"(B) SEPARATE COUNCIL.—In the case of a separate Council established under subsection (a)(2), the Council shall be composed of—

"(i) at least one representative described in subparagraph (A)(i);

"(ii) at least one representative described in subparagraph (A)(ii);

"(iii) at least one representative described in subparagraph (A)(iii);

"(iv) at least one vocational rehabilitation counselor described in subparagraph (A)(iv), who shall serve as described in such subparagraph;

"(v) at least one representative described in subparagraph (A)(v);

"(vi) four representatives described in subparagraph (A)(vi);

"(vii) at least one representative of a disability advocacy group representing individuals who are blind;

"(viii) at least one parent, family member, guardian, advocate, or authorized representative, of an individual who—

"(I) is an individual who is blind and has multiple disabilities; and

"(II) has difficulty in representing himself or herself or is unable due to disabilities to represent himself or herself; and

"(ix) applicants or recipients described in subparagraph (A)(viii).

"(C) EXCEPTION.—In the case of a separate Council established under subsection (a)(2), any Council that is required by State law, as in effect on the date of enactment of the Rehabilitation Act Amendments of 1992, to have fewer than 13 members shall be deemed to be in compliance with subparagraph (B) if the Council—

"(i) meets the requirements of subparagraph (B), other than the requirements of clauses (vi) and (ix) of such subparagraph; and

"(ii) includes at least—

"(I) one representative described in subparagraph (B)(vi); and

"(II) one applicant or recipient described in subparagraph (B)(ix)."; and

(ii) in paragraph (3)—

(I) in the first sentence, by striking "or the appropriate entity within the State responsible for making appointments"; and

(II) by inserting after the first sentence the following: "In the case of a State that, under State law, vests appointment authority in an entity in lieu of, or in conjunction with, the Governor, such as one or more houses of the State legislature, or an independent board that has general appointment authority, that entity shall make the appointments."; and

(B) in subsection (g), by inserting "(except for funds appropriated to carry out the client assistance program under section 112 and funds reserved pursuant to section 110(d) to carry out part D of this title)" before "to reimburse members".

(2) EFFECTIVE DATE.—In the case of a State that demonstrates to the satisfaction of the Secretary of Education that the State has designated a State agency to administer the part of the State plan under which vocational rehabilitation services are provided for individuals who are blind under section 101(a)(1)(A)(i) of the Rehabilitation Act of 1973, and has established by State law a separate Council to perform the duties of a State Rehabilitation Advisory Council with respect to such State agency, the Secretary may delay the effective date of all or part of section 105(b)(1)(B), as amended by paragraph (1), until October 1, 1994.

(e) STATE ALLOTMENTS.—Section 110(c) (29 U.S.C. 730(c)) is amended—

(1) in paragraph (2)—

(A) by striking "to pay for initial expenditures during"; and

(B) by inserting at the end the following: "The Commissioner shall make such amount available only if such other State will be able to make sufficient payments from non-Federal sources to pay for the non-Federal share of the cost of vocational rehabilitation services under the State plan for the fiscal year for which the amount was appropriated."; and

(2) by striking paragraph (4).

(f) PAYMENTS TO STATES.—Section 111(b) (29 U.S.C. 731(b)) is amended by moving paragraphs (1) and (2) 2 ems to the right.

(g) CLIENT ASSISTANCE PROGRAM.—Section 112 (29 U.S.C. 732) is amended—

(1) in the first sentence of subsection (a), by striking "facilities" and inserting "community rehabilitation programs"; and

(2) in subsection (e)(1)(D), by striking clause (ii) and inserting the following:

"(ii) For any fiscal year in which the total amount appropriated under subsection (h) exceeds the total amount appropriated under such subsection for the preceding fiscal year by a percentage greater than the most recent percentage change in the Consumer Price Index For All Urban Consumers published by the Secretary of Labor under section 100(c)(1), the Secretary shall increase each of the minimum allotments under clause (i) by such percentage change in the Consumer Price Index For All Urban Consumers.".

(h) INNOVATION AND EXPANSION GRANTS.—Section 124 (29 U.S.C. 744) is amended—

(1) in subsection (a)—

(A) in paragraph (2)—

(i) in subparagraph (A), by striking "this subsection" and inserting "paragraph (1)(B)"; and

(ii) in subparagraph (B), by striking "allotted" and inserting "allotted under paragraph (1)(A)"; and

(B) by striking paragraph (3) and inserting the following:

"(3) ADJUSTMENT FOR INFLATION.—For any fiscal year, beginning in fiscal year 1994, in which the total amount appropriated to carry out this part exceeds the total amount appropriated to carry out this part for the preceding fiscal year by a percentage greater than the most recent percentage change in the Consumer Price Index For All Urban Consumers published by the Secretary of Labor under section 100(c)(1), the Commissioner shall increase the minimum allotment under paragraph (1)(B) by such percentage change in the Consumer Price Index For All Urban Consumers."; and

(2) by striking subsection (b) and inserting the following:

"(b) PROPORTIONAL REDUCTION.—To provide minimum allotments to States (as increased under subsection (a)(3)) under subsection (a)(1)(B), or to provide minimum allotments to States under subsection (a)(2)(B), the Commissioner shall proportionately reduce the allotments of the remaining States under subsection (a)(1)(A), with such adjustments as may be necessary to prevent the allotment of any such remaining State from being reduced to less than the minimum allotment for a State (as increased under subsection (a)(3)) under subsection (a)(1)(B), or the minimum allotment for a State under subsection (a)(2)(B), as appropriate.".

SEC. 108. CLIENT INFORMATION.

Title I (29 U.S.C. 721 et seq.) is amended by adding at the end the following:

"PART E—VOCATIONAL REHABILITATION SERVICES CLIENT INFORMATION

"SEC. 140. REVIEW OF DATA COLLECTION AND REPORTING SYSTEM.

"(a) REVIEW.—The Commissioner shall conduct a comprehensive review of the current system for collecting and reporting data on clients of programs carried out under this Act, particularly data on clients of the programs carried out under this title.

"(b) CONSIDERATIONS.—

"(1) CURRENT DATA.—In conducting the review, the Commissioner shall examine the kind, quantity, and quality of the data that are currently collected and reported, taking into consideration the range of purposes that the data serve at the Federal, State, and local levels.

"(2) ADDITIONAL INFORMATION.—In conducting the review, the Commissioner shall examine the feasibility of collecting and reporting under the system information, if such information can be determined, with respect to each client participating in a program under this Act, regarding—

"(A) other programs in which the client participated during the 3 years before the date on which the client applied to participate in a program under this Act;

"(B) the number of jobs held, hours worked, and earnings received by the client during such 3 years;

"(C) the types of major and secondary disabilities of the client;

"(D) the dates of the onset of the disabilities;

"(E) the severity of the disabilities;

"(F) the source from which the client was referred to a program under this Act;

"(G) the hours worked by the client;

"(H) the size and industry code of the place of employment of the client at the time of entry into such a program and at the termination of services under the program;

"(I) the number of services provided to the client under the programs and the cost of each service;

"(J) the types of public support received by the client;

"(K) the primary sources of economic support and amounts of public assistance received by the client before and after receiving the services;

"(L) whether the client is covered by health insurance from any source and whether health insurance is available through the employer of the client;

"(M) the supported employment status of the client; and

"(N) the reasons for terminating the services received by the client.

"(c) RECOMMENDATIONS.—Based on the review, the Commissioner shall recommend improvements in the data collection and reporting system.

"(d) VIEWS.—In developing the recommendations, the Commissioner shall seek views of persons and entities providing or using such data, including State agencies, State Rehabilitation Advisory Councils, providers of vocational rehabilitation services, professionals in the field of vocational rehabilitation, clients and organizations representing clients, the National Council on Disability, other Federal agencies, non-Federal researchers, other analysts using the data, and other members of the public.

"(e) PUBLICATION AND SUBMISSION OF REPORT.—Not later than 18 months after the date of the enactment of the Rehabilitation Act Amendments of 1992 (Public Law 102-569), the Commissioner shall publish the recommendations in the Federal Register and shall prepare and submit a report containing the recommendations to the appropriate committees of Congress. The Commissioner shall not implement the recommendations earlier than 90 days after the date on which the Commissioner submits the report.

"SEC. 141. EXCHANGE OF DATA.

"(a) EXCHANGE.—The Secretary of Education and the Secretary of Health and Human Services shall enter into a memorandum of understanding for the purposes of exchanging data of mutual importance—

"(1) that concern clients of State vocational rehabilitation agencies; and

"(2) that are data maintained either by—

"(A) the Rehabilitation Services Administration, as required by section 13; or

"(B) the Social Security Administration, from its Summary Earnings and Records and Master Beneficiary Records.

"(b) TREATMENT OF INFORMATION.—For purposes of the exchange, the data described in subsection (a)(2)(B) shall not be considered return information (as defined in section 6103(b)(2) of the Internal Revenue Code of 1986) and, as appropriate, the confidentiality of all client information shall be maintained by both agencies.".

SEC. 109. RESEARCH AND TRAINING.

(a) NATIONAL INSTITUTE ON DISABILITY AND REHABILITATION.—Section 202 (29 U.S.C. 761a) is amended—

(1) in subsection (b)—

(A) in paragraph (2)(D), by striking "the individuals" and inserting "such individuals"; and

(B) in paragraph (4)(D), by striking "individuals" and inserting "individuals described in subparagraph (C)";

(2) in the fourth sentence of subsection (c)(2), by striking "In case of any vacancy in the office of the Director, the" and inserting "The"; and

(3) in subsection (g) in paragraph (3), by striking "and" at the end.

(b) RESEARCH.—Section 204 (29 U.S.C. 762) is amended—

(1) in subsection (a)—

(A) in the second sentence, by inserting ", including projects addressing the needs described in the State plans submitted under section 101 or 704 by State agencies" before the period at the end; and

(B) in the third sentence, by striking ", as described in the State plans submitted by the State agencies,"; and

(2) in subsection (b)—

(A) in paragraph (2)(G)(i), by striking "rehabilitation related" and inserting "rehabilitation-related";

(B) in paragraph (3)—

(i) in subparagraph (B)(iii)(I), by striking "family centered" and inserting "family-centered"; and

(ii) in subparagraph (C)(i)—

(I) by striking "Assistance to Individuals" and inserting "Assistance for Individuals"; and

(II) by striking the comma after "representatives of the individuals"; and

(C) in paragraph (4)(A), by moving clause (iii) 2 ems to the right.

SEC. 110. TRAINING AND DEMONSTRATION PROJECTS.

(a) TRAINING.—Section 302 (29 U.S.C. 771a) is amended—

(1) in subsection (d)—

(A) in the second sentence, by striking "local employees, who are recruited from or reside in" and inserting "local residents, who are recruited from"; and

(B) by inserting after the second sentence a new sentence to read as follows: "Entities receiving grants to carry out projects under this subsection shall coordinate the activities carried out through the projects with the activities of State vocational rehabilitation agencies to promote the employment of the individuals trained to be rehabilitation technicians."; and

(2) in subsection (h), to read as follows:

"(h) There are authorized to be appropriated to carry out this section such sums as may be necessary for each of the fiscal years 1993 through 1997.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 310 (29 U.S.C. 777) is amended by striking "sections 311(d), 311(e)," and inserting "sections 311(c), 311(d),".

(c) SPECIAL DEMONSTRATION PROGRAMS.—Section 311 (29 U.S.C. 777a) is amended—

(1) in subsection (a)(1), by striking the comma at the end and inserting a semicolon; and

(2) in subsection (c)(1)(B) by inserting "and" before "(iii)".

(d) SPECIAL RECREATIONAL PROGRAMS.—Section 316(a)(1) (29 U.S.C. 777f(a)(1)) is amended in the first sentence, by striking "handicapped individuals" and inserting "individuals with disabilities".

SEC. 111. NATIONAL COUNCIL ON DISABILITY.

Section 403(a)(2) (29 U.S.C. 783(a)(2)) is amended by striking "seven" and inserting "eight".

SEC. 112. RIGHTS AND ADVOCACY.

(a) EMPLOYMENT OF INDIVIDUALS WITH DISABILITIES.—Section 501(a) (29 U.S.C. 791(a)) is amended in the first sentence, by inserting a comma after "Veterans Affairs".

(b) ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD.—Section 502(a)(5)(A) (29 U.S.C. 792(a)(5)(A)) is amended by striking "the daily equivalent of the rate of pay for level 4 of the Senior Executive Service Schedule under section 5382" and inserting "the daily equivalent of the rate of pay for level IV of the Executive Schedule under section 5315".

(c) RIGHTS AND ADVOCACY.—Section 509 (29 U.S.C. 794e) is amended—

(1) in subsection (a), by striking paragraph (1) and inserting the following:

"(1) need services that are beyond the scope of services authorized to be provided by the client assistance program under section 112; and";

(2) by striking subsection (b) and inserting the following:

"(b) APPROPRIATIONS LESS THAN $5,500,000.—For any fiscal year in which the amount appropriated to carry out this section is less than $5,500,000, the Commissioner may make grants from such amount to eligible systems within States to plan for, develop outreach strategies for, and carry out protection and advocacy programs authorized under this section for individuals with disabilities who meet the requirements of paragraphs (1) and (2) of subsection (a).";

(3) in subsection (c)—

(A) in paragraph (4)—

(i) in subparagraph (A), by striking "this subsection" and inserting "paragraph (3)(B)"; and

(ii) in subparagraph (B), by striking "allotted" and inserting "allotted under paragraph (3)(A)"; and

(B) by striking paragraph (5) and inserting the following:

"(5) ADJUSTMENT FOR INFLATION.—For any fiscal year, beginning in fiscal year 1994, in which the total amount appropriated to carry out this section exceeds the total amount appropriated to carry out this section for the preceding fiscal year by a percentage greater than the most recent percentage change in the Consumer Price Index For All Urban Consumers published by the Secretary of Labor under section 100(c)(1), the Commissioner shall increase the minimum allotment under paragraphs (3)(B) and (4)(B) by such percentage change in the Consumer Price Index For All Urban Consumers.";

(4) by striking subsection (d) and inserting the following:

"(d) PROPORTIONAL REDUCTION.—To provide minimum allotments to systems within States (as increased under subsection (c)(5)) under subsection (c)(3)(B), or to provide minimum allotments to systems within States (as increased under subsection (c)(5)) under subsection (c)(4)(B), the Commissioner shall proportionately reduce the allotments of the remaining systems within States under subsection (c)(3), with such adjustments as may be necessary to prevent the allotment of any such remaining system within a State from being reduced to less than the minimum allotment for a system within a State (as increased under subsection (c)(5)) under subsection (c)(3)(B), or the minimum allotment for a State (as increased under subsection (c)(5)) under subsection (c)(4)(B), as appropriate.";

(5) by redesignating subsection (i) as subsection (n);

(6) in subsection (i), to read as follows:

"(i) Notwithstanding subsection (n), a protection and advocacy system that—

"(1) received funds for fiscal year 1992, under section 731 of this Act, as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992, to carry out a project; and

"(2) receives a continuation award for such project for fiscal year 1993,

shall not be eligible to receive additional funds under this section for fiscal year 1993."; and

(7) by striking subsection (j) and inserting the following:

"(j) ADMINISTRATIVE COST.—In any State in which an eligible system is located within a State agency, a State may use a portion of any allotment under subsection (c) for the cost of the administration of the system required by this section. Such portion may not exceed 5 percent of the allotment.".

SEC. 113. AVAILABILITY OF SERVICES.

Section 633 (29 U.S.C. 795l) is amended by striking "subsection (c) or (f)" and inserting "subsection (b) or (c)".

SEC. 114. INDEPENDENT LIVING SERVICES AND CENTERS FOR INDEPENDENT LIVING.

(a) PURPOSE.—Section 701(3) (29 U.S.C. 796(3)) is amended by striking "other Federal programs" and inserting "other Federal law".

(b) STATE PLAN.—Section 704(c)(2) (29 U.S.C. 796c(c)(2)) is amended by striking "programs under parts B and C" and inserting "a program under part B, and a program under part C in a case in which the program is administered by the State under section 723".

(c) STATEWIDE INDEPENDENT LIVING COUNCIL.—Section 705 (29 U.S.C. 795d) is amended—

(1) in the second sentence of subsection (a), by striking "another" and inserting "a";

(2) in subsection (b)—

(A) by striking paragraph (4) and inserting the following:

"(4) QUALIFICATIONS.—

"(A) IN GENERAL.—The Council shall be composed of members—

"(i) who provide statewide representation;

"(ii) who represent a broad range of individuals with disabilities;

"(iii) who are knowledgeable about centers for independent living and independent living services; and

"(iv) a majority of whom are persons who are—

"(I) individuals with disabilities described in section 7(8)(B); and

"(II) not employed by any State agency or center for independent living.

"(B) VOTING MEMBERS.—A majority of the voting members of the Council shall be—

"(i) individuals with disabilities described in section 7(8)(B); and

"(ii) not employed by any State agency or center for independent living."; and

(B) in paragraph (5)—

(i) in subparagraph (A), by inserting "voting" before "membership"; and

(ii) in subparagraph (B), by inserting "voting" before "member" each place the term appears; and

(3) in subsection (c)(1)—

(A) by striking "submit" and inserting "sign"; and

(B) by striking "designated State agency" and inserting "designated State unit".

(d) RESPONSIBILITIES OF THE COMMISSIONER.—Section 706(c)(1) (29 U.S.C. 796d-1(c)(1)) is amended—

(1) in the first sentence, by striking "part C" and inserting "section 722";

(2) by inserting after the second sentence the following: "The Commissioner shall annually conduct onsite compliance reviews of at least one-third of the designated State units that receive funding under section 723, and, to the extent necessary to determine the compliance of such a State unit with subsections (f) and (g) of section 723, centers that receive funding under section 723 in such State."; and

(3) in the last sentence, by inserting "and such State units" after "select such centers".

(e) INDEPENDENT LIVING SERVICES ALLOTMENTS.—Section 711 (29 U.S.C. 796e) is amended—

(1) in subsection (a)—

(A) in paragraph (2)—

(i) in subparagraph (A), by striking "this subsection" and inserting "paragraph (1)(C)"; and

(ii) in subparagraph (B), by striking "allotted" and inserting "allotted under paragraph (1)(A)"; and

(B) by striking paragraph (3) and inserting the following:

"(3) ADJUSTMENT FOR INFLATION.—For any fiscal year, beginning in fiscal year 1994, in which the total amount appropriated to carry out this part exceeds the total amount appropriated to carry out this part for the preceding fiscal year by a percentage greater than the most recent percentage change in the Consumer Price Index For All Urban Consumers published by the Secretary of Labor under section 100(c)(1), the Commissioner shall increase the minimum allotment under paragraph (1)(C) by such percentage change in the Consumer Price Index For All Urban Consumers."; and

(2) by striking subsection (b) and inserting a new subsection (b) to read as follows:

"(b) PROPORTIONAL REDUCTION.—To provide allotments to States in accordance with subsection (a)(1)(B), to provide minimum allotments to States (as increased under subsection (a)(3)) under subsection (a)(1)(C), or to provide minimum allotments to States under subsection (a)(2)(B), the Commissioner shall proportionately reduce the allotments of the remaining States under subsection (a)(1)(A), with such adjustments as may be necessary to prevent the allotment of any such remaining State from being reduced to less than the amount required by subsection (a)(1)(B).".

(f) PAYMENTS TO STATES FROM ALLOTMENTS.—Section 712(b) (29 U.S.C. 796e-1(b)) is amended by striking paragraph (3).

(g) AUTHORIZED USES OF FUNDS.—Section 713(3) (29 U.S.C. 796e-2(3)) is amended by inserting "that are in compliance with the standards and assurances set forth in subsections (b) and (c) of section 725" after "living".

(h) CENTERS FOR INDEPENDENT LIVING.—Section 721 (29 U.S.C. 796f) is amended—

(1) in subsection (b)(1)—

(A) by inserting "to eligible agencies, centers for independent living, and Statewide Independent Living Councils" after "assistance"; and

(B) by striking "of such funds" and inserting "of the funds appropriated to carry out this part for the fiscal year involved";

(2) in subsection (c)—

(A) in paragraph (1)—

(i) by striking "Except as provided in subparagraphs (B) and (C) and after" and inserting "After"; and

(ii) by inserting ", and except as provided in subparagraphs (B) and (C)," after "made";

(B) in paragraph (2)—

(i) in subparagraph (A), by striking "this subsection" and inserting "paragraph (1)(C)"; and

(ii) in subparagraph (B), by striking "allotted" and inserting "allotted under paragraph (1)(A)"; and

(C) by adding a new paragraph (4) to read as follows:

"(4) PROPORTIONAL REDUCTION.—To provide allotments to States in accordance with paragraph (1)(B), to provide minimum allotments to States (as increased under paragraph (3)) under paragraph (1)(C), or to provide minimum allotments to States under paragraph (2)(B), the Commissioner shall proportionately reduce the allotments of the remaining States under paragraph (1)(A), with such adjustments as may be necessary to prevent the allotment of any such remaining State from being reduced to less than the amount required by paragraph (1)(B)."; and

(3) in subsection (e)—

(A) in paragraph (1)(A), by striking ", whichever is greater,"; and

(B) in paragraph (2)(B)—

(i) in the first sentence of clause (i)—

(I) by striking "Private nonprofit agencies" and inserting "Entities";

(II) by striking "if the agencies submit" and inserting "if the entities submit"; and

(III) by striking "agencies will meet the standards described in section 725(b) and" and inserting "entities will be private nonprofit agencies that meet the standards described in section 725(b), and"; and

(ii) by adding a new clause (iii) to read as follows:

"(iii) FUNDING METHOD.—In making awards under this subsection, the Secretary shall distribute funds in accordance with paragraphs (1), (2), and (4) of subsection (c), and subsection (d).".

(i) GRANTS BY COMMISSIONER.—Section 722 (29 U.S.C. 796f–1) is amended—

(1) in subsection (c), by striking "is receiving funds under this part on" and inserting "has been awarded a grant under this part by";

(2) in subsection (d)(1), by inserting "proposing to serve such region" after "qualified applicant";

(3) by redesignating subsection (f) as subsection (g); and

(4) by inserting after subsection (e) the following:

"(f) NONRESIDENTIAL AGENCIES.—A center that provides or manages residential housing after October 1, 1994, shall not be considered to be an eligible agency under this section.".

(j) GRANTS BY DESIGNATED STATE UNIT.—Section 723 (29 U.S.C. 796f–2) is amended—

(1) in subsection (a)—

(A) in paragraph (1)(A)(iii), by inserting before the period at the end the following: ", making such adjustments as may be necessary to accommodate State funding cycles such as 2-year funding cycles or State fiscal years that do not coincide with the Federal fiscal year"; and

(B) in paragraph (3), by inserting "eligible agencies in" before "the State in accordance";

(2) in subsection (c), by striking "is receiving funds under this part on" and inserting "has been awarded a grant under this part by";

(3) by redesignating subsections (f), (g), and (h) as subsections (g), (h), and (i), respectively;

(4) by inserting after subsection (e) the following:

"(f) NONRESIDENTIAL AGENCIES.—A center that provides or manages residential housing after October 1, 1994, shall not be considered to be an eligible agency under this section.";

(5) in subsection (g) (as redesignated by paragraph (3) of this subsection), in paragraph (2)(B), by striking "(h)" each place the term appears and inserting "(i)"; and

(6) in subsection (h) (as redesignated by paragraph (3) of this subsection), by striking the first sentence and inserting the following: "The director of the designated State unit shall annually conduct onsite compliance reviews of at least 15 percent of the centers for independent living that receive funding under this section in the State.".

(k) CENTERS OPERATED BY STATE AGENCIES.—Section 724(b)(1)(A) (29 U.S.C. 796f–3(b)(1)(A)) is amended by striking "fiscal year 1993" and inserting "the fiscal year".

(l) STANDARDS AND ASSURANCES.—Section 725(b)(2) (29 U.S.C. 796f–4(b)(2)) is amended—

(1) in the second sentence—

(A) by inserting "severe" before "disabilities who are members of"; and

(B) by striking "Act" and inserting "title"; and

(2) in the third sentence, by inserting "shall be determined by the center, and" before "shall not be based".

(m) PROGRAMS OF GRANTS.—Section 752 (29 U.S.C. 796k) is amended—

(1) in subsection (a)(2), by striking "UNIT" and inserting "AGENCY";

(2) in subsection (b), to read as follows:

"(b) CONTINGENT COMPETITIVE GRANTS.—Beginning with fiscal year 1993, in the case of any fiscal year for which the amount appropriated under section 753 is less than $13,000,000, grants made under subsection (a) shall be—

"(1) discretionary grants made on a competitive basis to States; or

"(2) grants made on a noncompetitive basis to pay for the continuation costs of activities for which a grant was awarded—

"(A) under this chapter; or

"(B) under part C, as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992."; and

(3) in subsection (j)—

(A) by striking "and" at the end of paragraph (1)(A) and inserting "or"; and

(B) by striking "and" at the end of paragraph (2)(A)(i) and inserting "or".

SEC. 115. TABLE OF CONTENTS.

The table of contents (Public Law 93–112; 87 Stat. 356) is amended—

(1) by adding after the items relating to title I the following:

"PART E—VOCATIONAL REHABILITATION
SERVICES CLIENT INFORMATION

"Sec. 140. Review of data collection and reporting system.
"Sec. 141. Exchange of data.";

and

(2) by striking the item relating to part B of title III and inserting the following:

"PART B—SPECIAL PROJECTS AND
SUPPLEMENTARY SERVICES".

TITLE II—EDUCATION OF THE DEAF ACT OF 1986

SEC. 201. SHORT TITLE; REFERENCES.

(a) SHORT TITLE.—This title may be cited as the "Education of the Deaf Act Amendments of 1993".

(b) REFERENCES.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Education of the Deaf Act of 1986 (20 U.S.C. 4301 et seq.).

SEC. 202. GENERAL AMENDMENT.

The Act (20 U.S.C. 4301 et seq.) is amended by striking "the Institute" each place that such appears and inserting "NTID"..

SEC. 203. AMENDMENTS TO TITLE I.

(a) SECTION 101.—Section 101(a) (20 U.S.C. 4301(a)) is amended by inserting a comma after "Hereafter".

(b) SECTION 102.—Section 102(b) (20 U.S.C. 4302(b)) is amended—

(1) in paragraph (1), by striking "of Education"; and

(2) in paragraph (2), by striking "but if invested" and inserting "but, if invested,".

(c) SECTION 103.—Section 103 (20 U.S.C. 4303) is amended—

(1) in subsection (a)—

(A) by striking "members selected as follows:" in paragraph (1) and inserting "members who shall include—";

(B) by inserting a comma after "Association" in paragraph (1)(B);

(C) by redesignating paragraph (2) as paragraph (3); and

(D) by redesignating the second sentence of paragraph (1) as paragraph (2); and

(2) in subsection (b)—

(A) by inserting a comma after "facilities)" in paragraph (1);

(B) in paragraph (4)—

(i) by striking "or individuals who are" and inserting "or"; and

(ii) by striking the period at the end thereof and inserting in lieu thereof a semicolon; and

(C) by striking out "the provisions of" in paragraph (8).

(d) SECTION 104.—Section 104 (20 U.S.C. 4304) is amended—

(1) in the section heading, by striking "**EDUCATIONAL**" and inserting "**EDUCATION**";

(2) in subsection (a)(1)—

(A) by striking "elementary and secondary programs" each place that such appears and inserting "elementary and secondary education programs";

(B) by striking "and individuals who are" in subparagraph (A) and inserting "or";

(C) by striking "non-English speaking" in subparagraph (B) and inserting "non-English-speaking"; and

(D) in subparagraph (C)—

(i) by striking "individuals" each place that such appears and inserting "students";

(ii) in clause (i), by striking "deaf," and inserting "deaf from the age of onset of deafness to age fifteen, inclusive, but not beyond the eighth grade or its equivalent,"; and

(iii) in clause (ii), by striking "deaf," and inserting "deaf from grades nine through twelve, inclusive,";

(3) in subsection (b)(1)—

(A) by striking "infants and children" in subparagraph (A) and inserting "infants, children, and youth"; and

(B) by striking the semicolon at the end of subparagraph (C) and inserting a period; and

(4) in subsection (b)(4)—

(A) by striking "programs" in subparagraph (A) and inserting "program";

(B) by striking "students to and from those programs" in subparagraph (B) and inserting "the child to and from that program"; and

(C) by striking "decisions" in subparagraph (C)(iii) and inserting "a decision".

(e) SECTION 105.—Section 105(b) (20 U.S.C. 4305(b)) is amended—

(1) in paragraph (2), by striking "shall" and inserting "will"; and

(2) in paragraph (4)—

(A) by striking "Elementary School and the Model" and inserting "Elementary School or the Model"; and

(B) by striking "and the Secretary" and inserting "except that the Secretary".

(f) SECTION 111.—Section 111 (20 U.S.C. 4311) is amended by striking "title" and inserting "part".

(g) SECTION 112.—Section 112 (20 U.S.C. 4312) is amended—

(1) in the section heading by striking "**INSTITUTE**" and inserting in lieu thereof "**NATIONAL TECHNICAL INSTITUTE FOR THE DEAF**";

(2) in subsection (a)—

(A) by striking "Act" in paragraph (1) and inserting "part"; and

(B) by striking the first two commas in paragraph (2);

(3) in subsection (b)—

(A) in paragraph (3)—

(i) by striking "Secretary an annual report, including" and inserting "Secretary, not later than June 1 following the fiscal year for which the report is submitted, an annual report containing";

(ii) by striking "which report" and inserting "which accounting"; and

(iii) by striking the comma after "Representatives";

(B) by striking "and" at the end of paragraph (4);

(C) in paragraph (5)—

(i) by striking "and the Secretary" and inserting "except that the Secretary"; and

(ii) by striking the period at the end thereof and inserting a semicolon and "and"; and

(D) by striking "or individuals who are" in paragraph (6) and inserting "or"; and

(4) in subsection (c), by inserting a comma after "If".

SEC. 204. AMENDMENTS TO TITLE II.

(a) SECTION 201.—Section 201 (20 U.S.C. 4351) is amended—

(1) in paragraph (1)(B), by striking "United States; or" and inserting "United States; and"; and

(2) by striking paragraphs (3) and (5); and

(3) by redesignating paragraphs (4), (6), (7), (8), and (9) as paragraphs (3), (4), (5), (6), and (7), respectively.".

(b) SECTION 203.—Subsection (b) of section 203 (20 U.S.C. 4353(b)) is amended to read as follows:

"(b) INDEPENDENT AUDIT.—Gallaudet University shall have an annual independent financial audit made of the programs and activities of the University. The institution of higher education with which the Secretary has an agreement under section 112 shall have an annual independent financial audit made of the programs and activities of such institution of higher education, including NTID, and containing specific schedules and analyses for all NTID funds, as determined by the Secretary.".

(c) SECTION 204.—Section 204 (20 U.S.C. 4354) is amended—

(1) in paragraph (1), by striking "first time" and inserting "first-time";

(2) in paragraph (2)(G)—

(A) by striking "Individualized Education Programs" and inserting "individualized education programs"; and

(B) by inserting "or hard of hearing" after "children who are deaf";

(3) in paragraph (3), to read as follows:

"(3)(A) The annual audited financial statements and auditor's report of the University, as required under section 203, and (B) the annual audited financial statements and auditor's report of the institution of higher education with which the Secretary has an agreement under section 112, including specific schedules and analyses for all NTID funds, as required under section 203, and such supplementary schedules presenting financial information for NTID for the end of the Federal fiscal year as determined by the Secretary."; and

(4) in paragraph (6), by striking "Program is" and inserting "Program funds are".

(d) SECTION 205.—Section 205(a) (20 U.S.C. 4355(a)) is amended—

(1) by inserting "or hard of hearing" after "individuals who are deaf"; and

(2) by striking "the provisions of".

(e) SECTION 206.—Section 206(b) (20 U.S.C. 4356(b)) is amended by inserting "or hard of hearing" after "individuals who are deaf".

(f) SECTION 207.—Section 207 (20 U.S.C. 4357) is amended—

(1) in subsection (c)(3), by striking "Advisory Board of NTID" and inserting "advisory group established under section 112";

(2) in subsection (e), by striking "investment limitations and" and inserting "investment limitations or"; and

(3) in subsection (l), by striking "the provisions of the Education of the Deaf Act of 1986" and inserting "this Act as enacted on August 4, 1986".

(g) SECTION 209.—Section 209 (20 U.S.C. 4359) is amended—

(1) in subsection (a), by striking "title II" and inserting "part B of title I"; and

(2) in subsection (b), by striking "the provisions of".

(h) SECTION 210.—Section 210 (20 U.S.C. 4360) is amended—

(1) in subsection (b), by striking "75 percent beginning the academic year 1993–1994, and 90 percent beginning the academic year 1994–1995" and inserting "75 percent for the academic year 1993–1994 and 90 percent beginning with the academic year 1994–1995"; and

(2) in subsection (c)—

(A) by striking "Beginning the academic year 1993–1994 and thereafter" and inserting "Beginning with the academic year 1993–1994"; and

(B) by redesignating subparagraphs (A), (B), and (C) as paragraphs (1), (2), and (3), respectively.

(i) SECTION 211.—Section 211(a) (20 U.S.C. 4361(a)) is amended by redesignating subparagraphs (A), (B), and (C) as paragraphs (1), (2), and (3), respectively.

TITLE III—OTHER ACTS

SEC. 301. COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED.

Section 1 of the Act entitled "An Act to Create a Committee on Purchases of Blind-made Products, and for other purposes", approved June 25, 1938 (commonly known as the Wagner-O'Day Act; 41 U.S.C. 46) is amended by striking "From People Who Are Blind and Severely Disabled" and inserting "From People Who Are Blind or Severely Disabled".

SEC. 302. INDIVIDUALS WITH DISABILITIES EDUCATION ACT.

Section 631(a) of the Individuals with Disabilities Education Act (20 U.S.C. 1431(a)) is amended by redesignating the second paragraph (8), as added by section 912(a) of the Rehabilitation Act Amendments of 1992 (Public Law 102–569), as paragraph (9).

The SPEAKER pro tempore. The gentleman from New York [Mr. OWENS] will be recognized for 20 minutes and the gentleman from North Carolina [Mr. BALLENGER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. OWENS].

GENERAL LEAVE

Mr. OWENS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous material, on the Senate bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

□ 1430

Mr. OWENS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 1295, the rehabilitation act amendments of 1993. This legislation merely makes technical and conforming changes to the Rehabilitation Act of 1973 and the Education of the Deaf Act of 1986. These changes will ensure that the intent of Congress—to empower consumers to participate more fully in an improved rehabilitation system—will be clearly translated by the Department of Education into regulations for the States.

I commend my staff, the staff of the Committee on Education and Labor, and the Senate staff for a fully bipartisan, bicameral effort which resulted in this comprehensive technical bill.

Mr. Speaker, I reserve the balance of my time.

Mr. BALLENGER. Mr. Speaker, I yield myself such time as I may consume.

Today, I rise in support of S. 1295, a bill making technical corrections to the Rehabilitation Act Amendments of 1992 and the Education of the Deaf Act Amendments of 1992. Last year, this Congress passed both of these laws and since that time several technical changes have come to our attention that need to be made. S. 1295 is identical to H.R. 2723, introduced by Congressman OWENS on July 23, and cosponsored by Congressman GOODLING and myself. This is a oipartisan bill and I urge my colleagues to support its passage.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. OWENS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. FRANK of Massachusetts). The question is on the motion offered by the gentleman from New York [Mr. OWENS] that the House suspend the rules and pass the Senate bill, S. 1295.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

TECHNOLOGY-RELATED ASSISTANCE FOR INDIVIDUALS WITH DISABILITIES

Mr. OWENS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2339) to amend the Technology-Related Assistance for Individuals With Disabilities Act of 1988 to authorize appropriations for each of the fiscal years 1994 through 1998, as amended.

The Clerk read as follows:

H.R. 2339

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Technology-Related Assistance for Individuals With Disabilities Amendments of 1993".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings and purposes.
Sec. 3. Definitions.

TITLE I—GRANTS TO STATES

Sec. 101. Program authorized.
Sec. 102. Development grants.
Sec. 103. Extension grants.
Sec. 104. Second extension grants.
Sec. 105. Progress reports.
Sec. 106. Administrative provisions.
Sec. 107. Information and technical assistance.
Sec. 108. Funding.

TITLE II—PROGRAMS OF NATIONAL SIGNIFICANCE

Sec. 201. Programs authorized.

TITLE III—ALTERNATIVE FINANCING MECHANISMS

Sec. 301. Alternative financing mechanisms authorized.

TITLE IV—AMENDMENTS TO OTHER ACTS

Sec. 401. Individuals With Disabilities Education Act.

Sec. 402. Rehabilitation Act of 1973.
Sec. 403. Technical and conforming amendments.
TITLE V—EFFECTIVE DATE
Sec. 501. Effective date.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Section 2(a) of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2201(a)) is amended to read as follows:

"(a) FINDINGS.—The Congress finds as follows:

"(1) Disability is a natural part of the human experience and in no way diminishes the right of individuals—

"(A) to live independently;

"(B) to enjoy self-determination;

"(C) to make choices;

"(D) to contribute to society;

"(E) to pursue meaningful careers; and

"(F) to enjoy full inclusion and integration in the economic, political, social, cultural, and educational mainstream of American society.

"(2) During the past decade, there have been major advances in modern technology. Technology is now a powerful force in the lives of all residents of the United States. Technology can provide important tools for making the performance of tasks quicker and easier. For some individuals with disabilities, assistive technology is a necessity that enables them to engage in or perform many tasks.

"(3) The provision of assistive technology devices and services enables some individuals with disabilities—

"(A) to have greater control over their own lives;

"(B) to participate in and contribute more fully to activities in their home, school, and work environments, and in their communities;

"(C) to interact to a greater extent with nondisabled individuals; and

"(D) to otherwise benefit from opportunities that are taken for granted by individuals who do not have disabilities.

"(4) Substantial progress has been made in the development of assistive technology devices, including adaptations to existing equipment, which significantly benefit individuals of all ages with disabilities. Such devices have increased the involvement of individuals with disabilities in programs and activities such as early intervention, education, rehabilitation and training, employment, residential living, independent living, recreation, and other aspects of daily living. Dual-use technology is critical to the further development of assistive technology devices.

"(5) Many individuals with disabilities cannot access existing telecommunications and information technologies and are at risk of not being able to access developing technologies. The inadvertent failure of Federal and State governments, hardware manufacturers, software designers, information systems managers, and telecommunications service providers to account for the specific needs of individuals with disabilities not only results in the exclusion of such individuals from the use of telecommunications and information technologies, but also results in unnecessary costs associated with the retrofitting of devices and product systems.

"(6) The use of assistive technology devices and services by individuals with disabilities increases such individuals' ability to be independent, which reduces expenditures associated with early intervention, education, rehabilitation, health care, transportation, telecommunication services, and other services required by such individuals.

"(7) A majority of States have technology-related assistance programs. In spite of the efforts made by such programs to provide comprehensive, statewide services, there remains a need for—

"(A) resources to pay for assistive technology devices and services;

"(B) trained personnel to assist individuals with disabilities to use such devices and services;

"(C) information about the availability and potential of technology for individuals with disabilities and their family members, guardians, advocates, and authorized representatives, representatives of public agencies and private entities that have contact with individuals with disabilities (including insurers), teachers and related services personnel, technology experts (including engineers), employers, and other appropriate individuals;

"(D) aggressive outreach to underrepresented populations and rural populations;

"(E) coordination among State human services programs, and among such programs and private entities, particularly with respect to transitions between such programs and entities; and

"(F) capacity of such programs to provide the necessary technology-related assistance.

"(8) There are insufficient incentives for the commercial pursuit of the application of technology devices to meet the needs of individuals with disabilities, because of limited markets.

"(9) At the Federal level, there is a lack of coordination among agencies that provide or pay for the provision of assistive technology devices and services. In addition, the Federal Government does not provide adequate assistance and information with respect to the use of assistive technology devices and services to individuals with disabilities and their family members, guardians, advocates, and authorized representatives, representatives of public agencies and private entities that have contact with individuals with disabilities (including insurers), teachers and related services personnel, technology experts (including engineers), employers, and other appropriate individuals.".

(b) PURPOSES.—Section 2(b) of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2201(b)) is amended to read as follows:

"(b) PURPOSES.—The purposes of this Act are as follows:

"(1) To provide financial assistance to the States to develop and implement a consumer-responsive, consumer-driven, comprehensive statewide program of technology-related assistance for individuals of all ages with disabilities that is designed to create systemic change and foster advocacy by—

"(A) increasing the availability of, funding for, and access to, assistive technology devices and services for individuals with disabilities;

"(B) increasing the active involvement of individuals with disabilities and their family members, guardians, advocates, and authorized representatives in the planning, development, implementation, and evaluation of technology-related assistance programs;

"(C) increasing the involvement of individuals with disabilities and their family members, guardians, advocates, and authorized representatives in specific agency decisions related to the provision of assistive technology devices and services to individuals with disabilities;

"(D) increasing and promoting coordination among State agencies and between State agencies and private entities that provide technology-related assistance, particularly assistive technology devices and services;

"(E) increasing the awareness of laws, regulations, policies, procedures, and practices that facilitate the availability or provision of assistive technology devices and services and by promoting the change of laws, regulations, policies, procedures, and practices that impede the availability or provision of assistive technology devices and services;

"(F) increasing the probability that individuals of all ages with disabilities will, to the extent appropriate, be able to secure and maintain assistive technology devices as such individuals make the transition between services offered by human service agencies or between settings of daily living;

"(G) increasing the competence of personnel who provide technology-related assistance, including assistive technology devices and services;

"(H) increasing awareness and knowledge of the efficacy of assistive technology devices and services among individuals with disabilities and their family members, guardians, advocates, and authorized representatives, representatives of public agencies and private entities that have contact with individuals with disabilities (including insurers), teachers and related services personnel, technology experts (including engineers), employers, and other appropriate individuals;

"(I) increasing the capacity of public agencies and private entities to provide and pay for technology-related assistance on a statewide basis, particularly assistive technology devices and services, for individuals of all ages with disabilities; and

"(J) increasing the awareness of the needs of individuals with disabilities for assistive technology devices and services.

"(2) To identify Federal policies that facilitate payment for assistive technology devices and services for individuals with disabilities, to identify Federal policies that impede such payment, and to eliminate inappropriate barriers to such payment.

"(3) To enhance the ability of the Federal Government to provide States with—

"(A) technical assistance, information, training, and public awareness programs relating to the provision of assistive technology devices and services; and

"(B) funding for model demonstration and innovation projects.

"(4) To ensure that all programs, projects, and activities receiving assistance under this Act are carried out in a manner consistent with the principles of—

"(A) respect for individual dignity, personal responsibility, and self-determination in the pursuit of meaningful careers, based on informed choice, by individuals with disabilities;

"(B) respect for the privacy, rights, and equal access (including the use of accessible formats), of such individuals;

"(C) inclusion, integration, and full participation of such individuals;

"(D) support for the involvement of family members, guardians, advocates, or authorized representatives if an individual with a disability requests, desires, or needs such support; and

"(E) support for individual and systemic advocacy and community involvement.".

SEC. 3. DEFINITIONS.

Section 3 of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2202) is amended—

(1) by redesignating paragraphs (1), (2), (3), (4), (5), (6), (7), and (8) as paragraphs (2), (3), (7), (9), (11), (12), (14), and (15), respectively;

(2) by inserting before paragraph (2) (as redesignated by paragraph (1)) the following:

"(1) ADVOCACY SERVICES.—The term 'advocacy services' means assistance to individuals with disabilities and their family members, guardians, advocates, and authorized representatives in accessing assistive technology devices and services to which individuals with disabilities are entitled under law. Such term includes—

"(A) dissemination of information;

"(B) individual case management;

"(C) training individuals to locate funding sources; and

"(D) pursuit of legal and other appropriate remedies.";

(3) in paragraph (3)(E) (as redesignated by paragraph (1)), by striking "family" and all that follows and inserting "the family members, guardians, advocates, or authorized representatives of such an individual; and";

(4) by inserting after paragraph (3) (as redesignated by paragraph (1)) the following:

"(4) COMPREHENSIVE.—The term 'comprehensive', when used with reference to a program, means a statewide program that addresses the needs of all individuals with disabilities, including underrepresented populations and rural populations, who can benefit from the use of assistive technology devices and services regardless of age, type of disability, gender, race, or ethnicity.

"(5) CONSUMER-DRIVEN.—The term 'consumer-driven', when used with reference to a program, means a statewide program that includes individuals with disabilities and their family members, guardians, advocates, and authorized representatives, including underrepresented populations and rural populations, in the development, implementation, and evaluation of the program.

"(6) CONSUMER-RESPONSIVE.—The term 'consumer-responsive', when used with reference to a program, means a statewide program that provides information, training, technical assistance, and transportation and related services to enable individuals of all ages with disabilities to access assistive technology devices and services.";

(5) in paragraph (7) (as redesignated by paragraph (1))—

(A) by striking the matter preceding subparagraph (A) and inserting the following:

"(7) INDIVIDUAL WITH A DISABILITY.—The term 'individual with a disability' means any individual—"; and

(B) in subparagraph (A), by striking "or handicap";

(6) by inserting after paragraph (7) (as redesignated by paragraph (1)) the following:

"(8) INDIVIDUALS WITH DISABILITIES.—The term 'individuals with disabilities' means more than one individual with a disability.";

(7) in paragraph (9) (as redesignated by paragraph (1)), by striking "section 435(b)" and inserting "section 481(a)";

(8) by inserting after paragraph (9) (as redesignated by paragraph (1)) the following:

"(10) PROTECTION AND ADVOCACY SERVICES.—The term 'protection and advocacy services' means services that—

"(A) are described in part C of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6041 et seq.), the Protection and Advocacy for Mentally Ill Individuals Act (42 U.S.C. 10801 et seq.), or section 509 of the Rehabilitation Act of 1973 (29 U.S.C. 794e); and

"(B) assist individuals with disabilities and their family members, guardians, advocates, and authorized representatives with respect to assistive technology devices and services.";

(9) in paragraph (12) (as redesignated by paragraph (1)), by striking "Trust" and all that follows and inserting "Republic of Palau (until the Compact of Free Association with Palau takes effect).";

(10) by inserting after paragraph (12) (as redesignated by paragraph (1)) the following:

"(13) SYSTEMS CHANGE ACTIVITIES.—The term 'systems change activities' means activities—

"(A) to identify laws, regulations, policies, procedures, and practices that are legal or service delivery barriers impeding access to assistive technology devices and services;

"(B) to develop, modify, revise, correct, or adjust State or local laws, regulations, policies, procedures, and practices to allow individuals with disabilities to access assistive technology devices and services; and

"(C) to increase funding for, and access to, assistive technology devices and services on a permanent basis."; and

(11) by amending paragraph (15) (as redesignated by paragraph (1)) to read as follows:

"(15) UNDERREPRESENTED POPULATIONS.—The term 'underrepresented populations' includes populations such as minorities, the poor, and the limited English proficient.".

TITLE I—GRANTS TO STATES

SEC. 101. PROGRAM AUTHORIZED.

(a) GRANTS TO STATES.—Section 101(a) of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2211(a)) is amended by striking "to develop and implement consumer-responsive" and inserting "in developing and implementing consumer-responsive, consumer-driven".

(b) REQUIRED ACTIVITIES.—Section 101(b) of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2211(b)) is amended to read as follows:

"(b) REQUIRED ACTIVITIES.—Any State that receives a grant under this title shall accomplish the purposes described in section 2(b)(1) by carrying out the following activities:

"(1) SYSTEMS CHANGE ACTIVITIES.—Systems change activities shall include—

"(A) developing and implementing strategies to obtain funds with which individuals with disabilities may obtain assistive technology devices and services in State special education, vocational rehabilitation, and medical assistance programs or, as appropriate, other education, health, or human service agencies, with particular emphasis on addressing the needs of underrepresented populations and rural populations, coordinating such funds, and monitoring State and local policies, procedures, and practices that relate to such funds;

"(B) establishing an interagency coordinating committee to enhance public funding options and coordinate access to funding for assistive technology devices and services for individuals of all ages with disabilities, with special attention to the issues of transition from school to work, home use, and individual involvement in the identification, planning, use, delivery, and evaluation of such devices and services; and

"(C) developing written materials, training, and technical assistance to ensure that the needs of an individual for assistive technology devices and services are considered and included as part of an individualized education program required under section 614(a)(5) of the Individuals with Disabilities Education Act (20 U.S.C. 1414(a)(5)), an individualized family service plan developed pursuant to section 677(d) of such Act (20 U.S.C. 1477(d)), an individualized written rehabilitation program required under section 102(b) of the Rehabilitation Act of 1973 (29 U.S.C. 722(b)), and other individualized plans that may have been developed for the individual.

"(2) CONSUMER-RESPONSIVE, CONSUMER-DRIVEN ACTIVITIES.—(A) Consumer-responsive, consumer-driven activities shall include—

"(i) providing outreach to underrepresented populations and rural populations, including—

"(I) identification and needs assessment of such populations;

"(II) activities to increase the accessibility of services to such populations;

"(III) training representatives of such populations to become service providers; and

"(IV) training staff of the comprehensive statewide program of technology-related assistance to work with such populations; and

"(ii) establishing consumer advisory councils to advise such program, a majority of whose members are—

"(I) individuals with disabilities; and

"(II) the family members, guardians, or authorized representatives of individuals with disabilities.

"(B) Consumer-responsive, consumer-driven activities may include—

"(i) increasing consumer participation, choice, and control in the selection and procurement of assistive technology;

"(ii) outreach to consumer organizations and groups in the State to coordinate with efforts of such organizations and groups to implement self-help, peer mentoring, and support group programs to assist individuals with disabilities and their family members, guardians, advocates, and authorized representatives in obtaining funding for, and access to, assistive technology devices and services;

"(iii) developing mechanisms for determining consumer satisfaction and participation in the comprehensive statewide program of technology-related assistance for individuals of all ages with disabilities and documenting the results;

"(iv) taking actions to develop standards or, where appropriate, apply existing standards to ensure the availability of qualified personnel; and

"(v) paying for expenses, including travel expenses, and services, including services of qualified interpreters, readers, and personal care assistants, that may be necessary to ensure access to the comprehensive statewide program of technology-related assistance by individuals with disabilities who are determined by the State to be in financial need.

"(3) ADVOCACY SERVICES.—Advocacy services—

"(A) shall include training individuals with disabilities and their family members, guardians, advocates, and authorized representatives to successfully advocate for access to assistive technology devices and services, with special emphasis placed on underrepresented populations and rural populations; and

"(B) shall supplement, not supplant, similar advocacy services that have been provided pursuant to other Federal or State laws.

"(4) PROTECTION AND ADVOCACY SERVICES.—A State shall provide protection and advocacy services by awarding a contract to provide such services to an organization established for protection and advocacy services under the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6000 et seq.). Any State that provided protection and advocacy services prior to January 1, 1993, through an organization other than that established for protection and advocacy services under such Act may continue to provide such services through such organization. Protection and advocacy services shall supplement, not supplant, similar protection and advocacy services that have been provided pursuant to other Federal or State laws.".

(c) AUTHORIZED ACTIVITIES.—Section 101(c) of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2211(c)) is amended—

(1) by amending the matter preceding paragraph (1) to read as follows:

"(c) AUTHORIZED ACTIVITIES.—Any State that receives a grant under this title may accomplish the purposes described in section 2(b)(1) by carrying out the following activities:";

(2) in paragraph (1), by striking subparagraph (C) and redesignating subparagraph (D) as subparagraph (C);

(3) in paragraph (2), in each of subparagraphs (B), (C), and (G)(i), by striking "assistive technology" each place such term appears after "devices and";

(4) by redesignating paragraphs (3) through (7) as paragraphs (5) through (9), respectively;

(5) by redesignating paragraph (8) as paragraph (12);

(6) by inserting after paragraph (2) the following:

"(3) ELECTRONIC COMMUNICATION.—The State may operate or participate in a computer system

through which it can electronically communicate with other States to gain technical assistance in a timely fashion to avoid the duplication of efforts already undertaken in other States.

"(4) DEMONSTRATION OF DEVICES.—The State may support the demonstration of assistive technology devices. Activities may include—

"(A) provision of a location or locations within the State where individuals with disabilities and their family members, guardians, advocates, and authorized representatives, special education, rehabilitation, health care, and other service providers, representatives of Federal, State, and local government entities, and employers can see, touch, and learn about assistive technology devices from personnel who are familiar with such devices and their applications;

"(B) counseling and assistance to individuals with disabilities and their family members, guardians, advocates, and authorized representatives to determine individual needs for assistive technology devices and services; and

"(C) demonstration or short-term loan of assistive technology devices to individuals, employers, public agencies, or public accommodations seeking strategies to comply with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).";

(7) in paragraph (5) (as redesignated by paragraph (4)), by striking "assistive technology" after "devices or";

(8) in paragraph (6) (as redesignated by paragraph (4))—

(A) by amending the matter preceding subparagraph (A) to read as follows:

"(6) PUBLIC AWARENESS PROGRAM.—The State may support a public awareness program designed to provide information relating to the availability and efficacy of assistive technology devices and services for individuals with disabilities and their family members, guardians, advocates, and authorized representatives, representatives of public agencies and private entities that have contact with individuals with disabilities (including insurers), teachers and related services personnel, technology experts (including engineers), employers, and other appropriate individuals, or may establish and support such a program if no such program exists. Such a program may include—";

(B) in subparagraph (A), in each of clauses (i), (ii), and (iii), by striking "assistive technology" after "devices and";

(C) in subparagraph (B), by striking "assistive technology" after "devices and"; and

(D) in subparagraph (C)(i), by striking "families or representatives of individuals with disabilities," and inserting "and their family members, guardians, advocates, or authorized representatives,";

(9) in paragraph (7) (as redesignated by paragraph (4)), by striking "devices" and all that follows and inserting the following: "devices and services to individuals with disabilities and their family members, guardians, advocates, and authorized representatives, representatives of public agencies and private entities that have contact with individuals with disabilities (including insurers), teachers and related services personnel, technology experts (including engineers), employers, and other appropriate individuals.";

(10) in paragraph (8) (as redesignated by paragraph (4))—

(A) in the matter preceding subparagraph (A)—

(i) in the first sentence, by striking "assistive technology" after "devices and";

(ii) by inserting after the first sentence the following: "Access to the system may be provided through community-based entities, including public libraries, centers for independent living (as defined in section 702 of the Rehabilitation Act of 1973 (29 U.S.C. 796a)), and community rehabilitation programs (as defined in section 7(25) of such Act (29 U.S.C. 706(25)).''; and

(iii) by striking "a system described in the preceding sentence," and inserting "the system,";

(B) in subparagraph (A)—

(i) by inserting "large print," after "print,"; and

(ii) by striking "materials" and all that follows and inserting the following: "materials, computer disks, compact discs (including compact discs formatted with read-only memory), information capable of being used in telephone-based information systems, and such other media as technological innovation may make appropriate;"; and

(C) by adding at the end the following:

"The information system may be organized on an interstate basis or as part of a regional consortium of States in order to facilitate the establishment of compatible, linked information systems."; and

(11) by inserting after paragraph (9) (as redesignated by paragraph (4)) the following:

"(10) PARTNERSHIPS AND COOPERATIVE INITIATIVES.—The State may support the establishment or continuation of partnerships and cooperative initiatives between the public sector and the private sector to promote greater participation by business and industry in—

"(A) the development, demonstration, and dissemination of assistive technology devices; and

"(B) the ongoing provision of information about new products to assist individuals with disabilities.

"(11) DEVICE AND EQUIPMENT REDISTRIBUTION INFORMATION SYSTEMS AND RECYCLING CENTERS.—The State may support activities, including the establishment of information systems and recycling centers, for the redistribution of assistive technology devices and equipment that may include device and equipment loans, rentals, or gifts.".

SEC. 102. DEVELOPMENT GRANTS.

(a) NUMBER OF GRANTS TO BE AWARDED.—Section 102 of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2212) is amended—

(1) by striking subsection (b); and

(2) by redesignating subsections (c) through (e) as subsections (b) through (d), respectively.

(b) AMOUNTS OF GRANTS.—Section 102(b) of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2212(c)) (as redesignated by subsection (a)) is amended—

(1) in paragraph (1), by striking "section 106," and inserting "section 108(a)(1),";

(2) in paragraph (2), by striking "section 106" and inserting "section 108(a)(1)"; and

(3) in paragraph (5)—

(A) in subparagraph (A), by striking "the Trust Territory of the Pacific Islands." and inserting "the Republic of Palau."; and

(B) in subparagraph (B), by striking "the Trust Territory of the Pacific Islands." and inserting "the Republic of Palau (until the Compact of Free Association with Palau takes effect).".

(c) APPLICATIONS.—Section 102(d) of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2212(e)) (as redesignated by subsection (a)) is amended—

(1) by redesignating paragraph (17) as paragraph (25);

(2) by redesignating paragraphs (4) through (16) as paragraphs (5) through (17), respectively;

(3) by striking paragraphs (1), (2), and (3) and inserting the following:

"(1) DESIGNATION OF LEAD AGENCY.—The designation by the Governor of the office, agency, entity, or individual responsible for—

"(A) submitting the application on behalf of the State;

"(B) administering and supervising the use of amounts made available under the grant;

"(C) coordinating and supervising—

"(i) preparation of the application;

"(ii) planning, development, implementation, and evaluation of the consumer-responsive, consumer-driven, comprehensive statewide program of technology-related assistance;

"(iii) coordination among public agencies and between public agencies and private entities, including the entering into of interagency and interstate agreements; and

"(iv) the active, timely, and meaningful participation by individuals with disabilities and their family members, guardians, advocates, and authorized representatives, or other appropriate individuals with respect to carrying out activities under the grant; and

"(D) delegating any responsibilities described in this paragraph, in whole or in part, to one or more appropriate offices, agencies, entities, or individuals.

"(2) ABILITIES OF LEAD AGENCY.—Evidence that the lead agency described in paragraph (1) has the ability—

"(A) to respond to assistive technology needs across disability and age;

"(B) to promote the availability throughout the State of assistive technology devices and services;

"(C) to promote and implement systems change activities;

"(D) to promote and implement public-private partnerships;

"(E) to exercise leadership in identifying and responding to the technology needs of individuals with disabilities and their family members, guardians, advocates, and authorized representatives;

"(F) to promote and document the consumer-responsive, consumer-driven nature of the comprehensive statewide program of technology-related assistance; and

"(G) to exercise leadership in implementing effective strategies for capacity building, staff and consumer training, and enhancement of access to funding for assistive technology devices and services across agencies.

"(3) AGENCY INVOLVEMENT.—A description of the nature and extent of involvement of various State agencies in the preparation of the application and the continuing role of each agency in the development and implementation of the consumer-responsive, consumer-driven, comprehensive statewide program of technology-related assistance, including the identification of the available resources and financial responsibility of each agency for paying for assistive technology devices and services.

"(4) PUBLIC INVOLVEMENT.—A description of the nature and extent of the involvement in the development of the application, and the continuing role in the consumer-responsive, consumer-driven, comprehensive statewide program of technology-related assistance of—

"(A) individuals with disabilities;

"(B) the family members, guardians, advocates, and authorized representatives of such individuals;

"(C) other appropriate individuals who are not employed by a State agency; and

"(D) organizations, providers, employers, and other interested parties from the private sector.";

(4) in paragraph (5) (as redesignated by paragraph (2)), by striking "underserved groups" and inserting "underrepresented populations and rural populations";

(5) in paragraph (7) (as redesignated by paragraph (2)), by striking "consumer-responsive" and inserting "consumer-responsive, consumer-driven, comprehensive";

(6) by striking paragraph (8) (as redesignated by paragraph (2)) and inserting the following:

"(8) DATA COLLECTION.—A description of—

"(A) the data collection system used for compiling information as required by the Secretary and, when a national classification system is developed pursuant to section 201, consistent with such classification system; and

"(B) procedures that will be used to conduct evaluations.";

(7) in paragraph (9) (as redesignated by paragraph (2)), by striking "devices and assistive technology" and inserting "devices and";

(8) in paragraph (12) (as redesignated by paragraph (2))—

(A) in subparagraph (A), by striking "devices and assistive technology" and inserting "devices and"; and

(B) in subparagraph (B), by striking "devices or assistive technology" each place it appears and inserting "devices or";

(9) by amending paragraph (16) (as redesignated by paragraph (2)) to read as follows:

"(16) FISCAL CONTROL AND ACCOUNTING PROCEDURES.—An assurance that—

"(A) the State will adopt such fiscal control and accounting procedures as may be necessary to ensure proper disbursement of and accounting for amounts received under the grant; and

"(B) the lead agency will have the authority to use funds under this title to comply with the State grant requirements, including the ability to hire qualified staff necessary to carry out project activities."; and

(10) by inserting after paragraph (17) (as redesignated by paragraph (2)) the following:

"(18) PROTECTION AND ADVOCACY SERVICES.—An assurance that the State will allocate a specific amount of funds, from Federal or State sources, for protection and advocacy services provided pursuant to section 101(b)(4). In reviewing an application by the State, the Secretary shall review such specific amount to determine if it is reasonable in relation to the size of the grant and the needs of individuals with disabilities within the State. In making such determination, the Secretary shall consider the population of the State and the geographic size of the State.

"(19) TRAINING ACTIVITIES.—An assurance that the State—

"(A) will develop and implement strategies for including personnel training in assistive technology within existing Federal- and State-funded training initiatives to enhance assistive technology skills and competencies; and

"(B) will document such training activities.

"(20) LIMIT ON INDIRECT COSTS.—An assurance that the percentage of funds used for indirect costs shall not exceed 15 percent.

"(21) COORDINATION WITH STATE COUNCILS.—An assurance that there will be coordination between the project funded under this Act and other councils within the State, including the State Rehabilitation Advisory Council (or Councils) established under section 105 of the Rehabilitation Act of 1973 (29 U.S.C. 725), the Statewide Independent Living Council established under section 705 of such Act (29 U.S.C. 796d), the advisory panel established under section 613(a)(12) of the Individuals with Disabilities Education Act (20 U.S.C. 1413(a)(12)), the State Interagency Coordinating Council established under section 682 of such Act (20 U.S.C. 1482), the State Planning Council described in section 124 of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6024), and the State mental health planning council established under section 1916(e) of the Public Health Service Act (42 U.S.C. 300x-4(e)).

"(22) COORDINATION WITH OTHER SYSTEMS CHANGE PROJECTS.—An assurance that there will be coordination between the project funded under this Act and other related systems change projects funded by either Federal or State funds.

"(23) AVAILABILITY OF INFORMATION.—An assurance that the State will—

"(A) make available to individuals with disabilities and their family members, guardians, advocates, and authorized representatives information concerning technology-related assistance in a form that will allow such individuals with disabilities to effectively use such information; and

"(B) in preparing such information for dissemination, consider the media-related needs of individuals with disabilities who have sensory and cognitive limitations and consider the use of auditory materials, including audio cassettes, visual materials, including video cassettes and video discs, and braille materials.

"(24) TIMELINESS OF SERVICE PROVISION.—An assurance that the State—

"(A) will review all State laws, regulations, policies, procedures, and practices that have an impact on—

"(i) the decisions related to the need for and the provision of assistive technology devices and services;

"(ii) the specific entity within the State that will provide such service or device;

"(iii) the procurement policies, procedures, and practices that affect the acquisition or usage of such service or device; or

"(iv) the timelines involved in such procurement;

"(B) will review the information required under subparagraph (A) to determine areas that inhibit or delay the acquisition or delivery of a needed assistive technology service or device, particularly as such service or device relates to minors; and

"(C) will determine ways in which the timelines for acquisition and delivery may be decreased.".

SEC. 103. EXTENSION GRANTS.

(a) GENERAL AUTHORITY.—Section 103(a) of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2213(a)) is amended to read as follows:

"(a) GENERAL AUTHORITY.—The Secretary may award a 2-year extension grant to any State that—

"(1) has been awarded one development grant under section 102;

"(2) has successfully satisfied the requirements in such section; and

"(3) has demonstrated to the Secretary that the State made significant progress in developing and implementing a consumer-responsive, consumer-driven, comprehensive statewide program of technology-related assistance, consistent with sections 2(b)(1), 101, and 102(d).".

(b) ASSESSMENT OF PROGRESS.—Section 103 of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2213) is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(2) by inserting after subsection (a) the following:

"(b) ASSESSMENT OF PROGRESS.—The Secretary shall develop guidelines to be used in assessing the extent to which the State is making significant progress in developing and implementing a consumer-responsive, consumer-driven, comprehensive statewide program of technology-related assistance consistent with section 2(b)(1).".

(c) AMOUNTS OF GRANTS.—Section 103(c) of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2213(c)) (as redesignated by subsection (b)) is amended—

(1) in paragraph (1)(A), by striking "section 106" and inserting "section 108(a)(1)";

(2) in paragraph (1)(B), by striking "section 106" and inserting "section 108(a)(1)";

(3) in paragraph (1)(C)—

(A) in clause (i), by striking "the Trust Territory of the Pacific Islands." and inserting "the Republic of Palau."; and

(B) in clause (ii), by striking "the Trust Territory of the Pacific Islands." and inserting "the Republic of Palau (until the Compact of Free Association with Palau takes effect)."; and

(4) in paragraph (2), by adding at the end the following:

"In providing any increases in State grants above the amounts provided to States in fiscal year 1993, the Secretary shall give priority to the 10 States that have the largest populations, as determined by the 1990 decennial census of the population, and States that are sparsely populated, with a wide geographic spread, where such characteristics have impeded the development of a statewide program.".

(d) APPLICATION.—Section 103(d) of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2213(d)) (as redesignated by subsection (b)) is amended—

(1) by striking paragraphs (1), (2), and (3) and inserting the following:

"(1) INFORMATION AND ASSURANCES.—The information and assurances described in section 102(d), except the preliminary needs assessment described in section 102(d)(5).

"(2) NEEDS.—A description of—

"(A) needs relating to technology-related assistance for individuals with disabilities (including individuals from underrepresented populations and rural populations), their family members, guardians, advocates, and authorized representatives, and other appropriate individuals within the State;

"(B) gaps that remain in the development and implementation of a consumer-responsive, consumer-driven, comprehensive statewide program of technology-related assistance;

"(C) strategies that the State will pursue during the grant period to remedy such gaps; and

"(D) outreach activities, with special attention to underrepresented populations and rural populations.

"(3) ACTIVITIES AND PROGRESS UNDER PREVIOUS GRANT.—A description of the specific activities carried out under the development grant received under section 102, the relationship of such activities to the development and implementation of a consumer-responsive, consumer-driven, comprehensive statewide program of technology-related assistance, and the progress made toward the development and implementation of such a program. Such description shall include, at a minimum—

"(A) a description of State actions that were undertaken to produce systems change on a permanent basis for individuals of all ages with disabilities;

"(B) a description of training and technical assistance efforts to improve individual access to assistive technology devices and services; and

"(C) an evaluation of the impact and results of the activities described in subparagraphs (A) and (B).";

(2) in paragraph (4)—

(A) in the matter preceding subparagraph (A), by striking "families or representatives of individuals with disabilities," and inserting "their family members, guardians, advocates, and authorized representatives,"; and

(B) in subparagraph (C), by striking "consumer-responsive" and inserting "consumer-responsive, consumer-driven, comprehensive";

(3) by striking paragraph (6) and redesignating paragraph (7) as paragraph (6);

(4) in paragraph (6) (as redesignated by paragraph (3)), by inserting ", or any recipient of its funds," after "State"; and

(5) by adding at the end the following:

"(7) CONTINUATION OF PROGRAM.—A description of the steps the State has taken or will take to continue on a permanent basis a consumer-responsive, consumer-driven, comprehensive statewide program of technology-related assistance, including an identification of potential

funding sources and funding commitments for the program from the public and private sectors and from the agencies and entities who will be involved with and direct future efforts.".

SEC. 104. SECOND EXTENSION GRANTS.

The Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2201 et seq.) is amended—

(1) by redesignating sections 104 and 105 as sections 105 and 106, respectively;

(2) by redesignating section 106 as section 108; and

(3) by inserting after section 103 the following:

"SEC. 104. SECOND EXTENSION GRANTS.

"(a) GENERAL AUTHORITY.—The Secretary may award a 5-year second extension grant to any State that—

"(1) has been awarded one extension grant under section 103;

"(2) has successfully satisfied the requirements in such section; and

"(3) has demonstrated to the Secretary that the State made significant progress in developing and implementing a consumer-responsive, consumer-driven, comprehensive statewide program of technology-related assistance, consistent with sections 2(b)(1), 101, and 102(d).

"(b) AMOUNTS OF GRANTS.—The amounts and the priority of the extension grants under this section shall be the same as the amounts and priority of extension grants under section 103(c), except that—

"(1) the amount paid to a State for the fourth year of the grant period shall be 75 percent of the amount paid to the State for the third year of the grant period;

"(2) the amount paid to a State for the fifth year of the grant period shall be 50 percent of the amount paid to the State for the third year of the grant period; and

"(3) after the fifth year of the grant period, no Federal funds shall be made available to the State under this Act.

In providing any increases in State grants above the amounts provided to States in fiscal year 1993, the Secretary shall give priority to the 10 States that have the largest populations, as determined by the 1990 decennial census of the population, and States that are sparsely populated, with a wide geographic spread, where such characteristics have impeded the development of a statewide program.

"(c) APPLICATION.—A State that desires to receive an extension grant under this section shall submit an application that contains the information and assurances required under section 103(d), except that the descriptions of the activities carried out and the progress made under a development grant that are referred to in such section shall relate, in an application under this section, to an extension grant under section 103.".

SEC. 105. PROGRESS REPORTS.

Section 105 of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2214) (as redesignated by section 104) is amended—

(1) by striking subsection (a) and inserting the following:

"(a) IN GENERAL.—Each State that receives a grant under this title shall submit to the Secretary annually a report that documents significant progress in developing and implementing a consumer-responsive, consumer-driven, comprehensive statewide program of technology-related assistance, consistent with sections 2(b)(1), 101, and 102(d). The report shall document the following:

"(1) Successful systems change activities to increase funding for, and access to, assistive technology devices and services, including—

"(A) an analysis of laws, regulations, policies, procedures, and practices that have changed, the program has attempted to change, or that need to be changed to facilitate the acquisition of assistive technology;

"(B) a report on protection and advocacy services provided; and

"(C) other relevant processes or activities.

"(2) The degree of consumer satisfaction and participation, and particularly the satisfaction and participation of underrepresented populations and rural populations, with the statewide program, based upon mechanisms that have been developed pursuant to section 101(b)(2)(B)(iii).

"(3) The degree of involvement of various State agencies in the preparation of the application and the continuing role of each agency in the development and implementation of the statewide program, including the identification of the available resources and financial responsibility of each agency for paying for assistive technology devices and services.

"(4) Efforts to train personnel as well as consumers.

"(5) Information collection and dissemination activities relating to systems change activities identified in paragraph (1).

"(6) Written notices by State and local agencies of policies, procedures, and practices that have been developed or amended in order to inform individuals with disabilities and their family members, guardians, advocates, and authorized representatives of Federal requirements pertaining to assistive technology devices and services, particularly under parts B and H of the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) and title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.).

"(7) Efforts to disseminate information on all major program initiatives to other States by means of electronic communication.

"(8) Efforts to comply with the assurance provided pursuant to section 102(d)(24).

"(9) Efforts to reduce the service delivery time for receiving assistive technology devices and services.

"(10) Efforts to disseminate information about interagency activities that promote coordination of assistive technology services, including evidence of increased participation of State and local special education, vocational rehabilitation, and medical assistance agencies and departments.";

(2) in subsection (b), by striking "section 103" and inserting "sections 103 and 104"; and

(3) by adding at the end the following:

"(c) REPORTS ON PROTECTION AND ADVOCACY SERVICES.—An organization that is awarded a contract to provide protection and advocacy services pursuant to section 101(b)(4) shall make significant progress in providing such services. One year after the date of the enactment of the Technology-Related Assistance for Individuals With Disabilities Amendments of 1993, and each year thereafter, the organization shall document such progress for the Secretary in each of the following areas:

"(1) Conducting activities that are consumer-responsive and consumer-driven, including activities that will lead to increased access to funding for assistive technology devices and services.

"(2) Executing legal, administrative, and other appropriate means of representation to implement systems change.

"(3) Developing and implementing strategies designed to enhance the long-term abilities of individuals with disabilities and their family members, guardians, advocates, and authorized representatives to successfully advocate for assistive technology to which the individuals with disabilities are entitled under law.

"(4) Coordination with protection and advocacy services funded through sources other than this Act.

"(d) PUBLIC COMMENT.—

"(1) HEARING.—An organization that is awarded a contract to provide protection and advocacy services pursuant to section 101(b)(4) shall, during the period described in paragraph (2), conduct a hearing for public comment from interested persons to ascertain the extent to which the State that awarded the contract to the organization is making significant progress, under the grant that is effective at the time of the hearing, in developing and implementing a consumer-responsive, consumer-driven, comprehensive statewide program of technology-related assistance.

"(2) DATE OF HEARING.—The hearing required under paragraph (1) shall be conducted within the 6-month period ending on the date of the termination of a grant received under section 103, or within the 6-month period ending on the date that is 24 months after the date on which a grant under section 104 commenced, whichever is applicable to the State that awarded the contract to the organization.

"(3) REPORT.—An organization referred to in paragraph (1) shall submit to the Secretary a report summarizing the public comments received at a hearing conducted under the paragraph within the 6-month period beginning on the date the hearing is concluded.".

SEC. 106. ADMINISTRATIVE PROVISIONS.

Section 106 of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2215) (as redesignated by section 104) is amended—

(1) in clause (ii) of subsection (a)(2)(B), by striking "GS-18 of the General Schedule under section 5332 of title 5," and inserting "level IV of the Executive Schedule under section 5315 of title 5,";

(2) by redesignating subsection (c) as subsection (g);

(3) by inserting after subsection (b) the following:

"(c) REDESIGNATION OF LEAD AGENCY.—

"(1) MONITORING PANEL.—Once a State becomes subject to a corrective action plan pursuant to subsection (b), the Governor of the State, subject to approval by the Secretary, shall appoint within 30 days a monitoring panel consisting of the following representatives:

"(A) The head of the lead agency designated by the Governor.

"(B) 2 representatives from different public or private nonprofit organizations that represent the interests of individuals with disabilities.

"(C) 2 consumers who are users of assistive technology devices and services and who are not—

"(i) members of the advisory council of the program; or

"(ii) employees of the State lead agency.

"(D) 2 service providers with knowledge and expertise in assistive technology devices and services.

The monitoring panel shall be ethnically diverse and shall choose its own chairperson. The panel shall receive periodic reports from the State regarding progress in implementing the corrective action plan and shall have the authority to request additional information necessary to determine compliance. The meetings of the panel to determine compliance shall be open to the public (subject to confidentiality concerns) and held at locations that are accessible to individuals with disabilities. The panel shall remain active for the entire period of the corrective action plan, as determined by the Secretary. The panel shall be funded by a portion of the funds received by the State under this title, as directed by the Secretary.

"(2) FAILURE TO APPOINT MONITORING PANEL.—A failure by a Governor of a State to comply with the requirements of paragraph (1) shall result in the complete loss of funding

under this title, until redesignation pursuant to the process established in paragraph (4).

"(3) DETERMINATION.—Based on its findings, a monitoring panel may determine that a lead agency designated by a Governor has not met the purposes established in section 2(b)(1) and that there is good cause for redesignation and the temporary loss of funds under this title. In this paragraph, the term 'good cause' includes—

"(A) lack of progress with employment of qualified staff;

"(B) lack of consumer-responsive, consumer-driven activities;

"(C) lack of resource allocation to systems change activities;

"(D) lack of progress with meeting the assurances in section 102(d); or

"(E) inadequate fiscal management.

If a monitoring panel makes such a determination, it shall recommend to the Secretary that further remedial action be taken or that the Secretary order the Governor to hold an open competition pursuant to paragraph (4). The Secretary, based on the findings and recommendations of the monitoring panel, shall make a final determination with respect to the lead agency designation under this title.

"(4) NEW STATE COMPETITION.—In the event that a State loses funding under this title pursuant to paragraph (2) or (3), the Governor of the State shall hold an open competition within the State and issue a request for proposals within 30 days for agency redesignation. Such competition shall be open to State agencies, public and private nonprofit organizations, consortia of such organizations, or institutions of higher education. The competition shall ensure public involvement, including a public hearing and adequate opportunity for public comment. The Secretary shall have final approval of the agency or organization designated after such competition.

"(d) REDESIGNATION OF PROTECTION AND ADVOCACY SERVICES.—If the Secretary determines that significant progress has not been achieved by an organization that is awarded a contract to provide protection and advocacy services for a State pursuant to section 101(b)(4), the Secretary shall consult with the Governor of such State in a timely manner. After such consultation, if it is determined that remedial action is not appropriate, the Governor shall hold an open competition within the State and issue a request for proposals within 30 days for agency redesignation. Such competition shall be open to entities with the same expertise and ability to provide legal services as an organization referred to in section 101(b)(4). The competition shall ensure public involvement, including a public hearing and adequate opportunity for public comment.

"(e) ANNUAL REPORT.—

"(1) IN GENERAL.—The Secretary shall publish, by December 31 of each year, an annual report to the President and to the Congress on the activities funded under this Act and other Federal initiatives to improve the access of individuals with disabilities to assistive technology devices and services. The report shall address the following:

"(A) Demonstrated successes at the Federal and State levels in improving interagency coordination, streamlining access to funding, and producing beneficial outcomes for users of assistive technology.

"(B) Demonstrated successes in promoting funding access in existing public programs and establishing new funding options.

"(C) Activities targeted to reach underrepresented populations and rural populations.

"(D) Consumer involvement activities in the State programs.

"(E) Education and training activities to promote awareness of available funding in public programs.

"(F) Efforts made to educate and train individuals with disabilities and their family members, guardians, advocates, and authorized representatives, representatives of public agencies and private entities that have contact with individuals with disabilities (including insurers), teachers and related services personnel, technology experts (including engineers), employers, and other appropriate individuals about technology-related assistance.

"(G) Research activities undertaken to improve the understanding of the cost-benefit ratio resulting from the use of assistive technology for individuals of all ages and with varying disabilities.

"(2) REPORT ON AVAILABILITY.—As soon as practicable, but not later than January 1, 1996, the Secretary shall include in the annual report required by this section a report on the availability of assistive technology devices and services for individuals with disabilities based on the national classification system developed under section 201.

"(f) INTERAGENCY DISABILITY COORDINATING COUNCIL.—On or before October 1, 1995, the Interagency Disability Coordinating Council established under section 507 of the Rehabilitation Act of 1973 (29 U.S.C. 794d) shall prepare and submit to the President and to the Congress a report of—

"(1) the response of the Interagency Disability Coordinating Council to the findings and recommendations of the National Council on Disability (established under section 400 of the Rehabilitation Act of 1973 (29 U.S.C. 780)) that were included in the Study on the Financing of Assistive Technology Devices and Services for Individuals with Disabilities of the National Council on Disability; and

"(2) activities of the Interagency Disability Coordinating Council that facilitate the accomplishment of section 2(b)(2) with respect to the Federal Government.

The report shall include any comments submitted by the National Council on Disability to the Interagency Disability Coordinating Council that pertain to paragraph (1) or (2)."; and

(4) by amending subsection (g) (as redesignated by paragraph (2)) to read as follows:

"(g) EFFECT ON OTHER ASSISTANCE.—This title may not be construed as authorizing a State or a Federal agency to reduce medical or other assistance available or to alter eligibility under any Federal statute.".

SEC. 107. INFORMATION AND TECHNICAL ASSISTANCE.

The Technology Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2201 et seq.) is amended by inserting after section 106 (as redesignated by section 104) the following:

"SEC. 107. INFORMATION AND TECHNICAL ASSISTANCE.

"(a) IN GENERAL.—The Secretary shall provide to States and individuals with disabilities and their family members, guardians, advocates, and authorized representatives information and technical assistance.

"(b) INFORMATION AND TECHNICAL ASSISTANCE TO STATES.—Information and technical assistance provided to the States under subsection (a) shall include—

"(1) providing a clearinghouse for activities that have been developed and implemented by projects funded pursuant to this Act;

"(2) facilitating service delivery capacity building, training of personnel across disciplines, evaluation strategies, and research and data collection;

"(3) providing information and technical assistance on effective approaches to information referral, interagency coordination on training and service delivery, outreach to underrepresented populations and rural populations, and public awareness activities;

"(4) assisting in planning, developing, implementing and evaluating appropriate activities to further extend consumer-responsive, consumer-driven, comprehensive statewide programs of technology-related assistance for individuals with disabilities;

"(5) providing technical assistance and training to the projects funded pursuant to this title for activities conducted pursuant to section 101(c)(3); and

"(6) providing any other appropriate information and technical assistance to assist the States in accomplishing the purposes of this Act.

"(c) INFORMATION AND TECHNICAL ASSISTANCE TO INDIVIDUALS.—Information and technical assistance provided to individuals with disabilities and their family members, guardians, advocates, and authorized representatives under subsection (a) shall include—

"(1) disseminating information and providing technical assistance on Federal, State and local laws, regulations, policies, procedures, and practices that facilitate funding for and access to assistive technology devices and services, to promote independence, productivity, and inclusion in the economic, political, social, cultural, and educational mainstream of American society for individuals of all ages with disabilities;

"(2) identifying, collecting, and disseminating information, and providing technical assistance on effective systems change activities, advocacy services, and protection and advocacy services;

"(3) collecting, analyzing, and disseminating on a national basis assistive technology funding decisions made as a result of policies, procedures, and practices, or through regulations, administrative hearings, or legal action that enhance access to funding of assistive technology devices and services for individuals with disabilities;

"(4) promoting State-Federal coordination through information dissemination and technical assistance activities in response to funding policy improvements identified by the States that enhance funding for, or access to, assistive technology devices and services for individuals of all ages with disabilities; and

"(5) providing any other appropriate information and technical assistance to assist individuals with disabilities and their family members, guardians, advocates, and authorized representatives in accomplishing the purposes of this Act.

"(d) GRANTS, CONTRACTS, AND AGREEMENTS.—

"(1) PUBLIC OR PRIVATE AGENCIES.—The Secretary shall provide the information and technical assistance described in this section through grants, contracts, or cooperative agreements with public or private agencies and organizations, including institutions of higher education, with documented experience, expertise, and capacity to accomplish identified activities.

"(2) NUMBER.—The Secretary shall provide the information and technical assistance described in this section through one or two grants, contracts, or cooperative agreements. An agency or organization that is a party to such a grant, contract, or agreement may contract with other public or private agencies or organizations for the purposes of providing the information and technical assistance described in this section.".

SEC. 108. FUNDING.

Section 108 of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2216) (as redesignated by section 104) is amended to read as follows:

"SEC. 108. FUNDING.

"(a) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated to carry out this title $50,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 through 2002.

"(2) RESERVATION.—The Secretary shall reserve 2 percent of funds appropriated in any fiscal year under paragraph (1), or $1,500,000,

whichever is greater, for the purpose of providing to States and individuals with disabilities and their family members, guardians, advocates, and authorized representatives information and technical assistance under section 107.

"(b) ADMINISTRATION.—From funds appropriated for salaries and expenses with respect to the Department of Education for each fiscal year beginning after October 1, 1993, the Secretary—

"(1) shall expend such amounts as may be necessary to ensure that 4 full-time employees are added to the number of employees serving on September 30, 1993, in the Office of Special Education and Rehabilitative Services of the Department of Education; and

"(2) shall assign such additional employees to the National Institute on Disability and Rehabilitation Research to be engaged in the full-time administration of this Act.".

TITLE II—PROGRAMS OF NATIONAL SIGNIFICANCE

SEC. 201. PROGRAMS AUTHORIZED.

The Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2201 et seq.) is amended by striking title II and inserting the following:

"TITLE II—PROGRAMS OF NATIONAL SIGNIFICANCE

"PART A—NATIONAL CLASSIFICATION SYSTEM

"SEC. 201. NATIONAL CLASSIFICATION SYSTEM.

"(a) IN GENERAL.—The Secretary—

"(1) shall collect the uniform data described in subsection (c) across the publicly funded programs described in subsection (d) through the use of a single taxonomy and a uniform data collection instrument; and

"(2) shall develop, in consultation with the Internal Revenue Service, procedures for determining whether devices and services are assistive technology devices or services within the meaning of paragraph (2) or (3) of section 3.

"(b) SINGLE TAXONOMY.—

"(1) IN GENERAL.—The Secretary, in consultation with the technical assistance contractees described in section 107(d), the States receiving funds under title I, organizations that have worked in the information and referral field in the past, and assistive technology reimbursement specialists, shall adopt a single taxonomy for assistive technology devices and services.

"(2) DEADLINES.—(A) The Secretary may carry out this subsection through a contract or grant if the contract or grant is made within the 6-month period beginning on the date of the enactment of the Technology-Related Assistance for Individuals With Disabilities Amendments of 1993. If the Secretary carries out this subsection through contract or grant, the contract or grant shall be for a period of not more than 2 years.

"(B) If the Secretary does not carry out this subsection through contract or grant, the Secretary shall adopt the taxonomy described in paragraph (1) within the 2-year period beginning on the date of the enactment of the Technology-Related Assistance for Individuals With Disabilities Amendments of 1993.

"(c) UNIFORM DATA.—The uniform data referred to in subsection (a) shall include the following:

"(1) Expenditures for the different types of assistive technology devices and services.

"(2) Type of disability of the individual.

"(3) Type of functional needs of the individual with a disability.

"(4) Type of device.

"(5) Type of service.

"(6) Type of provider.

"(7) Age of the individual.

"(8) Gender of the individual.

"(9) Ethnicity of the individual.

"(10) Geographic residence of the individual.

"(11) Funding source.

"(d) PUBLICLY FUNDED PROGRAMS.—The publicly funded programs referred to in subsection (a) shall include—

"(1) titles I, VI, and VII of the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.);

"(2) parts H and B of the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.);

"(3) titles V and XIX of the Social Security Act (42 U.S.C. 301 et seq.);

"(4) programs funded under the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.); and

"(5) programs funded under the Developmental Disabilities and Bill of Rights Act (42 U.S.C. 6000 et seq.).

"PART B—TRAINING AND DEMONSTRATION PROJECTS

"SEC. 211. TRAINING GRANTS.

"(a) TECHNOLOGY TRAINING.—

"(1) GENERAL AUTHORITY.—The Secretary shall enter into contracts or cooperative agreements with appropriate public or private agencies and organizations, including institutions of higher education, for the purposes of—

"(A) conducting training sessions; and

"(B) developing, demonstrating, disseminating, and evaluating curricula, materials, and methods used to train individuals regarding the provision of technology-related assistance.

"(2) ELIGIBLE ACTIVITIES.—Activities conducted under contracts or cooperative agreements entered into under paragraph (1) may address the training needs of individuals with disabilities and their family members, guardians, advocates, and authorized representatives, representatives of public agencies and private entities that have contact with individuals with disabilities (including insurers), teachers and related services personnel, technology experts (including engineers), employers, and other appropriate individuals.

"(b) TECHNOLOGY CAREERS.—

"(1) IN GENERAL.—The Secretary shall make grants to assist institutions of higher education to prepare students and faculty working in specific fields for careers relating to the provision of assistive technology devices and services. The specific fields include—

"(A) engineering;

"(B) industrial technology;

"(C) computer science;

"(D) communication disorders;

"(E) special education;

"(F) rehabilitation; and

"(G) social work.

"(2) PRIORITY.—In awarding grants under paragraph (1), the Secretary shall give priority to the preparation of personnel who will provide technical assistance, administer programs, or prepare personnel necessary to support the development and implementation of consumer-responsive, consumer-driven, comprehensive statewide programs of technology-related assistance for individuals with disabilities.

"(3) USES OF FUNDS.—Amounts made available for grants under paragraph (1) may be used by institutions of higher education to assist in covering the cost of courses of training or study for such personnel and for establishing and maintaining fellowships or traineeships with such stipends and allowances as may be determined by the Secretary.

"(c) GRANTS TO HISTORICALLY BLACK COLLEGES.—In exercising the authority granted in subsections (a) and (b), the Secretary shall reserve an adequate amount for grants to historically black colleges and universities and other institutions of higher education whose minority student enrollment is at least 50 percent.

"SEC. 212. TECHNOLOGY TRANSFER.

"The Secretary shall provide funds to an organization whose primary function is to promote technology transfer from, and cooperation among, Federal laboratories (as defined in section 4(6) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.)). Such funds shall be used to promote technology transfer that will spur the development of assistive technology devices.

"SEC. 213. DEVICE AND EQUIPMENT REDISTRIBUTION INFORMATION SYSTEMS AND RECYCLING CENTERS.

"(a) IN GENERAL.—The Secretary shall make grants to, or enter into contracts or cooperative agreements with, public agencies, private entities, or institutions of higher education for the purpose of developing and establishing recycling projects.

"(b) ELIGIBLE ACTIVITIES.—Eligible recycling activities may include—

"(1) a system for accepting, on an unconditional gift basis, assistive technology devices, including a process for valuing the devices and evaluating their use and potential;

"(2) a system for storing and caring for such devices;

"(3) an information system (including computer databases) by which local educational agencies, rehabilitation entities, local community-based organizations, independent living centers and other entities, would be informed, on a periodic and timely basis, about the availability and nature of the devices currently held; and

"(4) a system for making such devices available to consumers and those entities listed in paragraph (3), provided that such system include provision for tracking each device throughout its useful life.

"(c) MULTIPLE PROVIDERS.—With respect to activities funded under this section, an agency, entity, or institution may utilize a single authority or may establish a system of service providers. If an agency, entity, or institution uses multiple providers, the agency, entity, or institution shall assure that—

"(1) all consumers within a State receive equal access to services, regardless of the geographic location or socioeconomic status of the consumers; and

"(2) all activities of the providers are coordinated and monitored by the agency, entity, or institution.

"(d) OTHER LAWS.—Nothing in this section shall affect the provision of services or devices pursuant to title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.) or part B of the Individuals With Disabilities Education Act (20 U.S.C 1411 et seq.).

"(e) EXISTING PROGRAMS.—Public agencies, private entities, or institutions of higher education that have already established recycling programs may extend and strengthen such programs through grants, contracts, or agreements under this section.

"SEC. 214. BUSINESS OPPORTUNITIES FOR INDIVIDUALS WITH DISABILITIES.

"The Secretary may make grants to individuals with disabilities to enable them to establish or operate commercial or other enterprises which develop or market assistive technology devices or services.

"SEC. 215. PRODUCTS OF UNIVERSAL DESIGN.

"The Secretary may make grants to commercial or other enterprises and institutions of higher education for the research and development of products of universal design. Preference shall be given to those enterprises which are owned or operated by individuals with disabilities.

"SEC. 216. GOVERNING STANDARDS FOR PART B PROJECTS.

"Projects operated pursuant to this part shall—

"(1) be held to the same consumer-responsive, consumer-driven standards as the program under title I;

"(2) make available to individuals with disabilities and their family members, guardians, advocates, and authorized representatives information concerning technology-related assistance in a form that will allow such individuals with disabilities to effectively use such information;

"(3) in preparing such information for dissemination, consider the media-related needs of individuals with disabilities who have sensory and cognitive limitations and consider the use of auditory materials, including audio cassettes, visual materials, including video cassettes and video discs, and braille materials; and

"(4) coordinate their efforts with the consumer-responsive, consumer-driven, comprehensive statewide program of technology-related assistance for individuals with disabilities in the State or States in which the projects operate.

"PART C—AUTHORIZATION OF APPROPRIATIONS

"SEC. 221. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—There are authorized to be appropriated to carry out this title $10,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 through 1998.

"(b) RESERVATION.—Of the amounts appropriated under subsection (a), the Secretary shall reserve $200,000 in each of the fiscal years 1994 and 1995 for the purpose of adopting the taxonomy under section 201.".

TITLE III—ALTERNATIVE FINANCING MECHANISMS

SEC. 301. ALTERNATIVE FINANCING MECHANISMS AUTHORIZED.

The Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2201 et seq.) is amended by adding at the end the following:

"TITLE III—ALTERNATIVE FINANCING MECHANISMS

"SEC. 301. GENERAL AUTHORITY TO PROVIDE ALTERNATIVE FINANCING MECHANISMS.

"(a) IN GENERAL.—The Secretary shall award grants to States to provide a Federal share for the establishment of, or the expansion of, alternative financing mechanisms to allow individuals with disabilities and their family members, guardians, and authorized representatives to purchase assistive technology devices and services. Grants under this section may be used to provide up to one half of the costs of providing and administering such alternative financing mechanisms. The mechanisms may include—

"(1) a low-interest loan fund;

"(2) a revolving fund;

"(3) a loan insurance program;

"(4) a partnership with private entities for the purchase, lease, or other acquisition of assistive technology devices or the provision of assistive technology services; and

"(5) other alternative financing mechanisms that meet the requirements of this Act and are approved by the Secretary.

"(b) CONSTRUCTION OF TITLE I.—Nothing in this section shall be construed as affecting the authority of a State to establish alternative financing mechanisms under title I.

"SEC. 302. APPLICATIONS AND PROCEDURES.

"States that receive or have received grants under section 102, 103, or 104 shall be eligible to compete for grants under this title. The Secretary shall make grants under this title under such conditions as the Secretary shall, by regulation, determine, except that—

"(1) a State may receive only one grant under this title;

"(2) a State that desires to receive a grant under this title shall submit an application that contains—

"(A) an assurance that the State will provide an amount not less than the amount paid to the State by the Secretary under this title, as set forth under section 304, for the purpose of supporting the alternative financing mechanisms that are covered by the grant;

"(B) an assurance that an alternative financing mechanism shall continue on a permanent basis; and

"(C) a description of the degree to which the alternative financing mechanisms to be funded under this title will expand and emphasize consumer choice and control;

"(3) a State that receives a grant under this title—

"(A) shall contract with a community-based organization (or a consortia of such organizations) that has individuals with disabilities involved at all organizational levels for the administration of the alternative financing mechanisms that are supported by this title; and

"(B) shall require that such community-based organization contract, for the purpose of expanding opportunities under this title and facilitating the administration of the alternative financing mechanisms, with—

"(i) commercial lending institutions or organizations; or

"(ii) State financing agencies; and

"(4) a contract between a State that receives a grant under this title and a community-based organization described in paragraph (3)—

"(A) shall include the administration of both the Federal and non-Federal matching share in a manner consistent with the provisions of this title; and

"(B) shall include any provision required by the Secretary dealing with oversight and evaluation as may be necessary to protect the financial interests of the United States.

"SEC. 303. GRANT ADMINISTRATION REQUIREMENTS.

"A State that receives a grant under this title, together with any community-based organization that contracts to administer an alternative financing mechanism that is supported by this title, shall develop and submit to the Secretary, pursuant to a timeline that the Secretary may establish or, if the Secretary does not establish a timeline, within the 12-month period beginning on the date that the State receives the grant, the following policies or procedures for administration of the mechanism:

"(1) A procedure to review and process in a timely fashion requests for financial assistance for both immediate and potential technology needs, including consideration of methods to reduce paperwork and duplication of effort, particularly relating to need, eligibility and determination of the specific device or service to be provided.

"(2) A policy and procedure to assure that access to the alternative funding mechanism shall be given to consumers regardless of type of disability, age, location of residence in the State, or type of assitive technology device or service requested and shall be made available to applicants of all income levels.

"(3) A procedure to assure consumer-controlled oversight.

"SEC. 304. FINANCIAL REQUIREMENTS.

"A State that desires to receive a grant under this title shall submit an application that contains assurances that funds supporting an alternative financing mechanism under this title shall meet the following requirements:

"(1) Funds provided by the State to match the Federal share for the mechanism—

"(A) shall be from either State, local, or private sources;

"(B) shall be of an amount at least equal to the Federal funds provided under a grant under this title; and

"(C) shall not be taken from, or obtained by the reduction of any services in, any program providing similar services to individuals with disabilities which is in operation on the date of the submission of the application.

"(2) Funds that support an alternative financing mechanism under this title—

"(A) shall be used to supplement and not supplant existing public funding options; and

"(B) may only be distributed as a payer of last resort for assistance that is not available in a reasonable or timely fashion from any other Federal, State, or local source.

"(3) All funds that support an alternative financing mechanism funded under this title, including funds repaid during the life of the mechanism, shall be placed in a permanent separate account and identified and accounted for separately from any other fund. Funds within this account may be invested in low-risk securities in which a regulated insurance company may invest under the law of the State for which the grant is provided and shall be administered with the same judgment and care that a person of prudence, discretion, and intelligence would exercise in the management of the financial affairs of such person.

"(4) The principal and interest from an account described in paragraph (3) shall be available to support an alternative financing mechanism supported under this title. Any interest or investment income that accrues on any funds covered under this paragraph after such funds have been placed under the control of the entity administering the mechanism, but before such funds are distributed for purposes of supporting the mechanism, shall be the property of the entity administering the mechanism and shall not be taken into account by any officer or employee of the Federal Government for any purpose.

"SEC. 305. AMOUNT OF GRANTS.

"(a) IN GENERAL.—A grant under this title shall be for an amount that is not more than $500,000 increased by any amount made available under subsection (b).

"(b) EXCESS FUNDS.—If funds appropriated under section 308 for a fiscal year are in excess of the amount necessary to fund acceptable applications for such year, the Secretary shall make such excess amount available to States receiving grants under this title in such year on a competitive basis. A State that desires to receive additional funds under this subsection shall amend and resubmit to the Secretary the application submitted under section 302. Such amended application shall contain an assurance that the State will provide an additional amount for the purpose of supporting the alternative financing mechanisms covered by the grant that is not less than any additional amount paid to the State by the Secretary under this subsection.

"(c) INSUFFICIENT FUNDS.—If funds appropriated under section 308 for a fiscal year are not sufficient to fund each of the acceptable applications for such year, a State whose application was approved as acceptable for such year but that did not receive a grant under this title may update such application for the succeeding fiscal year. Priority shall be given in such succeeding fiscal year to such updated applications, if acceptable.

"SEC. 306. TECHNICAL ASSISTANCE.

"(a) IN GENERAL.—The Secretary shall provide information and technical assistance to States under this title. The information and technical assistance shall include—

"(1) assisting States in the preparation of applications for grants under this title;

"(2) assisting States that receive such grants in developing and implementing alternative financing mechanisms; and

"(3) providing any other information and technical assistance to assist States in accomplishing the purposes of this title.

"(b) GRANTS, CONTRACTS, AND AGREEMENTS.—The Secretary shall provide the information and

technical assistance described in subsection (a) through grants, contracts, or cooperative agreements with public or private agencies and organizations, including institutions of higher education, with documented experience, expertise, and capacity to assist States in the development and implementation of the alternative financing mechanisms described in section 301.

"SEC. 307. ANNUAL REPORT.

"Not later than December 31 of each year, the Secretary shall submit a report to the Congress stating whether each State program to provide alternative financing mechanisms that was supported by this title during the year is making significant progress in achieving the objectives of this title. The report shall include—

"(1) the number of applications for a grant under this title that were received by the Secretary;

"(2) the number of grants made and the amounts of such grants;

"(3) the ratio of the amount of funds provided by each State for a State program to provide alternative financing mechanisms to the amount of Federal funds provided for such program;

"(4) the type of program to provide alternative financing mechanisms that was adopted in each State and the community-based organization (or consortia of such organizations) with whom each State has contracted; and

"(5) the amount of assistance given to consumers (who shall be classified by age, type of disability, type of assistive technology device or service received, geographic distribution within the State, gender, and whether they are part of an underrepresented population or a rural population).

"SEC. 308. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—There are authorized to be appropriated to carry out this title $8,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 through 2002.

"(b) AVAILABILITY IN SUCCEEDING FISCAL YEAR.—Amounts appropriated under subsection (a) shall remain available for expenditure in the fiscal year immediately following the fiscal year for which such amounts were appropriated.

"(c) RESERVATION.—Of the amounts appropriated under subsection (a), the Secretary shall reserve $250,000 for the purpose of providing information and technical assistance to States under section 306.".

TITLE IV—AMENDMENTS TO OTHER ACTS

SEC. 401. INDIVIDUALS WITH DISABILITIES EDUCATION ACT.

Section 631(a)(1) of the Individuals with Disabilities Education Act (20 U.S.C. 1431(a)(1)) is amended—

(1) by striking ", and" at the end of subparagraph (D) and inserting a comma;

(2) by striking the period at the end of subparagraph (E) and inserting ", and"; and

(3) by adding at the end the following:

"(F) training in the use, applications, and benefits of assistive technology devices and services (as defined in paragraphs (2) and (3) of section 3 of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2201 et seq.)).".

SEC. 402. REHABILITATION ACT OF 1973.

(a) NATIONAL INSTITUTE ON DISABILITY AND REHABILITATION RESEARCH.—Section 202(b)(8) of the Rehabilitation Act of 1973 (29 U.S.C. 761a(b)(8)) is amended by striking "characteristics of individuals with disabilities" and inserting "characteristics of individuals with disabilities, including information on individuals with disabilities who live in rural or inner-city settings, with particular attention given to underserved populations,".

(b) TRAINING.—Section 302(b)(1)(B) of the Rehabilitation Act of 1973 (29 U.S.C. 771a(b)(1)(B)), as added by section 302(b) of Public Law 102-569 (106 Stat. 4412), is amended—

(1) by striking "; and" at the end of clause (ii) and inserting a semicolon;

(2) by striking the period at the end of clause (iii) and inserting "; and"; and

(3) by adding at the end the following:

"(iv) projects to train personnel in the use, applications, and benefits of assistive technology devices and services (as defined in sections 3(2) and 3(3) of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2201 et seq.)).".

SEC. 403. TECHNICAL AND CONFORMING AMENDMENTS.

(a) ASSISTIVE TECHNOLOGY DEVICE.—Section 7(23) of the Rehabilitation Act of 1973 (29 U.S.C. 706(23)), as added by section 102(n) of Public Law 102-569 (106 Stat. 4350), is amended by striking "3(1)" and inserting "3(2)".

(b) ASSISTIVE TECHNOLOGY SERVICE.—Section 7(24) of the Rehabilitation Act of 1973 (29 U.S.C. 706(24)), as added by section 102(n) of Public Law 102-569 (106 Stat. 4350), is amended by striking "3(2)" and inserting "3(3)".

TITLE V—EFFECTIVE DATE

SEC. 501. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect on October 1, 1993, or on the date of the enactment of this Act, whichever occurs later.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York [Mr. OWENS] is recognized for 20 minutes, and the gentleman from North Carolina [Mr. BALLENGER] is recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. OWENS].

GENERAL LEAVE

Mr. OWENS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on H.R. 2339.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. OWENS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 2339, the Technology-Related Assistance For Individuals With Disabilities Amendment of 1993. The Subcommittee on Select Education and Civil Rights understands the urgency and importance of this legislation to the disability community and has moved to incorporate many of their recommendations in this reauthorization. This bill is the culmination of a strong bipartisan effort.

The original law, introduced by Mr. JEFFORDS of Vermont, was passed in 1988 to provide Federal support to States in developing and implementing programs of technology-related assistance. The law also established Federal grants for training, public awareness, demonstration, and innovation projects related to the provision of assistance technology devices and services. Since 1988, this national program has grown from $5 million to $34 million in appropriations. The increase in funding is a testament to the program's tremendous success, proving that much can be accomplished with limited Federal resources in a short period of time.

This bill provides a 9-year reauthorization and sunset for title I, coupled with clearer standards of accountability for the States to ensure that the bill's goals are accomplished within this time frame. The bill is designed to focus the States on promoting systems change which is more responsive to the needs of consumers. It also requires States to contract with protection and advocacy agencies so that individuals with disabilities will have access to legal representation when they are denied assistive technology to which they are entitled under existing law.

Several States have demonstrated the need for low-interest loan programs to enable individuals with disabilities to secure assistive technology in an expeditious manner. Therefore, the bill introduces a program of one-time, Federal matching grants to States for establishing alternative low-interest financing mechanisms.

Assistive technology enables individuals with disabilities to live independently, pursue meaningful careers, and enjoy full inclusion and integration in the mainstream of society. Therefore, the civil rights goals of the Americans With Disabilities Act of 1990 cannot be fully achieved unless individuals with disabilities have access to assistive technology.

As sponsor of this legislation, I recognize that for individuals with disabilities, the stakes could not be higher than in the current environment of high-technology initiatives by the Federal Government and the private sector, particularly with respect to the effort to commercialize defense-related technology. The subcommittee addressed this issue by providing a small amount of money to promote technology transfer to benefit individuals with disabilities. Congress appropriated $471.6 million for fiscal year 1993 for the technology reinvestment project to stimulate applications of defense-related technology for alternate commercial uses. With so much money being spent on technology transfer, it would be a great tragedy if Congress were to overlook the needs of individuals with disabilities when deciding how the money should be allocated.

H.R. 2339 will ensure that individuals with disabilities have the assistive technology they need to pursue the American dream.

I wish to thank Mr. GOODLING, Mr. BALLENGER, and other subcommittee members and their respective staffs for their support in this bipartisan effort.

Mr. Speaker, I reserve the balance of my time.

Mr. BALLENGER. Mr. Speaker, I yield myself such time as I may consume.

Today we are considering H.R. 2339, the Technology Related Assistance for

Individuals With Disabilities Act Amendments of 1993. This is a bipartisan bill which we bring to the floor today and I commend Congressman OWENS and his staff for their consistent efforts to work out our differences so that we can all support this bill.

H.R. 2339 makes several changes in the current law to strengthen activities States are doing in order to make assistive technology devices and services available to individuals with disabilities. Assistive technology does make a difference in the lives of individuals with disabilities by providing them the opportunity to live independent and productive lives, and this legislation will continue to help make such assistive technology more accessible and available to them.

I am particularly pleased that this bill has a sunset provision repealing this program in fiscal year 2002. This will allow all States to participate in this program for a total of 10 years with a phaseout of Federal dollars in years 9 and 10. When Congress enacted this act in 1988, it was intended to provide Federal seed money to States to develop and implement a statewide system to eliminate barriers and make assistive technology accessible and available. The goal being that once that was accomplished, this Federal program would no longer be needed. I am glad to see that this House is acting responsibly to end a Federal program once it accomplishes its intended goals.

I also support the new provision creating a one-time Federal matching grant to States to develop alternative financing systems so that individuals with disabilities can access financial assistance in order to purchase assistive technology devices. This Federal investment will be no more than $500,000 per State and will be matched dollar-for-dollar by the State. The State will have the authority to decide what type of alternative financing system to develop, such as a low interest loan or a revolving loan program, and will be required to have commercial lending institutions or State financing agencies jointly administer the program with a community-based organization. The Federal dollars will only provide seed money to help assist States develop their own alternative financing system, and such a system must be the payor of last resort. I believe this provision is essential if we expect individuals with disabilities to purchase assistive technology in order to become more independent.

I support this legislation and believe it will truly change the lives of individuals with disabilities. I urge my colleagues to support the passage of H.R. 2339.

Mr. GOODLING. Mr. Speaker, I rise in support of H.R. 2339, the Technology Related Assistance for Individuals With Disabilities Act Amendments of 1993. This legislation was enacted in 1988, as a Republican initiative, to improve occupational and educational opportunities for individuals with disabilities through assistive technology devices and services. The intent of the original act was to provide Federal seed money to States to assist them in developing and implementing statewide programs that increase access to, and availability of, assistive technology devices and services.

During the reauthorization process, it came to the committee's attention that the States still need time to change their current systems in order to make assistive technology accessible and available to individuals with disabilities. H.R. 2339 provides for a second 5-year extension grant to States who have demonstrated significant progress in developing and implementing these statewide programs. However, once a State has participated in this program for a total of 10 years, Federal assistance under this program will terminate. I support this sunset provision, and believe it sends a message to States to remove barriers to assistive technology throughout the State.

I also support the new provision which will encourage States to develop alternative financing mechanisms, such as a low interest loan program, to enable individuals with disabilities to purchase assistive technology devices. This one-time Federal matching grant will be for no more than $500,000 per State. One of the biggest criticisms the committee has heard has been the lack of financial assistance available with disabilities to purchase assistive technology. If States decide to create alternative financing mechanisms, such financial assistance will be available as the payor of last resort once all other public assistance has been denied. I believe these financing systems will be the legacy of the Technology-Related Assistance Act for Individuals With Disabilities by providing the much-needed financial assistance necessary to purchase assistive technology.

I support H.R. 2339 because I have seen the benefits that assistive technology has made in the lives of individuals with disabilities. Assistive technology can be the difference in whether an individual has the opportunity to be independent or is confined to a life of dependency on others. This legislation can make that difference and I urge my colleagues to support it.

Mr. BALLENGER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. OWENS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. OWENS] that the House suspend the rules and pass the bill, H.R. 2339, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to revise and extend the programs of the Technology-Related Assistance for Individuals With Disabilities Act of 1988, and for other purposes.".

A motion to reconsider was laid on the table.

□ 1440

EDUCATIONAL RESEARCH, DEVELOPMENT, AND DISSEMINATION EXCELLENCE ACT

Mr. OWENS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 856) to improve education in the United States by promoting excellence in research, development, and the dissemination of information, as amended.

The Clerk read as follows:

H.R. 856

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Educational Research, Development, and Dissemination Excellence Act".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings.

TITLE I—GENERAL PROVISIONS REGARDING OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT

Sec. 101. General provisions.
Sec. 102. Assistant Secretary for Educational Research and Improvement.
Sec. 103. Savings provision.
Sec. 104. Existing grants and contracts.

TITLE II—NATIONAL EDUCATIONAL RESEARCH POLICY AND PRIORITIES BOARD

Sec. 201. Establishment within Office of Educational Research and Improvement.

TITLE III—NATIONAL RESEARCH INSTITUTES

Sec. 301. Establishment within Office of Educational Research and Improvement.

TITLE IV—NATIONAL EDUCATION DISSEMINATION SYSTEM

Sec. 401. Establishment within Office of Educational Research and Improvement.

TITLE V—NATIONAL LIBRARY OF EDUCATION

Sec. 501. Establishment within Office of Educational Research and Improvement.

SEC. 2. FINDINGS.

The Congress finds as follows with respect to improving education in the United States:

(1) A majority of public schools in the United States are failing to adequately prepare their students. To achieve the national education goals set forth by the President and the governors of the States, an overwhelming campaign for educational improvement must be mounted in order to set in motion many strategies and models designed to encourage and support school restructuring. The Federal Government must support an extensive program of educational research, development, dissemination, replication and assistance to identify and support the best responses for the challenges ahead. A significant investment in attaining a deeper understanding of the processes of learning and schooling and developing new ideas holds the best hope of making a substantial difference to the lives of every school and student in the United States. The Office of Educational Research and Improvement of the Department of

Education should be at the center of this campaign in order to coordinate such efforts.

(2) The Federal role in educational research has been closely identified with youths who are socioeconomically disadvantaged, belong to a language minority, or are disabled. However, in 1988, the Federal commitment to education was sufficient to serve not more than—

(A) 1 out of every 5 low-income children in need of preschool education;

(B) 2 out of every 5 children in need of remediation;

(C) 1 out of every 4 children in need of bilingual education; and

(D) 1 out of every 20 youths in need of job training.

(3) The failure of the Federal Government to adequately invest in educational research and development has denied the Nation a sound foundation on which to design school improvements, leading to a history of faddism and failed experimentation resulting in a dearth of research in the area of educationally at-risk students. This situation is of particular concern because at least half of the public school students in 25 of the largest cities of the United States are minority children, and demographers project that, by 2005, almost all urban public school students will be minority children or other children in poverty.

(4) The investment goal of the Federal research, development, and dissemination function should be at least 1 percent of the total amount of funds spent on education nationally.

(5) Nationwide model programs and reliable interventions should be demonstrated and replicated, and for such purposes, programs should be established to conduct research and evaluations, and to disseminate information.

(6) The Office of Educational Research and Improvement must develop a national dissemination policy that will advance the goal of placing a national treasure chest of research results, models, and materials at the disposal of the Nation's education decisionmakers.

(7) A National Educational Research Policy and Priorities Board should be established to ensure that an educational research and dissemination agenda is developed and implemented without partisan political interference.

(8) Existing research and development entities should adopt expanded, proactive roles and new institutions must be created to promote knowledge development necessary to accelerate the application of research knowledge to high priority areas.

(9) Greater use should be made of existing technologies in efforts to improve the Nation's educational system, including efforts to disseminate research findings.

(10) Minority educational researchers are inadequately represented throughout the Department of Education, but particularly in the Office of Educational Research and Improvement. The Office therefore must assume a leadership position in the recruitment, retention, and promotion of qualified minority educational researchers.

(11) The coordination of the mission of the Office of Educational Research and Improvement with that of other components of the Department of Education is critical. It must improve the coordination of the educational research, development, and dissemination function with those of other Federal agencies.

TITLE I—GENERAL PROVISIONS REGARDING OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT

SEC. 101. GENERAL PROVISIONS.

Section 405 of the General Education Provisions Act (20 U.S.C. 1221e) is amended to read as follows:

"OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT

"SEC. 405. (a) DECLARATION OF POLICY REGARDING EDUCATIONAL OPPORTUNITY.—

"(1) IN GENERAL.—The Congress declares it to be the policy of the United States to provide to every individual an equal opportunity to receive an education of high quality regardless of race, color, religion, sex, age, disability, national origin, or social class. Although the American educational system has pursued this objective, it has not attained the objective. Inequalities of opportunity to receive high quality education remain pronounced. To achieve the goal of quality education requires the continued pursuit of knowledge about education through research, development, improvement activities, data collection, synthesis, technical assistance, and information dissemination. While the direction of American education remains primarily the responsibility of State and local governments, the Federal Government has a clear responsibility to provide leadership in the conduct and support of scientific inquiry into the educational process.

"(2) MISSION OF OFFICE.—

"(A) The mission of the Office of Educational Research and Improvement shall be to provide national leadership in—

"(i) expanding fundamental knowledge and understanding of education;

"(ii) promoting excellence and equity in education; and

"(iii) monitoring the state of education.

"(B) The mission of the Office shall be accomplished in collaboration with researchers, teachers, school administrators, parents, students, employers, and policymakers.

"(b) PURPOSE AND STRUCTURE OF OFFICE.—

"(1) IN GENERAL.—The Secretary, acting through the Office of Educational Research and Improvement, shall carry out the policies set forth in subsection (a). In carrying out such policies, the Secretary shall be guided by the priorities established by the Board of Governors established in section 405A.

"(2) ADMINISTRATIVE STRUCTURE.—The Office shall be administered by the Assistant Secretary and shall include—

"(A) the National Educational Research Policy and Priorities Board established by section 405A;

"(B) the national research institutes established by section 405B;

"(C) the national education dissemination system established by section 405C;

"(D) the National Library of Education established by section 405D;

"(E) the National Center for Education Statistics established by section 406; and

"(F) such other units as the Secretary deems appropriate to carry out the purposes of the Office.

"(3) PRIORITIES IN RESEARCH AND DEVELOPMENT.—The Office shall, in accordance with the provisions of this section, seek to improve education in the United States through concentrating the resources of the Office on the following priority research and development needs:

"(A) The education of at-risk students.

"(B) The education and development of young children.

"(C) Student achievement in elementary and secondary school.

"(D) Postsecondary education, libraries, and lifelong learning for adults.

"(E) The improvement of schools through the restructuring and reform of school governance, policymaking, finance and management at the State, local, school building, and classroom level.

"(c) APPOINTMENT OF EMPLOYEES.—

"(1) IN GENERAL.—The Assistant Secretary may appoint, for terms not to exceed three years (without regard to the provisions of title 5 of the United States Code governing appointment in the competitive service) and may compensate (without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates) such scientific or technical employees of the Office as the Assistant Secretary considers necessary to accomplish its functions, provided that—

"(A) at least 60 days prior to the appointment of any such employee, public notice is given of the availability of such position and an opportunity is provided for qualified individuals to apply and compete for such position;

"(B) the rate of basic pay for such employees does not exceed the maximum rate of basic pay payable for positions at GS-15, as determined in accordance with section 5376 of title 5, United States Code;

"(C) the appointment of such employee is necessary to provide the Office with scientific or technical expertise which could not otherwise be obtained by the Office through the competitive service; and

"(D) the total number of such employees does not exceed one-fifth of the number of full-time, regular scientific or professional employees of the Office.

"(2) REAPPOINTMENT OF EMPLOYEES.—The Assistant Secretary may reappoint employees described in paragraph (1) upon presentation of a clear and convincing justification of need, for one additional term not to exceed 3 years. All such employees shall work on activities of the Office and shall not be reassigned to other duties outside the Office during their term.

"(d) AUTHORITY TO PUBLISH.—

"(1) IN GENERAL.—The Assistant Secretary is authorized to prepare and publish such information, reports, and documents as may be of value in carrying out the purposes of sections 405 through 405D without further clearance or approval by the Secretary or any other office of the Department.

"(2) QUALITY ASSURANCE.—In carrying out such authority, the Assistant Secretary shall—

"(A) establish such procedures as may be necessary to assure that all reports and publications issued by the Office are of the highest quality; and

"(B) provide other offices of the Department with an opportunity to comment upon any report or publication prior to its publication when its contents relate to matters for which such office has responsibility.

"(e) BIENNIAL REPORT ON ACTIVITIES OF OFFICE.—The Assistant Secretary shall transmit to the President and the Congress by not later than December 30 of every other year a biennial report which shall consist of—

"(1) a description of the activities carried out by and through each research institute during the fiscal years for which such report is prepared and any recommendations and comments regarding such activities as the Assistant Secretary considers appropriate;

"(2) a description of the activities carried out by and through the national education dissemination system established by section 405C during the fiscal years for which such report is prepared and any recommendations and comments regarding such activities as the Assistant Secretary considers appropriate;

"(3) such written comments and recommendations as may be submitted by the Board concerning the activities carried out by and through each of the institutes and the national education dissemination system during the fiscal years for which such report is prepared and how such activities relate to the Research Policies and Priorities Plan developed by the Board;

"(4) a description of the coordination activites undertaken pursuant to section 405(f) during

the fiscal years for which such report is prepared;

"(5) recommendations for legislative and administrative changes necessary to improve the coordination of all educational research, development, and dissemination activities carried out within the Federal Government, particularly within the priority research and development needs identified in section 405(b)(3); and

"(6) such additional comments, recommendations, and materials as the Assistant Secretary considers appropriate.

"(f) COORDINATION.—With the advice and assistance of the Board, the Assistant Secretary shall establish and maintain an ongoing program of activities designed to improve the coordination of education research, development, and dissemination and activities within the Department and within the Federal Government, particularly within the priority research and development needs identified in section 405(b)(3), in order to—

"(1) minimize duplication in education research, development, and dissemination carried out by the Federal Government;

"(2) maximize the value of the total Federal investment in education research, development, and dissemination; and

"(3) enable all entities engaged in education research, development, and dissemination within the Federal Government to interact effectively as partners and take full advantage of the diverse resources and proficiencies which each entity has available.

"(g) ACTIVITIES REQUIRED WITH RESPECT TO COORDINATION.—In carrying out such program of coordination, the Assistant Secretary shall compile (and thereafter regularly maintain) and make available a comprehensive inventory of all education research, development, dissemination activities, and expenditures being carried out by the Federal Government within the priority research and development needs identified in section 405(b)(3).

"(h) STANDARDS FOR CONDUCT AND EVALUATION OF RESEARCH.—

"(1) IN GENERAL.—In consultation with the Board, the Assistant Secretary shall develop such standards as may be necessary to govern the conduct and evaluation of all research, development, and dissemination activities carried out by the Office to assure that such activities meet the highest standards of professional excellence. In developing such standards, the Assistant Secetary shall review the procedures utilized by the National Institutes of Health, the National Science Foundation, and other Federal agencies engaged in research and development and shall also actively solicit recommendations from the the National Academy of Sciences, the American Educational Research Association and members of the general public.

"(2) CONTENTS OF STANDARDS.—Such standards shall at a minimum—

"(A) require that a system of peer review be utilized by the Office—

"(i) in reviewing and evaluating all applications for grants and cooperative agreements and bids for those contracts which exceed $100,000;

"(ii) in evaluating and assessing the performance of all recipients of grants from and cooperative agreements and contracts with the Office; and

"(iii) in reviewing and designating exemplary and promising programs in accordance with section 405C(d);

"(B)(i) specify the composition of peer review panels, the criteria for the selection of members of such panels, and describe the means by which potential members shall be identified so as to assure that such panels are broadly representative of individuals with expertise in matters relevant to the purposes of each such panel;

"(ii) prohibit the consideration of partisan affiliation in the selection of any member of a peer review panel;

"(iii) describe the general procedures which shall be used by each peer review panel in its operations;

"(iv) prohibit the participation by a member of a peer review panel in the review of any application in which such member has any financial interest; and

"(v) require that transcripts, minutes, and other documents made available to or prepared for or by a peer review panel will be available for public inspection to the extent consistent with the Freedom of Information Act, the Federal Advisory Committee Act, the Privacy Act, and other laws;

"(C)(i) describe the procedures which shall be utilized in evaluating applications for grants, proposed cooperative agreements, and contract bids;

"(ii) specify the criteria and factors which shall be considered in making such evaluations; and

"(iii) provide that any decision to fund a grant, contract, or cooperative agreement out of its order of ranking by a peer review panel shall be first fully justified in writing and that copies of such justification shall be transmitted to the Board, unless such action is required by some other provision of law;

"(D)(i) describe the procedures which shall be utilized in reviewing educational programs which have been identified by or submitted to the Secretary for evaluation in accordance with section 405C(d); and

"(ii) specify the criteria which shall be used in recommending programs as exemplary and promising; and

"(E)(i) require that the performance of all recipients of grants from and contracts and cooperative agreements with the Office shall be periodically evaluated, both during and at the conclusion of their receipt of assistance;

"(ii) describe the procedures and means by which such evaluations shall be undertaken, including—

"(I) the frequency of such evaluations;

"(II) the criteria, outcome measures, and other factors which shall be taken into account; and

"(III) measures to assure that on-site evaluations of performance shall be utilized to the extent appropriate and whenever practicable; and

"(iii) provide that the results of such evaluations shall be taken into account prior to any decision to continue, renew, or provide new funding to the entity being reviewed.

"(3) PUBLICATION AND PROMULGATION OF STANDARDS.—

"(A) The Assistant Secretary shall publish proposed standards—

"(i) which meet the requirements of subparagraphs (A), (B), and (C) of paragraph (2) not later than 1 year after the date of the enactment of the Educational Research, Development, and Dissemination Excellence Act;

"(ii) which meet the requirements of paragraph (2)(D) not later than 2 years after such date; and

"(iii) which meet the requirements of subparagraph (E) of paragraph (2) not later than 3 years after such date;

"(B) Following the publication of such proposed standards, the Assistant Secretary shall solicit comments from interested members of the public with respect to such proposed standards for a period of not more than 120 days. After giving due consideration to any comments which may have been received, the Assistant Secretary shall transmit such standards to the Board for its review and approval.

"(C) Upon the approval of the Board, the Assistant Secretary shall transmit final standards to the Secretary which meet the requirements of the particular subparagraphs of paragraph (2) for which they were developed. Such standards shall be binding upon all activities carried out with funds appropriated under section 405.

"(i) ADDITIONAL RESPONSIBILITIES OF THE ASSISTANT SECRETARY.—In carrying out the activities and programs of the Office, the Assistant Secretary shall—

"(1) be guided by the Research Priorities Plan developed by the Board;

"(2) ensure that there is broad and regular public and professional involvement from the educational field in the planning and carrying out of the Office's activities, including establishing teacher advisory boards for any program office, program or project of the Office as the Assistant Secretary deems necessary;

"(3) ensure that the selection of research topics and the administration of the program are free from undue partisan political influence; and

"(4) ensure that all statistics and other data collected and reported by the Office shall be collected, cross-tabulated, analyzed, and reported by sex within race or ethnicity and socioeconomic status whenever feasible (and when such data collection or analysis is not feasible, ensure that the relevant report or document includes an explanation as to why such data collection or analysis is not feasible).

"(j) DEFINITIONS.—For purposes of this section and sections 405A through 405D:

"(1) The term 'Assistant Secretary' means the Assistant Secretary for Educational Research and Improvement established by section 202 of the Department of Education Organization Act.

"(2) The term 'at-risk student' means a student who, because of limited English proficiency, poverty, geographic location, or educational or economic disadvantage, faces a greater risk of low educational achievement and has greater potential for dropping out of school.

"(3) The term 'Board' means the National Educational Research Policy and Priorities Board.

"(4) The term 'educational research' includes basic and applied research, development, planning, surveys, assessments, evaluations, investigations, experiments, and demonstrations in the field of education and other fields relating to education.

"(5) The term 'development'—

"(A) means the systematic use, adaptation, and transformation of knowledge and understanding gained from research to create alternatives, policies, products, methods, practices, or materials which can contribute to the improvement of educational practice; and

"(B) includes the design and development of prototypes and the testing of such prototypes for the purposes of establishing their feasibility, reliability, and cost-effectiveness.

"(6) The term 'technical assistance' means the provision of external assistance to facilitate the adoption or application of the knowledge gained from educational research and development and includes—

"(A) problem analysis and diagnosis;

"(B) assistance in finding, selecting, or designing suitable solutions and approaches to problems;

"(C) training in the installation and implementation of products, programs, policies, practices, or technologies; and

"(D) such other assistance as may be necessary to encourage the adoption or application of such knowledge.

"(7) The term 'dissemination' means the transfer of knowledge and products gained through research and includes—

"(A) the use of communication techniques to increase awareness of such knowledge and products;

"(B) the provision of comparative and evaluative information necessary to enable educators, school administrators, and others to assess and

make informed judgments about the relevance and usefulness of such knowledge and products in specific settings; and

"(C) the provision of technical assistance needed to adapt, apply, and utilize such knowledge and products in specific educational settings.

"(8) The term 'national education dissemination system' means the activities carried out by the Office of Reform Assistance and Dissemination established by section 405C.

"(9) The term 'Office' means the Office of Educational Research and Improvement established in section 209 of the Department of Education Organization Act.

"(10) The term 'national research institute' means an institute established in section 405B.

"(11) The terms 'United States' and 'State' include the District of Columbia and the Commonwealth of Puerto Rico.

"(k) AUTHORIZATION OF APPROPRIATIONS.—

"(1) NATIONAL INSTITUTES.—

"(A) For the purpose of carrying out section 405B, there is authorized to be appropriated $37,000,000 for fiscal year 1994.

"(B) For the purpose of carrying out the provisions of section 405B relating to the National Institute for Student Achievement, there are authorized to be appropriated $20,000,000 for fiscal year 1995, and such sums as are necessary for each of fiscal years 1996 and 1997.

"(C) For the purpose of carrying out the provisions of section 405B relating to the National Institute for the Education of At-Risk Students, there are authorized to be appropriated $20,000,000 for fiscal year 1995, and such sums as are necessary for each of fiscal years 1996 and 1997.

"(D) For the purpose of carrying out the provisions of section 405B relating to the National Institute for Innovation in Educational Governance, Finance, Policy-Making, and Management, there are authorized to be appropriated $20,000,000 for fiscal year 1995, and such sums as are necessary for each of fiscal years 1996 and 1997.

"(E) For the purpose of carrying out the provisions of section 405B relating to the National Institute for Early Childhood Development and Education, there are authorized to be appropriated $20,000,000 for fiscal year 1995, and such sums as are necessary for each of fiscal years 1996 and 1997.

"(F) For the purpose of carrying out the provisions of section 405B relating to the National Institute of Postsecondary Education, Libraries, and Lifelong Learning, there are authorized to be appropriated $20,000,000 for fiscal year 1995, and such sums as are necessary for each of fiscal years 1996 and 1997.

"(2) NATIONAL EDUCATION DISSEMINATION SYSTEM.—

"(A)(i) For the purpose of carrying out subsections (b)(2) through (g) of section 405C, there are authorized to be appropriated $22,000,000 for fiscal year 1994, and such sums as are necessary for each of the fiscal years 1995 through 1997.

"(ii) Of the amount appropriated under clause (i) for any fiscal year, the Secretary shall make available not less than $7,175,000 to carry out subsection (f) of section 405C (relating to clearinghouses).

"(B) For the purpose of carrying out subsection (h) of section 405C (relating to regional educational laboratories), there are authorized to be appropriated $37,000,000 for fiscal year 1994, and such sums as are necessary for each of the fiscal years 1995 through 1997. Of the amounts appropriated under the preceding sentence for a fiscal year, the Secretary shall obligate not less than 25 percent to carry out such purpose with respect to rural areas (including schools funded by the Bureau of Indian Affairs which are located in rural areas).

"(C) For the purpose of carrying out subsection (j) of section 405C (relating to the teacher research dissemination network) there are authorized to be appropriated $30,000,000 for fiscal year 1994, and such sums as are necessary for each of the fiscal years 1995 through 1997.

"(D) For the purpose of carrying out subsection (i) of section 405C (relating to the Goals 2000 Community Partnerships program), there are authorized to be appropriated $30,000,000 for fiscal year 1994, $50,000,000 for fiscal year 1995, and such sums as are necessary for each of the fiscal years 1996 and 1997.

"(3) NATIONAL EDUCATIONAL RESEARCH POLICY AND PRIORITIES BOARD.—Of the amounts appropriated under paragraphs (1) and (2) for any fiscal year, the Secretary shall make available 2 percent of such amounts, or $1,000,000, whichever is less, to the Board for the purpose of carrying out section 405A.

"(4) ALLOCATIONS FOR GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—Of the amounts appropriated under paragraph (1) or (2) for any fiscal year, not less than 95 percent shall be expended to carry out the purposes described in such paragraphs through grants, cooperative agreements, or contracts.

"(5) LIMITATIONS ON APPROPRIATIONS.—No amounts are authorized to be appropriated under paragraph (1) or (2) for fiscal year 1995 or any fiscal year thereafter unless the Board has been appointed in accordance with section 405A.

"(6) GRANT AUTHORIZED.—From the amounts appropriated under paragraph (1) for fiscal year 1995, the Secretary is authorized, in accordance with the provisions of this paragraph, to award a grant of not more than $5,000,000 to a public or private institution, agency or organization for a period not to exceed five years for the purpose of conducting a State-by-State poll to determine the perceptions of recent graduates of secondary schools, their instructors in institutions of higher education, parents of recent such graduates, and employers of recent such graduates on how well schools have prepared students for further education or employment. The grant shall be awarded on a competitive basis and shall be matched on a two-to-one basis, with the Federal Government contributing one-third of the total costs of the poll.".

SEC. 102. ASSISTANT SECRETARY FOR EDUCATIONAL RESEARCH AND IMPROVEMENT.

Subsection (b) of section 202 of the Department of Education Organization Act is amended—

(1) in paragraph (1)—

(A) by striking subparagraph (E); and

(B) by redesignating subparagraphs (F) and (G) as subparagraphs (E) and (F), respectively; and

(2) by adding at the end the following new paragraph:

"(3) There shall be in the Department an Assistant Secretary for Educational Research and Improvement who shall be—

"(A) appointed by the President, by and with the consent of the Senate; and

"(B) selected in consultation with the National Educational Research Policy and Priorities Board from among individuals who—

"(i) are distinguished educational researchers;

"(ii) have proven management ability; and

"(iii) have substantial knowledge of education within the United States.".

SEC. 103. SAVINGS PROVISION.

Notwithstanding any other provision of law, contracts for the regional educational laboratories, education resources information clearinghouses and research and development centers assisted under section 405 of the General Education Provisions Act on the date of the enactment of this Act shall remain in effect until the termination date of such contracts.

SEC. 104. EXISTING GRANTS AND CONTRACTS.

Notwithstanding any other provision of law, grants and contracts for the research and development centers assisted under section 405 of the General Education Provisions Act on the date of enactment of this Act shall remain in effect until the termination date of such grants or contracts, as the case may be, except that such grants and contracts may be extended to implement the provisions of this Act.

TITLE II—NATIONAL EDUCATIONAL RESEARCH POLICY AND PRIORITIES BOARD

SEC. 201. ESTABLISHMENT WITHIN OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT.

Part A of the General Education Provisions Act (20 U.S.C. 1221e et seq.) is amended by inserting after section 405 the following new section:

"NATIONAL EDUCATIONAL RESEARCH POLICY AND PRIORITIES BOARD

"SEC. 405A. (a) IN GENERAL.—There is established within the Office a National Educational Research Policy and Priorities Board (hereafter in this section referred to as the 'Board').

"(b) FUNCTIONS.—It shall be the responsibility of the Board, acting through the Assistant Secretary—

"(1) to determine priorities that should guide the work of the Office and provide guidance to the Congress in its oversight of the Office;

"(2) to review and approve standards for the conduct and evaluation of all research, development, and dissemination carried out under the auspices of the Office pursuant to sections 405 through 405C; and

"(3) to regularly review, evaluate, and publicly comment upon, the implementation of its recommended priorities and policies by the Department and the Congress.

"(c) RESEARCH PRIORITIES PLAN.—In cooperation with the Assistant Secretary, the Board shall—

"(1) survey and assess the state of knowledge in education research, development and dissemination to identify disciplines and areas of inquiry within the priority research, development and dissemination needs identified in section 405(b)(3) in which the state of knowledge is insufficient and which warrant further investigation, taking into account the views of both education researchers and practicing educators;

"(2) consult with the National Education Goals Panel and other authorities on education to identify national priorities for the improvement of education;

"(3) actively solicit recommendations from education researchers, teachers, school administrators, cultural leaders, parents, and others throughout the Nation through such means as periodic regional forums;

"(4) provide recommendations for the development, maintenance, and assurance of a strong infrastructure for education, research, and development in the United States; and

"(5) on the basis of such recommendations, develop a research priorities program which shall recommend priorities for the investment of the resources of the Office over the next 5-, 10-, and 15-year periods, including as priorities those areas of inquiry in which further research, development and dissemination—

"(A) is necessary to attain the goals for the improvement of education identified in paragraph (2);

"(B) promises to yield the greatest practical benefits to teachers and other educators in terms of improving education; and

"(C) will not be undertaken in sufficient scope or intensity by the other Federal and non-Federal entities engaged in education research and development.

"(d) CONTENTS OF PLAN—

"(1) IN GENERAL.—The research and priorities plan described in subsection (c) shall, at a minimum—

"(A) set forth specific objectives which can be expected to be achieved as a result of a Federal investment in the priorities set forth in the plan;

"(B) include recommendations with respect to research and development on cross-cutting issues which should be carried out jointly by 2 or more of the research institutes; and

"(C) include an evaluative summary of the educational research and development activities undertaken by the Federal government during the preceding 2 fiscal years which shall describe—

"(i) what has been learned as a result of such activities;

"(ii) how such new knowledge or understanding extends or otherwise relates to what had been previously known or understood;

"(iii) the implications of such new knowledge or understanding for educational practice and school reform; and

"(iv) any development, reform, and other assistance activities which have utilized such knowledge or understanding and the effects of such efforts.

"(2) REPORT.—

"(A) Not later than 6 months after the first meeting of the Board and October 1 of every second year thereafter, the Assistant Secretary shall publish a report specifying the proposed research priorities of the Office and allow a 60-day period beginning on the date of the publication of the report for public comment and suggestions.

"(B) Not later than 90 days after the expiration of the 60-day period referred to in subparagraph (A), the Assistant Secretary shall submit to the President and the Congress a report specifying the research priorities of the Office and any public comment and suggestions obtained under such subparagraph.

"(e) ADDITIONAL RESPONSIBILITIES OF THE BOARD.—It shall also be the responsibility of the Board to—

"(1) provide advice and assistance to the Assistant Secretary in carrying out the coordination activities described in section 405;

"(2) make recommendations to the Assistant Secretary of persons qualified to fulfill the responsibilities of the Director for each research institute established by section 405B after making special efforts to identify qualified women and minorities and soliciting and giving due consideration to recommendations from professional associations and interested members of the public;

"(3) advise and make recommendations to the President with respect to individuals who are qualified to fulfill the responsibilities of the Assistant Secretary for the Office of Educational Research and Improvement; and

"(4) review and approve standards for the conduct and evaluation of research developed by the Assistant Secretary pursuant to subsection (h) of section 405.

"(f) STANDING SUBCOMMITTEES.—

"(1) ESTABLISHMENT; FUNCTIONS.—The Board shall establish a standing subcommittee for each of the Institutes established by subsection (a) of section 405B and for the Office of Reform Assistance and Dissemination established by subsection (b) of section 405C which shall advise, assist, consult with and make recommendations to the Assistant Secretary, the Board, the Director of such entity and the Congress on matters related to the activities carried out by and through such entities.

"(2) COMPOSITION.—

"(A) Each standing subcommittee shall consist of 3 members of the Board and 6 additional individuals appointed by the Board who have significant experience in and knowledge of the disciplines relevant to the purposes of the entity for which the subcommittee is established.

"(B) The Board shall assure that the membership of each subcommittee includes both educational researchers and persons who are knowledgeable about the research, development and dissemination needs of practitioners, including classroom teachers, school administrators, and members of State or local boards of education.

"(g) POWERS OF THE BOARD.—In carrying out its functions, powers, and responsibilities, the Board—

"(1) shall, without regard to the provisions of title 5, United States Code, relating to the appointment and compensation of officers or employees of the United States, appoint a director to be paid at a rate not to exceed the rate of basic pay payable for level V of the Executive Schedule who shall assist in carrying out and managing the activities of the Board and perform such other functions the Board determines to be necessary and appropriate;

"(2) shall hire its own staff through routine government procedures;

"(3) may arrange for the detail of staff personnel and utilize the services and facilities of any agency of the Federal Government;

"(4) may enter into contracts, or make other arrangements as may be necessary to carry out its functions;

"(5) may review any grant, contract, or cooperative agreement made or entered into by the Office;

"(6) may, to the extent otherwise permitted by law, obtain directly from any department or agency of the United States such information as it deems necessary to carry out its responsibilities;

"(7) may convene workshops and conferences, collect data, and establish subcommittees which may be composed of members of the Board and nonmember consultants (including employees of the Department) with expertise in the particular area addressed by such subcommittees; and

"(8) shall establish such rules and procedures to govern its operations as it considers appropriate, to the extent otherwise permitted by law.

"(h) MEMBERSHIP IN GENERAL.—

"(1) QUALIFICATIONS.—The members of the Board shall be eminent persons who, by virtue of their training, experience, and background, are exceptionally qualified to appraise the educational research and development effort of the Nation and to establish policies and priorities to govern future Federal investment in educational research, development, and dissemination.

"(2) BROAD REPRESENTATION.—Due consideration shall be given to the gender, race, and ethnicity of appointees to assure that the Board is broadly representative of the diversity of the Nation.

"(3) LIMITATION.—A voting member of the Board may not serve on any other governing or advisory board within the Department of Education.

"(4) CONFLICT OF INTEREST.—A voting member of the Board shall be considered a special Government employee for the purposes of the Ethics in Government Act of 1978.

"(i) SECRETARIAL APPOINTMENTS.—The Board shall consist of 18 members appointed by the Secretary. Of the members of the Board—

"(1) seven shall be appointed from among researchers in the field of education who have been nominated by the National Academy of Sciences and the National Academy of Education (giving due consideration to recommendations made by the American Educational Research Association), including persons who are among the leading authorities on early childhood education and the education of at-risk students;

"(2) five shall be outstanding field-based professional educators;

"(3) one shall be a Chief State School Officer;

"(4) one shall be a local education agency school superintendent or principal;

"(5) one shall be a member of a State or local board of education or Bureau of Indian Affairs-funded school board;

"(6) one shall be a professional librarian, school library media specialist, library administrator, or library science educator;

"(7) one shall be a parent with extensive experience in promoting parental involvement in education; and

"(8) one shall be an individual from business and industry with significant experience in promoting private sector involvement in education.

"(j) REQUIREMENTS FOR NOMINATIONS BY THE NATIONAL ACADEMY OF SCIENCES AND THE NATIONAL ACADEMY OF EDUCATION.—

"(1) IN GENERAL.—In making nominations for the members of the Board described in subsection (i)(1), the National Academy of Sciences and the National Academy of Education—

"(A) may not nominate any individual who is an elected officer or employee of such organizations; and

"(B) shall each nominate not less than 5 individuals for each of the positions on the Board for which such organization has responsibility for making nominations.

"(2) REQUEST FOR ADDITIONAL NOMINATIONS.—In the event that the Secretary determines that none of the individuals nominated by the National Academy of Sciences or the National Academy of Education meets the qualifications for membership on the Board specified in subsection (i), the Secretary may request that such organization make additional nominations.

"(k) NOMINATIONS FOR BOARD MEMBERSHIP.—Prior to appointing any member of the Board, the Secretary shall actively solicit and give due consideration to recommendations of persons qualified for membership on the board from the National Education Association, the American Federation of Teachers, the National Parent-Teachers Association, the American Library Association, the American Association of School Administrators, the National Association of State Boards of Education, the National Indian School Board Association, the Association of Community Tribal Schools, the National Indian Education Association, and other education-related organizations and interested members of the public.

"(l) EX OFFICIO MEMBERS.—The ex officio, nonvoting members of the Board shall include the Assistant Secretary and may also include—

"(1) the Director of Research for the Department of Defense;

"(2) the Director of Research for the Department of Labor;

"(3) the Director of the National Science Foundation;

"(4) the Director of the National Institutes of Health;

"(5) the chair of the National Endowment for the Arts;

"(6) the chair of the National Endowment for the Humanities;

"(7) the Librarian of Congress; and

"(8) the Director of the Office of Indian Education Programs of the Department of the Interior.

"(m) CHAIR.—The Board shall select a Chair from among its appointed members who shall serve for a renewable term of 2 years.

"(n) TERMS OF OFFICE.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the term of office of each voting member of the Board shall be 5 years.

"(2) EXCEPTIONS.—

"(A) Any individual appointed to fill a vacancy occurring on the Board prior to the expiration of the term for which the predecessor of the individual was appointed shall be appointed

for the remainder of the term. A vacancy shall be filled in the same manner in which the original appointment was made.

"(B) The terms of office of the members of the Board who first take office after the date of the enactment of the Educational Research, Development, and Dissemination Excellence Act shall, as designated by a random selection process at the time of appointment, be as follows:

"(i) 2 years for each of 6 members of the Board.

"(ii) 3 years for each of 6 members of the Board.

"(iii) 5 years for each of 6 members of the Board.

"(3) PROHIBITION ON CERTAIN CONSECUTIVE TERMS.—An individual who has been a member of the Board for 10 consecutive years shall thereafter be ineligible for appointment during the 5-year period beginning on the date of the expiration of the 10th year.

"(o) MEETINGS OF BOARD.—

"(1) INITIAL MEETING.—The Secretary shall ensure that the first meeting of the Board is held not later than May 15, 1994.

"(2) SUBSEQUENT MEETINGS.—The Board shall meet quarterly, at the call of the Chair, and when at least one-third of the members of the Board make a written request to meet.

"(3) QUORUM.—A majority of the Board shall constitute a quorum.

"(4) OPEN MEETINGS.—The Government in the Sunshine Act (5 U.S.C. 552b) shall apply to meetings of the Board.".

TITLE III—NATIONAL RESEARCH INSTITUTES

SEC. 301. ESTABLISHMENT WITHIN OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT.

Part A of the General Education Provisions Act, as amended by section 201 of this Act, is amended by inserting after section 405A the following new section:

"NATIONAL RESEARCH INSTITUTES

"SEC. 405B. (a) ESTABLISHMENT OF INSTITUTES.—In order to fulfill the research and development purposes of the Office, and to carry out, in accordance with the standards established by the Board, a program of high-quality and rigorously evaluated research and development that is capable of improving Federal, State, Indian tribal, and local education policies and practices, there are established within the Office the following institutes:

"(1) The National Institute for the Education of At-Risk Students.

"(2) The National Institute for Innovation in Educational Governance, Finance, Policy-Making, and Management.

"(3) The National Institute for Early Childhood Development and Education.

"(4) The National Institute on Student Achievement.

"(5) The National Institute on Postsecondary Education, Libraries, and Lifelong Education.

"(b) DIRECTORS.—

"(1) IN GENERAL.—Each Institute established by subsection (a) shall be headed by a Director who shall be appointed by the Assistant Secretary from among persons who have significant experience and expertise in the disciplines relevant to the purposes of such Institute. Prior to making such appointment, the Assistant Secretary shall solicit and give due consideration to recommendations made by the Board of persons qualfied to fulfill the position.

"(2) TERM OF OFFICE.—The Director of each Institute shall serve for a renewable term of 3 years.

"(3) REPORTING.—Each Director shall report directly to the Assistant Secretary regarding the activities of the Institute and shall work with the other directors to promote research syntheses across the Institutes.

"(c) AUTHORITIES AND DUTIES.—

"(1) IN GENERAL.—The Assistant Secretary is authorized to conduct research, development, demonstration, and evaluation activities to carry out the purposes for which such Institute was established—

"(A) directly;

"(B) through grants, contracts, and cooperative agreements with institutions of higher education, regional educational laboratories, public and private organizations, institutions, agencies, and individuals, which may include—

"(i) grants to support research and development centers which are—

"(I) awarded competitively for a period of not less than 6 and not more than 10 years;

"(II) funded at not less than $2,000,000 annually in order to support a full range of basic research, applied research and dissemination activities, which may also include development activities; and

"(III) established by institutions of higher education, by institutions of higher education in consortium with public agencies or private nonprofit organizations, or by interstate agencies established by compact which operate subsidiary bodies established to conduct postsecondary educational research and development;

"(ii) public-private research partnerships established by a State or local education agency, Bureau of Indian Affairs-funded school, or tribal department of education, in concert with a private organization and a team of educational researchers, for which the Federal share shall be limited to not more than 50 percent of the total costs of the project;

"(iii) meritorious unsolicited proposals for educational research and related activities;

"(iv) proposals that are specifically invited or requested by the Assistant Secretary, on a competitive basis; and

"(v) dissertation grants, awarded for a period of not more than 2 years and in a total amount not to exceed $20,000 to graduate students in the sciences, humanities, and the arts to support research by such scholars in the field of education;

"(C) through the provision of technical assistance; and

"(D) through the award of fellowships to support graduate study in educational research by qualified African-American, Hispanic, American Indian and Alaska Native, and other individuals from groups which have been traditionally underrepresented in the field of educational research which shall—

"(i) be awarded on the basis of merit for a period of 3 years; and

"(ii) provide stipends to each fellow in an amount which shall be set at a level of support comparable to that provided by the National Science Foundation Graduate Fellowships, except that such amounts shall be adjusted as necessary so as not to exceed each fellow's demonstrated level of need.

"(2) SCOPE AND FOCUS OF ACTIVITIES.—In carrying out the purposes for which each Institute is established, the Assistant Secretary shall—

"(A) maintain an appropriate balance between applied and basic research;

"(B) significantly expand the role of field-initiated research in meeting the Nation's education research and development needs by reserving not less than 15 percent of the amounts available to each Institute in any fiscal year to support field-initiated research described in clauses (iii) through (v) of paragraph (1);

"(C) provide for and maintain a stable foundation of long-term research and development on core issues and concerns conducted through university-based research and development centers by reserving not less than one-third of the amounts available to each Institute in any fiscal year to support such research and development centers;

"(D) support and provide research information that leads to policy formation for State legislatures, State and local boards of education and other policy and governing bodies, to assist such entities in identifying and developing effective policies to promote student achievement and school improvement; and

"(E) coordinate the Institute's activities with the activities of the regional educational laboratories and with other educational service organizations in designing the Institute's research agenda and projects in order to increase the responsiveness of such Institute to the needs of teachers and the educational field and to bring research findings directly into schools to ensure greatest access at the local level to the latest research developments.

"(3) REQUIREMENTS REGARDING FINANCIAL ASSISTANCE.—No grant, contract, or cooperative agreement may be made under this section unless—

"(A) sufficient notice of the availability of, and opportunity to compete for, assistance has first been provided to potential applicants through notice published in the Federal Register or other appropriate means;

"(B) it has been evaluated through peer review in accordance with the standards developed pursuant to subsection (h) of section 405;

"(C) it will be evaluated in accordance with the standards developed pursuant to subsection (h) of section 405;

"(D) in the case of a grant, contract, or cooperative agreement which exceeds $500,000 for a single fiscal year or $1,000,000 for more than one fiscal year, the Secretary has complied with the requirements of paragraph (4); and

"(E) in the case of a grant, contract, or cooperative agreement to support a research and development center, all applications for such assistance have been evaluated by independent experts according to standards and criteria which include—

"(i) whether applicants have assembled a critical mass of high quality researchers sufficient to achieve the mission of the center;

"(ii) whether the proposed organizational structure and arrangements will facilitate achievement of the mission of the center;

"(iii) whether there is a substantial staff commitment to the work of the center;

"(iv) whether the directors and staff will devote adequate time to center activities; and

"(v) review of the contributions of primary researchers (other than researchers at the proposed center) to evaluate the appropriateness of such primary researcher's experiences and expertise in the context of the proposed center activities, and the adequacy of such primary researcher's time commitment to achievement of the mission of the center.

"(4) BOARD REVIEW OF CERTAIN PROPOSED GRANT AND CONTRACT ACTIONS.—The Assistant Secretary may not solicit any contract bid or issue a request for proposals or applications for any grant or cooperative agreement the amount of which exceeds $500,000 in any single fiscal year or which exceeds an aggregate amount of $1,000,000 for more than one fiscal year unless the Board has had an opportunity to review such proposed grant, contract, or cooperative agreement action and to provide written comments to the Assistant Secretary with respect to whether—

"(A) the purposes and scope of the proposed action are consistent with the Research Priorities Plan; and

"(B) the methodology and approach of the proposed action are sound and adequate to achieve its stated objectives.

"(5) HISTORICALLY UNDERUTILIZED RESEARCHERS AND INSTITUTIONS.—The Assistant Secretary shall establish and maintain initiatives and programs to increase the participation in the activities of each Institute of groups of researchers

and institutions that have been historically underutilized in Federal educational research activities, including—

“(A) researchers who are women, African-American, Hispanic, American Indian and Alaska Native, or other ethnic minorities;

“(B) promising young or new researchers in the field, such as postdoctoral students and recently appointed assistant or associate professors;

“(C) historically black colleges and universities, tribally controlled community colleges, and other institutions of higher education with large numbers of minority students;

“(D) institutions of higher education located in rural areas; and

“(E) institutions and researchers located in States and regions of the Nation which have historically received the least Federal support for educational research and development.

“(6) ADDITIONAL AUTHORITIES.—The Assistant Secretary—

“(A) may obtain (in accordance with section 3109 of title 5 but without regard to the limitation in such section on the period of service) the services of experts or consultants with scientific or professional qualifications in the disciplines relevant to the purposes of such Institute;

“(B) may use, with their consent, the services, equipment, personnel, information, and facilities of other Federal, State, or local public agencies, with or without reimbursement therefor;

“(C) may accept voluntary and uncompensated services; and

“(D) may accept unconditional gifts made to the Office to support its activities.

“(d) NATIONAL INSTITUTE FOR THE EDUCATION OF AT-RISK STUDENTS.—

“(1) FINDINGS.—The Congress finds as follows:

“(A) The rate of decline in our urban schools is escalating at a rapid pace. Student performance in most inner city schools grows worse each year. At least half of all students entering ninth grade fail to graduate 4 years later and many more students from high-poverty backgrounds leave school with skills that are inadequate for today's workplace. In 1988 the average National Assessment of Educational Progress (NAEP) reading score of white 17 year-olds was approximately 20 points higher than that of African-American 17 year-olds and 25 points higher than that of Hispanic 17 year-olds. None of the existing Federal educational research and development programs are adequately addressing this obvious emergency.

“(B) Rural schools enroll a disproportionately large share of the Nation's poor and at-risk students and yet often lack the means to address effectively the needs of these children. Intensive efforts must be made to overcome the problems of geographic isolation, declining population, inadequate financial resources and other impediments to the educational success of children residing in rural areas.

“(C) By the year 2000, an estimated 3.4 million school age children with limited English language proficiency will be entering the school system. The Federal Government must develop effective policies and programs to address the educational needs of this growing population of children who are at increased risk for educational failure.

“(D) An educational emergency exists in those urban and rural areas where there are large concentrations of children who live in poverty. The numbers of educationally disadvantaged children will substantially increase by the year 2020, when the number of impoverished children alone will be 16.5 million, a 33 percent increase over the 12.4 million children in poverty in 1987.

“(E) American Indian and Alaska Native students are keenly at-risk of educational failure, with demonstrated high dropout, illiteracy and poverty rates, and cultural, linguistic, social and geographic isolation. The estimated 400,000 Indian and Alaska Native student population from over 500 Indian and Alaska Native tribes, is small and scattered throughout remote reservations and villages in 32 States, and in off-reservation rural and urban communities where Indians constitute but a small percentage of public school student bodies. To meaningfully address the special educational needs of this historically under-served population, the existing research and development system must be opened to Indian and Alaska Native people to identify needs and design ways to address such needs.

“(F) Minority scholars as well as institutions and groups that have been historically committed to the improvement of the education of at-risk students need to be more fully mobilized in the effort to develop a new generation of programs, models, practices, and schools capable of responding to the urgent needs of students who are educationally at-risk.

“(2) PURPOSE.—It shall be the purpose of the Institute for the Education of At-Risk Students to carry out a coordinated and comprehensive program of research and development to provide nonpartisan, research-based leadership to the Nation as it seeks to improve educational opportunities for students who are at-risk for educational failure, particularly children who reside in inner city and rural areas, and on Indian reservations, and children of limited English proficiency. Such program shall—

“(A) undertake research necessary to provide a sound basis from which to identify, develop, evaluate, and assist others to replicate and adapt interventions, programs, and models which promote greater achievement and educational success by at-risk students, such as—

“(i) methods of instruction and educational practices (including community services) which improve the achievement and retention of at-risk students;

“(ii) means by which parents and community resources and institutions (including cultural institutions) can be utilized to support and improve the achievement of at-risk students;

“(iii) the training of teachers and other educational professionals and paraprofessionals to work more effectively with at-risk students;

“(iv) the most effective uses of technology in the education of at-risk students;

“(v) programs designed to promote gender equity in schools that serve at-risk students; and

“(vi) methods of assessing the achievement of students which are sensitive to cultural differences, provide multiple methods of assessing student learning, support student acquisition of higher order capabilities, and enable identification of the effects of inequalities in the resources available to support the learning of children throughout the Nation; and

“(B) maximize the participation of those schools and institutions of higher education that serve the greatest number of at-risk students in inner city and rural areas, and on Indian reservations, including model collaborative programs between schools and schools systems, institutions of higher education, cultural institutions, and community organizations.

“(3) COMPREHENSIVE RESEARCH PROGRAM.—The Institute shall support a diverse and comprehensive program of research and development which shall include research related to the educational needs of—

“(A) at-risk students who reside in urban areas;

“(B) at-risk students who reside in rural areas;

“(C) children with limited English language proficiency; and

“(D) Indian and Alaska Native students.

“(4) CONSULTATION WITH INDIAN AND ALASKA NATIVE EDUCATORS.—All research and development activities supported by the Institute which relate to the education of Indian and Alaska Native students shall be developed in close consultation with Indian and Alaska Native researchers and educators, tribally controlled community colleges, tribal departments of education, and others with expertise in the needs of Indian and Native Alaska students.

“(e) NATIONAL INSTITUTE FOR INNOVATION IN EDUCATIONAL GOVERNANCE, FINANCE, POLICY-MAKING, AND MANAGEMENT.—

“(1) FINDINGS.—The Congress finds as follows:

“(A) Many elementary and secondary schools in the United States—

“(i) are structured according to models that are ineffective and rely on notions of management and governance that may be outdated or insufficient for the challenges of the next century; and

“(ii) are unsuccessful in equipping all students with the knowledge and skills needed to succeed as citizens and in the working world.

“(B) New approaches are needed in the governance and management of elementary and secondary education with the United States at the State, local, school building and classroom level.

“(C) Not enough is known about the effects of various systems of school governance and management on student achievement to provide sound guidance to policymakers as they pursue school restructuring and reform.

“(D) A concentrated Federal effort is needed to support research, development, demonstration, and evaluation of approaches to school governance, finance and management which promise to improve education equity and excellence throughout the Nation.

“(2) PURPOSE.—It shall be the purpose of the National Institute on Innovation in Educational Governance, Finance, Policy-Making, and Management to carry out a coordinated and comprehensive program of research and development to provide nonpartisan, research-based leadership to the Nation as it seeks to improve student achievement through school restructuring and reform. Such program shall—

“(A) undertake research necessary to provide a sound basis from which to identify, develop and evaluate approaches in governance, finance, policy-making, and management at the State, local, tribal, school building and classroom level which promise to improve educational equity and excellence, such as—

“(i) open enrollment programs, magnet schools and other systems through which parents may select the public schools and educational programs in which their children are enrolled;

“(ii) innovative school design, including lengthening the school day and the school year, reducing class size and building professional development into the weekly school schedule;

“(iii) effective approaches to organizing learning;

“(iv) effective ways of grouping students for learning so that a student is not labeled or stigmatized in ways that may impede such student's achievement;

“(v) effective approaches to organizing, structuring, and financing vocational education;

“(vi) the provision of financial and other rewards and incentives based on performance to improve student achievement;

“(vii) the use of regulatory flexibility on the State or district level to promote innovation and school restructuring;

“(viii) school-based management;

“(ix) the restructuring of school finance systems at the State and local level to promote greater equity in the distribution of resources for education and to maximize the allocation of such resources to support direct learning;

“(x) expanding the role of teachers in policy-making and administration at the school and district-wide level;

"(xi) programs designed to increase the involvement of parents and families in the management and governance of schools and the education of their children;

"(xii) effective approaches to increasing the representation of women and minorities among leadership and management positions in education;

"(xiii) approaches to systemic reforms involving the coordination of multiple policies of each level of government to promote higher levels of student achievement;

"(xiv) approaches to coordinated services for children; and

"(xv) policies related to school to work transitions and preparing noncollege-bound students; and

"(B) undertake research and development activities necessary to provide information on the skills required for successful educational leadership at the State, tribal, and local level and to enhance the ability of school leaders and administrators to improve the educational environment for all students.

"(3) RESEARCH ON EDUCATIONAL CHOICE.—In carrying out the duties of the Institute, the Assistant Secretary shall conduct or support research on whether and to what extent the quality of education in the United States would be improved by providing public funds to parents for the costs of attendance of their children at the elementary and secondary schools of the parents' choice.

"(f) NATIONAL INSTITUTE FOR EARLY CHILDHOOD DEVELOPMENT AND EDUCATION.—

"(1) FINDINGS.—The Congress finds as follows:

"(A) The Nation has set as a goal that all children should arrive at school ready to learn.

"(B) Despite efforts to expand and improve preschool programs, many children still reach school age unprepared to benefit from formal education programs.

"(C) Early intervention for disadvantaged children from conception to age five has been shown to be a highly cost-effective strategy for reducing later expenditures on a wide variety of health, developmental, and educational problems that often interfere with learning. Long-term studies of the benefits of preschool education have a demonstrated return on investment ranging from three to six dollars for every one dollar spent.

"(D) The Federal government should play a central role in providing research-based information on early childhood education models which enhance children's development and ultimately their success in school.

"(2) PURPOSE.—The purpose of the National Institute for Early Childhood Development and Education is to carry out a comprehensive program of research and development to provide nonpartisan, research-based leadership to the Nation as it seeks to improve early childhood development and education. Such program shall identify, develop, evaluate, and assist others to replicate sound policies and practices that may include—

"(A) social and educational development of all infants, toddlers, and preschool children;

"(B) the role of parents and the community in promoting the successful social and educational development of children from birth to age five;

"(C) training and preparation of teachers and other professional and paraprofessional preschool and child care workers;

"(D) the structure and environment of early childhood education and child care settings which lead to improved social and educational development;

"(E) practices and approaches which sustain the benefits of effective preschool and child care programs;

"(F) effective learning methods and curriculum for early childhood learning, including access to current materials in libraries;

"(G) the importance of family literacy and parental involvement in student learning;

"(H) the impact that outside influences have on learning, including television, and drug and alcohol abuse; and

"(I) methods for integrating learning in settings other than the classroom, such as within families and communities, with a special emphasis on character development and the value of hard work.

"(3) CERTAIN REQUIREMENTS.—In carrying out the activities of the Institute, the Assistant Secretary shall—

"(A) place special emphasis on the special early childhood education needs of at-risk children, children with disabilities, and girls; and

"(B) ensure that its research and development program provides information that can be utilized in improving the major Federal early childhood education programs, including Head Start, Even Start, chapter 1 preschool programs, and part H of the Individuals with Disabilities Education Act, and Bureau of Indian Affairs early childhood development programs.

"(g) NATIONAL INSTITUTE ON STUDENT ACHIEVEMENT.—

"(1) FINDINGS.—The Congress finds as follows:

"(A) The current achievement levels of students in the Nation are far below those that might indicate competency in challenging subject matter in English, mathematics, science, history, and geography and other areas, or across the subject areas.

"(B) Very few students demonstrate that they can use their minds well. In recent assessments, more students are gaining basic skills, yet fewer are demonstrating a grasp of higher-level applications of those skills.

"(C) During the past 20 years, relatively little has changed in how students are taught. Despite much research suggesting better alternatives, classrooms are still dominated by textbooks, teacher lectures, and short-answer activity sheets and unequal patterns of student attention.

"(D) Despite progress in narrowing the gaps, the differences in performance between white students and their minority counterparts remain unacceptably large. While progress has been made in reducing the gender gap in mathematics, it still remains at higher levels of problem solving. Too little progress has been made in reducing gender performance gaps favoring males in science and females in writing.

"(2) PURPOSE.—The purpose of the National Institute on Student Achievement is to carry out a coordinated and comprehensive program of research and development to provide research-based leadership to the Nation as it seeks to improve student achievement in English, mathematics, science, history, geography, and other subject areas and across the boundaries of the subject areas. Such program shall—

"(A) identify, develop, and evaluate innovative and exemplary methods to improve student knowledge at all levels in English, mathematics, science, history, geography, civics and government, foreign languages, arts and humanities, economics, and other subject areas, such as—

"(i) student learning and assessment in various subject matters;

"(ii) the effects of organizational patterns on the delivery of instruction, including issues of grouping and tracking, ungraded classrooms, and on the effects of various pedagogies, including the issues of technology in education;

"(iii) the best methods of teacher preparation;

"(iv) methods to improve the process of reading, the craft of writing, the growth of reasoning skills, and the development of information-finding skills;

"(v) enabling students to develop higher order thinking skills;

"(vi) methods to teach effectively all students in mixed-ability classrooms;

"(vii) curriculum, instruction, and assessment, in vocational education;

"(viii) the impact and effectiveness of Federal, State, and local efforts to provide gender-fair educational opportunities to elementary and secondary students; and

"(ix) programs, policies, approaches which promote gender equity in elementary and secondary education;

"(B) conduct basic and applied research in the areas of human learning, cognition, and performance, including research and development on the education contexts which promote excellence in learning and instruction, and motivational issues which provide a key to learning;

"(C) identify, develop, and evaluate programs designed to enhance academic achievement and narrow racial and gender performance gaps in a variety of subject areas, including research and development on methods of involving parents in their children's education and ways to involve business, industry and other community partners in promoting excellence in schools; and

"(D) include a comprehensive, coordinated program of research and development in the area of assessment which—

"(i) addresses such issues as—

"(I) the validity, reliability, generalizability, fairness, costs, relative merits, and most appropriate uses of various approaches and methods of assessing student learning and achievement;

"(II) methods and approaches to assessing student opportunities to learn (including the quality of instruction and the availability of resources necessary to support learning) and evaluating the quality of school environment;

"(III) the design, development, evaluation, and validation of model performance-based and other alternative or innovative formats or uses of assessments;

"(IV) the impact of high-stakes uses of assessment on student performance and motivation, narrowing of curriculum, teaching practices, and test integrity;

"(V) the fairness and impact of various methods of assessment on children of different races, ethnicities, gender, socioeconomic status, English language proficiencies, and children with other special needs;

"(VI) standards of performance, quality, and validity for various methods of assessment and the means by which such standards should be developed;

"(VII) current and emerging testing practices of State and local education agencies within the United States, as well as other nations;

"(VIII) the diverse effects, both intended and unintended, of assessments as actually used in the schools, including effects on curriculum and instruction, effects on equity in the allocation of resources and opportunities, effects on equity of outcomes, effects on other procedures and standards for judging students and practitioners and possible inflation of test scores;

"(IX) identifying and evaluating how students with limited English language proficiency and students with disabilities are included and accommodated in the various assessment programs of State and local education agencies; and

"(X) the feasibility and validity of comparing or equating the results of different assessments;

"(ii) reflects recommendations made by the National Education Goals Panel (provided such panel has been authorized by law);

"(iii) complies with the 'Standards for Educational and Psychological Tests' developed by the American Psychological Association, the National Council on Measurement in Education, and the American Educational Research Association;

"(iv) is consistent with the 'Criteria for Evaluation of Student Assessment Systems' developed by the National Forum on Assessment; and

"(v) complies with the 'Code of Fair Testing Practices in Education' developed by the Joint Committee on Testing Practices.

For purposes of this subparagraph, the term 'development' means the development of prototypes for the purposes of research and evaluation.

"(h) NATIONAL INSTITUTE FOR POSTSECONDARY EDUCATION, LIBRARIES, AND LIFELONG LEARNING.—

"(1) FINDINGS.—The Congress finds as follows:

"(A) The American system of postsecondary education is foremost in the world in its achievement of both academic excellence and equity in access, but maintaining that preeminence requires renewed efforts to strengthen the quality of postsecondary education. Disappointing student performance on achievement tests and licensure examinations, declining rates of persistence and completion among minorities, and other troubling trends in the quality of postsecondary education must be addressed by the Nation as part of its overall drive to improve American education.

"(B) The need to improve our Nation's economic productivity to meet the competitive challenges of a new, international economy, coupled with high levels of mobility in the United States labor market and demographic changes in the workforce, now demands more and higher quality programs of learning and training in the American workplace.

"(C) The more than 1,000,000 men and women incarcerated in the Nation's prisons and jails are among the most severely educationally disadvantaged in the United States, with high rates of functional illiteracy and extremely low levels of educational attainment. Since an estimated 90 percent of these individuals are expected to be released by the end of the decade, the Nation must act to assure that our correctional system has the means to equip these Americans with the knowledge and skills they will need to participate productively in our society.

"(D) The development of a 'Nation of Students' capable of and committed to the pursuit of formal and informal lifelong learning is essential to sustain both national and individual economic success and to provide a nurturing environment in which all children and youth can learn and achieve. Historically the most effective community resource for lifelong learning, the Nation's public library system must expand and restructure its delivery of services to take full advantage of the potential of new information technologies to meet the needs of learning communities.

"(2) PURPOSE.—The purpose of the National Institute for Postsecondary Education, Libraries, and Lifelong Learning is to promote greater coordination of Federal research and development on issues related to adult learning and to carry out a program of research and development in adult learning to provide nonpartisan, research-based leadership to the Nation as it seeks to improve libraries, postsecondary education, and lifelong learning throughout the United States. Such program—

"(A) shall promote greater coordination, cooperation, and interaction among entities within the Federal Government which support research and development related to postsecondary education, libraries, and lifelong learning;

"(B) shall enable greater collaboration among entities within the Federal Government which support research and development related to postsecondary education, libraries, and lifelong learning by supporting research and development projects which are carried out jointly by such entities;

"(C) shall support research and development in those areas of postsecondary education, libraries, and lifelong learning which are not being addressed sufficiently by other entities within the Federal Government;

"(D) may include basic and applied research, development, replication, and evaluation activities in such areas as—

"(i) methods of assessing and evaluating individual, program, and institutional performance;

"(ii) the uses and applications of new technologies to improve program effectiveness and enhance student learning;

"(iii) practices, policies, and programs which address the unique needs of adult learners, including—

"(I) institutional and classroom policies and practices at the postsecondary level necessary to improve matriculation, persistence, achievement and graduation by students who are economically disadvantaged, ethnic and racial minorities, women, older, working, and who have children;

"(II) instructional practices and programs which are effective in correctional settings;

"(III) new models of service delivery for public library systems which expand opportunities for lifelong learning;

"(IV) effective programs and approaches which promote greater access to and success by minorities in postsecondary programs which prepare them for scientific, technical, teaching, and health career fields;

"(V) effective approaches to work-based learning; and

"(VI) the most effective training methods for adults to upgrade education and vocational skills;

"(iv) the effectiveness of Historically Black Colleges and Universities, Tribally-Controlled Indian Community Colleges, women's colleges, and other special mission institutions in fulfilling their mission of providing access and equal opportunity in higher education;

"(v) the quality of higher education at all levels and the roles and responsibilities of regional and national accrediting agencies in assuring the quality and relevance of academic goals and objectives established by institutions of higher education;

"(vi) approaches to improving the productivity of colleges, community colleges, universities, and other postsecondary institutions;

"(vii) financial barriers to postsecondary educational opportunity, including—

"(I) the role of Federal programs authorized under title IV of the Higher Education Act and State grant and work programs in mitigating such barriers;

"(II) the impact of the rising total cost of postsecondary education on access to higher education; and

"(III) the extent and impact of student reliance on loans to meet the costs of higher education;

"(viii) opportunities for adults to continue their education beyond higher education and graduate school, in the context of lifelong learning and information-finding skills; and

"(ix) preparing students for a lifetime of work, the ability to adapt through retraining to the changing needs of the work force and the ability to learn new tasks.

"(3) INVOLVEMENT OF CERTAIN AGENCIES AND ORGANIZATIONS.—In promoting coordination and collaboration on research and development on issues related to postsecondary education, libraries, and lifelong learning, the Institute shall, as appropriate, seek the involvement of—

"(A) within the Department of Education—

"(i) the Office of Library Programs;

"(ii) the Office of Correctional Education;

"(iii) the Office of Vocational and Adult Education;

"(iv) the National Institute on Disability and Rehabilitation Research; and

"(v) the Office of Postsecondary Education;

"(B) the National Institute for Literacy;

"(C) the National Board for Professional Teaching Standards;

"(D) the Employment and Training Administration of the Department of Labor;

"(E) the Administration for Children and Families within the Department of Health and Human Services;

"(F) the National Institutes of Health;

"(G) the National Endowment for Humanities;

"(H) the National Endowment for the Arts;

"(I) the Bureau of Prisons of the Department of Justice;

"(J) the Department of Commerce;

"(K) the Department of Defense; and

"(L) the Office of Indian Education Programs of the Department of the Interior.

"(4) In addition to the responsibilities described in paragraph (2), the Assistant Secretary shall ensure that the activities of the existing National Center on Literacy are fully coordinated with those of the National Institute for Literacy.

"(i) COORDINATION OF RESEARCH ON CROSS-CUTTING ISSUES.—The Assistant Secretary shall promote the coordination of research and development activities among the Institutes established by subsection (a) to investigate those cross-cutting disciplines and areas of inquiry, such as assessment, the use of technology and the training of teachers and school administrators, which are relevant to the missions of more than one of the Institutes. Such activities shall—

"(1) address cross-cutting disciplines and areas of inquiry which have been proposed by the Assistant Secretary and are consistent with the research priorities identified by the Board;

"(2) be carried out jointly (1) by any one of the Institutes and—

"(A) one (or more) of the Institutes;

"(B) the National Center for Education Statistics; or

"(C) any research and development entity administered by other offices of the Department of Education or by any other Federal agency or Department; and

"(3) meet all the standards set by the Assistant Secretary and the Board for other research and development conducted by the Office.

"(j) PROGRAM ON TEACHING AND TEACHER EDUCATION.—

"(1) IN GENERAL.—The Assistant Secretary, in accordance with the requirements of this subsection, shall undertake a comprehensive, coordinated program of research in the area of teaching, teacher education, and professional development.

"(2) CERTAIN PURPOSES OF PROGRAM.—In carrying out the program established under paragraph (1), the Assistant Secretary shall conduct, directly or through grants and contracts, basic and applied research and analytical activities to further knowledge about, make recommendations, and improve—

"(A) the ability of classroom teachers and schools to assist new and diverse populations of students in successfully assimilating into the classroom environment;

"(B) the working conditions of teachers and other educational practitioners, which may include such topics as—

"(i) teacher isolation;

"(ii) professional resources available to teachers;

"(iii) continuing educational and professional opportunities available to teachers;

"(iv) physical facilities and equipment, such as office space, telephone, computer access, and fax machines and television cable access available to teachers in the work environment;

"(v) opportunities for teachers to share information and resources with other teachers and education professionals;

"(vi) opportunities for advanced learning experience; and

"(vii) the reduction of stress in the teaching profession;

"(C) institutional program renewal and instruction;

"(D) restructuring of State certification of teachers and teacher education standards; and

"(E) assisting in the development of teacher certification standards by Indian tribal departments of education.

"(3) CERTAIN ACTIVITIES.—In carrying out the program established under paragraph (1), the Assistant Secretary—

"(A) shall work with institutions of higher education engaged in the preparation of teachers and professional organizations of teacher educators and practitioners to encourage institutional program renewal and restructuring;

"(B) may conduct, directly or through grants and contracts research on—

"(i) effective and reflective teaching for the preparation and continuing education of teachers;

"(ii) the use of computing and multi-made technology to advance the understanding and abilities of teacher educators and classroom teachers;

"(iii) the development and appraisal of curriculum and curriculum materials for the initial and continuing education of teachers and teacher educators; and

"(iv) strengthening the evaluation and dissemination of information on programs for continuing professional education and renewal of those who educate teachers for initial or advanced licensure or certification; and

"(C) shall work with the national regional education laboratories, the ERIC clearinghouses, national education research library, and the National Center for Education Statistics to maximize information available, to prevent unnecessary duplication of efforts and resources, and to ensure the results of the centers work are widely available.

"(k) RESEARCH ON EDUCATIONAL TECHNOLOGY.—The Assistant Secretary shall undertake a comprehensive, coordinated program of research and development in the area of the uses and applications of technology in education. Such program—

"(1) may support basic and applied research and development, analysis, evaluation in the area of the uses and applications of technology to education, including—

"(A) the capabilities of current and emerging technologies and their possible uses in education;

"(B) the uses and applications of technology—

"(i) to improve instruction within all content areas in the school curriculum;

"(ii) to educate more effectively at-risk students and other students with special needs;

"(iii) to improve education in rural communities and other remote areas;

"(iv) to improve the assessment of student learning and achievement;

"(v) to deliver preservice and inservice training for teachers, librarians, and school administrators; and

"(vi) to deliver and improve professional development and continuing education programs;

"(C) the cost and educational effectiveness of technologies used in education;

"(D) effective models and approaches for providing the preservice and inservice training and technical assistance necessary to enable teachers, librarians, and school administrators, cultural organizations, and others to use technology effectively in education;

"(E) the identification of barriers to greater use of technologies in education and potential approaches to eradicating or mitigating such barriers;

"(F) methods and approaches which can be utilized by teachers, school administrators, and education policymakers, and educational programs in cultural institutions to evaluate the quality and most appropriate uses of software and other technologies designed for use in education; and

"(G) approaches to organizing and managing schools and classrooms to make the most effective use of technology in education; and

"(2) shall be coordinated with related research and development activities undertaken by the Office of Special Education Programs, the National Science Foundation, the Department of Defense, and other Federal agencies.

"(l) TRANSITIONAL PROVISIONS.—

"(1) TEMPORARY REORGANIZATIONS.—Upon the enactment of the Educational Research, Development and Dissemination Excellence Act, the Secretary shall reorganize the research and development functions and activities of the Office into administrative units the purposes of which shall be the same as those for each of the national research institutes established in subsection (a). Such administrative units shall be responsible for planning and providing for the establishment of such institutes and shall cease to exist on the dates upon which each of the relevant institutes is established. The provisions of subsection (c) (relating to authorities and duties) shall apply to all activities undertaken by each such administrative unit.

"(2) DATES FOR ESTABLISHMENT OF INSTITUTES.—The National Institute for the Education of At-Risk Students, the National Institute for Innovation in Educational Governance, Finance, Policy-Making, and Management, the National Institute for Early Childhood Development and Education, the National Institute on Student Achievement, and the National Institute on Postsecondary Education, Libraries, and Lifelong Learning shall each be established effective October 1, 1994.".

TITLE IV—NATIONAL EDUCATION DISSEMINATION SYSTEM

SEC. 401. ESTABLISHMENT WITHIN OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT.

Part A of the General Education Provisions Act, as amended by section 301 of this Act, is amended by inserting after section 405B the following new section:

"NATIONAL EDUCATION DISSEMINATION SYSTEM

"SEC. 405C. (a) IN GENERAL.—

"(1) FINDINGS.—The Congress finds as follows:

"(A) In order to improve the American educational system for all students, achieve the national education goals, and provide for greater educational equity, policymakers, administrators, teachers, and parents must have ready access to the best information and methods available as a result of educational research and development.

"(B) The Office of Educational Research and Improvement should have as one of its primary purposes the dissemination of such information and methods in order to assist the national education reform effort.

"(C) All current resources within the Office, the Department, and other agencies that can help accomplish this goal should be coordinated by the Assistant Secretary so as to form a systematic process to accomplish these objectives.

"(D) Education research has the capacity to improve teaching and learning in our Nation's schools, however, teachers need training in the developmental skills necessary to translate research into practice and to allow them to become a cadre of knowledgeable practitioners and leaders in educational improvement.

"(E) Adequate linkages between research and development providers and practitioners are essential to ensuring that research on effective practice is useful, disseminated and supported with technical assistance to all educators, and that all educators are partners in the research and development process.

"(2) PURPOSE.—The purpose of this section is to—

"(A) create a national system of dissemination, development, and educational improvement in order to create, adapt, identify, validate, and disseminate to educators, parents, and policymakers those educational programs that have potential or have been shown to improve educational opportunities for all students; and

"(B) empower and increase the capacity of teachers to participate in the research and development process.

"(3) DEFINITION OF EDUCATIONAL PROGRAM.—For the purposes of this section, the term 'educational program' includes educational policies, research findings, practices, and products.

"(b) ESTABLISHMENT OF OFFICE.—

"(1) IN GENERAL.—There is established within the Office an Office of Reform Assistance and Dissemination (in this section referred to as the 'Dissemination Office') through which the Secretary shall carry out all functions and activities described in this section.

"(2) CERTAIN DUTIES.—The Dissemination Office shall—

"(A) identify educational programs that may merit being designated as exemplary or promising educational programs;

"(B) based solely on the educational merits and promise of such programs, select those to be designated as exemplary or promising;

"(C) provide technical and financial assistance to individuals and organizations in the process of developing promising educational programs in the priority areas identified in section 405(b)(3), but who might not, without such assistance, be able to complete necessary development and assessment activities;

"(D) nationally disseminate information regarding the exemplary and promising programs to educators, parents, and policymakers through a variety of means, including existing Department activities, education associations and networks, and communication technologies;

"(E) provide training and technical assistance regarding the implementation and adoption of such exemplary and promising programs by interested entities; and

"(F) carry out a program of research on models for successful knowledge dissemination, and utilization, and strategies for reaching education policymakers, practitioners, and others interested in education.

"(3) ADDITIONAL DUTIES.—The Dissemination Office shall carry out and contain the following functions and activities:

"(A) A process for the identification of educational programs that work.

"(B) The educational resources information clearinghouses.

"(C) Dissemination through new technologies.

"(D) Smartline.

"(E) The regional educational laboratories.

"(F) Teacher Research Dissemination Network.

"(G) The Goals 2000 Community Partnerships Program.

"(H) The existing National Diffusion Network and its Developer-Demonstrator and State Facilitator projects.

"(I) Such other programs or entities the Secretary determines are consistent with the purposes for which the Dissemination Office is established.

"(c) IDENTIFICATION OF PROGRAMS.—

"(1) IN GENERAL.—The Assistant Secretary shall establish a process through which successful educational programs are actively sought out for possible dissemination through the national educational dissemination system. Such process shall, at a minimum, have the capability to—

"(A) work closely with the research institutes, centers, regional educational laboratories, the

National Diffusion Network and its Developer-Demonstrator and State Facilitator projects, learning grant institutions established under the Goals 2000 Community Partnerships Program, department-supported technical assistance providers, and other entities to identify successful educational programs at the regional, State, local, or classroom level;

"(B) review successful educational programs supported by the Department through all of its programs, including Chapter 1, Even Start, Drug-Free Schools and Communities Act of 1986, the Individuals With Disabilities Education Act, Bilingual Education, Indian Education, the Women's Educational Equity Act, and Adult and Vocational Education;

"(C) through cooperative agreements, review for possible inclusion in the system educational programs administered by the Departments of Health and Human Services (particularly the Head Start program), Labor and Defense, the National Science Foundation, the Department of the Interior (particularly the Office of Indian Education Programs), and any other appropriate Federal agency; and

"(D) provide for an active outreach effort to identify successful educational programs through cooperative arrangements with State and local education agencies, teachers and teacher organizations, curriculum associations, foundations, private schools, institutions of higher education, and other entities that could enhance the ability of the Secretary to identify programs for possible inclusion in the dissemination system.

"(2) PRIORITY PROGRAMS.—In carrying out this subsection, the Secretary shall place a priority on identifying programs, products, and practices related to the priority research and development needs identified in section 405(b)(3).

"(d) DESIGNATION OF EXEMPLARY AND PROMISING PROGRAMS.—

"(1) IN GENERAL.—The Assistant Secretary, in consultation with the Board, shall establish 1 or more panels of appropriately qualified experts and practitioners to—

"(A) evaluate educational programs that have been identified by the Secretary under subsection (c) or that have been submitted to the Secretary for such evaluation by some other individual or organization; and

"(B) recommend to the Secretary programs that should be designated as exemplary or promising educational programs.

"(2) CONSIDERATIONS IN MAKING RECOMMENDATIONS.—In determining whether an educational program should receive a recommendation under paragraph (1), a panel established under such paragraph shall consider—

"(A) whether, based on empirical data, which may include but shall not be limited to test results, the program is effective and should thus be designated as exemplary and disseminated through the national dissemination system; or

"(B) whether there is sufficient evidence to lead a panel of experts and practitioners to believe that the program shows promise for improving student achievement and should thus be designated as promising and disseminated through the national dissemination system while it continues to be evaluated.

"(3) REQUIREMENT REGARDING APPROVAL OF PROGRAMS.—In seeking out programs for approval under paragraph (2), the Assistant Secretary shall seek programs that may be implemented at the State, local, and classroom level.

"(4) REQUIREMENTS REGARDING PANELS.—

"(A) A panel shall not eliminate a program from consideration under this subsection based solely on the fact that it does not have one specific type of supporting data, such as test scores.

"(B) The Assistant Secretary may not designate a program as exemplary or promising unless a panel established under paragraph (1) has recommended that the program be so designated.

"(C) The Secretary shall establish such panels under paragraph (1) as may be necessary to ensure that each program identified or submitted for evaluation is evaluated.

"(D) Not less than ⅔ of the membership of a panel established under paragraph (1) shall consist of individuals who are not officers or employees of the United States. Members of panels under paragraph (1) who are not employees of the United States shall receive compensation for each day engaged in carrying out the duties of the panel as well as compensation for their expenses.

"(e) DISSEMINATION OF EXEMPLARY AND PROMISING PROGRAMS.—

"(1) IN GENERAL.—In order to ensure that programs identified as exemplary or promising are available for adoption by the greatest number of teachers, schools, local and State education agencies, and Bureau of Indian Affairs-funded schools, the Assistant Secretary shall utilize the capabilities of—

"(A) the education resources information clearinghouses;

"(B) Smartline;

"(C) the regional educational laboratories;

"(D) the National Diffusion Network;

"(E) entities established under the Goals 2000 Community Partnerships Program;

"(F) department-supported technical assistance providers;

"(G) the National Library of Education; and

"(H) other public and private nonprofit entities, including existing education associations and networks, that have the capability to assist educators in adopting exemplary and promising programs.

"(2) REQUIREMENTS FOR ASSISTANT SECRETARY.—In carrying out paragraph (1), the Assistant Secretary shall ensure that all such entities are—

"(A) kept apprised of the availability of specific programs for dissemination;

"(B) provided technical assistance, if necessary, to carry out this dissemination function; and

"(C) involved in the national education dissemination system as specified by law.

"(f) EDUCATION RESOURCES INFORMATION CLEARINGHOUSES.—

"(1) IN GENERAL.—The Assistant Secretary shall establish a system of 16 education resource information clearinghouses having, at a minimum, the functions and scope of work as the clearinghouses had on the date of the enactment of the Educational Research, Development, and Dissemination Excellence Act.

"(2) ADDITIONAL FUNCTIONS.—In addition to those functions already being carried out by the clearinghouses, such clearinghouses may—

"(A) periodically produce interpretive summaries, digests, and syntheses of the results and findings of education-related research and development; and

"(B) contain and make available to users information concerning those programs designated as exemplary and promising under subsection (c).

"(3) COORDINATION OF ACTIVITIES.—The Assistant Secretary shall assure that the functions and activities of such clearinghouses are coordinated with the activities of the research institutes, the regional educational laboratories, learning grant institutions, other clearinghouses supported by the Department, the National Diffusion Network, and other appropriate entities within the Office and the Department.

"(4) SPECIAL RESPONSIBILITIES OF THE SECRETARY.—To assure that the information provided through such clearinghouses is fully comprehensive, the Secretary shall—

"(A) require that all reports, studies, and other resources produced directly or by grant or contract with the Department of Education are made available to clearinghouses;

"(B) establish cooperative agreements with the Departments of Defense, Health and Human Services, Interior, and other Federal agencies to assure that all education-related reports, studies, and other resources produced directly or by grant or contract with the Federal Government are made available to such clearinghouses; and

"(C) devise an effective system for maximizing the identification, synthesis, and dissemination of information related to the needs of Indian and Alaska Native children.

"(5) COPYRIGHT PROHIBITED.—

"(A) No clearinghouse or other entity receiving assistance under this subsection may copyright or otherwise charge a royalty or other fee that—

"(i) is for the use or redissemination of any database, index, abstract, report, or other information produced with assistance under this subsection; and

"(ii) exceeds the incremental cost of disseminating such information.

"(B) For purposes of subparagraph (A), the incremental cost of dissemination does not include any portion of the cost of collecting, organizing, or processing the information which is disseminated.

"(g) DISSEMINATION THROUGH NEW TECHNOLOGIES.—

"(1) IN GENERAL.—The Assistant Secretary is authorized to award grants or contracts in accordance with this subsection to support the development of materials, programs, and resources which utilize new technologies and techniques to synthesize and disseminate research and development findings and other information which can be used to support educational improvement.

"(2) SOURCES OF MATERIALS AND RESEARCH ABOUT TEACHING AND LEARNING FOR IMPROVING NATIONWIDE EDUCATION (SMARTLINE).—

"(A) ELECTRONIC NETWORK.—The Assistant Secretary, acting through the Office of Reform Assistance and Dissemination, shall establish and maintain an electronic network which shall, at a minimum, link—

"(i) each office of the Department of Education;

"(ii) the research institutes established by section 405B;

"(iii) the National Center for Education Statistics;

"(iv) the National Library of Education; and

"(v) entities engaged in research, development, dissemination, and technical assistance under grant, contract, or cooperative agreement with the Department of Education.

"(B) CERTAIN REQUIREMENTS FOR NETWORK.—The network described in subparagraph (A) shall—

"(i) to the extent feasible, build upon existing national, regional, and State electronic networks and support video, telecomputing, and interactive communications;

"(ii) at a minimum, have the capability to support electronic mail and file transfer services;

"(iii) be linked to and accessible to other users, including State and local education agencies, institutions of higher education, museums, libraries, and others through the Internet and the National Research and Education Network; and

"(iv) be provided at no cost (excluding the costs of necessary hardware) to the contractors and grantees described in clause (v) of subparagraph (A) and to educational institutions accessing such network through the Internet and the National Research and Education Network.

"(C) INFORMATION RESOURCES.—The Assistant Secretary, acting through the Office of Reform Assistance and Dissemination, may make available through the network described in subparagraph (A)—

"(i) information about grant and contract assistance available through the department;

"(ii) an annotated directory of current research and development activities and projects being undertaken with the assistance of the Department;

"(iii) information about publications published by the Department and, to the extent feasible, the full text of such publications;

"(iv) statistics and data published by the National Center for Education Statistics;

"(v) syntheses of research and development findings;

"(vi) a directory of other education-related electronic networks and databases, including information about the means by which they may be accessed;

"(vii) a descriptive listing of materials and courses of instruction provided by telecommunications partnerships assisted under the Star Schools program;

"(viii) resources developed by the ERIC Clearinghouses;

"(ix) education-related software (including video) which is in the public domain;

"(x) a listing of instructional materials available through telecommunications to local education agencies through the Public Broadcasting Service and State educational television networks; and

"(xi) such other information and resources the Assistant Secretary considers useful and appropriate.

"(D) EVALUATIONS REGARDING OTHER FUNCTIONS OF NETWORK.—The Assistant Secretary shall also undertake projects to test and evaluate the feasibility of using the network described in subparagraph (A) for—

"(i) the submission of applications for assistance to the Department; and

"(ii) the collection of data and other statistics through the National Center for Education Statistics.

"(E) TRAINING AND TECHNICAL ASSISTANCE.—The Assistant Secretary, acting through the Office of Reform Assistance and Dissemination, shall—

"(i) provide such training and technical assistance as may be necessary to enable the contractors and grantees described in clause (v) of subparagraph (A) to participate in the electronic network described in such subparagraph; and

"(ii) work with the National Science Foundation to provide, upon request, assistance to State and local education agencies, the Department of the Interior's Office of Indian Education Programs, tribal departments of education, State library agencies, libraries, museums, and other educational institutions in obtaining access to the Internet and the National Research and Education Network.

"(h) REGIONAL EDUCATIONAL LABORATORIES.—

"(1) REGIONAL EDUCATIONAL LABORATORIES.—The Assistant Secretary shall enter into contracts with public or private nonprofit entities to establish a networked system of 10 regional educational laboratories which serve the needs of each region of the Nation in accordance with the provisions of this subsection. For the purposes of this subsection, the term 'region' means 1 of the 10 geographic regions set forth in section 2(a) of part 707 of title 34, Code of Federal Regulations (34 CFR 707.2(a)), as published in number 157 of volume 53 of the Federal Register on August 15, 1988.

"(2) DUTIES.—Each regional educational laboratory receiving assistance under this subsection shall, with such assistance, assist State education agencies, intermediate education agencies, local school districts, and schools funded by the Bureau of Indian Affairs in implementing broad-based, systemic school improvement strategies through the use of applied research and development activities. The regional educational laboratories shall support such system-wide reform efforts through—

"(A) the development of a plan for identifying needs and for serving the needs of the region by conducting a continuing survey of the educational needs, strengths and weaknesses within the region, including a process of open hearings to solicit the views of schools, teachers, administrators, parents, local educational agencies, librarians, and State educational agencies within the region;

"(B) the dissemination of information about programs designated as exemplary and promising under subsection (c) and other appropriate programs and practices;

"(C) the provision of support and technical assistance in—

"(i) replicating and adapting such exemplary and promising practices;

"(ii) the development of high-quality, challenging curriculum frameworks;

"(iii) the development of valid, reliable, fair systems of assessment which are based upon State, local, or Bureau of Indian Affairs-funded school curriculum frameworks and reflect recent advances in the field of educational assessment;

"(iv) the improvement of professional development strategies to assure that all teachers are prepared to teach a challenging curriculum;

"(v) expanding and improving the use of technology in education to improve teaching and learning;

"(vi) the development of alternatives for restructuring school finance systems to promote greater equity in the distribution of resources; and

"(vii) the development of alternative administrative structures which are more conducive to planning, implementing, and sustaining school reform and improved educational outcomes;

"(D) the development of educational programs and practices that address State, regional, or Indian tribal needs in relating to their school reform efforts;

"(E) facilitating communication between educational experts, school officials, and teachers, parents, and librarians, to enable such individuals to assist schools to develop a plan to meet the national education goals;

"(F) bringing teams of experts together to develop and implement school improvement plans and strategies;

"(G) the provision of training in—

"(i) the field of education research and related areas;

"(ii) the use of new educational methods; and

"(iii) the use of information-finding methods, practices, techniques, and products developed in connection with such training for which the regional educational laboratory shall be authorized to support internships and fellowships and to provide stipends; and

"(H) the provision of support and technical assistance (upon their request) to State facilitators funded through the National Diffusion Network.

"(3) NETWORKING.—In order to improve the efficiency and effectiveness of the regional laboratories, the governing boards of the ten regional laboratories shall establish and maintain a network to—

"(A) share information about the activities each is carrying out;

"(B) plan joint activities that would meet the needs of multiple regions;

"(C) create a strategic plan for the development of activities undertaken by the laboratories to reduce redundancy and increase collaboration and resource-sharing in such activities; and

"(D) otherwise devise means by which the work of the individual laboratories could serve national, as well as regional, needs.

"(4) ADDITIONAL DUTIES.—Each regional education laboratory receiving assistance under this subsection shall carry out the following activities:

"(A) Collaborate with the Institutes established under section 405B in order to—

"(i) maximize the use of research conducted through the Institutes in the work of such laboratory;

"(ii) keep the Institutes apprised of the work of the regional educational laboratories in the field; and

"(iii) inform the Institutes about additional research needs identified in the field.

"(B) Consult with the State educational agencies and library agencies in the region in developing the plan for serving the region.

"(C) Develop strategies to utilize schools as critical components in reforming education and revitalizing rural communities in the United States.

"(D) Report and disseminate information on overcoming the obstacles faced by rural educators and rural schools.

"(E) Identify successful educational programs that have either been developed by such laboratory in carrying out its functions or that have been developed or used by others within the region served by the laboratory and make such information available to the Secretary and the network of regional laboratories so that they may be considered for inclusion in the national education development and dissemination system.

"(5) CERTAIN REQUIREMENTS.—In carrying out its responsibilities, each regional educational laboratory shall—

"(A) establish a governing board that—

"(i) is the sole entity that—

"(I) guides and directs the laboratory in carrying out the provisions of this subsection and satisfying the terms and conditions of the contract award; and

"(II) determines the regional agenda of the laboratory, consistent with the priority research and development needs identified in section 405(b)(3); and

"(ii) reflects a balanced representation of the States in the region, as well as the interests and concerns of regional constituencies;

"(B) comply with the standards established by the Assistant Secretary and the Board under section 405A;

"(C) coordinate its activities, collaborate, and regularly exchange information with the institutes established under section 405C, the National Diffusion Network, and its Developer Demonstrator and State Facilitator projects, learning grant institutions and district education agents assisted under subsection (i), the ERIC Clearinghouses, and other entities engages in technical assistance and dissemination activities which are supported by other Offices of the Department of Education; and

"(D) allocate its resources to and within each State in a manner which reflects the need for assistance, taking into account such factors as the proportion of economically disadvantaged students, the increased cost burden of service delivery in areas of sparse populations, and any special initiatives being undertaken by State, intermediate, local education agencies, or Bureau of Indian Affairs-funded schools which may require special assistance from the laboratory.

"(6) EVALUATIONS.—The Assistant Secretary shall provide for periodic, independent evaluations of each of the laboratories in carrying out the duties described in paragraph (1) in accordance with the standards developed by the Assistant Secretary and the Board and transmit the results of such evaluations to the relevant committees of the Congress, the Board, and the appropriate regional educational laboratory board.

"(7) INVITATION REGARDING COMPETITION FOR AWARDS OF ASSISTANCE.—Prior to awarding a grant or entering into a contract under this section, the Secretary shall invite applicants, including the existing regional educational laboratories, to compete for such award through notice in the Federal Register and in the publication of the Department of Commerce known as the Commerce Business Daily.

"(8) APPLICATION FOR ASSISTANCE.—Each application for assistance under this subsection shall—

"(A) cover not less than a 5-year period;

"(B) describe how the applicant would carry out the activities required by this subsection; and

"(C) contain such additional information as the Secretary may reasonably require.

"(9) RULE OF CONSTRUCTION.—No regional educational laboratory receiving assistance under this subsection shall, by reason of the receipt of that assistance, be ineligible to receive any other assistance from the Department as authorized by law.

"(10) ADVANCE PAYMENT SYSTEM.—Each regional educational laboratory shall participate in the advance payment system at the Department of Education.

"(i) GOALS 2000 COMMUNITY PARTNERSHIPS PROGRAM.—

"(1) PURPOSE.—The purpose of the Goals 2000 Community Partnerships program is to improve the quality of learning and teaching in the Nation's most impoverished urban and rural communities by supporting sustained collaborations between universities, schools, businesses, and communities which apply and utilize the results of educational research and development.

"(2) GRANTS FOR GOALS 2000 COMMUNITY PARTNERSHIPS.—The Assistant Secretary is authorized to make grants to eligible entities to support the establishment of Learning Grant Institutions and District Education Agents and the activities authorized under this subsection within eligible communities.

"(3) DEFINITION OF ELIGIBLE ENTITY AND ELIGIBLE COMMUNITY.—For the purposes of this subsection:

"(A) The term 'eligible entity' includes any institution of higher education, regional education laboratory, National Diffusion Network project, national research and development center, public or private nonprofit corporation, or any consortium thereof that—

"(i) has demonstrated experience, expertise and commitment in serving the educational needs of at-risk students; and

"(ii) is, by virtue of its previous activities, knowledgeable about the unique needs and characteristics of the community to be served.

"(B) The term 'eligible community' means a unit of general purpose local government (such as a city, township, or village), a nonmetropolitan county, tribal village, or a geographically distinct area (such as a school district, school attendance area, ward, precinct or neighborhood), or any group of such entities that—

"(i) has a population of not less than 200,000 and not more than 300,000; and

"(ii) in which not less than one-half of the school-age children have family incomes which are below the poverty line, as determined by the 1990 United States Census, participation in the National School Lunch program, or other current, reliable data concerning family income.

"(4) GOALS 2000 COMMUNITY PARTNERSHIPS.—Each learning grant institution receiving assistance under this subsection shall establish a Goals 2000 community partnership to carry out the activities authorized under this subsection. Such partnership—

"(A) shall include the participation of one or more local educational agencies, institutions of higher education, community-based organizations, parents, teachers, and the business community;

"(B) may include the participation of human, social service and health care agencies, Head Start and child care agencies, libraries, museums, employment and training agencies, and the State educational agency or tribal department of education; and

"(C) shall be broadly representative of all segments of the community in which the activities will be carried out.

"(5) COMPREHENSIVE GOALS 2000 PLAN.—Each Goals 2000 Community Partnership shall develop a comprehensive plan for assuring educational success and high achievement for all students in the community. Each such plan shall—

"(A) adopt the 6 national educational goals;

"(B) identify additional needs and goals for educational improvement within the community;

"(C) focus on helping all students reach challenging content and student performance standards;

"(D) be consistent with the State and local plan for system-wide education improvement developed pursuant to the Goals 2000: Educate America Act;

"(E) establish a comprehensive community-wide plan for achieving such goals; and

"(F) develop a means for measuring the progress of the community in meeting such goals for improvement.

"(6) IMPLEMENTATION OF COMMUNITY-WIDE PLAN.—Each Goals 2000 Community Partnership shall, utilizing the District Education Agent, provide assistance in implementing the community-wide plan for educational improvement by—

"(A) supporting innovation, restructuring, and continuous improvement in educational practice by—

"(i) disseminating information throughout the community about exemplary and promising educational programs, practices, products, and policies;

"(ii) evaluating the effectiveness of federally funded educational programs within the community and identifying changes in such programs which are likely to improve student achievement;

"(iii) identifying, selecting and replicating exemplary and promising educational programs, practices, products, and policies in both in and out-of-school settings;

"(iv) applying educational research to solve specific problems in the classroom, home and community which impede learning and student achievement; and

"(v) supporting research and development by teachers, school administrators, and other practitioners which promise to improve teaching and learning and the organization of schools;

"(B) improving the capacity of educators, school administrators, child care providers and other practitioners to prepare all students to reach challenging standards and to attain the goals set out in the comprehensive community-wide plan through such means as—

"(i) the training of prospective and novice teachers (including preschool and early childhood educators) in a school setting under the guidance of master teachers and teacher educators;

"(ii) training and other activities to promote the continued learning and professional development of experienced teachers, related services personnel, school administrators to assure that they develop the subject matter and pedagogical expertise needed to prepare all students to reach challenging standards;

"(iii) training and other activities to increase the ability of prospective, novice, and experienced teachers to teach effectivenly at-risk students, students with disabilities, students with limited English language proficiency, and students from diverse cultural backgrounds; and

"(iv) programs to enhance teaching and classroom management skills, including school-based management skills, of novice, prospective, and experienced teachers;

"(C) promoting the development of an integrated system of service delivery to children from birth through age 18 and their families by facilitating linkages and cooperation among—

"(i) local education agencies;

"(ii) health and social services agencies and providers;

"(iii) juvenile justice and criminal justice agencies;

"(iv) providers of employment training; and

"(v) child care, Head Start, and other early childhood agencies; and

"(D) mobilizing the resources of the community in support of student learning and high achievement by facilitating effective partnerships and collaboration among—

"(i) local education agencies;

"(ii) postsecondary educational institutions;

"(iii) public libraries;

"(iv) parents;

"(v) community-based organizations, neighborhood associations, and other civic and community organizations;

"(vi) child care, Head Start, and other early childhood agencies;

"(vii) churches, synagogues and other religious institutions;

"(viii) labor organizations; and

"(ix) business and industry.

"(7) ADDITIONAL REQUIREMENTS.—In carrying out its responsibilities under this subsection, each partnership receiving assistance under this subsection shall—

"(A) appoint a District Education Agent who shall be responsible, on a full-time basis, for directing the implementation of the community-wide plan. Such individual shall have significant experience and expertise in the field of education in—

"(i) addressing the needs of at-risk students; and

"(ii) conducting educational research and promoting the application of the results of such research to educational practice;

"(B) provide for such other professional and support personnel as may be necessary to implement the community-wide plan under the direction of the District Education Agent; and

"(C) coordinate its activities and work cooperatively with the National Diffusion Network State facilitators, regional laboratories, and other components of the Office to utilize most effectively Federal research, development, and dissemination resources in implementing the community-wide plan.

"(8) APPLICATION FOR GRANTS.—Any eligible entity desiring a grant under this subsection shall submit an application to the Assistant Secretary at such time, in such manner, and accompanied by such information as the Assistant Secretary may reasonably require. Each such application shall—

"(A) include a comprehensive plan for meeting the objectives and requirements of this subsection; and

"(B) provide evidence of support for the application from local elected officials, the State education agency, the local education agency, parents, local community leaders, businesses, and other appropriate organizations.

"(9) PRIORITY IN MAKING GRANTS; DURATION AND AMOUNT OF GRANT.—Each grant made under this subsection shall be—

"(A) awarded on a competitive basis, with first priority given to those applications from communities with the greatest percentage of school-age children in families with poverty-level incomes;

"(B) made for a 5-year period, with funding for the second and each successive year in this

period conditioned upon a determination by the Assistant Secretary that the grant recipient has complied with the conditions of the grants during the previous year; and

"(C) an amount equal to not less than $1,000,000 per year.

"(10) LIMITATION OF ONE GRANT PER CONGRESSIONAL DISTRICT.—Not more than one grant shall be awarded within a single congressional district.

"(11) TECHNICAL ASSISTANCE; EVALUATIONS.—In administering the program authorized under this subsection, the Assistant Secretary shall, either directly or through grant or contract with an eligible nonprofit agency—

"(A) upon request, provide technical assistance to eligible entities to assist in the development of a comprehensive plan to meet the requirements of this subsection and in the preparation of applications for assistance;

"(B) regularly provide technical assistance to learning grant institutions receiving assistance under this subsection to assist with the development and implementation of the communitywide plan for educational improvement;

"(C) provide for an independent evaluation of the activities assisted under this subsection, including—

"(i) the impact of the Goals 2000 Community Partnerships program on children and families within each community, including (but not limited to) effects on the extent of educational achievement, rates of school retention and completion, and enrollment in program postsecondary educational programs; and

"(ii) whether an intensified effort to apply and utilize educational research within a limited geographic area significantly improves student learning and achievement; and

"(D) plan for the expansion of the Goals 2000 Community Partnerships program throughout the remainder of the Nation beginning in fiscal year 1998.

"(j) TEACHER RESEARCH DISSEMINATION NETWORK.—

"(1) FINDINGS.—The Congress finds that—

"(A) education research, including research funded by the Office, is not having the impact on the Nation's schools that such research should;

"(B) relevant education research and resulting solutions are not being adequately disseminated to the teachers that need such research and solutions;

"(C) there are not enough linkages between the research and development centers assisted under this section, the regional educational laboratories described in subsection (k), the National Diffusion Network State facilitators, the Education Resources Information Clearinghouses, and the public schools, to ensure that research on effective practice is disseminated and technical assistance provided to all teachers;

"(D) the average teacher has almost no time to plan or engage in a professional dialogue with such teacher's peers about strategies for improving learning;

"(E) teachers do not have direct access to information systems or networks;

"(F) teachers have little control over what inservice education teachers will be offered; and

"(G) individual teachers are not encouraged to move beyond the walls of their classrooms to identify and use outside resources.

"(2) PROGRAM AUTHORIZED.—

"(A) The Assistant Secretary shall enter into contracts with regional educational laboratories, in partnership with 1 or more institutions of higher education in each State of its region, the National Diffusion Network, and other entities with demonstrated experience, expertise, and commitment in the areas of teacher research or teacher professional development, such as the national research and development centers, professional teacher organizations, and other qualified organizations and associations, in the region to carry out activities described in paragraph (3).

"(B) The Assistant Secretary shall enter into contracts under this subsection in an equitable manner and shall provide assistance on the basis of the number of schools, teachers, and students in each regional educational laboratory region with attention given to populations with special needs and the increased cost burden of service delivery in regions of sparse population.

"(C) Contracts under this subsection shall be awarded for a period of not less than 3 years.

"(3) PROGRAM ACTIVITIES.—

"(A) Each regional partnership described in paragraph (2)(A) entering into a contract under this subsection shall carry out programs of providing training to teachers relevant to the needs and problems of the schools and school districts where teachers, who participate in the programs, serve. The purpose of such programs shall be to—

"(i) educate teachers on how to acquire information about education research findings and best practices;

"(ii) provide teachers with current education research and development theory, skills, and practice as shall enable them to modify, design, develop, and adapt such findings and practices to effect local district and classroom outcomes that improve education;

"(iii) enable teachers to become actively involved in the applied research and development process;

"(iv) provide teachers the ability to become leaders in the utilization of applied research and to become active participants in the Federal research and development partnership;

"(v) enhance the ability of teachers to evaluate and choose effective education programs and curricula; and

"(vi) facilitate collaboration between the teacher change agent and the National Diffusion Network State facilitator.

"(B) Teachers that participate in training assisted under this subsection shall be known as 'teacher change agents'.

"(C) The program described in subparagraph (A) shall provide teacher change agents with training during the summer and at such other times as agreed to by the district, which shall—

"(i) give teacher change agents knowledge and guidance in using the existing educational improvement services and resources funded by the United States Department of Education and other major research organizations, including the products and work of the regional educational laboratories, professional teacher organizations, the National Diffusion Network, institutions of higher education, the Educational Research Information Centers, National Research Centers, National Research Institutes, State Departments of Education, local education agencies, and other nonprofit organizations participating in the improvement of education;

"(ii) provide teacher change agents with indepth knowledge about a number of products, programs, and processes developed by entities described in clause (i) that the teacher change agents judge most relevant to the needs of the district or districts they will serve;

"(iii) inform teacher change agents about government programs, including, but not limited, to programs in government agencies other than the Department of Education, which offer research opportunities, fellowships, and funding; and

"(iv) provide teacher change agents with instruction in technical assistance skills in order to increase their capacity to aid district and school site teacher teams responsible for leading school improvement activities at the district and school site level.

"(D) The school year activities described in subparagraph (A) shall provide teacher change agents participating in such program during the school year with—

"(i) opportunities to meet with other teacher change agents to exchange experiences;

"(ii) additional training or assistance as needed or requested;

"(iii) updates in education research, application, and findings; and

"(iv) opportunities to provide feedback into the educational research infrastructure regarding needed research and ways to improve the development and dissemination of information.

"(E) The regional partnership program may support educational improvement and reform activities such as—

"(i) training in applied research methodologies;

"(ii) assistance in conducting applied research;

"(iii) teacher research sabbaticals;

"(iv) video conferencing for additional training in order to reduce travel time and expenses;

"(v) training in developing and implementing effective teacher in-service training;

"(vi) training in change management, including strategies for restructuring schools, building local capacity, and generally strengthening the culture of schools so that schools are conducive and supportive of change, including training in interpersonal and leadership skills; and

"(vii) training in the appropriate use of technology to assist classroom teachers.

"(F) TEACHER RESPONSIBILITIES.—Teacher change agents shall, during the school year—

"(i) meet with other teachers and district or school site teacher teams to provide other teachers with knowledge about how to acquire information regarding education research findings and best practices, including what resources are available from the Department of Education and how to obtain products and technical services from the Department;

"(ii) meet with the National Diffusion Network State Facilitator to coordinate and not duplicate efforts in the dissemination of exemplary educational programs;

"(iii) help interested schools identify resources needed to address the school's needs and act as liaison between the school and the appropriate resource entities, such as regional educational laboratories, centers, national institutes, institutions of higher education, professional teacher organizations, scholars, consultants, and other schools and school districts that may be of assistance;

"(iv) teach other teachers how to use the products, programs, and processes in which the teacher was trained pursuant to paragraph (2)(C)(II);

"(v) work with other teachers and teacher teams to adapt identified exemplary practices, programs, and research results to implement school site or classroom improvements as desired, and provide follow-up activities throughout a 2-year period to ensure the successful adaptation and implementation of such programs in local schools; and

"(vi) inform teachers about how they can obtain Federal research funding, fellowships, and sabbaticals.

"(G) APPLICATION.—

"(i) IN GENERAL.—Each regional partnership desiring a contract under this subsection shall submit to the Secretary an application at such time, in such manner, and accompanied by such information as the Assistant Secretary may reasonably require.

"(ii) CONTENTS.—Each application described in clause (i) shall—

"(I) contain a plan acceptable to affected States and local education agencies for conducting the program to be assisted under this section;

"(II) contain assurances that the partnership requirements are fulfilled;

"(III) contain assurances that both district and school site teacher teams will be established to work in conjunction with the teacher change agent;

"(IV) contain a plan for the selection of district and school site teacher team participants and others as deemed appropriate by the teacher change agent and the regional partnership;

"(V) contain assurances that the regional partnership, in conjunction with the participating school districts, shall provide each teacher change agent with a stipend for the entire calendar year commensurate with such teacher's salary and travel expenses, to permit a teacher to participate in such program without incurring loss of income;

"(VI) contain assurances that each teacher change agent participating in the program shall receive an award of not more than $10,000 to be used by such teacher during the school year of such teacher's participation to purchase materials, support, and coordinate with other teachers or site teacher teams in the school district;

"(VII) contain assurances that such regional partnerships shall provide not more than $5,000 to each school district or group of school districts having an individual from such district or districts participating in the program assisted under this section for each of the 2 years following such participation to enable such school district or districts to continue efforts to improve dissemination of effective practices and programs within the district or districts;

"(VIII) contain assurances that representatives of State educational agencies, intermediate educational agencies, teacher centers, teacher educators at institutions of higher education, and school district in-service or curriculum specialists will be eligible to participate in the program assisted under this section if such individuals pay the cost of their participation; and

"(IX) contain an assurance that such regional partnership shall permit a teacher to participate in the program only after such partnership determines that the teacher will be afforded a full opportunity by the district to perform such teacher's responsibilities described in paragraph (3)(F).

"(4) TEACHER SELECTION AND ELIGIBILITY.—

"(A) NOMINATION.—Teacher participants in the program assisted under this subsection shall be nominated by their peers at the school district level.

"(B) ELIGIBILITY.—Each school district or group of school districts desiring to have teachers from such district or districts participate in the program assisted under this subsection shall provide the regional partnership with the names of such teachers, and an indication of the type of issues or problems on which each such teacher would like to receive information and training.

"(C) SELECTION.—

"(i) Teacher participants shall be selected by the regional partnerships in consultation with the State educational agencies in the region. Teacher participants shall be selected in such a manner so as to ensure an equitable representation of such teachers by State and school enrollment within the region.

"(ii) The number of teachers selected each year shall be determined in accordance with the amount of funding received by the regional partnership.

"(5) INDEPENDENT EVALUATION.—

"(A) IN GENERAL.—The Assistant Secretary shall provide for an independent evaluation of the program assisted under this subsection to determine the net impact and cost effectiveness of the program and the reactions of teachers and school districts participating in such program, including any career plan changes of participating teachers.

"(B) DATE.—The evaluation described in subparagraph (A) shall be submitted to the Congress within 6 months after the completion of the third year of the program.

"(C) FUNDING.—The Assistant Secretary may reserve not more than $250,000 of the amount appropriated under section 405(i)(2)(E) to carry out the evaluation described in this paragraph.".

TITLE V—NATIONAL LIBRARY OF EDUCATION

SEC. 501. ESTABLISHMENT WITHIN OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT.

Part A of the General Education Provisions Act, as amended by section 401 of this Act, is amended by inserting after section 405C the following new section:

"NATIONAL LIBRARY OF EDUCATION

"SEC. 405D. (a) IN GENERAL.—There is established within the Office a National Library of Education (hereafter in this section referred to as the 'Library'), which shall be maintained as a governmental activity.

"(b) FUNCTIONS OF LIBRARY.—The functions of the Library are—

"(1) to provide a central location within the Federal Government for information about education;

"(2) to provide comprehensive reference services on matters related to education to employees of the Department of Education and its contractors and grantees, other Federal employees, and members of the public; and

"(3) to promote greater cooperation and resource sharing among providers and repositories of education information in the United States.

"(c) ONE-STOP INFORMATION AND REFERRAL SERVICE.—The Library shall establish and maintain a central information and referral service to respond to telephonic, mail and electronic and other inquiries from the public concerning—

"(1) programs and activities of the Department of Education;

"(2) publications produced by the Department of Education and, to the extent feasible, education related publications produced by the Departments of Labor, Health and Human Services, and other Federal agencies;

"(3) services and resources available to the public through the Office, including the ERIC Clearinghouses, the research institutes, and the national education dissemination system;

"(4) statistics and other information produced by the National Center for Education Statistics; and

"(5) referrals to additional sources of information and expertise about educational issues which may be available through educational associations and foundations, the private sector, colleges and universities, libraries and bibliographic databases.

The Library shall maintain and actively publicize a toll-free telephone number through which public inquiries to the Library may be made.

"(d) COMPREHENSIVE REFERENCE SERVICES.—The Library shall, to the extent feasible, provide for the delivery of a full range of reference services on subjects related to education to employees of the Department and its contractors and grantees, other Federal employees, and members of the general public. Such services may include—

"(1) specialized subject searches;

"(2) search and retrieval of electronic databases;

"(3) document delivery by mail and facsimile transmission;

"(4) research counseling, bibliographic instruction, and other training services;

"(5) interlibrary loan services; and

"(6) selective dissemination of information services.

The Library shall first give priority in the provision of reference services to requests made by employees of the Department.

"(e) COOPERATION AND RESOURCE SHARING.—The Library shall promote greater cooperation and resource sharing among libraries and archives with significant collections in the area of education through such means as—

"(1) the establishment of information and resource sharing networks among such entities;

"(2) the development of a national union list of education journals held by education libraries throughout the United States;

"(3) the development of directories and indexes to textbook and other specialized collections held by education libraries throughout the United States; and

"(4) cooperative efforts to preserve, maintain and promote access to items of special historical value or interest.

"(f) ADMINISTRATION.—The Library shall be administered by an Executive Director who shall—

"(1) be appointed by the Assistant Secretary from among persons with significant training or experience in library and information science;

"(2) serve for a renewable term of 5 years; and

"(3) be paid at not less than the minimum rate of basic pay payable for GS–15 of the General Schedule.

"(g) TASK FORCE.—

"(1) IN GENERAL.—The Assistant Secretary shall appoint a task force of librarians, scholars, teachers, parents, and school leaders (hereafter in this paragraph referred to as the 'Task Force') to provide advice on the establishment of the Library.

"(2) PREPARATION OF PLAN.—The Task Force shall prepare a workable plan to establish the Library and to implement the requirements of this section.

"(3) CERTAIN AUTHORITIES.—The Task Force may identify other activities and functions for the Library to carry out, except that such functions shall not be carried out until the Library is established and has implemented the requirements of this section.

"(4) REPORT.—The Task Force shall prepare and submit to the Assistant Secretary not later than 6 months after the first meeting of the Task Force a report on the activities of the Library.

"(h) TRANSFER OF FUNCTIONS.—There are hereby transferred to the Library all functions of—

"(1) the Department of Education Research Library;

"(2) the Department of Education Reference Section; and

"(3) the Department of Education Information Branch.

"(i) COLLECTION DEVELOPMENT POLICY.—Not later than 180 days after the enactment of the Educational Research, Development, and Dissemination Excellence Act, the Assistant Secretary shall promulgate a comprehensive collection development policy to govern the Library's operations, acquisitions, and services to users. Such collection development policy shall—

"(1) be consistent with the functions of the Library set out in subsection (b);

"(2) emphasize the acquisition and maintenance of a comprehensive collection of reference materials; and

"(3) avoid unnecessary duplication by putting a priority on meeting the information needs of the Library's users through cooperation and resource-sharing with other entities with significant collections in the field of education.

"(j) ARREARAGE AND PRESERVATION.—On the basis of the collection development policy promulgated under subsection (h), the Executive Director shall develop a multiyear plan which shall set forth goals and priorities for actions needed to—

"(1) eliminate within 3 years the arrearage of uncataloged books and other materials in the Library's collections; and

"(2) respond effectively and systematically to the preservation needs of the Library's collections, relying, whenever possible, upon cooperative efforts with other institutions to preserve and maintain the usability of books and materials in the Library's collections.".

The SPEAKER pro tempore (Mr. FRANK of Massachusetts). Pursuant to the rule, the gentleman from New York [Mr. OWENS] will be recognized for 20 minutes, and the gentleman from North Carolina [Mr. BALLENGER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. OWENS].

GENERAL LEAVE

Mr. OWENS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include therein extraneous matter, on H.R. 856, the bill now being considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York.

There was no objection.

Mr. OWENS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 856, the Educational Research, Development, and Dissemination Excellence Act. This legislation reauthorizes and restructures the Office of Educational Research and Improvement [OERI], to establish a worldclass research and development system to guide and drive the national effort to improve education and achieve the national goals.

This legislation has been crafted through a uniquely open and participatory process. We have worked hard to put together a true bipartisan, consensus bill. The Subcommittee on Select Education and Civil Rights has held 18 hearings and heard from 112 witnesses about the kinds of changes which must be made in the structure and authorities of OERI. We have carefully considered and, in most cases, adopted the recommendations of two complementary studies of OERI completed by the National Academy of Sciences and the National Academy of Education. We have held more than 45 meetings with the Republican staff of the Education and Labor Committee drafting, discussing, and redrafting legislative language; many useful, and important provisions of this bill have been contributed by Mr. GOODLING and Mr. BALLENGER and their staffs. We met with the Department of Education on several occasions for line-by-line discussions of the legislation and have included 67 changes they recommended. And we gave an opportunity to present written and oral comments about the bill to any organization and individual who wanted to be heard. The end product of this lengthy, exhaustive process is a very strong, consensus bill which sets OERI on a bold, new course.

If we are to achieve the ambitious national educational goals, OERI must be moved from the periphery to the center of educational reform and innovation in America. It must become the locomotive which pulls and guides the national effort to improve education with sound, research-based leadership for change.

In every other realm of public policy, we recognize that a substantial investment in research and development is essential to provide us with the knowledge we need to guide and support our actions. In agriculture, in aeronautics, in medicine, in engineering, and in other sciences, a robust system of research and development shapes and drives decisionmaking. Research and development is recognized as an indispensable beacon to point the way.

This has not been the case with research and development in education. The Federal educational research and development system is held in low repute; in general, the knowledge it produces is not considered to be terribly useful to efforts to improve the quality of education. There has been no coherent or consistent long-term agenda; research priorities at OERI have rapidly fluctuated, shifting with changes in key personnel and administrations, and have been dominated by short-term and frequently partisan considerations. Research priorities have not been responsive to many of the needs and concerns of teachers, school administrators, and other practitioners. Critical areas of research, including the education of at-risk students and early childhood development, have not received adequate attention. Efforts to translate the knowledge gained from educational research into real improvements in educational practice have been fragmented, sporadic, and ineffective. And largely as a result of the system's overall lack of credibility, educational research and development has been dangerously underfunded.

H.R. 856 seeks to address these and other severe problems which now impair and afflict the federal system of educational research and development.

First and foremost, the bill creates a stable, nonpartisan system of governance modeled upon the National Institutes of Health and the National Science Foundation to guide OERI's activities. An 18-member National Educational Research Policy and Priorities Board consisting of both educational researchers and representatives of teachers, parents, school administrators, and other stakeholders in the Nation's educational system is established to oversee and guide OERI. The Board's key function is to work with the Assistant Secretary to develop a comprehensive research priorities plan to end the incoherent flavor of the month approach to research which has limited OERI's effectiveness for so long. This would be a long-term agenda for OERI's research and development efforts, reflecting a consensus of both educators and researchers, which would set out priorities and objectives for OERI, including areas which merit further inquiry and the most effective means of addressing them. This research priorities plan would provide guidance to the Department in its administration of OERI and the Congress in its oversight of these activities.

H.R. 856 also realigns OERI's activities according to an institute structure to provide an enduring focus for its efforts. Currently, OERI is organized by how it conducts research, with different units managing the research centers program, field-initiated research, and so forth, and not by what is being studied. This has contributed to the overall lack of coherence and stability at OERI. H.R. 856 would restructure OERI's research and development activities according to an institute framework, with institutes focused in the following areas: The education of at-risk students; educational governance, finance, and management; early childhood learning, communities, and families; student achievement; and postsecondary education, libraries, and lifelong learning. These institutes would conduct research through the same means that OERI now employs, including through centers and field-initiated research.

To assure that the results of educational research are fully translated into real improvements in practice, H.R. 856 creates an Office of Reform Assistance and Dissemination within OERI which would be responsible for managing and directing multiple efforts to synthesize, disseminate and promote the use of knowledge gained through research. These efforts include the ERIC Clearinghouses and the regional educational laboratories.

H.R. 856 also establishes the Goals 2000 Community Partnerships to support sustained collaborations among institutions of higher education, community-based organizations, local education agencies, and others to use research and development to improve education in low-income communities. In the most impoverished communities in America, there is an urgent need for a permanent, independent resource to support and guide efforts to improve education. This district education agent program is inspired and derived from the county agricultural extension agent, a program which proved enormously successful in the first part of this century in transforming American agriculture, community by community, to a position of world dominance. Following the agriculture extension program model, a district education agent would be based in a learning grant institution and would work with the local community to develop and implement a comprehensive plan to improve education from the pre-school to postdoctoral level. The agent will also help schools and community members evaluate the success of Federal educational programs within the community and assist in improving their implementation. Other activities which may be supported by the partnerships include pre-service and in-service professional development for educators within the community, facilitating the coordination of social, health, and other services to children, and school- and community-based research by teachers and others designed to solve specific problems within the community.

Through these and other provisions, H.R. 856 would restructure and reinvigorate OERI so that it can begin to provide the Nation with the research-based knowledge it needs to meet the national educational goals. Just as the National Institutes of Health guides the national effort to improve the practice of medicine and the health of our people, just as the National Science Foundation guides the national effort to improve the practice of science of engineering and to advance our knowledge in those disciplines, OERI would be invested with the means and authority to lead the national effort to improve the practice of education and to enhance the quality of educational opportunities available to our citizens. OERI would be placed at the center of an overwhelming campaign to improve education in America.

I am pleased and proud that H.R. 856 enjoys support from the American Educational Research Association, the National Education Association, the National PTA, the Council for Educational Development and Research, the National Indian Education Association, and many others. Even so, I understand that there remain a few naysayers who have expressed misgivings about the policymaking authority of the Board and have worried that the institute structure set out in the bill may be too ambitious.

A review of the history of Federal support for research and development puts these complaints in the proper perspective. Similar concerns and objections were raised during the consideration of the legislation which established the National Science Foundation and the National Institutes of Health.

It took the Congress and President Harry Truman 3 years to agree on legislation establishing the National Science Foundation because the White House objected to the policymaking power the Congress wanted to invest in the National Science Board. In fact, the President vetoed the first NSF legislation over this very issue. Ultimately, however, reason prevailed and the President agreed to a National Science Board with considerable policymaking authority. No one today disputes the wisdom of that decision. The governance structure of the NSF is universally recognized as a success.

It took the Congress and the President 5 years to agree on legislation establishing the National Institutes of Health because of White House concerns about the cost involved. Despite overwhelming support within the scientific community and Congress for the creation of NIH, President Calvin Coolidge and his Bureau of the Budget were steadfastly opposed, maintaining that it was an unjustifiable government expense. Some career health officials within the Federal Government opposed the legislation as well, expressing the fear that they would fail in trying to implement legislation so ambitious. Ultimately, however, reason prevailed. In 1931, in the midst of the Depression, President Herbert Hoover overruled his budget advisers and signed into law the legislation establishing the National Institutes of Health. Hoover dismissed those who argued that the legislation was too costly and ambitious, commenting, "Some scientific discoveries and inventions have in the past been the result of genius struggling in poverty. But poverty does not clarify thought, nor furnish laboratory equipment."

No one today disputes the wisdom of Hoover's decision. The National Institutes of Health is today one of the world's foremost research agencies whose work is recognized as essential to the improvement and protection of the public health.

History makes it plain that the naysayers who sought to thwart the creation of NSF and NIH were wrong. In the years to come, I expect that the few lonely voices who still carp about the important elements of this legislation will similarly be proven wrong. With H.R. 856, we can provide meaningful support to the efforts of teachers, school administrators, parents and others to reform and improve the quality of our children's education. With this legislation, we can assure that the kind of research-based knowledge they need will be systematically and abundantly produced by OERI. No longer will OERI be a faint and flickering light; it will be a powerful and reliable beacon for reform and change in education.

Mr. Speaker, to significantly improve education in America we need an overwhelming campaign. This legislation provides the Office of Educational Research and Improvement with the capability to lead this overwhelming campaign for the improvement of education.

□ 1450

Mr. BALLENGER. Mr. Speaker, I yield myself such time as I may consume.

I rise in support of H.R. 856, an act to reauthorize the Office of Educational Research and Improvement [OERI].

Many of us represent schools, school districts, and States that have launched significant school reform efforts. These efforts have the goal of raising the achievement levels of all students—the disadvantaged, average, and gifted alike. In order to accomplish this, it has become clear that schools and teachers will have to reinvent the way they operate—from management to instruction.

The success of the school reform effort is vital to the economic health of the country. It is difficult to think of creating high performance jobs without first creating high performance schools that produce high achievement students. This is why business organizations at the national, State, and local level are working to make school reform a success.

A critical element of this national movement is a high quality research and development effort so that educational change is based on sound experience and knowledge. No business would undertake such a major retooling without such research-based information. Unfortunately, the Federal effort in educational R&D is currently not up to the task. It not only falls short of the private sector's R&D capacity, but it does not compare to other Federal programs, in energy, health, agriculture, and the sciences.

H.R. 856 lays out a blueprint for OERI so we will be generating the highest quality educational innovations in the world by the year 2000. The legislation also creates a means by which this knowledge can be shared with, and adopted by, schools across the country. For example, a national educational computer network, Smartline, is authorized. Smartline will connect schools, States, universities, and Federal R&D centers with a focus on improved practice.

Mr. OWENS and I have worked together for almost 3 years on this legislation. While I continue to have reservations about some provisions, I support the major thrust of the bill and believe it can deliver on the promise of Federal leadership in this important area.

My congratulations to Mr. OWENS and my thanks to his staff for their willingness to find agreement on many provisions of the legislation. I am sure we will continue this bipartisan effort as we move the bill through the remainder of the legislative process.

I urge my colleagues to join me in support of passage of H.R. 856.

Mr. GOODLING. Mr. Speaker, I rise to speak in support of H.R. 856, the reauthorization of the Office of Educational Research and Improvement [OERI] in the U.S. Department of Education.

When we come to the floor with an education bill, there is often a discussion about the appropriate role of the Federal Government in our Nation's education system. This is a healthy discussion given the American tradition and the legal foundation for education being primarily a State and local function.

However, I believe that there are some areas where there is both a legitimate and important role for the Federal Government. One such area is the support of educational research and development. It does not make sense to have the over 15,000 school districts or the 50 State education agencies carrying out totally independent research and development efforts—no more than it does in the area of agriculture, health, and science.

Unfortunately, the track record of the Federal R&D effort in education has not been up to the standards set in these other areas. Too often, the work has been driven by politics or simply the lack of any long-term vision for education. As a result, the reputation and funding levels of OERI are not what they should be.

Considering that we, as a nation, spend more than $300 billion on elementary and secondary education, it is a major problem that we are not producing top quality information about what programs and practices lead to the highest levels of learning. If our education system is nearing chapter 11, part of the problem is an almost total lack of knowledge-based change.

Mr. OWENS and Mr. BALLENGER have both put a great deal of effort into creating a structure for OERI that could fill the leadership vacuum in educational R&D. However, like any plan, the results will come as a result of good faith implementation on the part of the Department. I would hope that in 5 years we will be able to look at OERI and compare it to the other highly regarded Federal research entities.

Congratulations to Mr. OWENS and Mr. BALLENGER for their bipartisan work on this legislation. The quality of the product demonstrated their hard work and good faith.

I urge my colleagues to support H.R. 856.

Mr. BALLENGER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. OWENS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. FRANK of Massachusetts). The question is on the motion offered by the gentleman from New York [Mr. OWENS] that the House suspend the rule and pass the bill, H.R. 856, as amended.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. David Zaroff, one of his secretaries.

APPOINTMENT OF CONFEREES ON H.R. 2493, AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1994

Mr. DURBIN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2493) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1994, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

MOTION TO INSTRUCT OFFERED BY MR. SKEEN

Mr. SKEEN. Mr. Speaker, I offer a motion to instruct.

The Clerk read as follows:

Mr. SKEEN moves that the managers on the part of the House, at the conference on the disagreeing votes of the two Houses on H.R. 2493, be instructed that, in resolving the differences between the House and the Senate, the total discretionary spending should remain, as nearly as possible, within the totals in the House-passed bill for budget authority and outlays.

The SPEAKER pro tempore. The gentleman from New Mexico [Mr. SKEEN] will be recognized for 30 minutes and the gentleman from Illinois [Mr. DURBIN] will be recognized for 30 minutes.

The Chair recognizes the gentleman from New Mexico [Mr. SKEEN].

Mr. SKEEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I do not want to take my entire time, but I would like to say it is pretty much self-explanatory.

Mr. DURBIN. Mr. Speaker, will the gentleman yield?

Mr. SKEEN. I yield to the gentleman from Illinois.

Mr. DURBIN. Mr. Speaker, I accept the motion.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from New Mexico [Mr. SKEEN].

The motion to instruct was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Without objection, the Chair appoints the following conferees: Mr. DURBIN, Mr. WHITTEN, Ms. KAPTUR, Mr. THORNTON, Ms. DELAURO, Messrs. PETERSON of Florida, PASTOR, SMITH of Iowa, NATCHER, SKEEN, and MYERS of Indiana, Mrs. VUCANOVICH, Mr. WALSH, and Mr. MCDADE.

There was no objection.

DEPOSITORY INSTITUTIONS DISASTER RELIEF ACT OF 1993

Mr. GONZALEZ. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2808) to facilitate recovery from the recent flooding of the Mississippi River and its tributaries by providing greater flexibility for depository institutions and their regulators, and for other purposes.

The Clerk read as follows:

H.R. 2808

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Depository Institutions Disaster Relief Act of 1993".

SEC. 2. TRUTH IN LENDING ACT; EXPEDITED FUNDS AVAILABILITY ACT.

(a) TRUTH IN LENDING ACT.—During the 180-day period beginning on the date of enactment of this Act, the Board of Governors of the Federal Reserve System may make exceptions to the Truth in Lending Act for transactions within an area in which the President, pursuant to section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, has determined that a major disaster exists, or within an area determined to be eligible for disaster relief under other Federal law by reason of damage related to the 1993 flooding of the Mississippi River and its tributaries, if the Board determines that the exception can reasonably be expected to alleviate hardships to the public resulting from such disaster that outweigh possible adverse effects.

(b) EXPEDITED FUNDS AVAILABILITY ACT.—During the 180-day period beginning on the date of enactment of this Act, the Board of Governors of the Federal Reserve System may make exceptions to the Expedited Funds Availability Act for depository institution offices located within any area referred to in subsection (a) of this section if the Board determines that the exception can reasonably be expected to alleviate hardships to the public resulting from such disaster that outweigh possible adverse effects.

(c) TIME LIMIT ON EXCEPTIONS.—Any exception made under this section shall expire not later than the earlier of—

(1) 1 year after the date of enactment of this Act; or

(2) 1 year after the date of any determination referred to in subsection (a).

(d) PUBLICATION REQUIRED.—The Board of Governors of the Federal Reserve System shall publish in the Federal Register a statement that—

(1) describes any exception made under this section; and

(2) explains how the exception can reasonably be expected to produce benefits to the public that outweigh possible adverse effects.

SEC. 3. DEPOSIT OF INSURANCE PROCEEDS.

(a) IN GENERAL.—The appropriate Federal banking agency may, by order, permit an insured depository institution, during the 18-month period beginning on the date of enactment of this Act, to subtract from the institution's total assets, in calculating compliance with the leverage limit prescribed under section 38 of the Federal Deposit Insurance Act, an amount not exceeding the qualifying amount attributable to insurance proceeds, if the agency determines that—

(1) the institution—

(A) had its principal place of business within an area in which the President, pursuant to section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, has determined that a major disaster exists, or within an area determined to be eligible for disaster relief under other Federal law by reason of damage related to the 1993 flooding of the Mississippi River and its tributaries, on the day before the date of any such determination;

(B) derives more than 60 percent of its total deposits from persons who normally reside within, or whose principal place of business is normally within, areas of intense devastation caused by the major disaster;

(C) was adequately capitalized (as defined in section 38 of the Federal Deposit Insurance Act) before the major disaster; and

(D) has an acceptable plan for managing the increase in its total assets and total deposits; and

(2) the subtraction is consistent with the purpose of section 38 of the Federal Deposit Insurance Act.

(b) DEFINITIONS.—For purposes of this section:

(1) APPROPRIATE FEDERAL BANKING AGENCY.—The term "appropriate Federal banking agency" has the same meaning as in section 3 of the Federal Deposit Insurance Act.

(2) INSURED DEPOSITORY INSTITUTION.—The term "insured depository institution" has the same meaning as in section 3 of the Federal Deposit Insurance Act.

(3) LEVERAGE LIMIT.—The term "leverage limit" has the same meaning as in section 38 of the Federal Deposit Insurance Act.

(4) QUALIFYING AMOUNT ATTRIBUTABLE TO INSURANCE PROCEEDS.—The term "qualifying amount attributable to insurance proceeds" means the amount (if any) by which the institution's total assets exceed the institution's average total assets during the calendar quarter ending before the date of any determination referred to in subsection (a)(1)(A), because of the deposit of insurance payments or governmental assistance made with respect to damage caused by, or other costs resulting from, the major disaster.

SEC. 4. BANKING AGENCY PUBLICATION REQUIREMENTS.

(a) IN GENERAL.—During the 180-day period beginning on the date of enactment of this Act, a qualifying regulatory agency may take any of the following actions with respect to depository institutions or other regulated entities whose principal place of business is within, or with respect to transactions or activities within, an area in which the President, pursuant to section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, has determined that a major disaster exists, or within an area determined to be eligible for disaster relief under other Federal law by reason of damage related to the 1993 flooding of the Mississippi River and its tributaries, if the agency determines that the action would facilitate recovery from the major disaster:

(1) PROCEDURE.—Exercising the agency's authority under provisions of law other than this section without complying with—

(A) any requirement of section 553 of title 5, United States Code; or

(B) any provision of law that requires notice or opportunity for hearing or sets maximum or minimum time limits with respect to agency action.

(2) PUBLICATION REQUIREMENTS.—Making exceptions, with respect to institutions or other entities for which the agency is the primary Federal regulator, to—

(A) any publication requirement with respect to establishing branches or other deposit-taking facilities; or

(B) any similar publication requirement.

(b) PUBLICATION REQUIRED.—A qualifying regulatory agency shall publish in the Federal Register a statement that—

(1) describes any action taken under this section; and

(2) explains the need for the action.

(c) QUALIFYING REGULATORY AGENCY DEFINED.—For purposes of this section, the term "qualifying regulatory agency" means—

(1) the Board of Governors of the Federal Reserve System;

(2) the Comptroller of the Currency;

(3) the Director of the Office of Thrift Supervision;

(4) the Federal Deposit Insurance Corporation;

(5) the Financial Institutions Examination Council;

(6) the National Credit Union Administration; and

(7) with respect to chapter 53 of title 31, United States Code, the Secretary of the Treasury.

SEC. 5. STUDY; REPORT TO THE CONGRESS.

(a) STUDY.—The Comptroller General of the United States shall conduct a study that—

(1) examines how the agencies and entities granted authority by the Depository Institutions Disaster Relief Act of 1992 and by this Act have exercised such authority;

(2) evaluates the utility of such Acts in facilitating recovery from disasters consistent with the safety and soundness of depository institutions; and

(3) contains recommendations with respect to whether the authority granted by this Act should be made permanent.

(b) REPORT TO THE CONGRESS.—Not later than 18 months after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the Congress a report on the results of the study required by subsection (a).

SEC. 6. SENSE OF THE CONGRESS.

It is the sense of the Congress that the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, and the National Credit Union Administration should encourage depository institutions meet the financial services needs of their communities and customers located in areas affected by the 1993 flooding of the Mississippi River and its tributaries.

SEC. 7. OTHER AUTHORITY NOT AFFECTED.

Nothing in this Act limits the authority of any department or agency under any other provision of law.

The SPEAKER pro tempore (Mr. MORAN). Pursuant to the rule, the gentleman from Texas [Mr. GONZALEZ] will be recognized for 20 minutes, and the gentleman from Iowa [Mr. LEACH] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. GONZALEZ].

Mr. GONZALEZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of H.R. 2808, the Depository Institutions Disaster Relief Act of 1993. H.R. 2808 is a bipartisan effort to respond to the problems faced by borrowers and lenders in areas damaged by the 1993 flooding of the Mississippi River and its tributaries.

This legislation arises out of concerns expressed by Members of the House that existing banking law and regulations may hinder efforts of borrowers and lenders to recover from damage caused by the unprecedented flooding in the Midwest. I wrote to each of the bank regulatory agencies to determine what problems, if any, had been raised by banks and thrifts and to ask them whether any statutory relief was warranted. Each regulator responded that its power under existing law, including last year's disaster relief act, was sufficient to address the reconstruction effort. I would like to introduce copies of this correspondence into the RECORD. However, some provisions of last year's law had expired and so we reauthorize those provisions in today's legislation.

H.R. 2808 also takes into account the fact that the rains that caused the flooding also extensively damaged property, especially farmland, that may lie outside the flood plains.

In addition, today's legislation calls for a study as to how the temporary measures provided last year and this year have been utilized and whether such measures should be made permanent.

I note that the bank regulators' response directly contradicts the call by some to allow the waiver of any banking law or regulation in response to the disaster. Such wholesale regulatory relief based on de minimis ties to a disaster area is not needed and cannot be justified. The desire to respond to the suffering of residents of the disaster area must be reconciled with the need for regulatory relief that does not compromise safety and soundness. H.R. 2808 strikes that balance and recognizes that strong financial institutions are the key for reconstruction in disaster areas.

I thank those members of the Banking Committee and the House that worked with me to fashion this responsive and responsible legislation.

Mr. Speaker, I include herewith correspondence and documents regarding the flood disaster and the role of banks and banking regulations, as follows:

OFFICE OF THRIFT SUPERVISION,
Washington, DC, July 28, 1993.

Hon. HENRY B. GONZALEZ,
Chairman, Committee on Banking, Finance and Urban Affairs, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter of July 21, 1993, inviting our comment on H.R. 2661, the Depository Institutions' Disaster Relief Act of 1993.

H.R. 2661 would permit the federal banking agencies to waive any law applicable to any insured institution located within a designated major disaster area or an adjacent area. Any such waiver would be limited to three years' duration and could only be granted if it enhanced an institution's ability to lend in the disaster area and was consistent with safety and soundness.

We agree that this broad grant of authority is not necessary to address the problems of credit availability for recovery in disaster areas. As an alternative, you have asked us to consider whether changes should be made to the Depository Institutions' Disaster Relief Act of 1992 ("1992 DIDRA").

In our experience, the provisions included within the 1992 DIDRA proved adequate to address regulatory impediments to credit availability following the Florida and Hawaii hurricanes. In fact, the federal banking agencies will shortly issue an interagency order under the 1992 DIDRA that excepts transactions in the Midwest disaster areas from the otherwise applicable appraisal requirements of Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA").

It is, of course, necessary to weigh the impact on safety and soundness of loosening regulatory controls against any additional benefit to be derived from such action on the availability of credit in an affected area. We believe the 1992 DIDRA provisions struck a good balance between these competing concerns. In order to address problems caused by the Midwest flooding, you may wish to consider reinstating those provisions of the 1992 DIDRA that have expired.

We are currently working closely with our field offices to develop and implement programs in order to respond to the need for credit availability in areas affected by the Midwest floods. As the flooding subsides and the cleanup process begins, we will continue to monitor whether other impediments to credit availability arise. If they do, we will apprise you of any additional problems that require legislative action.

Thank you for the opportunity to express our views on this issue.

Sincerely,

Jonathan L. Fiechter,
Acting Director.

Federal Deposit
Insurance Corporation,
Washington, DC, July 27, 1993.

Hon. Henry B. Gonzalez,
Chairman, Committee on Banking, Finance and Urban Affairs, House of Representatives, Washington, DC.

Dear Mr. Chairman: Thank you for your letter requesting comments on any recommended changes to the Depository Institution Disaster Relief Act of 1992 (DIDRA), P.L. 102-485, that may be needed to respond to this year's flooding.

The Federal Deposit Insurance Corporation is sensitive to the special needs which accompany natural disasters such as floods, earthquakes and major storms and we support the intent of DIDRA to facilitate recovery from such disasters. In order to lessen unnecessary regulatory interference with local economic recovery, we have acted already on those regulations that we can temporarily modify. A News Release listing temporarily modified supervisory practices is enclosed for your information.

Certain laws and regulations that are beneficial and protect public policy interests in normal times can slow an insured institution's response in providing financial services during disasters. As we learned in 1992, granting temporary regulatory relief from these laws does not affect the safety and soundness of insured institutions. Insured institutions continue to be subject to active supervision and bank management is always expected to act in a prudent manner. It is unlikely that regulated institutions would purposefully harm themselves of their customers, or cause a loss to the insurance fund soley due to temporary waiver of a law or regulation. If any institution became involved in unacceptable activities, the federal financial institutions' regulatory agencies have substantial enforcement powers to force correction.

Congress may want to consider reinstating DIDRA's expired provisions. Several sections of DIDRA have sunset dates. Two Sections expired in April 1993: Section 3 (Truth in Lending Act; Expedited Funds Availability Act) and Section 5 (Banking Publication Requirements). To allow banks regulatory relief for future disasters, Congress might consider the benefits of extending these provisions permanently as well as the April 1994 expiration date of Section 4 (Deposit of Insurance Proceeds). These provisions would provide regulatory relief during disasters and facilitate recovery after the disaster.

We appreciate the opportunity to comment on this important issue and stand ready to help in any way we can.

Sincerely,

Andrew C. Hove, Jr.,
Acting Chairman.

FDIC Announces Steps To Help Rebuild Flooded Areas of the Midwest

The Federal Deposit Insurance Corporation announced today a series of initiatives intended to help rebuild Midwest states that have been damaged by recent serious flooding.

The FDIC said it is encouraging the state-chartered banks it supervises "to work constructively with borrowers who are experiencing difficulties due to conditions beyond their control." Extending repayment terms, restructuring existing loans or easing terms for new loans, if done in a manner consistent with sound banking practices, "can both contribute to the health of the community and serve the long-run interests of the lending institution," the FDIC said.

The agency added that those banks showing flexibility in working with borrowers in the affected areas "will not be subject to examiner criticism," provided that proper risk controls and management oversight are exercised. The FDIC said it will take these unusual circumstances into consideration when examining lenders whose levels of delinquent and nonperforming loans increase.

Other aspects of the FDIC announcement today provide specific regulatory relief. One is a temporary waiver of certain real estate appraisal regulations for the areas affected by the current flooding. Another is temporary relief from certain capital requirements if an already adequately capitalized bank finds its asset levels increasing due solely to deposits of insurance proceeds or government assistance funds.

The FDIC's guidelines are attached and will be sent to state nonmember banks and FDIC examiners in the next few days.

Supervisory Practices Regarding Depository Institutions and Borrowers Affected by Flooding in the Midwestern United States

In response to the serious flooding in the Midwest the FDIC is announcing to the financial institutions for which it is the primary federal regulator the following initiatives to provide regulatory relief and facilitate recovery.

Lending. It has been a long-standing practice of the FDIC to promote supervisory actions that encourage federally regulated financial institutions to work constructively with borrowers who are experiencing difficulties due to conditions beyond their control.

The physical destruction and business disruption caused by recent heavy flooding in the Midwest has placed financial pressures on businesses and individuals in the affected areas, in some cases adversely affecting their ability to repay loans in accordance with original terms and conditions. Often the financial pressures stemming from such events are transitory in nature, and borrowers are able to resume payments when economic conditions improve or the borrowers' financial positions stabilize. Under such circumstances, financial institutions generally determine that the most prudent policy is to work with borrowers experiencing difficulty in a manner that is consistent with sound banking practices, rather than take more precipitous actions such as foreclosures and/or forcing the borrower into bankruptcy.

Lenders often find it in their and the borrowers' interests to extend terms of repayment or otherwise restructure the borrower's debt obligations. Such cooperative efforts can ease pressures on troubled borrowers, improve the capacity of such borrowers to service debt, and strength a financial institution's ability to collect on its loans. Financial institutions in areas affected by the widespread flooding may also deem it appropriate to ease credit-extending terms for new loans to certain borrowers, consistent with prudent banking practices, in order to assist the borrowers in recovering their financial strength and place them in a better position to service their debts. With proper risk controls and management oversight, these actions can both contribute to the health of the local community and serve the long-run interests cf the lending institution and will not be subject to examiner criticism.

Financial institutions in the affected areas may find that their levels of delinquent and nonperforming loans will increase. Consistent with long-standing practices, the FDIC in supervising these institutions will take into consideration the unusual circumstances they face.

One of the principal objectives of the examination and supervision process is to achieve an accurate assessment of a financial institution's loan portfolio and financial condition. In carrying out its supervisory responsibilities, the FDIC recognizes that efforts to work with borrowers in communities under stress can be consistent with safe and sound banking practices as well as in the public interest.

Credit Availability. The FDIC reminds lenders of its recently announced program on documentation of loans to small and medium-sized businesses and farms. If an institution has adequate capital and is rated 1 or 2, it may designate a basket of loans that examiners will evaluate solely on the basis of performance and will be exempt from criticism for documentation. An extension of the program to some 3 rated institutions is in progress. Bankers may discuss the details of this policy with their regional office.

Waiver of Real Estate Appraisal Regulations. Pursuant to section 2 of The Depository Institutions Disaster Relief Act of 1992 (DIDRA) the FDIC is in process of preparing a waiver of certain real estate appraisal regulations for the areas affected by the current flooding. Once the waiver is issued, affected real estate transactions for up to three years would not require an appraisal by a state-licensed or state-certified appraiser nor need to be prepared in accordance with all the regulatory standards. Action on this waiver is expected in the next several days, in time for any recovery lending.

Leverage Capital Requirements. Through April 22, 1994, section 4 of DIDRA permits the FDIC to grant to individual banks some relief from regulations governing leverage capital requirements if, as a result of a temporary inflation of assets due solely to the deposit of insurance proceeds or government assistance funds, capital ratios are temporarily reduced. In order to qualify, an institution must have been adequately capitalized before the disaster. Banks affected who may need this relief should contact their FDIC regional office for particulars.

Temporary Banking Facilities. FDIC regional offices will expedite any request to operate temporary bank facilities by an institution whose quarters have been damaged or that desires to provide more convenient availability of services to those affected by the flooding. In most cases, a telephone notice to the regional office will suffice initially and necessary written notification can be submitted later.

Reporting Requirements. FDIC-supervised institutions affected by the flooding should notify the FDIC regional office if they expect a delay in filing their June 30 Call Reports of Income and Condition or other reports. The FDIC will take into consideration any causes beyond the control of a reporting institution in considering how long a delay in filing can be accepted.

Community Reinvestment. To encourage financial institutions to meet the needs of communities, the FDIC, in assessing Community Reinvestment Act ("CRA") performance, will give positive consideration to a financial institution's active participation in programs where most or all of the financing provided may benefit affected low- and moderate-income borrowers or such neighborhoods even if located outside of the institution's delineated community. In determining whether and to what extent positive consideration will be given, the FDIC will assess the activities undertaken in the context of an institution's overall CRA program. Where such participation augments or complements an overall CRA program that is directly responsive to the credit needs in an institution's delineated community, it will be considered favorably in reaching an overall CRA conclusion.

The FDIC encourages depository institutions in the affected disaster areas to meet the financial service needs of their communities. Institutions that require supervisory assistance due to disruption of operations and other problems resulting from the flooding should contact their FDIC Division of Supervision regional office for further information.

NATIONAL CREDIT
UNION ADMINISTRATION,
Washington, DC, July 26, 1993.
Hon. HENRY B. GONZALEZ,
Chairman, Committee on Banking, Finance and Urban Affairs, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: In the absence of Chairman Roger Jepsen, I am replying to your letter of July 21 regarding P.L. 102-485. In the wake of devastating floods hitting the Midwest, NCUA field examiners and regional personnel have visited credit unions threatened or affected, assisting with relocation of offices and cleaning up flooded facilities. Similar to NCUA's efforts after Hurricane Andrew and Iniki, the agency stresses three priorities in our actions:

Ensuring the safety of credit union staff,

Keeping facilities and operations available to members, and

Providing cash and loans as needed by members.

NCUA anticipates and has announced that we will take the following actions when appropriate:

Postpone examinations of affected credit unions,

Encourage loans with special terms and reduced documentation to credit union members in flooded areas,

Allow affected credit unions to delay filing their 5300 call reports, and

Guarantee lines of credit through the Share Insurance Fund and the Central Liquidity Facility.

In response to your request, we have surveyed each of NCUA's regional offices located in areas of recent natural disasters. The agency believes we have sufficient authority at this time to effectively assist affected credit unions. We do not have any suggested changes to the Depository Institutions Disaster Relief Act. If you have any questions regarding our response to the flooding, please contact us.

Sincerely,

ROBERT E. LOFTUS,
Director, Public and Congressional Affairs.

BOARD OF GOVERNORS OF
THE FEDERAL RESERVE SYSTEM,
Washington, DC, July 26, 1993.
Hon. HENRY B. GONZALEZ,
Chairman, Committee on Banking, Finance and Urban Affairs, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to respond to your request for comment on whether any changes are needed in the Depository Institutions Disaster Relief Act of 1992 (DIDRA) to respond to operational and credit needs in the areas in the Midwest that have been affected by the recent flooding.

Under the existing provisions of DIDRA, the Federal Reserve and the other federal financial institutions regulatory agencies have taken several steps to provide regulatory relief, including waiver of the appraisal requirements of Title XI of FIRREA and the agencies' appraisal regulations and relief from certain leverage capital standards. Using its regulatory authority, the Board has also provided temporary relief from certain provisions of Regulation Z (Truth in Lending). In addition to these initiatives, the Federal Reserve has also authorized the Reserve Banks in the affected areas to grant filing extensions to those organizations that are unable to meet regulatory reporting deadlines due to flood-related problems. Furthermore, consistent with long-standing practice, the Federal Reserve has reminded our examiners that they should give due consideration to the unusual circumstances that institutions face in flood-affected areas in determining any supervisory action. These initiatives to provide relief in the Midwest are similar to those taken in 1992 in response to Hurricanes Andrew and Iniki and the Los Angeles civil unrest.

The Federal Reserve believes that DIDRA as originally enacted gives the agencies sufficient authority to provide regulatory relief while also enabling them to take appropriate actions to maintain the safety and soundness of federally insured institutions. In that light, even though affected institutions are exempt from the appraisal requirements, the agencies still require institutions to document the collateral's value. Further, after waiving the appraisal requirement in disaster areas, the agencies have the discretion to revoke or modify the waiver, with proper notice, if circumstances so warrant. Under the provisions for relief from the leverage capital standards, there are also adequate safeguards to prevent possible abuse. First, an eligible institution must request relief from the appropriate Reserve Bank which will review each request on a case-by-case basis and consult with Board staff on the decision to grant relief. Second, the institution must have been adequately capitalized prior to the disaster and present an acceptable plan for managing the resulting increase in assets and deposits.

Several provisions of DIDRA have expired or are about to expire. These provisions include: section 3 (Truth in Lending Act; Expedited Funds Availability Act) which expired in April 1993 and gave the Board the authority to provide temporary relief from provisions of the Truth in Lending Act and the Expedited Funds Availability Act; section 4 (Deposit of Insurance Proceeds) which expires on April 23, 1994 and allows an institution to apply for relief from the leverage capital standards under certain situations; and section 5 (Banking Agency Publication Requirements) which expired in April 1993 and allowed the agencies to waive certain procedural requirements in acting on applications or regulatory initiatives where immediate action is needed to facilitate recovery from the disaster.

While the Board was able to use its existing authority to provide relief from the Regulation Z (Truth in Lending) requirements similar to that provided by DIDRA, the Board believes that Congress may wish to extend the availability of sections 3, 4 and 5 of DIDRA in order to permit the agencies to respond quickly and uniformly in future major disaster areas. Congress may also wish to give consideration to extending the coverage of section 3 to give the Board the ability to grant temporary relief in major disaster areas from provisions of the Electronic Fund Transfer Act and the Truth in Savings Act.

Please be assured that the Federal Reserve will continue to monitor the situation in the Midwest and respond to the needs of affected institutions and borrowers.

Sincerely,

ALAN GREENSPAN.

COMPTROLLER OF THE CURRENCY,
ADMINISTRATOR OF NATIONAL
BANKS,
Washington, DC, July 27, 1993.
Hon. HENRY B. GONZALEZ,
Chairman, Committee on Banking, Finance and Urban Affairs, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: I appreciate the opportunity to comment on the OCC's experience in implementing the various provisions of the Depository Institutions Disaster Relief Act of 1992 (DIDRA), Public Law 102-485. Following the destruction caused by Hurricane Andrew we found the provisions of the Act to be extremely helpful to us in working with our national banks in both insuring continued service to their customers and in facilitating long term recovery operations. We are very grateful for your past efforts in providing us the proper financial regulatory relief that can be granted to victims of natural disasters.

Presently, we feel that we have sufficient flexibility to deal with the effects of a natural disaster without the need for additional legislation that would allow us to waive any law or regulation for financial institutions located in disaster areas.

The flood-damaged Midwest is currently receiving our full attention with respect to insuring credit availability for flood victims so that businesses and communities can begin the hard work of recovery. OCC field office directors and duty station managers throughout the Midwest are working with national banks in the flood areas to explain and to provide the various forms of regulatory relief that are available to them. More details are provided in the attached banking circular that was issued to encourage national banks to work constructively with borrowers experiencing financial difficulties due to the floods.

To help rebuild businesses, farms, and assist affected communities, the OCC encourages national banks to make every effort to assess their respective credit needs. To assist in this area, national banks have been told that, for branches destroyed or severely damaged, they may establish temporary facilities without additional approval or authorization (see attached memorandum).

As evidenced by the regulatory actions taken already by the OCC to assist national banks and their customers affected by the floods in the Midwest, our current authority in this area is sufficient. I do appreciate, however, your interest in exploring the need for any possible additional authority.

Thank you again for allowing me to comment.

Sincerely,

EUGENE A. LUDWIG,
Comptroller of the Currency.

COMPTROLLER OF THE CURRENCY,
ADMINISTRATOR OF NATIONAL BANKS,
Washington, DC, July 21, 1993.

Type: Banking Bulletin.

Subject: Working with Borrowers Affected by Recent Flooding in the Midwest.

To: The Chief Executive Officers of National Banks and All Examining Personnel.

This issuance is intended to encourage bankers to work with borrowers in communities affected by recent flooding in the Midwest. The OCC recognizes that the effects of such natural disasters on local businesses and individuals are often transitory, and that prudent efforts to adjust or alter terms on existing loans in areas affected by the flooding should not be subject to examiner criticism. The OCC has provided guidance on this and related matters to its district offices in the areas affected.

One of the principal objectives of the examination and supervision process is to achieve an accurate assessment of a financial institution's loan portfolio and financial condition. The OCC recognizes that efforts by banks to work with borrowers in communities under stress, if conducted in a reasonable way, are consistent with safe and sound banking practice as well as in the public interest.

This may include working with borrowers to extend the terms of repayment or otherwise restructuring the borrower's debt obligations. Such cooperative efforts can ease pressures on troubled borrowers, improve their capacity to service debt, and strengthen the financial institution's ability to collect on its loans. Financial institutions may also ease credit-extension terms for new loans to certain borrowers, consistent with prudent banking practices. This will help such borrowers recover their financial strength and place them in a better position to service their debts.

The Depository Disaster Relief Act of 1992 (DIDRA) provided the OCC and the other federal financial regulatory agencies with the authority to grant certain regulatory relief to financial institutions affected by major disasters. As provided in section 2 of DIDRA, the OCC is issuing a waiver of their real estate appraisal regulations for real estate related transactions affected by the flooding. A separate notice will be issued, detailing the specific counties included.

Under section 4 of DIDRA, financial institutions may seek, until April 22, 1994, relief from regulations governing leverage capital requirements if they are experiencing a temporary increase of assets due to the influx of insurance proceeds or government assistance funds.

Financial institutions seeking such relief should contact their district office to determine eligibility.

With proper risk controls and management oversight, these steps can contribute both to the health of the local community, as well as serve the long-run interests of the lending institution. And, consistent with long-standing OCC practice, such efforts by lenders will not be subject to examiner criticism, if carried out in a prudent manner.

The OCC further recognizes that the flooding may affect compliance with reporting and publishing requirements under various laws and regulations. Institutions that have flood-related difficulties complying with any reporting requirement should contact the office that supervises their bank or the district office.

In the consumer loan area, Regulation Z provides the consumer with the option to waive or modify the three-day rescission period when a "bona fide personal financial emergency" exists. To exercise this option, the consumer must provide the lender with a statement describing the emergency in accordance with the regulation.

Additional information may be obtained from OCC headquarters in Washington. For questions on consumer matters, contact Compliance Management at (202) 874-4428.

For specific questions regarding corporate matters (branching, temporary operations, etc.) contact Bank Organization and Structure at (202) 874-5060.

Responsible Office: For general guidance on applying this statement, contact the Office of the Chief National Bank Examiner in Washington, (202) 874-5170.

JERI GILLAND,
Acting Chief National Bank Examiner.

COMPTROLLER OF THE CURRENCY,
ADMINISTRATOR OF NATIONAL BANKS,
Washington, DC.

To: District Deputy Comptrollers, District Administrators Deputy Comptroller, Multinational Banking.

From: Frank Maguire, Acting Senior Deputy Comptroller, Corporate Policy and Economic Analysis.

Date: July 16, 1993.

Subject: Branching in Emergency Conditions; Mississippi River and Missouri River Floods.

Effective immediately, I delegate my authority under 12 CFR 5.2 (b) to the District Deputy Comptrollers, District Administrators, and Deputy Comptroller for Multinational Banking. This authority is limited to requests from national banks to provide temporary banking services at new locations, in or near the geographic areas affected by the flooding of the Missouri and Mississippi rivers and their direct or indirect tributaries. You may subdelegate this authority to the Directors under your supervision without prior approval.

Part 5.2(b) enables the OCC to adopt procedures different from those described in OCC regulations when the Office deems such action appropriate. The emergency conditions prompted by the flooding warrant abbreviated procedures for processing branch applications. As such, the districts may exempt certain regulatory requirements, and decide either written or oral requests, for national banks to provide temporary banking services to locations that are declared a "major disaster area" by the President of the United States. In exercising the authority contained herein, the districts shall ensure that adequate records are maintained of all decisions. The districts should also record requests and actions under this authority on the Licensing Information System.

TEMPORARY FACILITIES AT EXISTING BRANCH LOCATIONS

A national bank with a branch or branches destroyed or severely damaged may temporarily establish additional facilities at or in the immediate vicinity of a previously approved branch office site without any additional approval or authorization. This conforms to 12 U.S.C. 36 because the facility is merely an extension of the authorized branch.

Please contact Al Herlands or Cindy Hausch-Booth if you have questions regarding this directive.

FEDERAL RESERVE PRESS RELEASE

JULY 23, 1993.

The Federal Reserve Board today announced a series of steps designed to help ease financial stress in areas affected by flooding in the midwest.

A supervisory statement adopted by the Board encourages financial institutions to work constructively with borrowers who are experiencing difficulty due to the flooding.

The statement says that banks may find it appropriate to ease credit terms to help new borrowers restore their financial strength, consistent with prudent banking practices, and to restructure debt or extend repayment terms for existing borrowers.

The Board also waived appraisal regulations for real estate related transactions affected by the flooding, and temporarily amended its Truth in Lending Regulation Z to provide relief under waiver rules so that borrowers may gain ready access to loan funds when they use their primary dwelling as collateral for a loan.

Under the right of rescission, a borrower normally has three business days to cancel a loan contract when it is secured by the borrower's principal dwelling.

Steps taken are outlined in the attached statement. Also attached is a copy of a transmittal letter to be sent to state member banks and bank holding companies in the affected areas.

STATEMENT ON SUPERVISORY PRACTICE REGARDING FINANCIAL INSTITUTIONS AND BORROWERS AFFECTED BY FLOODS IN THE MIDWESTERN UNITED STATES, JULY 23, 1993

It has been a long-standing practice of the Federal Reserve to promote supervisory actions that encourage regulated financial institutions to work constructively with borrowers who are experiencing difficulties due to conditions beyond their control.

The physical and business disruption caused by recent heavy floods in the Midwest has placed financial pressures on businesses and individuals in the affected areas, in some cases adversely affecting their ability to repay loans in accordance with original terms and conditions. Often the financial pressures stemming from such events are transitory in nature, and borrowers are able to resume payments when economic conditions improve or the borrowers' financial positions stabilize. Under such circumstances, financial institutions generally determine that the most prudent policy is to work with borrowers experiencing difficulty, in a manner that is consistent with sound business practices, rather than take more precipitous actions such as foreclosure and/or forcing borrowers into bankruptcy.

Lenders often find it in their and the borrowers' interests to extend terms of repayment or otherwise to restructure borrowers' debt obligations. Such cooperative efforts can ease pressures on troubled borrowers, improve their capacity to service debt, and strengthen financial institutions' ability to collect on their loans. Financial institutions in areas affected by the widespread flooding may also deem it appropriate to ease credit terms, consistent with prudent banking practices, for new loans to certain borrowers in order to assist the borrowers to recover their financial strength and place them in a better position to service their debts. With proper risk controls and management oversight, these actions can contribute both to the health of the local community and serve the long-run interests of lending institutions. If carried out in a prudent manner, such efforts by lenders will not be subject to examiner criticism.

Financial institutions in the affected areas may find that their levels of delinquent and nonperforming loans will increase. Consistent with long-standing practice, the Federal Reserve, in supervising these institutions, will consider the unusual circumstances these institutions face in determining any supervisory response.

One of the principal objectives of the examination and supervision process is to achieve an accurate assessment of a financial institution's loan portfolio and financial condition. In carrying out its supervisory responsibilities, the Federal Reserve recognizes that efforts to work with borrowers in communities under stress, if conducted in a reasonable way, are consistent with safe and sound practices as well as in the public interest.

The Federal Reserve also recognizes that financial institutions in disaster-affected areas may encounter difficulty in complying with financial reporting requirements. Institutions in disaster areas that have encountered difficulties complying with such reporting requirements should contact the appropriate Reserve Bank as soon as possible for further guidance.

In addition, the Federal Reserve reminds regulated institutions of the availability of the recently announced program on documentation for loans to small- and medium-sized businesses and farms, which may assist lenders in meeting the credit needs of borrowers in disaster areas. This program allows institutions that are adequately capitalized and have a CAMEL rating of 1 or 2 to designate a basket of loans which examiners will evaluate solely on the basis of performance and will not criticize due to loan documentation. To qualify for the exemption, the loan may not exceed the lesser of $900,000 or 3 percent of the institution's total capital. The total basket of such loans may not exceed 20 percent of total capital.

There are also several initiatives in process pursuant to the Depository Institutions Disaster Relief Act of 1992 (DIDRA), which provided the Federal Reserve and the other federal banking agencies with the authority to grant certain regulatory relief to financial institutions affected by major disasters. As provided in section 2 of DIDRA, the Board has waived the appraisal requirements of Title XI of FIRREA and the Board's regulation for real estate related transactions affected by the flooding.

Under section 4 of DIDRA, financial institutions may seek, until April 23, 1994, relief from regulations governing leverage capital requirements if they are experiencing a temporary increase of assets due to the influx of insurance proceeds or government assistance funds. Financial institutions that may need such relief should contact the appropriate Reserve Bank.

Pursuant to section 3 of DIDRA, relief was granted from certain requirements under Regulation Z (Truth in Lending) that related to consumers' right of rescission for certain loans secured by their principal dwellings. The authority to make exceptions under section 3 of DIDRA has expired. The Board has approved similar relief through its existing authority under Regulation Z. In particular, a final rule has been approved to temporarily amend Regulation Z regarding consumer waivers of the right to cancel certain home-secured loans so that borrowers in the major disaster areas may more readily gain access to loan funds.

Finally, in keeping with the intent of DIDRA and previous initiatives to encourage financial institutions to meet the needs of communities devastated by major disasters, the Federal Reserve, in assessing Community Reinvestment Act performance, will give positive consideration to financial institutions' participation in programs where most or all of the financial provided may ultimately benefit low- and moderate-income borrowers or such neighborhoods located outside of an institution's delineated community.

Specific questions on these initiatives should be directed to the appropriate Reserve Bank.

DEPOSITORY INSTITUTIONS DISASTER RELIEF ACT

SUGGESTED TRANSMITTAL LETTER TO STATE MEMBER BANKS AND BANK HOLDING COMPANIES

To the Chief Executive Officer of State Member Banks and Bank Holding Companies

The Depository Institutions Disaster Relief Act of 1992 ("DIDRA")[1] permits federal financial institutions' regulatory agencies to grant relief from leverage capital standards for banking organizations in areas affected by major disasters in certain areas.[2] The President recently has determined that a major disaster exists in certain areas of the Midwest affected by flooding. As a result, some banking organizations in the affected areas may wish to submit requests for relief to their appropriate Reserve Bank.

For an 18-month period following the enactment of DIDRA on October 23, 1992, the agencies may grant institutions that have collected insurance payments in connection with a major disaster temporary relief from the leverage limits for prompt corrective action on a case-by-case basis. Institutions experiencing temporary asset growth from the deposit of funds obtained from insurance proceeds or government assistance programs received as a result of a major disaster may apply to the Federal Reserve Bank for such relief.

LEVERAGE STANDARDS

For an 18-month period, Section 4 of DIDRA authorizes the Board to permit individual state member banks to subtract from the bank's total assets the amount of certain insurance proceeds collected by the bank in calculating the bank's leverage limit for prompt corrective action purposes.[3] A state member bank may request relief if it has experienced temporary asset growth from the deposit of funds received from insurance companies or government assistance programs because of the damage caused by a major disaster. A state member bank is eligible provided that:

(1) the institution's principal place of business was in the major disaster area on the day before the President declared the area as a major disaster;

(2) 60 percent or more of the institution's deposits are normally from individuals residing or businesses located in the disaster area;

(3) the institution was adequately capitalized before the disaster as defined in Section 38 of Federal Deposit Insurance Act (FDIA); and

(4) the institution has an acceptable plan for managing this increase in assets and deposits.

This relief allows an institution to deduct from its total assets, as defined in Section 38 of FDIA, for purposes of determining the Tier 1 leverage ratio, an amount not exceeding the qualifying amount of deposit volume attributable to insurance proceeds or governmental assistance. As a result of this relief, an institution will not be placed in a lower capital category based on its Tier 1 leverage ratio for purposes of prompt corrective action.

This relief does not apply with regard to the calculation of an institution's risk-based capital ratios for purposes of prompt corrective action. Accordingly, in order to limit the effect of an influx of such deposits on their risk-based capital ratios, institutions may need to invest insurance proceeds in lower risk-weighted assets such as U.S. government securities. Moreover, DIDRA does not give relief from the calculation of the tangible equity to total assets ratio used to determine the critically undercapitalized category for prompt corrective action.[4]

State member banks that believe they are eligible for relief should submit a written request to the Reserve Bank. Upon receiving the request, the Reserve Bank will determine whether in fact the bank meets the eligibility criteria. The Reserve Bank will also consider the appropriateness and reasonableness of the bank's plan for restoring capital to the required minimums. The Reserve Bank will periodically review the bank's progress in meeting the objectives of its plan. If the institution needs to materially change its approved plan, the institution will have to submit a revised plan for approval.

If there are any questions, contact (Reserve Bank staff member).

COMPTROLLER OF THE CURRENCY,
ADMINISTRATOR OF NATIONAL BANKS,
Washington, DC, July 22, 1993.

OCC OUTLINES RELIEF ON MIDWEST FLOODS

The Office of the Comptroller of the Currency (OCC) announced today various initiatives undertaken to assist national banks and their customers affected by the floods in the Midwest.

The OCC's field office directors and duty station managers throughout the Midwest are working with national banks in the flood areas to explain and to provide the various forms of regulatory relief available to them. These national banks have been told that, for branches destroyed or severely damaged, they may establish temporary facilities without additional approval or authorization.

The OCC has also notified affected national banks that other requirements will also be waived, including those related to call report filings, leverage capital and real estate appraisal requirements, and consumer regulations in ways that aid flood victims.

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[1] Pub. L. 102—485, 106 Stat. 2771 (1992).

[2] Such areas are those for which the President, pursuant to section 401 of the Robert T. Stafford Disaster Relief and Emergency Act, has determined that a major disaster exists.

[3] The Federal Deposit Insurance Act (FDIA): 12 U.S.C. 1811, Section 38.

[4] Under Section 38 of FDIA, an institution is critically undercapitalized if its ratio of tangible equity to total assets is 2 percent or less. Tangible equity is defined as core capital elements plus the outstanding cumulative perpetual preferred stock, net of all intangible assets except limited amounts of purchase mortgage servicing rights.

In addition to these efforts already taken by the OCC in the affected states, the OCC also issued today a banking circular to encourage institutions to work constructively with borrowers experiencing difficulties due to the floods. The OCC encourages national banks to make efforts to assess the credit needs of businesses and communities affected by the floods.

To help rebuild businesses, farms and assist affected communities, the OCC's guidance points out that:

National banks may work with borrowers by extending terms of repayments or restructuring borrowers' debt obligations;

National banks may seek to ease credit-extension terms for new loans with certain borrowers, consistent with prudent banking practices;

The OCC will take into account the unusual circumstances in dealing with any increases in levels of delinquent and nonperforming loans caused by the floods;

The OCC will issue, under provisions of the Depository Institutions Disaster Relief Act of 1922 (DIDRA), an order to waive real estate appraisal regulations for real estate affected by the flooding;

The OCC will grant temporary relief to eligible financial institutions from the leverage capital requirements when assets increase due to the influx of insurance proceeds or government assistance.

COMPTROLLER OF THE CURRENCY,
ADMINISTRATOR OF NATIONAL BANKS,
Washington, DC, July 21, 1993.

WORKING WITH BORROWERS AFFECTED BY RECENT FLOODING IN THE MIDWEST

To the Chief Executive Officers of National Banks and All Examining Personnel:

This issuance is intended to encourage bankers to work with borrowers in communities affected by recent flooding in the Midwest. The OCC recognizes that the effects of such natural disasters on local businesses and individuals are often transitory, and the prudent efforts to adjust or alter terms on existing loans in areas affected by the flooding should not be subject to examiner criticism. The OCC has provided guidance on this and related matters to its district offices in the areas affected.

One of the principal objectives of the examination and supervision process is to achieve an accurate assessment of a financial institution's loan portfolio and financial condition. The OCC recognizes that efforts by banks to work with borrowers in communities under stress, if conducted in a reasonable way, are consistent with safe and sound banking practices as well as in the public interest.

This may include working with borrowers to extend the terms of repayment or otherwise restructuring the borrower's debt obligations. Such cooperative efforts can ease pressures on troubled borrowers, improve their capacity to service debt, and strengthen the financial institution's ability to collect on its loans. Financial institutions may also ease credit-extension terms for new loans to certain borrowers, consistent with prudent banking practices. This will help such borrowers recover their financial strength and place them in a better position to service their debts.

The Depository Disaster Relief Act of 1992 (DIDRA) provided the OCC and the other federal financial regulatory agencies with the authority to grant certain regulatory relief to financial institutions affected by major disasters. As provided in section 2 of DIDRA, the OCC is issuing a waiver of their real estate appraisal regulations for real estate related transactions affected by the flooding. A separate notice will be issued, detailing the specific counties included.

Under section 4 of DIDRA, financial institutions may seek, until April 22, 1994, relief from regulations governing leverage capital requirements if they are experiencing a temporary increase of assets due to the influx of insurance proceeds or government assistance funds. Financial institutions seeking such relief should contact their district office to determine eligibility.

With proper risk controls and management oversight, these steps can contribute both to the health of the local community, as well as serve the long-run interests of the lending institution. And, consistent with long-standing OCC practice, such efforts by lenders will not be subject to examiner criticism, if carried out in a prudent manner.

The OCC further recognizes that the flooding may affect compliance with reporting and publishing requirements under various laws and regulations. Institutions that have flood-related difficulties complying with any reporting requirements should contact the office that supervises their bank or the district office.

In the consumer loan area, Regulation Z provides the consumer with the option to waive or modify the three-day rescission period when a "bona fide personal financial emergency" exists. To exercise this option, the consumer must provide the lender with a statement describing the emergency in accordance with the regulation.

Additional information may be obtained from OCC headquarters in Washington. For questions on consumer matters, contact Compliance Management at (202) 874–4428.

For specific questions regarding corporate matters (branching, temporary operations, etc.) contact Bank Organization and Structure at (202) 874–5060.

Responsible office: For general guidance on applying this statement, contact the Office of the Chief National Bank Examiner in Washington, (202) 874–5170.

JERI GILLAND,
Acting Chief National Bank Examiner.

OTS GIVES S&LS GUIDELINES TO HELP FLOOD REBUILDING

WASHINGTON, D.C., July 14, 1993—Savings and loans in states hit by flooding have been told by their federal regulator to reach out to their communities and work with borrowers to finance rebuilding. The Office of Thrift Supervision (OTS) issued the guidelines today from its Chicago and Dallas regional offices.

"OTS will do its part to cut through red tape and adjust our supervision to help thrift institutions recover so they, in turn, can make a meaningful contribution to the general recovery effort," said John Downey, OTS deputy director for regional operations.

The guidelines said OTS will grant temporary waivers of some rules to help savings institutions cope with the disaster. For example, OTS will encourage lending to rebuild small businesses by granting temporary waivers to the rule that requires thrifts to keep 65 percent of their assets in housing loans. Institutions that find themselves with a sudden increase of deposits of insurance payments or government assistance can apply for temporary waivers of the leverage ratio capital requirement.

The directives, issued by Ronald N. Karr, Chicago regional director, and Frederick R. Casteel, Dallas regional director, urge thrifts to work with borrowers to restructure or to increase their loans if needed to finance reconstruction or repair. Thrifts are also urged to consider temporarily waiving charges for late payments for flood victims, and to seek out various government programs that may help in cases in which credit risk of potential borrowers is too great.

The directives were sent to savings institutions in Illinois, Wisconsin, Minnesota, Iowa, Missouri, Kansas, South Dakota and Nebraska. Copies of the directives are available from the OTS press office: 202/906–6693.

OFFICE OF THRIFT SUPERVISION,
Dallas/Fort Worth, TX, July 14, 1993.

To the Chief Executive Officer:

The recent storms and floods have devastated portions of the Midwest and interrupted vital services to thousands of residents. Concerted efforts are needed to rebuild lost or damaged homes and businesses. Therefore, I strongly encourage all thrifts operating in the affected areas to:

Reach out to your communities and assess their credit needs. Meet with local governmental and community organizations to find out what is required. Make sound loans to rebuild what has been damaged or lost.

Where credit risks are determined to be too great, work actively with state and federal agencies, as well as other financial institutions, to find ways to mitigate those risks.

Work with borrowers to restructure or to increase their loans if needed to finance reconstruction or repair.

Consider temporarily waiving charges for late payments.

Take advantage of both the Community Investment Program (CIP) and Affordable Housing Program (AHP) offered by the applicable Federal Home Loan Bank. Direct your inquiries regarding these programs to the Bank's Community Investment Officer.

Identify RTC/FDIC properties in the area which could be utilized by local or federal agencies to facilitate relief efforts.

OTS intends to facilitate the rebuilding efforts to the greatest possible extent within the parameters of safety and soundness. For example:

Small businesses in certain parts of the Midwest have suffered considerable damage, and many of these businesses are vital to the health and well being of their communities. To help rebuild these businesses, OTS will consider temporarily waiving the Qualified Thrift Lender requirements for those institutions who continue to meet their capital requirements. Institutions are cautioned to operate within their established lines of business and areas of expertise. To request a waiver, an institution should outline a proposal and submit it to this office.

OTS staff will assist institutions whenever possible by acting as a liaison with other governmental agencies in an effort to cut through red tape and speed up the rebuilding process.

OTS is considering waiving the appraisal requirement for properties located in an area designated eligible for federal assistance.

Through the implementation of Section 4 (Deposit of Insurance Proceeds) of the Depository Institutions Disaster Relief Act of 1992 (the "DIDRA") , the OTS may grant relief from leverage ratio capital standards under prompt corrective action if an institution experiences a temporary increase it its total asset position because of the deposit of insurance proceeds or government assistance funds paid to depositors in connection with damage or loss caused by a major disaster. Thrifts that are headquartered in a major disaster area and that derive more than 60 percent of total deposits from the area of intense devastation, should contact the OTS's Regional office if it is believed that an exception from the leverage ratio capital standards will be necessary. Such regulatory relief may be allowed for an 18-month period from the enactment of DIDRA.

As a result of the flooding, certain institutions may experience difficulty in meeting the filing deadlines for the June 30, 1993 Thrift Financial Report ("TFR"). If it is anticipated that your institution will be unable to file its TFR on a timely basis, please contact Mike Edgar at 214/281-2050 to arrange for a filing extension.

Positive efforts undertaken to assist in rebuilding communities and providing replacement housing will be favorably considered during an OTS evaluation of an institution's performance under the CRA. Success can only be achieved by individuals, community organizations, and financial institutions working together through the difficult process of recovery. I encourage you to contact Regional Deputy Director Harlan Halsne at 913/339-5005 in our Kansas City office or me at 214/281-2200 if you believe that OTS can be of assistance or if you have ideas that could help with the rebuilding process.

Sincerely,

FREDERICK R. CASTEEL,
Regional Director.

OFFICE OF THRIFT SUPERVISION,
Chicago, IL, July 13, 1993.

To the Chief Executive Officer:

The recent flooding in the Midwestern states, which is devastating areas along the Mississippi River and its tributaries, is a tragedy for the affected communities and thousands of innocent victims. Scores of people have been left homeless and unemployed.

As this natural disaster continues to unfold, concerted efforts will be needed to rebuild lost or damaged homes and businesses. Therefore, I strongly encourage all thrifts operating in the affected areas to:

Reach out to your communities and assess their credit needs. Meet with local governmental and community organizations to find out what is required. Make sound loans to rebuild what has been damaged or lost.

Where credit risks are determined to be too great, work actively with state and federal agencies, as well as other financial institutions, to find ways to mitigate those risks.

Work with borrowers to restructure or to increase their loans if needed to finance reconstruction or repair.

Consider temporarily waiving charges for late payments.

Take advantage of both the Community Investment Program (CIP) and Affordable Housing Program (AHP) offered by the Federal Home Loan Bank of Chicago. Direct your inquires regarding these programs to the Bank's Community Investment Officer.

Identify RTC/FDIC properties in the area which could be utilized by local or federal agencies to faciliate relief efforts.

OTS intends to facilitate the rebuilding efforts to the greatest possible extent within the parameters of safety and soundness. For example:

Small businesses in certain parts of Illinois and Wisconsin have suffered considerable damage, and many of these businesses are vital to the health and well being of their communities. However, the Qualified Thrift Lender ("QTL") test may hinder an institution's ability to loan to these affected businesses. To help rebuild these businesses, QTS will consider temporarily waiving the QTL requirements for those institutions who continue to meet their capital requirements. Institutions are cautioned to operate within their established lines of business and areas of expertise. To request a waiver, an institution should outline a proposal and submit it to this office.

Through the implementation of Section 4 (Deposit of Insurance Proceeds) of the Depository Institutions Disaster Relief Act of 1992 (the "DIDRA"), the OTS may grant relief from leverage ratio capital standards under prompt corrective action if an institution experiences a temporary increase in its total asset position because of the deposit of insurance proceeds or government assistance funds paid to depositors in connection with damage or loss caused by a major disaster. Thrifts that are headquartered in a major disaster area and that derive more than 60 percent of total deposits from the area of intense devastation should contact the OTS's Central Regional Office if it is believed that an exception from the leverage ratio capital standards will be necessary. Such regulatory relief may be allowed for an 18-month period from the enactment of DIDRA.

As a result of the flooding, certain institutions may experience difficulty in meeting the filing deadlines for the June 30, 1993 Thrift Financial Report ("TFR"). If it is anticipated that your institution will be unable to file its TFR on a timely basis, please contact Mike Edgar, Manager Financial Reporting Division, at 214-281-2050 to arrange for a filing extension.

OTS staff will assist institutions whenever possible by acting as a liaison with other governmental agencies in an effort to cut through red tape and speed up the rebuilding process.

Positive efforts undertaken to assist in rebuilding communities and providing replacement housing will be favorably considered during an OTS evaluation of an institution's performances under the CRA. Success can only be achieved by individuals, community organizations, and financial institutions working together through the difficult process of recovery. I encourage you to contact me at 312-540-5905 or Chester Biedron at 312-540-5974 if you believe that OTS can be of assistance or if you have ideas that could help with the rebuilding process.

Sincerely,

RONALD N. KARR,
Regional Director.

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Mr. Speaker, I reserve the balance of my time.

Mr. LEACH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to thank the distinguished chairman for his comments, and also most specifically for his timely consideration of this legislation. And in so doing, I would also like to thank Members from outside the areas affected by these floods for their sympathetic support to a whole range of flood assistance on this legislation, and I also want to recognize the gentleman from Minnesota [Mr. GRAMS] for initiating the real legislation which helped precipitate the bill before us today, and the gentleman from Iowa [Mr. NUSSLE] for his work in this particular area. They are to be congratulated for their commitment and thoughtfulness in this flood endeavor.

My Speaker, I rise today in support of H.R. 2802, the Depository Institutions Disaster Relief Act of 1993. This bill gives regulators the authority to waive temporarily certain regulations so that banks will be better able to meet the disaster needs of their communities in the wake of the 1-in-500-year flood.

I am grateful to all of those who have worked so hard to bring this bill to the floor today. In particular, Representative ROD GRAMS and Chairman GONZALEZ have been prompt and diligent in constructing legislation which will allow banks and thrifts to address the unique economic challenges caused by this flood and to facilitate the cleanup. Without their leadership, we would not be here today.

Americans can be proud of the way our country has pulled together to respond to this devastating flood. Volunteer groups, the Red Cross, State and local governments, the U.S. Military, FEMA, and the administration, should all be commended for their efforts. President Clinton and Secretary Espy have worked tirelessly to bring relief to the flood victims. The House has also responded by passing the emergency flood bill. However, we have the chance today to offer further assistance not by appropriating more money, but simply by granting bank regulatory agencies with the flexibility they need to work with financial institutions to ensure the adequate flow of credit to these floodswept communities.

H.R. 2808, which is patterned after legislation enacted last year to respond to Hurricane Andrew and Hurricane Iniki, allows banking regulators to waive temporarily certain provisions of the Truth in Lending Act and the Expedited Funds Availability Act. For example, the Expedited Funds Act requires banks to honor checks within a certain number of days. In some flood areas, power outages and computer damage have made it difficult for financial institutions to process checks and post deposits in a timely manner. The Federal Reserve could grant such exceptions only if the exemption could reasonably be expected to facilitate recovery in the disaster area and if the benefits were expected to outweigh any possible adverse effects.

H.R. 2808 also permits regulators to take into consideration extraordinary asset growth at a depository institution as a result of the inflow of Government assistance checks and insurance payments. In modifying the way the leverage ratio is calculated, regulators could free up crucial capital so that financial institutions could better assist disaster victims. Furthermore, the bill allows regulators to waive certain publication and notification requirements if such actions would facilitate recovery. Finally, H.R. 2808 requires the GAO to study how regulators have utilized the provisions of this act and provisions of last year's Hurricane Bill to determine their effectiveness in providing relief to people and communities in disaster areas and to determine if any of these provisions should be made permanent.

Financial institutions play an important role in their communities when a disaster strikes. H.R. 2808 gives bank regulators the flexibility to allow these institutions to better provide credit and assistance to disaster victims in their time of greatest need. I urge my colleagues to suspend the rules and pass this legislation to assist flood victims and communities to begin the process of recovery.

Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota [Mr. GRAMS].

Mr. GRAMS. Mr. Speaker, I thank the gentleman very much for yielding the time.

Mr. Speaker, first, I want to thank Chairman GONZALEZ for his leadership in acting quickly to bring this important legislation to the floor.

Just 2 weeks ago, I along with Mr. BEREUTER, Mr. LEACH, Mr. SMITH, and a bipartisan group of other Members introduced legislation similar to this bill.

And just last Thursday, the chairman was concerned enough to join us in a colloquy in which he committed to acting promptly on this matter. And, now, here it is Monday, and we've got a good bill here on the floor. Again, I want to thank the chairman for leadership in bringing this to the floor so quickly.

Mr. Speaker, in passing this bill, we are only doing what makes sense for lenders, borrowers, and the American taxpayer.

Two weeks, ago, I met with a group of Minnesota lenders who raised concerns about the effects Federal banking regulations might have on victims of the disastrous Midwest flooding.

They pointed out that Federal banking regulations have become so onerous that in many cases, lenders will have their hands tied and be unable to restructure or make new credit available to farmers, small businesses, and families who have suffered financially from the recent flooding.

That would be a real tragedy, because in many cases, local lenders who may have worked with particular farmers, small businesses or families for two or three generations, would not have the discretion to help people who would be good, safe customers if it weren't for the flooding.

Shutting good people down would be an injustice to those people, the lenders, and even for taxpayers who would have to pay the bill for the costs associated with unemployment and lost jobs.

It would also ignore the fact that in most communities in America, local lenders know more and care more about what happens to the people in their local communities than any regulator or bureaucrat sitting in Washington. The local lenders see borrowers as people, not just figures on a piece of paper.

Mr. Speaker, just 1 year ago this House passed similar legislation on behalf of the victims of Hurricane Andrew.

Today, I hope we will give the same consideration to the Midwest flood victims. And by this time next year, I hope we will give the same flexibility to lenders across the country, many of whom have customers facing economic crisis of their own.

Mr. LEACH. Mr. Speaker, I yield 2 minutes to my distinguished colleague, the gentleman from Iowa [Mr. NUSSLE].

Mr. NUSSLE. Mr. Speaker, first I would like to thank the chairman of the committee for his diligence and speed in bringing this matter to the floor today, as well as the gentleman from Iowa [Mr. LEACH] for his leadership in participating in a bipartisan effort, as well as the gentleman from Minnesota [Mr. GRAMS] who as a freshman I think has definitely shown that you can be effective by introducing legislation and getting it worked to the floor very quickly with help from a bipartisan coalition, including the chairman of a very powerful committee.

I would like to say that I am an original cosponsor, because I have no question in my mind that this disaster needs to have the full consideration and concern that we have had in the past for other disasters. I think we have established a precedent from Hurricane Andrew last year. We took similar action with regard to bank regulations. And there is no question that similar concerns arise here for small business people, for farmers and for families. There is the need for credit, the need for deposits in a very expedited and expeditious form, and we need speed and efficiency within our process.

But we also recognize that many times regulators spell relief p-a-p-e-r-w-o-r-k, paperwork, and what we wanted to do was try and reduce some of that paperwork, try and reduce some of the overhead, and try and get deposits and credit out to the people that need it.

This bill maintains the safety and soundness of our bank regulatory system, but it changes three very important rules and regulations in the Truth in Lending Act, in the Expedited Funds Availability Act, and in changes in the Federal Deposit Insurance Act that will allow people to get their deposits much quicker.

Consideration for future regulatory changes I think also are necessary, and I think we may be able to take a lesson from this particular flood in the future by maybe making changes for when disasters do crop up. Hopefully the new task force on disasters will take that matter up, as well as changes in bank regulatory reform for the future.

In the GAO report that is part of this legislation we will look into some of the changes that we made today and their impact both in Hurricane Andrew and from the great flood of 1993 which will be helpful to make sure that those changes are effective for the future.

Mr. LEACH. Mr. Speaker, this bill is of modest provisions, but the circumstances it touches are not of immodest proportions. The flood is truly awesome in its consequences. There has been and will be Government assistance, but most of the assistance that will be coming to people will be from their neighbors and from neighborhood institutions.

As a midwesterner, I would just like to stress how impressed I am with the work of citizens at the local level and of the effectiveness of that work. I wish sometimes when we look at our own body that perhaps as we see people working together so cooperatively in a major emergency that we would take inspiration. Maybe this institution of our own could work in the same kind of spirit.

I am also impressed with what neighborhood financial institutions are doing in the areas affected. Many have led by reserving flood loan accounts for their communities.

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What this bill does is simply ensure that there will be no regulatory roadblocks to local lending.

Let me conclude by noting, in the larger picture, that emergencies of this nature underscore the import of strong financial institutions. They underscore the import to the communities they serve of a strong banking system, one where financial institutions are able to weather instances of bad weather.

One of the things the Midwest can count as true blessing at this time is that we have financial institutions strong enough to help their communities when their communities are put on their back or, as in this case, are deluged with water. What this bill represents is a commitment of the U.S. Government to work credibly, realistically, and flexibly with neighborhood financial institutions. It also underscores the fact that in the Midwest, for all the bad news about finance that has affected much of world lending, we do have credible institutions that are solid and solvent. We have institutions able to take care of people in their community when emergencies of this nature arise.

Let me end by thanking again the distinguished chairman of this committee that I am honored to serve with and repeat, as I have on so many occasions, my high regard for his personal commitment to advance the public interest, particularly when instances of individual inequity and hardship arise.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GONZALEZ. Mr. Speaker, I yield 2 minutes to the gentleman from Kentucky [Mr. BARLOW], who represents an affected area.

Mr. BARLOW. Mr. Speaker, I thank the gentleman very much for yielding me this time.

I appreciate very much what the committee has done here in the bipartisan spirit of the Members on the other side who have come together here in a spirit of unity for people who are in trouble, as people are losing their homes, as people are losing their crops, their very livelihoods all through the north-central portion and the Mississippi Valley of our Nation. You all have come together in the most stirring and rapid, and in the best traditions of American movement, political movement, reaching out rapidly to help people.

I want to extend to you my heartiest congratulations and my deepest appreciation for the people in western Kentucky who appreciate this, and we hope to have more of the work that you have presented us coming forward in the months ahead.

Mr. GONZALEZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman.

May I say in response that I think I speak for everybody, not only in the Congress but throughout the country, that we share the urgency and the terrible sadness of this very disruptive, unprecedented, and I think, as some folks call it, a 500-year flood, and will continue to sustain our efforts.

Mr. BARLOW. Mr. Speaker, I thank the gentleman very much.

Mr. BEREUTER. Mr. Speaker, this Member rises in support of H.R. 2808, the Depository Institutions Disaster Relief Act of 1993.

This measure provides regulatory relief for financial institutions doing business in any of the Presidentially declared disaster areas affected by flooding, wind damage, or other disasters that have plagued much of the Midwest in recent weeks.

While H.R. 2808 does not go as far in providing regulatory relief as H.R. 2661, the measure introduced by the distinguished gentleman from Minnesota [Mr. GRAMS] and myself, it does provide the same waivers for financial institutions as were provided in last year's Hurricane Depository Disaster Relief Act. Further, the measure provides for a GAO study to determine the effectiveness of disaster related waivers, to determine if the provisions of this act should be made permanent.

This Member commends the distinguished chairman of the Banking Committee [Mr. GONZALEZ] and the ranking minority member of the Banking Committee [Mr. LEACH] for their attention to this disaster and their action in bringing this measure to the House floor.

Mr. GONZALEZ. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MORAN). The question is on the motion offered by the gentleman from Texas [Mr. GONZALEZ] that the House suspend the rules and pass the bill H.R. 2808.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

COMMUNITY INVESTMENT DEMONSTRATION ACT OF 1993

Mr. GONZALEZ. Mr. Speaker, I move that the House suspend the rules and pass the bill (H.R. 2668) to establish a demonstration program to provide affordable rental housing for low-income families, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2668

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Community Investment Demonstration Act of 1993".

SEC. 2. SECTION 8 COMMUNITY INVESTMENT DEMONSTRATION PROGRAM.

(a) AUTHORITY.—Using amounts available pursuant to section 5(c)(7)(B)(ii) of the United States Housing Act of 1937, the Secretary of Housing and Urban Development (in this section referred to as the "Secretary") shall carry out a demonstration program to provide project-based rental assistance under section 8 of such Act on behalf of low-income families residing in housing that is constructed, rehabilitated, or acquired pursuant to a loan or other financing from an eligible pension fund. Notwithstanding section 514(d) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144(d)), nothing in this section shall be construed to authorize any action or failure to act that would otherwise constitute a violation of such Act with respect to an eligible pension fund.

(b) CONTRACT TERMS.—Assistance provided under the demonstration under this section with respect to eligible housing—

(1) shall be project-based assistance that is attached to the eligible housing; and

(2) shall be provided pursuant to a contract entered into by the Secretary and the owner of the eligible housing that—

(A) provides such assistance for a term of not less than 60 months and not more than 180 months; and

(B) provides that the contract rents for dwelling units in the eligible housing shall be determined by the Secretary taking into consideration any costs for construction, rehabilitation, or acquisition of the housing, except that such contract rent may not exceed the contract rent permitted pursuant to section 8 of the United States Housing Act of 1937.

(c) ELIGIBLE HOUSING.—The Secretary may enter into a commitment to provide assistance pursuant to this section with respect to a housing project only if—

(1) the housing is—

(A) a multifamily housing project owned by the Secretary or subject to a mortgage held by the Secretary that is delinquent, under a workout agreement, or being foreclosed upon by the Secretary;

(B) designed by the Secretary under section 24(b) of the United States Housing Act of 1937 as a severely distressed public housing project;

(C) a multifamily housing project eligible for assistance for troubled projects under section 201 of the Housing and Community Development Amendments of 1978;

(D) a multifamily housing project located in a empowerment zone or enterprise community designated pursuant to Federal law; or

(E) any other multifamily housing project, including a project to be occupied by homeless persons (as such term is defined in section 103 of the Stewart B. McKinney Homeless Assistance Act) or homeless families;

(2) the Secretary determines that the owner of the housing has obtained commitments, satisfactory in the determination of the Secretary, for financing for the construction, acquisition, or rehabilitation of the housing from an eligible pension fund;

(3) the mortgage for the housing meets standards regarding securitization and such additional standards regarding financing as the Secretary may establish;

(4) in the case of any housing that is to be constructed, the Secretary determines that the owner of the housing has provided reasonable assurances to the Secretary that the owner will own or have control of a site for the housing (which may be a suitable site different from the site specified in the application under subsection (d)) not later than 12 months after notification of the award of assistance under this section;

(5) the housing and any work done with respect to the housing will comply with any applicable environmental laws or regulations;

(6) the construction, rehabilitation, or acquisition of the housing is not inconsistent with the approved comprehensive housing affordability strategy under title I of the Cranston-Gonzalez National Affordable Housing Act for the jurisdiction in which the housing is located; and

(7) the housing complies with any other requirements established by the Secretary to carry out the demonstration under this section.

(d) APPLICATIONS.—The Secretary shall provide for the owners of eligible housing, together with the eligible pension funds providing financing for the housing, to jointly submit applications for assistance under this section. An application shall include a description of the housing to be constructed, rehabilitated, or acquired, the location of the housing (or the site for the construction of the housing), the terms of the financing by the eligible pension fund, a request for a specific amount of assistance under this section for a specific term, and such other information as the Secretary may require.

(e) SELECTION AND DETERMINATION OF ASSISTANCE.—

(1) IN GENERAL.—The Secretary shall select eligible housing for assistance under this section from among applications submitted pursuant to subsection (d) and, subject to the provisions of this section, shall determine the amount of assistance to be provided for selected housing that is appropriate to maintain the affordability and feasibility of the housing.

(2) LIMITATION.—Of any amounts made available for the demonstration under this section pursuant to the amendment made by subsection (l) of this section, during the 6-month period beginning on the date that such amounts first are made available by the Secretary for assistance under this section, the Secretary may not provide (or make any commitment to provide) more than 50 percent of such amounts for assistance for eligible housing financed by any single eligible pension fund.

(f) RELATION TO PHA PROJECT-BASED LIMIT.—Project-based assistance provided under this section shall not be considered for purposes of any percentage limitation under section 8(d)(2)(A) or (B) of the United States Housing Act of 1937 regarding the amount of assistance under such section that may be attached to the structure.

(g) USE IN PROPERTY DISPOSITION PROGRAM.—

(1) AUTHORITY.—Notwithstanding any provision of section 203 of the Housing and Community Development Amendments of 1978, assistance provided in connection with the disposition as a multifamily housing project under such section 203 may have a contract term of less than 15 years if such assistance is provided (A) under a contract under the

demonstration under this section, and (B) pursuant to a disposition plan under such section 203 for the project that is approved under such section by the Secretary as otherwise in compliance with the requirements of such section.

(2) ALLOCATION.—Of the amounts made available in each fiscal year for assistance under the demonstration under this section, a significant amount may be used in connection with the disposition under section 203 of the Housing and Community Development Amendments of 1978 of eligible housing.

(h) REPORTS.—

(1) GAO.—The Comptroller General of the United States shall submit to the Congress reports under this paragraph evaluating the effectiveness of the demonstration under this section. Such reports shall be submitted not later than the expiration of the 2-year period beginning on the date of the enactment of this section and not later than the expiration of the 6-month period beginning upon the termination date under subsection (k).

(2) SECRETARY.—The Secretary shall submit an annual report to the Congress for each fiscal year in which the Secretary provides assistance pursuant to contracts entered into under this section. The reports shall summarize the activities carried out under this section, describe the housing assisted and the amounts of assistance provided, and include any findings and recommendations of the Secretary as a result of the demonstration under this section. Each such report shall be submitted not later than the expiration of the 3-month period beginning upon the conclusion of the fiscal year for which the report is made.

(i) DEFINITIONS.—For purposes of this section:

(1) The term "eligible housing" means housing for which the requirements under subsection (c) have been met.

(2) The term "eligible pension fund" means any—

(A) trust, fund, plan, or other program established or maintained by any employer or other person for the purpose of providing income or benefits to employees after the termination of employment or deferring income by employees until after the termination of employment, or

(B) other entity that invests principally the amounts of any trust, fund, plan, or other program referred to in subparagraph (A),

that the Secretary considers appropriate for purposes of this section.

(j) REGULATIONS.—The Secretary shall issue any final regulations necessary to carry out this section not later than the expiration of the 45-day period beginning on the date of the enactment of this section.

(k) TERMINATION DATE.—The Secretary may not enter into any new commitment to provide assistance under this section after September 30, 1998.

(l) FUNDING.—Section 5(c)7)(B)(ii) of the United States Housing Act of 1937 (42 U.S.C. 1437c(c)(7)(B)(ii)) is amended by inserting after "8(i)(2);" the following: "and of which not more than $100,000,000 shall be available for the community investment demonstration program under section 5 of the Homeless and Community Development Amendments Act of 1993;".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas [Mr. GONZALEZ] will be recognized for 20 minutes, and the gentlewoman from New Jersey [Mrs. ROUKEMA] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. GONZALEZ].

Mr. GONZALEZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I introduced H.R. 2668, together with Congresswoman MARGE ROUKEMA, on July 20, 1993. This is bipartisan legislation designed to encourage investment by pension funds in the construction, rehabilitation, and acquisition of critically needed housing for low-income families.

H.R. 2668 was developed in close cooperation between the Committee on Banking, Finance and Urban Affairs, and the Department of Housing and Urban Development. Secretary Cisneros and other public witnesses recommended and supported this legislation at a subcommittee hearing held on June 16, 1993.

H.R. 2668 would set aside $100 million from incremental section 8 rental certificates in fiscal year 1994 to permit HUD to carry out a Community Investment Demonstration Program on behalf of low-income families residing in housing that is constructed, rehabilitated, or acquired through investments from pension funds.

Pension funds could invest in housing that is: First, a multifamily housing project owned by HUD, or subject to a HUD mortgage that is delinquent, under a workout agreement or under foreclosure; second, designated a severely distressed public housing project; third, a multifamily housing project eligible for assistance for troubled projects; fourth, a multifamily housing project located in an empowerment zone or enterprise community; fifth, any other multifamily housing project, including those occupied by homeless persons or families.

Pension funds estimate that this program will generate from $350 to $550 million in new housing investment. In short, for every $1 the Federal Government sets aside for this program, pension funds will invest at least $3 to $5. The program will provide about 3,000 section 8 rental certificates to be used as project-based assistance by low-income renters in housing constructed or rehabilitated through pension fund investments.

Since these section 8 certificates will leverage investment, the program will act as a catalyst to produce more housing opportunities and demonstrate that such housing is a good investment for pension funds.

In order to ensure that this demonstration program is open to all pension funds, H.R. 2668 has been amended to provide that, no single pension fund could receive more than 50 percent of the assistance authorized; however, if after 6 months funds have not been allocated under this program, this limitation is removed.

Since H.R. 2668 involves pension funds investments, I consulted with the House Education and Labor Committee to ensure that the bill is consistent with existing law governing pension investments. In keeping with the recommendation of the Education and Labor Committee, H.R. 2668 specifically provides that nothing in the demonstration program is to be construed to authorize any action or failure to act, by a pension fund, that would constitute a violation of the Employee Retirement Income Security Act of 1974 [ERISA]. This provision was added to the bill in order to ensure that pension plans who participate in the demonstration program maintain their fiduciary responsibilities under ERISA.

I would also like to introduce into the RECORD at this time a letter supporting H.R. 2668 from the chairman of the Education and Labor Committee, BILL FORD, and the chairman of the Subcommittee on Labor-Management Relations, PAT WILLIAMS.

The critical state of this Nation's low-income housing and community development needs requires us to find new and innovative ways of addressing this situation. While the Federal Government maintains a principal role and responsibility in this area, we must also facilitate private investment in the revitalization of our Nation's cities and other areas in need.

The legislation we are considering today—providing a minimal amount of HUD assistance to leverage investment by pension funds for the acquisition, construction, and rehabilitation of low-income housing—is a small but important beginning to this process.

I therefore urge the adoption of this legislation.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON EDUCATION AND LABOR,
Washington, DC, July 30, 1993.
Hon. HENRY B. GONZALEZ,
Chairman, Committee on Banking, Financing and Urban Affairs, Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: We are pleased to join in supporting H.R. 2668, the Community Investment Demonstration Act of 1993. We applaud your efforts to establish this demonstration project and wholeheartedly support its social objectives.

We also appreciate your assistance and that of your staff as we negotiated the necessary amendment that would make it clear that participation by a pension fund in these types of investments had to be fully consistent with the fiduciary responsibilities governing all investments under the Employee Retirement Income Security Act of 1974 (ERISA). With the inclusion of the specific ERISA amendment in H.R. 2668, over which we had jurisdiction, the Committee on Education and Labor believes that any concern over either the security of workers' pensions or the soundness of the Pension Benefit Guaranty Corporation has been resolved. While the Committee insists on its jurisdiction over this section of H.R. 2668, we do not intend to exercise this claim in order to facilitate its immediate consideration.

Your acknowledgement of this jurisdictional claim by inclusion of this letter in your Committee report to accompany H.R. 2668 would be appreciated.

With kind regards,
Sincerely,
WILLIAM D. FORD,
Chairman, Committee on Education and Labor.
PAT WILLIAMS,
Chairman, Subcommittee on Labor-Management Relations.

Mr. Speaker, I reserve the balance of my time.

Mrs. ROUKEMA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 2668, the Community Investment Demonstration Act of 1993.

This demonstration initiative would authorize HUD to provide section 8 assistance to housing projects where a pension fund would enter into a partnership with a nonprofit, municipality, or other entities to provide investment funds for the construction, acquisition, or rehabilitation of housing for low- and moderate-income families.

This measure had been a part of an earlier suspension bill passed by the House addressing several housing initiatives. However, the provision was withdrawn at the time because of several questions which arose about the proposal.

The most important of these questions involved the overall role of pension funds in performing social purposes and the safety of these types of investments for the funds.

Because these issues were pension related and not directly germane to the Housing Subcommittee or the underlying request for authorization, I felt a hearing by the Labor-Management Subcommittee may have been appropriate so that these questions could be discussed.

As the ranking member of the Labor-Management Subcommittee, the most important concern with this program was the efficacy of these types of investments by pension funds and the need to ensure, through statutory language, that nothing in this demonstration violated the rules and regulations of the ERISA laws which govern pension funds.

Short of a hearing, I asked the majority and minority staff to analyze the legislation and provide me any of their concerns for the safety and soundness of pension funds and whether or not ERISA laws could be circumvented by this legislation.

The Labor-Management staff and Members agreed that the program was conceptually sound because pension funds are already investing in housing projects in the private sector, but they recommended adding additional statutory language which would make it clear that ERISA laws could not be violated or circumvented in carrying out this program.

They also recommended, and I concur, that pension fund investments, in this demonstration, be limited to the purchase of securities supporting the project or that fund investments be securitized. That clarifying language was added to the bill before the House as introduced by Chairman GONZALEZ and myself.

Our Housing Committee's principal concern in this matter is whether the use of pension funds to help meet the affordable housing needs of our citizens is practical and whether we should authorize HUD to consider participating in such a program.

Our other critical concern is that we not authorize any program which could

I believe the use of pension funds for housing investment may be a legitimate use of private funds leveraged by Federal housing assistance. This legislation is also constructed in such a way that I believe will not jeopardize the future of any pension fund.

Based on this, I advised Chairman GONZALEZ that since my principal concerns about the safety of the pension funds and the role of ERISA laws had been satisfactorily answered, I had no problem with this legislation.

Now, with respect to any issues beyond the safety of the pension funds, I do not believe these are significant or necessarily relevant to the Housing Subcommittee's decision to authorize this demonstration.

This initiative is a demonstration program designed to test the feasibility of using limited Federal rental assistance to leverage millions of dollars in private sector funds for housing.

This legislation does not mandate that any pension fund managers participate in this demonstration. A pension fund manager could not be directed to make investments in projects that would violate his fiduciary responsibilities.

The language in the bill, as recommended by the Labor-Management staff and Members, reiterates that point.

Members should keep in mind that this demonstration is designed to establish whether a nonprofit, or other entities, a pension fund, other investors, HUD, and the secondary market can put together a plan to provide affordable housing utilizing pension investments in a safe and sound manner. The success of any such partnership will depend on the total assessment of an application.

No funds under this demonstration go directly to any pension fund. The section 8 assistance provided by HUD is provided to the project itself through the project sponsor, usually a nonprofit. However, the provision of this assistance represents the steady stream of income which could make such a project attractive to a pension fund and the secondary market.

Mr. Speaker, I believe for these reasons, this initiative should be supported.

☐ 1520

Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. I thank the gentlewoman for yielding this time to me.

Mr. Speaker, it is being said that this is just a demonstration project. Well, this demonstrates a truly bad idea. Here is a bill that is a true example of the social welfare state run amok.

If you a take a look at this particular idea, understand what we are doing is we are beginning the process of diverting pension fund money into public sector activities.

I think it needs to be understood that the last great investment pool left in the country is pension funds. Pension funds is where private business and entrepreneurs get the money they need for expanding their business. When companies want to find money to do large, new projects, it is into the pension funds that they are going to find the money that they need.

Now, what we have decided to do, evidently, under this bill is to begin to divert that money away from the private sector and into the public sector and make the pension funds into one new place where we can get all kinds of money for social welfare programs.

I think we ought to understand who it is that is at jeopardy here. The main pension fund that is going to be used for this money is the AFL–CIO pension fund. They are the only ones who have expressed any interest in this whatsoever.

I wonder how many union members out there in the country are going to feel good about their pension fund going into public housing rather than into going into investments to make their company more efficient, to make their company more productive.

I wonder how many of them are going to think that maybe keeping their own job and having their company do a little bit better job as a result of those investments would be a better idea than putting their pension money into public housing.

I wonder how many pensioners out there, AFL–CIO union pensioners, are also a little bit concerned about the fact that this is putting their money at risk, that money that they are counting on for their retirement or are already receiving in retirement is now going to be put at jeopardy in public housing projects.

This is not a protection of the assets of those folks. In fact, the main protection here sounds suspiciously like the S&L protection that we got a few years ago.

And so I think this is one truly bad idea, to take pension funds, divert them out of the private sector into public sector and end up jeopardizing the pension funds of union members and to jeopardize the retirement incomes of millions of pensioners across the country, seems to me to be something we ought to be demonstrating. As a matter of fact, this Congress ought to turn this down flat and say this is one demonstration we ought not do.

Mr. GONZALEZ. Mr. Speaker, I yield 2 additional minutes to the gentleman from Pennsylvania [Mr. WALKER] in order to correct some misstatements. I do not believe the misstatements were made intentionally.

Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Texas.

Mr. GONZALEZ. I thank the gentleman for yielding.

Let me say that the gentleman is entitled to his philosophical beliefs, naturally, like we all are. But when he states that only the AFL–CIO is interested, he misspeaks. And the reason is that we had hearings on this proposal, which was proposed by the Secretary of HUD, and during the course of the hearings and after the hearings we had four different organizations representing pension fund trustees who wanted to have more information and wanted to know if they desired to participate, could they?

□ 1530

So of course, under our bill, they can. The witness we had at the hearing was the AFL–CIO pension fund committee trustee, or whatever, but that did not mean that this was construed with the specific or singular idea that the AFL–CIO pension fund would participate.

Second, this idea goes back to the 1980's and Secretary Sam Pierce's first intention announced to us to try to tap this reservoir that the gentleman very accurately reflects to be a substantial reservoir of capital. Secretary Pierce advanced a proposition that he never fleshed out, because he got immersed in other problems; but it was exactly along these general lines that he was thinking; that is, to divert capital from the pension fund resources for housing.

Mr. WALKER. Well, Mr. Speaker, if the gentleman will allow me to reclaim my time, let me say to the gentleman that I have here a statement from an actuary of the Committee on Education and Labor where I got my information.

He said:

> Although any eligible pension fund is eligible for participation under the Demonstration Project, the AFL–CIO Investment Trust is the only pension fund at this time expressing any interest in participating in the demonstration.

Now, is the gentleman from Texas saying that this actuary is wrong?

The SPEAKER pro tempore (Mr. MORAN). The time of the gentleman from Pennsylvania [Mr. WALKER] has expired.

Mr. GONZALEZ. Mr. Speaker, I yield 2 additional minutes to the gentleman from Pennsylvania.

Mr. Speaker, will the gentleman yield?

Mr. WALKER. Yes, I yield to the gentleman from Texas.

Mr. GONZALEZ. Let me say, Mr. Speaker, that whatever source the gentleman just read from would not be acquainted with what our subcommittee has received by way of voluntary and interested parties who seek eventually to participate.

Let me assure the gentleman that what I said awhile ago is true. We have had no less than four other inquiries from organizations.

Mr. WALKER. Would the minority staff committee be familiar with that, with what the subcommittee has done now?

Mr. GONZALEZ. It all depends on what date that subcommittee had that.

Mr. WALKER. I have a memo here dated July 23 in which the minority staff also states that the investment trust fund is the only one that they know of.

Mr. GONZALEZ. Mr. Speaker, if the gentleman will yield, it is entirely possible that the minority staff was not aware of these contacts for information.

Mr. WALKER. So the staff at the Banking Committee is not aware, the actuary is not aware?

Mr. GONZALEZ. No, the minority staff.

Mr. WALKER. The Education and Labor Committee who looked at this is not fully informed?

We have some letters from people around the country who also seem to be saying the same thing. Are these developments within the last few hours that somebody else has come on board?

Mr. GONZALEZ. Mr. Speaker, if the gentleman will yield further, there was one other point that I wanted to clarify.

First, this is not anything new, novel or radical.

Let me relate just one experience to the gentleman. The former Secretary of HUD, Samuel Pierce, who certainly was no big friend of public housing or anything like that.

Mr. WALKER. I do not think this has anything to do with being a friend of public housing. What this has to do with is whether or not you think that private pension money ought to be held for entrepreneurial activity, whether we should begin by diverting that into public housing.

In my view, we will get far more benefit as a country out of that money in the private sector producing jobs than we will be diverting it into public housing. I mean, that is the problem here.

The SPEAKER pro tempore. The time of the gentleman from Pennsylvania has expired.

Mr. GONZALEZ. Mr. Speaker, I yield such time as he may require to the gentleman from Massachusetts [Mr. FRANK], a distinguished member of the Committee on Banking, Finance and urban Affairs.

Mr. FRANK of Massachusetts. Mr. Speaker, I thank the committee chairman for yielding me this time.

Mr. Speaker, I appreciate the spirit in which the chairman and the ranking minority member have brought this bill out and have amended it to make it very clear that there can be no abuses.

I think one of the lines of criticism of the previous speaker banged into the other one. He said in the first place this would divert too much money from pension funds. Then he said that nobody but the AFL–CIO wants to use it.

Well, if in fact nobody but the AFL–CIO wanted to use it, it would not be diverting all that much money from the pension fund.

Let us be very clear. Noting in this bill is mandatory. Nothing in this bill tells any pension fund what to do with its money. This is no public sector takeover of anything. This is the public sector responding to a request that did come from the AFL–CIO for doing a general bill, limiting the amount in the version that is before us that any one pension fund can have, and it says, "We will help you, if you want to do it."

Second, nothing in this legislation, and the gentlewoman from New Jersey is an expert in this field and made sure of that, nothing in this legislation relaxes one comma of any existing law governing pension funds. No fiduciary responsibility, no safeguards, none of that is relaxed.

In fact, that is why we have this bill. Some pension funds, like the AFL–CIO, said they would like to get into housing.

Now, the gentleman says, what about jobs? Well, some of us think that building housing is a job. The gentleman may not, but very few houses descend from heaven in perfect form. Mostly they need a little carpeting.

The fact is the AFL–CIO pension fund consists of some people who are in the building trades, and yes, very probably some of those in the building trades would want to use their pension funds for housing.

Now, the gentleman says that is a diversion from entrepreneurship. Well, if the people in the building trades want their pension funds to which they have contributed to go into projects where they can go to work, the gentleman from Pennsylvania my not like it, but it is not any of his business, because it is their pension funds.

We are not telling them to do anything.

He is right. This will not be what every pension fund, or even most pension funds will want. Therefore, he is wrong when he says it will be a major diversion from entrepreneurship.

Every restriction, every safeguard, every rule governing the safety and security of pension funds remains absolutely intact. That is why we have this bill.

What we are saying is that housing might be low-income housing, housing for people of moderate income, multifamily housing, might be considered too risky for pension funds given existing law.

So what does this bill do? It simply says that a certain percentage of section 8 already voted, it has not added a penny to the amount that is voted, it says the Secretary shall take some of the section 8 already voted and work with pension funds that want to get into the housing business to leverage that money so that it will reduce the risk.

It recognizes that pensions must be kept secure.

The gentleman said, well, what about these workers? They may be worried about their pension funds. They would be worried, and that is why without the section 8 they may not get into that kind of housing.

The purpose of this is so to some extent people in the building trade put their pension money into jobs that they will get, that will produce housing that we need and at no additional cost to the Federal Government, there will be that degree of security that allows them to go forward. That is what the bill does.

I frankly think that we have some people in the House who figure that if unions are involved, it must be a bad thing. People I think undercut their credibility if anytime we talk about anything with a union, somehow that is to be the cause of anathema.

We have some people who have said, "We would like to use our pension funds for housing and we would be willing to do it for low-income housing if you could help us bring down the risk."

So we are saying in this bill, okay, we will give you some of the section 8 already voted. That will bring this housing within the existing rules that govern pension funds. That is what the bill does and I hope it is agreed to.

Mrs. ROUKEMA. Mr. Speaker, I yield myself such time as I may consume.

For purposes of accuracy, I want to clarify something, since the reference that my friend and colleague, the gentleman from Pennsylvania made to a staff memo not under my direction, but my staff actuary wrote the memo.

Now, I want to say that I do not know on what basis the staff person made the statement that the AFL-CIO investment trust is the only pension fund at this time expressing interest. I do not know on what basis he made that statement. It may have been because of fragmentary information that was given to him by staff on the Banking Committee; but I want to assure my friend, the gentleman from Pennsylvania, that it was only fragmentary information. It was not meant, I am sure, by our actuary to deceive or misrepresent anything. It was the only information he had at that time.

Indeed, there are others who have inquired into the program as a possibility for their pension funds.

□ 1540

But the second point that I want to make, and I want to make this very clear because the gentleman from Pennsylvania implied that somehow we are not being precise about this, and we are opening up a new area to put pension funds in jeopardy, is I have worked long and hard to make sure that these pension funds, wherever they may come from, are going to be held to the same high standards as any other pension fund, and I do not like the intimation that somehow we have not done our job here. We have. We have put language, statutory language, in here that is even more demanding than what one might find in any other piece of legislation that deals with pension funds.

And, by the way, pension funds in the private sector are not always the most secure. We have got to be eternally vigilant on that, whether it is public or private, and I intend to be one that is not going to let anything more happen to the pension funds under PBGC insurance claims, and we are going to protect them against any jeopardy.

But finally, Mr. Speaker, I want to concur with the gentleman from Massachusetts [Mr. FRANK] who made the point, and I want to make it in my own way, that indeed, by leveraging these private funds and using section 8 assisted housing, this is not public housing in terms of public housing authorities. It is not. It is rental assisted housing through nonprofits and many private sector developers. Those are the people that are going to be using this. But giving the section 8 subsidies, leveraging it, probably gives more security in the secondary market than the vast majority of pension funds that are out there today investing in other private sector.

Now, Mr. Speaker, we can have a legitimate difference of opinion as to whether or not we get more leveraging or advantage from a direct private sector investment without using HUD section 8 leveraging. We can have that debate, but do not intimate that either the funds are being put at greater jeopardy than they are in the private sector, because they are not, or that we are not using the private sector, because private construction firms, private building trade groups and nonprofits are going to be the people that actually do the building. It is not public housing authority.

Mr. FRANK of Massachusetts. Mr. Speaker, will the gentlewoman yield?

Mrs. ROUKEMA. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Speaker, I appreciate the points the gentlewoman from New Jersey [Mrs. ROUKEMA] is making. I think we should also make clear, because some have said housing may take certain things for granted, when we talk about the section 8 housing, these would not be, in many cases, buildings that were entirely section 8. It would be a mix of section 8 and at market rent so that, in fact, the whole community they are talking for housing would be benefited, but it would be a way to make sure that the lower income piece was included, but it would also leverage multiple family housing in general for which we have a great need.

Mrs. ROUKEMA. Mr. Speaker, I yield 3½ minutes to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Speaker, I appreciate the gentlewoman from New Jersey [Mrs. ROUKEMA] yielding this time to me, and I have some real reservations about this and concerns and questions about it. I do not think anybody in the country that has had a public housing project in their area is not aware of the fact that many of them have failed in the past. They have been destroyed, and people have moved out, and they have become a blight on the landscape, and many of them have been refurbished, and brought back into top form, and then destroyed again, and so there are some concerns that I have.

Loan guarantees through the Department of Housing and Urban Development would be that these pension plans would receive loan guarantees through the Department of Housing and Urban Development. In addition to that, section 8 rent subsidies for a period of 5 to 15 years to guarantee a steady flow of income to these projects. Well, let us say a project goes down the tubes and everybody loses out, like many of them have in the past. The government then is guaranteeing they are going to go ahead and pay the rents on that project for a period of time, and there would not be anybody in them. So, the taxpayers, in effect, will be paying rents for people that are no longer tenants.

There are three. Under this pension plan investment program it is going to be targeted to three areas: HUD distressed multifamily properties, low-income family projects that have already failed at least once, so they are going to go in and renovate projects in areas where they have failed once, and we are going to guarantee those rents in the event that people move out a second time, which is probably going to happen in many cases, and the Federal Government is going to pay for it, or the taxpayers are going to pay for it, this country is going to pay for it. Homeless construction, or rehabilitation for projects in Federal empowerment zones.

Now the people on our staffs that research this for us had this to say: These are very risky investments, and pension plans have no experience in managing public housing construction or rehabilitation, and, second, these Federal loan guarantees would create a new Federal liability for risky, private sector investments, much like the S&L crisis. HUD would be required to issue regulations and guarantees that these would be safe investments——

Mr. FRANK of Massachusetts. Mr. Speaker, will the gentleman yield?

Mr. BURTON of Indiana. No, I will not yield at this time.

However, savings and loan institutions have similar rules, and the Federal Government wound up in possession of billions of dollars' worth of defaulted projects.

Mr. Speaker, I think this is well-intentioned legislation. But if the project is rehabilitated or built, and it fails, the Federal Government, the taxpayers of this country, will be putting up a hundred million dollars to pay the rents on those projects until, I guess, they are rehabilitated a second time, and I think there is also some liability as far as the mortgage itself is concerned. I have been told by some of the staff people that it is going to be sold to Fannie Mae or Ginnie Mae, but there is still some Government support for those programs, and, if it goes down the tubes, once again the taxpayer will be paying a large part of the responsibility.

So, in addition, possibly, and I am not sure about this, but it appears to me there might be some risk to the pension funds that the members of this union are invested in, and we certainly do not want their pension funds to be at risk. Right now they are getting 9 to 11 percent a year return on those investments, but, in addition to that, I think there is a possibility that the Federal Government could be at risk and lose some money.

So, I think that this program should be looked at very, very closely, and it certainly should not be passed on suspension.

Mr. GONZALEZ. Mr. Speaker, I yield such time as he may consume once again to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, the gentleman from Indiana [Mr. BURTON] was flatly wrong on one of his central points. Nothing in this bill increases by one penny the financial exposure of the Federal Government. The problems he was talking about——

Mr. BURTON of Indiana. Mr. Speaker, will the gentleman yield?

Mr. FRANK of Massachusetts. Mr. Speaker, the gentleman from Indiana would not yield to me, and I will not yield to him. I say to the gentleman that I was prepared to have the discussion with the gentleman, and he did not want to yield. He made a flatly wrong statement.

The obligations of which the gentleman was referring, to which he was referring, are already in existence in the law. This bill does not authorize a single additional section 8 dollar. What it says is, of the section 8 dollars already authorized, of the obligations the Federal Government has already been appropriated to undertake, some of them may be used in conjunction with pension funds.

So, Mr. Speaker, there is no new financial obligation that will be undertaken by the Federal Government under this bill.

Yes, there are projects at risk. Yes, we have mortgages that we have increased that are defaulting. But those exist wholly independently of this bill. If this bill burned up tomorrow, every penny at risk would still be at risk. This does not increase the Federal Government's exposure in any way, shape or form. What it does do is to try to bring some private capital in in a way that has to meet the standards of existing pension laws. What it says is, giving these exposures, if a pension fund, and it might be a building trades pension fund, wants to come in and say, "If you give us the section 8's, we think we can make this work, and we're talking, by the way, not about public housing in the traditional form in most of these cases. We are talking about mixed housing, privately owned, some low income, and some moderate, and some market rate." But none of this imposes—the gentleman was describing some financial risk for the Federal Government. Sadly they exist. All of those are already out there. This would not implicate the Federal Government in one additional section 8 unit or one additional morgage.

Mr. BURTON of Indiana. Mr. Speaker, will the gentleman yield?

Mr. FRANK of Massachusetts. Now I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. Let me just say that one of the target areas is HUD distressed, multifamily properties, low-income housing projects that have failed at least once. So, let us say that we have a failed housing project. It has failed once, and they choose to go in and renovate that project after it has failed maybe once or twice. Now they are putting at risk taxpayers' money into the rent subsidy the gentleman is talking about.

Mr. FRANK of Massachusetts. No, the gentleman from Indiana [Mr. BURTON] is wrong because HUD already is stuck with that.

Now, I have yielded to the gentleman, and he has made his point, and he does not understand the program. The fact that HUD, in the first place, would not be taking under any new mortgage. This does not authorize HUD to write any new mortgage for these people. It simply gives some of the section 8's. HUD already holds the mortgages on those properties sadly. HUD guaranteed them. They failed. HUD had to step in. This does not deal with new mortgage insurance authority. There would be no new assumption by HUD of any responsibility for this overall program. It simply allocates some of the section 8's to deal with already existing Federal obligations.

Mr. WILLIAMS. Mr. Speaker, I rise in support of H.R. 2668, the Community Investment Demonstration Act of 1993.

H.R. 2668 would set aside $100 million from specified section 8 appropriated programs to permit the Department of Housing and Urban Development to create a demonstration project on behalf of low-income families residing in housing constructed, rehabilitated, or acquired through pension fund investments.

Because all private sector pension funds, including those established through collective bargaining, are covered under Employee Retirement Income Security Act of 1974 [ERISA], the Committee on Education and Labor has a keen interest in this bill.

Although H.R. 2668 is a bipartisan bill introduced by Chairman GONZALEZ and Representative MARGE ROUKEMA, I am aware that questions have been raised by some on the Republican side about the safety of these investments by pension funds.

Let me give you a bit of background on the issue.

I am chairman of the Subcommittee on Labor-Management Relations of the Committee on Education and Labor. My subcommittee has jurisdiction over ERISA. Serving as the ranking minority member on my subcommittee is the distinguished gentlewoman from New Jersey, Mrs. ROUKEMA. When Chairman GONZALEZ originally brought H.R. 2517, the Homeless and Community Development Amendments Act of 1993, to the floor several weeks ago, it contained a provision permitting investments by pension funds in a similar section 8 demonstration project. We asked our bipartisan staff to review the language in Chairman GONZALEZ' bill to determine whether there was any reason for concern about the safety of pension funds which might choose to participate in the section 8 housing demonstration project.

In order to avoid any ambiguity about the duty of the pension plan fiduciary to assure the ultimate security of these investments, the Committee on Education and Labor's chairman, BILL FORD, asked Chairman GONZALEZ to include language to clarify that ERISA's strong fiduciary protections would apply.

Chairman GONZALEZ included that language in his amendment to H.R. 2517 and it also included H.R. 2668.

For this reason, I believe that workers and retirees are fully protected by ERISA if their plans choose to make these investments and I support the bill.

□ 1550

Mrs. ROUKEMA. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GONZALEZ. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MORAN). The question is on the motion offered by the gentleman from Texas [Mr. GONZALEZ] that the House suspend the rules and pass the bill, H.R. 2668, as amended.

The question was taken.

Mr. BURTON of Indiana. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. GONZALEZ. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on H.R. 2668, the bill just under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

INDIAN TRIBAL JUSTICE ACT

Mr. RICHARDSON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1268) to assist the development of tribal judicial systems, and for other purposes, as amended.

The Clerk read as follows:

H.R. 1268

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Indian Tribal Justice Act".

SEC. 2. FINDINGS.

The Congress finds and declares that—

(1) there is a government-to-government relationship between the United States and each Indian tribe;

(2) the United States has a trust responsibility to each tribal government that includes the protection of the sovereignty of each tribal government;

(3) Congress, through statutes, treaties, and the exercise of administrative authorities, has recognized the self-determination, self-reliance, and inherent sovereignty of Indian tribes;

(4) Indian tribes possess the inherent authority to establish their own form of government, including tribal justice systems;

(5) tribal justice systems are an essential part of tribal governments and serve as important forums for ensuring public health and safety and the political integrity of tribal governments;

(6) Congress and the Federal courts have repeatedly recognized tribal justice systems as the appropriate forums for the adjudication of disputes affecting personal and property rights;

(7) traditional tribal justice practices are essential to the maintenance of the culture and identity of Indian tribes and to the goals of this Act;

(8) tribal justice systems are inadequately funded, and the lack of adequate funding impairs their operation; and

(9) tribal government involvement in and commitment to improving tribal justice systems is essential to the accomplishment of the goals of this Act.

SEC. 3. DEFINITIONS.

For purposes of this Act:

(1) The term "Bureau" means the Bureau of Indian Affairs of the Department of the Interior.

(2) The term "Courts of Indian Offenses" means the courts established pursuant to part 11 of title 25, Code of Federal Regulations.

(3) The term "Indian tribe" means any Indian tribe, band, nation, pueblo, or other organized group or community, including any Alaska Native entity, which administers justice under its inherent authority or the authority of the United States and which is recognized as eligible for the special programs and services provided by the United States to Indian tribes because of their status as Indians.

(4) The term "judicial personnel" means any judge, magistrate, court counselor, court clerk, court administrator, bailiff, probation officer, officer of the court, dispute resolution facilitator, or other official, employee, or volunteer within the tribal justice system.

(5) The term "Office" means the Office of Tribal Justice Support within the Bureau of Indian Affairs.

(6) The term "Secretary" means the Secretary of the Interior.

(7) The term "tribal organization" means any organization defined in section 4(l) of the Indian Self-Determination and Education Assistance Act.

(8) The term "tribal justice system" means the entire judicial branch, and employees thereof, of an Indian tribe, including (but not limited to) traditional methods and forums for dispute resolution, lower courts, appellate courts (including intertribal appellate courts), alternative dispute resolution systems, and circuit rider systems, established by inherent tribal authority whether or not they constitute a court of record.

TITLE I—TRIBAL JUSTICE SYSTEMS

SEC. 101. OFFICE OF TRIBAL JUSTICE SUPPORT.

(a) ESTABLISHMENT.—There is hereby established within the Bureau the Office of Tribal Justice Support. The purpose of the Office shall be to further the development, operation, and enhancement of tribal justice systems and Courts of Indian Offenses.

(b) TRANSFER OF EXISTING FUNCTIONS AND PERSONNEL.—All functions performed before the date of the enactment of this Act by the Branch of Judicial Services of the Bureau and all personnel assigned to such Branch as of the date of the enactment of this Act are hereby transferred to the Office of Tribal Justice Support. Any reference in any law, regulation, executive order, reorganization plan, or delegation of authority to the Branch of Judicial Services is deemed to be a reference to the Office of Tribal Justice Support.

(c) FUNCTIONS.—In addition to the functions transferred to the Office pursuant to subsection (b), the Office shall perform the following functions:

(1) Provide funds to Indian tribes and tribal organizations for the development, enhancement, and continuing operation of tribal justice systems.

(2) Provide technical assistance and training, including programs of continuing education and training for personnel of Courts of Indian Offenses.

(3) Study and conduct research concerning the operation of tribal justice systems.

(4) Promote cooperation and coordination among tribal justice systems and the Federal and State judiciary systems.

(5) Oversee the continuing operations of the Courts of Indian Offenses.

(6) Provide funds to Indian tribes and tribal organizations for the continuation and enhancement of traditional tribal judicial practices.

(d) NO IMPOSITION OF STANDARDS.—Nothing in this Act shall be deemed or construed to authorize the Office to impose justice standards on Indian tribes.

(e) ASSISTANCE TO TRIBES.—(1) The Office shall provide technical assistance and training to any Indian tribe or tribal organization upon request. Technical assistance and training shall include (but not be limited to) assistance for the development of—

(A) tribal codes and rules of procedure;

(B) tribal court administrative procedures and court records management systems;

(C) methods of reducing case delays;

(D) methods of alternative dispute resolution;

(E) tribal standards for judicial administration and conduct; and

(F) long-range plans for the enhancement of tribal justice systems.

(2) Technical assistance and training provided pursuant to paragraph (1) may be provided through direct services, by contract with independent entities, or through grants to Indian tribes or tribal organizations.

(f) INFORMATION CLEARINGHOUSE ON TRIBAL JUSTICE SYSTEMS.—The Office shall maintain an information clearinghouse (which shall include an electronic data base) on tribal justice systems and Courts of Indian Offenses, including (but not limited to) information on staffing, funding, model tribal codes, tribal justice activities, and tribal judicial decisions. The Office shall take such actions as may be necessary to ensure the confidentiality of records and other matters involving privacy rights.

SEC. 102. SURVEY OF TRIBAL JUDICIAL SYSTEMS.

(a) IN GENERAL.—Not later than six months after the date of the enactment of this Act, the Secretary shall enter into a contract with a non-Federal entity to conduct a survey of conditions of tribal justice systems and Courts of Indian Offenses to determine the resources and funding, including base support funding, needed to provide for expeditious and effective administration of justice. The Secretary, in like manner, shall annually update the information and findings contained in the survey required under this section.

(b) LOCAL CONDITIONS.—In the course of any annual survey, the non-Federal entity shall document local conditions of each Indian tribe, including, but not limited to—

(1) the geographic area and population to be served;

(2) the levels of functioning and capacity of the tribal justice system;

(3) the volume and complexity of the case loads;

(4) the facilities, including detention facilities, and program resources available;

(5) funding levels and personnel staffing requirements for the tribal justice system; and

(6) the training and technical assistance needs of the tribal justice system.

(c) CONSULTATION WITH INDIAN TRIBES.—The non-Federal entity shall actively consult with Indian tribes and tribal organizations in the development and conduct of the surveys, including updates thereof, under this section. Indian tribes and tribal organizations shall have the opportunity to review and make recommendations regarding the findings of the survey, including updates thereof, prior to final publication of the survey or any update thereof. After Indian tribes and tribal organizations have reviewed and commented on the results of the survey, or any update thereof, the non-Federal entity shall report its findings, together with the comments and recommendations of the Indian tribes and tribal organizations, to the Secretary, the Committee on Indian Affairs of the Senate, and the Subcommittee on Native American Affairs of the Committee on Natural Resources of the House of Representatives.

SEC. 103. BASE SUPPORT FUNDING FOR TRIBAL JUSTICE SYSTEMS.

(a) IN GENERAL.—Pursuant to the Indian Self-Determination and Education Assistance Act, the Secretary is authorized (to the extent provided in advance in appropriations Acts) to enter into contracts, grants, or agreements with Indian tribes and tribal organizations for the performance of any function of the Office and for the development, enhancement, and continuing operation of tribal justice systems and traditional tribal judicial practices by Indian tribal governments.

(b) PURPOSES FOR WHICH FINANCIAL ASSISTANCE MAY BE USED.—Financial assistance provided through contracts, grants, or agreements entered into pursuant to this section may be used for—

(1) planning for the development, enhancement, and operation of tribal justice systems;

(2) the employment of judicial personnel;

(3) training programs and continuing education for tribal judicial personnel;

(4) the acquisition, development, and maintenance of a law library and computer assisted legal research capacities;

(5) the development, revision, and publication of tribal codes, rules of practice, rules of procedure, and standards of judicial performance and conduct;

(6) the development and operation of records management systems;

(7) the construction or renovation of facilities for tribal justice systems;

(8) membership and related expenses for participation in national and regional organizations of tribal justice systems and other professional organizations; and

(9) the development and operation of other innovative and culturally relevant programs and projects, including (but not limited to) programs and projects for—

(A) alternative dispute resolution;

(B) tribal victims assistance or victims services;

(C) tribal probation services or diversion programs;

(D) juvenile services and multidisciplinary investigations of child abuse; and

(E) traditional tribal judicial practices, traditional tribal justice systems, and traditional methods of dispute resolution.

(c) FORMULA.—(1) Not later than 180 days after the date of the enactment of this Act, the Secretary, with the full participation of Indian tribes, shall establish and promulgate by regulation, a formula which establishes base support funding for tribal justice systems in carrying out this section.

(2) The Secretary shall assess case load and staffing needs for tribal justice systems that take into account unique geographic and demographic conditions. In the assessment of these needs, the Secretary shall work cooperatively with Indian tribes and tribal organizations and shall refer to any data developed as a result of the surveys conducted pursuant to section 102 and to relevant assessment standards developed by the Judicial Conference of the United States, the National Center for State Courts, the American Bar Association, and appropriate State bar associations.

(3) Factors to be considered in the development of the base support funding formula shall include, but are not limited to—

(A) the case load and staffing needs identified under paragraph (2);

(B) the geographic area and population to be served;

(C) the volume and complexity of the case loads;

(D) the projected number of cases per month;

(E) the projected number of persons receiving probation services or participating in diversion programs; and

(F) any special circumstances warranting additional financial assistance.

(4) In developing and administering the formula for base support funding for the tribal judicial systems under this section, the Secretary shall ensure equitable distribution of funds.

TITLE II—AUTHORIZATIONS OF APPROPRIATIONS

SEC. 201. TRIBAL JUSTICE SYSTEMS.

(a) OFFICE.—There is authorized to be appropriated to carry out the provisions of sections 101 and 102 of this Act, $7,000,000 for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000. None of the funds provided under this subsection may be used for the administrative expenses of the Office.

(b) BASE SUPPORT FUNDING FOR TRIBAL JUSTICE SYSTEMS.—There is authorized to be appropriated to carry out the provisions of section 103 of this Act, $50,000,000 for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000.

(c) ADMINISTRATIVE EXPENSES FOR OFFICE.—There is authorized to be appropriated, for the administrative expenses of the Office, $500,000 for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000.

(d) SURVEY.—For carrying out the survey under section 102, there is authorized to be appropriated, in addition to the amount authorized under subsection (a) of this section, $400,000.

(e) INDIAN PRIORITY SYSTEM.—Funds appropriated pursuant to the authorizations provided by this section and available for a tribal justice system shall not be subject to the Indian priority system. Nothing in this Act shall preclude a tribal government from supplementing any funds received under this Act with funds received from any other source including the Bureau or any other Federal agency.

(f) ALLOCATION OF FUNDS.—In allocating funds appropriated pursuant to the authorization contained in subsection (a) among the Bureau, Office, tribal governments and Courts of Indian Offenses, the Secretary shall take such actions as may be necessary to ensure that such allocation is carried out in a manner that is fair and equitable to all tribal governments and is proportionate to base support funding under section 103 received by the Bureau, Office, tribal governments, and Courts of Indian Offenses.

(g) NO OFFSET.—No Federal agency shall offset funds made available pursuant to this Act for tribal justice systems against other funds otherwise available for use in connection with tribal justice systems.

TITLE III—DISCLAIMERS

SEC. 301. TRIBAL AUTHORITY.

Nothing in this Act shall be construed to—

(1) encroach upon or diminish in any way the inherent sovereign authority of each tribal government to determine the role of the tribal justice system within the tribal government or to enact and enforce tribal laws;

(2) diminish in any way the authority of tribal governments to appoint personnel;

(3) impair the rights of each tribal government to determine the nature of its own legal system or the appointment of authority within the tribal government;

(4) alter in any way any tribal traditional dispute resolution forum;

(5) imply that any tribal justice system is an instrumentality of the United States; or

(6) diminish the trust responsibility of the United States to Indian tribal governments and tribal justice systems of such governments.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Mexico [Mr. RICHARDSON] will be recognized for 20 minutes, and the gentleman from Wyoming [Mr. THOMAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Mexico [Mr. RICHARDSON].

GENERAL LEAVE

Mr. RICHARDSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on H.R. 1268, the bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the gentleman from New Mexico?

There was no objection.

Mr. RICHARDSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 1268 establishes an Office of Tribal Justice Support within the Bureau of Indian Affairs to provide funds to Indian tribes for the development, enhancement, and continuing operation of tribal judicial systems. The Office shall provide training and technical assistance to any Indian tribe upon request.

The bill authorizes the Secretary with the full participation of Indian tribes to establish a base support funding formula for tribal justice systems. It authorizes the Secretary to enter into agreements to provide financial assistance to any Indian tribe to perform any function of the Office of Tribal Justice Support pursuant to the Indian Self-Determination Act. It also deletes any reference to tribal judicial conferences in the bill.

The bill requires the Secretary to contract with a non-Federal entity to make a survey of the conditions of tribal justice systems.

H.R. 1268 includes a disclaimer section which provides that nothing in the act shall be construed to encroach upon or limit the inherent sovereign authority of each tribe. It further provides that nothing in this act shall diminish the trust responsibility of the Federal Government to Indian tribes.

Mr. Speaker, this legislation will provide badly needed resources to Indian tribes to improve the administration of tribal courts and provide for the fair dispensation of justice in Indian country. This bill is very similar to the bill which the House passed last year and it reflects agreements reached with the Senate on bill language.

Finally, this measure is the result of years of study by the committees of the House and Senate. The U.S. Commission on Civil Rights, after 5 years of exhaustive hearings on tribal courts and the Indian Civil Rights Act, found that for 20 years the Federal Government has failed to provide adequate resources for the operation of tribal justice systems. The Commission expressed its strong support for legislation to authorize spending for tribal courts in amounts equal to that of an equivalent State court and then provides for the equitable distribution of funds based on objective criteria. H.R. 1268 reflects the strong recommendations of the U.S. Commission on Civil Rights and the wishes of Indian country.

We worked closely with the Senate on this bill—this is a compromise. We could not agree last year on a bill.

We need to develop all forms of tribal justice systems, from having more public defenders, to training judges, to solidifying traditional tribal courts.

This bill will give the tribes the flexibility to improve their courts and establish justice in Indian country.

I urge my colleagues to support it.

Mr. Speaker, I reserve the balance of my time.

Mr. THOMAS of Wyoming. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 1268, the Indian Tribal Justice Act, as amended by the committee.

The gentleman from New Mexico has adequately explained the provisions of the bill, so I will be brief.

It is clear that there is a real need for an increase in both the financial and technical support afforded to Indian tribal justice systems by this bill. Most tribal justice systems are woefully underfunded and, as a result, understaffed. Consequently, their ability to adequately serve the needs of the tribes and to uphold justice is undermined. Caseloads increase, backlogs develop, and enforcement of tribal laws and regulations lags.

Mr. Speaker, I am pleased that at markup the committee removed title II of the bill as introduced. The purpose of that title, to establish a Tribal Judicial Conference, seems to me to have been extremely ill-advised. First, a number of tribes have expressed serious concerns about the creation of such a conference. Second, the establishment of such a conference—either by the Congress or by the tribes with funding supplied by the Congress—creates yet another bureaucracy to accrue power at the expense of the tribes and to stand between the Federal Government and the tribes' governing bodies. In addition, creation of such a conference seems to me to put the cart before the horse. We need to address the day-to-day needs of tribal justice systems now, rather than siphoning off funds to create a burdensome new bureaucracy. It is my hope that the House will continue to oppose the establishment of such a conference.

Mr. Speaker, in closing I would like to recognize the important contributions that the two tribes in Wyoming—the Northern Arapaho and the Eastern Shoshone of the Wind River Reservation—have made toward the development of this legislation.

Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. RICHARDSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, there are a number of tribes that have contributed enormously to the development of this legislation: the Navajo Tribe, the Pojoaque Pueblo, a number of Warm Spring tribes, Wind River, Grand Roads, as well as a number of tribal experts and academics from many universities around the country. They should be commended.

Mr. Speaker, again, this is important legislation for the native Americans. We need a strong tribal justice system. What we are talking about is not just some good structural changes that we are making in consultation with the tribes, but some needed resources.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman is on the motion offered by the gentleman from New Mexico [Mr. RICHARDSON] that the House suspend the rules and pass the bill, H.R. 1268, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

AMENDMENTS TO ACT PROVIDING FOR EXTENSION OF CERTAIN FEDERAL BENEFITS TO PASCUA YAQUI INDIANS OF ARIZONA

Mr. RICHARDSON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 734) to amend the Act entitled "An Act to provide for the extension of certain Federal benefits, services, and assistance to the Pascua Yaqui Indians of Arizona, and for other purposes.".

The Clerk read as follows:

H.R. 734

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SOVEREIGNTY OF PASCUA YAQUI TRIBE.

(a) IN GENERAL.—Subsection (a) of the first section of the Act entitled "An Act to provide for the extension of certain Federal benefits, services, and assistance to the Pascua Yaqui Indians of Arizona, and for other purposes" (25 U.S.C. 1300f(a)) is amended by inserting after the first sentence the following: "The Pascua Yaqui Tribe, a historic Indian tribe, is acknowledged as a federally recognized Indian tribe possessing all the attributes of inherent sovereignty which have not been specifically taken away by Acts of Congress and which are not inconsistent with such tribal status.".

(b) EXTENSION OF ENROLLMENT DEADLINE.—Section 3 of such Act (25 U.S.C. 1300f–2) is amended—

(1) in paragraph (B) by striking "and"; and

(2) by redesignating paragraph (C) as paragraph (D) and inserting after paragraph (B) the following new paragraph (C):

"(C) all those persons of Yaqui blood who are citizens of the United States and who, within three years after the date of enactment of this paragraph, apply for enrollment in the Pascua Yaqui Tribe pursuant to the membership criteria and procedures provided for in the official governing documents of the Pascua Yaqui Tribe; and".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Mexico [Mr. RICHARDSON] will be recognized for 20 minutes, and the gentleman from Wyoming [Mr. THOMAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Mexico [Mr. RICHARDSON].

□ 1600

GENERAL LEAVE

Mr. RICHARDSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on H.R. 734, the bill under consideration.

The SPEAKER pro tempore (Mr. MORAN). Is there objection to the request of the gentleman from New Mexico?

There was no objection.

Mr. RICHARDSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 734 clarifies the status of the Pascua Yaqui Tribe of Arizona. Although the tribe was recognized by the Congress on September 18, 1978, through Public Law 95–375, the Bureau of Indian Affairs has consistently taken the position that the tribe does not have all the powers of a sovereign tribal government. Even though regulatory rights are generally viewed as inherent among most federally recognized tribes, the BIA has established a distinction among tribes asserting that some tribes are historic and possess all sovereign rights and some tribes are created and have limited sovereign rights.

The position that the Pascua Yaqui Tribe is not a historical tribe is derived from several solicitors' opinions. The committee strongly disagrees with these distinctions and asserts that there are not degrees of tribal sovereignty and urges the Department to stop such limitations on tribal self-governance. H.R. 734 affirms that the Pascua Yaqui Tribe is indeed a historical tribe and can perform all the governmental functions of an Indian tribe. The Pascua Yaqui can trace their heritage back to the ancient Toltecs and are clearly a historic tribe.

Of particular importance to the tribe is the right to regulate law and order. The Bureau of Indian Affairs is denying the Pascua Yaqui the right to keep the peace on its reservation even though the State of Arizona has stated that the State has no jurisdiction. This bill fills that jurisdictional void and will allow the tribe to have the law enforcement its members deserve.

In addition to clarifying the recognition status of the Pascua Yaqui Tribe, H.R. 734 extends the enrollment deadline for membership in the tribe to 3 years after enactment. Mr. Speaker, this bill is very important to the Pascua Yaqui Tribe. It was passed unanimously by the committee and I urge my colleagues to support it.

Mr. Speaker, I would like to commend the efforts of the gentleman from Arizona [Mr. PASTOR], who represents this tribe, and also to a former Member of this body, the Honorable John Rhodes, who worked tirelessly for this legislation in years past.

Mr. Speaker, I reserve the balance of my time.

Mr. THOMAS of Wyoming. Mr. Speaker, I yield myself such time as I may consume. I rise in support of H.R. 734, a bill to clarify the status of the Pascua Yaqui Indians of Arizona.

The gentleman from New Mexico has adequately explained the provisions of the bill, so I will be brief.

I disagree with the opinion of the BIA solicitor, and with the BIA's somewhat convoluted created versus historic dichotomy, which underlie this case and which we effectively overturn today.

Given the plenary authority of Congress over all facets of Indian affairs, it seems to me that on those rare occasions when we legislatively recognize a tribe—as we did with the Pascua Yaqui—we mean that acknowledgement to be full recognition unless we explicitly provide otherwise. I hope that the solicitor's office at the BIA will keep that in mind in the future.

In closing, I would like to recognize all the hard work my predecessor, former Congressman John J. Rhodes III of Arizona, did in working closely with the tribe to move this bill in the last Congress. Much of the credit for passage of this bill should go to him.

Mr. Speaker, having no further requests for time, I yield back the balance of my time.

Mr. RICHARDSON. Mr. Speaker, I yield 5 minutes to the author of this legislation, the distinguished gentleman from Arizona [Mr. PASTOR], whose jurisdiction encompasses this issue and this tribe.

Mr. PASTOR. Mr. Speaker, I would like to thank my friend and colleague, the gentleman from Mexico, the distinguished chairman of the Native American Affairs Subcommittee for yielding to me and pursuing this legislation with a great deal of interest and feeling.

Mr. Speaker, this is a modest bill. It does not propose radical change. It does not seek to amend a major public law. While simple in its scope, H.R. 734 is profoundly important for the Pascua Yaqui people. As the gentleman from New Mexico noted, this legislation will clarify the status of the Pascua Yaqui Tribe of Arizona and enable the people of the tribe to receive the full benefits of sovereignty to which they are rightfully entitled.

Let me point out, Mr. Speaker, so that there is no mistake in this Chamber, that this legislation does not circumvent the tribal recognition process. The tribe was recognized by this Congress in 1978, through Public Law 95-375. The Bureau of Indian Affairs, however, has established a distinction among tribes asserting that some tribes are historical and possess all sovereign rights and some tribes are created and have limited sovereign rights. This distinction cannot be found in the statutes; it is the creation of the BIA bureaucracy based on one 1936 Solicitor General's opinion.

Currently, the Pascua Yaqui people receive all the benefits of a federally recognized tribe. The BIA, however, has labeled the tribe created and has, therefore, denied the Pascua Yaqui people the full benefits of sovereignty. This bill simply seeks to establish the Pascua Yaqui Tribe as a historic tribe and end the years of injustice to which the Pascua Yaqui people have been subjected.

The Yaqui people have had a long and proud history in what is now the United States. It is a history of clans, villages, self-government, and the struggle of a collective people. It is time, Mr. Speaker, to acknowledge this history and the full sovereignty of the tribe.

Mr. RICHARDSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, again, my colleague from Arizona has eloquently explained the reason why we need to deal with this matter. An injustice has been done to the Pasqua Yaqui Tribe.

Let me also say that there are a number of other tribes that we need to deal with their status in the days and years ahead. We need to reform the system at the Bureau of Indian Affairs that deals with federally recognized tribes. It is a very slow progress but one that we hope, with the gentleman from Wyoming, we can reform in the days ahead.

Mr. Speaker, I want to emphasize the outstanding work done by the gentleman from Arizona [Mr. PASTOR] and also from our colleague, the gentleman from Arizona ENGLISH], who has inserted a statement in the RECORD but could not be here. She attended many of the hearings and expressed very strong support for this bill.

Ms. ENGLISH of Arizona. Mr. Speaker, I rise today in strong support of H.R. 734, a bill to clarify the legal status of the Pascua Yaqui Tribe of Arizona as a historic tribe. Importantly, H.R. 734 would recognize the inherent sovereign status of the Pascua Yaqui Tribe and I urge my colleagues to vote in favor of this legislation.

The Pascua Yaqui Tribe is a federally recognized sovereign entity that has existed as a formal tribal government since time immemorial and yet an arbitrary classification by the Bureau of Indian Affairs would seek to limit their sovereign authority. By reaffirming the Pascua Yaqui Tribe's status as a historic tribe, H.R. 734 would dispel the misconception perpetuated by the BIA that the Pascua Yaqui Tribe has limited powers of self-government delegated by the Federal Government. The notion of delegated authority is inconsistent with settled principles of basic Indian law; namely that federally recognized tribes retain any inherent sovereign authority which has not specifically been divested by Federal law. There is no legal support for the BIA's created versus historic tribe distinction and the distinction must not be tolerated. The Pascua Yaqui Tribe is either sovereign or not sovereign; there is no middle ground.

The Pascua Yaqui Tribe currently exercises all functions of a sovereign tribal government, including the power to tax and otherwise regulate on its reservation, the power to establish tribal courts to govern Indians on the reservation and civil governance of Indians and non-Indians engaging in activities of the reservation, the power to contract with the Federal Government to assume primary responsibility under various health, education, and welfare programs, and the power to establish its own government, constitution, bylaws, and tribal codes. In other words, the tribe wants nothing more than to be treated as any other federally recognized tribe in the United States.

I urge my colleagues to vote in favor of H.R. 734.

Mr. RICHARDSON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Mexico [Mr. RICHARDSON] that the House suspend the rules and pass the bill, H.R. 734.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Debate has been concluded on all motions to suspend the rules. Pursuant to the provisions of clause 5, rule I, the Chair will now put the question on each motion to suspend the rules on which further proceedings were postponed on Monday, August 2, 1993, in the order in which that motion was entertained.

Votes will be taken in the following order:

H.R. 2535, by the yeas and nays; and H.R. 2668, by the yeas and nays.

The Chair will reduce to 5 minutes the time for any electronic vote after the first such vote in this series.

PRIORITY VA HEALTH CARE FOR PERSIAN GULF VETERANS

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 2535, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. MONTGOMERY] that the House suspend the rules and pass the bill, H.R. 2535, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 411, nays 0, not voting 22.

[Roll No. 388]

YEAS—411

Abercrombie
Ackerman
Allard
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Archer
Armey
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barca
Barcia
Barlow
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bateman
Beilenson
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Blackwell
Bliley
Blute
Boehlert
Boehner
Bonilla
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burton
Buyer
Byrne
Callahan
Calvert
Camp
Canady
Cantwell
Cardin
Carr
Castle
Clay
Clayton
Clement
Clyburn
Coble
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Coppersmith
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cunningham
Danner
Darden
de la Garza
DeLauro
DeLay
Dellums
Derrick
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Durbin
Edwards (CA)
Edwards (TX)
Emerson
Engel
English (AZ)
English (OK)
Eshoo
Evans
Everett
Ewing
Farr
Fawell
Fazio
Fields (TX)
Filner
Fingerhut
Fish
Flake
Foglietta
Fowler
Frank (MA)
Franks (CT)
Franks (NJ)
Frost
Furse
Gallegly
Gallo
Gejdenson
Gekas
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Grams
Grandy
Green
Greenwood
Gunderson
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings
Hayes
Hefley
Hefner
Herger
Hilliard
Hinchey
Hoagland
Hobson
Hoekstra
Hoke
Holden
Horn
Houghton
Hoyer
Huffington
Hughes
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Inslee
Istook
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klein
Klink
Klug
Knollenberg
Kolbe
Kopetski
Kreidler
Kyl
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Leach
Lehman
Levin
Levy
Lewis (CA)
Lewis (GA)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Long
Lowey
Machtley
Maloney
Mann
Manton
Manzullo
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McHale
McHugh
McInnis
McKeon
McKinney
McMillan
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murphy
Murtha
Myers
Nadler
Natcher
Neal (MA)
Neal (NC)
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Pombo
Pomeroy
Portman
Poshard
Price (NC)
Pryce (OH)
Quillen
Quinn
Rahall
Ramstad
Rangel
Ravenel
Reed
Regula
Reynolds
Richardson
Ridge
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal-Allard
Royce
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Schenk
Schiff
Schroeder
Schumer
Scott
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shepherd
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (IA)
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stark
Stearns
Stenholm
Stokes
Strickland
Studds
Stump
Stupak
Sundquist
Swett
Swift
Synar
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Upton
Valentine
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Waters
Watt
Waxman
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—0

NOT VOTING—22

Bacchus (FL)
Becerra
Bonior
Chapman
Clinger
Coleman
Deal
DeFazio
Fields (LA)
Ford (MI)
Ford (TN)
Gephardt
Hochbrueckner
Hunter
Lambert
Lewis (FL)
McDermott
Packard
Porter
Rush
Sabo
Washington

□ 1634

So (two-thirds having voted in favor thereof), the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MORAN). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on the additional motion to suspend the rules on which the Chair has postponed further proceedings.

COMMUNITY INVESTMENT DEMONSTRATION ACT OF 1993

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill (H.R. 2668) as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. GONZALEZ] that the House suspend the rules and pass the bill, H.R. 2668, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 309, nays 106, not voting 18, as follows:

[Roll No. 389]

YEAS—309

Abercrombie
Ackerman
Allard
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Baesler
Barca
Barcia
Barlow
Barrett (NE)
Barrett (WI)
Bateman
Beilenson
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Blackwell
Blute
Boehlert
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Camp
Cantwell
Cardin
Carr
Castle
Clay
Clayton
Clement
Clyburn
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
DeLauro
Dellums
Derrick
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Emerson
Engel
English (AZ)
English (OK)
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Fish
Flake
Foglietta
Frank (MA)
Franks (CT)
Franks (NJ)
Frost
Furse
Gallegly
Gallo
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Glickman
Gonzalez
Goodling
Gordon
Grandy
Green
Greenwood
Gutierrez
Hall (OH)
Hamburg
Hamilton
Harman
Hastert
Hastings
Hayes
Hefner
Hilliard
Hinchey
Hoagland
Hobson
Holden
Horn
Houghton
Hoyer
Hughes
Hutto
Inhofe
Inslee
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
King
Kleczka
Klein
Klink
Kopetski
Kreidler
LaFalce

Lancaster
Lantos
LaRocco
Laughlin
Lazio
Leach
Lehman
Levin
Levy
Lewis (GA)
Lightfoot
Lipinski
Lloyd
Long
Lowey
Machtley
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCandless
McCloskey
McCurdy
McDade
McHale
McHugh
McInnis
McKinney
McMillan
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moran
Morella
Murphy
Murtha
Nadler
Natcher
Neal (MA)
Neal (NC)
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Pomeroy
Poshard
Price (NC)
Quinn
Rahall
Rangel
Reed
Regula
Reynolds
Richardson
Ridge
Roemer
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal-Allard
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schenk
Schiff
Schroeder
Schumer
Scott
Serrano
Sharp
Shays
Shepherd
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (IA)
Smith (NJ)
Snowe
Spratt
Stark
Stenholm
Stokes
Strickland
Studds
Stupak
Swett
Swift
Synar
Talent
Tanner
Tauzin
Tejeda
Thomas (WY)
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Upton
Valentine
Velazquez
Vento
Visclosky
Volkmer
Walsh
Waters
Watt
Waxman
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates
Young (AK)
Zimmer

NAYS—106

Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Bartlett
Barton
Boehner
Bonilla
Bunning
Burton
Buyer
Callahan
Calvert
Canady
Coble
Collins (GA)
Combest
Cox
Crane
Crapo
Cunningham
DeLay
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Everett
Ewing
Fawell
Fields (TX)
Fowler
Gekas
Gingrich
Goodlatte
Goss
Grams
Gunderson
Hall (TX)
Hancock
Hansen
Hefley
Herger
Hoekstra
Hoke
Huffington
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson, Sam
Kasich
Kim
Kingston
Klug
Knollenberg
Kolbe
Kyl
Lewis (CA)
Linder
Livingston
Manzullo
McCollum
McCrery
McKeon
Meyers
Mica
Michel
Miller (FL)
Moorhead
Myers
Paxon
Pombo
Portman
Pryce (OH)
Quillen
Ramstad
Ravenel
Roberts
Rogers
Rohrabacher
Royce
Schaefer
Sensenbrenner
Shaw
Shuster
Smith (MI)
Smith (OR)
Smith (TX)
Solomon
Spence
Stearns
Stump
Sundquist
Taylor (MS)
Taylor (NC)
Thomas (CA)
Vucanovich
Walker
Wolf
Young (FL)
Zeliff

NOT VOTING—18

Bacchus (FL)
Becerra
Bliley
Chapman
Clinger
Coleman
Deal
DeFazio
Ford (MI)
Ford (TN)
Hochbrueckner
Lambert
Lewis (FL)
McDermott
Packard
Porter
Rush
Washington

□ 1654

The Clerk announced the following pair:

On this vote:

Mr. Bacchus of Florida and Mr. DeFazio for, with Mr. Porter against.

Messrs. KYL, YOUNG of Florida, and HOKE changed their vote from "yea" to "nay."

Mr. GALLEGLY changed his vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. CLINGER. Mr. Speaker, I was out of town and missed two recorded votes. I would like the RECORD to reflect that if I had been present I would have voted "yea" on Priority VA Health Care for Persian Gulf Veterans, H.R. 2535, rollcall No. 388 and "yea" on Community Investment Demonstration Act of 1993, H.R. 2668, rollcall No. 389.

PERSONAL EXPLANATION

Mr. HOCHBRUECKNER. Mr. Speaker, due to being unavoidably detained, I was unable to record my vote on two bills. Therefore, I would like to take this opportunity to submit for the RECROD how I would have voted had I been present:

Rollcall No. 388, "aye."
Rollcall No. 389, "aye."

PERSONAL EXPLANATION

Mr. PORTER. Mr. Speaker, I was unavoidably detained in my district and missed Roll No. 388, H.R. 2535, the Priority VA Health Care for Persian Gulf Veterans Act, and Roll No. 389, H.R. 2668, Community Investment Demonstration Act of 1993. Had I been present, I would have voted for Roll No. 388 and against Roll No. 389.

PERMISSION FOR MANAGERS TO FILE CONFERENCE REPORT ON H.R. 2348, LEGISLATIVE BRANCH APPROPRIATIONS ACT, 1994

Mr. FAZIO. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight, August 2, 1993, to file a conference report on the bill (H.R. 2348) making appropriations for the legislative branch for the fiscal year ending September 30, 1994, and for other purposes.

The SPEAKER pro tempore (Mr. MORAN). Is there objection to the request of the gentleman from California?

There was no objection.

ANNOUNCEMENT OF OFFICIAL DEMOCRATIC OBJECTORS FOR PRIVATE CALENDAR, 103D CONGRESS

Mr. GEPHARDT. Mr. Speaker, I am pleased to announce that the official objectors for the majority side for the Private Calendar for the 103d Congress are as follows: The gentleman from Virginia [Mr. BOUCHER]; the gentleman from Maryland [Mr. MFUME]; and the gentlewoman from Connecticut [Ms. DELAURO].

ANNOUNCEMENT OF REPUBLICAN OFFICIAL OBJECTORS FOR PRIVATE CALENDAR, 103D CONGRESS

Mr. MICHEL. Mr. Speaker, for the Private Calendar, the Republican official objectors for the 103d Congress will be: the gentleman from Wisconsin [Mr. SENSENBRENNER]; the gentleman from North Carolina [Mr. COBLE]; and the gentleman from Virginia [Mr. GOODLATTE].

LEGISLATIVE SCHEDULE

(Mr. GEPHARDT asked and was given permission to address the House for 1 minute.)

Mr. GEPHARDT. Mr. Speaker, I would like to engage the minority leader in a short colloquy to explain to Members the schedule for tomorrow.

I am about to ask for unanimous consent to adjourn to meet at 1 p.m. tomorrow.

Obviously, a number of Members will be traveling to Michigan for the funeral of our colleague, the gentleman from Michigan [Mr. HENRY].

I want to tell Members that we do not expect votes will be held here until about 3 o'clock in the afternoon, so that everyone can return, and I would think that we should be finished tomorrow about 6 o'clock.

Mr. MICHEL. Mr. Speaker, if the distinguished gentleman will yield, it is my understanding that the bus will leave in the morning around 7:30 or so and that we should be back by 2:30 at Andrews. That comports with the other things that we will be doing.

Any intelligence on when we might be dealing with the tax bill, the reconciliation bill? It was Wednesday when we talked last. Has it been delayed, or does the gentleman know?

Mr. GEPHARDT. I think we are targeting for a vote here on Thursday. We would like, if we can, if everything works in terms of the paperwork arriving on time, we would like to have a rule up and then a vote. There would be probably a couple of hours of debate. I would say the whole transaction could occur on Thursday, say between 10 in the morning and 4 in the afternoon.

Mr. MICHEL. Will the schedule for tomorrow be roughly the same as it was originally scheduled, except for appearing later in the day?

Mr. GEPHARDT. That is correct.

Mr. MICHEL. Mr. Speaker, I thank the gentleman.

HOUR OF MEETING ON TUESDAY, AUGUST 3, 1993

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 1 p.m. tomorrow.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

REPORT ON NATIONAL EMERGENCY WITH RESPECT TO IRAQ—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 103–125)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and together with the accompanying papers, without objection, referred to the Committee on Foreign Affairs and ordered to be printed.

To the Congress of the United States:

I hereby report to the Congress on the developments since my last report of February 16, 1993, concerning the national emergency with respect to Iraq that was declared in Executive Order No. 12722 of August 2, 1990. This report is submitted pursuant to section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c).

Executive Order No. 12722 ordered the immediate blocking of all property and interests in property of the Government of Iraq (including the Central Bank of Iraq), then or thereafter located in the United States or within the possession or control of a U.S. person. That order also prohibited the importation into the United States of goods and services of Iraqi origin, as well as the exportation of goods, services, and technology from the United States to Iraq. The order prohibited travel-related transactions to or from Iraq and the performance of any contract in support of any industrial, commercial, or governmental project in Iraq. U.S. persons were also prohibited from granting or extending credit or loans to the Government of Iraq.

The foregoing prohibitions (as well as the blocking of Government of Iraq property) were continued and augmented on August 9, 1990, by Executive Order No. 12724, which was issued in order to align the sanctions imposed by the United States with United Nations Security Council Resolution 661 of August 6, 1990.

Executive Order No. 12817 was issued on October 21, 1992, to implement in the United States measures adopted in United Nations Security Council Resolution 778 of October 2, 1992. Resolution 778 requires U.N. member states temporarily to transfer to a U.N. escrow account up to $200 million apiece in Iraqi oil sale proceeds paid by purchasers after the imposition of U.N. sanctions on Iraq. These funds finance Iraq's obligations for U.N. activities with respect to Iraq, including expenses to verify Iraqi weapons destruction, and to provide humanitarian assistance in Iraq on a nonpartisan basis. A portion of the escrowed funds will also fund the activities of the U.N. Compensation Commission in Geneva, which will handle claims from victims of the Iraqi invasion of Kuwait. The funds placed in the escrow account are to be returned, with interest, to the member states that transferred them to the United Nations, as funds are received from future sales of Iraqi oil authorized by the United Nations Security Council. No member state is required to fund more than half of the total contributions to the escrow account.

This report discusses only matters concerning the national emergency with respect to Iraq that was declared in Executive Order No. 12722 and matters relating to Executive Orders Nos. 12724 and 12817 (the "Executive Orders"). The report covers events from February 2, 1993, through August 1, 1993.

1. There have been no amendments to the Iraqi Sanctions Regulations during the reporting period.

2. Investigations of possible violations of the Iraqi sanctions continue to be pursued and appropriate enforcement actions taken. These are intended to deter future activities in violation of the sanctions. Additional civil penalty notices were prepared during the reporting period for violations of the International Emergency Economic Powers Act and Iraqi Sanctions Regulations with respect to transactions involving Iraq.

3. Investigation also continues into the roles played by various individuals and firms outside Iraq in the Iraqi government procurement network. These investigations may lead to additions to the Office of Foreign Assets Control's listing of individuals and organizations determined to be Specially Designated Nationals of the Government of Iraq.

4. Pursuant to Executive Order No. 12817 implementing United Nations Security Council Resolution 778, on October 26, 1992, the Office of Foreign Assets Control directed the Federal Reserve Bank of New York to establish a blocked account for receipt of certain post-August 6, 1990, Iraqi oil sales proceeds, and to hold, invest, and transfer these funds as required by the order. On May 18, 1993, following the payment of $1,492,537.30 by the Government of the United Kingdom to a special United Nations-controlled account, entitled United Nations Security Council Resolution 778 Escrow Account, the Federal Reserve Bank of New York was directed to transfer a corresponding amount of $1,492,537.30 from the blocked account it holds to the United Nations-controlled account. Future transfers from the blocked Federal Reserve Bank of New York account will be made on a matching basis up to the $200 million for which the United States is potentially obligated pursuant to United Nations Security Council Resolution 778.

5. Since the last report, there have been developments in two cases filed against the Government of Iraq. Another ruling was issued in *Consarc Corporation* v. *Iraqi Ministry of Industry and Minerals et al.*, No. 90–2269 (D.D.C., March 9, 1993), which arose out of a contract for the sale of furnaces by plaintiff to the Iraqi Ministry of Industry and Minerals, an Iraqi governmental entity. In connection with the contract, the Iraqi defendants opened an irrevocable letter of credit with an Iraqi bank in favor of Consarc, which was advised by Pittsburgh National Bank, with the Bank of New York entering into a confirmed reimbursement agreement with the advising bank. Funds were set aside at the Bank of New York, in an account of the Iraqi bank, for reimbursement of the Bank of New York if Pittsburgh National Bank made a payment to Consarc on the letter of credit and sought reimbursement from the Bank of New York. Consarc received a down payment from the Iraqi Ministry of Industry and Minerals and substantially manufactured the furnaces. No goods were shipped prior to imposition of sanctions on August 2, 1990, and the United States asserted that the funds on deposit in the Iraqi bank account at the Bank of New York, as well as the furnaces manufactured for the Iraqi government or the process of any sale of those furnaces to third parties, were blocked. The district court ruled on December 29, 1992, that the furnaces or their sales proceeds were properly blocked pursuant to the declaration of the national emergency and blocking of Iraqi government property interests. However, according to the court, due to fraud on the part of the Ministry of Industry and Minerals in concluding the sales contract, the funds on deposit in an Iraqi bank account at the Bank of New York were not the property of the Government of Iraq. The court ordered the Office of Foreign Assets Control to unblock these funds, and required Consarc to block the proceeds from the sale of one furnace and to hold the remaining furnace as blocked property. On January 27, 1993, the Office of Foreign Assets Control complied with the court's order and licensed the unblocking of $6.4 million plus interest to Consarc. On March 9, 1993, the court

affirmed its ruling in response to Consarc's motion to clarify the December 29 order and the Office of Foreign Assets Control's motion to correct the judgment to conform to the December 29 opinion. The Office of Foreign Assets Control and Consarc have each appealed the district court's ruling.

In *Brewer* v. *The Socialist People's Republic of Iraq*, No. 91-5325 (D.C. Cir., 1993) the United States Court of Appeals for the District of Columbia Circuit affirmed the district court's ruling denying appellant's motion to attach U.S.-located assets of the Government of Iraq and its state tourism organization. Following the holding of *Dames & Moore* v. *Regan*, 453 U.S. 654 (1981), the court upheld the power of the President to freeze foreign assets and prevent their attachment by private litigants in times of national emergency.

6. The Office of Foreign Assets Control has issued a total of 391 specific licenses regarding transactions pertaining to Iraq or Iraqi assets since August 1990. Since my last report, 54 specific licenses have been issued. Licenses were issued for transactions such as the filing of legal actions against Iraqi governmental entities, for legal representation of Iraq, and the exportation to Iraq of donated medicine, medical supplies, and food intended for humanitarian relief purposes.

7. The expenses incurred by the Federal Government in the 6-month period from February 2, 1993, through August 1, 1993, that are directly attributable to the exercise of powers and authorities conferred by the declaration of a national emergency with respect to Iraq are estimated at about $2.5 million, most of which represents wage and salary costs for Federal personnel. Personnel costs were largely centered in the Department of the Treasury (particularly in the Office of Foreign Assets Control, the U.S. Customs Service, the Office of the Assistant Secretary for Enforcement, and the Office of the General Counsel), the Department of State (particularly the Bureau of Economic and Business Affairs, the Bureau of Near East and South Asian Affairs, the Bureau of International Organizations, and the Office of the Legal Adviser), and the Department of Transportation (particularly the U.S. Coast Guard).

8. The United States imposed economic sanctions on Iraq in response to Iraq's invasion and illegal occupation of Kuwait, a clear act of brutal aggression. The United States, together with the international community, is maintaining economic sanctions against Iraq because the Iraqi regime has failed to comply fully with United Nations Security Council resolutions, including those calling for the elimination of Iraqi weapons of mass destruction, the inviolability of the Iraq-Kuwait boundary, the release of Kuwaiti and other third country nationals, compensation for victims of Iraqi aggression, long-term monitoring of weapons of mass destruction capabilities, and the return of Kuwaiti assets stolen during Iraq's illegal occupation of Kuwait. The U.N. sanctions remain in place; the United States will continue to enforce those sanctions under domestic authority.

The Baghdad government continued to violate basic human rights by repressing the Iraqi civilian population and depriving it of humanitarian assistance. The United Nations Security Council passed resolutions that permit Iraq to sell $1.6 billion of oil under U.N. auspices to fund the provision of food, medicine, and other humanitarian supplies to the people of Iraq. Under the U.N. resolutions, the equitable distribution within Iraq of this assistance would be supervised and monitored by the United Nations. The Iraqi regime so far has refused to accept these resolutions and has thereby chosen to perpetuate the suffering of its civilian population. Discussions on implementing these resolutions resumed at the United Nations on July 7, 1993.

The policies and actions of the Saddam Hussein regime continue to pose an unusual and extraordinary threat to the national security and foreign policy of the United States, as well as to regional peace and security. Because of Iraq's failure to comply fully with United Nations Security Council resolutions, the United States will therefore continue to apply economic sanctions to deter Iraq from threatening peace and stability in the region, and I will continue to report periodically to the Congress on significant developments, pursuant to 50 U.S.C. 1703(c).

WILLIAM J. CLINTON.

THE WHITE HOUSE, *August 2, 1993.*

VACATING SPECIAL ORDER AND GRANTING REQUEST FOR SPECIAL ORDER

Mrs. BENTLEY. Mr. Speaker, I ask unanimous consent that my 60-minute special order for today be vacated and that I instead be granted a 5-minute special order.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Maryland?

There was no objection.

□ 1700

TRANSFER OF SPECIAL ORDER TIME

Mr. FARR. Mr. Speaker, I ask unanimous consent that on Wednesday, August 4, 1993, the gentleman from Michigan [Mr. DINGELL] be allowed to take the 60-minute special order previously granted to the gentleman from Illinois [Mr. LIPINSKI].

The SPEAKER pro tempore (Mr. BISHOP). Is there objection to the request of the gentleman from California?

There was no objection.

TRANSFER OF SPECIAL ORDER TIME

Mr. INHOFE. Mr. Speaker, I ask unanimous consent that on Wednesday, August 4, 1993, that I, the gentleman from Oklahoma [Mr. INHOFE], be allowed to take the 60-minute special order previously granted to the gentleman from Indiana [Mr. BURTON].

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

TRANSFER OF SPECIAL ORDER TIME

Mr. INHOFE. Mr. Speaker, I ask unanimous consent that on Wednesday, August 4, 1993, the gentleman from Michigan [Mr. UPTON] be allowed to take the 60-minute special order previously granted to the gentleman from New York [Mr. SOLOMON].

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

WORRIED CITIZENS TACKLE NAFTA

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Maryland [Mrs. BENTLEY] is recognized for 5 minutes.

Mrs. BENTLEY. Mr. Speaker, people around the country are beginning to respond to the extension of remarks on the NAFTA issue. My office is receiving calls and letters from across the country expressing dismay at how comprehensive the agreement is—at the impact it will have upon our every day lives.

As an example, I want to share with you a news article sent to me by Ann Purcell from Topeka, KS, from the Topeka Capital-Journal of July 17, 1993: "Worried Citizens Tackle NAFTA."

In April, Nancy Purcell, a retired Topeka schoolteacher, sat down with a copy of the North American Free-Trade Agreement.

The pact is 3 inches thick and comprised of two volumes. The first is 600 pages, the second 500.

She had seen a newspaper advertisement about the treaty. It cost $30 a copy and arrived in a brown cardboard box.

"The first week I just thumbed through it and tried to figure out what it was talking about," Purcell said.

"The next 2 weeks, I began to understand it and, I started studying it all day long."

Signing NAFTA was one of George Bush's last actions as President. Drawn up over several years, NAFTA is designed to place fewer restrictions in trade among the United States, Mexico and Canada. The ratification process was held up a few weeks ago when a Federal judge ruled that the possible environmental effects of the treaty must be studied, which could take several months.

The endless paragraphs of legalese slowly began to come into focus for Purcell, painting a disturbing picture for her.

She continued studying the text through May and June, and was joined in the task by friends, many of whom are retired teachers.

"If I wasn't retired, I would never be able to find the time for it," she said.

"It's been a great time commitment. But I'm the type of person who has to continue to learn all through life. I can't just sit and watch soaps all day."

Each of her friends focused on a particular section and tried to gain a firm understanding of it.

Purcell's final assessment of the treaty was grave.

"It's giving our country away," Purcell said.

"I'm not concerned about myself; I'm worried about my grandchildren. If this becomes law, there won't be any jobs and the ones there will be won't pay enough to live on."

"The treaty clearly forces American employers to recognize foreign diplomas and hire foreign workers. And if they don't, they'll be tried by a multinational judicial board. We would be tried by foreigners."

To better understand the players involved and parties discussed in the treaty, Purcell began looking at news magazines and listening to radio programs. Her friends—including Janet Bisnette, Marge Bradshaw and Elizabeth Wilson—all became equally troubled and wrote their congressional representatives.

"I've got a whole box full of letters they've sent me," Purcell said. "(My Congressman) has a form letter he sends out—he has sent me five copies of the same, identical letter. I don't think many of our Representatives have read NAFTA."

"If it was such a good thing, they'd all be taking credit for it," Bisnette said. "As it is, they won't tell us anything."

The net effect of the treaty, the women said, is to open United States, Mexican, and Canadian markets to the extent that each country sacrifices regulatory control to unelected, multinational councils.

"This is a treaty which will effect every man, women and child in this country," Wilson said.

"People need to find out what it is about and how it will change their lives."

Purcell said she is going to continue writing her representatives to sway their opinions."

Ms. Purcell and her friends have discovered an issue which could become a major bone of contention—were enough people to become aware of it—that is the importation of skilled labor from Mexico, taking jobs away from Americans.

The model of the NAFTA on jobs creation seems to be blue-collar jobs will be exported, professional workers imported. Heads Mexico wins, tails we lose.

People like the Purcell sisters in Topeka are legion in every State in this Nation. If this House, this Congress thinks that the people who vote us into office have the wool pulled over their eyes on the cost of the NAFTA to them and their families, be warned.

The Purcell sisters and their friends convince me that they know more about the details of the NAFTA agreement—and its consequences—than many of the people walking around on this Hill.

And good for them. They are taking their responsibilities as American citizens very seriously. We should all be indebted to them—as I am—for their studious efforts and for the devotion they have shown to their country.

POLITICALLY CORRECT PAYZANT IS OUT IN LEFT FIELD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. BURTON] is recognized for 60 minutes.

Mr. BURTON of Indiana. Mr. Speaker, one of the most important areas of Federal and State government, and local government, is education, and toward that end it is very important that the people who are nominated to positions of leadership and authority in education be the kind of people that we can entrust our children to, and I became very concerned today when I received some correspondence about a gentleman who is going to be nominated, or has been nominated, to the position of Assistant Secretary of Education for Primary and Secondary Education. His name is Dr. Tom Payzant, and he has been a controversial figure during this tenure as superintendent of the San Diego public schools. Some of Dr. Payzant's administrative decisions and views on such issues as gay rights and the Boy Scouts indicate that he is a very dangerous man for American parents who believe schools should be involved in education instead of social engineering, and the document that I am reading came from the Traditional Values Coalition that did the research on this.

In the spring of 1992, Dr. Payzant formed a task force "to look at issues that were of concern to members of the gay and lesbian community in San Diego,"—School Board Meeting, January 12, 1993. The group included members from radical homosexual groups such as Parents and Friends of Lesbians and Gays [PFLAG] and the Lesbian and Gay Men's Community Center. The task force recommended that a clause banning discrimination against students and public school employees because of their sexual orientation be added to the school district policy. Dr. Payzant brought this to the school board in November 1992, which passed the recommendation unanimously in December, thereby granting special minority status to public school employees and students who choose to engage in homosexual behavior.

□ 1710

The Boy Scouts in San Diego ran programs for disadvantaged children in some inner-city schools. They worked with the children during the school day instead of after school because as one school board member asserted, "It was very difficult to get the kids to come after school or on Saturday," because of the violent environments in which they live—School Board Meeting, December 15, 1992. Boy Scout national policy does not allow homosexuals to be in leadership positions—(that is den leaders)—in order to provide positive male role models for many children who do not have one at home, as well as to protect the children from being victims of child molestation. This is understandable considering that in 1989 alone, 195 homosexual troop leaders were banned for sexually abusing boys—The Washington Times, June 15, 1993.

Dr. Payzant then stretched the new policy barring discrimination against homosexual employees and students to apply to private organizations that work with the public schools in order to advance another recommendation of his gay and lesbian friends. Dr. Payzant recommended that the Boy Scouts be barred from providing services during the school day, but be allowed, like other groups, to hold meetings after school. This would in effect, destroy the Boy Scouts' work by denying inner-city youth a safe environment in which to receive much needed remedial education. The board members passed the resolution with reservation. One board member felt that they had no choice because the Boy Scout policy conflicted with the previous policy Payzant had inflicted upon them, but conceded that "this hurts me because it hurts the boys." Dr. Payzant effectively promoted the gay rights agenda at the expense of the education of inner-city youth.

Dr. Payzant's own comments reflect his unabashed hostility toward the Boy Scouts:

> Growing up in the late 1940's and early 1950's as a Boy Scout, I was taught the values of tolerance and inclusiveness and I find it rather ironic some 40 to 50 years later, that I am using what I learned as a Scout to challenge an organization that in the 1990's apparently doesn't understand that you can't

have values in conflict and mixed signals to send * * * we can't tolerate an organization with that kind of policy working with young people."

What he is saying in effect is that if you do not want homosexual scoutmasters because of the record that has been alluded to previously, that there were 159 homosexual troop leaders that molested kids in 1989 alone, that you are out of step with society. I think he is dead wrong.

To read further, what sort of organization does Dr. Payzant endorse? During the same board meeting where he lobbied for his non-discrimination clause, Dr. Payzant responded to a question concerning future diversity training and curriculum by saying, "I think it was maybe two or three years ago where we did a workshop and some resource people from Project 10 in Los Angeles, and it become an event. And one of the things that I think is very clear now with this policy statement, it really gives credibility to the intent and seriousness of the School District with respect to this issue, and it will make it more possible for the staff and others to go forward in a "pro-active" way with this kind of training."—School Board Meeting, November 11, 1992.

Project 10 is a radical-homosexual group which endorse pro-gay material like that of the infamous Rainbow Curriculum in New York City under then Superintendent Joe Fernandez, which was loudly rejected by parents in New York. Project 10 is based on the incorrect claim by the homosexuals that they make up 10 percent of the population. As of late, several scientific studies by the National Opinion Research Corp. and the Guttmacher Institute have revealed that in fact only about 1 percent of the population is exclusively homosexual. At a later meeting Dr. Payzant again showed his activist leanings for the gay rights agenda. Because of what happened to Joe Fernandez—he lost his job during the NYC Rainbow controversy—Dr. Payzant was hesitant to move too quickly on diversity issues but said, "I will be willing to take one step at a time * * * I think it's going to take a little more time here in this community for people to take on that issue * * *. But as we get the opportunity to provide more help and support for gay and lesbian students we'll do that,"—San Diego Human Relations Commission, February 17, 1993.

During the same meeting, Dr. Payzant revealed further anti-Christian bigotry and prohomosexual philosophy when discussing the response he has received from members of the San Diego community who disagreed with his homosexual and Boy Scout policy. "This kind of thing kind of brings you up and says there's a lot left to be done and there are a lot of folks out there who have got some pretty crazy ideas about the world and how it works and in a perverse kind of way it kind of reinforces you and gives you a little more determination to push forward, and we've got a lot of work to do on that one in this community and in this country, and the various phobias that are out there are very, very strong indeed * * *. I have had problems with people who can't even begin to acknowledge that there are differences in sexual orientation and that that's not just a matter of choice,"—San Diego Human Relations Commission, February 17, 1993).

Dr. Payzant's statements certainly indicate that moral, Christian Americans who believe that the Boy Scouts are an upstanding institution that provide a valuable service to the youth of this Nation and that homosexuality is a dysfunctional behavior which should be discouraged instead of promoted have "some pretty crazy ideas about the world." Even more frightening is that his twisted view of traditional Americans motivates him to challenge the values of America and move us away from our Judeo-Christian ethic which our great Nation was founded upon.

How does the nominee of what a 1992 U.S. News & World Report article stated to be one of the four most important positions to fill in the Nation, propose to induce this value-changing of America? Dr. Payzant has said of his approach, "What it all boils down to is attitude, and how willing people are to have their own attitudes confronted by others, who open their minds to the possibility of perhaps changing. I mean that you've got a group of people that have a very positive attitude about diversity and dealing with it and they know how to do it and they do it well, they're not uncomfortable about it. You've got another group of folks that think it's silly and crazy and they're not going to change, if they can help. And you've got a lot of folks, I think, in the middle who are willing to be educated and change learn, as long as you don't club them over the head and say, 'do it right now on my terms' that can be brought along. And that's the group that I'm optimistic about * * *. But we've always got that rear guard out there that's fighting us every step of the way. And I don't know of anybody who's figured out a way to get them yet."—San Diego Human Relations Commission, February 17, 1993).

Dr. Payzani has also promoted school-based birth control centers and expressed more of this anti-Christian bias when commenting about Christian schools, "You don't learn science, history and government through an entirely religious background. It is not effective."—The Daily Oklahoman, March 29, 1982. Additionally, Dr. Payzant's administrative decisions conflict with his belief that, "Out society has * * * to impress upon young people that they really have to work hard to do well,"—LA Times, December 22, 1991. For instance, Dr. Payzant instituted a policy which banned the F grade and promoted elementary students who previously would have been held back, because he thought the traditional policies were harmful to their self-esteem. In other words, Dr. Payzant believes we should pass students not because of merit or hard work, but out of fear of hurting their feelings. A man with such a flawed philosophical base like Dr. Payzant should not fill a position that is considered to be one of the four most important in the Nation. It would be disastrous for American parents who send their children to school to be educated, not to be undermined by the politically correct philosophy of the education elite.

Mr. Speaker, I just want to say to my colleagues and anybody else that may be paying attention, that I was a Boy Scout, and I was a Cub Scout, and I know a lot of people who have been in Cub Scout dens and Boy Scout troops, and the traditional values and the Judeo-Christian ethic that we learned of God and country was very important to the foundation laid in many of our lives. Many of us came from broken homes, many of us came from very tough neighborhoods where there was a lot of crime and a lot of opportunity for getting in trouble, and the Boy Scouts of America in large part saved us from a fate that might have taken us into prison or worse.

Mr. Speaker, I just would like to say that to put somebody in as an Assistant Secretary of Education at the Federal level who believes that we ought to have homosexuals as Boy Scout leaders and Cub Scout leaders, when we know that there have been all kinds of violations perpetrated upon kids by the troop leaders across this country and in violation of what the Boy Scouts stand for, I think is a travesty. It is a travesty.

Some people have even banned the Boy Scouts. Some of the major corporations in this country have banned the Boy Scouts from getting contributions from their firms, even though they have given in the past, because they do not allow homosexuals to be troop leaders and have God in their creed. I say we are going a long way in the wrong direction when we start taking on the Boy Scouts of America because of their attitude of God and country and their moral attitudes.

So I would just say to the President, if he were here, Mr. Speaker, that I think this is a bad choice, a very bad choice for Assistant Secretary of Education, and he should withdraw it as soon as possible.

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APPOINTMENT AS MEMBERS OF FUNERAL COMMITTEE OF THE LATE HON. PAUL B. HENRY

The SPEAKER pro tempore. Pursuant to House Resolution 232, and on behalf of the Speaker, the Chair announces as members of the funeral committee of the late PAUL B. HENRY the following Members on the part of the House:

Mr. DINGELL of Michigan;
Mr. MICHEL of Illinois;
Mr. BONIOR of Michigan;
Mr. GINGRICH of Georgia;
Mr. CONYERS of Michigan;
Mr. FORD of Michigan;
Mr. KILDEE of Michigan;
Mr. CARR of Michigan;
Mr. LEVIN of Michigan;
Mr. UPTON of Michigan;
Mr. CAMP of Michigan;
Miss COLLINS of Michigan;
Mr. BARCIA of Michigan;
Mr. HOEKSTRA of Michigan;
Mr. KNOLLENBERG of Michigan;
Mr. STUPAK of Michigan;
Mr. SMITH of Michigan;
Mr. MCDADE of Pennsylvania;
Mr. REGULA of Ohio;
Mr. GOODLING of Pennsylvania;
Mr. MARKEY of Massachusetts;
Mr. WALKER of Pennsylvania;
Mr. LIVINGSTON of Louisiana;
Mr. LEWIS of California;
Mr. ROTH of Wisconsin;
Mr. SENSENBRENNER of Wisconsin;
Ms. SNOWE of Maine;
Mr. THOMAS of California;
Mr. PETRI of Wisconsin;
Mr. EMERSON of Missouri;
Mr. GUNDERSON of Wisconsin;
Mr. SMITH of New Jersey;
Mr. WOLF of Virginia;
Mr. OXLEY of Ohio;
Mr. BOEHLERT of New York;
Mrs. JOHNSON of Connecticut;
Ms. KAPTUR of Ohio;
Mr. BARTON of Texas;
Mr. CALLAHAN of Alabama;
Mr. DELAY of Texas;
Mr. FAWELL of Illinois;
Mr. GALLO of New Jersey;
Mr. KOLBE of Arizona;
Mr. MCMILLIAN of North Carolina;
Mrs. MEYERS of Kansas;
Mr. BALLENGER of North Carolina;
Mr. GRANDY of Iowa;
Mr. HASTERT of Illinois;
Mr. HOUGHTON of New York;
Mrs. MORELLA of Maryland;
Mr. PRICE of North Carolina;
Mr. MCNULTY of New York;
Mr. PAXON of New York; and
Mr. FIELDS of Louisiana.

MEDIA COVERAGE OF THE ARAB COMMUNITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. BONIOR] is recognized for 60 minutes.

Mr. BONIOR. Mr. Speaker, after seeing this week's cover of the New Yorker magazine, I feel I must speak out. The magazine portrays three young children at the beach building a sand castle of Manhattan. A fourth boy wearing an Arab headdress and sunglasses is shown pouncing on their version of the World Trade Center.

A number of organizations and individuals have expressed outrage over this damaging depiction of the Arab community. And they are right to do so.

The New Yorker issued a statement saying, "This is not a joke at the expense of Arab Americans. It's a joke about cultural stereotypes and about how children absorb them from television." This statement shows how little sensitivity the magazine has to this problem.

Mr. Speaker, this is no joking matter. Anti-Arab bias is very real—it is prevalent in our television programs, newspapers, and, yes, our magazines. A magazine claiming that it is "probably the best magazine ever" should do better than this.

It is my understanding that Albert Mokhiber, president of the American-Arab Anti-Discrimination Committee has requested a meeting with the editor of the New Yorker. I hope this meeting takes place to open what is obviously a much-needed dialog between the magazine and the Arab-American community.

The New Yorker cover is just one example of an increasing trend of media bias since the World Trade Center bombing.

Recently, the Washington Post reprinted a cartoon from the Palm Beach Post titled "Let's Play Where's Abu." The cartoon continues, "in the crowd of immigrants below, the terrorist Abu Ben Fotwa El Fadwa El Fatweh is carrying a huge bomb strapped to his waist, Can you find Abu?"

Cartoons such as these are anything but funny to Arab-Americans. New York Transit policeman Mahamoud Tamer became the target of repeated slurs and humiliating jokes by his colleagues. Earlier this month, he took his own life with his service revolver.

Recently, there was one important exception to this trend of anti-Arab bias. A New York Times editorial called on Disney to remove offensive liens from a song in its movie "Aladdin." I ask permission to include in the RECORD, at the end of my statement, a copy of the editorial and commend it to the attention of my colleagues.

We have seen shameful periods of discrimination in our Nation's history. We saw it during World War II when Japanese-Americans were indiscriminately detained in concentration camps. We saw it during the gulf war when the FBI interrogated and harassed Arab-Americans solely on the basis of their ethnic background.

The overwhelming majority of the Arab-American community deplores violence of any kind, and particularly the World Trade Center bombing. Like most, Arab-Americans work hard to build a better future for themselves and their children, and believe deeply in our Nation's democratic principles. Like the Japanese-Americans, during World War II, there is no evidence that they as a community are involved in acts of terrorism.

It is during times such as these that our national character and conscience is tried. I urge my colleagues to work against these insidious prejudices that only serve to divide our society. And I call upon our Nation's editors, publishers, and producers to take responsibility for the products they sell—products which have an enormous influence on how we, and our children, form cultural stereotypes.

We must each do all we can—and the media has a special responsibility to ensure that all people are treated with dignity.

Mr. Speaker, I include for the RECORD the editorial to which I referred:

[From the New York Times, July 14, 1993]

IT'S RACIST, BUT HEY, IT'S DISNEY

Most Americans now know better than to use nasty generalizations about ethnic or religious groups. Disparaging stereotypes—the avaricious Jew, the sneaky Chinese, the dumb Irishman, the lazy black person—are now so unacceptable that it's a shock even to hear them mentioned.

Thanks to current international politics, however, one form of ethnic bigotry retains an aura of respectability in the United States: prejudice against Arabs. Anyone who doubts this has only to listen to the lyrics in a song from the animated Disney extravaganza "Aladdin":

Oh, I come from a land
From a faraway place
Where the caravan camels roam.
Where they cut off your ear
If they don't like your face
It's barbaric, but hey, it's home.

Understandably, Arab-Americans are upset. They find it difficult enough that Saddam Hussein is the villain *du jour* and that terrorists from Arab countries have recently threatened New York. The difficulties mount when policemen in Iran imprison women for showing their hair, or mullahs issue death warrants against authors they consider blasphemous. But the ayatollahs of Iran don't represent all Arabs, nor all Muslims—just as sleazy televangelists don't represent all Christians, or all Americans.

Bowing to pressure from the American-Arab Anti-Discrimination Committee, the Walt Disney Company has agreed to change two lines—the ones about cutting off ears—in the home video version of the movie, which will come out in October. The line "It's barbaric, but hey, it's home" will remain.

That's progress, but still unacceptable. To characterize an entire region with this sort of tongue-in-cheek bigotry, especially in a movie aimed at children, borders on barbaric.

Mr. DINGELL. Mr. Speaker, I wish to commend my good friend and our distinguished majority whip, DAVID BONIOR, for arranging today's special order on a topic of great importance to many people from my district.

I have the distinct pleasure to serve what is commonly recognized as the largest community of Arab-Americans in the United States. Like every other person I represent in my congressional district, Arab-Americans are busy raising children, running their businesses, getting involved in local civic, cultural, and religious organizations, and trying to make the most of the American dream.

Throughout the history of our Republic, the American dream has represented the sum of our citizens' hopes, ambitions, and struggles to build a better life for ourselves and our children. That is why I find it so tragic when a single ethnic group, already victimized by unfounded stereotypes, is subjected to ethnic slurs which punish an entire group for the acts of few.

What does it mean to be an American? For most of us, it means sharing the common bonds of tolerance, understanding, and compassion, rooted in ethnic diversity which has provided people the opportunity to make the most of their abilities—no matter what their roots. For most Arab-Americans, the struggle to enter the mainstream culture and add their talents to the community-at-large remains inhibited. I am concerned that anti-Arab bias is fortifying a wall of intolerance, with comments in both the print and broadcast media giving ammunition to those who wish to keep alive unwarranted prejudices.

Our democratic society places great emphasis on the freedom and self-reliance of the individual, as well as tolerance for those whose ancestry, culture, and religion is different than one's own. It is my hope that all who speak about any ethnic group remember the many accomplishments those groups have contributed to the American dream. Particularly at a time when the world is witnessing so much needless bloodshed based on age-old hatred and prejudice, our culture diversity stands as a symbol to the world that people can live together in peace.

Let us all work together to promote it.

IN OPPOSITION TO THE CLINTON TAX AND ECONOMIC PLAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. WELDON] is recognized for 60 minutes.

Mr. WELDON. Mr. Speaker, I rise tonight and will probably not take the full hour, but I rise on the occasion of the week where we begin deliberating this massive tax and economic plan being proposed by President Clinton and to focus on an effort that I have been conducting for the last month to focus on specific concerns that have been brought to my attention by constituents in my congressional district back in Pennsylvania as well as from others around the country.

I have come out publicly and said that I cannot support the President's economic plan. In many areas, I have been supportive of the President.

The first major bill out on the House floor this year, the family and medical leave bill, I was a major supporter of. I worked hard for the passage of that compromise legislation and, in fact, in a previous session of the Congress was the Republican coauthor of that bipartisan bill.

When the President is right, I will support him; when he is wrong and takes a wrong-headed approach, I will stand up, as I did back in 1990, when President Bush lobbied Members on our side very heavily to support what we said would be a misguided attempt at trying to bring the budget deficit under control and, along with that, contained a massive tax increase. I voted against President Bush back in 1990 in what was one of my most difficult votes and, as it turned out, one of my most correct votes.

I will vote against President Clinton this week as we bring the economic plan to the House floor for consideration.

I cannot support it for a number of reasons. It is not just because there are tax increases contained inside of the plan. I spent 10 years in local government before coming to Washington, 5 years as a local mayor and 5 years as a member and then chairman of a large county in Pennsylvania of some 600,000 individuals.

□ 1730

During my 10 years in local government, frequently we had to raise taxes to keep up with the increasing demands on service. I am not one that is going to stand in this body or in this well and say that I would just oppose this because it increases taxes on the American people. From time to time or when we have to increase services or when the cost of government increases beyond the revenues coming in, we have to raise additional revenues, but we should not be doing that until we have brought the size of this government under some type of control, as well as resolving the budget process in a way that makes sense. Neither of those two things have happened, and this plan will not accomplish either of them.

Contrary to all the rhetoric we are hearing, both out of the White House and from those people who are supporting the President's economic plan, we all know in this body that this will be a repeat of the 1990 fiasco. The taxes will increase. In fact, the plans that are being worked out now will retroactively increase those massive taxes to January 1 of this year, so the American people will pay the additional revenues for us to use here in Washington.

Unfortunately, as has been the case in the past, the budget cuts will never come. In fact, anyone who tears apart and takes away all of the rhetoric and looks at the substance of this plan understands that the largest cuts proposed in the President's economic plan come in the out years, the third, fourth, and fifth years of this economic plan. In fact, in some cases they come after the next Presidential election.

It is great for us to be talking about what we are going to do after the next Presidential election, but, as in the past, those cuts never come about. In fact, if we look at this plan, what worries us the most is that one of the strongest underpinnings to make this program successful is to cut defense spending by $117 billion. That is one area where real cuts are being proposed over 5 years, and in fact, those cuts are taking place beginning in this year's defense bill which we are about ready to bring to the House floor.

Being a member of the Committee on Armed Services, I think we are moving too fast in terms of downsizing the military. I worked hard with our new chairman, the gentleman from California [Mr. DELLUMS], who I think did a commendable job in this year's markup process, and we did reach agreement on cutting a substantial number of defense spending for 1994 fiscal year.

However, if we listen to the leaders on both sides of the aisle, in the out years, if we listen to key Democrats who work defense issues day in and day out, people like the gentleman from Pennsylvania [Mr. MURTHA], and Senator SAM NUNN, they are saying publicly what many of us are saying, that these projected $117 billion in cuts over 5 years will never materialize.

If leaders of the President's own party who are very well respected on defense issues are not really confident that we can achieve the level of cuts that the President is saying are necessary, then not having those cuts will totally undermine the President's 5-year economic plan, because he will then have to cut other areas of entitlement

My feeling is that because of the proposed level of defense cuts and the fact that I do not think they are going to take place, the economic plan is doomed to failure. What also bothers me is if we look at and analyze these cuts in detail, many of them are nothing more than smoke and mirrors. That has been done very well by the national media.

I look at the fact if we take away the defense cuts which are going to occur in the 1994 defense bill, the only other significant cuts that will occur in this first fiscal year in terms of the 5-year plan are actually obtained by using an accounting gimmick to shift the reimbursement dates for hospitals from a fiscal to a calendar year basis. Everyone knows that in fact is not a cut, it is simply an accounting game, the kind of thing we have done so frequently here in Washington in the past.

However, what has frustrated me most about this debate are my colleagues who come to the well and even in the administration that constantly talk about how this plan is in fact going to create jobs and how it is going to be a job stimulator in terms of new job creation. What is interesting is the fact that the administration claimed initially that the Clinton budget would result in 8 million jobs, which is actually 1 million below what the Congressional Budget Office said would be the job creation over the next 5 years under our current policies.

The Clinton economic plan, in using its estimate of 8 million jobs created, is actually 1 million jobs lower than what the Congressional Budget Office has said would occur anyway, even without the Clinton plan being proposed by President Clinton.

Many of my colleagues have stood in the well here and in the other body and they have talked about how this plan is going to stimulate small business and how it is going to help companies grow and expand.

I think instead of listening to the rhetoric here in Washington, we should be listening to those people who are out there running the small businesses and providing the jobs for the American people. That is what I have done over the last month in a series of special orders that began several weeks ago. I have focused on individual companies who have written to me about the real impact of the Clinton economic plan if it were passed on their business and on the jobs they have created and the jobs they would like to create.

I can say, Mr. Speaker, the sentiments coming from the constituents both in my district and those in Pennsylvania and the tristate region who have written to me, have all been negative. In fact, it is kind of interesting to look at one Member's mail coming into his office. In my office, the mail since the President first announced his economic plan back in January has generated over between 3,000 and 4,000 individual contacts, both in the form of letters,

For the first 2 months after the President spoke here in our joint session, the numbers are running 3 to 1 against the President's economic plan. In some parts of the country they are running neck-and-neck, but in my district the communications were running 3 to 1 against the plan.

Then the reconciliation bill came to the House floor. Since the reconciliation bill came to the House floor and constituents and business leaders have had a chance to analyze the reconciliation package in detail, the mail has shifted coming into my office so it has been running approximately 20 to 1 against the President's economic plan.

I have held a number of town meetings throughout my district over the past several months. On one Saturday afternoon I had joint meetings with our colleague, the gentleman from Pennsylvania [Mr. WALKER] in West Chester, where we had 200 people come out for that town meeting, and then in media, where I was joined by my colleagues, JIM SASSER and the gentleman from Delaware [Mr. CASTLE], to speak with about another 250 people. Not one person in either of those town meetings came out to say they were in favor of the President's economic proposal and economic plan. In fact, there were some very hostile comments from people who were very upset with what was being proposed.

Over the last several weeks, in looking at the specific letters and cards and phone calls coming to the office, I thought it important to pull some of those out and submit them into the CONGRESSIONAL RECORD, because these are real people. These are not politicians inside the beltway here in Washington who want to get a certain political plan passed. These are people who are taxpayers, and in many cases, people who have created and provided jobs for thousands and tens of thousands of people, not just in my congressional district but throughout Pennsylvania, throughout the tristate, New Jersey, Delaware, Pennsylvania, area, and really throughout America.

I want to go back and review some of those letters and some of that correspondence, because these are in fact from real people. I received a letter from Spike Yoh, the chairman of the board of Day & Zimmerman, one of the largest engineering firms in America. Day & Zimmerman has 12,000 employees around the country, and they focus on doing the engineering work for companies that want to expand and provide new buildings, put in new machine lines, a new operating line. They oftentimes are brought in for the expansion activities planned by companies.

Spike Yoh wrote to me back in June. He talked about how they started out this year feeling as though it was going to be a positive year, that there were many orders for the consultant services that D & Z provides, that would indicate to him that there was going to be economic growth throughout America.

Then he said the prospects of higher taxes came into play with the President's State of the Union Address. As a result of that, there has been a total halt to economic growth in the companies that Day & Zimmerman consults for and consults with.

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And what that means is that the jobs that were going to be created by those companies who had planned to expand their operations, to put up new buildings, and to grow their own individual companies are now not going to take place.

I would like to read some of the quotes from Spike Yoh's letter. Here is what he said to me in that letter that he wrote to me just a month or so ago, and I quote, "Orders were starting well this year, but they've now been put on hold while clients have taken a wait-and-see attitude about the impact of the President's economic plan and soon-to-be-announced health care program. Those of you in the Congress may not be aware of the breaking effect that these two huge unknowns are having on the willingness of business leaders to commit to investment right now. Capital projects in the private sector have all but stopped. Expansion, improvement, and modernization projects seen as essential to keeping American business competitive in world class markets have been shelved."

Then he goes on to say later on in his letter where he talks about what we are attempting or the Congress is going to do in cooperation with President Clinton, and he said, "The simple truth is that jobs are not created through the transfer of capital from the private sector to the public sector. Let us not follow the lead of New Jersey," he says, "which is now suffering terribly. History has repeatedly proven that economic growth is not fueled by higher taxes."

Now this is Spike Yoh, the chairman of a company that is oftentimes on the cutting edge of businesses growing and expanding, who is telling us in Washington that this plan that President Clinton is going to go on national TV tonight and talk about impacting jobs and economic growth is going to have the reverse impact on the economy. And in fact, is already costing us jobs.

Mr. DREIER. Mr. Speaker, will the gentleman yield?

Mr. WELDON. I am happy to yield to my friend and colleague, the gentleman from California.

Mr. DREIER. Mr. Speaker, I thank my friend for yielding. I would like to congratulate him on taking out this special order. I would like to make a couple of comments.

First of all, it was rather strong in the letter from Mr. Yoh that clearly he has an understanding of what it is going to take to create jobs and get this economy moving. My State of California is suffering greatly. Defense and aerospace cuts and a wide range of other things that have happened to our State have had a very, very negative effect on our economy.

It seems to me that as we have looked at this we have had proponents of the President's plan argue, as we would in behalf of growth. They say they want to put into place a growth component to ensure that the private sector plays a key role in creating jobs, and yet, based on every shred of empirical evidence that we have, this proposal will move us in the opposite direction.

There are a couple of people who have said, and it has come out in the media over the last several months that those of us on this side of the aisle have simply tried to block the proposal that President Clinton and the majority has made, and I have said here time and time again that nothing could be further from the truth. I have introduced H.R. 1885, and I think my friend from Pennsylvania is a cosponsor of that legislation, which does four very simple and basic things designed to address the problem to which Mr. Yoh referred in his letter.

First, it brings about a reduction in the capital gains tax from 28 percent down to 15 percent. Second, it puts into place a moratorium on new regulations to be imposed on the business sector of the economy. We all recall when under the Bush administration a 90-day moratorium on new regulations was put into place. I have yet to hear of any tragedies that came about because of that 90-day moratorium on new regulations. Those new regulations obviously play a big role in hindering job creation and economic opportunity.

The third component is a freeze on Federal spending, basically the 2-percent solution, which would allow us to increase at only a 2-percent rate present programs. And we have been told time and time again on this floor about the budgeting process here whereby you can have a 3-percent increase, and yet have that is interpreted as a spending cut based on the budgeting process that we have. So that is the third aspect of it.

The fourth aspect is one which reinstates and expands individual retirement accounts so that people can put dollars aside, plan for retirement and utilize them, withdraw in instances of first-time buyers of a new home, or medical payments, or for education, and those three exceptions are provided.

It seems to me that H.R. 1885 addresses the kinds of concerns, and is a positive Republican-based alternative to this issue which we have before us. And as I say, my friend is correct in pointing this out. But tragically, many people like to argue that we are simply trying to block this plan, and we are not. We are offering positive alternatives in the area of spending cuts and economic growth. The American people should be aware of that. Our colleagues on both sides of the aisle should be aware of it.

In just a few minutes I am going to be specifically addressing the issue of capital gains differential and the role that that will play in creating the kind of economic growth which Mr. Yoh and others of your constituents and my constituents want to see put into place. And I thank my friend for yielding.

Mr. WELDON. I thank my colleague for those very important points. And I am a cosponsor of that initiative.

My colleague has brought up a very important point, and that is this plan does nothing to address the need to encourage the private sector to save money, to provide the capital for new investment. And our colleague's plan would in fact do that, especially through the use of the IRA's, as he outlined to us, as well as the changes in the capital gains, and most significantly in controlling the size and growth of the Government.

The thing I hear most frequently from my constituents is control the Government. Now we look across America and we have seen private corporation after corporation downsize, and shrink the fat, and try to save money to make it leaner and tougher in terms of doing business. But we in the Federal Government have never downsized our operation. The beltway is filled with career bureaucrats, many of them making salaries far higher than what private sector managers make. And we have never attacked the issue in an aggressive way of downsizing the growth of this Government, and that has got to be a key part of anything that we do.

I would say to my colleague, following up on his comments about people criticizing us as Republicans for not providing alternatives, we have done that. We have done it repeatedly. And this is nothing new, the initiative we are talking about in opposing President Clinton. And it is not because he in fact is a Democrat. As I started out my comments I said the toughest decision for me was in 1990 when I opposed my Republican President because the approach he was taking was wrong. I told him at that time that the leadership in this institution would not agree to the deficit-cutting provisions that were contained in that 5-year plan, and in fact that is exactly what happened.

What is kind of ironical, however, is that I understand that $44 billion of the cuts that President Clinton is counting in his current 5-year plan program were actually contained in the Bush program from 1990. They have just been pushed out further in terms of time period.

Let me go to a second letter that is very telling. We have heard frequently that the economic plan, the tax increases that have been proposed will not hurt middle-income Americans. They are really only going to hurt the wealthiest of the wealthy. I pointed out last week that Money magazine, the August issue which came out had the front page headline, on the front cover, the bold headline which was "How To Avoid the Largest Tax Increase," and it had eight pages of very specific things that wealthy Americans could do in terms of their portfolios to shift their money and their investments so that they would not be hit by the massive tax increases proposed by the Clinton economic plan.

Unfortunately, middle-income Americans do not have that opportunity. Senior citizens cannot run away from the income tax increase, or the tax increase that they are going to see which is being called a cut, by the way, in the Clinton plan. Small businesses cannot run away by sheltering their investments and their income. So middle-income America is in fact going to be hit in a very severe way.

But I think one key way that middle-America is going to be hit is summed up by the president, James Pinciotti, of the Fleming Companies. The Fleming Companies are headquartered in King of Prussia, PA. Mr. Pinciotti wrote to me on May 28 of this year. I summed up this letter in a previous 1-minute, but I want to go through it again, because I think he points up another way that the American middle-income taxpayer is going to pay the bill for this plan, contrary to what we are going to hear tonight on the national broadcast when President Clinton goes before the American people.

Fleming happens to be America's leading food distributor. I quote, "We purchase, warehouse and distribute a full line of groceries, meat, fruits, vegetables, dairy products, delicatessen items, frozen food, and nonfood items to more than 4,800 food stores in 36 States.

□ 1750

"We are the supplier to 1 in every 10 supermarkets in the country." So this company, based in King of Prussia, PA, supplies the food to 1 in every 10 food stores in America, and he goes on to say that their industry as a whole is very competitive, characterized by high gross sales and minuscule net margins. Net margins in 1992, Fleming's sales, totaled $13 billion with net earnings of just over $113 million, or less than .09 cents per dollar of sales.

He goes on to talk about the American food distribution system, how efficient and effective it is, and then he comes back to talk about what the proposed increase in taxes will do in terms of his company, but more importantly, on those people who shop in those supermarkets where his company supplies the food, and that is the important part of his letter. Because what he says is that the costs are simply going to be passed on to the American consumer.

He goes on to talk about the Btu tax, which may or may not be a part of the President's plan. He said that if that were passed, it would cost Fleming 9.2 percent of their reported net earnings. An increase in the corporate tax rate would be over and above that number.

He then goes on to talk about if this proposed Clinton tax plan is in effect passed this week and becomes law, he says that the retail establishments that he supplies will be forced to increase the costs associated with these hidden energy taxes and other taxes directly onto the American consumer.

So an important thing for us to talk about here on the House floor is that it is not just the cost of direct taxes that the American people will be paying for it is the indirect costs such as those that are going to be borne by Fleming Industries in supplying all of those food markets that are going to cause the prices of those food items to be increased on the shelf to the American consumers. So it is a hidden cost in terms of increased outlays for the American family to be paid as a result of this Clinton tax plan.

Another area that is important for us to understand, and it is also a hidden area where this tax will be felt, is in local government. I mentioned earlier that for 10 years I served as a local mayor and a county commissioner in a rather large county. One of my township managers from Haverford Township, Tom Banner, wrote to me on May 27 of this year. He talked about the hidden cost of any energy tax contained in this plan on local governments, because one of the things that many of our colleagues are not aware of is that local government will not be exempted from the energy costs that are passed along in this tax plan.

There was a study done by the Joint Committee on Taxation that estimated State and local government will pay 13 percent of the new Federal revenues generated by energy taxes. Now, who pays for that energy tax provided in the amount of 13 percent of the total amount raised? It is the taxpayer again.

Mr. DREIER. Mr. Speaker, will the gentleman yield?

Mr. WELDON. I am happy to yield to the gentleman from California.

Mr. DREIER. I would like to underscore that once again, so it seems to me that based on the analysis my friend has just provided of this proposed tax increase, the American people will be actually paying twice, because they first pay themselves for this burden, and then they pay taxes to their local and State governments, and then those State and local governments are shouldering the burden of paying those taxes on top of that.

Am I correct?

Mr. WELDON. That is exactly right. They are not exempt. So we are not just talking about cities and towns and townships and counties. We are talking about school districts. We are talking about authorities. We are talking about all of those public entities that are able to charge levies on American taxpayers as well as those taxing bodies that are able to charge property taxes and earned income taxes on the American taxpayer who is already going to be burdened by this additional tax included in the Clinton tax plan.

One of the things you will not hear President Clinton talk about tonight is the double taxation, taxes that are passed along to local government that also cause local property taxes to be raised to help pay this added amount.

Mr. DREIER. I do not know if the State of Pennsylvania is undergoing the same kind of fiscal constraint the State of California is, but I know that the State and the local governments in my area are extraordinarily strapped.

We have just had members of a city council recalled because they imposed a utility tax, and there is a high level of frustration and a concern about this level of expenditures, and this double-taxation proposal is something which obviously is going to really hit home if it is implemented.

Mr. WELDON. And the gentleman is absolutely correct. That is why it is so unfair, when supporters of this plan talk about how it is only going to tax the wealthy. It is not going to only tax the wealthy. It is going to tax directly and then indirectly and then indirectly again every American consumer, every middle American and lower income American who buys food in the grocery store, not just drives their car, but who pays property taxes, who pays income taxes, and all of those things have to be considered, because that is what is going to be included when we vote on this measure this week in this body.

I want to refer to another letter. This one is from Thomas French, and this was written on June 29 to me. Thomas French is president of the Owosso Group, a conglomerate of 12 small manufacturing firms headquartered in West Conshohocken, not in my district, but in the neighboring district of my good friend and colleague, the gentlewoman from Pennsylvania [Ms. MARGOLIES-MEZVINSKY].

Most of the firms in this group are small subchapter S corporations that file personal tax returns. It is important for us to understand what the Clinton tax plan will do in terms of impact on subchapter S corporations. He goes on to say, "They will be hit with a new top marginal rate of 42.5 percent up from the current rate of 31 percent." That is a dramatic increase. He goes on to say that it should be noted that these subchapter S corporations employ 800 people and have created more than 200 jobs since 1989, yet what the President wants to do is raise the taxes on these companies that have created new jobs, 600 jobs in the last 4 years, and what he goes on to say is, and this is George Lemon, the chief financial officer of the Owosso Group, is, "These taxes will mean that we will take fewer risks. We will make fewer investments, and we will have less working capital. This tax package now under consideration will kill this fragile economic recovery."

Another consumer, another taxpayer, another individual who has been creating jobs, putting in his feelings in terms of this economic plan.

And then I have another letter that came from a growth firm in Exton, PA, not in my district, but in the district of my colleague and neighbor, the gentleman from Pennsylvania [Mr. WALKER], in Chester County, in his district, in Exton. Mr. Kronenberg formed the ECS Group back in 1979. At that time he had 13 employees in his company. Today that same company has 218 employees, one of the fastest growing firms in Pennsylvania, focusing on environmental restoration, hazard mitigation, and environmental cleanup.

He talks about the extensive health care package and benefits plan that he has for his employees, all 218 employees. What he said to me in his letter, and this is Bill Kronenberg, the president and CEO of ECS, is that if this plan is passed, "What we will do is rethink our benefits package. It will force us to diminish the amount of benefits that we provide to our employees and will cause us to put a hold on hiring any new employees." Then he goes on to talk about even beyond this plan the negative impact that health care taxes and the cost of health care reform could have beyond what is contained in the Clinton economic plan that we are going to vote on this week.

Another letter comes from a John Lieberman, president of Lieberman Realtors in Wayne, PA. He talks about individuals that he works with. He talks about the challenges facing small business, health care costs, Federal and State overregulation. Here is his quote in his letter to me dated July 20, 1993, "Raising taxes will not solve this problem, only aggravate it." He goes on to talk about some of the clients that he has worked with and how they have told him they will not be expanding their operations, will not be creating new jobs if and when this Clinton tax plan is passed and becomes law.

And another one I did last week is from one of the board members of the largest small-business advocacy groups in the tristate Philadelphia region, over 5,000 small businesses. This is the same group of individuals and people that President Clinton talks about so frequently that he is going to help. The Small Business Association of Delaware Valley has over 5,000 members in Delaware, southern New Jersey, and Pennsylvania. One of their board members and leaders is Steve Markowitz. He wrote to me recently about the impact that this plan will have on the 5,000 small businesses that belong to the SBADV, and he writes, and I quote, as follows:

□ 1800

"Our members need to convey to you the distressed state of the entrepreneurial segment of this country." The cause of this distress? The soak-the-capitalist mentality of the Clinton administration.

He goes on to describe the impact of these tax hikes which they are going to have on small businesses in the region. These are members of the group, "a small business in Wayne will offset the anticipated corporate tax increase by reducing payroll 18 percent. A physician in Montgomery County will be reducing staff. Our own organization has made a decision to have a zero increase in payroll for at least 12 months, this after increasing from 21 to 37 employees in just 19 months."

Mr. Speaker, these are real companies, real employers. These are not Members of Congress trying to score political points. These are people who employ real Americans, who are saying that if this plan goes through, these are the steps they are going to take.

Then, Mr. Speaker, I have some letters that I would like to put into the RECORD this evening.

The first is from the Hale Fire Pump Co. in Conshohocken, PA. This is from Joe Bruckner, director of human resources, Hale Fire Pump Company.

He talks about the impact that these taxes, tax increases, are going to have on their company. He cites a number of examples:

> The Clinton Administration frightens businesses and has a negative effect on business expansion. Specific issues that concern me are: municipality and government organizations that have severely restricted discretionary spending, impacting on the demand for rescue equipment and related accessories by local rescue service agencies; the impending threat of an expanded energy tax, which increases the costs of doing business, in domestic as well as international markets; the lack of control on Federal Governing spending for social entitlement and pork-barrel-type programs. This will continue to stifle business expansion and exert a negative influence on new job creation; the impending fear of rampant inflation, so well controlled under the presidencies of Ronald Reagan and George Bush, is another concern due to the substance and direction of Clinton's proposals; the lack of any real improvements in the balance-of-trade deficits, despite Clinton's widely touted "successful trade talks;" and the reluctance to hire. We at Hale, and many other businesses, now avoid hiring additional people until absolutely necessary, pending positive direction to the economy.

Then he asks me:

> Congressman Weldon, whatever actions you and your colleagues in the Congress can do to minimize the negative impacts of Clinton's progressive liberal economics on the business community and to help protect and sustain the industrial base that has made this Nation so great will be appreciated by all Americans.

This is another business chiming in with their concerns over this plan.

I go on to talk about IMPAC, a company located in Exton, PA, Precision Media Duplication and Software Packaging. He writes and says,

> On behalf of small business everywhere, I urge you to vote "no" on the Clinton tax-and-spend economic proposal. I agree completely that we need to significantly reduce the deficit, but I think that objective can best be achieved through a program of deep spending cuts and by providing stimulus through growth incentives to encourage business development and growth, not by increasing our tax burdens during these most difficult of times.

This letter is signed by James Freed, president.

Mr. Speaker, in fact, I would say most of our colleagues would want us to cut spending first and then look at any revenues that we might have to raise to allow the budget to come into balance, but not put the taxes first and increase the revenues and put off the difficult spending cuts until 3, 4, 5 years down the road.

Another company, Gallagher Fluid Seals. He says,

> Dear Mr. Weldon: As a small-business owner, I am opposed to the President's "deficit reduction proposal." I feel the tax increases that are a part of the bill will have a negative impact on our business. It could jeopardize our current work force in addition to eliminating the need for additional personnel for the foreseeable future. I urge you to vote "no".

This is signed by Joseph W. Gallagher, president of Gallagher Fluid Seals.

Next we have a letter from the Chemical Leaman Tank Lines in Exton, from John Kilcullen, president and chief officer:

> I urge you to oppose the fuel tax proposal, in the President's economic plan because of the impact on the trucking industry and the impact on the businesses they provide nationwide in terms of transporting chemicals from one corporation to another.

He goes into detail talking about the negative impact that these taxes will have on the ability of Leaman Tank Lines to be able to provide cost-effective service for these corporations to use.

I also have a letter from Garvin R. Kissinger, vice president of Mid-Atlantic Keystone AAA. He says in his letter, which is dated July 29:

> Dear Congressman Weldon: As you know, budget talks between congressional and White House officials are now talking place. It appears that a new 9-cent Federal tax on gasoline could be part of the reconciliation package. It is our belief that such a gas tax increase—

Is not warranted, and he goes on to cite the reasons.

> This new tax will represent a 64 percent increase, if it was raised the 9 cents per gallon, although we are now talking about 4.5 cents, over the current 14.1 cent Federal gas tax. This deficit reduction gas tax is on top of a 56 percent increase in the tax that occurred in 1990. Combined with expected increases for Federal oxygenated and reformulated gasoline mandates and other State and local taxes, pump prices may be 20 cents higher per gallon by 1995.

And our President has the audacity to go to the American people and say it is only going to cost the average family about $30 per year. I do not know where the White House is getting its numbers from.

He goes on to say in this letter:

> A recent AAA survey indicates over 70 percent of the voting public rejects the notion that fuel taxes should be used for deficit purposes.

My next letter is provided by Libby Beatty, president of Pinton-Kelley Co. in Philadelphia. She says:

> I am writing to you regarding the President's tax reconciliation bill. As president of a small commercial printing company in Philadelphia, I have experienced the following: The confusion over the eventual effects of the proposed energy tax has inhibited and delayed expansion decisions; the perceived increase in cost structure to be brought on by the proposed tax increases has resulted in further preemptive staff reductions to maintain already-shrinking profitability. Congressman Weldon, please direct your efforts toward minimizing the negative effects of tax increases on the small-business owner.

Now, Mr. Speaker, we have heard time and again Members come to this well and say small business is going to benefit from this package. Yet what I am giving you today is example after example, in fact I have no examples of small business owners writing to me saying they want this plan to be passed; everyone who has written to me has said it is going to hurt them. In fact, most of them, as I have reported here, that even the possibility or the potentiality of having tax increases is already costing jobs.

Another letter from Anthony J. Ferrante, president of Durant Medical, Inc., from Malvern, PA:

> Dear Congressman Weldon, I own a small business in Malvern, Pennsylvania, and I am writing this letter to bring to your attention concerns that I have with the future of the economy. I have found it increasingly difficult to maintain proper bank and vendor relationships due to the Government budgetary problems. These problems filter down and directly affect my company, and in turn, my employees.

He goes on to say:

> We have got to take the tax burden off the small business, not put more on them.

Mr. Speaker, I include here a letter from the vice president of the Rose Brier Inn, Inc., in Philadelphia, PA, in the northeast section, a letter from Chuck Lewis. He is vice president of the Rose Brier Inn Restaurant. As we know, the plan proposed by President Clinton is not just going to affect large corporations; it is going to affect small business; it is going to affect restaurants and the hospitality industry very substantially.

Mr. Speaker, I yield to the gentleman from California.

Mr. DREIER. I thank the gentleman for yielding.

Is that the same Chuck Lewis who worked diligently here in the Capitol in both my friend's office and my office?

Mr. WELDON. The same, that is the same Chuck Lewis.

Mr. DREIER. I just wanted to make sure. I am sure it is a great letter. He is out making an honest living.

Mr. WELDON. He is writing—and I know the gentleman from California [Mr. DREIER] will be interested in this because I know that they were good friends—he is also writing in his capacity as the chairman of the Philadelphia and Delaware Valley Restaurant Association Legislative Committee. That committee has 500 members of the restaurant and hospitality industry in the

Delaware Valley area. Chuck is their legislative committee chairman. He writes to us to talk about the status of the restaurant industry and how they have been hurt so dramatically by the stagnation of our economy.

□ 1810

Chuck's Restaurant, 1 year ago employed 88 people. Today he says that they employ 64.

He said, "Quite frankly, if we didn't have such a loyal group, we could cut another 5 employees with no difficulty."

I go on to quote Chuck:

> I say this not to "belly-ache" but to let you know this is not the time to take up the cost of doing business or pass legislation which will inhibit sales.
>
> Our members by and large do not look to the federal government for public assistance, but we do not expect our government to put up obstacles to our success either. Measures like the current tax plan are killing initiative.

Let me repeat that line again.

> Measures like the current tax plan are killing initiative.
>
> We should be looking to limit government not expand its hold on our economic lives. No one is eager to incur the anxiety of new growth or expansion when our economic future is so in doubt. As a result, the industry is less able to employ those in our society least able to afford losing their jobs: women, often single mothers, and minorities.
>
> Estimates we have compiled show 165,000 people will lose their jobs if the meal deduction is dropped from 80% to 50%. For many of the remaining small businesses in Philadelphia, the meal deduction is the only remaining reasonable marketing tool.
>
> Additionally, please be aware that the federal government is not the only government entity erected obstacles to economic growth. This year we in Philadelphia have experienced an additional 1% sales tax. We have been fighting a 10% sales tax on liquor, beer and wine here in Philadelphia City Council. We narrowly defeated the measure by a vote of 9–8. We have incurred increases of 38% in worker compensation costs. Our business taxes have increased as well. The President's health care initiative will destroy what is left of our bottom line.

Mr. Speaker, I include the letter from Charles G. Lewis, as follows:

ROSE BRIER INN, INC.,
Philadelphia, PA, July 22, 1993.

Hon. CURT WELDON,
House of Representatives, 2452 Rayburn House Office Building, Washington, DC.

DEAR CURT: I wanted to contact you on the President's tax plan to let you know how damaging I feel it would be for the economy and, in particular, the restaurant industry. I also write in my capacity as the Chairman of the Philadelphia Delaware Valley Restaurant Association (PDVRA) Legislative Committee. The PDVRA has 550 members in the Delaware Valley.

The restaurant industry has been flat in almost every measurement of industry health. We in the Northeast, have been experiencing the decline even more so than in other quadrants of the United States. Many of the most productive and substantial of our members have experienced significant declines in sales and certainly in profitability. My restaurant operation one year ago today employed 88 employees; today we employ 64 employees. Quite frankly, if we didn't have such a loyal group, we could cut another 5 employees with no difficulty.

I say this not to "belly-ache" but to let you know this is not the time to take up the cost of doing business or pass legislation which will inhibit sales.

Our members by and large do not look to the federal government for public assistance, but we do not expect our government to put up obstacles to our success either. Measures like the current tax plan are killing initiative. We should be looking to limit government not expand its hold on our economic lives. No one is eager to incur the anxiety of new growth or expansion when our economic future is so in doubt. As a result, the industry is less able to employ those in our society least able to afford losing their jobs: women, often single mothers, and minorities.

Estimates we have compiled show 165,000 people will lose their jobs if the meal deduction is dropped from 80% to 50%. For many of the remaining small businesses in Philadelphia, the meal deduction is the only remaining reasonable marketing tool.

Additionally, please be aware that the federal government is not the only government entity erected obstacles to economic growth. This year we in Philadelphia have experienced and additional 1% sales tax. We have been fighting a 10% sales tax on liquor, beer and wine here in Philadelphia City Council. We narrowly defeated the measure by a vote of 9–8. We have incurred increases of 38% in worker compensation costs. Our business taxes have increased as well. The President's health care initiative will destroy what is left of our bottom line.

On that note, restaurant industry profit margins under any measurement are at their historical low point. My father who retired in 1979 would close a restaurant which did not return a net profit of at least 15% for all the hours and commitment required. Today, the most profitable among us boast of a profit margin of 2–4%.

For many of us, the government suggests that we who have succeeded in employing largely unskilled labor must be punished and have what little is left over confiscated and redistributed through a central government. Government by deed tells us we are evil and only government is honorable and interested in our community. Government under this plan is telling us raising taxes is a much more noble and desirable decision then cutting non-essential programs and perks. Many of our members are disheartened and feel relegated to a position of economic slavery. Daniel Webster's lament comes to mind: "Now is the time that men work quietly in the fields, and women weep softly in the kitchen; the legislature is in session and no man's property is safe."

Thank you for taking the time to read this lengthy letter. I hope you will keep us in your thoughts and vote NO on the President's plan.

Sincerely,

CHARLES G. LEWIS,
Vice President.

Mr. Speaker, another example of another business leader telling us that this plan that we are going to vote on this week is not going to help create jobs, and in fact it is going to take jobs away from this fragile economy.

But it is not just businesses, it is individuals. Many of those 3 to 4,000 constituents who have written to me are individual citizens. Many of them are senior citizens who have said to me, "Why are you penalizing us who saved our money when we were working? We had a small nest egg we put aside. We were very frugal. We didn't go out and waste the money that we made, and we are now entitled to Social Security and what little savings we have set aside, and what you want to do is increase our taxes."

So what the seniors have said to me is that we want to impose costs to them basically because of their being so frugal while they were working. That is completely outrageous and unfair.

Many of the communications I have received, Mr. Speaker, are from individuals, individuals like Joseph Dimaio from Strafford, PA, who wrote to me on July 1 of this year. He talks about the examples set for us by most European countries over the past 40 years as stated by the enclosed article from the Wall Street Journal. He talks about those countries that implemented higher taxes to support State-controlled businesses, health care and ever-higher levels of social support services, and talks about what was in the Wall Street Journal article, and I will include it in the RECORD so my colleagues can share that, and he talks about the problems that European countries are having because of these costs that have been passed along to the taxpayers.

He goes on to cite the lessons learned. He says we must reduce the size and influence of the Federal Government at all levels. We must lower Federal taxes, not raise them, especially on investment and capital gains, which my colleague is going to talk about following this special order.

He talks about where higher taxes are necessary, tax consumption, including nonrenewable energy and nonessential personal consumption.

He talks about reducing the size of Washington governmental agencies, the White House and congressional staff.

Mr. Speaker, you and I both know that we are not cutting the size of the Federal Government. It is false and wrong to tell the American people that we are doing that, because that is not in fact what is occurring today.

The fifth thing he talks about is to slow the increase of all entitlement programs across the board to the rate of inflation, less 1 or 2 percent in that area.

The sixth thing is to apply the savings to gradually but methodically reduce the Federal budget deficit.

Mr. Speaker, I will include his letter and the accompanying article from the Wall Street Journal in the RECORD at this point.

STRAFFORD, PA,
July 1, 1993.

Representative CURT WELDON,
Rayburn Building, Washington, DC.

DEAR REPRESENTATIVE WELDON: Let's not forget the examples set for us by most European countries over the past 40 years as stated by the enclosed article from the Wall Street Journal, July 1, 1993. Those countries that implemented higher taxes to support state controlled business, health care and ever higher levels of social support services demonstrated that these social systems only encourages citizens to work less, become less competitive internationally and demand ever higher social support systems. All of these problems are now finally coming home to roost in each of the major western European countries that attempted these socialist experiments.

What are the lessons learned?

1. Reduce the size and influence of Federal Government in individual, state and local governmental decisions. Including less Federal regulation of employer provided benefits such as family leave and health care. Employee and unions are capable of negotiating with their employers, the benefits which are most important to them and their families. Reduce overall Federal regulation of business and commerce including international trade with more agreements such as NAFTA.

2. Lower Federal taxes on investment and capital gains. Provide more incentive for savings & investment, research and development by private industry which will encourage higher levels of individual and economic productivity.

3. Where higher taxes are necessary, tax consumption, including non-renewable energy and non-essential personal consumption.

4. Reduce the size of Washington governmental agencies, the White House and congressional staff by 10 to 15% across the board. Private industry has done this for the past 3 years and while painful, has positioned American industry to be more competitive for the next two decades. The Federal Government must follow this example in order for our country to prosper and remain competitive internationally.

5. Slow the increase of all entitlement programs across the board to the rate of inflation less 1 to 2%.

6. Apply these savings to gradually but methodically reducing the Federal budget deficit.

We still have a chance to avoid, in our country, the structural problems created by the high tax, socialist spending, and big government examples of our European counterparts. However, I am afraid that we are failing to face the reality the even the most determined European Socialists now understand—high tax, big government with unnecessary regulation and non-productive social programs do not work.

Very truly yours,

JOSEPH J. DIMAIO, Jr.

EUROPE'S SAFETY NETS BEGIN TO TEAR

(By Terence Roth)

Hard times are eating away Europe's social-market economies.

Germany's Non-Denominational Welfare Association was stunned when it learned that its funding for caring for the elderly and infirm could be cut by $7 million, or roughly half. Many of the thousands whom the social workers bathe, cook and clean for may now have to pay more, or be dropped off the lists.

"Nobody in Bonn told us. We read it in the newspapers," complains Ulrich Schneider, the group's social-policy director. "It was so abrupt we don't have time to find other funding. But this is the new style in these days of the eroding social state," says Dr. Schneider. "For 40 years we had a social consensus in this country, but now even the last net is falling away."

That's still far from true. However, after decades of seemingly smooth running, Western Europe's social-market economies are beginning to indicate that regaining competitiveness could mean a wrenching overhaul.

Reversing the social-market trend means paring decades of support programs covering most facets of European life, from child allowances and generous pensions to job guarantees, industrial subsidies and cheap health care.

It won't be easy. German Economics Minister Guenther Rexrodt lowered the boom with a proposed hit list of social programs in May, declaring that Germany "increasingly exports more jobs than products."

Europe's most advanced welfare state, Sweden, has led the reverse trend since launching in 1991 the biggest assault ever on the country's social programs as part of a deficit-reduction plan. Britain is whittling down state health services, and Italy has suspended its rigid wage-indexation system and is expecting bigger changes.

Dutch riot squads clashed violently with 20,000 students in the center of The Hague in May. The students were protesting planned cuts in the availability of free transport and automatic unemployment payments beginning on graduation day.

Spain sparked a general strike last year when the government cut unemployment benefits. France is turning further from its costly tradition of state ownership with planned sell-offs of government-held companies beginning later this year.

To be sure, much isn't changing immediately. But some economists predict that reforms could gain momentum as pressure builds to tighten bloated government deficits and get industries moving again.

"When these models snap, you cannot put them back together again," says David Roche, global strategist for Morgan Stanley in London. "The Italian model snapped, the Swedish model snapped and now the German model has snapped, and they don't know what happened."

There are several reasons why the crunch is hitting now. A deepening recession has exacerbated the drag of structural deadweight piling up over decades, most visibly in the steady climb in long-term unemployment. At the same time, new competition from the Pacific Rim, a revitalized U.S. industry and cheaper producers in work-hungry Eastern Europe are cutting into European producers' profits.

The result: trimming government spending, cutting taxes and scraping the keels of industry by deregulating labor markets and cutting social contributions that are added to employee paychecks. Policy makers are conceding now what was unutterable only a few years ago; Europeans will either have to lose benefits or lose jobs.

"I with everyone in the community would accept that the first goal in 1993 and for the next 10 years has to be to improve the competitiveness of European industry." Martin Bangemann, vice president for industrial policy at the European Community Commission, warned earlier this year. "You can only support higher labor costs if you have higher productivity. And that isn't the case today the way it was years ago."

European labor is as much as 50% more expensive than its major competitors; not because hourly wages are that much higher, but because the social benefits paid by employers have exploded. The average German manufacturing worker, the highest paid in Europe, received $26.89 an hour in wages and benefits last year, of which $12.47 came in the form of social benefits such as health insurance and pension funding.

Italian workers receive more benefits than wages in their $21.09 hourly compensation. By contrast, only $4.44 of a U.S. worker's average hourly compensation of $15.89 an hour comes as benefits.

Europeans also take longer vacations and work shorter weeks. In 1992, the average German worker clocked 1,519 hours and took 40 days of paid vacation. The average French worker put in 1,646 hours. Meantime, their U.S. and Japanese competitors worked and average 1,857 and 2,007 hours last year, respectively.

European employers complain this factor goes right into higher operating costs that either squeeze profits or propel their prices out of the market. Unit labor costs have been rising faster in Europe than in any of the Continent's economic rivals since the early 1970s. In 1992 alone, average EC unit labor costs grew 4.1%, rapidly outpacing rises of 1.4% in the U.S. and 2.4% in Japan, according to the Organization for Economic Cooperation and Development.

Business leaders say it's time to begin sacrificing Europe's holy cows. "We have arrived at a point where we have to tell employees that they have to begin insuring themselves," says Peter-Ruediger Puf, chief economist of Daimler-Benz AG. "Self-responsibility is the watchword."

Curt Engelhorn, supervisory-board chairman of Boehringer Mannheim GmbH, says the big German pharmaceuticals concern is an example of a company struggling under rising costs and bureaucratic red tape. His remedy: "For us it is simple: Return to a free-market economy."

Already jeopardized by overseas competitors, Germany and France now are threaten by cheaper exports from countries whose currencies have been devalued since last September: Britain, Italy, Spain, Portugal and Ireland.

"Before the realignments, all of Europe was uncompetitive but traded 60% with themselves. That worked before it went bust with competitive devaluations in September-October." says Mr. Roche of Morgan Stanley. The currency realignments redoubled pressure on companies to become lean and make operations profitable.

If EC governments take the Maastricht treaty for European monetary union seriously, they have no choice but to cut social spending. Of the 12 EC countries, only Luxembourg meets Maastricht convergence criteria on public-sector debt and deficits.

Public spending amounted to nearly 495 of the EC's gross domestic product last year, up from 37% in 1970, according to the EC Commission. That compares with 37% in the U.S. and 32% in Japan last year. In 1990, the latest figures available, social-security outlays accounted for 25% of GDP in the EC, compared with 15% in the U.S. and 11% in Japan.

In Italy, deficits in social programs accounted for half of its 1992 budget deficit, amounting to a whopping 10% of GDP. Other countries face growing deficits in coming years as their populations age—and especially if European economies remain sluggish.

The generous public sector helps explain why the corporate tax burden is 61% in Germany and 52% in France, but 45% in the

U.S., according to calculations by the Institute of German Industry. In Britain, which began dismantling its social systems in the 1980s, public spending as a percentage of GDP was 41% last year at the bottom of the EC list, while its corporate tax rate was only 33%.

Mr. Speaker, these are but a few examples of the countless letters that I have received from ordinary people. No one has written to me as a small business owner asking me to vote for this plan, although I do admit that initially the mail was running 3 to 1, I did have about 800 constituents who wrote to me in favor of the President's economic plan, but the bulk of those letters and phone calls came within the first 5 days after the President's State of the Union speech.

Since the reconciliation package was passed on the floor and citizens have had a chance to look at it, the mail is running 20 to 1 against that package.

Mr. DREIER. Mr. Speaker, will the gentleman yield?

Mr. WELDON. I am happy to yield to the gentleman from California.

Mr. DREIER. Mr. Speaker, I would like to just shed a little light on the point that my friend raises.

I, too, got some mail in my office that was in support of this plan initially. I was struck with several letters, I do not have the raw numbers in front of me, but I was struck by the number of people who wrote back and said basically the following:

> I have written to you, Mr. DREIER, saying that I urge you to support President Clinton's package. I regret having sent that letter.

One person, and this letter sticks in my mind, said:

> Please disregard the letter that I sent to you. It is obvious that this plan does not cut spending first before it looks to impose a greater tax burden on those of us who are working Americans.

And they urge me to disregard the letter that had been sent. I suspect that of the 800 letters of which my colleague has referred, a number of those people probably today would write and urge that they disregard the letter that they sent initially.

Mr. WELDON. Mr. Speaker, I thank my colleague for that point. In fact, that is exactly what has happened. I have had people who told me initially after the President's speech, because as we both I think would agree, he did a good job in delivering the State of the Union speech, but once the rhetoric was aside, and as Ross Perot said, "We have a chance to look at the devil in the details" and saw what was actually in there, the American people realized this is not what is best for this country at this point in time.

People have in fact changed their opinions dramatically. What really scares me is that again tonight this President is going to go on national TV and have access to a forum to which we do not have access, to command the attention of the American people and attempt to put the right spin on this economic plan.

Mr. Speaker, I am not here to put a spin on this plan. I am here to give you the detailed information given to me by my constituents. I have given you their names, their addresses, their company titles. I have talked about their history. I am inserting it into the RECORD, as I have done for the past month, countless examples of people who are going to be hurt by the approach that we are about to take if we pass this plan.

I want to say in closing, Mr. Speaker, that this is not a Republican versus Democrat fight here that we are about to undertake in this body. As I said before back in 1990, I was a Republican opposing my Republican President at a similar point in time because I thought he was taking the wrong approach. I am not one who is going to demagogue the issue of tax increases. As I said earlier, as a local official, I have raised taxes and would do it again if I were confident the system worked and we had done everything to cut spending.

But what is important for the American people and our colleagues to understand is that there are many Members, and our colleagues of the other side, Democrats, who had the guts to stand up on this and vote no. I know how difficult that is. When I voted no against President Bush in 1990, I knew the price I would have to pay for that. I was never invited to a State dinner at the White House, never called to the White House for any special meetings or any special trips. While that did not hurt, that is only one part of the price to bear.

What our Democrat colleagues have had to bear in this body who voted no is far worse than what I had to bear back in 1990 when I voted no against President Bush.

So to all my Democrat colleagues who voted no on the Clinton plan when it came up on the House floor for a vote, I applaud you, because you have done not just what I think is the right things, but you have also stood up to tremendous pressure. A lot of these things do not come out in the RECORD, but my colleagues have talked to me about the offerings that were made, the pieces of paper that were slipped, the offers by the White House and the administrative staff to take care of certain priorities. We know the pressures that can be brought to bear.

For those of our colleagues who stood up and voted no, they really are the heroes in this fight and they will be the heroes for the American people if we win this battle on the floor this week.

While the Republican Members can take credit for standing up as they did during the votes on the Bush budget back in 1990, the real heroes this week if we are able to defeat this plan and go back and start over again by reducing the size of the government, and I will be glad to work with them in that regard, the real heroes will be those Democrat Members who stand up to their leadership, not just in the White House, but the leadership in this body and in the other body and say, "No, I am not going to do this because it is the wrong approach for the American Government to be taking at this point in time in trying to get our economy back on track."

□ 1820

Mr. Speaker, I deliver this special order because I think it is important that we look at the real impact on real people of the Clinton tax, and that is what I have tried to do today.

I will continue to speak out this week in 1-minute speeches, Mr. Speaker, and I ask all of my colleagues, some of whom may be back in their offices, and all of our constituents who, in fact, are all across America, to use the next couple of days to contact Representatives here in Washington and to let them know that this is the wrong approach for America at this time.

We know there is going to be a ton of calls tonight following the President's speech, and I ask America to respond in kind.

Mr. Speaker, I ask to submit for the RECORD the following letters:

HALE FIRE PUMP CO.,
Conshohocken, PA, July 22, 1993.

Hon. CURT WELDON,
U.S. House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR REPRESENTATIVE WELDON: As the Director, Human Resources, in a medium sized manufacturing company in Southeastern Pennsylvania, I am writing to you to applaud your efforts to identify the Clinton economic agenda for what it is and its negative impact on prosperity and expanding the economy.

The Clinton Administration frightens businesses and has a negative affect on business expansion. Specific issues that concern me are:

Municipality and government organizations that have severely restricted discretionary spending, impacting on the demand for rescue equipment and related accessories by local rescue service agencies.

The impending threat of an expanded energy tax which increases the costs of doing business, in domestic as well as international markets.

The lack of control on federal government spending for social entitlements and pork barrel type programs. This will continue to stifle business expansion and exert a negative influence on new job creation.

The impending fear of rampant inflation—so well controlled under the presidencies of Ronald Reagan and George Bush—is another concern due to the substance and direction of Clinton's proposals.

The lack of any real improvements in the balance of trade deficits, despite Clinton's widely touted "successful" trade talks.

Reluctance to hire. We at Hale, and many other businesses, now avoid hiring additional people until absolutely necessary, pending positive direction to the economy.

Congressman Weldon, whatever actions you and your colleagues in the Congress can do to minimize the negative impacts of Clinton's progressive liberal economics on the business community and to help protect and sustain the industrial base that has made this Nation so great will be appreciated by all Americans.

Very truly yours,

JOSEPH F. BRUCKNER,
Director, Human Resources.

PRECISION MEDIA DUPLICATION
AND SOFTWARE PACKAGING EXPERTS,
Exton, PA, July 13, 1993.

Congressman CURT WELDON,
Rayburn Building, Washington, DC.

DEAR CONGRESSMAN: On behalf of small business everywhere, I urge you to vote no on the Clinton tax and spend economic proposal.

I agree completely that we need to significantly reduce the deficit, but I think that objective can best be achieved through a program of deep spending cuts and by providing stimulus through growth incentives to encourage business development and growth—not by increasing our tax burdens during these most difficult of times.

Sincerely,

JAMES FREED,
President.

CHEMICAL LEAMAN TANK LINES, INC.,
Exton, PA, July 23, 1993.

Congressman CURT W. WELDON,
House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR CONGRESSMAN WELDON: I urge you to oppose the fuel tax proposal for the following reasons:

The current proposals are grossly unfair to trucking. Highway users are being asked to pay for deficit reduction because Congress is unwilling to make the politically hard decision to cut spending.

Higher fuel taxes are not needed to cut the deficit, since lower deficit estimates mean the federal government could save about $100 billion over the next five years due to lower long-term interest rates.

A fuel tax increase would be too little to significantly reduce the deficit, but large enough to do harm to a fragile economy, and to an industry with a 2% profit margin.

The trucking industry is fighting to create and preserve jobs, while a fuel tax increase would do the opposite: it would eliminate jobs.

Thank you.

Sincerely,

JOHN J. KILCULLEN,
President and CEO.

AAA MID-ATLANTIC,
Philadelphia, PA, July 29, 1993.

Hon. CURT WELDON,
Rayburn House Office Building, Washington, DC.

DEAR CONGRESSMAN WELDON: As you know, budget talks between top Congressional and White House officials are now taking place. It appears that a new 9 cent federal tax on gasoline could be part of the reconciliation package.

It is our belief that such a gas tax increase for deficit reduction is not warranted for the following reasons:

This new tax will represent a 64 percent increase over the current 14.1 cent federal gas tax. This deficit reduction gas tax is on top of a 56 percent increase in the tax that occurred in 1990. Combined with expected increases for federal oxyenated and reformulated gasoline mandates and other state and local taxes, pump prices may be 20 cents higher per gallon by 1995.

A recent AAA survey indicates over 70 percent of the voting public rejects the notion that fuel taxes should be used for deficit purposes.

It is unfair to ask motorists who don't have a political action committee to foot a new tax, while other energy users with PACs are exempted.

Thank you for your consideration on this issue.

Sincerely yours,

GARVIN R. KISSINGER,
Vice President, Public Affairs.

PENTON-KELLEY CO.,
Philadelphia, PA, July 20, 1993.

Congressman CURT WELDON,
Upper Darby, PA.

DEAR CONGRESSMAN WELDON: I am writing to you regarding the President's tax reconciliation bill. As President of a small commercial printing company in Philadelphia I have experienced the following:

The confusion over the eventual effects of the proposed energy tax has inhibited and delayed expansion decisions.

The perceived increase in cost structure to be brought on by the proposed tax increases has resulted in further pre-emptive staff reductions to maintain already-shrinking profitability.

Congressman Weldon, please direct your efforts toward minimizing the negative effects of tax increases on the small business owner who, as you know, is responsible for fueling much of our hoped-for economic recovery.

Sincerely,

LIBBY BEATTY,
President.

DURANT MEDICAL INC.,
Malvern, PA, July 20, 1993.

Congressman CURT WELDON,
Member of Congress, Cannon House Office Building, Washington, DC.

DEAR CONGRESSMAN WELDON: I own a small business in Malvern Pennsylvania and I am writing this letter to bring to your attention concerns that I have with the future of the economy. Although it may not be apparent to you at this point in time I have been experiencing difficulty in maintaining my business goals and objectives. The specific concerns I have relate directly to current operations and expansion.

I have found it increasing difficult to maintain proper bank and vendor relationships due to the government budgetary problems. These problems filter down and directly affect my company, and in turn, my employees.

In closing, if the economy continues on this downward track, I feel that I will not be able to sustain this company that I have worked so hard for during the past five years. It would alarm me to think that if nothing is changed, other small businesses may be left with the same alternative.

If you would like to discuss this matter, please feel free to contact me at your earliest convenience.

Sincerely,

ANTHONY J. FERRANTE,
President.

GALLAGHER FLUID SEALS, INC.,
King of Prussia, July 8, 1993.

Hon. CURT WELDON,
Upper Darby, PA.

DEAR MR. WELDON: As a small business owner, I am opposed to the President's "deficit reduction proposal."

I feel the tax increases that are a part of the bill will have a negative impact on our business. It could jeopardize our current work force in addition to eliminating the need for additional personnel for the foreseeable future.

I urge you to vote no.

Very truly yours,

JOSEPH W. GALLAGHER,
President.

CREATE JOBS, STIMULATE ECONOMIC GROWTH, AND LOWER THE DEFICIT

The SPEAKER pro tempore (Mr. BISHOP). Under a previous order of the House, the gentleman from California [Mr. DREIER] is recognized for 60 minutes.

Mr. DREIER. Mr. Speaker, I have, for the past several weeks and months, stood in this well to support an initiative that President Clinton is wholeheartedly behind. That is the North American Free-Trade Agreement. I happen to believe very strongly that it is going to be one of the greatest job-creating mechanisms that we can possibly put into place.

Mr. Speaker, following along the lines of what was just offered by the gentleman from Pennsylvania [Mr. WELDON], I would like to say that I stand here once again with a very bipartisan spirit. That bipartisan spirit is a desire to try to implement a job-creating mechanism in this economy over and above the North American Free-Trade Agreement.

Now, Mr. Speaker, I like to pride myself on, first, being an American and, second, a Republican, and I was not a supporter of President Clinton's when he was a candidate last fall, but I was, frankly, very impressed with more than a few things he said in his campaign, and I would like to spend this evening talking about one of those items which he referred to in his campaign. I want to talk about the fact that we, unfortunately, are not utilizing that campaign promise in this reconciliation package which we are going to be considering later on this week.

Mr. Speaker, I happen to believe that President Clinton's statement last year, that a capital gains differential was very important to job creating and economic growth, was a correct one. It is one which I have subscribed to all along, and, based on every bit of evidence that we have seen, it is clearly going to play a key role in creating job opportunities in this country.

Now, as has been said earlier, the President is going to be going on television this evening, and he is going to be bringing forth, urging the American people to contact those of us, Members of the Congress, to support his plan. I will say here that, while I am a strong supporter of many of President Clinton's initiatives, I will do everything that I possibly can to defeat his plan that he is going to be talking about later this evening because, even though he talks about an economic growth component and stimulating small business, this plan does anything but that based on the evidence that we have seen in the past.

Now, I happen to believe, and I made this statement earlier, that we in the minority clearly have to offer a very positive economic growth component, and in fact, shortly after we defeated, or after I voted against, the initial budget package that the President had, and many in the media were saying that Republicans were simply trying to block President Clinton's initiatives, they were not offering any positive alternative, I introduced H.R. 1885, a basic 4-point plan designed to create jobs, stimulate economic growth, and bring down the deficit.

The 4 points include, first, and I am going to be talking about it in just a couple of minutes, a capital gains differential, taking the 28 percent capital gains tax rate, reducing that to 15 percent.

Second, imposing a moratorium on the promulgation of new regulations on the business sector of the economy. We know full well that many of the problems that are created in this country come about, in large part, due to the burden of Federal regulations that are imposed on the private sector. And under the Bush administration we opposed a 90-day moratorium on new regulations for the business sector of the economy, and there were no catastrophes as a byproduct of that. So, the second part of the proposal that I have in H.R. 1885 extends that moratorium on new regulations for the business sector of the economy.

The third thing that it does, very importantly as we look at the deficit and the national debt, it imposes what is called the 2 percent solution, which is close to a freeze on Federal spending, and we all know that trying to bring about a freeze in the area of Federal spending could go a long way toward turning the corner on that debt.

And the fourth point is, as I said earlier, establishment or expanding of individual retirement accounts. In the 1981 tax bill, which was the only tax bill that I voted for, it was known as the Economic Recovery Tax Act, and we established individual retirement accounts. Those individual retirement accounts were designed to encourage people to plan and save for retirement, put dollars aside so that they would not have to be totally relying on the social security system or other Government programs for their survival.

So, what I have in H.R. 1885 is an expansion of individual retirement accounts allowing for a spousal contribution to that individual retirement account and withdrawals from that individual retirement account for three basic uses: First, a new home purchase, which, obviously, is very important, as we know that the housing industry has historically played a key role in pulling us out of recession.

Second, the purchase of very needed health care. We are looking at health care reform, and it seems to me that being able to withdraw form an individual retirement account would be very beneficial as we look at health care reform.

And the third thing is education. We know that many people are decrying the very sorry state of the educational system in this country, and one of the things that I call for in H.R. 1885 is a withdrawal for education purposes, for postsecondary education.

So, Mr. Speaker, it seems to me that this 4-point economic package would go a long way toward dealing with the challenges that we have and, Mr. Speaker, it is contrary to what many in the media, and some on the other side of the aisle, have said: A positive alternative to the one that has been brought forward and the one which most on our side of the aisle strongly oppose.

Now I want to take a few minutes to talk specifically about the issue of capital gains and the effect that a capital gains tax cut has had in the past and will continue to have.

First of all, if we look at the overall tax rates, since 1946 tax rates, marginal tax rates have fluctuated from 91 percent at a high to 28 percent, and revenues have basically, as a percentage of the gross national product, remained constant at 19.5 percent. We have clearly demonstrated that the only way to increase revenues to the Federal treasury is to expand the economy.

Now, my friend, the gentleman from Pennsylvania [Mr. WELDON] has talked about the fact that this gasoline tax increase and other taxes that are in this proposal which the President is going to be talking about in a couple of hours is one which will lead the economy to constrict.

Now, how we can possibly expect to deal with the national debt and the Federal deficit if we have not an expanding economy but a shrinking economy is really beyond me, because most every small businessman and woman, and many, many others, even in big business, not withstanding those who went down to the White House the other day to support the plan, have indicated to me and to others of our colleagues that we must have growth components there, and, according to the date that we have gathered from the Joint Economic Committee and from the Internal Revenue Service, one of the very best ways for us to gain tax revenues to the Federal Treasury so that we can turn the corner on the $4.5 trillion national debt and the hundreds of billions of dollars in deficits that we run up each year would be to put into place a meaningful capital gains tax stimulus.

□ 1830

Now, in 1978 the top capital gains tax rate was lowered from 50 percent to 28 percent. As a result of that tax rate reduction in 1978, we saw at that point an increase in revenues to the Treasury from $51 billion to $326 billion in 1986.

Mr. Speaker, I would like to ask you to focus your attention, if you could, on this chart here, which basically deals with the level of revenues that have been gained from a capital gains tax reduction versus the level of revenues when we have seen an increase in the capital gains tax cuts.

Now, I referred a few minutes ago to the capital gains tax cut which was known as the Steiger amendment, which in 1978 saw a reduction in the capital gains rate from 50 percent down to a 28-percent rate. That capital gains tax reduction which started then actually did create an increase in revenues to the Treasury.

Mr. Speaker, I refer to the 1981 Economic Recovery Tax Act, known as the Reagan tax cut. We saw the rate reduction take place, and we saw a further increase in revenues to the Federal Treasury.

This has taken place for a wide range of reasons, Mr. Speaker. Primarily the fact that we have eliminated the so-called lock-in effect, whereby people who have a tremendous appreciation hold on to it because the rate of taxation is so high, when we have a rate reduction, they sell off those items which have a capital gains appreciation, and therefore those dollars are going back into the economy, the tax revenues come into the Treasury, and the dollars that the individual investors have been able to accrue are reinvested.

Well, in the 1986 Tax Reduction Act, known as the TRA, which happened to oppose, there was a 40-percent increase in the capital gains tax rate. That 40-percent increase in the capital gains tax rate created a tremendous disincentive for those who had capital appreciation.

What happened was we saw a tremendous drop in revenues to the Treasury because of that so-called lock-in effect which went into play, and at that point we lost a tremendous amount of revenue, tragically.

Now, there are many that say that the loss in revenue to the Treasury which has come since 1986 has been because of the economic slowdown which has taken place. But, Mr. Speaker, you can see on this chart here that there is a tremendous dropoff which takes place in 1987 when we were still seeing economic growth take place, long before the economic recession began.

This played a role in creating the economic recession. That increase in the capital gains tax rate of 40 percent, which was incorporated in the 1986 Tax Reform Act, actually decreased revenues to the Treasury and laid the groundwork for the economic recession which has been so devastating. So it seems to me as we look at tax rates, especially in the area of capital gains, the best thing that we can possibly do is reduce them to stimulate the economy.

Now the Joint Commission on Taxation has come to the conclusion that any capital gains tax rate which is beyond 28.5 percent actually decreases the flow of revenue to the Federal Treasury. Mr. Speaker, as we look at that, and this is evidence which has come from a wide range of economists, and not just information from economists but empirical evidence which we have gleaned from the activities of investors here in the United States, what we found is that we are going to decrease revenue to the Treasury if there is any kind of increase in the capital gains tax rates, and what we need to do to increase revenue to the Treasury is actually see a meaningful cut in the capital gains tax rate.

Mr. Speaker, this is a bipartisan issue. As I said, President Clinton talked about it in his campaign last fall. I wish he had taken that capital gains rate reduction plan that he talked about as a candidate and put it into place as part of his budget package. Unfortunately, he did not, and it is not the only promise that he has turned his back on, and many of us have recognized that on both sides of the aisle.

When I say the capital gains tax reduction is not simply a partisan issue, it is not just the fact that President Clinton talked about it as a candidate. We saw here in the House a vote on the capital gains issue two years ago, and that vote saw 43 Democrats join with us to pass the package.

Tragically, the capital gains tax reduction designed to stimulate economic growth died in the Senate because of the filibuster that was brought about by the Senate majority leader Mr. MITCHELL.

We now today have a bipartisan coalition of Democrats and Republicans who would very much like to see us put into place a capital gains tax differential which could stimulate economic growth. In fact, the United States is one of the very few developed nations in the entire world without that capital gains differential.

Mr. Speaker, one of the arguments that is constantly thrown out is that the capital gains tax is simply a tax on the very wealthy in this country. We know that nothing could be further from the truth. In fact, 40 percent of capital gains are realized annually by people with incomes of less than $50,000.

Mr. Speaker, let me underscore that again. While many people like to say that the capital gains tax is simply a tax on the very rich, 40 percent of the capital gains each year that are received, are received by people who earn less than $50,000.

We also know that this capital gains differential is something that needs to be addressed to affect the small business component. President Clinton obviously has talked about the need to stimulate the small business sector of our economy and encourage a level of growth there. Clearly the best thing that we could do would be to create this much needed capital gains tax differential if we are going to stimulate the jobs creation mechanism of the small business sector of our economy.

Clearly, if you look at this lock-in effect that I was talking about earlier, a lock-in is very simply the fact that people have seen appreciation in an investment, and they say, "My gosh, the tax rate is so high. I don't want to sell that item right now because it has appreciated. I am very hesitant to sell it."

They say, "Why should I, having worked so hard on this investment, see a large percentage of it go to the Federal Treasury?" So instead, what they do is hold on to it. That is what is referred to as the lock-in effect.

If we were to see a reduction in the capital gains tax rate, Mr. Speaker, clearly that would create the incentive for that American investor, who has actually seen an increase in his or her investment, they would have the incentive to turn that over and actually take that item and sell it. The Federal Government would then see a flow of billions of dollars to our Treasury, as has been shown by this chart here, if you look from 1978 to the present.

What we would do is we would also see that individual take those dollars and reinvest them in another private sector investment which will create jobs, and, in keeping that rate down, when that investor sees an appreciation of his or her holding, they will, with a lower rate, be inclined to sell that item and reinvest and look at another item.

So clearly, Mr. Speaker, we have a tremendous opportunity here in a bipartisan way to put together the kinds of incentives that are needed to encourage economic expansion.

Mr. Speaker, I hope very much for and want President Clinton to succeed. I want President Clinton to see the economy grow, because my State of California has been devastated because of the tremendous tax and regulatory burden which exists at the Federal level in the State of California, the cuts in the defense and aerospace industry, and a wide range of other areas.

So it seems to me that we need to take what President Clinton talked about as a candidate last year and put it into place. If he really wants to stimulate economic growth, if he really wants to increase the level of revenues to the Federal Treasury so that we are not passing on to future generations the responsibility of shouldering the burden of the spending which this Congress continues to increase, we should put into place a capital gains differential. And I hope very much that we will continue to have bipartisan support for this kind of initiative, which will go a long way toward dealing with many of the problems that we have here.

CONFERENCE REPORT ON H.R. 2348

Mr. FAZIO submitted the following conference report and statement on the bill (H.R. 2348) making appropriations for the legislative branch for the fiscal year ending September 30, 1994, and for other purposes:

CONFERENCE REPORT (H. REPT. 103–210)

The Committee of Conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2348) "making appropriations for the Legislative Branch for the fiscal year ending September 30, 1994, and for other purposes," having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 2, 6, 15, 19, 26, and 28.

That the House recede from its disagreement to the amendments of the Senate numbered 4, 9, 11, 14, 17, and 18, and agree to the same.

Amendment numbered 3:

That the House recede from its disagreement to the amendment of the Senate numbered 3, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$1,344,000*; and the Senate agree to the same.

Amendment numbered 5:

That the House recede from its disagreement to the amendment of the Senate numbered 5, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$21,315,000*; and the Senate agree to the same.

Amendment numbered 8:

That the House recede from its disagreement to the amendment of the Senate numbered 8, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$8,453,000*; and the Senate agree to the same.

Amendment numbered 13:

That the House recede from its disagreement to the amendment of the Senate numbered 13, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$202,250,000*; and the Senate agree to the same.

Amendment numbered 16:

That the House recede from its disagreement to the amendment of the Senate numbered 16, and agree to the same with an amendment, as follows:

Restore the matter stricken amended to read as follows:

SEC. 206. Effective for fiscal years beginning with fiscal year 1995, obligations for any reimbursable and revolving fund activities performed by the Library of Congress are limited to the total amounts provided (1) in the annual regular appropriations Act making appropriations for the legislative branch, or (2) in a supplemental appropriations Act that makes appropriations for the legislative branch.

And the Senate agree to the same.

Amendment numbered 21:

That the House recede from its disagreement to the amendment of the Senate numbered 21, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert: *level, other than those supported by gift and trust funds,* ; and the Senate agree to the same.

The committee of conference report in disagreement amendments numbered 1, 7, 10, 12, 20, 22, 23, 24, 25, and 27.

VIC FAZIO,
JAMES P. MORAN,
DAVID OBEY,
JOHN P. MURTHA,
BOB CARR,
WILLIAM H. NATCHER,
BILL YOUNG,
RON PACKARD,
CHARLES H. TAYLOR,
JOE MCDADE,
Managers on the Part of the House.

HARRY REID,
BARBARA A. MIKULSKI,
PATTY MURRAY,
ROBERT C. BYRD,
CONNIE MACK,
CONRAD BURNS,
MARK O. HATFIELD,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE ON CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2348) making appropriations for the Legislative Branch for the fiscal year ending September 30, 1994, and for other purposes, submit the following joint statement to the House and Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

TITLE I—CONGRESSIONAL OPERATIONS

SENATE

Amendment No. 1: Reported in technical disagreement. Inasmuch as the amendment relates solely to the Senate and in accord with long practice, under which each body determines its own housekeeping requirements and the other concurs without intervention, the managers on the part of the House, at the request of the managers on the part of the Senate, will move to recede and concur in the Senate amendment which appropriates $443,314,700 for Senate operations and includes several administrative provisions.

JOINT ITEMS

JOINT ECONOMIC COMMITTEE

Amendment No. 2: Appropriates $3,980,000 for the Joint Economic Committee as proposed by the House instead of $3,626,000 as proposed by the Senate.

JOINT COMMITTEE ON PRINTING

Amendment No. 3: Appropriates $1,344,000 for the Joint Committee on Printing instead of $1,377,000 as proposed by the House and $1,311,000 as proposed by the Senate.

CAPITOL POLICE BOARD

The conferees agree that the number of take-home motor vehicles for use by the Capitol Police should be limited to three, one for the Chief, who is on call continuously as the need arises, and two more for assignment at the discretion of the Chief.

OFFICE OF TECHNOLOGY ASSESSMENT

SALARIES AND EXPENSES

Amendment No. 4: Makes technical correction as proposed by the Senate.

Amendment No. 5: Appropriates $21,315,000 for salaries and expenses, Office of Technology Assessment instead of $20,815,000 as proposed by the House and $21,815,000 as proposed by the Senate. The conferees direct that the additional funds above the House bill are to be utilized for purposes directed by the Technology Assessment Board but not to duplicate workload or legislative responsibilities of the Congressional Budget Office.

CONGRESSIONAL BUDGET OFFICE

SALARIES AND EXPENSES

Amendment No. 6. Appropriates $22,317,000 for salaries and expenses, Congressional Budget Office as proposed by the House instead of $22,442,000 as proposed by the Senate.

Amendment No. 7: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate that authorizes the disposal of surplus or obsolete personal property.

ARCHITECT OF THE CAPITOL

OFFICE OF THE ARCHITECT OF THE CAPITOL

SALARIES

Amendment No. 8. Appropriates $8,453,000 for salaries, Office of the Architect of the Capitol instead of $8,762,000 as proposed by the House and $8,144,000 as proposed by the Senate.

CONTINGENT EXPENSES

Amendment No. 9: Deletes authority contained in House bill for funds to remain available for contingent expenses, Office of the Architect of the Capitol as proposed by the Senate.

CAPITOL BUILDINGS AND GROUNDS

CAPITOL BUILDINGS

Amendment No. 10: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate that provides an increase of $220,000 in the cost limitation established in H.Con. Res. 550.

Amendment No. 11: Provides that $4,413,000 of Capitol buildings funds shall remain available until expended as proposed by the Senate instead of $4,663,000 as proposed by the House. The conferees agree with the Senate project allocations, providing additional funds for the conservation for wall paintings, $50,000, and security x-ray machines, $200,000, while reducing by $50,000 the funds allocated by the House for plumbing renovations, and by $200,000 the funds allocated for elevator modernization.

SENATE OFFICE BUILDINGS

Amendment No. 12: Reported in technical disagreement. Inasmuch as the amendment relates solely to the Senate and in accord with long practice, under which each body determines its own housekeeping requirements and the other concurs without intervention, the managers on the part of the House, at the request of the managers on the part of the Senate, will move to recede and concur in the Senate amendment which provides $47,339,000 for the maintenance, care, and operations of Senate office buildings.

GOVERNMENT PRINTING OFFICE

CONGRESSIONAL PRINTING AND BINDING

The practice of assigning Government Printing Office staff to assist House and Senate Committees and other Congressional offices needs to be reviewed. There are, as pointed out in a letter from the Chairman of the House Committee on Energy and Commerce, legitimate needs to have professional assistance from GPO to prepare and publish hearings, reports, and other printed material for the Congress. The conferees believe the Joint Committee on Printing must review this issue, including the suggestions in Chairman Dingell's letter. The fiscal year 1995 GPO budget request, therefore may contain funds for such detailees, but the Committees on Appropriations believe that significant changes are needed in this practice. The GPO is directed to seek guidance from the Joint Committee on Printing and to include an appropriate proposal with the fiscal year 1995 budget.

TITLE II—OTHER AGENCIES

LIBRARY OF CONGRESS

SALARIES AND EXPENSES

Amendment No. 13: Provides $202,250,000 for salaries and expenses, Library of Congress instead of $201,231,000 as proposed by the House and $202,304,595 as proposed by the Senate. Funds for the staff assistance for the Librarian Emeritus should be taken from available funds, and the conferees remind the Library of Congress that Public Law 100-83 provided that the Librarian Emeritus "may receive incidental administrative and clerical support through the Library of Congress." The conferees have provided $1,019,000 for the final year of funding to complete the American Memory pilot test, although Library of Congress promotional material describing this project indicates "the evaluation concluded in June 1993 and the findings will be presented in a final report by autumn 1993." The American Memory staff who are performing cataloging functions should be reassigned to the overall arrearage project, where their expertise is needed, and where vacant and funded positions are available.

It is expected that the American Memory technology will be made available to the educational community for further exploitation, perhaps by the private sector or in whatever fashion it may be put to beneficial use, but that the Library of Congress will not extend its role in the creation or assembly of educational material beyond making the collections available for use by such technology users as they are generally to the American public and other users of the Library's extensive collections.

The conferees believe that the current location of the first draft of the Gettysburg Address at the Gettysburg National Military Park is fitting. The environmental and security conditions of the display seem entirely satisfactory and are in accord with stipulations set by the Library of Congress. Over one-half million visitors view this inspirational document each year at the current site. The Library of Congress has the second draft in its archives for safekeeping and rarely used research purposes. The conferees encourage the Librarian of Congress to reopen discussions with the National Military Park for the purpose of extending the loan for an indefinite period. As long as it is treated with the care needed to preserve the original, which appears to be at least equal, if not superior, to that provided within the permanent storage vault, this loan would appear to be an excellent tradeoff for the additional exposure to the public that this priceless artifact receives in its more historically compatible setting.

BOOKS FOR THE BLIND AND PHYSICALLY HANDICAPPED

SALARIES AND EXPENSES

Amendment No. 14: Appropriates $42,713,000 for salaries and expenses, books for the blind and physically handicapped as proposed by the Senate instead of $43,144,000 as proposed by the House.

Amendment No. 15: Provides that $10,377,000 shall remain available until expended as proposed by the House instead of $9,946,000 as proposed by the Senate.

ADMINISTRATIVE PROVISIONS

Amendment No. 16: Amends a provision proposed by the House and stricken by the Senate regarding reimbursable programs. The conference agreement exempts gift and trust funds, and makes a technical change from a "disbursement" control to an "obligation" control.

ARCHITECT OF THE CAPITOL

LIBRARY BUILDINGS AND GROUNDS

STRUCTURAL AND MECHANICAL CARE

Amendment No. 17: Appropriates $9,974,000 for structural and mechanical care, Library buildings and grounds, Architect of the Capitol as proposed by the Senate instead of $9,543,000 as proposed by the House. The Madison security funds, $150,000, are for a project that appears duplicative of a combined House-Senate-Library of Congress effort for buildings and office access technology. The Library of Congress and the Office of the Architect of the Capitol are directed to consult with House Information Systems, and House and Senate Sergeants at Arms to determine the extent to which these projects may beneficially be coordinated and the advantages and disadvantages of requiring compatibility between the technologies of each project. A coordinated report shall be submitted to the House and Senate Committees on Appropriations before these funds are committed.

Amendment No. 18: Provides $1,341,000 shall remain available until expended as proposed by the Senate instead of $1,060,000 as proposed by the House.

GENERAL ACCOUNTING OFFICE

SALARIES AND EXPENSES

Amendment No. 19: Deletes language proposed by the Senate regarding the use of reimbursements under 31 U.S.C. 9105.

TITLE III—GENERAL PROVISIONS

Amendment No. 20: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate that deletes House language and restores the identical language regarding retirement incentives, amended to prohibit backfilling and to prevent the funds saved to be used for other purposes.

Amendment No. 21: Amends House language to exempt gift and trust funds positions from the full-time equivalent reduction.

Amendment No. 22: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the amendment of the Senate regarding mileage payments.

Amendment No. 23: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the amendment of the Senate regarding a transfer of funds that may be used to replace the roof of the Thomas Jefferson Building at the Library of Congress.

Amendment No. 24: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate that provides a date change in Public Law 101-302 regarding Senate artwork.

Amendment No. 25: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate that amends 2 U.S.C. 130c(a) to adjust the level for waivers of claims that may be decided by the Secretary of the Senate.

Amendment No. 26: Deletes Senate provision regarding awards or payments under Public 102-166.

Amendment No. 27: Reported in technical disagreement. The managers on the part of the House will move to recede and concur with the amendment of the Senate regarding the establishment of an intergovernmental center.

Amendment No. 28: Deletes language proposed by the Senate regarding the procurement or production of printing. The conferees agree that the economies and operations of government printing and high volume duplicating require more scrutiny, caused by technological change, and the proliferation of these services within Federal agency workplaces and the extensive capabilities of the private sector. The House Committee on Appropriations has recently commissioned a thorough study of this issue by the General Accounting Office and the conferees encourage the appropriate authorizing and oversight Committees (the Joint Committee on Printing, Committee on House Administration, and the Senate Committee on Rules and Administration and possibly the House Committee on Government Operations and Senate Committee on Governmental Affairs) to undertake a review of the matter in consultation with the executive branch.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1994 recommended by the Committee of Conference, with comparisons to the fiscal year 1993 amount, the 1994 budget estimates, and the House and Senate bills for 1994 follow:

New budget (obligational) authority, fiscal year 1993	$2,302,923,700
Budget estimates of new (obligational) authority, fiscal year 1994	2,641,945,500
House bill, fiscal year 1994	1,777,727,246
Senate bill, fiscal year 1994	2,269,541,541
Conference agreement, fiscal year 1994	2,269,557,946
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1993	−33,365,754
Budget estimates of new (obligational) authority, fiscal year 1994	−372,387,554
House bill, fiscal year 1994	+491,830,700
Senate bill, fiscal year 1994	+16,405

VIC FAZIO,
JAMES P. MORAN,
DAVID OBEY,
JOHN P. MURTHA,
BOB CARR,
WILLIAM H. NATCHER,
BILL YOUNG,
RON PACKARD,
CHARLES H. TAYLOR,
JOE MCDADE,
Managers on the Part of the House.

HARRY REID,
BARBARA A. MIKULSKI,
PATTY MURRAY,
ROBERT C. BYRD,
CONNIE MACK,
CONRAD BURNS,
MARK O. HATFIELD,
Managers on the Part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. DEAL (at the request of Mr. GEPHARDT), for today, on account of personal business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mrs. BENTLEY) to revise and extend their remarks and include extraneous material:)

Mr. REGULA, for 5 minutes, on August 3.

Ms. DUNN, for 30 minutes, on August 3.

Mr. WELDON, for 60 minutes each day, on today and August 3, 4, 5, and 6.

Mrs. BENTLEY, for 5 minutes, today in lieu of previously approved 60 minutes.

(The following Members (at the request of Mr. FARR) to revise and extend their remarks and include extraneous material:)

Ms. KAPTUR, for 5 minutes, on August 3.

Mr. JOHNSON of Georgia, for 30 minutes each day, on August 4 and 5.

Mr. HINCHEY, for 5 minutes, on August 3.

Mr. POSHARD, for 60 minutes each day, on August 3, 4, 5, and 6.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mrs. BENTLEY) and to include extraneous matter:)

Mr. CRAPO.

(The following Members (at the request of Mr. FARR) and to include extraneous matter:)

Mr. MILLER of California.
Mr. ENGEL.
Mrs. LLOYD.
Mr. HAMILTON in two instances.
Mr. MINETA.
Mr. STOKES.
Mr. SWETT.
Mr. MANN.
Mr. JOHNSON of Georgia.
Ms. SHEPHERD.
Mr. GLICKMAN.
Mr. RICHARDSON.
Mr. KLEIN in four instances.

(The following Members (at the request of Mr. DREIER) and to include extraneous matter:)

Mr. PORTER.
Mr. HALL of Texas.
Mr. SKELTON.

Mr. KOPETSKI.
Mr. TOWNS.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 1274. An act to reduce the subsidy cost for the Guaranteed Business Loan Program of the Small Business Administration, and for other purposes; to the Committee on Small Business.

BILLS PRESENTED TO THE PRESIDENT

Mr. ROSE, from the Committee on House Administration, reported that that committee did on the following date present to the President, for his approval, bills of the House of the following title:

On July 30, 1993:

H.R. 63. An act to establish the Spring Mountains National Recreation Area in Nevada, and for other purposes, and

H.R. 2683. An act to extend the operation of the migrant student record transfer system.

ADJOURNMENT

Mr. DREIER. Mr. Speaker, pursuant to House Resolution 232, I move that the House do now adjourn in memory of the late Honorable PAUL B. HENRY.

The motion was agreed to; accordingly (at 6 o'clock and 40 minutes p.m.) pursuant to House Resolution 232, the House adjourned until tomorrow, Tuesday, August 3, 1993, at 1 p.m., in memory of the late Honorable PAUL B. HENRY of Michigan.

EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Reports of various House committees concerning the foreign currencies and U.S. dollars utilized by them for official foreign travel during the second quarter of 1993, pursuant to Public Law 95–384, as well as the consolidated report of the Speaker of the House concerning funds utilized for official foreign travel authorized by him during the second quarter, and various reports by miscellaneous groups of the House concerning funds utilized by them for official foreign travel during the second quarter of 1993, are as follows:

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1993

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Dr. Sydney Key	4/24	4/28	England		1,016.00		917.45				1,033.45
Mr. Raymond Almeida	5/8	5/15	Cote D'Ivoire		1,289.00		1,697.45				2,986.45
Committee total					2,305.00		2,614.90				4,919.90

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

HENRY GONZALEZ, Chairman, July 12, 1993.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON APPROPRIATIONS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1993

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Hon. Richard Durbin	4/3	4/7	Mexico		893.50						893.50
	4/7	4/8	United States		90.00						90.00
Commercial air transportation							729.28				729.28
Hon. Norman Dicks	6/3	6/7	France		1,190.00						1,190.00
Commercial air transportation							780.55				780.55
Hon. Thomas Foglietta	4/3	4/6	Italy		728.00						728.00
	4/6	4/8	Turkey		498.00						498.00
	4/8	4/9	Syria		215.00						215.00
	4/9	4/11	Morocco		376.00						376.00
Military air transportation											
Hon. Thomas Foglietta	4/29	5/3	South Korea		729.00						729.00
Commercial air transportation							5,020.45				5,020.45
Hon. John Murtha	4/23	4/24	Italy								
Military air transportation							3,561.65				3,561.65
Hon. Ed Pastor	4/3	4/7	Mexico		893.06						893.06
	4/7	4/8	United States		90.00						90.00
Commercial air transportation								730.28			730.28
Hon. Joe Skeen	4/3	4/7	Mexico		893.06						893.06
	4/7	4/8	United States		90.00						90.00
Commercial air transportation							725.28				725.28
John Blazey	5/28	5/30	Denmark		507.00						507.00
	5/30	5/32	Germany		693.00						693.00
	6/1	6/4	France		822.00						822.00
Commercial air transportation							3,094.35				3,094.35
Robert Foster	4/3	4/7	Mexico		824.55						824.55
	4/7	4/9	United States		180.00						180.00
Commercial transportation							887.36				887.36
John Plashal	4/23	4/24	Italy		147.00						147.00
Military transportation							3,561.65				3,561.65
Carol A. Novak	4/3	4/7	Mexico		824.55						824.55
	4/7	4/8			90.00						90.00
Commercial transportation							860.28				860.28
Kevin Roper	4/23	4/24	Italy		147.00						147.00
Military transportation							3,561.65				3,561.65
Timothy Sanders	4/3	4/7	Mexico		824.55						824.55
	4/7	4/9	United States		180.00						180.00
Commercial transportation							807.28				807.28
Total					11,925.27		24,320.06				36,245.33
Appropriations, surveys, and investigations staff:											
G. Carter Baird	4/25	4/28	Croatia		445.00		4,128.97		78.95		4,652.92
	4/28	4/29	Germany		143.25						143.25
	4/29	5/1	Italy		417.50						417.50
	5/1	5/3	Kuwait		474.00						474.00

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON APPROPRIATIONS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1993—Continued

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
T. Keith Baker	5/1	5/7	Germany		839.75		3,219.28		328.67		4,387.70
	5/7	5/12	Italy		1,102.50						1,102.50
Roger T. Castonguay	6/8	6/12	Germany		665.50		3,798.46		169.45		4,633.41
	6/12	6/16	Ukraine		727.50						727.50
	6/16	6/19	Poland		533.00						533.00
	6/19	6/23	Russia		1,080.00						1,080.00
	6/23	6/26	Austria		816.00						816.00
Michael P. Downs	4/25	4/28	Croatia		445.00		4,897.85		165.33		5,508.18
	4/28	4/29	Germany		143.25						143.25
	4/29	5/1	Italy		417.50						417.50
	5/1	5/3	Kuwait		414.75						414.75
	6/4	6/11	Kenya		765.00		5,951.45		113.50		6,829.95
	6/11	6/13	South Africa		288.00						288.00
	6/13	6/17	Mozambique		746.25						746.25
Alfred L. Esposito	4/25	4/28	Croatia		445.00		4,897.85		104.50		5,447.35
	4/28	4/29	Germany		143.25						143.25
	4/29	5/1	Italy		417.50						417.50
	5/1	5/3	Kuwait		414.75						414.75
	6/4	6/11	Kenya		765.00		5,951.45		66.00		6,782.45
	6/11	6/13	South Africa		288.00						288.00
	6/13	6/17	Mozambique		746.25						746.25
Roger B. Feldman	6/8	6/12	Germany		665.50		3,798.46		150.00		4,613.96
	6/12	6/16	Ukraine		727.50						727.50
	6/16	6/19	Poland		533.00						533.00
	6/19	6/23	Russia		1,080.00						1,080.00
	6/23	6/26	Austria		816.00						816.00
Michael O. Glynn	6/2	6/5	Tunisia		228.00		5,602.25		136.72		5,966.97
	6/5	6/9	Italy		1,008.00						1,008.00
	6/9	6/14	Kenya		540.00						540.00
	6/14	6/17	Egypt		429.00						429.00
	6/17	6/19	Cyprus		254.00						254.00
Charles V. Gorsey	4/24	4/26	England		458.00		5,609.45		109.00		6,176.45
	4/27	4/30	Pakistan		416.00						416.00
	4/30	5/1	England		357.00						357.00
	5/2	5/5	Cambodia		776.75						776.75
	5/5	5/6	Thailand		147.25						147.25
Jay K. Gruner	6/2	6/5	Tunisia		228.00		5,602.25		67.72		5,897.97
	6/5	6/9	Italy		1,008.00						1,008.00
	6/9	6/14	Kenya		540.00						540.00
	6/14	6/17	Egypt		429.00						429.00
	6/17	6/19	Cyprus		254.00						254.00
Carroll L. Hauver	5/14	5/18	Scotland		557.00		4,131.45		225.44		4,913.89
	5/18	5/23	England		814.50						814.50
Walter C. Hersman	4/24	4/26	England		458.00		5,609.45		116.38		6,183.83
	4/27	4/30	Pakistan		416.00						416.00
	4/30	5/1	England		357.00						357.00
	5/2	5/5	Cambodia		776.75						776.75
	5/5	5/6	Thailand		147.25						147.25
	6/6	6/9	France		510.00		6,510.45		98.00		7,118.45
	6/9	6/11	Angola		747.50						747.50
	6/11	6/13	Portugal		514.00						514.00
	6/13	6/14	West Sahara		64.00						64.00
	6/14	6/16	Morocco		283.50						283.50
	6/16	6/17	Germany		209.50						209.50
Robert G. Loftis	4/30	5/2	Thailand		169.00		4,028.45		44.00		4,241.45
	5/2	5/5	Cambodia		776.75						776.75
	5/5	5/7	Thailand		310.25						310.25
Vincent J. Pistolessi	4/25	4/28	Croatia		445.00		4,897.85		636.11		5,978.96
	4/28	4/29	Germany		143.25						143.25
	4/29	5/1	Italy		417.50						417.50
	5/1	5/3	Kuwait		414.75						414.75
Christopher J. Richard	4/25	4/28	Croatia		445.00		4,897.85		125.55		5,468.40
	4/28	4/29	Germany		143.25						143.25
	4/29	5/1	Italy		417.50						417.50
	5/1	5/3	Kuwait		414.75						414.75
Edwin J. Sharp	5/1	5/7	Germany		839.75		3,219.28		172.85		4.231.88
	5/7	5/12	Italy		1,102.50						1,102.50
R.W. Vandergrift	4/30	5/2	Thailand		169.00		4,031.45		220.90		4,421.35
	5/2	5/5	Cambodia		773.50						773.50
	5/5	5/6	Thailand		203.75						203.75
L. Michael Welsh	4/24	4/27	England		458.00		5,609.45		114.93		6,182.38
	4/27	4/30	Pakistan		416.00						416.00
	4/30	5/1	England		357.00						357.00
	5/2	5/5	Cambodia		776.75						776.75
	5/5	5/6	Thailand		147.25						147.25
	6/6	6/9	France		510.00		6,510.45		95.73		7,116.18
	6/9	6/11	Angola		747.50						747.50
	6/11	6/13	Portugal		514.00						514.00
	6/13	6/14	West Sahara		64.00						64.00
	6/14	6/16	Morocco		283.50						283.50
	6/16	6/17	Germany		209.50						209.50
Kennedy L. Wilson	5/14	5/18	Scotland		557.00		4,131.45		254.68		4,943.13
	5/18	5/23	England		814.50						814.50
H.C. Young	6/18	6/23	Russia		1,155.00		3,482.99		57.52		4,695.51
Committee total					44,629.00		110,518.29		3,651.93		158,799.22

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

WILLIAM H. NATCHER, Chairman, July 23, 1993.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON FOREIGN AFFAIRS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1993

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
P. Berkowitz	4/4	4/6	Burma		150.00						150.00
	4/6	4/8	Thailand		426.00						426.00
	4/9	4/13	India		642.00						642.00
	4/13	4/17	Pakistan		712.00		35.33				747.33
Commercial transportation							5,872.15				5,872.15
G. Cannon	4/4	4/7	United Kingdom		762.00				5.03		767.03
	4/7	4/10	France		816.00						816.00
Commercial transportation							3,968.55				3,968.55
Hon. E. Faleomavaega	4/6	4/8	Indonesia		546.00						546.00
	4/8	4/10	Taiwan								
Commercial transportation							5,988.00				5,988.00
	6/20	6/25	Tahiti, F.P.		1,350.00						1,350.00
Commercial transportation							6,687.05				6,687.05
K.F. Gilley	4/4	4/7	United Kingdom		[3] 709.00				5.03		714.03
	4/7	4/10	France		[3] 770.00						770.00
Commercial transportation							3,968.55				3,968.55
A.M. Griffin	4/3	4/10	South Africa		1,580.00						1,580.00
Commercial transportation							5,937.85				5,937.85
	5/22	5/29	Gabon		2,104.00						2,104.00
Commercial transportation							4,101.75				4,101.75
R. Hathaway	4/4	4/6	Burma		150.00						150.00
	4/6	4/8	Thailand		426.00						426.00
	4/8	4/13	India		760.00						760.00
	4/13	4/17	Pakistan		712.00		35.33				747.33
Commercial transportation							5,827.15				5,827.15
G. Kapen	4/20	4/25	Eritrea		700.00						700.00
Commercial transportation							4,427.45				4,427.45
Hon. T. Lantos	2/24	2/28	Turkey		1,101.00				384.20		1,485.20
Commercial transportation							938.85				938.85
Hon. F. McCloskey	6/19	6/21	Croatia		450.00						450.00
Commercial transportation							3,204.85				3,204.85
J. McCormick	4/4	4/6	Burma		150.00						150.00
	4/6	4/8	Thailand		426.00						426.00
	4/9	4/13	India		716.00						716.00
	4/13	4/17	Pakistan		712.00		35.33				747.33
Commercial transportation							5,827.15				5,827.15
R. Nuccio	4/23	4/25	United Kingdom								
Commercial transportation							3,968.45				3,968.45
A. Pandya	4/4	4/7	United Kingdom		762.00				5.03		767.03
	4/7	4/10	France		816.00						816.00
Commercial transportation							3,968.55				3,968.55
K. Peel	4/4	4/7	United Kingdom		762.00				5.03		767.03
	4/7	4/10	France		816.00						816.00
Commercial transportation							3,968.55				3,968.55
M. Poloyac	5/21	5/23	Germany		586.00						586.00
	5/23	5/24	Belgium		328.00						328.00
Commercial transportation (one-way)							860.00				860.00
Commercial transportation (one-way)							1,720.05				1,720.05
J.W. Roberts	5/21	5/23	Germany		586.00						586.00
	5/23	5/24	Belgium		328.00						328.00
Commercial transportation (one-way)							860.00				860.00
Commercial transportation (one-way)							1,559.80				1,559.80
Hon. D. Rohrabacher	4/5	4/7	Thailand		426.00						426.00
	4/7	4/9	Cambodia		578.00						578.00
	4/9	4/12	Thailand		551.00						551.00
	4/12	4/13	Taiwan		267.00						267.00
Commercial transportation							5,904.45				5,904.45
K. Timmerman	6/11	6/26	France				134.00		78.00		212.00
Commercial transportation							3,218.65				3,218.65
P. Weir	5/6	5/10	Paraguay								
Commercial transportation							3,028.45				3,028.45
Grand total for 2d quarter				110,204.61							

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[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

[3] Represents refunds of unused per diem.

LEE H. HAMILTON, Chairman, July 29, 1993.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON WAYS AND MEANS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1993

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Dan Rostenkowski	6/11	6/14	Poland		492.00		(3)				492.00
Charles M. Brain	6/11	6/14	Poland		492.00		(3)				492.00
Deborah G. Colton	6/11	6/14	Poland		492.00		(3)				492.00
Janice Mays	6/11	6/14	Poland		492.00		(3)				492.00
Charles Mellody	6/11	6/14	Poland		492.00		(3)				492.00
S. Bruce Wilson	6/11	6/14	Poland		492.00		(3)				492.00
Committee total					2,952.00						2,952.00

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[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

[3] Transportation by military aircraft.

DAN ROSTENKOWSKI, Chairman, July 14, 1993.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO POLAND AND ALBANIA, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN MAR. 23 AND APR. 2, 1993

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Cathy Brickman	3/23	3/26	Poland		483.00						483.00
	3/26	3/29	Switzerland		483.00						483.00
	3/29	4/1	Albania		561.00						561.00
	4/1	4/2	Italy	438,948	274.00						274.00
Commercial transportation							3,912.15				3,912.15
William Freeman	3/23	3/26	Poland		483.00						483.00
	3/26	3/29	Switzerland		483.00						483.00
	3/29	4/1	Albania		561.00						561.00
	4/1	4/2	Italy	438,948	274.00						274.00
Commercial transportation							3,885.15				3,885.15
Committee total					3,602.00		7,797.30				11,399.30

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

KRISTI E. WALSETH, May 12, 1993.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO ALBANIA, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN MAR. 28 AND APR. 2, 1993

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Kristi Walseth	3/29	4/1	Albania		543.00						543.00
	4/1	4/2	Italy	438,948	274.00						274.00
Commercial transportation							3,902.45				3,902.45
Henry Collins	3/29	4/1	Albania		543.00						543.00
	4/1	4/2	Italy	438,948	274.00						274.00
Commercial transportation							3,902.45				3,902.45
Committee total					1,634.000		7,804.90				9,438.90

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

KRISTI E. WALSETH, May 12, 1993.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO RUSSIA, ESTONIA, LATVIA, AND LITHUANIA, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 4 AND APR. 9, 1993

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Hon. Sam Johnson	4/7	4/9	Moscow, Russia	Rubbles	1,000.00		1,650.70				2,650.70
Shannon Smith	4/4	4/5	Tallinn, Estonia		1,000.00		(3)				1,000.00
	4/5	4/6	Riga, Latvia								
	4/6	4/7	Vilnius, Lithuania								
	4/7	4/9	Moscow, Russia								
Committee total					2,000.00		1,650.70				3,650.70

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military transportation.

SAM JOHNSON, June 7, 1993.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO AZERBAIJAN, ARMENIA, AND TURKEY, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 2 AND APR. 7, 1993

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Richard H. Lehman	4/3	4/4	Azerbaijan		200		(3)				200
	4/4	4/6	Armenia		300		(3)				300
	4/6	4/7	Turkey		127		(3)				127
Al McCandless	4/3	4/4	Azerbaijan		200		(3)				127
	4/4	4/6	Armenia		300		(3)				300
	4/6	4/7	Turkey		127		(3)				127
James Bilbray	4/3	4/4	Azerbaijan		200		(3)				200
	4/4	4/6	Armenia		300		(3)				300
	4/6	4/7	Turkey		127		(3)				127
James Moran	4/3	4/4	Azerbaijan		200		(3)				200
	4/4	4/6	Armenia		300		(3)				300
	4/6	4/7	Turkey		127		(3)				127
Michael Moore (staff)	4/3	4/4	Azerbaijan		200		(3)				200
	4/4	4/6	Armenia		300		(3)				300
	4/6	4/7	Turkey		127		(3)				127
Mark Gage (staff)	4/3	4/4	Azerbaijan		200.00		(3)				200.00
	4/4	4/6	Armenia		300.00		(3)				300.00
	4/6	4/7	Turkey		127.00		(3)				127.00
Committee total					3,762.00						3,762.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Millitary Air.

RICHARD H. LEHMAN, Chairman, May 5, 1993.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO RUSSIA AND UKRAINE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 4 AND APR. 10, 1993

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Hon. John Spratt	4/4	4/6	Ukraine		1,750.00						1,750.00
	4/6	4/10	Russia								
Hon. Robert Michel	4/4	4/6	Ukraine		1,750.00						1,750.00
	4/6	4/10	Russia								
Hon. Newt Gingrich	4/4	4/6	Ukraine		1,750.00						1,750.00
	4/6	4/10	Russia								
Hon. Henry Hyde	4/4	4/6	Ukraine		1,750.00						1,750.00
	4/6	4/10	Russia								
Hon. Floyd Spence	4/4	4/6	Ukraine		1,750.00						1,750.00
	4/6	4/10	Russia								
Hon. Bob Livingston	4/4	4/6	Ukraine		1,750.00						1,750.00
	4/6	4/10	Russia								
Hon. Gerald Solomon	4/4	4/6	Ukraine		1,750.00						1,750.00
	4/6	4/10	Russia								
Hon. Richard Gephardt	4/4	4/6	Ukraine		1,750.00						1,750.00
	4/6	4/10	Russia								
Hon. Howard Berman	4/4	4/6	Ukraine		1,750.00						1,750.00
	4/6	4/10	Russia								
Hon. David Obey	4/4	4/6	Ukraine		1,750.00						1,750.00
	4/6	4/10	Russia								
Hon. David Bonior	4/4	4/6	Ukraine		1,750.00						1,750.00
	4/6	4/10	Russia								
Hon. Steny Hoyer	4/4	4/6	Ukraine		1,750.00						1,750.00
	4/6	4/10	Russia								
Hon. Tom Lantos	4/4	4/6	Ukraine		1,750.00						1,750.00
	4/6	4/10	Russia								
Hon. Nita Lowey	4/4	4/6	Ukraine		1,750.00						1,750.00
	4/6	4/10	Russia								
Hon. Ben Gilman	4/4	4/6	Russia		1,750.00		1,642.00				3,392.00
Tom O'Donnell	4/4	4/6	Ukraine		1,750.00						1,750.00
	4/6	4/10	Russia								
Margarette Sullivan	4/4	4/6	Ukraine		1,750.00						1,750.00
	4/6	4/10	Russia								
Craig Hanna	4/4	4/6	Ukraine		1,750.00						1,750.00
	4/6	4/10	Russia								
Gardner Peckham	4/4	4/6	Ukraine		1,750.00						1,750.00
	4/6	4/10	Russia								
William Pitts	4/4	4/6	Ukraine		1,750.00						1,750.00
	4/6	4/10	Russia								
William Gavin	4/4	4/6	Ukraine		1,750.00						1,750.00
	4/6	4/10	Russia								
Christopher Koim	4/4	4/6	Ukraine		1,750.00						1,750.00
	4/6	4/10	Russia								
William Schuerch	4/4	4/6	Ukraine		1,750.00						1,750.00
	4/6	4/10	Russia								
Laura Nichols	4/4	4/6	Ukraine		1,750.00						1,750.00
	4/6	4/10	Russia								
James Billington	4/4	4/6	Ukraine		1,750.00						1,750.00
	4/6	4/10	Russia								
David Roth	4/4	4/6	Ukraine		1,750.00						1,750.00
	4/6	4/10	Russia								
Committee total					45,500.00		1,642.00				47,142.00

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

Note.—Travelers were issued and spent $1,750.00 U.S. per diem prior to departure. Travel was completed on military aircraft except for Hon. Ben Gilman, who flew commercial one way.

RICHARD A. GEPHARDT, Chairman, May 4, 1993.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO AFRICA AND EUROPE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 12 AND APR. 19, 1993

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Bill Richardson	4/12	4/14	Africa		252.00						252.00
	4/14	4/19	Europe		701.00						701.00
David Gillette	4/12	4/14	Africa		252.00						252.00
	4/14	4/19	Europe		701.00						701.00
Committee total					1,906.00						1,906.00

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

BILL RICHARDSON, June 24, 1993.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO MEXICO, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 29 AND MAY 3, 1993

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Hon. Marcy Kaptur	4/29	5/3	Mexico		166.50		[3]1,837.00				2,003.50

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO MEXICO, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 29 AND MAY 3, 1993—Continued

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Hon. Helen Delich Bentley	5/1	5/3	Mexico		166.50		[4]733.00				899.50
Hon. Eva Clayton	5/1	5/3	Mexico		166.50						166.50
Hon. Leslie Byrne	4/29	5/3	Mexico		166.50						166.50
Hon. Nydia Velazquez	4/29	5/3	Mexico		166.50						166.50
Hon. Cardiss Collins	4/29	5/3	Mexico		166.50						166.50
Hon. Karan English	4/29	5/3	Mexico		166.50						166.50
Hon. Pat Danner	4/29	5/3	Mexico		166.50						166.50
Roberta Jeanquart	4/29	5/3	Mexico		166.50						166.50
Marc Hammerlund	4/29	5/3	Mexico		166.50						166.50
Patricia Wait	4/29	5/3	Mexico		166.50						166.50
Mimi McGee-O'Hara	4/29	5/3	Mexico		166.50						166.50
David Schooler	4/29	5/3	Mexico		166.50						166.50
Committee total					2,164.50		2,570.30				4,734.80

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

[3] Military air (delegation ground transportation).

[4] One way commercial.

MARCY KAPTUR, June 3, 1993.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO PANAMA, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN MAY 9 AND MAY 12, 1993

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
N.H. Collins III	5/9	5/12	Panama		174.90						174.90
Sandea E. Latta	5/9	5/12	Panama		179.65						179.95
John Holloman	5/9	5/12	Panama		174.90						174.90
Committee total					529.45						529.45

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

N.H. COLLINS, June 17, 1993.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO CZECH REPUBLIC AND SLOVAKIA, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN MAY 18 AND MAY 28, 1993

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Cathy Brickman	5/19	5/23	Czech Republic		1,400.00						1,400.00
	5/23	5/26	Slovakia								
			Commercial transportation				2,937.05				2,937.05
Henry (Bud) Collins	5/19	5/23	Czech Republic		1,400.00						1,400.00
	5/23	5/26	Slovakia								
			Commercial transportation				2,937.05				2,937.05
William Freeman	5/19	5/23	Czech Republic		1,400.00						1,400.00
	5/23	5/26	Slovakia								
			Commercial transportation				2,937.05				2,937.05
Committee total					4,200.00		8,811.15				13,011.15

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

KRISTI E. WALSETH, July 19, 1993.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO SOMALIA AND SWITZERLAND, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN MAY 28 AND JUNE 3, 1993

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Donald M. Payne	5/29	5/30	Kenya		200.00						200.00
	5/31	6/1	Kenya		200.00						200.00
Dorthy Jackson	5/29	5/30	Kenya		200.00						200.00
	5/31	6/1	Kenya		200.00						200.00
Richard Thigpen	5/29	5/30	Kenya		200.00						200.00
	5/31	6/1	Kenya		200.00						200.00
Frank Kiehne	5/29	5/30	Kenya		200.00						200.00
	5/31	6/1	Kenya		200.00						200.00
Donald M. Payne	6/1	6/3	Switzerland	200	140.20						280.40
Dorthy Jackson	6/1	6/3	Switzerland	200	140.20						280.40
Richard Thigpen	6/1	6/3	Switzerland	200	140.20						280.40
Frank Kiehne	6/1	6/3	Switzerland	200	140.20						280.40
Donald M. Payne	5/28	6/3	Kenya, Somalia, and Switzerland				7,517.45				
Dorthy Jackson	5/28	6/3	Kenya, Somalia, and Switzerland				7,517.45				
Richard Thigpen	5/28	6/3	Kenya, Somalia, and Switzerland				7,517.45				
Frank Kiehne	5/28	6/3	Kenya, Somalia, and Switzerland				6,539.45				

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO SOMALIA AND SWITZERLAND, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN MAY 28 AND JUNE 3, 1993—Continued

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Committee total					2,721.60		29,091.80				31,813.40

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

DONALD M. PAYNE, July 15, 1993.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO VIETNAM, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN MAY 30 AND JUNE 3, 1993

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Hon. Lane Evans	5/30	5/31	Thailand		120.08		(3)				120.08
	5/31	6/1	Vietnam		70.89		(3)				70.89
	6/1	6/2	Hong Kong		166.64		(3)				166.64
Hon. Pete Peterson	5/30	5/31	Thailand		163.00		(3)				163.00
	5/31	6/1	Vietnam		142.00		(3)				142.00
	6/1	6/2	Hong Kong		243.00		(3)				243.00
Hon. Dana Rohrabacher	5/30	5/31	Thailand		150.00						150.00
	5/31	6/2	Vietnam		393.00		(4)				393.00
	6/2	6/3	Taiwan		70.00		2,514.45				2,584.45
Thomas A. O'Donnell	5/30	5/31	Thailand		148.35		(3)				148.35
	5/31	6/1	Vietnam		56.23		(3)				56.23
	6/1	6/2	Hong Kong		166.64		(3)				166.64
Suzanne F. Farmer	5/30	5/31	Thailand		163.00		(3)				163.00
	5/31	6/1	Vietnam		142.00		(3)				142.00
	6/1	6/2	Hong Kong		243.00						243.00
Paul Bearends	5/30	5/31	Thailand		315.86		(5)				315.86
	5/31	6/2	Vietnam		535.00		(5)				535.00
	6/2	6/3	Taiwan		70.00		[4] 1,246.45				1,316.45
Committee total					3,358.69		3,760.90				7,119.59

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

[3] Military.

[4] Commercial one way.

[5] Military one way.

LANE EVANS, June 29, 1993.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO ESTONIA, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JUNE 1 AND JUNE 6, 1993

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
William Holmes Brown	6/2	6/6	Estonia		700.00						700.00
Commercial transportation							3,297.45				3,297.45
Kristi Walseth	6/2	6/5	Estonia		550.00						550.00
Commercial transportation							3,305.45				3,305.45
Committee total					1,250.00		6,602.90				7,852.90

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

KRISTI E. WALSETH, July 1, 1993.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO IRELAND, NORTHERN IRELAND, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN MAY 31 AND JUNE 7, 1993

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Frank McCloskey	6/1	6/7	Ireland, North Ireland	906.37	1,368.00		3,005.45				4,373.45
Frederick Boucher	6/1	6/7	Ireland, North Ireland	906.37	1,368.00		3,005.45				4,373.45
Paul Weber	6/1	6/7	Ireland, North Ireland	906.37	1,368.00		3,005.45				4,373.45
Committee total					4,104.00		9,016.35				13,120.35

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

FRANK McCLOSKEY, June 24, 1993.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO POLAND, FINLAND, AND ESTONIA, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JUNE 14 AND JUNE 24, 1993

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Cathy Brickman	6/15	6/18	Poland		1,300.00						1,300.00
	6/18	6/20	Finland								
	6/20	6/24	Estonia								
Commerical air transportation							3,214.15				3,214.15
William Freeman	6/15	6/18	Poland		1,300.00						1,300.00
	6/18	6/20	Finland								
	6/20	6/24	Estonia								
Commerical air transportation							3,214.15				3,214.15
Committee total					2,600.00		6,428.30				9,028.30

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

KRISTI E. WALSETH, July 20, 1993.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, RONALD LASCH, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN MAY 4 AND MAY 7, 1993

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Ronald Lasch	5/4	5/7	Poland		406.00		2,871.15				3,277.15
Committee total					406.00		2,871.15				3,277.15

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

RONALD LASCH, May 27, 1993.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, NANCY A. PANZKE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JUNE 11 AND JUNE 15, 1993

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Nancy A. Panzke	6/12	6/15	Poland		492.00		(3)				492.00
Committee total					492.00		(3)				492.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Via military aircraft.

NANCY A. PANZKE, July 13, 1993.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, PETER ABBRUZZESE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JUNE 20 AND JUNE 24, 1993

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Peter Abbruzzese	6/20	6/23	Ukraine		576.00						576.00
	6/23	6/24	Germany		174.00						174.00
Commercial transportation							3,364.00				3,364.00
Committee total					750.00		3,364.00				4,114.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

PETER ABBRUZZESE, July 15, 1993.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO 89TH INTERPARLIAMENTARY CONFERENCE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 8 AND APR. 17, 1993

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Hon. Barbara Rose Collins	4/10	4/16	India		1,140.00		[3] 7,407.45				8,547.45
Hon. Eni Faleomavaega	4/10	4/15	India		950.00		[4] 3,441.15				4,391.15
Michele Manatt	4/8	4/17	India		1,330.00		[5] 1,820.85				3,150.85
Elizabeth Bergere	4/8	4/17	India		1,330.00		[5] 1,820.85				3,150.85
Delegation expenses:											
Control room									1,063.72		1,063.72
Embassy personnel (American and FSN) and office supplies for control room.									400.88		400.88
Committee total					4,750.00		14,490.30		1,464.60		20,704.90

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Commercial—Washington/New Delhi/Detroit.
[4] Commercial—Taiwan/New Delhi/Washington.
[5] Commercial—Washington/New Delhi/Washington.

ENI FALEOMAVAEGA, June 5, 1993.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO NORTH ATLANTIC ASSEMBLY, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN MAY 21 AND MAY 24, 1993

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Hon. Charlie Rose	5/21	5/24	Germany		879.00		(3)				879.00
Hon. Ronald Coleman	5/21	5/24	Germany		879.00		(3)				879.00
Hon. Cardiss Collins	5/21	5/24	Germany		879.00		(3)				879.00
Hon. Tom Lewis	5/21	5/24	Germany		879.00		(3)				879.00
Hon. J. Alex McMillan	5/21	5/24	Germany		879.00		(3)				879.00
Hon. Jan Meyers	5/21	5/24	Germany		879.00		(3)				879.00
Hon. Marge Roukema	5/21	5/24	Germany		879.00		(3)				879.00
Hon. Doug Bereuter	5/21	5/24	Germany		879.00		(3)				879.00
Hon. Tom Bliley	5/21	5/24	Germany		879.00		(3)				879.00
Hon. Jack Brooks	5/21	5/24	Germany		879.00		(3)				879.00
Hon. Ralph Regula	5/21	5/23	Germany		586.00		[3]1,624.43				2,210.43
Peter Abbruzzese	5/21	5/24	Germany		879.00		(3)				879.00
Hon. Gerald Solomon	5/21	5/24	Germany		879.00		(3)				879.00
Josephine Weber	5/21	5/24	Germany		879.00		[3]1,624.43				2,503.43
Mike Ennis	5/21	5/24	Germany		879.00		(3)				879.00
Ron Lasch	5/21	5/24	Germany		879.00		[3]1,624.43				2,503.43
Heidi Pender	5/21	5/24	Germany		879.00		(3)				879.00
Michael Poloyac	5/21	5/24	Germany		586.00		1,624.43				2,210.43
J. Walker Roberts	5/21	5/23	Germany		586.00		1,624.43				2,210.43
Robert Shea	5/21	5/24	Germany		879.00		(3)				879.00
Kurt Abendschein	5/21	5/24	Germany		879.00		(3)				879.00
Committee total					17,580.00		8,122.15				25,702.15

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

[3] Military transportation.

CHARLIE ROSE, July 23, 1993.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1675. A letter from the President and Chairman, Export-Import Bank of the United States transmitting a report involving United States exports to India, pursuant to 12 U.S.C. 635(b)(3)(i); to the Committee on Banking, Finance and Urban Affairs.

1676. A letter from the Deputy Director, Defense Security Assistance Agency, transmitting notification of the Departments of the Navy's proposed Letter(s) of Offer and Acceptance [LOA] to the Coordination Council of North American Affairs for defense articles and services (Transmittal No. 93-25), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

1677. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification of the Department of the Air Force's proposed Letter(s) of Offer and Acceptance [LOA] to the Coordination Council of North American Affairs for defense articles and services (Transmittal No. 93-26), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

1678. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting copies of the report of political contributions by James T. Laney, of Georgia, to be Ambassador to the Republic of Korea and members of his family, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

1679. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting copies of the report of political contributions by Richard Holbrooke, of New York, to be Ambassador to the Federal Republic of Germany, and members of his family, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

1680. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

1681. A letter from the Acting General Counsel, U.S. Arms Control and Disarmament Agency, transmitting the English language texts of eight threshold test ban treaty implementing agreements negotiated by the Bilateral Consultative Commission during its first four sessions; to the Committee on Foreign Affairs.

1682. A letter from the Chairman, Administrative Conference of the United States, transmitting for consideration a proposal to amend the Administrative Conference Act; to the Committee on the Judiciary.

1683. A letter from the National Commission on Judicial Discipline and Removal, transmitting the findings and conclusions of the Commission, pursuant to Public Law 101-650, section 415 (104 Stat. 5127; 106 Stat. 1118); to the Committee on the Judiciary.

1684. A letter from the Secretary of Transportation, transmitting a report on the surface transportation research and development plan, pursuant to Public Law 102-240, section 6009(b); to the Committee on Science, Space, and Technology.

1685. A letter from the Chairman, United States International Trade Commission, transmitting the 44th report for 1992 on the operation of trade agreements program, pursuant to 19 U.S.C. 2213(a); to the Committee on Ways and Means.

1686. A letter from the Chairman, U.S. International Trade Commission, transmitting its 74th quarterly report on trade between the United States and China, the successor States to the former Soviet Union, and other title IV countries during January–March 1993; to the Committee on Ways and Means.

1687. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a report describing efforts to encourage the Arab League countries to abandon formally and renounce publicly their boycott policies, pursuant to Public Law 102-391, section 598(b)(2)(c); jointly, to the Committees on Foreign Affairs and Appropriations.

1688. A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to amend the Hazardous Materials Transportation Act, and for other purposes; jointly, to the Committees on Public Works and Transportation and Energy and Commerce.

1689. A letter from the Comptroller General, General Accounting Office, transmitting the results of the audit of the principal financial statements of the U.S. Customs Service for 1992, pursuant to Public Law 101-576, section 304(a) (104 Stat. 2853); jointly, to the Committees on Ways and Means and Government Operations.

1690. A letter from the Comptroller General, General Accounting Office, transmitting the results of the audit of the principal financial statements of the Internal Revenue Service for 1992, pursuant to Public Law 101-576, section 304(a) (104 Stat. 2853); jointly, to the Committees on Ways and Means and Government Operations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. STUDDS: Committee on Merchant Marine and Fisheries. H.R. 704. A bill to regulate fishing in certain waters of Alaska (Rept. 103-201, Pt. 1). Ordered to be printed.

Mr. STUDDS: Committee on Merchant Marine and Fisheries. H.R. 2134. A bill to improve the conservation and management of interjurisdictional fisheries along the Atlantic coast by providing for greater cooperation among the States in implementing conservation and management programs, and for other purposes; with an amendment (Rept. 103–202). Referred to the Committee of the Whole House on the State of the Union.

Mr. STUDDS: Committee on Merchant Marine and Fisheries. H.R. 2495. A bill to direct the Secretary of the Interior to convey to the State of Ohio the Senecaville National Fish Hatchery (Rept. 103–203). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California. Committee on Natural Resources. H.R. 734. A bill to amend the act entitled "An act to provide for the extension of certain Federal benefits, services, and assistance to the Pascua Yaqui Indians of Arizona, and for other purposes" (Rept. 103–204). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California. Committee on Natural Resources. H.R. 1268. A bill to assist the development of tribal judicial systems, and for other purposes; with an amendment (Rept. 103–205). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on the Judiciary. H.R. 454. A bill to provide that a State court may not modify an order of another State court requiring the payment of child support unless the recipient of child support payments resides in the State in which the modification is sought, or consents to seeking the modification in such other State court; with an amendment (Rept. 103–206). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Natural Resources. S. 184. An act to provide for the exchange of certain lands within the State of Utah, and for other purposes; with amendments (Rept. 103–207). Referred to the Committee of the Whole House on the State of the Union.

Mr. FORD of Michigan. Committee on Education and Labor. H.R. 2339. A bill to amend the Technology-Related Assistance for Individuals with Disabilities Act of 1988 to authorize appropriations for each of the fiscal years 1994 through 1998; with amendments (Rept. 103–208). Referred to the Committee of the Whole House on the State of the Union.

Mr. FORD of Michigan. Committee on Education and Labor. H.R. 856. A bill to improve education in the United States by promoting excellence in research, development, and the dissemination of information; with an amendment (Rept. 103–209). Referred to the Committee of the Whole House on the State of the Union.

Mr. FAZIO: Committee of Conference. Conference report on H.R. 2348. A bill making appropriations for the legislative branch for the fiscal year ending September 30, 1994, and for other purposes (Rept. 103–210). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. VALENTINE:

H.R. 2820. A bill to authorize appropriations for the Federal Aviation Administration for fiscal years 1994, 1995, and 1996 for research, engineering, and development to increase the efficiency and safety of air transport; to the Committee on Science, Space, and Technology.

By Mr. GILMAN:

H.R. 2821 A bill to suspend until January 1, 1997, the duty on Ethambutol hydrochloride; to the Committee on Ways and Means.

H.R. 2822. A bill to suspend until January 1, 1997, the duty on Tazobactam; to the Committee on Ways and Means.

H.R. 2823. A bill to suspend until January 1, 1997, the duty on Leucovorin calcium powder; to the Committee on Ways and means.

By Mr. BLILEY:

H.R. 2824. A bill to modify the project for flood control, James River Basin, Richmond, VA; to the Committee on Public and Works and Transportation.

By Mr. CONYERS:

H.R. 2825. A bill to demonstrate the economy and efficiency of centralizing Federal job training programs; to the Committee on Education and Labor.

By Mr. ENGEL (for himself and Mr. PORTER)

H.R. 2826. A bill to provide for an investigation of the whereabouts of the United States citizens and others who have been missing from Cyprus since 1974; to the Committee on Foreign Affairs.

By Mr. HILLIARD:

H.R. 2827. A bill to amend the Appalachian Regional Development Act of 1965 to include in the definition of Appalachian region additional counties in the State of Alabama; to the Committee on Public Works and Transportation.

By Mr. INGLIS of South Carolina:

H.R. 2828. A bill to amend the Federal Campaign Act of 1971 to terminate political action committees in Federal office elections; to the Committee on House Administration.

By Mr. MILLER of California (for himself and Ms. SNOWE):

H.R. 2829. A bill to require employers to post, and to provide to employees individually, information relating to sexual harassment that violates title VII of the Civil Rights Act of 1964; and for other purposes; jointly, to the Committees on Education and Labor, Post Office and Civil Service, and House Administration.

By Ms. PELOSI (for herself, Mr. MINETA, Mr. BLACKWELL, and Mr. GUTIERREZ):

H.R. 2830. A bill to grant special immigrant status to immediate relatives of Filipino veterans of World War II, and for other purposes; to the Committee on the Judiciary.

By Ms. SCHENK:

H.R. 2831. A bill to establish the Office of Economic Conversion Information within the Department of Commerce, and for other purposes; jointly, to the Committees on Energy and Commerce and Armed Services.

By Ms. SHEPHERD (for herself, Mr. BROWN of Ohio, Mr. MILLER of California, Mrs. LOWEY, Mr. HUGHES, Mr. FROST, Mr. FILNER, Ms. NORTON, and Ms. ESHOO):

H.R. 2832. A bill to amend title I of the Employee Retirement Income Security Act of 1974 to require clear and concise notification to participants and beneficiaries under a group health plan of the right of the employer to terminate such plan and to otherwise revise the type and amount of benefits provided thereunder, and to provide for civil enforcement of such requirement; to the Committee on Education and Labor.

By Mr. TOWNS:

H.R. 2833. A bill to require the Secretary of the Interior to conduct a survey and investigation of the site containing the graves of American Revolutionary War soldiers and sailors, located on a section of the Brooklyn Navy Yard in the city of New York; to the Committee on Natural Resources.

By Mr. CONYERS:

H. Con. Res. 130. Concurrent resolution expressing the sense of the Congress regarding the formulation of an arms security policy for the United States; to the Committee on Foreign Affairs.

By Mr. DINGELL:

H. Res. 232. Resolution expressing the profound sorrow of the House of Representatives on the death of the Honorable Paul B. Henry, a Representative from the State of Michigan; considered and agreed to.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 54: Mr. ENGEL.

H.R. 55: Mr. MARKEY, Mr. OLVER, and Mr. MORAN.

H.R. 94: Mr. SCHAEFER.

H.R. 396: Mr. KIM.

H.R. 559: Mr. DEUTSCH, Mr. WAXMAN, Mr. STUPAK, Mr. LEWIS of Georgia, and Mr. VALENTINE.

H.R. 560: Mr. BOEHLERT.

H.R. 711: Mr. JOHNSTON of Florida.

H.R. 741: Mrs. FOWLER.

H.R. 966: Mr. KILDEE, Mr. REYNOLDS, and Mr. CLAY.

H.R. 1078: Mr. CANADY.

H.R. 1080: Mr. GOODLATTE, Mr. JACOBS, and Mr. CANADY.

H.R. 1082: Mr. CANADY.

H.R. 1083: Mr. GOODLATTE, Mr. JACOBS, and Mr. CANADY.

H.R. 1103: Mr. OBERSTAR.

H.R. 1141: Mr. POMEROY, Mr. PACKARD, and Mr. GALLEGLY.

H.R. 1164: Mr. HORN, Mr. FRANK of Massachusetts, and Mr. FARR.

H.R. 1181: Ms. SHEPHERD.

H.R. 1191: Mr. GOODLATTE.

H.R. 1219: Mr. MANTON, Mr. HASTINGS, Mr. ZIMMER, and Mr. SERRANO.

H.R. 1314: Mr. CONYERS.

H.R. 1332: Mr. BLILEY.

H.R. 1493: Mr. OLVER.

H.R. 1534: Mr. WISE and Ms. BYRNE.

H.R. 1583: Mr. SPRATT, Mr. EMERSON, Mr. GOSS, and Mr. APPLEGATE.

H.R. 1604: Mr. CASTLE.

H.R. 1627: Mr. GUTIERREZ, Mr. COLLINS of Georgia, and Mr. DUNCAN.

H.R. 1687: Mr. SANDERS and Mr. PETERSON of Minnesota.

H.R. 1733: Mr. ENGEL.

H.R. 1734: Mr. WYNN, Mr. WAXMAN, Mr. ENGEL, Ms. FURSE, and Mr. JOHNSTON of Florida.

H.R. 1738: Mr. MINETA.

H.R. 1753: Mr. MEEHAN.

H.R. 1755: Mr. MEEHAN.

H.R. 1786: Mr. WASHINGTON.

H.R. 1796: Mr. ZELIFF, Mrs. VUCANOVICH, Mr. RAMSTAD, Mr. REED, Mr. PETERSON of Minnesota, Mr. RAVENEL, Mr. BILBRAY, Mr. ROGERS, and Mr. QUINN.

H.R. 1808: Mr. BERMAN, Mr. DELLUMS, Mr. BLACKWELL, Mr. FILNER, Ms. BYRNE, BRYANT, Mr. HUGHES, Mr. ACKERMAN, Mr. BONIOR, Mrs. COLLINS of Illinois, Mr. FROST, Mr. BEILENSON, Mr. BILBRAY, Mr. BROWN of California, Mr. DE LUGO, Mr. FISH, Mr. EDWARDS of California, Mr. EVANS, Mr. FRANK of Massachusetts, Ms. KAPTUR, Mr. MARKEY, Mr. LEHMAN, Mr. MACHTLEY, Mr. MINETA, Mrs. MORELLA, Mr. OWENS, Ms. PELOSI, Mr. SERRANO, Mrs. LOWEY, Mr. MILLER of California, Mr. MORAN, Mr. POSHARD, Mr. RAVENEL, Mr. OLVER, Ms. ROS-LEHTINEN, Mr. SYNAR, Mr. VENTO, Mr. WALSH, Mr. WAXMAN, Mr. WYDEN, Mrs. UNSOELD, and Ms. WATERS.

H.R. 1809: Mr. BERMAN, Mr. DELLUMS, Ms. SLAUGHTER, Mr. VENTO, Mr. FILNER, Mr.

HUGHES, Ms. BYRNE, Mr. BRYANT, Mr. FISH, Mr. ACKERMAN, Mr. BONIOR, Mr. BEILENSON, Mr. BILBRAY, Mr. BROWN of California, Mr. DE LUGO, Mr. EDWARDS of California, Mr. EVANS, Mr. FRANK of Massachusetts, Ms. KAPTUR, Mr. MARKEY, Mr. LEHMAN, Mr. MACHTLEY, Mr. MINETA, Mrs. MORELLA, Mr. OWENS, Ms. PELOSI, Mr. SERRANO, Ms. LOWEY, Mr. LIPINSKI, Mr. MILLER of California, Mr. MORAN, Mr. POSHARD, Mr. RAVENEL, Ms. ROS-LEHTINEN, Mr. WALSH, Mr. WAXMAN, Mr. WYDEN, Mrs. UNSOELD, and Ms. WATERS.

H.R. 1810: Mr. SHAYS, Mr. BERMAN, Mr. DELLUMS, Mr. FISH, Mr. LIPINSKI, Mr. OLVER, Mr. FILNER, Mr. BRYANT, Mr. ROMERO-BARCELO, Mr. ACKERMAN, Mr. BONIOR, Mrs. COLLINS of Illinois, Mr. BEILENSON, Mr. BILBRAY, Mr. BROWN of California, Ms. BYRNE, Mr. DE LUGO, Mr. HUGHES, Mr. EDWARDS of California, Mr. EVANS, Mr. FRANK of Massachusetts, Ms. KAPTUR, Mr. MARKEY, Mr. LEHMAN, Mr. MACHTLEY, Mr. MINETA, Mrs. MORELLA, Mr. OWENS, Ms. PELOSI, Mr. SERRANO, Ms. LOWEY, Mr. MILLER of California, Mr. MORAN, Mr. POSHARD, Mr. RAVENEL, Ms. ROS-LEHTINEN, Mr. VENTO, Mr. WALSH, Mr. WAXMAN, Mr. WYDEN, Mrs. UNSOELD, Ms. WATERS, and Mr. WYNN.

H.R. 1877: Mr. MCDERMOTT, Ms. MCKINNEY, and Mr. KLINK.

H.R. 1900: Mrs. SCHROEDER, Mr. PETERSON of Minnesota, Mr. ACKERMAN, Mr. COOPER, Miss COLLINS of Michigan, Mr. ENGLISH of Oklahoma, and Ms. BYRNE.

H.R. 1923: Mr. FROST.

H.R. 2088: Mr. BAKER of Louisiana, Mr. CAMP, Mr. EVANS, Mr. FIELDS of Texas, Mr. GOODLING, Mr. HASTERT, Mr. HAYES, Mr. HERGER, Mr. HOBSON, Mr. HOUGHTON, Mr. KLUG, Mr. MCKEON, Mr. MCCOLLUM, Mr. ROBERTS, and Mr. ZELIFF.

H.R. 2121: Mr. CALVERT, Mr. SHAW, Mr. CASTLE, Mr. SMITH of Oregon, Mr. BONILLA, Mr. MARKEY, Ms. SCHENK, Mr. HUNTER, Mrs. MEYERS of Kansas, Mr. PORTER, Mrs. JOHNSON of Connecticut, Ms. LAMBERT, Mr. EDWARDS of Texas, Mr. NEAL of Massachusetts, Mr. QUILLEN, Mr. KOLBE, Mr. FISH, Mr. BACCHUS of Florida, Mr. THOMPSON, Mr. INGLIS of South Carolina, Mr. BLILEY, Mr. TANNER, and Mr. CRAPO.

H.R. 2151: Mr. HAMBURG, Mr. BORSKI, Mr. SOLOMON, Mr. ANDREWS of New Jersey, Mr. MCCLOSKEY, and Mr. HOYER.

H.R. 2253: Mr. GINGRICH.

H.R. 2276: Mr. GUTIERREZ.

H.R. 2292: Mr. ROWLAND, Mr. MORAN, Mr. KINGSTON, and Mr. WELDON.

H.R. 2350: Ms. ROYBAL-ALLARD, Mr. FILNER, and Mr. HASTINGS.

H.R. 2370: Mr. HASTINGS.

H.R. 2417: Mr. WILLIAMS and Mr. TAYLOR of North Carolina.

H.R. 2434: Mr. ROYCE.

H.R. 2447: Mr. EVANS, Mr. COPPERSMITH, Mr. WILSON, and Mrs. UNSOELD.

H.R. 2500: Mr. BOUCHER.

H.R. 2547: Mr. GILCHREST and Mr. FILNER.

H.R. 2597: Mr. EVANS.

H.R. 2602: Mr. BAKER of Louisiana.

H.R. 2640: Mrs. CLAYTON.

H.R. 2655: Mr. MINGE.

H.R. 2668: Mr. KLEIN.

H.R. 2684: Mr. LAUGHLIN, Mr. CASTLE, Mr. BATEMAN, and Ms. ESHOO.

H.R. 2735: Mr. MANN, Mr. GUTIERREZ, and Mr. MAZZOLI.

H.R. 2741: Mr. GALLO, Mr. HOCHBRUECKNER, Mr. WALSH, and Mr. KLEIN.

H.R. 2786: Mr. SMITH of New Jersey and Mr. HYDE.

H.J. Res. 86: Mr. SCOTT, Ms. VELAZQUEZ, Mr. QUINN, Ms. MOLINARI, Mr. RAMSTAD, Mr. ACKERMAN, Mr. STOKES, Mr. HAYES, and Mr. OXLEY.

H.J. Res. 106: Mr. BARTLETT of Maryland and Mr. BEILENSON.

H.J. Res. 129: Mr. GOODLATTE.

H.J. Res. 145: Mr. LIPINSKI, Mr. HUNTER, Mr. SAXTON, Mr. REGULA, Mr. PORTER, and Mr. FAWELL.

H.J. Res. 155: Mr. LEVIN, Mr. TORRICELLI, Mr. PETERSON of Florida, Ms. KAPTUR, Mr. SAWYER, Mr. GREENWOOD, Mr. HASTINGS, Mr. RAVENEL, Mr. BARCA of Wisconsin, Mrs. VUCANOVICH, Mr. APPELGATE, Mr. FAZIO, Mr. KLECZKA, Mr. RANGEL, Mr. BREWSTER, Ms. MOLINARI, Mr. HANSEN, Mr. HUTTO, Mr. SMITH of SKEEN, Mr. CALLAHAN, Mr. CONYERS, Mr. DE LUGO, Mr. STOKES, Mr. CLEMENT, Mr. MINETA, Mr. DE LA GARZA, Mr. CAMP, Mr. NATCHER, Mr. DEFAZIO, Mr. SPENCE, Mrs. MORELLA, Mr. HYDE, and Mr. NEAL of North Carolina.

H.J. Res. 157: Mr. HAMILTON, Mr. ORTIZ, Mr. RANGEL, Mr. MURPHY, Mr. SWETT, Mr. FARR, and Mr. BROWN of Ohio.

H.J. Res. 185: Ms. DANNER, Mr. DEFAZIO, Mr. FRANKS of Connecticut, Mr. HAMBURG, Mr. HAMILTON, Mr. MATSUI, Mr. NATCHER, Mr. POSHARD, Mr. VOLKMER, Ms. WOOLSEY, and Mr. YATES.

H.J. Res. 202: Ms. ESHOO.

H.J. Res. 245: Mr. THOMAS of Wyoming, Mr. KNOLLENBERG, Mr. CONDIT, Mr. STEARNS, Mr. DICKEY, Mr. BALLENGER, and Mr. CAMP.

H. Con. Res. 73: Mr. HINCHEY.

H. Con. Res. 109: Mr. WYNN, Mr. GILCHREST, Mr. COOPER, Mr. SKEEN, Mr. FAZIO, Mrs. VUCANOVICH, Mr. SANDERS, Mr. BILBRAY, Mr. HOUGHTON, Mr. ORTON, Mr. BARCIA of Michigan, Mrs. BENTLEY, Mr. BROWDER, Mr. SAWYER, Mr. SABO, Mr. KINGSTON, Mr. BILIRAKIS, Mr. HEFLEY, Mr. FORD of Michigan, Mr. BOEHLERT, Mr. MOAKLEY, Mr. ZIMMER, Mr. GALLO, Mr. SHARP, Mr. VALENTINE, Mr. HANSEN, Mr. KREIDLER, and Mr. GEPHARDT.

H. Con. Res. 118: Mr. UPTON.

H. Con. Res. 121: Mr. HORN and Mr. GENE GREENof Texas.

H. Res. 174: Mr. GOODLATTE and Mr. GILLMOR.

H. Res. 175: Mr. MICHEL.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2330

By Mr. GOSS:

—Page 30, after line, 3, add the following:

SEC. 306. DISCLOSURE OF CLASSIFIED INFORMATION BY MEMBERS OF CONGRESS.

During the fiscal year 1994, no element of the United States Government for which funds are authorized in this Act may provide any classified information concerning or derived from the intelligence or intelligence related activities of any such element to a Member of the House of Representatives unless and until a copy of the following oath of secrecy has been signed by that Member and has been published in the Congressional Record:

"I do solemnly swear that I will not willfully directly or indirectly disclose to any unauthorized person any classified information received from any department of the Government funded in the Intelligence Authorization Act for Fiscal Year 1994 in the course of my duties as a Member of the United States House of Representatives, except pursuant to the Rules and Procedures of the House.".

EXTENSIONS OF REMARKS

IN SUPPORT OF MENTORING PROGRAMS

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, August 2, 1993

Mr. ENGEL. Mr. Speaker, I would like to bring to the attention of my colleagues an article by Judy Mann which appeared in the July 16, 1993, edition of the Washington Post. The article, entitled "The Difference Mentors Can Make" touches on the importance mentoring programs can play in educating children of high risk.

Mrs. Matilda R. Cuomo, wife of the Governor of my home State, is a primary advocate for mentoring programs and has been extremely successful in establishing a mentoring program in New York State. Mentoring is an effective, early prevention strategy to help children in grades K–8 to improve their self-esteem, broaden their vision of opportunities, and apply themselves in school by matching them with caring adult volunteers on a 1-to-1 basis. After only 4 years in existence, the New York State Mentoring Program has reached 2,000 New York children, giving priority to children currently in the foster care system.

I had the opportunity to speak with Mrs. Cuomo a few weeks ago. Her enthusiasm for this worthwhile program was certainly catching. As a former teacher, I have long been aware of the importance that positive role models and adult guidance play in the development of children. That is why I look forward to using New York State's Mentoring Program as a model for the Nation during reauthorization of the Elementary and Secondary Education Act.

I encourage my colleagues to read Judy Mann's article. Clearly, mentoring is a cost efficient and highly successful way to reach our Nation's children who are most at risk of falling through the cracks.

[From the Washington Post, July 16, 1993]

THE DIFFERENCE MENTORS CAN MAKE

(By Judy Mann)

Officials from 15 states met in Michigan last week to discuss ways to improve their systems for adopting children. Matilda R. Cuomo was the only "first spouse" there.

This will come as no surprise to those who have watched the wife of New York Gov. Mario M. Cuomo emerge as a pioneer in state efforts to help families get back on their feet and children stay on the right track for success in life.

As a mother of five, Mrs. Cuomo brings a practiced wisdom to her state's efforts, which are being supported by $1 billion in state funds this fiscal year. The Decade of the Child, as the initiative is known in New York, was launched by Gov. Cuomo in 1988 and so far has received $4 billion in state funding. This is no Band-Aid effort. And like President Clinton, Cuomo has turned to one of his most trusted and high-profile advisers to help him attack one of society's most difficult problems.

From the time a child is born into a high-risk family to the time he graduates from high school, the state has programs to help both him and his parents break cycles of welfare dependency and poverty.

One of the state's success stories is the mentoring program Mrs. Cuomo put together four years ago to match youngsters in kindergarten through eighth grade with adults who were willing to meet with them for a minimum of four hours a month. She has mentored two children herself. The first, Elie Delgado, now is in her second year of high school and has a summer job.

"On both sides of her family, nobody reached the fourth grade," said Mrs. Cuomo. Elie's mother received training in secretarial and computer skills through a state program and is working for Catholic Charities. "Elie said to me, 'My mother has a job!' That severed the tie to public assistance," Mrs. Cuomo said, adding that it gives the child a sense of independence when she can see her parent working.

The mentoring program now serves 2,000 children, and those who are in foster care get priority. Because of the devastating impact of drugs on parents during the last 10 years, the children who are entering foster care and become eligible for adoption often are older than they have been in the past. Mrs. Cuomo is spearheading attempts to speed up adoptions so that those children can get on with their lives without spending years in the limbo of foster care.

There are 1,000 children waiting for adoption. Mrs. Cuomo says the state's goal is to place children in adoptive homes within a year after their own families break down. New York helps adoptive families by providing counseling and subsidies that are based on income. The state recently won a $100,000 grant from the Kellogg Foundation to explore ways to improve the adoption system.

New York state's problems are far more severe and complex than those of many other states. Its 18 million residents come from 131 countries and speak 178 languages, according to Mrs. Cuomo. Many families don't know what help is available. In addition, many of them have a tradition of turning to their extended families for help instead of turning to government agencies.

For these families in particular, the mentoring program can provide a bridge to self-sufficiency. Mentors not only tutor the children, they can serve as an extended family and help point adults in the direction of services and programs. Often, says Mrs. Cuomo, mentors remain attached to the family long after the official mentoring relationship is over. They end up doing things such as helping youngsters fill out applications and work their way through teenage rebellions. "I went through it with five kids," said Mrs. Cuomo. "There is a lot of resentment [within families.] That's when the child needs some hope."

Intern and apprentice programs are being developed so that high school youngsters understand "that there is something for them to do," she adds. "They get tuned out. We lose that thread of enthusiasm. They give up hope. They listen to the wrong party. School absenteeism becomes a bad habit. Once the marks go down, they lose all kinds of enthusiasm and the encouragement to go to school."

Matilda Cuomo understands how hard it is to raise youngsters in the best of circumstances, and she also knows there are no quick fixes, but she also is convinced that there is at least one approach that works. "Mentoring," she said, "is an answer. It is a solution for families that don't have it together. It is going to make a marked difference in the future for children and their families."

UNITED STATES POLICY TOWARD UKRAINE

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 2, 1993

Mr. HAMILTON. Mr. Speaker, on May 13, 1993, I wrote to Ambassador Strobe Talbott concerning United States policy toward Ukraine. It is my firm view that the United States needs a policy that treats Ukraine as a separate, important country, focuses on support for political and economic reform, and finds creative ways to engage Ukraine on security issues.

On July 27, 1993, I received a reply from the Department of State, and I would like to bring the administration's response to the attention of my colleagues. The text of the correspondence follows:

U.S. DEPARTMENT OF STATE,
Washington, DC, July 27, 1993.

Hon. LEE H. HAMILTON,
Chairman, Committee on Foreign Affairs, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: This is in response to your letter of May 13 to Ambassador Talbott, in which you propose measures for demonstrating that the U.S. is committed to treating Ukraine as an important international partner. I regret the delay in our reply.

We certainly share your views on the importance of building a better dialogue with Ukraine, and we are trying to demonstrate to Ukraine that our relations do consist of more than START and the NPT. In emphasizing carrots as well as sticks, however, we cannot lose sight of the fact that Ukraine does still have a commitment that it must fulfill. We will do nothing to suggest that Ukraine stands to gain by not taking action on the treaties.

We are working diligently to make clear that our relationship with Ukraine is not derivative of our Russia policy. It would be inaccurate to adopt the notion frequently expressed in Kiev, that the U.S. looks at Ukraine through "Moscow eyes." Nothing could be farther from the truth. Our consulate general, now embassy, in Kiev has been a critical link in giving us the Ukrainian point of view. We look at Ukraine through "American eyes in Kiev."

We established a USAID mission in Ukraine in September 1992. Although it services Moldova and Belarus as well, the mission's primary focus is Ukraine. You know, of course, that the FREEDOM Support Act deliberately created a regional assistance approach for the NIS in order to administer the program as a coordinated whole. The Administration and the Department remain committed to this regional approach.

Ukraine-specific programs, nevertheless, do exist. In all the NIS, we attempt to tailor programs to needs. The U.S. has provided over $16.5 million worth of humanitarian assistance to Ukraine, much of it to assist Chernobyl victims and in response to Ukrainian government requests generated by recent diphtheria outbreaks and shortage of measles vaccine and insulin. This effort represents just a portion of our humanitarian assistance effort.

The size of the U.S. technical assistance program in Ukraine is second only to Russia's among the NIS. All the programs in this substantial assistance effort in some way promote political and economic reform and many are specific to Ukraine.

We have announced plans for the creation of an Enterprise Fund for Ukraine for equity investments and small loans, in part to facilitate the defense conversion process. We are assisting the Government of Ukraine to develop a privatization plan and draft privatization legislation, have funded privatization actions, and have provided financial reform advisors. A multi-sector OPIC country-specific investment mission comprised of 22 U.S. companies visited five Ukrainian cities in May. Our democratization programs have touched all sectors in this area from rule of law to developing an independent media. The Peace Corps is well established and concentrating on small business development. USIA has opened an American House and the Department of Commerce has established a Commercial Office.

Once Ukraine has approved START and NPT, we are prepared to provide them certain security assurances, based on CSCE undertakings and our long-standing positive and negative assurances given to all NPT parties. The UK and Russia will issue similar assurances. We have also informed Kiev that we are prepared to begin work on a bilateral charter that would elaborate the fundamental principles of U.S.-Ukraine relations in the political, economic and security spheres. Such a charter might be signed at the highest level following Ukraine's ratification of START I and accession to the NPT as a nonnuclear state.

During his recent visit to Kiev, Secretary Aspin also described to Ukrainian Minister of Defense Morozov the types of expanded defense and military contacts we want to have with Ukraine—very much along the lines you outlined in your letter. Improved U.S.-Ukrainian defense and military relations will not depend entirely on ratification of START and adherence to the NPT and will begin with Minister Morozov's visit to Washington in July. Nevertheless, we have stressed the importance of fulfilling their commitments to the Government of Ukraine. We firmly believe that a closer, broader partnership with Ukraine will benefit both our countries, and closer defense and military ties will certainly address some of Ukraine's security concerns and may smooth the way for treaty ratification.

Thank you again for your letter and your suggestions; I hope this information is useful to you. If you or your staff should have any further questions, please contact me or my office.

Sincerely,

WENDY R. SHERMAN,
Assistant Secretary,
Legislative Affairs.

COMMITTEE ON FOREIGN AFFAIRS,
Washington, DC, May 13, 1993.

Hon. STROBE TALBOTT,
Ambassador-at-Large for the Newly Independent States, U.S. Department of State, Washington, DC.

DEAR MR. AMBASSADOR: I write concerning U.S. policy towards Ukraine. I am concerned that U.S. policy to achieve Ukrainian ratification of START and approval of the Non-Proliferation treaty is not working. I believe that the U.S. must move quickly to reshape a policy towards Ukraine that is better able to protect and promote U.S. and Ukrainian interests. I welcome the reports of your recent trip to the Ukraine and look forward to exchanging views with you on this key issue.

The U.S. has important interests in reversing the current trend in Ukraine away from ratification of the START treaty. We must treat Ukraine as a separate, important country, work harder to support its economic and political reform and find creative ways to engage Ukraine on security issues.

Specifically:

We must make a greater effort to treat Ukraine as a separate and important entity. U.S. officials should speak out publicly and frequently to dispel that notion that our policy is focussed exclusively on Russia. We must make it clear that our policy toward Ukraine is not a derivation of our policy toward Russia;

We must initiate a larger, more effective assistance program for Ukraine that promotes political and economic reform and is country-specific to Ukraine. To start, the U.S. should establish a separate, viable AID mission in Ukraine and develop separate Ukraine-specific foreign assistance figures and programs; and,

We must find new, creative ways to address Ukraine's security concerns. We should expand Ukrainian access to military training courses in the U.S. and at NATO headquarters. We should send training teams to help Ukraine design a strategy and doctrine for its self-defense forces. We should send U.S. ships and planes to make goodwill visits to Ukrainian ports.

The purpose of such steps is to begin to establish a better working dialogue with Ukraine and to begin to address some of its legitimate security concerns. Without appropriate security assurances, Ukraine will not ratify START. In the final analysis, a policy of persuasion on START will require carrots as well as sticks.

I appreciate your consideration on this matter.

With best wishes.

Sincerely,

LEE H. HAMILTON,
Chairman.

A TRIBUTE TO THREE OUTSTANDING NEW JERSEY ATHLETES

HON. HERB KLEIN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, August 2, 1993

Mr. KLEIN. Mr. Speaker, I rise to pay special tribute to three outstanding men who have excelled in college basketball. Luther Wright and Lennox Dominique "Terry" Dehere were star basketball players at Seton Hall University in New Jersey under the guidance of renowned head coach P.J. Carlesimo.

Luther Wright, of Elizabeth, NJ, was recently drafted by the Utah Jazz NBA Basketball Team. The degree of excellence he achieved was steadily built during a career of New Jersey basketball. Wright had proved to be one of the top high school players in the country, earning All-America honors at Elizabeth High School. He progressed to Seton Hall University where he became a starting center under the coaching expertise of P.J. Carlesimo. Wright's basketball career consists of impressive statistics and honors. In his sophomore year, he was Seton Hall's leading rebounder and shot blocker and was second on the team in both steals and field goal percentage. Over the course of his college career, he was named Player of the Game by CBS–TV and Most Valuable Player in the Seton Hall Meadowlands Tournament. IN 1991, he was also a member of the USA Basketball Team which won a gold medal at the World University Games. All are confident that Luther Wright's abilities will mature and improve throughout his professional basketball career, beginning next season with the Utah Jazz.

Equally as promising is the budding career of Terry Dehere, a former Seton Hall player as well. He was selected by the LA Clippers in the 1993 NBA draft. Due to his outstanding performance in Jersey City's St. Anthony High School, Dehere advanced to college basketball as a guard on Seton Hall's team. His 1992–93 Player of the Year title in the Big East and the Pre-Season Player of the Year title preceding it were well-earned. By his sophomore year, he was already making history, setting a school record of 105 three-pointers and being the first Seton Hall sophomore to reach 1,000 points. During the following season, Dehere was among the Big East's top 10 in scoring, field goal percentage, free-throw percentage, and three-point field goals per game. At the conclusion of his college career, he won the Dave Gavitt Trophy as the Most Valuable Player in the Big East Tournament, he led Seton Hall in scoring for his fourth consecutive year, and became the leading scorer among all players of all time at all Big East institutions. With a record this impressive, it comes as no surprise that he was the first active player to have his uniform No. 24 retired at Seton Hall. Dehere's future is anticipated to be this bright in the NBA this winter as well.

The phenomenal athletic and personal achievements of Wright and Dehere cannot be fully appreciated however, without giving credit to their coach and mentor, P.J. Carlesimo, the head basketball coach at Seton Hall University. Mr. Carlesimo, whose tenure as head coach of the Seton Hall Pirates began in 1982, resides in East Orange, NJ. His achievements to date are reflective of his keen interpersonal and coaching skills that help him to command great respect both on and off the basketball court. During the summer of 1993, Mr. Carlesimo will serve as head coach of Team USA, a squad of exceptional college basketball players. During the 1992–93 season, he guided the Pirates to the status of Big

East Regular Season and Tournament Champions. Prior to this successful season in South Orange, he acted as assistant coach of the 1992 USA Basketball Olympic team. Between 1991 and 1992, Mr. Carlesimo was named N.J. College Basketball Associations Coach of the Year, took the Pirates to the position of Big East regular season tri-champs, and led Seton Hall to the top-seed position as they entered the 1992 Big East Tournament. In 1992, he acted as the head coach of the USA Basketball World University Games Team.

The 1990–91 basketball season proved to be quite memorable for Mr. Carlesimo as well. During this time, Seton Hall rose to the occasion and became the Big East Conference champion and ECAC Division I Team of the Year. To culminate this excellent period, he was also named the assistant coach of the USA Olympic Team. Between 1988–1989, he was named Consensus National Coach of the Year, Big East Conference Coach of the Year, and the Metropolitan Basketball Writers Coach of the Year. Also during the 1988–1989 season, Mr. Carlesimo helped guide Seton Hall to the NCAA Final Four—the first time that the college was ever in this tournament.

Mr. Speaker, I commend Luther Wright, Lennox Dominique "Terry" Dehere, and P.J. Carlesimo for their continuing dedication and excellence to the sport of basketball. This commitment to the sport has been a source of pride to their communities and the State of New Jersey.

INFORMATION ON FINANCIAL BENEFITS ACT OF 1993

HON. DAN GLICKMAN

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Monday, August 2, 1993

Mr. GLICKMAN. Mr. Speaker, as a member of the House Judiciary subcommittee that is working on the issue of lobbying disclosure, I am introducing a bill today to require lobbyists to specifically disclose the gifts they provide to Members of Congress and their staffs. The bill is identical to legislation introduced by Senator PAUL WELLSTONE of Minnesota. The public has the right to know who is giving what to whom—and with greater specificity than we presently require. We've said it before and it is certainly appropriate here: sunshine is the best disinfectant.

My bill would require lobbyists to report, on an itemized basis, the gifts, meals, tickets, entertainment, and other financial benefits that they give or provide to Members and their staff. The bill includes all gifts over $20 per occasion or a combined amount of $50 in a calendar year. Current law does not require itemized disclosure by lobbyists, although Members of Congress are subject to disclosure of certain gifts under current ethics laws. This bill will insure the public is aware of all gifts.

The time has come for real reform. We must require full and meaningful disclosure of gifts given by lobbyists instead of allowing them to issue a general aggregate sum of all money spent on congressional lobbying. The Judiciary Committee will be considering the Lobbying Disclosure Act soon, and I hope that this bill can be a part of that effort. I know that as a member of this House and of the Judiciary Committee, I will be working to bring about meaningful lobbying reform. I hope my colleagues will join me.

INFORMATION ON FINANCIAL BENEFITS ACT OF 1993

SECTION 1. SHORT TITLE.

This Act may be cited as the "Information on Financial Benefits Act of 1993."

SECTION 2

(1) IN GENERAL—In addition to information required by law to be disclosed by registered lobbyists (herein known as "registrants"), each registrant shall include in its semiannual reports under subsection (a) or in a separate report on financial benefits, subject to the same filing requirements, as set out in lobbying disclosure law, a list of each individual financial benefit provided directly or indirectly by a registrant (including a financial benefit provided by a lobbyist employed by or a lobbyist who is a member of a registrant) to a covered legislative branch official, to an entity that is established, maintained, controlled, or financed by a covered legislative branch official, or to any other person or entity on behalf of or in the name of a covered legislative branch official, disclosing—

(A) with respect to each financial benefit other than one described in subparagraph (B), (C), or (D);

(i) the name and position of the covered legislative branch official or other person or entity to whom or which the financial benefit was provided;

(ii) the nature of the financial benefit;

(iii) the date on which the financial benefit was provided; and

(iv) the value of the financial benefit;

(B) with respect to each financial benefit that is in the form of a conference, retreat, or similar event for or on behalf of covered legislative branch officials that is sponsored by or affiliated with an official congressional organization.

(i) the nature of the conference, retreat, or other event;

(ii) the date or dates on which the conference, retreat, or other event occurred;

(iii) the identity of the organization that sponsored or is affiliated with the event; and

(iv) a single aggregate figure for the expenses incurred by the registrant in connection with the conference, retreat, or similar event;

(C) with respect to each financial benefit that is in the form of an event that is hosted or cohosted with or in honor of 1 or more covered legislative branch officials—

(i) the name and position of each such covered legislative branch official;

(ii) the nature of the event;

(iii) the date on which the event occurred; and

(iv) the expenses incurred by the registrant in connection with the event; and

(D) with respect to each financial benefit that is in the form of election campaign fundraising activity—

(i) the name and position of the covered legislative branch official on behalf of whom the fundraising activity was performed;

(ii) the nature of the fundraising activity;

(iii) the date or dates on which the fundraising activity was performed;

(iv) the expenses incurred by the registrant in connection with the fundraising activity; and

(v) the number of contributions and the aggregate amount of contributions known by the registrant to have been made to the covered legislative branch official as a result of the fundraising activity.

(2) EXEMPTION.—A list described in paragraph (1) need not disclose financial benefits having a value of $20 or less to the extent that the aggregate value of such financial benefits that are provided to or on behalf of a covered legislative branch official or other person or entity during the calendar year in which the semiannual period covered by the report occurs has not exceeded $50.

(3) DEFINITION.—As used in this subsection, the term "financial benefit"—

(A) means anything of value given to, on behalf of, or for the benefit of a covered legislative branch official, including—

(i) a gift;

(ii) payment for local or long-distance transportation, entertainment, food, or lodging, whether provided in kind, by purchase of a ticket, by payment in advance or by reimbursement, or otherwise;

(iii) a contribution or other payment made to a third party in lieu of an honorarium on the basis of a designation, recommendation, or other specification made by the covered legislative branch official;

(iv) reimbursement of an expense;

(v) a loan; and

(vii) an expenditure made for a conference, retreat, or other event benefiting a covered person, but

(B) does not include—

(i) a contribution, as defined in the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.), that is required to be reported under that Act, unless the contribution is in the form of participation in a fundraising activity on behalf of a covered legislative branch official, including the solicitation of contributions, hosting or cohosting of a fundraising event, or service on a campaign steering committee or its equivalent;

(ii) a modest item of food or refreshments, such as a soft drink, coffee, or doughnut, offered other than as part of a meal;

(iii) a greeting card or other item of little intrinsic value, such as a plaque, certificate, or trophy, that is intended solely for presentation;

(iv) financial benefits given under circumstances which make it clear that the benefits are motivated by a family or personal relationship rather than the position of the recipient;

(v) financial benefits which are not used and which are promptly returned to the donor; or

(vi) widely attended receptions to which covered legislative branch officials are invited, other than events described in paragraph (1)(B) of this subsection.

TOWARD A NEW WAY OF DOING BUSINESS IN AMERICA

HON. DICK SWETT

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Monday, August 2, 1993

Mr. SWETT. Mr. Speaker, if American business is going to succeed in the global marketplace, we need to do everything we possibly can to bolster U.S. competitiveness. Earlier this year, the House took an important step in the right direction by passing the National Competitiveness Act of 1993, legislation to strengthen cooperation between Government and business. If we are truly going to succeed at reinvigorating American industry, we need not only renewed Government-business cooperation, we also need a new spirit of cooperation between labor and management.

I would like to call to my colleagues' attention a recent op-ed in the Washington Post by Secretary of Labor Robert Reich, entitled "The 'Pronoun Test' for Success." Secretary Reich describes the kind of new thinking which is necessary if American business is going to remain competitive. I commend the article to my colleagues, and I ask that the text of the article follow my comments in the RECORD.

[From the Washington Post, July 28, 1993]

THE "PRONOUN TEST" FOR SUCCESS

(By Robert B. Reich)

For six months now I've been visiting the workplaces of America, administering a simple test. I call it the "pronoun test." I ask front-line workers a few general questions about the company. If the answers I get back describe the company in terms like "they," or "them," I know it's one kind of company. If the answers are put in terms like "we" or "us," I know it's a different kind of company.

It doesn't much matter what's said about the company. Even a statement like "they aim for high quality here" suggests a workplace that hasn't yet made the leap into true high performance. It isn't yet achieving ever higher levels of quality, productivity and service. Only "we" companies can do this.

The L–S Electro-Galvanizing Co. in Cleveland—at the heart of the rust belt—passed the pronoun test with ease. Every front-line worker I talked with recently told me how "we" were meeting the competition, how "our" company was succeeding.

L–S Electro-Galvanizing is succeeding. The company is winning awards for quality. Its customers are loyal, and its profits are mounting. Why the success? At first glance, it's something of a mystery. The company's equipment for putting zinc coatings on cold-rolled steel doesn't give it an advantage over the competition, since the same equipment is available to all, including foreign competitors with cheaper labor. And its customers—big auto companies still reeling from recession—are looking for ways to cut costs.

L–S Electro-Galvanizing's advantage lies in its workers, who are constantly discovering better ways to use the equipment and serve the customers. The galvanized steel emerging from the factory is consistently high quality, tailored exactly to customer specifications and sold at a competitive price. Simply put, L–S Electro-Galvanizing is offering its customers a great deal.

This is a high-performance workplace, organized from the bottom up. You can't tell managers from employees. They wear the same uniforms, park in the same parking lots, eat in the same cafeteria, prosper together when the company does well. They use the same pronouns.

Worker committees do the hiring, decide on pay scales linked to levels of skill and set production targets. One-quarter of workers' take-home pay is based on productivity improvements. They rotate jobs, so that every worker gains knowledge of the entire system. More than 10 percent of payroll is spent on training. And jobs are secure. Even during the recession, when its customers were scaling back, the company kept everyone on board.

High-performance workplaces are gradually replacing the factories and offices where Americans used to work, where decisions were made at the top and most employees merely followed instructions. The old top-down workplace doesn't work any more. That's because the old competitive advantatges—large scale and specialized machines doing the same operations over and over—have been eroded by global competition and by new technologies capable of performing many different operations.

The new competitive advantage comes in using equipment to meet the unique needs of particular customers—and doing it quickly, reliably, efficiently. L–S Electro-Galvanizing's customers want quality and service. And no one in the company has more intimate knowledge of the equipment and the customers, and therefore of how to provide the greatest value at the lowest cost, than L–S Electro-Galvanizing's front-line workers.

Using the "we" pronoun, and feeling responsible for the company's future, L–S Electro-Galvanizing's workers are making the company work. Technically, they don't own the company. It's a subsidiary of LTV Steel, in partnership with Sumitomo Metal. But in a broader sense they do own the company, because they comprise its most important asset, they make the most important day-to-day decisions, and they do well when the company does well.

The jobs in L–S Electro-Galvanizing and in other high-performance workplaces are the kind of jobs that may rebuild America's waning middle class. These jobs offer hope to the 75 percent of Americans who won't graduate from college and whose wages and benefits, adjusted for inflation, have been declining for 15 years.

So why aren't all workplaces like this? First, because many of our non-college workers aren't adequately prepared. L–S Electro-Galvanizing isn't a high-tech company. Its workers don't have engineering degrees. Most don't have college degrees. But they do have enough education and basic training to be able to learn on the job and to take advantage of more specialized training. One worker explained to me how she had come up with an idea for reprogramming a machine for better accuracy. I asked her where she had learned computer programming. "I knew technical math and statistical process control when I got here," she explained. "When I wanted to learn computer programming, our training committee thought it would be a good investment, and I took a course."

A second impediment is the reluctance of top executives to give up control and to entrust front-line workers with day-to-day decisions. Most top executives got to where they are because they are good at exerting authority and control. People who have excelled in the old system are usually among the least likely to lead the way into the new. Their habitual "we" pronouns don't include front-line workers. L–S Electro-Galvanizing's plant manager told me of the initial skepticism of many executives in LTV. "I stuck my neck way out," he said.

No less of a barrier is the distrust felt by many front-line workers for any scheme that requires more responsibility but not necessarily higher wages up front. Unionized or non-unionized, America's front-line workers feel bruised and beaten by years of promises unkept, real wages and benefits reduced, and jobs eliminated. The head of the local steelworkers' union told me that he had been criticized by his brethren for entering into the L–S Electro-Galvanizing flexible agreement. One worker recalled taunting by workers at LTV's steel factory across the road. "They accused us of being scabs, and worse," he said.

Last and perhaps most important is the lack of information about how high-performance workplaces work and why they work well. Much research has been done, but it had not yet been widely disseminated (the Labor Department has just released a compilation). This week in Chicago, several hundred workers and managers who have made the transition shared their experiences with the rest of America.

The president's economic plan will improve the macroeconomy. Better education and skills will prepare Americans for the workplace of the future. But neither of these necessary steps will be enough to restore American incomes without a revolutionary change in how Americans work together.

TRIBUTE TO BOWATER, INC.

HON. MARILYN LLOYD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, August 2, 1993

Mrs. LLOYD. Mr. Speaker, I would like to take a moment to recognize a project in my district and commend the people who have made it possible. It is a pocket wilderness area near Chattanooga, TN, and it is managed by Bowater, Inc.

The wilderness area sets aside 1,100 acres of forest, streams, waterfalls and other natural attractions. It was recently opened to the public and already is receiving high praise for what it offers to the community. The North Chickamauga Wilderness Area gives the people a place to relax and enjoy the beautiful scenery native to the Tennessee Valley. The miles of walking trails allow visitors to wander through this panorama only a few minutes from a thriving Chattanooga metropolitan area.

Bowater and its work in the community is representative of the balance we can achieve between a productive economy and protection of our natural resources. We can no longer promote one side while overlooking the other. Business and nature must work in balance to be as productive as possible and the Pocket Wilderness Program guided by Bowater is an excellent example of this relationship. We must all look beyond our own neighborhoods to see what we can do to protect our environment.

The North Chickamauga Pocket Wilderness is only one of several positive environmental projects that have been undertaken around the Chattanooga area. It is often mentioned that Chattanooga is becoming the "environmental center" of the Southeast; that it will serve as an example to the country of how dedicated people can make a difference by enhancing their community. This spirit is evident in the work of people like the employees of Bowater and the many others who have made this project possible.

Once again I commend those responsible and look forward to enjoying this wilderness area and passing it onto future generations.

HEALING MUST BEGIN ON EMOTIONAL WOUNDS OF THE VIETNAM WAR

HON. MICHAEL J. KOPETSKI

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Monday, August 2, 1993

Mr. KOPETSKI. Mr. Speaker, I ask that my colleagues take a few minutes to read the thoughtful piece printed below; written by my friend, constituent, and decorated Vietnam veteran, Don Homuth.

HEALING MUST BEGIN ON EMOTIONAL WOUNDS OF THE VIETNAM WAR

(By Donald J. Homuth)

On a recent CBS show, Gen. Norman Schwarzkopf made two well-taken observations.

First, he said war is crazy: "Imagine killing each other to settle your differences!" The commander of Desert Storm, himself a Vietnam veteran, is in an excellent position to make that statement.

Second, maybe more important, he said that it was not the press nor the folks at home who "lost" the Vietnam war. It was, instead, the utter failure of the leadership of this country ever to have a strategy that included winning. There was never a way to win, regardless of how many "VC" or "NVA" we killed or claimed to kill.

Yet there are still those for whom the bitterness over losing never seems to end, and for whom finding someone—anyone—to blame for the defeat goes on and on forever. Those of us who fought, and I am among them, must finally find a way to end it. Saying that Jane Fonda or Bill Clinton are traitors guilty of "treason" isn't getting anyone anywhere. As we said in Vietnam, "It don't mean nothin'."

Twenty years later, most of us Vietnam vets are in our 40s, trying to get on with our lives. Looking back, it's plain to see that the 52,000 names on The Wall never should have been there. It was a stupid war, fought in the wrong place, for the wrong reasons. Like many young men, I went believing I was doing something worthwhile. After 20 months, I returned, knowing that all who died and who would continue to die were being sacrificed needlessly because we had no strategy to win.

It wouldn't have made any difference if Bill Clinton had gone to Vietnam. We still wouldn't have won. If Jane Fonda had shut up, we still wouldn't have won. If the press had been willing to report only what the "Saigon Follies" press conferences had announced—body counts, bombing Hanoi, search and destroy, hearts and minds of the people, light at the end of the tunnel, and all that other nonsense—we still wouldn't have won. We could have drafted and shaved the head of every so-called hippie peace protester in the nation and sent them over, and we still wouldn't have won.

"Winning" was just never part of the discussion.

I am sad for those, like the recent letter writer, who say they can "never forgive traitors such as Clinton." They, more than anyone, need to find a way to heal. But they should first define precisely at whom they should be angry. It isn't Clinton. It isn't Fonda. It isn't my two high school classmates who went to Canada. It isn't Dan Rather, and it isn't Walter Cronkite.

Instead, it is those who were selected and appointed to high positions and who sent young men and women to war without ever defining what winning would be. And if you don't know what winning is, then you never know when to stop fighting.

In the CBS interview, Schwarzkopf said he probably could not have discussed Vietnam until after Desert Storm. He apparently needed some other experience equal in intensity to counteract the all-too-vivid memories many of us carry from Vietnam. I'm glad he found it. It seems to have given him a way to find his own sense of perspective and humanity about all that Vietnam was and was not.

Like the letter writer, I hold no hard feelings for the North Vietnamese. They knew something about war that we didn't—how to define victory.

Unfortunately, for us, it cost 52,000 lives to learn the lesson. The only good thing to come out of it was that we did learn it, and Desert Storm seems to be the proof.

Unlike the letter writer, I don't need to forgive anyone for what they did or did not do during the Vietnam War. Forgiving is just no longer part of the discussion. We all did what we thought we had to do. Those decisions were different for some folks than for others. At the same time, no one should claim any moral superiority for going or for not going. There is praise and blame aplenty—more than enough to go around.

In the ensuing 20 years, the "domino effect" didn't happen. The Communists didn't take over all of Southeast Asia. We won the Cold War, and the task before us is to hold some uneasy peace until the next bunch of crazies decides that killing other people is the best way to settle differences.

It has been this way through all of human history.

"It don't mean nothin'."

HIGH SCHOOL COACH CREATES NBA PLAYERS

HON. HERB KLEIN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, August 2, 1993

Mr. KLEIN. Mr. Speaker, I rise to pay special tribute to two remarkable young athletes and their high school basketball coach who helped establish them in their respective colleges and the National Basketball Association. At St. Anthony High School in Jersey City, Bobby Hurley, Sr. used his coaching expertise to sharpen the skills of his son, Bobby Hurley, Jr. and Lennox Dominique "Terry" Dehere. The fine performances and well deserved recognition of these three men serve as an inspiration to all New Jersey basketball hopefuls.

While working hard together as a team from 1985–1989, St. Anthony High School Basketball reached remarkable heights. In these 4 years, their overall record was 115–5. They earned four straight Parochial B State Championships and were number one in the country during Hurley, Jr.'s and Dehere's senior year. Both young men served as two of the teams's tri-captain's that year, earning both scholarships and honors upon graduation.

Bobby Hurley, Jr. acquired a great deal of skill during his 3½ years on St. Anthony's Varsity Basketball Team. He was first team all-state in New Jersey during his junior and senior years and was MVP for every national high school tournament since his sophomore year. In his senior year he was awarded the Gatorade High School Player of the Year title and was Co-MVP of the McDonald's All-American game with Shaquille O'Neill. Hurley's successes were academic as well as athletic. After participating in the honors program, Hurley was salutatorian when he graduated from St. Anthony's in 1989. This combination of brains and braun admitted him to Duke University where he became a guard on its basketball team. At Duke, Hurley was named first team All-America by Associated Press, United States Basketball Writers Association, United Press International, National Association of Basketball Coaches, Basketball Times and Basketball Weekly. Over his college career he became Duke's all-time three point leader and he set the NCAA Career Assists Record of 1,076 assists. Upon graduation from Duke this past year, Hurley became the seventh player in school history to have his number, No. 11 retired and went on to be drafted by the Sacramento Spurs. Terry Dehere played alongside Bobby Hurley, Jr. during their budding high school years. Bobby Hurley, Sr., St. Anthony's basketball coach, described him as "a late developer, someone recruited on potential." He accepted a scholarship to Seton Hall in the fall of his senior year before he had ever started in a high school game! Amazingly, Dehere scored more points per game as a guard during his freshman year of college than his senior year at St. Anthony's. His improvement throughout his college career was outstanding. He was the first Seton Hall sophomore to reach 1,000 points and set the Seton Hall record of 105 three-pointers. At the conclusion of his senior year, Dehere had led Seton Hall in scoring for 4 years, earned the 1992–1993 "Player of the Year" title in the Big East, and was the leading scorer among all players of all time at all Big East Institutions. Similar to Hurley, Terry Dehere had his uniform, No 24 retired, being the first active player at Seton Hall to do so. Dehere's progress is expected to continue this winter as a new player on the Los Angeles Clippers.

The impact that Bobby Hurley, Sr.'s coaching had on these fine players was unmistakable, however success has become traditional for the team at St. Anthony High School. Over the last 21 seasons which Mr. Hurley has coached, the team has an overall record of 546–61 and is the proud owner of 16 State titles. From 1983–1992, his team won nine straight parochial school State championships. Mr. Hurley is neither a newcomer to the sport of basketball or the State of New Jersey. A lifelong resident of Jersey City, he is a graduate of St. Peter's College. Other than St. Anthony High School, Mr. Hurley serves his community in many ways. He is a Senior Probation Officer at the Hudson County Probation Department, a supervisor of an Adult Substance Abuse caseload, and gives drug education lectures at Hudson County schools through the Speakers' Bureau.

Mr. Speaker, I commend Bobby Hurley, Sr., Bobby Hurley, Jr., and Terry Dehere for their dedication towards and record-breaking progress in the sport of basketball. Through team work and diligence, all three men have thrived, enriching the lives of each other and members of their New Jersey communities.

DECISION BY SECRETARY CHRISTOPHER ON PAKISTAN

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 2, 1993

Mr. HAMILTON. Mr. Speaker, several weeks ago the State Department announced that the evidence currently available has led to a judgment that Pakistan should not be designated a state sponsor of terrorism.

I have received a letter from the Assistant Secretary of State for Legislative Affairs, which provides additional information on the decision not to put Pakistan on the terrorism list, and spells out United States expectations with regard to future Pakistani behavior.

The text of the letter follows:

U.S. DEPARTMENT OF STATE,
Washington, DC, July 21, 1993.

Hon. LEE H. HAMILTON,
Chairman, Committee on Foreign Affairs, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: This letter responds to your July 14 request to John Malott, the Interim Director for South Asian Affairs, for additional information on Secretary Christopher's decision not to name Pakistan as a state sponsor of terrorism.

Although it was a close and difficult question—not entirely free from doubt—the Secretary did decide not to put Pakistan on the terrorism list for the time being. The Secretary reached this conclusion because the evidence currently available to us indicates that Pakistan's policy of ending official support for terrorists in India is apparently now being implemented on the ground.

We have informed former Prime Minister Nawaz Sharif of this decision and indicated that we will continue to monitor developments closely. We explained that we expect progress already achieved to be consolidated so that any remaining official Pakistani support for groups that carry out terrorist acts will be completely and permanently halted. If the positive trends do not continue, or if there is any subsequent resurgence of official support for those who commit terrorist acts against India, either directly or through private groups, the Secretary will not hesitate to name Pakistan a state sponsor of terrorism. We told the Prime Minister that we expect the Government of Pakistan to take vigorous action to prevent private groups from providing support or sanctuary for those who commit terrorist acts.

We are heartened that Pakistan's assurances are now being implemented. We hope that subsequent developments will enable us to put this issue behind us for good and that we can move to address other issues in our bilateral relationship with Pakistan. In any case, the Secretary will review this issue again no later than December, the time of our annual terrorism assessment.

I hope this information is helpful to you. Should you wish a personal briefing on this issue or any other, please do not hesitate to contact us.

Sincerely,

WENDY R. SHERMAN,
Assistant Secretary, Legislative Affairs.

THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION [NOAA] ATMOSPHERIC AND SATELLITE PROGRAM AUTHORIZATION ACT OF 1993

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, August 2, 1993

Mr. HALL of Texas. Mr. Speaker, today I am introducing legislation reauthorizing the weather, satellite, and atmospheric research programs of the National Oceanic and Atmospheric Administration [NOAA].

The National Oceanic and Atmospheric Administration [NOAA] Atmospheric and Satellite Program Authorization Act of 1993 authorizes appropriations of $1,083,629,000 for fiscal year 1994 and $1,187,276,000 for fiscal year 1995.

The funding authorizations contained in this legislation, coupled with the authorizations in Public Law 102–567, provide for the continued operation of all National Weather Service offices and for the procurement of new technology to modernize the National Weather Service. Other critical technologies included in this legislation are the Automated Surface Observing System [ASOS]; the Advanced Weather Interactive Processing System [AWIPS]; supercomputers for the National Meteorological Center; and the Polar-Orbiting Environmental Satellite System.

Funding authorizations for the Next Generation Radar [NEXRAD] Program and the Geostationary Operational Environmental Satellite [GOES] Program are not included in this bill because those programs were fully authorized to completion in Public Law 102–567, the National Oceanic and Atmospheric Authorization Act of 1992.

Funding authorizations are also provided for Atmospheric and Climate research activities, including NOAA's contribution to the U.S. Global Climate Change Research Program.

In addition to the authorizations, the bill includes provisions mandating reports to Congress on NOAA's environmental research laboratories, and on taking advantage of new technology to improve the National Weather Services' Flood Forecasting System.

Mr. Speaker, I would like to remind our colleagues about the critical importance of providing the funding authorizations for NOAA and the National Weather Service.

In recent weeks many of us have seen firsthand the utter devastation brought on by the floods in the Midwestern region of the United States. Last year we witnessed the brutality of Hurricanes Andrew and Iniki. Just last winter we saw the "Storm of the Century" pound the Eastern half of the United States and disrupt air transportation throughout the Nation.

In spite of tremendous improvements in our ability to forecast severe weather, the technologies employed by the National Weather Service continued to provide the most troublesome barrier to advancement. The National Weather Service still relies on a number of vacuum tube radars installed around 1957. The communications and data processing equipment used by National Weather Service meteorologists is less capable than the current line of desk top computers. The last remaining U.S. geostationary weather satellite is now operating beyond its 5-year designed lifetime.

Providing the funds necessary to modernize the National Weather Service clearly is an investment in America's future. It is an investment in life-saving equipment. It is also an economic investment.

In fact, a National Institute of Standards and Technology study conducted last year indicated that the economic benefits to the Nation are about eight times greater than the costs. The study also shows that, once the modernized weather system is in place, we will realize benefits of over $7 billion primarily through efficiency gains in key industrial sectors of the U.S. economy, such as commercial aviation, agriculture, construction, communications, electric power generation and manufacturing.

While the total funding authorization provided in this legislation is slightly less than the administration's budget request, I feel it is a good effort to continue these essential life-saving services during very difficult budgetary times. I urge my colleagues to support this important legislation.

INTRODUCTION OF LEGISLATION REGARDING MISSING AMERICANS

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, August 2, 1993

Mr. ENGEL. Mr. Speaker, today I rise to introduce—along with my distinguished colleague from Illinois [Mr. PORTER], legislation which calls upon the President to undertake an investigation into the whereabouts of five United States citizens and others who are missing from Cyprus since 1974 as a result of the Turkish invasion. Our distinguished colleagues on the Senate side, Senator D'AMATO and Senator SIMON, have introduced companion legislation.

Mr. Speaker, 2 weeks ago we remembered the 19th anniversary of the Turkish invasion, whose most tragic and inhuman aspect was the large dispersement of the Cypriot population and the arrest and disappearance of more than 2,000 people. The Committee on the Missing Americans in Cyprus, which Mr. PORTER and I cochair, heard the passionate and moving report of Kostas Kassapis, who is searching for his son Andrew, captured by Turkish troops with his American passport in hand.

Nobody has ever heard again of Andrew Kassapis, nor of Christos Libertos, Kyriacos Leontiou, Socrates Kapsouris, or Jack Sofocleus. For nearly two decades their families have relentlessly, but unsuccessfully, tried to find traces of their beloved ones.

The primary goal of the legislation we are introducing today is to help these suffering families to finally get the answers they are longing for. To this end the bill urges all parties concerned to provide the basic facts on the fate of the missing people. Turkey—our NATO ally, and a major recipient of United States foreign assistance—has so far remained silent, and has denied access to important information regarding the fate of these people.

Mr. Speaker, we cannot ignore the endless pain the families of the missing still endure. Their questions cannot remain unanswered. They long for the truth and they deserve a full and honest account of what happened to their beloved ones.

Therefore, we urge our colleagues to support this legislation. After 20 years it is time to finally bring light to this dark chapter in the history of Cyprus and to the fate of the missing Americans.

VETERAN WOMEN'S HEALTH IMPROVEMENT ACT OF 1993

HON. MARILYN LLOYD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, August 2, 1993

Mrs. LLOYD. Mr. Speaker, I rise today to join with my colleague Representative PAT SCHROEDER, in recognizing a problem that has been ignored for far too long. The lack of attention to women's health needs in VA hospitals.

A little more than a decade ago the General Accounting Office [GAO] determined that veterans hospitals were neglecting the health needs of women veterans. A new study has recently concluded the Veterans Affairs still provides inconsistent and often inadequate care to women. With women veterans accounting for 1.2 million of the Nation's veterans, I find this appalling. Only one of the eight VA medical centers surveyed by the inspector general's staff offered a full range of health services to women.

The results of the VA inspector general's report of inspection of women's health care programs further shows at 75 of 166 Veterans Affairs hospitals surveyed has no women's clinics at all. Many facilities are inadequately staffed and lack the basic supplies for routine health examinations such as no gowns for women and women veterans being assigned to wards with men that afforded no privacy. Specialized medical equipment required for female examination and treatment was not always readily available for use when clinicians needed it, and some gynecological equipment was not always available in the type that ensured patient comfort.

Recently, the VA announced that it was beginning a series of health care initiatives for women. The agency will establish four comprehensive health centers for woman and four stress disorder treatment teams.

In addition, 69 counselors will be hired to treat victims of sexual assault and harassment. While this is an important step in the right direction the VA inspector general report shows that more needs to be done. Obviously, our women veterans are not being accorded the focus of medical and surgical treatment services they are entitled to through the Veterans Affairs health care system.

The legislation Mrs. SCHROEDER and myself are introducing will provide for primary and preventative health care services to women veterans which include mammographies, pap smears, menopause services, and reproductive care. Such health care concerns are unique to women and deserve some sensitivity. The Veteran Women's Health Improvement Act of 1933 corrects this inequity and assures that women veterans' health care is equal to that of men veterans. I urge my colleagues to support this measure.

TRIBUTE TO NORMAN J. VAN NESS: THE VISION AND THE VISIONARY

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 2, 1993

Mr. MINETA. Mr. Speaker, faced with mounting congestion, lost productivity, and more than 40,000 highway fatalities each year, highway experts know we need a smarter surface transportation system.

Norman J. Van Ness is a visionary who can see a future of safer and better informed travelers, improved traffic control systems, and systems aimed at increasing the efficiency of commercial vehicle and transit operations. All this can be achieved through application of intelligence vehicle highway systems [IVHS] technologies and services.

Last week Norman J. Van Ness retired with 36 years of distinguished service in Government and a remarkable record of leadership in IVHS.

A graduate of The Citadel in Charleston, SC, Mr. Van Ness served in a number of field and Washington office positions in the Federal Highway Administration. He applied his unique organizational skills to the design and management of a national pavements program using state-of-the-practice preservation techniques that saved highway agencies hundreds of millions of dollars. During his tenure, he made major contributions to FHWA's mission to ensure that efficient and cost-effective solutions are used to solve the Nation's complex transportation problems.

But he may be remembered most for his guidance and direction in the establishment of a national IVHS program. The IVHS program will develop futuristic solutions to help the Nation meet its 21st century transportation requirements. An enormous range of modern communications, computer, and control technologies must be researched and field tested in order to determine which types and applications of IVHS technologies will be most cost-effective in reducing congestion and improving highway safety.

The anticipated annual benefits with successfully deployed IVHS technologies are a reduction in stop-and-go traffic of up to 30 percent and a savings in lives and injuries from traffic accidents of 11,000 and 440,000, respectively. Considering that congestion presently costs the United States $100 billion in lost productivity and accidents cost the United States over $70 billion in lost wages and direct costs, the potential annual savings from the IVHS advancements in the target year 2010 are in the $30 to $50 billion range.

Mr. Speaker, under Norman Van Ness' leadership, several major IVHS initiatives have already been accomplished: A national IVHS strategic plan, a comprehensive management plan for FHWA IVHS activities, an IVHS management information system, and a comprehensive short-range research program. In addition, several multimillion dollar field tests of different advanced IVHS technologies have been initiated in partnership with State and local agencies and with private industry. The IVHS program is off to a great start and is already receiving national and international recognition.

Mr. Van Ness' leadership, his ability to foster creative public/private partnerships, and his commitment have all contributed significantly to the national IVHS program and its excellent progress, dedication, service, and vision.

I ask my colleagues to join with me in recognizing Norman Van Ness, as has the Institute of Transportation Engineers on July 7, 1993, when they approved a resolution in his honor, which I would like to include in the CONGRESSIONAL RECORD for the benefit of House Members.

RESOLUTION OF THE INSTITUTE OF TRANSPORTATION ENGINEERS

Whereas, Norman J. Van Ness has served 36 years with the U.S. Federal Highway Administration (FHWA) and its predecessor the Bureau of Public Roads in a distinguished career that has included positions in a number of field offices and in the Washington office, and

Whereas, since April 1990 Norm Van Ness has served as Director of the Office of Traffic Management and Intelligent Vehicle Highway Systems (IVHS) for the FHWA, and

Whereas in that position he has earned the respect and admiration of those within the FHWA and of other organizations and agencies in the transportation community, and

Whereas, the able and dedicated staff of the FHWA Office of Traffic Management and IVHS is a reflection of Norm Van Ness' integrity, fairness, and ability to make decisions, and

Whereas, he has been instrumental in developing and testing innovative technical solutions to transportation problems and successfully creating partnerships with state and local government agencies and with the private sector for development of these technologies, and

Whereas, at the same time Norm Van Ness has played a key role in maintaining and strengthening the commitment of the FHWA to traffic operations—a commitment shared by the Institute and its members. Now therefore be it

Resolved, that the Institute of Transportation Engineers expresses its appreciation to Norman J. Van Ness for his significant contributions to the common goal of the FHWA and ITE to help assure that cost-effective solutions are available to address the nation's 21st century transportation problems, and be it further

Resolved, that the Institute hopes that Norm Van Ness will take as much pleasure from his retirement in North Carolina as we all have in working with him to improve the mobility and safety of the traveling public.

Approved by the ITE Executive Committee and presented on July 7, 1993.

LEON GOODMAN,
International President.

TRIBUTE TO THE MISSOURI CIVIL AIR PATROL

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, August 2, 1993

Mr. SKELTON. Mr. Speaker, I take this opportunity to pay tribute to the outstanding effort of the Missouri Civil Air Patrol during the current flood crisis. Under the able direction of Col. Emmit Williams, the Missouri Civil Air Patrol, headquartered in Marshall, MO, has assisted relief efforts by coordinating a no-flight zone in the tristate region. Starting July 8, the Civil Air Patrol has worked around the clock to aid flood victims. The Civil Air Patrol will continue these 24-hour-a-day operations until the crisis subsides. The 498 senior members and 319 cadets of the Civil Air Patrol have filled sandbags, transported public officials, and flown missions to assess flood damage. In the first 2 weeks of crisis operations, Civil Air Patrol members completed 85 sorties and logged 238 in-flight hours while overseeing the no-flight zone. This pace has continued as the flood shows no signs of abating in the near future.

The selfless service of these men and women cannot be overlooked. Their efforts have earned the respect and appreciation of the National Guard in the tristate area. The creation of a no-flight zone enables the Guard to conduct rescue and evacuation operations more effectively and safely. The tremendous efforts on the part of Colonel Smith and his colleagues is a tribute to the Civil Air Patrol, the State of Missouri, and the American people.

TRIBUTE TO TWO PROMISING NBA COACHES

HON. HERB KLEIN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, August 2, 1993

Mr. KLEIN. Mr. Speaker, I rise to pay special tribute to two new promising coaches of the National Basketball Association. Michael Fratello of Hackensack, NJ, and Bryan Hill of East Orange, NJ, were recently awarded head coaching positions for their achievements in the sport of basketball. Throughout their independent careers and the years they worked together, these men have contributed immeasurably to a greater understanding of the game for both players and fans.

Mike Fratello has recently been named the new head coach of the Cleveland Cavaliers NBA basketball team. His basketball career has been quite diversified, participating not only as a coach, but as a player, and a television analyst as well. Early on, Coach Fratello made his mark in New Jersey when he graduated from Montclair State College in 1969 as a three-sport letterwinner. He began his coaching career at Hackensack High School and held assistant coaching positions at Rhode Island, James Madison, and Villanova, before entering the mainstream of professional basketball. Due to his outstanding ability, Coach Fratello became the head coach of the Atlanta Hawks in 1981 after only four seasons with the organization. In his 7 years as head coach, the Hawks compiled a winning average of .564. His brilliant coaching resulted in many honors, including the Red Auerback Trophy for coach of the year after the 1985–86 season and he currently stands as the second winningest coach in Hawks' history.

After leaving the Atlanta Hawks in 1990, Coach Fratello became a basketball analyst for NBC Sports. His ability to simplify the game for the everyday viewer with the use of an onscreen diagramming device earned him the title "Czar of the Telestrator." His most recent accomplishment through NBC was his coverage of Olympic basketball at the games of the XXV Olympiad in Barcelona. In the upcoming season, Coach Fratello will return to the court as the head coach of the Cleveland Cavaliers.

Bryan Hill received similar honors when he was named head coach of the Orlando Magic. He too began his career in New Jersey on Montclair State College's basketball staff as a fulltime assistant coach from 1972–74. His adept coaching skills earned him the head coach position at Lehigh University in 1975, only 1 year after joining the staff. Before moving on to a 3-year assistant coach position at Penn State in 1983, Coach Hill led Lehigh to its most successful era in basketball.

It was at this point in time when Mike Fratello and Bryan Hill worked together. As head coach and assistant coach from 1986 to 1990, these two men worked diligently to capture first place in the central division in the 1986–87 season and had the leagues No. 1 ranked defense. After completing this successful run, Coach Hill joined the Orlando Magic as its top assistant in 1990. His numerous achievements and honors have given Coach Hill the needed experience to undertake his new position as head coach of the Orlando Magic.

Mr. Speaker, I commend Michael Fratello and Bryan Hill for their continuing dedication to both college and professional basketball. Their commitment to this sport serves as an inspiration to people everywhere. I am thankful that these two men have a strong background in and dedication to the State of New Jersey.

INTRODUCTION OF THE ERISA DISCLOSURE ENHANCEMENT ACT OF 1993

HON. KAREN SHEPHERD

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Monday, August 2, 1993

Ms. SHEPHERD. Mr. Speaker, today I introduced, with seven of my colleagues, the ERISA Disclosure Enhancement Act of 1993. This legislation will ensure that workers in industries throughout the Nation are given adequate information about their retiree health benefit plans.

BACKGROUND

On December 19, 1990, the Financial Accounting Standards Board [FASB] approved the final statement on retiree benefits, FAS 106. FAS 106 requires accrual accounting—quantifying future obligations and accounting for them on balance sheets and income statements—for all nonpension postretirement benefits, including health benefits. It has had a tremendous impact on the health benefit plans of American workers and retirees. According to a survey release on August 1992, almost two-thirds of surveyed employers either had altered retiree health benefits over the previous 2 years or intended to make changes by this year. Three percent of employers surveyed terminated their plans, and respondents to that survey generally indicated they would make more cutbacks in the future. [BNA Pension Reporter, 11–9–92.]

These developments were brought to my attention by former employees of Unisys, many of whose workers and retirees live within the boundaries of Utah's Second Congressional District. Many other companies like Unisys reeling from defense cutbacks, such as McDonnell-Douglas, as well as companies in industries undergoing structural upheavals, such as steel, banking, automobiles, and airlines, have offered their employees early retirement incentives in order to cut back labor costs, including implicit promises of lifetime retiree health benefits. Many of those employees took early retirement under the assumption that their health care benefits would be fully covered by the former employer.

Hearings were held in February and March of this year by the House Select Committee on Aging and the Senate Committee on Labor and Human Resources on this very issue. Testimony from retirees affected by either the loss or severe cutback of one's health care benefits depicted the tremendous emotional trauma involved. The retirees affected by changes in retiree benefit plans are not only blue-collar employees, but engineers and managers as well. In fact, this matter should be of particular concern to workers who are primarily non-union, for collective bargaining agreements typically have the legal status and security of a contractual obligation.

The Employee Retirement Income Security Act [ERISA] requires employers to adequately disclose the details of their retiree benefit plans. According to the Bureau of Labor Statistics, 40 percent of all businesses, and up to 95 percent of large businesses, provide lifetime health benefits in their workers' existing benefit packages. A survey done by Hay/Huggins Post-Retirement Medical consulting firm, however, reported that at least 37 percent of employers have not maintained the plan documentation that ERISA requires. This is particularly disturbing in that according to that same survey, 92 percent of plan documents expressly reserve the right to amend or terminate retiree health benefit plans.

SUMMARY OF LEGISLATION

The ERISA Disclosure Enhancement Act is a relatively short and simple piece of legislation. It would require that a summary description of a group health plan contain a clear and concise statement describing any right reserved by the employer under the plan to terminate the plan or alter its benefits. This statement would be included in the company's already required semiannual report to plan beneficiaries. Employers are also encouraged, implicitly, to include this statement in other communication having to do with changes in the beneficiary's health benefit plan. These changes would go into effect January 1, 1994. Violations of these new disclosure requirements are subject to civil penalties already in existence under current law.

One of the problems with our health care system is that health care consumers are generally poorly educated as to the details of their health care plans. While my legislation does not absolve a consumer of the need to scrutinize a benefits plan document carefully in planning his or her retirement, it will provide some assurance that a plan participant is making an informed decision when considering a major life change such as early retirement or switching jobs.

I should also point out what this legislation will not do:

First, it does not overturn FAS 106, nor does it require companies to prefund their retiree health care benefits. The financing of retiree health care benefits is an issue that should be addressed in more comprehensive health care reform legislation. Rather, the legislation addresses only the disclosure requirements of ERISA.

Second, it does not increase the penalties imposed for violations of ERISA's disclosure requirements. Only the penalties already in current law for violations of ERISA's disclosure requirements [29 Section 1132(c) USCA] would apply. Businesses are already facing tremendous uncertainty about the future of the Tax Code and health care system, and I see no compelling need to muddy the waters any further.

Finally, it does not impose an undue burden upon plan administrators, for this disclosure would be included in plan information already required under ERISA. Plan administrators are already required under ERISA to issue a semiannual report to plan beneficiaries and send frequent notices about policy changes made in benefit packages. Moreover, the existing ambiguities allowed under current law have set off a string of class-action lawsuits against companies who have eliminated or dramatically scaled back their retiree benefit plans. Congress is often criticized for passing laws with vague standards, but my legislation removes some of the ambiguity in current law as they apply to retiree health benefit plans.

CONCLUSION

I have no problem with the requirements imposed by FAS 106. Rather, the demands imposed by FAS 106 on American businesses—most of whom have a record of good corporate citizenship—are related more to the skyrocketing costs of health care. What FAS 106 has done is highlight the tremendous strain that these costs are imposing upon American companies, as well as exacerbate the fears that so many of our Nation's workers and retirees face on a daily basis.

I harbor no delusions that my legislation is any sort of cure-all for the Nation's health care woes. It is my hope, in fact, that the recommendations of the President's Task Force on National Health Care Reform will relegate my legislation to the annals of legislative history. It is quite possible, however, that the Federal budget deficit or practical political limitations will prevent us, in the short term, from doing all that is necessary to ensure that retired Americans have adequate access to quality health care. In that case, I consider my legislation the least we can do to ensure that working Americans do not have a rude surprise awaiting them upon their retirement.

In closing, I want to thank my constituents—including Richard Perkins, Paul Peterson, and Robert Anderson, all of Salt Lake City, UT—for bringing this issue to my attention. I suspect that retirees in every State and congressional district will be affected by the ramifications of FAS 106. I intend to do all I can to see the concerns addressed by my legislation are incorporated into a broader health care package later in the year. So, I urge my colleagues to join me in this effort to focus attention on this particular shortcomings of our health care system by signing on as a cosponsor of my legislation.

CONGRATULATIONS TO EAGLE SCOUT, JAMES GLEASON

HON. DAVID MANN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, August 2, 1993

Mr. MANN. Mr. Speaker, I rise today to recognize the accomplishment of James T. Gleason who will be awarded scouting's highest honor, the rank of Eagle Scout, at a Court of Honor on August 8, 1993.

The rank of Eagle Scout is not easily attained. As a member of Troop 682, sponsored by St. Vivian Catholic Church in Cincinnati, OH, James Gleason is the first member of the troop in 7 years to successfully aspire to this goal.

James Gleason has been an exemplary scout. He has earned the Arrow of Light, the World Conservation Award, and the Parvuli Dei Religious Award. His Eagle Scout community improvement project was an erosion control and water diversion project along a trail in Caldwell Park and Nature Preserve. He went beyond the original scope of his project by removing overgrown brush and weeds from a historic site along the trail and used the brush to help correct an erosion problem along another hillside in the park.

While devoted to scouting, James also excelled in his school endeavors. He has been a member of the Roger Bacon High School Bank, was on the wrestling team, and was inducted into the National Honor Society. He will be entering the University of Cincinnati this fall to pursue a degree in aerospace engineering.

The adult leaders of the troop and James' parents should be justifiably proud. They share in his accomplishment through the help and support they have provided to him as he blazed the trail for other scouts to follow. I congratulate James Gleason on his outstanding accomplishment and wish him the best in all his future endeavors.

INCINERATOR THREATENS REVOLUTIONARY WAR SITE

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, August 2, 1993

Mr. TOWNS. Mr. Speaker, today I introduced a simple bill to ensure that we protect a potential national historic site in Brooklyn.

During the Revolutionary War, over 10,000 Americans were taken aboard British prison ships in Wallabout Bay, now the site of the Brooklyn Navy Yard. Our revolution was fought long before international treaties on the treatment of prisoners. These men were crowded aboard the ships. They were fed food condemned as unfit for the Royal Navy. At that time, conditions were so harsh in that service, that I'm sure the sailors would have been surprised to learn that any food was judged unfit for them. The prisoners were beaten, some were tortured. The prison ships were filthy, and disease rampant.

Not surprisingly, the prisoners died in tremendous numbers. Over 7,000 died, more than all the battle deaths suffered during the war. These prisoners were both black and white, reflecting the diverse make up of the citizen army that won our independence. Although the British made cynical overtures to American blacks, promising many freedom, black American were predominantly on the side of independence.

In the last couple years, research has uncovered a map of Brooklyn by Revolutionary War general, Jeremiah Johnson. He indicated the location of prison ships in Wallabout Bay, and of prisoners' graves on both sides of the bay. These men died in terrible conditions, yet like the men who suffered and died at Valley Forge, these deaths, too, were a part of how we won our independence and forged a nation.

I believe that the site indicated in this map matches the site of the current Brooklyn Navy Yard and the proposed incinerator to be built there.

The bill is simple. It requires the Secretary of the Interior to survey and investigate the site under the 1935 Historic Preservation Act. It makes several findings pointing out the likelihood that the navy yard is the home of this historic site, and that if so it is foolish to begin building there. But it does not make any judgments about whether this is the site, it only requires a survey to make that determination.

Many of us have served in our country's Armed Forces. Some Members have survived being prisoners of war. Each of us can only imagine what these Americans endured, but all of us, I believe, want to preserve what we can of their historic sacrifice. This is only a small step to ensure that in our rush to build today we do not desecrate the graves of our forebears.

THE SEXUAL HARASSMENT PREVENTION ACT OF 1993

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 2, 1993

Mr. MILLER of California. Mr. Speaker, sexual harassment has been brought to our attentions vividly throughout these past several years. As policymakers, we have considered legal remedies for the victims of sexual harassment, and we have held congressional hearings which have revealed the circumstances that confront those who are harassed in their workplaces. Yet, for the 90 percent of workers who will never bring complaints or initiate suits on their own behalf, the United States has no proactive public policy at the Federal level. I hope that you will join me and Congresswoman OLYMPIA SNOWE in addressing this problem, as we introduce the Sexual Harassment Prevention Act of 1993. This legislation has been incorporated in the Women's Economic Equity Act.

Based upon landmark legislation passed in Maine and California and introduced in several other States, the Sexual Harassment Prevention Act will: Publicize the Federal guidelines which prohibit and define sexual harassment in every workplace in the United States throughout employer posting; require that every employer establish and notify employees of workplace policies and procedures addressing sexual harassment; and require employers to inform employees at both the line and supervisory levels on their sexual harassment policy, how to bring complaints, and how to achieve a harassment-free workplace.

The Sexual Harassment Prevention Act will amend the Civil Rights Act of 11964 to authorize the Equal Employment Opportunities Commission to oversee the implementation of the legislation and to provide technical assistance and public education materials for employers and their employees.

Why should we pass such legislation? The need is well-documented. Consider: First, studies published between 1986 and 1990 in a broad variety of workplaces establish that 50 to 85 percent of womenworkers in the United States report experiencing some form of sexual harassment. This means that the problem has affected 28 million working women, or more, who have been subject to some form of sexual harassment.

Second, the vast majority of sexual harassment episodes go unreported. Experts estimate that 6 percent, or fewer, of incidents ever reach the formal complaint process. A 1991 study by Klein and Associates documents that 90 percent of those who experience harassment never even report that it has occurred, due to fear of retaliation and loss of privacy.

Third, sexual harassment is costly for employers. A 1988 study by Working Woman Magazine showed that a typical Fortune 500 company spends $6.7 million per year—a cost of $282.53 per employee—addressing sexual harassment complaints. The study estimates that it is 34 times more expensive for employers to ignore the problem than to establish effective programs and policies to address it.

Fourth, most workplace sexual harassment programs and policies have been established in large corporations. Yet, sexual harassment is a workplace safety issue in every workplace. Since two-thirds of new work force entrants over the next decade will be female—and since the greatest job growth is expected in small business—sexual harassment policies and education must be brought to the small workplaces as well as the largest. In these smaller workplaces, establishment of sexual harassment programs and educating/informing workers should be a routine but low cost effort.

The Sexual Harassment Prevention Act of 1993 will ensure that freedom from sexual harassment is a basic worker protection. Technical assistance from the EEOC will ensure that this is done in a cost effective and standardized fashion. Now is the time to take preventive action to address the sexual harassment issue where it can affect the largest number of workers and workplaces. I hope that you will join us in cosponsoring this legislation.

IN TRIBUTE TO JOHN DeQ. BRIGGS, JR.

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Monday, August 2, 1993

Mr. RICHARDSON. Mr. Speaker, I rise today to pay tribute to John DeQ. Briggs, Jr., a former teacher and associate headmaster of the Middlesex School in Concord, MA. John, who recently passed away, arrived at Middlesex in 1932 and, over the years, touched the lives of countless Middlesex students, including my own. He served for over four decades as a teacher of English, adviser, coach, administrator, and associate headmaster. It can be said that few individuals in the history of the Middlesex School have had the impact on the school that John did. He was the best teacher I ever had and many other students would say the same.

At a memorial service held at the Middlesex School Chapel, former headmaster David Sheldon recalled Monk Terry's words about John:

> It's in the classroom that this remarkable man makes the greatest impact on the boys of Middlesex. Year in, year out, by mail and in person, I am told of the lasting stimulation felt by his students: and the amazing thing is that the poor students are as enthusiastic as the good ones. I can think of no one in my thirty-nine years of teaching who more deserves the title of master teacher.

John DeQ. Briggs, Jr. is survived by his wife, Delia; his daughter, Henrietta Cosentino; and his son, John. I extend my deep sympathies to his family.

FIRST FEMALE TO ASSUME COMMAND OF U.S. NAVAL BASE: A TRIBUTE TO U.S. NAVY REAR ADM. LOUISE C. WILMONT

HON. HERB KLEIN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, August 2, 1993

Mr. KLEIN. Mr. Speaker, I rise to pay tribute to a Wayne, NJ, native, who has dedicated almost 30 years of her time, talent, and energy to the U.S. Navy. Rear Adm. Louise C. Wilmont, on July 7, 1993, became the first woman to ever take command of a U.S. Navy base.

Rear Admiral Wilmont was born in Wayne, NJ, in 1942. She attended postsecondary school at the College of St. Elizabeth, Convent Station, NJ. She then left New Jersey in 1964 to receive her commission as an ensign in the U.S. Navy from a candidate school in Newport, RI.

This is not the first time Rear Admiral Wilmont has been honored for her outstanding dedication to the U.S. Navy. She has received many notable decorations, including the Defense Superior Service Medal, the Legion of Merit, and the Meritorious Service Medal.

Rear Admiral Wilmont will succeed Rear Adm. Francis W. Harness to take control of the Philadelphia Naval Base. Since 1819, when the Philadelphia Naval Base began operating under Comdr. Alexander Murry, only men have commanded it. Today, over 10,600 personnel work under command of Rear Admiral Wilmont, who is one of the two female rear admirals out of the 206 on active duty.

Mr. Speaker, I commend Rear Adm. Louise C. Wilmont for setting a new standard for women in the military by attaining this respected position and for becoming the first female commander of a U.S. Navy base. Because of the heights she has reached in the U.S. Navy, Rear Admiral Wilmont will serve as an outstanding role model for women and men everywhere.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, August 3, 1993, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

AUGUST 4

9:30 a.m.

Appropriations

Energy and Water Development Subcommittee

To hold joint hearings with the Committee on Energy and Natural Resources on the Superconducting Super Collider.

SD-366

Commerce, Science, and Transportation

To hold hearings on proposed legislation to authorize funds for programs of the Magnuson Fishery and Conservation Act.

SR-253

Energy and Natural Resources

To hold joint hearings with the Committee on Appropriations' Subcommittee on Energy and Water Development on the Superconducting Super Collider.

SD-366

Environment and Public Works

Clean Water, Fisheries and Wildlife Subcommittee

To resume hearings on S. 1114, authorizing funds for programs of the Federal Water Pollution Control Act, focusing on regional issues.

SD-406

Governmental Affairs

To hold hearings to examine operating procedures at the Internal Revenue Service and the U.S. Customs Service, focusing on allegations of waste and abuse.

SD-342

10:00 a.m.

Banking, Housing, and Urban Affairs

Business meeting, to mark up the nominations of Nelson A. Diaz, of Pennsylvania, to be General Counsel of the Department of Housing and Urban Development, and Gordon J. Linton, of Pennsylvania, to be Federal Transit Administrator, Department of Transportation.

SD-538

Foreign Relations

To hold hearings on the nominations of Aurelia Erskine Brazeal, of Georgia, to be Ambassador to the Republic of Kenya, Walter C. Carrington, of Maryland, to be Ambassador to the Federal Republic of Nigeria, John S. Davison, of Maryland, to be Ambassador to the Republic of Niger, Robert G. Houdek, of Illinois, to be Ambassador to Eritrea, Roland K. Kuchel, of Florida, to be Ambassador to the Republic of Zambia, Donald J. McConnell, of Ohio, to be Ambassador to Burkina Faso, and John T. Sprott, of Virginia, to be Ambassador to the Kingdom of Swaziland.

SD-419

2:30 p.m.

Appropriations

Energy and Water Development Subcommittee

To continue joint hearings with the Committee on Energy and Natural Resources on the Superconducting Super Collider.

SD-366

Energy and Natural Resources

To continue joint hearings with the Committee on Appropriations' Subcommittee on Energy and Water Development on the Superconducting Super Collider.

SD-366

AUGUST 5

9:30 a.m.

Energy and Natural Resources

To hold hearings on the actinide recycle program and the Department of Energy's advanced nuclear reactor program.

SD-366

Environment and Public Works

Clean Water, Fisheries and Wildlife Subcommittee

To continue hearings on S. 1114, authorizing funds for programs of the Federal Water Pollution Control Act, focusing on Federal agency monitoring and other issues.

SD-406

10:00 a.m.

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To hold hearings to examine advanced computing in health care.

SR-253

Commerce, Science, and Transportation

Merchant Marine Subcommittee

To hold oversight hearings on foreign-flagging requests of American shipping companies.

SR-253

Governmental Affairs

Business meeting, to consider pending calendar business.

SD-342

2:00 p.m.

Select on Intelligence

To hold hearings to examine issues relating to economic intelligence.

SH-216

3:00 p.m.

Labor and Human Resources

Employment and Productivity Subcommittee

To hold joint hearings with the Committee on Indian Affairs on the implementation of the Job Training Partnership Act (P.L. 102-367), and the Indian Employment Training and Services Demonstration Act (P.L. 102-477).

SR-485

Indian Affairs

To hold joint hearings with the Committee on Labor and Human Resources' Subcommittee on Employment and Productivity on the implementation of the Job Training Partnership Act (P.L. 102-367), and the Indian Employment Training and Services Demonstration Act (P.L. 102-477).

SR-485

AUGUST 6

9:30 a.m.

Joint Economic

To hold hearings to examine the employment-unemployment situation for July.

Room to be announced

SEPTEMBER 8

9:30 a.m.

Commerce, Science, and Transportation

Communications Subcommittee

To resume hearings on S. 1086, to foster the further development of the Nation's telecommunications infrastructure through the enhancement of competition.

SR-253

CANCELLATIONS

AUGUST 3

9:30 a.m.

Energy and Natural Resources

To hold hearings on S. 318, to provide for the energy security of the Nation through encouraging the production of domestic oil and gas resources in deep water on the Outer Continental Shelf in the Gulf of Mexico, and S. 727, to establish a California Ocean Protection Zone.

SD-366

AUGUST 4

9:30 a.m.

Indian Affairs

To hold hearings to examine the Bureau of Indian Affairs' proposal to reduce by 10% the funding for Indian programs for fiscal year 1995.

SR-485

POSTPONEMENTS

AUGUST 6

10:00 a.m.

Governmental Affairs

To hold hearings to examine environmental problems in the Federal government.

SD-342

HOUSE OF REPRESENTATIVES—*August 3, 1993*

The House met at 1 p.m. and was called to order by the Speaker pro tempore [Mr. MONTGOMERY].

DESIGNATION OF SPEAKER PRO TEMPORE

The Speaker pro tempore laid before the House the following communication from the Speaker.

WASHINGTON, DC,
August 3, 1993.

I hereby designate the Honorable G.V. (SONNY) MONTGOMERY to act as Speaker pro tempore on this day.

THOMAS S. FOLEY,
Speaker of the House of Representatives.

PRAYER

Rev. W. Douglas Tanner, Jr., Faith and Politics Institute, Washington, DC, offered the following prayer:

Almighty God, we pray that Your Spirit will move within us and among us on this day. Grace us with wisdom to make decisions that are both compassionate and responsible, particularly in regard to our national budget. Guide each of us to touch our own inner truths, to speak with quiet confidence, and to listen to each other.

We remember those in our country whose homes and farms and businesses have been devastated by flood waters. We also remember those who live in circumstances continually devastating to their minds, and bodies, and spirits. Teach us what it means to do justice, and love kindness, and walk humbly with You in response to both realities.

Finally, we pray this day for the family and friends of our colleague Paul Henry. Be present to them, and lead us to be more fully present to each other in our times of grief. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. RICHARDSON. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Chair's approval of the Journal.

The SPEAKER pro tempore. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. RICHARDSON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I, further proceedings on this vote will be postponed.

The point of order of no quorum is considered withdrawn.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. The gentleman from New Mexico [Mr. RICHARDSON] will please come forward and lead the House in the Pledge of Allegiance.

Mr. RICHARDSON led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 2519. An act making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1994, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 2519) "An act making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1994, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. HOLLINGS, Mr. INOUYE, Mr. BUMPERS, Mr. LAUTENBERG, Mr. SASSER, Mr. KERREY, Mr. BYRD, Mr. DOMENICI, Mr. STEVENS, Mr. HATFIELD, Mr. GRAMM, and Mr. MCCONNELL to be the conferees on the part of the Senate.

The message also announced that pursuant to Public Law 102–325, the Chair, on behalf of the majority leader, announces the appointment of John V. Hartung of Iowa and Dorothy Moore of Maine, to the National Commission on Independent Higher Education.

The message also announced that pursuant to Public Law 102–521, the Chair, on behalf of the President pro tempore, appoints Mary Cathcart of Maine, Kathryn Monaghan Ainsworth of Maine, Marna S. Tucker of Maryland, and Nancy Duff Campbell of the District of Columbia, to the Commission on Child and Family Welfare.

PERMISSION FOR MANAGERS TO FILE CONFERENCE REPORT ON H.R. 2493, AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1994

Mr. DURBIN. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight, August 3, 1993, to file a conference report on the bill (H.R. 2493) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and related agencies programs for the fiscal year ending September 30, 1994, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

PRIVATE CALENDAR

The SPEAKER pro tempore. This is the day for the call of the Private Calendar. The Clerk will call the first individual bill on the Private Calendar.

MELISSA JOHNSON

The Clerk called the bill (H.R. 572) for the relief of Melissa Johnson.

There being no objection, the Clerk read the bill, as follows:

H.R. 572

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PAYMENT FOR THE BENEFIT OF CLAIMANT.

The Secretary of the Treasury shall pay, out of any money in the Treasury not otherwise appropriated, $125,000 to Melissa Johnson of Barryville, New York. Such sum shall be in full and complete settlement of all claims against the United States arising out of the personal injuries and mental pain and suffering incurred as a result of the sexual assault and molestation of Melissa Johnson by an employee of the United States Postal Service on June 3, 1982, and various other dates.

SEC. 2. DEPOSIT OF AMOUNT IN TRUST ACCOUNTS.

Barbara Johnson Lizzi of Barryville, New York the mother of Melissa Johnson, shall deposit the sum paid under section 1 in a federally insured depository institution in an interest bearing account or accounts in trust for Melissa Johnson. Barbara Johnson Lizzi shall serve as sole trustee of such account or accounts and, as such trustee—

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

(1) shall pay those debts and obligations which are outstanding at the time the sum is paid under section 1 to the extent those debts and obligations arise from the injuries and pain and suffering described in section 1;

(2) shall, until Melissa Johnson reaches the age of majority under the laws of the State in which Melissa Johnson is residing at the time, pay, from the amounts in the trust account or accounts, expenses incurred for Melissa Johnson's medical care and education; and

(3) shall, when Melissa Johnson reaches the age of majority under the laws of the State in which Melissa Johnson is residing at the time, pay to Melissa Johnson all amounts remaining in the trust account or accounts.

SEC. 3. LIMITATION ON ATTORNEYS' FEES.

Not more than 10 percent of the amount appropriated by section 1 may be paid or delivered to or received by any agent or attorney on account of services rendered in connection with the claim described in section 1, notwithstanding any contract which provides otherwise. Any person who violates the provisions of this section shall be guilty of an infraction and shall be subject to a fine in the amount provided in title 18, United States Code.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

OLGA D. ZHONDETSKAYA

The Clerk called the bill (H.R. 2625) for the relief of Olga D. Zhondetskaya.

There being no objection, the Clerk read the bill, as follows:

H.R. 2625

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. GRANT OF NATURALIZATION TO OLGA D. ZHONDETSKAYA.

(a) IN GENERAL.—Notwithstanding the inability of Olga D. Zhondetskaya to meet the requirements of section 316 of the Immigration and Nationality Act that relate to residence and physical presence in the United States, she shall be naturalized as a citizen of the United States upon the filing of the appropriate application and upon being administered the oath of renunciation and allegiance pursuant to section 337 of the Immigration and Nationality Act.

(b) DEADLINE FOR APPLICATION AND PAYMENT OF FEES.—Subsection (a) shall apply only if the application for naturalization is filed with appropriate fees within 1 year of the date of the enactment of this Act.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. SENSENBRENNER

Mr. SENSENBRENNER. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. SENSENBRENNER: Strike all after the enacting clause and insert the following:

SECTION 1. WAIVER OF CERTAIN NATURALIZATION REQUIREMENTS FOR OLGA D. ZHONDETSKAYA.

(a) IN GENERAL.—Notwithstanding the inability of Olga D. Zhondetskaya to meet the requirements of section 312 of the Immigration and Nationality Act or the requirements of section 316 of such Act that relate to residence and physical presence in the United States, if otherwise qualified, she shall be considered eligible for naturalization and, upon filing an application for naturalization and being administered the oath of renunciation and allegiance pursuant to section 337 of such Act, shall be naturalized as a citizen of the United States.

(b) DEADLINE FOR APPLICATION AND PAYMENT OF FEES.—Subsection (a) shall apply only if the application for naturalization is filed with appropriate fees within 1 year after the date of the enactment of this Act.

Mr. SENSENBRENNER (during the reading). Mr. Speaker, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin.

There was no objection.

The SPEAKER pro tempore. The question is on the amendment in the nature of a substitute offered by the gentleman from Wisconsin [Mr. SENSENBRENNER].

The amendment in the nature of a substitute was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

Mr. BOUCHER. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1311) for the relief of Olga D. Zhondetskaya, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1311

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 1. WAIVER OF CERTAIN NATURALIZATION REQUIREMENTS FOR OLGA D. ZHONDETSKAYA.

(a) IN GENERAL.—Notwithstanding the inability of Olga D. Zhondetskaya to meet the requirements of section 312 of the Immigration and Nationality Act or the requirements of section 316 of such Act that relate to residence and physical presence in the United States, if otherwise qualified, she shall be considered eligible for naturalization and, upon filing an application for naturalization and being administered the oath of renunciation and allegiance pursuant to section 337 of such Act, shall be naturalized as a citizen of the United States.

(b) DEADLINE FOR APPLICATION AND PAYMENT OF FEES.—Subsection (a) shall apply only if the application for naturalization is filed with appropriate fees within 1 year after the date of the enactment of this Act.

Mr. BROOKS. Mr. Speaker, H.R. 2625 is a private relief bill for the benefit of Olga Zhondetskaya, an 82-year-old national of the former Soviet Union. Olga sought to leave the Communist Soviet Union after World War II. She was finally admitted to the United States as a political refugee in 1988, residing first in New York and now in Maine.

Olga's life-long dream has been to become a U.S. citizen. Under our immigration laws, Olga would be eligible for naturalization on December 7, 1993. Unfortunately, she suffers from terminal lung cancer. Her doctors believe that she has very little of life left. She is currently hospitalized in grave condition. The only means by which she can realize her dream is through the private legislation before us today.

H.R. 2625 would allow Olga to file immediately for citizenship. She has no living relatives, and would gain no benefit under this bill other than the sacred privilege of becoming a U.S. citizen. A companion bill passed the Senate on July 29. If the House adopts this bill today, I will ask that the Senate legislation be considered immediately, thereby clearing the bill for the President's signature.

I urge the Members' support for this compassionate piece of legislation.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 572) was laid on the table.

PRIVATE CALENDAR AGREEMENT

(Mr. BOUCHER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BOUCHER. Mr. Speaker, I would like to take this opportunity to set forth some of the history behind the Private Calendar, as well as a description of the calendar.

Of the five House Calendars, the Private Calendar is the one to which all private bills are referred. Private bills deal with specific individuals, corporations, institutions, and so forth, as distinguished from public bills, which deal with class only.

Of the 108 laws approved by the First Congress, only 5 were private laws. But their number quickly grew as the new Republic produced veterans and veterans' widows seeking pensions and as more citizens came to have private claims and demands against the Federal Government. The 49th Congress, 1885 to 1887, the first Congress for which complete workload and output data is available, passed 1,031 private laws, as compared with 434 public laws. At the turn of the century, the 56th Congress, passed 1,498 private laws and 443 public laws, a better than 3-to-1 ratio.

Private bills were referred to the Committee of the Whole House as far back as 1820, and a calendar of private bills was established in 1839. These bills were initially brought before the House by special orders, but the 62d Congress changed this procedure by rule XXIV, clause 6, which provided for the consideration of the Private Calendar in lieu of special orders. This rule was amended in 1932 and then adopted in its present form on March 22, 1935.

A determined effort to reduce the private bill workload of the Congress was made in the Legislative Reorganization Act of 1946. Section 131 of that act banned the introduction or the consideration of four types of private bills: First, those authorizing payment of money for pensions; second, those authorizing personal or property damages for which suit may be brought under the Federal tort claims procedure; third, those authorizing the construction of a bridge across a navigable stream; or fourth, those authorizing the correction of a military or naval record.

This ban afforded some temporary relief but was soon offset by the rising postwar and cold war flood for private immigration bills. The 82d Congress passed 1,023 private laws as compared with 594 public laws. The 88th Congress passed 360 private laws compared with 666 public laws.

Under rule XXIV, clause 6, the Private Calendar is called the first and third Tuesday of each month. The consideration of the Private Calendar bills on the first Tuesday is mandatory unless dispensed with by a two-thirds vote. On the third Tuesday, however, recognition for consideration of the Private Calendar is within the discretion of the Speaker and does not take precedence over other privileged business in the House.

On the first Tuesday of each month, after disposition of business on the Speaker's table for reference only, the Speaker directs the call of the Private Calendar. If a bill called is objected to by two or more Members, it is automatically recommitted to the committee. No reservation of objection is entertained. Bills not objected to are considered in the House in the Committee of the Whole. On the third Tuesday of each month, the same procedure is followed with the exception that omnibus bills embodying bills previously rejected have preference and are in order regardless of objection.

Such omnibus bills are read by paragraph, and no amendments are entertained except to strike out for reduce amounts of provide limitations. Matters so stricken out shall not be again included in an omnibus bill during that session. Debate is limited to motions allowable under the rule and does not admit motions to strike out the last word or reservation of objections.

The rules prohibit the Speaker from recognizing Members for statements or for requests for unanimous consent for debate. Omnibus bills so passed are thereupon resolved in their component bills, which are engrossed separately and disposed of as if passed separately. Private Calendar bills unfinished on one Tuesday go over to the next Tuesday on which such bills are in order and are considered before the call of bills subsequently on the calendar. Omnibus bills follow the same procedure, and go over to the next Tuesday on which that class of business is again in order. When the previous question is ordered on a Private Calendar bill, the bill comes up for disposition on the next legislative day.

Mr. Speaker, I would also like to describe the official objectors system in the House, which has been established to deal with the great volume of private bills. The majority leader and the minority leader each appointed three Members to serve as Private Calendar objectors during a Congress. The objectors are on the floor ready to object to any bill which does not adhere to the guidelines established for consideration on the Private Calendar. Seated near the objectors are the majority and minority legislative clerks, to provide technical assistance. Should any Member have a doubt or question about a particular private bill, assistance can be provided by the objectors, the clerks, or from the Member who introduced the bill.

The great volume of private bills and the desire to have an opportunity to study them carefully before they are called in the Private Calendar have caused the six objectors to agree upon certain rules. The rules limit consideration of bills placed on the calendar only shortly before it is called. The agreement adopted on June 3, 1958, provides for the consideration of bills only if they have been on the Private Calendar for a period of 7 days, excluding the day the bill is reported and the day the calendar is called. Also, reports must be available to the objectors for 3 calendar days.

It is agreed to that the majority and minority clerks will not submit to the objectors any bills which do not meet this agreement. This policy will be strictly enforced except during the closing days of a session when House rules are suspended.

This agreement is entered into by the gentleman from Virginia [Mr. BOUCHER], the gentleman from Maryland [Mr. MFUME], the gentlewoman from Connecticut [Ms. DELAURO], the gentleman from Wisconsin [Mr. SENSENBRENNER], the gentleman from Virginia [Mr. GOODLATTE], and the gentleman from North Carolina [Mr. COBLE].

THE PRESIDENT'S PLAN KEEPS FAITH WITH THE AMERICAN PEOPLE

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, it is the ninth inning, the score is tied, and gridlock is getting ready to score. The question is, Will the Congress choke, or will we step up to the plate and do what we have to do?

The budget agreement is a good deal, the best we are going to get. It preserves the President's five main goals:

First, the largest deficit reduction in history;

Second, the wealthiest Americans in this country pay their fair share;

Third, keeping taxes on the middle class as low as possible, $2.50 per month;

Fourth, providing incentives for business to create jobs and investment in the skills of our people; and

Fifth, protecting seniors from steep cuts in benefits.

Mr. Speaker, what are the alternatives?

If we stick with the status quo, the deficits will continue to rise. The Republican plan falls short on deficit reduction and not one cent is paid by wealthier Americans.

The Perot plan: $50 billion more in taxes and a 50-cent gas tax.

Mr. Speaker, the President's plan is a good plan, and we should pass it.

Mr. Speaker, we are entering the ninth inning and the American people want to know, will we step up to the plate and swing for the fences—passing the President's plan to cut the deficit, bring back tax fairness, and create jobs—or will we sit back and take a called third strike—dooming the country to the Republican alternative of doing nothing.

Starting last February, President Clinton annunciated three basic concepts upon which his economic plan would be based. Now that the dust settled, it is clear to all who are willing to give the plan a fair hearing that the President has kept faith with the American people.

This plan commits the Government to the largest deficit reduction in history—$496 billion over 5 years. The reduction is reached through specific and real cuts that enable us to do what we should be doing—creating new jobs—8 million over 4 years.

Mr. Speaker, this plan is solid, honest, and fair. The President deserves our support. If we fail, the American people will be the losers.

GOING BACK IN HISTORY

(Ms. PRYCE of Ohio asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. PRYCE of Ohio. Mr. Speaker, last night, Jay Leno had a great comment about the President's tax plan. If you didn't know, it contains a provision making the small business taxes retroactive to January 1.

Leno suggested that as long as we are going back in time, maybe we should go back to the November election. That is not a bad idea.

But if we cannot go back to the election, I suggest that my Democratic colleagues at least think back in history when you raised taxes last. Think back to the 1990 budget agreement.

What was the result of that agreement? Higher taxes, higher deficits, and slower economic growth.

How is this package different from the 1990 agreement? It is worse. It will hit small business harder, increase the deficit more, and grind our slow economic growth to a halt.

Mr. Speaker, the case is clear. Higher taxes will not shrink the deficit. Let's go back to the drawing board instead of going back in time.

CITIZENSHIP FOR OLGA ZHONDETSKAYA—A DREAM COME TRUE

(Mr. ANDREWS of Maine asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ANDREWS of Maine. Mr. Speaker, today the House of Representatives is helping to make a dream come true.

For Olga Zhondetskaya it has been a lifelong dream to become a citizen of the United States. A dream that has lived despite the hardship and persecution that she suffered in the former Soviet Union and at the hands of the Nazis in Germany.

Olga was able to come to America in 1988 and has waited patiently to become eligible for American citizenship in Westbrook, ME. Now, with only months to go, Olga has been hospitalized with terminal lung cancer. And her doctors fear that without this act of Congress, her disease will rob her of the opportunity to realize her dream.

Olga Zhondetskaya and her love of America has captured the hearts and minds of the people of Maine.

She reminds us of how fortunate we are to be Americans. Of why our country, our ideals, and our beliefs are the stuff that fills the dreams of so many people around the world.

Mr. Speaker, through our action on this very special private legislation, the U.S. Congress has said:

Olga, today we open the door of American citizenship to you.

We welcome you as a citizen of our great country with open arms.

And we thank you for reminding each and every one of us, through your perseverance and the power of your dream, how much it means to be free, and how truly wonderful it is to be a citizen of the United States of America.

□ 1310

REGARDING THE PRESIDENT'S TAX AND SPEND PACKAGE

(Mr. BLUTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BLUTE. Mr. Speaker, as the House prepares to vote on the largest tax increase in this country's history, I want to share with my colleagues a story about one State's efforts to brace itself against the anticipated impact of the Clinton plan.

While the President and the Democrat leaders in Congress are patting each other on the back, confidently predicting the passage of their tax plan, in my State of Massachusetts, Gov. Bill Weld has begun to plan a protaxpayer counteroffensive.

This weekend, it was reported that if the Congress passes the Clinton plan, the Governor will submit to the State legislature an emergency response plan. He has instructed his staff to begin analyzing the impact of the final Federal budget package, so that he can try to soften the blow on the people and economy of Massachusetts. He will do this by proposing offsetting spending reductions and tax cuts.

Mr. Speaker, this is a tragic situation.

In the last 2 years, the Weld administration has worked hard to erase the deficit inherited from our former Governor, and balance the State's budget without raising taxes. This goal has been accomplished through tough choices and spending cuts. Yes, the effects of a long and painful recession still linger in the Bay State, but the economic future looks brighter as a result of this commonsense strategy. Sadly, all of this hard work could be nullified if the Clinton plan passes.

I urge my colleagues to take a lesson from the Weld model. Reject the old, failed tax and spend plan that will soon come before you. Cut spending, hold the line on taxes and our Nation's economy will follow Massachusetts'—forward.

DEMJANJUK CASE MUST BE REVISITED IN AN APPROPRIATE COURT OF LAW

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, the Justice Department says John Demjanjuk should not return to his family in America. This is the same Justice Department that withheld critical evidence that could have exonerated Demjanjuk. They say he lied on his immigration papers, and they have a Nazi ID card from a training camp. But the problem now is German authorities say it is a farce. There was no signature, there was no date, and the photograph was retouched.

Mr. Speaker, what is the truth? What is the Justice Department afraid of?

My resolution says, revisit the case in an appropriate court of law. If he lied and he was a Nazi, not only throw him out, but keep him out and prosecute him for those crimes. But, Mr. Speaker, if he was not, what does America stand for and what does the oath that we have taken stand for?

Let us get this into an appropriate court of law. Let us get through all of these "supposeds" and "maybes" and let us look at the facts and get back to the Constitution.

DÉJÀ VOODOO

(Mr. HEFLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HEFLEY. Mr. Speaker, as this Congress nears yet another vote for yet another tax increase, does anybody get the sense we've been this way before? This Clinton tax increase isn't just déjà vu.

It's déjà voodoo economics, a replay of the disastrous 1990 budget deal. Big taxes today and in the case of the Clinton plan, big taxes yesterday, with retroactive taxation. And as we tax today, we promise to cut tomorrow, and tomorrow, and tomorrow. And surprise, the cuts never come.

We have been this way before, Mr. Speaker. This path leads to economic decline, higher unemployment, and fails to cut the deficit. Before it's too late, we must stop déjà voodoo Clintonomics.

THE JOURNEY OF CHANGE

(Mrs. KENNELLY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. KENNELLY. Mr. Speaker, today's Washington Post calls the budget compromise "solid legislation" and concludes by calling on us to "pass this step one." This past Sunday, my hometown paper, the Hartford Courant, ended its editorial by calling the budget "a step toward fiscal sanity."

Both papers are right. There is an old proverb that says that a journey of a thousand miles begins with a single step. And as both editorials suggest, this budget agreement is an all important first step on the road back to economic growth. It is the first step on our journey of change.

The 1992 elections presented voters with clear choices. And no choice was more clear than that between action and the status quo, between change and more of the same. When the voters spoke, they said no to gridlock. They asked instead for a Government that would grapple with the most difficult problems facing us as a society.

That process begins with adopting this budget agreement. This bill contains measures to cut the deficit by unprecedented amounts—the single largest deficit reduction in history. It contains real incentives for the working poor to work, with a significant expansion of the earned income tax credit. And beyond the rhetoric, its a much-needed restoration of progressivity.

Mr. Speaker, these are not cosmetic changes. They are real and they are serious. This budget agreement is our first step on the journey of a thousand miles—the journey of change.

TAX NOW, CUT NEVER

(Mr. LINDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LINDER. Mr. Speaker, tax now, cut never. That's the Clinton plan in a nutshell.

Take away the President's defense cuts, and you have no real deficit cutting in this package.

Oh sure, you have a reduction in the growth of spending, but, Mr. Speaker, in the real world, that is not cutting spending.

Indeed, the President's plan will increase the national debt by over 1 trillion dollars over the next 5 years.

While the spending cuts are illusionary, the administration's taxes are very real. And they will come quicker than you think. In fact, they have already been with us this whole year.

The marginal tax rates on small business are retroactive to January 1.

And now with the gas tax, the President plans on socking it to the rest of America.

Tax now, cut never. The Clinton tax plan in a nutshell. We need to kill the plan before it kills our economy.

SUBLIMINAL MAN

(Mr. HOKE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOKE. Mr. Speaker, when I saw that secret White House memo on how to sell President Clinton's budget plan to the media and the American people, I couldn't help but think of Saturday Night Live's Mr. Subliminal Man.

Let's see how Mr. Subliminal Man would read this extraordinary memo.

> Hallelujah, Change is here. (taxes)
>
> This is good and this is "change" (taxes)
>
> While you will doubtless be pressed by the media for details beyond these principles—(taxes)—there is nothing wrong with demurring for the moment on the technicalities—(taxes)—and educating—(lying)—the American people and the media on the historic change we need.—(taxes)—Never forget that the optimism—(taxes)—, energy—(taxes)—and enthusiasm—(taxes)—you project is vital.

Mr. Speaker, behind every Clinton proposal, every White House utterance, every administration press release, there lurks one reality: More taxes, more spending, and more Government.

HANDGUN VIOLENCE EXACTS UNACCEPTABLE TOLL IN LIVES AND MONEY

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, this Nation cannot afford the cost of handgun violence. We cannot afford the cost in lives, the cost in futures unfulfilled, the costs of billions of dollars of medical care.

More than 12,000 people died in this country from handguns in 1991. In my hometown of New Haven, handguns were used in 82 percent of the homicides that year.

But those numbers alone don't tell the whole story. The real story is that guns are robbing us of a precious resource—our children. Gunshot wounds are the leading cause of death for both black and white teenage boys. Nearly 3,000 children and teenagers were murdered with handguns in 1990, and another 1,400 committed suicide with guns. Our failure to protect our young people by enacting responsible gun control legislation in the form of the Brady bill is unacceptable.

That is the human cost. There is also a financial price. Firearm injuries are the third most costly type of injury to treat—costing at least $16 billion to treat in 1988 alone, and an average of $373,000 for each fatal injury.

Mr. Speaker, I join in commending those who will participate in taking back the streets tonight in the "National Night Out." And I urge the Members of this House to show similar commitment and courage by passing the Brady bill soon.

□ 1320

THE ONLY CERTAINTY IS HIGHER TAXES

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, there is this bit of old cracker wisdom down my way—saying "something's so doesn't make it so." No matter how many times President Clinton says his tax bill is a deficit reduction package; no matter how many times the Clinton media report it that way—it doesn't change the fact that the only certain component—the only sure thing—of this budget package is $250 billion in new taxes. Everything else—the supposed spending cuts, the oft-repeated claim of future deficit reduction—that is nothing more than a promise. America knows that candidate Clinton made a lot of promises—promises that President Clinton hasn't been able to deliver. Tonight I am told the President will declare 98 percent victory for his budget package. Tomorrow and the day after I expect American voters will assign him and his party 100 percent of the blame when this giant, retroactive tax burden short-circuits our economy with a devastating overload.

THE PARTY THAT SAID NO

(Mr. DURBIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DURBIN. Mr. Speaker, there once was a party that said no to every pitch Bill Clinton would throw.

The Republicans are unanimous, Bill Clinton is their animus.

To defeat Clinton, there is no length to which they would not go.

When President Clinton sent a plan to cut the deficit, the Republicans could not have thought less of it.

On cutting the debt, they said no, no, no, not yet. Just wait, prolong the debate, make a Congressional mess of it.

The Republicans have become the party of gridlock.

They would not say yes in a headlock.

The party that says no has nowhere to go but to spend their days praying for deadlock.

INCREASING ACCESS TO HEALTH BENEFITS

(Mr. HOBSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOBSON. Mr. Speaker, today about 10 million Americans below the poverty level fall into a gap in which they cannot qualify for Medicaid and cannot afford health benefits. Providing insurance, cost-effectively, for people in the gap is one of the biggest problems facing health care reform today.

The Medicaid Health Allowance Act, H.R. 2789, solves that problem.

Our plan allows States to redirect Medicaid funds into existing health systems that are proven to hold down medical inflation.

For States that participate, this proposal would offer health coverage to people up to 100 percent of the poverty level, defined as a family of four with annual earnings up to $14,000. It also would allow people up to 200 percent of poverty to buy in to the program.

This plan is paid for with existing money in the Medicaid Program and that used for uncompensated hospital care of the poor.

No new taxes or spending is required, we take an important step toward insuring the working poor, and we help solve one of the biggest problems facing health care reform.

GOP HOT AIR BURNING UP WASHINGTON

(Mrs. COLLINS of Illinois asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. COLLINS of Illinois. Mr. Speaker, the American people are thirsting for an end to the last 12 years of status quo, business as usual in our Nation's Government and its fiscal policy.

President Clinton's budget plan will help to alleviate this state of affairs with a strong deficit reduction program. Actually, Americans tend to be a rather fair-minded people, and there is greater tax fairness in his package which receives 80 percent of the new revenues from those wealthy individuals making over $200,000 a year.

President Clinton recognizes that many workers do not earn a living wage and so, to a large extent, the working poor will be pulled out of desperation with the earned income tax credit that is currently in the reconciliation conference package.

Now, I believe that all Americans tend to want to invest in America's future, and we do that through our children. Therefore, targeted investments such as Head Start, Family Preservation, Childhood Immunizations, and Student Loan Reforms are certainly a way to go.

Mr. Speaker, it is time to move our country in the new economic and social direction necessary to finally relieve the burden on our hardworking American families.

HOLLYWOOD'S REMAKE OF DEFICIT REDUCTION PACKAGE

(Mr. GRAMS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GRAMS. Mr. Speaker, our Democratic colleagues have certainly pulled off some amazing feats in order to stick the American taxpayer with the largest tax increase in American history.

They have defied the polls, historians, economists, and even their own constituents in their tireless quest to raise taxes.

Now, they have done it again. This time, they are actually going back in time to raise taxes.

That's right, not only are the Democrats giving us the largest tax increase in history, they want to make it retroactive to January 1st of this year, even before President Clinton took office.

To honor this quantum leap, I understand President Clinton's Hollywood friends are kicking around some movie ideas.

How about "Time Bandits II", "Pay Back to the Future", "Peggy Sue Voted for Clinton", "The Land of the Lost Middle Class Tax Cut", or, "Bill & Al's Excellent Tax Adventure."

Yes, Mr. Speaker, it certainly is a forward looking administration that can go back in time to raise taxes.

Let us hope that like Bill Murray in "Groundhog Day", we don't see this over and over again.

THE INTELLIGENCE BUDGET

(Mr. SANDERS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SANDERS. Mr. Speaker, I rise today to ask support for the Sanders-Owens amendment, which we will consider this afternoon, which will cut the intelligence budget by 10 percent or, according to many newspapers, by about $2.8 billion.

Mr. Speaker, at a time when this country is wrestling with a 4 trillion-dollar national debt, with the disgrace of having 5 million children go hungry, with 37 million Americans unable to afford health insurance—it is wrong for us to say that the CIA, the NSA, the DIA, and the other intelligence agencies should be level funded as compared to last year, and that they should not have to accept cutbacks in the same way that many other agencies have.

Mr. Speaker, the cold war is over and the Soviet Union and their former satellites now want entry into NATO. No one is saying that this is a non-dangerous world, or that we should disband our intelligence agencies.

What we are saying is that it makes no sense to continue to fund the intelligence community at the same level as they were funded during the height of the cold war. Like the Defense budget, like the space station, like the super collider—the intelligence agencies should be asked to take a cut in order to help deal with the budget deficit, and to free up money for other national priorities.

WHAT HAPPENED TO THE WAR ON DRUGS?

(Mr. GILMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GILMAN. Mr. Speaker, as we approach the August recess, when many of us will have the opportunity to travel back to our districts and catch up on our work, I am concerned that the Clinton administration has not been doing its homework and has not been giving priority attention to the problem of illicit drugs in America.

It is hoped that his administration will get serious about this crucial problem, and take advantage of the August congressional break to finish its homework on drug policy and be prepared to present its national drug control strategy to the Congress in September.

Mr. Speaker, when the President asked the Congress for time to allow his new administration to review our Nation's drug policy, it was appropriate that we gave him that time. However, little did we know that our Nation would be without a coherent approach to our drug problem in August.

Mr. Speaker, I hope the President heeds our wakeup call, and doesn't hit the snooze button on our Nation's drug policy.

IN SUPPORT OF BUDGET RECONCILIATION

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, we will hear much apocalyptic rhetoric in the next few days concerning the budget reconciliation which will come before the House on Thursday and the Senate on Friday. It will be framed as a sort of end-of-the-line opportunity for us to "fess up" on national indebtedness and deficit reduction.

In my judgment, the document is certainly not perfect, but it is worth supporting. And I intend to support it.

□ 1330

However, when the rhetoric comes about the courage we might show in voting for reconciliation or about the terribly high stakes involved in not adopting it, my mind's eye will not be focused on this Chamber but will be on States like Missouri and Kansas and Nebraska and Iowa, places that have really been leveled and decimated by the great floods along the Mississippi and the Missouri. Some of the damage, I might say, even affected my State of Kentucky. Those are the people who are showing fortitude and courage every single day. We should not forget it.

When all is said and done, Mr. Speaker, it is these small stories that are really the stuff of heroism.

CONGRESS TAKES A VACATION; AMERICA TAKES THE BILL

(Mr. SMITH of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Texas. Mr. Speaker, Congress is going on vacation and it is going to send America the bill. When this so-called deficit reduction bill is passed, taxes will go up, spending will go up, the deficit will go up, and Congress will take off.

To the White House, increasing taxes and spending means a job well done. It may come as a shock to Congress that the Nation does not see Government's job in the same way.

The National Association of Manufacturers analyzed the Clinton plan and projected it would cost 1.2 million jobs over 6 years. It doesn't just cost jobs. It costs seniors more social security taxes and costs all taxpayers a gas tax. Finally, it also costs this administration credibility because candidate Clinton said he would not tax either seniors or gas when he was running for President.

Members of Congress are on a headlong rush to beat the Washington heat, but they are not going to do it by raising hundreds of billions of dollars in new taxes and then turning around and spending it. They are going to find it even hotter at home when their constituents find out what Congress has done.

THE NEW BUDGET PLAN: A DIFFICULT LABOR, AND WHOSE BABY IS IT?

(Ms. NORTON asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. NORTON. Mr. Speaker, the budget just being born taxes the rich, tips its hat to the poor and to small business, and barely nibbles the middle class with a gas tax that is so modest it gets blushes rather than protests. Republicans have dropped out of Congress on the most important issue of the year and thus have already failed the course. Their latest complaint is that the taxes on the rich are retroactive 7 months. The middle class, the big losers in the 1980's wishes these taxes were retroactive 7 years.

We tried to give birth to this baby by natural childbirth but the labor was so hard that a kind of caesarean section was required. At least this baby has all it fingers and toes—a better than one-third reduction in deficit growth and important investments, especially the earned-income tax credit.

When the President and Congress began preparing for this birth, I hoped for better prenatal care. All and all, I wish the baby that came out of conference yesterday looked more like its father.

OUR MATHEMATICALLY CHALLENGED PRESIDENT

(Mr. ROHRABACHER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROHRABACHER. Mr. Speaker, there is an often overlooked group of disadvantaged Americans known as the mathematically challenged. The sufferers of this ailment deserve our compassion. Not only is basic arithmetic impossible for them, but this ailment has claimed our President as one of its victims.

Just about every independent economic analysis, from the National Association of Manufacturers, to even the Democrats own Budget Office, points out that if we just do nothing to our economy, 9 million new jobs will be created over the next 6 years. But our poor mathematically challenged President takes pride in saying that after he pushes through the largest tax increase in the history of humanity, 8 million new jobs will be created. Of course, any person who can handle simple arithmetic sees these taxes will kill 1 million new jobs. But this is the tragedy of this ailment. Taxing the American people and killing a million jobs is seen as economic stimulus and job growth to our President.

I urge my colleagues to oppose the President's tax increase—your no vote will keep a million new jobs. Perhaps one of these new employees will be the one to find a treatment to help the mathematically challenged.

COMMUNITY DEVELOPMENT BANKING

(Mr. KLEIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KLEIN. Mr. Speaker, I rise today to urge my colleagues to support the Community Development Banking and Financial Institutions Act. As an original cosponsor of this innovative legislation, I truly believe that it will prime the investment and job growth pump.

The legislation is designed to encourage private investors to put money in urban areas, where there has been a longstanding credit shortage. City residents would be given the capital to act on their own initiative and open their own businesses.

The Community Development Banking and Financial Institutions Act would establish a national fund to provide financial and technical assistance to a wide variety of nontraditional lenders that have community development as their primary mission.

This is not a handout. The eligible financial institutions must match assistance on a dollar for dollar basis. This is a private-public partnership at its best. It will create jobs and revitalize communities through self-help initiatives.

The financial institutions will be able to use the assistance for a wide variety of activities such as commercial facilities, business creation and expansion efforts, and community services for low- and middle-income people.

This legislation kindles the entrepreneurial spirit. It brings many one step closer to fulfilling the American dream. I urge my colleagues to support it.

THE PRESIDENT'S TAX PLAN BASED ON FLAWED ASSUMPTIONS

(Mr. BOEHNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOEHNER. Mr. Speaker, the President and his allies here on the Hill are out touting their new tax plan and what it is going to do for America. But in touting this plan, they are making two great assumptions. One is that the tax revenues they estimate are really going to happen, and second, that there will be some control over the numbers, the dollars that we spend on this plan.

On the first point, are the new tax rates really going to bring in the revenue we estimate, I do not think so. All we have to do is look at 1990 and realize that the expected, and their tax revenue actually decreased.

The second point that I would make is that when this plan goes into effect and people lose their jobs, they are not working, they are not earning money, and they are not paying taxes. On the second point, we are going to control spending, there are no controls in this plan on entitlement spending, none whatsoever. Eighty percent of the cuts are in years four and five.

If putting those cuts out in years four and five were such a good deal, why did the 1990 deal not work? Because now we are debating year four of the 1990 deal. The fact is, it did not work and those spending cuts will never happen.

Mr. Speaker, this plan is nothing more than Christmas in August for liberal Democrats: more taxes, more spending, and bigger government.

HIDDEN BENEFITS OF THE BUDGET BILL

(Mr. MORAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MORAN. Mr. Speaker, there are some provisions of this bill that have not been mentioned but are terribly important, that will in fact not increase people's taxes but will improve their standard of living. Sometimes it is hard for us to recognize here at the Federal level that the services, the Government services that our constituents care most about, the education of their children, their police and fire protection, their sanitation collection, these services are not funded primarily by the Federal Government but rather by local government, primarily through real estate property taxes. That is why this bill includes the restoration of the passive loss provision, elimination of tax penalties on debt restructuring, low income housing tax credits, reform of restrictions on pension fund investment in real estate, mortgage revenue bonds, all provisions which are designed to reduce local property taxes and to improve the standard of living for all of our constituents, one more very good reason to support this bill.

CONGRESSIONAL DRIVE TO HELP MIDWEST FLOOD VICTIMS

(Mr. McKEON asked was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. McKEON. Mr. Speaker, over the past several weeks our friends and neighbors in the Midwest have been courageously battling the flood waters of the swollen rivers running through their cities and towns, their farms and homes. As their cleanup efforts begin, the freshman class of the 103d Congress, in a bipartisan effort, invites all Members and staffs to participate in a much needed drive for cleaning supplies and toiletries. We believe this is a good opportunity to demonstrate that Members of Congress and their staffs do see and feel beyond the beltway. Trucking services have been made available through "Gifts in Kind" of Alexandria, and warehouse space at a Salvation Army distribution center in the flood zone has been secured. We have an opportunity to do a good deed, in the American spirit of community and I encourage all my colleagues to join in their effort. A "dear colleague" regarding this project has been sent to every office.

I include for the RECORD a notice regarding this effort:

Donated items may be dropped off in room No. B-341 Rayburn, or you may call the Superintendent's office at X54141 to have supplies picked up for storage. Please do not donate food or clothing.

Suggested items for donation are as follows:

Cleaning supplies: gallon jugs of household bleach, mops, brooms, nonaerosol disinfectants such as liquid Lysol and Pinesol, sponges, and laundry detergent.

Toiletries: Disposable diapers for the old and the young, toilet tissue, feminine supplies, rubbing alcohol/Peroxide, soap/shampoo, and toothpaste/toothbrushes.

These items will be accepted through August 27. We hope you will join the freshman class in this worthy cause.

□ 1340

MILLIONS OF AMERICANS IN 10TH OBSERVANCE OF VICTIMS OF CRIME NATIONAL NIGHT OUT

(Mr. SCHUMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHUMER. Mr. Speaker, it is a sad commentary about our society that we need to designate one special night each year to take the streets back from criminals. But that is what 26 million Americans in 8,600 communities are doing this evening—reclaiming their neighborhoods from the gun-toting criminals that ruin their lives.

Tonight is the tenth annual victims of crime national night out—the one night out of the year in which crime victims will step outside and say "This street does not belong to gangs, gun runners and drug dealers, it belongs to me and my children."

Every day nearly 100,000 Americans are victims of crimes—many of them are victims of senseless gun violence. And these victims have had it up to here.

They have had enough of fear, enough of being a prisoner in their homes, and enough of gun laws that are so pathetic that gangs and felons can arm themselves at will.

Mr. Speaker, we are kidding ourselves if we believe that we can control crime without controlling guns—and the first step is passing the Brady bill.

Let us make every night take back the streets night. Let us give these law-abiding families a chance to reclaim their neighborhoods. No more excuses, we must pass the Brady bill and begin the disarming of criminals.

BIPARTISAN OPPOSITION TO PRESIDENT CLINTON'S PLAN

(Mr. KINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KINGSTON. Mr. Speaker, as a new Member of the House, I am appalled at the bipartisanship of the budget debate, and I am disappointed that while there is opposition in a bipartisan manner, that the majority party is trying to make it appear that only the Republicans are opposing this massive tax increase. Yet, here we are in August. We have a President who has the majority parties in the Senate and the House, has an 83-vote margin in the House and a 6-vote margin in the Senate, yet his own budget, supported by his own party, only passed the House by a 6-vote margin. Where were the other 83 Democrats? They were all gone. And in the Senate his own Vice President had to be the tie breaker. One difference I think that is interesting to point out is that the Senator from Texas was there at the time, and he is no longer there. Maybe there is a lesson in that.

So, Mr. President, I would just suggest to the House that this is not a partisan battle. There are a lot of folks on both sides of the aisle who have grave concerns about this huge tax increase. And I hope that the majority party will recognize that one reason we are here in August without the budget being passed is because of Members of their own party's opposition.

DISASTER CREDIT RELIEF ACT OF 1993

Mr. GONZALEZ. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1273) to enhance the availability of credit in disaster areas by reducing the regulatory burden imposed upon insured depository institutions to the extent such action is consistent with the safety and soundness of the institutions, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore (Mr. TUCKER). Is there objection to the request of the gentleman from Texas?

Mr. LEACH. Mr. Speaker, reserving the right to object, I do so to ask the distinguished chairman, the gentleman from Texas [Mr. GONZALEZ] to explain the measure. I yield to the gentleman from Texas for that purpose.

Mr. GONZALEZ. Mr. Speaker, I thank the gentleman for yielding.

The gentleman from Iowa certainly recalls that yesterday we passed under suspension of the rules H.R. 2808, the House version of the Depository Institutions Disaster Relief Act of 1993, because the gentleman from Iowa had as much to do with that as we did in getting its approval yesterday.

The Senate had previously passed S. 1273, the Disaster Credit Relief Act of 1993. What we have before us today is an amendment I will offer to the Senate bill. This amendment contains minor changes to H.R. 2808; extending the time period during which the banking regulators may grant exceptions from specified laws and regulations from 6 to 8 months and requiring a study by the Secretary of the Treasury instead of the GAO on the utility of disaster relief legislation to borrowers and lenders.

This amendment has been worked out between the House and Senate in a bipartisan fashion. It is a timely and prudent response to the unique problems faced by borrowers and lenders affected by the Midwestern floods. I urge its adoption.

Mr. LEACH. Mr. Speaker, I appreciate the comments of the distinguished committee chairman, and also appreciate profoundly his work and commitment to the people in the flood-affected areas.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1273

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Disaster Credit Relief Act of 1993".

SEC. 2. DISASTER CREDIT RELIEF.

(a) REGULATORY EXCEPTION AUTHORITY.—

(1) EXCEPTION AUTHORITY.—In any area in which the President has determined, on or after April 1, 1993, that a major disaster exists pursuant to section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act or within an area determined to be eligible for disaster relief under other Federal law by reason of damage related to the 1993 flooding of the Mississippi River and its tributaries, the Board of Governors of the Federal Reserve System may make exceptions to—

(A) the requirements of the Truth in Lending Act, for credit transactions made within such area; or

(B) the requirements of the Expedited Funds Availability Act for offices of depository institutions (as defined in section 602 of that Act) located within such area;

if the Board determines that the exception can reasonably be expected to produce benefits to the public that outweigh possible adverse effects of the exception.

(2) EXPIRATION.—Any exception granted under paragraph (1) shall expire not later than October 1, 1994.

(3) PUBLICATION REQUIRED.—The Board of Governors of the Federal Reserve System shall publish in the Federal Register a statement that—

(A) describes any exception made under this subsection; and

(B) explains how the exception can reasonably be expected to produce benefits to the public that outweigh possible adverse effects.

(b) LEVERAGE LIMIT COMPLIANCE.—

(1) EXCEPTION AUTHORITY.—The appropriate Federal banking agency may, by order, permit an insured depository institution located in any area in which the President has determined, on or after April 1, 1993, that a major disaster exists pursuant to section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act or within an area determined to be eligible for disaster relief

under other Federal law by reason of damage related to the 1993 flooding of the Mississippi River and its tributaries, to subtract from the institution's total assets, in calculating compliance with the leverage limit prescribed under section 38 of the Federal Deposit Insurance Act, an amount not to exceed the qualifying amount attributable to insurance proceeds, if the agency determines that—

(A) the institution—

(i) had its principal place of business within the major disaster area on the day before the date of the President's determination;

(ii) derives more than 60 percent of its total deposits from persons who normally reside within, or whose principal place of business is normally within, areas of intense devastation caused by the major disaster (such as the flooded areas of the Mississippi, Missouri, Kansas, Illinois, and Des Moines rivers, and the tributaries of such rivers);

(iii) was adequately capitalized (as defined in section 38 of the Federal Deposit Insurance Act) before the President's determination; and

(iv) has an acceptable plan for managing the increase in its total assets and total deposits; and

(B) the subtraction is consistent with the purpose of section 38 of the Federal Deposit Insurance Act.

(2) DEFINITIONS.—For purposes of this subsection—

(A) the term "appropriate Federal banking agency" has the same meaning as in section 3 of the Federal Deposit Insurance Act;

(B) the term "insured depository institution" has the same meaning as in section 3 of the Federal Deposit Insurance Act;

(C) the term "leverage limit" has the same meaning as in section 38 of the Federal Deposit Insurance Act; and

(D) the term "qualifying amount attributable to insurance proceeds" means the amount by which the insured depository institution's total assets exceed the institution's average total assets during the calendar quarter ending before the date of the Presidential determination referred to in paragraph (1), because of the deposit of insurance payments or governmental assistance made with respect to damage caused by, or other costs resulting from, the major disaster.

(3) EXPIRATION.—Any exception granted under this subsection shall expire not later than April 1, 1995.

(c) BANKING AGENCY PUBLICATION REQUIREMENTS.—

(1) IN GENERAL.—A qualifying regulatory agency may take any of the following actions with respect to depository institutions or other regulated entities whose principal place of business is within, or with respect to transactions or activities within, any area in which the President has determined, on or after April 1, 1993, that a major disaster exists pursuant to section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act or any area determined to be eligible for disaster relief under other Federal law by reason of damage related to the 1993 flooding of the Mississippi River and its tributaries, if the agency determines that the action would facilitate recovery from the major disaster:

(A) PROCEDURE.—The agency may exercise its authority under provisions of law other than this subsection without regard to—

(i) any requirement of section 553 of title 5, United States Code; or

(ii) any provision of law that requires notice or opportunity for hearing or sets maximum or minimum time limits with respect to agency action.

(B) PUBLICATION REQUIREMENTS.—The agency may make exceptions, with respect to institutions or other entities for which the agency is the primary Federal regulator, to—

(i) any publication requirement with respect to establishing branches or other deposit-taking facilities; or

(ii) any other similar publication requirement.

(2) PUBLICATION REQUIRED.—A qualifying regulatory agency shall publish in the Federal Register a statement that—

(A) describes any action taken under this subsection; and

(B) explains the need for the action.

(3) QUALIFYING REGULATORY AGENCY DEFINED.—For purposes of this subsection, the term "qualifying regulatory agency" means—

(A) the Board of Governors of the Federal Reserve System;

(B) the Comptroller of the Currency;

(C) the Director of the Office of Thrift Supervision;

(D) the Federal Deposit Insurance Corporation;

(E) the Federal Financial Institutions Examination Council;

(F) the National Credit Union Administration; and

(G) with respect to chapter 53 of title 31, United States Code, the Secretary of the Treasury.

(4) EXPIRATION.—The authority of a qualifying regulatory agency to take any action in accordance with this subsection shall expire not later than April 1, 1994.

SEC. 3. STUDY AND REPORT REQUIRED.

(a) STUDY.—The Secretary of the Treasury, after consultation with the appropriate Federal banking agencies (as defined in section 3 of the Federal Deposit Insurance Act), shall conduct a study to assess the impact of Federal banking laws and regulations on the provision of credit and banking services in major disaster areas, as declared by the President. The study shall—

(1) examine how the agencies and entities granted authority by the Depository Institutions Disaster Relief Act of 1992 and by this Act have exercised such authority;

(2) evaluate the utility of such Acts in facilitating recovery from disasters consistent with the safety and soundness of depository institutions; and

(3) contain recommendations with respect to whether the authority granted by this Act should be made permanent.

(b) REPORT TO THE CONGRESS.—Not later than 1 year after the date of enactment of this Act, the Secretary of the Treasury shall submit a report to the Congress containing the results of the study conducted under subsection (a), together with any recommendations for legislative or administrative actions that should be taken.

SEC. 4. SENSE OF THE CONGRESS REGARDING THE FLOODS OF 1993.

It is the sense of the Congress that the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, and the National Credit Union Administration should encourage depository institutions in areas affected by such major disasters as the flooding of the Mississippi, Missouri, Kansas, Illinois, and Des Moines rivers, and the tributaries of such rivers, to meet the financial services needs of their communities.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. GONZALEZ

Mr. GONZALEZ. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. GONZALEZ: Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Depository Institutions Disaster Relief Act of 1993".

SEC. 2. TRUTH IN LENDING ACT; EXPEDITED FUNDS AVAILABILITY ACT.

(a) TRUTH IN LENDING ACT.—During the 240-day period beginning on the date of enactment of this Act, the Board of Governors of the Federal Reserve System may make exceptions to the Truth in Lending Act for transactions within an area in which the President, pursuant to section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, has determined, on or after April 1, 1993, that a major disaster relief under other Federal law by reason of damage related to the 1993 flooding of the Mississippi River and its tributaries, if the Board determines that the exception can reasonably be expected to alleviate hardships to the public resulting from such disaster that outweigh possible adverse effects.

(b) EXPEDITED FUNDS AVAILABILITY ACT.—During the 240-day period beginning on the date of enactment of this Act, the Board of Governors of the Federal Reserve System may make exceptions to the Expedited Funds Availability Act for depository institution offices located within any area referred to in subsection (a) of this section if the Board determines that the exception can reasonably be expected to alleviate hardships to the public resulting from such disaster that outweigh possible adverse effects.

(c) TIME LIMIT ON EXCEPTIONS.—Any exception made under this section shall expire not later than October 1, 1994.

(d) PUBLICATION REQUIRED.—The Board of Governors of the Federal Reserve System shall publish in the Federal Register a statement that—

(1) describes any exception made under this section; and

(2) explains how the exception can reasonably be expected to produce benefits to the public that outweigh possible adverse effects.

SEC. 3. DEPOSIT OF INSURANCE PROCEEDS.

(a) IN GENERAL.—The appropriate Federal banking agency may, by order, permit an insured depository institution to subtract from the institution's total assets, in calculating compliance with the leverage limit prescribed under section 38 of the Federal Deposit Insurance Act, an amount not exceeding the qualifying amount attributable to insurance proceeds, if the agency determines that—

(1) the institution—

(A) had its principal place of business within an area in which the President, pursuant to section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, has determined, on or after April 1, 1993, that a major disaster exists, or with an area determined to be eligible for disaster relief under other Federal law by reason of damage related to the 1993 flooding of the Mississippi River and its tributaries, on the day before the date of any such determination;

(B) derives more than 60 percent of its total deposits from persons who normally reside within, or whose principal place of business is normally within, areas of intense devastation caused by the major disaster;

(C) was adequately capitalized (as defined in section 38 of the Federal Deposit Insurance Act) before the major disaster; and

(D) has an acceptable plan for managing the increase in its total assets and total deposits; and

(2) the subtraction is consistent with the purpose of section 38 of the Federal Deposit Insurance Act.

(b) TIME LIMIT ON EXCEPTIONS.—Any exception made under this section shall expire not later than April 1, 1995.

(c) *Definitions.*—For purposes of this section:

(1) APPROPRIATE FEDERAL BANKING AGENCY.—The term "appropriate Federal banking agency" has the same meaning as in section 3 of the Federal Deposit Insurance Act.

(2) INSURED DEPOSITORY INSTITUTION.—The term "insured depository institution" has the same meaning as in section 3 of the Federal Deposit Insurance Act.

(3) LEVERAGE LIMIT.—The term "leverage limit" has the same meaning as in section 38 of the Federal Deposit Insurance Act.

(4) QUALIFYING AMOUNT ATTRIBUTABLE TO INSURANCE PROCEEDS.—The term "qualifying amount attributable to insurance proceeds" means the amount (if any) by which the institution's total assets exceed the institution's average total assets during the calendar quarter ending before the date of any determination referred to in subsection (a)(1)(A), because of the deposit of insurance payments or governmental assistance made with respect to damage caused by, or other costs resulting from, the major disaster.

SEC. 4. BANKING AGENCY PUBLICATION REQUIREMENTS.

(a) IN GENERAL.—A qualifying regulatory agency may take any of the following actions with respect to depository institutions or other regulated entities whose principal place of business is within, or with respect to transactions or activities within, an area in which the President, pursuant to section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, has determined, on or after April 1, 1993, that a major disaster exists, or within an area determined to be eligible for disaster relief under other Federal law by reason of damage related to the 1993 flooding of the Mississippi River and its tributaries, if the agency determines that the action would facilitate recovery from the major disaster:

(1) PROCEDURE.—Exercising the agency's authority under provisions of law other than this section without complying with—

(A) any requirement of section 553 of title 5, United States Code; or

(B) any provision of law that requires notice or opportunity for hearing or sets maximum or minimum time limits with respect to agency action.

(2) PUBLICATION REQUIREMENTS.—Making exceptions, with respect to institutions or other entities for which the agency is the primary Federal regulator, to—

(A) any publication requirement with respect to establishing branches or other deposit-taking facilities; or

(B) any similar publication requirement.

(b) PUBLICATION REQUIRED.—A qualifying regulatory agency shall publish in the Federal Register a statement that—

(1) describes any action taken under this section; and

(2) explains the need for the action.

(c) QUALIFYING REGULATORY AGENCY DEFINED.—For purposes of this section, the term "qualifying regulatory agency" means—

(1) the Board of Governors of the Federal Reserve System;

(2) the Comptroller of the Currency;

(3) the Director of the Office of Thrift Supervision;

(4) the Federal Deposit Insurance Corporation;

(5) the Financial Institutions Examination Council;

(6) the National Credit Union Administration; and

(7) with respect to chapter 53 of title 31, United States Code, the Secretary of the Treasury.

(d) EXPIRATION.—Any exception made under this section shall expire not later than April 1, 1994.

SEC. 5. STUDY; REPORT TO THE CONGRESS.

(a) STUDY.—The Secretary of the Treasury, after consultation with the appropriate Federal banking agencies (as defined in section 3 of the Federal Deposit Insurance Act), shall conduct a study that—

(1) examines how the agencies and entities granted authority by the Depository Institutions Disaster Relief Act of 1992 and by this Act have exercised such authority;

(2) evaluates the utility of such Acts in facilitating recovery from disasters consistent with the safety and soundness of depository institutions; and

(3) contains recommendations with respect to whether the authority granted by this Act should be made permanent.

(b) REPORT TO THE CONGRESS.—Not later than 18 months after the date of the enactment of this Act, the Secretary of the Treasury shall submit to the Congress a report on the results of the study required by subsection (a).

SEC. 6. SENSE OF THE CONGRESS.

It is the sense of the Congress that the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, and the National Credit Union Administration should encourage depository institutions to meet the financial services needs of their communities and customers located in areas affected by the 1993 flooding of the Mississippi River and its tributaries.

SEC. 7. OTHER AUTHORITY NOT AFFECTED.

Nothing in this Act limits the authority of any department or agency under any other provision of law.

The SPEAKER pro tempore. The question is on the amendment in the nature of a substitute offered by the gentleman from Texas [Mr. GONZALEZ].

The amendment in the nature of a substitute was agreed to.

The bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "A bill to facilitate recovery from the recent flooding of the Mississippi River and its tributaries by providing greater flexibility for depository institutions and their regulators, and for other purposes.".

A motion to reconsider was laid on the table.

INTELLIGENCE AUTHORIZATION FOR FISCAL YEAR 1994

Mr. BEILENSON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 229 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 229

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 2330) to authorize appropriations for fiscal year 1994 for intelligence and intelligence-related activities of the United States Government and the Central Intelligence Agency Retirement and Disability System, and for other purposes. The first reading of the bill shall be dispensed with. Points of order against consideration of the bill for failure to comply with section 302(f) or 303(a) of the Congressional Budget Act of 1974 are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Permanent Select Committee on Intelligence. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Permanent Select Committee on Intelligence now printed in the bill. The committee amendment in the nature of a substitute shall be considered by title rather than by section. Each title shall be considered as read. Points of order against the committee amendment in the nature of a substitute for failure to comply with clause 7 of rule XVI or section 302(f) or 303(a) of the Congressional Budget Act of 1974 are waived. No amendment to the committee amendment in the nature of a substitute shall be in order unless printed in the portion of the Congressional Record designated for that purpose in clause 6 of rule XXIII prior to its consideration. At the conclusion of consideration of the bill for amendment the committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from California [Mr. BEILENSON] is recognized for 1 hour.

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Florida [Mr. GOSS], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purposes of debate only.

Mr. Speaker, House Resolution 299 is the rule providing for the consideration of H.R. 2330, the Intelligence Authorization Act for fiscal year 1994.

The rule provides 1 hour of general debate time to be equally divided and controlled by the chairman and ranking minority member of the Permanent Select Committee on Intelligence.

Mr. Speaker, included in the rule are waivers of sections 302(f) and 303(a) of the Congressional Budget Act against consideration of the bill. These sections of the Budget Act prohibit consideration respectively of measures that would cause the appropriate subcommittee level or program level ceilings to be exceeded, and of budgetary legislation prior to the adoption of the budget resolution.

□ 1350

These waivers are necessary to consider one provision of H.R. 2330 that extends pension benefits to certain former spouses of retired Central Intelligence Agency employees. These same waivers are provided for the Intelligence Committee amendment in the nature of a substitute which will be considered for the purposes of amendment.

In addition, the substitute will be considered by title with each title considered as having been read.

Mr. Speaker, the rule also waives clause 7 of the rule XVI which prohibits nongermane amendments against the Intelligence Committee substitute. The rule also requires that amendments to H.R. 2330 be printed in the CONGRESSIONAL RECORD prior to their consideration. There were no objections to the request which was made by the chairman and also by the ranking minority member of the Intelligence Committee.

And finally, Mr. Speaker, the rule provides for one motion to recommit with or without instructions.

Mr. Speaker, House Resolution 229 provides for the consideration of H.R. 2330, legislation authorizing fiscal year 1994 appropriations for the intelligence-related activities of the U.S. Government including those of the Central Intelligence Agency, the Defense Intelligence Agency, the National Security Agency, and the intelligence arms of a number of executive branch departments.

Classified portions of the bill containing amounts and personnel ceilings for each intelligence program are available for Members of Congress to review.

Mr. Speaker, I would like to compliment and commend the chairman of the Intelligence Committee, our good friend, the gentleman from Kansas [Mr. GLICKMAN]. He has done an outstanding job along with our friend, the gentleman from Texas [Mr. COMBEST], the ranking minority member of the committee, in bringing to the House a bill that addresses the changing nature of intelligence operations in this post-cold war period.

Mr. Speaker, House Resolution 229 is a well-written rule for the consideration of legislation that contains, as H.R. 2330 does, classified information. I urge my colleagues to support the bill, the rule, so that we may proceed with consideration of this important bill.

Mr. Speaker, I yield for purposes of debate only to the gentleman from Florida [Mr. GOSS], himself a former CIA gentleman who has brought considerable knowledge from his experience to our committee, which we appreciate greatly.

Mr. Speaker, I reserve the balance of my time.

Mr. GOSS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank my friend, the distinguished gentleman from California [Mr. BEILENSON] for the kind remarks and certainly congratulate him as well for his years of service on the House Permanent Select Intelligence Committee.

Mr. Speaker, the future of our Nation's intelligence programs is now. It is today. It is what this debate is going to be about.

We can, and do, debate whether the world is a safer place absent the U.S.S.R. monolith and that hated symbol of national enslavement—the Berlin wall. But very few people buy the proposition that the world is a more certain place. If anything, we have left behind the Warsaw pact and cold war we knew so well and have entered into a promising but decidedly uncertain future. When you do not know what is out there, that is the time to expand your vision and that is the time to turn up your hearing. And that is precisely why it is unwise and illogical, if not absurd, to cut back our information gathering and active intelligence activities at this time. What captain runs to the bridge to turn off the radar in an effort to economize as his ship enters foggy and uncharted waters? The funding levels in this bill are approximately $1 billion below the administration's request. And I congratulate the administration for going into this and seeing our true need and asking for it.

In the Rules Committee, we had reasonable debate and lots of discussion about the changing dynamics of the world around us and about the corresponding need to adapt, update and streamline our national intelligence programs. Of course, the decline of the Soviet Union has changed the nature of the security threat we face.

There is still a difference in the threat, to be sure. But has it lessened the overall threat? In fact, recent evidence seems to show that we are entering an era of increased volatility and instability, an era when we have fewer easily defined enemies but more, many more, potential sources of life-threatening mischief.

Who is seriously postulating that terrorist groups are folding up, that ruthless dictators are all safely confined in some Jurassic Park? How could a gigantic munitions, arms, and false documents supermarket suddenly turn up right under our noses in a neighboring friendly country with a democratically elected President, a place called Managua, Nicaragua? Who could testify that other nations have cut back their own intelligence organizations and no longer target the United States either politically or militarily or commercially?

Our intelligence program has served us extremely well in the past, and it must serve us just as well in the future. Good intelligence is literally priceless. What better investment can we make than to improve our capability for knowledge so we do not have to employ our capability of muscle?

Are there really any short-term savings when you consider the long-term costs of global terrorism, involving bombings within our own borders or aimed at American citizens and interests overseas?

We all fervently wish to avoid sending U.S. troops into battle. How can the President and the Congress weigh that decision without the best possible information to make a judgment? Those of us here for the Desert Shield-Desert Storm debate remember the depth of the soul-searching that went on before we cast our votes that night. We owe our troops nothing less.

Today we have a rule to allow the fiscal year 1994 Intelligence Authorization Act to come to the floor for debate. I wish to commend Chairman GLICKMAN and our ranking member from Texas, LARRY COMBEST, for really great diligence in crafting this bill and especially for their willingness to allow it to come forward under an essentially open rule. I applaud the Committee for providing all Members with the opportunity to review the legislation in full and be party to detailed briefings regarding our intelligence programs, including briefings of classified matters. That is an inspired initiative which I hope yields a good harvest of understanding. True, amendments were required to be preprinted in the CONGRESSIONAL RECORD this year. But that minor constraint seems to me to be entirely appropriate, given the complexity and sensitivity of the materials before us and especially in view of the guarantee we received from the Committee that there would be no effort to limit or cut off amendments and, to my knowledge, there was none.

I do not believe any Members seeking to improve this bill or further the debate were inconvenienced by this requirement for preprinting.

At first glance, this rule did give me some pause, especially because it includes budget act waivers that I am generally very reluctant to support. The purpose of the budget act is to provide consistency and constraint in congressional budgeting, as we know. But judging by our ever-growing national debt, those good intentions have not realized really positive results.

The Rules Committee was asked to provide the necessary waivers to allow for relatively minor changes in current law. Upon examination, it turns out the Intelligence Committee seeks to alter the eligibility requirements for retirement and disability benefits provided to former spouses of participants in the CIA's retirement and disability system. This is more a matter of fairness than cost.

And I have to point out that I am in no way involved, after the gentleman's opening remarks. There is no benefit or connection between me personally with this provision.

In addition, the bill slightly exceeds the committee's allocation of new entitlement authority.

Finally, the bill increases direct spending under paygo by a minor percentage figure, which technically must be offset by comparable spending cuts or tax increases. The ranking member of the Budget Committee, Mr. KASICH, has made a strong case against waiving the Budget Act to allow for these admittedly minor and generally noncontroversial provisions. In principle, I agree. That is the job of the gentleman from Ohio [Mr. KASICH], and he does it well. In practice, though, because of the bona fide effort of the committee to allow this important bill to proceed through an open-amendment process, I will not object to the rule.

In fact, I endorse it.

Mr. Speaker, I am including at this point in the RECORD the statistics on open versus restrictive rules, as follows:

OPEN VERSUS RESTRICTIVE RULES: 95TH–103D CONG.

Congress (years)	Total rules granted[1]	Open rules[2]		Restrictive rules[3]	
		Number	Percent	Number	Percent
95th (1977–78)	211	179	85	32	15
96th (1979–80)	214	161	75	53	25
97th (1981–82)	120	90	75	30	25
98th (1983–84)	155	105	68	50	32
99th (1985–86)	115	65	57	50	43
100th (1987–88)	123	66	54	57	46
101st (1989–90)	104	47	45	57	55
102d (1991–92)	109	37	34	72	66
103d (1993–94)	31	9	29	22	71

[1] Total rules counted are all order of business resolutions reported from the Rules Committee which provide for the initial consideration of legislation, except rules on appropriations bills which only waive points of order. Original jurisdiction measures reported as privileged are also not counted.

[2] Open rules are those which permit any Member to offer any germane amendment to a measure so long as it is otherwise in compliance with the rules of the House. The parenthetical percentages are open rules as a percent of total rules granted.

[3] Restrictive rules are those which limit the number of amendments which can be offered, and include so-called modified open and modified closed rules, as well as completely closed rule, and rules providing for consideration in the House as opposed to the Committee of the Whole. The parenthetical percentages are restrictive rules as a percent of total rules granted.

Source: "Rules Committee Calendars & Surveys of Activities," 95th–102d Cong.; "Notices of Action Taken," Committee on Rules, 103d Cong., through July 30, 1993.

OPEN VERSUS RESTRICTIVE RULES: 103D CONG.

Rule number date reported	Rule type	Bill number and subject	Amendments submitted	Amendments allowed	Disposition of rule and date
H. Res. 58, Feb, 2, 1993	MC	H.R. 1: Family and medical leave	30 (D–5; R–25)	3 (D–0; R–3)	PQ: 246–176. A: 259–164. Feb. (Feb. 3, 1993).
H. Res. 59, Feb. 3, 1993	MC	H.R. 2: National Voter Registration Act	19 (D–1; R–18)	1 (D–0; R–1)	PQ: 248–271. A: 249–170. (Feb. 4, 1993).
H. Res. 103, Feb. 23, 1993	C	H.R. 920: Unemployment compensation	7 (D–2; R–5)	0 (D–0; R–0)	PQ: 243–172. A: 237–178. (Feb. 24, 1993).
H. Res. 106, Mar. 2, 1993	MC	H.R. 20: Hatch Act amendments	9 (D–1; R–8)	3 (D–0; R–3)	PQ: 248–166. A: 249–163. (Mar. 3, 1993).
H. Res. 119, Mar. 9, 1993	MC	H.R. 4: NIH Revitalization Act of 1993	13 (D–4; R–9)	8 (D–3; R–5)	PQ: 247–170. A: 248–170. (Mar. 10, 1993).
H. Res. 132, Mar. 17, 1993	MC	H.R. 1335: Emergency supplemental appropriations	37 (D–8; R–29)	1 (not submitted) (D–1; R–0)	A: 240–185. (Mar. 18, 1993).
H. Res. 133, Mar. 17, 1993	MC	H. Con. Res. 64: Budget resolution	14 (D–2; R–12)	4 (1–D not submitted) (D–2; R–2)	PQ: 250–172. A: 251–172. (Mar. 18, 1993).
H. Res. 138, Mar. 23, 1993	MC	H.R. 670: Family planning amendments	20 (D–8; R–12)	9 (D–4; R–5)	PQ: 252–164. A: 247–169. (Mar. 4, 1993).
H. Res. 147, Mar. 31, 1993	C	H.R. 1430: Increase Public debt limit	6 (D–1; R–5)	0 (D–0; R–0)	PQ: 244–168. A: 242–170. (Apr. 1, 1993).
H. Res. 149, Apr. 1, 1993	MC	H.R. 1578: Expedited Rescission Act of 1993	8 (D–1; R–7)	3 (D–1; R–2)	A: 212–208. (Apr. 28, 1993).
H. Res. 164, May 4, 1993	O	H.R. 820: National Competitiveness Act	NA	NA	A: Voice vote. (May 5, 1993).
H. Res. 171, May 18, 1993	O	H.R. 873: Gallatin Range Act of 1993	NA	NA	A: Voice Vote. (May 20, 1993).
H. Res. 172, May 18, 1993	O	H.R. 1159: Passenger Vessel Safety Act	NA	NA	A: 308–0. (May 24, 1993).
H. Res. 173, May 18, 1993	MC	S.J. Res. 45: U.S. Forces in Somalia	6 (D–1; R–5)	6 (D–1; R–5)	A: Voice vote. (May 20, 1993).
H. Res. 183, May 5, 1993	O	H.R. 2244: 2d supplemental appropriations	NA	NA	A: 251–174. (May 26, 1993).
H. Res. 186, May 27, 1993	MC	H.R. 2264: Omnibus budget reconciliation	51 (D–19; R–32)	8 (D–7; R–1)	PQ: 252–178. A: 236–194. (May 27, 1993).
H. Res. 192, June 9, 1993	MC	H.R. 2348: Legislative branch appropriations	50 (D–6; R–44)	6 (D–3; R–3)	PQ: 240–177. A: 226–185. (June 10, 1993).
H. Res. 193, June 10, 1993	O	H.R. 2200: NASA authorization	NA	NA	A: Voice vote. (June 14, 1993).
H. Res. 195, June 14, 1993	MC	H.R. 5: Striker replacement	7 (D–4; R–3)	2 (D–1; R–1)	A: 244–176. (June 15, 1993).
H. Res. 197, June 15, 1993	MO	H.R. 2333: State Department. H.R. 2404: Foreign aid	53 (D–20; R–33)	27 (D–12; R–15)	A: 294–129. (June 16, 1993).
H. Res. 199, June 16, 1993	C	H.R. 1876: Ext. of "Fast Track"	NA	NA	A: Voice vote. (June 22, 1993).
H. Res. 200, June 16, 1993	MC	H.R. 2295: Foreign operations appropriations	33 (D–11; R–22)	5 (D–1; R–4)	A: 263–160. (June 17, 1993).
H. Res. 201, June 17, 1993	O	H.R. 2403: Treasury postal appropriations	NA	NA	A: Voice vote. (June 17, 1993).
H. Res. 203, June 22, 1993	MO	H.R. 2445: Energy and water appropriations	NA	NA	A: Voice vote. (June 23, 1993).
H. Res. 206, July 23, 1993	O	H.R. 2150: Coast Guard authorization	NA	NA	A: 401–0. (July 30, 1993).
H. Res. 217, July 14, 1993	MO	H.R. 2010: National Service Trust Act	NA	NA	A: 261–164. (July 21, 1993).
H. Res. 218, July 20, 1993	O	H.R. 2530: BLM authorization, fiscal year 1994–95	NA	NA.	
H. Res. 220, July 21, 1993	MC	H.R. 2667: Disaster assistance supplemental	14 (D–8; R–6)	2 (D–2; R–0)	PQ: 245–178. F: 205–216. (July 22, 1993).
H. Res. 226, July 23, 1993	MC	H.R. 2667: Disaster assistance supplemental	15 (D–8; R–7)	2 (D–2; R–0)	A: 224–205. (July 27, 1993).
H. Res. 229, July 28, 1993	MO	H.R. 2330: Intelligence Authorization Act, fiscal year 1994	NA	NA	
H. Res. 230, July 28, 1993	O	H.R. 1964: Maritime Administration Authorization	NA	NA	A: Voice vote. (July 29, 1993).

Note.—Code: C–Closed; MC–Modified closed; MO–Modified open; O–Open; D–Democrat; R–Republican; PQ: Previous question; A–Adopted; F–failed.

Mr. Speaker, I yield 5 minutes to our ranking member, the distinguished gentleman from Texas [Mr. COMBEST].

Mr. COMBEST. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, there is nothing that I could add that has not been said by the gentleman from California or the gentleman from Florida. I appreciate the kind remarks from both of them.

I want to reiterate particularly for the Members on this side that we have a tendency, as a general opposition to closed rules. Of course, this one did not have a closed rule. It did allow amendments which were printed previously to be allowed.

There was no effort whatsoever by the committee to cut off any of those amendments, none was done, so in many instances, and in fact, basically tried to do that so that the Members of the committee or the staff of the committee could help in the assistance of crafting those amendments to make certain that we did not by any stretch of the imagination jeopardize any information which might be otherwise classified.

I would also indicate that, as the gentleman from Florida [Mr. GOSS] mentioned, the budget waivers that this rule does contain are minor in terms of numbers, and I support strongly the rule and would urge my colleagues to support the rule and that any portions of the bill which did include budget waivers that might normally be of concern to Members did have the option to be stricken by amendment if a Member so desired.

Mr. Speaker, I would stand in strong support of the rule, and I appreciate the cooperation and the work of the Committee on Rules in granting the rule which was requested by the chairman of the committee and myself.

□ 1400

Mr. GOSS. Mr. Speaker, we have no further requests for time, and I yield back the balance of my time.

Mr. BEILENSON. Mr. Speaker, we have no requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

The SPEAKER pro tempore. Pursuant to House Resolution 229 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2330.

The Chair designates the gentlewoman from New York [Ms. SLAUGHTER] as Chairman of the Committee of the Whole, and requests the gentlewoman from Colorado [Mrs. SCHROEDER] to assume the chair temporarily.

□ 1401

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2330) to authorize appropriations for fiscal year 1994 for intelligence and intelligence-related activities of the United States Government and the Central Intelligence Agency retirement and disability system, and for other purposes.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Kansas [Mr. GLICKMAN] will be recognized for 30 minutes, and the gentleman from Texas [Mr. COMBEST] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, this bill authorizes all of the funds for the coming fiscal year for the national and tactical intelligence and intelligence-related activities of the U.S. Government. National intelligence activities, known collectively as the National Foreign Intelligence Program [NFIP], provide intelligence to policymakers such as the President, members of the Cabinet, the National Security Council, and the Joint Chiefs of Staff. Among the programs and activities authorized within the NFIP are those undertaken by the Central Intelligence Agency, the Defense Intelligence Agency, and the National Security Agency, as well as by the intelligence components of the Department of State and the Federal Bureau of Investigation. Other executive branch agencies and departments having intelligence elements, such as the Treasury and Energy Departments and the Drug Enforcement Administration, are also presented within the NFIP.

By contrast, tactical intelligence programs are wholly the responsibility of the Department of Defense. While tactical programs primarily focus on the provision of intelligence to military commanders, like Desert Storm, there are instances in which they are used for national intelligence purposes.

It is sometimes difficult to distinguish between the functions of national and tactical programs, and the Intelligence Committee, therefore, is responsible for reviewing the budgets of both. We work closely with the Committee on Armed Services on those programs which are of particular concern to the military, and I want to thank Chairman DELLUMS and members of his committee for the assistance provided by the members and staff of his committee.

The requirement that classified information be protected against disclosure makes it hard to discuss intelligence activities publicly, even in the most general terms. All of the programs and activities authorized by H.R. 2330 are, however, set forth in a classified schedule of authorizations which is incorporated into the bill by reference, and discussed in detail in a classified annex to the committee's report.

Since June 30, these materials have been available in the committee's offices, and I urge Members who have not done so to go upstairs to H. 405 and review these documents.

The committee has promoted efforts to increase understanding on the part of the public and the Members of this House about the importance of an effective intelligence capability in the post-cold war world. This year, for the first time, the Director of Central Intelligence appeared before the committee in open session to offer his vision of the future roles of our intelligence community. Other open sessions of the committee have occurred, and recently Director Woolsey briefed the Democratic caucus and the Republican conference on intelligence capabilities and challenges.

And I would say that dozens and dozens of Members for the first time were exposed to many of the intricacies of what our intelligence community does.

I hope these sessions have provided Members with some understanding of the fact that timely and reliable intelligence is essential in providing the warning of political, military, and economic threats which policymakers need to enable them to decide among possible responses.

As the size of the U.S. military declines and our Pentagon budget is going to do down to reflect this, the importance of an early-warning system, the importance of what I call an insurance policy, that is intelligence, grows. As we witnessed during the Persian Gulf war, effective intelligence can save American lives. In fact, it saved thousands of lives in the gulf war. It may also make the use of force unnecessary, a fact of special significance as the U.S. military presence overseas diminishes.

The cold war has ended, but the need for a capability to collect, produce, and disseminate intelligence has not. It is true intelligence activities no longer need to be focused on the military threat once posed by the Soviet Union and that the resources devoted to intelligence should decrease as a result. The committee has been a leader in encouraging the intelligence community to redirect its efforts and to reduce its budgets.

For example, this year's bill is 3.7 percent below President Clinton's request. I might add that the defense bill was about even or very slightly under, the President's request. This bill is nearly 4 percent under what President Clinton requested and 3.8 percent below the amount authorized by last year's bill.

Enactment of this measure would provide an authorization for intelligence at about the same level appropriated for the current fiscal year, an amount significantly below that which has been available in the preceding fiscal year.

Current law mandates a 5-year, 17.5-percent reduction in civilian personnel in the intelligence community. The bill keeps the community on course toward meeting that requirement, which is intended to be accomplished without the use of involuntary separation.

It may be, however, that additional personnel reductions are necessary, and the committee has not ruled out the possibility that they would have to be accomplished in that manner.

As resource levels decline, it becomes imperative that intelligence be focused on requirements of the highest priority. Significant threats to the security of the United States remain. Many nations have the means and the desire to acquire nuclear, chemical, and biological weapons. Recently, the Director of the CIA said that more than 25 countries have that capability right now. The proliferation of these weapons poses a problem of catastrophic proportions for the world. Imagine in the old days, all we had to worry about was the Russians, maybe the Chinese; but now we have to worry about up to 25 different countries having either the real power or the capability to develop nuclear weapons, which could pose dangers to people in this country.

Efforts to address this threat—that is, the nuclear, biological, and chemical threat—as well as the threats posed by terrorism, trafficking in illegal narcotics, and the economic espionage activities of other nations, cannot be successful without dependable intelligence. You have to have your eyes and ears open to what is happening in the world. That is what we are talking about today, having good hearing and good vision to try to become aware of the insidious elements in the world and giving that information to policymakers so they will know what kind of action is needed.

The technologies associated with the more diverse threats in biological, chemical, and nuclear terrorism, particularly as they relate to all these other countries that we never worried about before, are sophisticated and require a similarly sophisticated and expensive intelligence attack. The committee has attempted to achieve what President Clinton, in a recent letter vigorously opposing further cuts in his budget request termed a "delicate balance" between intelligence capabilities and budget constraints. The bill supports the investment in new technologies which will be needed to address the challenges policymakers will confront in the years to come and promotes the consolidation of collection platforms to maximize effectiveness while reducing costs. These actions, since they involve the development and acquisition of new, complex systems, require significant initial costs. Once these systems become operational, however, very significant savings will result. H.R. 2330 puts the intelligence community on the path toward realizing those savings.

□ 1410

The post-cold-war intelligence community will be leaner, both in terms of numbers of personnel and budgets, than its predecessor. We do not differ with the administration on that result, but we do differ on the question of how much smaller the community should be, and on the pace by which reductions should be made. Although the bill does not provide the level of funding sought by the administration, a majority of the committee believed that the cuts will not degrade essential intelligence capabilities, and that they are appropriate in light of changes in the world and the intense competition for increasingly scarce Federal resources.

Some may argue that the pace of change favored by the committee is too slow, that we should cut more, that more money should be taken from the intelligence budget because our traditional adversary is gone. Those amendments will be offered today. I urge that these amendments be rejected. Further reductions will, in my judgment, increase the risk that unacceptable gaps in intelligence coverage will result. We live in a world in which more countries, some of which are not friendly to the United States, are aggressively pursuing nuclear weapons and the means to deliver them, in which the expertise and equipment needed to develop those weapons and their delivery systems are readily available on the open market, a world in which regional conflicts requiring some commitment of U.S. forces are becoming increasingly frequent, and in which terrorists are less reluctant to bring their deadly activities to our shores.

The World Trade Center, the Lincoln Tunnel, the Washington Monument, the Golden Gate Bridge, it can and it is happening here in our country.

The capability to provide adequate intelligence about these activities serves as insurance to those who must fashion policies to respond to them, and to military commanders who must minimize the risk to American lives if military force must be employed to counter them. That capability will be available at the funding levels set forth in H.R. 2330, but it becomes more doubtful, more questionable, more gaps remain open, the more we reduce the bill.

In addition to authorizing intelligence programs and activities, the bill contains a number of legislative provisions which will be explained in detail by the chairman of our Subcommittee on Legislation, the gentleman from Texas [Mr. COLEMAN]. Some of these provisions are within the jurisdiction of other committees. As an example, section 303, which repeals the National Security Education Act of 1991, is within the jurisdiction of the Committee on Education and Labor. At the appropriate time, I will seek permission to include, at this point in the RECORD, an exchange of correspondence between myself and Chairman FORD on section 303, an exchange which typifies the degree of cooperation extended by us by other committees as we sought to bring legislation to the floor.

I want to draw particular attention to section 304 because it illustrates the efforts the committee is making to bring a greater degree of openness to the work of the intelligence agencies. Section 304 requires the Director of Central Intelligence, for the first time, to submit an annual unclassified report to Congress on the activities of the intelligence community during the preceding year, and those issues which will require particular attention in the year ahead. This report will help make intelligence a little less mysterious and a little more understandable to the average American, a process which in my judgment is essential if support for adequate funding is to be assured.

Madam Chairman, in conclusion I want to compliment the staff of my committee, both the majority and the minority staff, for their particular help. My special thanks go to my ranking member, the gentleman from Texas [Mr. COMBEST], for his cooperation. It has been a pleasure to deal with him on this bill. We have not always agreed, but we have been pretty cooperative, even when we have not agreed, and I appreciate this support.

Let me say one more thing in conclusion. There are a lot of dangers in this world. Americans are actually more threatened today from a diverse number of sources than they have ever been before, by a number of very exotic international powers who want to do great damage to the United States. Many of these people, foreign powers, terrorists and the like, have the capability to obtain sophisticated weaponry with mass destructive power. We need effective eyes and ears to make sure that American citizens are protected. That is the main function of the intelligence budget, and I urge my colleagues to adopt it.

Mr. COMBEST. Madam Chairman, I yield myself such time as I might use.

Madam Chairman, as the ranking Republican member of the Intelligence Committee, let me start by expressing my great appreciation to my colleague from Kansas, Chairman GLICKMAN, for his leadership of the Intelligence Committee through some very tough deliberations. The business of this committee is of critical importance to the security of the United States and its interests worldwide and—as recent terrorist activities in New York have shown—at home. Mr. GLICKMAN has carefully worked with all members of the committee to make sure that important arguments have been heard and important issues considered. To this end, the outstanding support of the Intelligence Committee's staff must be recognized. It has been said many times before by members of this committee, but I would be remiss not to add my own observation that the staff of the Intelligence Committee is second to none in dedication, hard work, and expertise. We are fortunate to have them.

Madam Chairman, the Republican members of the Intelligence Committee strongly support the passage of H.R. 2330 without further reductions in the funding levels authorized. While we believe the bill makes several unwise—indeed the future may show them to be extremely unwise—cuts to the President's proposed intelligence budget, we have had to accept these pragmatically. For a fuller discussion of our concerns, I would urge Members to read our minority views.

I will only comment here that in a strange sort of bipartisan partisanship we Republicans supported President Clinton's budget. That budget was in keeping with President Clinton's plan to reduce the fiscal year 1993–97 intelligence budgets as projected by the Bush administration by $7 billion. The President's budget made some very difficult major reductions to reach a level below last year's authorized budget, and yet put needed money into program initiatives which will trigger major savings in coming years. The bill before us took that very lean administration budget and made numerous significant additional cuts. That said, you can understand why we stand firmly behind every cent remaining in this authorization bill.

We are walking a fine line. We are trying to maintain the flexible intelligence capabilities we need while simultaneously reducing funding. This can be appreciated when we look at this budget in the context of last year's major cuts. As the House debated an intelligence budget which the Intelligence Committee had cut by 5 percent, then Chairman MCCURDY said:

> This is a significant cut * * * It represents, for a bipartisan majority on the committee, the outer limit on which the intelligence community can reasonably be expected to reduce spending next year. To require further cuts would be to risk severe damage to the ability of the community to provide intelligence necessary to policymakers.

Despite our warning, those cuts were effectively doubled in the appropriations process. The net result was that last year's intelligence budget was cut in a manner which, I think, a majority of our committee members—Republican and Democrat—believe was draconian and haphazard. We must not repeat or compound those errors.

We are asking the intelligence community to maintain vigorous, responsive capabilities while suffering cuts to muscle and sinew. The intelligence budget before you funds everything from the antennas on satellite systems to the rent on safehouses for meeting penetrations of radical terrorist organizations; from the technical means of tracking chemical weapons transfers to putting an "X" on a map for an Army sergeant trying to locate enemy artillery; from the FBI's tracking of foreign terrorists to paying an agent to tell us of a foreign government's theft of our industrial secrets; from learning the frequencies of enemy radars so our air crews can counter them or knock them out to tracking the massive illegal transfer and laundering of money by the international narcotics cartels.

Obviously, considered as a whole, these things lumped under the term "intelligence" are not cheap. But neither are the benefits of intelligence:

From my 4½ years on the Intelligence Committee, I can say plainly and without hesitation that intelligence funding buys the lives of American soldiers who would otherwise be parachuting blindly onto strange foreign battlegrounds and the lives of innocent, ordinary tourists, shoppers, and workers who would die victims of undetected terrorists.

The intelligence budget buys the jobs of American workers whose companies and industries would fall prey to unhampered foreign industrial espionage and unchallenged unfair trade practices.

Intelligence buys the capability of working with our allies to slow and, possibly, halt the acquisition of critical technology and equipment with which the world's despots and radical regimes would build nuclear, chemical, and biological weapons—at, God knows, what final cost in human lives. It is no accident that the most despotic and despicable—in North Korea, Iran, Iraq, and Libya, to name but a few—are those who are most intent on building up such capabilities.

Protecting American economic competitiveness, countering terrorism, supporting our military, and retarding the proliferation of weapons of mass destruction: Though it is largely hidden from the public, these are but four of the ways in which our intelligence agencies work relentlessly and with extreme dedication every day protecting American interests. We must not foolishly think that this is a safe world and that we can now shut our eyes, close our ears, and ignore the dangers around us. We cannot thoughtlessly continue to cut and pare and chop and slice and yet expect that the intelligence community will be able to do what is needed. There are lives, there are jobs, there are principles for which we must still be vigilant and capable of fighting. It is our duty here today to ensure that we provide U.S. intelligence with the wherewithal to do just that.

I urge my colleagues to pass this authorization without additional reductions which will further imperil crucially important intelligence capabilities.

□ 1420

Madam Chairman, I reserve the balance of my time.

Mr. GLICKMAN. Madam Chairman, I yield 4 minutes to my colleague, the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Madam Chairman, I rise in strong support of H.R. 2330, the Intelligence Authorization Act for fiscal year 1994. Mr. Chairman, I would first like to recognize the leadership of our distinguished chairman, the gentleman from Kansas [Mr. GLICKMAN] for his efforts in bringing this important legislation to the floor. His tireless efforts in working to establish a consensus on this bill have been a lesson in diligence, patience, and attention to detail and I am proud to have had the opportunity to serve with him on the Intelligence Committee.

Madam Chairman, when I was first appointed to the Intelligence Committee in 1988, cold war considerations were the driving force behind intelligence budgets. In the face of the military threat posed by the former Soviet Union and Warsaw Pact, ever increasing amounts of resources were dedicated to the intelligence community during the 1980's. The end of the cold war, the budget deficit and domestic priorities demand a reduction in the level of intelligence community funding today.

The funding levels recommended in H.R. 2330 represent a 3.7-percent reduction from the administration's initial request and a 3.8-percent reduction from last year's intelligence authorization bill. Madam Chairman, this recommended reduction in no way compromises the national security interests of our country. The funding levels we are recommending today are lean but prudent. The Director of Central Intelligence, James Woolsey, has been in contact with many Members of this House concerning the continuing importance of intelligence. The administration has indicated that it can accept this funding level, although it would oppose additional reductions.

Madam Chairman, as we venture into the next century, our intelligence community must possess the ability to confront new and unorthodox intelligence challenges. The trade center bombing and the failed New York conspiracy offer two examples of the demand terrorism will have on tomorrow's intelligence community. Likewise, the intelligence community will be called upon to prevent the proliferation of weapons of mass destruction, whether they be chemical, biological or nuclear. Finally, it will be up to the intelligence community to conduct economic intelligence in support of U.S. industrial policy abroad to ensure that the playing field is level between our trading partners and competitors.

Madam Chairman, the funding levels recommended in this bill offer adequate resources to our intelligence agencies and entities to undertake these new and future challenges.

Madam Chairman, H.R. 2330 also authorizes the Director of Central Intelligence to establish a program in which small cash prizes may be awarded to students who demonstrate excellence in high school science fairs within the United States. We are all aware of the important role science plays in the continuing technological advancement of our country. Scientific excellence is in fact critical to many of the important successes of the U.S. intelligence community and this high school science fair program will help make our Nation's youth aware of that fact.

Madam Chairman, providing for our national security is a fundamental obligation of this body. The American public rightly expects to live in a free society without fear of attack from foreign forces. A strong and dedicated intelligence community is one reason this expectation can be justified. H.R. 2330 ensures the necessary resources to the intelligence community to continue its excellent work and I encourage my colleagues to support this important bill.

Mr. COMBEST. Madam Chairman, I yield 8 minutes to the gentleman from Nebraska [Mr. BEREUTER].

Mr. BEREUTER. Madam Chairman, this Member rises in strong support for H.R. 2330, the Intelligence Authorization Act of fiscal year 1994. In a moment, this Member will address a principal concern regarding the size of the overall cuts in this Nation's intelligence programs.

Before doing so, however, this Member would first take a moment to compliment the chairman of the Intelligence Committee, the distinguished gentleman from Kansas [Mr. GLICKMAN], for the very capable and equitable manner in which he led the committee during this session. It is a difficult fiscal year, as everyone in this body knows, and budget submissions from every Federal agency came very late indeed. Despite this handicap, the chairman held a full series of hearings in which all intelligence issues of interest both to the majority and minority were fully aired and discussed. Every Member was afforded an opportunity to explore, in sufficient detail, questions and issues of importance. The chairman demonstrated bipartisan leadership and worked closely with the distinguished ranking member of the Select Committee, the gentleman from Texas [Mr. COMBEST], who has himself performed with special distinction in that position. Together, they have built a consensus on most matters coming before the committee and found that consensus whenever possible.

Turning to the legislation, this bill, of course, is the annual authorization legislation for the national and tactical intelligence programs. The Director of Central Intelligence, the Honorable R. James Woolsey, made a cogent and persuasive case for the President's budget. Nonetheless, despite his repeated efforts to provide whatever supporting information the committee required, there seemed to be a dominant mindset to reach a much lower funding level than President Clinton proposed. The Committee has cut dramatically the President's request. But that goal has been met at a very steep price. And every Member of this body must be mindful of the price of this cut as we cast our votes today.

Madam Chairman, acting to defend this country's national security through its defense and civilian components of Government begins with its intelligence agencies—the CIA, NSA, the National Reconnaissance Office, the Defense Intelligence Agency, the FBI's Counterterrorism Division, and others. They are our eyes and ears in a world that is more dangerous than ever before.

Yes, the cold war is over and we have emerged victorious. Yet, like a slain hydra, the end of the cold war has spawned a series of policy issues that have vexed first the Bush, and now the Clinton administrations. None of them can be resolved easily. What are we going to do in Bosnia? How will the Muslims react to the latest Serb offensive in Sarajevo? What do we do about the allegations that China is engaged in proliferation of weapons of mass destruction? How do we deal with the assertions that Saddam Hussein may have retained a significant amount of his missile forces despite the U.N. sanctions? What do we do about the mass starvation in Africa, not only in Somalia but in the Sudan and elsewhere? And what is the African drought's long-term effect on stability and the growth of democracy in that troubled region?

How do we continue the major, positive trends in the reduction of casual drug use in this country and reduce the supply of cocaine being produced by the South America drug lords? Will our trade negotiators who are engaged in critical talks with our trading partners have the information they need to handle delicate negotiations as they try to close the Uruguay round of the GATT? The questions go on and on, with new questions appearing daily as answers and actions are provided to others.

These are all issues that our intelligence agencies address. They must continue to report on these matters, but also be mindful that Russia continues to maintain a significant strategic weapons capability that can threaten the United States. That capability exists, not only in Russia, but also to a much lesser extent in three other states which are part of the former Soviet Union.

Indeed, Director Woolsey has testified that the types of issues that the United States faces today are, in many ways, considerably more complex and more difficult to deal with than the old mission of tracking the works of Moscow. According to Mr. Woolsey, the old Soviet Union usually operated in relatively predictable ways. It tested new weapons systems in the same manner. It even sought to infiltrate groups in the Third World in the same way. But there is far less certainty or predictability with respect to such countries as North Korea, Libya, Iran, Iraq, and others. The behavior of these rogue regimes is difficult to predict, and even harder to deter.

Director Woolsey provided sensible arguments for maintaining funding at the requested levels. Acceptance of those arguments would allow him to gradually lower the amount of spending in the U.S. intelligence community, but also to consolidate and rationalize technical collection capabilities in order to make them more efficient and less costly. Unfortunately, the authorized level in this bill does not provide the Director with the resources that we will require to make a smooth transition to new technologies.

Madam Chairman, this Member was disappointed that the White House did not come to the aid of the intelligence community and actively support the President's own request for funds for fiscal year 1994. I emphasize that their bill authorizes 3.7 percent less than the President requested. However, this Member does appreciate the President's energetic opposition to any further reductions in the fiscal year 1994 intelligence authorization. Indeed, in a July 27, 1993, letter to the distinguished chairman of the Intelligence Committee, the President stated, and I quote:

> The reductions already proposed by the House Intelligence Committee will, in themselves, test our ability to manage prudently the reduction of the intelligence budget while we simultaneously seek to meet the new security challenges which confront the country. Therefore, I will oppose an amendment on the House floor which seeks to reduce intelligence spending beyond the reduction already proposed by the Committee.

Thus, the President has made it absolutely clear that he cannot support a further diminution of our intelligence capability.

Madam Chairman, we are all looking for savings in ongoing programs to pay for worthy programs and essential expenditures and to reduce the deficit. But the cuts the committee has made in this legislation will not go to finance such other worthy expenditures or toward deficit reduction. Rather, the reductions will simply be swallowed up by the Defense authorization bill. Colleagues, I ask you to think about that fact. It is an interesting and generally unrecognized fact that what we cut here will only increase Defense authorizations, for that it is widely recognized, is where the intelligence authorizations are widely hidden.

As with any capital investment, one must maintain an acceptable level of such capital assets so they can operate at peak efficiency during times of crisis. Indeed, this Member is not convinced that the authorized funding we are considering will do so; I did not support the level of cuts approved by the House Permanent Select Committee on Intelligence.

Finally, this Member would say that when we are finished with the authorization and appropriations bills, the Congress inevitably will have cut even more funding than the cut made in the House Select Committee on Intelligence. Any further cut clearly would be devastating. Additional cuts could lead to unintended consequences such as involuntary separations of intelligence community employees, a less reliable capability to respond to crises around the world, a tendency to hold back on intelligence operations for fear that there would not be long-term funding to support them, and the dampening of the vital "esprit de corps" within the intelligence community that is so essential to the type of brilliant intelligence operations which have so successfully helped our country throughout the cold war.

Let this Member assure his colleagues that those successes are many, but a great many of those successes necessarily had to go unmentioned or have been concealed either to protect the national interest or to conceal intelligence assets or methods.

For these reasons, Madam Chairman, this Member urges his colleagues to tread very carefully and reject further cuts in our intelligence agencies, America's first line of defense.

□ 1430

Mr. GLICKMAN. Madam Chairman, I yield 6 minutes to the gentleman from Texas [Mr. COLEMAN], chairman of the Subcommittee on Legislation.

Mr. COLEMAN. Madam Chairman, I rise in support of H.R. 2330, the Intelligence Authorization Act for fiscal year 1994. As the chairman of the Subcommittee on Legislation, I feel we have produced a good bill that has made substantial but careful reductions in the administration's budget request to levels that will maintain our Nation's essential intelligence capabilities.

As a new member of the committee, I have been very concerned that the

American people get their money's worth from our spending on intelligence activities. I have pushed to see that overlap and redundancy are eliminated and interagency coordination is improved. More can be done in these areas, but we should not take a meat-ax approach. I am glad the President, in his recent letter to Chairman GLICKMAN, has committed his administration to these goals, as well as to making further reductions in intelligence spending in the future, according to sensible and appropriate consolidation and reorientation plans. I will thus be supporting the committee's bill against amendments on the floor to reduce spending below the levels recommended by the committee.

The Subcommittee on Legislation, which I am honored to chair, held a number of hearings and briefings on legislative proposals either suggested by the administration or arising out of other committee inquiries. Among these were the proposals to authorize separation pay incentives and early out retirement for certain CIA employees, which became Public Law 103-36. The bill before us today contains several other substantive measures, which I would like to outline just briefly:

Section 203 authorizes retirement annuities, survivor annuities, and access to health insurance for certain ex-spouses of participants in the Central Intelligence Agency retirement and disability system [CIARDS]. The provision is essentially the same as H.R. 981 introduced by Representative BARBARA KENNELLY, which passed the House last year with bipartisan support. It allows certain ex-spouses of participants in CIARDS who, on or before December 4, 1991, did not qualify as a former spouse because they failed to spend 5 years outside of the United States with the participant, to qualify for retirement, survivor, and other benefits available to a qualified former spouse starting on October 1, 1994.

Section 303 repeals the National Security Education Act of 1991 and requires that all amounts in the national security education trust fund that are not obligated on enactment of the section are to be transferred to the Treasury of the United States as miscellaneous receipts. This program would provide undergraduate scholarships for study abroad, graduate fellowships in international, area and foreign language studies, and grants to colleges and universities to improve programs in these disciplines. The NSEA has very worthwhile goals, but despite the claims of some supporters, repeal does represent savings to the Treasury in reduced anticipated outlays of approximately $83 million over the next 5 years. At a time when the clamor for deficit reduction is strong, this program is a luxury we cannot afford.

Section 304 requires the Director of Central Intelligence to submit to Congress annually an unclassified report on the activities of the intelligence community. The report is to be unclassified and is to describe the successes and failures of the past fiscal year as well as the areas of the world and the issues that will be of particular concern in the year to come. This section, the work of Chairman GLICKMAN, will help inform the American people of the role of the intelligence community, including the variety of its missions in the post-cold war era.

Section 305 expresses the support of the committee for two efforts underway in the executive branch to assess and reduce secrecy and security practices and procedures. The committee is concerned that the two efforts could be duplicative or even contradictory. Thus, section 305 expresses the sense of Congress that the reviews be conducted with maximum consultation between them and consolidated recommendations be made to the President. The costs of classification and excessive security procedures is an issue about which the committee will continue to be active and concerned.

Section 401 authorizes the Central Intelligence Agency to carry out a program to award cash prizes to students who participate in high school science fairs within the United States. The section will give the CIA authority already available to other Federal agencies such as NASA and DOD. The committee does not anticipate the program to involve expenditures greater than $5,000 in total annually.

Section 501 increases the statutory ceiling on the amount of foreign language proficiency pay [FLPP] that may be awarded to active duty and reserve component linguists. Foreign language proficiency continues to be a serious problem for our military particularly in intelligence activities. It is a problem of continuing concern to the Intelligence Committee, one that will require action by the Department of Defense on management, training, and pay issues. Our committee and the House Armed Services Committee have worked cooperatively on the FLPP issue and I will support Chairman GLICKMAN's amendment to delete section 501 so that the provision on foreign language proficiency in the defense authorization bill may go forward.

Section 502 amends the National Security Act of 1947 to make clear that any deployment of military intelligence collection units is an intelligence activity about which the congressional intelligence committees must be kept fully and currently informed. This clarification should not be necessary, but the record of the Department of Defense in this area has been uneven at best. It should be noted that the committee is united on the importance of this measure.

In the Subcommittee on Legislation, we have repeatedly asked what is the proper role of the intelligence community—where is the bright line between areas in which the community should be involved and those in which it should not. I believe we have struck an appropriate balance, both legislatively and fiscally, and urge my colleagues to support H.R. 2330.

Mr. DICKS. Madam Chairman, will the gentleman yield?

Mr. COLEMAN. I yield to the gentleman from Washington.

Mr. DICKS. Madam Chairman, I want to commend the gentleman from Texas [Mr. COLEMAN]. Literally thousands and thousands of hours have been spent by the members of the Select Committee on Intelligence and our very competent staff in reviewing this budget, and we have made very significant reductions over the last 2 years on this budget. So for our colleagues, I would urge caution in considering across-the-board approaches to further reducing this budget.

I think we have got it in good shape. It is coming down, personnel is coming down. The gentleman from Texas [Mr. COLEMAN] has been a leader in trying to get rid of duplication, but we also have to remember how important this intelligence budget is.

So I think the gentleman is on target here, and I would urge the House to stay with the committee recommendations on this budget.

□ 1440

Mr. COMBEST. Madam Chairman, I yield 3 minutes to the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Madam Chairman, I thank the gentleman for yielding time to me.

I concur in the sentiments that have been expressed by the gentleman from Texas, the chairman of our Subcommittee on Legislation, and am very highly satisfied that we have contributed to the deliberations that have led us to this moment where we hope that the approval of this bill will be the next order of business of the House.

Members, even as we begin the deliberations on this legislation, our young fellow Americans are poised for a possible airstrike or series of airstrikes in the boiling pot of Bosnia. This action, if taken, is going to require not only the admitted and recognized and acknowledged skill of our pilots and those who maintain our aircraft and those who supply the logistical backup for such a military action, but, equally as important, the intelligence capacity of our Armed Forces will be the guiding beam, as it were, for these young Americans to do the job that they will be asked to do.

It brings to mind forcibly what has already been stated in various ways on the floor thus far by the members of the Permanent Select Committee on Intelligence, that no matter how we restructure, no matter how we downsize, no matter how we try to make the Armed Forces and the national security apparatus of our country leaner and meaner, no matter how we reduce it, we will always need logistics and we will always need, and more so than ever before, intelligence capability.

That is the core of what we argue here today. The proposed reductions, further reductions in the outlays for intelligence will be depriving in a symbolic way, will be depriving our young pilots, if they engage in this Bosnian action, that extra element of intelligence and know-how and scientific background to be able to accomplish their mission with a minimum loss of life on the ground to innocent citizens and with safety and purpose to themselves.

Mr. COMBEST. Madam Chairman, I yield 5 minutes to the gentleman from Utah [Mr. HANSEN].

Mr. HANSEN. Madam Chairman, I rise in support of H.R. 2330, the Intelligence Authorization Act for fiscal year 1994. I am a new member on this committee. The amount of information that we must digest and consider, in a short period of time, is a challenge to any Member. Chairman GLICKMAN and the ranking Republican member, Mr. COMBEST, shepherded the budget through a difficult period when pressures were increasing constantly for deeper and deeper cuts. It is my feeling, shared I think by my Republican colleagues, that the committee went deeper than is prudent, and that we may pay a steep price for this in the future. Our action comes after last year's cuts, when the Congress, both the authorizers and the appropriators, cut far deeper than anyone anticipated, sending shock waves through the intelligence community. That has a negative impact on important intelligence operations that are vital to our national security.

I would like to discuss briefly the issue of international economic intelligence. Innumerable Americans are secure in their jobs in a variety of industries throughout the United States because of good economic intelligence. No doubt, the average American is unaware of the fact that there is significantly more energy expended by our intelligence agencies collecting economic intelligence than for following strategic weapons developments.

While there is unanimity of opinion that our intelligence agencies will not engage in industrial espionage, many of our international competitors do not have these qualms much less share our basic belief in free trade. Accordingly, our intelligence agencies are the American people's first line of defense to ensure the playing field of international commerce is level and the officiating honest.

We are in the midst of some very difficult times now in dealing with a global economic turndown and in trying to counter the tendency of many of our economic competitors to protect themselves through a variety of unfair means. Intelligence is absolutely crucial in such an environment. Just as much as in supporting our troops and fighting terrorism, intelligence is our first line of defense in maintaining our economic competitiveness. In this case, though, instead of saving lives, it saves jobs.

Finally, I want to comment on section 501 of this bill, which Chairman GLICKMAN will offer an amendment to delete at the appropriate point. In adopting this section, the committee took action to address a longstanding inequity between active and Reserve component forces. This addressed the vital issue of providing well-trained linguists for our military commanders in the field. Section 501, initially, provided that members of the National Guard and Reserve components who maintain a language proficiency at the same level as their active duty counterparts, would receive the same pay, $100 per month, to maintain this proficiency. At the present rate for the Reserve components, $13 a month, there is simply no incentive for the Reserves to spend the long hours necessary to keep their language proficiency. The provision was amended at the full committee markup to increase monthly pay to a maximum $450 per month for active duty and reservists who maintain fluency in two foreign languages. As we downside our military forces, we need to maintain these capabilities within the Reserve components as more and more missions are being shifted to them. The only way that one can do this is by insuring that there is an incentive for the Reserves and National Guard personnel who have language skills to maintain them and improve them. Section 501, as amended, would have addressed longstanding pay inequities and provided a strong financial reward for proficiency. My colleague, Mr. SKELTON, on the Armed Services Committee felt we needed to study the proposal further and test it through a pilot program. I agreed with him, but I will continue to focus on language programs and work to ensure there is parity in language proficiency pay between active and Reserve components.

It is noteworthy that Judge Louis Freeh the candidate for Director of the FBI, said at his confirmation hearing that, "We need more agents who speak foreign languages and understand other countries and cultures." Our committee has been a strong proponent of strong language programs, not only in the military but the entire intelligence community. I agree with Judge Freeh that we need better language programs. I will continue to work on comprehensive programs to address this problem. There will be progress soon because it is essential to better counterterrorism programs at the FBI. If we want to stop terrorists, we must understand them and their organizations. This is where language is necessary. We will work with Judge Freeh to help him rectify this problem.

In conclusion, I urge my colleagues to support the bill and oppose further reductions in the authorization levels.

□ 1450

Mr. GLICKMAN. Madam Chairman, I yield 2 minutes to the distinguished gentleman from Baltimore, and surrounding areas, Mr. BEN CARDIN.

Mr. CARDIN. Madam Chairman, I thank the gentleman for yielding time to me, and congratulate the gentleman from Kansas [Mr. GLICKMAN] and the gentleman from Texas [Mr. COMBEST] for bringing to the House a bipartisan bill, a bill that is extremely important for the security of this country.

Madam Chairman, I do not serve on the Permanent Select Committee on Intelligence, but as a Member of Congress I took the opportunity to visit NSA and to see firsthand the work that is being done by that agency. I would encourage my colleagues to take advantage of that opportunity as a Member of Congress. I saw firsthand the dedicated work that is being done by very, very talented people for the defense of this country. They are working under extremely difficult circumstances with the problems that we are having with our budget. The reality is they are going to get less resources. We know that. That is the fiscal reality. However, we expect our intelligence community to be able to obtain the brightest minds to work for our intelligence needs, the best mathematicians and linguists in the Nation. It is very difficult with less funds.

I would urge my colleagues to support this authorization and not to make any further cuts. The needs of the intelligence community are changing. Yes, our defense needs might be less as far as our military is concerned, but the need for intelligence actually increases. As we have less military tools, how we use those tools becomes even more important, and intelligence can help us use our tools more efficiently, in the best interests of our times.

These are changing times. The economic competition among nations requires intelligence information for our Nation to remain strong. We need to protect our research and development capacities in this country, and the role of the intelligence community in stopping international terrorism is absolutely essential.

The nature of intelligence work has become critically important to our country. I urge my colleagues to support the committee's recommendation.

Mr. COMBEST. Madam Chairman, I yield 3 minutes to the gentleman from California [Mr. DORNAN].

Mr. DORNAN. Madam Chairman, I rise today on behalf of my committee's bill, H.R. 2330, the Intelligence Authorization Act. Ulysses S. Grant, one our our great Civil War generals, who at age 46 become our 18th President, once said that, "The art of war is simple enough: Find out where your enemy is, get at him as soon as you can, strike at him as hard and as often as you can, and then keep on moving."

The key there is finding your enemy. At the 130th anniversary of the Battle of Gettysburg, one of the more tragic parts of the history there was Gen. Robert E. Lee losing his cavalry for almost all 3 days of the conflict. Whoever came up to him on the battlefield, he would say, "Have you seen my cavalry? Where is my cavalry? Where are my eyes?" That probably contributed greatly to his loss.

Without intelligence we are blinded. Madam Chairman, we may have seen the end of the evil police state empire, but the world remains a very, very dangerous place. Finding out where our enemy is will be just as difficult and maybe even more complicated than in other parts and times of the cold war. Spotting an individual foot soldier in the hills of Bosnia with an SA-14 shoulder-held weapon, one of the best of its type in the world, that is not easy. Locating a ballistic missile site in Iraq, pinpointing a nuclear weapons facility in North Korea, or uncovering a terrorist plot in the Middle East to strike the United States or our assets anywhere in this world, all of this is dependent upon the capability of our Government's intelligence forces.

If we further cut this already depleted budget, we will directly risk the lives of not only our brave military forces, who may be asked to tackle one of those problems, or destroy a potential enemy threat, but also every citizen of our Nation, every citizen assigned overseas, and every American who travels. At any given moment, 500,000 to 600,000 or more Americans are traveling around this world. All of them are potential targets of terrorist attack.

Enough is enough. I would ask my colleagues, do not tear down our intelligence services any more. What we are defending on this side of the aisle is Mr. Clinton's intelligence request. One of the amazing things is, no matter who ends up as the Commander in Chief, the one thing they treasure is that 9 o'clock briefing every morning of their service, or when there is a crisis, those hourly briefings where we bring all of the forces of our intelligence to bear on helping the executive branch make their decisions.

Madam Chairman, I include for the RECORD specific answers to some of the damaging amendments we will have before us today.

Today, Madam Chairman, we will debate a number of amendments that will be offered to this bill, one or two of which, at least, will deal with the proposal to cut further into the intelligence budgets for fiscal year 1994. We are facing a world that is fraught with danger and that seems more unpredictable than ever. Everyday, some new event breaks over us, which requires our intelligence agencies to provide vital information to the President and other decisionmakers. Intelligence is our first line of defense: From the wild proliferation of nuclear and other weapons, from terrorism, from international narcotics trafficking, and unfair international economic and trade practices. Yet, some Members are about to tell us that this budget hasn't been cut enough.

I fear that we have already cut far deeper than we should have, this isn't a Republican administration's budget. This is a Democratic administration's budget, sent up by Mr. Clinton. The minority members on the committee strongly supported his budget, the White House was slow to gear up in support of the President's budget, but I am pleased to see that the President has now written a letter to Chairman GLICKMAN unequivocally opposing further cuts. We remain concerned by the cuts made in committee. We believe we are at a borderline level where—barely—America's security may not have been critically endangered. However, in some potential crises situations, intelligence capabilities may prove to be stretched too thin to be as effective as we have come to expect.

Any deeper cuts will have a devastating effect on our Nation's intelligence and its capabilities, at the very time when we need them the most.

Where would this money go that some would cut today? It would not go for flood relief in the Midwest; not to families with dependent children; not to permit a restoration of better earned income credits in the budget reconciliation. No, it would just fall back into the defense authorization bill and be used for some other program that does not have the same priority that this does.

This budget funds major counterterrorism programs, the ones which helped apprehend the World Trade Center bombers. Terrorism is on the upswing again, including state-sponsored terrorism. Last March 9, Director of Central Intelligence Jim Woolsey testified before our committee in open session, which is very rare. I asked him about the Nicaraguan passports that had been found in the possession of the alleged perpetrators of the World Trade Center bombings. He did not have any information at that time. Since that time, however, we have found that elements of the government of Mrs. Chamorro and her son-in-law, Antonio Lacayo, have continued to support terrorism elsewhere abroad. A massive arms cache blew up in Managua on May 23. In that cache were found sophisticated surface-to-air missiles that had been owned by the FMLN Salvadoran guerrilla group. The same organization had solemnly pledged that it had turned in all of its weapons to the United Nations. Shortly thereafter, another faction of the FMLN also admitted to having weapons caches. Now, we are all pleased that things are going well in El Salvador, and that the violence of the 1980's has changed to an age of hope, with expectations that democracy will flourish there, but the FMLN weapons found in Managua argue for us to keep a robust Intelligence watch on events there.

The Nicaraguan Government is aiding other terrorist organizations, such as the Basque Separatist movement, the ETA. In fact, three members of that group were deported by Mrs. Chamorro shortly after the May explosion. How are we going to monitor developments such as these in Nicaragua? We are going to monitor them through American intelligence. American intelligence is our first line of defense. It was the FBI's Counterterrorism Division that quickly found the perpetrators of the World Trade Center bombing, and equally importantly, rounded up the ring that was planning on blowing up several tunnels in New York City, as well as the U.S. headquarters, and the Federal building in Manhattan.

I simply cannot understand why someone would be here, standing on this floor, saying "Let us cut the budget some more." Mr. Chairman, let us act responsibly. I believe we have cut too deeply here, but I will vote for this bill. Every Member should vote for H.R. 2330.

Mr. GLICKMAN. Madam Chairman, may I ask how much time I have remaining?

The CHAIRMAN. The gentleman from Kansas [Mr. GLICKMAN] has 5 minutes remaining, and the gentleman from Texas [Mr. COMBEST] has 6 minutes remaining.

Mr. GLICKMAN. Madam Chairman, I yield 1 minute and 30 seconds to the gentlewoman from California [Ms. HARMAN].

Ms. HARMAN. Madam Chairman, I rise to support the fiscal year 1994 intelligence authorization bill. As a member of the Armed Services Committee, I appreciate the work of Chairman GLICKMAN and the Intelligence Committee to shape a budget that adapts our intelligence community to changing threats. This bill funds programs that are critical to our national security, and I urge my colleagues to support it.

Intelligence spending is intelligent spending. I believe that intelligence is a crucial investment for much the same reason that I support aid to the former Soviet Republics: It is proactive. The money we spend for these programs helps us avoid spending much greater sums later, because we can identify threats early on and organize our response. Our intelligence capabilities were a major factor in the Persian Gulf war: They improve our battle management, increased our knowledge about Iraq's capabilities, and helped pave the way for the ground war and liberation of Kuwait. My district has made a major contribution to the tactical intelligence systems that are funded jointly by the Intelligence and Armed Services Committees, and I think these systems are more vital than ever in these times of rapid international change.

It is also intelligent for the Intelligence Committee to bring fresh air into its proceedings—by holding open hearings where possible, and requiring an unclassified annual report to Congress on the intelligence community's priorities and performance. These are important departures from past practice. I think this information will go a long way toward increasing public understanding of the intelligence community, and of the important programs we are voting on here today.

Mr. GLICKMAN. Madam Chairman, I yield 1 minute to the gentleman from Washington [Mr. DICKS].

Mr. DICKS. Madam Chairman, I want to commend our new colleague, the gentlewoman from California [Ms. HARMAN] on her interest not only in defense intelligence but in defense and national security issues. I would also point out that the technology, those sensors, that stealth capability, all those things came to bear, and it did one other thing in the Persian Gulf war. It saved thousands, and thousands, and thousands of American lives.

Bill Perry probably did as good an article as there has been in Foreign Affairs about how these sensors worked and how all that investment in technology came to bear in the Gulf war. I can just tell the Members that it was because of technological superiority, because of those investments, that we did save those lives.

I must tell the Members and I must warn them, we have cut this budget down to the point where if we do not stay with the committee mark, I am concerned, very concerned, that we will not have that technological superiority in the future. We will not be able to make the investments in new capability that are so crucial for the future.

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Ms. HARMAN. If the gentleman will yield, I thank him for his comments and I agree.

Mr. COMBEST. Madam Chairman, I reserve the balance of my time.

Mr. GLICKMAN. Madam. Chairman, I yield 1 minute to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Madam Chairman, I thank the gentleman for yielding the time.

Madam Chairman, I rise in support of the Intelligence Committee bill today and commend our chairman, the gentleman from Kansas [Mr. GLICKMAN], and the ranking member, the gentleman from Texas [Mr. COMBEST], for their leadership in bringing this legislation to the floor. I especially want to commend Chairman GLICKMAN for the spirit of openness that his leadership is bringing to the committee. As he mentioned in his remarks, the open hearing was historic with the new and very capable Director of Central Intelligence, Mr. Woolsey, and in addition, our meeting and briefing for Members was also. I also want to commend him for the efforts he is making toward making our intelligence gathering more open, less expensive, and therefore safer.

Many of my colleagues with whom I serve on the committee have pointed out reasons why it is necessary for us to have a significant amount of money spent on intelligence. I support them in that. I believe that our committee has made the sharpest responsible cuts to the budget. Are we allowed to say we came in over $1 billion under the President's request? I hope so.

In any event, I believe that to cut any deeper at this point in the process would not be responsible.

Mr. GLICKMAN. Madam Chairman, I yield the balance of our time to the distinguished gentleman from New York [Mr. SCHUMER] who is, of course, the chairman of the Subcommittee on Crime and very involved in terrorism issues affecting this country.

Mr. SCHUMER. Antiterrorism issues.

Mr. GLICKMAN. The Chair was just testing the gentleman from New York, and he is as sharp as I thought he was.

Mr. SCHUMER. Madam Chairman, I thank the gentleman for yielding the time and I rise in support of the committee bill, and commend Chairman GLICKMAN in his first year as head of the Permanent Select Committee on Intelligence for bringing to the floor legislation that will take the CIA and the intelligence communities into the 1990's. I want to also commend Chairman GLICKMAN and ranking minority member COMBEST for making sensible reductions in the overall funding level for intelligence.

It seems to me that at $1 billion under the President's request, the bill roughly funds Intelligence at last year's level, but more than adequately protects our interests overseas.

It is certainly true, Madam Chairman, that with the demise of the Soviet Union and the end of the cold war, the threat to America from a foreign power has significantly diminished. But we have to be realistic. We are in a brave new world.

The bill is especially important, in my opinion, because it begins to make the transition from an intelligence community that was focused, and I would say obsessed with the cold war, to a modern, lean intelligence-gathering organization that is geared toward counter-terrorism, nuclear nonproliferation, and industrial espionage.

I have been particularly concerned about the steady rise of State-sponsored terrorism around the world, terrorism that has become more extreme, more deadly, more autonomous, and more heavily armed, and unfortunately, for the first time, more active on American soil.

Our success or failure to fight State-sponsored terrorism will depend more than ever on intelligence activities than just about any other leg of national security. If we cut the budget beyond the levels contained in this bill, the happiest people may well be terrorists in Hamas and Hezbollah and their patrons in Libya, Syria, Iran, and Iraq.

I would say one other sensitive area is nuclear nonproliferation. I know that that is an important issue, but from the perspective of letting the CIA transition from anti-cold war to fighting the new battles of terrorism and nuclear nonproliferation, it is a responsible bill, well put together, and I support it.

Mr. COMBEST. Madam Chairman, I yield myself such time as I may consume.

Just to complete the debate, let me once again reiterate what was said on this floor last year during the consideration of the intelligence bill by the chairman at that time. This is a significant cut. It represents, for a bipartisan majority on the committee, the outer limits on which the intelligence community can reasonably be expected to reduce spending next year. To require further cuts would be to risk severe damage to the ability of the community to provide the intelligence necessary to policymakers.

Mrs. KENNELLY. Madam Chairman, I rise in support of H.R. 2330, the Intelligence Authorization Act for fiscal year 1994.

I particularly want to thank Mr. GLICKMAN and Mr. COMBEST, the chairman and ranking minority member of the full Intelligence Committee, and Mr. COLEMAN and Mr. GEKAS, the chairman and ranking minority member of the Subcommittee on Legislation, for their assistance on section 203, to provide survivor annuities, retirement annuities, and access to health insurance for certain ex-spouses of the Central Intelligence Agency retirement and disability system [CIARDS]. This addresses an issue on which I have worked for many years. Section 203 is essentially the same as H.R. 981 which I introduced this year and which passed the House last year as a title of H.R. 5651.

In the main, section 203 recognizes the contributions made by certain former spouses of Central Intelligence Agency employees and provides them much needed retirement security.

Throughout the 1980's Congress enacted legislation to provide greater retirement equity for the spouses of Federal Government employees. The CIA Spouses' Retirement Equity Act of 1982 provided that qualified former spouses of CIA officers would presumptively receive upon divorce a pro rata share of the officer's retirement benefits, up to 50 percent, based on the length of the marriage during the period of Agency services prior to divorce. The qualified former spouses would also be awarded a similar share of the officer's survivorship benefits. These presumptive amounts could be adjusted by court order or spousal agreement.

This right, which is substantially the same as that provided to similarly situated former spouses of Foreign Service officers, has been extremely important for the financial security of older women facing divorce from clandestine officers of the CIA. We are all now well aware of how difficult it has been for women to secure an equitable division of marital assets upon divorce, and the financial deprivation that usually results. These difficulties were compounded for CIA spouses who were unable to reveal in open court basic details about their personal circumstances.

Under the 1982 law, unfortunately, in order to qualify as a CIA former spouse, an individual not only had to have been married to a CIA employee during at least 10 years of creditable service, but 5 years had to have been spent outside the United States by both marriage partners.

The Subcommittee on Legislation of the Permanent Select Committee on Intelligence, which I chaired in the last Congress, became aware that the 5-year overseas rule for the spouse disqualified from retirement and survivorship benefits many former spouses whose sacrifices for family and country had been as great as those of the former spouses who met the requirement of the rule. These women also provided great support to their husbands and to the Agency by maintaining cover, accepting frequent transfers, and participating in service-related activities. They bore all family responsibilities stateside alone while the officer served overseas, and agreed to the extra demands on family income of maintaining two households. Like other CIA spouses, they found employment opportunities, when not precluded by the nature of the officer's work, to be very limited, and they too experienced the stress of living with secrecy and the fear for the physical safety of their partners. The subcommittee found that these women were in some cases prevented from meeting the 5-year overseas rule by days because they were not allowed by the Agency to accompany the officers to war zone assignments or because they needed to bring a sick child back to the United States for medical care.

Congress in 1991 repealed the 5-year overseas qualifying rule for former spouses divorced after December 4, 1991. Section 203 addresses the plight of a relatively small number of individuals divorced before the repeal. It enables them to receive on a prospective basis retirement and survivor benefits equivalent to the amount they would have been presumptively been awarded, provided they meet the other former spouse requirements. In addition, these individuals and those ex-spouses now receiving Federal insurance benefits will be allowed to Federal health insurance benefits in the future on the same terms available to other CIA former spouses.

Madam. Chairman, the tales of some of the women who will benefit from this legislation have been shared with the Subcommittee on Legislation, and they are heartrending. We are talking about people who were—and are—every bit as dedicated to the highest ideals of the Central Intelligence Agency as anyone employed there, but who have paid great costs financially and emotionally for their service.

Again, on behalf of the individuals who will benefit from this legislation, I thank the committee for its efforts.

Ms. FURSE. Madam Speaker, I am concerned about the issue of overclassification in our intelligence programs. The intelligence budget we are considering today that is cloaked in such secrecy is a microcosm of the larger problem of overclassification in the post-cold-war world.

I hope that this body will seriously examine the issue of levels of classification in the intelligence world. I realize that much must remain classified. However, when overdone, classification breeds disrespect for the system and makes proper congressional oversight difficult. We need to limit the number of programs that are classified to those that truly require it.

I appreciate the opportunity to raise this issue briefly here today and I look forward to participating in continuing discussions.

Mrs. MEYERS of Kansas. Madam Chairman, I am deeply concerned by the proposal to further reduce the intelligence budget. It is true that the Soviet Union no longer exists, but that does not mean the threats facing America have all disappeared. Good intelligence is even more vital now to identify the threats that may suddenly develop to menace American interests and lives.

During the cold war, the primary enemy was another superpower, technically sophisticated, and militarily powerful. It required an extensive intelligence collection effort to penetrate that closed society. But we knew who it was. We could concentrate the bulk of our intelligence assets on determining what the Soviet Union was up to, and what its capabilities were. Now, the number of potential threats has multiplied. And the predictability of those threats has declined. Rogue nations like Iran and North Korea are promoting terrorism and developing weapons of mass destruction. We must reorient our intelligence services to handle these new priorities.

It is said that considerable amounts of money can be saved through consolidation and elimination of duplication. Please remember that not all duplication is unnecessary redundancy. A lot of intelligence analysis is very much like an academic exercise, where different interpretations of the same facts must be considered and debated. Also, the different departments of our Government have different intelligence needs. The Defense Department must analyze intelligence based on military needs, while the State Department must consider the same information with the political ramifications in mind. Having two groups of analysts is not redundant; it is vital.

Madam Chairman, my colleagues, further unwise cuts in our intelligence capabilities will put American lives at risk. Not just in our military services, but American civilians will be more at risk from terrorism if funding for our intelligence services is further reduced.

I urge my colleagues to oppose the Sanders amendment.

Mr. COMBEST. Madam Chairman, I yield back the remainder of my time.

The CHAIRMAN. All time has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute now printed in the bill shall be considered by titles as an original bill for the purpose of amendment, and each title is considered as read.

No amendment to the committee amendment in the nature of a substitute is in order unless printed in the portion of the CONGRESSIONAL RECORD designated for that purpose in clause 6 of rule XXIII prior to its consideration.

The Clerk will designate section 1.

Mr. GLICKMAN. Madam Chairman, I ask unanimous consent that the committee amendment in the nature of a substitute be printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Kansas?

There was no objection.

The text of the committee amendment in the nature of a substitute is as follows:

H.R. 2330

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Intelligence Authorization Act for Fiscal Year 1994".

TITLE I—INTELLIGENCE ACTIVITIES

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

Funds are hereby authorized to be appropriated for fiscal year 1994 for the conduct of the intelligence and intelligence-related activities of the following elements of the United States Government:

(1) The Central Intelligence Agency.

(2) The Department of Defense.

(3) The Defense Intelligence Agency.

(4) The National Security Agency.

(5) The National Reconnaissance Office.

(6) The Department of the Army, the Department of the Navy, and the Department of the Air Force.

(7) The Department of State.

(8) The Department of the Treasury.

(9) The Department of Energy.

(10) The Federal Bureau of Investigation.

(11) The Drug Enforcement Administration.

SEC. 102. CLASSIFIED SCHEDULE OF AUTHORIZATIONS.

(a) SPECIFICATIONS OF AMOUNTS AND PERSONNEL CEILINGS.—The amounts authorized to be appropriated under section 101, and the authorized personnel ceilings as of September 30, 1994, for the conduct of the intelligence and intelligence-related activities of the elements listed in such section, are those specified in the classified Schedule of Authorizations prepared to accompany the bill H.R. 2330 of the One Hundred Third Congress.

(b) AVAILABILITY OF CLASSIFIED SCHEDULE OF AUTHORIZATIONS.—The Schedule of Authorizations shall be made available to the Committees on Appropriations of the Senate and House of Representatives and to the President. The President shall provide for suitable distribution of the Schedule, or of appropriate portions of the Schedule, within the executive branch.

SEC. 103. PERSONNEL CEILING ADJUSTMENTS.

(a) AUTHORITY FOR ADJUSTMENTS.—The Director of Central Intelligence may authorize employment for civilian personnel in excess of the number authorized for fiscal year 1994 under section 102 of this Act when the Director determines that such action is necessary to the performance of important intelligence functions, except that such number may not, for any element of the intelligence community, exceed 2 percent of the number of civilian personnel authorized under such section for such element.

(b) NOTICE TO INTELLIGENCE COMMITTEES.—The Director of Central Intelligence shall promptly notify the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate whenever the Director exercises the authority granted by this section.

SEC. 104. COMMUNITY MANAGEMENT ACCOUNT.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for the

Community Management Account of the Director of Central Intelligence for fiscal year 1994 the sum of $110,788,000. Within such amounts authorized, funds identified for the Advanced Research and Development Committee shall remain available for two years.

(b) AUTHORIZED PERSONNEL LEVELS.—The Community Management Account of the Director of Central Intelligence is authorized 222 full-time personnel as of September 30, 1994. Such personnel of the Community Management Account may be permanent employees of the Community Management Account or personnel detailed from other elements of the United States Government.

(c) REIMBURSEMENT.—During fiscal year 1994, any officer or employee of the United States or a member of the Armed Forces who is detailed to the Community Management Staff from another element of the United States Government shall be detailed on a reimbursable basis, except that any such officer, employee or member may be detailed on a nonreimbursable basis for a period of less than one year for the performance of temporary functions as required by the Director of Central Intelligence.

TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund for fiscal year 1994 the sum of $182,300,000.

SEC. 202. TECHNICAL CORRECTIONS.

(a) IN GENERAL.—The Central Intelligence Agency Retirement Act is amended—

(1) in section 101(7) (50 U.S.C. 2001(7))—

(A) by striking the comma after "basic pay" and inserting in lieu thereof "and"; and

(B) by striking ", and interest determined under section 281";

(2) in section 201(c) (50 U.S.C. 2011(c)), by striking "the proviso of section 102(d)(3) of the National Security Act of 1947 (50 U.S.C. 403(d)(3))" and inserting in lieu thereof "section 103(c)(5) of the National Security Act of 1947 (50 U.S.C. 403–3(c)(5))";

(3) in section 211(c)(2)(B) (50 U.S.C. 2021(c)(2)(B)), by striking "the requirement under section 241(b)(4)" and inserting in lieu thereof "prior notification of a current spouse";

(4) in section 221 (50 U.S.C. 2031)—

(A) by striking "(or, in the case of an annuity computed under section 232 and based on less than 3 years, over the total service)" in subsection (a)(4);

(B) in subsection (f)(1)(A)—

(i) by inserting "after the participant's death" before the period in the first sentence;

(ii) by striking "after the participant's death" in the second sentence;

(iii) by striking "(or is remarried if" in subsection (g)(1) and inserting in lieu thereof "(or, if remarried,"; and

(iv) by striking "(except as provided in paragraph (2))" in subsection (j);

(5) in section 222 (50 U.S.C. 2032)—

(A) by striking "other" the first place it appears in subsection (a)(7) and inserting in lieu thereof "survivor";

(B) by inserting "the participant" before "or does not qualify" in subsection (c)(3)(C); and

(C) by inserting "spouse's death or the" after "month before the" in subsection (c)(4);

(6) in section 224(c)(1)(B)(i) (50 U.S.C. 2034(c)(1)(B)(i)), by striking "former participant" and inserting in lieu thereof "retired participant";

(7) in section 225(c) (50 U.S.C. 2035(c))—

(A) by striking "other" the first place it appears in paragraph (3) and inserting in lieu thereof "survivor"; and

(B) by striking "1991" in paragraph (4)(A) and inserting in lieu thereof "1990";

(8) in section 231(d)(2) (50 U.S.C. 2051(d)(2)), by striking "241(b)" and inserting in lieu thereof "241(a)";

(9) in section 232(b)(4) (50 U.S.C. 2052(b)(4)), by striking "section 222" and inserting in lieu thereof "section 224";

(10) in section 234(b) (50 U.S.C. 2054(b)), by striking "sections 241 and 281" and inserting in lieu thereof "section 241";

(11) in section 241 (50 U.S.C. 2071)—

(A) by striking "A lump-sum benefit that would have been payable to a participant, former participant, or annuitant, or to a survivor annuitant, authorized by subsection (d) or (e) of this section or by section 234(b) or 281(d)" in subsection (c) and inserting in lieu thereof "Lump-sum payments authorized by subsections (d) through (f) of this section or by section 281(d)"; and

(B) by redesignating subsection (f) as subsection (g) and inserting after subsection (e) the following new subsection:

"(f) TERMINATION ON DEATH OF PARTICIPANT.—If a retired participant dies, any annuity accrued and unpaid shall be paid in accordance with subsection (c).";

(12) in section 264(b) (50 U.S.C. 2094)—

(A) by inserting "and" after the semicolon at the end of paragraph (2);

(B) by striking "and to any payment of a return of contributions under section 234(a); and" in paragraph (3) and inserting in lieu thereof ", and the amount of any such payment;"; and

(C) by striking paragraph (4);

(13) in section 265 (50 U.S.C. 2095), by striking "Act" in both places it appears and inserting in lieu thereof "title";

(14) in section 291(b)(2) (50 U.S.C. 2131(b)(2)), by striking "or section 232(c)"; and

(15) in section 304(i)(1) (50 U.S.C. 2154(i)(1)), by striking "section 102(a)(3)" and inserting in lieu thereof "section 102(a)(4)".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as of February 1, 1993.

SEC. 203. SURVIVOR ANNUITY, RETIREMENT ANNUITY, AND HEALTH BENEFITS FOR CERTAIN EX-SPOUSES OF CENTRAL INTELLIGENCE AGENCY EMPLOYEES.

(a) SURVIVOR ANNUITY.—

(1) IN GENERAL.—

(A) ENTITLEMENT OF FORMER WIFE OR HUSBAND.—Any person who was divorced on or before December 4, 1991, from a participant or retired participant in the Central Intelligence Agency Retirement and Disability System and who was married to such participant for not less than 10 years during such participant's creditable service, at least five years of which were spent by the participant during the participant's service as an employee of the Central Intelligence Agency outside the United States, or otherwise in a position the duties of which qualified the participant for designation by the Director of Central Intelligence as a participant under section 203 of the Central Intelligence Agency Retirement Act (50 U.S.C. 2013), shall be entitled, except to the extent such person is disqualified under paragraph (2), to a survivor annuity equal to 55 percent of the greater of—

(i) the unreduced amount of the participant's annuity, as computed under section 221(a) of such Act; or

(ii) the unreduced amount of what such annuity as so computed would be if the participant had not elected payment of the lump-sum credit under section 294 of such Act.

(B) REDUCTION IN SURVIVOR ANNUITY.—A survivor annuity payable under this subsection shall be reduced by an amount equal to any survivor annuity payments made to the former wife or husband under section 226 of such Act.

(2) LIMITATIONS.—A former wife or husband is not entitled to a survivor annuity under this subsection if—

(A) the former wife or husband remarries before age 55, except that the entitlement of the former wife or husband to such a survivor annuity shall be restored on the date such remarriage is dissolved by death, annulment, or divorce;

(B) the former wife or husband is less than 50 years of age; or

(C) the former wife or husband meets the definition of "former spouse" that was in effect under section 204(b)(4) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees before December 4, 1991.

(3) COMMENCEMENT AND TERMINATION OF ANNUITY.—

(A) COMMENCEMENT OF ANNUITY.—The entitlement of a former wife or husband to a survivor annuity under this subsection shall commence—

(i) in the case of a former wife or husband of a participant or retired participant who is deceased as of October 1, 1994, beginning on the later of—

(I) the 60th day after such date; or

(II) the date on which the former wife or husband reaches age 50; and

(ii) in the case of any other former wife or husband, beginning on the latest of—

(I) the date on which the participant or retired participant to whom the former wife or husband was married dies;

(II) the 60th day after October 1, 1994; or

(III) the date on which the former wife or husband attains age 50.

(B) TERMINATION OF ANNUITY.—The entitlement of a former wife or husband to a survivor annuity under this subsection terminates on the last day of the month before the former wife's or husband's death or remarriage before attaining age 55. The entitlement of a former wife or husband to such a survivor annuity shall be restored on the date such remarriage is dissolved by death, annulment, or divorce.

(4) ELECTION OF BENEFITS.—A former wife or husband of a participant or retired participant shall not become entitled under this subsection to a survivor annuity or to the restoration of the survivor annuity unless the former wife or husband elects to receive it instead of any other survivor annuity to which the former wife or husband may be entitled under the Central Intelligence Agency Retirement and Disability System or any other retirement system for Government employees on the basis of a marriage to someone other than the participant.

(5) APPLICATION.—

(A) TIME LIMIT; WAIVER.—A survivor annuity under this subsection shall not be payable unless appropriate written application is provided to the Director, complete with any supporting documentation which the Director may by regulation require. Any such application shall be submitted not later than October 1, 1995. The Director may waive the application deadline under the preceding sentence in any case in which the Director determines that the circumstances warrant such a waiver.

(B) RETROACTIVE BENEFITS.—Upon approval of an application provided under subparagraph (A), the appropriate survivor annuity shall be payable to the former wife or husband with respect to all periods before such approval during which the former wife or husband was entitled to such annuity under this subsection, but in no event shall a survivor annuity be payable under this subsection with respect to any period before October 1, 1994.

(6) RESTORATION OF ANNUITY.—Notwithstanding paragraph (5)(A), the deadline by which an application for a survivor annuity must be submitted shall not apply in cases in which a former spouse's entitlement to such a survivor annuity is restored after October 1, 1994, under paragraph (2)(A) or (3)(B).

(7) APPLICABILITY IN CASES OF PARTICIPANTS TRANSFERRED TO FERS.—

(A) ENTITLEMENT.—Except as provided in paragraph (2), this subsection shall apply to a former wife or husband of a participant under the Central Intelligence Agency Retirement and Disability System who has elected to become subject to chapter 84 of title 5, United States Code.

(B) AMOUNT OF ANNUITY.—The survivor annuity of a person covered by subparagraph (A) shall be equal to 50 percent of the unreduced amount of the participant's annuity computed in accordance with section 302(a) of the Federal Employees' Retirement System Act of 1986 and shall be reduced by an amount equal to any survivor annuity payments made to the former wife or husband under section 8445 of title 5, United States Code.

(b) RETIREMENT ANNUITY.—

(1) IN GENERAL.—

(A) ENTITLEMENT OF FORMER WIFE OR HUSBAND.—A person described in subsection (a)(1)(A) shall be entitled, except to the extent such former spouse is disqualified under paragraph (2), to an annuity—

(i) if married to the participant throughout the creditable service of the participant, equal to 50 percent of the annuity of the participant; or

(ii) if not married to the participant throughout such creditable service, equal to that former wife's or husband's pro rata share of 50 percent of such annuity (determined in accordance with section 222(a)(1)(B) of the Central Intelligence Agency Retirement Act (50 U.S.C. 2032 (a)(1)(B)).

(B) REDUCTION IN RETIREMENT ANNUITIES.—

(i) AMOUNT OF REDUCTION.—An annuity payable under this subsection shall be reduced by an amount equal to any apportionment payments payable to the former wife or husband pursuant to the terms of a court order incident to the dissolution of the marriage of such former spouse and the participant, former participant, or retired participant.

(ii) DEFINITION OF TERMS.—For purposes of clause (i):

(I) APPORTIONMENT.—The term "apportionment" means a portion of a retired participant's annuity payable to a former wife or husband either by the retired participant or the Government in accordance with the terms of a court order.

(II) COURT ORDER.—The term "court order" means any decree of divorce or annulment or any court order or court-approved property settlement agreement incident to such decree.

(2) LIMITATIONS.—A former wife or husband is not entitled to an annuity under this subsection if—

(A) the former wife or husband remarries before age 55, except that the entitlement of the former wife or husband to an annuity under this subsection shall be restored on the date such remarriage is dissolved by death, annulment, or divorce;

(B) the former wife or husband is less than 50 years of age; or

(C) the former wife or husband meets the definition of "former spouse" that was in effect under section 204(b)(4) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees before December 4, 1991.

(3) COMMENCEMENT AND TERMINATION.—

(A) RETIREMENT ANNUITIES.—The entitlement of a former wife or husband to an annuity under this subsection—

(i) shall commence on the later of—

(I) October 1, 1994;

(II) the day the participant upon whose service the right to the annuity is based becomes entitled to an annuity under such Act; or

(III) such former wife's or husband's 50th birthday; and

(ii) shall terminate on the earlier of—

(I) the last day of the month before the former wife or husband dies or remarries before 55 years of age, except that the entitlement of the former wife or husband to an annuity under this subsection shall be restored on the date such remarriage is dissolved by death, annulment, or divorce; or

(II) the date on which the annuity of the participant terminates.

(B) DISABILITY ANNUITIES.—Notwithstanding subparagraph (A)(i)(II), in the case of a former wife or husband of a disability annuitant—

(i) the annuity of the former wife or husband shall commence on the date on which the participant would qualify on the basis of the participant's creditable service for an annuity under the Central Intelligence Agency Retirement Act (other than a disability annuity) or the date the disability annuity begins, whichever is later; and

(ii) the amount of the annuity of the former wife or husband shall be calculated on the basis of the annuity for which the participant would otherwise so qualify.

(C) ELECTION OF BENEFITS.—A former wife or husband of a participant or retired participant shall not become entitled under this subsection to an annuity or to the restoration of an annuity unless the former wife or husband elects to receive it instead of any survivor annuity to which the former wife or husband may be entitled under the Central Intelligence Agency Retirement and Disability System or any other retirement system for Government employees on the basis of a marriage to someone other than the participant.

(D) APPLICATION.—

(i) TIME LIMIT; WAIVER.—An annuity under this subsection shall not be payable unless appropriate written application is provided to the Director of Central Intelligence, complete with any supporting documentation which the Director may by regulation require, not later than October 1, 1995. The Director may waive the application deadline under the preceding sentence in any case in which the Director determines that the circumstances warrant such a waiver.

(ii) RETROACTIVE BENEFITS.—Upon approval of an application under clause (i), the appropriate annuity shall be payable to the former wife or husband with respect to all periods before such approval during which the former wife or husband was entitled to an annuity under this subsection, but in no event shall an annuity be payable under this subsection with respect to any period before October 1, 1994.

(4) RESTORATION OF ANNUITIES.—Notwithstanding paragraph (3)(D)(i), the deadline by which an application for a retirement annuity must be submitted shall not apply in cases in which a former spouse's entitlement to such annuity is restored after October 1, 1994, under paragraph (2)(A) or (3)(A)(ii).

(5) APPLICABILITY IN CASES OF PARTICIPANTS TRANSFERRED TO FERS.—The provisions of this subsection shall apply to a former wife or husband of a participant under the Central Intelligence Agency Retirement and Disability System who has elected to become subject to chapter 84 of title 5, United States Code. For purposes of this paragraph, any reference in this section to a participant's annuity under the Central Intelligence Agency Retirement and Disability System shall be deemed to refer to the transferred participant's annuity computed in accordance with section 302(a) of the Federal Employees' Retirement System Act of 1986.

(6) SAVINGS PROVISION.—Nothing in this subsection shall be construed to impair, reduce, or otherwise affect the annuity or the entitlement to an annuity of a participant or former participant under title II or III of the Central Intelligence Agency Retirement Act.

(c) HEALTH BENEFITS.—

(1) IN GENERAL.—Section 16 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403p) is amended—

(A) by redesignating subsections (c) through (e) as subsections (e) through (g), respectively; and

(B) by inserting after subsection (b) the following:

"(c) ELIGIBILITY OF FORMER WIVES OR HUSBANDS.—(1) Notwithstanding subsections (a) and (b) and except as provided in subsections (d), (e), and (f), an individual—

"(A) who was divorced on or before December 4, 1991, from a participant or retired participant in the Central Intelligence Agency Retirement and Disability System or the Federal Employees Retirement System Special Category;

"(B) who was married to such participant for not less than ten years during the participant's creditable service, at least five years of which were spent by the participant during the participant's service as an employee of the Agency outside the United States, or otherwise in a position the duties of which qualified the participant for designation by the Director of Central Intelligence as a participant under section 203 of the Central Intelligence Agency Retirement Act (50 U.S.C. 2013); and

"(C) who was enrolled in a health benefits plan as a family member at any time during the 18-month period before the date of dissolution of the marriage to such participant;

is eligible for coverage under a health benefits plan.

"(2) A former spouse eligible for coverage under paragraph (1) may enroll in a health benefits plan in accordance with subsection (b)(1), except that the election for such enrollment must be submitted within 60 days after the date on which the Director notifies the former spouse of such individual's eligibility for health insurance coverage under this subsection.

"(d) CONTINUATION OF ELIGIBILITY.—Notwithstanding subsections (a), (b), and (c) and except as provided in subsections (e) and (f), an individual divorced on or before December 4, 1991, from a participant or retired participant in the Central Intelligence Agency Retirement and Disability System or Federal Employees' Retirement System Special Category who enrolled in a health benefits plan following the dissolution of the marriage to such participant may continue enrollment following the death of such participant notwithstanding the termination of the retirement annuity of such individual.".

(2) CONFORMING AMENDMENTS.—(A) Subsection (a) of such section is amended by striking "subsection (c)(1)" and inserting in lieu thereof "subsection (e)".

(B) Subsection (e)(2) of such section (as redesignated by paragraph (1) of this section) is amended by inserting "or to subsection (d)" after "subsection (b)(1)".

(d) SOURCE OF PAYMENT FOR ANNUITIES.—Annuities provided under subsections (a) and (b) shall be payable from the Central Intelligence Agency Retirement and Disability Fund maintained under section 202 of the Central Intelligence Agency Retirement Act (50 U.S.C. 2012).

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), subsections (a) and (b) shall take effect as of October 1, 1994, the amendments made by subsection (c) shall apply to individuals on and after October 1, 1994, and no benefits provided pursuant to those subsections shall be payable with respect to any period before October 1, 1994.

(2) Section 16(d) of the Central Intelligence Agency Act of 1949 (as added by subsection (c) of this section) shall apply to individuals beginning on the date of enactment of this Act.

SEC. 204. CROSS-REFERENCE CORRECTIONS TO REVISED CIARDS STATUTE.

(a) ANNUAL INTELLIGENCE AUTHORIZATION ACTS.—Section 306 of the Intelligence Authorization Act, Fiscal Year 1990 (50 U.S.C. 403r-1) is amended by striking "section 303 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees" and inserting in lieu thereof "section 303 of the Central Intelligence Agency Retirement Act (50 U.S.C. 2153)".

(b) FOREIGN SERVICE ACT OF 1980.—The Foreign Service Act of 1980 is amended—

(1) in section 853 (22 U.S.C. 4071b), by striking "title II of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees" in subsection (c) and inserting in lieu thereof "title II of the Central Intelligence Agency Retirement Act (50 U.S.C. 2011 et seq.)";

(2) in section 854 (22 U.S.C. 4071c)—

(A) by striking "title II of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees" in subsection (a)(3) and inserting in lieu thereof "title II of the Central Intelligence Agency Retirement Act (50 U.S.C. 2011 et seq.)"; and

(B) by striking "title III of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees" in subsection (d) and inserting in lieu thereof "title III of the Central Intelligence Agency Retirement Act (50 U.S.C. 2151 et seq.)"; and

(3) in section 855 (22 U.S.C. 4071d), by striking "under title II of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees or under section 302(a) or 303(b) of that Act" in subsection (b)(2)(A)(ii) and inserting in lieu thereof "under title II of the Central Intelligence Agency Retirement Act (50 U.S.C. 2011 et seq.) or under section 302(a) or 303(b) of that Act (50 U.S.C. 2152(a), 2153(b))".

(c) INTERNAL REVENUE CODE OF 1986.—Section 3121(b)(5)(H)(i) of the Internal Revenue Code of 1986 is amended by striking "section 307 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees" and inserting in lieu thereof "section 307 of the Central Intelligence Agency Retirement Act (50 U.S.C. 2157)".

(d) SOCIAL SECURITY ACT.—Section 210(a)(5)(H)(i) of the Social Security Act (42 U.S.C. 410(a)(5)(H)(i)) is amended by striking "section 307 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees" and inserting in lieu thereof "section 307 of the Central Intelligence Agency Retirement Act (50 U.S.C. 2157)".

TITLE III—GENERAL PROVISIONS

SEC. 301. INCREASE IN EMPLOYEE COMPENSATION AND BENEFITS AUTHORIZED BY LAW.

Appropriations authorized by this Act for salary, pay, retirement, and other benefits for Federal employees may be increased by such additional or supplemental amounts as may be necessary for increases in such compensation or benefits authorized by law.

SEC. 302. RESTRICTION ON CONDUCT OF INTELLIGENCE ACTIVITIES.

The authorization of appropriations by this Act shall not be deemed to constitute authority for the conduct of any intelligence activity which is not otherwise authorized by the Constitution or laws of the United States.

SEC. 303. NATIONAL SECURITY SCHOLARSHIPS, FELLOWSHIPS, AND GRANTS.

(a) REPEAL.—Title VIII of Public Law 102–183 (50 U.S.C. 1901 et seq.) is repealed.

(b) RETURN OF FUNDS TO TREASURY.—All amounts in the National Security Education Trust Fund established pursuant to section 804 of such public law that are not obligated on the date of enactment of this Act are transferred to the Treasury of the United States as miscellaneous receipts.

SEC. 304. ANNUAL REPORT ON INTELLIGENCE COMMUNITY

(a) ANNUAL DCI REPORT.—Title I of the National Security Act of 1947 is amended by adding at the end the following new section:

"ANNUAL REPORT ON INTELLIGENCE COMMUNITY ACTIVITIES

"SEC. 109. (a) IN GENERAL.—The Director of Central Intelligence shall submit to Congress an annual report on the activities of the intelligence community. The annual report under this section shall be unclassified.

"(b) MATTERS TO BE COVERED IN ANNUAL REPORT.—Each report under this section shall describe—

"(1) the activities of the intelligence community during the preceding fiscal year, including significant successes and failures that can be described in an unclassified manner; and

"(2) the areas of the world and the issues that the Director expects will require increased or unusual attention from the intelligence community during the next fiscal year.

"(c) TIME FOR SUBMISSION.—The report under this section for any year shall be submitted at the same time that the President submits the budget for the next fiscal year pursuant to section 1105 of title 31, United States Code.".

(b) CLERICAL AMENDMENT.—The table of contents in the first section of such Act is amended by inserting after the item relating to section 108 the following new item:

"Sec. 109. Annual report on intelligence community activities.".

SEC. 305. SECURITY REVIEWS.

(a) FINDINGS.—The Congress finds that—

(1) the President directed the Director of the Information Security Oversight Office to review Executive Order 12356 and other directives relating to the protection of national security information and to report no later than November 30, 1993; and

(2) the Secretary of Defense and the Director of Central Intelligence have established a joint security commission to conduct a review of security practices and procedures at the Department of Defense and the Central Intelligence Agency and to report within 1 year of the establishment of the commission.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the Director of Central Intelligence, the Secretary of Defense, and the Director of the Information Security Oversight Office should conduct the reviews referred to in subsection (a) with maximum consultation with each other; and

(2) the results of these reviews should be incorporated into a consolidated recommendation for the President.

TITLE IV—CENTRAL INTELLIGENCE AGENCY

SEC. 401. SUPPORT FOR SCIENCE, MATHEMATICS, AND ENGINEERING EDUCATION.

Section 5 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403f) is amended—

(1) by striking out "and" at the end of paragraph (e);

(2) by striking out the period at the end of paragraph (f) and inserting in lieu thereof "; and"; and

(3) by adding the following new paragraph at the end thereof:

"(g) In recognition of the importance of science, mathematics, and engineering to the national security and in order to encourage students to pursue studies in science, mathematics, and engineering, the Director may carry out a program to award cash prizes and visits to the Agency (including the payment of costs associated with such visits) for students who participate in high school science fairs within the United States.".

TITLE V—DEPARTMENT OF DEFENSE

SEC. 501. FOREIGN LANGUAGE PROFICIENCY PAY.

(a) RATES OF PROFICIENCY PAY.—Subsection (b) of section 316 of title 37, United States Code, is amended to read as follows:

"(b)(1) The monthly rate for special pay under subsection (a) shall be determined by the Secretary concerned.

"(2) Special pay under subsection (a) may—

"(A) only be paid for the achievement of level 2 or greater on the defense language proficiency test in each of the categories of listening and reading; and

"(B) may not exceed the maximum monthly rates for the achievement of the levels designated in this subparagraph, or greater, of foreign language proficiency in the number of foreign languages specified, as follows:

Maximum amount of monthly pay	Level of proficiency achievement in listening/reading/speaking	Number of foreign languages required
$450	3/3/3	2
$300	3/3/3	1
$200	3/3/0	1.".

(b) RESERVE COMPONENT PAY.—Subsection (c)(1) of such section 316 is amended by striking "an increase in compensation equal to one-thirtieth of the monthly special pay authorized under subsection (b) for a member who is entitled to basic pay under section 204 of this title" and inserting in lieu thereof "a language proficiency maintenance bonus, after testing, that may not exceed the maximum annualized rates of proficiency pay established under subsection (b)".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1993.

SEC. 502. REPORTING ON INTELLIGENCE ACTIVITIES OTHER THAN COVERT ACTIONS.

Section 502 of the National Security Act of 1947 (50 U.S.C. 413a) is amended—

(1) by inserting "(a)" after "SEC. 502."; and

(2) by adding at the end the following:

"(b) For the purposes of this section, the term 'intelligence activity' includes any deployment of military intelligence personnel serving in clandestine intelligence collection units.".

TITLE VI—ADDITIONAL TECHNICAL AMENDMENTS.

SEC. 601. CENTRAL INTELLIGENCE AGENCY ACT OF 1949.

The Central Intelligence Agency Act of 1949 is amended—

(1) in section 5(a) (50 U.S.C. 403f(a)), by striking "sections 102 and 303 of the National Security Act of 1947 (Public Law 253, Eightieth Congress)" in the first sentence and inserting in lieu thereof "sections 103 and 104 of the National Security Act of 1947 (50 U.S.C. 403–3, 403–4)";

(2) in the first sentence of section 6 (50 U.S.C. 403g), by striking "the proviso of section 102(d)(3) of the National Security Act of 1947 (Public Law 253, Eightieth Congress, first session)" and inserting in lieu thereof "section 103(c)(5) of the National Security Act of 1947 (50 U.S.C. 403–3(c)(5))"; and

(3) in section 19(b) (50 U.S.C. 403s(b))—

(A) by striking "SECTION 231" in the heading after "(b)" and inserting in lieu thereof "SECTION 232"; and

(B) by striking "section 231" in the matter following paragraph (4) and inserting in lieu thereof "section 232".

SEC. 602. NATIONAL SECURITY ACT OF 1947.

Section 103(d)(3) of the National Security Act of 1947 (50 U.S.C. 403–3(d)(3)) is amended by striking "providing" and inserting in lieu thereof "provide".

SEC. 603. CODIFICATION IN TITLE 10, UNITED STATES CODE, OF CERTAIN PERMANENT PROVISIONS.

(a) INTELLIGENCE-RELATED PROVISION.—(1) Chapter 21 of title 10, United States Code, is *amended by inserting after section 424 the following new section:*

"§425. Disclosure of personnel information: exemption for National Reconnaissance Office

"(a) EXEMPTION FROM DISCLOSURE.—Except as required by the President or as provided in subsection (b), no provision of law shall be construed to require the disclosure of the name, title, or salary of any person employed by, or assigned or detailed to, the National Reconnaissance Office or the disclosure of the number of such persons.

"(b) PROVISION OF INFORMATION TO CONGRESS.—Subsection (a) does not apply with respect to the provision of information to Congress.".

(2) The table of sections at the beginning of subchapter I of such chapter is amended by adding at the end the following new item:

"425. Disclosure of personnel information: exemption for National Reconnaissance Office.".

(b) CONFORMING REPEAL.—Section 406 of the Intelligence Authorization Act for Fiscal Year 1993 (Public Law 102–496; 10 U.S.C. 424 note) is repealed.

AMENDMENT OFFERED BY MR. GLICKMAN

Mr. GLICKMAN. Madam Chairman, I offer an amendment which was printed in the RECORD.

The Clerk read as follows:

Amendment offered by Mr. GLICKMAN: Page 31, strike line 3 and all that follows through line 7 on page 32 (all of section 501).

Page 32, line 8, strike "502" and insert "501".

Mr. GLICKMAN. Madam Chairman, my amendment deletes section 501 of the bill which would raise the statutory ceiling on the amount of monthly foreign language proficiency pay a qualified military linguist could receive.

The committee has long been concerned about the difficulties associated with attracting, training, and retaining qualified linguists throughout the intelligence community but particularly in the military. Current law limits the monetary incentive available to active duty linguists who preserve or increase their language skills to $100 per month. For reservists, the incentive is only $13 per month before taxes—an amount insufficient to encourage many people to devote the time and effort necessary to maintain their skills in difficult languages. Given the importance to the military of being able to quickly and accurately translate intercepted communications, particularly on the battlefield, this situation clearly needs to be addressed.

This issue is, however, also within the jurisdiction of the Armed Services Committee. The defense authorization bill for fiscal year 1994 contains a provision, developed with the assistance of a member of the Intelligence Committee, Mr. LAUGHLIN, requiring the Secretary of Defense to devise and implement a test program to improve foreign language proficiency. An increase in proficiency pay will be evaluated as part of this process. We have agreed to delete section 501 in light of this plan and our practice of working cooperatively with the Armed Services Committee on military intelligence matters. I urge the adoption of the amendment.

Mr. COMBEST. Madam Chairman, will the gentleman yield?

Mr. GLICKMAN. I yield to the gentleman from Texas.

Mr. COMBEST. Madam Chairman, I appreciate the gentleman yielding. We concur with the gentleman from Kansas and would certainly accept the amendment on this side.

Mr. LAUGHLIN. Madam Chairman, will the gentleman yield?

Mr. GLICKMAN. I yield whatever time I have remaining to the gentleman from Texas.

Mr. LAUGHLIN. Madam Chairman, I rise in support of the chairman's amendment, and certainly thank him and the distinguished ranking member of our committee, the gentleman from Texas [Mr. COMBEST], for their efforts in trying to alleviate a very serious problem that our intelligence community, indeed our military forces face, and that is that in the ever-changing world we have more demands for the diverse languages of the world than we had just 2 or 3 years ago. And since the committee worked so well with me in getting this amendment in the intelligence bill, the House Armed Services Committee came along and has worked with us. And it is certainly in the interests of the military forces of America to have the Armed Services Committee of the House and the Senate be involved in this matter.

It was said to me one time that it is more dangerous to jump out of an airplane in a parachute than it is to speak a foreign language. I would readily agree with that and say it is true. But I would also say it takes far more years and commitment to learn one of these languages, and we need it, and all of our tactical commanders that testified before the committee said one of the greatest needs they have is for the language capacity and capability. That is why we need to reward those who are committed to studying languages and keep their proficiency at the highest level so that our military forces can be safe and secure when they get accurate information.

Mr. GLICKMAN. I thank the gentleman and I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Kansas [Mr. GLICKMAN].

The amendment was agreed to.

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AMENDMENT OFFERED BY MR. MC COLLUM

Mr. McCOLLUM. Madam Chairman, I offer an amendment that has been printed in the RECORD under my name on July 30 of this year.

The Clerk read as follows:

Amendment offered by Mr. McCOLLUM: Page 30, after line 3, add the following.

SEC. 306. NATIONAL TASK FORCE ON COUNTERTERRORISM

(a) ESTABLISHMENT.—It is the sense of the Congress that the President should establish a National Task Force on Counterterrorism comprised of the following nine members: the Deputy Attorney General of the United States, the Deputy Director of Central Intelligence, the Coordinator for Terrorism of the Department of State, an Assistant Secretary of Commerce as designated by the Secretary of Commerce, the National Security Advisor for Special Operations. Low Intensity Conflict, the Assistant Secretary of Treasury for Enforcement, the Director of the Federal Bureau of Investigation, the Vice Chairman of the Joint Chiefs of Staff, and an Assistant Secretary of Transportation appointed by the Secretary of Transportation. The Deputy Attorney General and the Deputy Director of Central Intelligence should serve as the Co-Chairs of the Task Force which will review all counterterrorism activities of the intelligence community of the United States Government.

(b) DUTIES.—The National Task Force on Counterterrorism should prepare a report to the Congress which should:

(1) define terrorism, both domestic and international;

(2) identify federal government activities programs, and assets, which may be utilized to counter terrorism;

(3) assess the processing, analysis, and distribution of intelligence on terrorism and make recommendations for improvement;

(4) make recommendations on appropriate national policies, both preventive and reactive, to counter terrorism;

(5) assess the coordination among law enforcement, intelligence and defense agencies involved in counter terrorism activities and make recommendations concerning how coordination can be improved;

(6) assess whether there should be more centralized operational control over federal government activities, programs, and assets utilized to counter terrorism, and if so, make recommendations concerning how that should be achieved.

(c) SUPPORT.—Sufficient full time staff to support and fulfill duties outlined in paragraph (b) should be provided.

(d) REPORT.—The Task Force will report to Congress no later than six months after the date of enactment of this Act as to the review and recommendations outlined in paragraph (b) and how those recommendations might be implemented. Each 120 days thereafter for the remainder of the two year period beginning on the date of the initial Report, the Task Force will report to Congress on the progress of the implementation of any recommendations.

Mr. McCOLLUM (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. McCOLLUM. Madam Chairman, this amendment is a very straightforward amendment establishing a sense of the Congress in this bill that the President should set up an intergroup, if you want to call it that, National Task Force on Counterterrorism to assess the terrorism threat to this country, to make recommendations to the President and to the Congress on how we best address the problem of terrorism.

It seems to me that there has been a missing link in our entire terrorist concern in this Government of ours for quite some time now with respect to the failure to have such a working group among those agencies of the Government that deal with this problem.

While this does not direct the President to do it, it does express the sense of our Congress and our body that we ought to have such an interagency group, suggest perhaps who should comprise that group and suggest the type of thing that would be involved in our view with respect to the assessments that are involved in it, defining terrorism, identifying Government activities, programs, and assets which may be utilized to counter terrorism, to assess the processing, analysis, and distribution of intelligence on terrorism, to make recommendations on the appropriate national policies, to prevent and be reactive to terrorism, to assess the coordination among law enforcement, intelligence, and defense agencies involved in counterterrorist activities, and to assess whether there should be more centralized operation and control and so forth.

It is a very simple, straightforward amendment. It is my understanding that the committee has no objection to it.

I would urge my colleagues to adopt it and to let us have this particular procedure in the bill to express the sense of Congress that we have such an interagency group.

I do not have anything else to comment on it.

Mr. EDWARDS of California. Madam Chairman, I rise in opposition to the amendment.

This is an idea that Vice President Bush had a number of years ago, and one of these task forces was established and did some work, and made some recommendations, and I do not see any need to repeat the effort.

I think that we ought to realize, and let me point out that the FBI is very skillful in counterterrorism under the direction of the Attorney General. Anytime the Attorney General feels that this kind of a task force or interagency group should be forged, I am sure that the new Attorney General would act and I am sure that the President would support it. However, let me review for a minute what has been going on and the work that the FBI has been doing in counterterrorism in this country.

The subcommittee I chair has had jurisdiction over the FBI on this issue for many, many years. Ten years ago or twelve years ago we had in this country, and we count very carefully the incidence of terrorism in this country, over 100 incidents a year in this country. The FBI is skillful in counterterrorism and has steadily reduced the number of incidents to where, since 1985, we did not have one major international terrorism incident. Since 1985, the only major incident of international terrorism has been the World Trade Center. And let me point out to my colleagues that this was resolved and solved in a very few days.

I do not have any strong objection to this idea of my friend and our colleague, the gentleman from Florida [Mr. McCOLLUM]. However, it is one more bureaucracy, one more group of people sitting around spending money where it is absolutely unnecessary.

Mr. McCOLLUM. Madam Chairman, will the gentleman yield on that point?

Mr. EDWARDS of California. I am happy to yield to the gentleman from Florida.

Mr. McCOLLUM. I do not contemplate any money necessarily really being spent here. I know that the gentleman is very thoughtful on this point.

If you would look at what I am doing, I am not establishing a task force. I am merely expressing the sense of Congress that we think something like this would be a good idea, and it would simply suggest that the Deputy Attorney General who already is doing this for our good Attorney General coordinate with the Deputy Director of the CIA, the Coordinator for Terrorism of the Department of State and Assistant Secretary of Commerce, the National Security Adviser, et cetera, the people who are already in place really just to assure that this coordination really takes place, not to try to supersede or whatever it is.

It is my understanding that is part of the problem, that we are not having the discussions that perhaps would be best in this situation.

I do not want to create something for the sake of creating it. We just do not have these discussions taking place, from my conversations with those involved. And I think that they really are critical.

I appreciate the gentleman's concern. But I am not creating somebody to create a lot more paperwork. That is not my intent.

Mr. EDWARDS of California. I thank the gentleman for his response, but the communication and coordination are already taking place. I think we should remember that if Congress does pass this resolution, such a resolution, it sends a strong signal to the Attorney General and the White House that we want them to spend this extra money, set up this bureaucracy that, in my judgment and I believe in the judgment of the subcommittee with jurisdiction over the FBI, is entirely unnecessary.

Mr. GLICKMAN. Madam Chairman, I move to strike the last word.

Madam Chairman, I think this amendment is actually offered in good spirit and is a sensible amendment.

While I understand the concerns of my colleague from California, I honestly do believe that there is no overall focus of counterterrorism within the law enforcement and intelligence community. You can see that very dramatically in all the issues raised with respect to the issuance of visas overseas, the message that went to consular offices, the relationship between consular offices and the intelligence community and the relationship between what happens overseas and what happens with domestic law enforcement. It is not very good.

Now, that does not mean that the FBI does not do a splendid job. They have. Perhaps the gentleman's amendment does not include the FBI, and maybe as we work our way through this, we ought to make specific reference to the FBI, because they have taken the lead domestically in terms of law enforcement.

There has been an effort to try to separate what happens in the rest of the world from what happens here in the United States, and you cannot do that anymore. In fact, I believe the State Department has been notorious for wanting to segregate international terrorism from domestic terrorism. That is just not the way the world works anymore. That is not the way Americans are threatened anymore.

I think the amendment in its goal to try to get some coordination, some, so to speak, interpersonal relationships between departments of Government about terrorism is actually a good idea.

So on this side we have no objection to the amendment, and we support it.

Mr. COMBEST. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I rise to commend my colleague, the gentleman from Florida [Mr. McCOLLUM], for this amendment and the thoughtful and long work he has performed on the problem of terrorism. I commend him on his willingness to work through this amendment and everything that he has done to put into it.

There is no one in the House, I think, who has focused more on the issue of terrorism than the gentleman from Florida. He heads a task force on terrorism, and it is a subject, Madam Chairman, that fortunately, because there has been some good work done, that is not the first issue on the minds of the American people. If it were not for the fact that there was some good work being done and much more that can be done, it might become one of the first things on the minds of the American people, and that would be a tragedy.

I want to commend my friend, the gentleman from Florida, for the diligent work he has put in on this issue.

We have only to examine our daily newspapers to see the toll that terrorism is taking around the world. We have experienced it this year in the bombings of the World Trade Center and planned operations which we would still be speaking of against four major targets that fortunately were uncovered by the FBI.

The U.S. intelligence community has long worked with other agencies and departments of the Government to coordinate intelligence support for law enforcement and policymakers. The intelligence community's counterterrorism center is the focus of this multidisciplinary fight against terrorism.

This amendment expresses the sense of the Congress that a national level task force on counterterrism should take a broad look at how best to marshal our national efforts against terrorist targets.

I support this amendment, Madam Chairman, and we on this side would be glad to accept the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida [Mr. MCCOLLUM].

The amendment was agreed to.

Mr. SKAGGS. Madam Chairman, I move to strike the last word.

Madam Chairman, this is my first year serving on the Intelligence Committee, and I want to commend the chairman, Mr. GLICKMAN, our ranking Republican member, Mr. COMBEST, and my committee colleagues on both sides of the aisle for their hard work on this challenging bill. We tried to strike a responsible balance between legitimate intelligence needs, tough fiscal realities, and a rapidly changing international security environment.

This was by no means an easy task—some are already saying either that we cut too much or that we have not cut enough. I believe that this year's bill, which is over $1 billion less than requested, reflects a serious attempt to redirect the intelligence community's activities toward meeting the threats of the future.

One key area where I have focused a lot of time and attention is the current problem of overclassification. Appropriately deemed the "cement overcoat," our cold-war-era rules and procedures on information security are outmoded and too cumbersome. President Clinton has stated that the existing classification system is "onerous and costly," and he has established a task force to conduct a bottom-up review of how and why information is labeled "secret."

The classification bureaucracy, in many respects still reflecting the cold war, stamps "top secret" on nearly 7 million new documents each year. Ninety-five percent of these will be marked for indefinite restriction.

Over the years, all this has led to the build-up of tens of millions of secret documents, some dating from before World War I. Remaining under lock and key, for instance, are memos on the movement of United States troops in Europe in 1917; and documents on some 6,000 U.S. inventions, some dating from the 1940's, whose authors are forbidden to publish, patent, or even discuss their work.

The tremendous Government cost for personnel, processing and storage needed for all these classified documents is daunting enough. But we also need to consider that private U.S. companies spend at least $14 billion a year to meet increasingly complex, overlapping, and sometimes contradictory controls on classified information.

Above and beyond the dollars themselves, is the cost to a democratic, free society. To the very real extent it is excessive, the current classification system undermines the ideals of open Government, individual liberty, and the maximum access to Government information requisite to an informed electorate. The Government's preoccupation with secrecy also hampers competitiveness by impeding scientific and technological developments, and obstructs Congressional oversight of foreign and defense policy.

The irony is that overclassification has not necessarily bought us better security. In fact, excessive—often arbitrary—classification has led to an ossified secrecy system that is often unable to cope with the rapidly changing challenges of the post-cold war world. Overdoing classification ultimately does a poor job of protecting legitimate national security information. When classified information becomes commonplace, it devalues the currency of the more important secrets; carelessness sets in and accountability declines.

This tendency toward excessive and unchecked secrecy is fostered by the lack of a credible cost accounting mechanism. I was amazed to find that agencies affected by classification regulations could not even tell me roughly how much it costs them to comply with secrecy rules. I anticipate that the efforts of the President's Task Force on Secrecy Reform and another joint security commission established by the Secretary of Defense and the Director of Central Intelligence will produce a comprehensive post-cold war plan to reform the current system, and I expect the new rules will be reflected as savings in future budget requests.

However, to ensure that overclassification is no longer simply built-in to agency budgets, I have initiated a Government-wide cost accounting and expenditure-reduction effort involving all the agencies that comprise the intelligence community or are affected by classification rules and procedures. I have sought and obtained report language to the relevant appropriations bills—Commerce-Justice-State; Energy and Water; Treasury-Postal; and Defense, pending—and in the Intelligence Authorization bill now before the House, which will require reports detailing the cost and number of personnel involved in classifying information and keeping information classified. The agencies are also required to set specific expenditure-reduction goals for handling classified information in fiscal year 1995.

The purpose of the reports, due on March 31, 1994, is to obtain real numbers and real plans for cutting costs. I am hoping that when this bill is up before the House next year, I will be here telling you about historic changes in the way information is handled by the intelligence community and about the savings the agencies plan to achieve.

I believe this reassessment will add to, rather than detract from, the value of our information security system. It is true that the post-cold war era presents both new threats and new opportunities. The information secrecy system is a key place to prove it. The Government does not often have the chance to cut costs and improve operations, but, by reigning in unnecessary classification, we can do both, all the while enhancing, not shorting, our real security objectives.

To summarize, Madam Chairman, this is a good bill. It finances the necessary intelligence functions of Government, and it takes into account the importance of greater flexibility in responding to domestic budgetary pressures and the challenges of a changed international environment. I urge its passage.

□ 1520

Mr. GLICKMAN. Madam Chairman, will the gentleman yield?

Mr. SKAGGS. I yield to the gentleman from Kansas, the chairman of the committee.

Mr. GLICKMAN. I thank the gentleman for yielding.

First of all, it is a pleasure to have the gentleman on the committee. He is a very talented member. He has raised a very important issue, the issue of classification. How many Members listening and watching have addressed a situation, whether they have been in the Congress or on the outside, where something is classified and we may not be sure why it is classified but it remain classified forever? There are no procedures to remove that classification.

Some things need to be classified; most do not need to be classified forever. Some do not need to be classified in the first place.

So, what the gentleman has done is to elevate the subject so that the intelligence community is under warning they had better get moving on working on a responsible declassification policy so that more records of Government can be open and so that we do not, without sense, classify matters in the first place.

I just wanted to commend the gentleman.

Mr. SKAGGS. I thank the chairman for his comments on this. I think we are going to bring some better rigor and discipline to the process, doing a better job of keeping secret what needs to be secret and opening up to the country things they need to have access to.

AMENDMENT OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Madam Chairman, I offer an amendment printed in the RECORD on July 28.

The Clerk read as follows:

Amendment offered by Mr. TRAFICANT: At the end of the bill, add the following new sections:

SEC. . COMPLIANCE WITH BUY AMERICAN ACT.

No funds authorized pursuant to this Act may be expended by an entity unless the entity agrees that in expending the assistance the entity will comply with sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a–10c, popularly known as the "Buy American Act").

SEC. . SENSE OF CONGRESS: REQUIREMENT REGARDING NOTICE.

(a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—In the case of any equipment or products that may be authorized under this Act, it is the sense of the Congress that entities receiving such assistance should, in expending the assistance, purchase only American-made equipment and products.

(b) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance under this Act, the Director of the Central Intelligence Agency shall provide to each recipient of the assistance a notice describing the statement made in subsection (a) by the Congress.

SEC. . PROHIBITION OF CONTRACTS.

If it has been finally determined by a court or Federal agency that any person intentionally affixed a fraudulent label bearing a "Made in America" inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States, that was not made in the United States, such person shall be ineligible to receive any contract or subcontract made with funds provided pursuant to this Act, pursuant to the debarment, suspension, and ineligibility procedures described in section 9.400 through 9.409 of title 48, Code of Federal Regulations.

Mr. TRAFICANT (during the reading). Madam Chairman, I ask unanimous consent the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. TRAFICANT. Madam Chairman, I would like to start out by saying, during my years here in the Congress, this is one of the better descriptions and analyses of this bill that I think we have ever had, as a Member, to understand this issue. I want to commend the gentleman from Kansas, Chairman GLICKMAN, and the ranking member, the gentleman from Texas, Mr. COMBEST, for that analysis.

I would also like to say that this open rule and the open process, in my opinion, is probably going to lead to much more support for their efforts and I think this is a very refreshing change which I have seen.

Madam Chairman, my amendment is a standard amendment, straightforward. But there is one provision in it that I think is very important in the intelligence committee. That is the matter of these fraudulent labels.

There was a company, Mazak, Inc., in Florence, KY, there was a sensitive issue dealing with parts for our defense industry and the parts would have been made in America, stamped "Made in America," but were imported parts coming from Japan. There was a young marine who finally could not tolerate changing the tags anymore. He made that adjustment. I think this provision in here gives us that possibility to have some of our keenest minds in intelligence looking at what may be some of the economic factors that have hurt America as well.

I know the bill deals with much of that. It is not just the military apparatus that this bill concerns itself with. But some of these economic and industrial problems have existed, and I commend the chairman.

With that, I would like to yield to the chairman. I know the chairman has some concerns in this area, and I would like for him to address those.

Mr. GLICKMAN. I thank the gentleman for yielding.

Madam Chairman, first of all, we do not have any objection to the amendment. We will accept it.

I would like to make a couple of points and ask the gentleman a question.

First of all, the intelligence community is already covered by Federal acquisition regulations embodying the Buy American Act. Second, in agencies like the CIA, the existing policy is to procure American products except in unusual circumstances, primarily related to security. Even in those circumstances, a waiver is required if the contract is required to procure products owned, controlled, or influenced by foreign interests.

Third, an example of the result of this policy is, I am told, that 96.4 percent of the procurement contracts executed by the CIA in 1991—the last figures we have—were with firms with no foreign control, no foreign ownership, no foreign influence. That is a record which I doubt few agencies could match.

The 3.6 percent of contracts executed with foreign firms were done so of necessity, either because the goods or services had to be procured overseas for security reasons or because the product itself was not produced domestically.

My point to the gentleman is, while we accept the amendment, I want to let the gentleman know that as we go through the process, we want to reserve the right to make sure that we can protect the intelligible community's ability, in those very limited circumstances where contracts need to be executed with foreign firms because of necessity or for security reasons; to continue to do that. I hope the gentleman understands that.

Mr. TRAFICANT. Yes, without doubt. There is no intention to do anything other than that.

Let me say on the matter, Mr. Chairman, on the matter of these false labels, it might be a very good provision in the bill to give us an opportunity to help the entire country on that problem; it might be an added bonus of this legislation, more than anything else.

So, the intention parallels that of the chairman's, the legislative intent, and concern here parallels his.

Madam Chairman, I yield to the ranking minority member, the gentleman from Texas [Mr. COMBEST].

Mr. COMBEST. I thank the gentleman for yielding and for his kind comments.

Madam Chairman, the concerns which the committee had were adequately expressed and resolved by the chairman of the committee. Madam Chairman, this side would be happy to accept the amendment.

Mr. TRAFICANT. With that, Madam Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. TRAFICANT].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. SANDERS

Mr. SANDERS. Madam Chairman, I offer an amendment, which was printed in the RECORD on July 27.

The Clerk read as follows:

Amendment offered by Mr. SANDERS:—Page 5, after line 11, insert the following:

SEC. 105. LIMITATION ON AMOUNTS AUTHORIZED TO BE APPROPRIATED.

(a) LIMITATION.—Except as provided in subsection (b), notwithstanding the total amount of the individual authorizations of appropriations contained in this Act, including the amounts specified in the classified Schedule of Authorizations prepared to accompany the bill H.R. 2330 of the One Hundred and Third Congress, there is authorized to be appropriated for fiscal year 1994 to carry out this Act not more than 90 percent of the total amount authorized to be appropriated by the Intelligence Authorization Act for Fiscal Year 1993.

(b) EXCEPTION.—Subsection (a) does not apply to amounts authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund.

Mr. SANDERS (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Vermont?

There was no objection.

Mr. SANDERS. I thank the chairman.

Madam Chairman, we are here to speak out about an important amendment offered by the gentleman from New York [Mr. OWENS], and myself. Let me begin by congratulating the chairman, the gentleman from Kansas [Mr. GLICKMAN], and the ranking member, the gentleman from Texas [Mr. COMBEST], for their excellent work on the intelligence bill. It is, in fact, a good bill.

Today, however, we have an opportunity to make a good bill a better bill. That is what we are here to discuss.

First of all, nothing in our discussion suggests that we are not living in a dangerous world; nobody here thinks that the United States has no enemies; nobody here is suggesting that we dismantle the intelligence agencies; and nobody is suggesting that we do not need a vigorous intelligence capability.

□ 1530

What we are in fact talking about pure and simple is a 10-percent cut. As everybody here knows, according to the New York Times and the mass media, the budget is approximately $28 billion, so what we are talking about is a $2.8 billion cut in spending.

Madam Chairman, the world has changed profoundly in the last 5 years. The fact of the matter is that the cold war is over. The Soviet Union does not exist. Russia and the satellite nations of the Soviet Union are now begging to get into NATO. In fact, on the floor of this Congress we debate how many billions of dollars we should now give to Russia and other former Communist satellite nations.

On March 14 the New York Times wrote:

> For decades spy agencies spent two-thirds of their budget dollars to track the Soviet threat.

The New York Times tells us that two-thirds of our money went to track the Soviet threat. The Soviet threat is no longer there.

Are there other threats? Are there other problems? Yes, there are, but the people we fought for 40 years, the Soviet Union, no longer exists.

Senator METZENBAUM on the floor of the Senate on April 21, stated:

> The intelligence budget is more than double what it was in 1979.

The New York Times, March 14, says:

> The spy agencies tripled in size in the 1980's.

The point here is that faced with a superpower, the taxpayers of the United States spent substantial sums of money on intelligence to defend us from the Soviet Union. The Soviet Union no longer exists. Communism is dead in that part of the world. The world has changed profoundly. We should consider that reality as we debate the intelligence budget today.

Madam Chairman, it seems to me that one problem we are having in this discussion today is that we are not looking at the intelligence budget in a broader context. What our friends are saying is that this money is needed very much for the intelligence communities. Maybe they are right, but what I am saying is that given the priorities of the United States of America, some of us think that massive unemployment, that low wages, that homelessness, that hungry children, that the collapse of our educational system is perhaps an equally strong danger to this Nation, or maybe a stronger danger for our national security than Iraq and Iran and North Korea, who are also enemies.

So the question comes out, what are we talking about when we are talking about our national security? Is it only defending us from foreign enemies who wish us no good? We know they wish us no good, but must we not consider in that debate the problems that are destroying our country at the fiber, young people today who understand they are never going to have a job, millions of working class kids who cannot afford to go to college because we have not adequately funded education, environmental problems that are causing ill-health to our people, children sleeping out in the streets.

So Madam Chairman, I urge my friends on the Intelligence Committee, you have made your point. We understand it. My job is not to go through the intelligence budget. I have not even looked at it.

What I am here to tell you is that you have to tell us that your spy satellites are more important than feeding the hungry children, taking care of people sleeping out in the streets, not rebuilding our educational system, not rebuilding our infrastructure. That is what this debate is about.

Mr. COMBEST. Madam Chairman, I move to strike the last word.

Madam Chairman, I cannot overstate my opposition to across-the-board cuts to this intelligence authorization bill. To make such cuts by a percentage or a number grabbed out of the air totally undercuts the duty of Congress to make responsible, informed decisions based on a close scrutiny of the costs and benefits of specific programs.

To my colleagues who favor this amendment I ask, what would you like to see cut? Which programs should be scaled back or terminated? Which intelligence targets should be dropped?

Should the FBI and CIA cut back on their work against international terrorists? Should we cut back on monitoring the unfair trade and economic policies of our competitors, not to mention their efforts to steal us blind of our technology and commercial secrets? Should we maybe slow down our efforts to stay one step ahead of the radical regimes who are feverishly working to develop nuclear, chemical, and biological weapons and the missile systems to deliver them to us? Perhaps it would be better to tell our men and women in uniform that the intelligence community will not support them in certain parts of the world? Or should we just tell them that they will have to accept higher casualties wherever they are put in harm's way because we must stretch out our intelligence resources and settle for less accurate and less timely intelligence on the dispositions, capabilities, and intentions of our foes?

Let me digress a second on that last point. Yes, there are new global strategic realities. Yes, the cold war is over and communism as an ideology is dead. But have you happened to notice that our military has been pretty active the last few years, indeed, more active than they have been for quite some time? Think of the huge military operation against Iraq. Think of the humanitarian mission in Somalia. It may interest some to know that 2 years ago, in keeping with congressional direction, the intelligence community was asked to prioritize its missions and direct its resources accordingly. After consulting with policymakers throughout the Government, Somalia was placed at the very bottom of the list. One intelligence agency—stretched very tightly—decided to drop totally its efforts to collect against the region. At the time I think we all would have applauded this decision to cut the "nice to have." Within 6 months we had troops on the ground there. Fortunately, that intelligence agency was able to revise its capabilities and our troops had tremendous support. Our intelligence community preceded our troops into contested areas, identified landing zones, neutralized some armed factions, and, as a result, we suffered minimal casualties.

This point illustrates the fact that in the current world we must have an intelligence community more flexible, resilient, and agile than ever before. We in the House Intelligence Committee have gone over this budget with the proverbial fine-toothed comb and have demanded that the intelligence community justify every penny spent. We are satisfied that the authorization bill before us is as lean as can possibly be, without acutely endangering American interests. To propose an across-the-board cut with the thought that some fat must remain is to play with the life of the patient.

I would remind my colleagues that President Clinton, the man who is most dependent on our intelligence agencies to tell him what is really going on in the world, firmly opposes further cuts.

Anyone who is familiar with last year's cuts knows that the intelligence community suffered a tremendous shock last year. As I mentioned in my opening statement, the cumulative cuts were haphazard and at a level which appalled Intelligence Committee members from both sides of the aisle.

What were the results of those cuts? Without discussing specific programs I can tell you that operations and maintenance of some of our most critical programs were stretched tighter than the breaking point. Supercomputers were idled for want of maintenance, office spaces were left vacant for lack of funds to bring them up to standards, and we no longer have redundancies built into systems which are critical to our national security. These cuts have sent those working on the technical side of the intelligence community scrambling for ingenious ways to satisfy the demands placed on it by fielding less expensive systems. One of the great innovations of the President's budget was a proposed overhaul of our intelligence satellite architecture by which a modest current expenditure will yield huge savings in the future. That innovation has barely survived this bill. In this case a further cut will most definitely be penny-wise and pound-foolish.

Any additional cuts to the community will force some very hard choices on the intelligence community—choices which we in the Intelligence Committee do not want to see made. As the Director of Central Intelligence, Jim Woolsey, has said, additional cuts will perhaps result in his having to turn down bona fide important requirements from the policymakers and military for intelligence support.

The CHAIRMAN. The time of the gentleman from Texas has expired.

(By unanimous consent, Mr. COMBEST was allowed to proceed for 1 additional minute.)

Mr. COMBEST. Madam Chairman, it could also require his having to involuntarily release employees so as to go beyond the 17.5-percent decrease in personnel we have already legislated. In addition to this impacting on the employment of individuals with critical skills, this could obviously result in significant counterintelligence problems. I am convinced from my 4½ years on the Intelligence Committee that Mr. Woolsey is not overstating the case—indeed, I am surprised he and the community have so far avoided these desperate circumstances.

In closing, although some may be well intentioned in supporting this amendment, its passage would be disastrous. Its first casualty would be the flexibility which is now the most important quality of our intelligence community in these uncertain and changing times.

□ 1540

Mr. SANDERS. Madam Chairman, if the gentleman will yield, all that I wanted to say is the following: The gentleman asked me where we would cut. When I was mayor of my city for 8 years, what I did is what I think the Congress should do. We should not be running every agency. We do not know enough. The gentleman knows a lot more than I do. What the gentleman and I should say is, "Agency, here is the money that the American people can afford. With that money, you give us the best that you can."

I do not think it is incumbent upon every Member of Congress to tell every agency how they should spend every nickel.

Mr. COMBEST. Madam Chairman, reclaiming my time, I do not disagree with the gentleman. That is what I think we have done. The American people cannot afford to have less spent on intelligence.

Mr. DICKS. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I rise in opposition to the amendment. I would say though that the gentleman from Vermont [Mr. SANDERS] has raised a significant question, and that is the question of our priorities here in this country.

Madam Chairman, I must say as one who has served on defense appropriations now in my 15th year, I have witnessed the biggest buildup in defense spending in U.S. history, and I am now witnessing the sharpest decline in defense spending in U.S. history. And I want to say this to the House: Sometimes we forget, if you remember, in 1985 it was the end of the Reagan buildup. When you look to 1997, we will have cut defense spending in this House, using 1993 dollars, from a high of about $360 billion in 1985 down to $233 billion in fiscal year 1997.

That is a significant reduction. There is no other area of government in the discretionary area where we have cut anything like what we have cut in defense.

We have also made significant cuts in the intelligence budget, cuts that I know the Director, Mr. Woolsey, feels takes us to the very edge of thwarting some things that he wants to do to simplify our intelligence gathering architecture, both in terms of imagery and signal intelligence.

One of the things that we have to try to explain in terms that will not give away any of our secrets, is that in order to do that, in order to simplify and reduce the number of ground collection stations and the number of satellites that we have, we have got to invest in some new equipment.

It is in this year, and that is why I wish the gentleman had the opportunity to come to the Intelligence Committee and be briefed by our very capable staff and the chairman and other members, because then he would have realized there are some very significant investments that are going to be made in this particular year, started in this particular year, that in the outyears will allow us to reduce spending on intelligence over a 5-year period by somewhere between $7 and $15 billion.

Without those investments, one, we will degrade greatly the intelligence gathering capabilities of this country, and we will miss the opportunity to make further significant savings as we bring this defense budget down further.

On the question of personnel, when I first came on the Committee on Intelligence I was a little bit stunned by just how many people we had out there gathering intelligence when you look at all of these agencies. We are on a downward slope of about 17.5 percent over the next 5 years.

Now, we have looked at this very carefully. We think that is a reasonable way to bring down this intelligence community staffing.

So, I would say to my colleague, I understand his priorities. I am just as concerned about trying to take care of the homeless people of this country and to deal with the problems of unemployment. But I must remind Members that when we cut this defense budget by 43.5 percent since 1985, we are throwing out of work thousands and thousands of people all over this country who have made their careers helping to defend this country, helping to make sure that we had the weapons systems to prevail over Iraq after the invasion into Kuwait. It is that modernization. Those people feel badly treated as well. They are part of the unemployed out there.

Madam Chairman, we are running a risk if we go much further and do this cut more rapidly of really weakening the industrial base of this country and our capability at any time in the future to be able to take a force like we did just a couple of years ago and go and do something that was important to the national security interests of this country. We are coming close, perilously close, to not being able to respond to those kinds of contingencies because of the downward escalation in overall defense spending.

I must say to the gentleman, too, any savings that would be achieved here in the intelligence part of the Defense budget would be quickly utilized in other areas of Defense spending. This notion of being able to transfer the money to some other account simply does not exist in this context. We are going to be short in Defense appropriations in outlays anyway. Any savings here would be immediately utilized in other areas of the Defense budget.

When we enact the budget resolution we set our priorities between defense and social spending.

Mr. OWENS. Madam Chairman, I move to strike the last word.

Madam Chairman, I rise in strong support of the amendment. Let us apply common sense and old-fashioned logic to this argument. We do not have the details because of the secrecy factor. Even those who are allowed to go into the room and look at the budget will not really know as much as the members of the Committee on Intelligence know.

But just old-fashioned logic would tell us that if the estimate of the New

York Times is that about 75 percent of the activity of our intelligence is directed toward the Soviet Union, and the most conservative estimate is that about 50 percent of our intelligence activity was directed toward the Soviet Union, then now that the Soviet Union is no longer the threat that it was before, why do we hesitate to cut the overall budget by 10 percent?

This is a very reasonable amendment. Senator MOYNIHAN of my State of New York said, after tragically witnessing the fact that the CIA had not predicted the collapse of the Soviet Union's economy, he said perhaps we should eradicate and abolish the whole agency. That is a radical proposal.

We are not here to offer a radical proposal to abolish the agency. We would like to have less secrecy so that the American people can see fully what is going on and we can discuss it in a more open manner.

But we are not here to abolish. Just 10 percent. The slogan was "No pain, no gain" earlier in the year. Everybody had to take some pain in order for us to move forward and make some gains in terms of reduction of the deficit, in terms of having the money necessary to create programs which do provide jobs for people.

I heard people mourn about the possibility of unemployed CIA agents. Well, there are areas in the FBI, the Border Patrol, Drug Enforcement Agency, and local police departments that can reabsorb some of these people that want to stay in law enforcement. It is too expensive to keep people at CIA salaries merely to keep them employed.

Congress is asleep. Congress is delinquent in rapidly moving forward to approve this intelligence budget. The American people are angry. They do not really know why they are angry, but this is one of the reasons they ought to be angry. Obsolete, very expensive, big-ticket items like this are not touched. This is a sacred cow. This is smoked pork, salted pork. Nobody wants to deal with it.

The cut required by the Sanders-Owens amendment is half of what was recommended by the Congressional Budget Office. The Congressional Budget Office suggested in its February booklet entitled "Reducing the Deficit: A Report to Congress" that there should be a 20 percent cut.

The Congressional Budget Office said nothing would suffer. We would not be at any disadvantage at all if we cut the CIA by 20 percent.

Quoting the Congressional Budget Office, "Cuts of this magnitude would not prevent the United States from maintaining traditional activities that remain critically important in the post-cold war world, such as tracking arms shipments between countries, monitoring proliferation activities, and supporting United States and Allied forces engaged in regional conflicts.

□ 1550

"Even after these reductions, U.S. intelligence spending would remain, in real terms, comparable to its cold war average," from the Congressional Budget Office.

Why, if the KGB is not only cutting its budget, the KGB has opened its files, they have declared themselves basically out of business for the next 20 to 30 years. Maybe they will come back. We are not talking about abolishing the intelligence office totally.

They say China is the great danger now. Terrorism is a great danger.

Five years ago, 10 years ago, we considered China a hostile country, a danger to the United States. Terrorism, we considered 5 years ago.

We have been prepared for that all the time. That is in the budget already. It has always been in the budget.

We are not talking about cutting out the antiterrorism measures. We are not talking about cutting out any intelligence activity directed toward China, or Iran, or Iraq. We are talking about cutting the portion that is directed toward the Soviet Union.

We have plenty of leeway, if we cut 10 percent and that is 10 percent of the apparatus that was designed to spy on the Soviet Union, what have we lost? What have we lost? No pain, no gain; to continue with this CIA budget is insane, to foist upon the American people.

Mr. GLICKMAN. Madam Chairman, will the gentleman yield?

Mr. OWENS. I yield to the gentleman from Kansas.

Mr. GLICKMAN. Madam Chairman, the gentleman says he did not intend to cut anything about Iran or Iraq. He is obviously saying there is terrorism that is important and we should pursue this. The amendment does not say that we are not to cut Iran or Iraq.

Mr. OWENS. Madam Chairman, cut 10 percent. We are not going to tell the gentleman where to cut. We do not know. We do not have the budget. But we say, logic and common sense dictates that we cut 10 percent. Because, after all, 50 to 75 percent of the budget was devoted toward intelligence from the Soviet Union, directed toward the Soviet Union. It does not exist any more.

We have the leeway.

Mr. YOUNG of Florida. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, the previous speaker mentioned that members of the Permanent Select Committee on Intelligence have a greater knowledge of some of these international affairs than the Members who are not members of that committee. I would like to advise the gentleman and also the Members of the House that there is a procedure whereby any Member of this House may have access to that type of information, which they might find of tremendous interest.

As a member of that committee, I would encourage Members to do just that, because a little bit of knowledge on this subject will go a long way in determining what the needs of the intelligence community really are.

I would like to say further that last year this committee brought to the floor authorizing legislation that was reduced severely beyond what many of us thought should be the figure set for operating our intelligence community. That bill passed basically the way that we reported it out. The Committee on Appropriations then came back, as a follow-on, and made drastic, and I repeat, made drastic cuts below the authorized level that this committee had recommended.

So this year, for fiscal year 1994, we started with a baseline that was far below where we should have been in the first place. And now, a 10-percent cut on top of that, would take us to the point of being very dangerous to our national security.

Mentioning the breakdown of the Soviet Union, that certainly was one target of our intelligence operations. As other Members have said, that was a pretty predictable target. While we had a very active intelligence operation relative to the Soviet Union, they were predictable.

Today that one target is gone, basically, as the Soviet Union, but I would remind my colleagues that the Russians are still there. And what used to be the Soviet KGB, now being operated by the Russians, is just as aggressive as the KGB was in the past.

But besides that, there are many, many other targets today that we have to be concerned about because, Madam Chairman, the world is arming itself at an alarming rate. I am not talking about superpowers or major nations. I am talking about nations that we never heard of before the breakup of the Soviet Union. But they are arming themselves. The technology is being made available to them. The arms are being made available to them by countries like North Korea.

Iran is a big purchaser. Iran is a big financer. Iran is no friend of the United States.

The world is a dangerous place today, and we had better realize that.

I remember, for years there were slogans all over this country that said, "Remember Pearl Harbor." There were songs written about Pearl Harbor, "Remember Pearl Harbor." Adequate intelligence could have prevented Pearl Harbor.

Mr. OWENS. Madam Chairman, will the gentleman yield?

Mr. YOUNG of Florida. I yield to the gentleman from New York.

Mr. OWENS. Madam Chairman, I yield to the gentleman's greater knowledge of the facts with respect to intelligence operations. Is the gentleman saying that the Russians now have an intelligence apparatus just as dangerous as the KGB under the old Soviet Union? That is news to me. Is that a fact the gentleman is stating?

Mr. YOUNG of Florida. Madam Chairman, let me repeat what I said, the Soviet KGB is nonexistent as the KGB. But the Russians have the same intelligence capability, and they are extremely active.

Mr. OWENS. Madam Chairman, if the gentleman will continue to yield, do we feel as threatened by this Russian capability as we were threatened by the old KGB?

Mr. YOUNG of Florida. Madam Chairman, from an intelligence standpoint, I would say no, because the Soviet nuclear threat to the United States, we believe, has pretty much gone away. Except we do know this: There are still nuclear weapons aimed at the United States. And the control of those weapons is a little questionable now.

We know that the Russians and former members of the Soviet Union still have control of those weapons.

It is essential for us to know who has the control, for example, who has the ability to launch those weapons. That is an intelligence factor.

It is a big question mark right now, exactly where we stand on that.

Mr. OWENS. If it is a big question mark, I wish the Permanent Select Committee on Intelligence would level with the American people. We are appropriating money to help the Soviet Union. We are about to enter into joint space exploration agreements, all kinds of things happening with respect to the Soviet Union, which ought to be reconsidered and reexamined, if the Committee on Intelligence has information that they are as aggressive as ever.

Mr. YOUNG of Florida. Madam Chairman, I think the gentleman is mixing up what I am trying to say and what he is trying to say.

I think it is essential that we have cooperative arrangements with the former Soviets, the Russians and anyone else who would like to cooperate with us on peaceful missions.

Mr. GLICKMAN. Madam Chairman, will the gentleman yield?

Mr. YOUNG of Florida. I yield to the gentleman from Kansas.

Mr. GLICKMAN. Madam Chairman, I think it is worthwhile noting, notwithstanding all the pleasantries we exchange with the Soviet Union, there are 10,000 warheads, imagine that, 10,000 nuclear weapons, nuclear-tipped missiles in the old Soviet Union.

The CHAIRMAN. The time of the gentleman from Florida [Mr. YOUNG] has expired.

(On request of Mr. GLICKMAN, and by unanimous consent, Mr. YOUNG of Florida was allowed to proceed for 1 additional minute.)

Mr. GLICKMAN. Madam Chairman, if the gentleman will continue to yield, they have not been dismantled. Most are probably still pointed at us. There is enormous instability in that region of the world.

I am not telling Members that the Soviet Union is the same as it was before. It is not. I understand that. But I am telling my colleagues that the political power base in those countries is not very stable at all.

For us to believe that the threat of nuclear annihilation is gone is just believing in a fairy tale that does not exist.

Mr. YOUNG of Florida. Madam Chairman, let me make one further statement on this.

Russia, the former Soviet Union, in addition to what the gentleman from Kansas, Chairman GLICKMAN, has just said, has just now signed a new agreement with Cuba. The former Soviet intelligence station in Cuba is now going to be operated by Cuba for the Russians.

Now, is that a good sign? I do not think that is a good sign.

Mr. DICKS. Madam Chairman, will the gentleman yield?

Mr. YOUNG of Florida. I yield to the gentleman from Washington.

Mr. DICKS. Madam Chairman, the only thing I would say to the gentleman, with the breakup of the Soviet Union, we now have 16 separate Republics. So where we used to be able to deal with one superpower, now we have 16 Republics that we have to deal with.

The CHAIRMAN. The time of the gentleman from Florida [Mr. YOUNG] has again expired.

(By unanimous consent, Mr. YOUNG of Florida was allowed to proceed for 2 additional minutes.)

Mr. DICKS. Madam Chairman, if the gentleman will continue to yield, for the intelligence community, whether we are talking about human intelligence in setting up operations inside each of these Republics, we are talking about a whole expansion of activities. Instability in the world, where within the Soviet Warsaw bloc, there was great stability. Now we have seen what has happened in Bosnia. We have seen what has happened in Azerbaijan, other areas, in Georgia.

We have tremendous problems of instability. So the challenge out there for the people who have to gather intelligence and keep our country informed, we now have probably more trouble spots in the world than when we had during the iron grip of the Soviet Union and the Warsaw Pact. We also are faced with four separate Republics possessing nuclear weapons.

So I am just saying, there are new challenges, and we have to adapt to that. We are trying to bring this budget down, I guarantee the gentleman, as quickly as we can.

But to go in with an across-the-board approach, with draconian cuts up front on the thesis that because the Soviet Union does not exist we still do not have problems, is just misguided.

Mr. SANDERS. Madam Chairman, will the gentleman yield?

Mr. YOUNG of Florida. I yield to the gentleman from Vermont.

□ 1600

I am a little bit confused. My memory is that on the floor of this House we debated, and, in fact, passed a significant appropriation, billions of dollars to Russia. I happened not to have voted for it, but a majority of the Members did, I am a little bit confused. What we are told is that we have to spend billions more of taxpayers' money to defend us from a country for which we have now appropriated billions of dollars more. Some of us may not fully understand the logic.

Let me say another word about the claim of the gentleman from Washington [Mr. DICKS]. I am also a little bit confused about that. I read the newspapers. I understood we won the cold war. We won the cold war. Now that we are being told is that because we won the cold war, we have to spend money for intelligence than if we had lost the cold war.

Mr. BEREUTER. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I rise in opposition to the gentleman's amendment. I do, in fact, rise in strong opposition to the amendment offered by the gentleman from Vermont [Mr. SANDERS]. Last year, I believe, the gentleman addressed the House during the consideration of the fiscal year 1993 intelligence authorization bill, and he raised many of the same concerns that he raised today to justify his 10-percent cut.

I also want to reiterate what President Clinton has to say about this subject. According to a July 27, 1993, letter from President Clinton to the chairman of the committee, he said, "The reductions already proposed by the House Committee on Intelligence will in themselves test our ability to manage prudently reductions of the intelligence budget while we simultaneously seek to meet the new security challenges which confront the country. Therefore, I will oppose an amendment on the House floor which seeks to reduce intelligence spending beyond the reductions already proposed by the committee."

In fact, there is in the legislation before the House a substantial reduction to what the President proposed. It is 3.7 percent. The gentleman from Washington [Mr. DICKS] pointed out that in the next 5 years we will be reducing the civilian component of the intelligence community by 17½ percent. That is a personnel cut. If we take a look at the people in the defense component of the intelligence community, the reductions there in the next 5 years will be about 25 percent.

We did win the cold war, and we are reducing deferral and intelligence expenditures dramatically because of that fact, but it does not mean that all of the problems will have disappeared in the process.

Mr. DICKS. Will the gentleman yield?

Mr. BEREUTER. I am glad to yield to the gentleman from Washington.

Mr. DICKS. Madam Chairman, we won the cold war because we had the courage on a bipartisan basis to remain militarily strong in the face of those people who wanted to see America withdraw from its international responsibility. I think it is a point we are considering as we debate this amendment.

Mr. BEREUTER. Madam Chairman, I do not yield at this point.

Madam Chairman, I know and admire the gentleman's concern about how he would spend the money elsewhere if he could. I understand, and that is my motivation, too. Actually, however, in a strange situation, if we reduce the authorization for the intelligence community below what the President wants and below the 3.7-percent cut we, the committee, have already made, those authorizations continue to exist in the Defense Department's authorization bill, because most of what we spend for the intelligence community is buried there. So we are really not cutting the authorization of dollars by any cuts that are offered out here. The authorization levels would in effect be automatically shifted to Defense Department authorization levels. That is one of the few places in the budget where such an automatic shift is made.

I want to suggest that indeed, there are a lot more complicated things that we now need to consider in the post-cold war situation we face. Much of the infrastructure that we need for intelligence gathering must be there nevertheless to meet our intelligence requirements throughout the globe. We could have the Soviet Union and its new component parts disappear and we still must have most of the required expenditures for an adequate personnel and capital asset requirement for the intelligence community.

Mr. GLICKMAN. Madam Chairman, will the gentleman yield?

Mr. BEREUTER. I yield to the distinguished gentleman from Kansas.

Mr. GLICKMAN. Madam Chairman, this is a very important point. I would like to ask the gentleman from Vermont [Mr. SANDERS] and my colleagues to listen to what the gentleman from Nebraska [Mr. BEREUTER] just said.

Mr. BEREUTER. I am just saying to my colleagues that even if the Soviet Union not only disappeared but the surviving component Republics of the Soviet Union disappeared, we still need the kind of personnel and capital assets for all of the intelligence requirements elsewhere in the globe.

Mr. GLICKMAN. If the gentleman will continue to yield, he did not let me extoll his virtues long enough, if I may be permitted just another minute of yielding.

Mr. BEREUTER. I am pleased to yield to the gentleman from Kansas.

Mr. GLICKMAN. Madam Chairman, to watch the world, to listen to the world, we need a certain amount of collectors up there, whether it is the Soviet Union or whether it is Iran, whether it is Pakistan, Korea, China, Central America, Somalia, Angola, you name it, we have to have a certain number of satellites to cover the sky so we can see, so we can listen. It is just a fact of life.

It is true that we do not devote as many of our resources, mostly human resources, to the Soviet Union. However, if we want to listen to terrorists and watch military actions in Iran and in other countries that are causing us trouble, we need basically the same amount of infrastructure we needed before. If we cut a third of the satellite capability, for example, it means we are going to see a third less. It means we will not be able to focus on certain parts of the world.

Geographically I wish all of our trouble spots were in one part of the world alone. Then we would not need to do that. The fact of the matter remains that even with the reduced threat in the Soviet Union, we still have to watch the entire globe. That is where so many of the dollars fall into, enough satellites to watch and listen and collection capabilities to watch and listen.

While I would like to think that the gentleman's gut feeling is right, that the cold war is over and we can cut 10, 20, 30 percent across the board, the fact of the matter is that to watch the world, we need a certain basic amount of infrastructure.

Mr. OWENS. Will the gentleman yield?

Mr. BEREUTER. I am pleased to yield to the gentleman from New York.

The CHAIRMAN. The time of the gentleman from Nebraska has expired.

(On request of Mr. OWENS and by unanimous consent, Mr. BEREUTER was allowed to proceed for 2 additional minutes.)

Mr. OWENS. Madam Chairman, will the gentleman yield?

Mr. BEREUTER. I yield to the gentleman from New York.

Mr. OWENS. Madam Chairman, let us assume we need to keep satellites in place. They are very expensive, I know, because we have an article from the Los Angeles Times which said one exploded recently, and it was a $2 billion loss. The space agency spokesman for some space group here in Washington said it was a $2 billion loss, but our capability has not really been affected that much by it.

Nevertheless, let us concede that point. Are there no places to cut in terms of the money we pay to informers throughout the world, in terms of the number of agents provocateur we have on the payroll, in terms of the number of femme fatales we have on the payroll? And there are a number of aspects of the operation, frogmen who are diving in the waters to look at Russian submarines; there are a number of aspects of the operation which have nothing to do with satellites in the sky which look at the whole world.

Let us assume that we are not devoting the entire budget but only about one-fourth of it to the satellite operation, and leave that in place. There are numerous other places that we could make reductions, because despite the fact that there is a lot of unrest in the world, there are no threats. That unrest does not threaten the United States of America the way the Soviet Union threatened the United States of America.

Mr. BEREUTER. Madam Chairman, I thank the gentleman for his points. There are a couple of things that I would respond.

First of all, we are cutting dramatically the expenditures elsewhere. If the gentleman had gone to the Democratic caucus, perhaps he did, or the Republican Conference, he would have understood about the restructuring that Director Woolsey will be bringing to the satellite capacity of the United States, in an effort to reduce costs but still to maintain an adequate level of surveillance and protection for this country.

We do not have femmes fatales. We do not have agents provocateur, but we are cutting dramatically expenditures on a whole range of programs. I would say also to the gentleman, since he asked to be recognized, that if he took a careful look at the CBO report that he referenced a few minutes ago, if he would take a look at the end of it, they give a disclaimer that basically says, Forget about everything else that we have said previously because we really do not have full information on which to base our conclusions.

The CHAIRMAN. The time of the gentleman from Nebraska has expired.

(On request of Mr. DICKS and by unanimous consent, Mr. BEREUTER was allowed to proceed for 1 additional minute.)

Mr. BEREUTER. Madam Chairman, I would say to my colleagues, look at the tremendous proliferation of weapons of mass destruction today. Look at all the countries that are seeking to gain those capacities, and look at the extraordinary proliferation of missile technology, and the Members will understand we have to know what is happening around the world.

We do hope to move to a multilateral approach to many things, but where in the world do we think the intelligence for the U.N. forces and the other multilateral forces comes from? It comes predominantly—95 percent—from our capacity, the United States of America.

Mr. DICKS. Madam Chairman, will the gentleman yield?

Mr. BEREUTER. I am pleased to yield to the gentleman from Washington.

Mr. DICKS. Madam Chairman, I would just point out to my friend, the gentleman from New York [Mr. OWENS], he mentioned some of the areas where there have been real cuts made. I go out and spend some Saturday mornings with the people who are involved in human intelligence and do these operations. They are complaining bitterly about how much we have already cut them.

☐ 1610

I would also point out the gentleman mentioned the 25-percent reduction in military personnel. Part of this budget goes to the military for all of its intelligence operations as well. So it helps to explain why you cannot bring it down much more dramatically than we already are doing.

The CHAIRMAN. The time of the gentleman from Nebraska [Mr. BEREUTER] has again expired.

(By unanimous consent, Mr. BEREUTER was allowed to proceed for 30 additional seconds.)

Mr. BEREUTER. To conclude my remarks, Madam Chairman, I thank my colleagues for their indulgence and for this dialog. I want to suggest to my colleagues to remember these facts. We already have reduced the President's intelligence budget recommendations by 3.7 percent. The President has asked us not to cut further below this level. He says it creates difficulties.

So I urge my colleagues to oppose the amendment of the gentleman from Vermont.

Ms. PELOSI. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, the gentleman from Vermont and the gentleman from New York know the esteem in which I hold both of them for their relentless advocacy on behalf of working people and those who need help in our country. I appreciate the spirit in which the Sanders-Owens amendment is offered, and I agree with them. We should cut the intelligence budget as quickly as we can responsibility do so. In fact, I think that we are well on our way to reducing our national security budget by the 10 percent they suggest. However, this must be done by making the kinds of specific cuts that we started to do with in this year's authorization bill.

I would say to the gentleman from Vermont [Mr. SANDERS] and the gentleman from New York [Mr. OWENS] that I share their values. The gentleman from Vermont [Mr. SANDERS] went on before very eloquently about the values debate that we always have in this Congress, and about what we are neglecting in our country. And I agree with him. I believe that we should measure the strength of our country in its health, education, and the well-being of its people. For that reason I have voted every year for the values budget put forth by the Congressional Black Caucus, and I will continue to do so to make those budget priorities the priorities of this Congress. I know they are the priorities of this country.

However, the gentleman from Vermont in his remarks set forth some choices which are indeed not the choices that are before us today. The choice we have today is between the intelligence community spending this money on the intelligence budget or on defense. By the way, the funding which this legislation authorized goes into the Defense Appropriations Subcommittee. Last year the Defense Appropriations Subcommittee made deep cuts in the intelligence budget, thereby spending more money on defense. Therefore, every dollar we cut from intelligence will be spent on defense under the circumstances as they are before us now. Next year we could address this issue at an earlier stage in the process and come in with a new set of budget numbers from the Budget Committee. We would be starting at a different place. But as the facts are and the process is before us, money saved in the Defense Appropriations Subcommittee on the intelligence budget is spent on defense. Of the two, while I would rather cut both, of the two I prefer spending the money on intelligence and cutting it on defense. I would rather spend on intelligence so that we could have better intelligence about the Saddam Husseins of the world.

Think of the money we could have saved in defense dollars if we knew more about Iraq's intentions rather than having to spend money and risking the lives of our young people.

I wanted to go on the Intelligence Committee to focus on the proliferation issues and terrorism issues. Yes, the cold war is over, but there are many hot spots left in the world. And there is mobilization going on without the deterrence that the cold war offered as some form of defense. And there is mobilization going on without even the kind of detente we had with the Soviet Union that we do not have with the leading terrorists like the Saddam Husseins and the Qadhafis of the world.

As a member of the Intelligence Committee, I worked with my colleagues for the highest possible cuts. That was one of my missions as a progressive going to that committee. My vote today on the committee bill is my expression of gratitude to my chairman, the gentleman from Kansas [Mr. GLICKMAN] for making these cuts possible.

We have cut over $1 billion from the Clinton budget recommendation. I defy any other committee chair in this Congress to make that claim.

Therefore, I reluctantly oppose the Sanders-Owens amendment. My reluctance springs, however, from the respect that I have to these two gentlemen, and not for the amendment which they offer. And I urge my colleagues to vote "no."

Mr. BROWN of California. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, first of all I rise in support of the amendment offered by the gentleman from Vermont and the gentleman from New York. Let me say, however, that I have a great deal of confidence in the work of the Intelligence Committee as currently constituted under the chairmanship of Mr. GLICKMAN with Mr. COMBEST as the ranking member. I think they are moving the committee in the right direction. I recognize that they have cut below the President's request by 3 percent.

I would point out that this House, in its wisdom, has cut the civilian space program by about twice that much, and there was no question as to whether the civilian space program would survive. We know it will survive. The Administrator says, as with any large bureaucracy, you can probably cut it 5 percent a year for several years and still get more production. The same is true of the intelligence agencies, and I urge that we consider sending them a message by asking them to become more efficient.

I spent several years on the Intelligence Committee. I was very frustrated. One of the reasons I was frustrated is the information that all of the Members are hinting at, that is available up in the committee rooms, I knew full well, but I could not tell, because that would have been a breach of secrecy. All Members can go up there and get this information, but they cannot bring it down here and use it in the debates. What good does it do then in terms of building a case for or against any particular way of spending that money?

As a matter of fact, I was threatened with legal action because I revealed the fact that there was an organization known as the NRO. We have finally a year ago admitted that we have an organization called the NRO. You can find the date and the type of satellite that was just launched, disastrously, in the Pacific. The preceding satellite that it was to replace, you can find the name and the date of launch in official Government publications, but you cannot reveal it here on this floor.

The Los Angeles Times, a reputable newspaper, said it was a Lacrosse imaging satellite. There is one reason for a Lacrosse imaging satellite. That is to peer below the cloud cover in the Soviet Union. Most of the rest of the world you do not need a Lacrosse imaging satellite. You can use the other imaging satellite which do a very good job of pinpointing the exact location of every tank, or even individual soldiers if you want to get down to that level.

So my suggestion is if you want to save money, do not replace that Lacrosse imaging satellite. It is no longer needed to penetrate the cloud cover of the Soviet Union. I would take that $2 billion, and that is again reported in the L.A. Times, and use it for some other purpose.

Several of the very knowledgeable members of the committee have suggested that those who offer this amendment ought to make specific suggestions as to how that money should be spent. Well let me tell you this: When I went on the Intelligence Committee I was tremendously reassured of the safety of the United States from the technological capabilities that we have. The CIA, the NSA, the National Reconnaissance Office and these others, they have the best hardware in the world. You can see any tank movement or anything else, any airplane movement, any ship movement that takes place in the Soviet Union. I felt comforted knowing that they could not move a single item of hardware without or knowing about it almost instantaneously. That was not the problem.

There is a tremendous gap in our intelligence. We know nothing about what is going on in the Moslem world, for example. There is a hiatus in terms of human intelligence about the great revolutionary movement shaking the world.

I would suggest that instead of building another satellite, we try to train more human sources who can get into these other cultures and understand them, analyze the results, and tell us what are the areas of the world which face imminent revolution, and what is going to happen in those areas.

□ 1620

That would help our intelligence, and it would not take all the billions that we are spending on these satellites.

Now, I have another suggestion. Lockheed is currently seeking to do an unclassified satellite that has essentially the same resolution as the NRO's classified satellites. Why do we not ask Lockheed to go ahead and do that, and then we buy the imagery from them?

The CHAIRMAN. The time of the gentleman from California [Mr. BROWN] has expired.

(By unanimous consent, Mr. BROWN of California was allowed to proceed for 5 additional minutes.)

Mr. BROWN of California. I have asked for the additional 5 minutes because I am enjoying this so much.

Mr. GLICKMAN. Madam Chairman, would the gentleman yield?

Mr. BROWN of California. I am happy to yield to the gentleman from Kansas.

Mr. GLICKMAN. The gentleman is such an extraordinarily brilliant person.

Mr. BROWN of California. Thank you.

Mr. GLICKMAN. I was amused to think that the gentleman does not think there are clouds anywhere else in the world except over the Soviet Union, and I was a little worried. You are chairman of the Committee on Science, Space, and Technology.

Mr. BROWN of California. There are clouds even in Washington; even in Washington there are clouds.

Mr. GLICKMAN. But the gentleman does acknowledge that there are clouds in other parts of the world?

Mr. BROWN of California. Yes. As a matter of fact, one of my suggestions is, and I am just getting into this matter, I think that we should spend some of this money for technical resources to do dual-purpose investments, that we, as I started to say, ought to use a civilian satellite which Lockheed, which builds the classified satellite, is perfectly willing to put up for us, and make a huge amount of money and get all the data that we need. If we need a radar satellite, and there is a lot of value in them, for civilian purposes, I might say, we used this kind of imaging, for example, to find out what lay below the surface of the desert of North Africa. It is marvelous. You cannot get that kind of information any other way. We found new archeological information using those radar satellites.

I would suggest that we put up a dual-purpose radar satellite and let the intelligence agencies use it, sell the products on the commercial market, and use the rest of the product for scientific research which I am very much interested in. I think we can do that.

But my main suggestion at this point is that we recognize that the great gap in our intelligence-gathering is human intelligence and in analysis of the data that we collect. I would suggest less focus on hardware and more on sophisticated human intelligence-gathering which is far less expensive, incidentally, and a better job of understanding these other cultures where the terrorism originates that we are so afraid of.

Mr. DICKS. Madam Chairman, will the gentleman yield?

Mr. BROWN of California. I am happy to yield to the gentleman from Washington.

Mr. DICKS. Madam Chairman, I have a great respect for the distinguished chairman of the Committee on Science, Space, and Technology who is an expert on these matters.

I would raise one question, since you have a great grasp of the space program, et cetera, and being from California: Are you not concerned, as many other experts are, about the declining industrial base in the United States and our capability to reconstitute the defense industrial base. No one wants to think that there could ever be an overthrow in the Soviet Union, that the hard-liners would take over again. But there are still 10,000 weapons there. If we had to reconstitute our defense base and build these space systems or other defense systems, I mean, the industrial-base argument—we could be in trouble. We only have a handful of companies involved and you waxed eloquently here on a number of subjects, give me your views on the industrial base issue.

Mr. BROWN of California. I agree with the gentleman that this country should be doing a more diligent effort to understand the technological and scientific developments in other countries and that we could use intelligence gathering for that purpose. The CIA has approached me and discussed that with me, and I encouraged them, just as I am encouraging other defense installations to look for civilian missions. I think that is legitimate. I would be happy to fund them if I knew what they would do.

Unfortunately, many other countries such as the Soviet Union devoted a great deal of their time to industrial intelligence collection, and they found that they could not transfer the technology to their own industrial base because there was a lack of understanding of how you transfer technology.

Now, we may have some of those same problems, even if we have a robust collection program. I hope that we will not.

But let me make one or two other points. I do not want to take up all the time. But one of the former speakers said that the world was arming itself at an alarming rate, and they are correct, the world is still very insecure. The insecurity, however, is not solved by the technology. It is solved by the other kinds of collection that I am talking about, understanding other cultures, revolutionary movements, the kind of thing that is happening, and a better analysis of the data.

I might point out that the reason the rest of the world is armed so well is that the United States provided those arms over many, many years. We are currently, the CIA is, currently buying back Stingers that we gave to the Afghan rebels in past years, because now those Stingers are getting into the hands of other kinds of terrorists, and they are being used to shoot down airplanes. We are spending many millions of dollars buying back those Stingers that we originally gave away.

Now, we cannot engage in those kinds of tactics and then lament the fact that other nations are also supplying arms to other parts of the world. We have a number of important intelligence problems. We need to discuss them. We need to make intelligent policy.

We are not able to do it because we still overclassify the data. I still resent this overclassification, and I feel very bitter about it sometimes.

Mr. COMBEST. Madam Chairman, will the gentleman yield?

Mr. BROWN of California. I am happy to yield to the gentleman from Texas.

Mr. COMBEST. Madam Chairman, recognizing that I would not change the gentleman's mind on the amendment, but I would want to go in saying, and I will be very careful how I proceed with this, I think every member of the committee is concerned, and I want to agree with the gentleman on the need and the importance and the significance for human intelligence.

The CHAIRMAN. The time of the gentleman from California [Mr. BROWN] has again expired.

(At the request of Mr. COMBEST and by unanimous consent, Mr. BROWN of California was allowed to proceed for 1 additional minute.)

Mr. COMBEST. If the gentleman will yield further, it is an area that I would say that every member of the committee, I think, probably has as much of an interest in, and it is not something, I assure the gentleman, that we have overlooked or forgotten about.

Mr. BROWN of California. I am sure that is the case.

As I said earlier, I think this committee is in the best hands that I have seen it in many years. I think you underestimate the amount of reductions that you could make.

The 3 percent below the President's request that you are lauding is a very trivial amount. I would like to suggest, that even with the 10 percent that is stated here, we would still have a very comfortable budget.

I urge support for the gentleman's amendment.

Mr. GLICKMAN. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, the gentleman from Vermont [Mr. SANDERS], as usual, has presented this amendment correctly. It is a question of choices, a question of level of effort, and I think I want to get some facts out again so that we understand where we are going.

This bill is 3.8 percent below last year's authorization bill. This bill is about 3.7 percent below what President Clinton has requested. He has written me a letter which I have shared with all of you which indicates that he will oppose any amendment on the House floor which seeks to reduce intelligence spending beyond the reductions already proposed by the committee.

I did not always support Presidents Bush and Reagan in their defense proposals, but we have a new President, and I say this particularly for my party, we have a new President who is working his way through a variety of foreign-policy and international crises. I would think that from the standpoint of giving him some sure footing to deal with the situation in Bosnia and the Balkans, to deal with Iran, to deal with Egypt, to deal with other problems in the world that it would be an unnecessary affront to dramatically reduce the budget that he says is his bottom line.

I say that because I think it is important to give him that support right now.

Now, let me, for a moment, also describe what is in this intelligence budget so people know. The gentleman from New York [Mr. OWENS] talked about the satellites.

Yes, there are satellites. But let me describe the other parts of the budget so you have some idea of what the intelligence community does. Part of it is imagery. Satellites take pictures. A big part of it is something called signals intelligence. Satellites and other collectors listen to what people are saying. Some of these are in the sky. Some of these are not in the sky. Some of this is done by human beings. Some of this is done by machines all over the world.

Another big part is human intelligence, people on the ground listening, analyzing, making decisions. That is what the budget is all about, it is not just technology.

It takes all of these people to look, to listen, to analyze in order to do the appropriate job.

I think it is important again to understand the threats to the United States, because, this whole thing has to be based on a legitimate threat. If there is no threat, we do not need this. Let us just junk it all.

The fact of the matter is that we still have very serious threats facing this country.

What are they? First and foremost is nuclear proliferation. The old Soviet Union still has 10,000 warheads. Many of those may be on the marketplace right now, both the actual warheads and the technology to countries like Iran and North Korea who do not want to use it to provide aid to the homeless and unemployed in their countries. They want a nuclear capability to destabilize America and other parts of the world. That nuclear threat is very serious.

When you combine that nuclear threat with the terrorist threat, the ability to transport nuclear devices around the world, we have a problem in this country, in your hometowns.

☐ 1630

It takes an international intelligence effort to analyze that. Does that mean every dollar in this budget is absolutely well spent? Probably not. There are probably more places where you can cut. But the fact of the matter is, that when you are dealing with these very serious threats, you do not know which cut will result in which conversation not being heard, or which picture not being taken, or which terrorist not being watched.

The FBI's investigation in the terrorist incidents in New York could not have been done without a very effective international intelligence effort to find out about that terrorist organization and what it was going to do. They were going to blow up the second tallest building in the United States which could have killed 50,000 people. The FBI did a great job with the help of the international intelligence community both here and overseas. But do we want to risk the possibility of major loss of life to people in America because of the international terrorist threat, and the threat of nuclear proliferation? I do not think so. I do not think this country, the American people, want to do that. I agree with the gentleman from Vermont [Mr. SANDERS]. The fact is we have other problems in this country. We have problems of economic necessity in America.

But if you ask the priorities of the American people, they will say public safety is probably the first priority. I view the intelligence budget as a public safety budget. It is an eyes-and-ears budget to see what is happening in the world. As the gentlewoman from California [Ms. PELOSI] said, as your actual defense dollars go down radically, which they are, it would be foolish for us to get rid of our eyes and ears in terms of this intelligence budget.

So, while I understand this amendment, I think it is inconsistent with what the priorities of the American people are, and I urge you not to support it.

There will be more terrorist acts in this country. I do not want it on my shoulders, that I could have done something and did not.

The CHAIRMAN. The time of the gentleman from Kansas [Mr. GLICKMAN] has expired.

(By unanimous consent, Mr. GLICKMAN was allowed to proceed for 2 additional minutes.)

Mr. GLICKMAN. Madam Chairman, I do not want it on my shoulders that I could have done something and I got rid of the potential for that additional information collection when we reduced this budget rather radically.

So, I would urge Members not to support the amendment.

One final point: The gentleman from Vermont [Mr. SANDERS] said that the level of effort should be reduced. He is pretty honest about it. He said to cut 10 percent. How does he know? I think it is a gut feeling because he did not go upstairs and examine the budget. Neither did Mr. OWENS.

You have a committee that did examine the budget. We are no geniuses, but let me tell you something: This committee is not composed of people who are on here permanently, like most committees of Congress. We are on for 6 years, and then we are off. We are not doing this to promote our district or to promote particular defense contracts.

We are really trying to do this in the best interest of the country, and, hopefully, we provide that kind of review that can only come from an independent group of people.

We are not brilliant, but we have looked at this, and we decided we can make some cuts, but it would not be prudent to make additional large cuts. Maybe you can make it without any damage, Mr. OWENS or Mr. SANDERS, although as Ms. PELOSI says, the money will not go to the homeless, it will go back into the defense budget. But I just think at this stage it is not a responsible thing to do.

I understand where the amendment is coming from. I urge my colleagues to take the responsible approach today by not supporting the amendment.

Mr. COMBEST. Madam Chairman, will the gentleman yield?

Mr. GLICKMAN. I yield to the gentleman from Texas [Mr. COMBEST].

Mr. COMBEST. I thank the gentleman for yielding.

Madam Chairman, the gentleman mentioned the New York tower bombing. I want to reiterate once again: The great intelligence work, literally within hours of the time that they were going to be set off, there were four additional bombs that were found set by terrorist groups in New York; one in the Federal Building, one in the United Nations Building, and two in major commuter tunnels during the height of rush hour. Those were stopped because of good intelligence.

So, rather than talking today about how good it was that the FBI followed up on the leads after the fact, those were stopped beforehand. So we could be speaking of much more in the way of destruction in New York City had it not been for good intelligence.

Mr. LEWIS of California. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, to my colleagues, I wanted to share just a moment how I happened to become a member of the Committee on Intelligence. When I was appointed to this committee at the start of the 103d Congress, I was literally a greenhorn in terms of the intelligence business.

I want to express my deep appreciation to my chairman, the gentleman from Kansas [Mr. GLICKMAN] and my ranking member, the gentleman from Texas [Mr. COMBEST] for their patience with me as I worked my way through the complex issues at this committee. These two gentlemen have provided quality leadership in the difficult process of educating members new to the committee.

Madam Chairman, I went on the committee for a couple of fundamental reasons. First, I have the responsibility in the Subcommittee on Appropriations which funds the VA, HUD and independent agencies. This subcommittee has the oversight of the more advanced technological involvement of our country under NASA, specifically our space programs, of which my colleague, the gentleman from California, [Mr. BROWN], spoke earlier.

Second, I am member of the Subcommittee on Defense and I have served there during which we have gone about a rather significant reduction in our defense appropriations. While we have drastically reduced our defense spending, people have suggested that the world has changed, and indeed there is a prospect of living in a very peaceful world.

In that type of environment, there is great pressure to begin to commercialize the technology we have learned in our defense community as well as technical advancements of NASA. There is great pressure to push that commercial opportunity toward the private sector.

If we begin to move toward that commercialization, an intelligence background would be most helpful in my capacity as a member of the VA, HUD, and independent agencies as well as a member of the Defense Appropriations subcommittees.

As I have said, in those committees I have been one of those members who has been very concerned with the relatively radical reduction that we have made in our defense budget. The gentleman from Washington [Mr. DICKS] earlier spoke about that reduction rather articulately. I have been concerned, but as a member of the subcommittee have gone along with that progressive shrinkage of our defense expenditure. Having said that, it is absolutely critical in that sort of circumstances that not just the Congress but the President of the United States must have available to him the best possible information regarding threats that may be developing around the world. And that sort of critical information, as you are reducing defense spending, only comes from our intelligence processes.

I am absolutely astonished, as a new member of this committee, at the quality of the work being done by our intelligence community. The President has asked that we not cut this budget any further. He has done so because he knows the world is changing radically, and you cannot begin to place assets in a position where you might need them, whether they be in the sky or otherwise, at any snap of the finger. We must continue our investment in the intelligence community. This President recognizes that America, if it is going to lead, must be strong. And with shrinking defense budgets, our strengths often come through information. I understand, and I understand clearly, that the intention of this amendment is to cut the intelligence community in the hope that these funds will somehow move in the direction of social programs. In the real world, that is not going to happen. Our defense authorization process has put our Appropriations Committee in a position where we are short by several billions of dollars in outlay. Any money given up here in terms of intelligence authorization will quickly be swallowed by a defense network which feels they are under too great pressure.

Indeed, my colleagues, carefully evaluate and listen to those people who are leading this committee. Mr. GLICKMAN and Mr. COMBEST have done an outstanding job. Measuring very carefully, they have attempted to be responsive to our defense needs, and to the needs of the President for excellent information.

Madam Chairman, this is the wrong cut at the wrong time, and I urge my colleagues to oppose this amendment.

Mr. COMBEST. Madam Chairman, will the gentleman yield?

Mr. LEWIS of California. I yield to the gentleman from Texas [Mr. COMBEST].

Mr. COMBEST. I thank the gentleman for yielding to me.

Madam Chairman, just as a point of reference, and the gentleman in the well and the gentleman from Washington [Mr. DICKS] both know this, many people say that intelligence and defense should contain parallel reductions. I argue, in fact, that if defense is going down, intelligence should go up. But that is obviously some other argument for some other day. I would only wish we had had only the same reductions in intelligence as we have had in defense, because in the last 2 years intelligence has taken a significantly larger proportional cut than defense has.

Mr. DICKS. Madam Chairman, will the gentleman yield?

Mr. LEWIS of California. I yield to the gentleman from Washington.

Mr. DICKS. I thank the gentleman for yielding.

Madam Chairman, I want to commend the gentleman for his statement. Let me say one other thing: Our good friend from California [Mr. BROWN] the chairman of the Committee on Science, Space, and Technology, got up and kind of painted a picture that I am troubled about, in this sense, a picture where we have this enormous scientific capability, incredible satellites, and they do everything.

The CHAIRMAN. The time of the gentleman from California [Mr. LEWIS] has expired.

(On request of Mr. DICKS and by unanimous consent, Mr. LEWIS of California was allowed to proceed for 1 additional minute.)

Mr. DICKS. Madam Chairman, will the gentleman continue to yield?

Mr. LEWIS of California. I yield to the gentleman from Washington.

Mr. DICKS. I want to make sure that our colleagues here understand something: These satellites go around in various orbits, they are only over various parts of the Earth for a few minutes each day. If during that time there is cloud cover or other problems, we may not get the pictures of the same quality that the gentleman discussed.

□ 1640

I worry that if we do not continue to invest in the newer technologies and try to overcome some of the deficiencies in the current system as we downsize, we are not going to have that good quality out there in the future.

There are significant deficiencies that have to be overcome with new investment. That is why I think Mr. Woolsey is correct. As we look at signals, as we look at imagery, we have got to continue to invest. That costs us some money in the near term, but it will simplify the architecture in the long term and help us save additional money.

The CHAIRMAN. The time of the gentleman from California has expired.

(By unanimous consent, Mr. LEWIS of California was allowed to proceed for 1 additional minute.)

Mr. LEWIS of California. Madam Chairman, I appreciate very much my colleague's comments.

If I may by way of closing indicate to my colleagues that as a new member of the committee, I have become somewhat startled by the tendency of the House to suggest that the world has become so peaceful that we can afford to significantly continue to shrink our national defense budget. If that is logical, is it not just as logical that the information that is made available, not just to our defense network, but to the President, the Commander in Chief and the Appropriation Committees, should be better?

The only way you can do that is if you have the assets in place, or develop the assets that allow us to improve that information.

The world, in many ways, is better today than it was a decade ago in terms of our relation with the former Soviet Union, but in other regions such as Somalia, Bosnia, Sendero Luminoso in Peru, the challenges we face throughout this developing world are very real. It is incredibly important that America be able to continue to lead. To do that, we must be able to provide quality information to those decisionmakers who can make a difference for a peaceful world.

Mr. DEFAZIO. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, anyone listening to the debate knows America is not safe. The world is a perilous place. I think all the Members on both sides of this amendment would agree. We need a good cost-effective intelligence system.

The question is really whether or not what we are doing today is cost-effective.

There is another question, which is put into perspective, not only is the world not safe, but America is not safe. It is not safe to walk the streets in many places in America. They could be made safer with more police, something the President has promised and something that we have had difficulty reducing in our budget.

With this classified amount of money that we are cutting out of this budget, my rough estimates are from my days as a county commissioner, we could put 56,000 deputy sheriffs in patrol cars on the road, fully armed and equipped, for the same amount of money, or urban police, would probably be close to that number.

Now, of course, the Russians can take that number and they can quickly go back and check on my county budget and they can interpolate how much money we might be cutting out of the budget here and soon hey will know that we are cutting somewhere near $3 billion and America will be less safe because the Russians know that we cut $3 billion out of this budget.

How much are we spending? Well, I cannot tell you that. It is classified.

What are we doing with the money? Are we fighting terrorism? Are we fighting the cold war? Are we fighting some other adversary? Well, I cannot tell you that.

But we know that every single dollar in this classified budget is well-spent, better spent than any other part of the Government. This is not like any other Government undertaking or agency. Not a penny is wasted. That is what our colleagues would have us believe. I do not believe that.

I am from the Government and I am here to protect you. That is what we are talking about here today. Believe us and spend this amount of money. Do not make them make the tough choices.

I read one article that said we cannot possibly lay off the people in the Intelligence Agency. That article was such an insult to the people in those agencies, that they simply could not lay them off because they are also laden with secrets that one might become disgruntled upon losing his or her job and reveal some of those secrets. I do not believe anybody in our Intelligence Agency would do that if they knew that for the good of those agencies and for the good of America and to cut the deficit they had lost their jobs, just like my loggers are losing their jobs, just like people who work in military bases are losing their jobs, everybody across America has to give and give equally.

What possible solace could the Russians or Mu'ammar Qadhafi or Saddam Hussein take from knowing how much money we are spending? Why not reveal the baseline number? What advantage could they gain?

What they would know is that we are spending more than their gross domestic product on our Intelligence Agencies. I think they would be pretty depressed if they saw how much money we are spending in this budget, because they would know they could never possibly match it if they spent every penny available to them to have their own counter-intelligence services.

There is a lot of talk about the ex-Soviet Union, or Russia. The gentleman from Vermont made the most telling point of the day. I did not vote for a single penny for our ex-adversary, Russia, or the Soviet Union, and now many of our colleagues have voted to send them billions of dollars in aid are going to tell us we cannot cut a few billions of dollars out of this secret intelligence budget because of the threat presented to us by Russia or the ex-Soviet Union.

Why are we sending them money if we still feel so threatened and if they are not so much of a threat, why do we still need to spend so much money?

Terrorist acts? I think terrorism is the new threat to America and to world stability in many cases, particularly with nuclear terrorism. What percentage of the budget is spent on that? How effectively is it spent? There is not being effective oversight of that. This is all being done in secret and secrecy does not lie well with a full democratic republic.

America could do better. Let us come level with the American people. Let us tell them how much money we have spent, how much money we spent to win the cold war in overtaking the threat of the Soviet Union. Let us compare that to how much money we are spending today. Let us tell them how much money we are spending today.

Let us at least lay out some of the categories of the budget and let people see some gross numbers and let our colleagues here make some decisions on whether or not it is well spent, just like we do with every other budget in this body, every other budget in the U.S. Government.

We can do better and we can cut from this, just like we can cut from any other part of this Government. There are places to cut in every agency of the Federal Government.

Madam Chairman, I urge my colleagues to send a message and vote for this budget.

Mrs. SCHROEDER. Madam Chairman, I move to strike the requisite number of words.

I wanted to follow the gentleman from Oregon, because I thought he made a lot of excellent points.

First, let me thank the new chairman from the Intelligence Committee, because I have been very impressed with his leadership; but I must say, it is a different world. None of us would say it is a different world. None of us would say it is a peaceful world, but we would say it is a different kind of environment we have to target. By not being able to talk about this openly, we do not know if we are targeting it right or not.

I was very pleased this year that the Committee on Armed Services did practically its entire markup in the open. I think that is a real change. We have never seen that happen before.

I would hope that that would be a reason we could at least say how much we are spending on this whole area of Intelligence.

Second, let me put a few things up. The gentleman from Oregon pointed out very well that why we have been so focused on the international arms race, one of the things we forgot to look at was our domestic arms race, and our domestic arms race is very out of control. Cities such as mine are reeling from that.

I think an awful lot of our constituents are much more fearful about getting shot as they drive to the grocery store than they are about having some missile coming at them.

I also thought the gentleman made an excellent point about the ridiculous statements that have been made in one of the prior newspaper stories, and that was that we cannot fire anybody here, that is why we have to keep the budget so high, because if we fire them they will tell. Well, I certainly hope that is not true.

I certainly hope as we look at different threats in the world, radical fundamentalism and so on, that there is an ability to shift the kind of personnel needs to people who understand that, rather than hang on to people from the prior cold war at any cost for fear that they will say something.

Finally, let me say, if we cut this money, there are so many uses for it domestically and every other way.

Remember, we are still leaving 90 percent intact, which is more money than most countries spend on absolutely everything in their national budget.

One of the things that has worried me the most is that in Intelligence one of the things people talk about is maybe we ought to have Intelligence out there to watch our national technology base, to make sure that there are not foreigners coming in and stealing secrets from America's corporations.

Now, at the very time we are seeing that, we just finished this incredible competition where we went out and we asked people to take the research we were doing in these high-technology classified areas and figure out a way to put it out in the civilian sector.

□ 1650

We had this terrific competition. CEO said, "We think this is silly. It's you liberals talking about defense diversification. It won't work."

We have $471 million, and guess what? If we funded all the things that came in in this competition, we would need $8.3 billion, and the people applying have to put in half that money, so it would be almost $17 billion all together that we would have out there to start new jobs right away.

Now let me tell my colleagues that, if we do not pick up this resource, if we do not find some way to fund all those applications that came in, guess what? Foreign investors are going to fund them. They are drooling to fund them on a 50-50 match, and we will not need the intelligence community to tell us why they went offshore. They went offshore because we had a competition, got people excited. They came forward and thought of all sorts of new market approaches for the things we have invested in as taxpayers, in defense that had been classified, and then we could not fund it. At this point we are going to be able to fund about one-seventeenth of the proposals, and every one of the proposals is appearing to be jurored very, very high. This is eating our seed corn.

So, Madam Chairman, this is not saying that all of the world is peaceful, we do not need it. It is saying the world is different, it is not peaceful, let us reconfigure. It is not saying that the future is not looking at intelligence, but make sure the people there are looking at the proper things, and it is also saying we have new threats domestically in our cities and new threats to build a tech base in the civilian side where we do not rely totally on Government contracts coming from the Defense Department or the intelligence department, and everything else is offshore. That is a miserable future for this country.

Defense diversification is our future, and we are sitting here looking at the most successful thing anyone could dream of, and it is going to go down the chute because we do not have any money to fund it.

So, I think these are places where we could find the money, we could begin funding these things, and we can begin instant job creation in a very critical area that will help us retain some of that defense and technology base forwarding, and that is one of the ideas I would have, and I would hope people would vote for this very small 10-percent cut.

Mr. LAZIO. Madam Chairman, I move to strike the requisite number of words.

Madam Chairwoman, I rise in opposition to the amendment proposed by Representatives SANDERS and OWENS and urge my colleagues to defeat it.

The demise of the Soviet Union and the end of the cold war has not lessened America's need for timely and accurate intelligence. Indeed the opposite is the case.

The restructuring of Europe has put increased demands on the intelligence community to provide information on the policies and economies of numerous newly Independent States—15 alone in the former Soviet Union. Global threats still exist, and our contemporary intelligence problems—ranging from terrorism to proliferation of weapons of mass destruction to economic espionage—are complex.

Moreover, we continue to face many regional disturbances worldwide. While the United States will not—and should not—respond militarily in all cases, the Intelligence Community must still be capable of providing timely information to policy makers and military leaders. This capability is all the more important in a time of steep military draw downs. Intelligence is a cheap defense.

We must preserve a strong, capable, and flexible intelligence capability to help maintain America's strength and security. Further cuts in intelligence community funding and personnel at this time would be shortsighted. They would only damage the effectiveness of our intelligence programs and our ability to respond quickly to emerging threats.

Mr. GLICKMAN. Madam Chairman, it is my understanding that the leadership would like to have a quorum call now, and so, Madam Chairman, I would suggest the absence of a quorum. I would say that we intend to go back on this bill and will try to finish this amendment tonight. I do not think we are going to be able to finish the bill tonight.

Madam Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

Members will record their presence by electronic device.

The call was taken by electronic device, and the following Members responded to their names:

[Roll No. 390]

ANSWERED "PRESENT"—420

Abercrombie
Ackerman
Allard
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Archer
Armey
Bacchus (FL)
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barca
Barcia
Barlow
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bateman
Becerra
Beilenson
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Blackwell
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burton
Buyer
Byrne
Callahan
Calvert
Camp
Canady
Cantwell
Cardin
Carr
Castle
Chapman
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Coppersmith
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cunningham
Danner
Darden
Deal
DeFazio
DeLauro
DeLay
Dellums
Derrick
Deutsch
Diaz-Balart

Dickey
Dicks
Dingell
Dixon
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Durbin
Edwards (CA)
Edwards (TX)
Emerson
English (AZ)
English (OK)
Eshoo
Evans
Everett
Ewing
Faleomavaega (AS)
Farr
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Fingerhut
Foglietta
Ford (MI)
Ford (TN)
Fowler
Franks (CT)
Franks (NJ)
Frost
Furse
Gallegly
Gallo
Gejdenson
Gekas
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Grams
Grandy
Greenwood
Gunderson
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings
Hayes
Hefley
Hefner
Herger
Hilliard
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoekstra
Hoke
Holden
Horn
Hoyer
Huffington
Hughes
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Inslee
Istook
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klein
Klink
Klug
Knollenberg
Kolbe
Kopetski
Kreidler
Kyl
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Leach
Lehman
Levin
Levy
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Long
Lowey
Machtley
Maloney
Mann
Manton
Manzullo
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McHale
McHugh
McInnis
McKeon
McKinney
McMillan
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murphy
Murtha
Myers
Nadler
Natcher
Neal (MA)
Neal (NC)
Norton (DC)
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quillen
Quinn
Rahall
Ramstad
Rangel
Ravenel
Reed
Regula
Reynolds
Richardson
Ridge
Roberts
Roemer
Rogers
Rohrabacher
Romero-Barcelo (PR)
Ros-Lehtinen
Rostenkowski
Roth
Roukema
Rowland
Roybal-Allard
Royce
Rush
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Schenk
Schiff
Schroeder
Schumer
Scott
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shepherd
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (IA)
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stark
Stearns
Stenholm
Stokes
Strickland
Studds
Stump
Stupak
Sundquist
Swett
Swift
Synar
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Upton
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Waters
Watt
Waxman
Weldon
Wheat
Whitten
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (FL)
Zeliff
Zimmer

□ 1715

The CHAIRMAN pro tempore (Mr. SERRANO). Four hundred twenty Members have answered to their names, a quorum is present, and the Committee will resume its business.

Mr. GLICKMAN. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. WISE) having assumed the chair, Mr. SERRANO, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that the Committee, having had under consideration the bill (H.R. 2330) to authorize appropriations for fiscal year 1994 for intelligence and intelligence-related activities of the U.S. Government and the Central Intelligence Agency retirement and disability system, and for other purposes, has come to no resolution thereon.

□ 1720

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 2264, OMNIBUS BUDGET RECONCILIATION ACT OF 1993

Mr. SABO. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight, Tuesday, August 3, 1993, to file a conference report on the bill (H.R. 2264), to provide for reconciliation pursuant to section 7 of the concurrent resolution on the budget for fiscal year 1994.

Mr. SOLOMON. Mr. Speaker, reserving the right to object, and I probably will not object, because I do not want to interfere with anyone's schedule for this evening, but I would like to just ask the chairman of the Committee on the Budget about the proposed rule that will be bringing this reconciliation bill to the floor later this week.

Mr. Speaker, we have been told that there could be a rule which is going to self-execute in some permanent rule changes at the time that that rule is adopted. I would ask the chairman of the Committee on the Budget to enlighten the membership as to what that self-executing portion of the rule might be.

Mr. SABO. If the gentleman will yield, I would be happy to respond.

Mr. SOLOMON. I yield to the gentleman from Minnesota.

Mr. SABO. Mr. Speaker, as the gentleman recalls, when the House passed the reconciliation bill, one of the provisions dealt with an entitlement review process for the future. We expect to enact that same provision through a combination of Executive orders and changes in the House rules. Those changes in the House rules will be an exact duplication of the change in the rules that was provided for the original reconciliation bill.

Mr. SOLOMON. And I ask the gentleman, there is nothing in this self-execution that would deal with the so-called deficit trust fund that was proposed?

Mr. SABO. If the gentleman will continue to yield, not to my understanding. That will be dealt with by an Executive order as it relates to entitlement review. That will be a combination of Executive order and change in House rules.

Mr. SOLOMON. And that also includes some conversation about a so-called Entitlement Commission that might be set up that would be done by Executive order? It has nothing to do with this rule, with the self-execution of the rule?

Mr. SABO. If the gentleman will yield further, I frankly am not aware of that discussion. The gentleman may know more about that than I do. That is not related to the rule.

Mr. SOLOMON. However, the gentleman assures me that it is not in this rule?

Mr. SABO. Not to my knowledge. My intent and our intent is simply to mirror the provisions of the reconciliation bill as it passed the House.

Mr. SOLOMON. Continuing to reserve my right to object, I would say that we were concerned about assurances that the Members will have ample opportunity to see what is being self-executed in that rule. We do not want to get into the same problem we had the last time where, on the spur of the moment, it was brought onto the floor and Members on the gentleman's side or this side had no idea what they were voting on.

As long as we have that assurance that we will receive this information by, say, noontime tomorrow, I certainly would have no objection.

Mr. SABO. Mr. Speaker, I thank the gentleman.

Mr. SOLOMON. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. WISE). Is there objection to the request of the gentleman from Minnesota?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1532

Mr. ACKERMAN. Mr. Speaker, I ask unanimous consent that my name be withdrawn as a cosponsor of H.R. 1532.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1994

The SPEAKER pro tempore. Pursuant to House Resolution 229 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 2330.

□ 1724

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2330) to authorize appropriations for fiscal year 1994 for intelligence and intelligence-related activities of the United States Government and the Central Intelligence Agency Retirement and Disability System, and for other purposes, with Mr. SERRANO (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose earlier today, pending was the amendment offered by the gentleman from Vermont [Mr. SANDERS].

Is there further debate on the amendment offered by the gentleman from Vermont?

Mr. GLICKMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, it is my judgment that we are going to try to finish the so-called Sanders amendment tonight, but I am told that the leadership wants to rise no later than 6 o'clock, so we may or may not finish that, depending on the length of debate. If not, then we will, as I understand it, continue this bill tomorrow and finish it.

Mr. McCURDY. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I yield to the gentleman from Oklahoma.

Mr. McCURDY. Mr. Chairman, I rise in strong opposition to the Sanders amendment, and I ask my colleagues to carefully consider what is before us today.

Last year the intelligence community budget was cut by over 6 percent after actions of the House in both authorizations and appropriations. We also made a reduction, and we felt this was important, and it would be both prudent and wisely done after the demise of the Soviet Union and the end of the cold war, that we set the intelligence community on a course of reduction of their personnel by over 17½ percent. That is a very serious and deep cut that establishes a trend which I believe has to be continued in the intelligence community.

However, to enact the provision offered by the gentleman from Vermont I believe would totally disrupt an orderly drawdown of the intelligence community, would pose a very serious threat to the very eyes and ears that we need in a very tumultuous world, where there are, indeed, very serious risks to our national and international security.

I implore my colleagues, I know it is difficult when we do not have all of the details before us, but this committee, and having served on this committee for over nine years, is one of the most serious committees, made up of Members who spend a great deal of time without the applause of their constituents, behind closed doors, working to provide for our national security.

When this committee unanimously supports a position, after very careful consideration, I would implore our colleagues to support that position and urge a no vote on the Sanders amendment.

Mr. HAMBURG. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of this amendment which will cut 10 percent from fiscal year 1993 levels for the classified intelligence budget.

The end of the cold war is forcing us to reassess our priorities. I strongly believe that where we once saw a Soviet threat, we now see an economic threat in the form of burgeoning deficits, underinvestment, and record poverty.

The administration's justification for increasing funding levels in this year's budget is that we need new satellites to provide better coverage of potential hotspots around the world.

Director of Central Intelligence James Woolsey testified on March 9th that "Yes, we have slain the dragon. But we live now in a jungle filled with a bewildering variety of poisonous snakes."

The snakes provide the justification for a requested increase in this year's intelligence budget to fund new satellites.

I seriously question these needs. For example, today's edition of the Los Angeles Times has a front page story: "Spy Satellite Explodes; Is a '$2-Billion Accident,'" which I would like to insert into the RECORD.

The story says that,

> * * * an unmanned Titan IV rocket carrying a top-secret spy satellite exploded Monday moments after launch from Vandenberg Air Force Base in what civilian space experts said may be the most expensive U.S. space accident since the *Challenger* disaster.

Most interesting to me, however, were quotes attributed to Mr. John Pike, a national security analyst and director of the space policy project at the Federation of American Scientists here in Washington. Mr. Pike states:

> In terms of overall intelligence abilities, it is not a crippling loss. We still have twice as many imaging satellites as we did when the Soviet Union invaded Afghanistan, and the ones we have are much more effective. We are getting 10 times as many pictures today from orbit as we did during the Cold War.

If this is the case, why on earth do we need to spend more money for satellites in space? If we survived the cold war with half as many satellites as we have now, logic would dictate that a diminished threat requires less spending, not more.

Instead of spending money to spy on people in other countries, let us do more to help people in our country. According to the New York Times, the current intelligence budget is $28 billion. For a 10-percent cut, we could fully fund the Women, Infants and Children Programs; or we could provide immunizations for all children in America; or we could double funds for public housing programs; or we could assist communities affected by base closures.

The primary threat to our national security will not be addressed through the next generation of spy satellites. It will be addressed through the next generations of Americans who are fed, housed, educated, and employed.

Mr. Chairman, I include for the RECORD an article from the Los Angeles Times:

[From the Los Angeles Times, Aug. 3, 1993]

SPY SATELLITE EXPLODES; IS A "$2-BILLION ACCIDENT"

(By Robert Lee Hotz)

An unmanned Titan IV rocket carrying a top-secret spy satellite exploded Monday moments after launch from Vandenberg Air Force Base in what civilian space experts said may be the most expensive U.S. space accident since the Challenger disaster.

"Between the cost of the spacecraft and the cost of the satellite, this was a $2 billion accident," said John Pike, director of the space policy project at the Federation of American Scientists in Washington. "That is the equivalent of this year's space station budget."

"For the cost of this accident everybody in America could see 'Jurassic Park,'" he said.

Air Force officials would not identify the satellite aboard the rocket. But Pike, a national security analyst, said the Titan carried a Lacrosse radar imaging satellite—one of the most secret, sophisticated and expensive tools in the U.S. space reconnaissance network.

Vandenberg officials estimated the cost of the rocket and its launch at about $200 million, but refused to discuss the cost of the satellite or any other details concerning the payload. Pentagon officials could not be reached for comment.

The 200-foot-tall Titan IV is the most powerful U.S. rocket. The Air Force has used it for its heaviest payload almost exclusively since the Challenger accident in 1986 as a more reliable alternative to the manned space shuttle. Monday's Titan IV launch was the seventh since 1989.

Air Force officials said the Titan was launched from Vandenberg at 12:59 p.m. and exploded two minutes later over the Pacific Ocean, about 60 miles offshore, before its first-stage booster rockets finished firing. Vandenberg is on the Santa Barbara County coast north of Lompoc.

"We had a normal liftoff and what appeared to be a nominal fight for about 100 seconds before the explosion," said Maj. Billy E. Birdwell, director of public affairs for the Air Force 30th Space Wing at Vandenberg. "The explosion occurred before first-stage separation, before the solid rocket motors separated.

"Instants later, there was nothing left except debris falling toward the ocean," he said.

Air Force officials said they did not yet know why the rocket exploded, but the Associated Press reported that the rocket's two 110-foot solid-fuel boosters appeared to separate prematurely just before the explosion.

The loss of the satellite leaves an important gap in the U.S. space spy network at a time when the CIA and the National Reconnaissance Office—which manages the secret satelite network—have been attempting to stave off budget cuts to their space surveillance program, Pike said.

The annual cost of the U.S. surveillance satellite network is classified, but experts estimate it at more than $6 billion.

Civilian space experts said at least one Lacrosse satellite was launched in 1988 from the space shuttle and is believed to be nearing the end of its operational life. The satellite destroyed Monday was its scheduled replacement.

"In terms of overall intelligence abilities, it is not a crippling loss," Pike said. "We still have twice as many imaging satellites as we did when the Soviet Union invaded Afghanistan, and the ones we have are much more effective.

"We are getting 10 times as many pictures today from orbit as we did during the Cold War," he said.

The Lacrosse satellite, powered by enormous wings of solar panels, uses unusual imaging radar instead of a camera to record hundreds of detailed images every day through the densest cloud cover, foliage or complete darkness. This technology, called synthetic aperture radar, is so sensitive that it can penetrate dirt or sand to reveal features buried just beneath the surface, such as missile silo doors or fortifications, experts said.

The images it constructs from its giant phased-array antenna are detailed enough for analysts to identify aircraft on runways, vehicles in military convoys or mobile missile carriers, experts said.

Air Force officials said the accident would not delay the Sunday launch from Vandenberg of an Atlas rocket carrying a civilian weather satellite.

It was too soon to know if the scheduled launch of a Titan IV rocket from Cape Canaveral with a classified payload would have to be postponed until investigators have determined the cause of Monday's explosion.

☐ 1730

Mr. McCOLLUM. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to talk in opposition to the Sanders-Owens amendment for a minute based on some of the things that I have heard said out here today that just do not sit quite right with me and do not square up.

While the threat from the Soviet Union certainly is gone in the sense that we used to think about it, and the States are broken up, and they are individually there and so on, from the standpoint of the intelligence community and the interests of the United States, the threat is just as great or greater than ever out there, and in many ways the threat of terrorism is something that is more difficult for the security interests of our country to assess and to be prepared for than the Soviet Union threat was when it existed.

Up until very recently we had one monolithic power we were looking at. We knew what they were about more or less. They knew what we were about. We had a certain amount of concern over their great capability of nuclear armaments. We had a concern over the possibility they might move large masses of armed forces into Europe, into Western Europe and so on, and the world was pretty much in a dual configuration between two great powers. Today that is not so, and the intelligence community has an awfully tough obligation to fulfill to protect our interests here and abroad.

We have a proliferation of States that have the ability to deliver potential nuclear threats and chemical and biological threats, and we certainly have seen more recently what is happening on the terrorist front coming even in here, in the United States, into our country with what happened at the World Trade Center and the possibility of what might have happened but for the intervention of an informant in the FBI case involving the United Nations and the Lincoln Tunnel.

Mr. Chairman, I do not serve on the Intelligence Committee, but I am the chairman of a House Task Force on Terrorism, and I can speak without the benefit or privilege or whatever of looking at classified documents, because I have not been looking at any of those, but I can tell Members that our task force has looked at things and found things that our intelligence community did not know about at the time, simply because they did not have the resources that they really needed, and the human intelligence in the Middle East and elsewhere. And we have been ahead of them, but we should not be. I mean, a task force in this House with a limited staff has no business being ahead of our intelligence community and discovering things where there are terrorist threats to our country, but that indeed is the case and has been the case. The fact of the matter is what happened in New York, and what has happened in a couple of other places in this country are not isolated instances. They are direct involvements of a world terrorist concern that I think is coming out primarily of Iran, something that is state-directed, something that is growing in its threat, something that is involving and is involved in concerns not only in this country, but in India and in Europe, and in other parts of the world with the very radical group of fundamental Moslem sect that are representative of only a small minority of those who believe in Islam, but who radically believe that they can accomplish state-oriented goals by creating terrorist acts. Those terrorist acts may be against our interests abroad, but they certainly are also against our interests right here.

If we do not have the proper intelligence resources, and we will not have if this amendment is passed, there is no way that we can assess and capture those who are coming in here as a threat to us, who may be directing terrorist acts in this country.

The FBI is no better than an informant who happens to come forward voluntarily out of the clear blue, as was the case of the United Nations situation, unless it has the right intelligence information. If we have a CIA that is operating the right way, that anticipates somebody coming into this country, I think we can see in advance what is going to happen, and we have a much better chance of stopping those terrorist acts. If we do not, the world is going to get worse for us, because the terrorist concerns are spread too thinly, whether it is in Sudan, or Iran, or Pakistan, or wherever that source may come from.

We should not be cutting the CIA's budget now above all else. We need the satellite capability, but we also need the human intelligence resource capability that the CIA has too long lacked in critical parts of the world, whether that be in Korea, or the Middle East, or South America, or wherever it is. This is not the time to cut the CIA budget.

We reduced the military and defense side of this appropriately and commensurately, but with the proliferation of the threat that is out there around the world, we have absolutely no business in the world of terrorism reducing the CIA's budget and reducing its capability at the very moment when we are dealing with this and it needs to be expanded for the purposes of making sure that our Nation's shores are secure, that we can identify these terrorist groups and what they are plotting and planning, and how they are being funded, and who they may be sending to our shores or where the next explosion may be plotted and so forth. It is not the job of the FBI to go around the world and know all of this. It is the job of our intelligence community.

So I urge my colleagues to defeat the Sanders-Owens amendment. We should not be cutting those resources back to protect our own people at this time.

Mr. FRANK of Massachusetts. Mr. Chairman, I move to strike the requisite number of words, and I hope, Mr. Chairman, the amendment is adopted.

I admire the work that the Intelligence Committee is doing, but there is an inevitable process by which a committee earns its right to do some goods things by defending the agency. The committee has done a good job.

☐ 1740

They have made some cuts from what the agency wanted. But the committee cannot do it all by itself.

Now, the question comes before us, and I should say, Mr. Chairman, that I have read the intelligence budget. I would advise my colleagues not to wait for the movie. It is not nearly as exciting as it sounds. But I read it. I discussed it with various people, and I came away convinced that we can cut it.

We have the gentleman from Washington—and I do not see him on the floor now—saying, well, you know, if you look at this in 1993 dollars, we have already cut national security defense from $360 billion, and it will be $243 billion as a result of the disappearance of the Soviet Union. He said that was a 43-percent cut to $230 billion. Of course, we cut defense by 43 percent.

Is there anyone here who thinks that 3 years ago or 4 years ago the Soviet Union was only 43 percent of the threat we faced?

There has been a far more fundamental change in the national security threat that we face than in any other area of public life.

If cancer went the way of the Soviet Union, does anyone think we would only cut the National Cancer Institutes by 43 percent? If we were to abolish any other problem the way we have dealt with, successfully, the threat to our national security of the Soviet Empire, we would not save 57 percent for old time's sake.

I have read the budget, and here is what the confusion, I think, is: Yes, the intelligence budget still performs some functions that are necessary for the national security. They are in no way, shape, or form endangered by the Sanders amendment. But the intelligence budget, like other elements of the Federal Government, also does some things that are beneficial, that are advantageous, that are convenient. The confusion is between what is essential for the national security and what is convenient.

We are talking about a cut that will be less convenient. Yes, they get information in the economic area. They get information in the area, and by the way, some of it, it seems to me, is a waste, because the intelligence community participates, along with others, in one of the great wastes of time we have now, which is trying physically to keep drugs out of America, an impossible task in a free society. There are much better ways to deal with that.

If we make this amendment and pass it, the Intelligence Committee and the intelligence community will be told, "Here is 90 percent." None of what they spend on terrorism, none of what they spend on nuclear proliferation needs to be touched at all. We might know less about who is saying what to whom in various embassies around the world. We might know less about various economic forms of activity. We will be able to transfer those funds to other purposes. We will be able to use them elsewhere.

We have been struggling with whether or not we can feed hungry children. We are struggling with out ability to help the people in the floods.

Let us talk about the people in the floods. We were told by many here that we could not afford to vote to help the people in the Midwest without making cuts elsewhere. The amendment we are dealing with now would have solved that problem.

Those of you who are still grieving because we are helping the people of the Midwest without having made cuts elsewhere, here is your chance to get even. If you really cared about that, cut out some of the lower-order espionage. And people say, well, wait a minute, we have terrorism as a threat. Terrorism was not a threat 5 years ago?

There are no new threats in the world today. Nuclear proliferation and terrorism have been threats for some time. The only change in the universe that they have faced is that the Soviet Union has disappeared.

I heard one gentleman say that that makes it more dangerous. Now, I am a great believer in free speech, and the fact that we would let somebody get up here and say, without immediately summoning a doctor, that it is more dangerous now than before we had the Soviet Union shows how deep our commitment is to free speech.

What threat exists today that did not exist 5 years ago?

There were no terrorists? What was Iran, a theme park 5 years ago? There were no people who bore the United States ill will? There was no North Korean nuclear program? It started yesterday?

The only thing that is changed is the Soviet Union. We are talking about a 10-percent cut in intelligence. And if you think that the Soviet Union was only 10 percent of the problem, then I guess you do not want to vote for this.

The CHAIRMAN pro tempore (Mr. SERRANO). The time of the gentleman from Massachusetts [Mr. FRANK] has expired.

(At the request of Mr. DICKS and by unanimous consent, Mr. FRANK of Massachusetts was allowed to proceed for 2 additional minutes.)

Mr. FRANK of Massachusetts. Mr. Chairman, if you believe that the Soviet Union was such a small part of our problem, then you do not vote for this.

I believe that the Soviet Union was costing about two-thirds of the intelligence.

The gentleman wants to cut out 10 percent. That leaves, by my calculations, with the degree of imprecision that national security imposes upon us, somewhere between 50 and 60 percent. I think you can take the 10 percent that the gentleman from Vermont and the gentleman from New York want to give back, and then you still have got about 50 percent that can go for other purposes.

If in fact the arguments were true and that if we only spent the amount that was left, and let us just take this calculation, take the current amount in the budget, and we cannot say yet. I am going to offer my amendment tomorrow that will make public the number; and by the way, for those of you who are so impressed with what the intelligence community says that you do not want to question it, remember that these are the geniuses who tell you that if we make public the number, national security would be endangered. That is barely a coherent statement. It certainly is not a rational argument.

These are the people who say, "You cannot cut me one penny." If you do what the gentleman suggests, you have reduced this, you leave the United States with 90 percent of what we had when there was a Soviet Union, and if the Soviet Union was about two-thirds of what we were spending this on, that means you have got billions of dollars left over that you did not have a few years ago to fight terrorism.

And if we would be so unsafe now, then what were all the terrible things that happened before?

There simply is no basis on which you can deny that the collapse of the Soviet Union frees up the money, and people who vote against the amendment ought to understand in the zero-sum situation in which we now live that there is money being denied for everything else.

And finally, my friend from Washington said that if you make this cut, you will not help anything else, because we will spend it in the Committee on Appropriations for defense. I know that is the inclination of the gentleman from Washington. I appreciate that. But it has not yet become a rule of the House that every penny that comes under his nose he has got to spend.

Ms. WOOLSEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise today in support of the Sanders-Owen amendment to cut the intelligence budget by 10 percent.

As this Congress struggles with ways to cut spending and reduce the deficit to get our Nation back on the road to economic recovery, I believe that the intelligence budget is one place where cuts can—and must—be made. While the intelligence budget is not public information, the end of the cold war is surely public information, and we all know that the primary enemy which the CIA was created to fight is now gone. Yet, we are told that this intelligence bill contains a mere 3.8 percent cut from last year's bill.

I understand that the world may still be a dangerous place, and I agree that the intelligence community must be given sufficient funds to combat international crimes such as terrorism and drug trafficking. But we have a deficit to reduce, and we have Americans who need help.

As a member of the House Budget Committee, I have been fighting for months to ensure that we preserve a budget which protects families and children while still making the largest deficit reduction in history. Now, during the same week that Congress will consider the budget reconciliation bill, we are being asked to pass a bill which spends billions of dollars on an intelligence community which no longer has a rival superpower to spy on.

Mr. Chairman, now that the cold war is over, we must not waste taxpayer money to keep the CIA at its cold war funding level. Today we have an opportunity to cut Federal spending, and I urge my colleagues to support the Sanders-Owen amendment.

Ms. VELAZQUEZ. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, today I rise in strong support of the Sanders-Owens amendment to cut the intelligence budget by 10 percent.

Now that the cold war is over, now that the Soviet Union no longer exists and now that our old adversaries are receiving financial aid from the United States, it is inconceivable that we are considering a bill to fund the CIA and other intelligence agencies at nearly the same levels as last year. The world is changing and our priorities as a Nation must change too.

Mr. Chairman, I have come to the well of this House time and time again to fight for more funding for our devastated urban communities. I have argued time and time again of the need to provide more money for housing, for roads, for worker training, and for a host of other social services. But time and time again, I have heard that budgetary constraints cripple our ability to provide these needed funds. I ask my self, Why should the intelligence budget be exempt? There is no reasonable answer to this question: Given the new world order, the intelligence budget should be subject to significantly greater reductions than our domestic programs.

A cut of the scale that is proposed by this amendment will only do justice to the taxpayers. We can not waste their money to support an outdated and extremely costly intelligence organization at cold war levels. This is a responsible cut that will not jeopardize our national security in anyway.

Mr. Chairman, I urge my colleagues to support the 10 percent cut in intelligence funding.

□ 1750

Mr. SANDERS. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN pro tempore (Mr. SERRANO). Without objection, the gentleman from Vermont [Mr. SANDERS] is recognized for 5 minutes.

There was no objection.

Mr. SANDERS. Mr. Chairman, let me reveal something that is not a national secret, something that is appearing in today's Los Angeles Times. I think it is important we listen to this when we talk about priorities. Ms. VELÁZQUEZ just talked about the fact that in her community and all over this country there are people struggling just to stay alive. Let me quote from the Los Angeles Times today:

"Spy Satellite Explodes: Is a $2 Billion Accident. An unmanned Titan IV rocket carrying a top-secret spy satellite exploded Monday moments after launch from Vandenberg Air Force Base in what civilian space experts said may be the most expensive U.S. space accident since the *Challenger* disaster."

In other words, today there was an explosion. How much did it cost us? Was it $50,000? Maybe $100,000? Maybe $20 million? Guess again. And here I quote: "Between the cost of the spacecraft and the cost of the satellite, this was a $2 billion accident, said John Pike, director of the Space Policy Project at the Federation of American Scientists in Washington. This is the equivalent of this year's space station budget."

Further on in the article Mr. Pike says: "In terms of overall intelligence abilities, it is not a crippling loss."

Now, what we are talking about here today is a total reduction of $2.8 billion. I go on to continue to quote Mr. Pike: "We still have twice as many imaging satellites as we did when the Soviet Union invaded Afghanistan, and the ones we have are much more effective. We are getting 10 times as many pictures today from orbit as we did during the cold war."

The point that I am making, ladies and gentlemen, is we lost today, in a terrible explosion, a real tragedy, virtually all of what some of us are asking to cut from the intelligence budget.

How many are going to stay up tonight? Are we going to stay up tonight, saying, "Boy, we are much, much less secure, terribly less secure as a result of that one accident"? I think not.

Mr. BEREUTER. Mr. Chairman, will the gentleman yield?

Mr. SANDERS. I yield to the gentleman from Nebraska.

Mr. BEREUTER. I thank the gentleman for yielding.

Mr. Chairman, I have noticed several times this $2 billion loss figure, and I know that the gentleman is depending on the paper, but there is no spacecraft here, first of all. It is a missle, and a satellite. Both together would have cost less than $1 billion, not $2 billion. Where that figure comes from I have no idea, but it is entirely inaccurate.

Mr. SANDERS. I cannot comment on that. I am reading from the Los Angeles Times today, and I have quoted directly from John Pike, director of the Space Policy Project at the Federation of American Scientists. I would assume he knows something about the issue. That is where I am quoting from.

I think, Mr. Chairman, the main point we are trying to make is not simply that today's explosion cost us everything we are asking to cut from here, but to understand what $2.8 billion is in terms of priorities in this Nation. The House had a very vigorous debate about the National Service Program. There are hundreds of thousands of young people in America who cannot afford to go to college. Do you know what $2.8 billion means? It means, for those families who are watching this debate, that you should know that the equivalent of a 10 percent reduction in the intelligence budget, some $2.8 billion, would allow 178,000 young people to participate in the National Service Program. That means to go out and get a job and to get a grant to help you go to college.

For those people who are concerned about homelessness in America, please know that $2.8 billion would provide 83,000 additional section 8 housing assisted contracts. That is what we are talking about.

For those people who are concerned about unemployment and the lack of job training, please note $2.8 billion would mean 580,000 additional training slots for the adult job training program.

Mr. Chairman, for those people who are concerned that millions of young people and women who are unable to afford health care, $2.8 billion would assist.

Mr. GLICKMAN. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN pro tempore. Without objection, the gentleman from Kansas [Mr. GLICKMAN] is recognized for 5 minutes.

There was no objection.

Mr. GLICKMAN. I think we can get to a vote on this amendment and conclude today. This has been a good debate. I applaud the gentleman from Vermont for raising the issue.

Let me make one final point: The President of the United States, who just took office in January, has asked us not to support this amendment.

This is a President who has said that the reductions already proposed in our bill, nearly 3.5 percent under what he asked for, tests our ability to manage prudently the budget.

"I will oppose any amendment on the House floor which seeks to reduce intelligence spending beyond the reductions already proposed by the committee." This was signed by Bill Clinton.

In my judgment, while the President of the United States, obviously, is not perfect, the fact of the matter is that he has, dealing with crises from the Balkans to Iran to proliferation in North Korea, to problems all over the world, and in my judgment it would be a gratuitous slap at him at this stage of the game to adopt an amendment which cuts the budget.

I implore my colleagues on my side of the aisle to give this President the chance he needs to look at what is happening in the international arena and perhaps next year bigger cuts would be made. But he has asked, in light of the current conditions in the world, not to make further cuts. I would ask in that context that you not support the amendment.

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. I thank the gentleman for yielding.

I hope I can say without fear of contradiction that I appreciate his support for our President, but if you are going to give the President one vote this week, I do not think this is the one to give him.

Mr. GLICKMAN. I might give him on both votes, but I want to tell you something, this may be the vote long term that is more important for the physical security of most of our Nation.

I urge a "no" vote on the amendment and move the previous question.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Vermont [Mr. SANDERS].

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. SANDERS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 104, noes 323, not voting 11, as follows:

[Roll No. 391]

AYES—104

Abercrombie
Andrews (ME)
Barca
Barrett (WI)
Becerra
Bishop
Blackwell
Bonior
Brown (CA)
Brown (OH)
Cantwell
Clay
Clayton
Clyburn
Coble
Collins (IL)
Collins (MI)
Condit
Coyne
DeFazio
Dellums
Derrick
Dooley
Duncan
Edwards (CA)
Engel
Evans
Farr
Fields (LA)
Filner
Ford (MI)
Ford (TN)
Frank (MA)
Furse
Gejdenson
Gonzalez
Gutierrez
Hamburg
Hilliard
Hinchey
Inslee
Jacobs
Johnson (SD)
Kanjorski
Kennedy
Klink
Lambert
Lehman
Lewis (GA)
Long
Maloney
Markey
McDermott
McKinney
Meehan
Mfume
Minge
Mink
Murphy
Nadler
Norton (DC)
Nussle
Oberstar
Obey
Olver
Owens
Pastor
Payne (NJ)
Penny
Peterson (MN)
Petri
Poshard
Quillen
Rangel
Roemer
Rostenkowski
Roybal-Allard
Rush
Sanders
Schroeder
Serrano
Shays
Shepherd
Slaughter
Stark
Stokes
Studds
Stupak
Thompson
Thurman
Torres
Towns
Tucker
Unsoeld
Valentine
Velazquez
Vento
Washington
Waters
Watt
Williams
Woolsey
Wynn
Yates

NOES—323

Ackerman
Allard
Andrews (NJ)
Andrews (TX)
Applegate
Archer
Armey
Bacchus (FL)
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barlow
Barrett (NE)
Bartlett
Barton
Bateman
Beilenson
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Borski
Boucher
Brewster
Brooks
Browder
Brown (FL)
Bryant
Bunning
Burton
Buyer
Byrne
Callahan
Calvert
Camp
Canady
Cardin
Carr
Castle
Chapman
Clement
Clinger
Coleman
Collins (GA)
Combest
Cooper
Coppersmith
Costello
Cox
Cramer
Crane
Crapo
Cunningham
Danner
Darden
de Lugo (VI)
Deal
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doolittle
Dornan
Dreier
Dunn
Durbin
Edwards (TX)
Emerson
English (AZ)
English (OK)
Eshoo
Everett
Ewing
Faleomavaega (AS)
Fawell
Fazio
Fields (TX)
Fingerhut
Fish
Foglietta
Fowler
Franks (CT)
Franks (NJ)
Frost
Gallegly
Gallo
Gekas
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Goodlatte
Goodling
Gordon
Goss
Grams
Grandy
Green
Greenwood
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings
Hayes
Hefley
Hefner
Herger
Hoagland
Hobson
Hochbrueckner
Hoekstra
Hoke
Holden
Horn
Hoyer
Huffington
Hughes
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Istook
Jefferson
Johnson (CT)
Johnson (GA)
Johnson, E. B.
Johnson, Sam
Johnston
Kaptur
Kasich
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klein
Klug
Knollenberg
Kolbe
Kopetski
Kreidler
Kyl
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Leach
Levin
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Lowey
Machtley
Mann
Manton
Manzullo
Margolies-Mezvinsky
Martinez
Matsui
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McHale
McHugh
McInnis
McKeon
McMillan
McNulty
Meek
Menendez
Meyers
Mica
Michel
Miller (CA)
Miller (FL)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Natcher
Neal (MA)
Neal (NC)
Ortiz
Orton
Oxley
Pallone
Parker
Paxon
Payne (VA)
Pelosi
Peterson (FL)
Pickett
Pickle
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Quinn
Rahall
Ramstad
Ravenel
Reed
Regula
Reynolds
Richardson
Ridge
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Rowland
Royce
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Schenk
Schiff
Schumer
Scott
Sensenbrenner
Sharp
Shaw
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slattery
Smith (IA)
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stearns
Stenholm
Strickland
Stump
Sundquist
Swett
Swift
Synar
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thornton
Torkildsen
Torricelli
Traficant
Underwood (GU)
Upton
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Waxman
Weldon
Wheat
Whitten
Wilson
Wise
Wolf
Wyden
Young (AK)
Zeliff
Zimmer

NOT VOTING—11

Conyers
de la Garza
Flake
Gephardt
Houghton
Packard
Porter
Romero-Barcelo (PR)
Sabo
Talent
Young (FL)

☐ 1817

Mr. SWIFT changed his vote from "aye" to "no."

Messrs. COYNE, McDERMOTT, DERRICK, and RUSH changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. GLICKMAN. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore [Mr. VOLKMER] having assumed the chair, Mr. SERRANO, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2330) to authorize appropriations for fiscal year 1994 for intelligence and intelligence-related activities of the United States Government and the Central Intelligence Agency Retirement and Disability System, and for other purposes, had come to no resolution thereon.

PERSONAL EXPLANATION

Mr. PORTER. Mr. Speaker, I did not hear the bells in my office and I missed the vote on rollcall No. 391, the Sanders amendment to the intelligence authorization bill. Had I been present, I would have voted "no" on the Sanders amendment.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2401, DEPARTMENT OF DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1994

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 103-211) on the resolution (H. Res. 233) providing for consideration of the bill (H.R. 2401) to authorize appropriations for fiscal year 1994 for military activities of the Department of Defense, to prescribe military strengths for fiscal year 1994, and for other purposes, which was referred to the House Calendar and ordered to be printed.

THE JOURNAL

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, the pending business is the question of the Chair's approval of the Journal.

The Journal was approved.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed with an amendment in which the concurrence of the House is requested a bill of the House of the following title:

H.R. 2010. An act to amend the National and Community Service Act of 1990 to establish a Corporation for National Service, enhance opportunities for national service, and provide national service educational awards to persons participating in such service, and for other purposes.

The message, also announced, that the Senate insist upon its amendment to the bill (H.R. 2010) "An act to amend the National and Community Service Act of 1990 to establish a Corporation for National Service, enhance opportunities for national service, and provide national service educational awards to persons participating in such service, and for other purposes" requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. KENNEDY, Mr. PELL, Mr. METZENBAUM, Mr. DODD, Mr. SIMON, Mr. HARKIN, Ms. MIKULSKI, Mr. BINGAMAN, Mr. WELLSTONE, Mr. WOFFORD, Mrs. KASSEBAUM, Mr. JEFFORDS, Mr. COATS, Mr. GREGG, Mr. HATCH, Mr. THURMOND, and Mr. DURENBERGER; from the Committee on Governmental Affairs for those provisions within their jurisdiction: Mr. GLENN, Mr. PRYOR, and Mr. ROTH; to be the conferees on the part of the Senate.

THE ECONOMIC CONVERSION CLEARINGHOUSE ACT

(Ms. SCHENK asked and was given permission to address the House for 1 minute and to revise and extend her remarks and include extraneous matter.)

Ms. SCHENK. Mr. Speaker, I rise today to tell my colleagues about a piece of legislation I have introduced, the Economic Conversion Clearinghouse Act, H.R. 2831. This bill is designed to help individuals, businesses, and communities impacted by the downsizing of our military establishment.

H.R. 2831 is companion legislation to a bill sponsored in the other body by Senator BARBARA BOXER, and I want to commend the Senator from my home State of California for her hard work and leadership in helping to formulate this bill. I also want to commend and thank the California delegation and its bipartisan working group on base closures which I cochair with Congressman RANDY CUNNINGHAM. This legislation stems from the work of this group.

The first thing a community asks when faced with a military base closure or the loss of jobs resulting from defense cutbacks is, "Where can we find help?" Up until now, the answer has been "everywhere and nowhere," because of the programs scattered throughout numerous agencies and departments.

This act seeks to solve that problem by establishing a one-stop shopping center where those needing help as a result of Defense Department contractions can get the answers they need.

Mr. Speaker, H.R. 2831 is not a big, new idea. It is a simple, rational one which is greatly needed. I ask my colleagues to support the Economic Conversion Clearinghouse Act.

H.R. 2831 provides for an Office of Economic Conversion Information in the Department of Commerce. The Office will be under the guidance of an interagency committee composed of representatives from departments and agencies which provide assistance. The Office will develop several data bases to be made easily accessible to the public to allow for quick research into available programs. These data bases will include information on technology transfer, worker adjustment programs, community adjustment programs, small business assistance, environmental restoration, previous experience in economic adjustment, and much other information relevant to a community reaching out for help.

I offer for the RECORD a section-by-section analysis of H.R. 2831.

SECTION-BY-SECTION ANALYSIS

SECTION 1. SHORT TITLE

The bill is called the "Economic Conversion Clearinghouse Act." It is a companion bill to S. 850, sponsored by Senator BARBARA BOXER.

SECTION 2. OFFICE

(a) The legislation establishes the "Office of Economic Conversion Information" in the Department of Commerce.

(b) The purpose of the Office of Economic Conversion Information is to serve as a central information clearing house on matters relating to economic adjustment and defense conversion. Additionally, the Office will help potential and actual applicants for economic conversion and defense adjustment assistance in locating and applying for assistance.

(c) The Office will be headed by a Director appointed by the Secretary of Commerce.

SECTION 3. FUNCTIONS

(a) The Office shall develop databases to assist those in the process of applying for assistance. The databases shall include a comprehensive compilation of relevant information on economic adjustment and defense conversion, including worker adjustment, community adjustment assistance, technology development and deployment programs, small business assistance, defense facility environmental restoration, and any other similar information.

In developing the database, the Office shall survey all Federal departments and agencies. It shall also include all major state and local programs and keep its data current. The database shall also include up-to-date information on defense contracts, military base closures, and communities and industries likely to be adversely affected. In addition, databases shall be developed on current and past defense conversion efforts, a bibliography, and suggestions of alternative products for defense intensive industries.

(b) The Office shall establish several mechanisms to assure easy access by the public to its databases, including an "800" toll-free number, online electronic access, printed materials, orientation workshops, and information specialists.

SECTION 4. INTERAGENCY COORDINATING COMMITTEE

An Interagency Coordinating Committee shall be established to advise and make recommendations to the Office. The Committee shall coordinate and facilitate information gathering among Federal departments and agencies. It will help prepare and present information in a manner that is publicly accessible, and it will assist the Office in making technical assistance personnel available.

The members of the Committee shall be: The Director of the Office; a member appointed by the Secretary of HUD; a member appointed by the Secretary of Transportation; a member appointed by the Secretary of Labor; the Director of the Economic Development Administration; the Director of the Office of Economic Adjustment in the Department of Defense; the Director of the Advanced Research Projects Agency in the Department of Defense; the Director of the National Institute for Standards and Technology; and one member appointed by the Director of the National Economic Council.

SECTION 5. AUTHORIZATION OF APPROPRIATIONS

The bill authorizes such sums as may be necessary to carry out the provisions of the Act.

□ 1820

TRANSFER OF SPECIAL ORDER TIME

Mr. KNOLLENBERG. Madam Speaker, I ask unanimous consent that the special order time of the gentleman from New York [Mr. SOLOMON] be exchanged with the gentleman from Michigan [Mr. KNOLLENBERG] this evening.

The SPEAKER pro tempore (Ms. ESHOO). Is there objection to the request of the gentleman from Michigan?

There was no objection.

TRANSFER OF SPECIAL ORDER TIME

Ms. DELAURO. Madam Speaker, I ask unanimous consent that the 5-minute special order for the gentleman from New Mexico [Mr. RICHARDSON] on August 3, 1993, be allocated to the gentleman from Pennsylvania [Mr. KLINK].

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Connecticut?

There was no objection.

NAFTA AND ENVIRONMENTAL IMPACT STATEMENTS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Illinois [Mrs. COLLINS] is recognized for 5 minutes.

Mrs. COLLINS of Illinois. Mr. Speaker, today, in testimony before a joint hearing of the Subcommittee on Commerce, Consumer Protection and Competitiveness which I chair, and the Telecommunications and Finance Subcommittee, U.S. Trade Representative Michael Kantor discussed the current status of the negotiations on the side agreements for the North American Free-Trade Agreement [NAFTA].

He agreed with me on two important issues: First, that unless Government restrictions on wages of Mexican workers are removed so that wages rise in the same way that the productivity level of Mexican workers has risen, Mexican workers are not going to be able to afford to buy products American workers make here in the United States and export to Mexico; and second, that those industries that have caused environmental damage in the border area should have to participate in the funding of projects to clean up the border area.

Mr. Speaker, United States workers cannot compete with Mexican workers whose productivity has reached world class levels, if the wages of Mexican workers continue to be held down artificially by the Government. I also strongly agree with Ambassador Kantor that the polluter must pay for cleanup in the border area, not the taxpayer.

These issues must be resolved in a way that protects American workers and the environment before NAFTA can be considered. The environmental impact of NAFTA has also been raised as an issue before the courts.

On June 30, U.S. District Court Judge Charles Richey ruled that the Clinton administration must prepare an environmental impact statement before submitting the North American Free-Trade Agreement, or NAFTA, to the Congress.

Initially, many observers both inside and outside the administration panned the decision, and contended that it would quickly be overturned by the circuit court. That may well be possible, particularly in a court dominated by Reagan and Bush appointed judges, who generally look unfavorably upon limitations on Presidential power. However, a review of the decision of Judge Richey, who was appointed by Richard Nixon, suggests that there is sound legal reasoning.

In summary, what the case is about is whether the National Environmental Policy Act, of NEPA, requires that the administration prepare an environmental impact statement prior to submitting NAFTA to the Congress for its approval of implementing legislation.

NEPA requires an environmental impact statement for "every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment." All parties agree that no environmental impact statement has been prepared.

Under NEPA, the Council on Environmental Quality, or CEQ, must issue regulations to interpret NEPA. The CEQ is within the executive branch. Under CEQ regulations, NEPA would apply to any legislative proposal to Congress developed by or with the significant cooperation of a Federal agency. Since the administration's Office of Trade Representative clearly had significant involvement in the development of NAFTA and the implementing legislation, NEPA would appear to apply on its face.

The opponents of the opinion have made the biggest issue of the fact that to apply NEPA to the trade agreement would be an infringement on the powers of the President to conduct foreign policy. However, as Judge Richey accurately points out in his opinion, this argument, "conveniently ignores the fact that the power to regulate commerce with foreign nations is given to the Congress under the Constitution" in article I, section 8, clause 3."

In fact, NAFTA and its implementing legislation, is a trade agreement within congressional, not Presidential powers. The President's authority to negotiate the agreement was a delegated authority under the fast-track legislation. The implementing legislation must be enacted by both Houses of Congress, unlike a treaty, which requires the approval only of the Senate.

Also, even accepting the argument that foreign policy considerations are involved in NAFTA, the requirement for an environmental impact statement is solely a domestic matter. The President's ability to negotiate with a foreign government is not constrained by the fact that in the President's dealing with the Congress, not with the foreign government, he is required to provide the Congress with a submission analyzing the environmental consequences of his proposed legislation.

Certainly no one doubts that NAFTA will have major environmental consequences, although there is dispute over whether these consequences will be positive or negative. Both the past and current administrations have contended that NAFTA will have a positive effect upon the environment. They, therefore, should welcome the opportunity to demonstrate this through an environmental impact statement.

Congress is interested in knowing more about the environmental consequences of NAFTA. Judge Richey correctly pointed to the unanimous passage in the House of H. Res. 246 last year. That resolution, which I brought to the floor, stated that "Congress will not approve legislation to implement any trade agreement if such agreement jeopardizes United States health, safety, or environmental laws."

One reason that the administration is concerned about the decision is that it will affect its timetable for submitting NAFTA to the Congress. The Clinton administration is once again being forced to clean up for the mistakes of the Bush administration. Judge Richey noted in his opinion that "this agreement was negotiated by President Bush and his Trade Representative Carla A. Hills, and thus this lawsuit should not be construed as a failure of the present administration."

The administration would be wise to heed the ruling of Judge Richey. The environmental impact statement would likely cause some delay in the submission of NAFTA, but there is nothing magical about the current timetable. If anything, the timetable is very ambitious. Compare NAFTA to the European Community, and their decade long effort to harmonize their economies. We need no rush to judgment.

I have seen first hand many of the environmental problems along the United States-Mexico border that have been caused by United States factories that have moved to Mexico under the maquiladora program. Making NAFTA work to improve the environment is a stated goal of both governments. They should, therefore, welcome an opportunity to analyze the issue and make their case with careful analysis, instead of self-serving statements.

Like many of my colleagues, I have a great many concerns about NAFTA, but I am keeping an open mind. I would, however, like to see all of the facts on the table. When the proponents of NAFTA get worried about preparing an environmental impact statement, it creates the impression among the American people that they have something to hide.

The administration and other supporters of NAFTA would be wise to drop their challenge to Judge Richey's decision, and devote their efforts to preparing an environmental impact statement. If they are correct that it will show that NAFTA will be a positive contribution to the environment, then the impact statement may be their most important selling tool.

□ 1830

IN SUPPORT OF ADOPTED CHILDREN AND ADOPTIVE PARENTS

The SPEAKER pro tempore (Ms. ESHOO). Under a previous order of the House, the gentleman from Pennsylvania [Mr. KLINK] is recognized for 5 minutes.

Mr. KLINK. Madam Speaker, I take the well reluctantly—but I must. I must speak for every child who has been adopted or others who hope to be. I must speak for parents who have given their lives—their love, their hearts, and their homes to children who were not blood of their blood but who are loved the same and for every childless couple who hopes to adopt a child into their lives. For a country where too many children are unloved and uncared for, adoption represents the alternative. For a country which is divided by pro-life and pro-choice, adoption is both pro-life and pro-choice. Yesterday, in the case of a 2½-year-old child from Michigan, adoption and all the positive things that it stands for suffered a setback of immense proportions.

How can any adopted child feel safe after seeing the tears and hearing the cries and screams of young Jessica as she was torn away from the only family she had ever known. Not only was her life shattered but her name was changed. At 2½ years of age—how can you begin to understand that. I'm 41, Jessica, and I don't understand either.

I'm also an adoptive parent and I can only begin to feel what the DeBoergs have gone through. I can begin to feel that because my wife and I went through a similar custody battle. We were fortunate enough to win. I know other adoptive families who have fought that battle. Some have won and others have lost. Something needs to be done. A semblance of common sense and caring needs to be brought to the adoption courts of this land, so that the judicial gutlessness that we saw in Jessica's case can be eliminated.

It must be determined that children are not property. Children have rights. If two people have sex and conception occurs—that alone does not give them the right to ruin a child's life. If the judges who are given the duty of interpreting the law can't see this, then it is we in the Congress who must act. We must take the best interest of the child into consideration. So if a child will be psychologically damaged or if there is a defined physical threat to the child—that must be given the ultimate weight in deciding where the child lives.

Let me make one point clear. This is not about the adoptive parents' rights versus the birth parents' rights. It is the rights of the child—period. To allow a child who has bonded with any set of parents for months or years to be torn from that love and plunged headlong into an unsure life is among the most cruel punishments the most devious minds could concoct—and it is being applied to the most innocent members of society.

My two children were placed with my wife and I through the help of a little Irish lady from Glassport, PA, with dancing eyes. To the more than 3,000 children that she placed and to the adoptive parents and birthparents she was known as Grandma Duncan. I asked Grandma Duncan—after we had our custody battle—how do I explain this if my children ever have questions. She paused for a moment and she said, "Wait until they are old enough to understand. Then plant a garden. Make sure the children help. Go to the nursery and get tomato plants, and pepper plants, watermelon, and cantalope. Water them regularly, make sure the children help keep the weeds cleared away. And then when they are ready let them harvest the crops. Let them help to prepare it for the table. They will be so proud. And when they say look what I did. These are my tomatoes or watermelon or cantaloupe * * * you must tell them—no—those plants belong to the man at the nursery. Remember where we bought the plants. He is the one who is responsible for this fruit. After all he planted the seeds. By now I know you're all ahead of me. The child will become angry and insist that he or she put the plant into the ground—gave it root—fed and watered it and protected it from the weeds and insects. That's the time that you talk about what it means to be a parent. That is the context that parenthood is born from. Jessica DeBoers—Kimberly Mays—in their name and in the name of the thousands of others that have been wronged by a system that believes the nurseryman has the right to take the fruit off the table we must work for changes to the adoption laws of this great Nation.

There can be no doubt in the minds of those who have followed Jessica's case that her best interest was not taken into consideration. I am a lawmaker—like the other 434 Members of this House, I know these matters turn on points of law. Let me again assure you that I think that was not done in Jessica's case. There was plenty of latitude for the court to rule that Michigan not Iowa was her home State. They chose not to—they chose to victimize a child who is helpless to fight them and turned their backs on a set of loving parents who had given their all but in the end found their efforts had fallen short. Let the battle be joined. I am working on legislation and will welcome help and advise from all quarters. I will invite all Members of this House to join me.

IN SUPPORT OF THE SPECIAL ORDER OF THE HONORABLE EVA CLAYTON ON THE CHILDREN AND FAMILY INITIATIVES IN H.R. 2264

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. STOKES] is recognized for 5 minutes.

Mr. STOKES. Madam Speaker, I rise today in support of the children and family initiatives contained in the House-passed version of H.R. 2264, the Omnibus Budget Reconciliation Act of 1993. These provisions address the manifold needs of children and families across this Nation and are absolutely critical to protecting these vulnerable populations. Ignoring the importance of these measures will have a crippling effect on the future of our Nation.

Mr. Speaker, as you know, today's youth are growing up in the midst of a very troubled America. Too many children live in poverty, die needlessly, drop out of school, are abused and neglected, and become parents far too soon. These distressing truths are even more of a reality among African-Americans, who suffer disproportionately from unemployment, inadequate education, ill health, and other social and economic handicaps. The four children and family initiatives included in the House-passed version of H.R. 2264 are specifically designed to combat these alarming trends. Undoubtedly, our country would be better served through Congress' endorsement of these provisions.

Mr. Speaker, child abuse and neglect has become a national emergency—a tragic consequence of unemployment, poverty, homelessness, substance abuse, and despair. Last year alone, 2.9 million children were reported abused and neglected, an average of 8,000 a day, a number that has almost tripled since 1980. As more and more families dissolve under these pressures, an increasing number of children are entering foster care or awaiting adoption. The family preservation and support initiative offers a significant investment of Federal support for programs to combat this abuse and neglect. By strengthening families as well as providing improvement in the quality of foster care and adoption assistance for children who cannot be protected at home, such comprehensive programs will help promote the health and well-being of the disadvantaged and underserved. With the number of families in crisis, Federal assistance to help keep families together and to protect our children is more important than ever.

In addition, Mr. Speaker, today, in this country, 11 million children under the age of 12 are at risk of hunger. The Mickey Leland Childhood Hunger Reform Program responds to this devastating statistic by attacking the cause of hunger plaguing these vulnerable members of our society. It is a measure which prevents families from having to choose between eating and shelter or other basic needs; needs which should be inalienable rights to all Americans. According to the campaign to end childhood hunger, undernourished children experience many more health problems, including low weight, stunted growth, anemia, attention deficit disorder, four times the rate of fatigue and twice as many colds and ear infections as well-nourished children. The modest investment called for in the Leland Program would save countless taxpayer dollars down the road. It is an investment in children who grow into more productive and better educated adults in the future and would be one of the most cost-effective contributions Congress could make.

Mr. Speaker, families would also be better served through the expansion of the earned income tax credit as provided in the House-passed version of H.R. 2264. This provision is advantageous in a myriad of ways. It would help to lift families in which one parent works full-time out of poverty and prevent individuals who work in low-wage, full-time jobs from slipping further into poverty by allowing for adjustment in benefits according to family size. Furthermore, this provision is an important economic development effort as it is pro-work, only those who work can qualify, and because most benefits are spent locally, billions of dollars would be infused into State and local economies. Most importantly, however, this measure would be a significant Federal leap toward alleviating the misery of the more than one in five children in this country who now live in poverty.

Mr. Speaker, regardless of their family situation, children in America deserve a healthy start in life. Nothing is more devastating than to witness a sick child, unprotected by preventable diseases. The childhood immunization portion of the House reconciliation bill would provide vaccines to 11.1 million children. Moreover, this provision would allow States to purchase vaccines in bulk and educates parents about immunizing their children. The Senate version of H.R. 2264 provides not 1 cent for this important children's program which, in the long run, will save the Nation millions of dollars and children and their families much suffering. Supporting this provision is the best way to significantly raise the Nation's shockingly low immunization rates for children. By providing vaccines for children in their usual place of medical care, improving outreach to parents and establishing a tracking system, the House bill would minimize administrative barriers to immunizing all children on time.

Mr. Speaker, the four children and family initiatives contained in the House-passed version of H.R. 2264 represent an effort to reverse the growing trends of abuse, neglect, and despair. I urge my colleagues on the conference committee to support these critical programs and vote to maintain the children and family measures as provided in the House-passed version of H.R. 2264.

IN SUPPORT OF THE PRESIDENT'S ECONOMIC PLAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. HINCHEY] is recognized for 5 minutes.

Mr. HINCHEY. Madam Speaker, my constituents are getting pretty fed up with the self-serving displays of obstructionist politics that have become a staple of this Congress. I've been getting phone call after phone call, letter after letter from ordinary people who seem to understand more clearly than some of us here in Washington that this is a turning point in our history.

The last time I was in my district, a woman stopped me on the street and said, "Don't you people remember what happened last November? We voted for Bill Clinton because this country desperately needed change—not the same old politicians and same old pat answers."

It wasn't the exasperation in her voice that made me stop in my tracks. It was the clear, controlled undercurrent of rage—and anger that is deep and wide ranging.

If we do not move quickly and decisively to enact President Clinton's economic plan, that anger will justifiably boil over.

For the first time in too many years we have an administration that is asking the hard questions and trying to face up to the difficult decisions that will reduce our staggering deficit and prepare our economy for growth in a rapidly changing world.

We can't afford to let good-old-boy politicians create gridlock by threatening to filibuster, obstruct, confuse, and generally kick and scream bloody murder at the prospect of real change.

It seems that the Republican minority has labored long enough and mightily to recycle one of their tested battle cries—just say no.

Come up with a budget plan that will reduce the deficit by $500 billion and protect middle- and low-income taxpayers? Just say no.

Come up with tough, specific spending cuts that take on well-funded special interests? Just say no.

Create a fair and progressive taxation scheme that asks for the richest Americans—those who profited from the trickle-down give-aways of the eighties—to shoulder more of the burden of righting our economy? By no means, say the Republicans, just say no.

Well, this country cannot afford that attitude. This is a critical time.

The world we live in is changing at a breathtaking pace. A fiercely competitive global economy is forming and the cold war battlegrounds of the last 50 years have become irrelevant.

The integration of incredibly powerful computing and communications technology into the daily lives of people at work and at home is reshaping scores of American industries. Business as usual has become a sure prescription for failure.

And there aren't enough golden parachutes to go around for ordinary Americans who see their jobs and hopes for better futures for their children threatened—by a crippling deficit and Representatives who can't stomach the prospect of change.

President Clinton's economic plan has the courage to make specific spending cuts, call for fair and progressive taxation and to guarantee that deficit reduction becomes more than an election year gimmick.

We've had more than enough gridlock, more than enough slogans, more than enough political posturing.

Let's get about the business of serving our constituents, the American people. I urge my colleagues to enact President Clinton's economic package.

The Nation can't wait any longer for the process of economic renewal to begin.

□ 1840

TRIBUTE TO FLORETTE ANGEL

The SPEAKER pro tempore (Ms. ESHOO). Under a previous order of the House, the gentleman from West Virginia [Mr. WISE] is recognized for 5 minutes.

Mr. WISE. Madam Speaker, I have learned today of the death of someone who was important to all West Virginians, and actually, people in this Chamber as well as across the country, that of Florette Angel. Florette died after a battle against cancer. She was tireless and never complained, never asked for assistance, and in fact, kept lobbying and fighting for that which she believed in.

In our State she was a well-known figure throughout the State and certainly in our legislature for her efforts for those who are not able to speak for themselves. She, for instance, was active in reproductive freedom issues, abortion rights, the pro-choice movement, health care, food and hunger issues, and most importantly, and underscoring everything, children's issues, kids.

I do not know that there was ever a more eloquent voice on their behalf, and certainly a more tireless one, and certainly not a more aggressive one than Florette was. She would have been happy, I think, to know that this House will take up this week, I hope, in the budget reconciliation package provisions, for instance, to expand the earned income tax credit so working families with children will not have to fall into poverty. She would have approved measures in the Family Preservation Act, but to be honest with you, she would say to us. "It is not enough," because that was something else that Florette could always do, was to urge you on to even more than you had done, and pointing out that she was speaking for those who could not be in that Chamber, whether it was a State legislative chamber or the national legislative Chamber, the Halls of Congress.

During the years, the past 12 years, she was one who, in a period of great budget cuts and when domestic programs were under attack, when money was being cut off at every State level, whether is was Medicare or food stamps or education, whatever it was, Florette was one who kept the flame alive and kept reminding us, when I was in the State legislature, but those of us in any legislative body, of our obligation once again to work for those who could not speak as well for themselves.

Even though she knew she was terminally ill, she battled that with great bravery and dignity. She never complained, and most importantly, she kept advocating, she kept lobbying. She was in the legislative session during the West Virginia legislature. She never stopped. It was only just last week that her friends gathered in Charleston and raised money, and she attended that, raised money for a fund to continue that work.

She leaves memories everywhere. She leaves, importantly, legislative accomlishments in place, and a lot of people in our State and I think in this country are better off because Florette Angel lived.

The most important thing is that we continue that which she would have us do, and as she would keep reminding us, we can do more, we must do more. To Philip and her family, I just want to say how sorry I am, but at the same time, she has left a lot for us to pick up and carry on. It is important for all of us to carry Florette's battles forward.

I want to also simply say to Florette, wherever she is, thank you for what you have done.

THE BUDGET RECONCILIATION PLAN WILL PRODUCE CHANGE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Connecticut [Ms. DELAURO] is recognized for 60 minutes.

Ms. DELAURO. Madam Speaker, the budget conferees have completed their work. Now we must finish ours. It is time for Congress to step up to the plate and vote to pass the budget reconciliation conference report.

This conference report responds to what the American people told us they wanted last November—change. It is a bold plan of action that ends gridlock and reverses the trickle down economics of the past decade which brought us record deficits, crippled job creation, and saddled our children with an unacceptable national debt.

The conference agreement achieves the President's goals for renewed economic growth. It is a responsible package that will make a real difference. It will reduce deficits by nearly one-half trillion dollars over the next 5 years by cutting more in spending than it raises in revenues. More than three-quarters of the increased taxes would affect only those who earn more than $200,000 per year. And it will create jobs by offering real assistance to small businesses.

This is a sweeping plan. But in all it does, nothing can be valued more than the incentives it provides to create jobs—8 million new jobs in 5 years. For a nation 4 years in recession it reflects a serious change.

This is a bold initiative. It encompasses tough choices. It makes some very painful budget cuts and asks those who have benefited most in recent years to contribute the most to deficit reduction. Today the New York Times called the Clinton plan "* * *a serious, credible, mostly gimmick-free bill that should make the deficit significantly lower over the next 5 years than it otherwise would be, saving the country billions of dollars in interest payments on the national debt." Passing this plan will reassure the financial markets that we are serious about putting our Nation's fiscal house back in order. That means we are on our way to creating new jobs.

JOBS

Hundreds of thousands of jobs disappeared during the last 4 years of the Bush administration; here we can see the employment growth under every administration, Democratic and Republican since World War II. And despite the facts, given the Bush administration's dismal record, the Republican Party has repeatedly refused to support President Clinton's plans to create new jobs. But the economy, spurred by the President's economic plan, will create more than 8 million new jobs over the next 4 years.

That is 8 million real jobs. Nearly 40,000 of those jobs will be created in my State of Connecticut—not a moment too soon. In Connecticut, where we have lost nearly 180,000 jobs in the past 4 years, jobs are the No. 1 issue. They are the No. 1 issue for the increasing numbers of unemployed who are used to working, who have always worked hard and played by the rules but now have lost their jobs because my State and this country were racked by a recession from which Connecticut has not yet recovered.

We cannot afford to sit idle. We have to act. To back this plan that creates growth and creates jobs. That is what this economic plan is all about. For the first time in more than a decade we have a President who offered a serious plan to cut Government spending, cut the deficit, restore faith in this country's economy, and, as a result, spur the investment that will create millions of new jobs. His plan is real. The market believed in it and we have seen a sharp drop in long-term interest rates.

For 4 long years we suffered under the worst private sector job growth at any time since Herbert Hoover's administration. And despite the fact that the Republican Party continues to sell the do nothing approach to job creation—fighting at every turn legitimate attempts to spur job creation—we owe it to the working men and women of this country to restore their faith, and push for economic growth and that will create new jobs.

DEFICITS

The final budget plan is the largest deficit reduction package in our country's history. If we fail to adopt this plan, Federal budget deficits would soar beyond $350 billion per year by 1998, once again approaching 5 percent of gross domestic product. The plan is based on realistic economic assumptions—not smoke and mirrors. It contains real spending cuts—not rhetoric about Government waste and unspecified cuts. And contrary to the criticisms of those who would do nothing or offer placebos instead of serious plans, this plan offers help for small businesses so they can create jobs.

We watch in utter disbelief those who call for budget summits and those who tell us that balancing the budget is easy. Certainly putting off the day of reckoning is easy but that ultimately will not make our task any less tough. We were sent here as public servants, honored by men and women in our districts who chose us to represent them in this House. They did not place their trust in us so that we can take cheap shots and hold out false promises on national television news programs. No—they sent us here to make a change, to act to make our country a better place for our children, and to help put people back to work.

BUSINESS

Recently, Federal Reserve Chairman Alan Greenspan urged Congress to pass a $500 billion deficit reduction package. He told Members that, "financial markets and the economy would suffer if the legislators fail to act on cutting the deficit. If we do not come to grips with this issue now, we will always find the means not to do it."

Back home in Connecticut, the head of the Connecticut Business and Industry Association, Mike Serpe, told me: "Passing this budget plan is a positive and strong action that will send the right signal to business and banking * * * to give them the confidence they need to invest in creating jobs again." According to John O'Connor, State director of the Connecticut Small Business Development Centers, passing this budget will help small businesses increase their cash flow, which as he said, "is the life blood of small companies." Mr. O'Connor's conclusion about the budget is as clear as it is simple—"the budget would not only be good for Connecticut's economy but for the entire Northeast region."

In addition, the Connecticut Realtors Association believes that lower interest rates will translate directly into new home building and new jobs because these rates make homes affordable to more families. That means construction jobs, jobs for building materials manufacturers, jobs for building home appliances and furniture. The lower interest rates also make new cars more affordable which means more jobs for automakers and auto parts manufacturers.

Keeping interest rates low is what we will get by passing this plan. We will reduce the deficit by nearly $500 billion, freeing that capital for private investment. That money, which would otherwise be borrowed by the Government, can now be used by the private sector to create jobs.

The reconciliation conference report also contains incentives for small business that encourage them to expand, invest, and create jobs. They are the main engine of job growth in our economy. That is a key element to bringing about economic growth.

Now we can offer small businessmen and businesswomen all across this country renewed hope. The conference report would cut in half the long-term capital gains rates for investment in small, startup companies. It would expand the amount of investment that small businesses can immediately expense to $17,500, and provides health deductions for the self-employed. And it fosters economic growth, technological development, and international competitiveness by extending the research and experimentation tax credit. Also, 90 percent of small businesses will be eligible for a tax cut.

Not only does this reconciliation package offer small businesses important new growth incentives, but it will help them maintain access to capital at lower costs while it exempts 96 percent of small businesses which file individual returns from the increase in individual income tax rates. When all these factors are taken into consideration there can be no question that this plan will be an important factor in the ability of small business to expand and to help create new jobs.

We cannot back away from the oath we each took to be the leaders of our Nation. We cannot let this country be controlled by fear of change and gridlock any longer. Mr. Speaker, we owe it to those who have sent us here to pass this vital economic plan into law.

The Washington Post said of the Democratic plan today, "Republican and other critics who helped to create the problems it seeks to solve now say the bill is too weak, but weakness is not the reason they are voting no. This is solid legislation that the Democrats can easily defend and should be proud to pass." Those who oppose the plan bear the burden of explaining their opposition to the failing small business, the unemployed worker, the would-be homeowner. Let them argue for continued high deficits. And, above all, let them offer evidence that they have had the courage in the past to provide the same leadership for the economy as the President has now.

We are acting not only to govern, but to govern responsibly. The reconciliation conference report is responsible. It is fair. It is good for the economy.

The plan assures that 80 percent of the revenue increases will be borne by the wealthiest top 6 percent of Americans. And middle class families are protected. No working family making less than $180,000 a year will see a raise in income taxes.

While we want to govern responsibly and get job creation going again, our opponents want to play politics as usual. In fact, when the House considered its version of a budget reconciliation bill, the Republicans offered an alternative that came up short. Short on deficit reduction, short on fairness, and short on details. It would have provided nearly $100 billion less in deficit reduction and would have shifted the burden of deficit reduction onto the middle and lower classes and away from the wealthy. And it would have cut Medicare by an additional $10 billion. Now some of the very same people who offered us that retread so-called alternative are asking us to reject the conferees' work and engage in yet another round of budget talks.

Well, we have talked enough, Mr. Speaker. Now we must act. Now we must choose to continue a policy of gridlock that has resulted in economic stagnation or choose a bold plan of action that will lead to economic growth. Now we must move beyond the rhetoric and partisan bickering and focus on the reality. Those who preach gridlock today are standing on 4 years of near zero job growth. They will have to answer to the American people if the economcy continues to stagnate because the best they could say was, "Let's do nothing."

Mr. Speaker, we have a plan. A plan that represents a radical departure from gridlock. We have a plan that moves us forward. It cuts our deficit $500 billion. It creates new jobs. It asks the wealthy to pay their fair share and it protects middle class working families.

This is the kind of change that will launch our Nation on a new course as we enter a new century. Where the next generation of Americans will believe that their children will be better off than they have been. I urge Members to rise to the challenges, to shoulder their responsibility; to answer the call. Pass the plan. Make a difference.

□ 1850

Madam Speaker, that concludes my remarks, and I am happy that with us in the Chamber tonight, are other Members who want to talk on the economic recovery program, some who have been with us over the last 2 weeks, and I welcome back this evening, and those who have not, I welcome also and look forward to our discussion here this evening.

Madam Speaker, I yield to my colleague, the gentlewoman from California [Ms. PELOSI], and thank her for being here for the third time in 3 weeks.

Ms. PELOSI. Madam Speaker, I thank the gentlewoman from Connecticut for yielding and thank her for her leadership in helping to pass the President's reconciliation plan and his economic plan for growth and reducing the deficit, and also for her very magnificent presentation, and very clear presentation, of the new direction that this deficit reduction plan will take our country. I thank her very much for giving me this opportunity to participate in her special order tonight.

I am very pleased that the President's plan, as amended by the House and Senate conferees, turns out to be a very profamily plan. It does this by its investments that it makes in people, that helps at the very same time to reduce the deficit, to give our people work, not welfare, and to give them hope, not despair.

How does it do this? Well, it is profamily in many respects. One is its children's initiatives that are contained in this package, childhood immunization, the family preservation and support act, the Mickey Leland Hunger Relief Act and the earned income tax credit, in addition to the enterprise zones which will help create jobs in some of the areas of our country which need them the most.

I would just like to take a few minutes to elaborate on some of these points and then move on to some of the economic arguments that spring from these. I believe that while these are profamily and they are investments in people, they will help get this country moving as well as reduce the deficit.

As far as the immunization initiative is concerned, President Clinton said on February 12, 1993:

> Our Nation is the only industrialized Nation in the entire world that does not guarantee childhood vaccination for all children. It ought to be like clean water and clear air. It ought to be part of the fabric of our life.

So spoke our President. And he said that in the context of only 55 percent of our Nation's 2-year-olds fully immunized against vaccine-preventable diseases in 1991. Because of these low immunization rates, a measles epidemic swept across the country with 55,000 victims, 166 people were killed in the epidemic and 11,000 Americans were hospitalized.

□ 1900

This could have been prevented.

Next in the package, I want to commend our President and conferees for putting funds in for family preservation, $1 billion. Madam Speaker, child abuse and neglect is an escalating national crisis of devastating proportions. Nearly 3 million children were reported physically, sexually, or emotionally abused or neglected last year, 3 million children in our country, and at least 3 children a day die from abuse, most before their first birthday. That is hard to imagine.

While the number of children reported abused, in fact, more than doubled between 1981 and 1991, Federal funding has been cut in half. I am very pleased that the President and conferees included, as I mentioned, $1 billion in this package.

Next, the Mickey Leland Childhood Hunger Relief Act is a very important domestic antihunger initiative, the most important introduced in the last 16 years. I am very pleased that the President has, and, well, we would like more money always, but I think at this moment it is $2.5 billion for the Mickey Leland Hunger Relief Act. It would allow families, in addition to the funds, it also will allow families to deduct high shelter costs in the same way that elderly and disabled households do so at present. This is very, very important for our families who exceed 50 percent of their income for shelter.

It would also encourage payment and collection of child support and assist working families and children.

Then in that package I conclude my focus there on the earned income tax credit. This proposal substantially raises the level of credit for working families with children, to lift working families out of poverty and provide the modest credit to very poor workers without children to help ensure that the doors of opportunity are open for all.

You would expect, I say to my colleague, the gentlewoman from Connecticut [Ms. DELAURO], that I would be supportive of a program that contained these initiatives, being on the progressive side of the spectrum in this body, and I am pleased that they are in the package.

Again, I think they not only help people, they help reduce the deficit.

But I do want to turn now to some business voices which favor the package. Let me say, first, that the American people, according to the Wall Street Journal last week, they reported that Americans are expressing more support for President Clinton's economic plan as it nears its crucial final vote. By a comfortable margin of 54 to 32 percent, people say that the Clinton plan would represent a step in the right direction, and the survey indicates that many Americans are sour on the conduct of Mr. Clinton's Republican critics. The American people support this plan.

I now want to address some of the business leaders. Last week, 58 business leaders, many of them Republicans from across the country, endorsed President Clinton's economic plan. I would like to call to the attention of my colleagues and our listeners the comments of some of those business leaders. Chairman August Busch of Anheuser-Busch said:

> We applaud the fundamental fairness of your initial plan as well as the diligence with which you have worked to keep equity a cornerstone of the final product.

Jerry Pearlman, chairman of Zenith Electronics, said:

> I strongly support your $500 billion deficit reduction plan and the selective spending cuts and appropriate investments. I have no doubt that your plan will meet the major challenge of reducing the deficit while stimulating economic growth, job creation, and investment.

Further to this, Xerox CEO Paul Allaire said:

> Successful passage of the budget reconciliation bill is a critical step in restoring long-term economic growth and job creation. The President's economic program is a balanced approach that shifts national policy away from deficit spending and toward job-creating investment.

The chairman of Time Warner, Gerald Levin, said:

> This legislation is our only opportunity to move forward on the economic front. To fail at this moment would have grave consequences for Americans and American business around the globe. I am proud to join you in encouraging swift and positive congressional action.

The CEO of Tenneco, Mike Walsh, said:

> The United States cannot continue to live on borrowed time and borrowed money. We elected a new President because we wanted change. Now it is time to act, not blink or quit. The President is taking on one of the most critical issues we face as a country, and it is time for us to stand up, support him, and start attacking the deficit.

And then, finally, the president of H&R Block, Harry Buckley, said:

> The majority of H&R Block's clients are middle- and lower-income taxpayers, many of whom would benefit from the President's plan to expand and simplify the EITC and distribute the tax burden more fairly throughout all income brackets.

The New York Times said in its editorial last month:

> Antitax rhetoric poses a threat to the common sense when the American congressional conferees meet this week to begin the arduous task of reconciling the House and Senate budget bill. We want common sense to prevail over political rhetoric.

We want this House to pass this budget very strongly.

You, I say to my colleague, presented very convincing arguments and compelling evidence of why this plan will work and why it must be done.

I think that it is clear that from left to right, from people to business, it is clearly viewed that we must reduce the deficit, we must create jobs, we must invest in people, we must pass this package.

Again, I commend the gentlewoman for calling this special order and look forward to meeting here the next time we urge our colleagues to support the reconciliation package.

Ms. DELAURO. I want to thank my colleague, the gentlewoman from California, and applaud her for particularly highlighting the pieces of the plan that focus on families and on jobs.

If you take a look at the entire package, the focus is jobs and creating jobs.

Looking at an earned income tax credit, which is so critical for so many families, in my own district, 15 percent of the families are eligible for an earned income tax credit, and it keeps people working; the emphasis on small business that allows them to expand and keep working; and then, finally, the focus on our most precious resource, our children, and what their opportunities are about, and I want to thank the gentlewoman for highlighting those things.

Ms. PELOSI. I would just like to follow up on what the gentlewoman said.

The earned income tax credit is being called the greatest antipoverty measure that we have seen in a long time. It helps hardworking families who work full time but still are below the poverty level, and I know that you know that many of these people are working at the minimum wage. Right now it does not seem to be an appropriate time for us to push for a higher minimum wage as much as I would like to see that happen.

I bring that point up because the earned income tax credit is a bonus for small businesses which pay the minimum wage, because it enabled them to continue paying that wage to their employees even though they still, those employees, are still below the poverty level, and with this EITC, the Federal Government is subsidizing those employees.

So not only does it help families living below the poverty line, it really also is an assist to small businesses as we get through this very difficult time.

I thank the gentlewoman again.

Ms. DELAURO. I thank the gentlewoman.

I now yield to my colleague, the gentleman from Colorado [Mr. SKAGGS], and my colleague on the Committee on Appropriations. I thank him for being with us tonight.

Mr. SKAGGS. I thank the gentlewoman very much for taking the time for all of us to participate tonight.

I was not sure whether my ear was playing a trick on me when either the gentlewoman from California or the gentlewoman from Connecticut suggested that we would be back discussing reconciliation again. I think that this is our last shot at this. We are going to vote this out of the House and on to the Senate and then on to the President's desk later this week.

Ms. DELAURO. Hear; hear.

Mr. SKAGGS. I am very proud of the fact that we are going to be doing the right thing for America.

This bill represents fundamentally a good deal for the average middle-income family in this country, and we should make no bones about that.

We should be pleased to be able to do the right thing for our country.

We have all lived through the terrible consequences of 12 years of really hiding our heads in the sand about economic and fiscal reality in this country. This bill faces up to what has to be done. It does so based upon the most conservative economic and planning assumptions that have ever been incorporated into the development of a budget since I have had the privilege of serving in this House.

Even based upon those most conservative assumptions, it gets within a whisker of the original $500 billion deficit reduction objective over the next 5 years, $496 billion. As we are, I know, fond of saying, if you get a 99 on the test, and this is about a 99, that is darn good, and we should be pleased to see it there.

But let us take a look at the composition of that $496 billion. There has been a lot of easy rhetoric around this town and around the country the last several months about taxes and spending cuts. What is going on in this package is $255 billion in spending reductions over the next 5 years compared to about $240 billion in tax increases.

Nobody I know of enjoys raising taxes. I do not; the President does not; you do not. But no one has been able to propose a credible way of really getting serious about deficit reduction that does not include some taxes.

□ 1910

So the question is not taxes or no taxes, but what kind of taxes? What is a fair way of dealing with a tax component to deficit reduction?

We can either go back to doing things the way we did for the last 12 years, which is to give a break to everybody on the top and saddle middle-income people with greater and greater burdens through payroll taxes and the like, or doing something which is in this plan, which is to again introduce fundamental tax fairness into the policy of the United States.

As the gentlewoman has pointed out, the average American family of four that earns less than $180,000 a year in adjusted gross income, which is probably $200,000 in gross income, is not going to pay any higher income taxes. There will be a modest gas tax, but again let us get real about what we are talking about there.

The average American is going to be asked to pay $28 a year more in gas taxes. What is that, 50 cents a week, roughly? At least where I come from in Colorado, I have town meetings where people stand up and say, "Look, as long as we know this is real deficit reduction, we are willing, even in Colorado," which is a Western State and we are supposed to hate gas taxes, "we are willing to pay an increment more in Federal gasoline tax."

But there are a lot of States not in the West that are going to be involved in this at a somewhat greater rate, and as a Westerner I just want to point out that Kentucky, Alabama, Vermont, and several other States, even though not in the great wide-open spaces of the West, are going to be paying a little bit more in gas tax than my constituents in Colorado.

Nonetheless, three-quarters of all the taxes in this bill are going to be paid for by the top 20 percent, 15 percent, of the people in this country. And I think that they recognize, as difficult as this may be for them, that they are in a better position to afford it than the middle-class Americans who have borne the burden for the last several years.

One of the things that has been particularly perplexing to me is the very easy rhetoric that has come out of the loyal opposition about the impact of this plan on small business, and I just want to take a minute to right the record on that.

The vast majority of small businesses where, as the gentlewoman has pointed out, job creation really occurs in this economy, are going to be benefited substantially by the provisions of this bill.

Their ability to expense out in the first year of the purchase of plant, equipment, equipment for their businesses, will be increased from $10,000 to $17,500, a major shot in the arm for new investment for small business; reduced interest rates that we are enjoying again, making all the difference in the world for a lot of small-business people being able to handle cash flow problems and all the rest; they are going to be further advantaged by the provision dealing with the capital gains tax rate for companies under $50 million in capitalization, and several other provisions.

The only small-business people that are going to be affected by the changes in this bill are those that are making on the average more than a half million dollars a year—less than 4 percent of all small businesses in this country. So, it is simply a real disservice to the American people and to the responsibility we all have to speak straight with the public, to try to suggest that this is going to be harmful to most small businesses.

Quite to the contrary, it is going to be extremely helpful to them.

We are also presented day after day after day with easy talk about the spending cuts in this legislation. We could go on for page after page after page of specific reductions in spending that are included in this bill, both on the appropriated spending that we make year by year and on the entitlement programs, such as Medicare and Medicaid, and agriculture programs that have a life of their own.

But make no mistake, this is very, very serious and specific on spending cuts, again notwithstanding the very easy talk that unfortunately we hear from the other side about this.

And finally, as the gentlewoman from California pointed out, this bill makes a substantial step forward on the President's program of welfare reform in that it greatly increases the earned income tax credit, one of the most effective ways we have of getting working people on their feet.

This bill will provide a substantial increase for those working families with kids; it is a very major building block in the President's program of welfare reform. And any of us, and I hope all of us who are serious about seeing that objective accomplished ought to keep that in mind as well.

What is the alternative? Voting "no"?

And by the way, it is my impression that there was no Republican in either the House or the Senate who voted for this plan, in either body, is that recollection correct?

Ms. DELAURO. That is accurate.

Mr. SKAGGS. All the predictions are that we are going to be faced with the same behavior this time around.

I just find that very, very difficult to understand. These are folks who have pounded their chests so vigorously so long about deficit reduction. Here we have a chance to make good on that for the counter, and they are taking a walk. This is a "no" vote for deficit reduction, evidently, a "no" vote for tax fairness, a "no" vote for family fairness, a "no" vote for immunizations, a "no" vote for entitlement reform, a "no" vote for reduced interest rates. It is really a "no" vote for America for anyone to vote against this bill.

I thank the gentlewoman for her leadership and for organizing our remarks this evening.

Ms. DELAURO. I thank the gentleman from Colorado, and his final remarks are accurate: The American people did not elect us to sit here and do nothing, to collect a paycheck and do nothing.

There are tough choices to be made. I said this last week: People make tough choices in their lives every day. We have some tough choices to make, and now is the time to do it.

The criticism, especially those criticisms from those who over the past 4 years have—not shown on this chart, but the one previous—during the Bush administration we saw the lowest growth we have seen since the Second World War. So there has to be something in here that is appealing to some of our Republican colleagues, and yet they refuse to move an inch in terms of helping to move this country forward and to help to turn our economy around. I think it is not going unnoticed with the American public.

I think they see very clearly what is happening here.

I now yield to the gentleman from California [Mr. MILLER], our colleague.

Mr. MILLER of California. I thank the gentlewoman from Connecticut for taking this time so that we can explain the plan now that it has been accomplished.

First and foremost, we ought to recognize the kind of courage that President Clinton displayed when he came to this Chamber and asked us to engage in this effort to reduce the deficit by $500 billion over 5 years. And he told us it would not be easy. He told us, in fact, it would be very difficult, that we would be beseigned by the special interests, we would be beseiged by those who did not want change. But he still asked us to do it.

He asked us to meet our obligations as an institution. Tonight we are talking about a plan that meets those goals and meets the obligations of this institution to govern.

And he is quite right, it was not easy and we did not get any help from our friends on the other side of the aisle. The Republican Party in this instance reminds me of so many other people during the 1980's who lived in an irresponsible fashion, lived beyond their means, used other people's money, ran up the deficits in their families and in their corporations and in this Government, and then, as the 1990's came in and reality came around, they simply chose default.

The Republicans will be here this week in a mode of default. They will not have a plan, they will not have a proposal, they will not have an alternative to this deficit reduction plan.

☐ 1920

We will go forward and we will vote. We will pass and the President will sign the largest deficit reduction in the history of this country.

Unfortunately, that is necessary because of the incredible deficit that was run up in this country throughout the eighties as this country lived beyond its means.

BOB DOLE will not offer a plan in the Senate. He will grumble and he will gripe, but he will offer no plan.

The Republicans in the House of Representatives will offer no plan. We will get conversation. We will get criticism, but we will get no plan to reduce the deficit by $500 billion They did not have one in January, February, March, April, May, June, or July, and now in August. They do not have a plan to reduce the deficit by $500 billion.

Of course, as we found out this weekend, neither does Ross Perot, because Mr. Perot who has been barnstorming the country saying, "Follow me, I have a plan," started out on Friday saying that if he had a couple weeks he could come up with a plan, because the plan he had before he did not want to be credited with because the taxes were so high, but in a couple weeks he could come up with a plan. Then things only got worse over the weekend. The more he appeared on TV, the more people realized that again what we were getting was conversation and criticism, but no plan with hard cuts, hard choices, nothing from Ross Perot, the House Republicans or BOB DOLE.

So now where do they stand? They realize that America is catching on to them, that America is realizing that this President in fact delivered on his effort with the courage and the difficulty.

When Senator MOYNIHAN and Chairman ROSTENKOWSKI delivered the conference committee with $500 billion worth of deficit reduction, they want time out. They want to start the game over. They say if we just give them the summer, if we just give them the fall, they can come up with a better plan.

They had access to all the numbers. They had access to the Government for 12 years in the administration. They had access to the Budget Committee. They could not come up with a plan because they never ever wanted to take the kind of political heat or demonstrate the courage to make the difficult choices that we had to do to come up with a package.

They said in the first few months they could come up with $500 billion in deficit reduction with no taxes.

Wrong. They fell short.

Then when it got to the Senate, they said they could come up with $500 billion of deficit reduction with no taxes.

Wrong. They fell short.

And Mr. Perot fell short, like the rest of them.

So they have chosen bankruptcy. They have chosen default. They have chosen not to show up for the debate with a real plan.

Now, they will criticize this plan, but fortunately in this plan the numbers will stick, unlike the phony numbers that were presented to us in years past.

The plan will stick with this positive impact on small business. The plan will stick with help for families, with the family preservation and earned income tax credit provision. The plan will stick because it has no income tax increase for middle Americans in this plan. The plan will stick because it raises a dramatic amount of revenue from the wealthiest people in this country who saw their incomes skyrocket during the 1980's while their tax rates went down, and yet working families saw their incomes go down and their tax rates go up.

What does the President present to us in his speech tonight? What is he going to tell this Nation? He is going to tell the Nation that the Democratic Congress, the Democratic Senate met its obligation. Sorry, the Republicans did not show up.

As a result of the leadership demonstrated by this President and the tough fight for the change that is represented in this budget to make our tax system fair, to recognize that all segments of America need help, as a result of that this President will in fact achieve his goal, and that is the largest deficit reduction in the history of this country.

As the gentlewoman from Connecticut has pointed out, that makes it easier for families to educate their children, because the cost of a student loan goes down. It makes it easier for the first-time homebuyer to realize the dream of a house. It makes it easier for people who currently have mortgages at the high rate of the eighties to refinance those mortgages at the lowest rates in 20 years, because the markets understand that this deficit reduction is serious and real and can make a difference in terms of long-term interest rates. It means that people can start small businesses, because the bank loans are cheaper than they were before.

The corporations already to the tune of in excess of a hundred billion dollars have refinanced the high debts of the eighties to try to give them a better cash flow so they can invest in the jobs and the expansion of the nineties. That is what President Clinton asks us to do and that is what we will do on Friday, and we will do it without a single Republican vote in the House or the Senate.

Those who voted for those people in the last election ought to feel terrible. How wasted their vote was, because these people were never part of the debate that they chose to default.

Ms. DELAURO. Madam Speaker, I want to thank the gentleman from California for his extraordinary remarks, and also for pointing out, I was really in some amazement this weekend watching some of the television shows to see Ross Perot, and people have put their faith in Ross Perot, a number of people voted for him, but he sat there on Sunday in a television talk show, and his plan which he could not speak about because he did not have his charts and papers with him, he did not know what the particulars are of the plan, of his own plan; but it does fall short about $800 billion in deficit reduction. It would put a 50-cent gas tax on people in this Nation and it would increase cuts on people who are on Medicare.

Finally, he could not be very specific about the cuts that he wanted to make or where they are.

In fact, within this plan there are some hard decisions that have been made, but again that is what people send us here for, not just to take up the space and the air in this Chamber. We are here on their behalf.

I thank the gentleman from California so much for his comments tonight.

Now I yield to the gentlewoman from Utah [Ms. SHEPHERD] and thank the gentlewoman for coming this evening and participating in this discussion.

Ms. SHEPHERD. Madam Speaker, I want to thank the gentlewoman from Connecticut [Ms. DELAURO] again this final time for arranging this special order so that we can all participate.

I am sure my district, like that of the gentlewoman's, and the whole country really, has had the same experience, and that is that there has been an extraordinary amount of misinformation, and dare I say outright lies that have been told to people in order to confuse them, in order to frighten them, in order for them to believe that this is a terrible thing that is going to happen to them.

I am very distressed that that has happened and really welcome the opportunity for us to come here and set the record straight, and I think we have done that.

I want to concentrate, if I can for a minute, on the two alternatives that we have before us. The first alternative that we always have is to do nothing. We can do nothing, and if we do that, we know precisely what will happen. We will hit a deficit of $400 billion by the end of the decade. Very shortly after that, it will be $600 billion. Interest rates will spike up. Jobs will be lost. Businesses will falter, and the public disillusionment with this body's ability to govern this country will take a dramatic turn for the worse.

The second alternative we offer and the people who want to pass this bill and the third alternative is an alternative that dissolved long ago. It was the plan that opponents of this bill once offered, but no longer offer. This was a plan that offered $100 billion less in deficit reduction. This was a plan that did not call for one single specific cut beyond those offered by President Clinton, but a whole host of unspecified cuts.

Now, I want to know where these mythical cuts are going to be made. Does anybody but me remember what happens when Congress tries to cut things in an unspecified way?

The answer is that unspecified cuts are a trick. They are a lower. They are a promise as old as promises get that we can have our cake and eat it, too. It is exactly the same promise that gave us the borrow-and-squandor psychology that has existed in the past 10 years that brought us this budget deficit in the first place.

When it comes to situations like this, there is a cliche for that as well. It says, "If you can't stand the heat, get out the kitchen." That charge more than any other describes what I want to say to this body, and I want the American people to say to this body. If we cannot stand the heat, we should not be here.

Opponents of this plan have had 5 months to put together an alternative that equals the deficit reduction in this bill without raising taxes. If it could have been done, where is it? They have had 5 months to put together a package of specified spending cuts beyond those offered by President Clinton.

□ 1930

If they could have passed such cuts, why have they not done it? We have been voting on appropriations for the past 4 weeks. They have had 5 months to campaign on substantive alternatives of their own. If they had one, where is it?

On all of these counts, Madam President, there has been nothing but failure.

Harry Truman once said, and he was a man of an earlier generation, so his quote reads, "A man who is influenced by the polls or who is afraid to make decisions which will make him unpopular is not a man to represent the welfare of our country."

I want to update here a bit and say that I urge the men and women of this body to remember that quote as they vote on Thursday. We have a unique opportunity this week to set a clear course towards fiscal responsibility. This is our time. This is our only chance. We must do it.

Madam Speaker, I urge my colleagues to vote "yes" when the time comes, and I thank the gentlewoman from Connecticut [Ms. DELAURO] so much for giving me this opportunity.

Ms. DELAURO. Madam Speaker, I thank the gentlewoman from Utah [Ms. SHEPHERD] very much, and I would like to yield now to my colleague, the gentleman from West Virginia [Mr. WISE].

Mr. WISE. Madam Speaker, I thank the gentlewoman from Connecticut [Ms. DELAURO] for yielding to me and taking this special order, and I just say that I think it has really come down to where-the-rubber-meets-the-road time in that in the next few days, and particularly on Thursday when presumably this House votes on this package, that will really test the character of all of us and what we stand for.

There are some times to go into politics for glory, and sometimes there is no glory, but there is a lot of heavy lifting. This is one of those years because the heavy lifting is coming, and it is whether or not we have the courage to take the first step.

Now, Madam Speaker, I have been fascinated in the past months, but particularly in the past weeks, by the chorus of voices from the other side of the aisle particularly saying they are opposed to this package. They are against. They are against deficits. That is a courageous stand. They are against taxes. They are against cuts that hurt. They are against everything that is associated in the package.

The only thing is we cannot figure out when they are against ending the gridlock, when it is that they are against ending the economic doldrums that this country is in.

They say, "Don't raise taxes even if it is 80 percent of it that is on those making over $140,000 a year. Don't raise taxes. It's a bad time, bad time in a slow recovery."

When is a good time? In a recession? Is a good time in prosperity? No, do not get tax fairness then, they say, because you will cut off the prosperity. Do not do it, obviously, in a recession for a whole lot of reasons.

My concern is this:

"You ought to pass this package for tax fairness if only on its face. When those whose incomes in the top 10, the top 6, percent of this country, indeed the top 1 percent, have seen their incomes more than double in the past 12 years, while middle-income people have stayed the same or fallen behind, I think that that cries out for tax fairness alone."

Let me just quickly tick off a few of the items though that I believe people are finally waking up to, what is and what is not in this package.

Our friends on the other side say that there are not cuts in here. Two hundred fifty billion dollars' worth of cuts, real cuts, over 5 years; 100 cuts alone in programs over $100 million, Madam Speaker. They are listed; they are real.

We challenged them in both this House and the other to come up with their package. They came up with a package, and, lo and behold, $66 billion of unspecified cuts.

In caps on entitlements in future years, Madam Speaker, where are they going to cap it? Going to cap Social Security? Going to cap Medicare? How are you going to do it? Oh, no. So, we do not know where that is.

So, this budget has real cuts in it and over a dollar of cuts for every dollar of tax increases.

Now, the tax increases; where do they come? First of all, 80 percent of the tax increases come on the wealthiest 6 percent, those families making over $140,000 a year after deductions. Indeed the only tax on the middle-income person will be the gasoline tax: 4.3 cents a gallon, which works out to 10 cents a day on the average, and even the Social Security threshold has been raised significantly to around $44,000 before that triggers in, that anyone would see any tax implications there.

One of the things that is not talked about by the other side in this package is helping working families, the earned income tax credit where people making between—working families with children making between—$25,000 and $30,000 a year will actually see a tax cut because their work will be rewarded, and they will be encouraged so that no family needs to fall into poverty. I think that may be one of the single greatest reforms that is in here.

Businesses, poor business, or small business has been whipsawed by rhetoric, and yet, when they look at it, they find that 95 percent of small businesses in this country will not see any tax increase. The only corporate increase is for those corporations making over $10 million a year, not gross income, in profits, and so certainly business knows, and also with the research and development incentives, with the targeted capital gains, with the expensing initiatives, small business knows that it actually gains under this package, and particularly with lower interest rates.

Finally, Madam Speaker, I would say that the importance of this package, in passing it for the American people, is, first, to get change, to change the way things are done here, to change the direction our economy is going, to change, to reverse, the direction of the past 12 years.

Second is to start us on a track of building momentum for that change economically so that we can than take on a jobs package.

This is a first step. If is a down payment. It is not the final step. But you have to start somewhere, and a jobs package is essential in the upcoming months, and, finally, toward health care essential for deficit reduction. Yes, essential for providing the health that is so necessary in containing health care costs. It plays a vital role.

But it all starts here, and so I would ask those who say they are opposed to this package, "What are you for, and when do you come forward with it, and when do you get in step and realize that the American people understand that we are all going to have to—that the American people understand this is not easy, but the American people what the job done, and they want change, and this package offers that."

Madam Speaker, I thank the gentlewoman from Connecticut [Ms. DELAURO] very much for yielding this time to me.

Ms. DELAURO. Madam Speaker, I thank the gentleman from West Virginia [Mr. WISE] very much in particular for his comments about small business. Some of the things, and I will repeat one of these statistics, and that is 90 percent of small businesses in this country will be eligible for some sort of a tax cut, whether it is on reductions in health care costs for the self-employed, or expensing of equipment, or a capital gains tax cut, and that is crucial and critical to expanding our economy.

I know my colleague is interested in investment and what that means for this Nation, and I know how critically important that is, that whole area is to the gentleman.

Mr. WISE. Madam Speaker, if the gentlewoman would yield, the investment package, of course, is critical and that ability of small business to invest. But the gentlewoman also points up something else with small business. I think that unfortunately the mom and pop business, the truly small business, one that is creating jobs, has been victimized unfairly by the rhetoric from the other side. Indeed even the Wall Street Journal pointed out in a recent article that vast percentage, 95 percent, I believe, of small businesses, subchapter S corporations, will not be affected by this.

Ms. DELAURO. That is right.

Mr. WISE. And indeed they may only gain, as the gentlewoman has said, that in the case of the subchapter S that the average person who will pay more taxes as a small businessperson is not actually the person running the car wash or the grocery store, but it is the physician, the lawyer, the investment broker, and their increases tend to average in the subchapter S corporations around $560,000 a year. That is not what most of the small businesspeople I know are making. As I say, most of the small businesspeople in West Virginia that are along each of the main streets and towns that I represent will never see an increase in their taxes whatsoever as a result of this, but only gains from lower interest rates, ability to secure financing and the other provisions that the gentlewoman has mentioned.

Ms. DELAURO. Madam Speaker, I thank the gentleman from West Virginia [Mr. WISE].

Madam Speaker, I want to just conclude by thanking all of my colleagues who have participated in this special order in these last several weeks, and we will listen to President Clinton a little bit later this evening talk to the American public about the economic recovery plan.

□ 1940

I think he will be able to lay out for the public what it means and what it means to our future, and will do that clearly. I know that the American public will respond. But we have an obligation and we have an opportunity in this body this week to take our step forward in turning this economy around. The vote will occur here in the House of Representatives. We have that opportunity to make change in this country and to make some history, in historic deficit reduction and new job creation. Millions of jobs will be created in the next several years. This is a plan that asks the wealthy to pay their fair share, and a plan that protects working middle-class families.

Madam Speaker, we cannot abandon those who have put us here, who voted and asked us to serve their interests. There was a woman in West Haven, CT, who said to me at one of the office hours that I have every Saturday, "I wish for once that the people in Washington would put their feet in our shoes and understand what our lives are about." That is what we are charged with doing in this body, is to understand the lives of the people that we represent.

Madam Speaker, this budget package, this economic recovery package, tries to understand what people's lives are about, and tries to help make changes that will give them a better quality of life.

CLINTON TAX INCREASE: AN EXTRAORDINARY MISTAKE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. KNOLLENBERG] is recognized for 60 minutes.

Mr. KNOLLENBERG. Mr. Speaker, I rise tonight, along with a number of my colleagues, in an attempt to convince this Congress that enactment of the largest tax increase in history will be an extraordinary mistake.

When we vote on this tax bill, I hope that my colleagues will recall the words of Abraham Lincoln—spoken many years ago, but still relevant today:

> You cannot bring about prosperity by discouraging thrift.
>
> You cannot strengthen the weak by weakening the strong.
>
> You cannot help the wage earner by pulling down the wage payer.
>
> You cannot further brotherhood by encouraging class hatred.
>
> You cannot establish sound security by spending more than you earn.
>
> You cannot build character by taking away man's initiative and independence.

My constituents in Michigan are overwhelmingly opposed to the tax plan. They understand, as Lincoln did, that no nation can tax its way to prosperity.

If there is one message that comes through loud and clear, it is "cut spending first."

The final vote on this package is only 2 days away; the next 48 hours are critical. Tonight we are speaking to the American people and asking you to make your voices heard in these critical hours. The largest tax hike in history can still be defeated. When it is defeated, Congress can sit down with the President and negotiate a program of real and enforceable spending reduction.

This budget plan will be an economic disaster for five reasons:

First, it contains the largest retroactive tax increase in history—in effect, the tax increases have been in effect since January 1, 20 days before Bill Clinton even became President.

Second, it will increase the tax burden on America's most dynamic small businesses by one-third.

Third, it will increase Federal spending dramatically.

Fourth, it will add $1 trillion to the Federal debt.

Fifth, and most important, it will destroy hundreds of thousands of middle-class jobs.

All of these points will be elaborated on by my colleagues, but let me say a few words on each.

THIS PLAN IS THE LARGEST TAX INCREASE IN U.S. HISTORY

Remember when we were told that the President's plan would be $2 in spending cuts for every $1 in taxes? Well, the actual plan will be precisely the opposite.

When we cut through all the smoke and mirrors, this plan is $2 in taxes for every $1 in spending cuts. And virtually all of the spending cuts are put off to 1995, 1996, and beyond—this means they will never occur.

THE PLAN WILL SEVERELY HARM SMALL BUSINESS

In recent weeks the Clinton administration has attempted to convince the public that the tax hikes will not really affect small business. In fact, SBA Director Erskine Bowles has gone so far as to dismiss the damage to small business as a bogus issue.

Nothing could be further from the truth. The impact will be severe—hundreds of thousands of small business jobs will be destroyed.

The claim is that there will be little impact on small business because only

300,000 small businesses will pay higher taxes.

Yet these 300,000 small businesses are precisely the businesses which are creating nearly all of the new jobs in our economy. According to business demographer David Birch the fastest growing 4 percent of all firms created 70 percent of all new jobs over the last 5 years. This 4 percent is precisely the same 300,000 small businesses that will be slammed by Mr. Clinton's tax hike.

Because these small businesses are unincorporated and pay taxes as individuals, their top tax rate will jump from 31 percent under current law to over 40 percent when the new 36 percent rate, the 10 percent surtax, and the 2.9 percent Medicare wage tax are accounted for.

All of this adds up to an increase of over one-third in the tax rates paid by the most dynamic job creating sector of our economy.

For those still doubtful that a large chunk of the Clinton tax hike will come out of the hide of small business, consider the following: I recently introduced legislation that would exclude all small businesses from the higher income tax rates in the Clinton plan. The Congressional Joint Committee on Taxation estimated that this legislation would have reduced the amount of tax revenue from the Clinton plan by $37 billion.

This means that over one-fourth of all the revenue projected to come from the income tax hikes on the so-called rich will actually come from small business.

THE PLAN INCREASES FEDERAL SPENDING

When I talk to my constituents at town hall meetings, they are often most surprised to learn that Federal spending under the Clinton plan jumps dramatically. Despite all of the rhetoric about spending cuts, total spending rises from $1,468 billion this year to $1,781 billion by 1998. This is a jump of over $300 billion, or 20 percent. Some spending cuts.

You see, when Washington insiders say budget cut they don't mean it the same way the American people do. A budget cut in Washington is not a cut at all, it is just a slight reduction in the extraordinary rate of growth.

THE PLAN ADDS $1 TRILLION TO THE NATIONAL DEBT

Even after all of the pain of higher gas taxes on everyone, higher taxes on seniors, and higher taxes on small business, the Clinton plan still adds $1 trillion to our national debt. In fact, we will continue to run $200 billion deficits out into the future as far as the eye can see.

THE PLAN WILL DESTROY JOBS

Business cannot continue to create jobs when Government piles on more taxation and more regulation. Respected economic firms such as DRI/McGraw Hill are now predicting the loss of hundreds of thousands of jobs as a result of the fiscal drag of these tax increases. The Wharton Econometrics model predicts the Clinton plan will destroy 200,000 to 300,000 jobs in 1995 and 1996.

Economist Allen Sinai at the Boston Company predicts a 700,000 job loss under the Clinton plan. The Joint Economic Committee's GOP staff puts the loss at 785,000 jobs. The National Center for Policy Analysis in Dallas finds 1.4 million fewer jobs by 1998 under the Clinton plan.

Any way you slice it, this plan is bad for America. It is time to take this plan back to the drawing board. We should take tax increases off the table and cut spending first.

Now I would like to begin yielding to the gentleman from Illinois [Mr. EWING].

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Mr. EWING. Madam Speaker, I thank the gentleman, and I want to thank him for setting up this special order on this evening. We need to get our points across, I am sure, very quickly, because we will soon be competing with the President and his address to the Nation.

I think it is extremely important, after having sat here tonight and listened to the rhetoric from the other side of the aisle, that we take some time to explain to our listeners and to the American people just what this program is and how we view it. Certainly, all of us would agree that we have maybe three choices, as said by the other side: to do nothing, that is not our choice on this side of the aisle; to do the Clinton plan is not our choice; and certainly, we have a third choice, and we have given a third choice to this House, but we all know, those who serve in this House, that it takes a majority to govern. And that is the choice we do not have on our side, the choice of passing our legislation. In fact, the plan presented to this House, much more specific than the Democratic plan, was given just the most casual consideration. And then a vote was taken which, of course, caused its defeat.

But let us talk about the Clinton plan, because that is what we are going to have to vote on very soon. When I go back to Illinois, it is very plain to me that the American people in Illinois are not very convinced about the merits of this plan. I do not think the rhetoric tonight will convince the people in central Illinois that raising their taxes is a good idea.

What the American people want and what people in Illinois want and in my district, Mr. KNOLLENBERG, is for us to cut the size of Government first. I do not even like to put the word "first" on it. They want us to cut Government, period.

"First" gives the connotation we are going to come back and spend it later. The American people believe we are spending too much for Government. Some of us sit in this House and labor in this House to cut day after day after day, and those cuts are not approved for the most part.

This body goes on, under its current leadership, spending. And now we are going to increase that spending, and we are going to increase taxes.

Eighty percent of the spending cuts that are proposed in the Clinton plan come into effect after 1996. I would think we should take a little time to consider what history has taught us about the 5-year plans. The Clinton plan is a 5-year plan. But we had a 5-year plan in 1990, and we had a 5-year plan in 1989 or 1988 and 1987 and 1985. We have had a series of 5-year plans approved under Republican administrations with the Democrat majority in this House. None of them have ever been carried out. None of them ever got to the cuts.

We get the taxes up front; we never get to the cuts. And I have some figures here that would show that even in the current plan, while taxes may go up 36 percent in 1994, we have an 8 percent cut or a reduction. Actually, the gas tax, which will raise about $23 billion, all of that will go to fund the increases in the earned income credit.

The working men and women in this country are going to be putting their money into a program that has been increased over the last 5 years severalfold, and I do not think it solved the welfare program in America.

Let us talk a little bit about what the Clinton plan will do to the agricultural segment of our country. Under the Clinton proposal, we were to take a $3 billion cut in agricultural programs. And that was approved.

We are going to take, of that $3 billion, and we are going to increase food stamps under the Agriculture budget $2.5 billion. So we are going to cut from the programs that help keep them competitive in the world markets, and we are going to put the Food Stamp Program, which is rife with fraud and with problems. That is another spending increase in this budget.

In addition, the American farmer, the rural people who live in America, are going to feel the gas tax more than anyone else. We use gas for everything: to get to town, to get to school, to get to work. We use gas to haul our grain to market.

We are going to pay an inordinate amount of that, and we are going to take a $3 billion cut in farm programs.

Mr. KNOLLENBERG. You are talking about a matter of, in fact, we heard it just a little bit ago from the folks on the other side, about 10 cents a day is all that the cost will be borne by the average household for this gas tax. You mentioned, of course, farming. Farming is, obviously, in another league, but it does not take, I do not believe, anybody with any stellar knowledge to know that 10 cents a day cannot possibly do it.

And in the case of farmers, there will be hundreds of dollars, thousands of dollars per year. What does that do to the product that they are producing?

Mr. EWING. Well, if we could raise the price, maybe we could pass that on. But the price that farmers get for their grain cannot be passed on. That is set by the markets. But their costs are going to go up.

Mr. KNOLLENBERG. Who is going to pay that cost?

Mr. EWING. They are going to have to eat those costs, the farmer. They cannot pass it on.

Farmers are small business people, too. And we talked about what is happening to small business. Farmers are small business.

Agriculture is still the biggest industry in America.

Another point that probably has not been brought up, we are going to change some of our inheritance tax laws. We are going to raise the upper limit, the upper rate for taxation from 50 to 55 percent. I cannot think of anything more unfair for Americans to earn, to save, and then to have the Federal Government come along and say, "You have got to pay more when you are dead. You cannot pass that on to your children. We are going to raise the rate 5 percent."

I wonder, too, about the provisions in this bill. The income tax is retroactive. It is August, but you are going to owe taxes on everything you have made since January 1.

That is going to be a major impact on rural communities, on the business, on farmers, who pay their tax in estimates. Nobody withholds that from their salary. They have to pay it quarterly.

They are going to have to make up almost three-quarters of a year with their estimates in September, if this bill passes. It is going to be a major drain. It will be a great sucking sound out of the economy, as the Clinton package pulls in all that tax money from 1 month to be spent and not for deficit reduction.

In closing, I would say that, to sum up, the problem with the Clinton package is that it is long on taxes. It is long on new spending, and it is very, very short in the near future on any kind of reductions.

And probably, if history is any teacher, we will never get to those reductions.

My colleagues on the other side of the aisle, who pound their chest for the Clinton plan today, I hope they will pound their chest for the cuts, when we have to vote on them in this very House.

Madam Speaker, I thank the gentleman.

□ 2000

Mr. KNOLLENBERG. Madam Speaker, I thank the gentleman very kindly. I appreciate those comments. I think they are on target in terms of just what the impact of this Clinton tax hike will be.

Madam Speaker, I yield to the gentleman from California, ED ROYCE, who will give us some perspective, quickly, on a matter that is very important to us all and a big part of this problem we are faced with.

Mr. ROYCE. Madam Speaker, I thank the gentleman for yielding to me.

Madam Speaker, on the subject of the budget reconciliation, let me explain the unfairness of the retroactive taxation. Even criminals are protected against ex post facto laws, but taxpayers. Under this bill we are declaring open season on taxpayers. It is counterproductive. Many taxpayers, many small businesses, corporations, will have to break into their savings to pay for 9 months of new taxes in one quarter. That is going to take money out of the economy and hurt job growth. It will cause higher unemployment in the private sector. It is not going to hurt big Government, but it is going to hurt the private sector.

I have introduced a constitutional amendment to prohibit retroactive taxation, but now we need to stop this bill. Say no. It is not fair to taxpayers and it will stall the economy in the fourth quarter.

If Congress can tax people retroactively, then there is no limit to what else it can do to the American people.

Mr. KNOLLENBERG. Madam Speaker, I have just one question for the gentleman, before he gets away. This retroactive matter, which is a bothersome thing to a lot of us, because, in essence, it even goes back to 20 days prior to President Clinton being brought into office, why can we not just take it back to, say, 1990 or 1988, or 1985?

Mr. ROYCE. Clearly, there is no preventing the President and Congress in the law from taking a retroactive tax back to any point in time. The fact that the President is imposing this tax prior to the period of time in which he was President of the United States speaks to the fact that there is no protection for the taxpayer under the law. That is the importance of the constitutional amendment which I have put forward, which would cause all bills to go into effect at the point in time when they were passed by this body, so we would not have a situation where we were reaching back 9 months in the past and dunning people, and because they had not withheld over that period of time, forcing them to pay all in one quarter for 9 months of time where they had no idea they were going to be taxed.

Mr. KNOLLENBERG. I very much appreciate the gentleman's commentary and his thoughts on a problem I think most people really have not had a chance to look at and analyze, because it is a surprise to retroactively impact people with a tax that goes back in time, and here we are in the middle of the first part of August. They have to go back to the first part of January, January 1.

Madam Speaker, I would like to discuss another matter that is on a general basis, but also has to do with this retroactive tax matter. I yield to the gentleman from Arkansas [Mr. HUTCHINSON].

Mr. HUTCHINSON. Madam Speaker, I thank the gentleman for yielding to me.

Madam Speaker, I appreciate the distinguished gentleman from California bringing up the issue of retroactivity, because I believe one of the most outrageous parts, one of the most outrageous components of this plan is the fact that it goes back to the first of the year and taxes the average taxpayer in this country. I think the American people are reacting with outrage, and I hope that my good friend, the former Governor of Arkansas, the President, President Clinton, as he addresses the Nation right now, I hope that he will give us the rationale for going back retroactively and taxing the American people in a plan that he has suggested he has presented to us to bring tax fairness.

What is fair, and what can possibly be the rationale, other than increasing revenues, to going back to the beginning of this year to tax the American people?

I have in front of me an article from Fortune magazine last week entitled "Deficit Cutting: The Great Fraud." It is subtitled "The Bizarre Way Washington Builds Budgets, Encourages Outrageous Accounting Scams, Leaves Entitlement Spending Uncontrolled, and Fails To Kill Off Bad Old Programs."

In the first paragraph of this very fine article in Fortune magazine, dated July 26, 1993, they ask this: "Do you remember David Stockman's famous warning that America was in danger of having $200 billion deficits as far as the eye can see? That prediction was supposed to shock us when, as Ronald Reagan's budget director, he made it back in 1983, a decade ago. Today it is the official forecast of the Clinton Administration," and that is assuming that all goes according to plan; that is right, $200 billion deficits, as far as the eye can see.

Doublespeak and accounting tricks, that is what we are being given. Eighty percent of the spending cuts that have been so touted are scheduled to happen in 1997, in 1998, after the next Presidential election, incidentally; after congressional elections, after we have a new Congress, a new Congress which will either have to ratify or nullify these supposed spending cuts, meaning future Congresses must approve these cuts. Since World War II Congress has increased spending by $1.59 for every $1 it has increased in taxes, and that is not exactly a record that inspires confidence.

I believe that whatever support there is in the American public right now for this tax plan will evaporate like snow in an August sun when they realize that 80 percent of the spending cuts are after the next Presidential election.

I had a businessman in my office today, and he said, "Do something. Do something. Vote for this bill, if necessary. It may not be perfect, but let us do something."

I said, "Sir, do you realize that 80 percent of the spending cuts in this package do not occur until after the next presidential election, 1997 to 1998?"

He said, "Say that again." He took out a pencil and paper and wrote it down, absolutely unaware, and yet many of the American people are unaware of that reality.

Items that the Clinton plan calls spending cuts include such things as $16 billion in user fees. That amazes me, that increases in user fees can be called spending cuts, and yet that is the way these numbers are played with and massaged; $44 billion spending reductions mandated in the 1990 budget agreement, so we go back to the Bush budget agreement in 1990, take the spending cuts they agreed to back in 1990, and we now have leveraged them for a new tax increase in 1993.

Then $55 billion in expected reduced interest payments, an item, incidentally, that does not reduce a single Government program. Then we have other categories, such as simply "unspecified cuts." That is what has been sold to us as the great budget reductions in this package.

Even if all those cuts take place, and history says they will not, but even if all those cuts take place, the ratio of tax hikes to spending cuts is still more than 2 to 1, so we get corporate income tax increases, we get individual income tax increases, we get social security income tax increases, we get gasoline tax increases. That is what the American people are facing. That is what the Members on the other side of the aisle just a few moments ago asked us to vote for.

They speak of gridlock. The last time I checked the numbers, the numbers are overwhelmingly on their side of the aisle. They have the numbers to pass anything they want to pass. That is where the gridlock is.

Mr. MANZULLO. Madam Speaker, will the gentleman yield?

Mr. KNOLLENBERG. I yield to the gentleman from Illinois.

Mr. MANZULLO. Madam Speaker, one of the things that has really disturbed me is the fact, the use of this term "gridlock." Whenever a body does not agree within itself, it means that the Constitution is working. If something gets bogged down in either the other body or this body, somebody gets to the podium and screams "gridlock," literally questioning the patriotism of those people who want to stand in the gap between the electorate and the excesses of big Government.

I am really offended by the continued use of that term, which, in a sense, questions my patriotism. A lady had called my office a couple of days ago, and she said, "Congressman Manzullo, I am opposed to gridlock." I said, "Gridlock means the effective use of the separation of powers in the Constitution."

□ 2010

It is a checks and balances, because would anybody want to see everything the President has rubber stamped by the U.S. Congress? And if you want a rubber stamp, then you do not want gridlock.

Mr. HUTCHINSON. If I may say, I agree with the gentleman entirely and appreciate his comments. We sat here for an hour and heard our patriotism questioned, we heard our compassion questioned, we heard our sincerity questioned, we heard our motivations questioned. And I entirely agree, what we are a part of is the Democratic process. And nothing makes a liberal more illiberal than somebody daring to disagree with them. And we sincerely disagree with that plan, that it is good for America, that it is good for American taxpayers, that it is going to significantly reduce the tremendous deficit we face.

I have in front of me one of the finest speeches that a Democratic President ever made, John F. Kennedy 30 years ago on December 14, 1962, speaking to the Economic Club of New York. I will include that in its entirety for the RECORD.

The speech referred to is as follows:

SPEECH OF JOHN F. KENNEDY, 1962

Less than a month ago this Nation reminded the world that is possessed both the will and the weapons to meet any threat to the security of free men. The gains we have made will not be given up, and the course that we have pursued will not be abandoned. But in the long run, that security will not be determined by military or diplomatic moves alone. It will be affected by the decisions of finance ministers as well as by the decisions of Secretaries of States and Secretaries of Defense; by the deployment of fiscal and monetary weapons as well as by military weapons; and above all by the strength of this Nation's economy as well as by the strength of our defenses.

You will recall that Chairman Khrushchev has said that he believed that the hinge of world history would begin to move when the Soviet Union outproduced the United States. Therefore, the subject to which we address ourselves tonight concerns not merely our own well-being, but also very vitally the defense of the free world. America's rise to world leadership in the century since the Civil War has reflected more than anything else our unprecedented economic growth. Interrupted during the decade of the thirties, the vigorous expansion of our economy was resumed in 1940 and continued for more than 15 years thereafter. It demonstrated for all to see the power of freedom and the efficiency of free institutions. The economic health of this Nation has been and is now fundamentally sound.

But a leading nation, a nation upon which all depend not only in this country but around the world, cannot afford to be satisfied, to look back or to pause. On our strength and growth depend the strength of other, the spread of free world trade and unity, and continued confidence in our leadership and our currency. The underdeveloped countries are dependent upon us for the sale of their primary commodities and for aid to their struggling economies. In short, a prosperous and growing America is important not only to Americans—it is, as the spokesman for 20 Western nations in the Organization for Economic Cooperation and Development, as he stressed this week, of vital importance to the entire Western World.

In the last 2 years we have made significant strides. Our gross national produce has risen 11 percent while inflation has been arrested. Employment has been increased by 1.3 million jobs. Profits, personal income, living standards—all are setting new records. Most of the economic indicators for this quarter are up and the prospects are for further expansion in the next quarter. But we must look beyond the next quarter, of the last quarter, or even the last 2 years. For we can and must do better, much better than we have been doing for the last 5½ years.

This economy is capable of producing without strain $30 to $40 billion more than we are producing today. Business earnings could be $7 to $8 billion higher than they are today. Utilization of existing plant and equipment could be much higher; and if it were, investment would rise. We need not accept an unemployment rate of 5 percent or more, such as we have had for 60 out of the last 61 months. There is no need for us to be satisfied with a rate of growth that keeps good men out of work and good capacity out of use.

The Economic Club of New York is of course familiar with these problems. For in this State the rate of insured unemployment has been persistently higher than the national average, and the increases in personal income and employment have been slower here than in the Nation as a whole. You have seen the tragedy of chronically depressed areas upstate, of unemployed young people, and I think this might be one of our most serious national problems, unemployed young people, those under 20, one out of four is unemployed, particularly those in the minority groups, roaming the streets of New York and our other great cities, and others on relief at an early age, with the prospect that in this decade we will have between 7 and 8 million school dropouts, unskilled, coming into the labor market, at a time when the need for unskilled labor is steadily diminishing. And I know you share my conviction that, proud as we are of its progress, this Nation's economy can and must do even better than it has done in the last 5 years. Our choice, therefore, boils down to one of doing nothing and thereby risking a widening gap between our actual and potential growth in output, profits, and employment—or taking action, at the Federal level, to raise our entire economy to a new and higher level of business activity.

If we do not take action, those who have the most reason to be dissatisfied with our present rate of growth will be tempted to seek shortsighted and narrow solutions—to resist automation, to reduce the work week to 35 hours or even lower, to shut out imports, or to raise prices in a vain effort to obtain full capacity profits on undercapacity operations. But these are all self-defeating expedients which can only restrict the economy, not expand it.

There are a number of ways by which the Federal Government can meet its responsibilities to aid economic growth. We can and must improve American education and technical training. We can and must expand civilian research and technology. One of the great bottlenecks for this country's economic growth in this decade will be the shortage of doctorates in mathematics, engineering, and physics; a serious shortage with a great demand and an undersupply of highly trained manpower. We can and must step up the development of our natural resources.

But the most direct and significant kind of Federal action aiding economic growth is to make possible an increase in private consumption and investment demand—to cut the fetters which hold back private spending. In the past, this could be done in part by the increased use of credit and monetary tools, but our balance of payments situation today places limits on our use of those tools for expansion. It could also be done by increasing Federal expenditures more rapidly than necessary, but such a course would soon demoralize both the Government and our economy. If Government is to retain the confidence of the people, it must not spend more than can be justified on grounds of national need or spent with maximum efficiency. I shall say more on this in a moment.

The final and best means of strengthening demand among consumers and business is to reduce the burden on private income and the deterrents to private initiative which are imposed by our present tax system; and this administration pledged itself last summer to an across-the-board, top-to-bottom cut in personal and corporate income taxes to be enacted and become effective in 1963.

I am not talking about a "quickie" or a temporary tax cut, which would be more appropriate if a recession were imminent. Nor am I talking about giving the economy a mere shot in the arm, to ease some temporary complaint. I am talking about the accumulated evidence of the last 5 years that our present tax system, developed as it was, in good part, during World War II to restrain growth, exerts too heavy a drag on growth in peace time; that it siphons out of the private economy too large a share of personal and business purchasing power; that it reduces the financial incentives for personal effort, investment, and risk taking.

In short, to increase demand and lift the economy, the Federal Government's most useful role is not to rush into a program of excessive increases in public expenditures, but to expand the incentives and opportunities for private expenditures.

Under these circumstances, any new tax legislation—and you can understand that under the comity which exists in the United States Constitution whereby the Ways and Means Committee in the House of Representatives have the responsibility of initiating this legislation, that the details of any proposal should wait on the meeting of the Congress in January. But you can understand that under these circumstances, in general, that any new tax legislation enacted next year should meet the following three tests:

First, it should reduce net taxes by a sufficiently early date and a sufficiently large amount to do the job required. Early action could give us extra leverage, added results, and important insurance against recession. Too large a tax cut, of course, could result in inflation and insufficient future revenues—but the greatest danger is a tax cut too little or too late to be effective.

Second, the new tax bill must increase private consumption as well as investment. Consumers are still spending between 92 and 94 percent of their after-tax income, as they have every year since 1950. But that after-tax income could and should be greater, providing stronger markets for the products of American industry. When consumers purchase more goods, plants use more of their capacity, men are hired instead of laid off, investment increases and profits are high.

Corporate tax rates must also be cut to increase incentives and the availability of investment capital. The Government has already taken major steps this year to reduce business tax liability and to stimulate the modernization, replacement, and expansion of our productive plant and equipment. We have done this through the 1962 investment tax credit and through the liberalization of depreciation allowances—two essential parts of our first step in tax revision which amounted to a 10 percent reduction in corporate income taxes worth $2.5 billion. Now we need to increase consumer demand to make these measures fully effective—demand which will make more use of existing capacity and thus increase both profits and the incentive to invest. In fact, profits after taxes would be at least 15 percent higher today if we were operating at full employment.

For all these reasons, next year's tax bill should reduce personal as well as corporate income taxes, for those in the lower brackets, who are certain to spend their additional take home pay, and for those in the middle and upper brackets, who can thereby be encouraged to undertake additional efforts and enabled to invest more capital.

Third, the new tax bill should improve both the equity and the simplicity of our present tax system. This means the enactment of long-needed tax reforms, a broadening of the tax base and the elimination or modification of many special tax privileges. These steps are not only needed to recover lost revenue and thus make possible a larger cut in present rates; they are also tied directly to our goal of greater growth. For the present patchwork of special provisions and preferences lightens the tax load of some only at the cost of placing a heavier burden on others. It distorts economic judgments and channels an undue amount of energy into efforts to avoid tax liabilities. It makes certain types of less productive activity more profitable than other more valuable under-takings. All this inhibits our growth and efficiency, as well as considerably complicating the work of both the taxpayer and the Internal Revenue Service.

These various exclusions and concessions have been justified in part as a means of overcoming oppressively high rates in the upper brackets—and a sharp reduction in those rates, accompanied by base-broadening, loophole-closing measures, would properly make the new rates not only lower but also more widely applicable. Surely this is more equitable on both counts.

Those are the three tests which the right kind of bill must meet and I am confident that the enactment of the right bill next year will in due course increase our gross national product by several times the amount of taxes actually cut. Profit margins will be improved and both the incentive to invest and the supply of internal funds for investment will be increased. There will be new interest in taking risks, in increasing productivity, in creating new jobs and new products for long-term economic growth.

Other national problems, moreover, will be aided by full employment. It will encourage the location of new plants in areas of labor surplus and provides new jobs for workers that we are retraining and facilitate the adjustment which will be necessary under our new trade expansion bill and reduce a number of government expenditures.

It will not, I'm confident, revive an inflationary spiral or adversely affect our balance of payments. If the economy today were operating close to capacity levels with little unemployment, or if a sudden change in our military requirements should cause a scramble for men and resources, then I would oppose tax reductions as irresponsible and inflationary; and I would not hesitate to recommend a tax increase, if that were necessary. But our resources and manpower are not being fully utilized; the general level of prices has been remarkably stable; and increased compensation, both at home and abroad, along with increased productivity will help keep both prices and wages within appropriate limits.

The same is true of our balance of payments. While rising demand will expand imports, new investment in more efficient productive facilities will aid exports and a new economic climate could both draw capital from abroad and keep capital here at home. It will also put us in a better position, if necessary, to use monetary tools to help our international accounts. But, most importantly, confidence in the dollar in the long run rests on confidence in America, in our ability to meet our economic economic commitments and reach our economic economic goals. In a world-wide conviction that we are not drifting from recession to recession with no answer, the substantial improvement in our balance of payments position in the last 2 years makes it clear that nothing could be more foolish than to restrict our growth merely to minimize that particular problem, because a slowdown in our economy will feed that problem rather than diminish it. On the contrary, European governmental and financial authorities with almost total unanimity, far from threatening to withdraw gold, have urged us to cut taxes in order to expand our economy, attract more capital, and increase confidence in our future.

But what concerns most Americans about a tax cut, I know, is not the deficit in our balance of payments but the deficit in our Federal budget. When I announced in April of 1961 that this kind of comprehensive tax reform would follow the bill enacted this year, I had hoped to present it in an atmosphere of a balanced budget. But it has been necessary to augment sharply our nuclear and conventional forces, to step up our efforts in space, to meet the increased cost of servicing the national debt and meeting our obligations, established by law, to veterans. These expenditure increases, let me stress, constitute practically all of the increases which have occurred under this administration, the remainder having gone to fight the recession we found in industry—mostly through the supplemental employment bill—and in agriculture.

We shall, therefore, neither postpone our tax cut plans nor cut into essential national security programs. This administration is determined to protect America's security and survival and we are also determined to

> step up its economic growth. I think we must do both.
>
> Our true choice is not between tax reduction, on the one hand, and the avoidance of large Federal deficits on the other. It is increasingly clear that no matter what party is in power, so long as our national security needs keep rising, an economy hampered by restrictive tax rates will never produce enough revenue to balance our budget just as it will never produce enough jobs or enough profits. Surely the lesson of the last decade is that budget deficits are not caused by wild-eyed spenders but by slow economic growth and periodic recessions, and any new recession would break all deficit records.
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> In short, it is a paradoxical truth that tax rates are too high today and tax revenues are too low and the soundest way to raise the revenues in the long run is to cut the rates now. The experience of a number of European countries and Japan have borne this out. This country's own experience with tax reduction in 1954 has borne this out. And the reason is that only full employment can balance the budget, and tax reduction can pave the way to that employment. The purpose of cutting taxes now is not to incur a budget deficit, but to achieve the more prosperous, expanding economy which can bring a budget surplus.
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> I repeat: our practical choice is not between a tax cut deficit and a budgetary surplus. It is between two kinds of deficits: a chronic deficit of inertia, as the unwanted result of inadequate revenues and a restricted economy; or a temporary deficit of transition, resulting from a tax cut designed to boost the economy, increase tax revenues, and achieve—and I believe this can be done—a budget surplus. The first type of deficit is a sign of waste and weakness; the second reflects an investment in the future.
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> Nevertheless, as Chairman Mills of the House Ways and Means Committee pointed out this week, the size of the deficit is to be regarded with concern, and tax reduction must be accompanied, in his words, by "increased control of the rises in expenditures." This is precisely the course we intend to follow in 1963.
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> At the same time as our tax program is presented to the Congress in January, the Federal budget for fiscal 1964 will also be presented. Defense and space expenditures will necessarily rise in order to carry out programs which are demanded and are necessary for our own security, and which have largely been authorized by Members in both parties of the Congress with overwhelming majorities. Fixed interest charges on the debt also rise slightly. But I can tell you now that the total of all other expenditures combined will be held at approximately its current level.
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> This is not an easy task. During the past 9 years, domestic civilian expenditures in the National Government have risen at an average rate of more than 7½ percent. State and local government expenditures have risen at an annual rate of 9 percent. Expenditures by the New York State Government, for example, have risen in recent years at the rate of roughly 10 percent a year. At a time when Government pay scales have necessarily risen—and I take New York just as an example—when our population and pressures are growing and the demand for services and State aid is thus increasing, next year's Federal budget, which will hold domestic outlays at their present level, will represent a genuine effort in expenditure control. This budget will reflect, among other economies, a $750 million reduction in the postal deficit. It will reflect a savings of over $300 million in the storage costs of surplus feed grain stocks, and as a result of the feed grain bill of 1961 we will have two-thirds less in storage than we would otherwise have had in January 1963 and a savings of at least $600 million from the cancellation of obsolete or unworkable weapons systems. Secretary McNamara is undertaking a cost reduction program expected to save at least $3 billion a year in the Department of Defense, cutting down on duplication and closing down nonessential installations. Other agencies must do the same.
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> In addition, I have directed all heads of Government departments and agencies to hold Federal employment under the levels authorized by congressional appropriations; to absorb through greater efficiency a substantial part of this year's Federal pay increase; to achieve an increase in productivity which will enable the same amount of work to be done by fewer people; and to refrain from spending any unnecessary funds that were appropriated by the Congress.
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> It should also be noted that the Federal debt, as a proportion of our gross national product, has been steadily reduced in this last year. Last year the total increase in the Federal debt was 2 percent—compared to an 8 percent increase in the gross debt of State and local governments. Taking a longer view, the Federal debt today is 13 percent higher than it was in 1946, while State and local debt increased over 360 percent and private debt by over 300 percent. In fact, if it were not for Federal financial assistance to State and local governments, the Federal cash budget would show a surplus. Federal civilian employment, for example, is actually lower today than it was in 1952, while State and local government employment over the same period has increased 67 percent.
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> It is this setting which makes Federal tax reduction both possible and appropriate next year. I do not underestimate the obstacles which the Congress will face in enacting such legislation. No one will be satisfied. Everyone will have his own approach, his own bill, his own reduction. A high order of restraint and determination will be required if the possible is not to wait on the perfect. But a nation capable of marshaling these qualities in any dramatic threat to its security is surely capable, as a great free society, of meeting a slower and more complex threat to our economic vitality. This Nation can afford to reduce taxes, we can afford a temporary deficit, but we cannot afford to do nothing. For on the strength of our free economy rests the hope of all free nations. We shall not fail that hope, for free men and free nations must prosper and they must prevail.

I would just like to cite one portion of President Kennedy's speech. He said:

> The final and best means of strengthening demand among consumers and business is to reduce the burden on private income and the deterrents to private initiative which are imposed by our present tax system; and this administration pledged itself last summer to an across-the-board, top-to-bottom cut in personal and corporate income taxes to be enacted and become effective in 1963.

Now may I say that President Kennedy took the approach exactly opposite to the approach of what this Democratic administration is taking. He said in order to spur the economy, in order to create incentive, in order to create jobs we need to cut from top to bottom, across the board, corporate and personal income taxes.

As I read the plan that we are going to be asked to vote on Thursday, we are going to be asked to increase both personal and corporate income taxes. And I suggest to the American people that the effect will be the opposite effect that this tax cut back in 1963 had. When President Kennedy initiated that tax cut we saw economy boosted, we saw unemployment lowered, we saw initiative increase and we saw investment encouraged. And we are going to see just the opposite effect should this plan pass Thursday.

Mr. MANZULLO. If the gentleman will yield for comment, it seems to me that President Kennedy at that time was bemoaning the fact that unemployment in the country was at 5 percent. And he said this is totally unacceptable, and he said to raise taxes corporately and personally dries up the flow of cash into the system and, therefore, that means that there would be a decrease in jobs. And he was quite adamant that by decreasing taxes individually and corporately, he said, that this would bring about a stronger recovery.

But most interesting, he said that whenever anybody gets the idea that the way to balance the budget is to increase the taxes on the upper income and whatever is defined as rich, he said that the people that provide the venture capital, the startup money for new businesses are obviously those people that have extra money. And instead of taking that extra money for startup capital, they now have to pay it in income taxes. And it is ironic, and I sit on the Small Business Committee, that while the administration is trying to increase the taxes on those who can afford to put startup capital into the system, at the same time they are talking about more brandnew programs through the Small Business Administration because of the so-called credit crunch.

Well, the money is there, and the money should be used to spur the growth and the start of new businesses as opposed to being used to pay for taxes. It does not make sense.

Mr. HUTCHINSON. I appreciate the comments of the gentleman. I believe that is exactly what President Kennedy was saying, and I believe that this Democratic administration can learn something from that Democrat back in 1963, President Kennedy. He continued:

> For all these reasons, next year's tax bill should reduce personal as well as corporate income taxes, for those in the lower brackets, who are certain to spend their additional take-home pay, and for those in the middle and upper brackets, who can thereby be encouraged to undertake additional effort and enabled to invest more capital.

He suggested truly a top-to-bottom, across-the-board decrease back in 1963, and the result was it had a tremendous spurring effect on the economy.

Then as he came to the conclusion of his speech he said, "And the reason is that only full employment can balance the budget, and tax reduction can pave the way to that employment," and tax reduction can pave the way to increase in employment. And that, Mr. Speaker, will help us in dealing with our budget deficit.

The CBO said back in January that 9 million new jobs would be created without the Clinton plan. They said 9 million new jobs. They made that prediction before there was a Clinton plan. And the administration officials last week said with the President's plan 8 million jobs will be created over the next 4 years of his term. Notice that it was 9 million, over 9 million back in January, and now if we pass this plan we are going to create 8 million jobs. What they did not say was in January the CBO released its economic and budget outlook which calculated that 9.4 million new jobs would be created by the fourth quarter of 1996, so 9 million new jobs would have been created by a dynamism and entrepreneurial spirit in the private sector. And this estimate occurred prior to release of the administration's budget plan which did not assume the administration's budget plan. CBO said 9 million new jobs would be created in the next 4 years. So I assume that the administration is suggesting that its plan will not create any new jobs.

Republicans fear that the massive new taxes in the administration's plan will choke off job creation and will not get the 9 million new jobs that the CBO said the economy would create back in January. And I think that the lesson that we can learn is we cannot tax our way into prosperity. We cannot spend our way into prosperity.

The July 19 New York Times, and I will conclude with this, quotes the chief economist at C.J. Lawrence. This is what he said about this plan:

> The best thing they can do for the economy is to figure out a politically acceptable way to walk away from the program.

And what we are saying to the American people is that that is exactly what we must do. It will not be the end of the world. It will not be the end of this Congress. It will not be the end of our efforts to cut the deficit. We will start from scratch and we will go back and make real and genuine spending cuts. There have been alternatives and there are alternatives. One is putting jobs and the American people first. That is an alternative to the budget plan of this administration that will reduce the deficit equal to what the President has suggested, and will bring us a balanced budget by the year 2000, and provide tax relief for the middle American family. It can be done. This is not Chicken Little saying the sky is falling, as the Democrats have been saying, if we do not pass this plan. And this leading economist, and many who agree with him say the best thing we can do is walk away from this plan and come up with a new one. I think that is what we need to do.

I hope my colleagues will agree with me this Thursday.

Mr. KNOLLENBERG. Before the gentleman steps away, I have a question that maybe since he is from Arkansas perhaps he has some insight into that I do not. But I know that Clinton the campaigner said certain things, and then of course when he became President-elect that changed. Now I heard him say in my part of the world in Michigan that he was going to cut taxes, particularly on the middle class. I heard also after he became the President-elect that there was some offset in his numbers, that the deficit was worse than he thought, and that something had to be relooked at and reanalyzed. And finally as the President I see him in a third mode where he is saying now that we have to tax.

Did I just hear that in Michigan, or was that the same thing the gentleman heard in Arkansas? Can you give me a little insight perhaps into what took place there?

Mr. HUTCHINSON. All the way through the campaign we heard about the middle-class tax break. That has now evaporated and disappeared. During the campaign we heard opposition to a gasoline tax. He said that was the wrong way to do it. We needed a broad-based energy tax, but we should not go to a gasoline tax. And these are but a couple of examples of where we have seen a dramatic change in what the campaign promised and what has been fulfilled in the reality of the plan. I cannot explain all of that.

I know that in the State of Arkansas during the 12 years that Governor Clinton was our Governor we saw the size of State government quadruple. It increased four times over. I think the President believes in a very activist government. I do not question his sincerity, I do not question his motives, but he believes that big Government and new Government programs will solve the problems that face our society. I have a very sincere disagreement with him on that. I believe that in order to deal with this deficit, we have to dramatically cut spending, and cut the size of the Federal bureaucracy, and cut the size of the Federal Government.

I think there is a philosophic difference, but it is wrong I think to try to present this as a real deficit reduction when the spending cuts are held off to the outyears, and the taxes are made retroactive.

□ 2020

Mr. KNOLLENBERG. I thank the gentleman very much for his comments. I would now like to yield to the gentleman from Illinois [Mr. MANZULLO].

Mr. MANZULLO. I thank the gentleman for yielding.

You know, you cannot really talk about reducing the deficit and eventually eliminating the $4.22 trillion national debt while at the same time increasing the breadth and the scope and the jurisdiction of Government.

Let me give you an example: This past week here in the House of Representatives a bill passed called the national service bill, and that bill will spend somewhere around $7 billion over the next 5 years on a program that gives about $5,000 per year to students who, before, during, or after, put in 2 years of work for an agency of the Federal Government or a charity, at the same time are given child care, health care, and at least minimum wages up to $8.50 an hour.

This same body passed several months ago something called the motor voter registration, and the same body just passed the beginning of a new nationwide computer system that costs $1 billion the initial year, and it amazes me that this Government cannot even stop expanding its size. It cannot even do that. It does not have the constraint, the moral fortitude to say at least, "Let us freeze the size of Government," and you have to do that initially before you start talking about cutting back in other programs.

So, No. 1, there has to be a philosophical commitment not to create any new programs. The second thing is that the Federal Government has to posture itself in the position where we start rethinking our role as Members of the U.S. Congress.

A good example: This past week there was a vote on an appropriation that funded, in part, research on the zebra mussel. Now, I do not know what the zebra mussel is, and I asked the question, and somebody said, one of the Members of Congress said, "Well, that is a nasty little sea critter that is causing a lot of problems with engine intakes on oceangoing and seagoing vessels, and therefore, it is necessary that we spend the money to research to get rid of that problem." And I said, "Has it ever occurred to you that the people who are affected most by this should be paying for their own research?" And he looked at me, and I said, "Why is it that whenever there is a problem, people run to the Federal Government that is broke?"

Most businesses, 99 percent of the businesses, 100 percent of small businesses, if there is a problem going on, they will take the time to research the problem, to change their mode of advertising, if it is a restaurant, perhaps put some new offerings on the menu or take some away or put a sale on or do something and do the market research necessary in order for the business to succeed. But yet we have this Federal mentality that says, "Well, let us run off to the Federal Government."

And the third thing is there has to be a commitment to dramatically cut back on the existing programs that we have.

Let me give you an example: President Clinton is asking the American people to make sacrifices, to pay more for the gasoline taxes and at the same time we voted last week to spend $400,000 to build a bike path, or repave a bike path, in northern Virginia. You know, I would submit that the American people are extremely intelligent, because they understand that government has to have at least some semblance of comparison to the private sector.

In other words, if a family is not making it financially, it looks at its budget and says, "Well, let us cut this out and let us cut that out," and it measures that budget against the money that is coming in. I would submit that a person who is working at a job at a factory, if he says, "You know, I want to buy something more," does he simply go to his boss and say, "You know, I need a $3-an-hour increase because I want to buy more things"? The foreman will say, "Well, you cannot have an increase. You will have to live within your means."

I would ask my colleague from Michigan: Why is it that working within the budget is so complicated to the Federal Government?

Mr. KNOLLENBERG. You know, just in responding to that, one of the things that I would not mind doing just to show you some of the anguish that is going on in the households around the country and particularly in my own district in Michigan, here is a letter that somebody has written. It is a handwritten letter from one of my constituents that talks about the problems that are facing them.

Incidentally, these problems have not hit home yet. There is just talk about what is going to take place. The other shoe has not dropped. We have not seen the effects yet of the retroactive tax on incomes. We have not seen the effects on small business.

But here is a couple that writes, and I am quoting from their letter, "The world," and they are talking about the world, "is just starting to climb out of this recession, and the Democratic administration, the Democratic Congress are going to bankrupt this country. It is going to drive my small business out of business and force us to close our doors, and those of us that are fortunate to have a job will be carrying the burden for everybody else." It just illustrates, I think, some of the gloom that permeates many households in my district, I am sure yours as well.

And I could add to other letters about people in a small-business capacity who are writing, and they are saying things like, "My husband and our partners and I have had to make many sacrifices. We had to move our office into our home and let employees go." This is during the recession, and now they are still looking at what is yet to come; as a result of the recession, which was caused, by the way, by the 1990 budget, we should have learned in 1990 when we had $150 billion in taxes that that was enough.

But here we are at the same old trough again, and we know this never works.

But from what I have seen and read, it looks like the budget plan of 1993 has all the same ingredients, and it will cause more of the same.

So this is a person in my district, a person who has a small business, a person who is concerned about the future and sees it, and frankly sees the problems, but perhaps it has not answered the gentleman's question, but at least it points out, I think, the problems that we have that we are dealing with right now, and here we are trying to tax our way out of a recession, something that has never worked, has not worked since 1945 or before.

Mr. MANZULLO. Is it not interesting that in October of 1990 when he was a Member of this body, now the Director of the Office of Management and Budget, Leon Panetta spoke, and he said, "You know, this 5-year plan," in October of 1990, "is for real taxes and real deficit reduction, and it is going to take an act of courage on the part of the Members of the House of Representatives to vote for this plan, because it will reduce the deficit by $500 billion over 5 years." And you can almost take exactly, word for word, that which was stated by Mr. Panetta and time-warp it 2½ years down the line, and it is the same old stuff.

The bottom line is the fact that it is the desire of many Members of Congress to increase the size, to increase the scope, to increase the authority, to increase the jurisdiction, to increase the power that the Federal Government has over the people.

If you tax people 10 percent, you control 10 percent of their lives. If you tax the people 20 percent, you control 20 percent of their lives. If you tax the people 50 percent, you control 50 percent of their lives.

It is so ironic that in the countries of Sweden and the great citadels of the social welfare state that are now falling apart and where people realize that a large government that tries to control essentially the entire person is simply not working, and as those governments crumble and scale down in size, we pick up their problems and end up being in their situation. It does not make sense.

Mr. KNOLLENBERG. I thank the gentleman from Illinois for his comments and appreciate his being a part of this process this evening.

I would like now to turn to and to yield to our colleague, the gentleman from Michigan [Mr. HOEKSTRA].

☐ 2030

Mr. HOEKSTRA. I thank the gentleman.

In terms of taking a look at what the President's plan does, I would like to really reiterate some of the points that I think were brought up earlier in the special order. I think perhaps the most important reality that we have to create for the American people is that we continue to talk about reducing Government spending. But if you take a look at what actually happens to Government spending, we find that through the 5 years of this plan, Government spending continues to grow. As a matter of fact, it grows from about $1.468 trillion in 1993 to over $1.78 trillion in 1998. That is an increase of 21 percent. So, during those 5 years the Federal Government spending grows by 21 percent. I do not call that cutting spending or decreasing the size of the Federal Government.

It is also interesting to note that during that same time span, spending on defense is estimated to decrease from $277 to $239 billion, or a 13-percent decrease in spending on defense.

What we are seeing during these 5 years is a continuing expansion of Government spending on programs in this country. It is very much a tax-and-spend program.

One thing that I find very interesting, the gentleman and I are both freshmen, and I know we find that coming to Washington, having witnessed the budget deal of 1990, which promised to do many of these same things, a slight increase in taxes, cutting spending, and the net result would be that the budget deficit would be decreased. Here we are now, freshmen in 1993, and we are wrestling with the same problems that the Congress was dealing with in 1990. So, we have not made any progress.

At least that is how it looks to me.

What I find amazing is that the types of things that the gentleman and I campaigned for—and I think what many of the people who came to Congress, 110 new freshmen campaigned for, things like a line-item veto, balance budget amendment, things that would really restore some fiscal soundness to the budget of this country and would give us some credibility with the American people, when we said, "We are giving you this plan, but at the same time we are putting in controls to make sure that we are going to deliver on these promises," those things are buried in committee. We have not seen those things debated on the floor of the House, they have not been debated in committee, we have not had the opportunity to vote for them on the floor of the House.

So, when people are talking about doing things differently, what we are seeing in 1993 is much the same as what we saw in 1990, politics and business as usual. The numbers are different, the players are different, the rules are the same, and it looks to me like we have not changed the dynamics and the responsibility and accountability either in Congress or at the executive level.

I do not know if the gentleman has any comments, whether he is as frustrated as I am that we are not making these institutional changes.

Mr. KNOLLENBERG. It is very difficult; in fact, one of the things we both found as we came to Congress—and I think this is true on the Democratic side as on the Republican side—that Congress, of course, is a matter of seniority. Obviously, it does take time, you have got to get your feet wet, you cannot expect to be running before you crawl and walk in this business.

But I do think it is difficult to change the structure here, just because of the fact that this is the way the business has been going, the way things have been done for a great length of time.

Yes, it is frustrating. I do not know that any of us found that we could change those things as quickly as we would have liked. It is not a 30-, 60-, 90-day kind of thing.

I come from a business background, as the gentleman does, and we know what we have to do to get things rolling. That does not seem to be the way things get done in this body. It is frustrating. I share that same bewilderment and frustration.

In the interest of closing out here, I yield back to the gentleman because I know he has some final comments as well as I do.

Mr. HOEKSTRA. I thank the gentleman.

We have both taken a look at the President's plan. I think as we have the opportunity to get the numbers this week, we have decided that in our own judgment that that plan is not the best plan for the country, that increasing taxes, delaying cuts in spending, are not what we were elected to do when we came to this Congress.

So that we will probably vote against the plan on Thursday.

But I think at the same time we are agreed that if and when the President would come for structural changes and carry through on some of the promises that he asked for, when he asked for line-item veto and the balanced budget amendment to the Constitution and term limits, that the gentleman and I would be willing to work with him and aggressively push that package for change, real fundamental change in how this Congress and the Government works. We would be there with him, but in reality he has not asked for those types of changes. We are not here to continue politics as usual, we are here to make a change and we think structural changes are perhaps more important and are the right thing to do because those are the types of things that if we made those changes we could go back to the American people and say, "Here is a package, here are the numbers, here is the change in the structure that is going to guarantee that we are going to implement these numbers."

Just think of what a different debate it would be on the floor of the House if we knew that in 1995 or 1996, there was a constitutional amendment that said, "You have to have a balanced budget." I think that the dialog, the debate, would be so constructive, because we would have an objective clearly laid on us and we would be accountable for making those changes and those decisions, and the best thing would be we would have solved the problem.

I think that is what is frustrating the American people as they look at these numbers and they look at it and say, "Still in 1998 you have a $250 billion deficit. We have not solved the problem." But if we put in a balanced budget amendment, give the President a true line-item veto, there would be a real hope and a commitment and an accountability that in 1996 or 1997, we could all go back to the voters and say that we have fixed the problem that they sent us here to fix; the budget is balanced and we put the tools in place to continue this country going in the right direction.

I once again thank the gentleman very much for organizing this special order.

Mr. KNOLLENBERG. I thank the gentleman kindly. Those remarks, incidentally, are very clear in my district as well, the American people are opposed to tax increases.

What they are looking for by a margin of 7 to 1 in my district, they are opposed to the Clinton package, they are after some relief, and they do not need more Government. Government should not be growing to the point where it has become a monster. I think we have to stop feeding that monster.

Madam Speaker, I want to conclude by thanking all of the colleagues who have appeared with me this evening to support, in fact, a move that would oppose this tax hike, because the American people do not want it. In overwhelming numbers they do not want this. I think we have to look at what damage has already been done to the economy. In terms of the fact that the other shoe has not dropped as far as the final taxes are concerned, we are looking for more growth in Government, and I think that squeezes the dollar so that individuals have less discretionary dollars to spend on goods and services and what have you.

□ 2040

Madam Speaker, I would like to finish with a brief paragraph from President Reagan's excellent article in the New York Times of today:

> Over the years I have been known as an optimist, always believing that better days lie ahead, but right now I have serious concerns about the future of America if this tax and spend plan becomes law. I fear for the loss of opportunity that Americans have always had to make better lives for themselves and their families. I worry about America's place in the world if our economy falls into the deep doldrums that this program will certainly bring.

Madam Speaker, I share former President Reagan's concerns, and I urge my colleagues to join me in opposing the largest tax hike in history.

THE PRESIDENT'S BUDGET PLAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. ROYCE] is recognized for 5 minutes.

Mr. ROYCE. Madam Speaker, after hearing the statement tonight of the President on his plan, let me just react by making several observations.

I believe we have a budget deficit, not because Federal taxes are too low, but because Federal spending is too high.

The problem with President Clinton's budget is that it both raises taxes and increases spending. In fact, under the President's budget, spending would rise from $1.4 to $1.8 trillion in 1998.

I think spending must be brought under control before Congress even thinks of asking the American people for more taxes.

The President's budget calls for raising over $3 in new taxes for every $1 in proposed spending cuts and it funds many new spending programs. It will institute a new tax on up to 85 percent of senior citizens' Social Security benefits.

If President Clinton had kept his commitment to cut spending and reduce taxes for the middle class, I would have voted for his budget, but most of the so-called spending cuts in the President's budget are really just promises to cut spending 4 or 5 years down the road, promises that will probably be forgotten by the big spenders who control Congress, while most of the tax increases in the plan go into effect, and indeed many go into effect retroactively.

I voted for an alternative budget put forward in the House which called for over 150 specific spending cuts with no tax increases.

In summary, I voted for a plan that would have substantially reduced the deficit through cuts in wasteful spending. I voted against President Clinton's budget because it calls for the biggest tax increase in U.S. history and even more spending, a sure-fire prescription to make our weak economy even weaker.

Economists say the President's tax hikes will increase consumer prices. It will slow economic growth and lead to the loss of over 600,000 jobs. That is why I must oppose the President's plan again.

CONFERENCE REPORT ON H.R. 2493

Mr. DURBIN submitted the following conference report and statement on the bill (H.R. 2493) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1994, and for other purposes:

CONFERENCE REPORT (H. REPT. 103–212)

The Committee of Conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2493) "making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1994, and for other purposes," having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 5, 44, 48, 51, 52, 53, 55, 57, 59, 66, 72, 75, 76, 80, 82, 83, 84, 89, 90, 91, 92, 104, 105, 109, 113, 118, 120, 122, 123, 124, 125, 126, 127, 129, 130, 131, 132, 133, 135, 139, 140, 141, 143, 144, 145, 146, 147, 148, 149, 150, 151, 156, 157, 160, 161, 162, 163, 165, 166, and 167.

That the House recede from its disagreement to the amendments of the Senate numbered 23, 30, 32, 33, 34, 35, 38, 39, 41, 42, 62, 69, 73, 77, 81, 85, 86, 87, 93, 94, 95, 106, 116, 117, and 119, and agree to the same.

Amendment numbered 1:

That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$2,308,000*; and the Senate agree to the same.

Amendment numbered 2:

That the House recede from its disagreement to the amendment of the Senate numbered 2, and agree to the same with amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$550,000*; and the Senate agree to the same.

Amendment numbered 3:

That the House recede from its disagreement to the amendment of the Senate numbered 3, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$5,881,000*; and the Senate agree to the same.

Amendment numbered 4:

That the House recede from its disagreement to the amendment of the Senate numbered 4, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$803,000*; and the Senate agree to the same.

Amendment numbered 6:

That the House recede from its disagreement to the amendment of the Senate numbered 6, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$1,325,000*; and the Senate agree to the same.

Amendment numbered 7:

That the House recede from its disagreement to the amendment of the Senate numbered 7 and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$8,570,000*; and the Senate agree to the same.

Amendment numbered 9:

That the House recede from its disagreement to the amendment of the Senate numbered 9 and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$475,000*; and the Senate agree to the same.

Amendment numbered 10:

That the House recede from its disagreement to the amendment of the Senate numbered 10 and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$65,530,000*; and the Senate agree to the same.

Amendment numbered 11:

That the House recede from its disagreement to the amendment of the Senate numbered 11, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$25,992,000*; and the Senate agree to the same.

Amendment numbered 12:

That the House recede from its disagreement to the amendment of the Senate numbered 12, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$586,000*; and the Senate agree to the same.

Amendment numbered 13:

That the House recede from its disagreement to the amendment of the Senate numbered 13, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$55,219,000*; and the Senate agree to the same.

Amendment numbered 14:

That the House recede from its disagreement to the amendment of the Senate numbered 14, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$81,764,000*; and the Senate agree to the same.

Amendment numbered 15:

That the House recede from its disagreement to the amendment of the Senate numbered 15, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$2,566,000*; and the Senate agree to the same.

Amendment numbered 16:

That the House recede from its disagreement to the amendment of the Senate numbered 16, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$566,000*; and the Senate agree to the same.

Amendment numbered 17:

That the House recede from its disagreement to the amendment of the Senate numbered 17, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$9,000,000*; and the Senate agree to the same.

Amendment numbered 20:

That the House recede from its disagreement to the amendment of the Senate numbered 20, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$32,743,000*; and the Senate agree to the same.

Amendment numbered 22:

That the House recede from its disagreement to the amendment of the Senate numbered 22, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$20,809,000*; and the Senate agree to the same.

Amendment numbered 24:

That the House recede from its disagreement to the amendment of the Senate numbered 24, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$112,150,000*; and the Senate agree to the same.

Amendment numbered 25:

That the House recede from its disagreement to the amendment of the Senate numbered 25, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$1,818,000*; and the Senate agree to the same.

Amendment numbered 26:

That the House recede from its disagreement to the amendment of the Senate numbered 26, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$500,000*; and the Senate agree to the same.

Amendment numbered 27:

That the House recede from its disagreement to the amendment of the Senate numbered 27, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$7,400,000*; and the Senate agree to the same.

Amendment numbered 31:

That the House recede from its disagreement to the amendment of the Senate numbered 31, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$272,582,000*; and the Senate agree to the same.

Amendment numbered 37:

That the House recede from its disagreement to the amendment of the Senate numbered 37, and agree to the same with an amendment, as follows:

In lieu of the sum named in said amendment insert: *$1,500,000*; and the Senate agree to the same.

Amendment numbered 45:

That the House recede from its disagreement to the amendment of the Senate numbered 45, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$687,000*; and the Senate agree to the same.

Amendment numbered 46:

That the House recede from its disagreement to the amendment of the Senate numbered 46, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$439,564,000*; and the Senate agree to the same.

Amendment numbered 49:

That the House recede from its disagreement to the amendment of the Senate numbered 49, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$11,532,000*; and the Senate agree to the same.

Amendment numbered 56:

That the House recede from its disagreement to the amendment of the Senate numbered 56, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$12,123,000*; and the Senate agree to the same.

Amendment numbered 58:

That the House recede from its disagreement to the amendment of the Senate numbered 58, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$560,000*; and the Senate agree to the same.

Amendment numbered 60:

That the House recede from its disagreement to the amendment of the Senate numbered 60, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$575,000*; and the Senate agree to the same.

Amendment numbered 61:

That the House recede from its disagreement to the amendment of the Senate numbered 61, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$591,049,000*; and the Senate agree to the same.

Amendment numbered 63:

That the House recede from its disagreement to the amendment of the Senate numbered 63, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$241,965,000*; and the Senate agree to the same.

Amendment numbered 64:

That the House recede from its disagreement to the amendment of the Senate numbered 64, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$40,786,000*; and the Senate agree to the same.

Amendment numbered 65:

That the House recede from its disagreement to the amendment of the Senate numbered 65, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$28,631,000*; and the Senate agree to the same.

Amendment numbered 67:

That the House recede from its disagreement to the amendment of the Senate numbered 67, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$18,500,000*; and the Senate agree to the same.

Amendment numbered 68:

That the House recede from its disagreement to the amendment of the Senate numbered 68, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended as follows:

In lieu of the sum named insert: *$8,000,000*; and the Senate agree to the same.

Amendment numbered 70:

That the House recede from its disagreement to the amendment of the Senate numbered 70, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$66,675,000*; and the Senate agree to the same.

Amendment numbered 71:

That the House recede from its disagreement to the amendment of the Senate numbered 71, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$580,000*; and the Senate agree to the same.

Amendment numbered 79:

That the House recede from its disagreement to the amendment of the Senate numbered 79, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$446,694,000*; and the Senate agree to the same.

Amendment numbered 88:

That the House recede from its disagreement to the amendment of the Senate numbered 88, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$123,783,000*; and the Senate agree to the same.

Amendment numbered 96:

That the House recede from its disagreement to the amendment of the Senate numbered 96, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$18,903,000*; and the Senate agree to the same.

Amendment numbered 97:

That the House recede from its disagreement to the amendment of the Senate numbered 97, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$869,443,000*; and the Senate agree to the same.

Amendment numbered 98:

That the House recede from its disagreement to the amendment of the Senate numbered 98, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$35,250,000*; and the Senate agree to the same.

Amendment numbered 99:

That the House recede from its disagreement to the amendment of the Senate numbered 99, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$300,000,000*; and the Senate agree to the same.

Amendment numbered 100:

That the House recede from its disagreement to the amendment of the Senate numbered 100, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$249,381,000*; and the Senate agree to the same.

Amendment numbered 101:

That the House recede from its disagreement to the amendment of the Senate numbered 101, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$115,786,000*; and the Senate agree to the same.

Amendment numbered 102:

That the House recede from its disagreement to the amendment of the Senate numbered 102, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$21,723,000*; and the Senate agree to the same.

Amendment numbered 103:

That the House recede from its disagreement to the amendment of the Senate numbered 103, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$2,319,000*; and the Senate agree to the same.

Amendment numbered 107:

That the House recede from its disagreement to the amendment of the Senate numbered 107, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$3,000,000*; and the Senate agree to the same.

Amendment numbered 108:

That the House recede from its disagreement to the amendment of the Senate numbered 108, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$500,000,000*; and the Senate agree to the same.

Amendment numbered 112:

That the House recede from its disagreement to the amendment of the Senate numbered 112, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$42,500,000*; and the Senate agree to the same.

Amendment numbered 114:

That the House recede from its disagreement to the amendment of the Senate numbered 114, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$100,000,000*; and the Senate agree to the same.

Amendment numbered 115:

That the House recede from its disagreement to the amendment of the Senate numbered 115, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$33,266,000*; and the Senate agree to the same.

Amendment numbered 121:

That the House recede from its disagreement to the amendment of the Senate numbered 121, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$551,000*; and the Senate agree to the same.

Amendment numbered 128:

That the House recede from its disagreement to the amendment of the Senate numbered 128, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$1,853,000*; and the Senate agree to the same.

Amendment numbered 134:

That the House recede from its disagreement to the amendment of the Senate numbered 134, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$5,500,000*; and the Senate agree to the same.

Amendment numbered 158:

That the House recede from its disagreement to the amendment of the Senate numbered 158, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$100,000,000*; and the Senate agree to the same.

Amendment numbered 159:

That the House recede from its disagreement to the amendment of the Senate numbered 159, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert: *$75,000*; and the Senate agree to the same.

The committee of conference report in disagreement amendments numbered 8, 18, 19, 21, 28, 29, 36, 40, 43, 47, 50, 54, 74, 78, 110, 111, 136, 137, 138, 142, 152, 153, 154, 155, and 164.

Richard J. Durbin,
Jamie L. Whitten,
Marcy Kaptur,
Ray Thornton,
Rosa L. DeLauro,
Pete Peterson,
Ed Pastor,
Neal Smith,
William H. Natcher,

JOE SKEEN,
BARBARA F. VUCANOVICH,
JAMES T. WALSH,
JOSEPH M. MCDADE,
Managers on the Part of the House.

DALE BUMPERS,
TOM HARKIN,
J. ROBERT KERREY,
J. BENNETT JOHNSTON,
HERB KOHL,
DIANNE FEINSTEIN,
ROBERT C. BYRD,
THAD COCHRAN,
ARLEN SPECTER,
CHRISTOPHER S. BOND,
PHIL GRAMM,
SLADE GORTON,
MARK O. HATFIELD,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2493) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1994, and for other purposes, submit the following joint statement to the House and Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

CONGRESSIONAL DIRECTIVES

The conferees agree that executive branch wishes cannot substitute for Congress' own statements as to the best evidence of congressional intentions—that is, the official reports of the Congress. The conferees further point out that funds in this Act must be used for the purposes for which appropriated, as required by section 1301 of title 31 of the United States Code, which provides: "Appropriations shall be applied only to the objects for which the appropriations were made except as otherwise provided by law."

Report language included by the House which is not changed by the report of the Senate, and Senate report language which is not changed by the conference are approved by the committee of conference. The statement of the managers, while repeating some report language for emphasis, does not intend to negate the language referred to above unless expressly provided herein.

TITLE I—AGRICULTURAL PROGRAMS

PRODUCTION, PROCESSING, AND MARKETING

OFFICE OF THE SECRETARY

Amendment No. 1: Appropriates $2,308,000 for the Office of the Secretary instead of $2,320,000 as proposed by the House and $2,295,000 as proposed by the Senate.

OFFICE OF THE DEPUTY SECRETARY

Amendment No. 2: Appropriates $550,000 for the Office of the Deputy Secretary instead of $553,000 as proposed by the House and $546,000 as proposed by the Senate.

OFFICE OF BUDGET AND PROGRAM ANALYSIS

Amendment No. 3: Appropriates $5,881,000 for the Office of Budget and Program Analysis instead of $5,954,000 as proposed by the House and $5,781,000 as proposed by the Senate.

OFFICE OF THE ASSISTANT SECRETARY FOR ADMINISTRATION

Amendment No. 4: Appropriates $803,000 for the Office of the Assistant Secretary for Administration instead of $808,000 as proposed by the House and $798,000 as proposed by the Senate.

ADVISORY COMMITTEES

The conferees support the work of the National Organic Standards Board and expect the Department to provide an appropriate level of funding.

HAZARDOUS WASTE MANAGEMENT

The conferees understand the Department is doing the engineering work in preparation of cleaning up two uranium mines in Lake County, Oregon, and anticipate that the Forest Service will provide for the actual cost of cleaning up these properties.

DEPARTMENTAL ADMINISTRATION

Amendment No. 5: Appropriates $26,301,000 for Departmental Administration as proposed by the House instead of $25,960,000 as proposed by the Senate.

OFFICE OF THE ASSISTANT SECRETARY FOR CONGRESSIONAL RELATIONS

Amendment No. 6: Appropriates $1,325,000 for the Office of the Assistant Secretary for Congressional Relations instead of $1,333,000 as proposed by the House and $1,317,000 as proposed by the Senate.

OFFICE OF PUBLIC AFFAIRS

Amendment No. 7: Appropriates $8,570,000 for the Office of Public Affairs instead of $8,629,000 as proposed by the House and $8,510,000 as proposed by the Senate.

Amendment No. 8: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which makes permanent the elimination of the Yearbook of Agriculture.

INTERGOVERNMENTAL AFFAIRS

Amendment No. 9: Appropriates $475,000 for Intergovernmental Affairs instead of $478,000 as proposed by the House and $472,000 as proposed by the Senate.

OFFICE OF THE INSPECTOR GENERAL

Amendment No. 10: Appropriates $65,530,000 for the Office of the Inspector General instead of $65,932,000 as proposed by the House and $64,872,000 as proposed by the Senate.

OFFICE OF THE GENERAL COUNSEL

Amendment No. 11: Appropriates $25,992,000 for the Office of the General Counsel instead of $26,149,000 as proposed by the House and $25,835,000 as proposed by the Senate. The conferees agree that the Department shall provide technical assistance to the six counties within the Columbia River Gorge National Scenic Area as authorized by the Columbia River Gorge National Scenic Area Act of 1986.

OFFICE OF THE ASSISTANT SECRETARY FOR ECONOMICS

Amendment No. 12: Appropriates $586,000 for the Office of the Assistant Secretary for Economics instead of $589,000 as proposed by the House and $582,000 as proposed by the Senate.

ECONOMIC RESEARCH SERVICE

Amendment No. 13: Appropriate $55,219,000 for the Economic Research Service instead of $57,702,000 as proposed by the House and $51,219,000 as proposed by the Senate.

NATIONAL AGRICULTURAL STATISTICS SERVICE

Amendment No. 14: Appropriates $81,764,000 for the National Agricultural Statistics Service instead of $82,069,000 as proposed by the House and $81,458,000 as proposed by the Senate.

WORLD AGRICULTURAL OUTLOOK BOARD

Amendment No. 15: Appropriates $2,566,000 for the World Agricultural Outlook Board instead of $2,582,000 as proposed by the House and $2,550,000 as proposed by the Senate.

OFFICE OF THE ASSISTANT SECRETARY FOR SCIENCE AND EDUCATION

Amendment No. 16: Appropriates $566,000 for the Office of the Assistant Secretary for Science and Education instead of $569,000 as proposed by the House and $562,000 as proposed by the Senate.

ALTERNATIVE AGRICULTURAL RESEARCH AND COMMERCIALIZATION

Amendment No. 17: Appropriates $9,000,000 for Alternative Agricultural Research and Commercialization instead of $7,250,000 as proposed by the House and $12,000,000 as proposed by the Senate. The conferees agree that no additional centers will be designated beyond the two already designated.

AGRICULTURAL RESEARCH SERVICE

Amendment No. 18: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: *$692,469,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement is based on the following changes to the base program:

[In thousands of dollars]

	House bill	Senate bill	Conference agreement
1. Sweet potato whitefly	1,000	1,000	1,000
2. Methyl bromide	1,000	1,000	1,000
3. Grass seed cropping systems for sustainable agriculture	500	500	500
4. Dairy management	200		200
5. Animal Health Consortium, Ames, IA		128	64
6. Arkansas staffing:			
Fayetteville		250	125
Stuttgart		250	125
Booneville		500	500
Pine Bluff		250	125
Subtotal		1,250	875
7. Wild rice	150		150
8. Grape phylloxera	200		100
9. Grape virology		200	100
10. Hops research		50	50
11. Meat animal research, Clay Center, NE		500	500
12. Human nutrition, Lower Mississippi Delta		100	50
13. Midsouth Research Center (Heliothis), MS		500	500
14. National Warmwater Aquaculture Center, Stoneville, MS		250	125
15. Northwest Small Fruit Research Center		500	250
16. Value added research, Clemson U., SC/New Orleans, LA		500	250
17. Human Nutrition Information Service	10,068		11,068
18. All other	675,687	673,687	675,687
Total	688,805	680,165	692,469

The conferees agree that a portion of the methyl bromide increase may be used for contracting with the National Academy of Sciences to conduct a review of the scientific basis for listing methyl bromide as a class I controlled substance because of its ozone depleting potential.

Amendment No. 19: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which makes permanent a provision that allows Agricultural Research Service funds to be used to provide financial assistance to the organizers of national and international conferences.

The conferees expect that the Agricultural Research Service will not redirect support for programs from one State to another without prior notification to and approval by the House and Senate Committees on Appropriations.

BUILDINGS AND FACILITIES

Amendment No. 20: Appropriates $32,743,000 for the Agricultural Research Service, Buildings and Facilities instead of $29,387,000 as proposed by the House and $32,788,000 as proposed by the Senate.

The following table reflects the conference agreement:

BUILDINGS AND FACILITIES

[In thousands of dollars]

	Fiscal year 1993 enacted	House bill	Senate bill	Conference agreement
Arkansas: Rice Germplasm Center, Stuttgart	702	....	5,950	3,828
California:				
Horticulture Crops Research Lab, Fresno to Parlier	(1)	2,500	2,760	2,630
Western Regional Research Center	....	2,321	....	1,161
District of Columbia: National Aboretum	....	1,000	....	500
Florida: Citrus Research Lab, Orlando	(1)	2,900	2,900	2,900
Iowa:				
National Swine Research Facility	1,524	4,024	5,024	4,524
Necropsy/incinerator	....	3,900	3,900	3,900
Louisiana: Southern Regional Research Center	1,651	1,778	3,555	2,667
Maryland: Beltsville Agricultural Research Center	13,547	(2)	(2)	(2)
Mississippi:				
National Center for Natural Products	4,382	4,382	4,382	4,382
National Center for Warm Water Aquaculture	931	931	2,500	1,716
New York: Plum Island Animal Disease Center	2,540	2,950	....	1,475
Ohio: Demonstration greenhouse	158	200	....	200
South Carolina: U.S. Vegetable Lab, Charleston	....	....	1,817	909
Texas:				
Plant Stress Lab, Texas Tech. University	1,101	1,101	....	551
Subtropical Lab, Weslaco	(3)	1,400	....	1,400
Miscellaneous: ARS facilities	7,978	....	....	....
Total, buildings and facilities	34,514	29,387	32,788	32,743

[1] Funded under miscellaneous ARS facilities.
[2] Funded under rental payments.
[3] Report requested.

Amendment No. 21: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which makes permanent the language regarding the bonsai collection at the National Arboretum.

COOPERATIVE STATE RESEARCH SERVICE

Amendment No. 22: Earmarks $20,809,000 for cooperative forestry research instead of $18,809,000 as proposed by the House and $22,809,000 as proposed by the Senate.

SPECIAL RESEARCH GRANTS

Amendment No. 23: Appropriates $72,917,000 for special research grants as proposed by the Senate instead of $50,070,000 as proposed by the House.

The following table reflects the conference agreement:

[In thousands of dollars]

	Fiscal year 1993 enacted	House bill	Senate bill	Conference agreement
Special research grants (Public Law 89–106):				
Aflatoxin (IL)	134	134	....	134
Agribusiness management (MS)	75	75	75	75
Agricultural diversification (HI)	154	....	154	154
Agricultural management systems (MA)	261	261	261	261
Alfalfa (KS)	125	....	125	125
Alternative cropping systems (Southeast)	278	....	278	278
Alternative crops (ND)	700	700	700	700
Alternative crops for arid lands (TX)	....	100	....	100
Alternative Marine and Fresh Water Species (MS)	275	275	275	275
Alternative pest control (AR)	1,400	....	1,400	1,400
Animal waste disposal (MI)	120	....	120	....
Apple pest control (CA)	....	....	250	250
Apple quality research (MI)	94	....	94	....
Aquaculature research	316	316	....	316
Aquaculature (IL)	200	200	....	200
Aquaculature (LA)	390	390	390	390
Aquaculture (Stoneville, MS)	700	700	700	700
Asian Products lab (OR)	....	....	250	250
Asparagus yield decline (MI)	94	....	94	....
Bacoc Institute (WI)	75	75	250	250
Bean and beet (MI)	189	....	189	....
Beef carcass evaluation and identification (IA, NY, GA, TX, IL)	210	210	....	210
Beef fat content (IA)	237	237	237	237
Biodiesel research (MO)	50	....	150	150
Broom snakeweed (NM)	200	200	200	200
Canola (KS)	100	....	100	100
Celery fusarium (MI)	39	....	39	....
Center for animal health and productivity (PA)	134	134	....	134
Center for rural studies (VT)	37	....	37	37
Chesapeake bay aquaculature	437	437	437	437
Competitiveness of agricultural products (WA)	800	800	800	800
Controlled environment production systems (PA)	240	240	....	240
Cool season legume research (ID, WA)	387	387	387	387
Cottonseed extraction and oil refining (TX)	75	75	....	75
Cranberry/blueberry disease and breeding (NJ)	260	260	260	260
CRP acreage usage (MO)	....	....	150	150
Dairy goat research (TX)	75	75	....	75
Delta rural healthcare (AR)	....	....	117	117
Delta rural revitalization (MS)	175	175	175	175
Dogwood anthracnose (GA, NC, TN)	137	....	137	137
Dried bean (ND)	100	....	100	100
Eastern filbert blight (OR)	85	....	85	85
Energy biomass/biofuels	....	500	....	500
Entomology acoustics detection (MS)	....	....	200	200
Environmental research (NY)	575	575	....	575
Expanded wheat pasture (OK)	337	....	337	337
Farm and rural business finance (IL, AR)	125	....	125	125
Fish marketing (OR, RI)	340	....	340	340
Floriculture (HI)	296	....	296	296
Food and Agriculture Policy Institute (IA, MO)	750	750	750	750
Food irradiation (IA)	237	237	237	237
Food marketing policy center (CT)	393	393	393	393
Food processing center (NE)	50	....	50	50
Food safety consortium (AR, KS, IA)	1,942	....	1,942	1,942
Food systems research group (WI)	261	261	261	261
Forestry (AR)	....	....	500	500
Forestry marketing (VT, NH)	50	....	50	50
Fruit and vegetable market analysis (AZ, MO)	....	350	350	350
Generic commodity promotion research and evaluation (NY)	....	250	....	250
Global change	2,000	....	2,500	1,250
Global marketing support service (AR)	....	....	50	50
Grass seed cropping systems for a sustainable agriculture (WA, OR, ID)	....	500	....	500
Great Plains agricultural policy center (OK)	100	100	50	50
Human nutrition (AR)	....	500	....	500
Human nutrition (IA)	500	500	500	500
Human nutrition (LA)	800	800	800	800
Human nutrition (NY)	735	735	....	735
Improved dairy management practices (PA)	335	350	340	350
Improved fruit practices (MI)	....	350	....	525
Integrated pest management and bio control	4,457	5,728	5,728	3,228
Integrated production systems (OK)	190	....	190	190
International arid lands consortium	....	350	350	350
Iowa biotechnology consortium	2,000	....	2,000	2,000
Jointed goatgrass (WA)	....	350	350	350
Livestock and dairy policy (NY, TX)	525	525	....	525
Lowbush blueberry research (ME)	185	185	221	221
Low-input agriculture (MN)	230	230	....	230
Maple research (VT)	99	....	99	99
Michigan biotechnology consortium	2,358	2,358	....	2,358
Midwest advanced food manufacturing alliance	....	....	500	500
Midwest agricultural products (IA)	700	700	700	700
Midwest plant biotechnology consortium	2,865	2,865	2,865	2,865
Midwest feeds consortium	....	500	....	500
Milk safety (PA)	184	....	285	285
Minor use animal drugs (IR-4)	464	562	650	650
Multi-commodity research (OR)	300	....	300	300
Multi-cropping strategies for aquaculature (HI)	150	....	150	150
National biological impact assessment	300	300	....	300
Nematode resistance genetic engineering (NM)	150	150	150	150
New method of weed control (ND)	500	500	500	500
New uses for agricultural products (OH)	140	140	....	140
Non-food agricultural products (NE)	110	....	110	110
Oil resources from desert plants (NM)	200	200	200	200
Oregon—Massachusetts biotechnology	256	....	512	512
Peach tree short life (SC)	192	....	192	192
Perishable commodities (GA)	250	....	250	250
Pest control alternatives (SC)	125	....	125	125
Pesticide clearance (IR-4)	3,500	6,750	6,750	6,750
Pesticide impact assessment	2,968	2,968	2,968	1,568
Pesticide research (WA)	667	667	667	667
Phytophthora root rot (NM)	150	150	150	150
Potato research	1,435	750	1,435	1,435
Preservation and processing research (OK)	267	....	267	267
Procerum root disease (VA)	25	25	....	25
Product development and marketing center (ME)	221	....	425	425
Red River Corridor (MN, ND)	200	200	200	200
Regional barley gene mapping project	412	412	412	412
Regionalized implications of farm programs (MO, TX)	348	348	348	348
Rural development centers (PA, IA (ND), MS, OR)	500	500	500	500
Rural housing needs (NE)	80	....	80	80
Rural policies institute (AR, NE, MO)	692	....	525	525
Russian wheat aphid (WA, OR, CO, CA)	437	537	437	537
Saltcedar (NM)	....	200	....	(1)
Seafood and aquaculture harvesting, processing, and marketing (MS)	361	361	361	361
Seafood research (OR)	327	....	325	325
Small fruit research (OR, WA, ID)	187	187	250	250
Soil and water research (OH)	240	200	....	200
Southwest consortium for plant genetics and water resources	400	400	400	400
Soybean bioprocessing (IA)	328	....	328	328
Soybean cyst nematode (MO)	359	359	359	359
STEEP II—water quality in Northwest	980	980	980	980
Stone fruit decline (MI)	283	....	283	....
Subirrigation research (MI)	531	....	531	....
Sunflower insects (ND)	200	....	150	150
Sustainable agriculture (MI)	....	350	....	525
Sustainable agriculture and natural resources (PA)	100	....	100	100
Sustainable agriculture systems (NE)	70	....	70	70
Swine research (MN)	140	140	140	140
Taxol cultivation (CT)	....	50	....	50
Tillage, silviculture, waste management (LA)	....	....	250	250
Tropical and subtropical	3,320	3,320	3,320	3,320
Urban pests (GA)	76	76	....	76
Value-added wheat (KS)	....	....	250	250
Waste utilization (NC)	....	440	....	440
Water conservation (KS)	94	....	94	94
Water conservation (NV)	200	200	200	200
Water management (AL)	398	....	398	398
Water quality	8,950	....	9,000	4,500
Wheat genetic research (KS)	159	....	209	209
Wild rice research (MN)	88	....	88	....
Wood utilization research (OR, MS, MI, ME, NC, MN)	4,153	....	4,153	4,443
Wool research (TX, MT, WY)	250	250	....	250
Other grants	3,201	....	....	....
Total, special research grants	73,411	50,070	72,917	72,917

[1] Funded under SCS.

Wood utilization research.—The conference agreement provides a total of $4,443,000 for wood utilization research. Included in the total are funds for the ongoing research program and an increase of $290,000 for research to be conducted in Minnesota.

Amendment No. 24: Provides $112,150,000 for competitive research grants instead of $114,000,000 as proposed by the House and $102,500,000 as proposed by the Senate.

Amendment No. 25: Earmarks $1,818,000 for alternative crops instead of $2,168,000 as proposed by the House and $650,000 as proposed by the Senate. The conference agreement provides $1,000,000 for research on canola, crambe, and winter rapeseed instead of $850,000 for canola and $500,000 for crambe and winter rapeseed as proposed by the House and $500,000 for crambe and winter rapeseed as proposed by the Senate. For research on guayule the conference agreement provides $668,000, the same as the amount proposed by the House. The conference agreement also provides $150,000 for research on hesperaloe, the same as the amount proposed by the House and the Senate.

Amendment No. 26: Provides $500,000 for the Critical Agricultural Materials Act instead of $400,000 as proposed by the House and $600,000 as proposed by the Senate.

Amendment No. 27: Provides $7,400,000 for low-input agriculture instead of $6,825,000 as proposed by the House and $8,000,000 as proposed by the Senate.

Amendment No. 28: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: *$22,655,000*.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement provides $22,655,000 for Federal administration instead of $20,827,000 as proposed by the House and $20,689,000 as proposed by the Senate.

The following table reflects the conference agreement:

[In thousands of dollars]

	Fiscal year 1993 enacted	House bill	Senate bill	Conference agreement
Federal Administration:				
Shrimp aquaculture (AZ, HI, MS, MA, SC)	3,500	3,500	3,500	3,500
Mississippi Valley State University	668	....	668	668
Maize genetics research center (ND)	400	....	....	....
Ag in classroom	208	208	208	208
Agricultural biotechnology	400	400	400	400
Peer panels	260	260	260	260
Office of grants and program systems	334	334	81	334
Alternative fuels characterization lab (ND)	250	250	250	250
Pay costs and FERS	550	550	550	550
Center for Agricultural and Rural Development (IA)	750	750	....	750
Herd management (TN)	475	....	750	613
1890 capacity building	10,250	10,550	10,550	10,550
Vocational aquaculture education	500	500	500	500
Water quality[1]	1,250	1,250	500	1,250
Geographic information system	1,000	1,075	1,075	1,075
Center for North American Studies (TX)	....	200	....	100
PM–10 study (CA, WA)	....	1,000	750	1,000
Agriculture development in American Pacific	(2)	(2)	647	647
Total, Federal Administration	20,795	20,827	20,689	22,655

[1] Included $500,000 (ND), $750,000 (IL) in FY 1993, FY 1994 House, and the conference agreement.

[2] Funded under Extension Service, Federal Administration in FY 93 and House.

Amendment No. 29: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: *$453,736,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement appropriates $453,736,000 for the Cooperative State Research Service instead of $428,586,000 as proposed by the House and $443,652,000 as proposed by the Senate.

BUILDINGS AND FACILITIES

Amendment No. 30: Appropriates $56,874,000 for Cooperative State Research Service, Buildings and Facilities as proposed by the Senate instead of $37,750,000 as proposed by the House.

The following table reflects the conference agreement:

[In thousands of dollars]

	Fiscal year 1993 enacted	House bill	Senate bill	Conference agreement
BUILDINGS AND FACILITIES				
Arizona: Agriculture research complex-environmental stress lab	1,100	800	800	800
Arkansas:				
Agriculture building—University of Arkansas	—	—	2,000	1,775
Center for alternative pest control greenhouse	—	—	1,000	1,000
Livestock Research and Activity Complex	(1)	—	—	—
California: Alternative pest control containment and quarantine, University of California	178	2,500	2,500	2,219
Connecticut: Agricultural biotechnology building, University of Connecticut	—	(1)	(1)	(1)
Colorado: Animal Reproduction and Biotechnology, Colorado State University	(1)	340	—	340
Delaware: Poultry Biocontainment Lab	(1)	—	350	350
Georgia:				
Biocontainment Research Center, University of Georgia	—	425	2,020	1,793
Center for Advanced Water Technology, Savannah	376	213	—	213
Hawaii: Center for applied aquaculture	—	—	2,500	2,219
Idaho: Biotechnology Facility	431	1,000	—	888
Illinois: Biotechnology Center, Northwestern University	517	600	1,000	888
Indiana: Molecular and Cellular Biotechnology Facility	2,155	300	—	300
Kansas:				
Throckmorton Plant Science Center, Kansas State University	1,353	884	1,200	1,200
Biology—Engineering building, Kansas State Univ	—	—	(1)	—
Kentucky: Applied research and manpower training center	—	—	(1)	(1)
Louisiana:				
Animal science facility	—	—	(1)	—
Red meat processing center	(1)	—	75	75
Maryland: Institute for Natural Resources and Environmental Science, University of Maryland	862	1,000	2,000	1,776
Massachusetts: Center/hunger, poverty, nutrition and policy	484	2,639	2,600	2,343
Mississippi: Biological Technology Center for Water and Wetlands Resources	86	100	100	100
Missouri:				
Center for plant biodiversity, St. Louis	—	(1)	(1)	(1)
Meat Science and Safety Center	(1)	—	2,428	2,428
Montana: Bioscience Research Laboratory, Montana State University	915	2,238	2,238	1,987
Nevada: Biochemistry and Biology, University of Nevada	215	250	—	250
New Jersey: Plant Bioscience Facility, Rutgers University	2,623	1,700	2,623	2,329
New Mexico: Center for Arid Land Studies, New Mexico State University	(1)	956	956	849
New York: New York Botanical Garden	3,697	1,350	3,000	2,663
North Carolina: Bowman-Gray Center at Wake Forest	2,684	3,684	3,684	3,270
North Dakota:				
Animal care facility	250	—	2,000	1,775
Institute for Agricultural Health Science and Rural North Dakota State University	1,864	—	1,500	650
Ohio: Lake Erie Soil and Water Research and Education Center	(1)	280	—	280
Oklahoma: Beef Cattle Research Facility	(1)	—	375	375
Oregon:				
Regional food innovation Center	—	—	3,000	2,663
Forest ecosystem research lab	—	—	(1)	—
Pennsylvania: Center for Food Marketing, St. Joseph's University	2,336	2,336	2,336	2,074
Rhode Island: Building consolidation, University of Rhode Island	431	3,725	—	3,307
South Dakota: Animal resource wing—SDSU	—	—	(1)	—
Tennessee:				
Agricultural, Biological and Environmental Research Complex, University of Tennessee in Knoxville	797	500	2,000	1,775
Horticulture Public Service Research and Education Center (Middle Tennessee State University)	(1)	287	287	287
Nursery Crop Research Station	367	—	345	345
Texas: Southern crop improvement, Texas A&M	(1)	700	—	621
Utah: Biotechnology Laboratory, Utah State University	658	—	928	824
Virginia: Agriculture Biotechnology Facility, Virginia Polytechnic Institute	880	1,419	1,469	1,469
Washington: Animal Disease Biotechnology Facility, Washington State University	2,258	5,750	5,750	5,105
Wisconsin:				
College of Natural Resources, University of Wisconsin—Stevens Point	86	474	2,370	2,104
Dairy Expo Center	—	—	(1)	—
Wyoming: Environmental Stimulation Facility, University of Wyoming	431	1,200	1,200	1,065
Miscellaneous:				
Completed facilities	22,807	—	—	—
Fund for reports	260	100	240	100
Total, buildings and facilities	52,101	37,750	56,874	56,874

[1] Report requested.

The conference agreement completes the Federal funding share for the following ten facilities:

1. Agricultural Research Complex-Environmental Stress Lab (AZ)

2. Center for Alternative Pest Control (AR)

3. Center for Advanced Water Technology (GA)

4. Molecular and Cellular Biotechnology Facility (IN)

5. Throckmorton Plant Science Center (KS)

6. Meat Science and Safety Center (MO)

7. Biochemistry and Biology (NV)

8. Institute for Agricultural Health Science (ND)

9. Horticulture Public Service Research and Education Center (TN)

10. Animal Disease Biotechnology Facility (VA)

EXTENSION SERVICE

Amendment No. 31: Earmarks $272,582,000 for sections 3(b) and 3(c) of the Smith-Lever Act instead of $274,582,000 as proposed by the House and $270,593,000 as proposed by the Senate. The amount includes adequate funds to continue the urban gardening and home sewing programs.

Amendment No. 32: Earmarks $61,431,000 for food and nutrition education (EFNEP) as proposed by the Senate instead of $64,961,000 as proposed by the House.

Amendment No. 33: Earmarks $2,988,000 for farm safety as proposed by the Senate instead of $2,698,000 as proposed by the House.

Amendment No. 34: Earmarks $950,000 for rural development centers as proposed by the Senate instead of $938,000 as proposed by the House.

Amendment No. 35: Earmarks $1,221,000 for agricultural telecommunications as proposed by the Senate instead of $1,206,000 as proposed by the House.

Amendment No. 36: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum proposed in said amendment, insert: *$4,265,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement provides $4,265,000 for the Nutrition Education Initiative instead of $5,000,000 as proposed by the Senate. The House bill included funds for this initiative within the EFNEP program.

Amendment No. 37: Earmarks $1,500,000 for rural technology grants instead of $2,000,000 as proposed by the Senate. The House bill contained no similar provision.

Amendment No. 38: Earmarks $2,000,000 for rural health and safety education as proposed by the Senate. The House bill contained no similar provision.

Amendment No. 39: Earmarks $25,472,000 for the 1890 colleges and Tuskegee University as proposed by the Senate instead of $25,414,000 as proposed by the House.

Amendment No. 40: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: *$423,395,000.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement appropriates $423,395,000 for the Extension Service instead of $420,785,000 as proposed by the House and $422,641,000 as proposed by the Senate.

The conference agreement does not earmark any sustainable agriculture training centers and the conferees expect the Department to establish them through competition open to all States.

Although specific funding is not included for the disadvantaged farmer assistance program, States may carry out a program within their Smith-Lever 3(b) and 3(c) allocations.

FEDERAL ADMINISTRATION

Amendment No. 41: Appropriates $11,187,000 for Federal administration of the Extension Service as proposed by the Senate instead of $8,390,000 as proposed by the House.

The following table reflects the conference agreement:

[In thousands of dollars]

	Fiscal year 1993 enacted	House bill	Senate bill	Conference agreement
Federal Administration and special grants:				
General administration	5,400	5,644	5,574	5,534
Pilot tech. transfer (OK, MS)	331	331	331	331
Pilot tech. transfer (WI)	165	165		165
Agricultural development Pacific (HI, GU, AS)	647	647	(1)	(1)
Rural rehabilitation (GA)	250	250		250
Crop simulation (MS)	498	498	498	498
Income enhancement demonstration (OH)	250	250		250
Rural education satellite downlink (PA)		125		125
Rural development (NM)	230	230	230	230
Rural development (NE)	200		400	400
Rural development (OK)	300		300	300
Presque Isle (ME)	187		187	187
Chinch bug/Russian wheat aphid project (NE)	67		67	67
Beef producers' improvement (AR)	200		200	200
Integrated cow/calf resources management (IA)	150		250	250
Extension specialist (AR)	100		100	100
Rural center for the study and promotion of HIV/STD prevention		250		250
Cranberry development (ME)			50	50
Delta teacher's academy			3,000	3,000
All other	1,453			
Total, Federal Administration	10,428	8,390	11,187	11,187

[1] Transferred to CSRS, Federal Administration.

The conference agreement provides $2,000,000 for the Delta Teachers Academy to train teachers from districts in the seven States of the lower Mississippi River delta. The conferees expect a General Accounting Office review of this program.

NATIONAL AGRICULTURAL LIBRARY

Amendment No. 42: Appropriates $18,155,000 for the National Agricultural Library as proposed by the Senate instead of $17,682,000 as proposed by the House.

Amendment No. 43: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides that $462,000 shall be available for the National Center for Agricultural Law Research and Information at the Leflar School of Law in Fayetteville, Arkansas. The House bill contained no similar provision.

OFFICE OF THE ASSISTANT SECRETARY FOR MARKETING AND INSPECTION SERVICES

Amendment No. 44: Deletes Senate reference to the Agricultural Cooperative Service.

Amendment No. 45: Appropriates $687,000 for the Office of the Assistant Secretary for Marketing and Inspection Services instead of $691,000 as proposed by the House and $682,000 as proposed by the Senate.

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

SALARIES AND EXPENSES

Amendment No. 46: Appropriates $439,564,000 for Animal and Plant Health Inspection Service, Salaries and Expenses instead of $439,042,000 as proposed by the House and $443,653,000 as proposed by the Senate.

The following table reflects the conference agreement:

[In thousands of dollars]

	Fiscal year 1993 enacted	House bill	Senate bill	Conference agreement
PEST AND DISEASE EXCLUSION				
Agricultural quarantine inspection	22,717	24,550	24,246	24,246
User fees	83,362	91,460	91,460	91,460
Subtotal, agricultural quarantine inspection	106,079	116,010	115,706	115,706
Foot-and-mouth disease	3,891	4,046	4,046	4,046
Import-export inspection	8,000	6,800	8,043	6,800
International programs	4,675	5,826	5,826	5,826
Mediterranean fruit fly exclusion	10,213	10,199	10,199	10,199
Mexican fruit fly exclusion	1,700	2,272	2,272	2,272
Screwworm	34,645	34,645	34,457	34,645
Total, pest and disease exclusion	169,203	179,798	180,549	179,494
PLANT AND ANIMAL HEALTH MONITORING				
Animal health monitoring and surveillance	59,632	59,933	59,933	59,933
Animal and plant health regulatory enforcement	5,790	5,849	5,849	5,849
Fruit fly detection	3,941	3,950	3,950	3,950
Pest detection	3,976	3,444	3,444	3,444
Total, plant and animal health monitoring	73,339	73,176	73,176	73,176
PEST AND DISEASE MANAGEMENT PROGRAMS				
Animal damage control—operations	25,612	26,092	26,042	26,092
Biocontrol	4,599	8,102	5,702	5,702
Boll weevil	13,135	13,226	13,135	13,226
Brucellosis eradication	33,000	31,004	31,004	31,004
Cattle ticks	6,172	4,597	4,597	4,597
Golden nematode	862	658	658	658
Grasshopper	3,850		3,594	
Reserve fund	2,500			
Gypsy moth	5,148	5,203	5,203	5,203
Honey bee pests	531	380	380	380
Imported fire ant	3,698	2,700	2,700	2,700
Miscellaneous plant diseases	1,988	1,996	1,996	1,996
Noxious weeds	625	475	475	475
Pink bollworm	2,292	1,465	2,292	2,292
Pseudorabies	4,143	4,543	4,543	4,543
Russian wheat aphid	2,400		2,400	2,400
Salmonella enteritidis	3,400	3,411	3,411	3,411
Scrapie	846	3,000	3,000	3,000
Sweet potato whitefly	3,000	3,514	3,514	3,514
Tuberculosis	3,860	5,538	5,538	5,538
Witchweed	5,386	4,081	4,081	4,081
Total, pest and disease management programs	127,047	119,985	124,265	120,812
ANIMAL CARE				
Animal welfare	9,188	9,262	9,262	9,262
Horse protection	358	481	361	481
Total, animal care	9,546	9,743	9,623	9,743
SCIENTIFIC AND TECHNICAL SERVICES				
ADC methods development	9,517	9,681	9,382	9,681
Biotechnology/environmental protection	7,652	7,756	7,756	7,756
Intergrated systems acquisition project	2,507	3,500	3,500	3,500
Plant methods development laboratories	5,025	5,085	5,084	5,084
Veterinary biologics	9,729	10,434	10,434	10,434
Veterinary diagnostics	14,335	14,946	14,946	14,946
Total, scientific and technical services	48,765	51,402	51,102	51,401
Contingency fund	5,000	4,938	4,938	4,938
Total, salaries and expense	432,900	439,042	443,653	439,564

Within the increase provided for the Agricultural Quarantine and Inspection Program, the conferees expect that adequate staffing and electronic baggage equipment will be provided at major ports of entry, including Honolulu, Hawaii, and Miami, FL.

The conference agreement includes $100,000 for the North Dakota blackbird/cattail management program and $100,000 to be used toward control of blackbird depredation problems relating to rice in Arkansas and corn in Illinois.

The conference agreement deletes references to Senate report earmarks for development of boll weevil eradication cost estimates and the Mediterranean fruit fly project in Hawaii.

Amendment No. 47: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides that funds may be used for the repair and alteration of leased buildings and improvements, provided that altering any one building does not exceed ten percent of the current replacement value of the building. The House bill contained no similar provision.

Amendment No. 48: Deletes Senate language providing that APHIS veterinarians may not use digital palpation as the only diagnostic test used to determine horse soring. The House bill contained no similar provision. Funding provided in the bill to carry out activities of the Horse Protection Act includes an increase of $120,000. The conferees agree that these additional funds should be used to purchase thermograph machines and to provide additional training and evaluation. Neither these machines nor digital palpation should be used as the sole means to determine whether soring has occurred, but they should be used as additional diagnostic tools.

FOOD SAFETY AND INSPECTION SERVICE

The conferees are aware of the work being done by the Food Animal Production Medicine Consortium and expect the agency to coordinate its preharvest food safety efforts with the research being done by the Consortium.

FEDERAL GRAIN INSPECTION SERVICE

SALARIES AND EXPENSES

Amendment No. 49: Appropriates $11,532,000 for Federal Grain Inspection Service, Salaries and Expenses instead of $11,554,999 as proposed by the House and $11,509,000 as proposed by the Senate.

Amendment No. 50: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which makes permanent a provision regarding recordkeeping at nonexport, nonterminal interior elevators.

AGRICULTURAL COOPERATIVE SERVICE

Amendment No. 51: Deletes Senate language providing appropriations for the Agricultural Cooperative Service. The conference agreement provides funding for the activities of the Agricultural Cooperative Service within the Agricultural Marketing Service.

AGRICULTURAL MARKETING SERVICE

MARKETING SERVICES

Amendment No. 52: Appropriates $61,614,000 for Agricultural Marketing Service, Market Services as proposed by the House instead of $56,887,000 as proposed by the Senate.

FUNDS FOR STRENGTHENING MARKETS, INCOME, AND SUPPLY

(SECTION 32)

Amendment No. 53: Provides $10,309,000 for section 32 as proposed by the House instead of $10,670,000 as proposed by the Senate.

Amendment No. 54: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides that in fiscal years 1994 and 1995, section 32 funds shall be used to promote sunflower and cotton seed oil exports. The House bill contained no similar provision.

PAYMENTS TO STATES AND POSSESSIONS

Amendment No. 55: Appropriates $1,735,000 for payments to States and possession as proposed by the House instead of $1,300,000 as proposed by the Senate. The conference agreement provides $435,000 to be used solely for research related to cooperatives.

PACKERS AND STOCKYARDS ADMINISTRATION

Amendment No. 56: Appropriates $14,123,000 for the Packers and Stockyards Administration instead of $12,194,000 as proposed by the House and $12,052,000 as proposed by the Senate.

OFFICE OF THE UNDER SECRETARY FOR INTERNATIONAL AFFAIRS AND COMMODITY PROGRAMS

Amendment No. 57: Deletes Senate reference to the Office of International Cooperation and Development.

Amendment No. 58: Appropriates $560,000 for the Office of the Under Secretary for International Affairs and Commodity Programs instead of $563,000 as proposed by the House and $556,000 as proposed by the Senate.

FEDERAL CROP INSURANCE CORPORATION

ADMINISTRATIVE AND OPERATING EXPENSES

Amendment No. 59: Restores House language appropriating $290,116,000 for Federal Crop Insurance Corporation, Administrative and Operating Expenses. The Senate amendment struck the House language and reinserted the same text.

TITLE II—CONSERVATION PROGRAMS

OFFICE OF THE ASSISTANT SECRETARY FOR NATURAL RESOURCES AND ENVIRONMENT

Amendment No. 60: Appropriates $575,000 for the Office of the Assistant Secretary for Natural Resources and Environment instead of $578,000 as proposed by the House and $571,000 as proposed by the Senate.

SOIL CONSERVATION SERVICE

CONSERVATION OPERATIONS

Amendment No. 61: Appropriates $591,049,000 for Conservation Operations of the Soil Conservation Service instead of $588,262,000 as proposed by the House and $593,835,000 as proposed by the Senate.

The conference agreement includes $200,000 for saltcedar management in New Mexico and $500,000 to establish a plant materials center at the Appalachian Soil and Water Laboratory in Beckley, West Virginia.

The Mississippi Delta Water Use Study has national significance for water quality and quantity and the second year of that study should be conducted by the Department.

RIVER BASIN SURVEYS AND INVESTIGATIONS

The conference agreement does not provide funding for the Mississippi Delta Water Use Study under this account. Language is included under Conservation Operations.

WATERSHED PLANNING

Amendment No. 62: Appropriates $10,921,000 for Watershed Planning as proposed by the Senate instead of $9,721,000 as proposed by the House.

WATERSHED AND FLOOD PREVENTION OPERATIONS

Amendment No. 63: Appropriates $241,965,000 for Watershed and Flood Prevention Operations instead of $228,915,000 as proposed by the House and $258,615,000 as proposed by the Senate.

The conference agreement provides for one-half of all earmarks listed in the Senate report. The Canteen Creek, Illinois, project included in the House report should be Little Canteen Creek, Illinois.

Amendment No. 64: Earmarks $40,786,000 for Public Law 534 funds instead of $40,386,000 as proposed by the House and $41,186,000 as proposed by the Senate.

Amendment No. 65: Earmarks $28,631,000 for Emergency Watershed Operations instead of $22,881,000 as proposed by the House and $34,381,000 as proposed by the Senate.

RESOURCE CONSERVATION AND DEVELOPMENT

Amendment No. 66: Appropriates $32,945,000 for Resource Conservation and Development as proposed by the House instead of $35,000,000 as proposed by the Senate. The conferees urge the Secretary to establish two new RC&D areas in Alaska.

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

AGRICULTURAL CONSERVATION PROGRAM

Amendment No. 67: Earmarks $18,500,000 for the Water Quality Incentives Program instead of $15,000,000 as proposed by the House and $22,000,000 as proposed by the Senate.

The conferees expect the Secretary to permit qualified professionals to participate in the preparation of farm level integrated crop management and Water Quality Incentives Program plans provided that these plans are reviewed and approved by the Department.

WATER BANK PROGRAM

Amendment No. 68: Restores House language and provides $8,000,000 for the Water Bank Program instead of $18,620,000. The Senate deleted funding for this program.

EMERGENCY CONSERVATION PROGRAM

Amendment No. 69: Provides no funds for the Emergency Conservation Program as proposed by the Senate instead of $10,000,000 as proposed by the House.

WETLANDS RESERVE PROGRAM

Amendment No. 70: Appropriates $66,675,000 for the Wetlands Reserve Program instead of $44,450,000 as proposed by the House and $70,000,000 as proposed by the Senate. The conference agreement provides for a program in 20 states, including the nine states in the pilot program.

TITLE III—FARMERS HOME AND RURAL DEVELOPMENT PROGRAMS

OFFICE OF THE UNDER SECRETARY FOR SMALL COMMUNITY AND RURAL DEVELOPMENT

Amendment No. 71: Appropriates $580,000 for the Office of the Under Secretary for Small Community and Rural Development instead of $583,000 as proposed by the House and $576,000 as proposed by the Senate.

RURAL DEVELOPMENT ADMINISTRATION

Amendment No. 72: Restores House language referencing a General Provision of the bill related to the closing of the seven regional offices of the Rural Development Administration.

FARMERS HOME ADMINISTRATION

RURAL HOUSING INSURANCE FUND PROGRAM ACCOUNT

Amendment No. 73: Provides $540,107,000 for section 515 rural rental housing loans as proposed by the Senate instead of $573,900,000 as proposed by the House.

Amendment No. 74: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: *$133,000,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement provides $133,000,000 for credit sales of acquired property instead of $166,863,000 as proposed by the House and $150,000,000 as proposed by the Senate.

Amendment No. 75: Appropriates a total of $366,360,000 for the cost of section 502 single-family housing loans as proposed by the House instead of $366,435,000 as proposed by the Senate.

Section 721 of the General Provisions in the bill clarifies that loan levels provided in the Act are to be considered estimates and not limitations. The Federal Credit Reform Act of 1990 provides that the appropriated subsidy is the controlling factor for the amount of loans made and that, as estimates of lifetime costs and interest rates change, the amount of loan authority will fluctuate.

The following table reflects the conference agreement on the Rural Housing Insurance Fund loan levels:

LOAN LEVELS

[In thousands of dollars]

	House bill	Senate bill	Conference agreement
RHIF loan levels:			
Low-income housing loans (sec. 502)	1,750,000	1,750,000	1,750,000
Unsubsidized direct loans	50,000	50,000	50,000
Unsubsidized guaranteed loans	750,000	750,000	750,000
Rural housing site loans (sec. 524)	600	600	600
Rural rental housing loans (sec. 515)	573,900	540,107	540,107
Very low-income repair loans (sec. 504)	35,000	35,000	35,000
Domestic farm labor loans (sec. 514)	16,300	16,300	16,300
Credit sales of acquired property	166,863	150,000	133,000
Total, RHIF loan levels	3,342,663	3,292,007	3,275,007

Amendment No. 76: Earmarks $12,225,000 for the cost of single-family housing unsubsidized guaranteed loans as proposed by the House instead of $12,300,000 as proposed by the Senate.

Amendment No. 77: Appropriates $309,967,000 for the cost of section 515 rental housing loans as proposed by the Senate instead of $311,972,000 as proposed by the House.

Amendment No. 78: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: *$20,242,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement appropriates $20,242,000 for the cost of credit sales of acquired property instead of $25,397,000 as proposed by the House and $22,830,000 as proposed by the Senate.

The following table reflects the conference agreement on the cost of loan subsidies associated with the Rural Housing Insurance Fund:

LOAN SUBSIDIES

[In thousands of dollars]

	House bill	Senate bill	Conference agreement
RHIF loan subsidies:			
Single-family (sec. 502):			
Direct	350,350	350,350	350,350
Unsubsidized direct	3,785	3,785	3,785
Unsubsidized guaranteed	12,225	12,300	12,225
Housing repair (sec. 504)	13,671	13,671	13,671
Farm labor (sec. 514)	8,394	8,394	8,394
Rental housing (sec. 515)	311,972	309,967	309,967
Credit sales of acquired property	25,397	22,830	20,242
Total, RHIF loan subsidies	725,794	721,297	718,634

RENTAL ASSISTANCE PROGRAM

Amendment No. 79: Appropriates $446,694,000 for the Rental Assistance Program instead of $417,523,000 as proposed by the House and $475,865,000 as proposed by the Senate.

Amendment No. 80 Earmarks $5,840,000 for debt forgiveness as proposed by the House instead of $11,210,000 as proposed by the Senate.

Amendment No. 81: Deletes House language earmarking specific amounts of money for newly constructed section 515 units, for sections 514 and 516 units, and for expiring agreements as proposed by the Senate.

The conference agreement provides flexibility to the Department in apportioning rental assistance funds as needed. Recognizing that there is a tremendous demand for servicing units, the conferees expect the Department to give the appropriate priority to renewing existing contracts and to servicing vacant units.

The conference agreement also provides $25,000,000 for rural housing vouchers and the conferees expect the Secretary, in administering this new program, to give priority to rent overburdened tenants and to filling vacant section 515 units.

AGRICULTURAL CREDIT INSURANCE FUND PROGRAM ACCOUNT

Amendment No. 82: Provides a total of $634,624,000 for farm ownership loans as proposed by the House instead of $678,543,000 as proposed by the Senate.

Amendment No. 83: Provides a total of $2,750,000,000 for operating loans as proposed by the House instead of $4,046,252,000 as proposed by the Senate.

Amendment No. 84: Earmarks $1,800,000,000 for unsubsidized guaranteed operating loans as proposed by the House instead of $3,000,000,000 as proposed by the Senate.

Amendment No. 85: Provides a total of $4,312,000 for water development, use, and conservation loans as proposed by the Senate instead of $4,909,000 as proposed by the House.

Amendment No. 86: Earmarks $1,415,000 for guaranteed water development, use, and conservation loans as proposed by the Senate instead of $2,012,000 as proposed by the House.

Amendment No. 87: Provides $1,000,000 for Indian tribe land acquisition loans as proposed by the Senate instead of $1,163,000 as proposed by the House.

Amendment No. 88: Provides $123,783,000 for credit sales of acquired property instead of $147,566,000 as proposed by the House and $100,000,000 as proposed by the Senate.

The following table reflects the conference agreement on the Agricultural Credit Insurance Fund loan levels:

LOAN LEVELS

[In thousands of dollars]

	House bill	Senate bill	Conference agreement
ACIF loan levels:			
Farm ownership loans:			
Direct	78,081	122,000	78,081
Guaranteed	556,543	556,543	556,543
Subtotal	634,624	678,543	634,624
Farm operating loans:			
Direct	700,000	796,252	700,000
Guaranteed unsubsidized	1,800,000	3,000,000	1,800,000
Guaranteed subsidized	250,000	250,000	250,000
Subtotal	2,750,000	4,046,252	2,750,000
Soil and water loans:			
Direct	2,897	2,897	2,897
Guaranteed	2,012	1,415	1,415
Subtotal	4,909	4,312	4,312
Indian land acquisition	1,163	1,000	1,000
Emergency disaster loans	100,000	100,000	100,000
Watershed and flood prevention loans	4,000	4,000	4,000
Resource conservation and development loans	600	600	600
Credit sales of acquired property	147,566	100,000	123,783
Total, ACIF Loan Levels	3,642,862	4,943,707	3,618,319

Amendment No. 89: Appropriates a total of $34,080,000 for the cost of farm ownership loans as proposed by the House instead of $41,507,000 as proposed by the Senate.

Amendment No. 90: Appropriates a total of $119,985,000 for the cost of operating loans as proposed by the House instead of $129,818,000 as proposed by the Senate.

Amendment No. 91: Earmarks $9,360,000 for the cost of unsubsidized guaranteed operating loans as proposed by the House instead of $15,747,000 as proposed by the Senate.

Amendment No. 92: Earmarks $29,425,000 for subsidized guaranteed operating loans as proposed by the House instead of $29,445,000 as proposed by the Senate.

Amendment No. 93: Appropriates a total of $494,000 for the cost of water development, use, and conservation loans as proposed by the Senate instead of $506,000 as proposed by the House.

Amendment No. 94: Earmarks $31,000 for the cost of guaranteed water development, use, and conservation loans as proposed by the Senate instead of $43,000 as proposed by the House.

Amendment No. 95: Appropriates $197,000 for the cost of Indian tribe land acquisition loans as proposed by the Senate instead of $229,000 as proposed by the House.

Amendment No. 96: Appropriates $18,903,000 for the cost of credit sales of acquired property instead of $22,405,000 as proposed by the House and $15,400,000 as proposed by the Senate.

The following table reflects the conference agreement on the cost of loan subsidies associated with the Agricultural Credit Insurance Fund:

LOAN SUBSIDIES

[In thousands of dollars]

	House bill	Senate bill	Conference agreement
ACIF loan Subsidies:			
Farm ownership:			
Direct	13,210	20,637	13,210
Guaranteed	20,870	20,870	20,870
Farm operating:			
Direct	81,200	84,626	81,200
Guaranteed unsubsidized	9,360	15,747	8,360
Guaranteed subsidized	29,425	29,445	29,425
Soil and water:			
Direct	463	463	463
Guaranteed	43	31	31
Indian tribe land acquisition	229	197	197
Emergency disaster	26,060	26,060	26,060
Credit sales of acquired property	22,405	15,400	18,903
Negative subsidies	−761	−761	−761
Total, ACIF Loan Subsidies	202,504	212,715	198,958

RURAL DEVELOPMENT INSURANCE FUND PROGRAM ACCOUNT

Amendment No. 97: Provides $869,443,000 for water and sewer loans instead of $835,000,000 as proposed by the House and $903,886,000 as proposed by the Senate.

Amendment No. 98: Earmarks $35,250,000 for guaranteed water and sewer loans instead of $35,000,000 as proposed by the House and $35,500,000 as proposed by the Senate.

Amendment No. 99: Provides $300,000,000 for community facility loans instead of $325,000,000 as proposed by the House and $275,000,000 as proposed by the Senate.

Amendment No. 100: Provides $249,381,000 for industrial development guaranteed loans instead of $298,762,000 as proposed by the House and $200,000,000 as proposed by the Senate.

The following table reflects the conference agreement on the Rural Development Insurance Fund loan levels:

LOAN LEVELS

[In thousands of dollars]

	House bill	Senate bill	Conference agreement
RDIF Loan Levels:			
Water and sewer facility loans:			
Direct	$800,000	868,386	834,193

LOAN LEVELS—Continued

[In thousands of dollars]

	House bill	Senate bill	Conference agreement
Guaranteed	35,000	35,500	35,250
Subtotal	835,000	903,886	869,443
Community facility loans:			
Direct	250,000	200,000	225,00
Guaranteed	75,000	75,000	75,000
Subtotal	325,000	275,000	300,000
Industrial development loans:			
Guaranteed	298,762	200,000	249,381
Total, RDIF Loan Levels	1,458,762	1,378,886	1,418,824

Amendment No. 101: Appropriates $115,768,000 for the cost of water and sewer loans instead of $111,040,000 as proposed by the House and $120,532,000 as proposed by the Senate.

Amendment No. 102: Appropriates $21,732,000 for the cost of community facility loans instead of $24,125,000 as proposed by the House and $19,320,000 as proposed by the Senate.

Amendment No. 103: Appropriates $2,319,000 for the cost of industrial development guaranteed loans instead of $2,778,000 as proposed by the House and $1,860,000 as proposed by the Senate.

The following table reflects the conference agreement on the cost of loan subsidies associated with the Rural Development Insurance Fund:

LOAN SUBSIDIES

[In thousands of dollars]

	House bill	Senate bill	Conference agreement
RDIF Loan Subsidies:			
Water and sewer:			
Direct	111,040	120,532	115,786
Community facility:			
Direct	24,125	19,320	21,723
Guaranteed	3,803	3,803	3,803
Industrial development	2,778	1,860	2,319
Total, RDIF Loan Subsidies	141,746	145,515	143,631

RURAL DEVELOPMENT LOAN FUND PROGRAM ACCOUNT

Amendment No. 104: Appropriates $56,000,000 for the cost of direct loans made by the Rural Development Loan Fund Program Account as proposed by the House instead of $84,000,000 as proposed by the Senate.

Amendment No. 105: Provides $100,000,000 for direct loans from the Rural development Loan Fund Program Account as proposed by the House instead of $150,000,000 as proposed by the Senate.

AGRICULTURAL RESOURCE CONSERVATION DEMONSTRATION PROGRAM ACCOUNT

Amendment No. 106: Provides a program level of $6,799,000 for the Agricultural Resource Conservation Demonstration Program Account as proposed by the Senate. The subsidy cost for the program is $3,599,000. The House bill contained no similar provision. The conferees expect a review of this program by the General Accounting Office.

STATE MEDIATION GRANTS

Amendment No. 107: Appropriates $3,000,000 for State mediation grants instead of $2,963,000 as proposed by the House and $4,000,000 as proposed by the Senate.

RURAL WATER AND WASTE DISPOSAL GRANTS

Amendment No. 108: Appropriates $500,000,000 for rural water and waste disposal grants instead of $450,000,000 as proposed by the House and $535,571,000 as proposed by the Senate.

The conferees expect a review of this program by the General Accounting Office to determine how different areas of the country benefit, the matching requirements of the program, and how the program is implemented for the Colonias and rural Alaska villages.

Amendment No. 109: Earmarks $25,000,000 for the Colonias as proposed by the House instead of $25,700,000 as proposed by the Senate.

Amendment No. 110: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which earmarks up to $15,000,000 for water and sewer loans in rural Alaska villages. The House bill contained no similar provision.

Amendment No. 111: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted in said amendment, insert: *$25,000,000 and the foregoing $15,000,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement provides that, with the exception of $25,000,000 for Colonias and $15,000,000 for rural Alaska villages, funds for rural water and waste disposal grants shall not be used for any purpose not specified in section 306(a) of the Consolidated Farm and Rural Development Act.

RURAL DEVELOPMENT GRANTS

Amendment No. 112: Appropriates $42,500,000 for rural development grants instead of $35,000,000 as proposed by the House and $50,000,000 as proposed by the Senate. The conference agreement does not earmark any funds for specific rural development grants, but the conferees urge the Department to give consideration to the projects in the House and Senate reports.

SALARIES AND EXPENSES

Amendment No. 113: Earmarks $4,368,000 for the Circuit Rider Program as proposed by the House instead of $4,500,000 as proposed by the Senate.

RURAL ELECTRIFICATION ADMINISTRATION

RURAL ELECTRIFICATION AND TELEPHONE LOANS PROGRAM ACCOUNT

Amendment No. 114: Provides $100,000,000 for five percent rural telephone loans instead of $125,000,000 as proposed by the House and $75,000,000 as proposed by the Senate.

The following table reflects the conference agreement for loans from the Rural Electrification and Telephone Loans Program Account:

LOAN LEVELS

[In thousands of dollars]

	House bill	Senate bill	Conference agreement
RETLPA Loan Levels:			
Loan authorizations:			
Direct loans:			
Electric 5 percent	125,000	125,000	125,000
Telephone 5 percent	125,000	75,000	100,000
Subtotal	250,000	200,000	225,000
Treasury rate:			
Electric	....	....	....
Telephone	198,000	198,000	198,000
Subtotal	198,000	198,000	198,000
Muni-rate:			
Electric	600,000	600,000	600,000
Telephone	....	....	....
Subtotal	600,000	600,000	600,000
FFB loans:			
Electric, regular	300,000	300,000	300,000
Electric, repriced	513,000	513,000	513,000
Telephone	120,000	120,000	120,000
Subtotal	933,000	933,000	933,000
Total, RETLPA Loan Levels	1,981,000	1,931,000	1,956,000

Amendment No. 115: Appropriates $33,266,000 for the cost of direct electric and telephone loans instead of $36,265,000 as proposed by the House and $30,043,000 as proposed by the Senate.

Amendment No. 116: Appropriates $3,090,000 for the cost of loans guaranteed pursuant to section 306 of the Rural Electrification Act as proposed by the Senate instead of $11,184,000 as proposed by the House.

The following table reflects the conference agreement on the cost of loan subsidies associated with the Rural Electrification and Telephone Loans Program Account:

LOAN SUBSIDIES

[In thousands of dollars]

	House bill	Senate bill	Conference agreement
RETLPA Loan Subsidies:			
Direct loans:			
Electric 5 percent	20,150	20,375	20,375
Telephone 5 percent	16,115	9,668	12,891
Treasury rate:			
Electric	....	....	....
Telephone	40	940	40
Muni-rate, electric	46,020	46,020	46,020
FFB loans, regular electric	11,100	3,090	3,090
FFB loans, telephone	84	3	....
Total, RETLPA Loan Subsidies	93,509	79,193	82,416

RURAL TELEPHONE BANK PROGRAM ACCOUNT

Amendment No. 117: Appropriates $3,118,000 for the cost of Rural Telephone Bank loans as proposed by the Senate instead of $40,000 as proposed by the House.

DISTANCE LEARNING AND MEDICAL LINK PROGRAMS

Amendment No. 118: Deletes Senate language providing that the Administrator of the Rural Electrification Administration should consult with the Secretary of Education and the Secretary of Health and Human Services concerning the Distance Learning and Medical Link Programs. The House bill contained no similar provision.

RURAL ECONOMIC DEVELOPMENT LOANS PROGRAM ACCOUNT

Amendment No. 119: Appropriates $3,423,000 for the cost of rural economic development loans as proposed by the Senate instead of $3,381,000 as proposed by the House.

TITLE IV—DOMESTIC FOOD PROGRAMS

OFFICE OF THE ASSISTANT SECRETARY FOR FOOD AND CONSUMER SERVICES

Amendment No. 120: Deletes Senate reference to the Human Nutrition Information Service.

Amendment No. 121: Appropriates $551,000 for the Office of the Assistant Secretary for Food and Consumer Services instead of $554,000 as proposed by the house and $547,000 as proposed by the Senate.

FOOD AND NUTRITION SERVICE

CHILD NUTRITION PROGRAMS

The conference agreement does not provide for any specific schoollunch studies.

Amendment No. 122: Deletes Senate language making permanent a provision that has been in the bill since 1980 which makes the State's distribution of appropriated funds contingent on the State's agreement to participate in studies and surveys of authorized programs.

Amendment No. 123: Deletes Senate language making permanent a provision that has been in the bill since 1980 which allows the Secretary to withhold some or all of a State's allocation if the State fails to correct administrative deficiencies identified by the Secretary within a specified period of time.

Amendments No. 124 and 125: Delete Senate language making permanent a provision that has been in the bill since 1983 which makes final reimbursement claims eligible only if they are submitted to State agencies within 60 days following the month which is being claimed.

Amendments No. 126 and 127: Delete Senate language making permanent a provision that has been in the bill since 1983 which specifies that States can receive program funds only if final program operations reports are submitted to the Department within 90 days following that month.

Amendment No. 128: Provides $1,853,000 for the Food Service Management Institute instead of $1,706,000 as proposed by the House and $2,000,000 as proposed by the Senate.

The conference agreement provides for the Child Nutrition Programs at the following annual rates:

TOTAL OBLIGATIONAL AUTHORITY

[In thousands of dollars]

	House bill	Senate bill	Conference agreement
Child Nutrition Programs:			
School lunch program	$4,327,236	$4,327,236	$4,327,236
School breakfast program	980,352	980,352	980,352
State administrative expenses	86,738	86,738	86,738
Summer food service program	254,612	254,612	254,612
Child care food program	1,583,093	1,583,093	1,583,093
Commodity procurement	243,386	243,092	243,239
Nutrition studies and surveys	3,835	3,835	3,835
Nutrition education and training	10,270	10,270	10,270
Federal review system	3,849	3,849	3,849
Food Service Management Institute	1,706	2,000	1,853
Dietary guidelines	2,054	2,054	2,054
Total, Child Nutrition Programs	7,497,131	7,497,131	7,497,131

SPECIAL MILK PROGRAM

Amendments No. 129 and 130: Delete Senate language making permanent a provision that has been in the bill since 1984 which makes reimbursement claims eligible only if they are submitted to State agencies within 60 days following the month which is being claimed.

Amendments No. 131 and 132: Delete Senate language making permanent a provision that has been in the bill since 1984 specifying that States can receive program funds only if final program operations reports are submitted to the Department within 90 days following that month.

SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC)

Amendment No. 133: Appropriates $3,210,000,000 for the Special Supplemental Food Program for Women, Infants, and Children (WIC) as proposed by the House instead of $3,213,500,000 as proposed by the Senate.

Amendment No. 134: Provides $5,500,000 for the Farmer's Market Coupon Program instead of $4,000,000 as proposed by the House and $8,000,000 as proposed by the Senate.

Amendment No. 135: Deletes Senate language making permanent a provision regarding the prohibition of smoking at WIC clinics.

Amendment No. 136: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: *: Provided further, That until revised allocation regulations have been issued, the Secretary may waive the 15 percent cap regulation to ensure that funds are allocated to States most in need*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the State.

The conference agreement allows the Secretary to waive a 15 percent cap regulation governing the allocation of funds to ensure that all funds are allocated to States most in need. The House bill contained no similar provision.

Amendment No. 137: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: *: Provided further, That no State will incur an interest liability to the Federal Government on WIC rebate funds provided that all interest earned by the State on these funds is used for program purposes*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement exempts WIC rebate funds from the interest provisions of the Cash Management Improvement Act of 1990 as long as the funds are used for program purposes. The House contained no similar provision.

FOOD DONATIONS PROGRAMS FOR SELECTED GROUPS

Amendment No. 138: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which requires the Secretary to establish a maximum rate of reimbursement for the Elderly Feeding Program, subject to reduction if obligations exceed available funds, with any unobligated funds to remain available only for obligation in the next fiscal year. The House bill contained no similar provision.

THE EMERGENCY FOOD ASSISTANCE PROGRAM

Amendment No. 139: Appropriates $40,000,000 for administrative expenses of The Emergency Food Assistance Program as proposed by the House instead of $42,500,000 as proposed by the Senate.

Amendment No. 140: Appropriates $80,000,000 for commodity purchases of The Emergency Food Assistance Program as proposed by the House instead of $107,500,000 as proposed by the Senate.

HUMAN NUTRITION INFORMATION SERVICE

Amendment No. 141: Deletes Senate language providing appropriations for the Human Nutrition Information Service. The conference agreement provides funding for the activities of the Human Nutrition Information Service within the Agricultural Research Service.

TITLE V—FOREIGN ASSISTANCE AND RELATED PROGRAMS

FOREIGN AGRICULTURAL SERVICE

Amendment No. 142: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: *$118,027,000*.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement provides $118,027,000 for the Foreign Agricultural Service instead of $117,812,000 as proposed by the House and $110,284,000 as proposed by the Senate. The amount provided includes an increase of $353,000 above the budget request for the Cochran Fellowships. The conference agreement provides full funding for the foreign market development program.

Amendment No. 143: Restores House language providing that funds available to the Department of Agriculture may be used to assist international organizations in meeting the costs related to the employment of U.S. citizens. Funds may also be used on behalf of Federal agencies for programs related to the International Development Cooperation Administration.

PUBLIC LAW 480 PROGRAM ACCOUNT

Amendment No. 144: Provides $450,446,000 for loans under title I of Public Law 480 as proposed by the House instead of $490,184,000 as proposed by the Senate.

Amendment No. 145: Appropriates $45,927,000 for ocean freight differential costs as proposed by the House instead of $50,261,000 as proposed by the Senate.

Amendment No. 146: Appropriates $346,889,000 for the cost of the title I credit program as proposed by the House instead of $377,490,000 as proposed by the Senate.

OFFICE OF INTERNATIONAL COOPERATION AND DEVELOPMENT

Amendment No. 147: Deletes Senate language providing appropriations for the Office of International Cooperation and Development. The conference agreement provides funding for the activities of the Office of International Cooperation and Development within the Foreign Agricultural Service.

TITLE VI—RELATED AGENCIES AND FOOD AND DRUG ADMINISTRATION

DEPARTMENT OF HEALTH AND HUMAN SERVICES

FOOD AND DRUG ADMINISTRATION

SALARIES AND EXPENSES

Amendment No. 148: Restores House language providing $867,339,000 for the Food and Drug Administration, of which $54,000,000 shall be derived from user fees.

Amendment No. 149: Restores House language providing that none of the funds in the Act may be used to pay the expenses of the Board of Experts on Tea.

Amendment No. 150: Deletes Senate language providing that $175,000,000 may be collected from user fees. The House bill contained no similar provision.

Amendment No. 151: Deletes Senate language providing that $54,000,000 may be collected from user fees. The House bill contained a similar provision.

RENTAL PAYMENTS (FDA)

The conference agreement provides that of the funds retained by the Food and Drug Administration, $4,128,000 will be used for repair and renovation at the National Center for Toxicological Research.

TITLE VII—GENERAL PROVISIONS

Amendment No. 152: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which makes permanent the prohibition against making production or other payments by the Department of Agriculture to a person, persons, or corporations guilty of growing, cultivating, harvesting, processing, or storing marijuana, or other prohibited drug-producing plants on any part of lands owned or controlled by such persons or corporations as proposed by the Senate.

Amendment No. 153: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which makes permanent the prohibition against releasing information acquired from milk handlers under the Agricultural Marketing Agreement Act of 1937 as proposed by the Senate.

Amendment No. 154: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which adds the Rural Development Loan Fund Program Account to the list of accounts in the bill whose appropriations will remain available until expended.

Amendment No. 155: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides that hereafter, certain appropriations in the Act shall remain available until expended.

Amendment No. 156: Deletes Senate language regarding the regional offices of the Rural Development Administration. The House bill contained a similar provision.

Amendment No. 157: Restores House language providing that none of the funds in the Act may be used to operate the seven regional offices of the Rural Development Administration after April 1, 1994.

The conferees expect these offices to be closed in an orderly manner. The conferees also expect the Department to give consideration to the present location of the seven regional offices in developing any proposed new field structure for the Department.

Amendment No. 158: Limits the amount of funds available for the Market Promotion Program to $100,000,000 instead of $127,734,000 as proposed by the House and $75,000,000 as proposed by the Senate.

Amendment No. 159: Provides for a Wetlands Reserve Program of not to exceed 75,000 acres in fiscal year 1994 instead of 50,000 as proposed by the House and 100,000 as proposed by the Senate.

Amendment No. 160: Deletes Senate language limiting the cost per acre under the Wetlands Reserve Program to $700.

The conferees are concerned about the cost per acre of the wetlands reserve program and expect the Department to reduce this cost.

Amendment No. 161: Restores House language regarding compliance with the Buy American Act.

Amendment No. 162: Deletes Senate language regarding the waiver of State laws limiting interest rates related to the Farmers House Administration programs.

Amendment No. 163: Deletes Senate language regarding the Board of Tea Experts. Similar language appears under the appropriation for the Food and Drug Administration.

Amendment No. 164: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which limits payments to producers of honey to not more than $50,000 in the 1994 crop year. The House bill contained no similar provision.

The conferees expect the General Accounting Office to review the importance of honey bees to the pollination of crops and the relation ship of the honey program.

Amendment No. 165: Deletes Senate language stating the Sense of the Senate regarding Japanese trade barriers to United States grown apples.

The conferees are concerned about the trade barriers that the Japanese government has consistently imposed on the importation of United States grown apples. The conferees agree that the current Japanese phytosanitary requirements on United States apples constitute an unnecessary trade barrier and urge the Administration to continue to work toward removing the barrier, including initiation of an investigation under section 301 of the Trade Act of 1974.

Amendment No. 166: Deletes Senate language regarding termination of the wool and mohair price support program. The conferees agree that if the Budget Reconciliation Act does not address payment limitations of not more than $50,000 before 1997, the House and Senate Committees on Appropriations will review the program during the fiscal year 1995 appropriations process.

Amendment No. 167: Deletes Senate language regarding the refinancing of Rural Electrification Administration loans. The conferees are advised that a similar provision will be incorporated in the Budget Reconciliation Act.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1994 recommended by the Committee of Conference, with comparisons to the fiscal year 1993 amount, the 1994 budget estimates, and the House and Senate bills for 1994 follow:

New budget (obligational) authority, fiscal year 1993	$60,547,821,000
Budget estimates of new (obligational) authority, fiscal year 1994	76,581,667,000
House bill, fiscal year 1994	70,855,735,000
Senate bill, fiscal year 1994	71,020,407,000
Conference agreement, fiscal year 1994	71,003,910,000
Conference agreement compared with:	
New budget (obligational), fiscal year 1993	+10,456,089,000
Budget estimates of new (obligational) authority, fiscal year 1994	−5,577,757,000
House bill, fiscal year 1994	+148,175,000
Senate bill, fiscal year 1994	−16,497,000

RICHARD J. DURBIN,
JAMIE L. WHITTEN,
MARCY KAPTUR,
RAY THORNTON,
ROSA L. DELAURO,
PETE PETERSON,
ED PASTOR,
NEAL SMITH,
WILLIAM H. NATCHER,
JOE SKEEN,
BARBARA F. VUCANOVICH,
JAMES T. WALSH,
JOSEPH M. MCDADE,
Managers on the Part of the House.

DALE BUMPERS,
TOM HARKIN,
J. ROBERT KERREY,
J. BENNETT JOHNSTON,
HERB KOHL,
DIANNE FEINSTEIN,
ROBERT C. BYRD,
THAD COCHRAN,
ARLEN SPECTER,
CHRISTOPHER S. BOND,
PHIL GRAMM,
SLADE GORTON,
MARK O. HATFIELD,
Managers on the Part of the Senate.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. KNOLLENBERG) to revise and extend their remarks and include extraneous material:)

Mr. GINGRICH, for 5 minutes, today.

Mr. PORTER, for 5 minutes each day, August 3, 4, 5, and 6.

Mr. HORN, for 30 minutes, on August 6.

Mr. DOOLITTLE, for 60 minutes each day, on September 7, 8, and 9.

Mr. REGULA, for 5 minutes, on August 4.

(The following Members (at the request of Ms. DELAURO) to revise and extend their remarks and include extraneous material:)

Mr. STOKES, for 5 minutes, today.

Mr. KLINK, for 5 minutes, on August 4.

Mr. FINGERHUT, for 30 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. WISE, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. ROYCE, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. KNOLLENBERG) and to include extraneous matter:)

Mr. EVERETT.
Mr. MILLER of Florida.
Mr. YOUNG of Alaska.
Mr. CLINGER.
Mr. HASTERT.
Mr. CAMP in three instances.
Mr. SOLOMON.
Mr. LIVINGSTON.
Mr. SMITH of New Jersey.
Mr. GALLEGLY.
Mr. FAWELL.
Mrs. MORELLA.
Mr. CRANE.

(The following Members (at the request of Ms. DELAURO) and to include extraneous matter:)

Mr. NEAL of Massachusetts.
Mr. TRAFICANT in five instances.
Mr. FOGLIETTA.
Mr. MARKEY.
Mr. ACKERMAN.
Mrs. LLOYD.
Mr. KANJORSKI.
Mr. BROWN of California.
Mr. STARK in two instances.
Mrs. SCHROEDER.
Mr. BROOKS.
Mr. HEFNER.
Mr. HUGHES.
Mr. FINGERHUT.
Mr. BRYANT.
Mr. PASTOR.
Mr. PAYNE of New Jersey.

The following Members (at the request of Mr. KNOLLENBERG) and to include extraneous matter:)

Mr. MORAN.
Mr. BROWN of Ohio.
Mr. BRYANT.
Mr. OBEY.
Ms. PELOSI.
Mr. BURTON of Indiana.
Mr. POSHARD.
Mr. HUGHES.

ENROLLED BILLS SIGNED

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 236. An act to establish the Snake River Birds of Prey National Conservation Area in the State of Idaho, and for other purposes and

H.R. 616. An act to amend the Securities Exchange Act of 1934 to permit members of national securities exchanges to effect certain transactions with respect to accounts for which such members exercise investment discretion.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 1311. An act for the relief of Olga D. Zhondetskaya.

ADJOURNMENT

Mr. ROYCE. Madam Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 45 minutes p.m.), the House adjourned until tomorrow, Wednesday, August 4, 1993, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1691. A letter from the Under Secretary of Defense (Conservation and Installations), transmitting a report on the extent of contractor performance of commercial and industrial functions during fiscal year 1992, pursuant to 10 U.S.C. 2304 note; to the Committee on Armed Services.

1692. A letter from the Acting Chairman, Council of the District of Columbia, transmitting a copy of Council Resolution 10-91, "Transfer of Jurisdiction Over Children's Island, S.O. 92-252, Resolution of 1993," pursuant to D.C. Code, sec. 1-233(c)(1); to the Committee on the District of Columbia.

1693. A letter from the Secretary of Energy, transmitting the quarterly report for the Strategic Petroleum Reserve covering the first quarter of the calendar year 1993, pursuant to 42 U.S.C. 6245(b); to the Committee on Energy and Commerce.

1694. A letter from the Chair, Federal Energy Regulatory Commission, transmitting the Commission's annual report for calendar year 1992, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Operations.

1695. A letter from the Acting Assistant Secretary of the Army (Civil Works), transmitting a letter from the Chief of Engineers, Department of the Army dated September 23, 1991, submitting a report together with accompanying papers and illustrations (H. Doc. No. 103-126; to the Committee on Public Works and Transportation and ordered to be printed.

1696. A letter from the Administrator, Small Business Administration, transmitting the annual report on Minority Small Business and Capital Ownership Development for fiscal year 1992, pursuant to Public Law 100-656, section 408 (102 Stat. 3877); to the Committee on Small Business.

1697. A letter from the Deputy Under Secretary of Defense (Environmental Security), transmitting a report on the Defense Environmental Restoration Program for fiscal year 1992, pursuant to 10 U.S.C. 2706; jointly, to the Committees on Armed Services and Energy and Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. FROST: Committee on Rules. H. Res. 233. Resolution providing for consideration of the bill (H.R. 2401) to authorize appropriations for fiscal year 1994 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 1994, and for other purposes (Rept. 103-211). Referred to the House Calendar.

Mr. DURBIN: Committee of Conference. Conference report on H.R. 2493. A bill making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1994, and for other purposes (Rept. 103-212). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. FINGERHUT (for himself, Ms. SHEPHERD, Ms. SCHENK, Ms. CANTWELL, Mrs. MALONEY, Mr. BARRETT of Wisconsin, Mr. KLEIN, Mr. BECERRA, Mr. SANDERS, and Mrs. CLAYTON):

H.R. 2834. A bill to provide for the disclosure by lobbyists of financial benefits provided Members of Congress and for other purposes; to the Committee on the Judiciary.

By Ms. SHEPHERD (for herself, Mr. FINGERHUT, Mr. MANN, Ms. SCHENK, Ms. CANTWELL, Mrs. MALONEY, Mr. BARRETT of Wisconsin, Mr. KLEIN, Mr. BECERRA, Mr. SANDERS, and Mrs. CLAYTON):

H.R. 2835. A bill to limit the acceptance of gifts, meals, and travel by Members of Congress and congressional staff, and for other purposes; jointly, to the Committees on House Administration, the Judiciary, and Standards of Official Conduct.

By Mr. BROOKS (for himself and Mr. MAZZOLI) (both by request):

H.R. 2836. A bill to improve the admissions process at airports and other ports of entry, to strengthen criminal sanctions for alien smuggling and related criminal activities, and to enhance the investigatory authority of the Immigration and Naturalization Service; to the Committee on the Judiciary.

By Mr. BRYANT:

H.R. 2837. A bill to require the Federal Communications Commission to establish standards to reduce the amount of programming which contains violence from broadcast television and radio; to the Committee on Energy and Commerce.

By Mr. EVERETT (for himself, Mr. BATEMAN, Mr. ENGEL, Mr. GORDON, Mr. HUTTO, Mr. KLINK, Mr. KOPETSKI, Mr. MCCOLLUM, Mr. MCNULTY, Mr. MAZZOLI, Mr. MURPHY, Mr. OBEY, Mr. PALLONE, Mr. SLATTERY, Mr. SMITH of Oregon, and Mr. WHEAT):

H.R. 2838. A bill to establish a Commission on the Airplane Crash at Gander, NF; jointly, to the Committees on Public Works and Transportation and Foreign Affairs.

By Mr. EVERETT (for himself and Mr. JACOBS):

H.R. 2839. A bill to fix rates of pay for Members of Congress at the levels which were in effect immediately before the enactment of the Ethics Reform Act of 1989; jointly, to the Committees on Post Office and Civil Service House Administration, the Judiciary, Ways and Means, and Rules.

By Mr. HUGHES (for himself and Mr. FRANK of Massachusetts):

H.R. 2840. A bill to amend title 17, United States Code, to establish copyright arbitration royalty panels to replace the Copyright Royalty Tribunal, and for other purposes; to the Committee on the Judiciary.

By Mr. JOHNSON of South Dakota (for himself and Mr. MINGE):

H.R. 2841. A bill to amend the Internal Revenue Code of 1986 to defer recognition of gain on the sale or exchange of livestock on account of a Presidentially declared disaster; to the Committee on Ways and Means.

By Mrs. LLOYD (for herself Mrs. Schroeder, Ms. MALONEY, Mrs. MEEK, Ms. PELOSI, Ms. EDDIE BERNICE JOHNSON of Texas, Mrs. COLLINS of Illinois, and Ms. WOOLSEY):

H.R. 2842. A bill to amend the Public Health Service Act to provide for the development or expansion of research centers on women's midlife health, including menopause and menopausal health conditions; to the Committee on Energy and Commerce.

By Mr. MOLLOHAN:

H.R. 2843. A bill to establish the Wheeling National Heritage Area in the State of West Virginia, and for other purposes; to the Committee on Natural Resources.

By Mr. SANTORUM:

H.R. 2844. A bill to renew until January 1, 1996, the previous suspension of duty on certain chemicals, and for other purposes; to the Committee on Ways and Means.

H.R. 2845. A bill to suspend until January 1, 1996, the duty on certain chemicals; to the Committee on Ways and Means.

By Mrs. SCHROEDER (for herself, Ms. SNOWE, and Ms. NORTON):

H.R. 2846. A bill to clarify the application of certain employment protection laws to the Congress and for other purposes; jointly, to the Committees on House Administration, Rules, Education and Labor, Government Operations, and the Judiciary.

By Mr. SENSENBRENNER:

H.R. 2847. A bill to control and prevent crime; to the Committee on the Judiciary.

By Mr. SHARP (for himself, Ms. LONG, Mr. MCCLOSKEY, Mr. JACOBS, Mr. MYERS of Indiana, Mr. VISCLOSKY, Mr. HAMILTON, Mr. BURTON of Indiana, Mr. ROEMER, Mr. SHUSTER, Mr. CLINGER, Mr. RIDGE, Mr. MCHALE, Mr. HOLDEN, Mr. BORSKI, Mr. FOGLIETTA, Mr. GREENWOOD, Mr. WELDON, Mr. KLINK, Mr. GEKAS, Ms. MARGOLIES-MEZVINSKY, Mr. BLACKWELL, Mr. REGULA, Ms. KAPTUR, Mr. MANN, Mr. HOBSON, Mr. PORTMAN, Mr. APPLEGATE, Mr. FINGERHUT, and Mr. DICKEY):

H.R. 2848. A bill to amend the Solid Waste Disposal Act to permit Governors to limit the disposal of out-of-State solid waste in their States, and for other purposes; to the Committee on Energy and Commerce.

By Mr. SMITH of New Jersey:

H.R. 2849. A bill to provide for a program to be conducted by the Secretary of Defense relating to Lyme disease; to the Committee on Armed Services.

By Mr. SMITH of New Jersey (for himself and Mr. SAXTON):

H.R. 2850. A bill to amend title XVIII of the Social Security Act to provide an additional payment under part A of the Medicare Program for the operating costs of inpatient hospital services of hospitals with a high proportion of patients who are Medicare beneficiaries; to the Committee on Ways and Means.

By Mr. THOMAS of California:

H.R. 2851. A bill to impose certain requirements on the resolution of medical malpractice liability claims, to amend the Internal Revenue Code of 1986 to require persons making certain medical malpractice payments to report such payments to the Secretary of the Treasury, and for other purposes; jointly, to the Committees on the Judiciary and Ways and Means.

By Mr. BUNNING:

H.R. 2852. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade of the United States for the vessel *Mary B;* to the Committee on Merchant Marine and Fisheries.

By Mr. MANTON:

H.J. Res. 246. Joint resolution to designate the month of March 1994 as "Irish-American Heritage Month"; to the Committee on Post Office and Civil Service.

By Mr. MINETA (for himself, Mr. SHUSTER, Mr. RAHALL, Mr. PETRI, Mr. OBERSTAR, Mr. CLINGER, Mr. APPLEGATE, Mr. DE LUGO, Mr. BORSKI, Mr. VALENTINE, Mr. LIPINSKI, Mr. BOEHLERT, Mr. WISE, Mr. TRAFICANT, Mr. DEFAZIO, Mr. HAYES, Mr. CLEMENT, Mr. EMERSON, Mr. COSTELLO, Mr. PARKER, Mr. SANGMEISTER, Mr. SWETT, Mr. DUNCAN, Mr. CRAMER, Ms. NORTON, Mr. BLACKWELL, Mr. COPPERSMITH, Ms. BYRNE, Ms. DUNN, Ms. DANNER, Mr. MENENDEZ, Mr. HUTCHINSON, Mr. CLYBURN, Ms. BROWN of Florida, Mr. LEVY, Mr. DEAL, Mr. BARCIA of Michigan, Mr. BLUTE, Mr. HAMBURG, Mr. TUCKER, Mr. QUINN, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. GOODLING, and Mrs. MORELLA):

H.J. Res. 247. Joint resolution designating the month of December 1993 as "National Drunk and Drugged Driving Prevention Month"; to the Committee on Post Office and Civil Service.

By Mr. ROYCE:

H.J. Res. 248. Joint resolution entitled the "Citizen's Tax Protection Amendment," proposing an amendment to the Constitution of the United States to prohibit retroactive taxation; to the Committee on the Judiciary.

By Mr. JOHNSTON of Florida (for himself, Mr. BURTON of Indiana, Mr. PAYNE of New Jersey, Mr. HASTINGS, Mr. GILMAN, Mr. WOLF, Mr. LANTOS, Mr. ACKERMAN, Mr. BERMAN, Mr. GEJDENSON, Mr. EDWARDS of California, Mr. ENGEL, Mr. MFUME, Mr. ROYCE, Mr. DIAZ-BALART, Mr. WHEAT, Mr. EMERSON, Mr. LIVINGSTON, Mr. WALKER, Mr. ROHRABACHER, Mr. SCHAEFER, Mr. LINDER, Mr. CANADY, Mr. FRANK of Massachusetts, Mr. JEFFERSON, Mr. OBERSTAR, Mr. MORAN, Mr. HALL of Ohio, Mrs. MEEK, Ms. MCKINNEY, Mr. OLVER, Mr. GORDON, Mr. WYNN, Mr. TOWNS, Mr. MCCLOSKEY, Mrs. CLAYTON, Mr. BORSKI, Ms. LOWEY, and Mr. MENENDEZ):

H. Con. Res. 131. Concurrent resolution expressing the sense of the Congress with respect to the situation in Sudan; jointly, to the Committees on Foreign Affairs and Banking, Finance and Urban Affairs.

By Ms. SNOWE (for herself, Mrs. JOHNSON of Connecticut, Mr. PORTER, Ms. LOWEY, Mr. GINGRICH and Mr. SLATTERY):

H. Res. 234. Resolution expressing the sense of the House of Representatives that obstetrician-gynecologists should be designated as primary care providers for women in Federal laws relating to the provision of health care; jointly, to the Committees on Energy and Commerce and Ways and Means.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

[Omitted from the Record of August 2, 1993]

H.J. Res. 157: Mr. SWIFT, Mr. SCHUMER, Mr. CRAMER, Mr. PETERSON of Florida, Mr. LANCASTER, Mr. ROSE, Mr. MYERS, Ms. SNOWE, Mrs. LOWEY, Mrs. MINK, Mr. GIBBONS, and Mr. MINETA.

[Submitted August 3, 1993]

H.R. 26: Mr. BACCHUS of Florida, Mr. FARR, Mr. GONZALEZ, and Mr. HOYER.

H.R. 64: Mr. KING and Mr. FROST.

H.R. 65: Mrs. BENTLEY and Mr. HAYES.

H.R. 66: Mr. HANCOCK, Mr. GUTIERREZ, Mr. GENE GREEN of Texas, and Mr. DINGELL.

H.R. 68: Mr. FROST and Mr. PARKER.

H.R. 145: Mrs. BENTLEY and Mr. TAUZIN.

H.R. 322: Ms. WOOLSEY, Ms. ROYBAL-ALLARD, Mr. JACOBS, and Mr. YATES.

H.R. 493: Mr. PORTMAN.

H.R. 569: Mr. LANTOS.

H.R. 654: Mr. LIPINSKI, Mr. TUCKER, Mr. FROST, Mr. DORNAN, Mr. LANCASTER, Mr. BURTON of Indiana, Mr. UPTON, Mr. KLEIN, Mr. MURPHY, Mr. LIVINGSTON, Mr. MOORHEAD, Mr. RAVENEL, Mr. TORKILDSEN, Mr. GORDON, Mr. BROWN of Ohio, Mr. BALLENGER, Mr. RAHALL, Mr. HASTINGS, Mr. KLECZKA, Mr. FOGLIETTA, Mr. LEVIN, Mr. BARCIA of Michigan, Mr. DUNCAN, Mr. ACKERMAN, Mr. CRANE, Mr. SMITH of Michigan, Mr. TOWNS, Mr. VISCLOSKY, Mr. KILDEE, Mr. KNOLLENBERG, Mr. CALLAHAN, Mr. OXLEY, Mr. CAMP, Mr. HINCHEY, and Mr. DINGELL.

H.R. 822: Mr. WYNN.

H.R. 833: Mrs. SCHROEDER, Mr. SHAYS, and Mr. ABERCROMBIE.

H.R. 840: Ms. VELAZQUEZ.

H.R. 916: Mr. WASHINGTON.

H.R. 949: Mr. GENE GREEN of Texas.

H.R. 1078: Mr. KINGSTON.

H.R. 1079: Mr. KINGSTON.

H.R. 1080: Mr. KINGSTON and Mr. POSHARD.

H.R. 1081: Mr. KINGSTON.

H.R. 1082: Mr. KINGSTON.

H.R. 1083: Mr. KINGSTON.

H.R. 1122: Mr. JACOBS.

H.R. 1124: Mr. JACOBS.

H.R. 1126: Mr. JACOBS and Mr. KIM.

H.R. 1146: Ms. BYRNE, Mr. MENENDEZ, and Mr. MINGE.

H.R. 1164: Mr. TORRICELLI.

H.R. 1167: Mr. DOOLITTLE.

H.R. 1168: Mr. DOOLITTLE.

H.R. 1200: Mr. BISHOP.

H.R. 1257: Mr. DE LUGO.

H.R. 1295: Mr. BISHOP.

H.R. 1421: Ms. ESHOO.

H.R. 1457: Ms. VELAZQUEZ, Mr. KLEIN, Mr. SKAGGS, Mr. MARKEY, Mr. RICHARDSON, Mr. TORRICELLI, Mr. BONIOR, Mr. COLEMAN, Mr. SWETT, and Mr. BISHOP.

H.R. 1472: Mr. ENGEL.

H.R. 1504: Ms. BYRNE and Mr. ACKERMAN.

H.R. 1529: Mr. LINDER.

H.R. 1531: Mrs. CLAYTON, Mr. TUCKER, Mr. WYNN, Mr. JOHNSON of Georgia, and Mr. HASTINGS.

H.R. 1551: Mr. PAXON.

H.R. 1552: Mr. BROWN of California.

H.R. 1569: Mr. PORTMAN, Mr. BOEHNER, and Mr. HOBSON.

H.R. 1595: Mr. GLICKMAN.

H.R. 1640: Mr. BISHOP.

H.R. 1671: Mr. ANDREWS of New Jersey.

H.R. 1697: Mr. SYNAR, Mr. ANDREWS of Maine, and Mr. TORRES.

H.R. 1797: Mr. FROST and Mr. MINGE.

H.R. 1799: Mr. FROST and Mr. MINGE.

H.R. 1898: Mrs. VUCANOVICH and Mr. CLINGER.

H.R. 1933: Ms. FURSE, Mr. MATSUI, Mr. BERMAN, Mrs. MINK, Mr. FORD of Michigan, and Ms. VELAZQUEZ.

H.R. 1957: Mr. DARDEN.

H.R. 1981: Ms. KAPTUR, Mr. BURTON of Indiana, Mr. INHOFE, Mr. HUTCHINSON, Mr. BARTON of Texas, and Mr. COMBEST.

H.R. 1985: Mrs. SCHROEDER, Mr. BRYANT, Mr. TORRES, Mr. WAXMAN, Mr. DERRICK, Mr. HASTINGS, Mr. RANGEL, Mr. FROST, Ms. ESHOO, Mr. GLICKMAN, and Mr. HAMBURG.

H.R. 2016: Mr. SHAYS.

H.R. 2076: Mrs. UNSOELD, Mr. FILNER, Mr. FOGLIETTA, Ms. ESHOO, and Mr. HUGHES.

H.R. 2105: Mr. OLVER and Mr. WYNN.

H.R. 2111: Mr. MCDERMOTT and Mr. BROWN of Ohio.

H.R. 2130: Mr. BATEMAN.

H.R. 2151: Mr. CALLAHAN and Mr. GILCHREST.

H.R. 2152: Mr. CALLAHAN.

H.R. 2225: Mr. SOLOMON.

H.R. 2241: Mr. GENE GREEN of Texas, and Mr. PAYNE of Virginia.

H.R. 2415: Mr. KIM, Mr. HOKE, and Mr. HEFLEY.

H.R. 2433: Mr. KIM.

H.R. 2434: Mr. STEARNS.

H.R. 2438: Mr. PARKER.

H.R. 2472: Mr. DEFAZIO.

H.R. 2602: Mr. PAYNE of Virginia.

H.R. 2612: Mr. BROWN of California.

H.R. 2623: Mr. HASTERT, Mr. KREIDLER, Mr. SANDERS, and Mrs. UNSOELD.

H.R. 2661: Mr. MINGE.

H.R. 2713: Mr. BISHOP.

H.R. 2714: Mr. BISHOP.

H.R. 2727: Mr. DELLUMS, Mr. YATES, and Mr. MACHTLEY.

H.R. 2741: Mr. ANDREWS of New Jersey.

H.R. 2786: Mr. SOLOMON, Mr. OLVER, and Mr. LIGHTFOOT.

H.J. Res. 9: Mr. PARKER and Mr. KNOLLENBERG.

H.J. Res. 157: Mr. FRANK of Massachusetts, Ms. SCHENK, Mr. GALLO, Mr. MOORHEAD, Mr. SHAYS, Mr. KOPETSKI, Ms. KAPTUR, Mr. WILSON, Mr. LEVIN, Mr. CARDIN, Mrs. UNSOELD, Mr. WYDEN, Mr. INSLEE, Mr. DARDEN, Ms. BROWN of Florida, Mr. WATT, Mr. JOHNSTON of Florida, Mr. GUNDERSON, Mr. LANTOS, Mr. EMERSON, Mr. SMITH of Iowa, Mr. DE LUGO, Mr. VOLKMER, Mr. MCDADE, Mr. ROYCE, Mr. WISE, and Mr. REED.

H.J. Res. 165: Mr. CARR, Ms. VELAZQUEZ, Mr. NADLER, Mr. GENE GREEN of Texas, Mr. KLUG, Mr. FORD of Michigan, Mr. HOEKSTRA, Mr. TEJEDA, Mr. BONIOR, Mr. MANN, Ms. SNOWE, and Mr. COSTELLO.

H.J. Res. 189: Mr. DURBIN, Mr. DIAZ-BALART, Mr. GORDON, Mr. MONTGOMERY, Mr. EWING, Mr. TORKILDSEN, Mr. UNDERWOOD, Mr. QUILLEN, Mr. HOBSON, Mr. DOOLITTLE, Mrs. MEEK, Mr. MARTINEZ, Mr. RANGEL, Mr. FOGLIETTA, Mr. FROST, Mr. PARKER, Mr. GEKAS, Mrs. MORELLA, Mr. KOPETSKI, Ms. FURSE, Mr. DEFAZIO, and Mr. POSHARD.

H.J. Res. 212: Mr. MOLLOHAN and Mr. UNDERWOOD.

H.J. Res. 226: Mr. WALSH, Mr. LEWIS of Georgia, Ms. ESHOO, Mr. CLEMENT, and Mrs. CLAYTON.

H.J. Res. 237: Mr. GINGRICH, Mr. KING, and Mr. BORSKI.

H.J. Res. 240: Mr. MCNULTY.

H.J. Res. 243: Mr. LIPINSKI, Mr. KILDEE, Mr. MCDADE, Mr. REED, Mr. CRAMER, Mr. CASTLE, Mr. BACCHUS of Florida, and Mr. WALSH.

H. Con. Res. 20: Ms. THURMAN.

H. Con. Res. 75: Mr. JOHNSON of South Dakota and Miss COLLINS of Michigan.

H. Con. Res. 80: Mr. CRAMER.

H. Con. Res. 99: Mr. BISHOP.

H. Con. Res. 107: Ms. DANNER, Mr. GEKAS, Mr. HAMBURG, Mr. HEFNER, Mr. LANCASTER, Mr. LEWIS of California, Mr. MATSUI, Mr. MCDADE, Mr. MURPHY, Mr. ROSE, Mr. SANGMEISTER, Mr. SHARP, Ms. KAPTUR, Mr. LEWIS of Florida, and Mr. ACKERMAN.

H. Res. 202: Mr. MINGE, Mr. BEREUTER, Mr. JOHNSON of South Dakota, Mr. FROST, Mrs. UNSOELD, and Mr. BISHOP.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 1532: Mr. ACKERMAN.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2330

By Mr. GLICKMAN:

—At the end of title III, add the following new section:

SEC. 307. DISCLOSURE OF CLASSIFIED INFORMATION BY MEMBERS OF CONGRESS AND EXECUTIVE BRANCH OFFICERS AND EMPLOYEES

During the fiscal year 1994, no element of the United States Government for which funds are authorized in this Act may provide any classified information concerning or derived from the intelligence or intelligence-related activities of such element to a Member of Congress or to an officer or employee of the executive branch of the United States Government unless and until a copy of the following oath of secrecy has been signed by that Member, or officer or employee, as the case may be, and has been published, in an appropriate manner, in the Congressional Record:

"I do solemnly swear that I will not willfully directly or indirectly disclose to any unauthorized person any classified information received from any department of the Government funded in the Intelligence Authorization Act for Fiscal Year 1994 in the course of my duties as a Member of Congress (except pursuant to the rules and procedures of the appropriate House of the Congress), or as an officer or employee in the executive branch of the Government, as the case may be.

As used in this section, the term 'Member of Congress' means a Member of the Senate or a Representative in, or a Delegate or Resident Commissioner to, the House of Representatives."

SENATE—*Tuesday, August 3, 1993*

(Legislative day of Wednesday, June 30, 1993)

The Senate met at 9:40 a.m., on the expiration of the recess, and was called to order by the Honorable BARBARA BOXER, a Senator from the State of California.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

He answered and said unto them, "When it is evening, ye say, It will be fair weather: for the sky is red. And in the morning, It will be foul weather to-day: for the sky is red and lowering. O ye hypocrites, ye can discern the face of the sky; but can ye not discern the signs of the times?" —Matthew 16:2, 3.

Eternal God, our hearts are overwhelmed with the desolation the flood have brought, and continues to bring, in the Midwest. In our helplessness, we pray for the people who have been devastated, for the many who have lost loved ones, who have lost homes and lands and businesses, for the frustration many feel as they work hard to fight the flood and are still overwhelmed by it. We who have been spared this tragedy feel guilty that we have not suffered.

Mighty God, are You trying to say something to us? Are these signs, reminding us of judgment? Are these a warning that we must get our house in order, nationally?

Gracious God, we pray for a visitation upon us as a people, that we may turn to Thee in our hour of desperation.

In Jesus' name. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, August 3, 1993.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable BARBARA BOXER, a Senator from the State of California, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mrs. BOXER thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

VOTES ON S. 919 AND GINSBURG NOMINATION

Mr. MITCHELL. Madam President, the Senate will now proceed to the national service bill with a vote on final passage of that bill to occur at 10 a.m. this morning. Immediately following that, there will be a vote on the nomination of Judge Ginsburg to the Supreme Court. I wish to repeat my request to Senators that in accordance with past practice and tradition, Senators take their seats and remain at their desks during the vote on the Ginsburg nomination.

Madam President, I would like to just make a brief comment on that nomination now, and then I will discuss the schedule for the remainder of the week.

NOMINATION OF RUTH BADER GINSBURG

Mr. MITCHELL. The vote by which the Senate will this morning confirm the nomination of Judge Ruth Bader Ginsburg as an Associate Justice of the United States Supreme Court will reflect the very high level of admiration and respect she has earned in this body.

Judge Ginsburg's appearance before the Senate Judiciary Committee last month confirmed for all of us that her reputation as a brilliant legal scholar committed to the fundamental constitutional freedoms is well deserved.

Judge Ginsburg revealed at the hearings what her career has previously demonstrated, a complete and secure grasp of the law and of the role of the judiciary in a representative democracy like ours.

With the vote this morning, Judge Ginsburg will be ready to be sworn in and take her seat as Justice Ginsburg when the Supreme Court's fall term begins in October. It will be a pleasure to congratulate her and to look forward to her tenure on the Court.

SCHEDULE

Mr. MITCHELL. Madam President, the Senate is scheduled to commence the August recess by the close of business on Friday. If we are to make that schedule, there will have to be cooperation and many votes and much consideration of various measures by the Senate during this week. And so I will be meeting with the distinguished Republican leader, with Senator KENNEDY, Senator NUNN, and others involving legislation we are trying to take up and consider.

But I merely want to alert and caution Senators to the fact that there will be votes at any time throughout the day, evening, perhaps into the night during this week. Senators should be prepared for lengthy sessions. No requests for periods of time in which votes do not occur will be entertained or considered. Senators must be prepared to be here within 20 minutes to cast votes when necessary.

With respect to the votes this morning, the last two votes will be 10 minutes each. There will be four votes in succession. The first two will be under the usual time procedures. The last two votes will be for 10 minutes each. So I encourage my colleagues to cooperate, to be present, not to make requests for no votes for this evening or for that morning or for that afternoon. This is the final week, and if we are to complete our action and begin the recess, it will be necessary to have cooperation.

Of course, as I have said many times, the principal action we will take is on the reconciliation bill. I expect that to be enacted later this week. If for any reason it is not, there will be no recess. I have said this publicly on many occasions, and I wish to repeat it now so there cannot possibly be any misunderstanding whatsoever on the part of any Senator.

If for any reason—I do not expect this to occur, but if for any reason reconciliation does not pass, the recess is automatically canceled and the Senate will remain in session throughout the month of August. But I hope and expect that that will not occur and we will be able to complete that and other measures during the week.

Madam President, I thank my colleagues for their patience and cooperation, and I now yield the floor.

RESERVATION OF LEADERSHIP TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

NATIONAL AND COMMUNITY SERVICE TRUST ACT OF 1993

The ACTING PRESIDENT pro tempore. Under the previous order, the

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Senate will now resume consideration of S. 919, which the clerk will report.

The bill clerk read as follows:

A bill (S. 919) to amend the National and Community Service Act of 1990 to establish a Corporation of National Service to enhance opportunities for national service and provide national service education awards to persons participating in such service, and for other purposes.

The Senate resumed consideration of the bill.

The ACTING PRESIDENT pro tempore. Under the previous order, time between now and 10 a.m. will be for debate on the bill with the time equally divided.

Mr. KENNEDY addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts.

Mr. KENNEDY. How much time does the Senator from Massachusetts have?

The ACTING PRESIDENT pro tempore. The Senator has 6 minutes and 42 seconds.

Mr. KENNEDY. I thank the Chair.

AMENDMENT NO. 746

(Purpose: To improve the National and Community Service Act of 1990)

Mr. KENNEDY. Madam President, I send to the desk an amendment pursuant to a unanimous-consent agreement reached last Friday.

The ACTING PRESIDENT pro tempore. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY], for himself and Mrs. KASSEBAUM, proposes an amendment numbered 746.

Mr. KENNEDY. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 8, line 6, strike the period and insert ", or grants described in section 129(d)(4).".

On page 28, strike line 22 and all that follows through page 29, line 14, and insert the following:

"(1) ALLOTMENT OF ASSISTANCE TO CERTAIN STATES.—

"(A) IN GENERAL.—Of the funds allocated by the Corporation for provision of assistance under subsections (a) and (b) of section 121 for a fiscal year, the Corporation shall make a grant under section 121(a) (and a corresponding allotment of approved national service positions) to each of the several States (through the State Commission of the State), the District of Columbia, and the Commonwealth of Puerto Rico that has an application approved by the Corporation under section 133.

"(B) ALLOTMENT AMOUNTS.—Except as provided in subparagraph (C), the amount allotted as a grant to each such State under this paragraph for a fiscal year shall be equal to—

"(i) in the first fiscal year for which funds are appropriated under section 501(a)(2), an amount that bears the same ratio to 40 percent of the allocated funds for such fiscal year;

"(ii) in the second such fiscal year, an amount that bears the same ratio to 45 percent of the allocated funds for such fiscal year; and

"(iii) in the third such fiscal year, an amount that bears the same ratio to 50 percent of the allocated funds for such fiscal year,

as the population of the State bears to the total population of the several States, the District of Columbia, and the Commonwealth of Puerto Rico

"(C) LIMITATION.—In no case shall any State receive a grant under this paragraph for a fiscal year in an amount that is less than ½ of 1 percent of the allocated funds for the fiscal year.

On page 32, strike line 9 and insert the following:

30 percent of the allocated funds in the first fiscal year for which funds are appropriated under section 501(a)(2), not less than 27½ percent of the allocated funds in the second such fiscal year, and not less than 25 percent of the allocated funds in the third such fiscal year, to make grants

On page 34, strike lines 2 and 3 and insert the following:

of subsections (a) and (c) and after using the appropriate percentage of such funds, as described in paragraph (1), to make grants under paragraph

On page 34, between lines 15 and 16, add the following:

"(4) RESERVATION.—

"(A) SUPPLEMENTAL AND OTHER GRANTS.—In distributing the funds allocated by the Corporation for provision of assistance under section 121 for a fiscal year, after operation of subsections (a) and (c), the President shall reserve, from the funds available to make grants under paragraphs (1) and (2), an amount that is not less than 2 percent and not more than 5 percent of such funds (except that such amount may not exceed $10,000,000), in order to make supplemental grants as provided in subparagraph (B) and grants as provided in subparagraph (C).

"(B) GRANTS TO ASSIST ENTITIES IN PLACING APPLICANTS WHO ARE INDIVIDUALS WITH A DISABILITY.—

"(i) IN GENERAL.—The President shall make grants from a portion of the funds reserved under subparagraph (A) to entities that—

"(I) receive a grant to carry out a national service program under paragraph (1) or (2);

"(II) demonstrate that the entity has received a substantial number of applications for placement in the national service program of persons who are individuals with a disability, as defined in section 3(2) of the Americans with Disabilities Act of 1990, and who require a reasonable accommodation, as defined in section 101(9) of such Act or auxiliary aids and services, as defined in section 3(1) of such Act, in order to perform national service; and

"(III) demonstrate that additional funding would assist the national service program in placing a substantial number of such individuals with a disability as participants in projects carried out through the program.

"(ii) REQUIREMENTS.—Funds made available through such a supplemental grant under clause (i) shall be made available for the same purposes, and subject to the same requirements, as funds made available through a grant made under paragraph (1) or (2).

"(C) GRANTS FOR OUTREACH TO INDIVIDUALS WITH A DISABILITY.—

"(i) IN GENERAL.—From the portion of the funds reserved under subparagraph (A) that is not used to make grants under subparagraph (B), the President shall make grants to public and private not-for-profit organizations to pay for the Federal share described in section 121(e) of—

"(I) providing information about the programs specified in section 193A(d)(10) to such individuals with a disability who desire to perform national service; and

"(II) enabling the individuals to participate in activities carried out through such programs, which may include assisting the placement of the individuals in approved national service positions.

"(ii) APPLICATION.—To be eligible to receive a grant under this subparagraph, an organization described in clause (i) shall submit an application to the President at such time, in such manner, and containing such information as the President may require.

On page 50, between lines 5 and 6, insert the following:

"(d) PROHIBITION ON CERTAIN POLITICAL ACTIVITIES.—

"(1) IN GENERAL.—Except as provided in subsection (b) and paragraph (2), an application submitted to the Corporation under section 130 shall include an assurance by the applicant that any national service program carried out using assistance provided under section 121 and any approved national service position provided to an applicant will not be used to—

"(A) provide political seminars, training, instruction, lectures, classes, or speeches; or

"(B) assist political organizations, partisan organizations, or political appointees.

"(2) POLITICAL APPOINTEES.—The requirement of paragraph (1) relating to an assurance regarding speeches shall not apply to political appointees who are responsible for the administration of a national service program.

"(3) ENFORCEMENT.—If the Corporation determines that a national service program has failed to comply with the assurances provided under paragraph (1), the Corporation shall—

"(A) prohibit the program from recruiting or selecting individuals to participate in the program during the 2-year period beginning on the date the Corporation determines the noncompliance commenced; and

"(B) direct the program to terminate the employment of the supervisors determined to be involved in the noncompliance.

On page 162, strike lines 11 through 18 and insert the following:

SEC. 114. REPORTS.

Section 172 of the National and Community Service Act of 1990 (42 U.S.C. 12632) is amended—

(1) in subsection (a)(3)(A), by striking "sections 177 and 113(9)" and inserting "section 177";

(2) in subsection (b)—

(A) by striking "REPORT TO CONGRESS"; and inserting "REPORT TO CONGRESS BY CORPORATION"; and

(B) in paragraph (1), by striking "this title" and inserting "the national service laws"; and

(3) by adding at the end the following:

"(c) REPORT TO CONGRESS BY SECRETARY OF DEFENSE.—

"(1) STUDY.—The Secretary of Defense shall annually conduct a study of the effect of the programs carried out under this title on recruitment for the Armed Forces.

"(2) REPORT.—The Secretary of Defense shall annually submit a report to the appropriate committees of Congress containing the findings of the study described in paragraph (1) and such recommendations for legislative and administrative reform as the Secretary may determine to be appropriate.".

On page 193, strike lines 11 through 23 and insert the following:

"(C) who are experts in the delivery of human, educational, environmental, or public safety services, or are experts in the delivery of services by veterans;

"(D) that include at least one representative of local educators and at least one representative of community-based agencies;

"(E) so that the Board shall be diverse with respect to race, ethnicity, age, gender, and disability characteristics; and

"(F) so that no more than 8 appointed members of the Board are from a single political party.

"(3) EX OFFICIO MEMBERS.—The Secretary of Veterans Affairs, the Secretary of

Mr. KENNEDY. Madam President, this managers' amendment encompasses four amendments agreed to in principle last Friday: An amendment by Senator DOMENICI regarding the apportionment of funds to States; an amendment by Senator GRAMM of Texas regarding political activities; an amendment by Senator DOLE on veterans and the disabled; and an amendment by Senator DOLE regarding a Department of Defense study.

These amendments will improve the bill, so I urge the adoption of the amendment.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment (No. 746) was agreed to.

Mr. KENNEDY. Madam President, I move to reconsider the vote.

Mr. DURENBERGER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. KENNEDY. Madam President, I see my colleagues, the Senator from Pennsylvania [Mr. WOFFORD], and the Senator from Minnesota, [Mr. DURENBERGER].

I yield myself 2 minutes and will yield 2 minutes to the Senators from Pennsylvania and Minnesota.

Mr. KENNEDY. Madam President, the passage of this legislation is an important milestone for Congress. National and community service is one of the best investments we can make for the generations to come. In a sense, it is what the effort "to reinvent America" is all about, because it is the most significant step that we have taken so far to return to our roots—to revitalize the sense of community that has always been the hallmark of America at its best.

I commend President Clinton for his longstanding commitment to national service. He understands the importance of giving Americans of all ages the opportunity to give something back to our country for all that our country has given to them.

I also commend Eli Segal, Director of the White House Office on National Service, for his impressive leadership on this legislation. He has worked effectively with Senators of both parties to refine and improve this measure.

We have made significant progress in the past week. Democrats and Republicans have worked together to shape this legislation, and it deserves broad bipartisan support. At a time when partisanship is running high on the reconciliation bill we have demonstrated that we can work in a bipartisan manner on a bipartisan issue—providing more effective opportunities for more citizens to serve their country.

We have continued to work together in recent days to find common ground. Today we have introduced a manager's package of five additional Republican amendments which we have accepted. Three were offered by Senator DOLE to ensure that national service does not compete with military recruiting, to make the program more accessible to those with disabilities, and to enable those with experience in veterans' affairs to participate in the administration of the program. We also accepted an amendment offered by Senator GRAMM to ensure that participants do not engage in partisan political activities. All of us—Democrats and Republicans—can take pride in the progress we have made.

Of the 32 amendments we have accepted, 30 were Republican proposals to address their concerns. All of these proposals have been constructive, and they have strengthened the bill.

It is clear that this measure has broad public support. Hundreds of young citizens attended a Washington rally last week to endorse it. Thousands of Americans have sent in postcards and made telephone calls to their Senators. All of them share the same goal. They want an opportunity to serve others, and by doing so to make their community and their country a better place.

Community service—helping others—is not a new idea. It is the essence of democracy. America was founded on the concept that free people, working together for the common good, can survive and prosper. And from the first settlers to the first astronauts, it has been the secret of America's success.

The concept of service is important to instill in citizens of all ages, but it is especially important for the young, and it should be a central part of education. The lesson of service to others learned in youth will last a lifetime, and produce a better, fairer, and stronger America in the years ahead.

In his inaugural address 32 years ago, President Kennedy emphasized this quality, and touched a deeply responsive chord when he called upon Americans of all ages to ask what they could do for their country.

The best of the old frontier became the defining quality of his New Frontier. Citizens responded by the millions, and the spirit of America soared again, as it had so often in the past. The people understood that by working together, our Nation could meet and master any challenge. By harnessing the energy, ability, and idealism of our citizens, we can achieve our most pressing national goals.

We need to rekindle that attitude again for our own day and generation, and this legislation is well-designed to achieve that goal. We do not have to compel citizens to serve their country. All we have to do is ask—and provide the opportunity. The National and Community Service Trust Act provides that opportunity.

It has the potential to inspire large numbers of our citizens, from the very young to the very old, to work more effectively with others, and to use their talents in ways that will inspire their communities. In doing so, we will improve our Nation and address more effectively the serious challenges we face.

In a sense, the passage of this legislation marks the end of the me era in our national life, and the beginning of a new era in which the best American values are once again guiding our national spirit. I urge the Senate to pass this legislation and make these opportunities for community service possible and accessible.

The Senate is lucky to have so many Senators who are ardent supporters of national and community service. Senator WOFFORD has personally dedicated himself to this issue from the days of the founding of the Peace Corps. Senators DURENBERGER, JEFFORDS, CHAFEE, and SPECTER built early bipartisan support for this bill. Senators on the Labor Committee have lent their important support for this measure: Senators DODD, SIMON, WELLSTONE, BINGAMAN, and METZENBAUM.

Senator MIKULSKI was a champion in enacting the 1990 National and Community Service Act and has continued to be a key supporter. Senator PELL was one of the first Members of our Senate ever to advocate national service.

Off the committee, Senators NUNN and MOYNIHAN were also key architects of our 1990 national service legislation. Senator BOREN helped form the Civilian Community Corps last year.

The following Senate staff members have been especially helpful in enacting national service legislation. I want to extend my thanks:

Nick Littlefield, Senate Labor Committee; Ron Weich, Senate Labor Committee; Tom Sander, Senate Labor Committee; Marty Rodgers, Senator WOFFORD's staff; Pieter Boelhower, Senator BOREN's staff; Sarah Flanagan, Senator DODD's staff; Suzanne Day, Senator DODD's staff; Anita Harewood, Senator MIKULSKI's staff; Susan Heegaard, Senator DURENBERGER's staff; Jason Rothenberg, Senator PELL's staff; Jon Schroeder, Senator DURENBERGER's staff; and Judy Wagner, Senator SIMON's staff.

Robin Mahler, Senator METZENBAUM's staff; Cheryl Birdsall, Senator

METZENBAUM'S staff; Betty Ann Soiefer, Senate Governmental Affairs Committee; John Gompers, Senator WOFFORD's staff; Jason Snyder, intern to Senate Labor Committee; Kim Weaver, Senate Governmental Affairs Committee; John Ogden, Senator BUMPER'S Office; Cathy O'Brien, Senator NUNN's office; Bev Schroeder, Senator HARKIN's office; and Sherry Ettleson, Senator WELLSTONE's office.

In addition, the following individuals have also been invaluable. From the White House Office of National Service: Eli Segal, Jack Lew, Shirley Sagawa, Robert Gordon, Jr. From the House of Representatives, Gene Sofer on the House Education and Labor Committee. Furthermore, the Coalition for National and Community Service, under the supervision of Sara Hartman, and the People for the American Way, assisted by Tracy Sivitz, were very helpful in registering the support of Americans for the national service legislation.

Mr. DOMENICI. Madam President, I would like to speak for a few moments about the Senate's efforts on the National and Community Service Trust Act. While I cannot in good conscience vote for a bill that creates a program I believe we cannot afford at this time, I do want to acknowledge the efforts of a few of my colleagues for their work on this bill.

Senators KENNEDY and KASSEBAUM and their staffs have worked very hard to try to reach agreement on this issue. I know this has been an arduous process for those involved, and while I regret these compromise efforts have not been wholly successful, I do believe that many of the Republican amendments included in the bill make this a stronger bill. Two amendments that I authorized make two very important modifications by ensuring that this program is not an entitlement and providing more community service funding directly to the States.

The first amendment ensures that this program will not become another of our many entitlement programs. This amendment was very simple and clarifies what I believe to be the intent of the original legislation. It merely states that the expenditure of funds must clearly be considered as subject to the availability of appropriations.

I clearly have other concerns about the costs of this legislation. However, if this legislation is to pass, we must frankly take into account that entitlements are the fastest growing portion of the Federal budget. The American people clearly do not want us to enact any new entitlement programs.

My second amendment provides that more of the funding from this bill go directly to the States and allow each of them to work with their communities to develop programs that will adequately address their most critical areas of need.

When the committee substitute was first brought to the floor, it was structured so that funding would flow in three different ways:

First, one-third would have flowed directly to the States;

Second, one-third would have flowed to the Corporation for the States to bid upon competitively; and

Third, the remaining third would go to the Corporation for competitive bid by individual programs and national nonprofits.

Under my amendment, the funding will still flow to these three areas, but more will be allocated directly to the States with:

First, 40 percent going directly to the States the first year of authorization;

Second, 45 percent going directly the second year; and

Third, 50 percent going directly the third year.

In addition, my amendment will provide that our Nation's lesser populated States receive a minimum funding level that is equal to one-half of 1 percent of the Nation's population.

Madam President, despite the Senate's acceptance of my amendments, I intend to vote against this legislation. I do not oppose community and volunteer service. Frankly, I do not believe a single Member of this body opposes community service. It is a noble idea, and I will continue to encourage efforts by States and local communities to top the vast human resource of volunteers that I know is available because I have seen them myself.

The legislation before us, however, is not the right approach. I believe we have made it a better bill during the past week, but it is still not a good bill. Even with these important changes, I cannot support a new program which will cost $1.5 billion over the next 3 years. That is what is at the heart of this issue. We simply cannot raise taxes on our people as the President plans to start new programs, especially those with the potential for more and more spending in the future.

Mr. MITCHELL. Madam President, I support national and community service as a means by which Americans of all ages can contribute to the well-being of our country. The way in which one chooses to serve his or her country is of less importance than the service provided. Service is as old as our country. In fact, our society and the unique form of Government we enjoy was built on the strength of national service.

Those who believed first and fought hardest to convince others to form our Union were the earliest to call us to service. Hamilton opened the Federalist papers by summoning people to the fateful mission of democracy. The formation of this country was our initial and most significant call to national service. We are fortunate the call was answered positively by so many.

Over the course of our history, millions have found ways large and small to give of themselves to the common good of all of us. Throughout this century, men and women, as well as citizens who had not yet reached adulthood, fought to preserve our democracy when confronted by totalitarian forces. Today we are witnessing an outpouring of voluntarism as Americans leave their homes to help others who have been chased from their homes by midwestern floods. Young and old alike are donating their time and money to assist less fortunate individuals.

President Clinton's call to national service continues this rich heritage. His plan would encourage thousands across the country to give of themselves for a greater good while earning money to improve their minds. Under the President's plan, people interested in community and national service would accrue money to help pay college costs. This legislation merges education and service, two critical components of a healthy society.

As I travel throughout Maine, I meet many young people, and some still very young at heart, who lift my spirits by telling me of their efforts to serve the State and country. Students often ask me what they can do to help improve our Nation. I suggest they find a way to help their community and look for opportunities to serve their country. I am pleased the national service legislation includes options for young students to serve their country through organized school activities and by participating in programs offered through nonprofit community-based groups.

Maine has a long history of volunteer service. The legislature in 1983 created and funded the Maine Conservation Corps for the purpose of training people to help care for the State's vast natural resources. By 1986, 24 projects were operating throughout Maine. MCC in 1992 applied for and was awarded a grant from the Commission on National and Community Service to establish four service/conservation youth corps projects in Maine.

One successful program is the College Conservation Corps of Maine. CCCM operates a year-round program as well as a seasonal conservation corps program for youths aged 14 to 21. This program links community service with post-secondary educational opportunities for corpsmembers aged 16 to 24.

The National Service Trust Act of 1993 is intended to promote the patriotism Hamilton wrote of, and to instill in young people a strong work ethic. But opportunities to serve are by no means limited to young people. Americans of all ages have gifts to offer our country. This bill would make open the door to service to anyone interested. Madam President I support the legislation and urge my colleagues to help us make this exciting idea a reality.

Mr. BIDEN. Madam President, the Senate is about to pass the National and Community Service Trust Act. I am pleased to support this historic legislation.

One of our strengths as a country has always been our sense of community, our values of respect and concern for our neighbors. We see it every day, and we always have. In an earlier era, when the neighbor's barn burned down, everyone pitched in to rebuild it. And, today, with the floods in the Midwest, Americans of all ages, from all walks of life, from all corners of the country are there helping families they have never met and do not know. And, these are not isolated incidents. Every day, millions of concerned, responsible Americans join together to offer real answers to our real problems.

On a national level, many Government programs reflect these same values. But, government checks will always lack the human touch—one neighbor lending a hand to help another in need.

Government can help provide for a poor child, but it can never give the friendship, care, and guidance that a Big Brother or Big Sister can. No welfare check can help a frightened teenage mother deal with the mental and physical demands of child-rearing. No Medicare check can lift the spirits of a sick senior citizen like a visit from a caring neighbor.

No, Government alone cannot do the job. Government alone cannot meet all of America's challenges. For this, we need each other—our churches, our families, and our communities. But one thing the Government can do is to encourage and channel those efforts. We can summon the American spirit and the traditional American instinct to help.

It was just 30 years ago when many thousands of people of my generation some of whom now serve with me here in the Senate—first heard the call of service from a young President named John F. Kennedy—and, I might add, from a Kennedy aide named HARRIS WOFFORD. It was my generation that first served in the Peace Corps and in VISTA, and it was many of my generation that served America in Southeast Asia.

But, my generation is really no different than any other. The only difference is that we were asked—asked to serve by a young President who looked for and appealed to the best in all of us. Americans are again ready to serve—America's young people are ready if only someone would ask. Today, President Clinton has echoed the call many of us heard a generation ago and is now summoning a new generation of Americans to service.

The National and Community Service Trust Act asks the young people of America to give 1 or 2 years of their lives helping the disadvantaged, the elderly, and the underprivileged. And, in lending a helping hand, the Federal Government will in turn offer a helping hand of its own by providing a voucher to assist in meeting the costs of a higher education.

This bill is similar to proposals I made in 1987. At the time, I called for a 50,000-person National Community Service Corps comprised of small teams of young volunteers helping the poor in inner-city areas. I also proposed the creation of a Community Volunteer Guard, modeled after the National Guard, where post-college and middle-aged Americans could give one weekend a month or a couple of weeks every summer to work on community projects. And, I suggested that all high school seniors should be required to perform community service as a condition of graduation. As an aside, I am pleased to note that last year, Maryland became the first State in the Nation to adopt just such a requirement.

I made these proposals 6 years ago, and I am strongly supporting this legislation today, because national and community service can do much to help the homeless, to help the poor, to help the crime-ridden streets of our cities. But, more than that, national service will help teach those who serve about the American spirit and American tradition of community. I truly believe that the young person who helps someone who needs help is helped the most. Community service does as much for the individuals serving as it does for the communities in which they serve.

An experience from my own family confirms this point. My son Hunter recently completed a year of service with the Jesuit Volunteer Corps. He worked as an emergency services coordinator in Portland, OR. Hunt's year in Portland taught him a great deal about the world and about people whose lives have been very different from his. It taught him that you are not going to change the world, but that is no reason not to give your best effort to make a few people's lives a little better. And it taught him that, in a world of finite resources, decisions about how to do the most good with what you have are not easy ones.

But, as important as all of those lessons were, Hunt's JVC experience taught him the most about himself. It challenged him in ways in which he had never been challenged before and made him realize that he is capable of more than he would have ever believed. He came back from that year on the west coast a much more self-confident, self-reliant young man.

Madam President, every American should have the opportunity to participate in such a program. Every young American should have the chance to give something back to their community and country. This is why we need a national service program—to harness America's young people to afford them the chance to make a contribution to the American tradition of shared and common concern.

Even more, a national service program can teach our young people that they belong to a society in which membership conveys both rights and responsibilities. In the 1980's, we forgot the words of John Stuart Mill that "every one who receives the protection of society owes a return for the benefit."

Instead, the prevailing attitude was that of a former President Reagan Cabinet Member who derided the notion of national service by wondering whether America's youth really should be "picking up trash rather than earning their first million." Thank goodness, Mr. President, that today we have a President of the United States who has rejected such cynicism.

For no longer can the question be: How much of America can I get? The new question must be: What kind of America do we want? No longer can the question be: What do I deserve? The new question must be: What can we as Americans earn? What kind of America can we build together?

Madam President, the National and Community Service Trust Act will help to rekindle the American spirit of community and will help remind Americans of the responsibility we have to each other. I urge my colleagues to support this important legislation.

Mr. COATS. Madam President, when I voted in favor of reporting S. 919 out of the Labor Committee, I did so with a great deal of hesitation. It is true that I strongly support the concept of national and community service. It is true because I recognize the importance and value of America's tireless volunteers. Whether Big Brothers or Big Sisters, the Foster Grandparents, or Habitat for Humanity, millions of Americans are devoted to self help, to community service, and to doing so without a handout from the Federal Government.

Service to America is one of our Nation's finest traditions. It is important, first, because it is right and good. It is vital, second, because it meets social needs that Government bureaucrats cannot fill. Madam President, I support the concept of national service, but I cannot support his bill.

First, I am concerned that under S. 919, we are not recruiting volunteers, but new Federal employees. When volunteers are paid or enticed with future benefits, the nature of their service is changed.

Second, I am concerned that S. 919 is too prescriptive and does not provide enough room for State flexibility. A national service program properly designed, should build on existing programs and look to the States for their creativity in designing and administering these programs. The Federal Government should not dictate to the State in a rigid manner how these programs should look and who they should serve. S. 919 appears to take a top-down approach which may impinge on States in ways that are both unnecessary and unwise.

Third, I am concerned about the amount of resources that continue to be devoted to the new program. While I appreciate the willingness of the bill's sponsors to reduce the level of authorization, I have to question whether any new expenditure at this time is appropriate—especially when we are asking taxpayers to give more of their hard earned dollars to pay for it.

I had hoped the Senate would have adopted an approach like the one offered by Senator KASSEBAUM, which embraced the concept of national service while implementing it in a manner that is fiscally responsible. S. 919 now authorizes several studies that will look at the stipend level and determine not only the level necessary for a successful national service program but the most efficient method for providing those benefits. I support this effort, but would have preferred delaying enactment of this new National Service Program until the study had been completed—or at least conduct the program as a 2-year demonstration until full implementation were more practicable.

Implemented properly, the National and Community Service Program could engender a great amount of support and enthusiasm—unleashing thousands of Americans to take responsibility for themselves and their communities. However, S. 919 appears to be more of a political compromise than it does good policy.

Mr. CHAFEE. Madam President, I am pleased with the substitute national service bill which has emerged from this debate. I want to commend Eli Segal of the White House—as well as Senator KENNEDY—for their willingness to work out this compromise. I also want to thank Senator KASSEBAUM for her tireless efforts to develop a more realistic bill than the one which came out of committee.

The committee-reported bill simply "tried to do too much too fast," as my friend from Kansas so aptly pointed out during the debate. That bill would have authorized $4 billion within the first 3 years, and closer to $10 billion over 5 years. While these authorizations sound great—particularly to the young advocates of national service—they create false expectations. The compromise level of $1.5 billion over 3 years is far superior in light of the fiscal facts.

Do any of us honestly believe that appropriations for this bill of $10 billion were realistic given the constraints in discretionary spending we face? The spending caps included in the budget resolution provide for almost no growth over the next 5 years—not even for inflation. So, where would this money come from?

We all know the competition for discretionary dollars in the appropriations process is getting tougher every year. Once enacted, national service will have to compete with other popular programs for funding within the HUD-VA Subcommittee: environmental protection, low-income housing, veterans hospitals, scientific research, and NASA to name a few. Thus, with such ambitious authorization levels, appropriations of the originally proposed magnitude would never have been achieved.

The committee-reported bill also begged the question of whether or not we could create 25,000 new service positions in fiscal year 1994, and as many as 150,000 by 1997.

Since the new fiscal year begins in just 2 months and the Corporation for National and Community Service does not yet exist, reaching the 25,000 level in year one would have been quite a challenge. To achieve that level would have required a placement rate of approximately 2,100 new entrants per month.

I would remind my colleagues that currently in our whole U.S. Government there are only 20,000 positions of this type. These include approximately 3,300 for VISTA and 5,500 for the Peace Corps. Adding 25,000 new positions on top of these would have more than doubled the size of existing programs, which have taken years to put in place.

If that sounds daunting, imagine trying to reach the 150,000 level envisioned by 1997 under the committee-reported bill. That kind of expansion would have necessitated a placement rate of 12,500 per month.

While the compromise is not perfect, it is a far more realistic and responsible approach than the original bill. I am satisfied that authorizations of $300 million, $500 million, and $700 million over the next 3 fiscal years will provide a more durable, sustainable foundation for the future of national service than the overly ambitious plan that came from committee.

I hope that the bill which emerges from conference with the House is not more grandiose than the one the Senate has produced.

In conclusion, Madam President, I just would like to clarify one thing. While some have sought to label the extended debate, which produced this compromise, a filibuster—that is a misnomer. There are two kinds of debate in this body: the endless variety—the true filibuster—designed to kill legislation—and the constructive variety which is aimed at fostering negotiation and improving legislation. The latter is what happened here, and I think we can all be proud of the result.

Mr. ROTH. Madam President, I do not think that anyone disputes the notion that community service and voluntarism are fundamental to what we value as a nation. Every day millions of Americans contribute unselfishly of their time and energy to help in their communities. I believe the concept of community service is alive and well and flourishing in America. Just the other day the News Journal, one of our Delaware newspapers, reported on volunteer support for our State parks. The article pointed out that in the month of June alone 187 people—of all ages—volunteered at our 11 State parks—outmanning the 125 full-time employees. These individuals made a valuable contribution to our State and their community.

In 1990 the Congress passed the National and Community Service Act. This created new Federal programs which form the basis of the greatly expanded bill we have before us today. Frankly, I think that most people are unaware of the existing national service programs authorized in 1990. This may not be surprising as the first grant funds under the new programs were not obligated until last year. I did not support passage of the bill in 1990. At that time I indicated that I was not convinced that the creation of additional Federal programs and the use of Federal funds to pay people for participation in community service activities was necessary or appropriate to further the ideal of voluntarism and civic responsibility. It is also true today, as it was then, that Congress is facing very difficult decisions in ordering our priorities to meet important domestic concerns. It is important to note that Congress is considering a budget bill which will result in the largest tax increase in history while we have this bill before us today which calls for a significant expansion of programs which have only been funded in the past year. This is no way to reinvent Government or cut Government spending.

Mr. President, this bill before us, S. 919, represents a significant expansion of existing programs. As originally reported the bill contemplated an appropriation for Serve America of $45 million; the current appropriation for this activity is $16.3 million. The suggested funding level for the National and Community Trust Programs in S. 919 was $389 million; the current appropriation for the similar activities funded under the existing program is $21.5 million. The existing American Conservation and Youth Corps Program provides a post service benefit, but this is capped at a maximum of $2500. This bill nearly doubles that benefit for 1 year of service and nearly quadruples the payment if a participant serves for 2 years. It should also be noted that the potential exists for costs to explode under the programs in the bill. The President has called for serving 150,000 individuals a year through this program and his own budget submission called for expenditures growing to $3.7 billion a year and $10.4 billion over 5 years. We cannot afford this program.

Mr. President, many legitimate issues have been raised with respect to the national service bill during the course of deliberations in the Senate. These concerns range from questions over the scope, size and structure of the programs contemplated in the bill to the basic questions of exactly how the interests of voluntarism and participants are served by the legislation. I am frankly puzzled by the charges of obstructionism being raised with respect to the deliberations on this bill. The development of virtually all legislation—at all levels of Government—Federal, State, and local, are the result of a deliberative and time consuming process. This is constructive and not obstructive. Through negotiations and modifications we are often able to craft a better product. The national service bill is no exception to this fact. Through the course of the debate on this measure several modifications and over a dozen amendments have been incorporated into the bill. The rate of growth in the programs in S. 919 has been reduced and more attention has been given to examination of oversight of the activities to be funded through the legislation. It is simply not accurate to suggest that the expression of differences is an obstructionist tactic.

Finally, I am concerned about the expectations which may be raised through this legislation. As I mentioned this bill—with its very generous $5,000 postservice educational benefit—may serve 25,000 people. There are currently over 14.3 million students enrolled in postsecondary education. This is an extremely expensive program to benefit only a few people and the potential to disappoint many. For these reasons, I cannot support the National and Community Service Trust Act of 1993.

Mr. GLENN. Madam President, I rise today to lend my support to the National and Community Service Trust Act of 1993. This bill will enable Americans of all age groups and from diverse backgrounds to connect with their communities in a wide range of service programs addressing urgent unmet needs. I cannot think of a better investment in our people.

National and community service brings out the best in people and government. Government is at its best when it can engage the talents and dedication of its people in a cooperative effort to solve problems and provide opportunity. National and community service programs such as those in this bill call on people to help solve educational, social, environmental, and public safety problems. These programs provide opportunities for service participants to enrich their lives and to improve the lives of others.

The National Service Trust Program established by this legislation rewards individual responsibility by offering educational awards in return for participation in substantial service projects. This is a coherent and cost-effective program that addresses both the needs of our Nation and the needs of our young people. Young people increase their access to education and training while developing an ethic of service, and communities receive needed services ranging from tutoring and mentoring to revitalizing housing and parks. This program builds on America's proud traditions of compassion and voluntarism—and it provides a positive means to rekindle youthful idealism. The Federal, State, and local partnerships formed to implement the National Service and other service programs in this bill truly represent Government and its people at their best.

I am especially supportive of the concept that universities should help build an infrastructure of community service in neighborhoods and communities through the training of teachers, community leaders and other service professionals. One good example of such a university is John Carroll University in Cleveland, OH. John Carroll has designed a particularly innovative approach to community service that draws on the skills and experience of veterans at a time of military downsizing. John Carroll's program trains separating veterans for careers in science and mathematics education and school administration in Cleveland and in other urban high schools. The university is also developing a complementary plan to recruit and educate youth leaders from economically distressed areas for careers in community service. I applaud the efforts of John Carroll and of other colleges and universities in Ohio and around the country and I am hopeful that the National and Community Service Trust Act will spur many such creative responses to the pressing problems we confront today.

Mr. KERREY. Madam President, I rise today to announce my decision to vote against the National Community Service Act.

While I recognize the merits of this legislation and believe it may have great potential for the youth of this country, I cannot vote for a major new spending initiative during this time of fiscal restraint. At the same time the Federal Government is asking Americans to sacrifice, we must curb our desire to create a massive new program, despite its appeal, for the simple reason that it is unaffordable at this time.

Knowing that national service could make a difference in one young man or woman's life makes it difficult for me to cast my vote. I strongly believe the Government should place a higher priority on initiatives benefiting America's children and youth.

At the same time, if we are serious about deficit reduction, Congress must control spending. Further, there are already many effective national service programs, such as Boston's City Year, that do not rely on Federal funding. Thus, I find myself believing I must fight the urge to establish a new, expensive program, despite its promise.

Madam President, there are other problems of this bill which trouble me. First, I am concerned about the Federal Government's potential negative impact on good programs operating successfully in local communities. Although the Federal Government's intent is to duplicate successful local ventures, its presence can often have a negative impact on the effectiveness of the program. Local ownership of the program may be surrendered due to its reliance on Federal dollars. Federal supervision and mandates can damage a well-functioning program.

Talking to the young men and women participating in existing programs such as City Year and VISTA, I am confident that they have the talent and enthusiasm to run their programs without Government intervention. Unfortunately, by funding national service through the Federal Government, it is the adults who are reaching the conclusion that service is good for the youth of this country. We cannot take possession of a program that rightfully does not belong to us.

Second, I fear that many service programs will come into being to tap into a new Federal pot of money rather than being cultivated from the community. Programs that have developed from the ground up have been successful because people are genuinely committed to improving their community. The community is also in the best position to identify pressing problems that may require some assistance and then develop a solution.

While competitive and accountability provisions have been incorporated into the legislation, there is still the risk that, instead of focusing on the program as a whole, the emphasis will fall on the amount of money channeled into a particular area. Rather than assessing the program based on its effect on the lives of Americans, there is a natural tendency to fight for dollars.

Third, I am uncomfortable that by passing this legislation, we create an unrealistic expectation about what national service is capable of accomplishing. Because participation is limited, most eligible candidates for service will be rejected. Many of these same individuals will be unable to obtain Pell grants or other types of campus based financial assistance because Congress cannot fully fund them. Many students will be shut out of financial assistance all together. For this reason, I believe there should be less emphasis on the educational opportunity included in this bill. Indeed, the most significant outcome of service is not the stipend; it is the multiplying factor of its effect on the community. The stipend is like a carrot on a stick for young adults eager to attend college. These individuals may decide to join a national service program more out of a need to obtain the stipend rather than out of a desire to get involved in an effort to improve the neighborhoods and communities across America.

Finally, I am troubled with the notion that we should pay people to perform community service. It is my contention that service of this nature should be voluntary and unpaid, with the exception of minimal living expenses. Volunteers across the country have been awarded through personal gratification and asked for nothing more. I believe it sends the wrong signal to suddenly link service with money. It is an unnecessary enticement. If inclined, individuals will eagerly contribute their time, love and skills to people and projects in need of attention. But a quid pro quo situation is the antithesis of what drives voluntarism. We should not confuse the two.

National service can work. However, I would prefer to see cities and communities building their own projects before Federal intervention is required. Not only are local residents in the position to determine what objectives should be met they also know how best to bring their goals to fruition. While Federal funds would undoubtedly help, the attached strings may hamper a community's flexibility.

We should continue to encourage voluntarism and community service. But for the reasons I have just outlined, the Federal Government is the wrong entity to undertake this mission.

Mr. DURENBERGER. Madam President, I would like to engage in a brief colloquy with the distinguished chairman of the Labor Committee designed to clarify legislative intent on several issues regarding the administration of national and community service programs, funding levels for service learning and clearinghouses, and the roles of various administrative agencies that are authorized or reauthorized under this legislation.

STATE ACTION DIRECTORS AND STATE COMMISSIONS

As Senator KENNEDY, knows, I have been a strong supporter of decentralizing decisionmaking and priority setting in this legislation and minimizing unnecessary duplicative administrative and personnel expense. I appreciate very much the changes in the legislation that have been made in that direction and would like to ask him several questions that might help clarify matters even further.

First, it is my understanding that the corporation representatives authorized by section 195(b) of the legislation will be ex officio, nonvoting members of the State commissions. Is that correct?

Mr. KENNEDY. That is correct.

Mr. DURENBERGER. And, is it also true that directors of State ACTION offices may, where appropriate, be designated, as the Corporation representative in one or more States?

Mr. KENNEDY. Yes, that is also correct.

Mr. DURENBERGER. Could the Senator then explain briefly the circumstances under which the State ACTION director would not be designated as the Corporation representative for his or her State?

Mr. KENNEDY. Again, in many cases, I would hope that these two positions could be occupied by the same person—avoiding unnecessary personnel expense and enhancing coordination between the State ACTION offices and State commissions. In some cases, however, existing workloads, past experiences, or other factors involving the State ACTION directors may make it necessary for a different individual to be designated as the Corporation representative for that State. In many cases, I would hope that these individuals might perform that role in two or more States. And, I would hope that as new State ACTION directors are hired, one factor in their selection would be their ability to also serve as the Corporation representative for that State.

CLEARINGHOUSES PROVISIONS

Mr. DURENBERGER. Let me then ask several questions regarding the clearinghouse provisions of this legislation.

As the Senator knows, I authored the clearinghouse provisions in the 1990 National and Community Service Act that we are reauthorizing in this bill. And, I am pleased that the first such clearinghouse has been designated and is now being established by the National Youth Leadership Council which is headquartered in Minnesota.

The concept of clearinghouses is maintained in this legislation, consistent with the objective of drawing on existing expertise that exists around the country for technical assistance, training research, curriculum development, and other services. And, under subtitle B, section 118, the Corporation is required to establish and fund clearinghouses to support both service learning programs and stipended national service programs.

Despite this directive, there is no earmarked funding authority for clearinghouses in the legislation. So, my question is whether it is the intent of this legislation that one or more clearinghouses be established and adequately funded by the Corporation using funds authorized for use by the Corporation for this and other purposes.

Mr. KENNEDY. This legislation retains the concept of decentralized clearinghouses originally authorized by the 1990 law as a way to support State and local youth and community service initiatives using existing expertise in educational institutions, youth service organizations, State agencies, and other sources. Subject to overall all funding levels and its other priorities, I would expect the new Corporation created by this legislation to maintain and expand financial support for clearinghouses as it implements this legislation.

FUNDING LEVELS FOR SERVICE LEARNING

Mr. DURENBERGER. One of my top priorities in cosponsoring and supporting this legislation has been to ensure that the nonstipended service learning programs that we reauthorize in this legislation receive a fair share of funding increases that are authorized. I am very pleased that the so-called ServeAmerica programs that were authorized by the 1990 legislation have their authorized funding levels roughly doubled in the first year of this new legislation, with such sums as may be necessary in the second and third years.

Is it the Senator's intent that, as overall appropriations levels for the stipended service programs increase in years 2 and 3, the nonstipended programs also receive reasonable increases in the appropriations they receive?

Mr. KENNEDY. The Senator from Minnesota is correct in noting that authorized funding levels for service learning programs are substantially increased in year 1 of this legislation. It is my intent that, consistent with other priorities and considerations, actual appropriations also increase in all 3 years authorized by this legislation. I will certainly work with the Senator and others to see that service learning continues to be a high priority in the larger national and community service initiative authorized by this bill.

COORDINATION BETWEEN STATE ACTION OFFICES AND STATE COMMISSIONS

Mr. DURENBERGER. Finally, as the Senator knows, this legislation both authorizes creation of new State commissions on national and community service and retains a role for existing State offices that oversee and support VISTA and senior programs administered by ACTION. What is the intent of this legislation in encouraging cooperation and reducing the potential for unnecessary duplication of functions performed by these two state-level entities?

Mr. KENNEDY. This legislation maintains a maximum degree of independence for existing ACTION programs under the overall umbrella created by the new Corporation for National and Community Service. At the same time, it is the intent of the legislation that States play a significant role in establishing priorities and overseeing new and reauthorized national service and service learning programs. Where there are opportunities to coordinate or combine support functions for State-level programs performed by the State ACTION offices and State commissions, those opportunities should be exercised. They might include recruitment and training of volunteers and agencies where volunteers are placed, general promotion of voluntarism and service, community needs assessment, and recognition and awards.

Mr. BYRD. Madam President, I support the concept of national and community service. Working for the betterment of our communities and each other is a civic duty. This bill has much that I support. For example, it reauthorizes two programs in particular, the Foster Grandparents Program and the Senior Companion Program, which, in my view, are very valuable and have contributed much to bettering the lives of all Americans.

I regret that, after much consideration, I do not feel that this bill, as structured, is the right way to address the needs of this country, and I intend to vote against this bill. I do not take this action lightly. As I said previously, I support the concept of national service. However, I have some reservations about this bill.

While the purpose of the National Service Trust Act is commendable, I question whether the merits of the program outweigh the cost. It is estimated that the cost per stipended individual will be about $20,000 for each of the 25,000 individuals who participate under the national service provisions of the bill. At a cost of $394 million, for the first year, let me put those numbers in perspective.

For example, for the $394 million 1-year cost of the National Service Program, we could provide a Pell grant of $2,300 to an additional 171,000 students, or nearly seven times the number of individuals who could receive educational benefits under the National Service Program. Or, for the average cost of $20,000 per participant under national service, we could provide the authorized maximum Pell grant of $3,900 to five students; that is five for the price of one.

We have another program known as the Federal Work Study Program. This program provides assistance to low-income students by providing part-time employment to help students pay for college costs. There is also a community service component of the Federal Work Study Program. For the $394 million proposed for national service we could, provide jobs—at an average cost of $1,065 per participant—to nearly 390,000 students through the Work Study Program; or, for the $20,000 it costs to serve one individual through national service, we could provide jobs under the Work Study Program for 18 to 20 students.

Both the Pell grant and the Work Study Programs are good programs and reach far many more students than what is proposed in national service.

Further, the bill tries to be all things to all people. This is impossible. Is the national service piece of this legislation a jobs bill, an education bill, a training bill? There are a myriad programs that we now fund that provide education, job training, and employment assistance. This bill, in some instances, duplicates what is already being done. We are having a difficult time funding existing programs. How are we going to fund this new program? Where do we cut spending—do we want to cut Pell grants? Head Start? Job training? Where is the money going to come from?

This legislation, while perhaps popular, is likely to mushroom in size and cost. In the past, these types of programs have tended to become top heavy with administrative costs, which escalate rapidly. The result is that we feed the bureaucratic machine that operates them, and fail to meet the needs of the citizens and communities we are trying to reach.

In these times of tight budget constraints, we must make some tough decisions. The Appropriations Committee is the place where those tough decisions are made. We do not authorize programs, we just try to figure out how we are going to write the checks. Unfortunately, there is no more money left in the bank.

So, I say to my colleagues, I like the idea of a Volunteer Service Corps, and I wish I could support this bill. However, sometime, somewhere, we have to face reality. While there is no limit on how much discretionary spending Congress can appropriate, with a national debt of over $4.3 trillion, I question the advisability of authorizing new, large programs that we cannot afford.

Madam President, I support the goals of this legislation. However, without sharper focus, the bill before the Senate today is simply too costly. Consequently, it is with regret that I will vote against this bill.

Mr. KENNEDY. I yield 2 minutes to the Senator from Pennsylvania.

The ACTING PRESIDENT pro tempore. The Senator from Pennsylvania is recognized for 2 minutes.

Mr. WOFFORD. Madam President, today is a day I have been waiting for and working toward for over 30 years. Ever since I helped John Kennedy and Sargent Shriver found the Peace Corps, many of us have looked to the day when we could bring the idea of national service home to deal with the problems facing American families and American communities.

But this past week, after a tough and fair battle, Members of this body rose above party and ideology to say yes to an idea whose time has finally come. Because it is not a liberal or conservative idea; a Democratic or Republican idea it is an idea rooted in the best traditions and values of America: The tradition of giving service to others; the value of taking responsibility for ourselves and our community. The belief that to whom much is given, much is expected; that citizenship does not only mean rights that are owed, but responsibilities that are earned. And that in America, the dream of a higher education ought to be a reality for every young person willing to work for it.

So I want to thank my colleagues on both sides of the aisle for their own national service on this bill. Together, we showed that we can break the gridlock which has too often kept Washington from responding with creative action to the call for change. Not with more government trying to solve every problem, but with a program that empowers citizens themselves to find solutions. Not just government of the people, but truly by the people.

And I want to say a special word of thanks to the man who brought me back to full-time public service, first in State government and then in the U.S. Senate:

Only 1 week ago, Gov. Bob Casey returned to our State capital with a new heart, but the same remarkable soul, whose passionate commitment to this idea helped make Pennsylvania a true laboratory of democracy, a national model for the kind of demanding youth corps and service programs which this legislation will support and expand.

So throughout this debate, I have been able to point with pride to the diverse efforts of PennSERVE, the Governor's Office of Citizen Service and say, "We have seen the future of national service in Pennsylvania * * * and it works."

So today, the 1,000 Points of Light can begin to grow to 100,000, which can then ignite a million more in service to our communities and our country. We will need every willing hand and caring heart. Because there is no shortage of work to do and unmet needs to be filled. So let us begin.

Finally, let me close by thanking the organizations and individuals without whose support this legislation would not have been possible:

The Young People's Coalition for National Service whose 1,500 members worked tirelessly for the passage of this bill that is indeed their bill.

The Coalition for National and Community Service headed by my dear friends John Briscoe from PennSERVE and Roger Landrum from Youth Service America who have both helped give birth and leadership to this movement.

Americans for National Service organized by People for the American Way and John Buchanan.

Thanks also to Senator KASSEBAUM and her staff. The ranking minority member is indeed a joy to work with and I hope she knows the depth of my admiration for her and my appreciation for the grace and leadership and saavy with which she handled this measure.

And, of course, Senator KENNEDY, our distinguished Chair who as with the 1990 act led this effort. Quite fitting as this act brings his brother John's Peace Corps home and this idea was first championed by his other brother Robert. And last but far, far from least two final thank yous from my heart:

Senators DURENBERGER and JEFFORDS who helped fashion this as a truly bipartisan initiative and let me say unequivocally that without them this bill would not be ready to become law.

And Eli Segal, Rick Allen, Shirley Sagawa, Jack Lew, and the rest of the White House Office of National Service who represent the very best of this new administration. They're a great team and offer a model to the rest of the administration of how to get things done and done right. Eli Segal was the new Sarge Shriver we needed to get this victory won.

And this is a victory, the first major campaign promise fulfilled. The box scores of history will record a victory for the American people over gridlock and a victory especially for the young people of America. We have worked over 30 years for this moment. From the Peace Corps to the 1979 Committee for the Study of National Service that first recommended a public corporation for national service, from the founding of PennSERVE to the 1990 act, from VISTA and OAVP to last year's CCC, we are ready today to realize the dream.

The ACTING PRESIDENT pro tempore. The Senator from Minnesota [Mr. DURENBERGER] is recognized.

Mr. DURENBERGER. Madam President, as the original Republican cosponsor, I am proud to vote for this bill and urge my colleagues to support it. It is a different and a better bill because of the changes recommended by the Republicans, all of it now incorporated into the bill.

I want to thank President Clinton, and Eli Segal in particular; Senator KENNEDY and his staff; Senator KASSEBAUM and her staff; and for the tremendous contribution of people like SAM NUNN who have made contributionss over the years to this; HARRIS WOFFORD, who has made the most important contribution of all next to a young man in Minnesota by the name of John Schroeder, who is on my staff and is really responsible for a lot of the community service side of this bill; along with the people from Pennsylvania; and Susan Heegaard, of my staff in Washington; Jim Kielsmeier; and all the great people who defined and led the community service and national service movement in the State of Minnesota.

One of my personal mentors on this subject has been Wayne Meisel, a young man who grew up with my own four sons in south Minneapolis and one of the first members appointed by President Bush to the Commission on National Community Service. Wayne recently wrote me about the reality of how change occurs. He said this:

> Movements are not born in Washington, DC. In fact, by the time they reach our Nation's Capital, they have already happened. The youth service movement is no different.

The movement Wayne Meisel is part of involves millions of young people and thousands of teachers and youth service workers all over the country.

I hope that the legislation we are now about to vote on will make that movement an integral part of how we teach and learn in every school building and every classroom and every community in America. No one has a greater stake in addressing the challenge we face as a nation than our children and our youth.

Madam President, it should come as no surprise to anyone that I intend to support this legislation on final passage.

As the original Republican cosponsor of this bill, Mr. President, I am proud of the significant contributions that I and others on this side of the aisle have made during the course of this debate.

I want to give particular credit to the work done—over many months—by my distinguished colleague from Kansas, Senator KASSEBAUM, to address the legitimate concerns that Republican Members have had with this bill. She and her staff have worked hard to accommodate those concerns and because of her untiring efforts this is now a much better bill.

As I have said previously, Madam President, I believe this legislation now embodies a number of what partisans on this side might call traditional Republican principles.

This is a very different bill from the proposal originally made by the President.

It now reflects much greater deference to States and local communities, much more flexibility in establishing or designating State grant making agencies, much more understanding of the purposes of national and community service and the fiscal realities under which this new initiative will be implemented.

I have spoken a number of times during this debate about the reasons for my original cosponsorship.

About the numerous improvements that have been made in the bill;

About the leadership on this issue that has come from my own State of Minnesota; and

About the need for all of us to better understand both the potentials and the limitations of national and community service.

This legislation now recognizes the importance of community service in its title and in the names of the administrative and grantmaking agencies at both the State and Federal level.

This legislation includes a number of features designed to decentralize decisionmaking and priority setting, and to allow States flexibility in determining how they structure the commissions this bill authorizes.

This legislation now sets more fiscally realistic funding levels and limits authorization of national and community service programs to 3 years.

And, this legislation includes the amendment I offered to require the new corporation we are establishing to ask and answer the "how come" "how big" and "how soon" questions that have dominated this debate over much of the last week.

In recognition of these numerous changes and improvements, Madam President, I urge my colleagues—especially my colleagues on this side of the aisle—to lend their support to this important initiative.

I must admit, Madam President, that my own understanding of both the potential and the limitations of national and community service has evolved in recent years as I have listed to people like Jim Kielsmeier and a lot of very bright teachers and students in Minnesota.

In particular, I have learned that integrating community service into the school curriculum—from kindergarten through college—can be an essential element of education reform.

And, I have also learned that service corps and other forms of stipended service can be an effective education alternative for young people who are not well-suited for more traditional forms of schooling that are based only on textbooks used in the classroom.

And, I have learned that service in the community—starting at a young age—can develop a sense of responsibility, citizenship, and leadership in young people that can last an entire lifetime.

I could not have come to that understanding, Madam President, without all my mentors on this subject from Minnesota. Individuals like:

Jim Kielsmeier, Rich Cairn, Mark Langseth, and the entire staff at the National Youth Leadership Council;

From Mary Jo Richardson and others in the Minnesota Department of Education and from Larry Fonnest, who heads the Minnesota Conservation Corps;

Bob Jackson and the thousands of leaders and volunteers in VISTA, RSVP, and all the other ACTION programs now in operation in Minnesota;

From the four current or former Minnesotans who were appointed by President Bush to the first Commission on National and Community Service—Reatha Clark King, Karen Youth, Wayne Meisel, Glen White; and

From teachers and school administrators like Mary Noble and students and young people like Rob Hurt—both of whom made a tremendous impact on this bill through their own testimony before the Senate Labor Committee.

I have also learned about the potential that service learning has for post-secondary students from college-level administrators and faculty members like Mary True at Augsburg College in Minneapolis.

And from Nancy Murphy and a whole group of students and young professionals engaged in service occupations that were organized through the Humphrey Institute at the University of Minnesota.

All of this talent and vision and leadership in Minnesota gives me great confidence that the important goals of this legislation can and will be achieved. I am also reminded that the kind of fundamental changes we are seeking through this legislation very seldom originate in Washington.

One of my personal mentors on this subject has been Wayne Meisel, a young man who grew up with my own four boys in south Minneapolis and as I just noted was among the first group of members appointed by President Bush to the Commission on National and Community Service.

Wayne summarized the reality of how change occurs when he recently wrote:

> Movements are not born in Washington, DC. In fact, by the time they reach our nation's capital, they have already happened. The youth service movement is no different.

The movement Wayne Meisel is part of involves millions of young people and thousands of teachers and youth service workers all across the country.

My hope is that the legislation we are now about to vote on will help make that movement an integral part of how we teach and learn in every school building and every classroom in America.

In fact, one important purpose of this bill is to make every community in America a classroom and an environment in which the talents and energies of our youngest citizens can be fully engaged and fully appreciated.

Nobody has a greater stake in addressing all the challenges we face as a nation than our children and our youth. And, as a nation that thrives on tackling tough challenges, we can not afford to leave that tremendous natural resource untapped.

I urge adoption of this legislation, Mr. President. I believe it represents and opportunity to tap a great natural resource in this country that we dare not let pass by.

Thank you, Mr. President. I yield the floor.

FINAL PASSAGE OF THE NATIONAL AND COMMUNITY SERVICE ACT OF 1993

Ms. **MIKULSKI.** Madam President, this is a wonderful and very special day for me. As many of my colleagues know, my own background is in social work with a specialty in community organization.

My life's work and training has been to create opportunity structures where people could organize for self-help and help the community they live in. I believe that the National and Community Service Act that we have passed here today does do that.

Let me tell you what I like about this bill.

It creates an opportunity structure to help those people who are middle class, through their own sweat equity to stay there or do better; and for poor kids to say yes to them so they can become middle class.

This bill also builds on lessons learned from other organizations. It builds on lessons learned from VISTA, Peace Corps, and other programs. It also builds on the Commission on National and Community Service that we passed on a bipartisan basis a few years ago.

Because of the National Commission, we have now learned lessons from volunteers themselves on how to improve this program.

National Service will help change our culture. Because it is not only a service program, but it will rekindle the habits of the heart. It will create a sense of civic responsibility so that young people will know that for every opportunity, there is an obligation.

But what I also like about this bill, is that it is organized around our national goals. We will not splinter our efforts—but there will be national goals around education, public health, and public safety.

This bill also allows for part-time volunteers because we know that not many people can go away or should go away. This is especially important to me because I want our high tech graduates to have the opportunity to participate in community service. Now they can.

What I also like is that the bill will set rigorous standards for participation and evaluation. This is not a give away program.

Most importantly, in this program we are committed to no big bureaucracy. I do not believe in trickle-down ideas or trickle-down money. I like the idea of running this initiative as a corporation.

This bill has a lot to offer our country and our citizens. Let me tell you what this bill means for Maryland.

It means we will have more kids like Sarah Greensfelder of Baltimore and Kelly Broxten of Gaithersburg who received community service awards from President Clinton last week for their hard work by working with others and teaching students about first aid and treatment of substance abuse.

It means that young Marylanders who are already doing service—like those who participate in Volunteer Maryland, Maryland's Conservation Corps and the Community Year Program in Montgomery County, Civic Works in Baltimore and the school kids involved in Maryland's Student Service Alliance's Service Learning—can continue to do so.

It means that Maryland will be able to reopen State parks and recreation centers that are badly in need of repair;

It means that Maryland adults will be teaching other adults how to read;

It means that Maryland can deliver more meals on wheels to those who desperately need it; and

Work will be done in my home State that would have been be left undone.

Maryland youth will learn new skills by doing real community service and in the end the award will give them the opportunity for further growth by going to college or receiving job training.

This is the national service I envisioned for Maryland and for all of our volunteers.

Madam President, if we organize ourselves with an emphasis on service, we will do community building. And among our volunteers we will do capacity building—to get them ready for the 21st century.

So, when that time comes, they will know what it means to be an American citizen—and what it means to help your neighbor while pursuing your own goals.

I am delighted that we have passed this legislation today.

Mr. **KENNEDY.** I yield 15 seconds to Senator BOREN.

The ACTING PRESIDENT pro tempore. The Senator from Oklahoma is recognized.

Mr. **BOREN.** Thank you, Madam President. I thank the Senator from Massachusetts.

President Clinton's call to service taps into a rich tradition of American civic responsibility. In each generation, American political leaders have successfully united our people in a common cause. President Roosevelt gave Americans the chance to contribute to their communities in the WPA and CCC during the Depression. President Kennedy sounded the call in his inaugural address and in the Peace Corps, extending our service commitment to the rest of the world. Throughout our history, when the call has been made, the American people have responded with both purpose and resolve.

What is unique about this President's call is that it does not come at a time of international or economic crisis, like a time of war or depression. It comes at a time when there is fundamental need to restore the strength of our social fabric which has been continuing to unravel over the past three decades. We have become too divided by economic status, by race, and by region. We need to invest in programs that not only fulfill our needs, but remind us of the values we hold in common. By bringing people together and asking them to give back to their communities, national service breaks down the barriers which separate us. It is in giving back that we become bound to our communities and to each other.

The act offers a broad range of new service opportunities to people of all ages and backgrounds. Beginning in kindergarten through 12th grade, students can experience service-learning: community service integrated into their classrooms. These programs help prove to children and young adults that they can make a difference by working on practical projects in their hometowns. Older Americans will also have a chance to contribute. Their talents and experience will be used in hundreds of different ways, from mentoring students to helping other senior citizens. By embracing people of all ages and backgrounds, the act will help us understand that community service can be a fulfilling lifetime commitment. No one is too old, too young, too rich, or too poor to be involved.

This kind of community service program can have a profound effect on neighborhood unity and identity. Whether it is providing emergency aid to people left homeless by the floods in the Midwest, tutoring fellow students, improving wetlands, or serving as case aides for the homebound elderly, service can revitalize community spirit. Youth service organizations not only contribute to the physical development of buildings and areas, but they contribute something infinitely more lasting and important: they take a place where people live and help make it into a community where people care and look after each other.

Although national service is mainly about reaching unaddressed needs, those who serve also benefit. By contributing to their neighborhoods, participants receive not only the very real satisfaction of helping to improve the lives of others, but also new learning opportunities which bolster employability and self-confidence. Well-designed programs also impart leadership skills, encourage personal development and foster individual responsibility.

The President's national service plan should and will grow only as fast as quality programs can be found. Although the 20,000 national service slots proposed to be funded next year—with postservice educational awards—will only affect a small percentage of college students, it is a significant expansion of the current opportunities available. When paired with the administration's new plan for the repayment of student loans based upon future earnings, more people will be able to choose lower-paying but extremely important public service jobs as careers.

Detractors accuse the President of suggesting a plan that will cost tax dollars at a time when Americans are tightening their belts. Of course the program will require capital, but national service is an investment which will pay off in the short and long term. It will cost us far more in terms of rebuilding the real strength of the Nation to put off making this investment.

We have a wonderful opportunity today to strengthen our country. This national service bill will bring people together to serve, to help others, to meet our country's problems head-on. Look around—there are so many areas of need in this country—education, crime, pollution, health care, broken families. Every day officials cry that the resources we need to fight these problems are becoming more scarce; it seems we are fighting a losing battle. The reality is that people are our resource, and if asked, they will get the job done. National service will lay the foundation for a lifelong commitment to serve in all Americans. It will bring people together—people of every age, economic background, color, and creed. By uniting under a common cause—that of giving ourselves to our fellow Americans—we can break down the racial, economic, and class divisions which separate us. All Americans must take part, they must do their duties as citizens to rebuild and strengthen our communities. We are all in this together, and we all must respond as citizens to the highest call in our nation. As Helen Keller once said: "I look upon true patriotism as brotherhood of man and service of all to all." Although she said those words over 70 years ago, they are even more important and meaningful today.

Madam President, I want to say what a privilege it has been to work with Senator KENNEDY, Senator WOFFORD, Senator DURENBERGER, Senator KASSEBAUM, Senator JEFFORDS, and others.

Pieter Boelhower, of my own staff, has worked very hard on this piece of legislation.

It is urgent that we rebuild the sense of community in this country. This legislation is a very crucial first step.

The ACTING PRESIDENT pro tempore. The Senator from Kansas has 6 minutes and 24 seconds.

Mrs. KASSEBAUM. Madam President, I would like to begin by acknowledging that the substitute proposal put forward by Senators KENNEDY, DURENBERGER, and WOFFORD contains several provisions which make important and substantive changes in the bill which was presented to us 2 weeks ago. The negotiations which have occurred over the past week have been conducted in good faith and have moved the bill in the right direction.

In addition to incorporating over a dozen amendments which were previously accepted, the substitute makes further changes:

First, it lays the groundwork for future consolidation of national service and domestic volunteer programs by requiring the Corporation to study and make recommendations regarding how this goal can be achieved. I am disappointed, of course, that this proposal does not go as far as the consolidation proposal I included in my own substitute. Nevertheless, this mandate to the Corporation offers a promising start—which I believe will ultimately lead us in a new direction with regard to service program delivery.

Second, it caps the administrative costs for the Corporation and State commissions at 15 percent in the first year and at 10 percent thereafter. Capping administrative expenses will make more money available for programs rather than for the bureaucracies to support them.

Previously, there had been no cap on administrative expenses, and it was estimated that these expenses would equal 20 percent of the cost of the bill. Under the original bill, that would have meant $80 million for administration alone in the first year of the program—an amount greater than the entire budget for the current Commission on National and Community Service. With those funds, the current Commission supports 55 ServeAmerica programs, 69 higher education innovative programs, 28 youth corps programs in 25 States, 12 national service programs, and 22 innovative and demonstration programs.

Third, the substitute authorizes the new National Service Program for a period of 3 years, rather than the 5 years included in the original proposal. This provision offers us a better opportunity to review the performance of this program and to consider the results of the studies to be conducted by the Corporation—so that it will be possible to reshape it before it becomes too embedded.

Fourth, the substitute assures that existing State administrative entities established by the 1990 National and Community Service Act can continue to operate under their current structures. Under the original proposal, 18 States would have had to dismantle their current organizations and recreate them to meet the detailed specifications of S. 919 for their membership and functions.

Fifth, the substitute prohibits the funding of organizations that spend more than 10 percent of their annual budget for lobbying or attempting to influence public policy. This legislation is intended to provided needed services in our communities, not to create whole new cadres of lobbyists. This provision will help assure that the legislation meets its intended goals.

Finally, the substitute authorizes funding levels of $300 million in fiscal year 1994, $500 million in fiscal year 1995, and $700 million in fiscal year 1996. These figures are a reduction from the approximately $400 million in fiscal year 1994 funding contained in S. 919 and the uncapped such sums figures in subsequent years.

Although I laud these changes, I cannot support this proposal. I say this regretfully, as I know how hard we have all worked to achieve consensus.

I have two primary objections to the legislation:

One, a first-year price tag of $300 million is simply too high. It is important to recognize that this is $300 million in new money. It is funding which is to be added on top of the $77 million for the existing Commission on National and Community Service, the $35 million for Volunteers in Service to America, the $34 million for RSVP, the $65 million for Foster Grandparents—and the list goes on. The Commission and ACTION may be placed under the umbrella of the new Corporation, but ACTION's existing funding authorizations continue. The extra money is all for the new program.

It is not simply a question of the amount of money, but—more importantly—whether we can really use such a large influx efficiently. I, too, was willing to support additional funding. My substitute called for nearly $92 million in spending on top of the current amounts for the Commission, ACTION, and the other programs scheduled for consolidation under my proposal. I selected this amount because I believed it was an amount that could reasonably be absorbed in the first year of the new program. Somewhat reluctantly, I would have agreed to a $200 million figure in the first year. Going beyond that, however, is an invitation to waste and inefficiency. I cannot support a $300 million figure.

I simply wish that we could all just realize that starting small and growing at a measured pace gives us the opportunity to shape something that will work and will be meaningful. Let us not forget that the Peace Corps, about which we have heard a great deal in the course of this debate, operates on an annual budget of about $212 million. Clearly, a program does not have to be mammoth in size to be mammoth in impact.

My second major objection to the substitute before us is that it does not go far enough in promoting structural changes. As I have said before, we are missing an important opportunity here. Rather than offering an approach that is truly new, the bill carries on the tired tradition of top-heavy, big-spending Government—where meaning is measured in money and effectiveness in the ability to jump through Federal hoops. Even in a 3-year period, programs and their bureaucratic attendants tend to become untouchable.

Having said that, I hope that I am wrong and that the program will work as its sponsors intend. I recognize their sincerity and commtment to the cause and commend them for that.

I just want to take this opportunity to recognize the efforts of staff who have worked so diligently on this legislation. I note the efforts of Tom Sanders, Ron Weich, and Nick Littlefield on Senator KENNEDY'S staff, and Marty Rogers on Senator WOFFORD'S staff. Susan Heegaard, of Senator DURENBERGER'S staff, and Pam Devitt, of Senator JEFFORD'S staff, worked very hard to bridge the differences between Senator KENNEDY'S staff and my own. Lisa Morin, Brian Jones, and Mike Knapp, of Senator DOMENICI'S staff, provided invaluable assistance, particularly on tax and budget matters. I extend my thanks to Liz Aldridge and Bill Baird, of the Office of Legislative Counsel, for the hours and days spent drafting and redrafting my amendments. On my own staff, I appreciate the energy, enthusiasm, and hard work that Carla Widener, Mary Elizabeth Larson, Susan Hattan, and Kimberly Barnes-O'Connor dedicated to this legislation. I also would like to recognize two interns, Whitney Vliet and Art Jackson, who helped my staff prepare for the floor debate on this legislation.

Madam President, I would like to express my appreciation to those who have worked so hard on this legislation, including Eli Segal, who on behalf of the administration, has dedicated countless hours to ensuring the passage of the National and Community Service Trust Act of 1993.

Also, my particularly thanks to the chairman of the Labor and Human Resources Committee, Senator KENNEDY, and to the Senator from Pennsylvania, Senator WOFFORD, who also have dedicated much time and effort to negotiating what I believe, Madam President, is a much-improved bill. It still does not go quite as far as I would have wished, but I think we achieved some very positive changes which I believe represent a far more constructive approach to national service.

I look forward to working with the administration and with my colleagues in continuing to make sure that this legislation fulfills the desires and goals of those who have worked so hard through the years to see this effort culminate in success in Congress.

I would also like to express appreciation to my staff, particularly Kimberly Barnes-O'Connor, who knows more about public service legislation than many here; to Carla Widener and Mary Elizabeth Larson, who provided valuable assistance; and to two interns, Whitney Vliet and Art Jackson, who have been particularly helpful with the day-to-day activities that make an effort such as this successful.

I yield what time remains to the Republican leader.

The ACTING PRESIDENT pro tempore. The Republican leader is recognized.

Mr. DOLE. Madam President, I thank my colleague.

I just say that I think there has been some good come from the debate. At least we reduced the cost of this program from $10.8 billion over 5 years to $1.5 billion over 3 years. I think it is still too much, but that is certainly an improvement. We have injected some sanity into volunteer benefits; we have ensured that existing State administrative remedies will not be jepordized by this new program; and a limitation goes to the workplace on the Corporation's ability to solicit private donations.

Initially the Corporation had no limitation, only the amount that could be raised, and such efforts were supported through tax dollars. Additionally, this would put the Corporation in direct competition with such organizations as the Boy Scouts, the United Way, the March of Dimes, the Red Cross, and others.

It also provides a sense of fairness. And there are a number of other changes, as the Senator from Massachusetts pointed out the other day, that have been suggested by Republicans which have been accepted by Republicans. But I think it has made it a better bill.

I am not certain what will happen in conference. Hopefully the House will take the Senate bill, which is certainly a much better version than the House bill.

So it was our hope we would have widespread support for this program. A lot of us believed in this concept. There may be a number of Republican votes, but not nearly as many as there could have been had we been able to reduce the cost and had we been able to take a look at this program at the end of the second year—only with reference to funding, nothing else, but continued and only take a look at the funding.

There are a number of amendments that have been adopted. The Senator from Massachusetts just sent up the managers' amendment.

I think one thing that I was interested in involves people with disabilities, that reserves up to $10 million of discetionary to fund outreach programs and offset some costs of accommodation. No doubt about it, this act and the accompanying report did a good job of including people with disabilities, but if we do not provide financial resources to promote access, our words will be hollow. It is past time that the people with disabilities be allowed to make their contribution as volunteers and be held to the same standard of citizen duties and national service as others. And I think the amendment which I offered makes good on that commitment.

I also was able to have a simple amendment, that has been accepted, to require the Secretary of Defense to make an annual report to Congress which will analyze the impact of this program on recruitment in our Nation's Armed Forces.

There is also an amendment that would include the Secretary of Veterans Affairs as an ex officio member of the Corporation and that veterans services would be included as a qualification of standard for membership on the Corporation's Board of Directors.

I bet that everyone in this Chamber has had a family member or a friend who was positively impacted by a veterans group. Maybe it was a daughter who received a VFW scholarship, a son who played baseball in the American Legion, or someone who attended Girls or Boys State.

I think this is a step in the right direction.

Madam President, from the very start of the national service debate I have worked hard to make it a program that would have widespread Senate support. Although we could not stick with an agreement on size and scope of the program, a number of changes were made, including a few of my own that were accepted by the floor managers.

Although each of my amendments are important, perhaps the most significant involves people with disabilities. It reserves up to $10 million of discretionary spending to fund outreach programs and offset some costs of accommodations.

No doubt about it, this act and the accompanying report did a good job of including people with disabilities. But if we do not provide financial resources to promote access, our words will be hollow. It is past time that people with disabilities be allowed to make their contribution as volunteers and be held to the same standard of citizen duties and national service as others. My amendment makes good on that commitment.

I also was able to have a simple amendment cleared which would require the Secretary of Defense to make an annual report to Congress, analyzing the impact of the National Service Program on recruitment into our Nation's Armed Forces. As we continue to drawdown our defense forces, we must seek to ensure that our Nation's military can continue to attract the highly qualified individuals on which it has come to rely. My amendment simply provides a tool to do so.

And my last amendment provides recognition of veterans' strong voluntarism record by ensuring that the Secretary of Veteran Affairs is an ex officio member of the Corporation and that veteran services would be included as a qualification standard for membership on the Corporation's Board of Directors. I would bet that everyone in this Chamber has had a family member or friend who was positively impacted by a veterans group. Maybe it was a daughter who received a VFW scholarship, a son who played American Legion baseball, or someone who attended boy's or girl's State. And that it just a little of what our veterans service organizations do each year. With that in mind, it is only right that veterans strong commitment to service be recognized along with environmental, educational and labor groups.

Madam President, I am proud of these changes. I only wish that we could have agreed on the bigger question of size and scope of the National Service Trust Act.

I yield the floor.

The PRESIDING OFFICER. Without objection, the committee substitute, as amended, is agreed to.

The bill will be read the third time.

The bill (S. 919) was ordered to a third reading, and was read the third time.

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of H.R. 2010, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 2010) to amend the National and Community Service Act of 1990 to establish a Corporation for National Service, enhance opportunities for national service, and provide national service educational awards to persons participating in such service, and for other purposes.

The PRESIDING OFFICER. Under the previous order, all after the enacting clause of H.R. 2010 is stricken, the text of S. 919, as amended, is inserted in lieu thereof.

Mr. KENNEDY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second.

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Michigan [Mr. RIEGLE] is necessarily absent.

I further announce that, if present and voting, the Senator from Michigan [Mr. RIEGLE] would vote "aye."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 58, nays 41, as follows:

[Rollcall Vote No. 231 Leg.]

YEAS—58

Akaka
Baucus
Biden
Bingaman
Boren
Boxer
Bradley
Breaux
Bryan
Bumpers
Campbell
Chafee
Conrad
Daschle
DeConcini
Dodd
Dorgan
Durenberger
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Hatfield
Heflin
Hutchison
Inouye
Jeffords
Johnston
Kennedy
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mathews
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Reid
Robb
Rockefeller
Sarbanes
Sasser
Shelby
Simon
Specter
Stevens
Wellstone
Wofford

NAYS—41

Bennett
Bond
Brown
Burns
Byrd
Coats
Cochran
Cohen
Coverdell
Craig
D'Amato
Danforth
Dole
Domenici
Exon
Faircloth
Gorton
Gramm
Grassley
Gregg
Hatch
Helms
Hollings
Kassebaum
Kempthorne
Kerrey
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Packwood
Pressler
Roth
Simpson
Smith
Thurmond
Wallop
Warner

NOT VOTING—1

Riegle

So the bill (H.R. 2010), as amended, was passed, as follows:

Resolved, That the bill from the House of Representatives (H.R. 2010) entitled "An Act to amend the National and Community Service Act of 1990 to establish a Corporation for National Service, enhance opportunities for national service, and provide national service educational awards to persons participating in such service, and for other purposes," do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "National and Community Service Trust Act of 1993".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings and purpose.

TITLE I—PROGRAMS AND RELATED PROVISIONS

Subtitle A—Programs

Sec. 101. Federal investment in support of national service.
Sec. 102. National Service Trust and provision of national service educational awards.
Sec. 103. School-based and community-based service-learning programs.
Sec. 104. Quality and innovation activities.

Subtitle B—Related Provisions

Sec. 111. Definitions.
Sec. 112. Authority to make State grants.
Sec. 113. Family and medical leave.
Sec. 114. Reports.
Sec. 115. Nondiscrimination.
Sec. 116. Notice, hearing, and grievance procedures.
Sec. 117. Nondisplacement.
Sec. 118. Evaluation.
Sec. 119. Engagement of participants.
Sec. 120. Contingent extension.
Sec. 121. Audits.
Sec. 122. Repeals.
Sec. 123. Effective date.

TITLE II—ORGANIZATION

Sec. 201. State Commissions on National and Community Service.
Sec. 202. Interim authorities of the Corporation for National and Community Service and ACTION Agency.
Sec. 203. Final authorities of the Corporation for National and Community Service.
Sec. 204. Business plan.

TITLE III—REAUTHORIZATION

Subtitle A—National and Community Service Act of 1990

Sec. 301. Authorization of appropriations.

Subtitle B—Domestic Volunteer Service Act of 1973

Sec. 311. Short title; references.

CHAPTER 1—VISTA AND OTHER ANTI-POVERTY PROGRAMS

Sec. 321. Purpose of the VISTA program.
Sec. 322. Selection and assignment of VISTA volunteers.
Sec. 323. Terms and periods of service.
Sec. 324. Support for VISTA volunteers.
Sec. 325. Participation of younger and older persons.
Sec. 326. Literacy activities.

Sec. 327. Applications for assistance.
Sec. 328. Repeal of authority for student community service programs.
Sec. 329. University year for VISTA.
Sec. 330. Authority to establish and operate special volunteer and demonstration programs.
Sec. 331. Technical and financial assistance.
Sec. 332. Elimination of separate authority for drug abuse programs.

CHAPTER 2—NATIONAL SENIOR VOLUNTEER CORPS

Sec. 341. National Senior Volunteer Corps.
Sec. 342. The Retired and Senior Volunteer Program.
Sec. 343. Operation of the Retired and Senior Volunteer Program.
Sec. 344. Services under the Foster Grandparent Program.
Sec. 345. Stipends for low-income volunteers.
Sec. 346. Participation of non-low-income persons under parts B and C.
Sec. 347. Conditions of grants and contracts.
Sec. 348. Evaluation of the Senior Companion Program.
Sec. 349. Agreements with other Federal agencies.
Sec. 350. Programs of national significance.
Sec. 351. Adjustments to Federal financial assistance.
Sec. 352. Demonstration programs.

CHAPTER 3—ADMINISTRATION

Sec. 361. Purpose of agency.
Sec. 362. Authority of the Director.
Sec. 363. Compensation for volunteers.
Sec. 364. Repeal of report.
Sec. 365. Application of Federal law.
Sec. 366. Evaluation of programs.
Sec. 367. Nondiscrimination provisions.
Sec. 368. Elimination of separate requirements for setting regulations.
Sec. 369. Clarification of role of Inspector General.
Sec. 370. Copyright protection.
Sec. 371. Center for research and training.
Sec. 372. Deposit requirement credit for service as a volunteer.

CHAPTER 4—AUTHORIZATION OF APPROPRIATIONS AND OTHER AMENDMENTS

Sec. 381. Authorization of appropriations for title I.
Sec. 382. Authorization of appropriations for title II.
Sec. 383. Authorization of appropriations for title IV.
Sec. 384. Conforming amendments; compensation for VISTA FECA claimants.
Sec. 385. Repeal of authority.

CHAPTER 5—GENERAL PROVISIONS

Sec. 391. Technical and conforming amendments.
Sec. 392. Effective date.

Subtitle C—Youth Conservation Corps Act of 1970

Sec. 399. Public Lands Corps.

TITLE IV—TECHNICAL AND CONFORMING AMENDMENTS

Sec. 401. Definitions.
Sec. 402. References to the Commission on National and Community Service.
Sec. 403. References to Directors of the Commission on National and Community Service.
Sec. 404. Definition of Director.
Sec. 405. References to ACTION and the ACTION Agency.
Sec. 406. Effective date.

TITLE V—RURAL COMMUNITY SERVICE

Sec. 501. Rural community service.
Sec. 502. Demonstration project.

TITLE VI—FEDERAL TORT CLAIMS ACT

Sec. 601. Federal Tort Claims Act.

SEC. 2. FINDINGS AND PURPOSE.

(a) IN GENERAL.—Section 2 of the National and Community Service Act of 1990 (42 U.S.C. 12501) is amended to read as follows:

"SEC. 2. FINDINGS AND PURPOSE.

"(a) FINDINGS.—The Congress finds the following:

"(1) Throughout the United States, there are pressing unmet human, educational, environmental, and public safety needs.

"(2) Americans desire to affirm common responsibilities and shared values, and join together in positive experiences, that transcend race, religion, gender, age, disability, region, income, and education.

"(3) The rising costs of postsecondary education are putting higher education out of reach for an increasing number of citizens.

"(4) Americans of all ages can improve their communities and become better citizens through service to the United States.

"(5) Nonprofit organizations, local governments, States, and the Federal Government are already supporting a wide variety of national service programs that deliver needed services in a cost-effective manner.

"(6) Residents of low-income communities, especially youth and young adults, can be empowered through their service, and can help provide future community leadership.

"(b) PURPOSES.—It is the purpose of this Act to—

"(1) meet the unmet human, educational, environmental, and public safety needs of the United States, without displacing existing workers;

"(2) renew the ethic of civic responsibility and the spirit of community throughout the United States;

"(3) expand educational opportunity by rewarding individuals who participate in national service with an increased ability to pursue higher education or job training;

"(4) encourage citizens of the United States, regardless of race, religion, gender, age, disability, region, income, or education, to engage in full-time or part-time national service;

"(5) reinvent government to eliminate duplication in national service programs, support locally established service initiatives, encourage private sector investment and involvement in national service programs, and require measurable goals for performance in such programs and offer flexibility in meeting those goals;

"(6) empower residents of low-income communities, especially youth and young adults, through their service, and help provide future community leadership;

"(7) build on the existing organizational service infrastructure of Federal, State, and local programs and agencies to expand full-time and part-time service opportunities for all citizens;

"(8) provide tangible benefits to the communities in which national service is performed;

"(9) build ties among Americans that transcend race, religion, gender, age, disability, region, income, and education;

"(10) encourage educational reform by introducing service-learning into curricula in elementary schools, secondary schools, and institutions of higher education; and

"(11) enable service participants to gain personal, academic, and occupational skills through service-learning experiences.".

(b) TABLE OF CONTENTS.—Section 1(b) of the National and Community Service Act of 1990 (Public Law 101-610; 104 Stat. 3127) is amended by striking the item relating to section 2 and inserting the following new item:

"Sec. 2. Findings and purpose.".

TITLE I—PROGRAMS AND RELATED PROVISIONS

Subtitle A—Programs

SEC. 101. FEDERAL INVESTMENT IN SUPPORT OF NATIONAL SERVICE.

(a) ASSISTANCE PROGRAM AUTHORIZED.—Subtitle C of title I of the National and Community Service Act of 1990 (42 U.S.C. 12541 et seq.) is amended to read as follows:

"Subtitle C—National Service Trust Program

"PART I—INVESTMENT IN NATIONAL SERVICE

"SEC. 121. AUTHORITY TO PROVIDE ASSISTANCE AND APPROVED NATIONAL SERVICE POSITIONS.

"(a) PROVISION OF ASSISTANCE.—Subject to the availability of appropriations, the Corporation may make grants to States, subdivisions of States, Indian tribes, public and private not-for-profit organizations (including labor organizations and community action agencies), and institutions of higher education for the purpose of assisting the recipients of the grants by paying for the Federal share of—

"(1) carrying out full- or part-time national service programs, including summer programs, described in section 122(a); and

"(2) making grants in support of other national service programs described in section 122(a) that are carried out by other entities, or grants described in section 129(d)(4).

"(b) AGREEMENTS WITH FEDERAL AGENCIES.—

"(1) IN GENERAL.—The Corporation may enter into a contract or cooperative agreement with another Federal agency to support a national service program carried out by the agency. The support provided by the Corporation pursuant to the contract or cooperative agreement may include the transfer to the Federal agency of funds available to the Corporation under this subtitle.

"(2) NONDUPLICATION.—A Federal agency that enters into a contract or cooperative agreement under paragraph (1) to support a national service program within a State—

"(A) shall consult with the State Commission serving the State to avoid duplication with any service program that is in existence in the State as of the date of the contract or cooperative agreement; and

"(B) shall, in an appropriate case, enter into a contract or cooperative agreement with an entity that is carrying out a service program described in subparagraph (A) that is of high quality, in order to support the national service program.

"(3) APPLICATION OF REQUIREMENTS.—A Federal agency receiving assistance under this subsection shall comply with the Federal share requirements of section 129(d)(2)(B). The supplementation requirements specified in section 173 shall apply with respect to the Federal national service programs supported with such assistance.

"(c) PROVISION OF APPROVED NATIONAL SERVICE POSITIONS.—As part of the provision of assistance under subsections (a) and (b), the Corporation shall—

"(1) approve the provision of national service educational awards described in subtitle D for the participants who serve in national service programs carried out using such assistance; and

"(2) deposit in the National Service Trust established in section 145(a) an amount equal to the product of—

"(A) the value of a national service educational award under section 147; and

"(B) the total number of approved national service positions to be provided.

"(d) FIVE PERCENT LIMITATION ON ADMINISTRATIVE COSTS.—

"(1) LIMITATION.—Not more than 5 percent of the amount of assistance provided to the original recipient of a grant or transfer of assistance

under subsection (a) or (b) for a fiscal year may be used to pay for administrative costs (including indirect costs) incurred by—

"(A) the recipient of the assistance; and

"(B) national service programs carried out or supported with the assistance.

"(2) RULES ON USE.—The Corporation may by rule prescribe the manner and extent to which—

"(A) assistance provided under subsection (a) or (b) may be used to cover administrative costs; and

"(B) that portion of the assistance available to cover administrative costs should be distributed between—

"(i) the original recipient of the grant or transfer of assistance under such subsection; and

"(ii) national service programs carried out or supported with the assistance.

"(e) MATCHING FUNDS REQUIREMENTS.—

"(1) REQUIREMENTS.—Except as provided in sections 129(d)(2)(B) and 140, the Federal share of the cost of carrying out a national service program that receives the assistance under subsection (a), whether the assistance is provided directly or as a subgrant from the original recipient of the assistance, may not exceed 75 percent of such cost.

"(2) CALCULATION.—

"(A) IN GENERAL.—In providing for the remaining share of the cost of carrying out a national service program, the program—

"(i) shall provide for such share through a payment in cash or in kind, fairly evaluated, including facilities, equipment, or services; and

"(ii) may provide for such share through State sources, local sources, or other Federal sources (other than the use of funds made available under the national service laws).

"(B) COST OF HEALTH CARE.—In providing for such remaining share through a payment in cash, a national service program may count not more than 85 percent of the cost of providing health care policy described in section 140(d)(2) toward such share.

"(3) WAIVER.—The Corporation may waive in whole or in part the requirements of paragraph (1) with respect to a national service program in any fiscal year if the Corporation determines that such a waiver would be equitable due to a lack of available financial resources at the local level.

"SEC. 122. TYPES OF NATIONAL SERVICE PROGRAMS ELIGIBLE FOR PROGRAM ASSISTANCE.

"(a) ELIGIBLE NATIONAL SERVICE PROGRAMS.—The recipient of a grant under section 121(a) and each Federal agency receiving assistance under section 121(b) shall use the assistance, directly or through subgrants to other entities, to carry out full- or part-time national service programs, including summer programs, that address unmet human, educational, environmental, or public safety needs. Subject to subsection (b)(1), these national service programs may include the following types of national service programs:

"(1) A community corps program that meets unmet human, educational, environmental, or public safety needs and promotes greater community unity through the use of organized teams of participants of varied social and economic backgrounds, skill levels, capabilities, ages, ethnic backgrounds, or genders.

"(2) A full-time youth corps program, carried out during the summer or throughout the full calendar year, such as a conservation corps or youth service corps (including a conservation corps or youth service corps that performs service on Federal or other public lands or on Indian lands), that—

"(A) undertakes meaningful service projects with visible benefits to a community, including natural resource, urban renovation, rural development, or human services projects;

"(B) includes as participants youths and young adults between the ages of 16 and 25, inclusive, including out-of-school youths, other economically disadvantaged youths, and individuals with disabilities, who are between those ages; and

"(C) provides those participants who are youths and young adults with—

"(i) crew-based, highly structured, and adult-supervised work experience, life skills, education, career guidance and counseling, employment training, and support services; and

"(ii) the opportunity to develop citizenship values and skills through service to their community and the United States.

"(3) A program that provides specialized training to individuals in service-learning and places the individuals after such training in positions, including positions as service-learning coordinators, to facilitate service-learning in programs eligible for funding under part I subtitle B.

"(4) A service program that is targeted at specific unmet human, educational, environmental, or public safety needs and that—

"(A) recruits individuals with special skills or provides specialized preservice training to enable participants to be placed individually or in teams in positions in which the participants can meet such unmet needs; and

"(B) brings participants together for additional training and other activities designed to foster civic responsibility, increase the skills of participants, and improve the quality of the service provided.

"(5) An individualized placement program that includes regular group activities, such as leadership training and special service projects.

"(6) A campus-based program that is designed to provide substantial service in a community during the school term and during summer or other vacation periods through the use of—

"(A) students who are attending an institution of higher education, including students participating in a work-study program assisted under part C of title IV of the Higher Education Act of 1965 (42 U.S.C. 2751 et seq.);

"(B) teams composed of such students; or

"(C) teams composed of a combination of such students and community residents.

"(7) A preprofessional training program in which students enrolled in an institution of higher education—

"(A) receive training in specified fields, which may include classes containing service-learning;

"(B) perform service related to such training outside the classroom during the school term and during summer or other vacation periods; and

"(C) agree to provide service upon graduation to meet unmet human, educational, environmental, or public safety needs related to such training.

"(8) A professional corps program that recruits and places qualified participants in positions—

"(A) as teachers, nurses and other health care providers, police officers, early childhood development staff, engineers, or other professionals providing service to meet educational, human, environmental, or public safety needs in communities with an inadequate number of such professionals;

"(B) that may include a salary in excess of the maximum living allowance authorized in subsection (a)(3) of section 140, as provided in subsection (c) of such section; and

"(C) that are sponsored by public or private not-for-profit employers who agree to pay 100 percent of the salaries and benefits (other than any national service educational award under subtitle D) of the participants.

"(9) A program in which economically disadvantaged individuals who are between the ages of 16 and 24 years of age, inclusive, are provided with opportunities to perform service that, while enabling such individuals to obtain the education and employment skills necessary to achieve economic self-sufficiency, will help their communities meet—

"(A) the housing needs of low-income families and the homeless; and

"(B) the need for community facilities in low-income areas.

"(10) A national service entrepreneur program that identifies, recruits, and trains gifted young adults of all backgrounds and assists such adults in designing solutions to community problems.

"(11) An intergenerational program that combines students, out-of-school youths, and older adults as participants to provide needed community services, including an intergenerational component of a national service program described in any of paragraphs (1) through (10), or in paragraph (12) or (13).

"(12) A program, to be known as a 'Communities in Action program', carried out by not-for-profit organizations, including community action agencies or combinations of such agencies, to provide opportunities for individuals or teams of individuals to engage in local community projects that meet important unaddressed community and individual needs in low-income areas served by such a not-for-profit organization, including service projects to meet the unaddressed needs of economically disadvantaged youth age 18 and younger (including providing safe locations for after-school programs that provide opportunities for learning and recreation).

"(13) Such other national service programs addressing unmet human, educational, environmental, or public safety needs as the Corporation may designate.

"(b) QUALIFICATION CRITERIA TO DETERMINE ELIGIBILITY.—

"(1) ESTABLISHMENT BY CORPORATION.—The Corporation shall establish qualification criteria for different types of national service programs for the purpose of determining whether a particular national service program should be considered to be a national service program eligible to receive assistance or approved national service positions under this subtitle.

"(2) CONSULTATION.—In establishing qualification criteria under paragraph (1), the Corporation shall consult with organizations and individuals that have extensive experience in developing and administering effective national service programs.

"(3) APPLICATION TO SUBGRANTS.—The qualification criteria established by the Corporation under paragraph (1) shall also be used by each recipient of assistance under section 121(a) that uses any portion of the assistance to conduct a grant program to support other national service programs.

"(4) ENCOURAGEMENT OF INTERGENERATIONAL COMPONENTS OF PROGRAMS.—The Corporation shall encourage national service programs eligible to receive assistance or approved national service positions under this subtitle to establish, if consistent with the purposes of the program, an intergenerational component of the program that combines students, out-of-school youths, and older adults as participants to provide services to address unmet human, education, environmental, or public safety needs.

"(c) NATIONAL SERVICE PRIORITIES.—

"(1) ESTABLISHMENT.—

"(A) BY CORPORATION.—In order to concentrate national efforts on meeting certain unmet human, educational, environmental, or public safety needs and to achieve the other purposes of this Act, the Corporation shall establish, and after reviewing the strategic plan approved under section 192A(g)(1), periodically

alter priorities as appropriate regarding the types of national service programs to be assisted under subsection (b) or (d) of section 129 and the purposes for which such assistance may be used.

"(B) BY STATES.—States shall establish, and through the national service plan process described in section 178(e)(1), periodically alter priorities as appropriate regarding the national service programs to be assisted under section 129(a)(1).

"(2) NOTICE TO APPLICANTS.—

"(A) IN GENERAL.—The Corporation shall provide to potential applicants advance notice of any national service priorities to be in effect under this subsection for a fiscal year.

"(B) CONTENTS.—The notice shall specifically include—

"(i) a description of any alteration made in the priorities since the previous notice; and

"(ii) a description of the national service programs that are designated by the Corporation under section 133(d)(2) as eligible for priority consideration in the next competitive distribution of assistance under section 121(a).

"(C) REGULATIONS.—The Corporation shall by regulation establish procedures to ensure the equitable treatment of national service programs that—

"(i) receive funding under this subtitle for multiple years; and

"(ii) would be adversely affected by annual revisions in such national service priorities.

"(3) APPLICATION TO SUBGRANTS.—Any recipient of funds under section 121(a) that uses any portion of the assistance to conduct a grant program to support other national service programs shall, in conducting such a grant program, make reasonable efforts to use any national service priorities established by the Corporation under this subsection.

"(d) EXISTING PROGRAMS.—Notwithstanding any other provision of this section, any program that received financial assistance under subtitle C or D of the National and Community Service Act of 1990, as in effect on the day before the date of enactment of this subsection, shall be eligible to receive financial assistance under this subtitle for a period of 30 months from the date of enactment of this subsection.

"SEC. 123. TYPES OF NATIONAL SERVICE POSITIONS ELIGIBLE FOR APPROVAL FOR NATIONAL SERVICE EDUCATIONAL AWARDS.

"The Corporation may approve of any of the following service positions as an approved national service position that includes the national service educational award described in subtitle D as one of the benefits to be provided for successful service in the position:

"(1) A position for a participant in a national service program described in section 122(a) that receives assistance under subsection (a) or (b) of section 121.

"(2) A position for a participant in a program that—

"(A) is carried out by a State, a subdivision of a State, an Indian tribe, a public or private not-for-profit organization (including a community action agency), an institution of higher education, or a Federal agency; and

"(B) would be eligible to receive assistance under section 121(a), based on criteria established by the Corporation, but has not applied for such assistance.

"(3) A position involving service as a VISTA volunteer under title I of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4951 et seq.).

"(4) A position facilitating service-learning in a program described in section 122(a)(3) that is eligible for assistance under part I of subtitle B.

"(5) A position for a participant in the Civilian Community Corps under subtitle E.

"(6) A position involving service as a crew leader in a youth corps program or a similar position supporting a national service program that receives an approved national service position.

"(7) Such other national service positions as the Corporation considers to be appropriate.

"SEC. 124. TYPES OF PROGRAM ASSISTANCE.

"(a) PLANNING ASSISTANCE.—The Corporation may provide assistance under section 121 to a qualified applicant that submits an application under section 130 for the planning of a national service program. Assistance provided in accordance with this subsection may cover a period of not more than 1 year.

"(b) OPERATIONAL ASSISTANCE.—The Corporation may provide assistance under section 121 to a qualified applicant that submits an application under section 130 for the establishment, operation, or expansion of a national service program. Assistance provided in accordance with this subsection may cover a period of not more than 3 years, but may be renewed by the Corporation upon consideration of a new application under section 130.

"(c) REPLICATION ASSISTANCE.—The Corporation may provide assistance under section 121 to a qualified applicant that submits an application under section 130 for the expansion of a proven national service program to another geographical location. Assistance provided in accordance with this subsection may cover a period of not more than 3 years, but may be renewed by the Corporation upon consideration of a new application under section 130.

"(d) APPLICATION TO SUBGRANTS.—The requirements of this section shall apply to any State or other applicant receiving assistance under section 121 that proposes to conduct a grant program using the assistance to support other national service programs.

"SEC. 125. TRAINING AND TECHNICAL ASSISTANCE.

"(a) TRAINING PROGRAMS.—The Corporation may conduct, directly or by grant or contract, appropriate training programs regarding national service in order to—

"(1) improve the ability of national service programs assisted under section 121 to meet human, educational, environmental, or public safety needs in communities—

"(A) where services are needed most; and

"(B) where programs do not exist, or are too limited to meet community needs, as of the date on which the Corporation makes the grant or enters into the contract;

"(2) promote leadership development in such programs;

"(3) improve the instructional and programmatic quality of such programs to build an ethic of civic responsibility;

"(4) develop the management and budgetary skills of program operators; and

"(5) provide for or improve the training provided to the participants in such programs.

"(b) TECHNICAL ASSISTANCE.—The Corporation shall, where necessary, make appropriate technical assistance available to States, Indian tribes, labor organizations, organizations operated by young adults, organizations serving economically disadvantaged individuals, and other entities described in section 121 that desire—

"(1) to develop national service programs; or

"(2) to apply for assistance under such section or under a grant program conducted using assistance provided under such section.

"SEC. 126. OTHER SPECIAL ASSISTANCE.

"(a) SUPPORT FOR STATE COMMISSIONS.—

"(1) ASSISTANCE AUTHORIZED.—The Corporation may make assistance available to assist a State to establish or operate the State Commission on National and Community Service required to be established by the State under section 178.

"(2) AMOUNT OF ASSISTANCE.—The amount of assistance that may be provided to a State Commission under this subsection, together with other Federal funds available to establish or operate the State Commission, may not exceed—

"(A) 85 percent of the total cost to establish or operate the State Commission for the first year for which the State Commission receives assistance under this subsection; and

"(B) such smaller percentage of such cost as the Corporation may establish for the second, third, and fourth years of such assistance in order to ensure that the Federal share does not exceed 50 percent of such costs for the fifth year, and any subsequent year, for which the State Commission receives assistance under this subsection.

"(b) DISASTER SERVICE.—The Corporation may undertake activities, including activities carried out through part A of title I of the Domestic Volunteer Service Act of 1973, to involve in disaster relief efforts youth corps programs described in section 122(a)(2) and other programs that receive assistance under the national service laws.

"(c) CHALLENGE GRANTS FOR NATIONAL SERVICE PROGRAMS.—

"(1) ASSISTANCE AUTHORIZED.—

"(A) IN GENERAL.—The Corporation may make challenge grants under this subsection to national service programs that receive assistance under section 121.

"(B) CRITERIA.—The Corporation shall develop criteria for the selection of recipients of such challenge grants, so as to make the grants widely available to a variety of programs that—

"(i) are high-quality national service programs; and

"(ii) are carried out by entities with demonstrated experience in establishing and implementing projects that provide benefits to participants and communities.

"(2) AMOUNT OF ASSISTANCE.—A challenge grant under this subsection may provide not more than $1 of assistance under this subsection for each $1 in cash raised by the national service program from private sources in excess of amounts required to be provided by the program to satisfy matching funds requirements under section 121(e). The Corporation shall establish a ceiling on the amount of assistance that may be provided to a national service program under this subsection.

"PART II—APPLICATION AND APPROVAL PROCESS

"SEC. 129. PROVISION OF ASSISTANCE AND APPROVED NATIONAL SERVICE POSITIONS BY COMPETITIVE AND OTHER MEANS.

"(a) ALLOTMENTS OF ASSISTANCE AND APPROVED POSITIONS TO STATES AND INDIAN TRIBES.—

"(1) ALLOTMENT OF ASSISTANCE TO CERTAIN STATES.—

"(A) IN GENERAL.—Of the funds allocated by the Corporation for provision of assistance under subsections (a) and (b) of section 121 for a fiscal year, the Corporation shall make a grant under section 121(a) (and a corresponding allotment of approved national service positions) to each of the several States (through the State Commission of the State), the District of Columbia, and the Commonwealth of Puerto Rico that has an application approved by the Corporation under section 133.

"(B) ALLOTMENT AMOUNTS.—Except as provided in subparagraph (C), the amount allotted as a grant to each such State under this paragraph for a fiscal year shall be equal to—

"(i) in the first fiscal year for which funds are appropriated under section 501(a)(2), an amount that bears the same ratio to 40 percent of the allocated funds for such fiscal year;

"(ii) in the second such fiscal year, an amount that bears the same ratio to 45 percent of the allocated funds for such fiscal year; and

"(iii) in the third such fiscal year, an amount that bears the same ratio to 50 percent of the allocated funds for such fiscal year,

as the population of the State bears to the total population of the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

"(C) LIMITATION.—In no case shall any State receive a grant under this paragraph for a fiscal year in an amount that is less than ½ of 1 percent of the allocated funds for the fiscal year.

"(2) ALLOTMENT OF ASSISTANCE TO OTHER JURISDICTIONS AND INDIAN TRIBES.—Of the funds allocated by the Corporation for provision of assistance under subsections (a) and (b) of section 121 for a fiscal year, the Corporation shall reserve up to 1 percent of the allocated funds for grants under section 121(a) to Indian tribes, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, to be allotted by the Corporation on a competitive basis in accordance with their respective needs. Palau shall also be eligible for a grant under this paragraph from the reserved funds until such time as the Compact of Free Association with Palau is ratified.

"(3) EFFECT OF FAILURE TO APPLY.—If a State or Indian tribe fails to apply for, or fails to give notice to the Corporation of its intent to apply for, an allotment under this subsection, the Corporation shall use the amount that would have been allotted under this subsection to the State or Indian tribe—

"(A) to make grants (and provide approved national service positions in connection with such grants) to other eligible entities under section 121 that propose to carry out national service programs in the State or on behalf of the Indian tribe; and

"(B) after making grants under paragraph (1), to make a reallotment to other States and Indian tribes with approved applications under section 130.

"(b) RESERVATION OF APPROVED POSITIONS.—

"(1) NUMBER RESERVED.—Except as provided in paragraph (2), the Corporation shall ensure that each individual selected during a fiscal year for assignment as a VISTA volunteer under title I of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4951 et seq.) or as a participant in the Civilian Community Corps Demonstration Program under subtitle E shall receive the national service educational award described in subtitle D if the individual satisfies the eligibility requirements for the award. Funds for approved national service positions required by this paragraph for a fiscal year shall be deducted from the total funding for approved national service positions for that fiscal year.

"(2) TRANSITION.—The Corporation shall determine an equitable procedure for providing post-service educational awards to individuals who are selected for assignment as described in paragraph (1) after the date of enactment of this subtitle and before the effective date of section 203(c)(2) of the National and Community Service Trust Act of 1993.

"(c) RESERVATION FOR SPECIAL ASSISTANCE.—Subject to section 501(a)(2), of the funds allocated by the Corporation for provision of assistance under subsections (a) and (b) of section 121 for a fiscal year, the Corporation may reserve such amount as the Corporation considers to be appropriate for the purpose of making assistance available under sections 125 and 126. The Corporation may not reserve more than $10,000,000 for a fiscal year for challenge grants under section 126(c).

"(d) COMPETITIVE DISTRIBUTION OF REMAINING FUNDS.—

"(1) STATE COMPETITION.—Of the funds allocated by the Corporation for provision of assistance under subsections (a) and (b) of section 121 for a fiscal year, the Corporation shall use not less than 30 percent of the allocated funds in the first fiscal year for which funds are appropriated under section 501(a)(2), not less than 27½ percent of the allocated funds in the second such fiscal year, and not less than 25 percent of the allocated funds in the third such fiscal year, to make grants to States (through the State Commissions) on a competitive basis under section 121(a).

"(2) FEDERAL AGENCIES AND OTHER APPLICANTS.—

"(A) IN GENERAL.—The Corporation shall distribute on a competitive basis to subdivisions of States (through the State Commissions), Indian tribes, public and private not-for-profit organizations (including labor organizations and community action agencies), institutions of higher education, and Federal agencies the remainder of the funds allocated by the Corporation for provision of assistance under section 121 for a fiscal year, after operation of paragraph (1) and subsections (a) and (c).

"(B) FEDERAL SHARE.—Notwithstanding section 121(e), if a Federal agency proposes to carry out a national service program using funds made available under subparagraph (A), and the Federal agency is authorized to use funds made available under Federal law (other than the national service laws) to carry out such a program, the Federal share attributable to this paragraph of the cost of carrying out the national service program shall be 50 percent of such cost. The President may by regulation specify the sources that may be used by the Federal agency to provide for the remaining share of such cost.

"(C) FEDERAL AGENCIES.—The Corporation may not distribute more than 30 percent of such remainder to Federal agencies for a fiscal year under subparagraph (A).

"(D) LIMITATIONS.—The Corporation shall limit the categories of eligible applicants for assistance under this paragraph consistent with the priorities established by the Corporation under section 133(d)(2).

"(3) PRIORITY.—In distributing the funds allocated by the Corporation for provision of assistance under section 121 for a fiscal year, after operation of subsections (a) and (c) and after using the appropriate percentage of such funds, as described in paragraph (1), to make grants under paragraph (1), in determining whether to—

"(A) use an additional portion of the funds to make a grant under paragraph (1) to a State applicant; or

"(B) distribute the portion of the funds to an applicant that is a private not-for-profit organization under paragraph (2),

the Corporation shall give preference to the private not-for-profit organization in any case in which the Corporation determines that the applicants have submitted applications of equal quality under section 130.

"(4) RESERVATION.—

"(A) SUPPLEMENTAL AND OTHER GRANTS.—In distributing the funds allocated by the Corporation for provision of assistance under section 121 for a fiscal year, after operation of subsections (a) and (c), the President shall reserve, from the funds available to make grants under paragraphs (1) and (2), an amount that is not less than 2 percent and not more than 5 percent of such funds (except that such amount may not exceed $10,000,000), in order to make supplemental grants as provided in subparagraph (B) and grants as provided in subparagraph (C).

"(B) GRANTS TO ASSIST ENTITIES IN PLACING APPLICANTS WHO ARE INDIVIDUALS WITH A DISABILITY.—

"(i) IN GENERAL.—The President shall make grants from a portion of the funds reserved under subparagraph (A) to entities that—

"(I) receive a grant to carry out a national service program under paragraph (1) or (2);

"(II) demonstrate that the entity has received a substantial number of applications for placement in the national service program of persons who are individuals with a disability, as defined in section 3(2) of the Americans with Disabilities Act of 1990, and who require a reasonable accommodation, as defined in section 101(9) of such Act or auxiliary aids and services, as defined in section 3(1) of such Act, in order to perform national service; and

"(III) demonstrate that additional funding would assist the national service program in placing a substantial number of such individuals with a disability as participants in projects carried out through the program.

"(ii) REQUIREMENTS.—Funds made available through such a supplemental grant under clause (i) shall be made available for the same purposes, and subject to the same requirements, as funds made available through a grant made under paragraph (1) or (2).

"(C) GRANTS FOR OUTREACH TO INDIVIDUALS WITH A DISABILITY.—

"(i) IN GENERAL.—From the portion of the funds reserved under subparagraph (A) that is not used to make grants under subparagraph (B), the President shall make grants to public and private not-for-profit organizations to pay for the Federal share described in section 121(e) of—

"(I) providing information about the programs specified in section 193A(d)(10) to such individuals with a disability who desire to perform national service; and

"(II) enabling the individuals to participate in activities carried out through such programs, which may include assisting the placement of the individuals in approved national service positions.

"(ii) APPLICATION.—To be eligible to receive a grant under this subparagraph, an organization described in clause (i) shall submit an application to the President at such time, in such manner, and containing such information as the President may require.

"(e) APPLICATION REQUIRED.—The allotment of assistance and approved national service positions to a State or Indian tribe under subsection (a), and the competitive distribution of assistance under subsection (d), shall be made by the Corporation only pursuant to an application submitted by a State or other applicant under section 130 and approved by the Corporation under section 133.

"(f) APPROVAL OF POSITIONS SUBJECT TO AVAILABLE FUNDS.—The Corporation may not approve positions as approved national service positions under this subtitle for a fiscal year in excess of the number of such positions for which the Corporation has sufficient available funds in the National Service Trust for that fiscal year, taking into consideration funding needs for national service educational awards under subtitle D based on completed service. If appropriations are insufficient to provide the maximum allowable national service educational awards under subtitle D for all eligible participants, the Corporation is authorized to make necessary and reasonable adjustments to program rules.

"(g) SPONSORSHIP OF APPROVED NATIONAL SERVICE POSITIONS.—

"(1) SPONSORSHIP AUTHORIZED.—The Corporation may enter into agreements with persons or entities who offer to sponsor national service positions for which the person or entity will be responsible for supplying the funds necessary to provide a national service educational award. The distribution of these approved national service positions shall be made pursuant to the agreement, and the creation of these positions shall not be taken into consideration in determining the number of approved national service positions to be available for distribution under this section.

"(2) DEPOSIT OF CONTRIBUTION.—Funds provided pursuant to an agreement under paragraph (1) and any other funds contributed to the Corporation to support the activities of the Corporation under the national service laws shall be deposited in the National Service Trust established in section 145 until such time as the funds are needed.

"SEC. 130. APPLICATION FOR ASSISTANCE AND APPROVED NATIONAL SERVICE POSITIONS.

"(a) TIME, MANNER, AND CONTENT OF APPLICATION.—To be eligible to receive assistance under section 121 and approved national service positions for participants who serve in the national service programs to be carried out using the assistance, a State, subdivision of a State, Indian tribe, public or private not-for-profit organization (including a community action agency), institution of higher education, or Federal agency shall prepare and submit to the Corporation an application at such time, in such manner, and containing such information as the Corporation may reasonably require.

"(b) TYPES OF APPLICATION INFORMATION.—In order to have adequate information upon which to consider an application under section 133, the Corporation—

"(1) may require that an applicant described in subsection (a) submit an application under subsection (a) containing—

"(A) a description of the national service programs proposed to be carried out directly by the applicant using assistance provided under section 121;

"(B) a description of the national service programs that are selected by the applicant to receive a grant from assistance requested under section 121 and a description of the process and criteria by which the programs were selected;

"(C) a description of other funding sources to be used, or sought to be used, for the national service programs referred to in subparagraphs (A) and (B), and, if the application is submitted for the purpose of seeking a renewal of assistance, a description of the success of the programs in reducing their reliance on Federal funds;

"(D) a description of the extent to which the projects to be conducted using the assistance will address unmet human, educational, environmental, or public safety needs and produce a direct benefit for the community in which the projects are performed;

"(E) a description of the plan to be used to recruit participants, including economically disadvantaged youth, for the national service programs referred to in subparagraphs (A) and (B);

"(F) a description of the manner in which the national service programs referred to in subparagraphs (A) and (B) build on existing programs, including Federal programs;

"(G) a description of the manner in which the national service programs referred to in subparagraphs (A) and (B) will involve participants—

"(i) in projects that build an ethic of civic responsibility and produce a positive change in the lives of participants through training and participation in meaningful service experiences and opportunities for reflection on such experiences; and

"(ii) in leadership positions in implementing and evaluating the program;

"(H) measurable goals for the national service programs referred to in subparagraphs (A) and (B), and a strategy to achieve such goals, in terms of—

"(i) the impact to be made in meeting unmet human, educational, environmental, or public safety needs; and

"(ii) the service experience to be provided to participants in the programs;

"(I) a description of the manner and extent to which the national service programs referred to in subparagraphs (A) and (B) conform to the national service priorities established by the Corporation under section 122(c);

"(J) a description of the past experience of the applicant in operating a comparable program or in conducting a grant program in support of other comparable programs;

"(K) a description of the type and number of proposed service positions in which participants will receive the national service educational award described in subtitle D and a description of the manner in which approved national service positions will be apportioned by the applicant;

"(L) a description of the manner and extent to which participants, representatives of the community served, community-based agencies with a demonstrated record of experience in providing services, and labor organizations contributed to the development of the national service programs referred to in subparagraphs (A) and (B), including the identity of the individual representing the labor organization who was consulted and the nature of the consultation;

"(M) a description of a plan to be used to encourage women to participate in programs referred to in subparagraphs (A) and (B); and

"(N) such other information as the Corporation may reasonably require; and

"(2) shall require that the applicant submit an application under subsection (a) containing—

"(A) a description of the jobs or positions into which participants will be placed using the assistance provided under section 121, including descriptions of specific tasks to be performed by such participants; and

"(B) a description of the minimum qualifications that individuals shall meet to become participants in such programs.

"(c) APPLICATION TO RECEIVE ONLY APPROVED NATIONAL SERVICE POSITIONS.—

"(1) APPLICABILITY OF SUBSECTION.—This subsection shall apply in the case of an application in which—

"(A) the applicant is not seeking assistance under subsection (a) or (b) of section 121, but requests national service educational awards for individuals serving in service positions described in section 123; or

"(B) the applicant requests national service educational awards for service positions described in section 123, but the positions are not positions in a national service program described in section 122(a) for which assistance may be provided under subsection (a) or (b) of section 121.

"(2) SPECIAL APPLICATION REQUIREMENTS.—For the applications described in paragraph (1), the Corporation shall establish special application requirements in order to determine—

"(A) whether the service positions meet unmet human, educational, environmental, or public safety needs and meet the criteria for assistance under this subtitle; and

"(B) whether the Corporation should approve the positions as approved national service positions that include the national service educational award described in subtitle D as one of the benefits to be provided for successful service in the position.

"(d) SPECIAL RULE FOR STATE APPLICANTS.—

"(1) SUBMISSION BY STATE COMMISSION.—The application of a State for approved national service positions or for a grant under section 121(a) shall be submitted by the State Commission.

"(2) COMPETITIVE SELECTION.—The application of a State shall contain an assurance that all assistance provided under section 121(a) to the State will be used to support national service programs that were selected by the State on a competitive basis.

"(3) ASSISTANCE TO NONSTATE ENTITIES.—The application of a State shall also contain an assurance that not less than 60 percent of the assistance will be used to make grants in support of national service programs other than national service programs carried out by a State agency. The Corporation may permit a State to deviate from the percentage specified by this paragraph if the State has not received a sufficient number of acceptable applications to comply with the percentage.

"(e) SPECIAL RULE FOR CERTAIN SERVICE SPONSORS.—In the case of a program applicant that proposes to serve as the service sponsor, the application shall include the written concurrence of any local labor organization representing employees of the applicant who are engaged in the same or substantially similar work as that proposed to be carried out.

"(f) LIMITATION ON SAME PROJECT IN MULTIPLE APPLICATIONS.—No applicant shall submit an application under this section, and the Corporation shall reject an application that is submitted under this section, if the application describes a project proposed to be conducted using assistance requested by the applicant and the project is already described in another application pending before the Corporation.

"SEC. 131. NATIONAL SERVICE PROGRAM ASSISTANCE REQUIREMENTS.

"(a) IMPACT ON COMMUNITIES.—An application submitted under section 130 shall include an assurance by the applicant that any national service program carried out by the applicant using assistance provided under section 121 and any national service program supported by a grant made by the applicant using such assistance will—

"(1) address unmet human, educational, environmental, or public safety needs through services that provide a direct benefit to the community in which the service is performed; and

"(2) comply with the nonduplication and nondisplacement requirements of section 177.

"(b) IMPACT ON PARTICIPANTS.—An application submitted under section 130 shall also include an assurance by the applicant that any national service program carried out by the applicant using assistance provided under section 121 and any national service program supported by a grant made by the applicant using such assistance will—

"(1) provide participants in the national service program with the training, skills, and knowledge necessary for the projects that participants are called upon to perform;

"(2) provide support services to participants, such as the provision of appropriate information and support—

"(A) to those participants who are completing a term of service and making the transition to other educational and career opportunities; and

"(B) to those participants who are school dropouts in order to assist those participants in earning the equivalent of a high school diploma; and

"(3) provide structured opportunities for participants to reflect on their service experiences.

"(c) CONSULTATION.—An application submitted under section 130 shall also include an assurance by the applicant that any national service program carried out by the applicant using assistance provided under section 121 and any national service program supported by a grant made by the applicant using such assistance will—

"(1) provide in the design, recruitment, and operation of the program for broad-based input from the community served, individuals eligible to serve as participants in the program, community-based agencies (including community action agencies) with a demonstrated record of experience in providing services, and local labor organizations representing employees of service sponsors;

"(2) prior to the placement of participants, consult with any local labor organization representing employees in the area who are engaged in the same or similar work as that proposed to be carried out by such program to ensure compliance with the nondisplacement requirements specified in section 177; and

"(3) in the case of a program that is not funded through a State, consult with and coordinate activities with the State Commission for the State in which the program operates.

"(d) EVALUATION AND PERFORMANCE GOALS.—

"(1) IN GENERAL.—An application submitted under section 130 shall also include an assurance by the applicant that the applicant will—

"(A)(i) arrange for an independent evaluation of any national service program carried out using assistance provided to the applicant under section 121; or

"(ii) with the approval of the Corporation, conduct an internal evaluation of the program;

"(B) develop measurable performance goals and evaluation methods (such as the use of surveys of participants and persons served), which are to be used as part of such evaluation to determine the impact of the program—

"(i) on communities and persons served by the projects performed by the program;

"(ii) on participants who take part in the projects; and

"(iii) in such other areas as the Corporation may require; and

"(C) cooperate with any evaluation activities undertaken by the Corporation.

"(2) ALTERNATIVE EVALUATION REQUIREMENTS.—The Corporation may establish alternative evaluation requirements for national service programs based upon the amount of assistance received under section 121 or received by a grant made by a recipient of assistance under such section. The determination of whether a national service program is covered by this paragraph shall be made in such manner as the Corporation may prescribe.

"(e) LIVING ALLOWANCES AND OTHER INSERVICE BENEFITS.—Except as provided in section 140(c), an application submitted under section 130 shall also include an assurance by the applicant that the applicant will—

"(1) provide a living allowance and other benefits specified in section 140 to participants in any national service program carried out by the applicant using assistance provided under section 121; and

"(2) require that each national service program that receives a grant from the applicant using such assistance will also provide a living allowance and other benefits specified in section 140 to participants in the program.

"(f) SELECTION OF PARTICIPANTS FROM INDIVIDUALS RECRUITED BY CORPORATION OR STATE COMMISSIONS.—The Corporation may also require an assurance by the applicant that any national service program carried out by the applicant using assistance provided under section 121 and any national service program supported by a grant made by the applicant using such assistance will select a portion of the participants for the program from among prospective participants recruited by the Corporation or State Commissions under section 138(d). The Corporation may specify a minimum percentage of participants to be selected from the national leadership pool established under section 138(e) and may vary the percentage for different types of national service programs.

"SEC. 132. INELIGIBLE SERVICE CATEGORIES.

"(a) IN GENERAL.—Except as provided in subsections (b) and (c), an application submitted to the Corporation under section 130 shall include an assurance by the applicant that any national service program carried out using assistance provided under section 121 and any approved national service position provided to an applicant will not be used to perform service that provides a direct benefit to any—

"(1) business organized for profit;

"(2) labor union;

"(3) partisan political organization;

"(4) organization engaged in religious activities, unless such service does not involve the use of assistance provided under section 121 or participants to give religious instruction, conduct worship services, provide instruction as part of a program that includes mandatory religious education or worship, construct, operate, or maintain facilities devoted to religious instruction or worship, or engage in any form of proselytization; or

"(5) organization that expends more than 20 percent of the annual budget of the organization, or whose primary purpose is, to influence public policy or engage in legislative advocacy activities.

"(b) ADVOCACY ACTIVITIES.—Nothing in this section shall be construed to prevent participants from engaging in advocacy activities undertaken at their own initiative.

"(c) REGIONAL CORPORATION.—The requirement of subsection (a) relating to an assurance regarding direct benefits to businesses organized for profit shall not apply with respect to a Regional Corporation, as defined in section 3(g) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(g)), that is established in accordance with such Act as a for-profit corporation but that is engaging in not-for-profit activities.

"(d) PROHIBITION ON CERTAIN POLITICAL ACTIVITIES.—

"(1) IN GENERAL.—Except as provided in subsection (b) and paragraph (2), an application submitted to the Corporation under section 130 shall include an assurance by the applicant that any national service program carried out using assistance provided under section 121 and any approved national service position provided to an applicant will not be used to—

"(A) provide political seminars, training, instruction, lectures, classes, or speeches; or

"(B) assist political organizations, partisan organizations, or political appointees.

"(2) POLITICAL APPOINTEES.—The requirement of paragraph (1) relating to an assurance regarding speeches shall not apply to political appointees who are responsible for the administration of a national service program.

"(3) ENFORCEMENT.—If the Corporation determines that a national service program has failed to comply with the assurances provided under paragraph (1), the Corporation shall—

"(A) prohibit the program from recruiting or selecting individuals to participate in the program during the 2-year period beginning on the date the Corporation determines the noncompliance commenced; and

"(B) direct the program to terminate the employment of the supervisors determined to be involved in the noncompliance.

"SEC. 133. CONSIDERATION OF APPLICATIONS.

"(a) CORPORATION CONSIDERATION OF CERTAIN CRITERIA.—The Corporation shall apply the criteria described in subsections (c) and (d) in determining whether—

"(1) to approve an application submitted under section 130 and provide assistance under section 121 to the applicant; and

"(2) to approve service positions described in the application as national service positions that include the national service educational award described in subtitle D and provide such approved national service positions to the applicant.

"(b) APPLICATION TO SUBGRANTS.—

"(1) IN GENERAL.—A State or other entity that uses assistance provided under section 121(a) to support national service programs selected on a competitive basis to receive a share of the assistance shall use the criteria described in subsections (c) and (d) when considering an application submitted by a national service program to receive a portion of such assistance or an approved national service position.

"(2) CONTENTS.—The application of the State or other entity under section 130 shall contain—

"(A) a certification that the State or other entity complied with these criteria in the selection of national service programs to receive assistance;

"(B) a description of the jobs or positions into which participants will be placed using such assistance, including descriptions of specific tasks to be performed by such participants; and

"(C) a description of the minimum qualifications that individuals shall meet to become participants in such programs.

"(c) ASSISTANCE CRITERIA.—The criteria required to be applied in evaluating applications submitted under section 130 are as follows:

"(1) The quality of the national service program proposed to be carried out directly by the applicant or supported by a grant from the applicant.

"(2) The innovative aspects of the national service program, and the feasibility of replicating the program.

"(3) The sustainability of the national service program, based on evidence such as the existence—

"(A) of strong and broad-based community support for the program; and

"(B) of multiple funding sources or private funding for the program.

"(4) The quality of the leadership of the national service program, the past performance of the program, and the extent to which the program builds on existing programs.

"(5) The extent to which participants of the national service program are recruited from among residents of the communities in which projects are to be conducted, and the extent to which participants and community residents are involved in the design, leadership, and operation of the program.

"(6) The extent to which projects would be conducted in areas where such projects are needed most, such as—

"(A) communities designated as enterprise zones or redevelopment areas, targeted for special economic incentives, or otherwise identifiable as having high percentages or concentrations of low-income individuals;

"(B) areas that are environmentally distressed;

"(C) areas adversely affected by reductions in defense spending or the closure or realignment of military installations; and

"(D) areas—

"(i) that have experienced a substantial reduction in population, as determined by the Corporation; and

"(ii) with high numbers or percentages of economically disadvantaged older adults.

"(7) In the case of applicants other than States, the extent to which the application is consistent with the application under section 130 of the State in which the projects would be conducted.

"(8) Such other criteria as the Corporation considers to be appropriate.

"(d) OTHER CONSIDERATIONS.—

"(1) GEOGRAPHIC DIVERSITY.—The Corporation shall ensure that recipients of assistance provided under section 121 are geographically diverse and include projects to be conducted in those urban and rural areas in a State with the highest rates of poverty.

"(2) PRIORITIES.—

"(A) IN GENERAL.—The Corporation may designate, under such criteria as may be established by the Corporation, certain national service programs or types of national service programs described in section 122(a) for priority

consideration in the competitive distribution of funds under section 129(d)(2).

"(B) PROGRAMS DESIGNATED TO RECEIVE PRIORITY.—In designating national service programs to receive priority, the Corporation may include—

"(i) national service programs carried out by another Federal agency;

"(ii) national service programs that conform to the national service priorities in effect under section 122(c);

"(iii) innovative national service programs;

"(iv) national service programs that are well established in one or more States at the time of the application and are proposed to be expanded to additional States using assistance provided under section 121;

"(v) grant programs in support of other national service programs if the grant programs are to be conducted by not-for-profit organizations (including community action agencies) with a demonstrated and extensive expertise in the provision of services to meet human, educational, environmental, or public safety needs;

"(vi) professional corps programs described in section 122(a)(8); and

"(vii) programs that—

"(I) received funding under subtitle D of this Act, as in effect on the day before the date of enactment of this subtitle;

"(II) the Corporation determines to meet the requirements of sections 142 (other than subsection (g)), 143, and 148 through 150 of this Act, as in effect on such day, in addition to the requirements of this subtitle; and

"(III) include an evaluation component.

"(C) EXCEPTION.—In making a competitive distribution of funds under section 129(d)(2), the President may give priority consideration to a national service program that is—

"(i) proposed in an application submitted by a State Commission; and

"(ii) not one of the types of programs described in clauses (i) through (vi) of subparagraph (B),

if the State Commission provides an adequate explanation of the reasons why it should not be a priority of such State to carry out any of such types of programs in the State.

"(3) REVIEW PANEL.—The President shall—

"(A) establish panels of experts for the purpose of securing recommendations on applications submitted under section 130 for more than $100,000 in assistance, or for national service positions that would require more than $100,000 in national service educational awards; and

"(B) consider the opinions of such panels prior to making such determinations.

"(e) EMPHASIS ON AREAS MOST IN NEED.—In making assistance available under section 121 and in providing approved national service positions under section 123, the Corporation shall ensure that not less than 50 percent of the total amount of assistance to be distributed to States under subsections (a) and (d)(1) of section 129 for a fiscal year is provided to carry out or support national service programs and projects that—

"(1) are conducted in areas described in any of subparagraphs (A) through (D) of subsection (c)(6) or on Federal or other public lands, to address unmet human, educational, environmental, or public safety needs in such areas or on such lands; and

"(2) place a priority on the recruitment of participants who are residents of areas described in any of subparagraphs (A) through (D) of subsection (c)(6) or Federal or other public lands.

"(f) REJECTION OF STATE APPLICATIONS.—

"(1) NOTIFICATION OF STATE APPLICANTS.—If the Corporation rejects an application submitted by a State Commission under section 130 for funds described in section 129(a)(1), the Corporation shall promptly notify the State Commission of the reasons for the rejection of the application.

"(2) RESUBMISSION AND RECONSIDERATION.—The Corporation shall provide a State Commission notified under paragraph (1) with a reasonable opportunity to revise and resubmit the application. At the request of the State Commission, the Corporation shall provide technical assistance to the State Commission as part of the resubmission process. The Corporation shall promptly reconsider an application resubmitted under this paragraph.

"(3) REALLOTMENT.—The amount of any State's allotment under section 129(a) for a fiscal year that the Corporation determines will not be provided for that fiscal year shall be available for distribution by the Corporation as provided in paragraph (3) of such subsection.

"PART III—NATIONAL SERVICE PARTICIPANTS

"SEC. 137. DESCRIPTION OF PARTICIPANTS.

"(a) IN GENERAL.—For purposes of this subtitle, an individual shall be considered to be a participant in a national service program carried out using assistance provided under section 121 if the individual—

"(1) meets such eligibility requirements, directly related to the tasks to be accomplished, as may be established by the program;

"(2) is selected by the program to serve in a position with the program;

"(3) will serve in the program for a term of service specified in section 139 to be performed before, during, or after attendance at an institution of higher education;

"(4) is 17 years of age or older at the time the individual begins the term of service;

"(5)(A)(i) has received a high school diploma or its equivalent; or

"(ii) agrees to obtain a high school diploma or its equivalent and the individual did not drop out of an elementary or secondary school to enroll in the program; or

"(B)(i) is enrolled at an institution of higher education on the basis of meeting the standard described in paragraph (1) or (2) of section 484(d) of the Higher Education Act of 1965 (20 U.S.C. 1091(d)); and

"(ii) meets the requirements of section 484(a) of such Act; and

"(6) is a citizen of the United States or lawfully admitted for permanent residence.

"(b) SPECIAL RULES FOR CERTAIN YOUTH PROGRAMS.—An individual shall be considered to be a participant in a youth corps program described in section 122(a)(2) or a program described in section 122(a)(9) that is carried out with assistance provided under section 121(a) if the individual—

"(1) satisfies the requirements specified in subsection (a), except paragraph (4) of such subsection; and

"(2) is between the ages of 16 and 25, inclusive, at the time the individual begins the term of service.

"(c) WAIVER.—The Corporation may waive the requirements of subsection (a)(5)(A) with respect to an individual if the program in which the individual seeks to become a participant conducts an independent evaluation demonstrating that the individual is incapable of obtaining a high school diploma or its equivalent.

"SEC. 138. SELECTION OF NATIONAL SERVICE PARTICIPANTS.

"(a) SELECTION PROCESS.—Subject to subsections (b) and (c) and section 131(f), the actual recruitment and selection of an individual to serve in a national service program receiving assistance under section 121 or to fill an approved national service position shall be conducted by the State, subdivision of a State, Indian tribe, public or private not-for-profit organization, institution of higher education, Federal agency, or other entity to which the assistance and approved national service positions are provided.

"(b) NONDISCRIMINATION AND NONPOLITICAL SELECTION OF PARTICIPANTS.—The recruitment and selection of individuals to serve in national service programs receiving assistance under section 121 or to fill approved national service positions shall be consistent with the requirements of section 175.

"(c) SECOND TERM.—Acceptance into a national service program to serve a second term of service under section 139 shall only be available to individuals who perform satisfactorily in their first term of service.

"(d) RECRUITMENT AND PLACEMENT.—The Corporation and each State Commission shall establish a system to recruit individuals who desire to perform national service and to assist the placement of these individuals in approved national service positions, including positions available under title I of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4951). The Corporation and State Commissions shall disseminate information regarding available approved national service positions through cooperation with secondary schools, institutions of higher education, employment service offices, State vocational rehabilitation agencies within the meaning of the Rehabilitation Act of 1973 and other State agencies that primarily serve individuals with disabilities, and other appropriate entities, particularly those organizations that provide outreach to economically disadvantaged youths or youths who are individuals with disabilities.

"(e) NATIONAL LEADERSHIP POOL.—

"(1) SELECTION AND TRAINING.—From among individuals recruited under subsection (d), the Corporation may select individuals with significant leadership potential, as determined by the Corporation, to receive special training to enhance their leadership ability. The leadership training shall be provided by the Corporation directly or through a grant or contract.

"(2) EMPHASIS ON CERTAIN INDIVIDUALS.—In selecting individuals to receive leadership training under this subsection, the Corporation shall make special efforts to select individuals who have served—

"(A) in the Peace Corps;

"(B) as VISTA volunteers;

"(C) as participants in national service programs receiving assistance under section 121; or

"(D) as participants in programs receiving assistance under subtitle D of the National and Community Service Act of 1990, as in effect on the day before the date of enactment of this subtitle.

"(3) ASSIGNMENT.—At the request of a program that receives assistance under the national service laws, the Corporation may assign an individual who receives leadership training under paragraph (1) to work with the program in a leadership position and carry out assignments not otherwise performed by regular participants. An individual assigned to a program shall be considered to be a participant of the program.

"SEC. 139. TERMS OF SERVICE.

"(a) IN GENERAL.—As a condition of receiving a national service educational award under subtitle D, a participant in an approved national service position shall be required to perform full- or part-time national service for at least one term of service specified in subsection (b).

"(b) TERM OF SERVICE.—

"(1) FULL-TIME SERVICE.—An individual performing full-time national service in an approved national service position shall agree to participate in the program sponsoring the position for not less than 1,700 hours during a period of not less than 9 months and not more than 1 year.

"(2) PART-TIME SERVICE.—Except as provided in paragraph (3), an individual performing part-time national service in an approved national service position shall agree to participate in the program sponsoring the position for not less than 900 hours during a period of—

"(A) not more than 2 years; or

"(B) not more than 3 years if the individual is enrolled in an institution of higher education while performing all or a majority of the hours of such service.

"(3) REDUCTION IN HOURS OF PART-TIME SERVICE.—The Corporation may reduce the number of hours required to be served to successfully complete part-time national service to a level determined by the Corporation, except that any reduction in the required term of service shall include a corresponding reduction in the amount of any national service educational award that may be available under subtitle D with regard to that service.

"(c) RELEASE FROM COMPLETING TERM OF SERVICE.—

"(1) RELEASE AUTHORIZED.—A recipient of assistance under section 121 or a program sponsoring an approved national service position may release a participant from completing a term of service in the position—

"(A) for compelling personal circumstances as demonstrated by the participant; or

"(B) for cause.

"(2) EFFECT OF RELEASE.—If the released participant was serving in an approved national service position, the participant may receive a portion of the national service educational award corresponding to that service in the manner provided in section 147(b), except that a participant released for cause may not receive any portion of the national service educational award.

"SEC. 140. LIVING ALLOWANCES FOR NATIONAL SERVICE PARTICIPANTS.

"(a) PROVISION OF LIVING ALLOWANCE.—

"(1) LIVING ALLOWANCE PERMITTED.—Subject to paragraph (3), a national service program carried out using assistance provided under section 121 shall provide to each participant in the program a living allowance in such an amount as may be established by the program.

"(2) LIMITATION ON FEDERAL SHARE.—The amount of the annual living allowance provided under paragraph (1) that may be paid using assistance provided under section 121 and using any other Federal funds shall not exceed the lesser of—

"(A) 85 percent of the total average annual subsistence allowance provided to VISTA volunteers under section 105 of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4955); and

"(B) 85 percent of the annual living allowance established by the national service program involved.

"(3) MAXIMUM LIVING ALLOWANCE.—Except as provided in subsection (c), the total amount of an annual living allowance that may be provided to a participant in a national service program shall not exceed 200 percent of the average annual subsistence allowance provided to VISTA volunteers under section 105 of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4955).

"(4) PRORATION OF LIVING ALLOWANCE.—The amount provided as a living allowance under this subsection shall be prorated in the case of a participant who is authorized to serve a reduced term of service under section 139(b)(3).

"(b) COVERAGE OF CERTAIN EMPLOYMENT-RELATED TAXES.—To the extent a national service program that receives assistance under section 121 is subject, with respect to the participants in the program, to the taxes imposed on an employer under sections 3111 and 3301 of the Internal Revenue Code of 1986 (26 U.S.C. 3111, 3301) and taxes imposed on an employer under a workmen's compensation act, the assistance provided to the program under section 121 shall include an amount sufficient to cover 85 percent of such taxes based upon the lesser of—

"(1) the total average annual subsistence allowance provided to VISTA volunteers under section 105 of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4955); and

"(2) the annual living allowance established by the program.

"(c) EXCEPTION FROM MAXIMUM LIVING ALLOWANCE FOR CERTAIN ASSISTANCE.—A professional corps program described in section 122(a)(8) that desires to provide a living allowance in excess of the maximum allowance authorized in subsection (a)(3) may still apply for such assistance, except that—

"(1) any assistance provided to the applicant under section 121 may not be used to pay for any portion of the allowance;

"(2) the applicant shall apply for such assistance only by submitting an application to the Corporation for assistance on a competitive basis; and

"(3) the national service program shall be operated directly by the applicant and shall meet urgent, unmet human, educational, environmental, or public safety needs, as determined by the Corporation.

"(d) HEALTH INSURANCE.—

"(1) IN GENERAL.—A State or other recipient of assistance under section 121 shall provide a basic health care policy for each full-time participant in a national service program carried out or supported using the assistance if the participant is not otherwise covered by a health care policy. Not more than 85 percent of the cost of a premium shall be provided by the Corporation, with the remaining cost paid by the entity receiving assistance under section 121. The Corporation shall establish minimum standards that all plans shall meet in order to qualify for payment under this part, any circumstances in which an alternative health care policy may be substituted for the basic health care policy, and mechanisms to prohibit participants from dropping existing coverage.

"(2) OPTION.—A State or other recipient of assistance under section 121 may elect to provide from the funds of the State or recipient a health care policy for participants that does not meet all of the standards established by the Corporation if the fair market value of such policy is equal to or greater than the fair market value of a plan that meets the minimum standards established by the Corporation, and is consistent with other applicable laws.

"(e) CHILD CARE.—

"(1) AVAILABILITY.—A State or other recipient of assistance under section 121 shall—

"(A) make child care available for children of each full-time participant who needs child care in order to participate in a national service program carried out or supported by the recipient using the assistance; or

"(B) provide a child care allowance to each full-time participant in a national service program who needs such assistance in order to participate in the program.

"(2) GUIDELINES.—The Corporation shall establish guidelines regarding the circumstances under which child care shall be made available under this subsection and the value of any allowance to be provided.

"(f) WAIVER OF LIMITATION ON FEDERAL SHARE.—The Corporation may waive in whole or in part the limitation on the Federal share specified in this section with respect to a particular national service program in any fiscal year if the Corporation determines that such a waiver would be equitable due to a lack of available financial resources at the local level.

"(g) LIMITATION ON NUMBER OF TERMS OF SERVICE FOR FEDERALLY SUBSIDIZED LIVING ALLOWANCE.—No national service program may use assistance provided under section 121, or any other Federal funds, to provide a living allowance under subsection (a), a health care policy under subsection (d), or child care or a child care allowance under subsection (e), to an individual for a third, or subsequent, term of service described in section 139(b) by the individual in a national service program carried out under this subtitle.

"SEC. 141. NATIONAL SERVICE EDUCATIONAL AWARDS.

"(a) ELIGIBILITY GENERALLY.—A participant in a national service program carried out using assistance provided to an applicant under section 121 shall be eligible for the national service educational award described in subtitle D if the participant—

"(1) serves in an approved national service position; and

"(2) satisfies the eligibility requirements specified in section 146 with respect to service in that approved national service position.

"(b) SPECIAL RULE FOR VISTA VOLUNTEERS.—A VISTA volunteer who serves in an approved national service position shall be ineligible for a national service educational award if the VISTA volunteer accepts the stipend authorized under section 105(a)(1) of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4955(a)(1).".

(b) TABLE OF CONTENTS.—Section 1(b) of the National and Community Service Act of 1990 (Public Law 101–610; 104 Stat. 3127) is amended by striking the items relating to subtitle C of title I of such Act and inserting the following new items:

"Subtitle C—National Service Trust Program

"PART I—INVESTMENT IN NATIONAL SERVICE

"Sec. 121. Authority to provide assistance and approved national service positions.
"Sec. 122. Types of national service programs eligible for program assistance.
"Sec. 123. Types of national service positions eligible for approval for national service educational awards.
"Sec. 124. Types of program assistance.
"Sec. 125. Training and technical assistance.
"Sec. 126. Other special assistance.

"PART II—APPLICATION AND APPROVAL PROCESS

"Sec. 129. Provision of assistance and approved national service positions by competitive and other means.
"Sec. 130. Application for assistance and approved national service positions.
"Sec. 131. National service program assistance requirements.
"Sec. 132. Ineligible service categories.
"Sec. 133. Consideration of applications.

"PART III—NATIONAL SERVICE PARTICIPANTS

"Sec. 137. Description of participants.
"Sec. 138. Selection of national service participants.
"Sec. 139. Terms of service.
"Sec. 140. Living allowances for national service participants.
"Sec. 141. National service educational awards.".

SEC. 102. NATIONAL SERVICE TRUST AND PROVISION OF NATIONAL SERVICE EDUCATIONAL AWARDS.

(a) ESTABLISHMENT OF TRUST; PROVISION OF AWARDS.—Subtitle D of title I of the National and Community Service Act of 1990 (42 U.S.C. 12571 et seq.) is amended to read as follows:

"Subtitle D—National Service Trust and Provision of National Service Educational Awards

"SEC. 145. ESTABLISHMENT OF THE NATIONAL SERVICE TRUST.

"(a) ESTABLISHMENT.—There is established in the Treasury of the United States an account to

be known as the National Service Trust. The Trust shall consist of—

"(1) from the amounts appropriated to the Corporation and made available to carry out this subtitle pursuant to section 501(a)(2), such amounts as the Corporation may designate to be available for the payment of—

"(A) national service educational awards; and

"(B) interest expenses pursuant to subsection 148(e);

"(2) any amounts received by the Corporation as gifts, bequests, devise, or otherwise pursuant to section 196(a)(2); and

"(3) the interest on, and proceeds from the sale or redemption of, any obligations held by the Trust.

"(b) Investment of Trust.—It shall be the duty of the Secretary of the Treasury to invest in full the amounts appropriated to the Trust. Except as otherwise expressly provided in instruments concerning a gift, bequest, devise, or other donation and agreed to by the Corporation, such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose, such obligations may be acquired (1) on original issue at the issue price, or (2) by purchase of outstanding obligations at the marketplace. Any obligation acquired by the Trust may be sold by the Secretary at the market price.

"(c) Expenditures From Trust.—Amounts in the Trust shall be available, to the extent provided for in advance by appropriation, for payments of national service educational awards in accordance with section 148.

"(d) Reports to Congress on Receipts and Expenditures.—The Corporation shall submit an annual report to the Congress on the financial status of the Trust. Such report shall—

"(1) specify the amount deposited to the Trust from the most recent appropriation to the Corporation, the amount received by the Corporation as gifts or bequest during the period covered by the report, and any amounts obtained by the Trust pursuant to subsection (a)(3);

"(2) identify the number of individuals who are currently performing service to qualify, or have qualified, for national service educational awards;

"(3) identify the number of individuals whose expectation to receive national service educational awards during the period covered by the report—

"(A) has been reduced pursuant to section 147(b); or

"(B) has lapsed pursuant to section 146(d); and

"(4) estimate the number of additional approved national service positions which the Corporation will be able to make available under subtitle C on the basis of any accumulated surplus in the Trust above the amount required to provide national service educational awards to individuals identified under paragraph (2), including any amounts available as a result of the circumstances referred to in paragraph (3).

"SEC. 146. INDIVIDUALS ELIGIBLE TO RECEIVE A NATIONAL SERVICE EDUCATIONAL AWARD FROM THE TRUST.

"(a) Eligible Individuals.—An individual shall be eligible to receive a national service educational award from the National Service Trust if the individual—

"(1) successfully completes the required term of service described in subsection (b) in an approved national service position;

"(2) was 17 years of age or older at the time the individual began serving in the approved national service position or was an out-of-school youth serving in an approved national service position with a youth corps program described in section 122(a)(2) or a program described in section 122(a)(9);

"(3) at the time the individual uses the national service educational award—

"(A) has received a high school diploma, or the equivalent of such diploma;

"(B)(i) is enrolled at an institution of higher education on the basis of meeting the standard described in paragraph (1) or (2) of section 484(d) of the Higher Education Act of 1965 (20 U.S.C. 1091(d)); and

"(ii) meets the requirements of section 484(a) of such Act; or

"(C) has received a waiver described in section 137(c); and

"(4) is a citizen of the United States or lawfully admitted for permanent residence.

"(b) Term of Service.—The term of service for an approved national service position shall not be less than the full- or part-time term of service specified in section 139(b).

"(c) Limitation on Number of Terms of Service for Awards.—Although an individual may serve more than 2 terms of service described in subsection (b) in an approved national service position, the individual shall receive a national service educational award from the National Service Trust only on the basis of the first and second of such terms of service.

"(d) Time for Use of Educational Award.—

"(1) Five-year requirement.—An individual eligible to receive a national service educational award under this section may not use such award after the end of the 5-year period beginning on the date the individual completes the term of service in an approved national service position that is the basis of the award.

"(2) Exception.—The Corporation may extend the period within which an individual may use a national service educational award if the Corporation determines that the individual—

"(A) was unavoidably prevented from using the national service educational award during the original 5-year period; or

"(B) performed another term of service in an approved national service position during that period.

"SEC. 147. DETERMINATION OF THE AMOUNT OF THE NATIONAL SERVICE EDUCATIONAL AWARD.

"(a) Amounts Generally.—Except as provided in subsection (b), an individual described in section 146(a) who successfully completes a required term of service in an approved national service position shall receive a national service education award having a value, for each of not more than 2 of such term of service, equal to 90 percent of—

"(1) one-half of the aggregate minimum basic educational assistance allowance calculated under sections 3013(d)(1) and 3015(b)(1) of title 38, United States Code (as in effect on July 28, 1993), for a member of the Armed Forces who is entitled to such an allowance under section 3011 of such title and whose initial obligation period of active duty is two years; less

"(2) one-half of the aggregate basic contribution required to be made by the member under section 3011(b) of such title (as in effect on July 28, 1993).

"(b) Award for Partial Completion of Service.—If an individual serving in an approved national service position is released in accordance with section 139(c)(1)(A) from completing the term of service agreed to by the individual, the Corporation may provide the individual with that portion of the national service educational award approved for the individual that corresponds to the quantity of the term of service actually completed by the individual.

"SEC. 148. DISBURSEMENT OF NATIONAL SERVICE EDUCATIONAL AWARDS.

"(a) In General.—Amounts in the Trust shall be available—

"(1) to repay student loans in accordance with subsection (b);

"(2) to pay all or part of the cost of attendance at an institution of higher education in accordance with subsection (c);

"(3) to pay expenses incurred in participating in an approved school-to-work program in accordance with subsection (d); and

"(4) to pay interest expenses in accordance with regulations prescribed pursuant to subsection (e).

"(b) Use of Educational Award To Repay Outstanding Student Loans.—

"(1) Application by eligible individuals.—An eligible individual under section 146 who desires to apply the national service educational award of the individual to the repayment of qualified student loans shall submit, in a manner prescribed by the Corporation, an application to the Corporation that—

"(A) identifies, or permits the Corporation to identify readily, the holder or holders of such loans;

"(B) indicates, or permits the Corporation to determine readily, the amounts of principal and interest outstanding on the loans;

"(C) specifies the qualified student loan to which the individual desires to apply the national service educational award, in any case in which the total of the amounts described in subparagraph (B) is greater than the amount of the national service educational award to which the individual is entitled; and

"(D) contains or is accompanied by such other information as the Corporation may require.

"(2) Disbursement of repayments.—Upon receipt of an application from an eligible individual of an application that complies with paragraph (1), the Corporation shall, as promptly as practicable consistent with paragraph (5), disburse the amount of the national service educational award that the participant has earned. Such disbursement shall be made by check or other means that is payable to the holder of the loan and requires the endorsement or other certification by the eligible individual.

"(3) Application of disbursed amounts.—If the amount disbursed under paragraph (2) is less than the principal and accrued interest on any qualified student loan, such amount shall first be applied to the repayment of principal. In a case described in paragraph (1)(C), such amount shall be applied to the loan described in paragraph (1)(C).

"(4) Reports by holders.—Any holder receiving a loan payment pursuant to this subsection shall submit to the Corporation such information as the Corporation may require to verify that such payment was applied in accordance with this subsection and any regulations prescribed to carry out this subsection.

"(5) Authority to aggregate payments.—The Corporation may, by regulation, provide for the aggregation of payments to holders under this subsection.

"(6) Notification.—On disbursing a national service educational award to which an individual is entitled under paragraph (2) and applying the award to a loan, the Corporation shall notify the individual of the amount disbursed for each such loan and the date of the disbursal.

"(7) Definitions.—As used in this subsection:

"(A) Qualified student loan.—The term 'qualified student loan' means—

"(i) any loan made, insured, or guaranteed pursuant to title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.), other than a loan to a parent of a student pursuant to section 428B of such Act (20 U.S.C. 1078–2); and

"(ii) any loan made pursuant to title VII or VIII of the Public Health Service Act (42 U.S.C. 292a et seq.).

"(B) Holder.—The term 'holder' with respect to any eligible loan means the original lender or, if the loan is subsequently sold, transferred, or

assigned to some other person, and such other person acquires a legally enforceable right to receive payments from the borrower, such other person.

"(c) Use of Educational Awards To Pay Current Educational Expenses.—

"(1) Application by eligible individual.—An eligible individual under section 146 who desires to apply the national service educational award of the individual to the payment of full-time or part-time educational expenses, that have been incurred by the individual prior to the service of the individual under subtitle C, shall, on a form prescribed by the Corporation, submit an application to the institution of higher education in which the student will be enrolled that contains such information as the Corporation may require to verify the individual's eligibility.

"(2) Submission of requests for payment by institutions.—An institution of higher education that receives one or more applications that comply with paragraph (1) shall submit to the Corporation a statement, in a manner prescribed by the Corporation, that—

"(A) identifies each eligible individual filing an application under paragraph (1) for a disbursement of the individual's national service educational award under this subsection;

"(B) specifies the amounts for which such eligible individuals are, consistent with paragraph (6), qualified for disbursement under this subsection;

"(C) certifies that—

"(i) the institution of higher education has in effect a program participation agreement under section 487 of the Higher Education Act of 1965 (20 U.S.C. 1094);

"(ii) the institution's eligibility to participate in any of the programs under title IV of such Act (20 U.S.C. 1070 et seq.) has not been limited, suspended, or terminated; and

"(iii) individuals using national service educational awards received under this subtitle to pay for educational costs do not comprise more than 15 percent of the total student population of the institution; and

"(D) contains such provisions concerning financial compliance as the Corporation may require.

"(3) Disbursement of payments.—Upon receipt of a statement from an institution of higher education that complies with paragraph (2), the Corporation shall, subject to paragraph (4), disburse the total amount of the national service educational awards for which eligible individuals who have submitted applications to that institution under paragraph (1) are scheduled to receive. Such disbursement shall be made by check or other means that is payable to the institution and requires the endorsement or other certification by the eligible individual.

"(4) Multiple disbursements required.—The total amount required to be disbursed to an institution of higher education under paragraph (3) for any period of enrollment shall be disbursed by the Corporation in 2 or more installments, none of which exceeds 1/2 of such total amount. The interval between the first and second such installment shall not be less than 1/2 of such period of enrollment, except as necessary to permit the second installment to be paid at the beginning of the second semester, quarter, or similar division of such period of enrollment.

"(5) Refund rules.—The Corporation shall, by regulation, provide for the refund to the Corporation (and the crediting to the national service educational award of an eligible individual) of amounts disbursed to institutions for the benefit of eligible individuals who withdraw or otherwise fail to complete the period of enrollment for which the assistance was provided. Such regulations shall be consistent with the fair and equitable refund policies required of institutions pursuant to section 484B of the Higher Education Act of 1965 (20 U.S.C. 1091b). Amounts refunded to the Trust pursuant to this paragraph may be used by the Corporation to fund additional approved national service positions under subtitle C.

"(6) Maximum award.—The portion of an eligible individual's total available national service educational award that may be disbursed under this subsection for any period of enrollment shall not exceed the difference between—

"(A) the eligible individual's cost of attendance for such period of enrollment, determined in accordance with section 472 of the Higher Education Act of 1965 (20 U.S.C. 1087ll); and

"(B) the sum of—

"(i) the student's estimated financial assistance for such period under part A of title IV of such Act (20 U.S.C. 1070 et seq.); and

"(ii) the student's veterans' education benefits, determined in accordance with section 480(c) of such Act (20 U.S.C. 1087vv(c)).

"(d) Use of Educational Award To Participate in Approved School-To-Work Programs.—The Corporation shall by regulation provide for the payment of national service educational awards to permit eligible individuals to participate in school-to-work programs approved by the Secretaries of Labor and Education.

"(e) Interest Payments During Forbearance on Loan Repayment.—The Corporation may provide by regulation for the payment on behalf of an eligible individual of interest that accrues during a period for which such individual has obtained forbearance in the repayment of a qualified student loan (as defined in subsection (b)(7)), if the eligible individual successfully completes the required term of service (as determined under section 146(b)) of the individual. Such regulations shall be prescribed after consultation with the Secretary of Education.

"(f) Exception.—

"(1) Option.—With the approval of the President, a national service program that receives assistance under section 121 may offer to each participant in the program the option of—

"(A) waiving the right of the participant to receive a national service educational award; and

"(B) receiving an alternative post-service benefit.

"(2) Sources of funding.—In providing for the alternative post-service benefit, the program may not use funds made available under this Act or any other Federal law.

"(g) Definition of Institution of Higher Education.—Notwithstanding section 101 of this Act, for purposes of this section the term 'institution of higher education' has the meaning provided by section 481(a) of the Higher Education Act of 1965 (20 U.S.C. 1088(a)).".

(b) Table of Contents.—Section 1(b) of the National and Community Service Act of 1990 (Public Law 101–610; 104 Stat. 3127) is amended by striking the items relating to subtitle D of title I of such Act and inserting the following new items:

"Subtitle D—National Service Trust and Provision of National Service Educational Awards

"Sec. 145. Establishment of the National Service Trust.

"Sec. 146. Individuals eligible to receive a national service educational award from the Trust.

"Sec. 147. Determination of the amount of the national service educational award.

"Sec. 148. Disbursement of national service educational awards.".

(c) Conforming Amendments.—

(1) Eligibility for subsidized Stafford loans.—Section 428(a)(2)(C)(i) of the Higher Education Act of 1965 (20 U.S.C. 1078(a)(2)(C)(i)) is amended by inserting "any national service educational award such student will receive under subtitle D of title I of the National and Community Service Act of 1990 (42 U.S.C. 12751 et seq.)," after "parts C and E of this title,".

(2) Forbearance in the collection of Stafford loans.—Section 428 of the Higher Education Act of 1965 is amended—

(A) in subsection (b)(1)—

(i) by redesignating subparagraphs (W), (X), and (Y) as subparagraphs (X), (Y), and (Z), respectively; and

(ii) by inserting after subparagraph (V) the following new subparagraph:

"(W)(i) provides that, upon written request, a lender shall grant a borrower forbearance on such terms as are otherwise consistent with the regulations of the Secretary, during periods in which the borrower is serving in a national service position, for which the borrower receives a national service educational award under the National and Community Service Trust Act of 1993;

"(ii) provides that clauses (iii) and (iv) of subparagraph (V) shall also apply to a forbearance granted under this subparagraph; and

"(iii) provides that interest shall continue to accrue on a loan for which a borrower receives forbearance under this subparagraph and shall be capitalized or paid by the borrower;"; and

(B) in subsection (c)(3)(A), by striking "subsection (b)(1)(V)" and inserting "subparagraphs (V) and (W) of subsection (b)(1)".

(3) Eligibility for Stafford loan forgiveness.—Section 428J of the Higher Education Act of 1965 (20 U.S.C. 1078–10) is amended—

(A) in subsection (b)(1), is amended by striking "October 1, 1992" and inserting "October 1, 1989"; and

(B) in subsection (c), by adding at the end the following new paragraph:

"(5) Ineligibility of national service educational award recipients.—No student borrower may, for the same volunteer service, receive a benefit under both this section and subtitle D of title I of the National and Community Service Act of 1990 (42 U.S.C. 12751 et seq.).".

(4) Eligibility for Perkins loan forgiveness.—Section 465(a) of the Higher Education Act of 1965 (20 U.S.C. 1087ee(a)) is amended by adding at the end the following new paragraph:

"(6) No borrower may, for the same volunteer service, receive a benefit under both this section and subtitle D of title I of the National and Community Service Act of 1990 (42 U.S.C. 12751 et seq.).".

(5) Impact on general needs analysis.—Section 480(j) of such Act (20 U.S.C. 1087vv(j)) is amended by adding at the end the following new paragraph:

"(3) Notwithstanding paragraph (1), any national service educational award such student will receive under subtitle D of title I of the National and Community Service Act of 1990 (42 U.S.C. 12751 et seq.) shall not be taken into account in determining estimated financial assistance not received under this title.".

SEC. 103. SCHOOL-BASED AND COMMUNITY-BASED SERVICE-LEARNING PROGRAMS.

(a) Amendments to Serve-America Programs.—

(1) Purpose.—The purpose of this subsection is to improve the Serve-America programs established under part I of subtitle B of the National and Community Service Act of 1990, and to enable the Corporation for National and Community Service, and the entities receiving financial assistance under such part, to—

(A) work with teachers in elementary schools and secondary schools within a community, and with community-based agencies, to create and offer service-learning opportunities for all school-age youth;

(B) educate teachers, and faculty providing teacher training and retraining, about service-learning, and incorporate service-learning opportunities into classroom teaching to strengthen academic learning;

(C) coordinate the work of adult volunteers who work with elementary and secondary schools as part of their community service activities; and

(D) work with employers in the communities to ensure that projects introduce the students to various careers and expose the students to needed further education and training.

(2) PROGRAMS.—Subtitle B of title I of the National and Community Service Act of 1990 (42 U.S.C. 12501 et seq.) is amended by striking the subtitle heading and all that follows through the end of part I and inserting the following:

"Subtitle B—School-Based and Community-Based Service-Learning Programs

"PART I—SERVE-AMERICA PROGRAMS

"Subpart A—School-Based Programs for Students

"SEC. 111. AUTHORITY TO ASSIST STATES AND INDIAN TRIBES.

"(a) USE OF FUNDS.—The Corporation, in consultation with the Secretary of Education, may make grants under section 112(b)(1), and allotments under subsections (a) and (b)(2) of section 112, to States (through State educational agencies), and to Indian tribes, to pay for the Federal share of—

"(1) planning and building the capacity of the States or Indian tribes (which may be accomplished through grants or contracts with qualified organizations) to implement school-based service-learning programs, including—

"(A) providing training for teachers, supervisors, personnel from community-based agencies (particularly with regard to the utilization of participants), and trainers, to be conducted by qualified individuals or organizations that have experience with service-learning;

"(B) developing service-learning curricula to be integrated into academic programs, including the age-appropriate learning component described in section 114(d)(1)(B);

"(C) forming local partnerships described in paragraph (2) or (4) to develop school-based service-learning programs in accordance with this subpart;

"(D) devising appropriate methods for research and evaluation of the educational value of service-learning and the effect of service-learning activities on communities; and

"(E) establishing effective outreach and dissemination of information to ensure the broadest possible involvement of community-based agencies with demonstrated effectiveness in working with school-age youth in their communities;

"(2) implementing, operating, or expanding school-based service-learning programs, which may include paying for the cost of the recruitment, training, supervision, placement, salaries, and benefits of service-learning coordinators, through State distribution of Federal funds made available under this subpart to projects operated by local partnerships among—

"(A) local educational agencies; and

"(B) one or more community partners that—

"(i) shall include a public or private not-for-profit organization that—

"(I) has demonstrated expertise in the provision of services to meet human, educational, environmental, or public safety needs;

"(II) was in existence 1 year before the date on which the organization submitted an application under section 114; and

"(III) will make projects available for participants, who shall be students; and

"(ii) may include a private for-profit business or private elementary or secondary school;

"(3) planning of school-based service-learning programs through State distribution of Federal funds made available under this subpart to local educational agencies, which planning may include paying for the cost of—

"(A) the salaries and benefits of service-learning coordinators; or

"(B) the recruitment, training, supervision, and placement of service-learning coordinators who are participants in a program under subtitle C or receive a national service educational award under subtitle D,

who will identify the community partners described in paragraph (2)(B) and assist in the design and implementation of a program described in paragraph (2); and

"(4) implementing, operating, or expanding school-based service-learning programs involving adult volunteers to utilize service-learning to improve the education of students through State distribution of Federal funds made available under this part to local partnerships among—

"(A) local educational agencies; and

"(B) one or more—

"(i) public or private not-for-profit organizations;

"(ii) other educational agencies; or

"(iii) private for-profit businesses,

that coordinate and operate projects for participants, who shall be students.

"(b) RELATED EXPENSES.—A partnership, local educational agency, or other qualified organization that receives financial assistance under this subpart may, in carrying out the activities described in subsection (a), use such assistance to pay for the Federal share of reasonable costs related to the supervision of participants, program administration, transportation, insurance, evaluations, and for other reasonable expenses related to the activities.

"SEC. 111A. AUTHORITY TO ASSIST LOCAL APPLICANTS IN NONPARTICIPATING STATES.

"In any fiscal year in which a State does not submit an application under section 113, for an allotment under subsection (a) or (b)(2) of section 112, that meets the requirements of section 113 and such other requirements as the President may determine to be appropriate, the Corporation may use the allotment of that State to make direct grants to pay for the Federal share of the cost of—

"(1) carrying out the activities described in paragraph (2) or (4) of section 111(a), to a local partnership described in such paragraph; or

"(2) carrying out the activities described in paragraph (3) of such section, to an agency described in such paragraph,

that is located in the State.

"SEC. 111B. AUTHORITY TO ASSIST PUBLIC OR PRIVATE NOT-FOR-PROFIT ORGANIZATIONS.

"(a) IN GENERAL.—The Corporation may make a grant under section 112(b)(1) to a public or private not-for-profit organization that—

"(1) has experience with service-learning;

"(2) was in existence 1 year before the date on which the organization submitted an application under section 114(a); and

"(3) meets such other criteria as the President may establish.

"(b) USE OF FUNDS.—Such an organization may use a grant made under subsection (a) to make grants to partnerships described in paragraph (2) or (4) of section 111(a) to implement, operate, or expand school-based service-learning programs as described in such section and provide technical assistance and training to appropriate persons.

"SEC. 112. GRANTS AND ALLOTMENTS.

"(a) INDIAN TRIBES AND TERRITORIES.—Of the amounts appropriated to carry out this subpart for any fiscal year, the Corporation shall reserve an amount of not more than 3 percent for payments to Indian tribes, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, to be allotted in accordance with their respective needs. The Corporation may also make payments from such amount to Palau, in accordance with its needs, until such time as the Compact of Free Association with Palau is ratified.

"(b) GRANTS AND ALLOTMENTS THROUGH STATES.—The Corporation shall use the remainder of the funds appropriated to carry out this subpart for any fiscal year as follows:

"(1) GRANTS.—Except as provided in paragraph (3), from 25 percent of such funds, the Corporation may make grants, on a competitive basis, to—

"(A) States and Indian tribes; or

"(B) as described in section 111B, to grantmaking entities.

"(2) ALLOTMENTS.—

"(A) SCHOOL-AGE YOUTH.—Except as provided in paragraph (3), from 37.5 percent of such funds, the Corporation shall allot to each State an amount that bears the same ratio to 37.5 percent of such funds as the number of school-age youth in the State bears to the total number of school-age youth of all States.

"(B) ALLOCATION UNDER ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.—Except as provided in paragraph (3), from 37.5 percent of such funds, the Corporation shall allot to each State an amount that bears the same ratio to 37.5 percent of such funds as the allocation to the State for the previous fiscal year under chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2711 et seq.) bears to such allocations to all States.

"(3) MINIMUM AMOUNT.—No State shall receive, under paragraph (2), an allotment that is less than the allotment such State received for fiscal year 1993 under section 112(b) of this Act, as in effect on the day before the date of enactment of this part. If the amount of funds made available in a fiscal year to carry out paragraph (2) is insufficient to make such allotments, the Corporation shall make available sums from the 25 percent described in paragraph (1) for such fiscal year to make such allotments.

"(4) DEFINITION.—Notwithstanding section 101(27), for purposes of this subsection, the term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, and an Indian tribe.

"(c) REALLOTMENT.—If the Corporation determines that the allotment of a State or Indian tribe under this section will not be required for a fiscal year because the State or Indian tribe does not submit an application for the allotment under section 113 that meets the requirements of such section and such other requirements as the President may determine to be appropriate, the Corporation shall, after making any grants under section 111A to a partnership or agency described in such section, make any remainder of such allotment available for reallotment to such other States, and Indian tribes, with approved applications submitted under section 113, as the Corporation may determine to be appropriate.

"(d) EXCEPTION.—Notwithstanding subsections (a) and (b), if less than $20,000,000 is appropriated for any fiscal year to carry out this subpart, the Corporation shall award grants to States and Indian tribes, from the amount so appropriated, on a competitive basis to pay for the Federal share of the activities described in section 111.

"SEC. 113. STATE OR TRIBAL APPLICATIONS.

"(a) SUBMISSION.—To be eligible to receive a grant under section 112(b)(1), an allotment under subsection (a) or (b)(2) of section 112, a reallotment under section 112(c), or a grant under section 112(d), a State, acting through the State educational agency, or an Indian tribe, shall prepare, submit to the Corporation, and *obtain approval of, an application at such time and in such manner as the President may reasonably require.*

"(b) CONTENTS.—An application that is submitted under subsection (a) with respect to service-learning programs described in section 111 shall include—

"(1) a 3-year strategic plan, or a revision of a previously approved 3-year strategic plan, for promoting service-learning through the programs, which plan shall contain such information as the President may reasonably require, including information demonstrating that the programs will be carried out in a manner consistent with the approved strategic plan;

"(2) assurances that—

"(A) the applicant will keep such records and provide such information to the Corporation with respect to the programs as may be required for fiscal audits and program evaluation; and

"(B) the applicant will comply with the nonduplication and nondisplacement requirements of section 177 and the grievance procedure requirements of section 176(f); and

"(3) such additional information as the President may reasonably require.

"SEC. 114. LOCAL APPLICATIONS.

"(a) APPLICATION TO CORPORATION TO MAKE GRANTS FOR SCHOOL-BASED SERVICE-LEARNING PROGRAMS.—

"(1) IN GENERAL.—To be eligible to receive a grant in accordance with section 111B(a) to make grants relating to school-based service-learning programs described in section 111(a)(2), a grantmaking entity shall prepare, submit to the Corporation, and obtain approval of, an application.

"(2) SUBMISSION.—Such application shall be submitted at such time and in such manner, and shall contain such information, as the President may reasonably require.

"(b) DIRECT APPLICATION TO CORPORATION TO CARRY OUT SCHOOL-BASED SERVICE-LEARNING PROGRAMS IN NONPARTICIPATING STATES.—To be eligible to receive a grant from the Corporation in the circumstances described in section 111A to carry out an activity described in such section, a partnership or agency described in such section shall prepare, submit to the Corporation, and obtain approval of, an application. Such application shall be submitted at such time and in such manner, and shall contain such information, as the President may reasonably require.

"(c) APPLICATION TO STATE OR INDIAN TRIBE TO RECEIVE ASSISTANCE TO CARRY OUT SCHOOL-BASED SERVICE-LEARNING PROGRAMS.—

"(1) IN GENERAL.—Any—

"(A) qualified organization that desires to receive financial assistance under this subpart from a State or Indian tribe for an activity described in section 111(a)(1);

"(B) partnership described in section 111(a)(2) that desires to receive such assistance from a State, Indian tribe, or grantmaking entity for an activity described in section 111(a)(2);

"(C) agency described in section 111(a)(3) that desires to receive such assistance from a State or Indian tribe for an activity described in such section; or

"(D) partnership described in section 111(a)(4) that desires to receive such assistance from a State or Indian tribe for an activity described in such section,

to be carried out through a service-learning program described in section 111, shall prepare, submit to the State educational agency, Indian tribe, or grantmaking entity, and obtain approval of, an application for the program.

"(2) SUBMISSION.—Such application shall be submitted at such time and in such manner, and shall contain such information, as the agency, tribe, or entity may reasonably require.

"(d) REGULATIONS.—The Corporation shall by regulation establish standards for the information and assurances required to be contained in an application submitted under subsection (a) or (b) with respect to a service-learning program described in section 111, including, at a minimum—

"(1) assurances that—

"(A) prior to the placement of a participant, the entity carrying out the program will consult with any local labor organization representing employees in the area who are engaged in the same or similar work as that proposed to be carried out by such program, to prevent the displacement and protect the rights of such employees;

"(B) the entity carrying out the program will develop an age-appropriate learning component for participants in the program that shall include a chance for participants to analyze and apply their service experiences; and

"(C) the entity carrying out the program will comply with the nonduplication and nondisplacement requirements of section 177 and the grievance procedure requirements of section 176(f); and

"(2) in the case of an application submitted by a grantmaking entity, information demonstrating that the entity will make grants for a program to—

"(A) carry out activities described in section 111B(b) in two or more States, under circumstances in which the activities carried out under such program can be carried out more efficiently through one program than through two or more programs; and

"(B) carry out the same activities, such as training activities or activities related to exchanging information on service experiences, through each of the projects assisted through the program.

"(e) LIMITATION ON SAME PROJECT IN MULTIPLE APPLICATIONS.—No applicant shall submit an application under section 113 or this section, and the Corporation shall reject an application that is submitted under section 113 or this section, if the application describes a project proposed to be conducted using assistance requested by the applicant and the project is already described in another application pending before the Corporation.

"SEC. 115. CONSIDERATION OF APPLICATIONS.

"(a) CRITERIA FOR APPLICATIONS.—In approving applications for financial assistance under subsection (a), (b), (c), or (d) of section 112, the Corporation shall consider such criteria with respect to sustainability, replicability, innovation, and quality of programs under this subpart as the President may by regulation specify. In providing assistance under this subpart, a State educational agency, Indian tribe, or grantmaking entity shall consider such criteria.

"(b) PRIORITY FOR LOCAL APPLICATIONS.—In providing assistance under this subpart, a State educational agency or Indian tribe, or the Corporation if section 111A or 111B applies, shall give priority to entities that submit applications under section 114 with respect to service-learning programs described in section 111 that—

"(1) involve participants in the design and operation of the program;

"(2) are in the greatest need of assistance, such as programs targeting low-income areas;

"(3) involve—

"(A) students from public elementary or secondary schools, and students from private elementary or secondary schools, serving together; or

"(B) students of different ages, races, sexes, ethnic groups, disabilities, or economic backgrounds, serving together; or

"(4) are integrated into the academic program of the participants.

"(c) REJECTION OF APPLICATIONS.—If the Corporation rejects an application submitted by a State under section 113 for an allotment under subsection (b)(2) of section 112, the Corporation shall promptly notify the State of the reasons for the rejection of the application. The Corporation shall provide the State with a reasonable opportunity to revise and resubmit the application and shall provide technical assistance, if needed, to the State as part of the resubmission process. The Corporation shall promptly reconsider such resubmitted application.

"SEC. 115A. PARTICIPATION OF STUDENTS AND TEACHERS FROM PRIVATE SCHOOLS.

"(a) IN GENERAL.—To the extent consistent with the number of students in the State or Indian tribe or in the school district of the local educational agency involved who are enrolled in private not-for-profit elementary and secondary schools, such State, Indian tribe, or agency shall (after consultation with appropriate private school representatives) make provision—

"(1) for the inclusion of services and arrangements for the benefit of such students so as to allow for the equitable participation of such students in the programs implemented to carry out the objectives and provide the benefits described in this subpart; and

"(2) for the training of the teachers of such students so as to allow for the equitable participation of such teachers in the programs implemented to carry out the objectives and provide the benefits described in this subpart.

"(b) WAIVER.—If a State, Indian tribe, or local educational agency is prohibited by law from providing for the participation of students or teachers from private not-for-profit schools as required by subsection (a), or if the Corporation determines that a State, Indian tribe, or local educational agency substantially fails or is unwilling to provide for such participation on an equitable basis, the President shall waive such requirements and shall arrange for the provision of services to such students and teachers. Such waivers shall be subject to consultation, withholding, notice, and judicial review requirements in accordance with paragraphs (3) and (4) of section 1017(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2727(b)).

"SEC. 116. FEDERAL, STATE, AND LOCAL CONTRIBUTIONS.

"(a) SHARE.—

"(1) IN GENERAL.—The Federal share attributable to this subpart of the cost of carrying out a program for which a grant or allotment is made under this subpart may not exceed—

"(A) 90 percent of the total cost of the program for the first year for which the program receives assistance under this subpart;

"(B) 80 percent of the total cost of the program for the second year for which the program receives assistance under this subpart;

"(C) 70 percent of the total cost of the program for the third year for which the program receives assistance under this subpart; and

"(D) 50 percent of the total cost of the program for the fourth year, and for any subsequent year, for which the program receives assistance under this subpart.

"(2) CALCULATION.—In providing for the remaining share of the cost of carrying out such a program, each recipient of assistance under this subpart—

"(A) shall provide for such share through a payment in cash or in kind, fairly evaluated, including facilities, equipment, or services; and

"(B) may provide for such share through State sources, local sources, or Federal sources (other than funds made available under the national service laws).

"(b) WAIVER.—The President may waive the requirements of subsection (a) in whole or in part with respect to any such program in any fiscal year if the Corporation determines that such a waiver would be equitable due to a lack of available financial resources at the local level.

"SEC. 116A. LIMITATIONS ON USES OF FUNDS.

"(a) ADMINISTRATIVE COSTS.—

"(1) LIMITATION.—Not more than 5 percent of the amount of assistance provided to a State educational agency, Indian tribe, or grantmaking entity that is the original recipient of a grant or allotment under subsection (a), (b), (c), or (d) of section 112 for a fiscal year may be used to pay for administrative costs incurred by—

"(A) the original recipient; or

"(B) the entity carrying out the service-learning programs supported with the assistance.

"(2) RULES ON USE.—The President may by rule prescribe the manner and extent to which—

"(A) such assistance may be used to cover administrative costs; and

"(B) that portion of the assistance available to cover administrative costs should be distributed between—

"(i) the original recipient; and

"(ii) the entity carrying out the service-learning programs supported with the assistance.

"(b) CAPACITY-BUILDING ACTIVITIES.—

"(1) IN GENERAL.—Except as provided in paragraph (2), not less than 10 percent and not more than 15 percent of the amount of assistance provided to a State educational agency or Indian tribe that is the original recipient of a grant or allotment under subsection (a), (b), (c), or (d) of section 112 for a fiscal year may be used to build capacity through training, technical assistance, curriculum development, and coordination activities, describea in section 111(a)(1).

"(2) WAIVER.—The President may waive the requirements of paragraph (1) in order to permit an agency or a tribe to use not less than 10 percent and not more than 25 percent of such amount to build capacity as provided in paragraph (1). To be eligible to receive such a waiver such an agency or tribe shall submit an application to the President at such time, in such manner, and containing such information as the President may require.

"(c) LOCAL USES OF FUNDS.—Funds made available under this subpart may not be used to pay any stipend, allowance, or other financial support to any student who is a participant under this subtitle, except reimbursement for transportation, meals, and other reasonable out-of-pocket expenses directly related to participation in a program assisted under this subpart.

"SEC. 116B. DEFINITIONS.

"As used in this subpart:

"(1) GRANTMAKING ENTITY.—The term 'grantmaking entity' means an organization described in section 111B(a).

"(2) SCHOOL-BASED.—The term 'school-based' means based in an elementary school or a secondary school.

"(3) STUDENT.—Notwithstanding section 101(30), the term 'student' means an individual who is enrolled in an elementary or secondary school on a full- or part-time basis.

"Subpart B—Community-Based Service Programs for School-Age Youth

"SEC. 117. DEFINITIONS.

"As used in this subpart:

"(1) COMMUNITY-BASED SERVICE PROGRAM.—The term 'community-based service program' means a program described in section 117A(b)(1)(A).

"(2) GRANTMAKING ENTITY.—The term 'grantmaking entity' means a qualified organization that—

"(A) submits an application under section 117C(a) to make grants to qualified organizations;

"(B) was in existence 1 year before the date on which the organization submitted the application;

"(C) has experience with service-learning; and

"(D) meets such other criteria as the President shall establish.

"(3) QUALIFIED ORGANIZATION.—The term 'qualified organization' means a public or private not-for-profit organization with experience working with school-age youth that meets such criteria as the President may establish.

"SEC. 117A. GENERAL AUTHORITY.

"(a) GRANTS.—From the funds appropriated to carry out this subpart for a fiscal year, the Corporation may make grants to State Commissions, grantmaking entities, and qualified organizations to pay for the Federal share of the implementation, operation, expansion, or replication of community-based service programs.

"(b) USE OF FUNDS.—

"(1) STATE COMMISSIONS AND GRANTMAKING ENTITIES.—A State Commission or grantmaking entity may use a grant made under subsection (a)—

"(A) to make a grant to a qualified organization to implement, operate, expand, or replicate a community-based service program that provides for meaningful human, educational, environmental, or public safety service by participants, who shall be school-age youth; or

"(B) to provide training and technical assistance to such an organization.

"(2) QUALIFIED ORGANIZATIONS.—A qualified organization, other than a grantmaking entity, may use a grant made under subsection (a) to implement, operate, expand, or replicate a program described in paragraph (1)(A).

"SEC. 117B. STATE APPLICATIONS.

"(a) IN GENERAL.—To be eligible to receive a grant under section 117A(a), a State Commission shall prepare, submit to the Corporation, and obtain approval of, an application.

"(b) SUBMISSION.—Such application shall be submitted to the Corporation at such time and in such manner, and shall contain such information, as the President may reasonably require.

"(c) CONTENTS.—Such an application shall include, at a minimum, a State plan that contains the information and assurance described in section 117C(d) with respect to each community-based service program proposed to be carried out through funding distributed by the State Commission under this subpart.

"SEC. 117C. LOCAL APPLICATIONS.

"(a) APPLICATION TO CORPORATION TO MAKE GRANTS FOR COMMUNITY-BASED SERVICE PROGRAMS.—To be eligible to receive a grant from the Corporation under section 117A(a) to make grants under section 117A(b)(1), a grantmaking entity shall prepare, submit to the Corporation, and obtain approval of, an application that proposes a community-based service program to be carried out through grants made to qualified organizations. Such application shall be submitted at such time and in such manner, and shall contain such information, as the President may reasonably require.

"(b) DIRECT APPLICATION TO CORPORATION TO CARRY OUT COMMUNITY-BASED SERVICE PROGRAMS.—To be eligible to receive a grant from the Corporation under section 117A(a) to implement, operate, expand, or replicate a community service program, a qualified organization shall prepare, submit to the Corporation, and obtain approval of, an application that proposes a community-based service program to be carried out at multiple sites, or that proposes a model or an innovative community-based service program. Such application shall be submitted at such time and in such manner, and shall contain such information, as the President may reasonably require.

"(c) APPLICATION TO STATE COMMISSION OR GRANTMAKING ENTITY TO RECEIVE GRANTS TO CARRY OUT COMMUNITY-BASED SERVICE PROGRAMS.—To be eligible to receive a grant from a State Commission or grantmaking entity under section 117A(b)(1), a qualified organization shall prepare, submit to the Commission or entity, and obtain approval of, an application. Such application shall be submitted at such time and in such manner, and shall contain such information, as the Commission or entity may reasonably require.

"(d) REGULATIONS.—The Corporation shall by regulation establish standards for the information and assurances required to be contained in an application submitted under subsection (a) or (b) with respect to a service-learning program described in section 117, including, at a minimum—

"(1) an assurance that the entity carrying out the program proposed by the applicant will comply with the nonduplication and nondisplacement provisions of section 177 and the grievance procedure requirements of section 176(f);

"(2) an assurance that the entity carrying out the program will, prior to placing a participant in the program, consult with any local labor organization representing employees in the area in which the program will be carried out that are engaged in the same or similar work as the work proposed to be carried out by the program, to prevent the displacement of such employees; and

"(3) in the case of an application submitted by a grantmaking entity, information demonstrating that the entity will make grants for a program to—

"(A) carry out activities described in section 117A(b)(1) in two or more States, under circumstances in which the activities carried out under such program can be carried out more efficiently through one program than through two or more programs; and

"(B) carry out the same activities, such as training activities or activities related to exchanging information on service experiences, through each of the projects assisted through the program.

"(e) LIMITATION ON SAME PROJECT IN MULTIPLE APPLICATIONS.—No applicant shall submit an application under section 117B or this section, and the Corporation shall reject an application that is submitted under section 117B or this section, if the application describes a project proposed to be conducted using assistance requested by the applicant and the project is already described in another application pending before the Corporation.

"SEC. 117D. CONSIDERATION OF APPLICATIONS.

"(a) APPLICATION OF CRITERIA.—The Corporation shall apply the criteria described in subsection (b) in determining whether to approve an application submitted under section 117B or under subsection (a) or (b) of section 117C and to provide assistance under section 117A to the applicant on the basis of the application.

"(b) ASSISTANCE CRITERIA.—In evaluating such an application with respect to a program under this subpart, the Corporation shall consider the criteria established for national service programs under section 133(c).

"(c) APPLICATION TO SUBGRANTS.—A State Commission or grantmaking entity shall apply the criteria described in subsection (b) in determining whether to approve an application under section 117C(c) and to make a grant under section 117A(b)(1) to the applicant on the basis of the application.

"SEC. 117E. FEDERAL, STATE, AND LOCAL CONTRIBUTIONS.

"(a) FEDERAL SHARE.—

"(1) IN GENERAL.—The Federal share attributable to this subpart of the cost of carrying out a program for which a grant is made under this subpart may not exceed the percentage specified in subparagraph (A), (B), (C), or (D) of section 116(a)(1), as appropriate.

"(2) CALCULATION.—Each recipient of assistance under this subpart shall comply with section 116(a)(2).

"(b) WAIVER.—The President may waive the requirements of subsection (a), in whole or in part, as provided in section 116(b).

"SEC. 117F. LIMITATIONS ON USES OF FUNDS.

"(a) ADMINISTRATIVE COSTS.—Not more than 5 percent of the amount of assistance provided to a State Commission, grantmaking entity, or qualified organization that is the original recipient of a grant under section 117A(a) for a fiscal year may be used to pay for administrative costs incurred by—

"(1) the original recipient; or

"(2) the entity carrying out the community-based service programs supported with the assistance.

"(b) RULES ON USE.—The President may by rule prescribe the manner and extent to which—

"(1) such assistance may be used to cover administrative costs; and

"(2) that portion of the assistance available to cover administrative costs should be distributed between—

"(A) the original recipient; and

"(B) the entity carrying out the community-based service programs supported with the assistance.

"Subpart C—Clearinghouse

"SEC. 118. SERVICE-LEARNING CLEARINGHOUSE.

"(a) IN GENERAL.—The Corporation shall provide financial assistance, from funds appropriated to carry out subtitle H, to agencies described in subsection (b) to establish a clearinghouse, which shall carry out activities, either directly or by arrangement with another such entity, with respect to information about service-learning.

"(b) PUBLIC AND PRIVATE NOT-FOR-PROFIT AGENCIES.—Public and private not-for-profit agencies that have extensive experience with service-learning, including use of adult volunteers to foster service-learning, shall be eligible to receive assistance under subsection (a).

"(c) FUNCTION OF CLEARINGHOUSE.—An entity that receives assistance under subsection (a) may—

"(1) assist entities carrying out State or local service-learning programs with needs assessments and planning;

"(2) conduct research and evaluations concerning service-learning;

"(3)(A) provide leadership development and training to State and local service-learning program administrators, supervisors, service sponsors, and participants; and

"(B) provide training to persons who can provide the leadership development and training described in subparagraph (A);

"(4) facilitate communication among entities carrying out service-learning programs and participants in such programs;

"(5) provide information, curriculum materials, and technical assistance relating to planning and operation of service-learning programs, to States and local entities eligible to receive financial assistance under this title;

"(6)(A) gather and disseminate information on successful service-learning programs, components of such successful programs, innovative youth skills curricula related to service-learning, and service-learning projects; and

"(B) coordinate the activities of the Clearinghouse with appropriate entities to avoid duplication of effort;

"(7) make recommendations to State and local entities on quality controls to improve the quality of service-learning programs;

"(8) assist organizations in recruiting, screening, and placing service-learning coordinators; and

"(9) carry out such other activities as the President determines to be appropriate.".

(b) HIGHER EDUCATION INNOVATIVE PROJECTS.—Subtitle B of title I of the National and Community Service Act of 1990 (42 U.S.C. 12531 et seq.) is amended by striking part II and inserting the following:

"PART II—HIGHER EDUCATION INNOVATIVE PROGRAMS FOR COMMUNITY SERVICE

"SEC. 119. HIGHER EDUCATION INNOVATIVE PROGRAMS FOR COMMUNITY SERVICE.

"(a) PURPOSE.—It is the purpose of this part to expand participation in community service by supporting innovative community service programs carried out through institutions of higher education, acting as civic institutions to meet the human, educational, environmental, or public safety needs of neighboring communities.

"(b) GENERAL AUTHORITY.—The Corporation, in consultation with the Secretary of Education, is authorized to make grants to, and enter into contracts with, institutions of higher education (including a combination of such institutions), and partnerships comprised of such institutions and of other public agencies or not-for-profit private organizations, to pay for the Federal share of the cost of—

"(1) enabling such an institution or partnership to create or expand an organized community service program that—

"(A) engenders a sense of social responsibility and commitment to the community in which the institution is located; and

"(B) provides projects for participants, who shall be students, faculty, administration, or staff of the institution, or residents of the community;

"(2) supporting student-initiated and student-designed community service projects through the program;

"(3) strengthening the leadership and instructional capacity of teachers at the elementary, secondary, and post secondary levels, with respect to service-learning, by—

"(A) including service-learning as a key component of the preservice teacher education of the institution; and

"(B) encouraging the faculty of the institution to use service-learning methods throughout their curriculum;

"(4) facilitating the integration of community service carried out under the program into academic curricula, including integration of clinical programs into the curriculum for students in professional schools, so that students can obtain credit for their community service projects;

"(5) supplementing the funds available to carry out work-study programs under part C of title IV of the Higher Education Act of 1965 (42 U.S.C. 2751 et seq.) to support service-learning and community service through the community service program;

"(6) strengthening the service infrastructure within institutions of higher education in the United States through the program; and

"(7) providing for the training of teachers, prospective teachers, related education personnel, and community leaders in the skills necessary to develop, supervise, and organize service-learning.

"(c) FEDERAL SHARE.—

"(1) SHARE.—

"(A) IN GENERAL.—The Federal share of the cost of carrying out a community service project for which a grant or contract is awarded under this part may not exceed 50 percent.

"(B) CALCULATION.—Each recipient of assistance under this part shall comply with section 116(a)(2).

"(2) WAIVER.—The President may waive the requirements of paragraph (1), in whole or in part, as provided in section 116(b).

"(d) APPLICATION FOR GRANT.—

"(1) SUBMISSION.—To receive a grant or enter into a contract under this part, an institution or partnership described in subsection (b) shall prepare, submit to the Corporation, and obtain approval of, an application at such time, in such manner, and containing such information as the Corporation may reasonably require. In requesting applications for assistance under this part, the Corporation shall specify such required information.

"(2) CONTENTS.—An application submitted under paragraph (1) shall, at a minimum, contain—

"(A) assurances that—

"(i) prior to the placement of a participant, the applicant will consult with any local labor organization representing employees in the area who are engaged in the same or similar work as that proposed to be carried out by such program, to prevent the displacement and protect the rights of such employees; and

"(ii) the applicant will comply with the nonduplication and nondisplacement provisions of section 177 and the grievance procedure requirements of section 176(f); and

"(B) such other assurances as the President may reasonably require.

"(e) PRIORITY.—

"(1) IN GENERAL.—In making grants and entering into contracts under subsection (b), the Corporation shall give priority to applicants that submit applications containing proposals that—

"(A) demonstrate the commitment of the institution of higher education, other than by demonstrating the commitment of the students, to supporting the community service projects carried out under the program;

"(B) specify the manner in which the institution will promote faculty, administration, and staff participation in the community service projects;

"(C) specify the manner in which the institution will provide service to the community through organized programs, including, where appropriate, clinical programs for students in professional schools;

"(D) describe any partnership that will participate in the community service projects, such as a partnership comprised of—

"(i) the institution;

"(ii)(I) a community-based agency;

"(II) a local government agency; or

"(III) a not-for-profit entity that serves or involves school-age youth or older adults; and

"(iii) a student organization;

"(E) demonstrate community involvement in the development of the proposal;

"(F) specify that the institution will use such assistance to strengthen the service infrastructure in institutions of higher education; or

"(G) with respect to projects involving delivery of service, specify projects that involve leadership development of school-age youth.

"(2) DETERMINATION.—In giving priority to applicants under paragraph (1), the Corporation shall give increased priority to such an applicant for each characteristic described in subparagraphs (A) through (G) of paragraph (1) that is reflected in the application submitted by the applicant.

"(f) NATIONAL SERVICE EDUCATIONAL AWARD.—A participant in a program funded under this part shall be eligible for the national service educational award described in subtitle D, if the participant served in an approved national service position.

"(g) DEFINITION.—Notwithstanding section 101(30), as used in this part, the term 'student' means an individual who is enrolled in an institution of higher education on a full- or part-time basis.".

(c) TABLE OF CONTENTS.—Section 1(b) of the National and Community Service Act of 1990 (Public Law 101-610; 104 Stat. 3127) is amended by striking the items relating to subtitle B of title I of such Act and inserting the following:

"Subtitle B—School-Based and Community-Based Service-Learning Programs

"PART I—SERVE-AMERICA PROGRAMS

"SUBPART A—SCHOOL-BASED PROGRAMS FOR STUDENTS

"Sec. 111. Authority to assist States and Indian tribes.
"Sec. 111A. Authority to assist local applicants in nonparticipating States.
"Sec. 111B. Authority to assist public or private not-for-profit organizations.
"Sec. 112. Grants and allotments.
"Sec. 113. State or tribal applications.
"Sec. 114. Local applications.
"Sec. 115. Consideration of applications.
"Sec. 115A. Participation of students and teachers from private schools.
"Sec. 116. Federal, State, and local contributions.
"Sec. 116A. Limitations on uses of funds.
"Sec. 116B. Definitions.

"SUBPART B—COMMUNITY-BASED SERVICE PROGRAMS FOR SCHOOL-AGE YOUTH

"Sec. 117. Definitions.
"Sec. 117A. General authority.
"Sec. 117B. State applications.
"Sec. 117C. Local applications.
"Sec. 117D. Consideration of applications.
"Sec. 117E. Federal, State, and local contributions.
"Sec. 117F. Limitations on uses of funds.

"SUBPART C—CLEARINGHOUSE

"Sec. 118. Service-learning clearinghouse.

"PART II—HIGHER EDUCATION INNOVATIVE PROGRAMS FOR COMMUNITY SERVICE

"Sec. 119. Higher education innovative programs for community service.".

SEC. 104. QUALITY AND INNOVATION ACTIVITIES.

(a) REPEAL.—Subtitle E of title I of the National and Community Service Act of 1990 (42 U.S.C. 12591 et seq.) is repealed.

(b) TRANSFER.—Title I of the National and Community Service Act of 1990 is amended—

(1) by redesignating subtitle H (42 U.S.C. 12653 et seq.) as subtitle E;

(2) by inserting subtitle E (as redesignated by paragraph (1) of this subsection) after subtitle D; and

(3) by redesignating sections 195 through 195O as sections 151 through 166, respectively.

(c) INVESTMENT FOR QUALITY AND INNOVATION.—Title I of the National and Community Service Act of 1990 (as amended by subsection (b) of this section) is amended by adding at the end the following new subtitle:

"Subtitle H—Investment for Quality and Innovation

"SEC. 198. ADDITIONAL CORPORATION ACTIVITIES TO SUPPORT NATIONAL SERVICE.

"(a) METHODS OF CONDUCTING ACTIVITIES.—The Corporation may carry out this section directly or through grants, contracts, and cooperative agreements with other entities.

"(b) INNOVATION AND QUALITY IMPROVEMENT.—

"(1) ACTIVITIES.—The Corporation may undertake activities to improve the quality of national service programs and to support innovative and model programs, including—

"(A) programs, including programs for rural youth, under subtitle B or C;

"(B) employer-based retiree programs;

"(C) intergenerational programs;

"(D) programs involving individuals with disabilities as participants providing service; and

"(E) programs sponsored by Governors.

"(2) INTERGENERATIONAL PROGRAM.—An intergenerational program referred to in paragraph (1)(C) may include a program in which older adults provide services to children who participate in Head Start programs.

"(c) SUMMER PROGRAMS.—The Corporation may support service programs intended to be carried out between May 1 and October 1, except that such a program may also include a year-round component.

"(d) COMMUNITY-BASED AGENCIES.—The Corporation may provide training and technical assistance and other assistance to service sponsors and other community-based agencies that provide volunteer placements in order to improve the ability of such agencies to use participants and other volunteers in a manner that results in high-quality service and a positive service experience for the participants and volunteers.

"(e) IMPROVE ABILITY TO APPLY FOR ASSISTANCE.—The Corporation shall provide training and technical assistance, where necessary, to individuals, programs, local labor organizations, State educational agencies, State Commissions, local educational agencies, local governments, community-based agencies, and other entities to enable them to apply for funding under one of the national service laws, to conduct high-quality programs, to evaluate such programs, and for other purposes.

"(f) NATIONAL SERVICE FELLOWSHIPS.—The Corporation may award national service fellowships.

"(g) CONFERENCES AND MATERIALS.—The Corporation may organize and hold conferences, and prepare and publish materials, to disseminate information and promote the sharing of information among programs for the purpose of improving the quality of programs and projects.

"(h) PEACE CORPS AND VISTA TRAINING.—The Corporation may provide training assistance to selected individuals who volunteer to serve in the Peace Corps or a program authorized under title I of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4951 et seq.). The training shall be provided as part of the course of study of the individual at an institution of higher education, shall involve service-learning, and shall cover appropriate skills that the individual will use in the Peace Corps or VISTA.

"(i) PROMOTION AND RECRUITMENT.—The Corporation may conduct a campaign to solicit funds for the National Service Trust and other programs and activities authorized under the national service laws and to promote and recruit participants for programs that receive assistance under the national service laws.

"(j) TRAINING.—The Corporation may support national and regional participant and supervisor training, including leadership training and training in specific types of service and in building the ethic of civic responsibility.

"(k) RESEARCH.—The Corporation may support research on national service, including service-learning.

"(l) INTERGENERATIONAL SUPPORT.—The Corporation may assist programs in developing a service component that combines students, out-of-school youths, and older adults as participants to provide needed community services.

"(m) PLANNING COORDINATION.—The Corporation may coordinate community-wide planning among programs and projects.

"(n) YOUTH LEADERSHIP.—The Corporation may support activities to enhance the ability of youth and young adults to play leadership roles in national service.

"(o) NATIONAL PROGRAM IDENTITY.—The Corporation may support the development and dissemination of materials, including training materials, and arrange for uniforms and insignia, designed to promote unity and shared features among programs that receive assistance under the national service laws.

"(p) SERVICE-LEARNING.—The Corporation shall support innovative programs and activities that promote service-learning.

"(q) NATIONAL YOUTH SERVICE DAY.—

"(1) DESIGNATION.—April 19, 1994, and April 18, 1995 are each designated as 'National Youth Service Day'. The President of the United States is authorized and directed to issue a proclamation calling on the people of the United States to observe the day with appropriate ceremonies and activities.

"(2) FEDERAL ACTIVITIES.—In order to observe National Youth Service Day at the Federal level, the Corporation may organize and carry out appropriate ceremonies and activities.

"(3) ACTIVITIES.—The Corporation may make grants to not-for-profit organizations with demonstrated ability to carry out appropriate activities, in order to support such activities on National Youth Service Day.

"SEC. 198A. CLEARINGHOUSES.

"(a) ASSISTANCE.—The Corporation shall provide assistance to appropriate entities to establish one or more clearinghouses, including the clearinghouse described in section 118.

"(b) APPLICATION.—To be eligible to receive assistance under subsection (a), an entity shall submit an application to the Corporation at such time, in such manner, and containing such information as the Corporation may require.

"(c) FUNCTION OF CLEARINGHOUSES.—An entity that receives assistance under subsection (a) may—

"(1) assist entities carrying out State or local community service programs with needs assessments and planning;

"(2) conduct research and evaluations concerning community service;

"(3)(A) provide leadership development and training to State and local community service program administrators, supervisors, and participants; and

"(B) provide training to persons who can provide the leadership development and training described in subparagraph (A);

"(4) facilitate communication among entities carrying out community service programs and participants;

"(5) provide information, curriculum materials, technical assistance relating to planning and operation of community service programs, to States and local entities eligible to receive funds under this title;

"(6)(A) gather and disseminate information on successful community service programs, components of such successful programs, innovative youth skills curriculum, and community service projects; and

"(B) coordinate the activities of the clearinghouse with appropriate entities to avoid duplication of effort;

"(7) make recommendations to State and local entities on quality controls to improve the delivery of community service programs and on changes in the programs under this title; and

"(8) carry out such other activities as the President determines to be appropriate.

"SEC. 198B. PRESIDENTIAL AWARDS FOR SERVICE.

"(a) PRESIDENTIAL AWARDS.—

"(1) IN GENERAL.—The President of the United States, acting through the Corporation, may make Presidential awards for service to individuals providing significant service, and to outstanding service programs.

"(2) INDIVIDUALS AND PROGRAMS.—Notwithstanding section 101(20)—

"(A) an individual receiving an award under this subsection need not be a participant in a program authorized under this Act; and

"(B) a program receiving an award under this subsection need not be a program authorized under this Act.

"(3) NATURE OF AWARD.—In making an award under this section to an individual or program, the President of the United States, acting through the Corporation—

"(A) is authorized to incur necessary expenses for the honorary recognition of the individual or program; and

"(B) is not authorized to make a cash award to such individual or program.

"(b) INFORMATION.—The President of the United States, acting through the Corporation, shall ensure that information concerning individuals and programs receiving awards under this section is widely disseminated.

"SEC. 198C. MILITARY INSTALLATION CONVERSION DEMONSTRATION PROGRAMS.

"(a) PURPOSES.—The purposes of this section are to—

"(1) provide meaningful training and paid employment to economically disadvantaged youth;

"(2) fully utilize military installations affected by closures or realignments;

"(3) encourage communities affected by such closures or realignments to convert the installations to community use; and

"(4) foster a sense of community pride in the youth in the community.

"(b) DEFINITIONS.—As used in this section:

"(1) AFFECTED MILITARY INSTALLATION.—The term 'affected military installation' means a military installation described in section 325(e)(1) of the Job Training Partnership Act (29 U.S.C. 1662d(e)(1)).

"(2) COMMUNITY.—The term 'community' includes a county.

"(3) CONVERT TO COMMUNITY USE.—The term 'convert to community use', used with respect to an affected military installation, includes—

"(A) conversion of the installation or a part of the installation to—

"(i) a park;

"(ii) a community center;

"(iii) a recreational facility; or

"(iv) a facility for a Head Start program under the Head Start Act (42 U.S.C. 9831 et seq.); and

"(B) carrying out, at the installation, a construction or economic development project that is of substantial benefit, as determined by the President, to—

"(i) the community in which the installation is located; or

"(ii) a community located within such distance of the installation as the President may determine by regulation to be appropriate.

"(4) DEMONSTRATION PROGRAM.—The term 'demonstration program' means a program described in subsection (c).

"(c) DEMONSTRATION PROGRAMS.—

"(1) GRANTS.—The Corporation may make grants to communities and community-based agencies to pay for the Federal share of establishing and carrying out military installation conversion demonstration programs, to assist in converting to community use affected military installations located—

"(A) within the community; or

"(B) within such distance from the community as the President may by regulation determine to be appropriate.

"(2) DURATION.—In carrying out such a demonstration program, the community or community-based agency may carry out—

"(A) a program of not less than 6 months in duration; or

"(B) a full-time summer program.

"(d) USE OF FUNDS.—

"(1) SALARY.—A community or community-based agency that receives a grant under subsection (c) to establish and carry out a project through a demonstration program may use the funds made available through such grant to pay for a portion of the salary of the participants in the project.

"(2) LIMITATION ON AMOUNT OF SALARY.—The amount of the salary provided to a participant under paragraph (1) that may be paid using assistance provided under this section and using any other Federal funds shall not exceed the lesser of—

"(A) 85 percent of the total average annual subsistence allowance provided to VISTA volunteers under section 105 of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4955); and

"(B) 85 percent of the salary established by the demonstration program involved.

"(e) PARTICIPANTS.—

"(1) ELIGIBILITY.—A person shall be eligible to be selected as a participant in a project carried out through a demonstration program if the person is—

"(A) an economically disadvantaged individual; and

"(B)(i) a person described in section 153(b);

"(ii) a youth described in section 154(a); or

"(iii) an eligible youth described in section 423 of the Job Training Partnership Act (29 U.S.C. 1693).

"(2) PARTICIPATION.—Persons desiring to participate in such a project shall enter into an agreement with the service sponsor of the project to participate—

"(A) on a full-time or a part-time basis; and

"(B) for the duration referred to in subsection (f)(2)(C).

"(f) APPLICATION.—

"(1) IN GENERAL.—To be eligible to receive a grant under subsection (c), a community or community-based agency shall submit an application to the President at such time, in such manner, and containing such information as the President may require.

"(2) CONTENTS.—At a minimum, such application shall contain—

"(A) a description of the demonstration program proposed to be conducted by the applicant;

"(B) a proposal for carrying out the program that describes the manner in which the applicant will—

"(i) provide preservice and inservice training, for supervisors and participants, that will be conducted by qualified individuals or qualified organizations;

"(ii) conduct an appropriate evaluation of the program; and

"(iii) provide for appropriate community involvement in the program;

"(C) information indicating the duration of the program; and

"(D) an assurance that the applicant will comply with the nonduplication and nondisplacement provisions of section 177 and the grievance procedure requirements of section 176(f).

"(g) LIMITATION ON GRANT.—In making a grant under subsection (c) with respect to a demonstration program to assist in converting an affected military installation, the Corporation shall not make a grant for more than 25 percent of the total cost of the conversion.".

(d) TABLE OF CONTENTS.—

(1) CIVILIAN COMMUNITY CORPS.—Section 1(b) of the National and Community Service Act of 1990 (Public Law 101–610; 104 Stat. 3127) is amended by striking the items relating to subtitle E of title I of such Act and inserting the following:

"Subtitle E—Civilian Community Corps

"Sec. 151. Purpose.
"Sec. 152. Establishment of Civilian Community Corps Demonstration Program.
"Sec. 153. National service program.
"Sec. 154. Summer national service program.
"Sec. 155. Civilian Community Corps.
"Sec. 156. Training.
"Sec. 157. Service projects.
"Sec. 158. Authorized benefits for Corps personnel under Federal law.
"Sec. 159. Administrative provisions.
"Sec. 160. Status of Corps members and Corps personnel under Federal law.
"Sec. 161. Contract and grant authority.
"Sec. 162. Responsibilities of other departments.
"Sec. 163. Advisory board.
"Sec. 164. Annual evaluation.
"Sec. 165. Funding limitation.
"Sec. 166. Definitions.".

(2) QUALITY AND INNOVATION.—Section 1(b) of the National and Community Service Act of 1990 (Public Law 101–610; 104 Stat. 3127) is amended by striking the items relating to subtitle H of title I of such Act and inserting the following:

"Subtitle H—Investment for Quality and Innovation

"Sec. 198. Additional corporation activities to support national service.
"Sec. 198A. Clearinghouses.
"Sec. 198B. Presidential awards for service.
"Sec. 198C. Military installation conversion demonstration programs.".

(e) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1993.—

(A) Section 1091(f)(2) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484) is amended by striking "195G" and inserting "158".

(B) Paragraphs (1) and (2) of section 1092(b), and sections 1092(c), 1093(a), and 1094(a) of such Act are amended by striking "195A" and inserting "152".

(C) Sections 1091(f)(2), 1092(b)(1), and 1094(a), and subsections (a) and (c) of section 1095 of such Act are amended by striking "subtitle H" and inserting "subtitle E".

(D) Section 1094(b)(1) and subsections (b) and (c)(1) of section 1095 of such Act are amended by striking "subtitles B, C, D, E, F, and G" and inserting "subtitles B, C, D, F, G, and H".

(2) NATIONAL AND COMMUNITY SERVICE ACT OF 1990.—

(A) Section 153(a) of the National and Community Service Act of 1990 (as redesignated in subsection (b)(3) of this section) (42 U.S.C. 12653b(a)) is amended by striking "195A(a)" and inserting "152(a)".

(B) Section 154(a) of such Act (as redesignated in subsection (b)(3) of this section) (42 U.S.C. 12653c(a)) is amended by striking "195A(a)" and inserting "152(a)".

(C) Section 155 of such Act (as redesignated in subsection (b)(3) of this section) (42 U.S.C. 12653d) is amended—

(i) in subsection (a), by striking "195H(c)(1)" and inserting "159(c)(1)";

(ii) in subsection (c)(2), by striking "195H(c)(2)" and inserting "159(c)(2)"; and

(iii) in subsection (d)(3), by striking "195K(a)(3)" and inserting "162(a)(3)".

(D) Section 156 of such Act (as redesignated in subsection (b)(3) of this section) (42 U.S.C. 12653e) is amended—

(i) in subsection (c)(1), by striking "195H(c)(2)" and inserting "159(c)(2)"; and

(ii) in subsection (d), by striking "195K(a)(3)" and inserting "162(a)(3)".

(E) Section 159 of such Act (as redesignated in subsection (b)(3) of this section) (42 U.S.C. 12653h) is amended—

(i) in subsection (a)—

(I) by striking "195A" and inserting "152"; and

(II) in paragraph (2), by striking "195" and inserting "151"; and

(ii) in subsection (c)(2)(C)(i), by striking "195K(a)(2)" and inserting "section 162(a)(2)".

(F) Section 161(b)(1)(B) of such Act (as redesignated in subsection (b)(3) of this section) (42 U.S.C. 12653j(b)(1)(B)) is amended by striking "195K(a)(3)" and inserting "162(a)(3)".

(G) Section 162(a)(2)(A) of such Act (as redesignated in subsection (b)(3) of this section) (42 U.S.C. 12653k(a)(2)(A)) is amended by striking "195(3)" and inserting "151(3)".

(H) Section 166 of such Act (as redesignated in subsection (b)(3) of this section) (42 U.S.C. 12653o) is amended—

(i) in paragraph (2), by striking "195D" and inserting "155";

(ii) in paragraph (8), by striking "195A" and inserting "152";

(iii) in paragraph (10), by striking "195D(d)" and inserting "155(d)"; and

(iv) in paragraph (11), by striking "195D(c)" and inserting "155(c)".

(f) Extension of Authority To Conduct Civilian Community Corps.—Section 1092(c) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2534), as amended by subsection (e)(1) of this section, is further amended by adding at the end the following new sentence: "The amount made available for the Civilian Community Corps Demonstration Program pursuant to this subsection shall remain available for expenditure during fiscal years 1993 and 1994.".

(g) Participants.—

(1) National service program.—Section 153 of the National and Community Service Act of 1990 (as redesignated in subsection (b)(3) of this section) (42 U.S.C. 12653b) is amended—

(A) by striking subsection (d); and

(B) by redesignating subsection (e) as subsection (d).

(2) Summer national service program.—Section 154 of the National and Community Service Act of 1990 (as redesignated in subsection (b)(3) of this section) (42 U.S.C. 12653c) is amended—

(A) by striking subsection (b); and

(B) by redesignating subsection (c) as subsection (b).

(h) Additional Amendment Regarding Civilian Community Corps.—Section 158 of the National and Community Service Act of 1990 (as redesignated in subsection (b)(3) of this section) (42 U.S.C. 12653g) is amended by striking subsections (f), (g), and (h) and inserting the following new subsections:

"(f) National Service Educational Awards.—A Corps member who successfully completes a period of agreed service in the Corps may receive the national service educational award described in subtitle D if the Corps member—

"(1) serves in an approved national service position; and

"(2) satisfies the eligibility requirements specified in section 146 with respect to service in that approved national service position.

"(g) Alternative Benefit.—If a Corps member who successfully completes a period of agreed service in the Corps is ineligible for the national service educational award described in subtitle D, the Director may provide for the provision of a suitable alternative benefit for the Corps member.".

Subtitle B—Related Provisions

SEC. 111. DEFINITIONS.

(a) In General.—Section 101 of the National and Community Service Act of 1990 (42 U.S.C. 12511) is amended to read as follows:

"SEC. 101. DEFINITIONS.

"For purposes of this title:

"(1) Adult volunteer.—The term 'adult volunteer' means an individual, such as an older adult, an individual with a disability, a parent, or an employee of a business or public or private not-for-profit agency, who—

"(A) works without financial remuneration in an educational institution to assist students or out-of-school youth; and

"(B) is beyond the age of compulsory school attendance in the State in which the educational institution is located.

"(2) Approved national service position.—The term 'approved national service position' means a national service position for which the Corporation has approved the provision of a national service educational award described in section 147 as one of the benefits to be provided for successful service in the position.

"(3) Carry out.—The term 'carry out', when used in connection with a national service program described in section 122, means the planning, establishment, operation, expansion, or replication of the program.

"(4) Community action agency.—The term 'community action agency' means an entity or organization referred to in section 675(c)(2)(A) of the Community Services Block Grant Act (42 U.S.C. 9904(c)(2)(A)).

"(5) Community-based agency.—The term 'community-based agency' means a private not-for-profit organization, including a church or other religious entity, that is representative of a community and that is engaged in meeting human, educational, environmental, or public safety community needs.

"(6) Corporation.—The term 'Corporation' means the Corporation for National and Community Service established under section 191.

"(7) Economically disadvantaged.—The term 'economically disadvantaged' means, with respect to an individual, an individual who is determined by the President to be low-income according to the latest available data from the Department of Commerce.

"(8) Elementary school.—The term 'elementary school' has the same meaning given such term in section 1471(8) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891(8)).

"(9) Indian.—The term 'Indian' means a person who is a member of an Indian tribe, or is a 'Native', as defined in section 3(b) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(b)).

"(10) Indian lands.—The term 'Indian lands' means any real property owned by an Indian tribe, any real property held in trust by the United States for an Indian or Indian tribe, and any real property held by an Indian or Indian tribe that is subject to restrictions on alienation imposed by the United States.

"(11) Indian tribe.—The term 'Indian tribe' means—

"(A) an Indian tribe, band, nation, or other organized group or community, including—

"(i) any Native village, as defined in section 3(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(c)), whether organized traditionally or pursuant to the Act of June 18, 1934 (commonly known as the 'Indian Reorganization Act'; 48 Stat. 984, chapter 576; 25 U.S.C 461 et seq.); and

"(ii) any Regional Corporation or Village Corporation, as defined in subsection (g) or (j), respectively, of section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602 (g) or (j)), that is recognized as eligible for the special programs and services provided by the United States under Federal law to Indians because of their status as Indians; and

"(B) any tribal organization controlled, sanctioned, or chartered by an entity described in subparagraph (A).

"(12) Individual with a disability.—Except as provided in section 175(a), the term 'individual with a disability' has the meaning given the term in section 7(8) of the Rehabilitation Act of 1973 (29 U.S.C. 706(8)).

"(13) Institution of higher education.—The term 'institution of higher education' has the same meaning given such term in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

"(14) Local educational agency.—The term 'local educational agency' has the same meaning given such term in section 1471(12) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891(12)).

"(15) National service laws.—The term 'national service laws' means this Act and the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4950 et seq.).

"(16) Out-of-school youth.—The term 'out-of-school youth' means an individual who—

"(A) has not attained the age of 27;

"(B) has not completed college or the equivalent thereof; and

"(C) is not enrolled in an elementary or secondary school or institution of higher education.

"(17) Participant.—

"(A) In general.—The term 'participant' means—

"(i) for purposes of subtitle C, an individual in an approved national service position; and

"(ii) for purposes of any other provision of this Act, an individual enrolled in a program that receives assistance under this title.

"(B) Rule.—A participant shall not be considered to be an employee of the program in which the participant is enrolled.

"(18) Partnership program.—The term 'partnership program' means a program through which an adult volunteer, a public or private not-for-profit agency, an institution of higher education, or a business assists a local educational agency.

"(19) President.—The term 'President', except when used as part of the term 'President of the United States' means the President of the Corporation appointed under section 193.

"(20) Program.—The term 'program', except when used as part of the term 'academic program', means a program described in section 111(a) (other than a program referred to in paragraph (3)(B) of such section), 117A(a), 119(b)(1), or 122(a), in paragraph (1) or (2) of section 152(b), or in section 198.

"(21) Project.—The term 'project' means an activity, carried out through a program that receives assistance under this title, that results in a specific identifiable service or improvement that otherwise would not be done with existing funds, and that does not duplicate the routine services or functions of the employer to whom participants are assigned.

"(22) School-age youth.—The term 'school-age youth' means—

"(A) individuals between the ages of 5 and 17, inclusive; and

"(B) children with disabilities, as defined in section 602(a)(1) of the Individuals with Disabilities Education Act, who receive services under part B of such Act.

"(23) Secondary school.—The term 'secondary school' has the same meaning given such term in section 1471(21) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891(21)).

"(24) Service-learning.—The term 'service-learning' means a method—

"(A) under which students or participants learn and develop through active participation in thoughtfully organized service that—

"(i) is conducted in and meets the needs of a community;

"(ii) is coordinated with an elementary school, secondary school, institution of higher education, or community service program, and with the community; and

"(iii) helps foster civic responsibility; and

"(B) that—

"(i) is integrated into and enhances the academic curriculum of the students, or the educational components of the community service program in which the participants are enrolled; and

"(ii) provides structured time for the students or participants to reflect on the service experience.

"(25) Service-learning coordinator.—The term 'service-learning coordinator' means an individual who provides services as described in section 111(a)(3).

"(26) Service sponsor.—The term 'service sponsor' means an organization, or other entity, that has been selected to provide a placement for a participant.

"(27) State.—The term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

The term also includes Palau, until such time as the Compact of Free Association is ratified.

"(28) STATE COMMISSION.—The term 'State Commission' means a State Commission on National and Community Service maintained by a State pursuant to section 178. Except when used in section 178, the term includes an alternative administrative entity for a State approved by the Corporation under such section to act in lieu of a State Commission.

"(29) STATE EDUCATIONAL AGENCY.—The term 'State educational agency' has the same meaning given such term in section 1471(23) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891(23)).

"(30) STUDENT.—The term 'student' means an individual who is enrolled in an elementary or secondary school or institution of higher education on a full- or part-time basis.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 182(a)(2) of the National and Community Service Act of 1990 (42 U.S.C 12642(a)(2)) is amended by striking "adult volunteer and partnership" each place the term appears and inserting "partnership".

(2) Section 182(a)(3) of the National and Community Service Act of 1990 (42 U.S.C 12642(a)(3)) is amended by striking "adult volunteer and partnership" and inserting "partnership".

(3) Section 441(c)(2) of the Higher Education Act of 1965 (42 U.S.C. 2751(c)(2)) is amended by striking "service opportunities or youth corps as defined in section 101 of the National and Community Service Act of 1990, and service in the agencies, institutions and activities designated in section 124(a) of the National and Community Service Act of 1990" and inserting "a project, as defined in section 101(21) of the National and Community Service Act of 1990 (42 U.S.C. 12511(18))".

(4) Section 1122(a)(2)(C) of the Higher Education Act of 1965 (20 U.S.C. 1137a(a)(2)(C)) is amended by striking "youth corps as defined in section 101(30) of the National and Community Service Act of 1990" and inserting "youth corps programs, as described in section 122(a)(1) of the National and Community Service Act of 1990".

(5) Section 1201(p) of the Higher Education Act of 1965 (20 U.S.C. 1141(p)) is amended by striking "section 101(22) of the National and Community Service Act of 1990" and inserting "section 101(24) of the National and Community Service Act of 1990 (42 U.S.C. 12511(21))".

SEC. 112. AUTHORITY TO MAKE STATE GRANTS.

Section 102 of the National and Community Service Act of 1990 (42 U.S.C. 12512) is repealed.

SEC. 113. FAMILY AND MEDICAL LEAVE.

(a) IN GENERAL.—Section 171 of the National and Community Service Act of 1990 (42 U.S.C. 12631) is amended to read as follows:

"SEC. 171. FAMILY AND MEDICAL LEAVE.

"(a) PARTICIPANTS IN PRIVATE, STATE, AND LOCAL PROJECTS.—For purposes of title I of the Family and Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.), if—

"(1) a participant has provided service for the period required by section 101(2)(A)(i) (29 U.S.C. 2611(2)(A)(i)), and has met the hours of service requirement of section 101(2)(A)(ii), of such Act with respect to a project; and

"(2) the service sponsor of the project is an employer described in section 101(4) of such Act (other than an employing agency within the meaning of subchapter V of chapter 63 of title 5, United States Code),

the participant shall be considered to be an eligible employee of the service sponsor.

"(b) PARTICIPANTS IN FEDERAL PROJECTS.—For purposes of subchapter V of chapter 63 of title 5, United States Code, if—

"(1) a participant has provided service for the period required by section 6381(1)(B) of such title with respect to a project; and

"(2) the service sponsor of the project is an employing agency within the meaning of such subchapter,

the participant shall be considered to be en employee of the service sponsor.".

(b) TABLE OF CONTENTS.—Section 1(b) of the National and Community Service Act of 1990 (Public Law 101–610; 104 Stat. 3127) is amended by striking the item relating to section 171 of such Act and inserting the following:

"Sec. 171. Family and medical leave.".

SEC. 114. REPORTS.

Section 172 of the National and Community Service Act of 1990 (42 U.S.C. 12632) is amended—

(1) in subsection (a)(3)(A), by striking "sections 177 and 113(9)" and inserting "section 177";

(2) in subsection (b)—

(A) by striking "REPORT TO CONGRESS"; and inserting "REPORT TO CONGRESS BY CORPORATION"; and

(B) in paragraph (1), by striking "this title" and inserting "the national service laws"; and

(3) by adding at the end the following:

"(c) REPORT TO CONGRESS BY SECRETARY OF DEFENSE.—

"(1) STUDY.—The Secretary of Defense shall annually conduct a study of the effect of the programs carried out under this title on recruitment for the Armed Forces.

"(2) REPORT.—The Secretary of Defense shall annually submit a report to the appropriate committees of Congress containing the findings of the study described in paragraph (1) and such recommendations for legislative and administrative reform as the Secretary may determine to be appropriate.".

SEC. 115. NONDISCRIMINATION.

Section 175 of the National and Community Service Act of 1990 (42 U.S.C. 12635) is amended to read as follows:

"SEC. 175. NONDISCRIMINATION.

"(a) IN GENERAL.—

"(1) BASIS.—An individual with responsibility for the operation of a project that receives assistance under this title shall not discriminate against a participant in, or member of the staff of, such project on the basis of race, color, national origin, sex, age, or political affiliation of such participant or member, or on the basis of disability, if the participant or member is a qualified individual with a disability.

"(2) DEFINITION.—As used in paragraph (1), the term 'qualified individual with a disability' has the meaning given the term in section 101(8) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111(8)).

"(b) FEDERAL FINANCIAL ASSISTANCE.—Any assistance provided under this title shall constitute Federal financial assistance for purposes of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), and the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.), and shall constitute Federal financial assistance to an education program or activity for purposes of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.).

"(c) RELIGIOUS DISCRIMINATION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), an individual with responsibility for the operation of a project that receives assistance under this title shall not discriminate on the basis of religion against a participant in such project or a member of the staff of such project who is paid with funds received under this title.

"(2) EXCEPTION.—Paragraph (1) shall not apply to the employment, with assistance provided under this title, of any member of the staff, of a project that receives assistance under this title, who was employed with the organization operating the project on the date the grant under this title was awarded.

"(d) RULES AND REGULATIONS.—The President shall promulgate rules and regulations to provide for the enforcement of this section that shall include provisions for summary suspension of assistance for not more than 30 days, on an emergency basis, until notice and an opportunity to be heard can be provided.".

SEC. 116. NOTICE, HEARING, AND GRIEVANCE PROCEDURES.

(a) DECERTIFICATION OF POSITIONS.—Section 176(a) of the National and Community Service Act of 1990 (42 U.S.C. 12636(a)) is amended—

(1) in paragraph (1), by inserting ", or revoke the designation of positions, related to the grant or contract, as approved national service positions," before "whenever the Commission"; and

(2) in paragraph (2)(B), by inserting "or revoked" after "terminated".

(b) CONSTRUCTION.—Section 176(e) of such Act (42 U.S.C. 12636(e)) is amended by adding before the period the following ", other than assistance provided pursuant to this Act".

(c) GRIEVANCE PROCEDURE.—Section 176(f) of such Act is amended to read as follows:

"(f) GRIEVANCE PROCEDURE.—

"(1) IN GENERAL.—A State or local applicant that receives assistance under this title shall establish and maintain a procedure for the filing and adjudication of grievances from participants, labor organizations, and other interested individuals concerning projects that receive assistance under this title, including grievances regarding proposed placements of such participants in such projects.

"(2) DEADLINE FOR GRIEVANCES.—Except for a grievance that alleges fraud or criminal activity, a grievance shall be made not later than 1 year after the date of the alleged occurrence of the event that is the subject of the grievance.

"(3) DEADLINE FOR HEARING AND DECISION.—

"(A) HEARING.—A hearing on any grievance conducted under this subsection shall be conducted not later than 30 days after the filing of such grievance.

"(B) DECISION.—A decision on any such grievance shall be made not later than 60 days after the filing of such grievance.

"(4) ARBITRATION.—

"(A) IN GENERAL.—

"(i) JOINTLY SELECTED ARBITRATOR.—In the event of a decision on a grievance that is adverse to the party who filed such grievance, or 60 days after the filing of such grievance if no decision has been reached, such party shall be permitted to submit such grievance to binding arbitration before a qualified arbitrator who is jointly selected and independent of the interested parties.

"(ii) APPOINTED ARBITRATOR.—If the parties cannot agree on an arbitrator, the President shall appoint an arbitrator from a list of qualified arbitrators within 15 days after receiving a request for such appointment from one of the parties to the grievance.

"(B) DEADLINE FOR PROCEEDING.—An arbitration proceeding shall be held not later than 45 days after the request for such arbitration proceeding, or, if the arbitrator is appointed by the President in accordance with subparagraph (A)(ii), not later than 30 days after the appointment of such arbitrator.

"(C) DEADLINE FOR DECISION.—A decision concerning a grievance shall be made not later than 30 days after the date such arbitration proceeding begins.

"(D) COST.—

"(i) IN GENERAL.—Except as provided in clause (ii), the cost of an arbitration proceeding shall be divided evenly between the parties to the arbitration.

"(ii) EXCEPTION.—If a participant, labor organization, or other interested individual described in paragraph (1) prevails under a binding arbitration proceeding, the State, local agency, public or private not-for-profit organization, or partnership of such agencies and organizations, that is a party to such grievance shall pay the total cost of such proceeding and the attorneys' fees of such participant, labor organization, or individual, as the case may be.

"(5) PROPOSED PLACEMENT.—If a grievance is filed regarding a proposed placement of a participant in a project that receives assistance under this title, such placement shall not be made unless the placement is consistent with the resolution of the grievance pursuant to this subsection.

"(6) REMEDIES.—Remedies for a grievance filed under this subsection include—

"(A) suspension of payments for assistance under this title;

"(B) termination of such payments;

"(C) prohibition of the placement described in paragraph (5); and

"(D) in a case in which the grievance involves a violation of subsection (a) or (b) of section 177 and the employer of the displaced employee is the recipient of assistance under this title—

"(i) reinstatement of the displaced employee to the position held by such employee prior to displacement;

"(ii) payment of lost wages and benefits of the displaced employee;

"(iii) reestablishment of other relevant terms, conditions, and privileges of employment of the displaced employee; and

"(iv) such equitable relief as is necessary to correct any violation of subsection (a) or (b) of section 177 or to make the displaced employee whole.

"(7) ENFORCEMENT.—Suits to enforce arbitration awards under this section may be brought in any district court of the United States having jurisdiction of the parties, without regard to the amount in controversy and without regard to the citizenship of the parties.".

SEC. 117. NONDISPLACEMENT.

Section 177(b)(3) of the National and Community Service Act of 1990 (42 U.S.C. 12637(b)(3)) is amended—

(1) in subparagraph (B), to read as follows:

"(B) SUPPLANTATION OF HIRING.—A participant in any program receiving assistance under this title shall not perform any services or duties, or engage in activities, that—

"(i) will supplant the hiring of employed workers; or

"(ii) are services, duties, or activities with respect to which an individual has recall rights pursuant to a collective bargaining agreement or applicable personnel procedures."; and

(2) in subparagraph (C)(iii), to read as follows:

"(iii) employee who—

"(I) is subject to a reduction in force; or

"(II) has recall rights pursuant to a collective bargaining agreement or applicable personnel procedures;".

SEC. 118. EVALUATION.

Section 179 of the National and Community Service Act of 1990 (42 U.S.C 12639) is amended—

(1) in subsection (a)(2)—

(A) in the matter preceding subparagraph (A), by striking "for purposes of the reports required by subsection (j)," and inserting "with respect to the programs authorized under subtitle C,"; and

(B) in subparagraph (A), by striking "older American volunteer programs" and inserting "National Senior Volunteer Corps programs";

(2) in subsection (g)—

(A) in the matter preceding paragraph (1), by striking "subtitle D" and inserting "subtitle C"; and

(B) in paragraphs (3) and (9), by striking "older American volunteer programs" and inserting "National Senior Volunteer Corps programs";

(3) by striking subsections (i) and (j); and

(4) by adding at the end the following:

"(i) INDEPENDENT EVALUATION AND REPORT OF DEMOGRAPHICS OF NATIONAL SERVICE PARTICIPANTS AND COMMUNITIES.—

"(1) INDEPENDENT EVALUATION.—

"(A) IN GENERAL.—The Corporation shall, on an annual basis, arrange for an independent evaluation of the programs assisted under subtitle C.

"(B) PARTICIPANTS.—

"(i) IN GENERAL.—The entity conducting such evaluation shall determine the demographic characteristics of the participants in such programs.

"(ii) CHARACTERISTICS.—The entity shall determine, for the year covered by the evaluation, the total number of participants in the programs, and the number of participants within the programs in each State, by sex, age, economic background, education level, ethnic group, disability classification, and geographic region.

"(iii) CATEGORIES.—The Corporation shall determine appropriate categories for analysis of each of the characteristics referred to in clause (ii) for purposes of such an evaluation.

"(C) COMMUNITIES.—In conducting the evaluation, the entity shall determine the amount of assistance provided under section 121 during the year that has been expended for projects conducted under the programs in areas described in section 133(c)(6).

"(2) REPORT.—The entity conducting the evaluation shall submit a report to the President, Congress, the Corporation, and each State Commission containing the results of the evaluation—

"(A) with respect to the evaluation covering the year beginning on the date of enactment of this subsection, not later than 18 months after such date; and

"(B) with respect to the evaluation covering each subsequent year, not later than 18 months after the first day of each such year.".

SEC. 119. ENGAGEMENT OF PARTICIPANTS.

Section 180 of the National and Community Service Act of 1990 (42 U.S.C. 12640) is amended by striking "post-service benefits" and inserting "national service educational awards".

SEC. 120. CONTINGENT EXTENSION.

(a) IN GENERAL.—Section 181 of the National and Community Service Act of 1990 (42 U.S.C. 12641) is amended to read as follows:

"SEC. 181. CONTINGENT EXTENSION.

"Section 414 of the General Education Provisions Act (20 U.S.C. 1226a) shall apply to this Act.".

(b) TABLE OF CONTENTS.—Section 1(b) of the National and Community Service Act of 1990 (Public Law 101–610; 104 Stat. 3127) is amended by striking the item relating to sections 181 of such Act and inserting the following:

"Sec. 181. Contingent extension.".

SEC. 121. AUDITS.

(a) IN GENERAL.—Section 183 of the National and Community Service Act of 1990 (42 U.S.C. 12643) is amended to read as follows:

"SEC. 183. RIGHTS OF ACCESS, EXAMINATION, AND COPYING.

"(a) COMPTROLLER GENERAL.—The Comptroller General, or any of the duly authorized representatives of the Comptroller General, shall have access to, and the right to examine and copy, any books, documents, papers, records, and other recorded information in any form—

"(1) within the possession or control of the Corporation or any State or local government, Indian tribe, or public or private not-for-profit organization receiving assistance directly or indirectly under this Act; and

"(2) that the Comptroller General, or his representative, considers necessary to the performance of an evaluation, audit, or review.

"(b) CHIEF FINANCIAL OFFICER.—The Chief Financial Officer of the Corporation shall have access to, and the right to examine and copy, any books, documents, papers, records, and other recorded information in any form—

"(1) within the possession or control of the Corporation or any State or local government, Indian tribe, or public or private not-for-profit organization receiving assistance directly or indirectly under this Act; and

"(2) that relate to the duties of the Chief Financial Officer.".

(b) TABLE OF CONTENTS.—Section 1(b) of the National and Community Service Act of 1990 (Public Law 101–610; 104 Stat. 3127) is amended by striking the item relating to section 183 of such Act and inserting the following:

"Sec. 183. Rights of access, examination, and copying.".

SEC. 122. REPEALS.

(a) IN GENERAL.—Subtitle F of title I of the National and Community Service Act of 1990 (42 U.S.C. 12631 et seq.) is amended by repealing sections 185 and 186.

(b) TABLE OF CONTENTS.—Section 1(b) of the National and Community Service Act of 1990 (Public Law 101–610; 104 Stat. 3127) is amended by striking the item relating to section 185 of such Act.

SEC. 123. EFFECTIVE DATE.

This title, and the amendments made by this title, shall take effect on October 1, 1993.

TITLE II—ORGANIZATION

SEC. 201. STATE COMMISSIONS ON NATIONAL AND COMMUNITY SERVICE.

(a) COMPOSITION AND DUTIES OF STATE COMMISSIONS.—Subtitle F of title I of the National and Community Service Act of 1990 is amended by striking section 178 (42 U.S.C. 12638) and inserting the following new section:

"SEC. 178. STATE COMMISSIONS ON NATIONAL AND COMMUNITY SERVICE.

"(a) EXISTENCE REQUIRED.—

"(1) STATE COMMISSION.—Except as provided in paragraph (2), to be eligible to receive a grant or allotment under subtitle B or C or to receive a distribution of approved national service positions under subtitle C, a State shall maintain a State Commission on National and Community Service that satisfies the requirements of this section.

"(2) ALTERNATIVE ADMINISTRATIVE ENTITY.—The chief executive officer of a State may apply to the Corporation for approval to use an alternative administrative entity to carry out the duties otherwise entrusted to a State Commission under this Act. The chief executive officer shall ensure that any alternative administrative entity used in lieu of a State Commission still provides for the individuals described in paragraph (1), and some of the individuals described in paragraph (2), of subsection (c) to play a significant policymaking role in carrying out the duties otherwise entrusted to a State Commission, including the submission of applications on behalf of the State under sections 117B and 130.

"(b) APPOINTMENT AND SIZE.—Except as provided in subsection (c)(3), the members of a State Commission for a State shall be appointed by the chief executive officer of the State. A State Commission shall consist of not less than 7 voting members and not more than 25 voting members.

"(c) COMPOSITION AND MEMBERSHIP.—

"(1) REQUIRED MEMBERS.—The State Commission for a State shall include as voting members at least one representative from each of the following categories:

"(A) Individuals between the ages of 16 and 25 who are participants or supervisors in programs.

"(B) National service programs, such as youth corps programs.

"(C) School-based or community-based programs for school-age youth.

"(D) Programs in which older adults are participants.

"(E) Local and State governmental entities in the State, including the State educational agency (from which at least one such member shall be appointed).

"(F) Local labor organizations.

"(2) SOURCES OF OTHER MEMBERS.—The State Commission for a State may include as voting members the following:

"(A) Representatives of community-based organizations or community-based agencies, including community action agencies.

"(B) Members selected from among participants in service programs who are youths.

"(C) Members selected from among local educators.

"(D) Members selected from among experts in the delivery of human, educational, environmental, or public safety services to communities and persons.

"(E) Representatives of businesses and business groups.

"(F) Representatives of Indian tribes.

"(G) Representatives of groups serving economically disadvantaged individuals.

"(H) Members selected from among out-of-school youth or other at-risk youth.

"(I) Members selected from among older adults who are volunteers or participants in national service programs.

"(3) CORPORATION REPRESENTATIVE.—The representative of the Corporation designated under section 195(b) for a State shall be an ex officio nonvoting member of the State Commission or alternative administrative entity for that State.

"(4) EX OFFICIO STATE REPRESENTATIVES.—The chief executive officer of a State shall appoint, as an ex officio nonvoting member of the State Commission for the State, the Corporation employee responsible for volunteer service programs in the State, if such employee is not the representative described in paragraph (3). The chief executive officer may appoint, as ex officio nonvoting members of the State Commission for the State, representatives selected from among officers and employees of State agencies operating community service, youth service, education, social service, senior service, and job training programs.

"(5) LIMITATION ON NUMBER OF STATE EMPLOYEES AS MEMBERS.—The number of voting members of a State Commission selected under paragraph (1) or (2) who are officers or employees of the State may not exceed 25 percent (reduced to the nearest whole number) of the total membership of the State Commission.

"(d) MISCELLANEOUS MATTERS.—

"(1) MEMBERSHIP BALANCE.—The chief executive officer of a State shall ensure, to the maximum extent practicable, that the membership of the State Commission for the State is diverse with respect to race, ethnicity, age, gender, and disability characteristics. Not more than 50 percent of the voting members of a State Commission, plus one additional member, may be from the same political party.

"(2) TERMS.—Each member of the State Commission for a State shall serve for a term of 3 years, except that the chief executive officer of a State shall initially appoint a portion of the members to terms of 1 year and 2 years.

"(3) VACANCIES.—As vacancies occur on a State Commission, new members shall be appointed by the chief executive of the State and serve for the remainder of the term for which the predecessor of such member was appointed. The vacancy shall not affect the power of the remaining members to execute the duties of the State Commission.

"(4) COMPENSATION.—A member of a State Commission or alternative administrative entity shall not receive any additional compensation by reason of service on the State Commission or alternative administrative entity, except that the State may authorize the reimbursement of travel expenses, including a per diem in lieu of subsistence, in the same manner as other employees serving intermittently in the service of the State.

"(5) CHAIRPERSON.—The voting members of a State Commission shall elect one of the voting members to serve as chairperson of the State Commission.

"(e) DUTIES OF A STATE COMMISSION.—The State Commission or alternative administrative entity for a State shall be responsible for the following duties:

"(1) Preparation of a national service plan for the State that may build on any comprehensive State plan submitted pursuant to regulations issued under the National and Community Service Act of 1990, and that—

"(A) covers a 3-year period;

"(B) is updated annually;

"(C) contains such information as the State Commission or alternative administrative entity considers to be appropriate or as the Corporation may require; and

"(D) ensures outreach to diverse community-based agencies that serve underrepresented populations, by—

"(i) using established networks, and registries, at the State level; or

"(ii) establishing such networks and registries.

"(2) Preparation of the applications of the State under sections 117B and 130 for financial assistance, in such a manner as to ensure that any decision regarding whether to include a program in the application shall be made on the basis of the criteria described in section 133(c), applied in a fair and equitable manner by an impartial decisionmaker.

"(3) Assistance in the preparation of the application of the State educational agency for assistance under section 113.

"(4) Preparation of the application of the State under section 130 for the approval of service positions that include the national service educational award described in subtitle D.

"(5) Assistance in the provision of health care and child care benefits under section 140 to participants in national service programs that receive assistance under section 121.

"(6) Development of a State system for the recruitment and placement of participants in national service programs that receive assistance under section 121 and dissemination of information concerning national service programs that receive assistance and approved national service positions.

"(7) Administration of the grant program in support of national service programs that is conducted by the State using assistance provided to the State under section 121, including selection, oversight, and evaluation of grant recipients.

"(8) Development of projects, training methods, curriculum materials, and other materials and activities related to national service programs that receive assistance directly from the Corporation (to be made available in a case in which such a program requests such a project, method, material, or activity) or from the State using assistance provided under section 121, for use by programs that request such projects, methods, materials, and activities.

"(f) ACTIVITY INELIGIBLE FOR ASSISTANCE.—A State Commission or alternative administrative entity may not directly carry out any national service program that receives assistance under section 121.

"(g) DELEGATION.—Subject to such requirements as the Corporation may prescribe, a State Commission may delegate nonpolicymaking duties to a State agency or public or private not-for-profit organization.

"(h) APPROVAL OF STATE COMMISSION OR ALTERNATIVE.—

"(1) SUBMISSION TO CORPORATION.—The chief executive officer for a State shall notify the Corporation of the establishment or designation of the State Commission or use of an alternative administrative entity for the State. The notification shall include a description of—

"(A) the composition and membership of the State Commission or alternative administrative entity; and

"(B) the authority of the State Commission or alternative administrative entity regarding national service activities carried out by the State.

"(2) APPROVAL OF ALTERNATIVE ADMINISTRATIVE ENTITY.—Any designation of a State Commission or use of an alternative administrative entity to carry out the duties of a State Commission shall be subject to the approval of the Corporation, which shall not be unreasonably withheld. The Corporation shall approve an alternative administrative entity if such entity provides for individuals described in subsection (c) to play a significant policymaking role in carrying out the duties otherwise entrusted to a State Commission, including the duties described in paragraphs (1) through (4) of subsection (e).

"(3) REJECTION.—The Corporation may reject a State Commission if the Corporation determines that the composition, membership, or duties of the State Commission do not comply with the requirements of this section. The Corporation may reject a request to use an alternative administrative entity in lieu of a State Commission if the Corporation determines that the entity does not provide for individuals described in subsection (c) to play a significant policymaking role as described in paragraph (2). If the Corporation rejects a State Commission or alternative administrative entity under this paragraph, the Corporation shall promptly notify the State of the reasons for the rejection.

"(4) RESUBMISSION AND RECONSIDERATION.—The Corporation shall provide a State notified under paragraph (3) with a reasonable opportunity to revise the rejected State Commission or alternative administrative entity. At the request of the State, the Corporation shall provide technical assistance to the State as part of the revision process. The Corporation shall promptly reconsider any resubmission of a notification under paragraph (1) or application to use an alternative administrative entity under paragraph (2).

"(5) SUBSEQUENT CHANGES.—This subsection shall also apply to any change in the composition or duties of a State Commission or an alternative administrative entity made after approval of the State Commission or the alternative administrative entity.

"(6) RIGHTS, BENEFITS, AND SUPPORT.—An alternative administrative entity approved by the Corporation under this subsection shall have the same rights as a State Commission, and shall receive from the Corporation the same benefits and support as the Corporation provides to a State Commission.

"(i) COORDINATION.—

"(1) COORDINATION WITH OTHER STATE AGENCIES.—The State Commission or alternative administrative entity for a State shall coordinate the activities of the Commission or entity under this Act with the activities of other State agencies that administer Federal financial assistance programs under the Community Services Block Grant Act (42 U.S.C. 9901 et seq.) or other appropriate Federal financial assistance programs.

"(2) COORDINATION WITH VOLUNTEER SERVICE PROGRAMS.—

"(A) IN GENERAL.—The State Commission or alternative administrative entity for a State shall coordinate functions of the Commission or entity (including recruitment, public awareness, and training activities) with such functions of any division of ACTION, or of the Corporation, that carries out volunteer service programs in the State.

"(B) AGREEMENT.—In coordinating functions under this paragraph, such Commission or entity, and such division, may enter into an agreement to—

"(i) carry out such a function jointly;

"(ii) to assign responsibility for such a function to the Commission or entity; or

"(iii) to assign responsibility for such a function to the division.

"(C) INFORMATION.—The State Commission or alternative entity for a State, and the head of any such division, shall exchange information about—

"(i) the programs carried out in the State by the Commission, entity, or division, as appropriate; and

"(ii) opportunities to coordinate activities.

"(j) LIABILITY.—

"(1) LIABILITY OF STATE.—Except as provided in paragraph (2)(B), a State shall agree to assume liability with respect to any claim arising out of or resulting from any act or omission by a member of the State Commission or alternative administrative entity of the State, within the scope of the service of the member on the State Commission or alternative administrative entity.

"(2) OTHER CLAIMS.—

"(A) IN GENERAL.—A member of the State Commission or alternative administrative entity shall have no personal liability with respect to any claim arising out of or resulting from any act or omission by such person, within the scope of the service of the member on the State Commission or alternative administrative entity.

"(B) LIMITATION.—This paragraph shall not be construed to limit personal liability for criminal acts or omissions, willful or malicious misconduct, acts or omissions for private gain, or any other act or omission outside the scope of the service of such member on the State Commission or alternative administrative entity.

"(3) EFFECT ON OTHER LAW.—This subsection shall not be construed—

"(A) to affect any other immunities and protections that may be available to such member under applicable law with respect to such service;

"(B) to affect any other right or remedy against the State under applicable law, or against any person other than a member of the State Commission or alternative administrative entity; or

"(C) to limit or alter in any way the immunities that are available under applicable law for State officials and employees not described in this subsection.".

(b) TABLE OF CONTENTS.—Section 1(b) of the National and Community Service Act of 1990 (Public Law 101-610; 104 Stat. 3127) is amended by striking the item relating to section 178 and inserting the following new item:

"Sec. 178. State Commissions on National and Community Service.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1993.

(d) TRANSITIONAL PROVISIONS.—

(1) USE OF ALTERNATIVES TO STATE COMMISSION.—If a State does not have a State Commission on National and Community Service that satisfies the requirements specified in section 178 of the National and Community Service Act of 1990, as amended by subsection (a), the Corporation for National and Community Service may authorize the chief executive of the State to use an existing agency of the State to perform the duties otherwise reserved to a State Commission under subsection (e) of such section.

(2) APPLICATION OF SUBSECTION.—This subsection shall apply only during the 1-year period beginning on the date of the enactment of this Act.

SEC. 202. INTERIM AUTHORITIES OF THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE AND ACTION AGENCY.

(a) NATIONAL AND COMMUNITY SERVICE ACT OF 1990.—Subtitle G of title I of the National and Community Service Act of 1990 (42 U.S.C. 12651) is amended to read as follows:

"Subtitle G—Corporation for National and Community Service

"SEC. 191. CORPORATION FOR NATIONAL AND COMMUNITY SERVICE.

"There is established a Corporation for National and Community Service that shall administer the programs established under this Act. The Corporation shall be a Government corporation, as defined in section 103 of title 5, United States Code.

"SEC. 192. BOARD OF DIRECTORS.

"(a) COMPOSITION.—

"(1) IN GENERAL.—There shall be in the Corporation a Board of Directors (referred to in this subtitle as the 'Board') that shall be composed of—

"(A) 15 members, including an individual between the ages of 16 and 25 who—

"(i) has served in a school-based or community-based service-learning program; or

"(ii) is a participant or a supervisor in a program,

to be appointed by the President of the United States, by and with the advice and consent of the Senate;

"(B) the President of the Corporation, who shall serve as an ex officio nonvoting member; and

"(C) the ex officio nonvoting members described in paragraph (3).

"(2) QUALIFICATIONS.—To the maximum extent practicable, the President of the United States shall appoint members—

"(A) who have extensive experience in volunteer or service activities, such as—

"(i) activities funded under the national service laws; and

"(ii) Federal financial assistance activities, such as—

"(I) activities under the Head Start Act (42 U.S.C. 9831 et seq.);

"(II) activities under the Community Services Block Grant Act (42 U.S.C. 9901 et seq.); or

"(III) antipoverty activities under other Federal law;

that have a volunteer or service focus;

"(B) who represent a broad range of viewpoints;

"(C) who are experts in the delivery of human, educational, environmental, or public safety services, or are experts in the delivery of services by veterans;

"(D) that include at least one representative of local educators and at least one representative of community-based agencies;

"(E) so that the Board shall be diverse with respect to race, ethnicity, age, gender, and disability characteristics; and

"(F) so that no more than 8 appointed members of the Board are from a single political party.

"(3) EX OFFICIO MEMBERS.—The Secretary of Veterans Affairs, the Secretary of Education, the Secretary of Health and Human Services, the Secretary of Labor, the Secretary of the Interior, the Secretary of Agriculture, the Secretary of Housing and Urban Development, the Secretary of Defense, the Attorney General, the Director of the Peace Corps, and the Administrator of the Environmental Protection Agency shall serve as ex officio nonvoting members of the Board.

"(b) OFFICERS.—

"(1) CHAIRPERSON AND VICE CHAIRPERSON.—The Board shall elect a Chairperson and a Vice Chairperson from among its membership.

"(2) OTHER OFFICERS.—The Board may elect from among its membership such additional officers of the Board as the Board determines to be appropriate.

"(c) TERMS.—Each appointed member of the Board shall serve for a term of 3 years, except that 5 of the members first appointed to the Board after the date of enactment of this section shall serve for a term of 1 year and 5 shall serve for a term of 2 years, as designated by the President of the United States.

"(d) VACANCIES.—As vacancies occur on the Board, new members shall be appointed by the President of the United States, by and with the advice and consent of the Senate, and serve for the remainder of the term for which the predecessor of such member was appointed. The vacancy shall not affect the power of the remaining members to execute the duties of the Board.

"SEC. 192A. AUTHORITIES AND DUTIES OF THE BOARD OF DIRECTORS.

"(a) MEETINGS.—The Board shall meet not less than 3 times each year. The Board shall hold additional meetings at the call of the Chairperson of the Board, or if 6 members of the Board request such meetings in writing.

"(b) QUORUM.—A majority of the appointed members of the Board shall constitute a quorum.

"(c) AUTHORITIES OF OFFICERS.—

"(1) CHAIRPERSON.—The Chairperson of the Board may call and conduct meetings of the Board.

"(2) VICE CHAIRPERSON.—The Vice Chairperson of the Board may conduct meetings of the Board in the absence of the Chairperson.

"(d) EXPENSES.—While away from their homes or regular places of business on the business of the Board, members of such Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, for persons employed intermittently in the Government service.

"(e) SPECIAL GOVERNMENT EMPLOYEES.—For purposes of the provisions of chapter 11 of part I of title 18, United States Code, and any other provision of Federal law, a member of the Board (to whom such provisions would not otherwise apply except for this subsection) shall be a special Government employee.

"(f) STATUS OF MEMBERS.—

"(1) TORT CLAIMS.—For the purposes of the tort claims provisions of chapter 171 of title 28, United States Code, a member of the Board shall be considered to be a Federal employee.

"(2) OTHER CLAIMS.—A member of the Board shall have no personal liability under Federal law with respect to any claim arising out of or resulting from any act or omission by such person, within the scope of the service of the member on the Board, in connection with any transaction involving the provision of financial assistance by the Corporation. This paragraph shall not be construed to limit personal liability for criminal acts or omissions, willful or malicious misconduct, acts or omissions for private gain, or any other act or omission outside the scope of the service of such member on the Board.

"(3) EFFECT ON OTHER LAW.—This subsection shall not be construed—

"(A) to affect any other immunities and protections that may be available to such member under applicable law with respect to such transactions;

"(B) to affect any other right or remedy against the Corporation, against the United

States under applicable law, or against any person other than a member of the Board participating in such transactions; or

"(C) to limit or alter in any way the immunities that are available under applicable law for Federal officials and employees not described in this subsection.

"(g) DUTIES.—The Board shall—

"(1) review and approve the strategic plan described in section 193A(b)(1), and annual updates of the plan;

"(2) review and approve the proposal described in section 193A(b)(2)(A), with respect to the grants, allotments, contracts, financial assistance, payment, and positions referred to in such section;

"(3) review and approve the proposal described in section 193A(b)(3)(A), regarding the regulations, standards, policies, procedures, programs, and initiatives referred to in such section;

"(4) review and approve the evaluation plan described in section 193A(b)(4)(A);

"(5)(A) review, and advise the President regarding, the actions of the President with respect to the personnel of the Corporation, and with respect to such standards, policies, procedures, programs, and initiatives as are necessary or appropriate to carry out this Act; and

"(B) inform the President of any aspects of the actions of the President that are not in compliance with the annual strategic plan referred to in paragraph (1), the proposals referred to in paragraphs (2) and (3), or the plan referred to in paragraph (4), or are not consistent with the objectives of this Act;

"(6) receive any report as provided under section 8E (b), (c), or (d) of the Inspector General Act of 1978;

"(7) make recommendations relating to a program of research for the Corporation with respect to national and community service programs, including service-learning programs;

"(8) advise the President of the United States and the Congress concerning developments in national and community service that merit the attention of the President of the United States and the Congress;

"(9) ensure effective dissemination of information regarding the programs and initiatives of the Corporation; and

"(10) prepare and make recommendations to the Congress and the President of the United States for changes in this Act resulting from the studies and demonstrations the President of the Corporation is required to carry out under section 193A(b)(10), which recommendations shall be submitted to the Congress and President of the United States not later than September 30, 1995.

"(h) ADMINISTRATION.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply with respect to the Board.

"SEC. 193. PRESIDENT.

"(a) APPOINTMENT.—The Corporation shall be headed by an individual who shall serve as President of the Corporation, and who shall be appointed by the President of the United States, by and with the advice and consent of the Senate.

"(b) COMPENSATION.—The President shall be compensated at the rate provided for level III of the Executive Schedule under section 5314 of title 5, United States Code.

"(c) REGULATIONS.—The President shall prescribe such rules and regulations as are necessary or appropriate to carry out this Act.

"SEC. 193A. AUTHORITIES AND DUTIES OF THE PRESIDENT.

"(a) GENERAL POWERS AND DUTIES.—The President shall be responsible for the exercise of the powers and the discharge of the duties of the Corporation that are not reserved to the Board, and shall have authority and control over all personnel of the Corporation, except as provided in section 194(b)(4).

"(b) DUTIES.—In addition to the duties conferred on the President under any other provision of this Act, the President shall—

"(1) prepare and submit to the Board a strategic plan every 3 years, and annual updates of the plan, for the Corporation with respect to the major functions and operations of the Corporation;

"(2)(A) prepare and submit to the Board a proposal with respect to such grants and allotments, contracts, other financial assistance, and designation of positions as approved national service positions, as are necessary or appropriate to carry out this Act; and

"(B) after receiving and reviewing an approved proposal under section 192A(g)(2), make such grants and allotments, enter into such contracts, award such other financial assistance, make such payments (in lump sum or installments, and in advance or by way of reimbursement, and in the case of financial assistance otherwise authorized under this Act, with necessary adjustments on account of overpayments and underpayments), and designate such positions as approved national service positions as are necessary or appropriate to carry out this Act;

"(3)(A) prepare and submit to the Board a proposal regarding, the regulations established under section 195(a)(4)(B)(i), and such other standards, policies, procedures, programs, and initiatives as are necessary or appropriate to carry out this Act; and

"(B) after receiving and reviewing an approved proposal under section 192A(g)(3)—

"(i) establish such standards, policies, and procedures as are necessary or appropriate to carry out this Act; and

"(ii) establish and administer such programs and initiatives as are necessary or appropriate to carry out this Act;

"(4)(A) prepare and submit to the Board a plan for the evaluation of programs established under this Act, in accordance with section 179; and

"(B) after receiving an approved proposal under section 192A(g)(4)—

"(i) establish measurable performance goals and objectives for such programs, in accordance with section 179; and

"(ii) provide for periodic evaluation of such programs to assess the manner and extent to which the programs achieve the goals and objectives, in accordance with such section;

"(5) consult with appropriate Federal agencies in administering the programs and initiatives;

"(6) suspend or terminate payments and positions described in paragraph (2)(B), in accordance with section 176;

"(7) prepare and submit to the Board an annual report, and such interim reports as may be necessary, describing the major actions of the President with respect to the personnel of the Corporation, and with respect to such standards, policies, procedures, programs, and initiatives;

"(8) inform the Board of, and provide an explanation to the Board regarding, any substantial differences regarding the implementation of this Act between—

"(A) the actions of the President; and

"(B)(i) the strategic plan approved by the Board under section 192A(g)(1);

"(ii) the proposals approved by the Board under paragraph (2) or (3) of section 192A(g); or

"(iii) the evaluation plan approved by the Board under section 192A(g)(4);

"(9) prepare and submit to the appropriate committees of Congress an annual report, and such interim reports as may be necessary, describing—

"(A) the services referred to in paragraph (1), and the money and property referred to in paragraph (2), of section 196(a) that have been accepted by the Corporation;

"(B) the manner in which the Corporation used or disposed of such services, money, and property; and

"(C) information on the results achieved by the programs funded under this Act during the year preceding the year in which the report is prepared; and

"(10) provide for studies and demonstrations that evaluate, and prepare and submit to the Board by June 30, 1995 a report containing recommendations regarding, issues related to—

"(A) the administration and organization of programs authorized under the national service laws or under Public Law 91–378 (referred to in this subparagraph as 'service programs'), including—

"(i) whether the State and national priorities designed to meet the unmet human, education, environmental, or public safety needs described in section 122(c)(1) are being addressed by this Act;

"(ii) the manner in which—

"(I) educational and other outcomes of both stipended and nonstipended service and service-learning are defined and measured in such service programs; and

"(II) such outcomes should be defined and measured in such service programs;

"(iii) whether stipended service programs, and service programs providing educational benefits in return for service, should focus on economically disadvantaged individuals or at-risk youth or whether such programs should include a mix of individuals, including individuals from middle- and upper-income families;

"(iv) the role and importance of stipends and educational benefits in achieving desired outcomes in the service programs;

"(v) the potential for cost savings and coordination of support and oversight services from combining functions performed by ACTION State offices and State Commissions;

"(vi) the implications of the results from such studies and demonstrations for authorized funding levels for the service programs; and

"(vii) other issues that the Director determines to be relevant to the administration and organization of the service programs; and

"(B) the number, potential consolidation, and future organization of national service or domestic volunteer service programs that are authorized under Federal law, including VISTA, service corps assisted under subtitle C and other programs authorized by this Act, programs administered by the Public Health Service, the Department of Defense, or other Federal agencies, programs regarding teacher corps, and programs regarding work-study and higher education loan forgiveness or forbearance programs authorized by the Higher Education Act of 1965 related to community service.

"(c) POWERS.—In addition to the authority conferred on the President under any other provision of this Act, the President may—

"(1) establish, alter, consolidate, or discontinue such organizational units or components within the Corporation as the President considers necessary or appropriate, consistent with Federal law, and shall, to the maximum extent practicable, consolidate such units or components of the division of the Corporation that carries out volunteer service programs and the division of the Corporation that carries out financial assistance programs as may be appropriate to enable the two divisions to coordinate common support functions, such as recruiting, public awareness, or training functions;

"(2) with the approval of the President of the United States, arrange with and reimburse the heads of other Federal agencies for the performance of any of the provisions of this Act;

"(3) with their consent, utilize the services and facilities of Federal agencies with or without reimbursement, and, with the consent of any State, or political subdivision of a State, accept and utilize the services and facilities of the agencies of such State or subdivisions without reimbursement;

"(4) allocate and expend funds made available under this Act, including expenditure for construction, repairs, and capital improvements;

"(5) disseminate, without regard to the provisions of section 3204 of title 39, United States Code, data and information, in such form as the President shall determine to be appropriate to public agencies, private organizations, and the general public;

"(6) collect or compromise all obligations to or held by the President and all legal or equitable rights accruing to the President in connection with the payment of obligations in accordance with chapter 37 of title 31, United States Code (commonly known as the 'Federal Claims Collection Act of 1966');

"(7) expend funds made available for purposes of this Act for rent of buildings and space in buildings and for repair, alteration, and improvement of buildings and space in buildings rented by the President;

"(8) file a civil action in any court of record of a State having general jurisdiction or in any district court of the United States, with respect to a claim arising under this Act;

"(9) exercise the authorities of the Corporation under section 196;

"(10) consolidate the reports to Congress required under this Act, and the report required under section 9106 of title 31, United States Code, into a single report, and submit the report to Congress on an annual basis; and

"(11) generally perform such functions and take such steps consistent with the objectives and provisions of this Act, as the President determines to be necessary or appropriate to carry out such provisions.

"(d) DELEGATION.—

"(1) DEFINITION.—As used in this subsection, the term 'function' means any duty, obligation, power, authority, responsibility, right, privilege, activity, or program.

"(2) IN GENERAL.—Except as otherwise prohibited by law or provided in this Act, the President may delegate any function under this Act, and authorize such successive redelegations of such function as may be necessary or appropriate. No delegation of a function by the President under this subsection or under any other provision of this Act shall relieve such President of responsibility for the administration of such function.

"(3) FUNCTION OF BOARD.—The President may not delegate a function of the Board without the permission of the Board.

"(e) ACTIONS.—In an action described in subsection (c)(8)—

"(1) a district court referred to in such subsection shall have jurisdiction of such a civil action without regard to the amount in controversy;

"(2) such an action brought by the President shall survive notwithstanding any change in the person occupying the office of President or any vacancy in that office;

"(3) no attachment, injunction, garnishment, or other similar process, mesne or final, shall be issued against the President or the Board or property under the control of the President or the Board; and

"(4) nothing in this section shall be construed to except litigation arising out of activities under this Act from the application of sections 509, 517, 547, and 2679 of title 28, United States Code.

"SEC. 194. OFFICERS.

"(a) MANAGING DIRECTORS.—

"(1) IN GENERAL.—There shall be in the Corporation 2 Managing Directors, who shall be appointed by the President of the United States, by and with the advice and consent of the Senate, and who shall report to the President.

"(2) COMPENSATION.—The Managing Directors shall be compensated at the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

"(3) DUTIES.—

"(A) VOLUNTEER SERVICE PROGRAMS.—One of the Managing Directors shall be primarily responsible for the volunteer service programs carried out by the Corporation.

"(B) INVESTMENT PROGRAMS.—The other Managing Director shall be primarily responsible for the financial assistance programs carried out by the Corporation.

"(b) INSPECTOR GENERAL.—

"(1) OFFICE.—There shall be in the Corporation an Office of the Inspector General.

"(2) APPOINTMENT.—The Office shall be headed by an Inspector General, appointed in accordance with the Inspector General Act of 1978.

"(3) COMPENSATION.—The Inspector General shall be compensated at the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

"(c) CHIEF FINANCIAL OFFICER.—

"(1) OFFICE.—There shall be in the Corporation a Chief Financial Officer, who shall be appointed by the President of the United States, by and with the advice and consent of the Senate.

"(2) COMPENSATION.—The Chief Financial Officer shall be compensated at the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

"(3) DUTIES.—The Chief Financial Officer shall—

"(A) report directly to the President regarding financial management matters;

"(B) oversee all financial management activities relating to the programs and operations of the Corporation;

"(C) develop and maintain an integrated accounting and financial management system for the Corporation, including financial reporting and internal controls;

"(D) develop and maintain any joint financial management systems with the Department of Education necessary to carry out the programs of the Corporation; and

"(E) direct, manage, and provide policy guidance and oversight of the financial management personnel, activities, and operations of the Corporation.

"SEC. 195. EMPLOYEES, CONSULTANTS, AND OTHER PERSONNEL.

"(a) EMPLOYEES.—

"(1) IN GENERAL.—Except as provided in section 194(b)(4), it is within the exclusive discretion of the President to appoint and determine the compensation of such employees as the President determines to be necessary to carry out the duties of the Corporation.

"(2) CIVIL SERVICE PROTECTIONS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the provisions of title 5, United States Code, shall apply with respect to the Corporation and the employees of the Corporation.

"(B) APPOINTMENT AND COMPENSATION.—Except as provided in section 194(b)(4), it is within the exclusive discretion of the President to appoint and determine the compensation of employees under this subsection without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates (other than the provisions described in clauses (iii) and (iv) of paragraph (4)(B)).

"(3) APPOINTMENT IN THE COMPETITIVE SERVICE AFTER EMPLOYMENT IN THE CORPORATION.—

"(A) EMPLOYEES WITH NOT LESS THAN 3 YEARS OF EMPLOYMENT.—If an employee, other than a representative described in subsection (b), is separated from the Corporation (other than by removal for cause), and has been continuously employed by the Corporation for a period of not less than 3 years, such period shall be treated as a period of service in the competitive service for purposes of chapter 33 of title 5, United States Code.

"(B) EMPLOYEES WITH NOT LESS THAN 1 BUT LESS THAN 3 YEARS OF EMPLOYMENT.—If an employee, other than a representative described in subsection (b), is separated from the Corporation (other than by removal for cause), and has been continuously employed by the Corporation for a period of not less than 1 year, but less than 3 years, such period shall be treated as a period of service in the competitive service for purposes of chapter 33 of title 5, United States Code, until the date that is 3 years after the date of separation.

"(C) DEFINITION.—As used in this paragraph, the term 'competitive service' has the meaning given the term in section 2102 of title 5, United States Code.

"(4) APPOINTMENT AND COMPENSATION.—

"(A) IN GENERAL.—The Chairperson shall appoint and determine the compensation of employees referred to in paragraph (1), in accordance with the appointment and compensation systems referred to in subparagraph (B).

"(B) CORPORATION APPOINTMENT AND COMPENSATION SYSTEMS.—

"(i) ESTABLISHMENT OF SYSTEM.—The President, after reviewing the approved proposal of the Board under section 192A(g)(3) and after obtaining the approval of the Director of the Office of Personnel Management, shall issue regulations establishing appointment and compensation systems for the Corporation.

"(ii) CONTENT AND CONSIDERATIONS.—In issuing such regulations, the President shall—

"(I) establish appropriate appointment and compensation mechanisms for the representatives described in subsection (b); and

"(II) take into consideration the need for flexibility in such a system.

"(iii) APPOINTMENT SYSTEM.—The appointment system shall require that the appointment of such an employee be—

"(I) on the basis of the qualifications of applicants and the requirements of the position, in accordance with the merit system principles set forth in section 2301(b) of title 5, United States Code; and

"(II) through a competitive process.

"(iv) COMPENSATION SYSTEM.—

"(I) IN GENERAL.—The compensation system shall include a scheme for the classification of positions in the Corporation. The system shall require that the compensation of such an employee be determined based in part on the job performance of the employee, and in a manner consistent with the principles described in section 5301 of title 5, United States Code.

"(II) LIMITATION ON EMPLOYEE COMPENSATION.—The rate of compensation for each employee compensated through the system shall not exceed the annual rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

"(III) LIMITATION ON COMPENSATION OF REPRESENTATIVE.—The rate of pay for a representative described in subsection (b) shall not exceed the maximum rate of basic pay payable for grade GS–13 of the General Schedule under section 5332 of title 5, United States Code.

"(5) RETENTION OF CIVIL SERVICE RIGHTS.—

"(A) RETENTION OF COMPETITIVE SERVICE RIGHTS.—An individual who—

"(i) was an employee of ACTION or the Commission on National and Community Service

who served under a permanent appointment on the day before the date of enactment of this subtitle in—

"(I) a position in the competitive service; or

"(II) a career appointee position in the Senior Executive Service;

"(ii) is transferred to the Corporation under section 202(c) or 203(c) of the National and Community Service Trust Act of 1993; and

"(iii) accepts a position established under paragraph (4) in the Corporation,

shall be appointed to a position in the competitive service of the Corporation.

"(B) DURATION OF POSITION IN COMPETITIVE SERVICE.—During the period of employment of such an employee in a position, the position shall be a position in the competitive service. After such period of employment, the position shall be a position in the excepted service unless the President appoints an individual to such position in accordance with the provisions described in subsection (a)(2).

"(C) ESTABLISHMENT OF POSITIONS.—With respect to a position vacancy or a position to be established in the Corporation, the President—

"(i) shall select the individual to be appointed to such position in accordance with the regulations promulgated under paragraph (4);

"(ii) if the individual to be appointed to the position is an individual described in subparagraph (A), shall establish the position as a position in the competitive service; and

"(iii) if the individual to be so appointed is not an individual described in subparagraph (A)—

"(I) may establish the position as a position in the excepted service; and

"(II) in an exceptional case in which the individual, immediately prior to accepting the position, served under a permanent appointment in a position described in subclause (I) or (II) of subparagraph (A)(i), may establish the position as a position in the competitive service,

in any case in which an individual described in subparagraph (A) is an employee of the Corporation and is eligible to be appointed to such position.

"(D) DEFINITIONS.—As used in this paragraph:

"(i) COMPETITIVE SERVICE.—The term 'competitive service' has the meaning given the term in section 2102 of title 5, United States Code.

"(ii) EXCEPTED SERVICE.—The term 'excepted service' has the meaning given the term in section 2103 of title 5, United States Code.

"(iii) SENIOR EXECUTIVE SERVICE.—The term 'Senior Executive Service' has the meaning given the term in section 2101a of title 5, United States Code.

"(b) CORPORATION REPRESENTATIVE IN EACH STATE.—

"(1) DESIGNATION OF REPRESENTATIVE.—The Corporation shall designate 1 employee of the Corporation for each State or group of States to serve as the representative of the Corporation in the State or States and to assist the Corporation in carrying out the activities described in this Act in the State or States.

"(2) DUTIES.—The representative designated under this subsection for a State or group of States shall serve as the liaison between—

"(A) the Corporation and the State Commission that is established in the State or States;

"(B) the Corporation and any subdivision of a State, Indian tribe, public or private nonprofit organization, or institution of higher education, in the State or States, that is awarded a grant under section 121 directly from the Corporation; and

"(C) the State Commission and the Corporation employee responsible for volunteer service programs in the State, if the employee is not the representative described in paragraph (1) for the State.

"(3) MEMBER OF STATE COMMISSION.—The representative designated under this subsection for a State or group of States shall also serve as an ex officio nonvoting member of the State Commission established in the State or States.

"(c) CONSULTANTS.—The President may procure the temporary and intermittent services of experts and consultants and compensate the experts and consultants in accordance with section 3109(b) of title 5, United States Code.

"(d) DETAILS OF PERSONNEL.—The head of any Federal department or agency may detail on a reimbursable basis, or on a nonreimbursable basis for not to exceed 180 calendar days during any fiscal year, as agreed upon by the President and the head of the Federal agency, any of the personnel of that department or agency to the Corporation to assist the Corporation in carrying out the duties of the Corporation under this Act. Any detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.

"(e) ADVISORY COMMITTEES.—

"(1) ESTABLISHMENT.—The President, acting upon the recommendation of the Board, may establish advisory committees in the Corporation to advise the Board with respect to national service issues, such as the type of programs to be established or assisted under the national service laws, priorities and criteria for such programs, and methods of conducting outreach for, and evaluation of, such programs.

"(2) COMPOSITION.—Such an advisory committee shall be composed of members appointed by the President, with such qualifications as the President may specify.

"(3) EXPENSES.—Members of such an advisory committee may be allowed travel expenses as described in section 192A(d).

"(4) STAFF.—The President is authorized to appoint and fix the compensation of such staff as the President determines to be necessary to carry out the functions of the advisory committee, in accordance with subsection (a)(2), and without regard to the selection and compensation systems described in subsection (a)(4)(B). Such compensation shall not exceed the rate described in subsection (a)(4)(B)(iv)(III).

"SEC. 196. ADMINISTRATION.

"(a) DONATIONS.—

"(1) SERVICES.—

"(A) VOLUNTEERS.—Notwithstanding section 1342 of title 31, United States Code, the Corporation may solicit and accept the voluntary services of individuals to assist the Corporation in carrying out the duties of the Corporation under this Act, and may provide to such individuals the travel expenses described in section 192A(d).

"(B) LIMITATION.—Such a volunteer shall not be considered to be a Federal employee and shall not be subject to the provisions of law relating to Federal employment, including those relating to hours of work, rates of compensation, leave, unemployment compensation, and Federal employee benefits, except that—

"(i) for the purposes of the tort claims provisions of chapter 171 of title 28, United States Code, a volunteer under this subtitle shall be considered to be a Federal employee;

"(ii) for the purposes of subchapter I of chapter 81 of title 5, United States Code, relating to compensation to Federal employees for work injuries, volunteers under this subtitle shall be considered to be employees, as defined in section 8101(1)(B) of title 5, United States Code, and the provisions of such subchapter shall apply; and

"(iii) for purposes of the provisions of chapter 11 of part I of title 18, United States Code, such a volunteer (to whom such provisions would not otherwise apply except for this subsection) shall be a special Government employee.

"(C) INHERENTLY GOVERNMENTAL FUNCTION.—

"(i) IN GENERAL.—Such a volunteer shall not carry out an inherently governmental function.

"(ii) REGULATIONS.—The President shall promulgate regulations to carry out this subparagraph.

"(iii) INHERENTLY GOVERNMENTAL FUNCTION.—As used in this subparagraph, the term 'inherently governmental function' means any activity that is so intimately related to the public interest as to mandate performance by an officer or employee of the Federal Government, including an activity that requires either the exercise of discretion in applying the authority of the Government or the use of value judgment in making a decision for the Government.

"(2) PROPERTY.—

"(A) IN GENERAL.—The Corporation may solicit, accept, hold, administer, use, and dispose of, in furtherance of the purposes of this Act, donations of any money or property, real, personal, or mixed, tangible or intangible, received by gift, devise, bequest, or otherwise. Donations accepted under this subparagraph shall be used as nearly as possible in accordance with the terms, if any, of such donation.

"(B) TAX.—For purposes of Federal income, estate, and gift taxes, money or property accepted under subparagraph (A) shall be considered to be a gift, devise, or bequest to, or for the use of, the United States.

"(C) RULES.—The President shall establish written rules to ensure that the solicitation, acceptance, holding, administration, and use of property described in subparagraph (A)—

"(i) will not reflect unfavorably upon the ability of the Corporation, or of any officer or employee of the Corporation, to carry out the responsibilities or official duties of the Corporation in a fair and objective manner; and

"(ii) will not compromise the integrity of the programs of the Corporation or any official or employee of the Corporation involved in such programs.

"(D) DISPOSITION.—Upon completion of the use by the Corporation of any property accepted pursuant to subparagraph (A) (other than money or monetary proceeds from sales of property so accepted), such completion shall be reported to the General Services Administration and such property shall be disposed of in accordance with title II of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481 et seq.).

"(3) VOLUNTEER.—As used in this subsection, the term 'volunteer' does not include a participant.

"(b) CONTRACTS.—Subject to the Federal Property and Administrative Services Act of 1949, the Corporation may enter into contracts, and cooperative and interagency agreements, with Federal and State agencies, private firms, institutions, and individuals to conduct activities necessary to assist the Corporation in carrying out the duties of the Corporation under this Act.

"(c) OFFICE OF MANAGEMENT AND BUDGET.—Appropriate circulars of the Office of Management and Budget shall apply to the Corporation.".

(b) DOMESTIC VOLUNTEER SERVICE ACT OF 1973.—Section 401 of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 5041) is amended by inserting after the second sentence the following: "The Director shall report directly to the President of the Corporation for National and Community Service.".

(c) TRANSFER OF FUNCTIONS OF COMMISSION ON NATIONAL AND COMMUNITY SERVICE.—

(1) DEFINITIONS.—For purposes of this subsection, unless otherwise provided or indicated by the context, each term specified in section 203(c)(1) shall have the meaning given the term in such section.

(2) TRANSFER OF FUNCTIONS.—There are transferred to the Corporation the functions that the Board of Directors or Executive Director of the

Commission on National and Community Service exercised before the effective date of this subsection (including all related functions of any officer or employee of the Commission).

(3) APPLICATION.—The provisions of paragraphs (3) through (10) of section 203(c) shall apply with respect to the transfer described in paragraph (2), except that—

(A) for purposes of such application, references to the term "ACTION Agency" shall be deemed to be references to the Commission on National and Community Service; and

(B) paragraph (10) of such section shall not preclude the transfer of the members of the Board of Directors of the Commission to the Corporation if, on the effective date of this subsection, the Board of Directors of the Corporation has not been confirmed.

(d) CONTINUING PERFORMANCE OF CERTAIN FUNCTIONS.—The individuals who, on the day before the date of enactment of this Act, are performing any of the functions required by section 190 of the National and Community Service Act of 1990 (42 U.S.C. 12651), as in effect on such date, to be performed by the members of the Board of Directors of the Commission on National and Community Service may, subject to section 193A of the National and Community Service Act of 1990, as added by subsection (a) of this section, continue to perform such functions until the date on the Board of Directors of the Corporation for National and Community Service conducts the first meeting of the Board. The service of such individuals as members of the Board of Directors of such Commission, and the employment of such individuals as special government employees, shall terminate on such date.

(e) JOB SEARCH ASSISTANCE.—The President of the Corporation shall establish a program to provide, or shall seek to enter into a memorandum of understanding with the Director of the Office of Personnel Management to provide, job search and related assistance to employees of the ACTION agency who are not transferred to the Corporation for National and Community Service under section 203(c). The President of the Corporation shall make available funds appropriated under section 501(a)(4) of the National and Community Service Act of 1990 in order to provide such assistance.

(f) GOVERNMENT CORPORATION CONTROL.—

(1) WHOLLY OWNED GOVERNMENT CORPORATION.—Section 9101(3) of title 31, United States Code, is amended by inserting after subparagraph (D) the following:

"(E) the Corporation for National and Community Service.".

(2) AUDITS.—Section 9105(a)(1) of title 31, United States Code, is amended by inserting ", or under other Federal law," before "or by an independent".

(g) DISPOSAL OF PROPERTY.—Section 203(k) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(k)) is amended by adding at the end the following:

"(5)(A) Under such regulations as the Administrator may prescribe, the Administrator is authorized, in the discretion of the Administrator, to assign to the President of the Corporation for National and Community Service for disposal such surplus property as is recommended by the President as being needed for national service activities.

"(B) Subject to the disapproval of the Administrator, within 30 days after notice to the Administrator by the President of the Corporation for National and Community Service of a proposed transfer of property for such activities, the President, through such officers or employees of the Corporation as the President may designate, may sell, lease, or donate such property to any entity that receives financial assistance under the National and Community Service Act of 1990 for such activities.

"(C) In fixing the sale or lease value of such property, the President of the Corporation for National and Community Service shall comply with the requirements of paragraph (1)(C).".

(h) INSPECTOR GENERAL.—

(1) SPECIAL PROVISIONS IN INSPECTOR GENERAL ACT OF 1978.—The Inspector General Act of 1978 (5 U.S.C. App.) is amended by redesignating sections 8E and 8F as sections 8F and 8G, respectively, and inserting after section 8D the following new section:

"SPECIAL PROVISIONS CONCERNING THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

"SEC. 8E. (a) Notwithstanding the provisions of sections 6(a) (7) and (8), it is within the exclusive jurisdiction of the Inspector General of the Corporation for National and Community Service to—

"(1) appoint and determine the compensation of such officers and employees in accordance with section 195(a)(4) of the National and Community Service Trust Act of 1993; and

"(2) procure the temporary and intermittent services of and compensate such experts and consultants, in accordance with section 3109(b) of title 5, United States Code,

as may be necessary to carry out the functions, powers, and duties of the Inspector General.

"(b) No later than the date on which the President of the Corporation for National and Community Service transmits any report to the Congress under section 5 (a) or (b), the President shall transmit such report to the Board of Directors of such Corporation.

"(c) No later than the date on which the President of the Corporation for National and Community Service transmits a report described under section 5(b) to the Board of Directors as provided under subsection (b) of this section, the President shall also transmit any audit report which is described in the statement required under section 5(b)(4) to the Board of Directors. All such audit reports shall be placed on the agenda for review at the next scheduled meeting of the Board of Directors following such transmittal. The President of the Corporation shall be present at such meeting to provide any information relating to such audit reports.

"(d) No later than the date on which the Inspector General of the Corporation for National and Community Service reports a problem, abuse, or deficiency under section 5(d) to the President of the Corporation, the President shall report such problem, abuse, or deficiency to the Board of Directors.".

(2) TERMINATION OF STATUS AS DESIGNATED FEDERAL ENTITY.—

(A) IN GENERAL.—Section 8F(a)(2) of the Inspector General Act of 1978 (5 U.S.C. App.) (as redesignated by paragraph (1) of this subsection) is amended by striking out "ACTION,".

(B) EFFECTIVE DATE.—This paragraph shall take effect on the effective date of section 203(c)(2).

(3) TRANSFER.—

(A) IN GENERAL.—Section 9(a)(1) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(i) in subparagraph (T), by striking out "and" at the end thereof; and

(ii) by adding at the end thereof the following new subparagraph:

"(V) of the Corporation for National and Community Service, the Office of Inspector General of ACTION; and".

(B) EFFECTIVE DATE.—This paragraph shall take effect on the effective date of section 203(c)(2).

(4) HEAD OF ESTABLISHMENT AND ESTABLISHMENT.—Section 11 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(A) in paragraph (1) by inserting "; the President of the Corporation for National and Community Service;" after "Thrift Depositor Protection Oversight Board"; and

(B) in paragraph (2) by inserting ", the Corporation for National and Community Service," after "United States Information Agency".

(5) TECHNICAL AND CONFORMING AMENDMENTS TO THE INSPECTOR GENERAL ACT OF 1978.—The Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(A) in section 4(b)(2)—

(i) by striking out "section 8E(a)(2), and any" and inserting in lieu thereof "section 8F(a)(2), and any";

(ii) by striking out "section 8E(a)(1)" and inserting in lieu thereof "section 8F(a)(1)"; and

(iii) by striking out "section 8E(a)(2)." and inserting in lieu thereof "section 8F(a)(2)."; and

(B) section 8G (as redesignated by paragraph (1) of this subsection)—

(i) by striking out "or 8D" and inserting in lieu thereof "8D, or 8E"; and

(ii) by striking out "section 8E(a)" and inserting in lieu thereof "section 8F(a)".

(6) POSTAL SERVICE TECHNICAL AND CONFORMING AMENDMENTS.—Section 410(b) of title 39, United States Code, is amended—

(A) in paragraph (8) by striking out "and" after the semicolon;

(B) in the first paragraph (9) by striking out the period and inserting in lieu thereof a semicolon and "and"; and

(C) by striking out the second paragraph (9) and inserting in lieu thereof the following:

"(10) the provisions of section 8F of the Inspector General Act of 1978.".

(i) TABLE OF CONTENTS.—Section 1(b) of the National and Community Service Act of 1990 (Public Law 101–610; 104 Stat. 3127) is amended by striking the items relating to subtitle G of title I of such Act and inserting the following:

"Subtitle G—Corporation for National and Community Service

"Sec. 191. Corporation for National and Community Service.
"Sec. 192. Board of Directors.
"Sec. 192A. Authorities and duties of the Board of Directors.
"Sec. 193. President.
"Sec. 193A. Authorities and duties of the President.
"Sec. 194. Officers.
"Sec. 195. Employees, consultants, and other personnel.
"Sec. 196. Administration.".

(j) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2) or subsection (h)(2) or (3), the amendments made by this section shall take effect on October 1, 1993.

(2) ESTABLISHMENT AND APPOINTMENT AUTHORITIES.—Sections 191, 192, and 193 of the National and Community Service Act of 1990, as added by subsection (a), shall take effect on the date of enactment of this Act.

SEC. 203. FINAL AUTHORITIES OF THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE.

(a) NATIONAL AND COMMUNITY SERVICE ACT OF 1990.—

(1) APPLICATION.—

(A) EVALUATION.—Subsections (a), (d), and (e) of section 179 of the National and Community Service Act of 1990 (42 U.S.C. 12639) is amended by striking "this title" and inserting "the national service laws".

(B) CORPORATION.—Subtitle I of the National and Community Service Act of 1990 (as amended by section 202 of this Act) is amended in section 191, section 192A(g)(5), section 193(c), subsections (b) (other than paragraph (10)), (c) (other than paragraph (8)), and (d) of section 193A, subsections (b) and (d) of section 195, and subsections (a) and (b) of section 196, by striking "this Act" each place the term appears and inserting "the national service laws".

(2) GRANTS.—Section 192A(g) of the National and Community Service Act of 1990 (as added by section 202 of this Act) is amended—

(A) by striking "and" at the end of paragraph (8);

(B) by redesignating paragraph (9) as paragraph (10); and

(C) by inserting after paragraph (8) the following:

"(9) notwithstanding any other provision of law, make grants to or contracts with Federal or other public departments or agencies and private nonprofit organizations for the assignment or referral of volunteers under the provisions of the Domestic Volunteer Service Act of 1973 (except as provided in section 108 of the Domestic Volunteer Service Act of 1973), which may provide that the agency or organization shall pay all or a part of the costs of the program; and".

(3) RECRUITMENT AND PUBLIC AWARENESS FUNCTIONS.—Section 193A of the National and Community Service Act of 1993 (as added by section 202 of this Act) is amended by adding at the end the following:

"(f) RECRUITMENT AND PUBLIC AWARENESS FUNCTIONS.—

"(1) EFFORT.—The President shall ensure that the Corporation, in carrying out the recruiting and public awareness functions of the Corporation, shall expend at least the level of effort on recruitment and public awareness activities related to the programs referred to in section 194(a)(3)(A) as ACTION expended on recruitment and public awareness activities related to programs under the Domestic Volunteer Service Act of 1973 during fiscal year 1993.

"(2) PERSONNEL.—The President shall assign or hire, as necessary, such additional national, regional, and State personnel to carry out such recruiting and public awareness functions as may be necessary to ensure that such functions are carried out in a timely and effective manner. The President shall give priority in the hiring of such additional personnel to individuals who have formerly served as volunteers in the programs referred to in section 194(a)(3)(A), or similar programs, and to individual who have specialized experience in the recruitment of volunteers.

"(3) FUNDS.—For the first fiscal year after the effective date of this subsection, and for each fiscal year thereafter, for the purpose of carrying out such recruiting and public awareness functions, the President shall obligate not less than 1.5 percent of the amounts appropriated for the fiscal year under section 501(a) of the Domestic Volunteer Service Act of 1973.".

(4) ASSISTANT DIRECTORS.—Section 194 of the National and Community Service Act of 1990 (as added by section 202 of this Act) is amended by adding at the end the following:

"(d) ASSISTANT DIRECTORS.—

"(1) IN GENERAL.—There shall be in the Corporation four Assistant Directors, each of whom shall be appointed by the President, and who shall report directly to the Managing Director described in subsection (a)(3)(A).

"(2) DUTIES.—

"(A) VISTA AND OTHER ANTIPOVERTY PROGRAMS.—One of the Assistant Directors shall be primarily responsible for the VISTA and other antipoverty programs under title I of the Domestic Volunteer Service Act of 1973.

"(B) RETIRED AND SENIOR VOLUNTEER PROGRAMS.—One of the Assistant Directors shall be primarily responsible for the Retired and Senior Volunteer Program established under part A of title II of such Act.

"(C) FOSTER GRANDPARENT PROGRAM.—One of the Assistant Directors shall be primarily responsible for the Foster Grandparent Program established under part B of title II of such Act.

"(D) SENIOR COMPANION PROGRAM.—One of the Assistant Directors shall be primarily responsible for the Senior Companion Program established under part C of title II of such Act.".

(b) AUTHORITIES OF ACTION AGENCY.—Sections 401 and 402 of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 5041 and 5042) are repealed.

(c) TRANSFER OF FUNCTIONS FROM ACTION AGENCY.—

(1) DEFINITIONS.—For purposes of this subsection, unless otherwise provided or indicated by the context—

(A) the term "Corporation" means the Corporation for National and Community Service, established under section 191 of the National and Community Service Act of 1990;

(B) the term "Federal agency" has the meaning given to the term "agency" by section 551(1) of title 5, United States Code;

(C) the term "function" means any duty, obligation, power, authority, responsibility, right, privilege, activity, or program;

(D) the term "office" includes any office, administration, agency, institute, unit, organizational entity, or component thereof; and

(E) the term "President", except as used as part of the term "President of the United States", means the President of the Corporation.

(2) TRANSFER OF FUNCTIONS.—There are transferred to the Corporation such functions as the President of the United States determines to be appropriate that the Director of the ACTION Agency exercised before the effective date of this subsection (including all related functions of any officer or employee of the ACTION Agency).

(3) DETERMINATIONS OF CERTAIN FUNCTIONS BY THE OFFICE OF MANAGEMENT AND BUDGET.—The President of the United States may delegate to the Director of the Office of Management and Budget the authority to make any determination of the functions that are transferred under paragraph (2), if the President determines that such a delegation would be appropriate.

(4) REORGANIZATION.—The President is authorized to allocate or reallocate any function transferred under paragraph (2) among the officers of the Corporation, after providing notice of the allocation or reallocation to Congress.

(5) TRANSFER AND ALLOCATIONS OF APPROPRIATIONS AND PERSONNEL.—Except as otherwise provided in this subsection, the personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, used, held, arising from, available to, or to be made available in connection with the functions transferred by this subsection, subject to section 1531 of title 31, United States Code, shall be transferred to the Corporation. Unexpended funds transferred pursuant to this paragraph shall be used only for the purposes for which the funds were originally authorized and appropriated.

(6) INCIDENTAL TRANSFER.—The Director of the Office of Management and Budget is authorized to make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with such functions, as may be necessary to carry out the provisions of this subsection. The Director of the Office of Management and Budget shall provide for the termination of the affairs of all entities terminated by this subsection and for such further measures and dispositions as may be necessary to effectuate the purposes of this subsection.

(7) EFFECT ON PERSONNEL.—

(A) IN GENERAL.—Except as otherwise provided by this subsection, the transfer pursuant to this subsection of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such employee to be separated or reduced in grade or compensation, or to have the benefits of the employee reduced, for 1 year after the date of transfer of such employee under this subsection.

(B) EXECUTIVE SCHEDULE POSITIONS.—Except as otherwise provided in this subsection, any person who, on the day preceding the effective date of this subsection, held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in the Corporation to a position having duties comparable to the duties performed immediately preceding such appointment shall continue to be compensated in such new position at not less than the rate provided for such previous position, for the duration of the service of such person in such new position.

(C) TERMINATION OF CERTAIN POSITIONS.—Positions whose incumbents are appointed by the President of the United States, by and with the advice and consent of the Senate, the functions of which are transferred by this subsection, shall terminate on the effective date of this subsection.

(8) SAVINGS PROVISIONS.—

(A) CONTINUING EFFECT OF LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, agreements, grants, contracts, certificates, licenses, registrations, privileges, and other administrative actions—

(i) that have been issued, made, granted, or allowed to become effective by the President of the United States, any Federal agency or official thereof, or by a court of competent jurisdiction, in the performance of functions that are transferred under this subsection; and

(ii) that are in effect at the time this subsection takes effect, or were final before the effective date of this subsection and are to become effective on or after the effective date of this subsection,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President of the United States, the President of the Corporation, or other authorized official, a court of competent jurisdiction, or by operation of law.

(B) PROCEEDINGS NOT AFFECTED.—The provisions of this subsection shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending before the ACTION Agency at the time this subsection takes effect, with respect to functions transferred by this subsection. Such proceedings and applications shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this subsection had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subparagraph shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this subsection had not been enacted.

(C) SUITS NOT AFFECTED.—The provisions of this subsection shall not affect suits commenced before the effective date of this subsection, and in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this subsection had not been enacted.

(D) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or against the ACTION Agency, or by or against any individual in the official capacity of such individual as an officer of the ACTION Agency, shall abate by reason of the enactment of this subsection.

(E) ADMINISTRATIVE ACTIONS RELATING TO PROMULGATION OF REGULATIONS.—Any administrative action relating to the preparation or promulgation of a regulation by the ACTION Agency relating to a function transferred under this subsection may be continued by the Corporation with the same effect as if this subsection had not been enacted.

(9) SEVERABILITY.—If a provision of this subsection or its application to any person or circumstance is held invalid, neither the remainder of this subsection nor the application of the provision to other persons or circumstances shall be affected.

(10) TRANSITION.—Prior to, or after, any transfer of a function under this subsection, the President is authorized to utilize—

(A) the services of such officers, employees, and other personnel of the ACTION Agency with respect to functions that will be or have been transferred to the Corporation by this subsection; and

(B) funds appropriated to such functions for such period of time as may reasonably be needed to facilitate the orderly implementation of this subsection.

(d) DEVELOPMENT OF TRANSFER SCHEDULE.—The President of the Corporation for National and Community Service, in consultation with the Director of ACTION, shall, not later than 9 months after the date of enactment of this Act, prepare a schedule that specifies the date on which the employees of ACTION will be notified about—

(1) whether their functions will be transferred to the Corporation; and

(2) if such functions will be transferred, the date on which the transfer will occur.

(e) APPOINTMENT OF ACTION EMPLOYEES.—During the period beginning on October 1, 1993 and ending on the effective date of subsection (c)(2), in making appointments to the Corporation under the appointment system described in section 195(a)(4)(B)(iii) of the National and Community Service Act of 1990, the President of the Corporation for National and Community Service shall ensure that individuals who are employees of ACTION shall receive fair and equitable treatment.

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), this section, and the amendments made by this section, shall take effect—

(A) 18 months after the date of enactment of this Act; or

(B) on such earlier date (which shall be not earlier than 12 months after the date of the enactment of this Act) as the President of the United States shall determine to be appropriate and announce by proclamation published in the Federal Register.

(2) TRANSITION.—Subsections (c)(10), (d), and (e) shall take effect on the date of enactment of this Act.

SEC. 204. BUSINESS PLAN.

(a) BUSINESS PLAN REQUIRED.—

(1) IN GENERAL.—The Corporation for National and Community Service (referred to in this section as the "Corporation") shall prepare and submit to Congress a business plan. The Corporation may not provide assistance under section 121 of the National and Community Service Act of 1990 before the twentieth day of continuous session of Congress after the date on which the Corporation submits the business plan to Congress.

(2) COMPUTATION.—For purposes of the computation of the 20-day period referred to in paragraph (1), continuity of a session of the Congress shall be considered to be broken only by—

(A) an adjournment of the Congress sine die; and

(B) the days on which either House is not in session because of an adjournment of more than 3 days to a date certain.

(b) REQUIRED ELEMENTS OF BUSINESS PLAN.—

(1) ALLOCATION OF FUNDS.—The business plan shall contain—

(A) a description of the manner in which the Corporation will allocate funds for programs carried out by the Corporation after October 1, 1993;

(B) information on the principal offices and officers of the Corporation that will allocate such funds; and

(C) information that indicates how accountability for such funds can be determined, in terms of the office or officer responsible for such funds.

(2) INVESTIGATIVE AND AUDIT FUNCTIONS.—The business plan shall include a description of the plans of the Corporation—

(A) to ensure continuity, during the transition period, and after the transition period, in the investigative and audit functions carried out by the Inspector General of ACTION prior to such period, consistent with the Inspector General Act of 1978 (5 U.S.C. App.); and

(B) to carry out investigative and audit functions and implement financial management controls regarding programs carried out by the Corporation after October 1, 1993, consistent with the Inspector General Act of 1978, including a specific description of—

(i) the manner in which the Office of Inspector General shall be established in the Corporation, in accordance with section 194(b) of the National Community Service Act of 1990, as added by section 202 of this Act; and

(ii) the manner in which grants made by the Corporation shall be audited by such Office and the financial management controls that shall apply with regard to such grants and programs.

(3) ACCOUNTABILITY MEASURES.—The business plan shall include a detailed description of the accountability measures to be established by the Corporation to ensure effective control of all funds for programs carried out by the Corporation after October 1, 1993.

(4) INFORMATION RESOURCES.—The business plan shall include a description of an information resource management program that will support the program and financial management needs of the Corporation.

(5) CORPORATION STAFFING AND INTEGRATION OF ACTION.—

(A) TRANSFERS.—The business plan shall include a report on the progress and plans of the President for transferring the functions, programs, and related personnel of ACTION to the Corporation, and shall include a timetable for the transfer. Not later than 9 months after the date of enactment of this section, the President shall identify all functions of ACTION to be transferred to the Corporation.

(B) DETAILS AND ASSIGNMENTS.—The report shall specify the number of ACTION employees detailed or assigned to the Corporation, and describe the hiring activity of the Corporation, during the transition period.

(C) STRUCTURE.—The business plan shall include a description of the organizational structure of the Corporation during the transition period.

(D) STAFFING.—The business plan shall include a description of—

(i) measures to ensure adequate staffing during the transition period with respect to programs carried out by the Corporation after October 1, 1993; and

(ii) the responsibilities and authorities of the Managing Directors and other key personnel of the Corporation.

(E) SENIOR EXECUTIVE SERVICE.—The business plan shall include—

(i) an explanation of the number of the employees of the Corporation who will be paid at or above the rate of pay for level 1 of the Senior Executive Service Schedule under section 5382 of title 5, United States Code; and

(ii) information justifying such pay for such employees.

(6) DUPLICATION OF FUNCTIONS.—The business plan shall include a description of the measures that the Corporation is taking or will take to minimize duplication of functions in the Corporation caused by the transfer of the functions of the Commission on National and Community Service, and the transfer of the functions of ACTION, to the Corporation. This description shall address functions at both the national and State levels.

(c) DEFINITION.—The term "transition period" means the period beginning on October 1, 1993 and ending on the day before the effective date of section 203(c)(2).

TITLE III—REAUTHORIZATION

Subtitle A—National and Community Service Act of 1990

SEC. 301. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Section 501 of the National and Community Service Act of 1990 (42 U.S.C. 12681) is amended to read as follows:

"SEC. 501. AUTHORIZATION OF APPROPRIATIONS.

"(a) TITLE I.—

"(1) SUBTITLE B.—

"(A) IN GENERAL.—There are authorized to be appropriated to provide financial assistance under subtitle B of title I, $45,000,000 for fiscal year 1994 and such sums as may be necessary for each of the fiscal years 1995 through 1996.

"(B) PROGRAMS.—Of the amount appropriated under subparagraph (A) for a fiscal year—

"(i) not more than 63.75 percent shall be available to provide financial assistance under subpart A of part I of subtitle B of title I;

"(ii) not more than 11.25 percent shall be available to provide financial assistance under subpart B of part I of such subtitle; and

"(iii) not more than 25 percent shall be available to provide financial assistance under part II of such subtitle.

"(2) SUBTITLES C, D, AND H.—

"(A) IN GENERAL.—There are authorized to be appropriated to provide financial assistance under subtitles C and H of title I, to provide national service educational awards under subtitle D of title I, and to carry out such audits and evaluations as the President or the Inspector General of the Corporation may determine to be necessary, $300,000,000 for fiscal year 1994, $500,000,000 for fiscal year 1995, and $700,000,000 for fiscal year 1996.

"(B) PROGRAMS.—Of the amount appropriated under subparagraph (A) for a fiscal year, up to 15 percent shall be made available to provide financial assistance under sections 125 and 126 and under subtitle H of title I.

"(3) SUBTITLE E.—There are authorized to be appropriated to provide financial assistance under subtitle E of title I, such sums as may be necessary for each of the fiscal years 1995 through 1996.

"(4) ADMINISTRATION.—

"(A) IN GENERAL.—There are authorized to be appropriated for the administration of this Act such sums as may be necessary for each of the fiscal years 1994 through 1996.

"(B) LIMITATION.—For fiscal year 1994, the sums appropriated under subparagraph (A) shall not exceed 15 percent of the amounts appropriated to carry out subtitles B, C, D, and H of title I of this Act for such fiscal year. For each subsequent fiscal year, the sums appropriated under subparagraph (A) shall not exceed 10 percent of the amounts appropriated to carry out such subtitles for such subsequent fiscal year.

"(C) STATE COMMISSIONS AND CORPORATION.—Of the amounts appropriated under subparagraph (A) for a fiscal year, up to 50 percent shall be made available to the State Commissions, and up to 50 percent shall be made available to the Corporation, for the administration of this Act.

"(b) TITLE III.—There are authorized to be appropriated to carry out title III $5,000,000 for each of the fiscal years 1994 through 1996.

"(c) AVAILABILITY OF APPROPRIATIONS.—Funds appropriated under this section shall remain available until expended.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1993.

Subtitle B—Domestic Volunteer Service Act of 1973

SEC. 311. SHORT TITLE; REFERENCES.

(a) SHORT TITLE.—This subtitle may be cited as the "Domestic Volunteer Service Act Amendments of 1993".

(b) REFERENCES.—Except as otherwise specifically provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4950 et seq.).

CHAPTER 1—VISTA AND OTHER ANTI-POVERTY PROGRAMS

SEC. 321. PURPOSE OF THE VISTA PROGRAM.

The last sentence of section 101 (42 U.S.C. 4951) is amended to read as follows: "In addition, the objectives of this part are to generate the commitment of private sector resources, to encourage volunteer service at the local level, and to strengthen local agencies and organizations to carry out the purpose of this part.".

SEC. 322. SELECTION AND ASSIGNMENT OF VISTA VOLUNTEERS.

(a) VOLUNTEER ASSIGNMENTS.—Section 103(a) (42 U.S.C. 4953(a)) is amended—

(1) in the matter preceding paragraph (1), by striking "a public" and inserting "public";

(2) in paragraph (2), by striking "and" at the end;

(3) in paragraph (3), by striking "illiterate or functionally illiterate youth and other individuals,";

(4) in paragraph (5), by striking "and" at the end;

(5) in paragraph (6)—

(A) by striking "the Headstart act, or the Community Economic" and inserting "the Head Start Act, the Community Economic";

(B) by inserting "or other similar Acts," after "1981,"; and

(C) by striking the period and inserting "; and"; and

(6) by adding at the end the following new paragraph:

"(7) in strengthening, supplementing, and expanding efforts to address the problem of illiteracy throughout the United States.".

(b) RECRUITMENT PROCEDURES.—Section 103(b) (42 U.S.C. 4953(b)) is amended—

(1) by striking paragraphs (2), (4), (5) and (6);

(2) by redesignating paragraphs (3) and (7) as paragraphs (2) and (3), respectively;

(3) in paragraph (2) (as redesignated in paragraph (2) of this subsection), by striking "paragraph (7)" and inserting "paragraph (3)"; and

(4) in paragraph (3) (as redesignated in paragraph (2) of this subsection)—

(A) in subparagraph (A), by striking "paragraph (4)" and inserting "paragraph (2)";

(B) by striking subparagraphs (B), (C), and (E);

(C) by redesignating subparagraphs (D) and (F) as subparagraphs (C) and (D), respectively; and

(D) by inserting after subparagraph (A) the following new subparagraph:

"(B) A sponsoring organization may recruit volunteers for service under this part, subject to final approval by the Director.".

(c) PUBLIC AWARENESS AND RECRUITMENT.—Subsection (c) of section 103 (42 U.S.C. 4953(c)) is amended—

(1) in paragraph (1), to read as follows:

"(1)(A) The Director shall conduct national and local public awareness and recruitment activities in order to meet the volunteer goals of the program. In conducting such activities, the Director shall place special emphasis on recruiting volunteers for local, community-based programs that serve underrepresented populations, in situations in which volunteers might not otherwise learn about the programs. Such activities shall be coordinated with recruitment authorized under subtitle C or E of the National and Community Service Act of 1990 and may include public service announcements, advertisements, publicity on loan deferments, repayments, and cancellations available to VISTA volunteers, maintenance of a toll-free telephone system, and provision of technical assistance for the recruitment of volunteers to programs and projects receiving assistance under this part.

"(B) The Director shall take steps to recruit individuals 18 through 27 years of age, 55 years of age and older, recent graduates of institutions of higher education, and special skilled volunteers and to promote diverse participation in the program.";

(2) in paragraph (3), by adding at the end the following new sentence: "In addition, the Director shall take steps to provide opportunities for returned Peace Corps volunteers to serve in the VISTA program.";

(3) by striking paragraphs (4), (5), and (6); and

(4) by adding at the end the following new paragraph:

"(4) From the amounts appropriated under section 501(a) for fiscal year 1994 and each subsequent fiscal year, the Director shall obligate such sums as may be necessary for the purpose of carrying out this subsection in such fiscal year.".

(d) COORDINATION WITH OTHER FEDERAL AGENCIES.—Section 103 (42 U.S.C. 4953) is amended by adding at the end the following new subsection:

"(h) The Director is encouraged to enter into agreements with other Federal agencies to use VISTA volunteers in furtherance of program objectives that are consistent with the purposes described in section 101.".

SEC. 323. TERMS AND PERIODS OF SERVICE.

(a) CLARIFICATION AND PERIODS OF SERVICE.—Subsection (b) of section 104 (42 U.S.C. 4954(b)) is amended to read as follows:

"(b)(1) Volunteers serving under this part may be enrolled initially for periods of service of not less than 1 year, nor more than 2 years, except as provided in paragraph (2) or subsection (e).

"(2) Volunteers serving under this part may be enrolled for periods of service of less than 1 year if the Director determines, on an individual basis, that a period of service of less than 1 year is necessary to meet a critical scarce skill need.

"(3) Volunteers serving under this part may be reenrolled for periods of service in a manner to be determined by the Director. No volunteer shall serve for more than a total of 5 years under this part.".

(b) SUMMER PROGRAM.—Section 104 (42 U.S.C. 4954) is amended by adding at the end the following new subsection:

"(e)(1) Notwithstanding any other provision of this part, the Director may enroll full-time VISTA summer associates in a program for the summer months only, under such terms and conditions as the Director shall determine to be appropriate. Such individuals shall be assigned to projects that meet the criteria set forth in section 103(a).

"(2) In preparing reports relating to programs under this Act, the Director shall report on participants, costs, and accomplishments under the summer program separately.

"(3) The limitation on funds appropriated for grants and contracts, as contained in section 108, shall not apply to the summer program.".

SEC. 324. SUPPORT FOR VISTA VOLUNTEERS.

(a) POSTSERVICE STIPEND.—Section 105(a)(1) (42 U.S.C. 4955(a)(1)) is amended—

(1) by inserting "(A)" after "(a)(1)"; and

(2) by striking the second sentence and inserting the following:

"(B) Such stipend shall not exceed $95 per month in fiscal year 1994, but shall be set at a minimum of $125 per month during the service of the volunteer after October 1, 1994, assuming the availability of funds to accomplish this increase.

"(C) The Director shall not provide a stipend under this subsection to an individual who elects to receive a national service education award under subtitle D of title I of the National and Community Service Act of 1990.".

(b) SUBSISTENCE ALLOWANCE.—Section 105(b) (42 U.S.C. 4955(b)) is amended—

(1) in paragraph (3)—

(A) by striking subparagraph (A);

(B) in subparagraph (B), by striking the subparagraph designation; and

(C) by adding at the end the following new sentence: "The Director shall review such adjustments on an annual basis to ensure that the adjustments are current."; and

(2) by striking paragraph (4).

(c) CHILD CARE.—Section 105 (42 U.S.C. 4955) is amended by adding at the end the following:

"(c)(1) The Director shall—

"(A) make child care available for children of each volunteer enrolled under this part who need such child care in order to participate as volunteers; or

"(B) provide a child care allowance to each such volunteer who needs such assistance in order to participate as volunteers.

"(2) The Corporation shall establish guidelines regarding the circumstances under which child care shall be made available under this subsection and the value of any child care allowance to be provided.".

SEC. 325. PARTICIPATION OF YOUNGER AND OLDER PERSONS.

Section 107 (42 U.S.C. 4957) is amended to read as follows:

"SEC. 107. PARTICIPATION OF YOUNGER AND OLDER PERSONS.

"In carrying out this part and part C, the Director shall take necessary steps, including the development of special projects, where appropriate, to encourage the fullest participation of individuals 18 through 27 years of age, and individuals 55 years of age and older, in the various programs and activities authorized under such parts.".

SEC. 326. LITERACY ACTIVITIES.

Section 109 (42 U.S.C. 4959) is amended—

(1) in subsection (g)—

(A) by striking paragraph (1); and

(B) by striking the paragraph designation of paragraph (2); and

(2) in subsection (h), by striking paragraph (3).

SEC. 327. APPLICATIONS FOR ASSISTANCE.

Section 110 (42 U.S.C. 4960) is amended to read as follows:

"SEC. 110. APPLICATIONS FOR ASSISTANCE.

"In reviewing an application for assistance under this part, the Director shall not deny such assistance to any project or program, or any public or private nonprofit organization, solely on the basis of the duration of the assistance such project, program, or organization has received under this part prior to the date of submission of the application. The Director shall grant assistance under this part on the basis of merit and to accomplish the goals of the VISTA program, and shall consider the needs and requirements of projects in existence on such date as well as potential new projects.".

SEC. 328. REPEAL OF AUTHORITY FOR STUDENT COMMUNITY SERVICE PROGRAMS.

Section 114 (42 U.S.C. 4974) is repealed.

SEC. 329. UNIVERSITY YEAR FOR VISTA.

(a) PROGRAM TITLE.—Part B of title I (42 U.S.C. 4971 et seq.) is amended—

(1) in the part heading, to read as follows:

"PART B—UNIVERSITY YEAR FOR VISTA";

(2) by striking "University Year for ACTION" each place that such term appears in such part and inserting "University Year for VISTA";

(3) by striking "UYA" each place that such term appears in such part and inserting "UYV"; and

(4) in section 112 (42 U.S.C. 4972) by striking the section heading and inserting the following new section heading:

"AUTHORITY TO OPERATE UNIVERSITY YEAR FOR VISTA PROGRAM".

(b) SPECIAL CONDITIONS.—Section 113(a) (42 U.S.C. 4973(a)) is amended—

(1) by striking "of not less than the duration of an academic year" and inserting "of not less than the duration of an academic semester or its equivalent"; and

(2) by adding at the end the following new sentence: "Volunteers may receive a living allowance and such other support or allowances as the Director determines to be appropriate.".

SEC. 330. AUTHORITY TO ESTABLISH AND OPERATE SPECIAL VOLUNTEER AND DEMONSTRATION PROGRAMS.

Section 122 (42 U.S.C. 4992) is amended to read as follows:

"SEC. 122. AUTHORITY TO ESTABLISH AND OPERATE SPECIAL VOLUNTEER AND DEMONSTRATION PROGRAMS.

"(a) IN GENERAL.—The Director is authorized to conduct special volunteer programs for demonstration programs, or award grants to or enter into contracts with public or nonprofit organizations to carry out such programs. Such programs shall encourage wider volunteer participation on a full-time, part-time, or short-term basis to further the purpose of this part, and identify particular segments of the poverty community that could benefit from volunteer and other antipoverty efforts.

"(b) ASSIGNMENT AND SUPPORT OF VOLUNTEERS.—The assignment of volunteers under this section, and the provision of support for such volunteers, including any subsistence allowances and stipends, shall be on such terms and conditions as the Director shall determine to be appropriate, but shall not exceed the level of support provided under section 105. Projects using volunteers who do not receive stipends may also be supported under this section.

"(c) CRITERIA AND PRIORITIES.—In carrying out this section and section 123, the Director shall establish criteria and priorities for awarding grants and entering into contracts under this part in each fiscal year. No grant or contract exceeding $100,000 shall be made under this part unless the recipient of the grant or contractor has been selected by a competitive process that includes public announcement of the availability of funds for such grant or contract, general criteria for the selection of recipients or contractors, and a description of the application process and application review process.".

SEC. 331. TECHNICAL AND FINANCIAL ASSISTANCE.

Section 123 (42 U.S.C. 4993) is amended to read as follows:

"SEC. 123. TECHNICAL AND FINANCIAL ASSISTANCE.

"The Director may provide technical and financial assistance to Federal agencies, State and local governments and agencies, private nonprofit organizations, employers, and other private organizations that utilize or desire to utilize volunteers in carrying out the purpose of this part.".

SEC. 332. ELIMINATION OF SEPARATE AUTHORITY FOR DRUG ABUSE PROGRAMS.

Title I (42 U.S.C. 4951 et seq.) is amended—

(1) by repealing section 124; and

(2) by redesignating section 125 as section 124.

CHAPTER 2—NATIONAL SENIOR VOLUNTEER CORPS

SEC. 341. NATIONAL SENIOR VOLUNTEER CORPS.

(a) TITLE HEADING.—The heading for title II is amended to read as follows:

"TITLE II—NATIONAL SENIOR VOLUNTEER CORPS".

(b) REFERENCES.—

(1) Section 200(1) (42 U.S.C. 5000(1)) is amended by striking "Older American Volunteer Programs" and inserting "National Senior Volunteer Corps".

(2) The heading for section 221 (42 U.S.C. 5021) is amended by striking "OLDER AMERICAN VOLUNTEER PROGRAMS" and inserting "NATIONAL SENIOR VOLUNTEER CORPS".

(3) Section 224 (42 U.S.C. 5024) is amended—

(A) in the section heading by striking "OLDER AMERICAN VOLUNTEER PROGRAMS" and inserting "NATIONAL SENIOR VOLUNTEER CORPS"; and

(B) by striking "volunteer projects for older Americans" and inserting "National Senior Volunteer Corps projects".

(4) Section 205(c) of the Older Americans Amendments of 1975 (Public Law 94–135; 89 Stat. 727; 42 U.S.C. 5001 note) is amended by striking "national older American volunteer programs" each place the term appears and inserting "National Senior Volunteer Corps programs".

SEC. 342. THE RETIRED AND SENIOR VOLUNTEER PROGRAM.

(a) PART HEADING.—The heading for part A of title II is amended by striking "RETIRED SENIOR VOLUNTEER PROGRAM" and inserting "RETIRED AND SENIOR VOLUNTEER PROGRAM".

(b) REFERENCES.—Section 200 (42 U.S.C. 5000) is amended by striking "retired senior volunteer program" each place that such term appears in such section and inserting "Retired and Senior Volunteer Program".

SEC. 343. OPERATION OF THE RETIRED AND SENIOR VOLUNTEER PROGRAM.

(a) ELIGIBILITY FOR PARTICIPANTS IN THE PROGRAM.—Section 201(a) (42 U.S.C. 5001(a)) is amended—

(1) in the matter preceding paragraph (1), by inserting "and older working persons" after "retired persons"; and

(2) in paragraph (2), by striking "aged sixty" and inserting "age 55".

(b) DELETION OF REQUIREMENT FOR STATE AGENCY REVIEW.—Section 201 (42 U.S.C. 5001) is amended—

(1) by striking subsection (c); and

(2) by redesignating subsection (d) as subsection (c).

SEC. 344. SERVICES UNDER THE FOSTER GRANDPARENT PROGRAM.

Section 211(a) (42 U.S.C. 5011(a)) is amended by striking ", including services" and all that follows through "with special needs." and inserting a period and the following: "Such services may include services by individuals serving as foster grandparents to children who are individuals with disabilities, who have chronic health conditions, who are receiving care in hospitals, who are residing in homes for dependent and neglected children, or who are receiving services provided by day care centers, schools, early intervention programs under part H of the Individuals with Disabilities Education Act (20 U.S.C. 1471 et seq.), Head Start agencies under the Head Start Act, or any of a variety of other programs, establishments, and institutions providing services for children with special or exceptional needs. Individual foster grandparents may provide person-to-person services to one or more children, depending on the needs of the project and local site.".

SEC. 345. STIPENDS FOR LOW-INCOME VOLUNTEERS.

The second sentence of section 211(d) (42 U.S.C. 5011(d)) is amended by striking "Any stipend or allowance provided under this subsection shall not be less than $2.20 per hour until October 1, 1990, $2.35 per hour during fiscal year 1991, and $2.50 per hour on and after October 1, 1992," and inserting "Any stipend or allowance provided under this section shall not be less than $2.45 per hour on and after October 1, 1993, and shall be adjusted once prior to December 31, 1997, to account for inflation, as determined by the Director and rounded to the nearest five cents,".

SEC. 346. PARTICIPATION OF NON-LOW-INCOME PERSONS UNDER PARTS B AND C.

Subsection (f) of section 211(f) (42 U.S.C. 5011(f)) is amended to read as follows:

"(f) Individuals who are not low-income persons may serve as volunteers under parts B and C, in accordance with such regulations as the Director shall issue, at the discretion of the local project. Such individuals shall not receive any allowance, stipend, or other financial support for such service except reimbursement for transportation, meals, and out-of-pocket expenses related to such service.".

SEC. 347. CONDITIONS OF GRANTS AND CONTRACTS.

Section 212 (42 U.S.C. 5012) is repealed.

SEC. 348. EVALUATION OF THE SENIOR COMPANION PROGRAM.

Section 213(c) (42 U.S.C. 5013(c)) is amended by striking paragraph (3).

SEC. 349. AGREEMENTS WITH OTHER FEDERAL AGENCIES.

Section 221(a) (42 U.S.C. 5021(a)) is amended—

(1) by striking "(a)" and inserting "(a)(1)"; and

(2) by adding at the end the following:

"(2) The Director is encouraged to enter into agreements with—

"(A) the Department of Health and Human Services to—

"(i) involve retired or senior volunteers and foster grandparents in Head Start projects; and

"(ii) promote in-home care in cooperation with the Administration on Aging;

"(B) the Department of Education to promote intergenerational tutoring and mentoring for at-risk children; and

"(C) the Environmental Protection Agency to support conservation efforts.".

SEC. 350. PROGRAMS OF NATIONAL SIGNIFICANCE.

Section 225 (42 U.S.C. 5025) is amended—

(1) in subsection (a)—

(A) by striking paragraph (1) and inserting the following new paragraph:

"(1) The Director is authorized to make grants under parts A, B, and C to support programs that address national problems that are also of local concern. The Director may, in any fiscal year, determine which programs of national significance will receive priority in that year. In determining the priority of programs to address problems of local concern in a particular area, the Director shall solicit and consider the views of representatives of local groups serving the area.";

(B) in paragraph (2)(B), by striking "paragraph (10)" and inserting "paragraphs (10) and (12)"; and

(C) in paragraph (2)(C), by striking "and (10)" and inserting "(10), (12), (15), and (16)";

(2) in subsection (b), by adding at the end the following new paragraphs:

"(12) Programs that address environmental needs.

"(13) Programs that reach out to organizations not previously involved in addressing local needs, such as labor unions and profitmaking organizations.

"(14) Programs that provide for ethnic outreach.

"(15) Programs that support criminal justice activities.

"(16) Programs that involve older volunteers working with young people in apprenticeship programs.

"(17) Programs that support the integration of individuals with disabilities into the community."; and

(3) in subsection (d), by striking paragraph (1) and inserting the following new paragraph:

"(1) Except as provided in paragraph (2), from the amounts appropriated under subsection (a), (b), (c), or (d) of section 502, for each fiscal year there shall be available to the Director such sums as may be necessary to make grants under subsection (a).".

SEC. 351. ADJUSTMENTS TO FEDERAL FINANCIAL ASSISTANCE.

Section 226 (42 U.S.C. 5026) is amended—

(1) in subsection (a)(1)—

(A) in subparagraph (A), by striking "(A)"; and

(B) by striking subparagraph (B); and

(2) in subsection (b)—

(A) in paragraph (1)—

(i) by striking "(1)"; and

(ii) by striking "annually" and inserting ", once every 2 years"; and

(B) by striking paragraph (2).

SEC. 352. DEMONSTRATION PROGRAMS.

Title II (42 U.S.C. 5000 et seq.) is amended by adding at the end the following new part:

"PART E—DEMONSTRATION PROGRAMS

"SEC. 231. AUTHORITY OF DIRECTOR.

"(a) IN GENERAL.—The Director is authorized to make grants to or enter into contracts with public or nonprofit organizations, including organizations funded under part A, B, or C, for the purposes of demonstrating innovative activities involving older Americans as volunteers. The Director may support under this part both volunteers receiving stipends and volunteers not receiving stipends.

"(b) ACTIVITIES.—An organization that receives a grant or enters into a contract under subsection (a) may use funds made available through the grant or contract for activities such as—

"(1) linking youth groups and older American organizations in volunteer activities;

"(2) involving older volunteers in programs and activities different from programs and activities supported in the community; and

"(3) testing whether older American volunteer programs may contribute to new objectives or certain national priorities.

"SEC. 232. PROHIBITION.

"The Director may not reduce the activities, projects, or volunteers funded under the other parts of this title in order to support projects under this part.".

CHAPTER 3—ADMINISTRATION

SEC. 361. PURPOSE OF AGENCY.

Section 401 (42 U.S.C. 5041) is amended—

(1) by inserting after the first sentence the following: "Such Agency shall also promote the coordination of volunteer efforts among Federal, State, and local agencies and organizations, exchange technical assistance information among such agencies and organizations."; and

(2) by striking "Older American Volunteer Programs" each place the term appears and inserting "National Senior Volunteer Corps".

SEC. 362. AUTHORITY OF THE DIRECTOR.

Section 402 (42 U.S.C. 5042) is amended in paragraphs (5) and (6) by inserting "solicit and" before "accept" each place the term appears.

SEC. 363. COMPENSATION FOR VOLUNTEERS.

Section 404 (42 U.S.C. 5044) is amended—

(1) in subsection (c), by inserting "from such volunteers or from beneficiaries" after "compensation";

(2) by striking subsection (f); and

(3) by redesignating subsection (g) as subsection (f).

SEC. 364. REPEAL OF REPORT.

Section 407 (42 U.S.C. 5047) is repealed.

SEC. 365. APPLICATION OF FEDERAL LAW.

Section 415(b)(4)(A) (42 U.S.C. 5055(b)(4)(A)) is amended by striking "a grade GS–7 employee" and inserting "an employee at grade GS–5 of the General Schedule under section 5332 of title 5, United States Code".

SEC. 366. EVALUATION OF PROGRAMS.

Section 416 (42 U.S.C. 5056) is amended—

(1) in subsection (a)—

(A) in the first sentence, by striking "(including the VISTA Literacy Corps which shall be evaluated as a separate program at least once every 3 years)"; and

(B) in the second sentence, by striking "at least once every 3 years" and inserting "periodically";

(2) in subsection (b) to read as follows:

"(b) In carrying out evaluations of programs under this Act, the Director shall create appropriate management information systems that will summarize information on volunteer activities and accomplishments across the programs supported under this Act. The Director shall periodically prepare and submit to the appropriate committees of Congress a report containing such information."; and

(3) by striking subsections (d), (e), (f), and (g).

SEC. 367. NONDISCRIMINATION PROVISIONS.

Section 417 (42 U.S.C. 5057) is amended to read as follows:

"SEC. 417. NONDISCRIMINATION PROVISIONS.

"(a) IN GENERAL.—

"(1) BASIS.—An individual with responsibility for the operation of a program that receives assistance under this Act shall not discriminate against a participant in, or member of the staff of, such program on the basis of race, color, national origin, sex, age, or political affiliation of such participant or member, or on the basis of disability, if the participant or member is a qualified individual with a disability.

"(2) DEFINITION.—As used in paragraph (1), the term 'qualified individual with a disability' has the meaning given the term in section 101(8) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111(8)).

"(b) FEDERAL FINANCIAL ASSISTANCE.—Any assistance provided under this Act shall constitute Federal financial assistance for purposes of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), and the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.).

"(c) RELIGIOUS DISCRIMINATION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), an individual with responsibility for the operation of a program that receives assistance under this Act shall not discriminate on the basis of religion against a participant in such program or a member of the staff of such program who is paid with funds received under this Act.

"(2) EXCEPTION.—Paragraph (1) shall not apply to the employment, with assistance provided under this Act, of any member of the staff, of a program that receives assistance under this Act, who was employed with the organization operating the program on the date the grant under this Act was awarded.

"(d) RULES AND REGULATIONS.—The Director shall promulgate rules and regulations to provide for the enforcement of this section that shall include provisions for summary suspension of assistance for not more than 30 days, on an emergency basis, until notice and an opportunity to be heard can be provided.".

SEC. 368. ELIMINATION OF SEPARATE REQUIREMENTS FOR SETTING REGULATIONS.

Section 420 (42 U.S.C. 5060) is repealed.

SEC. 369. CLARIFICATION OF ROLE OF INSPECTOR GENERAL.

Section 422 (42 U.S.C. 5062) is amended—

(1) in subsection (a), by inserting "or the Inspector General" after "Director"; and

(2) in subsection (b), by inserting ", the Inspector General," after "Director" each place that such term appears.

SEC. 370. COPYRIGHT PROTECTION.

Title IV (42 U.S.C. 5041 et seq.) is amended by adding at the end the following new section:

"SEC. 425. PROTECTION AGAINST IMPROPER USE.

"Whoever falsely—

"(1) advertises or represents; or

"(2) publishes or displays any sign, symbol, or advertisement, reasonably calculated to convey the impression,

that an entity is affiliated with, funded by, or operating under the authority of ACTION, VISTA, or any of the programs of the National Senior Volunteer Corps may be enjoined under an action filed by the Attorney General, on a complaint by the Director.".

SEC. 371. CENTER FOR RESEARCH AND TRAINING.

Title IV (42 U.S.C. 5041 et seq.) (as amended by section 370 of this Act) is further amended by adding at the end the following new section:

"SEC. 426. CENTER FOR RESEARCH AND TRAINING.

"The Director may establish, directly or by grant or contract, a Center for Research and Training on Volunteerism to carry out research concerning the impact of volunteerism on individuals, organizations, and communities, provide training at a State, regional, or local level to help improve programs across the United States, and carry out such other functions as the Director determines to be appropriate.".

SEC. 372. DEPOSIT REQUIREMENT CREDIT FOR SERVICE AS A VOLUNTEER.

(a) CIVIL SERVICE RETIREMENT SYSTEM.—

(1) CREDITABLE SERVICE.—Section 8332(j) of title 5, United States Code, is amended—

(A) in paragraph (1)—

(i) in the first sentence, by inserting "the period of an individual's services as a full-time volunteer enrolled in a program of at least 1 year in duration under part A, B, or C of title I of the Domestic Volunteer Service Act of 1973," after "Economic Opportunity Act of 1964,";

(ii) in the second sentence, by inserting ", as a full-time volunteer enrolled in a program of at least 1 year in duration under part A, B, or C of title I of the Domestic Volunteer Service Act of 1973," after "Economic Opportunity Act of 1964,"; and

(iii) in the last sentence—

(I) by inserting "or under the Domestic Volunteer Service Act of 1973" after "Economic Opportunity Act of 1964"; and

(II) by inserting "or the Director of ACTION, as appropriate," after "Director of the Office of Economic Opportunity"; and

(B) by adding at the end the following new paragraph:

"(3) The provisions of paragraph (1) relating to credit for service as a volunteer or volunteer leader under the Economic Opportunity Act of 1964 or the Domestic Volunteer Service Act of 1973 shall not apply to any period of service as a volunteer or volunteer leader of an employee or Member with respect to which the employee or Member has made the deposit with interest, if any, required by section 8334(l).".

(2) DEDUCTIONS, CONTRIBUTIONS, AND DEPOSITS.—

(A) IN GENERAL.—Section 8334 of title 5, United States Code, is amended by adding at the end the following new subsection:

"(l)(1) Each employee or Member who has performed service as a volunteer or volunteer leader under part A of title VIII of the Economic Opportunity Act of 1964, or as a full-time volunteer

enrolled in a program of at least 1 year in duration under part A, B, or C of title I of the Domestic Volunteer Service Act of 1973, before the date of the separation from service on which the entitlement to any annuity under this subchapter is based may pay, in accordance with such regulations as the Office of Personnel Management shall issue, to the agency by which the employee is employed or, in the case of a Member or a congressional employee, to the Secretary of the Senate or the Clerk of the House of Representatives, as appropriate, an amount equal to 7 percent of the readjustment allowance paid to the employee or Member under title VIII of the Economic Opportunity Act of 1964 or title I of the Domestic Volunteer Service Act of 1973 for each period of service as such a volunteer or volunteer leader.

"(2) Any deposit made under paragraph (1) more than 2 years after the later of—

"(A) the date of enactment of this subsection; or

"(B) the date on which the employee or Member making the deposit first becomes an employee or Member,

shall include interest on such amount, computed and compounded annually beginning on the date of the expiration of the 2-year period. The interest rate that is applicable in computing interest in any year under this paragraph shall be equal to the interest rate that is applicable for such year under subsection (e).

"(3) Any payment received by an agency, the Secretary of the Senate, or the Clerk of the House of Representatives under this subsection shall be immediately remitted to the Office of Personnel Management for deposit in the Treasury of the United States to the credit of the Fund.

"(4) The Director shall furnish such information to the Office of Personnel Management as the Office may determine to be necessary for the administration of this subsection.".

(B) CONFORMING AMENDMENT.—Section 8334(e) of title 5, United States Code, is amended in paragraphs (1) and (2) by striking "or (k)" each place that such term appears and inserting "(k), or (l)".

(b) FEDERAL EMPLOYEES RETIREMENT SYSTEM.—

(1) CREDITABLE SERVICE.—Section 8411 of title 5, United States Code, is amended—

(A) in subsection (b)(3), by striking "subsection (f)" and inserting "subsection (f) or (h)"; and

(B) by adding at the end the following new subsection:

"(h) An employee or Member shall be allowed credit for service as a volunteer or volunteer leader under part A of title VIII of the Economic Opportunity Act of 1964, or as a full-time volunteer enrolled in a program of at least 1 year in duration under part A, B, or C of title I of the Domestic Volunteer Service Act of 1973, performed at any time prior to the separation from service on which the entitlement to any annuity under this subchapter is based if the employee or Member has made a deposit with interest, if any, with respect to such service under section 8422(f).".

(2) DEDUCTIONS, CONTRIBUTIONS.—Section 8422 of title 5, United States Code, is amended by adding at the end the following new subsection:

"(f)(1) Each employee or Member who has performed service as a volunteer or volunteer leader under part A of title VIII of the Economic Opportunity Act of 1964, or as a full-time volunteer enrolled in a program of at least 1 year in duration under part A, B, or C of title I of the Domestic Volunteer Service Act of 1973, before the date of the separation from service on which the entitlement to any annuity under this subchapter, or subchapter V of this chapter, is based may pay, in accordance with such regulations as the Office of Personnel Management shall issue, to the agency by which the employee is employed or, in the case of a Member or a congressional employee, to the Secretary of the Senate or the Clerk of the House of Representatives, as appropriate, an amount equal to 3 percent of the readjustment allowance paid to the employee or Member under title VIII of the Economic Opportunity Service Act of 1964 or title I of the Domestic Volunteer Service Act of 1973 for each period of service as such a volunteer or volunteer leader.

"(2) Any deposit made under paragraph (1) more than 2 years after the later of—

"(A) the date of enactment of this subsection, or

"(B) the date on which the employee or Member making the deposit first becomes an employee or Member,

shall include interest on such amount computed and compounded annually beginning on the date of the expiration of the 2-year period. The interest rate that is applicable in computing interest in any year under this paragraph shall be equal to the interest rate that is applicable for such year under section 8334(e).

"(3) Any payment received by an agency, the Secretary of the Senate, or the Clerk of the House of Representatives under this subsection shall be immediately remitted to the Office of Personnel Management for deposit in the Treasury of the United States to the credit of the Fund.

"(4) The Director shall furnish such information to the Office of Personnel Management as the Office may determine to be necessary for the administration of this subsection.".

(c) APPLICABILITY AND OTHER PROVISIONS.—

(1) APPLICABILITY.—

(A) TIMING.—The amendments made by subsections (a) and (b) shall apply with respect to credit for service as a volunteer or volunteer leader under the Economic Opportunity Act of 1964 or the Domestic Volunteer Service Act of 1973 to individuals who are entitled to an annuity on the basis of a separation from service occurring before, on, or after the effective date of this subtitle.

(B) SEPARATION.—In the case of any individual whose entitlement to an annuity is based on a separation from service occurring before the date of enactment of this Act, any increase in such individual's annuity on the basis of a deposit made pursuant to section 8334(l) or section 8442(f) of title 5, United States Code, as amended by this Act, shall be effective only with respect to annuity payments payable for calendar months beginning after the date of enactment of this Act.

(2) ACTION TO INFORM INDIVIDUALS.—The Director of the Office of Personnel Management shall take such action as may be necessary and appropriate to inform individuals entitled to credit under this section for service as a volunteer or volunteer leader, or to have any annuity recomputed, or to make a deposit under this section, of such entitlement.

CHAPTER 4—AUTHORIZATION OF APPROPRIATIONS AND OTHER AMENDMENTS

SEC. 381. AUTHORIZATION OF APPROPRIATIONS FOR TITLE I.

Section 501 (42 U.S.C. 5081) is amended to read as follows:

"SEC. 501. NATIONAL VOLUNTEER ANTIPOVERTY PROGRAMS.

"(a) AUTHORIZATIONS.—

"(1) VOLUNTEERS IN SERVICE TO AMERICA.—There are authorized to be appropriated to carry out part A of title I, excluding sections 104(e) and 109, $45,800,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996.

"(2) SUMMER PROGRAM.—There are authorized to be appropriated to carry out section 104(e), such sums as may be necessary for each of the fiscal years 1994 through 1996.

"(3) LITERACY ACTIVITIES.—There are authorized to be appropriated to carry out section 109, $5,600,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996.

"(4) UNIVERSITY YEAR FOR VISTA.—There are authorized to be appropriated to carry out part B of title I, such sums as may be necessary for each of the fiscal years 1994 through 1996.

"(5) SPECIAL VOLUNTEER PROGRAMS.—There are authorized to be appropriated to carry out part C of title I, excluding section 124, such sums as may be necessary for each of the fiscal years 1994 through 1996.

"(6) LITERACY CHALLENGE GRANTS.—There are authorized to be appropriated to carry out section 124, such sums as may be necessary for each of the fiscal years 1994 through 1996.

"(b) SUBSISTENCE.—The minimum level of an allowance for subsistence required under section 105(b)(2), to be provided to each volunteer under title I, may not be reduced or limited in order to provide for an increase in the number of volunteer service years under part A of title I.

"(c) LIMITATION.—No part of the funds appropriated to carry out part A of title I may be used to provide volunteers or assistance to any program or project authorized under part B or C of title I, or under title II, unless the program or project meets the antipoverty criteria of part A of title I.

"(d) AVAILABILITY.—Amounts appropriated for part A of title I shall remain available for obligation until the end of the fiscal year following the fiscal year for which the amounts were appropriated.

"(e) VOLUNTEER SERVICE REQUIREMENT.—

"(1) VOLUNTEER SERVICE YEARS.—Of the amounts appropriated under this section for parts A, B, and C of title I, including section 124, there shall first be available for part A of title I, including sections 104(e) and 109, an amount not less than the amount necessary to provide 3,700 volunteer service years in fiscal year 1994, 4,000 volunteer service years in fiscal year 1995, and 4,500 volunteer service years in fiscal year 1996.

"(2) PLAN.—If the Director determines that funds appropriated to carry out part A, B, or C of title I are insufficient to provide for the years of volunteer service required by paragraph (1), the Director shall submit a plan to the relevant authorizing and appropriations committees of Congress that will detail what is necessary to fully meet this requirement.".

SEC. 382. AUTHORIZATION OF APPROPRIATIONS FOR TITLE II.

Section 502 (42 U.S.C. 5082) is amended to read as follows:

"SEC. 502. NATIONAL SENIOR VOLUNTEER CORPS.

"(a) RETIRED AND SENIOR VOLUNTEER PROGRAM.—There are authorized to be appropriated to carry out part A of title II, $37,054,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996.

"(b) FOSTER GRANDPARENT PROGRAM.—There are authorized to be appropriated to carry out part B of title II, $71,284,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996.

"(c) SENIOR COMPANION PROGRAM.—There are authorized to be appropriated to carry out part C of title II, $32,509,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996.

"(d) DEMONSTRATION PROGRAMS.—There are authorized to be appropriated to carry out part E of title II, such sums as may be necessary for each of the fiscal years 1994 through 1996.".

SEC. 383. AUTHORIZATION OF APPROPRIATIONS FOR TITLE IV.

Title V (42 U.S.C. 5081 et seq.) is amended—

(1) by striking section 504;

(2) by inserting the following after section 502:

"SEC. 503. ADMINISTRATION AND COORDINATION.

"(a) IN GENERAL.—For each of the fiscal years 1994 through 1998, there are authorized to be appropriated for the administration of this Act as provided for in title IV, 15 percent of the total amount appropriated under sections 501 and 502 with respect to such year.

"(b) EVALUATION AND CENTER FOR RESEARCH AND TRAINING.—For each of the fiscal years 1994 through 1998, the Director is authorized to expend not less than one-half of 1 percent, and not more than 1 percent, from the amounts appropriated under sections 501 and 502, for the purposes prescribed in sections 416 and 426."; and

(3) by redesignating section 505 as section 504.

SEC. 384. CONFORMING AMENDMENTS; COMPENSATION FOR VISTA FECA CLAIMANTS.

Section 8143(b) of title 5, United States Code, is amended by striking "GS-7" and inserting "GS-5 of the General Schedule under section 5332 of title 5, United States Code".

SEC. 385. REPEAL OF AUTHORITY.

Title VII (42 U.S.C. 5091 et seq.) is repealed.

CHAPTER 5—GENERAL PROVISIONS

SEC. 391. TECHNICAL AND CONFORMING AMENDMENTS.

The Domestic Volunteer Service Act of 1973 (42 U.S.C. 4950 et seq.) is amended by striking "That this Act" and all that follows through the end of the table of contents and inserting the following:

"SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

"(a) SHORT TITLE.—This Act may be cited as the 'Domestic Volunteer Service Act of 1973'.

"(b) TABLE OF CONTENTS.—The table of contents is as follows:

"Sec. 1. Short title; table of contents.
"Sec. 2. Volunteerism policy.

"TITLE I—NATIONAL VOLUNTEER ANTIPOVERTY PROGRAMS

"PART A—VOLUNTEERS IN SERVICE TO AMERICA

"Sec. 101. Statement of purpose.
"Sec. 102. Authority to operate VISTA program.
"Sec. 103. Selection and assignment of volunteers.
"Sec. 104. Terms and periods of service.
"Sec. 105. Support service.
"Sec. 106. Participation of beneficiaries.
"Sec. 107. Participation of younger and older persons.
"Sec. 108. Limitation.
"Sec. 109. VISTA Literacy Corps.
"Sec. 110. Applications for assistance.

"PART B—UNIVERSITY YEAR FOR VISTA

"Sec. 111. Statement of purpose.
"Sec. 112. Authority to operate University Year for VISTA program.
"Sec. 113. Special conditions.

"PART C—SPECIAL VOLUNTEER PROGRAMS

"Sec. 121. Statement of purpose.
"Sec. 122. Authority to establish and operate special volunteer and demonstration programs.
"Sec. 123. Technical and financial assistance.
"Sec. 124. Literacy challenge grants.

"TITLE II—NATIONAL SENIOR VOLUNTEER CORPS

"Sec. 200. Statement of purposes.

"PART A—RETIRED AND SENIOR VOLUNTEER PROGRAM

"Sec. 201. Grants and contracts for volunteer service projects.

"PART B—FOSTER GRANDPARENT PROGRAM

"Sec. 211. Grants and contracts for volunteer service projects.

"PART C—SENIOR COMPANION PROGRAM

"Sec. 213. Grants and contracts for volunteer service projects.

"PART D—GENERAL PROVISIONS

"Sec. 221. Promotion of National Senior Volunteer Corps.
"Sec. 222. Payments.
"Sec. 223. Minority group participation.
"Sec. 224. Use of locally generated contributions in National Senior Volunteer Corps.
"Sec. 225. Programs of national significance.
"Sec. 226. Adjustments to Federal financial assistance.
"Sec. 227. Multiyear grants or contracts.

"PART E—DEMONSTRATION PROGRAMS

"Sec. 231. Authority of Director.
"Sec. 232. Prohibition.

"TITLE IV—ADMINISTRATION AND COORDINATION

"Sec. 403. Political activities.
"Sec. 404. Special limitations.
"Sec. 406. Labor standards.
"Sec. 408. Joint funding.
"Sec. 409. Prohibition of Federal control.
"Sec. 410. Coordination with other programs.
"Sec. 411. Prohibition.
"Sec. 412. Notice and hearing procedures for suspension and termination of financial assistance.
"Sec. 414. Distribution of benefits between rural and urban areas.
"Sec. 415. Application of Federal law.
"Sec. 416. Evaluation.
"Sec. 417. Nondiscrimination provisions.
"Sec. 418. Eligibility for other benefits.
"Sec. 419. Legal expenses.
"Sec. 421. Definitions.
"Sec. 422. Audit.
"Sec. 423. Reduction of paperwork.
"Sec. 424. Review of project renewals.
"Sec. 425. Protection against improper use.
"Sec. 426. Center for Research and Training.

"TITLE V—AUTHORIZATION OF APPROPRIATIONS

"Sec. 501. National volunteer antipoverty programs.
"Sec. 502. National Senior Volunteer Corps.
"Sec. 503. Administration and coordination.
"Sec. 504. Availability of appropriations.

"TITLE VI—AMENDMENTS TO OTHER LAWS AND REPEALERS

"Sec. 601. Supersedence of Reorganization Plan No. 1 of July 1, 1971.
"Sec. 602. Creditable service for civil service retirement.
"Sec. 603. Repeal of title VIII of the Economic Opportunity Act.
"Sec. 604. Repeal of title VI of the Older Americans Act.".

SEC. 392. EFFECTIVE DATE.

This subtitle, and the amendments made by this subtitle shall take effect on October 1, 1993.

Subtitle C—Youth Conservation Corps Act of 1970

SEC. 399. PUBLIC LANDS CORPS.

(a) IN GENERAL.—Public Law 91-378 (16 U.S.C. 1701-1706; commonly known as the "Youth Conservation Corps Act of 1970") is amended—

(1) by inserting before section 1 the following:

"TITLE I—YOUTH CONSERVATION CORPS";

(2) by striking "Act" each place such term appears and inserting "title";

(3) by redesignating sections 1 through 6 as sections 101 through 106, respectively;

(4) in subsection (a) of section 102 (as redesignated by paragraph (3)), by inserting "in this title" after "hereinafter";

(5) in subsection (d) of section 104 (as redesignated by paragraph (3)), by striking "section 6" and inserting "section 106"; and

(6) by adding at the end the following new title:

"TITLE II—PUBLIC LANDS CORPS

"SEC. 201. SHORT TITLE.

"This title may be cited as the 'Public Lands Corps Act of 1993'.

"SEC. 202. CONGRESSIONAL FINDINGS AND PURPOSE.

"(a) FINDINGS.—The Congress finds the following:

"(1) Conserving or developing natural and cultural resources and enhancing and maintaining environmentally important lands and waters through the use of the Nation's young men and women in a Public Lands Corps can benefit those men and women by providing such men and women with education and work opportunities, furthering their understanding and appreciation of the natural and cultural resources, and providing a means to pay for higher education or to repay indebtedness such men and women have incurred to obtain higher education while at the same time benefiting the Nation's economy and environment.

"(2) Many facilities and natural resources located on public lands and on Indian lands are in disrepair or degraded and in need of labor intensive rehabilitation, restoration, and enhancement work that cannot be carried out by Federal agencies at existing personnel levels.

"(3) Youth conservation corps have established a good record of restoring and maintaining these kinds of facilities and resources in a cost-effective and efficient manner, especially when the corps have worked in partnership arrangements with government land management agencies.

"(b) PURPOSE.—It is the purpose of this title to—

"(1) perform, in a cost-effective manner, appropriate conservation projects on public lands and Indian lands where such projects will not be performed by existing employees;

"(2) assist governments and Indian tribes in performing research and public education tasks associated with natural and cultural resources on public lands and Indian lands;

"(3) expose young men and women to public service while furthering their understanding and appreciation of the Nation's natural and cultural resources;

"(4) expand educational opportunities by rewarding individuals who participate in national service with an increased ability to pursue higher education or job training; and

"(5) stimulate interest among the Nation's young men and women in conservation careers by exposing such men and women to conservation professionals in land managing agencies.

"SEC. 203. DEFINITIONS.

"For purposes of this title:

"(1) APPROPRIATE CONSERVATION PROJECT.—The term 'appropriate conservation project' means any project for the conservation, restoration, construction, or rehabilitation of natural, cultural, historic, archaeological, recreational, or scenic resources.

"(2) CORPS AND PUBLIC LANDS CORPS.—The terms 'Corps' and 'Public Lands Corps' mean the Public Lands Corps established under section 204.

"(3) INDIAN.—The term 'Indian' means a person who is a member of an Indian tribe, or is a 'Native', as defined in section 3(b) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(b)).

"(4) INDIAN LANDS.—The term 'Indian lands' means—

"(A) any Indian reservation;

"(B) any public domain Indian allotments;

"(C) any former Indian reservation in the State of Oklahoma;

"(D) any land held by incorporated Native groups, regional corporations, and village corporations under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.); and

"(E) any land held by dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a State.

"(5) INDIAN TRIBE.—The term 'Indian tribe' means—

"(A) an Indian tribe, band, nation, or other organized group or community, including—

"(i) any Native village, as defined in section 3(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(c)), whether organized traditionally or pursuant to the Act of June 18, 1934 (commonly known as the 'Indian Reorganization Act'; 48 Stat. 984, chapter 576; 25 U.S.C 461 et seq.); and

"(ii) any Regional Corporation or Village Corporation, as defined in subsection (g) or (j), respectively, of section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602 (g) or (j)), that is recognized as eligible for the special programs and services provided by the United States under Federal law to Indians because of their status as Indians; and

"(B) any tribal organization controlled, sanctioned, or chartered by an entity described in subparagraph (A).

"(6) PUBLIC LANDS.—The term 'public lands' means any lands or waters (or interest therein) owned or administered by the United States, except that such term does not include any Indian lands.

"(7) QUALIFIED YOUTH OR CONSERVATION CORPS.—The term 'qualified youth or conservation corps' means any program established by a State or local government, by the governing body of any Indian tribe, or by a nonprofit organization, that—

"(A) is capable of offering meaningful, full-time, productive work for individuals between the ages of 16 and 25, inclusive, in a natural or cultural resource setting;

"(B) gives participants a mix of work experience, basic and life skills, education, training, and support services; and

"(C) provides participants with the opportunity to develop citizenship values and skills through service to their community and the United States.

"(8) RESOURCE ASSISTANT.—The term 'resource assistant' means a resource assistant selected under section 206.

"(9) STATE.—The term 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands.

"SEC. 204. PUBLIC LANDS CORPS PROGRAM.

"(a) ESTABLISHMENT OF PUBLIC LANDS CORPS.—There is hereby established in the Department of the Interior and the Department of Agriculture a Public Lands Corps.

"(b) PARTICIPANTS.—The Corps shall consist of individuals between the ages of 16 and 25, inclusive, who are enrolled as participants in the Corps by the Secretary of the Interior or the Secretary of Agriculture. To be eligible for enrollment in the Corps, an individual shall satisfy the criteria specified in section 137(b) of the National and Community Service Act of 1990. The Secretaries may enroll such individuals in the Corps without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates. The Secretaries may establish a preference for the enrollment in the Corps of individuals who are economically, physically, or educationally disadvantaged.

"(c) QUALIFIED YOUTH OR CONSERVATION CORPS.—The Secretary of the Interior and the Secretary of Agriculture are authorized to enter into contracts and cooperative agreements with any qualified youth or conservation corps to perform appropriate conservation projects referred to in subsection (d).

"(d) PROJECTS TO BE CARRIED OUT.—The Secretary of the Interior and the Secretary of Agriculture may each utilize the Corps or any qualified youth or conservation corps to carry out appropriate conservation projects that such Secretary is authorized to carry out under other authority of law on public lands. Appropriate conservation projects may also be carried out under this title on Indian lands with the approval of the Indian tribe involved.

"(e) PREFERENCE FOR CERTAIN PROJECTS.—In selecting appropriate conservation projects to be carried out under this title, the Secretary of the Interior and the Secretary of Agriculture shall give preference to those projects that—

"(1) will provide long-term benefits to the public;

"(2) will instill in the enrollee involved a work ethic and a sense of public service;

"(3) will be labor intensive;

"(4) can be planned and initiated promptly; and

"(5) will provide academic, experiential, or environmental education opportunities.

"(f) CONSISTENCY.—Each appropriate conservation project carried out under this title on any public lands or Indian lands shall be consistent with the provisions of law and policies relating to the management and administration of such lands, with all other applicable provisions of law, and with all management, operational, and other plans and documents that govern the administration of the area.

"SEC. 205. CONSERVATION CENTERS.

"(a) ESTABLISHMENT AND USE.—The Secretary of the Interior and the Secretary of Agriculture are each authorized to provide such quarters, board, medical care, transportation, and other services, facilities, supplies, and equipment as such Secretary determines to be necessary in connection with the Public Lands Corps and appropriate conservation projects carried out under this title and to establish and use conservation centers owned and operated by such Secretary for purposes of the Corps and such projects. The Secretaries shall establish basic standards of health, nutrition, sanitation, and safety for all conservation centers established under this section and shall assure that such standards are enforced. Where necessary or appropriate, the Secretaries may enter into contracts and other appropriate arrangements with State and local government agencies and private organizations for the management of such conservation centers.

"(b) LOGISTICAL SUPPORT.—The Secretary of the Interior and the Secretary of Agriculture may make arrangements with the Secretary of Defense to have logistical support provided by the Armed Forces to the Corps and any conservation center established under this section, where feasible. Logistical support may include the provision of temporary tent shelters where needed, transportation, and residential supervision.

"(c) USE OF MILITARY INSTALLATIONS.—The Secretary of the Interior and the Secretary of Agriculture may make arrangements with the Secretary of Defense to identify military installations and other facilities of the Department of Defense and, in consultation with the adjutant generals of the State National Guards, National Guard facilities that may be used, in whole or in part, by the Corps for training or housing Corps participants.

"SEC. 206. RESOURCE ASSISTANTS.

"(a) AUTHORIZATION.—The Secretary of the Interior and the Secretary of Agriculture are each authorized to provide individual placements of resource assistants with any Federal land managing agency under the jurisdiction of such Secretary to carry out research or resource protection activities on behalf of the agency. To be eligible for selection as a resource assistant, an individual shall be at least 17 years of age. The Secretaries may select resource assistants without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates. The Secretaries shall give a preference to the selection of individuals who are enrolled in an institution of higher education or are recent graduates from an institution of higher education, as defined in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)) with particular attention given to ensure the full representation of women and participants from historically black, Hispanic, and Native American schools.

"(b) USE OF EXISTING NONPROFIT ORGANIZATIONS.—Whenever one or more existing nonprofit organizations can provide, in the judgment of the Secretary of the Interior or the Secretary of Agriculture, appropriate recruitment and placement services to fulfill the requirements of this section, the Secretary may implement this section through such existing organizations. Participating nonprofit organizations shall contribute to the expenses of providing and supporting the resource assistants, through private sources of funding, at a level equal to 25 percent of the total costs of each participant in the resource assistant program who has been recruited and placed through that organization. Any such participating nonprofit conservation service organization shall be required, by the respective land managing agency, to submit an annual report evaluating the scope, size, and quality of the program, including the value of work contributed by the resource assistants, to the mission of the agency.

"SEC. 207. LIVING ALLOWANCES AND TERMS OF SERVICE.

"(a) LIVING ALLOWANCES.—The Secretary of the Interior and the Secretary of Agriculture shall provide each participant in the Public Lands Corps and each resource assistant with a living allowance in an amount not to exceed the maximum living allowance authorized by section 140(a)(3) of the National and Community Service Act of 1990 for participants in a national service program assisted under subtitle C of title I of such Act.

"(b) TERMS OF SERVICE.—Each participant in the Corps and each resource assistant shall agree to participate in the Corps or serve as a resource assistant, as the case may be, for such term of service as may be established by the Secretary enrolling or selecting the individual.

"SEC. 208. NATIONAL SERVICE EDUCATIONAL AWARDS.

"(a) EDUCATIONAL BENEFITS AND AWARDS.—If a participant in the Public Lands Corps or a resource assistant also serves in an approved national service position designated under subtitle C of title I of the National and Community Service Act of 1990, the participant or resource assistant shall be eligible for a national service educational award in the manner prescribed in subtitle D of such title upon successfully complying with the requirements for the award. The period during which the national service educational award may be used, the purposes for which the award may be used, and the amount of the award shall be determined as provided under such subtitle.

"(b) FORBEARANCE IN THE COLLECTION OF STAFFORD LOANS.—For purposes of section 428 of the Higher Education Act of 1965, in the case of borrowers who are either participants in the Corps or resource assistants, upon written request, a lender shall grant a borrower forbearance on such terms as are otherwise consistent

with the regulations of the Secretary of Education, during periods in which the borrower is serving as such a participant or a resource assistant.

"SEC. 209. NONDISPLACEMENT.

"The nondisplacement requirements of section 177 of the National and Community Service Act of 1990 shall be applicable to all activities carried out by the Public Lands Corps, to all activities carried out under this title by a qualified youth or conservation corps, and to the selection and service of resource assistants.

"SEC. 210. FUNDING.

"(a) COST SHARING.—

"(1) PROJECTS BY QUALIFIED YOUTH OR CONSERVATION CORPS.—The Secretary of the Interior and the Secretary of Agriculture are each authorized to pay not more than 75 percent, and shall collectively pay 75 percent, of the costs of any appropriate conservation project carried out pursuant to this title on public lands by a qualified youth or conservation corps. The remaining 25 percent of the costs of such a project may be provided from non-Federal sources in the form of funds, services, facilities, materials, equipment, or any combination of the foregoing. No cost sharing shall be required in the case of any appropriate conservation project carried out on Indian lands under this title.

"(2) PUBLIC LANDS CORPS PROJECTS.—The Secretary of the Interior and the Secretary of Agriculture are each authorized to accept donations of funds, services, facilities, materials, or equipment for the purposes of operating the Public Lands Corps and carrying out appropriate conservation projects by the Corps. The Department of the Interior and the Department of Agriculture shall comply with the Federal share requirements of section 129(d)(2)(B) of the National and Community Service Act of 1990.

"(b) FUNDS AVAILABLE UNDER NATIONAL AND COMMUNITY SERVICE ACT.—In order to carry out the Public Lands Corps or to support resource assistants and qualified youth or conservation corps under this title, the Secretary of the Interior and the Secretary of Agriculture shall be eligible to apply for and receive assistance described in section 121(b) of the National and Community Service Act of 1990, from funds available under section 129(d)(2).".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 1993.

TITLE IV—TECHNICAL AND CONFORMING AMENDMENTS

SEC. 401. DEFINITIONS.

Section 421 of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 5061) is amended—

(1) by striking "and" at the end of paragraph (6);

(2) by striking the period at the end of paragraph (7) and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

"(8) the term 'Corporation' means the Corporation for National and Community Service established under section 191 of the National and Community Service Act of 1990;

"(9) the term 'foster grandparent' means a volunteer in the Foster Grandparent Program;

"(10) the term 'Foster Grandparent Program' means the program established under part B of title II;

"(11) except as provided in section 417, the term 'individual with a disability' has the meaning given the term in section 7(8) of the Rehabilitation Act of 1973 (29 U.S.C. 706(8));

"(12) the term 'Inspector General' means the Inspector General of ACTION;

"(13) the term 'national senior volunteer' means a volunteer in the National Senior Volunteer Corps;

"(14) the term 'National Senior Volunteer Corps' means the programs established under parts A, B, C, and E of title II;

"(15) the term 'Retired and Senior Volunteer Program' means the program established under part A of title II;

"(16) the term 'retired or senior volunteer' means a volunteer in the Retired and Senior Volunteer Program;

"(17) the term 'senior companion' means a volunteer in the Senior Companion Program;

"(18) the term 'Senior Companion Program' means the program established under part C of title II;

"(19) the terms 'VISTA' and 'Volunteers in Service to America' mean the program established under part A of title I; and

"(20) the term 'VISTA volunteer' means a volunteer in VISTA.".

SEC. 402. REFERENCES TO THE COMMISSION ON NATIONAL AND COMMUNITY SERVICE.

(a) NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1993.—

(1) Section 1092(b) of the National Defense Authorization Act for Fiscal Year 1993 (42 U.S.C. 12653a note) is amended—

(A) in paragraph (1)—

(i) by striking "Commission on National Community Service" and inserting "Corporation for National and Community Service"; and

(ii) by striking "Commission shall prepare" and inserting "Board of Directors of the Corporation shall prepare"; and

(B) in paragraph (2), by striking "Board of Directors of the Commission on National and Community Service" and inserting "Board of Directors of the Corporation for National and Community Service".

(2) Section 1093(a) of such Act (42 U.S.C. 12653a note) is amended by striking "the Board of Directors and Executive Director of the Commission on National and Community Service" and inserting "the Board of Directors and President of the Corporation for National and Community Service".

(3) Section 1094 of such Act (Public Law 102–484; 106 Stat. 2535) is amended—

(A) in the title, by striking "**COMMISSION ON NATIONAL AND COMMUNITY SERVICE**" and inserting "**CORPORATION FOR NATIONAL AND COMMUNITY SERVICE**";

(B) in subsection (a)—

(i) in the heading, by striking "COMMISSION" and inserting "CORPORATION";

(ii) in the first sentence, by striking "Commission on National and Community Service" and inserting "Corporation for National and Community Service"; and

(iii) in the second sentence, by striking "The Commission" and inserting "The President of the Corporation"; and

(C) in subsection (b)—

(i) in paragraph (1), by striking "Board of Directors of the Commission on National and Community Service" and inserting "President of the Corporation for National and Community Service"; and

(ii) in paragraph (2), by striking "the Commission" and inserting "the President of the Corporation for National and Community Service".

(4) Section 1095 of such Act (Public Law 102–484; 106 Stat. 2535) is amended in the heading for subsection (b) by striking "COMMISSION ON NATIONAL AND COMMUNITY SERVICE" and inserting "CORPORATION FOR NATIONAL AND COMMUNITY SERVICE".

(5) Section 2(b) of such Act (Public Law 102–484; 106 Stat. 2315) is amended by striking the item relating to section 1094 of such Act and inserting the following:

"Sec. 1094. Other programs of the Corporation for National and Community Service.".

(b) NATIONAL AND COMMUNITY SERVICE ACT OF 1990.—

(1) Sections 159(b)(2) (as redesignated in section 104(b)(3) of this Act) and 165 (as redesignated in section 104(b)(3) of this Act), subsections (a) and (b) of section 172, sections 176(a) and 177(c), and subsections (a), (b), and (d) through (h) of section 179, of the National and Community Service Act of 1990 (42 U.S.C. 12653h(b)(2), 12653n, 12632 (a) and (b), 12636(a), 12637(c), and 12639 (a), (b), and (d) through (h)) are each amended by striking the term "Commission" each place the term appears and inserting "Corporation".

(2) Sections 152, 157(b)(2), 162(a)(2)(C), 164, and 166(1) of such Act (in each case, as redesignated in section 104(b)(3) of this Act) (42 U.S.C. 12653a, 12653f(b)(2), 12653k(a)(2)(C), 12653m, and 12653o(1)) are each amended by striking "Commission on National and Community Service" and inserting "Corporation".

(3) Section 163(b)(9) of such Act (as redesignated in section 104(b)(3) of this Act) (42 U.S.C. 12635l(b)(9)) is amended by striking "Chair of the Commission on National and Community Service" and inserting "President".

(4) Section 303(a) of such Act (42 U.S.C. 12662(a)) is amended—

(A) by striking "The President" and inserting "The President of the United States, acting through the Corporation,";

(B) by inserting "in furtherance of activities under section 302" after "section 501(b)"; and

(C) by striking "the President" both places it appears and inserting "the Corporation".

SEC. 403. REFERENCES TO DIRECTORS OF THE COMMISSION ON NATIONAL AND COMMUNITY SERVICE.

(a) PRESIDENT.—

(1) Section 159(a) of such Act (as redesignated in section 104(b)(3) of this Act) (42 U.S.C. 12653h(b)) is amended—

(A) by striking "BOARD.—The Board" and inserting "SUPERVISION.—The President";

(B) by striking "the Board" in the matter preceding paragraph (1), and in paragraph (1), and inserting "the President"; and

(C) by striking "the Director" in paragraph (1) and inserting "the Board".

(2) Section 159(b) of such Act (as redesignated in section 104(b)(3) of this Act) (42 U.S.C. 12653h(b)) is amended by striking "(b)" and all that follows through "Commission on National and Community Service" and inserting "(b) MONITORING AND COORDINATION.—The President".

(3) Section 159(c)(1) (as redesignated in section 104(b)(3) of this Act) (42 U.S.C. 12653h(c)(1)) is amended—

(A) in subparagraph (A), by striking "the Board, in consultation with the Executive Director," and inserting "the President"; and

(B) in subparagraph (B)(iii), by striking "the Board through the Executive Director" and inserting "the President".

(4) Section 166(6) (as redesignated in section 104(b)(3) of this Act) (42 U.S.C. 12653o(6)) is amended—

(A) by striking paragraph (6); and

(B) by redesignating paragraphs (7) through (11) as paragraphs (6) through (10), respectively.

(b) DIRECTOR OF CIVILIAN COMMUNITY CORPS.—Sections 155(a), 157(b)(1)(A), 158(a), 159(c)(1)(A), and 163(a) (in each case, as redesignated in section 104(b)(3) of this Act) of the National and Community Service Act of 1990 (42 U.S.C. 12653d(a), 12653f(b)(1)(A), 12653g(a), 12653h(c)(1)(A), and 12653l(a)) are amended by striking "Director of the Civilian Community Corps" each place the term appears and inserting "Director".

SEC. 404. DEFINITION OF DIRECTOR.

Section 421 of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 5061) is amended by striking paragraph (1) and inserting the following new paragraph:

"(1) the term 'Director' means the President of the Corporation for National and Community

Service appointed under section 193 of the National and Community Service Act of 1990;".

SEC. 405. REFERENCES TO ACTION AND THE ACTION AGENCY.

(a) DOMESTIC VOLUNTEER SERVICE ACT OF 1973.—

(1) Section 2(b) of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4950(b)) is amended—

(A) by striking "ACTION, the Federal domestic volunteer agency," and inserting "this Act"; and

(B) by striking "ACTION shall" and inserting "the Corporation for National and Community Service shall".

(2) Subtitle (b) of section 124 of such Act (as redesignated by section 322(2) of this Act) is amended by striking "the ACTION Agency" and inserting "the Corporation".

(3) Section 225(e) of such Act (42 U.S.C. 5025(e)) is amended by striking "the ACTION Agency" and inserting "the Corporation".

(4) Section 403(a) of such Act (42 U.S.C. 5043(a)) is amended—

(A) by striking "the ACTION Agency" the first place such term appears and inserting "the Corporation under this Act"; and

(B) by striking "the ACTION Agency" the second place such term appears and inserting "the Corporation".

(5) Section 408 of such Act (42 U.S.C. 5048) is amended by striking "the ACTION Agency" and inserting "the Corporation".

(6) Section 421(12) of such Act (as added by section 401 of this Act) is further amended by striking "ACTION" and inserting "the Corporation".

(7) Section 425 of such Act (as added by section 370 of this Act) is further amended by striking "ACTION" and inserting "the Corporation".

(b) CIVIL SERVICE RETIREMENT SYSTEM.—Section 8332(j)(1) of title 5, United States Code (as amended by section 372(a)(1)(A)(iii)(II) of this Act) is amended by striking "the Director of ACTION" and inserting "the President of the Corporation for National and Community Service".

(c) PUBLIC HOUSING SECURITY.—Section 207(c) of the Public Housing Security Demonstration Act of 1978 (Public Law 95–557; 92 Stat. 2093; 12 U.S.C. 1701z–6 note) is amended—

(1) in paragraph (3)(ii), by striking "ACTION" and inserting "the Corporation for National and Community Service"; and

(2) in paragraph (4), by striking "ACTION" and inserting "the Corporation for National and Community Service".

(d) NATIONAL FOREST VOLUNTEERS.—Section 1 of the Volunteers in the National Forests Act of 1972 (16 U.S.C. 558a) is amended by striking "ACTION" and inserting "the Corporation for National and Community Service".

(e) PEACE CORPS.—Section 2A of the Peace Corps Act (22 U.S.C. 2501–1) is amended by inserting after "the ACTION Agency" the following: ", the successor to the ACTION Agency,".

(f) INDIAN ECONOMIC DEVELOPMENT.—Section 502 of the Indian Financing Act of 1974 (25 U.S.C. 1542) is amended by striking "ACTION Agency" and inserting "the Corporation for National and Community Service".

(g) OLDER AMERICANS.—The Older Americans Act of 1965 is amended—

(1) in section 202(c)(1) (42 U.S.C. 3012(c)(1)), by striking "the Director of the ACTION Agency" and inserting "the Corporation for National and Community Service";

(2) in section 203(a)(1) (42 U.S.C. 3013(a)(1)), by striking "the ACTION Agency" and inserting "the Corporation for National and Community Service"; and

(3) in section 422(b)(12)(C) (42 U.S.C. 3035a(b)(12)(C)), by striking "the ACTION Agency" and inserting "the Corporation for National and Community Service".

(h) VISTA SERVICE EXTENSION.—Section 101(c)(1) of the Domestic Volunteer Service Act Amendments of 1989 (Public Law 101–204; 103 Stat. 1810; 42 U.S.C. 4954 note) is amended by striking "Director of the ACTION Agency" and inserting "President of the Corporation for National and Community Service".

(i) AGING RESOURCE SPECIALISTS.—Section 205(c) of the Older Americans Amendments of 1975 (Public Law 94–135; 89 Stat. 727; 42 U.S.C. 5001 note) is amended—

(1) in paragraph (1)—

(A) by striking "the ACTION Agency," and inserting "the Corporation for National and Community Service,"; and

(B) by striking "the Director of the ACTION Agency" and inserting "the President of the Corporation";

(2) in paragraph (2)(A), by striking "ACTION Agency" and inserting "Corporation"; and

(3) in paragraph (3), by striking subparagraph (A) and inserting the following new subparagraph:

"(A) the term 'Corporation' means the Corporation for National and Community Service established by section 191 of the National and Community Service Act of 1990.".

(j) PROMOTION OF PHOTOVOLTAIC ENERGY.—Section 11(a) of the Solar Photovoltaic Energy Research, Development, and Demonstration Act of 1978 (42 U.S.C. 5590) is amended by striking "the Director of ACTION,".

(k) COORDINATING COUNCIL ON JUVENILE JUSTICE.—Section 206(a)(1) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5616(a)(1)) is amended by striking "the Director of the ACTION Agency" and inserting "the President of the Corporation for National and Community Service".

(l) ENERGY CONSERVATION.—Section 413(b)(1) of the Energy Conservation and Production Act (42 U.S.C. 6863(b)(1)) is amended by striking "the Director of the ACTION Agency,".

(m) INTERAGENCY COUNCIL ON THE HOMELESS.—Section 202(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11312(a)) is amended by striking paragraph (12) and inserting the following new paragraph:

"(12) The President of the Corporation for National and Community Service, or the designee of the President.".

(n) ANTI-DRUG ABUSE.—Section 3601 of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11851) is amended by striking paragraph (5) and inserting the following new paragraph:

"(5) the term 'Director' means the President of the Corporation for National and Community Service,".

(o) ADMINISTRATION ON CHILDREN, YOUTH, AND FAMILIES.—Section 916(b) of the Claude Pepper Young Americans Act of 1990 (42 U.S.C. 12312(b)) is amended by striking "the Director of the ACTION Agency" and inserting "the President of the Corporation for National and Community Service".

SEC. 406. EFFECTIVE DATE.

(a) COMMISSION.—The amendments made by sections 401 through 402 will take effect on October 1, 1993.

(b) ACTION.—The amendments made by sections 404 and 405 shall take effect on the effective date of section 203(c)(2).

TITLE V—RURAL COMMUNITY SERVICE

SEC. 501. RURAL COMMUNITY SERVICE.

Title XI of the of the Higher Education Act of 1965 (20 U.S.C. 1136 et seq.) is amended by adding at the end the following new part:

"PART C—RURAL COMMUNITY SERVICE

"SEC. 1171. FINDINGS; PURPOSE.

"(a) FINDINGS.—The Congress finds that—

"(1) the Nation's rural centers are facing increasingly pressing problems and needs in the areas of economic development, community infrastructure and service, social policy, public health, housing, crime, education, environmental concerns, planning and work force preparation;

"(2) there are, in the Nation's rural institutions, people with underutilized skills, knowledge, and experience who are capable of providing a vast range of services towards the amelioration of the problems described in paragraph (1);

"(3) the skills, knowledge, and experience in these rural institutions, if applied in a systematic and sustained manner, can make a significant contribution to the solution of such problems; and

"(4) the application of such skills, knowledge, and experience is hindered by the limited funds available to redirect attention to solutions to such rural problems.

"(b) PURPOSE.—It is the purpose of this part to provide incentives to rural academic institutions to enable such institutions to work with private and civic organizations to devise and implement solutions to pressing and severe problems in their communities.

"SEC. 1172. PROGRAM.

"The Secretary is authorized to carry out a program of providing assistance to eligible institutions to enable such institutions to carry out the authorized activities described in section 1174 in accordance with the provisions of this part.

"SEC. 1173. APPLICATIONS FOR RURAL COMMUNITY SERVICE GRANTS.

"(a) APPLICATION.—

"(1) IN GENERAL.—Each eligible institution desiring a grant under this part shall submit to the Secretary an application at such time, in such form, and containing or accompanied by such information and assurances, as the Secretary may require by regulation.

"(2) CONTENTS.—Each application submitted pursuant to paragraph (1) shall—

"(A) describe the activities and services for which assistance is sought; and

"(B) contain assurances that the eligible institution will enter into a consortium to carry out the provisions of this part that includes, in addition to the eligible institution, one or more of the following entities:

"(i) A community college.

"(ii) A rural local educational agency.

"(iii) A local government.

"(iv) A business or other employer.

"(v) A nonprofit institution.

"(3) WAIVER.—The Secretary may waive the consortium requirements described in paragraph (2) for any applicant who can demonstrate to the satisfaction of the Secretary that the applicant has devised an integrated and coordinated plan which meets the purpose of this part.

"(b) PRIORITY IN SELECTION OF APPLICATIONS.—The Secretary shall give priority to applications that propose to conduct joint projects supported by other local, State, and Federal programs.

"(c) SELECTION PROCEDURES.—The Secretary, by regulation, shall develop a formal procedure for the submission of applications under this part and shall publish in the Federal Register an announcement of that procedure and the availability of funds under this part.

"SEC. 1174. AUTHORIZED ACTIVITIES.

"Grant funds made available under this part shall be used to support planning, applied research, training, resource exchanges or technology transfers, the delivery of services, or other activities the purpose of which is to design and implement programs to assist rural communities to meet and address their pressing and severe problems, such as any of the following:

"(1) Work force preparation.

"(2) Rural poverty and the alleviation of such poverty.

"(3) Health care, including health care delivery and access as well as health education, prevention and wellness.

"(4) Underperforming school systems and students.

"(5) Problems faced by the elderly and individuals with disabilities in rural settings.

"(6) Problems faced by families and children.

"(7) Campus and community crime prevention, including enhanced security and safety awareness measures as well as coordinated programs addressing the root causes of crime.

"(8) Rural housing.

"(9) Rural infrastructure.

"(10) Economic development.

"(11) Rural farming and environmental concerns.

"(12) Other problem areas which participants in the consortium described in section 1173(a)(2)(B) concur are of high priority in rural areas.

"(13)(A) Problems faced by individuals with disabilities and economically disadvantaged individuals regarding accessibility to institutions of higher education and other public and private community facilities.

"(B) Amelioration of existing attitudinal barriers that prevent full inclusion of individuals with disabilities in their community.

"SEC. 1175. PEER REVIEW.

"The Secretary shall designate a peer review panel to review applications submitted under this part and make recommendations for funding to the Secretary. In selecting the peer review panel, the Secretary may consult with other appropriate Cabinet-level Federal officials and with non-Federal organizations, to ensure that the panel will be geographically balanced and be composed of representatives from public and private institutions of higher education, labor, business, and State and local government, who have expertise in rural community service or in education.

"SEC. 1176. DISBURSEMENT OF FUNDS.

"(a) Multiyear Availability.—Subject to the availability of appropriations, grants under this part may be made on a multiyear basis, except that no institution, individually or as a participant in a consortium, may receive a grant for more than 5 years.

"(b) Equitable Geographic Distribution.—The Secretary shall award grants under this part in a manner that achieves equitable geographic distribution of such grants.

"(c) Matching Requirement.—An applicant under this part and the local governments associated with its application shall contribute to the conduct of the program supported by the grant an amount from non-Federal funds equal to at least one-fourth of the amount grant, which contribution may be in cash or in kind, fairly evaluated.

"SEC. 1177. DESIGNATION OF RURAL GRANT INSTITUTIONS.

"The Secretary shall publish a list of eligible institutions under this part and shall designate such institutions of higher education as 'Rural Grant Institutions'. The Secretary shall establish a national network of Rural Grant Institutions so that the results of individual projects achieved in 1 rural area can be generalized, disseminated, replicated and applied throughout the Nation.

"SEC. 1178. DEFINITIONS.

"As used in this part:

"(1) Rural area.—The term 'rural area' means any area that is—

"(A) outside an urbanized area, as such term is defined by the Bureau of the Census; and

"(B) outside any place that—

"(i) is incorporated or Bureau of the Census designated; and

"(ii) has a population of 75,000 or more.

"(2) Eligible institution.—The term 'eligible institution' means an institution of higher education, or a consortium of such institutions any one of which meets all the requirements of this paragraph, which—

"(A) is located in a rural area;

"(B) draws a substantial portion of its undergraduate students from the rural area in which such institution is located, or from contiguous areas;

"(C) carries out programs to make postsecondary educational opportunities more accessible to residents of such rural areas, or contiguous areas;

"(D) has the present capacity to provide resources responsive to the needs and priorities of such rural areas and contiguous areas;

"(E) offers a range of professional, technical, or graduate programs sufficient to sustain the capacity of such institution to provide such resources; and

"(F) has demonstrated and sustained a sense of responsibility to such rural area and contiguous areas and the people of such areas.

"SEC. 1179. AUTHORIZATION OF APPROPRIATIONS; FUNDING RULE.

"(a) In General.—There are authorized to be appropriated such sums as may be necessary in each fiscal year to carry out the provisions of this part.

"(b) Funding Rule.—If in any fiscal year the amount appropriated pursuant to the authority of subsection (a) is less than 50 percent of the funds appropriated to carry out part A in such year, then the Secretary shall make available in such year from funds appropriated to carry out part A an amount equal to the difference between 50 percent of the funds appropriated to carry out part A and the amount appropriated pursuant to the authority of subsection (a).".

SEC. 502. DEMONSTRATION PROJECT.

(a) In General.—Subtitle H of title I of the National and Community Service Act of 1990 (as added by section 104(c) of this Act) is amended by adding at the end the following:

"SEC. 198D. SPECIAL DEMONSTRATION PROJECT.

"(a) Special Demonstration Project for the Yukon-Kuskokwim Delta of Alaska.—The President may award grants to, and enter into contracts with, organizations to carry out programs that address significant human needs in the Yukon-Kuskokwim delta region of Alaska.

"(b) Application.—

"(1) General requirements.—To be eligible to receive a grant or enter into a contract under subsection (a) with respect to a program, an organization shall submit an application to the President at such time, in such manner, and containing such information as the President may require.

"(2) Contents.—The application submitted by the organization shall, at a minimum—

"(A) include information describing the manner in which the program will utilize VISTA volunteers, individuals who have served in the Peace Corps, and other qualified persons, in partnership with the local not-for-profit organizations known as the Yukon-Kuskokwim Health Corporation and the Alaska Village Council Presidents;

"(B) take into consideration—

"(i) the primarily noncash economy of the region; and

"(ii) the needs and desires of residents of the local communities in the region; and

"(C) include specific strategies, developed in cooperation with the Yupi'k speaking population that resides in such communities, for comprehensive and intensive community development for communities in the Yukon-Kuskokwim delta region.".

(b) Table of Contents.—Section 1(b) of the National and Community Service Act of 1990 (Public Law 101–610; 104 Stat. 3127) is amended by inserting after the item relating to section 198C of such Act the following:

"Sec. 198D. Special demonstration project.".

TITLE VI—FEDERAL TORT CLAIMS ACT

SEC. 601. FEDERAL TORT CLAIMS ACT.

Individuals participating in programs receiving funding under this Act shall be covered by the provisions of the Federal Tort Claims Act to the same extent as participants in other federally funded service programs.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. MITCHELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, S. 919 is indefinitely postponed.

Under the previous order, the Senate insists upon its amendments and requests a conference with the House on disagreeing votes of the two Houses.

The Chair appoints the following conferees on the part of the Senate: Mr. KENNEDY, Mr. PELL, Mr. METZENBAUM, Mr. DODD, Mr. SIMON, Mr. HARKIN, Ms. MIKULSKI, Mr. BINGAMAN, Mr. WELLSTONE, Mr. WOFFORD, Mrs. KASSEBAUM, Mr. JEFFORDS, Mr. COATS, Mr. GREGG, Mr. HATCH, Mr. THURMOND, and Mr. DURENBERGER; and with respect to those provisions within the jurisdiction of the Committee on Governmental Affairs: Mr. GLENN, Mr. PRYOR, and Mr. ROTH.

The PRESIDING OFFICER. The Chair recognizes the majority leader, Senator MITCHELL.

Mr. MITCHELL. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate is not in order. The Chair requests the Senate to be in order. Senators will please take their seats.

The Chair requests order.

The Chair recognizes the Senator from Maine, the majority leader.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, and Members of the Senate, in accordance with past practice and tradition, I ask that all Senators take their seats and remain at their desks during the vote and respond from their desks when the clerk calls the roll.

Mr. President, I repeat my request that all Senators take their seats and remain at their desks and respond from their desks when the roll is called.

EXECUTIVE SESSION

SUPREME COURT OF THE UNITED STATES

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to executive session.

The clerk will report the Supreme Court nomination.

The legislative clerk read the nomination of Ruth Bader Ginsburg, of New

York, to be an Associate Justice of the Supreme Court of the United States.

Mr. LAUTENBERG. Mr. President, I am pleased to support the nomination of Ruth Bader Ginsburg to become Associate Justice of the U.S. Supreme Court. She will bring to the Nation's highest court the integrity, commitment, judical temperament, and caring that is critically important in this position.

Judge Ginsburg's life and career have exemplified the very best values of public service. The story of the obstacles Judge Ginsburg has overcome to reach the position she will soon hold at the pinnacle of the legal profession is well known. What is so startling is how many women identify with her struggles. Someone who has made the journey she has made is a person who will bring to the Court an appreciation of the plight of others who are struggling.

As a teacher, advocate, and jurist, Judge Ginsburg has demonstrated both the passion of her views and the restraint necessary to effectively exercise the awesome powers conferred on a judge. Her advocacy for equal opportunity for women and men has advanced the state of the law in a manner that breaks down barriers erected to support outdated stereotypes. In her 13 years on the U.S. Court of Appeals, Judge Ginsburg has demonstrated that she can make the transition from advocate to judge. Her opinions have demonstrated thoughtfulness and skilled legal reasoning. She has received the very highest rating from the American Bar Association.

I would be remiss in not pointing out that Judge Ginsburg's first faculty position was at Rutgers University Law School where she served on the school's faculty from 1963 to 1972.

As a Senator, I take most seriously my responsibilities to give the President my advice and, if warranted, my consent, on his nominations to the Supreme Court. As with few other appointments, the Supreme Court seat is a position that requires a judgment on how someone will serve in the long term on issues that we cannot always see clearly from our positions today.

In my view, one of the best ways to evaluate how a nominee will do in the long term is to look at how he or she has accorded themselves over the length of their public career. On that criterion, Judge Ginsburg instills in me the greatest confidence. I commend President Clinton on her selection and urge my colleagues to join me in voting in favor of her appointment.

Mr. COATS. Mr. President, the nomination of Judge Ruth Bader Ginsburg to be an Associate Justice on the U.S. Supreme Court will be the third opportunity I have had as a U.S. Senator to participate in the Senate's historical role of advise and consent.

During Senate debate over the nomination of Judge Souter and Clarence Thomas, I expressed concern that the Senate's constitutional role of advice and consent had lost its way in a thicket of policy debates and partisan agendas. Recent confirmation fights have scarred the process with bitterness and distortion. Senate hearings have become political inquisitions, rehashing the shifting debates of current elections.

In the past I encouraged the Senate to relearn a basic principle—a principle concerning how the Senate should treat the President's Supreme Court appointments. A principle about what the power of nomination means.

With the nomination of Judge Ruth Bader Ginsburg we have yet another opportunity to do this—to learn from past mistakes.

This is not a process we conduct in a vacuum. The doctrine of advice and consent was given considerable attention by the Founders. Alexander Hamilton wrote that the Senate should approve a President's nominee unless there were special and strong reasons for refusal.

A judicial nomination is not properly a political struggle for the direction of the Court between the executive and legislative branches. That decision was made in last November's national election. The criteria for our judgment has to be character, experience, qualifications, and intelligence—not politics. This is especially true for justices to the Supreme Court which was designed specifically not to be a political institution.

With the nomination of Judge Ginsburg, the President has met these criteria. It is an undisputed fact that she is fit for office and that she will bring exceptional talent, temperament, experience, and knowledge to the Court.

However, it is also a fact that if one were to look only at the issues, there would be reason for concern.

We should be concerned that in 1974, in a speech published by Phi Beta Kappa Key Reporter, Ginsburg called for affirmative action hiring quotas for women. Later that year she considered it a setback for women's rights when the Supreme Court, in Kahn versus Shevin upheld a Florida property tax exemption for widows. We should be concerned about her pro-choice position and her belief that taxpayer funding for abortion should be protected as a constitutional right. We should be concerned that her support for gender neutrality leads her to conclude that there should be absolutely no distinctions—legal or otherwise, between men and women; that women should be subject to military draft; that the age of statutory rape should be lowered from 16 to 12; that single-sex schools, colleges and activities, single sex organizations, and single sex fraternities, and sororities should all be sex-integrated.

Is Judge Ginsburg a moderate as the press has attempted to portray her? Probably not. Do her views fall within the mainstream of liberal philosophy? Probably so. Are there special and strong reasons to deny her the Senate's consent? I don't believe so, and for that reason I will vote for her today.

Yes, I disagree with some of her rulings and many of her positions on issues that I consider fundamental. But as important as Judge Ginsburg's personal positions may be, it is her approach to the law that must concern us. Will she judge the law or will she seek to actively rewrite it? Will she exercise caution in her approach—drawing on legal precedent and the historical role of the Court—or will she use the Court as an instrument to validate radical and controversial views not shared by mainstream America. She has given the Senate her assurance that her approach will not substitute her judgment for the working of political institutions. I accept that assurance.

Judge Ginsburg has earned a distinguished reputation as a litigator, professor, and circuit court judge, and I will not oppose her.

Ms. MOSELEY-BRAUN. Mr. President, it is with pleasure that I speak today in support of the nomination of Judge Ruth Bader Ginsburg to be an Associate Justice of the U.S. Supreme Court. Since President Clinton nominated Judge Ginsburg for this position last June, much has been written and spoken about her pioneering work in the area of gender discrimination. I mention that work here today merely to thank Judge Ginsburg for the difference she made not only in my life, but in the lives of all American women. Beginning with the landmark case of Frontiero versus Richardson—decided exactly 100 years after the Supreme Court upheld the State of Illinois' refusal to admit a woman to the practice of law—Judge Ginsburg persuaded the Supreme Court to apply the Constitution's guarantee of equal protection to women. In doing so, she blazed a trail in which thousands of women have followed. I think we can all agree that were it not for Judge Ginsburg's leadership in this area—forcing not only the courts, but society, to reevaluate their outdated notions of a woman's proper place in society—you might not have seven female Senators about to cast their votes on the confirmation of the second female Supreme Court Justice.

I do not, however, want to limit my comments to Judge Ginsburg's work as an advocate for women's rights. To do so would be unfair to Judge Ginsburg, for it would ignore the thoughtfulness and intelligence she has demonstrated as both a legal scholar and a judge. Judge Ginsburg's responses to the committee's questions were not only honest and forthright, but the depth of knowledge of both legal doctrine and American history that they displayed showed all Americans why President Clinton chose this judge to fill Justice White's shoes on the Supreme Court.

When I made my opening statement at the beginning of her confirmation hearing, I urged Judge Ginsburg to bring not only her intellect, but her heart, her history, and her humanity to the Court. After listening to her testimony before the committee, I am convinced that Judge Ginsburg will do just that. Judge Ginsburg correctly noted that the Constitution must often serve as a check on Government power, noting that "the Framers are shortchanged if we view them as having a limited view of rights." She stated that the right of a woman to control her reproductive destiny is central to that woman's life and dignity. And she deplored discrimination of all types, whether with respect to race, religion, gender, or sexual orientation. As Judge Ginsburg so eloquently stated, "Rank discrimination is not a part of our Nation's culture. Tolerance is."

Mr. Chairman, in the wake of these hearings there have been numerous comparisons between the collegiality of this hearing and the bitter, divisive fights that have characterized past nominees. Although I was not present for these past hearings, I think there is one reason for this difference. In selecting the next Supreme Court Justice, President Clinton went beyond ideology and partisan politics. He took his time, consulted with legal scholars, consulted with Congress, and selected the best possible person to do the job. The American people are fortunate to have a President who takes so seriously the task of selecting a Supreme Court Justice.

I believe Judge Ginsburg's dedication to the rule of law and the cause of equal justice, as evidenced by her work with the women's rights project, her tenure at Rutgers and Columbia law schools, and her years on the court of appeals, indicate that she has the potential to be one of the outstanding Justices of our time. I add my voice with enthusiasm to the host of others in support of Judge Ginsburg today, and I look forward to casting my vote for her confirmation.

Mr. FEINGOLD. Mr. President, I rise today to declare my support for the confirmation of Judge Ruth Bader Ginsburg to become the 107th Justice of the U.S. Supreme Court.

The constitutional responsibility to advise and consent on the President's nominee to the Supreme Court is one of the most important responsibilities bestowed upon Members of this body. Through this role, we determine, with the President, which individuals will be interpreting the Constitution for future generations and therefore shaping the quality of justice in our Nation for years to come—perhaps years after many of us are through serving in public office.

Being a new Member adds that much more to this responsibility for me, since Judge Ginsburg's confirmation will be my first opportunity to take part in this process. However, since Judge Ginsburg is renowned for her legal writing skills and her ability to craft short and concise legal opinions, I will uphold her tradition of brevity and keep my remarks brief.

The nomination of Judge Ginsburg is proof that President Clinton's victory last fall meant that we will have the opportunity to see nominations to the Court of this high caliber, representing the diversity of the American people, and a firm commitment to our constitutional values. The unanimous vote of the Judiciary Committee and the positive reactions to her nomination, from a broad range of the political spectrum, indicates that President Clinton has done an excellent job in his initial choice for the Supreme Court.

I followed Judge Ginsburg's testimony before the Judiciary Committee with extreme interest, realizing that she would most likely become the newest member of a Court that would decide on the issues of today and tomorrow—decisions about reproduction and privacy rights, separation between church and State, freedom of speech, and the emergence of new technologies and the necessary balance between their use by law enforcement and the protection of individual freedoms.

I was very encouraged to hear her views on discrimination—whether it be along the lines of race, gender, or sexual orientation. Judge Ginsburg summed up our Nation's credence best when she stated:

> I think rank discrimination against anyone, is against the tradition of the United States and is to be deplored. Rank discrimination is not part of our Nation's culture. Tolerance is.

These views did not come as a shock to anyone who knew her or of her. Not only does Judge Ginsburg possess superior academic credentials and distinguished Federal bench experience, but she also has a practitioner's experience of being an advocate and a steady driving force in the quest for making sure that women of all walks of life are guaranteed the same protection and treatment under the eyes of the law.

Through her work at the Women's Rights Project of the American Civil Liberties Union, Judge Ginsburg was able to extend the 14th amendment's equal protection clause to women by achieving a higher standard of scrutiny in gender bias cases through five victories in six Supreme Court cases.

Through the hearing process, the Senate and the American people were allowed to observe an individual with a great understanding of the Constitution and the role of the Court in protecting our individual liberties. Senators BIDEN and HATCH should be commended for all of their work on a job well done. Chairman BIDEN and his staff should be further commended for instituting a new confirmation process that will hopefully help explore all aspects of a nomination in an orderly and thorough fashion.

In her confirmation hearing before the Senate Judiciary Committee, Judge Ginsburg was able to show us that she is a woman of deep intellectual character, who possesses not only an immense and remarkable working knowledge of the law, but a strong commitment to the Constitution as well.

But perhaps what impressed me the most about Judge Ginsburg's testimony, was her continuing interest in and dedication to the individuals and lives that made up the precedent setting cases which she argued before the Supreme Court. When questioned about these cases, it was clear that Frontiero versus Richardson, Weinberger versus Wiesenfeld, and Struck versus Secretary of Defense, were not only landmark decisions in the struggle for the extension of the constitutional guarantee of equal protection of the law to women, but were foremost to her, cases involving and affecting individuals who were caught up in the legal process and facing inequitable treatment under the law, individuals such as Sharon Frontiero, Stephen Wiesenfeld and his son, and Captain Struck.

Judge Ginsburg's commitment to these individuals and their plights is to be admired and hopefully, Mr. President, shared and followed by others in the legal profession.

I conclude that without hesitation, I support President Clinton's nomination of Judge Ruth Bader Ginsburg to be an Associate Justice of the Supreme Court of the United States.

Mr. LAUTENBERG. Mr. President, I am pleased to support the nomination of Ruth Bader Ginsburg to become Associate Justice of the U.S. Supreme Court. She will bring to the Nation's highest court the integrity, commitment, judicial temperament, and caring that is critically important in this position.

Judge Ginsburg's life and career have exemplified the very best values of public service. The story of the obstacles Judge Ginsburg has overcome to reach the position she will soon hold at the pinnacle of the legal profession is well known. What is so startling is how many women identify with her struggles. Someone who has made the journey she has made is a person who will bring to the Court an appreciation of the plight of others who are struggling.

As a teacher, advocate, and jurist, Judge Ginsburg has demonstrated both the passion of her views and the restraint necessary to effectively exercise the awesome powers conferred on a judge. Her advocacy for equal opportunity for women and men has advanced the state of the law in a manner that breaks down barriers erected to support outdated stereotypes. In her 13 years on the U.S. Court of Appeals, Judge Ginsburg has demonstrated that she can make the transition from advocate to judge. Her opinions have demonstrated thoughtfulness and skilled legal reasoning. She has received the very highest rating from the American Bar Association.

I would be remiss in not pointing out that Judge Ginsburg's first faculty position was at Rutgers University Law School where she served on the school's faculty from 1963 to 1972.

As a Senator, I take most seriously my responsibilities to give the President my advice and, if warranted, my consent, on his nominations to the Supreme Court. As with few other appointments, the Supreme Court seat is a position that requires a judgment on how someone will serve in the long term on issues that we cannot always see clearly from our positions today.

In my view, one of the best ways to evaluate how a nominee will do in the long term is to look at how he or she has accorded themselves over the length of their public career. On that criterion, Judge Ginsburg instills in me the greatest confidence. I commend President Clinton on her selection and urge my colleagues to join me in voting in favor of her appointment.

Mr. DURENBERGER. Mr. President, I rise today in support of the nomination of Judge Ruth Bader Ginsburg to be Associate Justice of the U.S. Supreme Court.

DISTINGUISHED BACKGROUND

Judge Ginsburg has had a remarkable career, not only as a lawyer, judge, and teacher, but also—as she pointed out during her confirmation hearings 2 weeks ago—as a proud and devoted wife, mother, and grandmother.

Judge Ginsburg has demonstrated during her 13 years on the U.S. Court of Appeals for the District of Columbia Circuit that she is, as my friend and colleague from Ohio, Senator METZENBAUM, has said: "a judge's judge."

Her judicial record demonstrates that she understands and respects the proper role of the judiciary in our tripartite system of Government. As Judge Ginsburg said during her confirmation hearings before the Senate Judiciary Committee: "Judges must be mindful of what their place is in society." She went on to emphasize that a judge is not an advocate, and reminded the committee that, "a judge is not a politician."

I should also point out that Judge Ginsburg received the highest possible rating from the American Bar Association.

In addition to her long and important career on the Federal bench, Judge Ginsburg has distinguished herself as an advocate on behalf of women's rights, arguing—and winning—landmark cases during the 1970's that were instrumental in extending the constitutional guarantee of equal protection of the law to women.

Judge Ginsburg is a woman of impeccable character, intelligence, and temperament. Moreover, she is a first generation American who has risen on the strength of her own determination and ability to one of the highest offices in America. If confirmed, she will be only the second woman in the history of our country to serve on the Supreme Court.

PRESIDENT CLINTON'S SELECTION OF JUDGE GINSBURG

When Justice Byron White announced that he was retiring after 31 years on the High Court, I did not expect that President Clinton and I would agree on the perfect Associate Judge candidate to succeed him. This is the first time a Democratic President has had the opportunity to make an appointment to the Supreme Court in over a quarter of a century.

The President of the United States is entitled to some deference in his choice of a Supreme Court Justice. I truly believe that Ruth Bader Ginsburg is the best choice we can expect to see from this President. Let me note in this regard, Mr. President, that I am not in absolute philosophical sympathy with this nominee—but I want the Senate to continue in its tradition of being open to nominees who are distinguished and highly qualified. My friends on the other side of the aisle have often voted for conservative nominees to the Supreme Court—resisting the temptation to ideologize this very important decision. I want to encourage this kind of openmindedness and bipartisanship.

JUDGE GINSBURG'S JUDICIAL CAREER SHOULD LAY TO REST ANY FEARS OF JUDICIAL ACTIVISM

Judge Ginsburg's long career on the court of appeals here shows a clear demarcation between Ruth Bader Ginsburg the advocate, and Judge Ruth Bader Ginsburg the jurist committed to rule of law. I have studied Judge Ginsburg's complete record, and I am convinced that, despite her earlier career as an advocate on behalf of the American Civil Liberties Union and some of her academic writings, Judge Ginsburg has not used her position as a Federal judge to advance any personal agenda.

In fact, she has been the model of judicial moderation and restraint. As a rule, she has limited her decisions to the confines of prior precedent, even where those decisions may conflict with her personal, more liberal views. As she explained to the Judiciary Committee, "No judge is appointed to apply his or her personal values. Instead:

> Judges must be mindful of what their place is in this system and must always remember that we live in a democracy that can be destroyed if judges take it upon themselves to rule as platonic guardians.

The New York Times noted that:

> According to a computerized study of the appeals court's 1987 voting patterns published in Legal Times, Judge Ginsburg voted more consistently with her Republican-appointed colleagues than with her fellow Democratic-appointed colleagues. For example, in 1987 cases that produced division on the court, she voted with Judge Bork 85 percent of the time and with Judge Patricia M. Wald 38 percent of the time. [New York Times, 6/27/93, at 20]

According to another study of the D.C. Circuit, in 1983–84 year, Judge Ginsburg voted with Judge Bork 100% of the time, and with then-Judge Scalia 95% of the time. [Edwards, Public Misperceptions Concerning The "Politics" Of Judging, 56 Colo. L. Rev. 619, 644 (1985)]

CONCLUSION

Having said this, there is—of course—no way to predict with certainty what a nominee will do, or how a nominee will vote, once she becomes a member of the Supreme Court. The best we can do is to judge a nominee's character, intelligence, professional background, academic record, judicial experience, and temperament. On all these scores, Judge Ginsburg has acquitted herself well.

So while I do not agree with Judge Ginsburg's personal view that a right to abortion can be based on the equal protection clause, Judge Ginsburg's record on the Federal bench should, in my view, disabuse concerned conservatives of any notion whatsoever that she would allow her personal views to affect her duties and decisions as a judge.

Judge Ginsburg has never allowed her experience as an advocate or her academic speculations to manifest themselves as judicial activism. In fact, her distinguished judicial record demonstrates that she is a restrained, moderate jurist who subjugates her personal views to the rule of law.

As I said earlier, I would never expect to agree with 100 percent of the views of any Supreme Court nominee. That is especially true when that nominee is chosen by a President from the Democratic Party. After studying Judge Ginsburg's record, however, I am satisfied that she is one of the best choices for the High Court that this President could make.

Therefore, I intend to cast my vote in support of Judge Ginsburg, and I urge my colleagues to do the same.

I yield the floor.

Mr. DECONCINI. Mr. President, first of all, I would like to commend the chairman of the Judiciary Committee, Senator BIDEN, for his leadership in this nomination process. As he has done consistently in the past—he conducted the hearings in a fair manner with respect to both parties, the nominee, and the witnesses.

Just 7 weeks ago, when President Clinton announced his intentions to nominate Judge Ginsburg, I commended him for his excellent choice. His announcement drew widespread and bipartisan support. And when

Judge Ginsburg spoke at the Rose Garden, we were given a glimpse of this gifted and special individual.

Today, at the end of the confirmation process, that initial assessment has withstood great scrutiny—reinforcing my belief that Ruth Bader Ginsburg will serve as a distinguished Justice on the Supreme Court.

This nominee's career accomplishments are well known. Indeed, it has been some time since we have seen a Supreme Court nominee with such unquestionable professional achievements.

Judge Ginsburg began impacting Supreme Court opinions over 20 years ago. Over that time, she has produced a considerable body of writings and speeches. She has been a teacher and an advocate and has served for more than a decade on the District of Columbia circuit. She rightfully received the ABA's highest rating for judicial nominees.

Most of us on the committee have participated in several prior Supreme Court nomination hearings. It is a pleasure for this Senator to witness some comity in the confirmation process. This comity is a tribute to the nominee—a nominee who has defied the label of both liberal and conservative.

Throughout the hearings, I personally believed that the nominee was forthcoming in her responses regarding issues that she was at liberty to discuss. During her 3 full days of testimony, Judge Ginsburg was questioned on a wide range of subjects regarding her opinions as a Federal judge, her briefs argued before the Supreme Court, her numerous law review articles, and her views on well-settled constitutional law.

At times, Judge Ginsburg declined to answer questions concerning controversial areas of the law. Pundits may question some of her decisions to refrain from answering. But this Senator was left satisfied with her responses. It was not that long ago when he had a nominee who even refused to discuss his views of Marbury versus Madison before this committee.

Predicting how a nominee will perform on the court is a speculative process. We have no assurances how any nominee or sitting Supreme Court Justice will vote. Throughout their careers, Justices face constitutional issues never contemplated at the time of their nomination.

Consequently, the ultimate question we as Senators must ask ourselves is whether we feel secure about entrusting a nominee with the enormous responsibility of interpreting our Constitution. It has been some years since I have been as confident in entrusting that responsibility as I am with Ruth Bader Ginsburg.

President Clinton presented us with a well-qualified nominee. The committee thoroughly examined and questioned her on the great constitutional issues of our day. And Judge Ginsburg has demonstrated that she is a jurist with a thorough understanding of the Constitution and the role of the Court in protecting our individual rights.

For these reasons, I will vote to support Judge Ginsburg's nomination to the Supreme Court.

Mr. HATFIELD. Mr. President, I would like to take a few minutes today to outline the reasons why I will vote in favor of the confirmation of Judge Ruth Bader Ginsburg to the U.S. Supreme Court.

It is with great pleasure that I join in what has been almost unanimous senatorial support for Judge Ginsburg. This support has come after a thorough investigation and a civilized process that has brought honor to this institution, and is indicative of the quality of this nominee. Her nomination has been marked by a genuinely nonpartisan discussion demonstrating the triumph of capability over ideology, of personality over politics.

As Judge Ginsburg herself noted before the Judiciary Committee, the Framers of the Constitution originally considered giving the Senate sole power to appointment and confirmation, so this is a matter we take quite seriously. But, the President with his appointment power, has made an excellent choice in selecting Judge Ginsburg as the nominee to fill the void left by the retirement of the great Justice Byron White.

As the 107th person, and only the second woman who will be appointed to the Supreme Court, Judge Ginsburg will bring unique qualifications and perspective to the Court. In my 26 years in the Senate, I have had the opportunity to review many appointments, the first of these being the late Justice Thurgood Marshall in August of 1967. Since that time, the Court has strived to understand the problems facing a diverse Nation as they have arisen in the constitutional context.

But, there is no substitute for experience. And Judge Ginsburg's experiences are very telling. She has personally faced discrimination, and has fought for civil rights, especially for women. As a leader and a scholar, she knows, perhaps better than anyone in this Nation, that we must continue to be vigilant in our insistence that women and men be treated equally under the law.

Her academic qualifications are beyond question, excelling from humble beginnings to the top levels of the legal educational community. She was a teacher for many years. And, as a former educator, I can attest to the fact that to teach is to learn. Beyond academic research and writing, to be questioned in class by a fresh set of minds every day can only broaden one's perspective.

In addition to her impressive résumé and personal background, Judge Ginsburg has demonstrated a cautious and wise judicial demeanor supportive of an independent and restrained judiciary. She has the desire to intensely scrutinize the facts and law surrounding a case under consideration. She has the thirst for a reasoned and logical analysis toward a conclusion, and the heightened awareness not only of the power of the judiciary, but of its limitations. Her intellectual sharpness is complemented by a certain strength and independence of thought. These are extremely valuable characteristics which will serve her well should she be confirmed to the Court.

She has a strong respect for the notion of stare decisis, as illustrated by her record as a Federal appeals judge. She has demonstrated respect for the legislative branch and for legislative history. Several times during her confirmation hearings she emphasized the need for broad participation in the democratic process, and for judges to disdain infusion of their personal moral predilections thus preempting this process. As Aristotle wrote in another age, "If liberty and equality, as is thought by some, are chiefly to be found in democracy, they will be best attained when all persons alike share in the government to the utmost."

Obviously, I do not agree with Judge Ginsburg's views on every issue that may come before the Court. Although she questioned the scope and reasoning of the Roe versus Wade decision, she might argue for abortion rights on other bases which I would question. In addition, I would have liked to see her offer more clarification on issues surrounding the death penalty, in particular the availability of courts to hear new evidence showing that an innocent inmate may be put to death. There is a record from some of her decisions in the area of religious freedom demonstrating a strong respect for this right. Her understanding of that important right may have been shaped in part by her own family's experience with religious and ethnic persecution in Europe.

Regardless of whether I agree or disagree with her thoughts on particular issues, I have never viewed it as the role of the Senate to oppose nominees because they do not hold views identical to our own. A great variety of issues, including some that we can not foresee today, will come before the Court during the time that Judge Ginsburg may serve. As Chief Justice Rehnquist wrote in his book entitled "The Supreme Court,"

> We cannot know for certain the sort of issues with which the Court will grapple in the third century of its existence. But there is no reason to doubt that it will continue as a vital and uniquely American institutional participant in the everlasting search of civilized society for the proper balance between liberty and authority, between the state and the individual.

Judge Ginsburg has demonstrated a unique ability and strong desire to strike these balances. She has an understanding of the role and of the limitations of the judiciary. But more importantly, she possesses the modesty of realization that there is often no immediate balance that can be struck, that the great questions facing our Nation transform and develop over years of struggle.

Finally, the most important point in favor of Judge Ruth Bader Ginsburg's nomination to the Supreme Court is her personal strength of character and sense of purpose. When asked before the Judiciary Committee how she would want the American people to think of her, she responded, "As someone who cares about people and does the best she can with the talent she has to make a contribution to a better world." These are not merely words to Judge Ginsburg, she has already dedicated much of her life to this strongly felt notion of public service. I have no doubt that she will serve on the Supreme Court with the same integrity and view toward the public good that she has exhibited throughout her life thus far.

The PRESIDING OFFICER. The question is on the confirmation of the nomination of Ruth Bader Ginsburg, of New York, to be an Associate Justice of the Supreme Court of the United States.

The yeas and nays have been ordered. Senators are reminded to vote from their seats.

The clerk will now call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Michigan [Mr. RIEGLE] is necessarily absent.

I further announce that, if present and voting, the Senator from Michigan [Mr. RIEGLE] would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 96, nays 3, as follows:

[Rollcall Vote No. 232 Ex.]

YEAS—96

Akaka
Baucus
Bennett
Biden
Bingaman
Bond
Boren
Boxer
Bradley
Breaux
Brown
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Coats
Cochran
Cohen
Conrad
Coverdell
Craig
D'Amato
Danforth
Daschle
DeConcini
Dodd
Dole
Domenici
Dorgan
Durenberger
Exon
Faircloth
Feingold
Feinstein
Ford
Glenn
Gorton
Graham
Gramm
Grassley
Gregg
Harkin
Hatch
Hatfield
Heflin
Hollings
Hutchison
Inouye
Jeffords
Johnston
Kassebaum
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
Mathews
McCain
McConnell
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murkowski
Murray
Nunn
Packwood
Pell
Pressler
Pryor
Reid
Robb
Rockefeller
Roth
Sarbanes
Sasser
Shelby
Simon
Simpson
Specter
Stevens
Thurmond
Wallop
Warner
Wellstone
Wofford

NAYS—3

Helms
Nickles
Smith

NOT VOTING—1

Riegle

So the nomination was confirmed.

The PRESIDING OFFICER. As previously ordered, the motion to reconsider is laid upon the table and the President will be immediately notified of the Senate's action confirming Judge Ginsburg's nomination.

Under the previous order, the clerk will report the next nomination.

The Senator from Maine.

Mr. MITCHELL. Mr. President, may I have the attention of Senators, please?

The PRESIDING OFFICER. The Senate will be in order.

Mr. MITCHELL. Under the previous order, the next two votes will be 10 minutes each, a total of 10 minutes each. I urge Senators to remain in the Chamber through the first vote and then not leave until after they vote on the second vote. And Senators are responsible for making certain that the clerk has actually recorded their vote.

I encourage all Senators to remain in the Chamber and to make certain the clerk has actually recorded your vote. I thank my colleagues.

DEPARTMENT OF EDUCATION

NOMINATION OF THOMAS W. PAYZANT, OF CALIFORNIA, TO BE ASSISTANT SECRETARY FOR ELEMENTARY AND SECONDARY EDUCATION.

The bill clerk read the nomination of Thomas W. Payzant, of California, to be Assistant Secretary for Elementary and Secondary Education.

Mr. SIMPSON. Mr. President, I rise today on behalf of the nomination of Dr. Thomas Payzant as Assistant Secretary of Education for Elementary and Secondary Education. I believe that Dr. Payzant has the ability and the will to implement policies that will enable our public schools to rise to the challenge of our national education goals.

It is important for the Federal Government to have an Assistant Secretary of Education for Elementary and Secondary Schools who is adept at building consensus among a variety of groups interested in education and who has hands on experience at the local and State level, as that is where the heart of school innovation occurs.

During his tenure as superintendent of schools in San Diego, Dr. Payzant did not shy away from controversial issues, but instead attempted to address the concerns of his critics head on by attempting to find compromises when possible.

Once again during his nomination hearings, Dr. Payzant showed his willingness to answer the queries of critics and appeared to be amendable to working with those in the minority on a variety of education issues that will face the Congress in the coming year, specifically the reauthorization of the Elementary and Secondary Education Act, which is due for an overhaul during the 103d Congress.

I know that some of my Republican colleagues remain opposed to Dr. Payzant's nomination due to his decision to ban the Boy Scouts from participating in the schools during normal school hours because of their antihomosexual policies. As I understand it, this decision was based on school board policy that was voted on by members of the elected board of education. After this action was taken, Dr. Payzant assured the Boy Scouts that they could continue to use school facilities after school hours. The students of the San Diego unified district are still free to participate in the Boy Scout Program during their free time. While I do not agree with such a policy, I recognize the fact that this matter is primarily a local issue and that Dr. Payzant was implementing a policy determined by the locally elected officials. Dr. Payzant had no choice but to fulfill that policy. His actions should in no way be interpreted to be anti-Boy Scout. In fact, Dr. Payzant was a Boy Scout as a youngster and his sons are Boy Scouts, as well.

As we face the beginning of the 21st century, we must remain committed to improving the quality of public education. Our children must be able to grow and mature into a work force that is competitive with the rest of the world. We can only accomplish these goals by increasing the participation of parents, by encouraging innovation, by improving standards, and by making educators accountable for the quality of instruction.

I believe that Dr. Payzant has the capability to accomplish such a task. I will vote for his nomination, and I look forward to working with him on education issues that affect all our children.

Mr. CRAIG. Mr. President, before casting my vote on the nomination of Dr. Thomas Payzant for Assistant Secretary for Elementary and Secondary Education, I would like to take a moment to outline some of my concerns about this nominee.

Dr. Payzant has a number of fine qualities, and he has received a number of prestigious honors such as the Harold W. McGraw, Jr., Award. I do not question his abilities, and accomplishments in the area of education. However, I am concerned about his continued use of his position as superintendent of the San Diego School District to further his own social agenda.

In his position as the San Diego schools superintendent, Dr. Payzant supported changing the school's antidiscrimination code to include sexual orientation. He then used this policy to bar Boy Scouts from holding activities during the school day when attendance is compulsory. The program sponsored by the Boy Scouts during the school day was the Learning for Life Program. While the Boy Scouts are excluded from activities during the school day, they are still able to sponsor activities after school because they are protected by the State of California's Civic Center Act, which specifically includes Boy Scout troops as one of a number of organizations with access to school district facilities.

Another action that has contributed to my decision to oppose the nominee is his push for the establishment of school-based clinics that would dispense contraceptives. The school board originally rejected Dr. Payzant's proposal. The rejection was due to the contraceptives issue. A pilot program that does not distribute contraceptives was finally established. However, the schools do provide information on community and Government organizations that provide reproductive services. This kind of program cuts out the role of the parent, which I strongly oppose.

The position of Assistant Secretary for Elementary and Secondary Education is a very distinguished and important position—one that affects our children. I cannot support a nominee that will use this position as a bully pulpit to promote his own social views. I have been contacted by a number of my constituents with similar concerns who are opposed to this nominee and the power he will have over the education of their children. I share that concern and will be opposing the nominee.

Mr. HATFIELD. Mr. President, I am pleased to support the nomination of Dr. Thomas W. Payzant to the position of Assistant Secretary for the Office of Elementary and Secondary Education. Although Dr. Payzant has held positions of educational leadership throughout the country, I am especially pleased to report that he earned high marks for his record of service in my home State of Oregon while serving as superintendent of the Eugene School District from 1973–78. Dr. Margaret Nichols, current superintendent of the Eugene district wrote the following about Dr. Payzant: "Tom's entire life has been and continues to be devoted to service to young people; he is a powerful advocate and a true friend of children * * * Tom Payzant is a superb educational leader and a fine human being."

Dr. Payzant's longevity in his most recent position as San Diego city schools superintendent is quite impressive. Leading the Nation's eight largest urban school district for 10½ years through an era of budget cuts, rapid enrollment growth, and major demographic strains is an accomplishment. His longevity is particularly impressive considering the average tenure for CEO's in the Nation's 45 largest districts is only 2 years.

Based on the feedback I have received from educational leaders in Oregon, and his record of service in other areas of the country, I am pleased to support Dr. Thomas Payzant for the position of Assistant Secretary for Elementary and Secondary Education.

The PRESIDING OFFICER. The question is on the confirmation of the nomination. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. FORD. I announce that the Senator from Missouri [Mr. RIEGLE] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced, yeas 72, nays 27, as follows:

[Rollcall Vote No. 233 Ex.]

YEAS—72

Akaka
Baucus
Bennett
Biden
Bingaman
Boren
Boxer
Bradley
Breaux
Bryan
Bumpers
Campbell
Chafee
Cohen
Conrad
D'Amato
Danforth
Daschle
DeConcini
Dodd
Domenici
Dorgan
Durenberger
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Hatfield
Heflin
Hollings
Hutchison
Inouye
Jeffords
Johnston
Kassebaum
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lugar
Mathews
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murray
Nunn
Packwood
Pell
Pryor
Reid
Robb
Rockefeller
Roth
Sarbanes
Sasser
Shelby
Simon
Simpson
Specter
Stevens
Thurmond
Wellstone
Wofford

NAYS—27

Bond
Brown
Burns
Byrd
Coats
Cochran
Coverdell
Craig
Dole
Faircloth
Gorton
Gramm
Grassley
Gregg
Hatch
Helms
Kempthorne
Lott
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Smith
Wallop
Warner

NOT VOTING—1

Riegle

So the nomination was confirmed.

The PRESIDING OFFICER. As previously ordered, the motion to reconsider is laid upon the table, and the President will be immediately notified of the Senate's action.

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

NOMINATION OF SHELTON HACKNEY, OF PENNSYLVANIA, TO BE CHAIRPERSON OF THE NATIONAL ENDOWMENT FOR THE HUMANITIES

The PRESIDING OFFICER. Under the previous order, the clerk will report the next nomination.

The legislative clerk read the nomination of Sheldon Hackney, of Pennsylvania, to be Chairperson of the National Endowment for the Humanities.

The Senate resumed consideration of the nomination.

Mr. LEAHY. Mr. President, I rise to support the confirmation of Sheldon Hackney to be the next Chairman of the National Endowment for the Humanities. The NEH has an important and difficult mission to fulfill. It is responsible for supporting and sustaining the highest level of scholarly inquiry and to share the riches of thought in the humanities with the public. Over the years, NEH has helped interpret great works in American thought to our citizens, and has developed our traditions more deeply through its grants and programs. Through the State humanities councils, NEH reaches people through libraries, public forums, media presentations, and exhibits, and literally has taught thousands of Americans to read, bringing them into the mainstream of the democracy and economy.

Dr. Hackney's well-publicized nomination recently was voted out of Senator KENNEDY'S Labor and Human Resources Committee by a unanimous 17–0 vote. Senators across the political spectrum gave him a fair hearing, listened to his positions on academic freedom and free speech. They listened to a distinguished southern historian, president of the University of Pennsylvania for 12 years, and found a man who can lead the NEH to fulfill its mission, and bring the humanities—"areas of study that bring us the deeds and thoughts of other times"—into everyday life.

Dr. Hackney's nomination should not be politicized any further. He needs our bipartisan support to lead the National Endowment for the Humanities in a difficult time. He should be confirmed.

Mr. SIMPSON. Mr. President, I rise in support of the nomination of Sheldon Hackney to become Director of the National Endowment for the Humanities. I have met personally with Sheldon Hackney and I engaged him in aggressive discussion concerning his commitment to freedom of speech. I would not be supporting his nomination if I felt that he was in any way temperamentally inclined to espouse politically correctness at the cost of free expression.

Sheldon Hackney has not had a trouble-free tenure as the president of the

University of Pennsylvania. Mr. Hackney has admitted to errors in judgment during his professional life. In January at the University of Pennsylvania an Israeli-born student yelled, "shut up, you water buffalo" to five African-American women who were shouting outside his dormitory. The women charged him with racial harassment under the university's free speech code. The student denied that his epithet was racial, but merely a translation of a Yiddish term for an annoying person.

Sheldon Hackney declined to intervene in the campus judicial process established for complaints of harassment, saying, "not only does the university put the free exchange of ideas at the core of its being, but it also strives to ensure that no member of the community is prevented from full participation in those debates by intimidating and abusive racial slurs that are intended to wound, rather than enlighten."

I would submit that even wholly offensive speech must ultimately be protected. In fact, there is no need to protect speech that is not offensive to someone, for then no one would attempt to eradicate it. The situation could have been handled with greater care and sensitivity and Sheldon Hackney clearly acknowledges that.

Also at the University of Pennsylvania this year, a group of black students destroyed 14,000 copies of the campus newspaper, claiming that the paper was an example of institutional racism. Sheldon Hackney's response was that "two important university values, diversity and open expression, appear to be in conflict. Freedom of expression must take precedence over diversity."

I would underscore that sentiment by saying that freedom of speech is the ultimate guarantor of diversity, for only if all ideas are permitted free circulation can diverse peoples, cultures, and ideas coexist peaceably. Mr. Hackney recognized the abuse of first amendment rights in this instance. He also admits his own serious errors of judgment.

Academicians have stressed over the past few years that they could not hope to maintain order on university campuses without the institution of speech codes. These so called speech codes are simply restrictions on free expression. Mr. Hackney admitted freely that political correctness does exist. That is an important acknowledgment. He also believes that in order for diverse cultures to live side-by-side a vigorous debate of ideas must not—ever—be restricted.

Mr. Hackney is a capable, thoughtful, scholarly man. He has a fine sense of his worth and a gentle sense of humor. As the Director of the National Endowment of the Humanities, his ability to protect and promote first amendment rights and correctly identify the serious impediments to these rights will be tested time and time again. I feel that Mr. Hackney will rise to the challenge. I am willing to present him with that challenge. I support his nomination because I do not believe that any of his admitted errors in judgment indicate some basic failure by him to share in the eternal values of free speech and expression which we hold so dear.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Sheldon Hackney, of Pennsylvania, to be Chairperson of the National Endowment for the Humanities? On this question, the yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Michigan [Mr. RIEGLE], is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 76, nays 23, as follows:

[Rollcall Vote No. 234 Ex.]

YEAS—76

Akaka
Baucus
Bennett
Biden
Bingaman
Boren
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Campbell
Chafee
Coats
Cochran
Cohen
Conrad
Danforth
Daschle
DeConcini
Dodd
Dole
Dorgan
Durenberger
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Gregg
Harkin
Hatch
Hatfield
Heflin
Hollings
Hutchison
Inouye
Jeffords
Johnston
Kassebaum
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lugar
Mathews
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murkowski
Murray
Nunn
Packwood
Pell
Pryor
Reid
Robb
Rockefeller
Roth
Sarbanes
Sasser
Shelby
Simon
Simpson
Specter
Stevens
Thurmond
Wellstone
Wofford

NAYS—23

Bond
Brown
Burns
Coverdell
Craig
D'Amato
Domenici
Faircloth
Gorton
Gramm
Grassley
Helms
Kempthorne
Lieberman
Lott
Mack
McCain
McConnell
Nickles
Pressler
Smith
Wallop
Warner

NOT VOTING—1

Riegle

So the nomination was confirmed.

The PRESIDING OFFICER. As previously ordered, the motion to reconsider is laid upon the table, and the President will be immediately notified of the Senate's action.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to the legislative session.

TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 1994

The PRESIDING OFFICER. The Senate will now resume consideration of H.R. 2403, the Treasury, Postal appropriations bill, which the clerk will report.

The bill clerk read as follows:

A bill (H.R. 2403) making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1994, and for other purposes.

The Senate resumed consideration of the bill.

The PRESIDING OFFICER. Under the previous order, the Senator from New Jersey [Mr. LAUTENBERG], is authorized to offer an amendment. There will be 1 hour for debate on the amendment, equally divided and controlled in the usual form.

The Chair recognizes the Senator from New Jersey, Senator LAUTENBERG.

AMENDMENT NO. 747

(Purpose: To require the Administrator of the Environmental Protection Agency to promulgate guidelines for instituting a nonsmoking policy in buildings owned or leased by Federal agencies)

Mr. LAUTENBERG. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Jersey [Mr. LAUTENBERG], for himself and Mr. HARKIN, proposes an amendment numbered 747.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, add the following new title:

TITLE III—NONSMOKING POLICY

SEC. 801. SHORT TITLE.

This title may be cited as the "Preventing Our Federal Building Workers and Visitors From Exposure to Deadly Smoke (PRO-FEDS) Act of 1993".

SEC. 802. FINDINGS.

Congress finds that—

(1) environmental tobacco smoke comes from secondhand smoke exhaled by smokers and sidestream smoke emitted from the burning of cigarettes, cigars, and pipes;

(2) since citizens of the United States spend up to 90 percent of a day indoors, there is a significant potential for exposure to environmental tobacco smoke from indoor air;

(3) exposure to environmental tobacco smoke occurs in schools, public buildings, and other indoor facilities;

(4) recent scientific studies have concluded that exposure to environmental tobacco smoke is a cause of lung cancer in healthy nonsmokers and is responsible for acute and chronic respiratory problems and other health impacts in sensitive populations (including children);

(5) the health risks posed by environmental tobacco smoke exceed the risks posed by

many environmental pollutants regulated by the Environmental Protection Agency; and

(6) according to information released by the Environmental Protection Agency, environmental tobacco smoke results in a loss to the economy of over $3,000,000,000 per year.

SEC. 803. DEFINITIONS.

As used in this title:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) EXECUTIVE AGENCY.—The term "Executive agency" has the meaning provided in section 105 of title 5, United States Code.

(3) FEDERAL AGENCY.—The term "Federal agency" includes any Executive agency, the Executive Office of the President, any military department, any court of the United States, the Administrative Office of the United States Courts, the Library of Congress, the Botanic Garden, the Government Printing Office, the Congressional Budget Office, the United States Postal Service, the Postal Rate Commission, the Office of the Architect of the Capitol, the Office of Technology Assessment, and any other agency of the executive, legislative, and judicial branches.

(4) FEDERAL BUILDING.—The term "Federal building" means any building or other structure owned or leased for use by a Federal agency, except that the term shall not include any area of a building that is used primarily as living quarters.

(5) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

SEC. 804. NONSMOKING POLICY FOR FEDERAL BUILDINGS.

(a) IN GENERAL.—

(1) ISSUANCE OF GUIDELINES.—Not later than 180 days after the date of enactment of this Act, the Administrator shall issue guidelines for instituting and enforcing a nonsmoking policy at each Federal agency.

(2) CONTENTS OF GUIDELINES.—A nonsmoking policy that meets the requirements of the guidelines shall, at a minimum, prohibit smoking in each indoor portion of a Federal building that is not ventilated separately (as defined by the Administrator) from other portions of the facility.

(b) ADOPTION OF GUIDELINES.—

(1) IN GENERAL.—As soon as is practicable after the date of issuance of the guidelines referred to in subsection (a), the head of each Executive agency, and the Director of the Administrative Office of the United States Courts shall adopt a nonsmoking policy applicable to the Federal agency under the jurisdiction of the individual that meets the requirements of the guidelines referred to in subsection (a), and take such action as is necessary to ensure that the policy is carried out in the manner specified in the guidelines.

(2) LEGISLATIVE BRANCH.—As soon as is practicable after the date of issuance of the guidelines referred to in subsection (a), the following entities and individuals shall adopt a nonsmoking policy that meets the requirements of the guidelines referred to in subsection (a), and take such action as is necessary to ensure that the policy is carried out in the manner specified in the guidelines:

(A) With respect to the House of Representatives (including any office space or buildings of the House of Representatives), the House Office Building Commission.

(B) With respect to the Senate (including any office space or buildings of the Senate), the Committee on Rules and Administration of the Senate.

(C) With respect to any other area occupied or used by a Federal agency of the legislative branch, the Architect of the Capitol.

(3) CERTIFICATION FOR EXECUTIVE AGENCIES.—The Administrator of General Services, in consultation with the Administrator, shall review each nonsmoking policy adopted by the head of an Executive agency and shall certify those policies that meet the requirements of the guidelines referred to in subsection (a). In carrying out the certification, the Administrator of General Services shall use a procedure and apply criteria that the Administrator shall establish. Except as provided in subsection (c), if a policy does not meet the requirements of the guidelines, the Administrator of General Services shall—

(A) in a written communication, advise the head of the Executive agency concerning modifications of the policy to meet the requirements; and

(B) publish the communication in the Federal Register.

(c) WAIVERS.—

(1) EXECUTIVE AGENCIES.—The head of an Executive agency may publicly petition the Administrator of General Services for a waiver from instituting or enforcing a nonsmoking policy (or policy requirement) under the guidelines issued pursuant to subsection (a). The Administrator of General Services may waive the requirement if, after consultation with the Administrator, the Administrator of General Services determines that—

(A) unusual extenuating circumstances prevent the head of the Federal agency from enforcing the policy (or a requirement under the policy) (including a case in which the Federal agency shares space in an indoor facility with a non-Federal entity and cannot obtain an agreement with the other entity to abide by the nonsmoking policy requirement) and the head of the Executive agency will establish and make a good-faith effort to enforce an alternative nonsmoking policy (or alternative requirement under the policy) that will protect individuals from exposure to environmental tobacco smoke to the maximum extent possible; or

(B) the head of the Executive agency will enforce an alternative nonsmoking policy (or alternative requirement under the policy) that will protect individuals from exposure to environmental tobacco smoke to the same degree as the requirement under the guidelines issued pursuant to subsection (a).

(2) AGENCIES OF THE JUDICIAL BRANCH.—After consultation with the Administrator, and after providing public notice and reasonable opportunity for public review and comment, the Director of the Administrative Office of the United States Courts may, on the basis of the criteria for a waiver referred to in paragraph (1), make such modifications to the nonsmoking policy required to be carried out pursuant to subsection (b) as the Director determines to be necessary. The Director may not make any modification that violates the criteria for a waiver under paragraph (1).

(3) AGENCIES OF THE LEGISLATIVE BRANCH.—After consultation with the Administrator, and after providing public notice and reasonable opportunity for public review and comment, the appropriate entity or individual referred to in subparagraphs (A) through (C) of subsection (b)(2) may, on the basis of the criteria for a waiver referred to in paragraph (1), make such modifications to the nonsmoking policy required to be carried out pursuant to subsection (b) as the entity or individual determines to be necessary. The entity or individual may not make any modification that violates the criteria for a waiver under paragraph (1).

(d) COLLECTIVE BARGAINING AGREEMENTS.—

(1) IN GENERAL.—In a Federal agency in which a labor organization has been accorded recognition as a bargaining unit pursuant to chapter 71 of title 5, United States Code, the Federal agency shall engage in collective bargaining pursuant to section 7114 of title 5, United States Code, to ensure the implementation of the requirements of this section that affect work areas predominately occupied by the employees represented by the labor organization by the date of the adoption, pursuant to this section, of a nonsmoking policy applicable to the Federal agency.

(2) EXEMPTION.—

(A) IN GENERAL.—If, on the date of enactment of this Act—

(i) a bargaining unit referred to in paragraph (1) has in effect a collective bargaining agreement with respect to which a Federal agency is a party; and

(ii) the collective bargaining agreement referred to in clause (i) includes provisions relating to smoking privileges that are in violation of the requirements of this section,

the head of the Federal agency may exempt work areas predominately occupied by the employees subject to the collective bargaining agreement from the nonsmoking policy that the Federal agency is required to be carried out under subsection (b).

(B) TERMINATION OF EXEMPTION.—

(i) IN GENERAL.—An exemption referred to in subparagraph (A) shall terminate on the earlier of—

(I) the first expiration date (after the date of enactment of this Act) of the collective bargaining agreement containing the provisions relating to smoking privileges; or

(II) the date that is 1 year after the date of issuance of the guidelines.

(ii) IMPLEMENTATION OF NONSMOKING POLICY AFTER TERMINATION DATE.— By the applicable date specified in clause (i)(II), the head of each Federal agency shall be required to enforce a nonsmoking policy that meets the requirements of the guidelines issued under subsection (a) in each work area under the jurisdiction of the head of the Federal agency, notwithstanding any collective bargaining agreement that contains provisions that are less restrictive than the nonsmoking policy.

SEC. 805. TECHNICAL ASSISTANCE AND OUTREACH ACTIVITIES.

(a) TECHNICAL ASSISTANCE.—The Administrator and the Secretary shall provide technical assistance to the heads of Federal agencies and other persons who request technical assistance. The technical assistance shall include information—

(1) on smoking cessation programs for employees; and

(2) to assist in compliance with the requirements of this title.

(b) OUTREACH ACTIVITIES.—The Administrator, in consultation with the Secretary, shall establish an outreach program to inform the public concerning the dangers of environmental tobacco smoke. As part of the outreach program, the Administrator and the Secretary shall make available to the general public brochures and other educational materials. In establishing the programs under this paragraph, the Administrator and the Secretary shall cooperate to maximize the sharing of information and resources.

SEC. 806. REPORT BY THE ADMINISTRATOR.

Not later than 2 years after the date of enactment of this Act, the Administrator shall submit a report to Congress that includes—

(1) information concerning the degree of compliance with this title; and

(2) an assessment of the legal status of smoking in public places.

SEC. 807. PREEMPTION.

Nothing in this title is intended to preempt any provision of law of a State or political subdivision of a State that is more restrictive than a provision of this title.

SEC. 808. EXEMPTION.

No provision in this title shall be construed to affect or otherwise impair the authority of the Secretary of Veterans Affairs, under section 526 of the Veterans Health Care Act of 1992 (38 U.S.C. 1715 note).

Mr. FORD. If the Senator will yield, has this amendment been modified from the original one?

Mr. LAUTENBERG. Yes.

Mr. FORD. Did the Senator take out the proposal we had for a study of veterans hospitals, and so forth?

Mr. LAUTENBERG. My amendment does not alter the existing law regarding smoking in veterans hospitals.

Mr. FORD. It does not touch the veterans?

Mr. LAUTENBERG. No.

Mr. FORD. I thank the Senator.

Mr. LAUTENBERG. Mr. President, most people know that there is a killer lurking around us which causes 3,000 lung cancer deaths per year. The killer is called environmental tobacco smoke, or secondhand smoke. The EPA has classified it as a group A carcinogen like arsenic, benzene, and asbestos. Despite this classification, secondhand smoke still permeates many of our Federal buildings. That is why I rise today to introduce an amendment to make all Federal buildings smoke free.

This amendment is based on PRO-FEDS, a bill I introduced earlier this year which has 18 cosponsors.

Simply put, the bill would require that all Federal departments and agencies adopt a smoke-free policy for all buildings in which they have ownership or a lease. This policy could either consist of a prohibition against smoking in each building or designated smoking areas which are separately ventilated to the outside, according to EPA standards. This would include the White House offices and the Congress, but would not cover Federal buildings which serve primarily as living quarters.

This amendment also includes a provision that would allow unions to adopt this requirement through collective bargaining.

Mr. President, an EPA report released on January 7, 1993, undeniably confirms what public health officials have reported for several years: Smoking kills those who smoke and also many of those who breathe secondhand smoke.

The evidence is also clear that secondhand smoke takes an enormous toll on the health of Americans, particularly our children. According to the EPA report, 3,000 lung cancer deaths per year among nonsmokers result from exposure to secondhand smoke.

We see here on the chart that the Clean Air Act regulated 189 substances which collectively cause 1,500 deaths per year, about half those of secondhand smoke. It tells you what the danger of secondhand smoke truly is.

Mr. President, regrettably we have done little to fight an indoor air pollutant that causes at least twice as many deaths each year.

Secondhand smoke also causes more than 200,000 lower respiratory tract infections in young children annually, including diseases like bronchitis and pneumonia, resulting in 7,500 to 15,000 hospitalizations.

Secondhand smoke exacerbates asthmatic symptoms in children and is associated with 8,000 to 26,000 new asthma cases in children each year.

This EPA report was twice reviewed by an EPA Science Advisory Board and was approved unanimously for final release by the scientists on this panel.

In a separate study, the American Heart Association concluded that exposure to secondhand smoke increases the risk of lung cancer, heart disease, and emphysema. It reported that approximately 50 percent of all children exposed to secondhand smoke.

Now that that evidence is in, it is time for the Congress to take action and protect Americans from this deadly substance.

This amendment is but one step to protect Americans from unwanted exposure to deadly secondhand smoke. It expands the nonsmoking policy that is already in place at the U.S. Department of Health and Human Services, the Environmental Protection Agency, the U.S. Postal Service, and the Veterans' Administration, to all buildings owned or leased by agencies of the executive, legislative and judicial branches of the Federal Government.

This amendment would simply make our policy regarding secondhand smoke in Federal buildings consistent throughout. Why should a citizen be able to go into a smoke-free post office and be protected from a group A carcinogen but then have to go through an IRS audit with a fellow citizen blowing smoke in his or her face?

This amendment would also force the Federal Government to practice what it preaches. On July 21, 1993, the EPA issued a brochure making recommendations on how employers should deal with secondhand smoke. In the private workplace, EPA recommends—and I quote from the pamphlet:

> Prohibiting smoking indoors or limiting smoking to rooms that have been specially designed to prevent smoke from other areas of the building are two options that will effectively protect the nonsmoker.

That is exactly what my amendment would do for Federal buildings. It is unconscionable for the Federal Government to recommend that the private sector adopt a smoke-free policy that it is unwilling to apply to itself.

Mr. President, the Government should apply to itself the same standards as it recommends to the private sector. The Department of Health and Human Services initially banned smoking in all of its buildings because our top health officials understand the danger of environmental tobacco smoke. We have banned smoking on all domestic airplane flights. The same protection should be afforded to people who work and visit Federal buildings.

Mr. President, the Supreme Court ruled earlier this year that even prisoners have the right to be protected from secondhand smoke. In Helling versus McKinney, the Court ruled that exposure to secondhand smoke could be considered cruel and unusual punishment and forced a lower court to rehear this case. If prisoners have the right to be protected from the carcinogen, so do people who work in and visit our Federal buildings.

As a Department of Health and Human Services report notes:

> Twenty-five years ago, smoking in the workplace in public places was considered a virtual birthright. Today, acceptance of smoking in public places has largely disappeared, replaced by an increasing recognition of the right to breathe air free from the harmful effects of tobacco smoke.

We have come a long way. But we still have a long way to go.

We should expand the smoke-free policies that already exist at the Department of Health and Human Services, the Environmental Protection Agency, the U.S. Postal Service, and the Veterans' Administration to all agencies of the Federal Government. Charlotte, NC, in the heart of tobacco country, has a smoke-free policy in its public buildings and lots of people make their living there as a result of the tobacco industry.

We ought to take this step now to save lives and prevent illness. We should act now to prevent lawsuits against the Federal Government by people who have suffered from breathing this deadly carcinogen.

Mr. President, I want to inform Senators, particularly those interested in veterans' issues, that my amendment would not alter in any way the law that Congress passed last year with respect to smoking in VA hospitals.

I ask unanimous consent that a letter confirming this understanding from Senator ROCKEFELLER, chairman of the Veterans' Affairs Committee, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON VETERANS' AFFAIRS,
Washington, DC, August 3, 1993.

Hon. FRANK LAUTENBERG,
U.S. Senate, Washington, DC.

DEAR FRANK: I have reviewed your amendment to H.R. 2403, the Treasury, Postal Service, and General Government Appropriations bill for fiscal year 1994 and appreciate your cooperation in meeting my concerns that the amendment not override section 526 of Public Law 102-585, relating to the use of tobacco products in Department of Veterans Affairs' facilities. With that assurance, I have no objection to the consideration of your amendment.

Thank you for your assistance in this important matter.

Best,

JOHN D. ROCKEFELLER IV
Chairman.

Mr. LAUTENBERG. Mr. President, in consultation with our distinguished friend and colleague from Kentucky, Senator FORD, in the interest of time, I agreed not to ask for a rollcall vote on this amendment. However, it is my strong belief that if we had a vote in the Senate, it would win overwhelmingly. But a decision is a decision, and I will rely on the outcome of a voice vote.

But I hope that my foregoing rollcall vote will not serve as a pretext for this amendment to be dropped in conference. I want to say here for the record that if it is dropped in conference, I am going to be back here in the U.S. Senate to offer this amendment to another bill, and at that time, of course, I reserve the right to ask for a rollcall vote.

This amendment has been endorsed by the American Heart Association, the American Lung Association, the American Cancer Society, the Association Respiratory Care, the Association of Maternal and Child Health Programs, the Asthma and Allergy Foundation of America, and the National Coalition for Cancer Research.

Mr. President, I ask unanimous consent to have the following items included in the RECORD at the conclusion of my remarks:

One is a summary of the EPA report to which I referred; an EPA brochure urging all private workplaces to be smoke free to protect people from this deadly carcinogen.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Environmental Protection Agency, July 1993]

PROTECTING YOUR HEALTH

WHAT IS SECONDHAND SMOKE?

Secondhand smoke is a mixture of the smoke given off by the burning end of a cigarette, pipe, or cigar, and the smoke exhaled from the lungs of smokers.

This mixture contains more than 4,000 substances, more than 40 of which are known to cause cancer in humans or animals and many of which are strong irritants.

Secondhand smoke is also called environmental tobacco smoke (ETS); exposure to secondhand smoke is called involuntary smoking, or passive smoking.

SECONDHAND SMOKE CAN CAUSE LUNG CANCER IN NONSMOKERS

Secondhand smoke has been classified by the U.S. Environmental Protection Agency (EPA) as a known cause of lung cancer in humans (Group A carcinogen).

Passive smoking is estimated by EPA to cause approximately 3,000 lung cancer deaths in nonsmokers each year.

SECONDHAND SMOKE IS A SERIOUS HEALTH RISK TO CHILDREN

The developing lungs of young children are also affected by exposure to secondhand smoke.

Infants and young children whose parents smoke are among the most seriously affected by exposure to secondhand smoke, being at increased risk of lower respiratory tract infections such as pneumonia and bronchitis. EPA estimates that passive smoking is responsible for between 150,000 and 300,000 lower respiratory tract infections in infants and children under 18 months of age annually, resulting in between 7,500 and 15,000 hospitalizations each year.

Children exposed to secondhand smoke are also more likely to have reduced lung function and symptoms of respiratory irritation like cough, excess phlegm, and wheeze.

Passive smoking can lead to a buildup of fluid in the middle ear, the most common cause of hospitalization of children for an operation.

Asthmatic children are especially at risk. EPA estimates that exposure to secondhand smoke increases the number of episodes and severity of symptoms in hundreds of thousands of asthmatic children. EPA estimates that between 200,000 and 1,000,000 asthmatic children have their condition made worse by exposure to secondhand smoke. Passive smoking may also cause thousands of nonasthmatic children to develop the condition each year.

OTHER HEALTH IMPLICATIONS

Exposure to secondhand smoke causes irritation of the eye, nose, and throat.

Passive smoking can also irritate the lungs, leading to coughing, excess phlegm, chest discomfort, and reduced lung function.

Secondhand smoke may affect the cardiovascular system, and some studies have linked exposure to secondhand smoke with the onset of chest pain.

FOR MORE INFORMATION

U.S. Environmental Protection Agency, Indoor Air Quality Information Clearinghouse (IAQ INFO), P.O. Box 37133, Washington, DC 20013-7133, 1-800-438-4318.

Office on Smoking and Health/Centers for Disease Control and Prevention, Mail Stop K-50, 4770 Buford Highway, N.E., Atlanta, GA 30341-3724, 404-488-5705.

National Cancer Institute, Building 31, Room 10A24, 9000 Rockville Pike, Bethesda, MD 20892, 1-800-4-CANCER.

National Heart, Lung, and Blood Institute, Information Center, P.O. Box 30105, Bethesda, MD 20824-0105, 301-951-3260.

National Institute for Occupational Safety and Health, 4676 Columbia Parkway, Cincinnati, OH 45226-1998, 1-800-35-NIOSH

American Lung Association, 1740 Broadway, New York, NY 10019, 212-315-8700.

Or contact your local American Lung Association.

IN THE HOME

Don't smoke in your house or permit others to do so.

If a family member insists on smoking indoors, increase ventilation in the area where smoking takes place. Open windows or use exhaust fans.

Do not smoke if children are present, particularly infants and toddlers. They are particularly susceptible to the effects of passive smoking.

Don't allow baby-sitters or others who work in your home to smoke in the house or near your children.

WHERE CHILDREN SPEND TIME

EPA recommends that every organization dealing with children have a smoking policy that effectively protects children from exposure to environmental tobacco smoke.

Find out about the smoking policies of the day care providers, pre-schools, schools, and other care-givers for your children.

Help other parents understand the serious health risks to children from secondhand smoke. Work with parent/teacher associations, your school board and school administrators, community leaders, and other concerned citizens to make your child's environment smoke free.

IN THE WORKPLACE

EPA recommends that every company have a smoking policy that effectively protects nonsmokers from involuntary exposure to tobacco smoke. Many businesses and organizations already have smoking policies in place but these policies vary in their effectiveness.

If your company does not have a smoking policy that effectively controls secondhand smoke, work with appropriate management and labor organizations to establish one.

Simply separating smokers and nonsmokers within the same area, such as a cafeteria, may reduce exposure, but nonsmoking will still be exposed to recirculated smoke or smoke drifting into nonsmoking areas.

Prohibiting smoking indoors or limiting smoking to rooms that have been specially designed to prevent smoke from escaping to other areas of the building are the two options that will effectively protect nonsmokers. The costs associated with establishing properly designed smoking rooms vary from building to building, and are likely to be greater than simply eliminating smoking entirely.

If smoking is permitted indoors, it should be in a room that meets several conditions:

Air from the smoking room should be directly exhausted to the outside by an exhaust fan. Air from the smoking room should not be recirculated to other parts of the building. More air should be exhausted from the room than is supplied to it to make sure ETS doesn't drift to surrounding space.

The ventilation system should provide the smoking room with 60 cubic feet per minute (CFM) of supply air per smoker. This air is often supplied by air transferred from other parts of the building, such as corridors.

Nonsmokers should not have to use the smoking room for any purpose. It should be located in a non-work area where no one, as part of his or her work responsibilities, is required to enter.

Employer-supported smoking cessation programs are an important part of any smoking policy. Approximately 25 percent of American adults still smoke. Many smokers would like to quit, but cigarette smoking is physically and psychologically addictive, and quitting is not easy. While working in a smoke-free building may encourage some smokers to quit, a goal of any smoking policy should be to actively support smokers who want to kick the habit.

If there are designated outdoor smoking area, smoking should not be permitted right outside the doors (or near building ventilation system air intakes) where nonsmokers may have to pass through smoke from smokers congregated near doorways. Some employers have set up outdoor areas equipped with shelters and ashtrays to accommodate smokers.

IN RESTAURANTS AND BARS

Know the law concerning smoking in your community. Some communities have banned smoking in places such as restaurants entirely. Others require separate smoking areas in restaurants, although most rely on simply separating smokers and nonsmokers within the same space, which may reduce but not eliminate involuntary exposure to ETS.

If smoking is permitted, placement of smoking areas should be determined with some knowledge of the ventilation characteristics of the space to minimize nonsmoker exposure. For example, nonsmoking areas should be near air supply ducts while smoking areas should be near return registers or exhausts.

Ask to be seated in nonsmoking areas as far from smokers as possible.

If your community does not have a smoking control ordinance, urge that one be enacted. If your local ordinances are not sufficiently protective, urge your local government officials to take action.

Few restrictions have been imposed in bars where drinking and smoking seem to go together. In the absence of state or local laws restricting smoking in bars, encourage the proprietor to consider his or her nonsmoking clientele, and frequent places that do so.

Does your state or community have laws addressing smoking in public spaces? Many states have laws prohibiting smoking in public facilities such as schools, hospitals, airports, bus terminals, and other public buildings. Know the law. Take advantage of laws designed to protect you. Federal laws now prohibit smoking on all airline flights of six hours or less within the U.S. and on all interstate bus travel.

A SPECIAL MESSAGE FOR SMOKERS

This is a difficult time to be a smoker. As the public becomes more aware that smoking is not only a hazard to you but also to others, nonsmokers are becoming more outspoken, and smokers are finding themselves a beleaguered group.

If you choose to smoke, here are some things you can do to help protect the people close to you:

Don't smoke around children. Their lungs are very susceptible to smoke. If you are expecting a child, quit smoking.

Take an active role in the development of your company's smoking policy. Encourage the offering of smoking cessation programs for those who want them.

Keep your home smoke free. Nonsmokers can get lung cancer from exposure to your smoke. Because smoke lingers in the air, people may be exposed even if they are not present while you smoke. If you must smoke inside, limit smoking to a room where you can open windows for cross-ventilation. Be sure the room in which you smoke has a working smoke detector to lessen the risk of fire.

Test your home for radon. Radon contamination in combination with smoking is a much greater health risk than either one individually.

Don't smoke in an automobile with the windows closed if passengers are present. The high concentration of smoke in a small, closed compartment substantially increases the exposure of other passengers.

More than two million people quit smoking every year, most of them on their own, without the aid of a program or medication. If you want to quit smoking, assistance is available. Smoking cessation programs can help. Your employer may offer programs, or ask your doctor for advice.

RESPIRATORY HEALTH EFFECTS OF PASSIVE SMOKING—FACT SHEET

SUMMARY

The U.S. Environmental Protection Agency (EPA) has published a major assessment of the respiratory health risks of passive smoking (Respiratory Health Effects of Passive Smoking: Lung Cancer and Other Disorders; EPA/600/6-90/006F). The report concludes that exposure to environmental tobacco smoke (ETS)—commonly known as secondhand smoke—is responsible for approximately 3,000 lung cancer deaths each year in nonsmoking adults and impairs the respiratory health of hundreds of thousands of children.

BACKGROUND

EPA studies of human exposure to air pollutants indicate that indoor levels of many pollutants often are significantly higher than outdoor levels. These levels of indoor air pollutants are of particular concern because it is estimated that most people spend approximately 90 percent of their time indoors.

In recent years, comparative risk studies performed by EPA and its Science Advisory Board have consistently ranked indoor air pollution among the top five environmental risks to public health. EPA, in close cooperation with other federal agencies and the private sector, has begun a concerted effort to better understand indoor air pollution and to reduce peoples' exposure to air pollutants in offices, homes, schools and other indoor environments where people live, work and play.

Tobacco smoking has long been recognized as a major cause of death and disease, responsible for an estimated 434,000 deaths per year in the United States. Tobacco use is known to cause lung cancer in humans, and is a major risk factor for heart disease.

In recent years, there has been concern that non-smokers may also be at risk for some of these health effects as a result of their exposure ("passive smoking") to the smoke exhaled by smokers and smoke given off by the burning end of cigarettes.

As part of its effort to address all types of indoor air pollution, in 1988, EPA's Indoor Air Division requested that EPA's Office of Research and Development (ORD) undertake an assessment of the respiratory health effects of passive smoking. The report was prepared by ORD's Office of Health and Environmental Assessment.

The document has been prepared under the authority of Title IV of Superfund (The Radon Gas and Indoor Air Quality Research Act of 1986), which directs EPA to conduct research and disseminate information on all aspects of indoor air quality.

PUBLIC AND SCIENTIFIC REVIEWS

A draft of this assessment was released for public review in June 1990. In December 1990, EPA's Science Advisory Board, a committee of independent scientists, conducted a review of the draft report and submitted its comments to the EPA Administrator in April 1991. In its Quality/Total Human Exposure Committee concurred with the primary findings of the report, but made a number of recommendations for strengthening it.

Incorporating these recommendations, the Agency again transmitted a new draft to the SAB in May of 1992 for a second review. Following a July 1992 meeting, the SAB panel endorsed the major conclusions of the report, including its unanimous endorsement of the classification of environmental tobacco smoke (ETS) as a Group A (known human) carcinogen.

EPA also received and reviewed more than 100 comments from the public, and integrated appropriate revisions into the final risk assessment.

MAJOR CONCLUSIONS

Based on the weight of the available scientific evidence, EPA has concluded that the widespread exposure to environmental tobacco smoke in the U.S. presents a serious and substantial public health risk.

In adults

ETS is a human lung carcinogen, responsible for approximately 3,000 lung cancer deaths annually in U.S. nonsmokers. ETS has been classified as a Group A carcinogen under EPA's carcinogen assessment guidelines. This classification is reserved for those compounds or mixtures which have been shown to cause cancer in humans, based on studies in human populations.

In children

ETS exposure increases the risk of lower respiratory tract infections such as bronchitis and pneumonia. EPA estimates that between 150,000 and 300,000 of these cases annually in infants and young children up to 18 months of age are attributable to exposure to ETS. Of these, between 7,500 and 15,000 will result in hospitalization.

ETS exposure increases the prevalence of fluid in the middle ear, a sign of chronic middle ear disease.

ETS exposure in children irritates the upper respiratory tract and is associated with a small but significant reduction in lung function.

ETS exposure increases the frequency of episodes and severity of symptoms in asthmatic children. The report estimates that 200,000 to 1,000,000 asthmatic children have their condition worsened by exposure to environmental tobacco smoke.

ETS exposure is a risk factor for new cases of asthma in children who have not previously displayed symptoms.

SCOPE OF THE REPORT

In 1986, the National Research Council (NRC) and the U.S. Surgeon General independently assessed the health effects of exposure to ETS. Both of these reports concluded that ETS can cause lung cancer in adult non-smokers and that children of parents who smoke have increased frequency of respiratory symptoms and lower respiratory tract infections. The EPA scientific assessment builds on these reports and is based on a thorough review of all of the studies in the available literature.

Since 1986, the number of studies which examine these issues in human populations has more than doubled, resulting in a larger database with which to conduct a comprehensive assessment of the potential effects which passive smoking may have on the respiratory health of adults as well as children.

Because only a very small number of studies on the possible association between exposure to secondhand smoke and heart disease and other cancers existed in the scientific literature at the time this assessment was first undertaken, EPA has not conducted an assessment of the possible association of heart disease and passive smoking. EPA is considering whether such an assessment should be undertaken in the future, but has no plans to do so at this time.

SCIENTIFIC APPROACH

EPA reached its conclusions concerning the potential for ETS to act as a human carcinogen based on an analysis of all of the available data, including more than 30 epidemiologic (human) studies looking specifically at passive smoking as well as information on active or direct smoking. In addition, EPA considered animal data, biological measurements of human uptake of tobacco smoke components and other available data. The conclusions were based on what is commonly known as the total "weight-of-evidence" rather than on any one study or type of study.

The finding that ETS should be classified as a Group A carcinogen is based on the conclusive evidence of the dose-related lung carcinogenicity of mainstream smoke in active smokers and the similarities of mainstream and sidestream smoke given off by the burning end of the cigarette. The finding is bolstered by the statistically significant exposure-related increase in lung cancer in nonsmoking spouses of smokers which is found in an analysis of more than 30 epidemiology studies that examined the association between secondhand smoke and lung cancer.

The weight-of-evidence analysis for the noncancer respiratory effects in children is based primarily on a review of more than 100 studies, including 50 recent epidemiology studies of children whose parents smoke.

BEYOND THE RISK ASSESSMENT

Although EPA does not have any regulatory authority for controlling ETS, the Agency expects this report to be of value to other health professionals and policymakers in taking appropriate steps to minimize peoples' exposure to tobacco smoke in indoor environments.

In cooperation with other government agencies, EPA will carry out an education and outreach program over the next two years to inform the public and policy makers on what to do to reduce the health risks of ETS as well as other indoor air pollutants.

FOR FURTHER INFORMATION

A limited number of copies of the complete report can be obtained free of charge from:

Center for Environmental Research Information (CERI), U.S. EPA, 26 W. Martin Luther King Drive, Cincinnati, OH 45268, Telephone: 513–569–7562, Fax: 513–569–7566.

Ordering Number: EPA–600–6–90–006F.

U.S. Environmental Protection Agency, Indoor Air Quality Information Clearinghouse (IAQ INFO), P.O. Box 37133, Washington, DC 20013–7133, Telephone: 1–800–438–4318, Fax: 301–588–3408.

A number of government agencies can provide additional information addressing the health risks of environmental tobacco smoke. These include:

Office of Smoking and Health/Centers for Disease Control, Center for Chronic Disease Prevention and Health Promotion, Mail Stop K–50, 4770 Buford Highway, Atlanta, GA 30341.

National Cancer Institute, Building 31, Room 10A24, Bethesda, MD 20892, 1–800–4–CANCER.

The National Heart, Lung, and Blood Institute, Information Center, 4733 Bethesda Avenue, Suite 530, Bethesda, MD 20814.

National Institute for Occupational Safety and Health, 4676 Columbia Parkway, Cincinnati, Ohio 45226–1998, 1–800–35–NIOSH.

Mr. LAUTENBERG. I thank the Chair, and I yield the floor at this moment.

How much time do we have remaining?

The PRESIDING OFFICER. The Senator from New Jersey has 18 minutes remaining; the Senator from Missouri has 30 minutes.

The Chair recognizes the Senator from Missouri.

Mr. BOND. Mr. President, I yield control of the time in opposition to this amendment to my good friend and colleague, the Senator from Kentucky, and I join with him in opposition to this amendment.

The PRESIDING OFFICER. The Chair recognizes the Senator from Kentucky [Mr. FORD].

Mr. FORD. Mr. President, I thank my friend from Missouri, the ranking member on the Appropriations Committee.

Mr. President, I yield myself 10 minutes.

The PRESIDING OFFICER (Ms. MOSELEY-BRAUN). The Senator from Kentucky is recognized for 10 minutes.

Mr. FORD. Madam President, when you get on the floor and defend tobacco in any way, they sic the pitbulls after you. I have been dodging them now for some time. But it seems like they keep coming and keep coming and keep coming, and I think the Senators who are proposing these amendments or supporting these amendments would do the same things I am doing had they been elected from Kentucky.

So, let us just kind of push that aside and look at what we are doing. We stopped smoking on airplanes, but we tried at that time to say that the quality of air in the airplane was not good, but, boy, you could beat on tobacco. Boy, you could beat on tobacco and get it all done.

But what do we find now? The Centers for Disease Control say the air in the airplane failed. What about the air circulating in the airplane? We think the air quality inside buildings and inside of airplanes is important. But yet you pick on tobacco and think you have cured the whole thing. But you have not.

So now let me just draw for my colleagues what this amendment will do. Tobacco, yes, and on 115 others, nothing is being done. So what do we do? We jump on tobacco.

Madam President, I am not going to stand in this Chamber and state that the quality of the indoor air in the workplace is not a concern. It certainly is. It is, and it should be addressed. And I join with others who want to address the quality of indoor air in the workplace.

But this amendment, in my opinion—people say he is from a tobacco State so he is just defending tobacco. Let me try to be as straightforward as I can. This amendment takes the wrong approach and may be an obstacle to a thorough review of the total issue.

Quality of air inside. This amendment has several defects.

First, it is legislation on an appropriations bill—legislation on an appropriations bill. In the hearings before the Joint Committee on the Organization of Congress, this practice of legislation on an appropriations bill has been one of the main concerns expressed by other Members. The proper place to address this matter is in the appropriate authorizing committees.

Second, indoor air quality should not—I underscore "should not"—and cannot be addressed on a product-by-product basis.

Let me repeat the sentence. Indoor air quality should not and cannot be addressed on a product-by-product basis.

As chairman of the Senate Committee on Rules and Administration, I get more complaints—more complaints—about paint and varnish fumes, fumes from rugs than any other air quality issue.

Poor ventilation is a concern as well as other elements and products that affect indoor air quality. Remember that now—indoor air quality. We need to address this issue and not the product. It would be nearly impossible—nearly impossible—to address indoor air quality on a product-by-product basis.

Madam President, our objective should be to achieve healthy air quality and should not be based on an antiproduct basis, in this case, tobacco.

Third, this amendment assigns regulatory authority—check on this now. We all are trying to reduce Government, trying to coordinate Government. But this amendment assigns regulatory authority over smoking in public buildings to the EPA.

Now what happens? We create under this amendment a whole new bureaucracy.

Madam President, OSHA was established to protect the health and safety of employees. If the quality of indoor air is to be regulated, a lot of us believe that OSHA is the proper agency to whom this responsibility should be assigned. But, no, we are creating a new bureaucracy under this amendment.

Assigning regulation of smoking to EPA will fragment regulatory authority and increase the burden on employers.

Now, we do not care. We have heard a lot about business people here in the last couple of weeks—small business—how are they going to get along? But we come right along and impose an increased burden on employers.

The effect of this amendment will be to assign the regulation of products on an agency-by-agency basis. There will be a number of agencies that will be involved.

Let us think about that for a minute. Surely, the Department of Health and Human Services will want to regulate the emissions on some products. This will only lead to a bureaucratic nightmare for employers.

One day—just think about it. You are the employer now. You own this little business. One day, the OSHA inspector will arrive. The next day the EPA inspector will arrive. And the next day, HHS, and on, and on, and on. And we create another bureaucracy and more harassment of our employers with this amendment.

An owner or manager of a business will be spending all of his or her time with Federal inspectors, rather than in production and trying to make money and run that business. It will place them in an unreasonable position. The burden on the entrepreneur will even be more unbearable.

Madam President, while this amendment only addresses buildings owned and leased by the Federal Government, including the legislative branch, we should be concerned that the next step will be to regulate indoor air quality in privately owned buildings accessible to the public. And, as I have stated, it will place an unreasonable burden on owners and managers of their business.

Madam President, this amendment would expand the current no-smoking policy in operation at the Department of Health and Human Services and the EPA to all other Federal agencies, including the Congress and the White House.

We already have a plan; already have a program. But now we are going to start another bureaucracy on a product-by-product basis.

Let me repeat that: A no-smoking policy is in operation at the Department of Health and Human Services, EPA. And all Federal agencies, including the Congress and the White House, right now, any Federal agency can ban smoking in their buildings. Any agency can ban smoking in their buildings and they can adopt a similar policy like those at HHS or EPA. There is nothing to stop it now. Nothing in current law prohibits any agency from doing that.

I believe that every agency should have the discretion to make that determination. I want to make that determination in my office. I think every Senator wants to make this determination in his or her offices. But, no, we are going to be told again what to do.

Madam President, as I have indicated, this amendment would apply the same ban in Federal buildings to all buildings of the legislative branch. In principle, I am not opposed to applying these laws to the Senate. What concerns me with this amendment is that it would, by law, institute policies in the offices of the Senate without regard to the Senate's rulemaking authority.

Madam President, as Chairman of the Rules Committee, it is my responsibility to protect the institutional rights of the Senate. And if we are going to apply these laws to the Senate, we must do so pursuant to the Senate's rulemaking authority.

I yield myself another 5 minutes, Madam President.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. And with the full recognition of the right of the Senate to change its rules in the same manner and to the same extent as in the case of any other rule of the Senate, we are going to break this. We seem like we have no interest in the institution anymore, so we just pass a bill and go right on and change the rules of the Senate.

Madam President, right now any Member or any office of the Senate can establish a no-smoking policy. And they have. I believe that every Senator should continue to have the right to establish the policies of his or her office. But what we are saying here is no.

Finally, Madam President, let me say this should not be an issue of smokers' rights versus nonsmokers' rights. It is inevitable that, as we address the quality of indoor air, the smoking of tobacco products will be severely restricted. I understand that. Everybody else does. But we pick out one product and we say to that one product: You are out. But the rest of them create many problems, 1,500 deaths per year, and we let it go.

I hope, as guidelines and regulations are issued, that the drafters of these documents will take into account the rights of smokers, as well. Those who choose to smoke, pay their taxes, serve our country.

In World War II, I looked forward to four cigarettes in my C rations. Now, we say to that fellow who was in World War II, wounded, in a VA hospital—we gave him cigarettes as a government, and some of the generals were proud of the fact they were able to fly cigarettes over and give them to their troops. Now we say to them, "Uh-uh, fella, you have to go outside and stand in your hospital gown and smoke a cigarette, while it is raining or you are freezing to death."

It would be wrong to deny them total smoking privileges. At the very least, they should be provided some access to a smoking area.

Madam President, let me reiterate some of the reasons why I oppose this amendment. It is not because of smoking, not because of the use of tobacco. This amendment does not simply ban smoking. It bans smoking in any portion of a Federal building that is not ventilated—get this now—not ventilated separately.

Madam President, ventilated separately is a costly process. It is different from providing an outside exhaust.

Has there been any consideration of this cost? I do not think so. You do not hear anything about it. Has CBO given an estimate as to what it will cost to separately ventilate the Federal buildings? No, we have not asked for that.

For example, Madam President, take a look at the size of the Pentagon. How much would it cost to provide separate ventilation systems in that complex? And then we will go product by product.

Will a ventilation system work for smoking and not work for something else? I do not know. I do not hear this from the proponents.

Or look at the Capitol complex. Has anyone given any consideration to the tremendous costs that would be incurred to separately ventilate the Capitol? Do you ventilate for smoke, do you ventilate for fumes from paint, from rugs, from something else? And we are talking about here separate ventilation just for tobacco.

We know that, at this time, OSHA is already considering regulations relating to indoor air quality. We do not know what those regulations are going to require. One can only imagine the confusion that will arise when OSHA says that we have to separately ventilate for other environmental problems. And then can you imagine what will happen?

We will have EPA telling us what to do for tobacco smoke, OSHA telling us what to do about other indoor environments, HHS will be there, and that poor employer down there is really going to be—I understand I am talking too long here, but I ask unanimous consent to speak for 5 more minutes. I am just getting warmed up, Madam President.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. Let us not forget this does not apply to the private sector. We are talking about applying this law to Federal buildings, including the Senate. This is going to affect each and every Member of this Chamber. And the administrative confusion that this will cause for Members will be enormous.

One day we will have an EPA inspector in our office—your office, Madam President—telling us our separate ventilation system for tobacco is inefficient. Then the next day the OSHA inspector is going to arrive and tell us we do not have sufficient ventilation for fumes coming from the new carpeting, or the paint, or the varnish. Next thing you know we will have HHS coming in and telling us we cannot eat lunch at our desk. Think about that, the onions probably smell too much.

As we know, if this amendment is successful in banning tobacco products in public buildings, the next step is to ban tobacco in private buildings with public access. Madam President, I can just hear my constituents in Kentucky who own businesses. The cost, both in terms of overhead and work productivity, is going to be astronomical.

We need to address the concept of having a policy for indoor air quality. That policy includes environmental tobacco smoke. It should include it. But we should not be addressing this problem of indoor air quality product by product. Madam President, we need to address the larger issue. We tried on the banning of smoking in airlines but, no, the emotional issue was never there. Now we can say, "We told you so. We told you so." I was pleased to see where Bob Crandall, of American Airlines, carried an editorial in his magazine this month about the quality of air in airplanes. It needs some help. It needs some changes without the Government finding it out. They want to do it in advance, but they need regulations. We tried back then to have air quality instead of just banning smoking.

It needs to be done by one agency of the Federal Government. We have already set it out. We have done it. We have said it should be OSHA that would set the indoor air quality. But, no, we want to set up a new bureaucracy, we want to spend more money. We say, cut the budget, but here we are expanding the budget. This amendment takes a piecemeal approach and only addresses one segment of a larger problem. I have accepted the fact that smoking, and the smoke, will be part of the overall picture. But we single it out, going product by product. I do not mind being treated fairly. But I have heard the Chair make some statements about that. There is unfairness around here sometimes. That is what we do.

So I am willing to accept what OSHA will do as it relates to the overall program. But the emotions here, they drive at you. As I said, when you come down on this floor and defend tobacco, it is like siccing pit bulls on you. But I want it, and I look forward to the fight because I believe I am right. I am willing to be included. But do not exclude me from the rest of it and say, "You are the only problem." Let us get after it under OSHA, to which we have already assigned the indoor clean air program.

I yield the floor and reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. I thank the Chair and ask how much time, if I may, remains on both sides, please?

The PRESIDING OFFICER. There remains 17 minutes 45 seconds for the proponents, 10 minutes 54 seconds for the opponents.

Mr. LAUTENBERG. My friend, the majority whip, is a man with deep convictions. He does concern himself about the well-being of his community, and he supports things that he believes are right. We have a differing view on this. I think the evidence is irrefutable that tobacco smoke is different than smelly onions. Onions, I think, to paraphrase an expression that has been used—"guns don't kill, people kill"—onions smell, but onions don't kill. I never heard of anybody going to the hospital with cancer from onions.

That may be, but what we do know very clearly is that it costs this country a small fortune each and every year. If you want to talk about saving money or reducing the budget deficits, if we could get rid of smoking throughout the land, it is estimated we would save over $60 billion a year. I remind everyone who is listening the budget deficit is around $300 billion. We are trying to carve off $500 billion of deficit growth over the next 5 years. Here is one shot, and it will take a few years to put it into place, but you could save $60 billion-plus a year. More important, you might even save 400,000 lives of people who die from lung cancer as a result of the use of cigarettes.

But the cigarette industry is tough. They stick, to use the expression, "to their guns." The fact is that here we have clear evidence, produced by EPA and supported by a science advisory panel. That science advisory panel brings together quite an illustrious group of folks who say this analysis is correct. EPA issues a report that I think everyone who smokes ought to read, because many people will take a chance on personally smoking but will never expose a pregnant woman, a wife, a daughter—certainly not their children—to secondhand smoke, or to smoke, if they know anything about it.

EPA says in this brochure, "Don't smoke in the home. Don't smoke in your house or permit others to do so. Don't smoke if children are present, particularly infants and toddlers. They are particularly susceptible to the effects of passive smoking."

They go on to alert different groups in different situations about the dangers of smoking. They even address a message, a special message for smokers. They say, "If you choose to smoke, here are some things you can do to help protect the people close to you." They could have used the words "people you love." They talk about making sure that "you don't smoke around children." Again they repeat the admonition, "Their lungs are very susceptible to smoke." And, "If you are expecting a child, quit smoking."

So we are having a debate here over process, over the threat of bureaucracy developing. This amendment does not expand bureaucracy. The amendment requires that these agencies adopt smoke-free policies and administer them. Frankly, I think it is time to say to those who work or visit Federal buildings, "You are going to get at least the same quality of protection that you might if your employer has a nonsmoking policy," because a lot of people do not want to work in companies where they are exposed to smoking by others. One can make one's own decision. But the fact is, if the person next to me decides to smoke, then I am victimized by their bad habit. I think we ought to change that, and I think we particularly ought to change it by setting an example in Federal facilities.

I agree with the Senator from Kentucky. Indoor air, to use the expression, in many places "stinks," and we ought to change it. But that does not mean we do not take the first step and improve the air quality with something that we can take care of very promptly. It does not need a lot of work. You say, "You cannot smoke here unless you go to area A." And that area A or B or whatever it is has to have its own ventilating system. It cannot bring that smoke back into the building; it has to push it outside in the air.

So here is the first step in improving indoor air. I want to do it in airplanes, since I was the author of no smoking in airplanes. And I tell the distinguished Senator now presiding over the Senate that it is my view that one does not have to conduct a scientific investigation to find out how popular no smoking in airplanes is.

As a matter of fact, I believe that when that policy was initiated, we began the campaign against smoking that is enveloping this country, because once people saw how pleasant it was to sit in an airplane without being drowned out by other people's smoke, it made life different. I am constantly thanked by crew members, both in the cockpit and in the cabin, for improving their health. They say, "Senator LAUTENBERG, you did more to help us than lots of things that we have on our job, the other rules and regulations."

Mrs. BOXER. Will the Senator yield to me on that point?

Mr. LAUTENBERG. I will be happy to yield.

Mrs. BOXER. I just want to say to the Senator from New Jersey that I have never had a chance to publicly thank him for his leadership, along with Congressman DURBIN on the House side, in acting to ban smoking in airplanes. As someone who has been on airplanes, I think about twice a week in a normal week cross country, the difference to me personally, to the way I feel, to the way I act after I get off the plane, has added to my productivity.

I just want to take this opportunity to thank the Senator. I understand the point of the Senator from Kentucky, and I respect him greatly for the fight he is waging, as he should wage it. But it is just an opportunity, since the subject was raised about airplanes, for someone who commutes across the country to have the opportunity to publicly thank the Senator for his visionary leadership on this and to encourage him to continue in trying to clean up the air because I think in the long run, it is going to make us a much healthier society.

Mr. FORD. Madam President, could I get in on this on my time?

Mr. LAUTENBERG. On your time, certainly.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Madam President, I might say to the Senator from California that we tried at that time to make indoor air, all of it, quality air. Now your State of California is raising the question that at least four cases of TB are associated with an airplane that had faulty filtering system. So what I am begging here is that we do the package rather than the simple amount.

The quality of air in your airplane, you may not see it, but today—and that is the imagery part of it—but today your State is investigating, by the California Department of Health Services, to ascertain whether four cases of tuberculosis involving a flight attendant and three international passengers might be linked to air quality aboard airplanes.

The only thing I am saying here is, if you are going to do it, let us do it right. I know I am going to be included if tobacco is being included. But I am sitting on that same airplane inhaling germs for tuberculosis, and I have been trying to get quality air. I appreciate the situation you are in but I hope you will appreciate mine also.

Mr. LAUTENBERG. I yield time to the Senator from California.

Mrs. BOXER. I thank the Senator. I will only be 30 seconds, to say to the Senator from Kentucky that I do understand the situation he is in. I will join hands with him in doing more. I sit on the Environment and Public Works Committee, as does Senator LAUTENBERG. As a matter of fact, he is my chairman on one of the subcommittees. We will work together on that in the future. I yield back to the Senator from New Jersey.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. I thank the Senator for those comments. The Senator from California knows full well how different life is when one makes a trip, as she often does, across country and does not have to breathe secondhand smoke.

The Senator from Kentucky is absolutely right. The poor quality air that we experience now in the recirculation of air in aircraft is a subject that many of us are looking at. I, for one, am going to be aggressive in trying to clear this problem up.

But smoke is pervasive. It permeates the air. As a matter of fact, in a study that was done as we considered banning smoking on airplanes, it was affirmed that crew members who themselves did not smoke found traces of tobacco and nicotine in their body fluids days after they had left an airplane and they never smoked themselves.

Madam President, we have exercised this subject. I hope that we will adopt this amendment. I think it is an appropriate vehicle to do so. I also urge the managers of the bill, who will be the conferees, assuming passage of this now, that we will want to hold this in conference and not relinquish it because I will come back again and again.

I think it is disgraceful that people who work for EPA or other departments of Government—Health and Human Services—can work in a smoke-free environment and employees in other departments cannot because the action has not been taken. So we want to make it uniform throughout.

I will tell you this, Madam President, and my friend from Kentucky knows it only too well, whatever we can do to improve the health and well-being of our citizens, I am for it, even if it means picking up a weapon and exposing some of our young people to war. He and I both served in the same war. We do not always admit it so readily because it was such a long time ago. But the Senator from Kentucky will have use of his own time for comments.

The fact is we do what we can to protect our citizens. This is one way to do it and to continue to focus on the dangers of smoking and focus on the possibility of saving huge sums of money, the possibility of having people enjoy a day's work, get there, be productive, feel good about themselves. There is not anyone I know who, after having a bout with a disease from smoking, whether it is surgery on the throat or the lungs, and so forth, would not say, "I wish I had never done it; it felt good when I was doing it, but I don't want to see my kids do it and I don't want to be in places with other people doing it."

With that I yield back the time. I ask the Senator from Kentucky whether he, too, is ready to conclude? We can have a voice vote on this.

Mr. FORD. Since the Senator from New Jersey has taken his second time, I would like to have a few minutes. As I understand, he has yielded back his time. As soon as I have finished, I will yield back mine.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Madam President, I understand the emotion. Everybody uses the emotion here—the Browns' and the Smiths' problems and the Fords', whatever—in order to make a point.

The point is that we are banning smoking in all buildings because unless you go to a room that has been ventilated, you cannot smoke. The problem is that the Government, in my opinion, is not going to spend the money to put in proper ventilation; therefore, we are banning smoking.

You eliminate my right as a Senator to have regulations or rules in my own personal office. Something about that, to me, is just not right. We tried previously to say we ought to do the right job, instead of taking it product by product. Back when we banned smoking on airplanes, if we thought the consequences of sharing stale air in airplanes may be more serious than a mere matter of discomfort—headaches, sniffles and nausea —the Federal Centers for Disease Control is currently coordinating an investigation, including one by the California Department of Health Services, to ascertain whether four cases of tuberculosis involving a flight attendant—we have heard a lot here today about protecting flight attendants. We tried then to protect flight attendants under quality air in that airplane. No, it was smoking, the emotion.

So, therefore, we do one thing and let the other go. So all I am trying to do is not proliferate the responsibility here. Keep it in OSHA and include tobacco. That is fine. I expect it and want it.

But we are saying no, because it is emotional and we are going to lose lives, and passive smoke, and that sort of thing. That is well and good. I understand all of this.

I have not said anything new today that I have not already heard. There are some things that could be said that I have heard that have not been said. But we are going down a path now where we are going to say, yes, we are going to take care of smoking. That is a scalp on our belt. But we are not going to worry about the rest of the indoor smoke. You are going to sit there and think everything is all right, but you wonder when you go home at night why you have a headache, why you are nauseated, why you might have gotten some other disease floating around in the air. And we ought to take care of it.

No, we are splitting it off to EPA and taking it away from OSHA. Then we are going product by product, making it as expensive as we can so we can get another scalp on our belt.

I understand that very well, even though I am accused of, well, he has to do it because he represents Kentucky.

I do not have to do it, but I do it because I believe I am right. But let us do it right and include tobacco. Let us have a ventilation system that is described by OSHA, the agency to which we gave the responsibility, and do it inclusive.

That is not going to happen, and we are going to see other amendments—here comes another amendment right after this one. Maybe they will not let us sell cigarettes in vending machines. We want to charge taxes on military posts. We want to do lots of them because we have them down and are going to kick them.

But I say to you, we stopped smoking on airplanes and we did not take care of the quality of air, and here we are getting ready to stop smoking in Federal buildings and we are taking it away from OSHA, the agency to which we assigned clean air.

There are a lot of folks around here interested in OSHA, not in this Chamber right now, that they do a good job and not proliferate the quality of air.

So, Madam President, I thank my colleagues for their indulgence, and I thank my colleague from New Jersey for his congeniality. Always he is so kind, in joking with me. We get along so well that it makes it uncomfortable to be against him, but in this particular case I have to be. He asked me for a voice vote, and I am perfectly willing to let him have that.

Madam President, I now yield back the remainder of my time.

Mr. McCONNELL. Madam President, I want to express my strong opposition to the Lautenberg amendment, which would ban smoking in all Federal workplaces. Although there is some political sentiment to support such a measure, there clearly is insufficient science or logic to justify this extreme action.

Sound public policy decisions rely on gathering and analyzing all the evidence before the appropriate course of action is determined. However, in this case, due to the excitement being generated over one EPA report of questionable reliability, we are considering bypassing the bulk of available evidence to arrive at a predetermined conclusion.

We have a responsibility to avoid this type of policymaking. However, in the case of public smoking, the political bandwagon is already rolling and is gathering momentum. Sadly, those on the bandwagon are ignoring the majority of scientific evidence, the rights of smokers, the realities of indoor air quality, and existing policies involving workplace exposures to airborne pollutants. Although this may be politically convenient to follow this course, we could be wrongly imposing yet another burden on Federal workers.

That this amendment reflects overreaction to the EPA reports can be seen clearly when tobacco smoke is considered from the perspective of the many substances we encounter in daily life. Office workers are routinely exposed to a variety of so-called carcinogens in the workplace, from sources a varied as spray cleaners and tap water. And yet there is no call—from Congress, from EPA, from OSHA or from the public—to eliminate every trace of these products from the workplace. The reason is simple: at the low levels to which we typically are exposed, these so-called carcinogens are not thought to pose a risk to health.

The Occupational Safety and Health Administration [OSHA], which has responsibility over workplace safety, has studied concentrations of carcinogens to determine reasonable exposure limits—or levels below which there is no harm. Under these guidelines, it is acceptable to be exposed to a variety of substances which EPA considers to be carcinogenic, such as chromium, asbestos or benzene, as long as the amounts are not excessive.

For instance, according to OSHA, 5 million fibers of airborne asbestos in an average office building is perfectly acceptable. Therefore, the notion that even one molecule of tobacco smoke in the air is cause for panic is absurd and absolutely inconsistent with existing workplace policies and regulatory practices.

I am concerned that the proponents of this amendment justify the proposal based on EPA's ETS assessment study. Just last week, subcommittees of both the House Agriculture Committee and the House Energy and Commerce Committee held hearings to further probe the scientific validity of the EPA report. An overriding concern of many of the members and witnesses present at the hearings was that science was manipulated to fit a predetermined policy objective.

Madam President, nothing concerns me more than the idea that our Government would manipulate information for political objectives. This amendment before us today would codify a policy based on unsound evidence and faulty logic, and I urge my colleagues not to approve it.

Mr. HELMS. Here we go again, Madam President. The Senate is again considering an amendment to treat smokers as second-class citizens. The amendment offered by the Senator from New Jersey is more than just a misguided effort to solve a problem that doesn't exist, it is another example of a cheap shot at tobacco farmers in 22 States.

In 1987, the General Services Administration established regulations for the management of smoking in all GSA-controlled facilities, regulations which already prohibit smoking in general office space, and allow designation of smoking areas only when strict conditions can be met to accommodate nonsmoking employees.

In fact, Madam President, many Federal agencies have gone beyond even these strict regulations and have banned smoking altogether or implemented even more restrictive policies. This system, which has been in place for the past 6 years and which already places burdens on Federal employees who choose to smoke, has resulted in no conflicts of which I am aware. There is simply no reason for the Federal Government to further stick its nose into this matter by replacing the current policy with such a drastic regulation.

Madam President, the current GSA system is the most logical available to manage the different preferences of workers because each agency retains the flexibility to set a smoking policy that best fits its staff. There is obviously a difference between a Federal agency that employs 5,000 workers and an office with 10 employees. There is no justification for mandating the same policy for both.

It should be noted that smoking bans do nothing to resolve the larger problem of poor air quality in so many Federal facilities. Everyone knows good and well that smokers are not responsible for so-called sick building syndrome. The Senator from New Jersey could better spend his time and effort finding ways to increase ventilation in these offices instead of repeatedly pointing his finger and blaming a few smokers. Of course, that might not get his name in the paper.

Madam President, Congress should do its best to provide healthy and safe facilities for our Federal workers. However, Congress should address the real causes of poor air quality rather than kicking the smokers and tobacco farmers of this country in the seat of the pants.

Madam President, the amendment offered by the Senator from New Jersey calls for more unneeded bureaucracy. I hope my colleagues will reject this amendment.

Mr. HARKIN. Madam President, I rise today in strong support of the amendment that has been offered by my colleague from New Jersey, Senator LAUTENBERG. This amendment, which I am pleased to cosponsor, seeks to protect Federal workers and visitors to Federal buildings from deadly secondhand tobacco smoke.

The evidence about the dangers of secondhand smoke is clear. This past January the EPA released a landmark report on the dangers of secondhand cigarette smoke. Each year 3,000 Americans die from lung cancer caused by breathing secondhand cigarette smoke at home, work or elsewhere.

In addition to lung cancer deaths cited by the EPA, there is growing evidence that thousands more die of heart disease that is attributable to secondhand smoke. A study published in the Journal of the American Medical Association estimates that 30,000 to 40,000 Americans die each year from heart disease that is linked to secondhand smoke.

The EPA report also makes clear that secondhand smoke is related to thousands of cases of diseases such as bronchitis and pneumonia. It causes more than 200,000 lower respiratory infections and up to 26,000 new cases of asthma every year among children alone.

There are some people who find fault with the EPA report—they claim that the methodology was faulty and that the results are not valid. Madam President, the people who say this are the same people that still maintain that there is not a clear link between smoking and disease. The fact is that secondhand smoke causes death and disease. We have known this for a number of years and the EPA report just put an official government stamp of approval on this fact.

Cigarette smoke is a carcinogen, the same as asbestos, benzene and radon. We try to protect Americans from these carcinogens—it is time we take steps to protect them from secondhand cigarette smoke.

In 1990, Congress passed the Clean Air Act which regulates 189 hazardous air pollutants that are estimated to cause 1,500 deaths per year. It seems to me that if Congress thought it was important to protect Americans from these 189 hazardous air pollutants we should act to protect Americans from one that kills 3,000 people a year.

Madam President, this amendment is not radical—it simply expands the nonsmoking policy that is already in place at the Department of Health and Human Services, the Environmental Protection Agency and the floor of this U.S. Senate. It expands this policy to all buildings owned or leased by agencies of the executive, legislative, and judicial branches of the Federal Government. It would not cover Federal buildings that serve primarily as living quarters or VA hospitals.

Unfortunately, this amendment does not protect all workers from secondhand smoke but it is an important first step. It will protect Federal workers and visitors to Federal buildings. And, it will send an important message. It will encourage all companies to protect nonsmokers from exposure to tobacco smoke. Many companies already have such policies but far too many workers remain unprotected.

Some people will argue that this amendment infringes of people's right to smoke where ever they wish. This is the standard argument and smoking in the workplace and other places used to be considered a God-given right. Today, however, this is clearly not the view of most Americans. There is now a recognition of the rights of nonsmokers to breathe clean air.

Madam President, this amendment is not meant to punish those who smoke. In fact, I believe that it will assist smokers because as more and more companies adopt nonsmoking policies access to smoking cessation programs will expand.

The intent of this legislation is to protect nonsmokers and to prevent the thousands of deaths that occur because of secondhand smoke.

Madam President, in a few months we will be taking up health care reform legislation. I do not think we can talk about health care reform without talking about combating preventable disease.

Smoking is the single largest preventable cause of death and disease in America. As former Surgeon General C. Everett Koop said, "Smoking is associated with more death and illness than drugs, alcohol, automobile accidents and AIDS combined."

We must do everything we can to reduce the carnage caused by smoking and secondhand smoke.

Madam President, I commend my colleague from New Jersey for his leadership on this issue and for offering this amendment today. I urge my colleagues to support this amendment.

Madam President, I yield the floor.

Mr. HEFLIN. Madam President, I must object to the Senator's amendment to ban smoking in all Federal buildings. There seem to be legitimate concerns about both the methodology of the Environmental Protection Agency's study of environmental tobacco smoke and the standards of reliability to which the study is held. I cannot condone implementing public policy until further study is conducted.

However, disregarding concerns over the EPA study, I am equally troubled by the notion that we are proposing sweeping smoking prohibitions in the name of clean indoor air, while giving absolutely no consideration to any of the major factors that influence workplace air quality. These factors include problems with fungi, dusts, low relative humidity, bacteria, fibrous glass, exhaust fumes, and various volatile organic compounds—all of which I understand are more prevalent in office buildings than tobacco smoke.

Some buildings have more smokers than others, but all buildings have carpets, paint, office machinery, fabric, and all types of other furnishings that emit gasses and therefore contribute to air quality problems. Even EPA's own Washington headquarters has experienced sick building syndrome, not as a result of smoking, but due to poor ventilation and off-gassing by carpets and other building materials.

Smoking is very much a political issue, and I understand that there are a variety of reasons that many people would like to see smoking banned from Federal buildings. But how can we, in good faith, claim to be acting in the best interest of the health of office workers if we fail to address the larger issues related to poor ventilation and the accumulation of various indoor pollutants?

When implementing public policy, we have a responsibility to consider the rights and interests of all those affected, regardless of whether or not we approve of their actions. I urge my colleagues to explore ways to accommodate, not ostracize, the nearly one-third of our work force that chooses to smoke.

Mr. CHAFEE. Madam President, the amendment being offered by Senator LAUTENBERG has a simple purpose: it requires Federal agencies, as well as agencies of the judicial and legislative branches, to adopt a nonsmoking policy based on guidelines issued by the Environmental Protection Agency.

Such a policy will help to protect Government workers from the debilitating and potentially fatal effects of secondhand tobacco smoke. It will also put the Government in the position of setting the right example by taking the lead to protect the health and safety of its employees.

Why is it so important for Government agencies to take measures to eliminate tobacco smoke from their buildings? The answer is that recent reports from both the Environmental Protection Agency and the American Heart Association have provided unequivocal evidence that secondhand tobacco smoke is harmful to our health. These reports label tobacco smoke "a known carcinogen," which poses an unacceptably high risk of respiratory and heart disease.

The EPA report, which adds to similar warnings already sounded by the National Research Council and the Surgeon General, also links secondhand tobacco smoke to pneumonia, bronchitis, and reduced lung function and labels it a known cause of middle ear-infections.

Anyone who still argues that secondhand tobacco smoke does not pose a serious health risk simply does not want to be confused by the facts. This amendment is a modest but laudable step toward providing a healthy workplace for our Government employees.

Madam President, despite my strong support for the substance of the amendment of the Senator from New Jersey, I must register a note of concern. The process of legislating on an appropriations bill is one that troubles me. The proper place to address a substantive issue of policy is in the authorizing committee. Both the Senator from New Jersey and I sit on the Committee on Environment and Public Works—the committee with jurisdiction over the two issues covered by this amendment: indoor air pollution and the management of public buildings.

So while I support the substance of the Senator from New Jersey's amendment, I cannot support this attempt to circumvent the authorizing committee. It is my firm intention to assure that in the future, all matters which fall within the jusridiction of the Committee on Environment and Public Works are considered by that committee, and are not dealt with on appropriations bills.

The PRESIDING OFFICER. All time is yielded back.

The question is on agreeing to the amendment.

The amendment (No. 747) was agreed to.

Mr. LAUTENBERG. Madam President, I move to reconsider the vote.

Mr. DECONCINI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DECONCINI. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BREAUX). Without objection, it is so ordered.

Without objection, the pending Committee amendments will be set aside.

AMENDMENT NO. 748

(Purpose: To limit access by minors to cigarettes through prohibiting the sale of tobacco products in vending machines in Federal buildings and property accessible by minors)

Mr. BINGAMAN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN] proposes an amendment numbered 748.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, add the following new sections:

SEC. 1. FINDINGS.

The Congress finds that—

(1) cigarette smoking and the use of smokeless tobacco products continue to represent major health hazards to the Nation, causing approximately 434,000 deaths each year;

(2) cigarette smoking continues to be the single most preventable cause of death and disability in the United States;

(3) tobacco products contain hazardous additives, gases, and other chemical constituents dangerous to health;

(4) the use of tobacco products costs the United States more than $60,000,000,000 in lost productivity and health care costs;

(5) tobacco products contain nicotine, a poisonous, addictive drug;

(6) despite the known adverse health effects associated with tobacco, it remains one of the least regulated consumer products and is readily available to children and adolescents throughout the United States;

(7) 90 percent of adult smokers start smoking in adolescence or childhood and continue to smoke throughout their adult lives;

(8) each day, more than 3,000 children and adolescents start smoking and collectively consume nearly one billion packs of cigarettes per year;

(9) reliable studies indicate that tobacco is a gateway to other, increasingly more harmful drugs, and that tobacco use continues after use of other drugs begins; and

(10) the Congress of the United States has a major policy setting role in ensuring that the use of tobacco products among minors is discouraged to the maximum extent possible.

SEC. 2. DEFINITIONS.

As used in this section—

(1) the term "Federal agency" means—

(A) an Executive agency as defined in section 105 of title 5, United States Code; and

(B) each entity specified in paragraphs (B) through (H) of section 5721(1) of title 5, United States Code;

(2) the term "Federal building" means—

(A) any building or other structure owned in whole or in part by the United States or any Federal agency, including any such structure occupied by a Federal agency under a lease agreement, except that the term shall not include any area of portion of a building not leased by the Federal Government; and

(B) includes the real property on which such building is located;

(3) the term "minor" means an individual under the age of 18 years; and

(4) the term "tobacco product" means cigarettes, cigars, little cigars, pipe tobacco, smokeless tobacco, snuff, and chewing tobacco.

SEC. 3. TOBACCO PRODUCTS VENDING MACHINE AND FREE SAMPLE BAN IN FEDERAL BUILDINGS.

(a) IN GENERAL.—No later than 45 days after the date of the enactment of this Act, the Administrator of General Services and the head of each Federal agency shall promulgate regulations that prohibit the sale of tobacco products in vending machines located in or around any Federal building under the jurisdiction of the Administrator or such agency head.

(b) EXCEPTION.—The Administrator of General Services or the head of an agency, as appropriate, may designate areas not subject to the provisions of subsection (a), if such area also prohibits the presence of minors.

(c) JURISDICTION OF FEDERAL BUILDINGS AND ADMINISTRATION.—The provisions of this section shall be carried out—

(1) by the Administrator of General Services for any Federal building which is maintained, leased, or has title of ownership vested in the General Services Administration; or

(2) by the head of a Federal agency for any Federal building which is maintained, leased, or has title of ownership vested in such agency.

SEC. 5. COMPLIANCE REPORT.

No later than 90 days after the date of enactment of this Act, the Administrator of General Services and each head of an agency shall prepare and submit, to the appropriate committees of Congress, a report that shall contain—

(1) verification that the Administrator or such head of an agency is in compliance with this Act; and

(2) a detailed list of the location of all tobacco product vending machines located in Federal buildings under the administration of the Administrator or such head of an agency.

SEC. 6. APPLICATION TO THE UNITED STATES CAPITOL AND GROUNDS.

(a) IN GENERAL.—No later than 45 days after the date of the enactment of this Act, the Senate Committee on Rules and Administration and the House of Representatives Committee on House Administration, after consultation with the Architect of the Capitol, shall promulgate regulations under the House and Senate rulemaking authority that—

prohibit the sale of tobacco products in vending machines in the Capital Buildings.

(b) EXCEPTION.—Such committees may designate areas where such prohibition shall not apply, if such area also prohibits the presence of minors.

(c) DEFINITION.—For the purpose of this section the term "Capitol Buildings" shall have the same meaning as such term is defined under section 16(a)(1) of the Act entitled "An Act to define the area of the United States Capitol Grounds, to regulate the use thereof, and for other purposes", approved July 31, 1946 (40 U.S.C. 193m(1)).

SEC. 7. RULE OF CONSTRUCTION.

Nothing in this Act shall be construed as restricting the authority of the Administrator of General Services or the head of an agency to limit tobacco product use in or around any Federal building, except as provided under section 4(a).

Mr. BINGAMAN. Mr. President, this is a straightforward amendment which I do not believe will require a rollcall vote. It is an amendment that I introduced earlier in the year as S. 673. This is a much more modest proposal than the one we just dealt with offered by the Senator from New Jersey.

This amendment is aimed at the problem of minors purchasing cigarettes and tobacco products from vending machines. We have in all of our States today prohibitions against minors purchasing tobacco products. The unfortunate fact, however, is that, with vending machines everywhere, it is virtually impossible to enforce any of those State laws.

The Federal Government has a history, in the prior administration and in this administration, of urging States, localities, and Indian tribes to discourage the sale of cigarettes to minors through the banning of vending machines on property within their control. This is because of the very serious problem, cited in the amendment as part of the congressional findings, that some 3,000 young people—minors—begin smoking every day. Collectively, they consume nearly 1 billion packs of cigarettes per year, and we know that the problem of cigarette and nicotine addiction begins when people are young.

Mr. President, this amendment restricts the availability of cigarettes in a very modest way.

The amendment I have offered does not prohibit sales of cigarettes to minors. It does not even propose to prohibit sales of cigarettes to minors in Federal buildings. Those are issues that are dealt with by State law. What my amendment does say, is that within Federal buildings we will not locate cigarette vending machines in areas where minors have access.

As I say, I believe this is a very modest proposal. It makes excellent sense if we are serious about trying to restrict sales of cigarettes to minors, and I do believe we need to be serious about that. It is an opportunity for the Federal Government to lead by example.

My hope is that if this amendment is adopted, we can see cigarette vending machines removed from Federal buildings and from buildings that the Federal Government leases. Then, perhaps States will follow the lead of the Federal Government in reducing the availability of cigarettes through vending machines as well.

As I say, this is a very modest proposal as compared to the one just debated and voted on in the Senate. I think it is one that is worthy of being adopted, and I urge my colleagues to vote for the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. DECONCINI. Mr. President, we have reviewed the amendment of the Senator from New Mexico. Let me compliment him for bringing to the attention something that would have "slipped through the cracks," as they say, as to what we have done on smoking in the Federal buildings, not to address the problems of vending machines. This is something which I thank the Senator for bringing to our attention. We are prepared to accept the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. BOND. Mr. President, there is no objection on this side and we are willing to accept the amendment by voice vote.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment of the Senator from New Mexico.

The amendment (No. 748) was agreed to.

Mr. BINGAMAN. Mr. President, I move to reconsider the vote.

Mr. BOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Arizona.

PRIVILEGE OF THE FLOOR

Mr. DECONCINI. Mr. President, I ask unanimous consent that Karen Levenberg of my staff be granted floor privileges during consideration, including votes, of H.R. 2403, the Treasury, Postal Service and General Government appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SASSER. Mr. President, the Senate Budget Committee has examined H.R. 2403, the Treasury, postal, and independent agencies appropriations bill and has found that the bill meets its 602(b) budget authority allocation and falls under its 602(b) outlay allocation by less than $500,000.

I compliment the distinguished manager of the bill, Senator DECONCINI, and the distinguished ranking member of the Treasury, Postal, and Independent Agencies Subcommittee, Senator BOND, on all of their hard work.

Mr. President, I have a table prepared by the Budget Committee which shows the official scoring of the Treasury, postal, and independent agencies appropriations bill and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

SENATE BUDGET COMMITTEE'S SCORING OF H.R. 2403

FISCAL YEAR 1994 TREASURY-POSTAL SERVICE APPROPRIATIONS

[In millions of dollars]

Bill summary	Budget authority	Outlays
Discretionary total:		
New spending in bill	11,579	8,960
Outlays from prior years appropriations	....	2,729
Permanent/advance appropriations	0	0
Supplemental	0	11
Subtotal, discretionary spending	11,579	11,700
Mandatory total	11,494	11,493
Bill total	23,073	23,193
Senate 602(b) allocation	23,073	23,193
Difference	0	0
Discretionary totals above (+) or below (−):		
President's request	330	99
House-passed bill	311	173
Senate-reported bill	....	....
Senate-passed bill	....	....

RECESS UNTIL 2:15 P.M.

Mr. DECONCINI. Mr. President, on behalf of the majority leader, I ask unanimous consent that the Senate stand in recess until the hour of 2:15 p.m.

There being no objection, the Senate, at 12:10 p.m., recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. CONRAD).

Mr. GORTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BURNS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BURNS. Mr. President, I inquire of the Parliamentarian what the order of business is.

The PRESIDING OFFICER. The pending business is the first remaining committee amendment.

Mr. BURNS. Mr. President, I ask unanimous consent that I might proceed as if in morning business for no more than 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE BUDGET RECONCILIATION AGREEMENT

Mr. BURNS. Mr. President, as we get bits and pieces of the reconciliation bill, I want to remind my colleagues who live in the West that the gas tax is still a part of that reconciliation. And it is not really 4.3 cents. It is more than that when you start adding up the different parts of that act.

Any time a gas tax is passed, it hurts disproportionately my State of Montana. We just have a lot of dirt between light bulbs in that part of the world. We travel more and we have to make a living.

And, of course, with our recreation, we are dependent upon tourism. As the Chair understands, in western North Dakota, his State, too, plays an important part in the West, as far as travel and tourism is concerned.

So I would ask my colleagues, whenever they start considering these kinds of taxes, the impact that it has on a State as big as Montana or, yes, that of North Dakota, because we are only 800,000 people, but we are 148,000 square miles. We have to use our cars and pickups to go to and from work and in those activities that make us a living. So the gas tax, whether we like to admit it or not, really hits us doubly hard.

As I said, Montanans suffer an unfair and disproportionate burden every time the Government raises the gas tax. Because there is a lot of space between light bulbs in Montana people depend on their cars and pickups for all their transportation needs. With our situation the gas tax is an unavoidable tax that hits low- and middle-income people the hardest.

This tax will hurt poor people the most. In fact, the Tax Foundation released a report showing that people who earn less than $10,000 a year must spend 3.21 percent of their incomes on gas taxes while those who earn more than $100,000 a year spend less than one-half of 1 percent, 0.42 percent, of their incomes on gas taxes.

I feel this is unfair and we should not add additional burdens on low- and middle-income Americans. I intend to vote against this bill and I will fight to defeat this unfair tax.

THE CREDIT CRUNCH RELIEF ACT

Mr. BURNS. Mr. President, I have cosponsored the Credit Crunch Relief Act of this year. I am pleased the President presented a plan to reduce the credit crunch, and I fully support it. Steps need to be taken to make credit more available to business.

That is why I have added my name to the list of cosponsors for the Credit Crunch Relief Act. This Dole-D'Amato proposal seeks to expand upon the administration's proposal to increase the availability of business loans.

This proposal would expand Presidential authority to suspend any law or regulation if the President feels that is unnecessary, less effective in achieving its purpose than other available alternatives, imposes costs that are higher than the benefits, or has a negative impact on the availability of credit.

The bill also provides an exemption of loan document review for banks and thrifts with a CAMEL or MACRO rating of 1 or 2—these are the most financially sound banks. Of course, there is a limit on the size of the loan and a limit on the amount of the bank's total capital that can be lent.

Another provision of the bill deals with the Community Reinvestment Act, or CRA. Under this legislation, if a bank received a satisfactory or outstanding rating in its most recent CRA evaluation, the bank would be considered in compliance with the act. This presumption would be challenged if there is strong evidence that the bank is not following the law.

I also strongly support the provision that would prohibit new banking regulations from taking effect until the appropriate agency analyzes the impact on small banks, consumers, and small business borrowers. Too often, banks are forced to comply with regulations that have a high cost.

I do not know about the situation in any of my colleagues' States, but Montana has a lot of small banks. These banks have only a few employees, yet they have to keep up with all the regulations that the largest banks do.

Keeping in compliance takes away from customer service and forces banks to pass along the costs in the form of higher fees.

We need to keep in mind the impact of the laws we pass here in Congress. An evaluation of the cost to banks and their customers is needed today.

Finally, I want to mention that the bill would delay the effective date of section 132 of the Federal Deposit Insurance Corporation Improvement Act [FDICIA] until January 1, 1996. Section 132 forces banks to follow nationwide standards on internal practices, credit underwriting, and loan documentation, whether or not they are appropriate for that individual bank.

I know we do not want a repeat of the S&L failures, but hamstringing healthy banks is not the solution. I urge my colleagues to support the consideration and passage of this measure.

If I am hearing anything from my small business people it is that, yes, the banks have money, but they are reluctant to loan it. And, yet, we are expected in this Congress to set forth policies to allow small business to get started and to expand because we know that is where job expansion is going to come from. It is not from the big companies, the IBM's or the Westinghouses or the General Motors. They are cutting back. They are scaling back, just because they have to, because of reduction in force and because this is a competitive world.

The great jobs increase is going to come from small business. Small business relies on seed money and investment money. Right now, they cannot get started.

I will have more to say on this later on. This is a Dole-D'Amato proposal that seeks to expand upon the administration's proposal to increase the availability of business loans.

Mr. President, I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. NICKLES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS ACT OF 1994

The Senate continued with the consideration of the bill.

AMENDMENT NO. 749 TO THE COMMITTEE AMENDMENT ON PAGE 31, LINE 20

(Purpose: To allow employees with health plans under the Federal Employees Health Benefit program to purchase special riders that cover abortions)

Mr. NICKLES. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Oklahoma [Mr. NICKLES] proposes an amendment numbered 749 to the committee amendment on page 31, line 20.

Mr. NICKLES. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

Ms. MIKULSKI. I object. I would like the amendment read.

The PRESIDING OFFICER. The clerk will continue to read the amendment.

The legislative clerk continued with the reading as follows:

At the end of the committee amendment on, page 32, line 2, add the following new sections:

SEC. . No funds appropriated by this Act shall be available to pay for an abortion, or the administrative expenses in connection with any health plan under the Federal employees health benefit program which provides benefits or coverage for abortions, but this prohibition shall not apply to administrative expenses related to such plans that offer individual employees special riders that cover only abortions, if all expenditures for abortions are paid solely out of the special premiums paid by those employees who elect such special riders.

SEC. . The provisions of section do not prohibit expenditures of funds under this Act for administrative expenses or abortions in cases where such procedure is necessary to save the life of the mother or that the pregnancy is the result of an act of rape or incest.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, as the clerk just read the amendment, let me clarify exactly what it does and what it does not do for the information of my colleagues.

First, let me just say this is a very important amendment, maybe one of the most important amendments that we will be considering on the floor this year.

It is an amendment that affects not only Federal employees, but I believe has broader implications for this entire country. It is really whether or not we are going to have abortion as a fringe benefit. Do we want to call abortion a fringe benefit? Do we want to have it included in all health care plans as a normal standard procedure to be paid for, and in this case, by taxpayers' dollars?

In this case we are talking about Federal employees. We are talking about possibly 9 million employees. Since 1983 we have had a prohibition. We have totally prohibited having abortion being covered by Federal employee health benefit plans unless the abortion was necessary to save the life of the mother.

Many people would like to eliminate that prohibition. That prohibition has been in every single appropriations bill since 1983. I believe it saved some lives. So again we are talking about a serious issue. We are also talking about the issue of whether or not abortion should be categorized as a fringe benefit. I do not think so. Many people, all across the country, are opposed to abortion but they are doubly opposed to having the Federal Government pay for it or to subsidize abortion or to have to use their tax dollars to help pay for abortion.

I think in our amendment we have eliminated that. We say, basically—I will repeat it:

No funds appropriated by this act—

Talking about Federal funds—

shall be available to pay for an abortion, or the administrative expenses in connection with any health plan under the Federal employees health benefit program which provides benefits or coverage for abortions, but this prohibition shall not apply to administrative expenses related to such plans that offer individual employees special riders that cover only abortions, if all expenditures for abortions are paid solely out of the special premiums paid by those employees who elect such special riders.

So what this will do is allow people, if they want to purchase abortion as a health coverage benefit, to do so; but they have to pay for it themselves. You would not have it provided and paid for by the Federal Government.

I ask unanimous consent to waive the first two committee amendments.

The PRESIDING OFFICER. Is there objection?

Mr. DECONCINI. Mr. President, reserving the right to object, what is the purpose for that? Will the Senator be so kind to explain the purpose, to waive the amendment?

Mr. NICKLES. Mr. President, I will be happy to inform my colleague, we have submitted this amendment as an amendment to the third committee amendment. So we would bypass—we are not objecting to the first committee amendment or second committee amendment. I do not know if someone else is going to try to amend those or not. It is not my intention to, so I would bypass those two amendments so we can go to this amendment.

The PRESIDING OFFICER. Without objection, the first two committee amendments are laid aside.

The Senator from Oklahoma.

Mr. NICKLES. Mr. President, the issue here is whether or not Federal tax dollars should be used to fund elective abortions when many taxpayers view abortion as morally reprehensible and do not want their tax dollars going to fund an activity that goes against their conscience. Whether they choose to call themselves pro-choice or pro-life, American people today overwhelmingly reject public financing of elective abortion.

A CBS/New York Times poll, conducted in March 1993, about health care reform issues asked adults what should be included in a basic Government-subsidized health care plan. Only 23 percent thought abortion should be covered; 72 percent said abortion should not be included as a benefit in a Government-sponsored health plan. That is what our amendment addresses. We do not think abortion should be a benefit provided in all Government health care plans. We think if it needs to be provided, if people want that coverage, they can purchase that coverage and pay for it themselves, not to be subsidized by the Federal Government, not to be subsidized by other Federal employees.

A Wirthlin poll, conducted in May 1992, found that 55 percent of Americans oppose using tax dollars to pay for abortions for women who cannot afford to pay for them. I would speculate the number would be even higher if the question reflected the issue we are considering here, which is Government-subsidized abortions for women who can afford to pay for them.

The current policy is a reasonable one and one that has the support of the majority of American people. My amendment is offered as a compromise which would relax the current policy. This amendment provides for exceptions where the life of the mother would be endangered were the baby carried to term, and for women who are victims of rape or incest. Most important, this proposal also permits individuals the free exercise of their choice in regard to abortion services. However, it does not require that the individual choice be subsidized by funds taken from taxpayers who object to an unfettered exercise of the choice to abort unborn children.

No matter what private arrangements individuals wish to make regarding abortion and insurance, an overwhelming majority of Americans do not wish to see abortion services included among the federally guaranteed package of health care benefits. Despite its articulation of a constitutional right to privacy regarding abortion, the Supreme Court ruled in 1990 that abortion funding restrictions are constitutionally permissible. Repeated public surveys have indicated the public draws a clear distinction between supporting the private choice of abortion and requiring citizens through their tax dollars or federally mandated health premiums to pay for such service.

Proabortion groups assert that 50 to 80 percent of private group plans cover elective abortions, so they say, it would be unfair to deny such coverage to Federal employees. But there is no scientifically rigorous study of insurers to substantiate these numbers.

The Alan Guttmacher Institute, founded by Planned Parenthood of America, concedes that information about insurance coverage for abortion is either "sparse, lacking, or not contemporary." [Health Care Reform, Jeannie I. Rosoff, AGI 1993.]

The White House Task Force on Health Reform, in a limited survey of 100 health plans, itself found that only 50 percent of private plans cover abortion without restriction; another 25 percent are silent, but some cover it, and the remaining plans either do not address it or do not cover it at all.

However, this compromise amendment would allow every Federal employee who wants an elective abortion to have health benefits that cover an abortion. This amendment would permit any of the 325 Federal health plans to provide a special rider that covers abortions, if all expenditures for abortions are paid solely out of the special premiums paid by those employees who elect such special riders.

Thus, this language provides for those Federal employees who desire to, to have health coverage for abortions without coercing those taxpayers and Federal employees who oppose paying for abortions.

It is striking that some of those who most vigorously insist that abortion is a strictly private matter, also demand that all citizens subsidize abortion on demand. Some of these abortion advocates seem to be primarily interested in getting society to embrace the ideological position that abortion is just another form of routine reproductive health care. However, Americans overwhelmingly reject this view. In a November 1992 Wirthlin poll, 84 percent of Americans said that abortion should not be allowed as a method of birth control.

I hope my colleagues will join me in supporting this amendment. It does not necessarily reflect all of my sentiments on this issue, but it does reflect some semblance of American opinion. I urge my colleagues to vote in favor of this critical proposal.

I have several other additional comments, but I will yield the floor at this time.

Mr. DECONCINI. Mr. President, I rise in support of the amendment by Senator NICKLES to assure that taxpayer funds are not used to pay for abortions, except where the mother's life would be endangered if the fetus was carried to term, or in the cases of rape or incest.

Mr. President, this issue is not new to this bill. In fact, Federal funding of abortions except to save the life of the mother has been prohibited in this bill in each of the last 10 fiscal years. The amendment was first offered on the floor of the House of Representatives in 1980 by Congressman Ashbrook of Ohio and modeled after the Hyde amendment offered to the Labor, Health and Human Services appropriations bill in 1976 by Representative HENRY HYDE of Illinois.

Mr. President, this matter was discussed and voted upon in both the subcommittee and the full committee. Senator BOND offered a similar amendment in subcommittee and his amendment was approved by a one-vote margin. In the full committee, Senator MIKULSKI offered a motion to strike the Bond language and her amendment to strike prevailed by a one-vote margin.

The language of the Nickles amendment looks somewhat different than the traditional Hyde language, but it is not a substantive revision. The Nickles amendment does add rape and incest exceptions to the traditional Hyde amendment. Current law allows a civil service worker to purchase non-federally subsidized insurance coverage for elective abortion services and that current interpretations of Federal law do not prohibit the expenditure of Federal funds for administrative costs associated with the purchase of the separate insurance rider or handling of claims against those policies. In effect, the Nickles amendment does not alter current law.

Mr. President, the Nickles amendment is the same policy that I have supported my entire career in the Senate and the same policy that has been adopted by the House and the Senate for each of the past 10 years.

Mr. President, while this matter has been adopted in each of the last 10 years, there has not been a Hyde amendment vote in the Senate on this bill since 1983.

Last week, the Senate voted on an amendment that criticized this subcommittee for going forward on matters which had not yet been considered by the Environment and Public Works Committee.

Mr. President, I am not criticizing those Senators who bring these matters to the floor on appropriations bill. I am merely pointing out that this amendment is another example where the Appropriations Committee has been called upon to respond to matters which are more properly resolved elsewhere.

Mr. President, let there be no misunderstanding here. I support what my good friend from Oklahoma is doing. My friend knows that I have consistently opposed Federal funding of abortion on personal moral grounds. It makes no difference whether we are talking about Medicaid funding for abortion or Federal funding of abortions for military personnel and their dependents in military hospitals. I consistently oppose Federal funding of abortions except where the life of the mother is at stake.

Therefore, I urge that the Senate maintain its 10-year policy which allows for private purchase of health insurance coverage for elective abortion services and adopt the Nickles amendment.

Mr. President, I thank the Senator from Oklahoma for the opportunity to speak on his amendment and yield back the floor.

Mr. GORTON. Mr. President, I support the amendment by the Senator from Oklahoma that represents a balanced compromise on the issue of Federal financing of abortions for Federal employees. If accepted, his amendment would allow Federal employees to obtain insurance coverage for abortion services by purchasing an additional rider provision. It would also restore the prohibition of taxpayer financed coverage of abortions in Federal employee health benefit plans except in cases of rape, incest, or endangerment of the life of the mother.

This policy has my support because it represents balance and respects the diversity of deeply held views of American taxpayers on the difficult issue of abortion. I support a woman's right to choose an abortion, but I believe that it is unreasonable to ask Federal taxpayers who disagree to finance, contribute, or in any way subsidize the procedure. For these same reasons, I oppose Federal funding of abortions through Medicaid except for cases of rape, incest, or endangerment of the life of the mother.

Some have attempted to draw a distinction between taxpayer money that pays for health insurance for low income women and taxpayer money which contributes more than half of the health insurance for Federal employees. Such a distinction to me is invalid and troublesome. Both involve Federal taxpayer money which contribute to or subsidize the cost of the procedure. While advocates on opposite sides will disagree, the American taxpayer considers that a distinction without a difference. Taxpayers who are morally opposed to abortion should not have to finance abortion procedures whether they are for lower income women on Medicaid or female Federal employees.

Others have suggested that this amendment is an indication of whether abortion should be included in a Federal health benefit package under the potential Clinton health care plan. Opponents of this amendment, including the administration, cannot have it both ways: either this issue is about Federal taxpayer subsidies of abortion or it is not. Considering the fact that the administration has not formally announced its intentions on the issue of health care reform, assertions that this amendment will determine the administration's position on this issue is speculative and contradictory. It would be unfortunate and irresponsible if advocates on either side used this vote to try to undermine meaningful health care reform which this country needs.

The Nickles amendment allows Federal employees to buy insurance that covers the abortion procedure. However, no Federal funds or general premium funds would be used. This represents the mainstream of American thinking on this contentious issue and therefore has my support.

Mr. COATS. Mr. President, I rise today to support the amendment offered by my colleague from Oklahoma, Mr. NICKLES.

The Nickles amendment addresses a very important question—will the Federal Government use taxpayer funds to pay for the provision of elective abortion in the Federal Employees Health Benefits Program [FEHBP].

The Federal Employees Health Benefits Program provides voluntary health insurance coverage for approximately 9 million Federal Government employees, retired people, and their dependents. In 1993, approximately 72 percent of Federal employees and annuitants were enrolled in FEHBP. The remaining 28 percent were either ineligible or had waived Federal insurance coverage.

For the last 10 years, the Treasury-Postal Service appropriations bill has contained language prohibiting the use of Federal funds to pay for or provide coverage for abortions, except where the life of the mother would be endangered if the fetus were carried to term. The bill before us today has eliminated this modest restriction, and instead, would mandate Federal employee participation in plans which offered not only abortions to save the life of the mother, but abortion on demand.

This legislation is the first of several anticipated attempts from the administration to reverse a congressional legislative history that reasonably restricts taxpayer funding of abortion on demand. The issue of abortion is deeply divisive in America, but we have come to a rough consensus on one issue—American should not be forced to pay taxes that are used to violate their strongest beliefs about the value of innocent life.

This is a view supported by a large majority of Americans, even Americans who support abortion rights. In March of this year, a CBS-New York Times poll found 72 percent of Americans opposed the inclusion of abortion in a national health plan.

In 1980 3 years before the Smith-Ashbrook amendment was added restricting abortion coverage in Federal health insurance, over 17,000 elective abortions were performed in one year alone, at an estimated cost to the Federal Government of $9 million.

Some may argue that this is a matter of rights—that Federal employees are entitled to have their elective abortions covered. But that is simply not accurate. First, not every elective procedure is covered and paid for through Federal employees insurance. For example:

Sterilization is generally covered in Federal plans, but reversal of sterilization is not.

Routine cosmetic surgery is not generally covered.

Contraceptive devices are not covered.

Services or charges related to artificial insemination, in vitro fertilization, or embryo transfer are not covered.

Certain routine immunizations such as the new Hepatitis B vaccine are not covered.

Hearing aids are not covered.

Chiropractic services are not covered.

Prosthetic devices, such as artificial limbs are not covered.

Sex change operations are not covered.

And until now, abortions, for reasons other than the life of the mother were not covered.

Second, abortion is not the same as other medical procedures. In upholding the Hyde amendment the Supreme Court said:

> Abortion is inherently different from other medical procedures, because no other procedure involves the purposeful termination of a potential life. (*Harris* v. *McRae*, 448 U.S. at 325, June 30, 1980.)

Some may argue that Federal employees are being punished—that those employed in the private sector are routinely covered for abortion in their private health insurance plans. That is also not true. Earlier this year, the Alan Guttmacher Institute—research arm of the Planned Parenthood Federation of America—circulated a paper to Members of Congress that argued that reproductive health services, including abortion, should be explicitly mandated in a Federal healthcare plan precisely because many insurers regard such services as elective and do not cover them. The AGI paper also acknowledged that there is almost no hard data on how many insurance plans cover abortion.

> Information on coverage for sterilization or abortion is either sparse, lacking, or not contemporary. (Health Care reform, AGI, 1993.)

If Senators support the Hyde amendment, which prohibits payments of abortions for Medicaid eligible women, then it would be glaringly inconsistent for Congress to fund abortions for its own employees and other Federal employees who are not indigent.

The President has adopted an agenda of abortion on demand and abortion at public expense. In the process, he shows a moral inconsistency that should not be permitted into the law. People who believe that abortion on demand violates their most cherished ideals should not be forced to pay for them.

In 1986, as Governor of Arkansas, Bill Clinton said:

> I am opposed to abortion and to government funding of abortions because so many people believe abortion is wrong.

I believe that the President's decision then should be his position now. It is a wise conclusion to an emotional and difficult issue.

When the Government pays for abortions, its policy moves from permission to promotion. That is precisely the effect of this legislation if the Nickles amendment is not adopted—the subsidization and promotion of abortion. It would signal a dangerous and deplorable precedent. I urge adoption of the Nickles amendment.

Mr. BOND. Mr. President, I urge my colleagues' support for the Nickles amendment. I would like to start by providing a little bit of history for those who have not followed the debate closely. This year, for the first time since fiscal year 1982, the House did not include language prohibiting abortion coverage as a part of their version of the Treasury-Postal bill. During Senate subcommittee markup, I offered an amendment to restore the prohibition, which passed 3–2. My amendment was subsequently defeated by a 1-vote margin, 15–14, in full committee.

The bill now before the Senate would permit elective abortion coverage through Federal employee health benefits plans. I do not believe the American taxpayer should be forced to subsidize abortions, as the current bill provides, and am therefore supporting the Nickles amendment.

I urge other Senators to support the Nickles compromise amendment, which is different than the current policy and which I believe is a good compromise. This amendment strikes a balance between the desire of some to ensure that Federal employees have access to abortion services through their health care plans, and those who, like me, do not believe that American taxpayers should be forced to subsidize the abortion procedure.

The amendment we are now considering would permit Federal employee health benefits plans to include abortion as a benefit. However, participants in the plan who wanted the abortion coverage would have to elect such coverage, and pay for it through a separate rider to the policy. Therefore only the pool of participants who elected the abortion coverage would pay for those abortions. American taxpayers, and Government employees who believe abortion is morally wrong, would not.

If the Senate does not adopt this amendment, we face a situation where Federal employees would for the first time since 1983, have their abortions subsidized by taxpayers, and by each other.

The Nickles amendment goes even farther than current policy in the so-called hard case. This amendment provides for exceptions where the life of the mother would be endangered were the baby carried to term, and for women who are the victims of rape or incest. In other words, women whose lives were in danger or who were pregnant as the result of rape or incest, would have their abortions paid for under the employee health benefits plans even if they did not elect the special abortion coverage.

Opponents have asserted that the current prohibition "gives the Federal Government the go-ahead to intrude in the most private decisions a woman can make." Well, that simply is not true. The current policy does not affect a woman's right to obtain an elective abortion at all. The issue is not choice, but who pays? And we are doing nothing today which in any way affects the legal right of women to obtain abortion services. We are simply saying that the Government will not subsidize the abortion choice. The Nickles amendment provides access to the abortion procedure under Federal employee health benefits plans if the special coverage is purchased by the employee. Elective abortions are then paid for only by those who elect that special coverage.

At this time I would like to point out that, in addition to elective abortions, there are other elective medical procedures which neither Government health care plans nor private plans will subsidize. Elective plastic surgery, for example, is rarely covered by any medical insurance plan.

Opponents have also asserted that the current prohibition "gives the Federal Government the authority to deny almost one-half of the Federal work force access to health care services that they would have if they worked in the private sector." That is not true, either. Employees of private firms do not necessarily have elective abortions covered by their health plans. In fact, even the Alan Guttmacher Institute, the research arm of the Planned Parenthood Federation of America, and the Employee Benefits Research Institute have stated that definitive statistics on this issue simply do not exist.

Many private health plans do not offer elective abortion as a benefit. We have a statute in Missouri which is similar to what we are trying to do here on a national scale. Missouri requires health insurance carriers who cover elective abortion to do so through an optional rider requiring an additional premium. In other words, employees of private firms in Missouri who do not wish to share the risk and subsidize elective abortions for other women through their premiums are not forced to do so.

I believe the Nickles amendment has the strong support of the public as well. Whether they choose to call themselves pro-choice or pro-life, the American people overwhelmingly reject public financing of abortion. A CBS/New York Times poll conducted in April 1993 about health care reform issues asked adults what should be included in a basic, Government-subsidized health care plan. Only 23 percent thought abortion should be covered; 72 percent said abortion should not be included as a benefit in a Government-sponsored health plan.

Mr. President, there are many strongly held views on both sides of the abortion debate. The amendment we are proposing here does not affect a woman's legal right to obtain an abortion. It simply says that American taxpayers will not have to subsidize elective abortions. Yet it does provide women who are employees of the Federal Government or dependents of those employees access to the procedure through the purchase of a special rider. I would like to point out to other Senators that the outcome of the vote on this amendment is extremely important, as this issue is directly related to the health care reform debate.

A great internal argument now raging in the various health care task forces is whether or not to include abortion services as part of a basic health benefits package. That is precisely the same debate taking place here, except that the outcome of this debate affects only Federal employees rather than the entire Nation.

I believe the amendment before us strikes exactly the right balance we need, not only on this issue, but on health care reform generally. We should not have taxpayers subsidizing abortions. This amendment provides for abortion coverage for women who want it, but it is paid for only by those who elect the additional coverage.

I hope my colleagues will support the Nickles amendment.

Mr. HATFIELD. Mr. President, today we are considering an issue the Senate has not voted on since 1982. For the first time in 10 years, the Treasury, Postal Service appropriations bill does not include the language, commonly known as the Ashbrook amendment, which since 1983 has restricted the use of Federal funds to pay for abortion under the Federal Employee Health Benefits Program. The amendment we are considering today would retain this ban.

During full committee markup of this bill, I supported efforts to keep the Ashbrook amendment. When the time comes to vote again today on this issue, I intend to vote as I did in committee.

I feel this vote is consistent with my views on abortion, and wanted to discuss the fact that, 10 years ago, I voted differently. The vote I made in 1982 was not an easy one for me to make at the time. And, long before my vote today, I reevaluated my position on this issue. I cannot support a program that allows for the payment of abortions through the use of Federal funds. This is consistent with my long-held belief that Federal funds should not be used to pay for abortion except in cases where the life of the mother is endangered.

This leads me to another difficult issue. For a number of years Federal funding for abortion ha been restricted except in cases where the life of the mother is at risk. The amendment before us expands that restriction to include exemptions in the cases of rape and incest. I have opposed this expansion in the past because I felt that a life conceived through rape or incest was no less deserving of protection because of the circumstances under which it was conceived. I have not changed my views.

Sadly, the changing politics of abortion have led pro-life supporters to bow to political realities by including an allowance for abortion for rape or incest victims, and thus staving off an all-out release of Federal tax dollars to pay for abortions. Mr. President, as one who is strongly guided by conscience, I am not comfortable voting for an amendment which allows Federal funding for any abortion unless the life of the mother is endangered. However, voting for some restrictions on taxpayer funded abortions is better than no restrictions at all. Given the vote count in the U.S. Senate, the only way pro-life advocates can hope to win is by allowing this exemption.

It is my understanding that the amendment proposed today by Senator NICKLES represents a compromise. It will continue the ban on Federal funding for abortions except in the cases of rape and incest and where the life of the mother is endangered, but it will allow Federal employees to obtain insurance coverage for all elective abortions by purchasing an additional rider to their insurance policy. Thus, those who wish this coverage may purchase it with their own funds. This is a sound compromise which protects those who do not want their tax dollars going to fund abortion and preserves the ability of those who wish this coverage to purchase it. Therefore, I urge my colleagues to support the Nickles amendment.

Ms. MIKULSKI. Mr. President, the amendment that is before us violates rule 16 of the Standing Orders of the Senate, which provides a point of order against amendments which propose legislation on general appropriations. I have some comments I wish to make, and at the conclusion of those comments I intend to raise a point of order.

As you well know, Mr. President, according to Riddick's Senate Procedure, no amendment which proposes general legislation shall be received to any general appropriations bill. The amendment offered by the Senator from Oklahoma [Mr. NICKLES] would, I believe, violate rule 16, and a precedent established in the Senate according to that rule.

This amendment goes far beyond a simple limitation on the expenditure of funds. As my colleagues know, that type of amendment would be in order. This amendment, however, places limits not just on funds but on what types of abortions would be covered under the Federal Employees Health Benefit Plan, and which women would be covered, and also creating a whole new category called what I have nicknamed "the abortion gap coverage."

It breaks new policy ground. The Senator from Oklahoma has said it breaks new policy ground. Therefore, I believe it does violate rule 16.

The U.S. Congress has two separate committees, the authorizing committee and the Appropriations Committee—on which Senator NICKLES and I serve. The authorizing committee is that committee within the U.S. Congress that sets the policy framework under which the legislative statute would be implemented. It is the role of the Appropriations Committee not to get into making new policy, but our role has historically been to be the quiet guardians of the purse. And we have very clear definitions of what that should be.

The Nickles amendment would require the executive branch to interpret and implement new policy that would allow coverage of abortions for women who work for the Federal Government if an abortion was necessary to save the life of the woman or if the pregnancy itself resulted from rape or incest. That would be new policy ground.

It would also require the Federal Government to implement a new policy to establish and administer a separate rider for abortion coverage for women who would want such coverage, and for plans that wish to offer such coverage, essentially creating an abortions gap rider. That might seem like a simple solution to the problem of abortion coverage, but it is not. This policy discriminates against one type of medical condition, pregnancy, and requires that Federal employees purchase a separate insurance policy for abortion coverage. The Federal Government has no such policy in place with regard to any other medical condition. That would require action by the executive branch on an appropriations bill, in direct violation of rule 16.

Although the antiabortion opponents of limited abortion coverage under Federal health benefits plans, in cases where the life of the woman is in danger, have been using the appropriations process in place since 1983, this does not in any way legitimize legislating on appropriations, especially on an important topic like this.

I believe it is time no longer to have a back-door way of legislating that dictates how people can spend the money that they have earned.

That is why there have been others who have defended my position. In 1982, the distinguished Senator from Oregon, Senator HATFIELD, who himself is opposed to abortion and whose position I respect as a matter of conscience, as I do all other Senators, said in 1982 when the Senate first considered a similar amendment, and he was chairman of the Appropriations Committee:

> We're not dealing with the simple issue of abortion or antiabortion. It's more complex than that. It is a matter of compensation, of intruding into people's lives.

Senator HATFIELD wisely opposed putting abortion restrictions on Federal employee health benefits plans because, and I quote:

> I don't want the Federal Government to begin to stick its head under the tent and stipulate how individuals can spend their own employee compensation as long as it does not violate the law.

Further quoting, Senator HATFIELD said:

> However, the amendment before us would do that. It would have Government intrude into the private lives of people. It would tell Federal employees you cannot use your own employee compensation to have an abortion.

It is also one more attempt to go around the authorizing committees. Only this time abortion opponents want to change the policy and add exceptions to allow abortions for pregnancies that are a result of rape or incest. Such exceptions would require interpretation by the executive branch in determining when to reimburse for abortion services, quite different from the limitation that had been in place since 1983.

I believe that it is not the business of this committee to set this policy. Setting policy for abortion coverage under the Federal employee health plans belongs exclusively to the authorizing committee, and this committee should adhere to the policy set in those committees.

Mr. President, I believe that the authorizing committee for Federal employee health benefits have historically opposed legislation limiting access to abortion coverage under the Federal employees health plan. The authorizing statute, section 89 of title V of the United States Code governing Government organization and employees allows for abortion coverage to be offered in health insurance plans which contract with the Federal Government.

So, therefore, we have, Mr. President, I really do need you to listen to this. This is an important precedent we are debating.

I am going to repeat this. The authorizing committees have historically opposed legislating limited access to abortion coverage under the Federal employees health plan. The authorizing statute is section 89 of title V of the United States Code governing Government organization and employees. It does allow for abortion coverage to be offered in health insurance plans which contract with the Federal Government.

The authorizing committees of both the House and the Senate have agreed that abortion services should be treated in the same way as other benefits under the Federal health benefits plan. Health insurance plans which contract with the Federal Government are free to decide the benefits package and include coverage for certain benefits for Federal workers in exactly the same way they do for workers and companies in the private sector through collective bargaining agreements.

Congress should not single out a single benefit that is a legal medical procedure available to women in the private sector for exclusion. This is not the time or the place for this debate. It is not the time or the place for this amendment. The Appropriations Committees themselves, in both the House and the Senate, have rejected adding similar abortion restrictions in their bills this year. I believe that is how it should be.

The Appropriations Committees are to be commended. Women working for the Federal Government should not be subject to legislation through the back door. If the Senate is going to limit abortion coverage, which I would argue vigorously that it should not, it should do so after much deliberation in the responsible authorizing committees. There have been no hearings that have been held on this new policy. It does break new ground.

This is a matter far too important and far too contentious to be added as a last-minute effort to deny women access to their legal and constitutionally protected rights.

I can say to my colleagues that this does violate the Senate rules to legislate on appropriations bills. To my colleagues who share a different opinion on abortion, I say, let us not trample on the Senate rules and save that debate for the authorizing committees. Everyone who is affected by this legislation deserves to know the Senate considered the matter in a deliberate, thoughtful manner in a committee with the expertise and knowledge to make its recommendations. I do believe that this breaks new ground and neither the Appropriations Committee nor this or any other appropriations bills are the proper vehicle for a discussion on abortion.

Therefore, Mr. President——

Mr. NICKLES. Will the Senator yield?

Ms. MIKULSKI. I raise a point of order against the amendment that has been offered, and I ask for the Chair to rule this amendment out of order because it is legislating on appropriations and violating rule XVI.

Mr. NICKLES. Mr. President, I raise a question of germaneness and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question of germaneness having been raised, the Chair puts the question to the Chamber on the question of whether or not the amendment is germane.

The question is not debatable. The clerk will call the roll.

Mr. SIMPSON. I announce that the Senator from New Hampshire [Mr. GREGG] is necessarily absent.

The PRESIDING OFFICER (Mr. FEINGOLD). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 48, nays 51, as follows:

[Rollcall Vote No. 235 Leg.]

YEAS—48

Bennett
Biden
Bond
Breaux
Brown
Burns
Coats
Cochran
Conrad
Coverdell
Craig
D'Amato
Danforth
DeConcini
Dole
Domenici
Dorgan
Durenberger
Exon
Faircloth
Ford
Gorton
Gramm
Grassley
Hatch
Hatfield
Heflin
Helms
Hutchison
Johnston
Kassebaum
Kempthorne
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Nunn
Pressler
Reid
Roth
Smith
Thurmond
Wallop
Warner
Wofford

NAYS—51

Akaka
Baucus
Bingaman
Boren
Boxer
Bradley
Bryan
Bumpers
Byrd
Campbell
Chafee
Cohen
Daschle
Dodd
Feingold
Feinstein
Glenn
Graham
Harkin
Hollings
Inouye
Jeffords
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mathews
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murray
Packwood
Pell
Pryor
Riegle
Robb
Rockefeller
Sarbanes
Sasser
Shelby
Simon
Simpson
Specter
Stevens
Wellstone

NOT VOTING—1

Gregg

The PRESIDING OFFICER. The amendment is not germane.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. BOND. I move to lay that on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll. The assistant legislative clerk proceeded to call the roll.

Mr. NICKLES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NICKLES. Mr. President, in regard to the last vote, the vote was very close. It was 48 in favor, 51 in opposition, with 1 Senator absent. I believe he would have voted in our favor. That would be 49. If I had two more votes I would orchestrate another vote. I do not have that or I cannot find it right now.

I would like to repeat and reiterate—this is a very important vote. To my chagrin, many people may be hiding under the guise of a procedural motion, a motion of germaneness saying it was not germane or it is legislation on an appropriations bill. But I would like to inform my colleagues—I wanted to do it in debate, and I was not able to be recognized for that purpose—but we have had restrictions in this Treasury-Postal bill for the last 10 years saying that we were not going to have abortion as a fringe benefit; it would not be offered. It was not offered. We have had a restriction for 10 years, and I might say that that restriction saved the lives of a lot of unborn children.

My colleagues say now we have changed that policy and maybe they are excited because they would like to have abortion be a fringe benefit for Federal employees.

I say it is a bigger issue than that, because I can see the debate right now on national policy if this is going to apply to Federal employees. If we are going to have abortion as a standard option or coverage for Federal employees, then maybe it will apply to all Americans.

Now many people are trying to take health policy and are saying we want the Federal Government to subsidize the destruction of unborn lives as standard policy. I happen to reject that. I hope my colleagues do.

Again, if I could find two votes, I would have another vote. I will not be talking about this for a long time. But I just hope my colleagues realize that this was not just a vote of very little consequence. It was a very serious vote, and many people may or may not have been hiding behind a procedural motion. I think it is a serious question.

I told my friend and colleague from Maryland I wanted an up-or-down vote because I felt it was important that people know where we stand. I will tell my colleagues, too, when we get to the Labor-HHS bill we are talking about something that may be of greater magnitude and it will require even greater discussion.

I will tell my colleagues, as well, when we get into the national health debate and when many people want to have abortion as a fringe benefit or abortion as a standard option of coverage for the so-called national health care plan, that they are going to be in for a very significant discussion. Because we are talking about not just a political issue, we are talking about an issue that deals with life. We are talking about an issue that deals with the lives of unborn children.

We are talking about an issue that right now, under today's policy, we have a million and a half abortions. And I would guess that if we are going to make this a fringe benefit for Federal employees, there will be a lot more and they will be paid for with taxpayers' dollars or subsidized by taxpayers' dollars. Taxpayers, through Federal subsidies, pay for 60 percent of the health benefits of Federal employees.

And if we make abortion part of the national health care plan, as many people would like to do, then maybe we will see the number of abortions go from 1.5 million per year, to maybe 2 million, maybe 2.5 million, maybe 3 million a year because, if we are going to develop it as part of the national infrastructure, we are going to make it more acceptable, we are going to make it more prevalent, we are going to make it more available throughout the country.

Again, I would like to tell my colleagues that this is a serious vote today. I hope they will weigh the consequences of their vote.

Again, it is regrettable for this Senator that it had to be construed as a procedural vote when it is much more serious because, unfortunately, we are talking about the lives of innocent, unborn children.

I yield the floor.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

AMENDMENT NO. 750

(Purpose: To require the Commissioner of the Internal Revenue Service to report to the Congress on the implementation of policies and procedures to ensure that Internal Revnue Service employees honor the right to the confidentiality of taxpayer information)

Mr. CHAFEE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE] proposes an amendment numbered 750.

Mr. CHAFEE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill insert the following:

SEC. . The Internal Revenue Service shall institute policies and procedures which will safeguard the confidentiality of taxpayer information. The Service shall report to the Committees on Appropriations of the House and Senate, the House Committee on Ways and Means, and the Senate Committee on Finance, no later than December 31, 1993, the steps the Service has taken to minimize unauthorized access to taxpayer data.

Mr. CHAFEE. Mr. President, what this amendment stems from is an article in this morning's Washington Post that several hundred employees of the Internal Revenue Service have been investigated or disciplined for, among other things, browsing through tax records of friends, relatives, neighbors, and celebrities.

What is discouraging about this report is the apparent magnitude of the problem. As many as 370 employees are reportedly under suspicion of misusing the computerized data retrieval system. It seems that the Internal Revenue Service does not have adequate procedures and policies to ensure that IRS employees protect the confidentiality of taxpayers' information.

Mr. President, I think we all agree that voluntary compliance with our tax laws is absolutely the basic principle that helps our Government collect its tax revenue. Absent the voluntary compliance, this system would be total chaos. And one of the factors that encourages compliance, Mr. President, is the assurance that taxpayer information will be kept confidential. The report in this morning's newspaper certainly undermines that belief. The taxpayers of this country are currently paying a substantial sum of money—some say $23 billion, which seems high, but that is the figure that I have—to modernize the tax agency's computer system.

One goal out of all of that modernization of the computer system is to make it possible for IRS employees to have better access to taxpayer data in an effort to improve efficiency and customer service.

However, this access should not permit IRS personnel to call up sensitive taxpayer information on celebrities and the like to impress their friends at cocktail parties.

So what my amendment does, Mr. President, is require the Commissioner to report back to Congress on the policies and procedures it currently has in place, as well those it plans to implement as a result of the problems found in the Southeast region, to safeguard the confidentiality of taxpayer information.

So, in effect, it is a report, Mr. President, but I think it is a very important report. The exact language is:

> The Service shall report to the Committees on Appropriations of the House and Senate, the House Committee on Ways and Means, and the Senate Committee on Finance, no later than December 31, 1993, the steps the Service is taking to minimize unauthorized access to taxpayer data.

It is my understanding that this is an acceptable amendment by the floor managers.

The PRESIDING OFFICER. Is there further debate?

Mr. BOND. Mr. President, on this side of the aisle, I commend the Senator from Rhode Island for, I think, a very good amendment. The study will get us on the road to finding out how widespread this practice is.

I shared his concern when I read the story today in the newspapers. I commend him for bringing it to the attention of this body. I hope we can accept it.

Mr. DECONCINI addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. DECONCINI. Mr. President, I also commend the Senator from Rhode Island. This is a good amendment.

The Commissioner of the Internal Revenue Service, Ms. Richardson, is very concerned about this. We have talked to her office about it. She obviously is new in the job, but she has a great deal of experience.

She indicates such activities by employees will not be tolerated. I wish she were here so she could tell us that, but she has expressed that to us. She is committed to continue the installation of the kinds of controls that will minimize the risk of such events occurring.

In addition, the IRS already has taken and will continue to take strong action when individuals have been found to abuse their offices.

So, although over 50 percent of the reported 369 cases did not ultimately involve any misconduct, so the internal investigations show, the IRS has taken action on all the remaining cases.

I do not have but would be glad to supply the Senator from Rhode Island—and I would like to know myself—just what action was taken. These remaining cases, for the most part, involved unauthorized access to reading information. And that, I think, is clearly part of what the Senator from Rhode Island is after in his amendment.

So I think it is a good amendment. I thank the Senator from Rhode Island for bringing it to the attention of the committee and the Senate.

We are prepared to accept the amendment.

The PRESIDING OFFICER. If there is no further debate, without objection, the amendment is agreed to.

The amendment (No. 750) was agreed to.

Mr. CHAFEE. Mr. President, I thank the floor managers very much for accepting this amendment. I am not big for reports. Indeed, I have constantly urged those who have come before our committees to let us know if they are filing reports that some Senator, months or years ago, required through statute that they file a report by such and such a date.

But I do think, in this particular instance, this is a one-time report and I think it is very, very important, based on the information that has come to light.

So I thank the distinguished Senator from Arizona and the distinguished Senator from Missouri, who are floor managing this legislation.

I ask unanimous consent, Mr. President, that a copy of the article that appeared in this morning's Washington Post be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

PROBE FINDS IRS WORKERS WERE "BROWSING" IN FILES—COMPUTER SECURITY REVIEW POINTS TO FRAUD

(By Stephen Barr)

Almost 370 employees of the Internal Revenue Service have been investigated or disciplined for using government computers to create fraudulent tax refunds or browse through tax records of friends, relatives, neighbors and celebrities, according to an IRS report.

The internal report, which was prepared in the fall and released yesterday by Sen. John Glenn (D-Ohio), focused on the IRS's Southeast Region, headquartered in Atlanta. But it said "integrity reviews" conducted by the IRS in its North Atlantic and Western regions also found that "employees are browsing taxpayer accounts for no clear business purpose."

Glenn, chairman of the Senate Government Affairs Committee, said at least one employee had "altered some 200 accounts and got kickbacks" from bogus refund checks that were issued.

The incidents, an IRS spokeswoman said, are "a serious concern to this agency." She said IRS had determined that a "nationwide fix" was needed to improve computer security and the efforts were underway to quickly address the problem.

IRS workers are regularly reminded to protect the confidentiality of tax returns, and safeguards to ensure taxpayer privacy are written into law and Treasury Department directives. Specialists in tax law said yesterday they were surprised that so many workers had been accused of abusing their positions.

The disclosure of a computer security breakdown comes at a sensitive time for the agency. IRS has undertaken a decade-long project to redesign and upgrade its automated systems. The project, called Tax Systems Modernization, is expected to cost about $23 billion through the year 2008 and has been described as the largest civilian computer modernization in history.

One goal of the modernization is to give every IRS employee who needs it the capability for on-line computer access to taxpayer information as a way of improving customer service and agency efficiency.

But as Donald Alexander, who served as IRS commissioner from 1973 to 1977, pointed out, "The idea of having one-stop service—I can take care of your entire account—is incompatible with the idea that you have complete privacy and that no one is going to know about you and your tax returns."

The IRS probe into the Southeast Region investigated 369 employees suspected of misusing the agency's Integrated Data Retrieval System (IDRS). The employees were described as rank-and-file workers who handle IRS mail and answer the telephone when taxpayers call.

About 56,000 of IRS's 115,000 employees have access to IDRS, which is used to locate and adjust taxpayer accounts. IDRS provides agency workers with taxpayer data such as name, address, Social Security number, dependents claimed, adjusted gross income, taxable income and tax liability.

IDRS contains only 10 to 15 percent of the data available in IRS's "master file" maintained at the Martinsburg (W.Va.) Computing Center, but it can instruct the master file computer to send out bills, stop notices or issue refunds.

The IRS inquiry referred 80 employees for criminal investigation, with six of the employees facing potential prosecution by U.S. attorneys for allegedly preparing fraudulent returns and taking kickbacks from bogus refund checks.

Of the 369 cases, 345 were referred to management for review, and 154 were disciplined. Of the 154, three were forced to resign, three were fired and the rest were either reprimanded, suspended or underwent counseling.

IRS officials, citing privacy laws, declined to identify the celebrities whose accounts may have been called up by workers for "non-work" purposes.

Glenn learned of the IRS investigation last month, after the General Accounting Office had reviewed IRS's most recent financial statements. GAO reported that "IRS did not adequately control access authority given to computer support personnel or adequately monitor employee access to taxpayer data."

The IRS probe has been underway for three years, and the investigators issued their "Review of Controls Over IDRS Security" last October. The report does not provide examples of how IRS employees manipulated the system for fraudulent or other purposes. It notes, for example, that 48 employees accessed their own or spouse's account during the 12 months ending November 1991, but does not say why.

Tax specialists said they could not recall similar incidents at the IRS. In 1985, investigators found unprocessed returns and refunds in wastebaskets and trash barrels at a Philadelphia IRS office.

"I'm really surprised that such a large number of employees have been mentioned in any type of impropriety like that. At most, I think it would have been an isolated case, a rogue employee," said Walter Goldberg of the accounting firm Price Waterhouse.

Thomas Ochsenschlager of Grant Thornton, another accounting firm, said: "I find the number surprising. . . . For the most part, I've always assumed that internally it was relatively hard to get at that information."

Lawrence B. Gibbs, who served as IRS commissioner from 1986 to 1989, said IRS is working with "Ice Age computers" that "you can do only so much with. The new system will get IRS the capability to catch this kind of thing."

But he added, "This is going to be a real black eye for IRS. . . . It is something, frankly, the agency worries about."

IRS investigators made a number of suggestions about how to monitor employees with access to computer codes. The IRS spokeswoman said yesterday that a pilot project will begin in Atlanta this fall to test whether abuse can be stopped "on the front end rather than after it has occurred for a period of time."

Glenn suggested yesterday that IRS needs to press its investigation beyond the Southeast Region, which covers Arkansas, Tennessee, Alabama, Georgia, Mississippi, Florida, the Carolinas and Louisiana.

"We're very uncertain as to how much of this may be going on throughout the system," he said. "We don't know what the status is in other areas."

He noted that 6,300 out of 21,000 Southeast IRS employees have access to the IDRS system in the Southeast, and that employees may use up to 56 different computer commands or codes to enter taxpayer accounts.

Glenn has scheduled a hearing Wednesday to hear how the new IRS commissioner, Margaret Richardson, plans to address the agency's computer problems. Richardson was unavailable for comment yesterday.

Glenn and his committee have worked to improve financial management in the government through inspectors general and chief financial officers. Yesterday, Glenn said he might ask the Treasury Department inspector general to monitor IRS as it sets up new security systems for its computers.

He indicated that at some point, Philip Lader, the Office of Management and Budget deputy director for management, may have to get involved, because a number of financial management problems seem to be cropping up in the government.

The IRS, Glenn said, has "a big and immediate job to get on this and correct this, or there will be a lack of general confidence in the system, and that would be tragic."

AMENDMENT NO. 751

Mr. DECONCINI. Mr. President, I send an amendment to the desk on behalf of myself and Senator BOND and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. DECONCINI], for himself and Mr. BOND, proposes an amendment numbered 751.

Mr. DECONCINI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 8, line 16, after the word, "Program:", insert the following: ": *Provided further*, That no funds made available by this or any other Act may be used to plan or implement any reorganization of the Bureau of Alcohol, Tobacco and Firearms or transfer of the Bureau's functions, missions, or activities to other agencies or Departments in the fiscal year ending on September 30, 1994;

Mr. DECONCINI. Mr. President, this amendment prohibits the use of funds for certain studies and planning by the Department of Treasury. I believe it has been cleared by both sides.

I ask that it be agreed to.

Mr. BOND addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, we strongly support the amendment on this side and urge its adoption.

The PRESIDING OFFICER. If there is no further debate, without objection, the amendment is agreed to.

The amendment (No. 751) was agreed to.

Mr. DECONCINI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DECONCINI. Mr. President, I suggest the absence of quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. COATS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Missouri.

AMENDMENT NO. 752

Mr. BOND. Mr. President, I thank my distinguished colleague from Indiana. He has a matter of importance to speak to. But prior to doing that, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Missouri [Mr. BOND], for Mr. COVERDELL, proposes an amendment numbered 752.

Mr. BOND. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

SECTION 1. Title VII of H.R. 2403 is amended by inserting at the end the following new section:

SEC. 7 . REDUCED RATES FOR VOTER REGISTRATION MAIL.

Section 3629 of title 39, United States Code, as enacted by section 8(h) of Public Law No. 103–31, the National Voter Registration Act of 1993, is amended by striking "the rate for any class of mail that is available to a qualified nonprofit organization under section 3626" and inserting in lieu thereof "a rate which is one-half the applicable rate for First-Class Mail, as provided in the relevant classification and rate schedules,".

Mr. BOND. Mr. President, this deals with the National Voter Registration Act and the postage rates that were paid under it. State and county officials have advised that because there is no special rate for nonprofit first-class mail, third class must be used.

This amendment would allow first-class mail in any quantity to be sent at half the otherwise applicable first-class rate for postage. This will not affect the funding mechanism included in the act but it will reimburse the Postal Service for the difference between the reduced and the regular rates, in effect, extending to the voter registration mail the same mechanism used to reimburse the Postal Service for free rates on overseas absentees' voting materials.

Had we not done so, there was a concern that these ballots and election information would have been mailed third class with consequent delays. I hope we will be able to accept this amendment.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. DECONCINI. The amendment is a clarifying amendment that makes it very clear what the cost is going to be and not be, in which case the majority is prepared to accept the amendment offered by the Senator from Missouri.

THE PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 752) was agreed to.

Mr. DECONCINI. I move to reconsider the vote by which the amendment was agreed to.

Mr. BOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. Mr. President, I deeply regret I was unable to get to the floor in time to support the amendment offered by the Senator from Oklahoma. It was my understanding we would have a considerable time this afternoon for debate on that issue. Certainly, the Senator from Maryland was perfectly within her rights in raising the point of order. The Senate did vote its will on that. I am not going to seek to overturn that.

However, I did want to take just a few moments to indicate to the Senate I hope we will soon have an opportunity to debate this issue and to debate it at some length. It is a paramount issue. It is an issue that goes to the very question of life itself. As such, I think it is one that needs to be debated seriously and thoughtfully by the Members of this body.

We should not easily dismiss the issue simply through a point of order. We should take the occasion, I think, for a thorough discussion on the whole question. In poll after poll, the American people have indicated that regardless of what their position is on the question of abortion, they do not feel—a substantial majority do not feel it is appropriate that Federal dollars be used to provide for abortions, particularly abortion on demand. The Nickles amendment seeks to restrict the use of Federal dollars for provision of abortion services to Federal employees under the Federal health insurance plan. It restricts it to be used only in instances where the life of the mother is at issue or in cases of rape or incest.

For years the Senate has supported that provision; in fact, a much more restrictive provision, limited only to life of the mother. So this is a decided change in policy that has been voted on today.

Unfortunately, we were really not able to debate the issue. I am not even sure all Members knew exactly what the vote was, because it caught many of us by surprise. In any event, many indicated they thought it was just a procedural motion, as it was, that they were voting on. And I am not really sure we got to the heart of the issue itself. The heart of the issue is whether or not we want to support the use of taxpayers' dollars to pay for abortion on demand without restriction. Members need to understand this provision allows abortion essentially without any restriction whatsoever.

Many have expressed to me they believe there are appropriate exceptions. Many have said they think clearly to save the life of the mother, and in cases of rape or incest, that exceptions could be granted and the funds used to pay for abortions for those who either were covered under a health plan or for those who could not afford the procedure. But they felt an unrestricted allowance for abortion use was inappropriate and there ought to be some limitations on that.

So I regret we were not able to debate that issue at length. I trust we will have that opportunity in the future. It is a controversial issue. It is an issue that deeply divides us. It is an issue which people hold very strong opinions on, on both sides. But we are elected to this body to deal with those issues and deal with them up front, deal with them in a thorough, thoughtful process, and I hope we will have the opportunity to do that in the near future.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Mr. President, I rise in the most cordial way to clarify what the procedural vote was, and assure my colleagues on the other side of the aisle that I do take the public policy that had been raised quite seriously.

My colleagues should know that on Friday, when the Senator from Oklahoma asked for a time agreement, I very cordially was willing to work with him on a time agreement if I knew what the amendment was. His amendment had not been done, and therefore he was unable to share it with me. Therefore that terminated that conversation. We had not heard from the Senator from Oklahoma yesterday.

Today, because we are members of the Appropriations Committee and in the past have dealt with each other in an atmosphere of great civility and comity, I had my staff call to see if there was an area of agreement. The Senator from Oklahoma wanted to preserve—did not want a time agreement, if it was not a straight up-or-down vote. At least that was my understanding from my staff.

I wanted to preserve the procedural rights because I do feel very strongly about rule XVI. So, once the debate began, I followed what I thought was the normal procedure. There had been no agreement about offering the point of order at the end of substantial debate.

So if there was confusion, then I am sorry about it. But I want the Chair and my colleagues to know I was quite willing to work out an arrangement as long as I was able to preserve my procedural options.

To my colleagues who say this is a serious matter, I would say "you bet." That was exactly why, to have such a substantial public policy enacted, I believe did require not only considerable debate but considerable hearings on this topic.

The amendment of the Senator from Oklahoma did break new ground, substantial new ground, in terms of Federal employee health insurance benefits and the consequences on other issues that will be pending before this Senate. I would in no way dispute the seriousness of that, and I will presume my colleagues will not dispute we were breaking new ground. Therefore, as responsible people, we do need to have adequate hearings, robust debate, and arrive at a conclusion that we hope is in the best interests of this Nation.

There will be other opportunities to do that, but I want my colleagues to know we were not trying to use strong-arm tactics, and that this is a time of great reflection and debate. And knowing my colleagues who stand over there—we have debated this—I have found, in discussing this matter with the two colleagues who are standing, they are robust debaters but Senators who always pursued debate in an atmosphere of civility and focused on the merits. I look forward to that type of continued debate.

Mr. COATS. If the Senator from Maryland will just yield for a comment?

Ms. MIKULSKI. I yield.

Mr. COATS. Mr. President, I again want to reiterate, I certainly believe the Senator from Maryland was well within her rights in offering the procedural motion and I appreciate her sentiments relative to the need to discuss and debate thoroughly this issue.

My only question is, my understanding is that the policy before us is what is breaking new ground. The settled opinion of the Senate for a decade was that Federal funds would not be used to provide abortion services for Federal employees under their health insurance plans except for the life of the mother exception. Therefore the inclusion of this in the committee bill that is before us does break new ground.

I believe that was the basis on which the Senator from Oklahoma offered his amendment.

Ms. MIKULSKI. That would then take us into the debate once again. I acknowledge what the Senator has said. We would have a disagreement on that.

Mr. COATS. If there is consensus here, I think it is that this is an issue which ought to be pursued and debated because it is an important one and one which the Senate ought to thoroughly discuss. I appreciate the Senator's offer to do that on the Senate floor and in committee. I hope we can do that soon.

Mr. SMITH addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SMITH. Mr. President, I also say to my colleague and friend from Maryland, I do not quarrel with the procedure that was used. I was just occupied with other things and was not aware that this debate was going to suddenly terminate, which is well within the rights of the Senators to do, and, therefore, missed the opportunity to debate the Nickles amendment.

Mr. President, I might also say to my colleague and all of my colleagues that I will not be trying to offer an amendment at the end of these remarks, but I will briefly speak in support of the amendment that my colleague and friend, the Senator from Oklahoma, had offered wishing that it had been adopted. Since that did not happen, that does not mean that the debate should end or that sometime in the future, hopefully in the near future, we will not have the opportunity to revisit it again.

The Nickles amendment placed before the Senate the issue of whether abortion on demand will be covered as a routine health benefit from the Federal Employees Health Benefits Program. That program provides health care coverage for approximately 9 million Federal employees and their dependents as well. So 60 percent of the premiums for those plans are paid for by the taxpayers, by the Federal Government.

Since 1984, the Congress has prohibited Federal Employee Health Benefits Program plans from paying for abortions. So the new ground is the change in that policy. That is the new ground. But in June of this year, the House passed H.R. 2403, the Treasury, Postal appropriations bill, without this longstanding restriction on abortion funding. So that is when the new ground was broken. The Senate Appropriations Committee recently voted 15–14 against including such a restriction on abortion funding in this bill. That is how close it is. That is how evenly divided we are, not only in the Congress but perhaps out in America as well.

So, in the rejection of the Nickles amendment, for the first time since 1984, the American taxpayers are going to be forced to finance abortion on demand for Federal employees. I think the impetus from that will be, as Senator NICKLES, I believe, has already stated, that we will now perhaps see a movement to do this in other health plans as well. As I noted, the ban on abortion coverage under the Federal Employees Health Benefits Program has been in effect since 1984. According to the Office of Personnel Management, in the calendar year 1980, the last year for which authoritative figures are available, 17,000 elective abortions have been paid for through the Federal Employees Health Benefits Program—17,000. The estimated cost for those abortions was $9 million.

So, by rejecting the Nickles amendment, the American taxpayers certainly can be forced to expect that they are going to finance, through the Federal Employees Health Benefits Program, at least 17,000 abortions for Federal employees at an annual cost of $9 million and, most likely, a lot more than that in terms of number of abortions and in terms of costs, largely due to 13 years of inflation.

This is not a collective bargaining issue. Former OPM General Counsel Joseph Morris has stated:

> There is no connection whatsoever between the Federal sector labor relations program on the one hand and the Federal Employees Health Benefits Program * * * on the other.

"It is plain," Mr. Morris has written, "that collective bargaining over health benefits is not permitted in the Federal sector."

So let us call it like it is. The question that was before the Senate, which was recently defeated on a procedural basis, was whether the Federal Government is now going to pay for abortion on demand for its employees. That is the issue. Sixty percent of the premiums for the Federal Employee Health Benefits Program are paid for by the Federal Government under that amendment. Had the Nickles amendment been adopted, these premiums would be used to pay for abortion on demand for Federal employees. That is where we are.

It would be particularly inappropriate, in my opinion, for the Congress to allow Federal Employees Health Benefits Program plans to cover abortion, especially because the overwhelming majority of abortions have nothing to do with the physical—and I emphasize physical—health of the women who have them.

In hearings before the Senate Judiciary Committee in 1981, Dr. Irvin Cushner, who served as the Carter administration's Deputy Assistant Secretary for Population Affairs, testified about the reasons why women have abortions. Dr. Cushner estimated that only 2 percent of abortions are done for physical health reasons and that 98 percent are performed for lifestyle reasons. These are not my words, they are the words of the Carter administration appointee.

Dr. Cushner testified:

> The data with which I am familiar would indicate that something on the order of 2 percent of all abortions in this country are done for some clinically identifiable entity—physical health problem, amniocentesis, and identified genetic disease. The overwhelming majority of abortions in this country are performed on women who, for various reasons, do not wish to be pregnant. Their reasons are a mixture of social, economic, educational, or whatever.

Mr. President, the overwhelming majority of the American people—like it or not—do not want their taxes spent to finance abortion on demand for Federal employees. There are a lot of polls out there. Many have been quoted on the floor in the past and many more will be quoted in the future. I might as well add myself to the list of quoting polls.

In March of this year, a CBS-New York Times poll found that 72 percent of Americans oppose the inclusion of abortion in a national health plan, 23 percent in favor.

There is no reason why a greater number of Americans would favor coverage for employees of the Federal Government, with the taxpayers footing 60 percent of the bill. As I indicated, unless the Nickles amendment at some point in the future is adopted, H.R. 2403 would allow Federal tax dollars to pay for abortions on demand for Federal employees as a routine method of birth control. That is the result.

According to a November 1992 Wirthlin poll, 84 percent of Americans are opposed to abortion as a method of birth control. Only 13 percent favor a radical position on the abortion question. It follows then that the American people do not want to pay for abortions on demand for Federal employees or anyone else, as a method of birth control, with their tax dollars.

Finally, Mr. President, an ABC News-Washington Post poll taken in July 1992 indicates that 69 percent of Americans oppose the Federal funding of abortion, as the survey question posed the issue, "for any woman who wants it and cannot afford to pay." Only 27 percent of Americans want the Government to pay for abortion on demand for poor persons.

Mr. President, regardless of where we stand on this very contentious issue of abortion, whether it is a moral or legal matter—and there are many arguments on that one—it is beyond dispute, according to the polls, that millions of Americans believe that the unborn child is a human being from the moment of conception and that abortion is the wrongful taking of a human life. Forcing millions of those prolife Americans to pay for abortion on demand for Federal employees with their tax dollars would be in gross violation of their freedom of conscience. It would be glaringly inconsistent for those who support the Hyde amendment, which prohibits payments for abortions for Medicaid-eligible women, to vote in favor of Federal funding for abortions for Federal employees. In other words, Senators who support the Hyde amendment should have supported the Nickles amendment.

The Supreme Court has upheld the constitutionality of the Hyde amendment. The Court found that the Government can distinguish between abortion and "other medical procedures." In upholding the Hyde amendment in 1980, the Court commented that "abortion is inherently different from other medical procedures because no other procedure involves the purposeful termination of a potential life."

In closing, I want to commend my friend, Senator DON NICKLES, for his courage in offering this amendment. Not many Members in the Senate are willing to take the floor these days and defend the rights of the unborn child and to take on the issue of abortion. It is not a lot of fun. You get beat up for it. But as I have said on this floor many times, I am proud to do it.

The unborn child does not have anything to say. Sometimes the born child does not have anything to say, as we found out with Jessica DeBoer recently. Children, especially unborn children, need somebody to stand up for them, and if I am going to be judged for anything around here, if they want to write someday that Senator BOB SMITH stood up here and defended the rights of the unborn child, that is fine with me.

If there is anything wrong with that, then maybe there is something wrong with this country.

I commend again Senator NICKLES. He is a man of great principle and great courage. I admire him greatly. I wish that his amendment had passed.

I thank the Chair.

I yield the floor, Mr. President.

Mr. DECONCINI addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. DECONCINI. Mr. President, I thank the Senator from New Hampshire for his remarks and only echo them, also having voted with the Senator from Oklahoma. I agree that I think it should be considered, and we will, I suspect, have many times to discuss this over the next 2 or 3 months.

AMENDMENT NO. 753

Mr. President, I send an amendment to the desk on behalf of myself and the two Senators from California, Mrs. FEINSTEIN and Mrs. BOXER, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Arizona [Mr. DECONCINI], for himself, Mrs. FEINSTEIN, and Mrs. BOXER, proposes an amendment numbered 753.

Mr. DECONCINI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 36, line 21, strike "$199,000,000" and insert in lieu thereof, "$180,000,000".

On page 37 of the bill, line 6, strike "$84,000,000" and insert in lieu thereof, "$103,000,000".

Mr. DECONCINI. Mr. President, this amendment increases by $19 million the amount made available to the construction of the U.S. courthouse in Santa Ana, CA. I am persuaded by the Senators from California, particularly Senator FEINSTEIN, that this project is very urgent. Despite the fact that the construction contract will not be awarded until early 1995, I have taken an identical amount of funds from the courthouse construction project in Phoenix, AZ, to accommodate the critical needs in Santa Ana.

Mr. President, I have also been assured by the GSA that failure to fund this at the full construction cost in this 1994 appropriations bill will not slow down the construction procedures for the Santa Ana courthouse.

I think the Senator from California [Mrs. FEINSTEIN] deserves a lot of credit for being sure that the justice system is well equipped to handle its heavy caseload, and we will do all we can to see that that is accomplished. I commend the Senator for that, and assure her I will do everything I can.

Mrs. FEINSTEIN. Mr. President, I would like to say a few words today to reiterate my position on the urgent need for the construction of a Federal courthouse in Santa Ana, CA. The bill before us contains $84 million to begin construction of this courthouse, exactly one-half of the amount requested in the President's fiscal year 1994 budget. I strongly support the amount in the President's budget, $168 million, which is $17 million more than provided in the House version of this bill. I will work to ensure that the additional $84 million is provided for fiscal year 1995. I look forward to working with Senator DECONCINI and Senator BOND, whom I know understand the importance of this courthouse to my State, to make sure the courthouse is fully funded.

Let me briefly explain why this courthouse is so necessary. The projected population increase for the central district, where this courthouse would be located, is astronomical. All seven counties in the district, Los Angeles, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara, and Ventura, will see large increases in population in the next 10 to 20 years. From 1990 to 2005, the populations of San Bernardino and Riverside are themselves projected to nearly double.

The statistics with regard to projected caseload increases are similar. By the year 2017, the civil caseload of the central district is expected to reach 20,000 cases annually. In that same period, criminal cases will increase 2,000 annually. Finally, the bankruptcy cases filed in the central district are expected to reach 100,000 annually within the next 25 years. The current facilities are inadequate, and the need for this courthouse is clear.

Again, I will work with Senator DECONCINI and Senator BOND and their staffs early in the year to ensure that the remaining funds are available in fiscal year 1995.

Mr. BOND. Mr. President, there is no objection on this side.

The PRESIDING OFFICER. If there is no further debate, without objection, the amendment is agreed to.

The amendment (No. 753) was agreed to.

Mr. DECONCINI. Mr. President, I move to reconsider the vote.

Mr. BOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DECONCINI. Mr. President, I am going to send an amendment to the desk in just a moment and ask for its immediate consideration. I want the Senator from Missouri to have the amendment.

Mr. President, this amendment instructs the Administrator of General Services to meet the toner cartridge procurement needs by giving preference to cartridges remanufactured in the United States.

The remanufacturing industry in the United States is growing and has relied heavily on the ingenuity of small businesses. There are 6 million small businesses in the United States making up 38 percent of the economy. Of these 6 million, 4,000 are toner cartridge remanufacturers.

I feel strongly about these small businesses and the jobs they create in the United States. I adamantly oppose sending this business overseas, which is where it would go if there is not a preference. I adamantly oppose this kind of activity. We should buy America first, as we do in many other areas.

Unfortunately, most of the original equipment manufacturers send their reclaimed cartridges overseas to have them disassembled. In fact, I know of one company that sends as many as 200,000 cartridges per month back to China to be disassembled, cleaned, and recycled, not remanufactured. How many U.S. jobs does that represent?

AMENDMENT NO. 754

Mr. DECONCINI. Mr. President, I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Arizona [Mr. DECONCINI] proposes an amendment numbered 754.

Mr. DECONCINI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the Committee amendment on page 31 lines 1–13, insert the following:

Notwithstanding any provision of this or any Act, Section 6962j of 42 U.S.C. is amended as follows—

(1) by striking paragraphs (a) through (e) and inserting in lieu thereof:

"(a) Notwithstanding any other provision of law, a Federal agency in conducting a procurement for toner cartridges for use in laser printers, photocopiers, facsimile machines, or micrographic printers shall give preference to recycled toner cartridges unless the contracting or purchasing officer determines in writing that—

"(1) adequate market research establishes that recycled cartridges for the type of equipment used by the agency do not exist,

"(2) the price or life cycle cost offered for the recycled cartridge is higher than the original equipment manufacturer's new cartridge, or

"(3) recycled cartridges are not available in quantities needed within the timeframes required.

"(b) Nothing in this section shall prohibit the purchase of one newly manufactured cartridge (or a number equal to those normally supplied at the time of initial purchase) as a part of an initial printer or copier acquisition.

"(c) For the purpose of this section, 'recycled cartridge' means a laser printer, photocopier, facsimile machine, or micrographic toner cartridge which has been remanufactured in the United States."

Mr. DECONCINI. Mr. President, let me give you an example.

Canon, Inc., of Tokyo, Japan, which makes 85 percent of the new cartridges sold in the United States, recycles 95 percent of the cartridge weight in their plant in Dalian, China. I think this is admirable, but I wonder how many United States jobs are lost to that plant in China.

GSA supports the purchase of remanufactured toner cartridges over the current reclaimed program of the original equipment manufacturers. GSA tells me that the original equipment manufacturers do not utilize the products to the same extent of remanufacturers, and therefore it is not as economically nor environmentally sound for the Government to purchase such a product.

Now, let me give you an example. According to GSA, initial cost of remanufactured toner cartridges are half what the new toner cartridge would cost. For example, a Hewlett-Packard LaserJet new toner cartridge costs $89.08. So you can buy two remanufactured cartridges which perform the same job to every new cartridge that you might buy. The remanufactured version of this cartridge costs only $40.99.

In addition, these small businesses offer a credit ranging from $2 to $10 toward the Government's next purchase for every used cartridge they return to the remanufacturer. So with the credit you could buy almost three remanufactured cartridges for every one new nonremanufactured cartridge.

GSA states that in its comparisons of quality and the yield, remanufactured cartridges may even surpass those of new cartridges.

GSA does not promote one product over the other and seeks to have both available for anybody.

To date, GSA has experienced no problems with the quantity, quality, or cost of remanufactured cartridges. I am not making this claim. The GSA is doing it and has a procurement expert who will tell us for anybody who asks such a question.

Mr. BOND addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, we have just had an opportunity to look over the wording of this amendment. There are a number of Senators on this side who wanted to look at it. We also want to assure ourselves of what the impact of giving a preference would be. And it will be my purpose in a few moments to suggest the absence of a quorum to allow us to check on this side as to the impact of it, to see whether this does meet the needs.

I commend the chairman of the committee because there was some concern over the previous language. If this is an acceptable compromise to all parties, it will enable us to facilitate action on this measure.

Certainly, from my own point of view, I would like to see some remanufacturing going, but I do not want to see all recycled products excluded.

So I commend the chairman for what appears to be a very significant step forward. We do want to have an opportunity for those who have been directly involved in this issue to review it and see if it meets their standards.

Mr. DECONCINI. I wonder if the Senator will yield.

Mr. BOND. I will be happy to yield.

Mr. DECONCINI. It is all right to have a quorum call but I wonder if we might also—I think this may be the last issue before us. Senator COCHRAN of Mississippi and Senator STEVENS of Alaska wanted to come over and discuss revenue foregone. I wonder if we could ask that side of the aisle to ask them to come over and do that while Senators are reviewing this amendment.

Mr. BOND. Mr. President, I will ask our Cloakroom to do that because I know both Senator STEVENS and Senator COCHRAN have been very active in this issue. They have discussed with us several of their views. I know there are concerns about the impact of the revenue foregone upon the treatment of libraries and certain other institutions. We will do our best in the next few minutes to ascertain whether they do in fact want to proceed on this bill.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. PELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

WISE CHOICE FOR AMBASSADOR TO URUGUAY

Mr. PELL. Mr. President, I rise today to commend the Clinton administration for its sensible choice in nominating Thomas Dodd to be Ambassador to the Oriental Republic of Uruguay. Professor Dodd has spent more than three decades studying, teaching and writing on the history of Latin America, and will bring great expert knowledge and experience to the post. He has traveled throughout the region, including Uruguay where he was a Fulbright scholar, and speaks fluent Spanish. Professor Dodd shares his interest and knowledge of Latin America with his brother Chris, who has been a leader on U.S. policy toward Latin America in the Senate and is chairman of the Latin American Subcommittee of the Senate Foreign Relations Committee.

Mr. President, I would like to extend my congratulations to Professor Dodd and his family for his nomination and confirmation by this body last week, and to the Clinton administration for making this outstanding ambassadorial appointment.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ROBB). Without objection, it is so ordered.

The Senator from Mississippi is recognized.

TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 1994

Mr. COCHRAN. Mr. President, it had been my intention to offer an amendment to change the requirement for payment of fourth class rates of postage for commercial mailers who mail books and other materials to schools, libraries, and universities.

I raised this issue in the Appropriations Committee because librarians and others in my State of Mississippi had heard that libraries might soon be required to pay full commercial rates for mailings of books and other materials they receive from publishers. I was asked by some to try to change that proposal.

During the discussion of this issue in the Appropriations Committee, the managers of the bill indicated that they would appreciate a deferral of any amendment to the floor so we could discuss it at that time.

I again raise the issue in the hope that we might get some assurance from the managers of the bill that before we enact the Treasury, Postal Service appropriations bill this year, there will be a change made in the library rate as it applies to materials that are ordered by libraries, schools, colleges and universities. The purpose is to ensure that they do not pay a higher cost for these materials because of a change in the postal rate that is designed to address an abuse of this library rate.

It is my understanding that, in practice, some publishers will mail books out to professors and others at schools and universities in order to receive favorable reviews or comments about the books or to promote these materials. They get a preferential library rate when they mail these materials gratuitously to these individuals.

If that is an abuse—and it may be—of the original purpose of the library rate, then that abuse can be addressed, without requiring libraries, schools, and universities to pay the higher rate for those materials that they order. Otherwise, individual libraries and schools—many of which lack resources and operate under tight budgets—must pay for these materials.

I hope the managers will consider making that change.

I ask unanimous consent, Mr. President, that the text of a letter that I received from Mrs. Sarah Pannell, of the Union County Library, in New Albany, MS, be printed in the RECORD at this point.

There being no objection, the text of the letter was ordered to be printed in the RECORD, as follows:

UNION COUNTY LIBRARY,
New Albany, MS, June 4, 1993.

Senator THAD COCHRAN,
Russel Senate Building,
Washington, DC.

DEAR SENATOR COCHRAN: It is my understanding that libraries may soon be asked to pay full commercial rates for their mailings in addition to bearing passed-on costs of increased postage rates by publishers. This sharp increase in library postage costs will hurt Mississippi libraries not only by stretching scarce library resources but also by wreaking havoc on existing budgets.

Therefore, I propose (i) that you target more sharply the elimination of the Fourth Class/Library Rate to control for publications "purchased for delivery to schools and libraries," thereby, returning control of the size of this postal program to interests other than commercial interests without unnecessarily adding to the purchasing costs of all libraries and schools; and, (2) if an elimination is necessary, that you use a phased-down approach as a means of remaining consistent with the gradual approach being taken throughout the balance of the reform package.

Since you serve on both the Senate Government Operations Committee and the Appropriations Committee, and have always been a supporter of libraries and library mailing rates, I feel that you are in a key position to help craft and win a solution to this problem.

Thank you for your continued support.

Sincerely,

(Mrs.) SARAH PANNELL,
Director.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Alaska [Mr. STEVENS].

Mr. STEVENS. Mr. President, I think Senator COCHRAN has raised a very interesting issue. I do not want to talk at length on it. If the managers wish to respond to his request first, I would be happy to delay my comments.

I do agree with Senator COCHRAN, concerning the problem of books that are mailed at the specific request of these institutions, that we should not change the availability of the current rates to encourage the use of those facilities of the Postal Service for libraries and universities and colleges.

But let me defer my comments and yield to my colleague from Missouri, if he or the Senator from Arizona wishes to comment first.

Mr. BOND addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Missouri [Mr. BOND].

Mr. BOND. Mr. President, I thank my good friend, the Senator from Alaska.

As we will recall, at the full committee markup on this measure, Senator COCHRAN did express concerns regarding the unfair treatment of libraries and certain other institutions under the revenue forgone reform package of the bill.

He has outlined those very clearly for us today. The amendment he would have offered would have restored the so-called library rate for materials sent to schools, libraries, universities, and colleges in response to specific requests or order.

At the full committee meeting, it was agreed this matter would be discussed further and the issue addressed on the floor.

I want to be clear that I do share Senator COCHRAN's concerns with regard to the library rate. I hope we will be able to agree in conference that the revenue forgone reform package was not intended to impose any additional and unfair cost burdens on libraries, schools, universities, and colleges for the books and materials that they may order and receive through the mail.

I appreciate the opportunity to present my position.

Mr. DECONCINI addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Arizona [Mr. DECONCINI].

Mr. DECONCINI. Mr. President, I thank the Senator from Mississippi and the Senator from Alaska for discussing this, because it is a troubling matter.

Just so the Senate and the body will understand why are we here doing this, the actual loss to the post office, as I understand, without the Clay language that is in the bill now—which, by the way, was in the reconciliation act and I think has been dropped—would be in excess of $500 million.

We would either have to appropriate that money or ask the post office to take that and absorb that hit.

So what this Senator did, and the Senator from Missouri agreed, is we took Representative CLAY's language that we had put in the reconciliation bill—and at least 50 Members here voted for it—that had a savings. And we have it in here.

Now, it did not address the issue or satisfy the Senator from Mississippi, and I am very aware of that.

I talked to the Senator from Alaska at some length about some other things that he would like to see altered; classifications and what have you.

I can assure the Senator that in conference, if we go with the Clay language, we will consider this, and I will do my level best —and we are only talking about $500, I believe, and I cannot believe in a $20 billion-plus bill that we cannot do that. But I am hesitant to open this up now, particularly since the Senator from Alaska has graciously agreed also to take up his considerations at conference.

But I will do my level best, with the Senator from Missouri, to attempt to find an accommodation here. And I will be glad to work with the Senator from Mississippi and, of course, the Senator from Alaska.

Mr. COCHRAN. Mr. President, I thank the managers of the bill for their assurances and appreciate their willingness to work this matter out to make sure that we do not unfairly penalize these schools, colleges, and libraries through these rate charges.

I thank them for their cooperation.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska [Mr. STEVENS].

Mr. STEVENS. Mr. President, I want to commend the managers of the bill, Senator DECONCINI and Senator BOND, for their approach to this subject.

As I said, I appreciate the remarks of Senator COCHRAN, because I think he has raised a very good point. I want to do everything I can, if I am permitted to be part of this conference, to work on this subject with the managers, and to achieve the goal that has been announced by Senator COCHRAN.

REVENUE FORGONE SUBSIDY

Mr. STEVENS. I want to just take a few minutes here today, though, to talk about the basic problem.

The revenue forgone subsidy, which is the only taxpayer provided funding for the U.S. Postal Service, was designed to assist a great many worthwhile organizations—the libraries and the universities in the book rate, churches and church groups, the blind, various charitable organizations, and other educational groups.

We have had a situation now develop that the eligible mailers for the revenue forgone subsidy has increased from 12,500 in 1952 to over 400,000 in 1992. This eligibility has evolved to a level where advocacy groups on both sides of any national issue utilize subsidized rates and nonprofit publications to send out commercial advertisements and other mail at below-cost rates.

This is a situation where both the ratepayer for the Postal Service and the taxpayer paying taxes are subsidizing these efforts by people who take advantage of the rate that we put into effect to assist very worthwhile objectives of the Congress and, I think, of the Postal Service through its history.

The costs for subsidized mail of this category has gone up from $4.1 million in 1952 to $421.3 million in 1992. That is just for the third-class nonprofit subsidized mail.

Mail volume increased from 819 million pieces in 1952 to 12 billion pieces in 1992.

If you want to know what is pushing the cost of the Postal Service, this is it. This is pushing us, now, into another increase in the postal rate generally. Because it is just very hard to totally—to separate the costs of mail like this from the total cost of the Postal Service.

The appropriations that Congress has provided for the Postal Service have declined in recent years, but we have had a very difficult time dealing with the revenue forgone subsidy.

Let me state, and I think the Senators from Arizona and Missouri would agree with me, the Clay compromise that is included in this bill is a good first step. The gentleman from the House has made some very worthwhile suggestions. I applaud him. I applaud the House colleagues who took this first step in dealing with this problem. We have to find a way to meet the objectives of the Postmaster General to redefine eligibility for this subsidy. These reduced rates, whether they are paid for by the taxpayer or the ratepayer, when they are used by lobbying groups to solicit support, when they are used by people who are selling everything from watches to grandfather clocks, to people who are asked to join their alumni association, it is just absolutely wrong.

I do not care what issue you name, in this country there is a nonprofit group that will use the Postal Service's facilities to express their point of view on the issue at the cost of the ratepayers, the Postal Service, and the taxpayers of this Nation.

Subsidized rates should not be used for these purposes. We must recognize the fact that they have to be used in some areas for dissemination of educational materials and for bona fide membership news to organizations such as those for the blind and those for veterans organizations. But even some of those organizations have been taken advantage of by these offers that come from people who seek to send out material that otherwise would have to be mailed at full cost. They insert them into legitimate messages and solicitations of the nonprofit groups. And they end up by paying a lot lower cost than anyone in the country for advertising.

This comes down to being an advertising fight, really. Many advertisers are sending this stuff out. We all get them. Pick up your mail when you go home. You find inserted into letters from every group you can think of these advertisements for everything from tourist travel to the sale of objects made throughout the country. We get little things: Just mail in this coupon; you can order it. And oh, by the way, a very small portion of it will go to your alumni group or this association or that nonprofit organization.

We have to find a way to get back to design a method for Congress to lay out for the Postal Service those organizations that Congress will commit it will provide the funds that the taxpayers ought to provide to subsidize the specific type of mailing.

There are worthwhile organizations, I think, that the American public would willingly support either as ratepayers or taxpayers.

Again, I mentioned the organizations such as those supporting the blind, or those supporting the disabled. Certainly we ought to find some way to induce people to take the effort to raise more funds, to the extent they raise funds, and help those people who are disadvantaged. They do, in fact, assist the taxpayers of this country by taking on burdens that otherwise would come to the Federal Government.

Those organizations, I think, that are called nonprofit, that are really not nonprofit, ought to be excluded. I have discussed with the Senator from Arizona some suggestions I have been working out with the Postal Service. It would be to accept the Clay provision as the basic starting point. Let the Clay compromise go forward for a period of years, 3 or 4 years, and during that period set up a process whereby we would authorize the Postal Service to determine the eligibility of specific categories of organizations to use the revenue forgone subsidy and to have anyone who would obtain a permit from the Postal Service to fulfill that eligibility agree that extraneous advertising would not be mailed in any message that was sent to their members, would not be mailed in solicitations for membership to join organizations that support the deaf or blind or veterans groups or whatever it might be, and to agree the flats—the magazines that are mailed out by these organizations—that not more than 80 percent of the cost of those publications would be paid by advertising within them.

Then I think we would get some parity, here, between those people who are legitimately mailing out advertising or advertising in other media, and those who are using this subsidized communication device to unfairly compete in the general advertising area.

I think we can build on the House language. I believe the book publishers, in particular, who were mentioned by Senator COCHRAN, should be able to fill orders from the schools and the libraries using the library rate, fourth-class rate. I do not believe we ought to question the legitimacy of groups to continue to do their good works. We ought to define eligibility to use revenue forgone to assist them in doing good works. But to limit them in that, not having them be seduced by people who want to insert advertising in these mailings of organizations carrying out legitimate nonprofit activities.

Whether we go further than that and go into the question of the eligibility of these people who are involved in the lobbying area, in the area of the discussions of the great political-social issues of the country—abortion, gun control, you name it, homosexuals in the military, you name it—there are groups out there on both sides mailing, using those rates. It is one thing to say all right, that is a legitimate purpose; it is a 501(c)(3) organization; they have been legitimately organized to do that. But having them go further than that, then, and put in this advertising, I think goes too far. That is what is pressing it up.

The reason we have these 400,000 mailers and these 12 billion pieces of mail is that some advertisers have found a slick way to beat the existing postal rate system. And they mail at much less cost than anyone else in this country when they insert into nonprofit mail just enough to take it right up to the limit of the number of ounces that that rate can be used for the category mail they are using.

I believe we can, if we make up our mind, fine tune this in conference. I do not think we ought to get into an argument with the House about it at all.

Again, I applaud Congressman CLAY for what he has done. He has taken a step that very few people would have taken and he has a compromise that will save some money over a period of time.

The money that is saved, however, does not go far enough to deter those people who are taking advantage of the system because I do not think it covers the insertion of extraneous advertising to the extent it should, and I do not think it really deals with the question of eligibility and giving some group within the postal system the right to determine the eligibility for such mailing.

Let me hasten to recite, I believe I have heard from almost every group in my State that uses this system today, from the Girl Scouts, from the art groups, from the music groups, from the various nonprofit groups, and the garden club even. We are not talking about denying the right for people to have a special rate. And the rate, I think, can be designed so it is almost compensatory, provided the service is understood.

I congratulate also the Postmaster General and his staff. They are seeking a way to make certain the taxpayers of this Nation are not called upon to subsidize those advocacy groups that utilize these subsidized rates and use commercial advertisements to pay beyond that. Some of them even make money off mailing at subsidized rates. I think that is wrong, and we should give the Postmaster General the right to set up a system whereby periodically the people who use this subsidized rate must come forward and disclose what they mailed, how many people they mailed to, and what type of service it was that they provided to those they had solicited moneys from.

It is, I think, a way we could bring about a reversal of this trend to have an ever-increasing amount of people using this third-class nonprofit subsidized mail rate.

I look forward to working with the Senator from Arizona and the Senator from Missouri in conference. I urge anyone who is interested to come forward and help us work this out.

We cannot continue that rate. We do not have the money in the budget to continually increase revenue forgone in the subsidy provided by the taxpayers. The ratepayers, those who pay the full rates, are legitimately asking, "Why should we continue to subsidize this type of effort merely because of the looseness of the current authorization for the use this class of mail?"

Mr. President, I look forward to working with those who are interested in it. I have had a long and continued interest in the Postal Service since I have served in the Senate. As a matter of fact, I will toot my horn and say I think I have served on the committee that deals with the Postal Service now longer than any other Member of the Senate. I want to continue to have the interest in maintaining that system and have it be really fiscally sound, because the Postal Service means more to my State than to any State in the Union.

Thank you very much, Mr. President. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 754, AS MODIFIED

Mr. DECONCINI. Mr. President, I send a modification of the pending amendment to the desk. This modification would eliminate the last paragraph of the amendment and change one word and add 3 words in the fourth sentence in paragraph (1), subsection (a). I ask that the amendment be so modified.

The PRESIDING OFFICER. The Senator has that right. The amendment is so modified.

The amendment, as modified, is as follows:

At the end of the committee amendment on page 31, lines 7–13, insert the following:

Notwithstanding any provision of this or any Act,

Section 6962j of 42 U.S.C. is amended as follows—

(1) by striking paragraphs (a) through (e) and inserting in lieu thereof:

"(a) Notwithstanding any other provision of law, a Federal agency in conducting a procurement for toner cartridges for use in laser printers, photocopiers, facsimile machines, or micrographic printers is authorized to give preference to recycled toner cartridges unless the contracting or purchasing officer determines in writing that—

"(1) adequate market research establishes that recycled cartridges for the type of equipment used by the agency do not exist,

"(2) the price or life cycle cost offered for the recycled cartridge is higher than the original equipment manufacturer's new cartridge, or

"(3) recycled cartridges are not available in quantities needed within the timeframes required.

"(b) Nothing in this section shall prohibit the purchase of one newly manufactured cartridge (or a number equal to those normally supplied at the time of initial purchase) as a part of an initial printer or copier acquisition.

Mr. DECONCINI. Mr. President, I think this satisfies the Senator from Idaho, the Senator from Kentucky, and I think the Senator from Missouri. We are prepared to accept the amendment, I believe.

The PRESIDING OFFICER. Is there further debate on the amendment.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The chair recognizes the Senator from Idaho, [Mr. CRAIG].

Mr. CRAIG. Mr. President, I thank my colleague from Arizona for working with us on what really is a very important issue, and I say that because of the legislation that changed the law last year to significantly change the market and the market forces.

Mr. President, what we are talking about is something that probably a lot of Senators have not given a great deal of thought to, and that is toner cartridges for copy machines.

I think all of us are concerned about, if we can in the law, without totally disturbing market forces, encouraging recycling in a way that continues to improve our environment. And I believe last year the Senator from Arizona worked in that direction, but clearly the market forces were changed.

A very important industry in my State and an industry that has facilities in a lot of States across this country was significantly damaged by this action. It has been our effort to work with the Senator to change this approach.

As a result of that, the definition of remanufacture has now been changed to talk about recycling, and to suggest to our Government that it is authorized to purchase recycled toner cartridges when reasonable, I think, is the right approach. We ought to encourage that kind of thing. But clearly I do not believe it is our intent to totally skew the marketplace. What we are talking about is a very large market that affects a good many States across the Nation. And a good many Senators have an interest in this kind of issue.

So I am extremely pleased that it is our intent now to recognize recycling but only where it can be adequately proven by a process laid out in the legislation as it relates to finding out about the recycled cartridges, if that kind of equipment exists, and about the price of the life cycle. All of those kinds of things would be part of the process. It would not have to be a dominant part of the process. It becomes very important, I think, to all of us in the law.

In short, again, I thank my colleague from Arizona for working with us. But what I think is most important is that we do allow market forces to work. It is not the intent of law, nor should it be, to totally skew or redirect the marketplace. When that marketplace is being adequately served, when a large portion of the product itself is already being recycled in the market, and when industries are doing the positive thing by encouraging recycling, paying for the byproduct—in this case an empty toner cartridge to be returned to the company to be recycled so it does not become a polluting factor in landfills—then we have served and done the right thing.

I believe that is what we are attempting to accomplish by this amendment.

Mr. McCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky, [Mr. McCONNELL] is recognized.

Mr. McCONNELL. I want to join my good friends, the Senator from Idaho and the Senator from Arizona, in working with us to solve a problem created by last year's legislation.

Mr. President, there are companies in New York, California, New Jersey, and Idaho, as well as my State of Kentucky, which will have a chance to compete in an open market.

We have, as a result of the modification of the amendment of the Senator from Arizona, a way to serve both the interests of recycling and the environment and the business activities of our constituents. Companies which maintain recycling programs as well as companies which remanufacture are on an even playing field.

I want to thank again the Senator from Idaho for his leadership on this and the Senator from Arizona for his understanding of the needs of our constituents.

I believe the amendment as modified is now in the best interest of the country.

Mr. President, with that, I yield the floor.

Mr. BOND addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri [Mr. BOND] is recognized.

Mr. BOND. Mr. President, obviously a great deal of negotiation and concern has been going on.

I want to thank the chairman of the subcommittee and my colleagues from Idaho and Kentucky for achieving what I think is a desirable result.

We continue to recognize in this language that it is desirable to utilize recycled cartridges wherever possible. But as already pointed out, it makes it clear that the GSA is not ironclad bound to purchase just the recycled cartridges. They have to be competitive in the marketplace. I would assume that they would purchase some recycled, some remanufactured, some new, depending upon the price. This means we have encouraged the environmental benefits, the reutilization of materials that have gone into the original cartridges. Yet we do not preclude from the market new cartridges, which have to be utilized at some stage in the process because remanufacture, for example, can only go on so long before some major structural changes have to be made.

Also, as a result of the effective negotiations that have gone on, I think we have achieved the desirable result that will promote an environmentally sound practice as well as ensuring that marketplace forces assure that the Government, and thus the taxpayers of America, get the best deals on the cartridges which produce far too much paper that we have to look at every day. At least we are doing so in an environmentally sound and economically efficient method.

I urge my colleagues to support it.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. CRAIG. Mr. President, would the chairman yield for a question?

Mr. DECONCINI. Yes.

Mr. CRAIG. I thank my colleague for yielding. In working with the amendment, is it his belief that this amendment does not preclude either a remanufacturer or a recycler from the market? Is that the intent now?

Mr. DECONCINI. That is what I think is said. I want to make it very clear that the word "preference" is still there. It says "is authorized to give preference to the recycled toner cartridges."

That is what I am interested in. The definition of a toner cartridge to me is very clear. It does not mean one that is taken out and put back together. It means remanufactured. That is what we have been debating. I am not going to argue that. That would be left to the GSA or whoever puts out the bids for toner cartridges.

Mr. CRAIG. While the Senator from Arizona still remains firm, of course, in that desire, is it the Senator's belief that this amendment would not preclude in the market, after this process were worked by GSA, a recycled——

Mr. DECONCINI. I do not know the answer to the question. Only GSA could answer that question. I do not know what GSA would say with this definition that I have in there. I felt I knew what GSA would say or felt. I did not have a commitment from them, nor do I have a commitment now.

But it is not my intention to pull the wool over the Senator's eyes or confuse him. My interest is to be sure there is a clear preference for recycling toner cartridges because of the cost stages and because of the remanufacture, and I consider recycled cartridges are made more in the United States than overseas.

Mr. CRAIG. I thank the Senator for responding.

Mr. DECONCINI. Mr. President, we are ready to accept the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Arizona.

The amendment (No. 754), as modified, was agreed to.

Mr. DECONCINI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

RESIDENTIAL NATIVE AMERICAN TREATMENT CENTERS

Mr. SIMPSON. Mr. President, it was my intention today to offer an amendment to the Treasury-Postal Service appropriations bill which would have earmarked certain existing funds in the special asset forfeiture section of this bill in order to provide grants to primary residential native American treatment centers and programs which have been authorized under the Indian Health Care Improvement Act.

The Thunder Child Treatment Center is owned and operated by a Wyoming-based, nonprofit organization, the Intertribal Addictions Recovery Organization, Inc. It is comprised of representatives from the 10 American tribes residing in Montana and Wyoming. The center provides critically needed residential substance abuse treatment to native Americans in Wyoming and Montana.

A capital campaign development program has been in effect since 1989 to raise funds to build this 50-bed facility. To date, over $2 million has been raised in private contributions and pledges to construct this new facility. Last year, Thunder Child was authorized to receive $2 million in Federal matching funds under the Indian Health Service Amendments of 1992. Unfortunately, only $1 million was appropriated last year. That was accomplished by a special purpose grant within the jurisdiction of the VA-HUD Appropriations Subcommittee. The center has a critical need for an additional $1 million to complete construction of this new treatment facility. It was my desire to utilize money from the special forfeiture fund, derived from the forfeited proceeds of convicted drug traffickers and apply some of that money to the completion of this vitally important facility.

I have discussed this matter with my friend, the ranking member of the subcommittee, Senator BOND, and the chairman of the subcommittee, Senator DECONCINI. I have been advised that it has never been the subcommittee's policy to earmark specific grants within the special forfeiture fund. And I would ask my friend, the chairman of the subcommittee, Senator DECONCINI, if my understanding is correct.

Mr. DECONCINI. That is correct. I appreciate the Senator's efforts on this and, as a matter of policy, I am sympathetic to what Senator SIMPSON, Senator WALLOP, Senator BURNS, and Senator BAUCUS are trying to accomplish for the native Americans who would benefit from this facility, and I would like to help. Under the jurisdiction of the Office of National Drug Control Policy are certain funds which can be used for discretionary purposes. I would be pleased to write a letter to Dr. Lee Brown urging that $1 million of these discretionary funds be applied to the completion of the Thunder Child Treatment Center. Is the Senator from Wyoming amenable to that option?

Mr. SIMPSON. Yes, I would very much appreciate the Senator's forwarding such a letter. However, I would want it to be clearly understood that such a letter is only one of several options I may wish to pursue to achieve this goal. Another option is to pursue the type of grant that the center received last year in the VA-HUD appropriations bill. Would the Senator also be supportive of that option as well?

Mr. DECONCINI. That would be acceptable.

Mr. SIMPSON. I thank the Chair and thank Senator DECONCINI and Senator BOND for their cooperation. I look forward to providing any additional information the Senator from Arizona may require in the preparation of his letter of request to the drug czar.

Mr. BYRD. Mr. President, I wish to commend the chairman of the Treasury, Postal Service and General Government Subcommittee, Mr. DECONCINI, and the ranking member, Mr. BOND, for their excellent effort in managing this appropriation bill. It is not an easy task at a time when we have so little money to fund so many important needs. The expertise of both Members helps facilitate passage and ensure a balanced bill.

In addition, both Members should be proud of their accomplishment in shepherding this bill through the Senate before the August recess. This will help to ensure prompt action in conference with the House and a final bill for the President to sign before the end of the fiscal year.

Mr. DECONCINI. Mr. President, I ask for the yeas and nays on the bill.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. DECONCINI. Mr. President, I am advised that the Senator from Kansas was here talking about the possible amendment, a sense of the Senate. I am advised she is not going to do that.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the committee amendments now before the Senate be approved en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DECONCINI. Mr. President, I move to reconsider the vote by which the committee amendments were agreed to.

Mr. BOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Are there further amendments?

The question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 73, nays 27, as follows:

[Rollcall Vote No. 236 Leg.]

YEAS—73

Akaka
Biden
Bingaman
Bond
Boren
Boxer
Bradley
Breaux
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Cohen
Conrad
D'Amato
Danforth
Daschle
DeConcini
Dodd
Dorgan
Exon
Feingold
Feinstein
Ford
Glenn
Gorton
Graham
Harkin
Hatfield
Hollings
Hutchison
Inouye
Jeffords
Johnston
Kassebaum
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lugar
Mathews
McConnell
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murkowski
Murray
Nunn
Packwood
Pell
Pryor
Reid
Riegle
Robb
Rockefeller
Sarbanes
Sasser
Shelby
Simon
Simpson
Specter
Stevens
Warner
Wellstone
Wofford

NAYS—27

Baucus
Bennett
Brown
Coats
Cochran
Coverdell
Craig
Dole
Domenici
Durenberger
Faircloth
Gramm
Grassley
Gregg
Hatch
Heflin
Helms
Kempthorne
Lott
Mack
McCain
Nickles
Pressler
Roth
Smith
Thurmond
Wallop

So the bill (H.R. 2403), as amended, was passed.

Mr. DECONCINI. Mr. President, I move to reconsider the vote by which the bill was passed.

Ms. MIKULSKI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DECONCINI. Mr. President, may we have order, please?

The PRESIDING OFFICER. The Senate will be in order.

The Senator from Arizona.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the Senate insist on its amendments to H.R. 2403, request a conference with the House on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer appointed Mr. DECONCINI, Ms. MIKULSKI, Mr. KERREY, Mr. BYRD, Mr. BOND, Mr. D'AMATO, and Mr. HATFIELD conferees on the part of the Senate.

Mr. DECONCINI. Mr. President, I want to thank the ranking member, Senator BOND and Chuck Parkinson for their tremendous help in passing this; and Patty Lynch, Cybele Cobb, Doug Ferry, and others on my staff who worked to pass this. We will take it to conference and do the best we can.

I thank the Senator sincerely.

Mr. BOND. Mr. President, this is my first year on this subcommittee. I appreciate very much the chairman's good will and willingness to help us work through it.

I congratulate him on having done an excellent job of bringing all of these various and sundry things together, some of which even had to do with appropriations.

I would like to express a particular thanks to Patty Lynch and to the entire staff on the majority side.

Again, a very special thanks to Chuck Parkinson, who has been the staff on our side who has come back to work with us; and to Chuck's lovely wife who delayed presenting him with twins so we could accomplish some work on this bill before he had to leave us.

I thank the Chair.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, I commend the Senator from Arizona and the Senator from Missouri on their skill, patience, and perseverance in managing this important bill. I thank them for what they did. It spread over several days and took a lot of sticking to it, but it finally got done. I thank them very much for it.

The PRESIDING OFFICER. The majority leader will withhold until we can get order.

The Senate will be in order.

The majority leader is recognized.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I had previously announced my intention to ask the Senate to next proceed to the emergency supplemental appropriations bill for relief for flooding in the Midwest.

Mr. President, this is a very important measure. Every American is aware of the devastating adverse effects of the flooding in the Midwest, and we all know it is still going on.

The House has acted promptly on an emergency bill. I think it is imperative that the Senate act promptly on this measure, as well.

I hope very much that our colleagues will cooperate and permit us to bring this bill up and then cooperate in bringing it to a swift conclusion.

I note the presence of the assistant Republican leader here on the floor. Before I actually put the request, I invite any question or comment that he may wish to make on the matter.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. SIMPSON. Mr. President, I thank our leader.

I have nothing to add. I agree with the urgency and the sense of immediacy, and I concur.

Could the majority leader, perhaps, give us some indication of how he perceives we might deal with that this day in regards to time?

Mr. MITCHELL. Mr. President, I hope that we could start on the measure promptly—I notice that the managers are present—and make some good progress on the bill.

Ideally, I would like to see the bill passed this evening. That may not be possible, because I know there are a number of amendments that Senators wish to offer.

But if we are to complete action on this bill and then go through a conference and have final action before the August recess —and I think it is imperative that that occur—it seems to me we have to finish this bill not later than sometime during the day tomorrow. What I think we need tonight is a good start, perhaps disposing of a couple of amendments and perhaps identifying a list that would give us a time certain for completing action tomorrow.

Otherwise, I fear what would happen is, if we finished action here in the Senate much later than that, there would not be time for the conference to be completed before the end of the week. And I do not think any Member of the Senate wants that to occur.

So my hope is that we can make enough progress, then establish a definite list of amendments and a time certain for completing action tomorrow, and then go out.

I hope that will not take too long this evening, in view of the urgency of the matter and the broad support this has among Members of the Senate.

Mr. SIMPSON. Mr. President, we too agree it should move as expeditiously as possible and we will assure our cooperation on that.

EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR RELIEF FROM THE MAJOR, WIDESPREAD FLOODING IN THE MIDWEST ACT OF 1993

Mr. MITCHELL. Mr. President, I now ask unanimous consent that the Senate proceed to H.R. 2667, an act making emergency supplemental appropriations for relief from the major, widespread flooding in the Midwest for the fiscal year ending September 30, 1993, and for other purposes.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

A bill (H.R. 2667) making emergency supplemental appropriations for the major, widespread flooding in the Midwest for the fiscal year ending September 30, 1993, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Appropriations with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets, and the parts of the bill intended to be inserted are shown in italic.)

H.R. 2667

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, to provide emergency supplemental appropriations for relief from the major, widespread flooding in the Midwest for the fiscal year ending September 30, 1993, and for other purposes, namely:

CHAPTER I

DEPARTMENT OF AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES

DEPARTMENT OF AGRICULTURE

EXTENSION SERVICE

For an additional amount for emergency expenses resulting from the Midwest floods and other natural disasters of 1993, $3,500,000, to remain available through June 30, 1994: Provided, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

COMMODITY CREDIT CORPORATION

COMMODITY CREDIT CORPORATION FUND

For an additional amount for the "Commodity Credit Corporation Fund" to cover 1993 crop losses resulting from excessive rainfall, hail, and floods associated with the Midwest floods of 1993, other 1993 natural disasters occurring prior to August 1, 1993, and natural disasters as declared by the President occurring in calendar year 1993, [$850,000,000] *$1,050,000,000*, and in addition $300,000,000, which shall be available only to the extent an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to Congress, the total to remain available until June 30, 1994: *Provided*, That from funds previously made available in Public Law 102–368 by Presidential declaration, $100,000,000 to remain available until [March 31] *June 30*, 1994, shall be for 1993 crop losses only: *Provided further*, That if prior to April 1, 1994, the President determines that extraordinary circumstances exist that warrant further assistance, the Secretary of Agriculture shall use such funds of the Commodity Credit Corporation as are necessary to make payments in an amount equal to 50.04 percent of each eligible claim as determined under title XXII of Public Law 101–624 and to make payments for catastrophic losses where the deficiency in production of the crop exceeds 75 percent: *Provided further*, That all additional amounts made available herein are subject to the terms and conditions in Public Law 101–624: *Provided further*, That no payments to producers under this Act shall be at a rate greater than 50.04 percent of each eligible claim, except that for the deficiency in production of the crop in excess of 75 percent, the rate of payment shall be 90 percent: *Provided further*, That Congress hereby designates the entire amount provided herein as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That notwithstanding any provision of Public Law 103–50, funds provided by such Act shall not be expended for 1993 crop losses resulting from 1993 natural disasters, and claims for assistance from funds provided by that Act by producers with 1990, 1991, and 1992 crop losses shall be paid only to the extent such claims are filed by September 17, 1993.

SOIL CONSERVATION SERVICE

WATERSHED AND FLOOD PREVENTION OPERATIONS

For an additional amount to repair damages to the waterways and watersheds resulting from the Midwest floods and other natural disasters of 1993, [$25,000,000] *$60,000,000*, to remain available until [June] *September* 30, 1994 to carry out the Emergency Watershed Protection Program of the Soil Conservation Service, *of which $25,000,000, shall be available only to the extent an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, is transmitted by the President to Congress*: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further, That if the Secretary determines that the cost of land and levee restoration exceeds the fair market value of an affected cropland, the Secretary may use sufficient amounts from funds provided under this head to accept bids from willing sellers to enroll such cropland inundated by the Midwest floods of 1993 in any of the affected States in the Wetlands Reserve Program as authorized by subchapter C of Chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3837).*

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

SALARIES AND EXPENSES

For an additional amount for salaries and expenses of the Agricultural Stabilization and Conservation Service, $12,000,000, to remain available until June 30, 1994, to meet the needs arising from the Midwest floods and other natural disasters: Provided, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of *the Balanced Budget and Emergency Deficit Control Act of 1985.*

EMERGENCY CONSERVATION PROGRAM

For an additional amount for emergency expenses resulting from the Midwest floods and other natural disasters of 1993, [$20,000,000] *$30,000,000,* to remain available until June 30, 1994: *Provided,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

FARMERS HOME ADMINISTRATION

RURAL HOUSING INSURANCE FUND PROGRAM ACCOUNT

For an additional amount to assist in the recovery from the Midwest floods and other natural disasters of 1993 for the cost of direct section 504 housing repair loans, including the cost of modifying loans as defined in section 502 of the Congressional Budget Act of 1974, $5,985,000 to remain available through June 30, 1994: Provided, That these funds are available to subsidize additional gross obligations for the principal amount of direct loans not to exceed $15,000,000: Provided further, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

AGRICULTURAL CREDIT INSURANCE FUND PROGRAM ACCOUNT

For an additional amount to assist in the recovery from the Midwest floods and other natural disasters of 1993 for the cost of direct loans, including the cost of modifying loans as defined in section 502 of the Congressional Budget Act of 1974, $21,788,000 to remain available until June 30, 1994, of which $20,504,000 shall be for emergency insured loans and $1,284,000 shall be for water development, use, and conservation loans: Provided, That these funds are available to subsidize additional gross obligation for the principal amount of direct loans not to exceed $87,000,000, of which $80,000,000 shall be for emergency insured loans: Provided further, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

RURAL DEVELOPMENT INSURANCE FUND PROGRAM ACCOUNT

For an additional amount for the cost of guaranteed industrial development loans, including the cost of modifying loans, as defined in section 502 of the Congressional Budget Act of 1974, to assist in the recovery from the Midwest floods and other natural disasters of 1993, $5,410,000 to remain available until June 30, 1994, of which $2,705,000 shall be available only to the extent an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, is transmitted by the President to Congress: Provided, That these funds are available to subsidize additional gross obligations for the principal amount of guaranteed loans not to exceed $100,000,000: Provided further, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

VERY LOW-INCOME HOUSING REPAIR GRANTS

For an additional amount to make housing repairs needed as a result of the Midwest floods and other natural disasters of 1993, $15,000,000, to remain available until June 30, 1994: Provided, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

EMERGENCY COMMUNITY WATER ASSISTANCE GRANTS

For an additional amount for emergency community water assistance grants to assist in the recovery from the Midwest floods and other natural disasters of 1993, $50,000,000 to remain available until June 30, 1994, of which $30,000,000 shall be available only to the extent an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, is transmitted by the President to Congress: Provided, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

CHAPTER II

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES

DEPARTMENT OF COMMERCE

ECONOMIC DEVELOPMENT ADMINISTRATION

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

For an additional amount for emergency expenses resulting from the Midwest floods of 1993 and other disasters, $100,000,000, to remain available until [expended] *September 30, 1995,* for disaster assistance grants pursuant to the Public Works and Economic Development Act of 1965, as amended: *Provided,* [That the entire amount shall be available only to the extent an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to Congress: *Provided further,*] That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

For an additional amount for emergency expenses resulting from the Midwest floods of 1993 and other disasters, $1,000,000, to remain available until [expended] *September 30, 1995*: *Provided,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

RELATED [AGENCIES] *AGENCY*

[LEGAL SERVICES CORPORATION

[PAYMENT TO THE LEGAL SERVICES CORPORATION

[For an additional amount for "Payment to the Legal Services Corporation" for emergency assistance to Legal Services Corporation basic field programs in areas affected by the Midwest floods of 1993 and other disasters, $300,000, to remain available until expended: *Provided,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, contingent upon the President designating the entire amount as an emergency requirement pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.]

SMALL BUSINESS ADMINISTRATION

DISASTER LOANS PROGRAM ACCOUNT

For an additional amount for "Disaster Loans Program Account" for the cost of direct loans for the Midwest floods and other disasters, $60,000,000, to remain available until [expended] *September 30, 1995*; and in addition, for associated administrative expenses to carry out the disaster loan program, an additional $10,000,000, to remain available until expended, which may be transferred to and merged with the appropriations for "Salaries and expenses": *Provided,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

CHAPTER III

ENERGY AND WATER DEVELOPMENT

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

FLOOD CONTROL AND COASTAL EMERGENCIES

For an additional amount for "Flood Control and Coastal Emergencies", [$100,000,000] *$120,000,000,* for the Midwest floods and other disasters, and in addition [$20,000,000] *$60,000,000,* which shall be available only to the extent an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to Congress, to remain available until [expended] *September 30, 1997*: *Provided,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

OPERATION AND MAINTENANCE, GENERAL

For an additional amount for "Operation and Maintenance, General", [$30,000,000] *$55,000,000,* to remain available until [expended] *September 30, 1997*: *Provided,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

CHAPTER IV

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION, AND RELATED AGENCIES

DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

TRAINING AND EMPLOYMENT SERVICES

For an additional amount for disaster relief for the Midwest flood for activities authorized by part B of title III of the Job Training Partnership Act, $43,500,000, to be available for obligation for the period July 1, 1993 through June 30, 1994[, which shall be available only to the extent an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress]: *Provided,* That the entire amount is designated by Congress as an emergency requirement, pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[ASSISTANT SECRETARY FOR HEALTH

[PUBLIC HEALTH EMERGENCY FUND

[For an additional amount for disaster relief for the Midwest floods of 1993, $54,000,000, to remain available until expended, which shall be available only to the extent an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.]

OFFICE OF THE SECRETARY

PUBLIC HEALTH AND SOCIAL SERVICES EMERGENCY FUND

For an additional amount for Public Health and Social Services Emergency Fund for the Midwest floods of 1993, $75,000,000, to remain available until September 30, 1994, which shall be available only to the extent an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: Provided, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

DEPARTMENT OF EDUCATION

IMPACT AID

For carrying out disaster assistance activities related to the Midwest floods of 1993, authorized under section 7(a) of Public Law 81–874, $70,000,000, to remain available until September 30, 1994, which shall be available only to the extent an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: Provided, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

STUDENT FINANCIAL ASSISTANCE

For an additional amount for "Student Financial Assistance" for payment of awards for award year 1993–1994 made under title IV, part A, subpart 1 of the Higher Education Act of 1965, $30,000,000: Provided, That notwithstanding sections 442(e) and 462(j) of such Act, the Secretary of Education may reallocate, for use in award year 1993–1994 only, any excess funds returned to the Secretary of Education under the Federal Work-Study or Federal Perkins Loan programs from award year 1992–1993 to assist individuals who suffered financial harm as a result of the Midwest floods of 1993: Provided further, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

CHAPTER V

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES

DEPARTMENT OF TRANSPORTATION

UNITED STATES COAST GUARD

OPERATING EXPENSES

For an additional amount for emergency expenses resulting from the Midwest floods of 1993, $10,000,000, to remain available until [March 31, 1994, which shall be available only to the extent an official budget request for a specific dollar amount, that includes designation of the entire request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress] *March 31, 1994*: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

FEDERAL HIGHWAY ADMINISTRATION

FEDERAL-AID HIGHWAYS

(HIGHWAY TRUST FUND)

For an additional amount for emergency expenses resulting from the Midwest floods of 1993 and other disasters, as authorized by 23 U.S.C. 125, [$75,000,000] *$100,000,000*, and in addition [$50,000,000] *$75,000,000*, which shall be available only to the extent an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress, all to be derived from the Highway Trust Fund and to remain available until September 30, 1996: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

FEDERAL RAILROAD ADMINISTRATION

LOCAL RAIL FREIGHT ASSISTANCE

For additional expenses pursuant to section 5 of the Department of Transportation Act (49 U.S.C. app. 1654), to repair and rebuild rail lines of other than class I railroads as defined by the Interstate Commerce Commission or railroads owned or controlled by a class I railroad, having carried 5 million gross ton miles or less per mile during the prior year, and damaged as a result of the Midwest floods of 1993, [$11,000,000, and in addition, notwithstanding any other provision of law, $10,000,000 to repair and rebuild rail lines of any railroad subject to the discretion of the Secretary of Transportation on a case by case basis] *$16,000,000*: *Provided*, That for the purposes of administering this emergency relief, the Secretary of Transportation shall have authority to make funds available notwithstanding subsections (a), (b)(1) and (3), (c), (e)–(h) and (o) of 49 U.S.C. app. 1654 as the Secretary deems appropriate and shall consider the extent to which the State has available unexpended local rail freight assistance funds or available repaid loan funds: *Provided further*, That, notwithstanding 49 U.S.C. app. 1654(f), the Secretary may prescribe the form and time for applications for assistance made available herein: *Provided further*, That *$6,000,000 of* these funds shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: *Provided further*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That all funds made available under this head are to remain available until [expended] *September 30, 1994*.

CHAPTER VI

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HOUSING PROGRAMS

HOME INVESTMENT PARTNERSHIPS PROGRAM

[For an additional amount for the "HOME investment partnerships program", as authorized under title II of the Cranston-Gonzalez National Affordable Housing Act, for use only in areas affected by flooding in the Midwest, $100,000,000, to remain available until September 30, 1994: *Provided*, That in administering these funds, the Secretary may waive any provision of any statute or regulation that the Secretary administers, except for provisions requiring nondiscrimination, in connection with the obligation by the Secretary or any use by the recipient of these funds upon finding that such waiver is required to facilitate the obligation and use of such funds and would not be in conflict with the overall purpose of the statute or regulation: *Provided further*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.]

For an additional amount for the HOME investment partnerships program, as authorized under title II of the Cranston-Gonzalez National Affordable Housing Act, as amended (Public Law 101–625), for use only in areas affected by the Midwest floods of 1993, $50,000,000, to remain available until September 30, 1994: Provided, That in administering these funds, the Secretary may waive any provision of any statute or regulation that the Secretary administers in connection with the obligation by the Secretary or any use by the recipient of these funds, except for requirements relating to fair housing and nondiscrimination, the environment, and labor standards, upon finding that such waiver is required to facilitate the obligation and use of such funds, and would not be inconsistent with the overall purpose of the statute or regulation: Provided further, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

COMMUNITY PLANNING AND DEVELOPMENT

COMMUNITY DEVELOPMENT GRANTS

[For an additional amount for "Community development grants", as authorized under title I of the Housing and Community Development Act of 1974, for authorized community development activities only in areas affected by flooding in the Midwest, $53,000,000, to remain available until September 30, 1994: *Provided*, That in administering these funds, the Secretary may waive entirely, or in any part, any requirement set forth in title I of such Act, except for requirements relating to fair housing and nondiscrimination, the environment, and labor standards, if the Secretary finds that such waiver will further the purposes for which these funds are appropriated: *Provided further*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That all of the funds provided under this head in this Act shall be used only to repair, replace, or restore facilities damaged or to continue services interrupted by flooding that are essential to public health or safety as defined by the Secretary.]

For an additional amount for "Community development grants," as authorized under title I of the Housing and Community Development Act of 1974, only in areas affected by the Midwest floods of 1993, $200,000,000, to remain available until September 30, 1994, of which $25,000,000 is for those community development planning activities related to recovery efforts and for immediate recovery needs not reimbursable by the Federal Emergency Management Agency (FEMA): Provided, That in administering these funds, the Secretary may waive any provision of any statute or regulation that the Secretary administers in connection with the obligation by the Secretary or any use by the recipient of these funds, except for requirements relating to fair housing and nondiscrimination, the environment, and labor standards, upon a finding that such waiver is required to facilitate the obligation and use of such funds, and would not be inconsistent with the overall purpose of the statute or regulation: Provided further, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

INDEPENDENT AGENCIES

ENVIRONMENTAL PROTECTION AGENCY

ABATEMENT, CONTROL, AND COMPLIANCE

For an additional amount for "Abatement, Control, and Compliance" for the Midwest floods of 1993, $24,250,000, to remain available until September 30, 1994: Provided, That the Administrator may make these funds available notwithstanding any applicable formula allocating funds to States for programs authorized: Provided further, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(d)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

PROGRAM AND RESEARCH OPERATIONS

For an additional amount for "Program and Research Operations," for the Midwest floods of 1993, $1,000,000, to remain available until September 30, 1994: Provided, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(d)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

LEAKING UNDERGROUND STORAGE TANK TRUST FUND

For an additional amount for "Leaking Underground Storage Tank Trust Fund" to make cooperative agreements under section 9003(h)(7) of the Solid Waste Disposal Act, as amended, for the Midwest floods of 1993, $8,000,000, to remain available until September 30, 1994: Provided, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(d)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

OIL SPILL RESPONSE

For an additional amount for "Oil Spill Response," for the Midwest floods of 1993, $700,000, to remain available until September 30, 1994: Provided, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(d)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

FEDERAL EMERGENCY MANAGEMENT AGENCY

DISASTER RELIEF

For an additional amount for "Disaster relief", **[**$815,000,000**]** *$1,735,000,000, and in addition, $265,000,000, which shall be available only to the extent an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to Congress,* to remain available until **[**expended**]** *September 30, 1995,* for the Midwest floods and other disasters: *Provided,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, *and title I, chapter II, of Public Law 102-229.*

COMMISSION ON NATIONAL AND COMMUNITY SERVICE

PROGRAMS AND ACTIVITIES

For use in carrying out Federal disaster relief programs, activities, and initiatives under subtitles C, E, F, and G of the National and Community Service Act of 1990 (Public Law 101-610), as the Board determines necessary to carry out programs related to the floods in the Midwest, $2,000,000, to remain available until September 30, 1994: *Provided,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

CHAPTER VII

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES

DEPARTMENT OF THE INTERIOR

UNITED STATES FISH AND WILDLIFE SERVICE

CONSTRUCTION AND ANADROMOUS FISH

For an additional amount for "Construction and Anadromous Fish", **[**$26,354,000**]** *$30,000,000,* for the Midwest floods, to remain available until **[**expended**]** *September 30, 1995: Provided,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

NATIONAL PARK SERVICE

HISTORIC PRESERVATION FUND

For an additional amount for "Historic Preservation Fund", $5,000,000, for the Midwest floods of 1993, to be derived from the Historic Preservation Fund, established by Section 108 of the Historic Preservation Act of 1966 (80 Stat. 915), as amended (16 U.S.C. 470), to remain available until September 30, 1994: Provided, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

CONSTRUCTION

For an additional amount for "Construction", **[**$850,000**]** *$900,000,* for the Midwest floods, to remain available until **[**expended**]** *September 30, 1994: Provided,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

UNITED STATES GEOLOGICAL SURVEY

SURVEYS, INVESTIGATIONS AND RESEARCH

For an additional amount for "Surveys, investigations and research", **[**$851,000**]** *$1,439,000,* for the Midwest floods, to remain available until **[**expended**]** *June 30, 1994: Provided,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

For an additional amount for "Operation of Indian Programs", $3,878,000, to remain available until September 30, 1995 for the Midwest floods: Provided, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

CHAPTER VIII

GENERAL PROVISIONS

SEC. 801. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

[YOUTH FAIR CHANCE PROGRAM

[SEC. 802. Section 494(b) of the Job Training Partnership Act (29 U.S.C. 1782c(b)) is amended—

[(1) in paragraph (3) to read as follows:

["(3) provide that funds received under this part will be used—

["(A) for services to youth and young adults ages 14 through 30 at the time of enrollment, including case management, life skills management, and crisis intervention services; and

["(B) to provide stipends to youth and young adults ages 17 to 30 at the time of enrollment for participant support in paid work experience and classroom programs (if such programs are combined with other education and training activities);";

[(2) by redesignating paragraphs (4) through (9) as paragraphs (5) through (10); and

[(3) by inserting after paragraph (3) the following new paragraph:

["(4) contain assurances that—

["(A) in providing services under paragraph (3), the participating community will maintain a ratio of approximately 1 case worker for every 25 participants;

["(B) employment provided under such paragraph to any youth or young adult will be approximately 20 hours per week; and

["(C) the amount of a stipend provided under such paragraph to any youth or young adult will be approximately $100 per week and will reflect the cost of living in the participating community;".**]**

This Act may be cited as the "Emergency Supplemental Appropriations for Relief From the Major, Widespread Flooding in the Midwest Act of 1993".

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, H.R. 2667, the emergency supplemental for the Midwest floods and other disasters, as recommended by the Committee on Appropriations represents the best current estimate of the level of Federal assistance necessary for the nine States ravaged by the Midwest floods of 1993. The amount recommended represents the administration's current request—no more and no less—precisely what the administration has requested.

These estimates may grow with time, but these are the best that can be obtained at this time. While the water is still rising, we cannot foresee all the damage which eventually will be wrought by the floods. However, the bill contains substantial contingency appropriations in the event that the direct emergency appropriations prove inadequate. It is imperative that we take final action on this measure prior to the scheduled August recess so that the aid may continue to flow to the people in those affected areas that we are committed to helping. The scars on the land and on buildings will be repaired and disappear with rebuilding and time. The scars on individuals and families are harder to erase, but we can let them know that they are not alone in this struggle by our action here today.

The bill that the committee is recommending totals $4,706,350,000 in budget authority and $502 million in loan authority, including $3,797,645,000 requested by the President and recommended by the committee as direct emergency appropriations, and $908,705,000 in appropriations designated as contingencies. These amounts are the same as the President's request. These amounts are $1,628,290,000 above the House allowance for emergency appropriations and $310,205,000 above the House in contingency appropriations for a total of $1,938,495,000 above the House allowance. The House bill fully funded the President's supplemental request as submitted at that time, but since passage of the House bill the administration has revised its request.

Some experts estimate that one-half of the estimated $12 billion devastation caused by the floods of 1993 may be to agriculture. This bill includes $1,050,000,000 in direct assistance, and $300 million in contingency appropriations, under the Commodity Credit Corporation for lost crops due to the Midwest floods and drought in the southeastern States. For the Federal Emergency Management Administration, the President requested and the committee has included, $873 million in direct appropriations, and $265 million in contingency appropriations, for the repair and rebuilding of public facilities, and temporary housing in the flood area.

Also included is $235 million, $60 million of which is in contingency appropriations, to repair damage to flood control works in the upper Mississippi River basin. The U.S. Army Corps of Engineers is expected to play an active role in cleanup of debris and repair of levees and other flood control systems. Emergency relief funds under the Federal Highway Administration in the amount of $100 million, with an additional $75 million in contingency funds, will permit the Secretary of Transportation to provide immediate assistance to States whose highways and bridges have been damaged during the flooding. Finally, $34 million is provided for Environmental Protection Agency programs and $75 million for the Department of Human Services for public health emergency activities as a result of the floods. This bill includes language which permits the availability of requested funds for a reasonable amount of time until the work contemplated, or the assistance provided, can be completed.

Mr. President, these amounts are indicative of the level of support that the Congress and the administration are willing to give when natural disasters occur anywhere in the United States. Whether it is a hurricane that batters the coastline, a tornado that cuts a narrow path through a community, or a major flood that devastates the heart of the agricultural Midwest, our citizens typically respond with private donations of food and clothing, and encourage the use of public funds to help those most in need. I hope that Senators will not attempt to use the plight of these people to begin a debate on how future disasters should be paid for. I will resist any amendments that seek to identify ways to pay for this and future disasters. No committee has considered or analyzed any of these suggestions and it would send the message to people inundated by this flood, that they are somehow different, or less deserving, from those who have been struck by all of the other disasters of recent years.

I supported the provision allowing for emergency appropriations at the budget summit in 1990. The provision was opposed and criticized at the time by some who claimed that it would become a gigantic loophole for billions of dollars of spending.

I believe that there is a legitimate need for a way to address national disasters in a manner that does not penalize other unrelated Federal spending. But I also know that there is the possibility for abuse of the emergency designation spending provision, and I do not want to discredit the provision by proving its critics right and turning disasters into spending opportunities for anyone.

Therefore, as chairman, I have opposed all amendments which would increase the cost of this legislation beyond what the administration has requested.

It seems to me the administration is the best position to know what to recommend to the Congress and it can certainly revise its evaluations from time to time as the matter becomes clearer.

I believe that there are meritorious uses of the emergency designation provision in the law, but I am not in favor of exploiting the provision. I also hope that Senators will resist the temptation to add substantial unrequested emergency funds or to change the current formulas for the distribution of these funds. While we do not want to send the message that the victims of the floods are less deserving, we also do not want to send the message to earlier disaster victims that their losses were not as important as those of the current victims.

Because of the Senate schedule and the desire to get additional aid to those who need it as quickly as possible, either of these types of amendments would only serve to delay the enactment of this bill. I want to move as expeditiously as possible with the help we now know is desperately needed. In September, we will take final action on the regular fiscal year 1994 appropriation bills for FEMA, the Corps of Engineers, and the Department of Transportation. There will be time to consider additional sums, if needed, in those bills as well as for the administration to consider regarding pertinent formulas related to this current and to past disasters. I hope we can move without delay to enact this measure.

People are in trouble. Homes have been lost. Livelihoods and lives have been in jeopardy. If ever the Senate needed to act quickly, it is now. Let us move quickly to pass the administration's emergency request.

Before I yield the floor, let me thank my distinguished colleague on the other side of the aisle, the ranking member of the committee, former chairman of the Appropriations Committee, Mr. HATFIELD, for his characteristic cooperation and support. And I shall yield the floor shortly so that he can seek the floor.

But before I do so, I ask unanimous consent that the committee amendments be considered and agreed to en bloc, with the exception of the one on page 2, lines 6 through 13, and on page 2, line 22; and that they be considered as original text for purpose of further amendment; and that no point of order be considered to have been waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendments were agreed to en bloc, with the exception of the committee amendments on page 2, lines 6 through 13, and page 2, line 22.

Mr. BYRD. I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon [Mr. HATFIELD] is recognized.

Mr. HATFIELD. Mr. President, I will not give a long opening statement because the chairman of the committee, the Senator from West Virginia [Mr. BYRD] has very eloquently stated the content and the objectives of this bill.

I associate myself with the comments he has made in the matter of handling this bill quickly. I want to address that point a little bit later because I think people are not often aware of the detail of procedure.

The bill we recommend to the Senate today is an initial response to the terrible devastation in several Midwest States caused by weeks of heavy rainfall and floods of almost Biblical proportions. We are recommending the entire amount the President has requested to date, $4.7 billion in budget authority and $502 million in loan authority. All the amounts provided are declared by Congress as emergencies under the provisions of the 1990 Budget

Enforcement Act. Within the total, $908 million is not available for obligation until such time as the President also declares the amounts provided to be more emergency requirements and submits a formal budget request to that effect. We are recommending minor changes in language in the President's request to limit the amount of time that funds provided can remain available for obligation.

Mr. President, let us understand the timeframe we are working in. We had a debate in the committee on a matter that will probably be raised on the floor, not only to increase dollars, but to change legislative language. In my view, there is no question the House will demand a conference, and if the House demands a conference, with the reconciliation resolution very close upon us, let me observe that we could lose this bill before the August recess and have nothing out there for those people who are suffering in the Midwest.

Let us take that perspective, at least, as a cautionary perspective because no one who is adding amendments wants that to happen and, yet, let us face reality so nobody can say, "Oh, I didn't realize that that would happen."

We have to understand that the House Appropriations Committee and the House function under different rules than the Senate of the United States and, therefore, we are going to be subjected to the House rules of procedure about legislating on appropriations. And do not forget, we have had arguments on both sides as to whether we should pay for this as we go, or other such things. We do not want this bill lost.

I want to make it so amply clear that I am in strong support of this. I flew out to that region. I viewed it firsthand. And whatever the Members of the Congress who are from that region tell us I will believe, because I saw enough of the tragedy to understand—I only saw a very small part of it. But I think when you understand that the President, first of all, was estimating a $2.2 billion need as a first step, with others to perhaps follow, if necessary, and we are now at $4.7 billion, this is very significant money. And let us understand that it takes time to even crank out that money through FEMA and through the other categories and accounts in this bill: The Corps of Engineers, the Coast Guard, et cetera.

Let us not equate numbers of dollars with the kind of help that people need. They are but the means to an end. So everybody can say, "Oh, we can be more helpful by doubling it, and we can be doubly helpful." That is not a practicality. We have to understand that there are ways to move this money out.

I suppose I can speak to that effect because I presided over, as Governor of my State, two major disasters: A flood disaster that hit the whole State and a wind disaster.

Mr. President, as all of us wanted to be immediately helpful in the short-term things we could do—restoring water, restoring utilities of various kinds—there were certain terms of time necessary to crank out by offering public bids, public notices for repair, restoration. The dollars were there, but it took an orderly procedure to flow those dollars out into the areas of need.

So do not think that if we appropriate the money today, that it is all going immediately into the hands of those in need. FEMA, $2 billion, yes. But there will be others, such as through the Coast Guard accounts and the Corps of Engineers account, that are governed by law on how they can give notice for contract, offer bids, invite bids, and then to make those decisions.

So I am very hopeful that we will not unintentionally lose this bill between now and the time we leave here at the end of this week.

Do not forget, Mr. President, we are now engaged in conferences with the House Appropriations Committee on other appropriations measures. It is not as if we are sitting back waiting for an assignment. Agriculture, legislative, and others are moving into those, and now Treasury, Post Office that we have just passed.

So, please, understand the procedure and the process and what the risk is of getting this bill stalled before we recess in August. I, for one, am willing to stand by and make the decisions and take the necessary time to extend and not consider the recess. But nevertheless, that recess is upon us.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. HATFIELD. Yes.

Mr. BYRD. Mr. President, I talked with the chairman of the Appropriations Committee of the other body today, and I told him that we were recommending to the Senate precisely the amount that the administration had requested to date. The chairman indicated that it would be his intention and hope, if at all possible, that if we could keep the bill clean, it would not go to conference because he would be in favor of accepting the amount of money appropriated by the Senate.

Let me emphasize that the amount of money in the bill is the amount of appropriations requested by the President, including the contingency moneys that the President has requested to date. When the House passed the bill, it appropriated the funds requested by the President as of that date. The bill that is before the Senate includes the total request of the President as of this moment. And the President is in the best position, with all of his administration and machinery, the agencies—the Corps of Engineers, FEMA, so on—to best determine the proper estimates. He will have an opportunity to do that again after the Senate returns from the recess and, as I indicated before, there will be regular bills coming on.

So I hope that Senators will not succeed in adding funds to the bill, which may force us to go to a conference. I recognize the right of any Senator to offer amendments, but I hope that the Senate will not approve additional funds for this bill.

There will be opportunities later, at which time we will have a better estimate from the administration and which can be justified by the administration's agencies in the appropriate way.

I thank the Senator.

Mr. HATFIELD. Will the chairman yield?

Mr. BYRD. The Senator has the floor.

Mr. HATFIELD. The chairman, I am sure, would also add legislative language, as well as a significant increase in dollars. The legislative language could be even more difficult to resolve in a conference with the House, as well as significant additions of dollars.

Would the chairman not agree——

Mr. BYRD. Precisely.

Mr. HATFIELD. That doubles our problem?

Mr. BYRD. No question about it. I fully agree.

Mr. HATFIELD. Mr. President, I will not tarry on this subject longer, except to indicate that we are anxious to move this.

I wish to close by saying, in my opinion, the flooding in the Midwest is exactly the situation we had in mind in excluding funding for emergency situations from the discretionary spending caps of the Budget Enforcement Act. This is truly an emergency. And for those who would say let us then pay for this as we go, I say this is another matter. That does not belong here. This is an emergency, and that is precisely what we wrote in the law.

I think we should move quickly and resist the troublesome amendments and enact the supplemental to supply relief to the beleaguered people of the Midwestern States.

Mr. HARKIN. Mr. President, might I just ask parliamentarily, what is pending now before the Senate?

The PRESIDING OFFICER. The first excepted committee amendment to H.R. 2667.

Mr. HARKIN. So there is a committee amendment pending?

The PRESIDING OFFICER. The Senator is correct.

Mr. HARKIN. I thank the Chair for that information.

Mr. President, I asked that because I will be offering an amendment to the bill, and I just wanted to make sure it was drafted in the proper form, whether or not there was a committee amendment pending at this time.

Mr. President, both the distinguished chairman of the Appropriations Committee and the ranking member have spelled out, I think, in quite stark terms that this is an emergency. If there was ever a dire emergency supplemental needed, this is it.

I do not think, Mr. President, words can describe what really has happened in my part of the country. Others will be speaking about their States. I will speak only about Iowa, because that is what I have seen and that is where I have been. That is where I have spent a lot of my time in the last 3 or 4 weeks.

The magnitude of this flood is just awesome. I once spoke of this flood as being almost in biblical proportions. For 50 out of 55 days we had rain in Iowa. It just did not seem to ever let up. We had levees and dikes built to protect us from 100-year floods. In fact, we even had levees that were built 4 and 5 feet higher than what would normally be a 100-year flood, and they were even inundated. Some people are speaking of this in terms of a 1,000-year flood or maybe even greater than that.

No one can really prepare for that. We can take all the precautions needed, but mother nature simply overwhelmed whatever precautions were taken. And so this is a disaster unlike any that I have ever seen in Iowa, and in fact those that are even older than I am say there has never been a disaster like this in my State.

I think perhaps one of the graphic ways to look at it is by some pictures, but pictures tell part of the story. I have a few here from Iowa of the flood. Here is Des Moines, the capital city of Iowa, 250,000 people—hundreds and hundreds of businesses wiped out, homes, drinking water supply. I am sure everyone read about that and saw it on television, where the whole city went without drinking water for almost 3 weeks—2½ weeks.

Just imagine yourself living there and all the buildings you would see downtown. People tried to go to work, but they could not flush the toilets. Des Moines almost became the port-a-potty capital. We could not flush toilets. People could not take showers. We had no drinking water.

I might again thank those entities all over the country that sent fresh water into Iowa in many ingenious ways. Anheuser-Busch even canned it in six-packs and sent it in. We had all different kinds of ways of sending fresh water in and, thank God, it really helped. It saved a lot of people. But Des Moines got hit very hard.

Here is a typical view of a farm in central Iowa completely under water, all the outbuildings, the home; all the livestock huddled up on a small hill that did not quite get covered.

Here is a view of a smaller town in Iowa. You see here is the elevator completely inundated—no business activity, homes flooded, basements flooded, streets wiped out.

(Mrs. BOXER assumed the chair.)

Mr. HARKIN. But I think more than anything else, Madam President, this picture right here tells the story. This is a satellite picture we got from NOAA that was taken on July 14. What it depicts in a colored pattern here is the amount of moisture that is on the ground. It goes from green to dark blue.

In other words, those areas with the green are moisture but those are the lightest moisture. The orange is heavier moisture, red is heavier moisture, and when you get to the real dark, that is the most moisture of all. And as you can see, the darkest areas, of course, are the Great Lakes, because that is solid water—Lake Michigan here, Lake Superior, and all the Great Lakes totally dark blue because that is where all the moisture is.

Take a look at my State of Iowa. There is an area in northern Iowa and southern Minnesota that is as dark as any Great Lake. In fact, it is as big as Lake Erie. It is as if, Madam President, we had Lake Erie right in the heart of Iowa. That picture tells it better than anything else. What happened to all of that water and moisture is it headed south, and now my dear friend from Missouri is getting the brunt of it.

But that water came down from Minnesota, from the Dakotas, right on through Iowa, and that is why you can look at my State, the whole State, and see why it was declared a disaster area.

But imagine if you had another Lake Erie right there. That is what it was like. We have never seen anything like it before, and we certainly hope we will never see anything like it again. And so that is why this emergency disaster bill is so necessary.

I do want to compliment the administration for agreeing to continually monitor and to upgrade their statistics on the disaster. This bill started out at, if I am not mistaken, somewhere in the neighborhood of about $2 billion. As they continually updated and monitored it, it is now up to $4.7 billion, I think, in this bill right now.

But that, Madam President, again does not tell the whole story. That is why I have an amendment I will be sending to the desk at the completion of my remarks, an amendment that is needed, desperately, by this whole area up here because we have literally been wiped out of our economy, and our economy is agriculture.

Oh, yes, we have other businesses. We have a good insurance industry in Des Moines, of which I am proud. We have a lot of small manufacturing. We have Amana. Everyone has heard of Amana refrigerators. Maytag, we have that, too. We have a Rockwell facility, a few others like that. But the basis of our economy is agriculture, the crops and the livestock producers in the State of Iowa, and that has been wiped away.

Madam President, the amendment that I have is straightforward. First, it would ensure that farmers receive the full level of the disaster compensation authorized in the 1990 farm bill.

Second, it would ensure that this supplemental disaster bill covers all 1993 crop disaster losses. This amendment simply deals with the question of whether this bill will adequately respond to the horrendous crop losses that farmers in our Nation are experiencing this year.

The need for disaster assistance is obvious. We have shown that. We know that the figures probably will continue to rise. In Iowa, one recent estimate shows that somewhere in the neighborhood of 2½ million fewer acres of corn and soybeans will be harvested this year and even those crops that are surviving somewhat are not going to make it.

Corn that normally would be tasseling out now at 6, 7 feet high in many areas is 2 feet out of the ground, and we just do not think it will make it by the time the frost hits. That is going to be another story. But any figures we can throw out cannot convey the human side of the story and the individual losses that many families are facing.

The Des Moines Register on Sunday depicted the impact of the disaster in rural communities across the State. I wish that every Senator could read the stories of the human suffering and the tragedies.

Donald Blanchard's farm is in southeast Iowa. He has 8 to 12 feet of river water covering fields that last year produced 200 bushels of corn per acre.

Cheryl Sanders of southwest Iowa managed to save her house but pointed out her farm where 195 out of 199 acres are under water.

Throughout the northwestern part of our State, yields are reduced by over 50 percent. In many cases, what it means is that the farmers will have little or no income from crop sales this year. Tens of thousands of farm families are in danger—and I mean in immediate danger—of being forced off their farms and out of business because of these losses. When farmers do not have the income, they cannot pay their bills or make purchases that support the entire rural economy in Iowa and other Midwest States.

Madam President, the amendment I am offering in no way would compensate these farmers for 100 percent of the loss. No disaster bill has ever done that, and we are not anticipating, nor would we ever try, to do that here. All we are asking in this amendment is that we go to the fully authorized level that we put in the 1990 farm bill. That is all we are asking. We are just asking the Congress to live up to what we said in 1990—that is part of the law today. We are not trying to create new law. We are not trying to change the existing law. What we are trying to change with this amendment is an administrative fiat handed down first by the Bush administration, and continued by the present administration.

Basically, under the 1990 farm bill formulas, farmers who purchased crop insurance receive a disaster payment assistance at the rate of 65 percent of their losses for any losses over 35 percent.

So think about this. We will try to get it as clearly as possible. I know that other Senators will repeat this and try to make it clear. A farmer who had crop insurance first has to eat the first 35 percent of the loss. Anything over 35 percent under the 1990 farm bill—this is the law—is compensated at the rate of 65 percent, not of their income, not of the price of the crop, but of the established program yield in the farm bill. That is much less than what the prices are that farmers receive.

Let me explain it this way: For example, the program yield has been locked in since 1985. In Iowa, the program yield on which disaster payments are based are 117 bushels per acre for corn. But last year, we in Iowa averaged 145 bushels per acre of corn. So the 65 percent of the disaster payments we are talking about is based upon that 1985 figure. That is in the law.

What happened was that, in 1991, the administration did not want to request sufficient amounts of money to cover some disasters that happened in 1991. They were small, but to those people that it hit, they meant something. And the same with Hurricane Andrew.

So what they did is ask for a certain amount of money, and rather than ask for the right amount of money to fulfill the mandates of the law, they just asked how many people do we have out there with disasters? Here is how much money we requested. We will divide it and find out how much money everyone gets. What it came out to be is 50.04 percent of what the law allowed. So a farmer who had a disaster got 50.04 percent, not of 100 percent, but of the 65 percent of the losses over 35 percent which they already had to suffer.

Mr. DASCHLE. Would the Senator yield?

Mr. HARKIN. Yes; I am delighted to yield to my colleague.

Mr. DASCHLE. I want to commend the distinguished Senator from Iowa for his amendment and for this explanation. If there is any need for an appreciation of what it is that drives us to the point where we are this afternoon, it is exactly what the Senator from Iowa is saying. What the Senator from Iowa is saying is that anyone who thinks that this disaster bill offers dollar-for-dollar coverage could not be more wrong. The fact is that the assistance amounts to about 20 cents on the dollar, if I understand the Senator correctly, 20 cents on the dollar.

If we did not have that 50 percent factor, as you are saying, it might be about 40 cents on the dollar. So this is probably as low a level of disaster assistance as has been provided ever, at least in recent years.

So I really commend the Senator for making that point. That is really the essence of it. We are giving farmers one-fifth of the disaster protection that they really need.

Mr. HARKIN. I thank the Senator for that explanation. The Senator is absolutely right. Really, what we are looking at here, if we leave in that 50.04 percent that is in this bill, this is not the law of the land. This was put in by OMB. That means that the average farmer out there will get about 20 cents if lucky enough to get a deficiency along with it—but about 20 cents. What we are saying is, at least bring it up to 40 cents. We are not asking for 100 percent at all.

I want to thank the Senator for that.

Mr. CONRAD. Would the Senator yield further?

Mr. HARKIN. Madam President, I want to indicate this amendment is offered on behalf of myself and Senator BOND from Missouri. The cosponsors so far are Senator DASCHLE, Senator PRESSLER, Senator CONRAD, Senator MOSELEY-BRAUN, Senator WELLSTONE, Senator DORGAN, and Senator SIMON.

I thank the Senator from South Dakota for his help and his cosponsorship.

I yield to the Senator from North Dakota.

Mr. CONRAD. I think the Senator from Iowa has done a superb job of outlining the case. I think the most important thing I would like to explore with him is this whole question of the 50 percent, because we found an enormous amount of misunderstanding in the hearing before the Senate Agriculture Committee.

I would ask the Senator from Iowa, when we talk about a 50-percent factor, we are not talking about 50 percent of the farmers' losses. We are talking about taking the disaster relief legislation that existed in 1988 and 1989, when we suffered massive drought losses in the country. We had a bill then. We had a law that said this is how much relief a farmer can expect. And that law has been cut in half in terms of the amount of relief it provides. Is that not the case?

Mr. HARKIN. Exactly. The Senator is exactly right.

Mr. CONRAD. So, in effect, we are saying if you suffered a disaster in 1988 and 1989, we took care of you at one level. But if you are unfortunate enough to be included in this disaster in 1993—which is the 100-year flood—tough luck. You are going to get one-half as much help as we gave in 1988 and 1989. Is that not the case?

Mr. HARKIN. Exactly right. The Senator is exactly right.

Mr. CONRAD. When we inquired—the Senator from Iowa was there, the Senator from South Dakota was there—what does this mean in terms of a farmer having a loss, and we asked the people representing the Secretary of Agriculture, how much will they get of their ordinary income? If people have suffered a total disaster, a total loss, as the case with many of our farmers, what percentage of their normal income can they expect to have covered?

And the answer we got was 20 cents on the dollar; is that not correct?

Mr. HARKIN. The Senator, again, is right; 20 cents on the dollar is exactly right.

Mr. CONRAD. So when we talk about 50 percent, it is 50 percent of the aid that we gave in 1988 and 1989, and the bottom line is that a farmer is going to get 20 percent of his normal income. On top of the natural disaster people have had, they are going to have an economic disaster, even with this assistance package.

Again, I think it is critically important that our colleagues understand that this package gives farmers one-half of what they got in the 1988, 1989 disaster, and will mean they get 20 cents on the dollar of the loss they have suffered.

Ms. MOSELEY-BRAUN. Will the Senator yield?

Mr. HARKIN. I might add one. Actually, the 20 cents is not the dollar of their normal income; it is the dollar they would get based upon what we call the program yield that I explained was set in the law by 1985, which is much less than what they would normally get if they were to take their crop to market.

Mr. CONRAD. Further, interestingly enough, in this year, the 20 cents on the dollar is what they get in a normal year. The Senator is correct. Even that is overstated because the program yields have not been adjusted for 10 years. Even worse than that, in my State we were headed for the biggest crop in the history of our State. So what people are really going to get in comparison to what they would have received without this disaster, is a fraction of even the 20 cents on the dollar.

Ms. MOSELEY-BRAUN. Will the Senator yield for a question?

Mr. HARKIN. Yes.

Ms. MOSELEY-BRAUN. First I join in complimenting the Senator from Iowa on his very cogent explanation of a complicated formula matter. He explained it in a way that most people, who may not understand how the disaster relief works, can understand.

But I have a question going to the amendment. There was a good deal of discussion on the floor regarding process issues, so I want to ask a question about the process of this amendment. If I understand the Senator correctly, the law, as written, establishes one formula. The law that was passed by the elected Representatives of the Congress establishes one formula. Bureaucratic decisionmaking, decisions made by somebody who was never elected, whom we will never see, the nameless, faceless person in office somewhere, decided that the level was going to be something else—50 percent, in fact. So by administrative fiat, someone that is not accountable to the people of the United States decided that a farmer would get only half of what the elected Representatives said they should get?

Mr. HARKIN. The Senator is right.

Ms. MOSELEY-BRAUN. And so the Senator's amendment, of which I am very proud to be a cosponsor, essentially says we are just going to go back to the law, and we are going to go back to the way that the elected Representatives of the people of this country decided disaster insurance should be handled.

Well, it seems to me that with regard to the process issues that have been raised—the concerns raised about this bill going into conference committee—it seems to me, that in this day, we ought to be able to get agreement, without untoward delay, over the concept or the proposition that the decisions and the law gets made by the people who are elected of the people in this country, and not otherwise. That with regard to this 500-year disaster, at a minimum, the people who are suffering in this tragedy can expect that their disaster assistance from this Congress will be made by the people they sent to this Congress, and not by somebody in a back office somewhere that they do not know, and will never see, and do not know anything about.

If I am correct, this amendment, then, is essentially a recodification, restatement, if you will, of the law as passed by this Legislature, and I rise in support of the amendment.

Mr. HARKIN. The Senator is absolutely right. We are not making new law or changing existing law. We simply want to go to what the existing law really says. What we are trying to change, as the Senator said, is the administrative fiat, or decision, by OMB.

I see my friend, the Senator from Missouri, with whom I have worked very closely on this legislation, and on all of the flood disasters, and whose State is suffering a great deal. I flew over Missouri Sunday and looked at it. It is just mind boggling. Our hearts go out to all of the people in Missouri.

I yield to the Senator.

The PRESIDING OFFICER. The Senator from Iowa yielded for a question to other Senators. The Senator's time is all right. He has no time limitation.

Mr. HARKIN. If the Senator does not have a question, I will finish my remarks and then yield.

The PRESIDING OFFICER. Does the Senator from Missouri have a question?

Mr. BOND. No.

Mr. HARKIN. The Senator from Minnesota has a question, so I will yield to him briefly.

Mr. WELLSTONE. Just one question, so we can go to the Senator from Missouri. We have been going over the formula, but for the sake of our colleagues, Republicans and Democrats alike who are watching the proceedings, above and beyond the whole question of fairness, what kind of compensation people received several years ago as opposed to what they would receive now—above and beyond the question of the technical part of the formula, would the Senator agree that the reason so many of us are out on the floor, and the reason we bring this amendment to the floor, and the reason we feel so strongly about this—and we are going to do everything we can to urge our colleagues to support us—is that this discussion we are having about this formula, this amendment, has everything in the world to do with whether or not farmers in our States are going to be able to get back on their feet.

This is really a life-or-death question. It is important not to be melodramatic on the floor and not to exaggerate. But we do no damage to the truth and do not exaggerate, especially for some of the beginning and younger farmers. If we do not get this formula corrected so there will be enough compensation for that loss, farmers are simply not going to be able to make it. Our colleagues need to know that. That is what is at stake here. Am I correct in that, if that was a question?

Mr. HARKIN. The Senator is right. All you have to do is look at this map to see that, and talk to anybody who has been out in these areas.

Literally, farmers are at wit's end right now. If I may close my remarks, perhaps I would close on the note that the Senator just brought up.

There is a great anxiety among the people of my State, and I am sure in Illinois and Minnesota, and I know in Missouri and the other surrounding States that have been so hard hit, including Kansas—a great anxiety about what the future is going to hold. Farmers do not know. A lot of our small towns and communities out there that rely upon the income of those farmers around there, the harvest they bring in in the fall, that keep our small stores open, our implement dealers, our grocery stores, our elevators, that maybe help pay the wages of the people that have the nursing home for our elderly, that help keep the local rural hospital going, all comes down to this: There is a great anxiety that that grocery store will not be there, or they will not be able to have the funds necessary to keep the nursing home going.

That is really what it boils down to. That is why this amendment is so important. It is important, yes, to make sure these people do stay in business, that they are able to continue on next year. But it is important to adopt it now, to send a strong signal that we have not forgotten them, that we are not going to just say, well, sorry, you are going to get half, you are going to get half of a half is basically what you are getting, half of a half.

What we are saying to them is you are going to get what the law authorizes.

Madam President, all I can say is this amendment carries much more importance than I can even begin to describe, to the people in my State and, I know, to the people in these surrounding States.

This amendment, if adopted by the Senate, without any doubt will be accepted by the House and without any doubt will be signed by the President.

Mr. BYRD. Madam President, will the Senator yield?

Mr. HARKIN. I am delighted to yield to the chairman.

Mr. BYRD. I sympathize with the Senator and all of those who represent the areas that have been so devastated and stricken.

Has the Senator talked to the administration about changing this language?

Mr. HARKIN. Yes, this Senator has.

Mr. BYRD. What was the administration's reaction?

Mr. HARKIN. This Senator spoke personally with the President of the United States last night about this. He expressed his interest and his sympathy. I must admit at this point in time I received no assurances one way or the other. I have been told—and I can only say this, I cannot speak firsthand about this, but I have been told—that the administration's position now is that they have no position on this, that they neither support it——

Mr. BYRD. What?

Mr. HARKIN. That they have no position; they neither support it nor oppose it. They will let the will of the body govern. That is what I have been told. I am sorry I cannot affirm that personally. As soon as I finish my remarks and yield the floor, I will attempt to ascertain that.

Mr. BYRD. Does the Senator realize that the language that is in this bill to which he objected, is the language which was requested by the administration and the language that was put in the bill by the House?

Mr. HARKIN. This Senator is fully cognizant of the fact that this language was requested by the administration. But I believe it was requested by the administration at a time when the full effects of this disaster were unknown.

I believe through the force of inertia—and again I say to my distinguished chairman, in my talking with the President last night obviously he has a lot of things on his mind—they have had, as the chairman knows, a tortuous path getting the reconciliation bill done. That is high on the agenda, as it should be, because it has to do with the future of the entire country. He has paid attention to the flood, but these types of things tend to get put in the bill at the beginning and they sort of roll along.

I daresay, when I spoke at length with him last night and laid out for him what it meant, he was most appreciative that I brought it to his attention.

Again, I cannot say that he said absolutely that we should do it. As I said, I have not been able to ascertain that. I know he has been working on reconciliation and working on the speech he is giving to the Nation tonight. So I understand that.

I am hopeful that I will have some indication from the administration. Like I said, what I have heard secondhand is that they have taken no position and that they will let the will of the body work and that they would accept whatever this body decided to do.

Mr. BYRD. Madam President, will the Senator yield for another question?

Mr. HARKIN. I am delighted to yield.

Mr. BYRD. Madam President, if the language from the bill is lifted in this instance, does the Senator feel that those persons who suffered losses a year ago in the wake of Andrew would expect the same treatment? I believe that this legislation which is in the bill applied to them as well. And they received the 50 percent. Am I correct?

Mr. HARKIN. The Senator is correct.

Mr. BYRD. If the language were to be lifted out of this bill, does the Senator feel that in the spirit of fairness those people who lost when they were afflicted by Andrew would expect, and rightly so, to be compensated accordingly and, if so, what would the cost be? Does the Senator have an estimate?

Mr. HARKIN. The Senator raises a good point. We have thought about this. Let me just respond in two ways, and neither this Senator nor the distinguished chairman, nor anyone in the Senate, can go back and right every wrong. There are some things that we cannot go back and right. They were done, and we have to move on.

There were farmers in my State who suffered disasters in 1991 and in 1992 who got the 50 percent. But that is just what happened. That is what the administration did. I was one of those who tried to get it reversed, but we were unsuccessful.

We cannot go back. How far back do we go? Do we go back—there have been a lot of disasters—to the eighties and beyond? At some point we have to say, wait a minute, we are not going to continue this policy. We are going to use the law as it was written and drafted and signed by the President in 1990, and that is what this Senator is attempting to do.

I understand, however, that the distinguished Senator from Mississippi has an amendment. I have not read it. I have only spoken with him about it. I understand that it would give the administration the discretion to reverse that policy for specific cases for disasters that happened in the previous 2 years.

This Senator believes that the administration should have that discretion, and if that is the thrust of this amendment that the distinguished Senator from Mississippi has, I am all for it. I think this administration should have the discretion to reverse that policy for those previous disasters.

But if I might just finish on this note: I do not believe that this body can go back, as I said, and right every wrong, but I believe the administration ought to have that discretion.

Mr. BYRD. Madam President, can the Senator give to the Senate an estimate of the additional funding that would be required to compensate those who were injured by the disasters of last year in the event this language were to be lifted?

Mr. HARKIN. I would respond this way. We have a CBO estimate of the cost of this amendment which would apply to the disasters this year.

And I might also add, Madam President, this bill does not just apply to the floods. We are having a tremendous drought in the southeastern part of the United States, and it applies to them also.

The CBO estimate on this was $900 million. In terms of the discretion, the administration may have to go back. There is no estimate on that because we do not know how they would exercise that discretion, whether it would be broad or narrow, whether they would take certain specific cases that may be egregious and try to fix those. There is no way that we could have an amount on it.

I am glad that the Senator raised the issue of the cost of this amendment. As I said, CBO costed it out at about $900 million.

Mr. BYRD. Madam President, will the Senator yield?

Mr. HARKIN. Let me just finish this point.

Madam President, I want to make it clear that because of the tremendous loss in crops this year, the Department of Agriculture has told me that the deficiency payments that they normally pay out to farmers will not be as great because the prices will be higher for those lucky farmers who happen to have a crop. Because the price will be higher, there will not be deficiency payments paid out. The Department of Agriculture is looking at saving between $1 and $2 billion—$1 and $2 billion on deficiency payments.

So, if we just want to look at agriculture as an entity in itself, Madam President, we are not asking for any more money for this. We are simply saying the money that you are saving because of this disaster—this disaster is going to save taxpayers money, so they will not have to put it out in deficiency payments. All we are asking is, let us take some of that to help the farmers who have so tragically suffered.

Mr. DORGAN. Madam President, I wonder if the Senator will yield on the point of the question the Senator from West Virginia asked?

Mr. BYRD. If the Senator will allow me, then I will sit down.

I am trying to ascertain what the additional cost will be. I am advised that to lift this language, as the Senator's amendment would do, would cost $1 billion for the Midwest alone and an additional $2.4 billion to compensate those who were struck by the disaster of last year. So we are talking about adding something like $3½ billion by this amendment, if my figures are correct.

Mr. HARKIN. If the chairman will look, I think the figures are that this is $1 billion. I said $900 million. We will round it off at $1 billion.

Mr. BYRD. On the Midwest?

Mr. HARKIN. That, added to $2.4 billion, will bring it up to $3.4 total, I believe.

Mr. BYRD. No.

Mr. HARKIN. There is no way that that could ever be possible.

I do not know where that $2.4 billion figure comes from. There is absolutely no way that those losses could ever, ever get anywhere near what we are looking at in the Midwest.

So this Senator would have to take a close look at where the $2.4 billion figure came from.

I would yield for further clarification from the Senator from North Dakota.

Mr. DORGAN. I will be very brief.

On this point, the Senator from West Virginia asked the question about what does the White House support; what has the President requested?

A demonstration of the answer the Senator from Iowa gave was the fact that when the House of Representatives passed this bill out of the Appropriations Committee, it sent with it—I do not have it with me—but they sent a committee report with it and it talked about the flooding in eight States. It did not name North Dakota, because this is a disaster in progress.

Since that time, since the House Appropriations Committee issued its bill with its report, North Dakota has flooded. Crop loss alone in our State is $600 million and rising. Total damage will probably come close to $1 billion.

The point is, what did the President request? He requested an amount of money based on the knowledge he had of what flooding existed at that point. But this is not a hurricane that has gone in and destroyed a lot of property and moved out to sea. This is a disaster in progress that is not yet complete, and the damage grows daily.

As I said, evidence of that is the report from the Appropriations Committee that accompanies the legislation we are now going to consider in conference does not even include North Dakota, and yet North Dakota is clearly damaged by flooding.

That is why I think we have a situation in which the position of the White House surely will have changed as opposed to 2 or 3 weeks ago, when it began considering what it must do legislatively in requesting a supplemental appropriations bill.

I simply wanted to make that point. I think the Senator from Iowa is making the point, but it is even more clear by the fact that the original appropriations report did not even list all the States that are damaged by flooding.

I appreciate very much the Senator yielding.

Mr. HARKIN. I thank the Senator for that further clarification.

Does the chairman have further questions?

Mr. BYRD. Madam President, I thank the distinguished Senator.

The figures which I have quoted are the figures given to me by OMB. Senators will note that the Senate Appropriations Committee has increased the bill by almost $2 billion—$1.9 billion—since it came over from the House.

All I am seeking to do is to provide moneys for those who are suffering, and I have to depend upon the administration for its estimates.

Now, the administration wants this language in the bill. That is my understanding. I hope that the Senators would talk with the administration and seek to prevail upon it to change its policy. Let us not change the policy on the floor and, by so doing, increase the amount of money in the bill at this point. That can be done later. It does not have to be done tonight or this week.

Because if we are going to change this language, I think we have to contemplate going back and compensating those people from last year. They are going to feel that it is unfair, that they are not being treated fairly in comparison with those who have suffered from disasters this year.

Now if we go back and compensate them, it seems to me that we should attempt to prevail upon the administration to change its policy and change its formula and later, when we come back from the recess, we can act accordingly. That is all I am asking.

Mr. HARKIN. Madam President, I wish to respond to the chairman.

That is what this Senate ought to be about, is ensuring that, if the majority of the Senators agree that a certain law that we passed and that was signed by the President should be adhered to, it seems to me that is our constitutional responsibility. That is what we ought to be doing.

If an administration—any administration—makes a policy with which we disagree, this is the place where we ought to decide whether or not we want to adhere to that policy.

I am not here as a rubber stamp for any administration, whether it is this one or any one before it or that comes after it. I am here to exercise my own independent judgment, along with my fellow Senators, as to what ought to be the application of the law or what the laws, in fact, ought to be.

But we made the decision what the law ought to be. We voted for it. It was signed by the President.

Now, in terms of going back and helping people in these previous disasters, my heart goes out to them. The record will show clearly that this Senator did not agree with the previous administration's implementation of the 50-percent cut. But we did not have the votes, so we had to go along with it.

I do not know that this administration, or any administration that may come in the future, can go back and undo or make whole what a previous administration visited upon our population, or certain segments of our population. We cannot do that.

Yes, I feel sorry for those who got their disaster payments cut by 50 percent. They never should have had that happen to them.

Again, as I said, I think the Senator from Mississippi has an amendment that will give the administration the discretion, if they want to, to go back. And the Secretary of Agriculture can use his discretion and go back and fix it up.

But I do not think in any way it is going to run to $2.4 billion. It cannot. It cannot be as big. There were not that many farmers that were hurt under those disasters as was the case in this one.

CBO is telling us my amendment is going to cost $900 million; the chairman said $1 billion. It is around that figure someplace.

Mr. CONRAD. Will the Senator yield?

Mr. HARKIN. I want to yield the floor shortly.

Mr. CONRAD. Will the Senator yield for a question?

Mr. HARKIN. Yes.

Mr. CONRAD. I think the most important point—and I ask the Senator from Iowa if he would agree—the most important point is that Andrew and Iniki and Hugo were not primarily agricultural disasters. In this natural disaster, agriculture is having most of the damage. In Andrew, Iniki, and Hugo, I think most of that was residential-commercial damage, not agriculture damage.

If we want to look at precedent, in terms of an agricultural disaster, we should go back to the disasters of 1988 and 1989. And if we want to talk about equivalent treatment and fair treatment, we will see that in 1988 and 1989, in the drought disasters, we are providing in this legislation one-half of what we provided in 1988 and 1989.

So if we want to go back and talk about equivalent treatment in an agricultural disaster, when we are talking about the agricultural relief provisions of this bill, we should take out the 50-percent cut because it did not apply in 1988 and 1989, which was the most recent major agricultural disaster.

Would that not be the case?

Mr. HARKIN. I am sorry; the Senator was temporarily distracted.

Mr. CONRAD. Well, the question is simply this: If the question is fair comparison, if the question is looking back at how we treated others in equivalent situations, we would look back to the last major agricultural disaster, which was the drought years of 1988 and 1989.

Mr. HARKIN. Exactly.

Mr. CONRAD. And this bill is providing one-half the relief that legislation provided.

Mr. HARKIN. Exactly.

Mr. CONRAD. So if the question here is precedent, if the question here is equivalent treatment, if the question here is what we have done in the past, it would seem to me we would look back to the past major agricultural disaster which was in 1988 and 1989. This legislation cuts the relief we provided there in half. It says to the people now: You deserve half the help that we gave in 1988 and 1989. Is that not the point?

Mr. HARKIN. I think the Senator is absolutely correct. Let me just thank him, again, for his help and for all of his great support for the agricultural sector of America, not just his own State.

My friend from Missouri has been very patient. He has been on his feet waiting. I appreciate it very much. I just close, Madam President, by saying this.

There is a great anxiety in all of this disaster area. I will speak only about my own State. With the adoption of this amendment, you will hear a collective sigh of relief, a sort of understanding among many of these small towns and many of these farm families that they are not going to be cut off at the knees; that we are, indeed, going to meet our responsibilities; that we will use the full force of the law that we passed in 1990. We Iowans need to have our spirits picked up. We need to know the people of this country are not going to leave us behind.

Again, my heart goes out to those farmers who suffered disasters in 1990, 1991, and 1992. But we cannot go back and correct every wrong, and we cannot be bound by past error. I hope we could incorporate the amendment the Senator from Mississippi was thinking of offering, which basically gives the administration the discretion to go back and take care of those egregious cases. It would be one that could be supported. They should be given that discretion. But we need to respond to this emergency and we need to respond to this disaster and that is what this amendment does.

To do less would, I think, be to cave in to a bad policy, a bad policy that was established in 1991 and 1992. It was bad policy then. It is bad policy today. I do not think this Senate ought to continue that bad policy.

So, Madam President, I will, at the appropriate time, send my amendment to the desk. I know a lot of other people want to speak.

Again, I thank the distinguished Senator from Missouri for his help and his consultation and all the work we have done together on this, in forming a strong bipartisan relationship, not only on this amendment but on a lot of other things, dealing with this flood.

I know he has been waiting to speak, and I yield the floor at this time.

The PRESIDING OFFICER (Mrs. MURRAY). The Senator from Missouri.

Mr. BOND. Madam President, I express my sincere thanks to the Senator from Iowa and the other Senators on that side who have addressed the very, very important issues we face here.

I also would like to ask that Senator DURENBERGER be noted as a cosponsor of this amendment.

I would like to make a few comments generally before we talk about the specifics of this amendment, because this is a disaster like none I have ever seen.

Like the distinguished ranking member of the Appropriations Committee, I had the opportunity to serve as Governor during times of natural disaster. We saw tornadoes, we saw floods, but we have never seen anything like this. Several comments have been made that this is a 100-year flood.

In my State of Missouri, in 1973 I had just taken office as Governor and we had a 100-year flood. Let me tell you, the flood of 1993 is like nothing we ever saw in 1973. This is truly a 500-year flood. The ramifications of it are not just larger in scale, they are different in content of the damage that they have caused. That is why we make a very, very special plea.

There have been some suggestions by our leaders that we not have troublesome amendments. I do not believe that these amendments will be troublesome. I ask, along with my colleague from Iowa, that our colleagues hear us out because when the administration sent this measure up they said we recognize it is going to be changed. When they first sent it to the House it was, I understood, with the recognition that as further information became available they would recommend that the Senate make changes.

The Senate Appropriations Committee has made changes. The House Appropriations Committee and the full House made changes in the formula, and they came up with a provision. Rather than having 50.04, that nebulous figure that was a wild whack at a disaster bill when they just did not have enough money—which has no basis in policy and its basis in precedent is a very weak one—the House changed that particular formula to make it 90 percent of any losses over 75 percent.

I tried to figure that out on a basis of the normal 65 percent of 65 percent. The best I can tell that gives you an additional 4 cents on the dollar. But I am not going to go through the mathematics because that is not important. What is important is that the House was working to get away from the very artificial and arbitrary 50.04 percent.

Mr. SIMON. Will the Senator yield?

Mr. BOND. Let me point out as we talk generally about the nature of this flood, let me call to the attention of my colleagues that unlike other disasters, unlike a tornado, unlike a hurricane, the flood is a very long and slow and torturous process. But it is even more damaging.

I have talked with families who have been flooded out. With tears in their eyes, mothers have told me they had to move their children and divide them up among other relatives and families. A young couple who had just finished redecorating their home had lost everything. A businessman sadly pointed out the top of his place of business. He said he thought the floods might come, so he moved all his records up to the second floor because even in a 100-year flood it would only come up 3 or 4 feet on the first floor. This was not a 100-year flood. All his records were on the second floor and the flood waters were up to the roof of the second floor.

Mr. SIMON. Will my colleague yield for two quick questions?

Mr. BOND. I will be happy to yield for two questions.

Mr. SIMON. I am pleased to be a cosponsor of this amendment.

When my colleague talks about the extent of the flood, is it not true this is the greatest natural disaster in the Midwest in this century?

Mr. BOND. Madam President, it certainly is, to my way of thinking. I would tell my colleague from Illinois, Sunday I visited the St. Louis disaster area and talked with the officials of the fire department and the police department there. Fire Chief Svetanics told me his people had been on duty day and night for 25 days. They were dead tired but they were not giving up. And he said this is clearly the greatest disaster that he had ever seen or heard of, at least in this century. This is a disaster far greater than anything else we have seen.

Unfortunately, I just received word that, while we kept thinking the crest had hit St. Louis, a new crest is predicted on August 6. This has already become the largest natural disaster that I know of in this century and, unfortunately, it is not getting better. It may get worse.

Mr. SIMON. My second question is, this amendment, if it is adopted, gives the administration greater flexibility in terms of assisting people who are hit by this massive disaster; is that correct?

Mr. BOND. Madam President, as the discussion has gone on, this does not necessarily give greater flexibility. One of the problems is the administration has recommended that we cut in half the agricultural disaster assistance authorized by this body in the 1990 farm bill when we said to cut through all the calculations, if you are insured, if you have crop insurance and you have a program crop, you get 42 cents on the dollar. The Office of Management and Budget wanted to use their discretion to cut that in half.

When we go back and find out why it was cut in half, back in 1990 there was 1 billion dollars' worth of disaster assistance, and it turned out there was about 2 billion dollars' worth of damage. We passed it and OMB came up with a way to get that to fit that $1 billion over two billion dollars' worth of damage and came up with 50.04 percent.

What I hope we will say in this, because of the magnitude of this disaster, is that we are not going to nickel and dime the farmers; we are going to give them the full 42 cents, or whatever the formula would work out, for that disaster.

This is not a disaster which is only a minor agricultural disaster. As I understand, during Hurricane Andrew, there were no crops lost, there were agriculture disasters and a wide range of other disasters, but nothing that has had the impact, to my knowledge, on an important sector like agriculture as the floods of 1993 have had. We estimate over 33 percent of the crops in Missouri have been wiped out.

Let me add one thing further. It is not just wiping out the crop for this year. Because of the record flow, the record volume of the water in the rivers, not just the Mississippi, but the Missouri, the Grand, the Chariton, the Thompson, the 102, the Blackwater, rivers and creeks all over the northern and central part of the State, the damage that has been wreaked upon the farmland is damage that is not going to be cured in one season. We will later be coming forward with an amendment to provide additional assistance to the Soil Conservation Service to clean up the debris.

In these fields, there are trees, there are containers, there are barrels, there are carcasses of dead animals. There is sand that has silted over and made the land impossible to farm without significant reworking.

But beyond that, the power of the floodwaters has drilled holes in the ground. We have seen levee breeches as deep as 90 feet. Some of the channels that have come through the railroad beds may be 70-feet deep. This is a railroad bridge at Glasgow, MO. This was taken on July 14.

I happen to feel very close to this because on July 7, I walked along this railroad track. I was there with people from the railroad, and farmers nearby. We walked along the track. Six days later, a friend of mine was doing the same thing. At that time, the levee gave way under him and sucked him under the railroad tracks. Fortunately, he was saved. But this whole area we thought had withstood the flood. Now, instead of a railroad embankment going this way, it is a river channel going this way. The farmers in the field above and below there find——

Mr. BYRD. Madam President, may we have order in the Senate? May we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order.

Mr. BYRD. The Senate is not yet in order.

The PRESIDING OFFICER. The Senate will be in order. Will Senators please take your conversations off the Senate floor?

Mr. BYRD. I thank the Chair.

Mr. BOND. I thank the Chair. I thank our distinguished chairman for the assistance.

Madam President, my point is that the level of damage is greater than the level of damage in a drought, for example. When we had a drought a couple of years ago, we had assistance for all kinds of crops. When you run down the list of crops on which we had disaster relief, we had cucumbers, rice, milo, wheat, tomatoes, even blueberries, and we had the disaster assistance cut in half. But there is a difference. When you have a drought, you can harvest some blueberries or, more commonly in Missouri, some corn and some soybeans.

This year, these floods took the whole crop. They took the whole crop. They did not leave some of the crops on which there were higher prices to recoup what was lost. The real disaster wipeout for many of these farmers is total. That is one of the reasons why this amendment, proposed by my colleague, Senator HARKIN, is so important.

The level of disaster in Missouri, I have already mentioned. Some 930,000 acres of soybeans have been flooded out; 300,000 could not be planted out of 4.2 million acres. That is a third of our crop.

We have seen disasters strike different crops throughout the State. We know that many of these farmers who think they have a crop in now may well, because they planted it late, not be able to harvest that crop prior to the first frost. That is why another portion of this amendment is so important; to say that we will waive for this year, for this disaster, the August 1 deadline, because many farmers will not know what their losses are because of these historic rains, the historic flooding and the historic destruction of crops, how great a loss they will have in areas not in the bottom lands until the harvest comes in. That is another reason why I think this amendment is so important.

Madam President, the soybean producers in my State are the ones most directly hit. They are not able to collect deficiency payments. They cannot sign up for the 092 program. Their only assistance will come from this disaster aid bill. I believe that when we have a 500-year flood, it is a disaster of a magnitude which warrants us going back to the original statutorilly authorized disaster payments.

I will say that I, too, am concerned that there were disaster payments in prior years which were at 50.04 percent. To the extent that I could have, I would have voted to increase those. But they are disasters of a different magnitude and, yes, they are disasters that afflicted people in my State.

I, for one, am not going to go back and ask that we authorize funding for them. I would be willing to accept, and I hope we can have an amendment or a modification, which may be proposed by the Senator from Mississippi, to permit the Secretary of Agriculture to look backward in terms of equity to see what must be done.

But I am saying that this 500-year flood is a totally different order of magnitude. The Soil Conservation Service says because of the scouring, the holes in the ground that channels through it, many of these farmers not only will be foreclosed this year, but they will not be able to plant next year. Quite a few of them will not be able to plant a year after. So for many of these farmers, they are looking at 1996 before they can get crops on what has traditionally been some of our most productive and fertile land.

Some of the farmers have to look backward. I talked to one farmer in Tarkio, MO, in far northwest Missouri, on Saturday. Not only did he lose this year's crop, but he had under CC loan contracts storage on his farm, as contemplated under the farm program, 53,000 bushels of wax seed corn. The water got in, exploded his silos and ruined all of his last year's crop that he had held in storage, as well as flooding out the crop that he had planted for this year. He may be one who is knocked out from planting next year and the year after as well.

Madam President, there are many, many other things we could say about this disaster.

I know many of my colleagues want to speak. I offer only very briefly this quick pictorial review.

This is off of the Missouri River. We have seen on television the flooding along the Mississippi. This is a power plant with the related public facilities damaged there.

This is a lumberyard in north Kansas City, MO. Unfortunately, I can tell you that I do not have a picture of it, but when I flew over Chesterfield, MO, and looked at the airport in Chesterfield and the industrial park, it looked exactly like this. All you could see was the tops of buildings. You could not see the businesses. You could not see the airport that had been flooded out there.

We have had flooding in our metropolitan areas along the Southwest Boulevard in Kansas City—four deaths; a tragic flood is part of these rains. Here is what it looks like when a levee breaks and the water flows across and destroys not only the farmland but destroys the levees. And we will be speaking about the need to restore levees so that we can restore the most productive farmland that we have.

And finally, along the railroad bank, farm buildings that are flooded out. This is a sight all too common along our rivers throughout central and north Missouri where our most productive farmers and some of the most productive agriculture in the Nation occurs.

Madam President, I urge my colleagues to support the amendment before us. We will be happy to meet off the floor to explain it. If anybody wants to know how we come up with 42 cents on the dollar or 21 cents, rather than taking the Senate's time, we will be happy to work through that. I ask only that we have the full consideration of our colleagues. We make an urgent plea to you because this is an unheralded disaster, one we have not seen before, and we need the full support of this body to help our citizens who are afflicted in this disaster.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Ms. MOSELEY-BRAUN. I thank the Chair.

A few weeks ago, I stood before this body to share with my colleagues the impact of the flooding I witnessed in Illinois and along the Mississippi River. I am distressed to say that today the situation has not improved. In fact, the flood persists in Illinois and with every day of new rain, destruction grows larger.

I am pleased that the Senate is considering this $4.7 billion emergency supplemental package for the flood victims in the Midwest, an increase of $1.9 billion over the House-passed version.

As the estimated costs of the damage continue to grow, this still may not be enough, but it is a good first step. And I would add, I think the amendment offered by Senator HARKIN and others makes it an even better bill for reasons that I will describe later.

We need to get this bill passed quickly in order to deliver the much needed flood assistance to the ravaged areas of Illinois and the Midwest.

This is, as has been said before, the worst flooding the Midwest has ever seen. Perhaps it is the worst flooding this entire country has ever seen. I daresay, Madam President, this impact is of biblical proportions. It has been labeled by officials to be the "500-year flood," one so extraordinary that it can only be expected to happen once in five centuries.

For the last 8 months, the Midwest has experienced record levels of rainfall—almost 200 percent more than normal for this region. From St. Paul, MN, to St. Louis, MO, the water from streams and hundreds of small tributaries has poured into the Mississippi. The result for people, farms, and businesses along the river valleys has been devastating.

To illustrate, Madam President, the impact on one area—I have brought a satellite photograph of an area—of Quincy, IL.

The photograph on the left was taken in May 1989. The photograph on the right was taken last week, July 25.

Now, as you can easily see, this pencil-thin image here on the May 27, 1989 photograph, this dark area here, is the Mississippi River. It is in dark blue. You can see it here in the middle of all the red and green. The different colors represent different heat levels. But the blue is the Mississippi River.

Look on the other side to July 25, 1993. This amount of the blue is the Mississippi River and, indeed, we even had a levee break in the Quincy area, so you can easily see the pencil-thin image of the Mississippi has swelled, taking over areas that were once thriving communities.

That gives you a satellite view, Madam President, of the extent of the devastation that the river has caused.

For the residents in my State of Illinois, with the largest amount of shoreline bordering on the Mississippi River, it has been a long haul. Unlike other disasters, a flood of this magnitude has no timeframe. Many communities have been put on a prolonged waiting list for what is supposed to be the worst. One county official in southern Illinois summed up the waiting game this way: He said, "We've been told there's been a crest coming for 2 weeks." And so the waiting game continues.

Thousands of people, Madam President, have endured a great deal of stress. Their lives have literally been put on hold.

Yesterday, I received a letter from levee commission chairmen in Alexander, Jackson, and Union Counties. These counties, which are south of St. Louis, are now experiencing the worst. I would like to share with my colleagues an excerpt from their plea for help. I quote:

> The Mississippi River continues to be disastrous to southern Illinois. River crests are continually being revised upwards. It is critical that we all continue to work together to save lives and property. Workers are stressed and weary. We are literally fighting for our lives.

Madam President, in the past 6 weeks, thousands have volunteered filling millions of sandbags to try to help save towns along the river. This tragedy has brought my State and the entire Midwest together—indeed, I would daresay the entire country. Neighbors are housing neighbors and communities are assisting nearby communities. I have been told that volunteers of all ages have traveled from hundreds and even thousands of miles away to help those who have lost almost everything.

In the struggle to keep back the water, there have been success stories, but, unfortunately, there have also been failures and some tragedies. In Illinois alone, three deaths have occurred. Close to 70,000 residents in the Alton, IL, area are expected to be without drinking or running water for the next 2 weeks. More than a dozen counties have already been declared Federal disaster areas. Dozens of levees have ruptured or broken and several others are currently in very precarious stages.

Tens of thousands of residents have been forced from their homes by the flooding. An estimated 1 million acres of farmland is flooded. Cleanup and restoration for farm equipment and structures are estimated to cost in the hundreds of millions of dollars. Close to one-half of $1 billion in crop losses alone are expected. Barge traffic has ground to a halt. Bridges have collapsed or been compromised. And almost all commercial use of the Mississippi as well as the other rivers in the region has come to a halt, with many freight shipments by railroads being canceled or rerouted causing severe delays in reaching manufacturing sites.

Madam President, just as those along the Mississippi, as well as northern Illinois and other parts of the Midwest, have come together, I must say that I am encouraged by how the Members of this body have come together in a bipartisan effort to hear the call of those who suffer from this disaster.

Almost every agency of Government has been involved in putting together the emergency package. People are working to make Government more responsive. Deadlines have been extended. Waivers have been granted.

Last week, when Governors from the Midwest came to Washington with pleas for more assistance, this Congress heard them. As the flood-ravaged communities continue to cope with the floodwaters and begin to recover from this disaster, once the floodwaters have receded, we will need to continue to provide the needed assistance.

I suspect this will not be the last time we come to the Senate floor to discuss this need for relief.

This bill alone cannot be the complete answer to the many problems of the flood victims in Illinois and in the rest of the country.

But as I said at the onset, it is a good first step. I urge quick action on this emergency assistance package for the Presidents signature.

At this point, Madam President, I would like to speak specifically to something that Senator HARKIN said when he was on the floor discussing his amendment and talking about whether or not we go back to the previous formula in the law that provides for emergency assistance, or if we defer to the bureaucrats' judgment and what is called the 50-percent rule that we have been discussing.

Senator HARKIN called it bad policy. I certainly agree with him. I am reminded once again—and I probably said this on this floor before—but I am reminded of some wisdom my mother gave me when she told me that if a dog bites you once, shame on him; if he bites you twice, shame on you.

The fact is, Madam President, that the bureaucrats under the Bush administration undid the law several years ago. This Congress, this Senate, actually put up with what the past administration did in 1989, when Hurricane Andrew and the other hurricanes occurred. We put up with what the bureaucrats had done.

The question now, the question put by the Harkin amendment, is are we going to put up with it in 1993, or is it our job as legislators to direct policy for this country? Is it our job to direct policy, or are we constrained to wait on the bureaucrats to change their minds about their previous decision to undo the law?

It seems to me that the importance of the Harkin amendment is that it says once again that it is the Congress' job to make policy; it is the Congress' job to underscore the rule of law; and it is our job to speak to the needs of the people who sent us here; that it is not incumbent on us to wait. We are not constrained to wait on an administration or the bureaucrats that work as part of that administration to change their minds, to make another kind of decision that we were sent here to make.

I say to you, Madam President, that, if anything, with all the tragedy that we are looking at, this amendment can be a positive outcome from this devastating tragedy, to see to it that the farm communities, farmers who we rely on in so many instances in the good times, will not be forced to suffer from a decision that really nobody would have noticed if it were not for this 500-year flood.

With that, Madam President, I urge adoption of the amendment; I urge passage of this legislation. I feel confident that we can get it through conference in time to be responsive to the needs of the farmers.

I urge the entire body to recognize that this is an issue that is not just an Illinois issue; it is not just a Missouri issue; it is not just an Iowa issue. This is a national issue. This is something for the entire country. This calls on all of us to rise to our statutory and elected responsibilities as the elected representatives of the people to come together as Americans to address and try to help people who are suffering from this terrible, terrible tragedy. That is our job to do, Madam President.

I urge the Members of this body to weigh in to do that. Thank you.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Madam President, I thank the Chair.

Madam President, will the Chair please advise me when I have used 5 minutes? It should not take more than 5 minutes. I have no charts. I have no pictures. I just hope I can place in summation the good presentations that have been made here by my colleagues.

I wish to be added as a cosponsor to the amendment offered by Senator HARKIN, if I am not already a cosponsor.

Madam President, I hope I am not too repetitious.

Let me tell you that pictures and charts cannot tell the true story of the disaster that has hit the midsection of our country.

In my view, the 500-year flood plain has been violated many, many times. We certainly have not had any flood like this in 500 years. I hope we never have another one again.

Maybe it is best to try to put this in the picture of how devastating this has been. If you could picture a cornfield under 20 feet of water; that is 20 feet over the top of the tassels of the corn before the river goes down.

I have lived on the Missouri River all of my life. I have never seen the Missouri like it is now. The States of North Dakota, South Dakota, Nebraska, Iowa, Kansas, Missouri, and on downstream on the Mississippi have been absolutely devastated, and certainly St. Louis is reaching its peak right now, with widespread devastation.

What we are asking for, to put the perspective of the amendment of the Senator from Iowa in proper focus, is whether we are going to offer the agricultural sector only 20 cents on the dollar, or up to 40 cents on the dollar. That is how minuscule this is.

Yes, those of us in the agricultural belt have recognized that we should do something about improving crop insurance so it could be used in the future to help alleviate this. And we should make some changes there. But when I want to put this in perspective, I think about the citizens of Des Moines, IA, who had to go for over 2 weeks piling up sandbags while they had no running water. They are 120 miles from the Missouri and probably 150 miles from the Mississippi.

So it is just not the Missouri and the Mississippi. It is the Platte and all of the tributaries that have caused great, great difficulty.

I think—and I want to emphasize what my friend from Missouri, Senator BOND said—we have no way of knowing what the total cost of this disaster is going to be for agriculture. We are still trying to assess what the total cost would be for bridges and improvements and roads in the cities affected not by the flood, but by the storms that swept across Nebraska and other places associated with this very unusual weather pattern.

Madam President, just let me say that a major concern that this Senator has today is what about the disease that could break out with this massive flood as it recedes? I am confident that we are going to have to be moving in there with medical facilities to help straighten that out if it should raise its head.

The devastation is best described, I think, by a cornfield under 20 feet of water. Or if you want to say how bad this flood is, it is the worst flood ever for the Union Pacific Railroad, and they have been around a considerable period of time. I am not asking for assistance here for the Union Pacific Railroad. But to give the dimension of this, under the Union Pacific system, if you laid all the tracks end to end that have been knocked out by this flood, it would stretch from Omaha, NB, to somewhere in the middle part of Florida.

It is a true disaster of which pictures and charts and human suffering cannot begin to tell the story. Television has done a good job and the print media has done a good job. But yet they have not brought home the terrible situation that confronts us out there in the Middle West.

I say that the State of Nebraska has been hit hard, but not as hard as our neighbors in Iowa and Missouri downstream.

I simply say in conclusion, Madam President, let us restrict the time we are going to talk. Let us appeal to the Members of the U.S. Senate to act in an expeditious fashion. Certainly, this modest amendment offered by the Senator from Iowa to allow compensation for the farmers of not 20 cents on the dollar, but about 40 cents on the dollar, is a reasonable one. I hope we can get overwhelming support for it.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Madam President, farmers in my State look at what is happening this year and they say: Not again, because in 3 of the last 6 years we have suffered natural disasters. Madam President, in 1988 and 1989, we suffered from the 50-year drought, the worst drought in 50 years. It absolutely devastated my State. Hundreds and hundreds of millions of dollars of agricultural losses.

Madam President, as 1993 started, it appeared that we were going to have the greatest crop in our entire history. That is what farmers in my State thought as 1993 began. Madam President, just a few weeks ago, the skies opened up, and the rains began to fall, and it did not stop. In one 6-hour period, 10 inches of rain fell in the State of North Dakota, a State that rarely receives over 22 or 23 inches of rain a year—10 inches in 6 hours. And now we have the 100-year flood. First the 50-year drought and now the 100-year flood. It is almost unimaginable what has happened in my State.

I thought I would bring just a series of the headlines that have run in the North Dakota press over the last 2 weeks. Perhaps the best single headline from my hometown newspaper, the Bismark Tribune, simply said it all: "All Wet." "Everything is Soaked." "Another Round of Rain Soaks the Valley." "Some North Dakota Crops Flop." "Southeast Farmers Facing Catastrophic Losses." "Regions Flood, Woes Continue." "Weekend Rains Cause Sizable Crop Damage." "Flood Takes Toll on Area Roads."

Madam President, headline after headline tells the story. Finally the Jamestown Sun summed it up by saying: "Water, Water, Water."

Those early dreams of what 1993 was going to bring have been dashed by a natural disaster of stunning proportion.

Right now, they are telling us that the agricultural losses in North Dakota are $600 million. The head of the State ASCS tells me that number may triple if we get an early frost in North Dakota, because we have a short growing season, and there simply have not been enough heat units to mature the crops growing across the State of North Dakota.

So we are faced with an enormous natural disaster. That natural disaster converts into an economic disaster, an economic disaster that threatens the livelihood of tens of thousands of people in my State.

This is not an academic matter, Madam President. This is not a matter of numbers—so many inches of rain, so many dollars of crop loss. This is a matter of human tragedy; this is a matter of hopes dashed, of dreams killed. This is a matter of people looking at their family's future and seeing nothing but hurt.

Madam President, this is a hurt not just in North Dakota, but across the heartland of this country: North Dakota, South Dakota, Nebraska, Kansas, Minnesota, Iowa, Missouri, Illinois, Wisconsin, State after State where people's lives have been devastated.

There is nothing quite like a flood. When you have a hurricane, it comes, the disaster is over, and you can begin cleaning up. With a flood, it just stays and stays and stays.

I can remember so well seeing a woman in Valley City, ND, who came up to me when I visited there, and she was crying. She said, "I don't know how much more of this I can take, because every day I hope I am going to get the sewage out of my basement, and every day we have another downpour and another backup, and every day we hear that the dam that protects this city may be overrun."

I can remember when we suffered the first rains in North Dakota and I called a number of mayors across the State. I called the mayor of Fargo, and he was in his own basement pumping out the sewage. Then I called the mayor of Valley City, ND. He had been up 24 hours sandbagging. I called the Mayor of Bismark, ND, and he told me the night before, he left the disaster center, he went out to find his car floating away. He pushed it over to dry ground and drove away.

Story after story was told me of the experiences people were having, just incredible experiences and, again, in a State that rarely receives more than 20 inches of rainfall a year, to get 10 inches in 6 hours creates a stunning disaster.

Madam President, we cannot let this turn into a permanent economic disaster, because that is what is about to happen all across the heartland of America—a natural disaster turning into a permanent economic disaster. I talked about the 50-year drought we suffered just 4 years ago. And now the 100-year flood. So I think it is fair to look at what we did for people when we suffered the 50-year drought? How does it compare to what we are doing now with the 100-year flood?

Madam President, here is the comparison. Here is the difference between what we are doing now and what we did then. Madam President, this shows what happens to a typical North Dakota farmer. The average size farm is 1,200 acres. Here is what we did in 1988 on this chart. They were out-of-pocket $183—by the way, that does not count all of their personal expenses, or their land expense, or their machinery expense; those are all additional things.

Look at what we are about to do in 1993. Instead of being down $183, this farmer is going to be out $17,252. Again, I emphasize that does not count their personal expenses, such as food, clothing, shelter; and that does not count machinery or their land expense. Those are all additional costs. But just in terms of a comparison, what we did in 1988 versus now in 1993, they are over $17,000 worse off, based on what we did and what they are proposing we do in 1993. How can that be fair? It is not fair to say to the farmer that suffers a loss in 1993: You are $17,000 worse off than if you would have suffered this same disaster in 1988 or 1989.

Madam President, it is not fair. It is not right. And that is why the amendment of the Senator from Iowa and the amendment of the Senator from Missouri are so important, because we are going to visit an economic disaster on top of a natural disaster if we fail to act here. We have that opportunity.

By the way, we are not talking about a budget buster. The fact is that we are asking for a total of about $2.2 billion of agricultural aid. But do you know what? There are agricultural savings that will just about cover the whole bill, because what happens in a natural disaster is that supply is limited, price goes up and, as a result, the deficiency payments that Government pays are reduced. They are anticipating now that the savings to the Federal Government as a result of this disaster will be about $2 billion—$2 billion—and that is about the amount of relief that we are seeking here tonight.

Madam President, what is fair is fair. What is right is right. What has been done in the past in the last major agricultural disaster is what ought to guide our actions tonight.

Madam President, I urge my colleagues to think of the human tragedy, the economic disaster that faces the heartland of this country. We need help, and we need it now.

I thank the President and yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Madam President, before I start, I want to compliment the Senator from North Dakota for a very important point that he just made about money that will be saved as prices rise, and to reaffirm what he said and to expand it just to remind Members of this body that the disaster of 1988 raised prices enough to save more than twice the amount of money than what we ended up paying out in disaster payments.

So I think that there is money from past years, as well as what might be available for this year, and that we ought to consider that. This is not only revenue neutral, but when you try to accomplish those things, we never do spend enough for disaster from what has been saved from rising crop prices.

Before I start to comment, Madam President, I want to say that there is a friend of mine on this side of the aisle and a person who has been a leader in agriculture a long time before most of us were in this body, and that is Senator DOLE. He supports this amendment but is not able to be here debating right now. He will come later and speak in support of this amendment, he has told me. He is not here right now because he has to be prepared to make a response to the President's address this evening. But I want to make very clear that he supports this effort and will speak in favor of it.

Also what might surprise you from this side of the aisle, as a Republican, I want to say that I should, as I am sure most everybody in this body intends to and maybe have not, compliment the President of the United States, Mr. Clinton, for his response to this disaster, not only his personal attention to it, but I think the legislative and administrative responses that he has given. And just as importantly, what Secretary Espy has done has been helpful, not only his personal attention, but also what responses he has give through administrative discretion that he has under law.

I think their response has been timely. I think that it has shown a great deal of understanding of what the problem is. And, I think the administration has expressed proper sympathy. As a farmer myself I appreciate that, but more importantly, as has been said so many times here, there is nothing we are going to do in this body that is going to make anybody economically whole.

It was never intended that we guarantee profits or make people economically whole. But from one standpoint, we can, through actions we take here or that the President can take or the Secretary of Agriculture can take, at least show sensitivity and understanding of what that problem is. I think the President of the United States and Secretary Espy, as it relates specifically to agriculture, have done that.

I suppose there is more that I would want them to do, and I think that they probably will do more. I think that as a whole, from what we know right now, it has been very responsive.

I suppose we can all give pictures and maps, and Senator HARKIN has shown us something similar to this. But I think before I go into what I was going to say this evening, I want to put a map up here that again demonstrates, only in a different way, the massive amount of rain that has fallen in the Mississippi Valley and particularly in my State of Iowa, and how green the whole center of the country is, particularly within Iowa and Missouri, within that region.

But what this map does, in addition to showing the massive amount of moisture, historically large amount of moisture that has fallen in this region—and you can see that that is the very darkest green, the severest amount of moisture—you also have sections of the country that show extreme drought. You will find in North Carolina, South Carolina, and Georgia, as well as you have seen on television here in Washington and even parts of Maryland and Virginia, where there has been a shortage of moisture. It is kind of ironic that you can have this historically high amount of rain in the Midwest and still, at the same time, have regions of the country where there is an extreme drought.

I want to remind my friends of that, because there are areas all over the country that are going to be hurt negatively by this. If they are hurt and do not benefit from this legislation, there will be legislation down the road in years in the future where Congress will respond within its concept of self-insurance where we cannot anticipate at the beginning of a fiscal year what is going to be needed in the way of self-insurance by our Government for natural disasters in this country to help people get back on their feet.

I say "help people get back on their feet." We never totally get people back on their feet from the standpoint of personal loss or business loss or agricultural loss, but to help them get back.

So within that policy of self-insurance, we have responded to hurricanes in South Carolina, Florida, and Hawaii. We have responded to earthquakes in San Francisco, we are going to be responding to this flood in the Midwest, and will be responding to other disasters in the future.

When it comes to this issue—and I am very happy to be a cosponsor of Senator HARKIN's amendment to correct the problem of the formula that puts an artificial cap of 50 percent on the working of the authorized formula in the farm bill of 1990, I hope you will remember this: When it comes to the various programs that respond to disaster, and there are FEMA, HUD, and the Corps of Engineers, and you can go on and list a lot of different programs that are authorized to fund disasters, those disasters are funded at the authorized level. There is no artificial cap put on the authorized level by the Appropriations Committee or any other administrative response except the agricultural programs.

Why should agriculture be singled out to have some sort of cap other than the authorized level of expenditure put on it? I think that is a very important point that each Senator ought to consider as they respond yes or no to Senator HARKIN's amendment.

Each of us here has compelling statistics about the acres unplanted, the crops suffering from rain, and the crops that are washed away. Out of 13 million acres of corn, 2.1 million acres were not planted or were drowned out or were flooded out.

On fields that were planted, yields will probably be reduced by 25 percent even if we do not get an early frost. And a lot of this corn, because it is later if it is harvested, will be of poor quality, which reduces its value and even makes it difficult to store. As of last Monday only 24 percent of the corn crop was rated good or excellent in my State. The remaining 76 percent was rated from very poor, to a classification of fair.

All of us know that the true extent of the damage will not be known until the fall harvest. The Iowa Corn Growers Association has estimated that the current damage, based on reduced yields alone, will be $1.2 billion for my State. This does not take into account money lost because of the low quality of the corn. It is possible—and I emphasize the word "possible"—that if we get enough warm weather, and even if we have a late frost, the aggregate damage throughout the corn belt might be minimal. That is a rare chance now, as late as our season is, and as cold as it is, and the crops maturing at least at this point 1 month behind what would be normal.

I personally do not think that we are going to be able to get by in my State without having a lot of damage from frost. I hope not, but it seems to me that, in my traveling in Iowa 15 out of the last 30 days, I have been able to see almost uniformly throughout our State crops way behind. The prospects of an early frost are what really concern most corn growers now.

Most of the time, that killing frost is an innocuous event, the first sign of winter's approach. But this year, it is going to be watched by every farmer in the Midwest, because the damage that can be done from that would be as catastrophic as what was done by the floods. Simply put, the frost is an event that is going to kill our maturing crops prematurely and hurt us in a way that probably this flood has already hurt 20 percent of our crops.

I think, Madam President, that my colleagues have expressed pretty much the concern for agriculture as a whole. I only hope, in closing, that we can each talk about specific crops, specific States, dollars' worth of damage, prospective damage down the road, all these things we can talk about, but the bottom line is this: We are talking first about, through Senator HARKIN's amendment, eliminating—what is really unrelated to the reality of the situation—the arbitrary cap at 50 percent in existing law.

That should be eliminated. We should be doing that because it has already been well thought out by the Agriculture Committee what the formula should be. As I said, this is the only disaster program that is not being funded at the authorized level. We should not single out and be punitive to agriculture compared to other programs to meet financial disasters.

But the bottom line is this: We are in the business—and have been for decade after decade after decade, at least during this century—of this Congress responding to the unpredictable. Maybe we have not set enough money ahead at the beginning of a fiscal year, but I do not think there is any way you can anticipate it; at least, you cannot anticipate this sort of a disaster.

I think we should fully meet the responsibilities that have been consistently met by this body in the past. When you have a natural disaster, somebody tries, as best they can, to estimate what that cost is and we meet it. That is a policy of self-insurance, because you cannot anticipate ahead of time what that disaster might be, and we meet it.

I yield the floor.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

AMENDMENT NO. 756

(Purpose: To provide full payments to producers for crop losses resulting from damaging weather or relation condition in 1993)

Mr. HARKIN. Madam President, I have an amendment I send to the desk on behalf of myself, Senator BOND, Senator DASCHLE, Senator PRESSLER, Senator CONRAD, Senator MOSELEY-BRAUN, Senator WELLSTONE, Senator DORGAN, Senator SIMON, Senator EXON, Senator DURENBERGER, Senator GRASSLEY, and Senator COCHRAN.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Iowa [Mr. HARKIN], for himself, Mr. BOND, Mr. DASCHLE, Mr. PRESSLER, Mr. CONRAD, Ms. MOSELEY-BRAUN, Mr. WELLSTONE, Mr. DORGAN, Mr. SIMON, Mr. EXON, Mr. DURENBERGER, Mr. GRASSLEY, and Mr. COCHRAN, proposes an amendment numbered 756.

Mr. HARKIN. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Page 2, line 13, at the end of the sentence insert the following: "Notwithstanding any other provision of this Act, the following shall be the law with regard to the Commodity Credit Corporation.

COMMODITY CREDIT CORPORATION

COMMODITY CREDIT CORPORATION FUND

For an additional amount for the "Commodity Credit Corporation Fund" to cover 1993 crop losses resulting damaging weather or related conditions as defined in section 2251 of Public Law 101–62 in 1993, $1,050,000,000, and in addition $300,000,000, which shall be available only to the extent an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to Congress, the total to remain available until June 30, 1994: *Provided*, That from funds previously made available in Public Law 102–368 by Presidential declaration, $100,000,000 to remain available until June 30, 1994, shall be for 1993 crop losses only: *Provided further*, That if prior to April 1, 1994, the President determines that extraordinary circumstances exist that warrant further assistance, the Secretary of Agriculture shall use such funds of the Commodity Credit Corporation as are necessary to make payments in an amount equal to 100 percent of each eligible claim as determined under title XXII of Public Law 101–624: *Provided further*, That all additional amounts made available herein are subject to the terms and conditions in Public Law 101–624: *Provided further*, That Congress hereby designates the entire amount provided herein as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That notwithstanding any provision of Public Law 103-50, funds provided by such Act shall not be expended for 1993 crop losses resulting from 1993 natural disasters, and claims for assistance from funds provided by that Act by producers with 1990, 1991, and 1992 crop losses shall be paid only to the extent such claims are filed by September 17, 1993: *Provided further*, That the Secretary may provide assistance, utilizing such funds of the Commodity Credit Corporation as necessary, for additional weather related losses to producers with 1990, 1991, and 1992 crop losses. The Secretary shall provide such assistance in a manner that treats producers of 1990, 1991, and 1992 crops who suffered crop losses and received a prorated payment under Public Law 102-368 equitably with producers receiving assistance under this Act.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Madam President, first of all, I ask unanimous consent that the following letter in support of the Harkin-Bond amendment from the American Agriculture Movement; American Corngrowers Association; Evangelical Lutheran Church in America, Lutheran Office of Governmental Affairs; Federation of Southern Cooperatives; Institute for Agriculture and Trade Policy; National Corn Growers Association; National Family Farm Coalition; National Farmers Organization; National Farmers Union; National Grange; National Rural Electric Cooperatives Association; Prairiefire Rural Action; Rural Coalition; and the United Methodist Church, General Board of Church and Society, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

AUGUST 3, 1993.

Re: Disaster Assistance Legislation.

DEAR SENATOR: As the Senate considers the Emergency Supplemental Appropriations Bill, H.R. 2667, we urge your support for the Harkin-Bond amendment which will lift the current 50.04% cap on disaster payments. This cap translates into only approximately 21-cents for each dollar of crop loss. Even without the cap, producers would receive 40-cents or less of every dollar in farm income they would have received had they harvested a crop this year.

Further, the amendment changes the date for reporting disasters from August 1, 1993 in order to cover "all 1993 crop losses." This is an important component because it is impossible at this time to know the full extent of damage to land, crops and livestock which have resulted from these ongoing disasters. Including an arbitrary cut-off date for applications would be unfair to many producers.

The Harkin-Bond amendment makes the pending disaster package more meaningful for our nation's family farmers and rural residents who are suffering from the floods in the Midwest and drought in the Southeast. The huge additional reduction in farm income which will result from this disaster is already having broad effects on the entire economy.

We urge your support for the Harkin-Bond amendment to H.R. 2667.

Sincerely,

American Agriculture Movement.
American Corngrowers Association.
Evangelical Lutheran Church in America, Lutheran Office of Governmental Affairs.
Federation of Southern Cooperatives.
Institute for Agriculture and Trade Policy.
National Corn Growers Association.
National Family Farm Coalition.
National Farmers Organization.
National Farmers Union.
National Grange.
National Rural Electric Cooperatives Association.
Prairiefire Rural Action.
Rural Coalition.
United Methodist Church, General Board of Church & Society.

Mr. WELLSTONE. Madam President, first of all, let me thank—because rarely are they thanked—the Government employees, who have really done a magnificent job of being out in our communities to provide support for people in the Midwest and, for that matter, in some of the other States, as well.

Madam President, let me, on the floor of the Senate, just issue a special thank you to James Lee Witt, who has done really a magnificent job as Director of FEMA, under tremendous pressure. He has been so responsive. He has returned phone calls. He has been out there with local officials. He has been out there in our communities. I think all of us appreciate it.

Madam President, could I get order in the Chamber, please?

The PRESIDING OFFICER. The Senate will be in order.

Mr. WELLSTONE. Thank you, Madam President.

I am going to be very brief, because other Senators want to speak.

First, the numbers. The Minnesota Department of Agriculture already assesses farm damage in my State at about $1 billion. That is preliminary. Over 1 million acres remain unplanted in Minnesota, and much of what has been planted is going to be a partial or near total loss.

The State ACSC office reports that 60 percent of Minnesota's corn crop, 2 million acres, is in poor or very poor condition.

Our agriculture department believes that farm damage could reach as high as $2 billion this year.

Madam President, I make this plea to my colleagues on the floor of the Senate: Whether it be what you have seen on television in Iowa or Missouri, in the larger towns and the cities, the flooding—and it is a nightmare for people—or what has happened in the farmland, where our flooding may be more hidden, but no less real to people, we ask for your support.

I am not going to talk about the statistics. I am just going to say this: When I was in Belle Plaine, MN, on June 28, farmers came to a meeting, farmers from all over. And then when Secretary of Agriculture Espy was out in Minnesota, it was the same thing. Everywhere I went in southern and southwest Minnesota, Madam President—and I will bet the Senator from South Dakota would say the same thing—what farmers had to say, what small businesses had to say, what people in rural America, in the heartland, had to say was this: "Senator, can you go back to the Senate and make sure that you will be able to do well for us? Senator, can you make sure that we will at least have enough assistance to get back on our own two feet? We know we will never be able to make up for the loss, but it would mean so much for us.

"Those of us who still have not recovered from the mid-1980's, those of us who have had several bad years in a row, those of us who are young beginning farmers will never get back on our feet unless you do something about that formula, because it is not anywhere near 50 cents on the dollar; it is more like 20 cents on the dollar of what we lost, and we will not make it."

That is what this debate is all about. I believe our colleagues will support us.

Let me conclude this way, Madam President: If we do not pass this amendment, then those of us from the States that have been so hard hit are being asked to tell farmers and so many other people in our communities that depend upon agriculture that they are only going to receive half of the payments that they were counting on, which still did not even give them 50 cents on the dollar.

Is this how we want to respond to the worst flooding in the United States of America in this century? Is this really how we want to respond to the worst flooding in the United States of America in this century?

I know the answer is "no" to that, and I know our colleagues are going to support us on this amendment.

I yield the floor.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. DASCHLE. Madam President, let me commend the distinguished Senator from Minnesota for his powerful statement, and also the statements by the distinguished Senators from Iowa, Missouri, North Dakota, and Illinois, who have already spoken so eloquently and passionately and, in my view, convincingly about what we are facing tonight.

Others have already done so, but I think it is important that we call attention to the remarkable job done by the administration: by the Federal Emergency Management Administration, by Secretary Espy, by the President, and by the Vice President. They have responded. They responded quickly, and they certainly responded beyond that which was expected in this very difficult crisis.

I also want to thank the other original authors of this legislation, who have spoken so ably about the need for it. This amendment has been weeks in the making. We concluded that, while there are a lot of things that we really need to do to respond to this agricultural disaster more appropriately, this amendment represents the key. This represents our coalition's view of the most important thing we need to do. If there is one thing we have to do, it is to ensure that farmers get reasonable assistance.

The significance of the disaster simply cannot be underscored enough. The magnitude of the problem is beyond comprehension. The pictures we have seen tonight illustrate in part the devastation and the degree of pain—both emotional and economic—that exist already. South Dakota may be nearing $1 billion in damage. We may be nearing $12 billion in damage nationwide. But the numbers cannot possibly reflect the human suffering, the uncertainty, the frustration, the anger, all of the emotions that go into the realization that for a lot of these people their year is over.

Most farmers in this area have experienced a 100-percent loss. That means there is no income, no income whatsoever for this entire calendar year. I do not know what those of us in this Chamber would do were we to wake up some morning and be told that for whatever reason we would have no income for the balance of the year.

That means when the bills come for fuel, for food, for rent, for repairs, these farmers are going to be faced with one of the most difficult choices—how do I pay my bills and keep my good name? How do I ensure my credit will somehow survive this debacle? How can I get through this very difficult period, this cold winter and all of the problems I know I will face given the fact that I have no income for 1993? For many, unfortunately, there is no way to recover. It may be the last in a series of financial and natural disasters that ultimately cause many of these producers to quit, to pack up, to leave. They will be gone.

They survived the problems in the 1980's. They survived the financial ups and downs, the devastating droughts and floods, but this may be the last one. I could give the names of some of those people who have come to that conclusion already. They are going to call it quits. They simply cannot take it anymore.

The devastation I have seen in South Dakota, frankly, is as vast as anything I have ever seen—land inundated with water as far as one can see. The pictures reflect that fairly well, as does the very illustrative chart the distinguished Senator from North Dakota had just a moment ago, showing the headlines. They are similar to headlines we saw in South Dakota and continue to see. What they do not tell you is that this is the best land, the most productive land that we have. Farms have been abandoned, homes have been destroyed, and with them the future of many of these family farms.

It is not only the magnitude of the disaster, it is the unfortunate timing that has led to such extensive determination. Normally most of our grain is planted by May 1. This year only one-third of the grain had been planted by that date. Two-thirds of the grain that normally is in the ground and by this time standing tall throughout the Midwest does not even exist. Unfortunately, because much of the grain was planted late and has not had the time to mature, as the distinguished Senator from Iowa just indicated, much of it may be imperiled by frost. The frost itself may take what the flood did not.

So all those good managers who have done their best in trying to cope with this very difficult period will face another serious problem at the end of the crop year, just as they did at the beginning.

We have a lot of people who have done as good a job as they possibly could in managing their farms. Many of them, in the name of good management, take out crop insurance. But this year many of those who have consistently done all they could to protect themselves, including taking out crop insurance, found it was absolutely worthless this year. Because there is a provision in the crop insurance law that says you must have the grain in the ground to be eligible for benefits. It is a catch-22. You do not get benefits if you do not have grain in the ground. But if you do not have grain in the ground because of the flood, you are not eligible for crop insurance.

The prevented planning feature of crop insurance has been a debacle this year. Many people who year after year after year have attempted to do something to protect themselves were prevented from doing so. For that reason they are completely left out. They have no ability to deal with the disaster as they normally would. If ever there was an argument for major crop insurance reform, this disaster is that argument. We have needed it for a long time. For a long time many of us have called attention to the fact that it has been inadequate. But now we can say unequivocally, we need crop insurance reform.

For the last several weeks, as have so many of my colleagues, I have had an opportunity to talk to our producers. I am sure, as Senators WELLSTONE and CONRAD and others have indicated, that is when you really learn the most. You can attend hearings, and you can read letters, and you can do all the things we do to try to prepare ourselves, but, without question, the best preparation is just to have those constant conversations we have with farmers themselves.

I have learned a great deal. First, the farmers will tell you straight out: They do not need another loan. What they need is real help. What they need is something that will get them through the balance of this year and into the next crop year. They do not need more debt.

Second, they need help now. Not next month, not this fall—they need help now. They have been troubled, as we have gone through this period of delay and of uncertainty and of difficulty in getting to this point. They have indicated time and again that they are very concerned that we get this legislation passed, that we get it onto the President's desk, and that we do as much as possible to provide the assistance as quickly as possible.

Third, the past experience they have had in dealing with disasters has made them almost as frustrated with the bureaucracy as with the disaster we face today. The paperwork, the hassle, the delay—all of these factors and others have caused a deep cynicism about the help they sometimes get from Washington and the formula we discussed early tonight.

Calculating a producer's eligibility is a pretty good illustration of what causes the frustration. Just for the record I think it is important that everyone understand, again, what that formula entails. In order for a farmer to determine his eligibility for his crop loss, there are five specific steps that have to be taken in order to get to the bottom line.

First, the Agricultural Stabilization and Conservation Service has developed a yield that they associate with all the base acres that a farmer has. That yield, by the way, is based on a 5-year-old estimate. They take that yield times the number of base acres, and that is the first calculation. That gives you the expected yield. That is step No. 1.

Step No. 2, you take that expected yield times 65 percent. Here it breaks down into two different categories. It is 65 percent if you have crop insurance. It is only 60 percent if you have no crop insurance. But you multiply it by one of those two percentages, and that gives you the disaster level.

Third step, you take the disaster level and multiply that times 65 percent of the target price and that gives you the payment. That is step 3.

Step 4, you take the payment times 50 percent, the factor that all of us have been talking about tonight, and that gives you the amount of disaster dollars—the disaster benefit that a farmer is entitled to.

You would think that would be the end of it, but there is one more calculation after that, after you figured all that out and you use the eligibility factor and you continue to chip away with each additional calculation, bringing the dollar amount down, down to about now 21 cents on the dollar. You subtract the deficiency payment from that figure, and that gives the remaining balance that a farmer is eligible for.

That is what we are up against. That is why we are seeing the frustration. That is why we are seeing the hassle. That is why we are seeing the delay. That is why we see the cynicism of so many farmers. They have gone through that formula. They appreciate how much of a headache it is simply to figure out what they are entitled to.

I do not object to using the same standard in calculating losses as before. As Senator CONRAD pointed out, there is a very clear difference between what we authorized in benefits in 1988 and 1989 when the administration had a figure that did not include those last two calculations and what we are using today.

So I hope that we learn from our mistakes. The biggest mistake in farm formulas right now is that we have provided them with an expectation that they will get real assistance. That is the mistake that I think we have to debate tonight, with the realization that farmers need the assistance we have promised at a level that is meaningful.

That leads me to the fourth and final concern. The fourth concern is that the rhetoric is often greater than the result. When all is said and done, they often say, "More is said than done."

Again, the formula is our problem. The 21 cents from which deficiency payments are deducted is our problem. Farmers with losses in the hundreds of thousands of dollars will get a meager amount when all is said and done. When I inform farmers of that fact, they honestly do not know whether to laugh or to cry. That is why we have concluded something must be done. Something must be done that is more realistic, more meaningful, more serious, as serious as the disaster itself is serious to these farmers.

This amendment says two things: That farmers must carry the majority of the responsibility themselves. Indeed, even if this legislation passes, they are going to have to absorb over 60 percent of the pain and the financial loss that they have incurred.

The American people want to provide meaningful help, Mr. President. The people throughout South Dakota, throughout the Midwest, people, in fact, from all over the country who I have talked to have made it very clear: Look, we have to help them because in past experiences that we faced, they have been there to help us.

We are going to drop the demand of the previous administration to calculate the benefit and then cut it in half. We want to tell farmers that their benefit will still only be 40 cents on the dollar, but it will be real. It will be an accurate representation of the kind of assistance we can provide.

So, Mr. President, let me conclude by emphasizing that this crisis is real. This disaster is as significant—as grave—as anything I have seen in my years in public life. The human misery is great. Let us respond meaningfully. Let us respond by providing assistance that is real, that is simple, that is immediate, assistance that matches our rhetoric with our actions. This amendment does that, and it deserves our support.

I yield the floor.

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER (Mr. MATHEWS). The Senator from Oregon.

Mr. HATFIELD. Mr. President, I shall not be long.

I would like to just do a little reflective thinking for a moment because I fear that we are reaching a threshold of risk that is going to be too great to achieve in the timeframe we have left in this session before the recess.

A month ago, the administration gave us an estimate of $1.2 billion. This is illustrative of the difficulty that everyone has in trying to estimate the precise figure of need. There is not a person on this floor who can do a better job, in my view, than the President of the United States. I do not think we can commend the President and the administration, on the one hand, and then come forth and, in effect, say the only way we can have a meaningful response to the misery of those people out there suffering is to adopt this amendment. That is contradictory.

The President has put all of his Cabinet people, his agency directors—FEMA, the Corps of Engineers, the National Guard—all of the ones that have a role to play in this disaster on this, $1.2 billion and with the reestimations that took place, when our committee received the bill, it was $4.7 billion. That is quite a jump. I wonder if the public out there watching or listening to this debate tonight, listening to one side as if we are sitting here saying: "Here is a crumb, here is a crumb" to help those people realize that the President of the United States and all of his Cabinet, all of his officers have said $4.7 billion at this moment.

But, Mr. President, tonight we have received another communication from the administration, from Mr. Panetta, addressed to Chairman BYRD, addressed to myself as the ranking member of the committee, addressed to Chairman NATCHER and to the ranking member, Congressman McDADE, so that the administration is saying, in effect, we need another $123 million; please amend the bill that you have on the floor, in a sense they are saying, to what it was when you reported it out, which was our latest figure.

We reported the bill out only the day before yesterday. So, consequently, the administration is not turning its back on those people in the Midwest. They are keeping a current running account of what they are going to have to deal with this appropriately. Bear in mind, to my friends from the Midwest, this is not the last supplemental coming out of the committee. We have other supplementals coming along that will address the increased needs, if those needs are established and presented by the administration. This is not the last train out of Shanghai on the supplemental matter.

Interestingly, when this was discussed in our committee, the Senators from the Midwest, headed by Senators from Iowa and from Missouri, estimated a $1 billion amendment—an additional $1 billion to the $4.7 billion. They withheld that amendment to present it on the floor.

Since that committee meeting, this amendment now has added another $2 billion. The $1 billion amendment that was initially discussed in the committee from the Senators from Iowa and Missouri has now been presented to us in the format of $3 billion. It has grown, in effect, by $2 billion more.

I think it illustrates two things to me: It illustrates that we are dealing with a most complex, difficult issue of how to evaluate a disaster that is not over with; it is continuing. But by the same token, I am deeply concerned that it illustrates, too, that somehow we are going to solve it all on this vehicle without any recognition for further action by this Chamber and the House.

I cannot overemphasize the risk factor. The Senator from Alaska made a case in the same committee meeting about the starving people in areas of Alaska. They have not had a flood, but they have had the same impact. In fact, there are people closer to starvation in certain places of Alaska than probably anyplace in the Midwest because food is being delivered, and that is a disaster to those Eskimos and Native Alaskans up in Alaska.

When your life is threatened, that is a serious disaster. He suggested that maybe we ought to add the Alaska disaster to this bill. The chairman of the committee and I, as ranking member and chairman, indicated to our colleagues: Please do not make a Christmas tree out of this bill. It will fall. It will collapse. And we urged our colleagues to refrain from that.

But just in this short time, this bill has jumped—with this amendment and the administration's request, we have now not $4.7 billion; we now have $7.8 billion. The bill has grown that much, with these procedures that I have described, from the original amendment that was offered in the committee. It was stated then it would be about $1 billion to now what has been added by this amendment with the retroactive characteristic of the discretion of the Secretary to add 1990 and 1991 and 1992. That is estimated to be another $2 billion, if the Secretary should, of course, exercise that discretion.

Mr. HARKIN. Will the Senator yield?

Mr. HATFIELD. Now, since the Secretary is from Mississippi, and Mississippi was one of those targeted States, how many of us would really believe the Secretary would resist having to move with that discretionary authority to make those adjustments for equality?

I would be happy to yield for a question.

Mr. HARKIN. I thank the Senator for yielding for a question.

On this $2.4 billion figure that we now have thrown at us, correct me if I am wrong, but it is my understanding that if money is in a contingency fund, it is not scored unless or until the President actually spends that money. Is that correct?

Mr. HATFIELD. We are declaring the whole thing as an emergency, from a congressional point of view. That particular fund will be utilized when the President joins in declaring that part of the bill as an emergency.

Mr. HARKIN. Let me restate the question. In terms of scoring how much the bill cost—the Senator has said it has gone now from $4.7 to $7.4 billion. I believe those were the figures.

Mr. HATFIELD. If we adopted the amendment.

Mr. HARKIN. However, it is my understanding that that is not so, because it will be a contingency. Money that is in a contingency is not scored against us unless and until the President actually spends that money. The Cochran amendment, which was incorporated in my amendment, is a contingency fund. It will not be spent unless and until the President decides to declare something an emergency under that provision. So, therefore, it will not be scored against us unless and until the President actually spends money.

Mr. HATFIELD. The Senator is correct.

Mr. HARKIN. I appreciate that.

Mr. HATFIELD. What I am saying is simply we have those divisions within the $4.7 billion. We had within the proposed $1.2 billion. And when we add this, it could spend up to that level of $7.8 billion if this amendment were adopted, recognizing the structure of the bill between the commitments made and the scoring and the contingencies dependent upon the President declaring the emergency.

Mr. HARKIN. I appreciate that. It could but not necessarily. It could go that high but not necessarily.

Mr. HATFIELD. Yes.

Mr. HARKIN. I thank the Senator.

Mr. HATFIELD. One last point. I have to just get the dates down. We are not going to have this bill, if passed with this amendment, automatically accepted by the House. I think we have had pretty good signals from the House already, and the chairman of our committee, the Senator from West Virginia, has already indicated communication with the House chairman.

Now, let us assume the procedure that we would normally follow. And we can only make assumptions at this point. And that is that the House would receive this bill back, as amended, if this amendment is adopted, and the House would then ask for conferees.

By the way, we are assuming that this bill will be finished by tomorrow afternoon, which is Wednesday.

Then the House receives the bill, appoints their conferees, and demands a conference. The bill comes back over here. We have to appoint conferees to respond to the House, if we so desire, and we probably would. I am talking about a very highly likely scenario.

All right, then we are into Thursday. On Thursday, I understand the reconciliation resolution is going to be brought to the floor. And I assume that that reconciliation, once it is brought to the floor—as the majority leader has indicated, he wants to dispose of that before the recess. Now, I am not sure that anybody would disagree with me when I say that when that reconciliation hits this floor, there is going to be a very large contingency on both sides of the aisle to debate that committee report.

Now, pray tell me how 29 Members of the Senate Appropriations Committee and the numbers required from the House committee—and remember, this is a full committee conference. And that means we would have to go to the House side and engage in conference. And the Senator from Iowa, having been a Member of the House, recognizes their rules—and the Senator from North Dakota as well, having been a Member of the House.

The rules in the House are different as they relate to appropriations particularly, and we know of Chairman NATCHER's very strong, rigid viewpoint, one might even say. I think it is accurate. But I am just saying he is a man who has great commitment to tradition and to the rules as they are written about legislating on appropriations.

Now, we get into all sorts of issues of that kind, not even to enumerate the potential increased costs of this bill. And it had a difficult time on the House side, arguing that and debating the so-called level of funding.

All I am saying is that in this potential scenario, with the pressure on everybody to get out of here in the heat of August, and all the other things that we all know begin to build within the bodies as we move to that date of recess, I think there is a risk factor——

Mr. HARKIN. Will the Senator yield?

Mr. HATFIELD. Of losing the whole bill until after Labor Day.

Mr. HARKIN. If the Senator will yield on that point——

Mr. HATFIELD. Sure.

Mr. HARKIN. I think I might be able to clarify something.

This issue which is before the Senate right now on the 50.04 percent factor was not really debated nor voted upon, I do not believe, in the House. And the reason it was not was because the administration had been supporting it, or had been opposed to doing away with it.

As I responded to our distinguished chairman earlier, I had spoken with the President last evening. I just, not more than an hour ago, got off the phone with the White House liaison to the Congress, who informed me that at that point the administration's position now is that they neither opposed it nor supported it, and whatever the Senate decided to do would be acceptable to them.

Therefore, if the Senate works its will and we do adopt the amendment, I can only again reasonably believe that the House, then being faced with that, would say, well, there is a different set of circumstances. And I do not think we would face that problem.

Mr. HATFIELD. Mr. President, I would not argue with the Senator. He has that information. I accept that information as accurate, that the White House has taken a hands-off position on this. Nevertheless, I think we are both speculating on what the scenario might be.

Would the Senator not agree, though, that the scenario that I have outlined is a potential scenario as well of bogging down in a conference with the House?

And let me add one further factor. That is, the Senator and I both sat in on an appropriations agricultural conference yesterday, and we heard the chairman of the House Subcommittee on Agriculture engage in a very brief exchange and discussion about revising the so-called insurance programs in agriculture as it related to those who farmed in areas which in 7 out of the last 10 years had had floods or disasters, and that perhaps we ought to look at that and begin to restrict it.

Now, my only point is that this amendment was not discussed on the House side, but there have been discussions within the House confines that relate to this subject as we are talking about revising certain criteria and formulas.

Would the Senator from Iowa agree to this?

Mr. HARKIN. I absolutely agree with the Senator on that issue; of course they have. Let me further say that, first of all, the amendment I have offered is not legislation on appropriations. So we will have no problem there. This simply strikes a provision that is in the bill.

It is not legislation on appropriations. So we do not have that problem.

Second, regarding to the crop insurance that the chairman of the House Agriculture Appropriations Committee was talking about, the crop insurance program has to be revised, but that is legislation, it cannot be done on an appropriations bill. It will have to be done through the legislative process.

Mr. HATFIELD. I say to the Senator that over the years I have gone to conferences, as the Senator from Iowa has, and we have gone in with the Senate version of many bills in which we did not believe they were legislation on appropriations, but the House interpreted it as legislation on appropriations.

We have had a number of incidents that I can tell you in the Interior Subcommittee, in the Energy and Water Subcommittee, especially in the Labor-HHS Subcommittee, in which the chairman, now chairman of the full committee, was the subcommittee chairman, and I believe we spent hours on Labor-HHS on things that he interpreted—and I am not saying he was wrong because I do not know the House rules that well—but they were interpreted as legislation on appropriations.

I am not so sure that is that clear cut because I have seen other things I thought were clearly not legislation on appropriations. We are still in speculation. But all I am saying is I think there is a risk factor here. I just want to point out the risk factor because I think we have to recognize that we want to get this done before the recess.

You begin to build it up, build it up, and build it up, and you create, I think, a risk factor that—I am only taking the floor at this point, not in any way to diminish my support for the legislation for helping those people. Whether it is all done this time or whether we follow it up with a series of further supplementals, I hate to see this bill bogged down.

I just want to raise a signal from one perspective, one person's perspective, that we are reaching, in my view, a threshold where that could more likely happen than if we went with the committee bill as reported by the committee for the $4.7 billion plus the administration's own estimated increase of $143 million which they have outlined in this letter.

I have no hesitancy to join the chairman of the committee, if he so desires, to offer that as an amendment at an appropriate time to begin to comply with the administration's statement of what is needed at this point.

Mr. BYRD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, we have been discussing, both in the abstract and in the specific, the question of the natural disaster, the flood that has affected the Farm Belt so much this year and the specifics of a disaster relief program to respond to that. It seems somehow impersonal to be discussing some of the elements of this because we are talking about how the legislative process works. We are talking about abstract statistics and a piece of legislation that in itself was difficult to read and understand.

But there is loss for some people. I had a call a couple of hours ago in my office from a young man from North Dakota, in the Red River Valley, a young 25-year-old fellow that just started farming. He felt like he had realized his life's dream by being able to get some money together, get a loan from the Farmers Home Administration, and start farming.

Then, he has to not only make all the management decisions to try to do well as a farmer, but plant the right crops, buy the right kind of equipment, use the right kinds of applications of fertilizer and insecticide, and so on. You hope and pray it will grow and it will be a good growing season, that maybe you will get in there at the end of the crop season and harvest something, and maybe when you harvest it the price will be decent, and maybe you will make it.

But maybe not. Maybe along the way something will happen. Maybe after you have gotten it planted a giant flood will come. This year it came. It could have been hail, it could have been a drought. Two years ago it was a drought. But maybe you will not even get in the field to plant before a flood comes and you will not be able to plant any crop this year. That happened to plenty of farmers in North Dakota. Or, maybe you plant and it is completely destroyed by the flood.

This is a map of my State of North Dakota. When I made this map, the red was already declared a disaster area, and the yellow was still pending. They are all disasters now by Presidential declaration with the exception of four counties undergoing preliminary damage assessments.

What is interesting to me is, even though my State has suffered that kind of damage from these floods, on July 20 the House of Representatives Committee on Appropriations marked up their report for their legislation to deal with this disaster. This is the report that accompanied it to the floor of the House. This report says:

> It is a bill to respond to widespread flooding in the Upper Mississippi River basin which has been unprecedented in terms of geographical scope, record-setting heights and duration. Major flooding has occurred in eight States.

It names the eight States. Of course, it did not name North Dakota because this was a flood that was still occurring.

North Dakota is now a bona fide flood area with over $½ billion in damages. It will probably reach $1 billion in damage. Yet a July 20 report on the floor of the other body does not even mention it.

Then I hear people tonight say, well, gee, the President did not include this in his request, so that means it is not needed. Well, it is not that it is not needed. This is a disaster that is ongoing. We still have rivers that have not crested in my State. True, we have not suffered the devastation that our friends in Missouri or Iowa perhaps have, but this is a disaster for our State, and for the young man that called me a couple of hours ago, it is clearly a disaster in his life. If he has a farm without an income, if he does not get a helping hand from someone, he is going to lose it. It is just that simple.

The question is not whether we help. The question tonight is what kind of help. That is what we are debating—what kind of help.

Let me describe what these farmers face. First of all, we say to a farmer who has crop insurance, you have to suffer a 35-percent loss before you are eligible for anything. Once you have suffered the minimum 35-percent loss, then you are eligible for 65 percent of the target price on losses greater than 35 percent. Except once you compute 65 percent on the losses over 35 percent, then we will only give you half of the target price.

That is the way this goofball formula works. It does not make sense. It is arbitrary, defies all logic, and yet here it exists in this bill. Why does it exist? Because a couple of years ago USDA was forced to make a computation because it did not have enough supplemental appropriations. So they cut everybody. Do you know what they came to? A factor of 50.04, totally arbitrarily. Yet it now exists as a standard in law, which is precisely what is wrong with this kind of legislation. It is not a standard. It is not defensible. It does not relate to anything that is thoughtful. It is there because that is the way it was done before.

But then go back before the 1990 bill to the previous disaster declarations when we had a serious drought. There was not 50.04 percent factor. You absorbed your 35 percent loss, and you got a percent of the target above that. Generous? No. Not very generous, but helpful, you bet.

Then we see this 50.04 factor. So instead of covering 40 cents on the dollar, we tell this young fellow and all the other folks, young and old, who invest their life's sweat, blood, and investment in their farm, we say, sorry, there is this little arbitrary formula. We know it was not what we wanted, but it got there somehow. So you only get 20 cents on the dollar. If that is not enough, tough luck.

The amendment offered today is to withdraw that 50.04 percent. I have heard some discussion on the floor, gee, the President did not request this, and we must defend the President's position. We must protect the President's bill. Well, the President does not need protecting from us. As the Senator from Iowa said—I have not talked to the President about this in the last day, but the Senator from Iowa has. The Senator from Iowa has talked to the President, and he has also talked to the Chief White House Liaison who said the President is not taking a position on this, and the Senate should work its will.

I very much hope that the will of the Senate will be to take a look at this carnage, this devastation caused by this flood, up and down that river, and extend a helping hand—but not by extending a helping hand that says we are just going to give you half of it, but instead a helping hand that gives those folks an opportunity to see about a 40 cent on the dollar recovery.

We are not asking that anybody be made whole. We cannot afford that. No one is saying let us put together a formula that recovers or at least provides restitution for all losses. This Government cannot afford it. This Congress will not do it, and we are not asking for it. What we are saying is that when we decide to pass this legislation through the Senate, let us do it by removing that 50 percent and say: If you have a 35-percent loss, we are going to extend the same kind of disaster relief that was extended to you during the drought; the kind of relief that helped so many family farmers across the farm belt a number of years ago.

I have heard the discussion that there is risk to do it this way and risk to do it that way. Let us take the risk of doing it right. I know, "there will be another supplemental." I heard that for 12 years as well. Let us do it right this time and make sure we extend a helping hand this time that makes a situation in the farm belt where we have family farmers that can make a go of it when the flood is done and over.

I yield the floor.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, I rise today to speak on the emergency supplemental appropriations for fiscal year 1993. The primary purpose of this bill is to assist victims of the devastating floods in the Midwestern United States. The bill also provides assistance to other parts of the country hit by natural disasters. Mr. President, while the Midwest has received extensive rainfall, which has aggravated the flooding situation, the Southeast has suffered from a shortage of rainfall. In my own State of South Carolina it is estimated that 200 million dollars' worth of crops have been destroyed. In some areas of my State, farmers have lost upward of 90 percent of their crop.

I am pleased that the administration, particularly Secretary of Agriculture Espy, has decided to tour the drought-stricken areas of my State. To help alleviate this disaster, the administration has stated a portion of the emergency relief fund will be made available to farmers in the Southeast.

This bill provides assistance to the hard-hit agricultural sector. Specifically, additional funds are made available to the Commodity Credit Corporation fund to cover 1993 crop losses resulting from natural disasters.

Mr. President, I recognize that the devastation in the Midwest due to flooding is enormous. Nevertheless, let us be mindful that other areas of the country are suffering from natural disasters. While it is appropriate that relief be forthcoming to the Midwest, it is equally appropriate that relief be provided to the drought-stricken Southeast.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. DOLE. The Senator from Wisconsin was ahead of me, so I yield to him.

Mr. FEINGOLD. Mr. President, I cannot emphasize enough how crucial this amendment is to the people of Wisconsin. We have been ravaged by this disaster during the last 2 months. And for many in my State, the disaster began last fall with excessive precipitation that continued into the spring and summer.

In the last month in Wisconsin, we have experienced rainfalls so heavy that some have been equivalent in magnitude to a storm that is so severe it can be expected only once every 1,000 years. The hardest hit communities in my State are those that lie between a diagonal strip from the southwest corner stretching up to the thumb of Wisconsin. We have received more than double the normal amount of precipitation for this time of year. Forty-four of Wisconsin's seventy-two counties have been affected.

The damage to homes, business, and public facilities serving private residences and businesses is enormous and growing daily. However, our most recent assessments have identified over 4,700 homes damaged or destroyed at a cost exceeding $34 million. Over 2,500 individuals have been displaced as a result. There has been over $31 million in direct damage to business facilities.

I am pleased that the President, FEMA, SBA, and State and local government personnel have worked together effectively to deliver emergency assistance to Wisconsin. Wisconsin was the second State in the region to receive the Presidential declaration. This was accomplished in only 2 weeks following the onslaught of the torrential rains that caused the flooding. This administration has responded rapidly, appropriately and humanely. President Clinton and his excellent staff must be commended. This was not business as usual. While I am pleased with the President's speedy response to this disaster, I must respectfully say that the package is simply inadequate for agriculture. We must pass the Harkin/Bond amendment in order to provide an adequate level of relief to farmers.

While Wisconsin has experienced losses in all sectors of the economy, our rural communities and farmers are hardest hit. Our crop losses are already in excess of $800 million and are expected to be closer to $1 billion dollars when all the data is in. Much of our corn crop either didn't get planted or was planted too late. We have lost 1.5 million acres of crops due to flooding and excessive rain. Damage to livestock and farm facilities has not even been assessed yet.

We have lost nearly 800,000 acres of alfalfa hay, due to winterkill, spring root rot, and excessive rains and flooding. Much of the alfalfa hay that did survive the weather problems of this winter and spring, rotted in the fields in June and July when farmers could not cut their hay or harvest what had been cut. Feed shortages are so bad that set-aside acres have been released in every county in Wisconsin. Conservation reserve acres have been released in roughly 20 Wisconsin counties, and over 20 counties have been declared eligible for the emergency feed program.

This situation is tragic given our dairy based economy. Essentially, the dairy herds in Wisconsin have no forage. The small amount that is available is of low quality and is too expensive. Milk production is dropping due to feed quality problems and simply due to lack of feed. Farmers are beginning to liquidate their herds and the feed situation will be tragic when this winter arrives and there still is no feed.

Due to the late planting, our corn is just now beginning to tassel which means it will not be mature for several months. If it freezes before that crop is mature we will lose a substantial amount of our winter feed. We will lose many dairy farmers in the process.

Farmers are experiencing cash flow problems and the creditors are at the door. There is a shortage of feed, there is a shortage of income. In short, Mr. President, there is a shortage of hope and a surplus of despair among dairy farmers and other producers in the Midwest and in my State of Wisconsin.

The amendment offered by my distinguished colleague from Iowa, who feels and understands the pain and suffering of this flood better than anyone, is badly needed and truly deserved by the farmers in the disaster areas. I strongly support the Harkin/Bond amendment. We are talking about compensating farmers at a level of somewhere between 15 and 20 cents on each dollar of loss. That level of payment will not be adequate to revitalize our rural communities, and it will not save the farmers who are struggling through this disaster. All we are asking is that you double that amount. While, that still only amounts to 40 cents on the dollar, it is a world of difference to a farmer. It is the difference between survival and bankruptcy. I urge my colleagues to support this amendment.

I thank the Republican leader for allowing me this time here, and I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

UNANIMOUS-CONSENT AGREEMENT

Mr. BYRD. Mr. President, this is a request that has been agreed to on both sides.

I ask unanimous consent that the following be the only amendments remaining in order to H.R. 2667, that they may be offered as first-degree floor amendments or as amendments to the two remaining committee amendments; that if they are offered as first-degree amendments, they be subject to second-degree amendments that are relevant to the first-degree amendment and under the same time limitation, if applicable:

Kohl, emergency forage; Dorgan, small business; Murray, federally impacted Northwest forest; Bumpers, SBA and raise 50.04-percent payment requirement to 100 percent; Metzenbaum, relevant; Simon, 25-percent waiver on FEMA cost share requirement, sense-of-Senate; DeConcini, Bennett freeze area; Craig amendment, payment; Danforth amendment, flood prevention in St. Genevieve, MO; Danforth amendment, funding for FEMA; Durenberger amendment, crop insurance; Durenberger amendment, spending cuts; Durenberger amendment, account for future disasters; Durenberger, relevant; Helms amendment, relevant; Helms amendment, relevant; Brown amendment, payment; Specter amendment, sense of Senate, Bosnia; Dole, relevant; Dole, spending cuts; Pressler, advanced deficiency payment; Pressler, involuntary conversion; Pressler, crop insurance; Pressler, disaster task force; Pressler, tourism; Grassley, S.O.S. second supplemental; Grassley, SOS State matching funds; Bond, rail assistance; Bond, SCS levees; Bond, SCS operational; Bond, corps levees; Bond, relevant; Mack, disaster payments; Gramm, relevant; Hatfield, relevant; and Byrd, relevant.

The PRESIDING OFFICER. Do I hear objection?

The Senator from Iowa.

Mr. HARKIN. Mr. President, reserving the right to object, I had an amendment on SBA. I did not hear my name called.

Mr. BYRD. Harkin.

Mr. HARKIN. An amendment on SBA.

Mr. BYRD. Harkin on SBA.

The PRESIDING OFFICER. Do I hear objection?

Mr. HARKIN. Mr. President, I am sorry. One SBA amendment and two relevant amendments.

Mr. BYRD. Very well.

The PRESIDING OFFICER. Do I hear objection?

Without objection, it is so ordered.

The Republican leader is recognized.

Mr. DOLE. Mr. President, I thank the Chair.

Mr. President, I commend the President for his timely response to the victims of the 1993 floods. He has put together a comprehensive and far-reaching package that should address the concerns of those in need.

I hope that this body responds to the needs of victims in a bipartisan manner, and I am certain that will be the case. I think it is going to be a question not of politics, but how can we make it work.

In 1991, the Office of Management and Budget decided to prorate the disaster dollars available to farmers at 50.04 percent. This was the first time Congress capped an entitlement program. President Bush later attempted to make these farmers whole by providing additional moneys. Unfortunately, these dollars were used for quality losses and not quantity losses.

The President's 50.04 percent has become a nemesis to the American farmer in that the President's proposal again contains this language. During his travels throughout the flood region, the President made it clear that the American farmers would receive about 50 cents on the dollar in compensation. However, under this proration, the farmer will only receive 21 cents on the dollar. Today, the Senate is in a position to rectify this error. A change in this policy will provide approximately 42 cents on the dollar to the American farmer.

I understand there is a cost of approximately $900 million associated with this change, and I also understand there is going to be an amendment offered to make it retroactive, which I think certainly should be done. It is going to be permissive. It will be up to the Secretary of Agriculture.

I want to make it clear there will be some offset revenues because, as market prices go up because of the disaster, and all the crops have been destroyed, it will be a decrease in the form of deficiency payments to the farmer. USDA has indicated this savings could equal $800 million or more, which nearly pays for this increase.

I make the point this is an emergency bill, emergency legislation. Offsets are not required. We believe in this case there will be enough savings on deficiencies payments because of higher prices, because of damaged crops, fewer bushels of corn, wheat, whatever, produced.

This disaster bill is designed to take care of 1993 losses. However, unlike the droughts of past years that come and go, the Soil Conservation Service told many of us—I heard the Senator from Missouri, Mr. BOND, make this statement—that due to the flooding, some farmers may not raise a crop next year or even the year after that because of topsoil losses.

The people of the Midwest are faced with a catastrophe, and this is no time to break promises. They need help, and they need it now.

I certainly encourage my colleagues to join me in supporting the Harkin-Bond, and others, amendment. I think it is bipartisan. No politics are involved. You do not make politics out of people's misery.

I think the President, as I understand—I have not talked to the President about this, and maybe the Senator from Iowa could state the administration's position—but I do not think they are objecting to what is proposed. They may not be in a position to support it, but as I understand, there is no outright objection.

So I want to encourage my colleagues, particularly on this side of the aisle, to keep in mind that we have had other cases here of earthquakes and hurricanes—Hurricane Hugo, Hurricane Andrew, whatever, and we have always been able to come together in a nonpartisan way to make certain that we were providing just compensation. In this case, I do not think 42 cents on the dollar is asking too much. I think somebody said about 40 cents, 40 or 42 cents, in my view would permit some farmers to go back and start one more time.

I watched TV a lot, and I happened to be watching CNN last week. I think the Senator from Iowa has been there. Maybe both Iowa Senators were. I watched pictures of Hamburg, IA, and I saw this young couple in a restaurant. It was their first year on the farm. They are wiped out. I mean, everything they had is gone. I assume the farmer is maybe 25 or 28 years of age.

This has been repeated hundreds and thousands of times in places up and down the Mississippi and Missouri Rivers, up and down rivers in our State and 10 Midwestern States. I can tell you that it is very stressful for the American farmer.

We have the best food bargains in the world in America. We spend less of our disposable income on food because of the American farmers' efficiency and productivity.

So I certainly hope we can come together on this amendment and encourage our colleagues to accept the amendment, and if not, not to oppose it too strongly because I think, as has been stated by the Senator from Wisconsin, or maybe other Senators, there may be another supplemental, but once the water goes down and the TV cameras go off, there is a tendency to forget about the disaster.

I do not find many people talking about Hurricane Andrew. The first anniversary of that hurricane is going to be about in weeks. I think it is August

23, as I recall, somewhere in that area. But since the press has stopped focusing on Hurricane Andrew, we have not had many reports. But I can tell you, there is still a lot of misery in that area. There is still a lot of work going on, and still much to be done.

It seems to me that those of us who represent farm States, in this case, the 10 Midwestern farm States, and also those who represent some of the States that have now been stricken by drought there in South Carolina, North Carolina, and Georgia, we have a special responsibility to try to deal with this problem now, and not wait until it sort of is diminished in importance, or something else happens to push it in the background.

I commend my colleagues on both sides of the aisle for bipartisan support of the amendment, and I hope we have a little time in the morning to discuss the amendment before we have a final vote.

I am happy to yield to the Senator from Iowa.

Mr. HARKIN. Mr. President, I thank the distinguished Republican leader for yielding. I thank him for leadership on this issue. Last week, we pulled together a strong bipartisan group. The Republican leader is right. It is bipartisan from the beginning. The Senator from Kansas is correct when he says that human misery and suffering should not be any kind of partisan issue at all.

Partisanship is not in this amendment. It has strong support on both sides of the aisle. I just did not want to let this moment pass without publicly, and for the RECORD, thanking the distinguished Republican leader for his help, his support, and his guidance as we worked this amendment out, to get it to this point on the floor. I thank him.

Mr. DOLE. I thank my colleague, and thank him for the leadership.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DURENBERGER. Mr. President, we have heard tonight the heart of America. It is up to the people of Minnesota and all the other Midwestern States that have been ravaged by this historic flooding. Speaking as a Senator from Minnesota, this is the worst disaster we have faced since the famous grasshopper plague back in the 19th century. The projected cost, and just a conservative projection now, is over $1 billion for the State of Minnesota alone.

I have been fighting—for a number of months already—to ensure that Federal aid gets to those communities that have been devastated by this tragedy. I am one who has fought to make both Congress and the administration aware that disaster was developing, to get urgent aid to the victims. I find it interesting that the efforts many of us put in to make our disaster aid fiscally responsible are now, in one way or the other, being misrepresented.

I will not repeat all of the agonies that my constituents have lived through, as others have shared with you. I watched with interest my colleague TIM PENNY, from the First Congressional District, whose district is under water, DAVE MINGE from the Second District, and so forth, being maligned by the leadership of the House because they suggested that the House of Representatives, which had a much lower number than we are considering today, might consider having the people of this country pay for the aid which was being sent to us in the upper Midwest.

And that caused me to think a little bit about my votes in the last couple of years on other disaster aid to other parts of the country. I was in the minority last year and the year before voting against some of the major appropriations for disaster aid to other parts of the country, because we did not take the time to decide how we were going to pay to send the money to Chicago, and who was going to pay the money to Florida and Los Angeles, and so forth.

I have always figured there might be a time when it was going to happen to me. It would be my constituents who would be in need and I would be the one who would stand up here and say, "I will do everything I can to meet your needs in the way that only a National Government can. But I will also suggest to my colleagues that we consider paying for it."

So, I thought about it, I thought about my experiences with droughts and floods and all of the other things that we all experience. And it came home to me in the last couple of days, Mr. President, that the floods that we are experiencing are terrible and they are a disaster, but I think that is a much better word to characterize them than an emergency. They are a disaster, but not an emergency. And to me there is a big difference.

I noticed in conversations with my colleagues this is very difficult to explain. If you have been out, as many of our colleagues have been, walking the railroad tracks and highways and farm fields and so forth, you know that the emergencies are being taken care of. The real emergencies are being taken care of in professional fashion by the Red Cross, by FEMA staff, by the Department of Agriculture, by State emergency assistance people. They are being taken care of by church groups that come from all over the country when there is a disaster like this to provide for the emergency needs—to feed people, to clothe people, to help the victims of flood.

These needs are being tackled by selfless, ordinary Minnesotans, for example, donating their time, their money, lifting sandbags, helping to clean up and repair the damage, whatever it may be.

For example, on June 13 of this year, a Minneapolis-St. Paul TV station called KARE 11—K-A-R-E are its call letters—formed the KARE 11 Water Brigade. Their objective was to bring bottled water to their neighbors in Iowa. Over 75,000 gallons were donated in the very first day—75,000 gallons in the first day—and hundreds of volunteers all congregated to transport the 75,000 gallons to Des Moines.

Actually, it turned out to be 250,000 gallons. That is one gallon for each resident of Des Moines—a tide of fresh water, but not a flood of red ink.

So a lot of the red ink we are seeing in our congressional debate is just that. Those of us who would like this process to be fiscally responsible are not delaying emergency aid to people. The emergency aid that is needed for short-term needs such as rebuilding the infrastructure of farms is already in the pipeline and it is being delivered to the people who need it. Farmers are applying for loans right now from the FHA; small businesses from the SBA; families getting help from a variety of sources, and local governments, are, too, through FEMA.

The Federal Emergency Management Agency has roughly $692 million in its disaster relief fund to meet these kinds of emergency needs. Of that sum, $200 million is already obligated and immediately available.

The fund will enable us to continue our present relief services and it will not be depleted in the near future.

My constituents in Minnesota and the people in eight other States under the disaster declaration will not be refused assistance because of the fiscal responsibility amendments that I intend to offer tomorrow.

It is true that much of the money, particularly from SBA, USDA, the Transportation Department and HUD will not be available for some time. And this is not because of congressional unwillingness or bureaucratic mismanagement, but because the disaster—the disaster—will not permit it.

Much of the infrastructure that we know has been damaged is still under water. How can a road be repaired if you cannot see it?

Our colleague from Missouri described earlier a railroad that he knows is 49 feet under water. How are you going to determine what it costs to put that railroad back in? We will not know absolutely how bad the crop loss will be until harvest time. And the losses in the business community will not be felt for a very long time. Assessing them is going to take us months, if not years.

For these reasons, agriculture, livestock, farm implement organizations have all made it a point to tell me that, from their point of view, it is better for Congress to move cautiously and wisely. They believe that any attempt to address their specific needs in a hasty manner simply will not meet their needs. It will only have to be redone correctly at a later time. That, clearly, does not serve the best interests of disaster victims or the country at large.

I had a large group of concerned Minnesotan farmers and agribusiness representatives in my office just 2 days ago. They have implored me not to let Congress rush through a so-called emergency aid package that will give them 20 to 30 cents on the dollar of lost income. We improved on what the House did. They had 20 cents on the dollar. We upped it to 32 cents on the dollar. Hopefully, with the amendment of our colleagues, TOM HARKIN and KIT BOND, we will get that up higher than that. I hope we go up to 65 cents on the dollar.

Again, my point is that short-term aid that people need is already available. Long-term aid that they need to rebuild levees—to reimburse for crop losses—and to rebuild hundreds of towns all over the Midwest—that long-term aid we ought to pay for.

A natural disaster is very visible. It hurts a lot. People see it all over the country. This one they have been watching unfurl for the last 7 or 8 weeks. How are you going to pay for the sort of things that you cannot see.

I remind my colleagues that Minnesota was the very first State to experience this. We have been flooding since the beginning of May. Initially, I was told that aid might not be forthcoming from the Federal Government because the magnitude of the flooding was too small.

I began to work immediately with the President, with FEMA, and with the Department of Agriculture to secure assistance for what was originally nine counties in southwest Minnesota. As of today, the total for my State is 36 counties, and there are some more counties that might still be added to the list.

Approximately 38 percent of Minnesota's population, 33 percent of our total land, and 2.8 million acres of farmland have been affected by this flooding. The livelihood of thousands of Minnesotans has been wrecked. Clearly, this is no longer a disaster of small magnitude.

Before the flood waters had even touched other States, I was with Minnesota's farmers, business people, and families—assessing the damage and the loss firsthand. I have shared the pain of the Minnesotans who have lost their homes and other property—and I am overwhelmed at what they have not lost: their courage—their spirit—and their faith in the future.

And Minnesota does believe in the future.

My constituents desperately need a helping hand from the Federal Government. But I know that if any one of them were asked if they would accept the assistance—knowing that the financial burden would be borne by their children and grandchildren—they would be sincerely reluctant to do so. They would insist that it be paid for.

Are we going to just add the necessary $8 to $12 billion—the estimated cost of this disaster—to the deficit each and every time disaster strikes? And are we going to continue to politicize every single disaster that comes along—throwing money at it even before the water recedes, and before we have a clear idea of what the people really need?

It is OK for the Federal Government to borrow for the rebuilding that's going to benefit future generations. It's not OK to borrow just so that we can put out a press release showing how well we can respond to the political pressures of today with our children's money.

Since Congress began keeping track of emergency spending, as required by the Budget Enforcement Act [BEA] of 1990, we have added billions to the Federal debt. None of these appropriations was ever accounted for. Prior to the BEA, special emergency bills were enacted between 1980 and 1990 for large domestic disasters such as the Loma Prieta earthquake, Hurricane Hugo, and the Mount St. Helen's volcanic eruption.

In fiscal year 1992 alone, emergency appropriations were passed to cover the enormous relief costs of four natural and human disasters: Hurricane Andrew, Hurricane Iniki, Chicago floods, and the riots in Los Angeles.

Additionally, Congress acted to assist those effected by Hurricane Bob, fires on the west coast, storms in the Northeast, and agricultural disasters throughout the country, including my State of Minnesota. To cover these disasters, this Congress appropriated over $8 billion in emergency funds.

Since the enactment of the BEA, we also appropriated sums of $364 million in fiscal year 1991 and $634 million in fiscal year 1993. That's a total of $8.9 billion over 3 fiscal years for domestic emergencies alone. The figures doesn't even pale in comparison to the emergency spending for international and defense accounts.

How—in all conscience—can we go on imposing this severe penalty on our children and grandchildren? We talk about $500 billion in deficit reduction as if it's an economic cure-all, but we passed a similar amount of deficit reduction in 1990 that was eaten up by supposed emergencies.

It's absurd to ask America to make 500 billion dollars' worth of sacrifice if in the very same week we take action that practically ensures that the deficit reduction will never happen. My constituents have told me that they are sick and tired of a government that chooses long-term pain over short-term courage. We are ready to take responsibility. We are ready to make sacrifices.

It is my hope that Congress will prove itself ready—if not to lead—at the very least to be led by the responsible and proper sentiments of the American people.

I have two specific proposals that I intend to offer during consideration of this emergency supplemental appropriations bill. My first amendment would pay for the current Federal disaster relief. The loud opposition that has been expressed by some to this proposal is unusual, in light of the fact that 45 members of the Senate supported a similar proposal in 1992.

My second amendment would provide an automatic offset for future disasters. There will soon come a time when the interest on the debt alone will consume so much of the budget that we will not be able to pay for disasters. It will be too late. We only need go through this short debate once, but we have to do it now.

Charging proponents of fiscal responsibility with delaying emergency aid is completely false. We saw it in the other Chamber—where offset supporters were blamed for delaying the bill even though the entire delay was due to the House leadership.

In this context, Mr. President, I think that taking a few moments to promote wise policy in the name of fiscal integrity can only increase the effectiveness of our Federal response to a national disaster.

The Chairman, in his opening remarks, said, "Scars on the land will disappear with time. The scars on the people will not."

Future generations will already bear the scars of $4.16 trillion in accumulated debt—75 percent in the last 12 years.

Let us make sure that the compassion, understanding, and charity required to make America's heartland whole again does not become a burden on the backs of future generations. I will not accept that, and neither will the people of Minnesota.

So, Mr. President, on tomorrow, I intend at the appropriate time to offer several amendments which will achieve this objective.

I yield the floor.

Mr. GRASSLEY. Mr. President, someone once said that the natural flights of the human mind are not from pleasure to pleasure but from hope to hope.

Never is such a statement more applicable than to those mired in a disaster—where hope might be a place to sleep one day, and a helping hand another.

Mr. President, the Midwest is truly such a disaster.

I dare say that anyone who survived the great flood of 1993 and who doubted that it could rain for 40 days and 40 nights—as it did in the case of Noah and his ark—has been transformed from a skeptic.

For some, the ordeal is over. For others, it is impending. For all, hope is elusive. The end of the tunnel is so far away that, for many, hope can fade into desperation. We cannot let that happen.

A lifetime of commitment and hard work are now memories. Homes and farms and businesses have literally been washed away. Whole towns have been wiped out. In many cases, their futures were washed away as well. Everything broken, except their spirit.

For these people, Mr. President—the people of Iowa, or Missouri, Illinois, Kansas, Minnesota, and all the States affected by the flood—for them, the U.S. Senate represents hope. To keep that spirit from breaking, they need hope.

Tonight we will vote to provide more than aid, more than money, more than material relief. You can't put a price on hope. And that's what this bill represents.

We have often seen television distort or overdramatize events. I spent 1 out of every 2 days last month traveling my State. I saw the anguish, the hurt, the grief—the disappointment. I not only saw it—I felt it. I imagine a reporter covering a war, trying to convey to readers thousands of miles away the horrors of battle. It would seem hard to do. Mere words do an injustice to what you see and experience. You discover the raw emotions that lie behind adjectives you often used to use cavalierly. You have to be there to understand.

This is the first time in my experience that television underdramatized reality. That is not a commentary on television—it is testimony to the sheer devastation of this great flood.

It is my hope, Mr. President, that those of us in this representative body—whose constituents are victims of the flood—can do sufficient justice in conveying their suffering and their needs.

Mr. President, I'd like to turn for a bit to the more parochial area of my home State of Iowa. And yet I trust that this would be the case with the people of all the affected States.

Iowans have a tradition of pulling together to overcome adversity. This disaster has brought out their best. There has been a strong spirit of cooperation. A calm demeanor. Neighbors helping other neighbors before taking care of their own problems. It is a moving experience to see this so pervasively.

We must also salute thousands of volunteers. They are the true heroes. They provided shelter, filled many a sandbag, cooked a warm meal, made a pot of coffee, lifted spirits. Theirs is the greatest gift—self-sacrifice.

I wish also to applaud the many public officials throughout my State who have worked around the clock to protect their communities and to restore basic services. The men and women of the American Red Cross, the Salvation Army, the Iowa National Guard, church and civic leaders. All of them should be commended for their outstanding and tireless work.

Mr. President, I intend to talk further about the situation in Iowa as we move ahead with this bill. I urge my colleagues to give hope to those who desperately need it.

Ms. MIKULSKI. Mr. President, I rise in strong support of this important legislation which will help the thousands of victims of the devastating floods in the Midwest.

The bill provides a total of $4.7 million, including funds for temporary housing, crop insurance, flood control activities by the Corps of Engineers, community development grants, and many other important programs.

These funds will be available to help those who have lost their homes, property, and communities begin to rebuild their lives.

Mr. President, I traveled to the Midwest with the President a few weeks ago. What I saw was devastating. Hundreds of homes submerged under water, millions of acres of cropland destroyed, community water systems contaminated. The damage is so widespread that President Clinton has declared nine States major disasters.

We have been so pleased to see FEMA respond so quickly to this disaster. FEMA has been in every State, working hand-in-hand with the National Guard troops and the Governors. We commend the new FEMA Director, James Lee Witt, for his good work.

It has been heartwarming to see the American people's goodwill shine during this calamity. Neighbors have helped neighbors, thousands of volunteers from across the country have filled sandbags, volunteer organizations like the American Red Cross have provided over a million meals to disaster victims.

Now it is time for the Congress to respond to the devastating by ensuring that needed funds are available for recovery.

Let me say, Mr. President, once the flood waters recede, we know the estimates on the damage will be revised. As chair of the Appropriations Subcommittee which funds FEMA, I'm committed to doing everything I can to ensure that the fiscal year 1994 appropriation for FEMA disaster relief includes adequate funds for flood victims.

Mr. President, while the rains continue in the Midwest, the Southeast has been stricken by drought. The drought has resulted in enormous crop loss up and down the East Coast. So I'm very pleased to note that the bill will also aid farmers in Southeastern States. In my own State, farmers on the Eastern Shore have lost many acres of corn and soybean.

In closing, I thank the distinguished chairman of the Appropriations Committee for quickly moving the President's request for this vital legislation. I urge its speedy adoption.

Mr. MITCHELL addressed the chair.

The PRESIDING OFFICER. The majority leader is recognized.

PROGRAM

Mr. MITCHELL. Mr. President, an agreement has just been obtained identifying the remaining amendments on this bill and the list is very long. There will be no further rollcall votes this evening, but I now put all Senators on notice that the Senate will remain in session tomorrow until we finish this bill. This is a serious problem for people in the Midwest and if this bill drags out for several days in the Senate and then must go to conference with the House, it will not be back in time for final action prior to the conclusion of this session. I just want to say that I am determined not to let that happen. We have to complete action on this bill this week—finally. And that means we have to complete action on this bill in the Senate tomorrow.

So, Senators are hereby put on notice that we are going to resume on this bill at 10 o'clock tomorrow morning and we are going to stay in session for as long as it takes to finish the bill.

Mr. SARBANES. Will the majority leader yield for a question?

Mr. MITCHELL. Certainly.

Mr. SARBANES. Is there any chance that the number of amendments that are going to be offered can be reduced on this bill? I have the impression many of these amendments are coming from the very Members whose areas have been impacted by the flood and who, therefore, should I think be most anxious to get the bill completed and on its way so this assistance can be provided. It would seem to me perhaps someone should say to them: You really want the bill, the committee has done a lot of work here, it is a very significant bill in amount, is there not some way to compress down the number of these amendments? I think most Members are prepared to try to do something to help the area but it seems to me it is working at cross purposes for those who want the basic legislation, and want to get the aid working, to be loading up the bill with a lot of amendments.

Mr. MITCHELL. Mr. President, the Senator is correct. We are going to make a determined effort tomorrow morning to reduce the number of amendments so we can finish the bill during tomorrow's session.

In any event, whatever the number of amendments offered and however long it takes, we are going to stay in session tomorrow until we finish this bill.

There will be no change in that. The only way that can be done, of course, is if many of these amendments are not offered and I hope that is the case.

Mr. HARKIN. If the leader will yield, as the proponent of this amendment—and I have not checked with Senator BOND—but I am sure he would have no objection to time limits. If you want to put a time limit on it first thing in the morning or now, we would have no objection.

Mr. MITCHELL. I think that would be very useful. I do not know if it will be possible to get an agreement of that kind but I think it would be very useful if we could now get an agreement that we could enter into that there will be a limited time for debate on this amendment when we return tomorrow morning and then vote at a time certain. That would be extremely helpful.

I am going to ask the staffs, both the Democratic and Republican, to immediately check to see if that is possible. I think it would be very helpful. Then we can proceed with the rest of the bill.

Mr. DOMENICI. Will the majority leader yield?

Mr. MITCHELL. Yes.

Mr. DOMENICI. Mr. President, on another issue, would the Senator mind just talking to me for 1 minute on a couple of questions, if he can? Let me ask about the reconciliation bill and the timeliness of it.

Mr. MITCHELL. Sure.

Mr. DOMENICI. I would like the majority leader to know on our side there are a lot of Senators who are asking how much time do we have to look at this document? It is obviously a very big, big document. I do not know how many hundreds of pages. It has, obviously, gone through a lot of transformation in conference.

I think it behooves everyone to get that out to us as soon as possible. We know nothing about it. We were not in the conference, as the majority leader knows. I was not invited to any meeting—which is the prerogative of the majority. But I think the sooner we can get that so we can begin to study it, the sooner we can get that final vote on it, whether you win or lose.

There are some who are saying we need a lot of time to read it. We have a purpose here that we have it read. We are saying let us get it from you and look at it and have it analyzed carefully.

Could the majority leader talk a little bit about when we might get that reconciliation bill so we could analyze it ourselves?

Mr. MITCHELL. Mr. President, I will check with our staff to determine the current status. I believe the conference report is to be filed within the next several hours. I do not know exactly when. It is now being put into final shape. I will get back to the Senator as soon as I can. Obviously, we want to do it as soon and appropriately as possible.

Mr. DOMENICI. I think we will have people around here waiting this evening. So if the Senator could get word to us when that might be—it takes many hours to go through it, as he knows, and we owe it to ourselves and to the people to look at it page by page. We will try to do that as expeditiously as we can. So would the majority leader have somebody contact us or Budget Committee staff as soon as he knows.

Mr. MITCHELL. I will attempt to do that. I do not know what members of the staff are still here, but I will attempt to do that right away.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I rise to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Iowa is recognized.

THE CONFIRMATION PROCESS

Mr. GRASSLEY. Mr. President, I rise to speak about the Senate Judiciary Committee's responsibilities in the confirmation process. Recently, the Judiciary Committee recommended to the full Senate the confirmation of Lee Brown to be coordinator for national drug policy. At the time the committee reported his nomination, there was a report due to be published concerning the 1991 civil unrest in the Crown Heights section of Brooklyn. At the time, Mr. Brown was the New York City Police Commissioner and there were questions about the response of the police as well as the political authorities.

When Mr. Brown's nomination was before the Judiciary Committee, there were questions by some Senators about the details of the report, known as the Girgenti report. Committee investigators of both the majority side and the minority side looked into the Girgenti report. Although it was not yet completed, the committee investigators reported to the Members that Mr. Brown's conduct would not be questioned by the conclusions of the report.

Relying on that information, the committee approved Mr. Brown and no Senator, at that time, suggested that the nomination be held a few more weeks until the report was finalized and made public.

On July 20, the report was released. As for Mr. Brown's responsibilities during the rioting, the report states that he "failed to fulfill his ultimate responsibilities for managing the department's activities to suppress rioting and preserve the public peace."

Contrary to the information obtained by committee investigators just weeks before the release of the Girgenti report, Mr. Brown's conduct was soundly criticized.

I am not here, Mr. President, to say that Mr. Brown should not have been confirmed. But I do believe that the committee has a responsibility not to act in haste in considering these nominations. When a report of this scope and magnitude is only a few weeks away from completion, the committee should wait for its final conclusions. Clearly, the committee staff was misled and that, of course, was avoidable.

When we return from the August recess, there will be a great deal of pressure on the committee to consider U.S. attorney and judicial nominees. We must, as a committee, take care to proceed cautiously and not overlook important information that comes to our attention. In the case of judges, we will be confirming individuals for lifetime tenure. The U.S. attorneys, although entitled to serve only at the President's pleasure, will, of course, as we know, have enormous power over the lives of all Americans.

The Judiciary Committee must thoroughly examine the backgrounds of these nominees and not rush through the confirmation process, as we did in the case of Lee Brown, when it would have only been a matter of a few days and we would have had this very important report.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. FORD. Mr. President, I ask unanimous consent that there now be a period for morning business, with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

IN REMEMBRANCE OF JOHN HALDIMAN

Mr. DECONCINI. Mr. President, the State of Arizona and the entire Nation lost a great patriot in the untimely passing of John B. Haldiman.

I feel a great sense of personal loss as I know many Arizonans do. John was a loyal and devoted family man, a community activist whose compassion and caring extended to all peoples, and an ardent Democrat who supported his party and their candidates during good times and bad. He also never hesitated to tell it like it was and earned the respect of his peers for his candor and insight.

A native Arizonan and an Army veteran who was awarded the Bronze Star, John was truly an example of a man for all seasons. He will be sorely missed by his countless friends and admirers throughout Arizona and the Nation.

To borrow the famous words regarding the loss of another great American—May flights of angels guide him to his rest.

IRRESPONSIBLE CONGRESS? HERE IS TODAY'S BOXSCORE

Mr. HELMS. Mr. President, the Federal debt stood at $4,350,260,845,100.30 as of the close of business on Friday, July 31. Averaged out, every man, woman, and child in America owes a part of this massive debt, and that per capita share is $16,936.38.

IMPACT OF THE CLINTON TAX PACKAGE ON SMALL BUSINESS

Mr. WALLOP. Mr. President, we have recently seen the administration try to justify and downplay the negative impact that the increased individual taxes will have on small business. But their claims are just another propaganda ploy of the Clinton boiler room—a command room modeled after the war room employed in Little Rock, AR during the campaign. The American people are well aware of the false promises propounded by that original campaign boiler room—why should they expect anything different now.

A recent article from the Wall Street Journal by David Hale, chief economist of Kemper Financial Co., refutes the administration's claims that their tax package will have only a meager impact on small business. No matter what the Treasury Department says, the higher tax rates will fall disproportionately on small businesses.

Mr. President, the key issue is the proportion of taxpayers affected by the tax increases who are also small business owners. The Senate minority staff of the Joint Economic Committee found that 66 percent of the taxpayers subject to the higher rates were small businesses. Treasury seems to forget that the prosperous small businesses are the engines of growth in this economy and by taxing those businesses we are confiscating the very investment income necessary to grow this economy.

Mr. President, I also ask that another article in the Wall Street Journal by Paul Craig Roberts also be printed in the RECORD. This article highlights the absurdity of the administration's claims that their budget package will in fact lower interest rates. It is hard to lower interest rates that are nearly at zero now. And it is hard to believe that a drop in interest rates will offset the decline—as much as 16 percent—in the rate of return on investment because of the higher tax rate increases. This tax package will be contractionary and no matter what the administration claims can change that fact.

Mr. President, I ask that these articles be printed in the RECORD at the end of my remarks.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, July 30, 1993]

SMALL BUSINESS, TAX PLAN'S VICTIM

(By David Hale)

Barring a revolution in the conference committee, Bill Clinton appears likely to end up presenting the nation with a fiscal program that contradicts many of his 1992 promises. There will be tax increases more restrictive than the ones proposed by Ross Perot, constraints on discretionary federal spending carried over from George Bush's 1990 budget accord, and less deficit reduction than anyone expects due to a misplaced focus on income redistribution at the expense of economic growth.

There are several problems with the president's fiscal program. First, he is proposing the largest increase in marginal income-tax rates since the 1930s. The administration supports a large increase in rates because many of the president's advisers believe that the 1980s tax cuts produced a windfall for affluent Americans at the expense of other social classes. The tax bill now moving through Congress will cause high-income taxpayers to search for new ways to reduce their reported income; it will also encourage a political bidding competition to revive tax shelters and other allowances that distort investment decisions. Secondly—and importantly—much of the president's income-tax hike will fall on small business.

Because of the big reduction that occurred in marginal income-tax rates under the 1986 tax reform, about 1.6 million, or 42.4% of U.S. businesses now file under the personal tax code. That rate compares to 22% in 1985 and 15.5 % in 1970. Subchapter S income now accounts for more than 10% of all income on returns exceeding $200,000 and 22% of income on returns exceeding $1 million. The number of sole proprietorship tax returns in the U.S. (a figure that includes the self-employed) also has increased to 15 million, or 14% of the labor force in 1991, from 5.8 million or 8% of the labor force in 1970.

NOT THE FAT CATS

If we add Subchapter S returns and sole proprietorship returns, about 89% of all tax returns with significant business income are subject to personal tax rates. The administration contends that its tax program will raise the tax rate on only about 300,000 small businesses. But since more than 60% of all Subchapter S income accrues to people with incomes of more than $200,000, the Clinton tax program will still impose a large fiscal burden on both successful entrepreneurs and investors willing to finance small firms. Converting to a corporate tax status in order to avoid the higher rates on personal income also would expose these entrepreneurs to the problem of double taxation.

If owners of small firms file a corporate tax return, they have to pay a tax on their income twice, first as a company and then as a beneficiary of a dividend or capital gain. As a result many small business owners will be reluctant to convert back to a corporate tax status and the Clinton program will produce a de facto tax rate for small firms that will often exceed the tax rate on large corporations.

The large increase in the effective tax rate on many small firms is likely to retard the economy's recovery momentum because small firms account for practically all the job creation in the U.S. economy. Since 1990 the big Fortune 500 companies have reduced their total employment to 11.8 million from 16.2 million. Yet the economy has produced 20 million new jobs because of employment growth at smaller firms. According to a recent survey by Dun & Bradstreet, this two-tier hiring pattern is likely to continue during 1993. Its recent survey found that companies with fewer than 99 employees will account for 76% of all projected job growth in the U.S. this year, compared with a small decline at companies employing more than 25,000 people.

In fact, the Clinton fiscal program will be hitting the small business sector at precisely the moment when there were signs that the credit crunch (which strangled small-business creation during the Bush years) was easing. The recent recovery in bank profitability is encouraging more competition to make loans. Federal bank examiners are trying to relax the regulatory guidelines that hurt small business lending in the early 1990s. Wall Street will probably underwrite some $50 billion to $60 billion in junk bonds this year, compared with only $1 billion in 1990.

The proposed increase in federal marginal income-tax rates will also worsen the current regional divergencies in economic performance by falling disproportionally on California, New England and New York. These regions already pay an above average share of the national income tax burden as well as having high levels of state income tax. Indeed, the income-tax hikes enacted during 1990 did not produce any revenue growth during 1991 partly because of the economic problems of these traditionally more affluent states. Instead of expanding in line with the hike in marginal tax rates to 31% from 28% tax payments from so-called high-income taxpayers fell by 6.1% during 1991, compared with a gain of 1% for other income classes. Subchapter S income even dropped by 10.5% for the top 850,000 taxpayers, compared with a gain of 6.2% for everyone else.

The administration would like to offset some of the income-tax hikes on small firms by offering them new tax allowances for equipment purchases. But most business owners would rather have a lower tax rate than a new tax allowance. Because the Senate has scaled back the size of the tax allowance for equipment purchases, it is also doubtful that the allowance will offset the income losses from the higher marginal tax rates at many firms.

In addition to the microeconomic distortions caused by high tax rates, the Clinton administration is wasting a unique political opportunity to address the country's macroeconomic problems of low savings and investment. Instead the president is pursuing tax policies that are likely to inhibit investment decisions and employment creation by both large and small companies. The U.S. has the lowest private savings rate in the industrial world partly because it depends far more heavily on income tax than other countries while the consumption-tax share of gross domestic product is only about 2% to 3%, compared with 7% to 8% in other industrial countries. The administration had originally hoped to narrow the consumption tax gap with other countries by introducing the BTU tax.

But the BTU tax creates so many microeconomic distortions for energy consuming industries that Congress is likely to reject it. If the BTU tax is eliminated, the Clinton program will have produced a large increase in marginal income-tax rates without achieving any fundamental tax restructuring to lessen the risk of a further decline in America's private savings rate.

The administration will also have given away an important fiscal bargaining chip without having resolved the issue of how it will pay for health care. The U.S. has a much lower tax and government expenditure share of GDP than other industrial countries because nearly 60% of health care spending occurs in the private sector, compared with only 20% to 30% elsewhere.

But with the administration committed to a significant expansion of government's health care role, the government share of GDP is likely to rise by 4% to 5% and the taxation gap with other industrial countries will narrow. The prospect of financing health care, on top of this year's large increase in marginal income-tax rates, has triggered such a sharp decline in business confidence that firms will probably curtail hiring this autumn.

The final problem with the administration's tax program is that it could retard completion of the General Agreement on Tariffs and Trade and the North American Free Trade Agreement. These are essential for creating a prosperous world economy for U.S. firms large and small. In 1992, Gov. Clinton promised to expand federal spending on vocational education and trade adjustment programs to lessen public opposition to free trade. But those promises are now colliding with the 1990 budget accord restraints on discretionary spending. As it will be impossible to satisfy Mr. Clinton's campaign pledges without faster growth of tax receipts, the contractionary effects of the president's fiscal program could inadvertently encourage the already strong protectionist sentiments of the Congress.

GLOBAL MARKETPLACE

Yet, as a result of the collapse of communism and the spread of liberal economic ideas to the developing countries, nearly four billion people are now poised to re-enter the global marketplace for goods and capital after suffering several decades of stagnation under Marxist or mercantilist economic policies.

Without American support for free trade this integration process will lose momentum and the recovery now occurring in the newly market-oriented economies will peter out. In Mexico, for example, the economy has stalled and demand for U.S. exports is declining because the government has been forced to raise interest rates in order to stabilize the peso in the face of doubts about Congress enacting NAFTA.

In 1992, the Democrats tried to distinguish themselves from the Republicans by promoting the concept of "growth with equity," not just growth. But because of the large structural deficit inherited from the 1980's, it will be impossible to increase public spending on programs designed to promote "social equity" without also improving the economy's growth performance. In proposing a fiscal policy that is so hostile to growth, the Clinton administration will not merely dampen the recovery now occurring in small business profitability and employment. It will also increase economic insecurity among U.S. companies and households at precisely the moment when such sentiments could undermine our ability to take advantage of the extraordinary global opportunities made possible by the Cold War's end.

[From the Wall Street Journal]

INTEREST-RATE BLOOPERS

(By Paul Craig Roberts)

The rationale advanced by President Clinton and members of his administration for his troubled tax-increase plan is that the tax increases will pay for themselves in lower interest rates. This is patently wrong—even by the administration's own accounting.

The administration's economic assumptions—set out in "A Vision of Change for America," the economic program published in February at the time of the state of the union speech—show a rising path of short-term interest rates. The plan projects 91-day Treasury bill rates to be 3.7% in 1993, 4.3% in 1994, 4.7% in 1995, 4.8% in 1996, 4.9% in 1997 and 5% in 1998.

The plan also projects a rising gross national product deflator and a rising consumer price index. Despite the higher projected inflation, the plan forsees a slight decline in the 10-year Treasury note rate to 6.5% in 1996 from 6.7% in 1993.

These numbers were slightly altered in the April 8 budget. The inflation rate was revised down and became flat. The long bond rate rose slightly in 1995, but otherwise remained unchanged. The short-term interest rate starts from a lower number but the pattern remains unaltered, rising to 4.9% in 1998 from 3.2% in 1993.

Considering the mix of short- and long-term instruments in Treasury financings and the administration's shift to short-term securities, Mr. Clinton's plan expects average borrowing costs to rise. Obviously, his claim that his tax increase will lower interest rates is in conflict with the interest-rate projections in his own economic plan.

Recently Federal Reserve Chairman Alan Greenspan stressed that real short-term interest rates are nearly zero and cannot be expected to stay so low. After taxes, the real cost to a business borrower of the 6% prime rate is less than 1%.

With real interest costs so low, it is unrealistic to expect much kick to the economy from further declines in interest rates. Certainly there is no analytical or empirical basis for the administration's belief that a fall in interest rates will boost the economy more than higher taxes will deflate it. Mr. Clinton's proposed higher tax rates on corporate and personal income (including the individual income surtax) take another 16% bite out of investment earnings.

Mr. Clinton's plan offers no conceivable fall in interest rates that could offset a 16% decline in the rate of return to investment. The interest-rate argument that is the basis of Mr. Clinton's economic package makes no economic sense and is not supported by the assumptions used in the administration's plan.

There are other signs of confusion. Recently, for example, the administration has quietly backed away from Mr. Clinton's claim that higher taxes are good for economic growth.

With the prospective tax increase retroactive to March of this year, the administration reduced its real economic growth forecast for 1993 to 2.5% from 3.1%. Since his tax package is pending, Mr. Clinton has withheld the budgetary impact of this reduction from Congress. However, the impact is easy to calculate. Using the administration's budget rules, the 0.6 percentage-point reduction in real economic growth widens the budget deficit by $65 billion over the 1993–98 period. If this slowdown continues throughout the period, the cumulative increase in the deficit will be $208 billion.

In short, Mr. Clinton's tax increase will hurt economic growth by more than the administration expects. If interest rates do fall, it won't be because the deficit is under control; it will be because Clintonomics has tanked the economy and the deficit has exploded.

BUDGET SCOREKEEPING REPORT

Mr. SASSER. Mr. President, I hereby submit to the Senate the budget scorekeeping report prepared by the Congressional Budget Office under section 308(b) and in aid of section 311 of the Congressional Budget Act of 1974, as amended. This report meets the requirements for Senate scorekeeping of section 5 of Senate Concurrent Resolution 32, the first concurrent resolution on the budget for 1986.

This report shows the effects of congressional action on the budget through July 30, 1993. The estimates of budget authority, outlays, and revenues, which are consistent with the technical and economic assumptions of the concurrent resolution on the budget, House Concurrent Resolution 287, show that current level spending is below the budget resolution by $1.6 billion in budget authority and above by $0.6 billion in outlays. Current level is $0.5 billion above the revenue floor in 1993 and above by $1.4 billion over the 5 years, 1993–97. The current estimate of the deficit for purposes of calculating the maximum deficit amount is $392.4 billion, $28.4 billion below the maximum deficit amount for 1993 of $420.8 billion.

Since the last report, dated July 28, 1993, there has been no action that affects the current level of budget authority, outlays, or revenues.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 2, 1993.

Hon. JIM SASSER,
Chairman, Committee on the Budget,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached report shows the effects of Congressional action on the budget for fiscal year 1993 and is current through July 30, 1993. The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of the Concurrent Resolution on the Budget (H. Con. Res. 287). This report is submitted under section 308(b) and in aid of section 311 of the Congressional Budget Act, as amended, and meets the requirements for Senate scorekeeping of section 5 of S. Con. Res. 32, the 1986 First Concurrent Resolution on the Budget.

Since my last report, dated July 27, 1993, there has been no action that affects the current level of budget authority, outlays, or revenues.

Sincerely,

ROBERT D. REISCHAUER,
Director.

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE, 103D CONG., 1ST SESS., AS OF CLOSE OF BUSINESS JULY 30, 1993

[In billions of dollars]

	Budget resolution (H. Con. Res. 287)	Current level[1]	Current level over/ under resolution
On-budget:			
Budget authority	1,250.0	1,248.4	−1.6
Outlays	1,242.3	1,242.9	.6
Revenues:			
1993	848.9	849.4	.5

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE, 103D CONG., 1ST SESS., AS OF CLOSE OF BUSINESS JULY 30, 1993—Continued

[In billions of dollars]

	Budget resolution (H. Con. Res. 287)	Current level [1]	Current level over/under resolution
1993–97	4,818.6	4,820.0	1.4
Maximum deficit amount	420.8	392.4	−28.4
Debt subject to limit	4,461.2	4,255.6	−205.6
Off-budget:			
Social Security outlays:			
1993	260.0	260.0	
1993–97	1,415.0	1,415.0	
Social Security revenues:			
1993	328.1	328.1	(2)
1993–97	1,865.0	1,865.0	(2)

[1] Current level represents the estimated revenue and direct spending effects of all legislation that Congress has enacted or sent to the President for his approval. In addition, full-year funding estimates under current law are included for entitlement and mandatory programs requiring annual appropriations even if the appropriations have not been made. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.

[2] Less than $50,000,000.

Note.—Detail may not add due to rounding.

THE ON-BUDGET CURRENT LEVEL REPORT FOR THE U.S. SENATE, 103D CONG., 1ST SESS., SENATE SUPPORTING DETAIL FOR FISCAL YEAR 1993 AS OF CLOSE OF BUSINESS JULY 30, 1993

[In millions of dollars]

	Budget authority	Outlays	Revenues
ENACTED IN PREVIOUS SESSIONS			
Revenues	0	0	849,425
Permanents and other spending legislation	764,283	737,413	0
Appropriation legislation	732,061	743,943	0
Offsetting receipts	(240,524)	(240,524)	0
Total previously enacted	1,255,820	1,240,833	849,425
ENACTED THIS SESSION			
CIA Voluntary Separation Incentive Act (Public Law 103–36)	1	1	0
Unclaimed Deposits Amendments Act (Public Law 103–44)	0	1	0
1993 spring supplemental (Public Law 103–50)	1,003	1,199	0
Transfer of naval vessels to certain foreign countries (Public Law 103–54)	(8)	(8)	0
Total enacted this session	996	1,193	0
ENTITLEMENTS AND MANDATORIES			
Budget resolution baseline estimates of appropriated entitlements and other mandatory programs not yet enacted	(8,443)	922	0
Total current level[1]	1,248,373	1,242,947	849,425
Total budget resolution[2]	1,249,990	1,242,290	848,890
Amount remaining:			
Under budget resolution	1,617	0	0
Over budget resolution	0	657	535

[1] In accordance with the Budget Enforcement Act, budget authority and outlay totals do not include the following in emergency funding:

[In millions of dollars]

	Budget authority	Outlays
Public Law:		
102–229	0	712
102–266	0	33
102–302	0	380
102–368	1,060	5,873
102–381	218	13
103–6	3,322	3,322
103–24	4,000	4,000
Offsetting receipts	(4,000)	(4,000)
103–50	0	(30)
Total 1993 emergency funding	4,600	10,303

[2] Includes a revision under sec. 9 of the concurrent resolution on the budget.

Note.—Amounts in parentheses are negative. Detail may not add due to rounding.

STATEMENT ON THE NOMINATION OF SHELDON HACKNEY

Mr. MACK. Mr. President, I oppose the nomination of Sheldon Hackney as Chair of the National Endowment for the Humanities.

Mr. Hackney's handling of matters involving the right of free speech has been surrounded by many unresolved questions. In my view, uncertainties about Mr. Hackney's respect for free speech cloud his ability to serve in such a high-profile post in the Government.

Free speech is among the most revered of American values. We in Government have an obligation to defend free speech regardless of whether its infringement comes from the right or the left. I have, therefore, voted against Mr. Hackney's nomination.

ANTKOVIAK'S ANNIVERSARY

Mr. RIEGLE. Mr. President, I would like to take a moment to recognize Peter and Nancy Antkoviak, from Allegan, MI, as they celebrate their silver wedding anniversary commemorating 25 years of marriage. Mr. and Mrs. Antkoviak were married on August 3, 1968, at St. Peter's Church in Lockport, NY.

They settled in Allegan in 1973 where they have been actively involved in serving the community and their local church, Blessed Sacrament. They have raised a wonderful family of five children, Sally, Christopher, Rebecca, Catherine and Matthew, who has been working with us here in the Senate.

Peter and Nancy exemplify lives of commitment and strong belief in the family. In a time when 6 out of 10 marriages end in divorce, they offer a symbol of love and hope and I wish them many more years of joy and happiness together.

S. 919, NATIONAL SERVICE ACT

Mr. HATCH. Mr. President, I would like nothing more than to be able to stand before this body today and put my wholehearted support behind this measure.

I would like nothing better than to rally the resources and channel the energies of our citizens, both young and old, to address the unmet needs in our communities.

Our Nation has traditionally relied on the goodwill of our people to fulfill many necessary missions ranging from coaching sports for youngsters to making sandwiches at a homeless shelter, from teaching someone to read to reading to someone at a nursing home. All of these contributions, and more, are the result of an American ethic that prizes volunteerism and the value of service for its own sake.

I come from a State, Mr. President, that wrote the book on community service. An iron gate at Brigham Young University is inscribed, "Enter to Learn, Go Forth to Serve."

But, while this motto of my alma mater may seem like a commercial for this bill, I can assure my colleagues that it is not. I believe most Utahns share my concerns that this particular proposal would bureaucratize community service.

To begin with, this bill is inherently flawed in terms of purpose. This bill suffers from a crisis of definition and cannot seem to decide if it is a service bill, a jobs bill, or an education bill.

If it is a service bill, then it operates on the premise that there is a shortage of volunteers willing to commit themselves to worthy causes and that we must offer incentives to recruit them. This is simply not true.

According to 1991 data, 94.2 million Americans volunteered for community service in some capacity.

These individuals are volunteers in the true sense of the word, offering their assistance willingly and without pay. Their compensation comes, as it should, from the satisfaction of helping their neighbors and from giving something back to society.

The bill originally proposed that we spend $3.4 billion per year by 1997 to induce only 150,000 new volunteer workers to serve. I appreciate the fact that the authorization level has been scaled down; but, of course, that means that even fewer students will be able to participate and a larger percentage of the total spending will necessarily go to the administrative expenses of the new Corporation the bill creates. This is an unavoidable catch-22 as I see it.

Second, if S. 919 is a service bill, it must include the idea that the National and Community Service Act is needed to provide service opportunities. But, we already have the programs under the National and Community Service Act of 1990. We also have federally sponsored opportunities for service through ACTION, VISTA, the Peace Corps, Foster Grandparents, and other programs.

These are hundreds of opportunities in the nonprofit sector and at the State and local levels as well. These are worthwhile efforts, and I believe most Senators support them. It is certainly not clear to me that we must create another new program.

Moreover, if this bill is defining itself as an initiative to help meet a community's unmet needs, then it sends a terribly mixed message since it spends so much of the taxpayers' money that could be spent helping people directly. For example, one could speculate on how many community health centers could be funded with $1.5 billion. We could almost double the JTPA training programs for disadvantaged adults and youth. We could significantly increase Headstart.

If the national service bill is supposed to be a jobs bill, then it operates on the misguided supposition that there is a dearth of qualified professionals to work in our clinics and our schools and on our streets. The problem, Mr. President, is not a lack of dedicated, experienced, and committed nurses, teachers, and policemen. We have legions of incredibly devoted educators, social workers, health care professionals, and law enforcement officers who battle staggering odds and increasingly diminished funding to get the job done.

Believe me, Mr. President, we have no shortage of skillful, trained people. The problem is we do not have enough money to adequately pay these people and to properly fund the programs to which they devote themselves.

Additionally, because of the limitations on displacement or potential displacement of permanent employees, there will necessarily be limitations on the nature of the functions that can be performed by participants in the National Service Program. I question whether the individuals participating in the National Service Program will really learn all that we expect or anticipate.

I am concerned that, if this is a jobs bill, then it is a colossal waste of money. We are creating temporary makeshift jobs and giving young people an unrealistic sense of what real work is like as we simultaneously cut existing programs and lay off capable professionals.

Am I supposed to tell rural Utahns that chapter 2 funding for education was cut because Congress needed to finance the national service bill? It is one thing to explain that sacrifices to reduce the deficit are necessary; it is another to engage in some budget shell game.

Finally, if the National Service Act is a bill to expand educational opportunity, then it operates on the assumption that helping less than 1 percent of eligible participants is effectively addressing the problem of helping students pay for college. I cannot buy this.

I am especially concerned that within this 1 percent there is no guarantee that this money will go to benefit kids who are the most in need. We could easily be giving $10,000 educational awards to the children of millionaires.

I confess that it seems odd to me that some of my colleagues voted to tax the rich just a few weeks ago and now are willing to pass legislation that would conceivably provide the children of the rich with over $20,000 of educational benefits and living allowances.

According to an issue bulletin prepared by the Heritage Foundation, the Federal Government currently helps 3.9 million students pay for education through guaranteed student loans and provides Pell Grants of up to $2,300 to 2,582,911 students at an average cost to the American taxpayer of $4,181 per student. And these programs serve 6,020,000 students who must meet means tests.

Compare this to the National Service trust's $22,667 cost per participant, and you can see there is no way that any supporter of this bill could argue that it is the most effective way to help the greatest number of young people, who need it most, to meet the costs of higher education.

If we are going to allocate $1.5 billion for educational aid over the next 3 years, it makes more sense to me that we expand and maintain the integrity of our existing educational programs such as Pell Grants.

In addition to the conceptual problems I have with this legislation, I have specific concerns about several provisions within the National Service Act.

I am especially concerned that Federal funds could be used for advocacy. While I understand the compromise addresses the concern about political lobbying, the nature of this legislation may yet permit the Federal Government to subsidize advocacy through the placement of national service participants with organizations who are engaged in advocacy. The American taxpayer should not be required to pay for causes they do not support.

Nor should the National Service Act place the Government in the business of competing for donations with agencies like the American Red Cross.

I am also worried that State educational agencies will have their burdens significantly increased with the requirement that they administer and distribute funds to applicants for service-learning programs.

The State Commissions on National and Community Service, that select programs to be funded, design strategic plans for service in the States, recruit participants, and support clearinghouses, could be in a better position to facilitate the coordination of these programs. The National Service Act separates school-based from community-based programs, when for reasons of expediency and collaboration, these programs should be streamlined.

I am concerned that the requirements for agencies and programs to apply for consideration under national service is too prescriptive and undermines the innovation, ingenuity, and incentive of local service organizations. I am troubled by the thought that national service could be financed while existing programs go without the funds they need to survive.

I do not believe we should create a whole new Federal agency that is going to make decisions about what is and what is not community service and that will determine which local organizations can obtain service positions. Just the word "community" implies that the program should be locally driven—not federally managed or planned. I do not understand how a Federal entity can presume to set priorities for community service.

Finally, I appreciate the extraordinary efforts made by my colleagues on both sides to try to reach a compromise on the National Service bill. I appreciate the willingness of President Clinton to scale back his original proposal to a more realistic level, although I still question authorizing a new program at this time.

But, Mr. President, I have qualms about any new spending when there are programs already in place today that have proven their worth and which are underfunded.

And, I have qualms about creating a new $1.5 billion program and a permanent, new federal agency when the Federal Government is on the verge of demanding more tax dollars from Americans. This is what we mean by "tax and spend."

But, if we are going to spend this money rather than reduce the deficit, then we should take special care not to create new laws that will be prescriptive and bureaucratic. If we are going to spend new money, we should at least avoid spending it on new bureaucracy. Let's at least allocate this money to existing programs.

I hope that Senators will take time to examine S. 919. Mr. President, I believe that Senators who take the time to read this 300-page bill will find that it is an amazingly bureaucratic, convoluted, and expensive proposal that, despite its good intentions and despite the best efforts of my colleagues, still does not effectively address any of the stated purposes of a national service program.

STATEMENT ON THE CONFIRMATION OF RUTH BADER GINSBURG

Mr. PELL. Mr. President, today I express my unqualified support for the nomination of Ruth Bader Ginsburg to be an Associate Justice of the U.S. Supreme Court.

I do so without hesitation because Judge Ginsburg possesses a unique combination of talent and experience which places her among the premier jurists I have seen nominated for the Supreme Court throughout my 32 years in the Senate. A true legal scholar who has demonstrated a thorough understanding and an obvious love of the Law, she also established herself as a tenacious and brilliantly successful litigator in the now famous series of gender discrimination cases which she argued before the Supreme Court in the 1970's. On the Federal bench, she has continually displayed true judicial temperament and restraint, carefully minding the proper role of a judge in our legal system while not shrinking from the responsibilities of social justice.

Rarely do we see nominees with such a combination of experience, skills, and compassion presented to the Senate for consideration. Equally rare is the near unanimous bipartisan support and respect that Judge Ginsburg has received. Truly we have in Judge Ginsburg an individual of the highest caliber and qualification for the Supreme Court.

Therefore, I wholeheartedly endorse the nomination of Ms. Ginsburg to be Associate Justice of the Supreme Court and look forward to her tenure on the bench.

AMENDMENT NO. 749, TO TREASURY APPROPRIATIONS

Mr. WOFFORD. Mr. President, the Nickles amendment may present a simple question for some. In their thinking, one is either "pro-choice" or "pro-life," and the correct vote is therefore obvious.

Not so for me. I have long believed and said that a woman's choice must be preserved up to the point of fetal viability. That right to choose has been affirmed by the Supreme Court in decisions from Roe versus Wade through Planned Parenthood versus Casey. I also believe that access to abortion may be subject to reasonable regulation as recognized in those same Supreme Court decisions.

I have also opposed the expenditure of Federal funds to pay for abortion. Given the divisions in this country over the question, it has seemed wrong to me to spend tax dollars on abortion.

I realize that there is a distinction between the Government paying for abortions under Medicaid, for example, and contributions to employee insurance premiums that cover abortion services. In the latter case, the Government is not acting as "Government," really, but rather as an employer. There is a strong argument that it is unfair for Federal employees to be denied health coverage they would likely be afforded if they worked for a private employer.

But Mr. President, I think this is the wrong time to make that point. We are on the eve of comprehensive health care reform, which must be the next order of business in the Congress and the country after we agree on a 5-year deficit reduction plan. This is the time to assure that Federal employees and all Americans have the same options for health care insurance.

At this juncture, therefore, I cannot vote to begin a form of Federal spending that has been prohibited for the past 10 years, especially when I would continue to oppose direct Federal payments for abortions through Medicaid.

I will be working to develop a system that is based in the private sector in which there are few or no direct Federal payments for particular health services, and all Americans have a variety of options of diverse health plans. Pregnancy-related services will no doubt be part of any comprehensive health plan and the question of abortion will be one of the difficult issues. But let us take up that issue then, have a full debate, and reach a result that reflects the wisdom of the majority of the American people.

NARRAGANSETT BAY WAGE GRADE AREA

Mr. PELL. Mr. President, I am pleased that the Subcommittee on Treasury, Postal Service, General Government Appropriations shares my concern about the pay disparities between the Boston Wage Grade Area and the Narragansett Bay Wage Grade Area, and included report language to H.R. 2403 instructing the Director of the Office of Personnel Management [OPM] to report back to the committee on the possibility of consolidating the two areas. I want to thank the chairman of the subcommittee, Senator DECONCINI, and the ranking member, Senator BOND, for their cooperation with this matter.

I believe that when OPM reviews this issue they can only come to the same conclusion that I have—consolidating the two areas would more accurately and fairly reflect wages in the job market. The commuting patterns and economic data show a clear integration at many levels of the economies of the two areas, yet the definition of the Narragansett Bay Wage Grade Area continues to create an artificial boundary around the State of Rhode Island that in reality does not exist.

The cities of Boston and Providence are very close geographically—only 50 miles from each other—but a Federal blue collar worker in Boston currently earns significantly higher wages than a Federal employee in Providence for the exact same work. And Providence is closer to Boston and has more shared and common interests than other areas that are included in the Boston Wage Grade Area. Beyond the morale problems this inequity causes for Federal blue collar workers, Rhode Island Federal agencies have encountered substantial problems recruiting and retaining quality employees because of the higher wages paid in surrounding areas. Aggravating these problems is the fact that Federal blue collar worker wages have fallen significantly behind private sector wages due to the cap placed on Federal blue collar worker pay increases since 1979. The inequity of the situation is glaring and must be corrected.

I understand that the Chairman was limited by objections from OPM, but I do want to emphasize that I feel strongly about the inequity in pay for Federal blue collar workers in Rhode Island and I intend to fully pursue this matter.

Again, I want to thank Chairman DECONCINI and Senator BOND for their consideration of this issue and I look forward to working with them and with OPM to see that this issue is fairly resolved.

THE NATIONAL COMMUNITY SERVICE ACT

Mr. KERREY. Mr. President, I rise today to announce my decision to vote against the National Community Service Act.

While I recognize the merits of this legislation and believe it may have great potential for the youth of this country, I cannot vote for a major new spending initiative during this time of fiscal restraint. At the same time the Federal Government is asking Americans to sacrifice, we must curb our desire to create a massive new program, despite its appeal, for the simple reason that it is unaffordable at this time.

Knowing that national service could make a difference in one young man or woman's life makes it difficult for me to cast my vote. I strongly believe that the Government should place a higher priority on initiatives benefiting the children and youth of this country. Nonetheless, the Government must control spending, and there are already many effective national service programs, such as Boston's City Year, that do not rely on Federal funding. It is important to fight the urge to establish a new, expensive program, despite its promise to help the youth of this country. My vote represents a pledge to reduce the deficit and help ease the financial burden on our children.

In addition to the cost of national service, I am troubled by other aspects of the legislation. First, I am concerned about the Federal Government's potential negative impact on good programs operating successfully in local communities. Although the Federal Government's intent is to duplicate successful local ventures, its presence can often have a negative impact on the effectiveness of the program. Local ownership of the program may be surrendered due to its reliance of Federal dollars. Federal supervision and mandates can damage a well-functioning program.

Talking to the young men and women participating in existing programs such as City Year and VISTA, I am confident that they have the talent and enthusiasm to run their programs without Government intervention. Unfortunately, by funding national service through the Federal Government, it is the adults who are reaching the conclusion that service is good for the youth of this country. We cannot take possession of a program that rightfully does not belong to us.

Second, I fear that many service programs will come into being to tap into a new Federal pot of money rather than being cultivated from the community. Programs that have developed from the ground up have been successful because people are genuinely committed to improving their community. The community is also in the best position to identify pressing problems that may require some assistance and then develop a solution.

While competitive and accountability provisions have been incorporated into the legislation, there is still the risk that, instead of focusing on the program as a whole, the emphasis will fall on the amount of money channeled into a particular area. Rather than assessing the program based on its effect on the lives of Americans, there is a natural tendency to fight for dollars.

Third, I am uncomfortable that by passing this legislation, we create an unrealistic expectation about what national service is capable of accomplishing. Because participation is limited, most eligible candidates for service will be rejected. Many of these same individuals will be unable to obtain Pell grants or other types of campus based financial assistance because Congress cannot fully fund them. Many students will be shut out of financial assistance all together. For this reason, I believe there should be less emphasis on the educational opportunity included in this bill. Indeed, the most significant outcome of service is not the stipend; it is the multiplying factor of its effect on the community. The stipend is like a carrot on a stick for young adults eager to attend college. These individuals may decide to join a national service program more out of a need to obtain the stipend rather than out of a desire to get involved in an effort to improve the neighborhoods and communities across America.

Finally, I am troubled with the notion that we should pay people to perform community service. It is my contention that service should be voluntary and unpaid. Volunteers across the country have been rewarded through personal gratification and asked for nothing more. I believe it sends the wrong signal to suddenly link service with money. It is an unnecessary enticement. If inclined, individuals will eagerly contribute their time, love and skills to people and projects in need of attention. But a quid pro quo situation is the antithesis of what drives voluntarism. We should not confuse the two.

National service can work. However, I would prefer to see cities and communities building their own projects before Federal intervention is required. Not only are local residents in the position to determine what objectives should be met, they also know how best to bring their goals to fruition. While Federal funds would undoubtedly help, the attached strings may hamper a community's flexibility.

We should continue to encourage voluntarism and community service. But for the reasons I've just outlined, the Federal Government is the wrong entity to undertake this mission.

STATEMENT ON THE CONFIRMATION OF THOMAS J. DODD

Mr. DODD. Mr. President, it was with great personal pride to be present last Friday as my colleagues in this Chamber welcomed another member of my family to public service. By unanimous consent, the U.S. Senate gave its approval to the nomination of my brother, Thomas J. Dodd, to be U.S. Ambassador to Uruguay.

I want to thank my colleagues for the timely and expeditious manner in which this nomination was considered and approved. I particularly want to thank my fellow members of the foreign relations committee: Senator CLAIBORNE PELL, PAUL SARBANES, JOE BIDEN and JESSE HELMS for their kind words and support. I also wish to thank the majority leader, Senator GEORGE MITCHELL and Senator TED KENNEDY for their generosity and support. I also want to thank President Clinton for selecting Tom Dodd to this very important position. I am confident that Tom will make my colleagues proud of this choice, as he has made his brothers and sisters proud so many times before. I know his daughter Abbey, who was present at the confirmation hearing, is also proud of her father.

Mr. President, when it comes to the world of the Americas, Tom Dodd is certainly no stranger. For more than a quarter-century, Tom has been teaching Latin American affairs at Georgetown University and several other distinguished universities and teaching facilities in Washington. Indeed, for Tom, beginning with his time abroad in Spain and Mexico while an undergraduate at Georgetown and his Ph.D. work a decade later, Latin America has literally represented a life-long commitment.

At the time of his appointment to this position, Tom had served for two decades as an associate professor of History at the School of Foreign Service at Georgetown University.

In 1969 he served as a faculty advisor at the Central American Institute for Labor Studies in Guatemala, Costa Rica, and Nicaragua. From 1969 to 1973 he directed the Latin American Studies Program at the Georgetown University Graduate School. From 1971 to 1980 he lectured at the State Department's Foreign Service Institute. He has taught dozens of courses on all aspects of Latin American studies and has written articles and conference papers on the subject far too numerous to list.

As a teacher, Tom Dodd has been called upon not just to give lectures but also to interact—to engage his students. In a sense it is not unlike the tasks he will be asked to perform as ambassador: to articulate views, to explain the positions of our Government even when those positions are not popular, and, perhaps most important, to listen.

It is for this reason, Mr. President, that I know Tom Dodd will make an outstanding Ambassador to Uruguay. I know this because in my travels in Latin America there was not a single visit to the area in which I did not have someone tell me that he or she had my brother as a professor. Each of them remembered Tom with great affection and respect.

Mr. President, I approach my brother Tom's confirmation from two entirely different perspectives, but in the end I reach the same conclusion. As the chairman of the subcommittee on western hemisphere affairs, I am delighted that the Senate has approved a nominee with such an extensive and in-depth knowledge of Latin America.

At the same time, Mr. President, as a brother, this is also a moment of special personal joy. Tom's insights and knowledge have helped an entire generation of students, diplomats and other public officials, including this one, understand the complexities of Latin American affairs.

Again, I commend President Clinton for his selection and I commend the members of this body for approving the nomination of Tom Dodd to be Ambassador to Uruguay. I know he will prove to have been the right choice.

My only regret at this moment is that our parents are not here to share in the joy and pride of this occasion.

NICKLES AMENDMENT 749, TO TREASURY APPROPRIATIONS

Mr. WOFFORD. Mr. President, the Nickles amendment may present a simple question for some. In their thinking, one is either pro-choice or pro-life, and the correct vote is therefore obvious.

Not so for me. I have long believed and said that a woman's choice must be preserved up to the point of fetal viability. That right to choose has been affirmed by the Supreme Court in decisions from Roe versus Wade through Planned Parenthood versus Casey. I also believe that access to abortion may be subject to reasonable regulation as recognized in those same Supreme Court decisions.

I have also opposed the expenditure of Federal funds to pay for abortion. Given the divisions in this country over the question, it has seemed wrong to me to spend tax dollars on abortion.

I realize that there is a distinction between the Government paying for abortions under Medicaid, for example, and contributions to employee insurance premiums that cover abortion services. In the latter case, the Government is not acting as "government," really, but rather as an employer. There is a strong argument that it is unfair for Federal employees to be denied health coverage they would likely be afforded if they worked for a private employer.

But Mr. President, I think this is the wrong time to make that point. We are on the eve of comprehensive health care reform, which must be the next main order of business in the Congress and the country after we agree on a 5-year deficit reduction plan. That is the time to assure that Federal employees and all Americans have the same options for health care insurance.

At this juncture, therefore, I cannot vote to begin a form of Federal spending that has been prohibited for the past 10 years, especially when I would continue to oppose direct Federal payments for abortions through Medicaid.

I will be working to develop a system that is based in the private sector in which there are few or no direct Federal payments for particular health services, and all Americans have a variety of options of diverse health plans. Pregnancy-related services will no doubt be part of any comprehensive health plan and the question of abortion will be one of the difficult issues. But let us take up that issue then, have a full debate, and reach a result that reflects the wisdom of the majority of the American people.

NORMAN JOHNSON

Mr. COCHRAN. Mr. President, the State of Mississippi has suffered a great loss because of the death this past Sunday of Norman Johnson, Jr.

Today at the Neshoba County fair, a memorial service was held honoring my departed friend as a World War II veteran, former mayor of Philadelphia, MS, and public service commissioner for the State's central district.

As Senators will note from these reports, Norman Johnson had served as president of the National Association of Regulatory and Utility Commissioners. He had also served for 25 years as head of the board of the Neshoba County fair. This has come to be recognized as one of the most unusual and interesting State fairs that is held anywhere in the United States. It has become a gathering place for political candidates, not only in our own State of Mississippi each year during this week in August, but in Presidential campaign years. Ronald Reagan, when he was running for President, and JOHN GLENN, our fellow Senator when he was running for President, visited the Neshoba County fair and spoke to the people who gather there every year during the month of August.

Norman Johnson was the person, more than anyone else, who put this fair on the national map. It has been written up in National Geographic magazine and is visited by people from all over the country. There are over 600 cabins that are built there as a part of the permanent fairgrounds. Whole families come there and spend a week or two each summer.

It is a great loss that our State has suffered in the death of Norman Johnson. He was a courteous, friendly, outstanding public servant. We have lost a close personal friend, my family and I have, and we want to extend to his wife, Mary, his son, Norman Johnson III, and Amanda, his daughter, our condolences and best wishes in this time of sorrow for their entire family and for our State.

I ask unanimous consent that a copy of the Clarion Ledger article describing my friend's career be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Clarion Ledger, Tuesday, Aug. 3, 1993]

NORMAN JOHNSON, WHO SHAPED POLITICS OF NESHOBA FAIR, DIES

(By Andy Kanengiser)

PHILADELPHIA.—Norman Johnson Jr. brought fame to the Neshoba County Fair, whether dressing up in a white tuxedo or welcoming speakers such as Ronald Reagan.

The Philadelphia native who died Sunday of heart failure at a Jackson hospital was praised Monday for his 25 years guiding "Mississippi's Giant Houseparty." He was 72.

Front-porch cabin conversations often turned to his accomplishments at the fair that draws up to 50,000 some days—and to his success in Mississippi politics.

"This thing has grown tremendously. I think you attribute a lot to his leadership," said Allan King, 67, the fair's executive vice president. "You've got a little city here of 600 cabins and 75 trailers. It gets bigger every year."

This year's version of the weeklong fair opened Friday. A U.S. flag at the fair's Founders Square flies at half staff.

Johnson would sport the tuxedo at the fair's traditional beauty pageant. Other days, he'd be in jeans and boots, greeting visitors to his No. 9 cabin with platters of food and gallons of iced tea.

Many remembered him patrolling the fairgrounds in his pickup. "He used to call it making the rounds. He would drive down every road and look at everything." King said at his cabin, dubbed "King's Kastle."

Begun in 1889 as a picnic, the fair developed into a national political showcase under Johnson, a former Philadelphia mayor and a 28-year member of the state Public Service Commission. Presidential candidates came calling, including Reagan, John Glenn and Michael Dukakis.

To Johnson "all of them were important to the fair—whether it was a Beat 5 supervisor or candidate for president of the United States," said Dr. Rudolph Posey, a Philadelphia dentist and fair director.

"I feel like this has been a great loss to Neshoba Countians," said Charlsie Moore, a Neshoba Central elementary teacher and fair office worker.

Johnson joined the fair's 20-member board of directors in 1946. He stepped up to Neshoba County Fair Association president in 1968.

He underwent open-heart surgery in March and had been hospitalized again after having heart seizures in June.

Fair leaders will elect Johnson's successor. King is overseeing daily operations.

A veteran's memorial service for Johnson is set for 11 a.m. today at the fair.

[From the Clarion-Ledger Tuesday, Aug. 3, 1993]

NORMAN JOHNSON JR., NESHOBA FAIR PRESIDENT

(By Mary Jefferson)

PHILADELPHIA.—Norman A. Johnson, Jr., 72, president of the Neshoba County Fair Association, died of heart failure Sunday at St. Dominic/Jackson Memorial Hospital in Jackson.

Services are 2 p.m. Wednesday at First Baptist Church with burial in Cedarlawn Cemetery. Visitation is 3-7 p.m. today and 7:30 a.m.-1:30 p.m. Wednesday at McClain-Hays Funeral Home.

Mr. Johnson, a lifelong Philadelphia resident, was a member of First Baptist Church, a Mason and a Shriner.

He served in two branches of the military during World War II, the Marine Corps and Army. After the war, he returned to Philadelphia and began working with his father at N.A. Johnson Seed and Feed Store.

"After he came home from the war, he was real interested in getting back into the fair again. It was the in thing to do," said his wife, Mary.

Mr. Johnson began working with the Neshoba County Fair Association in the 1940s. From 1968 until his death, he was its president.

In 1953, Mr. Johnson was elected mayor of Philadelphia, and in 1955 he was elected to the Public Service Commission, serving the Central District until 1984.

Mr. Johnson also was president of the Southeast Rural and Utilities Commissioners (SEARUC) and National Association of Regulatory and Utilities Commissioners.

"Some of the greatest years of my life with him was when we traveled when he was president of the national association," his wife said. "My life couldn't have been any better."

After retiring from political office, Mr. Johnson got into farming. He and his wife grew pine trees, she said.

In addition to his elected duties, he was a member of Disabled American Veterans, Sons of Confederate Veterans, Veterans of Foreign Wars and the Chamber of Commerce. He was a past state commander of the American Legion and was a member of the Chamber of Commerce, the Neshoba County Historical Society and the Mississippi Historical Society.

Other survivors include: son, Norman Johnson III of Brandon; daughter, Amanda Bass of Louisville, Ky.; and a grandchild.

NATIONAL AND COMMUNITY SERVICE TRUST ACT

Mr. GORTON. Mr. President, over the last few weeks I have paid close attention to the debate on the National and Community Service Trust Act. In reviewing the bill and listening to the debate, I am brought to reflect on the greater context in which this bill needs to be discussed. That of national priorities.

One of the great problems and great challenges that each of us as a policymaker must face when debating new programs and new ideas, is whether, when taken in the aggregate, the new program is the most effective use of taxpayer dollars.

Every year, there are thousands of bills and measures introduced in the

Congress, each promoting some new program or some new goal. Over the years that I have been involved in setting public policy, I have heard of very few proposals which have some shameful or ill-defined purpose. And clearly, the purpose of this bill is also a highly worthy social goal: the inspiration of our young people to be productive members of society through public service. In that respect, I doubt there is one Senator or one member of this great Nation who would disagree with the purpose of this bill.

But what is exceedingly difficult, here and in other debates, is the relationship between a generalized and highly worthy purpose and the means which are proposed to achieve it. And all too often, the new and exciting programs policymakers propose are added onto other, similar programs which already exist—programs which, when proposed, were pace-setting and championed using many of the same arguments as those promoting this bill.

Today, we are examining a bill which would add one more program to the existing 26 programs which also serve to promote community service—and which represent $1.5 billion in annual spending.

CURRENT VOLUNTEER ACTIVITIES

The vast majority of the American people believe whole-heartedly in the spirit of volunteerism. From before the independence of the United States to the present time, this country has provided infinitely more service than any other nation in the history of the world. Whether it is in pure voluntarism, or whether it is undertaken on the part of people who will for far less money in a service profession than they could get in the private sector, or whether it is through service in the military, the people of the United States of America have no equal when the matter of service is debated.

In 1991, 94.2 million Americans, age 18 and over, volunteered in some capacity with an average of more than 4 hours of service per week. If we added youth to those figures—the Boy Scouts, the Girl Scouts, Key Clubs, the YWCA's and the numerous other youth service organizations—we could easily double or even triple those figures.

Clearly, America believes in service.

Yet, somehow, proponents of this bill figure Americans are not interested enough in service—and they figure Congress needs to do something. They figure we need to encourage more people to get involved—and perhaps we do.

But, we as policy makers, must ask ourselves: Is this bill, the National and Community Service Trust Act, the best way and the most efficient way to encourage more Americans to get involved?

It is a tendency of the dynamics of the legislative process that it is never as inspiring or thrilling for us as lawmakers to only make current programs work better, using experience we already have, as is the opportunity to start an entirely new and fresh program. But if we are to be responsible to those who have entrusted us with the difficult task of ensuring the wise use of taxpayer dollars, we must continue to ask the question: Is this the single best way, or even one of the top 10 best ways, in which to spend 1.5 billion dollars on less than 70,000 people?

The arguments have been put forth by proponents that this is a necessary piece of legislation to promote service to America, which they claim is near an all time low. As I mentioned earlier, in 1991, 94.2 million Americans, age 18 and over, were involved with volunteer projects across the country.

One organization in my own State deserves mention. This organization is an extraordinary testament to the existing excitement and enthusiasm America's young adults have for community service. Known as "The Benefit Gang," this organization recruits, trains, and places young adults between the ages of 21 and 30 in other non-profit organizations as volunteers throughout the Puget Sound region. Annually, the Benefit Gang places over 3,500 volunteers in over 250 non-profit organizations.

It was created because many young adults who were anxious to volunteer weren't sure how to go about finding an organization in which to work. The Benefit Gang is striving to develop their interest in volunteering so that they will continue to volunteer throughout their adult lives, while providing a tremendous service to the community at the same time. It is entirely financed with private donations—and it accomplishes all of this without one dime of government assistance. And those who choose to participate expect nothing in return but personal joy and satisfaction.

I have been in a fortunate position to watch this organization grow as many members of my staff participate. Their enthusiasm and their dedication to community service has been inspiring.

To many people in Washington communities, success is measured by the amount of local support and respect the organization is given. These things come from becoming a self-sustaining, growing organization that is governed by itself and those who are closely related. The Benefit Gang and other service organizations will continue to prosper without additional government controls, regulations to follow and a new, meddlesome bureaucracy under which they must operate.

The very nature of the words "community service" should continue to mean just that—a contribution on behalf of members of the community who are eager to see their community grow and develop, and support by the local businesses which benefit from their efforts. I am talking about support by the community—not government intrusion or control over these community service efforts.

Currently, the average turn-around time to receive private monetary support is less than 6 months. But when dealing with the government for support, the process becomes far more involved and complicated. It could take between 6–18 months to receive even mere acknowledgement of an application from the government—which may or may not decide to allocate funding. Even after funding is received, it may be only for a short period of time that may not be renewable the next year or even the next month. It is clear that private efforts are more efficient and more effective, and most community service organizations are succeeding without government intervention.

Additionally, the efforts of private organizations far overshadow the efforts of the Federal Government. There are 94.2 million Americans volunteering every year. Over 3 years, this legislation will add less than 70,000 people to that total at a cost to the taxpayer of $1.5 billion. If a small business spent that amount of money with that small of a return on the investment, they would quickly find themselves in bankruptcy court.

And if we look at the costs per-person under the National Service Program that we are debating today, we find some astonishing statistics. By the administration's figures, it will cost $22,000 per year for each person participating. Based on this data, we must ask the question: Is this the most effective use of taxpayer dollars to promote volunteerism? The clear answer is a resounding NO!

WORTH OF THE EDUCATION BENEFITS

Another assertion by proponents is that this is, in addition to a volunteerism bill, a way to provide America's youth an opportunity to obtain an education. They argue that this bill is necessary to provide that opportunity to hundreds of thousands of youth who would not otherwise have the ability to obtain an education. Again, we must ask whether this is the best use of the billions of dollars allocated under this program. Over 3 years, this program will spend 1.5 billion dollars for less than 70,000 people to receive two years worth of education grants.

By comparison, last year we spent $5.8 billion on the Pell Grant program to help over 4 million students. In addition, we spent $2 billion on the student loan program to help nearly 5 million students. Yet, both of these programs are continually under-funded. The Pell Grant program alone faces a $2 billion deficit with more cuts to come.

These kinds of figures have led many education related persons to oppose this boondoggle. The president of the United Negro College fund and former member of Congress, William H. Gray, III, has stated his vehement opposition to the service sham. In the Chronicle of Higher Education, he points out that this new spending program is grossly misdirected:

> The proposed program provides economic assistance precisely where we don't need it. [I]t would be a huge new demand on limited federal resources. [These dollars] could be better spent on programs designed for the disadvantaged.

Further, Mr. President, I am convinced that if this program does become a popular one, it will end up displacing some of the more cost-effective programs of the Federal Government. That could have drastically negative effects on many other very worthwhile programs.

A June 3, 1993, Washington Post article states the effect this program could have:

> If all 7 million students who get federal aid in 1993 enrolled in national service in Clinton's maximum terms, taxpayers would shell out an astonishing $158 billion to pay for them. Deficit increases like that aren't going to revive the national spirit.

We must ask ourselves: Is this piece of legislation an effective means of providing education opportunities to an many of our nation's youth an possible? The answer again, Mr. President, is a clear and resounding no.

SERVICE IN LIGHT OVERALL BUDGET PRIORITIES

We must look at this new spending in light of the overall budget and spending priorities. When our country, however large its resources, is faced with the problem of extremely limited resources, we must make tough choices and we must exercise restraint.

Mr. President, right now somewhere in the U.S. Congress, Members of the House and Senate, at least those who are in the Democratic Party in both Houses, are meeting to pass a new budget package, which contains as the principal ingredient, over $250 billion in new taxes.

It is ironic to this Senator, that while all of that is going on to reduce the deficit and to get the size of Government under control, on the floor of the Senate we are debating how to spend almost $1.5 billion over 3 years in new spending, without any discernible reductions in spending on other existing programs.

This is not even a relatively modest program, but it is one which is demand-driven and can grow without restraint. A program, the design of which by its sponsors and by the President, is to grow exponentially over the years. Which program will be replaced to accommodate this one? Part of the debate over the reconciliation bill on the budget this year is that all of the spending cuts, or the great bulk of spending cuts for discretionary spending, will come much later in 1997 and 1998—the very time when this program will reach its height of spending strength.

Members of the majority party are sensitive to that criticism. And Members of this party point that out as a signaled effect in the budget we are debating. Something must give. These billions of dollars are going to come out of something else, and we have not been told what that something else will be.

I would imagine that the students who receive student loans at universities in my own State would not be happy with this Congress if we displace the program which is helping them scrape by to get through school with another program which can't begin to provide the same opportunities to the same number of students.

Another way of looking at this would be if we decided not to spend this almost $1.5 billion and instead, reduced by exactly that amount, the additional tax burdens which the conferees are going to impose on small businesses. If we were to do that, it would help small businesses in the United States invest that $1.5 billion as they see fit in creating new jobs and new opportunities for these same young Americans. More of those young Americans would have real job experiences, and more wealth would be created for all Americans. In fact, there would a return in additional taxes so that what seems a $1.5 billion for $1.5 billion exchange would probably reduce the budget deficit by a small amount through the additional taxes paid by the additional profits made by those small businesses.

This choice, under that set of circumstances, would allow the American people to make their own decisions about now to spend their money—and those decisions would almost certainly be more productive than those offered by this bill.

Thus, once more I ask the question, is this the most judicious use of taxpayer dollars? Once again the answer is a resounding, no.

PROGRAM STRUCTURE

The program must be looked at on its proponents own terms. This program is being heralded as a reinvention of government. It will streamline the provision of service programs, they say.

However, this bill proposes—rather awkwardly in this Senator's view—a brand-new, highly centralized form of administration. It appears that this program would build upon the existing structure of the ACTION Agency and the Commission on National Service. Upon closer examination, however, we find that this bill actually creates a massive, new superstructure: the Corporation for National Service, under which these existing entities will operate. State ACTION offices will continue to operate while new State Commissions on National Service are also created.

Further, it designates three separate State entities which are authorized to receive funds from the corporation—State Commissions for National Service Programs, State Education Agencies for Service Learning Programs, and State ACTION offices for VISTA and senior volunteer programs. However, there are no requirements that these entities work together.

Yes, it sounds confusing. Layer upon layer upon layer of bureaucracy is confusing. This bill, in short, is a highly bureaucratic, top-down approach to place youth in public service projects which remain undefined, unspecific and questionable. Thus, rather than replacing or absorbing existing programs to streamline the bureaucracy, this bill is added on top to lord over the existing programs and spread the tentacles of bureaucracy.

The Senator from Kansas, Senator KASSEBAUM, offered a substitute structure that would have truly streamlined Federal national service efforts. It offered a true integration of Federal national service efforts into a single, consolidated program; gave states more flexibility to determine what their needs and priorities are; and, recognized the need for legitimate fiscal constraints and a reasonable rate of expansion. However, the majority was unwilling to accept this very worthwhile proposal.

So, again, we must ask ourselves, is this the most effective structure under which to promote national service. Again, the clear answer is a resounding no.

Mr. President, the common thread that binds each of the points I have raised thus far is that the fundamental principle upon which this bill is based is that somehow service to society in a country which has been most noted for its national and local volunteer efforts, can be much more efficiently managed by a group of 15 people in Washington, DC, who are working directly or indirectly for the Federal Government.

We are not doing the job now that we ought to be doing in creating educational opportunities or volunteer service opportunities. Now why in the world would we pack on another bureaucracy on top of so many others? One which inevitably in 2 or 3 years will be superseded by another idea, but almost certainly not killed.

And, why in the world would we do this while, at the very time, we are debating whether or not we need to impose another $250 billion in taxes on the American people over the next few years in order to reduce the budget deficit—and then turn around with a program like this and say, well, try and reduce the budget deficit maybe, but not by this new program, not by another new program, and not by what may be next year's new and great program.

It simply makes no sense.

I ask again—Is this the best, most efficient way to promote community service?

How much more true service would we get if we allowed a broader set of tax deductions, or even tax credits for a group of charities and tax-exempt organizations, allowing them to compete not with a Federal bureaucracy, but with potential donors on the basis of how much they could do with that money. They would deal directly with individuals—young people, or middle-aged people, or older people, with respect to whom they hire for this kind of service with that amount of money.

How often would we be better off directing these young people through educational grants into the private sector, where service to society is measured harshly and very well by the ability of a private sector employer to provide employment.

It is a curious element, it seems to me, in our society that somehow or another, working for a business organization seeking profit is not deemed to be service, though, in fact, it may provide infinitely more important contributions to our society as a whole than even some nonprofit organizations do.

So it seems to me, Mr. President, that the serious and unanswered questions about a potentially very expensive idea are these: Why is it that a centralized Federal Government proposal will work better in providing service than an indirect, private sector competitive proposal, such as tax credits?

Will this program afford more educational opportunities to our Nation's youth than existing programs would if they were afforded this program's budget?

Will this program, which would manage, direct, and control a student's energies, be better for that student than a concentrated program which simply gives scholarships to young people to provide for their education and then lets them make an absolutely free choice, based on their own motivations and their own desires, as to whether they go to the public sector, the nonprofit sector, or the private sector?

Is this program the best, the most judicious, and the most effective program on which we should spend our Nation's limited resources?

Mr. President, while the goals and the purposes of this bill are eminently worthy, the answer is clearly and decisively, no.

MESSAGES FROM THE HOUSE

At 2:15 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 1311. An act for the relief of Olga D. Zhondetskaya.

ENROLLED BILLS SIGNED

The message also announced that the Speaker has signed the following enrolled bill:

S. 1311. An act for the relief of Olga D. Zhondetskaya.

The enrolled bill was subsequently signed by the President pro tempore [Mr. BYRD].

ENROLLED BILLS PRESENTED

On August 3, 1993, the Secretary of the Senate reported that he had presented to the President of the United States, the following enrolled bill:

S. 1311. An act for the relief of Olga D. Zhondetskaya.

The message further announced that the Speaker has signed the following enrolled bills:

H.R. 236. An act to establish the Snake River Birds of Prey National Conservation Area in the State of Idaho, and for other purposes.

H.R. 616. An act to amend the Securities Exchange Act of 1934 to permit members of national securities exchanges to effect certain transactions with respect to accounts for which such members exercise investment discretion.

At 5:39 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced the House has passed the following bill, with an amendment:

S. 184. An act to provide for the exchange of certain lands within the State of Utah, and for other purposes.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 454. An act to provide that a State court may not modify an order of another State court requiring the payment of child support unless the recipient of child support payments resides in the State in which the modification is sought, or consents to seeking the modification in such other State court.

H.R. 734. An act to amend the Act entitled "An Act to provide for the extension of certain Federal benefits, services, and assistance to the Pascua Yaqui Indians of Arizona, and for other purposes."

H.R. 821. An act to amend title 38, United States Code, to extend eligibility for burial in national cemeteries to persons who have 20 years of service creditable for retired pay as member of a reserve component of the Armed Forces.

H.R. 1268. An act to assist the development of tribal judicial systems, and for other purposes.

H.R. 1758. An act to revise, codify, and enact without substantive change certain general and permanent laws, related to transportation, as subtitles II, III, and V–X of title 49, United States Code, "Transportation", and to make other technical improvements in the Code.

H.R. 2134. An act to improve the conservation and management of interjurisdictional fisheries along the Atlantic coast by providing for greater cooperation among the States in implementing conservation and management programs, and for other purposes.

H.R. 2495. An act to direct the Secretary of the Interior to convey to the State of Ohio the Senecaville National Fish Hatchery.

H.R. 2535. An act to amend title 38, United States Code, to provide additional authority for the Secretary of Veterans' Affairs to provide health care for veterans of the Persian Gulf War.

H.R. 2647. An act to amend title 38, United States Code, to provide that the effective date of any changes in benefits under the Servicemen's Group Life Insurance program shall be based on the International Date Line.

H.R. 2668. An act to establish a demonstration program to provide affordable rental housing for low-income families, and for other purposes.

H.R. 2746. An act to amend the White House Conference on Small Business Authorization Act.

H.R. 2747. An act to increase the authorization for the development company loan and debenture guarantee program administered by the Small Business Administration.

H.R. 2748. An act to amend the Small Business Development Center Program, and for other purposes.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 454. An act to provide that a State court may not modify an order of another State court requiring the payment of child support unless the recipient of child support payments resides in the State in which the modification is sought, or consents to seeking the modification in such other State court; to the Committee on the Judiciary.

H.R. 734. An act to amend the Act entitled "An Act to provide for the extension of certain Federal benefits, services, and assistance to the Pascua Yaqui Indians of Arizona, and for other purposes;" to the Committee on Indian Affairs.

H.R. 821. An act to amend title 38, United States Code, to extend eligibility for burial in national cemeteries to persons who have 20 years of service creditable for retired pay as members of a reserve component of the Armed Forces; to the Committee on Veterans' Affairs.

H.R. 1268. An act to assist the development of tribal judicial systems, and for other purposes; to the Committee on Indian Affairs.

H.R. 1758. An act to revise, codify, and enact without substantive change certain general and permanent laws, related to transportation, as subtitles II, III, and V–X of title 49, United States Code, "Transportation", and to make other technical improvements in the Code; to the Committee on the Judiciary.

H.R. 2134. An act to improve the conservation and management of interjurisdictional fisheries along the Atlantic coast by providing for greater cooperation among the States in implementing conservation and management programs, and for other purposes; to the Committee on Commerce, Science and Transportation.

H.R. 2495. An act to direct the Secretary of the Interior to convey to the State of Ohio the Senecaville National Fish Hatchery; to the Committee on Environment and Public Works.

H.R. 2535. An act to amend title 38, United States Code, to provide additional authority for the Secretary of Veterans' Affairs to provide health care for veterans of the Persian Gulf War; to the Committee on Veterans' Affairs.

H.R. 2647. An act to amend title 38, United States Code, to provide that the effective date of any changes in benefits under the Servicemen's Group Life Insurance program shall be based on the International Date Line; to the Committee on Veterans' Affairs.

H.R. 2668. An act to establish a demonstration program to provide affordable rental housing for low-income families, and for other purposes; to the Committee on Banking, Housing and Urban Affairs.

H.R. 2746. An act to amend the White House Conference on Small Business Authorization Act; to the Committee on Small Business.

H.R. 2747. An act to increase the authorization for the development company loan and debenture guarantee program administered by the Small Business Administration; to the Committee on Small Business.

H.R. 2748. An act to amend the Small Business Development Center Program, and for other purposes; to the Committee on Small Business.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–1334. A communication from the Chairman of the United States International Trade Commission, transmitting, pursuant to law, a report on trade between the United States and China, the Successor States to the Former Soviet Union, and other title IV countries during the period January through March 1993; to the Committee on Finance.

EC–1335. A communication from the Administrator of the General Services Administration, transmitting, pursuant to law, a report describing a revision to a system of records, incident reporting, investigation, contingency planning/analysis and security case files; to the Committee on Governmental Affairs.

EC–1336. A communication from the Secretary of Education, transmitting, pursuant to law, a report of final regulations—library research and demonstration program; to the Committee on Labor and Human Resources.

EC–1337. A communication from the Secretary of Education, transmitting, pursuant to law, a report of final regulations—demonstration projects to increase client choice program; to the Committee on Labor and Human Resources.

EC–1338. A communication from the Secretary of Education, transmitting, pursuant to law, a report of final regulations—institutional eligibility under the Higher Education Act of 1965, as Amended (student assistance general provisions); to the Committee on Labor and Human Resources.

EC–1339. A communication from the Chairman of the Farm Credit Administration, transmitting, pursuant to law, the annual report for calendar year 1992; to the Committee on Agriculture, Nutrition and Forestry.

EC–1340. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report relative to the sixth special impoundment message for fiscal year 1993; referred jointly, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, to the Committee on Appropriations, to the Committee on the Budget, to the Committee on Banking, Housing and Urban Affairs, to the Committee on Commerce, Science and Transportation, and to the Committee on the Judiciary.

EC–1341. A communication from the Assistant Vice President (Government and Public Affairs), National Railroad Passenger Corporation, transmitting, pursuant to law, a report of the criteria performance review of Amtrak's routes for 1993; to the Committee on Commerce, Science and Transportation.

EC–1342. A communication from the Administrator of the National Aeronautics and Space Administration, transmitting, a draft of proposed legislation entitled "The National Aeronautics and Space Administration Management Reorganization Act of 1993"; to the Committee on Commerce, Science and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. KENNEDY, from the Committee on Labor and Human Resources, without amendment:

S. 1283. A bill to amend the Technology-Related Assistance for Individuals With Disabilities Act of 1988 to improve the Act, and for other purposes (Rept. No. 103–119).

By Mr. KENNEDY, from the Committee on Labor and Human Resources, without amendment:

S. 1284. A bill to amend the Developmental Disabilities Assistance Bill of Rights Act to expand or modify certain provisions relating to programs for certain individuals with developmental disabilities, Federal assistance for priority area activities for individuals with developmental disabilities, protection and advocacy of individual rights, university affiliated programs, and projects of national significance, and for other purposes (Rept. No. 103–120).

By Mr. RIEGLE, from the Committee on Banking, Housing, and Urban Affairs, with an amendment in the nature of a substitute:

S. 424. A bill to amend the Securities Exchange Act of 1934 with respect to limited partnership rollups (Rept. No. 103–121).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

H.R. 873. A bill Entitled: "Gallatin Range Consolidation and Protection Act of 1993" (Rept. No. 103–122).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, without amendment:

H.R. 631. A bill to designate certain lands in the State of Colorado as components of the National Wilderness Preservation System, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. HOLLINGS, from the Committee on Commerce, Science and Transportation:

Albert J. Herberger, of New York, to be the Administrator of the Maritime Administration.

Lionel Skipwith Johns, of Virginia, to be an Associate Director of the Office of Science and Technology Policy.

Everett M. Ehrlich, of Pennsylvania, to be Under Secretary of Commerce for Economic Affairs.

Jolene Moritz Molitoris, of Ohio, to be Administrator of the Federal Railroad Administration.

Loretta L. Dunn, of Kentucky, to be an Assistant Secretary of Commerce.

David Russell Hinson, of Illinois, to be Administrator of the Federal Aviation Administration.

Louise Frankel Stoll, of California, to be an Assistant Secretary of Transportation.

Mary Lowe Good, of New Jersey, to be Under Secretary of Commerce for Technology.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. BIDEN, from the Committee on the Judiciary:

Bruce A. Lehman, of Wisconsin, to be Commissioner of Patents and Trademarks.

Louis J. Freeh, of New York, to be Director of the Federal Bureau of Investigations for the term of 10 years.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BYRD:

S. 1341. A bill to establish the Wheeling National Heritage Area in the State of West Virginia, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. KENNEDY (for himself and Mr. KERRY):

S. 1342. A bill to establish in the Department of the Interior the Essex Heritage District Commission, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. AKAKA:

S. 1343. A bill entitled the "Steel Jaw Leghold Trap Prohibition Act"; to the Committee on Environment and Public Works.

By Mr. GRAMM (for himself and Mr. MCCAIN):

S. 1344. A bill to promote peace and prosperity, and open market economic development in Armenia, through the establishment of a free trade agreement between the United States and the Republic of Armenia; to the Committee on Finance.

By Mr. BINGAMAN (for himself, Mr. BAUCUS, Mr. CAMPBELL, Mr. DORGAN, Mr. LEVIN, Mr. RIEGLE, Mr. SIMON, and Mr. DASCHLE):

S. 1345. A bill to provide land-grant status for tribally-controlled community colleges, tribally-controlled postsecondary vocational institutions, the Institute of American Indian and Alaska Native Culture and Arts Development, Southwest Indian Polytechnic Institute, and Haskell Indian Junior College, and for other purposes; to the Committee on Indian Affairs.

By Mr. DECONCINI (for himself and Mr. HATCH):

S. 1346. A bill to amend title 17, United States Code, to establish copyright arbitration royalty panels to replace the Copyright Royal Tribunal, and for other purposes; to the Committee on the Judiciary.

By Mr. BRADLEY:

S. 1347. A bill to impose an excise tax on lead and lead products, to create a lead abatement trust fund, and to create a program under which states and certain political subdivisions thereof receive grants from such trust fund, and for other purposes; to the Committee on Finance.

By Mr. BRYAN:

S. 1348. A bill to amend the Immigration and Nationality Act to reform the asylum law, to increase penalties for alien smuggling, and to authorize appropriations for the Immigration and Naturalization Service, and for other purposes; to the Committee on the Judiciary.

By Mr. DURENBERGER (for himself and Mr. GORTON):

S. 1349. A bill to establish the Food Safety and Inspection Agency, and for other purposes; to the Committee on Governmental Affairs.

By Mr. KENNEDY (for himself, Mr. HATCH, Mr. SIMON, Mr. MACK, Mr. BIDEN, Mr. COCHRAN, Mr. D'AMATO, Mr. DANFORTH, Mr. DECONCINI, Mr. DODD, Mr. DURENBERGER, Mr. GLENN, Mr. INOUYE, Mr. JEFFORDS, Mr. KERRY, Mr. LEVIN, Mr. METZENBAUM, Ms. MIKULSKI, Mr. MITCHELL, Mr. MOYNIHAN, Mr. PELL, Mr. SARBANES, Mr. THURMOND, Mr. WELLSTONE, Mr. WOFFORD, and Mr. STEVENS):

S.J. Res. 119. A joint resolution to designate the month of March 1994 as "Irish-American Heritage Month"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BYRD:

S. 1341. A bill to establish the Wheeling National Heritage Area in the State of West Virginia, and for other purposes; to the Committee on Energy and Natural Resources.

WHEELING NATIONAL HERITAGE AREA ACT OF 1993

Mr. BYRD. Mr. President, today I am introducing legislation to establish the Wheeling National Heritage Area in West Virginia as a unit of the National Park Service.

Wheeling, located in the northern Panhandle of West Virginia, possesses numerous historical, cultural, and natural resources. With the broad support of the community, efforts were begun several years ago to assess the resources of the area and to evaluate alternative means of protecting and promoting these resources. Wheeling served as the western terminus of the National Road in the early 1800's, as an inland port in the 19th century, and as the first capital of West Virginia. In addition, Wheeling has an extensive industrial history as a center of iron, steel, textile, boat building, glass, cigar, and chewing tobacco manufacturing. These resources, linked with the waterfront location of Wheeling along the Ohio River, combine to provide an excellent opportunity for interpretation of this period of our Nation's history. It is envisioned that the Wheeling National Heritage Area will serve as a model for future heritage areas. Rather than depending on long-term Federal financial assistance, the role of the Federal Government is envisioned as short-term to aid in the influx of capital to assist in the development of the interpretive venues. In turn, the management and operation of the Wheeling Heritage Area is to be self-sustaining, as provided in this legislation.

Mr. President, the greatness of our country relies in great part on our ability to appreciate our past and how it shapes our actions for the present and the future. The legislation I introduce today will help to foster that appreciation, while allowing for the continued economic growth of the region This legislation does not propose that the Federal Government be the controlling force in this effort. Rather, it envisions a cooperative partnership between the National Park Service and the local community to allow for interpretation of the most significant resources, while providing for local involvement in both the investment and operation of this area.

Representatives from the city of Wheeling and the National Park Service have been working together in the development of this proposal. I urge its approval.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1341

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Wheeling National Heritage Area Act of 1993".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that:

(1) The community of Wheeling, West Virginia, and vicinity, possess important historical, cultural, and natural resources, representing major heritage themes of transportation and commerce and industry and Victorian culture in the United States.

(2) The City of Wheeling played an important part in the settlement of this country by serving as the western terminus of the National Road in the early 1800's, by serving as the Crossroads of America throughout the nineteenth century, by serving as one of the few major inland ports in the nineteenth century, by hosting the establishment of the Restored State of Virginia, and later the State of West Virginia during the Civil War years and serving as the first capital of the new State of West Virginia, through the development and maintenance of many industries crucial to the Nation's expansion, including iron and steel, and textile manufacturing facilities, boat building facilities, glass manufacturing facilities, stogie and chewing tobacco manufacturing facilities, many of which are industries that continue to play an important role in the Nation's economy.

(3) The City of Wheeling has retained its national heritage themes with the designations of the old custom house, now Independence Hall, as a National Historic Landmark; with the designation of the historic suspension bridge as a National Historic Landmark; with five historic districts, and many individual properties in the Wheeling area listed or eligible for nomination to the National Register of Historic Places.

(4) The heritage themes and number and diversity of Wheeling's remaining resources should be appropriately retained, enhanced, and interpreted for the education, benefit, and inspiration of the people of the United States.

(b) PURPOSES.—The purposes of this Act are to:

(1) Recognize the special importance of the history and development of the Wheeling area in the cultural heritage of the Nation.

(2) Provide a framework to assist the City of Wheeling and other public and private entities and individuals in the appropriate preservation, enhancement, and interpretation of resources in the Wheeling area emblematic of Wheeling's contributions to that cultural heritage.

(3) Create a new concept and model for designation of a National Heritage Area by allowing for limited Federal, State and local capital contributions for planning and infrastructure investments to create the Wheeling National Heritage Area, in partnership with the State of West Virginia and the City of Wheeling, West Virginia and its designees; and to provide for an economically self-sustaining National Heritage Area not dependent on Federal assistance beyond the initial years necessary to establish the National Heritage Area.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) The term "Corporation" refers to the Wheeling National Heritage Area Corporation (WNHAC) as described in section 5 of this Act.

(2) The term "Plan" refers to the Plan for the Wheeling National Heritage Area, prepared for the Wheeling National Heritage Area Task Force, the City of Wheeling, and the National Park Service, published in August 1992, which Plan includes—

(A) an inventory of the natural and cultural resources in the City of Wheeling;

(B) criteria for preserving and interpreting significant natural and historic resources;

(C) a strategy for the conservation, preservation, and reuse of the historical and cultural resources in the City of Wheeling and the region; and

(D) an implementation agenda by which the State of West Virginia and local governments can program their resources as well as a complete description of the management entity responsible for implementing the Plan.

SEC. 4. DESIGNATION OF NATIONAL HERITAGE AREA.

In furtherance of the purposes of this Act, there is hereby established the Wheeling National Heritage Area in the State of West Virginia (hereinafter referred to as the "Area"). The Area shall include those lands and waters within the boundary generally depicted on the map entitled, "Boundary Map, Wheeling National Heritage Area, West Virginia", which shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

SEC. 5. ESTABLISHMENT OF WHEELING NATIONAL HERITAGE AREA CORPORATION.

(a) ESTABLISHMENT.—To achieve the purposes of this Act, and to carry out the implementation of the Plan, there is hereby established the Wheeling National Heritage Area Corporation (WNHAC) which—

(1) will be structured as a 501(c)(3) tax exempt entity;

(2) shall consist of a Board of Directors of not less than 9 nor more than 11 members, including the executive committee;

(3) shall include an executive committee of 5 members; and

(4) shall include the Secretary of the Interior, or his designate, the Governor of West Virginia, or his designate, and the Mayor of the City of Wheeling, or his designate.

The details of the Corporation's administrative operations, staff needs, Board composition (except as specified in section 5(a)(4)), affiliate organizations, financial forecast, and membership shall be specified in the business plan for the Wheeling National Heritage Area Corporation.

(b) MISSION.—(1) The Corporation's primary mission will be to implement and coordinate the recommendations contained in the Plan, accomplish the goals of the Heritage Area planning initiative, ensure integrated operation of the project, and become a financially self-sustaining entity. The Corporation shall be structured as a private nonprofit organization, an umbrella organization to accomplish the primary mission by itself, in partnership with other local organizations, or on the behalf of other entities, particularly the National Park Service and the State of West Virginia Division of Culture and History. It will provide coordination, standards, and streamlined financial and technical assistance for the implementation of the Plan.

(2) The primary charitable and educational mission of the Corporation shall be to conserve, interpret, and promote the Wheeling National Heritage Area, and by doing so, to achieve economic development in the historic downtown and riverfront area, and the education and general welfare of the people. The more specific mission of the Corporation shall be to implement the Plan for the Wheeling National Heritage Area, to preserve the area's historic and cultural resources, and to establish a structure within which the activities of investment, development, and operation of the Heritage Area can be fulfilled. In support of this primary mission, the Corporation shall also direct and coordinate the diverse conservation, development, programming, educational, and interpretive activities in the area.

(c) CREATION OF THE CORPORATION.—An interim board shall be formed by the Wheeling National Heritage Area Task Force Core Group in existence on the date of the enactment of this Act. This board shall draft interim bylaws, nominate an executive committee and solicit membership. The members of the executive committee shall act as incorporators of the Corporation, nominate the permanent board and have the primary roles in the development, implementation, and operation of the Corporation and the Heritage Area. A permanent executive committee shall adopt a charter for the Corporation, and sign its articles of incorporation, and shall determine the appropriate composition for the permanent board of directors. The executive committee shall appoint the remaining board members with the exception of the City, State, and Federal representatives designated under subsection (a)(4). The executive committee shall act as the primary vehicle for operation and policy of the Corporation while the board of directors shall serve to ensure that the mission of the Corporation is carried out, and serve as a check and balance to the executive committee while measuring progress and ensuring equity in the activities of the Corporation.

SEC. 6. POWERS OF THE WHEELING NATIONAL HERITAGE AREA CORPORATION.

(a) POWERS OF THE CORPORATION.—The Wheeling National Heritage Area Corporation shall be chartered with broad private powers in order to pursue its mission and implement the Plan. The Corporation shall be empowered to—

(1) acquire, encumber, and dispose of such real and personal property as is necessary to preserve, promote and enhance the heritage and resources of the Area;

(2) improve properties to which the Corporation holds title, sell, lease, sublease or otherwise dispose of real property;

(3) enter into contracts, leases, cooperative agreements, and other transactions with public agencies and private individuals and entities;

(4) receive funds from public agencies and private individuals and entities; receive gifts of property of all kinds, whether made by will, deed, or otherwise, and administering the same in carrying out the Corporation's mission; collect fees; develop any other sources of income commensurate with the laws governing nonprofit entities;

(5) disburse funds to qualified public or private individuals and entities for the purposes of achieving the goals of the Heritage Area as specified in the Plan;

(6) hire staff and accept personnel from public agencies as required to fulfill its mandates and purposes;

(7) manage property and develop and operate educational, informational, interpretive, and marketing programs, facilities, and linkages; and

(8) coordinate the review and approval of projects or programs either funded or implemented by the Corporation or its associates; and provide educational, interpretation and promotional services and materials.

SEC. 7. DUTIES OF THE WHEELING NATIONAL HERITAGE AREA CORPORATION.

(a) FORMAL ADOPTION OF THE PLAN.—The Corporation shall work with the State of West Virginia and local governments to ensure that the Plan is formally adopted by the City of Wheeling and recognized by the State of West Virginia.

(b) IMPLEMENTATION OF THE PLAN.—In pursuing the implementation of the Plan, the Corporation shall—

(1) implement the ideas and concepts put forth in the Plan in a timely fashion pursuant to the phasing schedule identified in the Plan;

(2) ensure the coordination of its services with those of the City of Wheeling, West Virginia, the State of West Virginia, and the Federal Government;

(3) seek the support and involvement of the Wheeling community and City of Wheeling as it pursues its mission;

(4) maintain the integrity of those natural and cultural resources recognized by this Act and referenced in the Plan through standards and criteria for the treatment of all properties located within the Area; and

(5) pursue the completion and adoption of all planning projects recommended by the Plan, including, but not limited to, the business plan for the Wheeling National Heritage Area, an interpretive master plan which outlines plans for the interpretation and conservation of Wheeling's cultural and physical resources, a heritage lighting plan, an intermodal transportation plan, and others of a like kind.

(c) OPERATIONS OF THE WHEELING NATIONAL HERITAGE AREA CORPORATION.—In implementing the Plan, the Corporation may make loans and grants to appropriate public, governmental, or private entities and enter into contracts with private or public entities using funds appropriated for that purpose, or from funds donated, or revenue generated from the operation of Area resources, with these funds being used to—

(1) promote the City of Wheeling's significant heritage and resources;

(2) promote future growth for the City of Wheeling in a manner consistent with its heritage, resources, and the planning goals established for the Heritage Area;

(3) ensure successful development of the Heritage Area and its principal features as specified in the Plan and to undertake further planning and design as necessary to achieve this objective;

(4) ensure the conservation of the region's historical, cultural, and natural resources;

(5) cooperate with and assist entities whose goals and purposes are consistent with the goals and purposes of the Corporation;

(6) manage and operate heritage facilities, where appropriate;

(7) coordinate and support the activities of the Corporation or its associates and the operation of heritage and cultural tourism attractions in the region so as to create a unified project;

(8) encourage intergovernmental and interagency cooperation in the achievement of these objectives;

(9) market the Heritage Area, the City of Wheeling and its resources as a destination for international, national, and regional visitors;

(10) provide technical assistance to cultural heritage efforts and develop design standards for physical sites and educational/interpretive programs;

(11) lead in efforts to educate the public about the significance of these resources and the heritage of the City of Wheeling (targeting visitors as well as local residents);

(12) promote local and regional development of recreational opportunities, linkages, and facilities;

(13) accomplish the above in a way which will promote economic development of the City of Wheeling and the surrounding area;

(14) create public/private partnerships to finance projects and initiatives of the Heritage Area; and

(15) seek funding from public (local, State and Federal) agencies and private individuals, foundations and corporations.

(d) RESPONSIBILITIES OF THE WHEELING NATIONAL HERITAGE AREA CORPORATION.—Priority elements and actions to be carried out by the Corporation include—

(1) assisting the State of West Virginia and the City of Wheeling in appropriate preservation treatment of the sites, buildings, and objects listed or eligible for listing on the National Register of Historic Places;

(2) increasing awareness and appreciation of the City of Wheeling's cultural heritage and ongoing traditions;

(3) assisting the State of West Virginia or City of Wheeling in designing, establishing, and maintaining one or more visitor centers and other interpretive exhibits in the Area;

(4) assisting in the enhancement of public awareness of an appreciation for the historical and architectural and geological resources and sites in the Area;

(5) assisting the State of West Virginia or any local government or any nonprofit organization in the restoration of any historic building in the Area;

(6) encouraging, by appropriate means, enhanced economic and industrial development in the Area in furtherance of the goals of the Plan;

(7) encouraging the City of Wheeling and other local governments to adopt land use policies consistent with the goals of the Plan and to take actions to implement those policies; and

(8) ensuring that clear, consistent signs identifying access points and sites of interest are put in place.

SEC. 8. DUTIES OF THE SECRETARY.

(a) PURPOSE.—To carry out the purposes of this Act, the Secretary of the Interior shall—

(1) assist the Corporation in the development of interpretive and educational materials as specified in the Plan or subsequent

planning efforts (for example, the interpretive master plan); and

(2) provide funds for capital improvements to projects and initial operating assistance consistent with the Plan.

(b) TECHNICAL ASSISTANCE.—The Secretary shall, upon the request of the Corporation and as outlined in the Plan, provide technical assistance to the Corporation in the preparation of any plans or studies and for the implementation of any plans as set out in section 7(b).

SEC. 9. DUTIES OF OTHER FEDERAL ENTITIES.

Any Federal department, agency or other entity conducting or supporting activities directly affecting the Area shall—

(1) consult with the Secretary of the Interior and the Corporation with respect to such activities;

(2) cooperate with the Secretary of the Interior and the Corporation in carrying out its duties under this Act and, to the maximum extent practicable, coordinate such activities with the carrying out of such duties; and

(3) to the maximum extent practicable, conduct or support such activities in a manner which the Corporation determines will not have an adverse effect on the Area.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

By Mr. KENNEDY (for himself and Mr. KERRY):

S. 1342. A bill to establish in the Department of the Interior the Essex Heritage District Commission, and for other purposes; to the Committee on Energy and Natural Resources.

ESSEX HERITAGE DISTRICT COMMISSION ACT OF 1993

Mr. KENNEDY. Mr. President, I am introducing legislation today to establish the Essex Heritage District Commission, in order to preserve for future generations the unique historic, cultural, and natural resources of Essex County, MA. I am joined in this legislation by Senator JOHN KERRY, and a companion bill has been introduced in the House of Representatives by Congressmen PETER TORKILDSEN and MARTIN MEEHAN.

Essex County is the site of historical events that have profoundly influenced the course of American history over the past 350 years. Concentrated in this area of less than 500 square miles are nearly 80 historic districts and sites related to the early settlement of the United States, the country's emergence as a major maritime power, and its subsequent industrial development.

The county contains more nationally significant early architecture than any other area in America. Still intact are 17th century marshland farms and rural home sites clustered around original commons. Active harbors have been in continuous use since the 17th century, and local shipyards, lighthouses, and distinctive maritime communities exemplify 18th century design. Within the county are some of the finest examples of Georgian and Federal architecture to be found in the United States. The first integrated iron works in America is still in operation under the auspices of the National Park Service. Textile mill villages and 10-foot shoe shops where shoes were made and sold in a single 10-foot by 10-foot room still remain largely as they appeared in the 19th century.

The county also has extensive natural and scenic resources—marshlands, beaches, harbors, rocky farmlands, and islands—which amply demonstrate why maritime pursuits and water-powered industrial development first arose here.

At the heart of this region lies the city of Salem. Settled in 1626, 6 years after the Pilgrims landed in Plymouth, Salem became one of the most active ports in the United States during the 18th century, conducting trade throughout the world and opening many new markets for imports and exports. Salem retains a wealth of resources dating from this period, including one of the country's few remaining colonial period wharves; classic 17th century structures; four major historic districts encompassing thousands of facilities which preserve the image of Salem as it appeared in the late 18th century; the internationally renowned Peabody Essex Museum containing major collections of maritime art and history, Chinese export wares and early anthropological collections; and many historic buildings associated with the life and work of one of America's most famous authors, Nathaniel Hawthorne.

Salem also has many homes, meeting sites, and cemeteries associated with the notorious witchcraft trials of 1692, which serve to remind residents and visitors alike of the importance of basic rights and due process built into our legal system since those days.

The purpose of this legislation is to preserve, interpret, and make available for the public these resources. The Commission will carry out the directives proposed in the Salem Project, a report issued by the National Park Service in January 1990, which suggested a broadening of Federal recognition beyond the boundaries of Salem itself, to take into account the shared historic themes that run throughout Essex County.

The success of the preservation effort at Salem Maritime National Historic Site—the oldest such site in the country, established in 1938—has spurred local initiatives in many of the surrounding communities. This legislation will build on that local interest by providing a management framework for the multijurisdictional preservation efforts. The goal is to protect and preserve these nationally significant resources in ways that present a unified interpretive story for visitors, so that they can readily understand the relationships among the historic sites throughout the county. The Essex Heritage District Commission will provide guidance to local communities and the State to ensure that the goal is achieved. This bill does not propose major Federal land acquisition or a Federal bureaucracy. Its modest Federal involvement will help local efforts to proceed smoothly.

The success of the Essex Heritage District and Commission depends on broad-based support and participation by private citizens, businesses, nonprofit institutions, and local, regional, and State governments. The majority of the capital to implement the county-wide recommendations in the National Park Service report is expected to come from the private sector and local sources.

Salem has demonstrated how successful this approach can be. In the past 5 years, Federal appropriations of $18 million for Salem Maritime National Historic Site have leveraged more than $78 million in private, municipal, and State investments in projects which relate to the proposed Essex Heritage District. For example, the Peabody Essex Museum has provided $4.4 million—more than half of the total costs—for renovation of the Salem Armory building that will house a new regional visitor center run by the Park Service. Salem has just completed $1.5 million in improvements to a parking garage adjacent to the visitor center, and $900,000 in improvements to the roadways leading to the Salem Maritime National Historic Site.

At the county level, an ad hoc Essex Heritage Commission, comprised of 33 volunteer members from the private sector and municipal and State governments, is already well underway toward developing an action plan for regional trails and exhibits. The Massachusetts Historical Commission and the departments of coastal zone management and environmental management have allocated more than $17.5 million for heritage parks in the county, and many community officials, board members, and representatives from other preservation and environmental organizations are providing valuable assistance and coordination. But there is much more to be done, and it is time for the Federal Government to play a role in this promising endeavor.

Its success so far has been based on the ability of people with different perspectives to work together to achieve solutions that are mutually beneficial. This legislation will help them proceed in effective and efficient ways, as they work to bring the region together and preserve these magnificent historical resources, for the enjoyment of generations to come. I urge my colleagues to support this important initiative.

Mr. KERRY. Mr. President, I am pleased to join with my colleague from Massachusetts, Senator KENNEDY, in introducing this legislation to create the Essex Heritage District Commission.

Essex County, which stretches through Massachusetts' North Shore communities, across to the Merrimac River Valley and up to the New Hampshire border, is a mural of American history, its architecture, industry, and communities. While it is an area of only 500 square miles, there are nearly 80 historic districts in the county with more examples of nationally significant early American architecture than any other area of comparable size in the country. Included among these are 17th-century marshland farms, rural homes, cemeteries, and original town commons. The shoreline of Essex County contains shipyards, lighthouses, and harbors that have been active since the 17th century.

Together, these sites form a panorama of our Nation's development as a maritime and industrial power. In the 18th century, this region became a mecca for American trade, a hub for the importing and exporting of goods with the other great trading nations. In response, the region flourished as a manufacturing center, which led to the establishment and growth of the textile and leather industry in the Merrimac River Valley towns of Peabody, Lawrence, Beverly, and Haverhill. The history of this growth is evident today in the textile mill villages, the first sustained integrated iron works site, and one of the most significant planned manufacturing cities in the country, all of which remain largely intact today.

At the heart of all this activity was the city of Salem. While Salem is famous in the history books and in American lore as the site of the 1692 witch trials, it is historically significant as an early landing point for some of the first English colonists and as one of the most active ports of the 18th century. An amazing number of these historical resources remain intact, including a colonial period wharf and 17th and 18th-century structures exemplifying Puritan society.

A tour through the historic districts of Essex County is a visual lesson in this important period of our Nation's past. We are lucky that so many of these historical resources remain to provide such a detailed record, and we must work to ensure their continued protection through the creation of the Essex Heritage District Commission. The Commission, which would be authorized for 10 years, would provide the long-term commitment that is needed to bring about the success of this project. Of course, the primary mission would be preservation, but more than this, the Commission will take individually preserved resources and link them through a unified interpretive story of this region and its place in our Nation's history.

While the Commission will be chartered by Federal legislation, it will not be a project managed by the Federal Government. Instead, the Commission will be comprised primarily of delegates representing the State and local governments serving the area and representing nonprofit organizations, business interests, and private citizens from the participating communities. The legislation will provide a system under which these groups can come together to pursue goals they have established by combining historic and resource preservation with economic concerns. The preservation activities which already have gone on in Essex County have enhanced the region as an attraction for visitors because of its historic sites, its picturesque scenery, and as a desirable place to live and do business. I hope the Senate will act to ensure the continuation of this success story by taking swift and positive action on this bill.

By Mr. AKAKA:

S. 1343. A bill entitled the "Steel Jaw Leghold Trap Prohibition Act"; to the Committee on Environment and Public Works.

THE STEEL JAW LEGHOLD TRAP PROHIBITION ACT OF 1993

• Mr. AKAKA. Mr. President, today I am introducing legislation to prohibit the use of steel jaw leghold traps.

There is no valid reason to continue the use of steel jaw leghold traps when alternative traps, such as the collapsible box trap, legsnares, and rapid-kill traps, are available. These alternative traps are effective, economical, and far less cruel.

I do not oppose hunting for recreation, for subsistence, or as a means of making a living. What concerns me is the cruelty and indiscriminate nature of the steel jaw leghold trap. That is why I am introducing the Steel Jaw Leghold Trap Prohibition Act.

This legislation would prohibit the shipment of these traps in interstate or foreign commerce, as well as articles of fur from animals caught by these traps.

Steel jaw leghold traps are needlessly cruel and inhumane devices which can cause trapped animals to gnaw off their foot to gain freedom from the trap. Animals are also subject to death by starvation, dehydration, and exposure. They are defenseless against other predators. Moreover, family pets, deer, raptors, and other wildlife become the unintended victims of such traps.

Over 60 countries have banned the use of such traps. In November 1991, the European Economic Community [EEC] adopted a regulation which bans the use of steel jaw traps throughout the EEC. It also prohibits imports of furs from any country that continues to use these cruel devices. Enactment of this legislation will allow U.S. fur manufacturers to continue to market furs in the EEC.

The American Veterinary Medical Association, which represents veterinarians nationwide, recently condemned the use of steel jaw traps by passing a resolution which declared these devices to be inhumane. At least seven States, including Rhode Island, Delaware, Connecticut, Florida, Massachusetts, New Jersey, and Tennessee, have enacted legislation to curb the use of these traps.

It is time to retire the steel jaw leghold trap. I invite my Senate colleagues to join in cosponsoring this bill. Passage of this bill will not end trapping, but it will bring the use of these inhumane devices to an end.

I ask that the text of this bill be printed in the RECORD following my remarks.

There being no objections the bill was ordered to be printed in the RECORD, as follows:

S. 1343

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DECLARATION OF POLICY.

It is the policy of the United States to end the needless maiming and suffering inflicted upon animals through the use of steel jaw leghold traps by prohibiting the shipment in interstate or foreign commerce of the traps and of articles of fur from animals that were trapped in the traps.

SEC. 2. DEFINITIONS.

As used in this Act—

(1) The term "article of fur" means—

(A) any furskin bearing hair, raw or not dressed, or dressed; or

(B) any article, however produced, that consists in whole or part of any furskin.

For purposes of subparagraph (A), the terms "furskin", "raw or not dressed", and "dressed" have the same respective meanings that are given the terms in headnote 2 of subpart B of part 5 of schedule 1 of the Tariff Schedules of the United States (19 U.S.C. 1202).

(2) The term "interstate or foreign commerce" shall have the same meaning as that given to the term in section 10 of title 18, United States Code.

(3) The term "import" means to land on, bring into, or introduce into, any place in the United States, whether or not such landing, bringing, or introduction constitutes an importation within the meaning of the customs laws of the Federal Government.

(4) The term "person" includes any individual, partnership, association, corporation, trust, or any officer, employee, agent, department, or instrumentality of the Federal Government or of any State or political subdivision thereof, or any other entity subject to the jurisdiction of the Federal Government.

(5) The term "Secretary" means the Secretary of the Interior.

(6) The term "steel jaw leghold trap" means any spring-powered pan- or sear-activated device with two opposing steel jaws which is designed to capture an animal by snapping closed upon a limb of the animal or any part of the limb.

(7) The term "United States" means the several States, the District of Columbia, and territories and possessions of the United States, including Puerto Rico.

SEC. 3. PROHIBITED ACTS AND PENALTIES.

(a) IN GENERAL.—No article of fur shall be imported, exported, or shipped in interstate or foreign commerce if any part or portion of such article is derived from an animal that was trapped in a steel jaw leghold trap.

(b) Prohibitions.—It is unlawful for any person knowingly—

(1) to import, export, ship or receive any article of fur in contravention of subsection (a);

(2) to deliver, carry, transport, or ship by any means whatever, in interstate or foreign commerce, any steel jaw leghold trap;

(3) to sell, receive, acquire, or purchase any steel jaw leghold trap that was delivered, carried, transported, or shipped in contravention of paragraph (2); or

(4) to violate any regulation prescribed by the Secretary under this section.

(c) Penalties.—Any person who knowingly commits an act which violates subsection (a) or (b), or any regulation issued under this section to carry out the provisions of subsections (a) or (b), shall—

(1) upon conviction for the first such violation, be fined not more than $1,000; and

(2) upon conviction for the second and each subsequent violation, be fined not more than $5,000, and imprisoned for not more than two years.

SEC. 4. REWARDS.

(a) In General.—The Secretary shall pay to any person who furnishes information that leads to a conviction of a criminal violation of any provision of this Act (including regulations promulgated to carry out the provision) in an amount equal to half of fine paid by the person convicted of the criminal violation.

(b) Exclusion.—An officer or employee of the United States or of any State or local government who furnishes information or renders service in the performance of official duties is not eligible for payment under this section.

SEC. 5. ENFORCEMENT.

(a) In General.—The provisions of this Act and any regulations issued pursuant to this Act shall be enforced by the Secretary. To the extent allowable by law, the Secretary may utilize by agreement, with or without reimbursement, the personnel, services, and facilities of any other Federal agency or any State agency for purposes of enforcing this Act.

(b) Warrants.—Any judge of a district court of the United States and any United States magistrates may, upon proper oath or affirmation showing probable cause, issue such warrants or other process as may be required for enforcement of this Act and any regulation issued under this Act.

(c) Searches.—To the extent allowable by law, any individual authorized to carry out the enforcement of this Act may—

(1) detain for inspection, search, and seize any package, crate, or other container, including its contents, and all accompanying documents;

(2) make arrests without a warrant for any violation of this Act; and

(3) execute and serve any arrest warrant, search warrant, or other warrant or criminal process issued by any judge or magistrate of any court of competent jurisdiction for enforcement of this Act.

(d) Treatment of Seized Items.—(1) Any item seized pursuant to this Act shall, pending the disposition of criminal proceedings or the institution of an action in rem for forfeiture of the item under subsection (e), be held by any person authorized by the Secretary.

(2) The Secretary may, in lieu of holding the item described in paragraph (1), permit the owner or consignee to post a bond or other surety satisfactory to the Secretary. Upon forfeiture of the item to the United States, or the abandonment or waiver of any claim to the item, the item shall be disposed of (other than by sale to the general public) by the Secretary in such manner, consistent with the purposes of this Act, as the Secretary shall prescribe by regulation.

(e) Items Subject to Forfeiture.—Any article of fur or steel jaw leghold trap taken, possessed, sold, purchased, offered for sale or purchase, transported, delivered, received, carried, shipped, exported, or imported contrary to the provisions of this Act or to any regulation made pursuant thereto, shall be subject to forfeiture to the Federal Government.

(f) Action by Attorney General.—The Attorney General of the United States may seek to enjoin any person who is alleged to be in violation of any provision of this Act or regulation issued under this Act.

SEC. 6. REGULATIONS.

The Secretary shall prescribe such regulations as the Secretary determines to be necessary to carry out the provisions of this Act.

SEC. 7. EFFECTIVE DATE.

The provisions of this Act shall become effective on the date that is 1 year after the date of the enactment of this Act.•

By Mr. BINGAMAN (for himself, Mr. Baucus, Mr. Campbell, Mr. Dorgan, Mr. Levin, Mr. Riegle, Mr. Simon, and Mr. Daschle):

S. 1345. A bill to provide land-grant status for tribally controlled community colleges, tribally controlled postsecondary vocational institutions, the Institute of American Indian and Alaska Native Culture and Arts Development, Southwest Indian Polytechnic institute, and Haskell Indian Junior College, and for other purposes; to the Committee on Indian Affairs.

LAND GRANT STATUS TO TRIBALLY CONTROLLED COLLEGES

• Mr. BINGAMAN. Mr. President, today I am introducing a bill that will provide land grant status for the 27 tribally controlled postsecondary vocational institutions. I am pleased the Senator from Montana [Mr. Baucus], the Senator from Colorado [Mr. Campbell], the Senator from North Dakota [Mr. Dorgan], and the Senators from Michigan [Mr. Levin and Mr. Riegle], the Senator from Illinois [Mr. Simon] are joining me as original cosponsors of this legislation.

There are presently 72 colleges in the United States and their trust territories that receive money under land grant college programs. The Department of Agriculture annually appropriates over $700 million to these colleges, with each institution receiving an average award of approximately $9 million.

One goal of the land grant program has been to include equally all people of the United States and the trust territories in the educational benefits which these colleges provide. This served as the impetus behind the 1890 Second Morrill Act which established numerous institutions for black students in States which already had existing land grant colleges. In addition to setting the precedent that land grant colleges could serve special populations, it also demonstrated that there could be more than one land grant college established in each State. In 1968, Federal City College—now the University of the District of Columbia—in Washington, DC, was included as a land grant institution. It established that trust areas were to be included in the land grant programs; this trend continued with the addition of colleges in Guam and the Virgin Islands in land grant status in 1972. Finally, the addition of colleges in Micronesia, American Samoa, and the Northern Mariana Islands in 1980 demonstrated that community colleges are also eligible for land grant funding.

The original intent of the land grant colleges was the development of programs to deal with problems of the rural poor and to study means of improving economic opportunities for rural people. Currently, the tribal colleges conduct numerous types of programs of outreach and technical assistance for which the original land grant institutions were founded. This bill would make the resources available to continue this type of instruction.

Furthermore, land grant resources would allow tribal colleges to ameliorate the gross funding inequities which they suffer. Presently, tribal colleges receive approximately $2,974 per full-time equivalent [FTE] student compared with approximately $17,000 per FTE for historically black colleges and university students and approximately $7,000 per FTE comparable mainstream community colleges.

In my State there are 4 tribal colleges that serve over 1,700 fulltime equivalent students from an Indian and non-Indian population of over 180,000. These institutions provide their students with the education and technical skills necessary to dramatically improve their lives. With a land grant college designation, the Crownpoint Institute of Technology, the Navajo Community College, Shiprock Campus, the Southwestern Indian Polytechnic Institute, and the Institute of American Indian Arts, will have more resources to commit to the study of agriculture, traditional arts, and culture, and ways to make native American people more self-sufficient.

By enabling them to become participants in a variety of agriculture research programs, this bill would assist tribal colleges throughout the country in developing research and extension services. This bill will also provide a one-time endowment of $10 million that will be held in trust and whose annual dividend will be used to supplement current educational programs. It is consistent with legislative tradition to provide newly designated land grant colleges a one-time appropriation in lieu of donation of public land or land scrip. On a per student ratio, this $10 million endowment is the lowest endowment offered to any other institution in lieu of land or land scrip.

I believe that tribally controlled colleges are analogous to those institutions currently eligible under the Morrill Act and should be added in order for the Federal Government to strengthen its commitment to equal educational opportunity for all Americans, including American Indians. Unfortunately, American Indians are too often last in educational opportunity and development. By providing equitable access to agriculture education related programs, it is not too late to help remedy this situation now.●

By Mr. DECONCINI (for himself and Mr. HATCH):

S. 1346. A bill to amend title 17, United States Code, to establish copyright arbitration royalty panels to replace the Copyright Royal Tribunal, and for other purposes; to the Committee on the Judiciary.

THE COPYRIGHT ROYALTY TRIBUNAL REFORM ACT OF 1993

● Mr. DECONCINI. Mr. President, I introduce the Copyright Reform Act of 1993. This bill replaces the Copyright Royalty Tribunal [CRT] with ad hoc arbitration panels under the direction of the Librarian of Congress. The public demand for the reduction of waste and the elimination of unnecessary programs is met by the reform this bill proposes.

The CRT is a legislative branch agency that was established to engage principally in two activities: rate adjustment and distribution of royalties in the administration of the compulsory license provisions of the Copyright Act.

The CRT currently consists of three SES level V Commissioners appointed by the President with the advice and consent of the Senate for a 7-year term. The workload of the CRT does not, in this Senator's opinion, justify the need for the continued operation of the CRT.

In my view, the CRT's functions are better replaced by ad hoc panels created when rate adjustment and royalty distribution disputes arise. Under the bill, when there is no dispute, the Librarian of Congress will distribute the fees. When a dispute arises, a different arbitration board consisting of three arbitrators selected by the Librarian of Congress will be convened for each dispute. The parties to each proceeding will bear all the costs. Reports are given to the Librarian of Congress and all decisions are reviewable by the Librarian of Congress. The Librarian of Congress' decision may be appealed to the U.S. court of appeals.

A switch to arbitration panels will have a number of positive effects. This bill will: First, eliminate an unnecessary agency; second, place 100 percent of the costs of arbitration on the parties, not on the taxpayers; third, increase the incentive to settle, rather than litigate disputes; and fourth, enable agreements to better reflect market rates rather than a Government set license rate.

Mr. President, it is for these reasons that I urge my colleagues to support this legislation. I ask unanimous consent that the full text of my bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1346

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Copyright Royalty Tribunal Reform Act of 1993".

SEC. 2. COPYRIGHT ARBITRATION ROYALTY PANELS.

(a) ESTABLISHMENT AND PURPOSE.—Section 801 of title 17, United States Code, is amended as follows:

(1) The section heading is amended to read as follows:

"§ 801. Copyright arbitration royalty panels: establishment and purpose";

(2) Subsection (a) is amended to read as follows:

"(a) ESTABLISHMENT.—The Librarian of Congress, upon the recommendation of the Register of Copyrights, is authorized to appoint and convene copyright arbitration royalty panels.";

(3) Subsection (b) is amended—

(A) by inserting "PURPOSES.—" after "(b)";

(B) in the matter preceding paragraph (1), by striking "Tribunal" and inserting "copyright arbitration royalty panels";

(C) in paragraph (2)—

(i) in subparagraph (A), by striking "Commission" and inserting "copyright arbitration royalty panels"; and

(ii) in subparagraph (B), by striking "Copyright Royalty Tribunal" and inserting "copyright arbitration royalty panels";

(D) in paragraph (3), by striking "In determining" and all that follows through the end of the paragraph; and

(4) by amending subsection (c) to read as follows:

"(c) RULINGS.—The Librarian of Congress, upon the recommendation of the Register of Copyrights, may, before a copyright arbitration royalty panel is convened, make any necessary procedural or evidentiary rulings that would apply to the proceedings conducted by such panel.".

(b) MEMBERSHIP AND PROCEEDINGS.—Section 802 of title 17, United States Code, is amended to read as follows:

"§ 802. Membership and proceedings of copyright arbitration royalty panels

"(a) COMPOSITION OF COPYRIGHT ARBITRATION ROYALTY PANELS.—A copyright arbitration royalty panel shall consist of 3 arbitrators selected by the Librarian of Congress pursuant to subsection (b).

"(b) SELECTION OF ARBITRATION PANEL.—Not later than 10 days after publication of a notice initiating an arbitration proceeding under section 803 or 804, and in accordance with procedures specified by the Register of Copyrights, the Librarian of Congress shall, upon the recommendation of the Register of Copyrights, select 2 arbitrators from lists of arbitrators provided to the Librarian by parties participating in the arbitration. The 2 arbitrators so selected shall, within 10 days after their selection, choose a third arbitrator from the same lists, who shall serve as the chairperson of the arbitrators. If such 2 arbitrators fail to agree upon the selection of a chairperson, the Librarian of Congress shall promptly select the chairperson.

"(c) ARBITRATION PROCEEDINGS.—Copyright arbitration royalty panels shall conduct arbitration proceedings, in accordance with such procedures as they may adopt, for the purpose of making their determinations in carrying out the purposes set forth in section 801. The arbitration panels shall act on the basis of a fully documented written record, prior decisions of the Copyright Royalty Tribunal, prior copyright arbitration panel determinations, and rulings by the Librarian of Congress under section 801(b). Any copyright owner who claims to be entitled to royalties under section 111 or 119 or any interested copyright party who claims to be entitled to royalties under section 1006 may submit relevant information and proposals to the arbitration panels in proceedings applicable to such copyright owner or interested copyright party. The parties to the proceedings shall bear the entire cost thereof in such manner and proportion as the arbitration panels shall direct.

"(d) REPORT TO THE LIBRARIAN OF CONGRESS.—Not later than 180 days after publication of the notice initiating an arbitration proceeding, the copyright arbitration royalty panel conducting the proceeding shall report to the Librarian of Congress its determination concerning the royalty fee or distribution of royalty fees, as the case may be. Such report shall be accompanied by the written record, and shall set forth the facts that the arbitration panel found relevant to its determination.

"(e) ACTION BY LIBRARIAN OF CONGRESS.—Within 60 days after receiving the report of a copyright arbitration royalty panel under subsection (d), the Librarian of Congress, upon the recommendation of the Register of Copyrights, shall adopt or reject the determination of the arbitration panel. The Librarian shall adopt the determination of the arbitration panel unless the Librarian finds that the determination is arbitrary. If the Librarian rejects the determination of the arbitration panel, the Librarian shall, before the end of that 60-day period, and after full examination of the record created in the arbitration proceeding, issue an order setting the royalty fee or distribution of fees, as the case may be. The Librarian shall cause to be published in the Federal Register the determination of the arbitration panel, and the decision of the Librarian (including an order issued under the preceding sentence). The Librarian shall also publicize such determination and decision in such other manner as the Librarian considers appropriate. The Librarian shall also make the report of the arbitration panel and the accompanying record available for public inspection and copying.

"(f) JUDICIAL REVIEW.—Any decision of the Librarian of Congress under subsection (e) with respect to a determination of an arbitration panel may be appealed, by any aggrieved party who would be bound by the determination, to the United States Court of Appeals for the District of Columbia Circuit, within 30 days after the publication of the decision in the Federal Register. The pendency of an appeal under this paragraph shall not relieve persons obligated to make royalty payments under sections 111, 119, or 1003 who would be affected by the determination on appeal to deposit the statement of account and royalty fees specified in those sections. The court shall have jurisdiction to modify or vacate a decision of the Librarian only if it finds, on the basis of the record before the Librarian, that the Librarian acted in an arbitrary manner. If the court modifies the decision of the Librarian, the court shall have jurisdiction to enter its own determination with respect to the amount or distribution of royalty fees and costs, to order the repayment of any excess fees, and to order the payment of any underpaid fees, and the interest pertaining respectively thereto, in accordance with its final judgment. The court may further vacate the decision of the arbitration panel and remand the case for arbitration proceedings in accordance with subsection (c).".

(c) Adjustment of Compulsory License Rates.—Section 803 of title 17, United States Code, and the item relating to such section in the table of sections at the beginning of chapter 8 of such title, are repealed.

(d) Institution and Conclusion of Proceedings.—Section 804 of title 17, United States Code, is amended as follows:

(1) Subsection (a) is amended—

(A) by repealing paragraph (1); and

(B) in paragraph (2)—

(i) in the matter preceding subparagraph (A) by striking "Tribunal," and all that follows through "proceedings under this chapter." and inserting "Copyright Royalty Tribunal before the date of the enactment of the Copyright Royalty Tribunal Reform Act of 1993, or by a copyright arbitration royalty panel after such date of enactment, may file a petition with the Librarian of Congress declaring that the petitioner requests an adjustment of the rate. The Librarian of Congress shall, upon the recommendation of the Register of Copyrights, make a determination as to whether the petitioner has such a significant interest in the royalty rate in which an adjustment is requested. If the Librarian determines that the petitioner has such a significant interest, the Librarian shall cause notice of this determination, with the reasons therefor, to be published in the Federal Register, together with the notice of commencement of proceedings under this chapter.";

(ii) in subparagraph (C)—

(I) in clause (i) by striking "in 1990 and in each subsequent tenth calendar year, and", and by striking "116A" and inserting "116"; and

(II) by amending clause (ii) to read as follows:

"(ii) If a negotiated license authorized by section 116 is terminated or expires and is not replaced by another license agreement under such section, providing permission to use a quantity of musical works not substantially smaller than the quantity of such works performed on coin-operated phonorecord players during the 1-year period ending March 1, 1989, the Librarian of Congress shall, upon petition filed under subsection (a) within 1 year after such termination or expiration, convene a copyright arbitration royalty panel. The arbitration panel shall promptly establish an interim royalty rate or rates for the public performance by means of a coin-operated phonorecord player of non-dramatic musical works embodied in phonorecords which had been subject to the terminated or expired negotiated license agreement. Such rate or rates shall be the same as the last such rate or rates and shall remain in force until the conclusion of proceedings by the arbitration panel, in accordance with section 802, to adjust the royalty rates applicable to such works, or until superseded by a new negotiated license agreement, as provided in section 116(c).".

(2) Subsection (b) is amended—

(A) by striking "Tribunal" the first place it appears and inserting "Copyright Royalty Tribunal or the Librarian of Congress";

(B) by striking "Tribunal" the second and third places it appears and inserting "Librarian"; and

(C) by striking "Tribunal" the last place it appears and inserting "Copyright Royalty Tribunal or the Librarian of Congress".

(3) Subsection (c) is amended by striking "Tribunal" and inserting "Librarian of Congress".

(4) Subsection (d) is amended—

(A) by striking "Chairman of the Tribunal" and inserting "Librarian of Congress"; and

(B) by striking "determination by the Tribunal" and inserting "a determination".

(5) Subsection (e) is amended by striking "Tribunal" and inserting "Librarian of Congress".

(e) Repeal.—Sections 805 through 810 of title 17, United States Code, and the items relating to such sections in the table of sections at the beginning of chapter 8 of such title, are repealed.

(f) Clerical Amendment.—The table of sections at the beginning of chapter 8 of title 17, United States Code, is amended by striking the items relating to sections 801 and 802 and inserting the following:

"Sec. 801. Copyright arbitration royalty panels: establishment and purpose.
"Sec. 802. Membership and proceedings of copyright arbitration royalty panels.".

SEC. 3. JUKEBOX LICENSES.

(a) Repeal of Compulsory License.—Section 116 of title 17, United States Code, and the item relating to section 116 in the table of sections at the beginning of chapter 1 of such title, are repealed.

(b) Negotiated Licenses.—(1) Section 116A of title 17, United States Code, is amended—

(A) by redesignating such section as section 116;

(B) by striking subsection (b) and redesignating subsections (c) and (d) as subsections (b) and (c), respectively;

(C) in subsection (b)(2) (as so redesignated) by striking "Copyright Royalty Tribunal" and inserting "Librarian of Congress";

(D) in subsection (c) (as so redesignated)—

(i) in the subsection caption by striking "ROYALTY TRIBUNAL" and inserting "ARBITRATION ROYALTY PANEL"; and

(ii) by striking "the Copyright Royalty Tribunal" and inserting "a copyright arbitration royalty panel"; and

(E) by striking subsections (e), (f), and (g).

(2) The table of sections at the beginning of chapter 1 of title 17, United States Code, is amended by striking "116A" and inserting "116".

SEC. 4. PUBLIC BROADCASTING COMPULSORY LICENSE.

Section 118 of title 17, United States Code, is amended—

(1) in subsection (b)—

(A) by striking the first 2 sentences;

(B) in the third sentence by striking "works specified by this subsection" and inserting "published nondramatic musical works and published pictorial, graphic, and sculptural works";

(C) in paragraph (1)—

(i) in the first sentence by striking ", within one hundred and twenty days after publication of the notice specified in this subsection,"; and

(ii) by striking "Copyright Royalty Tribunal" each place it appears and inserting "Librarian of Congress";

(D) in paragraph (2) by striking "Tribunal" and inserting "Librarian of Congress";

(E) in paragraph (3)—

(i) by striking the first sentence and inserting the following: "In the absence of license agreements negotiated under paragraph (2), the Librarian of Congress shall, pursuant to section 803, convene a copyright arbitration royalty panel to determine and publish in the Federal Register a schedule of rates and terms which, subject to paragraph (2), shall be binding on all owners of copyright in works specified by this subsection and public broadcasting entities, regardless of whether such copyright owners have submitted proposals to the Librarian of Congress.";

(ii) in the second sentence—

(I) by striking "Copyright Royalty Tribunal" and inserting "copyright arbitration royalty panel"; and

(II) by striking "clause (2) of this subsection" and inserting "paragraph (2)"; and

(iii) in the last sentence by striking "Copyright Royalty Tribunal" and inserting "Librarian of Congress"; and

(F) by striking paragraph (4);

(2) by striking subsection (c); and

(3) in subsection (d)—

(A) by redesignating such subsection as subsection (c);

(B) by striking "to the transitional provisions of subsection (b)(4), and"; and

(C) by striking "Copyright Royalty Tribunal" and inserting "copyright arbitration royalty panel".

SEC. 5. SECONDARY TRANSMISSIONS BY SUPERSTATIONS AND NETWORK STATIONS FOR PRIVATE VIEWING.

Section 119 of title 17, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (1) by striking ", after consultation with the Copyright Royalty Tribunal," each place it appears;

(B) in paragraph (2) by striking "Copyright Royalty Tribunal" and inserting "Librarian of Congress";

(C) in paragraph (3) by striking "Copyright Royalty Tribunal" and inserting "Librarian of Congress"; and

(D) in paragraph (4)—

(i) by striking "Copyright Royalty Tribunal" each place it appears and inserting "Librarian of Congress";

(ii) by striking "Tribunal" each place it appears and inserting "Librarian of Congress"; and

(iii) in subparagraph (C) by striking "conduct a proceeding" in the last sentence and inserting "convene a copyright arbitration royalty panel"; and

(2) by striking subsection (c) and inserting the following:

"(c) Determination of Royalties.—The royalty fee payable under subsection (b)(1)(B) shall be that established by the Copyright Royalty Tribunal on May 1, 1992, as corrected on May 18, 1992.".

SEC. 6. CONFORMING AMENDMENTS.

(a) Cable Compulsory License.—Section 111(d) of title 17, United States Code, is amended as follows:

(1) Paragraph (1) is amended by striking ", after consultation with the Copyright Royalty Tribunal (if and when the Tribunal has been constituted),".

(2) Paragraph (1)(A) is amended by striking ", after consultation with the Copyright Royalty Tribunal (if and when the Tribunal has been constituted),".

(3) Paragraph (2) is amended by striking the second and third sentences and by inserting the following: "All funds held by the Secretary of the Treasury shall be invested in

interest-bearing United States securities for later distribution by the Librarian of Congress in the event no controversy over distribution exists, or by a copyright arbitration royalty panel in the event a controversy over such distribution exists. The Librarian shall compile and publish on a semiannual basis, a compilation of all statements of account covering the relevant 6-month period provided by paragraph (1) of this subsection.".

(4) Paragraph (4)(A) is amended—

(A) by striking "Copyright Royalty Tribunal" and inserting "Librarian of Congress"; and

(B) by striking "Tribunal" and inserting "Librarian of Congress".

(5) Paragraph (4)(B) is amended to read as follows:

"(B) After the first day of August of each year, the Librarian of Congress shall, upon the recommendation of the Register of Copyrights, determine whether there exists a controversy concerning the distribution of royalty fees. If the Librarian determines that no such controversy exists, the Librarian shall, after deducting reasonable administrative costs under this section, distribute such fees to the copyright owners entitled, or to their designated agents. If the Librarian finds the existence of a controversy, the Librarian shall, pursuant to chapter 8 of this title, convene a copyright arbitration royalty panel to determine the distribution of royalty fees.".

(6) Paragraph (4)(C) is amended by striking "Copyright Royalty Tribunal" and inserting "Librarian of Congress".

(b) AUDIO HOME RECORDING ACT.—

(1) ROYALTY PAYMENTS.—Section 1004(a)(3) of title 17, United States Code, is amended—

(A) by striking "Copyright Royalty Tribunal" and inserting "Librarian of Congress"; and

(B) by striking "Tribunal" and inserting "Librarian of Congress".

(2) DEPOSIT OF ROYALTY PAYMENTS.—Section 1005 of title 17, United States Code, is amended by striking the last sentence.

(3) ENTITLEMENT TO ROYALTY PAYMENTS.—Section 1006(c) of title 17, United States Code, is amended by striking "Copyright Royalty Tribunal" and inserting "Librarian of Congress shall convene a copyright arbitration royalty panel which".

(4) PROCEDURES FOR DISTRIBUTING ROYALTY PAYMENTS.—Section 1007 of title 17, United States Code, is amended—

(A) in subsection (a)(1) by striking "Copyright Royalty Tribunal" and inserting "Librarian of Congress";

(B) in subsection (b)—

(i) by striking "Copyright Royalty Tribunal" and inserting "Librarian of Congress"; and

(ii) by striking "Tribunal" each place it appears and inserting "Librarian of Congress"; and

(C) in subsection (c)—

(i) by striking the first sentence and inserting "If the Librarian of Congress finds the existence of a controversy, the Librarian shall, pursuant to chapter 8 of this title, convene a copyright arbitration royalty panel to determine the distribution of royalty payments."; and

(ii) by striking "Tribunal" each place it appears and inserting "Librarian of Congress".

(5) ARBITRATION OF CERTAIN DISPUTES.—Section 1010 of title 17, United States Code, is amended—

(A) in subsection (b)—

(i) by striking "Copyright Royalty Tribunal" and inserting "Librarian of Congress"; and

(ii) by striking "Tribunal" each place it appears and inserting "Librarian of Congress";

(B) in subsection (e) by striking "Copyright Royalty Tribunal" each place it appears and inserting "Librarian of Congress";

(C) in subsection (f)—

(i) by striking "Copyright Royalty Tribunal" each place it appears and inserting "Librarian of Congress";

(ii) by striking "Tribunal" each place it appears and inserting "Librarian of Congress"; and

(iii) in the third sentence by striking "its" and inserting "the Librarian's"; and

(D) in subsection (g)—

(i) by striking "Copyright Royalty Tribunal" and inserting "Librarian of Congress"; and

(ii) by striking "Tribunal" each place it appears and inserting "Librarian of Congress".

SEC. 7. EFFECTIVE DATE AND TERMINATION.

(a) IN GENERAL.—This Act and the amendments made by this Act shall take effect on January 1, 1994.

(b) EFFECTIVENESS OF EXISTING RATES AND DISTRIBUTIONS.—All royalty rates and all determinations with respect to the proportionate division of compulsory license fees among copyright claimants, whether made by the Copyright Royalty Tribunal, or by voluntary agreement, before the effective date set forth in subsection (a) shall remain in effect until modified by voluntary agreement or pursuant to the amendments made by this Act.•

By Mr. BRADLEY:

S. 1347. A bill to impose an excise tax on lead and lead products, to create a lead abatement trust fund, and to create a program under which States and certain political subdivisions thereof receive grants from such trust fund, and for other purposes; to the Committee on Finance.

THE LEAD-PAINT HAZARDS ABATEMENT ACT OF 1993

• Mr. BRADLEY. Mr. President, today I'm pleased to introduce the Lead-Paint Hazard Abatement Act of 1993. Lead poisoning is the most critical, most costly environmental health threat to children. That's not just my opinion, but one shared by the U.S. Environmental Protection Agency, the Center for Disease Control, and the Department of Health and Human Services.

In preindustrial times, children faced no lead threat. But, today, lead persists in our soil, in the air, in our drinking water, and in our own homes.

In the 1970's and 1980's, we focused our efforts on limiting the growth of the threat and to alerting the public to the risks. In the 1970's, we finally outlawed lead paint use in housing; we stopped burning lead with our gasoline. In the 1980's, my Lead Ban Act stopped the practice of using lead in drinking water systems. And right now, the Senate Environment and Public Works Committee is about to report legislation which I've sponsored that further limits the unnecessary use of lead as well as to encourage greater recycling and reuse of the lead that is needed.

Last year, we created in law a program that targets the lead paint threat and authorizes a range of policies in response. The law calls for new disclosure, inspection, and hazard reduction measures. My intention is to take this antilead effort to the next step. With this bill, we commit the resources needed to address the problem head on, with no doubt or equivocation: $1 billion per year for 10 years.

Mr. President, Federal data show that almost 75 percent of U.S. homes built before 1980 contain some lead-based paint. In New Jersey, 85 percent of homes were built before 1980. In many New Jersey counties, and in some of our poorest areas, the proportion exceeds 9 of every 10 homes.

The damage from lead hits especially hard those least able to deal with its effects: the poor. HUD estimates today that 2 million families with young children live in homes with priority lead hazards. These are homes with flaking lead paint and high-lead dust present. Many millions of other housing units are rated as priority hazards, but do not currently house children.

Right now, affordable housing is hard to find, regardless of whether lead paint is present or not. Poor owners can't afford or low-income rents can't support lead paint abatement. It's a simple fact that, if we mandate action on lead paint without providing a helping hand, we will be mandating new hardship and homelessness without the certainty of cleaner, healthier housing.

This legislation establishes a dedicated trust fund of approximately $1 billion per year for 10 years. It will support efforts by States and cities to correct lead paint hazards in low-income housing and day care centers. As a practical matter, these hazards will not otherwise be addressed through Federal, State, local, or private measures. Financing is provided by a polluter pays mechanism: a tax on lead as it enters U.S. commerce.

By generating revenue from an excise tax on lead, this legislation is consistent with the pay-as-you-go requirements of the budget agreement and will not increase the Federal budget deficit. The Department of Housing and Urban Development will allocate funds using a formula that reflects local needs in terms of poverty and lead paint hazards. To receive moneys, cities and States must demonstrate their capacity to carry out the program effectively and safely, in accordance with Federal requirements already being developed. Cities and States must also provide 10 percent matching funds.

The tax, which will be 45 cents per pound of lead, will be applied to lead as it is introduced into commerce from primary or secondary smelters and via import of lead and lead-containing products. By increasing the price of lead, the tax will provide strong incentives for both the substitution of and recycling of lead, two important environmental and public health goals.

To ensure that the money is actually spent for its intended purpose rather than simply building up, the taxing authority is suspended if a certain balance, $2.5 billion, is exceeded. This is not a tax for deficit reduction. It has a purpose and a goal.

The lead-based paint hazard abatement trust fund bill provides urgently needed resources for waging a concerted attack on the Nation's most severe lead poisoning problems. It is the next step toward ridding our society of a true environmental demon. It won't be easy. It's seldom been more obvious how hard it is for Congress to endorse a new fee. But I believe the public recognizes the importance of action and the cost of delay. We can pass this bill. And we will pass this bill.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1347

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Lead Abatement Trust Fund Act of 1993".

SEC. 2. EXCISE TAX ON LEAD AND LEAD PRODUCTS.

(a) In General.—Chapter 38 of the Internal Revenue Code of 1986 (relating to environmental taxes) is amended by adding at the end thereof the following new subchapter:

"Subchapter E—Lead and Lead Products

"SEC. 4686. LEAD AND LEAD PRODUCTS.

"(a) General Rule; Rate.—There is hereby imposed a tax of 45 cents per pound on—

"(1) lead removed from any United States smelter, and

"(2) lead, and lead in any taxable lead product, entered into the United States for consumption, use, or warehousing.

"(b) Liability for Tax.—

"(1) Removal.—The tax imposed by subsection (a)(1) shall be paid by the operator of the United States smelter.

"(2) Importation.—The tax imposed by subsection (a)(2) shall be paid by the person entering the lead or taxable lead product into the United States for consumption, use, or warehousing.

"(c) Definitions.—For purposes of this subchapter:

"(1) Primary lead.—The term 'primary lead' means lead that has not been previously used in any finished or unfinished product.

"(2) Secondary lead.—The term 'secondary lead' means lead that has been previously used in any finished or unfinished product.

"(3) Taxable lead products.—The term 'taxable lead products' means any product with more than one percent of the dry weight of which is attributable to lead or which contains more than five pounds of lead.

"(4) United States smelter.—The term 'United States smelter' means any facility in the United States at which primary or secondary lead is smelted.

"(d) Credit or Refund for Exports of Lead or Taxable Lead Products.—

"(1) In general.—If—

"(A) tax was imposed by this section with respect to any lead, and

"(B)(i) such lead was exported by any person, or

"(ii) such lead was used as a material in the manufacture or production of any taxable lead product which was exported by any person,

credit or refund (without interest) shall be allowed or made to the person who paid such tax.

"(2) Conditions of allowance.—Rules similar to the rules of section 4662(e)(2)(B) shall apply for purposes of this subsection.

"(3) Refunds directly to exporter.—Rules similar to the rules of section 4662(e)(3) shall apply for purposes of this subsection.

"(e) No Tax If Fund's Unobligated Balance Exceeds $2,500,000,000.—If, on October 1, of any calendar year, the unobligated balance in the Lead Abatement Trust Fund exceeds $2,500,000,000, then no tax shall be imposed under this section during the following calendar year.".

(b) Clerical Amendment.—The table of subchapters for chapter 38 of such Code is amended by adding at the end thereof the following new item:

"Subchapter E—Lead or lead products."

SEC. 3. LEAD ABATEMENT TRUST FUND.

(a) In General.—Subchapter A of chapter 98 of the Internal Revenue Code of 1986 (relating to trust funds) is amended by adding at the end thereof the following new section:

"SEC. 9512. LEAD ABATEMENT TRUST FUND.

"(a) Creation of Trust Fund.—There is hereby established in the Treasury of the United States a trust fund to be known as the 'Lead Abatement Trust Fund', consisting of such amounts as may be credited to such trust fund as provided in this section or section 9602(b).

"(b) Transfers to Trust Fund.—There are hereby credited to the Lead Abatement Trust Fund amounts equivalent to the taxes received in the Treasury of the United States under section 4686 (relating to taxes on lead and lead products).

"(c) Expenditures From Trust Fund.—Amounts in the Lead Abatement Trust Fund shall be available, as provided in appropriations Acts, for purposes of making grants pursuant to the provisions of the Lead Abatement Trust Fund Act of 1993, and shall not be available for any other purposes.".

(b) Clerical Amendment.—The table of sections for such subchapter A is amended by adding at the end thereof the following new item:

"Sec. 9512. Lead Abatement Trust Fund."

SEC. 4. AUTHORIZATION OF SPENDING FROM LEAD ABATEMENT TRUST FUND.

There is hereby authorized to be appropriated funds from the Lead Abatement Trust Fund for the purpose of evaluating and reducing lead-based paint hazards in accordance with title X of the Housing and Community Development Act of 1992.•

By Mr. BRYAN:

S. 1348. A bill to amend the Immigration and Nationality Act to reform the asylum law, to increase penalties for alien smuggling, and to authorize appropriations for the immigration and naturalization service, and for other purposes; to the Committee on the Judiciary.

ASYLUM REFORM AND ALIEN SMUGGLING CONTROL ACT OF 1993

• Mr. BRYAN. Mr. President, there has been a tremendous focus on the issue of immigration recently. Rarely does a week go by without a story in the news detailing an incident caused by our broken immigration system and the complete lack of control we have over our borders.

Mr. President, enough is enough. The time for speaking about the problem has ended. We must now act. Today, I introduce a bill that is a first step in finally gaining control of immigration.

The Asylum Reform and Alien Smuggling Control Act of 1993 takes a number of steps to make our political asylum process more effective, and deter the horrendous practice of alien smuggling. While not a solution to our illegal immigration problem, this bill would take important steps to expedite the exclusion of aliens who blatantly attempt to exploit loopholes in our immigration regulations.

Under this bill, an asylum officer would immediately determine whether an alien has a legitimate claim of political asylum. Those who are judged to be making political asylum claims in good faith, and who honestly face persecution in their country of origin, would receive temporary asylum. However, those who are simply using the system of political asylum as a way of illegally entering the United States, would be immediately excluded.

In addition, this legislation takes steps to deter alien smuggling by enhancing the penalties for this activity, and making it an aggravated felony under Federal law.

As we are all aware, the problem of illegal immigration is not new. For years, hundreds of thousands have attempted to pass through our porous borders, and our attempts to control this influx have been weak at best. Yet, recent events have focused our attention on one specific loophole in our immigration policy—our system of political asylum.

The United States has always prided itself on its acceptance of those who are not safe in their home countries—those who face torture and death in their homelands. Even today, the United States has no law limiting the number of refugees we will accept from any country. However, the unfortunate reality is that many foreigners have used our generosity to exploit our overburdened immigration system. Unscrupulous aliens have sought to use loopholes in our immigration laws to illegally enter and live in the United States at a high cost to our society, and to legitimate refugees.

Nowhere is this abuse more evident than in our system of granting political asylum. Thousands of aliens have learned that once they arrive at an American port of entry such as the Kennedy Airport in New York, simply by uttering the words "political asylum," they are virtually assured of an extended stay in the United States.

Recent events have shocked the country into recognizing a horrible consequence of this breakdown in immigration control—acts of terrorism within the United States borders made possible by lapses in our immigration law, particularly our system of adjudicating political asylum cases.

The Nation was jarred into the reality of terrorism by the pictures of chaos and destruction resulting from a bomb placed in the heart of New York's business district. During the followup investigation, it soon became clear that most of the suspects in the bombing had used our chaotic immigration system to enter and remain in the United States illegally.

The New York Times recently characterized two of the suspects in the World Trade Center bombing. One, named Mohammad Ajaj, was apprehended and put into custody when arriving at Kennedy International Airport because of a fraudulent passport. He arrived at the airport, carrying in his suitcase, instructions on how to place land mines, videotapes on suicide car bombing, and how to make TNT. Unfortunately, the capture and detainment of Mr. Ajaj is the exception.

Another suspect in the bombing who arrived on the same plane, Ramzi Yousef, was not put into custody. Mr. Yousef uttered the magical words "political asylum," which immediately entitled him to stay in the United States until his hearing date, well over a year. During the interim, Mr. Yousef was released from detention because of the lack of space. Mr. Yousef is still at large.

Another individual, Mir Aimal Kansi, responsible for the tragic walk-by shootings outside the CIA facility here in the DC area, also used the claim of political asylum to stay in the United States and even received a work authorization. According to a Washington Post article quoting INS officials on February 18, 1993, Kansi's application "cemented his stay in the United States because Federal law prohibits—the INS—from deporting immigrants whose requests are pending." After receiving a work authorization, Kansi was able to receive a job as a courier and a driver's license, enabling him to purchase the assault rifle later used with such horrible effect.

For many years, we here in America have lived under the illusion that we are safe and secure within our borders. Terrorist incidents that splashed across the newspapers always occurred overseas, in the Middle East, in Northern Ireland, in England.

This security blanket was suddenly and violently ripped wide open as a result of these two recent events, that have shocked Americans out of complacency and made us more aware of the everyday dangers of terrorism. A bomb exploding in the business center of our Nation's largest city. A lone gunman walking with impunity shooting at innocent civilians outside the CIA headquarters.

Mr. President, we should not need a tragedy to cause us to act. However, with these recent events, there is now absolutely no excuse for inaction in the face of this serious problem faced everyday by Immigration and Naturalization officers at points of entry into the United States.

Both of the recent incidents may have been prevented if a more effective immigration screening process had been put into place.

Under the current system, all those who enter the United States, even those with no documents, or blatantly fraudulent documents, are given a full hearing once they claim political asylum. Because of the dramatic increase in the number of aliens claiming political asylum, the current backlog for hearings may be as long as 14 months.

In the meantime, large ports of entry have severe shortages of detention space, and the overflow of aliens are simply let free, on the condition that they will return for a hearing. As you can guess, Mr. President, those with legitimate political asylum claims may actually show up at the hearing, but recent statistics out of New York show that almost 60 percent of those who are released are never heard from again.

Mr. President, the evidence is now overwhelming that foreigners have developed a systematic method of entering and staying in the United States that completely circumvents our immigration law. The statistics are alarming. While in 1980, only 500 aliens applied for political asylum, in 1992, that number had increased to over 103,000.

Currently, nearly 300,000 are waiting to be decided. Yet, in 1992, fewer than 12,000 claims were processed. There can be no question that reform to this system is urgently needed.

Mr. President, the time to change the system is now. I am hopeful this legislation will stir Congress to act quickly on this tremendous problem.•

By Mr. DURENBERGER (for himself and Mr. GORTON):

S. 1349. A bill to establish the Food Safety and Inspection Agency, and for other purposes; to the Committee on Governmental Affairs.

THE FOOD SAFETY AND INSPECTION AGENCY ACT OF 1993

• Mr. DURENBERGER. Mr. President, I introduce the Food Safety and Inspection Agency Act of 1993. This bill will initiate a much-needed reinvention of one of the Government's most critical functions: food inspection.

The Food Safety and Inspection Agency Act would center all food safety and inspection activities in a single, independent agency. It would also create a commission of 16 industry, agriculture, consumer, and Government representatives to promulgate and implement a single, uniform, risk-based food inspection agency.

Mr. President, the current system is not broken—but it can do better. When I was elected to the Senate in 1978 I was charged with the mission of making this Government work better for the people and, if there is one governmental activity that does not do the best it can, it is food safety and inspection.

The present system is defined more by turf battles between, the inspection duplication by, the Food and Drug Administration, the Department of Agriculture, the Department of Commerce, and the Environmental Protection Agency. Oftentimes it seems that the regulations on food inspection are designed more to keep bureaucrats in their jobs than unsafe and unhealthy food off of the American dinner table.

This bureaucratic morass is driven by nearly 30 laws, which are divided among 12 different agencies who determine how food inspection is administered. Furthermore, some departments have conflicting interests—such as the USDA, which has the authority to both promote food and food production as well as inspect it; while other departments have competing interests—such as the FDA, which must inspect new drug and medical device technologies while also inspecting processed nonmeat foods and imported foods.

Right now the USDA inspects meat and poultry, the Commerce Department has jurisdiction over seafood inspection, the EPA determines acceptable pesticide residue levels on fruits and vegetables, and the FDA inspects and regulates most processed and imported food products. The resulting bureaucracy prevents the most efficient use of the Government's resources, and raises the costs to the entire food industry.

The system of food inspection currently in place simply does not make sense—everyone agrees on this. During the past 6 months my office has spoken with dozens of representatives of consumer, agriculture, and food processing groups, as well as Government agencies. My proposal is bipartisan, and has been received with great interest by the Vice President's group working to reinvent Government.

These different groups all agree that the Government can do better—however they cannot agree on how or when or why. For this reason I am introducing this bill to move this dialog forward. Let's air our views and reach a consensus. The American people deserve nothing less.

A new, independent Food Safety and Inspection Agency would streamline this dinosaur of Government policy. It would issue a uniform set of regulations and apply the latest technological know-how to the Government's food testing procedures. I might add that many of the inspection methods still used by the USDA date back to Teddy Roosevelt and Upton Sinclair's "The Jungle."

Mr. President, during the past 3 months I have spoken three times on this floor about the problems of our Government's food safety and inspection systems. I have sent three letters to each of my colleagues describing my legislation and urging a dialog on the issue. My staff has contacted every Senator's office several times in the hope of spurring a dialog.

Despite my repeated attempts to begin a constructive debate on this issue, only one other Member in this fine institution has joined me in my effort to examine the efficacy of our food safety and inspection system. Senator GORTON, my distinguished colleague from Washington, received a solemn reminder of the importance of food inspection earlier this year, when a number of people died and hundreds more fell ill after eating contaminated beef at a restaurant in his home State. I commend the senior Senator from Washington for his concern on this important issue.

Unfortunately, I am well aware of the dangers of foodborne disease. In 1988, 32 junior high school students in Coon Rapids, MN, became sick from bacteria in their school lunches. What's more, despite repeated requests from the Minnesota Department of Health for quick action, the USDA was slow to respond and was reluctant to issue a widespread recall of the foods involved, precooked frozen hamburgers. In the end, only 8 percent of the recalled product was recovered. And other people may have also fallen ill from this contaminated meat.

Let me describe the reasons why my Food Safety and Inspection Agency Act deserves immediate attention.

First, some of the current laws are outmoded and potentially harmful. The USDA for example still tests meat and poultry on the basis of sight, touch, and smell—hardly a way to test for E. coli bacteria or other microbacterial contamination.

Second, the different Federal departments with separate authority promulgate different regulations that have varying inspection rates. This lack of uniformity is compounded by lack of communication—both of which are harmful and misleading to consumers. It is also costly and unfair to food processors.

For example, a frozen cheese pizza is inspected and labeled by FDA while a frozen pizza with sausage is inspected and labeled by USDA. That means that in one plant where all types of pizzas are manufactured you have FDA and USDA inspectors virtually doing the same job.

In regard to labeling, FDA requires that pizzas made with artificial cheese be prominently labeled as such, USDA does not. Therefore, a frozen pizza manufacturer makes its frozen cheese pizzas with real cheese and its meat pizzas with artificial cheese—thus potentially misleading the consumer.

The USDA inspects meat and poultry sandwiches with one piece of bread, while the FDA inspects meat and poultry sandwiches made with two slices of bread. And the USDA inspects meat and poultry plants at least daily, but the FDA inspects processors of quail, rabbit, and venison—which the government considers to carry the same health risk as meat and poultry—only every 3 to 5 years.

To continue with these examples, I would like to highlight the problem that this split-authority system has with regard to communication. As reported in a Senate Governmental Affairs Report (95-91):

> When a full time USDA inspector spots a sanitation problem relating to production of a non-meat food in a plant subject to concurrent jurisdiction, for example, effective enforcement will occur only if the inspector notifies FDA. When FDA learns that adulterated canned mushrooms are in the possession of a sausage pizza manufacturer, immediate enforement action depends upon FDA's prompt notification of USDA—although FDA could itself take enforcement action if the mushrooms were purchased for non-meat pizza.

It is a system of who passes the buck. And if the buck isn't passed, for whatever reason, someone gets sick. Because food is produced and packaged in such large quantities, Mr. President, when contamination occurs, lots of people get sick. For example:

In the Midwest 200,000 fell ill and at least 2 died of salmonella poisioning after drinking tainted milk from a dairy in suburban Chicago in 1985.

In 1985, 47 people in the Southwestern United States were killed by listeria bacteria in Mexican-style soft cheese. This was the deadliest food poisoning outbreak in U.S. history.

Four people in Utah died in 1987 from eating beef contaminated with E. coli 0157:H7. The USDA had declared the meat safe.

Walking is still difficult for a Florida man who was stricken by debilitating bacteria living in the raw oysters he ate at a Cocoa Beach restaurant in 1989.

In 1991 more than 400 people in the United States and Canada fell ill after eating cantaloupes contaminated with salmonella.

Third, scientific and governmental organizations have recognized the need to unify all food safety and inspection programs and have strongly recommended such action for the past 50 years.

Consolidation of food inspection services has been recommended by the Hoover Commission, the 1969 White House Conference on Food, Nutrition and Health, a 1970 GAO report, the 1970 President's Advisory Council on Executive Reorganization, a 1972 Ralph Nader report, a 1977 Senate Governmental Affairs Report 95-91, President Carter's 1978 Government Reorganization project, and a 1992 GAO report.

Furthermore, Mr. President, in 1972 the Senate approved legislation, S. 3419, that would have consolidated USDA and FDA food inspection services into an independent agency.

Fourth, the Federal food inspection system needs to reflect current American lifestyles. In the last 25 years the dynamic of food consumption in America has changed.

Our current system originated in the days when most people purchased their food from local sources. But today, Americans get a large amount of their food from foreign sources, and are eating more and more processed food. With the likely expansion of global markets as a result of the North American Free-Trade Agreement and GATT, Americans can expect to find even more foreign-produced food on their tables in the years to come.

The Food Safety and Inspection Agency would attack this changed dynamic in two ways. First by streamlining the inspection process of imported foods, the FSIA will be able to step up inspections—which currently are performed at a dismal rate of 2 percent—by efficiently directing both funding and personnel to this task. Currently FDA is unable to perform its mission to inspect imported foods because imported food inspection has to compete for funding with medical devices and pharmaceuticals.

Second, my bill establishes a State-Federal communications network to educate consumers on potential microbial diseases and how to protect themselves from poorly prepared food—both in their own kitchen as well as in a restaurant.

Food consumption always carries some risk. American consumers must be more careful both with regard to the prepared foods they purchase, as well as the foods they purchase and prepare themselves. Consumers can never be 100 percent sure that their food is free of contaminants. But I have always had great faith in the power of educated consumers. If consumers are instructed in the best ways to clean, prepare, and cook food, they would reduce their risk immensely. If the consumers in Washington State had known that uncooked hamburger could harbor E. coli bacteria, then perhaps they may not have consumed their deadly meal. So, Mr. President, my bill would approach food safety from both ends: Federal inspection as well as consumer education.

Mr. President, there is no question that the current disjointed system puts all American consumers at risk. The

Centers for Disease Control reports more than 90,000 cases of foodborne illness around the country between 1983 and 1987. And each year, more than 9,000 people die and 80 million people get sick as a result of diseases they contract from the food they eat.

Make no mistake about it: the Department of Agriculture, the Food and Drug Administration, the Environmental Protection Agency, and the Department of Commerce have served our country well. The United States has the safest and most plentiful supply of wholesome food in the world. But we can and ought to do better—for consumers, for food processors, and for farmers. The current system of waste and duplication does not make sense. This fact has been recognized for more than 40 years. The Food Safety Inspection Act addresses the problems in our system and effectively reinvents an important part of this Nation's Government. The result: a reinvigorated, efficient, risk-based food safety and inspection system.

Mr. President, we must act now to make the Government work better for the people it is supposed to serve. I urge my colleagues to support the Food Safety and Inspection Agency Act of 1993.●

By Mr. KENNEDY (for himself, Mr. HATCH, Mr. SIMON, Mr. MACK, Mr. BIDEN, Mr. COCHRAN, Mr. D'AMATO, Mr. DANFORTH, Mr. DECONCINI, Mr. DODD, Mr. DURENBERGER, Mr. GLENN, Mr. INOUYE, Mr. JEFFORDS, Mr. KERRY, Mr. LEVIN, Mr. METZENBAUM, Ms. MIKULSKI, Mr. MITCHELL, Mr. MOYNIHAN, Mr. PELL, Mr. SARBANES, Mr. THURMOND, Mr. WELLSTONE, Mr. WOFFORD, and Mr. STEVENS):

S.J. Res. 119. A joint resolution to designate the month of March 1994 as "Irish-American Heritage Month"; to the Committee on the Judiciary.

IRISH-AMERICAN HERITAGE MONTH

Mr. KENNEDY. Mr. President, I am proud to join Senators HATCH, SIMON, MACK, BIDEN, COCHRAN, D'AMATO, DANFORTH, DECONCINI, DODD, DURENBERGER, GLENN, INOUYE, JEFFORDS, KERRY, LEVIN, METZENBAUM, MIKULSKI, MITCHELL, MOYNIHAN, PELL, SARBANES, STEVENS, THURMOND, WELLSTONE, and WOFFORD in introducing a Senate joint resolution designating March 1994 as "Irish-American Heritage Month."

An identical resolution is being introduced by Representative THOMAS J. MANTON in the House.

This resolution pays tribute to the numerous contributions the Irish have made to America. The first Irish arrived on our shores as early as 1621. Later immigrants played an important role in helping us gain our independence from Great Britain and in preserving the Union in the Civil War.

Between 1840 and 1910, more than 3 million Irish immigrants came to America and contributed greatly to the development of our country.

Today, more than 44 million Americans, including President Clinton, trace their ancestry to Ireland. Irish-Americans have distinguished themselves and our country in many fields—law and medicine, politics and government and the armed forces, business and labor, education, literature, music, and sports.

I am honored to introduce this resolution and I ask unanimous consent that its text may be printed in the RECORD. I also ask unanimous consent that this resolution may be held at the desk until the Senate adjourns on Friday so that any other Senators wishing to join as original sponsors may do so.

Mr. JEFFORDS. Mr. President, I join my colleagues today to pay tribute to Irish-American citizens living in America, including my wife, Elizabeth Daley, and the rich heritage they have brought to America. I hope that young and old will take the time to appreciate the traditions and culture of Ireland by celebrating March 1994 as Irish-American Heritage Month.

With millions of Americans being of Irish-American descent, we can be sure that the traditions and spirit of this culture touch many corners of our American culture. Many fine Irish-Americans have contributed to American history, arts, sports, business, and politics. The roots of American folk culture, music and dance, for example, can be traced to the Irish culture, not to mention many cropping techniques that were adopted into early American farming. The list of integrated traditions and customs could go on and on.

The United States is the melting pot of the world. We, as Americans, are a blend of many ethnic backgrounds, which combine to produce a wonderfully diverse society. I am pleased to pay tribute to the nearly 300,000 natives of Ireland who first immigrated to the United States and to their descendents. I hope that we will continue to preserve this piece of American heritage.

ADDITIONAL COSPONSORS

S. 70

At the request of Mr. COCHRAN, the name of the Senator from Nevada [Mr. REID] was added as a cosponsor of S. 70, a bill to reauthorize the National Writing Project, and for other purposes.

S. 177

At the request of Mr. DOLE, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 177, a bill to ensure that agencies establish the appropriate procedures for assessing whether or not regulation may result in the taking of private property, so as to avoid such where possible.

S. 297

At the request of Mr. STEVENS, the name of the Senator from Arizona [Mr. MCCAIN] was added as a cosponsor of S. 297, a bill to authorize the Air Force Memorial Foundation to establish a memorial in the District of Columbia or its environs.

S. 364

At the request of Mrs. FEINSTEIN, the name of the Senator from Louisiana [Mr. BREAUX] was added as a cosponsor of S. 364, a bill to amend the Internal Revenue Code of 1986 to modify the involuntary conversion rules for certain disaster-related conversions.

S. 377

At the request of Mr. GRAMM, the name of the Senator from Idaho [Mr. KEMPTHORNE] was added as a cosponsor of S. 377, a bill to require a balanced Federal budget by fiscal year 2000 and each year thereafter, to protect Social Security, to provide for zero-based budgeting and decennial sunsetting, to impose spending caps on the growth of entitlements during fiscal years 1994 through 2000, and to enforce those requirements through a budget process involving the President and Congress and sequestration.

S. 384

At the request of Mr. D'AMATO, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 384, a bill to increase the availability of credit to small businesses by eliminating impediments to securitization and facilitating the development of a secondary market in small business loans, and for other purposes.

S. 549

At the request of Mr. DOMENICI, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 549, a bill to provide for the minting and circulation of one-dollar coins.

S. 561

At the request of Mr. DODD, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of S. 561, a bill to establish a Child and Family Services and Law Enforcement Partnership Program, and for other purposes.

S. 565

At the request of Mr. WARNER, the names of the Senator from Alaska [Mr. MURKOWSKI], and the Senator from North Carolina [Mr. FAIRCLOTH] were added as cosponsors of S. 565, a bill to amend the Internal Revenue Code of 1986 to improve disclosure requirements for tax-exempt organizations.

S. 650

At the request of Mr. RIEGLE, the name of the Senator from California [Mrs. BOXER] was added as a cosponsor of S. 650, a bill to amend the National Apprenticeship Act to require minimum funding for certain outreach recruitment and training programs, to restore a national information collection system, to limit the authority to conduct reductions in force within the Bureau of Apprenticeship and Training of the Department of Labor, and for other purposes.

S. 881

At the request of Mr. DODD, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 881, a bill to amend the Elementary and Secondary Education Act of 1965 to reauthorize and make certain technical corrections in the Civic Education Program, and for other purposes.

S. 895

At the request of Mr. PRYOR, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 895, a bill to amend the Internal Revenue Code of 1986 with respect to the treatment of the rehabilitation credit under the passive activity limitation and the alternative minimum tax.

S. 1021

At the request of Mr. INOUYE, the name of the Senator from Ohio [Mr. METZENBAUM] was added as a cosponsor of S. 1021, a bill to assure religious freedom to Native Americans.

S. 1283

At the request of Mr. HARKIN, the names of the Senator from Rhode Island [Mr. PELL], the Senator from Kansas [Mr. DOLE], and the Senator from Utah [Mr. HATCH] were added as cosponsors of S. 1283, a bill to amend the Technology-Related Assistance for Individuals With Disabilities Act of 1988, to improve the act, and for other purposes.

S. 1284

At the request of Mr. HARKIN, the names of the Senator from Rhode Island [Mr. PELL], the Senator from Kansas [Mr. DOLE], and the Senator from Utah [Mr. HATCH] were added as cosponsors of S. 1284, a bill to amend the Developmental Disabilities Assistance Bill of Rights Act to expand or modify certain provisions relating to programs for certain individuals with developmental disabilities, Federal assistance for priority area activities for individuals with developmental disabilities, protection and advocacy of individual rights, university affiliated programs, and projects of national significance, and for other purposes.

SENATE JOINT RESOLUTION 35

At the request of Mr. PRESSLER, the name of the Senator from Minnesota [Mr. WELLSTONE] was added as a cosponsor of Senate Joint Resolution 35, a joint resolution to designate the month of November 1993, and the month of November 1994, each as "National Alzheimer's Disease Month."

SENATE JOINT RESOLUTION 91

At the request of Mr. SPECTER, the names of the Senator from Massachusetts [Mr. KENNEDY], and the Senator from Vermont [Mr. JEFFORDS] were added as cosponsors of Senate Joint Resolution 91, a joint resolution designating October 1993 and October 1994 as "National Domestic Violence Awareness Month."

SENATE JOINT RESOLUTION 94

At the request of Mr. DOLE, the name of the Senator from Minnesota [Mr. WELLSTONE] was added as a cosponsor of Senate Joint Resolution 94, a joint resolution to designate the week of October 3, 1993, through October 9, 1993, as "National Customer Service Week."

AMENDMENTS SUBMITTED

NATIONAL SERVICE TRUST ACT

KENNEDY (AND KASSEBAUM) AMENDMENT NO. 746

Mr. KENNEDY (for himself and Mrs. KASSEBAUM) proposed an amendment to the bill (S. 919) to amend the National and Community Service Act of 1990 to establish a Corporation for National Service, enhance opportunities for national service, and provide national service educational awards to persons participating in such service, and for other purposes, as follows:

On page 8, line 6, strike the period and insert ", or grants described in section 129(d)(4).".

On page 28, strike line 22 and all that follows through page 29, line 14, and insert the following:

"(1) ALLOTMENT OF ASSISTANCE TO CERTAIN STATES.—

"(A) IN GENERAL.—Of the funds allocated by the Corporation for provision of assistance under subsections (a) and (b) of section 121 for a fiscal year, the Corporation shall make a grant under section 121(a) (and a corresponding allotment of approved national service positions) to each of the several States (through the State Commission of the State), the District of Columbia, and the Commonwealth of Puerto Rico that has an application approved by the Corporation under section 133.

"(B) ALLOTMENT AMOUNTS.—Except as provided in subparagraph (C), the amount allotted as a grant to each such State under this paragraph for a fiscal year shall be equal to—

"(i) in the first fiscal year for which funds are appropriated under section 501(a)(2), an amount that bears the same ratio to 40 percent of the allocated funds for such fiscal year;

"(ii) in the second such fiscal year, an amount that bears the same ratio to 45 percent of the allocated funds for such fiscal year; and

"(iii) in the third such fiscal year, an amount that bears the same ratio to 50 percent of the allocated funds for such fiscal year,

as the population of the State bears to the total population of the several States, the District of Columbia, and the Commonwealth of Puerto Rico

"(C) LIMITATION.—In no case shall any State receive a grant under this paragraph for a fiscal year in an amount that is less than ½ of 1 percent of the allocated funds for the fiscal year."

On page 32, strike line 9 and insert the following: 30 percent of the allocated funds in the first fiscal year for which funds are appropriated under section 501(a)(2), not less than 27½ percent of the allocated funds in the second such fiscal year, and not less than 25 percent of the allocated funds in the third such fiscal year, to make grants"

On page 34, strike lines 2 and 3 and insert the following: "of subsection (a) and (c) and after using the appropriate percentage of such funds, as described in paragraph (1), to make grants under paragraph"

On page 34, between lines 15 and 16, add the following:

"(4) RESERVATION.—

"(A) SUPPLEMENTAL AND OTHER GRANTS.—In distributing the funds allocated by the Corporation for provision of assistance under section 121 for a fiscal year, after operation of subsections (a) and (c), the President shall reserve, from the funds available to make grants under paragraphs (1) and (2), an amount that is not less than 2 percent and not more than 5 percent of such funds (except that such amount may not exceed $10,000,000), in order to make supplemental grants as provided in subparagraph (B) and grants as provided in subparagraph (C).

"(B) GRANTS TO ASSIST ENTITIES IN PLACING APPLICANTS WHO ARE INDIVIDUALS WITH A DISABILITY.—

"(i) IN GENERAL.—The President shall make grants from a portion of the funds reserved under subparagraph (A) to entities that—

"(I) receive a grant to carry out a national service program under paragraph (1) or (2);

"(II) demonstrate that the entity has received a substantial number of applications for placement in the national service program of persons who are individuals with a disability, as defined in section 3(2) of the Americans With Disabilities Act of 1990, and who require a reasonable accommodation, as defined in section 101(9) of such Act or auxiliary aids and services, as defined in section 3(1) of such Act, in order to perform national service; and

"(III) demonstrate that additional funding would assist the national service program in placing a substantial number of such individuals with a disability as participants in projects carried out through the program.

"(ii) REQUIREMENTS.—Funds made available through such a supplemental grant under clause (i) shall be made available for the same purposes, and subject to the same requirements, as funds made available through a grant made under paragraph (1) or (2).

"(C) GRANT FOR OUTREACH TO INDIVIDUALS WITH A DISABILITY.—

"(i) IN GENERAL.—From the portion of the funds reserved under subparagraph (A) that is not used to make grants under subparagraph (B), the President shall make grants to public and private not-for-profit organizations to pay for the Federal share described in section 121(e) of—

"(I) providing information about programs specified in section 193A(d)(10) to such individuals with a disability who desire to perform national service; and

"(II) enabling the individuals to participate in activities carried out through such programs, which may include assisting the placement of the individuals in approved national service positions.

"(ii) APPLICATION.—To be eligible to receive a grant under this subparagraph, an organization described in clause (i) shall submit an application to the President at such time, in such manner, and containing such information as the President may require.

On page 50, between lines 5 and 6, insert the following:

"(d) PROHIBITION ON CERTAIN POLITICAL ACTIVITIES.—

"(1) IN GENERAL.—Except as provided in subsection (b) and paragraph (2), an application submitted to the Corporation under section 130 shall include an assurance by the applicant that any national service program carried out using assistance provided under section 121 and any approved national service position provided to an applicant will not be used to—

"(A) provide political seminars, training, instruction, lectures, classes, or speeches; or

"(B) assist political organizations, partisan organizations, or political appointees.

"(2) POLITICAL APPOINTEES.—The requirement of paragraph (1) relating to an assurance regarding speeches shall not apply to political appointees who are responsible for the administration of a national service program.

"(3) ENFORCEMENT.—If the Corporation determines that a national service program has failed to comply with the assurances provided under paragraph (1), the Corporation shall—

"(A) prohibit the program from recruiting or selecting individuals to participate in the program during the 2-year period beginning on the date the Corporation determines the non-compliance commenced; and

"(B) direct the program to terminate the employment of the supervisors determined to be involved in the noncompliance.

On page 162, strike lines 11 through 18 and insert the following:

SEC. 114. REPORTS.

Section 172 of the National and Community Service Act of 1990 (42 U.S.C. 12632) is amended—

(1) in subsection (a)(3)(A), by striking "sections 177 and 113(9)" and inserting "section 177";

(2) in subsection (b)—

(A) by striking "REPORT TO CONGRESS"; and inserting "REPORT TO CONGRESS BY CORPORATION"; and

(B) in paragraph (1), by striking "this title" and inserting "the national service laws"; and

(3) by adding at the end the following:

"(c) REPORT TO CONGRESS BY SECRETARY OF DEFENSE.—

"(1) STUDY.—The Secretary of Defense shall annually conduct a study of the effect of the programs carried out under this title on recruitment for the Armed Forces.

"(2) REPORT.—The Secretary of Defense shall annually submit a report to the appropriate committees of Congress containing the findings of the study described in paragraph (1) and such recommendations for legislative and administrative reform as the Secretary may determine to be appropriate.".

On page 193, strike lines 11 through 23 and insert the following:

"(C) who are experts in the delivery of human, educational, environmental, or public safety services, or are experts in the delivery of services by veterans;

"(D) that include at least one representative of local educators and at least one representative of community-based agencies;

"(E) so that the Board shall be diverse with respect to race, ethnicity, age, gender, and disability characteristics; and

"(F) so that no more than 8 appointed members of the Board are from a single political party.

"(3) EX OFFICIO MEMBERS.—The Secretary of Veterans Affairs, the Secretary of

TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 1994

LAUTENBERG (AND HARKIN) AMENDMENT NO. 747

Mr. LAUTENBERG (for himself and Mr. HARKIN) proposed an amendment to the bill (H.R. 2403) making appropriations for the Treasury, Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1994, and for other purposes, as follows:

At the appropriate place, add the following new title:

TITLE VIII—NONSMOKING POLICY

SEC. 801. SHORT TITLE.

This title may be cited as the "Preventing Our Federal Building Workers and Visitors From Exposure to Deadly Smoke (PRO-FEDS) Act of 1993".

SEC. 802. FINDINGS.

Congress finds that—

(1) environmental tobacco smoke comes from secondhand smoke exhaled by smokers and sidestream smoke emitted from the burning of cigarettes, cigars, and pipes;

(2) since citizens of the United States spend up to 90 percent of a day indoors, there is a significant potential for exposure to environmental tobacco smoke from indoor air;

(3) exposure to environmental tobacco smoke occurs in schools, public buildings, and other indoor facilities;

(4) recent scientific studies have concluded that exposure to environmental tobacco smoke is a cause of lung cancer in healthy nonsmokers and is responsible for acute and chronic respiratory problems and other health impacts in sensitive populations (including children);

(5) the health risks posed by environmental tobacco smoke exceed the risks posed by many environmental pollutants regulated by the Environmental Protection Agency; and

(6) according to information released by the Environmental Protection Agency, environmental tobacco smoke results in a loss to the economy of over $3,000,000,000 per year.

SEC. 803. DEFINITIONS.

As used in this title:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) EXECUTIVE AGENCY.—The term "Executive agency" has the meaning provided in section 105 of title 5, United States Code.

(3) FEDERAL AGENCY.—The term "Federal agency" includes any Executive agency, the Executive Office of the President, any military department, any court of the United States, the Administrative Office of the United States Courts, the Library of Congress, the Botanic Garden, the Government Printing Office, the Congressional Budget Office, the United States Postal Service, the Postal Rate Commission, the Office of the Architect of the Capitol, the Office of Technology Assessment, and any other agency of the executive, legislative, and judicial branches.

(4) FEDERAL BUILDING.—The term "Federal building" means any building or other structure owned or leased for use by a Federal agency, except that the term shall not include any area of a building that is used primarily as living quarters.

(5) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

SEC. 804. NONSMOKING POLICY FOR FEDERAL BUILDINGS.

(a) IN GENERAL.—

(1) ISSUANCE OF GUIDELINES.—Not later than 180 days after the date of enactment of this Act, the Administrator shall issue guidelines for instituting and enforcing a nonsmoking policy at each Federal agency.

(2) CONTENTS OF GUIDELINES.—A nonsmoking policy that meets the requirements of the guidelines shall, at a minimum, prohibit smoking in each indoor portion of a Federal building that is not ventilated separately (as defined by the Administrator) from other portions of the facility.

(b) ADOPTION OF GUIDELINES.—

(1) IN GENERAL.—As soon as is practicable after the date of issuance of the guidelines referred to in subsection (a), the head of each Executive agency, and the Director of the Administrative Office of the United States Courts shall adopt a nonsmoking policy applicable to the Federal agency under the jurisdiction of the individual that meets the requirements of the guidelines referred to in subsection (a), and take such action as is necessary to ensure that the policy is carried out in the manner specified in the guidelines.

(2) LEGISLATIVE BRANCH.—As soon as is practicable after the date of issuance of the guidelines referred to in subsection (a), the following entities and individuals shall adopt a nonsmoking policy that meets the requirements of the guidelines referred to in subsection (a), and take such action as is necessary to ensure that the policy is carried out in the manner specified in the guidelines:

(A) With respect to the House of Representatives (including any office space or buildings of the House of Representatives), the House Office Building Commission.

(B) With respect to the Senate (including any office space or buildings of the Senate), the Committee on Rules and Administration of the Senate.

(C) With respect to any other area occupied or used by a Federal agency of the legislative branch, the Architect of the Capitol.

(3) CERTIFICATION FOR EXECUTIVE AGENCIES.—The Administrator of General Services, in consultation with the Administrator, shall review each nonsmoking policy adopted by the head of an Executive agency and shall certify those policies that meet the requirements of the guidelines referred to in subsection (a). In carrying out the certification, the Administrator of General Services shall use a procedure and apply criteria that the Administrator shall establish. Except as provided in subsection (c), if a policy does not meet the requirements of the guidelines, the Administrator of General Services shall—

(A) in a written communication, advise the head of the Executive agency concerning modifications of the policy to meet the requirements; and

(B) publish the communication in the Federal Register.

(c) WAIVERS.—

(1) EXECUTIVE AGENCIES.—The head of an Executive agency may publicly petition the Administrator of General Services for a waiver from instituting or enforcing a nonsmoking policy (or policy requirement) under the guidelines issued pursuant to subsection (a). The Administrator of General Services may waive the requirement if, after consultation with the Administrator, the Administrator of General Services determines that—

(A) unusual extenuating circumstances prevent the head of the Federal agency from enforcing the policy (or a requirement under the policy) (including a case in which the Federal agency shares space in an indoor facility with a non-Federal entity and cannot obtain an agreement with the other entity to abide by the nonsmoking policy requirement) and the head of the Executive agency will establish and make a good-faith effort to enforce an alternative nonsmoking policy (or alternative requirement under the policy) that will protect individuals from exposure to environmental tobacco smoke to the maximum extent possible; or

(B) the head of the Executive agency will enforce an alternative nonsmoking policy (or alternative requirement under the policy) that will protect individuals from exposure to environmental tobacco smoke to the same degree as the requirement under the guidelines issued pursuant to subsection (a).

(2) AGENCIES OF THE JUDICIAL BRANCH.—After consultation with the Administrator, and after providing public notice and reasonable opportunity for public review and comment, the Director of the Administrative Office of the United States Courts may, on the basis of the criteria for a waiver referred to in paragraph (1), make such modifications to the nonsmoking policy required to be carried out pursuant to subsection (b) as the Director determines to be necessary. The Director may not make any modification that violates the criteria for a waiver under paragraph (1).

(3) AGENCIES OF THE LEGISLATIVE BRANCH.—After consultation with the Administrator, and after providing public notice and reasonable opportunity for public review and comment, the appropriate entity or individual referred to in subparagraphs (A) through (C) of subsection (b)(2) may, on the basis of the criteria for a waiver referred to in paragraph (1), make such modifications to the nonsmoking policy required to be carried out pursuant to subsection (b) as the entity or individual determines to be necessary. The entity or individual may not make any modification that violates the criteria for a waiver under paragraph (1).

(d) COLLECTIVE BARGAINING AGREEMENTS.—

(1) IN GENERAL.—In a Federal agency in which a labor organization has been accorded recognition as a bargaining unit pursuant to chapter 71 of title 5, United States Code, the Federal agency shall engage in collective bargaining pursuant to section 7114 of title 5, United States Code, to ensure the implementation of the requirements of this section that affect work areas predominately occupied by the employees represented by the labor organization by the date of the adoption, pursuant to this section, of a nonsmoking policy applicable to the Federal agency.

(2) EXEMPTION.—

(A) IN GENERAL.—If, on the date of enactment of this Act—

(i) a bargaining unit referred to in paragraph (1) has in effect a collective bargaining agreement with respect to which a Federal agency is a party; and

(ii) the collective bargaining agreement referred to in clause (i) includes provisions relating to smoking privileges that are in violation of the requirements of this section,

the head of the Federal agency may exempt work areas predominately occupied by the employees subject to the collective bargaining agreement from the nonsmoking policy that the Federal agency is required to be carried out under subsection (b).

(B) TERMINATION OF EXEMPTION.—

(i) IN GENERAL.—An exemption referred to in subparagraph (A) shall terminate on the earlier of—

(I) the first expiration date (after the date of enactment of this Act) of the collective bargaining agreement containing the provisions relating to smoking privileges; or

(II) the date that is 1 year after the date of issuance of the guidelines.

(ii) IMPLEMENTATION OF NONSMOKING POLICY AFTER TERMINATION DATE.— By the applicable date specified in clause (i)(II), the head of each Federal agency shall be required to enforce a nonsmoking policy that meets the requirements of the guidelines issued under subsection (a) in each work area under the jurisdiction of the head of the Federal agency, notwithstanding any collective bargaining agreement that contains provisions that are less restrictive than the nonsmoking policy.

SEC. 805. TECHNICAL ASSISTANCE AND OUTREACH ACTIVITIES.

(a) TECHNICAL ASSISTANCE.—The Administrator and the Secretary shall provide technical assistance to the heads of Federal agencies and other persons who request technical assistance. The technical assistance shall include information—

(1) on smoking cessation programs for employees; and

(2) to assist in compliance with the requirements of this title.

(b) OUTREACH ACTIVITIES.—The Administrator, in consultation with the Secretary, shall establish an outreach program to inform the public concerning the dangers of environmental tobacco smoke. As part of the outreach program, the Administrator and the Secretary shall make available to the general public brochures and other educational materials. In establishing the programs under this paragraph, the Administrator and the Secretary shall cooperate to maximize the sharing of information and resources.

SEC. 806. REPORT BY THE ADMINISTRATOR.

Not later than 2 years after the date of enactment of this Act, the Administrator shall submit a report to Congress that includes—

(1) information concerning the degree of compliance with this title; and

(2) an assessment of the legal status of smoking in public places.

SEC. 807. PREEMPTION.

Nothing in this title is intended to preempt any provision of law of a State or political subdivision of a State that is more restrictive than a provision of this title.

SEC. 808. EXEMPTION.

No provision in this title shall be construed to affect or otherwise impair the authority of the Secretary of Veterans Affairs, under section 526 of the Veterans Health Care Act of 1992 (38 U.S.C. 1715 note).

BINGAMAN AMENDMENT NO. 748

Mr. BINGAMAN proposed an amendment to the bill (H.R. 2403), supra, as follows:

At the appropriate place in the bill, add the following new sections:

SEC. 1. FINDINGS.

The Congress finds that—

(1) cigarette smoking and the use of smokeless tobacco products continue to represent major health hazards to the Nation, causing approximately 434,000 deaths each year;

(2) cigarette smoking continues to be the single most preventable cause of death and disability in the United States;

(3) tobacco products contain hazardous additives, gases, and other chemical constituents dangerous to health;

(4) the use of tobacco products costs the United States more than $60,000,000,000 in lost productivity and health care costs;

(5) tobacco products contain nicotine, a poisonous, addictive drug;

(6) despite the known adverse health effects associated with tobacco, it remains one of the least regulated consumer products and is readily available to children and adolescents throughout the United States;

(7) 90 percent of adult smokers start smoking in adolescence or childhood and continue to smoke throughout their adult lives;

(8) each day, more than 3,000 children and adolescents start smoking and collectively consume nearly one billion packs of cigarettes per year;

(9) reliable studies indicate that tobacco is a gateway to other, increasingly more harmful drugs, and that tobacco use continues after use of other drugs begins; and

(10) the Congress of the United States has a major policy setting role in ensuring that the use of tobacco products among minors is discouraged to the maximum extent possible.

SEC. 2. DEFINITIONS.

As used in this section—

(1) the term "Federal agency" means—

(A) an Executive agency as defined in section 105 of title 5, United States Code; and

(B) each entity specified in paragraphs (B) through (H) of section 5721(1) of title 5, United States Code;

(2) the term "Federal building" means—

(A) any building or other structure owned in whole or in part by the United States or any Federal agency, including any such structure occupied by a Federal agency under a lease agreement, except that the term shall not include any area or portion of a building not leased by the Federal Government; and

(B) includes the real property on which such building is located;

(3) the term "minor" means an individual under the age of 18 years; and

(4) the term "tobacco product" means cigarettes, cigars, little cigars, pipe tobacco, smokeless tobacco, snuff, and chewing tobacco.

SEC. 3. TOBACCO PRODUCTS VENDING MACHINE AND FREE SAMPLE BAN IN FEDERAL BUILDINGS.

(a) IN GENERAL—No later than 45 days after the date of the enactment of this Act, the Administrator of General Services and the head of each Federal agency shall promulgate regulations that prohibit the sale of tobacco products in vending machines located in or around any Federal building under the jurisdiction of the Administrator or such agency head.

(b) EXCEPTION.—The Administrator of General Services or the head of an agency, as appropriate, may designate areas not subject to the provisions of subsection (a), if such area also prohibits the presence of minors.

(c) JURISDICTION OF FEDERAL BUILDINGS AND ADMINISTRATION.—The provisions of this section shall be carried out—

(1) by the Administrator of General Services for any Federal building which is maintained, leased, or has title of ownership vested in the General Services Administration; or

(2) by the head of a Federal agency for any Federal building which is maintained, leased, or has title of ownership vested in such agency.

SEC. 4. COMPLIANCE REPORT.

No later than 90 days after the date of enactment of this Act, the Administrator of General Services and each head of an agency shall prepare and submit, to the appropriate committees of Congress, a report that shall contain—

(1) verification that the Administrator or such heard of an agency is in compliance with this Act; and

(2) a detailed list of the location of all tobacco product vending machines located in Federal buildings under the administration of the Administrator or such head of an agency.

SEC. 5. APPLICATION TO THE UNITED STATES CAPITOL AND GROUNDS.

(a) IN GENERAL.—No later than 45 days after the date of the enactment of this Act, the Senate Committee on Rules and Administration and the House of Representatives Committee on House Administration, after consultation with the Architect of the Capitol, shall promulgate regulations under the House and Senate rulemaking authority that prohibit the sale of tobacco products in vending machines in the Capitol Buildings.

(b) EXCEPTION.—Such committees may designate areas where such prohibition shall not apply, if such area also prohibits the presence of minors.

(c) DEFINITION.—For the purpose of this section the term "Capitol Buildings" shall have the same meaning as such term is defined under section 16(a)(1) of the Act entitled "An Act to define the area of the United States Capitol Grounds, to regulate the use thereof, and for other purposes", approved July 31, 1946 (40 U.S.C. 193m(1)).

SEC. 6. RULE OF CONSTRUCTION.

Nothing in this Act shall be construed as restricting the authority of the Administrator of General Services or the head of an agency to limit tobacco product use in or around any Federal building, except as provided under section 4(a).

NICKLES AMENDMENT NO. 749

Mr. NICKLES proposed an amendment to the bill (H.R. 2403), supra, as follows:

At the end of the committee amendment on, page 32, line 2, add the following new sections:

SEC. . No funds appropriated by this Act shall be available to pay for an abortion, or the administrative expenses in connection with any health plan under the Federal employees health benefit program which provides benefits or coverage for abortions, but this prohibition shall not apply to administrative expenses related to such plans that offer individual employees special riders that cover only abortions, if all expenditures for abortions are paid solely out of the special premiums paid by those employees who elect such special riders.

SEC. . The provisions of section do not prohibit expenditures of funds under this Act for administrative expenses or abortions in cases where such procedure is necessary to save the life of the mother or that the pregnancy is the result of an act of rape or incest.

CHAFEE (AND PRYOR) AMENDMENT NO. 750

Mr. CHAFEE (for himself and Mr. PRYOR) proposed an amendment to the bill (H.R. 2403), supra, as follows:

At the appropriate place in the bill insert the following:

SEC . The Internal Revenue Service shall institute policies and procedures which will safeguard the confidentiality of taxpayer information. The Service shall report to the Committees on Appropriations of the House and Senate, the House Committee on Ways and Means, and the Senate Committee on Finance, no later than December 31, 1993, the steps the Service has taken to minimize unauthorized access to taxpayer data.

DECONCINI (AND BOND) AMENDMENT NO. 751

Mr. DECONCINI (for himself and Mr. BOND) proposed an amendment to the bill (H.R. 2403), supra, as follows:

On page 8, line 16, after the word, "Program:", insert the following: ": *Provided further*, That no funds made available by this or any other Act may be used to plan or implement any reorganization of the Bureau of Alcohol, Tobacco and Firearms or transfer of the Bureau's functions, missions, or activities to other agencies or Departments in the fiscal year ending on September 30, 1994;".

COVERDELL AMENDMENT NO. 752

Mr. BOND (for Mr. COVERDELL) proposed an amendment to the bill (H.R. 2403), supra, as follows:

SECTION 1. Title VII of H.R. 2403 is amended by inserting at the end the following new section:

SEC. . REDUCED RATES FOR VOTER REGISTRATION MAIL.

Section 3629 of title 39, United States Code, as enacted by section 8(h) of Public Law No. 103-31, the National Voter Registration Act of 1993, is amended by striking "the rate for any class of mail that is available to a qualified nonprofit organization under section 3626" and inserting in lieu thereof "a rate which is one-half the applicable rate for first-class mail, as provided in the relevant classification and rate schedules,".

DECONCINI (AND OTHERS) AMENDMENT NO. 753

Mr. DECONCINI (for himself, Mrs. BOXER, and Mrs. FEINSTEIN) proposed an amendment to the bill (H.R. 2403), supra, as follows:

On page 36, line 21, strike "$199,000,000" and insert in lieu thereof, "$180,000,000".

On page 37 of the bill, line 6, strike "$84,000,000" and insert in lieu thereof, "$103,000,000".

DECONCINI AMENDMENT NO. 754

Mr. DECONCINI proposed an amendment to the bill, H.R. 2403, supra, as follows:

At the end of the Committee amendment on page 31, lines 7-13, insert the following:

Notwithstanding any provision of this or any Act,

Section 6962j of 42 U.S.C. is amended as follows—

(1) by striking paragraph (a) through (e) and inserting in lieu thereof:

"(a) Notwithstanding any other provision of law, a Federal agency in conducting a procurement for toner cartridges for use in laser printers, photocopiers, facsimile machines, or micrographic printers shall give preference to recycled toner cartridges unless the contracting or purchasing officer determines in writing that—

"(1) adequate market research establishes that recycled cartridges for the type of equipment used by the agency do not exist,

"(2) the price or life cycle cost offered for the recyled cartridge is higher than the original equipment manufacturer's new cartridge, or

"(3) recycled cartridges are not available in quantities needed within the timeframes required.

"(b) Nothing in this section shall prohibit the purchase of one newly manufactured cartridge (or a number equal to those normally supplied at the time of initial purchase) as a part of an initial printer or copier acquisition.

"(c) For the purpose of this section, 'recycled cartridge' means a laser printer, photocopier, facsimile machine, or micrographic toner cartridge which has been remanufactured in the United States."

EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR RELIEF FROM THE MAJOR, WIDESPREAD FLOODING IN THE MIDWEST ACT OF 1993

PRESSLER AMENDMENT NO. 755

Mr. PRESSLER submitted an amendment to the bill (H.R. 2667) making emergency supplemental appropriations for relief from the major, widespread flooding in the Midwest for the fiscal year ending September 30, 1993, and for other purposes, as follows:

At the end of chapter VIII of the bill, add the following new section:

SEC. . RURAL AREA DISASTER ASSISTANCE READINESS TASK FORCE.

(a) ESTABLISHMENT.—There is established a task force to be known as the Rural Area Disaster Assistance Readiness Task Force (referred to in this section as the "RADAR Task Force").

(b) PURPOSE.—The purpose of the RADAR Task Force shall be to provide Congress, the executive branch, State and local governments, and private entities with recommendations to improve the effectiveness and responsiveness of Federal disaster assistance programs.

(c) DUTIES.—The RADAR Task Force shall examine—

(1) the disaster or emergency declaration procedure under—

(A) the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), including required State and local assessment and declaration request procedures; and

(B) section 321(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(a));

(2) the ability of the President and Federal agencies to waive program requirements when a major disaster or emergency has been declared in accordance with Federal law, and the effectiveness of such waivers;

(3) the readiness of State and local governments and the private sector to react to disaster situations efficiently;

(4) requirements for Federal disaster assistance that preclude or restrict rural areas from qualifying for and benefiting from such assistance, such as damage thresholds for individuals, businesses, farmers, and the public sector;

(5) interest rates applicable to Federal disaster assistance loan programs, and whether the rates should fluctuate according to economic trends; and

(6) paperwork requirements of Federal disaster assistance programs, to determine

whether the requirements can be reduced to expedite the delivery of assistance.

(d) REPORT.—Not later than 30 days after the date specified in subsection (k), the RADAR Task Force shall submit a report to Congress containing the results of its examination under subsection (c).

(e) MEMBERSHIP.—The RADAR Task Force shall be comprised of 20 members, as follows:

(1) VOTING MEMBERS.—The Majority and Minority Leaders of the Senate and the Speaker of the House of Representatives and the Minority Leader of the House of Representative shall each appoint 3 voting members who are private citizens, of whom—

(A) 1 shall represent rural State and local emergency management agencies; and

(B) 2 shall have expertise in relevant rural disaster assistance issues, including business owners, farmers, private insurers and lenders, and representatives of private nonprofit disaster assistance organizations.

(2) NONVOTING MEMBERS.—The following individuals shall serve, ex officio, on the RADAR Task Force as nonvoting members.

(A) The Secretary of Agriculture.

(B) The Secretary of Labor.

(C) The Director of the Federal Emergency Management Agency.

(D) The Administrator of the Small Business Administration.

(E) Two members of the Senate, appointed by the Majority of Minority Leaders of the Senate.

(F) Two members of the House of Representatives, appointed by the Speaker of the House of Representatives and the Minority Leader of the House of Representatives.

(f) VACANCIES.—Any vacancy on the RADAR Task Force shall be filled in the same manner as the original appointment.

(g) CHAIRPERSON AND VICE CHAIRPERSON.—The members of the RADAR Task Force shall select a Chairperson and Vice Chairperson from among the members of the RADAR Task Force.

(h) QUORUM.—Eight members of the RADAR Task Force shall constitute a quorum, but a lesser number of members may hold hearings.

(i) COMPENSATION.—Members of the RADAR Task Force shall serve without compensation, but may be reimbursed for travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the RADAR Task Force.

(j) POWERS.—

(1) MEETINGS.—The RADAR Task Force shall first meet not later than 30 days after the date on which all of the members are appointed, and the RADAR Task Force shall meet thereafter at the call of the Chairperson or a majority of the members.

(2) HEARINGS.—The RADAR Task Force may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the RADAR Task Force consider appropriate. The RADAR Task Force may administer oaths or affirmations to witnesses appearing before it.

(3) ACCESS TO INFORMATION.—The RADAR Task Force may secure directly from any Federal agency information necessary to carry out this section if the information may be disclosed under section 552 of title 5, United States Code. Subject to the previous sentence, on the request of the Chairperson or Vice Chairperson, the head of such agency shall furnish such information to the RADAR Task Force.

(4) USE OF FACILITIES AND SERVICES.—Upon the request of the RADAR Task Force, the head of any Federal agency may make available to the RADAR Task Force any other facilities and services of such agency.

(5) PERSONNEL FROM OTHER AGENCIES.—Upon the request of the RADAR Task Force, the head of any Federal agency may detail any of the personnel of such agency to serve as an Executive Director of the RADAR Task Force or assist the RADAR Task Force in carrying out the duties of the RADAR Task Force. Any detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.

(6) VOLUNTARY SERVICE.—Notwithstanding section 1342 of title 31, United States Code, the Chairperson of the RADAR Task Force may accept for the RADAR Task Force voluntary services provided by a member of the RADAR Task Force.

(k) TERMINATION.—The RADAR Task Force shall terminate on the date that is 180 days after the date of enactment of this Act.

Mr. PRESSLER. Mr. President, I rise at this time to submit an amendment I intend to offer to H.R. 2667, the supplemental appropriation for flooding in the Midwest.

My amendment would create the Rural Area Disaster Assistance Readiness [RADAR] Task Force. The RADAR Task Force would combine the expertise of members of the administration and Congress, State and local leaders, and representatives of the private sector to examine the responsiveness of aid to disasters in rural areas.

Unfortunately, rural areas often do not receive the superior, timely response for aid that the great flood of 1993 has elicited. The economic impact for a small community struck by an isolated disaster, however, can be just as critical as a widespread disaster. A fire destroying only a few businesses on Main Street rural America can mean the loss of over half of that community's employment. Unfortunately, such a crisis will not receive the attention that a more widespread disaster in a more populated area will receive.

This is why I seek to create the RADAR Task Force. The RADAR Task Force would recommend to Congress and the President ways in which the needs of rural areas can be better served in times of disaster.

HARKIN (AND OTHERS) AMENDMENT NO. 756

Mr. HARKIN (for himself, Mr. BOND, Mr. DASCHLE, Mr. PRESSLER, Mr. CONRAD, Ms. MOSELEY-BRAUN, Mr. WELLSTONE, Mr. DORGAN, Mr. SIMON, Mr. EXON, Mr. DURENBERGER, Mr. GRASSLEY, and Mr. COCHRAN) proposed an amendment to the bill (H.R. 2667), supra, as follows:

On page 2, line 13, at the end of the sentence insert the following: "notwithstanding any other provisions of the Act, the following shall be the law with respect to the Commodity Credit Corporation.

COMMODITY CREDIT CORPORATION

COMMODITY CREDIT CORPORATION FUND

For an additional amount for the "Commodity Credit Corporation Fund" to cover 1993 crop losses resulting from damaging weather or related condition as defined in section 2251 of Public Law 101-62 in 1993, $1,050,000,000, and in addition $300,000,000, which shall be available only to the extent an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to Congress, the total to remain available until June 30, 1994: *Provided*, That from funds previously made available in Public Law 102-368 by Presidential declaration, $100,000,000 to remain available until June 30, 1994, shall be for 1993 crop losses only: *Provided further*, That if prior to April 1, 1994, the President determines that extraordinary circumstances exist that warrant further assistance, the Secretary of Agriculture shall use such funds of the Commodity Credit Corporation as are necessary to make payments in an amount equal to 100 percent of each eligible claim as determined under title XXII of Public Law 101-624: *Provided further*, That all additional amounts made available herein are subject to the terms and conditions in Public Law 101-624: *Provided further*, That Congress hereby designates the entire amount provided herein as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and the Emergency Deficit Control Act of 1985, as amended: *Provided further*, That notwithstanding any provision of Public Law 103-50, funds provided by such Act shall not be expended for 1993 crop losses resulting from 1993 natural disasters, and claims for assistance from funds provided by that Act by producers with 1990, 1991, and 1992 crop losses shall be paid only to the extent such claims are filed by September 17, 1993.

"*Provided further*, That the Secretary may provide assistance, utilizing such funds of the Commodity Credit Corporation as necessary, for additional weather related losses to producers with 1990, 1991, and 1992 crop losses. The Secretary shall provide such assistance in a manner that treats producers of 1990, 1991 and 1992 crops who suffered crop losses and received a prorated payment under Public Law 102-368 equitably with producers receiving assistance under this Act.".

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on August 3, 1993, at 2:30 p.m. on S. 431, S. 485, and S. 1232 and auto salvage.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 9:30 a.m., August 3, 1993, to consider pending calendar business.

At the Tuesday, August 3 business meeting the committee will consider the following:

Agenda No. 2. S. 206, to designate certain lands in the State of Colorado as components of the National Wilderness Preservation System.

No amendments are anticipated.

Agenda No. 4. S. 208, to reform the concessions policies of the National Park Service.

Senator BUMPERS has circulated an amendment in the nature of a substitute which will be the markup vehicle.

Senator JOHNSTON has circulated an amendment to the Bumpers amendment.

The committee may also take up any other items ready for consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. FORD. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee for authority to meet for a hearing on Tuesday, August 3, at 10 a.m. on the nomination of Russell Frank Canan, to be associate judge of the Superior Court of the District of Columbia.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Tuesday, August 3, 1993, at 10 a.m., to hold a hearing on "Assault Weapons: A View From the Front Line."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to hold a business meeting during the session of the Senate on Tuesday, August 3, 1993, to consider the nominations of Bruce A. Lehman to be Commissioner of Patents and Trademarks and Louis J. Freeh to be Director of the Federal Bureau of Investigation.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON VETERANS' AFFAIRS

Mr. FORD. Mr. President, the Committee on Veterans' Affairs would like to request unanimous consent to hold an oversight and legislative hearing on VA mental health programs at 10 a.m., on Tuesday, August 3, 1993. The hearing will be held in room 418 of the Russell Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. FORD. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday, August 3, 1993 at 2:30 p.m., to hold an open hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON CHILDREN, FAMILY, DRUGS AND ALCOHOLISM

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources Subcommittee on Children, Family, Drugs and Alcoholism be authorized to meet for a hearing on "New Directions for Child Support," during the session of the Senate on Tuesday, August 3, 1993, at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON CLEAN AIR AND NUCLEAR REGULATION

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Clean Air and Nuclear Regulation, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Tuesday, August 3, beginning at 9:30 a.m., to conduct a hearing on State and local implementation of title I of the Clean Air Act and other issues associated with the nonattainment provisions.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON EDUCATION, ART AND THE HUMANITIES

Mr. FORD. Mr. President, I ask unanimous consent that the committee on Labor and Human Resources Subcommittee on Education, Art and the Humanities be authorized to meet for a hearing on "Equity in Education: A Grassroots Perspective," during the session of the Senate on Tuesday, August 3, 1993, at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INTERNATIONAL ECONOMIC POLICY, TRADE, OCEANS AND ENVIRONMENT

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on International Economic Policy, Trade, Oceans and Environment of the Committee on Foreign Relations, be authorized to meet during the session of the Senate on Tuesday, August 3, 1993, at 9 a.m., to mark up the fiscal year 1994 foreign assistance authorization legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

THE BEATING OF A HUMAN RIGHTS ACTIVIST IN MOSCOW

• Mr. DECONCINI. Mr. President, I rise today in strong condemnation of the violent attack on Mr. Oleg Panfilov last week in Moscow. According to reports that have reached the Helsinki Commission, Mr. Panfilov, a citizen of the central Asian state of Tajikistan, was tied to a radiator in his Moscow apartment and severely beaten by three men, who among other things, broke half the bones in his face. His wife was also bound, gagged, and beaten before the intruders left their apartment.

It is clear that Panfilov was beaten in an attempt to silence him. For years he has been working as a journalist in Tajikistan, until the civil war, and fear for his life, forced him to relocate to Moscow. Since then, he has been reporting on the deteriorating situation in Tajikistan, and has criticized the Tajik Government for its repeated brutal actions against its opponents. Panfilov was scheduled to lead a news conference on July 27 at the Russian-American Press Center on human rights violations in Tajikistan, thereby prompting the attack. He has stated that his attackers were from Tajikistan.

This outrageous attack on a journalist and human rights activist is just one of many violent actions of the government in Tajikistan. It has refused to negotiate with its opponents despite over a year of fighting in a bloody civil war, and instead responded with warrants for the arrest of all opposition leaders, accompanied by death threats. The respected international human rights organization, Amnesty International, recently released a report detailing cruel and malicious acts perpetrated by the Government against those suspected of supporting the opposition. Because Mr. Panfilov sought to inform the world of these harsh policies, he has been targeted by the Tajik Government, and now, we see, the Government has acted against him.

The Tajik Interior Ministry, by the way, responded to the Amnesty International report by dismissing that organization as a "spy organization created to conduct subversive activities."

Mr. President, I must protest this attack on Mr. Panfilov. I call on the Tajik Government to cease its repressive practices and to begin to make some attempt to live up to its commitments as a responsible, independent state, member of the United Nations and Conference on Security and Cooperation in Europe. I wish to inform the Tajik Government that I, as the Chairman of the Helsinki Commission, will continue to oppose all but humanitarian aid to that country as long as such ruthless actions continue.

But this attack also raises concern about the Russian Government's policies toward citizens of countries of the former Soviet Union who reside in Moscow. Indeed, a recent agreement between the security services of Russia and Uzbekistan, another frequent violator of the rights of its citizens, in which each country agreed to the principle of noninterference in each other's affairs, raises considerable concern, even alarm, that Moscow is content to sit idly by in the face of egregious human rights violations against citizens of neighboring countries—even, as in the case of the attack on Mr. Panfilov, when they reside in Moscow. I sincerely hope that this is not the policy of the Russian Government.

I wish to remind the authorities in Moscow that this attack is not the internal affair of another state; this was a crime against a resident of Moscow and as such, the proper Russian authorities must carry out a full investigation of the case. I hope that the Russian Government does not have a double standard when it comes to human rights violations, criticizing them when they occur in Russia or against Russians in the former republics, but tolerating them when they happen against citizens of former republics who happen to reside in Moscow. I call on the authorities in Moscow to pursue the attackers of Mr. Panfilov, and to work to protect equally all the residents of Moscow, regardless of their citizenship.●

THE REPUBLIC OF CHINA AND THE UNITED NATIONS

● Mr. CRAIG. Mr. President, U.N. Secretary General Boutros Boutros-Ghali recently has argued that strengthening U.N. peacekeeping capabilities is one of the best investments the world community could make. He therefore urged the member states of the United Nations to contribute more to the world body for undertaking a much more active role.

Mr. Boutros-Ghali's statement reminds me of an anomaly in the world today, that is, the exclusion of the Republic of China from the United Nations. The Republic of China on Taiwan not only is a model state of political and economic development for the world, it also has demonstrated to the world that it is a responsible nation eager to make contributions to the world community. We should let the ROC have the chance to become a constructive member of the United Nations. I would like to call to the attention of my distinguished colleagues the following article titled "U.N. Should Welcome Taiwan," by Dr. Fredrick Chien, the Foreign Minister of the ROC. The article appeared in the August 5, 1993, issue of the Far Eastern Economic Review.

The article follows:

Today we are privileged to live in an age when new strategic concepts beckon and age-old humanitarian goals seem more within the realm of possibility.

Unshackled from the rigid Cold War constraints of ideology and superpower confrontation, the world at last dares to think creatively about new approaches for achieving durable peace, equitable prosperity and basic freedoms for all. As horizons expand, outdated formulas and axioms have to be reexamined if mankind is to move forward.

No one will deny that it is still a dangerous world. Despite the decline of communism and the ascendance of democracy throughout much of the world, there are still many urgent global problems on the agenda; local ethnic and border conflicts; proliferation of nuclear and conventional weapons of mass destruction; global terrorism; and persisting hunger and disease, to name but a few.

Multilateral cooperation seems more essential than ever for combating and achieving victory over these scourges. These daunting challenges require innovative approaches, premised upon universal participation and shared responsibility. When, at last, the world seems able to devote more attention and resources to the welfare of mankind, we should not be limited by narrow injunctions of the past.

The case for the Republic of China (ROC) assuming a more active, supportive role in this new environment is compelling. Our economic strength speaks for itself, we have the world's 25th-highest per capita income; 20th-largest gross national product; 15th-biggest overseas trade volume; and the largest foreign-exchange reserve holdings in the world. Indeed, we have applied to enter GATT under the stricter category for developed status.

Rapid democratization, together with new pragmatic policies and diplomacy aimed at national unification, demonstrate our progressive spirit as a government and a people. The spectrum of our existing overseas aid, training and disaster relief programmes illustrates our concern for the common welfare. Moreover, growing international consensus on the principles of interdependence and regional integration argue strongly for our re-emergence in the multilateral arena.

Coincidentally, just as public opinion on Taiwan is having its greatest impact on ROC policy, there is tremendous popular demand for a greater national profile abroad. After decades of semi-isolation (partially self-inflicted, but largely imposed), the 20 million people on the island of Taiwan are ready to assume their proper role and responsibilities in regional and global institutions.

We are currently a member of the Asian Development Bank, the Pacific Economic Cooperation Council, the Pacific Basin Economic Council, and the Asia Pacific Economic Cooperation forum, as well as the International and Asian Olympic Associations. Our pending application to join Gatt is headed towards success.

Taking all this into consideration, our participation in the UN is the natural and logical next step. This is important to the people of Taiwan; it is eminently practical and essential for the welfare of the UN itself.

Let's look at the logical aspects. The UN was never meant to function as an elitist, exclusive club. Universality has proved to be both the virtue and the practical necessity of its effective operation. The organisation's goals, and the means for achieving those goals, depend upon the broadest possible cooperation among all who adhere to its principles.

With the ROC's economic and democratic status what it is today, there is no realistic justification for exclusion. If national division by itself was a disqualification, neither Germany nor Korea could have entered the UN in years past. Taipei's preponderant *de facto* relationships with the vast majority of the world's other nations—commercial, political and otherwise—far outweigh any diplomatic technicalities.

The ROC's participation in the UN would enhance that organisation's prestige and relevance, just as it would lend credibility to what ought to be a truly representative global forum. Furthermore, it could significantly bolster the UN's assets, at a time when that body's financial resources and international missions are seriously challenged.

With logic, reality and both organisational and global interests all arguing in its favour, ROC participation in the UN is a concept whose time has come. The UN's acquiescence in our bid will also constitute endorsement of Taiwan's recent sweeping democratic reform initiatives and continuing social and political process. As such, it will help ensure further stability prosperity and liberalisation on Taiwan.

Furthermore, our participation in the UN will promote rather than hinder China's unification. For our continued exclusion from the international community will only aid and abet the agitation for Taiwan's independence. I believe, ultimately, our participation in the UN will facilitate peace and reconciliation across the Taiwan Strait as well. It is time to move forward, without delay.●

THE NATIONAL HEALTH SAFETY NET INFRASTRUCTURE ACT

● Mr. DASCHLE. Mr. President, earlier this year, along with Senators BREAUX and BAUCUS, I introduced the National Health Safety Net Infrastructure Act, legislation that would provide vitally needed support for the Nation's public and rural health care facilities that are the only source of care for so many Americans. I am pleased that Senators INOUYE and SIMON have also joined me in this effort.

I originally introduced this bill last year out of a serious concern for the survival of rural and public health care facilities that make up this Nation's Health Safety Net. While other hospitals compete for insured patients, these hospitals and clinics bear the primary burden of indigent and uncompensated care. But as a consequence of their commitment, concern, and generosity of spirit they are disproportionately dependent on either direct Government grants or Government reimbursement for the care they provide—sources of funding that continue to dry up.

I reintroduced this legislation this year because it is increasingly evident that the role of our Health Safety Net hospitals will become even more important as we consider reform of our health care system. We must now begin to lay the groundwork upon which reform will be built.

As we approach the end of the century, the benign neglect of our Nation's infrastructure is more and more obvious. There is appalling evidence that our roads, bridges, and schools are in need of serious repair. But nowhere is the consequence of this neglect more evident than in our safety net hospitals.

And it's not just our inner city public hospitals that are crumbling. Our safety net is made up of county and community hospitals, State university hospitals, nonprofits, private teaching hospitals, rural clinics, and many other kinds of health care institutions that desperately need help.

The burden on these hospitals is beginning to take its toll. The safety net has been showing gaping holes for some time now, and people are falling through it at a time when a strong net is needed the most.

One of the most serious problems these hospitals face is a lack of access to capital. These facilities don't want a free ride; they just want to be able to finance their capital projects and service their debt like any responsible business. But for many safety net hospitals, gaining access to capital is a frustrating exercise in futility.

The reasons are many. First, State and local governments that support safety net hospitals are increasingly hard-pressed to fund capital projects, directly or through the issuance of general obligation funds.

Second, many safety net hospitals' operating margins are far too slim to support debt service payments, and local government budgets are stretched too thin to provide subsidies. And even when debt service payments can be made, bond markets often view local appropriations as too uncertain to be factored into a facility's revenue stream. The result is a low bond rating and higher interest rates for the hospital. FHA bond or mortgage insurance is often unavailable for the same reason.

The situation is equally dismal for other sources of Federal support. Funding from the Hill-Burton program, which used to support so many of these hospitals, essentially died out in the late 1970's and has not been available for years.

And finally, while other hospitals compete for insured patients, safety net hospitals bear the primary burden of indigent and unreimbursed care. This burden is shared by both large, urban public hospitals and small rural hospitals and clinics.

The average age of the physical plant of urban, public hospitals is nearly 26 years, as compared to the private hospital national average of only 7 years. The average percentage of capital investment and the average per-bed capital expenditure in public hospitals is less than half that of the nonpublic hospitals. The effect of this underinvestment is to accelerate the deterioration of existing plants and equipment.

A good example is Los Angeles County's General Hospital, part of the LA-USC [University of Southern California] Medical Center. This is a true safety-net hospital, serving a majority of the area's indigent, homeless, and uninsured.

Unfortunately, General Hospital's current situation is not a soap opera drama, but a real tragedy. This is an 800-plus bed hospital that does not have a modern fire alarm system or adequate air-conditioning. It also does not have a piped-in gas system, even though this is standard technology.

What General Hospital does have is a severe shortage of intensive care beds. The hospital must employ 60 people who do nothing but look for fire hazards all day long. Employees must lug around tens of thousands of containers of bottled oxygen and other gases. And severely injured patients must wait on gurneys in the hallways.

The same problems beset rural hospitals in the United States. Hundreds of these hospitals have been forced to close their doors in the past several years, and deteriorating physical facilities have been a primary factor in many of these closures.

The financial stability of rural hospitals has been particularly affected by cutbacks in Federal reimbursement, a decline in in-patient utilization, increased growth of uncompensated care, and the general economic problems confronting the rural areas of this country. Increasingly, these institutions, which are performing a critical and heroic social function, have nowhere to turn for needed financing.

I will give you an example from my own State of South Dakota: Bennett County Community Hospital, in Martin, sits in isolation between the Pine Ridge and Rosebud Indian Reservations. It provides care to about 700 people each month, mostly farmers and a large number of Native Americans who live closer to Martin than they do to the Indian Health Service facilities on the reservations. Bennett County Community Hospital is a 20-bed facility, with an attached nursing home and clinic, serving a 3,000-square-mile area. Of all the patients it treats, only 2 percent pay their bills with private insurance or cash, 14 percent never pay for their care, and all the rest are Medicare or Medicaid patients.

Over the past couple of years the hospital has overcome incredible financial obstacles and is finally operating in the black. It is providing better care and placing more emphasis on continuity and quality of care. But because it is doing a better job, the hospital is also facing increasing patient utilization and greater demands on its physical plant, with no expectation that the ratio of compensated to unreimbursed care will improve. The point is fast approaching when the hospital must make critical capital investments in order to survive.

We recognize the critical importance of stressing primary and preventive care in a reformed health care system. But it has become virtually impossible for public and rural hospitals to offer the kind of services that would be demanded under a new system. There is a clearly demonstrated need for financial assistance to assure that these hospitals can offer preventive and primary care services so badly needed.

The National Health Safety Net Infrastructure Act would provide that financial assistance to these vitally important institutions. Specifically, it would create a Federal trust fund to provide loan guarantees, interest subsidies, direct loans, and grants for updating and maintaining the essential infrastructure requirements of the Nation's urban and rural safety net hospitals.

The programs created by this bill would be narrowly targeted to only the most essential projects and facilities, and would require significant levels of non-Federal participation, including State and community support. Still, this program would provide an important source of leverage for the substantial unmet capital needs these hospitals face.

This legislation paves the way for health care reform, and, I believe, should be a part of the health care reform debate. Even if comprehensive reform legislation is enacted this session, it will take years of investment to make up for the decades of neglect that public and rural hospitals have been forced to endure. The National Health Safety Net Infrastructure Act complements the national health care reform effort.

It is my hope that over the long-term the need for the trust fund established by this bill will ultimately disappear. However, if these urban and rural safety net hospitals are to survive in a managed competition environment, they must be given the opportunity to compete on a level playing field. This act provides an important first step in giving them such a field.

This legislation won't build a bigger safety net, but it will provide the tools to patch gaping holes in the existing network. Most importantly, it will prevent many of our most vulnerable populations from falling through the gaps.●

TUCSON METROPOLITAN CHAMBER OF COMMERCE

● Mr. McCAIN. Mr. President, I was extremely pleased to hear of the successful and rewarding work that the Tucson Metropolitan Chamber of Commerce has accomplished during the past year. I would like to congratulate the chamber and the over 700 active volunteers for all this past year's achievements.

It was recently brought to my attention that the Tucson Metropolitan Chamber of Commerce set new records in economic development, worked actively on corporate relocations/expansions, and small business retention and expansion programs continued as strongly as ever. Additionally, the chamber now has had 20 years of a leadership role in the international trade arena. This is an outstanding achievement and one that the Tucson Metropolitan Chamber of Commerce should be very proud of. Mr. President, I would like the Senate to take note of all that has been accomplished by the Tucson Metropolitan Chamber of Commerce.

Mr. President, again my heartfelt congratulations to the staff and the volunteers of the Tucson Chamber of Commerce. I wish them every continued success in the future.●

VETERANS FINALLY START GETTING THE FACTS ON AGENT ORANGE

● Mr. DASCHLE. Mr. President, Tuesday, July 27, 1993, should be remembered as the day the tide of Government and industry efforts to hide the truth related to the health effects of Agent Orange was reversed.

On that day, the National Academy of Sciences released, "Veterans and Agent Orange: Health Effects of Herbicides Used in Vietnam." This impressive report is the work of a 16-member panel of independent scientists chosen by the National Academy of Sciences' Institute of Medicine to review the existing scientific literature related to the health effects of exposure to Agent Orange, including its contaminant 2,3,7,8 TCDD, or "dioxin," and other herbicides used in Vietnam. The panel members worked without compensation and were screened for any potential conflicts of interest.

Mr. President, I hope our colleagues will take the time to read the executive summary, for it sheds important light on the veterans' and public health issues involved in this debate. I ask unanimous consent that a copy of the executive summary of the report, along with a list of the members of the Committee To Review the Health Effects in Vietnam Veterans of Exposure to Herbicides, be printed in the RECORD at the close of my remarks.

The report, which was mandated in the Agent Orange Act of 1991, is intended to provide a baseline reading of the status of scientific evidence currently available. The report also includes specific recommendations for additional scientific study that is needed to understand more fully the relationships between exposure to herbicides and many diseases, as well as other issues, such as exposure assessment. As the chairman of the NAS committee, Dr. Harold Fallon, stated, "[W]e hope that it will provide an agreed-upon base of information from which we can proceed to answer the questions that remain." Five followup reports addressing updated scientific information are scheduled to be issued over the next 10 years.

The Agent Orange Act passed both Houses of Congress unanimously because people on all sides of the issue agreed that a committee of independent, unbiased scientists should do their best to tell us the truth as clearly as it can be known at this point. This independent review of the evidence confirms that there is an association between exposure to herbicides used in Vietnam and the development of five diseases. It suggests that there is a relationship between exposure and several other health effects, and identifies still others for which additional research is needed to understand their relationship with exposure.

The report makes several recommendations for additional research and for actions, such as flagging military records for Vietnam service, to facilitate that research. Contrary to the conclusions of the Centers for Disease Control, the now-defunct White House Agent Orange Working Group, and the Office of Technology Assessment, the NAS committee suggests that additional work should be done to develop an historical exposure reconstruction model for use in epidemiologic studies of Vietnam veterans. Finally, the report is highly critical of the Air Force's handling of the Ranch Hand Study of veterans who handled and sprayed agent orange, and recommends that "an independent, nongovernmental scientific panel * * * be established to review and approve a new, expanded research protocol" and that the Ranch Hand data be reanalyzed.

The release of the NAS report marks a true milestone in the long struggle for justice for Vietnam veterans. It marks a milestone in the struggle for the facts. And I want to stress that point, Mr. President. Most people understand that Vietnam veterans have struggled for compensation. What many people may not understand is that, even more than compensation, the struggle has been to get the facts.

Veterans have wanted to be told the truth, and they have wanted their Government—the Government that sent them to war—to take responsibility for the truth. Unfortunately, until recently, the Government had done just the opposite. Through delays, through misinformation, through a lack of commitment to resolving this issue, the Federal Government successfully hid the truth.

There is a long history to this issue. Much of the Government's role in it is documented in a speech I gave on this floor on November 21, 1989. It is documented in court records and in the reports and hearing records of the House Government Operations Subcommittee on Intergovernmental Relations investigations. It is documented in the speeches of Senator JOHN KERRY, Representative LANE EVANS, and others who have insisted that Vietnam veterans get fair treatment. It is a painful story that I hope will never be repeated.

Sadly, the NAS report provides independent verification of much of that historical record. It also validates the work of many experts in the field of dioxin and herbicide research who have been subjected to intense efforts by powerful interests to discredit them.

With respect to disease outcomes and their possible associations with exposure to agent orange or other herbicides, the report establishes four categories of strength for association.

The first category is diseases for which there is sufficient evidence of an association. The NAS committee explains their criteria in this way: "Evidence is sufficient to conclude that there is a positive association. That is, a positive association has been observed between herbicides and the outcome in studies in which chance, bias, and confounding could be ruled out with reasonable confidence." Included in this category are: non-Hodgkin's lymphoma [NHL]; soft-tissue sarcoma [STS]; Hodgkin's disease; chloracne; and, in genetically susceptible individuals, porphyria cutanea tarda [PCT]. NAS scientists note that only genetically susceptible individuals develop PCT and that herbicide exposure is associated with elevated risk for those individuals.

The second category in the report is disease for which there is limited/suggestive evidence suggestive of an association. NAS explains that evidence related to these disease outcomes "is suggestive of an association between herbicides and the outcome but is limited because chance, bias, and confounding could not be ruled out with confidence." Diseases within this category are: respiratory cancers, including cancers of the lung, larynx, and trachea, prostate cancer; and multiple myeloma.

The third category in the report, which is the largest category and the one the NAS committee suggests requires our careful attention in the future, is diseases for which there is inadequate/insufficient evidence to determine whether an association exists. To clarify the criteria for this category, NAS writes:

> The available studies are of insufficient quality, consistency, or statistical power to permit a conclusion regarding the presence or absence of an association. For example, studies fail to control for confounding, have inadequate exposure assessment, or fail to address latency.

As NAS notes, this category encompasses some of the health concerns of special concern to veterans, including: reproductive outcomes, birth defects, neurological outcomes, nasal cancer, liver cancer, peripheral neuropathy, diabetes, and immunological disorders. A complete list can be found in the chart included in the executive summary to be printed in the RECORD.

The final disease outcome category in the report is diseases for which there is limited/suggestive evidence of no association. Again, NAS explains:

> Several adequate studies, covering the full range of levels of exposure that human beings are known to encounter, are mutually consistent in not showing a positive association between exposure to herbicides and the outcome at any level of exposure. A conclusion of "no association" is inevitably limited to the conditions, level of exposure, and length of observation covered by the available studies. In addition, the possibility of a very small elevation in risk at the levels of exposure studied can never be excluded.

Diseases in this category are: skin cancer; gastrointestinal tumors, including stomach, pancreatic, colon, and rectal cancers; bladder cancer; and brain tumors.

Although Dr. Fallon of the NAS has been quoted as saying that the bad news is "there is a lot we do not know," the good news is that the NAS committee maps out in its report a strategy for answering the questions that many claimed were unanswerable. The committee makes six recommendations in this regard:

First, there should be continued follow-up of the Air Force Ranch Hand Study, and a study of the Army Chemical Corps, which also was involved in sprayings, should be initiated. According to the report, "An independent, nongovernmental scientific panel should be established to review and approve a new, expanded research protocol for both study populations, and to commission and direct a common analysis of the results."

As I have mentioned, the report, in Appendix C and elsewhere, cites "a number of concerns with the way the data have been analyzed and presented." Appendix C focuses on the Ranch Hand birth defects study, but the committee notes "that many of its observations have somewhat broader applicability to other aspects of the Ranch Hand study," which has often been cited by opponents of veterans' disability compensation as a negative study. The report cites misclassification in the study's exposure index—which could have the effect of underestimating the risk of exposed veterans—and particular concern that "[s]ome aspect of the Ranch Hand experience seems to have increased the risk of fathering children with birth defects"—a concern that plagues many Vietnam veterans and their families.

Second, the committee recommends that the Departments of Defense and Veterans Affairs flag their records to identify individuals who served in Vietnam. The fact that Vietnam service is not flagged in the computerized index of military personnel records or VA records was heavily stressed as a major problem inhibiting epidemiologic studies of Vietnam veterans, and NAS strongly recommended that this be corrected immediately to facilitate future research.

Third, the committee suggested that "[b]iomarkers for herbicide exposure should be developed further." This recommendation stems from one of their most interesting scientific conclusions—that serum dioxin tests are not the "gold standard" in determining exposure to 2, 3, 7, 8 TCDD or dioxin. As several experts have reported in the past, NAS notes that we do not understand enough about the half-life of dioxin to interpret with adequate precision the results of individual serum dioxin analyses. In other words, the absence of high dioxin levels in the blood or fat tissue does not prove that someone was not exposed to high levels of dioxin 20 years ago. While a test can prove that someone was exposed to at least the level of dioxin demonstrated in the test, it, in its current form, cannot prove they were not exposed. NAS noted that dioxin is stored and excreted in the body by different individuals differently, and scientists are not sure at this point what factors drive those differences, though percentage of body fat is apparently one factor.

Fourth, NAS recommends that:

> [a] nongovernmental organization with appropriate experience in historical exposure reconstruction * * * be commissioned to develop and test models of herbicide exposure for use in studies of Vietnam veterans.

The committee discusses current work in this area, including that of Drs. Steven and Jeanne Stellman, and encourages the development of multiple models.

Fifth, the committee recommends that the exposure models developed under recommendation 4 should be evaluated by a separate, independent nongovernmental scientific panel established strictly for this purpose. This would ensure an objective review free of conflict of interest—an assurance the Government would need before investing in another study, especially a large-scale one.

Sixth, NAS recommends that if the panel established in recommendation 5 determines that an exposure model, or models, and a study, or studies, are feasible, the VA and other Government agencies should facilitate additional epidemiologic studies of veterans. NAS prioritizes the areas where research is most needed, with highest priority "to those health effects for which additional study is likely to change the balance of the evidence for or against an association." NAS also gives priority to areas of special concern to veterans, including birth defects.

NAS recommends that further epidemiologic studies of veterans be initiated if recommendations 2 through 5 can be fulfilled and notes that its recommendations may:

> seem at variance with the Centers for Disease Control [CDC], White House Agent Orange Working Group [AOWG] and Office of Technology Assessment [OTA] conclusions made in 1986 with regard to the congressionally mandated Agent Orange Study.

The committee explains that it "has come to a different conclusion," judges it sufficiently likely that the approach just outlined will be successful, and details the committee's reasoning.

Finally, the NAS report included its recommendations with respect to research-related requirements in the Agent Orange Act. Under Public Law 102-4, the Secretary of Veterans Affairs is required to initiate the following actions unless the Secretary, giving "great weight" to the views and recommendations of NAS, determines they are "not feasible or cost-effective" to carry them out.

First, the law recommended studies of the feasibility of conducting additional scientific research on the health effects of dioxin or other toxic agents in herbicides as well as the aggregate factors related to service in Vietnam. As noted earlier, NAS feels these studies would be valuable, especially if a new, valid exposure model can be constructed.

The law also recommended that the VA compile and analyze VA treatment data likely to be useful in determining the relationship between disabilities and exposure to herbicides or Vietnam service. NAS noted that the VA's Agent Orange Registry exists for that purpose, and it will be incumbent upon Congress and the VA to ensure that it is developed properly so that it can achieve these objectives.

Third, the Agent Orange Act suggests the establishment of a blood and tissue archiving system to facilitate future research related to dioxin exposure in veterans. The NAS committee reports this could be very useful, but suggests that the utility of the system is tied, to a significant degree, to the development of valid exposure reconstruction models used to support further epidemiologic studies of veterans.

The law's final research recommendation was to allow individual veterans who have filed agent orange-related disability claims to request a blood test for inclusion in the blood and tissue archive I just described. Veterans would be given the results of the test. Citing its view of the limited usefulness of serum dioxin tests for determining individual exposure, and the problem of self-selection bias associated with such a program, the NAS committee recommends against this action.

This report from the National Academy of Sciences does not answer all our questions. But it reflects a serious effort to tell us the state of the science and to identify areas for further research as well as approaches to conduct it most cost-effectively.

The report should put to rest the chants of those who have claimed that agent orange never hurt anyone or that we will never be able to answer these questions. It should also give us an agreed-upon base from which to continue our efforts to understand the health effects of exposure to agent orange and to ensure that Vietnam veterans are given the treatment and compensation they deserve.

The aforementioned report follows:

VETERANS AND AGENT ORANGE—HEALTH EFFECTS OF HERBICIDES USED IN VIETNAM

CHAPTER 1—EXECUTIVE SUMMARY

Introduction

Between 1962 and 1971, U.S. military forces sprayed nearly 19 million gallons of herbicides over approximately 3.6 million acres in

Vietnam. The preparation known as Agent Orange accounted for approximately 11.2 million gallons of the total amount sprayed. Herbicides were used to strip the thick jungle canopy that helped conceal opposition forces, to destroy crops that enemy forces might depend upon, and to clear tall grass and bushes from around the perimeters of U.S. base camps and outlying fire support bases. Most large-scale spraying operations were conducted using airplanes and helicopters, but considerable quantities of herbicides were sprayed from boats and ground vehicles, as well as by soldiers wearing back-mounted equipment. Spraying began in 1962 and increased greatly in 1967. After a scientific report in 1969 concluded that one of the primary chemicals used in Agent Orange, namely, 2,4,5-trichlorophenoxyacetic acid (2,4,5-T) could cause birth defects in laboratory animals, U.S. forces suspended use of this herbicide in 1970 and halted all herbicide spraying in Vietnam the next year.

As the decade wore on, concern about possible long-term health consequences of Agent Orange and other herbicides heightened, fueled in particular by reports from growing numbers of Vietnam veterans that they had developed cancer or fathered handicapped children, which they attributed to wartime exposure to the herbicides. Along with the concerns of Vietnam veterans, public awareness increased because of reports of health concerns surrounding occupational and environmental exposure to dioxin—more specifically, 2,3,7,8-tetrachlorodibenzo-*p*-dioxin (2,3,7,8-TCDD), informally known as TCDD—a contaminant of 2,4,5-T. Thousands of scientific studies have since been conducted, numerous government hearings have been held, and veterans organizations have pressed for conclusive answers, but the question of the health effects of herbicide exposure in Vietnam remains shrouded in controversy and mistrust. Indeed some veterans organizations, researchers, and public interest organizations remain skeptical that the issue has received full and impartial consideration by the Department of Veterans Affairs (DVA; formerly the Veterans Administration) and other federal agencies.

Faced with this lingering uncertainty and demands that the concerns of veterans be adequately addressed, the U.S. Congress passed Public Law 102-4, the "Agent Orange Act of 1991." This legislation directed the Secretary of Veterans Affairs to request that the National Academy of Sciences conduct a comprehensive review and evaluation of available scientific and medical information regarding the health effects of exposure to Agent Orange, other herbicides used in Vietnam, and their components, including dioxin.

In February 1992, the Institute of Medicine (IOM) of the National Academy of Sciences signed an agreement with the DVA to review and summarize the strength of the Scientific evidence concerning the association between herbicide exposure during Vietnam service and each disease or condition suspected to be associated with such exposure. The IOM was also asked to make recommendations concerning the need, if any, for additional scientific studies to resolve areas of continuing scientific uncertainty and to comment on four particular programs mandated in Public Law 102-4.

To carry out the study, the IOM established the Committee to Review the Health Effects in Vietnam Veterans of Exposure to Herbicides. In conducting its study, the committee operated independently of the DVA and other government agencies. The committee was not asked to and did not make judgments regarding specific cases in which individual Vietnam veterans have claimed injury from herbicide exposure; this was not part of its congressional charge. Rather, the study provides scientific information for the Secretary of Veterans Affairs to consider as the DVA exercises its responsibilities to Vietnam veterans.

Organization and Framework

The framework for this report reflects the size and complexity of the committee's task. The committee felt that an evaluation of the health effects of exposure to herbicides in Vietnam veterans would not be complete without a historical review of the Agent Orange controversy. The report begins in Chapter 2 by tracing more than two decades of public concern about the military use of herbicides during the war in Vietnam, in addition to public concern over various environmental and occupational exposures to herbicides and dioxin that arose in parallel to veterans' concerns, and describes federal and state responses to this national dilemma.

Chapter 3 provides background information on the nature and extent of potential exposure of Vietnam veterans to herbicides, based on information about the military herbicide program. Some 3 million military personnel served in or near Vietnam, and as one historian notes, "there was no 'typical' U.S. soldier in Vietnam . . . Americans who served there went through many varied experiences—partly because the quality of the war varied in different areas of the country, and partly because the nature changed over time" (Karnow, 1991). Individual experiences also varied by branch of service, military occupation, rank, and type of military unit. As reflected in military records, the use of herbicides was varied as well. Starting in 1962 and peaking in the late 1960s, seven different herbicide formulations were used in varying quantities for a variety of purposes in different parts of the country; approximately 65 percent of these herbicides were contaminated by TCDD, in varying concentrations. Aerial spraying of herbicides by Operation Ranch Hand accounted for approximately 86 percent of all spraying and was well documented; other spraying by helicopters and from trucks or backpacks was poorly documented.

Chapter 4 provides toxicological background on the biologic plausibility of health effects that may occur in humans after accidental or occupational exposure to herbicides and TCDD components. This chapter describes the biological and chemical properties of the compounds in question as determined by basic research and animal studies. TCDD administered to laboratory animals interacts with an intracellular protein called the Ah receptor. This interaction appears to play a role in a number of health effects observed in animals. Because humans also have intracellular proteins that have been identified as Ah receptors, it is plausible that interactions between TCDD and these receptors could play a role in human health effects. In contrast to TCDD, the effects of the herbicides do not appear to be mediated through interactions with intracellular receptors. TCDD has also been shown to have a wide range of effects in laboratory animals on growth regulation, hormone systems, and other factors associated with the regulation of activities in normal cells. In addition, TCDD has been shown to cause cancer in laboratory animals at a variety of sites. If TCDD has similar effects on cell regulation in humans, it is plausible that it could have an effect on human cancer incidence. In contrast to TCDD, there is no convincing evidence in animals of, or mechanistic basis for, carcinogenicity or other health effects of any of the herbicides, although they have not been studied as extensively as TCDD.

In fulfilling its charge of judging whether each of a set of human health effects is associated with exposure to herbicides or dioxin, most of the committee's efforts concentrated on reviewing and interpreting epidemiologic studies. The committee began its evaluation presuming neither the existence nor the absence of association. It has sought to characterize and weigh the strengths and limitations of the available evidence. These judgments have both quantitative and qualitative aspects. They reflect the nature of the exposures, health outcomes, and populations at issue; the characteristics of the evidence examined; and the approach taken to evaluate that evidence. To facilitate independent assessment of the committee's conclusions, Chapter 5 describes as explicitly as possible the methodological considerations that guided the committee's review and its process of evaluation.

In reviewing the literature, the committee discerned that the existing epidemiologic data base is severely lacking in quantitative measures of individual exposure to herbicides and dioxin. Assessment of the intensity and duration of individual exposures is a key component in determining whether specific health outcomes are associated with exposure to dioxin or other chemicals found in the herbicides used in Vietnam. Although different approaches have been used to estimate exposure in Vietnam veterans and in others exposed occupationally or environmentally, each approach is limited in its ability to determine precisely the degree and level of individual exposure. The problems associated with each of these approaches are discussed in detail in Chapter 6. New biochemical techniques that can detect small amounts of TCDD in the blood many years after exposure have some merit, especially for detecting group differences. However, because of common background exposure of all Americans to TCDD, poorly understood variations among individuals in TCDD metabolism, and relatively large measurement errors, individual TCDD serum levels are usually not meaningful. Furthermore, because not all herbicides used in Vietnam contained TCDD, serum TCDD levels are not good indicators of overall exposure to herbicides. Chloracne has been used in epidemiologic studies as a biomarker for TCDD exposure, but the data indicate that it is neither sensitive nor specific. It is usually not long lasting, is difficult to diagnose, and is not at all sensitive to exposure to herbicides that are not contaminated with TCDD.

Although definitive data are lacking, the available quantitative and qualitative evidence about herbicide exposure summarized in Chapter 6 suggests that Vietnam veterans as a group had substantially lower exposure to herbicides and dioxin than the subjects in many occupational studies. The participants in Operation Ranch Hand are an exception to this pattern, and it is likely that others among the approximately 3 million men and women who serve in Vietnam were exposed to herbicides at levels associated with health effects. Thus, in the committee's judgment, a sufficiently large range of exposures may exist among Vietnam veterans to conduct a valid epidemiologic study for certain health outcomes (see research recommendations below).

Due, in part, to the uncertain validity of exposure measurements in many of the studies of veterans, the committee decided to review studies of other groups potentially exposed to the herbicides used in Vietnam and TCDD, especially phenoxy herbicides, including 2, 4-dichlorophenoxyacetic acid (2,4-D) and 2,4,5-T, chlorophenols, and other compounds. These groups include chemical production and agricultural workers, residents, of Vietnam, and people exposed heavily to herbicides or dioxins as a result of residing near the site of an accident or a toxic waste dumping area. The committee felt that considering studies of other groups could help address the issue of whether these compounds might be associated with particular health outcomes, even through these results would have only an indirect bearing on the increased risk of disease in veterans themselves. Some of these studies, especially those of workers in chemical production plants, provide stronger evidence about health effects than studies of veterans because exposure was generally more easily quantified and measured. Furthermore, the general level and duration of exposure to the chemicals were greater and the studies were of sufficient size to examine the health risks among those with varying levels of exposure.

Because the committee relied on many of the same epidemiologic studies when assessing potential associations with various health effects, Chapter 7 provides a framework for the methods used in the epidemiologic studies on which the committee based its report. The nature of the exposure to herbicides and herbicide components varied substantially for each; therefore, both the organization of the chapter (which is structured to reflect similarities and differences in the population studied) and the methodologic issues that are summarized for each study emphasize exposure.

Conclusions about health outcomes

Chapters 8 through 11 provide a detailed review of the epidemiologic studies evaluated by the committee and their implications for cancer, reproductive, neurobehavioral, and other health effects. The committee's specific mandate was to determine, if possible,

1. whether there is a statistical association between the suspect diseases and herbicide use, taking into account the strength of the scientific evidence and the appropriateness of the methods used to detect the association;

2. the increased risk of disease among individuals exposed to herbicides during service in Vietnam; and

3. whether there is a plausible biologic mechanism or other evidence of a causal relationship between herbicide exposure and a disease.

As detailed in Chapter 5, the committee addressed the first part of this charge by assigning each of the health outcomes under study into one of the four categories listed in Table 1-1 on the basis of the epidemiologic evidence that it reviewed. The specific rationale for each of the findings summarized in this table is given in Chapters 8 through 11. The second part of the charge is addressed at the end of this section. The committee's response to the third part of the charge is summarized in general terms in Chapter 4, and specific findings for each health outcome are also given in Chapters 8 through 11.

The definitions of the categories and the criteria for assigning a particular health outcome to them are described in Table 1-1. Consistent with the charge to the Secretary of Veterans Affairs in Public Law 102-4, the distinctions between categories are based on "statistical association," not on causality, as is common in scientific reviews. The committee was charged with reviewing the scientific evidence, rather than making recommendations regarding DVA policy, and Table 1-1 is not intended to imply or suggest any policy decisions, which must rest with the Secretary.

TABLE 1-1 SUMMARY OF FINDINGS IN OCCUPATIONAL, ENVIRONMENTAL, AND VETERANS STUDIES REGARDING THE ASSOCIATION BETWEEN SPECIFIC HEALTH PROBLEMS AND EXPOSURE TO HERBICIDES

Sufficient Evidence of an Association

Evidence is sufficient to conclude that there is a positive association. That is, a positive association has been observed between herbicides and the outcome in studies in which chance, bias, and confounding could be ruled out with reasonable confidence. For example, if several small studies that are free from bias and confounding show an association that is consistent in magnitude and direction, there may be sufficient evidence for an association. There is sufficient evidence of an association between exposure to herbicides and the following health outcomes:

Soft tissue sarcoma.
Non-Hodgkin's lymphoma.
Hodgkin's disease.
Chloracne.
Porphyria cutanea tarda (in genetically susceptible individuals).

Limited/Suggestive Evidence of an Association

Evidence is suggestive of an association between herbicides and the outcome but is limited because chance, bias, and confounding could not be ruled out with confidence. For example, at least one high-quality study shows a positive association, but the results of other studies are inconsistent. There is limited/suggestive evidence of an association between exposure to herbicides and the following health outcomes:

Respiratory cancers (lung, larynx, trachea).
Prostate cancer.
Multiple myeloma.

Inadequate/Insufficient Evidence to Determine Whether an Association Exists

The available studies are of insufficient quality, consistency, or statistical power to permit a conclusion regarding the presence or absence of an association. For example, studies fail to control for confounding, have inadequate exposure assessment, or fail to address latency. There is inadequate or insufficient evidence to determine whether an association exists between exposure to herbicides and the following health outcomes:

Hepatobiliary cancers.
Nasal/nasopharyngeal cancer.
Bone cancer.
Female reproductive cancers (breast, cervical, uterine, ovarian).
Renal cancer.
Testicular cancer.
Leukemia.
Spontaneous abortion.
Birth defects.
Neonatal/infant death and stillbirths.
Low birthweight.
Childhood cancer in offspring.
Abnormal sperm parameters and infertility.
Cognitive and neuropsychiatric disorders.
Motor/coordination dysfunction.
Peripheral nervous system disorders.
Metabolic and digestive disorders (diabetes, changes in liver enzymes, lipid abnormalities, ulcers).
Immune system disorders (immune modulation and autoimmunity).
Circulatory disorders.
Respiratory disorders.

Limited/Suggestive Evidence of No Association

Several adequate studies, covering the full range of levels of exposure that human beings are known to encounter, are mutually consistent in not showing a positive association between exposure to herbicides and the outcome at any level of exposure. A conclusion of "no association" is inevitably limited to the conditions, level of exposure, and length of observation covered by the available studies. In addition, the possibility of a very small elevation in risk at the levels of exposure studied can never be excluded. There is limited/suggestive evidence of no association between exposure to herbicides and the following health outcomes:

Skin cancer.
Gastrointestinal tumors (stomach cancer, pancreatic cancer, colon cancer, rectal cancer).
Bladder cancer.
Brain tumors.

NOTE.—"Herbicides" refers to the major herbicides used in Vietnam: 2,4-D (2,4-dichlorophenoxyacetic acid); 2,4,5-T (2,4,5-trichlorophenoxyacetic acid) and its contaminant TCDD (2,3,7,8-tetrachlorodibenzo-*p*-dioxin); cacodylic acid; and picloram. The evidence regarding association is drawn from occupational and other studies in which subjects were exposed to a variety of herbicides and herbicide components.

Health Outcomes with Sufficient Evidence of an Association

The committee found sufficient evidence of an association with herbicides and/or TCDD for three cancers: soft tissue sarcoma, non-Hodgkin's lymphoma, and Hodgkin's disease. For cancers in this category, a positive association between herbicides and the outcome must be observed in studies in which chance, bias, and confounding can be ruled out with reasonable confidence. The committee regards evidence from several small studies that are free from bias and confounding, and show an association that is consistent in magnitude and direction, as sufficient evidence for an association.

Soft tissue sarcomas are a rare but diverse group of tumors that share a common International Classification of Diseases code but have a wide variety of forms and causes. The strongest evidence for an association between STS and exposure to phenoxy herbicides comes from a series of case-control studies involving a total of 506 cases conducted by Hardell and colleagues in Sweden (Hardell and Sandstrom, 1979; Eriksson et al., 1981; Hardell and Eriksson, 1988; Eriksson et al., 1990) that show an association between STS and exposure to phenoxy herbicides, chlorophenols, or both. Although these studies have been criticized, the committee feels that there is insufficient justification to discount the consistent pattern of elevated risks, and the clearly described and sound methods employed. These findings are supported by a significantly increased risk in the NIOSH study (SMR=9.2, CI 1.9–27.0) for the production workers most highly exposed to TCDD (Fingerhut et al., 1991), and a similar increased risk in the IARC cohort (SMR-6.1, CI 1.7–15.5) for deaths that occurred between 10 and 19 years after the first exposure (Saracci et al., 1991). These are the two largest, as well as the most highly exposed occupational cohorts. Some studies in other occupational, environmental, and veterans groups showed an increased risk for STS, but the results were commonly nonsignificant possibly because of small sample sizes related to the relative rarity of STS in the population. Because of difficulties in diagnosing this group of tumors, the epidemiologic studies reviewed by the committee were inconsistent with regard to the specific types of tumors included in the analyses. The available data did not permit the committee to determine whether specific forms of STS were or were not associated with TCDD and/or herbicides. Therefore, the committee's findings relate to the class as a whole.

Non-Hodgkin's lymphoma includes a group of malignant lymphomas, that is, neoplasms derived from lymphoreticular cells in lymph nodes, bone marrow, spleen, liver, or other sites in the body. One large, well-conducted case-control study in Sweden by Hardell and colleagues (1981) examined NHL and Hodgkin's disease together and found an odds ratio of 6.0 (CI 3.7–9.7) based on 105 cases for exposure to phenoxy acids or chlorophenols, and these results held up under further investigation of the validity of exposure assessment and other potential biases (Hardell, 1981). A more recent case-control study by Persson and colleagues (1989) showed increased risk for NHL in those exposed to phenoxy acids (OR=4.9, CI 1.0–27.0), based on a logistic regression analysis of 106 cases. Other studies of farmers and agricultural workers are generally positive for an association between NHL and herbicides/TCDD; however, only some are significant. All of the studies of U.S. agricultural workers reviewed showed elevated relative risks (although none were significant) and two NCI studies of farmers in Kansas and Nebraska (Hoar et al., 1986; Zahm et al., 1990) show patterns of increased risk linked to use of 2,4–D. The CDC Selected Cancers Study found an increased risk of NHL in association with service in Vietnam; other studies of veterans, generally with small sample sizes, are consistent with an association. In contrast, studies of production workers, including the largest, most heavily exposed cohorts (Fingerhut et al., 1991; Saracci et al., 1991; Zober et al., 1990; Manz et al., 1991) indicate no increased risk. Thus, unlike most of the other cancers studied by the committee for which the data do not distinguish between the effects of herbicides and TCDD, the available epidemiologic data suggest that the phenoxy herbicides, including 2,4–D, rather than TCDD may be associated with non-Hodgkin's lymphomas.

Hodgkin's disease, also a malignant lymphoma, is a neoplastic disease characterized by progressive anemia and enlargement of lymph nodes, spleen, and liver. Fewer studies have been conducted of HD in relation to exposure to herbicides or TCDD than have been conducted of STS or NHL, but the pattern of results is strikingly consistent. The 60 HD cases in the study by Hardell and colleagues (1981) were later examined by Hardell and Bengtsson (1983), who found odds ratios of 2.4 (CI 0.9–6.5) for low-grade exposure to chlorophenols and 6.5 (CI 2.7–19.0) for high-grade exposures. Persson and colleagues' study (1989) of 54 HD cases showed a large, but not statistically significant, OR=3.8 (CI 0.5–35.2) for exposure to phenoxy acids. Furthermore, nearly all of the 13 case-control and agricultural worker studies show increased risk for HD, although only a few of these results are statistically significant. As with NHL, even the largest studies of production workers exposed to TCDD do not indicate an increased risk. The few studies of HD in Vietnam veterans tend to show elevated risks, all but one are not statistically significant.

When these three cancers (STS, NHL, and HD) are considered as a whole, it is noteworthy that the strongest evidence for an association with exposure to phenoxy herbicides is the series of case-control studies conducted by Hardell and colleagues and the cohort studies of herbicide applicators and agricultural workers. Studies in other countries are sometimes positive, but not as consistently. Whether this reflects higher typical exposure levels in workers in the countries studied, genetic differences in susceptibility to these diseases, the fact that more intensive studies have taken place, or other risk factors is not known. With regard to STS, the study of Woods and colleagues (1987) suggests that both exposure levels and genetic differences are at play. However, although there may be differences from population to population in the increased risk associated with exposure to herbicides and TCDD, the committee regards the available evidence as sufficient to indicate that there is a statistical association between the herbicides used in Vietnam and STS, NHL, and HD.

The other two health outcomes for which the committee found sufficient evidence of an association with herbicides or TCDD are both skin conditions (see Chapter 11). Chloracne is a specific acne-like skin disorder characterized by exposure to TCDD or related chemicals (but not herbicides). Porphyria cutanea tarda (PCT), which is characterized by thinning and blistering of the skin in sun-exposed areas, is an uncommon disease in which porphyrins are abnormally metabolized. Only genetically predisposed individuals have been shown to develop PCT after TCDD exposure. Both chloracne and PCT have been shown in animal and human studies to be associated with TCDD per se. The clinical evidence for these conditions suggests that onset occurs after exposure to TCDD; however, the conditions subside (although perhaps slowly) after exposure ceases.

Health Outcomes with Limited/Suggestive Evidence of An Association

The committee found limited/suggestive evidence of an association for three other cancers: respiratory cancers, prostate cancer, and multiple myeloma. For outcomes in this category, the evidence must be suggestive of an association between herbicides and the outcome, but may be limited because chance, bias, or confounding could not be ruled out with confidence. Typically, at least one high-quality study indicates a positive association, but the results of other studies may be inconsistent.,

Among the many epidemiologic studies of respiratory cancers (specifically cancers of the lung, larynx, and trachea), positive associations were found consistently only in those studies in which TCDD or herbicide exposures were probably high and prolonged, especially the largest, most heavily exposed cohorts of chemical production workers exposed to TCDD (Zober et al., 1990; Fingerhut et al., 1991; Manz et al., 1991; Saracci et al., 1991) and herbicide applicators (Axelson and Sundell, 1974; Riihimaki et al., 1982; Blair, 1983; Green, 1991). Studies of farmers tended to show a decreased risk of respiratory cancers (perhaps due to lower smoking rates), and studies of Vietnam veterans are inconclusive. The committee felt that the evidence for this association was limited/suggestive rather than sufficient because of the inconsistent pattern of positive findings across populations with various degrees of exposure and because the most important risk factor for respiratory cancers—cigarette smoking—was not fully controlled for or evaluated in all studies.

Several studies have shown elevated risk for prostate cancer in agricultural or forestry workers. In a larger cohort study of Canadian farmers (Morrison et al., 1993), an increased risk of prostate cancer was associated with herbicide spraying, and increasing risk was shown with increasing number of acres sprayed. For the entire cohort, the relative risk for prostate cancer and spraying at least 250 acres was 1.2 (CI 1.0–1.5). When the analysis was restricted to the farmers most likely to be exposed to phenoxy herbicides or other herbicides, and those with no employees, no custom workers to do the spraying for them, and age between 45–69 years, the test for trend over increasing number of acres sprayed was significant. The risk was elevated a study of USDA forest conservationist (OR=1.6, 0.9–3.0) (Alavanja et al., 1989), and a case-control study of white male Iowans who died of prostate cancer (Burmeister et al., 1983) found a significant association (OR=1.2) that was associated with any particular agricultural practice. These results are strengthened by a consistent pattern of nonsignificant elevated risks in studies of chemical production workers in the United States and other countries, agricultural workers, pesticide applicators, paper and pulp workers, and the Seveso population. Studies of prostate cancer among Vietnam veterans or following environmental exposures have not consistently shown an association. However, prostate cancer is generally a disease of older men, and the risk among Vietnam veterans would not be detectable in published epidemiologic studies. Because there was a strong indication of a dose-response relationship in one study and a consistent positive association in a number of others, the committee felt that the evidence for association with herbicide exposure was limited/suggestive for prostate cancer.

Multiple myeloma, a cancer of specific bone marrow cells, has been extensively studied than other lymphomas, but a consistent pattern of elevated risks appears in the studies that have conducted. Ten studies of agricultural and forestry workers provide information on MM risk in relation to herbicide or pesticide exposure. All demonstrated an odds ratio or SMR greater than 1.0; seven did so at a statistically significant level. This finding is made more specific for herbicide exposure by subanalyses in four of these studies (Burmeister et al., 1983; Cantor and Blair 1984; Alayanja et al., 1989 Boffetta et al., 1989) that suggest higher risks for those exposed to herbicides, and higher risks for the studies of herbicide applicators (Riikimaki et al., 1983; Swaen et al., 1992). The committee determined that the evidence for this association was limited/suggestive because the individuals in the existing studies—mostly farmers—have, by the nature of their occupation, probably been exposed to a range of potentially carcinogenic agents other than herbicides and TCDD. Multiple myeloma, like non-Hodgkin's lymphoma and Hodgkin's disease for which there is stronger epidemiologic evidence of an association, is derived from lymphoreticular cells, which adds to the biologic plausibility of an association.

Health Outcomes With Limited/Suggestive Evidence of No Association

For a small group of cancers the committee found a sufficient number and variety of well-designed studies to conclude that there is limited/suggestive evidence of no association between these cancers and TCDD or the herbicides under study. This group includes gastrointestinal tumors (colon, rectal, stomach, and pancreatic), skin cancer, brain tumors, and bladder cancer. For outcomes in this category, several adequate studies covering the full range of levels or exposure that human beings are known to encounter are mutually consistent in not showing a positive association between exposure to herbicides and the outcome at any level of exposure, and which have relatively narrow confidence intervals. A conclusion of "no association" is inevitably limited to the conditions, level of exposure, and length of observation covered by the available studies. In addition, the possibility of a very small elevation in risk at the levels of exposure studies can never be excluded.

The data on colon cancer exemplify the situation that led the committee to say that there was evidence of no association between a cancer and exposure to herbicides and/or TCDD. Colon cancer is relatively common, so an increase in the risk of these cancers would be relatively easy to detect in occupational studies. The epidemiologic studies reviewed by the committee that address colon cancer include a mixture of occupational studies of various types, environmental studies, and studies of Vietnam veterans. Some of the studies such as the NIOSH (Fingerhut et al., 1991) and IARC (Saracci et al., 1991) cohorts are large and have relatively high exposures. The number of studies with estimated relative risks above and below 1.0 are roughly evenly distributed, and a number of studies have tight confidence intervals that include 1.0. The NIOSH study, for instance, based on 25 exposed cases, finds an odds ratio of 1.2 with a 95 percent confidence interval of 0.8 to 1.8. The IARC study finds an odds ratio of 1.1 (CI 0.8–1.5) based on 41 cases. Thus, this pattern suggests that there is no association between herbicides/TCDD and colon cancer, at least in the situations represented in the available studies.

Health Outcomes With Inadequate/Insufficient Evidence To Determine Whether an Association Exists

The scientific data for the remainder of the cancers and other diseases reviewed by the committee were inadequate or insufficient to determine whether an association exists. For cancers in this category, the available studies are of insufficient quality, consistency, or statistical power to permit a conclusion regarding the presence or absence of an association. For example, studies fail to control for confounding or have inadequate exposure assessment.

This group includes hepatobiliary cancers, nasal/nasopharyngeal cancer, bone cancer, female reproductive cancers (breast, cervical, uterine, ovarian), renal cancer, testicular cancer, and leukemia. For example, there are relatively few occupational, environmental, or veterans studies of liver cancer, and most of these are small in size and have not controlled for lifestyle-related risk factors. One of the largest studies (Hardell et al., 1984) indicates an increased risk for liver cancer and exposure to herbicides, but another study of Swedish agricultural workers (Wiklund, 1983) estimates a relative risk that is significantly less than 1.0. The estimated relative risks from other studies are both positive and negative. As a whole, when bearing in mind the methodological difficulties associated with most of the few existing studies, the evidence regarding liver cancer is not convincing about either an association with herbicides/TCDD or the lack of an association.

The epidemiologic evidence for an association between exposure to herbicides and leukemia comes primarily from studies of farmers and residents of Seveso, Italy. The observed overall relative risk for leukemia mortality and incidence in Seveso was elevated, but not significantly. A number of studies of farmers that the committee found convincing for NHL, HD, or MM also show a consistently elevated risk of leukemia, but these results are not necessarily due to herbicide use because confounding exposures were not controlled for adequately in the analyses of these studies and because when farmers are stratified by suspected use of herbicide, the incidence of leukemia is generally not elevated. Some studies of chemical workers found an increased risk of leukemia, but the number of cases was small in all of these studies. The available data on Vietnam veterans are generally not conclusive because the exposure data are inadequate for the cohort being studied. Small sample sizes weaken the studies of the Ranch Hands or Chemical Corps, where excesses are not likely to be detected.

A number of occupational, environmental, and Vietnam veteran studies were available for assessing the association between herbicide and TCDD exposures and reproductive outcomes. These studies generally reported no association with any of the reproductive outcomes examined by the committee—spontaneous abortion, birth defects, stillbirth, neonatal and infant death, low birthweight, childhood cancer, or altered sperm parameters and infertility. However, given the small sample sizes, the lack of consistent findings, and inadequate exposure classification in most studies, the evidence is considered inadequate for determination of an association.

Studies of neurotoxic effects of herbicides or TCDD were also inadequate for determining whether an association exists between exposures and chronic cognitive or neuropsychiatric disorders, motor/coordination dysfunction, and peripheral nervous system disorders. As a group the studies have not applied uniform operational definitions of neurobehavioral disorders. Information on individual exposures was often inadequate and complicated by exposure to multiple chemicals, and only a limited number of studies provided sufficient comparison group data. Reported abnormalities have ranged from mild and reversible to severe and chronic. While the chances of detecting subtle central nervous system disorders 20 years after exposure are small given the assessment tools currently available, the committee recognized that it may be possible for subtle changes that occurred earlier in life to manifest themselves in later adult life when compounded by the normal aging process. Therefore, while the currently available evidence is insufficient, study of the interactive effects of exposure to herbicides and TCDD with age on neurobehavioral functioning are encouraged. In addition, observations from followup of veterans and some environmental studies warrant further investigation of motor/sensory/coordination problems in exposed persons.

Other health effects examined by the committee for which the evidence was determined to be insufficient included several metabolic and digestive disorders (diabetes, changes in liver enzymes, lipid abnormalities, and gastrointestinal ulcers), immune system disorders, and circulatory and respiratory disorders. Assessment of these disorders in association with herbicides and TCDD involved the medical evaluation of a wide array of critical signs and symptoms, laboratory parameters, and other diagnostic tools. Studies of these health effects were limited by poor exposure measures, generally small sample sizes, and the lack of assessment of independent risk factors for certain outcomes, such as smoking and certain circulatory and respiratory disorders, or alcohol use and ulcers.

Increased Risk In Vietnam Veterans

Although there have been numerous health studies of Vietnam veterans, most have been hampered by relatively poor measures of exposure to herbicides or TCDD, in addition to other methodological problems. In Table 1–1, most of the evidence on which the findings are based comes from studies of people exposed to dioxin or herbicides in occupational and environmental settings, rather than from studies of Vietnam veterans. The committee found this body of evidence sufficient for reaching the conclusions about statistical associations between herbicides and health outcomes summarized in Table 1–1; however, the lack of adequate data on Vietnam veterans per se complicates the second part of the committee's charge, which is to determine the increased risk of disease among individuals exposed to herbicides during service in Vietnam. To estimate the magnitude of risk for a particular health outcome among herbicide-exposed Vietnam veterans, quantitative information about the dose-time-response relationship for each health outcome in humans, information on the extent of herbicide exposure among Vietnam veterans, and estimates of individual exposure are needed. Given the large uncertainties that remain about the magnitude of potential risk from exposure to herbicides in the studies that have been reviewed (Chapters 8–11), the inadequate control for important confounders, and the uncertainty about the nature and magnitude of exposure to herbicides in Vietnam (Chapter 6), none of the ingredients necessary for a quantitative risk assessment are available. Thus, it is not possible for the committee to quantify the degree of risk likely to be experienced by veterans because of their exposure to herbicides in Vietnam. The available quantitative and qualitative evidence about herbicide exposure among various groups studied suggests that Vietnam veterans as a group (except those with documented high exposures, such as participants in Operation Ranch Hand) had lower exposure to herbicides and TCDD than the subjects in many occupational and environmental studies. However, individual veterans who had very high exposures to herbicides could have risks approaching those in the occupational and environmental studies.

Research recommendations

The committee was also asked to make recommendations concerning the need, if any, for additional scientific studies to resolve areas of continuing scientific uncertainty concerning the health effects of the herbicides used in Vietnam. Based on its review of the available epidemiologic evidence and a consideration of the quality of exposure information available in existing studies, especially of Vietnam veterans, the committee concluded that a series of epidemiologic studies of veterans could yield valuable information if a new, valid exposure reconstruction model could be developed. The committee also sees value in continuing the existing Ranch Hand study and expanding it to include Army Chemical Corps veterans. The committee's research recomendations emphasize studies of Vietnam veterans, rather than general toxicologic or epidemiologic studies of occupationally or environmentally exposed populations. A substantial amount of research on the toxicology and epidemiology of herbicides and herbicide components is already under way in the United States and abroad. Indeed, many of the studies on which the committee's conclusions are based have been published since 1991. Although not targeted specifically to Vietnam veterans, it is likely that this research will also contribute to the knowledge of potential health effects in this population.

Epidemiologic Studies of Vietnam Veterans

The committee makes the following recommendations regarding epidemiologic studies of Vietnam veterans.

Recommendation 1. The committee endorses continued follow-up of the Air Force Ranch Hand cohort and its comparison group, and recommends that members of the Army Chemical Corps and an appropriate comparison group be followed in a similar study. An independent, nongovernmental scientific panel should be established to review and approve a new, expanded research protocol for both study populations, and to commission and direct a common analysis of the results.

Much can be learned by reanalysis of existing data or more in-depth analysis of data expected from current research programs investigating the health of Vietnam veterans, including the Air Force Ranch Hand study and DVA studies of other highly exposed Vietnam veterans such as members of the Chemical Corps. Priorities for specific health outcomes are discussed after recommendation 6. Public perception of the federal government's interest in the outcome of these studies suggests the need for studies of the health of Vietnam veterans to be conducted by a nongovernmental organization. Ranch Hand's excellent participation rate argues that components of the Department of Defense or the DVA continue to conduct follow-up examinations of the Ranch Hand and Army Chemical Corps cohorts. However, an independent, nongovernmental scientific panel is needed to oversee the analyses of resulting data in order to satisfy the public's concern about impartiality and scientific credibility.

As discussed in Chapter 6, one of the major problems with the interpretation of existing studies is the frequent lack of appropriate measures of exposure to herbicides or TCDD; however, the committee finds that it may be possible to develop better exposure measures for Vietnam veterans. In particular, Chapter 6 proposes measures that are not dependent on serum TCDD levels (which the committee finds inappropriate for the full range of herbicide exposures) but instead recommends the use of less formal sources of historical information about base perimeter spraying and other relevant exposures, as discussed below in Recommendation 4. Thus, the committee concludes that certain further research efforts using new measures of exposure to herbicides in Vietnam are both necessary and potentialy feasible. However, each of the possible measures that the committee has considered involves some degree of nondifferential misclassification bias, and the effect of this bias on risk estimates would likely be to underestimate true effects if they existed, possibly to the point that they would not be detected. In particular, the committee recommends that the following steps be taken prior to undertaking new epidemiologic studies of Vietnam veterans, for the reasons described below.

Recommendation 2. The Department of Defense and the Department of Veterans Affairs should identify Vietnam service in the computerized index of their records.

Chapter 3 notes that Vietnam service is not a "flagged item" on the computerized index of military personnel records archived at the National Personnel Records Center, which is maintained by the General Services Administration, under an agreement with the Department of Defense, in St. Louis, Missouri. Therefore, the computerized index of the record system does not allow for searches or selection of records of individuals who have served in Vietnam. The lack of an indicator of Vietnam service complicates every epidemiologic study of veterans based on military records and leads to methodologic inconsistencies among studies in defining the population under consideration. Adding this indicator to the computerized data base would facilitate future mortality studies based on computerized records, thereby increasing accuracy and decreasing cost, and would also simplify other epidemiologic studies of health outcomes in Vietnam veterans. All servicemen and women who were stationed in Vietnam or in the Vietnam theater during the Vietnam era should be identified in the records.

Recommendation 3. Biomarkers for herbicide exposure should be developed further.

Considerable uncertainty remains about the use of current or future serum TCDD levels as indicators of past exposure to dioxin in Vietnam veterans. Further research on the toxicokinetics of TCDD (2,3,7,8-tetrachlorodibenzo-*p*-dioxin) is needed to permit more accurate extrapolation from current serum TCDD measurements to past exposures. Development of new biomarkers for exposure to herbicides, per se, also would be useful.

Recommendation 4. A nongovernmental organization with appropriate experience in historical exposure reconstruction should be commissioned to develop and test models of herbicide exposure for use in studies of Vietnam veterans.

Exposure assessment has been a weak aspect of most epidemiologic studies of Vietnam veterans. The military reports and personal testimony reviewed by the committee suggest that a sufficient range of exposure to herbicides may exist among Vietnam veterans for valid epidemiologic studies of certain health outcomes, and the committee believes that it is possible to develop valid exposure reconstruction models for such studies by using the methods of historical exposure reconstruction. Historical exposure reconstruction requires substantial professional judgment, and the results might be questioned if developed by a government agency; therefore, the committee recommends that the DVA arrange for a nongovernmental organization with appropriate experience in historical exposure reconstruction to develop and test potential models of herbicide exposure for use in studies of Vietnam veterans.

Recommendation 5. The exposure reconstruction models developed according to Recommendation 4 should be evaluated by an independent, nongovernmental scientific panel established for this purpose.

Herbicide exposure reconstruction models for Vietnam veterans must be thoroughly evaluated before epidemiologic studies based on these models proceed. The committee has identified three possible approaches to such an evaluation, which are discussed in more detail in Chapter 6: (1) internal consistency checks, (2) comparisons of exposure measures based on the reconstruction model with actual serum dioxin measurements, and (3) assessments of the association between exposure reconstruction measures and health outcomes shown in occupational or environmental studies to be associated with herbicides. Scientific judgment is required in interpreting the results of such an evaluation, so the committee cannot specify explicit criteria for acceptance or rejection of the new exposure reconstruction models in advance of their development and testing. Thus, the committee recommends that an independent, nongovernmental scientific panel be established to review the results of the proposed evaluation studies and to judge the validity and feasibility of the exposure reconstruction models. This panel should have expertise in historical exposure reconstruction and in epidemiology. In order the maintain the public and scientific credibility of the study, the panel members should be nongovernmental and independent of the organization that develops the exposure reconstruction models.

Recommendation 6. If the scientific panel proposed in Recommendation 5 determines that a valid exposure reconstruction model is feasible, the Department of Veterans Affairs and other government agencies should facilitate additional epidemiologic studies of veterans.

A number of possible epidemiologic studies could provide additional information on the health effects of exposure to herbicides in Vietnam beyond what is already known. Highest research priority should be given to those health effects for which additional study is likely to change the balance of the evidence for or against an association. This includes

a. health outcomes for which current evidence is limited/suggestive of an association (lung and respiratory cancers, multiple myeloma, and prostate cancer);

b. health outcomes for which current evidence is insufficient or inadequate to determine whether an association exists, but which, in the committee's judgment, are plausible based on animal toxicologic data (such as nasal/nasopharyngeal cancer) or for which there are known associations with related chemical compounds in humans (such as liver cancer and polychlorinated biphenyls; Nicholson, 1987);

c. health outcomes for which the typical age at onset has not yet been reached by members of the Vietnam veteran cohort (such as prostate cancer).

The committee also recommends that priority be given to additional research on reproductive effects that would help clarify the possible effects of herbicides. In particular, the committee believes that extensive reanalysis of the Ranch Hand reproductive data could shed additional light on these questions (see Chapter 9 and Appendix C).

Although there is sufficient evidence of an association between occupational or environmental exposures to herbicides and non-Hodgkin's lymphoma, Hodgkin's disease, and soft tissue sarcomas, the existing information on dose-response relationships is incomplete, especially with regard to Vietnam veterans. If a valid exposure reconstruction method can be developed, it might be applied to the exposure data available from existing case-control studies to provide additional dose-response evaluations. Additional refinement of the clinical and pathological definitions of soft tissue sarcomas in epidemiologic studies would also help to determine which of the specific cancers in this class are associated with herbicides or TCDD.

The committee recognizes that the recommendations for development of a historical exposure reconstruction model and its use in epidemiologic studies might seem at variance with the Centers for Disease Control (CDC), White House Agent Orange Working Group (AOWG), and Office of Technology

Assessment (OTA) conclusions made in 1986 with regard to the congressionally mandated Agent Orange Study. The committee has come to a different conclusion for four reasons: First, the CDC–AOWG–OTA conclusions were based in large part on serum TCDD measurements, which the committee feels are insufficient for validating exposure to herbicides used in Vietnam, as explained in Chapter 6. Second, the arguments underlying the earlier conclusions that individuals in combat units were widely dispersed and that troop movement data are incomplete imply that exposure measurements may be imprecise, not that they are invalid. However, these arguments do suggest that historical reconstruction of exposure will have nondifferential misclassification errors that will lead to underestimates of the relative risk of health outcomes if an association is in fact present. Third, the committee is proposing the use of more, but less formal, information on exposure than was considered in 1986. This includes the development and use of informal information on perimeter spraying, which might account for more meaningful herbicide exposure than the aerial spraying documented on the HERBS tapes. Finally, the committee does not know whether the approach it proposes will prove valid or whether new methods will identify a sufficient number of highly exposed Vietnam veterans for an epidemiologic study. In the committee's judgment, however, the likelihood that this approach will be successful is sufficient for it to be recommended.

Mandated Research Efforts

For the purposes of further research on the health effects of Vietnam service, Public Law 102–4 mandates that the DVA establish four specific programs that are subject to initiation, continuance, or discontinuation, depending on the findings of this IOM report, and the committee is charged with making recommendations about these specific mandates. The DVA has no specific plans for any of these research efforts beyond the minimal descriptions given in the law, so the committee is able to comment on them in only the broadest terms.

The committee's recommendations speak to its legislative mandate to determine "the feasibility of conducting additional scientific research on" health hazards resulting from exposure to dioxin and herbicides used in Vietnam, the research mandate in section 8 of Public Law 102–4. As previously stated, the committee feels that a series of epidemiologic studies of veterans could yield valuable information if a new, valid exposure reconstruction model can be constructed.

Section 6 of Public Law 102–4 requires the DVA to "compile and analyze, on a continuing basis, all clinical data" that (1) are obtained in connection with DVA examinations and treatment of Vietnam veterans, and (2) are likely to be scientifically useful in determining the association between disabilities experienced by these veterans and exposure to dioxin or herbicides. Such a system, called the Agent Orange Registry (see Chapter 2), currently exists. Section 7 of the law calls for the establishment of a system for the collection and storage of voluntarily contributed samples of blood and tissue of veterans who served in Vietnam. Balancing the strengths and weaknesses of stored biological samples and clinical data for research purposes, the committee feels that systems of this sort have scientific value, but only to the extent that they are components of specific, well-designed studies; see, for instance, National Research Council (1991). In the absence of a clear study design to guide such activities, and without resolution of important design, quality control, and ethical issues regarding tissue banks, the committee does not recommend the establishment at this time of the clinical data and tissue archiving systems described in sections 6 and 7 of the law.

The final mandate in Public Law 102–4 on which the committee must comment calls for the testing of serum of Vietnam veterans who apply for medical care or file a disability compensation claim for TCDD (section 9). The purpose of this mandate is not stated in the legislation. If research purposes are contemplated, the committee's discussion about tissue archiving systems applies, and such a program would not be recommended at this time. It is also possible that this program is intended to provide information on individual exposure to dioxins or herbicides to aid in individual compensation decisions. The committee cannot make recommendations for DVA policy, but notes that the finding in Chapter 6 that individual TCDD serum levels in Vietnam veterans are usually not meaningful (because of common background exposures to TCDD, poorly understood variations among individuals in TCDD metabolism, relatively large measurement errors, and exposure to herbicides that did not contain TCDD) might apply to this mandate.

References

Alavanja MC, Merkle S, Teske J, Eaton B, Reed B. 1989. Mortality among forest and soil conservationists. Archives of Environmental Health 44:94–101.

Axelson O, Sundell L. 1974. Herbicide exposure, mortality and tumor incidence. An epidemiological investigation on Swedish railroad workers. Scandinavian Journal of Work, Environment, and Health 11:21–28.

Blair A, Grauman DJ, Lubin JH, Fraumeni JF Jr. 1983. Lung cancer and other causes of death among licensed pesticide applicators. Journal of the National Cancer Institute 71:31–37.

Boffetta P, Stellman SD, Garfinkel L. 1989. A case-control study of multiple myeloma nested in the American Cancer Society prospective study. International Journal of Cancer 43:554–559.

Burmeister LF, Everett GD, Van Lier SF, Isacson P. 1983. Selected cancer mortality and farm practices of Iowa. American Journal of Epidemiology 118:72–77.

Cantor KP, Blair A. 1984. Farming and mortality from multiple myeloma: a case-control study with the use of death certificates. Journal of the National Cancer Institute 72:251–255.

Eriksson M, Hardell L, Berg NO, Moller T, Axelson O. 1981. Soft-tissue sarcomas and exposure to chemical substances: a case-referent study. British Journal of Industrial Medicine 38:27–33.

Eriksson M, Hardell L, Adami HO. 1990. Exposure to dioxins as a risk factor for soft tissue sarcoma: a population-based case-control study. Journal of the National Cancer Institute 82:486–490.

Fingerhut MA, Halperin WE, Marlow DA, Piacitelli LA, Honchar PA, Sweeney MH, Greife AL, Dill PA, Steenland K, Suruda AJ. 1991. Cancer mortality in workers exposed to 2,3,7,8-tetrachlorodibenzo-*p*-dioxin. New England Journal of Medicine 324:212–218.

Green LM. 1991. A cohort mortality study of forestry workers exposed to phenoxy acid herbicides. British Journal of Industrial Medicine 48:234–238.

Hardell L. 1981. Relation of soft-tissue sarcoma, malignant lymphoma and colon cancer to phenoxy acids, chlorophenols and other agents. Scandinavian Journal of Work, Environment, and Health 7:119–130.

Hardell L, Bengtsson NO. 1983. Epidemiological study of socioeconomic factors and clinical findings in Hodgkin's disease, and reanalysis of previous data regarding chemical exposure. British Journal of Cancer 48:217–225.

Hardell L, Eriksson M. 1988. The association between soft tissue sarcomas and exposure to phenoxyacetic acids: a new case-referent study. Cancer 62:652–656.

Hardell L, Sandstrom A. 1979. Case-control study: soft-tissue sarcomas and exposure to phenoxyacetic acids or chlorophenols. British Journal of Cancer 39:711–717.

Hardell L, Eriksson M, Lenner P, Lundgren E. 1981. Malignant lymphoma and exposure to chemicals, especially organic solvents, chlorophenols and phenoxy acids: a case-control study. British Journal of Cancer 43:169–176.

Hoar SK, Blair A, Holmes FF, Boysen CD, Robel RJ, Hoover R, Fraumeni JF. 1986. Agricultural herbicide use and risk of lymphoma and soft-tissue sarcoma. Journal of the American Medical Association 256:1141–1147.

Karnow S. 1991. Vietnam: A History. New York: Penguin.

Manz A, Berger J, Dwyer JH, Flesch-Janys D, Nagel S, Waltsgott H. 1991. Cancer mortality among workers in chemical plant contaminated with dioxin. Lancet 338:959–964.

Morrison H, Savitz D, Semenciw r, Hulka B, Mao Y, Morison D, Wigle D. 1993. Farming and prostate cancer mortality. American Journal of Epidemiology 137:270–280.

National Research Council, Committee on National Monitoring of Human Tissues, Board on Environmental Studies and Toxicology, Commission on Life Sciences. 1991. Monitoring Human Tissues for Toxic Substances. Washington, DC: National Academy of Sciences.

Nicholson WJ. 1987. Report to the Workers' Compensation Board on occupational Exposure to PCBs and Various Cancers. Industrial Disease Standards Panel Report No. 2. Toronto: Ontario Ministry of Labour.

Persson B, Dahlander A-M, Fredriksson M, Brage HN, Ohlson C-G, Axelson O. 1989. Malignant lymphomas and occupational exposures. British Journal of Industrial Medicine 46:516–520.

Riihimaki V, Asp S. Hernberg S. 1982. Mortality of 2,4-dichlorophenoxyacetic acid and 2,4,5-trichlorophenoxyacetic acid herbicide applicators in Finland: first report of an ongoing prospective cohort study. Scandinavian Journal of Work, Environment, and Health 8:37–42.

Riihimaki V, Asp S. Pukkala E, Hernberg S. 1983. Mortality and cancer morbidity among chlorinated phenoxyacid applicators in Finland. Chemosphere 12:779–784.

Saracci R, Kogevinas M, Bertazzi PA, Bueno De Mesquita BH, Coggon D, Green LM, Kauppinen T, L'Abbe KA, Littorin M, Lynge E, Mathews JD, Neuberger M, Osman J, Pearce N, Winkelmann R. 1991. Cancer mortality in workers exposed to chlorophenoxy herbicides and chlorophenols. Lancet 338:1027–1032.

Swaen GMH, van Vliet C, Slangen JJM, Sturmans F. 1992. Cancer mortality among licensed herbicide applicators. Scandinavian Journal of Work, Environment, and Health 18:201–204.

Woods JS, Polissar L, Severson RK, Heuser LS, Kulander BG. 1987. Soft tissue sarcoma and non-Hodgkin's lymphoma in relation to phenoxy herbicide and chlorinated phenol exposure in western Washington. Journal of the National Cancer Institute 78:899–910.

Zahm SH, Weisenburger DD, Babbitt PA, Saal RC, Vaught JB, Cantor KP, Blair A.

1990. A case-control study of non-Hodgkin's lymphoma and the herbicide 2,4-dichlorophenoxyacetic acid (2,4-D) in eastern Nebraska. Epidemiology 1:349–356.

Zober A, Messerer P, Huber P. 1990. thirty-four-year mortality follow-up of BASF employees exposed to 2,3,7,8-TCDD after the 1953 accident. International Archives of Occupational and Environmental Health 62:139–157.

Committee to review the health effects in Vietnam veterans of exposure to herbicides

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THE GEISINGER HEALTH CARE SYSTEM: A MODEL FOR HEALTH CARE REFORM

• Mr. WOFFORD. Mr. President, while we prepare for the upcoming debate on national health care reform, I think that it is important to note some innovative developments on the State and local levels. One such development is the growth of health maintenance organizations [HMO's], organized delivery systems, and other managed-care arrangements.

Many believe that, although not a panacea for the problems facing our current health care system, HMO's and local provider networks can improve the quality of care and health outcomes, while lowering health care costs, by stressing wellness and primary care and more efficiently managing a consumer's health care needs.

The Geisinger health care system, headquartered in Danville, PA, runs an advanced 577-bed hospital as well as a network of clinics over a wide area of central and northwestern Pennsylvania. Its growing HMO serves 142,000 members, while the same doctors and clinics serve thousands more people covered by government plans and by other private insurance.

A recent New York Times article praised Geisinger for its ability to deliver quality health care, while at the same time containing costs. Through the careful selection of physicians who share their corporate philosophy, an emphasis on prevention and primary care, and research to improve clinical practice, Geisinger represents what provider-initiated programs can accomplish in reforming health care and promoting community wellness.

The Geisinger experience shows how a local private institution can effectively improve the accessibility of health care in a large rural region. Over the past 12 years, Geisinger has established 26 rural medical practices and expanded several existing practices. Geisinger now represents 9.4 percent of the primary care physicians in their 31-county service area.

Dr. Stuart Heydt, president and chief executive officer of the Geisinger Foundation, recently spoke to Pennsylvania's congressional delegation. I ask that the text of Dr. Heydt's remarks be printed in the RECORD, along with an article that appeared in the New York Times and Modern Healthcare concerning the success of the Geisinger Model.

The material follows:

HEALTH CARE REFORM: GEISINGER'S ROLE AND RESPONSE

(By Stuart Heydt, M.D.)

The compelling need for change in America's health care system is unquestioned. The prescription for change remains undefined although the fundamental assumption is clear; we need to provide better care to more people for less cost.

On April 9th I attended, at Ira Magaziner's invitation, a meeting between representatives of the Health Reform Task Force and selected group practices from around the nation. This included representatives from Mayo Clinic, the Cleveland Clinic, Park Nicollet in Minneapolis, the Henry Ford Health System Ochsner Clinic in New Orleans, Fargo Clinic in North Dakota, Palo Alto Clinic, Kaiser Health System and Sharp-Rees Stealy in San Diego. Mr. Magaziner stated that he wished to make it clear that Geisinger and the rest of this assembly were not viewed as part of the problem for health care reform, but rather as part of the solution. All of these organizations are developing coordinated/integrated services, sized according to the needs of the population served, and striving to continuously improve processes and outcomes to ultimately maximize quality and cost effectiveness.

Geisinger has received recognition through two independent observations on the Geisinger Heath System. The first is an article entitled, "Doctors Say They Can Save Lives and Still Save Money". This is a feature article which appeared on the front page of the New York Times on March 18th of this year. The second references the findings of the Washington, D.C. Committee for Quality Health Care. Both articles recognize Geisinger as a model for national health care reform.

This is the private initiative.

Yes, reform is required, but is there a way that public policy can support and encourage the momentum of the private sector represented by Geisinger and other progressive organizations? That is the theme of the Geisinger message in 1993.

Geisinger has focused on specific areas for comment: accessibility, affordability, accountability, education, research and public health considerations.

Geisinger is relatively unique in its positioning to provide access of a predominantly rural population to comprehensive, sophisticated, cost effective health services. Over the past decade Geisinger has continually expanded its rural medical practices adding both primary care physicians and specialists to improve rural care. Geisinger provides service without regard to ability to pay and hence has accepted a disproportionate share of those unable to pay. Consistent with innovative management of quality and cost, Geisinger is striving to expand our primary care component. This recruitment has become increasingly difficult. Geisinger recommends federal action to: create incentives to increase the number of physicians entering primary care; create incentives for primary care physicians to choose rural practice; support organizations developing rural practices; and support information technology to link rural generalists to specialists.

Geisinger has demonstrated evolution in effecting affordability through the Geisinger Health Plan, a group model HMO. GHP has the lowest premiums of any HMO in Pennsylvania. It has the lowest premium of any HMO in the nation being offered to federal employees in 1993. This competitive pricing is driving health plans throughout Northeastern and Central Pennsylvania to moderate their premiums and improve the management of their care. We recommend federal action to: encourage states to develop managed competition at the state and local level; protect the access of nonprofit institutions to low cost capital by clarifying criteria for charitable tax exemption; and encourage efficient, integrated systems like Geisinger to enroll Medicare and Medicaid beneficiaries. This encouragement includes improvement of the risk contract payment methodology and legislation to permit HMO's to function as Medicare supplemental plans.

Accountability is promulgated by accreditation and licensing requirements and Geisinger continues to be outstanding in our response to these requirements. Greater public accountability will evolve through increasing revelation of cost and quality data. Pennsylvania has been a leader in this process through the Health Care Cost Containment Council. The move toward releasing candid quality data is, however, impeded by the threat of malpractice litigation. There must be a less costly and more equitable approach to identifying medical malpractice and compensating patients and their families. Geisinger recommends federal action to: support torn reform; and encourage expanded use of communications technology in health care.

Education and research is an integral part of Geisinger's mission. In a purely cost driven reform effort these activities could be severely compromised.

Sources of financial support for education in reform discussion are unclear. Medical cuts continue to diminish this support. Geisinger has trained over 2400 physicians and 32,000 nurses. The vast majority of these young people remain in rural service. Geisinger recommends federal action to provide direct support for educational programs, especially those that support federal policy, such as primary care and rural practice.

Geisinger operates an eight million dollar basic research program. Three million dollars of this research is supported by grant funding and endowment. Five million dollars is supported from our clinical practices. Geisinger recommends federal action to directly support delivery systems engaged in valued research.

Finally, Geisinger recognizes the return on investment on public health initiative. The fee for service health payment methodology has not rewarded preventive health initiatives. Prospective per capita payment mechanisms will reward these initiatives. Geisinger recommends federal action to: support health organizations that adopt public health agendas; and participate in a public-private partnership to promote life style changes in the areas of diet, exercise, safety, stress management and substance abuse.

Geisinger is clearly accepting the challenge to provide better care, to more people for less cost. The thrust of our efforts is articulated in our driving strategies. These strategies are to: function as one organization; coordinating and integrating our resources; size our system through clinical programs sized to the needs of the population that we serve, striving for continuous improvement in our clinical processes which in turn will improve outcome and reduce cost; recognize managed care as our primary business strategy; and seek collaborative relationships to improve quality and increase access to cost effective services.

These strategies are for the most part self-explanatory. I would however, like to focus on the strategy of collaboration. Geisinger is presently actively seeking relationships with other existing providers with the objective of improving health services to our combined service area. Improvement will be measured through better access, improved health status, development of new services and reduced cost. These organizations need to be willing to share our mission, values and culture. These include the balanced program of patient care, education and research as well as a management philosophy of physician/administrative teaming. These collaborative discussions are occurring with hospitals and their medical staffs in immediate proximity to Danville and the Geisinger Medical Center but also in Williamsport, Scranton and with the Guthrie Health System. Geisinger and the Guthrie Health System are working with Proctor and Gamble to design a service package to meet the health needs of over three thousand employees and their dependents at the Mehoopany plant. In all of these discussions, we strive to create a larger system that will reduce duplication, and coordinate and integrate resources to function as a seamless organization serving the needs of a larger regional population.

As you know, the present environment for the health service provider including Geisinger is not without pain. Regulated changes in Medicare and Medicaid along with a stagnant economy has reduced revenues at Geisinger which has severely impacted financial performance in 1993. We managed a system wide work force reduction of over four hundred positions between January and May of this year. We also undertook a series of other initiatives to better coordinate and streamline our System. Senator Wofford authored a commentary in the Washington Post on June 18th, entitled, "Health Care Can't Wait". He made a number of salient and valid points regarding the need to get on with reform. On the provider side we too urge progress for better definition of expectations of us. Democracy intrinsicly moves slowly toward consensus and this is an exceedingly complex task. But, America and those of us required to manage the change will be better off to get it done. We stand ready to work with you in any way that we can.

As I said last year, we sincerely appreciate your willingness to join with us in these sessions.

Thanks to all of you.

[From the New York Times, Mar. 18, 1993]

DOCTORS SAY THEY CAN SAVE LIVES AND STILL SAVE MONEY

(By Erik Eckholm)

DANVILLE, PA.—Dr. James C. Blankenship, a cardiologist with a health-maintenance organization in central Pennsylvania, performs costly, risky procedures in which tubes are pushed to the heart to help find whether coronary vessels are clogged.

In his catheterization laboratory, he studied X-rays revealing a partly blocked artery in a 55-year-old man. "What are the chances this will shut off, causing a heart attack, versus the risks of surgery?" he asked. "The studies differ."

"I'll advise him to watch and wait," said the doctor, whose salary would not be affected one way or the other. "I want to do everything that's necessary, but not too much."

As Americans consider a more frugal medical future, possibly dominated by competing H.M.O.'s or other forms of "managed care" that limit consumer choice, urgent questions are rising about the quality of care and how to protect it. Will people be pushed into health plans staffed by sullen, rushed doctors whose decisions are second-guessed and who are paid extra to scrimp on costly tests and operations?

ROOM FOR JUDGMENT

Or will they find sensitive doctors who have no financial incentive to do too much or too little, have ready access to the best technologies and hold down costs by preventing illness and avoiding procedures with little benefit?

Medical experts are scrutinizing better health plans around the country to see how large savings might be gained through efficiency and prudence, not through shortchanging the sick. And the evidence suggests that institutions that foster physicians like Dr. Blankenship and allow them to exercise professional judgment may be in the best position to pursue that goal.

In case of the 55-year-old man, some doctors would have recommended immediate surgery, but Dr. Blankenship felt sure, based on available science, that a trial period of drug therapy was in his patient's best interest.

At his organization, the Geisinger Foundation in Danville, the decision about how much is enough is left to the doctors. Their cautious style of medicine has held costs well below the national average. Increases here have still averaged 8.6 percent in recent years, though, raising questions about whether the country will be able to tame medical inflation without cutting into the quality of care.

The 530 salaried doctors who work here, and offer care through a prepaid insurance plan, do receive prodding from above. But it involves not constant second-guessing or rewards for scrimping, but rather a steady flow of research news and tips that helps suffuse the institution with an ethic of conservative care.

"Here, we don't police; we trust our doctors," said Dr. Howard G. Hughes, who directs the H.M.O., the Geisinger Health Plan.

In Danville, a town of 6,000 people, Geisinger runs an advanced 577-bed hospital as well as a network of clinics over a wide area of central and northwestern Pennsylvania. Its growing H.M.O. serves 142,000 members, while the same doctors and clinics also provide the same style of care to hundreds more people covered by government or other insurance.

The doctors insist that their brand of medicine improves on a system laden with incentives to overuse procedures.

And they are saving money. The H.M.O. has the lowest rates in Pennsylvania, according to the state insurance department, with monthly premiums this year of $109.70 for individuals and $285.22 for families for a plan covering nearly everything but prescriptions.

But the numbers suggest, too, just how severe the challenge is. The health plan's charges have risen by an average of 8.6 percent a year since 1985, Dr. Hughes said. That is a good record compared with that of most insurers; nationwide, H.M.O. rates grew by an average of 11.7 percent per year from 1986 to 1992, and rates for traditional fee-for-service plans rose annually by 14.2 percent, according to A. Foster Higgins & Company, a consulting firm.

But it remains well above the national goal of steady real spending set by President Clinton. Recent increases have mainly reflected the rising cost of nurses, technicians and other personnel, the soaring price of new drugs and other factors, officials said.

AT WHAT POINT WILL SAVINGS STOP?

Geisinger doctors and administrators, most of them practicing physicians, insist that through steady refinement they can save much more without compromising care. Just how much and how fast, though, no one is sure.

"Price competition doesn't scare me," said Dr. Stuart Heydt, president of the Geisinger Foundation. "If this model can't hold down prices enough, then I'm not sure it can be done in a way that fulfills the medical expectations of society."

While America's medical costs are increased by administrative waste, excess equipment, incentives to use procedures lavishly and outright fraud, in the end spending mainly reflects the routine decisions of physicians. They decide when a patient needs a $70 electrocardiogram, when to order a $100 dollar antibiotic instead of a $10 one, and when $40,000 bypass surgery is truly likely to improve a patient's chances of survival or quality of life.

"The best way to control costs and preserve quality is to have the physicians do it," said Dr. Arnold S. Relman, the former editor of the New England Journal of Medicine. "The whole health-care system is built on the behavior of doctors, and that behavior is greatly influenced by the way health care is organized.

Dr. Relman, who has been studying health plans around the country, praised Geisinger for high doctor morale and a system of mutual review that promotes excellent care.

While no organizational structure guarantees quality care, Geisinger has several traits that promote it. The bedrock, officials here say, is the careful selection of doctors who share the group philosophy and are happy to work for a salary. Since they are not paid piecework, they make decisions with no direct financial interest at stake. (Nationally, doctors are salaried in some but not all H.M.O.'s or other forms of managed care.)

The salaries here are enough to support an affluent life in this rural region, but for many doctors they are well below potential earnings in private practice. Primary-care doctors have starting salaries in the range of $75,000 to $90,000, while among the most experienced specialists who might earn several times as much elsewhere. "very few go beyond $3000,000" said Dr. Laurence H. Beck, senior vice president charged with improving efficiency and quality.

Morale rests on the pleasures of patient care, collaboration, teaching and research, said Dr. Francis J. Menapace, the director of cardiology. "We look for a different type of physician, one who still looks at medicine as a profession, not a business."

LESS RELIANCE ON THE SPECIALISTS

As in most H.M.O.'s, all patients must choose a primary-care physician in the plan. Usually trained in family practice, internal medicine or pediatrics, these doctors provide most care and refer sicker patients to specialists only when necessary, holding down costs.

Now about 30 percent of the plan's doctors provide primary care, but studies suggest the proportion should rise to close to 50 percent, Dr. Beck said. This means cutting back on specialities, a painful and controversial topic among the medical staff.

Dr. Ernest W. Campbell, a primary-care physician and head of the Geisinger clinic in the nearby town of Bloomsburg, had been in independent practice for 18 years before he and his partner decided to join the salaried group in 1985.

"We looked at the H.M.O. and liked what they were saying," he said. "It's more geared toward preventive medicine, keeping people healthy rather than just meeting the acute needs as they arise." He said the switch involved a significant loss in income, but offsetting this was a drop in work time to 60 to 70 hours a week so he could see his family more.

Far from feeling pressure to avoid needed care, Dr. Campbell said, "I think the quality if anything has gone up." Since patients are in a prepaid plan, he said, "now we can tell them they have no excuse for not coming in when they are ill."

A large unified system like Geisinger's can also avoid duplication of costly equipment and readily monitor its use. For example, all cardiac catherizations, which are Dr. Blankenship's diagnostic specialty and require a million-dollar laboratory, are performed at the main hospital in Danville, as is open-heart surgery. This does mean, though, that some patients have to travel up to 100 miles for major procedures that in a less efficient system might be available at a community hospital.

With central control, too, can come imbalances in staffing, sometimes yielding long waits for non-urgent appointments. Currently, for example, because of a shortage of gynecologists in the group, an appointment for a routine pelvic checkup can take several months. Officials insist that is a temporary side effect of rapid growth and a national shortage, not a long-term shortchanging of patients.

But in surveys of H.M.O. patients that generally find high satisfaction with care and doctors, intermittent difficulty in getting quick appointments has been the most common complaints, said Dr. Duane Davis, medical director of the health plan.

WHEN SUPERVISION IS FROM WITHIN

For all its emphasis on efficiency, Geisinger does little of the routine oversight that is now so prevalent in the health-insurance industry and so annoying to doctors. Instead, the doctors, with leadership from department heads, are expected to watch themselves for unjustified variations in individual practice and opportunities for improvement.

"We have a high awareness of what our colleagues are doing in the next room," Dr. Blankenship said. "There's lots of intercommunication, lots of informal second opinions. If someone is consistently doing something inappropriately, too much or too little, we'd notice."

Peer review is, however, increasingly backed up with research and suggestions from above. The H.M.O., for example, keeps track of prescribing patterns and sends out newsletters urging physicians to prescribe cheaper drugs or generic versions where they have been shown to be equally effective. One recent flyer warned that a drug company was "actively encouraging pharmacists to call physicians to switch patients" from current diabetes drugs to its new product, priced 40 percent higher even though it offers "no therapeutic advantage."

In another example, officials studied whether patients who were put on an expensive cholesterol-lowering drug were first asked to experiment with dietary change. By sharing the results with other physicians and stressing the recommended course, doctors found that the proportion of patients trying diet changes had risen. Some will end up needing the drug anyway, but some will avoid indefinite use of a drug that can have dangerous side effects.

As the country seeks to flatten out its health costs, the question is how far even the best-organized providers can trim back without choking off tests and treatments of significant potential benefit.

Dr. Beck said he believes that Geisinger and other similar groups still have large opportunities to wring out expense. Increasingly important, he said, will be reliance on clinical guidelines that reflect research, done locally or nationally, on what sequences of tests and treatments yield the best results for particular conditions.

Still, Dr. Beck said, "At some point there will be tradeoffs between cost and quality." If price controls are too severe, he said, society will have to openly face the issue of rationing.

[From Modern Healthcare, Sept. 7, 1992]

PROVIDER GROUPS FINDING SUCCESS WITH MANAGED CARE, STUDY SAYS

Managed care, a key cost-containment and quality-improvement technique included in almost every local or national healthcare reform proposal, is being implemented by provider groups in communities across the country.

That's the finding of the National Committee for Quality Health Care, a Washington-based coalition of providers and suppliers, which has put together a report profiling 19 successful provider-based managed-care programs throughout the United States.

The report, "Reinventing Health Care: The Revolution at Hand," will be released to the public late this week.

The study was prepared by New Directions for Policy, a fiscal policy consulting group based in Washington.

It's meant to be a companion study to last year's report by the NCQHC describing several successful managed-care projects initiated by healthcare buyers, said William Dwyer, director of corporate account development at Abbott Laboratories and chairman of NCQHC's managed-care subcommittee.

Many providers also have developed effective models of community-based managed-care programs, but policymakers and analysts have tended to overlook them because of all the publicity garnered by the corporate efforts, Mr. Dwyer said.

The report shows that decision-makers can learn much from these lesser-known examples of how to construct successful quality-improvement programs and operate them within a coordinated healthcare system, he said.

The provider organizations profiled represent essentially two models for delivering services: those based on group practices, such as Lovelace Medical Center and Health Plan in New Mexico and Geisinger Medical Center and Health Plan in Pennsylvania, and hospital-based network systems, such as Sharp HealthCare in San Diego.

They represent a "small selection" of what provider-initiated programs can accomplish in reforming the healthcare system when they become leaders in promoting community health and wellness, he said.•

THE HIDDEN COST OF SUBSTANCE ABUSE

• Mr. DASCHLE. Mr. President, today I would like to highlight new findings on the costs of substance abuse released last month by Columbia University's Center on Addiction and Substance Abuse. The study points to the startling conclusion that 1 of every 5 Medicaid dollars spent on hospital care is a direct consequence of substance abuse. As a sponsor of two bills targeted to reducing substance abuse among pregnant women and reducing the incidence of fetal alcohol syndrome, I believe this study merits our close attention. It has profound implications for substance abuse prevention services and treatment under the Medicaid Program. Indeed, given the pervasiveness of smoking, and alcohol and drug abuse throughout all segments of American society, the repercussions extend beyond Medicaid to the entire health care system.

According to the Columbia University report, in 1991, $4.2 billion—nearly one-fifth—of Medicaid inpatient hospital expenditures paid for treatment of illness and disease associated with abuse of alcohol, tobacco, and legal and illegal drugs. This is partly because addictions complicate other illnesses, requiring longer hospital stays for addicted patients. In fact, the Columbia University report indicates that, on average, Medicaid patients with substance addictions stay in the hospital twice as long as other patients. In addition, substance abuse exacerbates other illnesses and diseases, requiring more costly and intensive treatment than would normally be required.

These substance abuse costs go well beyond what is spent on direct treatment. Substance abuse is ubiquitous, reaching every corner of health care, from ailments such as cancer and cardiovascular disease to trauma and birth complications. Substance addiction is the sole cause for diseases such as alcohol cirrhosis and fetal alcohol syndrome. It is also a major risk factor for other costly health problems, including lung cancer and coronary heart disease. And it complicates all sorts of otherwise unrelated diseases and ailments, such as burns and pneumonia, adding days and dollars to treatment.

The Columbia University study indicates that babies of substance-abusing mothers stay in hospitals three times as long as other babies—and their care costs thousands of dollars more than care for healthy babies. The cost of treating drug and alcohol-impaired babies multiplies exponentially as they grow to adulthood, as the costs of their mental and physical disabilities are borne by our health and social services system.

The Columbia University study predicts that substance-abuse-related Medicaid costs will rise to $7.4 billion in fiscal year 1994. Left unchecked, these costs will continue to escalate, pushing up overall Medicaid costs and further weakening our health care system.

The long-term implications are compelling. Substance-abuse-related complications of newborns account for a staggering 32.3 percent of total days spent in hospitals by Medicaid patients. Yet GAO estimates that only about 11 percent of the pregnant women in need of additional treatment actually receive care. Medicaid currently contains no explicit language requiring provision of substance abuse treatment and prevention services, yet failure to deal with substance abuse will sentence Medicaid to continuing escalating costs. It simply makes sense to address these problems head on, by investing in addiction treatment services up front, and preventing the illnesses, accidents, and diseases associated with substance abuse, rather than paying the consequences of inaction later.

The Medicaid Substance Abuse Treatment Act (S. 484) would take a step in that direction by allowing States the option of providing Medicaid coverage of residential substance abuse treatment for pregnant, addicted women. This bill is targeted to reducing the enormous human and societal costs associated with drug-affected babies and fetal alcohol syndrome, the range of mental and physical disabilities in babies caused by drinking during pregnancy.

While expanding Medicaid coverage of substance abuse treatment is an important step, the Columbia study suggests that the costs associated with substance abuse creep into every corner of our health care system. With estimates as high as $120 billion per year, the problem of substance abuse should be addressed as an integral part of our health care reform effort.

To that end, the President has stated his commitment to expansion of substance abuse prevention research and improvement of national pubic education efforts targeted toward substance abuse prevention. He will have my strong support in this effort.

In addition, I strongly support President Clinton's proposal to include substance abuse treatment in his health care reform plan. Guaranteeing access to substance abuse treatment for those who need it will provide addicted persons the tools to fight their addictions, and reduce long-term costs to our health care, law enforcement, and social services systems. Such coverage will also expand access to treatment for vulnerable, hard-to-reach individuals, particularly in rural areas, shelters, and community health centers.

There is no easy solution to the human and financial consequences of substance abuse. However, in addition to expansion of substance abuse treatment coverage in Medicaid and other Federal and State health programs, a renewed commitment to invest in substance abuse prevention, treatment and research would be an important step in the effort to combat this problem. The cost of supporting treatment, prevention, and research programs is substantially less than the long-term costs of untreated addiction and the illnesses, accidents, and diseases associated with it.•

THE BAHAI TRAGEDY

• Mr. ROCKEFELLER. Mr. President, I want today to discuss the plight, of Bahais in Iran. Since 1982 Congress has been passing resolutions to support the religious freedom of the Bahai community; however, recent actions against Bahais make clear the need for our continuing protest against the Iranian Islamic regime's efforts to destroy this peaceful religious group.

Recently, there have been new attacks against the Bahais which exemplify the long series of abuses of human rights the Iranian Government has undertaken against this group.

The first occurred on July 1 of this year. On that day Iranian officials began to dig up the graves in a Bahai cemetery in Tehran in order to clear space for a cultural center. The Tehran Bahai cemetery contains thousands of graves of adherents of the religion, including many of the faith's earliest leaders. The cemetery is a central part of the Bahai culture and is being shamelessly torn apart by the Iranian Government. This is not the first time this has happened. In the 1980's, many headstones from confiscated Bahai cemeteries were torn from the ground and sold at public auction.

The second incident is a 1992 court decision following an auto accident in which a Moslem driver killed one Bahai and injured another. The court dismissed charges of manslaughter and involuntary injury, convicting the driver only for "neglecting driving rules and regulations." The explanation for this outrageous ruling was that Bahais are "unprotected nationalists" and, therefore, deserve less protection under the law. For the crime of killing a human being the only penalty was a small fine.

It is apparent from these events and many others concerned Americans have noted over the years that the Iranian Government has a deliberate plan to suppress the Bahais and destroy their cultural roots. Indeed, just such a plan has been made available to U.N. officials. Since 1979, more than 200 Iranian Bahais have been executed, and thousands more have been imprisoned on account of their religion. President Clinton cited Iran's abusive treatment of the Bahais as one of today's critical human rights issues.

Once again it is incumbent on the Congress to recognize and condemn the inhumane actions of the Iranian Government. I would urge the United Nations to renew its examination of the persecution of the Bahais in Iran and to take steps to prevent further violations of human rights. If we do not act, thousands more Bahais could be murdered and the entire Bahai population in Iran, the birthplace of the religion, could disintegrate.•

NATIONAL SCLERODERMA AWARENESS MONTH

• Mr. D'AMATO. Mr. President, I rise today to cosponsor Senate Joint Resolution 103, declaring August 1993 and August 1994 as National Scleroderma Awareness Month.

Scleroderma is a chronic autoimmune vascular disease affecting the connective tissues which provide the structural framework of the skin and vital organs.

Even with treatment, those who suffer from scleroderma have a varied prognosis. Some can experience relatively few symptoms and maintain a normal lifestyle while others suffer severe health effects. Such effects of this disease can include respiratory weakness, heart spasms, digestive problems, and kidney malfunction ending in a fatality.

Because I believe that the enactment of a nationally recognized Scleroderma Awareness Month can do much to increase the widespread knowledge of scleroderma, and to pave the way for further research and support, I am pleased to join Senator FEINSTEIN as a cosponsor of this bill, and I again would urge each of my colleagues to join me in urging swift passage of this important legislation.●

EXTENDING CHAPTER 12 OF TITLE 11 OF THE UNITED STATES CODE

Mr. FORD. Madam President, on behalf of the majority leader, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar 41, H.R. 416, a bill relating to the Family Farmer Bankruptcy Act; that the bill be deemed read three times, passed, the motion to reconsider be laid upon the table; that any statements relative to this measure appear in the RECORD at the appropriate place.

The PRESIDING OFFICER. (Mrs. FEINSTEIN). Without objection, it is so ordered.

So the bill (H.R. 416) was deemed read the third time and was passed.

Mr. GRASSLEY. Madam President, the Senate today takes an important step for rural America and for the flood-devastated Midwest today by extending for 5 years the operation of chapter 12 of the Bankruptcy Code. Passage of H.R. 416 will ensure that family farmers continue to have access to chapter 12—provisions enacted to take their special situation into account—without interruption.

Chapter 12 fulfills an important need. Before its creation family farmers could file for bankruptcy only under chapters 11 or 13. Most farmers could not file under chapter 13, either because their secured debts were too large to qualify, or because they were partnerships or incorporated entities. Chapter 11 presented different difficulties, making that chapter all but unworkable for farmers. When the farm crisis of the 1980's hit, farmers risked losing their farms for reasons beyond their control. Had these lands been sold off, the consequences for farmers, the lenders facing a free fall in land values, and for the communities would have been devastating.

Current conditions underscore the unique nature of farming and the necessity of our Bankruptcy Code's recognition of those differences. Today, the unprecedented flooding or farm lands poses risks of harm similar to those feared in the 1980's. Many farmers will have no choice but to file for bankruptcy. It is vital that as many as can file viable reorganization plan be given an opportunity to do so. Otherwise, thousands of family farmers, including some whose families have farmed for generations, will be driven off the land, never to return.

Under chapter 12, the farmer files a plan within 90 days of filing the bankruptcy petition. The court then completes action within 45 days. The debtor must make available the discretionary income for the next 3 to 5 years to pay unsecured creditors. After the 3- to 5-year period, the unsecured debt is discharged. The debtor must also pay the secured debts up to the market value of the collateral. If the farmer owes more than the property is worth, the difference is treated as an unsecured debt and must be paid out of disposable income for 3 to 5 years.

Because chapter 12 is based on chapter 13, the farmer can remain in control of the farming operation. A trustee is appointed to see that payments are timely made, to investigate fraud if the court so requires, and to operate the farm if the court finds gross mismanagement.

H.R. 416 makes the substantive change in chapter 12. The standard for granting an extension is altered from circumstances in which "an extension is substantially justified" to cases in which "the need for an extension is attributable to circumstances for which the debtor should not justly be held accountable." This new standard for extensions in filing plans will provide adequate protection for agricultural lenders, while preserving the ability of debtors to obtain extensions whenever circumstances outside their control warrant such extensions. This new standard applies only to new chapter 12 petitions filed after the date of enactment of H.R. 416, and has no application to cases that were pending on that date.

Madam President, thanks to bipartisan cooperation, we will extend this important provision of the Bankruptcy Code. I have worked with Representative SYNAR over the years to ensure that chapter 12 was created and extended. His support has been effective and gratifying to me, and this bill represents another milestone step in the history of this provision. Due to his cooperation in the other body, and also the efforts of Senator HEFLIN, we will be able to avoid any gap in the application of chapter 12. Such a gap would have been ruinous to farmers facing devastation from flooding. The continuing, unhindered operation of chapter 12 should enable some farmers facing the catastrophe of a lifetime to continue to operate their family farms. That result will be a benefit to all Americans.

STAR PRINT—REPORT NO. 103–109

Mr. FORD. Madam President, on behalf of the majority leader, I ask unanimous consent that Report No. 103–109, the report accompanying S. 422, the Government Securities Act Amendments of 1993, be star printed to reflect the changes I now send to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENT BY THE REPUBLICAN LEADER

The PRESIDING OFFICER. The Chair, on behalf of the Republican leader, after consultation with ranking member of the Finance Committee, pursuant to Public Law 102–393, appoints the following individuals as members of the Commission on the Social Security notch issue: John F. Cogan of California, and Carolyn L. Weaver of Virginia.

UNANIMOUS-CONSENT AGREEMENT

Mr. FORD. Madam President, it is my understanding that the distinguished Senator from Massachusetts is on his way to the floor to make a statement.

Therefore, I ask unanimous consent that, after the distinguished Senator from Massachusetts completes his statement, the Senate stand in recess as ordered.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. KENNEDY. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOMINATION OF JOYCELYN ELDERS

Mr. KENNEDY. Madam President, I wish to address the Senate this evening to talk about a very distinguished nominee, Dr. Joycelyn Elders, who has been nominated by the President for the position of Surgeon General.

We reported her out of our Human Resources Committee with bipartisan support. As all of us know, the position of Surgeon General is enormously important. We are very hopeful that we will be able to have a vote on this nomination so that Dr. Elders can move forward and pursue the Surgeon General's responsibilities in a timely fashion.

We have been hopeful that we could designate some time this evening for an opportunity to address any of the questions that Members have had about this nomination. There have been a series of questions that have been put to Dr. Elders in our Committee. She has responded completely to those questions. There was a request that some of those answers be in a closed session. She indicated she wanted to respond to all of the questions in an open session.

So we had an extensive hearing. She has responded to all of the questions that have been placed by the members of that committee. In fact, the time actually came when the members of the committee indicated to me there were no further questions. Then we had a period of time that was open for additional written questions. She has responded to all of those written questions.

Now, one of the Members of the Senate indicated today that there are some other matters that he wanted addressed. Dr. Elders will be responding to these questions. The previous questions kept her up until 5 o'clock in the morning in order to respond to them, in a timely way. Obviously, if there are questions, she does want to address them, but quite frankly, I think at some time, in fairness to her and her very distinguished service, that it is appropriate for this body to come to grips with the nomination and to debate the issue and to indicate by a yea or nay vote what each Senator's position would be.

It is completely untenable, intolerable, and unacceptable to place holds on nominations for further fishing expeditions. I, as well as other Members of the Senate, have been distressed when we read stories in the newspapers where some of the Members have indicated that they wanted to hold this particular nomination over and use the period of the August recess to try to find other issues that might be pursued. These kinds of fishing expeditions are not worthy of this membership. They are unworthy in terms of any kind of an attack on either the integrity or the ability of a very distinguished nominee.

So, this evening I will take a few moments of the Senate's time to indicate where we are in terms of the nomination. A first look at the issues that have been raised and the responses that have been received would indicate that we will be prepared, along with many of my other colleagues who are supporting the nomination, to go ahead tomorrow. Our ability to move ahead is obviously conditioned by the schedule of the Senate, the urgency of action on the floods in the midwest. But we are here tonight. This is an important matter. This is an individual who is entitled to, I believe, an overwhelmingly favorable vote in the U.S. Senate. She is certainly entitled to prompt action by the U.S. Senate.

There is no position in American Government that is more important to the health of the Nation than Surgeon General of the United States. The woman whose nomination we are considering today has the potential to become one of the best Surgeon Generals in history.

The Surgeon General must tackle many tasks—and do all of them well. The Surgeon General is the chief of the commissioned corps of the Public Health Service, a body of dedicated health professionals serving the country wherever their skills are needed.

The Surgeon General is the chief public health adviser to the Assistant Secretary of Health, to the Secretary of Health and Human Services, and to the President. Whether the issue is controlling the AIDS epidemic, tackling the challenge of infant mortality, or dealing with the new plague of drug-resistant tuberculosis, the Surgeon General is a principal resource for analyzing the problem and providing guidance on the most effective public health response.

But most of all, the Surgeon General must mobilize public opinion and public commitment to the cause of good health. In the 1960's, Surgeon General Luther Terry aroused the Nation to the dangers of smoking. In the 1980's, Surgeon General C. Everett Koop educated the Nation about the dangers of AIDS.

And in the 1990's, Dr. Joycelyn Elders is ready, willing, and able to work for better health for all Americans—but most especially for the country's children.

By training, by experience, and by temperament, Dr. Elders is superbly qualified for all the varied responsibilities of Surgeon General.

A great Surgeon General must care deeply about those who need help the most. Dr. Elders cares deeply, in no small part because she experienced such great obstacles to good health and a successful career in her own life.

Dr. Elders was born to a teen-aged mother and a sharecropper father in the town of Schaal, AR. She grew up on the family farm in a three-room cabin with her seven brothers and sisters. The cabin had neither electricity nor indoor plumbing.

As a child, Dr. Elders worked in the fields to help support her family from June through Thanksgiving. School had to be fit in between work on the farm. Yet she skipped two grades and graduated as the valedictorian of her segregated high school when she was only 15.

Dr. Elders' mother never had the benefit of prenatal care. In fact, her children were delivered in her home without medical assistance.

One of Dr. Elders' earliest memories is of her young brother, crying with the pain of a ruptured appendix, being taken 10 miles on the back of a mule to the nearest doctor. Before entering college, Dr. Elders herself never saw a doctor—not for a physical exam, not for childhood vaccinations, not for treatment of any illness.

She understands the pain of those who have no access to health care because she has been there herself.

To be effective, a Surgeon General must have the strength and perseverance to fight for what is right.

Dr. Elders demonstrated the kind of character necessary to take on any job, no matter how difficult, when she rose from poverty to a career as a distinguished pediatric endocrinologist, and appointment as chief public health officer of the State of Arkansas.

Dr. Elders won a full-tuition scholarship to Philander Smith College in Little Rock.

Money was so scarce that her brothers and sisters worked in the fields to help her pay bus fare and buy her clothing. She graduated from college magna cum laude in 3 years. She joined the Army so that she could earn the right to GI bill assistance to finance her medical education.

She and her fellow African-American students at the Arkansas Medical School were forced to eat in a segregated section of the student cafeteria. Dr. Elders went on to an internship in pediatrics at the University of Minnesota and was invited back to the University of Arkansas Medical School to the prestigious position of chief resident in pediatrics.

After her internship, she was invited to stay on at the university as professor of pediatrics. In 1987, Governor Clinton named her to lead the Arkansas Department of Public Health.

To be effective, a Surgeon General must have a strong scientific background in order to fully understand the issues underlying difficult questions of health policy. Dr. Elders is a distinguished pediatric endocrinologist with 150 scientific papers to her credit who has spent most of her professional life in academic medicine.

Finally, to be effective, a Surgeon General should bring to the job a strong record of commitment and accomplishment in the field of public health. By that standard, Dr. Elders is one of the best qualified Surgeon Generals in the Nation's history. As director of the Arkansas Health Department, she guided one of the most effective and innovative programs in the Nation. Her peers—the chief health officers of the 50 States and the territories—selected her as the president of their organization, the Association of State and Territorial Health Officers.

Under Dr. Elders' leadership, the Arkansas Department of Health almost doubled the proportion of children receiving timely immunizations.

She established a program that has become a model for the Nation. She launched an assault on infant mortality that significantly increased the number of women receiving adequate prenatal care. She increased tenfold the number of poor children receiving comprehensive health screenings.

She expanded home care opportunities for senior citizens. She dramatically expanded early screening and detection services for cancer in women.

She fought for school-based clinics, because it was the only realistic way to reach children and get them the health services they need. She led a crusade against teenage pregnancy.

Dr. Elders is the right person at the right place at the right time to be Surgeon General. Yet she has been subjected to unremitting, unfounded, and unfair attacks on her character, her views, and her record. The Labor Committee has reviewed all of these allegations carefully during her confirmation proceedings.

Dr. Elders' confirmation has been plagued with delays from the onset. Her opponents have raised round after round of questions about her positions and her activities, and Dr. Elders has patiently answered all of them, and answered them effectively. After considering all of these issues, the Labor Committee recommended her confirmation by a vote of 13 to 4.

Unfortunately, this confirmation process has been filled with unfair distortions, misrepresentations, and unnecessary procedural delays. President Clinton announced Dr. Elders' nomination as Surgeon General on December 24—7 months ago. The issues have been exhaustively debated ever since, and I hope that the Senate will take final action before we adjourn for the August recess. As I stated last Friday in the Labor Committee, "The Senate owes Dr. Elders an apology, not a filibuster."

Last month, Senator KASSEBAUM and I postponed Dr. Elders' hearing for a week to allow the committee additional time to review the allegations that had been put forth concerning Dr. Elders' service on the board of a bank in Arkansas.

In addition, the FBI conducted an extensive investigation of this issue and has made a summary of the investigation available to all Senators.

The suggestion was made that the committee should hold a closed session on the nomination. But Dr. Elders insisted that her hearing be open to the public. She has nothing to hide. She wanted everyone to see that she has nothing to hide. And after the public hearing, it was clear to everyone that she has nothing to hide.

Even then, one Senator not on the committee employed arcane Senate procedural rules to delay the hearing, forcing Dr. Elders to wait 3 hours before we could proceed with her hearing.

During her hearing Dr. Elders eloquently answered every question fully, honestly, effectively—and repeatedly. When the hearing concluded, none of the Senators present had any further questions. But on the following Tuesday, 198 additional questions were submitted. I have never heard of so many written questions being submitted to a nominee in our committee before.

Even though many of the questions had already been raised and addressed during the hearing, Dr. Elders answered them fully. These questions were received by Dr. Elders on Tuesday, July 27, at noon and Dr. Elders had completed all 198 answers by Thursday, July 29, at 9 a.m., a full 24 hours before committee met to vote on her nomination.

Let me briefly state just a few of the allegations that have already been answered by Dr. Elders. I will certainly be prepared to discuss any other issue.

Dr. Elders has been questioned about her role on the board of the National Bank of Arkansas. The truth about this situation is that there was no suit by any government agency or regulator for negligence or malfeasance against Dr. Elders and the other directors; Dr. Elders and the other directors were defendants in a shareholder suit. Dr. Elders was never singled out for blame or responsibility in the lawsuit. The suit was brought by certain shareholders against the directors and the president in connection with a struggle for control of the bank.

Dr. Elders did receive a letter of reprimand from the Comptroller of the Currency. A letter was sent to every member of the board. A reprimand is only a warning and involves no penalties whatsoever. It is one of the lowest sanctions available to the Comptroller.

Most of the bank transactions cited by the Comptroller of the Currency were based on the work of a single bank officer acting improperly. As a director, Dr. Elders acted conscientiously but erroneously on the basis of incomplete and misleading information provided by that officer.

Dr. Elders has also been questioned about Social Security taxes owed for a home health aide for her husband's elderly mother. In fact, Dr. Elders' husband has power of attorney for his mother and exercises complete control over her finances. Dr. Elders has taken full responsibility for failing to pay the taxes and has paid them in full.

Dr. Elders has been questioned about possible conflicts of interest because she worked in an Arkansas nursing home while also serving as director of the public health department. In fact, Dr. Elders' work at the nursing home violated no Arkansas law. Nursing homes in Arkansas are regulated by a separate State agency, not the department of health. In addition, the nursing home was awarded no contracts or grants by the department of health.

Dr. Elders' judgment has also been questioned for her handling of defective condoms that were discovered in Arkansas. In fact, the condoms were distributed in over 25 States, but the Arkansas Department of Health was the only public health agency in the entire country to notify FDA of the defect. Dr. Elders' actions played a vital role in ensuring that a nationwide recall took place.

Dr. Elders decided not to issue a public statement about the recall based on her professional judgment and the unanimous advice of her department's top experts. They decided that the risks of people failing to use condoms far outweighed the risks associated with the defective condoms.

A letter from the Association of State and Territorial Health Officials supports Dr. Elders' decision. It notes that a public announcement of the breakage of a small number of defective condoms has the potential for "critical negative repercussions" including "unfounded skepticism about the effectiveness of condoms."

Next, Dr. Elders' salary as the director of the State Department of Health has been criticized. This issue has been discussed in Arkansas newspapers for years. Any suggestion that Dr. Elders has done anything wrong has been rejected. Her salary arrangement was approved by the Arkansas State government. It permitted her to retain her academic tenure while protecting her retirement investment, which began when she first joined the State government in the early 1960's.

This salary arrangement is not unique. Several other States, including Florida, Texas, and Washington, DC, have similar arrangements to encourage medical professionals to take positions in their departments of health.

Next, Dr. Elders has been questioned about double-dipping by taking vacation days from her job in Arkansas to serve as an intermittent consultant in the Federal Government while preparing for her Federal role. It is standard practice for Federal nominees to retain their jobs until their confirmation by the Senate.

The ethics officer in the Department of Health and Human Services, who served in the Reagan and Bush administrations, has written a letter stating that Dr. Elders was working in according with all relevant Federal laws and regulations.

It has been charged that Dr. Elders violated the Arkansas State political practices act, when she spoke to a prochoice rally in January 1992. In fact, a State investigation cleared her of any violation. When a request for a special prosecutor was made to force the prosecutor to pursue the charges anyway, the Arkansas Circuit Court dismissed the request for a special prosecutor, and an appeal was dismissed by the Supreme Court of Arkansas.

It is fair to say that the opponents of Dr. Elders have left no stone unturned in their effort to defeat her nomination. But Dr. Elders has come through this process stronger than ever. She has impressed the committee with her integrity, her forthrightness, and her extraordinary commitment to the public health.

Dr. Elders easily meets the high professional and ethical standards required of the Surgeon General. In fact, she surpasses them. She may be an unconventional Surgeon General. But she also has the potential to be a great Surgeon General. Many of us feel that she is just what the doctor ordered for this Nation at this time in our history, with all the problems we face in public health.

I urge the Senate to confirm her to the position of Surgeon General of the United States in the next several days.

Mr. President, I will look forward to debating these matters with other interested Members of the Senate. We have had a good chance to go through each and every one of these matters at very considerable detail during the course of the hearings. We believe that these issues ought to be put out on the record. Let the Members make a judgment and a decision on Dr. Elders.

As I mentioned, December 24, some 6 months ago, was the official announcement; July 1, the formal nomination received by the committee; the papers completed and distributed July 2; all the ethics review received a few days after. We scheduled a hearing for July 16 which was postponed at the request of the members of the committee so that additional information could be gathered.

Finally, on July 23, a hearing was held. July 27, the hearing record was closed. We left from the 23d to the 27th open, so that all the Members could ask for any additional information they wished.

We received 198 questions. All of those questions were responded to. We had the markup up on July 30. We had an opportunity to discuss any of those questions, the responses and an opportunity for full debate and discussion. The members of the committee who had submitted those questions had an opportunity to review those matters. We went forward with a vote, and we received strong bipartisan support for Dr. Elders.

All of us do not perhaps agree with every position that Dr. Elders might have taken on various public health issues. We may not agree with the exact manner in which she has characterized certain public health issues. But every fair-minded individual can agree that we do have in Dr. Elders a remarkable individual, highly qualified, highly compassionate, who will be able to talk frankly and effectively to a segment of our population in a way that can't be matched by any other leader, elected or appointed official.

Dr. Elders is absolutely, superbly qualified. We in the Senate, have an important responsibility to stand up and be counted.

I certainly urge that this body approve her overwhelmingly.

I have indicated to the leader that I know I speak for other Members of the Senate and for a number of other members of our committee when I say we are willing to remain here for any period of time—tonight, tomorrow, or whenever—to debate these issues fully and completely and to make the record. And we have every intention of doing so. I would certainly hope that we would have the opportunity to move to some resolution on this nomination and before the recess.

We are enormously grateful for the support we have received. This has been a bipartisan recommendation and tomorrow, during the course of the debate we will indicate various groups and organizations that support Dr. Elders. The PTA, not considered to be a radical organization; the American Medical Association, many of the other organizations and associations which generally have never been recognized as being on the cautious, nonpartisan, highly respected have spoken out strongly—more than 400 of them. The array of endorsements and extraordinary support for Dr. Elders is truly extraordinary. I hope and believe we are looking forward to prompt resolution of this nomination. Dr. Elders deserves it, and the Nation needs it.

ORDERS FOR WEDNESDAY, AUGUST 4, 1993

Mr. FORD. Madam President, on behalf of the majority leader, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 10 a.m., Wednesday, August 4; that following the prayer, the Journal of proceedings be deemed approved to date; that the time for the two leaders be reserved for their use later in the day; that immediately following the Chair's announcement, the Senate resume consideration of H.R. 2667, the emergency supplemental appropriations bill; that there be 1 hour for debate on the Harkin, and others, amendment No. 756, with the time equally divided and controlled in the usual form; that when all time is used or yielded back, the Senate vote on, or in relation to, the Harkin, and others, amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 10 A.M. TOMORROW

The PRESIDING OFFICER. Without objection, under the previous order the Senate stands in recess until 10 a.m. Wednesday, August 4, 1993.

Thereupon, the Senate, at 10:04 p.m. recessed until Wednesday, August 4, 1993.

CONFIRMATIONS

Executive Nominations Confirmed by the Senate August 3, 1993:

DEPARTMENT OF EDUCATION

THOMAS W. PAYZANT, OF CALIFORNIA, TO BE ASSISTANT SECRETARY FOR ELEMENTARY AND SECONDARY EDUCATION, DEPARTMENT OF EDUCATION.

NATIONAL FOUNDATION OF THE ARTS AND THE HUMANITIES

SHELDON HACKNEY, OF PENNSYLVANIA, TO BE CHAIRPERSON OF THE NATIONAL ENDOWMENT FOR THE HUMANITIES FOR A TERM OF 4 YEARS.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

SUPREME COURT OF THE UNITED STATES

RUTH BADER GINSBURG, OF NEW YORK, TO BE AN ASSOCIATE JUSTICE OF THE SUPREME COURT OF THE UNITED STATES.

EXTENSIONS OF REMARKS

A POSITIVE PRESCRIPTION

HON. DAN MILLER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 3, 1993

Mr. MILLER of Florida. Mr. Speaker, prior to coming to Congress this year, I served on the board of directors of Manatee Memorial Hospital in my district. Through that association, I have not only been able to learn a great deal about health care delivery, but I have also had the benefit of contact with many individuals with direct experience in the health care field.

One of those is Dr. George Thomas who is the newly elected president of the American Association of Physicians from India. He was also the chief of staff of Manatee Memorial Hospital. Dr. Thomas has outlined, in a recent article, the problems which physicians from international schools encounter with the medical system in the United States.

Mr. Speaker, I insert the attached article in the CONGRESSIONAL RECORD. I think any of my colleagues with a direct interest in health care will find his comments of interest.

[From India Today, Mar. 15, 1993]

A POSITIVE PRESCRIPTION

(By Dr. George Thomas)

The first American Nobel Prize winner in medicine was a graduate of a foreign medical school and 18 more International Medical Graduates (IMGs) have followed in his footsteps. Today, one out of every five practising physicians in this country is an IMG. Yet it is paradoxical that the system in the US still retains elements contrary to their best interests. This also applies to the over 25,000 Indian American physicians actively engaged in health care delivery in the US.

Differences in licensing by reciprocity in the various states remain a major obstacle. As documented by the US General Accounting Office (GAO), the investigative arm of the US Congress, most states have different endorsement requirements for IMGs and US medical graduates. After having fulfilled all licensing requirements and having obtained speciality certification, IMGs are still required to meet unnecessary additional scrutiny. Many states demand longer residency training for IMGs than domestic medical graduates. Some states have instituted a requirement for the English examination only for IMGs, even after they have successfully practised medicine in another state.

It is critical for physicians in the US to have interstate mobility, for the purpose of education, training, post graduate fellowship, research needs and other health care opportunities. IMGs are subjected to the indignity and inconvenience of the reversification process that US medical graduates do not have to experience. They are faced with the problem of near-impossible old document retrievals, extensive delays, and limited chances for an adequate hearing in applying for licenses by reciprocity. The realisation of a national repository for medical graduate records as recommended by the GAO is a positive step in eliminating this problem.

There are flagrant examples of inequities in the filling of residency positions within various institutions. There are repeated occurrences of residency positions left unstaffed even though qualified IMGs have applied. The IMG movement must be encouraged by the provisions of the Health Professions Reauthorization Bill, which recently has become law. It seeks to establish a national advisory council on medical licensure with IMG representation, and denies Federal funding to residency programmes which discriminate against a person on the grounds of the country of medical training.

Other areas which disturb IMGs concern staff appointments and hospital privileges. Many hospital-based appointments bear solid testimony to this allegation. IMGs are often subject to the "glass ceiling". This invisible barrier keeps them from rising to the top despite exemplary qualifications and a commendable performance.

For the most part Indian Americans have been welcomed and are individually successful in many communities across the nation. In spite of this progress and individual success, are we able to be all that we can be in this land of opportunity? As a community we have much to accomplish. There is a real need for more active participation in the civic life of the community where we live and serve. Individual actions need to assume a group perspective to have the maximum influence for good within the community. We bring special gifts as a dedicated and compassionate people and have much to offer our neighbours.

The major challenge facing all of us is: are we breaking down barriers to understanding, or are we erecting new ones? Perhaps there is no clearcut answer. It is very apparent that apathy is rampant in terms of group activity for the community.

Yes, all these challenges do exist. The responsibility is to meet the challenges. Mutual support is the key to finding solutions to effect positive change. Now is the opportunity and time for Indian American physicians to demonstrate their unique quality. It is also a challenge to become fully integrated in the American medical system and in the community.

INTRODUCTION OF THE MIDLIFE WOMEN'S HEALTH RESEARCH CENTERS ACT

HON. MARILYN LLOYD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 3, 1993

Mrs. LLOYD. Mr. Speaker, today I am reintroducing, with Representatives PELOSI, COLLINS, MALONEY, MEEK, E.B. JOHNSON, WOOLSEY, and SCHROEDER, the Midlife Women's Health Research Centers Act. This legislation would establish five regional centers aimed at improving medical care, education, and research on menopause and other health concerns specific to midlife and older women.

Menopause marks the end of reproductive fertility for women and usually occurs around age 50. Every woman will experience menopause if she lives long enough. Despite this fact, and considering that menopause may play a significant role in women's susceptibility to disease in later life, surprisingly little attention and few resources have been devoted to understanding its health effects on women. As a result, women at menopause find themselves asking questions for which there are no decisive answers. This leads to great uncertainty about the most appropriate treatments for menopausal symptoms and preventive measures for disease in later life. The idea for this legislation came from a hearing I chaired through the Select Committee on Aging's Subcommittee on Housing and Consumer Interests, entitled, "Women at Midlife: Consumers of Second-Rate Health Care?" which focused on the lack of quality information and medical care for women's specific health concerns at midlife.

The Women's Health Research Centers Act will work to fill that void through the expansion or development of five regional centers to conduct research on menopause and menopausal health conditions, develop model programs to improve education and information dissemination, and improve the direct medical care provided to midlife and older women.

The research to be conducted at the centers will include both clinical and basic research regarding the natural history of menopause, and the cause, diagnosis, early detection, prevention, control, and treatment of menopausal health conditions.

This research will supplement rather than duplicate the design of the Women's Health Study at the National Institutes of Health, by studying both menopausal women—women whose menses have stopped for more than a year—and perimenopausal women—women passing from a reproductive to a nonreproductive state. The NIH study includes only menopausal women. Medical researchers believe that profound metabolic alterations in the perimenopause occur in different biological systems in the body and may have a profound significance in the health of old women. These include the skeletal, central nervous, urogenital, and cardiovascular systems. Thus an assessment of perimenopausal women will greatly add to our understanding of menopause and its significance.

Women who have experienced surgical menopause through the removal of the ovaries during hysterectomy will also be included. After caesarean section, hysterectomy is the most commonly performed procedure in the United States. While these women are at increased risk of osteoporosis and coronary heart disease, more needs to be known about the long-term effects of both estrogen depletion and replacement. This issue is also pertinent to women experiencing natural menopause.

Other priorities established in the bill include research on both hormonal and nonhormonal

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

treatments of symptoms and menopausal health conditions, and the relationship between such conditions as cardiovascular disease, osteoporosis, bone fractures, bladder conditions and breast and uterine cancers. The research also seeks to understand the menopause experience among various socioeconomic groups, ethnic groups and racial groups.

The Women's Midlife Health Research Act's second aim is also to enhance the knowledge and training of physicians and other health care professionals. Due to the dearth of knowledge on menopause and menopausal health conditions, there are discrepancies regarding appropriate treatment of menopausal symptoms and preventive measures for disease in later life. The bill calls on the NIH and the Agency for Health Care Policy and Research to utilize the research knowledge gained at these regional centers and at the NIH and establish protocols on the prevention and treatment of menopause and menopausal health conditions.

Other provisions contained within the bill are the establishment of continuing education and training programs for physicians and other health care professionals. Information dissemination and outreach to the medical community and to women would also be a priority of the centers.

An important goal of the Women's Midlife Health Research Act is that it strives to improve the delivery of health care and information to women at midlife. Currently, many women at midlife do not know where to turn for information related to menopause. These model centers would have the advantage of offering comprehensive, coordinated care to women with an emphasis on wellness and disease prevention. All medical specialties, including gynecologists, endocrinologists, nutritionists, and psychologists, would be offered under one roof. In addition to clinical care, educational programs, health counseling, screening, and diagnostic services would also be included. Because the care is centralized, it can be more effective by offering group programs and education campaigns.

Why is this issue so critical? The demographics of our Nation provide part of the answer. Older women are the fastest growing segment of our population. The average life expectancy for a woman is nearly 80 years of age. Almost three-quarters of our elderly population over age 85 are women. During the next 20 years, over 21 million women will celebrate their 50th birthdays. These demographics will dictate the future of health care delivery in our country.

Consider the costs of ignoring preventive health for women on diseases associated with postmenopausal women. Heart disease, the leading cause of death for women over age 50 costs our health care system more than $9 billion per year. More than one-third of hospital stays for women this age are attributed to cardiovascular disease. The cost to women is premature death and disability.

Osteoporosis affects more than 20 million women per year and costs our society $10 billion in medical bills. The cost to women is frailty, dependence, social isolation, and even death.

The Midlife Women's Health Research Act would address the critical lack of knowledge we currently have on menopause and related health conditions and improve the way health care is delivered to midlife and older women. I urge my colleagues to cosponsor and support this important piece of legislation.

TRIBUTE TO ST. PAUL'S LUTHERAN CHURCH

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 3, 1993

Mr. TRAFICANT. Mr. Speaker, I rise today to honor one of the landmarks of my district: St. Paul's Lutheran Church. St. Paul's, a fixture in the Warren community, is celebrating its 125th anniversary this year, commemorating a long and praiseworthy tradition of serving the community and providing spiritual guidance to any and all.

Since 1868, the church has been tireless in its efforts to improve the welfare of those in the community. The years under current Pastor H. Robert Jewell, have been exceptional as the parish has continued its tradition of service in a variety of programs. Further, the church has provided members of the Warren community with a place to go to seek refuge from modern day life and receive spiritual guidance and enlightenment.

While the church has gone through a variety of changes through its 125-year history, its commitment to improving the parish has remained constant. Initially founded as a church for the German-speaking people of Warren, irrespective of their religious beliefs, the church has grown to become a center for the Lutheran following in Ohio. Over its history, the church has gone through many changes. The location of the building has changed, the name has been altered, and even the language spoken at its services has been switched from German to English. Some things, however, have remained the same. St. Paul's commitment to the community and to glorifying the name of the Lord have been central to the church since its inception and have not changed in the least. As a result, the church continues to be a focal point of community activity and good works.

By committing themselves to these noble pursuits, the church has earned the admiration of the community and has garnered a host of supporters wishing them another 125 years of success. I would be honored to count myself among these well-wishers.

TRIBUTE TO DONALD AND EDNA HATFIELD

HON. DAVE CAMP

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 3, 1993

Mr. CAMP. Mr. Speaker, it is with great pleasure that I rise today to recognize two outstanding individuals, Donald and Edna Hatfield, of Remus, MI. On September 3, 1993, Edna and Donald will have the honor of being inducted into the Michigan Farmers Hall of Fame. They have been cash crop and dairy farmers for 60 years, and are still active today.

Hatfield Farms was established in 1878 by Donald's great grandfather George Hatfield. Donald's grandfather, Justin, began raising and breeding Jersey heifers in 1912, and for the last 80 years their bulls have been sold to the distinguished Michigan Animal Breeders Cooperative. The farm has proudly been passed from generation to generation, expanding to 720 acres. Donald and Edna now share co-ownership with two of their sons, Dennis and Larry.

Donald and Edna's dairy operation has expanded from a few dozen milking cows to the present total of over 125. Milkings have increased from two per day to three with production rising each year. In the Spring of 1992, the stanchion milking operation was replaced by a double six milking parlor. This parlor has state-of-the-art equipment with the capabilities of expanding to a double 8 as the herd grows. In addition, a pole barn was built in the 1970's to house the dairy herd, freeing up the ancestral barn for housing young stock and calving pens.

The Hatfield's and two of their sons, Dennis and Larry, have worked closely with the Mecosta County Extension Agents in developing leadership in No-Till farming for corn and alfalfa crops. Erosion prevention techniques are also used to help save topsoil, and the family may boast being the first to plant asparagus for cannery sales in Mecosta County.

Edna and Donald have honorably raised a family of three daughters and three sons, and also enjoy foster children. The six children all have attended college and earned either 4 year degrees or associate degrees in a variety of fields. Donald and Edna have been very active on school boards, 4–H groups, and Farm Bureau, and have received many awards and their recognition is commendable. Finally, they stress their love for each, religion, and their family as being very important reasons for their success, and the love of their small community is evident in the support they give it.

Mr. Speaker, I know you will join me in congratulating Edna and Donald for the years of hard work and dedication that have merited this award. On the very special occasion of their induction into the Michigan Farmer's Hall of Fame, I would like to bid them congratulations, and wish them success in future endeavors.

INTERSTATE WASTE LEGISLATION

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 3, 1993

Mr. CLINGER. Mr. Speaker, my State has a big, big problem. We are not alone with this problem. There are other States that have this same problem. We are worried and scared, and yet there isn't anything that we can do about it.

The problem we have is trash. But it is not our trash. It is the trash from New York, New Jersey, and now even Canada that is flowing now into our State and filling up our landfills. Just last year, Pennsylvania imported an all-time high of 3.8 million tons of garbage—up from 3 million tons in the previous year. This is more than a 25-percent increase in just 1 year.

Pennsylvania is the largest net importer of municipal solid waste in the country. The bottom line is that this simply can not continue. It is not fair.

What is so upsetting about this situation is that our State, Pennsylvania, is being very responsible in handling its own garbage. Pennsylvania has enacted a State law which requires communities to plan and dispose of their own trash. We now have close to 500 communities that have implemented curbside recycling programs. In addition, we have increased our capacity by building new landfills. The amount we export outside of the State is less than 7 percent of the waste generated in the State.

So what do we get for being so responsible? Nothing in return but other States' trash. In fact, in some respects we are worse off. The landfill space planned for handling our own trash is being eaten up and there is no means to control it. The health and safety of our citizens are endangered with a proliferation of trash trucks on our highways.

In my own district, which is a large rural district spanning several regions of Pennsylvania, we already have plenty of landfills. During the last year, we have had staggering increases of out-of-state waste coming into our landfills.

Rural America is the target for every type of waste facility you can think of, and I would anticipate with the amount of waste coming in from bordering States there will be an effort mounted to build more landfills in my district. Once the landfills are filled up, everyone assumes that new ones can be built. But I can tell you that citizens are no longer taking this sitting down.

I am an original cosponsor of the Interstate Transportation of Municipal Waste Act of 1993 that is being introduced today by Congressman SHARP, along with my colleagues from Pennsylvania, Ohio, and Indiana. This legislation would provide Governors the authority to limit out-of-state waste. We desperately need a mechanism to control this waste flow, and I support that effort.

However, while fully supporting this need to control waste, I would like to indicate that I do have some concerns about the bill; namely, the lack of local government input. I am concerned that the bill provides control only to Governors and does not allow for input or control by local jurisdictions. This is an issue which needs to be addressed in the legislation, and I fully intend to work with my Pennsylvania colleagues on this issue.

Mr. Speaker, I would just ask that we seriously consider and pass interstate waste legislation this session. Frustrated citizens are beating the drums loudly. We need to listen and act accordingly. We need to make sure that we reduce the amount of waste we generate, recycle what we can, and then dispose of what is left over in a more equitable manner.

DOCTORS PROTECT $1 MILLION BY TURNING DOWN EMERGENCY ROOM PATIENTS

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 3, 1993

Mr. STARK. Mr. Speaker, managed care can mean managing not to care for patients in order to make more money for doctors.

Following is a memo from Managed Care Systems, Inc. of Sacramento, CA. This company manages the bills and paperwork for Sacramento Physicians Medical Group Network, Inc. [SPN].

The memo reminds SPN doctors that if they "just say no" to emergency room treatment, they can divvy up $1 million among themselves. All they have to do is turn down, over the phone, sight unseen, emergency room requests for authorization to treat their plan's patients.

Mr. Speaker, Americans are too quick to use emergency rooms and many of our emergency rooms are clogged with people who should instead try to use their primary care doctors during regular hours. But look at this memo: "make money, doctor, deny service." In most cases, no harm will be done—but the pressure by the Network on the emergency room doctors will push the whole 'system' toward underservice.

Someday, sometime, somewhere, a person in pain, a person who is seriously ill, will be turned away—and die.

Count on it.

Those who would build the brave new world of health reform on managed care need to explain how this kind of underservice incentive can be controlled.

EMERGENCY TREATMENT AUTHORIZATION

SPN physicians are frequently contacted by hospital emergency departments (E.D.) seeking "authorization" for a patient that has presented to the E.D. for evaluation and/or treatment. The exact definition of a medical emergency varies by HMO, but all have certain things in common. The presenting condition must be threatening to life or limb, likely to result in permanent disability, or include severe pain, and the appearance of the illness or injury must be unforseen.

SPN recommends that, when you take a call from an emergency department requesting authorization to see one of your patients (or one for whom you are on call), and you are concerned that the condition does not meet the above definition, give the following response:

"Authorization is not being granted for the visit. The claim will be reviewed later, and will be paid if retrospective analysis shows that the care was for a bona fide emergency."

With this response, the E.D. is required by law to evaluate the patient and treat if medically indicated. SPN will pay for care given if a genuine emergency existed, but will be able to deny the claim if it was for a non-emergency situation. The emergency department will ask the patient to sign a waiver informing the patient that he/she will be financially responsible if upon review a genuine emergency was not found to have existed.

A $1,000,000 of your SPN dollars a year are at stake—thank you for your cooperation.

INTRODUCTION OF ASYLUM LEGISLATION

HON. JACK BROOKS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 3, 1993

Mr. BROOKS. Mr. Speaker, today I am introducing legislation recently transmitted to the Congress by President Clinton, titled the "Expedited Exclusion and Alien Smuggling Enhanced Penalties Act of 1993." I applaud President Clinton for his quick and decisive action as reflected in this legislative proposal to address a growing immigration problem.

Our shores can no longer be an appropriate landing point for all the ships or planes carrying the people of the world simply seeking a better economic life for themselves. The real problem leading to the proliferation of bogus asylum claims has not been the system's fairness—which has been left intact by the legislation—but its delays. The President's proposal short-circuits undue delay by providing that aliens will receive hearings immediately—at the airport or seaport at which they enter the United States. If their asylum claim is not credible, they will be returned—immediately.

This workable proposal will return our asylum system to its original intent. I intend to assist in every way for the earliest possible enactment of the President's legislation and to work with him as he develops other proposals to further the integrity of our border.

INTRODUCTION OF LEGISLATION REGARDING EMPLOYMENT DISCRIMINATION

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 3, 1993

Mrs. SCHROEDER. Mr. Speaker, today, along with Representative OLYMPIA SNOWE and Delegate ELEANOR HOLMES NORTON, I am introducing legislation to reform the way Congress handles employment discrimination complaints. The goal of our legislation is to ensure that congressional employees are fully protected under civil rights laws by a process that is both fair and impartial and meets constitutional muster.

A recent GAO report requested by the Congressional Caucus for Women's Issues found that House employees are simply not using the Office of Fair Employment Practices [OFEP], which was established nearly 5 years ago to handle discrimination complaints. We believe one of the reasons is that congressional employees do not believe they will receive a fair hearing.

Our legislation proposes creating an independent Office of Congressional Compliance that would subsume both the existing House and Senate Offices of Fair Employment Practices. This Office would be governed by a Board of Directors chosen on the basis of their expertise in employment law. None of the Board members could be Members of Congress or Senators. Congressional employees who have been the victims of employment discrimination would file a complaint with the new

Office and would go through a period of counseling and mediation, followed by a hearing conducted by members of the Board of Directors.

Decisions by the hearing board could be appealed to the U.S. Court of Appeals for the Federal Circuit—a right currently granted to Senate, but not House, employees. To ensure that employees will have a meaningful right to appeal, the legislation also provides that if judicial review is found to be unconstitutional, employees would still have the right to appeal to the General Accounting Office's Personnel Appeals Board, which since 1980 has been charged with hearing appeals of discrimination complaints brought by GAO employees.

The bill also requires the Office to provide active education and outreach to Members and their staff and to provide statistics about the number and types that are being filed. However, the Office would maintain strict confidentiality regarding individual names and cases.

The bill immediately makes existing civil rights laws—such as title VII of the 1964 Civil Rights Act and the Americans With Disabilities Act—as well as the Fair Labor Standards Act and the Family and Medical Leave Act, applicable to both the House and Senate, with enforcement through the new Office. In addition, the Board of Directors of the Office would be charged with reviewing other laws—either those that already exist or that Congress might pass in the future—to determine whether Congress should be covered. Congress would be required to vote within 45 days on the Board's recommendations.

Our legislation will ensure that Congress abides by the same laws as the private sector, while at the same time recognizing Congress' unique congressional status. It is time to restore the faith of the American public and of our own employees in Congress. I urge my colleagues to cosponsor this important legislation.

TRIBUTE TO PAUL HENRY

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 3, 1993

Mr. TRAFICANT. Mr. Speaker, I rise today to pay tribute to our colleague, Paul Henry. Paul came to Washington with me in 1985 as a freshman from the Midwest. I was a political novice having only served as a county sheriff. Paul served in both the Michigan State House and Senate and I respected and envied his experience.

Mr. Speaker, Paul Henry served his constituents with their true interests in mind. During the past 10 years, Paul has served the people of the Grand Rapids area with distinction. A member on the Education and Labor Committee, Paul never played the partisan politics game. He always voted with his people in mind; this was a quality of his that I always admired.

Mr. Speaker, Paul Henry and I did not always see eye to eye philosophically, but we were both devoted to our country. His death is a tragic loss to the progress of America. The people of Grand Rapids, MI, have lost a true friend and ally. I cannot imagine replacing someone like Paul Henry. Who could take his place? Fighting cancer to the very end, Paul showed the tough, fighting spirit that the people of Michigan are well known for. His strength was his faith in God, and his faith in himself.

Mr. Speaker, I know I join my colleagues from both sides of the aisle in passing our condolences along to the Henry family. I want them to know that they are in my prayers. Mr. Henry was a fine man without equal. I know that he is without pain and in the hands of God.

UNDERSTANDING THE BOSNIAN CONFLICT

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 3, 1993

Mr. CRANE. Mr. Speaker, recent headlines reveal that the administration is considering United States air strikes against Serb Militia Forces in Bosnia. As the United States contemplates a more active role in the war-torn region of former Yugoslavia, it is important that the conflict be understood in the context of international law. To my colleagues, I offer the following legal treatise by Dr. Edward McWhinney, a Canadian barrister and professor of international law, who presents a comprehensive interpretation of the legal issues arising from the civil war in former Yugoslavia. In addition to the aforementioned credentials, Dr. McWhinney has authored a score of books and is a member of the editorial advisory committee of the Encyclopedia Britannica. Being thus qualified, I am confident you will find his remarks valuable to the discussion of expanding the United States role in securing a lasting peace in Bosnia and Herzegovina.

THE INTERNATIONAL LAW OF STATE SUCCESSION AS APPLIED TO YUGOSLAVIA, WITH PARTICULAR REFERENCE TO BOSNIA AND HERZEGOVINA

(By Edward McWhinney)

An earlier Legal Opinion that I wrote on the Yugoslav break-up, "International Law and the Current Conflict in Bosnia-Herzegovina", dated 30 July 1992, was entered into the U.S. Congressional Record of 12 August 1992 (E2542/2543: Congress of the United States) by Congressman Philip Crane. That legal opinion was written before the London Conference on the former Yugoslavia, and before the Vance-Owen Peace Plan and the collapse of related United Nations-based initiatives for a peaceful resolution of State Succession problems of the former Yugoslavia.

In essence, the Legal Opinion of 30 July 1992 suggested that, in contradistinction to many other multi-ethnic states of the contemporary era that were put together, variously, by political-military conquest or by post-Colonial succession from a former Imperial power, Yugoslavia had its juridical source (Grundnorm in Kelsén's term) in an international contract between states—between the more important of the Principal Allied and Associated Powers of World War I, (the United States, the then British Empire, France, Italy, and Japan), the then sovereign state of Serbia, and "the Serb, Croat, and Slovene peoples of the former Austro-Hungarian Monarchy".

This, the Serb-Croat-Slovene Treaty, or Treaty of St. Germain-en-Laye of 10 September 1919, has its own autonomous, self-contained disputes-settlement mechanism, insofar as the Compulsory Jurisdiction of the International Court of Justice (formerly Permanent Court of International Justice) may be successfully invoked, unilaterally, by any one of the original signatories, if necessary without the consent of the respondent state. Within the then British Empire delegation to the St. Germain-en-Laye Treaty negotiations, Canada took part in pursuance of its then novel assertion of an International Law sovereignty in its own right. Canada was a signatory to the resultant treaty and must be considered, legally, as full party to it and to the legal rights and duties flowing from it, including the right unilaterally to invoke the Compulsory Jurisdiction of the International Court.

The failure of the various United Nations-based attempts at peaceful resolution of the conflict in Bosnia-Herzegovina must be attributed, in some measure, to failure to pay due heed to well-established and politically well-tested International Law norms as to recognition of new states resulting from civil wars or other break-up of existing multi-ethnic states.

1. In particular, the diplomatic recognition extended by the German Foreign Ministry to Slovenia and Croatia in December, 1991, before their territorial frontiers (including Irredentist claims on neighbouring regions) had been clearly defined or generally accepted, would appear to fall in the category of legally inadmissible "premature" recognitions identified by the then Professor (and later Judge of the International Court of Justice) Hersch Lauterpacht in the Spanish Civil War context of the late 1930s. The differences among the leading Western European states on this point, with Germany, Austria, and Hungary on the one side, and France and Great Britain on the other, mirror their political conflicts of interests in the Balkans, pre-1914 and thereafter.

2. Within the United Nations, the same legal ambivalence or equivocation can be seen in the approach to credentials and the continuity of State membership, and to admission of new States. The political justification for accepting Russia's claims to automatic continuance of the former Soviet Union's membership in the United Nations and the seat, as Permanent Member, in the Security Council, and yet, at the same time, for rejecting the rump Federal Republic of Yugoslavia's claims to be successor to the Socialist Federal Republic of Yugoslavia, (See Security Council Resolution 757, 30 May 1992), may have been clear enough to U.N. members deciding on the issue. But the legal grounds for making such a distinction and differentiation have not been persuasively established.

3. While the U.N. General Assembly admission of Slovenia and of Croatia, on 22 May 1992, (General Assembly Resolutions 46/236, 46/238), may flow, logically enough, from the political faits accomplis of the earlier recognition of those two breakaway states by other European states, the admission on the same day of the republic of Bosnia and Herzegovina does not (General Assembly Resolution 46/237). Unlike Slovenia and Croatia which, at least as to their original administrative-regional boundaries within the old Austro-Hungarian Empire, could claim a certain historical identity and continuing

legal personality, Bosnia-Herzegovina could not. The Congress of Berlin of June-July 1878 and the resultant Treaty of Berlin had provided for the occupation and administration of the then Turkish provinces of Bosnia and Herzegovina by Austria-Hungary (Article 25); but it was not until 1908 that Austria-Hungary, seeking to counter Serbian pressures for a larger union of south Slavic states under its own authority, had formally annexed Bosnia-Herzegovina, with the annexation being recognized by all the European powers without a fresh Congress in follow-up to the original Berlin Congress.

The decision by the U.N. General Assembly to admit Bosnia-Herzegovina to membership would appear to have been made for political reasons, without regard to the legal criteria for membership spelled out in Chapter II (membership) of the U.N. Charter and in the International Court jurisprudence (ICJ Reports 1948, p. 57; ICJ Reports 1950, p. 4) on the general issue, and without prior study, in depth, of the underlying plural, ethno-cultural realities in the region. By the same token, the Vance-Owen Peace Plan, with its proposal to divide Bosnia-Herzegovina into ten separate, widely dispersed territorial units, based upon ethnic-religious classifications and often without common frontiers between the same ethnic communities, offered something that would have been completely sui generis in comparative, federal constitutional law terms and that all the United Nations' own experience with complex, plural-constitutional solutions for multi-ethnic societies, suggested would be bound to fail. Neither of the Plan's two Western co-authors had had any direct personal knowledge or experience in constitution-making for plural societies, and it is the more surprising, therefore, that, right from the outset, they eliminated, without argument, alternative legal solutions of the nature, for example, of a territorial partition of the Bosnia-Herzegovina entity among its three main constituent ethnic communities, accompanied or preceded by a U.N. supervised voluntary relocation and transfer of civil populations.

With the failure of the Vance-Owen Peace Plan, and the obvious unwillingness of the main outside powers to commit themselves to the massive-scale military-logistical support necessary for any imposed U.N. political solution not having the endorsement of the main local protagonists, the search for alternative, more moderate solutions not involving recourse to armed force and proceeding upon the consent of the main local parties—Serbia-Montenegro, Croatia, and the Muslim community in Bosnia-Herzegovina—becomes paramount. This points, logically and inevitably, to third party settlement procedures—whether involving the International Court of Justice in its Compulsory Jurisdiction, under the terms of the Treaty of St. Germain-en-Laye of 1919, as already referred to; or by special agreement or compromise between the parties to that end, or even by Advisory Opinion reference from the U.N. General Assembly or Security Council. An alternative mode of third party settlement would be recourse to international arbitration, either under the aegis of the Permanent Court of Arbitration or else through a special, ad hoc arbitral tribunal established for that purpose by the parties themselves. In either case, a principal function of the tribunal finally chosen would be to define and delimit territorial frontiers between the local parties, with those historical demarcations made under the Treaty of St. Germain-en-Laye being taken as the authoritative starting point, and with the tribunal relating its conclusions and recommendations as to territorial boundaries to the only two available political-legal options—a plural, federal constitutional system for a multi-ethnic state of Bosnia-Herzegovina; or else division and partition of Bosnia-Herzegovina into the three autonomous units—Serbian-Mintenegran, Croatian, and Muslim—and their assimilation and integration, if so consented to by the local populations concerned, into existing neighboring, sovereign independent states. It is to be noted that both of the two alternative modes of third party settlement would necessarily involve participation by the three local parties in the actual membership of the tribunals concerned, quite apart from the actual processes before those tribunals.

TRIBUTE TO CARLETON AND MILDRED HATFIELD

HON. DAVE CAMP

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 3, 1993

Mr. CAMP. Mr. Speaker, it is with great pleasure that I rise today to recognize two outstanding individuals, Carleton and Mildred Hatfield, of Remus, MI. On September 3, 1993, Mildred and Carleton will have the honor of being inducted into the Michigan Farmers Hall of Fame. This special honor is in recognition of their work as cash crop and dairy farmers for over 50 rewarding years.

The story of Hatfield Farms proudly began back in 1878 when Carleton's grandfather, George E. Hatfield, brought his family to Mecosta County and settled on the 160-acre site which is Mildred and Carleton's current home. Through hard work and strong family support, they expanded their farm to 700 acres. For over 50 years they endured the forces of nature. Through it all, hard work and patience prevailed, and Carleton and Mildred's efforts are truly a success story. Mildred and Carleton have been a model of tenacity and values to their family and community. Laboring long hours, they worked the soil to reap many bountiful harvests, and contributed immeasurably to those lives they touched—whether through their work on the farm or community service.

Mildred and Carleton proudly boast a daughter and 2 sons, which have given them 12 grandchildren. One son, Donald, and two of Donald's sons continue the dairy operation today. Their other son, Robert, is on the faculty at Michigan State University, and their daughter, Lucille, retired in June after more than 30 years as a home economics teacher.

Mr. Speaker, I know you will join me in congratulating Mildred and Carleton for the years of hard work and dedication that have merited this award. On the very special occasion of their induction into the Michigan Farmers Hall of Fame, I would like to bid them and their family congratulations, and wish them success in future endeavors.

HOW WE'RE WINNING THE WAR ON DRUGS

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 3, 1993

Mr. GALLEGLY. Mr. Speaker, during the past 10 years or so, we have seen a major shift in public attitudes the use of illegal drugs. One of the major reasons, I believe, has been the emphasis placed on educating our young people on the dangers of using these substances.

One of the best programs, developed by the Los Angeles Police Department and now used around the country, is the DARE Program. DARE stands for Drug Abuse Resistance Education, and it helps elementary school students learn how bad drugs are, and how they can just say no.

As part of the program, students are asked to write an essay about what they have learned. I would like to share with the other Members of this House the essay of one of my young constituents, Rachel Gonzales of Casitas Springs, CA.

Rachel is a bright young girl who was the student of the year at Sheridan Way Elementary School in Ventura. Rachel wants to be a veterinarian—or maybe President of the United States. I know she has a bright future at whatever field she finally decides to pursue, and after reading this essay, I am confident she will not use drugs.

Mr. Speaker, here is what Rachel wrote:

WHAT I LEARNED IN D.A.R.E AND HOW I USE IT

(By Rachel Gonzales)

I learned that a drug is a substance other than food or drink. Different people use drugs. The doctor gives you drugs, but those kinds of drugs help you get better if you are sick. You should not abuse drugs, even if they help you get better.

Here are some examples of drug abuse: A person has a stomachache and he goes to the doctor. The doctor gives him some medicine and when he got home he reads what it says. "Two teaspoons a day". If he follows directions he'll probably be better in five to six days, but he goes and drinks it all thinking that he'll be better by tomorrow.

A girl is at her friend's house and she gets a headache. She tells her friend, and her friend goes into the bathroom and finds something her mother uses for her headaches, which was prescribed for her mother. She gives her friend the medicine. Her friend takes it and uses it. The first person was using drug abuse by drinking all of the medicine when it said take two teaspoons a day! The second person was abusing drugs by taking another person's medicine. I am never going to use drugs, unless a doctor prescribed it for me! I would never be a person to do drug abuse.

I also learned in D.A.R.E. that a gang is a group of people who break the law. Gangs can be of any race or age. Gangs just make you feel like they're going to save you if you get shot or something like that happens to you. Gangs make you feel that your family doesn't love you. They really just think you're stupid. Gang members have very low self-esteem. They are chickens. They are chickens because they are always ganging up on people instead of fighting one on one, but they shouldn't fight anyway. I will never be in a gang because gangs just fight and kill people.

I learned that the media is all newspapers, radios, t.v.'s, and billboards. The six advertising techniques are the bandwagon approach, the snob appeal, personal testimony, sex appeal, having fun, and comparison. You should never buy cigarettes because they have carbon monoxide in them. Carbon monoxide comes from the exhaust of cars. I also learned to do the alternative. That means that if someone wants you to do something that you don't want to do; that you shouldn't do; do something else. Unless of course your parents tell you to do something like clean your room. A definition of alternative is different choices on what to do in a bad situation.

I also learned about my rights. Some of my rights are that I have the right to say no, a right to be heard and to listen, I have a right to learn about myself, and a right to be safe.

In my D.A.R.E. class our D.A.R.E. officer taught us about consequences. There are two kinds of consequences, good kinds and bad kinds. A good consequence is like doing your chores and having your friend spend the night. A bad consequence is like not doing your homework and getting grounded.

You should always have high self-esteem. One way of raising your self-esteem is by giving compliments. You should give compliments to people, like your family or relatives, and to yourself.

There are eight ways to say no. Number one is saying "no thanks". Number two is giving a reason or excuse. Number three is broken record or saying no as many times as necessary. Number four is walking away. Number five is changing the subject. Number six is avoid the situation. Number seven is the cold shoulder and number eight is strength in numbers.

Our D.A.R.E. officer talked to us about pressure and peer pressure. Pressure is like when's person pushes you to do something. Peer pressure is almost the same as regular pressure, but peer pressure is done by kids the same age as you or near your age.

I learned about stress and stressors. A definition of stress is any strain pressure, or excitement felt about a situation or event. Stressors are almost the same thing as stress, but the definition of stressors is situation or events that produce stress. You should never let stress take over your body if someone asks you to drink some beer or try a cigarette.

There is a cartoon in my D.A.R.E. book and it shows a fish giving another fish named Leonard stress. I feel sorry for Leonard because he has all that stress on top of him, that shouldn't happen to him or anybody else.

You should have a support system. A support system is a group of people working together to help one another. Some of most people's support systems are family, relatives, friends, and teachers. There is one more kind of support system, that is a gang. If a person has a gang for it's support system the other stuff dies away.

The way I use what I learned in D.A.R.E. is that I will never use drugs a gang member gives me, I would only use stuff that was prescribed for me by a doctor. I will try to help gang members, (if I know any) to get out of the gang they're in. I would never buy anything the media tells me to buy unless I really want it, but the I'd save my money. I would never buy any type of alcohol though. I am going to do that alternative in a bad situation. I will stand up for my rights while I respect others. I am going to raise my self-esteem until I'm the happiest person in the U.S.A. I will try not to use the eight ways to say no, unless I have to. I would never use them on my parents. I also would never do something a person pressures me to do. I will keep my support system like it is now, family and friends. I would never let a gang be my support system.

Mr. Speaker, as I'm sure we all agree, Rachel Gonzales, at the age of 11 years, has a keen grasp on the dangers of drug abuse, gang membership, and how to say no to both. I ask my colleagues to join me in saluting her for her outstanding essay, and in honoring the teachers and law enforcement professionals around the country who do such a great job of helping our young people learn how to avoid drugs.

HOUSING COALITION HELPS TO MAKE HOME OWNERSHIP POSSIBLE IN PHOENIX

HON. ED PASTOR

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 3, 1993

Mr. PASTOR. Mr. Speaker, in this day of the shrinking Federal dollar, I am pleased to see the private sector joining forces with community-based organizations to make things happen in the area of affordable housing in southwest Arizona.

Home ownership, of course, is part of the American dream. Regardless of income, we all aspire to own our own home; but the aspirations of home ownership are often the most intense among lower income and minority groups. Recently in my district, Fannie Mae, the Nations largest source of home mortgage funding, and a housing coalition that includes the National Council of LaRaza announced an aggressive pilot program to help low- and very low-income people turn these home ownership aspirations into realities in Arizona. The program, called "Home to Own," set a goal of generating $10 million in mortgages over the next 2 years. It will serve as a model for other affordable housing programs nationally.

A unique aspect of this program is that it targets borrowers earning about half of the median family income, whereas other affordable housing programs target borrowers with incomes at or just below the area median income. For instance, a typical family of four earning 60 percent of the median family income in Phoenix would have an annual income of $24,950. It's tough to make ends meet with that level of income, let alone contemplate buying a home; but now home ownership may be possible for some of these families.

Mr. Speaker, under the Home to Own guidelines, borrowers can purchase a home with as little as $1,000 or 3 percent from their own funds. The additional 2 percent required for a down payment can come as a gift, grant, seller contribution, or secured second mortgage. Fortunately, the Arizona Housing Trust Fund will provide $300,000 to help with down-payment costs. Public or private assistance can be counted as income. Continuation of income over a 2-year period is emphasized, rather than specific job titles or jobs, and credit worthiness can be established using utility, insurance, and rent payments.

I would like to commend LaRaza, Fanny Mae, and the housing coalition members who have worked to design this pilot initiative. Coalition members include the First Interstate Bank of Arizona, Local Initiative Support Corporation [LISC], Chicanos Por La Causa [CPLC], ACORN Housing Project, Community Development Agency of Maricopa County, Community Housing Partnership, Devcon Associates, Hansen, Kivior and Meade Ltd., Housing for Mesa, the Office of Housing Development within the Arizona Department of Commerce, and the Phoenix Community Housing Resource Board [CHRB].

This combination of public and private initiative and funding will enable several hundred families to share in the American dream.

INTRODUCTION OF CONGRESSIONAL ETHICS REFORM ACT OF 1993 AND SUNSHINE FOR LOBBYISTS ACT OF 1993

HON. ERIC FINGERHUT

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 3, 1993

Mr. FINGERHUT. Mr. Speaker, I rise to bring to your attention the introduction today of two bills by my colleague, KAREN SHEPHERD, and myself which will go a long way toward restoring the public's trust in the Members of this body. The Congressional Ethics Reform Act of 1993 and the Sunshine for Lobbyists Act of 1993 both seek to limit the explosive growth of special interest money and to ensure that the money remaining in the system will be fully reportable.

Many of us campaigned last year on a message of change. The public's trust in Congress was at an historic low, and the demand for political reform was high. It seemed as though Congress was more responsive to special interests than to the interests of average Americans.

Recently, the Senate took action to address this credibility gap by passing legislation that would strengthen current lobbyists' registration laws, Senator LEVIN's bill, and require lobbyists to disclose on a Member-by-Member basis the financial benefits they provide to Members of Congress and their staffs, Senator WELLSTONE's amendment. Also included in this legislation was a sense-of-the-Senate resolution that its gift policy should be substantially similar to the executive branch's, Senator LAUTENBERG's amendment.

I commend my colleague, JOHN BRYANT for introducing the Lobbying Disclosure Act of 1993 which would clarify and strengthen the definition of who must register as a lobbyist and require disclosure of an aggregate figure of the total amount spent on lobbying. I look forward to working with Congressman BRYANT to enhance H.R. 823 as it seeks to bring accountability to the activities of registered lobbyists.

Today, KAREN SHEPHERD and I, along with original cosponsors MARIA CANTWELL, XAVIER BECERRA, HERB KLEIN, EVA CLAYTON, LYNN

SCHENK, CAROLYN MALONEY, TOM BARRETT, and BERNIE SANDERS are introducing two bills that go even further than Congressman BRYANT's bill to limit the growing influence of special interest groups.

SUNSHINE FOR LOBBYISTS ACT OF 1993

Requires lobbyists to file semi-annual reports with the Attorney General listing gifts, meals, entertainment, local or long-distance transportation, lodging, contributions made to a third party in lieu of an honorarium, loans, and other financial benefits provided to a covered legislative branch official exceeding $20 per occasion or amounting to more than $50 in a calendar year from one source. An aggregate figure must be filed for expenditures made for a conference, retreat or other events benefiting a covered person, and for widely attended receptions.

Exempts from the reporting requirement expenditures for modest items of food or refreshments, for items of little intrinsic value such as plaques or certificates, for financial benefits given under circumstances which make it clear that the benefits are motivated by a family relationship rather than the position of the recipient, for financial benefits which are not used and which are promptly returned to the donor.

Requires lobbyists to supply Members of Congress with advance copies of their reports 2 weeks prior to filing.

This legislation is an interim step toward conforming congressional gift rules to the executive branch's more stringent treatment of gifts from special interest lobbyists. Until and unless such a ban is enacted, we must require full disclosure of the financial benefits that lobbyists provide to Members.

CONGRESSIONAL ETHICS REFORM ACT OF 1993

Prohibits Members of Congress and their staffs from accepting gifts, that is, gratuities, favors, discounts, entertainment, donations to charities in lieu of honoraria for speaking engagements, hospitality, loans, services, local travel and lodging, meals, of more than $20 at any one time with an aggregate value of $50 from one source in a calendar year.

Members of Congress and staff may accept gifts that are motivated by a family relationship or personal friendship rather than the position of the Member or employee.

Members and staff may also accept: modest items of food and refreshments; greeting cards, plaques, certificates, trophies intended solely for presentation; loans and commercial discounts generally available to the public; pensions, or informational materials; honorary degrees; free attendance at widely attended gatherings in the District of Columbia; free attendance as part of a conference; travel related to official duties that are approved in advance by the Ethics Committee; items of minimal value intended primarily for free distribution to visiting constituents.

Mr. Speaker, I encourage my colleagues to support both of these important bills.

WORKER HEALTH AND SAFETY PERFORMANCE AT VULCAN

HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 3, 1993

Mr. OBEY. Mr. Speaker, I rise to note a coming milestone for Vulcan Chemicals and its Port Edwards plant in my Seventh Congressional District. On August 12 of this year, it will reach an industrial milestone, 25 years of operation without a single lost-time accident.

I am told that is the longest period of time for any chlor-alkali chemical manufacturing plant in North America to have operated without a single lost workday injury.

This plant is Wisconsin's only producer of chlorine, caustic soda, caustic potash and hydrochloric acid. These chemicals can be hazardous if not handled properly.

As the Representative of Wisconsin's Seventh Congressional District and as a person who worked with asbestos products many years before I knew they were a health hazard, I am always gratified anytime the importance of worker health and safety is being respected. The village of Port Edwards and Vulcan Chemicals should be pleased about this episode in the quest for worker safety.

TRIBUTE TO BOB KRIZANCIC

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 3, 1993

Mr. TRAFICANT. Mr. Speaker, today I would like to honor Mr. Bob Krizancic for his 13 years of dedicated and remarkably successful service as Girard High School's head basketball coach. During his tenure at Girard High, Coach Krizancic took a team that was adrift and downtrodden and turned it into a regional and State powerhouse, culminating in a State championship title at the end of last season. It was through his coaching wizardry that Girard now has the motivated, skilled, and admired squad they now field. Thus, it is not without some sadness that we must now say goodbye to Coach Krizancic as he moves on to take up a new position as the head coach at Mentor High School. While his departure is saddening to the Trumbull community, I wish him well as he moves on to his new post.

Coach Krizancic's record at Girard High has been nothing short of remarkable. After taking over a team that averaged 5 wins and 14 losses a year before his arrival, Krizancic turned the program around and has had 10 winning seasons in his last 11. He has compiled an amazing 170 win and 85 loss record at Girard and has led the team to four Mahoning Valley Conference championships. In recognition of these stunning achievements, Krizancic has been named Coach of the Year six times by his colleagues.

Krizancic's tournament record is no less stellar at 50 wins and 12 losses. His efforts at the helm of his basketball team have yielded 10 sectional championships, 3 district championships, 1 regional championship, and 1 State championship. The State title, won this season, marked the culmination of Krizancic's efforts as he helped make Girard High the first team from Trumbull County to ever win a State title. Needless to say, Coach Krizancic has put Girard High School basketball on the map.

I have no doubts that Coach Krizancic will be wildly successful at Mentor High and will likely do for them what he has done for Girard. He leaves Girard's students and parents with fond memories and a determined will to defend their hard-earned title. Coach Krizancic has made an indelible mark on basketball at Girard High and must be recognized for his achievements. I salute Coach Krizancic for his exceptional performance at Girard and wish him the best of luck in all of his future endeavors.

A MOTHER'S LETTER: WHY WE NEED NATIONAL HEALTH CARE REFORM NO. 7

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 3, 1993

Mr. STARK. Mr. Speaker, the following letter from a young mother in southern California about the fear and pain that the uninsured face is worth a volume of statistics about the need for health care reform:

DEAR ELECTED OFFICIAL: I am writing this letter to call to your attention the plight that many Americans are facing today, the lack of health care. I realize that statistics are so impersonal, so I wanted to take the time to let you know of my experience.

I am a full time student at San Bernardino Valley College and a mother of two young children ages 3 and 4. My husband works two jobs to try to meet our financial needs. We cannot afford to pay for health care insurance, and we do not qualify for Medi-cal so as you can imagine this puts us in a bind.

Last month I was gardening and was cutting the bushes with an electric hedger, and somehow before I knew it I had cut my hand with that hedger and needed emergency care. My husband rushed me to the local community hospital, we had to pay 100 dollars up front before they would even see me and the bill came to 600 dollars total for what was basically 3 stitches. We are making payments on that bill, but it seems that when it rains it pours. A week later my youngest daughter turned over an oversized plastic planter. She was trying to climb a tree when she lost her balance and landed with her legs open. She had hit the side of the planter causing her to bruise and bleed. I took her to the local clinic and a family practitioner saw her. She said that the injuries seemed to be superficial but that she would like her to see a specialist (Urologist). The doctor had given me a few telephone numbers to call to try to get her an appointment, but 3 specialists would not see her because we did not have insurance. The doctors all told me to just take her to the emergency room, where basically another doctor would see her, not the specialist she needed.

My daughter did recover in two days, but I was sick worrying about her for those 2 days, hoping and praying that she didn't have internal injuries.

I don't fear for myself but for my growing children, whenever they start coughing or have a runny nose, I pray that it's just the common cold, and not a serious disease that they can't recover from. We are hard working responsible citizens that need help to obtain some kind of health plan that is affordable and reliable. Please lobby for this type of bill.

Thank you for all your help.

Sincerely,

MAYRA GOMEZ.

REOPEN GANDER CRASH INVESTIGATION

HON. TERRY EVERETT

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 3, 1993

Mr. EVERETT. Mr. Speaker, today, I, along with 15 of my colleagues, am introducing legislation to reopen the investigation of the airline crash that tragically took the lives of U.S. servicemen. On December 12, 1985, a chartered aircraft carrying 248 soldiers of the 101st Airborne Division crashed in Gander, NF. The DC–8 was returning the soldiers from a peacekeeping mission in the Middle East when the aircraft crashed shortly after taking off from Gander en route to Fort Campbell, KY.

As many of you may remember, the ensuing investigation of the crash was mired in controversy and criticism for lack of oversight and responsibility. The Canadian Aviation Safety Board conducted the investigation in accordance with international law, and ruled that the cause of the crash was due to excessive wing icing. However, four of the board's members argued with the findings because of the strong possibility that an inflight fire or explosion occurred. This legislation would establish a commission to investigate the circumstances surrounding the crash, including the role of U.S. Federal agencies involved in the investigation, the role of the Canadian Government in the investigation and the possibility that the crash was an act of terrorism.

The United States continues to be asked by the international community to send its men and women in uniform in harms way to perform peacekeeping and humanitarian missions. We still have a presence in Somalia, and now Macedonia. The use of chartered aircraft to transport these troops to the far corners of the world remains a prevalent practice by DOD. We need to know the truth about the Gander crash before we put another soldier on a chartered aircraft.

The recent bombing of the World Trade Center and the plotted assassination attempt on President George Bush illustrate that terrorism is anything but dead; the United States will always be a favorite target among terrorists.

Also, this matter continues to be a topic of great media and public interest. Last month, the NBC program "Unsolved Mysteries" aired a segment on the Gander crash, and provided compelling evidence that this matter is anything but solved. We owe the families of the victims a full and open accountability of exactly what happened; there are too many unanswered questions.

GUATEMALA SHOULD BE WASHINGTON'S THIRD WORLD DEMOCRATIZATION MODEL

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 3, 1993

Mrs. MORELLA. Mr. Speaker, the recent political events in Guatemala provide United States policymakers with useful lessons to heed as this administration seeks to develop a comprehensive policy for promoting and defending democracy in Latin America. In contrast to the sometimes ineffectual policy pursued with respect to the de facto governments in Haiti and Peru, the precipitous and strong United States response to the illegal self-coup of Guatemalan President Jorge Serrano was clearly influential in contributing to the erosion of his public support and ultimate ouster.

The immediate suspension of Guatemala's economic aid and military training, along with the threats of revoking its GSP and CBI trade benefits and using United States votes in international lending institutions to intensify the country's economic isolation, were cited by prominent members of the influential Guatemalan business community as reasons for their opposition to Serrano's extra-constitutional rule.

Especially in Latin America, where free-market reforms and an orientation toward export-led economic growth are predominant, leaders who seek to enhance their authority through anti-Democratic measures are highly vulnerable to economic reprisals.

The following research memorandum, authored by Steven Nish and Elizabeth Chance-Weigel of the Washington-based Council on Hemispheric Affairs [COHA], argues that the events in Guatemala demonstrate that the United States can make an effective contribution to peaceably defending constitutional rule. In addition, the memorandum highlights the importance to maintaining a Guatemala in Washington's focus. I think that my colleagues will find this information of interest.

GUATEMALA SHOULD BE WASHINGTON'S THIRD WORLD DEMOCRATIZATION MODEL

The swearing in last June of Ramiro de Leon Carpio as Guatemala's new president offers that benighted country an opportunity to bolster its chronically flawed democratic institutions, improve one of the world's most atrocious human rights records, and make progress in developing its economy. Following the failure of former president Jorge Serrano's attempted "self-coup," the Guatemalan Congress demonstrated uncharacteristic independence in handing the presidential sash to the country's outspoken former human rights ombudsman. De Leon is now moving ahead on the democratic path, reinforcing civilian rule by reshuffling the military leadership to make it less politicized. Still, it would be premature for the White House and OAS (which also played a role in ousting Serrano) to take their eyes off the country.

It is significant that Serrano's coup was quickly snuffed out and that the country's traditionally predominant military did not insist on filling the resultant power vacuum. The reasons for this should be recalled when the U.S. and OAS seek to constructively influence events in other countries whose democratic institutions have come under siege.

Although the Guatemalan people may deserve the greatest plaudits for daring to rise up in opposition to their president's autocratic move, the Clinton Administration deserves credit for moving decisively against Serrano's "self-coup," immediately suspending military training and economic and to the Central American nation. Appropriately, the White House let it be known that, without the speedy restoration of constitutional rule, Guatemala could expect reprisals against its GSP trade privileges, counternarcotics assistance and Washington's future votes on loan applications in international lending agencies. These measures were matched by equally forceful steps by Japan and European Community members; Germany, for example, froze $78 million in aid to protest Serrano's actions.

This immediate and concerted tough response by the international community was a warning shot that was clearly heard by Guatemala's all-important commercial sectors, which responded by demanding the constitution's restoration. Shortly after economic sanctions were announced, the president of Guatemala's influential Business Chamber called for the government to "re-establish the rule of law" to stave off the possibility of "economic chaos."

Because Latin America is aggressively committed to strategies of export-led growth—in addition to seeking overseas public and private loans and investement—those in the region who assault democratic institutions are particularly vulnerable to economic sanctions. Although budgetary considerations have forced the Clinton Administration to propose slashing U.S. economic assistance to Central America (the executive's request to Congress represents a 36% reduction from 1990 levels), increased private trade ensures continued U.S. political leverage there.

EC member countries, which consistently have increased their aid to Central America since the mid-1980s, should be encouraged by Washington to repeat the strong steps they took in Guatemala if the threat to democratic rule resurfaces in the region.

Guatemala's commercial and agricultural elites, as well as its military, must be made aware that normal economic relations and continued financial assistance are contingent upon the maintenance of representative democracy. There is good reason to expect that the new president's commitment to constitutional rule will be unwavering. But Guatemala's military and its powerful agricultural and financial sectors—elements of which have sponsored the country's infamous death squads for decades—may be tempted to undermine him if he threatens to curb their special privileges.

The growth of Guatemalan democracy would provide an important example for other Latin American countries seeking to ward off would-be autocrats. It would also help tip the Administration's foreign policy scales away from timidity and indecision and toward credible moral leadership. Following some tepid policies in response to the rupture of constitutional democracy in Peru, and a delayed clampdown on the Haitian de facto government, Guatemala stands out as a rare Administration success in the region—or, for that matter, anywhere in the world. If the White House fails to heed Guatemala's lessons and removes the country from its sights, it could lose this one too.

THE GEISINGER SYSTEM: A MODEL FOR NATIONAL HEALTH REFORM

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 3, 1993

Mr. KANJORSKI. Mr. Speaker, Congress and the President are deeply concerned about health care reform. We want to find ways to make health care more accessible and more affordable for all Americans. I am proud to say there is a health care system in my district that has gone a long way toward making our goals a reality for working families throughout northeastern Pennsylvania.

This system is the Geisinger Foundation.

The Geisinger Foundation in Danville, PA, takes a regional approach to health care, with over 500 physicians caring for a large portion of the families in central and northeastern part of the State. The foundation was established in 1915 as the George F. Geisinger Memorial Hospital; today it is a broad network of 530 salaried physicians in hospitals and clinics around the area.

The health plan operating under the Geisinger Foundation is a rural, not-for-profit corporation with roughly 100,000 members. This structure allows enrollees to receive top quality health care at an affordable price. Cost control comes from an emphasis on primary care, preventive medicine, and a professional culture of conservative family doctor medicine. As the New York Times has noted, the Geisinger plan "has the lowest rates in Pennsylvania * * * with monthly premiums this year of $109.70 for individuals and $285.22 for families for a plan covering nearly everything but prescriptions."

Accessibility is another key to Geisinger's success: The Foundation has established rural medical practices across the region, and in accordance with its charitable charter, Geisinger physicians provide service to anyone, regardless of their ability to pay.

Dr. Stuart Heydt, president and chief executive officer of the Geisinger Foundation, recently spoke to Pennsylvania's congressional delegation. Pennsylvania's own leader in national health reform, Senator HARRIS WOFFORD, is today inserting into the CONGRESSIONAL RECORD the text of Dr. Heydt's presentation, along with a copy of the New York Times article. Also, the Senator has included in the RECORD an article from Modern Healthcare with the findings of the National Committee for Quality Health Care, which profiled Geisinger's successful cost-containment and quality-improvement strategies. Both articles chart the progress we have made in Pennsylvania.

I believe we can make a difference in health care; Geisinger is helping to show us the way.

UNITED STATES TRADE REPRESENTATIVE SHOULD ACCEPT FOR REVIEW THE PENDING GSP PETITION ON WORKER RIGHTS VIOLATIONS IN MEXICO—PART 3

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 3, 1993

Mr. BROWN of California. Mr. Speaker, are my colleagues aware that Mexico already exports billions of dollars of assorted products duty-free into the United States market every year under the terms of the generalized system of preferences [GSP].

More specifically, do all Members of Congress realize that Mexico is the No. 1 GSP beneficiary country, shipping more than $3.8 billion of duty-free exports to the United States in 1992?

Do my colleagues realize that the current GSP trade law, if enforced, is supposed to prohibit GSP duty-free privileges to Mexico or any other country that does not afford internationally recognized worker rights such as freedom of association and the right to organize free, independent trade unions and bargain collectively to its own workers.

Are my colleagues aware that in 1991 the USTR dismissed a well-documented petition of worker rights violations in Mexico without so much as one public hearing?

Most people inside or outside of the Congress are unaware of these facts. Quite apart from the negotiations on the NAFTA supplemental agreements, they point toward a more immediate, more direct, and complementary course of action the USTR should pursue on its own violation to promote respect for basic worker rights in Mexico.

Despite these telling facts, USTR is well beyond the deadline prescribed in its own GSP regulations for announcing which of the country and product eligibility petitions will be accepted for investigations and public hearing this fall. July 15th is when those decisions were to have been announced.

Quite simply, the very detailed, 41-page petition that was filed in June alleging extensive worker rights violations throughout Mexico should be accepted forthwith.

Following is the third installment of the pending GSP petition on worker rights violations in Mexico. (The first installment is in the Extensions of July 15th and the second appeared on July 20th.) I recommend a careful reading of the petition in its entirety. I also urge each of my colleagues to cosign a letter I am sending to the USTR to urge formal review and public hearings on this petition.

GSP PETITION ON WORKER RIGHTS VIOLATIONS IN MEXICO

VI. REPRESSION OF LABOR LAWYERS AND LABOR LEADERS

(a) The arrest during labor-management negotiations in January, 1992 of Agapito Gonzalez Cavazos, head of the Matamoros regional CTM union, on three-year-old charges of tax fraud, is well known. The Country Report indicates that "his supporters charged harassment. Mexican government officials denied this." (1992 Country Report at 450) Other interpreters have been somewhat more voluble and detailed.

Jerome Levinson, former general counsel of the Inter-American Development Bank, writes of this incident:

"In January 1992, Agapito Gonzalez, head of the Day Laborers' and Industrial Workers Union in Matamoros . . . aggressively tried to negotiate higher wages than the official guidelines sanctioned by the government. Gonzalez was ruining the climate for foreign investment. Shortly thereafter, federal Judicial Police descended on Matamoros to arrest the 76-year-old labor leader."

"In a complaint to the Mexican National Human Rights Commission Gonzalez charged he was held incommunicado by agents who questioned him on tax evasion charges, despite the fact he claimed to have evidence of having paid his taxes. Gonzalez was later transferred to a hospital where he remained under police arrest. Though he was released a few months later, the message to union organizers was clear: aggressive representation of workers that hurt prospects for attracting foreign investment would not be tolerated by the Salinas administration." (Unrequited Toil at 10).

(b) The case of Aquiles Magana, who is the leader of the Union of State, Municipal and Public employees of the State of Tabasco, in southeastern Mexico. On April 29, 1990, Magana led a demonstration of the workers of the municipality of Villahermosa, to demand payment of a wage rise already authorized by the state government. As the workers marched toward the Governor's Office, Magana was arrested without a warrant and was taken to the headquarters of the State Judiciary Police. He was accused of damaging the city's garbage trucks and of causing injuries to one worker, apparently one of those workers who participated in the protest.

After a vicious judicial process, Aquiles Magana was condemned to four years and two months' imprisonment simply on the grounds that, since he confessed to be the leader of the protesting workers, he was responsible for any possible damage caused by any of the workers. This was in spite of the fact that the worker who supposedly was injured by Magana declared that he did not know Magana and that his injuries were caused when he accidentally fell. The identity of those persons who supposedly damaged the trucks feloniously for which Magana was held responsible was never established, or even investigated. The judge refused to allow defense counsel to make an inspection of the allegedly damaged truck, claiming that such an inspection had already been made by the public prosecutor, who had "proved the extent of the damage by his inspection." The prosecutor said that while he could see the damage to several trucks, when Aquiles Magana asked to participate in an inspection, the judge said it was irrelevant and denied the request. When Aquiles Magana attempted to present witnesses to testify that no damage to any trucks took place during the demonstration, the judge refused to allow their testimony on the grounds that they would just try to protect Magana. He was also convicted of causing damages and injuries to a worker's arm. The allegedly injured worker was illiterate and testified in the court that he had been taken to the prosecutor's office and forced to place his fingerprint on a blank sheet of paper. He denied that he had made the statement attributed to him in the court; instead, he testified, his injury had occurred from falling down. Nevertheless, Aquiles Magana was convicted of both charges and sentenced to four years and two months.[8] He was found to be "the intellectual perpetrator of the crimes," even though no investigation ever attempted to locate any person physically responsible for the alleged crime.

There were other irregularities. The inspection report on the allegedly damaged trucks was unsigned. It had no date and no detailed description of the trucks that were damaged. The number of damaged trucks was not indicated. Nor was any attempt made to prove the ownership of the supposedly damaged vehicles.

Aquiles Magana, when arrested, was denied bail. After 32 days a Federal judge finally ordered the state government to release him on bail.

(c) The case of the lawyer for Aquiles Magana, Joel Garcia, who also represented the oil workers union in its dispute with Pemex in 1991. While the dispute was underway, he was suddenly charged with fraud by a small group of workers on the basis that he had been paid his contracted fee with the union but that dispute had been settled "politically," rather than as a result of his legal work. Although the government prosecutors were aware there was no legal basis for such charges, they proceeded to carry out a lengthy investigation and to issue a warrant for Garcia's arrest. He was forced into hiding for five months until a Federal judge ruled that the case had no basis. But the state prosecutor reissued his warrant without any alterations, and forced Garcia into hiding for another three months until a Federal tribunal ruled again that the prosecutor's case was without merit.

(d) Estela Rios and Maria Eugenia Meza, lawyers for workers at Siderurgica Lazaro Cardenas, a state-owned company processing metal products, were charged during negotiations with falsifying worker's signatures on the letters requesting them to represent them. They were finally cleared of the charges, but because of the fear of being imprisoned, they spent several months when they could not represent their union adequately. While they were representing about 500 workers they were arrested in Mexico City and held incommunicado for 24 hours.

For lawyers representing workers in disputes with powerful companies or with the state, this type of harassment is all too common in Mexico.

(g) Emilio Miron Isidro, leader of the union of the Tropico Brewery in Oaxaca state, was assassinated on April 30, 1992, by unknown assailants. This assassination occurred during a labor conflict and apparently was conducted under company orders. No investigation has been undertaken and no one has been arrested for the murder.

(h) In Mexico City, the Judicial Police detained Lilia Mejia and Jorge Torres, leaders of the democratic movement of the workers of the Ministry of Agriculture and Aquatic Resources, in March, 1992. They were detained for two days, after which they were reportedly released without charges being filed.

MINIMUM AGE FOR THE EMPLOYMENT OF CHILDREN

In the November 1991 resolution, the Subcommittee noted that the evidence provided by petitioners did not necessarily substantiate that the government condoned this behavior (underaged child employment), and that experts of the U.S. Department of Labor as well as the GAO report that found that the number of Mexican inspectors per capita is roughly comparable with the numbers in the US.

In Mask of Democracy, Dan La Botz cites professor Hector Santos Azuela, who, in an essay titled "Child Labor in Mexico", notes that child labor is widespread. "It is not difficult to find them working with high levels of risk in butcher shops, mills, tortillerias (shops which make tortillas), or in other shops of various sorts." While many legal protections exist for children in both Mexican law and ILO conventions, the problem is exacerbated by the authorities' willingness to look the other way:

Labor inspectors have an important social function which unfortunately they do not fulfill. Their activities are reduced to routinely imposing fines, rather than combating the problem.

Despite the complete suppression of the apprenticeship contract, reminiscent of medieval servitude, the employment of children as labor power, subject to excessively long work days, with low wages and in deplorable and unsanitary working conditions, is frequent.

Nothing has been done in reality to protect the children and prevent this exploitation. Many projects have been designated without any practical results.

Frequent modification and reorganization has seriously damaged labor statutes regarding children, carrying the law ever further away from the extensive protection that is required.[9]

In regard to the effectiveness of the Mexican authorities' enforcement of child labor legislation, the United States Department reported:

". . . in the formal sector, enforcement is reasonably adequate for large and medium size companies; it is less certain for small companies. As with employee safety and health, the worst enforcement problem is with the many very small companies. Eighty five percent of all registered Mexican companies have 15 or less employees, and 80 percent have 5 or less employees, indicating the vast scope of the enforcement challenge just within the formal economy.

Illegal child labor is largely found in the informal economy, which includes significant numbers of underage street vendors, employees in very small businesses, and workers in rural areas. The ILO reports that approximately 18 percent of Mexican children aged 12 to 14 work. Often such children work for their parents or other close relatives. In addition, small-scale employers prepared to disregard company registration, social security, health, safety and tax laws are often equally prepared to violate child labor laws." (p. 450)

A progress report of the Tri-National Project on Children's Rights and Economic Integration sponsored by Defense of Children International notes as a result of an extensive field inquiry in the spring of 1993 that:

". . . among firms producing for the domestic market, we observed substantial child labor violations, including: (1) the employment of clearly underage children (we observed children who we estimated to be between nine and twelve years old working in several plants); (2) the employment of children in hazardous jobs, including the use of heavy leather and plastic cutting equipment and the application of adhesives to shoes by dipping fingers or whole hands into large cans of glue; and (3) overall conditions likely to be particularly detrimental to children, such as high noise levels, poor ventilation and lighting and inadequate facilities for eating and personal hygiene needs.

The worst conditions were found in San Francisco, a small town several miles from Leon that is the center for the production of athletic shoes. Employment of young children was most prevalent in smaller plants, but at least one very large manufacturer selling an extensive line of higher-quality shoes all over Mexico and possessed a modern plant using advanced equipment had several child workers.

Children working in the San Francisco factories do not appear to attend school at all. When asked if the presence of children working indicated that there was worker turnover from children leaving to return to school, one producer emphasized that his work force is full time, year round with almost no turnover . . .

Although we do not offer any firm conclusions at this point in our investigation, several observations are warranted:

1. While the exploitation of child labor seems not to be prevalent in maquiladoras and plants currently manufacturing for export, young children continue to work under extremely adverse circumstance in firms currently manufacturing for the mexican domestic market and for growers selling their product to processors for export.

2. Mexican manufacturers of different products who are involved in export or drawback production view the low wages prevalent in Mexico as one of their principle competitive advantages. They expect the NAFTA agreement to increase the significance of this advantage. Manufacturers not now engaged in export or drawback production, and who exploit child labor, are interested in the possibilities that NAFTA will offer them to break into the US market.

3. Economic integration has had effects of families and children that have not been analyzed systematically. Beyond the issue of direct employment of children in plants producing for export lies an important set of issues about the welfare of children whose parents work in such plants."

MINIMUM WAGES, HOURS OF WORK AND OCCUPATIONAL SAFETY AND HEALTH

1. Minimum wages.

Structural adjustment in Mexico has wreaked havoc on the living standards of Mexican workers during the past decade. Hundreds of thousands has been dismissed from state owned companies in the course of privatization, while other economic measures have undermined the benefits of a much broader segment of the Mexican workforce. As noted in a forthcoming study, Structural Adjustment in Mexico,", to be published by Equipo Pueblo, in Mexico City: "Workers who have kept their jobs have paid for the costs of adjustment through a decrease in their purchasing power, a decrease in benefits, and an increase in prices of basic goods."

Mexico has one of the lowest minimum wages in the world.[10] In November 1992, the minimum wage in Mexico was approximately 13,300 pesos per day (US$4.42). According to a study by researchers at the National Autonomous University of Mexico (UNAM) the minimum wage capable of providing the basic needs of a family of five is 45,322 pesos per day—over three times the current minimum wage.[11] Government figures show that 41.4% of the economically active population receives between one and two times the minimum wage, 46.88% receive more than two times the minimum wage and 4.5% receive no wage.[12] Contractual salaries have grown more than the minimum wage in recent years, but have still been insufficient to regain the purchasing power lost in the eighties. The participation of wage labor in GDP fell from 36% to 22% during the eighties, while that of capital rose from 54 to 62%.

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[8] Source: trial documents, including preliminary prosecutor's investigation, case No. 044/990, Tabasco; Tabasco State Court ruling No. 82/990; State Superior Tribunal Case No. 290/991; Federal Amparo 929/991.

[9] "El Trabajo de Menores," in Estudios de derecho sindical y del trabajo (Mexico, D.F.: Universidad Nacional Autonoma de Mexico, 1987) pp. 251 ff.

[10] Barry, Tom (Editor), Mexico, A Country Guide. (The Resource Center: Albuquerque, N.M., 1992) 98.

According with the report prepared by the U.S. State Department on Mexico for 1992:

"Wages set by collective bargaining agreements and white collar salaries in the private sector generally kept pace with inflation even though the minimum wage has not. Since the financial collapse of 1982, the minimum wage ceased being adequate. Recent data on urban areas indicate that 14 percent of urban workers earn less than one minimum wage, 41 percent earn between one and two minimum wages and 32 percent earn between two and five minimum wages."

The loss of purchasing power of wages is not only a consequence of the economic collapse in 1981–82, but a part of a wider adjustment carried out by the government. As Jerome Levinson express: it:

". . . this policy has caused wage increases to lag behind inflation. The wage policy has been part of a broader agreement, the pact for stability and growth (PECE), orchestrated among representatives of labor, business, and government. As a result of this pact and other government actions to repress labor, real wages remain stuck at half what they were in 1982, despite Mexico's economic recovery under the Salinas administration . . ."

The government's tough wage policy, designed to make Mexico competitive with what it sees as its main competitors in Asia, has been enforced by the Ministry of Labor. Arsenio Farell Cubillas has been Secretary of Labor for the past seven years (the labor Ministry is formally known as the Secretariat of Labor and Social Welfare). He is the only member of the cabinet to have served in the same position under both the De la Madrid and Salinas administrations. According to a report on Mexican labor conditions prepared by the US Embassy, "Farell has maintained his reputation as a formidable labor opponent. He has maintained pressure on the labor sector in an effort to hold the line on wage demands . . .

The basic problem with labor rights in Mexico, is not, as has so often been suggested, inadequate funding for enforcement. The government has found more than adequate financing for the National Solidarity Program which helped it win congressional and state elections in August 1991.

The problem lies instead with a development model predicated on attracting foreign investment by undercutting wages elsewhere, particularly East Asia. That objective underlines the hostility to effective labor organizing. The worker rights issue in Mexico is fundamentally about government suppression of those rights in pursuit of short term economic gain."

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[11] El Financiero, November 30, 1992, p. 38.

[12] Ibid. p. 8.

IN REMEMBRANCE OF FATHER EDWARD J. KARNIS

HON. THOMAS M. FOGLIETTA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 3, 1993

Mr. FOGLIETTA. Mr. Speaker, I rise today to honor the memory of Father Edward J. Karnis—a man of dedication, achievement, faith; and, a personal friend of mine. Father Karnis lived his life to the fullest and helped make the world a better place.

Father Karnis' dedication was embodied in his 38 years of combined military service. He began his career in World War II, flying 48 combat missions in the southwest Pacific between 1944 and 1946. Father Karnis was even shot down once on St. Patrick's Day, but the luck of the Irish was with him, and he was pulled from the sea unharmed.

After World War II, Father Karnis attended St. Joseph's University in Philadelphia. This is where I first had the pleasure of meeting Father Karnis, who was one of my classmates. I learned that he was a man of great character and integrity. His dedication to academics served him well, earning him the opportunity to attend graduate school at Georgetown University. Later in life, he earned a masters degree in sociology from Long Island University, NY.

After leaving Georgetown, Father Karnis joined the Federal Bureau of Investigation for 5 years. He was a dedicated and well respected agent, working on numerous high profile kidnaping cases during his tenure. However, he soon felt the call of the priesthood and made the decision to attend St. Mary's University and Seminary in Baltimore, where he earned a master of divinity degree.

Ordained in 1960, he spent 6 years as an associate pastor at St. Helena, Belefonte, St. Thomas, and St. Elizabeth, in Wilmington, DE, before he felt compelled to return to the military. Soon after rejoining the Army as a commissioned officer, he was transferred back to the Far East as a chaplain in the Vietnam theater of war. After finishing his tour in Vietnam, Father Karnis spent the rest of his military career serving at posts in the United States, Korea, and Europe, ending his carrier at the St. Sebastian Chapel in Frankfurt, Germany. He retired in 1985 at the rank of colonel.

Throughout his military career, Father Karnis received 33 awards and decorations, including the Purple Heart, the Bronze Star, the Vietnam Cross of Gallantry, the Philippine Liberation Medal, the Philippine Presidential Unit Citation, the Republic of China Defense Medal and the Department of Defense Meritorious Service Medal.

So I rise today with Father Karnis' friends and family to honor his memory. He spent his life serving his country and sharing his faith with others. His character, integrity, and dedication are an example to everyone.

TRIBUTE TO MARY LOUISE KRUPPA

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 3, 1993

Mr. TRAFICANT. Mr. Speaker, I rise today to recognize Mary Louise Kruppa in celebration of her 80th birthday. Mrs. Kruppa, a native of Youngstown, has been an active force in the community and has inspired us all with her energy and dedication to her family and to the Youngstown area.

Born on June 28, 1913, to Cecilia Burns LaVan and Charles LaVan, Mrs. Kruppa was the oldest of four daughters. After graduating from Ursuline High School in 1931, Mary Louise was employed at Stambaugh-Thompson and also worked at Northside Hospital in the surgery/recovery room.

Throughout her life, Mrs. Kruppa has continually been involved with a host of community groups and organizations. She has been a member of St. Edward's Church since 1956 and was a charter member of both the Goodtimers and Garden Clubs. Her other activities include membership in the confraternity of Christian mothers, the ladies of charity, and volunteering with the literacy program since 1986. This constant activism and involvement in her neighborhood and community have made Mrs. Kruppa a well-respected and admired citizens.

Not only is Mrs. Kruppa blessed with good health, but she is also very fortunate to have an admiring and loving family. At her birthday celebration, six or her seven children were present as were eight grandchildren, three great grandchildren, three sisters, and numerous cousins, friends, and relations.

After nearly a century of involvement in the Youngstown community, Mary Louise Kruppa has become the embodiment of the dedicated citizen and nurturing mother. She should be recognized as an example to us all.

TRIBUTE TO WILFRED AND CAROL WARDIN

HON. DAVE CAMP

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 3, 1993

Mr. CAMP. Mr. Speaker, it is with great pleasure that I rise today to pay tribute to two outstanding individuals, Wilfred and Carol Wardin from Hemlock, MI. On September 3, 1993, Wilfed and Carol will have the honor of being inducted into the Michigan Farmers Hall of Fame, as they were dairy and cash crop farmers of up to 1,150 acres for 45 years.

Noted for their contribution to agriculture in Saginaw County, Wilfred and Carol set high standards, and achieved their goals in dairy farming and soil management. Wilfred served in the Korean war, and he and Carol were leaders in their community. They served in leadership positions on many local boards, and were appointed by the Governor to serve on the Michigan Dairy Marketing Commission. Carol and Wilfred also were recognized for owning 1 of the top 40 farms for best management in the United States.

Mr. Speaker, I know you will join me in paying tribute to and congratulating Wilfred and Carol for the years of hard work and dedication that have merited this award. Although we were all saddened by Wilfred's passing this past April, on the very special occasion of his and Carol's induction into the Michigan Farmers Hall of Fame, I would like to bid the family congratulations, for the Wardins instilled great traditions in their children that will continue on for generations.

ALASKAN NEIGHBORS RALLY TO SAVE TENAKEE SPRINGS

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 3, 1993

Mr. YOUNG of Alaska. Mr. Speaker the spirit that built America's largest and greatest state, Alaska, is alive and well. That's the only way to preface a description of the events surrounding the tragic fire that swept through the community of Tenakee Springs, AK, in mid-July.

Tenakee Springs, located on Chichagof Island in the Tongs National Forest in southeast Alaska, is home to around 200 residents, many of them retirees. It is home to a natural hot springs and community bath house. Tenakee Springs is unconnected to the rest of Alaska by road, and its nearest neighbors are the loggers working for Silver Bay Logging at the nearby Corner Bay camp. In the early morning, a fire broke out in an unoccupied vacation house and quickly spread to adjoining houses and the town's only hotel. Recent dry conditions combined with a steady wind to quickly spread the fire out of control. The town is without water mains, and its only fire fighting equipment is a 500 gallon tank mounted upon a four wheel drive vehicle. When the fire started to get away, the local volunteer fire department responded, but the job was bigger than their equipment could handle. The fire threatened the hundred structures which cling to the shore of the town and abut the waters of the inlet.

Like the pioneers that they are, the logging crews from the nearby Corner Bay logging camp descended to lend a helping hand to their neighbors at Tenakee Springs. Almost immediately, the camp began ferrying men and equipment by helicopter to engage the battle that threatened to consume the community. Typical of those engaged in the heroic efforts was Richard Smith, a resident of Juneau who lives and works as a timber faller at the Corner Bay. Times are tough in the logging business, as more and more land has been placed off-limits to logging, and the land that remains has been subjected to the strictest environmental standards in the world. But Richard Smith is used to fighting for what is right. After serving his Nation through two tours in Vietnam as a "tunnel rat", Richard moved to Alaska to pursue what he likes the most—living, working in, and enjoying the outdoors. He and his fellow workers are great Alaskans, and I'm proud to say I represent them. He was one of the first loggers to hit the beach, and lend a hand with the struggle to confine the fire. The loggers of Silver Bay Logging were soon joined by Forest Service personnel and equipment, and the U.S. Coast Guard. Working together for a common goal, they soon had the fire under control in town, and began falling trees around the perimeter of the community to keep the encroaching decadent forest from catching fire, as well. In the end, the valiant efforts of Tenakee's neighbors saved all of the town but 8 houses, the hotel and several pets. No human life was lost, and the inferno that might have consumed all of Tenakee Springs was avoided.

This is the kind of spirit that built Alaska. People working together with whatever resources they have to come to the aid of a neighbor in need. My hat, and the hats of many Alaskans, go off to Alaskans like Richard Smith and the men at Silver Bay Logging, the U.S. Forest Service personnel in Sitka, and the U.S. Coast Guard. For exemplary service in defense of human life and private property, you deserve our thanks.

TRIBUTE TO ANTHONY FAMILY REUNION

HON. W.G. (BILL) HEFNER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 3, 1993

Mr. HEFNER. Mr. Speaker, I rise today to pay tribute to the descendants of Caddy and Phillip Anthony as they celebrate their first ever family reunion August 14 in Charlotte, NC, and August 15 in Kannapolis, NC.

The Anthony family traces its heritage back some 189 years to Lancaster County, SC, and, through the painstaking efforts of my constituent, Daphne Harris of Kannapolis, NC; as well as Jacqueline Anthony of Baltimore, MD; Ruby Anthony-White of Voorhees, NJ; Mary Anthony Stancill of Capitol Heights, MD; and Sandra Anthony of Washington, DC, the surviving descendants will gather for what will become an annual celebration of rich family history and strong family ties.

I congratulate all the members of the Anthony family for beginning such a fine tradition, and I know my colleagues join me in wishing them many more years of joy and happiness together.

HONORING THE UNITED JEWISH Y'S OF LONG ISLAND ON THE 11TH ANNUAL INTERNATIONAL JEWISH ARTS FESTIVAL

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 3, 1993

Mr. ACKERMAN. Mr. Speaker, I rise today to pay tribute to the United Jewish Y's of Long Island on the occasion of its 11th annual International Jewish Arts Festival of Long Island.

The International Jewish Arts Festival will take place on September 5 and 6 on the grounds of the Young Men and Young Women's Hebrew Association [YM and YMHA] of Suffolk County. The Long Island community will be entertained by the talents of over 200 internationally renowned artists and attended to by a vast array of craftsmen, vendors, and volunteers.

The UJY's of Long Island is the central organization for its six-member YM and YWHA's on Long Island. Created in 1973 by the Federation of Jewish Philanthropies of New York, now UJA-Federation, the UJY's purposes are to raise capital and endowment funds to develop, plan, expand, and coordinate YM and YMHA services and program activities for the people of Long Island.

Since their first formation in Baltimore in 1854, YM and YWHA's have had a long association in fostering the cultural arts for the enrichment and enjoyment of the individual and the community. The UJY's assist its members and agencies in promoting the cultural arts through consultation and fundraising.

This year the International Jewish Arts Festival of Long Island will be honoring the extraordinary heroism of the Jewish resistance in the Warsaw Ghetto, and showcasing the music, art, and literature of the Holocaust era.

Mr. Speaker, I ask all my colleagues in the House of Representatives to join with me now extending our best wishes and special thanks to the United Jewish Y's of Long Island for its 20 years of dedicated community service.

IN MEMORY OF ABRAM LEON SACHAR

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 3, 1993

Mr. MARKEY. Mr. Speaker, Massachusetts and the entire Nation are mourning the loss of a great American, Abram Leon Sachar, the founding president of Brandeis University, who passed away July 24 at the age of 94.

Abram Leon Sachar was one of this century's greatest university presidents. In his tenure, he established Brandeis University as one of America's premier institutions of higher learning and research.

Born February 15, 1899, to immigrant parents, Abram Sachar went on to receive an A.B. and a master's degree in history from Washington University. In 1923, he was awarded his Ph.D. from Cambridge University. Upon his return from England, Abram Sachar joined the faculty of the University of Illinois where he remained for 24 years. He then went on to pioneer the Hillel Foundation, an organization for Jewish university students where he served as its national director from 1933–48.

In 1948, Sachar founded Brandeis University as the world's first Jewish, nonsectarian university. With his strength of personality, intellect, and his keen fundraising ability, Sachar provided Brandeis with the strong leadership that was essential to its development. As a builder and leader, his accomplishments distinguish him as one of our preeminent 20th century university presidents.

Sachar opened Brandeis in 1948 with 107 students and 13 faculty members. In the two decades that he served as the university's president, Sachar saw Brandeis grow rapidly in its size and reputation. The university became the most rapidly accredited institution in America, and the university to most quickly receive a Phi Beta Kappa chapter. Currently, Brandeis is one of the Nation's top liberal arts and research universities, with more than 3,700 undergraduate and graduate students, and a full-time faculty of 360. This success can be directly attributed to the tireless efforts of Abram L. Sachar.

At the time of the university's founding, many Jewish students were excluded by America's elite universities by stringent quotas. Sachar saw Brandeis University as an institution that could provide talented Jewish students with a first class education. However, Sachar's primary motivation for founding Brandeis was sparked by his belief in the sheer magnificence of creating a university.

He was deeply committed to the idea of establishing a world-class, secular, Jewish university open to all scholars. The title of one of his many published books, "A Host at Last," reflects Sachar's desire to welcome non-Jews to a Jewish university, just as generations of Jewish scholars had been hosted by the Christians who founded many of America's great universities. Today, Brandeis has become the host that Sachar envisioned, attracting internationally recognized scholars of all faiths and backgrounds to study and teach the humanities, science, and the arts.

Not only did Abram L. Sachar seek to establish a university with the purpose of training great scholars, he also saw the importance of creating a sense of social conscience and responsibility at the university. This attitude, which continues to thrive today in the Brandeis community, is Abram Sachar's legacy.

DISTRICT TO HOLD PEACE SUMMIT

HON. SHERROD BROWN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 3, 1993

Mr. BROWN of Ohio. Mr. Speaker, gang violence is a growing threat in many communities across the country. In my own district, cities like Lorain, Elyria, and Oberlin are plagued by gang-related violence. Now, when our society is overrun with crime and violence, we must take the time to invest in our young people.

On July 31, 1993, community leaders from my district will hold a peace summit. The summit is to be held in one of my district's most violent neighborhoods, the Wilkes Villa housing project, and will hopefully bring rival young gangs from Lorain, Elyria, and Oberlin together to "talk peace."

Fashioned after a recent summit in Cleveland, this event will include rallies, speeches, and workshops on self-esteem, self-awareness, and teenage pregnancies. It is the hope of its planners that the summit will provide positive role models for young people and will teach them the importance and relevance of investing in their own future.

Today, I ask my colleagues to recognize a truly outstanding community effort. Please join me in commending those who have planned this peace summit and wish them well in their efforts to address the serious problem of gang violence.

INTRODUCTION OF THE HIGH MEDICARE HOSPITAL RELIEF ACT OF 1993

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 3, 1993

Mr. SMITH of New Jersey. Mr. Speaker, I rise today to introduce the High Medicare Hospital Relief Act of 1993. This measure would provide additional payment under part A of the Medicare Program for the operating costs of inpatient services of hospitals which have a high proportion of patients on Medicare.

Presently hospitals in New Jersey, and in particular Ocean County, NJ, are experiencing a significant shortfall in Medicare reimbursements. Despite being very efficient hospitals—boasting high occupancy and reduced lengths of stays—these medical facilities are not reimbursed at a level which properly reflects their costs. The New Jersey Hospital Association projects a $43 million shortfall in 1993 for Ocean County hospitals alone. This situation clearly jeopardizes the quality of care provided to senior citizens and may ultimately threaten the ability of these hospitals to remain open.

Congressman JIM SAXTON, who also represents Ocean County, is an original cosponsor of this bill. We have been working cooperatively on the Medicare issue in New Jersey and I am delighted to have his support on this measure.

Under my legislation, Mr. Speaker, those hospitals with not less than 65 percent of inpatient days or discharges attributable to patients entitled to benefits under Part A of Medicare would qualify as high Medicare hospitals and would then be eligible for additional payment.

Mr. Speaker, legislative action is necessary to address the needs of these hospitals since neither the Health Care Financing Administration [HCFA] nor the Office of Management and Budget [OMB] have taken any steps to remedy the situation. In my home State, a change in metropolitan statistical area [MSA] designations would have brought greater equity to the Medicare reimbursement system for our hospitals. However, OMB has reversed its earlier ruling that might have alleviated the shortfall in Medicare funding.

I am already cosponsoring H.R. 953, the Medicare Dependent Hospital Relief Act of 1993, with Congressmen CLAY SHAW and JIM SAXTON. Mr. SHAW's bill is designed to address this same problem. I fully support H.R. 953 but am introducing my new bill to further focus attention on this critical issue from a slightly different perspective.

I urge my colleagues to cosponsor this bill and look forward to our swift consideration of this crucial issue.

CITIZEN COSPONSORS OF THE FAIR ACT

HON. JAMES P. MORAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 3, 1993

Mr. MORAN. Mr. Speaker, on March 10, Representative GOODLING and I introduced the Fiscal Accountability and Intergovernmental Reform [FAIR] Act to help State and local governments ameliorate their most crushing financial burden: unfunded Federal mandates.

We feel this legislation is necessary to safeguard against a tendency within our institution and among Federal agencies to resort to more and more Federal requirements without providing the funds to implement them.

Like the National Environmental Policy Act, this measure will require Federal agencies to analyze the economic costs of new regulations before they are adopted.

And, like the 1974 Budget Reform Act, our bill will require that legislation cannot be considered by the full House or Senate without an analysis by the Congressional Budget Office of the cost of compliance to State and local governments and the private sector.

News of this legislation is spreading among those it will help most: Our cities' mayors. Mayors from every State and territory have been writing in support of the Fair Act and urge swift congressional action.

Support for mandate relief is building on numerous fronts. The New York Times recently ran a series of articles focusing on how our Nation's regulatory policies have strayed from their original purpose.

Mayors from 114 cities in 49 States wrote President Clinton urging the White House to focus on how policy making has gone awry. And finally the National League of Cities has made unfunded Federal mandates one of its top five political priorities in Washington.

In the next several weeks Representative GOODLING and I will be entering into the CONGRESSIONAL RECORD the names of hundreds of mayors from both parties and each State who have agreed to be citizen cosponsors of our fair act initiative.

The time has come to make the Federal Government accountable for the actions it takes on behalf of our cities and States.

Today I am entering in the RECORD the names of 20 citizen cosponsors who are urging us to take meaningful Federal mandate reform action.

CITIZEN COSPONSORS OF THE FAIR ACT, JUNE 10, 1993

NAME, TITLE, CITY, AND STATE

1. Thomas McKnew, Mayor-Commissioner, Gainsville, FL.
2. Ed Martin, Mayor, Warner Robbins, GA.
3. Frank Portusach, Mayor, Agana Heights, Guam.
4. Linda Lingle, Mayor, Wailuku, HI.
5. Al Manning. Waterloo, Mayor, IA.
6. Francis Burke, Mayor, Enfield, CT.
7. Frank Esposito, Mayor, Norwalk, CT.
8. Courtland Collier, City Commissioner, Gainesville, FL.
9. Lillian Eaton, Mayor, Yucaipa, CA.
10. Patricia Castillo, Mayor, Sunnyvale, CA.
11. Clyde Bland, Mayor, Tracy, CA.

12. Quitman Mitchell, Mayor, Bessemer, AL.
13. Robert Tippet, Mayor, Yuma, AZ.
14. Peter Angstadt, Mayor, Pocatello, ID.
15. Verne Hagstrom, Mayor, Quincy, IL.
16. Paul Gordon, Mayor, Frederick, MD.
17. Steve Duchane, City Manager, Sterling Heights, MI.
18. David Dominick, Mayor, Muncie, IN.
19. Michael Capuano, Mayor, Somerville, MA.
20. Michael Albrecht, Mayor, Des Plaines, IL.

JILL LEACH, JAYCEES WINNER

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 3, 1993

Mr. NEAL of Massachusetts. Mr. Speaker, today I would like to offer my congratulations to a fine resident my of district, Ms. Jill Leach of Southbridge, MA. Ms. Leach has recently been honored by the Greater Worcester Jaycees with the 1992 Outstanding Leadership Award. This honor traditionally goes to individuals between the ages of 21 and 39 who have demonstrated leadership in community affairs.

Mr. Speaker, the description certainly fits Jill Leach. A graduate of Bridgewater State College and a certified physical education and health teacher, Ms. Leach has dedicated herself to children. She has taught in the Southbridge Public Schools for 16 years, for 10 years as a physical education teacher, and for 8 years as a health teacher. For the past 4 years, she has been the health coordinator for the entire Southbridge school system.

Ms. Leach's efforts do not stop at the classroom door, however. For many years she has coached girls' field hockey and boys' track at Southbridge High School. She has been the chairperson of the Southbridge Alliance Against Drugs since its inception. She has done much for the community, spearheading such community-wide events as Celebrate Life Drug-Free awareness week, a safe home program with families of teenagers, and grad night. She is constantly providing training and informational programs for staff, parents, and the community on health-related topics.

Mr. Speaker, I'm sure my colleagues will join me in paying tribute to this remarkable women who has done so much to improve the lives of so many.

HUDSON FALLS CLASS OF '43 HOLDS REUNION, MISSED WASHINGTON TRIP BECAUSE OF WAR

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 3, 1993

Mr. SOLOMON. Mr. Speaker, I'd like to ask you and every Member to join me in expressing greetings that are 50 years overdue.

Fifty years ago, the class of 1943 was the first class of Hudson Falls NY, High School unable to make the traditional trip to Washington, DC. It was one of the many disruptions, large and small, Americans willingly underwent during World War II.

Some classmates lost their lives in that war, and will be missed at the 50th anniversary reunion on August 28. The disappointment of missing the Washington trip and the loss of friends killed in the war partly explain the great solidarity of the Hudson Falls class of 1943. They've already met at six reunions, and I'm sure this year's reunion won't be the last.

Those who survived the war came home to continue their education, to begin careers and families, and to watch the world change in ways they never could have imagined.

Mr. Speaker, in my 20 years as an assemblyman and Congressman I've had the privilege of meeting many members of the Hudson Falls class of 1943. They are some of the finest citizens I've ever met.

That's one of the reasons I take great pleasure in asking this House to join me in saluting, at long last, the class of 1943 of Hudson Falls High School.

TRIBUTE TO JUSTIN WILSON

HON. BOB LIVINGSTON

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 3, 1993

Mr. LIVINGSTON. Mr. Speaker, it is with the greatest of pleasure that I celebrate Justin Wilson's 80th birthday here in Washington. Justin is both an American and a Louisiana treasure, and I am proud that he currently makes his home with his beautiful wife, Jeannine, in my own congressional district.

Justin's many careers include politics, safety engineering, drug prevention, culinary expertise, and entertainer par excellence.

His stories are renowned the world over, his many records have sold millions of copies, and his cooking show has been carried by every public television station in the United States. Justin is a vintage American humorist whose side-splitting Cajun stories can actually be so funny they are painful.

For example, a couple of years ago my friend HOWARD COBLE, Congressman from North Carolina, was in the hospital for appendicitis. When he returned to work, he jokingly told me he was going to sue Justin Wilson. I asked him why, and he said that after the operation, he was lying in his hospital bed watching television, and Justin Wilson's show came on. Justin told a Cajun story that got him laughing so hard, he split his stitches.

Justin is a warm and wonderful human being, and I'm delighted to join his many friends around America in wishing him a very "Happy Birthday!" I garontee.

THE TELEVISION AND RADIO PROGRAM VIOLENCE REDUCTION ACT OF 1993

HON. JOHN BRYANT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 3, 1993

Mr. BRYANT. Mr. Speaker, for more than 30 years, the U.S. Congress, the Supreme Court, and the Federal Communications Commission, in addition to numerous private citizens and activist groups, have been seeking ways to reduce violence in television and radio programs.

In 1961, Newton Minnow—then FCC Chairman—called television a vast wasteland. Thirty years later, 1991, he said: "In 1961 I worried that my children would not benefit much from television, but in 1991 I worry that my grandchildren may actually be harmed by it."

To stem the ever-increasing flow of violence on television and radio, I am today introducing legislation—The Television and Radio Program Violence Reduction Act of 1993—to accomplish this goal.

Over-the-air television and radio, cable, and satellite programmers are bringing increasingly violent shows into the American home. Over 25 percent of prime-time television shows contain very violent material, according to the National Coalition on Television Violence.

Prime-time violence tripled during the 1980's, the American Academy of Pediatrics reports.

Programs developed for children are especially violent. A University of Pennsylvania study found that children's programming contains over 30 violent acts per hour.

Before the average child finishes grade school, he or she sees 8,000 murders and 100,000 acts of violence on television.

Numerous academic studies have built up astonishing evidence that children tend to imitate the behavior they see on television. The National Institute of Mental Health finds that violence on television leads to aggressive behavior by children and teenagers who watch violent programs.

Three different Surgeons General, the Attorney General's task force on family violence, the American Medical Association, the American Psychiatric Association, the American Academy of Pediatrics, and other authorities have all found that viewing televised violence is harmful to children.

Americans watch enormous amounts of television, and many children will watch television for twice as many hours—22,000 hours—as they attend school.

Many children watch violent television programs without adult supervision or guidance.

More than 20 years of research has led to a compelling consensus that watching televised violence increases children's aggressiveness and desensitizes them to the effects and implications of violence. The solidity of the agreement among respected scientists that televised violence is harmful nullifies arguments to the contrary by the television industry.

There is a need to limit the harmful influence of television and radio violence and yet maintain our national commitment to free expression.

My proposal, which some may criticize my proposal as content regulation does not in any way violate the first amendment guarantee of freedom of speech. Broadcasting—the profitable use of limited public airwaves—is a privilege that carries with it a tremendous public responsibility.

The courts have held that when there is such a compelling public interest, and everyone does not have access, equal access, to the use of the medium, speech can be regulated.

In his additional remarks to the FCC's 1975 "Report on the Broadcast of Violent, Indecent, and Obscene Material," Commissioner Glen Robinson stated: "Broadcast communications are sufficiently different from other forms of communications to justify a degree of regulation not tolerable for other media. * * * I think we can regulate offensive speech to the extent it constitutes a public nuisance."

The prevalence of televised violence is offensive speech and a public nuisance.

My constituents are offended by much of what is being transmitted into their homes by broadcasters, cable operators, and satellite dish programmer packagers. The increasing violence offered up as normal fare must stop.

I am horrified to find that Congress has been grappling with this issue since 1954 when the Senate Judiciary Committee, under the leadership of Estes Kefauver, first conducted hearings to explore the problem.

In 1969, the report of the National Commission on the Causes and Prevention of Violence, chaired by Dr. Milton Eisenhower, concluded that: "It is reasonable to conclude that a constant diet of violent behavior on television has an adverse effect on human character and attitudes. Violence on television encourages violent forms of behavior, and fosters moral and social values about violence in daily life which are unacceptable in a civilized society."

In 1975, the NAB television board adopted voluntary program standards for their members in order to deal with the growing problem of violence and adult subject matter. However, as a result of an antitrust settlement, the NAB television code was voided. NBC and ABC had adopted their own guidelines that year, and, to this day, I understand that each network and every independent station has its own standards department.

Obviously, from what I have heard from my constituents and what academic researchers have concluded, these voluntary program standards and guidelines are not working.

Therefore, I have drafted legislation to require the Federal Communications Commission to establish standards to reduce the amount of violent programming on broadcast television or radio, and that is also transmitted via cable or satellite systems.

As used in this act, the term "violence" means "any action that has as an element the use or threatened use of physical force against the person of another, or against one's self, with intent to cause bodily harm to such person or one's self." It is violent regardless of whether or not such action or threat of action occurs in a realistic or serious context or in a humorous- or cartoon-type context.

The term "programming" includes cartoons.

The Federal Communications Commission is directed to prescribe standards applicable to television and radio broadcast licensees and cable operators, requiring them to reduce the amount of violence transmitted over television, radio, cable, or satellite distribution systems.

If a person violates any rule or regulation issued, the Federal Communications Commission must, after notice and opportunity for hearing, impose on the person a civil fine of not more than $5,000. Each program in violation constitutes a separate offense.

If a person intentionally violates any rule or regulation issued, the Federal Communications Commission shall, after notice and opportunity for hearing, impose on the person a civil fine of not less than $10,000 or more than $25,000, for each program violation.

If a person repeatedly violates any rule or regulation issued, the Federal Communications Commission shall, after notice and opportunity for hearing, immediately repeal the person's broadcast license in the case of a broadcaster, and immediately repeal the person's satellite license in the case of the cable operator.

The Federal Communications Commission may exempt, as public interest requires, certain noncommercial video programming, including news broadcasts, sporting events, educational programming, and documentaries.

And the Federal Communications Commission must consider in its review of an application for renewal of any television or radio broadcast license, whether the licensee has complied with the standards required under this act.

I invite my colleagues to join me in supporting this important legislation.

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Television and Radio Program Violence Reduction Act of 1993".

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Television and radio programming are bringing ever-increasing levels of violent programming into the American home. Over 25 percent of prime-time television shows contain 'very violent' material, according to the National Coalition on Television Violence.

(2) Prime time violence tripled during the 1980's, the American Academy of Pediatrics reports.

(3) Programs developed for children are especially violent. A University of Pennsylvania study found that children's programming contains over 30 violent acts per hour.

(4) Before the average child finishes grade school, he or she sees 8,000 murders and 100,000 acts of violence on television.

(5) Numerous academic studies have built up astonishing evidence that shows children tend to imitate the behavior they see on television. The National Institute of Mental Health finds that violence on television leads to aggressive behavior by children and teenagers who watch violent programs.

(6) Three different Surgeons General, the Attorney General's Task Force on Family Violence, the American Medical Association, the American Psychiatric Association, the American Academy of Pediatrics, and other authorities have all found that viewing televised violence is harmful to children.

(7) Americans watch enormous amounts of television, and many children will watch television for twice as many hours (22,000 hours) as they attend school.

(8) Many children watch violent television programs without adult supervision or guidance.

(9) More than 20 years of research has led to a concensus that watching televised violence increases children's aggressiveness and desensitizes them to the effects and implications of violence, and the solidity of the agreement among respected scientists that televised violence is harmful nullifies arguments to the contrary by the television industry.

(10) There is a need to find solutions that limit the harmful influence of television and radio violence and yet maintain our freedom of expression.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) The term "violence" means any action that has as an element the use or threatened use of physical force against the person of another, or against one's self, with intent to cause bodily harm to such person or one's self. For purposes of this Act, an action may involve violence regardless of whether or not such action or threat of action occurs in a realistic or serious context or in a humorous or cartoon type context.

(2) The term "programming" includes cartoons.

(3) The term "child" or "children" means any individual or individuals under 18 years of age.

(4) The term "person" shall have the same meaning given that term under section 602(14) of the Communications Act of 1934 (47 U.S.C. 522(14)).

(5) The term "cable operator" shall have the same meaning given that term under section 602(4) of the Communications Act of 1934 (47 U.S.C. 522(4)).

(6) The term "cable service" shall have the same meaning given that term under section 602(5) of the Communications Act of 1934 (47 U.S.C. 522(5)).

(7) The term "television or radio broadcast licensee" means a "licensee" as defined in section 3(c) of the Communications Act of 1934 (47 U.S.C. 153(c)) authorized to engage in television or radio broadcasting, including independent television broadcasting.

(8) The term "franchising authority" shall have the same meaning given that term under section 602(10) of the Communications Act of 1934 (47 U.S.C. 522(10)).

SEC. 4. RULEMAKING REQUIRED.

(a) STANDARDS.—The Federal Communications Commission shall, within 60 days after the date of the enactment of this section, initiate a rulemaking proceeding to prescribe standards applicable to television and radio broadcast licensees and cable operators providing cable service under a franchise granted by a franchising authority, requiring such television or radio broadcast licensees and cable operators, including cable programmers, to reduce the broadcasting of all video and audio programming which contains violence.

(b) FINAL STANDARDS.—The Commission shall, within 150 days following the date of the enactment of this Act, prescribe final standards in accordance with this section.

SEC. 5. VIOLATIONS.

(a) VIOLATIONS.—If a person violates any rule or regulation issued or promulgated pursuant to section 3, the Federal Communications Commission shall, after notice and opportunity for hearing, impose on the person a civil fine of not more than $5,000. For purposes of this subsection, each program in violation constitutes a separate violation.

(b) INTENTIONAL VIOLATIONS.—If a person intentionally violates any rule or regulation issued or promulgated pursuant to section 3, the Federal Communications Commission shall, after notice and opportunity for hearing, impose on the person a civil fine of not less than $10,000 or more than $25,000. For purposes of this subsection, each program in violation constitutes a separate violation.

(c) REPEATED VIOLATIONS.—If a person repeatedly violates any rule or regulation issued or promulgated pursuant to section 3, the Federal Communications Commission shall, after notice and opportunity for hearing, immediately repeal the person's broadcast license in the case of a broadcaster, and immediately repeal the person's satellite license in the case of the cable operator.

SEC. 6. EXCEPTIONS FOR CERTAIN VIDEO PROGRAMMING.

The Federal Communications Commission may exempt, as public interest requires, certain video and audio programming from the requirements of section 3, including news broadcasts, sporting events, educational programming and documentaries.

SEC. 7. CONSIDERATION OF VIOLATIONS IN BROADCASTING LICENSE RENEWAL.

The Federal Communications Commission shall consider, among the elements in its review of an application for renewal of a television or radio broadcast license, including an independent television broadcaster, whether the licensee has complied with the standards required to be prescribed under section 3 of this Act.

A TRIBUTE TO MARTIN AND PAULINE HUMM

HON. GLENN POSHARD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 3, 1993

Mr. POSHARD. Mr. Speaker, in an era when many are concerned with the demise of the institution of marriage and the family unit in the United States, I rise today to honor Martin and Pauline Humm of Hardin County, IL, on the occasion of their golden wedding anniversary. Martin Humm and Pauline Bayne were married August 7, 1943, at St. Joseph's Catholic Church, where their 50 years together will be celebrated with a reception given by their son Michael, his wife Maryl, and grandchildren Spencer, Kate, and Martin of Clifton, VA.

Martin and Pauline have actively contributed to life in southern Illinois, participating in political, social, civic, and religious affairs. Martin retired in 1984 after 24 years of service with Ozark Mahoning Co., and has served as chairman of the Democratic Central Committee in Hardin County since 1960. Pauline worked in a number of positions throughout the years before retiring in 1981.

Although this anniversary may not make national headlines, I believe Americans would benefit by looking to the Humm's for wisdom and guidance. Their marriage is a prescription to cure a lot of what ails us, and I suspect it calls for a dose of respect, humor, and a generous portion of love and affection. I join with the family and friends of this wonderful couple in celebrating this joyous occasion. To Martin and Pauline, my heartfelt thanks for all you have done for all those whose lives you have touched.

INDEPENDENCE FOR ERITREA

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 3, 1993

Mr. BURTON of Indiana. Mr. Speaker, the people of Eritrea recently celebrated their long sought-for independence. I am sure that we all wish them the best of success in their nation-building endeavor. Eritrea will, I believe play a very constructive role in promoting the stability of the horn, and of Africa in general.

I would like to commend to my colleagues a recent speech made by Eritrea's president, Issaias Afwerki, at the recent Organization of African Unity [OAU] summit in Cairo. If Africa is to solve its many problems, there will have to be a new serious, sense of responsibility, and accountability on the part of its leaders, President Issaias expresses exactly the kind of vision that Africa so desperately needs.

ADDRESS BY H.E. ISSAIAS AFWERKI, PRESIDENT OF THE STATE OF ERITREA

Mr. Chairman, Your Excellency President Hosni Mubarak, Honourable Heads of State and Government, Your Excellency Salim Ahmed Salim, in the name of the distinguished Heads of the State and Government assembled here, I have the honour and privilege to thank you Excellency and the Egyptian Government for the warm hospitality and cordiality accorded to us. It is fitting for this beautiful and historic city to be the venue for the 29th OAU Summit and its President to be the Chairman of the Organization for the year ahead. May I, at this juncture, congratulate, on behalf of my colleagues, your Excellency for your election as the new Chairman of the OAU and wish you the best success in your endeavours this year.

Your Excellencies, the Eritrean people have today achieved the national independence that was denied to them for a century through a costly liberation struggle and the due process of law. In the event, my pleasure to be amongst you today to reclaim the seat in this august body is boundless.

But this pride and joy does not rest in our mere accession to the OAU. Nor does it derive from a symbolic or spiritual gratification that we feel in rejoining the family from which we have been left out for long.

As your Excellencies will agree with me, this joy and pride rests in and is tribute to the resilience of the Eritrean people. It is a testimony to their tenacity to endure untold sufferings in Africa's longest war for the cause of freedom, justice and the respect of basic human rights in the face of international isolation, including neglect from this very organization. Yet, although Africa and the OAU had chosen to ignore the ordeal and repetitive petitions of our people in the past, they can only rejoice in their current achievement. Because, in the final analysis, this is and remains an African achievement.

Although we dare not claim familiarity with the inner workings and constraints of this organization, we cannot hide—at least on the basis of our observation from without—our disappointment in its track record. To mince our words now and applaud the OAU would neither serve the desired purpose of learning lessons from our past nor reflect positively on our honesty and integrity.

Indeed, the sad fact remains that the OAU has become a nominal organization that has failed to deliver on its pronounced objectives and commitments. In this regard, I must admit that we have sought membership in the organization not because we have been impressed by its achievements but, as a local proverb goes, in the spirit of familial obligation; because we are keenly aware that what is ours is ours.

The critical view that we hold on the performance of the organization has not been measured by the yard stick of its contribution or failure to act in seeking a solution to our cause. Nor is it based on a lack of reasonable knowledge of the intricacies of the organization.

Indeed, although the OAU has often championed the lofty ideals of unity, cooperation, economic development, human rights and other worthy objectives, it has failed to seriously work for their concrete realization. And thirty years after the foundation of the organization, our continent remains afflicted by growing poverty and backwardness.

The African continent is today a marginalized actor in global politics and the world economic order. Africa is not a place where its citizens can walk with raised heads but a continent scorned by all its partners; a continent that seems to produce endlessly the wrong manuals for economic development, democracy and political management.

That all these problems are not entirely of our making is of course apparent. Much of the blame rests on the legacy of our colonial past and unfair practices that continue to date. However, these justifications cannot offer us consolation or cover up our failures. We must put our act together if this continent is to be relieved from the multiple problems that have devoured it for decades.

The first step in this direction is an honest admission of our past errors and shortcomings. This will require a new vision as well as the political courage to make a sober analysis of why and how we went wrong.

I must stress again, perhaps at the risk of repetition, that we do not find membership in this organization under the present circumstances spiritually gratifying or politically challenging. But whatever the past and however dim the prospects for the near future might be, we shall not shy from praying and doing our utmost, limited and modest as this is, for the betterment of the organization.

Finally, I wish to express gratitude to President Mubarak for his hospitality and express my best wishes to him for success as the new chairman.

FILIPINO VETERANS' EQUITY ACT OF 1993

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 3, 1993

Ms. PELOSI. Mr. Speaker, yesterday I introduced the Filipino Veterans' Equity Act of 1993, legislation that will help remedy a half century of injustice to Filipino veterans of World War II, tens of thousands of whom fought and died for America.

Members of the Philippine Commonwealth Army served side by side with members of the United States Armed Forces in World War II. Section 405 of the Immigration Reform Act of 1990, which enables Filipino veterans to apply for naturalization as American citizens, is scheduled to expire on November 29, 1995. Out of approximately 60,000 veterans expected to file for naturalization, less than half have applied. The main reasons for this small number include long delays in the certification of military service records and the lack of dissemination of information about the application process. The Filipino Veterans' Equity Act would extend this deadline for 3 years.

There are reports of problems with the United States Government's recording of the names of many Filipino veterans who were our allies during the Second World War. Some names were not submitted during the demobilization and processing period and others were destroyed in a fire at the processing center. Many veterans are therefore currently ineligible to apply for naturalization. This bill would allow Filipinos to use military service records authenticated by the Government of the Philippines to certify military service in the Philippines during World War II and enable the veterans to qualify for naturalization.

This bill would also provide for a special immigrant status for the immediate relatives of Filipino veterans. If the Filipino veterans had not been deprived of the naturalization process in 1945, their children would already be United States citizens today. Currently, the veterans must petition to bring their children here, which takes between 10 and 15 years.

The Filipino veterans and their families deserve a meaningful opportunity to apply for naturalization and be together in the United States. The Filipino Veterans' Equity Act of 1993 would give them such an opportunity. I urge my colleagues to support the Filipino Veterans' Equity Act of 1993.

INTRODUCING THE COPYRIGHT ROYALTY TRIBUNAL REFORM ACT OF 1993

HON. WILLIAM J. HUGHES

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 3, 1993

Mr. HUGHES. Mr. Speaker, joined by Mr. FRANK, I introduce the Copyright Royalty Tribunal Reform Act of 1993. This bill is a separate bill containing provisions of title II of H.R. 897, the Copyright Reform Act of 1993, but with certain minor amendments, described below.

The genesis of the legislation lies, as I noted in my remarks introducing H.R. 897, in President Clinton's efforts to eliminate wasteful bureaucracy and thereby create a more efficient Government. In the past, both political parties have tended to treat the Copyright Royalty Tribunal as a source of political patronage. This has led to a tribunal staffed by individuals who have, at various times, not met the Congress' expectation that the tribunal's Commissioners would be chosen from individuals having a demonstrated professional competence in the field of copyright policy.

President Clinton has challenged the Congress to "make suggestions, be specific" in reducing the size of Government. I applaud the President and am pleased to aid his efforts. H.R. 897 and the bill we introduce today accept President Clinton's challenge. In my opinion, and in the opinion of the majority of the Copyright Royalty Tribunal itself, abolition of the tribunal and its replacement with ad hoc arbitration panels is a good place to start. Abolishing a full-time agency that has an episodic workload and replacing it with ad hoc arbitration panels makes good sense. The experience we have gained from the section 119 arbitration shows that arbitration panels work. And, by having copyright owners and users bear 100 percent of the Copyright Office's costs of administering of the compulsory licenses and 100 percent of the costs of the arbitration panels established under the legislation, the taxpayers will benefit.

Subsequent to the subcommittee's hearings on March 3 and 4 of this year, the subcommittee has gathered data on the actual workload of the CRT. The data supports my conclusion that the work of the CRT is best handled by ad hoc arbitration panels.

CRT Commissioners enjoy a salary of $111,800 per year. For this salary, it appears that CRT Commissioners perform very little work. The data provided to the subcommittee by the CRT bears this out.

The Copyright Royalty Tribunal performs only two functions: First, rate-setting and second, distribution of royalties. These functions are fulfilled principally by public hearings and by decisions rendered as a result of those hearings. The CRT has no general regulatory authority or duties. Thus, unlike other bodies or agencies, the number of hearings held or proceedings conducted by the CRT is a fair way to gauge its workload. At the least, it is a good way to gage how well ad hoc arbitration panels, would handle the workload.

Although the data below are given in the number of days of hearings or meetings, these figures are generous since they count a half-hour hearing as 1 day.

1. SUNSHINE MEETINGS

As requested at the March 3 subcommittee hearing, data on meetings required to be publicly identified by the Sunshine Act were provided by the CRT. The data are for 1987 to 1992. The data include both rate setting and distribution proceedings. 1987: 18 Days; 1988: 8 days; 1989: 18 days; 1990: 11 days; 1991: 36 days; 1992: 5 days; total: 96 days. Average days per year: 13.7 days.

If the jukebox license figures of 13 days are removed from this data since this license is no longer administered by the CRT, the total is 83 days of hearings in 6 years from an average per year of 11.8 days. This reduction might be offset slightly by increased responsibilities under the Audio Home Recording Act of 1992.

2. COMMISSIONER DAUB'S DATA FOR HEARINGS IN 1990–92

Commissioner Daub submitted data regarding the number of days of hearings for 1990-92. According to Commissioner Daub, there were 52 days of such hearings. This results in an average of 17.33 days of such hearings per year.

3. COMMISSIONER DAMICH'S DATA FOR 1978 TO 1992

Commissioner Damich's submitted data for the years 1978 to 1992. Two charts provided by Commissioner Damich, are particularly relevant: First evidentiary hearings and second formal meeting and evidentiary hearings. The second category contains all of the data from the first plus meetings.

HEARINGS

The Damich data reveal to total of 390 days of hearings for the entire 15-year period of 1978 to 1992, for an average of 26 days per year. If jukeboxes are deleted since the license is no longer administered by the CRT, the figure drops to 359 days for an average of 23.9 days per year. Another figure that skews the data upward is the section 115 mechanical license. There has only been 1 year out of 15 in which there was any proceeding under this license, 1980. In that year, there were 47 days of hearings. If this figure is deleted and jukeboxes are deleted in order to better gauge the future, the total for 15 years is 312 days, or an average of 20.8 days per year. This figure might be revised up slightly in order to take into account possible duties under the Audio Home Recording Act of 1992.

The figures per year are: 1978: 10 days; 1979: 0; 1980: 75; 1981: 48; 1982: 74; 1983: 6; 1984: 16; 1985: 57; 1986: 29; 1987: 13; 1988: 4; 1989: 17; 1990: 6; 1991: 35; 1992: 0; total: 390. These figures clearly demonstrate an episodic workload.

FORMAL MEETINGS AND EVIDENTIARY HEARINGS

The figures include all of the days of hearings given in (A) above, plus meetings. The figures for meetings are overly generous because they count any meeting, no matter how short, as an entire day. 1978: 12; 1979: 2; 1980: 91; 1981: 64; 1982: 87; 1983: 13; 1984: 21; 1985: 69; 1986: 39; 1987: 29; 1988: 12; 1989: 30; 1990: 19; 1991: 44; 1992: 14; total: 546. Average number of days per year: 36.4.

If the jukebox license is deleted from this, the total is 477 days for all 15 years, or an average of 31.8 days per year.

Mr. Speaker, however you cut the data, we do not need three $111,800 Commissioners plus staff to perform the minimal amount of work that comes before the tribunal. I urge my colleagues to join me in abolishing this unneeded agency and replacing it with ad hoc arbitration.

The Copyright Arbitration Panel Act of 1993 is, as is noted above, virtually identical to title II of H.R. 897. A few changes have been made, however, and I would like to note these. First, the Librarian of Congress, acting upon the recommendation of the Register of Copyrights, will be responsible for convening the arbitration panels and reviewing their determinations. The Librarian is also given the authority, before a panel is convened, to make any necessary procedural or evidentiary rulings that would apply to the proceedings conducted by such panel. Second, in reaching its decision, an arbitration panel shall consider not only the written record of the proceeding before it, but also prior decisions of the CRT, prior arbitration panel decisions as well as any procedural or evidentiary rulings by the Librarian of Congress that apply to that panel. This will be of assistance in ensuring greater continuity in decisionmaking.

I also intend to proceed expeditiously with the remaining title I of H.R. 897 following receipt of a report by the Librarian of Congress on September 15 of this year.

SENATE—*Wednesday, August 4, 1993*

(Legislative day of Wednesday, June 30, 1993)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the Honorable BEN NIGHTHORSE CAMPBELL, a Senator from the State of Colorado.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

*Lo, children are an heritage of the Lord * * *.*—Psalm 127:3.

Gracious Father in Heaven, we pray for our children. The statistics are alarming. One CEO writes: "The evidence is mounting that our youth are in crisis. We are losing a generation of potential: Every 8 seconds of the school day, a child drops out. Every 6 seconds, a child runs away from home. Every 47 seconds a child is abused or neglected. Every 67 seconds a teenager has a baby. Every 7 minutes a child is arrested for a drug offense. Every day, 135,000 children bring their guns to school." (Doug Holladay, CEO, "One To One")

Pondering these conditions Father, we realize there is little, if anything, legislation can do to change the picture. How desperately we need the intervention of Almighty God on our situation. Loving God, work in us, in our Nation, in our society, that we may see a spiritual and moral awakening.

We pray in the name of Jesus Who said, "Suffer the little children to come unto me, and forbid them not * * *."—Mark 10:14.

Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, August 4, 1993.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable BEN NIGHTHORSE CAMPBELL, a Senator from the State of Colorado, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. CAMPBELL thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR RELIEF FROM THE MAJOR, WIDESPREAD FLOODING IN THE MIDWEST ACT OF 1993

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of H.R. 2667, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2667) making emergency supplemental appropriations for the major, widespread flooding in the Midwest for the fiscal year ending September 30, 1993, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Harkin-Bond amendment No. 756, to provide full payments to producers for crop losses resulting from damaging weather or related conditions in 1993.

Mr. INOUYE addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Hawaii is recognized.

Mr. INOUYE. Mr. President, I ask unanimous consent that I be recognized to introduce a measure and that the time not be charged against the amendment.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The ACTING PRESIDENT pro tempore. The Senator is recognized.

Mr. INOUYE. I thank the Chair.

(The remarks of Mr. INOUYE, pertaining to the introduction of S. 1350, are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. INOUYE. I thank the Chair, and I thank the manager of the bill.

AMENDMENT NO. 756

The ACTING PRESIDENT pro tempore. There will now be 1 hour for debate on the Harkin amendment to H.R. 2667, to be equally divided and controlled in the usual form.

Who yields time?

Mr. HARKIN addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Iowa [Mr. HARKIN] is recognized.

Mr. HARKIN. Mr. President, I yield myself such time as I may need.

Mr. President, let us recap where we are. For the benefit of Senators who were otherwise tied up yesterday in important committee meetings and other matters, the Senate now has before it the disaster assistance bill that was passed by the House and sent to the Senate.

We took it up yesterday afternoon. The amendment now before the Senate is an amendment that I offered on behalf of myself and Senator BOND and a number of Senators on both sides of the aisle. It is a bipartisan amendment.

I think it is important at this point to describe again for Senators both what the amendment does not do and what it does do.

Again, let us go back in time a little bit. Back in the 1980's, we had some disasters that hit this country, basically a big drought. At that time, the Congress responded with disaster assistance to farmers in the drought-stricken areas.

Then, in 1990, the Congress drafted the 5-year farm bill. In that farm bill, both the Senate and the House agreed to put in disaster provisions that were like what we did in the 1980's to help drought-stricken farmers. So that became part of the 1990 farm bill.

Now, those benefits are not 100 cents on the dollar. They never were before, they are not in the farm bill, and we do not intend to do that here. We in no way intend to reimburse everything a farmer has lost.

What the 1990 farm bill says is simply this: that if you are a farmer, you have a disaster, if you have crop insurance, the first 35 percent, you eat. You have to take care of your own first 35 percent. Then, everything above 35 percent of loss, we will give you disaster payments at 65 percent—not 100 percent, but at 65 percent—of the established price for those crops. In figuring losses, the USDA uses the program yields—which have been frozen since 1985—not the higher yield the farmer normally would produce.

So the farmer gets 65 percent of 65 percent, so to speak. Well, that is what is in the 1990 farm bill.

Based on that, a farmer, who acted in good faith and who had crop insurance and did everything right, suffering a natural disaster, like this flood or a drought, would basically get a disaster payment somewhere in the neighborhood of about 40 to 42 cents on the dollar for a total loss. Not enough to make up for everything, but enough to try to give that farmer something to pay the bills.

Because, as the distinguished occupant of the chair knows himself, farmers, in the spring, borrow money to buy

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● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

the fertilizer, to buy the seed, to buy the fuel to put the crop in the ground. They harvest the crops in the fall, pay their bills, and, hopefully, they have enough left over to take care of the family a little bit, and they get ready for the next year.

So what this disaster payment of about 40 to 42 cents on the dollar means to a farmer is not that they can pay everything, but that it can get them through the year and perhaps get them started the next year and, hopefully, get a crop in the ground next year. So that is what is in the law.

In 1990, 1991, and 1992, we had some disasters that struck, notably Hurricane Andrew. The administration at that time, the administration of President Bush, allowed for only a certain amount of money to meet these disasters and to meet the agricultural needs of those disasters.

There was not enough money there. The President opposed providing enough money to meet the real needs out there to fulfill the mandate of the law; in other words, to fulfill that 65-percent payment.

So, rather than coming back to Congress and asking for more money to fulfill the provisions of the law, the President—the administration—simply said we are just going to pay out what we have, and we will figure out how much each farmer gets of that amount, pro rata. What that turned out to be was 50.04 percent of each eligible disaster claim calculated under the 1990 farm bill. That is 50.04 percent of what, of 100? No; 50.04 percent of the 65 percent of 65-percent formula.

In other words, as I said earlier, under the law a farmer basically got 65 percent of the established price for production losses below 65 percent. After eating the first 35 percent of his loss, the farmer got 65 percent of the established price on losses above that 35 percent.

The previous administration said OK, figure that up, figure out what that would be, figure out what the 65 percent times losses above 35 percent would come out to in dollars and cents terms and then pay only 50.04 percent. They did that. Congress did not do anything about it. We did not have the votes to provide the money to do anything about it. So what has happened now is that we have the 50.04-percent factor because we were unable to get adequate funding from the past administration.

So now we are faced with the tremendous damage we have had this year in the upper Midwest. OMB, in submitting the disaster bill to the House, put into the bill that same 50.04-percent factor that was used by the Bush administration. The House did manage to move that up to 90 percent, but only for losses above 75 percent.

At that time the administration's position—this administration, the Clinton administration's position—was they supported that. I suppose Members of the House felt they could not eliminate the 50.04 factor. So the bill came from the House and lands in our laps here with that 50.04 percent factor still in there.

In other words, you say to a farmer who has suffered the loss of almost everything, as they have in my State, we are going to figure up what you are entitled to under the law, under the 1990 farm bill. We will figure up what you are entitled to and then we will whack off 50 percent on the largest portion of your loss.

What that means is a farmer in Iowa who operated in good faith, who bought crop insurance, who did everything right, is faced with getting back somewhere in the neighborhood of about 20 some cents of disaster payments on the dollar of loss.

That is not enough to pay his fuel bills, fertilizer bills, seed bills, pay his rent if he is renting any land, and then get a crop in the ground next year. It is a simple fact. It just will not do it.

So, what this amendment I have offered—along with Senator BOND and a number of other Senators on both sides of the aisle—seeks to do is simply to strike out that portion of the bill before us that has that 50.04-percent factor and 90-percent factor in there. What that means is, we will go back to the basic 1990 farm bill which says that you, farmer, you take the first 35 percent of loss, you suffer that. Then we will reimburse you at a rate of 65 percent of that established price, which will be about 40 cents to 42 cents on the dollar on total losses.

That is all we are asking for. We are not asking for 100 cents on the dollar. I want to be clear to my colleagues what this amendment does and what it does not do. Last evening when I talked to Senators there was still some confusion that what we are trying to do is give farmers 100 cents on the dollar of every dollar they have lost. We are not trying to do that. No one is attempting to do that. The farm bill did not do that. We are just attempting to get back to about 40 cents on the dollar, 40 to 42 cents on the dollar. That is all we are seeking to do.

I spoke at length with the President about this issue. I have spoken at length with a lot of people about this issue, as a matter of fact. I have been informed by the people representing the President that rather than taking a hard and firm position one way or the other on this amendment, the administration's position is now that they neither support it nor do they oppose it. They will accept whatever the will of this body is.

That is why this amendment becomes so important, so important to farmers in Iowa, Missouri—in all the affected areas. I might also add the farmers in the drought-stricken areas of North Carolina down to Georgia. Because without this amendment succeeding, if we have to live with that 50 percent factor, I can tell you—and this is not hyperbole—in my State of Iowa, hundreds, if not thousands of farmers will not be able to make it next year.

I could not stand before you with a straight face and tell you that if this were just one tornado that came through and knocked out a few farms, or if one river had overflowed its banks and wiped out a half a dozen farmers or a dozen farmers, or if a big storm, a hailstorm had come through and wiped out one county, I could not stand here with a straight face and tell you if we did not pass this amendment the farmers of Iowa and our economy would suffer dire consequences. But, I can stand here with a straight face and with an honest mind and tell my colleagues if we do not pass this amendment it will be dire consequences for Iowa, because this has not been just one river out of its banks; it has not been one tornado; it has not been one hailstorm.

Again, I point to this chart to illustrate what happened to my State. I used it yesterday and want to use it again to bring it back to the attention of Senators. This is a satellite photo taken by NOAA, the National Oceanic and Atmospheric Administration. You use this bar graph here at the bottom of this chart. If it is in green it is moisture, if it gets yellow it is more moisture, if it is red it is more moisture, if it is blue it is wetter, and as it gets to the darker end of the spectrum that means the wetter the ground is.

If you look at this map of the central and eastern part of the United States you will see the darkest blue is the Great Lakes, obviously. That is the Great Lakes. You see Lake Superior, Lake Michigan, Lake Huron.

Then you come over here and see that same dark blue area right over Iowa and southern Minnesota and a little part of South Dakota and Nebraska. It is as big as Lake Erie—in fact bigger than Lake Erie. It is as if Lake Erie were situated right in my State.

You cannot deny this. This cannot be denied. This is not hyperbole, this is factual evidence taken by a satellite photograph. All of that water came rushing through the State of Iowa. It is not just one river out of its banks, not just one hailstorm or one tornado. This is a disaster of epic proportions.

So I can stand here with a straight face and tell you this amendment is needed for our economy, the economy of Iowa. I might say that is true also of Minnesota. I see the distinguished Senator from Minnesota here, and the Senator from Missouri. Those Senators can speak for their own States. But the same is true for their States, too. That is why this amendment was so needed and that is why I have taken this time again to lay out for Senators what this amendment does and what it does not do.

Mr. COCHRAN. Will the distinguished Senator yield 1 minute at this time?

Mr. HARKIN. I have had my say, what I wanted to lay out. I will be glad to yield however many minutes the Senator wishes. I yield 1 minute to the distinguished Senator from Mississippi and I thank him for his help and support in modifying this amendment. I am sure he wants to speak about that.

The ACTING PRESIDENT pro tempore. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I thank the distinguished Senator from Iowa for yielding time to me. I want to express to the principal sponsors of this amendment, the Senators from Iowa and Missouri, Mr. HARKIN and Mr. BOND, my appreciation for including language which gives the Secretary of Agriculture the discretion to make adjustments in previous disaster benefit payments that were made under the 1990 farm bill that creates this disaster assistance program.

The purpose of this amendment, as Senators now know, is to try to make sure the administration makes available the full benefits that are authorized under the disaster program of the 1990 farm bill. There were earlier disasters, particularly in the southern part of the United States, and drought in other parts of the country, under which disaster benefits were made available in crop years 1990, and 1991 and 1992 that were limited under the same——

The ACTING PRESIDENT pro tempore. The Senator's 1 minute has expired.

Mr. HARKIN. I yield to the distinguished Senator an additional minute of time.

Mr. COCHRAN. Under the same modification the Office of Management and Budget is urging the Congress approve in this disaster situation. It seems fair to this Senator and to the sponsors of this amendment that if that change is made by law here, it ought to apply as well to previous disasters under the 1990 farm bill disaster program. That is the purpose of the language that was included in the amendment.

I thank the Senators for including that discretionary authority in this amendment.

Mr. HARKIN. Mr. President, I thank the distinguished Senator from Mississippi for drafting the amendment, for alerting us to the need to do this.

The Senator is absolutely right. We did not mandate it, but we left it in discretionary, because as I said yesterday, the administration may want to go back and give that 65 percent on losses above 35 percent—again not 100 percent—but that level of disaster assistance in the farm bill to farmers who suffered under Hurricane Andrew and other disasters of those earlier years.

Mr. President, how much time do I have remaining?

The ACTING PRESIDENT pro tempore. The Senator has 14 minutes 47 seconds.

Mr. HARKIN. I reserve the remainder of my time.

Mr. BURNS addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Montana, Mr. BURNS, is recognized.

Mr. BURNS. Mr. President, I want to thank the Senator from Iowa and the Senator from Missouri for bringing this to our attention.

The ACTING PRESIDENT pro tempore. The Chair reminds the Senator that he needs time yielded to him.

Mr. HARKIN. How much time does the Senator want?

Mr. BURNS. Five minutes or less.

Mr. HARKIN. I yield 4 minutes to the distinguished Senator from Montana.

The ACTING PRESIDENT pro tempore. The Senator may proceed.

Mr. BURNS. Mr. President, I want to remind my good friend from Iowa that if it comes to a vote, I will support this amendment. I think what the chairman and what we are trying to do is remind our colleagues that we have to put one foot in front of the other first. I think once the waters recede in the Midwest—and I was raised in northwest Missouri. You can probably look on that map that the Senator from Iowa has, and I can show you my hometown where I was raised. I am accustomed to those people and how they make a living because I was raised on one of those little farms of 160 acres of two rocks and one dirt. We made a living.

I think we are kind of underestimating the people in that area—their resilience and willingness to bounce back—because they are not going to sit there waiting for the Government to help them. They are going to start doing things on their own, putting their lives back together.

What I am concerned with, though, is that there are things in this bill I would like to change. I would like to shift some money around, but I think if this amendment has a chance of holding up the money to build the building blocks with which we can put the Midwest back together again—and I am talking here about infrastructure—I will support this amendment, if it comes to a vote, and I think it is going to come to a vote. But I want to remind my colleagues that our main thrust is to put together transportation, communications, power, roads, rails in order to provide the service and rebuild the Midwest.

I just want my colleagues to understand that there has to be a commonsense approach to this so that we can rebuild the Midwest. We know what floods are all about, and I know what Iowa is all about. America's compassion should be for this part of the country because this is where America eats. This is the breadbasket of America and the impact will be tremendous upon our ability to feed and clothe ourselves in years to come.

So I will support this amendment, but let us not overlook first things first in order to rebuild the Midwest, to deliver those services and a premise with which to do it. I appreciate the work that the Senator from Iowa, Senator HARKIN, and Senator BOND have done on this because we have been through similar disasters in my home State of Montana. We were not in this flood. We are upstream from everybody. So our hearts and our prayers go out to those people who have been impacted because I understand where they are coming from, but I think we ought to have a commonsense look at it on the infrastructure first and then rebuild, in order to deliver those services to the people we are trying to help rebuild and serve.

I thank the Senator from Iowa for bringing this up. I yield the floor, and I yield the remainder of my time.

Mr. WELLSTONE addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Minnesota needs time yielded to him.

Mr. HARKIN. How much time do I have left?

The ACTING PRESIDENT pro tempore. Eleven minutes six seconds.

Mr. WELLSTONE. I probably will not need more than 3 minutes.

Mr. HARKIN. I yield 3 minutes to the Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I do not need to take more than 3 minutes because I had a chance to speak last night.

First of all, I will just simply build on the comments of the Senator from Montana. We know that we are talking about tremendous devastation and much is needed. I know that everybody out here on the floor, including the distinguished chairman of the Appropriations Committee, is committed to helping people. There is no question about that. We appreciate the response of the administration.

Last night, I talked about James Lee Witt from FEMA. He has done just a magnificent job. The reason this Harkin-Bond amendment is so important is that if we do not make a change in the formula, this will be the problem: We will be providing assistance to people that really will not give them enough assistance so they will be able to get back on their feet. That is really what this amendment is all about.

We just simply make a plea to every one of our colleagues—Democrats and Republicans alike—people in our region are really hurting. When we go back to our States, farmers literally reach out and they say, "Senators, will you help us so that we can get back on our feet and rebuild our lives?" And we know that 20 cents on the dollar loss will not do the job.

If this amendment is not adopted, we will not have really provided that helping hand to farmers and it will not have made the difference. We are here to do well for people. What we say to our colleagues is that this is not just an academic debate about formula, this is not just a question of trying to get more money into a particular region. I think really without exaggeration it is a life-or-death question as to whether or not people who have been absolutely devastated in the agriculture sector of the economy are going to have a chance, especially some of the younger farmers, some of the beginning farmers.

So that is why this amendment is so important. That is why we ask our colleagues for their full support.

I yield back the remainder of my time. I really had a chance to speak last night. I do not know how to add any more than what has just been said.

Mr. HARKIN. I want to thank the Senator from Minnesota for all his help in drafting the amendment and working with the bipartisan group of Senators to help fashion not only this amendment but our whole approach to this flood in the Midwest. Senator WELLSTONE has been great for agriculture not only in his State but the entire upper Midwest. I personally want to thank him for all of his help and support.

Mr. President, I reserve the remainder of my time at this point.

Mr. BYRD addressed the Chair.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. BYRD. I yield myself such time as I may require.

The ACTING PRESIDENT pro tempore. The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, I want Senators to be very clear about what this amendment would do. The consequences of the amendment will be to add at least $1 billion to the cost of this legislation. That is OMB's estimate of what the amendment would add to the cost of providing disaster payments to farmers who have suffered losses as a result of the Midwest floods alone.

The additional expense of compensating those whose emergency has passed, whose disaster is over at the same rate as those in the Midwest will add up to $2.4 billion in spending, according to the OMB. Therefore, this one amendment would add $3.4 billion to this emergency spending bill for only one account in the agricultural area.

The policy contained in the President's request may be a right policy or it may be a wrong policy. It did not begin with this administration. It should not be ended here on the Senate floor today. This is a matter for the administration and the authorizing committees to work out.

What we are about here today is to get that which is justifiable to people inundated by the floods as quickly as possible. The floods have been and continue to be of such proportions that this will not be the last time that we address this disaster.

There will be regular appropriation bills for FEMA, HUD, Transportation, and the Corps of Engineers which will be acted upon in September, and, of course, the President may request further aid specifically for these communities. We will have ample opportunity to address these matters further.

We should be careful that we are not shooting ourselves in the foot by adopting this amendment. As I read the amendment by the Senator from Iowa, it may actually provide less assistance to the farmers in need than the bill as reported by the committee.

Under the bill as reported, the President may use additional funds from the Commodity Credit Corporation to pay up to 50.04 percent of eligible claims. Under the pending amendment, if the President wants to make additional payments over and above the amount we are appropriating here, he must pay 100 percent of the eligible claims.

The President and his Office of Management and Budget are already concerned about the total cost of this disaster assistance. It is clear that it will take a much greater amount of money under this amendment, and the President will be faced with a much more arduous decision about whether to make the additional funds available.

Time after time, I have heard on this Senate floor cries of "cut spending." I have heard President Clinton attacked for failing to cut spending first. Over the years, this Appropriations Committee has repeatedly been attacked for spending on Members' projects or for spending on programs that have not been authorized, yet here we are with a disaster bill before us bearing an emergency designation from the Oval Office and Members are out here trying to increase the cost of the bill.

I hear Members come to the floor and say that we ought to pay for our spending, yet we are trying to hold down the cost of this emergency bill by sticking to the President's estimates of what is absolutely needed to address this disaster, while in this Chamber we are seeing attempts to go back in time and spend more money on past disasters as well as on this current one.

Formula changes ought to be discussed in the authorizing committees, not on an appropriations bill. Members ought to get a grip on themselves and contemplate that we have a reconciliation bill up ahead that attempts to do some real and serious deficit reduction.

Let us not exploit this disaster legislation because it is the last available train leaving the station before the August break. Let us try to look at this from the perspective of the American people who must be watching and scratching their heads at our actions. We must not add needless and inappropriate spending to this emergency bill. If we sincerely want to cut spending in this body, which I hear over and over and over again, especially from the other side of the aisle, we can begin right now by doing only what is necessary to address this disaster adequately and appropriately. Disasters are not spending opportunities and must not become such.

Unmentioned thus far in the debate is the existence of the Federal Crop Insurance Program. Since 1938, we have had a wholly owned Government corporation, the Federal Crop Insurance Corporation. The Corporation offers insurance to agricultural producers to provide protection from losses caused by natural hazards—drought, flood, wind, and other weather conditions.

Based on data in the past three budget submissions, insured acreage under the program has fallen from 101,632,000 acres for crop year 1990, to 895,245,000 acres for crop year 1991, to 84,416,000 acres for crop year 1992, to an estimated 80,875,000 acres for crop year 1993.

Could it be that insured acreage has fallen because we have been so generous in our disaster payments that farmers no longer bother to get Federal insurance? Why pay insurance premiums if the Government is going to indemnify farmers for losses anyway?

The amendment by the Senator from Iowa, as modified by the provision offered by the distinguished Senator from Kentucky, provides authority to go back—back—3 years and make additional payments on claims that have already been paid. Are we today saying that a 1990 crop loss is an emergency today? Is that what we are saying 3 years later?

Here we are, Wednesday morning, trying to pass emergency legislation to help people deal with a major disaster before we leave for a month-long recess and we simply do not have the luxury to debate at length on whether we should provide retroactive payments or whether we should change the disaster formula for farmers. If the Senators representing those farmers in the disaster today are concerned about getting aid to those farmers who are currently deluged by this disaster, we need to move forward now. To provide additional payments for something that happened 3 years ago does not constitute an emergency today.

There are 3 days remaining for us to get some relief for these flood-torn communities. Why are we discussing and debating something that happened 3 years ago? It does not make sense.

Mr. President, I hope that Senators will not support this amendment. I commend those Senators who represent the areas that have been hit by this terrible disaster. My heart goes out to them and to the people who live in the areas, and I have always, as chairman of the Appropriations Committee, supported legislation such as this, to provide help for areas that are stricken by disaster.

It is not a matter of heart, Mr. President. It is a matter of acting responsibly. The administration is in the best position to determine what the estimates should be. The administration continues to send up requests to be added to this bill. This indicates to me that the administration is very sensitive to the needs of the stricken areas, and there will be ample time to come in with additional supplemental bills—September, October, the beginning of next year.

It seems to me that we ought to depend upon the administration, which is in a far better position than any Senator on this floor or group of Senators, to determine what the estimate of the damages is.

So, Mr. President, I do not like to be in this position of opposing this amendment. The easy thing to do would be to vote for it. That would be the easy thing. The difficult thing to do but the responsible thing to do is to vote for the bill that the Appropriations Committee has reported out and which represents and will represent shortly everything that the President has requested because I intend to offer an amendment a little later to add something over $100 million which has come in at the request of the administration by way of a letter.

Mr. President, I reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. McCONNELL addressed the Chair.

Mr. HARKIN. Mr. President, I have some requests for time. Senator McCONNELL, 1 minute.

I yield to Senator McCONNELL 1 minute. I only have 11 minutes remaining.

Mr. McCONNELL. I thank my friend from Iowa.

The ACTING PRESIDENT pro tempore. The Senator from Kentucky is recognized.

Mr. McCONNELL. Mr. President, let me say that if the Federal Government exists for any purpose, it seems to this Senator it is for national defense and natural disasters. And we are certainly concerned about the spending of the Federal Government, on the other hand.

Mr. DOLE. Mr. President, as I understand, leaders' time has been reserved, and if I could yield 10 minutes of that.

The ACTING PRESIDENT pro tempore. The Republican leader is correct.

Mr. DOLE. Two minutes.

Mr. McCONNELL. Two minutes.

Mr. DOLE. Three minutes or four minutes.

Mr. McCONNELL. I thank the Republican leader. That would give the Senator 3 minutes.

Mr. DOLE. And 3 additional minutes to the Senator from Kansas, Senator KASSEBAUM.

Mr. BYRD. Mr. President, would the Republican leader object to our having some additional time on this side?

Mr. DOLE. No. The same amount.

Mr. BYRD. Will the Republican leader make that request.

Mr. DOLE. I ask unanimous consent that 10 minutes more be allotted to the distinguished Senator from West Virginia.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. McCONNELL. Mr. President, I thank the Republican leader for the additional time.

As I was saying, if the Federal Government exists for any purpose, it seems to this Senator it is for national defense and natural disasters.

I wish at the outset to express my appreciation to Senator BOND and to Senator HARKIN for their leadership on this issue.

Kentucky has not escaped the effects of the devastating floods in the Midwest. While most of my State suffers from almost drought conditions, four counties in Kentucky along the 60-mile border of the Mississippi River will lose 40,000 to 50,000 acres. To make matters worse, the land affected there will be under water for a long period of time. As a result, thousands of acres in Kentucky and millions of acres across the Mississippi Valley will be totally destroyed.

Farmers have spent millions of dollars in fertilizer, seed, chemicals, fuel, and labor expenses. Also, mortgage payments are still due. Daily family living expenses are still needed, and now there are added expenses to rebuild and restore damaged property.

Because the flooding occurred so late in the year, there is no opportunity for farmers to replant a crop with the hope of getting some return on their investment this year.

Mr. President, our losses in Kentucky are not comparable to some in the Midwest. We estimate about $20 million as a result of the flooding in Carlisle, Ballard, Fulton, and Hickman Counties. I have been there, Mr. President. I have been over to Roy Dillard's farm in Hickman County, where two-thirds of his corn and soybean crops were under water. His land is still under water, and will probably stay flooded for several more weeks. He invited several neighbors over to his farm. And I heard stories from people who will lose everything.

Connie Keene made a point which really struck home. Without crop assistance from the Federal Government, some farmers in western Kentucky could lose their homes to bankruptcy. And there is very little difference in losing your home to flooding or a hurricane than losing your home because you lost your farm income and therefore cannot make your mortgage payments.

Paul Lee Williams of Fulton County has lost 1,000 of his 1,300 acres. His neighbor, Walt Goodman, has lost over half of his crop to flooding and the rest is burning up with drought conditions on the same farm. Cornfields which yielded 200 bushels per acre last year will yield zero if flooded, and about 100 bushels per acre if it survives the drought.

I met with a dozen farmers in Tony Gill's toolshed in Carlisle County. Wayne Earl Bean of Carlisle County told me farming is a 50–50 proposition right now. This is the way he put it. He said 50 percent of it is burned up, and the other 50 percent is under water. His son, Philip, pointed out how ridiculously complicated crop insurance and the disaster formula are for calculating losses and estimating assistance. He is right.

While this is not the time nor the place to make major changes in our disaster assistance programs, the amendment being offered by the Senator from Iowa and the Senator from Missouri is certainly necessary until we are able to make bigger changes. Millions of people, as we all know, have been directly affected by the floods.

Families have been displaced, businesses ruined, communities devastated, and lives changed forever. Farmers have lost millions of acres of crops and years of good stewardship have been washed away.

Mr. President, I hope the amendment will be adopted and that the Senate will forthwith provide maximum assistance to those who have been the victims of this natural disaster. This disaster will linger well after the television cameras have gone and the dollars in assistance are spent. All too often Government intrudes in the daily lives of Americans, but Government has a role and must respond promptly to this devastation.

Mr. DOLE. Mr. President, I understand I have been yielded 2 minutes by the Senator from Iowa.

Then I have, I think, a couple of minutes left on leader time. But I may not need that. I will go ahead and use leader time first. I am sure the Senator from Iowa has other requests.

Mr. President, how much time do I have left on leader time; 4 minutes?

The ACTING PRESIDENT pro tempore. The Senator is correct.

PRORATION AMENDMENT

Mr. DOLE. Mr. President, I just wanted to emphasize how important this amendment is and how important it is to many of us—no, not us; we are back here high and dry. I am talking about the people who live in this area. They are Republicans and Democrats, and they are people who have lost their homes and lost their farms.

If you watched, the piece the other day on Iowa, it had this young farmer sitting in a Red Cross shelter, he and his wife. They had lost everything they had. It was their first year on the farm, and they lost everything. It almost made tears come to your eyes when they interviewed this young man who thought he had a great future on the farm, and everything was wiped out with the flood.

That in itself may not be adequate, but that happened thousands and thousands and thousands of times in 10 different States hit by floods. Then we have the drought in several Southern States.

I was in North Carolina last Saturday. The first thing they asked me was: "What about the drought aid? We have been dry." I know the same is true in Georgia and other areas of the South.

So I wanted to underscore what Senators BOND, HARKIN, GRASSLEY, and others have said here today. This is an important amendment. I know as far as the managers are concerned, they would like more help. If only the administration would say one way or the other, for or against, instead of waiting: Well, whatever happens is all right with us. But at least there is not a negative from the administration. So I will construe it as a positive. It would indicate to me that it seems they are not against this; they must be for it. That is how I interpret it.

I know the managers may have another interpretation. But flood waters do not choose party lines. I think this amendment should be supported. We had quite extensive damage in my State of Kansas. I have been there. I have flown over the State. I talked to people by telephone. We have taken all of the staff out of my office here who were not absolutely needed and sent them all to Kansas to visit with the people who have been hit by the flood. They came back with some pretty bad stories.

So it just seems to me there are a lot of reasons that we ought to support this. I want to make it clear that this is not going to make the farmer whole, whether they get 21 cents on the dollar or 42 cents, this is not going to make anybody whole.

When President Clinton toured there he talked about 50 cents on the dollar. I think probably he had in mind a formula which I just say does not give you 50 cents.

We lost 25 percent of our wheat crop in Kansas, about 100 million bushels. Just add that up to the market price. That is a lot of money taken out of the economy, away from the farmers, who will not be able to start up again this year.

I know we can say there will be another supplemental, and we can come back later. But when the cameras leave, aid for the area will also dry up.

I think this ought to be the important time to raise this issue. I do not know of any time when we have not stood up for others who have had disasters. It has never been partisan. It has always been nonpartisan on both sides of the aisle.

So what do you tell your bankers, the implement dealers, people whom you buy the fuel from and the seed from? You say: Give me one more chance. You go out and try to borrow more. They will say no. You cannot do it for 20 cents.

So I just hope we can pass this amendment. There is not a quarrel with the ranking member or the chairman. There is, I think, agreement by those of us who represent the 10 States in the flood. We reflect the views of our constituents. We are putting the money in there where it is most needed.

Now, I understand the concerns of those regarding cost. I would just point out that as market prices go up, because of disaster, there will be a decrease in the form of deficiency payments to the farmer. USDA has indicated this savings could range between $850 million and $1 billion, which goes a long way in paying for this increase.

I want to congratulate my colleagues on both sides of this debate. I hope when the time comes, we will have broad bipartisan support for this amendment.

Mr. President, we have heard from several Senators on both sides of the aisle, supporting the amendment to remove the 50.04 percent pro rate. I commend my colleagues for the bipartisan support they have shown in this debate. Obviously, the flood waters do not choose party lines.

There have been many reasons given on why this amendment should be supported. Like many that have spoken on the amendment, I have heard from the people back home as to what those reasons are. Some have called this a disaster. But once you see it, you know it is more than that, it is a catastrophe.

In Kansas over 25 percent of the crop has been destroyed by some type of disaster. High straight winds, tornadoes, hail, and floods have equated to more than a $437 million shortfall in the pockets of Kansas farmers. Over 53,000 of the States 67,000 farmers have been affected. And when the farmer is affected, main street is affected.

We have spent a lot of time talking about how the amendment will help farmers—and it will. Lets not forget about their creditors—the bank, the implement dealer, the fertilizer and chemical dealer, the grocery store. Money in the farmer's pocket is money in their pockets. America's small businessman has suffered in this disaster as well. While the Small Business Administration has loan programs to help, passing this amendment is one more way to provide our assistance.

The President has promised his support for the flood victims. The Congress has promised their support. Now is the time to show what our support means. By eliminating the 50.04 percent pro rate, we are putting money into the heartland where it is needed most.

Mr. BYRD. Mr. President, I think I should put a letter in the RECORD at this point. I will read it. It has been sent to me this morning dated August 4.

A similar letter was sent to the distinguished ranking member, Mr. HATFIELD. It reads as follows:

> DEAR MR. CHAIRMAN: It is my understanding that when the Senate returns to H.R. 2667 this morning, the pending business will be an amendment which would eliminate the 50 percent pro rate for agriculture disaster payments. The Administration did not take a position on the amendment as originally offered since it was limited to 1993 crop losses. It is my further understanding that the amendment now has been modified to permit the Secretary of Agriculture to make retroactive payments to farmers who suffered crop losses from 1990–1992 in order to receive payments up to 100 percent of their eligible claims.
>
> The Administration estimates that this amendment, as modified, would increase the cost of the Federal crop disaster assistance program from $1.4 billion to $4.8 billion. While the Administration did not take a position on the underlying amendment to strike the 50 percent pro rate, we must oppose the amendment as modified.
>
> There simply is no basis for using the emergency authority to make retroactive payments for crop losses that occurred as far back as 1990. Were the emergency designation not used, enactment of this amendment would, under the Budget Enforcement Act, necessitate a reduction of FY 1994 discretionary spending of several billion dollars.
>
> Sincerely,
>
> LEON E. PANETTA,
> *Director.*

Mr. President, while it is true that the administration took no position on the amendment that was originally offered by Mr. HARKIN—and he has stated that a number of times and he is correct in that—the administration is clearly on record as being opposed to the Harkin amendment as now modified by the language added by Mr. COCHRAN. I hope that Senators will be mindful of this when they come to vote on this matter.

Mr. President, I yield to the distinguished Senator from Oregon [Mr. HATFIELD].

Mr. HATFIELD. Mr. President, I just want to be very brief and reiterate two points. No. 1, as the chairman has indicated the position of the administration, let me translate that into the hard figures that we are dealing with. The committee came out with $4.7 billion, which was precisely the administration's proposal. Since that time, the administration asked for an additional $123 million. That would mean we are then dealing with, if we adopted the administration's second request, $4.8 billion. The Harkin amendment, now as modified, would add $3.4 billion in addition, making it an $8.2 billion package.

My point is simply that it might mean that we will ultimately have to spend more than $8 billion, but we have other vehicles that we can address as the information becomes available.

The second point is, I urge all Members to look at the Calendar of Business and find that we have listed 40 amendments to this bill. I am not saying that they are all going to be raised, but we have 40 listed amendments. This is Wednesday, August 4. The administration has made very high priority, as it should, on getting the resolution on our budget and fiscal matters accomplished before the recess begins. They say we will take up the reconciliation.

All I am saying, simply, is that time is running out, and if we further add to this bill, we have longer potential conferences with the House and a good possibility of not achieving any bill—any bill—until after the recess. I just think we have to face that reality.

Are the Members of this Congress who represent the States that are so inundated and devastated willing to take that risk? It will strictly be on your shoulders. I do not believe that it is an unreasonable speculation to make within the current timeframe—$4.7 billion or $4.8 billion—if we adopt the additional request of the administration, as against the possibility of nothing until after the recess.

This is not a vague or speculative warning. This is simply a statement of fact. This is Wednesday, August 4, and every Member here knows the processes that are required to conference with the House in the middle of the reconciliation resolution to be adopted before the Friday recess.

Need I also remind Members of that tremendous steamroller mentality that gains momentum as the date of recess nears, not for a weekend, but for the month of August. That is going to be very difficult to resist in order to complete this bill if we get into that kind of possible legislative morass. Think of the House's action and their difficulties and the statements on legislation on appropriations and all of the other things that have fouled up or delayed resolutions in the past, and you see the ingredients, the components in this bill taking shape to reach into that same kind of experience. We have repeated and repeated and repeated that. There is nobody on this floor who has more desire to help the people in the Midwest, but we cannot risk this idea by measuring compassion by the dollars involved in the bill because, if that were so, then this is a paltry few dollars to meet the needs of those people.

So I just offer that, not in opposition to the objective of this bill, but as the reality we face as members of the Appropriations Committee, to try to complete this bill before that deadline.

Mrs. KASSEBAUM addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Kansas is recognized.

The Senator has 3 minutes.

Mrs. KASSEBAUM. Mr. President, I support the amendment offered by the Senator from Iowa [Mr. HARKIN] and the Senator from Missouri [Mr. BOND]. While I share the concern that this amendment adds to our deficit, I believe it is a necessary step to address the devastating floods of the past several weeks across the Midwest.

In my State, current estimates are that about 75 percent of all Kansas farmers have been hit by flooding and other natural disasters this spring and summer. About 4 million acres, roughly 25 percent of Kansas cropland, have been affected. Tentative estimates for total crop losses exceed $500 million in the State of Kansas alone. These losses have devastated farmers across the State.

Current provisions of the proposed disaster relief bill would allow farmers to recover about 20 cents for every dollar of crop loss. This amounts to only half of the amount that was afforded to farmers in the 1990 farm bill. I do not believe that this amount will provide sufficient assistance to the thousands of farmers whose operations have been crippled by severe flooding. In my opinion, Congress must make a stronger commitment to ensure that farmers are provided with the assistance they need to get back on their feet.

For this reason, I support efforts to restore disaster payments to levels established in the 1990 law. The amendment offered by Senators HARKIN and BOND accomplishes this goal and provides farmers with a reasonable amount of assistance.

Some argue that this provision is too costly. I agree that Congress must be cautious in adopting any measure that increases spending. However, the increased costs of this amendment would likely be offset by lower deficiency payments to farmers for Government Farm Program crops.

Largely due to flooding, the cash price for wheat has risen from $2.82 per bushel in July to about $3.08 per bushel this week. This will help farmers who have wheat to sell, and it should reduce deficiency payments made by the Government.

But the only help available to many farmers whose crops have been washed away will come from this bill. That help could well decide whether many of these farmers can recover.

Mr. President, our budget deficit is a serious problem and requires serious action. But I would point out that that problem existed long before these natural disasters. If we want to address the deficit, it must be done by addressing ongoing, day-to-day Federal spending. Natural disasters have not caused our deficit and the deficit should not be used as a reason to withhold assistance from cities, towns, and hundreds of thousands of families devastated by these floods.

Mr. President, there is no one whose dedication and compassion I admire more than the Senator from Oregon and also the Senator from West Virginia. The Senator from Oregon is the ranking member on Appropriations and has dealt for many years with the reality, as he says, of what we face here.

Mr. President, I do not think there is a Senator on this floor who has any concept, nor do I, of the day-to-day weariness, the day-to-day frustration, and the tragedy felt in the Midwest. For weeks, we have watched the sandbagging and wondered if levees were going to break. Now we must consider either the cleanup and devastation to the farms that have been lost or the months and months it will take to recoup some of the damages that have occurred in this major tragedy. It is not only the floods, but it is the droughts as well.

As the Senator from Kentucky pointed out, I think rightly so, the Federal Government does have a responsibility in dealing with natural disasters. These are not, we hope, going to be annual recurrences. We hope that this is the time to address what is before us this year once and for all. We have heard many figures explained about each State's problems, and I will not go into that.

The only help available to many farmers whose crops have been washed away, whose homes have been destroyed, will come from this bill. This help could well decide whether many of these farmers and small businesses can recover. I think we simply have to address this in the scope of what assistance we can give at this time to those who are suffering in ways that we really cannot fully imagine here.

Mr. HARKIN. How much time do I have remaining, Mr. President?

The ACTING PRESIDENT pro tempore. The Senator has 7 minutes 30 seconds.

Mr. HARKIN. I yield 2 minutes to the distinguished Senator from Missouri.

Mr. DANFORTH. Mr. President, last week the chairman of the Council of Economic Advisers said that this disaster was not a disaster for the entire country; that, as a matter of fact, it would be an economic plus for the rest of the country. It affected just a ribbon going through the middle of the country.

For those of us who live there, it is some ribbon. To fly over this land, you get the best view of it, because as you look down on the farmland adjacent to the rivers, especially the Mississippi River and the Missouri River, with the levees broken, you see total loss—total loss.

The whole farm is gone. The whole farm is under water. All the land is under water. The buildings are bobbing up above the water. Everything is gone. It is a total loss for those who have been devastated by this flood.

The issue before us is very simple. The issue is whether the Congress of the United States means what it said in 1990 when we passed the farm legislation and when we promised 42 percent reimbursement for agricultural disasters. That was the promise of the act of Congress that was signed into law by President Bush. That is the law.

It has been artificially and administratively cut in half. Senator DOLE said it quite well, this is not going to be a windfall for anybody. Are we going to provide disaster assistance equal to 42 percent of the loss as provided by law, or are we going to welsh on that law and provide only half that amount, 21 percent?

The PRESIDING OFFICER (Mr. MATHEWS). Who yields time?

Mr. HARKIN. Mr. President, how much time remains on both sides?

The PRESIDING OFFICER. The Senator from Iowa controls 5 minutes and 36 seconds; the Senator from West Virginia controls 21 minutes and 40 seconds.

Mr. HARKIN. I yield 1 minute to my colleague from Iowa, Senator GRASSLEY. S0634

The PRESIDING OFFICER. The Senator from Iowa [Senator GRASSLEY] is recognized.

Mr. GRASSLEY. Mr. President, Senator HATFIELD put the question to us: Do we want to take the risk? Yes, we do want to take the risk. We want to take the risk, we take the risk because all we are asking for is equity with other disaster programs that are being funded by the Federal Government. We are funding FEMA, we are funding SBA, we are funding Farmers Home Administration, we are funding HUD, we are funding all these people who are going to benefit at the authorized levels.

We are cutting in half, under present policy, the authorized levels for disaster relief for farmers. We think that is unfair.

All we are asking for is that farmers be funded at the authorized level, not at some arbitrary 50 percent of that authorized level. We want equity for farmers on the same basis as small business, residential, and others.

I yield the floor.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

Mr. HARKIN. Mr. President, I yield 4 minutes to the cosponsor of the amendment, someone who has worked very hard on this amendment as he has on all flood disaster provisions, Senator BOND. I yield 4 minutes.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. BOND. Mr. President, I thank my colleague from Iowa, who has worked long, hard and diligently on trying to assist our citizens who are victims of a 500-year flood. I hope my colleagues will keep this in mind, this is the kind of flood that comes once every 500 years. It might have been the time of Columbus since this has happened.

This is historically devastating to our country. The fire chief of St. Louis, on Sunday, told me that he had never heard of, or seen a disaster in his lifetime of this magnitude.

When we have a national disaster the responsibility of this body and the Federal Government is to respond. You do not keep score. You try to find ways to help.

One country song goes, "There ain't no future in the past." Do not look back and say, well, maybe in 1991 and 1992 we did not give enough.

We have discretion in this bill, if the Secretary wants to give aid to the people who have suffered disasters and been compensated in the past. Director Panetta has said we do not want to spend this additional $2 billion to $3 billion.

The whole point of this amendment is they do not have to. They are given discretion if they find there is equity in doing so. It is up to their discretion. We are not forcing them to do anything.

I think it is very important to realize that unfortunately the Federal Government is going to make a savings out of this disaster because of the loss of crop, 33 percent or more of many of the major crops in Missouri, and I am sure similar or greater losses in other States. There may be less supply, so there will be higher prices. And when prices on program crops go up, then the thing called deficiency payments. The difference we pay between the target price and the market price will go down, so there will be savings in the deficiency payments.

We are saying today to our colleagues in this body that the people of Missouri, Iowa, Illinois, and the other affected States are not complaining. They are sandbagging. They are rebuilding. They are fighting on. And they need our help. This is not a time to nickel and dime them and say we can make some savings and cut in half what was provided by the statute for agriculture disasters. We are saying give them a chance to get the full authorized level. It is only up to 42 cents on the dollar that they have lost.

Many of these farmers are going to be prevented, because of the disaster that this flood has visited on their land, from getting a crop, not only this year, but next year, and perhaps the year after. This is a lifeline that we will be throwing to farmers in the Midwest. They are hanging on by their fingernails.

It is 42 cents on the dollar to last them 1, 2, or 3 years. Is that too much to ask, Mr. President? I do not think so.

When I talked to the President on July 15 and told him that the OMB had recommended cutting the disaster assistance in half, he said he was not aware of it. I understand they have no position now on whether we should give them 50 cents on the dollar or the whole dollar.

I hope this body will say we meant it when we said in the 1990 farm bill that we will provide assistance under a formula for the farmers, and I urge my colleagues to support the amendment.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

Mr. HARKIN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Thirty-five seconds.

Mr. HARKIN. I reserve that 35 seconds, if I could.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, we are not debating as to whether or not we have a responsibility here to act, and we are not debating as to whether or not we are going to provide assistance.

To listen to our friends, one would feel that this Senate is not going to provide assistance. That is what we are debating, as they say. There is no question but that we are going to provide assistance. There is no question but that we have a responsibility to do so.

Mr. President, what we are debating is whether or not we are going to quadruple the amount for the Commodity Credit Corporation for crop assistance. It is $1.4 billion in the bill for that purpose.

And what the amendment by Mr. HARKIN would do, as modified by the amendment by Mr. COCHRAN, would be to increase that to $4.8 billion.

Mr. HARKIN. Mr. President, could I ask the chairman to yield on that for a question?

Mr. BYRD. Yes, I yield for a question.

Mr. HARKIN. Yes. The Harkin amendment if adopted is totally discretionary on behalf of the Secretary of Agriculture, is that not so?

Mr. BYRD. It is discretionary.

Mr. HARKIN. It is discretionary. Therefore, if the Secretary of Agriculture, the administration, decides not to go back in 1991 and 1992—it does not cover 1990; it covers 1991 and 1992—if they decide not to go back to make any payments in those past 2 years, which is totally discretionary on the part, then will this cost the $3.4 billion.

Mr. BYRD. If he decides not to go back. But that is a big if, Mr. President. If he decides to go back, what does it do to the budget deficit?

Here are all these Senators over here—I have been hearing screaming all these many months cut spending, cut spending, cut spending, cut spending. Now when it comes to their States, we want to help them, and I have never failed yet to vote for and to support any bill that provides for disaster relief, and I move those bills quickly. And as to compassion, I do not take a back seat to anyone.

I have had these floods in West Virginia. I have gone into the coal miners' homes at the base of the hollows after those sudden storms have swept over those mountains and filled the houses with mud, black dirt. I have seen those coal miners have to move their furniture out of the houses. I have seen them have to hose the houses out to get the black coal dust that has been converted into a black mud out of their houses.

We have had floods that have cost the lives of miners and others and have cost people who are in business. So I am compassionate with those who seek to get help here today.

But it amazes me that these are the same Senators who constantly talk about "cut spending," "cut spending first." They deride our President and say, "Well, we should cut spending first." That is their cry on this reconciliation bill that is going to be coming along.

I feel sorry for them that this disaster has hit their States. But we also have to consider what this does to the deficit.

Now, the $3.4 billion that would be added by the Harkin amendment, as modified by the Cochran amendment, would be added to the deficit. And this whole bill, which is $4.7 billion, as reported out of the committee, and which would become $8.1 billion if the amendment is agreed to, all of it is going to be added to the deficit.

Those of you who are constantly screaming about cutting spending, adding to the deficit, what about this? You are going to be adding $8.1 billion to the deficit.

I know it sounds hardhearted to talk about deficits and dollars when people need help. But what I am saying is, we do not need to deny those people help.

It seems to me that the administration, which has shown its great sensitivity to the disaster and to the suffering of people by constantly sending up requests for more money, has indicated that it is not insensitive to this problem. And the Senate will be back in September and the President can send up another supplemental.

Besides, there are various regular appropriations bills that will be coming along in September for FEMA and for transportation and HUD and so on. So there are ample opportunities, may I say to my friends, ample opportunities to add to moneys that are in this bill at a time when we are in a better position to know more about what the damages and the costs thereof are.

And also, the administration, it seems to me, is in a far better position, with its various agencies and departments—the Corps of Engineers, FEMA, and so on—to determine more accurately as to what the damages are, far more so than any Senator or group of Senators.

So it is not for a lack of compassion, Mr. President. My heart says vote for this amendment. But that is not the responsible thing to do here today. The responsible thing is to vote for the bill that has been reported out, which is based on the administration's latest estimate right up to the moment, and then consider future recommendations by the administration. I am sure there are going to be further recommendations. We have not reached the end of the losses. We do not know what those losses are going to amount to. We will not know months from now. But we can continue to add as we see the new estimates come in.

Mr. President, I compliment Mr. COCHRAN and those who are supporting this amendment. But, I have a responsibility also. The bill fully funds the administration's request, to date. We had a request yesterday, I believe, making additional requests and it would be my intention to offer that amendment before the bill is passed by the Senate today.

The administration is better able to estimate the disaster costs and, as I say, can request further supplementals in September, October, February, March.

Third, the Harkin amendment, as modified by the Cochran amendment, increases the bill's cost from $4.7 billion to $8.1 billion. And that all goes on the deficit.

So those who continue to say "cut spending" should take note that they are recommending that we add spending today, when we can do it later and based on more accurate and more timely estimates.

It adds $3.4 billion to the deficit. It abuses the emergency designation. Now who is there to say that those persons who suffered losses and disasters of 1990, that we should go back now and apply an emergency designation to those losses and double up what the Government paid them at that time? They are no longer emergencies. Those people who suffered from those disasters in 1990, they are past those emergencies. The crisis is over. But we are going to say, let us go back. We are saying that they are eligible, if the Secretary so wishes to make them eligible, to receive what would amount to a doubling of the payment.

Not only does it go back, Mr. President, and add to the deficit, but it sets a precedent that we are going to have to live with in the future. I say that this is something that the authorizing committees and the administration should work out. It should not be dealt with on the floor today. Because this is going to set a precedent. And it seems to me that the authorizing committees and the President, the administration, should sit down and carefully consider this situation and decide what is best under all the circumstances.

Finally, Mr. President, this constitutes legislation on an appropriations bill.

I shall make that point of order and, of course, germaneness will be raised. And when Senators vote on a question of germaneness, they are not voting on a point of order. The Chair will decide that this constitutes legislation on an appropriations bill. It clearly does. But Senators will not be voting on that. They will be voting on a different question, the question of germaneness. So we never get to the point of order.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 9 minutes and 8 seconds remaining.

Mr. BYRD. Mr. President, does the Senator want some of my time?

Mr. HARKIN. I just want to respond for about a minute, if I could.

Mr. BYRD. I yield 2 minutes to the Senator.

Mr. HARKIN. I appreciate the chairman's kindness for these few minutes to respond.

First of all, Mr. President, let us keep in mind that, because of the increased crop prices, because we have lost so many crops, that we will save between $1 billion and $2 billion, if not more this year on deficiency payments.

That is coming out of farmers' pockets. We are saying at least let us help them with the disaster.

Second, on the issue whether or not this is legislation on an appropriation, the very fact this factor of 50.04 is in there is legislation on an appropriation. The House has already included legislation on an appropriation. So they have already opened that door.

Third, on whether or not we ought to leave the authorizing committees to do this, the authorizing committees have already spoken. We spoke in 1990 on the farm bill, the 50.04 factor was originally imposed because of appropriations action, not authorizing action. So the authorizing committees have already spoken on this issue.

Next, let us keep in mind the Cochran addition to my amendment is fully discretionary. The distinguished chairman has said we were going back to 1990 on some of these disasters that are not an emergency, but there may be some farmers who suffered damage because of Hurricane Andrew last fall—not even quite a year ago—that were not assessed until this year. Those farmers may be on the brink of going out of business. This may be immediate right now for a few. That is why, last, Mr. President, I want to point out the letter Senators will receive from Mr. Panetta at OMB is wrong. It is disingenuous at best. The first paragraph is right. But the second paragraph is disingenuous when it says "* * * that this amendment, as modified, would increase the cost of the Federal crop disaster assistance program from $1.4 billion to $4.8 billion."

If he put in the word "could" it would be right, but not "would." This is fully discretionary upon the Secretary of Agriculture.

So, frankly again, Mr. President, this amendment as drafted is necessary. We need it. It does not fund farmers at 100 percent but only gets us back to the farm bill level of 1990.

The PRESIDING OFFICER. The Senator has consumed 3 minutes.

The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, the Senator says the letter is disingenuous. I think that is a bit unfair. The pressures are going to be there. The Senator knows that. He says there may be a case or there may be another case—there may be—to which this should apply.

Let the authorizing committees and the administration sit down and work that out. There is plenty of time to do that. Let us not open up a door here in this appropriations bill which will certainly be entered. The Senator would not want to stand up here and tell this Senate that if this legislation that is incorporated in the current amendment is agreed to, that Senators will not apply all the pressure they can apply downtown to get the Secretary to do just what this amendment allows him to do. The Senator knows that there will be all kinds of pressure on him.

Mr. President, prior to the 1990 farm bill, Public Law 101-624 disaster assistance was provided, not by direct appropriation, but rather through direct use of Commodity Credit Corporation funds. The authorizing committee in the 1990 farm bill authorized disaster assistance for 1990 crop losses only—only. We keep hearing the cry, "Well, we ought to stand by the law. All we are asking for is to live by the law that is presently on the books. That is all we are wanting."

Well, the authorizing committee in 1990 authorized disaster assistance for 1990 crop losses only, and made the assistance subject to appropriation. No disaster assistance has been authorized for crop losses for 1991, 1992, or 1993, at least not by any authorizing committees. Rather, we have authorized disaster payments right in appropriations bills. And I am the Senator who has brought those bills through the committee, brought them to the floor, supported them, and moved them in conference along with other Senators. I have chaired the Senate conferees. No disaster assistance has been authorized, may I say again, for crop losses for 1991, 1992, or 1993, at least not by the authorizing committees. It has been done by this committee, the Appropriations Committee.

We have authorized disaster payments right in appropriations bills beginning with Public Law 102-229, which was enacted on December 12, 1991. In that appropriations act, we authorized assistance for 1991 and 1992 crops. And since then we have authorized disaster assistance for 1993 crops again by means of appropriations bills. That is the way we are doing it today.

So, Mr. President, we are being asked to make further authorizing changes now. We are being asked to monkey with a formula, if you will. I recognize the proponents of the amendment are saying we just want full payments for the formerly authorized program, but that program was only for 1990 crop losses. Perhaps the authorizing committee should go back and revisit the formula in light of its being a different year—1993 is not 1990. Perhaps there are good reasons, excellent reasons, compelling reasons to change the formula or to apply the formula in a different manner. But this bill is not the vehicle for addressing those issues.

How much time do I have left?

The PRESIDING OFFICER. The Senator has 2 minutes remaining.

Mr. BYRD. Mr. President, in my closing 2 minutes let me read again the letter that has been addressed to me, and a similar letter to Senator HATFIELD under today's date.

DEAR MR. CHAIRMAN: It is my understanding that when the Senate returns to H.R. 2667 this morning, the pending business will be an amendment which would eliminate the 50 percent pro rate for agriculture disaster payments. The Administration did not take a position on the amendment as originally offered since it was limited to 1993 crop losses. It is my further understanding that the amendment now has been modified to permit the Secretary of Agriculture to make retroactive payments to farmers who suffered crop losses from 1990-1992 in order to receive payments up to 100 percent of their eligible claims.

The Administration estimates that this amendment, as modified, would increase the cost of the Federal crop disaster assistance program from $1.4 billion to $4.8 billion. While the Administration did not take a position on the underlying amendment to strike the 50 percent pro rate, we must oppose the amendment as modified.

There simply is no basis for using the emergency authority to make retroactive payments for crop losses that occurred as far back as 1990. Were the emergency designation not used, enactment of this amendment would, under the Budget Enforcement Act, necessitate a reduction of FY 1994 discretionary spending of several billion dollars.

Sincerely,

LEON E. PANETTA,
Director.

Mr. President, I close by saying again that I have great compassion for the people who have suffered in the various States that we have been reading about and seeing on our evening news programs. I also have great compassion and understanding for and sympathy for those Senators who are attempting to get the appropriations increased. But I say in closing that I will be the first to stand up and support any additional supplementals that the administration sends up to the Congress to consider. And there will be time for that. And I have no doubt but that the administration will be sending up additional requests.

Mr. President, I raise the point of order under rule XVI that the amendment constitutes legislation on an appropriations bill.

Mr. HARKIN. I will assert the defense of germaneness.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BYRD. Mr. President, I move to table the question.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the question of germaneness on the amendment of the Senator from Iowa.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced, yeas 50, nays 50, as follows:

[Rollcall Vote No. 237 Leg.]

YEAS—50

Bingaman
Boren
Bradley
Brown
Bryan
Byrd
Campbell
Chafee
Coats
Cohen
DeConcini
Dodd
Domenici
Feinstein
Glenn
Gorton
Graham
Gregg
Hatfield
Helms
Hollings
Jeffords
Kennedy
Kerry
Lautenberg
Levin
Lieberman
Lugar
Mathews
McCain
Metzenbaum
Mikulski
Mitchell
Moynihan
Murray
Nickles
Nunn
Packwood
Reid
Riegle
Robb
Roth
Sarbanes
Simpson
Smith
Specter
Stevens
Wallop
Warner
Wofford

NAYS—50

Akaka
Baucus
Bennett
Biden
Bond
Boxer
Breaux
Bumpers
Burns
Cochran
Conrad
Coverdell
Craig
D'Amato
Danforth
Daschle
Dole
Dorgan
Durenberger
Exon
Faircloth
Feingold
Ford
Gramm
Grassley
Harkin
Hatch
Heflin
Hutchison
Inouye
Johnston
Kassebaum
Kempthorne
Kerrey
Kohl
Leahy
Lott
Mack
McConnell
Moseley-Braun
Murkowski
Pell
Pressler
Pryor
Rockefeller
Sasser
Shelby
Simon
Thurmond
Wellstone

So the motion was rejected.

The PRESIDING OFFICER. Therefore, pursuant to rule XVI, the Chair submits the question, Is the amendment offered by the Senator from Iowa, Mr. HARKIN, germane to any legislative language already in the House-passed bill? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, I ask unanimous consent that each side have 3 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Who yields time?

Mr. BYRD. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order. Conversations will cease.

The Senator from West Virginia has the floor.

Mr. BYRD. Mr. President, Members of the Senate, I thank all Senators for their patience. This has been a very difficult vote, I know.

Mr. President, I have always supported appropriations for emergencies of this kind. I shall continue to do so.

The bill, as reported by the committee, fully funds the administration's request. The administration is better able to estimate disaster costs and can request further supplementals in September and subsequently.

My Appropriations Committee certainly considers those compassionately and supports those requests, as far as I am concerned.

The amendment, as modified by Mr. HARKIN—let there be no mistake about it now—increases the bill from $4.7 to $8.1 billion. It adds $3.4 billion to the deficit.

We are going to be asked later this week to vote for a reconciliation bill to reduce the deficit. That bill is going to be hard to vote for. Nobody is going to like it. You are not going to be pleased, anybody. But we are going to be asked to vote for that bill to cut the deficit. It will be a hard vote. Right here, today, we are voting to add $3.4 billion to the deficit.

So the gasoline tax that I believe is 4.3 cents on the gallon will just about be wiped out for the first year by this vote today by adding $3.4 billion to the deficit.

It abuses the emergency designation. We went to the summit in 1990 and we came out with a policy that provides for designating certain items as emergencies if joined in by the President and the Congress, and they would consequently then not be charged against the category caps.

This would abuse that designation by going back to 1990, 1991, and 1992 and saying, you folks who had disasters back then, you have gotten past them now, but we are going to designate this as an emergency for you. That is what is going to add to the deficit.

Not only that, but it is going to be a precedent for the future. It will be a precedent for the future. I say that the President and the administration and the authorizing committees of the Congress should decide this matter. Let us not do it on an appropriations bill. Are we saying that a 1990 crop loss is an emergency today, or 3 years later? It constitutes a costly precedent for the future.

Mr. President, I hear this cry: Cut spending, cut spending, cut spending. Now when it comes to one's own State, you want to add spending. Let us add spending at such time as the administration comes before the Congress and says, on the basis of up-to-date, new estimates, we ask for additional money.

The PRESIDING OFFICER. The Chair reminds the Senator that he has spoken for 3 minutes.

Mr. BYRD. I thank the Chair. I thank all Senators. I hope, Mr. President, that on this question, which is a question of germaneness, I hope Senators will vote "no."

Mr. HARKIN. Mr. President, I yield 1 minute to the Senator from Missouri.

The PRESIDING OFFICER (Mr. SHELBY). The Senator from Missouri is recognized.

Mr. BOND. Mr. President, this is not a question of whether there are going to be further appropriations. There will have to be further appropriations, because we do not know the full extent of the damage.

The question is whether it is germane to take out of the bill submitted by the administration a provision which changes the underlying authorization. This has language in it saying we are going to cut in half the assistance going to farmers. If there is anything more germane than taking that out, I do not know what it is.

I urge my colleagues to support the position of Senator HARKIN and myself. The chairman has objected to the permission of the Secretary to look back, and the Director of the OMB opposes it. I can assure you that if the OMB opposes providing assistance for 1990, 1991, and 1992, it will not happen.

Mr. GRASSLEY. Mr. President, I rise up in strong support for the Harkin-Bond amendment and am happy to cosponsor. This was debated and agreed to in the 1990 farm bill—and I believe that it is fitting and proper that we move to reverse the inequity of providing only a fraction of the relief that the Congress of the United States approved back in 1990.

The 50.04 percent factor is a bureaucratic quirk which took on a life all its own. Finite amounts of money were thrown after infinite losses—and the magic number 50.04 turned up. Now it seems it is written in stone somewhere that farmers will only get half of what this body had earlier decreed that they should receive. It is high time that this be changed.

As I stated yesterday, of all the Federal disaster assistance programs, from FEMA to SBA to other Federal grants, only agriculture disasters are prorated.

What is particularly galling is that they are pro rated by half; while every other Federal program gets full funding as per legislative fiat, farmers will get only half of what this body had earlier decided what they should get.

Some might argue that equity demands that all disasters be treated the same, that it would be unfair to give farmers in the Midwest a better deal than that given earlier recipients of disaster funds. But parallels to disasters past do not tell the whole story.

While hurricanes may cut a considerable swath through affected States, they do not decimate wholesale sections of these States; they do not cripple the major engine of those States' economies; they do not knock out the livelihood of a vast majority from these States for up to 2 or 3 years.

The rains and floods In the Midwest, on the other hand, have crippled the dominant industry in a nine-State region.

We do not have the tourism of some States, the gambling or high-tech corridors of others. Life, as Iowa and the rest of the Midwest knows it, has stopped completely in some places—maybe for a year for some people, possibly forever for others.

As I stated earlier this summer, I had hoped that we could avoid pitting commodity against commodity, or region against region, as we debate the aid package. Disasters are times when we must come together.

Farming is the bread and butter for the areas hit by rain—and I fear that a region of the country so decimated by rains will take many years to recover.

Parallels are being drawn to the farm credit crisis of the 1980's where, in my view, a whole generation of farmers, were lost. Farmers were just starting to dig out when the droughts hit. Another setback—another layer of farmers just barely hanging on were wiped out.

And now, we are confronted with what is called the greatest natural disaster in the history of this country—and we meet hesitation as scores of farmers, and their families, totter on the brink.

I am pleased to join my friends Senator HARKIN and Senator BOND on this much-needed amendment, and I urge my colleagues to vote with us on this important measure.

Mr. HARKIN. Mr. President, again I want to refer to the letter from Mr. Panetta. I still repeat that I believe it is somewhat disingenuous. The addition of the Cochran amendment only gives the Secretary discretion; it does not mandate that he do anything. So when they say it is going to increase it by $3.4 billion, that is if they went to every single little disaster, no matter where, when, or how it happened, clear back to 1990.

But there may be some farmers who got hit by Hurricane Andrew just 1 year ago who were not assessed as to their damages until maybe this spring and may be in dire straits and may need this disaster assistance. There may be a handful of those in Florida or in Louisiana. These are the ones we want to respond to, but not everybody back to 1990.

To say this is going to add $3.4 billion is disingenuous, not right. Other Senators say, well, the Secretary will not be able to say no. It is my view that this administration is very good at saying no when it comes to spending; they want to cut the deficit. I think that is going to be true in the future also.

There is one last thing that I hope my colleagues will keep in mind: Because of the tremendous losses in the crops this year in the Midwest and in the Southeast because of the drought, we will save the taxpayers up to $2 billion in deficiency payments that the Government will not have to spend out. All we are asking is to let us use some of that money to help pay for these farmers who are in dire straits because of this flooding and because of the drought, so we are not asking for billions of dollars to add to the deficit. We are already saving up to $2 billion. I submit that it is probably even more than $2 billion, because we will not be spending it out in deficiency payments.

Again, all we are seeking to do is to use the authorized level that we put in the 1990 farm bill to give farmers not 100 percent, but only 65 percent of their losses.

The PRESIDING OFFICER. Pursuant to rule XVI, the chair submits the question: Is the amendment offered by the Senator from Iowa [Mr. HARKIN] germane to any legislative language already in the House-passed bill?

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The yeas and nays resulted—yeas 46, nays 54, as follows:

[Rollcall Vote No. 238 Leg.]

YEAS—46

Akaka
Baucus
Bennett
Biden
Bond
Boxer
Breaux
Bumpers
Burns
Cochran
Conrad
Coverdell
Craig
D'Amato
Danforth
Daschle
Dole
Dorgan
Durenberger
Exon
Faircloth
Feingold
Ford
Gramm
Grassley
Harkin
Hatch
Heflin
Hutchison
Inouye
Kassebaum
Kempthorne
Kohl
Leahy
Lott
McConnell
Moseley-Braun
Pell
Pressler
Pryor
Rockefeller
Sasser
Shelby
Simon
Thurmond
Wellstone

NAYS—54

Bingaman
Boren
Bradley
Brown
Bryan
Byrd
Campbell
Chafee
Coats
Cohen
DeConcini
Dodd
Domenici
Feinstein
Glenn
Gorton
Graham
Gregg
Hatfield
Helms
Hollings
Jeffords
Johnston
Kennedy
Kerrey
Kerry
Lautenberg
Levin
Lieberman
Lugar
Mack
Mathews
McCain
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Murray
Nickles
Nunn
Packwood
Reid
Riegle
Robb
Roth
Sarbanes
Simpson
Smith
Specter
Stevens
Wallop
Warner
Wofford

The PRESIDING OFFICER. On this vote, there are 46 yeas, 54 nays. The amendment is voted nongermane and falls for that reason.

Mr. BYRD. Mr. President, I move to reconsider the vote.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 758

(Purpose: To provide full payments to producers for crop losses resulting from damaging weather or relation condition in 1993)

Mr. HARKIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Iowa [Mr. HARKIN], for himself and Mr. BOND, propose an amendment numbered 758.

Mr. HARKIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

Mr. BYRD. Mr. President, I ask that the amendment be read.

Mr. HARKIN. I withdraw the request.

The PRESIDING OFFICER. The clerk will continue reading the amendment.

The legislative clerk continued reading the amendment, as follows:

On page 2, line 13, at the end of the sentence insert the following: notwithstanding any other provision of this Act, the following shall be the law with respect to the Commodity Credit Corporation:

COMMODITY CREDIT CORPORATION

COMMODITY CREDIT CORPORATION FUND

For an additional amount for the "Commodity Credit Corporation Fund" to cover 1993 crop losses resulting from damaging weather or related floods associated with the conditions as defined in section 2251 of Public Law 101–624, in 1993, $1,050,000,000, and in addition $300,000,000, which shall be available only to the extent an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to Congress, the total to remain available until June 30, 1994: *Provided*, That from funds previously made available Public Law 102–368 by Presidential declaration, $100,000,000 to remain available until June 30, 1994, shall be for 1993 crop losses only: *Provided further*, That if prior to April 1, 1994, the President determines that extraordinary circumstances exist that warrant further assistance, the Secretary of Agriculture shall use such funds of the Commodity Credit Corporation as are necessary to make payments in an amount equal to 100 percent of each eligible claim as determined under title XXII of Public Law 101–624: *Provided further*, That Congress hereby designates the entire amount provided here in as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That notwithstanding any provision of Public Law 103–50, funds provided by such Act shall not be expended for 1993 crop losses resulting from 1993 natural disasters, and claims for assistance from funds provided by that by Act producers with 1990, 1991 and 1992 crop losses shall be paid only to the extent such claims are filed by September 17, 1993.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

VIETNAM WOMEN'S MEMORIAL

Mr. WARNER. Mr. President, I ask unanimous consent that I may speak for not to exceed a minute and a half.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, I rise today to share with my colleagues a truly historical event which took place last week here in the Nation's Capital: the groundbreaking ceremony for the Vietnam Women's Memorial on the grounds of the Vietnam Veterans Memorial.

As Gen. Colin Powell, Chairman of the Joint Chiefs of Staff, pointed out in his heartfelt remarks at that dedication, this memorial has been "9 years in the making, and over 20 years in the needing."

The ceremony was the culmination of over 9 years of dedicated work by Ms. Diane Carlson Evans. Ms. Carlson Evans experienced firsthand the cruelty of war while serving as a nurse in the Vietnam conflict. With her experience came the painful burden of remembering those victims who became the casualties of war, as well as the awareness that she was not alone. So many women served and sacrificed in Vietnam, yet their contributions were overlooked.

As Americans, we have sought to heal the wounds inflicted on those who served in Vietnam, as well as those they loved who suffered here at home. The Vietnam Wall, envisioned by my dear friend Jan Scruggs, and the Vietnam Memorial have taken extraordinary steps toward achieving this difficult but necessary healing. However, our focus has been concentrated on the men who served our country during this tragic time. We have not truly honored the women who stood by them and cared for them and suffered with them. For these women, there was no glory to be found in warfare. Their role was to bear witness to the brutal testament of war, and reexperience the horrors of battle with each casualty brought back from the front.

Diane Carlson Evans, through the Vietnam Women's Memorial, is reaching out to those who shared her pain; she is also ensuring that we complete the healing process which was begun with the Wall. I witnessed firsthand the incredible power of this memorial, created by an extraordinary sculptress from Santa Fe, NM, Glenna Goodacre. The ceremony was indeed a moving event. Gen. Colin Powell, one of the honored speakers, gave remarks which captured from a wounded soldier's experience the sacrifices made by these extraordinary women. His comments touched the hearts of all present. I would like to have these remarks entered into the RECORD so all my colleagues can gain a true understanding of the contributions made by these women.

I have always maintained that the effectiveness of a memorial lies in its ability to offer solace to each person who visits it, offering comfort to the private, individual grief we each experience. I left that ceremony with a warm and positive feeling that this memorial will have that perhaps mystical ability. I found hope in the reassurance that so many people's lives will be touched, helped, and, hopefully, healed by this monument.

After experiencing the ground breaking ceremony, now, more than ever, I am compelled to encourage my colleagues to participate in honoring those women who served our country in the Vietnam era. Accordingly, I strongly urge all of my colleagues who have not already done so, to show support for these brave women by cosponsoring S. 469, the Vietnam Women's Memorial Coin Act of 1994, which I introduced with my colleague from Maryland, Senator BARBARA MIKULSKI on March 2, 1993. This legislation would authorize the Secretary of the Treasury to mint coins in commemoration of the Vietnam Women's Memorial project. The proceeds from this coin will go toward establishing an endowment which would serve as a permanent source of support for this well-deserved memorial.

The sacrifices made by all women in this painful chapter in our Nation's history must never be forgotten.

I ask unanimous consent that the remarks of Gen. Colin Powell be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

Thank you very much, Diane, for your kind introduction. Distinguished platform guests, ladies and gentlemen, my fellow veterans.

I am very, very honored and so enormously proud to be here with you this morning to take part in this ceremony. In a few minutes the first few shovels of earth will be turned for a monument that has been nine years in the making and over twenty years in the needing.

I want to thank all of the people who worked so very, very hard to make this day possible: first of course, Diane Carlson Evans, who has given so much of herself to this project for the past decade; of course Doris Lippman, who served in Japan during that conflict treating burn victims and who has been with this project since 1986; Evangaline Jamison, a veteran of World War II, Korea, and Vietnam; Jane Carson, a 27-year veteran of the Army nursing program; Mrs. Shirley Crowe, our distinguished former First Lady of the Armed Forces of the United States and so many, many others who have worked so hard for this day.

In fighting for this day you've all performed a tremendous service, not just for the women who served with you during the Vietnam years, but for all Americans. And I congratulate you for this achievement.

When this monument is finished, it will be for all time a testament to a group of American women who made an extraordinary sacrifice at an extraordinary time in our nation's history: the women who went to war in Vietnam.

Over 265,000 women served in uniform during that time, and this monument of course honors all of them. But it honors most especially the 11,500 who actually served in-country and many of you here today were among that group of 11,500.

You went. You served. You suffered. The names of eight of your sisters are etched on the "Wall" for having made the supreme sacrifice.

And yet your service and your sacrifice have been mostly invisible for all these intervening years.

When you finished what you had to do, you came quietly home. You stepped back into the background from which you had modestly come.

You melted away into a society which, for too long now, has ignored the vital and endless work that falls to women and is not appreciated as it should be.

I knew you there in Vietnam. I knew you as clerks. I knew you as map makers. I knew you as intelligence specialists. I knew you as photographers and air traffic controllers and Red Cross and USO and other kinds of volunteers.

And above all I knew you as nurses when you cared for those who were wounded and when you cared also, as one of them, for me.

And yet now, almost 25 years after my return, I've begun to realize that I didn't really, really know you well enough.

I didn't know what you have been going through all these many years. I didn't know in my heart truly what memories and nightmares you had brought home with you.

Only in the past few days have I come to know and to understand what you have been carrying inside. Only in the past few days have I truly come to understand why this monument is so very important to you and so very important to the nation.

Because, you see, over the weekend as I thought about coming here today, I sat down and began to read a little bit. And on Saturday I picked up a book of poems, poems that you wrote. The book is called "Visions of War, Dreams of Peace," edited by Lynda Van Devanter and Joan Furey.

I started just to skim the book to get a few ideas, but what I found myself doing instead was reading the entire book cover to cover, every poem, in one sitting and some poems I have read over and over the last several days.

I was overcome. I was transported back over 20 years. I was sharing a time with fellow veterans, women veterans, comrades in arms whose experience I had never fully understood before.

Through your poems, finally, I was listening to you.

I realized for the first time that for male soldiers, the war came in intermittent flashes of terror, occasional death, moments of pain; but for the women who were there, for the women who helped before the battle, and for the nurses in particular, the terror, the death, and the pain were unrelenting, a constant terrible weight that had to be stoically carried.

It was a pain that had to be stowed away in a corner of your mind and put in an isolated piece of your heart or you wouldn't be able to continue your work.

The nurses saw the bleakest, most terrifying face of war: the mangled men, the endless sobs of wounded kids . . . not just now and then, but day after day, night after hellish night.

I read other books this weekend. I read interviews you have given. I saw photographs you brought home. To see your strained faces and grim surroundings in 25-year-old snapshots was to marvel again and anew at the strength you displayed.

It's to wonder at the strength you had to press on, the courage you had to fight to save yet another life, the fortitude to risk your feelings and compassion on yet another wounded soul that might spurn you by dying.

It's to feel the invisible wound that you received every time that happened.

How much of your heart did you leave there? How often were you the mother for a kid asking for Mom in the last few seconds of his life? How many 19-year-old sons did you lose?

I didn't realize, although I should have, what a burden you carried. I didn't realize how much your sacrifice equaled and even exceeded that of the men.

I didn't realize how much we owed to you then, and how much we should have thanked you and recognized you and comforted you since then.

And yet I see that yours is not a story only of loss and tragedy. It is, as well, a story of inspiration. It's a story of the triumph of the human spirit.

I look into your eyes today; and I see there old pain, yes, but also great wisdom, tempered courage, deep wells of character.

I find there the ability to clear the highest hurdles that life can put before any human being, the ability to take on the most terrible truths, and to prevail.

No words of mine can match your own words, and so let me borrow from you by reading a poem written by Lynda. It's called "Making Friends."

Twenty years since my life was changed
Twenty years making a friend of death
Knowing it
Respecting it
Wishing for it at times
Fighting with it as friends sometimes do.
But the nightmares of war have faded as I've
healed
My dreams are now of peace
Peace of mind
Peace of heart
Hoping for Peace on earth
It's time I made a friend of Life.

My prayer today is that all of you who were forced at such a young age to make a friend of death have now been able to make a friend of life.

The bronze statue that will stand on this spot this Fall will celebrate the hope and the strength, the tenderness and the power, the kindness and the passion that our Vietnam women brought to the struggle for life.

The statue will show three women and a wounded GI, touching each other, giving strength to one another, struggling with mortality, with human emotions, with the pain and exhaustion of both their lives and their spirits.

As part of this Vietnam "circle of healing" which will now be complete, the statute will for all time witness the truth about what you did.

There are many scarred but living veterans who will never forget you nurses for helping to bring them back from the brink of eternity.

There are many others who are here only in spirit on the sacred Wall who will never forget you, for trying so hard in those last desperate hours.

This monument will ensure that all of America will never forget that all of you were there, that you served, and that even in the depths of horror and cruelty there will always beat the heart of human love . . . and therefore our hope for humanity.

My fellow veterans—you and your sacrifice will never be forgotten. God Bless you all and thank you very much.

The PRESIDING OFFICER. The Senator from Vermont.

FOREIGN OPERATIONS APPROPRIATIONS BILL

Mr. LEAHY. Mr. President, I will be very brief, especially with the distinguished chairman of the Senate Appropriations Committee waiting here. I want to inform my colleagues who have been asking me that I regret it will not be possible to move the fiscal 1994 foreign operations appropriations bill to the Senate floor before the August recess. Despite enormous efforts by all involved, both Senators and administration, it has not been possible to find the money necessary to honor the President's commitment to a special assistance package of $1.8 billion for Russia and the other Republics of the former Soviet Union.

I want to note while the chairman of the Appropriations Committee, the distinguished senior Senator from West Virginia, is here on the floor, that the chairman made a special effort to help us move this bill. He spent a great deal of time last week, in meeting after meeting, to help make it possible and was fully prepared, had we been able to put the funding package together, to provide time for us to go from the subcommittee to the full committee. I want to thank the distinguished chairman for the effort he made. We would not have gotten as far as we did without that effort.

In order to make room for the administration's request for Russia—which was not part of the original budget request, nor was it contemplated in the budget resolution—it is going to be necessary to make extraordinary cuts in other foreign assistance programs. Even then, with massive reductions, we have not been able to come up with the necessary money for Russia. Even with deep cuts we do not have the necessary money.

To give the Members some idea of the size of the cuts I am talking about, I would note that the foreign operations appropriation bill passed by the House is a cut of over $1.4 billion from the President's request, and an absolute cut of $1.1 billion from last year's enacted level.

The bill I expect to report to the Senate in September will contain cuts several hundred million dollars deeper than those of the House. Because of the need to squeeze the special Russia aid package into our funding allocation, virtually every program in the foreign aid budget will be reduced, some very deeply. Programs that I have fought for years to protect will have to be cut. Help for international disaster relief will have to be cut. We will not be able to fund assistance for refugee relief at anything like the real needs. And the list goes on and on.

Work on finding ways to fund the President's Russia aid request will continue over the August break. We must either devise a solution to the shortfall during the recess, or consider reducing the overall assistance program for Russia and the other successor states. I strongly support the President's program for the new Independent States of the former Soviet Union. This is an historic opportunity to help build democracy and free enterprise in our former adversaries. It is a goal worth fighting for, and I will fight hard for it.

But, let me say now that as far as this Senator is concerned, there can be no more cuts in ongoing foreign aid programs to find the shortfall in aid to Russia. Nearly $2 billion in cuts is already creating havoc in our regular foreign aid program. That confronts us all, the administration and supporters of the Russia aid package, with a stark choice: Either, in cooperation with all involved parties, we find other funds to meet the administration's Russia program, or the Russia program will have to be reduced from the President's request.

Mr. President, let me also call attention to one simple fact. There will be no time for further prolonged discussions after the Senate reconvenes on September 7. This bill must be signed into law by September 30, or the portion of the special Russia aid package that is contained in a fiscal 1993 supplemental as title VI of the foreign operations appropriation—$1.6 billion in the House bill—will be null and void.

I make these points, Mr. President, to signal to all parties that the foreign operations bill must begin to move through the markup and floor action process promptly after the Senate reconvenes. In the crowded Senate agenda in the scant 3 weeks between September 7 and September 30, there will be no time for further delay in moving the foreign operations bill through the laborious process of getting it to the President's desk, and signed into law prior to midnight.

EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR RELIEF FROM THE MAJOR, WIDESPREAD FLOODING IN THE MIDWEST ACT OF 1993

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, we have just had a series of votes on the question of disaster relief. I just wanted to point out the amendment the Senator from Iowa has now offered is a significant change. There would be no reachback to 1990, 1991, and 1992 under the amendment that is now before the Senate. I think it is very important our colleagues understand what we will be voting on next.

The 1990, 1991, and 1992 reachback is gone. The question that will be before the body when we get back on the amendment that has been offered by the Senator from Iowa is simply a question of whether we will offer the same level of aid to stricken farmers in 1993 that we provided in 1988 and 1989 when we suffered massive drought losses.

I say to colleagues who are perhaps listening in, in 1988 and 1989 we had the 50-year drought. Now we have the 100-year flood. The question before this body will be simply: Do we provide the same level of assistance in 1993 that we provided in 1988 and 1989? Or do we provide one-half as much? That is going to be the question.

I submit to my colleagues that we ought to do what we did in 1988 and 1989. We ought to do what the authorizing committee called for, the formula that was written into the 1990 farm bill. We ought to do what the law provides.

There is in law a specific formula that was developed in the disasters of 1988 and 1989. We ought to follow that formula now. Because if we do not, we will provide one-half of the assistance that we gave in 1988 and 1989.

What is that level of assistance? If we provide half as much, we will reimburse farmers, through the disaster assistance, 20 cents on the dollar of loss. That is the loss compared to what they would reach in income in a normal year. This was not going to be a normal year. This was going to be an extraordinary year. So we are not covering 20 cents on the dollar of the losses that they are experiencing this year. We are replacing less than 20 cents on the dollar if we stay with the formula that is before us now.

If, instead, we provide the level of assistance that we did in 1988 and 1989, that would be 40 cents on the dollar. That is a very long way from making farmers whole, nowhere close to making farmers whole. But at least it would allow many farmers across the heartland of America to survive to fight another day.

I inquire if the Senator from West Virginia seeks recognition. I will be happy to yield the floor—or the Senator from Iowa. I was just taking this time with the understanding there were consultations going on.

Mr. BYRD. I thank the distinguished Senator. I do wish to offer an amendment, which the distinguished Senator from Iowa is in accord with.

Mr. HARKIN. I would be pleased to yield the floor.

Mr. BYRD. I thank the distinguished Senator.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, yesterday the administration sent a letter to the chairman of the Appropriations Committee and a similar letter to the ranking member in which the administration made additional requests for funds. I shall read the letter into the RECORD. The letter is dated August 3, 1993:

> DEAR MR. CHAIRMAN: The Administration commends the Senate Appropriations Committee for acting expeditiously to approve requested legislation that will provide urgently needed assistance to the flood-stricken areas of the Midwest. The Administration is committed to working with the Congress to ensure mutual agreement on funding needs.
>
> The Administration supports passage of H.R. 2667, as reported by the Senate Appropriations Committee. In order to expedite action on the bill, the Administration urges the Senate to keep the bill free of amendments that are not related to providing relief to victims of the flood.
>
> The Administration continues to review the cost estimates for disaster assistance programs. Based on this review, we urge the Senate to approve funding beyond the levels requested and approved by the Committee for the following accounts:
>
> $11.1 million in contingent appropriations for title III of the Job Training Partnership Act, which authorizes assistance to dislocated workers. This additional funding would be available for the Secretary of Labor to finance temporary jobs to repair damage caused by the flooding in the Midwest, clean up affected areas, and provide public safety and health services. This amount is in addition to the $43.5 million already approved by the Committee;
>
> $2 million in contingent appropriations for the Commission on National and Community Service. The Commission helps to finance State-level Youth Corps and Conservation Corps programs to assist in disaster clean-up activities. The $2 million, which is in addition to the $2 million approved by the Committee, would fund the participation of young people in youth corps services over the next year to help with disaster relief services;
>
> $100 million in contingent appropriations for the Department of Commerce, Economic Development Administration. These funds, which are in addition to the $100 million approved by the Committee, would be used to promote the long term recovery efforts in the region affected by the floods; and
>
> $10 million in contingent appropriations for the Small Business Administration Disaster Loan program account. These resources, which are in addition to funds approved by the Committee, would provide additional loan authority of $49 million. Language is requested that would increase from $500,000 to $750,000 the current law limitation on business disaster loans. This increase in the limitation would be available to victims of the flood.
>
> Each of these requests would be available only to the extent that the President subsequently submits an official budget request to the Congress that designates the entire amount of the request as an emergency requirement, pursuant to the Balanced Budget and Emergency Deficit Control Act, as amended.
>
> I understand that an amendment may be offered by Senator Stevens to provide economic assistance related to the destruction of chum salmon in the Arctic-Yukon-Kuskokwim River region. While we are sympathetic to the hardships endured by the residents of this region, we believe their needs can be met with existing resources. We will work with the Bureau of Indian Affairs, the Economic Development Administration, the Department of Housing and Urban Development and USDA to identify steps that can be taken administratively to respond to this problem.
>
> We look forward to working with the House and Senate Appropriations Committees as the bill moves through the Congress.
>
> Sincerely,
>
> LEON E. PANETTA,
> *Director.*

Identical letters have been sent to the Honorable WILLIAM H. NATCHER, the Honorable JOSEPH M. MCDADE, and the Honorable MARK O. HATFIELD.

Mr. President, my distinguished colleague, Mr. HATFIELD, may wish to speak to this amendment. When he completes his statement, I have an amendment which I shall offer on behalf of Mr. HATFIELD, myself, Mr. HARKIN, and any others who wish to join, which will carry out the requests that have been submitted by the administration in the letter which I have just read.

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Mr. President, I join the chairman of the committee in offering these amendments on behalf of the administration. I want to make two points about these amendments because, first of all, there is a very strong and, I think, clear signal to our colleagues from the Midwestern States that since the committee acted upon the administration's request of $4.7 billion precisely as they requested it, allocated as they requested, with a few minor modifications that we made that were not significant, I want the Senate to understand that now the administration, since that action of the full committee, has said,

> "As we continue to evaluate the needs wrought upon these people in the Midwest by these floods, we want to ask the committee to amend the committee's original bill, as reported, to include another $123 million allocated by accounts."

The symbol and the signal is that we, as the committee chairman and ranking member, are most anxious to meet, as the administration has evaluated those needs, any additional money.

The second point I will make is that this is going to be the pattern, I am persuaded, that is going to face us when we come back from the recess, that we are going to have additional requests, we are going to have additional evaluations by the administration and the various agencies, and that we, therefore, are not closing the issue with this one particular supplemental.

One may argue or discuss, as it has happened already, allocations within the package or the failure of certain legislative rules and regulations to meet those needs as perceived, and perhaps I would venture that none of us would disagree on that matter of need in these farmers' situations. But I still feel, as the chairman has indicated, that the executive branch of Government, with all of its multiple agencies and expertise, ought to be effective not only in evaluating the need but in administering those moneys, reaching the people targeted with those evaluations. It has to be an Executive Office function. As a multimember body of the Senate or the House, we are not staffed, we are not constituted to do that type of evaluation, assessment, information gathering necessary to say these are the dollars that we can appropriately, efficiently spend.

So to me, again, these amendments represent the attitude of the administration, the attitude of the leadership of our committee, and the willingness to work together to meet the needs of the people.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I will just take a minute and then I will yield the floor.

AMENDMENT NO. 759

(Purpose: To provide additional disaster assistance requested by the administration)

Mr. BYRD. Mr. President, I ask unanimous consent that I may temporarily set the pending amendment aside and send to the desk, on behalf of myself, Mr. HATFIELD, Mr. HARKIN, and Mr. WELLSTONE, an amendment which complies with the request contained in the letter which I just read into the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from West Virginia [Mr. BYRD], for himself, Mr. HATFIELD, Mr. HARKIN, and Mr. WELLSTONE, proposes an amendment numbered 759.

Mr. BYRD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Before the period at the end of the first excepted Committee amendment, insert the following: ": *Provided further*, That notwithstanding any other provision of this Act, the amount provided herein for Economic Development Assistance programs under the heading "Economic Development Administration" shall be $200,000,000 of which $100,000,000 shall only be available to the extent an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to Congress: *Provided further*, That notwithstanding any other provision of this Act, the amount provided herein for the Disaster Loan Program account under the heading "Small Business Administration" shall be $70,000,000, of which $10,000,000 shall be available only to the extent an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to Congress: *Provided further*, That notwithstanding any other provision of law, the $500,000 limitation on the amounts outstanding and committed to a borrower provided in paragraph 7(c)(6) of the Small Business Act shall be increased to $750,000 for Presidentially-declared major disasters for recent Midwest flooding: *Provided further*, That notwithstanding any other provision of this Act, the amount provided herein under the heading "Employment and Training Administration" for part B of title III of the Job Training Partnership Act shall be $54,600,000, of which $11,100,000 shall be available only to the extent an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to Congress: *Provided further*, That notwithstanding any other provision of this Act, the amount provided herein for programs and activities of the Commission on National and Community Service shall be $4,000,000, of which $2,000,000 shall be available only to the extent an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to Congress: *Provided further*, That all of the above amounts are designated by Congress as emergency requirements pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended"

Mr. BYRD. Mr. President, this amendment incorporates four supplemental revisions received on yesterday, August 3, from the Director of the Office of Management and Budget.

First, the amendment provides an additional $11.1 million as a contingent appropriation for title III of the Job Training Partnership Act.

Second, the amendment provides an additional $2 million as a contingent appropriation for the Commission on National Community Service.

Third, the amendment provides an additional $100 million for the contingent appropriation for Economic Development Administration programs.

Finally, the amendment provides an additional $10 million for the Small Business Administration disaster program as a contingent subsidy appropriation and provides an increase of $250,000 in the current law limitation on business disaster loans. The increase in the limitation will be available to victims of the flood.

Mr. President, I ask that action on the amendment be momentarily delayed. I yield the floor in the meantime.

Mr. BOND addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I came in when I heard about these amendments. I wanted to take a look at them. We have not seen the justification for them. But as one who has had to deal with disasters, I can certainly appreciate the position that the chairman and the ranking member of the Appropriations Committee have taken; that where there is a natural disaster, particularly one of the magnitude which confronts us in the Midwest, we do need to give discretion and we need to give resources to the administration.

Were it my call, I would, obviously, have some different ideas, and I am currently working with the administration to try to obtain some additional resources in areas which we perceive have very great needs, things that have either developed since the initial legislation was set up or in some cases I believe represent oversights in the budget that they presented.

This is not a time, as I said in my arguments on previous administrations, to be nickeling and diming the administration where they perceive there is a real emergency. I would only ask that my colleagues view with an open mind additional disaster assistance that we will be seeking, and we hope we will get the concurrence of the administration. When we have a disaster of this magnitude, there are tremendous resources that will be needed. They will in most instances not fully compensate or repair the damage or even come close to it, but I think it is vitally important that we move forward.

Some of my colleagues said we ought to be paying for these things. I say that when you have a disaster, it is the highest priority for domestic spending. I will work with my colleagues to cut spending elsewhere with lower priorities.

I will also urge that this body in the future appropriate a disaster contingency fund of sufficient magnitude to meet the disaster needs which we cannot specify in advance. Nobody knew that an earthquake was going to hit San Francisco, or Hurricane Andrew, or the floods of 1993, but we do know that almost every year a disaster occurs. We ought to set aside money in the budget for it.

While I may not agree with the particular priorities in the additional requests submitted, I will not object to them because I assume there are needs which may not be evident in my State that may be evident in other States. I do seek to work with the administration and with the chairman and the ranking member of our Appropriations Committee as we seek to provide needed resources to deal with the devastation visited upon our States.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I ask unanimous consent to speak for 10 minutes as if in morning business so as not to interrupt the flow of the debate in the RECORD.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

BUDGET RECONCILIATION

Mr. DODD. Mr. President, I rise this afternoon to address the issue of the budget reconciliation package which we will face a decision on in the next several days, and to express my views on that package.

Mr. President, the current debate on the budget reconciliation package reminds me of Winston Churchill's famous statement before Parliament in 1947. As my colleagues will remember, he said then that "Democracy is the worst form of Government except for all those other forms that have been tried from time to time."

I presume most of my colleagues are familiar with that quotation. I would argue, Mr. President, the same may be said of the deficit reduction package that we will be considering later this week. It may seem like the worst form of deficit reduction, except for every other proposal that has been put on the table during the past number of months. Unfortunately, the point of Winston Churchill's statement is lost, in my opinion, on many critics of the current plan: If we measure our efforts against the yardstick of perfection, nothing will measure up and we will get nothing.

Legislating in real life is not about creating political ideals. It is about choosing the best alternatives—in this case, in the context of our political process—from among many options, none of which are perfect.

This is not unlike the decisions families make every day. All of us would like to have ideal situations with every available resource to us so we would not have to be confounded by difficult choices. But we all know that option does not exist; that each and every day all of us are asked to make decisions and choices dealing with the realities that are before us.

This budget reconciliation package that we in this body will have to grapple with is just like that. It is not perfect. It has its warts. It has its bruises. It has its imperfections. But I have to say for my part, Mr. President, having looked around, it is the best alternative I have seen so far.

I do not like it, frankly. I do not like standing here and talking about raising taxes for my constituents in Connecticut. They have been hard pressed in the last several years. We have watched a new income tax go into effect in my State. We have witnessed the highest State unemployment rates in memory. You have to go back to the economic depression to talk about the economic hardship which parallels that in the State of Connecticut over the last number of years.

So even a 4.3 cent gasoline tax is not something I take any joy in supporting. Nor is talking about major cuts in Medicare, with my elderly and seniors who are out there hurting and suffering. I do not like that one bit. So there is no joy whatsoever in this particular effort.

But I also went through an election last year, and day after day, week after week, month after month, my constituency said, I wish you guys in Washington could get out of each other's way and think about the country for once; I wish you would start doing what has to be done to get the Nation's economy moving so that we would have a chance in the future, with decent job opportunities and the like.

Everyone believes that is not going to happen unless there is deficit reduction. We will never have long-term economic growth unless there is a serious effort in this regard.

We just went through a debate on a matter not unrelated to the particular problem of deficit reduction. We all want to help in certain areas, but there are limitations to our resources.

So, Mr. President, I stand here this afternoon with the full knowledge and awareness that this is not a perfect plan. I do not take any joy or pleasure in talking about raising taxes and imposing additional burdens on the constituents of my State or other States in this country. But I also know just as assuredly that the people of my State and the people of this country want this Nation to be strong. They want our economy to be vital. And they want a better future for their children and their grandchildren.

This effort, this measure which will be laid before us, I think help us get there—again, not perfectly, but helps move that process along.

So I believe this is a test we have to use this week if we truly want to make progress on this deficit. There is no future in waiting for the perfect deficit reduction package to mysteriously appear before us. That is not going to happen. Perfect packages in the form of painless solutions do not exist. If they did, Mr. President, this issue would have been solved light years ago. But they do not exist. There is no easy solution to this problem. And the sooner we come to the realization of that as mature adults in the Congress, the better off this institution and our country will be.

Our job is to select the best alternative from among several flawed proposals.

Now, what is really in this plan? What is included in it? Again, there has been much reporting of information about it. I do not want to take a lot of time on this. But let me just point out briefly that the package includes $496 billion in deficit reduction over the next 5 years. The President said several months ago he wanted $500 billion. There were many here who said if he had less than $500 billion, they would never vote for a package. So it has to be meaningful.

We think we have done that with $496 billion over the next 5 years. That is not going to solve the deficit problem. But it does make the problem a bit more manageable than it would be without this bill.

Mr. President, the bill contains more in spending cuts than revenue increases—$255 billion in spending cuts versus some $241 billion in tax increases. That is a major issue for many people: Are there more spending cuts here than tax increases? And I am satisfied, having listened to the chairman of the Finance Committee and others, that in fact there are.

On tax increases, the lion's share falls on those who can afford to shoulder more of the burden. Fully 75 percent of all new taxes fall on those making more than $200,000 per year.

Let me put it more categorically. If you and your family are making less than $180,000—I do not know how many out there are, but if you are, then the only tax that you probably have to worry about in this package is the gasoline tax.

So if you are a family making in excess of $180,000, yes, this is a tax increase. But make less than that, and you and your family do not fall into that situation at all. I think we have to drive that point home.

So while the gasoline tax bothers people, you ought to know that if you are in that upper income category, the top 1.2 percent of income earners, this bill really does not affect you significantly unless you have a mother or a father on Medicare—the other programs. You may get affected by the spending cuts and fall into that category but on taxes you are not affected. That point has not been made as clearly as it should in my view.

Let us also consider what is not in the package, contrary to some of the claims of the critics. The package does not sock it to the middle class at all. The President in his February State of the Union Address estimated his plan's impact on the middle class would be about $17 a person per month. That is what he said in January. But, Mr. President, we have improved on the initial design. For most middle-class Americans, the only new taxes to be paid under this week's package will, as I said a moment ago, be the 4.3-cent gasoline tax increase. That works out, if you want to know how it effects you in direct dollars and cents, to an average of less than $3 a month for most Americans. That is about $36 a year. I do not like it. I wish we did not have to do it. But the fact of the matter is that is the impact. That is the reality.

I will get to some more points here.

How does the package affect small business? Mr. President, according to the claims and the critics, the package sticks it to small business. But consider the reality of this package. It increases annual equipment expensing for small business from the current $10,000 to $17,500. That is not sticking it to small business. That is a real help. My small businesses in Connecticut said that is something we can really use. And this package provides that additional help to smaller businesses by almost doubling the annual equipment expense for small business.

With regard to small business, the package would establish a targeted capital gains cut for long-term investments in small business. The senior Senator from Arkansas, DALE BUMPERS, has fought for years on this issue—Members of the House have as well. My colleague, Senator LIEBERMAN, has as well, and I am a cosponsor of the legislation. This is a real help to small business. It not only does not stick it to small businesses, it recognizes the importance of getting capital in the hands of small business.

With regard to small business, only partnerships, proprietorships, and subchapter S corporations that are going to pay more taxes are those with incomes of more than $180,000 for married couples, and $140,000 for individuals. If you are a small business out there, taxed at the personal rate, and you make more than those levels, yes, you could pay some more. But only 4 percent of small businesses fall into those categories. Most small businesses, the overwhelming majority, actually fall short of those kinds of numbers.

So, again, people screaming about what happens to small business in this package should consider the expensing provisions, and the targeted capital gains provisions.

Mr. President, as I noted before, this is not to say the President's plan is perfect. I strongly dislike the retroactive application of increased income tax rates, for example. I am not a member of the Finance Committee. I can only tell you what I heard happened there. Others around the committee maybe can speak categorically and specifically as to what happened.

But what I gathered happened was this: If you want to reach deficit reduction of around $500 billion, then you have to have a gasoline tax or a Btu tax. No one wanted a Btu tax apparently. So we got rid of that, and put in place the gasoline tax. If the gas tax had gone to 7 cents a gallon, we could have made the changes in rates effective at the time of passage or on the date of enactment. But if you wanted to keep the gas tax at 4.3 cents per gallon, and still reduce the deficit by $500 billion, you had to make the changes take effect retroactively.

I would have argued for a few more cents per gallon in gasoline taxes, in order to eliminate the retroactivity, but I think I would be in the minority on that point of view. It is one of these situations in which there are no easy solutions. If it were easy, we would not be sitting here debating it and spending as much time as we have on it. So I do not like that.

I also do not like the idea that we are not providing more empowerment zone components here. These are smaller cities that could use the help; there is not enough in this legislation in this regard.

But, Mr. President, if I sat here and said, "Because you did not do more in the empowerment zones and because this is a retroactive application, that's it, I am taking a walk, I am against it," if every Senator did it, we would never get anything done around here. Being involved in the process and being concerned about a major implication is fine. But to tear it apart because it does not satisfy every Senator on every point and every section, that is the height of irresponsibility in my view. It is the height of irresponsibility at a time when the American public is asking us to do better. We will have a chance in the next couple of days to do better without ripping this program apart point by point, detail by detail.

Listen to the plans of the critics. You would think the President's plan suffers in comparison to the alternatives. Let me tell you about the alternatives. People ought to be aware of what the alternatives were that were proposed to us.

In the Senate, the so-called Republican alternative would have reduced the deficit over 5 years by $359 billion—$359 billion. That is substantially less than what we are asking, $137 billion less—big deficit reduction. Despite their best desire to cut spending first, that same Republican alternative did not contain one single specific spending cut beyond those included in the plan that we will vote on in the next 2 days. The alternative proffered a series of numerical targets of future cuts but declined to make the tougher choices that must be made now.

Mr. President, and despite their professed concern over the middle class, the Republican alternative would have slashed $90 billion more in Medicaid and Medicare cuts beyond the $60 billion already in the President's plan. Those cuts could easily have translated into increased out-of-pocket expenses for Medicare beneficiaries of $350 in 1994, and $850 a person in 1998.

So, consider the alternative—far less deficit reduction, no different spending cuts at all, except that they would have done more in Medicare. We already did a lot with Medicare, about $60 billion, but we do not affect the beneficiaries—we go after the providers. Under the alternative, if you are a middle-income person that needs Medicare, then you would have paid an awful price. That is a major difference, and still falls short of major deficit reduction.

Then consider the fellow from Texas, Ross Perot. Here is a guy who shows up on national television last Sunday, who says the whole message is "I have a better plan out there." He was asked what his plan was, and he says "I forgot my charts." If Ross Perot said that to a chief executive officer in a business, he would have lost his job, would have been fired. What does he think he was invited on the show for—to talk about his microchip business? He was asked on the show because he says he has an alternative plan. Then he gives the anemic, pathetic excuse that he forgot to bring his charts.

You know, I feel for the people who supported him because their frustrations are real. Their anger is real. They are worried about their country, about their kids. They are worried about the future. They deserve better. If you are going to be a leader of people like that, then you ought to have a better performance when you show up on a national show on an issue like this, and not say to the reporters, "I did not bring my charts. I did not bring my statistics with me." That is a pathetic performance, in my view, when the country is demanding some real answers. And if you have a better idea, then let us hear it. He did not do it.

In fact, when Clinton presented his original deficit plan, he said I ask two things of those of you who may be opponents out there—two things: to achieve the same net deficit reduction, roughly $500 billion, and be specific about your cuts. That was not a lot to ask. That is, in effect, what was being asked of the opposition—be specific. And the answer "I did not bring my charts" or "our cuts are no different than yours," and "we do not come anywhere close to deficit reduction" are the alternatives we are being asked to accept.

So I could vote "no," I guess, like anybody else in the next couple of days. But if I were a constituent of mine, I would say: What are you for, Senator? You tell me you are not for this package. Did you not bring your charts, your statistics? Why do you not stand up and be for something, be for something, for God's sake, instead of lining up with the naysayers and tearing everything apart. Any jackass could kick down a barn door. It takes an architect to build one. This place is in desperate need of architects, because God knows we have enough jackasses in terms of what needs to be done.

When I hear people going on shows with empty rhetoric, tearing things apart and not offering alternatives, you get what you see. You can run, but you cannot hide on these issues. Who can blame the American people for being concerned and frustrated? The time for naysaying, in my view, is over. Gridlock is in the past and should have been long ago.

In fact, interestingly, we are proving that it can become a thing of the past. The national service legislation—which passed 58-41—was a bipartisan effort. So were direct student loans. I worked directly on both of these bills. We would not have gotten them done without good bipartisan support; without people like Senator KASSEBAUM and Senator JEFFORDS and Senator DURENBERGER, and others. Family and medical leave will go into effect tomorrow, and it never would have become the law of the land without the support of Senator DAN COATS of Indiana and Senator KIT BOND of Missouri. I can get out a list of where we have worked together for the betterment of our own country.

Unfortunately, this issue seems to defy our ability to do so in the sense of having the opposition come forward and offer to be a part of a constructive solution. So it can work, and we can be effective. I regret, however, that we are not doing it on the single most important issue: The overall economic needs and the future of our country.

So, Mr. President, this is an opportunity, and there will be a lot of talk in the next several days about it. When you hear the talk and speeches, ask yourself these simple questions of those who would tear this apart: Are their criticisms bigger than the overall goal to be achieved here? Second, are they being specific about an alternative that can help us get on track? As viewers across the country watch the debate, that is a simple test to apply to those who stand up and oppose this effort. My hope is that there will be enough Members here to support this package.

I will end, Mr. President, where I began. I do not like the package. There are parts of it I think are pretty good, such as the earned income tax credit. I also mentioned the small business pieces. But, overall, this is deficit reduction, and this is raising taxes and cutting spending. It would be a lot more fun to stand here and talk about cutting everybody's taxes and spending more money. You can make yourself a real hero in any community in America that way. You can say: Folks, I have cut your taxes, and I have raised the spending.

Frankly, those days are over. Now we are faced with the choice of how do you try to reduce the deficit intelligently, and in real terms. If there were a perfect or an easy package, we would have adopted it long ago, Mr. President.

I think every person in this country knows there are no easy solutions, and there are no perfect solutions. We have come up with the best that we can put together here. We think it is a good alternative, a good package that does what it says it will do. There are real numbers, real deficit reduction that I hope will make a difference. I do not think it is going to solve every economic problem for our future, but it puts us on the right track, a glidepath of deficit reduction that future Congresses should be challenged to try to meet.

If we do that, I think, quite frankly, that this Congress will go down in history as a good Congress. In fact, we will be able to borrow some additional lines from Winston Churchill and say, "This could become one of our finest hours."

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. DORGAN). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR RELIEF FROM THE MAJOR, WIDESPREAD FLOODING IN THE MIDWEST ACT OF 1993

The Senate continued with the consideration of the bill.

Mr. BOND. Mr. President, I would like to describe an amendment which is not ready yet, but which is in the process of being cleared.

Last night when we first began discussion of this emergency disaster relief bill, I showed a picture of the devastation that has been caused on one of our short-line railways in the center of Missouri. This was a railroad bed which, as I said, I walked along about 6 days before. This rail line has been knocked out.

The devastation along that railway, the Gateway & Western, has been significant. You get an idea about the losses that have occurred on this short-line railway when you look at the bridge which connects to that rail bed. This bridge, obviously, has been totally wiped out and destroyed by the floodwaters on the Missouri. A little further down, the railway looks like this, where, once again, flood waters have undercut the approach to the railway bridge and have caused very significant damage.

When the Appropriations Committee reported out the disaster assistance legislation, it provided some $16 million for assistance for flood relief through the Local Rail Freight Assistance Program. The LRFA was created to preserve rail service to small towns and communities by providing financial assistance needed to rehabilitate lines that otherwise might be abandoned.

I can certainly tell you that this short-line railway provides a vital link through the center of Missouri. It is vitally important not only for agriculture, but for significant other commerce that travels on its rails. At the time I walked across this now destroyed railway bridge, this was the only remaining open link between St. Louis and Kansas City. All of the major railways serving our State, running east and west between St. Louis and Kansas City, were routing their trains over this bridge. This was the only link remaining in commerce.

Well, the Local Rail Freight Assistance Act, as the authorization is provided in this bill, is for railways with up to 5 million gross tons of commerce each year. The Gateway & Western is slightly over that.

Therefore, I will shortly be offering an amendment, along with my colleague, Senator SIMON of Illinois, which will enable the Secretary of Transportation to provide assistance in circumstances such as this, and what I understand is an equally important short-haul railway in the State of Iowa.

The estimates right now are that the damage to Missouri's railroad is over $17 million already. At least $8.5 million of that has affected the Gateway & Western which, as I have indicated earlier, is a regional railroad with 300 miles of track, running trains from Kansas City, MO, and Roodhouse, IL.

Clearly, the $8 million is beyond the financial capability of this railroad. If it does not receive assistance under the Local Rail Freight Assistance Act in this appropriations bill, there will not be the money to rebuild this bridge and to restore the levees that are a vital link in commerce in our State.

This railroad has been devastated. Since it is a small railroad, it does not have the resources that the larger railways have in our State.

I will urge my colleagues to support the amendment. When the amendment has been drafted and when we have had an opportunity to ascertain on both sides of the aisle that there is approval and clearance for it, I will be offering that amendment.

I take this opportunity to explain the amendment while there seems to be a lull in the proceedings, because there are very, very many important matters to deal with on this disaster relief measure, and I wanted to give my colleagues who may still be watching an opportunity to learn the importance of this measure.

Mr. President, the amendment has not yet been cleared, so I am not offering it at this time, but I appreciate the Chair giving me the opportunity to address my concerns and to inform my colleagues of the important needs in this area.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, what is the pending question before the Senate?

The PRESIDING OFFICER. The question is on the amendment numbered 759, offered by the Senator from West Virginia.

Mr. BYRD. I thank the Chair.

Mr. President, this amendment adds $123 million to the bill. But it constitutes the request of the administration, which, as I said before, indicates that the administration is very sensitive to the needs of the distressed areas and is making new assessments from time to time and is so informing the Congress.

Senator HATFIELD and I are supportive of this amendment, as we have been supportive of the requests today, heretofore on this bill, and heretofore on other bills of a similar nature, whether under a Republican administration or a Democratic administration. We have supported measures, worked them through our Appropriations Committee, managed them on the floor. Never have we sought, to my recollection, to cut one dollar from an administration's request for a matter of this nature.

So, we are joining in this amendment to comply with the request of the administration. And again for the record, it would add $11.1 million in contingent appropriations for title III of the Job Training Partnership Act, which authorizes assistance to dislocated workers; it would add $2 million in contingent appropriations for the Commission on National and Community Service; it would add $100 million in contingent appropriations for the Department of Commerce, Economic Development Administration; and it would add $10 million in contingent appropriations for the Small Business Administration Disaster Loan Program account.

And it also stresses that in accordance with the request by the administration, each of these requests that I have enumerated,

> * * * would be available only to the extent that the President subsequently submits an official budget request to the Congress that designates the entire amount of the request as an emergency requirement, pursuant to the Balanced Budget and Emergency Deficit Control Act, as amended.

Mr. President, I do not know what better evidence one could submit that is clearly indicative of the administration's support for whatever is needed in dealing with the disaster. I do not know of anything more clear than the joining of Mr. HATFIELD and myself in the offering of this amendment to indicate our desire to be helpful, to be prompt in helping people of the stricken States.

The Senator from Oregon and I have a responsibility. We have a responsibility to try to get this legislation passed in the Senate, take it to the conference, if there is a conference, and do everything we can to expedite final action on this bill.

It is my hope that if we can keep this bill clear of amendments, the House—I say it is my hope that the House will accept the bill as enacted by the Senate without a conference, thus sending the bill to the President for his signature. That is the way to do business. That is the way to save time. That is the way to get assistance to the people in the stricken areas as quickly as possible and clear the way for the Senate to act on other important matters which have to be acted upon before the Senate goes out for the recess.

Why do we take the time to add amendments to this bill, which put it in danger of a conference and at some point, possibly subjecting it to other votes in the House? If in the course of events this legislation winds up in the House with other votes being taken on it, it is entirely possible under the House rules for the House to add its own amendments to the bill. If the House Members see the Senate playing a game of adding amendments that Senators want to offer over and above the expressed needs by the administration, the House may get into that game also.

So, as the chairman of the committee, I want to do my duty. I intend to do my duty. It is my duty to try to get this bill through and ready to send to the President for his signature—quickly.

What could give the people in the stricken areas greater hope and greater confidence in their elected representatives than that we act quickly? The best way to expedite this whole matter is to leave this bill clean now.

The amendment Senator HATFIELD and I have pending is an amendment requested by the administration. I would have every reason to believe that if that amendment is agreed to the House will accept it because it is an amendment that is based on the best estimates of the administration which is in the best position to assess what the needs are. To me that is the way to proceed, and to assure the quickest action on this bill.

Does my friend from Oregon agree with me in what I said?

Mr. HATFIELD. Mr. President, I wholeheartedly subscribe to the analysis made by the chairman of the Appropriations Committee. That is what I oftentimes fear, that we are not looking far enough ahead to what is yet to be accomplished through the processes of the legislative branch of Government in order to make these resources incorporated in this supplemental appropriations bill available to be transmitted to meet the needs of those people out there in the Midwest.

This is a major step in that process, but one yet to be fulfilled.

If the chairman would indulge me for just another minute or two. Even if this current amendment the chairman and I are cosponsoring is disposed of, the amendment offered at the request of the administration, and the Harkin amendment is disposed of, I pointed out before but I do not think we are really that much aware as a body that on the Calendar of Business, page 2, we have yet listed, if they are all brought up and all debated and discussed—we have listed 40 additional amendments to be disposed of on this bill before this bill could even go to a conference.

Let me direct the chairman's view here to a rather simple sounding amendment of Senator DANFORTH, the Senator from Missouri, relative to flood prevention in St. Genevieve, MO.

That is a very interesting one because I would imagine there would be 100 votes in the Senate for it under these circumstances. On the other hand, it could be very controversial, for it does as I understand lift the local funding formula requirement for the repair of those facilities under the direction of the Corps of Engineers.

As the chairman knows, there is a local cost-sharing formula that is in law. And there will be an attempt to lift it because this is the only historic designation of a French settlement in the State of Missouri. I think all of us are very concerned about that. And it happens to have a very low income. Those people do not have the resources to come up with the cost-sharing part of it.

Yet, when you begin to deal with the fundamental formula set in law, that is going to elicit a lot of discussion, not only on this floor but I am sure as between the House and the Senate. I have served on that Subcommittee on Energy and Water, of the chairman's Appropriations Committee, and we have hardly a year that goes by that there is not some local community that has some very legitimate reason to ask for an exemption from that cost-sharing formula.

I use that just as one example.

Mr. BYRD. If the Senator will allow me, I have some in West Virginia right now that have written to me—the correspondence is in my office—wanting that requirement lifted.

Mr. HATFIELD. Yes. I would say I have one that has been verbally presented to me on the basis that the commitment made for the local cost sharing was at a $3 million estimated cost and that the corps now has escalated that to $10 million. These small port districts along the Columbia River do not have the capacity to triple their local cost sharing and are asking some kind of relief. I am sure there are others as well.

I also direct the chairman's attention to one from the Senator from Pennsylvania [Mr. SPECTER], "Relative to Sense of Senate on Bosnia."

Need I say, for the purpose of history, I have been here long enough—not as long as the chairman—to know we have expended literally days on the sense-of-the-Senate resolution which in some ways has no power of law, has no implementation, has no further action except to express an opinion at one particular moment in history of the U.S. Senate on a particular issue.

I am not saying they are irrelevant, but that sense-of-the-Senate resolution does not carry with it other than just a statement, an expression of opinion.

Knowing the complexity of Bosnia, knowing the emotions that run high on Bosnia and the potential of Bosnia exploding into a worldwide problem, as it already is moving that way, we could spend hours on our views as to whether we should bomb targets around Sarajevo or whether we should participate in United Nations expanded peacekeeping activities and all sorts of things.

Here we are 10 minutes of 2 on Wednesday, August 4. As the chairman has indicated, we have a long way to go on this bill in order to make it a reality and present it to the President for his signature.

I just mention those two items to support the chairman's thesis and his urging that we move on with it, get it accomplished and hopefully without conference with the House, for if we carry things like this to the House, the chairman has indicated it could be very, very difficult.

I would go so far—and I accept the fact we are in speculation because nothing is determined yet—but I could see the possibility of a stalemate in that conference lasting beyond Friday. We know that when that happens and everybody else has gone home, it does not make much difference whether the committee is sitting there trying to resolve this bill or not. It cannot be acted upon unless the Senate is in session and the House is in session.

Mr. BYRD. Yes; I agree with my friend. Relative to the sense-of-the-Senate amendment on Bosnia—the Senator has mentioned that one—I think it would be probably a good idea to debate that subject matter because much is being said in various quarters about taking some action vis-a-vis Bosnia: bombing or whatever. It seems to me that is a matter that should be thoroughly debated in the Senate.

Before we go too far under the aegis of the United Nations and commit ourselves to too much, it seems to me we ought to have some debate on that subject. But this is not the place or the time. The appropriations bill is not the appropriate place for debate on Bosnia. Not at all.

May I add to what the distinguished Senator has said relative to the number of amendments? We have been almost 4 hours now on this amendment, as modified, and now on the amendment which is no longer modified by the amendment proposed by the distinguished Senator from Mississippi [Mr. COCHRAN]. The majority leader has indicated that we ought to finish action on this bill before we go home, before the close of business today. He has good reasons for making that statement and for taking that position. He has other legislation that the Senate needs to act upon, one way or the other, before the Senate goes out for a recess.

So it seems to me that we ought not spend more time on this subject matter. The distinguished Senator from Iowa [Mr. HARKIN] is to be lauded for his dedication, for his efforts. He had this amendment when he came before the Appropriations Committee, and he did not offer it before the Appropriations Committee because the distinguished Senator from Oregon and I urged members not to call up controversial amendments before that committee when those amendments were going to have to be debated on the floor anyhow.

So he very kindly, and with his characteristic consideration of the chairman and the ranking member's wishes, did not call up the amendment. We spent now almost 4 hours today on that amendment and the amendment, as modified, earlier.

If the Senate adopts that amendment, how are we going to be able to withstand the pressure to add other amendments? If we are going to open it up with a billion dollar addition—and that is what it would be—if the amendment by Mr. HARKIN is adopted adding $1 billion, how can we explain our opposition to amendments that are waiting in the wings to add less money? "Well, you have already accepted, the Senate has already adopted an amendment adding a billion dollars." They would then say, "Why not my amendment? My little 'ole amendment only adds $100 million or $50 million, or whatever, can't you take that amendment?"

So it puts us in a difficult position if we start——

Mr. HATFIELD. Will the Senator yield on that point?

Mr. BYRD. Yes.

Mr. HATFIELD. To illustrate the validity of the Senator's position on this, let me just refer to another pending amendment, if it is offered. And it says, for the Senator from the State of Washington [Mrs. MURRAY] relative to federally impacted Northwest forests. I would say that coming from that part of the world that we in this basic committee amendment are making some declarations of emergency. The President will exercise his role in that emergency declaration for some accounts and some of these dollars. This could well be an amendment asking the Congress to declare an emergency for those thousands of working families that have been excluded from their jobs and their jobs wiped out or in the process.

I might say that one of the fastest growing parts of our homeless population today are families with children. And that we are not only talking about the numbers of jobs that are being removed or exterminated, we are talking about potential candidates for the streets—mothers and fathers and children.

We have people displaced from their homes in the Midwest because of floods, and it is a terrible disaster. Is it less a disaster to the individual, to the individual family that may be excluded from his or her home for economic and other such forces, other than flood forces? To those individuals, that is a disaster and to most of us looking at their plight, we would agree it is a disaster. We need a formula for the declaration of emergency. I do not know what the wording of the amendment of the Senator from Washington is to address this problem in the Northwest, but I know a case can be made for the need of people.

So, the Senator is quite right that we are opening this to a whole series of additions. And every addition we make to this is not a question of dollar addition, it is a question of whether the House will accept the Senate bill and reduce the timeframe normally that a conference would require and put us beyond the date of finalizing this bill before the recess.

I do not think either the chairman or I are intending to use scare tactics or any other thing but talk in very strong facts of reality as to the process of moving an appropriations bill to the President's desk for final signature. I just keep raising this point. We are at the risk level of losing any bill, having no bill before the recess and saying, "Well, we will have to do it when we come back after Labor Day." I do not think that risk factor is being helpful, or if that risk factor is taken as a gamble and lost, I do not think that is helpful to the people out there waiting for the emergency support that the administration is ready, willing, able to provide with our action on this bill.

Mr. BYRD. Mr. President, I thank my friend and colleague and agree with him completely.

The question on this amendment by Mr. HARKIN is the same question that the Senate made a decision on earlier. It is not in the same amount.

But if the amendment by Mr. HARKIN would be agreed to, it would add $1 billion to the bill and add $1 billion to the deficit.

Now, I am as compassionate as I think anyone can be with respect to those who are suffering from this act of God and as willing to add to the deficit as is anyone else at such time as the administration has taken the occasion to reassess it, with its myriad agencies—FEMA, HUD, Corps of Engineers, et cetera.

That is the time to discuss adding moneys for this purpose. As a Senator, I do not have at my fingertips the agencies which are at the disposal of the President. I cannot, with the snap of my fingers, ask this agency or that agency to do this and so and do it right away, and then put all these things together and make a request to the Congress that is based on substantial assessments.

When the administration is able to do that—and I am sure this is not going to be enough money, the money that we are voting on in this bill today. Anyone who has been living over the past few weeks knows that to be the case. There will be additional requests. When those requests come before my committee, they will be acted upon just as judiciously and compassionately, and with as much sympathy as I can possibly show.

I urge my colleagues not to support an amendment now that will add $1 billion to this bill. It just opens up the way for additional amendments. I assure the distinguished Senator from Iowa that I will be the first to line up in support of the requests of the administration for additional moneys for this purpose. And they will come. Those requests will come as sure as the Eastern Star shall rise tonight and again tomorrow night and again the next night and the next night and the next night.

So I urge my colleagues not to support this amendment.

Mr. HATFIELD. Will the Senator yield for just a second?

Mr. BYRD. Yes.

Mr. HATFIELD. The chairman has very correctly pointed out the increase in the dollars. But will the chairman not agree that in this amendment we are also changing the formula as to the last emergency disaster relief which we passed for Hurricane Andrew—not as against the authorized legislation on the books, but as against what our last disaster relief was for the victims of that hurricane that swept through a number of States, as to the victims we are now trying to assist in the Midwest, so that there is additional consideration for the complexity of this amendment that adds not only the $1 billion but does address the formula change?

Mr. HARKIN. If the Senator will yield——

Mr. BYRD. Madam President, I yield for the purpose of a colloquy.

Mr. HATFIELD. I would just add one last point. In fact, that was the reason for the modification of the Senator from Mississippi, who wanted to address that discrepancy between the last disaster relief bill and this one as proposed in the original Harkin amendment that added $1 billion. I believe I am correct on that.

Mr. HARKIN. If the Senator will yield so I may respond, I find that an interesting argument, that somehow we cannot——

Mr. BYRD. Madam President, I retain the floor.

The PRESIDING OFFICER (Ms. MOSELEY-BRAUN). The Senator is correct.

Mr. BYRD. I yield with the understanding that I retain my rights to the floor.

The PRESIDING OFFICER. For the purposes of a colloquy.

Mr. HARKIN. I thank the Senator.

I find this argument by my friend from Oregon interesting. Let me see if I understand it correctly. We should not change the formula now to help the victims of the flood in the Midwest because the victims of disasters in 1990, 1991, and 1992 were paid at a different rate, and if we now change the rate, farmers in this flood will be getting a different compensation than those who suffered disasters in 1990, 1991, and 1992. It seems to me that is the argument the Senator is making.

Mr. HATFIELD. Will the Senator yield?

Mr. BYRD. I yield.

Mr. HATFIELD. I am merely stating the complexity of this amendment leading to a difficulty in conference with the House. I am merely making a statement of facts. And I assume the Senator from Iowa agrees that my facts are correct.

I am not arguing the judgment or the morality or the ethic or the lack of ability to make a change in formula. I am just saying we have in this amendment changed the formula as to the payments offered to those who were sufferers in the last disaster relief supplemental on Hurricane Andrew, which led the Senator from Mississippi to ask for a modification to make it retroactive, to bring those victims up to the same level as in this amendment.

I am not arguing the rightness and the wrongness. I am just saying those seem to me to be the facts of the case, and therefore lead to a greater difficulty in a conference situation with the House of Representatives and a greater delay in finalizing this particular bill.

Mr. BYRD. Madam President, the pending amendment is the amendment offered by the Senator from West Virginia and the Senator from Oregon and the Senator from Iowa; am I correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. BYRD. I ask for the yeas and nays on the pending amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BYRD. Madam President, I ask unanimous consent that the vote on this amendment occur at such time as—Madam President, I suggest the absence of a quorum.

Mr. BOREN. Madam President, while my colleagues are discussing the pending amendment, I ask unanimous consent that I might be allowed to speak as if in morning business for not to exceed 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOMINATION OF JOYCELYN ELDERS

Mr. BOREN. Madam President, this week, as everyone knows, we have had an opportunity to vote on four very important nominations, but we have not yet had the opportunity to vote on another extremely important nomination still pending before us, and that is the nomination of Dr. Joycelyn Elders to be Surgeon General of the United States. The nomination was reported out from the Labor and Human Resources Committee last Friday by a very strong bipartisan majority, of the members of that committee.

There has certainly been enough time to evaluate whether or not Dr. Elders is qualified and suitable for the job of Surgeon General of the United States. She was named on December 4 by the President—exactly 9 months ago today. Her original confirmation hearing was delayed to allow further time to evaluate her record. Over 200 questions have been submitted and have been answered about Dr. Elders, and the original FBI report on Dr. Elders has been available for over a month. The additional questions submitted by Senators KENNEDY and KASSEBAUM have been available since her confirmation hearing.

Madam President, it is time to allow the Senate to work its will and to act on this nomination. As I said to the members of the committee when I had the honor of helping to present Dr. Elders for her confirmation hearings, coming from Arkansas' neighboring State, I have had the opportunity to view the work and the record of this very remarkable person—the first African-American woman ever to graduate from the University of Arkansas School of Medicine; one of the most outstanding, widely recognized leaders in the field of pediatrics in this country; named director of the health department of her home State of Arkansas; endorsed by over 150 medical associations across this country to be the next Surgeon General of the United States; regarded by people in her profession as among the most highly qualified choices available in this country for this important post.

Above all, Dr. Elders has had the strength and the courage to speak out on controversial issues of the day. She has had the courage to open our consciences to the problems of teenaged pregnancy and many other health and social problems confronting this country; problems that are easily swept under the rug, problems that we do not like to hear about because they are painful and difficult. Yet, they are challenges which we must confront.

Madam President, unfortunately, the state of our politics has come to the point that, when a person takes stands on controversial issues, instead of debating those issues, we begin to attack that individual personally, we begin to distort his or her views, and we begin to treat that individual unfairly as a fellow human being.

Dr. Elders is a person of moral courage. She is a highly qualified person for this position. As I have already said, she has an outstanding record. She deserves to be considered on the basis of those qualifications and her record for personal courage and integrity.

I do not agree with every single thing that Dr. Elders has ever said. I do not agree with every single policy that she has advocated. But that is not the point. The point is that she is well qualified for this position. The point is that we need the Surgeon General of the United States to be a spokesperson to awaken us to the crises, both social and medical, that we face in this country. Above all we need our Surgeon General to have the courage to speak out on these issues and to bring them to the public's attention.

Dr. Elders has demonstrated time and time again that she has that courage. She has also demonstrated, in spite of what some who have criticized her have said, that she believes in local control and in parental control of the ultimate decisions that affect children in this country. While she has advocated school-based clinics, for example, to help young people in need of help, she has always maintained that the final decision about whether those clinics should be in a school should be made by the local school boards at the school district level. She has always felt that, whatever services were available to children, parents should have the right to determine ultimately whether those services are made available to the individual child of that particular parent.

There are many children in this country who are in terrible trouble—and we see the results of it: the high teenaged pregnancy rate, the fact that in some of this country's large inner cities last year 80 percent of the infants born were born out of wedlock, the fact that in 10 percent of the births of infants in the 10 largest cities in this country, both parents were gone within a week of the birth of that child. Coming into our statistical language for the first time is the term "no-parent children" because neither parent was available to help raise that child.

We have children at risk, children in danger in our country. We are not taking adequate care of them, and many of them do not have the family units to fall back upon. Dr. Elders has become the forceful advocate for the well-being of these children in our country. Surely she should not be penalized for having the courage to speak out about the needs of these children as they grow toward adulthood.

Madam President, it is time to allow us to vote on this nomination, to let us bring the nomination of Dr. Elders to the floor and to let us have a chance in the Senate to express our views about her nomination. And when that happens, I am convinced that the vast majority of the Members of the Senate will vote to confirm her to be the next Surgeon General of the United States, and I am convinced that there will be a significant number of votes for her nomination from both sides of the aisle.

The time for delay is past; the time for action is now. The serious problems that she has talked about will not go away. They need to be addressed. The American people need to be brought into the dialog. We need a Surgeon General of the United States on duty confronting these challenges. I urge my colleagues on both sides of the aisle to allow the nomination of Dr. Elders to come forward. Let us not break for the long recess without acting on this nomination. Let us give this good, well-qualified nominee a chance to have her rightful decision day before the U.S. Senate before we go into recess.

EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR RELIEF FROM THE MAJOR, WIDESPREAD FLOODING IN THE MIDWEST ACT OF 1993

The Senate continued with the consideration of the bill.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Madam President, I have discussed the Harkin amendment with the author of that amendment. He is agreeable to limiting debate on the amendment. He is willing to agree to 20 minutes on his side.

I ask unanimous consent that the time on the amendment be limited to 20 minutes under the control of Mr. HARKIN and 10 minutes under the control of Mr. HATFIELD and myself; that the vote on the pending amendment, the pending Byrd-Hatfield amendment, occur at the conclusion of the time for debate on the Harkin, et al., amendment; and that the vote on or in relation to the Harkin amendment then occur following the vote on the pending Byrd-Hatfield amendment, as modified.

Mr. HARKIN. Madam President, reserving the right to object, and I might object, I want to get a handle on this on the time. As I understand it, we have an amendment right now that is pending that is offered by the chairman. I have some things I want to say about that. Is there a time limit on that amendment?

Mr. BYRD. There is no time limit on it. But, Madam President, I ask unanimous consent that there be a time limitation on the amendment of——

Mr. HARKIN. I would like to talk for a little bit on this.

Mr. BYRD. Only the pending amendment?

Mr. HARKIN. I believe so. I want to understand. The request was that at the conclusion of debate on this amendment that is pending, that then we would go back to the amendment that has been set aside?

Mr. BYRD. No. I did not ask for any additional time on the pending amendment. I do now recall that the Senator has discussed that amendment with me and would need to have a few minutes because he seeks to make a modification on that amendment, to which I am agreeable to his making.

I ask that the time on the Harkin amendment be limited to 30 minutes, 20 minutes to Mr. HARKIN, 10 minutes to Senator HATFIELD and myself, and that at the conclusion of that time, the Senate then vote on the Byrd amendment, on which the yeas and nays have already been ordered, and then follow that with a vote on or in relation to the Harkin amendment, because by then all time for debate on that amendment would have expired.

Mr. HARKIN. Madam President, further reserving the right to object, I wonder if we could, since the Harkin amendment is the preceding amendment, the amendment before, I am wondering if we could perhaps have the vote on that amendment first and then have the vote on the pending amendment at the conclusion of the vote on the Harkin amendment.

Mr. BYRD. Very well. We might be able to do that.

Mr. HARKIN. We would have the debate of 20 or 30 minutes, then we would go to a vote, and then after that, we could have the vote on the amendment.

Mr. BYRD. I will be very happy to consider that. That was a reasonable request.

Let us get on with the modification of the pending amendment, because our time is running. We have not disposed of one amendment today. What does the Senator wish to do with respect to the pending amendment? What modification does he suggest?

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Madam President——

Mr. BYRD. Madam President, I have the floor. I will yield to the Senator for a question.

The PRESIDING OFFICER. Has the Senator from West Virginia withdrawn his unanimous-consent request?

Mr. BYRD. I will withdraw the request temporarily, yes.

The PRESIDING OFFICER. Does the Senator from West Virginia yield for a question?

Mr. HARKIN. This Senator does not have a question, but I have remarks I would like to make on the amendment, and then I would like to get in a colloquy with the chairman about a modification of the amendment.

Mr. BYRD. He wishes to discuss the now pending amendment?

Mr. HARKIN. Very briefly.

Mr. BYRD. I yield the floor.

Mr. HARKIN. I will not take much time, because I agree that we have to move on with the bill.

The pending amendment before us, which I put my name on as a cosponsor, had a provision I was not fully cognizant of at that time. It deals with a provision of the Small Business Administration raising the loan limitation. I wish to discuss that for a couple of minutes to make the record clear as to what I am about.

I have an amendment that I was going to offer—one of the listed amendments—that would have removed the $500,000 cap and raised that to $1.5 million for the victims of this Midwest flood. The reason I was going to do that was because the $500,000 cap that is now in law was set in 1980, but it was administratively used since 1970. So since 1970, we have had a $500,000 cap on SBA disaster loans. Well, if you just factor in inflation over those years, if it was fully adjusted, the loan limit would be over $1.7 million.

So if we wanted to respond to small businesses hurt in this disaster, like a small business would have been hurt, let us say, in 1970, we would have a loan limit of over $1.7 million.

Madam President, I met with business people around Iowa that have been very severely hurt by these floods. Many of their businesses are not likely to reopen—or to reopen without significant reductions in employment—without SBA disaster loan assistance. Frankly, $500,000 just will not do the job.

I want to talk about a few of those cases. One company has been making automobile accessories for 70 years.

The company employs 102 people. On July 10, the Des Moines Water Works flooded. Now this company is not on a flood plain, and the owner was told he would be OK; he was three-quarters of a mile from the water plant. But, by that evening, the Raccoon River had filled the first 5½ feet of his business. His inventory and business losses are estimated at over $2.1 million. He has incurred over $850,000 in lost business. He needs help. Forty-two of his employees are out of work. This company believes it needs a $2 million loan to cover its need and get its employees back to work. It is going to be difficult for this company to get other assistance.

This amendment does not give businesses a grant to make them whole or give them a loan to meet their full needs, but it gives some help—a lot more than what only $500,000 will give.

Here is another example: A firm that has been in business for 34 years, and could face bankruptcy without help. The firm laid off its 18 employees—18 employees, I might add, all with families whom they must support. The company is now operating on a very limited basis with borrowed equipment. They had 12 feet of water in their warehouse and 9 feet of water in their office. Insurance will only cover some of the trucks and the computer equipment. They lost over $1 million in inventory and uninsured equipment. I understand that $500,000 will not provide the capital that will allow this business to get going again. An extra $500,000—which I might add is not a grant, only a loan—could allow this company to get back on its feet and get those employees back to work.

I talked personally with the President on Monday evening. I told him about the plight of these small businesses. I told him about the fact that this $500,000 had been in existence since 1970 and had never been raised, and that many of the hundreds of small businesses in Iowa—and I am sure in other States also—need more than $500,000 to get back on their feet. I do not mean a grant, I mean a loan. So all we are asking is to try to bring this level up close to what it would have been if we had factored inflation into that $500,000 limit begun in 1970.

The President expressed his concern. He wrote a letter, which I will take the liberty of reading here. It is to the chairman of the Appropriations Committee.

It says:

> DEAR CHAIRMAN BYRD: The administration has requested that the pending emergency supplemental appropriations bill for disaster relief for victims of flooding in the Midwest be amended to lift the ceiling on SBA disaster loans to $750,000 from the current $500,000 figure.
>
> We have also requested an additional $10 million in credit subsidy budget authority for that loan program. We understand that Senator Harkin may offer an amendment that would instead raise the loan amount limit to $1.5 million and provide $20 million in credit subsidy budget authority.
>
> We also understand that the higher loan amount limit would apply only to loans related to the 1993 Midwest flood disaster.
>
> The administration would support such an amendment. Once again, we thank you for your continued leadership on this urgent legislative task.

I think part of the mixup came because, as I was told in a telephone call, the director of OMB did not understand that I had spoken with the President personally about this figure and that figures were discussed. In light of that, he sent that letter with that paragraph in it.

I do have that amendment, but the amendment offered by the chairman incorporates the change cited in the first paragraph of the letter. I will ask the chairman for a modification of his amendment that would incorporate the provisions of my amendment, which would raise the limit from $500,000 to $1.5 million and provide the $20 million in budget authority to cover such loans.

Again, I point out that to raise the limit on these loans from $500,000 to $1.5 million will ensure that a lot of these businesses, hundreds of businesses, could get a decent loan to get back on their feet.

So I ask the chairman if he could modify the amendment to take that into account.

I yield the floor.

AMENDMENT NO. 759; AS MODIFIED

Mr. BYRD. Madam President, this is a request by the administration, and it is contained in a letter to me dated August 3. I believe a similar letter went to my colleague, Mr. HATFIELD. It comports with the statement by the distinguished Senator from Iowa, Mr. HARKIN.

I am willing, by unanimous consent, if I may gain it, to modify the amendment. I ask unanimous consent that my amendment be modified, and I understand that Mr. HATFIELD is in agreement with this, as is Mr. HOLLINGS, chairman of the subcommittee of jurisdiction.

Mr. HATFIELD. I understand it is raised $10 million, the SBA loan extension, which raises the total of the amendment 133.3; is that correct?

Mr. BYRD. I am advised that the figure would be 133.1.

Mr. HATFIELD. 133.1.

The PRESIDING OFFICER. Is there objection?

There being none, the amendment is so modified.

The amendment, as modified, is as follows:

> Before the period at the end of the first excepted Committee amendment, insert the following: "*Provided further*, That notwithstanding any other provision of this Act, the amount provided herein for Economic Development Assistance programs under the heading "Economic Development Administration" shall be $200,000,000 of which $100,000,000 shall only be available to the extent an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to Congress: *Provided further*, That notwithstanding any other provision of this Act, the amount provided herein for the Disaster Loan Program account under the heading "Small Business Administration" shall be $80,000,000, of which $20,000,000 shall be available only to the extent an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to Congress: *Provided further*, That notwithstanding any other provision of law, the $500,000 limitation on the amounts outstanding and committed to a borrower provided in paragraph 7(c)(6) of the Small Business Act shall be increased to $1,500,000 for Presidentially-declared major disasters for recent Midwest flooding: *Provided further*, That notwithstanding any other provision of this Act, the amount provided herein under the heading "Employment and Training Administration" for part B of the title III of the Job Training Partnership Act shall be $54,600,000 of which $11,100,000 shall be available only to the extent an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to Congress: *Provided further*, That notwithstanding any other provision of this Act, the amount provided herein for programs and activities of the Commission on National and Community Service shall be $4,000,000, of which $2,000,000 shall be available only to the extent an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to Congress: *Provided further*, That all of the above amounts are designated by Congress as emergency requirements pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended"

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. BYRD. Madam President, if the Chair will momentarily indulge me, I ask unanimous consent that I may add to the list of cosponsors the distinguished Senator from Minnesota [Mr. WELLSTONE].

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. Madam President, I thank the chairman for modifying the amendment and the distinguished ranking Republican on the Appropriations Committee for accepting this amendment.

Mr. BYRD. I thank the Senator.

Now, Madam President, that brings us back to the pending amendment which I had hoped we could delay the vote on until such time as the vote is taken on the amendment by Mr. HARKIN.

Has the request been agreed to with respect to a time limitation on the Harkin amendment?

The PRESIDING OFFICER. There has been no agreement with regard to time on the amendment.

Mr. BYRD. I thank the Chair.

I ask unanimous consent there be a time limitation on the Harkin amendment as follows: 20 minutes to be under the control of Mr. HARKIN; 10 minutes to be under the control of Mr. HATFIELD and myself; and that at the conclusion of the time on the amendment, a vote occur on, or in relation, to the amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. BYRD. Madam President, the pending amendment is the Byrd-Hatfield amendment.

Is it agreeable to the Senator and his colleagues that we vote on the Byrd-Hatfield amendment now or just preceding the vote on the Harkin amendment? I would hope to save time.

Mr. HARKIN. We would like to vote on the amendment right now.

Mr. BYRD. I was going to suggest that we vote on the one after the other, the Byrd amendment and then the Harkin amendment at the conclusion of the time on the Harkin amendment so that both votes will be taken together and save the time of the Senate.

Mr. HARKIN. I hope we can have a vote on the Harkin amendment at the conclusion of the debate on the Harkin amendment, and either then go to the vote on the Byrd amendment or have the vote on the Byrd amendment right now, if we want to get Senators over here. As a matter of fact, I would hope we can have a vote on the Byrd amendment now. That is what the people are here in the Senate for and that is to vote.

Mr. BYRD. Very well.

Mr. CONRAD. Madam President, reserving the right to object.

The PRESIDING OFFICER. There is no unanimous-consent request pending.

Mr. CONRAD. Has the unanimous-consent been agreed to on the time limitation on the Harkin amendment?

The PRESIDING OFFICER. Yes, it has. That agreement has been reached.

Mr. CONRAD. Madam President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. CONRAD. The time agreement that was agreed to then is 20 minutes for the Senator from Iowa and 20 minutes divided between the Senator from West Virginia and——

The PRESIDING OFFICER. No. Ten minutes for the Senator from West Virginia and divided between himself and the Senator from Oregon.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. CONRAD. I object.

Mr. BYRD. I hope the Senator will not object.

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER. There is objection.

Mr. CONRAD. Madam President, I was asked by the Senator from Iowa to register objection until he is able to get a response that he is seeking and return to the floor.

Mr. BYRD. Madam President, I ask unanimous consent that the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection?

Mr. CONRAD. I object.

Mr. BYRD. Madam President, in case the distinguished Senator from North Dakota has not learned it yet, I am not a Senator who will cut a Senator behind his back, and I am not a Senator who will take advantage of a Senator behind his back.

I did not intend to call off the quorum in order to take some advantage of the Senator from Iowa.

As a former majority leader in this body, as a former minority leader in this body, as a former majority leader again in this body, and as a President pro tempore in this body, I have yet to act behind the Senator's back to take advantage of him.

I simply wanted to make a statement of about 30 seconds duration when I requested for the quorum to be called off.

The Senator from Iowa does not need the Senator from North Dakota to protect him. I will protect the Senator from Iowa as well as anyone else would. I will protect any Senator on this side of the aisle.

I was simply going to point out how much time we have been on this bill today, and we are still taking time in quorum calls when we have other Senators who have amendments that they may feel are as important as the amendment by Mr. HARKIN. They have not had a chance to offer their amendments.

That was all I was going to do—call attention to the passage of the time and put back in the quorum call to protect the Senator.

The PRESIDING OFFICER. Does the Senator object? The Senator from North Dakota.

Mr. BYRD. I yield the floor.

Mr. CONRAD. Madam President, I want to make clear to the Senator from West Virginia——

The PRESIDING OFFICER. The Chair must advise the Senator from North Dakota the quorum call remains in progress.

Is there objection to rescinding the quorum call?

Mr. CONRAD. I ask unanimous consent that the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CONRAD. Madam President, I want the Senator from West Virginia to know that in no way was I concerned that he was going to do something that would jeopardize the rights of the Senator from Iowa.

Mr. BYRD. Will the Senator yield?

Mr. CONRAD. If I might complete the statement, then I would be happy to yield.

I have been here 7 years. I know the Senator from West Virginia is a man of honor, that he protects other Senators' rights, that he has deep respect for this institution.

I hope the Senator from West Virginia would know that I was asked by the Senator from Iowa to raise objection if anyone put in a move to go out of the quorum call. I made that commitment to him and I felt honor bound to honor that commitment. And that is what I did.

I yield the floor.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Madam President, I hope we can get on with action on this amendment.

I somehow doubt that the distinguished Senator from North Dakota would have objected if the majority leader had come in and asked that the quorum call be called off, even in the face of his promise. Perhaps I am wrong, but I doubt it.

Mr. DURENBERGER. Madam President, I rise to support the amendment by Senator BYRD which, among other increases, increases the appropriation to the Commission on National and Community Service from $2.0 to $4.0 million.

This $4.0 million would be on top of $455,000 in previous appropriations that the Commission is already making available to conservation and other service corps in several States and communities most affected by recent flooding.

I am pleased that the administration chose to include additional disaster relief funding for the Commission in its flood relief package—accepting the suggestion I first made to the President when he met with a group of Members from flood States several weeks ago.

At the same time, I also contacted the leaders of conservation corps in Minnesota and several other States to encourage them to prepare a detailed proposal on using young people to help communities respond and recover from the terrible damage they're now experiencing.

Proposals were generated from not just Minnesota, but also from Wisconsin and Iowa. And, the President and others in his administration quickly saw the value of demonstrating what well-organized and highly motivated young people can do—not just in the short-term, but over the many months that these communities will need to fully recover.

I want to make it clear, Mr. President, that this additional funding is not intended to be a traditional short-term public jobs program. The kind of program that the Commission is prepared to fund will do much more than simply put young people to work on a temporary basis.

The conservation and other service corps that will apply for these funds are highly disciplined programs that provide an experience for young people that includes not just employment and service to their communities.

These programs also include an educational component—both basic classroom education and training in marketable job skills.

And, these programs are intended to make a positive contribution to the communities they serve for a period beyond addressing the most immediate needs those communities now feel.

The Commission intends to use some of the funding it awards to provide coordination and support for the infrastructure under volunteer efforts in these States.

And, the Commission's plans include not just young people in service and conservation corps, but also National Guard volunteer college students, school-based programs, and volunteer organizations like 4-H, the Red Cross, and the Salvation Army.

Finally, at least some of these programs will offer a post-service education that offers a real incentive to attend or return to college or another higher education program that these young people might otherwise not be able to afford.

I realize, Madam President, that this is a relatively small amount of money in a much larger response to the tragedy that is still unfolding all through the heartland of America.

But, I can think of no better way to demonstrate the value of national and community service, than to provide these additional resources to a program that has already demonstrated its value during previous times of crisis in Los Angeles and South Florida.

The Senate has just completed action on the National and Community Service Act. And, as the original Republican cosponsor of that important initiative, I believe the amendment now before us is an excellent way to demonstrate the value of national service in a timely and highly visible way.

I intend to support this amendment, Madam President. And, I urge my colleagues to do the same.

Thank you, Madam President. I yield the floor.

VOTE ON AMENDMENT NO. 759, AS MODIFIED

The PRESIDING OFFICER. Is there further debate on the Byrd amendment? The Chair hears no request for debate.

The question is on agreeing to amendment numbered 759, as modified, of the Senator from West Virginia [Mr. BYRD].

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER (Mr. AKAKA). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 86, nays 14, as follows:

[Rollcall Vote No. 239 Leg.]

YEAS—86

Akaka
Baucus
Bennett
Biden
Bingaman
Bond
Boren
Boxer
Bradley
Breaux
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Coats
Cochran
Cohen
Conrad
Coverdell
Danforth
Daschle
DeConcini
Dodd
Dole
Dorgan
Durenberger
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Grassley
Gregg
Harkin
Hatch
Hatfield
Heflin
Helms
Hollings
Inouye
Jeffords
Johnston
Kassebaum
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lugar
Mack
Mathews
McConnell
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murkowski
Murray
Nunn
Pell
Pressler
Pryor
Reid
Riegle
Robb
Rockefeller
Roth
Sarbanes
Sasser
Shelby
Simon
Simpson
Specter
Stevens
Thurmond
Wallop
Warner
Wellstone
Wofford

NAYS—14

Brown
Craig
D'Amato
Domenici
Faircloth
Gorton
Gramm
Hutchison
Kempthorne
Lott
McCain
Nickles
Packwood
Smith

So the amendment (No. 759), as modified, was agreed to.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Madam President, the pending amendment now is the Harkin amendment; am I correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. BYRD. And there is a time limitation.

The PRESIDING OFFICER. The Chair will state, under the previous order, the time remaining on the Harkin amendment is limited to 30 minutes: 20 minutes under the control of the Senator from Iowa, and 10 minutes controlled by the managers.

Who yields time?

Mr. BYRD. Madam President, while there is a fairly good attendance in the Senate, I would like to take this opportunity to state that the pending amendment by Mr. HARKIN is the amendment that he started out with, and he was willing to modify that amendment by some suggested verbiage by the Senator from Mississippi.

Mr. SIMPSON. May we have order?

The PRESIDING OFFICER. The Senate is not in order. The Senate will be in order.

The Senator from West Virginia.

Mr. BYRD. I thank the Chair.

Madam President, the distinguished Senator from Iowa was willing to modify his amendment by accepting the verbiage offered by the Senator from Mississippi [Mr. COCHRAN]. And I assume Mr. HARKIN did that because he thought that would gain some votes. Well, it did not. I do not know what it did. The only thing I know is that the Senate registered its opinion as being in opposition to the amendment as modified.

Now the Senator goes back to his original amendment. He brought that amendment before the Appropriations Committee and very agreeably withheld or restrained the urge to call it up at that point and elected to bring it to the floor, which was the right thing to do because it was controversial, as we see. But what it does is add $1 billion to the deficit. You can cut it any way you want to, thick or thin, or grind it up in the mill. It adds $1 billion to the deficit.

We are being asked later this week to vote on a deficit reducing bill, the reconciliation bill, and it is going to have matters in it that will not please everybody. As I understand it, the administration is working hard to try to help get the votes to enact that bill.

Now why add with the left hand and take away with the right, or take away with the left and add with the right? That is what we are doing here; a reconciliation measure that is supposed to reduce the deficit by some almost $500 billion. Now we are being asked in the pending amendment to add $1 billion to the deficit.

Madam President, my sympathy and compassion with and for those who are suffering from the floods has no bottom, no width, breadth, or height. There is no limit to my compassion for them, but there is a way to do things. We have an appropriations process in this Senate. The Appropriations Committee wants to be supportive of the administration's requests because we take the administration's requests, having been thoroughly and carefully assessed, and we have stated time and time again that the administration will undoubtedly be requesting more moneys. We just voted on an amendment that comports with the administration's request to make an addition in connection with this disaster.

The distinguished Senator from Oregon and I quickly threw our support to that and we offered the amendment. That is how fast we get things done if you will leave us alone. When the administration sends up further requests, we will act quickly on those requests.

Let the administration send up their requests to both Houses. That is the way it is done. They generally send up a request to both Houses. The matter is presently in the Senate. And they generally send up a request to the Republican manager and myself. Now we are hearing it from other Senators. They want to call up an amendment.

That is not the way to do things. That will open up the real floodgates, if I may use the pun. Everyone is going to want his amendment agreed to. That is why we have to take a stand against an amendment like this. I have a heart for it. My heart says fine. But I also, after 35 years in this Senate, have finally come to the conclusion that somebody has to take a responsibility around here once in a while to say no to the heart and say, now hold on, wait a minute. We will take care of the heart later.

So I urge Senators not to support this amendment. I want to get this bill through. I wish to get it through quickly. I wish to get it through tonight. And I hope it will be the kind of bill, when we finish action on it, the House will accept it, it will not go to conference, and it will go to the President.

If we add amendments, if we add one, why not add two, why not three, and take it back to the House. And then the other body will want to add some amendments. They like to get into that game, too: Look at those Senators. They added amendments on this. I have an amendment.

A billion here and a billion there, and it adds up where it will wipe out whatever gains are made in the reconciliation bill at some point. So I think we have to draw the line. I say draw the line where the administration put it. And when the administration requests more money, then we will take that into consideration.

So I make that plea with Senators and I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. HARKIN. Mr. President, I yield 5 minutes to the Senator from North Dakota [Mr. DORGAN].

The PRESIDING OFFICER. The Senator from North Dakota is recognized for 5 minutes.

Mr. DORGAN. Mr. President, I understand from time to time on legislation the desire of Members to protect the President's mark or to protect the President's request, but that is not what this debate is about.

We have a letter from the President, from the President's Director of OMB on this specific amendment. Here is what the Clinton administration's position is on this amendment:

> The administration will not oppose the amendment because it is limited to 1993 crop losses.

This is not about protecting the President's mark or protecting the President's request. This administration has no opposition to this amendment. It will not oppose this amendment. Here is the letter.

Now, this is not about protecting a kernel of corn or a kernel of wheat. This is about families. It is about people who have lost everything, and it is not about sending an enormous amount of money from the Federal Treasury that far above that which is requested. This is about how much should we provide in disaster assistance to family farmers who have lost everything. That is the issue.

Now, we have a formula, and the formula says if you have lost 35 percent of everything you have, then you get 65 percent of the target, and then that is divided by 50.04.

What a goofball computation that is. It makes no sense. It is arbitrary. It is not grounded in any kind of mathematical or judgmental sense. It is just there because it happened 2 years ago. It is not the way it happened in 1988 and 1989 with the drought. Nobody said we are going to give you a helping hand, but you are only going to get half a hand. We are going to throw you a rope, but you just get half a rope. That is a not what happened in 1988 and 1989. In 1988 and 1989 the disaster formula for families who lost everything was, if you had a 35-percent loss, you got 65 percent of the expected deficiency price on that loss.

Now it is 35 percent, 65 percent, and half of that. This makes no sense. Now, we say restore it by getting rid of that 50-percent limitation. Even then, those family farmers will still only receive 40 cents on the dollar and many will still go broke. But the issue here is a survival of families who have lost everything through a vicious act of nature—certainly nothing of their making.

The question is what are we going to do. It has been said here this will radically increase the deficit. I have heard numbers thrown around this floor that are flat out wrong. You know what the consequence of this flood is, among other things? Less grain is going to be produced. The price of grain is going to rise. And this Government will have fewer outlays for deficiency payments and we will save money on deficiency payments we otherwise would have been required to make.

That is where this money comes from. We are not suggesting a raid on the Federal Treasury. We are not saying let us break the bank. We are saying we are going to save money on deficiency payments. Let us get rid of this arbitrary formula and at least provide 40 cents on the dollar for families out there that otherwise are going to go belly up.

So, Mr. President, again, I know this is all very arcane. It is about complex Byzantine formulas. But in the end, it is about a family. Is this family going to keep operating or is it going to discover the helping hand of the Government is only half a hand and withdrawn at the last moment, and say you have $1 loss, you get 20 cents, my friend, and smile because it is plenty. It is not what you got before. We were able to do 40 cents because we saved billions on deficiency payments we did not have to make.

I just ask this, that we amend this legislation the way the Senator from Iowa asks, do it in a way that is compassionate and right. Let us do it the right way the first time. Let us not say, yes, we will have another supplemental. We will come back and do it later.

If we are going to do something, let us do it the right way. On behalf of families who have lost everything, the right way is this way with this amendment right now.

I yield the floor.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. DURENBERGER addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I yield 5 minutes to the Senator from Minnesota [Mr. WELLSTONE].

Mr. WELLSTONE. I thank the Chair.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. WELLSTONE. Mr. President, when President Clinton traveled and met with people out in the Midwest, he talked about providing disaster relief. People understood him to say 50 cents on the dollar. The President could not have possibly known then about this formula about which the Senator from North Dakota just spoke.

This is not an abstract debate, and in all due respect to colleagues here whom I deeply respect, this discussion about process is so abstract. People right now are saying to us, we will not be able to get back up on our feet and farm if the only compensation we are going to get is 20 cents on the dollar. So please, Congressmen and Senators, do not pass a disaster relief bill and pretend like you are really responding to a disaster, in this particular case in agriculture, when you know by definition you are not even providing anything more than 20 cents on the dollar for those farmers, especially the young and beginning farmers. They will not be back. Then if you want to talk about running up the deficit, just think about the cost of that. Where are they going to go? What is going to happen to them? We are talking about homelessness; we are talking about unemployment benefits; we are talking about people forced off the land.

I say to my colleagues, we came out with one amendment and a number of people said to us, we cannot vote for that because it goes back to 1990, 1991,

1992. Well, now we have an amendment that deals with this flood, the worst flood in this century, and I cannot believe that on the floor of the Senate we cannot do better for people. The most horrible flood seen in this whole century, and we cannot even provide some relief for people?

I hear the discussion of the deficit. I have to say to my colleagues, the bottom line to me, and I thought it was the bottom line for Senators of all regions—and I hope we will get support from Republicans and Democrats alike—if there is a role for the Federal Government, it is to respond to people who find themselves in dire circumstances, in time of emergency where people reach out—in this particular case many of them are rural citizens—and say you need the assistance; you need the disaster relief.

That is what you are there for, Federal Government. Please respond to the pain and the concerns and circumstances of our lives.

I think that is what this amendment is about. I hope our colleagues will support us.

Mr. DURENBERGER. Mr. President, I wonder if my colleague will yield me 2 minutes.

Mr. HARKIN. Mr. President, I yield 2 minutes to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota is recognized for 2 minutes.

Mr. DURENBERGER. Mr. President, I appreciate the comments that have been made. I rise in support of the amendment by my colleague. I supported their prior amendments.

I have been listening to the debate quite intently since about 5 or 6 o'clock last night. I would like to make a couple of observations for my colleagues who might be in doubt. The debate here is not about real need because it is very difficult from an individual farmer or an individual community standpoint to know right now what the real need is. If anybody thinks we are actually meeting people's needs, forget it. I think we know the emergency need, $622 million of this, that is important.

What the debate has turned into is a debate about spending, and a debate about the deficit, and a debate about income laws. What is important about this amendment is that farmers need some predictability as to unemployed factory workers on unemployment comp, as to what kind of a replacement income they can expect. I think that is what this debate is all about. We are learning from the experiences of the last 2 or 3 years what happens to OMB-driven formulas. We are trying to inject some predictability even though there is not a dollar amount in it.

Mr. President, I have also been listening to my telephone today. I have to tell you out there in America, the four things that are on people's minds are similar to discussions here. It is about spending, it is about taxes, it is about the deficit, and it is about increase in personal income.

It is going to be very, very difficult to resolve this issue in favor of farmers unless we can concentrate on the real issues and the real needs that are here. I agree with everything that I heard as do the people on the telephone about the need to cut spending, cut taxes, raise the income level of Americans, and cut the deficit as well.

I will have an amendment shortly to give everybody an opportunity to respond to what you are listening to on the telephones right now by at least 3, 4, 5, and 6 and in some States 10 to 1 and to meet the needs that all of us from the flood States—from the depth of his heart what the chairman of the Appropriations Committee would like to see done—hear and to inject some predictability into the promises that we need to make to the American farmers.

Mr. HARKIN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Iowa has 9 minutes 30 seconds.

Mr. HARKIN. Mr. President, I just wanted to speak for a minute on what the Senator from Minnesota just said. There are a lot of people who want to cut spending. I do not think anyone here does not want to cut the spending, cut the fat and waste out of Government. But I would say to the Senator from Minnesota, I would say to any other Senator who is interested in cutting spending here, we all are, I will bet you if you went to every one of those persons who called you on the phone and said do you think that in cutting spending we ought not respond to the victims of the flood, they would say no, meet our obligations. That is not what they are talking about. They are talking about the wasteful kind of spending that goes on around here—things like Star Wars, things like that; spending money on crazy schemes; and things that waste taxpayers' money. But when it comes to this flood and responding to the real human needs, the American people want us to respond. They want us to help. They are willing to pay for it. I believe our children and grandchildren would be willing to pay for a part of it, too, to make sure they have a better life.

Let us not get confused on what we are and are not spending money on. I will make this point repeatedly. I will make one other point repeatedly that the Senator from North Dakota earlier made; that is, because of the crop losses, the price of crops for those lucky farmers that are going to have some crops in some places of the country will be high enough that the Government will save up to $2 billion, perhaps more, in deficiency payments. What this amendment that I have now before the Senate asks for is $1 billion—half of that—back in to help these farmers who have been hurt in the disaster.

Mr. President, I yield 3 minutes to the Senator from North Dakota.

The PRESIDING OFFICER. The Senator from North Dakota is recognized for 3 minutes.

Mr. CONRAD. I thank the Senator from Iowa. I thank the Chair as well.

I just hope my colleagues understand that this amendment is substantially different than the previous amendment we voted on. The previous amendment had a reachback provision that would have allowed the Secretary discretion to provide for increased disaster assistance to farmers in 1990, 1991, and 1992. That is not part of this amendment. That amendment was voted down. It is dead.

Before us now is an amendment that says for 1993, we will give farmers the same level of disaster relief that we gave in 1988 and 1989. If we fail to enact this amendment, we will give farmers one-half as much as we gave in 1988 and 1989. That is the issue.

Just so colleagues understand, the authorizing committee passed this formula in 1988, passed this formula in 1989, passed this formula as part of the 1990 farm bill. The authorizing committee made a judgment. Their judgment was this is the appropriate level of relief in an agricultural disaster. That was changed by administrative action—cutting it in half for 1991 and 1992.

Now we are revisited with a major agricultural disaster. And what we are asking for is the same treatment we gave farmers in 1988 and 1989. It is not 50 cents on the dollar. It is 40 cents on the dollar.

If we fail to enact the Harkin amendment, we will give farmers 20 cents on the dollar of their losses.

Mr. President, there is an enormous human tragedy that is playing out in the heartland of this country. People who are on the brink of losing everything deserve our support. Always in the past we have dealt with emergencies differently than other appropriations measures. I hope we do that again.

I thank the Chair.

I yield the floor.

Mr. HARKIN. Mr. President, how much time is remaining?

The PRESIDING OFFICER. The Senator from Iowa has 4 minutes 40 seconds.

Mr. HARKIN. The other side?

The PRESIDING OFFICER. The other side has 3 minutes 50 seconds.

Mr. HARKIN. Mr. President, I yield 2 minutes to the Senator from Missouri [Mr. BOND].

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. BOND. Mr. President, I thank my colleague.

We are back here again trying to get simple fairness for farmers. I had hoped that our discussions earlier today would make it perfectly clear to the Members of this body that what we are asking for is action by this body to say to farmers as we say to everybody else affected by the floods that you are going to get what the law authorizes you to receive in terms of assisting you in recovering from this disaster. I talked about the hardship, the hard work and the dedication of the people in my area and throughout the Midwest. They are hurting and hurting very severely.

Because of, I think a misunderstanding or miscommunication, the administration initially set up a proposal saying for you farmers, we are going to cut you in half. We are going to give you half of what is authorized. But for small businesses, small communities, airports, railroads, transportation infrastructure, the unemployed, everybody else, we are going to give you 100 percent of what is authorized.

I regret that the administration has not come out clearly and said that we should restore 100 percent because I think we could avoid a vote. But, nevertheless, the Members of this body have the opportunity to correct an inequity when we have farmers in our States who are not only out of production this year, probably many of them out next year because of the disaster, and possibly even the year after. The least we can do is to give them the full measure of the disaster assistance authorized in law passed by this body and signed by the President of the United States.

This is a question of simple fairness. We do not treat farmers like we treat every other affected by the flood unless we get rid of the arbitrary 50 percent reduction in the aid that they will receive.

Mr. President, I yield the floor. I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa has 2 minutes remaining.

Mr. HARKIN. Mr. President, I had 2 minutes 40 seconds, and all of a sudden I lost about 40 seconds.

Mr. President, I yield myself a minute and a half. Again, let us set the record straight. There is $1.4 billion approximately in the bill right now for the disaster payments to farmers. This amendment adds $1 billion. That brings it to about $2.4 billion. The amount we are going to save in deficiency payments this year, conservatively estimated, is around $2 billion.

So when people talk about adding to the deficit, this does not. What it does is, as so many have said before me, it responds to a real human need. That need is to ensure that those farmers who have suffered the biggest losses are able to get through this year and get into next year.

Mr. President, again, the administration has written a letter saying they will not oppose the amendment. I must say, in all candor, Mr. President, I thought the administration would support this amendment. I am getting different stories from different sources in the administration. I am sorry to hear that.

I know that the Senator from West Virginia has a big heart, and I know he wants to respond. I just wish the administration would respond clearly in favor of this amendment.

Mr. President, we need this amendment badly. I would not have taken the time of the Senate today—none of us who have been here all day doing this would have done it if we did not think it was absolutely crucial to our farmers.

Do I still have 30 seconds left?

The PRESIDING OFFICER. The Senator's time has expired. The managers have 3 minutes 20 seconds remaining.

Mr. HARKIN. I ask Senator BYRD, may I have 30 seconds?

Mr. BYRD. I ask unanimous consent that Senator HARKIN have an additional minute and that I have an additional minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. Mr. President, I was saying that I was getting crossed signals from the administration. I wish I perhaps had some time stamps on these letters.

We now have received a letter that says:

> DEAR MR. CHAIRMAN: I appreciate your support this morning in opposing the amendment that would have permitted the Secretary of Agriculture to make retroactive payments to farmers who suffered crop losses from 1990 to 1992 in order to receive payments up to 100 percent of their eligible claims. That amendment would have increased the cost of disaster payments by $3.4 billion.
>
> It is my understanding that a compromise amendment may be offered which would eliminate the 50 percent pro rata for agricultural disaster payments for the 1993 crop losses.
>
> This amendment is estimated to add $1 billion in costs to the $1.4 billion crop disaster assistance program requested by the President and contained in the committee bill. The administration supports this compromise amendment because it is limited to the 1993 crop losses.
>
> Sincerely,
>
> LEON PANETTA.

The last word, Mr. President, is that the administration supports the amendment that is now before the Senate.

Mr. DORGAN. Will the Senator yield for a question?

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. HARKIN. I ask unanimous consent for 4 additional minutes for a question and for the chairman.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. HARKIN. And then I will yield the floor.

Mr. DORGAN. I appreciate the Senator yielding briefly.

The letter now says the President supports this amendment and wants this amendment to be added to the flood aid bill; is that correct?

Mr. HARKIN. That is correct. It says the administration supports the compromise amendment because it is limited to the 1993 crop losses.

Again, I just say that I think obviously the administration has been very wrapped up in the reconciliation bill. I understand the President is focused on that. They have been working on it all day. I know that their time is taken with that and getting the budget through. There probably have been some miscommunications around the Hill and downtown. I understand how those things go when you are dealing with matters like this.

But because of our conversations with the White House and because they now have the clear knowledge that my amendment has no retroactivity whatsoever, and that it is only for the losses from the 1993 crop losses; it is only $1 billion, added onto it; and I am sure because of the fact that we are going to save money in the deficiency payment, the administration now supports the amendment.

Mr. DORGAN. Mr. President, this is an enormously helpful step. I, for one, and I think others, especially appreciate the position of the President. I hope the body will now embrace that, and that this becomes part of what the President is requesting; add it to his proposal. This is important, and I hope we will proceed to support the Senator's amendment.

Mr. HARKIN. I, too, want to express my gratitude to the President for his support for this amendment. It is vitally important, as I have said earlier, to the people in the Midwest.

I cannot begin to tell you how much this is going to mean to the farmers and to the small business people in the communities out there knowing, just knowing, that they are going to get disaster payments at the level that was put in the farm bill in 1990.

I can tell you that this is a shot in the arm to the farmers and the people in our small towns and communities all over the Midwest, whose anxiety level is very high because they do not know if they could get a crop in next year, or whether farmers will be able to pay their bills and buy equipment and supplies, or whether the rural economy would be strong enough to let people live like they have lived in the small towns and rural communities.

Mr. President, I am deeply grateful to the President of the United States for his support for this amendment.

I reserve any remaining time I may have.

The PRESIDING OFFICER. The Senator from Iowa has 1 minute 20 seconds remaining. The managers have 6 minutes 40 seconds.

Who yields time?

Mr. HARKIN. Mr. President, how much time do I have left?

The PRESIDING OFFICER. The Senator has 1 minute 20 seconds.

Mr. HARKIN. I will reserve a little time in case there are any questions.

The PRESIDING OFFICER. Who yields time?

Mr. HARKIN. Mr. President, again, I will use up my time. I will close again by saying—and I am sure I speak on behalf of all of the Senators who have on both sides of the aisle fought so hard to get this disaster payment back to where it was in the 1990 farm bill—that we are grateful to the President. I hope the body will respond and that we will adopt the amendment.

Again, I cannot begin to tell you what this is going to mean in the Midwest—a sigh of relief, a collective sigh of relief, again, among farmers and people in the small towns and communities. There will be the knowledge that they will be able to get their lives going again, rebuild, recover, and move ahead into the future.

The people who have fought the flood in these States have shown a great resiliency. They have bound themselves together, and neighbor has helped neighbor. They have done everything that anybody can ask of them. I believe it is our turn now to fulfill our obligations and make sure that the provisions of the 1990 farm bill are fully lived up to.

If this body adopts this amendment now, believe me, I cannot begin to tell you the collective good it will do in the upper Midwest.

I yield any time I have.

The PRESIDING OFFICER. The time of the Senator from Iowa has expired.

The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, I thank the Chair and I thank the distinguished Senator from Iowa for the spirited and able effort that he has made on behalf of his amendment.

He is a valuable member of the Appropriations Committee, a member of whom I am very fond, and a member who has always given to me, as the chairman, the utmost cooperation, courtesy, and consideration.

Mr. President, I intend to support this amendment now that the letter from the administration has been received.

Let me just say few things before I do that. There have been some statements here today that might be interpreted as meaning that the Appropriations Committee has not responded to the needs of the people in the areas that have been flooded.

May I say to the distinguished Senator from North Dakota, this Senator, not in anything he said, is attempting, to use that Senator's word, to protect the administration. I have never said anything about protecting the administration. I have been talking about protecting the taxpayer and at the same time delivering the help that the administration, through its vast machinery of agencies and departments, has been able to evaluate the needs and to present them to the Congress. I have that responsibility. It is not a matter of protecting the President. He can very ably do that himself.

Also, there have been those who said we ought to respond, that the American people expect us to respond. What have we been doing? We brought a bill here that is $4.8 billion; that is $4.80 for every minute since Jesus Christ was born. That is a lot of money, and I support every penny of it.

So the Appropriations Committee has been responsive and, as I have said, we will be responsive the next time. Four dollars and eighty cents for every minute since Jesus Christ was born is not chicken feed, and that is no failure to respond.

The Senators who are pleading today for more money are going to look to this Senator for help in the future, and they will get it when it is requested by the administration for this matter.

So let us not leave any impression that this Appropriations Committee is a Scrooge committee, hard-hearted, does not respond to the needs of the people. But we have to have some orderly way of going about this process.

I hope, Mr. President, that once this amendment is disposed of Senators will not attempt to make a Christmas tree out of the bill.

Now that we have a letter from the administration saying that the administration supports the amendment by Mr. HARKIN, I am sure that the other body will be the recipient of the same request, and I still have the hopes that we can take this bill, take it to the House, and the House will accept it after the Senate completes action on it and it will be sent to the President so we can expedite the effort on the bill. That is what the Senator from Oregon and I have been attempting to say and do all along.

Let me plead to Senators, now that we have this amendment, or presume we will have it out of the way, that we restrain ourselves from offering the amendments that are listed on this calendar. Let us not attempt to make this a Christmas tree, and let us not attempt to make it a vehicle of which we would try to take advantage in a moment in extremis.

This is an emergency. We are trying to deal with a disaster. I hope Senators will not attempt to use this vehicle now to get their pet amendments on. I have a lot of pet amendments. I have a lot of things I would like to have, but I restrained myself because this is needed by the people in the Midwest.

Mr. President, I ask unanimous consent to print in the RECORD the letter that was just received as of the hour of 2:29 p.m. today, a letter from Mr. Panetta, stating "The administration supports this compromise amendment because it is limited to 1993 crop losses."

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, August 4, 1993.

Hon. ROBERT C. BYRD,
Chairman, Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I appreciate your support this morning in opposing the amendment that would have permitted the Secretary of Agriculture to make retroactive payments to farmers who suffered crop losses from 1990–1992 in order to receive payments up to 100 percent of their eligible claims. That amendment would have increased the cost of disaster assistance by $3.4 billion.

It is my understanding that a compromise amendment may be offered which would eliminate the 50 percent pro rate for agriculture disaster payments for 1993 crop losses. This amendment is estimated to add $1 billion in costs to the $1.4 billion crop disaster assistance program requested by the President and contained in the Committee bill.

The Administration supports this compromise amendment because it is limited to 1993 crop losses.

Sincerely,

LEON E. PANETTA,
Director.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the yeas and nays—have they been ordered?

The PRESIDING OFFICER. The yeas and nays have not been ordered.

Mr. BYRD. Very well. I am not going to request them. Other Senators may wish to. They are within their rights to do it. But as far as I am concerned we can accept the amendment, take it to conference, and save the time of the Senate.

The PRESIDING OFFICER. All time has expired.

Mr. DOLE. Mr. President, I wonder if I might be permitted to speak for 1 minute.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. DOLE. Mr. President, I do not see the need for the yeas and nays. I think that will save time.

I agree with the distinguished chairman of the committee. Hopefully, this bill will move along very quickly, and obviously the letter from the President changes everything.

There may be an amendment later on to pay for some of this in the bill, and I think I will support that amendment because I am concerned about the very thing raised by the distinguished chairman of the committee.

But I believe it is because of a close vote this morning that we now have a compromise, and I want to thank the administration.

This is very important, and again I would say this is not trying to make anybody whole. This is going from 21 cents to 42 cents. It is not a lot of money, but it may mean a lot of farmers in North Dakota, Kansas, Minnesota, Iowa, Missouri and other States in that ten Midwestern States area will be back on the farm again next year, and overall that will save money.

So I commend the administration for agreeing to this compromise and for those who were able to work it out.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. METZENBAUM. Mr. President, I do not rise to oppose the amendment. I will support the amendment. But I think when we are explaining $1 billion we do not need to worry about the 10 minutes the Senate spends in taking a rollcall vote.

I, therefore, ask for a rollcall vote. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. All time has expired.

The question is on agreeing to the amendment of the Senator from Iowa.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

The PRESIDING OFFICER (Mr. KOHL). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 68, nays 32, as follows:

[Rollcall Vote No. 240 Leg.]

YEAS—68

Akaka
Baucus
Bennett
Biden
Bingaman
Bond
Boren
Boxer
Breaux
Bumpers
Burns
Byrd
Campbell
Chafee
Conrad
Coverdell
Danforth
Daschle
DeConcini
Dodd
Dole
Dorgan
Durenberger
Exon
Feingold
Feinstein
Ford
Glenn
Gorton
Grassley
Harkin
Hatch
Heflin
Hollings
Inouye
Jeffords
Johnston
Kassebaum
Kennedy
Kerry
Kohl
Leahy
Levin
Lieberman
Mathews
McConnell
Metzenbaum
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pressler
Pryor
Reid
Riegle
Robb
Rockefeller
Sarbanes
Sasser
Shelby
Simon
Stevens
Thurmond
Warner
Wellstone
Wofford

NAYS—32

Bradley
Brown
Bryan
Coats
Cochran
Cohen
Craig
D'Amato
Domenici
Faircloth
Graham
Gramm
Gregg
Hatfield
Helms
Hutchison
Kempthorne
Kerrey
Lautenberg
Lott
Lugar
Mack
McCain
Mitchell
Murkowski
Nickles
Packwood
Roth
Simpson
Smith
Specter
Wallop

So, the amendment (No. 758) was agreed to.

Mr. HARKIN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Ms. MIKULSKI. Mr. President, I rise in strong support of this important legislation which will help the thousands of victims of the devastating floods in the Midwest.

The bill provides a total of $4.7 billion, including funds for temporary housing, crop insurance, flood control activities by the Corps of Engineers, community development grants, and many other important programs.

These funds will be available to help those who have lost their homes, property, and communities begin to rebuild their lives.

Mr. President, I traveled to the Midwest with the President a few weeks ago. What I saw was devastating. Hundreds of homes submerged under water, millions of acres of cropland destroyed, community water systems contaminated. The damage is so widespread that President Clinton has declared nine States major disasters.

We have been so pleased to see FEMA respond so quickly to this disaster. FEMA has been in every State, working hand-in-hand with the National Guard troops and the Governors. We commend the new FEMA Director, James Lee Witte, for his good work.

It has been heartwarming to see the American people's good will shine during this calamity. Neighbors have helped neighbors, thousands of volunteers from across the country have filled sandbags, volunteer organizations like the American Red Cross have provided over a million meals to disaster victims.

Now it is time for the Congress to respond to the devastation by ensuring that needed funds are available for recovery.

Let me say, Mr. President, once the flood waters recede, we know the estimates on the damage will be revised. As chair of the Appropriations Subcommittee which funds FEMA, I'm committed to doing everything I can to ensure that the fiscal year 1994 appropriation for FEMA disaster relief includes adequate funds for flood victims.

Mr. President, while the rains continue in the Midwest, the Southeast has been stricken by drought. The drought has resulted in enormous crop loss up and down the east coast. So I'm very pleased to note that the bill will also aid farmers in Southeastern States. In my own State, farmers on the Eastern Shore have lost many acres of corn and soybean.

In closing, I thank the distinguished chairman of the Appropriations Committee for quickly moving the President's request for this vital legislation. I urge its speedy adoption.

Mr. LIEBERMAN addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent to proceed as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

A VOTE FOR CHANGE

Mr. LIEBERMAN. Mr. President, this Friday we will vote on President Clinton's economic plan, a decision that will affect the direction in which our country will go for at least the next 5 years. As we approach this decision——

Mr. BYRD. Mr. President, will the Senator allow me to interrupt him? And I apologize.

Mr. LIEBERMAN. Certainly.

Mr. BYRD. Would the Senator be willing to put a time limit on his statement?

Mr. LIEBERMAN. I certainly would. I ask for up to 10 minutes and hope I do not use it.

Mr. BYRD. I thank the Senator.

The PRESIDING OFFICER. The Senator is recognized for up to 10 minutes.

Mr. LIEBERMAN. Mr. President, as we approach this decision this Friday on President Clinton's economic plan, the American people know and I think we, as their representatives, must show that we cannot afford to just keep on going down the same old road of inertia and inaction.

Our economy has been in recession for too long and too many jobs have been lost. Our budget has been out of balance for too long and too much of our economic strength has been sapped. The American people are right not to want more of the same. They want and need change. They want less Government spending, they want us to eliminate the deficit and, most of all, I think they want us to get our economy moving again to protect the jobs of those who have them and create new jobs for those who do not.

So, Mr. President, after a careful review of President Clinton's economic plan, as reported out by the conference committee yesterday, I have decided to cast my vote for change. This is certainly not a perfect plan, but I am convinced that it is as good a plan as we are going to get out of this Congress, and that is why I will vote for it.

In that sense, if we pass the President's plan, we are not, to paraphrase Churchill, at the beginning of the end of our work, we are at the end of the beginning of our work to restore America's strength and balance.

When I voted for the Senate version of the economic plan a few weeks ago, I did so very reluctantly, and only after I received the commitment from the President and the majority leader that they would fight in conference for the kind of job-creating incentives that were absent from the Senate bill. To the best of their ability, I am pleased to say they have fulfilled their commitment.

The economic plan before us includes many of the incentives I have been working for since I came to the Senate in 1989. For example, the plan now contains, one, capital gains tax cuts for investments in new businesses that will create new jobs; a special deduction for small businesses that buy new equipment that will protect or create new jobs; a research and development tax credit to stimulate the investment that will sustain the competitiveness of our businesses and also create new jobs; and enterprise zones which will bring businesses and jobs to our suffering poor cities and rural areas and will get people off welfare and put them back to work.

All of these incentives, I believe, will produce jobs in my State of Connecticut where they are desperately needed and throughout the country, and all of these incentives, supported now by most congressional Democrats, show that we have come to understand that you cannot be projobs and antibusiness; that if we want to create jobs in this country, we need to help business do it, and tax incentives are one good way to make that happen.

Mr. President, the economic plan also contains real and substantial deficit reduction. Unlike previous budgets, this plan will cut spending by $250 billion, including 100 cuts in domestic programs. Cutting the deficit will also create jobs and stimulate the economy because it will help keep interest rates low and give the private sector and people around the world the confidence that America is moving at long last in the right direction toward a smaller Federal Government and a balanced Federal budget.

To achieve job-creating incentives and deficit reduction, we are being asked to swallow some painful tax increases. I appreciate the fact that the vast majority of tax increases will not fall on the middle class. But like everybody else here, I hate to raise taxes, particularly when our economy is so fragile. Although there are more spending cuts than tax increases in this plan, I wish we had cut even more spending to avoid raising the gas tax at all. That is why I supported the Presiding Officer in voting to cut the gas tax out of this plan when it was before the Senate.

To get the kind of job creation and deficit reduction we desperately need, I am prepared to make that tough choice. I must say I am grateful that the conferees at least kept the increase in the gas tax from going above 4.3 cents a gallon.

Sacrifice is clearly required of many Americans in this plan, particularly higher income Americans, and some older Americans, higher income older Americans. But I hope all who are affected by this bill will recognize that their sacrifice today will reduce the burden of the deficit that will otherwise fall on their children and grandchildren tomorrow and that their sacrifice today will create more and better jobs for their grandchildren and children tomorrow.

Mr. President, I would also like to note in this regard my displeasure at the decision to make the income tax increases in this plan retroactive to last January. I personally believe that that is grossly unfair, and I hope that we can do something to alleviate and eliminate this unfairness.

Finally, I go back to my quotation from Winston Churchill about this being only the end of the beginning of our work. If we merely pass this plan, go away and do nothing else, that is obviously not enough. We must recognize that we are imposing taxes at the same time we are trying to stimulate economic growth in an uncertain economy, and that is a difficult and perilous balancing act. That is why our work will not be done this week, why we must come back and get to work again on more growth, more investment, and less spending. That is why I have joined with several of my colleagues, under the leadership of the Senator from Nebraska, BOB KERREY, in calling for a special session of Congress after Labor Day devoted exclusively to cutting more Government spending. We have discussed this idea at length positively with the majority leader and others, and I hope the details of a plan to hold such a cost-cutting session can be worked out and announced in the next few days.

Mr. President, I also believe we need to recognize that the Federal bureaucracy must be reorganized; that our Government must be reinvented by eliminating outdated and redundant Federal agencies and by streamlining the Government in a way that dramatically lowers its cost while increasing its effectiveness.

Some of us in the Senate are now hard at work under the leadership of the Vice President and his National Performance Review to get this kind of reorganization underway. I hope that some of the fruits of those efforts could become the focus of this special cost-cutting, reinventing-government session that many of us would like to see occur after Labor Day.

The bottom line for me is that this economic plan, as imperfect as it may be, represents today our best hope for change, our best hope for a break with the status quo, for a chance to show that we can get something done in Washington, a chance to grow our economy, to create jobs, to eliminate waste, and to get our governmental books back in balance. President Clinton was elected to bring about that kind of change. I believe he deserves the opportunity that passage of this bill will give him to make that change happen.

I thank the distinguished Presiding Officer and the President pro tempore and chairman of the Appropriations Committee for his graciousness in allowing me to proceed at this time.

I yield the floor.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from New Mexico, Mr. DOMENICI.

EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR RELIEF FROM THE MAJOR, WIDESPREAD FLOODING IN THE MIDWEST ACT OF 1993

The Senate continued with the consideration of the bill.

Mr. DOMENICI. Mr. President, I rise to speak on the bill, after which time I will ask for about 3 or 4 minutes in morning business. First, let me talk about the bill that is before this Chamber.

Mr. President, in the early 1970's, I had just come to the Senate, and a big disaster hit the country. It was not as big as this one, but it had the name of Hurricane Agnes. For some around here, it was much worse in these parts, traveling all the way up into New York and Pennsylvania. I was on the Public Works Committee, which had jurisdiction over disaster relief. Quentin Burdick, now deceased, was the chairman of that subcommittee. Actually, I think they put me on that subcommittee because it was the subcommittee no one wanted to be on, which will be part of my discussion here with the Senate today. I was the most junior member.

Well, the hurricane hit, and Senator Quentin Burdick and Senator PETE DOMENICI became very important because we were called upon to travel all over the Eastern United States to see whether the existing laws regarding disaster relief were workable, whether they did the job, and whether we could come out of the disaster with a minimum amount of taxpayers' dollars and with maximum relief for those who needed it.

Let me suggest that it turned out that even for that hurricane, which maybe—I do not remember in scale, but I am going to just speculate that maybe it was about one-fifth or one-fourth the size of this disaster. It was a big, big mess.

What we found was that the laws were not worthy of the problem; that we did not have laws on the books that would address it correctly; that if we would have just poured money into existing programs, we probably would have spent billions of dollars and would not have gotten help to the people who needed it, to the businesses that needed it, or we would have been immersed in a series of arguments, perhaps lasting years and years, about whether the law even applied here, there or elsewhere.

Now, yesterday and today, we have been discussing a flood of far more serious proportions than Agnes as a hurricane with attendant floods. It may be, as many have said, biblical in size. Clearly, it is, indeed, America's worst ever, both in terms of damage and in terms of how we get out from under the mess, because the problems that we are going to have to solve we have not entirely fathomed yet.

So I rise today to suggest that if we want to help the people, the economy, the children, and the various communities stricken by this flooding, and we want to do that correctly, then we better not count on the existing laws to do the job.

I am willing to predict for the Senate tonight that if we do not set about to see whether our laws fit the needs of this disaster—and if they do not, change them—we may find that we do not even have laws on the books to help part of these communities get out from under this disaster and bring vitality back. If we do not get with it and go out and find out what is needed, we are probably going to stretch existing laws and existing relief. When you do that, you can end up with another disaster because nobody is happy; you do not get the programs where they ought to be; bureaucrats are accused of all kinds of things such as, "You are not helping us; you are delaying things." Much of that is because the laws are not tailored to a disaster of this proportion.

Now, today, there was a request for $200 million in additional appropriations for the Economic Development Administration.

Mr. President, I did not vote for that amendment, I say to my friend, Senator BYRD. I did not vote for it even though in that case it fits the chairman's criteria that the administration asked for it.

I am absolutely convinced that if we take 6 weeks, and if our authorizing committees will join together and go out to the Midwest and see what the problems are on an ongoing basis, we will do far more with $200 million than EDA is ever going to do in the area. We will find some areas of need, and we will find some ways to really get to them without all the conditions of an EDA program which may or may not fit the disaster situation, and which is going to have to be moved around to fit the needs of the disaster victims. It is a worry that you do not get anything done very fast under EDA. In fact, I believe it is one of the Federal programs with the slowest spend-out rate. I am not sure of that, but I think for the $200 million, normally we would not spend out very much money—only 10 percent or so in the first year.

Now, that does not mean I am against aid. I am merely suggesting here tonight that this may be a $10 billion or $20 billion disaster. I do not know. I do not believe this bill is enough, and on one score I do not agree with the chairman, for whom I have the highest regard, my friend, Senator BYRD. I do not think the administration can just go out there and take a look and send funding requests up to Congress, because for the most part they will try to see how it fits with existing laws.

I think it is incumbent upon the Congress to send their authorizing committees into a commitment stage where they will start having hearings on that disaster and see what we can do to take our taxpayers' money, which we are all willing to spend for this disaster, and spend it better, help more people, and get programs that are more apt to work than straining those that we currently have on the books.

Let me assure you that even with Hurricane Agnes, the laws then on the books—and that is not an ancient event—were not adequate. It was during the early 1970's, and we had disaster relief laws on the books. Let me suggest that we had to come back from Hurricane Agnes as authorizers and rewrite the whole law. The whole public works law for disasters was rewritten about that time to solve the almost incredible problems of Hurricane Agnes.

Now, 20 years have passed, and instead of Hurricane Agnes we have these extensive floods. This disaster may be tenfold bigger. It is an agricultural area, and Hurricane Agnes was only partially agriculture. Incidentally, it closed down a lot of businesses, I might say to the Senator. A lot of manufacturing was closed down, including big companies. I remember Corning. I did not know that much about the east coast then, but at Corning, the water went right in the front of this big facility that hired hundreds and hundreds of people. I can remember the front end of it; all of the rocks and bricks were torn away. Corning did not know where they were going to begin to rebuild. We had a hearing right in that town to talk about public works and matching grants, and how to use the cities and the States in the massive cleanup effort.

I think it is incumbent upon us, for the people of this disaster area, and the people who are going to pay the bill—because we want to pay the bill for them, we want to help them—I think it is incumbent upon us to get with it quickly and start hearings about how we better solve this problem even if it means changing existing laws.

I want to close by saying that we ought to even be considering some flexible money, some money that is not so tied in strings and knots by the ongoing programs of this Nation. It may very well be, within limitations, that there ought to be a sizable amount of money that can be made available to the Governors in conjunction with the President to do the kinds of things that can be done quickly, that make sense.

I predict, if we do not do this, we are going to have the flood victims waiting 2 and 3 years for things that we ought to be doing in 6 or 8 months.

Now, that does not mean I have the answer to agriculture either. I voted in the Appropriations Committee for everything that was asked for by the President. I have not voted for the add-ons here. I frankly do not think that many people really know exactly what we are doing. I stand ready to add more funding to the agriculture relief effort, but, frankly, I think we ought to have somewhat of a better game plan and know a little bit more about what we are doing for the farmers, and what we can do best for the taxpayers of the country.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. DOMENICI. I will be pleased to yield.

Mr. BYRD. Mr. President, some reference has been made to my—I do not know just how to say it—reference to my supporting the administration's requests. I have to say that I have been a little disturbed today.

Today and yesterday, I received four letters from the administration concerning the amendment by Mr. HARKIN, or amendments by Mr. HARKIN. Four letters I received. Three of them today, one at—well, three today.

I find it very difficult to work hard on a bill and get it through the Appropriations Committee—we have 29 members of that subcommittee—and try to persuade my colleagues not to offer amendments in committee.

And they are very good about that. Both Republicans and Democrats are very good about honoring that request. I think it is a sensible one. We do not fight there and then come up here and fight here.

But it takes a lot of time. It takes my staff. They spent hours in the evenings and the nights, early mornings. I was here in my office this morning at 8:03. I will be here late tonight. The ranking member, I am sure, spends a lot of time himself.

So we come out here shoulder to shoulder to try to defend an administration's request on a matter of this kind. I try to support the administration on a matter of this kind because as I explained earlier today—I do not need to repeat it—they are in a better position to know. I am in no position to assess the damages. We do want to help those people.

But I have been 35 years in this Senate. I was not made chairman of that committee by any President, Republican or Democrat. And I am no President's man. I said that when President Carter was President and I was the majority leader. I am nobody's man. I do not wear any man's collar but my own. I am not bragging. But that is just the way it is.

I do not take it lightly when I get all kinds of signals. I am here trying to support the administration's request for reasons I will state later.

I do not like to be whipsawed. I have a certain amount of honor. And I have a certain amount of responsibility to my colleague here, the ranking member. I take a stand, he takes a stand, and we get different signals.

Well, he may not be supporting a particular proposition for the same reasons that I am. I felt a little badly when, by my criteria, I said OK, I am going to support that. But the Senator from Oregon never laid out those particular criteria. He has his own.

What we did is we still added $1 billion to the deficit. But we also changed the formula that had been used for disasters for the past 3 years. We made it 100 percent instead of 50. Right? So its effect was to treat the victims of these floods differently than we have treated the victims of hurricanes and droughts.

These are the kinds of things that ought to be determined by the authorizing committee, as the Senator from New Mexico said, working with the administration. It should not be done in these appropriations bills. But I am a little bit tired of being whipsawed, having this Senator, that Senator, another Senator, and another Senator come in and say: I have a letter now. It makes me wonder what this appropriations bill is being used for. Is it vulnerable because there is a tougher bill coming down the track? A reconciliation bill? Is that it?

I hope that decisions on this appropriations bill are not being made downtown on the basis of what will secure the most support on the reconciliation bill.

I live by my own credo, Mr. President. I am a Democrat. I always have been a Democrat, and I expect to be a Democrat. But the party does not come first with me. It never has.

I just hope that somebody will get a message that this is one chairman that takes the other person for his word, depends on him to stand there until he has a good reason to change his mind and then he explains it to me. And I do not like to be whipsawed.

I like to give a man my word and keep it. If I see I cannot—I have heard many people say: "I support the Cochran amendment." Well, the amendment was not the Cochran amendment that they committed to. The amendment had been modified by Mr. COCHRAN's amendment.

So if a man says, "I will vote for your amendment, your amendment A," and then I come back later and find out that you have changed that amendment A and included B in it, I did not make any commitment to support A and B. I made a commitment to support A. And the Senators came to me and said, "I committed to support Mr. COCHRAN's amendment." But the amendment we were voting on was not the Cochran amendment. The amendment we voted on was the Harkin amendment as modified by the Cochran amendment. That is a different matter.

So I guess I just came up the old fashioned way, taught to know what I was committed to, what I was saying, and to stick to it when I said it. That is the way I have to be dealt with by any Member.

I thank the Senator for yielding the floor.

Mr. HATFIELD. Mr. President, will the Senator yield for a moment?

Mr. DOMENICI. I am pleased to.

Mr. HATFIELD. I will just follow up on the chairman's comments.

As the chairman indicated, we had a good agreement between the majority and the minority on the committee. We came to the floor with that kind of partnership. The chairman and I have cosponsored a formal request to add another $33 million more to this from the administration. We did so.

The chairman and I, in effect, took the cue from the administration on the Harkin, pure Harkin amendment, and it was based in part, as far as I was concerned, on a letter sent to me, a copy of a letter addressed to Chairman BYRD, sent at 1321, Navy time for 1:21, and signed by the Director of the OMB, that the $1 billion Harkin amendment would not be opposed.

Well, that is not a request, Mr. President. One hour later, at 1429, from the same source, the Director of the OMB, addressed to Chairman BYRD:

> The administration supports the compromise amendment of adding $1 billion.

Mr. President, I ended up voting against that. The chairman supported it on a final vote, not that we were divided on the matter.

Let me make it very clear merely from the standpoint the chairman felt that the administration is saying it now supports the amendment, which constituted a request. And we had both said we would respond affirmatively to the administration's request.

But in the context of that 1 hour, I had I think legitimate reason to question the evolution of this particular issue as not really evidence of thoughtful policy.

Therefore, I voted "no." But I want to focus on the matter that these mixed signals did not in any way impair the partnership role the chairman and I have been playing on this bill at this time in trying to respond to the administration's requests, as representing the needs of the people and continue to do so for the rest of this period.

I thank the Chair.

Mr. DOMENICI. Mr. President, let me repeat that I do hope the Senate and House get themselves together with the authorizing committees and work on how we ought to solve this disaster.

I compliment the chairman and ranking member for the way they handled this bill.

Senator BYRD, I have the utmost respect and admiration for you, and I hope nobody thinks the Appropriations Committee is not going to grant the victims of this disaster everything we can to get them out of the problems they are in and move them ahead. But it will happen. If we split on some of these votes, we are for doing what Americans want us to do to help the region.

I yield the floor.

Mr. DOLE. Mr. President, I take the floor primarily to urge Members who have amendments to get over here and offer them. As I understand it, we agreed yesterday that we would finish this bill today, and it is now 4:40 p.m. and the last time I counted there were at least 25 to 30 amendments, or more, to be dealt with. I understand many may not be offered, and some are in the process of being compromised, and others will be offered.

I just say to my colleagues on this side of the aisle that we have a lot to do yet in the next 2 days if we are going to leave here on Friday. One commitment we made is to finish this legislation today, and perhaps maybe if we can get an agreement, even try to work on Interior appropriations. But I understand that there are a couple of issues here that may prevent that. Hopefully, it will not take long to work out an agreement on those two issues.

So I urge my colleagues—since most of these are Republican amendments—to come to the floor, if nothing else, as a courtesy to the managers who are prepared to do business. I make that request of my colleagues.

I have two amendments on this list to offer, and I will offer the relevant amendment which would, in effect, say you should not have retroactive taxes on any flood victims. It is a sense-of-the-Senate resolution that would not have any impact on the law, but maybe it would change the minds of the conferees who are still conferring on certain parts of the economic package, and not have a retroactive tax policy.

I pointed out today that in article 57 of the draft constitution now being set in the Russian Republic, there is a constitutional amendment against retroactive taxes. We did this once during the Vietnam war crisis. I was a Member of the House at that time. We had a temporary 2-year surtax at that time, but that was far different than what we have today. We did not extend the rates and make them retroactive. It was just a surcharge on income. That is the only time I can think of. It was much different because we were in an economic crisis and because of the drain on the Treasury from the Vietnam war. That was later eliminated in 1970.

In any event, I say to the managers that we want to do all we can to cooperate. We would like to finish early this evening because we have other matters to deal with.

Mr. DOMENICI. Will the Republican leader engage me in a colloquy on the reconciliation bill? Has the entire bill been filed, to your knowledge? Do we have the bill we are supposed to be studying?

Mr. DOLE. As far as I know, the bill has not been filed. It is going to make it difficult. The House is supposedly going to vote tomorrow. A number of Members on each side of the aisle and their staffs would like to look at this massive piece of legislation. So my understanding is that, as recently as an hour ago, some details were still being worked out.

Mr. DOMENICI. I thank the Senator.

The PRESIDING OFFICER. The Chair reminds the Senator from Oregon that the first committee amendment is now pending and needs to be set aside.

Mr. HATFIELD. I ask unanimous consent that it be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 760

(Purpose: To make certain amendments regarding Local Rail Freight Assistance)

Mr. HATFIELD. Mr. President, on behalf of Senator BOND, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oregon [Mr. HATFIELD], for Mr. BOND (for himself, Mr. SIMON, Mr. DANFORTH, Mr. HARKIN, Mr. WELLSTONE, Mr. DURENBERGER, and Mr. PRESSLER), proposes an amendment numbered 760.

Mr. HATFIELD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 18, line 10 through 14, restore the matter stricken.

On line 14, strike the numeral.

On line 25, strike "$6,000,000 of".

Mr. HATFIELD. Mr. President, I offer this amendment on behalf of Senator BOND. This amendment has been cleared on both sides. It deals with the Local Rail Freight Assistance Act and support program. All this amendment does is bring it in conformity with the House provision, both in terms of language and in terms of the level of funding. The House funded this at $21 million. We in the Senate have funded it at $16 million.

So this now conforms to the House figure on the funding level. We have added one bit of new language, and that is the mandate that this be expended by the end of fiscal year 1994. That was done on the basis of recognizing the emergency character of this and how it should be utilized.

This has been cleared by the chairman of the Appropriations Subcommittee on Transportation, Senator LAUTENBERG of New Jersey, and has been cleared by the ranking member on the subcommittee, the Senator from New York, Senator D'AMATO. It had an implication as well in the authorizing committees, and this as well has been cleared by both the chairman and the ranking member, I am told, of the authorizing committees.

I have a letter from Leon Panetta, Director of OMB, indicating that the administration supports this amendment. So I think it has been cleared throughout.

Therefore, Mr. President, I urge its adoption.

Mr. BYRD. Mr. President, the amendment is as has been described by the distinguished Senator from Oregon [Mr. HATFIELD]. The administration has written a letter saying that the administration supports such an amendment and, therefore, I believe that, with the administration's support, the House might be inclined to accept it and not make us go to conference.

Therefore, I have no objection to the amendment.

Mr. BOND. Mr. President, last Friday, the Senate Appropriations Committee reported H.R. 2667, legislation to provide emergency supplemental appropriations for flood relief assistance.

The flood assistance bill approved by the Appropriations Committee last week included $16 million for rail flood assistance through the Local Rail Freight Assistance [LRFA] Program. The LRFA was created to preserve rail service to small towns and communities by providing financial assistance needed to rehabilitate lines that might otherwise be abandoned.

I appreciate my colleagues' prompt attention to the critical situation affecting an important segment of our transportation system. The need is clear. Early estimates show railroad flood damage of $17.4 million in the State of Missouri alone. At least $8.5 million of Missouri's railroad damage affects Gateway Western Railway, a regional railroad with 300 miles of track running between Kansas City, MO, and Roadhouse, IL.

Ironically, Gateway Western, which is the hardest hit railroad in the Midwest, would be ineligible for assistance under the bill approved by the Senate Appropriations Committee because, last year, it carried slightly more freight per mile than the 5-million-ton-mile eligibility limit allowed.

During the Appropriations markup, Senator LAUTENBERG, the chairman of the Transportation Appropriations Subcommittee, indicated that he would be willing to consider an amendment to ensure that railroads like Gateway Western receive the help they need. The amendment that I am offering, Mr. President, would replace the Senate language with the rail assistance provision included in the House-passed emergency flood relief bill.

Briefly stated, the amendment provides assistance to repair and rebuild rail lines damaged by the flood. Through the LRFA, $11 million would be available for smaller non-class I railroads, that carried 5 million gross ton miles or less per mile during the previous year, and $10 million would be available for other railroads, including Gateway Western, at the discretion of the Secretary of Transportation.

Mr. DANFORTH. Mr. President, I support Senator BOND's amendment to ensure that emergency assistance is available to railroads like the Gateway Western, which has sustained $8.5 million in flood damages to date.

I appreciate the work completed by the Appropriations Committee, which included $16 million for rail flood assistance through the Local Rail Freight Assistance [LRFA] Program. I understand that both the Administration and the Senate Appropriations Committee leadership support this amendment, which increases the total funding available through LRFA to $21 million. Also, it makes up to $10 million in rail assistance available, at the discretion of the Secretary of Transportation, to rail lines that carried over 5 million gross ton-miles-per-mile last year.

Early estimates show flood damage to railroads in the State of Missouri approaching $18 million. $8.5 million of Missouri's railroad damage affects Gateway Western Railway, a regional railroad with 300 miles of track running between Kansas City, MO, and Roadhouse, IL.

Gateway Western's total economic losses are now approaching $13 million, including detour expenses and losses of revenue. This legislation addresses only the physical damage sustained by the railroad, including the need to rebuild 2,100 feet of collapsed embankment and a major bridge at Glasgow, MO. The best help we can give them is assistance to rebuild and get back into business.

Mr. President, I urge my colleagues to support this important amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

The question is on agreeing to the amendment.

The amendment (No. 760) was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I hope Senators will come to the floor and offer their amendments. Mr. President, other Senators and I, and the floor staffs, have been trying to encourage Senators to let us take their names off the list in the event they do not plan to call up their amendments. I hope Senators who do not intend to call up amendments will let us know so that we can remove their names. If they intend to call them up, they should come to the floor.

The leader indicates that action on this bill should be completed before the close of business tonight. I think that is a perfectly legitimate request, and I intend to do what I can to help bring it about.

I will say that if Senators are lax in not calling up their amendments, at some point I will give them a frank notice that I intend to move to third reading. I will tell them when I intend to move to third reading, and if they are not here to call up their amendments, I will move and get the yeas and nays on the motion.

I am not going to take advantage of any Senator, but I do not think the Senator from Oregon and the Senator from West Virginia should have to spend the day here and a good bit of the night waiting on amendments that never materialize in the Senate.

The PRESIDING OFFICER. The Chair recognizes the minority leader.

Mr. DOLE. Mr. President, I ask unanimous consent to proceed as if in morning business to introduce a bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Kansas is recognized.

Mr. DOLE. I thank the Chair.

(The remarks of Mr. DOLE pertaining to the introduction of S. 1356 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The first committee amendment is still pending.

The Chair recognizes the Senator from Minnesota [Mr. DURENBERGER].

AMENDMENT NO. 761 TO FIRST COMMITTEE AMENDMENT

(Purpose: To reduce the amount declared to be emergency spending and offset the resulting nonemergency budget authority through reductions in fiscal year 1994 discretionary spending)

Mr. DURENBERGER. Mr. President, I send an amendment to the pending committee to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Minnesota [Mr. DURENBERGER] proposes an amendment numbered 761 to the first committee amendment.

At the appropriate place, add the following:

FUNDING SPENDING THROUGH SEQUESTERS

SEC. . (a) REMOVAL OF EMERGENCY DESIGNATION.—Notwithstanding any other provision of this Act to the contrary, all the amounts designated in this Act as emergency requirements for purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 shall be treated as not being emergency spending under the Balanced Budget and Emergency Deficit Control Act of 1985.

(b) It is the sense of the Congress that spending reductions required by this section shall be achieved through reductions in administrative expenses rather than in the expenses of underlying programs or assistance.

Mr. DURENBERGER. Mr. President, I allowed the amendment to be read so that particularly the chair of the Appropriations Committee, who has labored so hard to do this bill in the most appropriate way, could hear it and so could all of my colleagues.

It is not as great of an amendment as I once proposed. I was thinking, as the flood developed, starting in Minnesota, which is at the head of the Mississippi—some time early in May you could see this disaster developing very slowly. Of course, in early May we had no idea of the dimensions of this, and we did our usual thing, those of us who represent Minnesota. At some point in time when it became clear that farmers were going to have difficulty planting, we went to the President to ask for emergency declaration for six counties. At that point in time, in late May, early June, that was about all anybody knew or cared about what was going to be visited on us and what brings us to the floor today.

As June went on, the problems kept getting worse, and prayers were not being answered. The rivers started filling up, and the watershed started filling up, and the problem became greater for all of us. I began to think back on the votes that I cast starting way back when I first got here on Mount St. Helens and working its way through all the eighties and the period of the early nineties—in fact, 1991-92 I think was the last year we did Chicago, Los Angeles, Florida, and so forth.

It was not until the last year, or so, that I began to consider whether or not the disasters with which I was dealing, even though they were quick disasters like Hurricane Andrew—they sweep in from the coast and cover the southern tip of Florida and leave in 24 hours and leave behind tragedy and billions of dollars of loss—or one that went as long as this one that begins in May and is still going on. It is still wrecking havoc. I began to think several thoughts. One was how long do we in Congress continue to react the same old way to this process?

Second, I thought about it in the context of, well, suppose this gets to be $5 or $10 or $20 billion. You know, are we just going to add that to the deficit?

I recall that last year I voted three times against very large appropriations for emergency relief to Los Angeles, Chicago, and Florida because we did not take the time to determine exactly what it was we were trying to do, for whom, what it would cost, and then say to the rest of America, "We have decided that the national solution to this part of the problem is the most appropriate solution and we are also going to ask all Americans to contribute to it." We did not take the time to do that.

In fact, I recall being right about here in 1980 watching the then-chairman of the Appropriations Committee, Senator Magnuson, of Washington, standing right down in the well and spending. Spending, Mr. President, hundreds of millions of dollars, and I remember that he just did it—unlike our chair now who has stood out here for almost 24 hours now, with the exception of 6 hours to sleep or something, defending principle. I recall the then-chairman of the Appropriations Committee standing down there ignoring the rules of the Senate and spending hundreds of millions of dollars.

And that impression has not left me to this day, and it really has not so much to do with Mount St. Helens or disasters as it has to do with the way in which one person at this point in time could spend a whole lot of money meeting a lot of people's needs, but he was the judge of what those needs are.

I think things have changed. All of us are now involved in that process. All of us have to take responsibility for doing something about it.

But the fact of the matter is the way in which we go about it has changed from Senator Magnuson standing down there making decisions to now, when all are involved in making the decision. It has also gotten much more difficult to be chairman of the Appropriations Committee because that was before big deficits.

I think the deficit that year—or I do not know what the deficit was—maybe $30 billion, but the national debt was like $876 billion, which was an unheard of figure at that time. We thought it was a lot. And every year we would debate in the Finance Committee and here on the floor whether we should raise the debt ceiling from $876 billion to $877 billion or from $888 to $900 billion, or something like that.

And here we are at $4.1 trillion, going to $5.3 or $5.4 trillion, and we no longer debate raising the debt ceiling.

A lot of pressure has been put on the appropriations process as a result of that. As we all know, the implications of Gramm-Rudman-Hollings and the implications of the budget resolution process, and so forth, have not been fair to the kinds of spending that is done by this body through a process of authorizing and appropriating and decisionmaking and categorical programs and specific spending programs to meet specific needs around America. It has not been kind to that kind of process.

The process has been very kind to these programs invented in the thirties and forties. Those are the programs that automatically take from payroll and put moneys into a fund and then transfer moneys to people because of retirement or disability or ill health, or something like that.

It has been an unkind process, as you view it, if you are an appropriator or even an authorizer. The authorizers around here are having difficulty spending the kind of money that they used to spend. The appropriators are having to make incredibly difficult decisions, balancing a variety of competing interests that have built up in programmatic responses over 25 or 30 years of a National Government trying to deal with these problems.

So, I come to the floor with this particular amendment. The amendment itself, if you want to reduce it to its simplest terms, says that the amount of money that finally gets spent meeting the needs of people in the States that are suffering from this disaster, the amount of money that we decide to spend will, in effect, come out of next year's or the fiscal 1994 budget and will come out of the 1994 budget, as you know, the first dollars out, if you will, at the top.

I think in next year's budget the discretionary account will be something like $539 billion in the discretionary spending. I think, as of last count here, we have decided to spend $5.7 billion or projected $5.7 billion in spending.

So, in effect, that means the top 1 percent will be coming off the top of appropriated accounts to go to meet the needs of the disaster victims.

A couple hours ago, that sum was less. That sum was $4.7 billion. Now it is $5.7 billion.

So I could have stood here with a chart and said only eight-tenths of 1 percent. Now it is 1 percent. I suspect by sometime this fall, when we come back to doing the individual appropriations accounts, it will be 1.5 percent. It might even be 2 percent, listening to the speeches here about how serious these problems are.

So I am not particularly comfortable coming to the floor saying that we need to add another burden to the responsibility of the chairman of the Appropriations Committee. I am not particularly comfortable coming to the floor saying we ought to add more of a challenge to the burden carried by my colleagues on the Appropriations Committee.

But, in effect, Mr. President, I personally do not have any other choice. I do not know about the rest of my colleagues, but I do not have any other choice. I took a stand on other people's disasters—that they were not emergencies; they were disasters, but they were not emergencies—the Chicago flood, the hurricane in Florida, the tragedy in south-central Los Angeles. The emergencies were taken care of within the communities, just as they are on this flood. You keep people from drowning in an emergency. You save people, you sandbag, you dike, you feed them, shelter them, this whole series of things.

FEMA has a large fund of $629 million, is the last I saw, that can do things only Government can do by way of putting money into the hands of the people that do not have a home, do not have a way to get to their work, do not have a way to get to their children.

So emergencies are taken care of immediately by local resources—the Red Cross and all these church organizations. And I made this argument last night.

The disaster, on the other hand, takes a longer period of time to determine its depth, its breadth, its quality, its quantity, whatever else. Whether it is Senator Magnuson on the floor of the Senate 12, 13 years ago, or it is all of us today, we have all reacted in the same way. A disaster, an emergency, is a reason to come to the floor and spend money. And in that kind of process, it is very difficult to say, "I now want to send you a bill for the money I have spent," because we are not convinced that that amount of money is really going to solve the problem, but it is the best we can do at a given point in time.

Mr. President, I had looked back to try to find out what happened to the money that went to south Florida, what happened to the money that went to south-central Los Angeles, what happened to the money that went to Chicago. It is pretty hard to find out.

If I cannot find out, how do you think the average taxpayer is going to know where this money goes? Do you think the average taxpayer could follow the debate here on the floor of the Senate over CCC formulas and things like that? I doubt it.

I think it is because all of us have been reacting the way we have always reacted in this place.

Mr. President, if I may be so bold as to say this, I think this is the problem with everything we do. We always seem to react in the same fashion when presented with the same or a similar set of circumstances.

So then I say to myself: Maybe that is part of the reason why, when I came to this body, the national debt was $800 some billion, and it did not make any difference whether Senator Magnuson stood on the floor of the Senate and added a billion here or a billion there. It did not make any difference because debt service was not a problem.

But today, the national debt is $4.1 trillion, and the debt service on it takes 14 percent of our current tax collection or our current spending, or whatever the case may be. And that is money we cannot spend on children and preventive health care and national health care reform, a better educational system, or all the other things that we complain about in this body all the time.

So I just wondered to myself—and I wonder aloud, for the benefit of any of my colleagues who may be watching this—if this is not the time, when everyone is focused on flood waters and the disaster and so forth, for us to make some decisions about how we respond as a nation, as a representative of the people of this Nation, to the problems that are faced by our constituents in Wisconsin, Minnesota, Iowa, and so forth.

And, simply stated, this amendment just says what the little sign I saw last night in the 7-Eleven says, you know. "If you care about the flood victims, send money."

Now, every person in the 7-Eleven that sees that sign on the wall has to go into their pocket like this, you know, and they have to pull out real dollars.

Am I violating some rule by waving money around here?

You have to pull out real dollars. And once that real dollar is gone, you know, it is going to help somebody, but I do not have that dollar anymore.

But that is not what we are doing. We are not sending real dollars. Yes, we will send enough money to relieve some of the problems for some of the farmers in some of the communities, and so forth, even though we do not know how serious the problem is.

But the bill is not going to be paid by me. It is not going to be paid by you. It is going to be paid by my children and grandchildren.

Why do I worry about that? I worry about that for a lot of reasons that we are all concerned about: The burden that we are shifting downward in our generation.

I think we all know that ours, mine—to give you an idea how old I am, I will not tell you exactly, but my wonderful parents are both still alive and yesterday celebrated their 60th wedding anniversary. I am their eldest. So that sort of brackets my generation. My generation is the first that is going to leave its children less well off than it was left by its parents. We have had 13 generations of Americans since the founding of this country, and mine is the first to fail Thomas Jefferson's moral tenet that each American generation leave the next at least as well off as it was left. So that is a problem for me.

I have another related problem, and that is that if we can come to the floor of the Senate for every one of these disasters and we can decide $4.7 billion—no, I guess it was $3.4 billion on the House side a week or so ago, and then it gets over here and it is $4.7 billion and an hour later it is $5.7 billion—if we can do that that cavalierly—and I voted for all of those, because it is going home to Minnesota; at some point in time, it is going to help out the people in Minnesota—but if we can do it that cavalierly—last year, it was $8.9 billion in total. This year, it is probably going to be $8.9 billion just on one of these events.

But suppose we talked about the same kind of disaster occurring in the year 2000 or the year 2010? What do you think it is going to cost the next generation after that? Do you think they are even going to have the money to deal with these disasters?

So I have another reason for saying, "let us pay for it," and that is I want to be able to protect those who will have the responsibility that I have 10 years from now to be able to meet real needs. Because mother nature is not going to shut off the rains, the melting snows, the tornadoes, the hurricanes, all of these natural disasters. They are going to continue to occur.

But who is going to take the responsibility, and who is going to be able to accept the responsibility for paying for them 10 years from now if we do not change the way we are doing this?

I have a third reason for suggesting this, and it is called prevention. It is something that we do not do anymore, do not practice very much in our American lexicon, because if it is easy come and easy go, then why prevent? We do not do it in health care. We are satisfied.

I was in a hospital in Sioux Falls, SD, about 6 weeks ago. In fact, it was in connection with the visit of the Secretary of Agriculture to our State of Minnesota.

I had an hour while I was waiting for the Secretary of Agriculture's plane, so I went over to—I think it was Sioux Valley Hospital. I met this wonderful doctor who heads up the neonatal care unit of the hospital and he introduced me to 45 little neonatal intensive care units and 38 teeny, little babies in those units. On the average, those kids are costing about $100,000 each to be born before they ought to be born.

I said, "Doctor, if you could name one thing that moms could do that does not cost anything to reduce the number of the severely premature, the low-birthweight babies, what would it be?" And he said—just like that—"I can reduce 25 percent of these if the moms would not smoke." Prevention. Prevention.

Where is prevention in floods? You cannot turn off the sky. Crop insurance. I am going to have an amendment on crop insurance. If we had a decent crop insurance system in this country, if we had any incentive to have one so all these farmers we are spending money on today could be covered by crop insurance—prevention—we would not be here debating the formula that does not pay more than 20 cents, 40 cents or 52 cents. Because we would have a crop insurance system that works. But there is no incentive to reform the crop insurance system because every time we have a disaster that affects our farmers we pay them off, the ones that were insured and the ones that were not insured. Because, we say, "The crop insurance system was defective." This was defective because it does not cover you if you cannot get in your fields because they are flooded.

So, prevention, I guess, is a third reason I use to suggest to my colleagues that they think once again, as they did last year when my colleague from Florida, Senator GRAHAM, had a similar amendment, that we think about the importance of making a decision to pay for this amendment.

I would add a fourth, and that is that after some of our colleagues from Minnesota on the House side went to the floor of the House a few weeks ago and stopped this same bill on the House side for some period of time until the House could make a decision on whether or not to pay for it, the editorial writers back in Minnesota—where everybody is waiting for the money to get there—the editorial writers stood up and said that is not only a brave thing to do, that was a prudent thing to do. That is the word they used, "prudent." Here is the Minneapolis Star and Tribune, "Prudence surely dictates finding a way to pay for relief without piling it onto the national debt."

So the victims of this disaster know several things about it.

One, they know real emergencies, like in an emergency room and so forth, are being taken care of. They do not need us to do that. Second, they know the depth of the disaster will not be known until this fall. You cannot know how serious it is until the water is gone. You cannot know how serious it is until the crops come in. They all know that out there. So they are saying you have plenty of time to deal with this particular issue which is, Are you willing to pay for this or not?

I do not have to be accused of being heartless because I say, "Let us pay for this." I mean, we stood down here now debating, if we have a farmer who is drowning 100 feet from shore, whether or not we are going to throw him a 25-foot rope or a 40-foot rope, and I think we ended up throwing him a 52-foot rope instead of a 100-foot rope.

That is not the way the folks that I represent would like to be represented. If someone is drowning and he is 100 feet from shore and you have a 100-foot rope, throw it to him. That is what they will do. They will put their money in the little pot at the 7-Eleven, because that is their only way of getting some money to Minnesota.

KARE-TV, Channel 11, an NBC affiliate in Minnesota, 3 or 4 weeks ago went on the air one evening with a plea for Des Moines, IA. We in Minnesota make fun of Iowans for some silly reason I do not quite understand. But it has sort of built up over time. It is very unusual for a Minnesota television station to make a plea to help out Iowans. Usually we make fun of them. Anyway, they said, "Can you, Minnesotans, get some fresh water to the folks down in Iowa?" And that night, that night, 75,000 gallons showed up. By 24 hours later, when they started putting the trucks together to go to Des Moines, 250,000 gallons of Minnesota fresh water were on their way, along with people, to Des Moines, IA.

So, you know, when people are confronted with this decision, what should I do? How should I do it? People are willing to make the decision that somehow or other, over the years, we have gotten out of the habit of doing; that is, actually going, to make sure: What is the need? What can I do to help? If it is money, send money. If it is something else, do something else.

Mr. SPECTER. Will the distinguished Senator yield for a question?

Mr. DURENBERGER. I am pleased to yield to my colleague from Pennsylvania.

Mr. SPECTER. Preliminarily, let me compliment the distinguished Senator from Minnesota on his amendment and on his very articulate presentation.

As I note, the thrust of his amendment is to pay for the costs for flood relief, and I certainly concur with the sense of this body and the sense of the House that the flood relief is indispensable. I am hopeful we will pass this bill and have it conferenced and concluded so it can be signed by the President before we adjourn for the August recess. That is a duty on our part.

I think the distinguished Senator from Minnesota is on the right track in looking for a mechanism to pay for these expenses. I think the flood relief does fall in the category of an emergency but it would be preferable for us to pay-as-you-go. My son, who is a conservative young taxpayer, a practicing lawyer, made the suggestion to me several weeks ago as we witnessed the television depiction of the ravages of the Midwest.

I might say in passing, I hail from the State of Kansas and my home area has been very hard hit. But, my son, Shanin Specter, made the suggestion there be a small percentage of a surtax added on to income tax. It might be one-tenth of a percent. And he felt, much as he did not like paying taxes, that Americans would be willing on the demonstrated need for flood relief to have this paid for.

Finding the money is always hard. But I do think the thrust of what the distinguished Senator from Minnesota has said here is right on target. And the question I have—and I know it is hard to quantify —but I wonder if my colleague from Minnesota has any idea more specifically as to where we would look in administrative costs to undertake the payment for the kinds of funds which are involved in this emergency flood relief.

Mr. DURENBERGER. Mr. President, I do not have a specific. I think my colleague from Pennsylvania is a member of the Appropriations Committee. As I said before he came to the floor, I know they have a difficult undertaking. But my colleague would probably be better positioned than I to know precisely where the administrative and overhead expenses might best come from.

Mr. SPECTER. If my colleague would yield, the Appropriations Committee acts not without wonders, but we may not be quite as astute as the Finance Committee, a committee the distinguished Senator from Minnesota holds membership on. So maybe we could find somewhere, one way or another. I do know, in posing the question, it is hard to particularize where the administrative expenses come from. When you talk about this not being declared an emergency, I know there is no intent on the part of the offeror of this amendment to in any way minimize or downplay the seriousness of the event.

So I want to compliment my colleague for offering the amendment. I think the ideas which he is exploring and illuminating here are very important. On some occasions, the better the amendment, the fewer the votes. But I want my colleague to know I intend to support him.

(Mr. WELLSTONE assumed the chair.)

Mr. DURENBERGER. Mr. President, I appreciate the comments of my colleague from Pennsylvania. Just let me say, not wanting to hold him here, I began this by thinking the way the person at the 7-Eleven thought when they put up the little sign that in effect said, yes, we ought to be able to raise the taxes to do this. That literally is what paying for it ought to be.

The more I thought about that, and the more I tried that on people around this place, they said you cannot raise taxes. I started out where what the Senator from Pennsylvania calls his conservative son started out. Today I got on the phone and started listening to some of the calls coming in, because Bob DOLE gave out the 202–224–3121 number last night. I must tell you, most of those people were saying no taxes, no new taxes, no taxes this, no taxes that. I do not know that that necessarily reflects the kind of Americans who have a concern for this disaster. It was sort of the advice I was given.

So I switched to another area that the Senator mentioned. My colleague mentioned the Finance Committee. I said, "Well, it is not fair to ask that all of this money come out of discretionary accounts, the so-called discretionary, the $539 billion, because most of us agree that that is the only place we go to get money and we leave the other, the Finance Committee account—Social Security, retirement funds, so forth—we do not dare touch those."

What I did was say half the money in the original amendment I presented yesterday, half the money would come from reducing some of the overhead and administrative in discretionary; but the other half would come as a small percentage of the cost-of-living increase in entitlement programs.

It turned out—I do not know if we have that chart here—but anyway, it turned out that if I had followed that particular course, it would have amounted to taking one-tenth of 1 percent of the cost-of-living adjustment for all of these entitlement programs if you went across the board.

Mr. SPECTER. If my colleague will yield for a moment without his losing the right to the floor, I think he made the point effectively by looking to administrative costs. Had he looked to entitlements, it would have caused at least a minor furor; that had you looked at the discretionary amounts it would have been extremely promising.

I know as the ranking member on the Appropriations Subcommittee on Labor, Health and Human Services, Education and Related Agencies how tight those funds are.

When our distinguished Republican leader said cut spending first, with the implication that there might be some justification for minor tax increases, maybe he did not mean that, but the spending has to be cut first. I know in 1990 when this body and the Congress were considering the overall budget summit, I used the recess to travel through my State of Pennsylvania, and found that there was a consensus for understanding the need for taxes if it went to deficit reduction. But my constituents were very unhappy about paying taxes into the general fund which gave more money for spending, which my constituents understandably think is excessive, and that is why we ought to be cutting expenses first.

But I think where there was a real value to be served, something which is understood and appreciated, or when there is an emergency like the floods, I think the people can understand a small fraction increase as a matter of percentage on income tax.

Mr. DURENBERGER. Mr. President, I appreciate again the comments of my colleague. Let me say that I have another amendment which I will offer as soon as this one is disposed of, which deals with future floods and which does give us an alternative, gives the President an alternative to recommend to the Congress. In the case of a flood like this, you either go to the discretionary account, entitlement account, or both, to reduce them, or you go to a tax source to get the money. I think that is the kind of thinking we need to continue to develop.

Mr. President, what we are talking about here is a sacrifice of a few pennies by today's Americans. The alternative is a sacrifice of many dollars in interest by our children's generation and by generations in the more distant future. I do not think it is too much to ask that you and I bite the bullet today—so that we do not add to the $5 trillion burden our generation has already piled on future Americans.

Mr. President, let me just say then, given the comments by my colleague from Pennsylvania, that I hope that my colleagues have given some thought to this amendment; that the changes that I have made in it, as far as where we go to pay for it, have struck a responsive chord, if the argument did not, and that we will have an opportunity soon to vote on the amendment and vote on it up or down.

I certainly urge my colleagues who have made all of the speeches that the chairman of the Appropriations Committee said we would make about spending—everybody—he usually looks to this side of the aisle, but I think they have been made on both sides of the aisle, talking about spending, spending, spending; that our colleagues will take a look at that in the context of the debate that has taken place on this amendment and will vote in favor of my amendment.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The President pro tempore is recognized.

Mr. BYRD. Mr. President, I cannot think of a nicer Senator than the Senator who has offered this amendment. He always wears a smile. I can understand the feelings of the barbarian who was sent to execute Gaius Marius; when he went into the prison, Gaius Marius saw him enter with the sword, and, Gaius Marius said, with a fierce look and piercing eyes, in a loud voice, "Fellow, darest thou slay Gaius Marius?" The barbarian threw down his sword and ran. I feel a little like the barbarian when I venture forth to attack the amendment that my friend, the very congenial, amiable, likable Senator from Minnesota has offered.

But as much as I like him, I cannot support his amendment. So if I can, I am going to execute it. I am opposed to the amendment to pay for disaster assistance for natural disasters. Providing emergency appropriations outside the budget caps was contemplated in the Budget Enforcement Act and is provided for in law under section 251(b)(2)(D)(i) of that act. Since the enactment of that provision in 1990, there have been four bills which included an emergency designation for appropriations totaling $8.6 billion in domestic natural disaster assistance.

We did not ask the victims of Hurricane Andrew along the gulf coast how they were going to pay for the assistance they needed. We did not ask the residents of the Island of Kauai in Hawaii, after Hurricane Iniki devastated that island, how they were going to pay for the aid they required. We did not ask the victims of Typhoon Omar on

Guam to pay for the cost of restoring their devastation. And we did not ask the thousands of farmers who have received disaster payments in the last 3 years because of freeze, drought or flood damage, to pay for that assistance. Not because we did not care about the deficit.

We did not ask them to absorb deductions in other programs to pay for that assistance because fundamentally the Congress believes that when part of our Nation is hurting, the whole Nation is hurting and the Nation should respond in an attempt to help put the suffering back on their feet.

That provision was not put into the Budget Act as a loophole.

And that is what I am concerned about in one sense. Some Senators seem to think this is a loophole. It was included because we recognized that there are certain things that man cannot control.

Every one of these emergency designations has been for an act of God. Man cannot control these—small, finite, little man.

"What art man, that thou art mindful of him?"

Every one of these emergency designations has been for an act of God. There was not a thing that any of the victims could have done to stop them. There was not a thing that anyone could have done to stop the hurricane, or the typhoon, or the cyclone, or the freeze, or the drought. There is not a thing that anyone could have done to stop the rain in the Midwest over the last month or so.

There is a legitimate need to address national disasters in a way that does not penalize other unrelated Federal spending.

I also know there is the possibility for abuse of the emergency designation spending provision, and I do not want to discredit the provision by proving its critics right and by turning disasters into spending opportunities. Therefore, I have opposed amendments which would increase the cost of this legislation beyond what the administration has requested.

I believe there are meritorious uses of the emergency designation provision in the law, but I certainly do not favor exploiting that provision. I hope we will not let our fervor to reduce the deficit cause us to apply a new standard to natural disaster emergencies.

How can we go to those who have lost their homes, their jobs, and maybe their businesses, and say that we are going to reduce those discretionary items that might have helped them to get back on their feet? As if that were not enough, we are going to reduce the mandatory programs like unemployment compensation and veterans' benefits that they may be counting on to put food on the table and keep a roof over their heads until the water recedes and they can put their lives back together. We cannot put these people back where they were before. We cannot take away the water. We cannot put back their crops or their homes or their businesses. We cannot make them whole. That is not within our province or within our means to do. But we can offer some hope and incentive to hold together, keep going, and to have faith in the future.

Mr. President, if this amendment were to be agreed to, we would have to absorb the outlays in future years—$2 billion in 1994, $1.1 billion in 1995, and $527 million in 1996. One small effect would be that the Agriculture Subcommittee, which has just completed conference, would have to go back and cut $1.154 billion in outlays from their 1994 bill. How is that for a joke? Nobody is going to laugh, especially the Agriculture Subcommittee.

When the other 1994 bills that are affected by this bill are marked up, they will have less to work with: Commerce, $59 million. Tell that to Senator HOLLINGS; Energy and Water, $146 million. Tell that to Senator JOHNSTON and Senator HATFIELD, who is the ranking member; Labor-HHS, $30 million. We might get Senator HARKIN's attention on that; Transportation, $56 million. Senator LAUTENBERG will be casting his vote on this matter shortly; and VA-HUD, $511 million. Somebody get word to Senator MIKULSKI as to what this will do for her; Interior, $36 million.

Mr. President, surely we do not mean to say that we expect these disasters that result from acts of God—was it Job who said, "What art man, that thou art mindful of him?"

Well, man is beginning to wake up to the fact that there is a God, that there are some things that man cannot do. He cannot stop the water. He cannot put back the homes. He cannot restore lives of human beings or livestock. Do we expect to help those people? If we do, do we expect to give it with one hand and take away with the other?

In other words, zap it to the veterans' programs, to the health programs, to the parks, to the Forest Service programs, to education, research, environmental programs. It has to be paid. It is going to go on the deficit one way or the other. Discretionary spending, especially domestic discretionary spending, has been zapped all too many times in the past few years. And it is going to be worse. Wait until this reconciliation bill passes and then we see the freeze on discretionary spending that will result from that.

We have an alternative. I suppose we could resort to sequester from time to time—sequester all programs: Defense, military, domestic, and so on, just cut them all equally. How long will the American people stand for that?

Mr. President, I do not question the good intentions of my colleague on the other side, but I urge Senators to defeat this amendment, and I am prepared to move to table it.

Does the Senator wish to say anything else before I move to table the amendment?

Mr. DURENBERGER. Mr. President, just a couple of minutes.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. BYRD. No. No. This Senator has the floor.

The PRESIDING OFFICER. The Chair apologizes.

Mr. BYRD. How long would the Senator like to speak?

Mr. DURENBERGER. Mr. President, I would speak for probably 3 minutes.

Mr. BYRD. Mr. President, I ask unanimous consent that I be permitted to yield to the distinguished Senator for 3 minutes and that I retain my rights to the floor with my intention to move to table the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURENBERGER. Mr. President, I appreciate very much not only the comments of my distinguished colleague but the demeanor, and I certainly do appreciate very much his compliment.

He indicated early in his comments that we did not ask last year's victims to pay for damage repair, and that is true. There is also nothing they can do to stop the rain or the hurricanes and there is very little they can do to pay for it themselves. But the fact is the Nation can, and the Nation should. It should have last year.

Last year, on the L.A. riot emergency supplemental, which also sent money to some islands in the Pacific and to Chicago, my colleague from Florida, Senator GRAHAM, a Democrat proposed a similar amendment, only he said you cannot spend the money in Chicago, L.A, or those islands until you have capped the spending. I do not do that. But on his amendment, there were 45 yeas—31 Republicans or 74 percent of the Republicans, and 14 Democrats, 25 percent of the Democrats—45 to 52 last year said we ought to pay for it.

For every $1 billion we add to the national debt, the cost is about $70 million a year. For $5.7 billion added to the debt, the cost will be $400 million a year.

Mr. President, our colleague, JAY ROCKEFELLER, had a little piece in the Washington Post today with regard to the President's economic package, which is an effort to stabilize spending and taxes in this country. He said:

> If the measure fails, America's $300 billion deficit will double within a decade. Twenty cents of every tax dollar will go to pay interest. Long-term interest rates will spike up, bringing higher mortgage and car payments. Stock prices will slump, economic growth will stall, and business investment will dry up in an already withering job market.

And he went on to make some caustic, uncalled for remarks about Republicans, but in the end, he said:

> I realized then we had become lost in a maze of refracted personal perspectives—

With regard to the deficit and what we are going to do about it—

> hopelessly separated from our original objective. On this path, there will always be one more objection.
>
> The right product? A vote for the perfect product would be easy—if perfection were ever possible.

I am still quoting our colleague:

> This is not about a product. It is about a process that begins to repair the damage and pay the debt from more than a decade—

He says. It goes a lot further back than that—

> of national neglect. This was never supposed to be easy.
>
> This is not about what we can get out of the deal. It is about what we will give.

Still quoting my colleague, the junior Senator from West Virginia:

> This is not another political painkiller. It is long-overdue honesty—and it requires some courage.

What more can I say? If we do not have the courage on this, we will not have the courage when it comes to reconciliation. We will not have the courage on Russian aid. We will not have the courage on sending aid to the Northwest to buy out the spotted owl. We will not have the courage to spend money for base closures. We will not have the courage on any of these things. Let us start with something we can all understand. It will have a lot of meaning to people in Minnesota if we have the courage to pay for this. So I urge my colleagues to support my amendment and to oppose the motion to table.

Mr. KOHL. Mr. President, I am tempted to vote for this amendment. It is clearly motivated by a desire to exercise fiscal discipline and that is a motive which I share and support. But while I applaud the intent of the amendment, I find fault with the way it seeks to achieve its goal.

Philosophically, I do believe in the concept of emergency spending which should be exempt from the normal budget discipline we have established. When the Nation faces a disaster—as the floods in the Midwest clearly are—we have to respond. The budget law allows us to do that. Our own experiences as individuals proves that we need to do it. If a furnace fails in the winter, we replace it—even if we have not budgeted for that expense. If a car breaks, we repair it—even if we have not budgeted for that expense. If a child needs health care, we make sure she or he gets it—even if we have not budgeted for that expense.

We can disagree about whether a specific situation should be treated as an emergency or not, but once we decide it is an emergency, a disaster, we have to respond to it.

Earlier this year, I offered an amendment to the supplemental bill requested by the President which would have required us to pay for half of the funds he was requesting. Even though my amendment was identified as a pay for it alternative, it recognized that there was at least a quasi-emergency and we ought to respond to at least part of it outside the scope of the budget constraints.

The pending amendment, while well motivated, does not recognize the fact that we can and should respond to some situations—true emergencies outside the control of human beings—by going beyond the normal budget process.

The flooding in the Midwest is such a situation. I have seen the pain and the fear in the faces of the farmers of Wisconsin. I know they are facing a disaster. I know they need relief. And I know they need it now. This bill will provide some of that relief and we need to deliver it to them now.

Mr. BYRD. Mr. President, I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. DOLE. Will the distinguished chairman object if I had 2 minutes of morning business before the rollcall starts.

Mr. BYRD. Mr. President, I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

RETROACTIVE TAX INCREASES

Mr. DOLE. Mr. President, we have talked about retroactive tax increases, and I think the White House has gone ballistic. They have gone way back to 1917 to show that we had a wartime surtax or surcharges in World War I, World War II, the Korean war, and even the Vietnam war. But that does not make the policy any better, and it is a little different. I am going to explain that very quickly.

The Treasury Department is even pointing to other tax increases, as far back as 1917, that they claim were retroactive. That is pretty desperate—going back to 1917. Most, if not all of these, were temporary, wartime surtaxes imposed during the critical times America faced during World War I, World War II, the Korean war, and the Vietnam war.

Now, the Clinton administration may like you to believe otherwise, but there is a big difference between a temporary wartime surtax, and a permanent peacetime tax rate increase which was made retroactive. This is not a surtax.

But the Clinton administration's spin control cannot change the fact that its permanent, retroactive tax rate increases are a terrible idea—it is bad policy, whether it has been done before or not. It is such a bad idea, that even article 57 of the new draft Russian Constitution bans retroactive tax increases. And let me tell you, if there is one thing that has infuriated callers to my office—and I understand to other congressional offices, as well—it is this unfair retroactive provision, not only on the living, but on the dead. Nobody can escape this tax plan, living or dead. And they do not like it, whether they are affected by it, or not.

But, if we are going to split hairs, let me add my 2 cents' worth. The President last night claimed that the National Association of the Self-Employed supports his plan. Today, the NASE spoke up for itself, and said that it "does not support the bill." And a coalition of small businesses also came forward today to make it clear that they do not support the Clinton tax plan. These are the businesses that are creating most of the new jobs in America—they are the last people we should be hitting with the new taxes in America.

I ask unanimous consent to have printed in the RECORD the release from the NASE, which says very quickly that the NASE does not support this bill. President Clinton said last night they did.

So these are the latest people who have learned that they are going to be hit by the bill. I also ask unanimous consent to print in the RECORD a list of the others who oppose this bill; hundreds of business groups opposing this bill representing small business.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CLARIFICATION OF THE NATIONAL ASSOCIATION FOR THE SELF-EMPLOYED POSITION ON THE BUDGET RECONCILIATION BILL

Last night, August 3, President Clinton named the National Association for the Self-Employed (NASE) as an organization supporting the conference agreement on the budget reconciliation bill. The NASE does not support the bill.

On July 20, the NASE issued a public position statement stating that although it supported a number of provisions in the House and Senate versions of the Bill, it opposed other provisions and was awaiting the results of the conference report. We have issued no further statements.

The NASE hopes that when the budget reconciliation process is completed, a bipartisan group of small business supporters, including the President and the SBA Administrator, can move forward together to assist the nation's job-generating small businesses as they assist the nation's economic recovery.

The Honorable
U.S. Senate/House of Representatives, Washington, DC.

DEAR SENATOR/REPRESENTATIVE: On behalf of the millions of business we represent and the tens of millions of workers they employ, we urge you to oppose the conference report on budget reconciliation, H.R. 2264, and draft a new package with fewer tax increases and greater spending cuts.

If enacted, the conference report would do severe harm to an already fragile economic recovery without promising much in the way of significant deficit reduction. The dramatic tax increases—exacerbated by their retroactive effective dates—will dampen the recovery and seriously slow economic growth. Slower economic growth will reduce federal tax collections and increase federal outlays, resulting in significantly less deficit reduction than anticipated.

The economics are simple. Higher taxes on successful business owners mean less investment in new employees and equipment. These high taxes will hit particularly hard the small and medium-sized businesses that have traditionally provided most of the new jobs.

Finally, the conference report contains too few spending reductions. Previous attempts to reduce the deficit through higher taxes have been unsuccessful. Hard economic times have forced businesses across the country to tighten their belts and downsize. We believe that the federal government should follow their lead.

Once again, we urge you to oppose the conference report on budget reconciliation.

Sincerely,

Advertising Mail Marketing Assn.
Air Conditioning Contractors of America
Air Transport Association
Air-Conditioning & Refrigeration Institute
American Bakers Assn.
American Chamber of Commerce Executives
American Council of Independent Laboratories
American Cyanamid Company
American Feed Industry Assn.
American Furniture Manufacturers Assn.
American Gear Manufacturers Assn.
American Institute of Merchant Shipping
American International Automobile Dealers Assn.
American Machine Tool Distribution Assn.
American Seed Trade Assn.
American Small Business Assn.
American Society of Travel Agents
American Supply Assn.
American Warehouse Assn.
Arizona Chamber of Commerce
Assn. for Manufacturing Technology
Assn. of the Wall & Ceiling Industries-International
Associated Builders & Contractors
Associated Equipment Distributors
Associated Landscape Contractors of America
Associated Specialty Contractors
Automotive Parts Rebuilders Assn.
Berks County Chamber of Commerce
Birmingham Area Chamber of Commerce
Bureau of Wholesale Sales Representatives
CH2M Hill
Connecticut Mutual Life Insurance Company
Copper & Brass Servicenter Assn.
Dairy & Food Industries Supply Assn.
Door and Hardware Institute
Dresser Industries, Inc.
Florists Transworld Delivery Assn.
Fort Worth Chamber of Commerce
Georgia Chamber of Commerce
Greater Columbia Chamber of Commerce
Greater Knoxville Chamber of Commerce
Greenville Chamber of Commerce
Independent Bakers Assn.
Independent Insurance Agents of America
Independent Insurance Agents of Arizona
Independent Insurance Agents of Georgia
Independent Insurance Agents of Louisiana
Independent Insurance Agents of New Jersey
Indiana Chamber of Commerce
Indianapolis Chamber of Commerce
Industrial Distribution Assn.
Institute of Shortening & Edible Oils
Intellectual Property Owners
International Foodservice Distributors Assn.
International Assn. of Refrigerated Warehouses
Irrigation Assn.
Kamsco, Inc.
Kansas Chamber of Commerce & Industry
Lancaster Chamber of Commerce & Industry
Louisville Area Chamber of Commerce
Mechanical Contractors Assn. of America
Metro Newark Chamber of Commerce
Metropolitan Richmond, VA, Chamber of Commerce
Missouri Chamber of Commerce
Minnesota Chamber of Commerce
National Air Carrier Assn.
National Assn. of Chemical Distributors
National Assn. of Convenience Stores
National Assn. of Hosiery Manufacturers
National Assn. of Mirror Manufacturers
National Assn. of Wholesaler-Distributors
National Beer Wholesalers Assn.
National Club Assn.
National Electrical Contractors Assn.
National Electrical Contractors Assn., Inc. Montana Chapter
National Electrical Contractors Assn., Inc. W. Ohio Chapter
National Fastener Distributors Assn.
National Federation of Independent Business
National Food Brokers Assn.
National Grocers Assn.
National Roofing Contractors Assn.
National School Supply & Equipment Assn.
National Society of Public Accountants
National Tire Dealers & Retreaders Assn.
National Wooden Pallet & Container Assn.
National-American Wholesale Grocers' Assn.
Nebraska Chamber of Commerce & Industry
New Jersey State Chamber of Commerce
New Orleans & the River Region Chamber of Commerce
Opticians Assn. of America
Outdoor Power Equipment Institute
Peanut Butter & Nut Processors Assn.
Pet Industry Joint Advisory Council
Petroleum Marketers Assn. of America
Power & Communication Contractors Assn.
Recreation Vehicle Dealers Assn. of North America
Retail Bakers of America
Rubber Manufacturers Assn.
Screen Printing Assn. International
Society for Marketing Professional Services
Specialized Carriers & Rigging Assn.
Swain Electric, Inc.
Texas Chamber of Commerce
The Greater Washington Board of Trade
Travel Industry Assn. of America
U.S. Chamber of Commerce
Wholesale Florists & Florist Suppliers of America
Wichita Chamber of Commerce
Woodworking Machinery Distributors Assn.

Mr. DOLE. I thank my colleagues. I yield the floor.

EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR RELIEF FROM THE MAJOR, WIDESPREAD FLOODING IN THE MIDWEST ACT OF 1993

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The question occurs on the motion to lay on the table the amendment of the Senator from Minnesota.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. FORD. I announce that the Senator from New Jersey [Mr. BRADLEY] is necessarily absent.

The PRESIDING OFFICER (Mr. KERRY). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 54, nays 45, as follows:

[Rollcall Vote No. 241 Leg.]

YEAS—54

Akaka
Baucus
Biden
Bond
Boxer
Breaux
Bumpers
Byrd
Cochran
Conrad
Danforth
Daschle
DeConcini
Dodd
Domenici
Dorgan
Exon
Feingold
Ford
Glenn
Graham
Harkin
Hatfield
Hollings
Inouye
Johnston
Kennedy
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Mathews
McConnell
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murray
Pell
Pryor
Reid
Riegle
Rockefeller
Sarbanes
Sasser
Shelby
Simon
Stevens
Warner
Wellstone
Wofford

NAYS—45

Bennett
Bingaman
Boren
Brown
Bryan
Burns
Campbell
Chafee
Coats
Cohen
Coverdell
Craig
D'Amato
Dole
Durenberger
Faircloth
Feinstein
Gorton
Gramm
Grassley
Gregg
Hatch
Heflin
Helms
Hutchison
Jeffords
Kassebaum
Kempthorne
Kerrey
Lugar
Mack
McCain
Metzenbaum
Murkowski
Nickles
Nunn
Packwood
Pressler
Robb
Roth
Simpson
Smith
Specter
Thurmond
Wallop

NOT VOTING—1

Bradley

So the motion to lay on the table the amendment (No. 761) was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the motion was agreed to, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

AMENDMENT NO. 757

(Purpose: Commending the United Nations on the establishment of an international tribunal to try war crimes in the former Yugoslavia, and calling on the United Nations to select promptly judges and prosecutors for the tribunal, and for other purposes)

Mr. SPECTER. Mr. President I call up amendment No. 757 on behalf of Senator DODD and myself and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER], for himself and Mr. DODD, proposes an amendment numbered 757.

Mr. SPECTER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the committee amendment insert the following:

The Senate finds: That

Numerous atrocities have been reported on the conflict in the former Yugoslavia;

Such atrocities against innocent civilians and prisoners would violate universally accepted law as embodied in the Geneva Conventions of August 12, 1949, for the Protection of War Victims; the Hague Convention (IV) Respecting the Laws and Customs of War on Land and the Regulations annexed thereto of October 18, 1907; the Convention on the Prevention and Punishment of the

Crime of Genocide of December 9, 1948; and the Charter of the International Military Tribunal of August 8, 1945;

In October 1992 the United Nations Security Council adopted Resolution 780 establishing a Commission of Experts to gather and evaluate evidence of such war crimes;

The Commission of Experts submitted an interim report dated January 26, 1993 which concluded that grave breaches and other violations of international humanitarian law had been committed in the territory of the former Yugoslavia, including wilful killing, "ethnic cleansing," mass killings, torture, rape, pillage, and destruction of civilian property, destruction of cultural and religious property and arbitrary arrests;

The Commission of Experts has been hindered in carrying out fully its legal charge because of insufficient resources;

On February 22, 1993, the United Nations Security Council adopted Resolution 808 establishing an international tribunal to try individuals accused of the commission of war crimes in the former Yugoslavia;

On May 3, 1993, the Secretary General of the United Nations issued his report which established the procedures for an international war crimes tribunal;

The United Nations is presently in the process of selecting judges and prosecutors for the international war crimes tribunal;

According to reports, the atrocities in the former Yugoslavia continue unabated; and

There is a dire need to establish promptly the tribunal and commence prosecution of alleged war criminals: Now, therefore, (a) the Senate hereby commends the United Nations for its recognition of the importance and necessity of the rule of law as evidenced by its establishment of an international tribunal for the prosecution of war crimes in the former Yugoslavia.

(b) It is the sense of the Senate that the United Nations should:

(1) expedite the selection of judges and prosecutors for the tribunal in order to begin prosecutions of alleged war criminals; and

(2) provide all assistance necessary to continue gathering evidence for such prosecutions.

Mr. BYRD. Will the Senator yield for a question?

Mr. SPECTER. Yes.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator will withhold for a moment.

The Senate is not in order. Senators will please take conversations out of the well and into the Cloakrooms.

The Senate is not in order.

The Senator from West Virginia.

Mr. BYRD. Mr. President, I wonder if the distinguished Senator would be willing to enter into a time agreement on this amendment; and would he also be willing to stipulate as to what this amendment is about?

I want to be sure we do not get into a full-blown discussion here as to whether or not we should get involved in Bosnia, either on the ground or by delivering air attacks. As far as that is concerned, I think we ought to have a full-blown debate, but not on this bill.

Mr. SPECTER. Mr. President, if the President pro tempore will yield, I would be willing to have a short time agreement—as I said to the distinguished managers—of 10 minutes, equally divided.

I do not expect this to be controversial. I expect it to be very limited in scope. I do not expect it to involve the question of Bosnia. It is a very narrowly defined sense-of-the-Senate resolution; and that is dealing with the war tribunals only, not with any military action or not with Bosnia or Yugoslavia generally.

It commends the United Nations for steps taken so far and urges the United Nations to go forward with resolutions which have already been adopted by the United Nations for the appointment of judges and prosecutors, a mechanism for the war tribunal for prosecutions, and it is just that. It does not involve any broader issues at all.

Mr. BYRD. Mr. President, I thank the distinguished Senator.

If we could stipulate that the amendment has to remain within those narrowly defined limitations, we could have 10 minutes, equally divided, but if it gets beyond those limitations, that the time limitation comes off and the amendment comes down.

Mr. SPECTER. Mr. President, I have already discussed with the distinguished President pro tempore my willingness to do that. I do not think we will go beyond those limitations. I do not intend by this amendment to get into any far-flung debate which would tie up this important bill. It is very narrowly circumscribed, and this Senator will keep within those limits. I will just take a few minutes to speak.

Mr. BYRD. Does the Senator wish to have a rollcall?

Mr. SPECTER. I do not. I would take a voice vote.

Mr. BYRD. Mr. President, I now ask unanimous consent that there be a time limitation on the amendment not to exceed 15 minutes, 10 minutes for the Senator from Pennsylvania and 5 minutes for the opposition, if opposition develops; and that if the debate gets beyond the narrow confines as delineated by the distinguished Senator, a call for regular order will pull the amendment down.

The PRESIDING OFFICER. Is there objection to the unanimous consent request? Hearing none, it is so ordered.

The Senator from Pennsylvania is recognized.

Mr. SPECTER. I thank the Chair, and I thank the distinguished President pro tempore and the ranking member of the Appropriations Committee.

Mr. President, I can be very brief. There have been reports of atrocities in the fighting in Yugoslavia. Those atrocities are prohibited under international law.

The U.N. Security Council has established a commission of experts to gather evidence. Those experts have reported that there are serious crimes. The United Nations has adopted a resolution to establish an international tribunal to try individuals accused of war crimes.

I believe that this sense-of-the-Senate resolution will give impetus to what the United Nations is now doing, commending them for action taken thus far, and asking them to move ahead as promptly as possible with the mechanics of the appointment of judges and prosecutors and moving expeditiously to try the cases.

If I may have the attention of the distinguished President pro tempore, I have stated the essential factors. If there is no opposition, I am prepared to yield back the remainder of my time and to move the adoption of this narrow resolution.

The PRESIDING OFFICER. Is there further debate?

Mr. BYRD. This is a sense-of-the-Senate resolution, is it not?

Mr. SPECTER. It is.

Mr. BYRD. Mr. President, I know next to nothing about this particular matter. It is a sense-of-the-Senate resolution and the Senator has certainly kept to his word, as he expressed it earlier. I have no objection.

The PRESIDING OFFICER. Is there further debate?

Mr. HATFIELD. Mr. President, I have no objection.

Mr. SPECTER. Mr. President, I ask that the sense-of-the-Senate resolution be agreed to.

Mr. DODD. Mr. President, I rise in strong support of the pending amendment and I urge its immediate adoption. I also want to thank Senator SPECTER for his initiative on this very important issue. This resolution commends the United Nations for the work it has done so far in attempting to establish an ad hoc tribunal for the crimes committed in the former Yugoslavia and urges the United Nations to move with all due speed in completing this very important task.

Mr. President, over the course of the last year we have all watched with horror as the former Yugoslavia has been torn apart by a tragic and brutal conflict. This tragedy is compounded by the fact that the parties to this conflict, mostly the Serbian and Croatian forces, have engaged in willful and large-scale violations of the laws of war. As this conflict has continued the world has learned with increasing despair and devastation of concentration camps, of mass executions, of senseless slaughter based on ethnic and religious differences.

The atrocities that are being committed in the former Yugoslavia are clear and unmistakable violations of well-established international laws. Many of these are laws that, like the Geneva Conventions of 1949, were adopted by the international community as a response to the Holocaust. If we truly believe that we are a society that value the established rules of the international community—if we truly, believe in the rule and law and not in the rule of the jungle—then of one thing there should be no doubt: the perpetrators of these crimes must be brought to justice.

Mr. President, since last fall the international community has been hard at work in carrying out this very task. In fact on May 25, 1993, the U.N. Security Council voted to establish and ad hoc tribunal with jurisdiction over all war crimes committed in the former Yugoslavia since the beginning of 1991. The successful completion of this tribunal is essential if our commitment to justice and our support for the rule of law are to be anything more than hollow words and empty statements.

Mr. President, I would also draw the attention of my colleagues to a related matter of even greater importance, in my view: the establishment of a permanent facility to try those accused of international crimes. Rather than establish an ad hoc tribunal every time the laws of war are breached, I believe the international community should move with all due haste to establish a permanent international criminal court. Indeed, this matter has been under the consideration of the United Nations for the last 4 years, in a little-known U.N. agency called the International Law Commission.

On that subject, Mr. President, I would draw the attention of my colleagues to a provision in the State Department authorization bill now awaiting consideration by this body. As reported by the Foreign Relations Committee last month, this bill contains a measure based on a proposal I introduced on January 28 that places the Congress on record in support of the establishment of an international criminal court and urges the Clinton administration to advance this proposal at the United Nations. If such a court is ever to be established by the international community, the United States must make clear its support for this very important concept.

Mr. President, I wish I could say with any confidence that in the future there will be no more Saddam Husseins, that there will be no more Slobodan Milosevics. But I think my colleagues will agree that that is an unlikely prospect. The challenge of establishing an ad hoc tribunal in the former Yugoslavia—indeed, the offering of this very amendment this evening—demonstrates that in the long run we must commit ourselves to the concept of a permanent international criminal court. If we truly believe we are a people ruled by law, there is simply no realistic or effective alternative.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Pennsylvania [Mr. SPECTER].

The amendment (No. 757) was agreed to.

Mr. SPECTER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. EXON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BROWN addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

AMENDMENT NO. 762

(Purpose: To prohibit the use of certain disaster relief payments to satisfy the claims of persons who have twice failed to maintain flood insurance)

Mr. BROWN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Colorado [Mr. BROWN] proposes an amendment numbered 762.

Mr. BROWN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of Chapter VIII add the following new section:

SEC. . PROHIBITED FLOOD DISASTER ASSISTANCE.

(a) GENERAL PROHIBITION.—Notwithstanding any other provision of law, no Federal funds made available for assistance under this Act in a flood disaster area may be used to make a payment (including any loan assistance payment) to a person for damage to any personal, residential, or commercial property if that person at any time has received flood disaster assistance that was conditional on the person first having obtained flood insurance under applicable Federal law and subsequently having failed to obtain and maintain flood insurance as required under applicable Federal law on such property.

(b) AMENDMENT TO THE FLOOD DISASTER PROTECTION ACT OF 1973.—Section 102(a) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a(a)) is amended—

(1) By striking ",during the anticipated economic or useful life of the project,"; and

(2) By adding at the end of the following: "The requirement of maintaining flood insurance shall apply during the life of the property, regardless of transfer of ownership of such property.".

(c) DEFINITION.—For purposes of this section, the term "flood disaster area" means an area with respect to which—

(1) the Secretary of Agriculture finds, or has found, to have been substantially affected by a natural disaster in the United States pursuant to section 321(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. Section 1961(a)); or

(2) the President declares, or has declared, the existence of a major disaster or emergency pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. Section 5121 et seq.), as a result of flood conditions existing in or affecting that area.

Mr. BROWN. Mr. President, current law, section 4012(a) has a requirement for flood insurance. The amendment that is in the law already reads as follows:

After the expiration of 60 days following December 31, 1973, no Federal office or agency shall approve any financial assistance for acquisition or construction purposes for the use in any area that has been identified by the Director of this area as having special flood hazards in which the sale of flood insurance has been made available under this chapter.

It goes on, under the current statute, to spell out the details of this.

Mr. President, I am concerned about the operation of this provision. What the law appears to say is, we are not going to compensate anybody if they build facilities in the special flood hazard areas. That makes sense. If you are going to build in that special flood hazard area and you do not buy insurance, probably we should not be compensating you for it. That appears to be what the law says.

However, the way this law is now interpreted under the current disaster bill and other current disaster bills is that, if you are within that special flood hazard area and you have not purchased flood insurance and it was available and a disaster occurs, you can still go sign up for flood insurance and get full payment and recompense, even though you did not have insurance at the time the disaster occurred.

Perhaps that is a fair reading of the statute. We do not know the full legislative history.

It does not appear to be a complete reading, as you look at the statute.

In addition, though, Mr. President, there is this phrase: "During the anticipated economic or useful life of the project."

That refers to when you should have flood insurance. The way that has been interpreted is that you are only required to have flood insurance for 3 years.

Mr. President, here is the dilemma. You can have a disaster, have the Federal Government come in and pay you for that disaster, be required by law to get flood insurance, take out the policy, and 3 years later on a building that may last 50 years or 40 years or 36 years, under our tax laws' depreciation schedules, only be required to have flood insurance for 3 years; have a second disaster and the Federal Government ends up paying for the same construction in a hazardous area twice or three times or four times or as many times as that occurs.

In other words, our requirement, under the way this law is construed, is to not have a full commitment to buy flood insurance even though the Federal Government has had to pay for the problem once. I think that is a mistake. I think what we ought to do is say if there is a disaster and the Federal Government steps in to help compensate you in that disaster that you ought to have to have flood insurance. And if a second disaster occurs and you do not have the flood insurance you were required to originally, we should not pay you a second time. That is what this amendment does.

This particular amendment is within an area that other Senators are studying. I believe the Banking Committee is looking at this entire area and will within this session bring forth on this floor a series of reforms in this area. I bring this amendment up because my preference would have been to eliminate paying the second time if someone has had notice and gotten recompense. I do not think they should be paid a second time if they had not maintained the flood insurance they should. I think this statute is being misconstrued.

But at the request of Senators who are active in this area, who are in the process of drafting reforms, I want to withdraw this amendment. But, Mr. President, I want to make it clear that I think, one, this is wrong. This is wrong to stick taxpayers a second time. And, two, I want to serve notice that when this reform measure comes to the floor, I fully intend to make sure that this, I believe, mistaken policy is corrected.

Mr. President, at this point I ask unanimous consent that the amendment be withdrawn.

The PRESIDING OFFICER. The Senator has that right. The amendment is withdrawn.

The amendment (No. 762) was withdrawn.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I would like to take a moment to congratulate the Senator from Colorado for bringing this amendment in the first place and also to thank him for his forbearance in not proceeding forward with it at this moment.

The Senator from Colorado is 100 percent correct. We have an egregious situation on our hands in this country where we have an insurance system that has literally encouraged people to live within floodplains—and floodplains include not just what we see happening in the Midwest, it includes all of the coastline of the United States and other areas.

We have about $220 plus billion of liability we are carrying for properties that people have not insured. We have some, I think it is, 2 million-plus homes that are insured out of the 11 million that are in the floodplain. So the vast majority of homes are uninsured.

Senator D'AMATO and I have been working within the Banking Committee these last months to put together a piece of legislation which we are literally in the last hours of closing on that we believe will provide a combination of enforcement mechanism and fairness and balance to the need to recognize some people live within the floodplain—and there are reasons in certain parts of the country where that is the case—but that there must be some responsible approach to the insurance for those homes in those areas.

The Senator from Colorado has singled out one—and it is only one—of the egregious components of the evasion of responsibility which has characterized our flood program. We have people who go out and get emergency assistance and rebuild immediately right within the area of potential hurricane or beach erosion or storm. Then they turn around and get assistance again from the Federal Government when, indeed, the storm hits or the beach erodes. It is absurd. The only reason they can carry insurance is that the Federal Government is subsidizing it.

We should not be subsidizing people to live in the erosion areas where we know we can predict with certainty their homes are going to disappear. Moreover, we should, obviously, require greater responsibility and accountability with respect to the insurance program in these areas.

So, I thank the Senator from Colorado for his response on this issue, and I can guarantee we will be addressing this in September when we return.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 763 TO THE FIRST COMMITTEE AMENDMENT

(Purpose: To modify the provisions of the Federal Crop Insurance Act governing yield averages and to provide late planting coverage and prevented planting coverage under such Act)

Mr. DURENBERGER. Mr. President, I send an amendment to the pending committee amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Minnesota [Mr. DURENBERGER], for himself, Mr. GRASSLEY, and Mr. PRESSLER, proposes an amendment numbered 763.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following new section:

SEC. . FEDERAL CROP INSURANCE FAIRNESS.

(a) LEVELS OF COVERAGE IN EXCESS OF 75 PERCENT OF RECORDED OR APPRAISED AVERAGE YIELD.—Subsection (a) of section 508 of the Federal Crop Insurance Act (7 U.S.C. 1508(a)) is amended to read as follows:

"(a) AUTHORITY TO OFFER INSURANCE.—

"(1) IN GENERAL.—If sufficient actuarial data are available, as determined by the Board, the Corporation may insure producers of agricultural commodities grown in the United States under any plan or plans of insurance determined by the Board to be adapted to the agricultural commodity involved.

"(2) CAUSES.—The insurance shall be against loss of the insured commodity due to unavoidable causes, including drought, flood, hail, wind, frost, winterkill, lighting, fire, excessive rain, snow, wildlife, hurricane, tornado, insect infestation, plant disease, and such other unavoidable causes as may be determined by the Board.

"(3) PERIOD.—

"(A) IN GENERAL.—Except in the case of tobacco, insurance shall not extend beyond the period the insured commodity is in the field.

"(B) DEFINITION OF FIELD.—For purposes of subparagraph (A), in the case of aquacultural species, the term 'field' means the environment in which the commodity is produced.

"(4) STANDARD YIELD COVERAGE.—

"(A) IN GENERAL.—Subject to subparagraph (B), any insurance offered against loss in yield shall make available to producers protection against loss in yield that covers 75 percent of the recorded or appraised average yield of the commodity on the insured farm for a representative period.

"(B) ADJUSTMENTS.—Average yields established under subparagraph (A) shall be subject to such adjustments as the Board may prescribe to the end that the average yields fixed for farms in the same area, that are subject to the same conditions, may be fair and just.

"(5) LESSER YIELD COVERAGE.—In addition, the Corporation shall make available to producers lesser levels of yield coverage, including a level of coverage at 50 percent of the recorded or appraised average yield, as adjusted.

"(7) ADDITIONAL PREMIUMS.—Additional insurance under this subsection shall be provided for an additional premium (for which no premium subsidy or administrative subsidy may be provided) set at such rate as the Board determines—

"(A) appropriate to reflect accurately the increased risk involved; and

"(B) actuarially sufficient to—

"(i) cover claims for losses on the insurance; and

"(ii) establish a reasonable reserve against unforeseen losses.

"(8) LEVELS OF COVERAGE IN EXCESS OF 75 PERCENT OF RECORDED OR APPRAISED AVERAGE YIELD.—The Corporation may make available to producers on a farm located in a growing area a level of coverage in excess of 75 percent of the recorded or appraised average yield, as adjusted, if the Corporation determines that normal variations in yield in the growing area have not resulted in the payment of claims for losses while the level of coverage is limited to 75 percent.

"(9) MAXIMUM LEVEL OF COVERAGE.—Except as provided in paragraphs (6) through (8), the corporation may not make available to producers any level of coverage in excess of 75 percent of the recorded or appraised average yield, as adjusted.

"(10) PROJECTED MARKET PRICE OPTION.—One of the price elections offered shall approximate (but be not less than 90 percent of) the projected market price for the commodity involved, as determined by the Board.

"(11) UNINSURED LOSSES.—Insurance provided under this subsection shall not cover losses due to—

"(A) neglect or malfeasance of the producer;

"(B) the failure of the producer to reseed to the same crop in areas and under circumstances where it is customary to so reseed; or

"(C) the failure of the producer to follow established good farming practices.

"(12) INSURANCE RISKS.—The Board may limit or refuse insurance in any county or area, or on any farm, on the basis of the insurance risk involved.

"(13) AGRICULTURAL INCOME IN COUNTIES.—Insurance shall not be provided on any agricultural commodity in any county in which the Board determines that the income from the commodity constitutes an unimportant part of the total agricultural income of the county, except that insurance may be provided for producers on farms situated in a local producing area bordering on a county with a crop-insurance program.

"(14) ANNUAL REPORTS.—The Corporation shall report annually to Congress the results of the operations of the Corporation as to each commodity insured.

"(15) PROJECT MARKET PRICE LEVEL.—Beginning with the 1994 crop year, the Corporation shall establish a price level for each commodity on which insurance is offered that shall not be less than the projected market price for the commodity, as determined by the Board.

"(16) PRICE ELECTION.—Insurance coverage shall be made available to a producer on the basis of any price election that equals or is less than that established by the Board. The coverage shall be quoted in terms of dollars per acre.".

(b) DISTRIBUTION OF COVERAGE INFORMATION.—Section 508(m) of such Act (7 U.S.C. 1508(m)) is amended by adding at the end the following new paragraph:

"(3) DISTRIBUTION OF COVERAGE INFORMATION.—The Corporation shall distribute information on Federal crop insurance coverage offered for a commodity to each producer participating in a price support or production adjustment program established for the commodity.".

(c) LATE PLANTING COVERAGE.—Section 508 of such Act (7 U.S.C. 1508) is amended by adding at the end the following new subsection:

"(n) LATE PLANTING COVERAGE.—

"(1) IN GENERAL.—Producers on a farm entering into a crop insurance contract under this Act shall be offered late planting coverage that would permit planting after the final planting date for a commodity by up to 25 days for coverage under the contract.

"(2) REDUCTION OF COVERAGE.—If the producers on a farm purchase late planting coverage under paragraph (1), the yield guarantee shall be reduced by—

"(A) 1 percent per day for each of the 1st through 10th days planting is delayed beyond the normal final planting date;

"(B) 2 percent per day for each of the 11th through 25th days planting is delayed beyond the normal final planting date; and

"(C) such other amounts as can be demonstrated to offset the additional insurer risk of providing the coverage.

"(3) PRESUMPTION OF COVERAGE.—The producers on a farm shall have late planting coverage as part of a basic policy of insurance under this Act unless the producers notify the Corporation that the producers waive late planting coverage.

"(4) RAISES IN PREMIUMS.—If the Corporation determines that late planting coverage would raise premiums to such an extent as to discourage participation in the program established by this Act, the Corporation shall offer late planting as a separate endorsement.".

(d) PREVENTED PLANTING COVERAGE.—Section 508 of such Act (7 U.S.C. 1508) (as amended by subsection (c)) is further amended by adding at the end the following new subsection:

"(o) PREVENTED PLANTING COVERAGE.—

"(1) IN GENERAL.—Producers on a farm entering into a crop insurance contract under this Act shall have prevented planting coverage as part of the basic policy of insurance under this Act.

"(2) COVERAGE.—

"(A) IN GENERAL.—Subject to subparagraph (B), if the producers on a farm are prevented from planting a crop of a covered commodity as the result of excess moisture, drought, or other natural disaster, the producers shall be eligible for coverage equal to 35 percent of the guaranteed level of coverage for the crop.

"(B) OPTIONAL COVERAGE.—The producers on a farm may purchase additional coverage described in subparagraph (A) such that the total coverage for the producers is not greater than 50 percent of the guaranteed level of coverage for the crop.

"(3) SUBSTITUTE CROP.—The producers on a farm shall have the option of planting a substitute crop, in lieu of an insured crop, as part of the basic policy under this Act. The value of the substitute crop shall offset the remaining guaranteed level of coverage of the insured crop.

"(4) PRESUMPTION OF COVERAGE.—The producers on a farm shall have prevented planting coverage as part of a basic policy of insurance made available under this Act unless the producers notify the Corporation that the producers waive prevented planting coverage.

"(5) RAISES IN PREMIUMS.—If the Corporation determines that prevented planting coverage would raise premiums to such an extent as to discourage participation in the program established by this Act, the Corporation shall offer prevented planting as a separate endorsement.".

(f) YIELD AVERAGES.—Section 508A(b) of such Act (7 U.S.C. 1508a(b)) is amended by adding at the end the following new paragraph:

"(4) YIELD AVERAGES.—

"(A) ESTABLISHING A MINIMUM LEVEL OF INSURANCE PROTECTION.—The Corporation shall establish a minimum level of insurance protection for those covered producers who have had reduced yields due to natural disasters.

"(B) NONSTANDARD CLASSIFICATION PROCEDURES.—The Corporation shall make adjustments in the Nonstandard Classification procedures established under subpart O of part 400 of chapter IV of subtitle B of title 7, Code of Federal Regulations, to account for producer yield declines due to recurrent natural disasters.".

(g) DATE OF IMPLEMENTATION.—

The provisions of this amendment will take effect on January 1, 1994.

Mr. DURENBERGER. Mr. President, I rise today to offer an amendment on behalf of myself, Mr. GRASSLEY, and Mr. PRESSLER. This amendment will redesign crop insurance coverage. It will also get the Government out of the business of trying to make income replacement payments to farmers in the Congress whenever we experience a natural disaster, which is what brings us here today.

Today we are considering a bill that will cost $4.7 billion. Eventually the final cost of the Midwest disaster will be more than $10 billion. A large part of this cost is the result of agricultural crop losses.

One reason why the Government will pay disaster payments to farmers this year is because only 70 farmers in the 9 States that have been affected by the heavy rains purchased prevented planting coverage for their crops. Prevented planting coverage would have protected farmers who could not get into their fields to plant a crop. As a result of the heavy rains, farmers throughout Minnesota and the rest of the Midwest could not plant a crop this year.

In Minnesota, 1.1 million acres—or 27 percent of agricultural land was prevented from planting.

I visited the Elmer Petersen farm in Lucerne, MN, with Secretary of Agriculture Espy back in June. The reason we went to Lucerne, which is on the border of South Dakota, is because the airports in Mankato and Jackson and Marshall in the south central area of Minnesota were under 2 feet of water.

The Petersen farm was under water too—and a tractor was stuck in the mud midway through a field. Elmer Petersen is suffering this year.

And so is Richard Peterson of Jackson County, MN, who still has a shed full of seed. Richard could not plant most of his corn this year—and he is suffering the fourth year of significant crop loss since 1986. There are thousands of farmers just like Elmer and Richard throughout the Midwest.

In Minnesota, total crop losses are estimated at $1 billion. Iowa's losses are $1.2 billion, South Dakota's farmers have lost $757 million, North Dakota's crop losses have reached $300 million, Missouri crop losses are estimated to be $2.7 billion, Nebraska has registered $250 million in crop losses, farmers in Kansas have lost $450 million of crops to the floods, and Illinois farmers have lost $565 million.

That's only crop losses. Infrastructure repair and emergency services will send the final cost of this disaster well past $10 billion.

Now the Government has a big financial problem on its hands. And it is not the fault of the farmers either, because most of them—at least in Minnesota—never knew that prevented planting coverage was available to them.

Even representatives at the Federal Crop Insurance Corporation admit that crop insurance agents do not push prevented planting coverage because of the small commission. The option for late planting coverage is not pushed either—despite the fact that it does not raise the farmer's premium.

And what is ridiculous about this is prevented planting coverage is not expensive. A policy for an average corn farmer in Minnesota would only cost $1 per acre and would guarantee him $52.50 in return.

My amendment will make prevented planting coverage part of the basic Federal crop insurance policy. This year's statistics reveal why this change needs to be made; 56,000 crop insurance policies sold in Minnesota and none had planting coverage; 95,000 policies sold in Iowa and only 37 had prevented planting coverage; 63,000 policies sold in Illinois and only 17 had prevented planting coverage; 66,000 crop insurance policies sold in Kansas and only 13 had prevented planting coverage; 18,000 policies sold in Missouri and only 1 had prevented planting coverage; 68,000 policies sold in North Dakota and none had prevented planting coverage; 57,000 policies sold in Nebraska and only 2 had prevented planting coverage; 8,500 policies sold in Wisconsin, and only 1 had prevented planting coverage; 10,000 policies sold in Kentucky and none had prevented planting coverage; and 31,000 policies sold in South Dakota and none had prevented planting coverage.

So, Mr. President, we need to change the incentives that have landed us in this mess. This amendment will bring some much needed reform to the program, making it more farmer friendly by providing farmers with real coverage. And—through increased participation—these changes will finally put the Federal Crop Insurance Corporation on sound footing.

These reforms will get the Government out of the business of income replacement when farmers are prevented from planting.

My amendment is very simple. It will do four things:

First and most importantly, this amendment makes prevented planting coverage part of the basic Federal crop insurance policy. That means that a farmer who cannot get into his field to plant—like Richard Peterson, and Grant Annexstad, and Sharon Clarke—would be reimbursed for 35 percent of his coverage. Farmers would also have the option to purchase additional prevented planting coverage up to 50 percent of their policy.

Farmers would be permitted to waive the prevented planting coverage. However, if they do, they will be going into the planting season at their own risk. Given the current disaster payment system of about 20 cents on the dollar, most farmers will stick with the prevented planting coverage.

Farmers will buy prevented planting coverage because it makes financial sense. An average corn farmer would receive $52.50 per acre in prevented planting coverage for only a $1 per acre premium.

Second, in case a farmer plants at the last minute because he is delayed beyond the FCIC—The Federal Crop Insurance Corporation—final planting date, this amendment would improve late planting coverage by extending the last planting period by 5 days, from 20 to 25 days. It would also prorate coverage loss by the day rather than by 5-day increments. Farmers currently lose 10 percent of coverage every 5 days. My reform would change the reduction to 1 percent per day for the first 10 days, and 2 percent per day for the remaining 15 days.

The reason for this much needed reform is simple. In southern Minnesota the growing season is a lot shorter than that in Georgia or Florida, as examples. In Minnesota the first frost comes by mid-October, so if you do not have your corn or beans in by July 1—you can be pretty sure that you have lost half your crop.

So, in Minnesota and the rest of the Upper Midwest, Mother Nature is already taking money away from you if you plant after the first week in June. There is no reason why crop insurance ought to be taking a huge grab at 10 percent of your coverage every 5 days.

Third, this amendment directs FCIC to establish a minimum yield coverage floor in order to protect farmers from having a series of diasters artifically lower their yield coverage.

Farmers currently have to provide 10 years of yield data to determine their crop insurance coverage. Some farmers in the Midwest are excellent farmers and during normal weather are averaging yields of 120 bushels an acre and up. However, if they have to work into their average 3 or more years of abnormally low yields—or zero-yield as some farmers will have to do this year—then the insurance will not reflect the true yield that the farmer ought to be covered. Without a minimum yield floor, it would be like insuring a $100,000 house for $70,000.

Fourth, and last, the amendment mandates the FCIC to send information on all available crop insurance to every farmer participating in Federal farm programs.

Farmers are not signing up for the different coverage that the Federal crop insurance offers because they do not know about it and they do not know what it would do for them. In order to fill this information gap, every farmer who participates in a Federal farm program would receive information on available crop insurance.

The Federal Crop Insurance Corporation has made numerous commitments to me during the past 2 years that they would make the changes administratively. I received these commitments in November 1991, March 1992, June 1992, November 1992, and June 1993. In June 1992, FCIC Administrator Jim Cason sat in my office and told me that he was going to make late and prevented planting coverage part of the basic crop insurance policy, and nothing happened.

So, here we are, Mr. President, with one of the largest disasters in a century. And FCIC is still telling me—next year. I do not trust this bureaucracy. The Senate needs to protect farmers from crop losses next year, and the way to do that is to approve this amendment.

The PRESIDING OFFICER. Is there further debate?

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. How much time does the Senator wish on this amendment?

Mr. DURENBERGER. Mr. President, I think Senator GRASSLEY may wish to speak, so I would imagine 10 minutes would be an adequate amount of time.

Mr. BYRD. Mr. President, I ask unanimous consent that there be a time limitation of 10 minutes; that there be 10 minutes on the side of the Senator who has offered the amendment and not to exceed 10 minutes on this side.

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. Reserving the right to object, and I shall not. I wonder if the Senator might accommodate me in that I might have 5 minutes to speak as in morning business prior to the vote.

Mr. BYRD. Yes, I include that in the request.

The PRESIDING OFFICER. Is there objection to the request, as modified?

Without objection, it is so ordered.

Who yields time?

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. DURENBERGER. Mr. President, I yield 5 minutes to my colleague from Iowa.

The PRESIDING OFFICER. The Senator from Iowa is recognized for 5 minutes.

Mr. GRASSLEY. Mr. President, before I speak in support of Senator DURENBERGER's amendment, I want to thank Secretary of Agriculture Espy because he made a decision today to turn a negative into a positive, and that is in regard to whether or not farmers in the disaster areas, because of floods, should be able to make forage, legumes, or what we call hay from their Conservation Reserve Program, the CRP, acres.

Before, the decision had been very difficult for farmers to make because the USDA was requiring 50 percent repayment of the annual payment that the farmer got from USDA for their CRP. So today Secretary Espy announced that he reduced that 50 percent down to 25 percent. He also announced administrative changes that will make it easier for counties to qualify for the release of the CRP.

Whereas, in the past, counties had to demonstrate a 40-percent loss of all crops in the counties, now counties can demonstrate a 40-percent loss on forage only in order to qualify for emergency haying and grazing. Traveling in Iowa as I have—15 out of the last 30 days—I can attest to the need for this change and the fact that it is going to be very helpful to farmers who have had a loss of crop, either from flooding or from excessive winterkill of legumes in our part of the State.

I do now want to speak in support of Senator DURENBERGER's amendment. I am very happy to be an original cosponsor of this legislation. I think this legislation has broad bipartisan support. But, more important, it enjoys the support of every farm group that I know about. Had this legislation been enacted last year, our task today would be much easier. Had this legislation been enacted last year, farmers who purchase crop insurance would have had protection from the rains which forced them to plant their crops late in the season or who were prevented from planting their crops altogether because of either flooding or just plain old wet weather.

There is no more telling statistic which demonstrates the need for this amendment than this, and it is the fact that in the 95,000 policies for Federal crop insurance written in Iowa, only 37—only 37, 3-7—out of 95 had prevented planting riders written for them. I can tell you that every one of the farmers in my State would have appreciated prevented planting coverage or a more reasonable late planting option.

Had this legislation been enacted last year, the 70,000 farmers in Iowa holding 95,000 policies would now be looking forward to indemnity far and above, higher than the 21 cents on a dollar that current disaster legislation now provides.

To be sure, there will be those who will not vote for this despite the obvious merits. People might be taking shelter behind the notion that, well, let us wait to see what the administration will propose, or let us try the reforms soon to be enacted through the Agriculture Committee budget reconciliation package, or let us take more time to study the problem. But this, my colleagues, has been studied. There is not a person from the President on down—and I have heard him say that—who does not say that Federal crop insurance needs to be reformed. There is not a person in this body who does not believe that.

Well, now you have an opportunity to make some of those very important changes that need to be done to make Federal crop insurance workable so that disaster aid is no longer a necessity. My good friend from Minnesota, Senator DURENBERGER, has ably crafted such a package which will address many of the inequities in the current system.

Reforming the yield calculations, changing the late-planted option, and the prevented-planting riders are all absolutely essential to instilling in the farmer confidence in this program so that more farmers will buy it and there will be less need for disaster aid.

Had the Federal Crop Insurance Program included prevented planting as a standard element of a crop insurance program, the FCIC would today be the hero of the day and many farmers would have been fully covered, and our task today, talking about disaster aid for agriculture and the very important debate we had on Senator HARKIN's amendment, would have been much less needed.

I urge my colleagues to support this much-needed measure. Do not wait. Let us make some changes now so we do not get caught later on and have to apologize for inaction.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I believe I have 5 minutes.

The PRESIDING OFFICER. The Senator is correct. He is recognized for 5 minutes.

BUDGET RECONCILIATION

Mr. DOMENICI. Mr. President, I rise to deliver at least a partial explanation of what the numbers are in the reconciliation bill. We do not have everything, but we think these are pretty accurate.

It is astounding what numbers are being thrown around as to what this reconciliation bill is going to do. So I am just going to read off a few and then put a chart in the RECORD.

First, let me give you what is going to happen in 1994. Believe it or not, in 1994 there will be no cuts—zero for 1994. There will be $31.7 billion in new taxes and user fees. That is an extraordinary ratio—$31.7 billion in taxes to zero, effectively, in cuts.

Now, let us move to 1995. In 1995, Americans are being told we have to sacrifice. We are really cutting. Listen to the numbers: $4.3 billion in net cuts for the entire year of 1994, including whatever the Medicare and entitlement so-called reform or cuts are; taxes for that year, $45.9 billion. That is a whopping ratio of $10.60 in taxes to $1 in cuts for the whole of 1995, the second year of this agreement.

The third year of this agreement, the net spending reductions are finally something, $19.6 billion, and the taxes are $52.1 billion. The ratio in the third year is $2.61 in taxes and fees for $1—for $1—in reductions.

Now, I am not going to give you the next two. They get slightly better. But the net effect of all of this is that 80 percent of the so-called spending cuts occur in 1996, 1997, and 1998. The year the President will be running for reelection and the 2 years following will be 80 percent of the cuts that have been so nicely told to the American people that we are all going to sacrifice; Government is going to get smaller.

And, yes, on the tax side, they go up regularly from $31 billion, to $46 billion, to $52 billion, to $63 billion, to $61 billion, for a whopping total of $255 billion, versus a total cut of $119 billion. The final ratio, therefore, is $2.13 to $1. I might remind everyone, it is taxes first, spending later—maybe.

Now, having said that, there is a dispute over $44 billion. The Congressional Budget Office does not give the President credit for $44 billion which he continues to claim. We are going by CBO numbers. The $44 billion is taking credit for $44 billion of savings that are prescribed according to CBO, the Congressional Budget Office, by the 1990 agreement. They choose to say, since we have to cut them now, we will take credit for them. But the 1990 agreement provided for those cuts.

Therefore, I would like to submit the table for the RECORD. There is nothing in this evaluation that speaks of $500 billion in deficit reduction.

Mr. SASSER. Will the Senator yield for a question?

Mr. DOMENICI. I am going to finish and then I will sit down.

Mr. SASSER. There will not be any time then.

Mr. DOMENICI. Mr. President, $427.5 billion is what I find in the summary from our staff which I think is absolutely accurate, if not perilously close.

It is 427.5, and included in that is $52.6 billion in interest savings.

I ask unanimous consent that the table be made part of the RECORD, and I would be pleased to explain it to anyone. There are some who want to know about the $44 billion. We will be glad to sit down with them and show them what it is at every opportunity henceforth, now that I have some numbers.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

CONFERENCE BUDGET RATIOS

[In billions of dollars]

	1994	1995	1996	1997	1998	1994–98
Spending Reductions:						
Appropriations		1.3	−7.5	−22.4	−37.3	−65.9
Reconciliation	−3.3	−7.0	−13.8	−18.2	−22.2	−64.6
Other[1]	3.2	1.4	1.7	2.1	2.3	10.7
Subtotal	(*)	−4.3	−19.6	−38.5	−57.2	−119.6
User fees	2.2	2.4	3.7	3.1	3.3	14.7
Revenue increases	29.5	43.5	48.4	60.7	58.5	240.6

CONFERENCE BUDGET RATIOS—Continued

[In billions of dollars]

	1994	1995	1996	1997	1998	1994–98
Subtotal	31.7	45.9	52.1	63.8	61.8	255.3
Debt management	−0.5	−1.0	−1.3	−1.6	−2.0	−6.4
Debt service	−0.9	−3.4	−7.4	−13.4	−21.1	−46.2
Subtotal	−1.4	−4.4	−8.7	−15.0	−23.1	−52.6
Grand total	−33.1	−54.6	−80.4	−117.3	−142.2	−427.5
Ratio of taxes and user fees to spending reductions	(2)	$10.66 to $1	$2.66 to $1	$1.66 to $1	$1.08 to $1	$2.13 to $1

[1] Assumes $8.4 billion in intragovernmental offsets from future Federal pay legislation and $2.3 billion from the previous enactment of extended unemployment benefits.

[2] Not applicable.

Note: (*) Based on preliminary CBO/JCT estimates.

BUDGET AGGREGATES

[In billions of dollars]

	1993	1994	1995	1996	1997	1998
CBO capped baseline:						
Discretionary	548	539	540	555	570	585
Mandatory	771	815	866	913	983	1,050
Subtotal	1,319	1,354	1,406	1,468	1,553	1,635
Deposit insurance	−7	4	10	(*)	−13	−9
Net interest	199	211	231	251	271	293
Offsetting receipts	−67	−69	−73	−74	−76	−79
Total spending	1,443	1,501	1,574	1,645	1,734	1,840
Revenues	1,142	1,214	1,290	1,355	1,413	1,480
Deficit	302	287	284	290	322	360
Reconciliation conference:						
Discretionary	548	539	541	548	548	548
Mandatory	771	815	860	901	967	1,030
Subtotal	1,319	1,354	1,402	1,448	1,515	1,578
Deposit insurance	−7	4	10	(*)	−13	−9
Net interest	199	210	227	242	256	270
Offsetting receipts	−67	−71	−75	−78	−79	−82
Total spending	1,443	1,497	1,563	1,613	1,677	1,756
Revenues	1,142	1,244	1,334	1,403	1,474	1,539
Deficit	302	254	229	210	205	218

Prepared by SBC Minority Staff, August 4, 1993.

Note: (*) Less than $500 million. Details may not add to totals due to rounding. Preliminary CBO/JCT estimates.

Mr. DOMENICI. My last observation has to do with some of the statements about how many new jobs are going to be produced by this plan.

We have received a copy of a release in the planning and research of the State of California, one of their major departments. What they end up saying each and every year during this package is that the great State of California will lose 351,000 jobs rather than creating any. Over the 5 years, they are planning a job reduction of 1.75 million in the State of California. They put it this way:

> This study estimates that the likely compromise deficit reduction plan currently being prepared will cause California to suffer a reduction in economic activity of $5.4 billion in 1994, an average of $13.5 billion over the 5 years, equivalent to two Loma Prieta earthquakes a year. Those are very big numbers, equivalent to three-quarters of California's personal income tax levies.

Noted Richard Sybert of the Office of Planning and Research, the Director.

There is a modification to it because the conferees have lowered the taxes to a 4.3 on gasoline. So there is an addendum to it adjusting these numbers to the ones that are correct.

EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR RELIEF FROM THE MAJOR, WIDESPREAD FLOODING IN THE MIDWEST ACT OF 1993

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. Who yields time?

The Senator from Minnesota has 5 minutes remaining.

Mr. DURENBERGER. Mr. President, the Federal Crop Insurance Corporation has made numerous commitments to me and to others during the past 2 years that we have been working on this bill. Earlier I indicated the number of times in which they have told me they might take some action, and did not.

As a result, Mr. President, I put this bill together with my colleague, Senator DASCHLE, during the 102d Congress, introduced in March 1993, with Senators DASCHLE, PRESSLER, BURNS, DORGAN, CONRAD, GRASSLEY, KEMPTHORNE, and GORTON.

As my colleague from Iowa pointed out the amendment is supported by the National Corn Growers, the National Association of Wheat Growers, American Soybean Association, the National Barley Growers Association, the American Oat Association, all of their Minnesota counterparts.

One of the central aspects of the Federal Crop Insurance Fairness Act which we introduced was a reform in the way the FCIC determined yield coverage or yield average for coverage of crops. I am proud to say that the importance of using actual production history, was recognized by the Agriculture Committee and was incorporated into the budget reconciliation.

As far as I can tell, that is about all we are going to get in the way of remedial legislation from the process. While I know and I would expect that my good friend from West Virginia is going to raise a point of order on this, I must just say that the reality is that the Agriculture Committee has had an opportunity to deal with this subject and they have dealt with it only to the extent of raising the issue of actual production history.

The administration is not dealing with crop insurance reform in any particular way. Dealing with it in some other place is not going to protect the American farmers against having us debate after the next natural disaster that visits our part of the country—stand here and debate what should be a decision taken by every single farmer across this country.

I applaud the good sense of the Agriculture Committee. I applaud the good sense of those involved in the budget reconciliation. Even if farmers this year purchase coverage based on their actual production history, they did not and will not be able to purchase prevented planting coverage until something is done about it. This is the place to do it. This is the vehicle, the only vehicle available to us to accomplish it.

I think, Mr. President, that there is no question that we must approve this amendment tonight. The experts have come from Minnesota, they have come from Iowa, from all over. We do not need to hear from any more experts on the subject. We do need action. It is ridiculous to face a situation here where we are talking about a good part of $5.7 billion being expended on the floor of the Senate simply because only 70 farmers out of literally hundreds of thousands in the flooded States purchased prevented planting coverage.

So I urge all of my colleagues to support this amendment. I yield whatever time remains.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. BYRD. Mr. President, I understood that someone on the Agriculture Committee was going to come to the floor and oppose the amendment.

The administration intends to pursue, I am told, with the authorizing committees, comprehensive crop insurance reform with less reliance on Federal disaster payments for farmers affected by future natural disasters, and to provide such assistance in a more timely and cost effective manner.

Mr. President, it seems to me that is the way we ought to do business on this subject matter. We ought not be reforming. We ought not be enacting reform in a piecemeal manner on an appropriations bill.

I see the distinguished chairman of the Agriculture Committee coming to the floor.

I yield such time as I may have remaining to him in the event he wishes to speak.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. I thank the Chair.

What is the parliamentary situation on time, Mr. President?

The PRESIDING OFFICER. The Senator from West Virginia controls 8 minutes, 27 seconds; the Senator from Minnesota has 1 minute, has yielded his time.

Mr. LEAHY. I would add only this: I have heard the debate and listened to what the distinguished chairman of the Appropriations Committee, the Senator from West Virginia, has said.

I think it would be a tremendous mistake to try to reform this crop insurance program on this bill. I have discussed this matter with President Clinton and with Agriculture Secretary Mike Espy. Both of them agree that this insurance program should be changed. They are working on developing reforms. My authorizing committee, the Committee on Agriculture, Nutrition and Forestry will be working on it. But I am willing to bet that there is not a person in this country who would write the reform of the system tonight, even if they were guaranteed that their proposal would automatically go into law.

I do not doubt the good intentions of the Senator from Minnesota or others. I would like to see the Federal Crop Insurance Program reformed and I am working with this administration on ideas to reform it. But this emergency flood relief package that we are debating tonight is not the right bill for that job.

Reform crop insurance is going to require significant hearings and tough debate. Different States are affected differently under the crop insurance program. In some States, there is very substantial enrollment. In other States enrollment is much less. This factor, as well as the types of crops covered and the use of different insurance options varies from State to State.

Let us have the hearings in the Committee on Agriculture. The President of the United States has assured me that he wants to work on this issue. The Secretary of Agriculture has made it very clear both in public and in private meetings with me and with Senators of both parties that he too wants a solution. I think we should give them an opportunity.

I intend to join with the chairman of the Appropriations Committee, the distinguished Senator from West Virginia, in whatever action he takes. If he moves to table this amendment, then I will join him in that. If he prefers to vote the amendment up or down, then I will join him in that approach. But I would hope that my colleagues would understand that as chairman of the authorizing committee, I intend to vote with the chairman of the Appropriations Committee on this matter, not because I disagree on the need for reforms but because I do not believe that this is the place to adopt them.

We are going to get one real bite at the apple on reforming crop insurance when the administration makes its proposals. Let us do the job right at the right time to do it.

I yield back to the distinguished Senator from West Virginia with the statement that I totally agree with the position he has taken.

Mr. BYRD. Mr. President, I thank my distinguished colleague, the Senator from Vermont.

Mr. President, does the distinguished Senator wish to say anything further?

Mr. DURENBERGER. Mr. President, I might take just 1 minute.

Mr. BYRD. Would the Senator like for me to yield a minute? I would be glad to.

Mr. DURENBERGER. I thank the chairman.

The PRESIDING OFFICER. The Senator is recognized for 1 minute.

Mr. DURENBERGER. Mr. President, I just did not draft this amendment simply because of this year's flood. We have had a whole series of droughts, then floods. And the preventated planting coverage has been an issue for all involved with agriculture for a long time. I found out 3 years ago the seriousness of the problem and found that it prevailed all through our area. I brought a lot of people in; drafted this amendment; and met with the people on the Agriculture Committee staff.

We have been talking about these crop insurane reforms for a long time. We have been in and out of the administrations both Bush and Clinton. I repeated it 100 times. I think if the Agriculture Committee were actually interested in doing this, we would have had a hearing. We have not had a hearing—even though Senator DASCHLE and I have requested a hearing from the Agriculture Committee.

I offered, myself, at various times to various people on the committee to be available to use any amendment as a vehicle.

It is a very bipartisan amendment. It is not all that complicated. It is a very complicated issue, as my colleague from Vermont says, but the bill itself is not very complicated.

I just sense a resistance on the part of both the administrations that we have served with to address the need for crop insurance reform. I appreciate the chairman of the Agriculture Committee coming to the floor. But, we are about to lose billions of dollars because we have not dealt with the issue of crop insurance reform. I do not see any vehicle other than this bill, therefore this is an appropriate vehicle.

This is not one person's idea of how to resolve the problem. It is the result of many people all over this country participating in the process.

So, much as I respect my colleague from Vermont, I just may say to my colleagues we do not have any choice other than the amendment before us if we really care about saving money—and saving our farmers.

The PRESIDING OFFICER. The time of the Senator has expired. Is there further debate on the amendment?

Mr. BYRD. Mr. President, how much time is remaining?

The PRESIDING OFFICER. The Senator from West Virginia has 3 minutes.

Mr. BYRD. I yield 2 minutes to the Senator from Vermont.

Mr. LEAHY. Mr. President, I note for my friend from Minnesota that this is not the only forum to take action. In the reconciliation bill, there is language on crop insurance reported from the Committee on Agriculture that fits within the Byrd rule. This language gives broad leeway to the Secretary of Agriculture to take immediate administrative action to address some of the most serious problems facing the crop insurance program. I am assured by the Secretary that he is going to act under this authority.

I expect that this legislation will pass and will be signed into law this week. I think we ought to go forward with the reconciliation crop insurance reforms, allow the Secretary to use the new authorities. Then we should try to bring together those regions of the country and those diverse interests that have made reform difficult in the past and bring them together to produce a consensus on money forward.

I hope that the Senator from Minnesota and others will join with the Committee on Agriculture in working to resolve this issue. I think meaningful reform is possible. I would like to see a combination of the administrative actions that the Secretary of Agriculture will be able to take under the reconciliation legislation, plus the new proposals for future legislation forthcoming from the Administration. These two together will result in the best program for the country.

But this emergency disaster relief package that we are debating tonight simply is not the best vehicle to move forward on the issue.

Mr. PRESSLER. Mr. President, I rise in support of the Durenberger amendment No. 763.

The amendment will greatly improve the crop insurance program and enable the program to serve as a better risk management tool for farmers. I urge its adoption.

I was planning on offering a crop insurance amendment. However, I have decided to wait offering that amendment until the Senate turns to crop insurance reform later this Congress.

The amendment is quite simple. I would give producers the option to drop the 1993 crop year from future yield and rate determinations for Federal crop insurance. Without this amendment, farmers and ranchers likely will face higher premiums for less coverage under the Federal Crop Insurance Program. This should not happen.

It is now evident that the administration and Congress will be rewriting our crop insurance laws to provide risk management tools for farmers and producers facing natural disasters. For too long, we have seen the legal problems that exist when the Government provides both disaster payments and Federal crop insurance indemnities. More often than not, it has been the farmer who has suffered.

The Federal Crop Insurance Corporation uses a formula based on a 10-year average in determining a producer's yield and coverage rates. Including the 1993 crop in future yield and rate determinations could have a detrimental impact on thousands of producers in South Dakota and the Midwest in disaster areas. These detrimental effects could last for the next decade. As a result, future Federal crop insurance coverage could be cost prohibitive for many producers.

Though crop insurance is intended to be farmers' main delivery system for disaster assistance, this latest disaster could leave many producers without coverage. It also could raise the need for further disaster payments should new disasters strike. Eliminating the 1993 crop from future yield and rate determinations would make future crop insurance coverage a better risk management tool for producers.

Mr. President, there is growing consensus that crop insurance is the best way for the Government to provide relief from natural disasters for farmers and ranchers. My amendment would adjust the program to ensure greater effectiveness. I am joined by Senators GRASSLEY and DURENBERGER. I will work to see that the Senate adopt this amendment at a later time.

Mr. BAUCUS. Mr. President, I rise today in opposition to the Durenberger amendment to the Supplemental Appropriations Act. This amendment would add automatic coverage for prevented planting to the insurance packages offered through the Federal Crop Insurance Corporation.

On the surface, this amendment is worthwhile. The improvement of the crop insurance program is imperative and the time for reform is at hand. However, this bill is the wrong vehicle for this reform.

We have received assurances that the Clinton administration is committed to crop insurance reform. The authorizing committee for this program, the Senate Agriculture Committee, on which I sit, is committed to reform this program. Change is imminent but we must not confuse reform with relief legislation.

Disaster relief must be approved quickly. Reform of the insurance program should follow the customary procedure. Hearings should be held to obtain appropriate input. Then, this body can reform this vital program.

Mr. President, I support the goal of crop insurance reform. Meaningful reform is desirable but I must remind my colleagues that this is not the correct legislative vehicle. In our haste I am worried that we might cause the average citizen, our farmers, the flood victims, or the Federal Treasury to bear unfair burdens created in our haste.

I urge my colleagues to join me in opposing this amendment and I look forward to working together—soon—toward comprehensive reform in the vital crop insurance program.

Mr. President, I yield the floor.

Mr. BYRD. Mr. President, I yield the remainder of my time and make a point of order against the amendment as being legislation on an appropriations bill under Rule XVI.

Mr. DURENBERGER. I raise the defense of germaneness of the amendment to language already in the bill, and I ask for the yeas and nays.

Mr. BYRD. Mr. President, I move to table the question of germaneness.

The PRESIDING OFFICER. Is there a sufficient second on the motion to table.

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table.

The clerk will call the roll.

Mr. FORD. I announce that the Senator from New Jersey [Mr. BRADLEY] is necessarily absent.

The PRESIDING OFFICER (Mr. BINGAMAN). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 68, nays 31, as follows:

[Rollcall Vote No. 242 Leg.]

YEAS—68

Akaka
Baucus
Biden
Bingaman
Boren
Boxer
Breaux
Brown
Bryan
Bumpers
Byrd
Campbell
Chafee
Cochran
Conrad
Coverdell
DeConcini
Dodd
Domenici
Feingold
Feinstein
Ford
Glenn
Graham
Gregg
Hatfield
Heflin
Helms
Hollings
Inouye
Jeffords
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lugar
Mack
Mathews
McConnell
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murray
Nunn
Packwood
Pell
Pryor
Reid
Riegle
Robb
Rockefeller
Roth
Sarbanes
Sasser
Shelby
Simon
Simpson
Smith
Stevens
Warner
Wofford

NAYS—31

Bennett
Bond
Burns
Coats
Cohen
Craig
D'Amato
Danforth
Daschle
Dole
Dorgan
Durenberger
Exon
Faircloth
Gorton
Gramm
Grassley
Harkin
Hatch
Hutchison
Kassebaum
Kempthorne
Lott
McCain
Murkowski
Nickles
Pressler
Specter
Thurmond
Wallop
Wellstone

NOT VOTING—1

Bradley

The PRESIDING OFFICER. On this vote, the yeas are 68, the nays are 31, the motion to table is agreed to.

The motion to table having been agreed to, the Chair rules that the Durenberger amendment numbered 763 is a legislative proposal offered to an appropriations bill, in violation of rule XVI. The point of order is sustained.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, while several Senators are present on the floor, there were 40 amendments on the list this morning. Out of 40 amendments that were listed under the unanimous-consent agreement—40 this morning—11 amendments remain.

I hope, and have some reason to believe, that some of these will not be called up. I wonder if we could get some indication from Senators whose names are listed as to whether or not they are really serious about their amendments.

The majority leader has indicated that he wanted to finish this bill tonight, and I am hopeful of doing that.

How about Mr. DECONCINI? Does he intend to call up his amendment?

Mr. DOLE?

He just indicated to me he may or may not.

Mr. DURENBERGER has one remaining and he will call that amendment up.

Can we get a time limitation on that amendment?

Mr. DURENBERGER. Mr. President, I am willing to enter into a time limitation. I need only 20 minutes for myself and a colleague on the amendment.

Mr. BYRD. Mr. President, I ask unanimous consent that there be a limitation on the amendment of 25 minutes: 20 minutes to the Senator who is the author of the amendment and 5 minutes to the opposition.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BYRD. I thank the distinguished Senator.

Mr. President, Mr. GRASSLEY is down for two amendments. Does he intend to call both amendments up?

Mr. GRASSLEY. Neither one.

Mr. BYRD. Mr. HELMS has two amendments.

Mr. KOHL has one amendment.

Mr. MACK; Mr. METZENBAUM; Mr. PRESSLER.

Very well. I think we made progress. It appears that of the 11 amendments remaining, that possibly we have about 8 left.

I thank the Senator for yielding.

Does he wish to proceed with his amendment?

Mr. DURENBERGER addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

AMENDMENT NO. 764 TO THE FIRST COMMITTEE AMENDMENT

(Purpose: To establish a procedure to offset "emergency spending" on natural disasters by rescissions, sequesters of discretionary and mandatory spending, and taxes if necessary)

Mr. DURENBERGER. Mr. President, I send an amendment to the pending committee amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Minnesota [Mr. DURENBERGER] proposes an amendment numbered 764 to the first committee amendment.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of Amendment No. 764 is located in today's RECORD under "Amendments Submitted."

Mr. DURENBERGER. Mr. President, this amendment is a relatively simple one. It would rewrite our policy on paying for disasters to bring them more in line with the demand of the American people for fiscal responsibility in the U.S. Congress.

I spent a fair amount of time debating a similar amendment as it would apply to the current disaster which has been visited on the Midwest, including my State of Minnesota, so I will not repeat a lot of the arguments both as to why it is appropriate on this bill and why it is just appropriate public policy.

Mr. President, the purpose of the amendment is to set up a procedure for us to deal with the issue which is before us in the future. I see the issue, as expressed in common parlance, as: If you are going to spend money, find a way to pay for it.

Spending in supplemental disaster relief bills after this year and after this particular disaster, except spending on capital expenses, will have to be offset within 1 year. Spending on capital expenses will not be affected by this amendment at all. The offsets in this bill will be recommended by the President, not the mandated offsets that I had in my amendment which came very close to passage here earlier.

These offsets are to be recommended by the President. They can be changed by the Congress. The President and the Congress may choose from rescission, sequestration, or, under certain specified circumstances, a tax.

In our earlier debate, we walked through, with the help of our colleague from Pennsylvania, a variety of these options and a variety of the consequences of the adoption. As a matter of policy, it is declared in this amendment that the President and the Congress should first try to make rescissions, then turn to sequesters, and only resort to taxes in extreme situations. Cuts in discretionary spending are made through the appropriations process in the following fiscal year following the disaster by lowering the discretionary spending ceilings.

Cuts in mandatory spending may be made by Congress and are patterned generally after Leon Panetta's 1992 bill with which the experts on this floor are familiar. Across-the-board, special treatment for low-income programs, retirement benefits, and Medicare. Social Security and Railroad Retirement are exempted.

Sense-of-the-Congress language is included in the amendment directing that administrative expenses should be cut before program muscle is cut. If offsets are not made in the spending bill, the President is required to sequester funds in the next fiscal year. That backup sequestration is from discretionary accounts only and according to the Budget Act procedures. Spending bills for disaster relief get expedited consideration—no nongermane amendments on the bill, no nonrelevant amendments and amendments between Houses or conference reports. And there is a 60-vote rule in the Senate.

No other mechanism is available to pass emergency relief supplementally. Taxes cannot be used to offset spending unless the spending in the bill and prior emergency supplemental relief bills in the current fiscal year exceed 1 percent of funds available for sequestration.

Any tax imposed in an emergency relief bill must expire at the end of the calendar year. Amounts sequestered from mandatory programs do not reduce the baseline for future spending.

Finally, the amendment provides sense-of-the-Congress language should the legislation be passed to have the President make periodic certifications as to the adequacy of preparations for natural disasters in States and providing for disincentives in the disaster relief program for States which have not made adequate preparations.

Mr. President, all of this has been put together both at the behest of experts and with the help of experts. These are not new ideas, new materials, and so forth. They reflect basically the concern of all of our colleagues who have approached the issue of demonstrating a sense of responsibility.

I have said it before and I will say it again: Because we ask people to pay for disaster relief does not mean we do not have heart. It is time to do disaster relief appropriately. It is time to make sure we do not run out of money for disasters in the future. It is time for us to take on the responsibility of preparing ourselves for the next response to a natural disaster.

This amendment will do that. I recommend it to my colleagues.

I will yield whatever time he may require to my colleague from Idaho.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CRAIG. Mr. President, I am pleased to join my colleague from Minnesota, Senator DURENBERGER, in debating and presenting this amendment to the U.S. Senate. I do believe in the old adage that charity begins at home. I think there is not an American today who has not watched what has gone on in the Midwest and recognized that this country must respond. So I do associate myself with the remarks the Senator has just made, that this is not a question of whether we should or should not have disaster relief.

But I think those Americans who have displayed their concern and their voluntary effort in the contributions they sent in and in the recognition that this Government will respond are also increasingly frustrated by an administration that has just presented the largest tax increase in history, by a Federal deficit of nearly $300-plus billions, the fact that this is borrowed money, and the fact that we are not trying to go back into the budget and find the $4 billion-plus and pay for it, offset it, take care of it.

I said to citizens of my State I would vote for disaster relief. Someday Idahoans might need the same help that Illinoisans, Missourians, and folks from Iowa are needing at this moment. But we do have a responsibility to be responsible in the sense of paying for this. The Senator from Minnesota has now come up with what I think is a reasonable approach—in other words, if you will, to craft into our policy a mechanism by which we approach this. And the ultimate test, of course, after we have gone beyond 1 percent of the discretionary funding—if in fact a disaster were greater than that and the Midwest disaster might well get greater than that by the time all of the expenses, all of the losses are brought forward—that we then ask the American people to do what we should and that is to pay for it by some form of tax that would last only for the period of time of the payment. And that would be a responsible approach.

I have crafted an amendment. I recognize the hour is getting late. It was my plan to offer an amendment that was similar, only it would have sent the appropriators back into the 1994 budget to find the money. A similar amendment dealing with discretionary moneys was proposed and voted on a few moments ago, an amendment by the Senator from Minnesota, and this Senate rejected it on a 54-45 vote, I believe. So I am not at all convinced they would agree to my amendment.

But I do believe it is just very responsible for us to address paying for this issue, showing the charity, showing the responsibility we have, but at the same time saying to the American people we are not going to increase the deficit, we are going to ask those who gain favor by largess of the Public Treasury that they must share, too. Their increase in program or their increase in payment might be down by one-half of 1 percent this year because someone in the Midwest lost all that they owned, lost all that they had worked their lifetime to gain. That is just what this country is made of. That is the kind of stuff that I think all of us recognize is part of what we are about.

What we are not about, and what Americans have never been about, is piling up debt—not taking on the responsibility of paying for that which they owe. Yet we have not been that responsible, and this amendment offers that kind of responsibility that when there is a need and a national disaster we will not just pile it up on the debt side. We will ask the American people to be responsible in sharing with us, in caring for, and then paying for that which we have asked them to participate in.

So I am pleased to join the Senator. I think he has set forth a reasonable approach that suggests the President play an important role in this, that he could choose the rescission or sequestration under the circumstances, or offer forth even a revenue-raising measure, and he would have that kind of prerogative, and the Congress should respond by alternative selections. But it sets forth a clear procedure.

What we are doing now is just piling up debt and that is not responsible. What we are doing, though, is caring. And that is the conflict we find ourselves in. That is a conflict none of us should ask of ourselves or the taxpayers of this country. We ought to be able to cut discretionary spending; we ought to be able to offset and do those kinds of things that clearly are important, yet at the same time, as the Senator does in his amendment, hold whole those programs that are directly life-supporting as it would relate to Social Security and other programs. Those are separate and apart. That, I believe, is also important.

So I do stand in strong support of this and the sense-of-the-Senate legislation that the President make periodic certifications of the adequacy of the preparations for natural disasters in States.

I think it is important that this Senate say to the collective States of this Nation: You, too, must share in this and you ought to prepare. This is the second major and largest natural disaster we have had in a very short time, from the one in Florida that cost the taxpayers and the debt structure of this country billions of dollars, to this great disaster now of the Midwest that will cost the citizens and the debt structure of this country literally billions more.

So when you can stand here and debate a method for paying, it does not mean that you are not in support of participating and it does not mean that this Government is not in favor of doing what it ought to do. What it simply means is that we are only responsible when we put forth a mechanism that provides a payment process, and when we, in fact, offer up a method by which to pay it. I think the American people are asking that at this moment. That is what they expect of us, as their legislators, to do: To come forth with those kinds of reasonable and forthright approaches to resolve these problems, to move toward keeping our fiscal house in order, and why I am pleased to join with the Senator in the cosponsorship and the offering of this amendment.

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER (Mr. LEAHY). The Senator from Oregon.

Mr. HATFIELD. Mr. President, I yield myself 2 minutes.

This may or may not be a good idea, but 31 pages—31 pages—that come under the jurisdiction of the Finance Committee, the Agriculture Committee, the Environment and Public Works Committee, the Governmental Affairs Committee, and who knows, I have only glanced through that little of it to identify at least four committees of jurisdiction. And no hearings.

I think it is fine to make our statements on the principle, but I cannot believe this body is ready to write this kind of legislation on an emergency supplemental appropriations bill.

The Appropriations Committee gets a lot of criticism from time to time of reaching out, and yet here we are asking the Appropriations Committee to carry this kind of 31 pages of legislation. It is not just a question of legislation on an appropriations bill; this is a violation of every concept of this body, of having committees of jurisdiction to authorize and an Appropriations Committee to appropriate and a Budget Committee to set standards, and so forth.

It seems to me that this is really—I hate to say it, but I do not think that I can really be serious on this, asking us to do this at this hour of the night on this bill, trying to meet the emergency needs of people out there suffering all through the Midwest. And, therefore, Mr. President, I do hope at the appropriate time we can move this on to a final decision.

I am not saying it is not the right of any Senator to bring this up. But I just want to remind the body, the very thing that oftentimes the Appropriations Committee is criticized for doing, now we are being asked to do it and want to impose it on a supplemental appropriations bill.

Mr. CRAIG. Will the Senator yield?

Mr. HATFIELD. I will be happy to yield.

The PRESIDING OFFICER. The Senator's 2 minutes has expired.

Mr. HATFIELD. On your time.

Mr. DURENBERGER. I am pleased to yield to my colleague how much time he needs.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I mean this in the most positive vein. This is 32 pages of legislation. Within less than 48 hours, we will be asked to vote on 1,800 pages of legislation that most Senators have not seen, nor will they have the ample opportunity to examine.

So you see, we have, in fact, done that before, and we will be doing it before this body adjourns for the August recess. It is not uncommon to establish public policy in the manner that has been proposed by the Senator from Minnesota and, of course, I think we all recognize that if this Senate were to choose to act tonight on this amendment, then the appropriate process would go forward that would allow those committees to participate, as they would under the appropriate authority.

So this form of legislation most assuredly is not unique. We will be deeply involved in it before the next day is up, and it will be known as, of course, the great budget bill that will be debated on this floor in a very short time.

Mr. DURENBERGER addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. HATFIELD. Will the Senator yield for just 10 seconds for me to respond to the Senator from Idaho? Eighteen hundred pages of legislation from the committee of jurisdiction, not on top of an appropriations bill, piggybacking on an appropriations bill.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DURENBERGER. May I inquire how much time I have remaining?

The PRESIDING OFFICER. The Senator from Minnesota has 5 minutes 16 seconds.

Mr. DURENBERGER. Mr. President, I yield myself such time as I may need. I express my appreciation to my colleague from Idaho for the gentleness of his response. But it is true that within—and we have all been through this before—within just a matter of 48 hours, hopefully, we are going to see an 1,800, or whatever it is, page bill. I think I heard the first description of some of the basic numbers tonight; we have nothing behind it.

Mr. President, that may come from a committee, but let me say to my friend and colleague from Oregon that it affects the Committee on Agriculture, Nutrition, and Forestry; the Committee on Armed Services; the Committee on Banking, Housing, and Urban Affairs; Budget; Commerce, Science, and Transportation; Energy and Natural Resources; Environment and Public Works; Finance; Judiciary; Governmental Affairs; probably Foreign Relations.

Mr. HATFIELD. Will the Senator yield for a question? All hearings have been held in those committees, have they not been?

Mr. DURENBERGER. I do not know whether hearings have been held on all of these issues. I know there are ERISA waivers coming through—at least one that is coming through—that was never heard in the Senate Finance Committee. I could go through a variety of other legislation that is going to be on this reconciliation bill that will not have had a hearing. I cannot describe it in specific terms because I have not seen the bill.

We all know that it is going to happen and it is going to be there and it is going to be in front of us; it is going to be buried in 1,800 pages and nobody is going to find it. I have presented a long amendment, as my colleague said. I have had it distributed. People have an opportunity to see it before they vote on it. I have stood here, and I have explained it to everyone here.

I do not want to belabor the point of being prepared, but I only, with my colleague from Idaho, contest the allegation of my colleague from Oregon that just because this one happens to violate every rule of this body, that that is going to make a lot of difference to the people out there who are calling on our telephones here all day long. I think the last count I had at 5 o'clock today was something like 1,759 telephone calls on the kind of subject we are dealing with today: The issue of spending, the issue of taxes, and the issue of the deficit.

The people who are on my telephone could care less about the rules of this body or the rules of this place in which we work or at this hour of the night. It is only 10 minutes to 8. I do not know if there is an appropriate hour for us to debate the issue of whether or not this body will continue to spend money that it does not have, and it is not willing to ask people to pay for it.

I have raised the issue, Mr. President, before and I will raise it again: If, in fact, we cannot ask the people of this country to respond financially to the needs of this disaster, how in the world are we going to get them to respond to anything else? A $4.1 trillion debt, 14 percent of our Federal spending going into debt service rather than to meet the needs of this country.

It has to come to an end at some point in time. We came very close on a 54 to 45 vote to end it with regard to a disaster that has cost the people of my State $1.3 billion. I felt an obligation to stand up here and ask my colleagues to ask the people of this country to pay for it.

Now, this amendment that is before us now is not quite that kind of an amendment. The one before us now simply says before the next natural disaster comes, before the next one is visited on us, can we not get ready for it and put in place a system that will be responsive, not only to the needs of the people who are hurt by the disaster but to the next generation of Americans, the people who have to carry the load of meeting the decisions, the financial obligations and decisions that we make here.

The PRESIDING OFFICER. Who yields time?

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Mr. President, I yield myself 1 minute.

Mr. President, I think the point where we are today in this appropriations bill now has resolved itself down to really a simple question. The people may not be interested in the rules and regulations and procedures and processes of the Senate at this particular point, but they are interested in getting the relief to help ease their misery out there in the Midwest.

We are now at the point of whether we are going to go back and redefine the Budget Control Act, whether we are going to redefine procedures and processes not only under that act that involves at least four jurisdictions of this Senate without hearings, without any kind of presentations. At this hour the question is are we going to move this money out to the people in need or are we going to stand here and debate and argue the procedures and the processes of the Senate? That is the question.

The PRESIDING OFFICER. The Senator's minute has expired.

Who yields time?

Mr. DURENBERGER addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DURENBERGER. Mr. President, in response to my usually very generous colleague from Oregon, let me simply say that if this amendment passes—and I certainly hope that it does—it will probably take the Appropriations Committee of the Senate maybe 2 or 3 or 4 minutes to persuade their colleagues from the House to agree to this particular amendment. We are not holding anything up. The money will get to Minnesota; it will get to Iowa, wherever, as soon as our colleagues are able to get the House to agree to this particular amendment.

The PRESIDING OFFICER. Who yields time?

Mr. DURENBERGER. Mr. President, do I have time remaining?

Mr. BYRD. How much time remains?

The PRESIDING OFFICER. The time of the Senator from Minnesota has expired. The time of the Senator from West Virginia is 1½ minutes.

Mr. BYRD. Mr. President, I know there is no rule around here, while we are talking about procedure, concerning consistency, but my friend from Minnesota voted earlier this morning to increase the budget deficit by $3.4 billion. He voted twice to do that. So I just say that for the RECORD.

Consistency, thou art a jewel but not the hobgoblin of little minds.

Mr. President, there are those who would belittle procedure. What is the difference between a lynching and a fair trial? Procedure. So it is important.

I yield back the remainder of my time. I make the following point of order. Section 306 of the Congressional Budget Act of 1974, as amended, prohibits consideration of an amendment in the jurisdiction of the Budget Committee unless offered on a measure reported from that committee. This amendment is in the jurisdiction of the Budget Committee, offered to a bill that has been reported not by the Budget Committee but by the Appropriations Committee. Therefore, I make a point of order under section 306 against this amendment.

Mr. DURENBERGER. Mr. President, under the relevant provisions of the Budget Act, I move to waive the point of order and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to waive the Budget Act. All time has expired. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. FORD. I announce that the Senator from New Jersey [Mr. BRADLEY] is necessarily absent.

The PRESIDING OFFICER (Mr. FEINGOLD). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 35, nays 64, as follows:

[Rollcall Vote No. 243 Leg.]

YEAS—35

Bennett
Bingaman
Brown
Chafee
Coats
Cohen
Craig
D'Amato
DeConcini
Dole
Domenici
Durenberger
Faircloth
Gorton
Gramm
Grassley
Gregg
Hatch
Heflin
Hutchison
Jeffords
Kempthorne
Lugar
Mack
McCain
Murkowski
Nickles
Nunn
Packwood
Pressler
Robb
Simpson
Smith
Thurmond
Wallop

NAYS—64

Akaka
Baucus
Biden
Bond
Boren
Boxer
Breaux
Bryan
Bumpers
Burns
Byrd
Campbell
Cochran
Conrad
Coverdell
Danforth
Daschle
Dodd
Dorgan
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Hatfield
Helms
Hollings
Inouye
Johnston
Kassebaum
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Mathews
McConnell
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murray
Pell
Pryor
Reid
Riegle
Rockefeller
Roth
Sarbanes
Sasser
Shelby
Simon
Specter
Stevens
Warner
Wellstone
Wofford

NOT VOTING—1

Bradley

The PRESIDING OFFICER. On this vote the yeas are 35, the nays are 64.

Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The amendment of the Senator from Minnesota contains provisions within the jurisdiction of the Senate Budget Committee. The bill before the Senate was not reported by that committee. The amendment therefore violates section 306 of the Budget Act, and the point of order is sustained.

Mr. BYRD. Mr. President, it seems that we are down to a possible 4 amendments out of 40, and I hope that not all 4 of these will be called up.

Mr. DECONCINI, I understand, will want to call his amendment up, and I understand that Senator DOLE will call up his amendment. So that is two out of the 4.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, I ask unanimous consent to speak for 4 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

IN-COMING CALLS AGAINST THE PRESIDENT'S BUDGET

Mr. GRASSLEY. Mr. President, last night, President Clinton made an appeal to the American people on behalf of a budget reconciliation conference agreement. He told Americans to let their voices be heard. He said the following:

> I need for you to tell the people's representatives to get on with the people's business.

I assume that the President would then abide by the wishes of those who followed the President's advice and called their representatives, lest we feed the growing cynicism and the distrust of elected leaders.

Today my offices in Washington and Iowa have been inundated with calls; they are overwhelmingly against the President's budget. The people of Iowa have made it clear to me that their business is to cut spending first, and this budget fails to do that.

I received nearly 400 calls as of 3:30 this afternoon. They are still coming in. Seventy-five percent reject the Democrats' tax-and-spend budget.

I have talked with several of my colleagues, and their calls are coming in at roughly the same ratio, against the President's budget.

If these numbers hold up, it is very clear that the people do not want us to tax and spend. And in that case, the President has a moral obligation to pull down the bill. And then he should start all over again by cutting spending first.

Mr. President, it was a risky strategy for President Clinton to appeal directly to the people, because now he is obliged to do their bidding.

During the Reagan era, the great communicator that Reagan was—he employed a similar strategy. His was successful. He and the people saw eye to eye, not because he sold the message well or because he was simply a supreme communicator; it was because of the substance of his message. People want spending cuts and they do not want tax increases. It is just that simple.

With this budget, they are getting the opposite. In fact, this is the worst. This is worse than tax and spend, because the taxes are retroactive. So it is tax yesterday, and it is cut spending tomorrow. We tax the past, the present, and the future and we cut spending tomorrow. It is the "manana budget." No wonder the people are saying no.

Mr. President, last night President Clinton called for the "yeas and nays." Today, Americans are voting thumbs down. It is the President's move now. His is a moral obligation. I urge him to consider pulling down the bill and starting over.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KOHL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR RELIEF FROM THE MAJOR, WIDESPREAD FLOODING IN THE MIDWEST ACT OF 1993

The Senate continued with the consideration of the bill.

AMENDMENT NO. 765 TO FIRST COMMITTEE AMENDMENT

Mr. KOHL. Mr. President, I rise to offer an amendment in behalf of myself and the Presiding Officer, Senator FEINGOLD.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

> The Senator from Wisconsin [Mr. KOHL] for himself and Mr. FEINGOLD, proposes an amendment numbered 765.

Mr. KOHL. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> Insert at the appropriate place in the amendment:
>
> The Secretary shall implement an emergency forage program under the same terms and conditions used to administer the 1988 Emergency Forage Assistance Program authorized by section 103 of Public Law 100–387, except that it shall apply to pasture damaged by winterkill, excessive moisture, flooding, drought and/or related conditions in 1993. *Provided*, That funds for this purpose shall be available only to the extent an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, is transmitted by the President to Congress. *Provided further*, That the entire amount of funds used under this paragraph is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

Mr. KOHL. Mr. President, the administration has indicated its support for this amendment. Simply, what this amendment would do is provide 50-percent cost-share assistance for reseeding of forage crops in areas with significant losses of forage crops due to this year's disastrous weather.

This program was used in 1988 to provide assistance to farmers with forage losses as a result of the drought of that year. This amendment would simply renew that program for purposes of this year's disaster.

Mr. President, this is a very modest amendment. The Congressional Budget Office has stated that the cost of this amendment would be only $18 million. But this amendment is very significant to livestock producers in the Upper Midwest, who depend so heavily on forage raised on the farms to feed their animals.

In my own State of Wisconsin, we have lost 750,000 of our 2.2 million acres of alfalfa. Other States in the Upper Midwest have also seen significant losses.

It is important to get those acres reseeded, not only from a standpoint of feed, but also for conservation purposes. The more bare ground we have, the more soil we are going to have running off our fields and into our streams.

I have discussed this with the chairman and his staff, and I have also discussed this amendment with Senator HATFIELD.

(By request of Mr. KOHL, the following statement was ordered to be printed in the RECORD:)

EMERGENCY FORAGE RELIEF BADLY NEEDED IN THE UPPER MIDWEST

• Mr. FEINGOLD. I am pleased to join my distinguished colleague, the senior Senator from Wisconsin, in introducing this amendment. Senator KOHL and I have been working on since this disastrous weather began earlier this year. This amendment is quite simple. It merely revitalizes the Emergency Forage Assistance Program which was in place during the 1988 drought and makes it applicable to the poor weather conditions occurring this year in the Midwest.

The Emergency Forage Assistance Program recognizes the devastating impacts of poor weather on livestock producers who grow their own forage. Dairy farmers who produce their own forage, primarily high quality alfalfa hay, are hit several times by this disaster. First, they have lost their forage crops to the poor weather resulting in drastic forage shortages in the Upper Midwest. As a result forage prices are abnormally high—in fact they are nearly double the normal price. This results in an increase in the cost of milk production and a decrease in milk yields. Farmers are either feeding dairy cows low quality forage or they are culling their herds due to the lack of feed. The cumulative effect of this is desperately low cash flow for dairy farmers.

Adding to the problems faced by so many producers is the fact that so many of the alfalfa fields have to be completely reseeded in order to get a forage crop next year and possibly a late cutting this fall. In Wisconsin, there are nearly 800,000 acres of alfalfa hay that must be reseeded. Other flood and disaster States in the Midwest that produce alfalfa hay or other type of forages have had those crops devastated by either winterkill, spring root rot, excessive moisture, and flooding. USDA has estimated that there are over 2 million acres of forage and pasture land that would be aided by this emergency forage program.

The cost of reseeding alfalfa hay can be as high as $100 per acre. During a crop year in which farmers can barely feed their cows, not to mention their families, they can ill-afford to reseed their fields. This amendment simply would allow eligible producers to receive a 50-percent cost share on the expense of reseeding pasture lands used for haying and grazing which were demolished by this year's bad weather. This will enable dairy farmers to reestablish their forage crops for harvest late this year and next year.

This type of assistance is almost as crucial to dairy farmers in my State as the overall disaster payments. If farmers are unable to reseed their fields this year they will suffer from the disaster of 1993 in 1994, when we revisit this devastating hay shortage. Without assistance many farmers in the Midwest be unable to reseed their fields.

So again, I thank the Chairman for his interest in this amendment, and for recognizing the severity of the forage shortage and the need for this very important legislation. I, too do not wish to slow down the process of approving this aid for farmers. So I will look forward to working with the chairman and the administration in the near future to find a solution to this very severe problem.

Thank you, Mr. President.•

Mr. KOHL. Mr. President, I am going to withdraw the amendment itself at this time because I recognize that the chairman of the Appropriations Committee would not want to have this amendment discussed and considered at this time, but I am going to take an opportunity after the recess to find a vehicle to offer this amendment, and I hope that at that time we can get it passed because I really regard it as a very important amendment, very important to my State and other States of the Middle West.

As I said, I simply do not want to complicate proceedings at this time, but I will ask that we find a vehicle and a way to get this amendment done after the recess.

The PRESIDING OFFICER. Without objection, the Senator's amendment is withdrawn.

The amendment (No. 765) was withdrawn.

Mr. BYRD. Mr. President, I thank the Senator for withdrawing the amendment.

I would like to be helpful with the Senator on his amendment and expect to be helpful at some point. It is not the amount of the money that is involved. It is probably a good amendment.

But Senator HATFIELD and I have a problem. We have a bill here that ought to move, and we do not want it to get delayed in the other body or in conference. We do not want to trigger in the other body amendments on the part of Members who would see an opportunity, if the Senate had amendments to this bill, to add amendments that are not supported by the administration in writing, clearly supported.

So we have been able to encourage Senators not to call up amendments today.

I do thank the Senator, and I will certainly try to be helpful to him on another vehicle before this session is out.

Mr. HATFIELD. Mr. President, will the chairman yield?

Mr. BYRD. Yes.

Mr. HATFIELD. Mr. President, I wish to associate myself with the comments made by the chairman as to the amendment of great interest to the Senator from Wisconsin. I do not, frankly, feel that the Senator from Wisconsin wants to have difficulty in finding an appropriate vehicle because I think most of us here, being realists understand that for the period of time that we are in recess the administration is going to be doing a lot of new evaluating, a lot of new assessing of what is going to be required to meet this tragedy.

I imagine the administration would have a vehicle pretty quickly in place or, that is, in mind as another supplemental appropriation.

Certainly, I join with the chairman in assuring the Senator from Wisconsin my commitment to helping in every way possible.

I urge the Senator also that maybe by that time the administration would incorporate the idea, or at least approve of it, so that we could then move ahead with what the administration has requested.

Mr. KOHL. I thank the Senator, and I thank Senator BYRD.

Mr. President, I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. WELLSTONE). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 766

(Purpose: To provide relief in connection with the Bennett freeze)

Mr. DECONCINI. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Arizona [Mr. DECONCINI] proposes an amendment numbered 766.

Mr. DECONCINI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

At the appropriate place, add the following:

SEC.   . (a) Notwithstanding any other provision of this Act, in the administration of this Act, $118,000,000 of the aggregate amount appropriated by this Act, from such accounts as shall be determined by the Director of the Office of Management and Budget, in consultation with the Secretary of the Interior, and other appropriate heads of Federal departments, agencies and entities receiving appropriations under this Act, and after consultation by the Secretary of the Interior with the tribal governments of the Navajo Indian tribe and the Hopi Indian tribe, shall be available as follows:

(1) $100,000,000 shall be available only for the purpose of providing relief under this Act to the former Bennett Freeze Area within the Navajo Indian Reservation in Arizona, which funds shall remain available until expended; and

(2) $18,000,000 shall be available for the purpose of providing relief under this Act to the former Bennett Freeze Area within the Hopi Indian Reservation, which funds shall remain available until expended.

(b) For purposes of this section, the term "former Bennett Freeze Area" means that portion of the Navajo Indian Reservation and that portion of the Hopi Indian Reservation for which the restriction referred to in subsection (c)(1) was lifted pursuant to an order of the United States District Court for the District of Arizona on September 25, 1992.

(c) For purposes of this Act—

(1) the 26-year restriction on construction and development on an area of the Navajo Indian Reservation and the area of the Hopi Indian Reservation, commonly referred to as the Bennett Freeze, referred to in section 10(f) of the Act of December 22, 1974 (25 U.S.C. 640d–10(f)) is deemed a natural disaster; and

(2) those portions of the Navajo Indian Reservation and the Hopi Indian Reservation for which such restriction was lifted pursuant to an order of the United States District Court for the District of Arizona on September 25, 1992, are each deemed a disaster area.

(d) No funds made available by this section may be expended on any portion of the Navajo Indian Reservation or any portion of the Hopi Indian Reservation with respect to which there is in effect a restriction on construction or improvement pursuant to the order of the United States District Court for the District of Arizona on December 18, 1992.

Mr. DECONCINI. Mr. President, this amendment directs that $118 million of the funds appropriated for this act be designated for providing relief to what is known as the former Bennett Freeze Area. This is a very parochial matter in my State, but it has significant national implications.

The former Bennett Freeze Area, which is on a map here behind me, is this area of the Navajo Reservation in Arizona. It is 1.5 million acres, located on the Navajo Reservation. It is the home of about 7,800 Navajo Indians.

These Navajos are in dire need of emergency relief assistance now. My amendment declares the former Bennett Freeze Area a natural disaster and thereby makes it eligible for disaster relief.

Mr. President, I am compelled to offer this amendment because I believe that the U.S. Government must own up to the disastrous emergency conditions which it has created for the people of the former Bennett Freeze Area communities.

Nowhere in this country have we ever allowed Federal Government policy to stifle the ability of citizens to lift themselves out of poverty and force them to live with the catastrophic consequences for more than a quarter of a century, as we have done right here on the Navajo Reservation.

Some would suggest that we have our own Gaza Strip in the Bennett Freeze. It is a national disgrace. It represents an ill—conceived effort by the Federal Government to hasten the resolution of conflicting tribal land claims to the 1934 Navajo Reservation.

Instead, the imposition of the freeze only penalized innocent people by suspending all construction and development projects they needed to improve and sustain their livelihoods. As unbelievable as it is, this great Nation denied its own citizens—in this case, Navajo native Americans—the right to make a better life for themselves and their children.

Mr. President, the tragedy is that the U.S. Government has pursued this policy for the past 26 years. It held people in a state of abject poverty. As a direct consequence, families live in substandard conditions which are shocking, trapped by a Government ban on construction and development, and prohibited from improving or building a home.

Mr. President, they were unable to repair a broken window, fix a leaking roof, or build a new home for growing families. Shockingly, the ban did not apply only to federally funded construction or development.

People who had hard-earned money and wanted to improve their house or build a house could not do it on this 1.5 million acres of the Indian reservation. The Bennett Freeze is an unfortunate example of government at its worst—destroying the individual incentive to take care of family and community needs. We denied them the chance to pursue and realize the American dream.

Mr. President, they were denied participation in all Federal poverty and disaster assistance programs. They were left behind while their neighbors and the rest of America enjoyed the benefits of progress, when we were having economic upturns and people could improve their homes and they could apply for Federal programs if they were applicable.

Their families and communities have been fractured. Frail elderly grandparents and parents were abandoned to live in isolation because their children were not allowed to build homes near them. Despite a 65-percent increase in family members since 1966, when the ban was imposed, no new homes were built.

The houses which were in place are now severely overcrowded and in serious disrepair. Ramshackle wood and tarpaper houses are commonplace. Aging structures have collapsed around inhabitants. I will show you some pictures in just a moment.

Many simply live with the daily risk of roofs falling in on top of them. One elderly man lives in a structure which may fall down on him any day. He has no other choice. He cannot improve it.

One other man resorted to living in a cardboard box which he fashioned into a makeshift shelter. That is this picture right here. Actually, an American lives in that house tonight. That is his house. He cannot improve it. He has no light, has no electricity, no running water. The wind will blow it down. He puts it back up.

Ninety percent of the existing housing lacks running water or indoor plumbing. An elderly woman walks 2 miles daily to get water because she does not have any other means of transporting water to her home.

Deplorable and unsanitary conditions caused by the lack of running water and electricity make the communities highly susceptible to the spread of infectious diseases and viruses like the Hantavirus.

Tribal and Indian health officials note a higher incidence of diseases like respiratory infections, skin diseases, hypertension, depression and gastro-intestinal infections among former Bennett Freeze residents.

School children struggled to do homework by candle light or kerosene lamps because 97 percent of their homes have no electricity. Many are forced to leave home for boarding schools at early ages because school buses cannot be driven on the rough dirt roads in their communities.

None of the communities located in the former Freeze area has been able to get roads, electricity lines, water and sewer systems, and other basic community infrastructure built. They must travel rough dirt roads, haul water from distant sources, rely on firewood for home heating and go greater distances to get basic services.

They have had no new schools, clinics or other community facilities constructed. They have been bypassed by every federally funded construction program which has benefited other communities.

How, in good conscience, can we allow this travesty to continue. I plead with my colleagues to rectify this 27-year injustice by supporting my amendment.

This amendment will make available $100 million for the Navajo portion of the former Bennett Freeze area and $18 million for the Hopi portion of the former Freeze area.

My amendment will not allow the use of these funds for the development or construction of facilities in the area which has been determined by the District Court of Arizona to have been jointly used by both tribes—so only in the area that now has been divided.

This limitation preserves the modified freeze which the court reimposed in December 18, 1992, in response to the Hopi Tribe's appeal. My amendment will not contravene the court's order in any way whatsoever.

My amendment will only allow funds to be used to provide emergency relief for that portion of the former Bennett Freeze area for which the freeze was completely lifted by the U.S. District Court of Arizona on September 25, 1992.

This court decision represents the conclusion of the trial on the merits of the Hopi tribal claims to the 1934 Navajo Reservation as authorized by Congress under Public Law 93-531. In this decision, the court partitioned 60,000 acres of the 1934 reservation to the Hopi Tribe and the balance remained a part of the 1934 Navajo Reservation.

My amendment gives the OMB director the authority, after consultation with the two tribal governments, to work with the Secretary of the Interior and other heads of appropriate Federal agencies to determine how the $118 million for Bennett Freeze relief assistance will be allocated among the various accounts for which this bill appropriates emergency funding.

The two tribes have assessed the relief assistance required to construct homes, roads, water and sewer lines, electric power systems, and community facilities. They will have to justify the relief assistance needed to the OMB Director and the appropriate Federal agencies.

Bennett Freeze citizens have been denied the basic human needs for far too long. They have been unable to pursue the American dream like other American citizens. They have been forced to live as second class citizens for the past 27 years by the U.S. Government. It is time for us to end this travesty and tragedy.

I want to quote an Arizona paper, the Mesa Tribune, which published an editorial titled "Righting a Wrong," on July 21, 1993. I agree with the editorial which stated that "Families, some of whom are living in tiny one-room log and mud hovels, must be brought into the 20th Century." If Congress can find a way to help foreign countries like Russia, surely we can assist our own citizens to rebuild their lives and communities.

They are not asking for the impossible and we must respond after 26 years of neglect and deprivation.

Mr. President, I ask unanimous consent that copies of newspaper articles and an editorial which appeared in the Mesa Tribune and Washington Post describing the conditions in the former Bennett Freeze area be printed in the RECORD in their entirety.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Mesa Tribune, July 21, 1993]

RIGHTING A WRONG

In the long and tortured history of misguided government policies dealing with American Indians, few have been as ill-conceived as a directive issued in 1966 that came to be know as the Bennett Freeze. It's a little-known story of government-imposed deprivation that has locked an estimated 2,500 families in grinding poverty on a 1.5-million-acre expanse of the western Navajo Reservation in Arizona and has driven many young Navajos from their ancestral homeland.

Congress has an opportunity now to right some of the wrong, if it can muster the courage to admit failure and provide the funds to being making amends.

The problem is rooted in a series of egregious errors by the federal government, dating back more than a century, in its clumsy efforts to set up reservations for the Southwest's Indian tribes. Various sets of seemingly arbitrary boundaries were drawn, sowing the seeds of a bitter dispute between neighboring Navajos and Hopis.

One of those boundaries, drawn by Congress in 1934, put the Hopi village of Moenkopi on the new Navajo Reservation. Rather than fixing the problem after the Hopis protested, Congress let it fester. The Hopi protest grew to include a historical and spiritual claim to much of what had been designated as the western Navajo Reservation, land long occupied almost exclusively by Navajos.

Still, Congress did nothing.

Finally, in 1966, then-U.S. Indian Commissioner Robert Bennett imposed a freeze over any new construction on 1.5 million acres of the western Navajo Reservation in dispute, including Moenkopi and Tuba City. Bennett's intention ostensibly was to force the two sides together to settle the land dispute. Instead, it heightened tensions.

And the freeze, originally intended as a temporary measure, dragged on year after year. For 27 years.

Growing families were not allowed to build new homes. Older homes could not be upgraded with plumbing and electricity. Schools and medical clinics could not be built. Economic development was nonexistent.

Enforced squalor has meant unsanitary living conditions and rising disease rate. Children, as they grew up and had families of their own, were forced to move off the reservation or to Tuba City, where the freeze was lifted. The results have been increased unemployment, alcoholism and other social problems as traditionally close extended families were forced to split up.

Finally, last fall a federal judge said enough is enough. He did what common sense dictated and what Congress should have done long ago: He designated the area around Moenkopi as Hopi territory and the rest of the disputed area occupied by Navajos as Navajo territory.

While the political problem hopefully has been resolved, decades of deprivation must be undone. Families, some of whom are living in tiny one-room log-and-mud hovels, must be brought into the 20th century.

Economic development must be sparked and public facilities brought up to date.

Navajo tribal officials estimate it would take $300 million to bring the former Bennett Freeze area up to the standards of the rest of the reservation. In tight budget times, it's unrealistic to expect that kind of money. So this spring they requested $21.5 million, mainly for housing, utilities, roads, schools and clinics.

It's a modest request, one that defines a house as a simple two-room, 1,000-square-foot box.

As Navajo President Peterson Zah told a congressional subcommittee earlier this month, if Congress can help the Russians through economic hard times, surely it can help 2,500 American Indians out of the deplorable conditions that Congress itself has tacitly imposed and tolerated.

U.S. Sen. Dennis DeConcini, D-Ariz., supports the $21.5 million appropriation, but admits it will be tough getting it approved, given tight budget constraints.

Yet it's the very least Congress can do to begin improving conditions that ought not be tolerated anywhere in this country. Failing to act now would be to perpetuate what amounts to nothing less than a national shame.

[From the Mesa Tribune, July 10, 1993]

NAVAJO, HOPI DISPUTE TRAPS FAMILIES IN PAST

(By Bob Schuster)

TONALEA.—At the end of a bumpy 20-mile ride on rutted dirt roads that extend like a spider's web across the red sandy hills and white limestone mesas of the western Navajo reservations, Nellie Benally sits locked in time.

At 89, she is spiritually and physically dependent upon the earth-covered hogan that resembles a tiny mountain, where she lives with her eldest daughter, Fay, and son-in-law Billy Shorty. For more than two decades she has longed for a small house and a few modern conveniences like running water and electric lights to make life a little easier in her old age.

But as with most of the estimated 2,500 families living in this 1.5 million-acre section of the western reservation, the housing improvements never came. The area, until last fall, was under a government-imposed construction freeze for nearly 27 years.

To the Navajo, everything in nature has gender, including the traditional one-room dwellings built of cedar logs and dirt. Nellie's is the male-style hogan, with the rough-hewn logs planted firmly in the ground in a 10-foot circle, extending upward and interlocking near the smoke hole at the peak. The doorway greets the rising sun to the east.

Here, near the base of Preston Mesa, she raised her three children. It is the same parched land where her mother and maternal grandmother raised their children, herded sheep and grew summer vegetables. That is the Navajo way, even if she is among a dwindling number of elders still living by it.

"If a house was built for me, I think I would feel better. My spirit would be raised up a little bit," Nellie says through an interpreter. Sitting on a folding metal chair next to the tiny cast-iron stove in the center of the hogan, Nellie looks down at the earthen floor and explains that her requests to the local chapter for a house have gone unanswered.

A two-room house was allowed for Fay and Billy after their nearby hogan collapsed last year, but it was built a mile away in a low area prone to flooding, Nellie says. So the couple stay with Nellie on the family ancestral land that grudgingly has provided sustenance for generations.

The family has no car or truck, sand water must be hauled on foot or horseback from a windmill a mile or so away, but occasionally one with a truck will offer a ride into Kaibito 10 miles to the north or Tonalea 20 miles to the south. Or they will go on foot.

Neither Nellie nor Fay has heard about the Four Corners illness that has claimed at least 22 lives. By late last week, public health workers had not made it to this remote part of the reservation to warn residents about contact with deer mice, the rodents found to carry the hantavirus disease.

Most of those who have heard of the illness seem to take it in stride, joking that they have lived with rodents for generations with no apparent ill effects.

Log corrals to the east of Nellie's hogan hold the family's two dozen or so sheep and a couple of horses. On a rise a hundred yards behind the hogan is a ragged stack of cinder blocks intended for a house that was never built because of the construction ban known as the Bennett Freeze.

Similar piles of weathered building materials such as lumber, roof trusses, drywall and shingles sit near many of the aging and dilapidated homes here. In most cases, family members explain, they bought the materials years ago in hopes of upgrading, expanding or replacing older dwellings. Or to build a house for a son or daughter's new family.

Some were to be built by family members and others through tribal housing programs. But nearly all were blocked by Hopi tribal officials who, until last September, determined what, if anything, could be built in the freeze area over which the Hopis long have claimed ownership rights.

LEGACY OF BROKEN PROMISES

Alex Goodman was 4 years old when the Bennett Freeze was imposed in 1966 on his parents' land near White Mesa. Today, there is no place for him, his wife and six children to stay when they visit his parents in their ramshackle wood and tar paper hogan.

It is the large female-style octagon hogan, with a rickety shed of scrap boards nearby. Alex's father, Roy, hauls water by truck from a windmill two miles away, or goes into Red Lake about seven miles away when the windmill is broken.

"A lot of people have gotten nice houses (outside the freeze area), but he can't get a simple two-bedroom house," Alex says of his father, a 60-year-old Korean War veteran. "When we come here we sleep in the back of the truck."

Roy, who suffers from heart problems, arthritis and a severe hearing loss, jokes sarcastically about the many broken promises he and his wife, Ester, have heard over the years.

"For 20 years I have asked for housing improvements. I ask if there is any housing assistance for veterans, but I don't get any. First they told me I was on the waiting list. Now they say there is no money."

He shakes his head and laughs softly.

Then he talks about how none of his eight children was allowed to build a home near his. They and his 25 grandchildren had no choice but to move to Tuba City or even farther away.

"I don't have a good home. My kids have to live in town. There's no room when they come to visit so they don't come around much. We all feel bad about it," Roy says.

Of growing concern are his health problems, which he suspects are linked in part to the years back in the 1960s when he worked in a uranium processing mill in Tuba City. The workers were protected only by thin paper masks from the uranium ore dust that hung in the air, he says.

Local medical facilities lack the specialized equipment and doctors needed to treat him, he says, so he must travel to Phoenix when his health problems kick up.

Tribal officials say health has become a major concern in the former Bennett Freeze area because of crowded homes, unsanitary living conditions due to lack of indoor plumbing and refrigeration and lack of modern medical facilities. A recent survey by Navajo/Hopi Legal Services and the Indian Health Service found that only 7 percent of homes in a portion of the Tonalea Chapter within the former freeze area have electricity and none has running water, sewer or septic services, while 52 percent of Tonalea Chapter homes outside the area have running water.

The survey also found residents of the former freeze area are dramatically more likely than other Navajos to seek medical treatment for a variety of ills, including psychiatric problems.

Louise Yellowman, a Coconino County supervisor for 12 years whose district encompasses much of the former Bennett Freeze area including her Tuba City home, says unsanitary conditions here should be considered an emergency priority, especially in light of the deadly hantavirus outbreak on the eastern reservation. The same conditions that led to the increased rodent population there also are present on the western reservation, she says.

"From what we hear, it's a very dangerous situation if those rodents get that disease in this area," Yellowman says. "I don't think it's here yet, but the sanitation is 30 years behind."

Yellowman says it is heartbreakng to see the squalid living conditions of many of the area's elderly residents and to see younger residents forced to leave their parents to get housing and jobs elsewhere. Even if young people come back now that the freeze has been lifted, she says, there are no jobs because the construction ban also applied to business and industry.

She blames rising alcoholism in the area at least in part on the lack of employment.

"A lot of these young people are just wandering around with no jobs. It's really sad . . . We need industrial development of some sort for these young kids so that people can go to work."

GENERATIONAL TIES TO THE LAND

It was in 1925, when Andrew Nez was 6 years old, that he first met a Hopi when he was sent to boarding school in Tuba City. Residents of what later became the northern portion of the Bennett Freeze area say few Hopis had been seen in the area before the 1920s, and when they came it was to trade grain and handcrafts for the Navajos' mutton.

Nez, a former Tonalea Chapter officer and retired worker at the Navajo Generating Station at Page, says everyday relations between Navajos and Hopis have always been cordial.

Nez recalls his grandfather, Keshkali, telling stories about how he and other members of a band of Navajos known as the Manygoats Clan fled to Navajo Canyon in an area now inundated by Lake Powell to escape Army Col. Kit Carson's roundup of the tribe in 1863.

During Carson's campaign of burning hogans, slaughtering sheep and forcing Navajos on what became known as "The Long Walk" to Fort Sumner in what is now New Mexico, clan members hid out in the canyon, farming and herding a few sheep. When the 8,000 Navajos who survived starvation, cold and disease at Fort Sumner were allowed to return to their land four years later, the Manygoats Clan emerged from Navajo Canyon and returned to their ancestral lands, Nez explains.

The generational link to the land was broken again by the Bennett Freeze, he says, which has forced his only child to move away from the family's ancestral home.

HOPIS FEAR NAVAJO EXPANSION

For their part, the Hopis, who live mainly in a cluster of villages on their reservation surrounded by the Navajo reservation, maintain their claim to vast expanses of northern Arizona is spiritual as well as historical and physical.

"The Hopis view themselves as being the original and the indigenous tribe in northeastern Arizona," says David Warren, a Denver attorney whose firm has represented the Hopis in its land disputes since 1986. "And based upon their own traditions, they have a view that, practically speaking or in a religious sense, all of the land we're talking about in this entire area including most of the Navajo reservation was theirs by prior rights."

Warren admits the land dispute "has been one of those molasses lawsuits that has gone on for years and years and years" but adds the Hopis have a legitimate fear of being hemmed in territorially by the Navajos because of the Navajos' historical prosperity to disperse themselves over vast expanses of territory.

The Hopis have appealed last year's lifting of the freeze to a higher federal court and vehemently oppose the Navajos' push for additional construction in the area, says Warren, who acknowledges the Bennett Freeze has caused hardship for Navajos.

But he insists the Hopis have at least partially approved more than half of all requests to replace or upgrade housing in the area.

Edison Dale, program director in Tuba City for the Navajo Nation Housing Service, says that's simply not true. "Of 300 applications for homes in the past 13 years, only about 40 have been approved by the Hopis," Dale says. "Out of those, only one home got electricity and plumbing.

"If the family was living in a 20-by-20 shed that was falling down, that's what we had to build. Almost exactly the same as what was there before. To me, that's building substandard housing. * * * They cannot say they approved homes."

Nez, the former chapter officer, blames political leaders on both sides and in Washington, DC., for starting and perpetuating this and other land disputes. Many other residents of the area voiced similar complaints, often over what they claim to be a slow and indifferent tribal bureaucracy in Window Rock.

Hopis and Navajos continue to live amicably as neighbors in the Tuba City area, Nez points out, accusing politicians of whipping up suspicions for political gain.

"Navajos believe the land was put here for everybody to use," Nez says. "We're not supposed to be fighting over it."

[From the Washington Post, July 11, 1993]

IN ARIZONA, A 26-YEAR 'FREEZE' OF POVERTY

(By Sue Anne Pressley)

TUBA CITY, AZ, July 10.—Every Monday, Etta Begay's husband, Bennie, drives 140 miles to a job where he builds and repairs other people's houses.

This is a fact of great irony because, for 26 years, the federal government did not permit the couple to make a single repair or addition to their family shack in the Arizona mountains. There is no telephone, no running water, no electricity, not for the Begays or for nearly all of their Navajo neighbors.

Each day, buckets of water must be hauled in from Tuba City, five miles away. Ice is bought and stored in an icebox to preserve the family's meat. At night, Nizba Begay, 15, must do her homework by kerosene lamp. For years, Etta Begay hoped to build a pen for her sheep, but that was against the law.

This area, a 1.5 million-acre expanse of sandstone and sagebrush east of the Grand Canyon, is called Bennett Freeze. It takes its name from Robert Bennett, a former U.S. commissioner of Indian Affairs who in 1966 decided to try resolving a bitter dispute about who had rights to the land—the Hopis, who claimed it for cattle grazing, or the Navajos, who lived there in hogans and huts.

Bennett placed a "freeze" on construction and renovations. Intended as a temporary measure, the moratorium instead lasted until last Sept. 25, when a federal judge lifted it. Over the years, angry tribal disputes and federal neglect delayed resolution of the case.

The result is that this region of lonesome beauty, of snow-frosted mountainpeaks and dirt yards cluttered with old tires and snarling dogs, is among the poorest in the nation. Within the Navajo Nation, the federal reservation that covers 17 million acres in three states and is home to the country's largest Native American tribe, there is nothing quite like it.

"It's a national disgrace, this deprivation," said Sen. Dennis DeConcini (D–Ariz.), who held a hearing here Friday on the economic needs of Bennett Freeze for the Appropriations subcommittee on Interior and related agencies. "It's another Somalia, here in our own country."

To right the wrongs in Bennett Freeze, to build new roads and repair houses for its 10,000 residents and construct health centers and other facilities, the Navajo Nation is asking the federal government for $21.5 million for fiscal 1994 and $308 million over the next five to 10 years. "I doubt we'll get anywhere near that amount," DeConcini said, "but maybe we'll get a bite of it."

Witnesses presented considerable evidence of urgent needs within Bennett Freeze:

James Farrell lives in a cardboard box alongside U.S. 160 outside Tuba City;

Haskey Littleman's old hogan on Coalmine Mesa is about to fall down;

Norman Watson keeps tires on the roof of his house at Rare Metals; they anchor the plastic that keeps the rain and wind from coming in; and

Margaret Keebahe has to cook her meals on an outdoor fire on Shadow Mountain.

At the hearing, Navajo President Peterson Zah emphasized that, because of the restrictions in Bennett Freeze, its residents were prevented from participating in the anti-poverty programs of the late 1960s and have never been able to take advantage of other special services.

"I know of no other situation in history in which the U.S. government has imposed a land freeze like this," he said. "Housing conditions in the Bennett Freeze have been described as the worst in America. It is now poorer than the poorest county in the United States—Shannon County, South Dakota."

According to the 1990 census, Zah said, about 25 percent of households in Shannon County, located in the Sioux Nation in the southwest corner of South Dakota, lacked indoor plumbing. In Bennett Freeze, that is true for 90 percent of homes. Virtually every home in Shannon County has electricity; in Bennett Freeze, 90 percent do not.

Health officials testified that there are two and three times as many cases of diabetes, gastro-intestinal ailments and alcoholism at Bennett Freeze than on other parts of the reservation. School officials noted that Bennett Freeze children often must leave their families and attend boarding school in town because the dirt roads to their homes are far-flung and often impassable.

An anthropologist who has studied the Navajos for 20 years said such conditions are destroying the traditional "Navajo way" in that young people had to leave their parents' land because they could not build homes nearby.

The hearing was three hours of stories of desolation and terrible poverty. Etta Begay would have liked to have been there, not to testify because she is shy and more comfortable speaking Navajo, but because she is interested and to show her support. But Begay had another commitment that morning. She had to walk the eight-mile round trip to the store to buy the day's supply of ice.

Navajos have difficulty speaking about Bennett Freeze without revealing their hostility toward the Hopis. During those 26 difficult years, the Hopis used helicopters and field patrols, the Navajos said, to make sure that residents were not violating the freeze.

When Marie Johnson tried to repair a broken window in Kerley Valley, she said in an interview at her home, a Hopi official came by and posted a cease-and-desist order. When Reed Tso quietly tried to build his dream house outside Tuba City, he came home one day to find his carpenters idle. The Hopis had come, the workers said, threatening arrest. No one wanted to be arrested.

At the hearing, Vernon Masayesva, chairman of the Hopi Tribe, stressed that the freeze also has hurt people. He spoke of forgiveness but also he said he is tired of the Hopis being cast as the villains responsible for the freeze. "If you're outnumbered 10 to 1, any legal protection helps," Masayesva said. "When it comes to repairing roads and windmills, our priority was always last."

The Hopi reservation is completely enclosed by Navajo territory, and about 10,000 Hopis live in Arizona, compared with 250,000 Navajos scattered throughout Arizona, Utah and New Mexico. The Hopis have a different lifestyle—they are more communal, preferring to cluster in small, neat villages. The Navajos value privacy and find paradise in an isolated valley in view of the Sacred Mountain.

Because the principal Hopi settlement, Moenkopi, was exempted from the moratorium along with Tuba City, dominated by Navajos, it is true that the Bennett Freeze did not have such a dramatic impact on Hopi lives and housing.

Surprisingly, there was little rejoicing among Navajos in September when the freeze was lifted. Instead, there was great skepticism. The Hopis immediately moved to appeal the ruling. Besides, the Navajos said, construction costs had risen so much in 26 years that no one has enough money to repair their broken-down houses.

Zah said he becomes angry at government officials who try to excuse Bennett Freeze "with racist assertions such as: 'These Navajos want to live like this.'"

"There are, indeed, many Navajos who want to live in what we call the traditional way—living on the land, farming and raising sheep and practicing the Navajo religion," Zah said. "But that does not mean they wanted to live with inadequate sewers, unpaved roads, no running water or electricity and under the watchful eye of the Hopi tribe. They did not wish to live under a law that prevented them from building a new hogan if the old one collapsed or was struck by lightning.

"The Navajo do not want to live like this. Nobody does."

Mr. DECONCINI. Mr. President, I do want to thank the distinguished chairman of the Appropriations Committee, Senator BYRD, for the many, many, courtesies he has given on behalf of the native Americans. He is the chairman of the Interior Committee and he is very receptive to the problems on our reservations and has been extremely helpful.

I understand his opposition to this. It is not supported by the administration. But I cannot vote for an emergency bill without bringing to the floor one of the tragedies of American history right here that has been going on for 26 years. Because the court has lifted it. If we have a tragedy, we have a disaster, we have an emergency in the middle part of this country due to natural disasters, then we have one on the Navajo Reservation due to the action of the Federal Government—a severe, severe tragedy; a severe, severe emergency; a severe disaster. I hope this amendment will be adopted.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, I compliment the Senator from Arizona on his dedication to the service of his people. He is a member of the Appropriations Committee, a fine member. It cannot be gainsaid that he is as active as anyone on that committee in being of help to his people, people whom he represents. But he proposes to declare as a natural disaster a situation that has existed on the Navajo Reservation for nearly 30 years—I believe the Senator indicated 26 years, to be exact—and which is a result of longstanding disputes between the Navajo and the Hopi Tribes.

The situation involves a freeze on infrastructure development which has existed in a portion of the Navajo Reservation since 1966. The freeze was imposed administratively by the Commissioner of Indian Affairs and later legislatively imposed by Congress, subject to a ruling by the courts.

Senator DECONCINI's amendment—now, get this—proposes that $118 million of the funds provided in this bill for relief to the persons affected by the flooding in the Midwest be taken off the top and redirected to the Navajo Indian Reservation—$100 million—and the Hopi Indian Reservation, $18 million. Senator DECONCINI proposes to make funds available for the two tribes as a result of a decision in Federal district court last December.

As part of the decision, the judge allowed for a partial lifting of the construction freeze. The judge's ruling, however, is on appeal in the Ninth Circuit Court of Appeals. The Hopi Tribe, which would be one of the beneficiaries of the proposed amendment, opposes the amendment. The freeze was imposed in order to protect the rights of both tribes in the resolution of the legal claims to the lands in question.

It is premature to appropriate such significant additional funds while the status of the lands remains in dispute. By providing additional funds for infrastructure development on the lands in dispute, this could prejudice the future consideration of the matter by the courts.

Mr. President, we have had a long day. The Senate has heard many good amendments proposed. But, thus far, the Senate has, in its good judgment, rejected all amendments that have not been supported by the administration—and some that were supported by the administration.

I hope we will not add this amendment to the bill. Mr. HATFIELD and I, and all the members of the Appropriations Committee—and Mr. DECONCINI is a good one—we have to go to the House if we run into a stump between now and the final enactment of this legislation. I hope we will not give the House cause to try to offer a good many amendments.

So in the interests of helping the flood victims—that is what this bill is about—the administration has urged that we "keep the bill free of amendments that are not related to providing relief to the victims of the flood."

I am reading from a letter dated August 3 from the administration.

So, Mr. President, I am prepared to make a point of order against the amendment, and I do make a point of order against the amendment on the basis that it is legislation on an appropriations bill and, therefore, violates the provisions of rule XVI of the Standing Rules of the Senate.

Mr. DOMENICI. Mr. President, I wonder if the chairman will permit me to just have a discussion with Senator DECONCINI for 2 minutes before the Senator gets a ruling on the point of order?

Mr. BYRD. Yes.

Mr. President, I ask unanimous consent the distinguished Senator have 3 minutes, and then I would like to press my point of order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. I appreciate it.

Mr. President, let me say while I agree with the chairman we should not pass this amendment tonight—and I doubt we will—I think we should all recognize this part of the Navajo and Hopi reservation cries out for some kind of legislation that will create a more equitable situation for the people there. This is as much the result of nobody wanting to address an issue, as much the result of lack of attention on the part of Congress and administrations, as anything else, and the easy way was to let stand an order by a man named Mr. Bennett, who was the head of the Bureau of Indian Affairs.

This has caused this to become desolation, and the people who are there are, indeed, desolate. However, I do not believe it belongs on a bill that is talking about flood relief.

I think, I say to my friend from Arizona, we ought to urge the Committee on Indian Affairs to look carefully at this to see what the best judgment is as to the role of the U.S. Government in this desolate area that has been deprived of almost everything except people living in conditions that are unlivable as a result of this order.

I think it should no longer be a matter of blame. We ought to decide constructively what can be done. So in that respect I want to commend him for bringing this issue before the U.S. Senate. It belongs in one of our committees for serious discussion, not continually put over onto some administrator who says, "Let's not do anything until these two Indian groups decide their problems among themselves," which has not occurred in 26 years.

I yield the floor and thank the chairman for yielding time to me.

Mr. BYRD. Mr. President, I withdraw my point of order for the time being.

The PRESIDING OFFICER. The point of order is withdrawn.

Mr. BYRD. I am willing to go to a vote on the amendment. I am not going to ask for the yeas and nays.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 766) was rejected.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I compliment the Senator on his efforts. It was not with great comfort that I opposed his amendment. He certainly has a serious problem, and he has presented it well.

Mr. HATFIELD. Will the Senator yield? I would like to also say to the Senator from Arizona, I admire and respect the Senator from Arizona for trying to make some kind of a resolution, create some kind of resolution on the Hopi-Navajo conflict, but I would like to take a second to say I recall Senator Paul Fannin in this body and as a colleague of his, I recall Senator Goldwater, as well, valiantly tried to resolve the ancient conflict between the Hopi and the Navajo.

I think it is just an example of the tenacity of the Senator from Arizona to continue this effort. I wish him well. As a member of the Indian Affairs Committee, I am most happy to assume a cooperative role and thank him for his manner of raising this amendment and letting it be voice voted.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. DECONCINI. Mr. President, I thank the Senator from Oregon for his, first of all, understanding and his little bit of history regarding this problem. This is really different from the Navajo-Hopi relocation problem, which is another big problem on this large reservation in Arizona that has to be dealt with and is still being dealt with.

I also appreciate the position of the President pro tempore and chairman of the Appropriations Committee. He has a bill to get through here.

The boundary bill of 1934 confirmed ownership to what is now known as the 1934 Navajo reservation lands to the Navajos and other Indians residing on these lands. Starting in the early 1960's, the Hopi Tribe began to assert its claims to the 1934 lands.

In 1966, the BIA Commissioner imposed an administrative freeze on all development and construction in the 1.5 million acres of the 1934 Navajo Reservation.

He took this action in response to the Hopi Tribe's legal counsel assertion that Hopi tribal approval was required on all development involving the 1934 lands.

The Commissioner acknowledged that financial hardships would be imposed on both tribes by not allowing either tribe to take unilateral actions within the area that trespass on the rights of the other.

He stated, "the period of hardship and administrative difficulties would be shortened * * * by a friendly confrontation of the tribes, to the end that in face-to-face talks they might agreeably negotiate * * * their respective interests and thus form the basis for an early and amicable legislative" settlement.

In 1972, the freeze was modified to exempt the Moencopi Village area where the Hopi residents of the 1934 reservation lived. This allowed the Hopi tribal members to be exempted from the devastating impact of the development ban.

In 1980, Congress authorized the District Court of Arizona to settle the tribal claims to 1934 reservations. It also codified the Bennett Freeze which was to remain in effect until the Court had determined the rights of the litigating parties (Public Law 96-305).

EFFECT OF THE FREEZE

The freeze did not prevent Hopi residents of the 1934 reservation from building homes because their residential area—the Monecopi Village was exempt from the freeze.

By and large the people who were hurt the most are the Navajo people who live in scattered homesites all over the land subjected to the freeze.

Mr. President, I will have to indulge this body again, and maybe again, as well as the committee system. I cannot in good conscience satisfy myself with the defeat of this amendment, nor will I be deterred by the defeat of this amendment. I am intent on being sure that there is ample discussion on this and that some relief be brought to the Native Americans on the Navajo Reservation and the Hopi Reservation.

I thank the Chair, and I thank the distinguished Senator from West Virginia.

Mr. BYRD. Mr. President, I believe there is only one more amendment, if it is called up. Senator HATFIELD and I have four amendments which we wish to present en bloc and they have been agreed upon on both sides.

AMENDMENTS NOS. 767, 768, 769, AND 770, EN BLOC

Mr. President, I send those four amendments to the desk. I ask unanimous consent that they be considered and agreed to en bloc; that the motion to reconsider be laid on the table en bloc; and that appropriate statements be included in the RECORD at the appropriate place in explanation thereof, and that the several measures appear in the RECORD as though acted upon individually.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments considered and agreed to, en bloc, are as follows:

AMENDMENT NO. 767

Proposed by Mr. BYRD:

On page 22, at line 8, after 1993 insert: "and other disasters".

DESTRUCTION OF CHUM SALMON RUN IN THE ARCTIC-YUKON-KUSKOKWIM RIVER REGION OF ALASKA

Mr. STEVENS. Mr. President, in the winter of 1988-89 Alaska experienced an extremely severe and unusually cold winter which froze salmon fry overwintering in the river systems of the Yukon-Kuskokwim River Delta. Temperatures dipped below the 80 degrees below zero that National Weather Service thermometers are capable of measuring.

In 1989 then Alaska Governor Cowper declared a disaster in the region which includes 52 Eskimo villages and more than 20,000 people. The region is roughly the size of the States of West Virginia, Connecticut, Delaware, Rhode Island, and New Hampshire. I will ask unanimous consent that Governor Cowper's declaration be printed in the RECORD.

Shortly after Governor Cowper's 1989 designation, a Presidential declaration of disaster was made due to freezing problems associated with water and sewer facilities and because of the inability at the time to obtain goods and services in much of interior Alaska. There are no roads in the area, and planes were grounded due to frozen fuel lines. I will ask unanimous consent that President Bush's disaster declaration be included in the RECORD.

However, it was not known at the time that the salmon fry had been destroyed. As a result of the deep freeze, the salmon killed in 1988-89 did not return to the rivers to sqawn this year as they should have. Instead of 1.8 million chum salmon, the catch in the summer of 88—only 33,00 fish returned this year, a devastating 98-percent reduction. I will ask unanimous consent that the salmon return figures prepared by the Alaska Department of Fish and Game for the past 5 years be included in the RECORD.

With an average unemployment rate in the region of 48.5 percent according to the Department of Labor and a rate in some villages exceeding 80 percent, the Yupik Eskimo people of the region rely on hunting and fishing for their livelihoods. The average income for the region is only $5,059 and 42.6 percent of the people live below the poverty line according to the 1990 census. Roughly 80 percent of people's subsistence food comes from fish—primarily salmon.

There are no other alternatives to hunting and fishing for the Eskimos to support their families. They are forbidden from developing their own Native lands because Congress included them in the Yukon-Kuskokwim National Wildlife Refuge, the country's largest refuge which is larger than the State of West Virginia.

Development of the coal, gold, timber, and oil, and gas on Native-owned lands located within the refuge is forbidden by section 22(g) of the Alaska Native Claims Settlement Act. I will request unanimous consent that a copy of that provision be printed in the RECORD.

Because of the near elimination of the salmon run, the State Department of Fish and Game closed all commercial chum salmon fishing in the region and for the first time ever closed the subsistence fishery as well. The Eskimo people are now forbidden from taking the few chum salmon returning to their rivers.

Deprived of their primary source of food and their only cash income, Alaska Gov. Walter J. Hickel declared a disaster in the Kuskokwim River region of Alaska on July 19, 1993 and has asked for Federal assistance. I will ask unanimous consent that a copy of the Governor's disaster declaration and his subsequent letter to President Clinton requesting disaster assistant be included in the RECORD.

In order to meet short-term needs of the people of the people and to restore the fishery, funds are needed to address the region's economic losses estimated at between $8 and $15 million by the State of Alaska and the Association of Village Council Presidents.

An additional $25 million is needed to construct fisheries enhancement projects, expand sonar coverage, conduct aerial escapement surveys, develop a fishery recovery plan, and provide for other needs.

It was my intention to offer an amendment to provide the funds necessary to address these needs to the emergency supplemental appropriations bill currently pending before us. However, I am informed that the Office of Management and Budget objects to the amendment, and believes that the urgent needs of the region can be addressed within previously appropriated funds. I will ask unanimous consent that the copy of Director Panetta's letter which OMB provided my office be included in the RECORD.

While it would be my preference to address this problem in the context of the pending legislation, that is not possible without the administration's support. However, I am told that OMB will form a task force to address these urgent needs, and I am grateful to Director Panetta for his willingness to consider the plight of the Eskimo people. I look forward to working with Director Panetta in the days ahead to identify specific programs that can help restore the chum fishing runs and to ensure the Eskimo people have the needed resources to make it through the winter.

I ask unanimous consent that the documents to which I referred be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATE OF ALASKA, DECLARATION OF EMERGENCY

Whereas, the State of Alaska has experienced extreme cold weather conditions and unusually harsh winter conditions; and

Whereas, current weather forecasts indicate that extreme weather conditions will continue and could likely deteriorate further; and

Whereas, as a result of these conditions, scheduled delivery systems have been disrupted to rural villages statewide, causing shortages of essential commodities; and

Whereas, other villages are experiencing cold weather related problems in the operation of water, sewer, electrical power generation and heating systems, the failure of which will require emergency response action in order to prevent loss of life and property;

Now, therefore, on this 28th day of January, 1989, under the authority granted by the Alaska Statutes, Section 26.23.20, I, hereby declare that a condition of emergency exists to mitigate the effects in areas of the extreme conditions throughout Alaska;

Further, the Director, Alaska Division of Emergency Services, is hereby authorized to utilize funds from the Disaster Relief Fund for response to conditions induced by extreme weather that pose an immediate threat to the lives and property of residents and local governing bodies of the affected areas. The Director, Alaska Division of Emergency Services, is further authorized to task, as necessary, the state departments and agencies to provide appropriate assistance in accordance with the State Emergency Plan.

Further, any significant incident requiring extensive recovery assistance or anticipated extensive use of funds will be handled as a separate independent declaration to authorize the commitment of additional funds to the specific event/jurisdiction.

This declaration is applicable to incidents occurring within thirty days of today's date.

Steve Cowper,
Governor.

The White House,
Washington, DC, May 10, 1989.

Hon. Julius W. Becton, Jr.,
Director, Federal Emergency Management Agency, Washington, DC.

Dear Mr. Becton: I have determined that the damage in certain areas of the State of Alaska, resulting from severe freezing conditions during the period January 15—February 15, 1989, is of sufficient severity and magnitude to warrant a major disaster declaration under Public Law 93–288, as amended by Public Law 100–707. I, therefore, declare that such a major disaster exists in the State of Alaska.

In order to provide Federal assistance, you are hereby authorized to allocate fro funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance in the designated areas. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under PL 93–288, as amended by PL 100–707, for Public Assistance will be limited to 75 percent of the total eligible costs.

Sincerely,
George Bush.

Facts Concerning the Kuskokwim River Chum Salmon Run

1. The peak of the run into the Kuskokwim River historically occurs during the first week in July.

2. In 1987 the Alaska Department of Fish and Game tagging studies indicated a travel time from the False Pass Fishery to the Kuskokwim River of between 21 and 25 days.

3. Based on those tagging studies, by July 1, Kuskokwim chum salmon are no longer found in the False Pass area.

4. Historical commercial ohum salmon catches have been:

	Kuskokwim River	June False Pass	North Peninsula	Post June South Peninsula
Year:				
1987	574,336	443,000	368,700	933,300
1988	1,381,674	527,000	393,500	1,378,200
1989	749,182	456,000	157,200	538,200
1990	461,624	519,000	125,800	713,800
1991	431,802	772,000	191,300	815,400
1992	345,862	426,000	332,000	927,000
1993	35,000	529,307	10,000	693,000

Note.—Peninsula 1993 totals thru July 3.

5. Presently, under the Post June salmon Management Plan for the Southern Alaska Peninsula, most of the South Peninsula area is closed until July 20. This is the first year this regulation will be fully utilized, as in 1992 the area was reopened prior to July 20 by court order.

6. Most North Peninsula chum salmon catches occur after July 15.

7. The Alaska Department of Fish and Game estimated that in 1987 approximately 19–32% of the June False Pass fishery catch originated in the Kuskokwim River.

8. Permit information:

Alaska Peninsula seine = 119 total permits, 92 held by Alaska residents.

Alaska Peninsula drift gillnet = 159 total permits, 90 held by Alaska residents.

Alaska Peninsula set gillnet = 113 total permits, 91 held by Alaska residents.

Kuskokwim gillnet = 830 total permits, 829 held by Alaska residents.

Alaska Native Claims Settlement Act Dec. 18, 1971 and Amendments 1973–1979, PL 92–203 (85 Stat. 688)

Sec. 22.

(g) If a patent is issued to any Village Corporation for land in the National Wildlife Refuge System, the patent shall reserve to the United States the right of first refusal if the land is ever sold by the Village Corporation. Notwithstanding any other provision of this Act, every patent issued by the Secretary pursuant to this Act—which covers lands lying within the boundaries of a National Wildlife Refuge on the date of enactment of this Act shall contain a provision that such lands remain subject to the laws and regulations governing use and development of such Refuge.

Declaration of a Disaster Emergency

Whereas, the return failure of chum salmon in the Kuskokwim fishery resulting from the adverse affects on this species' fecundity due to the extreme cold weather during the winter of 1988–89; and

Whereas, as a result of this return failure, local residents are subjected to severe economic injury and subsistence losses; and

Whereas, the Kuskokwim Region, mostly Yupik Eskimos, has endured severe economic depravation over an extended period; and

Whereas, the residents of this region rely heavily on chum salmon for subsistence.

Now, therefore, on this 19 day of July 1993, under the authority granted by the Alaska Statutes, Section 26.23.020, I hereby declare that a condition of disaster exists in the Kuskokwim River Region, and is of sufficient severity and magnitude to warrant a disaster declaration in order to provide assistance and to seek additional federal assistance.

Further, the Governor's Cabinet level task force is hereby authorized to utilize funds made available for these purposes in such amounts as considered necessary.

Walter J. Hickel,
Governor.

State of Alaska,
July 27, 1993.

The President,
The White House,
Washington, DC.

Dear Mr. President: On January 28, 1989, Governor Steve Cowper of Alaska declared an emergency due to widespread record cold temperatures that persisted throughout the Interior of Alaska. In some areas temperatures were below the −80 degrees that official National Weather Service thermometers can measure. Winds pushed chill factors in excess of −115 degrees. Shortly thereafter, President Bush issued a disaster declaration recognizing that these extreme conditions crippled rural water and sewage service and prevented the delivery of vital goods and services in much of Interior Alaska. Copies of the declaration issued at that time by the Governor and the President are attached.

The water, sewage, and transportation problems were immediately obvious and were addressed by emergency services provided as a result of the state and federal declarations during January and February of 1989. However, the long-term effects of these adverse environmental conditions on the fishery resources and dependent Eskimo fishermen in this area were unforeseen and have only recently come to light.

A widespread failure of western Alaska chum salmon runs is occurring in 1993, and this failure is particularly acute in the Kuskokwim River. Returns in many areas are less than 10 percent of normal levels.

According to scientific analysis prepared by the Alaska Department of Fish and Game, the leading cause of chum salmon run failures occurring in much of western Alaska, including the Kuskokwim, is the extreme environmental conditions that occurred while these juvenile fish were rearing in interior river systems.

One-third of the Eskimo people live below the poverty line and 48.5 percent are unemployed. As a result, the effects of this shortfall have now created an emergency situation for thousands of Native Alaskans who rely almost exclusively on fish for their livelihood as well as their traditional food supply. It is estimated it will take in excess of $40 million to recover from the drastically diminished run of salmon and the subsequent shortfalls.

As a consequence of these unforeseen damages, I have recently extended Governor Cowper's proclamation and have declared a disaster in this region. A copy of my declaration is attached for your review. I request that the provisions of the regional Presidential Declaration of 1989 (FEMA–826–DR–AK) be similarly extended and that emergency funding, as may be determined by the Federal Emergency Management Agency (FEMA) in coordination with the State of Alaska, be provided to address the additional damages which have just become known from the 1989 disaster. The additional resources are needed to restore the region's fisheries and to address the Eskimo people's nutritional and other immediate needs. I further request that you declare the amount an emergency requirement pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

With best regards.

Sincerely,

Walter J. Hickel,
Governor.

Executive Office of the President, Office of Management and Budget,
Washington, DC, August 3, 1993.

Hon. William H. Natcher,
Chairman, Committee on Appropriations, House of Representatives, Washington, DC.

Dear Mr. Chairman: The Administration commends the Senate Appropriations Committee for acting expeditiously to approve requested legislation that will provide urgently needed assistance to the flood-stricken areas of the Midwest. The Administration is committed to working with the Congress to ensure mutual agreement on funding needs.

The Administration supports passage of H.R. 2667 as reported by the Senate Appropriations Committee. In order to expedite action on the bill, the Administration urges the Senate to keep the bill free of amendments that are not related to providing relief to victims of the flood.

The Administration continues to review the cost estimates for disaster assistance programs. Based on this review, we urge the Senate to approve funding beyond the levels requested and approved by the Committee for the following accounts:

$11.1 million in contingent appropriations for title III of the Job Training Partnership Act, which authorizes assistance to dislocated workers. This additional funding would be available for the Secretary of Labor to finance temporary jobs to repair damage caused by the flooding in the Midwest, clean up affected areas, and provide public safety and health services. This amount is in addition to the $43.5 million already approved by the Committee;

$2 million in contingent appropriations for the Commission on National and Community Service. The Commission helps to finance State-level Youth Corps and Conservation Corps programs to assist in disaster clean-up activities. The $2 million, which is in addition to the $2 million approved by the Committee, would fund the participation of young people in youth corps services over the next year to help with disaster relief services.

$100 million in contingent appropriations for the Department of Commerce, Economic Development Administration. These funds, which are in addition to the $100 million approved by the Committee, would be used to promote the long term recovery efforts in the region affected by the floods.

$10 million in contingent appropriations for the Small Business Administration Disaster Loan program account. These resources, which are in addition to funds approved by the Committee, would provide additional loan authority of $49 million. Language is requested that would increase from $500,000 to $750,000 the current law limitation on business disaster loans. This increase in the limitation would be available to victims of the flood;

Each of these requests would be available only to the extent that the President subsequently submits an official budget request to the Congress that designates the entire amount of the request as an emergency requirement, pursuant to the Balanced Budget and Emergency Deficit Control Act, as amended.

I understand that an amendment may be offered by Senator Stevens to provide economic assistance related to the destruction of chum salmon in the Arctic-Yukon-Kuskokwin River region. While we are sympathetic to the hardships endured by the residents of this region, we believe their needs can be met with existing resources. We will work with the Bureau of Indian Affairs, the Economic Development Administration, the Department of Housing and Urban Development and USDA to identify steps that can be taken administratively to respond to this problem.

We look forward to working with the House and Senate Appropriations Committees as the bill moves through the Congress.

Sincerely,

LEON E. PANETTA,
Director.

AMENDMENT NO. 768

(Purpose: To prohibit the Secretary of Agriculture from requiring the repayment of advance deficiency payments prior to January 1, 1994, in the case of producers on a farm that is located in a disaster area)

Proposed by Mr. BYRD for Mr. PRESSLER:

After section 701, insert the following new section:

SEC. 702. In any case in which the Secretary of Agriculture finds that the farming, ranching, or aquaculture operations of producers on a farm have been substantially affected by a natural disaster in the United States or by a major disaster or emergency designated by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) during the 1993 crop year, the Secretary of Agriculture shall not require any repayment under subparagraph (G) or (H) of section 114(a)(2) of the Agricultural Act of 1949 (7 U.S.C. 1445j(a)(2)) for the 1993 crop of a commodity prior to January 1, 1994.

Mr. PRESSLER. Mr. President, this amendment is quite simple and straightforward. It would prohibit the Department of Agriculture from forcing farmers to repay advance deficiency payments until next year. It would provide much needed relief to producers in the Midwest who were prevented from planting a program crop this year due to this year's unprecedented flooding in South Dakota and the Midwest. It could provide breathing room for farmers who are suffering.

The full extent of this year's flood damage will not be fully assessed until this year's harvest is complete. The production of wheat and small grains looks promising, but those crops could be lost if farmers are unable to harvest due to wet fields. Unfortunately, this is becoming a reality in South Dakota.

Producers who were unable to plant this year's crops soon will be forced to repay advance deficiency payments. Many of these producers simply do not have the cash on hand to make repayments. Waiting until next year to require repayment would, at least, provide a little extra time for financially strapped producers to accumulate the resources to repay the Government. The administration has taken steps to make this reality less of a burden. My amendment will assist this effort.

By the first of the year, disaster assistance should be in the hands of producers needing relief. My amendment also could help other producers. Depending on the outcome of this year's harvest, it is possible there will be no deficiency payments on certain crops. Should this happen my amendment will provide breathing room for those producers as well.

Mr. President, the Congressional Budget Office has stated there is no cost to this amendment. I am joined in this effort by Senators GRASSLEY and DASCHLE.

I ask unanimous consent that a summary of the amendment be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

PRESSLER AMENDMENT 768, REPAYMENT OF ADVANCE DEFICIENCY PAYMENTS

SUMMARY OF THE PRESSLER AMENDMENT

The Pressler Amendment would prohibit the Secretary of Agriculture from requiring the repayment of advance deficiency payments prior to January 1, 1994. Would only apply to producers in designated disaster areas.

EXPLANATION OF THE PRESSLER AMENDMENT

When producers enter into farm programs, advance deficiency payments have been made to help offset the costs of planting crops. These payments are based on expected market price for the commodity and what government payment would be made dependent on the crop's target price.

Should a producer receive an advance deficiency and fail to plant his intended crop, any advance deficiency payment made to that producer must be repaid immediately to the Department of Agriculture. This seldom happens since most producers follow through with their planting intentions.

However, this year's excessive rains and flooding conditions prevented many farmers from planting their crops. Due to no fault of their own, farmers could not follow through with their planting intentions. Producers in this situation are required to repay advance deficiency payments they received. Yet most of the producers have already spent their advance payments and are in no situation to repay. The Administration understands this situation and has stated the Department would not aggressively pursue repayments.

The Pressler Amendment would delay any repayment of advance deficiency payments until next year. This would provide producers time to plan their repayment. Disaster payments will have been made by that time, and financially strapped producers will be able to use that assistance to repay the government.

It is also possible that there may be no deficiency payments on crops this year. This will depend on final production and market price. Should this occur, all producers will have to repay advance deficiency received. The Pressler Amendment would assist those producers as well.

The Congressional Budget Office has stated there is no cost to the Pressler Amendment.

AMENDMENT NO. 769

Proposed by Mr. BYRD for Mr. KERREY:

On page 20, line 17, following "flood", insert the following: ", high winds, hail and other related weather damages";

On page 22, line 8, following "floods", insert the following: ", high winds, hail and other related weather damages".

AMENDMENT NO. 770

Proposed by Mr. BYRD:

Under the heading "National Park Service, Historic Preservation Fund" strike the following: beginning with the word "to" after "1993," and continuing through "(16 U.S.C. 470)."

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The minority leader is recognized.

Mr. DOLE. Mr. President, I was going to offer two amendments. I thought I would make a statement on one in particular, to make a point. It probably would not have any impact, but it was a sense-of-the-Senate that flood victims would not be subject to any retroactive taxes in the reconciliation package proposed by the President.

Retroactively it has been discussed today rather extensively. As I have said before, the draft Russian Constitution in article 57 provides that there will be no retroactive taxes. I wish we could take a look at that draft constitution. I understand there may be a constitutional amendment offered by Members maybe on both sides which would prohibit retroactive taxes.

We have had some retroactive surtaxes or surcharges during wartime. The Treasury was sort of panic struck today and dug back to 1917 and found retroactive taxes during World War I, they found some in World War II, they found some in the Korean war, and they found some in the Vietnam war.

I think that is a little bit different when it's wartime creating an economic crisis as well as an international crisis. I recall the one with reference to Vietnam. I was in the House at that time and supported President Johnson. It was a temporary 2-year surtax. It was not a retroactive tax rate increase. There is a rather vast difference. And that expired after a couple of years. It was very necessary at that time, according to President Johnson, and most of us, I think, supported it on both sides of the aisle.

I think it is well to make the point. I do not know whether the report has been filed yet on the reconciliation bill. It had not earlier this afternoon, but I do believe—and I say it not critically—but I think this is going to cause a lot of trouble. I know they tried to doctor it up this morning, saying they are still going to have retroactive taxes but you will have 3 years to pay it and there will not be any penalty. That is not going to satisfy a lot of people, because they are going to be reminded every year that the tax is retroactive.

It seems to me, politically, it makes it a bit worse because every year that you have to dig up another third, you are going to be reminded about a retroactive tax rate increase. It is a tax rate increase. And the same is true on the State taxes. Many State tax laws piggy back on Federal taxes.

The flood of 1993 will be a disaster that will remain in the minds of Americans for many, many years. In my home State of Kansas, one-fourth of the State's crops have been destroyed by rain, hail, high wind, and tornadoes. Almost a quarter of the State's 19.5 million acres under cultivation has been adversely affected by the weather. This is over 434 million dollars' worth of agricultural damage in Kansas. That's just agricultural damage—not damage to businesses, not damage to individuals. And that's in the State of Kansas, alone.

The people in these areas have shown courage and resilience as they return to their towns and try to rebuild their homes, their businesses, their livelihood. They have looked toward the Federal Government for assistance. The Federal Government cannot fix every problem, nor is the Federal Government the answer to the disaster, but the Federal Government does have a role and a responsibility. And that role is to help these victims back on their feet, not to drown them.

We continue to believe that the proposed tax legislation, as currently drafted, is wrong for America. If the Clinton plan is enacted, small businesses will soon be sending more hard-earned dollars to Washington. The retroactive tax increases that the President envisions will penalize these hardworking Americans all the way back to January 1, 1993. All the way back before the floods even began. By doing so, we are telling small business men and women who have been paying their income taxes at the current rate that, "what you've sent in the past 7 months isn't enough. Not only do you have to figure out how you're going to mend your lives and repair your businesses due to the flood disaster, not only are you going to be burdened with this tragic and unforeseeable cost, you're going to pay more—a lot, lot more."

And it's not just income tax rates that are retroactive in the Clinton plan. People who died since January, I guess you are not going to bother them, but they have heirs, they have families. They are going to be subjected to higher estate taxes, and they are going to be retroactive. I think that is stretching the point. It seems to me the best way to deal with that is not have it retroactive but have it date of enactment, whatever. But it's probably too late to do that.

I do not think this amendment would do much good except to call attention to the fact that maybe at least flood victims should not be subject to retroactive tax rate increases. And certainly, if someone died between January and the date of enactment, there would not be retroactive estate tax rate increases.

So, Mr. President, I am not going to offer the amendment.

I ask unanimous consent that the amendment be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

At the appropriate place, add the following:

It is the sense of the Senate that all those who are affected by the Emergency Supplemental Appropriations Act of 1993 should not have to bear the additional cost of retroactive tax rate increases as proposed in the President's tax reconciliation bill.

Mr. McCONNELL. As the chairman of both the Committee and Subcommittee for Labor, Health and Human Services and Education knows, communities emerging from disasters pass through three phases, immediate relief, recovery and long-term rebuilding. While FEMA works closely with Red Cross to provide urgent relief in the early stages, a number of private nonprofit organizations are actively involved in the long-term efforts to help rebuild communities. To that end, they provide crucial assistance in the health and human services area, including counseling for depression, prevention of domestic violence, and identification of affordable housing and child care. This assistance is essential to rebuilding the social health and well-being of these communities.

As a part of this supplemental bill, we have increased the amount of funding available to the Secretary of Health and Human Services public health and social emergency fund. This is one of a number of accounts which will address these vital long-term community needs.

Mr. HARKIN. The Senator from Kentucky is correct. The Secretary's fund has been increased by $71 million. Under existing law, the Secretary has broad discretionary authority to use the money to respond to emergency community needs.

Mr. McCONNELL. Could I clarify one point with the chairman? Are private nonprofit groups which are engaged in the kinds of social services I mentioned eligible to receive grants from the Secretary's funds?

Mr. HARKIN. I see no reason why not. Although the Secretary has traditionally worked through community-based health and human service organizations, if a nonprofit is able to fill a void and provide needed services, they would be eligible for grants. Given the vast and damaging nature of this disaster, it would seem to me that these groups could provide crucial help.

Mr. McCONNELL. I thank the chairman. There is no doubt in my mind that the damage done by the flooding will stretch State and localities resources. I am confident that the services available through our Nation's nonprofits will ease the suffering of these devastated communities and speed their recovery.

Mr. GRASSLEY. Mr. President, the devastation of the flood is difficult to imagine unless you have seen it personally. I have been in Iowa 15 out of the last 30 days and it is very critical. The effects of this disaster will be felt for years to come in every area of the life of my State.

While I appreciate what is included in this supplemental, I am certain that there are issues that are not addressed in this bill that will have to be addressed at a later time. I would like to take this opportunity to raise some of these extra issues that have been brought to my attention in recent days.

Obviously, in times of natural disaster, some individuals and families who would never dream of needing public assistance are suddenly placed in circumstances of overwhelming need. These families, which normally are self-sustaining, will place an unexpected draw on resources that have been allocated for public assistance.

With this in mind, for a period of 24 months, the State is requesting that the Federal medical assistance participation rate in disaster areas be established at the ceiling allowable under law and regulation, notwithstanding the application of the appropriate formula.

The State is also requesting a 24-month waiver of the State match requirements for AFDC, food stamps, child support, title 19, 4-E foster care, and 4-F jobs and supportive services, to the extent the number of eligibles increases. Iowa expects that there will be an increase of up to 7.5 percent in the number of individuals and families who become eligible for public assistance.

This increase, at a time when State and county revenue is down, raises a concern of how to serve a greater need at a time when the ability to generate the State match is in question.

Other requirements that Iowa requests be waived include AFDC transitional housing, emergency assistance, medicaid optional State programs, individual and family grant, and food stamp, employment, and training program match requirements.

Citizens who have lost their housing, personal property, or employment as a result of the flooding may be offered immediate assistance in the form of donated clothing, food, or even cash assistance. This kind of charitable assistance is proper and should be encouraged.

The problem is that current law requires that these items be considered gifts, often making the family ineligible for AFDC, food stamps, or medical assistance or at least reducing their potential benefits. It is therefore important that these donated items or temporary assistance not be considered in determination of eligibility for these programs.

With the overwhelming devastation in the State, the Department of Human Services has been swamped—literally—with new responsibilities related to flood relief. Because these new duties have been the necessary priority, other issues of an administrative nature have been temporarily laid aside to address more immediate concerns.

Practically speaking, this means several things. First, the Department has not stayed on its regular schedule concerning Federal reporting requirements for food stamps, AFDC, and the jobs program. Each of these Federal reports is due in the next 6 weeks and the State has requested an extension of 90 days in order to meet these deadlines, while still addressing the immediate needs.

Another issue of administrative concern is the need for an extension of time to address the corrections identified in the conditional certification in the current child support software system. Without this extension, the State may lose Federal financial participation in the effort, making the effort impossible to fulfill.

The State has also requested that quality control functions be suspended between September 1, 1993, and February 28, 1994, for AFDC, food stamps, and medical assistance, and that a zero error rate be assigned.

While I am usually very supportive of tight quality control restrictions on Federal programs, at times of great crisis, it is necessary to set aside the redtape and deal with the immediate crisis at hand. This waiver is not intended to encourage sloppiness on the part of State administrators. It is simply a short-term grant of flexibility in addressing the immediate crisis at hand.

Finally, I believe there is a need for any State with more than one-third of its counties declared as disaster areas in 2 of the past 5 months to receive 100 percent Federal funding to the single State agency administering the 4-A Program.

While I am certain there are other issues of concern to the people of Iowa and other flood devastated areas, these social services needs are at the heart of disaster assistance and should receive prompt attention in later legislation in the immediate future.

DISASTER ASSISTANCE GREATLY NEEDED

Mr. PRESSLER. Mr. President, today the Senate will decide how much assistance can be made available to thousands of Americans suffering from the worst floods ever to hit America's heartland. The dramatic sights and reports on the flooding over the past months have spellbound this country.

The situation we are witnessing in the Midwest is unprecedented. The devastation is mind boggling. Lives have been lost. Homes have been torn apart. Thousands of acres of farmland lie under water. Spires, rooftops, and signposts are the remaining landmarks of submerged towns. Islands and new lakes have been created. Torrents of water have carved new natural boundaries.

Nature's devastation has left an enduring mark on the geography and character of the Midwest. The effects of this flood will be observable for a long time. Every person living in the Midwest will feel the effects of this disaster for years to come.

Farmers and ranchers have lost their source of income for this year, and perhaps beyond. Thousands of people are without homes or shelter. Many businesses could close their doors permanently. Roads, bridges, and rural infrastructure have been destroyed or damaged indefinitely.

Federal assistance clearly is needed. Current damage estimates far exceed the damage done by Hurricane Andrew. We must act now to help people recover.

South Dakota has been a barometer of how bad the flooding would be. Excessive rainfall has been evident in South Dakota since the first of May. Thousands of acres of farmland were never planted or were flooded out. Crops in the eastern half of South Dakota are gone. South Dakota agriculture will suffer proportionately more than other affected States. The president of the American Farm Bureau Federation, who happens to be from Iowa, recently reported that the rain and flooding will inflict the most damage on South Dakota agriculture. The full extent of the damage to South Dakota will not be known until well after harvest, but we do know that the damage to South Dakota is unprecedented. An economist for the Federal Reserve Bank in Minneapolis recently reported that the farm-driven economy of South Dakota likely will suffer the most from flooding in the upper Midwest. It probably will take more than a year for farm income and spending to recover. The bank estimates that in southeastern South Dakota southwestern Minnesota, and northwestern Iowa, farmers stand to lose $1 billion in crops they could not plant due to wet conditions, and another $1 billion in damage to crops that were planted.

Clearly, the news from South Dakota is not good. Hundreds of South Dakotans are applying for temporary unemployment insurance. Many of these individuals simply won't make it in farming. South Dakota was expected to lose 500 farmers already this year. The floods will increase that number.

Mr. President, this year's disastrous planting season follows last year's extremely wet harvest, when farmers experienced lower yields and poor quality crops. Tremendous amounts of income were lost last year. In fact, many farmers were unable to harvest and much of last year's crops still sit in flooded fields.

Most South Dakota farmers today have never experienced a planting season this disastrous. Time is running out for many of these farmers. Action is urgently needed to permit farmers in the devastated counties to earn some income this year. These farmers are suffering. We must act now to help ease their suffering.

Mr. MOYNIHAN. Mr. President, I would like to address a subject that is very much involved with the topic at hand not often spoken of. I refer to the Army Corps of Engineers' flood control efforts in the Mississippi and Missouri River basins. By this I do not mean the corps' current emergency work of repairs to levees and flood walls. In these matters their expertise in unmatched and we are all thankful for their dedicated efforts. Rather, I wish to look into how we got to where we are. We have spent a great deal of money on levees and other flood control structures and have very little understanding what we have got for our money.

The corps has done a great deal to control these rivers and, to be sure, has met with substantial success in most regards. Water borne commerce, once a dubious prospect at best, is now routine and profitable. Flooding is less frequent, but, it turns out, more severe when it does occur.

The corps has built 10,500 miles of levees and flood walls in the United States, and yet flood damage per capita was two and one-half times higher in the 35-year period that began in 1950 than it was over the 35-year period previous to 1950. These numbers are, of course, adjusted for inflation.

What happened? Something, clearly. First off, our system of public works construction developed with little or no attention to the concept of productivity. During the debate in 1991 on the Intermodal Surface Transportation Efficiency Act—or ISTEA as we call it—I called this lack of attention to productivity a case of public sector disease. This condition has been rampant in the area of surface transportation, and the result is a transportation system where money is spent with little or no regard whether it will generate a return. Assets are managed with scant attention to maximizing their yield for society. In this legislation we made important steps toward changing this pattern, although I must say I do not know if we will succeed.

In the area of water resource infrastructure—that is, flood control, dams, reservoirs, and the like—we have also made some progress. The Water Resources Development Act of 1986 instituted cost sharing for all corps projects, an attempt to keep money spent on water projects from being wasted quite so willfully. The aphorism we adopted during consideration of ISTEA—that free goods are inevitably wasted—was never more true. It took us 16 years to get this bill passed but finally we did.

Of course this was possible in part because there were no more large water projects to be built. And so the issue on the Mississippi and Missouri systems has until now been one largely of sunk costs. Assets in place could be managed a little better here and there, but no great changes have seemed possible.

It could be now that this has changed. The total cost of damage to flood control structures will not be known for some time, but we may be granted a second chance on the Mississippi. Our dominant flood control philosophy for 150 years has been the hard option—dams and levees made of concrete, stone and dirt. More recently a new philosophy has emerged, best summed up by Mr. Larry Larson, director of the Association of State Floodplain Managers in a story from the July 20 New York Times:

> For too long we have been trying to adjust rivers to human needs, and then we wonder why our rivers to human needs, and then we wonder why our rivers are messed up and why we continue to get flooded; it's not a mystery.

More and more people in the flood control profession are starting to think this way. Nonconstruction alternatives—soft solutions, as they are called—are being considered in some instances now and more than a few have been built. Or should I say "chosen."

As I said so often during consideration of ISTEA in relation to our transportation policy, "We have poured enough concrete." The Corps of Engineers would do well to learn this lesson.

Mr. President, I ask unanimous consent that the aforementioned article be included in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, July 20, 1993]

THE HIGH RISKS OF DENYING RIVERS THEIR FLOOD PLAINS

(By William K. Stevens)

For decades Americans have insisted on settling next to rivers and streams, like moths drawn to a flame, just as people have throughout history. And to protect their cities and farms, engineers have tried to ward off the inevitable flood waters with levees, flood walls, dams, dikes and diversion channels. To some extent this ambitious attempt to bend nature to human desires has worked.

But nature still wins often enough, as this month's destructive floods in the upper Mississippi valley vividly testify. Even the gains have come at enormous cost to the ecology of flood plains, some experts say, and in some cases control measures have perversely resulted in worse flooding.

By cutting off the flood plain's waters, levees and diversion channels have destroyed and degraded stream-side habitats that contain some of the country's richest biological resources. They have also prevented the flood plain from performing one of its most important natural functions: flood control. By storing and slowing flood waters, the plain reduces their force and height. Containing this water in a narrowly corseted channel, as is commonly done to protect farms and urban settlements, has the opposite effect. It raises both the velocity and the height of the flood and makes it all the more frightening and destructive when it breaks through defenses, as it has repeatedly done in the Midwest.

These realizations are leading flood-plain managers at all levels of government toward a different approach: cooperating with nature rather than trying to subdue it. The emphasis increasingly is on keeping new development away from the flood plain, preserving or restoring its ecosystems and letting water flow as freely as possible so that natural flood-control mechanisms can work.

Across the country, states and communities are exploring alternatives to dikes, levees and flood walls. They are acquiring wetlands to serve as natural flood basins. They are sculpturing the plain to create detention areas for flood waters. They are preserving stretches of flood plain in urban areas which, in between periods of high water, serve as parks, ball fields and greenways. Some communities are discouraging new development on flood plains by requiring expensive flood-proofing measures, such as putting buildings on piers and constructing private detention ponds. One town, Soldiers Grove, Wis., has taken the radical step of moving its entire business district to higher ground.

"For too long we've been trying to adjust rivers to human needs, and then we wonder why our rivers are messed up and why we continue to get flooded; it's not a mystery," said Larry Larson, director of the Association of State Floodplain Managers, an organization of professionals engaged in floodplain management and flood control. "We need to adjust human behavior to river systems."

Sometimes, he said this means that developed areas "need to be cleared out so the river can flood, as we know it will, without damaging property." In other instances less drastic measures can suffice.

One obvious limitation to the new strategy is that many communities have long since committed themselves to living on the flood plain, and with traditional structural methods of flood control. "We can't pick Des Moines up and put it on a hill," said Harry Kitch, an Army Corps of Engineers official in Washington who handles flood-control planning in the central United States. The more natural approach to flood control might seek its greatest success where new development is poised to move onto the flood plain. But particularly for areas already developed, Mr. Kitch said, "you're going to end up with a balance" of structural and natural methods.

Flood-control disputes of the future are likely to involve the tricky and contentious issue of just what balance should be struck. A classic example is the long-running controversy about floods along the Passaic River watershed in northern New Jersey. Towns have existed in the watershed's lower reaches for years, while other parts of the basin are only now becoming ripe for development.

The basin is one of the most floodprone in the country. Over the past decades, various portions of it have been declared Federal disaster areas seven times. Some flooding occurs almost every year, and the Corps of Engineers estimates that a record flood, like that of 1903, would cause $2 billion in damages.

Under a joint Federal-state project authorized by Congress but not yet finally approved by the state, the Corps of Engineers has proposed a hybrid solution. The Passaic's flood waters would be shunted underneath developed areas through a $2 billion, 20-mile-long tunnel terminating in Newark Bay. The idea of the tunnel, Corps officials say, is to avoid disturbing the land. The plan also calls for the state to buy up more than 5,000 acres of wetlands on the flood plain to serve as a catchment to reduce flood volume and speed. As a result, the plan might also prevent some development.

Critics say the plan comes down too little on the side of nature. They favor sharply restricting development in the entire central and upper basin, buying out flood plain residents and acquiring far more natural flood storage acreage than the plan now calls for. Critics also raise fears about the ecological impact of a rush of fresh flood waters into the marine environment of Newark Bay. Some oppose the construction of the tunnel under any conditions. The issue has divided politicians and citizens and has become an issue in the New Jersey Governor's race, Gov. Jim Florio, a Democrat, has refrained from taking a position for or against the tunnel pending an environmental impact study to be completed by the Corps of Engineers in 1995; his Republican opponent, Christine Todd Whitman, is against the tunnel, arguing that buying out flood plain residents would be less expensive. The corps argues the opposite.

Flood plains, the subject of this and many other disputes across the country, are among the most productive ecosystems in the world. When flooded in spring, they become breeding grounds for fish. Most flood plain acreage is wetlands, and about half the country's endangered species require wetland habitat. The riparian zone along rivers is home to distinct assemblages of soils, microbes, plants and animals that depend on high water tables and occasional flooding.

People originally settled along rivers because they provided water, transport and power. That is no longer true, "but now the city is there," said Mr. Larson. Later, people were drawn to flood plains because land there was cheaper. By 1991, according to an interagency Federal task force on flood plains that issued a report last year, flood-plain land in 17,000 communities occupied more than 145,000 acres and included nearly 10 million households and $390 billion in property.

This large-scale development, according to the task force, has come at "a high price extracted annually in deaths, personal injury and suffering, economic loss and damage to or destruction of natural and cultural resources." Despite extensive and expensive efforts over the years to control floods through public works (the Corps of Engineers has built 10,500 miles of levees and flood walls alone), inflation-adjusted flood damages per capita were almost 2.5 times as great in the period from 1951 to 1985 as from 1916 through 1950.

Part of this may be attributed to a growing ratio of construction to population, but levees themselves evidently contribute to the escalation. They are the most common type of flood-control measure, and when they fail, as they have many times in the Mississippi basin in recent weeks, they make the damage worse. The Federal task force noted that a breached levee, like a breaking dam, can release a large wave at high velocity on communities that believe they are protected. Images from the Mississippi basin this past week have grimly borne this out. The remaining levee system may subsequently prevent water from draining back into the river, prolonging the flood. The task force reported that levee or flood-wall failure is involved in one-third of all flood disasters.

When a river's flow is constricted, its sediments are no longer deposited to fertilize the flood plain but instead may be dropped within the narrow river channel just outside the levee. This in time raises the height of the river, and the levee must be heightened in turn. "In general, a river wants to recreate itself as a river with a flood plain; it's rising in response to these rising levees," said James T. B. Tripp, an expert on floods with the Environmental Defense Fund. "River systems have a way of adjusting themselves in response to human manipulation of the flood plain in ways that can never be entirely foreseen."

A better approach, according to the emerging new wisdom, is to get the river to work for you rather than against you. The new approaches may be best suited to smaller rivers, but these spawn most of the flash floods, and flash floods are responsible for three-fourths of all Presidentially declared disasters.

After a 1984 flash flood killed 13 people and caused $180 million in property damage in Tulsa, Okla., for instance, the city and the Corps of Engineers collaborated to create a more natural flood-control system. They scooped out a series of permanent lakes in a greenway corridor set aside in Tulsa's Mingo Creek flood plain. Most of the lakes are dry, and when there is no flood the lake bottoms are occupied by soccer and baseball fields and tennis courts. When there is a flood, the lakes store and slow down the water. They are connected by a network of "trickle trails" that serve as jogging paths in dry times and low-flow flood channels in wet ones.

At the same time, development in the flood plain is strictly regulated. Developers must build their own detention ponds to make up for the increased flow that paving causes. Buildings in harm's way must be flood-proofed, usually with raised piers. One result is that developers have been discouraged from building in the flood plain—a counterforce, possibly, to whatever incentive to development may be provided by Federal disaster relief and flood insurance.

Only 15 to 30 percent of the nation's flood-prone structures are actually insured by the supposedly self-financing National Flood Insurance program, according to the flood plain task force. Disaster relief is available to an uninsured property only once: If the property is flooded a second time and is still uninsured, owners are on their own.

NATURAL FLOOD CONTROL A SUCCESS

The Tulsa system has been tested by storms that would have been expected to cause serious flooding in earlier years and has passed with flying colors, said Jack Page, who oversees development for the city. He sees "more acceptance of 'soft' engineering; we're getting away from the concrete and the pipes and are leaving the channel in a natural state." The Corps of Engineers says it considers the Tulsa project a model.

Other localities have moved in this direction as well, often with corps involvement. As a pioneering alternative to dams and levees in the Charles River basin of metropolitan Boston, for example, the corps purchased or secured easements on 8,500 acres of wetlands to contain floods while also providing wildlife habitat and promoting recreation. The system was tested by major floods in 1979 and 1982 and each time performed effectively.

The city of Littleton, Colo., established a 625-acre park in its flood plain to attenuate floods rather than allow the South Platte River to be channeled. And in the San Francisco Bay area community of North Richmond, citizens successfully brought about the creation of a naturally meandering flood channel and restored the stream-side ecosystem in a way that would maintain ecological health while accommodating once-in-a-century floods.

In the end, if Mr. Larson and Mr. Tripp are right, there simply may be no way to protect against the very worst floods, no matter what strategy is employed. "We've got to figure out some way to help people understand that Mother Nature will reclaim what's hers from time to time," said Mr. Larson. "We must keep that in mind when we go to build our communities and cities and try to find a way to live in harmony with nature."

To which Mr. Tripp adds: "We can try and manage these river systems to some degree, but we've got to be prepared to accommodate ourselves to the river. If we think we can do things to rivers so they will never flood, we're naive."

Mr. DOLE. Mr. President, I understand on this side of the aisle that there is no request for a rollcall vote, but I understand there may be one request on that side. It was my suggestion that if there was not any request, that it will be a unanimous vote, but if there is a vote, it might be less than unanimous.

Mr. BYRD. Mr. President, I know of no Senator on this side who is going to request the yeas and nays on this bill. It would be a unanimous vote in all likelihood, it being an emergency bill, to provide assistance to the flood victims, somewhat different from the ordinary appropriations bill in that respect.

The PRESIDING OFFICER. If there are no further amendments, the question is on agreeing to the two committee amendments on page 2, lines 6 through 13, and page 2, line 22.

The committee amendments were agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed, and the bill to be read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

So the bill (H.R. 2667), as amended, was passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I thank all Senators.

I thank the leaders on both sides for their very helpful efforts in expediting action on the bill. I especially thank my colleague, Mr. HATFIELD, for his very good work on this bill, in helping to persuade various Senators to refrain from calling up their amendments, and for his support in arguing against some of the amendments that were called up.

I think the Senate has done a good day's work. The bill has withstood the attacks of several Senators who in good faith attempted to get their amendments up and agreed to. There were other Senators who had amendments but they agreed not to call them up, and some who called up and then withdrew the amendments.

So, all in all, it is a day of which we can be proud. I thank the Appropriations Committee staff and the floor staffs on both sides.

Mr. President, Jim English, the Director of Appropriations staff has been recuperating from a very serious heart operation for several weeks. Tim Leeth, Jack Conway, Mary Dewald, Barbara Videnieks and Marsha Berry have been pillars of strength to me in this period of Mr. English's recovery.

I want to give them their just dues. They have been absolutely invaluable to the Committee over these several months. They stepped right into the breach and demonstrated that they are the kind of professionals who make us proud to have an Appropriations Committee that is second to none. I extend to them my profound thanks.

Mr. HATFIELD. Mr. President, I would like to express my appreciation as well to the chairman of the committee. It is always not only a pleasure to work with the Senator from West Virginia but a learning process as well. I never fail to learn something about parliamentary procedure, something about Roman history, something about wisdom, such as tonight I felt that one of the brilliant utterances that will be historic for me—I cranked it into my computer hoping that I can pull it out at some future time—is the difference between a lynching and a trial of due process. It is procedure.

I think it was one of those, again, wonderful learning experiences being associated with the Senator from West Virginia.

I also want to express deep appreciation for the two key people not only in this Chamber, Tim Leeth on the majority side and Keith Kennedy on our side, but around the back of the room we have on both sides staff people of 13 subcommittees ready to move at any moment an issue confronts them in their area of expertise. So we have had a real army of staff people here assisting us in this whole effort.

Mr. BYRD. Mr. President, I am glad that the distinguished Senator has mentioned these fine subcommittee staff people who are here early and here late, ready to be helpful, and they have been helpful and without their dedication, high purpose, and high sense of duty, we, indeed, would be unable to carry on our work.

I hope that the House will not ask for a conference in view of the fact that the Senate has not added many amendments—only those that the administration is supporting, and I hope the administration will be able to get the support of the House in accepting this bill so that it will be sent to the President forthwith.

The PRESIDING OFFICER (Mr. SIMON). The majority leader is recognized.

Mr. MITCHELL. Mr. President, I join in thanking my colleagues, the distinguished chairman and ranking member, former chairman of the committee, for their usual outstanding job in managing important legislation.

This is a very important bill, as I noted in moving to it last evening. Considering the scope of the tragedy in the Midwest, it is imperative Congress act this week. And that would not have been possible but for the steady hand of the two managers of the bill and the cooperation of our colleagues, both Democrat and Republican, in getting this bill done. So I thank them. I thank the Republican leader.

Mr. DOLE. If the majority leader will yield, I think the only appropriations bill we have not done that is available is Interior, and there is still some hope, I think on both sides, we may get some agreement that we might be able to do that if there is any downtime here between now and the time of the vote on reconciliation.

Mr. HATFIELD. If the leader will yield, I would only like to raise a possible signal that the administration's forestry program, which has been identified as Option 9, is in the process of being viewed and reviewed, and I get some indications the administration may ask us to help implement that on the Interior Appropriations subcommittee bill. Therefore, I would only like to check with the administration, or have that check made in case that is being considered as a possible vehicle.

EXECUTIVE SESSION

Mr. MITCHELL. Mr. President, I now ask unanimous consent that the Senate proceed to executive session to consider Executive Calendar No. 309, the nomination of M. Joycelyn Elders to be Medical Director of the Regular Corps of the Public Health Service and to be Surgeon General of the Public Health Service.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

The legislative clerk read the nomination of M. Joycelyn Elders, of Arkansas, to be Medical Director in the Regular Corps of the Public Health Service, subject to qualifications therefor as provided by law and regulations, and to be Surgeon General of the Public Health Service, for a term of 4 years.

The Senate proceeded to consider the nomination.

Mr. MITCHELL. Mr. President, as we all know, this nomination, which we will now begin to consider, has been the subject of considerable controversy. Numerous statements have been made which I have seen reported—I am not certain whether they were made on the Senate floor or in press conference, perhaps in both—to the effect that no vote would be permitted on this nomination prior to the Labor Day recess.

I have discussed this matter with the distinguished Republican leader privately prior to now, and we have agreed to have a discussion on the floor, and I have indicated my intention and desire to proceed to a final vote on this nomination this week. I inquire of the Republican leader as to whether he is now in a position to indicate whether or not that will be possible.

Mr. DOLE. If the majority leader will yield, Mr. President, I am not in a position at this time to say it will be possible. But as just demonstrated we did not object to going to the nomination. We did not see any purpose in having a vote on going to the nomination; it probably would have been unanimous. I am not in a position at this time. We did have a meeting late this afternoon on this nomination, and I think some of the principals involved on our side are probably on the way to the floor. I may not be able to tell the majority leader this evening but perhaps sometime midmorning tomorrow.

Mr. MITCHELL. Mr. President, I thank the Republican leader for that information and for his courtesy. I now believe that it would be best under the circumstances simply to permit the principals to debate the matter here this evening, and then I will pursue the matter further sometime during the morning tomorrow.

Mr. President, in light of the fact that we are now going to be on this nomination and that we do not anticipate a response tonight on the question of whether our Republican colleagues will permit a vote to occur on this nomination this week, I think it is appropriate for me to announce that there will be no further rollcall votes this evening.

There will be debate on this matter for some period this evening. That will continue tomorrow morning, at which time we will have a further discussion in accordance with our discussion here this evening, if that is agreeable to my colleagues.

Mr. President, I believe the managers on the matter are now on their way to the Senate floor.

Mr. President, awaiting the arrival of the managers—I understand they will be here shortly—I now suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE OMNIBUS RECONCILIATION ACT

Mr. DOMENICI. Mr. President, on a couple of occasions in the last few days a number of my colleagues on this side of the aisle have asked me where is the so-called "reconciliation bill" that we are supposed to vote on Friday. Is that right? I ask the Republican leader. I, in turn, have been asking where it is.

About an hour ago what is currently said to be the reconciliation bill and the report were delivered to the Budget Committee's office. I just wanted to pick it up here and show it to you. My guess is it is—I could not hold it too long because it is probably 23 or 30 pounds. It is 1,800 pages. We surely are going to do our best to look this over so we can see what is in it. I just want to repeat, the Senator from New Mexico was not invited to attend any of the meetings. Not that I would have helped, because I am not for this, but at least I might know what is in it. At this point I do not. There have been literally hundreds of changes made in both the House and the Senate bill in order to avoid the Byrd rule on matters that should not be in the reconciliation bill.

It is going to be interesting to see how they were fixed because essentially the Byrd rule was supposed to be airtight in terms of measures that are not part of real deficit reduction. I understand most of those are in—but changes to make them either real cuts or real spending instead of authorization, and that that might even be worse. But we will find that out as we try our best to go through this.

I might say to Senator DOLE that if he had been invited to these meetings and participated—two-thirds of this bill comes from the Finance Committee, so it is taxes and all kinds of changes in the code as it pertains to special interests. We do not know what they are yet. But there are a couple that are rather intriguing.

You know, one Senator that seemed to be against this on the Democratic side comes from a State with a lot of restaurant activity. So there is an interesting provision in this, I say to the Republican leader. You see what has happened is the original proposal by the President was that you were not going to permit corporations and business people to deduct meals. You could only deduct part of them. And now that was 50 percent.

It turns out that that really offended some. So to see if they could change some of the restaurant-loaded States in America in their vote, the tax was changed to 60 percent. Sixty percent is deductible.

There was a very interesting thing. The restaurant owners no longer have to pay Social Security on the tips. They were paying that in. It is about $1 billion. The restaurant owners are now going to be permitted to take a $1 billion tax credit, which means that the general taxpayer is going to pay that bill.

But, frankly, we are going to do our best as instructed by our leadership and we are going to circulate it in parts to our various ranking members and their committees, and hopefully in the next few days we will be able to tell the Senate and the people of the country what is in it.

Mr. DOLE. Mr. President, I think this demonstrates—I say it has happened before. I am not being particularly critical. It has happened, I guess, over the years. Here it is 9:20 on a Wednesday night. This is the 400—supposed to be $500 billion, about $420 billion package—billion. It is all right in those papers.

Nobody knows precisely what. You look page by page, $260 billion in taxes in that package, $260 billion—$242 billion in new taxes and $18 billion in fees. So it is a total of $260 billion.

There is a provision in it that makes it retroactive to January 1 this year whether you are alive or dead. It is retroactive. If you died, you cannot escape this package. Whether you are dead or alive, you are going to get taxed. That is all in that package.

We are supposed to read all of this and be able to discuss it thoroughly, in the House tomorrow and in the Senate on Friday. It is 2 to 1—$2 I think, if I am correct, $2.13 in taxes for every $1 in spending cuts.

Again, we have to go back and verify all of that. I am not certain how much spending cuts are there in the first year. Are there any spending cuts in the first year?

Mr. DOMENICI. We have our calculations, and in the first year there are no net spending cuts. And there is almost $31 billion in new taxes.

Mr. DOLE. What about the second year?

Mr. DOMENICI. In the second year there is a very large cut in spending, $4.3 billion, in a $1.5 trillion budget.

Mr. DOLE. How much taxes?

Mr. DOMENICI. Big. It looks like in that year, it is $44 to $48 billion. So that is a well over 10 to 1 in the second year, and then we are getting close to the election year of 1996. There, again, I might say the cuts that are contemplated are beginning to look like this: In the last 2 years of this 5, after the next Presidential election, 80 percent of the cuts allegedly in this package, mandatory and discretionary, will occur, if they do. So it is not only a tax first, but it is tax first and cuts later, and maybe. I am sure we will show this in more graphic manner in the next 48 hours. That is what is supposed to be in here.

Mr. DOLE. I think it is important. And I know it is 9:20 at night, and I am not certain how many people may be viewing what is happening in the Senate. But as I add that up, I guess in the first 2 years there are about $4 billion in cuts and $78 billion in taxes.

Mr. DOMENICI. That is correct.

Mr. DOLE. We are so anxious to tax, we are going to back it up until January, and if the spending cuts come, they will come after 1996. That is why today in the Republican offices, there are thousands of people calling in, and 80 percent are against this package. Nobody knows what is in it, but they are against it because they know it is a lot of taxes. I think we ought to see how much it weighs tomorrow, and maybe bring it back to the floor again, if they can carry it back tomorrow.

Mr. DOMENICI. We need to get a scale.

Mr. DOLE. I think it is a serious matter that ought to be discussed. We are about to try to pass this in 4 or 5 hours on the floor. Keep in mind, it is over $400 billion, $260 billion in taxes, and I think the American people will find it hard to believe how we can deal with something this fast between now and Friday evening.

Mr. DOMENICI. I yield the floor.

NOMINATION OF M. JOYCELYN ELDERS, OF ARKANSAS, TO BE SURGEON GENERAL OF THE PUBLIC HEALTH SERVICE

The Senate continued with the consideration of the nomination.

Mr. KENNEDY. Mr. President, what is the business before the Senate?

The PRESIDING OFFICER. The nomination of Dr. Elders as Surgeon General of the United States.

Mr. KENNEDY. Mr. President, I urge the Senate to act promptly to confirm Dr. Joycelyn Elders as Surgeon General.

Dr. Elders is eminently qualified for this position, and it is time to end the delay, distortion, and misrepresentation that have surrounded her nomination.

Few positions in American Government are more important to the health of the Nation than the Surgeon General of the United States. The nominee we are considering this evening has the potential to become one of the best Surgeon Generals in history.

The Surgeon General has many responsibilities; all are important. All must be fulfilled with the highest level of competence. As the Chief of the Commission Corps of the Public Health Service, the Surgeon General must lead a body of dedicated health professionals serving the country wherever their skills are needed.

The Surgeon General is the chief public health adviser to the Assistant Secretary of Health, to the Secretary of Health and Human Services, and to the President.

Whether the issue is controlling the AIDS epidemic, meeting the challenges of infant mortality, dealing with the new plague of drug-resistant tuberculosis, or addressing a variety of serious public health challenges we face, the Surgeon General is a principal resource for analyzing the problem and providing guidance to the administration, Congress, and the Nation.

But most of all, the Surgeon General must mobilize public opinion and public commitment to the cause of good health. In the 1960's, Surgeon General Luther Terry aroused the Nation to the dangers of smoking. In the 1980's, Surgeon General C. Everett Coop educated the Nation about the danger of AIDS. And in the 1990's, Dr. Joycelyn Elders will be a forceful and eloquent voice for the cause of better health for all Americans, but most especially for children and the poor.

By training, by experience, and by temperament, Dr. Elders is superbly qualified for all of the varied responsibilities of a Surgeon General. Her career itself is an inspiring story that demonstrates her outstanding qualifications to be Surgeon General, and it also demonstrates one other thing—that the American dream is alive and well in 1993. When people use the phrase "we shall overcome," they are talking about people like Dr. Joycelyn Elders. She has truly overcome in her own life, and she will do the same as Surgeon General.

No amount of scientific knowledge or intellectual ability can substitute for a commitment to helping those in need the most. Dr. Elders cares deeply about her mission, because in her own life she has surmounted incredible obstacles and experienced great hardship in building her remarkable career of service.

She was born to a teenage mother and a sharecropper father in the tiny town of Schaal, AR, 40 miles from Texarkana. She grew up on the family farm in a three-room cabin, with her seven brothers and sisters. The cabin had no electricity and no indoor plumbing. As a child, Dr. Elders worked in the fields to help support her family from June through Thanksgiving. School had to give way to work on the farm. Still, she was able to skip two grades, and she graduated as valedictorian of her segregated high school when she was only 15.

Dr. Elder's mother never had the benefit of prenatal care. In fact, her children were delivered in her home without medical assistance. One of Dr. Elder's earliest memories is of her young brother crying with the pain of a ruptured appendix, being taken 10 miles on the back of a mule to the nearest doctor. Until she went to college, Dr. Elders herself never saw a doctor, not for a physical exam, not for childhood vaccinations, not for treatment of any illness. She understands the pain of those who have no access to health care, because she has been there herself.

Dr. Elders won a full tuition scholarship to Philander Smith College in Little Rock. Money was so scarce that her brothers and sisters worked in the fields to help pay her bus fare and buy her clothing. She graduated from college magna cum laude in 3 years. She joined the army in 1953 so she could earn the right to GI bill assistance to finance her medical education.

She and her fellow African American students at Arkansas Medical School were forced to eat in a segregated section of the student cafeteria. Dr. Elders went on to an internship in pediatrics at the University of Minnesota. Because of her ability, she was invited back to the University of Arkansas Medical School to the prestigious position of chief resident in pediatrics. After her internship, she was invited to stay on at the university as a professor in pediatrics. In 1987, Governor Clinton named her to lead the Arkansas Department of Public Health.

To be effective, a Surgeon General must have the ability and perseverance to fight for what is right. Dr. Elders has clearly demonstrated the strength of character needed to take on any job no matter how difficult.

To be effective, a Surgeon General must have a strong scientific background and a fine intellect. She must understand the basic issues underlying the difficult questions of health policy.

Dr. Elders is a distinguished pediatric endocrinologist with 150 scientific papers to her credit, who has spent most of her professional life in academic medicine. I would like to read just a few of the titles of those papers now so Senators and the country will have a better idea of the extraordinary background and extraordinary ability of this nominee.

Elders, M. Joycelyn and Knicker, W.T.: Biological role of fetal thymic hormone. J. Pediatric 69:955, 1966.

Chaney, C., and M.J. Elders: Management of juvenile diabetes mellitus. J. Ark. Med. Soc. 72:239–248, 1975.

Elders, M. Joycelyn, Herzberg, Victoria L., Hill, Donald E., Boughter, J. Mark, Harris, Linda, and Heinrich K. Schedewie: Growth hormone effects on erythrocyte insulin binding. Pediatr. Res. 15(4): 507, #402, 1981.

Elders, M. Joycelyn: Keynote Address to the Academy for Educational Development Conference—Urban Middle Schools Adolescent Pregnancy Prevention Program. May 1990 AED.

Elders, M. Joycelyn and Hui, Jennifer: Article, "School-Based Clinics: Meeting Health Needs of Adolescents". California Pediatrician—Spring 1990, Vol. 6.

And the list goes on and on.

Finally, to be effective, a Surgeon General must bring to the job a strong record of commitment and accomplishment in the field of public health. By that standard Dr. Elders is one of the best qualified Surgeon Generals in the Nation's history.

As director of the Arkansas Health Department, she guided one of the most effective and innovative programs in the Nation. Her peers, the chief health officers of the 50 States and territories selected her as the president of their organization, the Association of State and Territorial Health officers. Of all the States and territories, she was selected by the health officers in this country and territories to be the head of that organization, which deals with public health.

Under Dr. Elders' leadership, the Arkansas Department of Public Health doubled the proportion of children receiving timely immunizations. In this country today half the children that are 2 years old do not have immunizations. In this reconciliation bill there is $500 million to help provide those immunizations for children all across this country. We have someone nominated that has the sound record of dramatically increasing immunizations in the State of Arkansas, doubling the proportion of children receiving timely immunizations. We know that we need her leadership in that area.

She established a program that has become a model for the Nation. She launched an assault on infant mortality that significantly increased the number of women receiving adequate prenatal care. She increased by tenfold the number of poor children receiving comprehensive health screenings. She expanded home care opportunities for senior citizens. She led a crusade against teenage pregnancy. She dramatically expanded early screening and detection services for cancer in women. She fought for school-based clinics because she understood that the only realistic way to reach children in need and give them access to at least minimal health services, was to reach them in their schools.

Let me say to all those who reject the idea of school-based clinics for fear that in some schools some children may hear the dreaded words "condom" or "abortion," I say to you, Dr. Joycelyn Elders is living proof that you are wrong. School-based clinics can be a lifeline to a vast number of children who otherwise never see a doctor.

Local officials can decide about controversial issues of health policy like condoms and abortion. But how can anyone deny that basic noncontroversial health care is needed by these children? And they can get it in their own schools.

The fact of the matter is, the decisions about the school-based clinics were made by the local school committee. The decisions about health education for the appropriate age, was made at the local school level. In many of the school-based clinics in Arkansas they do not have that kind of education program. In some they do. If in a local community they make a decision that they want that kind of education, and parents do not want their children to have that education, they can so indicate and the child will not be included in the program, or have available the kind of services of that particular clinic.

The local school district and local parents make the judgment and determination regarding health education programs. The Arkansas Legislature, not considered to be some flaming liberal organization, decided and accepted that the people of Arkansas should make that judgment and decision.

So, Mr. President, it is important to know that in terms of bringing clinics to schools, Dr. Elders puts the value on local interests, local support, and the parents that will be affected by the program.

It is an interesting fact that in Arkansas there are scores of schools that want to take advantage of these programs, but it has been such a success that they lack adequate resources.

Mr. President, I must say that that kind of attention to the needs of young people, with the decisions being made at the local level, is an important need in schools across this country.

For all of these reasons, Dr. Elders is the right person at the right place at the right time to be Surgeon General. And in the years to come, millions of children are likely to see Dr. Elders as their doctor, too. Yet she has been subjected to unremitting, unfounded, unfair attacks on her character, her views, and her record.

This confirmation proceeding has been plagued with delays from the outset. Her opponents have raised round after round of questions about her positions and her activities. Dr. Elders has patiently answered all of them, answered them effectively, and after considering all of these issues, the Labor Committee recommended her confirmation by a vote of 13 to 4.

Her confirmation has also been marked by unfair distortions, misrepresentations, and unnecessary procedural delays. President Clinton announced her nomination as Surgeon General on December 24, 7 months ago. The issue have been exhaustively debated ever since, and the Senate should take final action before we adjourn for the August recess.

Last month, Senator KASSEBAUM and I postponed Dr. Elders' confirmation hearing for a week to allow the committee additional time to review the specific allegations concerning Dr. Elders' service on a board of a bank in Arkansas. The FBI conducted an intensive investigation of this issue and has made a summary of the investigation available to all Senators.

The suggestion was made that the committee should hold a closed session on the nomination. But Dr. Elders insisted that her hearing be open and to the public. She has nothing to hide. And after the public hearing, it was clear to everyone that she had nothing to hide. During her hearing Dr. Elders eloquently answered every question fully, honestly, effectively, and repeatedly.

When the hearing concluded, none of the Senators present had any further questions. But on the following Tuesday, 198 additional questions were submitted. Never before have so many questions been submitted to a nominee in our committee. Even though many of the questions had already been raised and addressed during the hearing, Dr. Elders answered them fully again. She stayed up to 5 o'clock in the morning one night to do so. These questions were received by Dr. Elders on Tuesday, July 27 at noon, and Dr. Elders had completed all 198 answers by Thursday, July 29, a full 24 hours before the committee met to vote on her nomination.

Yet, just yesterday Dr. Elders received 36 new questions on issues that were exhaustively discussed in the hearing and also addressed in the early questions. Once again, she worked long into the night to accommodate the concerns of my colleagues, to thoroughly address all the issues, and her answers were available this morning.

Any lawyer worth his salt can think of dozens of more questions, but there comes a time when the process becomes harassment. We have passed that point on this nomination.

Dr. Elders has proven that she can answer the questions as fast as her opponents can think them up and ask them.

Mr. President, I see a number of our colleagues here. The Senator from Maryland wishes to address the Senate and also is supposed to preside, so I would be glad to yield.

I see my colleague from Kansas here.

Mrs. KASSEBAUM. Mr. President, I wonder if the Senator will just yield for 2 minutes, if that much?

Mr. KENNEDY. I am glad to yield to the Senator.

Mrs. KASSEBAUM. Mr. President, I support the nomination of Dr. Elders, and I will be speaking later. But I would just like to correct a statement made by the Senator from Massachusetts, the chairman of our Labor and Human Resources Committee, in speaking about delays.

They were not unnecessary delays. The papers on Dr. Elders did not come from the administration to our committee until July 1. We then were on a July 4 recess and did not come back, I believe, until July 11.

So we moved in an expeditious manner after once the papers were here.

There were some additional concerns which Senator KENNEDY and myself both joined together in questioning the FBI to take a look at some concerns that had been raised with the office of the Comptroller of the currency.

So, I would just like to point out, and I appreciate the Senator from Maryland yielding, that I believe the committee has moved in an expeditious manner once we received the papers and once we were able to answer some of the questions that had been raised that we felt were important to answer before the committee hearings started.

I yield the floor.

Mr. KENNEDY. Mr. President, the Senator from Kansas is quite correct in her reciting the facts. But she did not mention the fact that there was objection by the chairman of the Republican Policy Committee to allowing our committee to have an opportunity to meet on Friday. We went ahead after the Senate completed its business in the late afternoon. Quite frankly, I think the nominee was entitled to be able to address the membership in attendance that morning, rather than having an objection to the committee meeting, using an arcane parliamentary process and procedure. The hearing was going to be available via C-SPAN to millions of interested Americans.

I think that kind of parliamentary maneuver and procedure is available to the Members, and we are very understanding of that. Also, I want to express, certainly, the position that the Senator from Kansas was not involved in this in any way whatsoever, nor do I believe any of the Republican members of our committee were involved.

But, nonetheless, those individuals who have expressed vocally in the press, and to the membership here the strongest opposition to this nomination, exercised that parliamentary device. I think it was unwarranted and an unjustified delay. I think Members can make a judgment whether it was or was not.

Finally, I would just say that we had a number of other nominations earlier this week. We approved Dr. Payzant; we approved Ellie D. Acheson to the Justice Department; we approved Sheldon Hackney to head the NEH, all of which I think were enormously important. I am very hopeful we would permit Mr. Dellinger to move ahead and be approved, as well. I believe we will be accommodated.

But at some point, somewhere, when we have an individual who has been subjected to the kind of, I believe, harassment, certainly in terms of the questions, repeated questions, that have been filed with the committee, and I think that that individual is entitled to some form of judgment.

I would be glad to yield to the Senator from Maryland.

I see the Senator from Indiana wants to speak.

What I would like to do, if we can let the Senator from Maryland speak, and then I would summarize very briefly my final remarks.

I see a number of our colleagues would like to speak, as well.

I yield the floor.

Ms. MIKULSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Ms. MIKULSKI. Thank you, Mr. President,

I rise in enthusiastic endorsement of the nomination of Dr. Joycelyn Elders to be Surgeon General of the United States.

I want to acknowledge that the tradition of the Senate is that usually we alternate between Republican and Democrat. I thank our two Republican colleagues on the floor for allowing me to speak. I will be relieving the Chair at the designated time of 10 o'clock and, therefore, thank everyone for allowing me to complete my remarks now.

Mr. President, I am very pleased to express my full support for the nomination of Dr. Joycelyn Elders to be Surgeon General of the United States. I cannot think of a more qualified choice to protect the health of the American public.

Mr. President, Dr. Elders has a long and distinguished record of achievement that makes her very qualified to become the top health official in the United States.

I am not sure how many people are aware that Dr. Elders career in public health began as a commissioned officer in the U.S. Army.

She served her country for 4 years—staying 1 year beyond her original obligation.

During those 4 years, she worked as a physical therapist at Brooke Army Medical Center to try to make up for a shortage of physical therapists at that time.

Dr. Elders' military service not only gave her the opportunity to serve her country—it gave her an opportunity she otherwise would not have had—to go to medical school. Like so many Americans at that time, she earned a GI bill. And that GI bill paid her way through medical school.

Now that is what this country is all about. You help America and America helps you. Dr. Elders helped veterans to get well and on with their lives. And as a veteran—I would say our Veteran of the Year—she went on to fight new wars against disease and poverty.

Dr. Elders had a vision of a future few women of her generation could imagine: To be a doctor.

She told me when we spoke last week that it was during her time in service to this country that going to medical school really became a dream for her. And how lucky we are. Because it was in medical school where she began to focus on what has become her great compassion and life's work—to improve the health of this Nation's children.

That is why she became a pediatrician.

Dr. Elders is a special kind of pediatrician. She is a pediatrician with perspective. While she treated one child at a time in her doctor's office, she was developing a plan to help all children, especially poor and minority children be healthy.

She has shown that in her 20-year clinical practice career during which she became one of the foremost experts on juvenile diabetes and growth problems.

Dr. Elders has demonstrated over and over again a unique capacity to combine new ideas for public health with an exceptional understanding of medicine.

But she does not stop with words and rhetoric. She turns these ideas into action. She reaches out to children and families and provides them medical and preventive services where they are—and where they are most likely to get them. And it is this that has caused the most controversy.

Dr. Elders has won the strong backing of the community for her efforts. She has built public health services from the ground up in Arkansas—through the state and county departments of health, the churches, the schools, organizations like the YMCA's, and even with business—Arkansas will be a model for our Nation. She is trusted because she knows what she is talking about.

Mr. President, many of my colleagues are not aware that Dr. Elders is also an exceptional scholar. As a full professor of medicine during 11 years at the University of Arkansas Medical School she taught courses—practiced medicine—and published over 150 articles on important developments in pediatrics.

Her programs to end teen pregnancy; reduce infant mortality; improve the well-being of children and families are all based in science.

Her victories fighting disease are too plentiful to recount.

But it is no wonder that President Clinton chose Dr. Elders when he was Governor to head the Arkansas Department of Health. And it is no wonder that President Clinton has asked Dr. Elders to move to Washington to become this Nation's chief medical officer as the Surgeon General of the United States. Dr. Elder's experience as a scholar, innovator, and veteran will serve well in her new role. Because Dr. Elders is veteran of many wars.

She started her career in health in the U.S. Armed Forces. She spent countless years in the trenches fighting to improve the public health of Arkansas. And now she will be bringing with her all that experience and wisdom to serve our country once again.

Mr. President, I believe Dr. Elders has the proven ability to get people to pull together to improve public health. I can think of no more qualified candidate.

I urge my colleagues to give their support to this remarkable nominee for Surgeon General.

Mr. President, I ask unanimous consent that the statement that Dr. Elders gave before the Committee on Labor and Human Resources on which you and I serve and at which she testified about herself, her background, and her navigational chart she would like to pursue as Surgeon General be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF M. JOYCELYN ELDERS, M.D., BEFORE THE SENATE LABOR AND HUMAN RESOURCES COMMITTEE, JULY 23, 1993

Good morning!

Mr. Chairman, Senator Kassebaum and members of the Senate Labor and Human Resources Committee, it is a great honor to appear before you today as President Clinton's nominee for the position of Surgeon General. I want to thank you for taking time from your busy schedules to meet with me during the past few weeks. I appreciate that opportunity and look forward to talking with those of you I have not yet met.

Before proceeding further, I would like to take this opportunity to thank my dear husband, Oliver Elders, and all of my family and friends, many of whom are here today, who have supported me throughout my career, and particularly, for their support during the past six months. Many say I am a lightning rod. Please know that they have been my thunder.

I appear before you today at a time when our entire Nation is facing great challenges in public health. AIDS, violence, teenage pregnancy, a new strain of tuberculosis, low immunization rates all indicate we have not done a very good job at selling healthy lifestyles in this country. I believe the only way to heal our Nation is through prevention. Prevention requires education. If confirmed, I would make my utmost goal the education of our people, all our people, on how to stay healthy.

I have some personal and professional understanding of these challenges that I would like to share with you.

First, I am the oldest of eight children. I had never seen a physician prior to my first year at college. One of my earliest memories concerning the lack of health care was my four year old brother, who had a ruptured appendix and was taken to the doctor more than ten miles away on the back of a mule. His abdomen was lanced, a drain placed, and he was sent home. I have heard my mother scream during difficult child deliveries, without any medical help. I have seen bright young people all over this country surrounded by social problems impacting health such as drugs, alcohol, violence, homicide, suicide, AIDS and teenage pregnancy. My experience has led me to know first hand many of the programs administered by the Public Health Service and other Federal agencies.

Second, I know about taking advantage of opportunities. The United Methodist Church helped me reach the first rung of the ladder that enabled me to be here today by providing a scholarship to Philander Smith College at age fifteen. After college, I enlisted in the Army and became a physical therapist. Following my service years, I attended medical school on the G.I. Bill and after completing my medical training became a board certified pediatric endocrinologist. I know the importance of providing opportunities for our children today.

Third, as a physician in public health clinics and at the University of Arkansas School of Medicine, I have been the provider of many of the services supported by public health programs.

Fourth, I am a teacher. For over twenty years, I have been on the faculty in the Department of Pediatrics at the University of Arkansas School of Medicine.

During my medical career, I was a National Institutes of Health career development awardee. I served on NIH study sections, advisory committees for both the NIH and the FDA, and, as a consultant to or as a member of advisory committees for many of the programs sponsored by the Public Health Service. I am an experienced researcher having authored many articles on hormonal growth disorders in children. I appreciate the need to have good scientific facts to back up conclusions.

For the past five and a half years, I have been an administrator at the State level as Director of the Arkansas Department of Health. Last year, I was honored by my fellow health directors when they elected me President of the Association of State and Territorial Health Officers (ASTHO).

Finally, I am a coalition builder. Since becoming the Director of the Arkansas Department of Health, I have spent a great deal of my time, recruiting the help of churches, schools, civic organizations, judges, businesses and local communities. I realized that I could not do the job alone. I needed to mobilize all of the resources available in our communities to help save the most valuable resource we will ever have, our human capital. I do not believe that we can dictate from above what local communities need to do to solve the public health problems we are encountering today. We must empower each community to design their own solutions.

As a result of my background, education, training, and experience, I have become a strong advocate for programs that will strengthen families, reduce risky behaviors, improve health and enable children to become healthy, educated, motivated and to have hope for the future. Far too many of our children have become members of what I call the 5-H Club—hungry, healthless, homeless, hugless, and hopeless.

I would like to explain what I am about. But before I do that, I would like to address some issues about me that have been raised.

I am about early childhood education to help children get a good start in life. Only 18% of Medicaid children in Arkansas, the poorest of the poor, have the opportunity to attend Headstart. We know that early childhood education is cost effective and a preventive measure that reduces the likelihood that such children will end up as drop-outs, in prison, or as teen parents.

I am about—and always have been about—comprehensive health education from kindergarten through the twelfth grade. Comprehensive health education means age-appropriate health education programs which include information on: self esteem, alcohol and substance abuse including tobacco, nutrition, exercise, violence prevention, AIDS and human sexuality. It means being healthy and feeling good about yourself. Comprehensive health education teaches children to take care of themselves. Our children deserve that chance.

I advocate educating our parents so that all will know how to instill in their children the courage, strength and perseverance to meet the challenges of growing up. We do not teach parents how to be good parents. Because they do not want to do anything wrong, too often some parents simply do nothing when it comes to providing sound, solid direction and guidance for their children.

I believe we must teach our young men to be responsible. Children being born today need all the help they can get to succeed in this world—including two nurturing parents when possible. They deserve to know and receive support from both parents.

I am about comprehensive school-based or school-linked health services which provide primary preventive care for children at or near where they spend most of their day, in school. In Arkansas, it was my policy (which was later codified) that the local community and the local elected school board would decide if they wanted a clinic in their school and what services to be provided in the clinic. Only four out of twenty-four clinics in Arkansas offer contraceptives on site. Even in those clinics, the parents must sign a release statement before their child can receive family planning counseling and contraceptives from the clinic.

I believe we must offer our bright, young people hope for the future by providing scholarships to those who stay out of trouble and do well in school so they can attend college. It is far cheaper to send them to college than to send them to prison.

Finally, I am about improving the quality of life of all Americans by:

preventing chronic and infectious diseases, including cancer, heart disease, hypertension, tuberculosis, and AIDS;

reducing infant morbidity and mortality;

eliminating the serious disparities in health problems that minority groups experience;

preventing and reducing the toll of injuries and disabilities in our society;

improving womens' health; and

providing care and services for our elderly so they can live in dignity and comfort during their final years.

As Surgeon General, I will be a true advocate for the improvement of health in America, a strong dedicated leader for the U.S. Public Health Service Commissioned Corps and an effective representative for the Public Health Service.

If confirmed, I am excited about commanding the PHS Commissioned Corps. What doctor wouldn't be excited about working with over 6,500 highly-trained and experienced health professionals? The Commissioned Corps has played such a key role in addressing the public health threats of the day—whether they be polio, AIDS, floods or hurricanes. I commit to you that, under my leadership, the Corps will continue to be a vital force in protecting the health of America.

Mr. Chairman, and members of this committee, I want to change the way we think about health—by putting prevention first. I want to change the behaviors and attitudes of Americans by promoting programs and policies which will enable us to be responsible for our own health. I want to be the voice and the vision for the poor and the powerless. I want to change concern about social problems that affect health into commitment. And, I would like to make every child born in America a planned, wanted child.

Should I be confirmed, I would like to work with you and all America to develop an action plan to improve the health of our country. To me, it is not enough to just reform the health care system. We will never have a large enough budget to address all the health care needs of our citizens if we do not start thinking prevention and taking personal responsibility for our health.

I am a hard worker. I am willing to give my time and my talent. We have a big task before us, and I hope you will see fit to make me part of your team.

I will be most happy to respond to any questions.

Ms. MIKULSKI. Thank you, Mr. President.

I want to just share with my colleagues two important conversations that I had with Dr. Elders, one in my own office, and the other in the dialog of the committee hearing that we held on the confirmation of our distinguished nominee.

When Dr. Elders came into my office, we greeted each other with enthusiasm and her usual energy and talked immediately about what we had in common—we were both about the same size; we are about the same age.

And as we recalled our youthful educational experiences—she from the South and I from the Northeast—we recalled that, as we grew up, we grew up in an atmosphere of segregation, and that we lived in our young adult lives through the most enormous actions and passions that this century probably presented itself: To see not only the end of the cold war and the Berlin Wall come down, but that to live through other types of civil actions in our own country in which we watched, through Presidential leadership and congressional support, the walls of segregation come down and create an opportunity structure in the United States of America.

Dr. Elders recounted for me the days of her own poverty-stricken youth, in which she herself did not have access to health care until she was a freshman at college; the fact that she never dreamed that she could go to the college but, because of the United Methodist Church that reached out to talented, young leadership in the African-American community, that reached out and gave Joycelyn Elders a scholarship, she was able to leapfrog over so many of the obstacles of a young African-American woman in that time and that place in history.

And, yes, she did leapfrog over in order to be able to take advantage of an educational opportunity. But then she never forgot where she came from. Because when she moved ahead, she remembered those who had been left behind, and then devoted her life to seeking an opportunity where she could be a healer in a world that she felt desperately needed healing.

She talked about why she chose the field of physical therapy and why she went in the Army. She went into physical therapy and joined the Army because it was an opportunity in probably what was a more desegregated environment in our society where you could be recognized for talents and abilities—not because of what you looked like, but because of what you could do.

She distinguished herself as a member of the U.S. military. She was a physical therapist in the U.S. military. And on coming out, she took advantage of the GI bill and went to medical school. She became a board-certified endocrinologist.

Mr. President, talk about denying stereotypes. My, gosh, the field of endocrinology is one of the most sophisticated fields of medicine in which one needs to be not only a clinical practitioner but one needs to be a scholar.

And she took those talented hands that God gave her, that great mind, and that great heart and put them to work. And when one looks at what she has done, she has not only been a physician, but she has been a scholar.

She has received an NIH award. She served on a variety of NIH study sections, advisory committees for both the National Institutes of Health and the FDA. And she has been a consultant to members of advisory committees for many of the programs sponsored by the very Public Health Service which we hope she will lead.

Her experience has been in fields like juvenile diabetes and hormonal growth disorders in children.

I think, Mr. President, when one looks at what has been said about Dr. Elders, one can see what her scholarship and her commitment to service has been.

When I asked Dr. Elders what she thought of this confirmation process, she said:

> Senator, it hurts. You think you know who you are, you think you know what you have done, and the President of the United States calls you and you know what you want to do and what more you can do for this country.

But she said:

> When you go through this nomination process, something happens. In speeches I have made, one liners are taken out of context; other kinds of aspects of my life. I feel like I have been made a caricature of what I truly am.

So I said:

> Well, Dr. Elders, tell me who you are and what are you most proud of.

She said:

> Senator, I am most proud of what maybe only shows up as one line on my resume. Yes, I am proud that I am a doctor. Yes, I am proud that I led the Arkansas Health Department. But I am proud that I am married to a fine man, who is a basketball coach in our local community. And between us both, we have raised two swell, smart, community-dedicated, God-fearing young men.

She said:

> I know what it is like to be a wife and a mother and to take young African-American men, who are often looked at as having no hope and no future, and in my own family raise those boys up with my husband. But with that, I also want to reach out to others regardless of their ethnicity or the way they pray or what they believe.
>
> We want people to have hope and we want people to have responsibility. We want people to embrace the values in our society. That is what I tried to do in my own family.

She said:

> My own family does not recognize what is being said about me, Senator.

I said:

> In what way, Dr. Elders?

She said:

> We are church-attending, God-fearing, Methodist hymnal-book-singing members of a church. My own brother is a minister. He has chosen the healing of the soul while I have chosen the healing of the body. When they hear about me and what they say I am, my family says, "That is not Momma; that is not my sister." And, certainly, that is not me.

I think that says something. I think that says something.

The other thing she said is:

> I am a coalition builder, Senator. They had me up there sounding like I am going to say the most radical things, the most offensive things, the most coarse things. That is not me. Maybe when I am in a classroom, I use a one-liner to get the kids' attention. Maybe sometimes in my enthusiasm, I have been a little flip. If only you could reel that back. But Senator, you know; you have given speeches. How do you feel?

I said:

> Believe me, I know there are some words I would like to take back.

But she said:

> Do you know what? What is continually being missed is that I am a coalition builder. In my own home State, everywhere I have worked, in everything I have done, I have tried to bring people together out of mutual need. When they came together out of mutual need, they got mutual respect. And then, when they got mutual respect, we went on to not only solve the problem, but to build a sense of community and relationship that endured and was sustained long beyond the problem for which we came together in the first place was solved.
>
> I am a coalition builder. And you know that right now, in the United States of America, we need people who can reach out across those lines that normally divide us to bring us together for coalitions.

I thought that was pretty powerful. And she said:

> I am not this caricature they want to make me out to be. I am a serious person, dedicated to the public service. Regardless of what judgment the United States Senate makes about me, I am willing to stand before my own family, feeling I have served them well, and to stand before my own Creator and feel I have served him well, as well.

I will tell you, I like a Surgeon General who talks like that. There is more I could say about Dr. Elders, but I wanted people to get that flavor.

Then later on, when we were at the hearing, in terms of the confirmation hearing, I raised some very specific issues, because we want a Surgeon General who, yes, has identified the fact that she wants to make children her number one issue. But I asked about aging. I chair the subcommittee on aging.

Dr. Elders, without missing a beat, talked about how she wants preventive health services not only for children but for elderly. She believes that health insurance, when we use the term long-term care, it is not a synonym for nursing home reimbursement but should be a synonym for a long-term care strategy, a continuum strategy that keeps people out of nursing homes and enables them to stay in their own community. She has supervised and administered those services in her own community to do exactly that.

At the same time, I asked her about Federal emergency management. I chair the subcommittee that funds FEMA. I said: "The Midwest is being flooded; public health problems are going to be at an enormous level.

She outlined how she worked with the Arkansas Federal Emergency Management System so when Arkansas was hit by floods, they could have a public health strategy: Restoring clean water, safety for the kids, immunization against tetanus, at the same time delivering the mental health services that come when you lose a community and lose your job.

I think that is a pretty versatile Surgeon General to be. And she has shown she can be on the firing line, as well as somebody who I believe can hold her own on Night Line.

So, Mr. President, I have come to the conclusion that I believe Dr. Elders is a seasoned clinician, a distinguished scholar, and she also brings character and she brings commitment. She knows how to deal with adversity without herself becoming a victim.

I think she will be inspirational. I think she will be motivational. I think she is the right Surgeon General at the right time at this point in American history.

I yield the floor.

The PRESIDING OFFICER. The Senator from Indiana is recognized.

Mr. COATS. Mr. President, I will be happy to yield to the Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, I think the chairman and I, the Senator from Massachusetts, would just like to discuss for a moment that the Senator from Indiana and the Senator from Oklahoma wish to speak briefly, I think tonight, and there are many of us who wish to speak tomorrow, if that is satisfactory with the chairman of the committee. Can we reach an agreement there just be a few comments tonight, and the rest of the time tomorrow will be taken for a number of us who do wish to speak? Many have already gone home this evening.

Mr. KENNEDY. I had further remarks myself. I plan to be here for a period of time. I know my colleague from Pennsylvania, Senator WOFFORD, does as well.

I think all of us understand we are in sort of the final time of the Senate. I think most of us—myself included, up to about 45 minutes ago—thought that on the supplemental there were six more amendments that would take us well into the night. Some of the Members are here, and I will be glad to stay here as long as any of our colleagues, members of the committee or others, are interested in making whatever comments they want to. I will be glad to engage them in any discussion or further examination of the issues.

I know there are Members who wish to speak. I intend to be here. I will be glad to enter the discussion, debate, and do the best we can to respond to some of the questions, and proceed in any way. I have some additional remarks, but I welcome accommodating the other Senators with whatever comments they have.

The PRESIDING OFFICER (Ms. MIKULSKI). The Senator from Indiana.

Mr. COATS. Madam President, I appreciate the remarks of the Senator from Massachusetts. I know there are a number of Members on the Republican side who wish to speak to this nomination, many of whom were somewhat caught by surprise, as we all were, when the emergency flood relief bill moved more quickly than we had anticipated when the remaining amendments were either dropped or accepted.

Therefore, a number of Members have expressed the fact that they were not prepared to come to the floor this evening but wanted to make sure they reserved the right to do that tomorrow. I assume, from the remarks by the Senator from Kansas and the Senator from Massachusetts, we can assure them they will have ample opportunity to speak to the issue tomorrow.

I personally do not intend to take a great deal of time this evening. There are a number of areas I would like to discuss, questions and issues I would like to raise regarding this confirmation. I will reserve most of those until tomorrow.

I do, however, want to address the question relative to the delays of this nomination. The nomination was not sent to the Senate, or sent to the committee, in December. While the President stated his intention to nominate Dr. Elders to the position of Surgeon General in December, he clearly indicated that he would not be sending that nomination to the Senate until late spring or early summer.

In fact, the nomination was sent to the Senate on July 1, just prior to the time of the Senate's Fourth of July recess. So on returning from that recess, well into the second week of July, we have had only 3 weeks of time expire since then.

In that 3-week period of time, the Senate Labor and Human Resources Committee has moved, I think, with more speed than it normally moves on these types of issues. It has been remarkable in terms of how quickly we have moved on a nomination of an individual who has generated as much controversy as has Dr. Elders.

I would simply point out to my colleagues that a former Surgeon General nominee, Dr. Everett Koop, was delayed for 9 months in this Senate before he was confirmed to his position as Surgeon General. So compared to Dr. Koop, the timeframe for Dr. Elders is lightening quick.

Here we now are in the last week of the Senate's session before the August recess on a Wednesday evening at 10 p.m. with the majority leader suddenly moving at 9:20 or 9:25, or so, to this nomination, having debated the important issue of emergency flood relief, which has just passed this body, and in the middle of the biggest issue that this President and that this administration has faced in its 7 months of tenure, and that is the budget reconciliation bill or, as we call it on our side, President Clinton's tax bill. This has captured the attention of the media, of the Nation. All of the focus is on what the Senate and what the House are going to do on this bill.

We have yet to see the bill. We have yet to discuss the details of the bill. The Nation has focused its attention on it this week. The common knowledge here is when that is disposed of, we will break for the August recess. I do not really understand what the necessity is to insert this nomination at 10 p.m. on a Wednesday evening into this process and rush to judgment on this particular nominee.

Some have said that there has been an attempt on the Republican side to use procedural devices, whatever procedural devices are necessary, to block this nomination. I know of no Member on the Republican side or, in fact, in this United States Senate, that is intent on filibustering the nomination of Dr. Elders.

I know of several who feel that given Dr. Elders' experience as public health official for the State of Arkansas, given her statements that have raised considerable questions in a number of people's minds relative to her positions on a number of issues, given questions that have been raised regarding her family's and her own personal financial dealings and her financial dealings as a director of an Arkansas bank, given her performance as Public Health Director of the State of Arkansas, I know a number of Senators who have said there are a number of questions that ought to be raised and a number of questions that ought to be answered and we ought to take a thorough look at this nominee, as we do with every nominee.

I serve on the Armed Services Committee, and we have been attempting to confirm individuals, names submitted by the Department of Defense and by the President for months. While we have been attempting to expedite that, it is not outside the realm of the usual in terms of the way the Senate moves on these nominations.

For some reason, which I cannot fully explain, there is a rush to get Dr. Elders nominated. Some suspect the lapse of time between tonight and when the Senate again resumes its business in the second week of September, will shed light on Dr. Elders' activities that perhaps might jeopardize her nomination. I have no knowledge of that. I have no knowledge of any information out there that would do that. But it is somewhat of a mystery to me, to this Senator, that we have to rush this nomination through. I think it is incumbent on us to raise the issues, address the questions, attempt to seek the answers to many of the very serious concerns that have been raised by this.

This is not a matter of passing interest to my constituents. In my 4½ years in the U.S. Senate, I have never seen the kind of opposition and the ratio of opposition to any issue or to any nomination as to this particular nomination. Our phones are flooded with calls from constituents from Indiana in a ratio of 100 to 1—out of 100 calls, 99 oppose the nomination of Dr. Elders and 1 supports it.

I have never had an issue that has come close to that. We have never had a nomination before us—and we have had some controversial nominations before us in this body since my time in the Senate—that have even come close to this. It is of great interest to the people I represent.

I think it is my duty as their Senator to ask the questions that they are asking and to seek the answers that they are seeking, because we are nominating here an individual who speaks for the Nation on public health concerns; that is, in my opinion, an individual who ought to attempt to form a consensus, a person who ought to attempt to educate, a person who ought to attempt to bring us together as a people in acknowledgment of serious public health concerns and devise a strategy to address those concerns.

To put it mildly, Dr. Elders' tenure as public health officer of the State of Arkansas has been fraught with considerable controversy.

This woman has much to be commended for in terms of her background, in terms of her overcoming difficult obstacles in her life, and I admire her efforts in doing so. But in her tenure as public health officer for the State of Arkansas, she has said and done a number of things that have raised some very serious questions in the minds of my constituents, in this Senator's mind, and I think it is important that we spend a considerable amount of time addressing those. This is an important position. It is one that I think is important to this Nation, and I think we would be shirking our duty if we did not carry that type of importance.

Madam President, I will be addressing a number of those issues as we move forward with this nomination. I look forward to the debate we will engage in and, hopefully, we can get the answers to some of the questions we have. With that, I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Madam President, I will take just a very brief moment to respond, because others want to speak.

As was mentioned in the presentation, and in other earlier comments, Dr. Elders' nomination was effectively announced some 6 months ago. Since that time, as the institution proceeds, individuals have been gathering information about the nominee. So there has been plenty of information or time to develop it.

I just remind my good friend—and he is my good friend—we received the nomination of Judge Ginsburg on June 26, effectively 1 week before we had this nomination. She was reported out of the Judiciary Committee 1 day before we reported out the nomination of Dr. Elders. At that time we announced that we expected to have a final resolution of it, and we approved her yesterday. In that amount of time we had a

Supreme Court nominee, which is probably one of the most important decisions made by any President.

We would welcome the opportunity to agree to the same amount of time that this institution spent in considering an outstanding candidate for the Supreme Court, Judge Ginsburg, to debate the Surgeon General, the President's Surgeon General, who is going to deal with public health issues.

I did not hear any of our colleagues saying we were rushing Judge Ginsburg. With all the importance of her nomination, the Senate was able to consider a wide variety of positions that she had and her views about the Constitution and make a judgment. I certainly do not question that Dr. Elders has made statements and comments that people will agree with, and people will differ with. She has taken public health policy decisions that people will agree with and differ with. But we do feel that there should be time for consideration of her nomination. I know there are differences on that issue.

I yield the floor.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Madam President, I rise to make a few comments tonight. One, I was not aware this was going to come up tonight. A lot has been said about delay. I will make a couple of comments because some have stated that I am partially responsible for some of those delays and, indeed, I am and for different reasons.

I will tell my friend and colleague from Massachusetts, if Judge Ginsburg had made some of the same statements that Dr. Elders has made, she would not yet be confirmed for the Supreme Court. If she had taken similar radical positions as Dr. Elders, I can tell the Senator from Massachusetts that Judge Ginsburg would not yet be confirmed. We would be here for a long time. I will also tell my friend from Massachusetts, and I heard part of his opening statement when he recited many of the achievements that Dr. Elders has made and her family background, her rising from poverty, I congratulate her for that rise. I congratulate her for her history. I am proud of what she has been able to accomplish. It is exciting to see that kind of success and to see that mobility. So I compliment her for that.

That is not the reason why I oppose her nomination.

I will go into length tomorrow and probably speak for some time tomorrow about why I oppose her nomination. Have we sought undue delay? I would say no.

As both the Senator from Kansas and the Senator from Indiana have stated, this nomination did not come to the Senate until July 1.

I have heard some people say, well, wait a minute. Someone objected to the committee even having a hearing on her while the Senate was in session.

Let me just talk about that for a second. A week earlier I had requested that the committee postpone the hearing on Dr. Elders, and the committee did postpone the hearing on Dr. Elders because the Senator from Massachusetts and the Senator from Kansas wanted to have additional information. There were allegations raised concerning impropriety dealing with banking laws and so on, and they sought and solicited—and correctly so, in my opinion—additional information. And so they postponed the hearing. I think they were right.

I might also mention that there were serious allegations made, or at least some statements made in the paper concerning distribution of defective condoms just a couple of days before the hearing that was actually held.

We did not have answers. I requested information. I requested information from the FDA. We did not have that. As a matter of fact, I requested that FDA information on July 6, and I still do not have all the information from FDA. We are getting it day by day now. But certainly we did not have it prior to that hearing, and this Senator, for one, thought we should. We also did not have an FBI report. The FBI did conduct intensive investigations but there was not a summary report. It was not available to Senators, and, frankly, it should be prior to congressional hearings so individuals can ask questions if they feel that information is pertinent to the nominee.

I also will tell my colleagues I had stated I had no objection to the committee meeting that day as long as they would agree to come back and meet at a later date if additional issues were raised from some of the investigation. The Senator from Massachusetts certainly had the right not to agree to that second day, but, likewise, I had a right to postpone the hearing.

Madam President, I will just make a couple comments. Some people might say, well, why would you oppose a person who has risen from poverty in a neighboring State of mine.

I will just say it is not a pleasurable thing, and I will certainly tell my colleagues it is not because I am a Republican or because I am chairman of the Policy Committee or any of the above. It happens to be that I happen to be very opposed to some of the statements that she has made, and I think her statements are disqualifying.

Maybe I am wrong. I may be in the minority. But I happen to be a father. I happen to be a parent. I happen to have four kids. And when I read some of the statements that Dr. Elders has made—and some of the statements I will go into at length tomorrow—I find them quite offensive, quite offensive to people who oppose abortion who have been characterized as—this is Dr. Elders' quote, not DON NICKLES' quote—"nonChristians with slave master mentalities."

That is a very offensive statement. We will talk about that tomorrow. I am offended by the fact that when she was talking about prolifers, "Well, they need to get over their love affair with the fetus." Well, we will talk about that tomorrow.

As a parent, I am bothered by the fact that she would make a statement that teenage girls should not go out on a date unless they carry a condom.

I still have two teenagers. I have two kids that are in their twenties. But that is not the kind of advice I want my kids to receive from anyone and certainly not the Surgeon General using the bully pulpit for that type of advice to teenagers.

Or comments such as, "Hey, we teach our kids what to do in the front seat. Now we need to teach them what to do in the back seat."

No, thank you. That is not the kind of advice that I want my teenagers to receive from the Surgeon General.

Or when Dr. Elders, on June 19 made some kind of comments, talking about how do you help crack-addicted prostitutes, she said, "I would hope that we would provide them Norplant so they can still use sex if they must to buy their drugs."

I do not see that as being a responsible statement by a Surgeon General nominee either, and we will discuss that tomorrow. And that does not even go into some of the improprieties that have been alleged, which I have been trying to get some information about—not trying to get information through the press but just trying to get information, about the distribution and lack of public notification of defective condoms. We are still trying to get some information on that.

So when I have told people I do not really see how we can complete this nomination by the end of this week, I am being very sincere. I am not saying I wish to filibuster it. I have no desire to filibuster it. I do have a desire to get the information, to find out the facts, to find out if in some cases were laws broken and if so, were the laws broken with her knowledge.

So I think we need to get some answers, and I do not have all the answers yet. I do not know that we are going to have all the answers by tomorrow. I do know that we have one of the largest tax increases, if not the largest tax increase, in the history of our country before us. I think we need to talk about that. I think we need to talk about what is in that package, how it is comprised. I know that the President of the United States said it had more spending cuts than tax increases.

I do not think that is the case. I do not believe that is the fact. I think we need to get the facts out on that package before we vote on it—probably the most important vote we will be casting this year, maybe this Congress, maybe for several years.

And so I personally would like to spend more time on the tax bill. I would like for the American people to know what is in the tax bill, and what it is comprised of and what kind of special deals were made and not made and so on. So I would like to spend most of my time on that tomorrow and Friday, frankly.

The majority leader has pulled this nomination up, and I will just tell the majority leader and my friends and colleagues that we have extensive comments and questions that will be raised, that need to be discussed, that the American people need to know about before we vote on this confirmation.

I will also tell my colleagues that there are a lot of Senators who wish to speak on this nomination. It is not just the Senator from Oklahoma, the Senator from Indiana, or the Senator from Kansas. But I think there are significant questions and comments that will be made on this nomination, and I really do not see how it would be possible to complete this nomination by this week's end.

Madam President, I yield the floor.

Mr. KENNEDY. Madam President, I do not intend to speak long.

We went into those matters that were raised by the Senator from Oklahoma in the course of the hearings. Many of those matters were raised both in the course of the hearing and as written questions, and they have been responded to. I think it is important in terms of the full record that any of those comments be put in the context in which they were used and the circumstances in which they were used.

I am informed by staff that the remaining information that has not been completed in response to the Senators requests has been—specific information that has been requested of U.S. attorneys. We are inquiring now whether that is appropriate for release. And in terms of the sales information dealing with one of the condoms, which we understand from the FDA is a trade secret, we are glad to share that with the Members. I am more than glad to stipulate the number of defective condoms and get back to the debate on the issue of the health policies that were involved in that question, if that is of help.

Let me just say finally, one of the frustrating aspects of this business has been the questions that are being asked—and I will just mention some very quickly here.

Here we have Senator COATS on the question of Norplant for prostitutes during a program called "Talk Live."

> You were asked what you would do with crack-addicted prostitutes who get pregnant. Your response:
>
> "I would hope that they would provide them Norplant so they could still use sex if they must to buy their drugs and not have unplanned babies."
>
> Would you recommend we use Federal funds for this purpose?

It goes into a long description of exactly what her position is. That is a quote on July 29.

Senator NICKLES on August 3: "Would you recommend use of Federal funds for the purpose of providing Norplant to prostitutes?"

Here is Senator COATS on July 29:

> Since you have on occasion stated you oppose restricting a woman's access to abortion for reasons other than "medical necessity" would you support a woman's right to terminate her pregnancy simply because the child was the wrong sex? Do you consider this a legitimate form of family planning?

She responds: "I have never considered abortion as a means of family planning."

Continuing, here is Senator NICKLES on August 3:

> Do you believe the principles set forth in Roe v. Wade support a woman's right to terminate a pregnancy simply because the child was the wrong sex?

That is virtually an identical question.

Coats on July 29: "You also testified on Friday that you and other directors had voted yourselves an unsecured $230,000 line of credit."

Senator NICKLES on August 3:

> 1"Did you have an unsecured $230,000 line of credit"?

She goes into the full explanation. They are identical questions.

I just do not think that the nominee should have to answer the same question over and over—I think we are glad to get into each and every one of those issues. It is important that we do get into every one of those and have the full facts out. Every Member of this body should examine the record and how she responded because, as a result of her response to each and every one of the statements of the Senators from Oklahoma and her response in talking about the context in which they were used, and explaining her public policy positions. She was reported 13 to 4 out of that committee, with Republicans as well Democrats.

So all we would like to be able to do is to bring this before the Senate, so that Members do have an opportunity to review that record, and to review the testimony. We believe, quite frankly, that there will be strong bipartisan support. We are glad to get into it.

We have heard repetition of statements and comments that are, as we know, hot button issues and questions that are used out of context and continually repeated out of context. We welcome a full opportunity to have them put in context, and for the Members to effectively read her statement, and to hear her works. Leaving those out there for a period of 4 to 5 weeks is really a disservice to that individual. But we will look forward to the chance to go into those in some detail.

I see my friend from Pennsylvania is prepared to speak. I yield the floor.

Mr. WOFFORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. WOFFORD. Madam President, I support the nomination of Dr. Jocelyn Elders to be Surgeon General of the United States.

As the Senator from Massachusetts and the Presiding Officer, the Senator from Maryland, have stated in detail and so vividly, Dr. Elders comes before us well qualified to serve as Surgeon General. She is recognized by her peers as one of our Nation's most effective public health officials.

Dr. Elders' list of supporters for this nomination include medical and public health professionals and associations that include former Surgeon General C. Everett Koop, the American Medical Association, the National Medical Association, the American Nurses Association, the American Academy of Pediatrics, and the Philadelphia-based American College of Physicians. At last count, there were over 340 organizations supporting this nomination.

Some—and we just heard a preview from my friend, the Senator from Oklahoma—we criticized Dr. Elders for statements she has made and positions she has taken as the director of Arkansas Health Department. I do not agree with all of Dr. Elders' positions or statements, but I find this to be the case very often with people who are straight-talking and independent-minded.

Remember Dr. Koop. Dr. Koop was another straight-talking, independent-minded nominee. A lot of controversy swirled around that nomination. I did not agree with everything Dr. Koop said. But I hope we would all agree looking back now that he proved to be an extraordinarily good Surgeon General. I hope also we will agree in due course looking back that Joycelyn Elders had that same potential and became an extraordinarily good Surgeon General. In hope we all agree that the delay of many months in confirming Dr. Koop should not be repeated today.

We have had plenty of criticism, indeed, of important positions in this Government not being filled. Here is one that we can fill now. It should be no surprise that we should move forward to do so after the thorough hearing we held in which we went into, as I heard it, every single one of the items brought up by my friend, the Senator from Oklahoma.

I particularly welcome among the things that I like about Dr. Elders, her commitment, to prevention, and her statements before the Labor and Human Resources Committee that if confirmed she will make her "utmost goal the education of our people, all our people, on how to stay healthy."

She recognized that it is not enough to just reform the health care system. She added "We will never have a large enough budget to address all the health care needs of our citizens if we do not start thinking prevention and taking personal responsibility for our health."

Certainly there have been questions raised about Dr. Elders that have ranged from her financial dealings to decisions she made as the director of the Department of Health in Arkansas. But I believe she has responded with the forthrightness and honesty that are a good measure of her character. I was satisfied with her answers. She put the items we have heard into true context.

She noted when she thought she had made a mistake, and her determination to persuade and to shake people up and to stir them up and wake them up. She may not have had exactly the bedside manner that the Senator from Kansas has recommended she develop further, but she earned our respect. By a vote of 13 to 4, with a number of our Republican colleagues voting for her the Committee sent her name to this body, to this floor for action. I hope that we soon move forward to take that action.

I was satisfied with her answers. And I believe we should now move forward to vote to confirm her and end this 11th hour effort at character assassination and caricature.

As one who is working and fighting for health care reform, I believe we need a Surgeon General who will forcefully and passionately carry the message of good health to this Nation. From what I have seen of Dr. Elders and from what I know of her background and achievement, I believe she will be such a Surgeon General.

Madam President, I would like to read from, and by unanimous consent insert into the RECORD, following my remarks, several letters that I have received that illustrate the support of Pennsylvanians for the confirmation of Dr. Elders.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. WOFFORD. I might add Pennsylvania has an old tie to a controversial Surgeon General. The first Surgeon General, Ben Waterhouse, was a Pennsylvanian appointed by Thomas Jefferson. Dr. Waterhouse was quite controversial in his day.

First, let me read from a telegram from Dr. Leon Sullivan who writes:

> I know her personally and professionally and have always been impressed by her commitment to the highest principles and standards. She would be a tremendous asset to the Nation in that position.

The second letter is from Alan S. Noonan, Governor Casey's Secretary of the Department of Health in Pennsylvania. He writes:

> As the State Health Official for Pennsylvania, I strongly support the confirmation of M. Joycelyn Elders, M.D. as U.S. Surgeon General.
>
> Her confirmation will help ensure that improved health status of all Americans becomes a priority of this Nation. I encourage you to support her confirmation strongly.

And from Dr. David V. Evans, a recent graduate of the University of Pittsburgh School of Medicine, these words:

> As a young physician, Dr. Elders inspires me. With so many of us being trained in schools that do not teach prevention and primary care, Dr. Elders would be a role model for many students and residents to serve the people as a doctor should. I hope that I can be as strong, courageous, and influential as a public advocate.

Madam President, let us move forward and end this debate so that we can resume the important business of our Nation—passing the President's deficit reduction plan and immediately taking up the issue of health care reform when we return in September.

It is significant to me that it was a bipartisan group of Senators on the Labor Committee who voted in favor of Dr. Elders' confirmation. I again thank my colleagues, Senators KASSEBAUM, DURENBERGER, and JEFFORDS of the Labor Committee who, after listening to tough questions posed to Dr. Elders and her responses, cast their votes in favor of her confirmation. I know that a vote on this floor, on this nomination will continue that bipartisan effort. Let us not delay any longer. Let us vote to confirm the nomination of Dr. Joycelyn Elders to be Surgeon General of the United States.

EXHIBIT 1

[Western Union Telegram, July 28, 1993]

Senator HARRIS WOFFORD,
Senate Committee on Labor and Human Resources, Washington, DC.

DEAR SENATOR WOFFORD: I am writing to offer my unqualified support for Dr. Jocelyn Elders as Surgeon General of the United States. I know her personally and professionally and have always been impressed by her commitment to the highest principles and standards. She would be a tremendous asset to the nation in that position. Her primary interest has always been and continues to be the health and well being of all Americans, particularly, our youth and disadvantaged citizens. If I can offer any additional information or support in this regard, please let me know.

Sincerely,

REV. LEON SULLIVAN.

DEPARTMENT OF HEALTH,
Harrisburg, PA, July 9, 1993.

Hon. HARRIS L. WOFFORD, Jr.,
U.S. Senate, Russell Building, Washington, DC.

DEAR SENATOR WOFFORD: As the State Health Official for Pennsylvania, I strongly support the confirmation of M. Joycelyn Elders, M.D. as U.S. Surgeon General. Dr. Elders is a board-certified pediatric endocrinologist. As a professor at the University of Arkansas Medical School and researcher, she authored more than 150 scholastic articles for medical publications.

Dr. Elders tackles tough issues head on. As Surgeon General, she will refocus debate on the health care system towards prevention, which will simultaneously lower health care costs and improve the health of the nation. One of her major goals will be improving the health and well-being of all Americans, those at highest risk of illness.

As director of the Arkansas State Health Department, she has helped raise the immunization rates of pre-school children in the state and has been instrumental in attracting more health professionals to practice in underserved rural areas.

Among numerous distinctions, she has received the American Medical Association's Award for Outstanding Public Health Professional, the National Governors' Association Distinguished Service Award, and the National Education Association's Award for Creative Leadership in Women's Rights.

She currently serves on the boards of a dozen councils and commissions in the public and private sectors, including the National Institute of Medicine's Health Promotion Disease Prevention Committee and the Council on Government Affairs for the Academy of Pediatrics. As a pediatrician, a public health professional and a superb advocate for children, Dr. Elders has the determination and the ability to persuade Americans to take better care of their health.

Her confirmation will help ensure that improved health status of all Americans becomes a priority of this nation. I encourage you to support her confirmation strongly.

Sincerely,

ALLAN S. NOONAN, M.D., M.P.H.

DAVID V. EVANS,
Pittsburgh, PA, July 12, 1993.

Hon. HARRIS WOFFORD,
U.S. Senate, Washington, DC.

DEAR SENATOR WOFFORD: I am writing to you as a constituent to urge your support of the confirmation of Jocelyn Elders, M.D. for Surgeon General of the United States.

As a recent graduate of the University of Pittsburgh School of Medicine and a future family physician, I have seen, first-hand, the importance that prevention and public health play in our society. In Pittsburgh we have one of the highest infant mortality rates among black babies in the country despite an abundance of hospitals and physicians. The death of these babies is due, in part, to teen pregnancy and poor prenatal care.

Dr. Elders has dedicated her professional life to the public through her practice of medicine. She is a well known pediatrician and public health advocate. She is outspoken and strong in this advocacy. The medical community also supports her prior activities as a practicing physician and as the Director of the Arkansas State Health Department.

As a young physician, Dr. Elders inspires me. With so many of us being trained in schools that do not teach prevention and primary care, Dr. Elders would be a role model for many students and residents to serve the people as a doctor should. I hope that I can be as strong, courageous, and influential as a public health advocate.

I urge you, Senator Wofford, to enthusiastically support Jocelyn Elders as the next Surgeon General of the United States. This country needs her.

Sincerely,

DAVID V. EVANS, M.D.

The PRESIDING OFFICER. The Senator from Illinois.

Ms. MOSELEY-BRAUN. Madam President, this week the Senate has an ambitious schedule of activities to complete prior to adjourning for August recess.

In addition to considering legislation on supplemental funding for flooded areas, appropriations for several Cabinet departments, and completing action on national service, we have on our agenda the consideration of several nominees. Many of those nominees have already come before this body.

I am here today to encourage my colleagues to work diligently to ensure that the consideration of another nominee, Dr. Joycelyn Elders, is not left behind in the flurry of activity.

I will not spend my few minutes here this evening discussing in detail Dr. Elders' accomplishments as a physician, administrator, and pioneer in the health field. I did that when I spoke in support of her nomination at this very spot on July 20.

Nor am I here to tell you what her nomination means to me and to this Nation as a candidate whose candor, knowledge, commitment, and compassion will enable her to advance the notion of prevention and healthy living to the citizens of this Nation. I did that when I introduced Dr. Elders to the Labor and Human Resources Committee on July 23.

I am here tonight to bring to the attention of this body and the American people, the tactics some of my colleagues are using to attempt to delay a vote on the nomination of Dr. Joycelyn Elders until September.

I will do my best not to have that occur, particularly when the reasons for delaying her vote are unwarranted.

Some of my colleagues assert that she is too controversial and thus wish to use the recess to generate increased opposition.

In fact, that is the whole purpose of the delay, to delay the nomination beyond this Friday or beyond the beginning of the August recess so as to have time to organize politically an opposition to Dr. Elders' nomination.

I might remind some of my colleagues that Dr. Elders was nominated by the President in December—8 months ago. Eight months is a long time to dig up dirt, if there is any to be found, and to consolidate support.

The fact is that 8 months has not been enough and they want to continue into and beyond the recess in order to consolidate support in behalf of a very narrow and, I daresay, unfair, unwarranted, and unprecedented agenda.

The bottom line is, the hearing is over, the Labor Committee voted 13-4, a large and bipartisan majority, in favor of her nomination. That committee has done its job in advising the full Senate. Issues relevant to Dr. Elders' nomination have been addressed in depth, not only at the committee hearing but also through 200 questions submitted to her on July 20 and another 30 questions submitted this week. And, Madam President, she has answered them all.

Dr. Elders has served a large portion of her life in public service—she is not an unknown. Her views have been widely publicized and she has been very forthcoming in response to all questions.

It is time now, not to begin the review of her record again, but evaluate the record that is before us and vote our conscience.

Unwarranted delays do the Congress—not to mention Dr. Elders, but also do this body—a great disservice. In this case, the relevant and appropriate information concerning Dr. Elders' qualifications have been presented and are available to anyone who would like to take a closer look.

There are some things that Dr. Elders may have said that some of my colleagues do not agree with; that is absolutely fine.

But this vote is not about whether one agrees with every single word that Dr. Elders has uttered in the many years of her career, but whether, on balance, based on her total record, one believes that she will or will not be a good Surgeon General for the citizens of this country. And that is what this vote is about, and that is what the vote ought to be about.

The problem, of course, is getting to a vote. And I believe we have an obligation to vote on Dr. Elders' nomination and to conclude this matter so that our country will have a Surgeon General.

I believe that Dr. Elders has demonstrated, throughout her career, sound judgment, integrity, and a firm dedication to improving the health of the citizens that she served, and particularly in the State of Arkansas.

I also believe that most of my colleagues in this body believe, as I do, that she would make a superb Surgeon General and are ready to cast a vote so that she may begin the important work of that position.

While I am also certain that if we were to wait until September to take a vote, her nomination would prevail, that is not the point. The point is that the Senate should not be deterred from the business at hand because some Members, a few Members, a radical minority, I would add, want to take some additional time to gather information that they hope will help consolidate a political opposition to her nomination. And that is the whole point of this debate today.

We cannot allow this to happen. The scrutiny that nominees to public office presently undergo is already painful and intrusive for the nominee and his or her family. How long should we prolong that process?

We are supposed to, I might add, Madam President, we are supposed to perform the function as the Constitution has given us to advise and consent in nominations, which means we take a proactive as well as a reactive position with regard to looking at the qualifications and evaluating a nominee to see if that person has the credentials, the qualifications, the integrity, and the heart to fulfill the post for which they are nominated.

Advise and consent though, Madam President, does not mean an inquisition. I daresay this process, the way that Dr. Elders is being treated and the way, quite frankly, the advice and consent has been perverted, in my opinion, turns it into an inquisition. And that demeans not only the nominees, but it also demeans this Congress as a body and demeans our Nation.

Dr. Elders has already weathered the examination. Her record has been on display for all to evaluate for some time now. I believe the time has come to consider her nomination and I call upon my colleagues to review Dr. Elders' record and to vote on her nomination this week. We must stand together to reject any delay—any further delay—in the consideration of this nomination.

I am willing to stay here as long as it takes. On that point, I am not alone.

In closing, Madam President, I say about this nomination, we are to go in recess at the end of this week. I believe it is altogether appropriate and we can find the time; we certainly find the time to take up matters that are important to the work of this body, that are important to the work of this country. Dr. Elders' nomination is not less than that.

This country needs a Surgeon General. We need to have the direction from that office that she can provide, and she is anxious to provide.

I join her in support of moving this nomination along, having a vote conclude this week, and having her confirmed to be the next Surgeon General of the United States.

NOMINATION OF DR. JOYCELYN ELDERS FOR SURGEON GENERAL OF THE UNITED STATES

Mr. PACKWOOD. Madam President, I rise today to express my support for the nomination of Dr. Joycelyn Elders to be the next Surgeon General of the United States.

Dr. Elders' professional qualifications are remarkable. Although work on her family's farm kept her from attending school full time, she graduated from high school as valedictorian at the age of 15.

After attending college on a full scholarship, she graduated magna cum laude and then went off to the Army so she could attend medical school on the GI bill.

A pediatric endocrinologist, Dr. Elders has experience in every phase of the medical field: She has been a professor of medicine, a medical researcher, a practicing physician, and the director of the Arkansas Department of Health.

Her additional civic and professional activities are too numerous to mention.

In spite of her remarkable personal story, perhaps an even more important qualifying factor for Dr. Elders' fitness as Surgeon General is her demonstrated willingness to take strong positions in favor of public health policies which she believes to be correct.

Her first priority has always been the practice of preventative medicine.

Her courageous initiative against teen pregnancy in Arkansas includes school-based clinics and a public information compaign.

She is a tireless advocate for availability of family planning and prevention of sexually transmitted diseases.

Her expertise in pediatrics served Arkansas well when she moved aggressively to wage a campaign for healthy babies and availability of preventative health services for young children.

Dr. Elders has exercised courage and vision in tackling tough and controversial health problems.

I am pleased to join the American Medical Association; Dr. Michael Skeels, administrator of the Oregon Health Division; President Peter Kohler of the Oregon Health Sciences University, and the other dozens of medical organizations and experts who support her.

She has the kind of leadership we need in health care at this very critical time, and I strongly urge my colleagues to support the nomination of Dr. Joycelyn Elders as our next Surgeon General.

Madam President, I ask unanimous consent to have printed in the RECORD a letter from Dr. Michael Skeels of the Oregon Health Division, which strongly endorses Dr. Elders.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

OREGON DEPARTMENT OF
HUMAN RESOURCES,
Portland, OR, July 7, 1993.

Hon. BOB PACKWOOD,
Russell Senate Office Building, Washington, DC.

DEAR SENATOR PACKWOOD: I am writing on behalf of the Department of Human Resources, Oregon Health Division, to express my strong support for Joycelyn Elders, MD, for US Surgeon General. As a pediatrician, a public health professional, and a superb advocate for children, Dr. Elders has the determination and the ability to persuade Americans to take better care of their health.

Dr. Elders tackles tough issues head on. As Surgeon General, she will refocus debate on the health care system towards prevention, which will simultaneously lower health care costs and improve the health of the nation. One of her major goals will be improving the health and well being of all Americans, especially adolescents. She will address infectious diseases such as tuberculosis and measles, as well as nutrition, tobacco and alcohol use, and preventing injury and violence. We urgently need her leadership nationwide.

In the five-and-half years since she became director of Arkansas State Health Department, she has helped raise the immunization rates of pre-school children in the state and has been instrumental in attracting more health professionals to practice in undeserved rural areas.

Dr. Elders is a board-certified pediatric endocrinologist. As a professor at the University of Arkansas Medical School and researcher, she authored more than 150 scholastic articles for medical publications.

Among numerous distinctions, she has received the American Medical Association Awards for Outstanding Efforts on Behalf of American Youth and for Outstanding Public Health Professional, the National Governor's Association Distinguished Service Award, and the National Education Association's Award for Creative Leadership in Women's Rights.

She currently serves on the boards of a dozen councils and commissions in the public and private sectors, including the National Institute of Medicine's Health Promotion Disease Prevention Committee and the Council on Governmental Affairs for the Academy of Pediatrics.

Her confirmation will help ensure that improved health status for all Americans becomes a priority of this nation. I encourage you to strongly support her confirmation.

Sincerely,
MICHAEL R. SKEELS, PhD, MPH,
Administrator, Health Division.

Mr. KENNEDY. Madam President, we will have a better opportunity tomorrow to get into the quality and the breadth of support for Dr. Elders. But I do want to mention at this time the excellent support she has from the American Medical Association, not considered to be a flaming liberal organization; the American Cancer Society, because of the great work that she has done in the area of cancer prevention; the American Hospital Association, another very distinguished group that is generally considered to be a conservative organization; the National PTA, parents and teachers, the organization that reflects the parents. I think, again, having the strong endorsement of parents of the various schools where she has brought her skills, whether it has been in immunization, or childhood health screening, or in the other preventive health care areas, to have the parents involvement and their strong support, is a very clear message about the deep respect she has among those groups.

Madam President, I am notified that one of our colleagues will be here momentarily and desires to speak briefly to the Senate. So at this time, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Madam President, I will include in the RECORD a really superb record of endorsements from our colleagues from Arkansas [Senator PRYOR and Senator BUMPERS], two highly regarded and respected Members of this body who wrote to our colleagues and gave a very clear indication of their own strong support for the nominee, based on their extensive experience.

I am mindful as well of the excellent statements that were made by our colleague from Oklahoma [Senator BOREN] and Senator HATFIELD's statement introducing her to the committee was enormously important. She has also received strong support from other members of the delegation including Congresswoman LAMBERT, from Arkansas, who made an absolutely superb presentation. Congresspersons come and appear regularly before the committee on endorsements, but her detailed knowledge of Dr. Elder's involvement in various health clinics and her description of the various programs that have been initiated under Dr. Elders' leadership in her district was enormously impressive. I think it was a very clear indication of someone who knows Dr. Elders the best, like many of those who support her. That has been very indicative persuasive and powerful to many of us, that the people who have worked with her, whether in academic medicine, or people out in the community, small villages and towns of Arkansas, parents, school administrators, school teachers, school boards, professional public health personnel; the people that really knew her best have been her strongest allies and finest supporters.

They have reflected a wide and diverse political background and experience, primarily based upon very thorough respect for her detailed professional qualifications and abilities, her powerful integrity, her enormous sense of decency and caring and compassion.

We will take some time during the debate tomorrow to use some real illustration, some anecdotes that I think are enormously powerful and telling in terms of the real quality of this absolutely superb individual.

So, Madam President, we look forward to the debate tomorrow. We are going to be here at the time designated by the majority leader. We hope our colleagues will speak to these issues. We are going to be prepared to respond to any of the questions which are raised. And on those two items I mentioned earlier we will, hopefully, have either additional information or responses to those matters as well. We look forward to the debate and, hopefully, a resolution of this nomination.

I believe when the roll is called, Dr. Elders will be approved overwhelmingly.

APPOINTMENTS BY THE PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, pursuant to Public Law 93-29, as amended by Public Laws 98-459 and 102-375, appoints the following individuals to the Federal Council on the Aging:

Randolph Cleghorn of Oklahoma, reappointed to a 1-year term;

Stephen M. Farnham of Maine, reappointed to a 1-year term; and

Romaine M. Turyn of Maine, appointed to a 3-year term.

APPOINTMENTS BY THE MAJORITY LEADER

The PRESIDING OFFICER. The Chair announces on behalf of the majority leader the appointment of the Senator from Alabama [Mr. HEFLIN] as chairman of the Senate delegation to the British-American Parliamentary Group meeting during the 1st session of the 103d Congress, to be held in Edinburgh, Scotland, September 1–5, 1993.

The Chair announces on behalf of the Majority leader the appointment of the following Senators as members of the senate delegation to the British-American Parliamentary Group meeting during the 1st session of the 103d Congress, to be held in Edinburgh, Scotland, September 1–5, 1993:

The Senator from South Carolina [Mr. HOLLINGS.]

The Senator from Tennessee [Mr. MATHEWS.]

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KENNEDY. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. KENNEDY. Madam President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. KENNEDY. Madam President, I ask unanimous consent that there be a period for morning business with Senators permitted to speak therein for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

IRRESPONSIBLE CONGRESS—HERE IS TODAY'S BOXSCORE

Mr. HELMS. Madam President, as of the close of business on Monday, August 2, the Federal debt stood at $4,360,010,907,754.76; this means that, on a per capita basis, every man, woman, and child in America owes $16,976.34 as his or her share of the Federal debt. There may be some Americans who will want to check on the big-spending record of their two Senators and their Congressman.

TRIBUTE TO BRIG. GEN. DONALD G. COOK

Mr. SPECTER. Madam President. Today I congratulate Brig. Gen. Donald G. Cook, the Chief of the Air Force Senate Liaison Office, for his recent promotion to the rank of general officer, and to recognize his distinguished service to the Senate, the U.S. Air Force, and to our Nation.

In the past year, I have had the personal experience of working with General Cook and have found him to be highly competent. In his work with the Senate, General Cook demonstrated the highest standards of professionalism and integrity we should expect from our senior military leaders. His entire military career is impressive.

General Cook was born August 13, 1946, at Fort Benning, GA, and graduated from Andover High School in Baltimore, MD, in 1965. He received a bachelor of science degree in business administration from Michigan State University in 1969, and masters of business administration from Southern Illinois University in 1976.

After earning his commission as a second lieutenant through ROTC in 1969, he entered undergraduate pilot training at Williams Air Force Base, AZ. His first assignment took him to Webb Air Force Base, TX in 1971 as an instructor pilot in T–37's. In 1972, he moved to Moody Air Force Base, GA, also as a T–37 instructor pilot. General Cook completed B–52 training at Castle Air Force Base, CA, in 1974. In June 1974 he was assigned to March Air Force Base, CA.

In June 1978, General Cook was assigned to Headquarters, AFMPC, Randolph Air Force Base, TX, where he served as a resources manager in the colonel assignments and as chief of the special actions division. Upon completion of Armed Forces Staff College in 1982, he was assigned to Headquarters, Strategic Air Command, Offutt Air Force Base, NE, until assigned to Fairchild Air Force Base, WA in 1984 as a bomb squadron commander.

In 1986, General Cook attended the Air War College and moved to Headquarters USAF at the Pentagon as chief of the special activities division in programs and resources. He moved to Capitol Hill, Washington, DC, as the Air Force representative to the House Armed Services Committee in 1987. He arrived at Carswell Air Force Base, TX, in November 1988 as the deputy commander for operations and became vice commander for the 7th Bombardment Wing in July 1989. General Cook was assigned as the commander of the 3415th Air Base Group, Lowry Air Force Base, CO, in June 1990. Most recently he commanded the 47th flying training wing, Laughlin Air Force Base, TX from July 1991 to July 1992. The wing conducts undergraduate pilot training for the U.S. Air Force and allied nations. He assumed his position as chief of the Air Force's Senate Liaison Office in August 1992.

General Cook has more than 3,300 flying hours in the B–52's and the T–37B and T–38A aircraft. His military awards and decorations include the Legion of Merit with one oak leaf cluster; Meritorious Service Medal with two oak leaf clusters, the Air Force Commendation Medal with one oak leaf cluster, Air Force Outstanding Unit Award, the Combat Readiness Medal, and the National Defense Service Medal with Bronze Service Star.

I wish Don continued success in his new assignment as commander of the 21st space wing in Colorado Springs and fully expect to see his advancement to more senior positions in Air Force leadership.

STATEMENT ON THE NOMINATION OF ELANOR D. ACHESON

Mr. GRASSLEY. Madam President, earlier this week, the Senate voted to confirm Elanor Dean Acheson for Assistant Attorney General for Policy Development. I wanted to comment upon the issue that has been raised in the context of her nomination—that is the issue of membership in exclusive country clubs.

Ms. Acheson is a distinguished lawyer in Boston and has belonged to several athletic and country clubs in the Boston area. At least one of the clubs, the Country Club of Brookline, has no minority members, although one is currently on the waiting list. Unlike previous Republican nominees, this nominee never faced public questioning, about the policy and practices of her club. At her hearing, none of my Democrat colleagues raised the issue of whether her club engaged in intentional discrimination or whether she made any efforts to make the club accessible to nonwhite individuals.

It took the diligence of a new member to the committee, Senator PRESSLER, to raise the issue before the committee. He was rightfully confused in view of the fact that, in 1990, the Judiciary Committee passed a resolution on this subject. And he properly wondered whether there was a double standard being applied—one for previous Republican nominees who were sharply rebuked for club memberships, and one for current Democrat nominees, whose club membership has been generally overlooked.

I am not of the view that membership in an exclusive club—one with no members from minority groups—should disqualify an individual from public service. As Judge Ginsburg demonstrated from her record—numbers alone don't indicate discrimination. In her 13 years on the bench, she hired 57 law clerks and not a one was African-American. This certainly does not mean Judge Ginsburg discriminated. Nor does membership in a club with no minority members mean that a particular member of such a club discriminates.

Our committee resolution reflects such a view as well. The resolution does, however, give Senators discretion to consider an individual's membership in a club that has a policy or practice of intentional discrimination. Such membership should be considered by Senators, in conjunction with other factors reflecting on the nominee's fitness and ability. That is what our resolution provides.

The current issue, as I see it, is not whether Ms. Acheson should be blocked because she belonged to an exclusive club until March of this year, when she knew she would be getting a Government position. The issue is the committee's handling of the club matter. Republican nominees have been extensively questioned by the Committee; but for Senator PRESSLER'S diligence, Ms. Acheson would have escaped a single question on her club's policies and practices. The committee must do better. There must be consistency in the way this issue is handled.

Appearances and perceptions are an important part of the work that happens here inside the beltway. All segments of the American public must feel confident that our work is fair and consistent. The Judiciary Committee, which often finds itself in the middle of controversy, must take care to treat nominees of either party the same. I would hope that in the future, especially as we start reviewing candidates for the 129 judicial vacancies, the club matter is examined consistent with our committee resolution. Nominees who belong to clubs with no minority members or policies of a secondary membership category for women must be asked about those clubs. The nominee's record on bringing minorities and women to the club as guests and members should also be examined. After all, the Judiciary Committee can not be seen as treating Republican nominees more rigorously than Democrat nominees. That would be a form of discrimination.

CONTRACTOR LOBBYING ON THE SUPERCONDUCTING SUPER COLLIDER

Mr. PRYOR. Madam President, I rise today to bring an issue to the attention of my colleagues as they prepare to go home for the August recess. As we all know, during visits to our home States we are often lobbied on matters that will come before the Senate. This is usually an appropriate and informative activity.

However, I want to alert my colleagues that they will likely be subject to a coordinated lobbying campaign on the superconducting super collider. Who is paying for this lobbying effort? It appears the taxpayers. Let me repeat that point. This lobbying campaign is apparently being paid for by tax dollars. If true, this is illegal and reprehensible.

This project has been controversial since its inception. However, that does not change the fact that it is illegal to use tax dollars to seek to keep it alive and keep the money flowing to the thousands of contractors involved in the project.

Madam President, I have received copies of memos and computer messages which outline a coordinated campaign to continue funding for the superconducting super collider. One memo states "It is particularly important to reach your U.S. Senators before they return to Washington * * *".

The contractors have also developed a detailed vote tally to predict how the House and Senate will vote on the super collider funding. The document lists each Member's past votes on the issue, their probable 1993 vote and the amount of contract money awarded in each district. The document is so detailed that it can track $30 in one congressional district in Illinois and $38 in a Michigan district.

Let me quote from one of the computer messages originating from the superconducting super collider laboratory:

> Basic Research is in Grave Danger. Your Urgent Help is Needed Immediately* * *It is our duty to educate the public about basic research. We are imploring you to send today telegrams and faxes to all or some of these organizations* * *

I have written to both the Department of Energy inspector general and to the General Accounting Office to request that they investigate this matter. I have provided each of them with documents that clearly indicate that a coordinated lobbying effort is underway. I hope the investigation will focus on these issues: Whether Federal funds are paying for these lobbying activities; that contractors are involved in this effort; whether the Byrd prohibition on using Federal funds to lobby for a grant or contract is being violated; and whether any employees in the Department of Energy are aware of or involved in this lobbying.

Madam President, the stakes involved in this issue are high. The Department of Energy has virtually turned over this entire program to a network of contractors. Estimates of the total cost for this program range from $8 to $13 billion. With this many dollars involved, and with private contractors running the program, I am not surprised that when the program is criticized that a lobbying campaign is launched. It is no wonder they are nervous after one IG audit found that of $508 million spent on contracts from 1989 to 1992, a full 40 percent, $216 million, were unnecessary or excessive costs.

The reason I brought this to the floor, is that I want my colleagues to be aware of the genesis of this lobbying campaign on this issue. The most recent computer message I have received is dated Monday, August 2, 1993, and contains the latest likely count on the Senate vote on super collider funding. This makes it clear to me that this project is not about science but about politics. And, most importantly, the taxpayers may be paying the bill.

Madam President, I ask unanimous consent that my letters to the Department of Energy inspector general and the General Accounting Office and the Universities Research Association, Inc., memo be included in the RECORD after my statement.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

COMMITTEE ON
GOVERNMENTAL AFFAIRS,
Washington, DC, August 3, 1993.

Hon. CHARLES A. BOWSHER,
Comptroller General,
General Accounting Office, Washington, DC.

DEAR MR. BOWSHER: As you know, I have spent years reviewing the use of contractors by the Department of Energy. During this review, I have looked at the Superconducting Super Collider (SSC) and found a largely contractor bureaucracy that has operated with far too little oversight. I am forwarding some materials that I have received that outline the startling practices that some contractors on the Superconducting Super Collider have undertaken to protect their pipeline of federal dollars. Specifically, I request that you investigate lobbying efforts to determine whether any criminal or civil statutes or federal regulations were violated.

While I am also writing to the Department of Energy Inspector General on this matter, I am interested in your particular review of this situation to determine if this is a violation of the Byrd rule that prohibits the use of federal funds to lobby to obtain grants or contracts.

Your office has been an effective watchdog on this project and your efforts have uncovered numerous instances of inappropriate spending. It is my belief that this possibly illegal lobbying campaign is being waged to attempt to save this program that has proven to be so poorly managed. Unfortunately, when the federal government gives such large sums of money to private contractors and does not exercise adequate oversight, these are the very types of problems which can arise.

Thank you for your prompt attention to this request. If you have any questions, please contact my subcommittee staff at 224-2254.

Sincerely,

DAVID PRYOR.

COMMITTEE ON
GOVERNMENTAL AFFAIRS,
Washington, DC, August 3, 1993.

Hon. JOHN LAYTON,
Inspector General, Department of Energy, Washington, DC.

DEAR MR. LAYTON: As you know, I have spent years reviewing the use of contractors by the Department of Energy. During this review, I have looked at the Superconducting Super Collider (SSC) and found a largely contractor bureaucracy that has operated with far too little oversight. I am forwarding for your review some materials that outline the startling practices that some Superconducting Super Collider contractors have undertaken to protect their access to federal dollars. Specifically, I would like your office to investigate this lobbying effort to determine whether any criminal or civil statutes or federal regulations were violated.

In your investigation of this activity, I request that you determine the following: Have SSC contractors lobbied Congress? What particular activities (i.e. letters, meetings, phone calls) did these individuals engage in to carry out this campaign? Which Department of Energy contractors or federal employees were involved? Were the DOE officials monitoring the SSC aware of this lobbying campaign?

Your office has been an effective watchdog on this project and your efforts have uncovered numerous instances of inappropriate spending. It is my belief that this possibly illegal lobbying campaign is being waged to attempt to save this program that has proven to be poorly managed and perpetuate the same types of wasteful practices you have uncovered. Unfortunately, when the federal government gives such large sums of money to private contractors and does not exercise adequate oversight, these are the very types of problems which can arise.

Thank you for your prompt attention to this request. If you have any questions, please contact my subcommittee staff at 224-2254.

Sincerely,

DAVID PRYOR.

UNIVERSITIES RESEARCH
ASSOCIATION, INC.,
Washington, DC, July 1, 1992.

To: Presidents and Chancellors of URA Universities.
From: John Toll.
Subject: Now Is the Time To Speak Out on the SSC.

As I mentioned to you in my memorandum of June 23, it is extremely important that you bring your views concerning the SSC to the attention of Members of Congress with whom you have to contact. It is particularly important to reach your U.S. Senators before they return to Washington about July 20. If you write either letters or summaries of meetings, I hope that you will send copies to the URA office at the address above.

For your information, I include some letters that have recently been written about the SSC. The first is signed by many Nobel Laureates and other scientific leaders, and additional signatures are being added daily. Also included are some letters giving industrial viewpoints. A detailed letter from W.K.H. Panofsky, answering some questions of Senatorial staff, is also included.

On June 30th the largest hearing room of the Senate Office Buildings was filled with a distinguished crowd of scientists, industry representatives, and government officials. The joint hearing of the Senate Committee on Energy and Natural Resources and the Senate Appropriations Subcommittee on Energy and Water Development met to debate and to hear testimony on the SSC by Leon Lederman, George Smoot, Roy Schwitters and Bob Galvin. Some of the scientists at the hearing (e.g., Nobel Laureates Val Fitch, Jerome Friedman, Henry Kendall, Leon Lederman and Steve Weinberg) were invited to meet with President Bush to discuss the SSC. Copies of testimony will be forwarded to you as they become available.

Also enclosed is a copy of a letter published yesterday in The Washington Post. I encourage each of you to publish in local newspapers your own views on the SSC, and to invite your faculty to submit "Op Ed" articles and "Letters to the Editor."

I hope you will share these materials and your point of view on the SSC and its importance to science and to your university with your Federal Relations officials. Please also ask them to work with the URA office in Washington and, in particular, to attend the meeting on the SSC, sponsored by AAU and NASULGC, which will be held on Wednesday, July 8, at 1:00 P.M. in the Kellogg Room at 1 Dupont Circle, N.W., Washington, D.C.

IRISH-AMERICAN HERITAGE MONTH

Mr. KENNEDY. Madam President, yesterday, 25 of my colleagues joined me in introducing Senate Joint Resolution 119, a joint resolution to designate the month of March 1994 as "Irish American Heritage Month." I ask unanimous consent that its text may be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S. J. RES. 119

Whereas the first Irish emigrants arrived in America as early as 1621;

Whereas 9 of the generals who served in the Continental Army during the American Revolution were Irish born;

Whereas Commodore John Barry of County Wexford, Ireland, served brilliantly in the Continental Navy and is widely regarded as the father of the American Navy;

Whereas James Smith, George Taylor, Matthew Thornton, and Charles Thomson, 4 of the individuals who signed the Declaration of Independence, were Irish born and 9 other signers were of Irish ancestry;

Whereas the contributions of the Irish to America's victory in the American Revolution led Lord Mountjoy to exclaim in the British Parliament that "America was lost by the Irish emigrants";

Whereas beginning at the time of the potato blight and famine in Ireland in 1845, over 700,000 Irish immigrants came to the United States during the 1840's, 900,000 during the 1850's, and over 300,000 in each decade through 1910;

Whereas Irish Americans participated heavily in the industrial and economic development of America during the nineteenth century, building our cities and canals and the railroads that expanded the Nation to the West;

Whereas even today, it is said that under every railroad tie an Irishman is buried;

Whereas the Irish contributed greatly to the development of the labor movement in the United States, including the establishment of the American Miners Association in 1861;

Whereas nearly 150,000 natives of Ireland served in the Union forces during the Civil War;

Whereas more than 500 members of the Irish Brigade were killed while fighting for the Union in the Battle of Antietam on September 17, 1862, a date that has been called the bloodiest day in American history;

Whereas the Irish Brigade fought courageously in several other Civil War battles including Fredericksburg, Chancellorsville, Yorktown, Fair Oaks, Gaines Mill, Allen's Farm, Savage Station, White Oak Bridge, Glendale, Malvern Hill, Gettysburg, and Bristow Station;

Whereas in 1892, Annie Moore from County Cork, Ireland, at age 15 became the first immigrant to pass through Ellis Island;

Whereas Irish Americans have made numerous contributions to the arts and to sports, as exemplified by the achievements of F. Scott Fitzgerald, Eugene O'Neill, Helen Hayes, Georgia O'Keefe, John L. Sullivan, and Connie Mack;

Whereas the first woman to serve as the organizer of the American Federation of Labor was Mary Kennedy O'Sullivan;

Whereas at the beginning of the twentieth century, many of the school teachers in America's largest cities were Irish American women;

Whereas President John F. Kennedy was the first American President to visit Ireland during his term in office;

Whereas Irish Americans, including Kathryn Sullivan, the first American woman to walk in space, and Christa Corrigan McAuliffe, America's first school teacher in space, who perished on the Challenger mission, have bravely served as America's pioneers in space;

Whereas more than 200 Irish Americans have been awarded the Congressional Medal of Honor;

Whereas President William Jefferson Clinton is the nineteenth American President of Irish ancestry;

Whereas 37 United States governors and mayors designated March 1993 as "Irish-American Heritage Month"; and

Whereas 44 million Americans are of Irish ancestry: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of March 1994 is designated as "Irish-American Heritage Month". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe this month with appropriate ceremonies and activities.

IN MEMORY OF RUSSEL G. SCHWANDT

Mr. DURENBERGER. Madam President, I rise today to honor the memory of Russel G. Schwandt, a former Minnesota Commissioner of Agriculture, who passed from this life last week.

Russ Schwandt embodied the principle that is the underlying philosophy of public involvement in my State: He said so frequently, "Our politics are not Republican or Democrat or any other party. Our politics are agriculture." To some in Minnesota, politics are education; to some, politics are health, and to others politics are natural resources or trade or environment. But Russ's politics were agriculture and he served agriculture well.

He began his career with the Minnesota Farmers Union, then with the Grain Terminal Association where he managed elevators in Minnesota, North Dakota, and Montana. In 1963 he was appointed by Democratic Governor Karl Rolvaag to be his Commissioner of Agriculture. And from 1967 he served in the same position under Governor Harold LeVander, a Republican. It is there that I came to know, admire, and love Russ Schwandt as I do to this day.

Russ later founded the Minnesota Agri-Growth Council, and chaired the Seaway Port Authority of Duluth.

It was Russ Schwandt who taught us that agriculture is not only a farmer and his or her land. He keenly made Minnesotans aware that agriculture is in everyone's very best interest because one of every three people in Minnesota works in an agricultural-related job: restaurants, farm implement dealers, grocers, bankers, elevator managers, the great Port of Duluth, the chemical and fertilizer industry, the rail and barge system are all part of agriculture and we are part of it. This lesson becomes more and more important during this year of rain-related crop disasters in 35 Minnesota's finest agricultural counties.

Russ Schwandt died in the same farmhouse in Red County where he was born 73 years ago. He is survived by his wife Lotus, his son Jim and daughter-in-law Kathy, and grandchildren Kirsten, Piper and Dallas.

Minnesota agriculture—all of us involved in that circle—will miss him dearly.

STATEMENT ON THE NOMINATION OF JIM BLANCHARD

Mr. GORTON. Madam President, last week the nomination of Jim Blanchard to be United States Ambassador to Canada came before the Senate for consideration. Jim Blanchard is a former Governor and Member of Congress from the State of Michigan. And because of Michigan's proximity to Canada, Governor Blanchard is familiar with the Canadian form of government and has the benefit of previously working with Canada on issues of importance during his tenure as Governor and Member of Congress.

I had the opportunity to meet with Governor Blanchard to discuss an issue of environmental significance to Washington State, the Canadian Province of British Columbia, and the United States. The issue is this: each day the city of Victoria, British Columbia dumps millions of gallons of raw, untreated sewage into the Strait of Juan de Fuca. A scant 17 miles across the Strait sits the city of Port Angeles, WA. Needless to say the citizens of Washington State, in cities and towns throughout the Puget Sound region, are furious with their Canadian neighbors for polluting the marine environment we are working so hard to protect.

To add insult to injury, Canadian provincial and regional governments continue to insist that dumping raw sewage into the Strait does not harm the marine environment. Mr. President, Washington State residents are crying foul. Each day the city of Victoria continues to dump raw sewage into the Strait all but nullifies the efforts of Washington State citizens to preserve and protect the Puget Sound and surrounding areas with the construction of costly—but necessary—sewage treatment facilities.

As a former border State Governor, Blanchard is practiced at dealing with Canada over many environmental issues. The Governor impressed me with his knowledge of the sewage dumping issue, and his willingness to put this issue on the top of his environmental agenda to discuss with his Canadian counterparts is precisely what Washingtonians have long been waiting to hear.

I continue to be impressed with the willingness of the State Department, staff and officers, to assist this Senator and his constituents in their efforts to convince Victoria decision makers to discontinue the practice of sewage dumping. The commitment of Governor Blanchard to make this one of his top environmental priorities is a step in the right direction. As a consequence, for the first time, in a little less than a year in which I have been working to convince B.C. regional decision makers to put an end to this terrible practice, I think this issue has a chance of being resolved.

Madam President, after meeting with Governor Blanchard it is clear to this Senator that, because of his background and willingness to tackle difficult issues, he will do a fine job as United States Ambassador to Canada. For these reasons I am delighted that the Senate voted to confirm Jim Blanchard to be the next United States Ambassador to Canada.

TRIBUTE TO A LEADER: IN REMEMBRANCE OF DANIEL X. FREEDMAN, M.D.

Mr. DOMENICI. Madam President, earlier this summer, individuals and families whose lives have been affected by severe mental illnesses lost a very gifted and caring friend in the passing of Dr. Daniel Freedman, the Judson Braun Professor of Psychiatry and Pharmacology at the University of California at Los Angeles [UCLA]. In the many capacities that Dr. Freedman served throughout his distinguished career, he is recognized as one of the most important psychiatrists in our Nation through this half century. The treatment of mental illnesses has undergone radical transformation in the past 25 years and Dr. Freedman had the courage and foresight to help lead the way.

Born in 1921, Dr. Freedman was raised in Crawfordsville, IN. He spent 3 years at Harvard before joining the Army, serving first in the infantry and then as a clinical psychologist. In 1945, Dr. Freedman and Mary Neidigh, an artist, were married. He returned to Harvard to complete his degree in Social Relations, obtained his medical degree and completed an internship in pediatrics and a residency in psychiatry at Yale.

Dr. Freedman continued on at Yale where, in 1955, he began his career in academia as an instructor, followed by his quick ascension to the position of chief of the biological sciences section of the department of psychiatry. His excellent work at Yale led to his obtaining one of the first Career Investigator Awards granted by the National Institute of Mental Health [NIMH].

While at Yale, Dr. Freedman developed an extraordinary collaboration with the late Prof. Nicholas J. Giarman, of the department of pharmacology, which resulted in an interdepartmental effort that continues to this day. The uniqueness of this program came from the way it combined the biological sciences and psychiatry. In fact, there may be no program that has influenced more future scholars in these areas.

Dr. Freedman became the chair of the department of psychiatry at the University of Chicago in 1966. In this capacity, he coordinated an outstanding group of scholars and developed leaders in fields ranging from community psychiatry to the biology of severe mental illnesses and substance abuse. In 1983, the west coast beckoned and Dr. Freedman moved to UCLA where he became executive vice chair of the department of psychiatry and biobehavioral sciences.

The aspect of his career in which he may have touched the most lives, however, was through his position as chief editor of the Archives of General Psychiatry. Dr. Freedman influenced and helped raise the standards of psychiatric research from this position for 23 years. He took his role of nurturing and molding scientists and researchers seriously and was always willing to speak on behalf of psychiatric research and the care of patients.

Under Dr. Freedman's leadership, the Archives of General Psychiatry became the standard by which all psychiatric journals and psychiatric information are measured. If it is an article suitable for Archives, then it must have provided sufficient, substantial and novel research data.

Throughout his career, Dr. Freedman was always a leader with tremendous foresight. For this reason, when President Carter formed his Commission on Mental Health to examine the inadequacies of our Nation's delivery of mental health services with the hopes of providing a new direction he called upon Dr. Freedman. Dr. Freedman provided the necessary insight to reflect upon advances in the delivery of care and then focus attention upon our underserved populations in an effort to incorporate previous advances into a flexible system of care. His ability to understand the implications and consequences of executive and legislative activities and help provide policy addressing the needs of those with mental disorders is legendary.

More importantly, Dr. Freedman recognized the need for people not involved with the field of psychiatry to understand and appreciate the impact of mental illness in our nation. He understood the lack of knowledge among the populous regarding these dreaded diseases and he utilized Archives to fill this void. Upon the completion of the NIMH Epidemiologic Catchment Area Study [ECA], one of the largest mental health surveys in history, Dr. Freedman began to publish this landmark information.

From my standpoint, Dr. Freedman made his most significant contribution in his combining the biological sciences with psychiatry. For too many years severe mental illnesses were viewed as something other than physical diseases. Through Dr. Freedman's focus and direction it became more widely accepted that severe mental illnesses were biological in origin and should be treated in a fashion similar to any other physical illness.

Because of Dr. Freedman's groundbreaking efforts it is now much easier for Congress and the President to consider providing health care benefits for persons with severe mental illnesses that is commensurate to that received by persons with other physical illnesses. This will ultimately make a direct positive impact on the lives of the more than 5 million Americans who suffer from the likes of schizophrenia, bipolar disorder, and major depression.

Fortunately, Dr. Freedman did not limit his leadership to solely professional endeavors. Over the years, Dr. Freedman was the president of the American Psychiatric Association, the American College of Neuropsychopharmacology, Society of Biological Psychiatry, American Association of Chairmen of Departments of Psychiatry, and the Association for Research in Nervous and Mental Disorders. He was Founding Chair of the Academic Psychiatry Consortium of the Center for Advancement of the Behavioral Sciences. Finally, he was elected to membership in the Institute of Medicine of the National Academy of Sciences.

My wife, Nancy, and I had the great fortune to know Dr. Freedman on both a personal and professional level. He provided us critical information and insight into the impact of mental illnesses on the individual and nation. His knowledge and understanding of how federal policy influenced the delivery services for persons with mental illnesses provided me with the tools to begin to address some of the unmet needs for this neglected population—for this I am deeply grateful.

Persons suffering from severe mental illnesses have been neglected, ignored, and discriminated against for centuries. Through the efforts of Dr. Freedman we have begun to eliminate some of the stigma and discrimination and provide hope for the millions of Americans whose lives are impacted by these diseases. The world is truly a better place for his having lived and we will all miss him.

FEDERAL STUDENT FINANCIAL ASSISTANCE PROGRAMS

Mr. NUNN. Madam President, Senate and House conferees recently agreed to a major reform of Federal student financial assistance programs. Known as direct lending, the program requires the Federal Government to loan funds directly to students through their schools. This type of reform will vastly expand the current role of the Department of Education in the lending process, while eventually eliminating the need for certin private financial entities, including banks, secondary markets, and guaranty agencies.

Proponents of direct lending have argued that it will save the Federal Government—and the taxpayers—anywhere from $3.2 to $6.7 billion over a 5-year period. Like those who proposed direct lending, I, too, am skeptical of the large profits now being made by some private players in the current system. Like those who proposed direct lending I, too, doubt whether some of those players—guaranty agencies for example—are really essential and cost effective in the system. And finally, like those who proposed direct lending, I, too, am all for saving the Federal Government billions of dollars, though I doubt some of the more optimistic projections.

I do, however, have some very serious concerns about the current student assistant programs that I believe need to be taken into account by the Congress and the administration as direct lending is implemented. In my mind, the single most critical issue in the debate on direct lending is the ability of the Department of Education to competently and effectively carry out a vastly expanded role in these programs. Can the Department, given its track record as well as budget and resource limitations, produce the kind of hand-on management and intense oversight that direct lending will no doubt require? If not, can we afford to open the door further to the type of fraud and abuse that has so plagued Federal student assistance programs for far too many years?

I raise those questions as the result of the very detailed examination of the Federal student financial assistance programs that has been conducted by the Senate's Permanent Subcommittee on Investigations over the years. As a member and now chairman of that subcommittee, I have had the opportunity to oversee, in 1975 and in 1990, two investigations of the student loan program and, currently, an ongoing investigation of the Federal Pell Grant Program.

These investigations raise serious warning flags about the ability of the Department of Education to effectively oversee current assistance programs, as well as added questions about the direct loan program which will necessitate greater and more intense scrutiny by the Department.

In 1975, our subcommittee examined what was then the Office of Education's management of the Student Loan Program, the loan default issue, and the unscrupulous practices of some trade schools. The testimony revealed a program which, in the absence of adequate oversight, had been repeatedly victimized by fraud and abuse.

Fifteen years later, in 1990, I directed a subsequent investigation by our subcommittee which found that, unfortunately, little had changed in the program's vulnerability to fraud and abuse. If anything, as loan and dollar amounts skyrocketed, abuse became more widespread and far more profitable for con artists and the like.

In the 19 years that I have served on the subcommittee, I have conducted numerous oversight reviews of Government Programs. Frankly, the findings of our 1990 review of the Student Loan Programs were perhaps the most discouraging of any of our investigations on the issue of Government performance. The staff report left little, if any, room for optimism:

> * * * to date we have not found one area that we have examined in federal student aid programs that is operating efficiently or effectively. We were told, time and again, that the result of this inefficiency and ineffectiveness is a tremendous waste of taxpayers' money. During our investigation, we have engaged in what can only be termed frank and honest discussions with the people involved in the oversight of these programs. Every individual we have spoken to, without exception, has told us that despite recent changes in program administration, the system is severely broken and that major changes must be made immediately to save the taxpayer's money.

In its final report, issued in May 1991, the subcommittee found that "plagued by fraud and abuse at every level and lacking meaningful oversight and management controls, the [student loan] program has become inefficient, ineffective and far too costly." As to the Department, the subcommittee found "through gross mismanagement, ineptitude, and neglect in carrying out its regulatory and oversight functions, the Department of Education had all but abdicated its responsibility to the student it is supposed to service and the taxpayers whose interests it is charged with protecting."

Madam President, as Congress and the Clinton administration add to the Department's current administrative burdens, we had better make sure that the Department has the competency and the resources necessary to tackle the job. It is incumbent on all of us to make sure we give the Department the resources to accomplish the task and to make sure the Department not only has a commitment to improve, but can demonstrate the results of their efforts.

I want to make clear that I am not condemning with a broad brush the efforts of all of those who today staff the Department of Education. I understand that these problems are not solely the fault of the Department. Some of them, but clearly not all, can be attributed to the complexity of the Higher Education Act, a lack of funds and resources to adequately do the job, as well as the tendency of Congress to add more education programs to be administered while reducing the Department's staff. Moreover, I recognize the fact that the problems we have identified go back many, many years and that those who are leading the Department on behalf of this administration have clearly inherited, by all accounts, a bureaucratic disaster.

I have great confidence in Secretary Dick Riley, Deputy Secretary Madeleine Kunin, and Assistant Secretary David Longanecker, and I believe that they will give this area high priority and provide the Department of Education with the strong management and leadership so clearly required. They have made the commitment to vastly improve the Department and these programs. The question is how rapidly they can do this job and how quickly the Department's role can be increased, as they, at the same time, straighten out long existing problems.

I recognize and appreciate the fact that our new leaders in the Department of Education candidly acknowledge the problems they face. To their credit, they are taking some steps to put the Department back on the right track. Those positive steps include:

Realignment of the office of Student Financial Assistance to better coordinate efforts on certification and eligibility, program review, and audit resolution;

Efforts to move more rapidly on implementing regulations for the 1992 Amendments to the Higher Education Act, in contrast to the Department's history of chronic delays in this area; and

Negotiations with many States to contract with State governments for school monitoring, as authorized by the 1992 Amendments.

Many of the recommendations contained in our subcommittee's 1991 report were incorporated by Congress in the 1992 amendments to the Higher Education Act. For example, the new legislation strengthens the Department's ability to handle program compliance and eligibility issues at the lender, loan servicer, guarantor agency, accrediting, correspondence school, and institutional levels.

The Higher Education Act is very complex, and has been amended several times. The resulting regulatory changes have often led to confusion in all sectors involved. I expect Secretary Riley to identify the legislative problems he faces, so that they may be addressed in the Congress.

All of these steps are, in my view, progress in the right direction. But, given the magnitude of the program's problems, the Department still has a long way to go to gain the kind of capabilities that will be essential to properly manage existing programs and the direct lending program.

My view in that regard has been reinforced by the subcommittee's ongoing review, assisted by the Office of Special Investigations of the General Accounting Office, of the Department's handling of the Pell Grant Program. In the 1991–92 academic year the Pell Grant Program awarded over $6.7 billion to approximately 3.8 million students. While our investigation is not yet complete, our review thus far strongly suggests that many of the same problems which the Department has had in the Student Loan Program are today hampering its ability to effectively administer the Pell Grant Program. And, as with the Student Loan Program, the Department's administrative and oversight failures have apparently left the door open for fraud and abuse within the Pell Grant Program.

I want to stress that I appreciate the noble purpose of the Pell Grant Program. I applaud the original intentions of Senator PELL and others in starting this program as a way to help low income young people develop their talents and abilities to the fullest. In carrying out this purpose we have to recognize that every dollar of Pell grant funds that is spent on bogus, fraudulent, wasteful, or otherwise unworthy applicants further cuts the amount that can be offered to truly deserving students.

Our preliminary investigation indicates that the checks and balances which were designed in theory to protect the Pell Grant Program, the student, and ultimately the taxpayer, too often appear in practice to be ineffective, or in some cases nonexistent. In particular, the subcommittee staff has identified serious weaknesses in the following areas:

The program's gate-keeping functions, designed to prevent ineligible institutions from gaining access to the program are not working. In some instances schools have been allowed to participate in the program despite the fact that they are not licensed in the State in which they operate. Moreover, experience shows that licensing, accreditation, and certification have not been effective in identifying and prohibiting problem schools from participating in the program;

The Department of Education's program review process, designed to ensure statutory and regulatory compliance by institutions once they have gained access to the program, is ineffective at detecting abuse because of inadequate manpower, resources, and training. Despite the strong recommendation of our subcommittee in 1991, program review personnel in the Department of Education still receive no formal training, either in their areas of substantive responsibility or in fraud detection. It is ironic that the Department entrusted with the task of ensuring quality education and training for America's youth has been historically incapable of adequately training its own personnel; and

Procedures to audit the financial aid records of institutions which have left the program, designed to identify possible abuse or fraud and lay the foundation for actions to recoup money owed to the Government, are largely ineffective.

These weaknesses apparently encourage unscrupulous individuals and institutions to exploit the Pell Grant Program, thereby creating a situation where the Federal Government may be spending tens of millions of dollars in unwarranted or improper payments. In fact, our preliminary investigation so far has found indications that such exploitation is not only taking place, but may be longstanding. Surely most of the 6,300 schools participating in the Pell Grant Program are doing so honestly and with integrity, but our review has uncovered evidence of what may be widespread abuse.

For example, the examination by the subcommittee and GAO has to date uncovered, among other things, evidence suggesting:

The use of false documentation, including false high school diplomas, false statements of employment, false W–2 forms, false academic records, and false school admission applications to satisfy the eligibility requirements for Pell grants;

The award of Pell grant money to high school students;

Apparent kickbacks of Pell grant money by schools to students to encourage the students' cooperation in applying for Pell grants;

The selling of student biographical information by brokers to schools for use in submitting false Pell grant applications; and

Individuals who have received numerous Pell grants over a number of years with apparently no intention to eventually attain a degree or other educational certificate.

In addition to fraud and abuse, our investigation has also highlighted certain policy decisions affecting the Pell Grant Program that Congress may want to review, given our current deficit and budget problems. I have requested the Department to provide the subcommittee with the following information:

The number of students who have received Pell grants for more than 5 years in a row and the amount of their awards;

The number of students who have received Pell grants for more than 10 years in a row and the amount of their awards;

The numbers and dollar amount of Pell grants awarded for study abroad in the last 5 years; and

The number of schools which have been declared exempt from the State licensing requirement for the Pell Grant Program in the last 5 years.

As I understand it, current law and/or policy allows participation in the Pell Grant Program for students and/or schools covered by the above categories. Those policy choices may have been valid and supportable at the time they were made. They may still be valid, but given our current budget environment, I believe that we need to review these and other policy choices after getting the financial information from the Department of Education.

All of this is relevant, in my mind, to the question of how the Government, and more specifically, the Department of Education, has managed the student financial assistance programs over the years—ranging from the task of enforcing compliance and preventing fraud and abuse to the responsibility for statutory interpretation and policymaking. Success in the direct lending program will require exceptional competence and diligence by the Department of Education.

I urge my colleagues, as we call upon the Department to undertake the burden of direct lending, to also recognize the systemic problems I have tried to point out this morning. The Department plans to phase out the existing program as it phases in the new system, and we must support the Secretary and his staff as they do so.

To have any reasonable chance of working, the Department must be provided adequate resources to do the job. The worst possible outcome would be to shift the direct loan program to the Department and the schools without giving them the resources necessary to assure success. Leadership, commitment, resources, skill, and personnel are essential to protect the taxpayer and to give students the access to education they need. The Department must also exercise vigorous leadership in addressing the longstanding problems identified by our subcommittee and by other consistent reports. These are, in my mind, critical weaknesses that have to be addressed and corrected by both the administration and the Congress if we are ever to have a truly effective student financial aid program in the future.

TRIBUTE TO EWING M. KAUFFMAN

Mrs. KASSEBAUM. Madam, President, I rise today to pay tribute to Ewing M. Kauffman, the chairman emeritus of Marion Merrell Dow Inc. and the owner of the Kansas City Royals who died over the weekend at his home in Mission Hills, KS.

When Ewing Kauffman founded Marion Laboratories in his home in 1950, it was a one-man firm, By 1989, when Marion combined with Merrell Dow Pharmaceuticals to form Marion Merrell Dow Inc., it was a publicly traded company with sales approaching $1 billion. Throughout this period of phenomenal growth, Marion Laboratories benefited from Ewing Kauffman's vision, values, and character.

In 1969, in order to bring major league baseball back to Kansas City, Ewing Kauffman purchased an American League expansion franchise that was to become the Kansas City Royals Baseball Club. In the club's relatively short history, it has won six American League Western Division titles, two American League pennants, and a World Series championship. The Royals have also served as a model organization for other major league teams and provided millions of people throughout the midwest entertainment, pleasure, and a common bond.

Given Ewing Kauffman's commitment to people, perhaps his most fitting legacy is the Kauffman Foundation which creates and operates programs designed to meet human development needs. Since its inception in 1986, the Foundation has sought to demonstrate breakthrough solutions that will have a lasting impact, particularly in helping at-risk young people and stimulating the growth of entrepreneurship.

Madam President, Ewing Kauffman was indeed a special person, who along with his wife Muriel, touched the lives of many. The State of Kansas and the entire Nation will miss him.

TRIBUTE TO WYLAND

Mr. INOUYE. Madam President, media reports indicate that much attention is being paid again to the plight of the largest animal ever to roam the earth, the whale. In the August 2 issue of Time magazine, an article entitled "The Hunt, The Furor" tells us that the cry of "Save The Whales" is being heard again around the world. There is the furor stemming from Norway's insistence to continue whaling. The Norwegians press on, despite threats of sanctions and boycotts against their products and next year's winter Olympics in Lillehammer. There is also the furor springing from the media itself: The movie "Free Willie" has raised questions about the captivity of these creatures and has generated thousands of inquiries on how to join in the effort to save the whales.

Against this backdrop of controversy is the quiet effort of one man whose mission has been to raise the public's consciousness about the need to acquaint ourselves with, and respect, whales and other marine life. Wyland is a young man who calls Hawaii his home. He is considered by many to be the finest environmental artist in the world. Wyland is best known for his gigantic "Whaling Walls," one of which stands in Honolulu. For the past several weeks, he has worked to paint a "Whaling Wall" in each State along the Eastern Seaboard of our country, on what is being billed as the biggest art tour in history.

Wyland began this series of murals on June 1st in Portland, ME. He is expected to take his tour, and his technique of combining public art with an education on the environment, to New Hampshire. Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Maryland, Delaware, Virginia, North Carolina, South Carolina, Georgia, and Florida. He is now in Washington, DC, the 11th stop in his tour. For the next few days, he will be seen near the entrance to the National Zoo, where he will paint yet another mural depicting lifesize of whales and other marine life in their natural habitat.

I hope my colleagues will join me in welcoming Wyland to our Nation's Capital and to take to heart his message. He has made a commitment to join with others to preserve and protect a species that many hold in awe and in wonder. His works have helped to draw international attention to the plight of the whales.

Last year, in an attempt to preserve our natural legacy in Hawaii, the President signed into law my measure to develop a humpback whale sanctuary in waters adjacent to the Hawaiian Islands. This measure, together with Wyland's unique "17 Cities in 17 weeks" tour of the Eastern Seaboard, proves that in the struggle to preserve this endangered species, people working together can make a difference. Wyland is an inspiration to us all.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Zaroff, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 1:58 p.m., a message from the House of Representatives, delivered by

Ms. Goetz, one of its reading clerks, announced that the House has passed the following bills:

H.R. 572. An act for the relief of Melissa Johnson.

H.R. 856. An act to improve education in the United States by promoting excellence in research, development, and the dissemination of information.

H.R. 2339. An act to revise and extend the programs of the Technology-Related Assistance for Individuals With Disabilities Act of 1988, and for other purposes.

H.R. 2766. An act to amend the 7(a) Loan Program, and for other purposes.

The message also announced that the House has passed the following bill, with an amendment, in which it requests the concurrence of the Senate:

S. 1273. An act to enhance the availability of credit in disaster areas by reducing the regulatory burden imposed upon insured depository institutions to the extent such action is consistent with the safety and soundness of the institutions.

ENROLLED BILLS SIGNED

At 6:15 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 416. An act to extend the period during which chapter 12 of title II of the United States Code remains in effect, and for other purposes.

H.R. 798. An act to amend title 38, United States Code, to codify the rates of disability compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for survivors of such veterans as such rates took effect on December 1, 1992.

S. 1295. An act to amend the Rehabilitation Act of 1973 and the Education of the Deaf Act of 1986 to make technical and conforming amendments to the Act, and for other purposes.

At 8:16 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House disagrees to the amendment of the Senate to the bill (H.R. 2010) to amend the National and Community Service Act of 1990 to establish a Corporation for National Service, enhance opportunities for national service, and provide national service educational awards to persons participating in such service, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints the following as the managers of the conference on the part of the House:

From the Committee on Education and Labor: Mr. FORD of Michigan, Mr. MURPHY, Mr. KILDEE, Mr. MARTINEZ, Mr. OWENS, Mr. GOODLING, Mrs. ROUKEMA, and Mr. GUNDERSON.

From the Committee on Government Operations: Mr. CONYERS, Mrs. COLLINS of Illinois, Mr. WAXMAN, Mr. CLINGER, and Mr. MCCANDLESS.

From the Committee on the Judiciary: Mr. BROOKS, Mr. BRYANT, Mr. SCOTT, Mr. FISH, and Mr. MOORHEAD.

From the Committee on Natural Resources: Mr. MILLER of California, Mr. VENTO, and Mr. YOUNG of Alaska.

From the Committee on Post Office and Civil Service: Mr. CLAY, Mrs. SCHROEDER, Mr. MCCLOSKEY, Mr. MYERS of Indiana, and Mrs. MORELLA.

From the Committee on Public Works and Transportation: Mr. MINETA, Mr. RAHALL, Mr. TRAFICANT, Mr. SHUSTER, and Mr. PETRI.

MEASURES REFERRED

The following measures were read the first and second times by unanimous consent, and referred as indicated:

H.R. 572. An act for the relief of Melissa Johnson; to the Committee on the Judiciary.

H.R. 856. An act to improve education in the United States by promoting excellence in research, development, and the dissemination of information; to the Committee on Labor and Human Resources.

H.R. 2766. An act to amend the 7(a) Loan Program, and for other purposes; to the Committee on Small Business.

MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 2339. An act to revise and extend the programs of the Technology-Related Assistance for Individuals With Disabilities Act of 1988, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–1343. A communication from the Sacramento Farm Credit Employee's Retirement Plan, transmitting, pursuant to law, the annual pension report for the period January 1, 1992 through December 31, 1992; to the Committee on Governmental Affairs.

EC–1344. A communication from the Assistant Vice President (Human Resources), Western Farm Credit Bank, transmitting, pursuant to law, the annual report and audited financial statement for the eleventh farm credit district employees' retirement plan for calendar years 1991 and 1992; to the Committee on Governmental Affairs.

EC–1345. A communication from the Administrator of the General Services Administration, transmitting, pursuant to law, the annual report under the Freedom of Information Act for calendar year 1992; to the Committee on the Judiciary.

EC–1346. A communication from the General Counsel of the Federal Mediation and Conciliation Service, transmitting, pursuant to law, the annual report under the Freedom of Information Act for calendar year 1991; to the Committee on the Judiciary.

EC–1347. A communication from the Chairman of the National Commission on Judicial Discipline and Removal, transmitting, pursuant to law, a final report; to the Committee on the Judiciary.

EC–1348. A communication from the Chairman of the National Transportation Safety Board, transmitting, a draft of proposed legislation entitled "Independent Safety Board Act Amendments of 1993"; to the Committee on Commerce, Science and Transportation.

EC–1349. A communication from the Assistant Secretary (Legislative Affairs), Department of State, transmitting, pursuant to law, a draft of proposed legislation entitled "Iraq Claims Act of 1993"; to the Committee on Foreign Relations.

EC–1350. A communication from the Acting Director of the Peace Corps, transmitting, pursuant to law, a report under the Inspector General Act of 1978 as amended; to the Committee on Governmental Affairs.

EC–1351. A communication from the Chairman of the Advisory Commission on Intergovernmental Relations, transmitting, pursuant to law, the annual report for calendar year 1992; to the Committee on Governmental Affairs.

EC–1352. A communication from the Acting Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10–61 adopted by the Council on July 13, 1993; to the Committee on Governmental Affairs.

EC–1353. A communication from the Acting Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10–62 adopted by the Council on July 13, 1993; to the Committee on Governmental Affairs.

EC–1354. A communication from the Acting Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10–63 adopted by the Council on July 13, 1993; to the Committee on Governmental Affairs.

EC–1355. A communication from the Acting Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10–64 adopted by the Council on July 13, 1993; to the Committee on Governmental Affairs.

EC–1356. A communication from the Acting Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10–65 adopted by the Council on July 13, 1993; to the Committee on Governmental Affairs.

EC–1357. A communication from the Acting Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10–66 adopted by the Council on July 13, 1993; to the Committee on Governmental Affairs.

EC–1358. A communication from the Acting Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10–67 adopted by the Council on July 13, 1993; to the Committee on Governmental Affairs.

EC–1359. A communication from the Acting Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10–68 adopted by the Council on July 13, 1993; to the Committee on Governmental Affairs.

EC–1360. A communication from the Acting Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10–69 adopted by the Council on July 13, 1993; to the Committee on Governmental Affairs.

EC–1361. A communication from the Acting Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10–70 adopted by the Council on July 13, 1993; to the Committee on Governmental Affairs.

EC–1362. A communication from the Acting Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10–71 adopted by the Council on July 13, 1993; to the Committee on Governmental Affairs.

EC–1363. A communication from the Acting Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10–74 adopted by the Council on July 13, 1993; to the Committee on Governmental Affairs.

EC–1364. A communication from the Commissioner of the Office of Educational Research and Improvement (National Center For Education Statistics), Department of Education, transmitting, pursuant to law, the annual statistical report for the calendar year 1992; to the Committee on Labor and Human Resources.

EC–1365. A communication from the Chairman of the Federal Election Commission, transmitting, pursuant to law, a report of proposed regulations governing multicandidate political committees; to the Committee on Rules and Administration.

EC–1366. A communication from the Chairman of the Federal Election Commission, transmitting, pursuant to law, a report relative to forms on governing multicandidate committee status; to the Committee on Rules and Administration.

EC–1367. A communication from the Administrator of the Small Business Administration, transmitting, pursuant to law, a report on minority small business and capital ownership development for fiscal year 1992; to the Committee on Small Business.

EC–1368. A communication from the Secretary of Veterans' Affairs, transmitting, a draft of proposed legislation to restore the statutory eligibility for burial in national cemeteries of spouses who predecease individuals eligible for such burial; to the Committee on Veterans' Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. Johnston from the Committee on Energy and Natural Resources:

Report to accompany the bill (H.R. 631) to designate certain lands in the State of Colorado as components of the National Wilderness Preservation System, and for other purposes (Rpt. 103–123).

EXCUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. RIEGLE, from the Committee on Banking, Housing and Urban Affairs:

Gordon J. Linton, of Pennsylvania, to be Federal transit Administrator.

Nelson A. Diaz, of Pennsylvania, to be General Counsel of the Department of Housing and Urban Development.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. INOUYE (for himself, Mr. Dodd, Mr. Stevens, Mr. Akaka, Mr. Gorton, Mr. Murkowski, and Mr. Simon):

S. 1350. A bill to amend the Earthquake Hazards Reduction Act of 1977 to provide for an expanded Federal program of hazard mitigation and insurance against the risk of catastrophic natural disasters, such as hurricanes, earthquakes, and volcanic eruptions, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. REID:

S. 1351. A bill to curb criminal activity by aliens, to defend against acts of international terrorism, to protect American workers from unfair labor competition, and to relieve pressure on public services by strengthening border security and stabilizing immigration into the United States; to the Committee on the Judiciary.

By Mrs. FEINSTEIN:

S. 1352. A bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (Superfund) to establish a public-private partnership demonstration project for the cleanup of ground water pollution in the San Gabriel Basin; to the Committee on Environment and Public Works.

By Mrs. BOXER (for herself and Mrs. Feinstein):

S. 1353. A bill to amend title 23, United States Code, to permit the use of funds under the highway bridge replacement and rehabilitation program for seismic retrofit of bridges, and for other purposes; to the Committee on Environment and Public Works.

By Mrs. KASSEBAUM (for herself, Mr. Jeffords, Mr. Cochran, and Mr. Pressler):

S. 1354. A bill to amend the Fair Labor Standards Act of 1938 relating to the minimum wage and overtime exemption for employees subject to certain leave policies, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. HEFLIN:

S. 1355. A bill to amend chapter 91 of title 28, United States Code, to provide that the United States Court of Federal Claims may have jurisdiction over certain pending claims, and for other purposes; to the Committee on the Judiciary.

By Mr. DOLE (for himself, Mr. Hatch, Mr. Thurmond, Mr. Gramm, Mr. Mack, Mr. Simpson, Mr. Cochran, Mrs. Kassebaum, Mr. Helms, Mr. D'Amato, Mr. Stevens, Mr. Lott, Mr. Grassley, Mr. Domenici, Mr. Brown, Mr. Nickles, and Mr. Wallop):

S. 1356. A bill to restore order, deter crime, and make our neighborhoods and communities safer and more secure places in which to live and work; to the Committee on the Judiciary.

By Mr. LEVIN (for himself and Mr. Riegle):

S. 1357. A bill to reaffirm and clarify the Federal relationships of the Little Traverse Bay Bands of Odawa Indians the Little River Band of Ottawa Indians as distinct federally recognized Indian tribes, and for other purposes; to the Committee on Indian Affairs.

By Mr. JOHNSTON:

S. 1358. A bill to amend the Immigration and Nationality Act to improve immigration enforcement and anti-smuggling activities, to reform the asylum law, and to authorize appropriations for the Immigration and Naturalization Service; to the Committee on the Judiciary.

By Mr. LEAHY (for himself, Mr. Harkin, Mr. Simon, Ms. Moseley-Braun, Mr. Wofford, Mr. Pryor, Mr. Kerrey, Mr. Baucus, and Mr. Johnston):

S. 1359. A bill to amend the Food Stamp Act of 1977 to require the domestic production of food stamp coupons; to the Committee on Agriculture, Nutrition, and Forestry.

By Mrs. MURRAY:

S. 1360. A bill to amend title I of the Employee Retirement Income Security Act of 1974 to exempt from preemption under such title certain provisions of the law of the State of Washington relating to health plans; to the Committee on Labor and Human Resources.

By Mr. COVERDELL (for himself, Mrs. Hutchison, Mr. Bennett, Mr. Faircloth, Mr. Gregg, Mr. Kempthorne, Mr. Craig, Mr. Wallop, Mr. Thurmond, Mr. Helms, Mr. Lott, Mr. McCain, and Mr. Smith):

S.J. Res. 120. A joint resolution proposing an amendment to the Constitution prohibiting the imposition of retroactive taxes on the American people; to the Committee on the Judiciary.

By Mr. RIEGLE (for himself, Mr. D'Amato, Ms. Mikulski, Mr. Durenberger, Mr. Lugar, Mr. Inouye, Mr. Moynihan, Mr. Glenn, Mr. Coats, Mr. Specter, Mr. Lautenberg, Mr. Levin, Mr. Cochran, Mr. DeConcini, Mr. Sarbanes, Mr. Simon, Mr. Thurmond, Mr. Dole, Mr. Jeffords, Mr. Dodd, Mr. Helms, Mr. Warner, Mr. Conrad, Mr. Daschle, Mr. Hollings, Mr. Brown, Mr. Roth, Mr. Wofford, Mr. Pressler, Mr. Graham, Mr. Bradley, Mr. Feingold, Mr. Heflin, Mr. Bryan, Mr. Wallop, Mr. Johnston, Mr. Metzenbaum, Mr. Grassley, Mr. Burns, Mr. Dorgan, Mr. Sasser, Mr. Danforth, Mrs. Kassebaum, Mr. Exon, Mr. Murkowski, Mr. Shelby, Mr. Mack, Mr. Chafee, Mr. Robb, Mr. Kohl, Mr. Breaux, Ms. Moseley-Braun, Mr. Akaka, Mr. Kerry, and Mr. Pell):

S.J. Res. 121. A bill to designate October 6, 1993 and 1994, as "German-American Day"; considered and passed.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. PELL (for himself and Mr. Biden):

S. Res. 138. A resolution authorizing the printing of the publication "To Stand Agression: Miloseviç, the Bosnian Republic, and the Conscience of the West"; considered and agreed to.

By Mr. MITCHELL (for himself and Mr. Dole):

S. Res. 139. A resolution to establish procedures relating to the settlement of complaints filed with the Office of Senate Fair Employment Practices, and for other purposes; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. INOUYE (for himself, Mr. Dodd, Mr. Stevens, Mr. Akaka, Mr. Gorton, Mr. Murkowski, and Mr. Simon):

S. 1350. A bill to amend the Earthquake Hazards Reduction Act of 1977 to

provide for an expanded Federal program of hazard mitigation and insurance against the risk of catastrophic natural disasters, such as hurricanes, earthquakes, and volcanic eruptions, and for other purposes; to the Committee on Commerce, Science, and Transportation.

NATURAL DISASTER PROTECTION ACT OF 1993

Mr. INOUYE. Mr. President, today, I rise to introduce the Natural Disaster Protection Act of 1993. I am joined by Senators STEVENS, AKAKA, DODD, GORTON, MURKOWSKI, and SIMON as original cosponsors of my bill.

I wish to commend the National Disaster Coalition for their efforts and assistance in crafting this legislation. This measure is the product of many months of intense dialog, drafting, and hard work. The Coalition is a task force comprised of the insurance industry, realtors, lenders, State emergency managers, firefighters, and homeowners' groups dedicated to reducing property losses and injuries from natural disasters.

This legislation responds to the unprecedented losses caused by recent catastrophic natural disasters. Last year's devastation from Hurricanes Andrew and Iniki, and now the current floods in the Midwest underscores the seriousness and vulnerability of homeowners to natural disasters.

According to experts, natural disasters are becoming more frequent and more costly. New studies project that a class 5 hurricane striking Miami would cost $53 billion, while a catastrophic earthquake striking the New Madrid zone of the Mississippi River Valley could cause insured damage of up to $60 billion. Insured losses could have reached $30 billion had Hurricane Iniki struck the island of Oahu.

The magnitude of such losses far exceed the resources of any insurance company or State and local government. Insured losses alone from Hurricanes Andrew and Iniki exceeded $18.2 billion. Many insurance companies continue to reassess their risks and exposure to loss thus affecting the availability of insurance.

As a result of Hurricane Iniki, approximately 30 percent of Hawaii's homeowners insurance market is impaired. While many Hawaii residents have found alternative sources of insurance, coverage is expensive and limited. There are only two sources of insurance available in Hawaii, and applications are not taken freely. The annual homeowner's insurance premiums collected in the State are simply insufficient to cover losses from future catastrophic disasters. Consequently, the Hawaii State Legislature recently established a hurricane pool sufficient enough to cover losses of up to $1.6 billion. However, this pool is insufficient should losses from a future catastrophic disaster exceed $1.6 billion.

Presently, in the absence of an adequate system for insuring against catastrophic losses disaster victims must rely upon various forms of Federal Government disaster assistance. Unfortunately, there are several widely recognized problems plaguing disaster assistance programs. For example, they are costly to the Federal Government and taxpayers, and they do not provide adequate assistance to all victims.

While future disasters are unavoidable, preventive measures can be taken to reduce the loss of life, property, and the economic consequences of a catastrophic disaster. The Natural Disaster Protection Act of 1993 establishes three interrelated programs that will not require any taxpayer subsidies and will reduce the Nation's reliance on federally funded disaster assistance. First, the act establishes a mitigation program with a strong emphasis on building code enforcement and enhanced emergency planning. Funding for these purposes are provided entirely by private sector revenues. Second, the act establishes a primary insurance program which provides affordable comprehensive disaster protection for homes. Third, the act establishes a national reinsurance program which would provide a source of insurance which insurers could purchase to better manage the risk from highly infrequent, but extremely costly disasters. The reinsurance program would be financed by the insurance industry, and would help to prevent a homeowner's insurance availability crisis currently experienced in Hawaii, Florida, and other coastal States.

The act addresses flood-related disasters in four ways. First, the bill supports the improvement of mitigation and disaster preparedness efforts in disaster prone regions. Second, the legislation provides a new source of funding for these activities. Third, the bill addresses the inadequate participation of those at-risk of flooding in the National Flood Insurance Program by augmenting responsibility for enforcement with greater involvement by the insurance industry. Fourth, the bill directs the Federal Emergency Management Agency [FEMA] to study the possible integration of the Flood Insurance Program into the two new programs established under this legislation and provide its recommendations to Congress within 6 months.

The following summarizes the provisions of the National Disaster Protection Act of 1993.

MITIGATION PROGRAM

The mitigation program provides incentives to State and local governments to enhance their disaster planning and mitigation efforts in coordination with the FEMA. States would be eligible for grants from a Federal Disaster Mitigation Fund, which would be financed by a 5–10 percent set-aside of funds collected under the primary insurance and national reinsurance programs of the bill. To be eligible for such grants, States would be required to adopt stronger building and safety codes designed to make new construction less vulnerable to hurricanes, earthquakes, and other natural perils. In addition, States will be required to submit a comprehensive disaster plan to FEMA that includes detailed steps for identifying at-risk structures and methods to improve building code enforcement, emergency response, and overall disaster preparedness. Further, States must comply with the building codes and implement new mitigation plans within 5 years. States not in compliance would be ineligible for these funds and could be denied access to certain types of Federal disaster relief.

The legislation establishes an advisory committee to assist FEMA in its efforts to encourage improved disaster training, research, technology transfer, and education.

PRIMARY INSURANCE PROGRAM

The Natural Disaster Protection Act provides a more comprehensive homeowners' policy that includes standard coverage for earthquakes, volcanic eruptions, and other perils not currently included in basic coverage. Rates for this coverage would be risked-based so that homeowners in areas prone to such hazards would not be subsidized by residents from low-risk areas. In addition, homeowners would still have a choice of deductibles, type of coverage, and additional endorsements. The premiums and deductibles for these expanded lines of coverage would be set by FEMA. Insurance companies would collect the premiums and remit them to a Federal trust fund which would be used to pay claims.

REINSURANCE PROGRAM

The Natural Disaster Protection Act addresses the homeowners' insurance availability problems which have occurred in the wake of recent disasters and helps to avoid even greater availability problems in the aftermath of a future catastrophe. It also reduces the potential for insurance company insolvencies from exceptionally large disasters.

This would be accomplished through the creation of a new Federal disaster reinsurance fund that would be financed by the insurance industry. The reinsurance fund would provide a source of insurance which insurers could purchase to better manage the risk from highly infrequent, but extremely costly disasters.

Premiums for the reinsurance program would be set by FEMA, with companies making payments into a national reinsurance fund. Over time, the fund will accumulate considerable reserves to be used when a large disaster strikes. If such an event occurs before a sufficient reserve has accumulated, the Treasury would be authorized to borrow additional funds to cover the shortfall and then charge insurers, with interest, to rebuild the fund.

Participating insurers would only be eligible to make claims against the fund if a natural disaster, or series of disasters occurring in a 12-month period, exceeds 15 percent of the industry's surplus, currently estimated at $24.5 billion. If, for example, a catastrophic earthquake causes $28 billion in insured losses, insurance companies would pay the first $24.5 billion and could only make reinsurance claims for $3.5 billion. Individual companies could also make claims if they experience a 20-percent reduction in their surplus as a result of a single disaster.

States would be eligible to participate in the reinsurance program if they create insurance pools or other State-sponsored programs to provide insurance for homeowners who are unable to secure coverage on their own.

Mr. President, I ask unanimous consent that a section-by-section analysis of the legislation be printed in the RECORD.

There being on objection, the material was ordered to be printed in the RECORD, as follows.

SECTION-BY-SECTION ANALYSIS OF THE NATURAL DISASTER PROTECTION ACT OF 1993—S. 1350

This legislation amends the Earthquake Hazards Reduction Act of 1977 to provide for an expanded federal program of hazard mitigation and insurance against the risk of catastrophic natural disasters, such as hurricanes, earthquakes, and volcanic eruptions.

Section 1. Title. This section entitles the bill the "Natural Disaster Protection Act of 1993".

Section 2. Findings. This section adds 11 new congressional findings to the Earthquake Hazard Reduction Act (EHRA) that outline the policy rationale for this bill. The findings, for instance, state that: the major natural disasters (e.g., hurricanes, earthquakes and volcanic eruptions) will inflict substantial long-term consequences on the country; hazard reduction measures, such as building codes, are not in place and not adequately enforced; improved first responder and emergency management capabilities will lessen the impact of future disasters; and millions of Americans do not have adequate natural disaster insurance coverage.

Section 3. Purpose. This section adds 10 new purposes to the EHRA that explain the objectives of the legislation. The purposes, for instance, include: building safer structures; enhancing emergency management and first response capability; creating a self-sustaining funding mechanism to help states pay for hazard mitigation programs; providing adequate insurance coverage for natural disaster perils; involving the insurance industry to speed recovery following a catastrophic disaster; reducing reliance on government disaster assistance.

Section 4. Definitions. This section adds 29 new definitions to the EHRA that define important terms used in this bill.

Section 5. Conforming Amendments. This section makes several conforming changes to the EHRA, primarily renumbering section numbers.

Section 6. Multihazard Mitigation Program. This section adds a new title II to the EHRA that creates a comprehensive multihazard mitigation program.

Section 201. Identification and Designation of Disaster-Prone States. This new EHRA section requires the FEMA Director within 1 year of enactment to identify states (defined to include territories) that are prone to damages from hurricanes, windstorms (e.g., tornadoes), earthquakes, volcanic eruptions, and flooding. Six months after being notified as a state prone to one or more of these disaster perils, the disaster-prone designations become final. Any state disagreeing with its disaster-prone designation has a right to appeal to a local federal district court.

Section 202. Building and Safety Standards. This section requires each hurricane-prone, windstorm-prone, or earthquake-prone state to either adopt one of the three recognized model building codes (and the national consensus fire safety codes) or certify that the local communities within the state have adopted and are enforcing these codes for all new construction or additions which increase the value of the structure by at least 50 percent. Likewise, each flood-prone state must either adopt the relevant flood minimum performance standards under the National Flood Insurance Act or certify that the flood-prone local communities within the state have adopted and are enforcing these standards for new construction or additions which increase the value of the structure by at least 50 percent.

Section 203. State Mitigation Plans. This section requires each disaster-prone state to develop and submit to FEMA within two years a mitigation plan or designate an existing mitigation plan. The mitigation plan must include processes for: verifying compliance with building and safety codes as well as any federal multihazard mitigation standards; identifying areas within states, types of structures, and hazard mitigation measures that should be prioritized; improving the emergency response to natural disasters, including better training for first responders; and expediting the rebuilding of lifelines and recovery by individuals and businesses.

Section 204. Compliance by States. This section gives disaster-prone states five years following enactment to substantially comply with the building standards and state mitigation plan requirements outlined above. The compliance mechanism would be self-certification subject to review by FEMA which would renew compliance certifications every two years. The following penalties would be imposed on states failing to certify compliance: loss of funds from the self-sustaining mitigation fund (discussed in section 206); higher premiums and deductibles for the federal multihazard insurance coverage (discussed below); and loss of assistance for any new federal building or new federally-leased, assisted, or regulated building. In addition, local communities which fail, within five years of enactment, to comply with the building standards outlined above would also be denied Stafford Act public disaster assistance funds.

Section 205. Federal Hazard Mitigation Authorities. This section requires FEMA to develop programs that carry out multihazard and emergency management initiatives such as: model building code development; training and licensing of code inspectors and other relevant professionals; expanded research of safer building technologies and technology transfer; additional postdisaster aid; and public education. This section also requires all new buildings owned or leased by any federal agency or receiving federal assistance to meet the newest edition of the relevant building code requirements.

Section 206. Self-Sustaining Mitigation Fund. This section requires a percentage of the premiums collected from both the primary and reinsurance programs described below to be deposited into a self-sustaining mitigation fund. The FEMA Director would set the actual percentage which must be between five and ten percent, unless the amounts in the two insurance funds are sufficient to cover losses for any probable maximum natural disaster. The mitigation funds would be allocated to disaster-prone states based on the primary program insurance premiums collected in that state. States could use the funds as they see fit, provided they are used for hazard mitigation activities (subject to FEMA audits) and a portion of the money flows through the affected local communities. Finally, FEMA could allocate a portion of the mitigation fund to support the federal hazard mitigation initiatives described above.

Section 207. Natural Disaster Mitigation and Planning Advisory Committee. This section establishes a 20-member independent advisory committee to advise FEMA on hazard mitigation and disaster planning, particularly the programs authorized by this legislation. The FEMA Director would appoint the members who would represent various interests, including: fire fighters and chiefs; emergency medical, search, rescue, and law enforcement personnel; state and local emergency managers and building code officials; architects, builders, and engineers; members of organized labor; wind and seismic mitigation experts; consumers; and insurers.

Section 7. Federal Insurance Programs. This section adds a new title III to the EHRA that creates two federal insurance programs.

SUBTITLE A CREATES THE PRIMARY INSURANCE PROGRAM

Section 301. Basic Authority and Program Operations. This section directs FEMA to establish a national multihazard insurance program to provide insurance against "shake" losses resulting from earthquakes and related seismic perils. FEMA would also conduct a study to determine whether the existing federal flood insurance program should be integrated into the multihazard insurance program and report any recommendations to Congress within one year. Insurance agents and companies participating in the federal flood insurance program would also be required to notify FEMA of policyholders living in flood plains and required to have flood insurance who refuse to purchase the coverage. FEMA would then have six months to take necessary and appropriate steps to ensure these non-compliant policyholders purchase the coverage. The FEMA Director, moreover, would submit a report to Congress within six months of any additional sanctions needed to improve participation in the federal insurance program.

Section 302. Program Scope. This section makes the multihazard coverage available only for residential properties (defined as one-to-four family structures and personal properly of those living in apartments and condominiums). Upon a finding that insurance coverage is unavailable in the private sector, the FEMA Director may recommend to Congress that additional types of properties qualify for the multihazard coverage.

Section 303. Terms and Limitations of Insurance Coverage. This section authorizes FEMA to establish the terms and conditions of insurability, including: the type, location, and specific insurability definitions of residential properties; damages covered by the insurance; and premiums rates, loss-deductible, coverage limits, and minimum coverage amounts. The insurance would cover losses (including debris removal, additional living expenses, and ordinance and law coverage) proximately caused by: earthquakes, except for fires caused by earthquakes (which are already covered in homeowners' policies); volcanic eruptions, including fires caused by volcanic lava flows; and tsunamis. Any private insurer can participate in this program by providing to all of its homeowner policyholders living in earthquake and volcanic eruption-prone states either the federal coverage or the identical coverage on its own paper at the same rate. Finally, private insurers electing not to participate in this program must notify all of the homeowner policyholders in at-risk states of their nonparticipation and of the absence of insurance protection for earthquakes and related seismic perils.

Section 304. Actuarially Sound Rates. This section requires FEMA to establish risk-based rates for the multihazard coverage by considering the following factors: the severity and frequency of earthquakes, volcanic eruptions, and tsunamis in specified rating zones; the value, age, construction type, and architectural type of the residential structures; and whether hazard mitigation measures have been followed in the constitution or subsequent retrofitting of the residential structures. The rates must be actuarial so that, over an extended period of time, expected losses do not exceed premiums collected. The rates established, moreover, must minimize cross-subsidization by reasonably reflecting the risk of losses for each subclassification of policyholder. The rate classification system developed by FEMA must also be cost-effective, simple, and easy to understand by agents and policyholders. Finally, any premiums collected cannot be used to establish highly specific microzonation maps for the covered seismic perils.

Section 305. Primary Insurance Program Fund. This section creates within the U.S. Treasury the primary insurance program fund which would be exempt from all tax (except for state insurance premium taxes). Participating insurers would remit to this fund on a quarterly basis all the premiums they collect (including any interest earned) from their homeowner policyholders who purchase the multihazard coverage. Following an earthquake, volcanic eruption, or tsunami, insurers would pay the damage claims filed by their homeowners. The insurers would then be reimbursed within 30 days from amounts in the primary insurance program fund for the claims paid plus any loss adjustment expenses. The fund would also pay for the agents' commissions in selling and serving the coverage and for all of the program's administrative and operating expenses. The full faith and credit of the United States would be pledged for full payment of claims.

Section 306. Borrowing from Treasury. This section authorizes FEMA, subject to the availability of congressional appropriations, to borrow from the Treasury to cover any shortfalls that may result in paying the multihazard coverage claims and expenses. Amounts borrowed would be deposited in the primary insurance program fund and must be repaid, with interest, from future premiums collected.

Section 307. Insurance Mitigation Incentives. This section requires FEMA to provide the following insurance mitigation incentives: lower premiums or deductibles for residential structures in earthquake-prone states which meet seismic building standards or pass a seismic safety inspection; and lower premiums or deductibles for new residential structures not constructed in highrisk volcanic zones.

SUBTITLE B CREATES THE REINSURANCE PROGRAM

Section 311. Basic Authority and Program Operation. This section directs FEMA to make excess reinsurance coverage available to the following entities for losses arising from catastrophic hurricanes, earthquakes, volcanic eruptions, and tsunamis: private insurers participating in the primary insurance program described above; private reinsurers that reinsure private insurers participating in the primary program; and state insurance programs such as workers' compensation funds and state residual insurance pooling programs.

Section 312. Levels of Retained Losses. This section establishes the amount of insured losses that must be borne by eligible entities before they can qualify or receive reinsurance claims.

Industry-wide Retained Losses. Reinsurance would be available to companies if the property-casualty industry as a whole is likely to incur gross losses (i.e., losses prior to deducting any anticipated private reinsurance payments) from catastrophic natural disasters occurring during any 12 month period that exceed 15 percent of the industry's consolidated surplus, except that only separate events which cause at least $1.5 billion in losses (adjusted for inflation) would be counted. Once the industry has sustained this magnitude of loss (currently estimated to be about $25 billion), reinsurance would pay 95 percent of a company's losses which exceed 15 percent of that particular company's consolidated surplus.

Individual Company Retained Losses. If the industry-wide retained losses level is not reached, individual companies could receive reinsurance if a single natural disaster resulted in losses that exceed 20 percent of that company's consolidated surplus. At this point, reinsurance would pay 95 percent of the company's losses which exceed 20 per cent of the company's consolidated surplus up to a limit of 200 percent of the company's surplus.

State Insurance Programs. Reinsurance would be available to eligible state insurance programs if the Insurance industry is likely to incur gross losses in that state arising from natural disaster's occurring during any 12 month period that exceed the lesser of 10 times the premiums earned in that state or $10 billion (adjusted for inflation). This lesser amount, however , must equal at least $500 million (adjusted for inflation). Once this level of losses has been reached, reinsurance would pay to state insurance programs 95 percent of the losses which exceed the lesser amount described above.

The federal reinsurance claims paid to these eligible entities would be reduced by any reinsurance recovered from private sources. The full faith and credit of the United States would be pledged for full payment of reinsurance claims.

Section 313. Lines of Insurance. This section directs FEMA to provide excess reinsurance coverage for 16 lines of insurance, including fire, multiple peril, workers' compensation, and general liability. Other lines of coverage could be added by the Director of FEMA in consultation with the insurance advisory committee described in section 322.

Section 314. Actuarially Sound Rates. This section requires FEMA to establish risk-based rates for the excess reinsurance coverage so that, over an extended period of time, expected losses do not exceed premiums collected. The rates must also minimize the degree of cross-subsidization among classes of reinsured and the following rating factors must be considered: the premium rate volume of reinsureds and the total expected reinsurance payments by line of insurance; the adequacy of private reinsurance purchased; the payback of losses sustained by the reinsurance fund; and the reinsured's ratio of premiums written to consolidated surplus. Any rate classification system established by FEMA cannot impose disproportionate administrative costs.

Section 315. Reinsurance Fund. This section creates within the U.S. Treasury the reinsurance fund which would be exempt from all tax. Companies and state insurance programs participating in the reinsurance program would pay to this fund quarterly premiums where they would accumulate and be available to pay reinsurance claims.

Section 316. Borrowing from Treasury. This section authorizes FEMA, subject to the availability of congressional appropriations, to borrow from the Treasury to cover any shortfalls that may result in paying the excess reinsurance claims and expenses. Amounts borrowed would be deposited in the reinsurance fund and must be repaid, with interest, from future premiums collected from companies.

SUBTITLE C DESCRIBES THE ADMINISTRATION FOR THE INSURANCE PROGRAMS

Section 321. Plan of Operation. This section requires the FEMA Director to develop a plan of operation for the administration of the two federal insurance programs. Within one year of enactment, the Director would submit the draft plan of operation to the insurance advisory committee (described in the next section) for review and comment. The Director must consider all recommendations of the advisory committee and must publish in the Federal Register, with an accompanying explanation, any instances in which the Director fails to adopt an advisory committee recommendation. The final plan of operation would be issued as federal regulations within 18 months of enactment. Any lawsuits filed against the Director in connection with the insurance programs must be brought in the relevant federal district court (which would be the D.C. federal district court for actions brought by insurers).

Section 322. Federal Insurance and Reinsurance Advisory Committee. This section establishes a seven-member independent advisory committee to advise FEMA on the operations of the two insurance programs. The members would be appointed by the FEMA Director and must include: a state emergency planner; a state insurance commissioner, a professional actuary; and representatives of consumers, insurers, reinsurers, and insurance agents.

Mr. DODD. Mr. President, I am pleased to cosponsor the Natural Disaster Protection Act of 1993 with my distinguished colleague, Senator INOUYE.

The reactive nature of the current system of disaster relief is a major problem. A hurricane or earthquake strikes, and the Federal Government scrambles to find the money to repair the damage. This usually requires the Federal Government to borrow more money and increase the deficit.

The Natural Disaster Protection Act would change that approach. It would help communities plan for disasters and provide an insurance fund that would cover damages. With this reform in place, the disaster relief costs paid by taxpayers would decrease. Additionally, the bill would assure the continued availability of homeowner's insurance both before and after a major disaster.

In recent years, the Nation has been hit with a series of devastating and expensive natural disasters. The rampaging waters flooding the Midwest are the most recent tragedy. Dozens of lives have been lost, millions of acres of crops have been destroyed, and countless businesses have been forced to close. The most recent estimates put losses at $10 billion.

Last year, Hurricane Andrew swept through Florida leaving a path of destruction in its wake. The final costs from that storm are still not known, but they may exceed $17 billion. Similarly, Hurricane Iniki left 8,000 people homeless and caused more than $1.5 billion in damages. Although it was not as severe as the tropical storms, my home State of Connecticut also experienced a natural disaster last winter when a northeaster smashed into the coast.

These disasters will cost the American taxpayers an enormous amount of money. This year, President Clinton has requested $4.3 billion to help the victims of the flooding in the Midwest. That is on top of the $156 million paid earlier this year to help victims of flooding in California. In 1992, taxpayers paid $2.1 billion to assist the victims of Hurricane Andrew and $362 million to repair the damage caused by Hurricane Iniki. All told, Federal Government outlays for disaster relief exceeded $75 per taxpayer for the year.

Although the last 2 years have been particularly difficult, we also paid $702 million for costs associated with the Loma Prieta Earthquake in California, and $1.5 billion for Hurricane Hugo in 1989.

Of course, private insurers pay for most of the costs associated with natural disasters. Insured losses from Hurricanes Andrew and Iniki exceeded $18 billion. These enormous losses have hurt the industry and homeowners. Eight insurers, responsible for 15,000 homeowners' policies, failed as a result of Hurricane Andrew. Forty percent of homeowners in Hawaii are either currently without homeowner's insurance, or will not have their policies renewed as a result of insurance company insolvencies. Furthermore, many Americans do not have adequate coverage for natural disasters.

The high cost paid by taxpayers, and the difficulties faced by private insurers, suggests that there should be a better way to deal with disaster relief. The Natural Disaster Protection Act offers a new approach that would reduce the Nation's reliance on federally-funded disaster assistance.

Under this legislation, the Federal Emergency Management [FEMA] would work with State and local governments and private insurers to improve the Federal disaster relief system. The bill has three main components: First, a hazard mitigation program that would require States in disaster-prone areas to develop a plan for dealing with natural disasters and certify that building and safety codes are being complied with; second, a national insurance program that would provide comprehensive disaster protection for homes; and third, a reinsurance program, financed by the insurance industry, to help prevent an insurance availability crisis.

The National Insurance Program is a key part of the bill. FEMA would begin the process by designating disaster-prone States. Working with a committee whose members would represent the interests of consumers, State emergency planners, and insurers; FEMA would also establish the terms and limitations of the insurance coverage. Most important, the premiums would be actuarially based so that the cost reflects the risk faced by individual homeowners. Insurance companies would collect the premiums and foward them to a Federal insurance fund which would be used to pay claims.

With this fund in place, the Nation would have a cushion to soften the costs associated with natural disasters. This should reduce the amount of direct Federal expenditures after a disaster. Additionally, the government could invest part of the fund to help build up the reserve.

Up to 10 percent of the fund would also be used for grants to help State mitigation efforts. To qualify for the grants, States would have to: First, submit a comprehensive disaster plan to FEMA which would identify ways to improve building code enforcement, emergency response, and overall disaster preparedness; and second, certify that local communities are complying with federally approved building codes.

Finally, the bill would establish a Federal reinsurance fund. Premiums would be set by FEMA, and paid by insurance companies. Essentially, the reinsurance fund would provide insurance for insurers, so that they could better manage the risk from extremely costly disasters. This will help reduce the potential for insurance company insolvencies after major disasters.

With the Natural Disaster Protection Act in place, the Nation will be better equipped to deal with natural disasters. As a result of mitigation efforts, and the establishment of Federal insurance funds, the costs paid by taxpayers would be substantially reduced. The development of the reinsurance program would also protect against insurance companies going out of business and leaving homeowners stranded. Not surprisingly, a wide range of organizations have voiced their support for this bill including the National Emergency Management Association, the American Insurance Association, the National Consumers League, the National Association of Realtors, the International Association of Fire Fighters [AFL–CIO], the United Homeowners of America, and the National Council of Senior Citizens.

Of course, some modifications to this bill may be necessary as the legislative process moves forward. One issue that I am concerned about is the way in which the new disaster insurance fund is coordinated with other Federal insurance programs, including the National Flood Insurance Program. But this legislation serves as a starting point, and I look forward to working with my colleagues to reform our system of Federal disaster relief.

Mr. AKAKA. Mr. President, today I join Senators INOUYE, STEVENS, DODD, MURKOWKSI, SIMON, and GORTON in introducing legislation to lessen the economic consequences of a catastrophic disaster. Our bill provides a workable solution to reducing the loss of life and property and lessens the need for massive Federal disaster assistance.

Last September, the garden island of Kauai took a direct hit from Hurricane Iniki, with slamming winds of up to 165 miles per hour. Damage to the island totaled over $1.4 billion. It is important to remember that Hurricane Iniki occurred shortly after the Nation's most costly natural disaster, Hurricane Andrew, and preceded the great flood of 1993 by less than a year.

To those Americans displaced both physically and emotionally from their homes and livelihoods by natural disasters, the Federal Government offers a variety of emergency disaster services. For many disaster victims, the shock of losing one's home or business is compounded by the realization that the Federal Government can only do so much. Moreover, many affected by these disasters find that their insurance policies are often inadequate to cover losses.

The legislation we introduce today offers a multipronged approach to responding to future disasters. Encompassed in the bill are a hazard mitigation program—which will result in the construction of safer buildings and improved State and local emergency management capabilities; a primary insurance program to provide affordable, comprehensive disaster protection for homes; and a national reinsurance program financed by the insurance industry. Only through a comprehensive catastrophic disaster insurance program will be encourage those living in flood-prone, hurricane-prone, and earthquake-prone areas to purchase insurance. The central concept of this legislation is a cooperative effort that lessens the impact of a disaster through shared responsibilities among property owners, insurers, and government at all levels.

The Hazard Mitigation Program provides grants to State and local governments to strengthen their disaster planning and mitigation effort, in coordination with FEMA, through a Federal disaster mitigation fund. States meeting specified criteria would be eligible for these grants, which would be financed through amounts collected from other programs in the act. States not in compliance would be ineligible for these funds and could be denied access to certain types of Federal disaster relief.

This legislation does not intend to micromanage the jurisdictional structure or the actual mitigation steps to be followed, but rather, establish a framework within which the appropriate Federal agencies can deliver assistance effectively. Each State designated to be prone to specified disasters will be required to carry out certain mitigation efforts to address each of these types of disasters.

One of the most important features of this bill is the establishment of a reinsurance program to address the problem of homeowners' insurance availability. It would also reduce the potential for insurance company insolvencies from exceptionally large disasters, like Hurricanes Iniki and Andrew, and now the Midwest flood.

I might add that I sincerely hope that the residents of the Midwest do not meet the same problems encountered by the citizens in Hawaii after Hurricane Iniki, when the State's third largest insurer declared bankruptcy after claims became too great. This prompted most insurance companies doing business in the State to stop writing new policies and refusing to renew existing ones. Because many homeowners, and eventually many businesses, were without property insurance after Iniki, the Hawaii State Legislature adopted a bill to establish a new public corporation to provide hurricane coverage.

Another point in favor of Federal disaster insurance is that even when the Hawaii insurance pool is fully funded, it could never cover losses should a hurricane the force of Iniki hit the State's most populated island of Oahu. It is estimated that such a direct hit would result in estimated losses of $35 billion. Mr. President, this is where a reinsurance program becomes advantageous to everyone.

An important feature of the reinsurance fund is that it would be financed by the insurance industry. The fund would provide a source of insurance which insurersse high could purchase to better manage the risk from highly infrequent, but extremely costly disasters. States would also be eligible to participate in the reinsurance program if they create insurance pools, like Hawaii's hurricane relief fund, or other State-sponsored programs to provide insurance for homeowners who are unable to secure coverage on their own.

This bill is intended to lessen the damage suffered through injuries or loss of life, as well as lessen physical damage to insured structures. By lowering the amount of claims that insurance companies are forced to pay out, we will lessen their risk to a level where they feel that they can participate in high-risk markets.

Mr. President, I wish to reemphasize that our bill is aimed at long range effectiveness. In searching for an equitable and effective means of addressing the financing of disasters, we must be willing to try new approaches. Although we cannot avert most disasters, we can take a proactive stand to lessen the impact of these unpredictable acts of nature.

The Natural Disaster Protection Act of 1993 provides a road map for dealing with the impact of serious, catastrophic disasters which appear to be striking with more frequency and intensity by shifting the emphasis from taxpayer dollars to private dollars as a means of funding disaster recovery.

Mr. MURKOWSKI. Mr. President, I rise today to join with my good friends Senator INOUYE and Senator STEVENS in introducing this important legislation.

As has already been explained, this bill will both strengthen existing building codes to prevent damage from natural disasters and vastly increase the availability of insurance to people in States at risk for such disasters.

I would just like to comment specifically on three items.

First, I would like to thank Senator INOUYE for including at my suggestion, language insuring that potential victims of tsunami damage are also covered by this bill as well as those victims of earthquakes or volcanic eruptions.

In the last great earthquake in my State, the Good Friday earthquake of 1964, a great proportion of the damage was done by tsunami, and this bill will insure that should that happen again that damage would be covered.

Second, this bill anticipates future difficulties. Too often, we here in Congress are accused of waiting until after the horse is gone to shut the gate; of waiting until after the disaster has occurred and then throwing money at the ruins. This bill is different. This bill attacks the risk of catastrophic damage when it should be attacked, before the disaster occurs, before a single life is lost or a single building destroyed. I commend the Senator from Hawaii for this foresight.

Finally, this bill will vastly broaden the availability of disaster insurance for millions of Americans at no cost to the Federal Government. We here in the Congress have to understand that the Federal Government simply does not have the financial resources to address each and every problem in this Nation. This bill recognizes that fact. This bill's innovative self-funding mechanisms are the wave of the future, and I am pleased to be associated with this effort.

I look forward to working with my colleagues to insure passage of this important legislation.

By Mr. REID:

S. 1351. A bill to curb criminal activity by aliens, to defend against acts of international terrorism, to protect American workers from unfair labor competition, and to relieve pressure on public services by strengthening border security and stabilizing immigration into the United States; to the Committee on the Judiciary.

IMMIGRATION STABILIZATION ACT OF 1993

Mr. REID. Mr. President, it is truly dazzling to think about the contributions immigrants have made to this great Nation. Names like Einstein, Baryshnikov, and Greta Garbo spring immediately to mind. One of our recent Poet Laureates of the United States was the Russian immigrant, Joseph Brodsky.

And there have been so many more famous and unknown immigrants that have made America great. In the past, our immigration has been mostly European. But we have a new immigration in America today. People from Latin America and the Far East are now making their own mark on our society. Students from the Far East are class valedictorians all across the country. Korean and Chinese small businesses proliferate and are successful, reminiscent of An Wang's great success as an inventor and businessman.

Latin Americans have made great contributions to the arts, theatre, politics, and many other areas. The Spanish language has become a part of our everyday experience. I, myself, have three sons fluent in this language.

This is what makes America America. The diversity of our public consciousness and the unity of our purpose has made us strong.

As many of us here, I and my children are from immigrant stock. My grandmother emigrated from England, and my father-in-law was from Russia. Like many of our recent immigrants, they came here, worked hard, and improved their lives.

Mr. President, today I am introducing comprehensive legislation aimed at overhauling our Nation's immigration laws. Immigration is rapidly becoming one of the most critical issues on the national agenda and one which the American people believe requires the urgent attention of Congress. The legislation which I am introducing today is aimed at addressing the growing concern on the part of the American people that our immigration laws lack a purpose and a sense of direction.

In 1958, Senator John F. Kennedy published a pamphlet entitled, "A Nation of Immigrants." Since that time the description, "a nation of immigrants" has become almost a national badge of honor. Perhaps as no other nation before ours, we have taken people from many different cultures, religions, and races and melded them into a cohesive unit—a nation. Moreover, the United States has succeeded in creating this feat in a remarkably brief period of time.

In effect, we may have become victims of our own success. Like so many things, we have begun to take for granted the ability of the United States to absorb and assimilate large numbers of newcomers into the mainstream of American life. In recent years, we have lost sight of the fact that being a nation of immigrants is an ideal that requires effort and planning. President Kennedy's lofty ideal is in danger of becoming an empty cliché.

Thirty-five years after the publication of "A Nation of Immigrants" it is fair to say that the United States lacks an immigration policy. Webster's defines the term policy as "prudence or wisdom in the management of affairs." Policy also implies an overriding objective and a common understanding of what national good is being served. Yet in 1993, the United States admits a population roughly equivalent to the population of my home State of Nevada every year, and will continue to do so every year for the foreseeable future, without any clear idea of what it is we hope to achieve.

Every public policy generates differences of opinion, but those differences generally center on how best to achieve a given objective. As the Nation wrestles with the difficult issue of health care reform we will witness passionate and protracted debates from all segments of society. But at least we all agree that the objective ought to be to provide the best possible health care for the greatest number of people within the limits of our resources. The same could be said for virtually every other difficult issue that the Nation, and by extension those of us here in Congress, must deal with.

When it comes to immigration we have not even taken the first step of debating and establishing our goals. Immigration to the United States is governed by an inchoate and often incomprehensible hodgepodge of statutes, regulations, and procedures. Cobbled together over the last 100 years in the true spirit of ad hocracy, America's immigration laws utterly lack the support and confidence of the people of the United States. The time has come to move beyond the myths, shibboleths, and clichés and open a national debate on an issue that Attorney General Janet Reno has aptly described as "one of the most critical issues that we face this decade."

There is no better place to begin than by taking a clearheaded look at exactly what America's immigration tradition has been. For years, those who have promoted expanded immigration levels and who have urged us to wink at massive illegal immigration and abuse of our political asylum laws, have argued that we must be true to America's immigration tradition. But what exactly is that tradition? Upon closer scrutiny, immigration to the United States today is anything but traditional.

From 1820 until 1965—a period that encompasses most of our history as a nation—the United States admitted an average of less than 300,000 immigrants a year. During that 145-year period we settled the frontier, fought a civil war, created an industrial revolution, engaged in two world wars, endured a great depression and ultimately emerged as the world's greatest military and economic superpower. There were ebbs and flows in immigration over this period, but taken together 300,000 immigrants a year is our true immigration tradition. And, with the exception of one relatively short period at the beginning of the 20th century, these levels rarely varied.

Contrast those levels of immigration with the numbers we are seeing today. Depending on estimates of illegal immigration, we are now resettling between 1.2 million and 1.5 million newcomers every year. There is nothing traditional, or rational for that matter about attempting to absorb the population of Nevada every year, year in and year out. When history is written, the decade of the 1980's will be remembered as a decade of wretched excess and, true to form, immigration was taken to excess as well. As we focus on reining in many of the other excesses of the preceding decade, we must not overlook immigration.

Unless serious reforms are undertaken, 15 million newcomers will settle in the United States during the 1990's. Yet we continue to act as though immigration exists in a vacuum. Not a whit of thought has been devoted to how we will meet the needs of that population. There has not been a single debate in Congress about how we will provide a first class education to all these new children, provide quality health care to the sick, secure adequate and affordable housing, ensure that there will be sufficient jobs, improve and expand infrastructure, cope with environmental degradation, or ensure domestic tranquility. In short, we are admitting unprecedented numbers of new immigrants without even a modicum of planning. We are taking a leap of faith hoping that somehow everything will work out tomorrow.

Over the past 15 years, Congress and successive administrations have acted on immigration like they have acted on the national debt. As a result, our immigration laws are in the same mess as our financial situation. The American people are angry about both the budget deficit and immigration. Nobody has asked them if they want to foot the bill for what is happening. Nobody has consulted with them about whether they want to see the social and cultural makeup of their nation radically altered. Nobody has ever asked the American people if they want to see the population of the United States grow by more than 50 percent within the lifetimes of their children and grandchildren.

In a democracy, the people have a right to be consulted on issues of vital importance to their future. Every public opinion poll done in the past 15 years indicates that the American people—of very race, religion, ethnic group, and region of the country—want to see legal immigration reduced to more traditional levels and illegal immigration brought under control. Several weeks ago, Jim Hoagland wrote in the Washington Post that immigration would soon become topic A in all the industrialized democracies. It is time, therefore, that Congress began to address this issue and the concerns of the people seriously.

It is for these reasons that I am introducing comprehensive legislation aimed at establishing an immigration policy for the United States. I wish to note that while many piecemeal immigration proposals have been introduced to deal with particular problem areas—such as asylum abuse—no other Senator or Congressman has introduced a comprehensive reform bill.

Comprehensive reform is essential for effectively addressing this critical issue. The problems with our immigration system have grown too large to be dealt with by tinkering with the margins. The troubles with our immigration process cannot be solved with a few more dollars, or a few more border guards, or by tightening up on asylum regulations. The problem is the system itself and that is why I am proposing that it be reformed top to bottom. It is time to reexamine all aspects of the issue: Controlling illegal immigration, ending abuse of our political asylum process and establishing, for a change, some guiding principles by which we can administer a legal immigration policy that is fair, rational, and which serves the interests of the United States.

Under the legislation I am proposing, we would begin to restore immigration to its more traditional and manageable levels of about 300,000 annually.

Annual levels of 300,000 would restore immigration to more traditional levels. To put the excesses of our current immigration numbers in perspective, even if we were to enact this decrease of more than 50 percent, the United States would still have the most open and generous immigration policy in the world.

Paring back immigration to more manageable levels would necessitate some long overdue changes in the way immigrants are selected. The ever-growing pressure to expand immigration levels is a byproduct of a system that grants immigration preferences to extended family members. Each time we admit a new immigrant, we expand the pool of people eligible to join the queue of those who would like to immigrate in the future. Thus, under the current system, the more immigrants we admit, the greater the pressure becomes to admit relatives who feel they have entitlement to come to America. We now have an astounding backlog of 3.4 million such people—roughly equivalent to the population of the city of Los Angeles.

What is more, people who immigrate under one of the family reunification provisions do not have to meet any objective criteria which measure whether they are likely to become contributing members of our society. Of the more than 1 million people who settle here each year, not more than about 50,000 are selected based on what they can do for the United States. We have lost sight of the fact that immigration is a public policy and like all public policies it is supposed to serve the best interests of the United States.

To both serve the national interest and reduce the pressure for ever-expanding immigration quotas, we must eliminate immigration preferences for extended family members. The nuclear family is the bedrock of our social structure and when an immigrant is selected he or she should be entitled to bring a spouse and unmarried minor children, but the United States must make it clear that there is no implicit or explicit promise that other family members will be permitted to immigrate as a result. Like other immigrant-receiving countries, the United States has a duty to set limits on the number of people who can come and fill those quotas based on an objective assessment of our own national interests.

Events in recent months, such as the hideous bombing in New York, have demonstrated that one of our most important national interests has been grossly neglected, with tragic results. Illegal immigration has become not only one of our most costly problems, but a threat to our national security. For decades, we have pretended not to see the problem of illegal immigration. The time has come to begin treating this matter seriously through a combination of enforcement and deterrence.

Twice in the past 7 years Congress has authorized increases in Border Patrol manpower and, in both instances, failed to appropriate the necessary funds. With an estimated 3 million people illegally crossing our borders every year, Congress must significantly increase the size of the Border Patrol to ensure our borders are secure. This will require roughly twice the number of Border Patrol officers we now have—an increase to 9,900 personnel. Inadequate manpower is penny-wise and pound-foolish. The Constitution requires that we provide for the defense of the Nation. As long as anyone can enter this country, at any time, for any reason, we are failing to meet this most basic of our constitutional obligations—the security of the people.

In addition to adequate manpower, we must also provide those who guard our borders with the necessary equipment to do their jobs. It is a waste of the taxpayers' money to pay Border Patrol agents' wages when their vehicles are often in such a state of disrepair that they are unable to guard our borders. How can we expect aliens to take seriously our commitment to securing our Nation's borders when Border Patrol vehicles often sit idle for lack of gasoline?

Given the other events that are taking place here in Congress this week; namely, producing a budget that makes significant reductions in the Federal deficit, the legislation I am introducing today contains a plan for paying for the increased border security I am proposing. My colleague, Senator DIANNE FEINSTEIN of California has already suggested the institution of a border crossing fee to cover the costs of these needed improvements. Her idea has been incorporated into this bill. A $3 fee would raise approximately $1 billion a year to fund efforts to combat illegal immigration and expedite travel for the hundreds of millions of people who cross our land borders for legitimate reasons.

As important as improving security along the border is, however, the cornerstone of our policy to control illegal immigration must be effective deterrence. We will never be able to stop all the people attempting to enter the United States illegally as long as they believe they will be able to live and work in this country if they can successfully elude the Border Patrol.

In 1986, Congress made a deal with the American people. In exchange for granting amnesty to 3.1 million people who had violated our immigration laws, Congress promised to institute effective deterrents to further illegal immigration in the form of employer sanctions. These sanctions penalize employers who hire illegal aliens instead of citizens and legal residents. Congress also promised to establish an effective and nondiscriminatory way for employers to verify whether each newly hired worker was eligible to work in the United States.

Instead, the Federal Government has sat by idly as the deterrence factor of employer sanctions has been eroded by rampant document fraud. We have allowed ourselves to be paralyzed by specious claims that tamper-resistant, verifiable documents pose a threat to privacy and are likely to be abused. As a result a multimillion-dollar criminal enterprise in forged documents has sprung up and undermined our ability to enforce the laws we have enacted.

I am, therefore, proposing that we adopt the recommendations of the General Accounting Office and begin issuing a fraud-resistant, verifiable Social Security card. Every person legally in the United States over the age of 2 is already required to have a Social Security card. There is no reason why, in 1993, a Social Security card cannot be as easily verified as a credit card or an ATM card. In a society increasingly dependent on technology, it is simply unrealistic not to employ technological means to ensure that only those people who are legally entitled to work and collect benefits in the United States actually do.

The most humane and effective means of controlling large-scale illegal immigration is deterrence. If people around the world become convinced that the United States is serious about enforcing its immigration laws and that stealing into this country will not be rewarded, many potential illegal immigrants will make the very rational decision not to try to come to the United States by illegal means. This will increase the capability of the Border Patrol to apprehend those who attempt to come here illegally anyway. Reducing the ratio of illegal border crossers to Border Patrol agents would enhance the probability of apprehension. That, in itself, would provide one more layer of deterrence.

Finally, the legislation I am introducing would take strong measures to deal with the abuse of this country's humanitarianism. The past several months have presented numerous and vivid illustrations of how our political asylum laws are being blatantly abused by people seeking to evade our immigration laws and even by organized criminals seeking to steal, cheat, and intimidate. Perhaps no other abuse of our immigration policy has raised the hackles of the American public like those blatant abuses of our immigration standards.

The abuse must be ended. At its best, political asylum today has been turned into a means by which a small number of people can jump ahead of 18 million refugees worldwide to enter the United States.

The bill I am introducing would eliminate the incentives to abuse our Nation's political asylum process by ensuring the quick and certain exclusion of those filing patently bogus claims of political asylum. The current system has simply been overwhelmed. Some 275,000 cases are backlogged and the backlog is growing at a rate of 100,000 a year. It has become such an inviting target for abuse that more than half of all applicants never even bother to appear for their scheduled hearings. Even the generous spirit of the American people can be strained to the breaking point when they realize that they are being played for suckers.

In summation, it is time for the United States to adopt an immigration policy. It is no wonder that from the cover of this week's issue of Newsweek, to the pages of every major newspaper and magazine, to the Nation's airwaves we are hearing reports of growing dissatisfaction with the way immigration is being handled. It's time to listen to what the American people are saying about immigration.

The comprehensive proposal I am submitting calls for an overall set of objectives and a plan for achieving them. It is an opportunity to open a national debate on what is becoming increasingly acknowledged as one of the most critical issues ever to face our country. Patches on the blanket won't do anymore. What we need is a new blanket.

In the coming weeks and months I will be addressing specific aspects of the immigration issues in more detail on the floor of the Senate. It is an issue that will affect virtually every aspect of life in the United States and every aspect of business conducted here in Congress. One thing seems certain: We cannot go on indefinitely adding the equivalent of the population of the State of Nevada every year to our national population base. The time has come for the United States to have an immigration policy.

Mr. President, I ask unanimous consent that a copy of my bill and a section-by-section analysis of its provisions be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1351

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Immigration Stabilization Act of 1993".

SEC. 2. TABLE OF TITLES.

Title I. Admission of immigrants.
Title II. Admission of refugees.
Title III. Asylum reform.
Title IV. Criminal aliens.
Title V. Financial responsibility.
Title VI. Employer sanctions.
Title VII. Border security.
Title VIII. Alien smuggling.
Title IX. Local cooperation.
Title X. Citizenship.

SEC. 3. EFFECTIVE DATE.

Except where otherwise specifically provided, the provisions of this Act are effective for fiscal years after fiscal year 1993.

TITLE I—ADMISSION OF IMMIGRANTS

SEC. 101. WORLDWIDE LEVELS OF IMMIGRATION.

Section 201 of the immigration and Nationality Act (8 U.S.C. 1151) is amended—

(a) By striking subsection (c) and inserting:

"(c) The worldwide level of family-sponsored immigrants is—

(i) 300,000, minus

(ii) the sum of—

(A) the number of refugees admitted under section 207 in the preceding fiscal year, and

(B) the number of aliens described in sections 201(b)(2) and 203(b) who were issued immigrant visas or who otherwise acquired the status of aliens lawfully admitted to the United States for permanent residence in the previous fiscal year;

(b) By striking subsection (d) and inserting:

"(d) The worldwide level of employment-based immigrants is 40,000"; and

(c) By striking "55,000" from subsection (e) and inserting "zero".

SEC. 102. ALLOTMENT OF VISAS.

Section 203 of the Immigration and Nationality Act (8 U.S.C. 1153) is amended by—

(a) Adding the following paragraph to subsection (a):

"(5) If the worldwide level of family-sponsored immigrants for any fiscal year is less than 226,000, then the maximum number of visas that can be allotted to any class of family-sponsored immigrants under this subsection shall be proportionately reduced for that fiscal year;

(b) Striking subsection (b) and inserting:

"(b) ALLOCATION FOR EMPLOYMENT-BASED IMMIGRANTS.—Visas shall be made available in a number not to exceed the worldwide level of employment-based immigrants to qualified immigrants who are aliens described in any of the following paragraphs (1) through (3):

(1) ALIENS WITH EXTRAORDINARY ABILITY.—An alien is described in this paragraph if—

(A) the alien has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and whose achievements have been recognized in the field through extensive documentation,

(B) the alien seeks to enter the United States to continue work in the area of extraordinary ability, and

(C) the alien's entry into the United States will substantially benefit prospectively the United States

(2) OUTSTANDING PROFESSORS AND RESEARCHERS.—An alien is described in this paragraph if—

(A) the alien is recognized internationally as outstanding in a specific academic area.

(B) the alien has at least 3 years of experience in teaching or research in the academic area, and

(C) the alien seeks to enter the United States—

(i) for a tenured position (or tenure-track position) within a university or institution of higher education to teach in the academic area,

(ii) for a comparable position with a university or institution of higher education to conduct research in the area, or

(iii) for a comparable position to conduct research in the area with a department, division, or institute of a private employer, if the department, division, or institute employs at least 3 persons full-time in research activities and has achieved documented accomplishments in an academic field.

(3) CERTAIN MULTINATIONAL EXECUTIVES AND MANAGERS.—An alien is described in this paragraph if the alien, in the 3 years preceding the time of the alien's application for classification and admission into the United States under this paragraph, has been employed for at least 1 year by a firm or corporation or other legal entity or an affiliate or subsidiary thereof and the alien seeks to enter the United States in order to continue to render services to the same employer or to a subsidiary or affiliate thereof in a capacity that is managerial or executive."

(c) Striking subsection (c) and inserting:

"(c) Visas shall be made available to employment-related immigrants in the order in which a petition on behalf of each such immigrant is filed with the Attorney General and waiting lists of applicants for visas shall be maintained in accordance with regulations prescribed by the Secretary of State."

(d) Striking "(a), (b), or (c)" from subsections (d), (f), and (g) and inserting "(a) or (b)".

(e) Striking subsection (e).

(f) Renumbering subsections (f) and (g) as (e) and (f), respectively.

SEC. 103. APPROVAL OF PETITIONS.

Section 204 of the Immigration and Nationality Act (8 U.S.C. §1154) is amended by—

(a) Striking from subsection (a)(1)(A) "the classification by reason of a relationship described in paragraph (1), (3), or (4) of section 203(a) or";

(b) Striking from subsection (a)(1) subparagraphs (B), (C), (D), (E), (F), (G), and inserting:

"(B) Any alien desiring to be classified under section 203(b), or any person on behalf of such an alien, may file a petition with the Attorney General for such classification.";

(c) Striking from subsection (e) "as an immigrant under subsection (a), (b), or (c) of section 203 or";

(d) Striking from subsection (f)(i) ", 203(a)(i), or 203(a)(3), as appropriate"; and

(e) Adding:

"(h) Notwithstanding any other provision of this section, the Attorney General shall not approve after September 30, 1993, any petitions other than for immediate relative status under section 201(b)(2) or classification by reason of a relationship described in section 203(b)."

SEC. 104. CONFORMING AMENDMENTS.

The Immigration and Nationality Act is amended by—

(a) Striking from section 201(b)(2)(A)(i) "the children, spouses, and parents of a citizen of the United States, except that, in the case of parents, such citizens shall be at least 21 years of age" and inserting "children and spouses of a citizen of the United States".

(b) Striking from section 203(a)(1) "UNMARRIED SONS OR DAUGHTERS OF CITIZENS.—Qualified immigrants who are the unmarried sons or daughters of citizens of the United States" and inserting "PARENTS OF ADULT U.S. CITIZENS.—Qualified immigrants who are the parents of citizens of the United States who are at least 21 years of age".

(c) Striking "MARRIED" and "married" from section 203(a)(3).

TITLE II—ADMISSION OF REFUGEES

SEC. 201. NUMBER OF ADMISSIONS.

Section 207 of the Immigration and Nationality Act, 8 U.S.C. §1157, is amended by striking subsection (a) and inserting:

"(a) Except as provided in subsection (b), the number of refugees who may be admitted under this section in any fiscal year may not exceed 50,000. Admissions under this subsection shall be allocated by the President among refugees of special humanitarian concern to the United States."

SEC. 202. NONDISCRIMINATION IN REFUGEE ADMISSIONS.

(a) Public Law Number 89-732, as amended by Public Law Number 94-571, is repealed.

(b) Section 207 of the Immigration and Nationality Act (8 U.S.C. §1157) is amended by adding after subsection (e) thereof:

"(f) Determinations of the allocation of admissions under subsections (a) and (b), determinations of admissions under subsection (c), and procedures for the determination of refugee status shall not discriminate in favor of or against any alien on the basis of the alien's race, religion, nationality, membership in a particular social group, or political opinion.

TITLE III—ASYLUM REFORM

SEC. 301. INSPECTION AND EXCLUSION BY IMMIGRATION OFFICERS.

(a) Inspection of Aliens.—Section 235(b) of the Immigration and Nationality Act (8 U.S.C. 1225(b)) is amended to read as follows:

"(b) Inspection and Exclusion by Immigration Officers.—

(1) An immigration officer shall inspect each alien who is seeking entry to the United States.

(2)(A) If the examining immigration officer determines that an alien seeking entry—

(i) does not present the documentation required (if any) to obtain legal entry to the United States; and

(ii) does not indicate either an intention to apply for asylum (under section 208) or a fear of persecution, the officer shall order the alien excluded from the United States without further hearing or review.

(B) The examining immigration officer shall refer for immediate inspection at a port of entry by an asylum officer under subparagraph (C) any alien who has indicated an intention to apply for asylum or a fear of persecution.

(C)(i) If an asylum officer determines that an alien has a credible fear of persecution, the alien shall be entitled to apply for asylum under section 208.

(ii) If an asylum officer determines that an alien does not have a credible fear of persecution the officer shall order the alien excluded from the United States without further hearing or review.

(3)(A) Except as provided in subparagraph (B), if the examining immigration officer determines that an alien seeking entry is not clearly and beyond a doubt entitled to enter, the alien shall be detained for a hearing before a special inquiry officer.

(B) The provisions of subparagraph (A) shall not apply—

(i) to an alien crewman,

(ii) to an alien described in paragraph (2)(A) or 2(C)(ii)(I), or

(iii) if the conditions described in section 273(d) exist.

(4) The decision of the examining immigration officer, if favorable to the admission of any alien, shall be subject to challenge by any other immigration officer and such challenge shall operate to take the alien, whose privilege to enter is so challenged, before a special inquiry officer for a hearing on exclusion of the alien.

(5)(A) Subject to subparagraph (B), an alien has not entered the United States for purposes of this Act unless and until such alien has been inspected and admitted by an immigration officer pursuant to this subsection.

(B) An alien who (i) is physically present in the United States, (ii) has been physically present in the United States for a continuous period of one year, and (iii) has not been inspected and admitted by an immigration officer shall be deemed to have entered the United States without inspection.

(6) Interior Repatriation.—The Secretary of State shall undertake to enter into, on behalf of the United States, arrangements with the governments of countries contiguous to the United States that any excludable or deportable alien who is to depart the United States to such country under an order of deportation, under a grant of voluntary departure with safeguards, or at a time when the alien is in federal custody shall be transported to a point in the contiguous country that, to the extent practicable, is not less than 500 kilometers from the border of the United States.

(b) Grounds for Exclusion.—Section 212(a)(6) of the Immigration and Nationality Act is amended by adding the following paragraphs:

"(G)(i) Any alien who, in seeking entry to the United States or boarding a common carrier for the purpose of coming to the United States, presents any document which is forged, counterfeit, altered, falsely made, stolen, or inapplicable to the alien presenting the document, or otherwise contains a misrepresentation of a material fact, shall be excluded.

(ii) Subparagraph (ii) shall not apply to an alien if, in the determination of the asylum officer, the document or documents to which that subparagraph refers were presented by the alien solely to enable the alien to depart directly from—

(A) a country in which the alien had a credible fear of persecution; or

(B) a country in which there was a significant danger that the alien would be returned to a country in which the alien would have a credible fear of persecution.

(iii) For the purposes of this subparagraph, the term 'credible fear of persecution' means (I) that it is more probable than not that the statements made by the alien in support of his or her claim are true, and (II) that there is a significant possibility, in light of such statements and of such other facts as are known to the officer that the alien could establish eligibility for asylum under section 208.

(H) Any alien who, in boarding a common carrier for the purpose of coming to the United States, presents a document that relates or purports to relate to the alien's eligibility to enter the United States, and fails to present such document to an immigration officer upon arrival at a port of entry into the United States, shall be excluded."

(b) Conforming Amendments.—Section 237(a) (8 U.S.C. 1227(a)) is amended—

(1) in the second sentence of paragraph (1) by striking "Deportation" and inserting "Subject to section 235(b)(2), deportation"; and

(2) in the first sentence of paragraph (2) by striking "If" and inserting "Subject to section 235(b)(2), if".

SEC. 302. ASYLUM.

(a) In General.—Section 208 (8 U.S.C. 1158) is amended to read as follows:

"Sec. 208 (a) Asylum.—

(1) Right to Apply.—An alien physically present in the United States or at a land border or port of entry may apply for asylum in accordance with this section.

(2) Conditions for Granting.—

(A) Grants by Attorney General.—The Attorney General may grant asylum to an alien if the alien applies for asylum in accordance with the requirements of this section and establishes that it is more probable than not that in the alien's country of nationality (or, in the case of a person having no nationality, the country in which such alien last habitually resided) such alien would be arrested and incarcerated or such alien's life would be threatened on account of race, religion, nationality, membership in a particular social group, or political opinion.

(B) Exception.—Subparagraph (A) shall not apply to an alien if the Attorney General determines that—

(i) the alien ordered, incited, assisted, or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion;

(ii) the alien, having been convicted by a final judgment of a particularly serious crime, constitutes a danger to the community of the United States;

(iii) there are serious reasons for believing that the alien has committed a serious nonpolitical crime outside the United States prior to the arrival of the alien in the United States;

(iv) there are reasonable grounds for regarding the alien as a danger to the security of the United States; or

(v) a country willing to accept the alien has been identified (other than the country described in subparagraph (A)) to which the alien can be deported or returned and the alien does not establish that it is more likely than not that the alien would be incarcerated or the alien's life would be threatened in such country on account of race, religion, nationality, membership in a particular social group, or political opinion. For purposes of clause (ii), an alien who has been convicted of an aggravated felony shall be considered to have committed a particularly serious crime. The Attorney General shall promulgate regulations that specify additional crimes that will be considered to be a crime described in clause (ii) or clause (iii).

(3) Asylum Status.—In the case of any alien granted asylum under paragraph (2), the Attorney General, in accordance with this section—

(A) shall not deport or return the alien to the country described under paragraph (2)(A);

(B) shall authorize the alien to engage in employment in the United States and provide the alien with an 'employment authorized' endorsement or other appropriate work permit; and

(C) may allow the alien to travel abroad with the prior consist of the Attorney General, except that such travel may not be authorized to the country from which the alien claimed to be fleeing persecution.

(4) Termination.—Asylum granted under paragraph (2) shall be terminated if the Attorney General, pursuant to such regulations as the Attorney General may prescribe, determines that—

(A) the alien no longer meets the conditions described in paragraph (2) owing to a change in circumstances in the alien's country of nationality or, in the case of an alien having no nationality, in the country in which the alien last habitually resided;

(B) the alien meets a condition described in paragraph (2); or

(C) a country willing to accept the alien has been identified (other than the country described in paragraph (2)) to which the alien can be deported or returned and the alien cannot establish that it is more likely than not that the alien would be arrested or incarcerated or the alien's life would be threatened in such country on account of race, religion, nationality, membership in a particular social group, or political opinion; or

(D) the alien returns to the country from which the alien claimed to be fleeing persecution or makes application with the Attorney General to return to the country from which the alien claimed to fleeing persecution.

(5) Acceptance by Another Country.—In the case of an alien described in paragraph (2)(C)(v) or paragraph (4)(C), the alien's deportation or return shall be directed by the Attorney General in the sole discretion of the Attorney General, to any country which

is willing to accept the alien into its territory (other than the country described in paragraph (2)).

(b) ASYLUM PROCEDURE.—

(1) APPLICATIONS.—

(A) IN GENERAL.—

(i) DEADLINE.—Subject to clause (ii), an alien's application for asylum shall not be considered under this section unless—

(I) the alien has filed, not later than 30 days after entering or coming to the United States, notice of intention to file such an application, and

(II) such application is actually filed not later than 45 days after entering or coming to the United States.

(ii) EXCEPTION.—An application for temporary asylum may be considered, notwithstanding that the requirements of clause (i) have not been met, only if the alien demonstrates by clear and convincing evidence changed circumstances in the alien's country of nationality (or in the case of an alien with no nationality, in the country where the alien last habitually resided) affecting eligibility for asylum.

(B) REQUIREMENTS.—An application for temporary asylum shall not be considered unless the alien submits to the taking of fingerprints and a photograph in a manner determined by the Attorney General.

(C) FEES.—The Attorney General may provide for a reasonable fee for the consideration of an application for asylum or for any employment authorization under subsection (a)(3)(B).

(D) NOTICE OF PRIVILEGE OF COUNSEL AND CONSEQUENCES OF FRIVOLOUS APPLICATION.—At the time of filing a notice of intention to apply for asylum, the alien shall be advised of the privilege of being represented (at no expense to the government) by such counsel, authorized to practice in such proceedings, as the alien shall choose and of the consequences, under subsection (d), of filing a frivolous application for temporary asylum.

(2) CONSIDERATION OF APPLICATIONS; HEARINGS.—

(A) ASYLUM OFFICERS.—Applications for temporary asylum shall be considered by officers of the Service (referred to in this Act as 'asylum officers') who are specially designated by the Service as having special training and knowledge of international conditions and human rights records of foreign countries. Pending the designation of such officers, individuals who as of the date of the enactment of the Immigration Stabilization Act of 1993 are authorized to perform duties as asylum officers shall be deemed to be qualified to be asylum officers for purposes of this Act.

(B) SCHEDULING OF HEARINGS.—

(i) IN GENERAL.—Upon the filing of an application for asylum, an asylum officer, at the earliest practicable time and after consultation with the attorney for the Government and the attorney (if any) for the applicant, shall set the application for hearing on a day certain or list it on a weekly or other short-term calendar, so as to assure a speedy hearing.

(ii) DEADLINE.—Unless the applicant (or an attorney for the applicant) consents in writing to the contrary, the hearing on the asylum application shall commence not later than 45 days after the date the application was filed.

(C) PUBLIC HEARINGS.—A hearing on a temporary asylum application shall be open to the public unless the applicant requests that it be closed to the public.

(D) RIGHTS IN HEARINGS.—The officer shall, to the extent practicable, conduct the hearing in a nonadversarial manner. During such hearing, the applicant shall have the privilege of the assistance and participation of counsel (as provided under paragraph (1)(D)) and both the government and the applicant shall be entitled to present evidence and witnesses, to examine and object to evidence, and to cross-examine all witnesses.

(E) COUNTRY CONDITIONS.—An officer may request opinions regarding country conditions from the Secretary of State, but shall not request or consider recommendations from the Secretary of State as to whether a particular named individual should or should not be granted temporary asylum.

(F) TRANSCRIPT OF HEARINGS.—A complete record of the proceedings and of all testimony and evidence produced at the hearing shall be kept. The hearing shall be recorded verbatim. The Attorney General and the Service shall provide that a transcript of a hearing held under this section is made available not later than 10 days after the date of completion of the hearing.

(G) DEADLINE FOR DETERMINATIONS ON APPLICATIONS.—The officer shall render a determination on the application not later than 30 days after the date of completion of the hearing. The determination of the officer shall be based only on the officer's knowledge of international conditions and human rights records of foreign countries, and evidence produced at the hearing.

(H) RESOURCE ALLOCATION.—The Attorney General shall allocate sufficient resources so as to assure that applications for asylum are heard and determined on a timely basis. However, nothing in this paragraph relating to scheduling or deadlines shall be construed as creating any right or benefit, substantive or procedural, which is legally enforceable by any party against the United States, its agencies, its officers, or any other person.

(I) SANCTIONS FOR FAILURE TO APPEAR.—

(i) Subject to clause (ii), the application for asylum of an alien does not appear for a hearing on such application shall be summarily dismissed unless the alien can show exceptional circumstances (as defined in section 242B(f)(2)) as determined by the asylum officer.

(ii) Clause (i) shall not apply if written and oral notice were not provided as required by section 242B(e)(4)(B).

(iii) Except in exceptional circumstances (as defined in section 242B(f)(2)), an application summarily dismissed in accordance with Clause (i) shall not be reopened or reconsidered nor shall a new application for asylum be entertained by the Attorney General at any time.

(J) FINALITY OF DETERMINATIONS.—

(i) IN GENERAL.—The decision of the asylum officer shall be the final administrative determination of a claim for asylum.

(ii) TREATMENT OF CASES IN EXCLUSION OR DEPORTATION.—If proceedings are instituted against an alien under section 235 or 242 of this Act and the alien files an application for asylum based on circumstances described in subsection (b)(1)(A)(ii), the asylum officer shall render, on an expedited basis, a decision on the application.

(c) ASYLUM STATUS ADJUSTMENTS.—

(1) ADJUSTMENT OF STATUS.—Under such regulations as the Attorney General may prescribe, the Attorney General shall adjust to the status of an alien granted asylum the status of any alien granted asylum under subsection (a)(2)(A) who—

(A) applies for such adjustment;

(B) has been physically present in the United States for at least 3 years after being granted asylum;

(C) continues to be eligible for asylum under this section; and

(D) is admissible under this Act at the time of examination for adjustment of status under this subsection.

(2) TREATMENT OF SPOUSE AND CHILDREN.—A spouse or child (as defined in section 101(b)(A), (B), (C), (D), or (E)) of an alien whose status is adjusted to that of an alien granted asylum under paragraph (a)(2) may be granted the same status as the alien if accompanying, or following to join, such alien.

(3) APPLICATION FEES.—The Attorney General may impose a reasonable fee for the filing of an application for asylum under this subsection.

(d) DENIAL OF IMMIGRATION BENEFITS FOR FRIVOLOUS APPLICATIONS.

(1) IN GENERAL.—If the asylum officer determines that an alien has made a frivolous application for asylum under this section and the alien has received the notice under subsection (b)(1)(D)(i), the alien shall be permanently ineligible for any benefits under this Act, effective as of the date of a final determination on such application.

(2) TREATMENT OF FRAUDULENT OR MATERIAL MISREPRESENTATIONS.—For purposes of this subsection, an application considered to be 'frivolous' includes, but is not limited to, an application which is fraudulent or otherwise contains a willful misrepresentation or concealment of a material fact."

SEC. 303. FAILURE TO APPEAR FOR ASYLUM HEARING.

Section 242B(e)(4) (8 U.S.C. 1252b(e)(4)) is amended in subparagraph (A), by striking all after clause (iii) and inserting "shall not be eligible for any benefits under this Act.".

SEC. 304. JUDICIAL REVIEW.

(a) Section 235 of the Immigration and Nationality Act (8 U.S.C. 1225) is amended by adding at the end thereof:

"(d) Notwithstanding any other provision of law, no court shall have jurisdiction to review, except by petition for habeas corpus, any determination made with respect to an alien found excludable pursuant to Titles I or II of this Act. In any such case, review by habeas corpus shall be limited to examination of whether the petitioner (I) is an alien, and (II) was ordered excluded from the United States pursuant to the provisions of this Act. Regardless of the nature of the suit or claim, no court shall have jurisdiction except as provided in this paragraph to consider the validity of any adjudication or determination of exclusion, to certify a class in an action challenging the exclusion provisions of this Act or any portion or implementation thereof, or to provide declaratory or injunctive relief with respect to the exclusion of any alien.

(e) In any action brought for the assessment of penalties for improper entry or reentry of an alien under sections 275, 276, 277 or 278 of the Immigration and Nationality Act, no court shall have jurisdiction to hear claims collaterally attacking the validity of orders of exclusion, or deportation entered under sections 235, 236, or 242 of that Act."

SEC. 305. CONFORMING AMENDMENTS.

(a) LIMITATION ON DEPORTATION.—Section 243 (8 U.S.C. 1253) is amended by striking subsection (h).

(b) ADJUSTMENT OF STATUS.—Section 209(b) of the Immigration and Nationality Act (8 U.S.C. 1159(b)) is amended—

(1) in paragraph (2) by striking "one year" and inserting "5 years"; and

(2) by amending paragraph (3) to read as follows:

"(3) continues to be eligible for asylum under section 208,".

(c) ALIENS INELIGIBLE FOR TEMPORARY PROTECTED STATUS.—Section 244A(c)(2(B)(ii) of the Immigration and Nationality Act (8 U.S.C. 1254a(c)(2)(B)(ii)) is amended by striking "section 243(h)(2)" and inserting "clauses (i), (ii), (iii), or (iv) of section 208(a)(2)(C)".

(d) ELIGIBILITY FOR NATURALIZATION.—Section 316(f)(1) of the Immigration and Nationality Act (8 U.S.C. 1427(f)(1)) is amended by striking "subparagraphs (A) through (D) of paragraph 243(h)(2)" and inserting "clauses (i), (ii), (iii), or (iv) of section 208(a)(2)(C).".

(e) FAMILY UNITY.—Section 301(e) of the Immigration Act of 1990 (P.L. 101–649) is amended by striking "section 243(h)(2)" and inserting "clauses (i), (ii), (iii), or (iv) of section 208(a)(2)(C).".

SEC. 306. EFFECTIVE DATES.

(a) IN GENERAL.—Except as otherwise provided, the amendments made by this title shall take effect on the date of the enactment of this Act.

(b) EXCEPTIONS.—

(1) The amendments made by this title shall not apply to applications for asylum or withholding of deportation made before the first day of the first month that begins more than 180 days after the date of the enactment of this Act and no application for asylum under section 208 of the Immigration and Nationality Act (as amended by section 201 of this Act) shall be considered before such first day.

(2) In applying section 208(b)(1)(A) of the Immigration and Nationality Act (as amended by this title) in the case of an alien who has entered or came to the United States before the first day described in paragraph (1), notwithstanding the deadlines specified in such section—

(A) the deadline for the filing of a notice of intention to file an application for asylum is 30 days after such first day, and

(B) the deadline for the filing of the application for asylum is 45 days after the date of filing such notice.

(3) The amendments made by section 305(b) (relating to adjustment of status) shall not apply to aliens granted asylum under section 208 of the Immigration and Nationality Act, as in effect before the date of the enactment of this Act.

TITLE IV—CRIMINAL ALIENS

SEC. 401. EXPANSION IN DEFINITION OF "AGGRAVATED FELONY".

(a) EXPANSION IN DEFINITION.—Section 101(a)(43) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43)) is amended to read as follows:

"(43) The term 'aggravated felony' means—

(A) murder;

(B) any illicit trafficking in any controlled substance (as defined in section 102 of the Controlled Substances Act), including any drug trafficking crime as defined in section 924(c) of title 18, United States Code;

(C) any illicit trafficking in any firearms or destructive devices as defined in section 921 of title 18, United States Code, or in explosive materials as defined in section 841(c) of title 18, United States Code;

(D) any offense described in (i) section 1956 of title 18, United States Code (relating to laundering of monetary instruments) or (ii) section 1957 of such title (relating to engaging in monetary transactions in property derived from specific unlawful activity) if the value of the funds exceeded $100,000;

(E) any offense described in—

(i) subsections (h) or (i) of section 842, title 18, United States Code, or subsection (d), (e), (f), (g), (h), or (i) of section 844 of title 18, United States Code (relating to explosive materials offenses),

(ii) paragraph (1), (2), (3), (4), or (5) of section 922(g), or section 922(j), section 922(n), section 922(o), section 922(p), section 922(r), section 924(b), or section 924(h) of title 18, United States Code (relating to firearms offenses), or

(iii) section 5861 of title 26, United States Code (relating to firearms offenses);

(F) any crime of violence (as defined in section 16 of title 18, United States Code, not including a purely political offense) for which the term of imprisonment imposed (regardless of any suspension of such imprisonment) is at least 5 years;

(G) any theft offense (including receipt of stolen property) or any burglary offense, where a sentence of 5 years imprisonment or more may be imposed;

(H) any offense described in section 875, section 876, section 877, or section 1202 of title 18, United States Code (relating to the demand for or receipt of ransom);

(I) any offense described in section 2251, section 2251A or section 2252 of title 18, United States Code (relating to child pornography);

(J) any offense described in—

(i) section 1962 of title 18, United States Code (relating to racketeer influenced corrupt organizations), or

(ii) section 1084 (if it is a second or subsequent offense) or section 1955 of such title (relating to gambling offenses), where a sentence of 5 years imprisonment or more may be imposed;

(K) any offense relating to commercial bribery, counterfeiting, forgery or trafficking in vehicles whose identification numbers have been altered, where a sentence of 5 years imprisonment or more may be imposed;

(L) any offense—

(i) described in section 2421, section 2422, or section 2423 of title 18, United States Code (relating to transportation for the purpose of prostitution) for commercial advantage, or

(ii) described in section 1581 through 1585, or section 1588, of title 18, United States Code (relating to peonage, slavery, and involuntary servitude);

(M) any offense relating to perjury or subornation of perjury where a sentence of 5 years imprisonment or more may be imposed;

(N) any offense described in—

(i) section 793 (relating to gathering or transmitting national defense information), section 798 (relating to disclosure of classified information), section 2153 (relating to sabotage) or section 2381 or section 2382 (relating to treason) of title 18, United States Code, or

(ii) section 421 of title 50, United States Code (relating to protecting the identity of undercover intelligence agents);

(O) any offense—

(i) involving fraud or deceit where the loss to the victim or victims exceeded $200,000; or

(ii) described in section 7201 of title 26, United States Code (relating to tax evasion), where the tax loss to the Government exceeds $200,000;

(P) any offense described in section 274(a)(1) of title 18, United States Code (relating to alien smuggling) for the purpose of commercial advantage;

(Q) any violation of section 1546(a) of title 18, United States Code (relating to document fraud), for the purpose of commercial advantage; or

(R) Any offense relating to failing to appear before a court pursuant to a court order to answer to or dispose of a charge of a felony, where a sentence of 2 years or more may be imposed; or any attempt or conspiracy to commit any such act. Such term applies to offenses described in this paragraph whether in violation of Federal or State law and applies to such offenses in violation of the laws of a foreign country for which the term of imprisonment was completed within the previous 15 years.

(S) Any felony committed by an alien on or after the date that alien had received a waiver of deportation under section 212 or 241 of this Act (8 U.S.C. 1182 or 1251) after commission of a prior felony."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to all convictions entered before, on, or after the date of enactment of this Act.

SEC. 402. DEPORTATION PROCEDURES.

(a) ELIMINATION OF ADMINISTRATIVE HEARING FOR CERTAIN CRIMINAL ALIENS.—Section 242A of the Immigration and Nationality Act (8 U.S.C. 1252a) is amended by adding at the end the following:

"(c) DEPORTATION OF ALIENS WHO ARE NOT PERMANENT RESIDENTS.—

(1) Notwithstanding section 242, and subject to paragraph (5), the Attorney General may issue a final order of deportation against any alien described in paragraph (2) whom the Attorney General determines to be deportable under section 24(a)(2)(A)(iii) (relating to conviction of an aggravated felony).

(2) An alien is described in this paragraph if the alien—

(A) was not lawfully admitted for permanent residence at the time that proceedings under this section commenced, or

(B) had permanent resident status on a conditional basis (as described in section 216) at the time that proceedings under this section commenced.

(3) The Attorney General may delegate the authority in this section to the Commissioner or to any District Director of the Service.

(4) No alien described in this section shall be eligible for—

(A) any relief from deportation that the Attorney General may grant in his discretion, or

(B) relief under section 243(h).

(5) The Attorney General may not execute any order described in paragraph (1) until 14 calendar days have passed from the date that such order was issued, in order that the alien has an opportunity to apply for judicial review under section 106.".

(b) LIMITED JUDICIAL REVIEW.—Section 106 of the Immigration and Nationality Act (8 U.S.C. 1105a) is amended—

(1) in the first sentence of subsection (a), by inserting "or pursuant to section 242A" after "under section 242(b)";

(2) in subsection (a)(1) and subsection (a)(3), by inserting "(including an alien described in section 242A)" after "aggravated felony"; and

(3) by adding at the end the following new subsection:

"(d) Notwithstanding subsection (c), a petition for review or for habeas corpus on behalf of an alien described in section 242A(c) may only challenge whether the alien is in fact an alien described in such section, and no court shall have jurisdiction to review any other issue.".

(c) TECHNICAL AND CONFORMING CHANGES.—Section 242A of the Immigration and Nationality Act (8 U.S.C. 1252a) is amended as follows:

(1) In subsection (a)—

(A) by striking "(a) IN GENERAL.—" and inserting "(b) DEPORTATION OF PERMANENT RESIDENT ALIENS.—(1) IN GENERAL.—"; and

(B) by inserting in the first sentence "permanent resident" after "correctional facilities for";

(2) In subsection (b)—

(A) by striking "(b) Implementation.—" and inserting "(2) Implementation.—"; and

(B) by striking "respect to an" and inserting "respect to a permanent resident";

(3) By striking out subsection (c);

(4) In subsection (d)—

(A) by striking "(d) Expedited Proceedings.—(1)" and inserting "(3) Expedited Proceedings.—(A)";

(B) by inserting "permanent resident" after "in the case of any";

(C) by striking "(2)" and inserting "(B)";

(5) In subsection (e)—

(A) by striking "(e) Review.—(1)" and inserting "(4) Review.—(A)";

(B) by striking the second sentence; and

(C) by striking "(2)" and inserting "(B)".

(6) By inserting after the section heading the following new subsection:

"(a) Presumption of Deportability.—An alien convicted of an aggravated felony shall be conclusively presumed to be deportable from the United States.".

(7) The heading of such section is amended to read as follows:

"EXPEDITED DEPORTATION OF ALIENS CONVICTED OF COMMITTING AGGRAVATED FELONIES".

(d) Effective Date.—The amendments made by this section shall apply to all aliens against whom deportation proceedings are initiated after the date of enactment of this Act.

SEC. 403. JUDICIAL DEPORTATION.

(a) Judicial Deportation.—Section 242A of the Immigration and Nationality Act (8 U.S.C. 1252a) is amended by inserting at the end the following new subsection:

"(d) Judicial Deportation.—

(1) Authority.—In any criminal case subject to the jurisdiction of any court of the United States or of any State, such court may enter a judicial order of deportation at the time of sentencing against an alien whose criminal conviction causes such alien to be deportable under section 241(a)(2)(A)(iii) (relating to conviction of a felony).

(2) Denial of judicial order.—Denial of a request for a judicial order of deportation shall not preclude the Attorney General from initiating deportation proceedings pursuant to section 242 upon the same ground of deportability or upon any other ground of deportability provided under section 241(a)."

(b) Technical and Conforming Changes.—The ninth sentence of section 242(b) of the Immigration and Nationality Act (8 U.S.C. 1252(b)) is amended by striking out "The" and inserting in lieu thereof, "Except as provided in section 242A(d), the".

(c) Effective Date.—The amendments made by this section shall apply to all aliens whose adjudication of guilt or guilty plea is entered in the record after the date of enactment of this Act.

SEC. 404. DEFENSES TO DEPORTATION.

(a) Defenses Based on Seven Years of Permanent Residence.—The last sentence of section 212(c) of the Immigration and Nationality Act (8 U.S.C. 1182(c)) is amended by striking out "has served for such felony or felonies" and all that follows through the period and inserting in lieu thereof "has been sentenced for such felony or felonies to a term of imprisonment of at least 5 years, provided that the time for appealing such conviction or sentence has expired and the sentence has become final.".

(b) Defenses Based on Withholding of Deportation.—Section 243(h)(2) of the Immigration and Nationality Act (8 U.S.C. 1253(h)(2)) is amended by—

(1) striking out the final sentence and inserting in lieu thereof the following new subparagraph:

"(E) the alien has been convicted of a felony."; and

(2) striking out the "or" at the end of subparagraph (C) and inserting "or" at the end of subparagraph (D).

SEC. 405. ENHANCED PENALTIES FOR REENTRY OR FAILURE TO DEPART.

(a) Failure To Depart.—Section 242(e) of the Immigration and Nationality Act (8 U.S.C. 1252(e)) is amended—

(1) by striking out "paragraph (2), (3), or 4 of" the first time it appears, and

(2) by striking out "shall be imprisoned not more than ten years" and inserting in lieu thereof, "shall be imprisoned not more than two years, or shall be imprisoned not more than ten years if the alien is a member of any of the classes described in paragraph (2), (3), or (4) of section 241(a)".

(b) Reentry.—Section 276(b) of the Immigration and Nationality Act (8 U.S.C. 1326(b)) is amended—

(1) in paragraph (1), by (A) inserting after "commission of" the following: "two or more misdemeanors or", and (B) striking out "5" and inserting in lieu thereof "10",

(2) in paragraph (2), by striking out "15" and inserting in lieu thereof "20", and

(3) by adding at the end the following sentence:

"For the purposes of this subsection, the term 'deportation' shall include any agreement where an alien stipulates to deportation during a criminal trial under either Federal or State law.".

(c) Collateral Attacks on Underlying Deportation Order.—Section 276 of the Immigration and Nationality Act (8 U.S.C. 1326) is amended by inserting after subsection (b) the following new subsection:

"(c) In any criminal proceeding under this section, no alien may challenge the validity of the deportation order described in subsection (a)(1) or subsection (b).

SEC. 406. DEPORTATION OF IMPRISONED ALIENS.

Section 242(h) of the Immigration and Nationality Act (8 U.S.C. 1252(h)) is amended to read as follows:

"(h)(1) Except as provided in paragraph (2), an alien sentenced to imprisonment may not be deported until such imprisonment has been terminated by the release of the alien from confinement. Parole, supervised release, probation, or possibility of rearrest or further confinement in respect of the same offense shall not be a ground for deferral of deportation.

(2) The Attorney General may deport an alien prior to the completion of a sentence of imprisonment—

(A) in the case of an alien in the custody of the Attorney General, if the Attorney General determines that the alien has been adequately punished and that such deportation of the alien is appropriate; or

(B) in the case of an alien in the custody of a State, if the chief State official exercising authority with respect to the incarceration of the alien determines (i) that the alien has been adequately punished and that such deportation is appropriate, and (ii) submits a written request to the Attorney General that such alien be so deported."

SEC. 407. JUDICIAL ORDER OF DEPORTATION.

(a) In General.—Subchapter A of chapter 227 of title 18, United States Code, is amended by adding at the end the following:

"§3560. Order of Deportation for certain aliens.

"The court, upon sentencing an individual who is an alien for an aggravated felony (as defined in section 101(a)(43) of the Immigration and Nationality Act, shall include in a sentencing order a declaration that the individual is deportable. Any presentence report required under the Rules of Criminal Procedure with respect to the sentencing of any individual for such a felony shall include whether or not such individual is an alien".

(b) Clerical Amendment.—The table of sections at the beginning of subchapter A of chapter 227 of title 18, United States Code, is amended by adding at the end the following new item:

"3560. Order of deportation for certain aliens".

(c) Deportation Procedures.—Section 242A of the Immigration and Nationality Act (18 U.S.C. 1252a) is amended by adding at the end the following:

"(f) Deportation Pursuant to a Judicial Order.—An alien subject to a judicial order of deportation under section 3560 of title 18, United States Code, shall be deported consistent with section 242(h)".

SEC. 408. FEDERAL INCARCERATION.

(a) Federal Incarceration.—Section 242 of the Immigration and Nationality Act (18 U.S.C. 1252) is amended by adding at the end the following:

"(j)(1) The Attorney General shall take into the custody of the Federal Government, and shall incarcerate for a determined sentence of imprisonment, a criminal alien described in paragraph (3) if—

(A) the chief State official exercising authority with respect to the incarceration of the undocumented criminal alien submits a written request to the secretary;

(B) the undocumented criminal alien is sentenced to a determined term of imprisonment;

(C) the State in which the official described in paragraph A exercises authority cooperates, and requires local governments or agencies in such State to cooperate, with federal immigration authorities with respect to the identification, location, arrest, prosecution, detention, and deportation of aliens who are not lawfully present in the United States; and

(D) adequate federal facilities are available for the incarceration of the criminal alien.

(2) Criminal aliens taken into custody of the Attorney General under paragraph (1) may be deported under subsection (h)(2)(A).

(3) An alien is described in this paragraph if the alien—

(A) has been convicted of a felony and sentenced to a term of imprisonment, and

(B)(i) had entered the United States without inspection or at any time or place other than as designated by the Attorney General, or

(ii) was the subject to exclusion or deportation proceedings at the time he or she was taken into custody by the State."

SEC. 409. INCREASED PENALTY FOR VISA FRAUD.

(a) False Statement.—Section 1542 of title 18, United States Code, is amended by striking "fined not more than $2,000 or imprisoned not more than five years, or both" and inserting "fined under this title or imprisoned not more than 10 years, or both".

(b) Forgery.—Section 1543 of title 18, United States Code, is amended by striking "fined not more than $2,000 or imprisoned not more than five years, or both" and inserting "fined under this title or imprisoned not more than 10 years, or both".

(c) MISUSE OF PASSPORT.—Section 1544 of title 18, United States Code, is amended by striking "fined not more than $2,000 or imprisoned not more than five years, or both" and inserting "fined under this title or imprisoned not more than 10 years, or both".

(d) SAFE CONDUCT VIOLATION.—Section 1545 of title 18, United States Code, is amended by striking "fined not more than $2,000 or imprisoned not more than three years, or both" and inserting "fined under this title or imprisoned not more than 10 years, or both".

(e) FRAUD AND MISUSE OF VISAS.—Section 1546(a) of title 18, United States Code, is amended by striking "fined not more than $2,000 or imprisoned not more than five year, or both" and inserting "fined under this title or imprisoned not more than 10 years, or both".

SEC. 410. NOTIFICATION OF ALIEN ARREST.

Whenever a State or local law enforcement agency arrests an immigrant or non-immigrant alien for the commission of a felony, that State or local law enforcement agency shall provide the District Director of the Immigration and Naturalization Service for the district in which the State or local law enforcement agency has jurisdiction the following information within seventy-two hours of the arrest: the name of the alien; the alien's place of birth; the alien's date of birth; the alien's alien registration number, if any; the nature of the offense for which the alien was arrested; and any available information on bond, future hearings and proceedings.

SEC. 411. EXCLUDABILITY OF UNLAWFUL ENTRANTS.

Section 204(c) of the Immigration and Nationality Act is amended by adding a comma after the word "laws" the first time it appears, striking the work "or" prior to "(2)" and inserting the following before the period:

"or (3) the petition was submitted by or on behalf of any alien who entered or attempted to enter the United States unlawfully, who entered or attempted to enter with fraudulent, forged or stolen documents, who failed to present the immigration officer any document produced when the alien boarded a common carrier for travel to the United States, or who entered the United States lawfully as a non-immigrant but violated the terms of his or her non-immigrant visa".

SEC. 412. EXCLUSION OF IMMIGRATION LAW VIOLATORS.

(a) EXCLUSION OF CRIMINAL ALIEN.—Section 212(a)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(2)(A)(i)) is amended by striking "or" at the end of subparagraph (I) and inserting the following new subparagraph prior to the phrase "is excludable":

"or (III) any violation of any immigration law or any violation of any federal or State statute prohibiting fraud, including any statutes prohibiting income tax evasion".

(b) EXCLUSION REFORM.—Section 212 of the Immigration and Nationality Act (8 U.S.C. 1182) is amended by striking paragraph (c) and inserting the following as new paragraph (c):

"(c) Aliens lawfully admitted for permanent residence who temporarily proceeded abroad voluntarily and not under an order of deportation shall not be admitted if that alien is excludable under paragraph (a)".

SEC. 413. MISCELLANEOUS AND TECHNICAL CHANGES.

(a) FORM OF DEPORTATION HEARINGS.—The second sentence of section 242(b) of the Immigration and Nationality Act (8 U.S.C. 1252(b)) is amended by inserting before the period the following: "; except that nothing in this subsection shall preclude the Attorney General from authorizing proceedings by electronic or telephonic media (with or without the consent of the alien) or, where waived or agreed to by the parties, in the absence of the alien".

(b) CONSTRUCTION OF EXPEDITED DEPORTATION REQUIREMENTS.—No amendment made by this Act and nothing in section 242(i) of the Immigration and Nationality Act (8 U.S.C. 1252(i)), shall be construed to create any right or benefit, substantive or procedural, which is legally enforceable by any party against the United States, its agencies, its officers, or any other person.

TITLE V—FINANCIAL RESPONSIBILITY

SEC. 501. PUBLIC CHARGE DEFINED.

Section 212(a) of the Immigration and Nationality Act (8 U.S.C. §1182(a)(4), is amended by striking paragraph (4) and inserting:

"(4) PUBLIC CHARGE.—Any alien who cannot demonstrate to the consular officer at the time of application for a visa, or to the Attorney General at the time of application for admission or adjustment of status, that, taking into account the alien's age and medical condition, he or she has assets, education, skills, or a combination thereof that make it very unlikely that he or she will become eligible for means-tested public assistance of any kind (including, but not limited to, medical care or food and housing assistance) or will otherwise become a public charge is excludable."

SEC. 502. GUARANTEE OF FINANCIAL RESPONSIBILITY.

The Immigration and Nationality Act is amended by striking section 213 (8 U.S.C. §1183) and inserting:

"SEC. 213. FINANCIAL RESPONSIBILITY OF SPONSORS.

(a) An alien excludable under paragraph 4 of Section 212(a) may, if otherwise admissible, be admitted in the discretion of the Attorney General upon the giving of a suitable and proper bond and a guarantee of financial responsibility by an individual (hereinafter in this section referred to as the alien's "sponsor") who is not less than twenty-one nor more than 60 years of age, is of good moral character, has never been convicted of a felony, has never filed for bankruptcy or been adjudicated a bankrupt, and is a citizen of the United States or an alien lawfully admitted for permanent residence;

(b) The guarantee of financial responsibility in subsection (a) must provide (1) that the sponsor, and the sponsor's spouse if the sponsor is married, agree in the case of an alien under twenty-one years of age, to assume legal custody for the alien after the alien's departure to the United States and until the alien becomes twenty-one years of age, in accordance with the law of the State where the sponsor resides, and (2) that the sponsor agrees to furnish, during the five-year period beginning on the date of the alien's acquiring the status of an alien lawfully admitted for permanent residence, or during the period beginning on the date of the alien's acquiring the status of an alien lawfully admitted for permanent residence and ending on the date on which the alien becomes twenty-one years of age, whichever period is longer, such financial support as is necessary to prevent the alien's becoming a public charge.

(c) A guarantee of financial responsibility given under subsection (a) may be enforced with respect to an alien by a civil suit against his sponsor by the Attorney General or by any federal or state agency that has provided the alien means-tested public assistance of any kind, including but not limited to medical, food, and housing assistance.

(d) Civil suits under subsection (c) shall be brought in the United States district court for the district in which the defendant resides and may be brought at any time on or before the date that is five years after the date on which the sponsor's period of financial responsibility under subsection (a) expired.

(e) The bond required of an alien's sponsor by subsection (a) shall be in favor of the United States and all States, territories, countries, towns, municipalities, and districts within the United States and shall hold them harmless against the alien's becoming a public charge. The bond shall be in such amount and shall contain such conditions as the Attorney General may prescribe. The bond shall terminate upon (1) the alien's permanent departure from the United States, (2) the death of the alien, or (3) the expiration of the period of financial responsibility described in subsection (b), whichever occurs first, and any sums or other security held to secure performance thereof, except to the extent forfeited for violation of the terms thereof, shall be returned to the person by whom furnished, or to his legal representative.

SEC. 503. LIMITED BENEFITS FOR ILLEGAL ALIENS.

(a) DIRECT FEDERAL FINANCIAL BENEFITS.—Notwithstanding any other provision of law, no direct Federal financial benefit or social insurance benefit may be paid, conferred, or otherwise given, on or after the date of enactment of this Act, to any alien not lawfully admitted to the United States as a permanent resident or a refugee except pursuant to a provision of the Immigration and Nationality Act, provided, however, that Federal reimbursement of emergency medical care provided to such an alien may be provided under such regulations as the Secretary of Health and Human Services may in his or her discretion prescribe.

(b) UNEMPLOYMENT BENEFITS.—No alien who has not been granted employment authorization pursuant to Federal law shall be eligible for unemployment compensation under an unemployment compensation law of a State or the United States.

TITLE VI—EMPLOYER SANCTIONS

SEC. 601. IMPLEMENTATION OF GAO RECOMMENDATIONS.

(a) WORK ELIGIBILITY DOCUMENTS.—Effective January 1, 1995, Section 274A of the Immigration and Nationality Act (8 U.S.C. 1324a) is amended by striking subparagraphs (A) through (D) of subsection (b)(1) and inserting:

"(A) IN GENERAL.—The person or entity must attest, under penalty of perjury and on a form designated or established by the Attorney General by regulation, that it has verified that the individual is not an unauthorized alien by—

(i) examining the document described in (B) in the case of an individual claiming to be a U.S. citizen, U.S. national,

(ii) examining the document described in paragraph (C) in the case of an individual not claiming to be a U.S. citizen, a U.S. national, or a permanent resident alien, and

(iii) reporting the individual's Social Security account number to the Social Security Administration through the telephone verification system established pursuant to section 602 of the Immigration Stabilization Act of 1993.

(B) DOCUMENTS OF CITIZENS AND NATIONALS.—The document described in this paragraph is an individual's Social Security account number card issued pursuant to section 601(c) of the Immigration Stabilization Act of 1993.

(C) DOCUMENTS OF ALIENS.—The document described in this paragraph is an alien's identification card issued by the Immigration and Naturalization Service pursuant to section 601(b) of the Immigration Stabilization Act of 1993."

(b) IMPROVEMENT OF ALIEN IDENTITY CARDS.—

(1) PERMANENT RESIDENT ALIENS.—The Attorney General shall cause to be issued to every alien acquiring lawful permanent residence in the United States after June 30, 1994, and, upon application, to any alien who acquired lawful permanent residence before July 1, 1994, an alien identification card that shall—

(A) be uniform in appearance,

(B) be as tamper-proof and counterfeit-resistant as practicable,

(C) contain a photograph and fingerprint,

(D) display the name, sex, date of birth, and such other identifying information as the Attorney General shall determine, and

(E) incorporate a machine-readable encoding of the information displayed on the card.

(2) OTHER ALIENS.—The Attorney General shall cause to be issued to every alien who becomes authorized to work in the United States after June 30, 1994 other than by reason of lawful admission for permanent residence, and shall cause to be issued, upon application, to any other alien who is authorized to work in the United States other than by reason of lawful admission for permanent residence an alien identification care that shall—

(A) be uniform in appearance,

(B) be as tamper-proof and counterfeit-resistant as practicable,

(C) contain a photograph and fingerprint,

(D) display the alien's name, sex, date of birth, and such other identifying information as the Attorney General shall determine,

(E) show an expiration date that shall be determined in accordance with regulations issued by the Attorney General, but shall not in any case be later than three calendar years after the date of issuance, and

(F) incorporate a machine-readable encoding of the information displayed on the card.

(c) IMPROVEMENT OF SOCIAL SECURITY CARDS.—

(1) IMPROVED CARD FOR CITIZENS.—The Secretary shall cause to be issued improved Social Security account number cards to United States citizens and United States nationals upon application, proof of identity, proof of citizenship or nationality, and payment of a reasonable fee.

(2) IMPROVED CARD FOR ALIENS.—The Secretary shall cause to be issued improved Social Security account number cards to aliens lawfully admitted for permanent residence upon application, proof of identity, verification of status by the Immigration and Naturalization Service, and payment of a reasonable fee.

(3) REQUIREMENTS.—The cards described in paragraphs (1) and (2) shall—

(A) be uniform in appearance,

(B) be as tamper-proof and counterfeit-resistant as practicable,

(C) contain a photograph and fingerprint,

(D) display the name, sex, date of birth, place of birth, and Social Security account number of the issue, and such other identifying information as the Secretary shall determine, and

(E) incorporate a machine-readable encoding of the information displayed on the card.

(4) SECRETARY DEFINED.—For purposes of this subsection, Secretary means the Secretary of Health and Human Services.

(d) REASONABLE FEE.—The amount of the fee that is to be charged under subsections (b) and (c) shall be the amount (rounded to the nearest whole dollar), not exceeding $50.00, required to cover the costs of issuing the card.

(e) NO OTHER CARDS.—No Social Security account number card or alien identification card shall be issued after June 30, 1994, whether as an original card or as a replacement, that does not satisfy the requirements of this section.

(f) DEFINITIONS.—For purposes of this section,

(1) "State" means one of the United States, the District of Columbia, or Puerto Rico, and

(2) "Place of birth" means, for an individual—

(A) born in a State, the two-letter symbol used by the United States Post Office to identify that State, or

(B) not born in a State, such two-letter symbol as the Secretary shall determine by regulations.

SEC. 602. VERIFICATION BY TELEPHONE.

(a) SOCIAL SECURITY DATABASE.—By September 30, 1994, the Secretary of Health and Human Services shall make such modifications to the Social Security account number data base (NUMIDENT) as are practicable and as enable confirmation through the telephone verification system described in subsection (d) that a Social Security account number has been issued to an individual identified by last name, sex, year of birth, and place of birth and that such individual is not known to the Secretary of Health and Human Services to be an alien not authorized to work in the United States. At a minimum the data base shall be modified to enable confirmation that a Social Security account number is not assigned to an individual authorized to work in the United States because the number—

(1) has not been issued,

(2) was issued to an individual known by the Secretary of Health and Human Services as not authorized to work,

(3) was issued to a person that is deceased and has not been reissued, or

(4) was issued to an alien that any data base of the Immigration and Naturalization Service shows is not authorized to work in the United States.

The Attorney General shall provide such assistance as the Secretary of Health and Human Services may require to merge or otherwise make use of any data base of the Immigration and Naturalization Service for the purposes of this section.

(b) EXCHANGE OF INFORMATION.—The Attorney General shall notify the Secretary of Health and Human Services of the expiration of an alien's authorization to work in the United States not later than 14 calendar days after the date of expiration. The Secretary of Health and Human Services shall furnish the Attorney General with a list of any aliens for whom confirmation of work eligibility has been requested not later than 5 calendar days after such request. Such list shall include the telephone number from which the request was made and the employer identification number of the requester.

(c) ADULT APPLICANTS.—The Secretary of Health and Human Services shall furnish to the Attorney General a copy of any application (including supporting documentation) for a Social Security account number by an alien or by an individual over 16 years of age who claims to be a United States citizen or national and shall not issue a number before the earlier of the following dates:

(1) the date on which the Attorney General confirms in writing that his records do not show that the applicant is an alien unauthorized to work in the United States, or

(2) 60 days after a copy of the application and supporting documentation has been delivered to the Attorney General.

(d) TELEPHONE VERIFICATION SYSTEM.—Before January 1, 1995, the Secretary of Health and Human Services shall test and place in operation a system whereby an employer can report by touch-tone telephone his employer identification number and the Social Security account number, last name, sex, year of birth, and place of birth of any individual who is to be employed and can receive immediate confirmation that the number was issued to the individual having that identity and that such person is not identified within the Social Security account number data base as an individual who is not a United States citizen, a United States national, or an alien authorized to work in the United States. The charge for each call will be sufficient to cover the costs of operating the system, except that it shall not exceed $2.00 plus any line charges payable to the telephone carrier. The system shall provide for access to a live operator if an entry is not accepted or confirmed, shall provide a verification code to the caller, shall create and maintain a record of each inquiry (including the telephone number of the requester) and its verification code for not less than two years, and shall accommodate devices that read the magnetic strip incorporated by a card issued under section 601.

(e) ABUSE OF SYSTEM.—The use of the telephone verification system established by subsection (d) by a person other than

(1) an employer acting pursuant to Section 274A(b)(1) of the Immigration and Nationality Act, or

(2) an officer or employee of an agency of the United States or of any State acting in the performance of official duties,

shall be punishable by a fine of not more than $1,000 per occurrence.

SEC. 603. UNIFORM VITAL STATISTICS.

The Secretary of Health and Human Services shall consult with the State agencies responsible for registration and certification of births and deaths and, within two years of the date of enactment of this Act, shall establish a national electronic network linking the vital statistics records of such States. The network shall provide, where practical, for the matching of deaths with births and shall enable the confirmation of births and deaths of citizens of the United States, or of aliens within the United States, by any federal or State agency or official in the performance of official duties. The Secretary shall institute measures to achieve uniform and accurate reporting of vital statistics into the national network, to protect the integrity of the registration and certification process, and to prevent fraud against the government and other persons through the use of false birth or death certificates.

TITLE VII—BORDER SECURITY

SEC. 701. BORDER PATROL PERSONNEL.

The number of full-time officer positions in the border patrol of the Immigration and Naturalization Service shall be increased to 5,900 in fiscal year 1994, 6,900 in fiscal year 1995, 7,900 in fiscal year 1996, 8,900 in fiscal year 1997, and 9,900 in fiscal year 1998.

SEC. 702. BORDER CROSSING FEE.

The Commissioner shall collect a user fee for each entry into the Unites States by land or by sea after December 31, 1993. The fee shall be $3.00 for each person entering other than by private automobile, van, or truck and $5.00 for each private automobile, van, or truck. The Commissioner by regulation may establish a reduced fee or a multiple-crossing fee for frequent border crossers.

SEC. 703. BORDER CONTROL TRUST FUND.

There is established a Border Control Trust Fund ("Fund") under the control of the Commissioner. The fees collected under section 702 shall be deposited into the Fund. Amounts deposited into the Fund and the earnings thereon shall be expended by the Commissioner exclusively on (1) measures, personnel, structures, and devices to deter and prevent illegal entry of persons and contraband into the United States by land or by sea, (2) construction and operation of facilities to expedite lawful border traffic and reduce, where practical, extensive delays in the time required for lawful entry of goods and persons, and (3) financial and other assistance to State and local law enforcement agencies that have entered into cooperative arrangements with the Immigration and Naturalization Service. Not less than 80 percent of the sum of (a) amounts deposited into the Fund during a fiscal year and (b) the earnings of the Fund during that fiscal year shall be expended during that or the subsequent fiscal year.

SEC. 704. RESPONSIBILITY OF INTERNATIONAL CARRIERS.

(a) IN GENERAL.—Section 273 of the Immigration and Nationality Act (8 U.S.C. 1323) is amended—

(1) in subsection (a), by striking "other than from foreign contiguous territory)";

(2) by redesignating subsections (c) and (d) as subsections (e) and (f), respectively;

(3) by inserting after subsection (b) the following:

"(c) RECORDS.—The Attorney General shall maintain a record of each undocumented alien arriving on or after the date of enactment of this subsection at a United States port of entry and of the carrier which brought such alien to that port of entry.";

(4) by inserting after subsection (c) (as added by paragraph (4)), the following:

"(d) REPEAT OFFENSES.—(1) If the Attorney General determines that, during the preceding calendar year, any carrier has delivered an average of more than 0.5 undocumented aliens per arrival at United States ports of entry then, for the next calendar year, in lieu of the penalty of $3,000 specified in subsection (b), such carrier shall pay to the Attorney General a penalty of $10,000 for each alien brought in violation of subsection (a) or, alternatively, such carrier may choose to participate in a one-year pilot program intended to reduce the number of undocumented aliens arriving at United States ports of entry via international carriers. If such international carrier chooses to participate in the one-year pilot program, that carrier will be subject to the penalty levels prescribed in subsection (b), rather than the increased penalty levels specified in this subsection, for each alien brought in violation of subsection (a). The one-year pilot program, which can be extended for multiple years at the discretion of the Attorney General, shall consist of a program whereby the international carrier collects the travel documents necessary for entry into the United States from all passengers upon their entry to the carrier and physically returns them to the passengers on an individual basis only at the actual point of inspection at the United States port of entry by U.S. immigration officials.

"(2) If the Attorney General determines that, during the preceding calendar year, any carrier has delivered an average of more than 1.5 undocumented aliens per arrival at United States ports of entry, then, for the next calendar year, in lieu of the penalties specified in subsection (b) and in paragraph (1) of this subsection, such carrier shall pay to the Attorney General a penalty of $20,000 for each alien brought in violation of subsection (a).

"(3) If the Attorney General determines that, in the preceding calendar year, any carrier has delivered an average of more than 2 undocumented aliens per arrival at United States ports of entry, then such carrier shall forfeit all landing rights in the United States for the next calendar year.";

(5) subsection (e) (as redesignated) is amended—

(A) by inserting after "refunded." the following: "Unless the alien transported is granted political asylum status in the United States or"; and

(B) by inserting before the period at the end thereof "or that the visa or other immigration documentation presented to the carrier was forged, counterfeit, altered, falsely made, stolen, or inapplicable to the alien presenting the document".

(b) EFFECTIVE DATE.—The amendment made by subsection (a)(4) shall take effect on January 1 of the second calendar year following the date of enactment of this Act.

TITLE VIII—ALIEN SMUGGLING

SEC. 801. COOPERATIVE ARRANGEMENTS.

The Secretary of State shall undertake to enter into, on behalf of the United States, cooperative arrangements with appropriate foreign governments for the purpose of preventing the unlawful entry of aliens by land, air, or sea.

SEC. 802. COAST GUARD INSTRUCTIONS.

The Secretary of Defense, in consultation, when appropriate, with the Attorney General and the Secretary of State, shall instruct the Coast Guard to deter and prevent the unlawful entry of aliens into the United States by sea. Such instructions shall include directives providing for stopping and boarding vessels, making inquiries of persons and inspecting documents and property on board such vessels, and returning a vessel to the country from which it came or to another country. In the case of vessels outside the territorial sea of the United States, such instructions shall be limited to vessels of the United States, vessels without nationality, vessels assimilated to vessels without nationality, and vessels of foreign nations with which the United States has arrangements authorizing the United States to stop and board such vessels. Except as otherwise provided in the preceding sentence, actions pursuant to this section are authorized to be undertaken both within and beyond the territorial sea of the United States.

SEC. 803. APPLICATION OF RICO.

Section 1961(1) of title 18 of the United States Code is amended by striking "or" immediately prior to "(E)", and by adding:

"or (F) any act which is indictable under any of the following provisions of title 8, United States Code: Section 1324(a)(i) (relating to prohibitions on bringing in or harboring certain aliens), Section 1325 (relating to illegal entry, marriage fraud, or establishing a commercial enterprise for the purpose of evading the immigration laws), Section 1327 (relating to aiding or assisting certain aliens to enter the United States), or Section 1328 (relating to the importation of aliens for immoral purpose)."

SEC. 804. INCREASED PENALTIES FOR ALIEN SMUGGLING.

Pursuant to section 994 of title 28, United States Code, the United States Sentencing Commission shall promulgate guidelines, or amend existing guidelines, to provide that a defendant convicted of violating, or conspiring to violate section 1324(a) of title 8, United States Code, shall be assigned not less than offense level 25 under section 2L1.1 of the United States Sentencing Guidelines if any of the following factors exist—

(1) If the offense involved five or more aliens in a single scheme or otherwise;

(2) If the offense involved other criminal activity including, but not limited to violations of the Controlled Substances Act, prostitution, importation of aliens for immoral purposes, trafficking in firearms, money laundering, illegal gang activities, kidnapping or ransom demands, fraudulent documents, or extortion;

(3) If the offense involves smuggling of persons under the age of 18 years for the purposes of illegal adoption or of sexual or commercial exploitation;

(4) If the offense involves the smuggling of known or suspected terrorists or persons involved in organized crime;

(5) If the offense involves dangerous or inhumane treatment of the persons smuggled; or

(6) If death or serious bodily harm occurs to persons smuggled.

Otherwise, the base offense level shall be 13, except for an offense described in section 1324(a)(2)(A) of title 8, United States Code.

SEC. 805. EXPANDED FORFEITURE FOR SMUGGLING OR HARBORING.

Subsection 274(b) of the Immigration and Nationality Act (8 U.S.C. 1324(b)) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) Any property, real or personal, which facilitates or is intended to facilitate, or which has been used in or is intended to be used in the commission of a violation of subsection (a) or of sections 274A(a)(1) or 274A(a)(2), or which constitutes or is derived from or traceable to the proceeds obtained directly or indirectly from a commission of a violation of subsection (a), shall be subject to seizure and forfeiture, except that—

"(A) no property, used by any person as a common carrier if the transaction of business as a common carrier shall be forfeited under the provisions of this section unless it shall appear that the owner or other person in charge of such property was a consenting party or privy to the illegal act;

"(B) no property shall be forfeited under the provisions of this section by reason of any act of omission established by the owner thereof to have been committed or omitted by any person other than such owner while such property was unlawfully in the possession of a person other than the owner in violation of the criminal laws of the United States or of any State; and

"(C) no property shall be forfeited under this paragraph to the extent of an interest of any owner, by reason of any act or omission established by that owner to have been committed or omitted without the knowledge or consent of the owner, unless such action or omission was committed by an employee or agent of the owner, and facilitated or was intended to facilitate, or was used in or intended to be used in, the commission of a violation of subsection (a) or of section 274A(a)(1) or 274A(a)(2) which was commited by the owner or which intended to further the business interests of the owner, or to confer any other benefit upon the owner.".

(2) by striking from paragraph (2)—

(A) "conveyance" both places it appears and inserting in lieu thereofff "property"; and

(B) "is being used in" and inserting in lieu thereof "is being used in, is facilitating, has facilitated, or was intended to facilitate";

(3) by striking from paragraphs (4) and (5) "a conveyance" and "conveyance" each place such phrase or word appears and inserting in lieu thereof "property"; and

(4) by striking from paragraph (4)—

(A) "or" at the end of subparagraph (C), and

(B) the period at the end of subparagraph (D) and inserting "; or "; and

(5) by adding after paragraph (4)(E):

"(E) transfer custody and ownership of forfeited property to any Federal, State, or local agency pursuant to the Tariff Act of 1930, as amended (19 U.S.C. 1616a(c)).".

SEC. 806. WIRETAP AUTHORITY FOR ALIEN SMUGGLING INVESTIGATIONS.

(a) Section 2516(1) of title 18, United States Code, is amended

(1) in paragraph (c) by inserting after "weapons)," the following: "or a felony violation of section 1028 (relating to production of false identifciation documentation), section 1546 (relating to fraud and misuse of visas, permits, and other documents),";

(2) by striking "or" after paragraph (l) and redesignating paragraphs (m), (n) and (o) as paragraphs (n), (o) and (p), respectively;

(3) by inserting after paragraph (l) the following new paragraph:

"(m) a violation of section 274 of the Immigration and Nationality Act (8 U.S.C. 1324) (relating to alien smuggling), of section 277 of the Immigration and Nationality Act (8 U.S.C. 1327) (relating to the smuggling of aliens convicted of aggravated felonies or of aliens subject to exclusion on grounds of national security), or of section 278 of the Immigration and Nationality Act (8 U.S.C. 1328) (relating to smuggling of aliens for the purpose of prostitution or other immoral purpose);"; and

(4) by striking "or any Deputy Assistant Attorney General in the Criminal Division specially designated by the Attorney General" and inserting "or any Deputy Assistant Attorney General or acting Deputy Assistant Attorney General in, or one other officer or employee of, the Criminal Division specially designated by the Attorney General";

(b) Section 2518(5) of Title 18, United States Code, is amended by inserting "(including personnel of a foreign government or of a State or subdivision of a State)" after "Government personnel"; and

(c) Section 2510(7) of title 18, United States Code, is amended by inserting before the semicolon "and additionally, for purposes of section 2517(1)-(2), any person authorized to perform investigative, law enforcement, or prosecutorial functions by a foreign government".

TITLE IX—LOCAL COOPERATION

SEC. 901. SAVE SYSTEM MANDATED.

Notwithstanding any other provision of law, no Federal financial assistance shall be paid to a State or local government or agency for the aid to families with dependent children program under subchapter IV of Title 42 United States Code, the medicaid program under subchapter XIX of Title 42 United States Code, the unemployment compensation program under section 3304 of Title 26 of United States Code, the food stamp program under the Food Stamp Act of 1977, or the financial assistance programs under the United States Housing Act of 1937, Section 235 or 236 of the National Housing Act, or section 101 of the Housing and Urban Development Act of 1965 if such government or agency does not verify the immigration status of aliens applying for benefits under these programs through use of the automated SAVE system established under section 12 of the Immigration Reform and Control Act of 1986 (Pub. L. No. 99-603).

TITLE X—CITIZENSHIP

SEC. 1001. BASIS OF CITIZENSHIP CLARIFIED.

In the exercise of its powers under section 5 of the Fourteenth Article of Amendment to the Constitution of the United States, the Congress has determined and hereby declares that any person born after the date of enactment of this title to a mother who is neither a citizen of the United States nor admitted to the United States as a lawful permanent resident, and which person is a national or citizen of another country of which either of his or her natural parents is a national or citizen, or is entitled upon application to become a national or citizen of such country, shall be considered as born subject to the jurisdiction of that foreign country and not subject to the jurisdiction of the United States within the meaning of section 1 of such Article and shall therefore not be a citizen of the United States or of any State solely by reason of physical presence within the United States at the moment of birth.

SEC. 1002. VOTING LIMITED TO CITIZENS.

In the exercise of its powers under section 5 of the Fourteenth Article of Amendment to the Constitution of the United States to enforce the prohibition of section 1 of such Article against the making or enforcing of any law that shall abridge the privileges or immunities of citizens of the United States, the Congress determines that the right of citizens to vote is a privilege of citizens of the United States and that voting in elections of the United States or of any State by persons who are not citizens of the United States is an abridgement of that privilege. It shall be unlawful, and a felony punishable by a fine of not more than $10,000 and/or imprisonment of not more than one year for each unlawful vote, for any person who is not a citizen of the United States to vote in any election to which the provisions of the Fifteenth, Nineteenth, Twenty-Fourth, or Twenty-Sixth Article of Amendment to the Constitution applies or in any other election, referendum, ballot, or other procedure of the United States or of any State in which votes are token. Any vote that is cast in violation of this section shall be null, void, and of no effect and shall not be counted.

TITLE-BY-TITLE ANALYSIS OF THE IMMIGRATION STABILIZATION ACT OF 1993 INTRODUCED BY SENATOR REID

The Act may be cited as the Immigration Stabilization Act of 1993. Except where otherwise provided, the provisions of the Act take effect on October 1, 1993.

TITLE I. ADMISSION OF IMMIGRANTS

This title reduces annual legal immigration levels from more than 800,000 admissions per year to approximately 300,000 admissions per year. As under current law, spouses and children of U.S. citizens are admitted without limit. However, parents of U.S. citizens and other relatives of citizens and permanent resident aliens will be admitted only if they are already on immigration waiting lists when the Act takes effect and only to the extent their admission does not raise annual immigration above 300,000. As under current law, up to 40,000 "priority workers" and their families are admissible each year. The 100,000 immigrant visas available to nonpriority workers and million-dollar investors under current law, and the 55,000 immigrant visas available to "diversity" immigrants under current law, are eliminated.

TITLE II. ADMISSION OF REFUGEES

This title operates to de-politicize and discipline the refugee program. Section 201 reimposes the 50,000-per-year ceiling on refugee admissions that applied during the first three years (1980-1982) of the current-law refugee program, but preserves the President's authority to exceed this ceiling in emergency situations. Section 202 forbids racial, religious, and other forms of discrimination in the selection of refugees for admission.

TITLE III. ASYLUM REFORM

The provisions of this title operate to deter aliens from entering the U.S. illegally to pursue asylum claims when they have failed to gain lawful admission through the refugee program. Under section 301, each alien seeking entry to the U.S. shall be inspected by an INS officer. If an alien does not present the required documentation for entry, the alien will be excluded unless the alien indicates a fear of persecution or an intent to claim asylum. An undocumented alien who indicates a fear of persecution or claims asylum will be referred immediately to a trained asylum officer who will interview the alien to determine whether the alien has a credible fear of persecution. The asylum officer's decision is subject to review by another asylum officer. Judicial review is limited to habeas corpus petitions.

Section 302 rewrites the asylum provisions in immigration law to establish a new, streamlined process under which an alien may apply for provisional asylum. Within 30 days of entering the U.S. an alien must file a notice of intent to file an asylum application. The alien then must file the actual application for asylum within 45 days of entry. An alien who does not apply within the required time period may not apply for asylum unless he or she can establish that changed circumstances in his or her home country are the basis for his or her claim of fear of persecution. An alien who files a frivolous application for provisional asylum or who fails to appear for his or her provisional asylum hearing will be ineligible for any benefits under the immigration law.

TITLE IV. CRIMINAL ALIENS

Section 401 of this title expands the list of serious felonies that are considered "aggravated" felonies and requires the exclusion and deportation of criminal aliens who have committed such felonies. Section 402 eliminates the administrative deportation hearing and review process for those aliens convicted of such felonies who are not permanent residents and limits *habeas corpus* proceedings to a determination of whether the deportee is a criminal alien. Section 403 authorizes courts to order the deportation of criminal aliens at the time of sentencing if the alien's criminal conviction causes such alien to be deportable. Section 404 makes imposition of a five-year prison sentence grounds for denying reentry into the U.S. to aliens lawfully admitted for permanent residence even if the sentence has not been served. Section 405 increases the penalties for failing to depart or reentering the U.S. after a final order of deportation and limits the collateral attacks an alien can make against an otherwise final deportation order. Sections 406 and 407 authorize under certain circumstances the deportation of criminal aliens prior to the commencement or completion of their imprisonment. Section 408 authorizes the federal incarceration of undocumented aliens convicted under state law. Section 409 increases the maximum penalties for visa fraud from five years imprisonment to ten years.

Section 410 requires State and local law enforcement agencies to provide their local INS district office with certain information whenever they arrest an alien. Section 411 prohibits those who have violated U.S. immigration laws previously to file a petition for immigrant status on behalf of themselves or another. Section 412 clarifies that aliens who previously have violated U.S. immigration laws are excludable and eliminates the Attorney General's discretion under Section 212(c) of the INA to waive the grounds of excludability for an alien applicant.

TITLE V. FINANCIAL RESPONSIBILITY

This title erects safeguards against (a) the admission of aliens who are likely to be dependent on public services and (b) the use of such services by illegal aliens. Section 501 clarifies that aliens who cannot demonstrably support themselves without public or private assistance are excludable. Section 502 extends to the sponsor of any family-sponsored immigrant who is not demonstrably self-supporting the same degree of financial accountability that current law requires for the sponsors of Amerasian immigrants. (Under current law, a U.S. sponsor's affidavit of support is treated as evidence that the sponsored alien will not become a public charge, but the affidavit is not enforceable in the courts.) Section 503 limits federally funded benefits, other than emergency medical care, to aliens who are lawfully admitted for permanent residence or as refugees.

TITLE VI. EMPLOYER SANCTIONS

This title simplifies and strengthens the provisions of current law that prohibit the knowing employment of illegal aliens. Section 601 implements recommendations of the General Accounting Office to improve current law. It provides for the issuance of improved social security cards to citizens and permanent resident aliens and improved alien identification cards to other aliens. The cards are to be machine-readable and resistant to tampering and counterfeiting. Section 602 establishes a telephone verification system by which a prospective employee's eligibility for employment can be promptly and reliably confirmed. Because the validity of a social security card depends upon the validity of the documents presented by the applicant to demonstrate citizenship, Section 603 provides for a uniform national network of state vital statistic records.

TITLE VII. BORDER SECURITY

This title operates to deter and prevent the unlawful entry of persons and contraband across U.S. borders. Section 701 authorizes an increase over the years to 9,900 in the number of full-time officer positions in the U.S. Border Patrol. Section 702 imposes a schedule of fees for persons or vehicles crossing a U.S. land or sea border. (The fees are lower than the $10 fee charged to persons entering the U.S. by air, and may be reduced for frequent crossers.) Section 703 provides that the border-crossing fees will fund measures to deter and prevent illegal entry of persons and contraband into the United States, expedite lawful traffic by the construction and improvement of border infrastructure and provide financial assistance to local law enforcement authorities that provide assistance or otherwise cooperate with immigration officials in the performance of their duties. Section 704 increases the fines imposed against international carriers that consistently transport undocumented aliens to the United States and authorizes a voluntary pilot program by which an international carrier may establish safeguards to minimize the risk of an alien passenger destroying his or her travel documents prior to inspection by U.S. immigration officials.

TITLE VIII. ALIEN SMUGGLING

This title operates to curtail organized alien smuggling. Sections 801 and 802 codify Executive Order No. 12,807, 57 Fed. Reg. 23,133, authorizing interdiction and repatriation of aliens seeking to enter the U.S. unlawfully by sea, the legality of which was affirmed by the U.S. Supreme Court on June 21, 1993, in *Sale* v. *Haitian Centers Council, Inc.* Section 803 adds "alien smuggling" to the list of crimes subject to sanctions under the Racketeer Influenced and Corrupt Organizations (RICO) Act. Section 804 increases the penalties for alien smuggling under the United States Sentencing Guidelines. Section 805 expands the categories of property that are forfeited when used to facilitate the smuggling or harboring of illegal aliens. Section 806 provides federal wiretap authority to aid in the criminal investigation of alien smuggling and of fraud related to the misuse of visas, permits and other travel documents.

TITLE IX. LOCAL COOPERATION

This title prohibits Federal financial assistance to any State or State agency that does not verify the immigration status of aliens applying for benefits through use of the automated System For Alien Verification of Eligibility (SAVE).

TITLE X. CITIZENSHIP

Section 1001 of this title clarifies that a person physically born within the United States to an alien mother who is not a lawful permanent resident is not a U.S. citizen unless the person would otherwise have no citizenship or nationality, thereby eliminating the incentive for pregnant alien women to enter the United States illegally, often at risk to the health of both mother and child, for the purpose of acquiring citizenship for the child and accompanying federal financial benefits. Section 1002 prohibits voting by aliens in State and Federal elections.

By Mrs. FEINSTEIN:

S. 1352. A bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (Superfund) to establish a public-private partnership demonstration project for the cleanup of ground water pollution in the San Gabriel Basin; to the Committee on Environment and Public Works.

THE SAN GABRIEL DEMONSTRATION PROJECT ACT

• Mrs. FEINSTEIN. Mr. President, I rise to introduce the San Gabriel Basin Demonstration Project Act, legislation to address one of the most urgent and serious ground water contamination problems in the State of California and the Nation. I'm pleased to say that Congressman ESTEBAN TORRES is introducing an identical bill in the House of Representatives today.

The San Gabriel Valley is a 195-square-mile area just northeast of downtown Los Angeles. Over 1 million people live in the San Gabriel Valley and 85 percent of them rely on the ground water of the San Gabriel basin as their drinking water supply. The ground water basin also is an important water source for commercial activity in the San Gabriel Valley and can serve as a huge reservoir to store water imported during wet seasons for later use. Thus, it is vital that the San Gabriel basin continue to be a reliable source of clean water for southern California.

Unfortunately, the San Gabriel basin is one of the most heavily contaminated potable ground water basins in the United States. While contamination levels vary throughout the valley, the ground water contains toxic volatile organic compounds such as trichloroethylene, perchloroethylene, and carbon tetrachloride.

In 1984 the Environmental Protection Agency listed four areas of ground water contamination in the San Gabriel Valley on the Superfund National Priority List. The four areas are now treated as one Superfund site. Cleanup has been complicated because 45 different water purveyors take water from the basin and their unregulated pumping affects the movement of contaminants. Additionally, because the ground water lies under many different facilities and communities, identifying the entities responsible for the contamination and apportioning responsibility for cleanup has been complicated.

In sum, the San Gabriel basin presents a unique set of environmental problems.

Under Superfund, EPA must identify those responsible for the contamination and the responsible parties are made to pay for cleanup of the Superfund site. Superfund does not consider whether the discharge or dumping was legal at the time it occurred. Also under Superfund a current property owner can be held liable for contamination which occurred under a prior owner. Once EPA identifies the responsible parties, the agency attempts to negotiate settlements, but often lawsuits ensue. Moreover, entities identified as responsible parties have a strong incentive to identify and sue others in order to reduce their own share of the cleanup costs. This entire legal process can take years, while very little cleanup work occurs. As of March 1991, EPA had identified 318 companies as potentially liable for cleanup in one or more areas of the San Gabriel basin.

I am very concerned about getting the San Gabriel basin cleaned up as soon as possible. And I question our ability to accomplish this cleanup expeditiously under the Superfund Program. The San Gabriel basin is a unique site. The legislation I am introducing today is intended to solve this difficult problem through an innovative public-private partnership.

Here are the basic provisions of the legislation.

The bill directs the Environmental Protection Agency in contracts with the San Gabriel Basin Water Quality Authority, to conduct water treatment activities to remove the volatile organic compounds from the San Gabriel ground water basin.

The bill directs EPA and the San Gabriel Basin Water Quality Authority to cooperate with local water agencies, such as the Water Replenishment District of Southern California, the Central Basin Municipal Water District, and the Metropolitan Water District of Southern California.

The bill provides that the water treatment activities undertaken shall be consistent with the April 17, 1990, draft Basinwide Technical Plan for the San Gabriel Ground Water Basin prepared by EPA.

The bill directs EPA to identify potentially responsible parties within 6 months. Those identified would have 90 days to respond to the offer to participate in the project.

The bill provides that if 65 percent of the eligible facilities—representing at least 50 percent of the total costs of the project—agree to participate, the project would commence.

The bill establishes a procedure and specifies criteria for EPA to use in allocating costs among parties participating in the project. The allocation formula would be based on the industrial code, proximity to known contaminated wells, ability to pay, and the gross revenue of the facility.

The bill requires anyone participating in the project to conduct an audit to ensure that current industrial practices are in compliance with the law and that soil remediation has occurred.

The bill suspends Superfund liability for any party which contracts with EPA to participate in the San Gabriel basin demonstration project and fulfills its obligation under the contract. Anyone choosing not to participate in the project would still be liable under Superfund.

The bill prohibits any participating facility from trying to recover cleanup costs from any other parties.

The bill provides that the Federal Government pay 20 percent of the cleanup costs and authorizes appropriations for this purpose.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1352

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "San Gabriel Basin Demonstration Project Act".

SEC. 2. FINDINGS.

The Congress finds the following:

(1) The San Gabriel Basin presents a unique set of environmental problems.

(2) The San Gabriel Valley is an area of 195 square miles located approximately 10 to 20 miles northeast of downtown Los Angeles in Los Angeles County. It is the home of 1,000,000 to 1,500,000 people who rely on the groundwater of the San Gabriel Basin for their primary drinking water.

(3) The San Gabriel Basin is the most heavily contaminated potable groundwater basin in the United States.

(4) The groundwater in the San Gabriel Basin is heavily contaminated with toxic volatile organic compounds (VOCs) including trichloroethylene (TCE), perchloroethylene (PCE), and carbon tetrachloride (CTC). The contamination levels vary throughout the Valley.

(5) Four separate areas of contamination in the San Gabriel Basin are listed on the National Priority List (NPL) of Superfund. The areas where the VOC contamination exceeds drinking water standards covers approximately 30 to 40 square miles.

(6) The VOCs in the San Gabriel Basin have been generated by hundreds of commercial and industrial facilities scattered throughout the San Gabriel Valley, over a period of more than 30 years.

(7) The San Gabriel Basin is also heavily contaminated with nitrates as a result of hundreds of years of agriculture and ranching in the Valley as well as from industrial and residential septic systems.

(8) Once contaminated, groundwater is very difficult to clean up.

(9) A plume of polluted groundwater will migrate and spread contaminants wherever it flows. The many areas of groundwater contamination throughout the San Gabriel Basin move at different rates and in different directions, depending on the density of the contaminants, the character of the aquifer, and the local flow patterns. In the San Gabriel Basin, flow patterns may be changing directions due to fluctuating pumping rates throughout the Basin and other factors.

(10) Complicating the cleanup in the San Gabriel Basin is the fact that 45 different water purveyors take water from the basin.

(11) Because the groundwater flows under hundreds of different facilities, apportioning responsibility could be very complicated and could ultimately be a very litigious process.

(12) There are approximately 275 public water supply wells in the San Gabriel Basin. Eighty wells have contamination levels exceeding current Federal drinking water standards. Some of these wells have been abandoned and replaced with new wells in clean areas. In other contaminated wells, pumping continues but the groundwater is blended with clean water so that distributed water meets the drinking water standards.

(13) The San Gabriel Basin presents a unique opportunity for the community to solve a difficult problem, by working together with the Federal Government in a public-private partnership.

SEC. 3. SAN GABRIEL BASIN DEMONSTRATION PROJECT.

Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (Superfund) is amended by adding at the end the following new section:

"SEC. 127. SAN GABRIEL BASIN DEMONSTRATION PROJECT.

"(a) TREATMENT OF WATER.—(1) As promptly as practicable after the date of enactment of this section but not later than 6 months after such date, the Administrator shall enter into one or more cooperative agreements or contracts with the San Gabriel Basin Water Quality Authority; or a successor public agency, (hereinafter in this Act referred to as the 'Authority') to provide water treatment to remove volatile organic compounds from the groundwater in the San Gabriel Basin. In the case of the projects described in paragraph (3)(B), the contracts or cooperative agreements shall also include the Water Replenishment District of Southern California and the Central Basin Municipal Water District. Implementation of such contracts or cooperative agreements shall be contingent upon a determination by the Administrator that the preconditions of subsection (b) have been met.

"(2) The Authority may contract with other public agencies to provide water treatment services or facilities or related services and facilities, subject to approval by the Administrator and pursuant to the decision rendered in Los Angeles Super Court Case #924128, Upper San Gabriel Valley Municipal Water District v. City of Alhambra, et al.

"(3) Contracts or cooperative agreements under this subsection shall be consistent, insofar as possible, with the April 17, 1990 draft Basin-Wide Technical Plan prepared by the Administrator, and shall include but not be limited to the following elements:

"(A) BALDWIN PARK.—Proposed capital expenditures in the vicinity of Baldwin Park over the next 10 years, including $4,500,000 for monitoring wells, $14,500,000 for up to 7 wellhead treatment plants, and $136,000,000 for a conjunctive-use plant designed to clean up the Basin and at the same time allow utilization of the basin as a storage facility which will increase reliability of water supplies in Southern California. Such expenditures shall include a water supply component jointly funded by the Metropolitan Water District of Southern California and the Bureau of Reclamation (as authorized by Public Law 102–579), and a VOC clean-up component funded by the Project. Proposed operating costs for these projects will increase gradually to about $32,000,000 per year at the end of the 10-year period.

"(B) WHITTIER NARROWS.—Proposed capital expenditures, including $1,000,000 for engineering assessment, $3,000,000 for monitoring wells, $11,500,000 for wellhead projects, and $20,000,000 for regional treatment plants to prevent contaminated groundwater from moving from the San Gabriel Basin toward the Central Basin through the Whittier Narrows and proposed operating costs for such projects which at the end of the 10-year period equal approximately $3,000,000 per year.

"(C) PUENTE BASIN AREA.—Proposed capital expenditures which include $2,000,000 for engineering assessments, $3,000,000 for monitoring wells, and $10,000,000 for regional plants in the Puente Valley area to extract and treat highly contaminated groundwater to meet water supply needs and proposed operating costs for such projects which, at the end of the 10-year period will equal approximately $2,000,000 per year.

"(D) ARCADIA, EL MONTE, MONROVIA, GLENDORA.—Proposed capital expenditures in these areas, including $3,000,000 for monitoring wells and $7,500,000 for up to 5 wellhead treatment plants and proposed operating costs for such projects which will equal about $2,000,000 per year at the end of the 10-year period.

Federal funds made available under provisions of law other than this section or other provisions of this Act for any expenditure referred to in subparagraphs (A), (B), (C), or (D) shall not be treated as costs of remedial action recoverable under section 107(a)(4)(A) of this Act.

"(4) Contracts or cooperative agreements under this subsection shall provide for consultation with—

"(A) the Upper San Gabriel Valley Municipal Water District,

"(B) the Main San Gabriel Basin Watermaster, "(C) the San Gabriel Valley Municipal Water District,

"(D) the Three Valleys Municipal Water District,

"(E) the Central Basin Municipal Water District,

"(F) the Water Replenishment District of Southern California,

"(G) the San Gabriel Valley Protective Association,

"(H) the San Gabriel River Watermaster,

"(I) the Metropolitan Water District of Southern California,

"(J) the California State Water Resources Control Board, and

"(K) the California Regional Water Quality Control Board, Los Angeles Region.

"(5) If the Basin-Wide Technical Plan is published in final form after the date on which any contract or cooperative agreement under this subsection is entered into, the contract or cooperative agreement shall be modified by the parties to the extent necessary to be consistent with the plan. Pursuant to such contract or cooperative agreement, the Authority shall provide treatment for water withdrawn from the Basin by qualified public water systems unless otherwise provided by the Metropolitan Water District of Southern California.

"(6) No contract or cooperative agreement entered into under this subsection shall take effect unless the Administrator determines that all preconditions for implementing the treatment project under this subsection have been met, as provided in subsection (b), before the date 30 months after the enactment of this section.

"(7) In providing water treatment under this subsection and apportioning costs under this section, the Administrator and the Authority shall give credit for costs incurred in the design, construction, and operation of any previously approved project undertaken with respect to the Basin and shall take appropriate steps to ensure continuity.

"(b) PRECONDITIONS FOR IMPLEMENTATION OF TREATMENT PROJECT.—(1) No water treatment shall be provided pursuant to any contract or cooperative agreement under subsection (a) until the Administrator, in consultation with the Authority, finds that—

"(A) a sufficient number (at least 65%) of the persons notified by the Administrator under this Act prior to the date 6 months after the enactment of this section that they may be potentially responsible parties have entered into long-term cost-sharing contracts with the Administrator under this subsection; and

"(B) those contracts are sufficient to provide annual payment for at least 50 percent of the total costs incurred by the Administrator after the date of the enactment of this section in carrying out water treatment under subsection (a).

"(2) The contracts with participating parties under this subsection shall also require that each participating party entering into such a contract will—

"(A) conduct an environmental site assessment in accordance with subsection (i) of the property owned or operated by that party by reason of which such party has been designated as a potentially responsible party, and

"(B) carry out all removal and remedial action required with respect to hazardous substances in the soil above the water table on such property, to the extent necessary to comply with the standards under section 121.

"(3) Any person, including potentially responsible parties identified by the Administrator after the date 6 months after the enactment of this section, as well as all local government entities within the San Gabriel Basin, who submits a request to the Administrator to participate in the project under this section shall be offered the opportunity to enter into cost sharing contracts under this section and those who enter into such contracts shall be treated as a participating party for purposes of this section.

"(4) Each person desiring to participate under this section shall enter into a contract under this section within 90 days after the date on which the contract is offered by the Administrator to such party.

"(5) The annual payment by each participating party shall be made in accordance with an appropriate schedule of periodic payments established by the Administrator and the Authority to coincide with the funding necessary to carry out this section. Each participating party shall be given the opportunity to fund its periodic payment liability on a present value basis by entering into a structured settlement arrangement. If a participating party funds its periodic payment liability through a structured settlement arrangement, the Authority shall be named as the owner and payee of the funding instrument at the time of the purchase of the instrument. Any such arrangement is subject to the approval of the Administrator and the Authority, particularly as to the schedule of payments and the licensed insurance company utilized for these purposes. A participating party may enter into a structured settlement arrangement as a single entity, or may enter into such an arrangement with other participating parties. Except as provided in subsection (c)(5), if a structured settlement arrangement is established pursuant to the provisions of this section, the participating party to whom the settlement relates shall be released from any and all further liability with respect to the settlement.

"(6) No court shall have jurisdiction to review any challenge to the removal or remedial action selected in any contract or cooperative agreement under this section.

"(c) COST SHARING.—(1) Six months after the enactment of this section, the Administrator shall notify each potentially responsible party and each other person who has submitted notice to the Administrator under subsection (b)(4) of the Administrator's intention to allocate the total costs incurred by the Administrator for water treatment under subsection (a). Within 60 days after the Administrator notifies such potentially responsible parties and other persons, any such parties and other persons desiring to become participating parties shall so notify the Administrator and agree to provide the Administrator with such information as the Administrator deems necessary to allocate costs among participating parties under this subsection. If the Administrator deems the information provided by any such person to be insufficient to permit the Administrator to make cost allocations under this subsection, the Administrator designate such person as ineligible to be a participating party. If the parties and other persons notified by the Administrator agree on an allocation of costs among themselves within 180 days after the expiration of such 60-day period, the Administrator shall allocate costs in accordance with such agreement. If such parties fail to reach an agreement for cost allocation within such 180-day period, within 30 days after the expiration of such 180-day period the Administrator shall allocate costs in accordance with paragraphs (2) and (3).

"(2) In allocating costs to each participating party as provided in paragraph (1), the Administrator shall make 2 allocations. The first allocation shall allocate only those costs associated with the specific zone of contamination located in proximity to the participating party. The allocation shall be made among all participating parties located in proximity to such zone, pursuant to the formula established by the Administrator under paragraph (3). The second allocation shall allocate those costs not associated with specific zones of contamination. The allocation shall be made among all participating parties, pursuant to the formula established by the Administrator under paragraph (3).

"(3) When no agreement has been reached pursuant to paragraph (1), the Administrator shall established a formula for allocating costs under this subsection. The formula shall require that the share of the total costs to be paid by a participating party shall be based upon the following factors:

"(A) The Standard Industrial Code Number (as determined by the Secretary of Commerce) of the participating party and the Administrator's estimate of the likelihood that industrial operations having that SIC Number contributed to contamination of the Basin.

"(B) The revenues attributable to the participating party's facility in the San Gabriel Valley in a baseline year established by the Administrator.

"(C) The ability of the participating party to pay.

"(D) Prior expenditures made by the participating party for groundwater mediation in the Basin (not including any costs of litigation or other attorney's fees).

"(4) In allocating costs under this subsection the Administrator shall also allocate a share of the total costs of carrying out the water treatment project under subsection (a) to potentially responsible parties who do not agree to become participating parties under this section. The Administrator shall recover cost from such nonparticipating parties pursuant to other provisions of this Act. The total of all shares contributed by participating parties under this subsection shall not be more than 80 percent of the total costs of carrying out the water treatment project authorized under subsection (a), except as provided in paragraph (5).

"(5) At the time the Administrator enters into a contract or cooperative agreement with the Authority under subsection (a), the Administrator shall estimate the total costs expected to be incurred by the Administrator under subsection (a). Each contract with a participating party under this section shall provide that the maximum obligation of that participating party under such contract shall not exceed 200 percent of that participating party's share of such estimated total costs.

"(6) Amounts received from participating parties shall be paid to the Authority and deposited in an interest bearing account which shall be available only for purposes of the water treatment project carried out under subsection (a).

"(d) LEVEL OF TREATMENT.—The water treatment provided pursuant to contracts and cooperative agreements under this section shall be adequate to insure that the treated water will comply with the most stringent standards applicable to drinking water under title XIV of the Public Health Service Act (the Safe Drinking Water Act) or under any provision of State law governing drinking water quality.

"(e) RECOVERY OF FEDERAL SHARE OF COST.—There are authorized to be appropriated to the Administrator such sums as may be necessary to cover 20 percent of the total cost of carrying out the water treatment project carried out under subsection (a). For purposes of section 107, the Federal share of costs made available pursuant to this subsection shall be included as costs of remedial action within the meaning of section 107(a)(4)(A) which are recoverable by the United States Government in an action under section 107 against potentially responsible parties who are not participating parties. For purposes of section 107 all actions taken by the Administrator and the Authority in conformity with this section shall be deemed to have been taken in conformity with the National Contingency Plan.

"(f) EXEMPTION FROM OTHER LIABILITY.—No participating party making contributions pursuant to an agreement under this section and complying with subsection (b)(2) shall be liable, under any other provision of this Act or the Solid Waste Disposal Act or under any State statutory laws or rules of common law, for the costs of any removal or remediation with respect to hazardous substances released into the San Gabriel Basin, or for costs or damages to natural resources associated with such Basin, to the extent such release occurred before the enactment of this section and is identified in a site assessment, and no participating party shall be required to abate any such prior release of any hazardous substances into the Basin (except to the extent required by subsection (b)(2)(B)). The exemption provided by the preceding sentence for any participating party shall cease to apply to such participating party upon a determination by the Administrator that such participating party—

"(1) has failed or refused to make any portion of the contribution required of such party pursuant to an agreement under this section,

"(2) has failed or refused to carry out the activities required under subsection (b)(2), or

"(3) has filed a suit against another person for contribution of costs as described in subsection (f).

"(g) CONTRIBUTION.—No participating party may bring an action against any other person to require such other person to contribute any part of the costs required to be paid to the Administrator by such participating party under this section.

"(h) RELATIONSHIP TO OTHER LAWS.—Except as provided in subsection (f), nothing in this section shall be construed to affect the liability of any person under any other provision of this Act or under any other provision of law with respect to hazardous substances, pollutants, or contaminants in the San Gabriel Basin. Nothing in this section shall be construed to affect the authority of the Administrator to carry out removal or remedial action or any other response action with respect to such hazardous substances, pollutants, or contaminants in addition to the demonstration project authorized by this section.

"(i) LIABILITY EXEMPTION FOR PUBLIC WATER SYSTEMS.—Neither the owner or operator of a qualified public water system shall be liable under any provision of Federal statutory or common law affording rights of contribution for costs or damages in any suit for recovery of costs for a removal or remedial action with respect to hazardous substances in the San Gabriel Basin if such a suit is brought by a potentially responsible party that is not a participating party under this section.

"(j) COMPREHENSIVE ENVIRONMENTAL COMPLIANCE PROGRAM.—

"(1) GENERAL REQUIREMENTS.—To qualify as a participating party under this section, a potentially responsible party must establish a Comprehensive Environmental Compliance Program and agree to conduct an Environmental Site Assessment.

"(2) REGISTERED ENVIRONMENTAL ASSESSORS.—The Comprehensive Environmental Compliance Program and Environmental Site Assessment shall be prepared, signed, and dated by a registered civil engineer or registered geologist In accordance with State law, and the Program shall be certified by a person who is capable of committing the financial resources necessary to implement the Program, such as the owner, operator, or responsible corporate officer, or in the case of a government agency, a principal executive official or a ranking elected official.

"(3) CONTENT OF ENVIRONMENTAL SITE ASSESSMENT.—The Environmental Site Assessment required under this section shall contain—

"(A) an evaluation of practices and procedures established by the current owner or operator of the facility for which the assessment is conducted to—

"(i) ensure continuing compliance with applicable environmental requirements; and

"(ii) identify and implement hazardous waste reduction opportunities for the facility.

"(B) the results of Level I Preliminary Assessment (noninvasive investigation and regulatory search), and if site conditions warrant, the Level II Assessment (invasive sampling for suspected hazardous materials and preparation of remedial design specifications) and the Level III Assessment (on-site remediation); and

"(C) demonstration of compliance with all applicable State and Federal laws, such as, but not limited to the 'Community Right-to-Know Act' and 'California Hazardous Waste Reduction Act and Management Review' (SB 14);

"(4) COPIES.—Copies of each environmental site assessment shall be provided to the Administrator and the appropriate State official.

"(k) DEFINITIONS.—As used in this section—

"(1) QUALIFIED PUBLIC WATER SYSTEM.—The term 'qualified public water system' means a 'public water system', as defined in title XIV of the Public Health Service Act (the Safe Drinking Water Act), which is entitled, as of May 15, 1991, to withdraw water from or store water in the San Gabriel Valley Groundwater Basin, as determined under State law.

"(2) BASIN.—The terms 'San Gabriel Basin' and 'the Basin' means the San Gabriel Valley Groundwater Basin underlying the San Gabriel Valley in Los Angeles County, California.

"(3) POTENTIALLY RESPONSIBLE PARTY.—The term 'potentially responsible party' means a person who is identified by the Administrator as a person who may be liable under section 107, or under any provision of State law, for any amount with respect to cleanup of hazardous substances in the San Gabriel Basin.

"(4) PARTICIPATING PARTY.—The term 'participating party' means a person who has requested to participate as provided in subsection (b)(4) and who has entered into a contract with the Administrator under subsection (b).

"(5) STRUCTURED SETTLEMENT ARRANGEMENT.—The term "structured settlement arrangement" means an arrangement where the Authority owns—

"(A) a settlement annuity or similar instrument issued by a company licensed to do business as an insurance company under the laws of any State which has a financial stability rating from a nationally recognized insurance company rating organization which rating is satisfactory to the Administrator or

"(B) any obligation of the United States,

that has a defined schedule of periodic payments which coincides with the schedule of periodic payments determined to be appropriate for the Basin cleanup.".●

By Mrs. BOXER (for herself and Mrs. FEINSTEIN):

S. 1353. A bill to amend title 23, United States Code, to permit the use of funds under the Highway Bridge Replacement and Rehabilitation Program for seismic retrofit of bridges, and for other purposes; to the Committee on Environment and Public Works.

THE SEISMIC RETROFIT ACT

● Mrs. BOXER. Mr. President, one of many progressive elements of the Intermodal Surface Transportation and Efficiency Act of 1991 [ISTEA] was the provision including seismic repairs as an eligible activity under the Federal Highway Bridge Rehabilitation and Replacement Program [HBRR]. Unfortunately, since passage of that landmark legislation the Federal Highways Administration [FHWA] interpreted that provision in a way that restricts these funds, when used for seismic retrofit, to those bridges that are otherwise listed as structurally deficient.

However, for many States, particularly my State of California, although a bridge may not be considered structurally deficient under the FHWA standard, it is deficient in terms of its ability to withstand an earthquake. That is why today Senator FEINSTEIN and I are introducing legislation to correct this misinterpretation of the law.

Our bill would simply insert language that says, "a State may carry out a project for seismic retrofit of a bridge under this section without regard to whether the bridge is eligible for replacement or rehabilitation under this section".

The Loma Prieta earthquake of 1989 demonstrated the vulnerability of our infrastructure to earthquakes. Both the Cypress Viaduct and the San Francisco Bay Bridge suffered severe damage in that incident. Two-thirds of the 63 people who died in the earthquake perished when the viaduct collapsed. California has more than 9,770 bridges constructed before the higher earthquake building code was established. In addition, no bridges in the Eastern United States has been built with seismic safety in mind, yet experts predict there is a 40- to 60-percent chance of an earthquake of at least a magnitude of 6.0 in the Eastern United States by the year 2020.

There are 24,000 bridges in my state of California. The State Department of Transportation has determined that about 1,500 will need seismic retrofit, and of those, about 300 are not otherwise structurally deficient. California needs as much as $1.5 billion to correct seismic deficiencies on its bridges, excluding the Golden Gate Bridge which is a special case. California receives about $127 million a year from the Highway Bridge Rehabilitation and Repair Program.

However, under this interpretation by the FHWA, California cannot spend even the $20 to $25 million a year from HBRR funds that it would like to on any of those 300 bridges which need to be strengthened to withstand the periodic earthquakes in my State. One of those bridges is the 5-mile-long section of Interstate 10 in Los Angeles known as the Santa Monica Viaduct. That stretch of Federal highway carries more than 200,000 vehicles a day—hundreds of thousands of people—but the Federal Highways Administration said that Federal funds cannot be spent to protect them from a possible earthquake while they are traveling. No one who ever saw the pictures of those cars tumbling off the Bay Bridge during the 1989 earthquake could understand why the Federal Government cannot permit funds to be used solely for seismic protection of bridges.

You cannot see a seismic problem in a structure like you can see rust. When rust or a scouring problem appears on a bridge and its supports, you have time to correct the deficiency. A seismic problem is beneath the surface, but it is a deficiency nonetheless. This bill will make sure that FHWA will consider seismic retrofit as much a safety factor as any other kind of deficiency. Passage of this legislation will enable States to better protect their motorists and infrastructure by providing seismic retrofit. California will be able to protect about 12 to 20 bridges a year, depending on the bridge. Mr. President, all we have to do is look at the flood devastation in the Midwest to see why public works projects need to be protected by the best engineering possible to withstand natural disasters. It is a small cost to pay now compared to the financial—and human—costs we could face in the future.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1353

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. HIGHWAY BRIDGE REPLACEMENT AND REHABILITATION PROGRAM.

(a) ELIGIBILITY OF SEISMIC RETROFIT PROJECTS.—Section 144(d) of title 23, United States Code, is amended by inserting before the period at the end of the third sentence the following: ", except that a State may carry out a project for seismic retrofit of a bridge under this section without regard to whether the bridge is eligible for replacement or rehabilitation under this section".

(b) APPORTIONMENT FACTOR ADJUSTMENT.—Section 144(e) of such title is amended by inserting before the period at the end of the fourth sentence the following: "and by the total cost of all projects carried out under this section in the State for seismic retrofit of highway bridges not eligible for replacement or rehabilitation under this section".•

By Mrs. KASSEBAUM (for herself, Mr. JEFFORDS, Mr. COCHRAN, and Mr. PRESSLER):

S. 1354. A bill to amend the Fair Labor Standards Act of 1938 relating to the minimum wage and overtime exemption for employees subject to certain leave policies, and for other purposes; to the Committee on Labor and Human Resources.

THE WORKPLACE LEAVE FAIRNESS ACT

Mrs. KASSEBAUM. Mr. President, I am pleased to introduce today, along with my colleagues Senator COCHRAN, Senator JEFFORDS, and Senator PRESSLER, the Workplace Leave Fairness Act. This bill would eliminate a Department of Labor rule prohibiting employers from providing salaried employees with partrial-day unpaid leave. Similar legislation has been introduced in the House by Representatives ROBERT ANDREWS and THOMAS PETRI.

The Department of Labor's regulations in this area are complex, allowing deductions from pay for some reasons and not for others. While the regulations are not clear on their face, the Department and several courts have prohibited employers from allowing salaried employees to take a partial day's leave without pay. If an employer does grant such leave—or even if it merely has a policy which permits it—salaried employees lose their exempt status under the Fair Labor Standards Act.

This means that all salaried employees would be automatically converted to hourly employees who are then owed overtime, even if they a six-figure income and are employed at the highest levels of the organization. The employer will owe them back pay for any overtime worked as far back as the statute of limitations—2 years or, in cases of willful violations, 3 years.

The 1991 appeals court decision in Lynn Martin, Secretary of Labor versus Malcolm Pirnie, Inc., illustrates the severity of the problem. Malcolm Pirnie, a 900-employee, privately held engineering company docked less than $3,300 in pay from 24 salaried employees over 19 months. Most of the pay reductions resulted from employees voluntarily taking leave without pay.

When the company learned that its pay deductions were illegal, it immediately took steps to reimburse all 24 workers and to change the company's pay policy. But the Department of Labor took the company to court and won an appeals court decision stating that, because the company's written policy permitted pay deductions from salaried employees for partial-day absences, such workers are considered hourly employers. If forced to pay damages, Malcolm Pirnie will owe nearly $750,000 in overtime pay and accrued interest to employees whose annual pay ranges from $40,000 to $70,000.

The result of the Department of Labor's policy and the court decisions has been to confront small and large businesses and State and local governments with billions of dollars in liability for back-pay owed to employees who themselves thought they were exempt from overtime pay requirements. According to a recent study by the Employment Policy Foundation, the potential damages for private sector employers alone approaches $20 billion per year. In the public sector, the scenario is just as grim. The Governor of California, for example, has stated that the liability facing his State alone exceeds $3 billion.

Earlier this May, the Governors of the following States asked Secretary of Labor Robert Reich for relief: California, Iowa, Maryland, Nevada, New York, Nebraska, Oklahoma, Texas, New Jersey, and Wisconsin. The issue was also raised recently by Labor Department wage and hour compliance officers in an arbitration decision, since the Federal Government has a policy of allowing unpaid partial day leave. The potential liability, facing not only the Department of Labor but other Federal agencies as well, is enormous, enough, for example, to swallow the Department of Labor's job training budget in one bite.

Like a number of other States, Kansas is currently involved in litigation seeking back overtime pay. The payment of such unforeseen liabilities, not including the years of expensive litigation contesting these claims, seriously threatens the fiscal integrity of State and local treasuries. In this time of extreme budgetary pressure, State and local governments simply cannot afford this waste of their precious public resources. Moreover, the diversion of scarce resources to provide windfalls to a small segment of highly paid, white collar employees does not constitute wise public policy. These funds could be better used to create jobs and spur economic growth.

The Family and Medical Leave Act [FMLA], which will take effect tomorrow, recognized this problem by specifically providing that salaried employees of businesses with 50 or more employees will be able to take partial-day unpaid leave to handle their family and medical needs. Yet this is only the narrowest of possible solutions. There are many situations not covered by this legislation. For example, salaried employees of businesses with less than 50 employees will not be eligible for unpaid leave of less than a day. Additionally, leave not covered under the FMLA, including more generous leave requirements mandated by State or local laws, would still result in salaried employees losing their salaried status.

Certainly, these situations are no less deserving of protection than those expressly covered by the act.

The Workplace Leave Fairness Act will eliminate the Department of Labor's pay docking rule, thereby allowing public and private sector employers to provide flexible leave policies for their salaried workers. This legislation also addresses parallel issues, such as tracking time of salaried employees for purposes of billing clients, creating standard work hours for firms, and disciplinary suspensions without pay so that none of these practices result in salaried employees being converted into hourly workers.

Additionally, the Workplace Leave Fairness Act would apply retroactively to relieve public and private employers from liability for back pay who have had flexible leave policies, but have been unaware of these Department of Labor rules.

Mr. President, this problem requires prompt congressional action. The House Subcommittee on Labor Standards already held a hearing on this issue last month. I know the chairman of the Senate Committee on Labor and Human Resources is aware of this issue, and has, on more than one occasion, indicated his willingness to hold hearings in the Senate. As the ranking Republican member on the Senate Committee on Labor and Human Resources, I hope that we can hold hearings on this issue early this fall and take congressional action to solve the problem this year. The Workplace Leave Fairness Act would do just that, and I urge my colleagues to join with me in supporting this legislation.

Mr. PRESSLER. Mr. President, I am pleased to join with the distinguished ranking member of the Senate Labor Committee as an original cosponsor of the Workplace Leave Fairness Act. This vital legislation is needed to reverse bad public policy and ensure flexibility and productivity in the American workplace.

Specifically, the bill we are introducing today would reverse how the courts and a Government bureaucracy—the Department of Labor—have interpreted how workplace is covered under the Fair Labor Standards Act, of FLSA. Now, at first glance, the issue of workplace leave can be somewhat complicated. The FLSA and its progeny of technical regulations are not known to be the most exciting of subjects. However, for State and local governments, and the private sector, these subjects are serious business.

As my colleagues well know, employers can opt to pay their workers hourly wages or a yearly salary. The FLSA was crafted in 1938 by then Senator Hugo Black to protect the rights of hourly wage earners, particularly with respect to work hours and overtime pay.

Employees paid an annual salary generally are on the higher end of the pay scale. Traditionally, salaried workers have been exempted from the FLSA. I say traditionally, Mr. President, because that is not the case now. A Department of Labor interpretation has altered the exempt status, entitling salaried employees to overtime, back pay, and other benefits.

Rather than get mired in complex legalisms, let me explain the issue in question by way of some everyday, commonplace examples. Many employers provide their workers the option of taking a partial day off for personal reasons. In today's world of single parents, or two working parent families, this flexibility is needed. In fact, it's good common sense. Some workers may need a few hours away from work to take their children to a doctor, or pick them up from school or day care. Others may need a partial day off for physical exams or preventive health care. In many of these cases, this partial day, or flexible leave, is provided on an unpaid basis.

Clearly, flexible leave policies are designed for convenience. Labor management experts see flexible leave as an effective measure to improve productivity and employer/employee relations. However, a few Federal courts and the Department of Labor see flexible leave as a way to circumvent the FLSA. According to a Department of Labor regulation known as the pay docking rule, providing flexible leave to salaried employees eliminates their exemption from the overtime requirements of the FLSA. The Labor Department argues that flexible leave treats salaried employees as hourly workers. As a result, employers who offer flexible leave may be forced to pay overtime liability awards to all their salaried employees. This liability could be up to 3 years of back pay for any overtime hours worked at the overtime pay rates. Let me emphasize that these awards can be made to salaried employees regardless of whether they utilize the employer's leave policy. The mere existence of such a policy exposes an employer to liability under the pay docking rule.

If this sounds farfetched, it is. Even the bureaucrats in the Department of Labor who dreamed up the pay docking rule know it is bad policy. They were quick to exempt themselves and all Federal employees from the pay docking rule. However, the Department of Labor is enforcing the pay docking rule on everyone else. A Dayton, OH, firm was ordered by the Department to pay overtime back pay to its 14 salaried employees because the firm allowed these workers to take unpaid partial-day leave. An engineering firm with 400 salaried employees also was sued by the Department for having a similar policy. Though only 24 employees took unpaid leave totaling $3,300 under this policy, the Department ordered the firm to distribute $875,000 in back pay to all 400 employees.

Of course, employers could stop providing flexible leave to salaried workers, but that doesn't make them immediately immune from liability. Federal law exposes an employer to liability for policies in place as far back as 2 years ago. In fact, the Employment Policy Foundation estimates that current liability among private businesses with flexible leave could be as high as $39 billion.

The pay docking rule also has been applied with vigor to State and local governments. A number of State and local governments already face enormous penalties for providing their salaried work force flexible unpaid leave. The State of California, for example, faces liabilities totaling more than $3 billion.

Mr. President, the pay docking rule is yet another example of why the people who live and work beyond the Washington beltway think those inside it are out of touch. The rule has wreaked havoc on State and local governments struggling to balance their budgets. The rule is proving to be a boon for labor lawyers, and a bust for businesses. The rule is a slap in the face on employers trying to provide flexibility to a segment of their work force. The rule is a serious inconvenience to salaried employees, who now must take a full day of unpaid leave even if personal obligations only require a few hours away from work. And ironically, the rule is being used as a windfall for salaried employees—those professionals usually on the higher end of the pay scale.

Well, I have good news and bad news. The good news is that the Department of Labor is learning the errors of its ways. Unfortunately, the bad news is that the Federal Government is slow in correcting its mistakes. Last September, the Department eliminated the pay docking rule for State and local governments. However, State and local governments still remain vulnerable to past liability. Relief was made available to some segments of the private sector earlier this year. The new Family and Medical Leave Act exempts from the pay docking rule any leave taken under the act. However, this relief does not help employers not covered under the Family and Medical Leave Act, and does not address all situations where employees need to take flexible leave. The act also does not solve the problem of past liability.

Mr. President, this patchwork quilt of half-hearted solutions just adds to business frustration. The pay docking rule is bad public policy. The time for a real solution is long overdue. In fact, earlier this year, I attempted to offer an amendment to the Family and Medical Leave Act that would have enabled all employers to offer flexible family leave. However, I withdrew my amendment when I received the assurance of Senator DODD that the Senate Labor

Committee would hold hearings and work to achieve a solution before the end of this year.

I remain hopeful the Labor Committee will demonstrate leadership on this issue. They, and the full Senate, can fix this problem very quickly by passing the Workplace Leave Fairness Act, which the Senator from Kansas and I are introducing today.

Specifically, the Workplace Leave Fairness Act would eliminate the Department of Labor pay docking rule. In addition, this bill would be applied retroactively so that the private sector and State and local governments need not fear past liability.

Mr. President, we hear plenty of talk about change and new directions. Permit me to offer a possible new direction for this Congress. Let's quickly fix unintended consequences of Federal laws that punish employer flexibility and undermine employee productivity. We cannot expect State and local governments to fulfill their missions if they are forced to spend scarce taxpayer dollars because of bad policies made here in Washington. We cannot expect the private sector to lift itself from economic sluggishness if misguided Federal policies force it to pad the pockets of higher paid workers and labor lawyers. And we cannot expect all employers to have faith in the Federal Government when we're slow to correct our own mistakes.

We can restore faith, productivity, and flexibility in the American work force by passing the Workplace Leave Fairness Act. I urge my colleagues to join with me and the Senator from Kansas to support this needed reform measure.

By Mr. HEFLIN:

S. 1355. A bill to amend chapter 91 of title 28, United States Code, to provide that the U.S. Court of Federal Claims may have jurisdiction over certain pending claims, and for other purposes; to the Committee on the Judiciary.

COURT OF FEDERAL CLAIMS JURISDICTION MODIFICATION

Mr. HEFLIN. Mr. President, I rise today to introduce legislation to amend title 28 of the United States Code to improve the Federal claims litigation process before the U.S. Court of Federal claims and to assist the court in providing better and more efficient service to its litigants.

The Court of Federal Claims is the Nation's primary forum for monetary claims against the Federal Government. The court has jurisdiction to entertain suits for money against the United States that are founded upon the Constitution, an act of Congress, an Executive order, a regulation of an executive department, or contract with the United States and that do not sound in tort. The court hears major patent cases, Government contract suits, tax refund suits, fifth amendment takings cases and Indian claims, among many other types of lawsuits. The court has national jurisdiction, and the judges hear cases around the country at locations that are most convenient to the litigants and the witnesses.

The legislation that I am introducing today will repeal 28 U.S.C. 1500, which has heretofore denied Court of Federal Claims jurisdicton over any claim with respect to which the plaintiff has pending a suit in any other court. Although, on its face, section 1500 may appear to prevent wasteful duplication, in practice it has had precisely the opposite effect. Elimination of this jurisdictional bar to suits related to cases in other courts will eliminate much wasteful litigation over nonmerits issues and will leave the court free to deal with potential duplication through the discretionary means of staying arguable duplicative litigation, if the matter is being addressed in another forum, or of proceeding with the case, if the matter appears to be stalled in the other forum.

As currently construed section 1500 does not permit duplication of suits even if the Court of Federal Claims action was filed first and has received concentrated attention over a number of years. This situation can result in a major waste of resources by litigants and the court. The bill would also allow the plaintiff to protect itself against the running of the statute of limitations by the wrong initial choice in this confusing area.

In this day of electronic communication, computer tracking of cases and centralized docket control by the Justice Department, the Government will always know if a related claim is pending in two different courts and can request exercise of discretion by one or both courts to prevent duplicative litigation. Repeal of section 1500 would save untold wasted effort litigating over such marginal issues as whether a claim in the district court really is the same as one in the Court of Federal Claims.

I urge my colleagues to support this legislation, which I believe will promote efficiency and fairness. This change will assist the court of Federal Claims in providing improved service to litigants and to the entire country.

By Mr. DOLE (for himself, Mr. HATCH, Mr. THURMOND, Mr. GRAMM, Mr. MACK, Mr. SIMPSON, Mr. COCHRAN, Mrs. KASSEBAUM, Mr. HELMS, Mr. D'AMATO, Mr. STEVENS, Mr. LOTT, Mr. GRASSLEY, Mr. DOMENICI, Mr. BROWN, Mr. NICKLES, and Mr. WALLOP):

S. 1356. A bill to restore order, deter crime, and make our neighborhoods and communities safer and more secure places in which to live and work; to the Committee on the Judiciary.

NEIGHBORHOOD SECURITY ACT OF 1993

Mr. DOLE. Mr. President, "We have nothing to fear but fear itself." Those words, spoken by Franklin Roosevelt over 60 years ago, inspired America in a time of crisis.

Today, America faces another crisis. It's a crisis caused by the fact that Roosevelt's words no longer are true. For across the Nation—be it on the streets of our major cities, our suburbs, and even our rural communities—there is something to fear besides fear.

It is the fear that causes us to lock our doors at all times. It is the fear that makes parents worry when they send their children off to school. It is the fear that like so many of our friends and neighbors, we, too, will be the victims of violent crime.

It is a fear that each and every day becomes a reality for many Americans, and that this past February became a reality for Timothy Riley.

A 33-year-old husband and father of two young children, Timothy Riley was kidnaped outside his home in Topeka, and forced at gunpoint into the trunk of his own car.

Shortly after the kidnaping, Mr. Riley was shot to death, his lifeless body dumped on the side of a highway, just south of Topeka. Two teenagers, both with prior criminal records, have been arrested in connection with the carjacking and murder.

The murder of Timothy Riley, like all murders, is a tragedy. And another sad tragedy is the fact that the story of what befell Timothy Riley probably does not shock anyone here today.

Americans have become used to crime. We have become used to the fact that two teenagers would brutally take a man's life simply because they could do it.

Instead of outrage, far too many Americans now react with a shrug, with an attitude that random murder is normal or routine.

As a result, the war against crime must now be fought on two fronts. First, we must do all we can to give our law enforcement community the laws and the tools they need. And second, we must convince our citizens that crime is not a price we have to pay for living in a free society—that the carnage can be stopped.

For 4 years, Congress has debated anticrime legislation. Unfortunately, that's all we've done. In fact, we've all but debated ourselves to the point of irrelevancy.

WINDOW OF OPPORTUNITY

I believe, however, this is a window of opportunity—a small sliver of hope that Americans still hold. Hope that Government can restore the most basic civil right—the right to be safe and secure in our homes, on our streets, and in our communities.

Clearly, the Federal Government cannot provide all the answers. Some must come from the States, and from ourselves. And clearly we cannot given our present budget deficit, provide all the money.

But we can do a great deal. We can take the lead. We can let Americans know that if there is a true emergency in America, it is crime.

Today, I will be joining with my Republican colleagues in introducing a legislative package which I believe will begin to restore some sanity to our streets. It is tough. It contains some ideas that are tried and true. And it contains some ideas that have never been tried before.

Yes, the legislation I am introducing today is expensive. But, unlike other crime bills, it is fully paid for—first, by cutting overhead across-the-board in the Federal Government by 5 percent and second, by modestly reducing overhead payments for Federally funded university research.

And, Mr. President, rather than asking "Can we afford it?," we should be asking "Can we afford not to do it?"

I believe the package can and should earn bipartisan support. Crime does not discriminate by politically party. A criminal does not ask whether you're Republican or Democrat before he robs you or shoots you.

Mr. President, this package—the Neighborhood Security Act of 1993—is the first installment of a two-pronged approach to crime—one short-term and one long-term.

THE SHORT-TERM SOLUTION: POLICE, PRISONS, AND PROSECUTORS

The short-term solution recognizes that one of the strongest deterrents to crime is more police on the streets. We can talk all we want about the causes of crime, but talk can't catch a thief or prevent a murder.

The first obligation of Government is to restore order, and there is no better prescription for order and less crime than a larger and more visible police presence.

For a new generation of police officers, America can look to its military, where a pool of skilled manpower waits to be tapped as defense cuts force thousands into civilian life. Our fighting men and women have discipline and weapons training—two key skills necessary for effective law enforcement. They are up to the challenge.

As a result, my legislation proposes an American safe streets program giving our fighting men and women the opportunity to continue their contribution by serving instead on State and local police forces.

Under this program, the Federal Government will help pick up the tab for members of the Armed Services who are hired by State and local police forces to perform neighborhood patrol duties. For the first 3 years of police service, the Federal Government will pay up to the full annual salary of the new police officer. During the subsequent 3 years, the Federal share will be up to 50 percent of the annual salary, with the State or local police force picking up the remaining 50 percent.

My package will also provide Federal assistance to community policing—the cop-on-the-beat approach to law enforcement that has proven so successful on the local level. And it endorses the Police Corps, a program I have supported for many years now.

Sounds expensive? Perhaps. But we should ask ourselves "Can we afford to waste the talents and energies of our young vets whose biggest challenge is suddenly not the firing line, but the unemployment line? And can we truly afford to fight a real war on crime without using all the weapons at our disposal?"

Mr. President, if we increase the number of police on the front end of the criminal justice system, we must have an adequate supply of prison space on the back end—and we must put the prison space to use.

During the 1960's, parole and rehabilitation grew in popularity and the crime rate soared. In the late 1970's and throughout the 1980's, the trend shifted back to incarceration. As a result, the growth in the overall crime rate slowed considerably and the rate of some violent crimes actually decreased.

In too many States, however, prison overcrowding has forced the early release of some of our most dangerous criminals. These predators now stalk our neighborhoods—simply because government has failed to devote the resources necessary to protect its citizens. This must stop.

My legislation authorizes $2 billion for the construction of 10 new Federal prisons for violent criminals and for illegal aliens who have been convicted of a violent crime.

States with prison overcrowding problems will be able to send their prisoners to these new prisons, if they adopt tough, anticrime measures, such as truth-in-sentencing and pretrial detention. To get access to these new Federal prisons, States must also impose mandatory minimum sentences for gun offenders, violent criminals, and child abuse offenders.

In addition, the Neighborhood Security Act sets aside another $1 billion in Federal money to assist the States in their own efforts to construct and operate new prisons. To be eligible for the Federal grants, these new State prisons must be principally dedicated to housing repeat violent criminals.

Mr. President, if we want the security, we must pay for it. It is not cheap. But can we afford anything less?

Unfortunately, the Clinton administration has proposed to cut back—not expand—funding for Federal prison construction, at the very time President Clinton himself has called for 100,000 more police on the streets. This approach, focusing on the front-end but ignoring the back-end of the criminal justice system—prisons—is unwise and, ultimately, at war with itself.

By increasing prison space, and by providing incentives for States to put that space to use, the American criminal justice system can return to its basic objective of protecting the innocent and punishing the guilty.

FEDERAL SAFE SCHOOL DISTRICTS

Mr. President, another objective of Government is to teach the youth of our country.

Unfortunately, learning and teaching are becoming increasingly more difficult, and increasingly more dangerous, in America's all-too-violent schools.

Years ago, gum chewing and talking in class were the main school discipline problems. Today, gun possession, drug use, and gang-related violence top the discipline-problem list.

Although statistics are not officially compiled on school violence, State and Federal officials estimate that at least 30 people were murdered last year in our Nation's schools.

Hundreds of other students and teachers have been injured, some seriously, by gun-related violence.

As the first step in taking back our schools, the Neighborhood Security Act would allow any local school district to elect to qualify as a Federal safe school district.

In a Federal safe school district, any juvenile 16 years of age, or older, who uses or carries a gun, in or near a school, would be prosecuted as an adult. No exceptions. If convicted of a gun-related crime, certain tough, new penalties would apply. Again, no exceptions.

To enhance security within the schools, $500 million in Federal grants would be available for metal detectors, closed-circuit cameras, increased police patrols in and around schools, gun hotlines, and mailings to parents warning them that their children must not carry a gun or weapon on school grounds.

School districts throughout the country are eager to purchase the latest in school-security technology, but fiscal constraints often get in the way.

By offering Federal funding for security equipment, the Neighborhood Security Act would help ensure that going to school is not an occupational hazard.

No doubt about it, it is a sad day when metal detectors and closed-circuit cameras take the place of books and writing pads as the most important purchases a school administrator can make. But let's face it: If we are to turn things around in our Nation's schools, we must adopt a zero-tolerance policy on school violence.

THE LONG-TERM SOLUTION: RESTORING THE AMERICAN FAMILY

Now, Mr. President, I have outlined the short-term solution to the crime epidemic, which is the focus of the Neighborhood Security Act.

The long-term solution is much more complex and much less amenable to Government solution. It recognizes that the most effective deterrents to crime are not necessarily police, prosecutors, and prisons—the three p's, as I like to call them—but strong families and the set of values that strong families transmit to their children.

This is where it all starts. This is the deepest root cause of them all.

Unfortunately, the American family today is in tatters. Since 1960, illegitimate births have increased by more than 400 percent. In 1990, a staggering two-thirds of all black children, and 25 percent of all white children, entered the world without the benefit of a resident father and mother. These illegitimacy rates continue to rise.

Not only is there a clear link between family structure and poverty, as my distinguished colleague from New York, Senator MOYNIHAN, pointed out 25 years ago, but there is also a link between family structure and crime. It is no wonder that 70 percent of the juveniles in State reformatories today come from homes without fathers.

Government is not the Nation's nanny. It cannot, and should not, be responsible for raising our Nation's children. No Government agency can implant personal morality, nor can a congressional committee build character. But Government can take certain steps that will discourage illegitimacy and encourage fathers to take their parental responsibilities seriously. This can only help to strengthen families and reduce crime as a result.

A real crime bill builds not only prisons, but tries to build families as well.

Later this year, I will be introducing the second installment of a two-pronged approach to the crime problem.

This second installment will offer a set of legislative ideas aimed at achieving the long-term goal of strengthening and nurturing America's families.

My goal is not to renew the debate over family values, but rather to emphasize the need to start valuing the family, an essential ingredient of any serious approach to the crime epidemic.

AMERICA: TIRED OF BEING THE HOSTAGE OF FEAR

Mr. President, America breathed a collective sigh of relief when Los Angeles remained calm after the second Rodney King jury verdict. But this calm should not lull us into forgetting the orgy of lawlessness that took place last year.

No one can deny the economic realities that bred, and still breed, this violence.

When a person has no stake in a community, he will often flout the conventions of that community.

But the community plays a dangerous game when it tells that same citizen he is not personally responsible for his own actions, that he is merely a hapless victim of the forces of supply and demand, and that his feelings of rage are legitimate and can be expressed through violence.

With an attitude of acceptance, the community invites death, destruction, and yes, more poverty.

As my colleague in the House, JOHN LEWIS, once explained:

> It is not only poverty that has caused crime. In a very real sense, it is crime that has caused poverty, and crime is the most powerful cause of poverty in America today.

So, Mr. President, crime causes poverty. It also causes fear—a fear so great that we have become hostages in our homes, on our own streets, in our own neighborhoods.

F.D.R. may have been right 60 years ago when he said, "We have nothing to fear but fear itself." But, today, sadly, the greatest danger is not the fear itself, but our complacency and silent acceptance of that fear.

Mr. President, I ask unanimous consent that the full text of the Neighborhood Security Act of 1993 and an executive summary of the bill be inserted in the RECORD immediately after my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1356

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Neighborhood Security Act of 1993".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title and table of contents.

TITLE I—SAFE STREETS

Subtitle A—Police

CHAPTER 1—DEFENSE CONVERSION

Sec. 101. Definition.
Sec. 102. America's Safe Streets Program.

CHAPTER 2—COPS ON THE STREET

Sec. 111. Short title.
Sec. 112.- Enhanced local law enforcement.

CHAPTER 3—POLICE CORPS PROGRAM

Sec. 121. Purposes.
Sec. 122. Definitions.
Sec. 123. Establishment of Office of the Police Corps and Law Enforcement Education.
Sec. 124. Designation of lead agency and submission of State plan.
Sec. 125. Scholarship assistance.
Sec. 126. Selection of participants.
Sec. 127. Service obligation.
Sec. 128. State plan requirements.
Sec. 129. Reports to Congress.
Sec. 130. Authorization of appropriations.

CHAPTER 4—COMMUNITY POLICING GRANTS

Sec. 141. Community policing grants.

CHAPTER 5—IMPROVED TRAINING AND TECHNICAL AUTOMATION

Sec. 151. Grants.
Sec. 152. Training courses.
Sec. 153. Authorization of appropriations.

Subtitle B—Prisons

CHAPTER 1—REGIONAL PRISONS FOR VIOLENT CRIMINALS AND VIOLENT CRIMINAL ALIENS

Sec. 161. Definitions.
Sec. 162. Construction of prisons.
Sec. 163. Acceptance of prisoners.
Sec. 164. Qualifying State.
Sec. 165. Authorization of appropriations.

CHAPTER 2—FEDERAL GRANTS FOR STATE PRISON CONSTRUCTION AND OPERATION

Sec. 171. Definition.
Sec. 172. Grants.
Sec. 173. Construction grants.
Sec. 174. Operating grants.
Sec. 175. Canceling grants.
Sec. 176. Distribution of grants.
Sec. 177. Authorization of appropriations.

CHAPTER 3—JUDICIAL REMEDIES FOR PRISON CROWDING

Sec. 181. Purpose.
Sec. 182. Findings.
Sec. 183. Appropriate remedies.

CHAPTER 4—SENTENCES TO ACCOUNT FOR COSTS TO THE GOVERNMENT OF IMPRISONMENT, RELEASE, AND PROBATION

Sec. 191. Imposition of sentence.
Sec. 192. Duties of the sentencing commission.

TITLE II—SAFE SCHOOLS

Sec. 201. Definition.
Sec. 202. America's Safe Schools Program.
Sec. 203. Federal safe school districts.

TITLE III—CRIMINAL ALIENS AND ALIEN SMUGGLING

Subtitle A—Deportation of Criminal Aliens

Sec. 301. Deportation procedures for certain criminal aliens who are not permanent residents.
Sec. 302. Judicial deportation.
Sec. 303. Restricting defenses to deportation for certain criminal aliens.
Sec. 304. Enhancing penalties for failing to depart, or reentering, after final order of deportation.
Sec. 305. Miscellaneous and technical changes.

Subtitle B—Prevention and Punishment of Alien Smuggling

Sec. 311. Increased penalties for alien smuggling.
Sec. 312. Smuggling aliens for commission of crimes.
Sec. 313. Addition of alien smuggling to RICO.
Sec. 314. Expanded forfeiture for smuggling or harboring illegal aliens.
Sec. 315. Expansion of definition of aggravated felony.
Sec. 316. Amendment of sentencing guidelines.
Sec. 317. Increased penalty for Visa fraud.
Sec. 318. Training of airline personnel in detection of fraudulent documents.

Subtitle C—Border Patrol

Sec. 321. Border Patrol agents.
Sec. 322. Immigration and Naturalization Service criminal investigators.
Sec. 323. Criminal alien tracking center.

TITLE IV—GANGS, JUVENILES, DRUGS, AND PROSECUTORS

Sec. 401. Short title.

Subtitle A—Criminal Youth Gangs

Sec. 411. Criminal street gangs offenses.
Sec. 412. Crimes involving the use of minors as RICO predicates.
Sec. 413. Serious juvenile drug offenses as Armed Career Criminal Act predicates.
Sec. 414. Adult prosecution of serious juvenile offenders.
Sec. 415. Increased penalties for employing children to distribute drugs near schools and playgrounds.

Sec. 416. Increased penalties for drug trafficking near public housing.
Sec. 417. Increased penalties for Travel Act crimes involving violence and conspiracy to commit contract killings.
Sec. 418. Amendments concerning records of crimes committed by juveniles.
Sec. 419. Addition of anti-gang Byrne Grant funding objective.

Subtitle B—Gang Prosecution

Sec. 431. Additional prosecutors.
Sec. 432. Gang investigation coordination and information collection.
Sec. 433. Continuation of Federal-State funding formula.
Sec. 434. Grants for multijurisdictional drug task forces.

TITLE V—DRUG CONTROL AND RURAL CRIME

Subtitle A—Drug Trafficking in Rural Areas

Sec. 501. Authorizations for rural law enforcement agencies.
Sec. 502. Rural crime and drug enforcement task forces.
Sec. 503. Cross-designation of Federal officers.
Sec. 504. Rural drug enforcement training.

Subtitle B—Rural Drug Prevention and Treatment

Sec. 511. Rural substance abuse treatment and education grants.

Subtitle C—Rural Areas Enhancement

Sec. 521. Asset forfeiture.
Sec. 522. Prosecution of clandestine laboratory operators.

Subtitle D—Chemical Control

Sec. 531. Short title.
Sec. 532. Definition amendments.
Sec. 533. Registration requirements.
Sec. 534. Reporting of listed chemical manufacturing.
Sec. 535. Reports by brokers and traders; criminal penalties.
Sec. 536. Exemption authority; additional penalties.
Sec. 537. Amendments to list I.
Sec. 538. Elimination of regular supplier status and creation of regular importer status.
Sec. 539. Administrative inspections and authority.
Sec. 540. Threshold amounts.
Sec. 541. Management of listed chemicals.
Sec. 542. Forfeiture expansion.
Sec. 543. Attorney General access to the national practitioner data bank.
Sec. 544. Regulations and effective date.

Subtitle E—Personnel

Sec. 551. More agents for the Drug Enforcement Administration.
Sec. 552. Adequate staffing of the Office of National Drug Policy.

TITLE VI—PUNISHMENT AND DETERRENCE

Subtitle A—Death Penalty

Sec. 601. Short title.
Sec. 602. Death penalty procedures.
Sec. 603. Conforming amendment relating to destruction of aircraft or aircraft facilities.
Sec. 604. Conforming amendment relating to espionage.
Sec. 605. Conforming amendment relating to transporting explosives.
Sec. 606. Conforming amendment relating to malicious destruction of Federal property by explosives.
Sec. 607. Conforming amendment relating to malicious destruction of interstate property by explosives.
Sec. 608. Conforming amendment relating to murder.
Sec. 609. Conforming amendment relating to killing official guests or internationally protected persons.
Sec. 610. Murder by Federal prisoner.
Sec. 611. Conforming amendment relating to kidnapping.
Sec. 612. Conforming amendment relating to hostage taking.
Sec. 613. Conforming amendment relating to mailability of injurious articles.
Sec. 614. Conforming amendment relating to Presidential assassination.
Sec. 615. Conforming amendment relating to murder for hire.
Sec. 616. Conforming amendment relating to violent crimes in aid of racketeering activity.
Sec. 617. Conforming amendment relating to wrecking trains.
Sec. 618. Conforming amendment relating to bank robbery.
Sec. 619. Conforming amendment relating to terrorist acts.
Sec. 620. Conforming amendment relating to aircraft hijacking.
Sec. 621. Conforming amendment to Controlled Substances Act.
Sec. 622. Conforming amendment relating to genocide.
Sec. 623. Protection of court officers and jurors.
Sec. 624. Prohibition of retaliatory killings of witnesses, victims, and informants.
Sec. 625. Death penalty for murder of Federal law enforcement officers.
Sec. 626. Death penalty for murder of State or local law enforcement officers assisting Federal law enforcement officers.
Sec. 627. Implementation of the 1988 protocol for the suppression of unlawful acts of violence at airports serving international civil aviation.
Sec. 628. Amendment to Federal Aviation Act.
Sec. 629. Offenses of violence against maritime navigation or fixed platforms.
Sec. 630. Torture.
Sec. 631. Weapons of mass destruction.
Sec. 632. Homicides and attempted homicides involving firearms in Federal facilities.
Sec. 633. Death penalty for civil rights murders.
Sec. 634. Death penalty for murder of Federal witnesses.
Sec. 635. Drive-by shootings.
Sec. 636. Death penalty for gun murders during Federal crimes of violence and drug trafficking crimes.
Sec. 637. Death penalty for rape and child molestation murders.
Sec. 638. Protection of jurors and witnesses in capital cases.
Sec. 639. Inapplicability to Uniform Code of Military Justice.
Sec. 640. Death penalty for causing death in the sexual exploitation of children.
Sec. 641. Murder by escaped prisoners.
Sec. 642. Death penalty for murders in the District of Columbia.

Subtitle B—Equal Justice Act

Sec. 651. Short title.
Sec. 652. Prohibition of racially discriminatory policies concerning capital punishment or other penalties.
Sec. 653. General safeguards against racial prejudice or bias in the tribunal.
Sec. 654. Federal capital cases.
Sec. 655. Extension of protection of civil rights statutes.

Subtitle C—Enhanced Penalties for Criminal Use of Firearms and Explosives

Sec. 661. Smuggling firearms in aid of drug trafficking.
Sec. 662. Prohibition against theft of firearms or explosives.
Sec. 663. Increased penalty for knowingly false, material statement in connection with the acquisition of a firearm from a licensed dealer.
Sec. 664. Summary destruction of explosives subject to forfeiture.
Sec. 665. Elimination of outmoded language relating to parole.
Sec. 666. Receipt of firearms by nonresident.
Sec. 667. Prohibition of theft of firearms or explosives from licensee.
Sec. 668. Increased penalty for interstate gun trafficking.
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TITLE VII—ELIMINATION OF DELAYS IN CARRYING OUT SENTENCES

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Sec. 701. Short title.
Sec. 702. Period of limitation.
Sec. 703. Appeal.
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TITLE VIII—PREVENTION OF TERRORISM

Subtitle A—Penalties and Offenses

Sec. 801. Providing material support to terrorism.
Sec. 802. Enhanced penalties for certain offenses.
Sec. 803. Sentencing guidelines increase for terrorist crimes.
Sec. 804. Extension of the statute of limitations for certain terrorism offenses.
Sec. 805. Forfeiture of assets used to support terrorists.
Sec. 806. Alien witness cooperation.
Sec. 807. Territorial sea extending to 12 miles included in special maritime and territorial jurisdiction.
Sec. 808. Assimilated crimes in extended territorial sea.
Sec. 809. Jurisdiction over crimes against United States nationals on certain foreign ships.
Sec. 810. Penalties for international terrorist acts.

Sec. 811. Authorization of appropriations.
Sec. 812. International parental kidnapping.
Sec. 813. Foreign murder of United States nationals.
Sec. 814. Extradition.
Sec. 815. FBI access to telephone subscriber information.

Subtitle B—Removal of Alien Terrorists

Sec. 821. Removal of alien terrorists.

Subtitle C—Enhanced Entry Controls

Sec. 831. Admissions fraud.
Sec. 832. Inspection and exclusion by immigration officers.
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TITLE IX—VICTIMS' RIGHTS AND CHILD ABUSE

Subtitle A—Victims' Rights

Sec. 901. Restitution amendments.
Sec. 902. Right of the victim to an impartial jury.
Sec. 903. Mandatory restitution and other provisions.

Subtitle B—National Child Protection Act

Sec. 911. Short title.
Sec. 912. Findings and purposes.
Sec. 913. Definitions.
Sec. 914. Reporting by the States.
Sec. 915. Background checks.
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Subtitle C—Jacob Wetterling Crimes Against Children Registration Act

Sec. 921. Short title.
Sec. 922. Establishment of program.
Sec. 923. State compliance.

TITLE X—VIOLENT CRIMES AND LAW ENFORCEMENT SUPPORT

Subtitle A—Violent Crimes

Sec. 1001. Addition of attempted robbery, kidnapping, smuggling, and property damage offenses to eliminate inconsistencies and gaps in coverage.
Sec. 1002. Increase in maximum penalty for assault.
Sec. 1003. Increased maximum penalty for manslaughter.
Sec. 1004. Increased penalty for Travel Act violations.
Sec. 1005. Increased penalty for conspiracy to commit murder for hire.
Sec. 1006. Federal penalties for carjacking.
Sec. 1007. Increased mandatory minimum sentences for criminals using firearms.
Sec. 1008. Life imprisonment without release for criminals convicted a third time.

Subtitle B—National Commission to Support Law Enforcement

Sec. 1021. Short title.
Sec. 1022. Findings.
Sec. 1023. Establishment of Commission.
Sec. 1024. Duties.
Sec. 1025. Membership.
Sec. 1026. Experts and consultants.
Sec. 1027. Powers of Commission.
Sec. 1028. Report.
Sec. 1029. Termination.
Sec. 1030. Authorization of appropriations.
Sec. 1031. Repeals.

TITLE XI—CIVIL RIGHTS OFFENSES

Sec. 1101. Increased maximum penalties for civil rights violations.

TITLE XII—PUBLIC CORRUPTION

Sec. 1201. Short title.
Sec. 1202. Public corruption.
Sec. 1203. Interstate commerce.
Sec. 1204. Narcotics-related public corruption.

TITLE XIII—FUNDING

Sec. 1301. Reduction in overhead costs incurred in federally sponsored research.
Sec. 1302. Overhead expense reduction.
Sec. 1303. Funding of programs authorized by this Act.

TITLE I—SAFE STREETS

Subtitle A—Police

CHAPTER 1—DEFENSE CONVERSION

SEC. 101. DEFINITION.

In this chapter, "former member of the Armed Forces" means a member of the Armed Forces of the United States who is involuntarily separated from the Armed Forces within the meaning of section 1141 of title 10, United States Code.

SEC. 102. AMERICA'S SAFE STREETS PROGRAM.

(a) PROGRAM ESTABLISHMENT.—

(1) AMERICA'S SAFE STREETS PROGRAM.—The program established by this section shall be referred to as "America's Safe Streets Program".

(2) AGREEMENTS.—The Attorney General, in consultation with the Secretary of Defense, may enter into an agreement with a State or local law enforcement agency to pay, and may pay, for a period of 6 years, including any required periods of training, the salaries of former members of the Armed Forces who are hired within 5 years after the date of enactment of this Act as police officers assigned to neighborhood patrol duties.

(b) AMOUNT.—

(1) MAXIMUM.—(A) The maximum Federal share of an annual salary for the first 3 years that a police officer may be paid under an agreement described in subsection (a) is the annual salary earned by the officer during his or her last year as a member of the Armed Forces.

(B) The maximum Federal share of an annual salary for the 4th through 6th years that a police officer may be paid under an agreement described in subsection (a) is 50 percent of the annual salary earned by the officer during his or her last year as a member of the Armed Forces.

(2) ENTRY LEVEL.—To the extent that it is practicable to do so, a State or local law enforcement agency shall hire a former member of the Armed Forces whose salary is to be paid under an agreement described in subsection (a) at a level of seniority, in consideration of the former member's years of service and training as a member of the Armed Forces, that will permit the former member to be paid at least the maximum amount of annual salary under paragraph (1).

(3) PRIORITY.—In making awards under this section, the Attorney General may give priority to agencies located in communities that are adversely affected by the recent closing of a military base or facility.

(4) FORMULA.—In making awards under this section, the Attorney General shall insure that no State receives less than .50 percent of the funds appropriated under this section.

(c) ENLARGEMENT OF POLICE FORCE.—It shall be a condition to payment of salaries under an agreement described in subsection (a) that the number of police officers assigned to neighborhood patrol duties (not including any officers whose salaries in whole or in part are paid under this title), and the size of the law enforcement agency's staff overall, shall not be diminished during the term of the agreement.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out the program authorized by this section—

(1) $100,000,000 for fiscal year 1994;

(2) $125,000,000 for fiscal year 1995;

(3) $175,000,000 for fiscal year 1996;

(4) $200,000,000 for fiscal year 1997; and

(5) $200,000,000 for fiscal year 1998.

CHAPTER 2—COPS ON THE STREET

SEC. 111. SHORT TITLE.

This chapter may be cited as the "Cops on the Street Act of 1993".

SEC. 112. ENHANCED LOCAL LAW ENFORCEMENT.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended—

(1) by redesignating part Q as part R;

(2) by redesignating section 1701 as section 1801; and

(3) by inserting after part P the following:

"PART Q—COPS ON THE STREET GRANTS

"SEC. 1701. GRANT AUTHORIZATION.

"The Director of the Bureau of Justice Assistance may make not less than 50, but not more than 100 grants to units of local government for the purposes of increasing police presence in the community. The Director shall take steps to ensure, to the extent practicable, that each State receives at least 1 grant.

"SEC. 1702. APPLICATION.

"(a) IN GENERAL.—To be eligible to receive a grant under this part, a chief executive of a unit of local government, shall submit an application to the Director. The application shall contain the information required under subsection (b) and be in such form and contain such other information as the Director may reasonably require.

"(b) GENERAL CONTENTS.—Each application under subsection (a) shall include—

"(1) a request for funds available under this part for the purposes described in section 1701;

"(2) a description of the areas and populations to be served by the grant and a description of the crime problems within the areas targeted for assistance;

"(3) information required to be considered by the Director under section 1704;

"(4) assurances that Federal funds received under this part shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this part;

"(5) detailed accounts of expenditures for law enforcement for the preceding 5-year period prior to receiving a grant under this part;

"(6) detailed accounts of local expenditures for law enforcement during any prior years in which grants were received under this part; and

"(7) a description of how a portion of the grant would be used to ensure the safety of public and private elementary and secondary schools.

"SEC. 1703. ADMINISTRATIVE COSTS; GRANT RENEWAL.

"(a) ADMINISTRATIVE COST LIMITATION.—The Director shall use not more than 5 percent of the funds available under this part for the purposes of administration, technical assistance, and evaluation.

"(b) RENEWAL OF GRANTS.—A grant under this part may be renewed, subject to the availability of funds, if the Director determines that the funds made available to the recipient during the previous year were used in a manner required under the approved application and the requirements of this part.

"SEC. 1704. SELECTION OF RECIPIENTS.

"In awarding grants to units of local government under this part, the Director shall consider—

"(1) the crime rate per capita in the unit of local government for violent crime, including murder, rape, robbery, assault with a weapon, and kidnapping; and

"(2) the rate of increase of violent crime in such unit of local government over the most recent 3-year period for which statistics are available.

"SEC. 1705. REPORTS.

"(a) REPORT TO DIRECTOR.—Recipients who receive funds under this part shall submit to the Director not later than March 1 of each year a report that describes progress achieved in carrying out the plan required under section 1702(c).

"(b) REPORT TO CONGRESS.—The Director shall submit to the Congress a report by October 1 of each year that shall contain a detailed statement regarding grant awards, activities of grant recipients, and an evaluation of projects established under this part.

"SEC. 1706. DEFINITION.

"For the purposes of this part, the term 'Director' means the Director of the Bureau of Justice Assistance.".

(b) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by striking the matter relating to part Q and inserting the following:

"PART Q—COPS ON THE STREET GRANTS

"Sec. 1701. Grant authorization.
"Sec. 1702. Application.
"Sec. 1703. Allocation of funds; limitation on grants.
"Sec. 1704. Award of grants.
"Sec. 1705. Reports.
"Sec. 1706. Definition.

"PART R—TRANSITION; EFFECTIVE DATE; REPEALER

"Sec. 1801. Continuation of rules, authorities, and proceedings.".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793) is amended—

(1) in paragraph (3) by striking "and O" and inserting "O, P, and Q"; and

(2) by adding at the end the following new paragraph:

"(11) There are authorized to be appropriated to carry out projects under part Q—

"(A) $100,000,000 for fiscal year 1994;
"(B) $100,000,000 for fiscal year 1995;
"(C) $150,000,000 for fiscal year 1996;
"(D) $150,000,000 for fiscal year 1997; and
"(E) $150,000,000 for fiscal year 1998.".

CHAPTER 3—POLICE CORPS PROGRAM

SEC. 121. PURPOSES.

The purposes of this chapter are to—

(1) address violent crime in urban and rural areas by increasing the number of police with advanced education and training on community patrol; and

(2) provide educational assistance to law enforcement personnel and to students who possess a sincere interest in public service in the form of law enforcement.

SEC. 122. DEFINITIONS.

In this chapter—

"academic year" means a traditional academic year beginning in August or September and ending in the following May or June.

"dependent child" means a natural or adopted child or stepchild of a law enforcement officer who at the time of the officer's death—

(1) was no more than 21 years old; or

(2) if older than 21 years, was in fact dependent on the child's parents for at least one-half of the child's support (excluding educational expenses), as determined by the Director.

"Director" means the Director of the Office of the Police Corps and Law Enforcement Education appointed under section 123.

"educational expenses" means expenses that are directly attributable to—

(1) a course of education leading to the award of the baccalaureate degree in legal- or criminal justice-related studies; or

(2) a course of graduate study legal or criminal justice studies following award of a baccalaureate degree,

including the cost of tuition, fees, books, supplies, transportation, room and board and miscellaneous expenses.

"institution of higher education" has the meaning stated in the first sentence of section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

"participant" means a participant in the Police Corps program selected pursuant to section 126.

"State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands.

"State Police Corps program" means a State police corps program approved under section 138.

SEC. 123. ESTABLISHMENT OF OFFICE OF THE POLICE CORPS AND LAW ENFORCEMENT EDUCATION.

(a) ESTABLISHMENT.—There is established in the Department of Justice, under the general authority of the Attorney General, an Office of the Police Corps.

(b) APPOINTMENT OF DIRECTOR.—The Office of the Police Corps and Law Enforcement Education shall be headed by a Director who shall be appointed by the President, by and with the advice and consent of the Senate.

(c) RESPONSIBILITIES OF DIRECTOR.—The Director shall be responsible for the administration of the Police Corps program established in this chapter and shall have authority to promulgate regulations to implement this chapter.

SEC. 124. DESIGNATION OF LEAD AGENCY AND SUBMISSION OF STATE PLAN.

(a) LEAD AGENCY.—A State that desires to participate in the Police Corps program shall designate a lead agency that will be responsible for—

(1) submitting to the Director a State plan described in subsection (b); and

(2) administering the program in the State.

(b) STATE PLANS.—A State plan shall—

(1) contain assurances that the lead agency shall work in cooperation with the local law enforcement liaisons, representatives of police management organizations, and other appropriate State and local agencies to develop and implement interagency agreements designed to carry out the program;

(2) contain assurances that the State shall advertise the assistance available under this chapter;

(3) contain assurances that the State shall screen and select law enforcement personnel for participation in the program;

(4) if the State desires to participate in the Police Corps program, meet the requirements of section 128; and

(5) demonstrate that the State has the capacity to employ the participants in the Police Corps program from that State.

SEC. 125. SCHOLARSHIP ASSISTANCE.

(a) SCHOLARSHIPS AUTHORIZED.—(1) The Director may award scholarships to participants who agree to work in a State or local police force in accordance with agreements entered into pursuant to subsection (d).

(2)(A) Except as provided in subparagraph (B) each scholarship payment made under this section for each academic year shall not exceed the lesser of—

(i) $7,500; or

(ii) the cost of the educational expenses related to attending an institution of higher education.

(B) In the case of a participant who is pursuing a course of educational study during substantially an entire calendar year, the amount of scholarship payments made during such year shall not exceed $10,000.

(C) The total amount of scholarship assistance received by any 1 student under this section shall not exceed $30,000.

(3) Recipients of scholarship assistance under this section shall continue to receive such scholarship payments only during such periods as the Director finds that the recipient is maintaining satisfactory progress as determined by the institution of higher education the recipient is attending.

(4)(A) The Director shall make scholarship payments under this section directly to the institution of higher education that the student is attending.

(B) Each institution of higher education receiving a payment on behalf of a participant pursuant to subparagraph (A) shall remit to such student any funds in excess of the costs of tuition, fees, and room and board payable to the institution.

(b) REIMBURSEMENT AUTHORIZED.—(1) The Director may make payments to a participant to reimburse such participant for the costs of educational expenses if such student agrees to work in a State or local police force in accordance with the agreement entered into pursuant to subsection (d).

(2)(A) Each payment made pursuant to paragraph (1) for each academic year of study shall not exceed—

(i) $7,500; or

(ii) the cost of educational expenses related to attending an institution of higher education.

(B) In the case of a participant who is pursuing a course of educational study during substantially an entire calendar year, the amount of scholarship payments made during such year shall not exceed $10,000.

(C) The total amount of payments made pursuant to subparagraph (A) to any 1 student shall not exceed $30,000.

(c) USE OF SCHOLARSHIP.—Scholarships awarded under this subsection shall only be used to pay educational expenses incurred while in attendance at an institution of higher education—

(1) in a course of education leading to the award of a baccalaureate degree in the area of legal or criminal justice related studies, including attendance at such an institution that does not itself award such a degree if the courses taken there are acceptable for credit toward a degree at an institution that does award such a degree, and including, in the discretion of the Director, such expenses incurred prior to enrollment in the Police Corps program; and

(2) for graduate and professional study.

(d) AGREEMENT.—(1) Each participant receiving a scholarship or a payment under this section shall enter into an agreement with the Director. Each such agreement shall contain assurances that the participant shall—

(A) after successful completion of a baccalaureate program, work for 4 years in a State or local police force without there having arisen sufficient cause for the participant's dismissal under the rules applicable to members of the police force of which the participant is a member;

(B) complete satisfactorily an educational course of study and receipt of a baccalaureate degree (in the case of undergraduate study) or the reward of credit to the participant for having completed one or more graduate courses (in the case of graduate study); and

(C) repay all of the scholarship or payment received plus interest at the rate of 10 percent in the event that the conditions of subparagraphs (A) and (B) are not complied with.

(2)(A) A recipient of a scholarship or payment under this section shall not be considered in violation of the agreement entered into pursuant to paragraph (1) if the recipient—

(i) dies; or

(ii) becomes permanently and totally disabled as established by the sworn affidavit of a qualified physician.

(B) The Director shall expeditiously seek repayment from participants who violate the agreement described in paragraph (1).

(e) DEPENDENT CHILD.—A dependent child of a law enforcement officer—

(1) who is a member of a State or local police force or is a Federal criminal investigator or uniformed police officer,

(2) who is not a participant in the Police Corps program, but

(3) who serves in a State for which the Director has approved a Police Corps plan, and

(4) who is killed in the course of performing police duties,

shall be entitled to the scholarship assistance authorized in this section for any course of study in any institution of higher education. Such dependent child shall not incur any repayment obligation in exchange for the scholarship assistance provided in this section.

(f) GROSS INCOME.—For purposes of section 61 of the Internal Revenue Code of 1986, a participant's or dependent child's gross income shall not include any amount paid as scholarship assistance under this section.

(g) APPLICATION.—Each participant desiring a scholarship or payment under this section shall submit an application as prescribed by the Director in such manner and accompanied by such information as the Director may reasonably require.

SEC. 126. SELECTION OF PARTICIPANTS.

(a) IN GENERAL.—Participants in State Police Corps programs shall be selected on a competitive basis by each State under regulations prescribed by the Director. A State may only select as many participants as State police or local law enforcement agencies are willing to accept and are capable of accepting. A State shall certify that for each participant selected, a State police or local law enforcement agency has agreed to accept a participant.

(b) SELECTION CRITERIA AND QUALIFICATIONS.—(1) In order to participate in a State Police Corps program, a participant shall—

(A) be a citizen of the United States;

(B) meet the requirements for admission as a trainee of the State or local police force to which the participant will be assigned pursuant to the State Police Corps plan, including achievement of satisfactory scores on any applicable examination, except that failure to meet the age requirement for a trainee of the State or local police shall not disqualify the applicant if the applicant will be of sufficient age upon completing an undergraduate course of study;

(C) possess the necessary mental and physical capabilities and emotional characteristics to discharge effectively the duties of a law enforcement officer;

(D) be of good character and demonstrate sincere motivation and dedication to law enforcement and public service;

(E) in the case of an undergraduate, agree in writing that the participant will complete an educational course of study leading to the award of a baccalaureate degree in law- or criminal justice-related studies and will then accept an appointment and complete 4 years of service as an officer in the State police or in a local police department within the State;

(F) in the case of a participant desiring to undertake or continue graduate study in law- or criminal justice-related studies, agree in writing that the participant will accept an appointment and complete 4 years of service as an officer in the State police or in a local police department within the State before undertaking or continuing graduate study;

(G) contract, with the consent of the participant's parent or guardian if the participant is a minor, to serve for 4 years as an officer in the State police or in a local police department, if an appointment is offered; and

(H) except as provided in paragraph (2), be without previous law enforcement experience; and

(2)(A) Until the date that is 5 years after the date of enactment of this Act, up to 10 percent of the applicants accepted into the Police Corps program may be persons who—

(i) have had some law enforcement experience; and

(ii) have demonstrated special leadership potential and dedication to law enforcement.

(B)(i) The prior period of law enforcement of a participant selected pursuant to subparagraph (A) shall not be counted toward satisfaction of the participant's 4-year service obligation under section 127, and such a participant shall be subject to the same benefits and obligations under this subtitle as other participants, including those stated in paragraph (1) (E) and (F).

(ii) Clause (i) shall not be construed to preclude counting a participant's previous period of law enforcement experience for purposes other than satisfaction of the requirements of section 127, such as for purposes of determining such a participant's pay and other benefits, rank, and tenure.

(3) It is the intent of this chapter that there shall be no more than 20,000 participants in each graduating class. The Director shall approve State plans providing in the aggregate for such enrollment of applicants as shall ensure, as nearly as possible, that there will be annual graduating classes of 20,000. Each State shall be entitled to at least 250 participants. In a year in which applications are received in a number greater than that which will produce, in the judgment of the Director, a graduating class of more than 20,000, the Director shall, in deciding which applications to grant, give preference to those who will be participating in State plans that provide law enforcement personnel to urban and rural areas of greatest need.

(c) RECRUITMENT OF MINORITIES.—Each State participating in the Police Corps program shall make special efforts to seek and recruit qualified applicants from among members of all racial, ethnic or gender groups. This subsection does not authorize an exception from the competitive standards for admission established pursuant to subsections (a) and (b).

(d) ENROLLMENT OF APPLICANT.—(1) An applicant shall be accepted into a State Police Corps program on the condition that the applicant will be matriculated in, or accepted for admission at, an institution of higher education—

(A) as a full-time student in an undergraduate program leading to the award of a baccalaureate degree; or

(B) for purposes of taking a graduate or professional course.

(2) If the applicant is not matriculated or accepted as set forth in paragraph (1), the applicant's acceptance in the program shall be revoked.

(e) LEAVE OF ABSENCE.—(1) A participant in a State Police Corps program who requests a leave of absence from educational study, training or service for a period not to exceed 1 year (or 18 months in the aggregate in the event of multiple requests) due to temporary physical or emotional disability shall be granted such leave of absence by the State.

(2) A participant who requests a leave of absence from educational study, training or service for a period not to exceed 1 year (or 18 months in the aggregate in the event of multiple requests) for any reason other than those listed in paragraph (1) may be granted such leave of absence by the State.

(3) A participant who requests a leave of absence from educational study or training for a period not to exceed 30 months to serve on an official church mission may be granted such leave of absence.

(f) ADMISSION OF APPLICANTS.—An applicant may be admitted into a State Police Corps program either before commencement of or during the applicant's course of educational study.

SEC. 127. SERVICE OBLIGATION.

(a) SWEARING IN.—Upon completing satisfactorily the participant's course of education and meeting the requirements of the police force to which the participant is assigned, a participant shall be sworn in as a member of the police force to which the participant is assigned pursuant to the State Police Corps plan, and shall serve for 4 years as a member of that police force.

(b) RIGHTS AND RESPONSIBILITIES.—A participant shall have all of the rights and responsibilities of and shall be subject to all rules and regulations applicable to other members of the police force of which the participant is a member, including those contained in applicable agreements with labor organizations and those provided by State and local law.

(c) DISCIPLINE.—If the police force of which the participant is a member subjects the participant to discipline such as would preclude the participant's completing 4 years of service, and result in denial of educational assistance under section 125, the Director may, upon a showing of good cause, permit the participant to complete the service obligation in an equivalent alternative law enforcement service and, if such service is satisfactorily completed, section 125(d)(1)(C) shall not apply.

(d) LAYOFFS.—If the police force of which the participant is a member lays off the participant such as would preclude the participant's completing 4 years of service, and result in denial of educational assistance under section 125, the Director may permit the participant to complete the service obligation in an equivalent alternative law enforcement service and, if such service is satisfactorily completed, section 125(d)(1)(C) shall not apply.

SEC. 128. STATE PLAN REQUIREMENTS.

A State Police Corps plan shall—

(1) provide for the screening and selection of participants in accordance with the criteria set out in section 126;

(2) state procedures governing the assignment of participants in the Police Corps program to State and local police forces (no more than 10 percent of all the participants assigned in each year by each State to be assigned to a statewide police force or forces);

(3) provide that participants shall be assigned to those geographic areas in which—

(A) there is the greatest need for additional law enforcement personnel; and

(B) the participants will be used most effectively;

(4) provide that to the extent consistent with paragraph (3), a participant shall be assigned to an area near the participant's home or such other place as the participant may request;

(5) provide that to the extent feasible, a participant's assignment shall be made at the time the participant is accepted into the program, subject to change—

(A) prior to commencement of a participant's fourth year of undergraduate study, under such circumstances as the plan may specify; and

(B) from commencement of a participant's fourth year of undergraduate study until completion of 4 years of police service by participant, only for compelling reasons or to meet the needs of the State Police Corps program and only with the consent of the participant;

(6) provide that no participant shall be assigned to serve with a local police force—

(A) the size of which has declined by more than 5 percent during the preceding year; or

(B) which has members who have been laid off but not retired;

(7) provide that participants shall be placed and to the extent feasible kept on community and preventive patrol;

(8) assure that participants will receive effective training and leadership;

(9) provide that the State may decline to offer a participant an appointment or may remove a participant from the Police Corps program at any time, only for good cause (including failure to make satisfactory progress in a course of educational study) and after following reasonable review procedures stated in the plan;

(10) provide for the direct involvement of law enforcement officials in determining the number of participants and their assignments; and

(11) provide that a participant shall, while serving as a member of a police force, be compensated at the same rate of pay and benefits and enjoy the same rights under applicable agreements with labor organizations and under State and local law as other police officers of the same rank and tenure in the police force of which the participant is a member.

SEC. 129. REPORTS TO CONGRESS.

(a) ANNUAL REPORTS.—(1) Not later than April 1 of each year, the Director shall submit a report to the Attorney General, the President, the Speaker of the House of Representatives, and the President pro tempore of the Senate.

(2) The report described in paragraph (1) shall—

(A) state the number of current and past participants in the Police Corps program, categorized according to the levels of educational study in which they are engaged and years of service they have served on police forces (including service following completion of the 4-year service obligation); and

(B) describe the geographic dispersion of participants in the Police Corps program.

SEC. 130. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Department of Justice to carry out this chapter—

(1) $50,000,000 for fiscal year 1994;

(2) $100,000,000 for fiscal year 1995; and

(3) $100,000,000 for fiscal year 1996.

CHAPTER 4—COMMUNITY POLICING GRANTS

SEC. 141. COMMUNITY POLICING GRANTS.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 112(a), is amended—

(1) by redesignating part R as part S;

(2) by redesignating section 1801 as section 1901; and

(3) by inserting after part Q the following new part:

"PART R—COMMUNITY POLICING GRANTS

"SEC. 1801. GRANT AUTHORIZATION.

"(a) GRANT PROJECTS.—The Director of the Bureau of Justice Assistance may make grants to units of local government and to community groups to establish or expand cooperative efforts between police and a community for the purposes of increasing police presence in the community, including—

"(1) developing innovative neighborhood-oriented policing programs;

"(2) providing new technologies to reduce the amount of time officers spend processing cases instead of patrolling the community;

"(3) purchasing equipment to improve communications between officers and the community and to improve the collection, analysis, and use of information about crime-related community problems;

"(4) developing policies that reorient police emphasis from reacting to crime to preventing crime;

"(5) creating decentralized police substations throughout the community to encourage interaction and cooperation between the public and law enforcement personnel on a local level;

"(6) providing training and problem solving for community crime problems;

"(7) providing training in cultural differences for law enforcement officials;

"(8) developing community-based crime prevention programs, such as safety programs for senior citizens, community anticrime groups, and other anticrime awareness programs;

"(9) developing crime prevention programs in communities that have experienced a recent increase in gang-related violence; and

"(10) developing projects following the model under subsection (b).

"(b) MODEL PROJECT.—The Director shall develop a written model that informs community members regarding—

"(1) how to identify the existence of a drug or gang house;

"(2) what civil remedies, such as public nuisance violations and civil suits in small claims court, are available; and

"(3) what mediation techniques are available between community members and individuals who have established a drug or gang house in the community.

"SEC. 1802. APPLICATION.

"(a) IN GENERAL.—(1) To be eligible to receive a grant under this part, a chief executive of a unit of local government, a duly authorized representative of a combination of local governments within a geographic region, or a community group shall submit an application to the Director in such form and containing such information as the Director may reasonably require.

"(2) In an application under paragraph (1), a single office, or agency (public, private, or nonprofit) shall be designated as responsible for the coordination, implementation, administration, accounting, and evaluation of services described in the application.

"(b) GENERAL CONTENTS.—Each application under subsection (a) shall include—

"(1) a request for funds available under this part for the purposes described in section 1801;

"(2) a description of the areas and populations to be served by the grant; and

"(3) assurances that Federal funds received under this part shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this part.

"(c) COMPREHENSIVE PLAN.—Each application shall include a comprehensive plan that contains—

"(1) a description of the crime problems within the areas targeted for assistance;

"(2) a description of the projects to be developed;

"(3) a description of the resources available in the community to implement the plan together with a description of the gaps in the plan that cannot be filled with existing resources;

"(4) an explanation of how the requested grant shall be used to fill those gaps;

"(5) a description of the system the applicant shall establish to prevent and reduce crime problems; and

"(6) an evaluation component, including performance standards and quantifiable goals the applicant shall use to determine project progress, and the data the applicant shall collect to measure progress toward meeting project goals.

"SEC. 1803. ALLOCATION OF FUNDS; LIMITATIONS ON GRANTS.

"(a) ALLOCATION.—The Director shall allocate not less than 75 percent of the funds available under this part to units of local government or combinations of such units and not more than 20 percent of the funds available under this part to community groups. Each State shall receive at least .50 percent of the funds available under this part.

"(b) ADMINISTRATIVE COST LIMITATION.—The Director shall use not more than 5 percent of the funds available under this part for the purposes of administration, technical assistance, and evaluation.

"(c) RENEWAL OF GRANTS.—A grant under this part may be renewed for up to 2 additional years after the first fiscal year during which the recipient receives its initial grant, subject to the availability of funds, if the Director determines that the funds made available to the recipient during the previous year were used in a manner required under the approved application and if the recipient can demonstrate significant progress toward achieving the goals of the plan required under section 1802(c).

"(d) FEDERAL SHARE.—The Federal share of a grant made under this part may not exceed 75 percent of the total costs of the projects described in the application submitted under section 1802 for the fiscal year for which the projects receive assistance under this part.

"SEC. 1804. AWARD OF GRANTS.

"The Director shall consider the following factors in awarding grants to units of local government or combinations of such units under this part:

"(1) NEED AND ABILITY.—Demonstrated need and evidence of the ability to provide the services described in the plan required under section 1802(c).

"(2) COMMUNITY-WIDE RESPONSE.—Evidence of the ability to coordinate community-wide response to crime.

"(3) MAINTAIN PROGRAM.—The ability to maintain a program to control and prevent crime after funding under this part is no longer available.

"SEC. 1805. REPORTS.

"(a) REPORT TO DIRECTOR.—Recipients who receive funds under this part shall submit to the Director not later than March 1 of each year a report that describes progress achieved in carrying out the plan required under section 1802(c).

"(b) REPORT TO CONGRESS.—The Director shall submit to the Congress a report by October 1 of each year containing—

"(1) a detailed statement regarding grant awards and activities of grant recipients; and

"(2) an evaluation of projects established under this part.

"SEC. 1806. DEFINITIONS.

"In this part—

"'community group' means a community-based nonprofit organization that has a primary purpose of crime prevention.

"'Director' means the Director of the Bureau of Justice Assistance.".

(b) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 112(b), is amended by striking the matter relating to part R and inserting the following:

"PART R—COMMUNITY POLICING GRANTS

"Sec. 1801. Grant authorization.
"Sec. 1802. Application.
"Sec. 1803. Allocation of funds; limitations on grants.
"Sec. 1804. Award of grants.
"Sec. 1805. Reports.
"Sec. 1806. Definitions.

"PART S—TRANSITION; EFFECTIVE DATE; REPEALER

"Sec. 1901. Continuation of rules, authorities, and proceedings.".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)), as amended by section 112(c), is amended—

(1) in paragraph (3) by striking "and Q" and inserting "Q and R"; and

(2) by adding at the end the following new paragraph:

"(12) There are authorized to be appropriated to carry out projects under part R $60,000,000 for each of fiscal years 1994, 1995, 1996, 1997, and 1998.".

CHAPTER 5—IMPROVED TRAINING AND TECHNICAL AUTOMATION

SEC. 151. GRANTS.

(a) IN GENERAL.—The Attorney General shall make grants to units of State and local law enforcement for the purposes of improving law enforcement agency efficiency through computerized automation and technological improvements.

(b) TYPES OF PROGRAMS.—Grants under this section may include programs to—

(1) increase use of mobile digital terminals;

(2) improve communications systems;

(3) accomplish paper-flow reduction;

(4) establish or improve ballistics identification programs; and

(5) increase the application of automated fingerprint identification systems and their communications on an interstate and intrastate basis.

SEC. 152. TRAINING COURSES.

(a) IN GENERAL.—The Attorney General shall expand and improve investigative and managerial training courses for State and local law enforcement agencies.

(b) IMPROVEMENT OF FACILITIES.—The improvement described in subsection (a) shall include improvements of the training facilities of the Federal Bureau of Investigation Academy at Quantico, Virginia.

SEC. 153. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this chapter $100,000,000 for fiscal year 1994.

Subtitle B—Prisons

CHAPTER 1—REGIONAL PRISONS FOR VIOLENT CRIMINALS AND VIOLENT CRIMINAL ALIENS

SEC. 161. DEFINITIONS.

In this chapter—

"child abuse offense" means an offense under Federal or State law that constitutes sexual exploitation of children or selling or buying of children within the meaning of chapter 110 of title 18, United States Code.

"firearm offense" means an offense under Federal or State law committed while the offender is in possession of a firearm or while an accomplice of the offender, to the knowledge of the offender, is in possession of a firearm.

"crime of violence" means a felony offense under Federal or State law that is a crime of violence within the meaning of section 16 of title 18, United States Code.

"qualifying prisoner" means—

(A) an alien who is in this country illegally or unlawfully and who has been convicted of a crime of violence (as defined in section 924(c)(3) of title 18, United States Code) or a serious drug offense (as defined in section 924(e)(2)(A) of title 18, United States Code); and

(B) a violent criminal.

"sex offense" means an offense under Federal or State law that constitutes aggravated sexual abuse, sexual abuse, sexual abuse of a minor or ward, or abusive sexual contact within the meaning of chapter 109A of title 18, United States Code.

"violent criminal"—

(A) means a person convicted under Federal law of an offense described in, under the circumstances described in, the provisions of section 924 (c) or (e) of title 18 or section 994(h) of title 28, United States Code, or under State law for the same or a similar offense; and

(B) insofar as any of the circumstances described in an offense described in subparagraph (A) is the prior conviction of an offense, includes a person who had been adjudicated as a juvenile delinquent by reason of the commission of an act that, if committed by an adult, would constitute such an offense.

SEC. 162. CONSTRUCTION OF PRISONS.

The Attorney General shall construct a minimum of 10 regional prisons, situated throughout the United States, each containing space for at least 2,500 inmates. At least 50 percent of the overall capacity of such prisons in the aggregate shall be dedicated to qualifying prisoners from qualifying States.

SEC. 163. ACCEPTANCE OF PRISONERS.

Any qualifying State may apply to the Attorney General to accept any qualifying prisoner. If, in the Attorney General's judgment there are likely to be more qualifying prisoners than there is space available, then to the extent that the Attorney General deems it practicable, the Attorney General should seek to allocate space among qualifying States in a proportion similar to the number of qualifying prisoners held by that State in relation to the total number of qualifying prisoners from qualifying States.

SEC. 164. QUALIFYING STATE.

(a) IN GENERAL.—The Attorney General shall not certify a State as a qualifying State under this chapter unless the State is providing—

(1) truth in sentencing with respect to any crime of violence that is consistent with that provided in the Federal system in chapter 229 of title 18, United States Code, which provides that defendants will serve at least 85 percent of the sentence ordered and which provides for a binding sentencing guideline system in which sentencing judges' discretion is limited to ensure greater uniformity in sentencing;

(2) pretrial detention similar to that provided in the Federal system under section 3142 of title 18, United States Code;

(3) sentences for firearm offenders, violent criminals, sex offenders, and child abuse offenders that, after application of relevant sentencing guidelines, result in the imposition of sentences that are at least as long as those imposed under Federal law (after application of relevant sentencing guidelines); and

(4) suitable recognition for the rights of victims, including consideration of the victim's perspective at all appropriate stages of criminal proceedings.

(b) DISQUALIFICATION.—The Attorney General shall withdraw a State's status as a qualifying State if the Attorney General finds that the State no longer appropriately provides for the matters described in subsection (a) or has ceased making substantial progress toward attaining them, in which event the State shall no longer be entitled to the benefits of this chapter, except to the extent the Attorney General otherwise directs.

(c) WAIVER.—The Attorney General may waive any of the requirements of this section with respect to a particular State if the Attorney General certifies that, in the Attorney General's judgment, there are compelling law enforcement reasons for doing so. Any State granted any such waiver shall be treated as a qualifying State for all purposes of this chapter, unless the Attorney General otherwise directs.

SEC. 165. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this chapter—

(1) $200,000,000 for fiscal year 1994;

(2) $400,000,000 for fiscal year 1995;

(3) $400,000,000 for fiscal year 1996;

(4) $500,000,000 for fiscal year 1997; and

(5) $500,000,000 for fiscal year 1998.

CHAPTER 2—FEDERAL GRANTS FOR STATE PRISON CONSTRUCTION AND OPERATION

SEC. 171. DEFINITION.

In this chapter, "new prison" means—

(1) a prison or city or county detention facility, including an addition to an existing prison or city or county detention facility, certified by the State, and approved by the Attorney General, as providing additional prison capacity beyond that which the State previously had available or had already planned to construct; and

(2) a prison that is principally dedicated, as determined by the Attorney General, to housing repeat violent offenders and sex offenders.

SEC. 172. GRANTS.

The Attorney General may enter into agreements with any qualifying State to provide construction grants or operating grants for new prisons.

SEC. 173. CONSTRUCTION GRANTS.

The Attorney General may make construction grants for up to 50 percent of the construction costs, as approved by the Director of the Federal Bureau of Prisons, for new prisons.

SEC. 174. OPERATING GRANTS.

The Attorney General may make operating grants for up to 50 percent of the operating costs, as approved by the Director of the Federal Bureau of Prisons, for new prisons.

SEC. 175. CANCELING GRANTS.

The Attorney General may, in the Attorney General's sole discretion, cancel any construction grant or operating grant if the Attorney General finds that a State is using those funds to substitute for existing funds or to provide prison space that substitutes for existing prison space.

SEC. 176. DISTRIBUTION OF GRANTS.

The Attorney General shall ensure that each State receives no less than .50 percent of the funds made available under this chapter.

SEC. 177. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this chapter $200,000,000 for each of fiscal years 1994, 1995, 1996, 1997, and 1998, of which 50 percent shall be used for construction grants and 50 percent shall be used for operating grants, except that the Attorney General may alter those allocations if the Attorney General certifies that there are compelling law enforcement reasons for doing so.

CHAPTER 3—JUDICIAL REMEDIES FOR PRISON CROWDING

SEC. 181. PURPOSE.

The purpose of this chapter is to provide for reasonable and proper enforcement of the eighth amendment.

SEC. 182. FINDINGS.

The Congress finds that—

(1) the Federal courts are unreasonably endangering the community by issuing sweeping prison and jail cap orders as a remedy for detention conditions that they hold are in conflict with the eighth amendment; and

(2) eighth amendment holdings frequently are unjustified because of the absence of a plaintiff inmate who has proven that detention conditions inflict cruel and unusual punishment of that inmate.

SEC. 183. APPROPRIATE REMEDIES.

(a) AMENDMENT OF TITLE 18, UNITED STATES CODE.—Subchapter C of chapter 229 of part 2 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 3626. Appropriate remedies with respect to prison crowding

"(a) REQUIREMENT OF SHOWING WITH RESPECT TO THE PLAINTIFF IN PARTICULAR.—

"(1) HOLDING.—A Federal court shall not hold prison or jail crowding unconstitutional under the eighth amendment except to the extent that an individual plaintiff inmate proves that the crowding causes the infliction of cruel and unusual punishment of that inmate.

"(2) RELIEF.—The relief in a case described in paragraph (1) shall extend no further than necessary to remove the conditions that are causing the cruel and unusual punishment of the plaintiff inmate.

"(b) INMATE POPULATION CEILINGS.—

"(1) REQUIREMENT OF SHOWING WITH RESPECT TO PARTICULAR PRISONERS.—A Federal court shall not place a ceiling on the inmate population of any Federal, State, or local detention facility as an equitable remedial measure for conditions that violate the eighth amendment unless crowding is inflicting cruel and unusual punishment on particular identified prisoners.

"(2) RULE OF CONSTRUCTION.—Paragraph (1) shall not be construed to have any effect on Federal judicial power to issue equitable relief other than that described in paragraph (1), including the requirement of improved medical or health care and the imposition of civil contempt fines or damages, where such relief is appropriate.

"(c) PERIODIC REOPENING.—Each Federal court order seeking to remedy an eighth amendment violation shall be reopened at the behest of a defendant for recommended modification at a minimum of 2-year intervals.".

(b) APPLICATION OF AMENDMENT.—Section 3626 of title 18, United States Code, as added by paragraph (1), shall apply to all outstanding court orders on the date of enactment of this Act. Any State or municipality shall be entitled to seek modification of any outstanding eighth amendment decree pursuant to that section.

(c) TECHNICAL AMENDMENT.—The subchapter analysis for subchapter C of chapter 229 of title 18, United States Code, is amended by adding at the end the following new item:

"3626. Appropriate remedies with respect to prison crowding.".

(d) SUNSET PROVISION.—This chapter and the amendments made by this chapter are repealed effective as of the date that is 5 years after the date of enactment of this Act.

CHAPTER 4—SENTENCES TO ACCOUNT FOR COSTS TO THE GOVERNMENT OF IMPRISONMENT, RELEASE, AND PROBATION

SEC. 191. IMPOSITION OF SENTENCE.

Section 3572(a) of title 18, United States Code, is amended—

(1) by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively; and

(2) by inserting after paragraph (5) the following new paragraph:

"(6) the expected costs to the government of any imprisonment, supervised release, or probation component of the sentence;".

SEC. 192. DUTIES OF THE SENTENCING COMMISSION.

Section 994 of title 28, United States Code, is amended by adding at the end the following new subsection:

"(y) The Commission, in promulgating guidelines pursuant to subsection (a)(1), may include, as a component of a fine, the expected costs to the Government of any imprisonment, supervised release, or probation sentence that is ordered.".

TITLE II—SAFE SCHOOLS

SEC. 201. DEFINITION.

In this title, "former member of the Armed Forces" means a member of the Armed Forces of the United States who is involuntarily separated from the Armed Forces within the meaning of section 1141 of title 10, United States Code.

SEC. 202. AMERICA'S SAFE SCHOOLS PROGRAM.

(a) PROGRAM ESTABLISHMENT.—

(1) AMERICA'S SAFE SCHOOLS PROGRAM.—The program established by this section shall be referred to as "America's Safe Schools Program".

(2) AGREEMENTS.—The Secretary of Education, in consultation with the Secretary of Defense, may enter into an agreement with a local educational agency to pay, and may pay, for a period of 6 years, including any required periods of training, the salaries of former members of the Armed Forces who are hired within 5 years after the date of enactment of this Act as teachers assigned to public elementary and secondary schools.

(b) AMOUNT.—

(1) MAXIMUM.—(A) The maximum Federal share of an annual salary for the first 3 years that a teacher may be paid under an agreement described in subsection (a) is the annual salary earned by the teacher during his or her last year as a member of the Armed Forces.

(B) The maximum Federal share of an annual salary for the 4th through 6th years that a teacher may be paid under an agreement described in subsection (a) is 50 percent of the annual salary earned by the teacher during his or her last year as a member of the Armed Forces.

(2) ENTRY LEVEL.—To the extent that it is practicable to do so, a local educational agency shall hire a former member of the Armed Forces whose salary is to be paid under an agreement described in subsection (a) at a level of seniority, in consideration of the former member's years of service and training as a member of the Armed Forces, that will permit the former member to be paid at least the maximum amount of annual salary under paragraph (1).

(3) PRIORITY.—In making awards under this section the Attorney General may give priority to agencies located in communities that are adversely affected by the recent closing of a military base or facility.

(4) FORMULA.—The Attorney General shall ensure that each State receives no less than .50 percent of the funds made available under this title.

(c) ENLARGEMENT OF TEACHING STAFF.—It shall be a condition to payment of salaries under an agreement described in subsection (a) that the number of teachers in the public elementary and secondary schools in the school district served by the local educational agency (not including teachers whose salaries are paid in whole or in part under this title) shall not be diminished during the term of the agreement.

(d) PRIORITY FOR SAFE SCHOOL DISTRICTS.—The Secretary of Education shall give priority to school districts that have qualified as a safe school district under section 104 in entering into agreements under this section.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out the program authorized by this section $100,000,000 for each of fiscal years 1994, 1995, 1996, 1997, and 1998.

SEC. 203. FEDERAL SAFE SCHOOL DISTRICTS.

(a) ELECTION TO QUALIFY.—

(1) IN GENERAL.—By decision of a local educational agency or by referendum of the voters in a school district served by a local educational agency, a school district may elect to qualify as a Federal safe school district under this section.

(2) DEFINITION.—In this section, "local educational agency" has the meaning stated in section 1471 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891).

(b) FUNDING FOR ENHANCED SCHOOL SECURITY.—

(1) IN GENERAL.—The Attorney General may make a grant to a local educational agency serving a Federal safe school district or to a local law enforcement agency with jurisdiction over the school district, as appropriate, to pay for enhanced school security measures.

(2) ENHANCED SCHOOL SECURITY MEASURES.—The measures that may be funded by a grant under paragraph (1) include—

(A) equipping schools with metal detectors, fences, closed circuit cameras, and other physical security measures;

(B) providing increased police patrols in and around schools, including police hired pursuant to this title;

(C) mailings to parents at the beginning of the school year stating that the possession of a gun or other weapon in school will not be tolerated by school authorities;

(D) signs on each school indicating that the school is part of a Federal Safe School District; and

(E) gun hotlines.

(c) ENHANCED MANDATORY PENALTIES FOR DRUG TRAFFICKING AND WEAPONS OFFENSES.—

(1) APPLICATION OF FEDERAL LAW.—Notwithstanding any other provision of law, in a Federal safe school district—

(A) the offenses enacted by paragraph (2) shall apply;

(B) the United States attorney for the judicial district in which the school district is located shall prosecute as an adult any juvenile 16 years of age or older who uses or carries a firearm in or within 1,000 feet of a public or private elementary or secondary school.

(2) OFFENSES.—(A) Section 922 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(s) It shall be unlawful for—

"(1) a person who is less than 18 years of age; or

"(2) a person who is 18 years of age or older who does not have lawful authority to do so, to carry a firearm or otherwise cause a firearm to be transported into a public or private elementary or secondary school, or to possess a firearm within such a school, that is located within a school district that has elected to qualify as a Federal safe school district under section 203 of the Neighborhood Security Act of 1993.".

(B) Section 924 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(i)(1) A person who knowingly violates section 922(s) shall be fined under this title, imprisoned not more than 5 years, or both.

"(2) A person who knowingly violates section 922(s) by using a firearm shall be imprisoned for not more than 10 years.".

(C) The United States Sentencing Commission shall review and amend its sentencing guidelines to assign an offense level of at least 26 to a first offense under section 924(i)(2) of title 18, United States Code, as added by subparagraph (B).

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out the program authorized by this section $100,000,000 for each of fiscal years 1994, 1995, 1996, 1997, and 1998.

TITLE III—CRIMINAL ALIENS AND ALIEN SMUGGLING

Subtitle A—Deportation of Criminal Aliens

SEC. 301. DEPORTATION PROCEDURES FOR CERTAIN CRIMINAL ALIENS WHO ARE NOT PERMANENT RESIDENTS.

(a) ELIMINATION OF ADMINISTRATIVE HEARING FOR CERTAIN CRIMINAL ALIENS.—Section 242A of the Immigration and Nationality Act (8 U.S.C. 1252a) is amended by adding at the end the following new subsection:

"(c) DEPORTATION OF ALIENS WHO ARE NOT PERMANENT RESIDENTS.—

"(1) Notwithstanding section 242, and subject to paragraph (5), the Attorney General may issue a final order of deportation against any alien described in paragraph (2) whom the Attorney General determines to be deportable under section 241(a)(2)(A)(iii) (relating to conviction of an aggravated felony).

"(2) An alien is described in this paragraph if the alien—

"(A) was not lawfully admitted for permanent residence at the time that proceedings under this section commenced, or

"(B) had permanent resident status on a conditional basis (as described in section 216) at the time that proceedings under this section commenced.

"(3) The Attorney General may delegate the authority in this section to the Commissioner or to any District Director of the Service.

"(4) No alien described in this section shall be eligible for—

"(A) any relief from deportation that the Attorney General may grant in his discretion, or

"(B) relief under section 243(h).

"(5) The Attorney General may not execute any order described in paragraph (1) until 14 calendar days have passed from the date that such order was issued, in order that the alien has an opportunity to apply for judicial review under section 106.".

(b) LIMITED JUDICIAL REVIEW.—Section 106 of the Immigration and Nationality Act (8 U.S.C. 1105a) is amended—

(1) in the first sentence of subsection (a), by inserting "or pursuant to section 242A" after "under section 242(b)";

(2) in subsection (a)(1) and subsection (a)(3), by inserting "(including an alien described in section 242A)" after "aggravated felony"; and

(3) by adding at the end the following new subsection:

"(d) Notwithstanding subsection (c), a petition for review or for habeas corpus on behalf of an alien described in section 242A(c) may only challenge whether the alien is in fact an alien described in such section, and no court shall have jurisdiction to review any other issue.".

(c) TECHNICAL AMENDMENTS.—Section 242A of the Immigration and Nationality Act (8 U.S.C. 1252a) is amended—

(1) in subsection (a)—

(A) by striking "(a) IN GENERAL.—" and inserting the following:

"(b) DEPORTATION OF PERMANENT RESIDENT ALIENS.—

"(1) IN GENERAL.—"; and

(B) by inserting in the first sentence "permanent resident" after "correctional facilities for";

(2) in subsection (b)—

(A) by striking "(b) IMPLEMENTATION.—" and inserting "(2) IMPLEMENTATION.—"; and

(B) by striking "respect to an" and inserting "respect to a permanent resident";

(3) by striking subsection (c);

(4) in subsection (d)—

(A) by striking "(d) EXPEDITED PROCEEDINGS.—(1)" and inserting "(3) EXPEDITED PROCEEDINGS.—(A)";

(B) by inserting "permanent resident" after "in the case of any"; and

(C) by striking "(2)" and inserting "(B)";

(5) in subsection (e)—

(A) by striking "(e) REVIEW.—(1)" and inserting "(4) REVIEW.—(A)";

(B) by striking the second sentence; and

(C) by striking "(2)" and inserting "(B)";

(6) by inserting after the section heading the following new subsection:

"(a) PRESUMPTION OF DEPORTABILITY.—An alien convicted of an aggravated felony shall be conclusively presumed to be deportable from the United States."; and

(7) by amending the heading to read as follows:

"EXPEDITED DEPORTATION OF ALIENS CONVICTED OF COMMITTING AGGRAVATED FELONIES".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to all aliens against whom deportation proceedings are initiated after the date of enactment of this Act.

SEC. 302. JUDICIAL DEPORTATION.

(a) JUDICIAL DEPORTATION.—Section 242A of the Immigration and Nationality Act (8 U.S.C. 1252a) is amended by adding at the end the following new subsection:

"(d) JUDICIAL DEPORTATION.—

"(1) AUTHORITY.—Notwithstanding any other provision of this Act, a United States district court shall have jurisdiction to enter a judicial order of deportation at the time of sentencing against an alien whose criminal conviction causes such alien to be deportable under section 241(a)(2)(A)(iii) (relating to conviction of an aggravated felony), if such an order has been requested prior to sentencing by the United States Attorney with the concurrence of the Commissioner.

"(2) PROCEDURE.—

"(A) The United States Attorney shall provide notice of intent to request judicial deportation promptly after the entry in the record of an adjudication of guilt or guilty plea. Such notice shall be provided to the court, to the alien, and to the alien's counsel of record.

"(B) Notwithstanding section 242B, the United States Attorney, with the concurrence of the Commissioner, shall file at least 20 days prior to the date set for sentencing a charge containing factual allegations regarding the alienage of the defendant and satisfaction by the defendant of the definition of aggravated felony.

"(C) If the court determines that the defendant has presented substantial evidence to establish prima facie eligibility for relief from deportation under section 212(c), the Commissioner shall provide the court with a recommendation and report regarding the alien's eligibility for relief under such section. The court shall either grant or deny the relief sought.

"(D)(i) The alien shall have a reasonable opportunity to examine the evidence against him or her, to present evidence on his or her own behalf, and to cross-examine witnesses presented by the Government.

"(ii) The court, for the purposes of determining whether to enter an order described in paragraph (1), shall only consider evidence that would be admissible in proceedings conducted pursuant to section 242(b).

"(iii) Nothing in this subsection shall limit the information a court of the United States may receive or consider for the purposes of imposing an appropriate sentence.

"(iv) The court may order the alien deported if the Attorney General demonstrates by clear and convincing evidence that the alien is deportable under this Act.

"(3) NOTICE, APPEAL, AND EXECUTION OF JUDICIAL ORDER OF DEPORTATION.—

"(A)(i) A judicial order of deportation or denial of such order may be appealed by either party to the court of appeals for the circuit in which the district court is located.

"(ii) Except as provided in clause (iii), such appeal shall be considered consistent with the requirements described in section 106.

"(iii) Upon execution by the defendant of a valid waiver of the right to appeal the conviction on which the order of deportation is based, the expiration of the period described in section 106(a)(1), or the final dismissal of an appeal from such conviction, the order of deportation shall become final and shall be executed at the end of the prison term in accordance with the terms of the order.

"(B) As soon as is practicable after entry of a judicial order of deportation, the Commissioner shall provide the defendant with written notice of the order or deportation, which shall designate the defendant's country of choice for deportation and any alternate country pursuant to section 243(a).

"(4) DENIAL OF JUDICIAL ORDER.—Denial of a request for a judicial order of deportation shall not preclude the Attorney General from initiating deportation proceedings pursuant to section 242 upon the same ground of deportability or upon any other ground of deportability provided under section 241(a).".

(b) TECHNICAL AMENDMENT.—The ninth sentence of section 242(b) of the Immigration and Nationality Act (8 U.S.C. 1252(b)) is amended by striking "The" and inserting "Except as provided in section 242A(d), the".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to all aliens whose adjudication of guilt or guilty plea is entered in the record after the date of enactment of this Act.

SEC. 303. RESTRICTING DEFENSES TO DEPORTATION FOR CERTAIN CRIMINAL ALIENS.

(a) DEFENSES BASED ON SEVEN YEARS OF PERMANENT RESIDENCE.—The last sentence of section 212(c) of the Immigration and Nationality Act (8 U.S.C. 1182(c)) is amended by striking "has served for such felony or felonies" and all that follows through the period and inserting "has been sentenced for such felony or felonies to a term of imprisonment of at least 5 years, if the time for appealing such conviction or sentence has expired and the sentence has become final.".

(b) DEFENSES BASED ON WITHHOLDING OF DEPORTATION.—Section 243(h)(2) of the Immigration and Nationality Act (8 U.S.C. 1253(h)(2)) is amended—

(1) by striking the final sentence and inserting the following new subparagraph:

"(E) the alien has been convicted of an aggravated felony."; and

(2) by striking "or" at the end of subparagraph (C) and inserting "or" at the end of subparagraph (D).

SEC. 304. ENHANCING PENALTIES FOR FAILING TO DEPART, OR REENTERING, AFTER FINAL ORDER OF DEPORTATION.

(a) FAILURE TO DEPART.—Section 242(e) of the Immigration and Nationality Act (8 U.S.C. 1252(e)) is amended—

(1) by striking "paragraph (2), (3), or 4 of" the first time it appears; and

(2) by striking "shall be imprisoned not more than ten years" and inserting "shall be imprisoned not more than four years, or shall be imprisoned not more than ten years if the alien is a member of any of the classes described in paragraph (1)(E), (2), (3), or (4) of section 241(a).".

(b) REENTRY.—Section 276(b) of the Immigration and Nationality Act (8 U.S.C. 1326(b)) is amended—

(1) in paragraph (1)—

(A) by inserting after "commission of" the following: "three or more misdemeanors or"; and

(B) by striking "5" and inserting "10";

(2) in paragraph (2), by striking "15" and inserting "20"; and

(3) by adding at the end the following sentence:

"For the purposes of this subsection, the term 'deportation' includes any agreement in which an alien stipulates to deportation during a criminal trial under either Federal or State law.".

(c) COLLATERAL ATTACKS ON UNDERLYING DEPORTATION ORDER.—Section 276 of the Immigration and Nationality Act (8 U.S.C. 1326) is amended by adding after subsection (b) the following new subsection:

"(c) In a criminal proceeding under this section, an alien may not challenge the validity of the deportation order described in subsection (a)(1) or subsection (b) unless the alien demonstrates that—

"(1) the alien exhausted any administrative remedies that may have been available to seek relief against the order;

"(2) the deportation proceedings at which the order was issued improperly deprived the alien of the opportunity for judicial review; and

"(3) the entry of the order was fundamentally unfair.".

SEC. 305. MISCELLANEOUS AND TECHNICAL CHANGES.

(a) FORM OF DEPORTATION HEARINGS.—The second sentence of section 242(b) of the Immigration and Nationality Act (8 U.S.C. 1252(b)) is amended by inserting before the period the following: "; except that nothing in this subsection shall preclude the Attorney General from authorizing proceedings by electronic or telephonic media (with or without the consent of the alien) or, where waived or agreed to by the parties, in the absence of the alien.".

(b) CONSTRUCTION OF EXPEDITED DEPORTATION REQUIREMENTS.—No amendment made by this Act and nothing in section 242(i) of the Immigration and Nationality Act (8 U.S.C. 1252(i)) shall be construed to create any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.

Subtitle B—Prevention and Punishment of Alien Smuggling

SEC. 311. INCREASED PENALTIES FOR ALIEN SMUGGLING.

Section 274(a) of the Immigration and Nationality Act (8 U.S.C. 1324(a)) is amended—

(1) in paragraph (1)—

(A) by striking "or" at the end of subparagraph (C);

(B) by striking the comma at the end of subparagraph (D) and all that follows through the period and inserting "; or"; and

(C) by adding at the end the following:

"(E) engages in any conspiracy to commit any of the preceding acts, or aids or abets the commission of any of the preceding acts, shall be fined under title 18, United States Code, and shall be imprisoned not more than 10 years, for each alien with respect to whom any violation of this paragraph occurs."; and

(2) by adding at the end the following new paragraphs:

"(3) Any person who commits an act described in paragraph (1) who willfully subjects any alien to a substantial risk of death or serious bodily harm shall be subject to a term of imprisonment of not more than 10 years in addition to any term of imprisonment imposed under that paragraph.

"(4) Any person who in the perpetration of, or in the attempt to perpetrate, any violation of paragraph (1), causes the death of an alien shall be subject to the penalty of death, or life imprisonment, subject to appropriate procedures under chapter 228 of title 18, United States Code.

"(5) Any person who hires for employment an alien—

"(A) knowing that the alien is an unauthorized alien (as defined in section 274A(h)(3)); and

"(B) knowing that the alien has been brought into the United States in violation of this subsection,

shall be fined under title 18, United States Code, and shall be imprisoned for not more than 5 years.".

SEC. 312. SMUGGLING ALIENS FOR COMMISSION OF CRIMES.

Section 274(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1324(a)(2)) is amended—

(1) in subparagraph (B)—

(A) by striking "or" at the end of clause (ii);

(B) by redesignating clause (iii) as clause (iv); and

(C) by inserting after clause (ii) the following:

"(iii) an offense committed with the intent that the alien unlawfully brought into the United States will commit an offense against the United States punishable for more than 1 year, including violations of or attempted violations of or aiding and abetting violations of or conspiring to violate the Controlled Substances Act (21 U.S.C. 802) or laws against prostitution, importation of aliens for immoral purposes, trafficking in firearms, money laundering, gang activities, kidnapping or ransom demands, fraudulent documents, or extortion, the smuggling of known or suspected terrorists or persons involved in organized crime,"; and

(2) at the end by striking "be fined" and all that follows through the period and inserting the following: "be fined under title 18, United States Code, and shall be imprisoned not more than 10 years.".

SEC. 313. ADDITION OF ALIEN SMUGGLING TO RICO.

Section 1961(1) of title 18, United States Code, is amended—

(1) by striking "or" after "law of the United States,";

(2) by inserting "or" at the end of subparagraph (E); and

(3) by adding at the end the following:

"(F) any act in violation of section 274 of the Immigration and Nationality Act.".

SEC. 314. EXPANDED FORFEITURE FOR SMUGGLING OR HARBORING ILLEGAL ALIENS.

Subsection 274(b) of the Immigration and Nationality Act (8 U.S.C. 1324(b)) is amended—

(1) by striking "(b)(1) Any conveyance" and all that follows through "of any State." and inserting the following:

"(b) SEIZURE AND FORFEITURE.—(1) Any property, real or personal, which facilitates or is intended to facilitate, or which has been used in or is intended to be used in the commission of a violation of subsection (a) or of sections 274A(a)(1) or 274A(a)(2), or which constitutes or is derived from or traceable to the proceeds obtained directly or indirectly from a commission of a violation of subsection (a), shall be subject to seizure and forfeiture, except that—

"(A) no property used by any person as a common carrier in the transaction of business as a common carrier shall be forfeited under this paragraph unless it appears that the owner or other person in charge of the property was a consenting party or privy to the illegal act;

"(B) no property shall be forfeited under this paragraph by reason of any act or omission established by the owner thereof to have been committed or omitted by any person other than the owner while such property was unlawfully in the possession of a person other than the owner in violation of the criminal laws of the United States or of any State; and

"(C) no property shall be forfeited under this paragraph to the extent of an interest of any owner, by reason of any act or omission established by that owner to have been committed or omitted without the knowledge or consent of the owner, unless the action or omission was committed by an employee or agent of the owner, and facilitated or was intended to facilitate, or was used in or intended to be used in, the commission of a violation of subsection (a) or of section 274A(a)(1) or 274A(a)(2) which was committed by the owner or which intended to further the business interests of the owner, or to confer any other benefit upon the owner.";

(2) in paragraph (2)—

(A) by striking "conveyance" both places it appears and inserting "property"; and

(B) by striking "is being used in" and inserting "is being used in, is facilitating, has facilitated, or was intended to facilitate";

(3) in paragraphs (4) and (5) by striking "a conveyance" and "conveyance" each place either of them appears and inserting "property"; and

(4) in paragraph (4)—

(A) by striking "or" at the end of subparagraph (C);

(B) by striking the period at the end of subparagraph (D) and inserting "; or"; and

(C) by inserting at the end the following new subparagraph:

"(E) transfer custody and ownership of forfeited property to any Federal, State, or local agency pursuant to the Tariff Act of 1930 (19 U.S.C. 1616a(c)).".

SEC. 315. EXPANSION OF DEFINITION OF AGGRAVATED FELONY.

(a) Expansion of Definition.—Section 101(a)(43) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43)) is amended to read as follows:

"(43) The term 'aggravated felony' means—

"(A) murder;

"(B) illicit trafficking in a controlled substance (as defined in section 102 of the Controlled Substances Act), including a drug trafficking crime (as defined in section 924(c) of title 18, United States Code);

"(C) illicit trafficking in firearms or destructive devices (as defined in section 921 of title 18, United States Code) or in explosive materials (as defined in section 841(c) of that title);

"(D) an offense described in section 1956 of title 18, United States Code (relating to laundering of monetary instruments) or section 1957 of that title (relating to engaging in monetary transactions in property derived from specific unlawful activity) if the amount of the funds exceeded $100,000;

"(E) an offense described in—

"(i) section 842 (h) or (i) of title 18, United States Code, or section 844 (d), (e), (f), (g), (h), or (i) of that title (relating to explosive materials offenses);

"(ii) section 922(g) (1), (2), (3), (4), or (5), (j), (n), (o), (p), or (r) or 924 (b) or (h) of title 18, United States Code (relating to firearms offenses); or

"(iii) section 5861 of the Internal Revenue Code of 1986 (relating to firearms offenses);

"(F) a crime of violence (as defined in section 16 of title 18, United States Code, but not including a purely political offense) for which the term of imprisonment imposed (regardless of any suspension of imprisonment) is at least 5 years;

"(G) a theft offense (including receipt of stolen property) or burglary offense for which a sentence of 5 years' imprisonment or more may be imposed;

"(H) an offense described in section 875, 876, 877, or 1202 of title 18, United States Code (relating to the demand for or receipt of ransom);

"(I) an offense described in section 2251, 2251A, or 2252 of title 18, United States Code (relating to child pornography);

"(J) an offense described in—

"(i) section 1962 of title 18, United States Code (relating to racketeer influenced corrupt organizations); or

"(ii) section 1084 (if it is a second or subsequent offense) or 1955 of that title (relating to gambling offenses), for which a sentence of 5 years' imprisonment or more may be imposed;

"(K) an offense relating to commercial bribery, counterfeiting, forgery, or trafficking in vehicles the identification numbers of which have been altered for which a sentence of 5 years' imprisonment or more may be imposed;

"(L) an offense that—

"(i) relates to the owning, controlling, managing or supervising of a prostitution business;

"(ii) is described in section 2421, 2422, or 2423 of title 18, United States Code (relating to transportation for the purpose of prostitution) for commercial advantage; or

"(iii) is described in section 1581, 1582, 1583, 1584, 1585, or 1588, of title 18, United States Code (relating to peonage, slavery, and involuntary servitude);

"(M) an offense relating to perjury or subornation of perjury for which a sentence of 5 years' imprisonment or more may be imposed;

"(N) an offense described in—

"(i) section 793 (relating to gathering or transmitting national defense information), 798 (relating to disclosure of classified information), 2153 (relating to sabotage) or 2381 or 2382 (relating to treason) of title 18, United States Code; or

"(ii) section 601 of the National Security Act of 1947 (50 U.S.C. 421) (relating to protecting the identity of undercover intelligence agents);

"(O) an offense that—

"(i) involves fraud or deceit in which the loss to the victim or victims exceeds $200,000; or

"(ii) is described in section 7201 of the Internal Revenue Code of 1986 (relating to tax evasion) in which the revenue loss to the Government exceeds $200,000;

"(P) an offense described in section 274(a)(1) of title 18, United States Code (relating to alien smuggling) for the purpose of commercial advantage;

"(Q) an offense described in section 1546(a) of title 18, United States Code (relating to document fraud), for the purpose of commercial advantage;

"(R) an offense relating to a failure to appear before a court pursuant to a court order to answer to or dispose of a charge of a felony for which a sentence of 2 years' imprisonment or more may be imposed; and

"(S) an attempt or conspiracy to commit an offense described in this paragraph.

The term applies to an offense described in this paragraph whether in violation of Federal or State law and applies to such an offense in violation of the law of a foreign country for which the term of imprisonment was completed within the previous 15 years.".

(b) Effective Date.—The amendments made by this section shall apply to convictions entered before, on, or after the date of enactment of this Act.

SEC. 316. AMENDMENT OF SENTENCING GUIDELINES.

The United States Sentencing Commission shall review and, amend its sentencing guidelines to assign an offense level of at least 19 to a first offense under—

(1) section 274(a)(1) of the Immigration and Nationality Act, as amended by section 311(1);

(2) section 274(a) (3) and (5) of the Immigration and Nationality Act, as added by section 311(2); and

(3) section 274(a)(2) of the Immigration and Nationality Act, as amended by section 312.

SEC. 317. INCREASED PENALTY FOR VISA FRAUD.

(a) False Statement.—Section 1542 of title 18, United States Code, is amended by striking "fined not more than $2,000, imprisoned not more than five years, or both" and inserting "fined under this title or imprisoned not more than 10 years, or both".

(b) Forgery.—Section 1543 of title 18, United States Code, is amended by striking "fined not more than $2,000, imprisoned not more than five years, or both" and inserting "fined under this title or imprisoned not more than 10 years, or both".

(c) Misuse of Passport.—Section 1544 of title 18, United States Code, is amended by striking "fined not more than $2,000, imprisoned not more than five years, or both" and inserting "fined under this title or imprisoned not more than 10 years, or both".

(d) Safe Conduct Violation.—Section 1545 of title 18, United States Code, is amended by striking "fined not more than $2,000, imprisoned not more than three years, or both" and inserting "fined under this title or imprisoned not more than 10 years, or both".

(e) Fraud and Misuse of Visas.—Section 1546(a) of title 18, United States Code, is amended by striking "fined not more than $2,000, imprisoned not more than five years, or both" and inserting "fined under this title or imprisoned not more than 10 years, or both".

SEC. 318. TRAINING OF AIRLINE PERSONNEL IN DETECTION OF FRAUDULENT DOCUMENTS.

(a) Use of Funds.—Section 286(h)(2) of the Immigration and Nationality Act (8 U.S.C. 1356(h)(2)) is amended—

(1) in subparagraph (A)(iv), by inserting ", including training of, and technical assistance to, commercial airline personnel on such detection" after "United States", and

(2) by adding at the end the following new subparagraph:

"(C) The Attorney General shall provide for expenditures for training and assistance described in subparagraph (A)(iv) in an amount for any fiscal year that is not less than 5 percent of the total of the amounts that are required to be refunded under subparagraph (A) for that fiscal year.".

(b) Compliance With Detection Regulations.—Section 212 of the Immigration and Nationality Act (8 U.S.C. 1182) is amended by adding at the end the following new subsection:

"(o) Whenever the Attorney General finds that a commercial airline has failed to comply with regulations of the Attorney General relating to requirements of airlines for the detection of fraudulent documents used by passengers traveling to the United States (including the training of personnel in such detection), the Attorney General may suspend the entry of some or all aliens transported to the United States by such airline.".

(c) Effective Dates.—

(1) The amendments made by subsection (a) shall apply to expenses incurred during or after fiscal year 1994.

(2) The Attorney General shall first issue, in proposed form, regulations referred to in section 212(o) of the Immigration and Nationality Act, as added by subsection (b), by not later than the date that is 90 days after the date of enactment of this Act.

Subtitle C—Border Patrol

SEC. 321. BORDER PATROL AGENTS.

There is authorized to be appropriated $60,000,000 for each of fiscal years 1994, 1995, 1996, 1997, and 1998 for the hiring of 1,000 additional Border Patrol agents.

SEC. 322. IMMIGRATION AND NATURALIZATION SERVICE CRIMINAL INVESTIGATORS.

There is to be authorized $77,000,000 for each of fiscal years 1994, 1995, 1996, 1997, and 1998 for the hiring of 1,000 additional Immigration and Naturalization Service criminal inspectors.

SEC. 323. CRIMINAL ALIEN TRACKING CENTER.

(a) OPERATION.—The Commissioner of Immigration and Naturalization, with the cooperation of the Director of the Federal Bureau of Investigation and the heads of other agencies, shall, under the authority of section 242(a)(3)(A) of the Immigration and Nationality Act (8 U.S.C. 1252(a)(3)(A)), operate a criminal alien tracking center.

(b) PURPOSE.—The criminal alien tracking center shall be used to assist Federal, State, and local law enforcement agencies in identifying and locating aliens who may be subject to deportation by reason of their conviction of aggravated felonies.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $5,000,000 for fiscal year 1994 and $2,000,000 for each of fiscal years 1995, 1996, 1997, and 1998.

TITLE IV—GANGS, JUVENILES, DRUGS, AND PROSECUTORS

SEC. 401. SHORT TITLE.

This title may be cited as the "Anti-Gang and Youth Protection Act of 1993".

Subtitle A—Criminal Youth Gangs

SEC. 411. CRIMINAL STREET GANGS OFFENSES.

(a) OFFENSE.—Title 18, United States Code, is amended by inserting after chapter 93 the following new chapter:

"CHAPTER 94—PROHIBITED PARTICIPATION IN CRIMINAL STREET GANGS AND GANG CRIME

"Sec.
"1930. Crimes in furtherance of gangs.
"1931. Prohibited activity.
"1932. Penalties.
"1933. Investigative authority.

"§ 1930. Crimes in furtherance of gangs

"(a) FINDINGS.—The Congress makes the following findings:

"(1) Criminal street gangs have become increasing prevalent and entrenched in our society in the last several decades. In many areas of the country, these gangs exert considerable control over other members of their community, particularly through the use of violence and drugs. Criminal street gangs have also become more national in scope, extending their influence beyond the urban areas in which they originated.

"(2) The major activities of criminal street gangs are crimes of violence and the distribution and use of illegal drugs. It is through these activities that criminal street gangs directly affect interstate and foreign commerce, even when their particular activities, viewed in isolation, appear to be purely intrastate in character.

"(b) BASIS FOR CHAPTER.—On the basis of the findings stated in subsection (a), the Congress determines that the provisions of this chapter are necessary and proper for the purpose of carrying into execution the powers of Congress to regulate commerce and to establish criminal law.

"§ 1931. Prohibited activity

"(a) DEFINITIONS.—In this chapter—

"'criminal street gang' means an organization or group of 5 or more persons, whether formal or informal, who act in concert, or agree to act in concert, for a period in excess of 30 days, with a purpose that any of those persons alone, or in any combination, commit or will commit, 2 or more predicate gang crimes, 1 of which must occur after the date of enactment of this chapter and the last of which occurred within 10 years (excluding any period of imprisonment) after the commission of a prior predicate gang crime.

"'participate in a criminal street gang' means to act in concert with a criminal street gang with intent to commit, or with the intent that any other person associated with the criminal street gang will commit, 1 or more predicate gang crimes.

"'predicate gang crime' means—

"(A) any act or threat, or attempted act or threat, which is chargeable under Federal or State law and punishable by imprisonment for more than 1 year, involving murder, assault, kidnapping, robbery, extortion, burglary, arson, property damage or destruction, obstruction of justice, tampering with or retaliating against a witness, victim, or informant, or manufacturing, importing, receiving, concealing, purchasing, selling, possessing, or otherwise dealing in a controlled substance or controlled substance analogue (as those terms are defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));

"(B) any act punishable by imprisonment for more than 1 year under section 922 or 924 (a)(2), (b), (c), (g), or (h) (relating to receipt, possession, and transfer of firearms), section 1503 (relating to obstruction of justice), section 1510 (relating to obstruction of criminal investigations), section 1512 (relating to tampering with a witness, victim, or informant), or section 1513 (relating to retaliating against a witness, victim, or informant); or

"(C) any act punishable under subsection (b)(5).

"'State' means a State, the District of Columbia, and any commonwealth, territory, or possession of the United States.

"(b) UNLAWFUL ACTS.—It shall be unlawful—

"(1) to commit, or to attempt to commit, a predicate gang crime with intent to promote or further the activities of a criminal street gang or for the purpose of gaining entrance to or maintaining or increasing position in such a gang;

"(2) to participate, or attempt to participate, in a criminal street gang, or conspire to do so;

"(3) to command, counsel, persuade, induce, entice, or coerce any individual to participate in a criminal street gang;

"(4) to employ, use, command, counsel, persuade, induce, entice, or coerce any individual to commit, cause to commit, or facilitate the commission of, a predicate gang crime, with intent to promote the activities of a criminal street gang or for the purpose of gaining entrance to or maintaining or increasing position in such a gang; or

"(5) to use any communication facility, as defined in section 403(b) of the Controlled Substances Act (21 U.S.C. 843(b)), in causing or facilitating the commission, or attempted commission, of a predicate gang crime with intent to promote or further the activities of a criminal street gang or for the purpose of gaining entrance to or maintaining or increasing position in such a gang. Each separate use of a communication facility shall be a separate offense under this subsection.

"§ 1932. Penalties

"(a) PENALTIES OF UP TO 20 YEARS OR LIFE IMPRISONMENT.—A person who violates section 1931(b) (1) or (2) shall be punished by imprisonment for not more than 20 years, or by imprisonment for any term of years or for life if the violation is based on a predicate gang crime for which the maximum penalty includes life imprisonment, and if a person commits such a violation after 1 or more prior convictions for such a predicate gang crime, that is not part of the instant violation, such person shall be sentenced to a term of imprisonment which shall not be less than 10 years and which may be for any term of years exceeding 10 years or for life.

"(b) PENALTIES BETWEEN 5 AND 10 YEARS.—A person who violates section 1931(b) (3) or (4) shall be sentenced to imprisonment for not less than 5 nor more than 10 years, and if a person who was the subject of the act was less than 18 years of age, to imprisonment for 10 years. A term of imprisonment under this subsection shall run consecutively to any other term of imprisonment, including that imposed for any other violation of this chapter.

"(c) PENALTIES OF UP TO 5 YEARS.—A person who violates section 1931(b)(5) shall be punished by imprisonment for not more than 5 years.

"(d) ADDITIONAL PENALTIES.—

"(1) IN GENERAL.—In addition to the other penalties authorized by this section—

"(A) a person who violates section 1931(b)(1) or (2), 1 of whose predicate gang crimes involves murder or conspiracy to commit murder which results in the taking of a life, and who commits, counsels, commands, induces, procures, or causes that murder, shall be punished by death or by imprisonment for life;

"(B) a person who violates section 1931(b)(1) or (2), 1 of whose predicate gang crimes involves attempted murder or conspiracy to commit murder, shall be sentenced to a term of imprisonment which shall not be less than 20 years and which may be for any term of years exceeding 20 years or for life; and

"(C) a person who violates section 1931(b)(1) or (2), and who at the time of the offense occupied a position of organizer or supervisor, or other position of management in that street gang, shall be sentenced to a term of imprisonment which shall not be less than 15 years and which may be for any term of years exceeding 15 years or for life.

"(2) PRESUMPTION.—For purposes of paragraph (1)(C), if it is shown that the defendant counseled, commanded, induced, or procured 5 or more individuals to participate in a street gang, there shall be a rebuttable presumption that the defendant occupied a position of organizer, supervisor, or other position of management in the gang.

"(e) FORFEITURE.—

"(1) IN GENERAL.—A person who violates section 1931(b) (1) or (2) shall, in addition to any other penalty and irrespective of any provision of State law, forfeit to the United States—

"(A) any property constituting, or derived from, any proceeds the person obtained, directly or indirectly, as a result of the violation; and

"(B) any property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, the violation.

"(2) APPLICATION OF CONTROLLED SUBSTANCES ACT.—Section 413 (b), (c), (e), (f), (g), (h), (i), (j), (k), (l), (m), (n), (o), and (p) of the Controlled Substances Act (21 U.S.C. 853 (b), (c), and (e), (f), (g), (h), (i), (j), (k), (l), (m), (n), (o), and (p)) shall apply to a forfeiture under this section.

"§ 1933. Investigative authority

"The Attorney General and the Secretary of the Treasury may investigate offenses under this chapter in accordance with an agreement that shall be entered into by the Attorney General and the Secretary of the Treasury.".

(b) TECHNICAL AMENDMENT.—The part analysis for part I of title 18, United States Code, is amended by inserting after the item for chapter 93 the following new item:

"94. Prohibited participation in criminal street gangs and gang crimes 1930".

(c) SENTENCING GUIDELINES INCREASE FOR GANG CRIMES.—The United States Sentencing Commission shall at the earliest opportunity amend the sentencing guidelines to increase by at least 4 levels the base offense level for any felony committed for the purpose of gaining entrance into, or maintaining or increasing position in, a criminal street gang. For purposes of this subsection, "criminal street gang" means any organization, or group, of 5 or more individuals, whether formal or informal, who act in concert, or agree to act in concert, for a period in excess of 30 days, with the intent that any of those individuals alone, or in any combination, commit or will commit, 2 or more acts punishable under State or Federal law by imprisonment for more than 1 year.

SEC. 412. CRIMES INVOLVING THE USE OF MINORS AS RICO PREDICATES.

Section 1961(1) of title 18, United States Code, is amended—

(1) by striking "or" before "(E)"; and

(2) by inserting before the semicolon at the end of the paragraph the following: ", or (F) any offense against the United States that is punishable by imprisonment for more than 1 year and that involved the use of a person below the age of 18 years in the commission of the offense".

SEC. 413. SERIOUS JUVENILE DRUG OFFENSES AS ARMED CAREER CRIMINAL ACT PREDICATES.

Section 924(e)(2)(A) of title 18, United States Code, is amended—

(1) by striking "or" at the end of clause (i);

(2) by striking "and" at the end of clause (ii) and inserting "or"; and

(3) by adding at the end the following:

"(iii) any act of juvenile delinquency that if committed by an adult would be a serious drug offense described in this paragraph; and".

SEC. 414. ADULT PROSECUTION OF SERIOUS JUVENILE OFFENDERS.

Section 5032 of title 18, United States Code, is amended—

(1) in the first undesignated paragraph—

(A) by striking "an offense described in section 401 of the Controlled Substances Act (21 U.S.C. 841), or section 1002(a), 1003, 1005, 1009, or 1010(b)(1), (2), or (3) of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 953, 955, 959, 960(b)(1), (2), (3))," and inserting "an offense (or a conspiracy or attempt to commit an offense) described in section 401, or 404 (insofar as the violation involves more than 5 grams of a mixture or substance which contains cocaine base), of the Controlled Substances Act (21 U.S.C. 841, 844, or 846), section 1002(a), 1003, 1005, 1009, 1010(b)(1), (2), or (3), of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 953, 955, 959, 960(b)(1), (2), or (3), or 963),"; and

(B) by striking "922(p)" and inserting "924(b), (g), or (h)";

(2) in the fourth undesignated paragraph—

(A) by striking "an offense described in section 401 of the Controlled Substances Act (21 U.S.C. 841), or section 1002(a), 1005, or 1009 of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 955, 959)" and inserting "an offense (or a conspiracy or attempt to commit an offense) described in section 401, or 404 (insofar as the violation involves more than 5 grams of a mixture or substance which contains cocaine base), of the Controlled Substances Act (21 U.S.C. 841, 844, or 846), section 1002(a), 1005, 1009, 1010(b)(1), (2), or (3), of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 955, 959, 960(b)(1), (2), or (3), or 963), or section 924(b), (g), or (h) of this title,"; and

(B) by striking "subsection (b)(1)(A), (B), or (C), (d), or (e) of section 401 of the Controlled Substances Act, or section 1002(a), 1003, 1009, or 1010(b)(1), (2), or (3) of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 953, 959, 960(b)(1), (2), (3))" and inserting "or an offense (or conspiracy or attempt to commit an offense) described in section 401(b)(1)(A), (B), or (C), (d), or (e), or 404 (insofar as the violation involves more than 5 grams of a mixture or substance which contains cocaine base), of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A), (B), or (C), (d), or (e), 844, or 846) or section 1002(a), 1003, 1009, 1010(b)(1), (2), or (3) of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 953, 959, 960(b)(1), (2), or (3), or 963)"; and

(3) in the fifth undesignated paragraph by adding at the end the following: "In considering the nature of the offense, as required by this paragraph, the court shall consider the extent to which the juvenile played a leadership role in an organization, or otherwise influenced other persons to take part in criminal activities, involving the use or distribution of controlled substances or firearms. Such a factor, if found to exist, shall weigh heavily in favor of a transfer to adult status, but the absence of this factor shall not preclude such a transfer.".

SEC. 415. INCREASED PENALTIES FOR EMPLOYING CHILDREN TO DISTRIBUTE DRUGS NEAR SCHOOLS AND PLAYGROUNDS.

Section 419 of the Controlled Substances Act (21 U.S.C. 860) is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (b) the following new subsection:

"(c) Notwithstanding any other law, any person at least 18 years of age who knowingly and intentionally—

"(1) employs, hires, uses, persuades, induces, entices, or coerces a person under 18 years of age to violate this section; or

"(2) employs, hires, uses, persuades, induces, entices, or coerces a person under 18 years of age to assist in avoiding detection or apprehension for any offense under this section by any Federal, State, or local law enforcement official,

is punishable by a term of imprisonment, a fine, or both, up to triple those authorized by section 401.".

SEC. 416. INCREASED PENALTIES FOR DRUG TRAFFICKING NEAR PUBLIC HOUSING.

Section 419 of the Controlled Substances Act (21 U.S.C. 860) is amended—

(1) in subsection (a) by striking "playground, or within" and inserting "playground, or housing facility owned by a public housing authority, or within"; and

(2) in subsection (b) by striking "playground, or within" and inserting "playground, or housing facility owned by a public housing authority, or within".

SEC. 417. INCREASED PENALTIES FOR TRAVEL ACT CRIMES INVOLVING VIOLENCE AND CONSPIRACY TO COMMIT CONTRACT KILLINGS.

(a) TRAVEL ACT PENALTIES.—Section 1952(a) of title 18, United States Code, is amended by striking "and thereafter performs or attempts to perform any of the acts specified in subparagraphs (1), (2), and (3), shall be fined not more than $10,000 or imprisoned for not more than five years, or both." and inserting "and thereafter performs or attempts to perform—

"(A) an act described in paragraph (1) or (3) shall be fined under this title, imprisoned not more than 5 years, or both; or

"(B) an act described in paragraph (2) shall be fined under this title, imprisoned for not more than 20 years, or both, and if death results shall be imprisoned for any term of years or for life.".

(b) MURDER CONSPIRACY PENALTIES.—Section 1958(a) of title 18, United States Code, is amended by inserting "or who conspires to do so" before "shall be fined" the first place it appears.

SEC. 418. AMENDMENTS CONCERNING RECORDS OF CRIMES COMMITTED BY JUVENILES.

(a) Section 5038 of title 18, United States Code, is amended by striking subsections (d) and (f), redesignating subsection (e) as subsection (d), and by adding at the end new subsections (e) and (f) as follows:

"(e) Whenever a juvenile has been found guilty of committing an act which if committed by an adult would be an offense described in clause (3) of the first paragraph of section 5032 of this title, the juvenile shall be fingerprinted and photographed, and the fingerprints and photograph shall be sent to the Federal Bureau of Investigation, Identification Division. The court shall also transmit to the Federal Bureau of Investigation, Identification Division, the information concerning the adjudication, including name, date of adjudication, court, offenses, and sentence, along with the notation that the matter was a juvenile adjudication. The fingerprints, photograph, and other records and information relating to a juvenile described in this subsection, or to a juvenile who is prosecuted as an adult, shall be made available in the manner applicable to adult defendants.

"(f) In addition to any other authorization under this section for the reporting, retention, disclosure, or availability of records or information, if the law of the State in which a Federal juvenile delinquency proceeding takes place permits or requires the reporting, retention, disclosure, or availability of records or information relating to a juvenile or to a juvenile delinquency proceeding or adjudication in certain circumstances, then such reporting, retention, disclosure, or availability is permitted under this section whenever the same circumstances exist.".

(b) Section 3607 of title 18, United States Code, is repealed, and the corresponding item in the chapter analysis for chapter 229 of title 18 is deleted.

(c) Section 401(b)(4) of the Controlled Substances Act (21 U.S.C. 841(b)(4)) is amended by striking "and section 3607 of title 18".

SEC. 419. ADDITION OF ANTI-GANG BYRNE GRANT FUNDING OBJECTIVE.

Section 501(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3751) is amended—

(1) in paragraph (20) by striking "and" at the end;

(2) in paragraph (21) by striking the period and inserting "; and"; and

(3) by inserting after paragraph (21) the following new paragraph:

"(22) law enforcement and prevention programs relating to gangs, or to youth who are involved or at risk of involvement in gangs.".

Subtitle B—Gang Prosecution

SEC. 431. ADDITIONAL PROSECUTORS.

There is authorized to be appropriated $20,000,000 for each of fiscal years 1994, 1995, 1996, 1997, and 1998 for the hiring of additional Assistant United States Attorneys to prosecute violent youth gangs.

SEC. 432. GANG INVESTIGATION COORDINATION AND INFORMATION COLLECTION.

(a) COORDINATION.—The Attorney General (or the Attorney General's designee), in consultation with the Secretary of the Treasury (or the Secretary's designee), shall develop a national strategy to coordinate gang-related investigations by Federal law enforcement agencies.

(b) DATA COLLECTION.—The Director of the Federal Bureau of Investigation shall acquire and collect information on incidents of gang violence for inclusion in an annual uniform crime report.

(c) REPORT.—The Attorney General shall prepare a report on national gang violence outlining the strategy developed under subsection (a) to be submitted to the President and Congress by January 1, 1995.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $1,000,000 for fiscal year 1994.

SEC. 433. CONTINUATION OF FEDERAL-STATE FUNDING FORMULA.

Section 504(a)(1) of title I of the Omnibus Crime and Safe Streets Act of 1968 (42 U.S.C. 3754(a)(1)) is amended by striking "1992" and inserting "1993".

SEC. 434. GRANTS FOR MULTIJURISDICTIONAL DRUG TASK FORCES.

Section 504(f) of title I of the Omnibus Crime and Safe Streets Act of 1968 (42 U.S.C. 3754(f)) is amended by inserting "and gang" after "Except for grants awarded to State and local governments for the purpose of participating in multijurisdictional drug".

TITLE V—DRUG CONTROL AND RURAL CRIME

Subtitle A—Drug Trafficking in Rural Areas

SEC. 501. AUTHORIZATIONS FOR RURAL LAW ENFORCEMENT AGENCIES.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a)(9) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended to read as follows:

"(9) There are authorized to be appropriated to carry out part O $50,000,000 for each of fiscal years 1994, 1995, 1996, 1997, and 1998.".

(b) AMENDMENT TO BASE ALLOCATION.—Section 1501(a)(2)(A) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by striking "$100,000" and inserting "$250,000".

SEC. 502. RURAL CRIME AND DRUG ENFORCEMENT TASK FORCES.

(a) ESTABLISHMENT.—Not later than 90 days after the date of enactment of this Act, the Attorney General, in consultation with the Governors, mayors, and chief executive officers of State and local law enforcement agencies, shall establish a Rural Crime and Drug Enforcement Task Force in each of the Federal judicial districts which encompass significant rural lands.

(b) TASK FORCE MEMBERSHIP.—The task forces established under subsection (a) shall be chaired by the United States Attorney for the respective Federal judicial district. The task forces shall include representatives from—

(1) State and local law enforcement agencies;

(2) the Drug Enforcement Administration;

(3) the Federal Bureau of Investigation;

(4) the Immigration and Naturalization Service;

(5) the Customs Service;

(6) the United States Marshals Service; and

(7) law enforcement officers from the United States Park Police, United States Forest Service and Bureau of Land Management, and such other Federal law enforcement agencies as the Attorney General may direct.

SEC. 503. CROSS-DESIGNATION OF FEDERAL OFFICERS.

(a) IN GENERAL.—The Attorney General may cross-designate up to 100 law enforcement officers from each of the agencies specified under section 1502(b)(6) of the Omnibus Crime Control and Safe Streets Act of 1968 with jurisdiction to enforce the provisions of the Controlled Substances Act on non-Federal lands and title 18 of the United States Code to the extent necessary to effect the purposes of this Act.

(b) ADEQUATE STAFFING.—The Attorney General shall ensure that each of the task forces established in accordance with this title are adequately staffed with investigators and that additional investigators are provided when requested by the task force.

SEC. 504. RURAL DRUG ENFORCEMENT TRAINING.

(a) SPECIALIZED TRAINING FOR RURAL OFFICERS.—The Director of the Federal Law Enforcement Training Center shall develop a specialized course of instruction devoted to training law enforcement officers from rural agencies in the investigation of drug trafficking and related crimes.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out subsection (a) $1,000,000 for each of fiscal years 1994, 1995, 1996, 1997, and 1998.

Subtitle B—Rural Drug Prevention and Treatment

SEC. 511. RURAL SUBSTANCE ABUSE TREATMENT AND EDUCATION GRANTS.

Part A of title V of the Public Health Service Act (42 U.S.C. 290aa et seq.) is amended by adding at the end the following new section:

"SEC. 509H. RURAL SUBSTANCE ABUSE TREATMENT.

"(a) IN GENERAL.—The Director of the Office for Treatment Improvement (referred to in this section as the 'Director') shall establish a program to provide grants to hospitals, community health centers, migrant health centers, health entities of Indian tribes and tribal organizations (as defined in section 1913(b)(5)), and other appropriate entities that serve nonmetropolitan areas to assist such entities in developing and implementing projects that provide, or expand the availability of, substance abuse treatment services.

"(b) REQUIREMENTS.—To receive a grant under this section a hospital, community health center, or treatment facility shall—

"(1) serve a nonmetropolitan area or have a substance abuse treatment program that is designed to serve a nonmetropolitan area;

"(2) operate, or have a plan to operate, an approved substance abuse treatment program;

"(3) agree to coordinate the project assisted under this section with substance abuse treatment activities within the State and local agencies responsible for substance abuse treatment; and

"(4) prepare and submit an application in accordance with subsection (c).

"(c) APPLICATION.—

"(1) IN GENERAL.—To be eligible to receive a grant under this section an entity shall submit an application to the Director at such time, in such manner, and containing such information as the Director shall require.

"(2) COORDINATED APPLICATIONS.—State agencies that are responsible for substance abuse treatment may submit coordinated grant applications on behalf of entities that are eligible for grants pursuant to subsection (b).

"(d) PREVENTION PROGRAMS.—

"(1) IN GENERAL.—Each entity receiving a grant under this section may use a portion of such grant funds to further community-based substance abuse prevention activities.

"(2) REGULATIONS.—The Director, in consultation with the Director of the Office of Substance Abuse Prevention, shall promulgate regulations regarding the activities described in paragraph (1).

"(e) SPECIAL CONSIDERATION.—In awarding grants under this section the Director shall give priority to—

"(1) projects sponsored by rural hospitals that are qualified to receive rural health care transition grants as provided for in section 4005(e) of the Omnibus Budget Reconciliation Act of 1987;

"(2) projects serving nonmetropolitan areas that establish links and coordinate activities between hospitals, community health centers, community mental health centers, and substance abuse treatment centers; and

"(3) projects that are designed to serve areas that have no available existing treatment facilities.

"(f) DURATION.—Grants awarded under subsection (a) shall be for a period not to exceed 3 years, except that the Director may establish a procedure for renewal of grants under subsection (a).

"(g) GEOGRAPHIC DISTRIBUTION.—To the extent practicable, the Director shall provide grants to fund at least one project in each State.

"(h) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section there is authorized to be appropriated $25,000,000 for each of fiscal years 1994 and 1995 and $20,000,000 for each of fiscal years 1996, 1997, and 1998.".

Subtitle C—Rural Areas Enhancement

SEC. 521. ASSET FORFEITURE.

The assets seized as a result of investigations initiated by a Rural Drug Enforcement Task Force shall be used primarily to enhance the operations of the task force and its participating State and local enforcement agencies.

SEC. 522. PROSECUTION OF CLANDESTINE LABORATORY OPERATORS.

(a) CRIMINAL CHARGES.—State and Federal prosecutors, when bringing charges against the operators of clandestine methamphetamine and other dangerous drug laboratories, shall, to the fullest extent possible, include, in addition to drug-related counts, counts involving infringements of the Resource Conservation and Recovery Act or any other environmental protection Act, including—

(1) illegal disposal of hazardous waste; and

(2) knowing endangerment of the environment.

(b) CIVIL ACTIONS.—Federal prosecutors may bring suit against the operators of clandestine methamphetamine and other dangerous drug laboratories for environmental and health related damages caused by the operators in their manufacture of illicit substances.

Subtitle D—Chemical Control

SEC. 531. SHORT TITLE.

This title may be cited as the "Chemical Control Amendments Act of 1993".

SEC. 532. DEFINITION AMENDMENTS.

(a) DEFINITIONS.—Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended—

(1) in paragraph (33) by striking "any listed precursor chemical or listed essential chemical" and inserting "any list I chemical or any list II chemical";

(2) in paragraph (34)—

(A) by striking "listed precursor chemical" and inserting "list I chemical"; and

(B) by striking "critical to the creation" and inserting "important to the manufacturer";

(3) in paragraph (34) (A), (F), and (H), by inserting ", its esters" before "and";

(4) in paragraph (35)—

(A) by striking "listed essential chemical" and inserting "list II chemical";

(B) by inserting "(other than a list I chemical)" before "specified";

(C) by striking "as a solvent, reagent, or catalyst"; and

(5) in paragraph (38) by inserting "or who acts as a broker or trader for an international transaction involving a listed chemical, a tableting machine, or an encapsulating machine" before the period;

(6) in paragraph (39)(A)—

(A) by striking "importation or exportation of" and inserting "importation, or exportation of, or an international transaction involving shipment of,";

(B) in clause (iii) by inserting "or any category of transaction for a specific listed chemical or chemicals" after "transaction";

(C) by amending clause (iv) to read as follows:

"(iv) any transaction in a listed chemical that is contained in a drug that may be marketed or distributed lawfully in the United States under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) unless—

"(I)(aa) the drug contains ephedrine or its salts, optical isomers, or salts of optical isomers as the only active medicinal ingredient or contains ephedrine and therapeutically insignificant quantities of another active medicinal ingredient; or

"(bb) the Attorney General has determined under section 204 that the drug or group of drugs is being diverted to obtain the listed chemical for use in the illicit production of a controlled substance; and

"(II) the quantity of ephedrine or other listed chemical contained in the drug included in the transaction or multiple transactions equals or exceeds the threshold established for that chemical by the Attorney General."; and

(D) in clause (v) by striking the semicolon and inserting "which the Attorney General has by regulation designated as exempt from the application of this title and title II based on a finding that the mixture is formulated in such a way that it cannot be easily used in the illicit production of a controlled substance and that the listed chemical or chemicals contained in the mixture cannot be readily recovered;";

(7) in paragraph (40) by striking "listed precursor chemical or a listed essential chemical" each place it appears and inserting "list I chemical or a list II chemical"; and

(8) by adding at the end the following new paragraphs:

"(43) The term 'international transaction' means a transaction involving the shipment of a listed chemical across an international border (other than a United States border) in which a broker or trader located in the United States participates.

"(44) The terms 'broker' and 'trader' mean a person that assists in arranging an international transaction in a listed chemical by—

"(A) negotiating contracts;

"(B) serving as an agent or intermediary; or

"(C) bringing together a buyer and seller, buyer, and transporter, or a seller and transporter.".

(b) REMOVAL OF EXEMPTION OF CERTAIN DRUGS.—

(1) PROCEDURE.—Part B of the Controlled Substances Act (21 U.S.C. 811 et seq.) is amended by adding at the end the following new section:

"REMOVAL OF EXEMPTION OF CERTAIN DRUGS

"SEC. 204. (a) REMOVAL OF EXEMPTION.—The Attorney General shall by regulation remove from exemption under section 102(39)(A)(iv)(II) a drug or group of drugs that the Attorney General finds is being diverted to obtain a listed chemical for use in the illicit production of a controlled substance.

"(b) FACTORS TO BE CONSIDERED.—In removing a drug or group of drugs from exemption under subsection (a), the Attorney General shall consider, with respect to a drug or group of drugs that is proposed to be removed from exemption—

"(1) the scope, duration, and significance of the diversion;

"(2) whether the drug or group of drugs is formulated in such a way that it cannot be easily used in the illicit production of a controlled substance; and

"(3) whether the listed chemical can be readily recovered from the drug or group of drugs.

"(c) SPECIFICITY OF DESIGNATION.—The Attorney General shall limit the designation of a drug or a group of drugs removed from exemption under subsection (a) to the most particularly identifiable type of drug or group of drugs for which evidence of diversion exists unless there is evidence, based on the pattern of diversion and other relevant factors, that the diversion will not be limited to that particular drug or group of drugs.

"(d) REINSTATEMENT OF EXEMPTION WITH RESPECT TO PARTICULAR DRUG PRODUCTS.—

"(1) REINSTATEMENT.—On application by a manufacturer of a particular drug product that has been removed from exemption under subsection (a), the Attorney General shall by regulation reinstate the exemption with respect to that particular drug product if the Attorney General determines that the particular drug product is manufactured and distributed in a manner that prevents diversion.

"(2) FACTORS TO BE CONSIDERED.—In deciding whether to reinstate the exemption with respect to a particular drug product under paragraph (1), the Attorney General shall consider—

"(A) the package sizes and manner of packaging of the drug product;

"(B) the manner of distribution and advertising of the drug product;

"(C) evidence of diversion of the drug product;

"(D) any actions taken by the manufacturer to prevent diversion of the drug product; and

"(E) such other factors as are relevant to and consistent with the public health and safety, including the factors described in subsection (b) as applied to the drug product.

"(3) STATUS PENDING APPLICATION FOR REINSTATEMENT.—A transaction involving a particular drug product that is the subject of a bona fide pending application for reinstatement of exemption filed with the Attorney General not later than 60 days after a regulation removing the exemption is issued pursuant to subsection (a) shall not be considered to be a regulated transaction if the transaction occurs during the pendency of the application and, if the Attorney General denies the application, during the period of 60 days following the date on which the Attorney General denies the application, unless—

"(A) the Attorney General has evidence that, applying the factors described in subsection (b) to the drug product, the drug product is being diverted; and

"(B) the Attorney General so notifies the applicant.

"(4) AMENDMENT AND MODIFICATION.—A regulation reinstating an exemption under paragraph (1) may be modified or revoked with respect to a particular drug product upon a finding that—

"(A) applying the factors described in subsection (b) to the drug product, the drug product is being diverted; or

"(B) there is a significant change in the data that led to the issuance of the regulation.".

(2) TECHNICAL AMENDMENT.—The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (84 Stat. 1236) is amended by adding at the end of the section relating to part B of title II the following new item:

"Sec. 204. Removal of exemption of certain drugs.".

(c) REGULATION OF LISTED CHEMICALS.—Section 310 of the Controlled Substances Act (21 U.S.C. 830) is amended—

(1) in subsection (a)(1)—

(A) by striking "precursor chemical" and inserting "list I chemical"; and

(B) in subparagraph (B) by striking "an essential chemical" and inserting "a list II chemical"; and

(2) in subsection (c)(2)(D) by striking "precursor chemical" and inserting "chemical control".

SEC. 533. REGISTRATION REQUIREMENTS.

(a) RULES AND REGULATIONS.—Section 301 of the Controlled Substances Act (21 U.S.C. 821) is amended by striking the period and inserting "and to the registration and control of regulated persons and of regulated transactions.".

(b) PERSONS REQUIRED TO REGISTER UNDER SECTION 302.—Section 302 of the Controlled Substances Act (21 U.S.C. 822) is amended—

(1) in subsection (a)(1) by inserting "or list I chemical" after "controlled substance" each place it appears;

(2) in subsection (b)—

(A) by inserting "or list I chemicals" after "controlled substances"; and

(B) by inserting "or chemicals" after "such substances";

(3) in subsection (c) by inserting "or list I chemical" after "controlled substance" each place it appears; and

(4) in subsection (e) by inserting "or list I chemicals" after "controlled substances".

(c) REGISTRATION REQUIREMENTS UNDER SECTION 303.—Section 303 of the Controlled Substances Act (21 U.S.C. 823) is amended by adding at the end the following new subsection:

"(h) The Attorney General shall register an applicant to distribute a list I chemical unless the Attorney General determines that registration of the applicant is inconsistent with the public interest. Registration under this subsection shall not be required for the distribution of a drug product that is exempted under section 102(39)(A)(iv). In determining the public interest for the purposes of this subsection, the Attorney General shall consider—

"(1) maintenance by the applicant of effective controls against diversion of listed chemicals into other than legitimate channels;

"(2) compliance by the applicant with applicable Federal, State and local law;

"(3) any prior conviction record of the applicant under Federal or State laws relating to controlled substances or to chemicals controlled under Federal or State law;

"(4) any past experience of the applicant in the manufacture and distribution of chemicals; and

"(5) such other factors as are relevant to and consistent with the public health and safety.".

(d) DENIAL, REVOCATION, OR SUSPENSION OF REGISTRATION.—Section 304 of the Controlled Substances Act (21 U.S.C. 824) is amended—

(1) in subsection (a)—

(A) by inserting "or a list I chemical" after "controlled substance" each place it appears; and

(B) by inserting "or list I chemicals" after "controlled substances";

(2) in subsection (b) by inserting "or list I chemical" after "controlled substance";

(3) in subsection (f) by inserting "or list I chemicals" after "controlled substances" each place it appears; and

(4) in subsection (g)—

(A) by inserting "or list I chemicals" after "controlled substances" each place it appears; and

(B) by inserting "or list I chemical" after "controlled substance" each place it appears.

(e) PERSONS REQUIRED TO REGISTER UNDER SECTION 1007.—Section 1007 of the Controlled Substances Import and Export Act (21 U.S.C. 957) is amended—

(1) in subsection (a)—

(A) in paragraph (1) by inserting "or list I chemical" after "controlled substance"; and

(B) in paragraph (2) by striking "in schedule I, II, III, IV, or V," and inserting "or list I chemical,"; and

(2) in subsection (b)—

(A) in paragraph (1) by inserting "or list I chemical" after "controlled substance" each place it appears; and

(B) in paragraph (2) by inserting "or list I chemicals" after "controlled substances".

(f) REGISTRATION REQUIREMENTS UNDER SECTION 1008.—Section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958) is amended—

(1) in subsection (c)—

(A) by inserting "(1)" after "(c)"; and

(B) by adding at the end the following new paragraph:

"(2)(A) The Attorney General shall register an applicant to import or export a list I chemical unless the Attorney General determines that registration of the applicant is inconsistent with the public interest. Registration under this subsection shall not be required for the import or export of a drug product that is exempted under section 102(39)(A)(iv).

"(B) In determining the public interest for the purposes of subparagraph (A), the Attorney General shall consider the factors specified in section 303(h).";

(2) in subsection (d)—

(A) in paragraph (3) by inserting "or list I chemical or chemicals," after "substances,"; and

(B) in paragraph (6) by inserting "or list I chemicals" after "controlled substances" each place it appears;

(3) in subsection (e) by striking "and 307" and inserting "307, and 310"; and

(4) in subsections (f), (g), and (h) by inserting "or list I chemicals" after "controlled substances" each place it appears.

(g) PROHIBITED ACTS C.—Section 403(a) of the Controlled Substances Act (21 U.S.C. 843(a)) is amended—

(1) by striking "or" at the end of paragraph (7);

(2) by striking the period at the end of paragraph (8) and inserting "; or"; and

(3) by adding at the end the following new paragraph:

"(9) if the person is a regulated person, to distribute, import, or export a list I chemical without the registration required by this Act.".

SEC. 534. REPORTING OF LISTED CHEMICAL MANUFACTURING.

Section 310(b) of the Controlled Substances Act (21 U.S.C. 830(b)) is amended—

(1) by inserting "(1)" after "(b)";

(2) by redesignating paragraphs (1), (2), (3), and (4) as subparagraphs (A), (B), (C), and (D), respectively;

(3) by striking "paragraph (1)" each place it appears and inserting "subparagraph (A)";

(4) by striking "paragraph (2)" and inserting "subparagraph (B)";

(5) by striking "paragraph (3)" and inserting "subparagraph (C)"; and

(6) by adding at the end the following new paragraph:

"(2) A regulated person that manufactures a listed chemical shall report annually to the Attorney General, in such form and manner and containing such specific data as the Attorney General shall prescribe by regulation, information concerning listed chemicals manufactured by the person. The requirement of the preceding sentence shall not apply to the manufacture of a drug product that is exempted under section 102(39)(A)(iv).".

SEC. 535. REPORTS BY BROKERS AND TRADERS; CRIMINAL PENALTIES.

(a) NOTIFICATION, SUSPENSION OF SHIPMENT, AND PENALTIES WITH RESPECT TO IMPORTATION AND EXPORTATION OF LISTED CHEMICALS.—Section 1018 of the Controlled Substances Import and Export Act (21 U.S.C. 971) is amended by adding at the end the following new subsection:

"(d) A person located in the United States who is a broker or trader for an international transaction in a listed chemical that is a regulated transaction solely because of that person's involvement as a broker or trader shall, with respect to that transaction, be subject to all of the notification, reporting, recordkeeping, and other requirements placed upon exporters of listed chemicals by this title and title II.".

(b) PROHIBITED ACTS A.—Section 1010(d) of the Controlled Substances Import and Export Act (21 U.S.C. 960(d)) is amended to read as follows:

"(d) A person who knowingly or intentionally—

"(1) imports or exports a listed chemical with intent to manufacture a controlled substance in violation of this title or title II;

"(2) exports a listed chemical in violation of the laws of the country to which the chemical is exported or serves as a broker or trader for an international transaction involving a listed chemical, if the transaction is in violation of the laws of the country to which the chemical is exported;

"(3) imports or exports a listed chemical knowing, or having reasonable cause to believe, that the chemical will be used to manufacture a controlled substance in violation of this title or title II; or

"(4) exports a listed chemical, or serves as a broker or trader for an international transaction involving a listed chemical, knowing, or having reasonable cause to believe, that the chemical will be used to manufacture a controlled substance in violation of the laws of the country to which the chemical is exported,

shall be fined in accordance with title 18, imprisoned not more than 10 years, or both.".

SEC. 536. EXEMPTION AUTHORITY; ADDITIONAL PENALTIES.

(a) NOTIFICATION REQUIREMENT.—Section 1018 of the Controlled Substances Import and Export Act (21 U.S.C. 971), as amended by section 5(a), is amended by adding at the end the following new subsection:

"(e)(1) The Attorney General may by regulation require that the 15-day notification requirement of subsection (a) apply to all exports of a listed chemical to a specified country, regardless of the status of certain customers in such country as regular customers, if the Attorney General finds that such notification is necessary to support effective chemical diversion control programs or is required by treaty or other international agreement to which the United States is a party.

"(2) The Attorney General may by regulation waive the 15-day notification requirement for exports of a listed chemical to a specified country if the Attorney General determines that such notification is not required for effective chemical diversion control. If the notification requirement is waived, exporters of the listed chemical shall be required to submit to the Attorney General reports of individual exportations or periodic reports of such exportation of the listed chemical, at such time or times and containing such information as the Attorney General shall establish by regulation.

"(3) The Attorney General may by regulation waive the 15-day notification requirement for the importation of a listed chemical if the Attorney General determines that such notification is not necessary for effective chemical diversion control. If the notification requirement is waived, importers of the listed chemical shall be required to submit to the Attorney General reports of individual importations or periodic reports of the importation of the listed chemical, at such time or times and containing such information as the Attorney General shall establish by regulation.".

(b) PROHIBITED ACTS A.—Section 1010(d) of the Controlled Substances Import and Export Act (21 U.S.C. 960(d)), as amended by section 5(b), is amended—

(1) by striking "or" at the end of paragraph (3);

(2) by striking the comma at the end of paragraph (4) and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

"(5) imports or exports a listed chemical, with the intent to evade the reporting or recordkeeping requirements of section 1018 applicable to such importation or exportation by falsely representing to the Attorney General that the importation or exportation qualifies for a waiver of the 15-day notification requirement granted pursuant to section 1018(e) (2) or (3) by misrepresenting the actual country of final destination of the listed chemical or the actual listed chemical being imported or exported; or

"(6) imports or exports a listed chemical in violation of section 1007 or 1018,".

SEC. 537. AMENDMENTS TO LIST I.

Section 102(34) of the Controlled Substances Act (21 U.S.C. 802(34)) is amended—

(1) by striking subparagraphs (O), (U), and (W);

(2) by redesignating subparagraphs (P) through (T) as (O) through (S), subparagraph

(V) as (T), and subparagraphs (X) and (Y) as (U) and (X), respectively;

(3) in subparagraph (X), as redesignated by paragraph (2), by striking "(X)" and inserting "(U)"; and

(4) by inserting after subparagraph (U), as redesignated by paragraph (2), the following new subparagraphs:

"(V) benzaldehyde.

"(W) nitroethane.".

SEC. 538. ELIMINATION OF REGULAR SUPPLIER STATUS AND CREATION OF REGULAR IMPORTER STATUS.

(a) DEFINITION.—Section 102(37) of the Controlled Substances Act (21 U.S.C. 802(37)) is amended to read as follows:

"(37) The term 'regular importer' means, with respect to a listed chemical, a person that has an established record as an importer of that listed chemical that is reported to the Attorney General.".

(b) NOTIFICATION.—Section 1018 of the Controlled Substances Act (21 U.S.C. 971) is amended—

(1) in subsection (b)—

(A) in paragraph (1) by striking "regular supplier of the regulated person" and inserting "to an importation by a regular importer"; and

(B) in paragraph (2)—

(i) by striking "a customer or supplier of a regulated person" and inserting "a customer of a regulated person or to an importer"; and

(ii) by striking "regular supplier" and inserting "the importer as a regular importer"; and

(2) in subsection (c)(1) by striking "regular supplier" and inserting "regular importer".

SEC. 539. ADMINISTRATIVE INSPECTIONS AND AUTHORITY.

Section 510 of the Controlled Substances Act (21 U.S.C. 880) is amended—

(1) by amending subsection (a)(2) to read as follows:

"(2) places, including factories, warehouses, and other establishments, and conveyances, where persons registered under section 303 (or exempt from registration under section 302(d) or by regulation of the Attorney General) or regulated persons may lawfully hold, manufacture, distribute, dispense, administer, or otherwise dispose of controlled substances or listed chemicals or where records relating to those activities are maintained."; and

(2) in subsection (b)(3)—

(A) in subparagraph (B) by inserting ", listed chemicals," after "unfinished drugs"; and

(B) in subparagraph (C) by inserting "or listed chemical" after "controlled substance" and inserting "or chemical" after "such substance".

SEC. 540. THRESHOLD AMOUNTS.

Section 102(39)(A) of the Controlled Substances Act (21 U.S.C. 802(39)(A)), as amended by section 2, is amended by inserting "of a listed chemical, or if the Attorney General establishes a threshold amount for a specific listed chemical," before "a threshold amount, including a cumulative threshold amount for multiple transactions".

SEC. 541. MANAGEMENT OF LISTED CHEMICALS.

(a) IN GENERAL.—Part C of the Controlled Substances Act (21 U.S.C. 821 et seq.) is amended by adding at the end the following new section:

"MANAGEMENT OF LISTED CHEMICALS

"SEC. 311. (a) OFFENSE.—It is unlawful for a person who possesses a listed chemical with the intent that it be used in the illegal manufacture of a controlled substance to manage the listed chemical or waste from the manufacture of a controlled substance otherwise than as required by regulations issued under sections 3001, 3002, 3003, 3004, and 3005 of the Solid Waste Disposal Act (42 U.S.C. 6921, 6922, 6923, 6924, and 6925).

"(b) ENHANCED PENALTY.—(1) In addition to a penalty that may be imposed for the illegal manufacture, possession, or distribution of a listed chemical or toxic residue of a clandestine laboratory, a person who violates subsection (a) shall be assessed the costs described in paragraph (2) and shall be imprisoned as described in paragraph (3).

"(2) Pursuant to paragraph (1) a defendant shall be assessed the following costs to the United States, a State, or another authority or person that undertakes to correct the results of the improper management of a listed chemical:

"(A) The cost of initial cleanup and disposal of the listed chemical and contaminated property.

"(B) The cost of restoring property that is damaged by exposure to a listed chemical for rehabilitation under Federal, State, and local standards.

"(3)(A) A violation of subsection (a) shall be punished as a class D felony, or in the case of a willful violation, as a class C felony.

"(B) It is the sense of the Congress that guidelines issued by the Sentencing Commission regarding sentencing under this paragraph should recommend that the term of imprisonment for a violation of subsection (a) should not be less than 5 years, nor less than 10 years in the case of a willful violation.

"(4) A court may order that all or a portion of the earnings from work performed by a defendant in prison be withheld for payment of costs assessed under paragraph (2).

"(c) USE OF FORFEITED ASSETS.—The Attorney General may direct that assets forfeited under section 511 in connection with a prosecution under this section be shared with State agencies that participated in the seizure or cleaning up of a contaminated site.".

(b) EXCEPTION TO DISCHARGE IN BANKRUPTCY.—Section 523(a) of title 11, United States Code, is amended—

(1) by striking "or" at the end of paragraph (11);

(2) by striking the period at the end of paragraph (12) and inserting "; or"; and

(3) by adding at the end the following new paragraph:

"(13) for costs assessed under section 311(b) of the Controlled Substances Act.".

SEC. 542. FORFEITURE EXPANSION.

Section 511(a) of the Controlled Substances Act (21 U.S.C. 881(a)) is amended—

(1) in paragraph (6) by inserting "or listed chemical" after "controlled substance"; and

(2) in paragraph (9) by striking "a felony provision of".

SEC. 543. ATTORNEY GENERAL ACCESS TO THE NATIONAL PRACTITIONER DATA BANK.

Part B of the Health Care Quality Improvement Act of 1986 (42 U.S.C. 11131 et seq.) is amended by adding at the end the following new section:

"SEC. 428. DISCLOSURE OF INFORMATION TO THE ATTORNEY GENERAL.

"Information respecting physicians or other licensed health care practitioners reported to the Secretary (or to the agency designated under section 424(b)) under this part or section 1921 of the Social Security Act (42 U.S.C. 1396r-2) shall be provided to the Attorney General. The Secretary shall—

"(1) transmit to the Attorney General such information as the Attorney General may designate or request to assist the Drug Enforcement Administration in the enforcement of the Controlled Substances Act (21 U.S.C. 801 et seq.) and other laws enforced by the Drug Enforcement Administration; and

"(2) transmit such information related to health care providers as the Attorney General may designate or request to assist the Federal Bureau of Investigation in the enforcement of title 18, the Act entitled 'An Act to regulate the practice of pharmacy and the sale of poison in the consular districts of the United States in China', approved March 3, 1915 (21 U.S.C. 201 et seq.), and chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351 et seq.).".

SEC. 544. REGULATIONS AND EFFECTIVE DATE.

(a) REGULATIONS.—The Attorney General shall, not later than 90 days after the date of enactment of this subtitle, issue regulations necessary to carry out this subtitle.

(b) EFFECTIVE DATE.—This subtitle and the amendments made by this subtitle shall become effective on the date that is 120 days after the date of enactment of this subtitle.

Subtitle E—Personnel

SEC. 551. MORE AGENTS FOR THE DRUG ENFORCEMENT ADMINISTRATION.

There are authorized to be appropriated for the hiring of additional Drug Enforcement Administration agents $20,000,000 for each of fiscal years 1994, 1995, 1996, 1997, and 1998.

SEC. 552. ADEQUATE STAFFING OF THE OFFICE OF NATIONAL DRUG POLICY.

Section 1003(d)(1) of the National Narcotics Leadership Act of 1988 (21 U.S.C. 1502(d)(1) is amended by striking "such" and inserting "at least 75 and such additional".

TITLE VI—PUNISHMENT AND DETERRENCE

Subtitle A—Death Penalty

SEC. 601. SHORT TITLE.

This title may be cited as the "Federal Death Penalty Act of 1993".

SEC. 602. DEATH PENALTY PROCEDURES.

(a) ADDITION OF CHAPTER TO TITLE 18, UNITED STATES CODE.—Title 18, United States Code, is amended by inserting after chapter 227 the following new chapter:

"CHAPTER 228—DEATH PENALTY PROCEDURES

"Sec.

"3591. Sentence of death.

"3592. Factors to be considered in determining whether a sentence of death is justified.

"3593. Special hearing to determine whether a sentence of death is justified.

"3594. Imposition of a sentence of death.

"3595. Review of a sentence of death.

"3596. Implementation of a sentence of death.

"3597. Use of State facilities.

"3598. Appointment of counsel.

"3599. Collateral attack on judgment imposing sentence of death.

"3600. Application in Indian country.

"§ 3591. Sentence of death

"A defendant who has been found guilty of—

"(1) an offense described in section 794 or section 2381;

"(2) an offense described in section 1751(c) if the offense, as determined beyond a reasonable doubt at a hearing under section 3593, constitutes an attempt to murder the President of the United States and results in bodily injury to the President or comes dangerously close to causing the death of the President;

"(3) an offense referred to in section 408(c)(1) of the Controlled Substances Act (21

U.S.C. 848(c)(1)), committed as part of a continuing criminal enterprise offense under the conditions described in subsection (b) of that section which involved not less than twice the quantity of controlled substance described in subsection (b)(2)(A) or twice the gross receipts described in subsection (b)(2)(B);

"(4) an offense referred to in section 408(c)(1) of the Controlled Substances Act (21 U.S.C. 848(c)(1)), committed as part of a continuing criminal enterprise offense under that section, where the defendant is a principal administrator, organizer, or leader of such an enterprise, and the defendant, in order to obstruct the investigation or prosecution of the enterprise or an offense involved in the enterprise, attempts to kill or knowingly directs, advises, authorizes, or assists another to attempt to kill any public officer, juror, witness, or members of the family or household of such a person;

"(5) an offense constituting a felony violation of the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.), where the defendant, intending to cause death or acting with reckless disregard for human life, engages in such a violation, and the death of another person results in the course of the violation or from the use of the controlled substance involved in the violation; or

"(6) any other offense for which a sentence of death is provided if the defendant, as determined beyond a reasonable doubt at a hearing under section 3593, caused the death of a person intentionally, knowingly, or through recklessness manifesting extreme indifference to human life, or caused the death of a person through the intentional infliction of serious bodily injury,

shall be sentenced to death if, after consideration of the factors set forth in section 3592 in the course of a hearing held pursuant to section 3593, it is determined that imposition of a sentence of death is justified, except that no person may be sentenced to death who was less than 18 years of age at the time of the offense or who is mentally retarded.

"§3592. Factors to be considered in determining whether a sentence of death is justified

"(a) Mitigating Factors.—In determining whether a sentence of death is justified for any offense, the jury, or if there is no jury, the court, shall consider each of the following mitigating factors and determine which, if any, exist:

"(1) Mental Capacity.—The defendant's mental capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law was significantly impaired, regardless of whether the capacity was so impaired as to constitute a defense to the charge.

"(2) Duress.—The defendant was under unusual and substantial duress, regardless of whether the duress was of such a degree as to constitute a defense to the charge.

"(3) Participation in offense minor.—The defendant's participation in the offense, which was committed by another, was relatively minor, regardless of whether the participation was so minor as to constitute a defense to the charge.

"(4) No significant criminal history.—The defendant did not have a significant history of other criminal conduct.

"(5) Disturbance.—The defendant committed the offense under severe mental or emotional disturbance.

"(6) Victim's consent.—The victim consented to the criminal conduct that resulted in the victim's death.

The jury, or if there is no jury, the court, shall consider whether any other aspect of the defendant's background, character or record or any other circumstance of the offense that the defendant may proffer as a mitigating factor exists.

"(b) Aggravating Factors for Espionage and Treason.—In determining whether a sentence of death is justified for an offense described in section 3591(1), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(1) Previous espionage or treason conviction.—The defendant has previously been convicted of another offense involving espionage or treason for which a sentence of life imprisonment or death was authorized by statute.

"(2) Risk of substantial danger to national security.—In the commission of the offense the defendant knowingly created a grave risk to the national security.

"(3) Risk of death to another.—In the commission of the offense the defendant knowingly created a grave risk of death to another person.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"(c) Aggravating Factors for Homicide and for Attempted Murder of the President.—In determining whether a sentence of death is justified for an offense described in section 3591 (2) or (6), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(1) Conduct occurred during commission of specified crimes.—The conduct resulting in death occurred during the commission or attempted commission of, or during the immediate flight from the commission of, an offense under section 32 (destruction of aircraft or aircraft facilities), section 33 (destruction of motor vehicles or motor vehicle facilities), section 36 (violence at international airports), section 351 (violence against Members of Congress, Cabinet officers, or Supreme Court Justices), section 751 (prisoners in custody of institution or officer), section 794 (gathering or delivering defense information to aid foreign government), section 844(d) (transportation of explosives in interstate commerce for certain purposes), section 844(f) (destruction of Government property by explosives), section 844(i) (destruction of property affecting interstate commerce by explosives), section 1116 (killing or attempted killing of diplomats), section 1118 (prisoners serving life term), section 1201 (kidnapping), section 1203 (hostage taking), section 1751 (violence against the President or Presidential staff), section 1992 (wrecking trains), section 2280 (maritime violence), section 2281 (maritime platform violence), section 2332 (terrorist acts abroad against United States nationals), section 2339A (use of weapons of mass destruction), or section 2381 (treason) of this title, section 1826 of title 28 (persons in custody as recalcitrant witnesses or hospitalized following insanity acquittal), or section 902 (i) or (n) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1472 (i) or (n) (aircraft piracy)).

"(2) Involvement of firearm or previous conviction of violent felony involving firearm.—The defendant—

"(A) during and in relation to the commission of the offense or in escaping or attempting to escape apprehension used or possessed a firearm (as defined in section 921); or

"(B) has previously been convicted of a Federal or State offense punishable by a term of imprisonment of more than 1 year, involving the use of attempted or threatened use of a firearm (as defined in section 921), against another person.

"(3) Previous conviction of offense for which a sentence of death or life imprisonment was authorized.—The defendant has previously been convicted of another Federal or State offense resulting in the death of a person, for which a sentence of life imprisonment or death was authorized by statute.

"(4) Previous conviction of other serious offenses.—The defendant has previously been convicted of 2 or more Federal or State offenses, each punishable by a term of imprisonment of more than 1 year, committed on different occasions, involving the importation, manufacture, or distribution of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) or the infliction of, or attempted infliction of, serious bodily injury or death upon another person.

"(5) Grave risk of death to additional persons.—The defendant, in the commission of the offense or in escaping or attempting to escape apprehension, knowingly created a grave risk of death to one or more persons in addition to the victim of the offense.

"(6) Heinous, cruel, or depraved manner of commission.—The defendant committed the offense in an especially heinous, cruel, or depraved manner in that it involved torture or serious physical abuse to the victim.

"(7) Procurement of offense by payment.—The defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value.

"(8) Commission of the offense for pecuniary gain.—The defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value.

"(9) Substantial planning and premeditation.—The defendant committed the offense after substantial planning and premeditation.

"(10) Vulnerability of victim.—The victim was particularly vulnerable due to old age, youth, or infirmity.

"(11) Type of victim.—The defendant committed the offense against—

"(A) the President of the United States, the President-elect, the Vice President, the Vice President-elect, the Vice President-designate, or, if there was no Vice President, the officer next in order of succession to the office of the President of the United States, or any person acting as President under the Constitution and laws of the United States;

"(B) a chief of state, head of government, or the political equivalent, of a foreign nation;

"(C) a foreign official listed in section 1116(b)(3)(A), if that official was in the United States on official business; or

"(D) a Federal public servant who was outside of the United States or who was a Federal judge, a Federal law enforcement officer, an employee (including a volunteer or contract employee) of a Federal prison, or an official of the Federal Bureau of Prisons—

"(i) while such public servant was engaged in the performance of his official duties;

"(ii) because of the performance of such public servant's official duties; or

"(iii) because of such public servant's status as a public servant.

For purposes of this paragraph, the terms 'President-elect' and 'Vice President-elect' mean such persons as are the apparent successful candidates for the offices of President and Vice President, respectively, as ascertained from the results of the general elections held to determine the electors of President and Vice President in accordance with sections 1 and 2 of title 3; a 'Federal law enforcement officer' is a public servant authorized by law or by a Government agency or Congress to conduct or engage in the prevention, investigation, or prosecution of an offense; 'Federal prison' means a Federal correctional, detention, or penal facility, Federal community treatment center, or Federal halfway house, or any such prison operated under contract with the Federal Government; and 'Federal judge' means any judicial officer of the United States, and includes a justice of the Supreme Court and a United States magistrate judge.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"(d) Aggravating Factors for Drug Offense Death Penalty.—In determining whether a sentence of death is justified for an offense described in section 3591 (3), (4), or (5), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(1) Previous conviction of offense for which a sentence of death or life imprisonment was authorized.—The defendant has previously been convicted of another Federal or State offense resulting in the death of a person, for which a sentence of life imprisonment or death was authorized by statute.

"(2) Previous conviction of other serious offenses.—The defendant has previously been convicted of two or more Federal or State offenses, each punishable by a term of imprisonment of more than one year, committed on different occasions, involving the importation, manufacture, or distribution of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) or the infliction of, or attempted infliction of, serious bodily injury or death upon another person.

"(3) Previous serious drug felony conviction.—The defendant has previously been convicted of another Federal or State offense involving the manufacture, distribution, importation, or possession of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) for which a sentence of five or more years of imprisonment was authorized by statute.

"(4) Use of firearm.—In committing the offense, or in furtherance of a continuing criminal enterprise of which the offense was a part, the defendant used a firearm or knowingly directed, advised, authorized, or assisted another to use a firearm (as defined in section 921) to threaten, intimidate, assault, or injure a person.

"(5) Distribution to persons under 21.—The offense, or a continuing criminal enterprise of which the offense was a part, involved conduct proscribed by section 418 of the Controlled Substances Act (21 U.S.C. 859) which was committed directly by the defendant or for which the defendant would be liable under section 2 of this title.

"(6) Distribution near schools.—The offense, or a continuing criminal enterprise of which the offense was a part, involved conduct proscribed by section 419 of the Controlled Substances Act (21 U.S.C. 860) which was committed directly by the defendant or for which the defendant would be liable under section 2 of this title.

"(7) Using minors in trafficking.—The offense, or a continuing criminal enterprise of which the offense was a part, involved conduct proscribed by section 420 of the Controlled Substances Act (21 U.S.C. 861) which was committed directly by the defendant or for which the defendant would be liable under section 2 of this title.

"(8) Lethal adulterant.—The offense involved the importation, manufacture, or distribution of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)), mixed with a potentially lethal adulterant, and the defendant was aware of the presence of the adulterant.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"§ 3593. Special hearing to determine whether a sentence of death is justified

"(a) Notice by the Government.—Whenever the Government intends to seek the death penalty for an offense described in section 3591, the attorney for the Government, a reasonable time before the trial, or before acceptance by the court of a plea of guilty, or at such time thereafter as the court may permit upon a showing of good cause, shall sign and file with the court, and serve on the defendant, a notice that the Government in the event of conviction will seek the sentence of death. The notice shall set forth the aggravating factor or factors enumerated in section 3592, and any other aggravating factor not specifically enumerated in section 3592, that the Government, if the defendant is convicted, will seek to prove as the basis for the death penalty. The factors for which notice is provided under this subsection may include factors concerning the effect of the offense on the victim and the victim's family. The court may permit the attorney for the Government to amend the notice upon a showing of good cause.

"(b) Hearing Before a Court or Jury.—When the attorney for the Government has filed a notice as required under subsection (a) and the defendant is found guilty of an offense described in section 3591, the judge who presided at the trial or before whom the guilty plea was entered, or another judge if that judge is unavailable, shall conduct a separate sentencing hearing to determine the punishment to be imposed. Prior to such a hearing, no presentence report shall be prepared by the United States Probation Service, notwithstanding the provisions of the Federal Rules of Criminal Procedure. The hearing shall be conducted—

"(1) before the jury that determined the defendant's guilt;

"(2) before a jury impaneled for the purpose of the hearing if—

"(A) the defendant was convicted upon a plea of guilty;

"(B) the defendant was convicted after a trial before the court sitting without a jury;

"(C) the jury that determined the defendant's guilt was discharged for good cause; or

"(D) after initial imposition of a sentence under this section, reconsideration of the sentence under the section is necessary; or

"(3) before the court alone, upon motion of the defendant and with the approval of the attorney for the Government.

A jury impaneled pursuant to paragraph (2) shall consist of 12 members, unless, at any time before the conclusion of the hearing, the parties stipulate, with the approval of the court, that it shall consist of a lesser number.

"(c) Proof of Mitigating and Aggravating Factors.—At the hearing, information may be presented as to—

"(1) any matter relating to any mitigating factor listed in section 3592 and any other mitigating factor; and

"(2) any matter relating to any aggravating factor listed in section 3592 for which notice has been provided under subsection (a) and (if information is presented relating to such a listed factor) any other aggravating factor for which notice has been so provided.

The information presented may include the trial transcript and exhibits. Any other information relevant to such mitigating or aggravating factors may be presented by either the Government or the defendant. The information presented by the Government in support of factors concerning the effect of the offense on the victim and the victim's family may include oral testimony, a victim impact statement that identifies the victim of the offense and the nature and extent of harm and loss suffered by the victim and the victim's family, and other relevant information. Information is admissible regardless of its admissibility under the rules governing admission of evidence at criminal trials, except that information may be excluded if its probative value is outweighed by the danger of creating unfair prejudice, confusing the issues, or misleading the jury. The attorney for the Government and for the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any aggravating or mitigating factor, and as to the appropriateness in that case of imposing a sentence of death. The attorney for the Government shall open the argument. The defendant shall be permitted to reply. The Government shall then be permitted to reply in rebuttal. The burden of establishing the existence of an aggravating factor is on the Government, and is not satisfied unless the existence of such a factor is established beyond a reasonable doubt. The burden of establishing the existence of any mitigating factor is on the defendant, and is not satisfied unless the existence of such a factor is established by a preponderance of the evidence.

"(d) Return of Special Findings.—The jury, or if there is no jury, the court, shall consider all the information received during the hearing. It shall return special findings identifying any aggravating factor or factors set forth in section 3592 found to exist and any other aggravating factor for which notice has been provided under subsection (a) found to exist. A finding with respect to a mitigating factor may be made by one or more members of the jury, and any member of the jury who finds the existence of a mitigating factor may consider such factor established for purposes of this section regardless of the number of jurors who concur that the factor has been established. A finding with respect to any aggravating factor must be unanimous. If no aggravating factor set forth in section 3592 is found to exist, the court shall impose a sentence other than death authorized by law.

"(e) Return of a Finding Concerning a Sentence of Death.—If, in the case of—

"(1) an offense described in section 3591(1), an aggravating factor required to be considered under section 3592(b) is found to exist;

"(2) an offense described in section 3591 (2) or (6), an aggravating factor required to be considered under section 3592(c) is found to exist; or

"(3) an offense described in section 3591 (3), (4), or (5), an aggravating factor required to be considered under section 3592(d) is found to exist, the jury, or if there is no jury, the court, shall then consider whether the aggravating factor or factors found to exist under subsection (d) outweigh any mitigating factor or factors. The jury, or if there is no jury, the court shall recommend a sentence of death if it unanimously finds at least one aggravating factor and no mitigating factor or if it finds one or more aggravating factors which outweigh any mitigating factors. In any other case, it shall not recommend a sentence of death. The jury shall be instructed that it must avoid any influence of sympathy, sentiment, passion, prejudice, or other arbitrary factors in its decision, and should make such a recommendation as the information warrants.

"(f) Special Precaution To Ensure Against Discrimination.—In a hearing held before a jury, the court, prior to the return of a finding under subsection (e), shall instruct the jury that, in considering whether a sentence of death is justified, it shall not be influenced by prejudice or bias relating to the race, color, religion, national origin, or sex of the defendant or of any victim and that the jury is not to recommend a sentence of death unless it has concluded that it would recommend a sentence of death for the crime in question no matter what the race, color, religion, national origin, or sex of the defendant or of any victim may be. The jury, upon return of a finding under subsection (e), shall also return to the court a certificate, signed by each juror, that prejudice or bias relating to the race, color, religion, national origin, or sex of the defendant or any victim was not involved in reaching his or her individual decision and that the individual juror would have made the same recommendation regarding a sentence for the crime in question no matter what the race, color, religion, national origin, or sex of the defendant or any victim may be.

"§ 3594. Imposition of a sentence of death

"Upon the recommendation under section 3593(e) that a sentence of death be imposed, the court shall sentence the defendant to death. Otherwise the court shall impose a sentence, other than death, authorized by law. Notwithstanding any other provision of law, if the maximum term of imprisonment for the offense is life imprisonment, the court may impose a sentence of life imprisonment without the possibility of release.

"§ 3595. Review of a sentence of death

"(a) Appeal.—In a case in which a sentence of death is imposed, the sentence shall be subject to review by the court of appeals upon appeal by the defendant. Notice of appeal of the sentence must be filed within the time specified for the filing of a notice of appeal of the judgment of conviction. An appeal of the sentence under this section may be consolidated with an appeal of the judgment of conviction and shall have priority over all other cases.

"(b) Review.—The court of appeals shall review the entire record in the case, including—

"(1) the evidence submitted during the trial;

"(2) the information submitted during the sentencing hearing;

"(3) the procedures employed in the sentencing hearing; and

"(4) the special findings returned under section 3593(d).

"(c) Decision and Disposition.—

"(1) Affirmance.—If the court of appeals determines that—

"(A) the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor;

"(B) the evidence and information support the special findings of the existence of an aggravating factor or factors; and

"(C) the proceedings did not involve any other prejudicial error requiring reversal of the sentence that was properly preserved for and raised on appeal,

it shall affirm the sentence.

"(2) Remand.—In a case in which the sentence is not affirmed under paragraph (1), the court of appeals shall remand the case for reconsideration under section 3593 or for imposition of another authorized sentence as appropriate, except that the court shall not reverse a sentence of death on the ground that an aggravating factor was invalid or was not supported by the evidence and information if at least one aggravating factor required to be considered under section 3592 remains which was found to exist and the court, on the basis of the evidence submitted at trial and the information submitted at the sentencing hearing, finds no mitigating factor or finds that the remaining aggravating factor or factors which were found to exist outweigh any mitigating factors.

"(3) Statement of reasons.—The court of appeals shall state in writing the reasons for its disposition of an appeal of a sentence of death under this section.

"§ 3596. Implementation of a sentence of death

"(a) In General.—A person who has been sentenced to death pursuant to this chapter shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and for review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States Marshal, who shall supervise implementation of the sentence in the manner prescribed by the law of the State in which the sentence is imposed. If the law of such State does not provide for implementation of a sentence of death, the court shall designate another State, the law of which does so provide, and the sentence shall be implemented in the manner prescribed by such law.

"(b) Special Bars To Execution.—A sentence of death shall not be carried out upon a person who lacks the mental capacity to understand the death penalty and why it was imposed on that person, or upon a woman while she is pregnant.

"(c) Employees May Decline To Participate.—No employee of any State department of corrections, the Federal Bureau of Prisons, or the United States Marshals Service, and no employee providing services to that department, bureau, or service under contract shall be required, as a condition of that employment or contractual obligation, to be in attendance at or to participate in any execution carried out under this section if such participation is contrary to the moral or religious convictions of the employee. For purposes of this subsection, the term 'participate in any execution' includes personal preparation of the condemned individual and the apparatus used for the execution, and supervision of the activities of other personnel in carrying out such activities.

"§ 3597. Use of State facilities

"A United States Marshal charged with supervising the implementation of a sentence of death may use appropriate State or local facilities for the purpose, may use the services of an appropriate State or local official or of a person such an official employs for the purpose, and shall pay the costs thereof in an amount approved by the Attorney General.

"§ 3598. Appointment of counsel

"(a) Representation of Indigent Defendants.—This section shall govern the appointment of counsel for any defendant against whom a sentence of death is sought, or on whom a sentence of death has been imposed, for an offense against the United States, where the defendant is or becomes financially unable to obtain adequate representation. Such a defendant shall be entitled to appointment of counsel from the commencement of trial proceedings until one of the conditions specified in section 3599(b) has occurred. This section shall not affect the appointment of counsel and the provision of ancillary legal services under section 408(q) (4), (5), (6), (7), (8), (9), and (10) of the Controlled Substances Act (21 U.S.C. 848 (q) (4), (5), (6), (7), (8), (9), and (10)).

"(b) Representation Before Finality of Judgment.—A defendant within the scope of this section shall have counsel appointed for trial representation as provided in section 3005. At least 1 counsel so appointed shall continue to represent the defendant until the conclusion of direct review of the judgment, unless replaced by the court with other qualified counsel.

"(c) Representation After Finality of Judgment.—When a judgment imposing a sentence of death has become final through affirmance by the Supreme Court on direct review, denial of certiorari by the Supreme Court on direct review, or expiration of the time for seeking direct review in the court of appeals or the Supreme Court, the Government shall promptly notify the district court that imposed the sentence. Within 10 days after receipt of such notice, the district court shall proceed to make a determination whether the defendant is eligible under this section for appointment of counsel for subsequent proceedings. On the basis of the determination, the court shall issue an order—

"(1) appointing 1 or more counsel to represent the defendant upon a finding that the defendant is financially unable to obtain adequate representation and wishes to have counsel appointed or is unable competently to decide whether to accept or reject appointment of counsel;

"(2) finding, after a hearing if necessary, that the defendant rejected appointment of counsel and made the decision with an understanding of its legal consequences; or

"(3) denying the appointment of counsel upon a finding that the defendant is financially able to obtain adequate representation.

Counsel appointed pursuant to this subsection shall be different from the counsel who represented the defendant at trial and on direct review unless the defendant and counsel request a continuation or renewal of the earlier representation.

"(d) Standards for Competence of Counsel.—In relation to a defendant who is entitled to appointment of counsel under this section, at least 1 counsel appointed for trial representation must have been admitted to the bar for at least 5 years and have at least 3 years of experience in the trial of felony cases in the federal district courts. If new counsel is appointed after judgment, at least 1 counsel so appointed must have been admitted to the bar for at least 5 years and have at least 3 years of experience in the litigation of felony cases in the Federal courts of appeals or the Supreme Court. The court, for good cause, may appoint counsel who does not meet the standards prescribed in the 2 preceding sentences, but whose background, knowledge, or experience would otherwise enable him or her to properly represent the defendant, with due consideration of the seriousness of the penalty and the nature of the litigation.

"(e) APPLICABILITY OF CRIMINAL JUSTICE ACT.—Except as otherwise provided in this section, section 3006A shall apply to appointments under this section.

"(f) CLAIMS OF INEFFECTIVENESS OF COUNSEL.—The ineffectiveness or incompetence of counsel during proceedings on a motion under section 2255 of title 28 in a capital case shall not be a ground for relief from the judgment or sentence in any proceeding. This limitation shall not preclude the appointment of different counsel at any stage of the proceedings.

"§ 3599. Collateral attack on judgment imposing sentence of death

"(a) TIME FOR MAKING SECTION 2255 MOTION.—In a case in which a sentence of death has been imposed, and the judgment has become final as described in section 3598(c), a motion in the case under section 2255 of title 28 shall be filed within 90 days of the issuance of the order relating to appointment of counsel under section 3598(c). The court in which the motion is filed, for good cause shown, may extend the time for filing for a period not exceeding 60 days. A motion described in this section shall have priority over all noncapital matters in the district court, and in the court of appeals on review of the district court's decision.

"(b) STAY OF EXECUTION.—The execution of a sentence of death shall be stayed in the course of direct review of the judgment and during the litigation of an initial motion in the case under section 2255 of title 28. The stay shall run continuously following imposition of the sentence, and shall expire if—

"(1) the defendant fails to file a motion under section 2255 of title 28 within the time specified in subsection (a), or fails to make a timely application for court of appeals review following the denial of such a motion by a district court;

"(2) upon completion of district court and court of appeals review under section 2255 of title 28, the motion under that section is denied and—

"(A) the time for filing a petition for certiorari has expired and no petition has been filed;

"(B) a timely petition for certiorari was filed and the Supreme Court denied the petition; or

"(C) a timely petition for certiorari was filed and upon consideration of the case, the Supreme Court disposed of it in a manner that left the capital sentence undisturbed; or

"(3) before a district court, in the presence of counsel and after having been advised of the consequences of the decision to do so, the defendant waives the right to file a motion under section 2255 of title 28.

"(c) FINALITY OF DECISION ON REVIEW.—If one of the conditions specified in subsection (b) has occurred, no court thereafter shall have the authority to enter a stay of execution or grant relief in the case unless—

"(1) the basis for the stay and request for relief is a claim not presented in earlier proceedings;

"(2) the failure to raise the claim was—

"(A) the result of governmental action in violation of the Constitution or laws of the United States;

"(B) the result of the Supreme Court recognition of a new Federal right that is retroactively applicable; or

"(C) based on a factual predicate that could not have been discovered through the exercise of reasonable diligence in time to present the claim in earlier proceedings; and

"(3) the facts underlying the claim would be sufficient, if proven, to undermine the court's confidence in the determination of guilt on the offense or offenses for which the death penalty was imposed.

"§ 3600. Application in Indian country

"Notwithstanding sections 1152 and 1153, no person subject to the criminal jurisdiction of an Indian tribal government shall be subject to a capital sentence under this chapter for any offense the Federal jurisdiction for which is predicated solely on Indian country as defined in section 1151 and which has occurred within the boundaries of such Indian country, unless the governing body of the tribe has made an election that this chapter have effect over land and persons subject to its criminal jurisdiction.".

(b) TECHNICAL AMENDMENT.—The part analysis for part II of title 18, United States Code, is amended by adding after the item relating to chapter 227 the following new item:

"228. Death penalty procedures .... 3591.".

SEC. 603. CONFORMING AMENDMENT RELATING TO DESTRUCTION OF AIRCRAFT OR AIRCRAFT FACILITIES.

Section 34 of title 18, United States Code, is amended by striking the comma after "life" and all that follows through "order".

SEC. 604. CONFORMING AMENDMENT RELATING TO ESPIONAGE.

Section 794(a) of title 18, United States Code, is amended by striking the period at the end and inserting ", except that the sentence of death shall not be imposed unless the jury or, if there is no jury, the court, further finds beyond a reasonable doubt at a hearing under section 3593 that the offense directly concerned—

"(1) nuclear weaponry, military spacecraft and satellites, early warning systems, or other means of defense or retaliation against large-scale attack;

"(2) war plans;

"(3) communications intelligence or cryptographic information;

"(4) sources or methods of intelligence or counterintelligence operations; or

"(5) any other major weapons system or major element of defense strategy.".

SEC. 605. CONFORMING AMENDMENT RELATING TO TRANSPORTING EXPLOSIVES.

Section 844(d) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

SEC. 606. CONFORMING AMENDMENT RELATING TO MALICIOUS DESTRUCTION OF FEDERAL PROPERTY BY EXPLOSIVES.

Section 844(f) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

SEC. 607. CONFORMING AMENDMENT RELATING TO MALICIOUS DESTRUCTION OF INTERSTATE PROPERTY BY EXPLOSIVES.

Section 844(i) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

SEC. 608. CONFORMING AMENDMENT RELATING TO MURDER.

Section 1111(b) of title 18, United States Code, is amended to read as follows:

"(b) Within the special maritime and territorial jurisdiction of the United States—

"(1) whoever is guilty of murder in the first degree shall be punished by death or by imprisonment for life; and

"(2) whoever is guilty of murder in the second degree shall be imprisoned for any term of years or for life.".

SEC. 609. CONFORMING AMENDMENT RELATING TO KILLING OFFICIAL GUESTS OR INTERNATIONALLY PROTECTED PERSONS.

Section 1116(a) of title 18, United States Code, is amended by striking the comma after "title" and all that follows through "years".

SEC. 610. MURDER BY FEDERAL PRISONER.

(a) OFFENSE.—Chapter 51 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 1118. Murder by a Federal prisoner

"(a) OFFENSE.—Whoever, while confined in a Federal prison under a sentence for a term of life imprisonment, murders another shall be punished by death or by life imprisonment without the possibility of release.

"(b) DEFINITIONS.—For purposes of this section—

"(1) 'Federal prison' means any Federal correctional, detention, or penal facility, Federal community treatment center, or Federal halfway house, or any such prison operated under contract with the Federal Government; and

"(2) 'term of life imprisonment' means a sentence for the term of natural life, a sentence commuted to natural life, an indeterminate term of a minimum of at least 15 years and a maximum of life, or an unexecuted sentence of death.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 51 of title 18, United States Code, is amended by adding at the end the following new item:

"1118. Murder by a Federal prisoner.".

SEC. 611. CONFORMING AMENDMENT RELATING TO KIDNAPPING.

Section 1201(a) of title 18, United States Code, is amended by striking the period at the end and inserting "and, if the death of any person results, shall be punished by death or life imprisonment".

SEC. 612. CONFORMING AMENDMENT RELATING TO HOSTAGE TAKING.

Section 1203(a) of title 18, United States Code, is amended by striking the period at the end and inserting "and, if the death of any person results, shall be punished by death or life imprisonment".

SEC. 613. CONFORMING AMENDMENT RELATING TO MAILABILITY OF INJURIOUS ARTICLES.

The last paragraph of section 1716 of title 18, United States Code, is amended by striking the comma after "life" and all that follows through "order".

SEC. 614. CONFORMING AMENDMENT RELATING TO PRESIDENTIAL ASSASSINATION.

Section 1751(c) of title 18, United States Code, is amended to read as follows:

"(c) Whoever attempts to murder or kidnap any individual designated in subsection (a) shall be punished—

"(1) by imprisonment for any term of years or for life; or

"(2) if the conduct constitutes an attempt to murder the President of the United States and results in bodily injury to the President or otherwise comes dangerously close to causing the death of the President, by death or imprisonment for any term of years or for life.".

SEC. 615. CONFORMING AMENDMENT RELATING TO MURDER FOR HIRE.

Section 1958(a) of title 18, United States Code, is amended by striking "and if death results, shall be subject to imprisonment for any term of years or for life, or shall be fined not more than $50,000, or both" and inserting "and if death results, shall be punished by death or life imprisonment, or shall be fined in accordance with this title, or both".

SEC. 616. CONFORMING AMENDMENT RELATING TO VIOLENT CRIMES IN AID OF RACKETEERING ACTIVITY.

Section 1959(a)(1) of title 18, United States Code, is amended to read as follows:

"(1) for murder, by death or life imprisonment, or a fine in accordance with this title, or both, and for kidnapping, by imprisonment for any term of years or for life, or a fine in accordance with this title, or both;".

SEC. 617. CONFORMING AMENDMENT RELATING TO WRECKING TRAINS.

The penultimate paragraph of section 1992 of title 18, United States Code, is amended by striking the comma after "life" and all that follows through "order".

SEC. 618. CONFORMING AMENDMENT RELATING TO BANK ROBBERY.

Section 2113(e) of title 18, United States Code, is amended by striking "or punished by death if the verdict of the jury shall so direct" and inserting "or if death results shall be punished by death or life imprisonment".

SEC. 619. CONFORMING AMENDMENT RELATING TO TERRORIST ACTS.

Section 2332(a)(1) of title 18, United States Code, as redesignated by section 601(b)(2), is amended to read as follows:

"(1) if the killing is murder as defined in section 1111(a), be fined under this title, punished by death or imprisonment for any term of years or for life, or both;".

SEC. 620. CONFORMING AMENDMENT RELATING TO AIRCRAFT HIJACKING.

Section 903 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1473) is amended by striking subsection (c).

SEC. 621. CONFORMING AMENDMENT TO CONTROLLED SUBSTANCES ACT.

Section 408 of the Controlled Substances Act (21 U.S.C. 848) is amended by striking subsections (g), (h), (i), (j), (k), (l), (m), (n), (o), (p), (q) (1), (2), and (3), and (r).

SEC. 622. CONFORMING AMENDMENT RELATING TO GENOCIDE.

Section 1091(b)(1) of title 18, United States Code, is amended by striking "a fine of not more than $1,000,000 and imprisonment for life" and inserting "death or imprisonment for life and a fine of not more than $1,000,000".

SEC. 623. PROTECTION OF COURT OFFICERS AND JURORS.

Section 1503 of title 18, United States Code, is amended—

(1) by inserting "(a)" before "Whoever";

(2) in subsection (a), as designated by paragraph (1)—

(A) by striking "commissioner" each place it appears and inserting "magistrate judge"; and

(B) by striking "fined not more than $5,000 or imprisoned not more than five years, or both" and inserting "punished as provided in subsection (b)"; and

(3) by adding at the end the following new subsection:

"(b) The punishment for an offense under this section is—

"(1) in the case of a killing, the punishment provided in sections 1111 and 1112;

"(2) in the case of an attempted killing, or a case in which the offense was committed against a petit juror and in which a class A or B felony was charged, imprisonment for not more than 20 years; and

"(3) in any other case, imprisonment for not more than 10 years.".

SEC. 624. PROHIBITION OF RETALIATORY KILLINGS OF WITNESSES, VICTIMS, AND INFORMANTS.

Section 1513 of title 18, United States Code, is amended—

(1) by redesignating subsections (a) and (b) as subsections (b) and (c), respectively; and

(2) by inserting before subsection (b), as redesignated by paragraph (1), the following new subsection:

"(a)(1) Whoever kills or attempts to kill another person with intent to retaliate against any person for—

"(A) the attendance of a witness or party at an official proceeding, or any testimony given or any record, document, or other object produced by a witness in an official proceeding; or

"(B) any information relating to the commission or possible commission of a Federal offense or a violation of conditions of probation, parole, or release pending judicial proceedings given by a person to a law enforcement officer,

shall be punished as provided in paragraph (2).

"(2) The punishment for an offense under this subsection is—

"(A) in the case of a killing, the punishment provided in sections 1111 and 1112; and

"(B) in the case of an attempt, imprisonment for not more than 20 years.".

SEC. 625. DEATH PENALTY FOR MURDER OF FEDERAL LAW ENFORCEMENT OFFICERS.

Section 1114 of title 18, United States Code, is amended by striking "be punished as provided under sections 1111 and 1112 of this title, except that" and inserting ", in the case of murder (as defined in section 1111), be punished by death or imprisonment for life, and, in the case of manslaughter (as defined in section 1112), be punished as provided in section 1112, and".

SEC. 626. DEATH PENALTY FOR MURDER OF STATE OR LOCAL LAW ENFORCEMENT OFFICERS ASSISTING FEDERAL LAW ENFORCEMENT OFFICERS.

Section 1114 of title 18, United States Code, is amended by inserting ", or any State or local law enforcement officer while assisting, or on account of his or her assistance of, any Federal officer or employee covered by this section in the performance of duties," after "other statutory authority".

SEC. 627. IMPLEMENTATION OF THE 1988 PROTOCOL FOR THE SUPPRESSION OF UNLAWFUL ACTS OF VIOLENCE AT AIRPORTS SERVING INTERNATIONAL CIVIL AVIATION.

(a) OFFENSE.—Chapter 2 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 36. Violence at international airports

"(a) Whoever unlawfully and intentionally, using any device, substance or weapon—

"(1) performs an act of violence against a person at an airport serving international civil aviation which causes or is likely to cause serious injury or death; or

"(2) destroys or seriously damages the facilities of an airport serving international civil aviation or a civil aircraft not in service located thereon or disrupts the services of the airport,

if such an act endangers or is likely to endanger safety at the airport, or attempts to do such an act, shall be fined under this title, imprisoned not more than 20 years, or both, and if the death of any person results from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life.

"(b) There is jurisdiction over the activity prohibited in subsection (a) if—

"(1) the prohibited activity takes place in the United States; or

"(2) the prohibited activity takes place outside the United States and the offender is later found in the United States.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 2 of title 18, United States Code, is amended by adding at the end the following new item:

"36. Violence at international airports.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the later of—

(1) the date of enactment of this Act; or

(2) the date on which the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, Supplementary to the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, done at Montreal on 23 September 1971, has come into force and the United States has become a party to the Protocol.

SEC. 628. AMENDMENT TO FEDERAL AVIATION ACT.

Section 902(n) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1472(n)) is amended—

(1) by striking paragraph (3); and

(2) by redesignating paragraph (4) as paragraph (3).

SEC. 629. OFFENSES OF VIOLENCE AGAINST MARITIME NAVIGATION OR FIXED PLATFORMS.

(a) OFFENSE.—Chapter 111 of title 18, United States Code, is amended by adding at the end the following new sections:

"§ 2280. Violence against maritime navigation

"(a) OFFENSE.—Whoever unlawfully and intentionally—

"(1) seizes or exercises control over a ship by force or threat thereof or any other form of intimidation;

"(2) performs an act of violence against a person on board a ship if that act is likely to endanger the safe navigation of that ship;

"(3) destroys a ship or causes damage to a ship or to its cargo which is likely to endanger the safe navigation of that ship;

"(4) places or causes to be placed on a ship, by any means whatsoever, a device or substance which is likely to destroy that ship, or cause damage to that ship or its cargo which endangers or is likely to endanger the safe navigation of that ship;

"(5) destroys or seriously damages maritime navigational facilities or seriously interferes with their operation, if such act is likely to endanger the safe navigation of a ship;

"(6) communicates information, knowing the information to be false and under circumstances in which such information may reasonably be believed, thereby endangering the safe navigation of a ship;

"(7) injures or kills any person in connection with the commission or the attempted commission of an offense described in paragraph (1), (2), (3), (4), (5), or (6); or

"(8) attempts to commit any act prohibited under paragraph (1), (2), (3), (4), (5), (6), or (7),

shall be fined under this title, imprisoned not more than 20 years, or both, and if the death of any person results from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life.

"(b) THREATENED OFFENSE.—Whoever threatens to commit any act prohibited under subsection (a) (2), (3), or (5), with apparent determination and will to carry the threat into execution, if the threatened act is likely to endanger the safe navigation of the ship in question, shall be fined under this title, imprisoned not more than 5 years, or both.

"(c) JURISDICTION.—There is jurisdiction over the activity prohibited in subsections (a) and (b)—

"(1) in the case of a covered ship, if—

"(A) such activity is committed—

"(i) against or on board a ship flying the flag of the United States at the time the prohibited activity is committed;

"(ii) in the United States; or

"(iii) by a national of the United States or by a stateless person whose habitual residence is in the United States;

"(B) during the commission of such activity, a national of the United States is seized, threatened, injured, or killed; or

"(C) the offender is later found in the United States after such activity is committed;

"(2) in the case of a ship navigating or scheduled to navigate solely within the territorial sea or internal waters of a country other than the United States, if the offender is later found in the United States after such activity is committed; and

"(3) in the case of any vessel, if such activity is committed in an attempt to compel the United States to do or abstain from doing any act.

"(d) Delivery of Probable Offender.—The master of a covered ship flying the flag of the United States who has reasonable grounds to believe that he or she has on board the ship any person who has committed an offense under Article 3 of the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation may deliver such person to the authorities of a State Party to that Convention. Before delivering such person to the authorities of another country, the master shall notify in an appropriate manner the Attorney General of the United States of the alleged offense and await instructions from the Attorney General as to what action the master should take. When delivering the person to a country which is a State Party to the Convention, the master shall, whenever practicable, and if possible before entering the territorial sea of such country, notify the authorities of such country of his or her intention to deliver such person and the reason therefor. If the master delivers such person, the master shall furnish the authorities of such country with the evidence in the master's possession that pertains to the alleged offense.

"(e) Definitions.—In this section—

" 'covered ship' means a ship that is navigating or is scheduled to navigate into, through, or from waters beyond the outer limit of the territorial sea of a single country or a lateral limit of that country's territorial sea with an adjacent country.

" 'national of the United States' has the meaning stated in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).

" 'ship' means a vessel of any type whatsoever not permanently attached to the seabed, including dynamically supported craft, submersibles or any other floating craft, but does not include a warship, a ship owned or operated by a government when being used as a naval auxiliary or for customs or police purposes, or a ship that has been withdrawn from navigation or laid up.

" 'territorial sea of the United States' means all waters extending seaward to 12 nautical miles from the baselines of the United States determined in accordance with international law.

" 'United States', when used in a geographical sense, includes the Commonwealth of Puerto Rico, the Commonwealth of the Northern Marianas Islands, and all territories and possessions of the United States.

"§ 2281. Violence against maritime fixed platforms

"(a) Offense.—Whoever unlawfully and intentionally—

"(1) seizes or exercises control over a fixed platform by force or threat thereof or any other form of intimidation;

"(2) performs an act of violence against a person on board a fixed platform if that act is likely to endanger its safety;

"(3) destroys a fixed platform or causes damage to it which is likely to endanger its safety;

"(4) places or causes to be placed on a fixed platform, by any means whatsoever, a device or substance that is likely to destroy the fixed platform or likely to endanger its safety;

"(5) injures or kills any person in connection with the commission or attempted commission of an offense described in paragraph (1), (2), (3), or (4); or

"(6) attempts to do anything prohibited under paragraphs (1), (2), (3), (4), or (5);

shall be fined under this title, imprisoned not more than 20 years, or both, and if death results to any person from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life.

"(b) Threatened Offense.—Whoever threatens to do anything prohibited under subsection (a) (2) or (3), with apparent determination and will to carry the threat into execution, if the threatened act is likely to endanger the safety of the fixed platform, shall be fined under this title or imprisoned not more than 5 years, or both.

"(c) Jurisdiction.—There is jurisdiction over the activity prohibited in subsections (a) and (b) if—

"(1) such activity is committed against or on board a fixed platform—

"(A) that is located on the continental shelf of the United States;

"(B) that is located on the continental shelf of another country, by a national of the United States or by a stateless person whose habitual residence is in the United States; or

"(C) in an attempt to compel the United States to do or abstain from doing any act;

"(2) during the commission of such activity against or on board a fixed platform located on a continental shelf, a national of the United States is seized, threatened, injured or killed; or

"(3) such activity is committed against or on board a fixed platform located outside the United States and beyond the continental shelf of the United States and the offender is later found in the United States.

"(d) Definitions.—In this section—

" 'continental shelf' means the seabed and subsoil of the submarine areas that extend beyond a country's territorial sea to the limits provided by customary international law as reflected in Article 76 of the 1982 Convention on the Law of the Sea.

" 'fixed platform' means an artificial island, installation or structure permanently attached to the seabed for the purpose of exploration or exploitation of resources or for other economic purposes.

" 'national of the United States' has the meaning stated in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).

" 'territorial sea of the United States' means all waters extending seaward to 12 nautical miles from the baselines of the United States determined in accordance with international law.

" 'United States', when used in a geographical sense, includes the Commonwealth of Puerto Rico, the Commonwealth of the Northern Marianas Islands, and all territories and possessions of the United States.".

(b) Technical Amendment.—The chapter analysis for chapter 111 of title 18, United States Code, is amended by adding at the end the following new items:

"2280. Violence against maritime navigation.
"2281. Violence against maritime fixed platforms.".

(c) Effective Dates.—The amendments made by this section shall take effect on the later of—

(1) the date of enactment of this Act; or

(2)(A) in the case of section 2280 of title 18, United States Code, the date on which the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation has come into force and the United States has become a party to that Convention; and

(B) in the case of section 2281 of title 18, United States Code, the date on which the Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf has come into force and the United States has become a party to that Protocol.

SEC. 630. TORTURE.

(a) In General.—Part I of title 18, United States Code, is amended by inserting after chapter 113A the following new chapter:

"CHAPTER 113B—TORTURE

"Sec.
"2340. Definitions.
"2340A. Torture.
"2340B. Exclusive remedies.

"§ 2340. Definitions

"In this chapter—

" 'severe mental pain or suffering' means the prolonged mental harm caused by or resulting from—

"(A) the intentional infliction or threatened infliction of severe physical pain or suffering;

"(B) the administration or application, or threatened administration or application, of mind-altering substances or other procedures calculated to disrupt profoundly the senses or the personality;

"(C) the threat of imminent death; or

"(D) the threat that another person will imminently be subjected to death, severe physical pain or suffering, or the administration or application of mind-altering substances or other procedures calculated to disrupt profoundly the senses or personality.

" 'torture' means an act committed by a person acting under the color of law specifically intended to inflict severe physical or mental pain or suffering (other than pain or suffering incidental to lawful sanctions) upon another person within his custody or physical control.

" 'United States' includes all areas under the jurisdiction of the United States including any of the places described in sections 5 and 7 of this title and section 101(38) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1301(38)).

"§ 2340A. Torture

"(a) Offense.—Whoever outside the United States commits or attempts to commit torture shall be fined under this title or imprisoned not more than 20 years, or both, and if death results to any person from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life.

"(b) Jurisdiction.—There is jurisdiction over the activity prohibited in subsection (a) if—

"(1) the alleged offender is a national of the United States; or

"(2) the alleged offender is present in the United States, irrespective of the nationality of the victim or the alleged offender.

"§ 2340B. Exclusive remedies

"Nothing in this chapter shall be construed as precluding the application of State or local laws on the same subject, nor shall anything in this chapter be construed as creating any substantive or procedural right enforceable by law by any party in any civil proceeding.".

(b) TECHNICAL AMENDMENT.—The part analysis for part I of title 18, United States Code, is amended by inserting after the item relating to chapter 113A the following new item:

“113B. Torture .... 2340.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the later of—

(1) the date of enactment of this Act; or

(2) the date on which the United States has become a party to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

SEC. 631. WEAPONS OF MASS DESTRUCTION.

(a) FINDINGS.—The Congress finds that the use and threatened use of weapons of mass destruction (as defined in the amendment made by subsection (b)) gravely harm the national security and foreign relations interests of the United States, seriously affect interstate and foreign commerce, and disturb the domestic tranquility of the United States.

(b) OFFENSE.—Chapter 113A of title 18, United States Code, is amended by adding at the end the following new section:

“§ 2339. Use of weapons of mass destruction

“(a) OFFENSE.—A person who uses, or attempts or conspires to use, a weapon of mass destruction—

“(1) against a national of the United States while such national is outside of the United States;

“(2) against any person within the United States; or

“(3) against any property that is owned, leased, or used by the United States or by any department or agency of the United States, whether the property is within or outside the United States,

shall be imprisoned for any term of years or for life, and if death results, shall be punished by death or imprisoned for any term of years or for life.

“(b) DEFINITIONS.—In this section—

“ ‘national of the United States’ has the meaning stated in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).

“ ‘weapon of mass destruction’ means—

“(A) a destructive device (as defined in section 921);

“(B) poison gas;

“(C) a weapon involving a disease organism; and

“(D) a weapon that is designed to release radiation or radioactivity at a level dangerous to human life.”.

(c) TECHNICAL AMENDMENT.—The chapter analysis for chapter 113A of title 18, United States Code, is amended by adding at the end the following new item:

“2339. Use of weapons of mass destruction.”.

SEC. 632. HOMICIDES AND ATTEMPTED HOMICIDES INVOLVING FIREARMS IN FEDERAL FACILITIES.

Section 930 of title 18, United States Code, is amended—

(1) by redesignating subsections (c), (d), (e), (f), and (g) as subsections (d), (e), (f), (g), and (h), respectively;

(2) in subsection (a), by striking “(c)” and inserting “(d)”; and

(3) by inserting after subsection (b) the following new subsection:

“(c) Whoever kills or attempts to kill any person in the course of a violation of subsection (a) or (b), or in the course of an attack on a Federal facility involving the use of a firearm or other dangerous weapon, shall—

“(1) in the case of a killing constituting murder (as defined in section 1111(a)), be punished by death or imprisoned for any term of years or for life; and

“(2) in the case of any other killing or an attempted killing, be subject to the penalties provided for engaging in such conduct within the special maritime and territorial jurisdiction of the United States under sections 1112 and 1113.”.

SEC. 633. DEATH PENALTY FOR CIVIL RIGHTS MURDERS.

(a) CONSPIRACY AGAINST RIGHTS.—Section 241 of title 18, United States Code, is amended by striking “shall be subject to imprisonment for any term of years or for life” and inserting “shall be punished by death or imprisonment for any term of years or for life”.

(b) DEPRIVATION OF RIGHTS UNDER COLOR OF LAW.—Section 242 of title 18, United States Code, is amended by striking “shall be subject to imprisonment for any term of years or for life” and inserting “shall be punished by death or imprisonment for any term of years or for life”.

(c) FEDERALLY PROTECTED ACTIVITIES.—Section 245(b) of title 18, United States Code, is amended by striking “shall be subject to imprisonment for any term of years or for life” and inserting “shall be punished by death or imprisonment for any term of years or for life”.

(d) DAMAGE TO RELIGIOUS PROPERTY; OBSTRUCTION OF THE FREE EXERCISE OF RELIGIOUS RIGHTS.—Section 247(c)(1) of title 18, United States Code, is amended by inserting “the death penalty or” before “imprisonment”.

SEC. 634. DEATH PENALTY FOR MURDER OF FEDERAL WITNESSES.

Section 1512(a)(2)(A) of title 18, United States Code, is amended to read as follows:

“(A) in the case of murder (as defined in section 1111), the death penalty or imprisonment for life, and in the case of any other killing, the punishment provided in section 1112;”.

SEC. 635. DRIVE-BY SHOOTINGS.

(a) OFFENSE.—Chapter 44 of title 18, United States Code, is amended by adding at the end the following new section:

“§ 931. Drive-by shootings

“(a) OFFENSE.—Whoever knowingly discharges a firearm at a person—

“(1) in the course of or in furtherance of drug trafficking activity; or

“(2) from a motor vehicle,

shall be punished by imprisonment for not more than 25 years, and if death results shall be punished by death or by imprisonment for any term of years or for life.

“(b) DEFINITION.—As used in this section, the term ‘drug trafficking activity’ means a drug trafficking crime (as defined in section 929(a)(2)), or a pattern or series of acts involving one or more drug trafficking crimes.”.

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 44 of title 18, United States Code, is amended by adding at the end the following new item:

“931. Drive-by shootings.”.

SEC. 636. DEATH PENALTY FOR GUN MURDERS DURING FEDERAL CRIMES OF VIOLENCE AND DRUG TRAFFICKING CRIMES.

Section 924 of title 18, United States Code, is amended by adding at the end the following new subsection:

“(i) Whoever, in the course of a violation of subsection (c), causes the death of a person through the use of a firearm, shall—

“(1) if the killing is a murder (as defined in section 1111), be punished by death or by imprisonment for any term of years or for life; and

“(2) if the killing is manslaughter (as defined in section 1112), be punished as provided in section 1112.”.

SEC. 637. DEATH PENALTY FOR RAPE AND CHILD MOLESTATION MURDERS.

(a) OFFENSE.—Chapter 109A of title 18, United States Code, is amended—

(1) by redesignating section 2245 as section 2246; and

(2) by inserting after section 2244 the following new section:

“§ 2245. Sexual abuse resulting in death

“Whoever, in the course of an offense under this chapter, engages in conduct that results in the death of a person, shall be punished by death or imprisoned for any term of years or for life.”.

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 109A of title 18, United States Code, is amended by striking the item relating to section 2245 and inserting the following:

“2245. Sexual abuse resulting in death.

“2246. Definitions for chapter.”.

SEC. 638. PROTECTION OF JURORS AND WITNESSES IN CAPITAL CASES.

Section 3432 of title 18, United States Code, is amended by striking the period and inserting: “, except that the list of the veniremen and witnesses need not be furnished if the court finds by a preponderance of the evidence that providing the list may jeopardize the life or safety of any person.”.

SEC. 639. INAPPLICABILITY TO UNIFORM CODE OF MILITARY JUSTICE.

The provisions of chapter 228 of title 18, United States Code, as added by this Act, shall not apply to prosecutions under the Uniform Code of Military Justice (10 U.S.C. 801 et seq.).

SEC. 640. DEATH PENALTY FOR CAUSING DEATH IN THE SEXUAL EXPLOITATION OF CHILDREN.

Section 2251(d) of title 18, United States Code, is amended by adding at the end the following new sentence: “Whoever, in the course of an offense under this section, engages in conduct that results in the death of a person, shall be punished by death or imprisoned for any term of years or for life.”.

SEC. 641. MURDER BY ESCAPED PRISONERS.

(a) OFFENSE.—Chapter 51 of title 18, United States Code, as amended by section 110, is amended by adding at the end the following new section:

“§ 1119. Murder by escaped prisoners

“(a) OFFENSE.—A person who, having escaped from a Federal prison where the person was confined under a sentence for a term of life imprisonment, kills another person, shall be punished as provided in sections 1111 and 1112.

“(b) DEFINITION.—As used in this section, the terms ‘Federal prison’ and ‘term of life imprisonment’ have the meanings stated in section 1118.”.

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 51 of title 18, United States Code, is amended by adding at the end the following new item:

“1119. Murder by escaped prisoners.”.

SEC. 642. DEATH PENALTY FOR MURDERS IN THE DISTRICT OF COLUMBIA.

(a) OFFENSE.—Chapter 51 of title 18, United States Code, is amended by adding at the end the following new section:

“§ 1118. Capital punishment for murders in the District of Columbia

“(a) OFFENSE.— It is an offense to cause the death of a person intentionally, knowingly, or through recklessness manifesting extreme indifference to human life, or to cause the death of a person through the intentional infliction of serious bodily injury.

"(b) FEDERAL JURISDICTION.—There is a federal jurisdiction over an offense described in this section if the conduct resulting in death occurs in the District of Columbia.

"(c) PENALTY.—An offense described in this section is a Class A felony. A sentence of death may be imposed for an offense described in this section as provided in subsections (d), (e), (f), (g), (h), (i), (j), (k), and (l).

"(d) MITIGATING FACTORS.—In determining whether to recommend a sentence of death, the jury shall consider whether any aspect of the defendant's character, background, or record or any circumstance of the offense that the defendant may proffer as a mitigating factor exists, including the following factors:

"(1) MENTAL CAPACITY.—The defendant's mental capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law was significantly impaired.

"(2) DURESS.—The defendant was under unusual and substantial duress.

"(3) PARTICIPATION IN OFFENSE MINOR.—The defendant is punishable as a principal in an offense committed by another person, but the defendant's participation was relatively minor.

"(e) AGGRAVATING FACTORS.—In determining whether to recommend a sentence of death, the jury shall consider any aggravating factor for which notice has been provided under subsection (f), including the following factors—

"(1) KILLING IN FURTHERANCE OF DRUG TRAFFICKING.—The defendant engaged in the conduct resulting in death in the course of or in furtherance of drug trafficking activity.

"(2) KILLING IN THE COURSE OF OTHER SERIOUS VIOLENT CRIMES.—The defendant engaged in the conduct resulting in death in the course of committing or attempting to commit an offense involving robbery, burglary, sexual abuse, kidnaping, or arson.

"(3) MULTIPLE KILLINGS OR ENDANGERMENT OF OTHERS.—The defendant committed more than one offense under this section, or in committing the offense knowingly created a grave risk of death to one or more persons in addition to the victim of the offense.

"(4) INVOLVEMENT OF FIREARM.—During and in relation to the commission of the offense, the defendant used or possessed a firearm as defined in section 921.

"(5) PREVIOUS CONVICTION OF VIOLENT FELONY.—The defendant has previously been convicted of an offense punishable by a term of imprisonment of more than 1 year that involved the use or attempted or threatened use of force against a person or that involved sexual abuse.

"(6) KILLING WHILE INCARCERATED OR UNDER SUPERVISION.—The defendant at the time of the offense was confined in or had escaped from a jail, prison, or other correctional or detention facility, was on pre-trial release, or was on probation, parole, supervised release, or other post-conviction conditional release.

"(7) HEINOUS, CRUEL, OR DEPRAVED MANNER OF COMMISSION.—The defendant committed the offense in an especially heinous, cruel, or depraved manner in that it involved torture or serious physical abuse to the victim.

"(8) PROCUREMENT OF THE OFFENSE BY PAYMENT.—The defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value.

"(9) COMMISSION OF THE OFFENSE FOR PECUNIARY GAIN.—The defendant committed the offense as consideration for receiving, or in the expectation of receiving or obtaining, anything of pecuniary value.

"(10) SUBSTANTIAL PLANNING AND PREMEDITATION.—The defendant committed the offense after substantial planning and premeditation.

"(11) VULNERABILITY OF VICTIM.—The victim was particularly vulnerable due to old age, youth, or infirmity.

"(12) KILLING OF PUBLIC SERVANT.—The defendant committed the offense against a public servant—

"(i) while such public servant was engaged in the performance of his or her official duties;

"(ii) because of the performance of such public servant's official duties; or

"(iii) because of such public servant's status as a public servant.

"(13) KILLING TO INTERFERE WITH OR RETALIATE AGAINST WITNESS.—The defendant committed the offense in order to prevent or inhibit any person from testifying or providing information concerning an offense, or to retaliate against any person for testifying or providing such information.

"(f) NOTICE OF INTENT TO SEEK DEATH PENALTY.—If the government intends to seek the death penalty for an offense under this section, the attorney for the government shall file with the court and serve on the defendant a notice of such intent. The notice shall be provided a reasonable time before the trial or acceptance of a guilty plea, or at such later time as the court may permit for good cause. The notice shall set forth the aggravating factor or factors set forth in subsection (e) and any other aggravating factor or factors that the government will seek to prove as the basis for the death penalty. The factors for which notice is provided under this subsection may include factors concerning the effect of the offense on the victim and the victim's family. The court may permit the attorney for the government to amend the notice upon a showing of good cause.

"(g) JUDGE AND JURY AT CAPITAL SENTENCING HEARING.—A hearing to determine whether the death penalty will be imposed for an offense under this section shall be conducted by the judge who presided at trial or accepted a guilty plea, or by another judge if that judge is not available. The hearing shall be conducted before the jury that determined the defendant's guilt if that jury is available. A new jury shall be impaneled for the purpose of the hearing if the defendant pleaded guilty, the trial of guilt was conducted without a jury, the jury that determined the defendant's guilt was discharged for good cause, or reconsideration of the sentence is necessary after the initial imposition of a sentence of death. A jury impaneled under this subsection shall have twelve members unless the parties stipulate to a lesser number at any time before the conclusion of the hearing with the approval of the judge. Upon motion of the defendant, with the approval of the attorney for the government, the hearing shall be carried out before the judge without a jury. If there is no jury, references to "the jury" in this section, where applicable, shall be understood as referring to the judge.

"(h) PROOF OF MITIGATING AND AGGRAVATING FACTORS.—No presentence report shall be prepared if a capital sentencing hearing is held under this section. Any information relevant to the existence of mitigating factors, or to the existence of aggravating factors for which notice has been provided under subsection (f), may be presented by either the government or the defendant, regardless of its admissibility under the rules governing the admission of evidence at criminal trials, except that information may be excluded if its probative value is outweighed by the danger of creating unfair prejudice, confusing the issues, or misleading the jury. The information presented may include trial transcripts and exhibits. The attorney for the government and for the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any aggravating or mitigating factor, and as to the appropriateness in that case of imposing a sentence of death. The attorney for the government shall open the argument, the defendant shall be permitted to reply, and the government shall then be permitted to reply in rebuttal.

"(i) FINDINGS OF AGGRAVATING AND MITIGATING FACTORS.—The jury shall return special findings identifying any aggravating factor or factors for which notice has been provided under subsection (f) and which the jury unanimously determines have been established by the government beyond a reasonable doubt. A mitigating factor is established if the defendant has proven its existence by a preponderance of the evidence, and any member of the jury who finds the existence of such a factor may regard it as established for purposes of this section regardless of the number of jurors who concur that the factor has been established.

"(j) FINDING CONCERNING A SENTENCE OF DEATH.—If the jury specially finds under subsection (i) that one or more aggravating factors set forth in subsection (e) exist, and the jury further finds unanimously that there are no mitigating factors or that the aggravating factor or factors specially found under subsection (i) outweigh any mitigating factors, then the jury shall recommend a sentence of death. In any other case, the jury shall not recommend a sentence of death. The jury shall be instructed that it must avoid any influence of sympathy, sentiment, passion, prejudice, or other arbitrary factors in its decision, and should make such a recommendation as the information warrants.

"(k) SPECIAL PRECAUTION TO ENSURE AGAINST DISCRIMINATION.—In a hearing held before a jury, the court, before the return of a finding under subsection (j), shall instruct the jury that, in considering whether to recommend a sentence of death, it shall not consider the race, color, religion, national origin, or sex of the defendant or any victim, and that the jury is not to recommend a sentence of death unless it has concluded that it would recommend a sentence of death for such a crime regardless of the race, color, religion, national origin, or sex of the defendant or any victim. The jury, upon the return of a finding under subsection (j), shall also return to the court a certificate, signed by each juror, that the race, color, religion, national origin, or sex of the defendant or any victim did not affect the juror's individual decision and that the individual juror would have recommended the same sentence for such a crime regardless of the race, color, religion, national origin, or sex of the defendant or any victim.

"(l) IMPOSITION OF A SENTENCE OF DEATH.—Upon a recommendation under subsection (j) that a sentence of death be imposed, the court shall sentence the defendant to death. Otherwise the court shall impose a sentence, other than death, authorized by law.

"(m) REVIEW OF A SENTENCE OF DEATH.—

"(1) The defendant may appeal a sentence of death under this section by filing a notice of appeal of the sentence within the time provided for filing a notice of appeal of the judgment of conviction. An appeal of a sentence under this subsection may be consolidated within an appeal of the judgment of conviction and shall have priority over all noncapital matters in the court of appeals.

"(2) The court of appeals shall review the entire record in the case including the evidence submitted at trial and information submitted during the sentencing hearing, the procedures employed in the sentencing hearing, and the special findings returned under subsection (i). The court of appeals shall uphold the sentence if it determines that the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor, that the evidence and information support the special findings under subsection (i), and that the proceedings were otherwise free of prejudicial error that was properly preserved for review.

"(3) In any other case, the court of appeals shall remand the case for reconsideration of the sentence or imposition of another authorized sentence as appropriate, except that the court shall not reverse a sentence of death on the ground that an aggravating factor was invalid or was not supported by the evidence and information if at least one aggravating factor described in subsection (e) remains which was found to exist and the court, on the basis of the evidence submitted at trial and the information submitted at the sentencing hearing, finds that the remaining aggravating factor or factors which were found to exist outweigh any mitigating factors. The court of appeals shall state in writing the reasons for its disposition of an appeal of a sentence of death under this section.

"(n) IMPLEMENTATION OF SENTENCE OF DEATH.—A person sentenced to death under this section shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States Marshal. The Marshal shall supervise implementation of the sentence in the manner prescribed by the law of a State designated by the court. The Marshal may use State or local facilities, may use the services of an appropriate State or local official or of a person such an official employs, and shall pay the costs thereof in an amount approved by the Attorney General.

"(o) SPECIAL BAR TO EXECUTION.—A sentence of death shall not be carried out upon a woman while she is pregnant.

"(p) CONSCIENTIOUS OBJECTION TO PARTICIPATION IN EXECUTION.—No employee of any State department of corrections, the United States Marshals Service, or the Federal Bureau of Prisons, and no person providing services to that department, service, or bureau under contract shall be required, as a condition of that employment or contractual obligation, to be in attendance at or to participate in any execution carried out under this section if such participation is contrary to the moral or religious convictions of the employee. For purposes of this subsection, the term 'participate in any execution' includes personal preparation of the condemned individual and the apparatus used for the execution, and supervision of the activities of other personnel in carrying out such activities.

"(q) APPOINTMENT OF COUNSEL FOR INDIGENT CAPITAL DEFENDANTS.—A defendant against whom a sentence of death is sought, or on whom a sentence of death has been imposed, under this section, shall be entitled to appointment of counsel from the commencement of trial proceedings until one of the conditions specified in subsection (v) has occurred, if the defendant is or becomes financially unable to obtain adequate representation. Counsel shall be appointed for trial representation as provided in section 3005, and at least 1 counsel so appointed shall continue to represent the defendant until the conclusion of direct review of the judgment, unless replaced by the court with other qualified counsel. Except as otherwise provided in this section, the provisions of section 3006A shall apply to appointments under this section.

"(r) REPRESENTATION AFTER FINALITY OF JUDGMENT.—When a judgment imposing a sentence of death under this section has become final through affirmance by the Supreme Court on direct review, denial of certiorari by the Supreme Court on direct review, or expiration of the time for seeking direct review in the court of appeals or the Supreme Court, the government shall promptly notify the court that imposed the sentence. The court, within 10 days of receipt of such notice, shall proceed to make determination whether the defendant is eligible for appointment of counsel for subsequent proceedings. The court shall issue an order appointing one or more counsel to represent the defendant upon a finding that the defendant is financially unable to obtain adequate representation and wishes to have counsel appointed or is unable competently to decide whether to accept or reject appointment of counsel. The court shall issue an order denying appointment of counsel upon a finding that the defendant is financially able to obtain adequate representation or that the defendant rejected appointment of counsel with an understanding of the consequences of that decision. Counsel appointed pursuant to this subsection shall be different from the counsel who represented the defendant at trial and on direct review unless the defendant and counsel request a continuation or renewal of the earlier representation.

"(s) STANDARDS FOR COMPETENCE OF COUNSEL.—In relation to a defendant who is entitled to appointment of counsel under subsections (q) and (r), at least 1 counsel appointed for trial representation must have been admitted to the bar for at least 5 years and have at least 3 years of experience in the trial of felony cases in the Federal district courts. If new counsel is appointed after judgment, at least 1 counsel so appointed must have been admitted to the bar for at least 5 years and have at least 3 years of experience in the litigation of felony cases in the Federal courts of appeals or the Supreme Court. The court, for good cause, may appoint counsel who does not meet these standards, but whose background, knowledge, or experience would otherwise enable him or her to properly represent the defendant, with due consideration of the seriousness of the penalty and the nature of the litigation.

"(t) CLAIMS OF INEFFECTIVENESS OF COUNSEL IN COLLATERAL PROCEEDINGS.—The ineffectiveness or incompetence of counsel during proceedings on a motion under section 2255 of title 28 in a case under this section shall not be a ground for relief from the judgment or sentence in any proceeding. This limitation shall not preclude the appointment of different counsel at any stage of the proceedings.

"(u) TIME FOR COLLATERAL ATTACK ON DEATH SENTENCE.—A motion under section 2255 of title 28 attacking a sentence of death under this section, or the conviction on which it is predicated, must be filed within 90 days of the issuance of the order under subsection (r) appointing or denying the appointment of counsel for such proceedings. The court in which the motion is filed, for good cause shown, may extend the time for filing for a period not exceeding 60 days. Such a motion shall have priority over all noncapital matters in the district court, and in the court of appeals on review of the district court's decision.

"(v) STAY OF EXECUTION.—The execution of a sentence of death under this section shall be stayed in the course of direct review of the judgment and during the litigation of an initial motion in the case under section 2255 of title 28. The stay shall run continuously following imposition of the sentence and shall expire if—

"(1) the defendant fails to file a motion under section 2255 of title 28 within the time specified in subsection (u), or fails to make a timely application for court of appeals review following the denial of such a motion by a district court;

"(2) upon completion of district court and court of appeals review under section 2255 of title 28 the Supreme Court disposes of a petition for certiorari in a manner that leaves the capital sentence undisturbed, or the defendant fails to file a timely petition for certiorari; or

"(3) before a district court, in the presence of counsel and after having been advised of the consequences of such a decision, the defendant waives the right to file a motion under section 2255 of title 28.

"(w) FINALITY OF THE DECISION ON REVIEW.—If one of the conditions specified in subsection (v) has occurred, no court thereafter shall have the authority to enter a stay of execution or grant relief in the case unless—

"(1) the basis for the stay and request for relief is a claim not presented in earlier proceedings;

"(2) the failure to raise the claim is the result of governmental action in violation of the Constitution or laws of the United States, the result of the Supreme Court's recognition of a new Federal right that is retroactively applicable, or the result of the fact that the factual predicate of the claim could not have been discovered through the exercise of reasonable diligence in time to present the claim in earlier proceedings; and

"(3) the facts underlying the claim would be sufficient, if proven, to undermine the court's confidence in the determination of guilt on the offense or offenses for which the death penalty was imposed.

"(x) DEFINITIONS.—In this section—

"'arson' means damaging or destroying a building or structure through the use of fire or explosives.

"'burglary' means entering or remaining in a building or structure in violation of the law of the District of Columbia, another State, or the United States, with the intent to commit an offense in the building or structure.

"'drug trafficking activity' means a drug trafficking crime (as defined in section 929(a)(2)) or a pattern or series of acts involving 1 or more drug trafficking crimes.

"'kidnapping' means seizing, confining, or abducting a person, or transporting a person without his or her consent.

"'offense', as used in paragraphs (2), (5), and (13) of subsection (e) and in this subsection, means an offense under the law of the District of Columbia, another State, or the United States.

"'pre-trial release', 'probation', 'parole', 'supervised release', and 'other post-conviction conditional release', as used in subsection (e)(6), mean any such release, imposed in relation to a charge or conviction for an offense under the law of the District of Columbia, another State, or the United States.

"'public servant' means an employee, agent, officer, or official of the District of Columbia, another State, or the United States, or an employee, agent, officer, or official of a foreign government who is within the scope of section 1116.

"'robbery' means obtaining the property of another by force or threat of force.

"'sexual abuse' means any conduct proscribed by chapter 109A, whether or not the conduct occurs in the special maritime and territorial jurisdiction of the United States.

"'State' has the meaning stated in section 513, including the District of Columbia.

"(y) JOINDER OF CHARGES.—When an offense is charged under this section, the government may join any charge under the District of Columbia Code that arises from the same incident.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 51 of title 18, United States Code, is amended by adding at the end the following new item:

"1118. Capital punishment for murders in the District of Columbia.".

Subtitle B—Equal Justice Act

SEC. 651. SHORT TITLE.

This subtitle may be cited as the "Equal Justice Act".

SEC. 652. PROHIBITION OF RACIALLY DISCRIMINATORY POLICIES CONCERNING CAPITAL PUNISHMENT OR OTHER PENALTIES.

(a) GENERAL RULE.—The penalty of death and all other penalties shall be administered by the United States and by every State without regard to the race or color of the defendant or victim. Neither the United States nor any State shall prescribe any racial quota or statistical test for the imposition or execution of the death penalty or any other penalty.

(b) DEFINITIONS.—For purposes of this subtitle—

(1) the action of the United States or of a State includes the action of any legislative, judicial, executive, administrative, or other agency or instrumentality of the United States or a State, or of any political subdivision of the United States or a State;

(2) the term "State" has the meaning stated in section 513 of title 18, United States Code; and

(3) the term "racial quota or statistical test" includes any law, rule, presumption, goal, standard for establishing a prima facie case, or mandatory or permissive inference that—

(A) requires or authorizes the imposition or execution of the death penalty or another penalty so as to achieve a specified racial proportion relating to offenders, convicts, defendants, arrestees, or victims; or

(B) requires or authorizes the invalidation of, or bars the execution of, sentences of death or other penalties based on the failure of a jurisdiction to achieve a specified racial proportion relating to offenders, convicts, defendants, arrestees, or victims in the imposition or execution of such sentences or penalties.

SEC. 653. GENERAL SAFEGUARDS AGAINST RACIAL PREJUDICE OR BIAS IN THE TRIBUNAL.

In a criminal trial in a court of the United States, or of any State—

(1) on motion of the defense attorney or prosecutor, the risk of racial prejudice or bias shall be examined on voir dire if there is a substantial likelihood in the circumstances of the case that such prejudice or bias will affect the jury either against or in favor of the defendant;

(2) on motion of the defense attorney or prosecutor, a change of venue shall be granted if an impartial jury cannot be obtained in the original venue because of racial prejudice or bias; and

(3) neither the prosecutor nor the defense attorney shall make any appeal to racial prejudice or bias in statements before the jury.

SEC. 654. FEDERAL CAPITAL CASES.

(a) JURY INSTRUCTIONS AND CERTIFICATION.—In a prosecution for an offense against the United States in which a sentence of death is sought, and in which the capital sentencing determination is to be made by a jury, the judge shall instruct the jury that it is not to be influenced by prejudice or bias relating to the race or color of the defendant or victim in considering whether a sentence of death is justified, and that the jury is not to recommend the imposition of a sentence of death unless it has concluded that it would recommend the same sentence for such a crime regardless of the race or color of the defendant or victim. Upon the return of a recommendation of a sentence of death, the jury shall also return a certificate, signed by each juror, that the juror's individual decision was not affected by prejudice or bias relating to the race or color of the defendant or victim, and that the individual juror would have made the same recommendation regardless of the race or color of the defendant or victim.

(b) RACIALLY MOTIVATED KILLINGS.—In a prosecution for an offense against the United States for which a sentence of death is authorized, the fact that the killing of the victim was motivated by racial prejudice or bias shall be deemed an aggravating factor whose existence permits consideration of the death penalty, in addition to any other aggravating factors that may be specified by law as permitting consideration of the death penalty.

SEC. 655. EXTENSION OF PROTECTION OF CIVIL RIGHTS STATUTES.

(a) SECTION 241.—Section 241 of title 18, United States Code, is amended by striking "inhabitant of" and inserting "person in".

(b) SECTION 242.—Section 242 of title 18, United States Code, is amended by striking "inhabitant of" and inserting "person in", and by striking "such inhabitant" and inserting "such person".

Subtitle C—Enhanced Penalties for Criminal Use of Firearms and Explosives

SEC. 661. SMUGGLING FIREARMS IN AID OF DRUG TRAFFICKING.

Section 924 of title 18, United States Code, as amended by section 136, is amended by adding at the end the following new subsection:

"(j) Whoever, with the intent to engage in or to promote conduct that—

"(1) is punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.);

"(2) violates any law of a State relating to any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)); or

"(3) constitutes a crime of violence (as defined in subsection (c)(3) of this section), smuggles or knowingly brings into the United States a firearm, or attempts to do so, shall be imprisoned not more than 10 years, fined under this title, or both.".

SEC. 662. PROHIBITION AGAINST THEFT OF FIREARMS OR EXPLOSIVES.

(a) FIREARMS.—Section 924 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(j) Whoever steals any firearm which is moving as, or is a part of, or which has moved in, interstate or foreign commerce shall be imprisoned not more than 10 years, fined in accordance with this title, or both.".

(b) EXPLOSIVES.—Section 844 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(j) Whoever steals any explosive materials which are moving as, or are a part of, or which have moved in, interstate or foreign commerce shall be imprisoned not more than 10 years, fined in accordance with this title, or both.".

SEC. 663. INCREASED PENALTY FOR KNOWINGLY FALSE, MATERIAL STATEMENT IN CONNECTION WITH THE ACQUISITION OF A FIREARM FROM A LICENSED DEALER.

Section 924(a) of title 18, United States Code, is amended—

(1) in paragraph (1)(B) by striking "(a)(6),"; and

(2) in paragraph (2) by inserting "(a)(6)," after "subsection".

SEC. 664. SUMMARY DESTRUCTION OF EXPLOSIVES SUBJECT TO FORFEITURE.

Section 844(c) of title 18, United States Code, is amended—

(1) by inserting "(1)" before "Any"; and

(2) by adding at the end the following new paragraphs:

"(2) Notwithstanding paragraph (1), in the case of the seizure of any explosive materials for any offense for which the materials would be subject to forfeiture where it is impracticable or unsafe to remove the materials to a place of storage, or where it is unsafe to store them, the seizing officer may destroy the explosive materials forthwith. Any destruction under this paragraph shall be in the presence of at least one credible witness. The seizing officer shall make a report of the seizure and take samples as the Secretary may by regulation prescribe.

"(3) Within 60 days after any destruction made pursuant to paragraph (2), the owner of, including any person having an interest in, the property so destroyed may make application to the Secretary for reimbursement of the value of the property. If the claimant establishes to the satisfaction of the Secretary that—

"(A) the property has not been used or involved in a violation of law; or

"(B) any unlawful involvement or use of the property was without the claimant's knowledge, consent, or willful blindness,

the Secretary shall make an allowance to the claimant not exceeding the value of the property destroyed.".

SEC. 665. ELIMINATION OF OUTMODED LANGUAGE RELATING TO PAROLE.

Section 924 of title 18, United States Code, is amended—

(1) in subsection (c)(1) by striking "No person sentenced under this subsection shall be eligible for parole during the term of imprisonment imposed herein."; and

(2) in subsection (e)(1) by striking ", and such person shall not be eligible for parole with respect to the sentence imposed under this subsection".

SEC. 666. RECEIPT OF FIREARMS BY NONRESIDENT.

Section 922(a) of title 18, United States Code, is amended—

(1) in paragraph (7)(C) by striking "and";

(2) in paragraph (8)(C) by striking the period and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(9) for any person, other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, who does not reside in any State to receive any firearms unless such receipt is for lawful sporting purposes.".

SEC. 667. PROHIBITION OF THEFT OF FIREARMS OR EXPLOSIVES FROM LICENSEE.

(a) FIREARMS.—Section 924 of title 18, United States Code, as amended by section 402(a), is amended by adding at the end the following new subsection:

"(k) Whoever steals any firearm from a licensed importer, licensed manufacturer, licensed dealer, or licensed collector shall be fined in accordance with this title, imprisoned not more than 10 years, or both.".

(b) EXPLOSIVES.—Section 844 of title 18, United States Code, as amended by section 402(b), is amended by adding at the end the following new subsection:

"(k) Whoever steals any explosive material from a licensed importer, licensed manufacturer, licensed dealer, or permittee shall be fined in accordance with this title, imprisoned not more than 10 years, or both.".

SEC. 668. INCREASED PENALTY FOR INTERSTATE GUN TRAFFICKING.

Section 924 of title 18, United States Code, as amended by section 407(a), is amended by adding at the end the following new subsection:

"(l) Whoever, with the intent to engage in conduct that constitutes a violation of section 922(a)(1)(A), travels from any State or foreign country into any other State and acquires, or attempts to acquire, a firearm in such other State in furtherance of such purpose shall be imprisoned for not more than 10 years.".

SEC. 669. PROHIBITION OF TRANSACTIONS INVOLVING STOLEN FIREARMS WHICH HAVE MOVED IN INTERSTATE OR FOREIGN COMMERCE.

Section 922(j) of title 18, United States Code, is amended to read as follows:

"(j) It shall be unlawful for any person to receive, possess, conceal, store, barter, sell, or dispose of any stolen firearm or stolen ammunition, or pledge or accept as security for a loan any stolen firearm or stolen ammunition, which is moving as, which is a part of, which constitutes, or which has been shipped or transported in, interstate or foreign commerce, either before or after it was stolen, knowing or having reasonable cause to believe that the firearm or ammunition was stolen.".

SEC. 670. POSSESSION OF EXPLOSIVES BY FELONS AND OTHERS.

Section 842(i) of title 18, United States Code, is amended by inserting "or possess" after "to receive".

SEC. 671. DISPOSITION OF FORFEITED FIREARMS.

Subsection 5872(b) of the Internal Revenue Code of 1986 is amended to read as follows:

"(b) DISPOSAL.—In the case of the forfeiture of any firearm, where there is no remission or mitigation of forfeiture thereof—

"(1) the Secretary may retain the firearm for official use of the Department of the Treasury or, if not so retained, offer to transfer the weapon without charge to any other executive department or independent establishment of the Government for official use by it and, if the offer is accepted, so transfer the firearm;

"(2) if the firearm is not disposed of pursuant to paragraph (1), is a firearm other than a machinegun or firearm forfeited for a violation of this chapter, is a firearm that in the opinion of the Secretary is not so defective that its disposition pursuant to this paragraph would create an unreasonable risk of a malfunction likely to result in death or bodily injury, and is a firearm which (in the judgment of the Secretary, taking into consideration evidence of present value and evidence that like firearms are not available except as collector's items, or that the value of like firearms available in ordinary commercial channels is substantially less) derives a substantial part of its monetary value from the fact that it is novel or rare or because of its association with some historical figure, period, or event, the Secretary may sell the firearm, after public notice, at public sale to a dealer licensed under chapter 44 of title 18, United States Code;

"(3) if the firearm has not been disposed of pursuant to paragraph (1) or (2), the Secretary shall transfer the firearm to the Administrator of General Services, who shall destroy or provide for the destruction of such firearm; and

"(4) no decision or action of the Secretary pursuant to this subsection shall be subject to judicial review.".

SEC. 672. DEFINITION OF BURGLARY UNDER THE ARMED CAREER CRIMINAL STATUTE.

Section 924(e)(2) of title 18, United States Code, is amended—

(1) by striking "and" at the end of subparagraph (B);

(2) by striking the period at the end of subparagraph (C) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(D) the term 'burglary' means a crime that—

"(i) consists of entering or remaining surreptitiously within a building that is the property of another person with intent to engage in conduct constituting a Federal or State offense; and

"(ii) is punishable by a term of imprisonment exceeding 1 year.".

Subtitle D—Exclusionary Rule

SEC. 681. ADMISSIBILITY OF CERTAIN EVIDENCE.

(a) IN GENERAL.—Chapter 223 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 3509. Admissibility of evidence obtained by search or seizure

"(a) EVIDENCE OBTAINED BY OBJECTIVELY REASONABLE SEARCH OR SEIZURE.—Evidence that is obtained as a result of a search or seizure shall not be excluded in a proceeding in a court of the United States on the ground that the search or seizure was in violation of the fourth amendment to the Constitution of the United States, if the search or seizure was carried out in circumstances justifying an objectively reasonable belief that it was in conformity with the fourth amendment. The fact that evidence was obtained pursuant to and within the scope of a warrant constitutes prima facie evidence of the existence of such circumstances.

"(b) EVIDENCE NOT EXCLUDABLE BY STATUTE OR RULE.—Evidence shall not be excluded in a proceeding in a court of the United States on the ground that it was obtained in violation of a statute, an administrative rule or regulation, or a rule of procedure unless exclusion is expressly authorized by statute or by a rule prescribed by the Supreme Court pursuant to statutory authority.

"(c) RULE OF CONSTRUCTION.—This section shall not be construed to require or authorize the exclusion of evidence in any proceeding.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 223 of title 28, United States Code, is amended by adding at the end the following new item:

"3509. Admissibility of evidence obtained by search or seizure.".

Subtitle E—Pre-Trial Interrogation

SEC. 691. PRE-TRIAL INTERROGATION.

It is the sense of the Congress that the Attorney General shall instruct all United States Attorneys, and implement policies consistent therewith, that confessions obtained in conformity with section 3501 of title 18, United States Code will be offered into evidence.

TITLE VII—ELIMINATION OF DELAYS IN CARRYING OUT SENTENCES

Subtitle A—General Habeas Corpus Reform

SEC. 701. SHORT TITLE.

This title may be cited as the "Habeas Corpus Reform Act of 1993".

SEC. 702. PERIOD OF LIMITATION.

Section 2244 of title 28, United States Code, is amended by adding at the end the following new subsection:

"(d) A one-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from the latest of—

"(1) the time at which State remedies are exhausted;

"(2) the time at which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, where the applicant was prevented from filing by such State action;

"(3) the time at which the Federal right asserted was initially recognized by the Supreme Court, where the right has been newly recognized by the Court and is retroactively applicable; or

"(4) the time at which the factual predicate of the claim or claims presented could have been discovered through the exercise of reasonable diligence.".

SEC. 703. APPEAL.

Section 2253 of title 28, United States Code, is amended to read as follows:

"§ 2253. Appeal

"In a habeas corpus proceeding or a proceeding under section 2255 before a circuit or district judge, the final order shall be subject to review, on appeal, by the court of appeals for the circuit where the proceeding is had.

"There shall be no right of appeal from such an order in a proceeding to test the validity of a warrant to remove, to another district or place for commitment or trial, a person charged with a criminal offense against the United States, or to test the validity of his detention pending removal proceedings.

"An appeal may not be taken to the court of appeals from the final order in a habeas corpus proceeding where the detention complained of arises out of process issued by a State court, or from the final order in a proceeding under section 2255, unless a circuit justice or judge issues a certificate of probable cause.".

SEC. 704. AMENDMENT OF FEDERAL RULES OF APPELLATE PROCEDURE.

Rule 22 of the Federal Rules of Appellate Procedure is amended to read as follows:

"Rule 22. Habeas corpus and section 2255 proceedings

"(a) *Application for an Original Writ of Habeas Corpus.*—An application for a writ of habeas corpus shall be made to the appropriate district court. If application is made to a circuit judge, the application will ordinarily be transferred to the appropriate district court. If an application is made to or transferred to the district court and denied, renewal of the application before a circuit judge is not favored; the proper remedy is by appeal to the court of appeals from the order of the district court denying the writ.

"(*b*) *Necessity of Certificate of Probable Cause for Appeal.*—In a habeas corpus proceeding in which the detention complained of arises out of process issued by a State court, and in a motion proceeding pursuant to section 2255 of title 28, United States Code, an appeal by the applicant or movant may not proceed unless a circuit judge issues a certificate of probable cause. If a request for a certificate of probable cause is addressed to the court of appeals, it shall be deemed addressed to the judges thereof and shall be considered by a circuit judge or judges as the court deems appropriate. If no express request for a certificate is filed, the notice of appeal shall be deemed to constitute a request addressed to the judges of the court of appeals. If an appeal is taken by a State or the Government or its representative, a certificate of probable cause is not required.".

SEC. 705. SECTION 2254 AMENDMENTS.

Section 2254 of title 28, United States Code, is amended—

(1) by amending subsection (b) to read as follows:

"(b) An application for a writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court shall not be granted unless it appears that the applicant has exhausted the remedies available in the courts of the State, or that there is either an absence of available State corrective process or the existence of circumstances rendering such process ineffective to protect the rights of the applicant. An application may be denied on the merits notwithstanding the failure of the applicant to exhaust the remedies available in the courts of the State.";

(2) by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively;

(3) by inserting after subsection (c) the following new subsection:

"(d) An application for a writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court shall not be granted with respect to any claim that has been fully and fairly adjudicated in State proceedings.";

(4) by amending subsection (e), as redesignated by paragraph (2), to read as follows:

"(e) In a proceeding instituted by an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court, a full and fair determination of a factual issue made in the case by a State court shall be presumed to be correct. The applicant shall have the burden of rebutting this presumption by clear and convincing evidence."; and

(5) by adding at the end the following new subsection:

"(h) In all proceedings brought under this section, and any subsequent proceedings on review, appointment of counsel for a petitioner who is or becomes financially unable to afford counsel shall be in the discretion of the court, except as provided by a rule promulgated by the Supreme Court pursuant to statutory authority. Appointment of counsel under this section shall be governed by section 3006A of title 18, United States Code.".

SEC. 706. SECTION 2255 AMENDMENTS.

Section 2255 of title 28, United States Code, is amended—

(1) by striking the second paragraph and the penultimate paragraph; and

(2) by adding at the end the following new paragraphs:

"A two-year period of limitation shall apply to a motion under this section. The limitation period shall run from the latest of—

"(1) the time at which the judgment of conviction becomes final;

"(2) the time at which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, where the movant was prevented from making a motion by such governmental action;

"(3) the time at which the right asserted was initially recognized by the Supreme Court, where the right has been newly recognized by the Court and is retroactively applicable; or

"(4) the time at which the factual predicate of the claim or claims presented could have been discovered through the exercise of reasonable diligence.

"In all proceedings brought under this section, and any subsequent proceedings on review, appointment of counsel for a movant who is or becomes financially unable to afford counsel shall be in the discretion of the court, except as provided by a rule promulgated by the Supreme Court pursuant to statutory authority. Appointment of counsel under this section shall be governed by section 3006A of title 18, United States Code.".

Subtitle B—Death Penalty Litigation Procedures

SEC. 711. SHORT TITLE.

This subtitle may be cited as the "Death Penalty Litigation Procedures Act of 1993".

SEC. 712. DEATH PENALTY LITIGATION PROCEDURES.

(a) ADDITION OF CHAPTER TO TITLE 28, UNITED STATES CODE.—Title 28, United States Code, is amended by inserting after chapter 153 the following new chapter:

"CHAPTER 154—SPECIAL HABEAS CORPUS PROCEDURES IN CAPITAL CASES

"Sec.
"2256. Prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment.
"2257. Mandatory stay of execution; duration; limits on stays of execution; successive petitions.
"2258. Filing of habeas corpus petition; time requirements; tolling rules.
"2259. Evidentiary hearings; scope of Federal review; district court adjudication.
"2260. Certificate of probable cause inapplicable.
"2261. Application to state unitary review procedures.
"2262. Limitation periods for determining petitions.
"2263. Rule of construction.

"§ 2256. Prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment

"(a) APPLICATION OF CHAPTER.—This chapter shall apply to cases arising under section 2254 brought by prisoners in State custody who are subject to a capital sentence. It shall apply only if the provisions of subsections (b) and (c) are satisfied.

"(b) ESTABLISHMENT OF APPOINTMENT MECHANISM.—This chapter is applicable if a State establishes by rule of its court of last resort or by statute a mechanism for the appointment, compensation and payment of reasonable litigation expenses of competent counsel in State postconviction proceedings brought by indigent prisoners whose capital convictions and sentences have been upheld on direct appeal to the court of last resort in the State or have otherwise become final for State law purposes. The rule of court or statute must provide standards of competency for the appointment of such counsel.

"(c) OFFER OF COUNSEL.—Any mechanism for the appointment, compensation and reimbursement of counsel as provided in subsection (b) must offer counsel to all State prisoners under capital sentence and must provide for the entry of an order by a court of record—

"(1) appointing 1 or more counsel to represent the prisoner upon a finding that the prisoner is indigent and accepted the offer or is unable competently to decide whether to accept or reject the offer;

"(2) finding, after a hearing if necessary, that the prisoner rejected the offer of counsel and made the decision with an understanding of its legal consequences; or

"(3) denying the appointment of counsel upon a finding that the prisoner is not indigent.

"(d) PREVIOUS REPRESENTATION.—No counsel appointed pursuant to subsections (b) and (c) to represent a State prisoner under capital sentence shall have previously represented the prisoner at trial or on direct appeal in the case for which the appointment is made unless the prisoner and counsel expressly request continued representation.

"(e) NO GROUND FOR RELIEF.—The ineffectiveness or incompetence of counsel during State or Federal collateral postconviction proceedings in a capital case shall not be a ground for relief in a proceeding arising under section 2254. This limitation shall not preclude the appointment of different counsel, on the court's own motion or at the request of the prisoner, at any phase of State or Federal postconviction proceedings on the basis of the ineffectiveness or incompetence of counsel in such proceedings.

"§ 2257. Mandatory stay of execution; duration; limits on stays of execution; successive petitions

"(a) STAY.—Upon the entry in the appropriate State court of record of an order under section 2256(c), a warrant or order setting an execution date for a State prisoner shall be stayed upon application to any court that would have jurisdiction over any proceedings filed under section 2254. The application must recite that the State has invoked the postconviction review procedures of this chapter and that the scheduled execution is subject to stay.

"(b) EXPIRATION OF STAY.—A stay of execution granted pursuant to subsection (a) shall expire if—

"(1) a State prisoner fails to file a habeas corpus petition under section 2254 within the time required in section 2258, or fails to make a timely application for court of appeals review following the denial of such a petition by a district court;

"(2) upon completion of district court and court of appeals review under section 2254 the petition for relief is denied and—

"(A) the time for filing a petition for certiorari has expired and no petition has been filed;

"(B) a timely petition for certiorari was filed and the Supreme Court denied the petition; or

"(C) a timely petition for certiorari was filed and upon consideration of the case, the Supreme Court disposed of it in a manner that left the capital sentence undisturbed; or

"(3) before a court of competent jurisdiction, in the presence of counsel and after having been advised of the consequences of his decision, a State prisoner under capital sentence waives the right to pursue habeas corpus review under section 2254.

"(c) Limitation on Further Stay.—If one of the conditions in subsection (b) has occurred, no Federal court thereafter shall have the authority to enter a stay of execution or grant relief in a capital case unless—

"(1) the basis for the stay and request for relief is a claim not previously presented in the State or Federal courts;

"(2) the failure to raise the claim is—

"(A) the result of State action in violation of the Constitution or laws of the United States;

"(B) the result of the Supreme Court recognition of a new Federal right that is retroactively applicable; or

"(C) based on a factual predicate that could not have been discovered through the exercise of reasonable diligence in time to present the claim for State or Federal postconviction review; and

"(3) the facts underlying the claim would be sufficient, if proven, to undermine the court's confidence in the determination of guilt on the offense or offenses for which the death penalty was imposed.

"§ 2258. Filing of habeas corpus petition; time requirements; tolling rules

"Any petition for habeas corpus relief under section 2254 must be filed in the appropriate district court within 180 days from the filing in the appropriate State court of record of an order under section 2256(c). The time requirements established by this section shall be tolled—

"(1) from the date that a petition for certiorari is filed in the Supreme Court until the date of final disposition of the petition if a State prisoner files the petition to secure review by the Supreme Court of the affirmance of a capital sentence on direct review by the court of last resort of the State or other final State court decision on direct review;

"(2) during any period in which a State prisoner under capital sentence has a properly filed request for postconviction review pending before a State court of competent jurisdiction; if all State filing rules are met in a timely manner, this period shall run continuously from the date that the State prisoner initially files for postconviction review until final disposition of the case by the highest court of the State, but the time requirements established by this section are not tolled during the pendency of a petition for certiorari before the Supreme Court except as provided in paragraph (1); and

"(3) during an additional period not to exceed 60 days, if—

"(A) a motion for an extension of time is filed in the Federal district court that would have proper jurisdiction over the case upon the filing of a habeas corpus petition under section 2254; and

"(B) a showing of good cause is made for the failure to file the habeas corpus petition within the time period established by this section.

"§ 2259. Evidentiary hearings; scope of Federal review; district court adjudication

"(a) Review of Record; Hearing.—Whenever a State prisoner under a capital sentence files a petition for habeas corpus relief to which this chapter applies, the district court shall—

"(1) determine the sufficiency of the record for habeas corpus review based on the claims actually presented and litigated in the State courts except when the prisoner can show that the failure to raise or develop a claim in the State courts is—

"(A) the result of State action in violation of the Constitution or laws of the United States;

"(B) the result of the Supreme Court recognition of a new Federal right that is retroactively applicable; or

"(C) based on a factual predicate that could not have been discovered through the exercise of reasonable diligence in time to present the claim for State postconviction review; and

"(2) conduct any requested evidentiary hearing necessary to complete the record for habeas corpus review.

"(b) Adjudication.—Upon the development of a complete evidentiary record, the district court shall rule on the claims that are properly before it, but the court shall not grant relief from a judgment of conviction or sentence on the basis of any claim that was fully and fairly adjudicated in State proceedings.

"§ 2260. Certificate of probable cause inapplicable

"The requirement of a certificate of probable cause in order to appeal from the district court to the court of appeals does not apply to habeas corpus cases subject to this chapter except when a second or successive petition is filed.

"§ 2261. Application to State unitary review procedure

"(a) In General.—For purposes of this section, the term 'unitary review procedure' means a State procedure that authorizes a person under sentence of death to raise, in the course of direct review of the judgment, such claims as could be raised on collateral attack. This chapter shall apply, as provided in this section, in relation to a State unitary review procedure if the State establishes by rule of its court of last resort or by statute a mechanism for the appointment, compensation, and payment of reasonable litigation expenses of competent counsel in the unitary review proceedings, including expenses relating to the litigation of collateral claims in the proceedings. The rule of court or statute must provide standards of competency for the appointment of such counsel.

"(b) Offer of Counsel.—A unitary review procedure, to qualify under this section, must include an offer of counsel following trial for the purpose of representation on unitary review, and entry of an order, as provided in section 2256(c), concerning appointment of counsel or waiver or denial of appointment of counsel for that purpose. No counsel appointed to represent the prisoner in the unitary review proceedings shall have previously represented the prisoner at trial in the case for which the appointment is made unless the prisoner and counsel expressly request continued representation.

"(c) Application of Other Sections.—Sections 2257, 2258, 2259, 2260, and 2262 shall apply in relation to cases involving a sentence of death from any State having a unitary review procedure that qualifies under this section. References to State 'post-conviction review' and 'direct review' in those sections shall be understood as referring to unitary review under the State procedure. The references in sections 2257(a) and 2258 to 'an order under section 2256(c)' shall be understood as referring to the post-trial order under subsection (b) concerning representation in the unitary review proceedings, but if a transcript of the trial proceedings is unavailable at the time of the filing of such an order in the appropriate State court, the start of the 180-day limitation period under section 2258 shall be deferred until a transcript is made available to the prisoner or the prisoner's counsel.

"§ 2262. Limitation periods for determining petitions

"(a) In General.—The adjudication of any petition under section 2254 that is subject to this chapter, and the adjudication of any motion under section 2255 by a person under sentence of death, shall be given priority by the district court and by the court of appeals over all noncapital matters. The adjudication of such a petition or motion shall be subject to the following time limitations:

"(1) A Federal district court shall determine such a petition or motion within 110 days of filing.

"(2)(A) The court of appeals shall hear and determine any appeal relating to such a petition or motion within 90 days after the notice of appeal is filed.

"(B) The court of appeals shall decide any application for rehearing en banc within 20 days of the filing of the application unless a responsive pleading is required, in which case the court of appeals shall decide the application within 20 days of the filing of the responsive pleading. If en banc consideration is granted, the en banc court shall determine the appeal within 90 days of the decision to grant such consideration.

"(3) The Supreme Court shall act on any application for a writ of certiorari relating to such a petition or motion within 90 days after the application is filed.

"(b) Application of Section.—The time limitations under subsection (a) shall apply to an initial petition or motion, and to any second or successive petition or motion. The same limitations shall also apply to the redetermination of a petition or motion or related appeal following a remand by the court of appeals or the Supreme Court for further proceedings, and in such a case the limitation period shall run from the date of the remand.

"(c) Rule of Construction.—The time limitations under this section shall not be construed to entitle a petitioner or movant to a stay of execution, to which the petitioner or movant would otherwise not be entitled, for the purpose of litigating any petition, motion, or appeal.

"(d) No Ground for Relief.—The failure of a court to meet or comply with the time limitations under this section shall not be a ground for granting relief from a judgment of conviction or sentence. The State or Government may enforce the time limitations under this section by applying to the court of appeals or the Supreme Court for a writ of mandamus.

"(e) Report.—The Administrative Office of the United States Courts shall report annually to Congress on the compliance by the courts with the time limits established in this section.

"§ 2263. Rule of construction

"This chapter shall be construed to promote the expeditious conduct and conclusion of State and Federal court review in capital cases.".

(b) Technical Amendment.—The part analysis for part IV of title 28, United States Code, is amended by adding after the item relating to chapter 153 the following new item:

"154. Special habeas corpus procedures in capital cases .... 2256.".

Subtitle C—Equalization of Capital Habeas Corpus Litigation Funding

SEC. 721. FUNDING FOR DEATH PENALTY PROSECUTIONS.

Part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by inserting after section 511 the following new section:

"FUNDING FOR DEATH PENALTY PROSECUTIONS

"SEC. 511A. Notwithstanding any other provision of this part, the Director shall provide grants to the States, from the funding allocated pursuant to section 511, for the purpose of supporting litigation pertaining to Federal habeas corpus petitions in capital cases. The total funding available for such grants within any fiscal year shall be equal to the funding provided to capital resource centers, pursuant to Federal appropriation, in the same fiscal year.".

TITLE VIII—PREVENTION OF TERRORISM

Subtitle A—Penalties and Offenses

SEC. 801. PROVIDING MATERIAL SUPPORT TO TERRORISM.

(a) OFFENSE.—Chapter 113A of title 18, United States Code, as amended by section 631(b), is amended by adding the following new section:

"§ 2339A. Providing material support to terrorists

"A person who, within the United States, provides material support or resources or conceals or disguises the nature, location, source, or ownership of material support or resources, knowing or intending that they are to be used to facilitate a violation of section 32, 36, 351, 844(f) or (i), 1114, 1116, 1203, 1361, 1363, 1751, 2280, 2281, 2331, or 2339 of this title, or section 902(i) of the Federal Aviation Act of 1958, as amended (49 U.S.C. App. 1472(i)), or to facilitate the concealment or an escape from the commission of any of the foregoing, shall be fined under this title, imprisoned not more than 10 years, or both. For purposes of this section, material support or resources shall include, but not be limited to, currency or other financial securities, lodging, training, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, and other physical assets.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 113A of title 18, United States Code, as amended by section 631(c), is amended by adding the following new item:

"2339A. Providing material support to terrorists.".

SEC. 802. ENHANCED PENALTIES FOR CERTAIN OFFENSES.

(a) INTERNATIONAL EMERGENCY ECONOMIC POWERS ACT.—Section 206 of the International Emergency Economic Powers Act (50 U.S.C. 1705) is amended—

(1) in subsection (a) by striking "$10,000" and inserting "$50,000"; and

(2) in subsection (b) by striking "$50,000" and inserting "$1,000,000".

(b) PASSPORTS AND VISAS.—(1) Section 1541 of title 18, United States Code, is amended—

(A) by striking "$500" and inserting "$250,000"; and

(B) by striking "one year" and inserting "5 years".

(2) Sections 1542, 1543, 1544 and 1546 of title 18, United States Code, are each amended—

(A) by striking "$2,000" and inserting "$250,000"; and

(B) by striking "five years" and inserting "10 years".

(3) Section 1545 of title 18, United States Code, is amended—

(A) by striking "$2,000" and inserting $250,000"; and

(B) by striking "three years" and inserting "10 years".

SEC. 803. SENTENCING GUIDELINES INCREASE FOR TERRORIST CRIMES.

The United States Sentencing Commission is directed to amend its sentencing guidelines to provide an increase of not less than three levels in the base offense level for any felony, whether committed within or outside the United States, that involves or is intended to promote international terrorism, unless such involvement or intent is itself an element of the crime.

SEC. 804. EXTENSION OF THE STATUTE OF LIMITATIONS FOR CERTAIN TERRORISM OFFENSES.

(a) OFFENSE.—Chapter 213 of title 18, United States Code, is amended by inserting after section 2385 the following new section:

"§ 3286. Extension of statute of limitations for certain terrorism offenses

"Notwithstanding section 3282, no person shall be prosecuted, tried, or punished for any offense involving a violation of section 32 (aircraft destruction), section 36 (airport violence), section 112 (assaults upon diplomats), section 351 (crimes against Congressmen or Cabinet officers), section 1116 (crimes against diplomats), section 1203 (hostage taking), section 1361 (willful injury to government property), section 1751 (crimes against the President), section 2280 (maritime violence), section 2281 (maritime platform violence), section 2331 (terrorist acts abroad against United States nationals), section 2339 (use of weapons of mass destruction), or section 2340A (torture) of this title or section 902(i), (j), (k), (l), or (n) of the Federal Aviation Act of 1958, as amended (49 U.S.C. App. 1572(i), (j), (k), (l), or (n)), unless the indictment is found or the information is instituted within 10 years after such offense shall have been committed.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 213 of title 18, United States Code, is amended by inserting after the item for section 3285 the following new item:

"3286. Extension of statute of limitations for certain terrorism offenses.".

SEC. 805. FORFEITURE OF ASSETS USED TO SUPPORT TERRORISTS.

Section 982(a) of title 18, United States Code, is amended by adding at the end the following new paragraph:

"(5) Any property, real or personal—

"(A) used or intended for use in committing or to facilitate the concealment or an escape from the commission of; or

"(B) constituting or derived from the gross profits or other proceeds obtained from,

a violation of section 32, 36, 351, 844 (f) or (i), 1114, 1116, 1203, 1361, 1363, 1751, 2280, 2281, 2332, or 2339A of this title or section 902(i) of the Federal Aviation Act of 1958 (49 U.S.C. 1472(i)).".

SEC. 806. ALIEN WITNESS COOPERATION.

(a) AMENDMENT OF CHAPTER 224 OF TITLE 18.—Chapter 224 of title 18, United States Code, is amended—

(1) by redesignating section 3528 as section 3529; and

(2) by inserting after section 3527 the following new section:

"§ 3528. Aliens; waiver of admission requirements

"(a) IN GENERAL.—Upon authorizing protection to any alien under this chapter, the United States shall provide the alien with appropriate immigration visas and allow the alien to remain in the United States so long as that alien abides by all laws of the United States and guidelines, rules and regulations for protection. The Attorney General may determine that the granting of permanent resident status to such alien is in the public interest and necessary for the safety and protection of such alien without regard to the alien's admissibility under immigration or any other laws and regulations or the failure to comply with such laws and regulations pertaining to admissibility.

"(b) ALIEN WITH FELONY CONVICTIONS.—Notwithstanding any other provision of this chapter, an alien who would not be excluded because of felony convictions shall be considered for permanent residence on a conditional basis for a period of 2 years. Upon a showing that the alien is still being provided protection, or that protection remains available to the alien in accordance with this chapter, or that the alien is still cooperating with the Government and has maintained good moral character, the Attorney General shall remove the conditional basis of the status effective as of the second anniversary of the alien's obtaining the status of admission for permanent residence. Permanent resident status shall not be granted to an alien who would be excluded because of felony convictions unless the Attorney General determines, pursuant to regulations which shall be prescribed by the Attorney General, that granting permanent residence status to the alien is necessary in the interests of justice and comports with safety of the community.

"(c) LIMIT ON NUMBER OF ALIENS.—The number of aliens and members of their immediate families entering the United States under the authority of this section shall in no case exceed 200 persons in any fiscal year. The decision to grant or deny permanent resident status under this section is at the discretion of the Attorney General and shall not be subject to judicial review.

"(d) DEFINITIONS.—As used in this section, the terms 'alien' and 'United States' have the meanings stated in section 101 of the Immigration and Nationality Act (8 U.S.C. 1101).".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 224 of title 18, United States Code, is amended by striking the item relating to section 3528 and inserting the following:

"3528. Aliens; waiver of admission requirements.

"3529. Definition.".

SEC. 807. TERRITORIAL SEA EXTENDING TO 12 MILES INCLUDED IN SPECIAL MARITIME AND TERRITORIAL JURISDICTION.

The Congress declares that all the territorial sea of the United States, as defined by Presidential Proclamation 5928 of December 27, 1988, is part of the United States, subject to its sovereignty, and, for purposes of Federal criminal jurisdiction, is within the special maritime and territorial jurisdiction of the United States wherever that term is used in title 18, United States Code.

SEC. 808. ASSIMILATED CRIMES IN EXTENDED TERRITORIAL SEA.

Section 13 of title 18, United States Code is amended—

(1) in subsection (a), by inserting after "title" the following: "or on, above, or below any portion of the territorial sea of the United States not within the territory of any State, territory, possession, or district"; and

(2) by inserting at the end the following new subsection:

"(c) Whenever any waters of the territorial sea of the United States lie outside the territory of any State, territory, possession, or district, such waters (including the airspace above and the seabed and subsoil below, and artificial islands and fixed structures erected thereon) shall be deemed for purposes of subsection (a) to lie within the area of the State, territory, possession, or district within which it would lie if the boundaries of the State, territory, possession, or district were extended seaward to the outer limit of the territorial sea of the United States.".

SEC. 809. JURISDICTION OVER CRIMES AGAINST UNITED STATES NATIONALS ON CERTAIN FOREIGN SHIPS.

Section 7 of title 18, United States Code, is amended by inserting at the end the following new paragraph:

"(8) Any foreign vessel during a voyage having a scheduled departure from or arrival in the United States with respect to an offense committed by or against a national of the United States.".

SEC. 810. PENALTIES FOR INTERNATIONAL TERRORIST ACTS.

Section 2332 of title 18, United States Code, as redesignated by section 601(a)(2), is amended—

(1) in subsection (a)—

(A) in paragraph (2) by striking "ten" and inserting "20"; and

(B) in paragraph (3) by striking "three" and inserting "10"; and

(2) in subsection (c) by striking "five" and inserting "10".

SEC. 811. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for each of fiscal years 1994 and 1995, in addition to any other amounts specified in appropriations Acts, for counterterrorist operations and programs—

(1) for the Federal Bureau of Investigation, $30,000,000;

(2) for the Department of State, $10,000,000; and

(3) for the Immigration and Naturalization Service, $20,000,000.

SEC. 812. INTERNATIONAL PARENTAL KIDNAPPING.

(a) IN GENERAL.—Chapter 55 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 1204. International parental kidnapping

"(a) OFFENSE.—Whoever removes a child from the United States or retains a child (who has been in the United States) outside the United States with intent to obstruct the lawful exercise of parental rights shall be fined under this title, imprisoned not more than 3 years, or both.

"(b) DEFINITIONS.—As used in this section—

"(1) the term 'child' means a person who has not attained the age of 16 years; and

"(2) the term 'parental rights', with respect to a child, means the right to physical custody of the child—

"(A) whether joint or sole (and includes visiting rights); and

"(B) whether arising by operation of law, court order, or legally binding agreement of the parties.

"(c) RULE OF CONSTRUCTION.—This section does not detract from The Hague Convention on the Civil Aspects of International Parental Child Abduction, done at The Hague on October 25, 1980.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 55 of title 18, United States Code, is amended by adding at the end the following new item:

"1204. International parental kidnapping.".

SEC. 813. FOREIGN MURDER OF UNITED STATES NATIONALS.

(a) IN GENERAL.—Chapter 51 of title 18, United States Code, as amended by section 141(a), is amended by adding at the end the following new section:

"§ 1120. Foreign murder of United States nationals

"(a) OFFENSE.—Whoever kills or attempts to kill a national of the United States while such national is outside the United States but within the jurisdiction of another country shall be punished as provided under sections 1111, 1112, and 1113.

"(b) APPROVAL OF PROSECUTION.—No prosecution may be instituted against any person under this section except upon the written approval of the Attorney General, the Deputy Attorney General, or an Assistant Attorney General, which function of approving prosecutions may not be delegated. No prosecution shall be approved if prosecution has been previously undertaken by a foreign country for the same act or omission.

"(c) CRITERIA FOR APPROVAL.—No prosecution shall be approved under this section unless the Attorney General, in consultation with the Secretary of State, determines that the act or omission took place in a country in which the person is no longer present, and the country lacks the ability to lawfully secure the person's return. A determination by the Attorney General under this subsection is not subject to judicial review.

"(d) ASSISTANCE FROM OTHER AGENCIES.—In the course of the enforcement of this section and notwithstanding any other law, the Attorney General may request assistance from any Federal, State, local, or foreign agency, including the Army, Navy, and Air Force.

"(e) DEFINITION.—As used in this section, the term 'national of the United States' has the meaning stated in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).".

(b) TECHNICAL AMENDMENTS.—(1) Section 1117 of title 18, United States Code, is amended by striking "or 1116" and inserting "1116, or 1120".

(2) The chapter analysis for chapter 51 of title 18, United States Code, as amended by section 141(b), is amended by adding at the end the following new item:

"1120. Foreign murder of United States nationals.".

SEC. 814. EXTRADITION.

(a) SCOPE.—Section 3181 of title 18, United States Code, is amended—

(1) by inserting "(a) IN GENERAL.—" before "The provisions of this chapter"; and

(2) by adding at the end the following new subsections:

"(b) SURRENDER WITHOUT REGARD TO EXISTENCE OF EXTRADITION TREATY.—This chapter shall be construed to permit, in the exercise of comity, the surrender of persons who have committed crimes of violence against nationals of the United States in foreign countries without regard to the existence of any treaty of extradition with such foreign government if the Attorney General certifies in writing that—

"(1) evidence has been presented by the foreign government that indicates that, if the offenses had been committed in the United States, they would constitute crimes of violence (as defined under section 16); and

"(2) the offenses charged are not of a political nature.

"(c) DEFINITION.—In this section, 'national of the United States' has the meaning stated in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).".

(b) FUGITIVES.—Section 3184 of title 18, United States Code, is amended—

(1) in the first sentence by inserting after "United States and any foreign government," the following: "or in cases arising under section 3181(b),";

(2) in the first sentence by inserting after "treaty or convention," the following: "or provided for under section 3181(b),"; and

(3) in the third sentence by inserting after "treaty or convention," the following: "or under section 3181(b),".

SEC. 815. FBI ACCESS TO TELEPHONE SUBSCRIBER INFORMATION.

(a) REQUIRED CERTIFICATION.—Section 2709(b) of title 18, United States Code, is amended to read as follows:

"(b) REQUIRED CERTIFICATION.—

"(1) NAME, ADDRESS, AND LENGTH OF SERVICE ONLY.—The Director of the Federal Bureau of Investigation, or the Director's designee in a position not lower than Deputy Assistant Director, may request the name, address, and length of service of a person or entity if the Director (or designee in a position not lower than Deputy Assistant Director) certifies in writing to the wire or electronic communication service provider to which the request is made that—

"(A) the information sought is relevant to an authorized foreign counterintelligence investigation; and

"(B) there are specific and articulable facts giving reason to believe that communication facilities registered in the name of the person or entity have been used, through the services of the provider, in communication with—

"(i) an individual who is engaging or has engaged in international terrorism (as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801)) or clandestine intelligence activities that involve or may involve a violation of the criminal statutes of the United States; or

"(ii) a foreign power (as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801)) or an agent of a foreign power (as defined in that section) under circumstances giving reason to believe that the communication concerned international terrorism (as defined in that section) or clandestine intelligence activities that involve or may involve a violation of the criminal statutes of the United States.

"(2) NAME, ADDRESS, LENGTH OF SERVICE, AND TOLL BILLING RECORDS.—The Director of the Federal Bureau of Investigation, or the Director's designee in a position not lower than Deputy Assistant Director, may request the name, address, length of service, and toll billing records of a person or entity if the Director (or designee in a position not lower than Deputy Assistant Director) certifies in writing to the wire or electronic communication service provider to which the request is made that—

"(A) the name, address, length of service, and toll billing records sought are relevant to an authorized foreign counterintelligence investigation; and

"(B) there are specific and articulable facts giving reason to believe that the person or entity to whom the information sought pertains is a foreign power (as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801)) or an agent of a foreign power (as defined in that section).".

(b) REPORT TO JUDICIARY COMMITTEES.—Section 2709(e) of title 18, United States Code, is amended by adding after "Senate" the following: ", and the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate,".

Subtitle B—Removal of Alien Terrorists

SEC. 821. REMOVAL OF ALIEN TERRORISTS.

The Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended by inserting the following new section:

"REMOVAL OF ALIEN TERRORISTS

"SEC. 242C. (a) DEFINITIONS.—As used in this section—

"(1) the term 'alien terrorist' means any alien described in section 241(a)(4)(B);

"(2) the term 'classified information' has the same meaning as defined in section 1(a) of the Classified Information Procedures Act (18 U.S.C. App. IV);

"(3) the term 'national security' has the same meaning as defined in section 1(b) of the Classified Information Procedures Act (18 U.S.C. App. IV);

"(4) the term 'special court' means the court described in subsection (c) of this section; and

"(5) the term 'special removal hearing' means the hearing described in subsection (e) of this section.

"(b) APPLICATION FOR USE OF PROCEDURES.—The provisions of this section shall apply whenever the Attorney General certifies under seal to the special court that—

"(1) the Attorney General or Deputy Attorney General has approved of the proceeding under this section;

"(2) an alien terrorist is physically present in the United States; and

"(3) removal of such alien terrorist by deportation proceedings described in sections 242, 242A, or 242B would pose a risk to the national security of the United States because such proceedings would disclose classified information.

"(c) SPECIAL COURT.—(1) The Chief Justice of the United States shall publicly designate up to 7 judges from up to 7 United States judicial districts to hear and decide cases arising under this section, in a manner consistent with the designation of judges described in section 103(a) of the Foreign Intelligence Surveillance Act (50 U.S.C. 1803(a)).

"(2) The Chief Justice may, in the Chief Justice's discretion, designate the same judges under this section as are designated pursuant to 50 U.S.C. 1803(a).

"(d) INVOCATION OF SPECIAL COURT PROCEDURE.—(1) When the Attorney General makes the application described in subsection (b), a single judge of the special court shall consider the application in camera and ex parte.

"(2) The judge shall invoke the procedures of subsection (e), if the judge determines that there is probable cause to believe that—

"(A) the alien who is the subject of the application has been correctly identified;

"(B) a deportation proceeding described in sections 242, 242A, or 242B would pose a risk to the national security of the United States because such proceedings would disclose classified information; and

"(C) the threat posed by the alien's physical presence is immediate and involves the risk of death or serious bodily harm.

"(e) SPECIAL REMOVAL HEARING.—(1) Except as provided in paragraph (4), the special removal hearing authorized by a showing of probable cause described in subsection (d)(2) shall be open to the public.

"(2) The alien shall have a right to be present at such hearing and to be represented by counsel. Any alien financially unable to obtain counsel shall be entitled to have counsel assigned to represent such alien. Counsel may be appointed as described in section 3006A of title 18, United States Code.

"(3) The alien shall have a right to introduce evidence on his own behalf, and except as provided in paragraph (4), shall have a right to cross-examine any witness or request that the judge issue a subpoena for the presence of a named witness.

"(4) The judge shall authorize the introduction in camera and ex parte of any item of evidence for which the judge determines that public disclosure would pose a risk to the national security of the United States because it would disclose classified information.

"(5) With respect to any evidence described in paragraph (4), the judge shall cause to be delivered to the alien either—

"(A)(i) the substitution for such evidence of a statement admitting relevant facts that the specific evidence would tend to prove, or (ii) the substitution for such evidence of a summary of the specific evidence; or

"(B) if disclosure of even the substituted evidence described in subparagraph (A) would create a substantial risk of death or serious bodily harm to any person, a statement informing the alien that no such summary is possible.

"(6) If the judge determines—

"(A) that the substituted evidence described in paragraph (4)(B) will provide the alien with substantially the same ability to make his defense as would disclosure of the specific evidence, or

"(B) that disclosure of even the substituted evidence described in paragraph (5)(A) would create a substantial risk of death or serious bodily harm to any person,

then the determination of deportation (described in subsection (f)) may be made pursuant to this section.

"(f) DETERMINATION OF DEPORTATION.—(1) If the determination in subsection (e)(6)(A) has been made, the judge shall, considering the evidence on the record as a whole, require that the alien be deported if the Attorney General proves, by clear and convincing evidence, that the alien is subject to deportation because he is an alien as described in section 241(a)(4)(B).

"(2) If the determination in subsection (e)(6)(B) has been made, the judge shall, considering the evidence received (in camera and otherwise), require that the alien be deported if the Attorney General proves, by clear, convincing, and unequivocal evidence, that the alien is subject to deportation because he is an alien as described in section 241(a)(4)(B).

"(g) APPEALS.—(1) The alien may appeal a determination under subsection (f) to the court of appeals for the Federal Circuit, by filing a notice of appeal with such court within 20 days of the determination under such subsection.

"(2)(A) The Attorney General may appeal a determination under subsection (d), (e), or (f) to the court of appeals for the Federal Circuit, by filing a notice of appeal with such court within 20 days of the determination under any one of such subsections.

"(B) When requested by the Attorney General, the entire record of the proceeding under this section shall be transmitted to the court of appeals under seal. If the Attorney General is appealing a determination under subsection (d) or (e), the court of appeals shall consider such appeal in camera and ex parte.".

Subtitle C—Enhanced Entry Controls

SEC. 831. ADMISSIONS FRAUD.

(a) EXCLUSION FOR FRAUDULENT DOCUMENTS AND FAILURE TO PRESENT DOCUMENTS.—Section 212(a)(6)(C) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(6)(C)) is amended—

(1) by striking "(C) MISREPRESENTATION" and inserting in lieu thereof the following:

"(C) FRAUD, MISREPRESENTATION, AND FAILURE TO PRESENT DOCUMENTS";

(2) by adding at the end the following new clause:

"(iii) FRAUDULENT DOCUMENTS AND FAILURE TO PRESENT DOCUMENTS.—

"(I) Any alien who, in seeking entry to the United States or boarding a common carrier for the purpose of coming to the United States, presents any document which, in the determination of the immigration officer, is forged, counterfeit, altered, falsely made, stolen, or inapplicable to the alien presenting the document, or otherwise contains a misrepresentation of a material fact, is excludable.

"(II) Any alien who, in boarding a common carrier for the purpose of coming to the United States, presents a document that relates or purports to relate to the alien's eligibility to enter the United States, and fails to present such document to an immigration officer upon arrival at a port of entry into the United States, is excludable.".

(b) AVAILABILITY OF ASYLUM AND OTHER DISCRETIONARY RELIEF.—

(1) Section 208 of the Immigration and Nationality Act (8 U.S.C. 1158) is amended by adding at the end the following new subsection:

"(e) FRAUD.—

"(1) APPLICATION OF FRAUD EXCLUSION.—Notwithstanding subsection (a) and except as provided in paragraph (2), any alien who is excludable under section 212(a)(6)(C)(iii) or section 212(a)(7)(A)(i) may not apply for or be granted asylum.

"(2) EXCEPTION.—(A) The limitation under paragraph (1) shall not apply if the action upon which the exclusion is based was pursuant to direct departure from a country in which—

"(i) the alien has a credible fear of persecution; or

"(ii) there is a significant danger that the alien would be returned to a country in which the alien would have a credible fear of persecution.

"(B) For the purposes of subparagraph (A), an alien may be considered to have a credible fear of persecution if—

"(i) it is more probable than not that the statements made by the alien in support of his or her claim are true; and

"(ii) there is a significant possibility, in light of such statements and of such other facts as are known to the officer about country conditions, that the alien could establish eligibility as a refugee within the meaning of section 101(a)(42)(A).".

(2) Section 212(c) of the Immigration and Nationality Act (8 U.S.C. 1182(c)) is amended in the third sentence by inserting before the period "or to any alien who is excludable pursuant to section 212(a)(6)(C)(iii)".

SEC. 832. INSPECTION AND EXCLUSION BY IMMIGRATION OFFICERS.

Section 235(b) of the Immigration and Nationality Act (8 U.S.C. 1225(b)) is amended to read as follows:

"(b) INSPECTION AND EXCLUSION BY IMMIGRATION OFFICERS.—

"(1) An immigration officer shall inspect each alien who is seeking entry to the United States.

"(2)(A) If the examining immigration officer determines that an alien seeking entry—

"(i)(I) is excludable under section 212(a)(6)(C)(iii), or

"(II) is excludable under section 212(a)(7)(A)(i),

"(ii) does not have any reasonable basis for legal entry into the United States, and

"(iii) does not indicate an intention to apply for asylum under section 208, the alien shall be specially excluded from entry into the United States without a hearing.

"(B) The examining immigration officer shall refer to an immigration officer, specially trained to conduct interviews and make determinations bearing on eligibility for asylum, any alien who is (i) excludable under section 212(a)(6)(C)(iii) or section 212(a)(7)(A) (i) and (ii) who has indicated an intention to apply for asylum. Such an alien shall not be considered to have entered the United States for purposes of this Act.

"(C) An alien under subparagraph (B) who is determined by an immigration officer, specially trained to conduct interviews and make determinations bearing on eligibility for asylum, to be excludable and ineligible for the exception under section 208(e)(2), shall be specially excluded and deported from the United States without further hearing.

"(3)(A) Except as provided in subparagraph (B), if the examining immigration officer determines that an alien seeking entry is not clearly and beyond a doubt entitled to enter, the alien shall be detained for a hearing before an immigration judge.

"(B) The provisions of subparagraph (A) shall not apply—

"(i) to an alien crewman,

"(ii) to an alien described in paragraph (2)(A) or (2)(C), or

"(iii) if the conditions described in section 273(d) exist.

"(4) The decision of the examining immigration officer, if favorable to the admission of any alien, shall be subject to challenge by any other immigration officer and such challenge shall operate to take the alien, whose privilege to enter is so challenged, before an immigration judge for a hearing on exclusion of the alien.

"(5) The Attorney General shall establish procedures that ensure that aliens are not specially excluded under paragraph (2)(A) without an inquiry into their reasons for seeking entry into the United States.

"(6)(A) Subject to subparagraph (B), an alien has not entered the United States for purposes of this Act unless and until such alien has been inspected and admitted by an immigration officer pursuant to this subsection.

"(B) An alien who (i) is physically present in the United States, (ii) has been physically present in the United States for a continuous period of one year, and (iii) has not been inspected and admitted by an immigration officer may be said to have entered the United States without inspection. Such an alien is subject to deportation pursuant to section 241(a)(1)(B).".

SEC. 833. JUDICIAL REVIEW.

Section 235 of the Immigration and Nationality Act (8 U.S.C. 1225) (as amended by section 732) is amended by adding after subsection (c) the following new subsections:

"(d) HABEAS CORPUS REVIEW.—Notwithstanding any other provision of law, no court shall have jurisdiction to review, except by petition for habeas corpus, any determination made with respect to an alien found excludable pursuant to section 212(a)(6)(C)(iii) or section 212(a)(7)(A)(i). In any such case, review by habeas corpus shall be limited to examination of whether the petitioner (1) is an alien, and (2) was ordered excluded from the United States pursuant to section 235(b)(2).

"(e) OTHER LIMITS ON JUDICIAL REVIEW AND ACTION.—Notwithstanding any other provision of law, no court shall have jurisdiction (1) to review the procedures established by the Attorney General for the determination of exclusion pursuant to section 212(a)(6)(C)(iii) or section 212(a)(7)(A)(i), or (2) to enter declaratory or injunctive relief with respect to the implementation of subsection (b)(2). Regardless of the nature of the suit or claim, no court shall have jurisdiction except by habeas corpus petition as provided in subsection (d) to consider the validity of any adjudication or determination of special exclusion or to provide declaratory or injunctive relief with respect to the special exclusion of any alien.

"(f) COLLATERAL ENFORCEMENT PROCEEDINGS.—In any action brought for the assessment of penalties for improper entry or reentry of an alien under section 275 or 276, no court shall have jurisdiction to hear claims collaterally attacking the validity of orders of exclusion, special exclusion, or deportation entered under sections 235, 236, and 242.".

SEC. 834. CONFORMING AMENDMENTS.

Section 237(a) of the Immigration and Nationality Act (8 U.S.C. 1227(a)) is amended—

(1) in the second sentence of paragraph (1) by striking "Deportation" and inserting "Subject to section 235(b)(2), deportation"; and

(2) in the first sentence of paragraph (2) by striking "If" and inserting "Subject to section 235(b)(2), if".

SEC. 835. EFFECTIVE DATE.

Except as otherwise provided, the amendments made by this subtitle shall take effect on the date of the enactment of this Act and shall apply to aliens who arrive in or seek admission to the United States on or after that date.

TITLE IX—VICTIMS' RIGHTS AND CHILD ABUSE

Subtitle A—Victims' Rights

SEC. 901. RESTITUTION AMENDMENTS.

Section 3663(b) of title 18, United States Code, is amended—

(1) by striking "and" at the end of paragraph (3);

(2) by redesignating paragraph (4) as paragraph (5); and

(3) by inserting after paragraph (4) the following new paragraph:

"(4) in any case, reimburse the victim for necessary child care, transportation, and other expenses related to participation in the investigation or prosecution of the offense or attendance at proceedings related to the offense; and".

(b) SUSPENSION OF FEDERAL BENEFITS.—Section 3663 of title 18, United States Code, is amended—

(1) by redesignating subsections (g) and (h) as subsections (h) and (i), respectively; and

(2) by inserting after subsection (f) the following new subsection:

"(g)(1) If the defendant is delinquent in making restitution in accordance with any schedule of payments or any requirement of immediate payment imposed under this section, the court may, after a hearing, suspend the defendant's eligibility for all Federal benefits until such time as the defendant demonstrates to the court good-faith efforts to return to such schedule.

"(2) In this subsection—

"(A) 'Federal benefits'—

"(i) means any grant, contract, loan, professional license, or commercial license provided by an agency of the United States or by appropriated funds of the United States; and

"(ii) does not include any retirement, welfare, Social Security, health, disability, veterans benefit, public housing, or other similar benefit, or any other benefit for which payments or services are required for eligibility.

"(B) 'veterans benefit' means all benefits provided to veterans, their families, or survivors by virtue of the service of a veteran in the Armed Forces of the United States.".

SEC. 902. RIGHT OF THE VICTIM TO AN IMPARTIAL JURY.

Rule 24(b) of the Federal Rules of Criminal Procedure is amended by striking "the Government is entitled to 6 peremptory challenges and the defendant or defendants jointly to 10 peremptory challenges" and inserting "each side is entitled to 6 peremptory challenges".

SEC. 903. MANDATORY RESTITUTION AND OTHER PROVISIONS.

(a) ORDER OF RESTITUTION.—Section 3663 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by striking "may order" and inserting "shall order"; and

(B) by adding at the end the following new paragraph:

"(4) In addition to ordering restitution of the victim of the offense of which a defendant is convicted, a court may order restitution of any person who, as shown by a preponderance of evidence, was harmed physically, emotionally, or pecuniarily, by unlawful conduct of the defendant during—

"(A) the criminal episode during which the offense occurred; or

"(B) the course of a scheme, conspiracy, or pattern of unlawful activity related to the offense.";

(2) in subsection (b)(1)(A) by striking "impractical" and inserting "impracticable";

(3) in subsection (b)(2) by inserting "emotional or" after "resulting in";

(4) in subsection (c) by striking "If the Court decides to order restitution under this section, the" and inserting "The";

(5) by striking subsections (d), (e), (f), (h), and (i), as redesignated by section 871(b)(1);

(6) by redesignating subsection (g), as added by section 871(b)(2), as subsection (d); and

(7) by adding at the end the following new subsections:

"(e)(1) The court shall order restitution to a victim in the full amount of the victim's losses as determined by the court and without consideration of—

"(A) the economic circumstances of the offender; or

"(B) the fact that a victim has received or is entitled to receive compensation with respect to a loss from insurance or any other source.

"(2) Upon determination of the amount of restitution owed to each victim, the court shall specify in the restitution order the manner in which and the schedule according to which the restitution is to be paid, in consideration of—

"(A) the financial resources and other assets of the offender;

"(B) projected earnings and other income of the offender; and

"(C) any financial obligations of the offender, including obligations to dependents.

"(3) A restoration order may direct the offender to make a single, lump-sum payment, partial payment at specified intervals, or such in-kind payments as may be agreeable to the victim and the offender.

"(4) An in-kind payment described in paragraph (3) may be in the form of—

"(A) return of property;

"(B) replacement of property; or

"(C) services rendered to the victim or to a person or organization other than the victim.

"(f) When the court finds that more than 1 offender has contributed to the loss of a victim, the court may make each offender liable for payment of the full amount of restitution or may apportion liability among the offenders to reflect the level of contribution and economic circumstances of each offender.

"(g) When the court finds that more than 1 victim has sustained a loss requiring restitution by an offender, the court shall order full restitution of each victim but may provide for different payment schedules to reflect the economic circumstances of each victim.

"(h)(1) If the victim has received or is entitled to receive compensation with respect to a loss from insurance or any other source, the court shall order that restitution be paid to the person who provided or is obligated to provide the compensation, but the restitution order shall provide that all restitution of victims required by the order be paid to the victims before any restitution is paid to such a provider of compensation.

"(2) The issuance of a restitution order shall not affect the entitlement of a victim to receive compensation with respect to a loss from insurance or any other source until the payments actually received by the victim under the restitution order fully compensate the victim for the loss, at which time a person that has provided compensation to the victim shall be entitled to receive any payments remaining to be paid under the restitution order.

"(3) Any amount paid to a victim under an order of restitution shall be set off against any amount later recovered as compensatory damages by the victim in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(i) A restitution order shall provide that—

"(1) all fines, penalties, costs, restitution payments and other forms of transfers of money or property made pursuant to the sentence of the court shall be made by the offender to an entity designated by the Director of the Administrative Office of the United States Courts for accounting and payment by the entity in accordance with this subsection;

"(2) the entity designated by the Director of the Administrative Office of the United States Courts shall—

"(A) log all transfers in a manner that tracks the offender's obligations and the current status in meeting those obligations, unless, after efforts have been made to enforce the restitution order and it appears that compliance cannot be obtained, the court determines that continued recordkeeping under this subparagraph would not be useful;

"(B) notify the court and the interested parties when an offender is 90 days in arrears in meeting those obligations; and

"(C) disburse money received from an offender so that each of the following obligations is paid in full in the following sequence:

"(i) a penalty assessment under section 3013;

"(ii) restitution of all victims; and

"(iii) all other fines, penalties, costs, and other payments required under the sentence; and

"(3) the offender shall advise the entity designated by the Director of the Administrative Office of the United States Courts of any change in the offender's address during the term of the restitution order.

"(j) A restitution order shall constitute a lien against all property of the offender and may be recorded in any Federal or State office for the recording of liens against real or personal property.

"(k) Compliance with the schedule of payment and other terms of a restitution order shall be a condition of any probation, parole, or other form of release of an offender. If a defendant fails to comply with a restitution order, the court may revoke probation or a term of supervised release, modify the term or conditions of probation or a term of supervised release, hold the defendant in contempt of court, enter a restraining order or injunction, order the sale of property of the defendant, accept a performance bond, or take any other action necessary to obtain compliance with the restitution order. In determining what action to take, the court shall consider the defendant's employment status, earning ability, financial resources, the willfulness in failing to comply with the restitution order, and any other circumstances that may have a bearing on the defendant's ability to comply with the restitution order.

"(l) An order of restitution may be enforced—

"(1) by the United States—

"(A) in the manner provided for the collection and payment of fines in subchapter B of chapter 229; or

"(B) in the same manner as a judgment in a civil action; and

"(2) by a victim named in the order to receive restitution, in the same manner as a judgment in a civil action.

"(m) A victim or the offender may petition the court at any time to modify a restitution order as appropriate in view of a change in the economic circumstances of the offender.".

(b) PROCEDURE FOR ISSUING ORDER OF RESTITUTION.—Section 3664 of title 18, United States Code, is amended—

(1) by striking subsection (a);

(2) by redesignating subsections (b), (c), (d), and (e) as subsections (a), (b), (c), and (d);

(3) by amending subsection (a), as redesignated by paragraph (2), to read as follows:

"(a) The court may order the probation service of the court to obtain information pertaining to the amount of loss sustained by any victim as a result of the offense, the financial resources of the defendant, the financial needs and earning ability of the defendant and the defendant's dependents, and such other factors as the court deems appropriate. The probation service of the court shall include the information collected in the report of presentence investigation or in a separate report, as the court directs."; and

(4) by adding at the end the following new subsection:

"(e) The court may refer any issue arising in connection with a proposed order of restitution to a magistrate or special master for proposed findings of fact and recommendations as to disposition, subject to a de novo determination of the issue by the court.".

Subtitle B—National Child Protection Act

SEC. 911. SHORT TITLE.

This subtitle may be cited as the "National Child Protection Act of 1993".

SEC. 912. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) more than 2,500,000 reports of suspected child abuse and neglect are made each year, and increases have occurred in recent years in the abuse of children by persons who have previously committed crimes of child abuse or other serious crimes;

(2) although the great majority of child care providers are caring and dedicated professionals, child abusers and others who harm or prey on children frequently seek employment in or volunteer for positions that give them access to children;

(3) nearly 6,000,000 children received day care in 1990, and this total is growing rapidly to an estimated 8,000,000 children by 1995;

(4) exposure to child abusers and others who harm or prey on children is harmful to the physical and emotional well-being of children;

(5) there is no reliable, centralized national source through which child care organizations may obtain the benefit of a nationwide criminal background check on persons who provide or seek to provide child care;

(6) some States maintain automated criminal background files and provide criminal history information to child care organizations on persons who provide or seek to provide child care; and

(7) because State and national criminal justice databases are inadequate to permit effective national background checks, persons convicted of crimes of child abuse or other serious crimes may gain employment at a child care organization.

(b) PURPOSES.—The purposes of this subtitle are—

(1) to establish a national system through which child care organizations may obtain the benefit of a nationwide criminal background check to determine if persons who are current or prospective child care providers have committed child abuse crimes or other serious crimes;

(2) to establish minimum criteria for State laws and procedures that permit child care organizations to obtain the benefit of nationwide criminal background checks to determine if persons who are current or prospective child care providers have committed child abuse crimes or other serious crimes;

(3) to provide procedural rights for persons who are subject to nationwide criminal background checks, including procedures to challenge and correct inaccurate background check information;

(4) to establish a national system for the reporting by the States of child abuse crime information; and

(5) to document and study the problem of child abuse by providing statistical and informational data on child abuse and related crimes to the Department of Justice and other interested parties.

SEC. 913. DEFINITIONS.

In this subtitle—

"authorized agency" means a division or office of a State designated by a State to report, receive, or disseminate information under this subtitle.

"background check crime" means a child abuse crime, murder, manslaughter, aggravated assault, kidnapping, arson, sexual assault, domestic violence, incest, indecent exposure, prostitution, promotion of prostitution, and a felony offense involving the use or distribution of a controlled substance.

"child" means a person who is a child for purposes of the criminal child abuse law of a State.

"child abuse" means the physical or mental injury, sexual abuse or exploitation, neglectful treatment, negligent treatment, or maltreatment of a child by any person in violation of the criminal child abuse laws of a State, but does not include discipline administered by a parent or legal guardian to his or her child provided it is reasonable in manner and moderate in degree and otherwise does not constitute cruelty.

"child abuse crime" means a crime committed under any law of a State that establishes criminal penalties for the commission of child abuse by a parent or other family member of a child or by any other person.

"child abuse crime information" means the following facts concerning a person who is under indictment for, or has been convicted of, a child abuse crime: full name, social security number, age, race, sex, date of birth, height, weight, hair and eye color, legal residence address, a brief description of the child abuse crime or offenses for which the person is under indictment or has been convicted, and any other information that the Attorney General determines may be useful in identifying persons under indictment for, or convicted of, a child abuse crime.

"child care" means the provision of care, treatment, education, training, instruction, supervision, or recreation to children.

"domestic violence" means a felony or misdemeanor involving the use or threatened use of force by—

(A) a present or former spouse of the victim;

(B) a person with whom the victim shares a child in common;

(C) a person who is cohabiting with or has cohabited with the victim as a spouse; or

(D) any person defined as a spouse of the victim under the domestic or family violence laws of a State.

"exploitation" means child pornography and child prostitution.

"mental injury" means harm to a child's psychological or intellectual functioning, which may be exhibited by severe anxiety, depression, withdrawal or outward aggressive behavior, or a combination of those behaviors or by a change in behavior, emotional response, or cognition.

"national criminal background check system" means the system of information and identification relating to convicted and accused child abuse offenders that is maintained by the Attorney General under this subtitle.

"negligent treatment" means the failure to provide, for a reason other than poverty, adequate food, clothing, shelter, or medical care so as to seriously endanger the physical health of a child.

"physical injury" includes lacerations, fractured bones, burns, internal injuries, severe bruising, and serious bodily harm.

"provider" means

(A) a person who—

(i) is employed by or volunteers with a qualified entity;

(ii) who owns or operates a qualified entity; or

(iii) who has or may have unsupervised access to a child to whom the qualified entity provides child care; and

(B) a person who—

(i) seeks to be employed by or volunteer with a qualified entity;

(ii) seeks to own or operate a qualified entity; or

(iii) seeks to have or may have unsupervised access to a child to whom the qualified entity provides child care.

"qualified entity" means a business or organization, whether public, private, for-profit, not-for-profit, or voluntary, that provides child care or child care placement services, including a business or organization that licenses or certifies others to provide child care or child care placement services.

"sex crime" means an act of sexual abuse that is a criminal act.

"sexual abuse" includes the employment, use, persuasion, inducement, enticement, or coercion of a child to engage in, or assist another person to engage in, sexually explicit conduct or the rape, molestation, prostitution, or other form of sexual exploitation of children or incest with children.

"State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, and the Trust Territories of the Pacific.

SEC. 914. REPORTING BY THE STATES.

(a) IN GENERAL.—An authorized agency of a State shall report child abuse crime information to the national criminal background check system.

(b) PROVISION OF STATE CHILD ABUSE CRIME RECORDS TO THE NATIONAL CRIMINAL BACKGROUND CHECK SYSTEM.—(1) Not later than 180 days after the date of enactment of this Act, the Attorney General shall—

(A) investigate the criminal records of each State and determine for each State a timetable by which the State should be able to provide child abuse crime records on an on-line capacity basis to the national criminal background check system;

(B) establish guidelines for the reporting of child abuse crime information, including guidelines relating to the format, content, and accuracy of child abuse crime information and other procedures for carrying out this subtitle; and

(C) notify each State of the determinations made pursuant to subparagraphs (A) and (B).

(2) The Attorney General shall require as a part of the State timetable that the State—

(A) achieve, by not later than the date that is 3 years after the date of enactment of this Act, at least 80 percent currency of child abuse crime case dispositions in computerized criminal history files for all child abuse crime cases in which there has been an entry of activity within the last 5 years; and

(B) continue to maintain such a system.

(c) EXCHANGE OF INFORMATION.—An authorized agency of a State shall maintain close liaison with the National Center on Child Abuse and Neglect, the National Center for Missing and Exploited Children, and the National Center for the Prosecution of Child Abuse for the exchange of information and technical assistance in cases of child abuse.

(d) ANNUAL SUMMARY.—(1) The Attorney General shall publish an annual statistical summary of the child abuse crime information reported under this subtitle.

(2) The annual statistical summary described in paragraph (1) shall not contain any information that may reveal the identity of any particular victim of a crime.

(e) ANNUAL REPORT.—The Attorney General shall publish an annual summary of each State's progress in reporting child abuse crime information to the national criminal background check system.

(f) STUDY OF CHILD ABUSE OFFENDERS.—(1) Not later than 180 days after the date of enactment of this Act, the Administrator of the Office of Juvenile Justice and Delinquency Prevention shall begin a study based on a statistically significant sample of convicted child abuse offenders and other relevant information to determine—

(A) the percentage of convicted child abuse offenders who have more than 1 conviction for an offense involving child abuse;

(B) the percentage of convicted child abuse offenders who have been convicted of an offense involving child abuse in more than 1 State;

(C) whether there are crimes or classes of crimes, in addition to those defined as background check crimes in section 883, that are indicative of a potential to abuse children; and

(D) the extent to which and the manner in which instances of child abuse form a basis for convictions for crimes other than child abuse crimes.

(2) Not later than 1 year after the date of enactment of this Act, the Administrator shall submit a report to the Chairman of the Committee on the Judiciary of the Senate and the Chairman of the Committee on the Judiciary of the House of Representatives containing a description of and a summary of the results of the study conducted pursuant to paragraph (1).

SEC. 915. BACKGROUND CHECKS.

(a) IN GENERAL.—(1) A State may have in effect procedures (established by or under State statute or regulation) to permit a qualified entity to contact an authorized agency of the State to request a nationwide background check for the purpose of determining whether there is a report that a provider is under indictment for, or has been convicted of, a background check crime.

(2) The authorized agency shall access and review State and Federal records of background check crimes through the national criminal background check system and other criminal justice recordkeeping systems and shall respond promptly to the inquiry.

(b) GUIDELINES.—(1) The Attorney General shall establish guidelines for State background check procedures established under subsection (a), including procedures for carrying out the purposes of this subtitle.

(2) The guidelines established under paragraph (1) shall require—

(A) that no qualified entity may request a background check of a provider under subsection (a) unless the provider first completes and signs a statement that—

(i) contains the name, address, and date of birth appearing on a valid identification document (as defined by section 1028(d)(1) of title 18, United States Code) of the provider;

(ii) the provider is not under indictment for, and has not been convicted of, a background check crime and, if the provider is under indictment for or has been convicted of a background check crime, contains a description of the crime and the particulars of the indictment or conviction;

(iii) notifies the provider that the entity may request a background check under subsection (a);

(iv) notifies the provider of the provider's rights under subparagraph (B); and

(v) notifies the provider that prior to the receipt of the background check the qualified entity may choose to deny the provider unsupervised access to a child to whom the qualified entity provides child care;

(B) that each State establish procedures under which a provider who is the subject of a background check under subsection (a) is entitled—

(i) to obtain a copy of any background check report and any record that forms the basis for any such report; and

(ii) to challenge the accuracy and completeness of any information contained in any such report or record and obtain a prompt determination from an authorized agency as to the validity of such challenge;

(C) that an authorized agency to which a qualified entity has provided notice pursuant to subsection (a) make reasonable efforts to complete research in whatever State and local recordkeeping systems are available and in the national criminal background check system and respond to the qualified entity within 15 business days;

(D) that the response of an authorized agency to an inquiry pursuant to subsection (a) informs the qualified entity that the background check pursuant to this section—

(i) may not reflect all indictments or convictions for a background check crime;

(ii) is not certain to include arrest information; and

(iii) should not be the sole basis for determining the fitness of a provider;

(E) that the response of an authorized agency to an inquiry pursuant to subsection (a)—

(i) at a minimum, states whether the background check information set forth in the identification document required under subparagraph (A) is complete and accurate; and

(ii) be limited to the information reasonably required to accomplish the purposes of this subtitle;

(F) that no qualified entity may take action adverse to a provider, except that the qualified entity may choose to deny the provider unsupervised access to a child to whom the qualified entity provides child care, on the basis of a background check under subsection (a) until the provider has obtained a determination as to the validity of any challenge under subparagraph (B) or waived the right to make such challenge;

(G) that each State establish procedures to ensure that any background check under subsection (a) and the results thereof shall be requested by and provided only to—

(i) qualified entities identified by States;

(ii) authorized representatives of a qualified entity who have a need to know such information;

(iii) the providers;

(iv) law enforcement authorities; or

(v) pursuant to the direction of a court of law;

(H) that background check information conveyed to a qualified entity pursuant to subsection (a) shall not be conveyed to any person except as provided under subparagraph (G);

(I) that an authorized agency shall not be liable in an action at law for damages for failure to prevent a qualified entity from taking action adverse to a provider on the basis of a background check; and

(J) that a State employee or a political subdivision of a State or employee thereof responsible for providing information to the national criminal background check system shall not be liable in an action at law for damages for failure to prevent a qualified entity from taking action adverse to a provider on the basis of a background check.

(c) Equivalent Procedures.—(1) Notwithstanding anything to the contrary in this section, the Attorney General may certify that a State licensing or certification procedure that differs from the procedures described in subsections (a) and (b) shall be deemed to be the equivalent of such procedures for purposes of this subtitle, but the procedures described in subsections (a) and (b) shall continue to apply to those qualified entities, providers, and background check crimes that are not governed by or included within the State licensing or certification procedure.

(2) The Attorney General shall by regulation establish criteria for certifications under this subsection. Such criteria shall include a finding by the Attorney General that the State licensing or certification procedure accomplishes the purposes of this subtitle and incorporates a nationwide review of State and Federal records of background check offenses through the national criminal background check system.

(d) Records Exchange.—The Attorney General may exchange Federal Bureau of Investigation identification records with authorized agencies for purposes of background checks under subsection (a) and may by regulation authorize further dissemination of such records by authorized agencies for such purposes.

(e) Regulations.—(1) The Attorney General shall by regulation prescribe such other measures as may be required to carry out the purposes of this subtitle, including measures relating to the security, confidentiality, accuracy, use, misuse, and dissemination of information, and audits and recordkeeping.

(2) The Attorney General shall, to the maximum extent possible, encourage the use of the best technology available in conducting background checks.

SEC. 916. FUNDING FOR IMPROVEMENT OF CHILD ABUSE CRIME INFORMATION.

(a) Use of Formula Grants for Improvements in State Records and Systems.—Section 509(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3759(b)) is amended—

(1) in paragraph (2) by striking "and" after the semicolon;

(2) in paragraph (3) by striking the period and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(4) the improvement of State record systems and the sharing of all of the records described in paragraphs (1), (2), and (3) and the records required by the Attorney General under section 884 of the National Child Protection Act of 1993 with the Attorney General for the purpose of implementing the National Child Protection Act of 1993.".

(b) Additional Funding Grants for the Improvement of Child Abuse Crime Information.—(1) The Attorney General shall, subject to appropriations and with preference to States that as of the date of enactment of this Act have the lowest percent currency of case dispositions in computerized criminal history files, make a grant to each State to be used—

(A) for the computerization of criminal history files for the purposes of this subtitle;

(B) for the improvement of existing computerized criminal history files for the purposes of this subtitle;

(C) to improve accessibility to the national criminal background check system for the purposes of this subtitle; and

(D) to assist the State in the transmittal of criminal records to, or the indexing of criminal history records in, the national criminal background check system for the purposes of this subtitle.

(2) There are authorized to be appropriated for grants under paragraph (1) $20,000,000 for fiscal year 1994 and $10,000,000 for each of fiscal years 1995 and 1996.

(c) Withholding State Funds.—Effective 1 year after the date of enactment of this Act, the Attorney General may reduce by up to 10 percent the allocation to a State for a fiscal year under title I of the Omnibus Crime Control and Safe Streets Act of 1968 of a State that is not in compliance with the timetable established for that State under section 914.

Subtitle C—Jacob Wetterling Crimes Against Children Registration Act

SEC. 921. SHORT TITLE.

This subtitle may be cited as the "Jacob Wetterling Crimes Against Children Registration Act".

SEC. 922. ESTABLISHMENT OF PROGRAM.

(a) In General.—

(1) State guidelines.—The Attorney General shall establish guidelines for State programs requiring any person who is convicted of a criminal offense against a victim who is a minor to register a current address with a designated State law enforcement agency for 10 years after release from prison, being placed on parole, or being placed on supervised release.

(2) Definition.—For purposes of this subsection, "criminal offense against a victim who is a minor" includes—

(A) kidnapping of a minor, except by a noncustodial parent;

(B) false imprisonment of a minor, except by a noncustodial parent;

(C) criminal sexual conduct toward a minor;

(D) solicitation of minors to engage in sexual conduct;

(E) use of minors in a sexual performance; or

(F) solicitation of minors to practice prostitution.

(b) Registration Requirement Upon Release, Parole, or Supervised Release.—An approved State registration program established by this section shall contain the following requirements:

(1) Notification.—If a person who is required to register under this section is released from prison, paroled, or placed on supervised release, a State prison officer shall—

(A) inform the person of the duty to register;

(B) inform the person that if the person changes residence address, the person shall give the new address to a designated State law enforcement agency in writing within 10 days;

(C) obtain fingerprints and a photograph of the person if these have not already been obtained in connection with the offense that triggers registration; and

(D) require the person to read and sign a form stating that the duty of the person to register under this section has been explained.

(2) Transfer of information to State and the FBI.—The officer shall, within 3 days after receipt of information described in paragraph (1), forward it to a designated State law enforcement agency. The State law enforcement agency shall immediately enter the information into the appropriate State law enforcement record system and notify the appropriate law enforcement agency having jurisdiction where the person expects to reside. The State law enforcement agency shall also immediately transmit the conviction data and fingerprints to the Identification Division of the Federal Bureau of Investigation.

(3) Annual verification.—On each anniversary of a person's initial registration date during the period in which the person is required to register under this section, the designated State law enforcement agency shall mail a nonforwardable verification form to the last reported address of the person. The person shall mail the verification form to the officer within 10 days after receipt of the form. The verification form shall be signed by the person, and state that the person still resides at the address last reported to the designated State law enforcement agency. If the person fails to mail the verification form to the designated State law enforcement agency within 10 days after receipt of the form, the person shall be in violation of this section unless the person proves that the person has not changed his or her residence address.

(4) Notification of local law enforcement agencies of changes in address.—Any change of address by a person required to register under this section reported to the designated State law enforcement agency shall immediately be reported to the appropriate law enforcement agency having jurisdiction where the person is residing.

(c) REGISTRATION FOR 10 YEARS.—A person required to register under this section shall continue to comply with this section until 10 years have elapsed since the person was released from imprisonment, or placed on parole or supervised release.

(d) PENALTY.—A person required to register under a State program established pursuant to this section who knowingly fails to so register and keep such registration current shall be subject to criminal penalties in such State. It is the sense of Congress that such penalties should include at least 6 months' imprisonment.

(e) PRIVATE DATA.—The information provided under this section is private data on individuals and may be used for law enforcement purposes and confidential background checks conducted with fingerprints for child care services providers.

SEC. 923. STATE COMPLIANCE.

(a) COMPLIANCE DATE.—Each State shall have 3 years from the date of the enactment of this Act in which to implement this subtitle.

(b) INELIGIBILITY FOR FUNDS.—The allocation of funds under section 506 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3756) received by a State not complying with this subtitle 3 years after the date of enactment of this Act shall be reduced by 25 percent and the unallocated funds shall be reallocated to the States in compliance with this section.

TITLE X—VIOLENT CRIMES AND LAW ENFORCEMENT SUPPORT

Subtitle A—Violent Crimes

SEC. 1001. ADDITION OF ATTEMPTED ROBBERY, KIDNAPPING, SMUGGLING, AND PROPERTY DAMAGE OFFENSES TO ELIMINATE INCONSISTENCIES AND GAPS IN COVERAGE.

(a) ROBBERY AND BURGLARY.—(1) Section 2111 of title 18, United States Code, is amended by inserting "or attempts to take" after "takes".

(2) Section 2112 of title 18, United States Code, is amended by inserting "or attempts to rob" after "robs".

(3) Section 2114 of title 18, United States Code, is amended by inserting "or attempts to rob" after "robs".

(b) KIDNAPPING.—Section 1201(d) of title 18, United States Code, is amended by striking "Whoever attempts to violate subsection (a)(4) or (a)(5)" and inserting "Whoever attempts to violate subsection (a)".

(c) SMUGGLING.—Section 545 of title 18, United States Code, is amended by inserting "or attempts to smuggle or clandestinely introduce" after "smuggles, or clandestinely introduces".

(d) MALICIOUS MISCHIEF.—(1) Section 1361 of title 18, United States Code, is amended—

(A) by inserting "or attempts to commit any of the foregoing offenses" before "shall be punished", and

(B) by inserting "or attempted damage" after "damage" each place it appears.

(2) Section 1362 of title 18, United States Code, is amended by inserting "or attempts willfully or maliciously to injure or destroy" after "willfully or maliciously injures or destroys".

(3) Section 1366 of title 18, United States Code, is amended—

(A) by inserting "or attempts to damage" after "damages" each place it appears;

(B) by inserting "or attempts to cause" after "causes"; and

(C) by inserting "or would if the attempted offense had been completed have exceeded" after "exceeds" each place it appears.

SEC. 1002. INCREASE IN MAXIMUM PENALTY FOR ASSAULT.

(a) CERTAIN OFFICERS AND EMPLOYEES.—Section 111 of title 18, United States Code, is amended—

(1) in subsection (a) by inserting ", where the acts in violation of this section constitute only simple assault, be fined under this title, imprisoned not more than 1 year, or both, and in all other cases," after "shall"; and

(2) in subsection (b) by inserting "or inflicts bodily injury" after "weapon".

(b) FOREIGN OFFICIALS, OFFICIAL GUESTS, AND INTERNATIONALLY PROTECTED PERSONS.—Section 112(a) of title 18, United States Code, is amended—

(1) by striking "not more than $5,000" and inserting "under this title";

(2) by inserting ", or inflicts bodily injury," after "weapon"; and

(3) by striking "not more than $10,000" and inserting "under this title".

(c) MARITIME AND TERRITORIAL JURISDICTION.—Section 113 of title 18, United States Code, is amended—

(1) in subsection (c)—

(A) by striking "of not more than $1,000" and inserting "under this title"; and

(B) by striking "five" and inserting "10"; and

(2) in subsection (e)—

(A) by striking "of not more than $300" and inserting "under this title"; and

(B) by striking "three" and inserting "6".

(d) CONGRESS, CABINET, OR SUPREME COURT.—Section 351(e) of title 18, United States Code, is amended—

(1) by striking "not more than $5,000," and inserting "under this title,";

(2) by inserting "the assault involved the use of a dangerous weapon, or" after "if";

(3) by striking "not more than $10,000" and inserting "under this title"; and

(4) by striking "for".

(e) PRESIDENT AND PRESIDENT'S STAFF.—Section 1751(e) of title 18, United States Code, is amended—

(1) by striking "not more than $10,000," each place it appears and inserting "under this title,";

(2) by striking "not more than $5,000," and inserting "under this title,"; and

(3) by inserting "the assault involved the use of a dangerous weapon, or" after "if".

SEC. 1003. INCREASED MAXIMUM PENALTY FOR MANSLAUGHTER.

Section 1112 of title 18, United States Code, is amended—

(1) in subsection (b)—

(A) by inserting "fined under this title or" after "shall be" in the second undesignated paragraph; and

(B) by inserting ", or both" after "years";

(2) by striking "not more than $1,000" and inserting "under this title"; and

(3) by striking "three" and inserting "6".

SEC. 1004. INCREASED PENALTY FOR TRAVEL ACT VIOLATIONS.

Section 1952(a) of title 18, United States Code, is amended by striking "and thereafter performs or attempts to perform any of the acts specified in subparagraphs (1), (2), and (3), shall be fined not more than $10,000 or imprisoned for not more than five years, or both" and inserting "and thereafter performs or attempts to perform—

"(A) an act described in paragraph (1) or (3) shall be fined under this title, imprisoned not more than 5 years, or both; or

"(B) an act described in paragraph (2) shall be fined under this title, imprisoned for not more than 20 years, or both, and if death results shall be imprisoned for any term of years or for life.".

SEC. 1005. INCREASED PENALTY FOR CONSPIRACY TO COMMIT MURDER FOR HIRE.

Section 1958(a) of title 18, United States Code, is amended by inserting "or who conspires to do so" before "shall be fined" the first place it appears.

SEC. 1006. FEDERAL PENALTIES FOR CARJACKING.

Section 2119 of title 18, United States Code, is amended to read as follows:

"(a) DEFINITION.—In this section, 'covered motor vehicle' means a motor vehicle that has been transported, shipped, or received in interstate or foreign commerce.

"(b) OFFENSES.—A person who, while in possession of a firearm (as defined in section 921) or other weapon or dangerous device—

"(1) intentionally strikes or otherwise makes physical contact with a covered motor vehicle with a motor vehicle operated by the person, with any other thing, or with any part of the person's body, in one of the circumstances described in subsection (c); or

"(2) takes a covered motor vehicle from the person or presence of another by force and violence or by intimidation, or attempts to do so,

shall be punished under subsection (d).

"(c) CIRCUMSTANCES IN WHICH OFFENSE OCCURS.—The circumstances referred to in subsection (b)(1) are that—

"(1) the person makes the contact with the intent to injure an occupant of the motor vehicle or to take or cause damage to the motor vehicle; or

"(2) in the course of events immediately following the contact, an occupant of the motor vehicle is injured or the motor vehicle is taken or damaged.

"(d) PENALTIES.—A person who violates subsection (b) shall—

"(1) be fined under this title or imprisoned not more than 15 years, or both;

"(2) if serious bodily injury (as defined in section 1365) results, be fined under this title or imprisoned not more than 25 years, or both; and

"(3) if death results, be fined under this title or imprisoned for any number of years up to life, or both, or sentenced to death.".

SEC. 1007. INCREASED MANDATORY MINIMUM SENTENCES FOR CRIMINALS USING FIREARMS.

Section 924(c)(1) of title 18, United States Code, is amended to read as follows:

"(c)(1)(A) Whoever, during and in relation to any crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime which provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which the person may be prosecuted in a court of the United States—

"(i) knowingly uses, carries, or otherwise possesses a firearm, shall, in addition to the punishment provided for the underlying crime, be sentenced to imprisonment for 10 years;

"(ii) discharges a firearm with intent to injure another person, shall, in addition to the punishment provided for the underlying crime, be sentenced to imprisonment for 20 years; or

"(iii) knowingly uses, carries, or otherwise possesses a firearm that is a machinegun or destructive device, or that is equipped with a firearm silencer or firearm muffler, shall, in addition to the punishment provided for the underlying crime, be sentenced to imprisonment for 30 years.

"(B)(i) In the case of a second conviction under this subsection, a person shall, in addition to the punishment provided for the underlying crime, be sentenced to imprisonment for 20 years for a violation of subparagraph (A)(i), to imprisonment for 30 years for a violation of subparagraph (A)(ii), and life imprisonment for a violation of subparagraph (A)(iii).

"(ii) In the case of a third or subsequent conviction under this subsection, or a conviction for a violation of subparagraph (A)(ii) that results in the death of another person, a person shall be sentenced to death or life imprisonment.

"(C) Notwithstanding any other law, a term of imprisonment under this subsection shall not run concurrently with any other term of imprisonment imposed for the underlying crime.

"(D) For the purposes of paragraph (A), a person shall be considered to be in possession of a firearm if the person has a firearm readily available at the scene of the crime during the commission of the crime.".

SEC. 1008. LIFE IMPRISONMENT WITHOUT RELEASE FOR CRIMINALS CONVICTED A THIRD TIME.

Section 401(b)(1)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)) is amended by striking "If any person commits a violation of this subparagraph or of section 418, 419, or 420 after two or more prior convictions for a felony drug offense have become final, such person shall be sentenced to a mandatory term of life imprisonment without release and fined in accordance with the preceding sentence." and inserting "If any person commits a violation of this subparagraph or of section 418, 419, or 420 or a crime of violence after two or more prior convictions for a felony drug offense or crime of violence or for any combination thereof have become final, such person shall be sentenced to not less than a mandatory term of life imprisonment without release and fined in accordance with the preceding sentence. For purposes of this subparagraph, the term 'crime of violence' means an offense that is a felony punishable by a maximum term of imprisonment of 10 years or more and has as an element the use, attempted use, or threatened use of physical force against the person or property of another, or by its nature involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense.".

Subtitle B—National Commission to Support Law Enforcement

SEC. 1021. SHORT TITLE.

This subtitle may be cited as the "National Commission to Support Law Enforcement Act.".

SEC. 1022. FINDINGS.

The Congress finds that—

(1) law enforcement officers risk their lives daily to protect citizens, for modest rewards and too little recognition;

(2) a significant shift has occurred in the problems that law enforcement officers face without a corresponding change in the support from the Federal Government;

(3) law enforcement officers are on the front line in the war against drugs and crime;

(4) the rate of violent crime continues to increase along with the increase in drug use;

(5) a large percentage of individuals arrested test positive for drug usage;

(6) the Presidential Commission on Law Enforcement and the Administration of Justice of 1965 focused attention on many issues affecting law enforcement, and a review 25 years later would help to evaluate current problems, including drug-related crime, violence, racial conflict, and decreased funding; and

(7) a comprehensive study of law enforcement issues, including the role of the Federal Government in supporting law enforcement officers, working conditions, and responsibility for crime control would assist in redefining the relationships among the Federal Government, the public, and law enforcement officials.

SEC. 1023. ESTABLISHMENT OF COMMISSION.

There is established a national commission to be known as the "National Commission to Support Law Enforcement" (referred to in this subtitle as the "Commission").

SEC. 1024. DUTIES.

(a) IN GENERAL.—The Commission shall study and recommend changes regarding law enforcement agencies and law enforcement issues on the Federal, State, and local levels, including the following:

(1) FUNDING.—The sufficiency of funding, including a review of grant programs at the Federal level.

(2) EMPLOYMENT.—The conditions of law enforcement employment.

(3) INFORMATION.—The effectiveness of information-sharing systems, intelligence, infrastructure, and procedures among law enforcement agencies of Federal, State, and local governments.

(4) RESEARCH AND TRAINING.—The status of law enforcement research and education and training.

(5) EQUIPMENT AND RESOURCES.—The adequacy of equipment, physical resources, and human resources.

(6) COOPERATION.—The cooperation among Federal, State, and local law enforcement agencies.

(7) RESPONSIBILITY.—The responsibility of governments and law enforcement agencies in solving the crime problem.

(8) IMPACT.—The impact of the criminal justice system, including court schedules and prison overcrowding, on law enforcement.

(b) CONSULTATION.—The Commission shall conduct surveys and consult with focus groups of law enforcement officers, local officials, and community leaders across the Nation to obtain information and seek advice on important law enforcement issues.

SEC. 1025. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 24 members as follows:

(1) Eight individuals from among national law enforcement officers, of whom—

(A) two shall be appointed by the Speaker of the House of Representatives;

(B) two shall be appointed by the Majority Leader of the Senate;

(C) two shall be appointed by the Minority Leader of the House; and

(D) two shall be appointed by the Minority Leader of the Senate.

(2) Eight individuals from national law enforcement organizations representing law enforcement management, of whom—

(A) two shall be appointed by the Speaker of the House of Representatives;

(B) two shall be appointed by the Majority Leader of the Senate;

(C) two shall be appointed by the Minority Leader of the House; and

(D) two shall be appointed by the Minority Leader of the Senate.

(3) Two individuals with academic expertise regarding law enforcement issues, of whom—

(A) one shall be appointed by the Speaker of the House of Representatives and the Majority Leader of the Senate; and

(B) one shall be appointed by the Minority Leader of the Senate and the Minority Leader of the House of Representatives.

(4) Two Members of the House of Representatives, appointed by the Speaker and the Minority Leader of the House of Representatives.

(5) Two Members of the Senate, appointed by the Majority Leader and the Minority Leader of the Senate.

(6) One individual from the Department of Justice, appointed by the President.

(7) The Comptroller General of the United States, who shall serve as the chairperson of the Commission.

(b) COMPENSATION.—

(1) IN GENERAL.—Members of the Commission shall receive no additional pay, allowance, or benefit by reason of service on the Commission.

(2) TRAVEL EXPENSES.—Each member of the Commission shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(c) APPOINTMENT DATES.—Members of the Commission shall be appointed no later than 90 days after the enactment of this title.

SEC. 1026. EXPERTS AND CONSULTANTS.

(a) EXPERTS AND CONSULTANTS.—The Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(b) STAFF OF FEDERAL AGENCIES.—Upon request of the Commission, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of that agency to the Commission to assist the Commission in carrying out its duties under this subtitle.

(c) ADMINISTRATIVE SUPPORT.—The Administrator of General Services shall provide to the Commission, on a reimbursable basis, administrative support services as the Commission may request.

SEC. 1027. POWERS OF COMMISSION.

(a) HEARINGS.—The Commission may, for purposes of this subtitle, hold hearings, sit and act at the time and places, take testimony, and receive evidence, as the Commission considers appropriate.

(b) DELEGATION OF AUTHORITY.—Any member or agent of the Commission may, if authorized by the Commission, take any action that the Commission is authorized to take by this section.

(c) INFORMATION.—The Commission may secure directly from any Federal agency information necessary to enable it to carry out this subtitle. Upon request of the chairperson of the Commission, the head of an agency shall furnish the information to the Commission to the extent permitted by law.

(d) GIFTS AND DONATIONS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(e) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other Federal agencies.

SEC. 1028. REPORT.

Not later than the expiration of the 18-month period beginning on the date of the appointment of the members of the Commission, a report containing the findings of the Commission and specific proposals for legislation and administrative actions that the Commission has determined to be appropriate shall be submitted to Congress.

SEC. 1029. TERMINATION.

The Commission shall cease to exist upon the expiration of the 60-day period beginning on the date on which the Commission submits its report under section 1028.

SEC. 1030. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this subtitle $1,000,000 for fiscal year 1994.

SEC. 1031. REPEALS.

Title XXXIV of the Crime Control Act of 1990 (42 U.S.C. 3721 note) and section 211(B) of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1991 (42 U.S.C. 3721 note; 104 Stat. 2122) are repealed.

TITLE XI—CIVIL RIGHTS OFFENSES

SEC. 1101. INCREASED MAXIMUM PENALTIES FOR CIVIL RIGHTS VIOLATIONS.

(a) Conspiracy Against Rights.—Section 241 of title 18, United States Code, is amended—

(1) by striking "not more than $10,000" and inserting "under this title";

(2) by inserting "from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill" after "results"; and

(3) by inserting "and may be fined under this title, or both" before the period.

(b) Deprivation of Rights.—Section 242 of title 18, United States Code, is amended—

(1) by striking "not more more than $1,000" and inserting "under this title";

(2) by inserting "from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire," after "bodily injury results";

(3) by inserting "from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse, or an attempt to commit aggravated sexual abuse, or an attempt to kill," after "death results"; and

(4) by inserting "and may be fined under this title, or both" before the period.

(c) Federally Protected Activities.—The first sentence of section 245(b) of title 18, United States Code, is amended in the matter following paragraph (5)—

(1) by striking "not more than $1,000" and inserting "under this title";

(2) by inserting "from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire" after "bodily injury results;

(3) by striking "not more than $10,000" and inserting "under this title";

(4) by inserting "from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill," after "death results"; and

(5) by inserting "and may be fined under this title, or both" before the period.

(d) Damage to Religious Property.—Section 247 of title 18, United States Code, is amended—

(1) in subsection (c)(1) by inserting "from acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill" after "death results";

(2) in subsection (c)(2)—

(A) by striking "serious"; and

(B) by inserting "from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire" after "bodily injury results"; and

(3) by amending subsection (e) to read as follows:

"(e) As used in this section, the term 'religious property' means any church, synagogue, mosque, religious cemetery, or other religious property.".

(e) Fair Housing Act.—Section 901 of the Fair Housing Act (42 U.S.C. 3631) is amended—

(1) by striking "not more than $1,000," and inserting "under title 18, United States Code,";

(2) by inserting "from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire" after "bodily injury results";

(3) by striking "not more than $10,000," and inserting "under title 18, United States Code,";

(4) by inserting "from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill" after "death results";

(5) by striking "subject to imprisonment" and inserting "fined under title 18, United States Code, or imprisoned"; and

(6) by inserting ", or both" after "life".

TITLE XII—PUBLIC CORRUPTION

SEC. 1201. SHORT TITLE.

This title may be cited as the "Anti-Corruption Act of 1993".

SEC. 1202. PUBLIC CORRUPTION.

(a) Offenses.—Chapter 11 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 226. Public corruption

"(a) State and Local Government.—

"(1) Honest services.—Whoever, in a circumstance described in paragraph (3), deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of a State or political subdivision of a State of the honest services of an official or employee of the State or political subdivision shall be fined under this title, imprisoned not more than 10 years, or both.

"(2) Fair and impartial elections.—Whoever, in a circumstance described in paragraph (3), deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of a State or political subdivision of a State of a fair and impartially conducted election process in any primary, run-off, special, or general election—

"(A) through the procurement, casting, or tabulation of ballots that are materially false, fictitious, or fraudulent or that are invalid, under the laws of the State in which the election is held;

"(B) through paying or offering to pay any person for voting;

"(C) through the procurement or submission of voter registrations that contain false material information, or omit material information; or

"(D) through the filing of any report required to be filed under State law regarding an election campaign that contains false material information or omits material information,

shall be fined under this title, imprisoned not more than 10 years, or both.

"(3) Circumstances in which offense occurs.—The circumstances referred to in paragraphs (1) and (2) are that—

"(A) for the purpose of executing or concealing a scheme or artifice described in paragraph (1) or (2) or attempting to do so, a person—

"(i) places in any post office or authorized depository for mail matter, any matter or thing to be sent or delivered by the Postal Service, or takes or receives therefrom any such matter or thing, or knowingly causes to be delivered by mail according to the direction thereon, or at the place at which it is directed to be delivered by the person to whom it is addressed, any such matter or thing;

"(ii) transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce any writings, signs, signals, pictures, or sounds;

"(iii) transports or causes to be transported any person or thing, or induces any person to travel in or to be transported in, interstate or foreign commerce; or

"(iv) uses or causes the use of any facility of interstate or foreign commerce;

"(B) the scheme or artifice affects or constitutes an attempt to affect in any manner or degree, or would if executed or concealed affect, interstate or foreign commerce; or

"(C) in the case of an offense described in paragraph (2), an objective of the scheme or artifice is to secure the election of an official who, if elected, would have any authority over the administration of funds derived from an Act of Congress totaling $10,000 or more during the 12-month period immediately preceding or following the election or date of the offense.

"(b) Federal Government.—Whoever deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of the United States of the honest services of a public official or a person who has been selected to be a public official shall be fined under this title, imprisoned not more than 10 years, or both.

"(c) Offense by an Official Against an Employee or Official.—

"(1) Criminal offense.—Whoever, being an official, public official, or person who has been selected to be a public official, directly or indirectly discharges, demotes, suspends, threatens, harasses, or in any manner discriminates against an employee or official of the United States or of a State or political subdivision of a State, or endeavors to do so, in order to carry out or to conceal a scheme or artifice described in subsection (a) or (b), shall be fined under this title, imprisoned not more than 5 years, or both.

"(2) Civil action.—(A) Any employee or official of the United States or of a State or political subdivision of a State who is discharged, demoted, suspended, threatened, harassed, or in any manner discriminated against because of lawful acts done by the employee or official as a result of a violation of this section or because of actions by the employee on behalf of himself or herself or others in furtherance of a prosecution under this section (including investigation for, initiation of, testimony for, or assistance in such a prosecution) may bring a civil action and obtain all relief necessary to make the employee or official whole, including—

"(i) reinstatement with the same seniority status that the employee or official would have had but for the violation;

"(ii) 3 times the amount of backpay;

"(iii) interest on the backpay; and

"(iv) compensation for any special damages sustained as a result of the violation, including reasonable litigation costs and reasonable attorney's fees.

"(B) An employee or official shall not be afforded relief under subparagraph (A) if the employee or official participated in the violation of this section with respect to which relief is sought.

"(C)(i) A civil action or proceeding authorized by this paragraph shall be stayed by a court upon certification of an attorney for the Government that prosecution of the action or proceeding may adversely affect the interests of the Government in a pending criminal investigation or proceeding.

"(ii) The attorney for the Government shall promptly notify the court when a stay may be lifted without such adverse effects.

"(d) DEFINITIONS.—In this section—

"'official' includes—

"(A) any person employed by, exercising any authority derived from, or holding any position in the government of a State or any subdivision of the executive, legislative, judicial, or other branch of government thereof, including a department, independent establishment, commission, administration, authority, board, and bureau, and a corporation or other legal entity established and subject to control by a government or governments for the execution of a governmental or intergovernmental program;

"(B) any person acting or pretending to act under color of official authority; and

"(C) any person who has been nominated, appointed, or selected to be an official or who has been officially informed that he or she will be so nominated, appointed, or selected.

"'person acting or pretending to act under color of official authority' includes a person who represents that he or she controls, is an agent of, or otherwise acts on behalf of an official, public official, and person who has been selected to be a public official.

"'public official' and 'person who has been selected to be a public official' have the meanings stated in section 201 and also include any person acting or pretending to act under color of official authority.

"'State' means a State of the United States, the District of Columbia, Puerto Rico, and any other commonwealth, territory, or possession of the United States.

"'uses any facility of interstate or foreign commerce' includes the intrastate use of any facility that may also be used in interstate or foreign commerce.".

(b) TECHNICAL AMENDMENTS.—(1) The chapter analysis for chapter 11 of title 18, United States Code, is amended by adding at the end the following new item:

"226. Public corruption.".

(2) Section 1961(1) of title 18, United States Code, is amended by inserting "section 226 (relating to public corruption)," after "section 224 (relating to sports bribery),".

(3) Section 2516(1)(c) of title 18, United States Code, is amended by inserting "section 226 (relating to public corruption)," after "section 224 (bribery in sporting contests),".

SEC. 1203. INTERSTATE COMMERCE.

(a) IN GENERAL.—Section 1343 of title 18, United States Code, is amended—

(1) by striking "transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce, any writings, signs, signals, pictures, or sounds" and inserting "uses or causes to be used any facility of interstate or foreign commerce"; and

(2) by inserting "or attempting to do so" after "for the purpose of executing such scheme or artifice".

(b) TECHNICAL AMENDMENTS.—(1) The heading of section 1343 of title 18, United States Code, is amended to read as follows:

"§ 1343. Fraud by use of facility of interstate commerce".

(2) The chapter analysis for chapter 63 of title 18, United States Code, is amended by amending the item relating to section 1343 to read as follows:

"1343. Fraud by use of facility of interstate commerce.".

SEC. 1204. NARCOTICS-RELATED PUBLIC CORRUPTION.

(a) OFFENSES.—Chapter 11 of title 18, United States Code, is amended by inserting after section 219 the following new section:

"§ 220. Narcotics and public corruption

"(a) OFFENSE BY PUBLIC OFFICIAL.—A public official who, in a circumstance described in subsection (c), directly or indirectly, corruptly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally or for any other person in return for—

"(1) being influenced in the performance or nonperformance of any official act; or

"(2) being influenced to commit or to aid in committing, or to collude in, or to allow or make opportunity for the commission of any offense against the United States or any State,

shall be guilty of a class B felony.

"(b) OFFENSE BY PERSON OTHER THAN A PUBLIC OFFICIAL.—A person who, in a circumstance described in subsection (c), directly or indirectly, corruptly gives, offers, or promises anything of value to any public official, or offers or promises any public official to give anything of value to any other person, with intent—

"(1) to influence any official act;

"(2) to influence the public official to commit or aid in committing, or to collude in, or to allow or make opportunity for the commission of any offense against the United States or any State; or

"(3) to influence the public official to do or to omit to do any act in violation of the official's lawful duty,

shall be guilty of a class B felony.

"(c) CIRCUMSTANCES IN WHICH OFFENSE OCCURS.—The circumstances referred to in subsections (a) and (b) are that the offense involves, is part of, or is intended to further or to conceal the illegal possession, importation, manufacture, transportation, or distribution of any controlled substance or controlled substance analogue.

"(d) DEFINITIONS.—In this section—

"'controlled substance' and 'controlled substance analogue' have the meanings stated in section 102 of the Controlled Substances Act (21 U.S.C. 802).

"'official act' means any decision, action, or conduct regarding any question, matter, proceeding, cause, suit, investigation, or prosecution which may at any time be pending, or which may be brought before any public official, in such official's official capacity, or in such official's place of trust or profit.

"'public official' means—

"(A) an officer or employee or person acting for or on behalf of the United States, or any department, agency, or branch of Government thereof in any official function, under or by authority of any such department, agency, or branch of Government;

"(B) a juror;

"(C) an officer or employee or person acting for or on behalf of the government of any State, territory, or possession of the United States (including the District of Columbia), or any political subdivision thereof, in any official function, under or by the authority of any such State, territory, possession, or political subdivision; and

"(D) any person who has been nominated or appointed to a position described in subparagraph (A), (B), or (C), or has been officially informed that he or she will be so nominated or appointed.".

(b) TECHNICAL AMENDMENTS.—(1) Section 1961(1) of title 18, United States Code, is amended by inserting "section 220 (relating to narcotics and public corruption)," after "Section 201 (relating to bribery),".

(2) Section 2516(1)(c) of title 18, United States Code, is amended by inserting "section 220 (relating to narcotics and public corruption)," after "section 201 (bribery of public officials and witnesses),".

(3) The chapter analysis for chapter 11 of title 18, United States Code, is amended by inserting after the item for section 219 the following new item:

"220. Narcotics and public corruption.".

TITLE XIII—FUNDING

SEC. 1301. REDUCTION IN OVERHEAD COSTS INCURRED IN FEDERALLY SPONSORED RESEARCH.

(a) CBO SCORING.—The Congressional Budget Office estimates that the reduction in overhead payments for federally funded university research required by this section will produce savings of $1,540,000,000 over 5 years ($150,000,000 for fiscal year 1994, $310,000,000 for fiscal year 1995, $350,000,000 for fiscal year 1996, $360,000,000 for fiscal year 1997, and $370,000,000 for fiscal year 1998).

(b) LIMITATION.—Notwithstanding any other law, on and after the date of the enactment of this Act, each head of a Federal agency making a grant to, or entering into a contract with, an institution of higher education for research and development, shall reduce the overhead payment rate under the grant or contract to 90 percent of the current level and return the amount saved to the general fund of the Treasury.

(c) DEFINITIONS.—In this section—

"institution of higher education" has the meaning stated in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

"Federal agency" means a department, agency, or instrumentality of the Federal Government (including an executive agency (as defined in section 105 of title 5, United States Code)).

SEC. 1302. OVERHEAD EXPENSE REDUCTION.

(a) CBO SCORING.—The Congressional Budget Office estimates that the reduction in administrative costs required by this section will produce savings of $6,000,000,000 over 5 years ($1,200,000,000 in each of fiscal years 1994, 1995, 1996, 1997, and 1998).

(b) REDUCTION.—The overhead expenses identified and reduced by the President in Executive Order 12837 are hereby reduced by an additional 5 percent. The reduction required by this section shall be taken from the total of such expenses before the reduction by the President.

SEC. 1303. FUNDING OF PROGRAMS AUTHORIZED BY THIS ACT.

The amount of available budget authority resulting from the enactment of sections 1301 and 1302 shall be reallocated as follows:

(1) $800,000,000 ($100,000,000 for fiscal year 1994, $125,000,000 for fiscal year 1995, $175,000,000 for fiscal year 1996, and $200,000,000 for each of fiscal years 1997 and 1998) for the hiring of former members of the Armed Forces as police officers as authorized by section 102(d).

(2) $650,000,000 ($100,000,000 for fiscal years 1994 and 1995 and $150,000,000 for each of fiscal years 1996, 1997, and 1998) for cops on the street grants as authorized by the amendment made by section 112(c).

(3) $250,000,000 for the Police Corps ($50,000,000 for fiscal year 1994 and $100,000,000 for each of fiscal years 1995 and 1996) as authorized by section 130.

(4) $300,000,000 ($60,000,000 for each of fiscal years 1994, 1995, 1996, 1997, and 1998) for community policing grants as authorized by the amendment made by section 141(c).

(5) $100,000,000 for fiscal year 1994 for improved police training and technical automation as authorized by section 153.

(6) $2,000,000,000 for the construction of 10 new Federal prisons ($200,000,000 for fiscal year 1994, $400,000,000 for each of fiscal years 1995 and 1996, and $500,000,000 for each of fiscal years 1997 and 1998) as authorized by section 165.

(7) $1,000,000,000 for Federal grants for State prison construction and operation ($200,000,000 for each of fiscal years 1994, 1995, 1996, 1997, and 1998, with $100,000,000 of that available for construction and $100,000,000 available for operation) as authorized by section 177.

(8) $500,000,000 ($100,000,000 for each of fiscal years 1994, 1995, 1996, 1997, and 1998) for the hiring of former members of the Armed Forces as teachers as authorized by section 202(e).

(9) $500,000,000 ($100,000,000 for each of fiscal years 1994, 1995, 1996, 1997, and 1998) for the Federal safe school districts as authorized by section 203(d).

(10) $300,000,000 ($60,000,000 for each of fiscal years 1994, 1995, 1996, 1997, and 1998) for the hiring of 1,000 additional Border Patrol agents as authorized by section 321.

(11) $385,000,000 ($77,000,000 for each of fiscal years 1994, 1995, 1996, 1997, and 1998) for the hiring of 1,000 additional Immigration and Naturalization Service criminal investigators as authorized by section 322.

(12) $13,000,000 ($5,000,000 for fiscal year 1994 and $2,000,000 for each of fiscal years 1995, 1996, 1997, and 1998) for the operation of the criminal alien tracking center as authorized by section 323.

(13) $100,000,000 to hire Assistant United States Attorneys to prosecute gang activity ($20,000,000 for each of fiscal years 1994, 1995, 1996, 1997, and 1998) as authorized by section 431.

(14) $1,000,000 for fiscal year 1994 for gang investigation coordination and information collection as authorized by section 432(d).

(15) $250,000,000 ($50,000,000 for each of fiscal years 1994, 1995, 1996, 1997, and 1998) for rural law enforcement as authorized by the amendment made by section 501.

(16) $5,000,000 ($1,000,000 for each of fiscal years 1994, 1995, 1996, 1997, and 1998) for rural drug enforcement training as authorized by section 504(b).

(17) $110,000,000 ($25,000,000 for each of fiscal years 1994 and 1995 and $20,000,000 for each of fiscal years 1996, 1997, and 1998) for rural drug prevention and treatment as authorized by section 511(h).

(18) $100,000,000 ($20,000,000 for each of fiscal years 1994, 1995, 1996, 1997, and 1998) for the hiring of additional Drug Enforcement Administration agents as authorized by section 551.

(19) $120,000,000 ($60,000,000 for each of fiscal years 1994 and 1995) for the prevention of terrorism as authorized by section 811.

(20) $40,000,000 ($20,000,000 for fiscal year 1994 and $10,000,000 for each of fiscal years 1995 and 1996) to fund improvement of child abuse crime information as authorized by section 916(b)(2).

(21) $1,000,000 for fiscal year 1994 to fund the National Commission to Support Law Enforcement as authorized by section 1030.

SECTION-BY-SECTION ANALYSIS

Section 1. Short Title and Table of Contents. The bill is entitled the "Neighborhood Security Act of 1993."

TITLE I—SAFE STREETS

Subtitle A. Police

Chapter 1. Defense Conversion.

Section 101. Definition. This section defines "former member of the Armed Services" to mean a member of the Armed Services of the United States who is involuntarily separated from the Armed Services within the meaning of section 1141 of title 10, United States Code.

Section 102. America's Safe Streets Program. This section authorizes the Attorney General, in consultation with the Secretary of Defense, to enter into an agreement with a State or local law enforcement agency to pay, for a period of six years, the salaries of former members of the Armed Services who are hired within five years as police officers assigned to neighborhood patrol duties.

When seeking to enter into an agreement with a State or local law enforcement agency, the Attorney General is authorized to give priority to those agencies located in communities adversely affected by the recent closing of a military base.

For the first three years, the maximum Federal share of an annual salary of a police officer hired under the agreement is the annual salary earned by the officer during his or her last year as a member of the Armed Services. The maximum Federal share of an annual salary for the 4th through 6th years that a police officer may be paid under the agreement is 50 percent of the annual salary earned by the officer during his or her last year as a member of the Armed Services.

Police officers hired pursuant to this section must add to the total number of officers employed by the State or local law enforcement agency.

Chapter 2. Cops on the Street.

Chapter 2 establishes a grant program to be administered through the Bureau of Justice Assistance to supplement local expenditures to increase police presence in the community. Not less than 50 and not more than 100 grants are to be made under this program. Factors to be considered in making these grants include the crime rate per capita and the rate of increase in crime, as well as certification that convicted offenders serve 85% of the sentence imposed or that significant progress is being made toward achieving that goal.

Chapter 3. Police Corps Program.

Chapter 3 establishes the Police Corps program, which is designed to provide educational assistance to law enforcement personnel who want to further their education, and to students who have a sincere interest in law enforcement.

The Police Corps program provides up to $30,000 in college scholarship grants to selected participants who agree to work for 4 years after graduation on a State or local police force. Receipt of the scholarship grant is dependent upon the student maintaining satisfactory progress at his or her educational institution. Participants in the Police Corps program must also meet the requirements of the State or local police force to which they will be assigned.

Chapter 3 allows the dependent child of a Federal, State, or local police officer who is not a participant in the Police Corps (but serves in a State that participates in the program) and is killed in the line of duty, to obtain scholarship assistance.

Chapter 4. Community Policing Grants.

Chapter 4 authorizes the Director of the Bureau of Justice Assistance to make grants to units of local government and to community groups to establish or expand cooperative efforts between the police and the community. These cooperative efforts include, but are not limited to, 1) providing new technologies to reduce the amount of time officers spend processing cases instead of patrolling the community; 2) purchasing equipment to improve communications between officers and the community and to improve the collection, analysis, and use of information about crime-related community problems; 3) creating decentralized police substations throughout the community to encourage interaction and cooperation between the public and law enforcement personnel on a local level; and 4) developing community-based crime prevention programs, such as safety programs for senior citizens, community anticrime groups, and other anticrime awareness groups.

To be eligible to receive a grant, applications must be submitted to the Director of the Bureau of Justice Assistance. The Director must allocate not less than 75 percent of the funds available to units of local government and not more than 20 percent to community groups. The Director must not use more than 5 percent of the funds available for administration, technical assistance, and evaluation.

Chapter 5. Improved Training and Technical Automation.

Chapter 5 directs the Attorney General to provide grants to state and local law enforcement agencies for the purpose of improving efficiency through computerized automation and technological improvements. Grants under this chapter may include, but shall not be limited to, programs to increase use of mobile digital terminals, improve communications systems, accomplish paper-flow reduction, and establish and improve ballistics identification programs.

Subtitle B. Prisons

Chapter 1. Regional Prisons for Violent Criminals and Violent Criminal Aliens.

Chapter 1 directs the Attorney General to construct a minimum of ten regional prisons, situated throughout the United States, each containing space for at least 2,500 inmates. At least 50% of the total capacity of the regional prisons must be dedicated to "qualifying prisoners" from "qualifying States."

The Attorney General shall not certify a State as a "qualifying State" unless such State is adequately providing 1) truth in sentencing (providing that defendants will serve at least 85% of the sentence ordered); 2) pretrial detention; 3) mandatory minimum sentences for firearm offenders, violent criminals, sex offenders, and child abuse offenders; and 4) suitable recognition for the rights of victims, including consideration of the victim's perspective at all stages of criminal proceedings.

The term "qualifying prisoner" means 1) an alien who is in this country illegally and who has been convicted of a crime of violence as defined in section 924(c)(3) of title 18, United States Code, or a serious drug offense as defined in section 924(e)(2)(A) of title 18, United States Code; and 2) a violent criminal.

The term "violent criminal" 1) means a person convicted under Federal law of an offense described in, under the circumstances described in, the provisions of section 924(c) or (e) of title 18 or section 994(h) of title 28, United States Code, or a person convicted under State law for the same or similar offense, and 2) insofar as any of the circumstances described in subsection (a) is the prior conviction of an offense, includes a person who had been adjudicated as a juvenile delinquent by reason of the commission of an act that, if committed by an adult, would constitute such an offense.

Chapter 2. Federal Grants for State Prison Construction and Operation.

Chapter 2 authorizes the Attorney General to enter into agreements with any qualifying State to provide construction grants or operating grants for "new prisons."

The Attorney General may make construction grants for up to 50 percent of the construction costs, as approved by the Director of the Federal Bureau of Prisons, for new prisons. The Attorney General may make operating grants for up to 50 percent of the operating costs, as approved by the Director of the Federal Bureau of Prisons, for new prisons.

The term "new prisons" means those prisons and city or county detention facilities, including additions to existing prisons or city or county detention facilities, certified by the State, and approved by the Attorney General, as providing additional prison capacity beyond that which the State previously had available, or had already planned to construct. "New prisons" must be principally dedicated, as determined by the Attorney General, to housing repeat violent offenders and sex offenders.

Chapter 3. Judicial Remedies for Prison Crowding.

Chapter 3 adds a new Section 3626 to Title 18 of the United States Code. This new section provides that a Federal court shall not hold prison or jail overcrowding to be unconstitutional under the Eighth Amendment to the United States Constitution except to the extent that an individual plaintiff inmate proves that the crowding causes the infliction of cruel and unusual punishment.

Chapter 3 also provides that a Federal court shall not place a ceiling on the inmate population of any Federal, State, or local detention facility as an equitable remedial measure for conditions that violate the Eighth Amendment unless crowding inflicted is cruel and unusual punishment on particular identified prisoners.

Chapter 4. Sentences to Account for Costs to the Government of Imprisonment, Release, and Probation.

Chapter 4 amends both the substantive Federal sentencing guidelines and the duties of the Sentencing Commission to include in criminal fines the expected costs to the government of any imprisonment, supervised release, or probation component of the sentence.

Section 5E1.2(i) of the current Sentencing Guidelines provides for the imposition of "an additional fine amount that is at least sufficient to pay the costs to the government of any imprisonment, probation, or supervised release ordered." In United States v. Spiropoulos, 976 F.2d 155 (3rd Cir. 1992), the court held that a criminal fine imposed pursuant to section 5E1.2(i) was invalid insofar as it ordered the defendant to pay costs of imprisonment. In the court's view, recoupment of the costs of imprisonment is not authorized by the Sentencing Reform Act of 1984, and therefore the Sentencing Commission lacked the authority to promulgate section 5E1.2(i). However, the court noted that the goal of allowing the government to recoup these costs is constitutionally permissible. 976 F.2d at 168.

Under this section, authority is provided under the Sentencing Reform Act for courts to consider the costs of imprisonment in sentencing. To further underscore the legality of such a guideline provision, a parallel amendment is provided in the Sentencing Commission's enabling legislation that specifically authorizes the Commission to include the costs of sentence administration as part of the fine guildeline.

This section does not alter the fact that criminal fines are paid under the Crime Victims Fund, payment to which is required by 42 U.S.C. 10601(a) and (b). Thus, in reality, the monies are not directly used to recoup government costs of sentence administration. That the funds will be used for other purposes does not preclude basing a fine component on sentence administration costs.

TITLE II—SAFE SCHOOLS

Section 201. Definition. This section defines "former member of the Armed Services" to mean a member of the Armed Services of the United States who is involuntarily separated from the Armed Services within the meaning of section 1141 of title 10 of the United States Code.

Section 202. America's Safe Schools Program. This section authorizes the Secretary of Education, in consultation with the Secretary of Defense, to enter into an agreement with a local educational agency to pay, for a period of six years, the salaries of former members of the Armed Services who are hired within five years as teachers assigned to public elementary and secondary schools.

When seeking to enter into an agreement with a local educational agency, the Secretary of Education is authorized to give priority to those agencies located in communities adversely affected by the recent closing of a military base.

For the first three years, the maximum Federal share of an annual salary of a teacher hired under the agreement is the annual salary earned by the teacher during his or her last year as a member of the Armed Services. The maximum Federal share of an annual salary for the 4th through 6th years that a teacher may be paid under the agreement is 50 percent of the annual salary earned by the teacher during his or her last year as a member of the Armed Services.

Teachers hired pursuant to this section must add to the total number of teachers employed by the local educational agency.

Section 203. Federal Safe School Districts. This section allows a local school district to elect to qualify as a "Federal safe school district." The election may occur by decision of a local educational agency or by referendum of the voters in a school district served by a local educational agency.

This section authorizes the Attorney General to make a grant to a local educational agency serving a Federal safe school district or to a local law enforcement agency with jurisdiction over the Federal safe school district, to pay for enhanced school security measures. The measures that may be funded by a grant include a) equipping schools with metal detectors, fences, closed-circuit cameras, and other physical security measures; b) providing increased police patrols in and around schools, including police hired pursuant to section 102; c) mailings to parents at the beginning of the school year outlining the enhanced mandatory penalties for drug trafficking and weapons offenses within a Federal safe school district; d) signs for school districts indicating they have elected to be a Federal safe school district; and e) gun hotlines.

The United States Attorney who has jurisdiction over each Federal safe school district shall prosecute as an adult any juvenile 16 years of age or older who uses or carries a firearm in or within 1000 feet of a public or private elementary or secondary school.

Within each Federal safe school district, it shall be unlawful for any person who is less than 18 years of age, or any person 18 years of age or older who does not have lawful authority to do so, to carry a firearm into a public or private elementary or secondary school, or to possess a firearm within such school. Whoever knowingly violates this provision by using a firearm shall be imprisoned for not more than 10 years.

This section also directs the United States Sentencing Commission to review, and if necessary, amend its sentencing guidelines to assign an offense level of at least 26 to a first offense under section 924(i)(2) of title 18, United States Code.

TITLE III—CRIMINAL ALIENS AND ALIEN SMUGGLING

Subtitle A. Deportation of Criminal Aliens

Section 301. Deportation Procedures For Certain Criminal Aliens Who Are Not Permanent Residents. This section provides for the prompt deportation of any alien who is not a permanent resident alien and whom the Attorney General determines is deportable and has been convicted of an aggravated felony. Section 242(h) of the INA provides that an alien sentenced to imprisonment shall not be deported until such alien's release. This new section does not alter this requirement—the alien would still serve his or her prison term. However, a final order of deportation could be issued during such alien's imprisonment and executed immediately upon the alien's release.

This section eliminates the following procedures for nonpermanent resident criminal aliens: (1) administrative hearing before an immigration judge, (2) administrative review by the Board of Immigration Appeals of the immigration judge's determination, (3) availability of current grounds of relief from deportation, and (4) Federal court review of the Attorney General's determination on any grounds other than whether the alien has in fact been convicted of an aggravated felony. The Attorney General may not execute a final order of deportation until 14 days after it has been issued in order to allow the alien an opportunity to seek Federal court review.

The deportation proceedings currently included in section 242A and now applicable to all aliens would be limited to permanent resident aliens ("green card holders"). Current section 242A language allows for the institution of deportation proceedings while the alien is incarcerated, with the intent of completing the process so that the alien can be deported upon his or her release.

Section 302. Judicial Deportation. This section allows Federal trial courts to issue an order of deportation during the sentencing phase of the criminal trial of an alien convicted of an aggravated felony. This section applies to all criminal aliens, including permanent residents.

Such an order must have been requested by the U.S. Attorney with the concurrence of the INS Commissioner. Notice of intent to seek a judicial order of deportation must be given promptly after an adjudication of guilt or a guilty plea. The government would still be responsible for showing that the defendant is an alien subject to deportation and that the crime the alien has been convicted of meets the definition of an "aggravated felony;" a statement containing factual allegations on these two matters must be filed at least 20 days prior to the sentencing date.

Judicial deportation would replace current administrative deportation procedures in those cases where it is sought. Aliens found deportable under this process would continue to have the right to appeal their deportation to the appropriate Federal circuit court of appeals.

The Attorney General would retain his or her right to seek an administrative determination of deportability if the Federal court denies a motion for judicial deportation.

Section 303. Restricting Defenses to Deportation for Certain Criminal Aliens. This section restricts defenses against deportation for criminal aliens convicted of aggravated felonies. As a result of amendments made by this section, the only defense against deportation for aggravated felon aliens would be for permanent resident aliens who have lived in the U.S. in such status for at least seven years and who have been sentenced to less than five years' imprisonment after conviction of an aggravated felony.

Currently, a permanent resident alien is ineligible for relief under section 212(c) waiver of deportation (for permanent resident aliens who have lived in the U.S. for seven consecutive years), if the alien has served five or more years for one or more aggravated felonies. This section would amend the language to make aliens who have been sentenced to five or more years ineligible for section 212(c) relief.

This standard is more relevant to judging the seriousness of an offense since dangerous criminals are at times released prematurely due to prison overcrowding or other reasons unrelated to the seriousness of the crime. Moreover, the current standard presents a serious logistical obstacle to the speedy commencement of deportation proceedings since it may be unknown until five years have been served whether the alien would be able to seek relief under 212(c).

Section 303 also makes it clear that aggravated felons may not request or be granted withholding of deportation under section 243(h). The Immigration Act of 1990 unambiguously denied aggravated felon-aliens the right to political asylum; however, the question of an aggravated felon's ability to request a hearing on eligibility for withholding of deportation was not addressed. Although the Executive Office for Immigration Review has determined that no hearing is possible in such cases, litigation on this issue is likely.

This section does not affect the Attorney General's authority to designate a country other than that of the alien's nationality for deportation. The provision is consistent with the intent of the United Nations Protocol Relating to the Status of Refugees to permit denial of withholding of deportation in cases of persons convicted of a "particularly serious crime."

Section 304. Enhancing Penalties for Failing to Depart, or Reentering, After Final Order of Deportation. This section enhances penalties for failing to depart or for reentering after a final order of deportation has been issued.

Currently, an alien who is deportable for criminal offenses, document fraud, or as a security risk is subject to criminal penalties of up to 10 years imprisonment for failure to depart. However, there are no penalties for aliens deportable for other reasons than failure to depart. Subsection (a) retains the current 10 year penalty and provides for criminal penalties of up to 4 years' imprisonment for aliens who are issued deportation orders on other grounds and who fail to depart.

Subsection (b) increases the penalties for criminal aliens who reenter the U.S. after being formally deported. Currently, an alien convicted of a felony other than an aggravated felony who re-enters is subject to 5 years in prison and a criminal fine; this subsection extends the penalties to aliens convicted of three or more misdemeanors and increases the maximum prison sentence to 10 years. Aggravated felons who re-enter the U.S. currently are subject to criminal fines and up to 15 years in prison; this subsection increases the maximum prison sentence to 20 years. Language also is added to make it clear that any alien who stipulates to deportation during a criminal trial shall be considered to have been formally deported.

Subsection (c) would allow a court in a criminal proceeding against a deported alien who has re-entered the U.S. to reexamine the underlying deportation order only if the alien demonstrates (1) that she has exhausted available administrative remedies that may have been available against the deportation order, (2) that the deportation proceedings improperly deprived the alien of the opportunity for judicial review, and (3) that the entry of the order of deportation was "fundamentally unfair." This language, taken from United States v. Mendoza-Lopez, 481 U.S. 828 (1987), is intended to ensure that minimum due process was followed in the original deportation proceeding while preventing wholesale, time-consuming attacks on underlying deportation orders.

Section 305. Miscellaneous and Technical Changes. This section responds to two holdings of the 9th Circuit. Subsection (a) makes it clear that the Attorney General can authorize deportation proceedings to be conducted by electronic or telephonic means or, where waived or agreed to by the parties, in the absence of the alien.

Subsection (b) makes it clear that nothing in this Act or in section 242(i) (directing the Attorney General to begin deportation proceedings as quickly as possible after a conviction) shall be construed to create a legally enforceable right or benefit.

Subtitle B. Prevention and Punishment of Alien Smuggling

Section 311. Increased Penalties for Alien Smuggling. This section increases the prison terms for alien smuggling in the following ways: 1) increases the penalty for alien smuggling to 10 years (current law is 5 years), 2) enhances the penalty if the smuggler willfully subjects any alien to a substantial risk of death or serious bodily harm by adding a penalty of up to 10 years, 3) requires the death penalty for a smuggler who causes death, and 4) provides a penalty of up to 5 years if a person knowingly hires a smuggled alien.

Section 312. Smuggling Aliens for Commission of Crimes. This section creates a new crime for smuggling aliens for the purpose of committing offenses against the U.S. All offenses punishable for more than 1 year are included, such as violations of, attempted violations of, and conspiracy to violate, laws on drug trafficking, prostitution, firearms trafficking, money laundering, gang activities, kidnapping, extortion, terrorism and organized crime activities. The penalty is enhanced by a minimum of 3 and maximum of 5 years.

Section 313. Addition of Alien Smuggling to RICO. This section adds alien smuggling to the list of crimes which establish the basis for bringing a RICO (Racketeering and Influenced Criminal Organizations) charge (at least two of the enumerated crimes are necessary to show a "pattern of racketeering activity"). Since a significant portion of alien smuggling is conducted by organized crime, this addition will allow law enforcement officials and prosecutors to use RICO penalties (such as forfeiture and imprisonment) against organized crime syndicates.

Section 314. Expanded Forfeiture for Smuggling or Harboring Illegal Aliens. This section expands current INS authority to seize and subject to forfeiture property used in, or facilitating, the smuggling or harboring of illegal aliens. This is important in cases when RICO charges (and penalties) are not available.

Section 315. Expansion in Definition of "Aggravated Felony." This section expands the definition of "aggravated felony." This section expands the definition of "aggravated felony" for purposes of the Immigration and Nationality Act (INA). Currently the definition includes: murder, drug trafficking, trafficking in firearms or explosives, money laundering, terrorism and any crime of violence for which the sentence is 5 or more years. This section adds the following: firearms violations, failure to appear before a court to answer a felony charge, demanding or receiving ransom money, unlawful conduct relating to RICO, certain immigration-related offenses including alien smuggling and sale of fraudulent documents, child pornography, owning or operating a prostitution business, treason, and tax evasion exceeding $200,000.

Section 316. Amendment of Sentencing Guidelines. This section directs the United States Sentencing Commission to review, and if necessary, amend its sentencing guidelines to assign an offense level of at least 19 to a first offense under (1) Section 274(a)(1) of the Immigration and Nationality Act, as amended by Section 311(1); (2) Section 274(a) (3) and (5) of the Immigration and Nationality Act, as added by Section 311(2); and (3) Section 274(a)(2) of the Immigration and Nationality Act, as amended by Section 312.

Section 317. Increased Penalty for Visa Fraud. This section amends Sections 1542 (false statement), 1543 (forgery), 1544 (misuse of passport), 1545 (safe conduct violation), and 1546(a) (fraud and misuse of visas) of Title 18, United States Code, to increase the maximum penalties for various types of immigration fraud from five years' to ten years' imprisonment.

Section 318. Training of Airline Personnel in Detection of Fraudulent Documents. This section is designed to assist the training of airline personnel in the detection of fraudulent documents.

Subtitle C. Border Patrol

Section 321. Border Patrol Agents. This section authorizes funding for an additional 1,000 Border Patrol agents.

Section 322. INS Criminal Investigators. This section authorizes funding for an additional 1,000 INS criminal investigators.

Section 323. Criminal Alien Tracking Center. This section authorizes funding for the operation of a criminal alien tracking center as established by 8 U.S.C. 1252(a)(3)(A).

TITLE IV—GANGS, JUVENILES, DRUGS, AND PROSECUTORS

Section 401. Short Title. Title IV shall be known as the "Anti-Gang and Youth Protection Act of 1993."

Subtitle A. Criminal Youth Gangs

Section 411. Criminal Street Gang Offenses. Section 411 adds a new chapter 94 to title 18 of the United States Code, designed to assist prosecutors in combating the proliferation of violent youth gang activity.

This section makes it a separate criminal offense to 1) commit, or to attempt to commit, a "predicate gang crime" with intent to promote or further the activities of a "criminal street gang" or for the purpose of gaining entrance to or maintaining or increasing position in such a gang; 2) to participate, or attempt to participate, in a criminal street gang, or conspire to do so; 3) to command, counsel, persuade, induce, entice, or coerce any individual to participate in a criminal street gang; or 4) to employ, use, command, counsel, persuade, induce, entice, or coerce any individual to commit, cause to commit, or facilitate the commission of, a predicate gang crime, with intent to promote the activities of a criminal street gang or for the purpose of gaining entrance to or maintaining or increasing position in such gang.

The term "predicate gang crime" means any act or threat, or attempted act or threat, which is chargeable under Federal or State law and punishable by imprisonment for more than 1 year, involving murder, assault, robbery, extortion, burglary, arson, property damage or destruction, obstruction of justice, tampering with or retaliating against a witness, victim or informant, or manufacturing, importing, or otherwise dealing in an illegal controlled substance.

The term "criminal street gang" means any organization, or group, of 5 or more individuals, whether formal or informal, who act in concert, or agree to act in concert, for a period in excess of 30 days, with a purpose that any of these individuals alone, or in any combination, commit or will commit, 2 or more predicate gang crimes.

Section 412. Crimes Involving the Use of Minors as RICO Predicates.

Section 413. Serious Juvenile Drug Offenses as Armed Career Criminal Act Predicates. This section treats certain serious drug crimes by juveniles as armed career criminal predicate offenses.

Section 414. Adult Prosecution of Serious Juvenile Offenders. This section creates a presumption in favor of adult prosecution of leaders of juvenile gangs or juveniles with a history of violent crime or drug activity.

Section 415. Increased Penalties for Employing Children to Distribute Drugs Near Schools and Playgrounds.

Section 416. Increased Penalties for Drug Trafficking Near Public Housing.

Section 417. Increased Penalties for Travel Act Crimes Involving Violence and Conspiracy to Commit Contract Killings.

Section 418. Amendments Concerning Records of Crimes Committed by Juveniles.

Section 419. Addition of Anti-Gang Byrne Grant Funding Objective. This section adds another objective to State and local law enforcement block grants to support programs addressing the need for effective bindover systems for adult prosecution of juveniles who commit serious violent crimes.

Subtitle B. Gang Prosecution

Section 431. Additional Prosecutors. This section authorizes funding for additional assistant United States attorneys to be assigned to the prosecution of violent youth gangs.

Section 432. Gang Investigation Coordination and Information Collection. This section directs the Attorney General to develop a national strategy aimed at coordinating Federal gang-related investigations.

Section 433. Continuation of Federal-State Funding Formula.

Section 434. Grants for Multijurisdictional Drug Task Forces.

TITLE V—DRUG CONTROL AND RURAL CRIME

This title assists in the fight against drug traffickers and violent criminals, with a special focus on crime in rural areas.

Subtitle A. Drug Trafficking in Rural Areas

Section 501. Authorizations for Rural Law Enforcement Agencies. This section amends current State and local law enforcement grants program to authorize an additional $250 million in grants for rural States.

Section 502. Rural Crime and Drug Enforcement Task Forces. This section directs the Attorney General to establish Rural Crime and Drug Enforcement Task Forces in every Federal judicial district that includes significant rural areas. Headed by the local U.S. Attorneys, the Task Forces would include personnel from DEA, FBI, Customs, U.S. Park Police, U.S. Marshals, and State and local law enforcement. These Task Forces would be required to coordinate activities to ensure that resources are used as effectively as possible.

Section 503. Cross-Designation of Federal Officers. This section permits the Attorney General to cross-designate up to 100 law enforcement officers from the U.S. Park Police, U.S. Forest Service, Bureau of Land Management, and other law enforcement agencies to enforce Federal drug and criminal law in rural areas.

Section 504. Rural Drug Enforcement Training. This section establishes a specialized training program at the Federal Law Enforcement Training Center in Glynco, Georgia to teach police officers and sheriffs from rural agencies the most effective methods of conducting investigations.

Subtitle B. Rural Drug Prevention and Treatment

Section 511. Rural Substance Abuse Treatment and Education Grants. This section proposes a HHS drug prevention and treatment program for rural areas. Grants will go to hospitals, community health centers, and State agencies responsible for treatment. This section requires that, to the extent practicable, one grant should go to each state.

Subtitle C. Rural Areas Enhancement

Section 521. Asset Forfeiture. This section requires that the assets forfeited by Rural Task Forces be used to enhance the operations of the Task Force and participating State and local law enforcement agencies.

Section 522. Prosecution of Clandestine Laboratory Operators. This section requires Federal prosecutors bringing charges against "ice" manufacturers to seek environmentally-related indictments as well as civil suits where environmental damage has occurred or hazardous waste has been dumped.

Subtitle D. Chemical Control

Section 531. Short Title.

Section 532. Definition Amendments. This section eliminates the terms 'Precursor Chemical' and 'Essential Chemical' and replaces them with 'List I Chemical' and 'List II Chemical.' This section also expands the definition of 'Regulated Person' and 'Regulated Transaction' to include brokers and traders.

Section 533. Registration Requirements.

Section 534. Reporting of Listed Chemical Manufacturing. This section requires all manufacturers to submit annual reports on the total quantity of listed chemicals produced during the year. This reporting requirement does not apply to the manufacture of drug products containing List I Chemicals covered by the legal drug exemption.

Section 535. Reports by Brokers and Traders; criminal penalties. This section provides that brokers and traders will have the same recordkeeping and reporting requirements for international transactions as exporters and will be subject to the same criminal penalties.

Section 536. Exemption Authority; additional penalties. This section allows the DEA to apply a targeted approach to export controls. This section also establishes criminal penalties for attempting to evade reporting requirements and for smuggling listed drugs.

Section 537. Amendments to List I. This section deletes three chemicals that were added by the Crime Control Act of 1990. Two of the three deleted chemicals are not controlled under Federal law and the third is already listed as a controlled substance. This section also adds to List I two chemicals that are used to illicitly manufacture the immediate precursor to methamphetamine.

Section 538. Elimination of Regular Supplier Status and Creation of Regular Importer Status. This section places the focus of control on the U.S. firm that imports a listed chemical. The present focus is on the foreign firm that supplied the chemical.

Section 539. Administrative Inspections and Authority. This section gives the DEA the same inspection authority for listed chemicals as it presently has for controlled substances.

Section 540. Threshold Amounts. This section clarifies the Attorney General's authority to eliminate thresholds for specific chemicals.

Section 541. Management of Listed Chemicals. This section creates an additional felony if an individual violates the Solid Waste Disposal Act in the handling of chemicals used to illegally manufacture a controlled substance.

Section 542. Forfeiture Expansion. This section subjects listed chemicals to the same forfeiture provisions that apply to controlled substances.

Section 543. Attorney General Access to the National Practitioner Data Bank. This section grants the DEA full access to all information in the National Practitioners Data Bank, such as adverse State licensing actions and other reportable data.

Section 544. Regulations and Effective Date.

Subtitle E. Personnel

Section 551. More Agents for the Drug Enforcement Administration. The section authorizes funding for the hiring of additional DEA agents.

Section 552. Adequate Staffing of the Office of National Drug Policy. This section ensures that the Office of National Drug Policy will be adequately staffed.

TITLE VI—PUNISHMENT AND DETERRENCE

Subtitle A. Death Penalty

This subtitle provides necessary procedural provisions and conforming amendments to enable law enforcement authorities to seek the death penalty for the most heinous federal crimes (47 separate offenses) and it authorizes the death penalty for the District of Columbia. It is identical in most respects to the federal death penalty proposal which passed the House in 1990 and 1991.

In all, this subtitle provides the death penalty for the following offenses: 1) espionage; 2) treason; 3) aircraft destruction where death results; 4) motor vehicle destruction where death results; 5) retaliatory murder against an official's family; 6) murder of members of Congress or the Cabinet; 7)–9) three explosive offenses where death results; 10) murder in special territorial jurisdictions; 11) murder of Federal judges and court officers; 12) witness tampering where death results; 13) mailing of dangerous articles where death results; 14) assassination of the President, 15) wrecking trains where death results; 16) bank robbery where death results; 17) certain drug-related killings; and 18) air piracy where death results.

This subtitle also imposes the death penalty for the following new offenses: 1) violence at international airports where death results; 2) Federal child abuse resulting in death; 3) conspiracy against civil rights where death results; 4) violence against a person exercising Federal rights where death results; 5) firearms murders during Federal crimes of violence; 6) fatal firearms attacks at Federal facilities; 7) drive-by shootings where death results; 8) murder in the furtherance of genocide; 9) murder of local law enforcement officials assisting Federal law enforcement officials; 10) murder of certain foreign officials; 11) murder by prisoner serving life term; 12) murder by escaped federal prisoner; 13) kidnapping where death results; 14) hostage taking where death results; 15) murder of jurors and court officers; 16) retaliatory murder of witnesses; 17) attempted assassination of the President /1/; 18) murder for hire; 19) murder in aid of racketeering; 20) sexual exploitation resulting in death; 21) violence against maritime navigation where death results; 22) violence against maritime platforms where death results; 23) terrorist murders of Americans abroad; 24) use of weapons of mass destruction where death results; 25) torture where death results; 26) drug kingpins currently subject to mandatory life /1/; 27) drug kingpins who attempt to kill to obstruct justice /1/; 28) murder in the course of drug felonies NOTE /1/ No resulting death is required for the death penalty to be considered.

This subtitle also amends title 18 of the United States Code to authorize the death penalty for murders in the District of Columbia. It proposes a separate set of procedures applicable to capital cases brought in the District of Columbia in order to address D.C.'s particular problems as well as the unique federal-District relationship.

Subtitle B. Equal Justice Act

The Equal Justice Act establishes additional safeguards against racial bias in the administration of capital punishment and other penalties. It codifies certain Supreme Court decisions addressing racial discriminatory practices in the imposition of the death penalty. It permits a motion by the defense attorney to examine jurors on the risk of racial prejudice during voir dire (*Turner* v. *Murray* (1986)); permits a change of venue where an impartial jury cannot be obtained (*Irvin* v. *Dowd* (1967)); and prohibits all appeals to racial prejudice or bias by defense counsel or the prosecutor before the jury.

Subtitle C. Enhanced Penalties for Criminal Use of Firearms and Explosives

Section 661. Smuggling Firearms in Aid of Drug Trafficking. This section increases the penalties for smuggling firearms in furtherance of drug trafficking.

Section 662. Prohibition against Theft of Firearms or Explosives. This section imposes a ten-year maximum penalty for the theft of firearms.

Section 663. Increased Penalty for Knowingly False, Material Statement in connection with the Acquisition of a Firearm from a Licensed Dealer. This section increases the maximum penalty for making a knowingly false, material statement in connection with the purchase of a firearm.

Section 664. Summary Destruction of Explosives Subject to Forfeiture.

Section 665. Elimination of Outmoded Parole Language.

Section 666. Receipt of Firearms by Nonresident. This section makes it illegal to transfer firearms to a nonresident unless for lawful purposes.

Section 667. Prohibition of Theft of Firearms or Explosives from Licensee.

Section 668. Increased Penalty for Interstate Gun Trafficking. This section increases the maximum penalty for interstate gun trafficking.

Section 669. Prohibition of Transactions involving Stolen Firearms which have Moved in Interstate or Foreign Commerce.

Section 670. Possession of Explosives by Felons and Others. This section makes possession of explosives by felons equivalent to receipt of explosives.

Section 671. Disposition of Forfeited Firearms. This section facilitates the disposition of firearms forfeited to the Federal government. The government may use forfeited weapons or sell firearms which are historic antiques.

Section 672. Definition of Burglary under the Armed Career Criminal Statute. This section defines burglary under the armed career criminal statute.

Subtitle D. Exclusionary Rule Reform

This subtitle is identical to the exclusionary rule reform proposal which passed the House of Representatives as an amendment to H.R. 3371 in 1991.

This subtitle adds a new section 3509 to the Federal criminal code. Subsection 3509(a) would provide that evidence shall not be excluded in any Federal proceeding on the ground that the search or seizure was in violation of the Fourth Amendment, if the search or seizure was carried out in circumstances justifying an objectively reasonable belief that it was in conformity with the Fourth Amendment. A police officer's mere subjective belief in the legality of his or her own search is insufficient to support admissibility. This would extend the underlying principle of *United States* v. *Leon*, 468 U.S. 897 (1984), so as to bar the exclusion of evidence obtained in cases involving warrantless searches, as well as in cases involving searches made pursuant to a warrant.

This subtitle also provides specifically that evidence was obtained pursuant to a warrant constitutes prima facie evidence of the existence of circumstances justifying an objectively reasonable belief that a search was in conformity with the Fourth Amendment.

Subsection 3509(b) would bar the exclusion of evidence in Federal proceedings on the basis of non-constitutional violations except as expressly authorized by statute or rule promulgated by the Supreme Court. Subsection 3509(c) makes it clear that the section is not construed as reflecting legislative approval of the exclusion of evidence as a sanction for official misconduct in any circumstances.

Subtitle E. Pre-Trial Interrogation.

Subtitle E provides that it is the sense of the Congress that the Attorney General shall instruct all United States Attorneys, and implement policies consistent therewith, that confessions obtained in conformity with Section 3501 of title 18, United States Code, will be offered into evidence.

TITLE VII—ELIMINATION OF DELAYS IN CARRYING OUT SENTENCES

This title curbs the abuse of habeas corpus by state and federal prisoners and is identical to the habeas corpus amendment to the crime bill, which passed the Senate by a vote of 58 to 40 in 1991.

Subtitle A. General Habeas Corpus Reform

Subtitle A proposes general habeas corpus reform.

Subtitle B. Death Penalty Litigation Procedures

Subtitle B contains reforms aimed at addressing the unique problems of abuse and delay in capital cases. It is modeled after the "Powell Committee" proposal for death penalty litigation. (The States may opt. in. If a State opts in, it must provide counsel in State collateral review, and it limits the petitioner to a single habeas petition.) It improves upon the Powell Committee by including the "full and fair" rule of deference of State court adjudications and placing time limits upon the Federal courts.

Subtitle C. Equalization of Capital Habeas Corpus Litigation Funding.

Subtitle C ensures that, each year, State Attorneys General shall receive habeas corpus litigation support grants equal in amount given to capital resources centers.

TITLE VIII—PREVENTION OF TERRORISM

Subtitle A. Penalties and Offenses

Subtitle A establishes penalties for providing "material support" to terrorists. "Material support" includes, but is not limited to, currency or other financial securities, lodging, training, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, and other physical assets. Subtitle A also increases the penalties for terrorism offenses and extends to 10 years the statute of limitations for certain terrorism offenses.

Subtitle B. Removal of Alien Terrorists

Subtitle B establishes a mechanism for the removal of alien terrorists that protects certain classified information whose disclosure may be necessary to show that an alien is deportable. In a special removal hearing established by this subtitle, a judge shall authorize the introduction in camera and ex parte of any item of evidence for which the judge determines that public disclosure would pose a risk to the national security of the United States because it would disclose classified information.

Subtitle C. Enhanced Entry Controls

Subtitle C establishes tougher entry controls to prevent the type of abuse of our asylum system that allowed the entry of at least one of the indicted suspects in the World Trade Towers bombing. For example, it would allow an examining immigration officer to exclude, without a hearing, any alien who 1) presents fraudulent documents to the examining immigration officer, 2) does not have any reasonable basis for legal entry into the United States, and 3) does not indicate an intention to apply for political asylum.

TITLE IX—VICTIMS' RIGHTS AND CHILD ABUSE

Subtitle A. Victims' Rights

Subtitle A enhances the access of victims to the criminal justice system and provides victims with mandatory restitution.

Subtitle B. National Child Protection Act

Subtitle B directs the Attorney General to establish a national system through which child care organizations may obtain the benefits of a national criminal background check to determine if persons who are current or prospective child care providers have committed child abuse crimes or other serious crimes.

Subtitle C. Jacob Wetterling Crimes Against Children Registration Act

Subtitle C directs the Attorney General to establish guidelines for State programs requiring any person who is convicted of a criminal offense against a victim who is a minor to register a current address with a designated State law enforcement agency for 10 years after release from prison, being placed on parole, or being placed on supervised release.

TITLE X—VIOLENT CRIMES AND LAW ENFORCEMENT SUPPORT

Subtitle A. Violent Crimes

Subtitle A establishes maximum penalties for certain crimes, including assault, manslaughter, and carjacking. Subtitle A also requires that a person convicted of a third crime of violence shall be sentenced to not less than a mandatory term of life imprisonment without release.

Subtitle B. National Commission to Support Law Enforcement

Subtitle B establishes a 24-member National Commission to Support law Enforcement. The Commission is charged with studying and recommending changes regarding law enforcement agencies and law enforcement issues on the Federal, State, and local levels, including the 1) sufficiency of funding, 2) the conditions of law enforcement employment, 3) the effectiveness of information-sharing systems, 4) the status of law enforcement research, 5) the adequacy of equipment, physical resources, and human resources, 6) the cooperation among Federal, State, and local law enforcement agencies, 7) the responsibility of governments and law enforcement agencies in solving the crime problem, and 8) the impact of the criminal justice system, including court scheduling and prison overcrowding, or law enforcement. The Commission must submit a report to Congress within 18 months.

TITLE XI—CIVIL RIGHTS OFFENSES

Title XI increases the maximum penalties for serious violent acts in violation of criminal civil rights statutes.

TITLE XII—PUBLIC CORRUPTION

Title XII strengthens the Federal laws against public corruption by increasing the penalties, providing a more adequate basis of Federal jurisdiction to prosecute corruption offenses, prohibiting retaliation against whistleblowers who expose public corruption, and through specific provisions relating to election fraud and drug-related corruption.

TITLE XIII—FUNDING

Section 1301. Reduction in Overhead Costs Incurred in Federally Sponsored Research. This section states that the Congressional Budget Office estimates that capping the overhead payment rate for Federally-funded university research at 90% of the current level will produce savings of $1.54 billion over five years.

Section 1302. Overhead Expenses Reduction. This section reduces the overhead expenses identified and reduced by the President in Executive Order 12837 by an additional 5 percent. The Congressional Budget Office estimates that the reduction in overhead expenses required by this section will produce savings of approximately $6 billion over five years.

Section 1303. Funding of Programs Authorized by this Act. This section provides that the amount of available budget authority resulting from the enactment of sections 1301 and 1302 shall be reallocated as follows:

1. $800 million for America's Safe Streets Program as authorized by section 102 ($100 million for FY94, $125 million for FY95, $175 million for FY96, $200 million for FY97, and $200 million for FY98).

2. $650 million for the Cops-on-the-Street grants as authorized by section 112 ($100 million for FY94, $100 million for FY95, $150 million for FY96, $150 million for FY97, and $150 million for FY98).

3. $250 million for the Police Corps as authorized by section 130 ($50 million for FY94, $100 million for FY95, and $100 million for FY96).

4. $300 million for Community Policing grants as authorized by section 141 ($60 million for FY94, $60 million for FY95, $60 million for FY96, $60 million for FY97, and $60 million for FY98).

5. $100 million for Police Automation and Technology as authorized by section 153 ($100 million for FY94).

6. $2 billion for the Regional Prisons as authorized by section 165 ($200 million for FY94, $400 million for FY95, $400 million for FY96, $500 million for FY97, and $500 million for FY98).

7. $1 billion for the Prison Construction and Operation grants as authorized by section 177 ($200 million for FY94, $200 million for FY95, $200 million for FY96, $200 million for FY97, and $200 million for FY98).

8. $500 million for America's Safe Schools Program as authorized by section 202 ($100 million for FY94, $100 million for FY95, $100 million for FY96, $100 million for FY97, and $100 million for FY98).

9. $500 million for the Federal Safe School Districts as authorized by section 203 ($100 million for FY64, $100 million for FY95, $100 million for FY96, $100 million for FY97, and $100 million for FY98).

10. $300 million for the hiring of 1,000 additional Border Patrol agents as authorized by section 321 ($60 million for FY94, $60 million for FY95, $60 million for FY96, $60 million for FY97, and $60 million for FY98).

11. $385 million for the hiring of 1,000 additional INS criminal investigators as authorized by section 322 ($77 million for FY94, $77 million for FY95, $77 million for FY96, $77 million for FY97, and $77 million for FY98).

12. $13 million for the operation of a criminal alien tracking center as authorized by section 323 ($5 million for FY94, $2 million for FY95, $2 million for FY96, $2 million for FY97, and $2 million for FY98).

13. $100 million for the hiring of additional Assistant U.S. Attorneys to prosecute violent youth gangs as authorized by section 431 ($20 million for FY94, $20 million for FY95, $20 million for FY96, $20 million for FY97, and $20 million for FY98).

14. $1 million for Gang Investigation Coordination as authorized by section 432 ($1 million for FY94).

15. $250 million for Rural Law Enforcement grants as authorized by section 501 ($50 million for FY94, $50 million for FY95, $50 million for FY96, $50 million for FY97, and $50 million for FY98).

16. $5 million for Drug Enforcement Training as authorized by section 504 ($1 million for FY94, $1 million for FY95, $1 million for FY96, $1 million for FY97, and $1 million for FY98).

17. $110 million for Rural Substance Abuse Treatment and Education grants as authorized by section 511 ($25 million for FY94, $25 million for FY95, $20 million for FY96, $20 million for FY97, and $20 million for FY98).

18. $100 million for the hiring of additional DEA agents as authorized by section 551 ($20 million for FY94, $20 million for FY95, $20 million for FY96, $20 million for FY97, and $20 million for FY98).

19. $120 million for Counterterrorism operations as authorized by section 811 ($60 million for FY94 and $60 million for FY95).

20. $40 million for Child Abuse Information grants as authorized by section 916 ($20 million for FY94, $10 million for FY95, and $10 million for FY96).

21. $1 million for the establishment of the National Commission to Support Law Enforcement as authorized by section 1030 ($1 million for FY94).

NEIGHBORHOOD SECURITY ACT OF 1993—FUNDING

I. SAVINGS (ESTIMATED BY THE CONGRESSIONAL BUDGET OFFICE)

a. Cutting Overhead in the Federal Government by 5% above the Cuts Proposed in Executive Order 12837:

FY94—$1.2 billion.
FY95—$1.2 billion.
FY96—$1.2 billion.
FY97—$1.2 billion.
FY98—$1.2 billion.
Subtotal—$6 billion.

b. Capping the Overhead Payment Rate for Federally-Funded University Research at 90% of Current Levels:

FY94—$150 million.
FY95—$310 million.
FY96—$350 million.
FY97—$360 million.
FY98—$370 million.

c. Total Savings:

FY94—$1.35 million.
FY95—$1.51 million.
FY96—$1.55 million.
FY97—$1.56 million.
FY98—$1.57 million.
Five-Year Total—$7.54 billion.

II ALLOCATIONS

[In millions of dollars]

Program	Fiscal year				
	1994	1995	1996	1997	1998
America's Safe Streets	100	125	175	200	200
Cops-on-the-Street	100	100	150	150	150
Police Corps	50	100	100	....	....
Community Policing	60	60	60	60	60
Police Automation	100	....	....	....	....
Regional Prisons	200	400	400	500	500
State Prison Grants	200	200	200	200	200
America's Safe Schools	100	100	100	100	100
Safe School Districts	100	100	100	100	100
Border Patrol Agents (1,000)	60	60	60	60	60
INS Criminal Investigators (1,000)	77	77	77	77	77
Criminal Alien Tracking Center	5	2	2	2	2
Gang Investigation Coordination	1	....	....	....	....
Law Enforcement Commission	1	....	....	....	....
Assistant U.S. Attorneys	20	20	20	20	20
Rural Law Enforcement Training	50	50	50	50	50
Rural Drug Enforcement	1	1	1	1	1
Rural Drug Prevention	25	25	20	20	20
DEA Agents	20	20	20	20	20
Terrorism Prevention	60	60	....	....	....
Children Abuse Info.	20	10	10	....	....
Annual totals (billions)	1.35	1.51	1.545	1.56	1.56

Five-year total—$7.53 billion.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 9, 1993.

Hon. ROBERT DOLE,
Republican Leader,
U.S. Senate,
Washington, DC.

DEAR MR. LEADER: As you requested, the Congressional Budget Office has estimated the savings that could be attained by reducing administrative expenses for government agencies.

On February 10, 1993, the President issued Executive Order 12837 requiring agencies to submit budgets incorporating reductions in administrative expenses of 3 percent in 1994, 6 percent in 1995, 9 percent in 1996, and 14 percent in 1997, relative to 1993 spending adjusted for inflation. The Office of Management and Budget has categorized about $22 billion in 1993 executive branch spending as administrative costs. (These costs include certain categories of overhead expenses, but do not include the costs of any salaries or benefits for personnel.) If appropriations are reduced accordingly, the executive order will result in savings of about $3.5 billion in 1998 and $11 billion over the 1994–1998 period, compared to 1993 spending adjusted for inflation.

Cutting administrative costs by an additional 5 percentage points in each year would produce additional savings of about $1.2 billion a year, or $6 billion over five years. This would necessitate a reduction from the inflation-adjusted 1993 level of 8 percent in 1994, 11 percent in 1995, 14 percent in 1996, and 19 percent in 1997. If appropriations were reduced accordingly, total savings would be $17 billion over five years, compared to $11 billion for the Administration's plan.

The executive order and legislation requiring reductions in administrative costs would not, by themselves, reduce federal spending. Savings would result only if appropriations were correspondingly reduced.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Mickey Buhl, who can be reached at 226-2860.

Sincerely,

JAMES L. BLUM
(For Robert D. Reischauer, Director).

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 30, 1993.

Hon. ROBERT DOLE,
Republican Leader,
U.S. Senate,
Washington, DC.

DEAR MR. LEADER: As you requested, the Congressional Budget Office is pleased to provide additional information about the estimated savings that would result from a ten percent cut in the overhead rate paid to each university that receives federal research funding. This proposal was discussed as part of option DOM-44 in our publication "Reducing the Deficit: Spending and Revenue Options," which was released in February 1993.

We estimate that a ten percent cut in the overhead rate would make possible outlay savings of $150 million in fiscal year 1994, $310 million in 1995, $350 million in 1996, $360 million in 1997, and $370 million in 1998. To achieve these savings, the Congress would have to reduce the appropriations for university research by an amount corresponding to the mandated reduction in overhead costs.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Mark Grabowicz, who can be reached at 226-2860.

Sincerely,

ROBERT D. REISCHAUER,
Director.

Mr. MACK. Mr. President, I first want to thank Senators DOLE and HATCH for putting together this comprehensive bill addressing our Nation's crisis of violent crime. I want to highlight two provisions of the bill that I took part in drafting. First, we included an amendment to the Federal carjacking statute which broadens its scope and incorporates the death penalty. Second, we developed a new regional prison system, specifically designed to put our most violent criminals and convicted aliens behind bars, and keep them there.

The bill's section forges a Federal-State alliance to help States deal with their own violent crime problem. A State will be deemed eligible to participate in this innovative nationwide enterprise if it steps up to the plate and eliminates parole, adopts more stringent pretrial detention standards, and deals swiftly and decisively with violent repeat offenders, sex offenders and criminals using guns. The reward for those States who act in such a responsible manner will be what they need most, more prison beds at no additional cost to them.

We are here today to essentially open the door to a safer America. An America where criminals who rape, rob, or murder, will be stiffly sentenced and will serve every day of the sentence they are given. An America where we can rely upon our criminal system to dispense true justice, and a place which favors innocent victims over brutal thugs. If this legislation is passed, gone will be the days of the revolving door where vicious criminals are back out on the street within a matter of months of their third or fourth offense.

The finger pointing between the States, the Congress and the Federal judges shall stop here. With this bill, the U.S. Government will do its job to combat the problem of diminishing prison space and escalating crime rates. I say to the American people that we, as Republicans in the U.S. Senate, have heard your call for safety ad we are heeding it.

I want to again thank the leadership, and also mention Congressman BILL MCCOLLUM for his contributions to the prison section of the bill, and say that I am eager to work with my colleagues to secure passage of this hard hitting, get tough crime legislation.

By Mr. LEVIN (for himself and Mr. RIEGLE):

S. 1357. A bill to reaffirm and clarify the Federal relationships of the Little Traverse Bay Bands of Odawa Indians and the Little River Band of Ottawa Indians as distinct federally recognized Indian tribes, and for other purposes; to the Committee on Indian Affairs.

LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS AND THE LITTLE RIVER BAND OF OTTAWA INDIANS ACT

• Mr. LEVIN. Mr. President, today, I am joined by my colleague from Michigan, Senator RIEGLE, in introducing legislation to reaffirm and clarify the Federal relationship with the Little River Band of Ottawa Indians and the Little Traverse Bay Bands of Odawa Indians. Both of these tribes are descendants of the tribes that signed the 1836 Treaty of Washington and the 1855 Treaty of Detroit. This legislation seeks to reaffirm the Federal trust responsibility to these two tribes which the most recognized Indian scholar in the United States, University of Colorado Prof. Vine Deloria, Jr., has gone on record as stating was never terminated. Identical legislation has been introduced in the House by Representatives DALE KILDEE, DAVE CAMP, and PETER HOEKSTRA.

Mr. President, historical documentation proves that these tribes have had a government-to-government relationship with the United States since Americans first entered the Great Lakes. Both are signatories to treaties with the United States and both maintained distinct political and cultural structures from that time to the present. Additionally, both tribes petitioned for recognition of their governments under the Indian Reorganization Act in 1935. The U.S. Government's failure to act on this petition, claiming budgetary constraints and bureaucratic redtape, has brought about the necessity for this legislation.

Mr. President, numerous Indian law experts have found that these two tribes are technically, federally recognized and therefore eligible for services as a result of this recognition. Yet, the Bureau of Indian Affairs has refused to provide such recognition using a series of historical and legal technicalities as its excuse. No one questions the fact that these tribes signed treaties with the United States and that they have upheld their end of the agreement. Mr. President, I urge speedy enactment of this legislation. It is long overdue. I ask unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1357

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Little Traverse Bay Bands of Odawa Indians and the Little River Band of Ottawa Indians Act".

SEC. 2. FINDINGS.

Congress finds the following:

(1) The Little Traverse Bay Bands of Odawa Indians and the Little River Band of Ottawa Indians are descendants of, and political successors to, signatories of the 1836 Treaty of Washington and the 1855 Treaty of Detroit.

(2) The Grand Traverse Band of Ottawa and Chippewa Indians, the Sault Ste. Marie Tribe of Chippewa Indians, and the Bay Mills Band of Chippewa Indians, whose members are also descendants of the signatories to the 1836 Treaty of Washington and the 1855 Treaty of Detroit, have been recognized by the Federal Government as distinct Indian tribes.

(3) The Little Traverse Bay Bands of Odawa Indians consists of at least 1,000 eligible members who continue to reside close to their ancestral homeland as recognized in the Little Traverse Reservation in the 1836 Treaty of Washington and 1855 Treaty of Detroit, which area is now known as Emmet and Charlevoix Counties, Michigan.

(4) The Little River Band of Ottawa Indians consists of at least 500 eligible members who continue to reside close to their ancestral homeland as recognized in the Manistee Reservation in the 1836 Treaty of Washington and reservation in the 1855 Treaty of Detroit, which area is now known as Manistee and Mason Counties, Michigan.

(5) The Bands filed for reorganization of their existing tribal governments in 1935 under the Act of June 18, 1934 (25 U.S.C. et seq.; commonly referred to as the "Indian Reorganization Act"). Federal agents who visited the Bands, including Commissioner of Indian Affairs, John Collier, attested to the continued social and political existence of the Bands and concluded that the Bands

were eligible for reorganization. Due to a lack of Federal appropriations to implement the provisions of such Act, the Bands were denied the opportunity to reorganize.

(6) In spite of such denial, the Bands continued their political and social existence with viable tribal governments. The Bands, along with other Michigan Odawa/Ottawa groups, including the tribes described in paragraph (2), formed the Northern Michigan Ottawa Association in 1948. The Association subsequently pursued a successful land claim with the Indian Claims Commission.

(7) Between 1948 and 1975, the Bands carried out many of their governmental functions through the Northern Michigan Ottawa Association, while retaining individual Band control over local decisions.

(8) In 1975, the Northern Michigan Ottawa Association petitioned under the Act of June 18, 1934 (25 U.S.C. 461 et seq.; commonly referred to as the "Indian Reorganization Act"), to form a government on behalf of the Bands. Again in spite of the Bands' eligibility, the Bureau of Indian Affairs failed to act on their request.

(9) The United States Government, the government of the State of Michigan, and local governments have had continuous dealings with the recognized political leaders of the Bands from 1836 to the present.

SEC. 3. DEFINITIONS.

For purposes of this Act—

(1) the term "Bands" means the Little Traverse Bay Bands of Odawa Indians and the Little River Band of Ottawa Indians;

(2) the term "member" means those individuals enrolled in the Bands pursuant to section 7; and

(3) the term "Secretary" means the Secretary of the Interior.

SEC. 4. FEDERAL RECOGNITION.

(a) Federal Recognition.—Federal recognition of the Little Traverse Bay Bands of Odawa Indians and the Little River Band of Ottawa Indians is hereby reaffirmed. All laws and regulations of the United States of general application to Indians or nations, tribes, or bands of Indians, including the Act of June 18, 1934 (25 U.S.C. 461 et seq.; commonly referred to as the "Indian Reorganization Act"), which are not inconsistent with any specific provision of this Act shall be applicable to the Bands and their members.

(b) Federal Services and Benefits.—

(1) In general.—The Bands and their members shall be eligible for all services and benefits provided by the Federal Government to Indians because of their status as federally recognized Indians, and notwithstanding any other provision of law, such services and benefits shall be provided after the date of the enactment of this Act to the Bands and their members without regard to the existence of a reservation or the location of the residence of any member on or near any Indian reservation.

(2) Service areas.—

(A) Little traverse bay bands.—For purposes of the delivery of Federal services to the enrolled members of the Little Traverse Bay Bands of Odawa Indians, the area of the State of Michigan within 70 miles of the boundaries of the reservations for the Little Traverse Bay Bands as set out in Article I, paragraphs "third" and "fourth" of the Treaty of 1855, 11 Stat. 621, shall be deemed to be within or near a reservation, notwithstanding the establishment of a reservation for the tribe after the date of the enactment of this Act. Services may be provided to members outside the named service area unless prohibited by law or program regulations.

(B) Little river band.—For purposes of the delivery of Federal services to enrolled members of the Little River Band of Ottawa Indians, the Counties of Manistee, Mason, Wexford and Lake, in the State of Michigan, shall be deemed to be within or near a reservation, notwithstanding the establishment of a reservation for the tribe after the date of the enactment of this Act. Services may be provided to members outside the named Counties unless prohibited by law or program regulations.

SEC. 5. REAFFIRMATION OF RIGHTS.

(a) In General.—All rights and privileges of the Bands, and their members thereof, which may have been abrogated or diminished before the date of the enactment of this Act are hereby reaffirmed.

(b) Existing Rights of Tribe.—Nothing in this Act shall be construed to diminish any right or privilege of the Bands, or of their members, that existed prior to the date of enactment of this Act. Except as otherwise specifically provided in any other provision of this Act, nothing in this Act shall be construed as altering or affecting any legal or equitable claim the Bands might have to enforce any right or privilege reserved by or granted to the Bands which were wrongfully denied to or taken from the Bands prior to the enactment of this Act.

SEC. 6. TRANSFER OF LAND FOR THE BENEFIT OF THE BANDS.

(a) Little Traverse Bay Bands.—The Secretary shall acquire real property in Emmet and Charlevoix Counties for the benefit of the Little Traverse Bay Bands. The Secretary shall also accept any real property located in those Counties for the benefit of the Little Traverse Bay Bands if conveyed or otherwise transferred to the Secretary, if at the time of such acceptance, there are no adverse legal claims on such property including outstanding liens, mortgages or taxes owed.

(b) Little River Band.—The Secretary shall acquire real property in Manistee and Mason Counties for the benefit of the Little River Band. The Secretary shall also accept any real property located in those Counties for the benefit of the Little River Band if conveyed or otherwise transferred to the Secretary, if at the time of such acceptance, there are no adverse legal claims on such property including outstanding liens, mortgages or taxes owed.

(c) Additional Lands.—The Secretary may accept any additional acreage in each of the Bands' service area specified by section 4(b) of this Act pursuant to his authority under the Act of June 18, 1934 (25 U.S.C. 461 et seq.; commonly referred to as the "Indian Reorganization Act").

(d) Reservation.—Subject to the conditions imposed by this section, the land acquired by or transferred to the Secretary under or pursuant to this section shall be taken in the name of the United States in trust for the Bands and shall be a part of the respective Bands' reservation.

SEC. 7. MEMBERSHIP.

Not later than 18 months after the date of the enactment of this Act, the Bands shall submit to the Secretary membership rolls consisting of all individuals currently enrolled for membership in such Bands. The qualifications for inclusion on the membership rolls of the Bands shall be determined by the membership clauses in such Bands' respective governing documents, in consultation with the Secretary. Upon completion of the rolls, the Secretary shall immediately publish notice of such in the Federal Register. The Bands shall ensure that such rolls are maintained and kept current.

SEC. 8. CONSTITUTION AND GOVERNING BODY.

(a) Constitution.—

(1) Adoption.—Not later than 24 months after the date of the enactment of this Act, the Secretary shall conduct, by secret ballot, elections for the purposes of adopting new constitutions for the Bands. The elections shall be held according to the procedures applicable to elections under section 16 of the Act of June 18, 1934 (25 U.S.C. 476; commonly referred to as the "Indian Reorganization Act").

(2) Interim governing documents.—Until such time as new constitutions are adopted under paragraph (1), the governing documents in effect on the date of the enactment of this Act shall be the interim governing documents for the Bands.

(b) Officials.—

(1) Election.—Not later than 6 months after the Bands adopt constitutions and bylaws pursuant to subsection (a), the Bands shall conduct elections by secret ballot for the purpose of electing officials for the Bands as provided in the Bands' respective governing constitutions. The elections shall be conducted according to the procedures described in the Bands' constitutions and bylaws.

(2) Interim governments.—Until such time as the Bands elect new officials pursuant to paragraph (1), the Bands' governing bodies shall be those governing bodies in place on the date of the enactment of this Act, or any new governing bodies selected under the election procedures specified in the respective interim governing documents of the Bands.•

• Mr. RIEGLE. Mr. President, I am pleased to join Senator Levin, again this year, as a cosponsor of legislation extending Federal recognition to the Little River Band of Ottawa Indians and the Little Traverse Bay Bands of Odawa Indians. Both these tribes have strong cases for seeking recognition through Congress, and I believe that this Federal acknowledgement is long overdue.

The variety of recognition processes the Federal Government has created since the 1930's have not worked properly with regard to these two Great Lakes tribes. In 1935, after fulfilling all the requirements for recognition, these tribes applied for recognition under the Wheeler-Howard Act. They were unfairly denied formal recognition solely because of Federal budgetary shortfalls and bureaucratic difficulties. Since that time, they have maintained viable tribal governments, sustained a constructive relationship with our Government, and have attempted to obtain recognition. Despite their continued eligibility, the Bureau of Indian Affairs has failed to act on the tribes' request for Federal approval.

Both the Little River Band of Ottawa Indians and the Little Traverse Bay Bands of Odawa Indians have a long and rich history that extends well before the first Europeans entered the Great Lakes area. Current members of these tribes are direct descendants of those Indians who signed the 1836 Treaty of Washington and the 1855 Treaty of Detroit—these tribes have a strong cultural identity that has survived hundreds of years of hostility and mistreatment at the hands of European settlers and the U.S. Government. I believe that we have a moral obligation to do what we can to mend our relationship with these tribes, and Federal recognition is the first step toward that goal.

I am hopeful that the Senate will move forward with this legislation.•

By Mr. JOHNSTON:

S. 1358. A bill to amend the Immigration and Nationality Act to improve immigration enforcement and anti-smuggling activities, to reform the asylum law, and to authorize appropriations for the Immigration and Naturalization Service; to the Committee on the Judiciary.

IMMIGRATION ENFORCEMENT AND ASYLUM REFORM ACT OF 1993

• Mr. JOHNSTON. Mr. President, I rise today to introduce a bill that would provide workable and much needed reforms in our asylum laws and related immigration provisions while at the same time, ensuring that persons who have legitimate asylum claims receive full and fair hearings. This legislation is designed to combat the growing immigration policy problems which confront the United States on a daily basis. It is quite obvious that a majority of Americans find that the problem of illegal immigration is more serious now than ever before. As President Clinton and Attorney General Reno have recently noted, our immigration policy is in disarray. The Immigration and Naturalization Service is underfunded and there are almost 300,000 cases pending. The current claim process takes about 2 years to complete and, as result, many asylum applicants never even check on their claims. This cannot be allowed to continue.

This bill is identical to H.R. 2602, which was introduced in the House by Mr. MAZZOLI, for himself, Mr. SCHUMER, and Mr. MCCOLLUM on July 1, 1993. I believe it deserves our attention in this body as well. The bill represents an collaborative effort to deal with the escalating problem of alien smuggling and abuse of the asylum system. The United States, a nation founded by immigrants, should welcome legal immigrants and turn away illegal immigrants in a judicious and cost effective manner. This legislation is the most effective at alleviating the current immigration policy crisis.

Mr. President, I commend the Clinton administration for recognizing that major reforms are needed to combat illegal immigration. However, the administration's proposed bill will not achieve the commendable reform goals that President Clinton appears to support. The asylum reform provisions in the legislation that I introduce today would be far more effective in combating asylum fraud.

This legislation is aimed at aliens who show up at U.S. airports without official, or with fraudulent, documentation and claim political asylum. Only a limited number of such arrivals typically qualify for asylum, but under current procedures all may go through lengthy asylum proceedings before the Government can deport them. Countless numbers of aliens now know that once they arrive at an American port of entry, by simply uttering the words "political asylum," and claiming that they will be killed or persecuted if they are returned home, they are virtually assured an extended stay in the United States. Most are not detained and in the interim some drop out of sight.

An important aspect of this legislation is that it would prevent many illegal immigrants from ever reaching U.S. soil. The Immigration and Naturalization Service [INS] would be required to train airline employees in the detection of fraudulent documents. Additionally, INS would be required to establish overseas preinspection stations at foreign airports which have send large numbers of asylum seekers with fraudulent documents to the United States. These stations would prevent passengers with forged documents from ever boarding planes headed for the United States.

Furthermore, this bill will provide expedited exclusion procedures for aliens who still manage to arrive at ports of entry or elsewhere in the United States with fraudulent or no documentation. Passengers who do not claim a fear of persecution will be returned immediately. Passengers who claim persecution and are determined by an INS asylum officer—subject to immediate supervisory review—not to have a credible fear of persecution will also be returned immediately. The only type of judicial review authorized for an alien found excludable under the expedited exclusion provisions is a petition for habeas corpus.

This legislation also streamlines procedures for considering asylum claims—which by the way are now heard, depending on circumstances, by either INS asylum officers or Justice Department immigration judges, or both—by giving sole authority to conduct asylum hearings to specially trained INS asylum officers.

As for immigrants with complete and official documentation, this legislation would place an affirmative obligation on those who claim asylum to come forward and make their intentions known within their first 30 days in the United States. This prevents aliens from using asylum as a defense to deportation unless the alien can demonstrate changed circumstances. Also, many aliens currently fail to appear for asylum hearings and continue to receive immigration benefits. This legislation would prevent this transgression.

Moreover Mr. President, this legislation increases the Federal criminal penalty for alien smuggling from 5 to 10 years. Additionally, Federal criminal penalties would be extended to gangs and sweatshops who contract with smugglers in order to obtain illegal labor.

To effectively implement this legislation, it is necessary to increase the size of the Border Patrol, the anti-smuggling unit of INS, and the INS asylum officer corps. Although this will cost money, the savings realized by American citizens will be more. Recently, Prof. Don Huddle of Rice University indicated that the immigrants who have entered the United States since 1970 have cost all levels of government more than $45 billion per year, above and beyond what they paid in taxes. Illegal aliens cost taxpayers billions of dollars by using public education, health benefits, and other welfare services, and their fraud limits the availability of these services to American citizens. To illustrate, major cost incurred by illegal aliens in 1992 alone included: primary and secondary education, $3,900,000,000; bilingual education, $858,000,000; aid to families with dependent children, $820,000,000; and assistance to displaced workers, $6,928,000,000.

I ask unanimous consent that the text of the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1358

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENTS MADE BY ACT; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Immigration Enforcement and Asylum Reform Act of 1993".

(b) AMENDMENTS TO IMMIGRATION AND NATIONALITY ACT.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Immigration and Nationality Act.

(c) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; amendments made by Act; table of contents.

TITLE I—SMUGGLING AND FRAUD

Sec. 101. Inspection and exclusion by immigration officers.
Sec. 102. Enhanced penalties for alien smuggling.
Sec. 103. Effective date.

TITLE II—ASYLUM

Sec. 201. Asylum.
Sec. 202. Failure to appear for provisional asylum hearing; judicial review.
Sec. 203. Conforming amendments.
Sec. 204. Effective dates.

TITLE III—INSPECTIONS

Sec. 301. Preinspection at foreign airports.
Sec. 302. Expediting airport immigration processing.
Sec. 303. Visa waiver program.

Sec. 304. Training of airline personnel in detection of fraudulent documents.

TITLE IV—AUTHORIZATION OF APPROPRIATIONS FOR THE IMMIGRATION AND NATURALIZATION SERVICE

Sec. 401. Authorization of appropriations for I.N.S. for fiscal years 1994 and 1995.

TITLE I—SMUGGLING AND FRAUD

SEC. 101. INSPECTION AND EXCLUSION BY IMMIGRATION OFFICERS.

(a) IN GENERAL.—Section 235(b) (8 U.S.C. 1225(b)) is amended to read as follows:

"(b) INSPECTION AND EXCLUSION BY IMMIGRATION OFFICERS.—

"(1) An immigration officer shall inspect each alien who is seeking entry to the United States.

"(2)(A) If the examining immigration officer determines that an alien seeking entry—

"(i) does not present the documentation required (if any) to obtain legal entry to the United States; and

"(ii) does not indicate either an intention to apply for provisional asylum (under section 208) or a fear of persecution,

the officer shall order the alien excluded from the United States without further hearing or review.

"(B) The examining immigration officer shall refer for immediate inspection at the port of entry by an asylum officer under subparagraph (C) any alien who (i) does not present the documentation required (if any) to obtain legal entry to the United States, and (ii) has indicated an intention to apply for provisional asylum or a fear of persecution.

"(C)(i) If an asylum officer determines that an alien has a credible fear of persecution, the alien shall be entitled to apply for provisional asylum under section 208.

"(ii)(I) Subject to subclause (II), if an asylum officer determines that an alien does not have a credible fear of persecution the officer shall order the alien excluded from the United States without further hearing or review.

"(II) The Attorney General shall promulgate regulations to provide for the immediate review by another asylum officer at the port of entry of a decision under subclause (I).

"(iii) For the purposes of this subparagraph, the term 'credible fear of persecution' means (I) that it is more probable than not that the statements made by the alien in support of his or her claim are true, and (II) that there is a significant possibility, in light of such statements and of such other facts as are known to the officer that the alien could establish eligibility for provisional asylum under section 208.

"(iv) Notwithstanding any other provision of law, no court shall have jurisdiction to review, except by petition for habeas corpus, any determination made with respect to an alien found excludable pursuant to this paragraph. In any such case, review by habeas corpus shall be limited to examination of whether the petitioner (I) is an alien, and (II) was ordered excluded from the United States pursuant to this paragraph.

"(3)(A) Except as provided in subparagraph (B), if the examining immigration officer determines that an alien seeking entry is not clearly and beyond a doubt entitled to enter, the alien shall be detained for a hearing before a special inquiry officer.

"(B) The provisions of subparagraph (A) shall not apply—

"(i) to an alien crewman,

"(ii) to an alien described in paragraph (2)(A) or 2(C)(ii)(I), or

"(iii) if the conditions described in section 273(d) exist.

"(4) The decision of the examining immigration officer, if favorable to the admission of any alien, shall be subject to challenge by any other immigration officer and such challenge shall operate to take the alien, whose privilege to enter is so challenged, before a special inquiry officer for a hearing on exclusion of the alien.

"(5)(A) Subject to subparagraph (B), an alien has not entered the United States for purposes of this Act unless and until such alien has been inspected and admitted by an immigration officer pursuant to this subsection.

"(B) An alien who (i) is physically present in the United States, (ii) has been physically present in the United States for a continuous period of one year, and (iii) has not been inspected and admitted by an immigration officer shall be deemed to have entered the United States without inspection.".

(b) CONFORMING AMENDMENTS.—Section 237(a) (8 U.S.C. 1227(a)) is amended—

(1) in the second sentence of paragraph (1) by striking "Deportation" and inserting "Subject to section 235(b)(2), deportation"; and

(2) in the first sentence of paragraph (2) by striking "If" and inserting "Subject to section 235(b)(2), if".

SEC. 102. ENHANCED PENALTIES FOR ALIEN SMUGGLING.

(a) ADDITIONAL CRIMINAL PENALTY.—Section 274(a)(1) (8 U.S.C. 1324(a)(1)) is amended—

(1) by striking "or" at the end of subparagraph (C),

(2) by striking the comma at the end of subparagraph (D) and inserting "; or",

(3) by inserting after subparagraph (D) the following:

"(E) contracts or agrees with another party for that party to provide, for employment by the person or another, an alien who is not authorized to be employed in the United States, knowing that such party intends to cause such alien to be brought into the United States in violation of the laws of the United States,", and

(4) by striking "five years" and inserting "ten years".

(b) TREATMENT OF SMUGGLING AS AN AGGRAVATED FELONY.—The first sentence of section 101(a)(43) (8 U.S.C. 1101(a)(43)) is amended by inserting "or any offense under section 274(a)" before "for which the term of imprisonment".

SEC. 103. EFFECTIVE DATE.

(a) IN GENERAL.—Except as otherwise provided, the amendments made by this title shall take effect on the date of the enactment of this Act and shall apply to aliens who arrive in or seek admission to the United States on or after such date.

(b) SMUGGLING.—The amendment made by section 102(b) shall apply to offenses for which convictions are entered before, on, or after the date of the enactment of this Act.

(c) INTERIM REFERENCE TO PROVISIONAL ASYLUM.—Any reference in section 235(b)(2) of the Immigration and Nationality Act (as amended by section 101(a) of this Act) to provisional asylum under section 208 of the Immigration and Nationality Act shall be deemed, before the effective date of the amendment made by section 201(a), to be a reference to asylum under section 208 of such Act.

TITLE II—ASYLUM

SEC. 201. ASYLUM.

(a) IN GENERAL.—Section 208 (8 U.S.C. 1158) is amended to read as follows:

"ASYLUM

"SEC. 208. (a) PROVISIONAL ASYLUM.—

"(1) RIGHT TO APPLY.—An alien physically present in the United States or at a land border or port of entry, irrespective of such alien's status, may apply for provisional asylum in accordance with this section.

"(2) CONDITIONS FOR GRANTING.—

"(A) MANDATORY CASES.—The Attorney General shall grant provisional asylum to an alien if the alien applies for provisional asylum in accordance with the requirements of this section and establishes that it is more likely than not that in the alien's country of nationality (or, in the case of a person having no nationality, the country in which such alien last habitually resided) such alien's life or freedom would be threatened on account of race, religion, nationality, membership in a particular social group, or political opinion.

"(B) DISCRETIONARY CASES.—The Attorney General may grant provisional asylum to an alien if the alien applies for provisional asylum in accordance with the requirements of this section and establishes that the alien has good reason to fear persecution in the alien's country of nationality (or, in the case of a person having no nationality, the country in which such alien last habitually resided) on account of race, religion, nationality, membership in a particular social group, or political opinion.

"(C) EXCEPTION.—Subparagraphs (A) and (B) shall not apply to an alien if the Attorney General determines that—

"(i) the alien ordered, incited, assisted, or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion;

"(ii) the alien, having been convicted by a final judgment of a particularly serious crime, constitutes a danger to the community of the United States;

"(iii) there are serious reasons for believing that the alien has committed a serious nonpolitical crime outside the United States prior to the arrival of the alien in the United States;

"(iv) there are reasonable grounds for regarding the alien as a danger to the security of the United States; or

"(v) a country willing to accept the alien has been identified (other than the country described in subparagraph (A)) to which the alien can be deported or returned and the alien does not establish that it is more likely than not that the alien's life or freedom would be threatened in such country on account of race, religion, nationality, membership in a particular social group, or political opinion.

For purposes of clause (ii), an alien who has been convicted of an aggravated felony shall be considered to have committed a particularly serious crime. The Attorney General shall promulgate regulations that specify additional crimes that will be considered to be a crime described in clause (ii) or clause (iii). The Attorney General shall promulgate regulations establishing such additional limitations and conditions as the Attorney General considers appropriate under which an alien shall be ineligible to apply for provisional asylum under subparagraph (B).

"(3) PROVISIONAL ASYLUM STATUS.—In the case of any alien granted provisional asylum under paragraph (2), the Attorney General, in accordance with this section—

"(A) shall not deport or return the alien to the country described under paragraph (2)(A);

"(B) shall authorize the alien to engage in employment in the United States and provide the alien with an 'employment authorized' endorsement or other appropriate work permit; and

"(C) may allow the alien to travel abroad with the prior consent of the Attorney General.

"(4) TERMINATION.—Provisional asylum granted under paragraph (2) may be terminated if the Attorney General, pursuant to such regulations as the Attorney General may prescribe, determines that—

"(A) the alien no longer meets the conditions described in paragraph (2) owing to a change in circumstances in the alien's country of nationality or, in the case of an alien having no nationality, in the country in which the alien last habitually resided;

"(B) the alien meets a condition described in paragraph (2)(C); or

"(C) a country willing to accept the alien has been identified (other than the country described in paragraph (2)) to which the alien can be deported or returned and the alien cannot establish that it is more likely than not that the alien's life or freedom would be threatened in such country on account of race, religion, nationality, membership in a particular social group, or political opinion.

"(5) ACCEPTANCE BY ANOTHER COUNTRY.—In the case of an alien described in paragraph (2)(C)(v) or paragraph (4)(C), the alien's deportation or return shall be directed by the Attorney General in the sole discretion of the Attorney General, to any country which is willing to accept the alien into its territory (other than the country described in paragraph (2)).

"(b) PROVISIONAL ASYLUM PROCEDURE.—

"(1) APPLICATIONS.—

"(A) IN GENERAL.—

"(i) DEADLINE.—Subject to clause (ii), an alien's application for provisional asylum shall not be considered under this section unless—

"(I) the alien has filed, not later than 30 days after entering or coming to the United States, notice of intention to file such an application, and

"(II) such application is actually filed not later than 60 days after entering or coming to the United States.

"(ii) EXCEPTION.—An application for provisional asylum may be considered, notwithstanding that the requirements of clause (i) have not been met, only if the alien demonstrates by clear and convincing evidence changed circumstances in the alien's country of nationality (or in the case of an alien with no nationality, in the country where the alien last habitually resided) affecting eligibility for provisional asylum.

"(B) REQUIREMENTS.—An application for provisional asylum shall not be considered unless the alien submits to the taking of fingerprints and a photograph in a manner determined by the Attorney General.

"(C) FEES.—The Attorney General may provide for a reasonable fee for the consideration of an application for provisional asylum or for any employment authorization under subsection (a)(3)(B).

"(D) NOTICE OF PRIVILEGE OF COUNSEL AND CONSEQUENCES OF FRIVOLOUS APPLICATION.—

"(i) NOTICE.—At the time of filing a notice of intention to apply for provisional asylum, the alien shall be advised of the privilege of being represented (at no expense to the government) by such counsel, authorized to practice in such proceedings, as the alien shall choose and of the consequences, under subsection (d), of filing a frivolous application for provisional asylum.

"(ii) PROVISION OF LIST OF COUNSEL.—The Attorney General shall provide for lists (updated not less often than quarterly) of persons who have indicated their availability to represent pro bono aliens in provisional asylum proceedings. Such lists shall be provided to the alien at the time of filing of notice of intention to apply for provisional asylum, and otherwise be made generally available.

"(2) CONSIDERATION OF APPLICATIONS; HEARINGS.—

"(A) ASYLUM OFFICERS.—Applications for provisional asylum shall be considered by officers of the Service (referred to in this Act as 'asylum officers') who are specially designated by the Service as having special training and knowledge of international conditions and human rights records of foreign countries. Pending the designation of such officers, individuals who as of the date of the enactment of the Immigration Enforcement and Asylum Reform Act of 1993 are authorized to perform duties as asylum officers shall be deemed to be qualified to be asylum officers for purposes of this Act.

"(B) SCHEDULING OF HEARINGS.—

"(i) IN GENERAL.—Upon the filing of an application for provisional asylum, an asylum officer, at the earliest practicable time and after consultation with the attorney for the Government and the attorney (if any) for the applicant, shall set the application for hearing on a day certain or list it on a weekly or other short-term calendar, so as to assure a speedy hearing.

"(ii) DEADLINE.—Unless the applicant (or an attorney for the applicant) consents in writing to the contrary, the hearing on the provisional asylum application shall commence not later than 45 days after the date the application was filed.

"(C) PUBLIC HEARINGS.—A hearing on a provisional asylum application shall be open to the public unless the applicant requests that it be closed to the public.

"(D) RIGHTS IN HEARINGS.—The officer shall conduct the hearing in a nonadversarial manner. During such hearing, the applicant shall have the privilege of the assistance and participation of counsel (as provided under paragraph (1)(D)) and shall be entitled to present evidence and witnesses, to examine and object to evidence presented by the Government, and to cross-examine all witnesses presented by the Government.

"(E) COUNTRY CONDITIONS.—An officer may request opinions regarding country conditions from the Secretary of State, but shall not request or consider recommendations from the Secretary of State as to whether a particular named individual should or should not be granted provisional asylum.

"(F) TRANSCRIPT OF HEARINGS.—A complete record of the proceedings and of all testimony and evidence produced at the hearing shall be kept. The hearing shall be recorded verbatim. The Attorney General and the Service shall provide that a transcript of a hearing held under this section is made available not later than 10 days after the date of completion of the hearing.

"(G) DEADLINE FOR DETERMINATIONS ON APPLICATIONS.—The officer shall render a determination on the application not later than 30 days after the date of completion of the hearing. The determination of the officer shall be based only on the evidence produced at the hearing.

"(H) RESOURCE ALLOCATION.—The Attorney General shall allocate sufficient resources so as to assure that applications for provisional asylum are heard and determined on a timely basis. However, nothing in this paragraph relating to scheduling or deadlines shall be construed as creating any right or benefit, substantive or procedural, which is legally enforceable by any party against the United States, its agencies, its officers, or any other person.

"(I) SANCTIONS FOR FAILURE TO APPEAR.—

"(i) Subject to clause (ii), the application for provisional asylum of an alien who does not appear for a hearing on such application shall be summarily dismissed unless the alien can show exceptional circumstances (as defined in section 242B(f)(2)) as determined by the asylum officer.

"(ii) Clause (i) shall not apply if written and oral notice were not provided as required by section 242B(e)(4)(B).

"(J) FINALITY OF DETERMINATIONS.—

"(i) IN GENERAL.—The decision of the asylum officer shall be the final administrative determination of a claim for provisional asylum.

"(ii) TREATMENT OF CASES IN EXCLUSION OR DEPORTATION.—If proceedings are instituted against an alien under section 235 or 242 of this Act and the alien files an application for provisional asylum based on circumstances described in subsection (b)(1)(A)(ii), the asylum officer shall render, on an expedited basis, a decision on the application.

"(c) ASYLUM.—

"(1) ADJUSTMENT OF STATUS.—Under such regulations as the Attorney General may prescribe, the Attorney General shall adjust to the status of an alien granted asylum the status of any alien granted provisional asylum under subsection (a)(2)(A) who—

"(A) applies for such adjustment;

"(B) has been physically present in the United States for at least 1 year after being granted provisional asylum;

"(C) continues to be eligible for provisional asylum under this section; and

"(D) is admissible under this Act at the time of examination for adjustment of status under this subsection.

"(2) TREATMENT OF SPOUSE AND CHILDREN.—A spouse or child (as defined in section 101(b)(A), (B), (C), (D), or (E)) of an alien whose status is adjusted to that of an alien granted asylum under paragraph (a)(2) may be granted the same status as the alien if accompanying, or following to join, such alien.

"(3) APPLICATION FEES.—The Attorney General may impose a reasonable fee for the filing of an application for asylum under this subsection.

"(d) DENIAL OF IMMIGRATION BENEFITS FOR FRIVOLOUS APPLICATIONS.—

"(1) IN GENERAL.—If the asylum officer determines that an alien has made a frivolous application for provisional asylum under this section and the alien has received the notice under subsection (b)(1)(D)(i), the alien shall be permanently ineligible for any benefits under this Act, effective as of the date of a final determination on such application.

"(2) TREATMENT OF MATERIAL MISREPRESENTATIONS.—For purposes of this subsection, an application considered to be 'frivolous' includes, but is not limited to, an application which contains a willful misrepresentation or concealment of a material fact.".

(b) CLERICAL AMENDMENT.—The item in the table of contents relating to section 208 is amended to read as follows:

"Sec. 208. Asylum.".

SEC. 202. FAILURE TO APPEAR FOR PROVISIONAL ASYLUM HEARING; JUDICIAL REVIEW.

(a) FAILURE TO APPEAR FOR PROVISIONAL ASYLUM HEARING.—Section 242B(e)(4) (8 U.S.C. 1252b(e)(4)) is amended—

(1) in the heading, by striking "ASYLUM" and inserting "PROVISIONAL ASYLUM";

(2) by striking "asylum" each place it appears and inserting "provisional asylum"; and

(3) in subparagraph (A), by striking all after clause (iii) and inserting "shall not be eligible for any benefits under this Act.".

(b) Judicial Review.—Section 106 (8 U.S.C. 1105a) is amended by adding at the end the following subsection:

"(d) The procedure prescribed by, and all the provisions of chapter 158 of title 28, United States Code, shall apply to, and shall be the sole and exclusive procedure for, the judicial review of all final orders granting or denying provisional asylum, except that—

"(1) a petition for review may be filed not later than 90 days after the date of the issuance of the final order granting or denying provisional asylum;

"(2) the venue of any petition for review under this subsection shall be in the judicial circuit in which the administrative proceedings before an asylum officer were conducted in whole or in part, or in the judicial circuit wherein is the residence, as defined in this Act, of the petitioner, but not in more than one circuit; and

"(3) notwithstanding any other provision of law, a determination granting or denying provisional asylum based on changed circumstances pursuant to section 208(b)(1)(A)(ii) shall be in the sole discretion of the asylum officer.".

SEC. 203. CONFORMING AMENDMENTS.

(a) Limitation on Deportation.—Section 243 (8 U.S.C. 1253) is amended by striking subsection (h).

(b) Adjustment of Status.—Section 209(b) (8 U.S.C. 1159(b)) is amended—

(1) in paragraph (2) by striking "one year" and inserting "2 years"; and

(2) by amending paragraph (3) to read as follows:

"(3) continues to be eligible for provisional asylum under section 208,".

(c) Aliens Ineligible for Temporary Protected Status.—Section 244A(c)(2)(B)(ii) (8 U.S.C. 1254a(c)(2)(B)(ii)) is amended by striking "section 243(h)(2)" and inserting "clauses (i), (ii), (iii), or (iv) of section 208(a)(2)(B)".

(d) Eligibility for Naturalization.—Section 316(f)(1) (8 U.S.C. 1427(f)(1)) is amended by striking "subparagraphs (A) through (D) of paragraph 243(h)(2)" and inserting "clauses (i), (ii), (iii), or (iv) of section 208(a)(2)(B).".

(e) Family Unity.—Section 301(e) of the Immigration Act of 1990 (P.L. 101–649) is amended by striking "section 243(h)(2)" and inserting "clauses (i), (ii), (iii), or (iv) of section 208(a)(2)(B).".

SEC. 204. EFFECTIVE DATES.

(a) In General.—Except as otherwise provided, the amendments made by this title shall take effect on the date of the enactment of this Act.

(b) Exceptions.—

(1) The amendments made by this title shall not apply to applications for asylum or withholding of deportation made before the first day of the first month that begins more than 180 days after the date of the enactment of this Act and no application for provisional asylum under section 208 of the Immigration and Nationality Act (as amended by section 201 of this Act) shall be considered before such first day.

(2) In applying section 208(b)(1)(A) of the Immigration and Nationality Act (as amended by this title) in the case of an alien who has entered or came to the United States before the first day described in paragraph (1), notwithstanding the deadlines specified in such section—

(A) the deadline for the filing of a notice of intention to file an application for provisional asylum is 30 days after such first day, and

(B) the deadline for the filing of the application for provisional asylum is 30 days after the date of filing such notice.

(3) The amendments made by section 203(b) (relating to adjustment of status) shall not apply to aliens granted asylum under section 208 of the Immigration and Nationality Act, as in effect before the date of the enactment of this Act.

TITLE III—INSPECTIONS

SEC. 301. PREINSPECTION AT FOREIGN AIRPORTS.

(a) In General.—The Immigration and Nationality Act is amended by inserting after section 235 the following new section:

"PREINSPECTION AT FOREIGN AIRPORTS

"Sec. 235A. (a) Establishment of Additional Preinspection Stations at High Volume Airports.—Subject to subsection (c), not later than 2 years after the date of the enactment of this section, the Attorney General, in consultation with the Secretary of State, shall establish and maintain preinspection stations in at least 3 of the foreign airports that are among the 10 foreign airports which the Attorney General identifies as serving as last points of departure for the greatest numbers of passengers who arrive from abroad by air at ports of entry within the United States. Such preinspection stations shall be in addition to any preinspection stations established or authorized to be established prior to the date of the enactment of this section.

"(b) Establishment of Additional Preinspection Stations at Certain Foreign Airports From Which Undocumented Aliens Depart for the United States.—

"(1) Reports to congress.—Not later than November 1, 1993, and each subsequent November 1, the Attorney General shall compile and submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate a report identifying the foreign airports which served as last points of departure for aliens who arrived by air at United States ports of entry without valid documentation during the preceding fiscal year. Such report shall indicate the number and nationality of such aliens arriving from each such foreign airport.

"(2) Establishment of additional preinspection stations.—Subject to subsection (c), not later than November 1, 1995, the Attorney General, in consultation with the Secretary of State, shall establish preinspection stations in at least 3 of the foreign airports that are among the 10 foreign airports identified in the first report submitted under paragraph (1) as serving as the last points of departure for the greatest number of aliens who arrive from abroad by air at points of entry within the United States without valid documentation. Such preinspection stations shall be in addition to any preinspection stations established or authorized to be established either under subsection (a) or prior to the date of the enactment of this section.

"(3) Establishment of carrier consultant program.—The Attorney General shall assign additional immigration officers to any foreign airport identified in the first report submitted under paragraph (1) which served as a point of departure for a significant number of arrivals at United States ports of entry without valid documentation, but where no preinspection station is established.

"(c) Conditions for Establishment of Preinspection.—Prior to the establishment of a preinspection station the Attorney General, in consultation with the Secretary of State, shall ensure that—

"(1) employees of the United States stationed at the preinspection station and their accompanying family members will receive appropriate protection,

"(2) such employees and their families will not be subject to unreasonable risks to their welfare and safety, and

"(3) the country in which the preinspection station is to be established maintains practices and procedures with respect to asylum seekers and refugees in accordance with the Convention Relating to the Status of Refugees (done at Geneva, July 28, 1951) or the Protocol Relating to the Status of Refugees (done at New York, January 31, 1967).".

(b) Clerical Amendment.—The table of contents is amended by inserting after the item relating to section 235 the following new item:

"Sec. 235A. Preinspection at foreign airports.".

SEC. 302. EXPEDITING AIRPORT IMMIGRATION PROCESSING.

(a) Passenger Manifests.—

(1) Electronic passenger manifests.—Section 231(a) (8 U.S.C. 1221(a)) is amended in the first sentence by striking "typewritten" and inserting "electronic, typewritten,".

(2) Information contained in passenger manifest.—Section 231(a) (8 U.S.C. 1221(a)) is further amended by inserting immediately before the period at the end of the second sentence ", except that regulations concerning the information contained in such lists may not require information other than the full name, date of birth, passport number, and citizenship of the person transported, and information identifying the flight on which the person was transported".

(b) Inspection by Immigration Officers.—Section 235(a) (8 U.S.C. 1225(a)) is amended by adding after the second sentence the following: "Except as the Attorney General may provide, nothing in this section shall be construed as requiring a personal interview in the conduct of an examination or inspection.".

(c) Expedited Process for the Inspection of Citizens.—

(1) In general.—Section 235A, as inserted by section 301(a) of this Act, is amended—

(A) in the heading, by adding at the end the following: "; EXPEDITED PROCESS FOR THE INSPECTION OF CITIZENS", and

(B) by adding at the end the following new subsection:

"(d) Expedited Process for the Inspection of Citizens.—Not later than 90 days after the date of the enactment of this section, the Attorney General shall implement an expedited process for the inspection of United States citizens upon arrival from abroad by air at ports of entry within the United States. An expedited process shall be maintained except during a national or airport specific security emergency as determined by the Attorney General.".

(2) Clerical amendment.—The item in the table of contents relating to section 235A, as inserted by section 301(b) of this Act, is amended to read as follows:

"Sec. 235A. Preinspection at foreign airports; expedited process for the inspection of citizens.".

SEC. 303. VISA WAIVER PROGRAM.

(a) Permanency of Program.—Section 217 (8 U.S.C. 1187) is amended—

(1) by amending the section heading to read as follows:

"VISA WAIVER PROGRAM FOR CERTAIN VISITORS";

(2) in the heading of subsection (a), (a)(2), and (c) by striking "PILOT" and "PILOT" each place either appears and inserting "VISA WAIVER" and "VISA WAIVER", respectively;

(3) by striking "pilot" each place it appears and inserting "visa waiver";

(4) in subsection (a)(1) by striking "during the pilot program period (as defined in subsection (e)),";

(5) in subsection (c)(3) by striking "(within the pilot program period) after the initial period";

(6) in subsection (c) by striking paragraph (4);

(7) in subsection (e)(1)(A) by striking "(a)(1)(A)" and inserting "(a)(1)"; and

(8) by striking subsection (f).

(b) ELIMINATION OF REQUIREMENT FOR EXECUTION OF IMMIGRATION FORMS.—Section 217 is further amended—

(1) in subsection (a) by striking paragraph (3);

(2) in subsection (a) by redesignating paragraphs (4) through (7) as paragraphs (3) through (6); and

(3) in subsection (e)(1) by striking "subsection (a)(4)" and inserting "subsection (a)(3)".

(c) EXCLUSION AND DEPORTATION OF APPLICANTS FOR ADMISSION UNDER VISA WAIVER PROGRAM.—Section 217(b) (8 U.S.C. 1187(b)) is amended to read as follows:

"(b) EXCLUSION AND DEPORTATION OF APPLICANTS FOR ADMISSION UNDER VISA WAIVER PROGRAM.—

"(1) EXCLUSION.—

"(A) An immigration officer's determination that an applicant for admission under this section is not clearly and beyond a doubt entitled to land shall constitute a final order of exclusion and deportation, enforceable pursuant to section 237. Pending such a determination, the Attorney General may maintain such applicant in custody.

"(B) The procedure described in section 236 shall not apply to an order issued under this paragraph.

"(2) DEPORTATION.—

"(A) Notwithstanding any other provision of law, an alien admitted to the United States under this section who is determined, pursuant to such regulations as the Attorney General shall prescribe, to be subject to deportation shall be deported pursuant to section 243. An immigration officer's determination under this subsection shall constitute a final order of deportation. Pending such determination, the Attorney General may maintain such alien in custody.

"(B) The procedure described in section 242 shall not apply to an order issued under this paragraph.

"(3) REVIEW.—Notwithstanding any other provision of law or the failure of a carrier to provide the notice described in subsection (e)(1)(D), an alien who applies for admission to the United States under this section shall not be entitled—

"(A) to review or appeal under this Act of an immigration officer's determination as to the admissibility of the alien at the port of entry into the United States, or

"(B) subject to paragraph (4), to contest an immigration officer's determination under paragraph (2).

"(4) ASYLUM.—The Attorney General shall establish a procedure for an alien who is applying for admission under this section or who has been admitted under this section to apply for provisional asylum under section 208.

"(5) TREATMENT OF NATIONALS OF VISA WAIVER COUNTRIES.—An alien who—

"(A) is a national of a visa waiver program country or claims to be a national of a visa waiver country, and

"(B) is not in possession of a valid visa,

shall be considered to be an applicant for admission under this section.".

(d) CARRIER AGREEMENTS.—Section 217(e)(1) (8 U.S.C. 1187(e)(1)) is amended—

(1) in subparagraph (B) by striking "and";

(2) in subparagraph (C) by striking the period at the end and inserting "; and"; and

(3) by inserting after subparagraph (C) the following new subparagraph:

"(D) to provide passengers applying for admission to the United States under this section with written notification that they are not entitled (i) to any appeal or review of an immigration officer's determination of admissibility, or (ii) to contest any action for deportation.".

(e) CLERICAL AMENDMENT.—The item in the table of contents relating to section 217 is amended to read as follows:

"Sec. 217. Visa waiver program for certain visitors.".

SEC. 304. TRAINING OF AIRLINE PERSONNEL IN DETECTION OF FRAUDULENT DOCUMENTS.

(a) USE OF FUNDS.—Section 286(h)(2)(A) (8 U.S.C. 1356(h)(2)(A)) is amended—

(1) in clause (iv), by inserting ", including training of, and technical assistance to, commercial airline personnel on such detection" after "United States", and

(2) by adding at the end the following:

"The Attorney General shall provide for expenditures for training and assistance described in clause (iv) in an amount, for any fiscal year, not less than 5 percent of the total of the expenses incurred that are described in the previous sentence.".

(b) COMPLIANCE WITH DETECTION REGULATIONS.—Section 212(f) (8 U.S.C. 1182(f)) is amended by adding at the end the following: "Whenever the Attorney General finds that a commercial airline has failed to comply with regulations of the Attorney General relating to requirements of airlines for the detection of fraudulent documents used by passengers traveling to the United States (including the training of personnel in such detection), the Attorney General may suspend the entry of some or all aliens transported to the United States by such airline.".

(c) EFFECTIVE DATES.—

(1) The amendments made by subsection (a) shall apply to expenses incurred during or after fiscal year 1994.

(2) The Attorney General shall first issue, in proposed form, regulations referred to in the second sentence of section 212(f) of the Immigration and Nationality Act, as added by the amendment made by subsection (b), by not later than 90 days after the date of the enactment of this Act.

TITLE IV—AUTHORIZATION OF APPROPRIATIONS FOR THE IMMIGRATION AND NATURALIZATION SERVICE

SEC. 401. AUTHORIZATION OF APPROPRIATIONS FOR I.N.S. FOR FISCAL YEARS 1994 AND 1995.

(a) IN GENERAL.—There are authorized to be appropriated for the Immigration and Naturalization Service—

(1) for fiscal year 1994, $1,082,038,100, of which $413,224,900 are authorized to be appropriated for the operation of the Border Patrol and $27,434,000 are authorized to be appropriated for anti-smuggling activities; and

(2) for fiscal year 1995, $1,154,885,900, of which $454,547,000 are authorized to be appropriated for the operation of the Border Patrol and $31,277,400 are authorized to be appropriated for anti-smuggling activities.

Of the amounts authorized to be appropriated under this subsection, such sums as may be necessary are authorized to be available to provide by October 1, 1996, for not less than a 100 percent increase in the average number of asylum officers from the period for fiscal year 1993.

(b) ACTIVITIES INCLUDED.—The amounts provided pursuant to subsection (a) for a fiscal year include—

(1) funds for the purchase for police-type use of passenger motor vehicles, without regard to the general purchase price limit for the fiscal year involved, and for the hire of passenger motor vehicles;

(2) funds for the acquisition, lease, maintenance, and operation of aircraft;

(3) funds for the purchase of uniforms without regard to the general purchase price limitation for the fiscal year involved;

(4) not to exceed $50,000 to meet unforeseen emergencies of a confidential character to be expended under the direction of the Attorney General and to be accounted for solely on the certificate of the Attorney General; and

(5) not to exceed $500,000 of those sums appropriated for research and $17,188,000 of those funds appropriated for construction, which amounts shall remain available until expended.

(c) LIMITATION ON OVERTIME.—None of the funds available to the Immigration and Naturalization Service under this section shall be available for administrative expenses to pay any employee overtime pay in an amount in excess of $25,000 for a fiscal year involved.●

By Mr. LEAHY (for himself, Mr. HARKIN, Mr. SIMON, Ms. MOSELEY-BRAUN, Mr. WOFFORD, Mr. PRYOR, Mr. KERREY, Mr. BAUCUS, and Mr. JOHNSTON):

S. 1359. A bill to amend the Food Stamp Act of 1977 to require the domestic production of food stamp coupons; to the Committee on Agriculture, Nutrition, and Forestry.

NATIONAL FOOD STAMP ANTI-COUNTERFEITING ACT OF 1993

Mr. LEAHY. Mr. President, 2 weeks ago, I sent a letter to the U.S. Department of Agriculture objecting to the Department's proposal to allow foreign production of food stamps. Despite my objection, on July 30 the Department issued its request for proposals [RFP], which I believe will effectively allow for the first time the printing of food stamps in foreign countries.

USDA is making a big mistake. With over $20 billion of food stamps printed annually, I believe it essential to ensure the highest degree of accountability and integrity possible in the manufacture of food stamps.

Therefore, I feel I have no choice but to introduce legislation to prohibit the foreign printing and production of food stamps. We do not allow U.S. currency to be printed overseas, and I will not tolerate food stamps being printed overseas.

Two main concerns have driven me to introduce this bill: increased counterfeiting risk and other security problems which would arise with foreign production of food stamps, and the several thousand domestic jobs that will be lost.

Today, the domestic production of food stamps costs more than $50 million annually and employs thousands of Americans. The production, distribution, and use of food stamps is carefully monitored by the Secret Service, FBI, and police to combat counterfeiting or other illegal activities.

In allowing the foreign production of food stamps, we will force U.S. law enforcement to rely on foreign countries to ensure the security of printing, storage, and shipment of a form of U.S. legal tender. That is a big mistake. While we are trying to combat all forms of food stamp fraud—it makes no sense to open ourselves to unnecessary risks and costs of counterfeiting.

Foreign countries cannot be expected to implement the strict security requirements we have in the United States, nor is it realistic to expect foreign countries to be able to match the considerable resources and expertise of the Secret Service and the Department of Justice.

The United States must keep control over the printing, distribution, and production of food stamps—just as we do for all U.S. currency and other U.S. security documents.

The millions of Americans who participate in the Food Stamp Program receive food coupon books in various denominations. These coupons are accepted by food stores as a substitute for cash for the purchase of food. Food stamps are considered an official obligation of the United States and as such, are backed by the Federal Government just like a currency.

If the distinctive paper and the plates are moved abroad, the enforcement tasks of the Secret Service, FBI, and police become much more difficult, if not impossible. And the risks of counterfeiting and coupon security are very real.

The Department should reconsider its decision. I want to work with the Department of Agriculture on this issue. It is a matter of great importance and we cannot afford unnecessary risks to the integrity of this vital program. Mr. President, I hope USDA changes its mind on this issue. In case they do not, I am introducing this bill and I urge my colleagues to join with me to work this legislation through Congress.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1359

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Food Stamp Anti-Counterfeiting Act of 1993".

SEC. 2. FINDINGS.

Congress finds that—

(1) the face value of food stamp coupons printed each year exceeds $20,000,000,000, and more than 27,000,000 residents of the United States participate in the food stamp program authorized under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.);

(2) food stamps are a legal obligation of the United States;

(3) throughout the history of the food stamp program, the policy of the United States Department of Agriculture for the production of food stamp coupons has been to produce the coupons within the United States;

(4) in 1991, the Committee on Appropriations of the Senate reiterated the expectation of the Committee that the policy would continue;

(5) the United States Department of Agriculture recently indicated that the Department intends to change the policy of the Department so as to permit foreign production of food stamps;

(6) removing the production of these legal obligations of the United States from the United States could limit the reach of enforcement authorities of the Federal Government and undermine enforcement of criminal laws on counterfeiting and misappropriaton of food stamps, thus threatening the integrity of the food stamp program;

(7) for security reasons, Federal laws in effect on the date of enactment of this Act already require the domestic production of the distinctive paper used in the manufacturing of other forms of currency and secure paper, such as food stamps; and

(8) it is in the public interest for food stamps to be produced domestically to enable law enforcement agencies to prevent counterfeiting and theft.

SEC. 3. DOMESTIC PRINTING REQUIREMENT FOR FOOD STAMP COUPONS.

Section 7(a) of the Food Stamp Act of 1977 (7 U.S.C. 2016(a)) is amended by inserting after "shall be printed" the following: "within the United States and".

By Mrs. MURRAY:

S. 1360. A bill to amend title I of the Employee Retirement Income Security Act of 1974 to exempt from preemption under such title certain provisions of the law of the State of Washington relating to health plans; to the Committee on Labor and Human Resources.

WASHINGTON STATE HEALTH SERVICES REFORM ENABLING ACT OF 1993

Mrs. MURRAY. Mr. President, I am introducing today legislation relating to one of the toughest issues we face—health care reform. It is unlike most others facing our Nation because it has touched all of our lives in some way, all of us have a stake in its outcome. In the State of Washington, we have already taken the first major step toward reform of our health care system and my legislation will keep us moving forward.

Although the people of Washington State spend upward of $17 billion annually on health care, more than one million of our citizens will have no health insurance at some point during the year. Tragically, one of the largest groups of uninsured are children. For a typical Washington family, the cost of health care has increased over 462 percent since 1980. This means that, for many people, the cost of acquiring necessary and even basic health insurance is completely out of reach. For someone with a preexisting condition who loses his or her job, getting insurance is often impossible.

Fortunately, people in my State recognized the magnitude of the health care crisis years ago, and began to discuss how the system could be made to work again for individuals and families. After years of hard work, a consensus was finally reached, and the Washington State Legislature passed the Washington Health Services Act of 1993.

This far-reaching health care reform bill addresses many of the problems worrying a growing number of people throughout the Nation. It ensures all Washington State residents, even those with preexisting conditions, access to affordable health care by 1999. It controls costs through a blending of market and regulatory forces. A five-member Health Services Commission, just appointed by Governor Lowry, will work closely with citizen, business, and labor advisory committees to develop a uniform benefits package with a premium cap. In this managed care system all individuals will enroll in certified health plans which emphasize primary and preventive care.

Gov. Mike Lowry has asked for help of our congressional delegation to obtain Federal approval of the various waivers necessary to implement crucial elements of Washington State's plan. Some of these require legislative action; others require administrative action. The bill I am introducing, the Washington State Health Services Reform Enabling Act of 1993, deals with the most important—and most controversial—waiver: the one relating to ERISA, the Employee Retirement Income Security Act of 1974.

Since its enactment in 1974 to correct widespread pension problems, ERISA has prohibited States from enacting any law that related to health benefits for private sector workers and retirees. States have continued to pass laws regulating private insurance companies, but ERISA has precluded them from ordering employers to provide any minimum level of benefits to workers or retirees. Self-insured companies have been able to offer lesser coverage than traditional insurers must provide. Moreover, the already high cost of health insurance for small businesses has been driven even higher because big companies pull large numbers of employees outside the risk pools. With the foundation of the new Washington health care package being a mandate to employers to pay part of the cost of health care, the plan simply will not come into effect until an ERISA waiver is obtained.

The new Washington State health care reform bill requires all nonfarm employers to pay at least 50 percent of the premium on a uniform benefits package for their employees. My bill will give Washington State a waiver from the ERISA provisions so that the employer mandate can be implemented.

Passage of the Washington State Health Services Reform Enabling Act permits the following specific provisions of the State's reform bill to be put into effect:

Enrollment of certain employees in the basic health plan;

Taxation of premiums and hospitals;

Medical risk adjustment mechanisms;

Benefits required to be offered to registered employer health plans;

Requirements applicable to registered employer health plans; and

The requirement that employers offer and pay a portion of the costs of employee health care coverage.

I am proud of my State for its leadership in health care reform. While the Washington State plan may not be perfect, it gives us a good model as we begin reforming the health care system at the national level.

The Federal Government must recognize the pioneering work of States like Washington in health care reform. Unless we protect States' flexibility to address their unique health care needs, health care reform at the national level will be unworkable.

I hope my colleagues in the U.S. Senate will support the efforts of the Washington State delegation to see the Washington State Health Act implemented. Compromise and flexibility are the keys to successful reform of our Nation's health care system. Passage of this bill will demonstrate that, by working together, States and the Federal Government can move the country forward on this critical issue.

By Mr. COVERDELL (for himself, Mrs. HUTCHISON, Mr. BENNETT, Mr. FAIRCLOTH, Mr. GREGG, Mr. KEMPTHORNE, Mr. CRAIG, Mr. WALLOP, Mr. THURMOND, Mr. HELMS, Mr. LOTT, Mr. MCCAIN, and Mr. SMITH):

S.J. Res. 120. A joint resolution proposing an amendment to the Constitution prohibiting the imposition of retroactive taxes on the American people; to the Committee on the Judiciary.

RETROACTIVE TAXATION CONSTITUTIONAL AMENDMENT

• Mr. COVERDELL. Mr. President, today I introduce a constitutional amendment banning the U.S. Government from imposing any tax increase retroactively. The amendment states, "No Federal tax shall be imposed for the period before the date of enactment of the tax."

On Friday, we will vote on a tax increase that will actually rewrite tax rates for the past 8 months. We have changed the rules of the road for Americans, and this is wrong.

I am grateful to be joined by Senators BENNETT, FAIRCLOTH, GREGG, HUTCHISON, and KEMPTHORNE in introducing this amendment. It is a telling sign that all Republican freshmen have signed on to this amendment.

We have come fresh from the campaign trail and have heard directly from the voters. Looking backward for extra taxes is unacceptable, and it is not a fair deal to the taxpayers.

Americans have been working under one set of rules regarding taxes. Now we are saying to them, more than two-thirds through this year, that the Government is changing the rules to exact a higher amount of taxes for months you have already worked.

Is it any wonder Americans feel so disillusioned with this Government? If a Government can reach back several months and squeeze more taxes out of our families, what's to stop them from reaching back years to change the rules of the road? It is a reprehensible action on the part of the Government, and it should be stopped.

As Senator DOLE has pointed out, even the draft Constitution of the Russian Federation states that laws introducing new taxes cannot be imposed retroactively.•

ADDITIONAL COSPONSORS

S. 235

At the request of Mr. REID, the name of the Senator from New Mexico [Mr. DOMENICI] was added as a cosponsor of S. 235, a bill to limit State taxation of certain pension income, and for other purposes.

S. 411

At the request of Mr. D'AMATO, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 411, a bill to freeze domestic discretionary spending for fiscal years 1994 and 1995 at fiscal year 1993 levels.

S. 491

At the request of Mr. WELLSTONE, the name of the Senator from Illinois [Ms. MOSELEY-BRAUN] was added as a cosponsor of S. 491, a bill to provide health care for every American and to control the cost of the health care system.

S. 560

At the request of Mr. NUNN, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of S. 560, a bill to further the goals of the Paperwork Reduction Act to have Federal agencies become more responsible and publicly accountable for reducing the burden of Federal paperwork on the public, and for other purposes.

S. 570

At the request of Mr. GRASSLEY, the name of the Senator from Nevada [Mr. REID] was added as a cosponsor of S. 570, a bill to recognize the unique status of local exchange carriers in providing the public switched network infrastructure and to ensure the broad availability of advanced public switched network infrastructure.

S. 575

At the request of Mr. KENNEDY, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 575, a bill to amend the Occupational Safety and Health Act of 1970 to improve the provisions of such Act with respect to the health and safety of employees, and for other purposes.

S. 802

At the request of Mr. LAUTENBERG, the names of the Senator from Colorado [Mr. CAMPBELL] and the Senator from California [Mrs. BOXER] were added as cosponsors of S. 802, a bill to require the President to seek to obtain host nation payment of most or all of the overseas basing costs for forces of the Armed Forces of the United States in such nation, to limit the use of funds for paying overseas basing costs for U.S. forces, and for other purposes.

S. 922

At the request of Ms. MOSELEY-BRAUN, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 922, a bill to provide that a State court may not modify an order of another State court requiring the payment of child support unless the recipient of child support payments resides in the State in which the modification is sought or consents to the seeking of the modification in that court.

S. 968

At the request of Mr. BRADLEY, the names of the Senator from New Mexico [Mr. BINGAMAN] and the Senator from Vermont [Mr. JEFFORDS] were added as cosponsors of S. 968, a bill to establish additional exchange and training programs with the independent states of the former Soviet Union and the Baltic states.

S. 1029

At the request of Mr. GORTON, the names of the Senator from Nevada [Mr. REID] and the Senator from Alaska [Mr. MURKOWSKI] were added as cosponsors of S. 1029, a bill to amend the Job Training Partnership Act to encourage the placement of youths in private sector jobs under the Summer Youth Employment and Training Program, and for other purposes.

S. 1125

At the request of Mr. DODD, the name of the Senator from Oregon [Mr. HATFIELD] was added as a cosponsor of S. 1125, a bill to help local school systems achieve Goal Six of the National Education Goals, which provides that by the year 2000, every school in America will be free of drugs and violence and will offer a disciplined environment conducive to learning, by ensuring that all schools are safe and free of violence.

S. 1209

At the request of Mr. KEMPTHORNE, the name of the Senator from Alabama

[Mr. HEFLIN] was added as a cosponsor of S. 1209, a bill to provide for a delay in the applicability of certain regulations to certain municipal solid waste landfills under the Solid Waste Disposal Act, and for other purposes.

S. 1226

At the request of Mr. AKAKA, the names of the Senator from Hawaii [Mr. INOUYE] and the Senator from South Dakota [Mr. DASCHLE] were added as cosponsors of S. 1226, a bill to amend title 38, United States Code, to provide for the organization and administration of the Readjustment Counseling Service, to improve eligibility for readjustment counseling and related counseling, and for other purposes.

S. 1276

At the request of Mr. LEAHY, the names of the Senator from Arkansas [Mr. PRYOR], the Senator from Tennessee [Mr. SASSER], the Senator from Virginia [Mr. ROBB], the Senator from New Mexico [Mr. BINGAMAN], the Senator from Colorado [Mr. CAMPBELL], the Senator from Ohio [Mr. GLENN], and the Senator from Kansas [Mrs. KASSEBAUM] were added as cosponsors of S. 1276, a bill to extend for three years the moratorium on the sale, transfer or export of anti-personnel landmines abroad, and for other purposes.

S. 1310

At the request of Ms. MIKULSKI, the name of the Senator from Minnesota [Mr. WELLSTONE] was added as a cosponsor of S. 1310, a bill to amend the Public Health Service Act to revise and extend the program of grants relating to preventive health measures with respect to breast and cervical cancer, and for other purposes.

S. 1329

At the request of Mr. D'AMATO, the name of the Senator from Pennsylvania [Mr. WOFFORD] was added as a cosponsor of S. 1329, a bill to provide for an investigation of the whereabouts of the United States citizens and others who have been missing from Cyprus since 1974.

SENATE JOINT RESOLUTION 58

At the request of Mr. RIEGLE, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of Senate Joint Resolution 58, a joint resolution to designate the weeks of May 2, 1993, through May 8, 1993, and May 1, 1994, through May 7, 1994, as "National Correctional Officers Week."

SENATE JOINT RESOLUTION 90

At the request of Mr. ROBB, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of Senate Joint Resolution 90, a joint resolution to recognize the achievements of radio amateurs, and to establish support for such amateurs as national policy.

SENATE JOINT RESOLUTION 92

At the request of Mr. D'AMATO, the name of the Senator from Delaware [Mr. BIDEN] was added as a cosponsor of Senate Joint Resolution 92, a joint resolution to designate both the month of October 1993 and the month of October 1994 as "National Down Syndrome Awareness Month."

SENATE JOINT RESOLUTION 94

At the request of Mr. DOLE, the names of the Senator from Nevada [Mr. REID], and the Senator from North Carolina [Mr. HELMS] were added as cosponsors of Senate Joint Resolution 94, a joint resolution to designate the week of October 3, 1993, through October 9, 1993, as "National Customer Service Week."

SENATE JOINT RESOLUTION 113

At the request of Mr. DECONCINI, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of Senate Joint Resolution 113, a joint resolution designating October 1993 as "Italian-American Heritage and Culture Month."

At the request of Mr. D'AMATO, the name of the Senator from Maine [Mr. MITCHELL] was added as a cosponsor of Senate Joint Resolution 113, supra.

SENATE JOINT RESOLUTION 115

At the request of Mr. COCHRAN, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of Senate Joint Resolution 115, a joint resolution designating November 22, 1993, as "National Military Families Recognition Day."

SENATE CONCURRENT RESOLUTION 26

At the request of Mr. SIMON, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of Senate Concurrent Resolution 26, a concurrent resolution urging the President to redirect U.S. foreign assistance policies and spending priorities toward promoting sustainable development, which reduces global hunger and poverty, protects the environment, and promotes democracy.

SENATE RESOLUTION 70

At the request of Mr. BRADLEY, the names of the Senator from Oklahoma [Mr. BOREN], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Michigan [Mr. LEVIN], the Senator from Tennessee [Mr. MATHEWS], the Senator from Nevada [Mr. REID], the Senator from Alaska [Mr. MURKOWSKI], the Senator from New York [Mr. D'AMATO], the Senator from Vermont [Mr. JEFFORDS], the Senator from Colorado [Mr. CAMPBELL], and the Senator from New Mexico [Mr. BINGAMAN] were added as cosponsors of Senate Resolution 70, a resolution expressing the sense of the Senate regarding the need for the President to seek the advice and consent of the Senate to the ratification of the United Nations Convention on the Rights of the Child.

AMENDMENT NO. 756

At the request of Mr. HARKIN the name of the Senator from Missouri [Mr. DANFORTH] was added as a cosponsor of Amendment No. 756 proposed to H.R. 2667, a bill making emergency supplemental appropriations for relief from the major, widespread flooding in the Midwest for the fiscal year ending September 30, 1993, and for other purposes.

SENATE RESOLUTION 138—RELATIVE TO THE PRINTING OF A PUBLICATION WITH RESPECT TO BOSNIA

Mr. KENNEDY (for Mr. PELL for himself and Mr. BIDEN) submitted the following resolution; which was considered and agreed to:

S. RES. 138

Resolved, That an additional 250 copies of the publication entitled, "To Stand Against Aggression; Milosevic, the Bosnian Republic, and the Conscience of the West," be printed for the use of the Committee on Foreign Relations.

SENATE RESOLUTION 139—RELATIVE TO OFFICE OF SENATE FAIR EMPLOYMENT PRACTICES

Mr. KENNEDY (for Mr. MITCHELL for himself and Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 139

Resolved, (a)(1) If, at any time after a Senate employee (as defined in section 301(c)(1) of the Government Employee Rights Act of 1991 (Public Law 102-166) (hereinafter referred to as the "Act")) files a formal complaint under section 307(a) of the Act with the Office of Senate Fair Employment Practices (hereinafter referred to as the "Office")—

(A) such employee and the head of an employing office (as defined in section 301(c)(2) of the Act) resolve the issues involved and enter into a written settlement agreement requiring the payment of money as provided in subsection (c), and

(B) the agreement is approved by the Director of the Office (hereinafter referred to as the "Director"),

the Director shall submit the agreement, together with a letter of advice by the Director that the agreement is reasonable and appropriate, to the Chairman and Ranking Minority Member of the Committee on Rules and Administration (hereinafter referred to as the "Chairman and Ranking Member") for approval.

(2) Any such settlement agreement that includes any provision regarding Senate payment of a Senate employee's attorney's fees shall be forwarded by the Director to the Senate Legal Counsel who shall also review that provision and advise the Chairman and Ranking Member whether that provision is reasonable and appropriate.

(3) If the Chairman and Ranking Member disapprove the agreement, the agreement shall be returned to the Director with a written explanation for the disapproval. Following such disapproval, a new or revised agreement that is approved by the Director may be submitted by the Director to the Chairman and Ranking Member, and, if appropriate, forwarded to the Senate Legal Counsel, in the same manner as the original. If the Chairman and Ranking Member disapprove such a new or revised agreement, such agreement shall be returned to the Director with a written explanation and such

instructions as the Chairman and Ranking Member may deem appropriate.

(4) If the Chairman and Ranking Member approve the agreement, the payment of money under the terms of such agreement may be authorized as provided in subsection (c).

(5) The time necessary to complete the procedures under paragraphs (1)(B), (2), and (3) shall be excluded in calculating the period within which a hearing shall be conducted under section 307(d) of the Act.

(b) Notwithstanding the third sentence of section 307(h) of the Act, if, upon the conclusion of all proceedings conducted pursuant to sections 307, 308, and 309 of the Act, there is a final order requiring the payment of money, the Chairman and Ranking Member may approve and authorize the payment of money as provided in subsection (c). The Senate Legal Counsel shall provide such advice and assistance as the Chairman and Ranking Member may request for the purposes of this subsection.

(c) The payment of any monetary amount approved as part of a settlement agreement approved under subsection (a) and any payment pursuant to an order under subsection (b) shall be paid from the Contingent Fund of the Senate from the appropriations account "Settlements and Awards Reserve", established by section 1205 of Public Law 103–50, upon vouchers approved by the Chairman and Ranking Member.

(d) The Chairman and Ranking Member, the Senate Legal Counsel, and the Director may review information necessary to carry out the provisions of this resolution notwithstanding the provisions of section 313 of the Act.

(e) The provisions of this resolution shall apply to—

(1) an allegation of a violation as defined in section 301(c)(3) of the Act,

(2) an allegation of an unlawful employment practice under section 312 of the Act, and

(3) an allegation of a violation of a provision of sections 101 through 105 of the Family and Medical Leave Act of 1993.

(f) The first sentence of section 303(e) of the Act is deemed to have inserted the words ", upon the approval of the Committee on Rules and Administration," after "The Director".

AMENDMENTS SUBMITTED

EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR RELIEF FROM THE MAJOR, WIDESPREAD FLOODING IN THE MIDWEST ACT OF 1993

SPECTER (AND DODD) AMENDMENT NO. 757

Mr. SPECTER (for himself and Mr. DODD) proposed an amendment to the bill (H.R. 2667) making emergency supplemental appropriations for relief from the major, widespread flooding in the Midwest for the fiscal year ending September 30, 1993, and for other purposes; as follows:

The Senate finds:

Numerous atrocities have been reported on the conflict in the former Yugoslavia;

Such atrocities against innocent civilians and prisoners would violate universally accepted law as embodied in the Geneva Conventions of August 12, 1949 for the Protection of War Victims; the Hague Convention (IV) Respecting the Laws and Customs of War on Land and the Regulations annexed thereto of October 18, 1907; the Convention on the Prevention and Punishment of the Crime of Genocide of December 9, 1948; and the Charter of the International Military Tribunal of August 8, 1945;

In October 1992 the United Nations Security Council adopted Resolution 780 establishing a Commission of Experts to gather and evaluate evidence of such war crimes;

The Commission of Experts submitted an interim report dated January 26, 1993 which concluded that grave breaches and other violations of international humanitarian law had been committed in the territory of the former Yugoslavia, including willful killing, "ethnic cleansing," mass killings, torture, rape, pillage, and destruction of civilian property, destruction of cultural and religious property and arbitrary arrests;

The Commission of Experts has been hindered in carrying out fully its legal charge because of insufficient resources;

On February 22, 1993, the United Nations Security Council adopted Resolution 808 establishing an international tribunal to try individuals accused of the commission of war crimes in the former Yugoslavia;

On May 3, 1993, the Secretary General of the United Nations issued his report which established the procedures for an international war crimes tribunal;

The United Nations is presently in the process of selecting judges and prosecutors for the international war crimes tribunal;

According to reports, the atrocities in the former Yugoslavia continue unabated; and

There is a dire need to establish promptly the tribunal and commence prosecution of alleged war criminals: Now, therefore,

(a) the Senate hereby commends the United Nations for its recognition of the importance and necessity of the rule of law as evidenced by its establishment of an international tribunal for the prosecution of war crimes in the former Yugoslavia.

(b) It is the sense of the Senate that the United Nations should

(1) expedite the selection of judges and prosecutors for the tribunal in order to begin prosecutions of alleged war criminals; and

(2) provide all assistance necessary to continue gathering evidence for such prosecutions.

HARKIN (AND OTHERS) AMENDMENT NO. 758

Mr. HARKIN (for himself, Mr. BOND, Mr. WELLSTONE, Mr. DASCHLE, and Mr. CONRAD) proposed an amendment to the bill (H.R. 2667), supra, as follows:

On page 2 line 13 at the end of the sentence insert the following: "notwithstanding any other provision of this Act, the following shall be the law with respect to the Commodity Credit Corporation.".

COMMODITY CREDIT CORPORATION

COMMODITY CREDIT CORPORATION FUND

For an additional amount for the "Commodity Credit Corporation Fund" to cover 1993 crop losses resulting from damaging weather or related floods associated with the conditions as defined in section 2251 of Public Law 101–624, in 1993, $1,050,000,000, and in addition $300,000,000, which shall be available only to the extent an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to Congress, the total to remain available until June 30, 1994: *Provided*, That from funds previously made available in Public Law 102–368 by Presidential declaration, $100,000,000 to remain available until June 30, 1994, shall be for 1993 crop losses only: *Provided further*, That if prior to April 1, 1994, the President determines that extraordinary circumstances exist that warrant further assistance, the Secretary of Agriculture shall use such funds of the Commodity Credit Corporation as are necessary to make payments in an amount equal to 100 percent of each eligible claim as determined under title XXII of Public Law 101–624: *Provided further*, That all additional amounts made available herein are subject to the terms and conditions in Public Law 101–624: *Provided further*, That Congress hereby designates the entire amount provided herein as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That notwithstanding any provision of Public Law 103–50, funds provided by such Act shall not be expended for 1993 crop losses resulting from 1993 natural disasters, and claims for assistance from funds provided by that Act by producers with 1990, 1991, and 1992 crop losses shall be paid only to the extent such claims are filed by September 17, 1993.

BYRD (AND OTHERS) AMENDMENT NO. 759

Mr. BYRD (for himself, Mr. HATFIELD, Mr. HARKIN, and Mr. WELLSTONE) proposed an amendment to the bill (H.R. 2667), supra, as follows:

Before the period at the end of the first excepted Committee amendment, insert the following: ": *Provided further*, That notwithstanding any other provision of this Act, the amount provided herein for Economic Development Assistance programs under the heading "Economic Development Administration" shall be $200,000,000, of which $100,000,000 shall only be available to the extent an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to Congress: *Provided further*, That notwithstanding any other provision of this Act, the amount provided herein for the Disaster Loan Program account under the heading "Small Business Administration" shall be $70,000,000, of which $10,000,000 shall be available only to the extent an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to Congress: *Provided further*, That notwithstanding any other provision of law, the $500,000 limitation on the amounts outstanding and committed to a borrower provided in paragraph 7(c)(6) of the Small Business Act shall be increased to $750,000 for Presidentially-declared major disasters for recent Midwest flooding: *Provided further*, That notwithstanding any other provision of this Act, the amount provided herein under the heading "Employment and Training Administration" for part B of title III of the Job Training Partnership Act shall be $54,600,000 of which $11,100,000 shall be available only to the extent an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to Congress: *Provided further*, That notwithstanding any other provision of this Act, the amount provided herein for programs and activities of the Commission on National and Community Service shall be $4,000,000, of which $2,000,000 shall be available only to the extent an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to Congress: *Provided further*, That all of the above amounts are designated by Congress as emergency requirements pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended".

BOND (AND OTHERS) AMENDMENT NO. 760

Mr. HATFIELD (for Mr. Bond for himself, Mr. Simon, Mr. Danforth, Mr. Harkin, Mr. Wellstone, Mr. Durenberger, and Mr. Pressler) proposed an amendment to the bill (H.R. 2667), supra, as follows:

On page 18, line 10 through line 14, restore the matter stricken.

On line 14, strike the numeral.

On line 25, strike "$6,000,000 of".

DURENBERGER AMENDMENT NO. 761

Mr. DURENBERGER proposed an amendment to the bill (H.R. 2667), supra, as follows:

At the appropriate place, add the following:

FUNDING SPENDING THROUGH SEQUESTERS

Sec. . (a) Removal of Emergency Designation.—Not withstanding any other provision of this Act to the contrary, all the amounts designated in this Act as emergency requirements for purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 shall be treated as not being emergency spending under the Balanced Budget and Emergency Deficit Control Act of 1985.

(b) It is the sense of the Congress that spending reductions required by this section should be achieved through reductions in administrative expenses rather than in the expenses of underlying programs or assistance.

BROWN AMENDMENT NO. 762

Mr. BROWN proposed an amendment to the bill (H.R. 2667), supra, as follows:

At the end of chapter VIII add the following new section:

SEC. . PROHIBITED FLOOD DISASTER ASSISTANCE.

(a) General Prohibition.—Notwithstanding any other provision of law, no Federal funds made available for assistance under this Act in a flood disaster area may be used to make a payment (including any loan assistance payment) to a person for damage to any personal, residential, or commercial property if that person at any time has received flood disaster assistance that was conditional on the person first having obtained flood insurance under applicable Federal law and subsequently having failed to obtain and maintain flood insurance as required under applicable Federal law on such property.

(b) Amendment to the Flood Disaster Protection Act of 1973.—Section 102(a) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a(a)) is amended—

(1) By striking ", during the anticipated economic or useful life of the project,"; and

(2) By adding at the end of the following: "The requirement of maintaining flood insurance shall apply during the life of the property, regardless of transfer of ownership of such property.".

(c) Definition.—For purposes of this section, the term "flood disaster area" means an area with respect to which—

(1) the Secretary of Agriculture finds, or has found, to have been substantially affected by a natural disaster in the United States pursuant to section 321(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. Section 1961(a)); or

(2) the President declares, or has declared, the existence of a major disaster or emergency pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. Section 5121 et seq.), as a result of flood conditions existing in or affecting that area.

DURENBERGER (AND OTHERS) AMENDMENT NO. 763

Mr. DURENBERGER (for himself, Mr. Grassley, and Mr. Pressler) proposed an amendment to the bill (H.R. 2667), supra, as follows:

At the appropriate place, insert the following new section:

SEC. . FEDERAL CROP INSURANCE FAIRNESS.

(a) Levels of Coverage in Excess of 75 Percent of Recorded or Appraised Average Yield.—Subsection (a) of section 508 of the Federal Crop Insurance Act (7 U.S.C. 1508(a)) is amended to read as follows:

"(a) Authority to Offer Insurance.—

"(1) In general.—If sufficient actuarial data are available, as determined by the Board, the Corporation may insure producers of agricultural commodities grown in the United States under any plan or plans of insurance determined by the Board to be adapted to the agricultural commodity involved.

"(2) Causes.—The insurance shall be against loss of the insured commodity due to unavoidable causes, including drought, flood, hail, wind, frost, winterkill, lighting, fire, excessive rain, snow, wildlife, hurricane, tornado, insect infestation, plant disease, and such other unavoidable causes as may be determined by the Board.

"(3) Period.—

"(A) In general.—Except in the case of tobacco, insurance shall not extend beyond the period the insured commodity is in the field.

"(B) Definition of field.—For purposes of subparagraph (A), in the case of aquacultural species, the term 'field' means the environment in which the commodity is produced.

"(4) Standard yield coverage.—

"(A) In general.—Subject to subparagraph (B), any insurance offered against loss in yield shall make available to producers protection against loss in yield that covers 75 percent of the recorded or appraised average yield of the commodity on the insured farm for a representative period.

"(B) Adjustments.—Average yields established under subparagraph (A) shall be subject to such adjustments as the Board may prescribe to the end that the average yields fixed for farms in the same area, that are subject to the same conditions, may be fair and just.

"(5) Lesser yield coverage.—In addition, the Corporation shall make available to producers lesser levels of yield coverage, including a level of coverage at 50 percent of the recorded or appraised average yield, as adjusted.

"(7) Additional premiums.—Additional insurance under this subsection shall be provided for an additional premium (for which no premium subsidy or administrative subsidy may be provided) set at such rate as the Board determines—

"(A) appropriate to reflect accurately the increased risk involved; and

"(B) actuarially sufficient to—

"(i) cover claims for losses on the insurance; and

"(ii) establish a reasonable reserve against unforeseen losses.

"(8) Levels of coverage in excess of 75 percent of recorded or appraised average yield.—The Corporation may make available to producers on a farm located in a growing area a level of coverage in excess of 75 percent of the recorded or appraised average yield, as adjusted, if the Corporation determines that normal variations in yield in the growing area have not resulted in the payment of claims for losses while the level of coverage is limited to 75 percent.

"(9) Maximum level of coverage.—Except as provided in paragraphs (6) through (8), the corporation may not make available to producers any level of coverage in excess of 75 percent of the recorded or appraised average yield, as adjusted.

"(10) Projected market price option.—One of the price elections offered shall approximate (but be not less than 90 percent of) the projected market price for the commodity involved, as determined by the Board.

"(11) Uninsured losses.—Insurance provided under this subsection shall not cover losses due to—

"(A) neglect or malfeasance of the producer;

"(B) the failure of the producer to reseed to the same crop in areas and under circumstances where it is customary to so reseed; or

"(C) the failure of the producer to follow established good farming practices.

"(12) Insurance risks.—The Board may limit or refuse insurance in any county or area, or on any farm, on the basis of the insurance risk involved.

"(13) Agricultural income in counties.—Insurance shall not be provided on any agricultural commodity in any county in which the Board determines that the income from the commodity constitutes an unimportant part of the total agricultural income of the county, except that insurance may be provided for producers on farms situated in a local producing area bordering on a county with a crop-insurance program.

"(14) Annual reports.—The Corporation shall report annually to Congress the results of the operations of the Corporation as to each commodity insured.

"(15) Project market price level.—Beginning with the 1994 crop year, the Corporation shall establish a price level for each commodity on which insurance is offered that shall not be less than the projected market price for the commodity, as determined by the Board.

"(16) Price election.—Insurance coverage shall be made available to a producer on the basis of any price election that equals or is less than that established by the Board. The coverage shall be quoted in terms of dollars per acre.".

(b) DISTRIBUTION OF COVERAGE INFORMATION.—Section 508(m) of such Act (7 U.S.C. 1508(m)) is amended by adding at the end the following new paragraph:

"(3) DISTRIBUTION OF COVERAGE INFORMATION.—The Corporation shall distribute information on Federal crop insurance coverage offered for a commodity to each producer participating in a price support or production adjustment program established for the commodity.".

(c) LATE PLANTING COVERAGE.—Section 508 of such Act (7 U.S.C. 1508) is amended by adding at the end the following new subsection:

"(n) LATE PLANTING COVERAGE.—

"(1) IN GENERAL.—Producers on a farm entering into a crop insurance contract under this Act shall be offered late planting coverage that would permit planting after the final planting date for a commodity by up to 25 days for coverage under the contract.

"(2) REDUCTION OF COVERAGE.—If the producers on a farm purchase late planting coverage under paragraph (1), the yield guarantee shall be reduced by—

"(A) 1 percent per day for each of the 1st through 10th days planting is delayed beyond the normal final planting date;

"(B) 2 percent per day for each of the 11th through 25th days planting is delayed beyond the normal final planting date; and

"(C) such other amounts as can be demonstrated to offset the additional insurer risk of providing the coverage.

"(3) PRESUMPTION OF COVERAGE.—The producers on a farm shall have late planting coverage as part of a basic policy of insurance under this Act unless the producers notify the Corporation that the producers waive late planting coverage.

"(4) RAISES IN PREMIUMS.—If the Corporation determines that late planting coverage would raise premiums to such an extent as to discourage participation in the program established by this Act, the Corporation shall offer late planting as a separate endorsement.".

(d) PREVENTED PLANTING COVERAGE.—Section 508 of such Act (7 U.S.C. 1508) (as amended by subsection (c)) is further amended by adding at the end the following new subsection:

"(o) PREVENTED PLANTING COVERAGE.—

"(1) IN GENERAL.—Producers on a farm entering into a crop insurance contract under this Act shall have prevented planting coverage as part of the basic policy of insurance under this Act.

"(2) COVERAGE.—

"(A) IN GENERAL.—Subject to subparagraph (B), if the producers on a farm are prevented from planting a crop of a covered commodity as the result of excess moisture, drought, or other natural disaster, the producers shall be eligible for coverage equal to 35 percent of the guaranteed level of coverage for the crop.

"(B) OPTIONAL COVERAGE.—The producers on a farm may purchase additional coverage described in subparagraph (A) such that the total coverage for the producers is not greater than 50 percent of the guaranteed level of coverage for the crop.

"(3) SUBSTITUTE CROP.—The producers on a farm shall have the option of planting a substitute crop, in lieu of an insured crop, as part of the basic policy under this Act. The value of the substitute crop shall offset the remaining guaranteed level of coverage of the insured crop.

"(4) PRESUMPTION OF COVERAGE.—The producers on a farm shall have prevented planting coverage as part of a basic policy of insurance made available under this Act unless the producers notify the Corporation that the producers waive prevented planting coverage.

"(5) RAISES IN PREMIUMS.—If the Corporation determines that prevented planting coverage would raise premiums to such an extent as to discourage participation in the program established by this Act, the Corporation shall offer prevented planting as a separate endorsement.".

(f) YIELD AVERAGES.—Section 508A(b) of such Act (7 U.S.C. 1508a(b)) is amended by adding at the end the following new paragraph:

"(4) YIELD AVERAGES.—

"(A) ESTABLISHING A MINIMUM LEVEL OF INSURANCE PROTECTION.—The Corporation shall establish a minimum level of insurance protection for those covered producers who have had reduced yields due to natural disasters.

"(B) NONSTANDARD CLASSIFICATION PROCEDURES.—The Corporation shall make adjustments in the Nonstandard Classification procedures established under subpart O of part 400 of chapter IV of subtitle B of title 7, Code of Federal Regulations, to account for producer yield declines due to recurrent natural disasters.".

(g) DATE OF IMPLEMENTATION.—

The provisions of this amendment will take effect on January 1, 1994.

DURENBERGER AMENDMENT NO. 764

Mr. DURENBERGER proposed an amendment to the bill (H.R. 2667), supra, as follows:

Amendment intended to be proposed by Mr. Durenberger.

At the end of the pending committee amendment, insert the following:

NATURAL DISASTER FUNDING PROCESS

SEC. ____. (a) PRESIDENTIAL DECLARATION.—

(1) IN GENERAL.—(A) Effective beginning with fiscal year 1994, the President may declare that a natural disaster has occurred in a State or States and submit a natural disaster emergency funding request (and a draft bill implementing the request) to Congress to be considered as provided in this section.

(B) The provisions of this section shall not apply to funding requested in a regular appropriations Act.

(C) For purposes of this section, the term "emergency funding" does not include appropriations for the purpose of construction, rehabilitation, removal, or alteration of any public facility, road, bridge, lock, levee, building, airport, or similar object.

(2) REQUIREMENTS FOR A NATURAL DISASTER EMERGENCY FUNDING REQUEST.—(A) A natural disaster emergency funding request shall contain the following provisions:

(i) An appropriation of budget authority available only for assistance needed as a result of the natural disaster.

(ii) A funding offset provision containing any of the following means of funding:

(I) Rescissions of budget authority.

(II) A sequester order that designates an amount to be offset by sequester. The sequester shall be achieved by sequestering some combination of (aa) amounts pursuant to the sequester provisions of section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985 for fiscal years 1994 and 1995, and (bb) amounts through the mandatory sequester process established in subsection (c).

(III) If necessary and subject to the provisions of subparagraph (C), a tax.

The funding offset required by this paragraph shall be equal to or greater than the amount to be appropriated. The amount to be appropriated shall be offset by the end of the calendar year beginning after the date of enactment.

(B) The President shall consider rescinding unnecessary funding before requesting a sequester under subparagraph (A). A tax shall be considered only if necessary because of the extraordinary nature of the natural disaster. The Congress shall, similarly, give priority to rescissions in making offsets, then sequesters should be considered, and taxes imposed only in truly extraordinary situations. Priority is to be given, in making offsets, to achieving reductions in administrative expenses rather than in the expenses of the underlying programs or assistance.

(C) A tax may be imposed under this section only if the Director of the Office of Management and Budget certifies that the aggregate total of funds appropriated in a fiscal year (those previously appropriated pursuant to this section and those proposed to be appropriated in the bill in which the tax is contained) exceed 1 percent of all amounts subject to discretionary and mandatory sequester under this section. Any tax enacted pursuant to this section shall expire at the end of the calendar year beginning after the date of enactment.

(3) SOLE FUNDING MECHANISM.—(A) Notwithstanding any other provision of law, it shall not be in order in either the House of Representatives or the Senate to consider any bill, joint resolution, amendment, motion, or conference report that contains supplemental emergency funding for a United States natural disaster that is not being considered pursuant to the provisions of this section.

(B) This paragraph may be waived or suspended only by the vote of three-fifths of the Members, duly chosen and sworn.

(b) CONGRESSIONAL ACTION.—

(1) IN GENERAL.—A request for natural disaster funding shall considered by Congress on an expedited basis in accordance with this subsection.

(2) HOUSE ACTION.—(A) Not later than 5 session days after the House of Representatives receives a request pursuant to subsection (a), the Committee on Appropriations shall report out an appropriations bill containing the language of the President's draft bill together with any relevant amendments. The House of Representatives shall consider and dispose of the bill not later than 10 session days after the President's request.

(B) If the House of Representatives does not act upon the bill as required by subparagraph (A) then on the 11th session day any Member may introduce the President's bill and require a vote on the bill during that day.

(C) No amendment that is not germane to the provisions of the funding bill shall be received.

(3) SENATE ACTION.—(A) Not later than 5 session days after the Senate receives a bill passed by the House of Representatives pursuant to paragraph (2), the Committee on Appropriations shall report out the appropriations bill together with any relevant amendments. The Senate shall consider and dispose of the bill not later than 8 session days after receipt of the bill from the House of Representatives.

(B) If the Senate has not disposed of the bill as required by subparagraph (A) then on the 9th session day any Member may call up the bill and require a vote on the bill during that day.

(C) The provisions of section 305 of the Congressional Budget Act of 1974 for consideration in the Senate of concurrent resolutions on the budget or conference reports thereon shall apply to the consideration of bills under this paragraph. Debate on the bill and all amendments thereto and debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours.

(D)(i) No amendment that is not germane to the provisions of the funding bill shall be received. A funding bill and conference report thereon shall contain only relevant provisions.

(ii) This subparagraph may be waived or suspended only by a vote of three-fifths of the Members, duly chosen and sworn.

(c) MANDATORY SEQUESTER.—Amounts required to be sequestered under the provisions of a bill enacted pursuant to subsection (b) shall be sequestered pursuant to an order of the President as follows:

(1) SEQUESTRATION.—Effective on the first day of the fiscal year subject to sequester, there shall be a sequestration to reduce the amount of direct spending in the current policy baseline by the amount specified in the bill enacted pursuant to subsection (b).

(2) UNIFORM REDUCTIONS; LIMITATIONS.—The amount required to be sequestered for the budget year under paragraph (1) shall be obtained from nonexempt direct spending accounts by reducing each remaining nonexempt direct spending account by the uniform percentage necessary to achieve those additional reductions, except that—

(A) the low-income programs specified in paragraph (4)(C) shall not be reduced by sequestration by more than 1 percent, during any one fiscal year;

(B) the retirement and veterans' benefits specified in paragraph (4)(D) shall not be reduced by sequestration by more than 2 percent in any one fiscal year in the manner specified in that section; and

(C) the medicare programs shall not be reduced by more than 4 percent by sequestration in any one fiscal year in the manner specified in paragraph (4)(E).

The limitations set forth in subparagraphs (A), (B), and (C) shall be applied iteratively, and after each iteration the uniform percentage applicable to all other programs under this paragraph shall be increased (if necessary) to a level sufficient to achieve the reductions required by this paragraph.

(3) EXEMPT PROGRAMS AND ACTIVITIES.—

(A) DESCRIPTIONS AND LISTS.—Except as provided in subparagraph (B), the following budget accounts or activities shall be exempt from sequestration:

(i) net interest;

(ii) all payments to trust funds from excise taxes or other receipts or collections properly creditable to those trust funds;

(iii) all payments from one Federal direct spending budget account to another Federal budget account; and all intragovernmental funds including those from which funding is derived primarily from other Government accounts, except to the extent that such funds are augmented by direct appropriations for the fiscal year for which the order is in effect;

(iv) activities resulting from private donations, bequests, or voluntary contributions to the Government;

(v) payments from any revolving fund or trust-revolving fund (or similar activity) that provides deposit insurance or other Government insurance, Government guarantees, or any other form of contingent liability, to the extent those payments result from contractual or other legally binding commitments of the Government at the time of any sequestration;

(vi) credit liquidating and financing accounts;

(vii) the following accounts, which largely fulfill requirements of the Constitution or otherwise make payments to which the Government is committed:

Administration of Territories, Northern Mariana Islands Covenant grants (14–0412–0–1–806);

Bureau of Indian Affairs, miscellaneous payments to Indians (14–2303–0–1–452);

Bureau of Indian Affairs, miscellaneous trust funds, tribal trust funds (14–9973–0–7–999);

Claims, defense;

Claims, judgments, and relief act (20–1895–0–1–806);

Compact of Free Association, economic assistance pursuant to Public Law 99–658 (14–0415–0–1–806);

Compensation of the President (11–0001–0–1–802);

Customs Service, miscellaneous permanent appropriations (20–9992–0–2–852);

Eastern Indian Land Claims Settlement Fund (14–2202–0–1–806);

Farm Credit System Financial Assistance Corporation, interest payments (20–1850–0–1–351);

Internal Revenue collections of Puerto Rico (20–5737–0–2–852);

Panama Canal Commission, operating expenses and capital outlay (95–5190–0–2–403);

Payments of Vietnam and USS Pueblo prisoner-of-war claims (15–0104–0–1–153);

Payments to copyright owners (03–5175–0–2–376);

Payments to the United States territories, fiscal assistance (14–0418–0–1–801);

Payments to widows and heirs of deceased Members of Congress (00–0215–0–1–801);

Salaries of Article III judges;

Soldier's and Airmen's Home, payment of claims (84–8930–0–7–705);

Washington Metropolitan Area Transit Authority, interest payments (46–0300–0–1–401).

(viii) the following noncredit special, revolving, or trust-revolving funds:

Coinage profit fund (20–5811–0–2–803);

Comptroller of the Currency;

Director of the Office of Thrift Supervision;

Exchange Stabilization Fund (20–4444–0–3–155);

Federal Housing Finance Board;

Foreign Military Sales Trust Fund (11–82232–0–7–155);

(ix) Thrift Savings Fund;

(x) appropriations for the District of Columbia to the extent they are appropriations of locally raised funds;

(xi)(I) any amount paid as regular unemployment compensation by a State from its account in the Unemployment Trust Fund (established by section 904(a) of the Social Security Act);

(II) any advance made to a State from the Federal Unemployment Account (established by section 904(g) of such Act) under title XII of such Act and any advance appropriated to the Federal Unemployment Account pursuant to section 1203 of such Act; and

(III) any payment made from the Federal Employees Compensation Account (as established under section 909 of such Act) for the purpose of carrying out chapter 85 of title 5, United States Code, and funds appropriated or transferred to or otherwise deposited in such Account;

(xii) the earned income tax credit (payments to individuals pursuant to section 32 of the Internal Revenue Code of 1986).

(4) EXCEPTIONS, LIMITATIONS, AND SPECIAL RULES.—

(A) THE GUARANTEED STUDENT LOAN PROGRAM.—(i) Any reductions which are required to be achieved from the student loan programs operated pursuant to part B of title IV of the Higher Education Act of 1965 under any sequestration order shall be achieved only from loans described in clauses (ii) and (iii) by the application of the measures described in such clauses.

(ii) For any loan made during the period beginning on the date that a sequestration order takes effect with respect to a fiscal year, the rate used in computing the special allowance payment pursuant to section 438(b)(2)(A)(iii) of such Act for each of the first four special allowance payments for such loan shall be adjusted by reducing such rate by the lesser of—

(I) 0.40 percent, or

(II) the percentage by which the rate specified in such section exceeds 3 percent.

(iii) For any loan made during the period beginning on the date that a sequestration order takes effect with respect to a fiscal year, the origination fee which is authorized to be collected pursuant to section 438(c)(2) of such Act shall be increased by 0.50 percent.

(B) FOSTER CARE AND ADOPTION ASSISTANCE PROGRAMS.—Any sequestration order shall make the reduction otherwise required under the foster care and adoption assistance programs (established by part E of title IV of the Social Security Act) only with respect to payments and expenditures made by States in which increases in foster care maintenance payment rates or adoption assistance payment rates (or both) are to take effect during the fiscal year involved, and only to the extent that the required reduction can be accomplished by applying a uniform percentage reduction to the Federal matching payments that each such State would otherwise receive under section 474 of that Act (for such fiscal year) for that portion of the State's payments attributable to the increases taking effect during that year. No State's matching payments from the Federal Government for foster care maintenance payments or for adoption assistance maintenance payments may be reduced by a percentage exceeding the applicable domestic sequestration percentage. No State may, after the date of the enactment of this Act, make any change in the timetable for making payments under a State plan approved under part E of title IV of the Social Security Act which has the effect of changing the fiscal year in which expenditures under such part are made.

(C) LOW-INCOME ENTITLEMENTS.—(i) Benefit payments or payments to States or other entities for the programs listed in clause (ii) shall not be reduced by more than 1 percent under any sequestration order.

(ii) The programs referred to in clause (i) are the following:

Aid to families with dependent children (75–0412–0–1–609);

Child nutrition (12–2539–0–1–605);

Food stamp programs (12–3505–0–1–605) and (12–3550–0–1–605);

Grants to States for medicaid (75–0512–0–1–551); and

Supplemental security income program (75–0406–0–1–609);

(D) FEDERAL RETIREMENT AND VETERANS' PROGRAMS.—For each of the programs listed in clause (ii) and except as provided in clause (iii), monthly (or other periodic) benefit payments shall be reduced by the uniform percentage applicable to direct spending sequestrations for such programs under paragraph

(1), which shall in no case exceed 2 percent under any sequestration order.

(ii) The programs subject to clause (i) are:

Benefits payable under the old-age, survivors, and disability insurance program established under title II of the Social Security Act;

Benefits payable under section 3(a), 3(f)(3), 4(a), or 4(f) of the Railroad Retirement Act of 1974;

Benefits under chapter 21 of title 38, United States Code, relating to specially adapted housing and mortgage-protection life insurance for certain veterans with service-connected disabilities (36–0137–0–1–702);

Benefits under section 907 of title 38, United States Code, relating to burial benefits for veterans who die as a result of service-connected disability (36–0155–0–1–701);

Benefits under chapter 39 of title 38, United States Code, relating to automobiles and adaptive equipment for certain disabled veterans and members of the Armed Forces (36–0137–0–1–702);

Black lung benefits (20–8144–0–7–601);

Central Intelligence Agency retirement and disability system fund (56–3400–0–1–054);

Civil service retirement and disability fund (24–8135–0–7–602);

Comptrollers general retirement system (05–0107–0–1–801);

Foreign service retirement and disability fund (19–8186–0–7–602);

Judicial survivors' annuities fund (10–8110–0–7–602);

Longshoremen's and harborworkers' compensation benefits (16–9971–0–7–601);

Military retirement fund (97–8097–0–7–602);

National Oceanic and Atmospheric Administration retirement (13–1450–0–1–306);

Pensions for former Presidents (47–0105–0–1–802);

Railroad retirement tier II (60–8011–0–7–601);

Railroad supplemental annuity pension fund (60–8012–0–7–602);

Retired pay, Coast Guard (69–0241–0–1–403);

Retirement pay and medical benefits for commissioned officers, Public Health Service (75–0379–0–1–551);

Special benefits, Federal Employees' Compensation Act (16–1521–0–1–600);

Special benefits for disabled coal miners (75–0409–0–1–601);

Tax court judges survivors annuity fund (23–8115–0–7–602);

Veterans' compensation (36–0153–0–1–701); and

Veterans' pensions (36–0154–0–1–701).

(iii) Notwithstanding clauses (i) and (ii), benefit payments from the Old Age and Survivors Insurance and Disability Trust Funds and for Railroad Retirement Tier I shall be reduced only for beneficiaries receiving benefits in excess of $600 per month as follows:

(I) The aggregate amount of all benefits in excess of $600 per month per beneficiary paid out to such beneficiaries shall be the amount subject to reduction.

(II) The reduction required by this clause shall not cause any beneficiaries monthly benefits to fall below $600.

(E) MEDICARE PROGRAM.—

(i) CALCULATION OF REDUCTION IN INDIVIDUAL PAYMENT AMOUNTS.—To achieve the total percentage reduction in those programs required by paragraph (1), the percentage reduction that shall apply to payments under the health insurance programs under title XVIII of the Social Security Act for services furnished after any sequestration order is issued shall be such that the reduction made in payments under that order shall achieve the required total percentage reduction in those payments for that fiscal year as determined on a 12-month basis.

(ii) TIMING OF APPLICATION OF REDUCTIONS.—

(I) IN GENERAL.—Except as provided in subclause (II), if a reduction is made under clause (i) in payment amounts pursuant to a sequestration order, the reduction shall be applied to payment for services furnished after the effective date of the order. For purposes of the previous sentence, in the case of inpatient services furnished for an individual, the services shall be considered to be furnished on the date of the individual's discharge from the inpatient facility.

(II) PAYMENT ON THE BASIS OF COST REPORTING PERIODS.—In the case in which payment for services of a provider of services is made under title XVIII of the Social Security Act on a basis relating to the reasonable cost incurred for the services during a cost reporting period of the provider, if a reduction is made under paragraph (1) in payment amounts pursuant to a sequestration order, the reduction shall be applied to payment for costs for such services incurred at any time during each cost reporting period of the provider any part of which occurs after the effective date of the order, but only (for each such cost reporting period) in the same proportion as the fraction of the cost reporting period that occurs after the effective date of the order.

(iii) NO INCREASE IN BENEFICIARY CHARGES IN ASSIGNMENT-RELATED CASES.—If a reduction in payment amounts is made under clause (i) for services for which payment under part B of title XVIII of the Social Security Act is made on the basis of an assignment described in section 1842(b)(3)(B)(ii), in accordance with section 1842(b)(6)(B), or under the procedure described in section 1870(f)(1) of such Act, the person furnishing the services shall be considered to have accepted payment of the reasonable charge for the services, less any reduction in payment amount made pursuant to a sequestration order, as payment in full.

(iv) NO EFFECT ON COMPUTATION OF AAPCC.—In computing the adjusted average per capita cost for purposes of section 1876(a)(4) of the Social Security Act, the Secretary of Health and Human Services shall not take into account any reductions in payment amounts which have been or may be effected under this part.

(F) FEDERAL PAY.—

(i) IN GENERAL.—New budget authority to pay Federal personnel shall be reduced by the uniform percentage calculated under paragraph (1), but no sequestration order may reduce or have the effect of reducing the rate of pay to which any individual is entitled under any statutory pay system (as increased by any amount payable under section 5304 of title 5, United States Code, or section 302 of the Federal Employees Pay Comparability Act of 1990) or the rate of any element of military pay to which any individual is entitled under title 37, United States Code, or any increase in rates of pay which is scheduled to take effect under section 5303 of title 5, United States Code, section 1009 of title 37, United States Code, or any other provision of law.

(ii) DEFINITIONS.—For purposes of this subsection:

(I) The term "statutory pay system" shall have the meaning given that term in section 5302(1) of title 5, United States Code.

(II) The term "elements of military pay" means—

(aa) the elements of compensation of members of the uniformed services specified in section 1009 of title 37, United States Code,

(bb) allowances provided members of the uniformed services under sections 403a and 405 of such title, and

(cc) cadet pay and midshipman pay under section 203(c) of such title.

(III) The term "uniformed services" shall have the meaning given that term in section 101(3) of title 37, United States Code.

(G) CHILD SUPPORT ENFORCEMENT PROGRAM.—Any sequestration order shall accomplish the full amount of any required reduction in expenditures under sections 455 and 458 of the Social Security Act by reducing the Federal matching rate for State administrative costs under such program, as specified (for the fiscal year involved) in section 455(a) of such Act, to the extent necessary to reduce such expenditures by that amount.

(H) EXTENDED UNEMPLOYMENT COMPENSATION.—(i) A State may reduce each weekly benefit payment made under the Federal-State Extended Unemployment Compensation Act of 1970 for any week of unemployment occurring during any period with respect to which payments are reduced under an order issued under section 254 by a percentage not to exceed the percentage by which the Federal payment to the State under section 204 of such Act is to be reduced for such week as a result of such order.

(ii) A reduction by a State in accordance with subparagraph (A) shall not be considered as a failure to fulfill the requirements of section 3304(a)(11) of the Internal Revenue Code of 1954.

(I) COMMODITY CREDIT CORPORATION.—

(i) POWERS AND AUTHORITIES OF THE COMMODITY CREDIT CORPORATION.—This subsection shall not restrict the Commodity Credit Corporation in the discharge of its authority and responsibility as a corporation to buy and sell commodities in world trade, to use the proceeds as a revolving fund to meet other obligations and otherwise operate as a corporation, the purpose for which it was created.

(ii) REDUCTION IN PAYMENTS MADE UNDER CONTRACTS.—(I) Payments and loan eligibility under any contract entered into with a person by the Commodity Credit Corporation prior to the time any sequestration order has been issued shall not be reduced by an order subsequently issued. Subject to subclause (II), after any sequestration order is issued for a fiscal year, any cash payments made by the Commodity Credit Corporation—

(aa) under the terms of any one-year contract entered into in or after such fiscal year and after the issuance of the order; and

(bb) out of an entitlement account,

to any person (including any producer, lender, or guarantee entity) shall be subject to reduction under the order.

(II) Each contract entered into with producers or producer cooperatives with respect to a particular crop of a commodity and subject to reduction under clause (i) shall be reduced in accordance with the same terms and conditions. If some, but not all, contracts applicable to a crop of a commodity have been entered into prior to the issuance of any sequestration order, the order shall provide that the necessary reduction in payments under contracts applicable to the commodity be uniformly applied to all contracts for succeeding crops of the commodity, under the authority provided in clause (iii).

(iii) DELAYED REDUCTION IN OUTLAYS PERMISSIBLE.—Notwithstanding any other provision of this subsection, if any sequestration order is issued with respect to a fiscal year, any reduction under the order applicable to contracts described in clause (ii) may provide for reductions in outlays for the account involved to occur in the fiscal years following the fiscal year to which the order applies.

(iv) UNIFORM PERCENTAGE RATE OF REDUCTION AND OTHER LIMITATIONS.—All reductions described in clause (ii) that are required to be made in connection with any sequestration order with respect to a fiscal year—

(I) shall be made so as to ensure that outlays for each program, project, activity, or account involved are reduced by a percentage rate that is uniform for all such programs, projects, activities, and accounts, and may not be made so as to achieve a percentage rate of reduction in any such item exceeding the rate specified in the order; and

(II) with respect to commodity price support and income protection programs, shall be made in such manner and under such procedures as will attempt to ensure that—

(aa) uncertainty as to the scope of benefits under any such program is minimized;

(bb) any instability in market prices for agricultural commodities resulting from the reduction is minimized; and

(cc) normal production and marketing relationships among agricultural commodities (including both contract and noncontract commodities) are not distorted.

In meeting the criterion set out in clause (iii) of subclause (II) of the preceding sentence, the President shall take into consideration that reductions under an order may apply to programs for two or more agricultural commodities that use the same type of production or marketing resources or that are alternative commodities among which a producer could choose in making annual production decisions.

(v) CERTAIN AUTHORITY NOT TO BE LIMITED.—Nothing in this subsection shall limit or reduce in any way any appropriation that provides the Commodity Credit Corporation with funds to cover the Corporation's net realized losses.

(J) THE JOBS PORTION OF AFDC.—

(i) FULL AMOUNT OF SEQUESTRATION REQUIRED.—Any sequestration order shall accomplish the full amount of any required reduction of the job opportunities and basic skills training program under section 402(a)(19), and part F of title VI, of the Social Security Act, in the manner specified in this subsection. Such an order may not reduce any Federal matching rate pursuant to section 403(l) of the Social Security Act.

(ii) NEW ALLOTMENT FORMULA.—

(I) GENERAL RULE.—Notwithstanding section 403(k) of the Social Security Act, each State's percentage share of the amount available after sequestration for direct spending pursuant to section 403(l) of such Act shall be equal to that percentage of the total amount paid to the States pursuant to such section 403(l) for the prior fiscal year that is represented by the amount paid to such State pursuant to such section 403(l) for the prior fiscal year, except that a State may not be allotted an amount under this subparagraph that exceeds the amount that would have been allotted to such State pursuant to such section 403(k) had the sequestration not been in effect.

(II) REALLOTMENT OF AMOUNTS REMAINING UNALLOTTED AFTER APPLICATION OF GENERAL RULE.—Any amount made available after sequestration for direct spending pursuant to section 403(l) of the Social Security Act that remains unallotted as a result of subparagraph (A) of this paragraph shall be allotted among the States in proportion to the absolute difference between the amount allotted, respectively, to each State as a result of such subparagraph and the amount that would have been allotted to such State pursuant to section 403(k) of such Act had the sequestration not been in effect, except that a State may not be allotted an amount under this subparagraph that results in a total allotment to the State under this paragraph of more than the amount that would have been allotted to such State pursuant to such section 403(k) had the sequestration not been in effect.

(K) POSTAL SERVICE FUND.—Notwithstanding any other provision of law, any sequestration of the Postal Service Fund shall be accomplished by a payment from that Fund to the general fund of the Treasury, and the Postmaster General of the United States shall make the full amount of that payment during the fiscal year to which the Presidential sequestration order applies.

(L) EFFECTS OF SEQUESTRATION.—The effects of sequestration shall be as follows:

(i) Budgetary resources sequestered from any account other than an entitlement trust, special, or revolving fund account shall revert to the Treasury and be permanently canceled.

(ii) Except as otherwise provided, the same percentage sequestration shall apply to all programs, projects, and activities within a budget account (with programs, projects, and activities as delineated in the appropriation Act or accompanying report for the relevant fiscal year covering that account, or for accounts not included in appropriation Acts, as delineated in the most recently submitted President's budget).

(iii) Administrative regulations or similar actions implementing a sequestration shall be made within 120 days of the sequestration order. To the extent that formula allocations differ at different levels of budgetary resources within an account, program, project, or activity, the sequestration shall be interpreted as producing a lower total appropriation, with that lower appropriation being obligated as though it had been the presequestration appropriation and no sequestration had occurred.

(iv) Any cap on the reduction of benefits as determined under a formula for reducing benefits in this paragraph shall be a cap on the total reductions in such benefits for a fiscal year.

(v) Benefit payments or payments to States or other entities for programs subject to sequestration under this paragraph shall not be reduced by a sequestration order below the level of such benefits or payments during the previous fiscal year.

(M) CURRENT POLICY BASELINE.—

(i) IN GENERAL.—The current policy baseline refers to a projection of current-year levels of new budget authority, outlays, revenues, and the surplus or deficit into the budget year and the outyears based on laws enacted through, and discretionary regulations promulgated as final by, the applicable date.

(ii) DIRECT SPENDING AND RECEIPTS.—The baseline shall be calculated using the following assumptions:

(I) IN GENERAL.—Laws providing or creating direct spending and receipts are assumed to operate in the manner specified in those laws for each such year and funding for entitlement authority is assumed to be adequate to make all payments required by those entitlements.

(II) EXCEPTIONS.—

(a) No program with estimated current-year gross new budget authority greater than $100,000,000 shall be assumed to expire in the budget year or outyears. Expiring entitlement programs and programs financed by indefinite budget authority shall be assumed to continue as in effect just prior to their expiration. Expiring programs financed by definite new budget authority shall be assumed to continue with that new budget authority.

(bb) The percentage increase for veterans' compensation for a fiscal year is assumed to be the same as that required by law for veterans' pensions unless otherwise provided by law enacted in that session.

(cc) Excise taxes dedicated to a trust fund, if expiring (in the budget year or outyears), are assumed to continue at the rates in effect immediately prior to their expiration.

(iii) CUTOFF DATE.—The assumptions made under clause (ii) regarding budget-year continuations and percentage increases shall no longer apply after the end of the budget-year.

(d) ELIGIBILITY FOR FUNDING.—It is the sense of Congress that before the adjournment of the 103d Congress, the Congress should enact into law—

(1) a system under which the President would make periodic certifications of the adequacy of preparations for natural disasters in the several States; and

(2) a provision for a system of disincentives, under the various disaster relief programs, to States which have not made adequate preparations for natural disasters, except that such disincentives would not affect any assistance necessary for humanitarian aid or to provide immediate protection to life, health, and property.

(e) SEQUESTER OF AMOUNTS NOT OFFSET.—If the President determines that a bill enacted pursuant to this section does not fully offset the amounts appropriated, the President shall order a sequester of the amount not offset pursuant to the sequester provisions of subsection (a)(2)(A)(ii)(II)(aa) relating to discretionary spending.

KOHL AMENDMENT NO. 765

Mr. KOHL (for himself and Mr. FEINGOLD) proposed an amendment to the bill (H.R. 2667), supra, as follows:

Insert at the appropriate place in the amendment:

The Secretary shall implement an emergency forage program under the same terms and conditions used to administer the 1988 Emergency Forage Assistance Program authorized by section 103 of Public Law 100-387, except that it shall apply to pasture damaged by winterkill, excessive moisture, flooding, drought and/or related conditions in 1993: *Provided*, That funds for this purpose shall be available only to the extent an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the balanced Budget and Emergency Deficit Control Act of 1985, is transmitted by the President to Congress: *Provided further*, That the entire amount of funds used under this paragraph is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

DECONCINI AMENDMENT NO. 766

Mr. DECONCINI proposed an amendment to the bill (H.R. 2667), supra, as follows:

At the appropriate place, add the following:

SEC. . (a) Notwithstanding any other provision of this Act, in the administration of this Act, $118,000,000 of the aggregate amount appropriated by this Act, from such accounts as shall be determined by the Director of the Office of Management and Budget, in consultation with the Secretary of the Interior, and other appropriate heads of Federal departments, agencies and entities receiving appropriations under this Act, and after consultation by the Secretary of the Interior with the tribal governments of the Navajo Indian tribe and the Hopi Indian tribe, shall be available as follows:

(1) $100,000,000 shall be available only for the purpose of providing relief under this Act to the former Bennett Freeze Area within the Navajo Indian Reservation in Arizona, which funds shall remain available until expended; and

(2) $18,000,000 shall be available only for the purpose of providing relief under this Act to the former Bennett Freeze Area within the Hopi Indian Reservation, which funds shall remain available until expended.

(b) for purposes of this section, the term "former Bennett Freeze Area" means that portion of the Navajo Indian Reservation and that portion of the Hopi Indian Reservation for which the restriction referred to in subsection (c)(1) was lifted pursuant to an order of the United States District Court for the District of Arizona on September 25, 1992.

(c) For purposes of this Act—

(1) the 26-year restriction on construction and development on an area of the Navajo Indian Reservation and the area of the Hopi Indian Reservation, commonly referred to as the Bennett Freeze, referred to in section 10(f) of the Act of December 22, 1974 (25 U.S.C. 640d–10(f)) is deemed a natural disaster; and

(2) those portions of the Navajo Indian Reservation and the Hopi Indian Reservation for which such restriction was lifted pursuant to an order of the United States District Court for the District of Arizona on September 25, 1992, are each deemed a disaster area.

(d) No funds made available by this section may be expended on any portion of the Navajo Indian Reservation or any portion of the Hopi Indian Reservation with respect to which there is in effect a restriction on construction or improvement pursuant to the order of the United States District Court for the District of Arizona on December 18, 1992.

BYRD AMENDMENT NO. 767

Mr. BYRD proposed an amendment to the bill (H.R. 2667), supra, as follows:

On page 22 at line 8 after 1993 insert "and other disasters".

PRESSLER AMENDMENT NO. 768

Mr. BYRD (for Mr. PRESSLER) proposed an amendment to the bill (H.R. 2667), supra, as follows:

After section 701, insert the following new section:

SEC. 702. In any case in which the Secretary of Agriculture finds that the farming, ranching, or aquaculture operations of producers on a farm have been substantially affected by a natural disaster in the United States or by a major disaster or emergency designated by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) during the 1993 crop year, the Secretary of Agriculture shall not require any repayment under subparagraph (G) or (H) of section 114(a)(2) of the Agricultural Act of 1949 (7 U.S.C. 1445j(a)(2)) for the 1993 crop of a commodity prior to January 1, 1994.

KERREY AMENDMENT NO. 769

Mr. BYRD (for Mr. KERREY) proposed an amendment to the bill (H.R. 2667), supra, as follows:

On page 20, line 17, following "flood", insert the following: ", high winds, hall and other related weather damages".

On page 22, line 8, following "floods", insert the following: ", high winds, hail and other related weather damages".

BYRD AMENDMENT NO. 770

Mr. BYRD proposed an amendment to the bill (H.R. 2667), supra, as follows:

Under the heading "National Park Service, Historic Preservation Fund" strike the following: beginning with the word "to" after "1993," and continuing through "(16 U.S.C. 470),".

GALLATIN RANGE CONSOLIDATION AND PROTECTION ACT OF 1993

BAUCUS AMENDMENT NO. 771

Mr. KENNEDY (for Mr. BAUCUS) proposed an amendment to the bill (H.R. 873) entitled "Gallatin Range Consolidation and Protection Act of 1993", as follows:

In section 3(b)(1), strike "the map entitled Plum Creek Timber and Forest Service Proposed Gallatin Land Exchange, dated May 20, 1988", and insert the following; "two maps entitled 'Proposed BSL Land Acquisitions,' East Half and West Half Gallatin National Forest, dated February, 1993".

In section 3(b)(2), immediately after "as depicted on the maps referred to in paragraph (1)," insert the following: "and the five maps entitled 'H.R. 873, the Gallatin Range Consolidation and Protection Act of 1993,' Lolo and Flathead National Forest,".

In section 4(a), strike "depicted on the map entitled Porcupine Area, dated September, 1992", and insert the following: "listed as 'Exhibit A, Procupine Area,' in the Option."

In section 5(a), strike "depicted on the map entitled Taylor Fork Area, dated September, 1992", and insert the following: "listed as 'Exhibit A, Taylor Fork Area,' in the Option."

In section 6(a), strike "depicted on the map entitled Gallatin Area dated September 1992", and insert the following: "listed as 'Exhibit A, Gallatin Roaded,' in the Option."

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate Wednesday, August 4, 1993, at 10 a.m. to vote on the nominations of Gordon Linton, to be Federal Transit Administrator; and Nelson Diaz, to be General Counsel of the Department of Housing and Urban Development.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on August 4, 1993, at 9:30 a.m. on reauthorization of the Magnuson Fishery Protection Act/Federal process.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be authorized to meet on Wednesday, August 4, for a hearing on the subject: "Auditing the Auditors: Waste and Abuse at IRS and Customs?"

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Committee on Foreign Relations, be authorized to meet during the session of the Senate on Wednesday, August 4, 1993, at 10 a.m., to hold nomination hearings on the following nominees:

Ms. Aurelia Erskine Brazeal, of Georgia, to be Ambassador to the Republic of Kenya;

Mr. Walter C. Carrington, of Maryland, to be Ambassador to the Federal Republic of Nigeria;

Mr. John S. Davison, of Maryland, to be Ambassador to the Republic of Niger;

Mr. Robert G. Houdek, of Illinois, to be Ambassador to Eritrea;

Mr. Roland K. Kuchel, of Florida, to be Ambassador to the Republic of Zambia;

Mr. Donald J. McConnell, of Ohio, to be Ambassador to Burkina Faso; and

Mr. John T. Sprott, of Virginia, to be Ambassador to the Kingdom of Swaziland.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES AND THE SUBCOMMITTEE ON ENERGY AND WATER DEVELOPMENT

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources and the Subcommittee on Energy and Water Development of the Committee on Appropriations be authorized to meet during the session of the Senate, 9:30 a.m., August 4, 1993, to receive testimony on the superconducting super collider.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES AND THE SUBCOMMITTEE ON ENERGY AND WATER DEVELOPMENT

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources and the Subcommittee on Energy and Water Development of the Committee on Appropriations be authorized to meet during the session of the Senate, 2:30 p.m., August 4, 1993, to receive testimony on the superconducting super collider.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON CLEAN WATER, FISHERIES AND WILDLIFE

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Subcommittee on Clean Water, Fisheries and Wildlife, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Wednesday, August 4, beginning at 9:30 a.m., to conduct a hearing on reauthorization of the Clean Water Act, focusing on regional issues.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEDAL OF HONOR PENSION

• Mr. LAUTENBERG. Mr. President, I am pleased to join with the minority leader in introducing legislation that will provide, for the first time in 15 years, an increase to the Medal of Honor pension. This increase is long overdue.

The Medal of Honor is the Nation's highest distinction that can be awarded to a member of the armed services of the United States. It is an award presented by the President of the United States, in the name of Congress, to an individual who, while serving in the Armed Forces, distinguished themselves by a specific act of heroism, gallantry, bravery, or intrepidity.

This award is a military distinction paid to an individual who put his or her life at risk above and beyond the call of duty.

There are only 204 Americans alive today that are recipients of the Medal of Honor. These Americans should not be forgotten. We should continue to recognize and remember their selfless acts of bravery.

They have earned their pension and we owe it to these recipients to not let their pension disintegrate through inflation. The Medal of Honor pension has not been increased since 1978. I believe the increase proposed in our bill, which will raise the Medal of Honor pension from $200 to $500 per month, is not only justified but it is long overdue.

Mr. President, I ask that letters I have received from New Jersey organizations, in support of this amendment, be included in the RECORD.

The letters follow:

LADIES' AUXILIARY TO PETERSILGE-VELOCK POST 809, V.F.W., LITTLE FERRY, NJ,
July 19, 1993.

Senator FRANK LAUTENBERG,
U.S. Senate, Washington, DC.

DEAR SENATOR LAUTENBERG: By order of President Coppola and on behalf of the entire membership of the Petersilge-Velock V.F.W. Ladies Auxiliary 809 I have been instructed to urge you to support bill H.R. 1796, that would enable the Medal of Honor recipients special pension be raised from $200 per month to $500.

I am concerned with the legislation procedure and results of voting when it comes to any veterans legislation on every level.

We wish to thank you for your past support of veterans legislation and sincerely hope we can count on you again.

Would you please reply to my letter and let me know how you stand on this issue. Would you also put me on your mailing list.

Thank you for your consideration in this matter.

Sincerely,

ADELE ROVITO,
Secretary.

CORPORAL ARTHUR E. SMITH AUXILIARY TO POST NO. 2856, VETERANS OF FOREIGN WARS OF THE U.S., LIVINGSTON, NJ,
July 15, 1993.

Hon. FRANK R. LAUTENBERG,
U.S. Senate, Washington, DC.

DEAR SENATOR LAUTENBERG: I am writing to you on behalf of our Medal of Honor recipients who at the present time are receiving an amount of $200,00 per month as a Special Pension.

A bill introduced in Congress, H.R. 1796, and a similar bill to be introduced as I understand with you as one of the sponsoring Senators will raise this Special Pension to $500.00.

I fully support this Bill and hope that you will do all in your power to have this Bill passed.

A reply to the above matter would be appreciated.

Sincerely,

LEONA KANE.

VETERANS OF FOREIGN WARS OF THE UNITED STATES, DEPARTMENT OF NEW JERSEY,
Trenton, NJ, July 12, 1993.

Hon. FRANK LAUTENBERG,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR LAUTENBERG: I am writing to you regarding the bill that you and Senator Dole will introduce in the Senate regarding the raising of the monthly pension to our Medal of Honor recipients from two hundred to five hundred dollars.

This issue is very important to the members of the Veterans of Foreign Wars of the Department of New Jersey, and all veterans of this country.

These heros deserve so much more for what they did for all of us, and this great country of ours.

I am in full support of this issue, and I hope that you will continue to support the veterans of this country.

Sincerely yours,

WILLIAM GOODE,
Sr. Vice Commander.

LADIES AUXILIARY, VETERANS OF FOREIGN WARS OF THE UNITED STATES, DEPARTMENT OF NEW JERSEY,
July 21, 1993.

Hon. FRANK R. LAUTENBERG,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR LAUTENBERG: I understand that you and Senator Dole are about to introduce a bill to increase the special pension for Medal of Honor recipients to $500.000 per month. I agree with the attempt to increase this pension as it is long overdue.

I would appreciate it if you would keep me advised in the event that this bill is held up in some committee or sub-committee so that I can communicate directly with the committee chairpersons.

Thank you for your interest in helping to reward our Medal of Honor recipients.

With warm regards, I remain,

MRS. FRIEDA PRITCHARD
Lyons VFWA Representative.

VETERANS OF FOREIGN WARS OF THE UNITED STATES, DEPARTMENT COMMANDER, NEW JERSEY,
July 6, 1993.

Hon. FRANK LAUTENBERG,
U.S. Senate, Washington, DC.

DEAR SENATOR LAUTENBERG: A bill has been introduced in The House of Representatives that is near and dear to all Veterans. This bill, HR 1796, raises the special pension for Medal of Honor recipients from $200 per month to $500 per month.

It is my understanding that you, along with Senator Dole, will introduce a similar bill in the Senate. I would like to take this opportunity to thank you and Senator Dole, and wish you well. Raising the pension for these Heros is long over due.

Sincerely,

HARRY MORECROFT,
Past State Commander.

VETERANS OF FOREIGN WARS OF THE UNITED STATES, DEPARTMENT OF NEW JERSEY,
July 26, 1993.

Hon. FRANK LAUTENBERG,
Senate Hart Office Building, Washington, DC.

DEAR SENATOR LAUTENBERG: I am under the impression that Senator Dole and you will be introducing in the Senate a companion bill to H.R. 1796, increasing the monthly pension for Medal of Honor recipients from $200 to $500.

I personally support this legislation, along with the membership of the Veterans of Foreign Wars of the United States.

Please provide me with a copy of your bill when available.

I thank you for taking a leadership role in this matter. Please feel free to contact me if I can be of any assistance.

MICHAEL H. WYSONG,
Legislative Officer.•

TRIBUTE TO THE KENTUCKY HIGHLANDS INVESTMENT CORPORATION

• Mr. MCCONNELL. Mr. President, I rise today to pay tribute to the Kentucky Highlands Investment Corp. (KHIC), which celebrated its 25th year of operation in June.

The Kentucky Highlands Investment Corp. is based in London, KY, and was founded in 1968 as a Job Start corporation within the Johnson administration's War on Poverty. After about a decade of operation, KHIC faced a decline in Federal funding and made a transition from running programs to manage investments. Now, KHIC is operated as a business in every respect except one—its profits go back into job creation.

The Kentucky Highlands Investment Corporation has been praised on many fronts, both inside and outside of Kentucky for its altruistic spirit combined with capitalist expertise. Today, KHIC has assets of almost $20 million, and its portfolio includes 22 investees—firms in which the corporation has some kind of direct financial involvement.

In a typical year, KHIC manages to create over 200 new jobs for southeastern Kentucky, and the corporation currently employs over 2,800 people. About 60 percent of those people had previously been on some form of public assistance.

Currently, KHIC is planning a number of new projects, including an aspiring entrepreneur program and some innovative forms of financing. Overall, KHIC has never been constrained by the conventional way of doing things.

I applaud KHIC's efforts to bring new jobs to southeastern Kentucky and to encourage growth in the area.

Mr. President, I ask that a recent article from Appalachia be submitted in today's CONGRESSIONAL RECORD.

The article follows:

GRASS ROOTS GIVE AND TAKE

(By Fred D. Baldwin)

Conference speakers like to say that community service agencies should be "run like a business." In southeastern Kentucky there's a nonprofit community development corporation that is a business in every respect but one—its profits go back into job creation.

This June the Kentucky Highlands Investment Corporation (KHIC), based in London (Laurel County), celebrates its 25th year of operation. It was founded in 1968 as a Job Start corporation within the Johnson administration's War on Poverty. A decade or so later, facing a decline in federal funding, KHIC achieved something that few such agencies were able to achieve: a transition from running programs to managing investments.

"We shifted from giving out money," says Jerry A. Rickett, KHIC president and CEO, "to giving it out and then getting it back."

That change was more than a matter of rhetoric.

The Wall Street Journal has called KHIC "a rare mix of altruism and hard-nosed capitalism. . . . A lean operation [that] has toted up a record that might make an orthodox venture capitalist blush."

Today KHIC (legally, a cluster of three corporations of which KHIC is the parent company) has assets of almost $20 million. As of January 1993, its portfolio included 22 "investees"—firms in which the corporation has some kind of direct financial involvement.

The investees bear little resemblance to the "Fortune 500." In fact, "500" happens to be the largest number of people employed at any one firm (Mid South Electronics, a manufacturer of electronics components). Other businesses include a ham processor, a firm that makes walnut plaques and trophy bases, and one that makes stainless-steel kitchen fixtures. Another firm makes automobile air bags. Altogether, the 22 businesses employ over 2,800 people. Rickett estimates that at least 75 percent of these jobs would not exist today except for KHIC's help.

Every job is desperately needed. The KHIC primary service area covers nine counties: Bell, Clay, Clinton, Harlan, Jackson, McCreary, Rockcastle, Wayne and Whitley. They are among the U.S. Department of Agriculture's "perpetually poor" rural counties, with recent poverty rates ranging from 38 percent to 46 percent. In 1992 official unemployment rates for these counties were generally 8 percent to 10 percent, based on the number of people actively looking for work. A recent study produced for the Kentucky legislature by the Appalachian Civic Leadership Project concludes that "discouraged workers" (potential members of the labor force who have given up looking for jobs) swell true unemployment rates to over 50 percent in some KHIC counties.

"We're not in a growth area," Rickett says. "In 1950 there were 40,000 coal mining jobs around here. I think there are less than 8,000 now."

KHIC nevertheless manages to create over 200 new jobs per year. Almost all of these jobs are in manufacturing.

"It's the best way to get the most job return for the dollar invested," Rickett says. "The dollar investment per job is higher than in service businesses. But with retail jobs we'd just be moving jobs from store A to store B in the local community. If you're in manufacturing, you're exporting your product to the world."

EARNINGS ARE REINVESTED

KHIC has a staff of eight employees and two regular consultants. Its 1992 operating expenses were approximately $700,000. Just over $500,000 of these expenses were covered by income from investments—loan interest and rental income. Earnings over the amount needed to cover operating expenses are reinvested. The corporation also received approximately $200,000 in grants to cover the administrative costs of specific federal loan programs that require too much staff time, relative to the amount of income generated, to be self-supporting.

KHIC is governed by a 17-member board "as diverse as you can get," ranging from bankers to individuals with modest incomes. Turnover is slow; the cumulative tenure of the members is 195 years.

"I think we got our last operating grant around 1981," says Wayne Stewart, KHIC board president and a board member for 17 years, "We said, 'What can we do to stay alive?' We turned to things that earned money. As we earned money, we plowed it back into job-making. We know that in the kind of things we do, they can't all work. But our percentage has been good."

In fact, five KHIC-assisted ventures have failed outright, and several others are still in shaky financial condition.

"We put $200,000 equity capital in one company," says Ray Moncrief, KHIC vice president and chief operating officer. "We salvaged $6,000 of our investment. We lost $194,000 on that deal."

Most organizations would avoid mentioning that, but KHIC staffers can afford to talk matter-of-factly about risks and rewards.

"the good news," Moncrief continues, "is that we've made about $5 million. We invested $88,000 into that auto air bag business in 1988 and sold our interest out in 1992 for $2.75 million. And our investment of $500,000 in a plastics company was a success story."

Indeed it was.

Mt. Vernon Plastics, an injection molding company in Rockcastle County, was formed around 1980 by an industrial engineer who turned to KHIC after failing to attract venture capital elsewhere. After a few good years, the business began to show serious losses. The KHIC board was initially divided, Stewart recalls, over whether the situation called for putting in more money or "pulling the plug." "That was a long, drawn-out session," he says. "In the end, about midnight, the board was unanimous."

KHIC exercised an option to take over the company and, although keeping its existing management team intact, installed a staff member, Steve Meng, as temporary CEO. The infusion of money and management help sufficed to turn the company around. In 1989 KHIC sold Mt. Vernon Plastics to Reynolds Metal for a profit of approximately $3 million. The thriving plant employs 420 people, not counting secondary employment.

"The success we've had," says Rickett, "is based on our ability to be entrepreneurial. And on our ability to stay through thin times and give entrepreneurs an opportunity to fight another day."

KHIC's investment opportunities come to it in various ways, but mostly from a network of contacts developed over its 25-year history.

"A lot of our deals are networked to us by bankers, attorneys, state agencies, and just word-of-mouth from people we've partnered with," Rickett says. "Someone may drive in here with a business plan that they first brought next door to the ADD." (The offices of the Cumberland Valley Area Development District are adjacent to those of KHIC.)

THE ENTREPRENEURIAL ADVANTAGE

One of the advantages of "being entrepreneurial" is that KHIC isn't bound by the guidelines of any specific federal or state program. If it's legal, and the board approves, the staff can work out whatever combination of investment strategies seem to make the best business and human sense.

In putting a deal together, KHIC can offer a client not just money but help with special needs, such as identifying the best hardware and software for data processing.

"In an urban area," says Rickett, "you can buy these functions for a relatively inexpensive fee. In rural economic development it just doesn't work that way. Luckily, we have an experience base that allows us to do that."

The KHIC entrepreneurial tool kit has a lot of tools in it, but they can be classified under five broad headings: (1) loans (both for expansion and for working capital), (2) equity investments, (3) real estate, (4) management assistance, and (5) "partnering" (helping to put together deals involving many public and private partners). [See page 9 for how these tools are used in practice.]

Whatever tools KHIC uses, Rickett and Stewart take pains to emphasize that the bottom line for KHIC is always jobs. In September 1992, Rickett testified before a House Education and Labor subcommittee. He acknowledged that, during its 25-year history, KHIC had received roughly $12.5 million in federal grants, most in the first decade of its existence.

What, he asked, could KHIC show for that money?

First, Rickett told the committee, about 60 percent of the 2,800 people now employed by KHIC investees had been on some form of public assistance. Were this still the case, the annual cost to taxpayers would by now be approximately $14 million, taking into account food stamps, unemployment compensation, and other transfer payments. Now these people are themselves taxpayers. A reasonable estimate of their tax payments might be $9 million. Therefore, he concluded, the government's return on its past investment is by now likely to be somewhere around $23 million—per year.

Looking to the future, the KHIC board and staff have a number of projects in varying stages of planning. They'd like to use the "Aspiring Entrepreneur" program to jumpstart at least one new company. They're also considering some innovative forms of financing.

"When you're not constrained by reality, you can do a lot of things," says Rickett. Then he corrects himself: "I shouldn't say, 'reality.' I mean 'the usual way of doing things.' We invest in people. The only bias we have is that they have to put their business in southeastern Kentucky."•

IRISH-AMERICAN HERITAGE MONTH

• Mr. SIMON. Mr. President, it is my pleasure to join my colleagues in sponsoring Senate Joint Resolution 119 to designate March 1994 as Irish-American Heritage Month. This resolution is an effort to give thanks to all Irish-Americans who have contributed to our great Nation.

American men and women of Irish descent have added immeasurably to this Nation through many levels of devotion and allegiance. Whether it is in politics, arts, science, athletics, military service, and so many other fields, Irish-Americans have been able to tap into their ideals and beliefs of hard work and democracy to successfully forge their aspirations into reality.

Irish-Americans have played key roles in the life of our Nation. Irish emigrants arrived in North American as early as 1621 and ever since then have been an important part of our history. I am most proud of those Irish-Americans from my home State of Illinois who have contributed to our Nation's successes.

Industrialist, inventor, and Irish-American Cyrus McCormick used Illinois as his base to promote efficient farming techniques. The Daley family, part of Chicago's southside Irish community, has been an integral part of Chicago's Democratic leadership for the last half of this century. In addition, many of the 44-million Americans of Irish ancestry who live and work in Illinois every day spread their Irish work ethic and cheer to other Americans.

I urge my colleagues to support this resolution because it honors a large portion of our society who have played an indispensable role in shaping our Nation and reiterates how our country has effectively used ethnic diversity as a strength.•

BUT WHERE ARE THE HIGH-SKILL WORKPLACES

• Mr. SIMON. Mr. President, I recently read an article in the magazine America's Agenda by the former Secretary of Labor, Ray Marshall, and Marc Tucker, president of the National Center on Education and the Economy.

What they have to say is extremely important for the future of the economy of this country.

At one point in the article, they say:

Bill Brock, co-chair of the Commission on the Skills of the American Workforce, said when its report was released that "the good news is that there is no shortage of skilled labor in the United States. The bad news is that there is no shortage of skilled labor in the United States." The five percent of American firms moving toward high-performance work organization is the same five percent that is moving toward embracing Total Quality principles * * *. As long as that is so, there will be no real improvement in education and training of our people, because there will be no effective demand for it.

Five percent is not enough. If five percent are struggling to create learning organizations that can compete on quality and productivity and 95 percent are competing on wages and hours, the United States will slip more quickly into relative poverty with every passing year.

Ray Marshall has always been willing to be creative and yet practical. And he shows it once again.

This article is taken from a book that was published last year titled, "Thinking for a Living: Education and the Wealth of Nations."

I also noted in the article that Ray Marshall holds the Audre and Bernard Rapoport Centennial Chair in Economics and Public Affairs at the University of Texas, Austin. I was not aware that my friends, Audre and Bernard Rapoport, had endowed such a chair; but it is typical of their forward thinking that they did so and not surprising that the University of Texas should select Ray Marshall to fill that chair.

I ask to enter the article into the RECORD at this point.

The article follows:

[From America's Agenda, Spring, 1993]

BUT WHERE ARE THE HIGH-SKILL WORKPLACES?

(By Ray Marshall and Marc Tucker)

For much of this century, and indeed, right up to the present, American enterprise has been organized on the principle that most of us do not need to know much to do the work that has to be done. This system may have worked brilliantly for us until recently, but it will do so no longer.

The future now belongs to societies that organize themselves for learning. What we know and can do holds the key to economic progress, just as command of natural resources once did. Everything depends on what firms can learn from and teach to their customers and suppliers, on what countries can learn from one another, on what workers can learn from each other and the work they do, on the learning environment that families provide, and, of course, on what we learn in school. More than ever before, nations that want high incomes and full employment must develop policies that emphasize the acquisition of knowledge and skills by everyone, not just a select few. The prize will go to those countries that are organized as national learning systems, and where all institutions are organized to learn and act on what they learn.

Our most formidable competitors know this. Many newly industrialized countries know it and are vaulting forward as a result. But the United States does not. Because this country continues to operate on the premise that, for the country to be successful, only a few need to know or be able to do very much, we are poised on the precipice of a steep decline in national income, with all that this implies for our material well-being and the stability of our society.

Bill Brock, co-chair of the Commission on the Skills of the American Workforce, said when its report was released that "the good news is that there is no shortage of skilled labor in the United States. The bad news is that there is no shortage of skilled labor in the United States." The 5 percent of American firms moving toward high-performance work organization is the same 5 percent that is moving toward embracing Total Quality principles. As long as that is so, there will be no real improvement in the education and training of our people, because there will be no effective demand for it.

Five percent is not enough. If 5 percent are struggling to create learning organizations that can compete on quality and productivity and 95 percent are competing on wages and hours, the United States will slip more quickly into relative poverty with every passing year, a course, as we have pointed out, on which it is already well embarked * * *.

It is time for the President and the Congress to engage the nation in a debate about social priorities, and to pass legislation that clearly establishes full employment and high wages as the overarching domestic policy goals of the United States and sets forth a framework for achieving those objectives. We begin with proposals intended to lead to the restructuring of American business for high performance.

Provide incentives to employers to pay high wages, improve productivity, and use high-performance forms of work organization—and disincentives to those who don't: In the past, many states have tried to attract new firms or induce firms to stay or expand by offering free training, subsidized infrastructure or services, tax abatements, and so on. In the future, states could offer such inducements only to high-wage employers, which amounts to a tax on low-wage employers; or to high-productivity employers, which amounts to a tax on low-productivity employers; or to employers using high-performance work organizations, which amounts to a tax on employers using conventional forms of work organization. The point is that whereas in the past, states have focused on the quantity rather than the quality of jobs, federal and state policy can and should shift to policies that favor firms that offer the kind of high-pay, high-productivity jobs on which the future of this country depends.

Provide incentives to employers to invest in the development of their employees: The Commission on the Skills of the American Workforce observed that most of the advanced industrial countries and many of the newly industrialized countries require employers to invest a sum equal to 1 percent of salaries and wages in the continuing education and training of their employees. The United States is the rare exception to this rule. . . . There is, as one would expect, considerable resistance in the business community to the introduction of such a requirement, on the grounds that it is a tax that would further disadvantage American employers in the competitive race by adding to their costs, and that it would allow the government to create yet another bureaucracy, this time to tell firms how to carry out their internal training function. It is not clear to us, however, why a requirement of this sort would make American firms less competitive than those in Singapore, Ireland, France, Germany, Sweden, and many other countries where training set-aside requirements have been in place for years. Nor is any great bureaucracy required; firms could simply certify on their tax return that they have used the funds in the matter required by law, and their auditors could check that they did so, just as they check other fund flows in the organization as a normal part of the audit procedure.

Establish a technical assistance program to move the management of all kinds of enterprises toward high-performance work organization . . . The sources of assistance might be research universities, land grant colleges . . . other four-year institutions, community colleges, industry associations, federal laboratories, and many others. The aid they provide should be coordinated with the state agencies responsible for economic development and related functions. Technology development and assistance should be coordinated with development of improved methods of organization and management, building on the Total Quality approach, and both should be developed in close collaboration with the people who will have to adopt the new methods. The program will have to embrace not just the fashionable fields of biotechnology and new materials technologies, but everything from fisheries to jewelry, from financial services to laundries.

But the key is the extension system [modeled after that in agriculture]: the people who are out there every day, going from firm to firm explaining what is at stake, what is to be gained by taking another route, what kind of assistance is available, what the firm will have to do, how long it will take and how much effort; and the people who actually do the audits, the training, and the hand-holding. . . . If agriculture is in fact an apt precedent, and high-quality resources are deployed to get to a significant number of firms, then such a policy could effect the practices of many employers in a relatively short time. Development of such a program is probably the single most important policy initiative that could be taken to lead employers toward high-quality, high-productivity, and high-performance forms of work organization.

(Ray Marshall, who was Secretary of Labor in the Carter Administration, currently holds the Audre and Bernard Rapoport Centennial Chair in Economics and Public Affairs at the University of Texas, Austin. Marc Tucker is president of the National Center on Education and the Economy.

(This article was adapted from "Thinking for a Living: Education and the Wealth of Nations" by Ray Marshall and Marc Tucker. Copyright ©1992 by Basic Books. Reprinted with permission of Basic Books, a division of HarperCollins Publishers Inc.)●

CONDITIONS IN BOSNIA AND HERZEGOVINA

● Mr. DECONCINI. Mr. President, I commend President Clinton for his leadership in securing an agreement at NATO to undertake military measures in response to the dire humanitarian situation in Bosnia and Herzegovina and particularly in Sarajevo. Despite the threat of intervention, however, the strangulation of Sarajevo continues. Reports this morning indicate that the Bosnian Serb forces are tightening the noose around the Bosnian capital.

Apparently the Serbs have wrested control of a critical government position in defiance of the NATO threat. If this mountain position indeed falls, the last major Moslem supply line to Sarajevo would be cut and the siege ring around the city and its 380,000 inhabitants would be complete. The fall of this key position would, according to U.N. officials, result in the displacement of as many as 32,000 people. These men, women, and children would likely flee into Sarajevo where the humanitarian situation continues to deteriorate, even as military planners prepare plans for possible action.

Most of the capital is without running water, electricity, and gas. Barely half of the humanitarian aid needed reaches the city these days. Efforts to get desperately needed relief supplies into Sarajevo continue to be hampered. As the commander of U.N. forces in Bosnia and Herzegovina said earlier today, "to deliberately withhold humanitarian aid is unforgivable." His remarks came as Bosnian Croat forces blocked a convoy of diesel fuel for the third day. The convoy has fuel for Sarajevo hospitals, fuel for bread ovens to help feed the starving and fuel for water trucks and pumps.

Mr. President, I ask unanimous consent that the text of a letter from President Izetbegovic to Secretary General Boutros Ghali on current conditions in Bosnia and Herzegovina be included in the RECORD.

Mr. President, any further delays in undertaking resolute action to break the 16-month siege of Sarajevo only plays into the hands of the aggressors. We must act.

REPUBLIC OF BOSNIA AND HERZEGOVINA,
August 3, 1993.

(United Nations Secretary General Boutros Boutros Ghali, President of the Council of Ministers of the European Communities, Minister of Foreign Affairs of Belgium, Mr. Willy Claes)

SIRS: The Delegation of The Republic of Bosnia and Herzegovina is here in Geneva negotiating in good faith in order to seek a settlement in accordance with the United Nations Charter, the relevant Security Council Resolutions, and the Principals of the London Conference. Despite the prior assurances we received from the United Nations and the European Community before coming here, we have just now received information that yesterday, the aggressor forces launched repeated attacks against the towns of Brcko, Maglaj, Tesanj, Olovo, and upon the mountains around the capital of our State, Sarajevo. In the town of Tesanj, the aggressors used ground to ground missiles of the Luna type, with devastating affect upon the civilian population. Moreover, the humanitarian situation for the civilian population living in these areas has deteriorated to sub-human conditions. There is no water, food, or gas supplies for tens of thousands of human beings.

We wish to draw to your attention that here at United Nations Headquarters in Geneva we are repeatedly confronted with diktats and ultimatums that we accept faits accomplis based upon the illegal use of force, war crimes, ethnic cleansing and genocide. This is in explicit violation of the United Nations Charter, the relevant Security Council Resolutions, and the Principles of the London Conference.

The recent initiatives by President Clinton and NATO upholding the Principles of the United Nations Charter and the London Conference have encouraged us to remain here despite all these difficulties. However, in the light of these recent developments, we are asking you to take urgent and necessary action to terminate and reverse these results of aggression and genocide for the purpose of promoting a settlement here in Geneva, and to alleviate the catastrophic suffering of our people at home. On our part, this is to inform you that the Presidency of the Republic of Bosnia and Herzegovina has today issued an Order to our Armed Forces to use force strictly in self-defense.

Please accept the expressions of my highest consideration.

ALIJA IZETBEGOVIN,
President of the Presidency.

STATEMENT BY MIKE FARRELL ON CAPITAL PUNISHMENT

● Mr. SIMON. Mr. President, in my 1984 campaign for the U.S. Senate, I had the chance to meet and campaign with Mike Farrell, an actor who is perhaps best known for his work in the television series, "MASH." I came to know and respect Mike Farrell for his dedication to humanitarian causes.

Recently, he made a speech to the Iowa State Legislature on the issue of capital punishment.

I recognize that his position is not popular, but it is of interest to me that my opponent in my reelection campaign in 1990 used the death penalty issue against me, and I ended up with the biggest plurality of any contested candidate for Senator or Governor of either political party in the Nation.

People who stand up for their convictions are respected by the public.

Mike Farrell's statement, delivered in February of this year, is a call for a more humanitarian response than we now provide.

Canada to the north of us does not have capital punishment. Mexico to the south of us does not have capital punishment. The Western European nations do not have capital punishment. In fact, the United States, China, and Russia are among the few industrial nations that still retain capital punishment.

I would add one other point that Mike Farrell doesn't mention: If you have enough money to hire the best lawyers, you can avoid capital punishment. Capital punishment is a sanction we reserve for people of modest means.

If anyone thinks that makes sense, I do not understand how he or she can reach that conclusion.

I urge my colleagues to read Mike Farrell's statement, and I ask to insert it into the RECORD at this point.

The statement follows:

Thank you for allowing me the opportunity to speak before you this evening. Though I am not a resident of the state, I feel a particular affinity for Iowa and Iowans, having been born not far from here in South St. Paul. I have many friends here, have spent a good deal of time in the area and, of course, have enjoyed my wife's association with the Donna Reed Festival for the Performing Arts in Denison, to name only a few connections.

The subject this evening is a grave one. The notion that this state, the heart of America, which enjoys the distinction of being one of the thirteen states in the Union with the courage to stand firm against the rising tide of blood lust in this country, would consider changing that status, is a chilling one for those of us who believe that the Founding Fathers gave us a higher purpose to live up to when they said we in this country possessed "certain inalienable rights."

The issue of capital punishment has, tragically, become something of a political football in our country today, as a result of which it is the subject of much rhetorical flourish, a great deal of emotionalism and painfully little serious consideration. That being the case, I particularly appreciate the time given here this evening.

I trust you will hear from others that we now know the death penalty is more expensive than keeping the perpetrator in prison for life, that it is insupportable on moral, religious or ethical grounds, and, importantly, that contrary to the conventional wisdom, polls all over the country now show that the majority of people, when the options are available and clearly explained, choose a maximum sentence of life without possibility of parole or life with a minimum of 25 years plus restitution to the victim's family rather than the death penalty, so I'd like to approach it from a slightly different point of view.

Though many continue to turn away in confusion, unable to face their conflicting emotional responses when 20,000 volts surge through the body of one of our own, cooking his flesh, when he writhes, gasping in pain as the cyanide fumes sear his lungs, strangling him, or dangles, gasping, gagging, kicking at the end of the rope, or feels the firing squad's bullets tearing through his flesh or lies, burning, crucified on a gurney as the poison courses murderously toward his heart, today in the United States of America, of all places, human beings are put to death at the hands of the state. How have we come to the place where we, the world-renowned champion of human rights, can pretend to not understand that the ultimate violation of human rights is taking place in our own back yards, with our consent?

The answer is politics. Not politics as Aristotle described it, "the taking care of the common good of all the people," but the worst kind of politics: the manipulation of people's fears in order to advance one's own political agenda.

About 25 years ago, when we were going through the throes of rediscovering who and what we are as Americans, when the Vietnam war was raging and causing us to ask what we truly stood for, opinion polls on the subject of the death penalty were almost exactly the opposite of what they supposedly say today. At that point, claiming they had a "secret plan" to end the war, Richard Nixon and Spiro Agnew came to power and brought with them a right wing agenda which, I submit, has thrown the country into a tailspin from which it has still not recovered.

The tactics, in retrospect, are painfully, almost embarrassingly obvious. They lied to us, they amassed power and wealth for themselves and their friends and they kept us off balance by inflaming our fears, preaching hatred and racial division through the clever use of code words and terms like "Southern Strategy" and "state's rights" and "forced busing." They sowed seeds of distrust among us by denouncing "permissiveness," by insisting our problems would be solved if we'd only "get tough on crime," by enlisting the media through the use of catchy alliterations about "nattering nabobs of negativism" and by labeling young people in our country "bums" and "traitors" who were "soft on communism" because they disagreed with policies which, as we now know, were in fact murderous breaches of international law and antithetical to everything for which we stand.

After a brief respite during the Carter years, when an attempt was made to articulate a new awareness of human rights, the same old right wing agenda, never much out of the news, was breathed new life through the charming simplicity of Ronald Reagan, whose attacks on fictitious "Cadillac-driving welfare queens," on civil rights laws, on "racial quotas," interwoven with false claims that people are out of work because they're "lazy", eat in soup kitchens because "they like the food" and are homeless by choice, gulled many Americans into accepting the notion that the problem was "those others" and the answer was the same old right wing rhetoric, "get tough on crime."

Being "tough on crime," then, had become the new paradigm for manhood and rough and ready Americanism. And politicians of both parties, ever aware of the value of symbolism for the enhancement of their careers, bought in with a vengeance. Some legislators, though recognizing a moral and ethical disaster in the making, took a low profile on the subject because they felt, incorrectly, I think, that they would otherwise appear soft, weak, or be made politically vulnerable. Others, recognizing an opportunity to make points, chose the most dramatic pose available. How better to show you're tough on crime than to come out for killing people? Kill kidnappers, kill drug abusers, kill "drug kingpins," kill traitors, kill sex criminals, kill killers. Let's at least kill killers. Who could be soft on killers?

President Bush, terrified of being thought a wimp, became a champion of death. He Willie Horton-ed his way into the White House, further proved his mettle by attempting to expand the death penalty through legislation and by appointments to the Supreme Court, then set up a couple of Hitlers abroad to demonize, further implanting the notion that manhood equals patriotism equals a willingness to kill.

President Roosevelt was right about fear and we forget his admonition at our peril. The politics of fear, as manipulated by the right wing, has riven our country. Today, while most of their political and economic agenda has been stripped of its glib cover and exposed for the disaster it is, the primary vestige of their social and cultural agenda still in place is the legacy of the mean-spirited insistence that the way to "get tough on crime" is to punish the poor and minorities, to build more prisons so we can put more of them out of sight, and to kill.

The result?

The prison population in our country has nearly tripled since 1975 without creating a noticeable change in violent crime.

There are more young African-American men in prison in our country today than there are in college.

In a recent study, American high school students were asked if they'd rather be rich or smart. They chose rich.

If you don't see the connection, I'm sorry. Something is dreadfully wrong with the way we've been doing things and authoritarianism is not the answer. It's the problem. People have been told they don't matter in so many ways they're beginning to believe it. And act like it. They need to be reinvested with a sense of their own value and that doesn't come from having the state in the business of killing its citizens. The human wreckage left in the wake of a system of state sanctioned killing reaches far beyond the victim, the condemned and their families. It touches all of us.

Studies have now found over 140 instances where Americans sentenced to death in this country were later proven to be innocent. Unfortunately, two dozen of them had already been executed.

The 2,676 inmates on death rows in our country today are disproportionately poor, members of minority groups, and those who had an inadequate, ill-prepared, often criminally incompetent defense. 10% of them are mentally retarded, an unknown number are seriously mentally ill; one study showed that 9 out of 10 were physically and/or sexually abused as children. Since the fetal alcohol syndrome and its effects on adults behavior are only now coming to be fully understood, only God knows how many of its victims populate this community, or are out there knocking at the door.

Let me give you a few specifics:

Barry Lee Fairchild is soon to be executed in Arkansas for the rape/murder of a white nurse. New evidence in the case shows that he was the fourteenth black man to have been brought into the sheriff's office. Each was told there was proof he had done it. Each was beaten in an attempt to extract a confession. The other thirteen refused to submit. Barry gave in. The difference is that he is mentally retarded.

In January of 1993, Charles Stamper was carried to the electric chair in Virginia after being lifted by three guards out of his wheelchair.

On November 20, 1992, Cornelius Singleton was electrocuted after signing, with his X, a confession he couldn't read. He had an IQ of approximately 61.

In January of 1992, Ricky Rector, who had been effectively lobotomized by a self-inflicted gunshot wound at the time of his crime and had virtually no comprehension of his situation, was led to his execution. He left the dessert from his last meal waiting in his cell for when he returned. (The chaplain at that institution subsequently left, went into psychiatric care and today refers to Ricky's execution as a crime in itself. He says "We're not supposed to execute children.")

In Florida, in 1990, Jesse Tafero's head was set afire during his electrocution.

This month the Supreme Court of the United States, in the Herrera case, held that innocence was not sufficient justification to stop an execution; a decision Justice Blackmun, in dissent, said was "perilously close to simple murder."

Rather than take more of your time, let me urge you to read, in this week's New Yorker magazine, a compelling article on the life and death of Ricky Rector. Also, I recommend a new book by Michael Radelet, Hugo Bedau and Constance Putnam, "In Spite of Innocence—The Ordeal of 400 Americans Wrongly Convicted of Crimes Punishable by Death."

I thank you for your time and attention and urge you to remember the words of John Dewey, who said, "The human power to respond to reason and truth protects democracy." Thoughtful, enlightened, compassionate leadership is what is urgently needed today, both here in the State of Iowa and in our country at large. State sanctioned killing is neither an acceptable answer to today's problems nor an appropriate lesson for us to be teaching our children.

COMMEMORATING GERMAN-AMERICAN DAY

Mr. D'AMATO. Mr. President, I rise today to honor German-Americans and their contribution to the United States of America. In order to commemorate their accomplishments as citizens of America, I urge the President to designate October 6, 1993 as "German-American Day."

German immigrants first arrived in Jamestown, VA, in October 1608, and founded Germantown, PA, on October 6, 1683. This event has already been commemorated as the "German-American Tricentennial Celebration" and has been designated as such by congressional resolution and Presidential Proclamation. Since the arrival of German immigrants in the 17th century, German-Americans have contributed a great deal as a community. The number of American citizens of German descent has grown to over 50 million. In addition to individual accomplishments, German-Americans have added a great deal to American culture and diversity.

Recently, we have had the fortune to witness the unification of Germany. As the Berlin Wall came down, democracy spread to Eastern Germany. Today, Germany has long been a significant actor in the European arena. Peaceful reunification with East Germany has only enhanced its position. German-Americans are proud of the friendship between the United States and Germany as is evidenced by the creation of the German-American Friendship Garden in Washington, DC.

For the past 6 years, Congress unanimously supported and passed joint resolutions designating October 6 as "German-American Day." It is very important that this tradition continues. It shows our support and appreciation for the accomplishments and contributions of German-Americans in the United States.

AUTHORIZING PRINTING OF A PUBLICATION

Mr. KENNEDY. Madam President, I ask unanimous consent that the Senate proceed to the consideration of Senate Resolution 138, a resolution introduced earlier today by Senators PELL and BIDEN authorizing the printing of the publication "To Stand Against Aggression: Milosevic, the Bosnian Republic, and the Conscience of the West;" That the resolution be agreed to, the motion to reconsider be laid upon the table and any statements thereon appear in the RECORD at the appropriate place as though read.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 138) was agreed to; as follows:

S. RES. 138

Resolved, That an additional 250 copies of the publication entitled "To Stand Against Aggression: Milosevic, the Bosnian Republic, and the Conscience of the West" be printed for the use of the Committee on Foreign Relations.

GERMAN AMERICAN DAY

Mr. KENNEDY. Madam President, I ask unanimous consent that the Senate proceed to immediate consideration of Senate Joint Resolution 121, a bill to designate October 6, 1993 and 1994 as "German American Day," introduced earlier today by Senator RIEGLE and others; that the joint resolution be deemed read three times, passed, and the motion to reconsider laid upon the table; that the preamble be agreed to; and that any statements relating to this measure appear in the RECORD at the appropriate place.

The PRESIDING OFFICER. Without objection, it is so ordered.

The joint resolution (S.J. Res. 121) was deemed read three times and passed.

The preamble was agreed to.

The joint resolution (S.J. Res. 121), with its preamble, is as follows:

S.J. RES. 121

Whereas German immigrants first arrived in America at Jamestown, Virginia, in October 1608, and the 400th anniversary of the arrival of these first Germans will be celebrated in 2008;

Whereas the first German settlement in America was founded on October 6th, 1683 at Germantown, Pennsylvania, and October 6, 1983, was designated as the German-American Tricentennial Celebration by Congressional Resolution and Presidential Proclamation;

Whereas the number of American citizens of German ancestry has grown over 50 million since the first German immigrants arrived in this country;

Whereas German-Americans are proud of the existing friendship and cooperation between the Federal Republic of Germany and the United States;

Whereas the German-American Friendship Garden in Washington, D.C., is evidence of this cooperation;

Whereas German-American support expansion of the existing friendship between Germany and the United States, and will continue to contribute to the culture of the United States, support its government and democratic principles, and help ensure the freedom of all people;

Whereas German unification stands as a symbol of greater international cooperation and has reemphasized the prominent position of Germany in the European community and between the East and the West;

Whereas Congress unanimously passed joint resolutions designating October 6th of 1987, 1988, 1989, 1990, 1991, and 1992, each as "German-American Day": Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 6, 1993 and 1994, are each designated as "German-American Day", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe the days with appropriate ceremonies and activities.

DESIGNATION OF OCTOBER 6, 1993 AND 1994 AS GERMAN-AMERICAN DAY

Mr. RIEGLE. Madam President, I stand before you today not only as an American, but as a proud German-American. Today, I am introducing legislation to designate October 6, 1993 and 1994 as German-American Day. On October 6, we will commemorate the common heritage shared by 1 in every 4 Americans—over 50 million people. In my own State of Michigan, more than 2.5 million residents claim at least partial German ancestry.

For more than three centuries, since the first Germans arrived in America near Germantown, PA on October 6, 1983, Germans have contributed to our Nation's unique blend of cultures. German-Americans have brought their talents to all walks of life and have touched each and every one of us. We have all benefitted from the inventions of German-Americans such as Levi Strauss and George Westinghouse. The achievements of German-American scientist Albert Einstein supply the link which joins the knowledge of the past with the advanced technology of today. German-American leaders, including former President Dwight D. Eisenhower and the labor movement's Robert Wagner, answered our country's call to public service, helping to guide us through critical periods of national change. And of course, we have all experienced the delights of German cuisine—from hot dogs to hamburgers, Black Forest cake to sauerbraten.

Elements of German contributions to American life extend to this day. Our challenge is to ensure that they remain a part of our heritage through the 21st century and beyond. We live in an increasingly interdependent world—a world where relationships are evermore important as we emphasize consensus over conflict. In such a world, it is critical that we reaffirm the special bond between the German and American peoples and the spirit of friendship and cooperation that ties our peoples together.

LAND COMPONENTS OF THE NATIONAL WILDERNESS PRESERVATION SYSTEM

Mr. KENNEDY. Madam President, I ask unanimous consent that the Senate proceed to immediate consideration of Calendar No. 176, H.R. 631, an act to designate certain lands in the State of Colorado as components of the National Wilderness Preservation System, that the bill be deemed read three times, passed and the motion to reconsider be laid upon the table; further that any statements relating to this measure appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 631) was deemed read three times and passed.

Mr. BROWN. Madam President, today we consider H.R. 631, the Colorado Wilderness Act of 1993. Efforts to enact Colorado wilderness legislation have spanned more than a dozen years. This bill is the product of extensive meetings among the Colorado delegation and the House and Senate committee leadership, leading to this compromise. Both Colorado environmental groups and the general public who use Federal property have endorsed this compromise as an acceptable solution. The water issues associated with these proposed wilderness areas were particularly difficult to resolve because of the strong and diametrically opposed views held by many members of the water user and environmental communities. Fortunately, this bill contains water language that is a true compromise that does not injure the fundamental principles that have much value for Colorado—protection of wild lands and protection of Colorado's future ability to develop and use all of its interstate water entitlements.

The issue of the existence of Federal reserved water rights for the upstream areas is moot, because the bill provides that no one can assert a claim for water or water rights based on the designation of these wilderness areas, and no court or agency could ever consider in any fashion such a claim. This ensures that wilderness status will never result in an encroachment on Colorado's ability to use its interstate water allocations. The bill also addresses the difficult issue of downstream wilderness study areas, where there could be conflicts with upstream water storage and diversion. Where potential conflicts exist, the areas are not designated as wilderness areas. This ensures that there will be no effect on existing and future water use. In order to make this intent crystal clear, there is also an explicit disclaimer of a Federal reserved right for these areas, and the existence of these areas cannot be used as a basis to affect upstream activities as a part of any administrative or regulatory program.

As stated in the findings, section 8 is entirely premised on certain specific characteristics of the lands designated as wilderness by section 2(a) of the bill, namely:

First, these lands are located at the headwaters of the streams and rivers located on those lands, with few if any opportunities for diversion, storage, or other uses of water that could occur outside these areas that would adversely affect the wilderness values of the areas;

Second, these lands are not suitable for use for development of new water resources facilities or the expansion of existing water resources facilities; and

Third, therefore, proper management and protection of the wilderness values of the specific areas covered by section 2(a) can be provided for in ways different from those employed with regard to wilderness lands lacking these particular attributes.

This being the case, section 8 is intended to protect the wilderness value of the lands designated by means other than those based on assertion of Federal reserved water rights.

I would like to thank Senator CAMPBELL for his years of working on this legislation, and to ask him to explain how this bill goes about eliminating unnecessary litigation regarding reserved water rights.

Mr. CAMPBELL. I want to thank Senator BROWN for his comments. Subsection 8(b)(1) would prohibit any person, including the Secretary of Agriculture and any other officer, employee, representative, or agent of the United States, from asserting in any court or agency any claim for water or water rights in Colorado based on construing any portion of the bill as construing either an express or implied reservation of water or water rights. It also would deny any court or agency the ability to consider any such claim.

The effect of enactment of paragraph 8(b)(1) will be to deny anyone, including but not limited to a person holding an established office of the national Government, the authority to assert, and to deny a court or agency the jurisdiction to consider, a claim that the bill's designation as wilderness of the lands described in section 2(a) has the effect of reserving any water or water right with respect to those lands. Congress is not consenting to any suit against the United States in State court or to have considered in any other forum any claim that these designations created a basis for a claim to water or water rights.

Mr. BROWN. The explanation of the distinguished Senator is consistent with my own understanding of the provision. I also understand that concern has been raised regarding whether this provision violates the U.S. Constitution in the way it goes about eliminating the threat of unnecessary and burdensome litigation. I think you would agree that the Colorado delegation has considered several issues which have been raised regarding section 8(b)(1) of H.R. 631. First, the preclusion of consideration of any claim to or for water or water right by any court or agency in this section was not intended to and does not address or affect the original jurisdiction of the U.S. Supreme Court under article III, Section 2, clause 2 of the U.S. Constitution.

Second, an act of Congress is required to designate a wilderness area, and Congress is fully aware of its ability to expressly reserve water or water rights for such areas. Congress has considered the issue and has chosen not to assert a Federal reserved water right or claim to water for these areas. Rather, it has decided to protect the resources of these areas in another manner. This legislative decision regarding how best to preserve these areas is within the sole prerogative of Congress. The preclusion of assertion of any claim for water or water rights by any agency or person is a limitation on the assertion of a theoretical cause of action relating to wilderness designation. There cannot be a denial of rights granted under the first amendment to the U.S. Constitution, where, as here, Congress determined that there is no Federal question to be litigated as to the existence of a Federal reserved water right for these areas. Further, the prohibition of any such claim or assertion serves to avoid frivolous litigation while defining the jurisdiction of the courts over Federal questions. In this language, Congress makes clear that it does not want others to assert or claim water or water rights where it has explicitly chosen to not assert a Federal reserved water right or other claim to water for these wilderness areas. Finally, I would like to emphasize that the wilderness areas designated by this act would not have been designated in the absence of this prohibition.

Mr. CAMPBELL. I believe it is clear that the Colorado delegation has adequately considered and addressed these issues. It is my understanding that the committee has also reviewed these issues and have come to the same conclusion.

Mr. BROWN. Looking at paragraph 8(b)(2), I believe this provision is unique in the fact that it clarifies several aspects of the bill's effects with regard to water or water rights. As I read it, subparagraph (b)(2)(A) states that nothing in the bill constitutes or is to be construed as either an express or implied reservation of any water or water right with respect to the Piedra, Robideau, and Tabequache areas identified in section 9, the Bowen Gulch Protection Area identified in section 5, or the Fossil Ridge Recreation Management Area identified in section 6. For this reason, these areas are not designated as wilderness.

Mr. CAMPBELL. I believe Senator BROWN is exactly right. In addition, we should note that subparagraph (b)(2)(B) goes on to state that nothing in the bill is to be construed as a creation, recognition, disclaimer, relinquishment, or reduction of any water rights of the United States in Colorado existing before the bill's enactment, except as provided in subsection 8(g)(2). Thus, with the one exception cited, the bill would have no effect on any water rights of the United States that may already exist in Colorado. Further, subparagraph (b)(2)(C) provides that with the exception of subsection 8(g)(2), nothing in the bill is to be construed as constituting an interpretation of any other Act and subparagraph (b)(2)(D) provides that nothing in section 8 is to be construed as establishing a precedent with regard to any future wilderness designations.

Mr. BROWN. Key to the protection of the wilderness values in this newly designated wilderness is the provision in subsection 8(c) dealing with water resource facilities. Senator CAMPBELL, could you explain to us exactly how this subsection would work?

Mr. CAMPBELL. I would be happy to discuss this important provision. This subsection would simply prohibit any U.S. officer, employee, or agent, including the President, from funding, assisting, authorizing, licensing, or permitting the development of any new water resource facility or the enlargement of any existing water resource facility within the Fossil Ridge Recreation Management Area, the Bowen Gulch Protection Area, the Piedra, Roubideau, and Tabeguache Areas, or the lands the bill designates as wilderness areas. This prohibition would apply notwithstanding any other provision of the law.

In addition to the excellent protection for wilderness areas, I understand that protection for existing water facilities is also offered. Is that correct?

Mr. BROWN. Senator CAMPBELL is correct. Subsection 8(d) addresses access to and operation of existing water resource facilities within the areas described in sections 2, 5, 6, and 9 of the bill. Paragraph (d)(1) would direct the relevant Secretary to allow reasonable access to such facilities in existence on the date of enactment of the bill, including motorized access where necessary and customarily employed on routes in existence on that date, subject to the provisions of subsection 8(d).

Paragraph (d)(2) specifies that existing access routes within the areas described in sections 2, 5, 6, and 9 customarily employed as of the date of the bill's enactment may be used, maintained, repaired, and replaced to the extent necessary to maintain their present function, so long as the function, design, and serviceable operation of these routes is not modified so as to increase the adverse impacts on these areas.

Paragraph (d)(3) provides that, subject to other provisions in this bill, the relevant Secretary is to allow water resource facilities in existence on the date of the bill's enactment within the areas described I've previously outlined to be used, operated, repaired, maintained, and replaced to the extent necessary for the continued exercise, in accordance with Colorado law, of vested absolute or conditional water rights adjudicated prior to the bill's date of enactment by a court of competent jurisdiction for use in connection with such facilities. The paragraph also specified that the impact of an existing facility within an area previously mentioned on the water resources and values of such an area shall not be increased as a result of any change in the adjudicated type of use of such a facility (as compared with the type of use adjudicated as of the date of enactment of the bill).

This paragraph (d)(3) establishes that the obligation of the relevant Secretary to allow the continued operation, maintenance, and use of water resource facilities is limited to those facilities that are in existence as of the date of this act for the exercise, in accordance with Colorado law, of all water rights adjudicated for use in connection with those facilities prior to enactment of this act. These existing water rights may also be changed under State law so long as the impact on the water resources and values of the wilderness area is not increased as a result of the change. Consequently, by way of example, there would be no barrier to changes in the location or type of use so long as the change did not increase the quantity or time of diversion from these facilities in a manner which increased the impact of the existing facility on the water resources and values of the area. This paragraph does not modify or change Colorado law relating to these water rights in any respect.

Paragraph (d)(4) is a mandatory requirement that water resources facilities, and access routes serving such facilities, in existence on the date of the bill's enactment within the areas described in sections 2, 5, 6, and 9 shall be maintained and repaired when and to the extent necessary to prevent increased adverse impacts on the resources and value of those areas.

Finally, subsection 8(e) is a savings clause, stating that except as provided in subsections 8(c) and 8(d), neither the provisions of the bill related to the Fossil Ridge Recreation Management Area, the Bowen Gulch Protection Area, the Piedra, Roubideau, and Tabeguache Areas, and the lands designated as wilderness by section 2(a), nor the wilderness status of the lands so designated by section 2(a), is to be construed to affect or limit the use, operation, maintenance, repair, modification, or replacement of water resource facilities in existence on the date of the bill's enactment within the boundaries of any of these areas. The intent of subsection 8(e) is to make clear that subsections 8(c) and 8(d) are the only parts of the bill that govern such use, operation, maintenance, repair, modification, or replacement of existing water resource facilities within these areas.

Subsection 8(g) addresses a number of difficult interstate water matters. Senator CAMPBELL has asked to be recognized to disusss this particular matter.

Mr. CAMPBELL. I thank the Senator. Subsection 8(g) has two paragraphs. Paragraph 8(g)(1) provides that nothing in the bill or in any previous act designating any lands as wilderness is to be construed as limiting, altering, modifying, or amending any of the interstate compacts or equitable apportionment decrees that apportion water among and between the State of Colorado and other States. This paragraph also states that except as expressly provided in section 8, nothing in the bill will affect or limit the development or use of Colorado's full apportionment of such waters by existing and future holders of vested water rights.

Paragraph 8(g)(2) relates solely to the Platte River Wilderness established by Public Law 98–550, which is located on the boundary between Colorado and Wyoming. This paragraph provides that no person, including the Secretary of Agriculture or any other officer, employee, or agent of the United States, shall assert in any court or agency any rights, and no U.S. court or agency shall consider any claim or defense based on such rights, which may be determined to have been established for waters of the North Platte River for purposes of such wilderness area, to the extent that such rights would limit the use of development of water within Colorado by present and future holders of vested water rights in the North Platte River and its tributaries to the full extent allowed under interstate compact or applicable U.S. Supreme Court equitable decree. The paragraph also provides that any such U.S. rights are to exercised so as not to prevent the use or development of Colorado's full entitlement to interstate waters of the North Platte and its Colorado tributaries allowed under interstate compact or U.S. Supreme Court equitable decrees.

Mr. BROWN. As has been fully explained, H.R. 631 represents a bipartisan effort on behalf of the Colorado delegation to establish wilderness areas within their State. I would like to commend the committee for allowing the Colorado delegation to determine wilderness issues within their own boundaries. I urge support of H.R. 631.

COLORADO WILDERNESS ACT

Mr. CAMPBELL. Madam President, Senator BROWN and I nearly succeeded in passing this bill in the waning hours of the 102d Congress. Unfortunately, although the Senate passed the bill, the House adjourned before it could be passed by unanimous consent.

Twelve years in the making, crafting this bill has taken Herculean efforts. The delegation first developed a compromise wilderness bill in 1984. The bill passed the House, but before action could be taken by the Senate in 1985, U.S. District Court Judge Kane decided Congress intended wilderness areas to have water rights, just as previous decisions reserved water for Indian reservations and forests. Judge Kane did not decide the basis on which those rights should be quantified, and was immediately appealed. The decision, however, halted the work of the Colorado congressional delegation to resolve the fate of forested areas that were left in study status following the passage of the first Colorado wilderness bill, Public Law 95-560, in 1980.

In 1980, by enactment of Public Law 96-560, Congress specified the future management of most of the Colorado national forest lands with regard to which the President, pursuant to the Wilderness Act, previously had made recommendations relating to wilderness designation, including recommendations resulting from the Forest Service's RARE II review process.

Regarding 11 other areas in Colorado, however, Public Law 96-560 provided for further study and for the submission of recommendations for their future management as components of the National Wilderness Preservation System or otherwise.

This bill is the product of the Energy and Natural Resources Committee's consideration of the administration's recommendations regarding not only those 11 areas, but also some other portions of Colorado's national forests, and also addresses the future management of some public lands managed by the Bureau of Land Management [BLM], which pursuant to section 603 of the Federal Land Policy and Management Act of 1976 have been studied for possible designation as wilderness. In the bill as reported, some of these public lands would be transferred to management by the Forest Service while others would continue to be managed by the BLM.

WATER RIGHTS

Obviously, the most significant aspect of the bill is the language regarding wilderness reserve water rights. The water related provisions of S. 206 has three basic purposes:

First, to provide for the operation, maintenance, repair and replacement of existing water facilities within the wilderness additions;

Second, to alleviate Federal preemption of Colorado water law as to the newly designated wilderness lands;

Third, to utilize Colorado water law in the protection of wilderness values.

The water language of S. 206 provides explicit recognition of, and protection for, water-related resource values of the wilderness area. This is accomplished by preventing the construction of any new water projects or expansion of existing facilities in the wilderness areas designated by this act. Preservation of the water-related wilderness values of the newly designated headwaters wilderness areas are protected by a prohibition on new facilities—not by restricting Colorado's right to its own water.

The water language in the bill is entirely premised on certain specific characteristics of the lands designated as wilderness by section 2(a) of the bill, namely:

First, these lands are located at the headwaters of the streams and rivers located on those lands, with few if any opportunities for diversion, storage, or other uses of water that could occur outside these areas that would adversely affect the wilderness values of the areas;

Second, these lands are not suitable for use for development of new water resource facilities or the expansion of existing water resource facilities; and

Third, therefore, proper management and protection of the wilderness values of the specific areas covered by section 2(a) can be provided for in ways different from those employed with regard to wilderness lands lacking these particular attributes.

This being the case, section 8 is intended to protect the wilderness values of the lands described in section 2(a) by means other than those based on assertion of Federal reserved water rights.

For instance, subsection 8(b)(1) of the bill would prohibit any person—including the Secretary of Agriculture and any other officer, employee, representative, or agent of the United States—from asserting in any court or agency any claim for water or water rights in Colorado based on construing any portion of the bill—or the designation by the bill of any lands as wilderness—as constituting either an express or implied reservation of water or water rights. It also would deny any court or agency the jurisdiction to consider any such claim.

The effect of enactment of paragraph 8(b)(1) will be to deny anyone—including but not limited to a person holding an established office of the National Government—the authority to assert and to deny a court or agency the jurisdiction to consider, a claim that the bill's designation as wilderness of the lands described in section 2(a) has the effect of reserving any water or water right with respect to those lands. Congress is not consenting to be sued in State court or to have considered in any other forum any claim that a reserved water right exists for these areas.

The preclusion of consideration of any claim to or for water or water right by any court or agency in this section was not intended to and does not address or affect the original jurisdiction of the U.S. Supreme Court under article III, section 2, clause 2 of the U.S. Constitution.

Second, an act of Congress is required to designate a wilderness area, and Congress is fully aware of its ability to expressly reserve water for such areas. Congress has considered the issue and has chosen not to assert a Federal reserved water right for these areas. Rather, it has decided to protect the resources of these areas in another manner. This legislative decision regarding how best to preserve these areas is within the sole prerogative of Congress. The preclusion of assertion of any claim for water or water rights by any agency or person is a limitation on the assertion of a theoretical cause of action relating to wilderness designation. There cannot be a denial of rights granted under the first amendment to the U.S. Constitution, where, as here, Congress determined that there is no Federal question to be litigated as to the existence of a Federal reserved water right for these areas. Further, the prohibition of any such claim or assertion serves to avoid frivolous litigation while defining the jurisdiction of the courts over Federal questions. Congress does not want others to assert or claim water or water rights where it has explicitly chosen to not assert a Federal reserved water right for these wilderness areas. Finally, I wish to emphasize that the wilderness areas designated by this act would not have been designated in the absence of this prohibition.

The language pertaining to water rights found in paragraph 8(b)(2) clarifies several aspects of the bill's effects with regard to water or water rights. Subparagraph (b)(2)(A) states that nothing in the bill constitutes or is to be construed as either an express or implied reservation of any water or water right with respect to the Piedra, Roubideau, and Tabequache areas identified in section 9, the Bowen Gulch Protection Area identified in section 5, or the Fossil Ridge Recreation Management Area identified in section 6. These areas are not designated as wilderness.

The language in subparagraph (b)(2)(C) provides that with the exception of subsection 8(g)(2), nothing in the bill is to be construed as constituting an interpretation of any other act or any designation made by or pursuant thereto; and subparagraph (b)(2)(D) provides that nothing in section 8 is to be construed as establishing a precedent with regard to any future wilderness designations.

The language in subsection 8(c) of the bill deals with water resource facilities—meaning irrigation and pumping facilities, reservoirs, water conservation works, aqueducts, canals, ditches, pipelines, wells, hydropower projects, transmission and other ancillary facilities, and other water diversion, storage, and carriage structures.

This subsection would prohibit any U.S. officer, employee, or agent—including the President—from funding, assisting, authorizing, licensing, or permitting the development of any new water resource facility or the enlargement of any existing water resource facility within any of the areas described in sections 2, 5, 6, or 9—that is, the Fossil Ridge Recreation Management Area, the Bowen Gulch Protection Area, the Piedra, Roubideau, and Tabequache Areas, and the lands the bill designates as wilderness. This prohibition would apply notwithstanding any other provision of law.

The language also directs the relevant Secretary to allow reasonable access to such facilities in existence on the date of enactment of the bill, including motorized access where necessary and customarily employed on routes in existence on that date, subject to the provisions of subsection 8(d).

The language in paragraph 8(d)(2) specifies that existing access routes within the areas described in sections 2, 5, 6, and 9 customarily employed as of the date of the bill's enactment may be used, maintained, repaired, and replaced to the extent necessary to maintain their present function, so long as the function, design, and serviceable operation of these routes is not modified so as to increase the adverse impacts on these areas.

The language in paragraph 8(d)(3) provides that, subject to subsections 8(c) and 8(d), the relevant Secretary is to allow water resource facilities in existence on the date of the bill's enactment within the areas described in sections 2, 5, 6, and 9 to be used, operated, repaired, maintained, and replaced to the extent necessary for the continued exercise, in accordance with Colorado law, of vested water rights adjudicated prior to the bill's date of enactment by a court of competent jurisdiction for use in connection with such facilities. The paragraph also specifies that the impact of an existing facility within an area described in section 2, 5, 6, or 9 on the water resources and values of such an area shall not be increased as a result of any change in the adjudicated type of use of such a facility—as compared with the type of use adjudicated as of the date of enactment of the bill.

The language of paragraph 8(d)(3) also establishes that the obligation of the relevant Secretary to allow the continued operation, maintenance, and use of water resource facilities is limited to those facilities that are in existence as of the date of this act for the exercise, in accordance with Colorado law, of all water rights adjudicated for use in connection with those facilities prior to enactment of this act. Such a water right may be utilized under State law so long as the impact on the water resources and values of the wilderness area is not increased. Consequently, by way of example, there would be no barrier to changes in the location or type of use so long as the change did not increase the quantity or time of diversions from these facilities in a manner which increased the impact of the existing facility on the water resources and values of the area. This paragraph does not modify or change Colorado law relating to these water rights in any respect.

The language of paragraph 8(d)(4) is a mandatory requirement that water resource facilities, and access routes serving such facilities, in existence on the date of the bill's enactment within the areas described in sections 2, 5, 6, and 9 shall be maintained and repaired when and to the extent necessary to prevent increased adverse impacts on the resources and values of those areas.

Subsection 8(e) of the bill contains a savings clause, stating that except as provided in subsections 8(c) and 8(d), neither the provisions of the bill related to the Fossil Ridge Recreation Management Area, the Bowen Gulch Protection Area, the Piedra, Roubideau, and Tabeguache Areas, and the lands designated as wilderness by section 2(a), nor the wilderness status of the lands so designated by section 2(a), is to be construed to affect or limit the use, operation, maintenance, repair, modification, or replacement of water resource facilities in existence on the date of the bill's enactment within the boundaries of any of these areas. The intent of subsection 8(e) is to make clear that subsections 8(c) and 8(d) are the only parts of the bill that govern such use, operation, maintenance, repair, modification, or replacement of existing water resource facilities within these areas.

Subsection 8(f) of the bill provides that the Secretaries of Agriculture and the Interior are to monitor the operation of and access to water resource facilities within the areas described in sections 2, 5, 6, and 9 of the bill and are to take all steps which they determine are necessary to implement the provisions of section 8 of the bill.

Subsection 8(g) of the bill has two paragraphs. Paragraph 8(g)(1) provides that nothing in the bill or in any previous act designating any lands as wilderness is to be construed as limiting, altering, modifying, or amending any of the interstate compacts or equitable apportionment decrees that apportion water among and between the State of Colorado and other States. This paragraph also states that except as expressly provided in section 8, nothing in the bill will affect or limit the development or use of Colorado's full apportionment of such waters by existing and future holders of vested water rights.

Paragraph 8(g)(2) relates solely to the Platte River Wilderness established by Public Law 98-550, which is located on the boundary between Colorado and Wyoming. This paragraph provides that no person—including the Secretary of Agriculture or any other officer, employee, or agent of the United States—shall assert in any court or agency—of the United States or other jurisdiction—any rights, and no U.S. court or agency shall consider any claim or defense based on such rights, which may be determined to have been established for waters of the North Platte River for purposes of such wilderness area, to the extent that such rights would limit the use or development of water within Colorado by present and future holders of vested water rights in the North Platte river and its tributaries to the full extent allowed under interstate compact or applicable U.S. Supreme Court equitable decree. The paragraph also provides that any such U.S. rights are to be exercised so as not to prevent the use or development of Colorado's full entitlement to interstate waters of the North Platte and its Colorado tributaries allowed under interstate compact or U.S. Supreme Court equitable decrees. This means that while existing water rights associated with wilderness or other Federal reservations may still be recognized in the North Platte and its tributaries, such rights associated with this specific wilderness area may not be asserted or exercised in a way that would prevent Colorado from using its full entitlement under Federal law to the waters of the North Platte system.

Both water users and environmentalists support this approach. But, this language was an important means to achieve an end—the designation of 17 new wilderness areas comprising more than 611,000 acres of forested land as wilderness.

DESCRIPTION OF THE DESIGNATED WILDERNESS AREAS

American Flats, Bill Hare Gulch/Larson Creek

This 3,390 acre addition to the existing Big Blue Wilderness—which the bill renames as Uncompahgre Wilderness—are located north of Lake City, CO. Bureau of Land Management [BLM] wilderness studies determined these additions would be a logical extension of the wilderness, especially with regard to American Flats, an area above treeline marked by undulating hills that from the watershed divide separating Cow Creek and Wildhorse Creek from Henson Creek. They provide unobstructed views of Wetterhorn and Uncompahgre Peaks and much of the San Juan Mountains. The Bill Hare Gulch and Larson Creek areas are comprised mostly of alpine tundra, some lower elevation ponderosa pine and spruce fir forests and are a summer habitat for several species of big game. Hinsdale and Ouray Counties are popular with tourists and outdoor enthusiasts, including off-road vehicle users who especially enjoy the scenery along the Engineer Pass Road. While the wilderness additions in the bill as reported are greater than in the Senate bill, the increase presents no conflicts with off-road vehicle use, and special care was taken to exclude from wilderness several patented mining claims in the south portion of the American Flats addition.

Bowen Gulch

This 815 acre wilderness area was considered for wilderness designation during the Forest Service's RARE II review, but was not recommended. The area is adjacent to the Continental Divide and is unusual for Colorado because of its abundant rainfall caused by the effects of the mountains on the prevailing westerly winds, and includes one of the most important stands of old-growth trees in the State—some as large as 5 feet in diameter and more than 600 years old. In 1984, prior to adoption of new policies for protection of old-growth trees, the Forest Service carried out the environmental analysis of a proposed sale of timber in this area, and in 1988 completed a sale contract allowing harvesting of timber in the Bowen Gulch area. However, the Louisiana Pacific Co., in response to controversy about the sale agreed not to log the area if substitute timber was provided, which the committee understands has now been done. The reported bill designates a portion of the Bowen Gulch area as an addition to the existing Never Summer Wilderness. Section 6 of the bill prohibits timber harvest on another portion of the area that is withdrawn from mineral exploration and development and designated as the "Bowen Gulch Protection Area."

Buffalo Peaks

This 43,410 acre wilderness area is located some 10 miles southeast of Leadville, CO, between the South Platte River and Arkansas River drainages, within Lake, Park, and Chaffee Counties. The area's rolling terrain, subalpine meadows and timbered basins provide habitat for bighorn sheep. Roads once existed in the area, but they have been closed since 1971 and there is little, if any, conflict with grazing or off-road vehicle use. The wilderness boundaries have been drawn to avoid most patented mining claims and an electronic site near South Peak.

Davis Peak

This 20,750 acre wilderness area is an addition to the Mt. Zirkel Wilderness Area is a lower-elevation area that includes a portion of the Encampment River. The bill includes in wilderness the Manzanares Lake area, but excludes the Dome Peak area, which is managed for timber production, livestock grazing and motorized recreation, as well as the area which serves as the Big Creek campground water collection system and the South Hog Fork Creek drainage, one of the highest producing watersheds in the State.

Fossil Ridge

The bill designates as wilderness a 33,060 acre portion of the Fossil Ridge Wilderness Study Area—designated in 1980 by Public Law 96-560—between Crested Butte and Gunnison, CO. The Forest Service once identified this as among the highest ranking potential wilderness areas in Colorado, but has failed to manage the area to adequately maintain its wilderness character—mostly by allowing excessive use of mechanized equipment for recreation. Nonetheless, the area remains a very special place, marked by alpine lakes, notable wildlife values—including mountain goats and elk—and the fossil-bearing limestone strata which give the area its name. The remainder of the wilderness study area is included within the Fossil Ridge Recreation Management Area designated by section 5.

Greenhorn Mountain

This rugged, broken and ecologically diverse 22,040 acre wilderness area is in the southern Front Range. It is part of a slightly larger area designated as a Wilderness Study Area by Public Law 96-560 in 1980. At the suggestion of the Forest Service, the boundaries of this area have been drawn to designate as wilderness lands within a "Greenhorn Mountain Cherrystem" that were excluded from wilderness in past proposals. The "Greenhorn Mountain Cherrystem" was closed in 1987 and subsequently ripped and reseeded, leaving only a four-foot-wide hiking trail.

Lost Creek

This 14,700 acre addition to the existing Lost Creek Wilderness Area is directly south of Denver, CO, near Kenosha Pass. The boundaries include South Twin Cone Peak at the northern end of the Platte River Mountains as well as the upper reaches of Rock and Shutetown Creeks and Foster Gulch.

Oh-Be-Joyful

This 5,500 acre wilderness area was considered for wilderness in 1980, but not designated because of the need for further consideration of possible conflicts. While some possible conflicts may still remain, inclusion of the area in wilderness—as an addition to the existing Raggeds Wilderness—will provide protection for important resource values and the area's status as a part of the municipal watershed for the community of Crested Butte. The boundaries include the Oh-Be-Joyful Peak—part of the Ruby Range—Pass and Creek, from which the area takes its name, and the Peeler Lakes.

Powderhorn

Even this 60,100 acre wilderness area's most famous visitor, Alfred Packer, must have been awed by the its expanse of alpine tundra, the largest in the lower-48 States, much of which has been managed by the BLM as the Powderhorn Primitive Area—part of the area bears the name "Cannibal Plateau," a reminder of Packer's notoriety. The boundaries straddle the line between Gunnison and Hinsdale Counties. The portion of the wilderness which has been managed as the Powderhorn Primitive Area will continue to be managed by the Bureau of Land Management, while the remainder will continue under management of the Forest Service.

Sangre de Cristo

The Sangre de Cristo Wilderness is by far the most complex area dealt with in this bill. This 226,455 acre wilderness area is generally located between the towns of Salida and Alamosa, in Custer, Fremont, Saguache, Huerfano, and Alamosa Counties. The mountains themselves rise steeply from the floor of the San Luis Valley, location of some of Colorado's oldest settlements—the name Sangre de Cristo, or "Blood of Christ", is said to have been bestowed by Juan De Onate in 1647 and to refer to the red hues tinting the range at sunset. Extending from northern New Mexico into central Colorado, the range with its 30 peaks rising above 13,000 feet—7 rise above 14,000—forms a natural barrier between southeast and southwest Colorado and causes the wind currents responsible for formation of the remarkable dunes in the Great Sand Dunes National Monument. While the South Colony Lakes road is not included in the Sangre de Cristo Wilderness designated in subsection 2(a), and therefore may be managed to permit motorized use, the committee intends the Forest Service to strictly and universally prohibit—and physically restrict—any motorized access into the lands included in this wilderness area, including the South Colony Lakes and the sensitive alpine tundra areas in the vicinity. The boundary of the southernmost portions of the wilderness area has been drawn so as to exclude from wilderness a number of private holdings—including patented mining claims—in the Como Lake and Blanca Peak areas. The area includes some BLM acreage, administered by the San Luis Resource Area, which is to be transferred to the Forest Service and added to the Rio Grande National Forest.

Service Creek

This 47,140 acre wilderness area—given the name Sarvis Creek Wilderness—is a low-elevation forest, different from most of the State's wilderness areas that are characterized by rugged terrain. It has extraordinary wildlife habitat, and is used for recreation by many Steamboat Springs residents. The boundaries exclude from wilderness Walton Peak in the north because of the need for continued accessibility to an electronic transmission site and a popular snowmobile trail near Forest Road 100. The boundary will not impact the work the Forest Service has been doing to prepare a thorough Environmental Impact Statement [EIS] on the proposed Lake Catamount Ski Area near Steamboat Springs. The Silver Creek Trail is included within the wilderness, but the committee has drawn the northeastern boundary of this area so as to exclude from wilderness the Routt Divide Trail, partly within wilderness under other proposals, so that it can continue to be managed to permit mechanized use, including use by bicycles, if and as authorized by the Forest Service.

South San Juan Addition

The South San Juan Wilderness is located east of Pagosa Springs, CO. The 31,100 acres that would be added to this existing wilderness area by the bill as reported include the V-Rock and Montezuma Peak Wilderness Study Areas. This is one of the wildest areas in Colorado, and not only attracts fishermen, backpackers, cross-country skiers, rock climbers, hunters and horseback riders, but also is prime habitat for endangered species. The Colorado Division of Wildlife believes the area is suitable habitat for grizzly bears—the last reported sighting of a grizzly in Colorado occurred in the existing South San Juan Wilderness—as well as for wolverines and river otters. According to Forest Service data, less than nine percent of this area's acreage is suitable for timber harvesting, and no sales have been planned. The Committee understands that the Forest Service and the U.S. Geological Survey have noted the presence of oil, gas, and minerals, but consider them too small and isolated for mining.

Spruce Creek

The 8,330 acre Spruce Creek Wilderness Area is surrounded by the existing Hunter-Fryingpan Wilderness Area, northeast of Aspen, and is appropriate for management as an addition to that wilderness. It was considered for wilderness in 1980, but was not designated because of perceived conflicts with timber harvesting that have now been resolved. The bill as reported includes provisions to clarify that the addition of this area to wilderness will not interfere with continued operation of the Fryingpan-Arkansas project.

St. Louis Peak ("Byers Peak Wilderness") and Vasquez Peak

These areas, in Grand County, CO, are a high, rugged expanse of tundra and rock mostly above treeline that straddles the Continental Divide. Because of their proximity to Denver, they are an important recreational resource, attracting many visitors. Their forest provide little commercial timber. Some unpatented mining claims do exist within the areas, but no exploration activities have recently taken place. While the Vasquez Peak Wilderness Study Area [WSA] was recommended for wilderness, the Forest Service felt there were too many "external influences" to recommend such designation for the adjacent St. Louis Peaks area. However, the committee has decided that both areas, comprising 8,095 acres should be designated as wilderness.

Weminuche and the West Needles

This 28,740 acre addition to the existing Weminuche Wilderness Area provide wilderness designation for lands on both sides of the Las Animas River and the famous narrow-gauge railroad from about 4 miles south of Silverton to the Teft Spur, just downstream from the mouth of Crazy Woman Gulch. This is some of the most spectacular mountainous country in Colorado. Some of these lands were originally omitted from National Forests status (remaining public lands were managed by the Bureau of Land Management and its predecessor agencies) because of possible mineral significance. Pursuant to section 603 of the Federal Land Policy and Management Act of 1976 [FLPMA], the Needle Creek, West Needles Contiguous, Whitehead Gulch, and Weminuche Contiguous areas were identified as wilderness study areas subject to interim management pending a Congressional decision as to their possible inclusion in the National Wilderness Preservation System. In December, 1981, then-Secretary of the Interior James G. Watt directed that these areas no longer be subject to such interim management, but by enactment of section 12 of the Public Lands and National Park Act of 1983—Public Law 98-141—Congress added some of these lands to the National Forest System, mandating they be managed as part of the West Needles Wilderness Study Area, and directed that the remainder continue to be managed pursuant to section 603 of FLPMA. The reported bill adds to the existing wilderness acreage within the West Needles Wilderness Study Area.

Wheeler Area (addition to La Garita Wilderness)

This 25,640 acre wilderness area is truly special and offers visitors some spectacular views of a rather unique part of Colorado. High in the La Garita Mountains east of Creede, the pancake rocks and pinnacles of the area have long been recognized as an unusual resource, and were given the administrative designation of geologic area prior to being included within the lands for which a special study status was established by Public Law 96-560 in 1980. The bill includes the area previously designated as the Wheeler Geologic Area—part of the area required to be studied by section 105(b) of Public Law 96-560—within wilderness, and omits from wilderness the road leading to the geologic area itself, recognizing the viewpoint at the end of the road as a popular recreation site for handicapped persons and other users of motorized vehicles. The designation of wilderness in this area will not preclude Forest Service installation of toilets, picnic facilities and similar small structures outside the wilderness boundaries.

Ptarmigan Peak Wilderness

This 13,175 acre wilderness area boasts excellent recreational opportunities in high-altitude terrain within a short hour's drive from Denver. The area stretches from Coon Hill near the portal of the Eisenhower Interstate Highway tunnel, west to Ptarmigan Pass, and then northwest nearly to Ute Peak in the Williams Mountains. The northern and eastern boundaries exclude an operating mine and water rights associated with the Williams Fork Diversion Project.

RELEASE LANGUAGE

The bill also adopts an approach I suggested with regard to release language. Section 4 repeals the provisions of P.L. 96-560 dealing with areas dealt with in this bill. Section 4 acknowledges that this act completes the wilderness study initiated by the act of December 22, 1980, and releases nondesignated acreage to multiple use consistent with the national forest planning process. This section preserves the Act of December 22, 1980, exemption of the Roadless Areas Review [RARE II] environmental impact statement from judicial review. In essence, my language simplifies the issue of releasing areas not designated as wilderness by repealing the provisions of the 1980 Colorado Wilderness Act that direct the Forest Service to conduct studies and manage these areas to preserve their wilderness characteristics. The Forest Service will now manage these lands for multiple use.

OTHER PROTECTED AREAS

The bill also protects six other areas that were not suitable for wilderness because they were either downstream areas or were popular recreation areas. These include the Fossil Ridge Recreation Management Area, the Bowen Gulch Protection Area, the Piedra Area, the Roubideau Area, the Tabequache Area and the Spanish Peaks Further Planning Area. All these areas are to be closed to mineral activities, timber harvesting, developed campgrounds, restricted or closed to motor or mechanized vehicles and no new roads or trails will be built. Of these, the Rubideau and Tabequache Area are especially important to me.

Section 5 would designate 43,900 acres of National Forest lands as the "Fossil Ridge Recreation Management Area." The area would be established to conserve, protect and enhance its scenic, wildlife, recreational and other natural resource values; would be withdrawn—subject to valid existing rights—from mineral entry and from mineral and geothermal leasing; would be closed to timber harvesting, except as permitted by the Wilderness Act for necessary control of fire, insects and diseases for public safety; would be closed to construction of developed campgrounds and new roads or trails; and would be closed to motorized travel except on established trails or roads existing on July 1, 1991. Designation of the area would not prohibit or change the administration of livestock grazing on the lands involved. Section 5 also requires the Secretary to identify such routes and trails and to prepare and make public a map showing these routes and trails. Consideration was given by the committee as to whether the identification of the trails and routes, and the subsequent publication of the map, ought to be subject to a public-commenting process. Because of the lengthy negotiations surrounding motorized travel in the area, the committee, after conferring with the sponsors of H.R. 631/S. 206 rejected opening up the issue to further debate. Consequently, it is our intent that the identification of routes and trails established as of July 1, 1991, shall be primarily ministerial in nature and shall not constitute an amendment to the Forest Plan for the Gunnison National Forest. It is my understanding that the U.S. Forest Service has begun the identification of these routes and trails, and I encourage the Forest Service to complete this inventory and make public a map at the earliest possible date.

Section 6 would designate 11,600 acres of National Forest lands as the "Bowen Gulch Protection Area". While all of the Bowen Gulch area would be appropriate for management as wilderness, the portion covered by section 6 has been given a different status so as to accommodate snowmobiling and use of mountain bicycles under appropriate regulations. The area is now going to be withdrawn from mineral entry and from mineral and geothermal leasing; would be closed to new developed campgrounds, roads, and trails; would be closed to timber harvesting except as permitted by the Wilderness Act for necessary control of fire, insects and diseases for public safety; and would be closed to motorized travel except on designated trails and routes in existence on July 1, 1991 during periods of adequate snow cover—but open to mechanized, nonmotorized travel. The Forest Service would be required to develop a management plan for the area during revision of the relevant National Forest plan.

Section 7 of the bill provides that nothing in the bill will affect ownership or use of lands not owned by the United States or access to such lands available under other applicable law. Under the Wilderness Act inholdings in National Forest wilderness areas cannot be acquired without the consent of the owner, and that adequate access is to be provided to the owner.

Section 9 of the bill provides management requirements for the Piedra area (62,550 acres) in the San Juan National Forest and for two areas—Roubideau (19,650 acres) and Tabequache (17,240 acres)—in the Gunnison National Forest and the Bureau of Land Management's San Juan Resource Area. Each of these areas is withdrawn from all forms of location, leasing, patent, disposition under the public land laws, the mining laws, and the mineral and geothermal leasing laws.

The Piedra area is characterized by notable mid elevation forest and canyons as well as a stretch of the Piedra River. Located just to the south of the Weminuche Wilderness, the Piedra Area also encompasses several mountain streams and stands of old growth.

The Roubideau Area, like the Tabeguache Roadless Area, was targeted by the Forest Service for timber cutting before public outcry forced the Forest Service to re-evaluate its position. A prime feature of the area located 15 miles west of Montrose, CO, is Roubideau Creek, which has carved one of Colorado's most unique canyons. Named after a French fur trapper, the creek originates in subalpine spruce and aspen forests high on the Uncompahgre Plateau before it flows 20 miles into the Gunnison River. The area is rich in native cutthroat trout, beaver, black bear, deer, bobcat, and cougar, as well as golden eagles and other birds.

Finally, the Forest Service's Tabeguache Roadless Area and an adjacent BLM wilderness study area, both in Montrose County, encompass one of the last pristine canyons of the Uncompahgre Plateau, the higher country that divides the drainage of the Uncompahgre and Gunnison Rivers from that of the Dolores. The areas have exposed geologic strata that represent a time-span of nearly 100 million years and afford opportunities for relatively low-elevation, year-round recreational uses such as horseback riding, hiking, camping, and fishing. The roadless area was recommended for wilderness designation by the Forest Service, while the BLM has suggested that the natural resources and extremely high cultural values—including evidence of both the Anasazi and Fremont cultures—of its portion would be suitable for management as an Outstanding Natural Area.

Section 9 of the bill also specifies that no further study for possible wilderness designations is required for any of these areas, but that until Congress determines otherwise, activities within these areas are to be managed so as to maintain the present wilderness character of the areas and their potential for inclusion in the National Wilderness Preservation System. The section specifies that livestock grazing will be permitted and managed in the areas to the same extent and in the same manner as of the date of the bill's enactment. The section specifies that except as provided elsewhere in the bill—that is, in section 8—mechanized or motorized travel generally will not be permitted in the areas, but that motorized—snowmobile—travel on Trail 535 in the Piedra area may be allowed when there is adequate snow cover. It is the intent of Congress that the Forest Service carefully consider the corridor width necessary to maintain Trail 535 consistent with snowmobile use during periods of adequate snow cover.

With regard to the Spanish Peaks Planning Area, section 10 would require the Secretary of Agriculture to continue to manage the Spanish Peaks Planning Area as provided by the Colorado Wilderness Act of 1980—that is as a wilderness study area—for 3 years after the bill's enactment. It would also require the Secretary, before the end of this 3-year period, to report the location, acreage, and nature of all private property interests located within the Spanish Peaks Planning Area of the Pike-San Isabel National Forest, and report whether the owners of these interests would be willing to transfer these to the United States—by sale or exchange—on a fair-market-value basis if that could be done in the near future. Subsection 9(c) clarifies that nothing in the bill is to be construed as a grant of new authority for acquisition of property by eminent domain.

We have gone to these lengths to protect this area because in 1977, the Spanish Peaks, or Wahyatoya—"Breasts of the World"—were designated as a National Natural Area because its outstanding scenic values. This area has also been inventoried for potential historic recognition because due to two volcanic peaks—easternmost extensions of the Rocky Mountains—which served as a landmark to some of Colorado's early settlers. In fact, the trail between Bent's Old Fort and Taos, NM, passes within sight of Spanish Peaks. Although some private inholdings currently exist within the area, the Forest Service has been working to acquire them through exchanges and acquisition. The western boundary of the Spanish Peaks Planning Area excludes a water right associated with a proposed reservoir on the Cuchares River.

ADMINISTRATIVE PROVISIONS

Finally section 3 of the bill includes a number of administrative provisions. It provides for appropriate management of the areas designated as wilderness—including the management of livestock grazing—clarifies that the bill will not affect the jurisdiction or responsibilities of the State of Colorado relating to wildlife and fish or create any buffer zones around wilderness. The section also changes the name of the Big Blue Wilderness. Subsection 3(a) would transfer to the Forest Service the administration of BLM lands within the Bill Hare/Larson Creek Additions to the Uncompahgre Wilderness and Sangre de Cristo Wilderness Areas. Under subsection 3(f), the Big Blue Wilderness as designated by Public Law 96-560 and as it would be expanded by additions made by this bill, would be renamed as the "Uncompahgre Wilderness," as originally provided in the Senate version of that 1980 legislation and in recognition that much of these lands were part of the Uncompahgre Primitive Area prior to enactment of Public Law 96-560.

CONCLUSION

Some may cry that Congress is "locking up" more Federal lands. But, the lands the congressional delegation have been arguing about have already been withdrawn from most public uses since 1980. The majority of the people of Colorado, and indeed, most Americans, continually express their desire for more wilderness in Colorado.

If wilderness were simply a land management issue, it would be an easy matter to separate the areas that have conflicts from those that do not. Wilderness, however, is a complicated political issue requiring elected officials to make tough choices. Representatives and senators from every State have the opportunity to judge the work we have done and to add areas to the bill that they have heard have "outstanding wilderness values."

Coloradoans have been arguing about wilderness long enough. A significant majority of my constituents want to see more wilderness in the State protected. Compared to other troubling issues that Congress must address—like hunger, homeless, unemployment, the deficit, bank failures, world peace and the like—the hue and cry over designating more wilderness in a state where tourism is the single largest industry, and in areas that have been managed to protect their wilderness characteristics and which remain rugged, remote and roadless, seems ridiculous to me.

It is time to get on with it.

THE COLORADO WILDERNESS ACT OF 1993

Mr. BROWN. Madam President, efforts to enact a Colorado wilderness legislation have spanned more than a dozen years. Senator CAMPBELL and I believe that Colorado Wilderness Act represents a compromise that will benefit both Colorado and the Nation. Many portions of this bill are the same as the bill that passed the Senate last session and received your support and that of the Colorado delegation. Colorado environmental groups and some resource user groups have endorsed this compromise as an acceptable solution.

The Colorado Wilderness Act will designate as wilderness 611,730 acres in 19 areas throughout Colorado. An additional 99,440 acres comprising the Roubideau, Tabeguache, and Piedra areas will be managed as wilderness. Our bill also creates two special management areas, the Fossil Ridge Recreation Management Area and the Bowen Gulch Protection Area, which comprise 55,500 acres. The land management plans for these areas were crafted to allow for recreational activities while enhancing the scenic, wildlife, and other natural resources values of the areas.

It is important to recognize the diligent efforts of countless groups and individuals who worked together for more than a decade to develop the boundaries for these areas. Thousands of conflicts created by private property, mining claims, water rights, oil and gas leases, timber suitable areas and existing access trails were carved out in order to preserve every acre of wilderness that was suitable.

Because of this willingness to negotiate and compromise, Colorado will boast new wilderness additions including over a quarter of a million acres in Colorado's most majestic mountain range, the Sangre de Cristo. Home to three of the State's 14,000-foot peaks, this area contains some of the most beautiful back-country with cascading waterfalls and sparkling trout-filled streams. In addition, the Sangre de Cristo provides winter range for deer, elk, and bighorn sheep. Adjacent to the Great Sand Dunes, this wilderness area will provide the people of Colorado some of the most spectacular recreational opportunities in the State.

Passage of the Colorado Wilderness Act will not only protect more than three-quarters of a million acres of some of Colorado's most beautiful wilderness, it is another way to ensure preservation of the Colorado's past. It is a past rich in history and full of respect for the land that will be given to our children and our children's children.

The Colorado Wilderness Act protects Colorado's ability to divert, store and use water allocated to it under the equitable decrees and interstate compacts. It protects all existing, absolute and conditional water rights and no compromise would have been possible if it did not.

The issue of the existence of Federal reserved water rights for the upstream areas is moot, because the Colorado Wilderness Act provides that no one can assert such a right, and no court or agency could ever consider in any fashion such a claim. This ensures that wilderness status will never result in an encroachment on Colorado's ability to use its interstate water allocations. The bill addresses the difficult issue of downstream wilderness study areas, where there could be conflicts with water storage and diversion. Where conflict exists, the areas are not classified as wilderness areas. This ensures that there will be no effect on existing and future water use.

In order to make this intent crystal clear, there is also an explicit disclaimer of a Federal reserved right for these areas, and the existence of these areas cannot be used as a basis to affect upstream activities as a part of any administrative or regulatory program. At this time, I ask that a copy of a letter signed by 15 Colorado water attorneys, interpreting the language in the water section of this bill, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD as follows:

JANUARY 20, 1993.

Senator HANK BROWN,
Senator BEN NIGHTHORSE CAMPBELL,
U.S. Senate,
Washington, DC.

DEAR SENATORS BROWN and CAMPBELL: We understand that you are considering re-introduction of the October, 1992 version of S. 1029 ("S. 1029"), but that questions have been raised regarding whether this resolution of the wilderness issue presents unacceptable risks to existing and future development of Colorado's interstate water entitlements. We urge you to re-introduce the October, 1992 version of S. 1029 and to work toward its swift enactment into law.

With regard to some of the concerns that have been raised about S. 1029, as you well know, it is impossible to draft, and even more impossible to enact into law, legislation that is entirely free of risk. However, we have reviewed S. 1029, and conclude as follows:

1. FEDERAL RESERVED WATER RIGHTS

This legislation does not create a federal reserved water right. Federal reserved water rights do not exist unless Congress expressly creates them or a court finds that they are necessary to avoid the "entire defeat" of the primary purpose of the reservation.

The recognition of "implied" federal reserved water rights was based on the conclusion of the Supreme Court that Congress would have explicitly reserved such rights had it been aware of and considered the issue. It is no longer possible to assert that Congress is not aware of the issue of federal reserved water rights, and it is clear that if the issue was carefully considered by Congress in the course of its deliberation on the creation of additional wilderness areas in Colorado. Consequently, "implied" federal reserved water rights cannot exist for new federal wilderness reservations or designations.

In the October, 1992 version of S. 1029, Congress explicitly states that no person shall assert, nor shall any agency or court consider, any claim for a federal reserved water right. Therefore, the necessary implication of S. 1029 is that a federal reserved water right is not required to achieve the primary purpose of the wilderness designation. Moreover, in the absence of an explicit Congressional reservation of water, the McCarran Amendment requires that implied water rights only be recognized through judicial proceedings, and S. 1029 precludes a claim of this nature from being asserted in any forum, including federal or state courts.

S. 1029's bar to assertion or consideration of such a claim has been asserted to represent an implication that such a right exists. This conclusion is incorrect—the purpose of this provision is to prevent the assertion of meritless litigation, and the resulting waste of time and financial resources. Simply put, the issue of whether this Act creates a federal reserved water right can never be asserted by anyone or considered by any court or agency. Speculation about what a court might do if it were to ignore this explicit Congressional prohibition requires that one attempt to predict the actions of a court which does not consider itself bound by the law—an inherently illogical exercise.

It has also been argued that S. 1029 bears on the determination of whether implied federal reserved water rights exist for existing wilderness areas. This is also an incorrect conclusion. First, under *Sierra Club* v. *Yeutter*, an imminent threat of harm to a wilderness area must exist before the courts will consider whether such a water right exists. If such a threat exists, the court will then determine whether a reserved water right is necessary to avoid the entire defeat of the primary purpose of the reservation. Second, Section 8(b)(2)(C) of S. 1029 explicitly provides that it cannot be used to interpret Congressional intent for prior wilderness reservations. Under the applicable law regarding the recognition of implied federal reserved water rights, i.e. *United States* v. *New Mexico*, Congressional intent is to be determined as of the time of the reservation. Accordingly it would be improper for any court to use this bill to interpret the 1964 Wilderness Act.

2. PROTECTION OF EXISTING WATER RIGHTS

The October, 1992 version of S. 1029 provides better protection for existing water rights than any prior version. The original version of S. 1029 which was co-sponsored by Senators Wirth and Brown and passed by the Senate in August, 1991, did not protect access to and use of conditional water rights for existing facilities. In contrast, the October, 1992 version provides explicit protection for access to and use of "vested water rights" as determined under Colorado law. This will allow owners of conditional water rights for existing facilities to assert that the use of these facilities for those conditional rights is protected under this Act. It is ironic that the water users in wilderness areas designated under S. 1029 would have greater protection from attempts by the Forest Service to require by-pass flows than water users located outside of such areas because it explicitly requires the Forest Service to allow the continued use and operation of existing water facilities. However, this demonstrates the strength of the protection accorded to existing water rights by S. 1029.

3. DOWNSTREAM WILDERNESS STUDY AREAS

The October, 1992, version of S. 1029 provides the most favorable political precedent for the future debate on BLM downstream wilderness areas. First, existing wilderness study areas are not designated as wilderness, and are instead designated as something else—an "Area" which is not part of the National Wilderness Preservation System. And while Congress can always act in the future to change the status of these "Areas", their protection under S. 1029 will substantially reduce the need to do so. Second, federal reserved water rights are explicitly disclaimed for these "Areas". Third, the management of these Areas to preserve wilderness characteristics is limited to activities within the areas, which therefore excludes management of upstream activities to protect these wilderness characteristics. Finally, this solution does not require the CWCB to expand the methodology used to quantify its instream flow water rights beyond its present standard.

4. INTERSTATE WATER ALLOCATIONS

We agree with your December 14, 1992 analysis of Section 8(g) of S. 1029, which provides protection of Colorado's interstate compact and equitable apportionment water allocations. This protection is superior to that contained in any other wilderness bill which has been enacted by Congress.

In conclusion, we believe that the October, 1992 version of S. 1029 protects existing and future water development and use in Colorado. We further believe that this legislation represents a legitimate and fair compromise of an extremely complex and divisive issue, and that it would be difficult, if not impossible, to make additional improvements in any future negotiations.

Thank you for your steadfast leadership on this important issue.

SIGNATORIES TO JANUARY 20, 1993 LETTER

Gregory J. Hobbs, Jr.,
Robert V. Trout,
Bennett W. Raley,
William H. Brown,
John Akolt,
Timothy Beaton,
David Robbins,
Jim Lochhead,
Steve Leonhardt,
Jim Witwer,
Frank E. (Sam) Maynes,
William Bohlender,
Hamlet J. (Chips) Barry III,
Thomas R. Sharp,
Mark J. Wagner,
Stan Cazier,
Richard Bratton.

Mr. BROWN. Madam President, if enacted, the water language of the Colorado Wilderness Act will provide explicit recognition of, and protection for, water-related resource values of the wilderness areas. This would be accomplished by preventing the construction of any new water projects or expansion of existing facilities in the wilderness areas designated by this act. Preservation of the water-related wilderness values of newly designated headwaters wilderness areas are protected by a prohibition on new facilities in the wilderness—not by restricting Colorado's right to its own water.

Colorado is at the headwaters of the Colorado, Arkansas, South Platte, North Platte, White, Yampa, Rio Grande, Animas, La Plata, Costilla, and Republican Rivers, to name a few, and each of these rivers is subject to interstate compacts or equitable apportionment decrees of the U.S. Supreme Court. Under these compacts and decrees, Colorado is obligated to pass water through the State so that it can be delivered to and used by downstream States.

Taking the Colorado River as an example, under the 1922 compact, the upper basin States of Colorado, Utah, New Mexico, and Wyoming are obligated to pass by Lee Ferry not less than 7.5 million acre feet for any period of 10 consecutive years of the flows in the Colorado River to lower basin States of Arizona, Nevada, and California. The 7.5 million acre feet was estimated to be half the flows of the Colorado River. Subsequent information has proven that the estimate was inaccurate and overly optimistic. The 1948 Upper Basin Compact further limits Colorado's ability to use water from the Colorado River, as Colorado was allocated 51 percent of the upper basin's 50 percent share of the Colorado River. In other words, Colorado has been allocated in the neighborhood of 25 percent of the Colorado River, and 75 percent must flow downstream to other States. The Mexican Treaty of 1944 also granted Mexico 1.5 million acre feet of water, part of which comes from the upper basins' allocation and may further reduce Colorado's ability to use water from the Colorado River. In addition, claims for Federal Indian reserved water rights under the Winters doctrine may also limit the amount of water which may be used under Colorado law. So even though the Colorado River starts in the Colorado mountains, Federal law limits Colorado's use of water in the river to less than 25 percent of the water in the Colorado River, and guarantees that over 75 percent of the water in the Colorado River will flow through and out of the State.

But that is not the end of the story. Colorado has a very strong instream flow program established under Colorado law. Under this program, the Colorado Water Conservation Board [CWCB] is authorized to appropriate or acquire instream flow water rights to "protect the natural environment to a reasonable degree." There are currently in excess of 7,300 miles of streams in Colorado which are protected by the CWCB instream flow program, including instream flow water rights in the proposed Piedra Wilderness Area, and the CWCB is in the process of obtaining decrees to protect an additional 100 miles of Colorado streams. Most of these instream flow water rights are high in the mountains, and in fact many of them are within the wilderness areas proposed for designation in Colorado Wilderness Act. This recognition of environmental values in Colorado has a cost, however, as each and every one of these instream flow water rights further limits Colorado's ability to appropriate and use water for new projects.

Over 84 percent of the water in the Colorado River now flows out of the State. California gets over 100 percent of the water it contributes to the Colorado River basin. Arizona gets over 100 percent of the water it contributes to the Colorado River. Colorado now uses about 16 percent of the Colorado River water that originates in the State. Compared against the ability of States like Arizona and California to use the water that originates in the State and more from upstream States, Colorado is significantly restricted in its ability to use and develop its own water. Colorado cannot give more without inflicting serious damage to its environment. So, Colorado already makes a greater contribution to in-stream flows than any State on the river. This bill is being enacted only because this measure protects and enhances Colorado's ability to fully utilize all of its water rights under the various interstate water compacts and decrees.

At the present time there is only one downstream wilderness area in Colorado, the Platte River Wilderness on the Colorado/Wyoming State line which was established by the Wyoming Wilderness Act of 1984. One mile of that wilderness area extends up the North Platte River into North Park in Colorado. The designation of downstream wilderness lands within Colorado, combined with the threat of the 1984 Sierra Club lawsuit that implied reserved water rights at some time in the future may be found to exist, has caused great alarm among water users in North Park and the elected officials of citizens who rely on that water. I am happy to say that with the 1993 Colorado Wilderness Bill, Senator CAMPBELL, Representatives SKAGGS, McINNIS, SCHROEDER, and I have agreed upon guarantees that present and future water users in Colorado can fully develop Colorado's share of North Platte River waters without any interference that might otherwise arise because of designation of those downstream lands included in the Platte River Wilderness Area.

We have also agreed that interstate compacts and equitable apportionment decrees allocating water among and between Colorado and other States will not be altered or modified by designation of additional Colorado wilderness lands.

No one will have their Colorado water rights taken away from them or extinguished by denial of wilderness access. The language guarantees reasonable access, including motorized access where necessary, to keep existing water facilities and access routes related to the exercise of water rights in serviceable condition.

This bill protects 766,670 acres of Colorado's most pristine lands, and explicitly protects access to and the use of existing water rights in these areas.

Madam President, I would like to take this opportunity to respond to some of the legal challenges made to the water language in this bill. In its June 15, 1993 letter from Acting Assistant Attorney General M. Faith Burton to Chairman BRUCE VENTO of the House Subcommittee on National Parks, Forests and Public Lands, the Department of Justice questions the constitutionality of section 8(b)(1) of the Colorado Wilderness Act of 1993. The Department of Justice raises the same constitutional concerns with respect to section 8(g)(2) of the act. The language of section 8(g)(2) is similar to that of section 8(b)(1). Therefore, the responses in this memorandum to the Department's claims pertaining to section 8(b)(1) apply equally to its claims as to section 8(g)(2). Section 8(b)(1) prohibits the assertion in court or agency of any claim for water or water rights "based on any construction of any portion of this act, or the designation of lands as wilderness by this act, as constituting an express or implied reservation of water or water rights."

The Department claims that section 8(b)(1) may violate the following constitutional provisions:

First, the first amendment right of free speech and the right to petition;

Second, the duty of the President to faithfully execute the laws of the United States; and

Third, the grant of original jurisdiction to the Supreme Court over disputes between States.

The Department's arguments alleging the possible unconstitutionality of the act based upon these three provisions either seriously misstate the law or mischaracterize the legal effect of the language in section 8(b)(1), or both. In addition, the Department alleges that the 1993 act does not provide sufficient protection of the wilderness values of the designated lands.

Section 8(b)(1) does not violate the right of free speech because it does not in any way limit speech; it only prohibits a certain cause of action. The right to sue on a claim is not the same as the right of free speech. Moreover, the act does not violate the right to petition. The right to petition is basically a right of access to judicial procedures to protect legally recognized rights. Section 8(b)(1) is simply an expression of congressional intent not to create a legally recognizable right.

Moreover, the act does not interfere with the duty of the President to execute the laws. The act creates the law which the President then has a duty to execute. Since the act states that no person can assert a claim for water or water rights for the designated lands, the President would then have a duty to avoid making such a claim.

Nor does the act interfere with the Supreme Court's original jurisdiction over disputes between States. Section 8(b)(1) clarifies congressional intent that the act does not create a cause of action that could be the subject of a dispute between States. But the Supreme Court still has original jurisdiction over interstate disputes where there is a valid cause of action.

Finally, the location of the designated lands at headwaters, and other provisions in the act, ensure that wilderness values will be adequately protected without federally reserved water or water rights.

The Department questions the constitutionality of this provision as violating the open access clause of the first amendment. According to the Department, based upon the first amendment rights of free speech and petition, Congress "may not constitutionally prohibit persons from asserting whatever claims they choose in courts or agencies." The Department appears to be arguing that any person has a right of access to the courts—or agencies—to assert claims that have no basis in the Constitution, or statutory or common law. This construction of the open access provision represents a novel, and untenable, interpretation of the constitutional right of access to the courts.

The act clearly does not violate the first amendment right of free speech because it does not prohibit, or even limit, speech in any manner. It does not prohibit certain types of speech. What section 8(b)(1) does is to clarify that a cause of action for Federal reserved water or water rights does not exist. This is not, in any way, a limitation on the right of free speech.

Moreover, section 8(b)(1) does not violate the first amendment right to petition. The right of access to the courts, which is founded primarily on the right to petition, is a guarantee of access to process to protect recognized legal rights.

Federal courts do not automatically possess the authority to hear and determine any claim. Unless there exists a legal cause of action, a legally recognized right, then courts have no jurisdiction to hear a claim, and there can be no violation of the right of access. There is no right of access unless a party has a clause of action.

The right of judicial access, which is founded primarily upon the first amendment right to petition and the fifth amendment right to due process, guarantees access to the courts to enforce or protect constitutional, statutory or common law rights. It is a right of access to judicial process, in courts or agencies, to enforce or protect existing substantive rights. Larry Tribe, in his constitutional law treatise states that it is "a fundamental right of access to a neutral and fair tribunal in which to ventilate such claims of right as one may have under the governing body of substantive law."

Furthermore, private parties have no right to sue to enforce a statute unless Congress provides a private cause of action expressly or by implication. Section 8(b)(1) of the 1993 act disclaims the existence of any claim, including one by a private party, for federally reserved water or water right for lands designated by the act. It puts up no roadblocks to meaningful access to protect any existing claim or right: it says no claim or right exists. The purpose of the provision is to clarify congressional intent that passage of the act does not create a judicially enforceable claim or right because Congress does not want a claim for Federal reserved water or water rights to be implied from the legislation.

The Department also argues that the 1993 act seeks to impede the ability of the President to fulfill his constitutional duties, in contravention of article II, section 3 of the Constitution. While it is true that the President has a duty to "take care that the laws be faithfully executed," The Colorado Wilderness Act of 1993 in no way affects, or seeks to affect, the authority of the President. The "Laws" of the United States to which the provision refers are the Constitution, Federal statutes, and treaties. Unless a Federal statute is unconstitutional, this Executive duty means that the President shall execute the laws as passed by Congress. Therefore, the act does not prevent the President from fulfilling any constitutional duty. Moreover, the President has no power to claim a Federal reserved water right for lands designated as wilderness by the 1993 act because to make such a claim would not be a faithful execution of the law. And the President, like other persons, has no authority to make baseless claims in court.

Further, contrary to the Department's assertion, the 1993 act does not purport to limit the Court's original jurisdiction over disputes between States. The Department cryptically states that "Federal reserved water rights may be at issue in an interstate stream adjudication before the Supreme Court." Apparently, the Department is asserting that the 1993 act's prohibition against any court considering a claim for water or water rights for the newly added wilderness areas in Colorado is an attempt to limit the Court's jurisdiction over interstate disputes. But the act's provision merely clarifies that it does not intend to create a cause of action for water or water rights in these wilderness areas that could be a cause for dispute between States. It does not withdraw the Court's jurisdiction to hear interstate disputes where there is a valid cause of action.

It is important to emphasize that, although the act precludes a claim for federally reserved water or water rights, the wilderness values of the areas will not be compromised in any way because: First, all of the lands are located on headwaters with few, if any, actual or proposed facilities located upstream, and second the act provides that, in the event water resource facilities are located in the designated lands, the impacts of such existing facilities shall not be allowed to increase beyond current impacts. The Sierra Club has testified before this committee and before the House committee that this is sufficient protection.

For these reasons as well as others, the Justice Department's concerns are baseless and should be disregarded.

This bill breaks a 12-year stalemate in the designation of new Colorado wilderness. The water provisions of this bill are designed to both protect the new wilderness additions, including wilderness water values, and at the same time protect Colorado's ability to develop and use its full water entitlements. And while those on either side who refuse to compromise may object, people who truly value Colorado wilderness and water should support this bill so that we as a State and a Nation can move forward with protection and recognition of these important wilderness lands.

RECOGNIZING THE CONTRIBUTION OF SENATOR BILL ARMSTRONG TO THE COLORADO WILDERNESS ACT OF 1993

Mr. BROWN. Madam President, former U.S. Senator Bill Armstrong fiercely protected property rights during his two terms in the U.S. Senate, especially water rights and administration of water laws at the State level.

In August of 1989, after years of unsatisfactory negotiations, he began his final attempt to secure a reasonable Colorado wilderness bill by eliciting the assistance of hundreds of Coloradans and directing staff to map all proposed wilderness areas. His staff met with every possible organization throughout Colorado to hear ideas on the proposed areas and to learn of every possible private property right potentially included in a proposed wilderness area.

Extensive grassroots discussion revealed numerous water and mining rights and other inholdings and preexisting recreational uses in proposed wilderness. Proposed wilderness boundaries were drawn by Senator Armstrong to emphasize the mandate of the original wilderness bill to preserve "areas where the earth and its community of life are untrammeled by man", but to exclude private property claims. This Armstrong boundary proposal is the foundation upon which this compromise bill is built.

Of key concern to Senator Armstrong was protecting the most important private property right in the West, water rights. Colorado water rights are on streams originating in the Rocky Mountains. To date our wilderness areas have been in the high country of the Rockies. High country reservoirs and ditch systems bring water not only to farmers, but to Colorado's growing municipalities and industries from ski areas to mining to high tech. Federal conditions on those water rights would render them valueless. Imposition of an unquantified federal reserved water right on 100 years of Colorado water law would mean economic chaos and costly takings of private property.

All wilderness areas are designated "subject to valid existing rights". That phrase recognizes the priority of existing land and water rights. Including wilderness language which erodes those rights threatens not only the private property encompassed by wilderness in a particular bill, but sets unfortunate precedent for future bills. For example, while water rights encompassed by Colorado wilderness bills to date are comparatively few, any future lower elevation wilderness bills unavoidably will encompass thousands of water rights.

I am grateful to Senator Armstrong for his outstanding work not only on water rights, but his tireless commitment to develop a balanced proposal which will be a legacy for all Coloradans. I also thank Senator Armstrong's legislative assistants, Christine Kadlub and Denise Malone-Jones, and his chief of staff Howard Propst. They worked tirelessly with other Coloradans to develop the boundaries which are very similar to the ones included in the bill I ask you to vote for today. Without the significant contribution of Senator Armstrong and his staff this bill would not be before us today.

GALLATIN RANGE

Mr. KENNEDY. Madam President, I ask unanimous consent that the Senate proceed to immediate consideration of Calendar No. 180, H.R. 873, an act to provide for the consideration and protection of the Gallatin Range.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 873) to provide for the consideration and protection of the Gallatin Range.

AMENDMENT NO. 771

(Purpose: To make technical corrections to the maps in H.R. 873, the "Gallatin Range Consolidation and Protection Act of 1993")

Mr. KENNEDY. Madam President, I send to the desk an amendment by the Senator from Montana [Senator BAUCUS]

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY], for Mr. BAUCUS, proposes an amendment numbered 771.

Mr. KENNEDY. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In section 3(b)(1), strike "the map entitled Plum Creek Timber and Forest Service Proposed Gallatin Land Exchange, dated May 20, 1988", and insert the following: "two maps entitled 'Proposed BSL Land Acquisitions,' East Half and West Half Gallatin National Forest, dated February, 1993".

In section 3(b)(2), immediately after "as depicted on the maps referred to in paragraph (1)," insert the following: "and the five maps entitled 'H.R. 873, the Gallatin Range Consolidation and Protection Act of 1993,' Lolo and Flathead National Forest,".

In section 4(a), strike "depicted on the map entitled Porcupine Area, dated September, 1992", and insert the following: "listed as 'Exhibit A, Porcupine Area,' in the Option."

In section 5(a), strike "depicted on the map entitled Taylor Fork Area, dated September, 1992", and insert the following: "listed as 'Exhibit A, Taylor Fork Area,' in the Option."

In section 6(a), strike "depicted on the map entitled Gallatin Area dated September 1992", and insert the following: "listed as 'Exhibit A, Gallatin Roaded,' in the Option."

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 771) was agreed to.

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute.

The amendment was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the committee amendment and third reading of the bill.

The amendment was ordered to be engrossed, and the bill to read third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, shall the bill pass?

So the bill (H.R. 873), as amended, was passed.

Mr. KENNEDY. Madam President, I move to reconsider the vote and move to lay that motion on the table.

The motion to lay on the table was agreed to.

SENATE FAIR EMPLOYMENT PRACTICES

Ms. MOSELEY-BRAUN. Madam President, I ask unanimous consent the Senate proceed to the consideration of Senate Resolution 139, a resolution submitted earlier today by Senators MITCHELL and DOLE regarding the procedures followed by the Office of Senate Fair Employment Practices, that the resolution be agreed to, the motion to reconsider be laid upon the table, and any statements thereon appear at the appropriate place in the RECORD as though read.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Madam President, the purpose of this resolution is to establish procedures for the approval and payment of awards and settlements in cases administered by the Office of Senate Fair Employment Practices under title III of the Civil Rights Act of 1991. As Senators will recall, Congress enacted the provisions of this title, which may be cited as the Government Employee Rights Act of 1991, into law on November 21, 1991. There is, however, no existing procedure in the Senate for the payment of awards and settlements in cases arising under this title.

The purpose of title III is to provide procedures to protect the right of Senate employees, with respect to their public employment, to be free of discrimination on the basis of race, color, religion, sex, national origin, age, or disability. Under these procedures, a Senate employee alleging a violation under this title may commence a four-step process for consideration of allegations that includes: First, counseling; second, mediation; third, a hearing by a hearing board; and fourth, review of a hearing board decision by the Select Committee on Ethics of the Senate and the U.S. Court of Appeals for the Federal Circuit.

With the procedures of title III now in operation, employees of the Senate can bring cases seeking remedies for the alleged violation of laws prohibiting discriminary practices. Also, beginning this August, Senate employees may use title III procedures for cases brought under the Family and Medical Leave Act of 1993.

Among the remedies employees may seek under title III is a hearing board order awarding the payment of money under section 307 of this title. Until recently, however, there was no fund available or procedure in place for the payment of such awards. As a preliminary step to provide an appropriate mechanism for such payments, the Senate established the "Awards and Settlements Reserve Account" in the contingent fund of the Senate by enacting section 1205 of the Supplemental Appropriations Act of 1993 earlier this month.

The same principle is true with respect to section 310 of title III. This section authorizes an employee and the head of an employing office to enter a written settlement agreement if they are able to resolve the issues involved. Such settlements commonly include the payment of money and are encouraged by the Civil Rights Act of 1991 as an economical and expeditious method to resolve disputes. Again, until section 1205 of the Supplemental Appropriations Act was enacted establishing a reserve account, no fund existed for the Senate to pay such settlements.

While the "Awards and Settlements Reserve Account" established by section 1205 provides a source of funds for the Senate to use in these cases, the resolution proposed here establishes procedures necessary for payments to be withdrawn from this account within the contingent fund of the Senate. Under separate statutory authority, the Committee on Rules and Administration of the Senate has oversight of payments from the contingent fund. For this reason, under this resolution the process to approve and make payments of money from this account in the contingent fund will be administered by the Rules Committee. In administering this process, the Rules Committee will rely on information and advice provided by the Director of the Office of Senate Fair Employment Practices and the Senate Legal Counsel.

I wish to add that this resolution has been carefully crafted to provide the proper balance between the efficient administration of claims, the interests of the parties who bring and defend against these claims, and the protection of the Federal Treasury which funds the payment of awards and settlements in these cases. I also believe that it is worth noting in this context that section 118 of the Civil Rights Act of 1991 reads as follows:

> Where appropriate and to the extent authorized by law, the use of alternative means of dispute resolution, including settlement negotiations, conciliation, facilitation, mediation, factfinding, minitrials, and arbitration, is encouraged to resolve disputes arising under the Acts or provisions of Federal law amended by this title.

The resolution (S. Res. 139) was agreed to.

The resolution reads as follows:

S. RES. 139

Resolved, (a)(1) If, at any time after a Senate employee (as defined in section 301(c)(1) of the Government Employee Rights Act of 1991 (Public Law 102-166) (hereinafter referred to as the "Act")) files a formal complaint under section 307(a) of the Act with the Office of Senate Fair Employment Practices (hereinafter referred to as the "Office")—

(A) such employee and the head of an employing office (as defined in section 301(c)(2) of the Act) resolve the issues involved and enter into a written settlement agreement requiring the payment of money as provided in subsection (c), and

(B) the agreement is approved by the Director of the Office (hereinafter referred to as the "Director"),

the Director shall submit the agreement, together with a letter of advice by the Director that the agreement is reasonable and appropriate, to the Chairman and Ranking Minority Member of the Committee on Rules and Administration (hereinafter referred to as the "Chairman and Ranking Member") for approval.

(2) Any such settlement agreement that includes any provision regarding Senate payment of a Senate employee's attorney's fees shall be forwarded by the Director to the Senate Legal Counsel who shall also review that provision and advise the Chairman and Ranking Member whether that provision is reasonable and appropriate.

(3) If the Chairman and Ranking Member disapprove the agreement, the agreement shall be returned to the Director with a written explanation for the disapproval. Following such disapproval, a new or revised agreement that is approved by the Director may be submitted by the Director to the Chairman and Ranking Member, and, if appropriate, forwarded to the Senate Legal Counsel, in the same manner as the original. If the Chairman and Ranking Member disapprove such a new or revised agreement, such agreement shall be returned to the Director with a written explanation and such instructions as the Chairman and Ranking Member may deem appropriate.

(4) If the Chairman and Ranking Member approve the agreement, the payment of money under the terms of such agreement may be authorized as provided in subsection (c).

(5) The time necessary to complete the procedures under paragraphs (1)(B), (2), and (3) shall be excluded in calculating the period within which a hearing shall be conducted under section 307(d) of the Act.

(b) Notwithstanding the third sentence of section 307(h) of the Act, if, upon the conclusion of all proceedings conducted pursuant to sections 307, 308, and 309 of the Act, there is a final order requiring the payment of money, the Chairman and Ranking Member may approve and authorize the payment of money as provided in subsection (c). The Senate Legal Counsel shall provide such advice and assistance as the Chairman and Ranking Member may request for the purposes of this subsection.

(c) The payment of any monetary amount approved as part of a settlement agreement approved under subsection (a) and any payment pursuant to an order under subsection (b) shall be paid from the Contingent Fund of the Senate from the appropriations account "Settlements and Awards Reserve", established by section 1205 of Public Law 103–50, upon vouchers approved by the Chairman and Ranking Member.

(d) The Chairman and Ranking Member, the Senate Legal Counsel, and the Director may review information necessary to carry out the provisions of this resolution notwithstanding the provisions of section 313 of the Act.

(e) The provisions of this resolution shall apply to—

(1) an allegation of a violation as defined in section 301(c)(3) of the Act,

(2) an allegation of an unlawful employment practice under section 312 of the Act, and

(3) an allegation of a violation of a provision of sections 101 through 105 of the Family and Medical Leave Act of 1993.

(f) The first sentence of section 303(e) of the Act is deemed to have inserted the words ", upon the approval of the Committee on Rules and Administration," after "The Director".

ORDERS FOR THURSDAY, AUGUST 5, 1993

Mr. KENNEDY. Madam President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 11 a.m., Thursday, August 5; that following the prayer, the Journal of proceedings be deemed approved to date; and following the time reserved for the two leaders, the Senate then return to executive session to resume consideration of Executive Calendar No. 309, the nomination of Dr. M. Joycelyn Elders to be Surgeon General.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 11 A.M. TOMORROW

Ms. MOSELY-BRAUN. Madam President, if there be no further business to come before the Senate today, I now ask unanimous consent the Senate stand in recess as previously ordered.

There being no objection, the Senate, at 10:52 p.m., recessed until 11 a.m. Thursday, August 5, 1993.

NOMINATIONS

Executive nominations received by the Senate August 4, 1993:

DEPARTMENT OF STATE

REGINALD BARTHOLOMEW, OF THE DISTRICT OF COLUMBIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO ITALY.

ROGER R. GAMBLE, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF SURINAME.

MARK GREGORY HAMBLEY, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF LEBANON.

WILLIAM DALE MONTGOMERY, OF PENNSYLVANIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF BULGARIA.

EXECUTIVE OFFICE OF THE PRESIDENT

JOHN ROGGEN SCHMIDT, OF ILLINOIS, FOR THE RANK OF AMBASSADOR DURING HIS TENURE OF SERVICE AS THE CHIEF UNITED STATES NEGOTIATOR TO THE URUGUAY ROUND.

FEDERAL COMMUNICATIONS COMMISSION

REED E. HUNDT, OF MARYLAND, TO BE A MEMBER OF THE FEDERAL COMMUNICATIONS COMMISSION FOR A TERM OF 5 YEARS FROM JULY 1, 1993, VICE ALFRED C. SIKES, RESIGNED.

ENVIRONMENTAL PROTECTION AGENCY

JEAN C. NELSON, OF TENNESSEE, TO BE AN ASSISTANT ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY, VICE E. DONALD ELLIOTT, RESIGNED.

DEPARTMENT OF DEFENSE

JOHN J. HAMRE, OF SOUTH DAKOTA, TO BE COMPTROLLER OF THE DEPARTMENT OF DEFENSE, VICE SEAN CHARLES O'KEEFE, RESIGNED.

NORA SLATKIN, OF MARYLAND, TO BE AN ASSISTANT SECRETARY OF THE NAVY, VICE GERALD A. CANN, RESIGNED.

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF VICE ADMIRAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be vice admiral

REAR ADM. ROBERT J. SPANE, [redacted] U.S. NAVY.

IN THE ARMY

THE FOLLOWING NAMED OFFICER, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE U.S. ARMY IN ACCORDANCE WITH SECTION 624, TITLE 10, UNITED STATES CODE:

To be colonel

WILLIAM C. KIRK, [redacted] JUDGE ADVOCATE GENERAL'S CORPS.

HOUSE OF REPRESENTATIVES—*Wednesday, August 4, 1993*

The House met at 10 a.m. and was called to order by the Speaker pro tempore [Mr. MONTGOMERY].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
August 4, 1993.

I hereby designate the Honorable G.V. (SONNY) MONTGOMERY to act as Speaker pro tempore on this day.

THOMAS S. FOLEY,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Grant us, we pray, O God, the sense of direction that allows us to see more clearly where we ought to direct our lives, the purpose in our actions, and the values we hold dear. Cause us to be honest as we reflect in our own hearts so that we put aside the easy excuses that cloud our vision and weaken our purpose. Enrich us with Your spirit and strengthen us by Your word, so we will pledge our energies and our wills to do justice, love mercy, and ever walk humbly with You. In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. OBEY. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Chair's approval of the Journal.

The SPEAKER pro tempore. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. OBEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 248, nays 156, answered "present" 1, not voting 28, as follows:

[Roll No. 392]

YEAS—248

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Archer
Bacchus (FL)
Baesler
Barca
Barcia
Barrett (WI)
Bateman
Becerra
Beilenson
Berman
Bevill
Bilbray
Bishop
Blackwell
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Carr
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
Deal
DeLauro
Dellums
Derrick
Deutsch
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Engel
English (AZ)
English (OK)
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Fish
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gillmor
Gilman
Glickman
Gonzalez
Gordon
Gunderson
Gutierrez
Hall (TX)
Hamburg
Hamilton
Harman
Hastings
Hayes
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Hoke
Holden
Houghton
Hoyer
Hutto
Inglis
Inslee
Jefferson
Johnson (GA)
Johnson (SD)
Johnson, E.B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kingston
Kleczka
Klein
Klink
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lehman
Levin
Lewis (GA)
Lipinski
Lloyd
Long
Lowey
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCollum
McDermott
McHale
McInnis
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Murtha
Myers
Nadler
Natcher
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Orton
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Pombo
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reed
Reynolds
Richardson
Roemer
Rose
Rostenkowski
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Schenk
Schumer
Scott
Serrano
Sharp
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (IA)
Stark
Stenholm
Stokes
Strickland
Studds
Stupak
Swift
Synar
Tanner
Tejeda
Thompson
Thornton
Thurman
Torricelli
Towns
Traficant
Tucker
Unsoeld
Valentine
Velazquez
Vento
Visclosky
Volkmer
Waters
Watt
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NAYS—156

Allard
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barrett (NE)
Bartlett
Barton
Bentley
Bereuter
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Clay
Clinger
Coble
Collins (GA)
Crane
Crapo
Cunningham
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Emerson
Everett
Ewing
Fawell
Fowler
Franks (CT)
Franks (NJ)
Gallegly
Gallo
Gekas
Gingrich
Goodlatte
Goodling
Goss
Grams
Grandy
Greenwood
Hancock
Hansen
Hastert
Hefley
Herger
Hobson
Hoekstra
Horn
Huffington
Hunter
Hutchinson
Hyde
Inhofe
Istook
Jacobs
Johnson (CT)
Johnson, Sam
Kim
King
Klug
Knollenberg
Kolbe
Kyl
Lazio
Leach
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Livingston
Machtley
Manzullo
McCandless
McCrery
McDade
McHugh
McKeon
McMillan
Meyers
Mica
Michel
Molinari
Moorhead
Morella
Nussle
Oxley
Paxon
Petri
Porter
Portman
Pryce (OH)
Quillen
Ramstad
Ravenel
Regula
Ridge
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Saxton
Schaefer
Schiff
Schroeder
Sensenbrenner
Shaw
Shays
Shepherd
Shuster
Skeen
Smith (MI)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stump
Sundquist
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Torkildsen
Upton
Vucanovich
Walker
Walsh
Weldon
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

ANSWERED "PRESENT"—1

Quinn

NOT VOTING—28

Barlow
Brown (CA)
Chapman
Cox
de la Garza
DeFazio
Fields (TX)
Flake
Gilchrest
Green
Hall (OH)
Hughes
Kasich
McCurdy
McKinney
Murphy
Neal (NC)
Owens
Packard
Smith (NJ)
Spratt
Swett
Talent
Torres
Washington
Waxman
Wheat
Whitten

□ 1023

Mr. TRAFICANT changed his vote from "present" to "yea."

So the Journal was approved.

The result of the vote was announced as above recorded.

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore (Mr. MONTGOMERY). Will the gentlewoman from Washington [Ms. DUNN] please come forward and lead the House in the Pledge of Allegiance.

Ms. DUNN led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

> H.R. 416. An act to extend the period during which chapter 12 of title 11 of the United States Code remains in effect; and for other purposes.

The message also announced that pursuant to Public Law 102–393, the Chair, on behalf of the Republican leader, after consultation with the ranking member of the Finance Committee, appoints John F. Cogan of California and Carolyn L. Weaver of Virginia, as members of the Commission on the Social Security notch issue.

DEFICIT REDUCTION

(Mr. FROST asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FROST. Mr. Speaker, tomorrow this House will have the opportunity to take a first step down the road to deficit reduction. We have the chance to pass a plan that will reduce the deficit by $496 billion over a 5-year period.

Members on the other side of the aisle refuse to take this first step. If we were to listen to them, this country would never move forward but would remain deadlocked. They have no real answers. All they can do is oppose.

The bill we will vote on tomorrow does not end debate on the deficit; it merely begins the debate. We all know Congress will be asked to do more next year and we should. We owe it to our children and to their children.

We are embarking on a long journey made necessary by the excesses of the last 12 years. To our critics, I can only respond that you must begin somewhere.

The President and Congress have crafted a plan that is fair and that actually attacks the deficit. Let us start down this road together. Let us do it now.

BRADY BILL COMPROMISE IS PART OF NEWLY INTRODUCED ANTICRIME BILL

(Mr. SENSENBRENNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SENSENBRENNER. Mr. Speaker, yesterday, I introduced H.R. 2847, a comprehensive anticrime bill which is paid for by offsets in other programs.

The major difference between my bill and the bill to be introduced today by the gentleman from Florida [Mr. McCOLLUM] on behalf of the Republican Task Force on Crime is that my bill contains the compromise Brady bill providing for a 5-business-day waiting period for handgun purchases while his bill contains the discredited instant check provisions used by the National Rifle Association and other opponents of the Brady bill to defeat passage of the Brady bill for the past two Congresses.

As the ranking Republican on the Judiciary Subcommittee on Crime and Criminal Justice, I know that no effective anticrime bill can omit provisions dealing with access to guns. I encourage thinking members of both parties to support H.R. 2847.

CLINTON ECONOMIC PLAN MOVES NATION IN NEW DIRECTION

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, the work is done, the plan is drawn, the President and our negotiators have given us a bold economic initiative that cuts our deficit and creates jobs. They have left to us the responsibility of deciding whether this Nation moves forward toward economic growth or continues to stagnate. Our constituents want growth. They have tired of the rhetoric and games of political diversion. They are ready for action. They are ready for jobs. They are ready for change. The plan offered by the President and constructed by our neighbors represents a new direction for our Nation.

Six months ago the President exercised great leadership and courage in proposing a plan that reduced our deficit by $500 billion. That made bold cuts in Government programs and asked the wealthiest Americans to contribute their fair share to our future and that protected working middle-class families. Today that plan remains intact.

This week we can take charge. We can answer the call for change that still echoes from November. Pass this plan and let's get on with moving America forward.

RECONCILIATION ACT

(Mr. EWING asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EWING. Mr. Speaker, the Reconciliation Act, which we understand will soon be filed, is much improved over the President's early tax package, but it is still not a true deficit reduction plan. We should not call it one.

Let us remember that this is a very large tax increase, 3 to 1 taxes for proposed cuts.

It is a major expansion of social programs, which will consume most of the middle-class tax increase for the payment of these. It has only a hint of cuts to come; 80 percent of these cuts will not come until after the next congressional election or the Presidential election.

And then, Mr. Speaker, we will depend on this body, whose record is not too great, to make those cuts.

If our record were so great, after the 1990 budget agreement, we would not be here today. The deficit will still go up $1 billion every day.

The President has missed the mark. The point the American people want is cuts now, not promises of cuts in the future.

□ 1030

URGING SUPPORT OF THE PRESIDENT'S ECONOMIC PROGRAM

(Ms. PELOSI asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. PELOSI. Mr. Speaker, last night the President called on the American people to help address our Nation's most urgent priority: Reviving the American dream by restoring the American economy. Of course, I support the President's plan, and I urge my colleagues to do so. However, do not take my word for it. Last week over 80 CEO's, Democrats and Republicans alike, supported the President's plan. Here is what they said.

The CEO of Xerox:

> Successful passage of the budget reconciliation bill is a critical step in restoring long-term economic growth and job creation. The President's economic program is a balanced approach that shifts national policy away from deficit spending and toward job-creating investment.

The CEO of Bethlehem Steel:

> * * * [The] President's economic plan must be adopted promptly to get our economy moving.

The chairman of Anheuser-Busch, August Busch III, in his letter to President Clinton said,

> * * * We applaud the fundamental fairness of your initial plan as well as the diligence with which you have worked to keep equity a cornerstone of the final product.

Mr. Speaker, I urge my colleagues to follow the lead of the people of our country, as well as the CEO's, and support the plan.

RETROACTIVE TAXES

(Mr. BOEHNER asked and was given permission to address the House for 1 minute.)

Mr. BOEHNER. Mr. Speaker, President Clinton cannot tax the American people enough in these next 4 years to pay for all of his new big-government, wasteful spending programs. He is going to reach back to January 1—when George Bush was still President—and tax the income already earned by the American people, to get money he feels that the Government is entitled to.

Never before has Congress passed a retroactive tax—and never before has an administration demanded we go back in time to get the money to pay for new Government spending.

What does this mean for the budget bill next year—is President Clinton going to send out his National Service Corporation to graveyards to steal the gold fillings from corpses to pay for his future spending increases?

Mr. Speaker, when the American people learn about the retroactive tax, they are going to want to have a retroactive election to send Bill Clinton back to Arkansas.

PASS THE PLAN AND PUT AMERICA'S FUTURE BACK ON TRACK

(Mr. OLVER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OLVER. Mr. Speaker, last night Republican leaders failed their own test on deficit reduction about as dramatically as the debt quadrupled during the 12-year explosion of deficits that started under the Republican-controlled Senate in the 1980's.

The SPEAKER pro tempore (Mr. FRANK of Massachusetts). The Chair is constrained to point out that personal references to Members of the U.S. Senate are not permitted under the rules of the House. The Chair is not permitted to comment on the rules of the House.

Mr. OLVER. I thank the Speaker.

Let's cut through the distortions and irresponsible rhetoric.

The Clinton plan is the largest deficit reduction package in history that will produce low interest rates and in my State alone create 100,000 jobs.

The Clinton plan is tax fairness. Eighty percent of the new taxes fall on people with incomes over $200,000 and millions of working families will see a decrease in taxes with the expanded earned income tax credit.

The Clinton plan has over 200 specific spending cuts and deficit reduction that relies more on cuts in Federal spending than on taxes. That's not rhetoric. It is reality.

Mr. Speaker, I urge this House to join leading CEO's editorial boards from Newspapers across the country, and a rapidly growing number of the American public in supporting the reconciliation. Pass the plan and put our economy, and our very future, back on track.

THE CLINTON ECONOMIC PLAN—THE SAME OLD STUFF

(Mr. HEFLEY asked and was given permission to address the House 1 minute.)

Mr. HEFLEY. Mr. Speaker, Clinton went on TV last night to beg for your support for his tax plan. But don't get sucked in by the spin control. Clinton doesn't care about the middle class or the working poor. To him this is just one more public relations stunt in a Presidency riddled with broken promises, empty rhetoric, and flashy gimmicks.

On the campaign trail, Clinton slammed Perot for proposing a gas tax increase; now he endorses one. His campaign stance on taxing Social Security benefits was hands off; now he wants to raise taxes on older Americans who receive these benefits. And, to middle-class America, his promise was a tax cut; what a slap in the face that was. And they called Ronald Reagan an actor.

However Clinton wants to spin his tax plan, the bottom line is this: It will raise your taxes, increase the deficit, and kill over 1 million jobs.

Billy Jeff's TV performance did not work. When he finished our phones lit up and people were furious. This is not the change they voted for—this is the same old stuff.

BUDGET RECONCILIATION BILL PROMISES FAIRNESS IN TAXES AND BENEFITS

(Mr. BLACKWELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BLACKWELL. Mr. Speaker, I intend to vote for the budget reconciliation bill when it comes to the floor tomorrow.

Over the past 12 years, the Federal deficit has grown out of control, while the wealthy have contributed less and the poor and middle income have contributed more. At the same time, poverty and homelessness has increased at alarming rates. The budget reconciliation bill, as agreed to by the conferees, begins the process of balancing burdens and shifting benefits in a manner that is fair and equitable.

I am encouraged by the expansion of the earned income tax credit. We have a fair amount of funding for the Mickey Leland Childhood Hunger Prevention Act. Funding for the Family Preservation Act is vital. The bill includes such funding. And, the bill considers our children, with its funding for child immunizations.

Mr. Speaker, the message of America in the past election was that we were sent here to lead, to make tough choices, to take hard, direct action. President Clinton is seeking to meet that message. This budget bill deserves the support of Members from both sides of the aisle.

For more than a decade, we have lived for today. This Government has mortgaged the future of America in a dangerous way. When we vote on the budget reconciliation bill, we can start down the road of recovery, we can care for our problems today, as we plan for our problems of tomorrow.

AMERICAN TAXPAYER TREATED LIKE THE ENEMY UNDER NEW RETROACTIVE TAX PLAN

(Ms. PRYCE of Ohio asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. PRYCE of Ohio. Mr. Speaker, while the Democrats are popping champagne corks all over Washington, American taxpayers are popping aspirin to try to fend off the tax hangover that they know is coming, especially learning that these taxes are retroactive. That is changing the rules in the middle of the game—changing horses in midstream. While the new taxes are here and now, the so-called spending cuts are put off until 4 years from now. Again, the Democrats have asked the people to sacrifice so the Government won't have to.

However, this plan will accomplish something. It will demonstrate very clearly the difference in philosophy between the two major parties. For the Democrats, it is the American people who have too much money. For us Republicans, it is the Government that has too much.

Let me conclude with this message for my Democrat colleagues: The American taxpayer is not the enemy. Stop treating him like one.

VOTE FOR THE PRESIDENT'S PLAN—VOTE AGAINST "GREEDLOCK"

(Mr. GENE GREEN of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GENE GREEN of Texas. Mr. Speaker, I rise today in support of the conference committee report on the reconciliation bill, and I urge my fellow Members to vote for the only credible plan that will create jobs and reduce the deficit.

As a freshman, I came to Washington to end the practice of gridlock because the American people are fed up with inaction. Now that we have ended gridlock, the Republicans have moved on to greedlock. Instead of supporting a plan that protects the middle class from higher income taxes, the Republicans choose to protect the greedy who don't want to pay their fair share.

The President's economic plan will work. It can create 8 million jobs. It will help keep interest rates down and will greatly help our real estate markets and small businesses.

By misleading the public and distorting the truth about the President's plan the Republicans have engaged in greedlock. By voting in favor of this plan we may not be able to put an end to their greed, but we can at least end the greedlock.

A GALLERY OF ROGUES

(Ms. DUNN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DUNN. Mr. Speaker, what if there were something this House could do that would be supported by Republicans and Democrats, liberals and conservatives, Common Cause, and Ross Perot? If one thing had the support of such a gallery of rogues, it would probably be a pretty good idea. And I am proud to say, Mr. Speaker, we have one.

Today, a bipartisan group is introducing the Congressional Sunshine Act. While Congress closes more meetings to the public than any other American lawmaking body, the Congressional Sunshine Act opens meetings and hearings in the people's House to the people. Only when an open meeting would threaten national security, or defame or incriminate a person could the Members vote that the meeting be closed.

The Congressional Sunshine Act is supported by Republicans and Democrats, liberals and conservatives, Ross Perot, and Common Cause. Mr. Speaker, more importantly, the Congressional Sunshine Act is supported by the American people. As a congressional freshman who was elected to work for change, I want everyone here to understand, the Congressional Sunshine Act is change, change for the better.

□ 1040

CASTING TOUGH VOTES

(Mr. FARR asked and was given permission to address the House for 1 minute.)

Mr. FARR. Mr. Speaker, I rise on the eve of the big, tough vote that we are going to take here in the House tomorrow night. I request my Republican colleagues to rise to the responsibility of office for which they have been elected to this House.

Let me point out that many of your colleagues at the State level, and particularly in California, have made tough votes. They had to raise the gas tax 9 cents, the sales tax three-quarters of a cent, they increased the vehicle license fee, they added two new tax brackets for the wealthy, they taxed jet fuel, they taxed bunker fuel, they taxed magazines, bottled water, candy and booze, and they took away the low-income renters credit, they took away the net loss carry-forward, and they froze COLA's, they ordered management to cut salaries, and they cut all State government across the board. Those were bipartisan votes done by Democrats and Republicans alike.

It is time this Nation joins together in leadership to deal with deficit reduction and enacts the President's tax bill tomorrow night.

CONGRESSIONAL SUNSHINE ACT

(Mr. ZIMMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ZIMMER. Mr. Speaker, I am proud to be introducing today with my colleagues on both sides of the aisle the Congressional Sunshine Act.

Some 20 years ago, as the chairman in New Jersey of Common Cause, I led the fight for New Jersey's Open Public Meetings Act. We were told then that it would not work, but it did work, and it is still working.

Our bill would require Congress to conduct its business under the scrutiny of the people we represent. Earlier this year the largest tax bill in history was created and debated behind the closed doors of the Ways and Means Committee, leaving the American public in the dark. Is it any wonder American taxpayers doubt that their interests were adequately represented?

Sunshine is the best disinfectant. Only when we open our activities to public scrutiny will we be able to restore the public's faith in Congress. I encourage all our colleagues to cosponsor the Congressional Sunshine Act.

HELP OR GET OUT OF THE WAY

(Mr. OBEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OBEY. Mr. Speaker, we will hear a steady succession of Dr. No's from the Republican side of the aisle snipe at the President's plan all the way until its passage. I simply want to say to them we are tired of hearing what they have to say. We saw what they did in the 1980's.

The architect of the Republican plan in the 1980's, David Stockman, said this about what they produced:

> By 1984 the White House had become a dreamland. It was holding the American economy hostage to a reckless, unstable fiscal policy based on the politics of high spending and the doctrine of low taxes. Yet rather than acknowledge that the resulting massive buildup of public debt would eventually generate serious economic troubles, the White House proclaimed a roaring economic success. It bragged that its policies had worked as never before when, in fact, they had produced fiscal excesses that had never before been imagined.

You have had your way for 12 years. You have screwed up this country for a decade. If you are not going to help us clean it up, at least get out of the way and quit sniping at the President when he tries to clean up the mess your policies made.

CONGRESSIONAL SUNSHINE ACT

(Mr. POMBO asked and was given permission to address the House for 1 minute.)

Mr. POMBO. Mr. Speaker, walking over to the House floor this morning I could not help but notice how bright the Sun was shining. Unfortunately, the sunlight always disappears behind the Capitol dome.

But I want to say to my colleagues you can help me bring the sunshine back.

Today, I am joining with my colleagues to reintroduce bipartisan legislation to open up the doors and chase away the shadows of congressional secrecy.

This fusion legislation seeks to end the practice of closing out public scrutiny of congressional action by not allowing the closing of congressional committee proceeding to the public or press.

To my colleagues who cosponsored the original open meeting legislation I say thank you. You demonstrated your commitment to the goal of opening up the legislative process. I now urge you to renew this commitment and cosponsor our bipartisan effort.

It will only be through allowing sunshine to reach every aspect of Congress, that we will restore the faith and confidence of the American people in our ability to solve the problems which face our Nation.

APPROVE NOMINATION OF DR. JOYCELYN ELDERS FOR SURGEON GENERAL

(Mr. FOGLIETTA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FOGLIETTA. Mr. Speaker, I rise to briefly change the subject. But my shift of subjects is not too far afield because I speak of gridlock. It is my hope that Dr. Joycelyn Elders will not be another victim of the gridlock that paralyzes this city. As the Surgeon General, Dr. Elders is poised to wage war on a number of desperate problems that threaten America, especially our younger Americans: AIDS, sexually transmitted diseases, teenage pregnancies. Her weapon in this war is education. Dr. Elders has the promise of bringing the same energy to the office of Surgeon General as Dr. Everett Koop—controversial, yes, but compelling and effective.

But she has been the target of lies, innuendo and, now, a Republican hold on her nomination. From this side of the Capitol, I urge the Senate to break the gridlock and approve this important nomination before we break for the August recess. Let Joycelyn Elders begin her challenge before the summer is over and before school starts.

PERKS, PRIVILEGES, AND PENSION PLANS

(Mr. COLLINS of Georgia asked and was given permission to address the House for 1 minute.)

Mr. COLLINS of Georgia. Mr. Speaker, I rise today to call upon my colleagues to take a step toward their constituents, and a step away from Washington perks and privileges. I am talking about the lucrative pension program enjoyed by many Members of Congress.

The congressional pension program is a classic example of a Congress that is out of touch with the average American taxpayer. On the eve of the largest tax increase in U.S. history, many Members of Congress are participating in a pension program that costs taxpayers over $10 million a year.

Mr. Speaker, immediately after taking the oath of office, I rejected the congressional pension plan.

As Members of Congress we often talk about the need for leadership and fiscal responsibility in Washington. Well, Members of Congress, if you belong to the lucrative pension program, you can put your money where your mouth is—eliminate the taxpayer contribution to your pension plan or reject the plan completely.

NO SEPARATE SMALL BUSINESS TAX IN PRESIDENT'S PLAN

(Ms. SCHENK asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SCHENK. Mr. Speaker, for days I have listened to some Republicans assert there is a small business tax in the proposed budget. It is time that someone stood up and said these simple words: "That is not true." As every Member in this and the other body should know, there is no separate tax on small business, and saying so can only be motivated by a desire to mislead the American public.

The truth is most small business owners are taxed through personal income taxes. The truth is over 90 percent of small businesses do not reach the threshold of personal income tax increases proposed in the budget—over $115,000 for a single taxpayer and over $140,000 for couples.

The truth is, over 95 percent of America's small business owners will not be paying increased taxes and the truth is many will be eligible for tax cuts.

So I say to the critics of this package—speak against it, if you wish vote against it, if you must, but don't distort the facts about it. The American people deserve better from each and every one of us.

CUT SPENDING FIRST TO REDUCE THE DEFICIT

(Mr. CASTLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CASTLE. Mr. Speaker, We have talked a lot over the last 7 months about the need to enact a budget that truly reduces the budget deficit—But I believe the action taken in the conference budget bill falls far short.

Indeed, I believe the budget bill has it backward. It increases Americans tax burden immediately. It even hikes some taxes retroactive to January first of this year. And the bill instantly will add millions of millions of dollars to the national debt by jacking up Federal spending. But when will the supposed spending cuts take effect? Unfortunately, not until October 1996, if at all.

Delawareans and people across this country want Congress to address the budget deficit by cutting spending first and streamlining the overgrown Federal Government. Last week, visitors at the Delaware State Fair voluntarily filled out a survey on congressional issues—and an overwhelming 92 percent of respondents said Congress should cut Federal spending before raising taxes.

Americans know what it takes to balance a budget. It means making the tough decisions on where to cut spending—not taking the easy way out of raising taxes and pulling out the credit card, charging this country deeper into debt.

□ 1050

IT IS GO TIME

(Mr. TUCKER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TUCKER. Mr. Speaker, a few week ago this House passed the President's reconciliation bill, and at that time, Mr. Speaker, it was show time. It was time for us to belly up to the bar and to do the things that the American people had elected us to do.

But now on the eve of passing the conference report, Mr. Speaker, it is go time. It is time for us to move this Congress and this country forward, to bring down the Federal deficit by $496 billion. It is go time. It is time to dismantle the Republican lies that say, Mr. Speaker, that the taxes are going to be borne by the middle class. They are going to be borne, 80 percent of the taxes, by the richest 6 percent of the people in this country.

It is go time. It is time to move this country forward on a plan, Mr. Speaker, that is pro-family and anti-poverty, $21 billion for earned income tax credits that will move people from poverty into performance. It is go time, $580 million, Mr. Speaker, for child immunizations.

It is time to move forward. If we do nothing, the deficit will go up. If we go forward, the deficit will go down.

It is go time.

MR. PRESIDENT, RELEASE THE ECONOMIC ASSUMPTIONS

(Mr. SMITH of Michigan asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Michigan. Mr. Speaker, last night the President addressed the Nation to urge Congress to adopt the largest tax increase in history. He suggested that the Nation must adopt this package before the economy gets worse.

Mr. Speaker, the President knows that the economy has already gotten worse. He knows that his so-called deficit-reduction numbers are untrue.

He is required by law to publish a midsession review revising economic assumptions on which his budget is based and the assumptions Congress should know before they make this decision on this large tax increase. The purpose of publishing revised economic assumptions midyear is for Congress to have the best information available in order to make decisions affecting job growth, the economy, and jobs.

The President claims that the economy is strong enough to withstand the contractions of the largest tax in history. However, the numbers he is withholding in violation of law would show that the economy is weaker than previously stated.

This tax bill is the wrong plan at the wrong time.

Mr. President, please comply with title 31, section 1106, of the United States Code and give this Congress this information so we have the best possible information when we make this important vote on the reconciliation bill.

THE BUDGET ALTERNATIVE

(Mr. CLYBURN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CLYBURN. Mr. Speaker, I rise today in support of President Clinton's plan for deficit reduction and economic growth.

For the past 12 years, the American people have watched the Federal deficit soar and their economic security decline.

The President's plan faces up to the challenges of putting our country's fiscal house in order, establishing equity and fairness for all our citizens, and securing the future for our children and grandchildren.

The benefits are clear.

The President's plan means deficit reduction, nearly $500 billion over the next 5 years.

The President's plan will restore Tax Code fairness, generating 80 percent of all new revenues from those who can best afford to pay.

The President's plan is a win-win situation for the middle class and those who earn less than $30,000 per year. The earned income tax credit [EITC] provision will directly benefit 32.8 percent of the families in my State and 43.5 percent of the households in my congressional district.

The President's plan means job creation. In South Carolina alone over 100,000 jobs will be created in the next 3 years if this package is passed. That's 61 percent more jobs than were created between 1989 and 1992.

President Clinton's plan for deficit reduction and economic growth makes good sense for the American people.

START OVER AND DO IT RIGHT

(Mr. SMITH of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Texas. Mr. Speaker, the President's words sounded smooth and truthful last night. You want to believe him but then you realize this is the same person who campaigned for a tax cut, who promised he wouldn't tamper with Social Security, and who said he wanted businesses to grow and create jobs.

Then you look at his economic plan and you see taxes that stifle the same small businessowners who create jobs, and Social Security taxes that hammer anyone over 65 who makes $34,000 or more.

Then you remember the President spoke of tax fairness, which sounds great. Except the top half of income earners already pay 94 percent of the taxes. Tax fairness begins to sound more and more like resentment and envy, and a desire to punish anyone who's successful.

That is not the way to treat honest and hard-working Americans and that's not the way to achieve economic growth.

Americans should oppose this economic plan and tell the President and his party to start over and do it right, this time with the help of Republicans.

A TRIBUTE TO THE ASSYRIAN COMMUNITY

(Mr. GUTIERREZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUTIERREZ. Mr. Speaker, I am proud to rise today and offer my voice in praise of a community that is sometimes overlooked when we talk about the wonderful mosaic of diversity that makes America.

I speak of the Assyrian community—a community that has many important representatives and leaders joining us in Washington today.

I speak of a community that has overcome tremendous odds, and many sadnesses, to persevere and make an overwhelmingly positive difference in our society.

A community with a proud history that dates to the earliest moments of civilization.

A people who have made tremendous contributions to our Nation through their hard work, diligence, sympathy for others, and maintenance of their unique cultural traditions.

A peace-loving people who have been consistent allies of the United States and who are proud of a long history of triumphant memories.

You know, the United States is a nation that has been built on, and continues to thrive because of the strengths and contributions of those who have come to our country from distant shores.

Quite often, it seems as though we forget that here in this body.

So I am proud today to be able to give a small, overdue thanks to a community that has come from distant shores to make tremendous contributions to my congressional district in Illinois, and to neighborhoods all across our country.

THERE THEY GO AGAIN

(Mr. HOKE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOKE. Mr. Speaker, it is time that we came to a vote on this budget. This debate has lost its zip. It has gone flat. The lines are clearly drawn. We know where we stand, and it is time to vote. It is only punctuated now by occasional ugly partisan shots from both sides of the aisle, like the one you just heard recently from my good friend, the gentleman from Wisconsin.

At the risk of also entering the department of redundancy, allow me to add my 2 cents and remind you of this:

In the immortal words of President Ronald Reagan, "Well, Nancy, there they go again." Candidate Bill Clinton promised to be a fiscal conservative who would reduce taxes on the middle class and cut Government spending.

Now President Clinton wants my vote for a budget with massive tax increases and wasteful new spending programs.

Mr. Speaker, budgets are important because they reflect the values and priorities of a President in stark, objective terms. This budget proves how different are President Clinton's priorities from Candidate Clinton's promises.

Although Candidate Clinton sought to put people first by reducing Government and empowering middle-class Americans, President Clinton wants to put Government first. His budget imposes the biggest tax increase on working families in American history and funds a new wave of massive Government expansion.

Mr. Speaker, let us do what the American people elected us to do—including our President—let us cut spending first.

WESTERN WORLD FINALLY TAKING ACTION IN BOSNIA

(Mr. ENGEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ENGEL. Mr. Speaker, the shame of the Western World this past year and a half has been that we have allowed ethnic cleansing and genocide to continue in Bosnia.

Finally, President Clinton and the NATO allies are doing something about it by sending a very clear message to the Serbian aggressors that if they continue the siege of Sarejevo, NATO bombing, air strikes, will follow on Serbian positions.

I have called for these air strikes now for more than a year. We cannot allow genocide to continue. The only way to get the Serbians to negotiate in good faith is to let them know the Western World will not continue to stand by, will not allow Sarejevo to fall, will not allow thousands upon thousands more to die.

The gentlewoman from New York [Mrs. MALONEY], the gentlewoman from New York [Ms. MOLINARI], and I are circulating a letter calling on Secretary Christopher to allow more Bosnian refugees to come into this country. The ceiling was 3,000. The State Department cut it to 2,000. We think it should be raised to at least 3,000 to allow those poor, suffering people to come here as refugees.

I am glad the Western World is finally taking action.

THE TAXPAYERS WILL WIN IN 1996

(Mr. KINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KINGSTON. Mr. Speaker, we hear a lot of rhetoric on the Democrat side of the aisle that the Republicans are doing this, the Republicans are doing that.

Well, let us just go over some facts and cut through the rhetoric.

Fact: There is a bipartisan group who oppose this budget. It is Democrats and Republicans who oppose this budget.

Fact: The President promised the middle class a tax cut, but the middle class will be hurt very hard by this tax increase.

Fact: We have had 5 tax increases in 10 years, and there have not been any deficit reductions as a result of Democrat and Republican action.

Fact: The President's plan increases the national debt $1 trillion over a 5-year period of time, and it still operates the budget at a deficit.

Fact: Big oil and big business do support this plan in part, but small business does not. Call the National Federation of Independent Businesses if you do not believe me. Do not take my word or someone else's word for it.

Fact: The President said he would not mess with Social Security. Tell that to your grandmother when her taxes increase.

Fact: The President will win tomorrow. The taxpayers will win in November 1996.

□ 1100

ENDANGERED SPECIES: AMERICAN-MADE TYPEWRITER AND AMERICAN WORKERS

(Ms. KAPTUR asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. KAPTUR. Mr. Speaker, let me tell you the story of an endangered species, the American-made typewriter. The last American typewriter company, Smith-Corona Corp., for generations has manufactured typewriters in Cortland, NY. Layoffs begun earlier this year will mean job losses for 875 more American workers.

Later this fall a few of those Cortland workers will begin training workers in Mexico, in anticipation of the proposed NAFTA Treaty, who will be employed in the new Smith-Corona factory in Tijuana, Mexico, where average labor costs plus benefits are $3 an hour. Smith-Corona says this move will save nearly $15 million per year. But it will cost the rest of us dearly.

Mr. Speaker, the U.S. jobs and workers are the real endangered species. This NAFTA Treaty will ensure their extinction. Let us defeat it.

TAX INCREASES THROUGH SPENDING CUTS

(Mr. CUNNINGHAM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CUNNINGHAM. Mr. Speaker, one of the problems we have in the House is that most of the Members have never signed the front side of a check, and if they did, they bounced it. Most have never been in business. Businesses with 20 members or less, subchapter S, have created over 4 million jobs and will be taxed as independents. This does affect and penalize.

In 1990, when George Bush broke his pledge and raised taxes, only 33 Republicans supported that tax increase. It is not a fight against Mr. Clinton, it is a fight against the increase in taxes. Why did only 33, and the rest not vote? Because they did not believe Congress could control its spending.

Spending cuts in this bill come after 1996. We do not believe that those spending cuts will happen. The only cuts now are in defense by a President who does not support the military.

THE SUNSHINE ACT

(Mr. BACCHUS of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BACCHUS of Florida. Mr. Speaker, there are many, many things on which the Members of this House will disagree. The American people can see and hear that every day. Yet there is one thing on which I believe we all agree, Republicans and Democrats alike, and that is this: This is the people's House. Here we are supposed to do the people's business and, above all, the people themselves should have the right to see and hear us do their business.

That is why I introduced, along with my friend, the gentleman from New Jersey [Mr. ZIMMER], in my first term in this body, the Sunshine Act, and that is why I am introducing again today with Mr. ZIMMER, Ms. DUNN, and others, on a bipartisan basis, the Congressional Sunshine Act. We believe the people have every right to see and hear us as we conduct our business.

We believe we should amend our rules to make certain that in the vast, vast majority of instances, the people will will be able to scrutinize what we do so that they can determine whether we are worthy of doing it.

We offer some exceptions. They are realistic. I encourage my colleagues to look at our resolution, look at our bill, and cosponsor this bipartisan effort.

THE RESULTS ARE IN

(Mr. WELDON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WELDON. Mr. Speaker, the snake oil sales pitch that we have heard since last January and February is no longer working. The President told the American people to contact their Representatives. And, boy, have they.

If you look at the polls of last night, you would see the initial response to that speech, and it certainly is not the same as it was earlier this year. But I looked at my own poll; what are my constituents saying?

Let me give you numbers, Mr. Speaker: 72 contacted me and said, "Yes, support the President's plan." Six hundred and sixty-three said, "Absolutely no way do we want you to vote for this monstrosity."

Mr. Speaker, my fax machine in my office right now is working overtime. Let me give you some examples, and I quote: "We listened to President Clinton's speech last night, and we are scared to death. There has not been a decrease in the deficit with raising taxes. Does Clinton believe or forget that raising taxes we have to pay, and this is also going to go up as well."

Another one: "Don't let the fast talkers get to you. Working Americans are suffering from the burden of taxes."

Another: "I cannot believe that $1.3 trillion is not enough to run this Government."

Let us do what the President asked us to do, let us listen to the American people and kill the Clinton tax increase.

LET US KEEP DEMJANJUK OUT

(Mrs. LOWEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. LOWEY. Mr. Speaker, last week the Israeli Supreme Court acquitted John Demjanjuk of being the brutally sadistic Ivan the Terrible of Treblinka, but did find convincing evidence that he served as a Nazi guard at the Sobibor death camp.

Demjanjuk now remains in Israel until it is decided whether he can be tried for his other crimes.

Yesterday, a United States Federal court rules that the Israelis must free this former Nazi guard and return him to the United States. This would be an affront to the countless millions who suffered under Nazi brutality, many of whom now live in this country.

Mr. Speaker, the Department of Justice has already determined that Demjanjuk lied about his Nazi past to enter the United States and has revoked his citizenship.

Earlier this year, I stood with my colleagues at the dedication of the new Holocaust Museum. There we pledged to honor the memory of the 6 million victims of Nazi brutality. The United States may never be a haven for former Nazis. Today I call upon the Attorney General to appeal yesterday's ruling and keep Demjanjuk out.

TAXATION BEFORE REPRESENTATION

(Mr. LIGHTFOOT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LIGHTFOOT. Mr. Speaker, last night we saw the President talk about his tax plan that will be due for a vote here in the Congress this week. I think something interesting that was missed in the discussion last night is, for the first time in the history of our country we are going to be taxing Americans retroactively to a point 3 weeks prior to the President's own inauguration. The taxes in his plan become effective January 1 of 1993. I do not think, in our history, we have ever had a President who was able to put taxes in place before they even took office.

However, that seems to be the case here.

I suspect the folks who left England 200-plus years ago because of taxation without representation must be rolling over in their graves at this point in time to see that we have taxation before representation.

I urge my colleagues to vote "no" when we get the opportunity later this week.

CONGRESSIONAL SUNSHINE LEGISLATION

(Ms. CANTWELL asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. CANTWELL. Mr. Speaker, I rise today to urge support of the bipartisan congressional sunshine proposal. It is time for Congress to throw open its doors and invite the American people back inside.

Here in the United States we have a representative Government. No Member of this Congress enters this Chamber as a single individual. Each of us represents the hearts and minds of thousands upon thousands of Americans. They send us to Congress to be their voice in the Government of this great Nation.

But when we close our meetings to the public and the press, when we go behind closed doors to conduct the people's business, we are speaking with their voice and then asking them not to listen.

Mr. Speaker, we must do all we can to restore the faith of the American people in their elected Representatives and their Government.

I urge my colleagues to support this legislation, open the doors of Congress, and let the sunshine in.

INTEREST RATES?

(Mr. HERGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HERGER. Mr. Speaker, President Clinton has defended his tax plan by saying the lower interest rates that will accrue from this plan will save small businesses loads of money.

Well, Mr. Speaker, how much lower can the interest rates go? Not much lower.

And why are they so low in the first place? Because of the Bush policies. President Clinton's plan hasn't been implemented yet. Taking credit now for a plan that hasn't even been implemented yet is a little ridiculous.

The simple fact is the Clinton plan will not lower interest rates. It will not lower inflation. It will not create jobs. And it will not lower the deficit.

The Clinton tax plan will spur inflation, lose jobs, increase the deficit, and hurt our economic growth. As most economists now agree, the Clinton plan must go.

Let us start over. Vote against the Clinton plan.

THE MESS AT IRS

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, while everybody is talking about taxes, I have a little suggestion here today: Why don't we first straighten out the IRS, Congress?

Three hundred and seventy agents have been caught illegally snooping through their friends', neighbors', and other American taxpayers' files.

□ 1110

Unbelievable. How does that yank your computer?

Mr. Speaker, this is disgusting. Congress is overlooking the trespassers and crying to the IRS. The American people are afraid of them, and we keep talking about raising more taxes.

And what do they want? They want a $23 billion computer so they can catch more wrongdoers.

Mr. Speaker, I say these 370 agents should be prosecuted, and if they are convicted, I recommend handcuffing them to a chain link fence and having them flogged.

DEFICIT REDUCTION BILL UNTRUTHS

(Mr. LEVIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEVIN. Mr. Speaker, it is an old approach. "If you don't have a position of your own, try to poison the other person's position." That is what is happening now on the deficit reduction bill.

Untruth No. 1, that this is the largest tax package in history.

Wrong. The 1982 package was larger in real dollar terms and percentage of the GDP.

Twenty-four Members of the Senate on the Republican side now sitting voted in 1982 on the package; 21 voted "yes," including the minority leader who made the statement last night, and 21 sitting House Republicans voted "yes" on the 1982 bill, including the minority leader.

Untruth No. 2, the only retroactive tax package in history.

Wrong. There was retroactivity in individual tax rates in 1969, 1968, 1942, 1941, 1940, 1935, and 1918.

The truth of the matter is this is the biggest deficit reduction package in history. We have got to get hold of the deficit and the debt. Let us do it tomorrow.

THE LION THAT ROARED

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, I am proud to be following the gentleman from Michigan into the well, because I want to talk about the same thing he was, and that is all the disinformation we have heard here about the President's budget plan.

We hear that it is going to hurt the middle class. We hear that it is going to hurt small business. We hear all sorts of crazy things that are absolutely not true. There does not seem to be anything we can do about it, but let me tell those of you who are spreading all this disinformation a little western story.

It is about a mountain lion who ran upon a bull. He caught the bull and he ate the whole thing. He was so proud of himself, he started roaring and roaring until a hunter saw him and shot him.

The message here is that when you are full of bull, it is better to keep your mouth shut.

I think we should have had more people keeping their mouths shut as we discuss this, unless they get it right.

IN SUPPORT OF THE CONFERENCE REPORT ON RECONCILIATION

(Mrs. MEEK asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MEEK. Mr. Speaker, I rise in support of the conference report on H.R. 2264, the Omnibus Budget Reconciliation Act of 1993. I will vote for this bill today, not because it is a perfect bill, but because it furthers some very important economic and social goals. It takes a big step in the direction of tax fairness. It provides investment incentives without devastating the Tax Code. It will restrain spending in an attempt to get our budget deficit under control. Most important, however, it does not ignore the need for more investment in our children. The earned income tax credit, family support and preservation programs, the Mickey Leland Childhood Hunger Relief Act, and childhood immunization are all programs we need to expand for the sake of our children. Although H.R. 2264 does not accomplish this to the degree I would like to see or to the degree the House originally supported, it is a good start. We will see good results from these expenditures, and we must work in the future to improve these programs further. There are of course several items in the bill that I am reluctant to support. I believe the Medicare reductions are too high. They are closer to the Senate figures than the House-passed numbers. As someone who represents an area very dependent on the hotel and restaurant business, I am also concerned about reducing the deductibility of business meals. There is plenty in the bill to criticize, but to defeat this legislation because of individual provisions would be irresponsible. We need to look at the big picture and consider what the consequences would be if we were not to pass this legislation.

We must ask ourselves, will our country really be better off if we do nothing? That is the alternative to this bill. We have already struggled for months over these issues. Where can any other kind of reasonable agreement be found?

Last November, we elected a new President. We said we wanted change. This bill represents a very positive change in direction for our country. It puts people first. It seeks fairness for taxpayers. I am not afraid by my vote to take responsibility with the President. He was elected to govern this nation and we owe him the opportunity to implement his economic program for the good of this country. We owe it to our constituents to support the President and break out of the legislative and budgetary gridlock. I urge my colleagues to vote for the conference report.

A RETROACTIVE TAX PACKAGE

(Mr. HASTERT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HASTERT. Mr. Speaker, I agree with the previous speaker right before me. I think we probably ought to look at the big picture. I think we ought to look and see what the big picture does exactly.

I think for the first time probably in the history of this House the President who is in power at this time and brings forth this tax package is bringing forth a tax package that reaches back retroactively and takes out of people's pockets money they have already earned, money that they already thought was theirs.

Interestingly enough, it not only goes back into his administration, but it reaches back into the previous administration and takes money out of people's pockets. It goes back into the Bush administration and takes money out of people's pockets.

I do not think that is something that the people in this country have woke up to.

I just had an interesting phone call from a constituent that says:

> I listened to the President's speech last night. This morning I went down and canceled a $3,000 computer purchase so I could upgrade my computer in my small business, because I know that I cannot pay for it because in October I am going to have to back pay.

Mr. Speaker, I think this is a tax bill that is going to be called "The Grinch That Stole Christmas."

THE PRESIDENT'S BUDGET

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, there is a campaign of disinformation going on. Here are the facts.

In this historic deficit reduction package, more than $1 in spending cuts for each $1 in new taxes; $8 in spending cuts for $1 in new taxes on the middle class; $255 billion in spending cuts; for every $10 in deficit reduction, $5 comes from spending cuts, $4 comes from people making over $200,000, and only $1 from all other taxpayers.

We have the lowest interest rates in two decades.

Eighty percent of the tax burden will fall on those making more than $200,000. Only the top 1.2 percent of all taxpayers will experience an increase in their income taxes.

Those who file joint returns and make less than $180,000 will pay higher income taxes.

We repeat, if you are a family and you make under $180,000 of adjusted gross income, you will not pay a penny more in income taxes.

TIME FOR REAL DEBATE, NOT BUZZ WORDS

(Mr. SKEEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SKEEN. Mr. Speaker, I have been listening to these 1-minute speeches, and it has become a war of words, similes and so on. I think it is about time we ended all this ludicrous thing, because the same people who have been accusing this side of being the gridlock are now operating with ziplock. We are going to unzip everybody's pocketbook, rob it, sandbag it and flannelmouth this thing to pass a program that is not going to work.

It is the same folks who have not let it work for the last 12 years, the same ideas, the same flannelmouths, the same sandbaggers, the same ziplockers.

Mr. Speaker, I think it is time we got down to the real business. If we are going to debate this bill, let us debate it on its merits, not on these buzz words.

RECONCILIATION: AN OPPORTUNITY FOR AMERICA TO MOVE FORWARD

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, to some extent I will work on the theme established by my friend, the gentleman from New Mexico, by saying that probably it is time to sort of calm down the rhetoric and to reduce the level of emotion here.

I think it is fair to say that the economic reconciliation plan which I intend to vote for tomorrow in the House, the President's plan, is probably not as positive as we would like it to appear, but certainly it is not as negative or will bring the kind of doom and gloom, as would be predicted by the opponents.

My point here is to say that we have an opportunity to do something. We have an opportunity starting tomorrow to do something for America and for the world, which is to say to move us forward on a new glide path toward less deficits, toward less debt, toward a growing economy, toward more jobs, toward lower unemployment.

What I fear, Mr. Speaker, is that if we fail to take this step tomorrow, if we walk up to that abyss, up to the precipice and we take a step backward, which we are urged to do, I think we will lose all opportunity to ever go forward and make America better economically.

So I would say, Mr. Speaker, despite the fact that the reconciliation plan is not the greatest plan ever to come along, it certainly will not do the harm some predict, and we ought to move with it.

DISPELLING THE FOG OF RETROACTIVITY

(Mr. WISE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WISE. Mr. Speaker, once again there seems to be some fog around here as to who is affected by taxes and particularly the provisions that have been referred to about retroactivity, going back to January 1 of this year. Is it middle America, mom and pop, that will be paying these taxes back to January 1?

Well, unfortunately, there is one fact they have omitted to tell everyone here, and that is that this only applies to the income taxes of those over $180,000 a year. That is right, the family that makes over $180,000 a year. If you are not in that very exalted group, you are out of this picture. You are not retroactive. You are not proactive. You are inactive.

□ 1120

They are not involved in these income taxes. That is No. 1.

No. 2, what they are not saying is that those folks have the ability to carry forward that increased tax liability for 3 years without interest. And they are not telling us that the tax cuts are retroactive as well. So the tax cuts that small business and the business people will be able to take advantage of will also be retroactive.

INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1994

The SPEAKER pro tempore (Mr. FRANK of Massachusetts). Pursuant to House Resolution 229 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 2330.

□ 1121

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2330) to authorize appropriations for fiscal year 1994 for intelligence and intelligence-related activities of the U.S. Government and the Central Intelligence Agency retirement and disability system, and for other purposes, with Ms. SLAUGHTER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Tuesday, August 3, 1993, the amendment offered by the gentleman from Vermont [Mr. SANDERS] had been disposed of, and the bill was open to amendment at any point.

AMENDMENT OFFERED BY MR. FRANK OF MASSACHUSETTS

Mr. FRANK of Massachusetts. Madam Chairman, I offer an amendment which has been printed on page H5453. The amendment is to page 5, line 11, section 105, a reduction in authorization.

The Clerk read as follows:

Amendment offered by Mr. FRANK of Massachusetts:—Page 5, after line 11, add the following:

(a) IN GENERAL.—Except as provided in subsection (b), the aggregate amounts authorized to be appropriated by this Act, including the amounts specified in the classified Schedule of Authorizations referred to in section 102, are reduced by $500,000,000.

(b) EXCEPTION.—Subsection (a) does not apply to amounts authorized to be appropriated by section 201 for the Central Intelligence Agency Retirement and Disability Fund.

Mr. FRANK of Massachusetts (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. FRANK of Massachusetts. Madam Chairman, we debated yesterday the broad context in which this amendment should be put, but we have here a more moderate version of it. I did support yesterday a much larger cut.

This is a cut of $500 million. It exempts the Retirement and Disability Fund. It would reduce the overall intelligence budget by $500 million, a very small percentage of the overall total. The question is, shall the intelligence apparatus, all of the intelligence apparatus, the CIA, the National Security Agency, and the various military entities, in effect be exempt from any budgetary discipline at all?

Now, the committee did reduce their effort to get an increase. I think the committee has begun a useful process, but that does not go far enough.

We have heard Members all morning, and we will be hearing them all week, talk about the need for cuts. The question now is, does that rhetoric have any impact on Members' actions? We are talking about a cut that is only a couple of percentage points.

The Soviet Union 5 years ago absorbed approximately two-thirds of the budget, at least, in my judgment, of the intelligence apparatus. That threat has disappeared. Members have said, "Oh, there are new threats."

I deny that. There are not new threats. Nuclear proliferation, the North Korean regime? Did anyone 5 years ago think that that was the Kiwanis Club with a somewhat culturally different approach?

Terrorism? Was Iran a vacation spot for people interested in the exotic 5 years ago?

There are no new threats. There has been a substantial reduction in the old threat. And I want to say what I think has to be very clear for this budget and the military budget. People have talked about how the defense budget is taking the largest share of cuts.

Of course it is, because in no other area of this Government's activity has there been such a change in the objective reality which the program seeks to deal with.

We have seen the disappearance of the Soviet Union as an entity and the dismantling of the Warsaw Pact. There is no longer a Poland or a Hungary or a Czechoslovakia or a Bulgaria or an East Germany as part of that threat. The Soviet Union itself has been pieced apart. Yes, there are now a couple more former soviet republics to look at for nuclear proliferation. But nuclear proliferation is no more a problem today than it was 5 years ago.

Can the CIA and its related agencies in the military sustain a half-a-billion-dollar cut in reductions?

Madam Chairman, the problem is that people are confusing necessity with what is convenient and what is useful. Let me give an example.

Thirty-one years ago I went on a CIA mission. I think that secrecy has expired enough now. Anyway that is what the statute of limitations says. I went with some journalists and with Gloria Steinem. We went to Helsinki, Finland. The CIA paid for it. We were not supposed to know that. Anyone who did not know that was too stupid to have gone. We went to infiltrate the Soviet-run youth festival. We went, we argued, and we debated, and I think it was useful. I am glad I went in 1962. I am glad I had a favorable reference from the late and unlamented House Un-American Activities Committee.

But I must say that at no point in my 22-year-old view of the world did I think that what I was doing there, debating and pointing out the horrors of the Hungarian invasion by the Russians and debating and trying to persuade people from Asia and Africa that we had a better way, at no point did I think that the security of the United States rested on the force of my argument. It was useful, it was helpful, but it was not national security at its core.

There has been an argument that we have to improve the technology. A cut of a half a billion dollars can be absorbed by that vast network of agencies, with their vast networks of personnel and their subscriptions and their cars and their analyses and everything else, without impinging in any way on their hardware. This simply says, "Subject yourself to the discipline."

They do some things that are essential for national security. They do some other things that are useful politically and that are interesting economically.

We have a terrible budget deficit. Finally, people have said, "But if you cut this, it goes to the military budget anyway." By what rule? Yes, the walls are still up so we cannot take this half a billion and spend it on domestic purposes, but we can use it for deficit reduction, and Members who tell us how serious they are about deficit reduction are about to have a chance to prove it.

Mr. SKAGGS. Madam Chairman, I rise in opposition to the amendment.

Madam Chairman, I have tremendous respect for the gentleman from Massachusetts [Mr. FRANK], who has offered this amendment, so my opposition comes with some difficulty personally, because I know that he has applied his considerable talent, intelligence, and way with words to this very important subject. But I think there are several reasons why it is not in the national interest to support the gentleman's amendment, and I urge my colleagues to vote against it.

I am serving in my first year on the Permanent Select Committee on Intelligence, and let me say that the committee worked painstakingly and with great pain to produce the bill that is before us which already incorporates a substantial reduction from what the President asked us to authorize for national intelligence purposes for next year. We have already cut over a billion dollars below the President's request, and he has made it very clear, as has his Director of Central Intelligence, that further reductions will not come without serious incursion on the very important functions of the intelligence community.

The gentleman from Massachusetts seems to be dismissive in his closing comments about the practical effect were we to adopt his amendment. I think the body needs to be well aware that given the point that we are in the appropriations process, given the 602(b) allocations that have been made to the Defense Appropriations Subcommittee which will ultimately decide how much we appropriate in this area, it is in fact the case that whatever might be reduced further in the authorizing phase before us today is highly likely to be absorbed by the appropriators on the Defense Subcommittee.

□ 1130

Mr. FRANK of Massachusetts. Madam Chairman, will the gentleman yield?

Mr. SKAGGS. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Madam Chairman, I have to correct my good friend from Colorado. He says the Defense Appropriations Subcommittee will decide. No, this House will decide, and the Senate will decide. There is no doubt in my mind that the Defense Appropriations Subcommittee will try to spend it all, but this House will have the ability to impose a little discipline and save half a billion dollars.

Mr. SKAGGS. Madam Chairman, reclaiming my time, the gentleman from Massachusetts [Mr. FRANK] I think is technically correct. As a practical matter, we have all lived through the process often enough to know that the practical outcome is likely to be as I suggested, especially given the severe constraints that have already been imposed on spending within the defense portion of the budget.

But the other effects of the adoption of his amendment are also significant and perhaps go to the merits more than addressing the issue of institutional politics.

We have heard from the Director of Intelligence that it will cost us somewhat more in the near term to effect the long-term savings, particularly in the very sophisticated overhead collection systems the country will continue to depend on. It is one of those realities, that in order to save in the long run from consolidating some of these systems, we will need to spend somewhat more in the short run. And I think we would be deluding ourselves to think that these further proposed reductions would occur without greater costs and difficulties over the long haul.

Finally, I think we can take some real note of the fact that the new President of the United States, who has clearly made a very strong commitment to constraints in the intelligence budget and has pledged the credibility of his administration to do so, has drawn the line at this point and made a very sincere plea to this body not to further reduce the budget in this critical area.

So with great respect for the author of this amendment, I urge my colleagues to oppose it.

Mr. HYDE. Madam Chairman, I move to strike the last word.

Madam Chairman, I rise in opposition to the amendment. The gentleman from Massachusetts [Mr. FRANK] has said that the threat has lessened since the demise of the cold war. I would respectfully suggest that the threat is not less, it is different. The bear is disabled, but there are lots of snakes now loose in the forest.

Our intelligence has to be adequate, adequate to the times we live in. I suggest again with some sorrow that our intelligence has not always been adequate. It certainly was not adequate in Iran, surrounding the abdication of the Shah and the advent of the Ayatollah, and in many other places one could find fault with the adequacy of our intelligence effort.

This country needs more and better intelligence, not less. With the proliferation of chemical warfare and biological warfare, just imagine the ability to bring into this country in a diplomatic pouch vials containing anthrax or containing some chemical substance that would wipe out a city in one fell swoop. They are very portable. You do not need intercontinental ballistic missiles. You need good intelligence, and that is costly and takes time to build up.

There are 22 countries capable within the next 10 years of developing nuclear warheads and the missiles to deliver them. Twenty-two countries. No, the threat is not less, it is different. It is different.

Now, as far as this budget cut is concerned, there are four words why this is a terrible idea: terrorism, narcotics, proliferation, and personnel. It takes years and years and years to develop competency as analysts, as operators in the field, as human intelligence sources, as people who can collect and analyze and evaluate this intelligence.

Madam Chairman, the gentleman from Massachusetts [Mr. FRANK] has asked about the CIA, the intelligence community, should they be exempt from budgetary discipline? Nobody in this town has a greater interest in cutting the deficit than the President. He rises or falls on that, so his interest is supreme.

Madam Chairman, this bill is 4 percent less than last year, and 3.7 percent less than the President asked for. Over the next 5 years the intelligence community will reduce its civilian personnel by 17.5 percent and its military personnel by 25 percent. That is cutting back with a vengeance.

Now, look: on one side you have got the President, the Joint Chiefs of Staff, the National Security Council, the Director of the CIA, two Intelligence Committees, the House and the Senate. You have two Armed Services Committees, the House and the Senate. You have two Appropriations Committees, the House and the Senate. They are all saying, stick with this figure. On the other side you have the distinguished gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Madam Chairman, will the gentleman yield?

Mr. HYDE. It is now a pleasure to yield to the gentleman.

Mr. FRANK of Massachusetts. Madam Chairman, first of all I would say my friend from Illinois [Mr. HYDE] has described the situation we have in every cut. You will have the President, all of the agencies that administer it, and the authorizing and appropriations committees on one side, and others of us on the other side.

Second, I have to say to the gentleman from Illinois [Mr. HYDE], I am surprised when the gentleman says that the threat is now not less.

Mr. HYDE. Madam Chairman, reclaiming my time, if the gentleman would excuse me for just 1 second, on the other side though you usually have people asking for cuts whose competence is based on more than a trip 33 years ago with Gloria Steinem to the Soviet Union.

Mr. FRANK of Massachusetts. Madam Chairman, if the gentleman will yield further, I thank the gentleman. That was not the only purpose. But, as long as the gentleman has pointed it out, I will say that the CIA continues to be interested in other issues, such as immigration and the environment. My point was that some of what they do is national security related, and some is not.

But I want to get back to the central point where I differ with the gentleman from Illinois [Mr. HYDE], and that is the statement that with the collapse of the Soviet Union, the collapse of the Warsaw Pact, the dismantlement of that military apparatus, the threat facing us has not lessened.

Mr. HYDE. Madam Chairman, I would like to reclaim my time.

Mr. FRANK of Massachusetts. I should not have asked the gentleman to yield, since the gentleman will not yield.

Mr. HYDE. Madam Chairman, can we not have a discussion without the gentleman getting upset?

Mr. FRANK of Massachusetts. Madam Chairman, if I could finish my sentence, we might.

Mr. HYDE. I might forget what I wanted to say.

Mr. FRANK of Massachusetts. Madam Chairman, that is one of the hazards the gentleman will have to deal with.

Mr. HYDE. Madam Chairman, when you get my age, it is.

Mr. FRANK of Massachusetts. Madam Chairman, the point is the Soviet Union has been, with the Warsaw Pact and all of its weaponry, an overwhelming threat to our national security. When the gentleman says that the dismantlement of that threat to our national security from the Warsaw Pact and the Soviet Union means that the threat has not lessened, I think he over-argues the point uncharacteristically.

Yes, there are other threats. They have been around for a while.

The CHAIRMAN. The time of the gentleman from Illinois [Mr. HYDE] has expired.

(At the request of Mr. FRANK of Massachusetts and by unanimous consent, Mr. HYDE was allowed to proceed for 2 additional minutes.)

Mr. HYDE. Madam Chairman, I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Madam Chairman, this is an example of the kind of overargument we are getting. To say that the dismantlement of the Warsaw Pact, the defection of those countries, the breakup of the Soviet Union, that that has not lessened the threat against us, simply does not bear logical analysis.

Mr. HYDE. Madam Chairman, reclaiming my time, I wish to thank the gentleman from Massachusetts [Mr. FRANK]. If I may respond, there are some 33,000 nuclear warheads aimed at us. They are aimed at us, nobody else, in Russia, in Kazakhstan, in Ukraine, and in Byelarus. They still constitute a threat until they are dismantled and buried in the ground. I do not say they are the threat they used to be. The threat today comes from China, from North Korea, from Angola, from all kinds of places. They come from India, from Punjab, from Nagorno-Karabakh, from the former Yugoslavia. For all of these conflicts we need to know what is going on, who the players are, what our involvement can be, what it ought to be, ought not to be, and that costs money.

Mr. FRANK of Massachusetts. Madam Chairman, if the gentleman will yield further, yes, almost everything the gentleman has mentioned has been a threat all during this period, China, North Korea, et cetera. I am trying to focus on what the gentleman said.

The argument of the gentleman that there has been no diminution in the threat, that it is simply different, I submit that is at variance with what the gentleman knows to be the case.

The disappearance of the Soviet Union and the Warsaw Pact has reduced the threat. When the gentleman denies that, he talks about other threats, they are there today, most of them were there a few days ago and a few years ago. But for the gentleman to say that no longer having the Soviet Union with the Warsaw Pact has not lessened the threat is an example of what I think is the overargument that bolsters the case against even a small cut.

□ 1140

Mr. GLICKMAN. Madam Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Kansas.

Mr. GLICKMAN. Madam Chairman, the difference I have with the gentleman from Massachusetts is that, yes, some of these problem areas were threats, but there is no question, they have clearly been enhanced since the Soviet Union has ended as a collective central power. For example, North Korea, as a potential nuclear power, is much more serious today than it was 5 years ago.

Mr. HYDE. Madam Chairman, does the gentleman think if the Iranians develop a nuclear weapon and the means to deliver it, we are not at risk worse than we were when the Soviet Union, with all its problems, at least the Soviets were rational.

Mr. BILBRAY. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I think it is important to recognize that as a member of the committee, I came on 6 months ago. And for 6 years, I sat out here, where the majority of the Members sit. It is a very small committee, and I listened to the same sort of arguments, not understanding entirely the intelligence budget because of the extreme secrecy that has to be kept in this committee. Most of the Members do not know even the total amount of the budget, of what it does and where the money goes.

Six months of listening to what goes on within the committee and being on the Budget Subcommittee, subcommittee of the committee, I realized that there is a lot of areas far beyond what we have been talking about today that this committee is involved in.

It is involved with every aspect of Government in trying to make sure our national interests in all areas are secure and protected.

We went in there, and we took an axe to this particular program. We cut it in excess of $1 billion.

Prior to that, the President cut it before it came over, over a billion dollars over what President Bush had recommended.

We have cut this budget, not only the fat, not only the muscle, we have cut it to the bone.

I wish that many Members would take the time to go up to the Permanent Select Committee on Intelligence and examine what they do and get a briefing from the committee on some of the aspects they cover, because let me tell my colleagues, I serve on the Committee on Armed Services. I have supported massive cuts in the size of the military, even though that committee is something near and dear to my heart.

But I sit on the Permanent Select Committee on Intelligence and realize that we are jeopardizing not only the national security of our country but the national economic development of our country by cutting this budget. I urge Members to look at this.

I know the inclination in this Congress is to cut everything that comes up. There was a comment by our chairman that in the committee one day that if somebody brought a cutting motion for his mother's hospital bed, this Congress would cut a portion of that hospital bed very quickly. And I think that has been evidence by continual votes that have come before this body.

In our being anxious to please the public that we are here to cut spending, we sometimes are overzealous and cut programs that do affect our national security and our economic viability.

I think it is very important to Members out there to realize, and I am not a hawk, I am not a hawk, I am not a fanatic conservative. I am not one that does not stand with the President. I am voting for his bill tomorrow.

I am one who is firmly entrenched in believing in the Democratic Party and those premises that we stand for. But this is not the place to do it. This is an important vote. It is one that we will live to regret, if we follow the guidance of my good friend from Massachusetts and endorse his amendment.

I ask those that are out there that have not been involved in the intelligence process, please become involved. Study it. Find out what it is. Go up to the committee. Talk to the staff. But do not make this serious, serious mistake of voting for this amendment. In the future, believe me, economically and securitywise, we will regret this vote if we make this cut.

Mr. SANDERS. Madam Chairman, I move to strike the requisite number of words.

Let me begin by thanking the 104 Members who yesterday voted for the Sanders-Owens amendment, which would have reduced the intelligence budget by 10 percent. As Members know, the amendment before us would reduce the intelligence budget by about $500 million, somewhere around 2 percent.

In talking to some Members yesterday, who voted against our amendment, their thought was that the cut that we proposed was too big. My sincere hope is that they will support the amendment of the gentleman from Massachusetts [Mr. FRANK] and allow us to pass this.

Madam Chairman, I think one of the problems that we have in the House, and it is a deep problem, it affects all of us, is that every committee looks at the world from their own committee's viewpoint.

I believe and I understand the sincerity of the gentleman from Kansas [Mr. GLICKMAN] and all the members of his committee, majority and minority. They are here to fight for what they believe is best for the agencies they represent. And that is true, I think, for every subcommittee and every committee in our institution.

Mr. GLICKMAN. Madam Chairman, will the gentleman yield?

Mr. SANDERS. I yield to the gentleman from Kansas.

Mr. GLICKMAN. Madam Chairman, I do not represent the intelligence community at all. I want to make that clear. I do not think anybody on this committee does.

Second, this is a rotating committee assignment, intentionally done to make sure that there are no vested interests in this thing.

I have this chairmanship about 18 more months, and then I am gone. Hopefully not from the world, but certainly from this committee.

Mr. SANDERS. Madam Chairman, I understand the gentleman's point, but the gentleman understands my point as well. He did not accept his responsibility if he was not prepared to fight as hard as he could.

I think what we have in our institution is every subcommittee and every chairman and every Member is out there fighting for what they believe. They are trying to do a good job. Therefore, what we sometimes lose is a broad sense of priorities.

We are not looking at the whole picture. The chairman and the other Members have said that all of this money is desperately needed. But can we not make the case that there are other desperate needs in this country which, in fact, might even be more desperate than the needs of the intelligence community? Shall we have a debate about morality and philosophy and to say that 10 blocks away from here in the city of Washington or in my own State of Vermont we have children who are hungry, who have no future whatsoever?

Shall we have a debate that another spy satellite for $2 billion is more important for the future of this country, is morally more acceptable than feeding millions and millions of children in this country who are hungry today?

In America today, we have millions of children who have not received their immunization shots. The Third World, in many respects, has done a better job than we have. Shall we have a debate about morality? Whether the CIA or the other intelligence agencies need more money at the expense of the health and welfare of low-income children in this country?

So the broad argument that I want to make is not simply to look at the needs of the intelligence community. That is important. But we have got to look at the broad needs of America.

I would argue, as many have argued before me, that when a nation has a $4 trillion national debt, when we have a $300 billion deficit, when every single day Members of both parties come up here and they say we have got to deal with the deficit, we have got to deal with the deficit, well, today, the gentleman from Massachusetts [Mr. FRANK] is giving us an opportunity to deal with the deficit. And when other Members come up here and they say that the standard of living for working people is in decline, that poor people are hurting, that we have got to pay attention to those needs, which have been ignored for so many years, the amendment of the gentleman from Massachusetts [Mr. FRANK] is giving us an opportunity to do that.

So to paraphrase Shakespeare, we come not to speak so much against the Permanent Select Committee on Intelligence and their request, but we come to speak for the hungry and for the poor and for those people whose needs are perhaps greater than the intelligence community.

Mr. DICKS. Madam Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment offered by my colleague, the distinguished gentleman from Massachusetts.

Ms. HARMAN. Madam Chairman, will the gentleman yield?

Mr. DICKS. I yield to the gentlewoman from California.

Ms. HARMAN. Madam Chairman, I am a new Member. I am not a member of the Permanent Select Committee on Intelligence.

I represent the aerospace center of the country, and I have made it my business, as a member of the Committee on Armed Services and the Committee on Science, Space, and Technology to learn as much as possible about intelligence and the intelligence budget.

□ 1150

I asked for and received a briefing on the intelligence budget by the excellent staff of the Permanent Select Committee on Intelligence. I was briefed by the CIA and the Intelligence agency, and I have in other ways tried to study this issue.

My conclusion, expressed on the floor yesterday, is that intelligence spending is intelligent spending. This budget is sound and I believe that amendments to reduce it should be defeated.

Mr. DICKS. Madam Chairman, I would like to again reiterate that I think our committee has done a good job. We have made a significant reduction in this bill, over $1 billion from the President's budget request. Those cuts have caused some concern in the intelligence community. I think the committee on a bipartisan basis has looked at every aspect of spending here, and we have made significant reductions.

I would urge my colleagues on both sides of the aisle, please stay with us on this amendment. I would say to my friend, the gentleman from Vermont [Mr. SANDERS], I share his compassion and concern for the homeless and for young people who need immunization and for Head Start, but I would argue that that is the issue we ought to debate as Democrats and as Members of Congress when we have the budget resolution up, because it is when we do the budget resolution that we make the divisions between domestic spending and defense and national security spending.

Let us have that debate there. Once we get down to this bill, which is part of the Defense bill, cuts that are made here will wind up probably being utilized in another aspect of defense. It will not get to the people that my colleagues want to help, so let us have this debate next year. I may well share the priorities of both the gentleman from Massachusetts [Mr. FRANK] and the gentleman from Vermont [Mr. SANDERS] when we do the budget resolution, when we allocate the funding. That is when we should talk about our national priorities.

Mr. FRANK of Massachusetts. Madam Chairman, will the gentleman yield?

Mr. DICKS. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Madam Chairman, first I have to reiterate that under the budget walls which are up, the gentleman is correct, this $500 million could not be used for other governmental purposes. It could only be used for deficit reduction.

Now the Subcommittee on Defense of the Committee on Appropriations would have the option of spending it, but the House would have the option of doing it for deficit reduction.

I would also say to my friend, he talked about these other issues. The Washington Post says today that the CIA is about to get into such topics as the setting up of a new office, the environment, migration, refugees, epidemics, and world food supplies. Now the gentleman says this is national security and those are other issues.

The point is that the mandate they have given themselves is so broad that we can make a cut without in any way impinging on these. I do not see nuclear proliferation or terrorism here.

Mr. DICKS. If the gentleman from Massachusetts would just realize that dealing with humanitarian problems of the world is part of national security. We need to do that.

Mr. FRANK of Massachusetts. If the gentleman will continue to yield, I agree, but that ought to be subjected to the same budgetary scrutiny. If this is partly the foreign aid budget, which is what we are being told, then it ought to get the same budgetary scrutiny.

My point simply is that some of what they do is essential to national security. Most of what they do is. That is why my cut leaves 98 percent alone.

However, we are not talking here about that. My point is that the gentleman is not talking about terrorism or nuclear proliferation when we talk about the new areas. What I am trying to do is save some money and say we will deal with the environment, we will deal with these other things in other ways.

The CHAIRMAN. The time of the gentleman from Washington has expired.

(By unanimous consent, Mr. DICKS was allowed to proceed for 2 additional minutes.)

Mr. DICKS. Madam Chairman, in the Defense budget, let us talk about the Defense budget, of which intelligence is a part. I would want to point out to my colleague that there is $11 billion in the Defense budget for environmental restoration. An enormous amount of money is being spent to fix up bases that need to be fixed up, to work on bases that have environmental problems. That is certainly important.

Mr. FRANK of Massachusetts. If the gentleman will yield, I agree.

Mr. DICKS. We also have done about $4 billion on defense conversion. I see our colleague, the gentlewoman from Colorado [Mrs. SCHROEDER], who has been a leader in crafting that part of the bill. Defense conversion is another significant activity funded by the Defense budget.

What I am trying to point out is, for example, in the Defense budget there is aid to the Soviet Union. We are taking a significant amount of money and using it from the Defense budget for aid to the Soviet Union, because we think that is in our national security interests. We are sending our troops to Somalia in a peacekeeping mission to deal with hunger. Those are the new issues of national security as we proceed toward the 21st century.

I think the CIA is totally proper in looking at environment and these other issues as part of the new challenge.

Mr. FRANK of Massachusetts. Madam Chairman, will the gentleman continue to yield?

Mr. DICKS. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. First of all, much of what the gentleman talked about, most of it, is to undo some of the damage that occurred inevitably in the defense process itself, such as the environment conversion, and beyond that, I am not saying this is a waste of money. I am saying that it is a different order of importance from terrorism and nuclear proliferation.

I am saying that the intelligence community does have a wide range of things, some of which are very scary, and we absolutely do not want to even suggest that we interfere, such as nuclear proliferation and terrorism; some of which, however, is exactly in policy terms like the rest of the budget, and therefore, I think Members should not be told that the committee has decided "Don't touch it."

The CHAIRMAN. The time of the gentleman from Washington has expired.

(By unanimous consent, Mr. DICKS was allowed to proceed for 30 additional seconds.)

Mr. DICKS. Madam Chairman, I would say this, that we have a priorities debate when we do the budget. We have the Black Caucus which will present a budget. The gentleman from California [Mr. MILLER] has his "pay-as-you-go" budget. That is where we should argue about these priorities.

We made a decision earlier this year that we were going to allocate a certain amount of money for defense and national security. What we are really talking about here today is how much of that is going to be in the intelligence arena, how much of it is going to be in the defense arena, and the gentleman is quite correct. The Congress could decide to rescind some of the money for deficit reduction.

Mr. DORNAN. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I was listening carefully to the remarks of my colleague, the gentleman from Illinois [Mr. HYDE] and to the remarks of Mr. LEWIS, a new member of the committee, and to the remarks of the gentleman from Nevada [Mr. BILBRAY] today. It occurred to me that maybe I was wrong years ago when I objected to the committee size growing.

At that time we had a gang of eight, the chairman and the Speaker and both the leaders over in the Senate, the majority leader here, the Republican leader; the gang of eight, and then it was a very small committee, and it was constituted originally in 1976 under our distinguished colleague, Eddie Boland.

Now I am beginning to think that maybe we ought to expand the size of the committee, double it, to encourage more Members to come upstairs and do what they can do anyway. That is to read what the Permanent Select Committee on Intelligence accomplishes. There is only a tiny percentage of it which is top secret material, usually code words, that a Congressman cannot have access to.

Who informed me as a freshman here in 1977 that I could have my office swept, the Hill was crawling with more agents in those days, and some willing dupes; that I could have my office swept and get 99 percent of the briefings going on upstairs in the new Committee on Intelligence in my own office, personally; that I could go overseas, and if I had my wits about me, ask to talk to a station chief and get an in-depth briefing?

It should be clear to anybody here today that once they have served on that committee, it may not influence their votes out here on the floor, but no longer do they rise and speak for cuts in our intelligence budget. It just does not happen, by the routine of Members' duties as a member of the Permanent Select Committee on Intelligence. They are forced by attendance and decency to go upstairs and learn how dangerous this world continues to be, and what this committee in trying to do.

Mr. LEWIS of California. Madam Chairman, will the gentleman yield?

Mr. DORNAN. I am glad to yield to the gentleman from California.

Mr. LEWIS of California. Madam Chairman, by way of asking the gentleman a couple of questions, he and I have discussed in the past concerns about the fact that we are shrinking our national defense budget so rapidly that we may be, once again, repeating past mistakes.

Setting that aside, there is a preconceived notice that as we shrink the defense budget, that we automatically ought to shrink at least as much intelligence funding.

I would ask the gentleman, is it not just the reverse, the opposite? If we are going to shrink our defense money, do we not need to make sure that the President has the best information available, and that the appropriate committees around here have the best information available?

Mr. DORNAN. Madam Chairman, I would say to the gentleman from California, it should be an axiom for any country that treasures its existence, going all the way back to Sun-tzu, a millenium ago, that we must increase our intelligence capability if we are drawing down on our defenses. No matter how dry you keep your powder, when you are letting qualified men and women go from our defense structure, you have to have more intelligence.

This is the first day in the well that I have ever had the opportunity, Madam Chairman to say this. This year, this year, coming up, is the year when our deficit spending, the red ink, about $302 billion, will be ahead of what we allocate for national security, which is $294 billion, if we include all of the Department of Energy moneys on atomic affairs.

□ 1200

Mr. LEWIS of California. Will the gentleman yield again?

Mr. DORNAN. I yield to the gentleman from California.

Mr. LEWIS of California. Madam Chairman, in that context then, would the gentleman agree with this: If we were to shrink this budget by this $500 million or this one-half billion, recognizing that we have a several billion dollar shortfall in the Defense Appropriation Subcommittee, that this half-billion dollars would be gobbled up for more defense spending?

Mr. DORNAN. That is the opening of my remarks, I say to my colleague from California. This is not going to be a savings. This is not going to go to flood relief, not to all of the tragic problems in this country that the distinguished gentleman from Vermont pointed out, not to families with dependent children, not to permit restoration of a better earned income tax credit. It is just going to fall back into defense moneys and be used for some program that does not have nearly the same priority.

Mr. LEWIS of California. I thank the gentleman for that clarification.

Mr. DORNAN. You bet.

I want to discuss briefly the counterterrorism program. But I want to point out something else about people getting in this well and talking about the cold war is over.

First of all, I wish that they would pump a call to the White House because my calls are not answered by Mr. Clinton, and ask him to tell the reason why he had his only good week in the last 6 months in Japan, which was because he was briefed to the nth power over all of the other six, and the visiting Belgium Prime Minister. He was briefed so far beyond them on what was happening in the world that he glowed, and then he came home to more domestic problems.

There is more to this than just counterterrorism.

The CHAIRMAN. The time of the gentleman from California [Mr. DORNAN] has again expired.

(By unanimous consent, Mr. DORNAN was allowed to proceed for 2 additional minutes.)

Mr. COMBEST. Madam Chairman, will the gentleman yield?

Mr. DORNAN. I yield to the gentleman from Texas, and I know what he is going to say is going to be good.

Mr. COMBEST. Madam Chairman, I just cannot let the discussion between the two California colleagues go, leaving any uncertainty of impression. I agree, and you know I agree that at a time of defense reduction intelligence should go up. I want to make certain there is no misunderstanding about the fact, however, that intelligence, in fact, if you put the lines of expenditures of the last 2 years of intelligence and defense, intelligence has actually gone down greater percentage-wise than defense. So it is not that we are spending more money on intelligence percentage-wise. We are actually spending less than we are in defense.

Mr. DORNAN. If C-SPAN tells me correctly, the figures we have is a million or more people are watching, and about half of that is different from yesterday, and the point was emphasized at least 10 times yesterday, and we cannot emphasize it enough. We are going down proportionately more in intelligence than the defense budget.

But before I read something about counterterrorism, let me make an observation here. When people come in this well and say we have won the cold war, the first question that pops in my mind is what did you do, you personally, whoever is standing at this lectern or the other to bring about a victory in what John F. Kennedy called the half a century of twilight struggle against an evil empire? I think that of course if someone was F-1, someone was a woman and we were not drafting women at that time, I am not talking about that, I am talking about service to your State, your country, votes for defense budgets, support for the military, talks at the American Legion, the VFW club. There are a lot of ways to serve other than wearing the uniform. But for people who never wiggled a pinky in their entire adult life, and if anything made the case for the moral equivalency, and sometimes even made the case for the innate goodness of the evil empire, even going so far as to say that Ronald Reagan was the problem with the world, and that Andropov was possibly a closet liberal who maybe listened to classical Western music, and even possibly occasionally to a rock record in his closet in the Kremlin, for people like that to get up here who never get intelligence briefings, never ask the CIA to come to their offices and talk about a victory in the cold war, immediately I think of the Lone Ranger when Tonto said, "What do you mean 'we' White Man?" I would like to know what they did do to win the cold war when they talk about the fruits that we are going to reap from it.

The CHAIRMAN. The time of the gentleman from California [Mr. DORNAN] has again expired.

(By unanimous consent Mr. DORNAN was allowed to proceed for 1 additional minute.)

Mr. DORNAN. I am going to put in the RECORD the counterintelligence programs that the Director of the Central Intelligence Agency, Jim Woolsey, came back and told us about on what is going on in Managua with arms caches, soldier-fired missiles. This is good stuff on Managua, Madam Chairman. Please read it in the RECORD. It was in there yesterday too.

Any deeper cuts will have a devastating effect on our Nation's intelligence and its capabilities, at the very time when we need them the most.

I repeat where would this money go that some would cut today? It wouldn't go for flood relief in the Midwest; not to families with dependent children; not to permit a restoration of better earned-income credits in the budget reconciliation. No, it would just fall back into the Defense authorization bill and be used for some other program that does not have nearly the same priority.

This budget funds major counterterrorism programs, the type of program which helped apprehend the World Trade Center bombers. Terrorism is on the rise, including State-sponsored terrorism. Last March 9, Director of Central Intelligence Jim Woolsey testified before our committee in open session, which is very rare. I asked him about the Nicaraguan passports that had been found in the possession of the alleged perpetrators of the World Trade Center bombings. He didn't have any information at that time. Since that time, however, we have found that elements of the government of President Violetta Chamorro and her son-in-law, Antonio Lacayo, have continued to support terrorism elsewhere abroad. A massive arms cache blew up in Managua on May 23. In that cache, were found sophisticated surface-to-air missiles, shoulderheld SAM missiles, that had been owned by the FMLN Salvadoran guerrilla group. The FMLN organization and the Sandinistas were called boy scouts from that lectern, had solemnly pledged that it had turned in all of its weapons to the United Nations. Shortly thereafter, another faction of the FMLN also admitted to having weapons caches. Now, we are all hopeful that things will continue to go well in El Salvador, and that the violence of the 1980's has changed to an age of rebuilding, with expectations that democracy will flourish, but the FMLN weapons found in Managua argue for us to keep a robust intelligence watch on events there.

Some divisions of the Nicaraguan government are aiding other terrorist organizations, such as the Basque Separatist Movement, the ETA. In fact, three members of that group were deported by Mrs. Chamorro shortly after the May 23 explosion. How are we going to monitor developments such as these in Nicaragua? We are going to monitor them through American intelligence. American intelligence is our first line of defense. It was the FBI's counterterrorism division that quickly found the perpetrators of the World Trade Center bombing, and equally importantly, rounded up the ring that was planning on blowing up several tunnels in New York City, as well as the United Nations headquarters and the Federal building in Manhattan.

I simply cannot understand why someone would be here, standing on this floor, saying, "Let's cut the budget some more." Mr. Chairman, let's act responsibly. I believe we have cut too deeply here, but I will vote for this bill. Every Member who understands history should vote for H.R. 2330.

Mr. GLICKMAN. Madam Chairman, I move to strike the requisite number of words.

Mrs. KENNELLY. Madam Chairman, will the gentleman yield?

Mr. GLICKMAN. I yield to the gentlewoman from Connecticut.

Mrs. KENNELLY. Madam Chairman, I would like to say that there are many unsung heroes, those station chiefs all over this world that did a great deal to end the cold war. This debate goes beyond the discussion of reasonable cuts. We have an outstanding intelligence worldwide community. Yes, we all have to cut back, but not to the point of damaging a professional, effective well trained intelligence corp. Yes, the world has changed—but that doesn't mean the number or locations of problems requiring intelligence analysis is reduced to the point that we relax our guard. While we are less at the risk of nuclear annihilation there are still incredibly dangerous threats to our country and our citizens daily. Need I remind you today of the World Trade Center bombing. The heartbreak of those families of those on the Pan Am flight from Germany. We are a country with a proven and trained intelligence community. If we are to remain the major world leader—yes be fiscally prudent but not fool hardly.

Mr. REED. Madam Chairman, will the gentleman yield?

Mr. GLICKMAN. I yield to the gentleman from Rhode Island.

Mr. REED. Madam Chairman, I rise in opposition to the amendment.

The gentleman from Massachusetts has long taken a very active role in ensuring that the needs of America are served, and I have supported him in many of these efforts. But I have done so particularly with respect to cutting the troop forces with the understanding that we would maintain a strong, vigilant, and active intelligence operation.

As a member of the committee, I can assure Members in this budget we do. We have looked very closely, very skeptically at all of the programs, and as a result we have reduced that budget by $1 billion, and we present to the House today a budget which is fiscally responsible, but also meets the needs of a very complex and dangerous world.

The presumption of this amendment and other amendments that have been offered is that the world has changed and that we must reduce our spending on intelligence, and this is precisely the presumption that this committee took to a close line-by-line analysis of the budget. The result is the cut that we have announced today in this budget of more than $1 billion.

The world has changed. But it is no less dangerous than it was before the demise of the Soviet Union. It has changed in many different respects. The change can be seen by simply reading the newspapers. A week ago in Kazakhstan the Russian forces killed approximately 100 guerrillas what were flowing into Afghanistan. Two days ago the Russian Governor in Ossetia was assassinated by tribesmen on horseback. If you look at other areas of the world which are turbulent and violent, we have interests and involvements for which we need an active intelligence service.

Mr. FRANK of Massachusetts. Madam Chairman, will the gentleman yield?

Mr. GLICKMAN. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Madam Chairman, I thank the gentleman for yielding. And I thank the gentleman from Rhode Island because he has raised here what clearly is the fundamental difference between me and many of my colleagues. When he says the world has changed, and it is no less dangerous, I acknowledge there are great dangers. I want to leave 98 percent of the budget you have asked for there. But when people tell us that the demise of the Soviet Union, the dismantlement of the Soviet military empire, the ending of the Warsaw Pact, the defection of all of the Eastern European countries, when they tell us the world is now no less dangerous, I think that loses credibility. And I would be glad to have this be a surrogate for that. If you believe that with the collapse of the Soviet threat against our very existence as a Nation we are no safer today, and I am sorry that the Governor of Ossetia was killed by men on horseback, but I do not think that the same magnitude of threat that we faced 5 years ago exists, and that defines the difference between us.

Mr. GLICKMAN. I continue to yield to the gentleman from Rhode Island.

Mr. REED. I thank the gentleman for yielding.

I would note to the gentleman from Massachusetts that in the long course of the cold war the Soviet Union did not manage to destroy a major building in one of our major cities, but in fact terrorists operating apparently, and we are trying to find out the source of their inspiration, managed to do that. So the world indeed is dangerous, and the threats are close to home here in the United States.

We are seeing political revolutions around the world. We are seeing revolts, we are seeing the deployment of American forces. We have forces today in Macedonia. We have forces in Somalia. All of them require the utmost in intelligence to protect them, and also to accomplish the mission which this Congress has authorized. In the case of Somalia it is humanitarian relief. In the case of Macedonia, it is to control a very dangerous situation.

As we read the papers each day, every day this week there has been discussion and debate at least about whether we will conduct air strikes in association with NATO in Bosnia. I hope the President of the United States has access to the highest quality of intelligence available, SIGNIT and HUMINIT, and all of the others to make the very, very difficult decisions which are necessary. I would hate to see a situation where he is facing a decision like this without those resources.

But let me say something else. Not only are we engaged in political revolution around the world, not only do we have that type of knowledge, but we are facing a technological revolution. Today telecommunications is expanding tremendously high-capacity channels, from analog to digital. All of these require a tremendous investment in our technological infrastructure, which is included in this bill.

I see on television commercials by AT&T allowing an American citizen, a citizen of the world to put their baby to bed at night, looking by putting their card in and watching. Those types of telecommunications revolutions also have impacts on our ability to intercept signals, to use SIGNIT effectively. This bill recognizes that. This bill recognizes that we have to not only deal with the political instability of the world, which is much greater in many respects, and different, but also the technological revolution. I thank the gentleman from Kansas for yielding.

Mr. COMBEST. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I rise in opposition to the amendment. In the debate of both today and yesterday, Madam Chairman, I am struck by the proponents' consistent and constant repeated references to the fall of communism and the dissolution of the Soviet Union as though these events had happened yesterday, and that all of a sudden we must this year execute an about-face in our intelligence policy.

□ 1210

I would like to invite those who propose cuts in the intelligence budget this year because of those monumental events to join us here today, August 1993. And when we make the transition to this year, I would remind them that we are discussing the intelligence authorization for 1994.

This may come as a surprise to those who think that the final days of communism in the Soviet Union were yesterday or even last year. I hope they will listen to just two facts. One, the Soviet Union began its unraveling not this decade but in the late 1980's. The Berlin Wall was 4 years ago, not this year, that it began to come down.

While this is obviously news to some, those developments were not lost on the Intelligence Committee or the intelligence community, and I think the vast majority of this House. We took those events into consideration, and we have acted on them accordingly over the past few years. Specifically the Intelligence Committee and the Congress as a whole have, since the beginning of the 1990's, helped the intelligence community totally to begin totally to revamp its priorities, to revamp its collection efforts and its deployment of resources.

It is also for that reason that the Intelligence Committee has for the last 2 years cut the intelligence budget significantly below its cold war levels.

May I throw in another fact here, Madam Chairman: During the 1980's, upward of 60 percent of our intelligence resources were devoted to the Soviet Warsaw Pact threat. Our total resources given to that region and the former Soviet Union are significantly less than half of that today and are moving downward. Those that remain have been totally redirected. Those that remain have been totally redirected and are concentrating on following the new intelligence issues that are now manifest in that region. Regional instability in the countries of Eastern Europe and Central Asia, the political dynamics of the new fragile governments, the disposition of thousands of nuclear-tipped missiles which may or may not be under the control of sane, central governments, the spread of radical Islamic and other ideologies, so forth and so on, this is not business as usual. This is not the first time that the cold war issue has been addressed.

We are looking at the intelligence budget today, and this is not the issues of the cold war.

Mr. SKELTON. Madam Chairman, will the gentleman yield?

Mr. COMBEST. I am happy to yield to the gentleman from Missouri.

Mr. SKELTON. Madam Chairman, I thank the gentleman for yielding.

It seems that so many people forget the purpose of intelligence. It is so that our country, our Nation, our national security will not be surprised by some unseen event.

We have been surprised in years past, decades past, the shot at Sarajevo that brought us into World War I, the North Koreans and China coming into South Korea, World War II, Hitler's rise, all of these things need to be known about ahead of time, and I might point out to the gentleman that in what used to be the Soviet Union today there are seven armed conflicts going on. Hopefully, we will not get involved or be brought indirectly through the back door in any of them.

But we must, through our intelligence sources, know of these things.

I associate myself with the gentleman's remarks. We cannot cut this any more than the Intelligence Committee already has.

Mr. COMBEST. I would just, Madam Chairman, reiterate one other thing. I think the Congress asked the committees to go and look carefully at where can cuts be made. There are cuts in here beyond where I wish they were, but I think there is a reality that also has to be recognized.

But if this is the continual message that we sent the authorizing committees, that they go up, they do the hard work, make the hard choices, do the hard work and still come to the floor and get further cuts, what is the reason for the authorizing committees to do it. Why not go up, make the budget significantly larger than we know we have to have it because we can anticipate the fact that regardless of how well we do our job, regardless of how deeply we have cut, regardless of the pain that we may have inflicted, we are going to come to the floor and get it cut anyway? We would have been better to come to the floor significantly larger. We could have come to the floor at the President's request, and we would have gotten a cut. We may have gotten away with more than we have gotten away with here, but do not ask the authorizing committees to go and to do the hard work, to make the hard choices and then come to the floor and face the same cuts that we would not be facing otherwise.

The CHAIRMAN. The time of the gentleman from Texas [Mr. COMBEST] has expired.

(By unanimous consent, Mr. COMBEST was allowed to proceed for 2 additional minutes.)

Mr. GEJDENSON. Madam Chairman, will the gentleman yield?

Mr. COMBEST. I am happy to yield to the gentleman from Connecticut.

Mr. GEJDENSON. Madam Chairman, without commenting on the merits of the amendment offered by my friend, the gentleman from Massachusetts, would the gentleman examine his own record? Has the gentleman never voted for a cut of an authorizing committee after it has done its work?

Mr. COMBEST. Absolutely.

Mr. GEJDENSON. You have?

Mr. COMBEST. Absolutely.

Mr. GEJDENSON. And what does the gentleman from Massachusetts propose to do here? He is proposing to amend the good work of the gentleman from Kansas with a cut, and so it seems to me that without the merits of this case being addressed, everybody does this occasionally.

Mr. COMBEST. No. I understand.

Mr. GEJDENSON. Everybody does this occasionally.

Mr. COMBEST. These are arguments we anticipate. Obviously we have to establish priorities, where are our concerns, what are out interests. But I will say to the gentleman this, that in those instances where I have made further reductions, I know specifically where the reductions are coming. I know exactly what the impact is going to be. I know exactly what the program is going to be that is affected by it, and I will indicate that this is a unique committee. Certainly I would think any of us who serve on it find it somewhat unique.

But this is a situation to where we deal with extremely highly classified information. We have tried to make that as available as possible to any of the Members who wish to come up and look at it, and it is not something that is going to simply be known by a wide range of people what the impact of those cuts is going to be.

I know that if I move to cut agriculture or education or something of some other method in the House, that, in fact, what those impacts will be, but it is very difficult to have the information broadly recognized, and we have gone to, I think as it has been noted on the floor, the widest extent ever possible to try to inform as many Members who are interested, and I will admit that the gentleman from Massachusetts went to the committee and looked at what that information is to realize the impact of it.

Mr. FRANK of Massachusetts. Madam Chairman, will the gentleman yield?

Mr. COMBEST. I am happy to yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Madam Chairman, I thank the gentleman for yielding.

The point is that I do have a pretty good idea of what I am talking about. The point is the intelligence community does some things that are essential to national security. It does some things in the area of economics, in the area of the environment, in the area of food supplies, acknowledged facts which are less important.

My point is the gentleman is trying to put it all under the same rubric.

The other thing that I think I do know without having been on the Intelligence Committee, the collapse of the Soviet Union has lessened the danger to the United States.

The CHAIRMAN. The time of the gentleman from Texas [Mr. COMBEST] has again expired.

(By unanimous consent, Mr. COMBEST was allowed to proceed for 1 additional minute.)

Mr. COMBEST. Madam Chairman, to respond to the gentleman's comments, those are not new programs that are being created in the intelligence community, to go out and to look at the environment, to look at agriculture, to look at economics or whatever. That is taking existing resources and making the maximum use. If we are going to have them up there, let us look at the environment, let us see what is happening around the world, let us look at crop reports. I could not come to the floor, in all good conscience, and suggest to the gentleman that we ought to be spending more on creating entirely new satellite programs or whatever to go around the world and look at the environment, but if they are going to be there, let us do it. Let us utilize them to the maximum extent possible, and I think that is exactly what is being done.

Mr. FRANK of Massachusetts. Madam Chairman, will the gentleman yield?

Mr. COMBEST. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. The point is that it takes personnel, and you have to pay to do that. It is simply illogical to say that because we have the physical capacity, therefore, this helps drive more and more budget higher and to hire more people to analyze it.

Mr. COMBEST. Certainly it takes them to analyze it, but they are sitting there analyzing anyway, and I will remind the gentleman that under the requirements of the Committee on Intelligence, we are forcing the Central Intelligence Agency and other intelligence agencies to reduce by 17½ percent in the next 5 years.

Mr. RICHARDSON. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I rise in opposition to the amendment.

I think that the gentleman from Massachusetts [Mr. FRANK] is one of the more thoughtful Members in this body, and he deserves some answers.

I would give him two. First, one of the reasons that I think is paramount is the fact that President Clinton has basically stated in a letter to the chairman of our committee that he opposes further cuts beyond what has been done by the Intelligence Committee. He states, "Therefore, I will oppose any amendment on the House floor which seeks to reduce intelligence spending beyond the reductions already proposed by the committee."

Now, the reason I say this is some of my colleagues have mentioned the argument about spending in other areas.

The gentleman from Vermont [Mr. SANDERS], a very thoughtful Member, talked about immunizations, children's programs, domestic priorities. And I do not think there is anybody in this body who can question President Clinton's commitment to domestic spending to children. I think it is evident in the reconciliation bill, the very strong commitment that he has had since he has been elected.

But I think the gentleman from Massachusetts [Mr. FRANK] asks a very legitimate question. He says, what is going to be the impact on the Intelligence budget of his cut? And I think he deserves an answer.

Terminated would be a space-based imaging system, terminated also would be the merger of other space-based collectors, certain airborne-sensor programs, there would be a slowdown of signals-intelligence collection modernization, and there would also be a slowdown of the upgrade of computer, communications, and other equipment.

What would also be reduced would be intelligence systems deployment to tactical military units, operations of space and undersea warning sensors, personnel training and military exercise support, equipment and facilities maintenance, research and development on many programs, and a reduction of the work force on all programs.

□ 1220

Mr. FRANK of Massachusetts. Madam Chairman, will the gentleman yield?

Mr. RICHARDSON. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. I thank the gentleman for yielding.

Madam Chairman, I am impressed with that list, but more by its longitude than anything else. My proposal is for a cut of one-half billion dollars. Could the gentleman tell me, first of all, who decided—first, the half-billion dollars tells the intelligence community that it can allocate that among itself. Nothing in my amendment requires any specific thing other than the half-billion-dollar cut.

Second, I would like to see, if I could, how much approximately was involved there. I will look at it privately. I realize we have the security matter. But I will tell the gentleman that I am quite skeptical. It sounds to me like the Washington Monument syndrome: All those things out of a half a billion dollars? How much? Slow them down? Slow them down by a week? Slow them down by a month?

We have said in this amendment they get to cut half a billion dollars out of a budget that approaches $30 billion any way they want to. I would really like to see the breakdown. I would like to know who decided that is exactly how it would be done.

Mr. RICHARDSON. Reclaiming my time, I think the gentleman has been very industrious in going up to the committee and looking at the exact breakdown of the Intelligence budget. This is information that has been provided to me by the staff of the committee. Let me just remind the gentleman the chairman and the ranking member of our committee already cut close to 4 percent from the initial request and close to 4 percent from last year's authorized level. I think when you look at Intelligence, I think the gentleman will recognize that we have some new threats. We have threats of counterterrorism, nuclear nonproliferation, drugs. We face a very uncertain world, and you cannot all of a sudden just downsize in a dramatic fashion.

They are taking cuts. What we are simply doing, as I have stated before, is supporting the President in his request. The Director of the CIA has been unusually candid and approachable by members of the majority and the minority. He has spoken in our caucus, he has spoken in the Republican caucus. I just think that we should respect that view.

The committee has taken significant cuts. I have told the gentleman in the list that I gave him what specific programs would be hurt, would be terminated. And for that reason, I think my colleagues should be aware that the gentleman's amendment would have an adverse impact, one that I think we should not take. But he deserves answers. He has been very industrious in trying to get these answers. This is a very legitimate debate.

The CHAIRMAN. The time of the gentleman from New Mexico [Mr. RICHARDSON] has expired.

(On request of Mr. COMBEST and by unanimous consent, Mr. RICHARDSON was allowed to proceed for 1 additional minute.)

Mr. COMBEST. Madam Chairman, will the gentleman yield?

Mr. RICHARDSON. I yield to the gentleman from Texas.

Mr. COMBEST. I thank the gentleman for yielding.

Madam Chairman, I just want to further—because the gentleman is making reference to hard cuts, and I do not know whether he is still on the floor or not—but the gentleman from Connecticut questioned where is our voting consistency. I think the gentleman will find that in those instances where there have been significant increases in committee, I have voted to reduce. but when there are instances where committees have come out at a level close to freezing, then I have voted to support.

It is the hard cuts that I am talking about. It is not just that you go in and the committee works its will and whatever the committee comes up with will be what the House accepts; but where you are willing to make the hard cuts and come out with a freeze well beyond what this President has requested, I think we should be very careful that we give those committees credit for doing the hard work, not just simply the fact that they may come out with a significantly larger increase.

Mr. BEREUTER. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I want to divide my remarks into two areas this morning: First of all, to ask the House to think a little bit about the relationship between the leadership and the Intelligence Committee; and to ask them to think about the relationship between the Intelligence Committee and the House.

First of all, I hope all Members will understand that the Speaker, and, with the consent and advice of the minority leader, chooses the members of the Select Committee on Intelligence. If you take a look at the people who serve on that select committee today, they are not of a stripe, a single stripe; they are pretty much across the whole ideological spectrum of the Democratic Party, and we certainly have moderate to very conservative members of the Republican Party serving on the Intelligence Committee.

Furthermore, we are appointed or selected to serve no more than 6 years, 8 in the case of the Senate. That is to assure that, in contrast to what the gentleman from Vermont said, we do not represent an agency. It is to ensure that we do not become coopted by the intelligence community, so that we have a period of time to come in and focus our intellect, our time, and the resources that we can muster on the oversight and authorization functions for all of these agencies within the intelligence community.

Are we parochial? I suppose everybody is a little bit parochial. But I would like to suggest to you that the way this body is chosen, the select committee, makes us less parochial in what we do in conducting oversight than any other committee. I say this because on both sides of the aisle, we are chosen to represent at least four committees of the House: The Committee on Armed Services; the Committee on Foreign Affairs; the Committee on the Judiciary, for the counterintelligence/counterterrorism functions; and the Committee on Appropriations.

Yes, there are members from other than those committees who serve as well, but those of us from the four committees are asked to be there to bring our perspective from our committees and the service that we have had on those committees to the function of the oversight of the intelligence community. And we are to serve as the liaison with the leadership for those committees from both sides of the aisle.

Those are the functions that we are selected to pursue. That is why I suggest that, while we do not ask the gentleman from Massachusetts [Mr. FRANK] or any other Member to disengage their intellect, to set aside their responsibilities to conduct oversight, there is a special responsibility that we have been given on the Select Committee for the House of Representatives. We do deal with extraordinarily sensitive information at times. In fact, some Members come up to me and to other members of the Select Committee and say, "Is what you deal with really that sensitive, really that secretive?" Ladies and gentleman of the House, sometimes it is.

All of us, I think, having served there a while, come to understand there are many events of terrorism that do not take place, there are equipment or ingredient components for weapons of mass destruction that are not delivered, for example, because our intelligence community has intervened very quietly in a fashion that never reaches the public's attention. I have given you only a couple of examples of many unheralded successes.

So I think it is for some of those reasons that we have come to have a special responsibility for the House and a commitment to assure that we maintain the intelligence necessary to protect our national security and our citizenry. Because of the security classification of the subject matter before the Select Committee, we are at a disadvantage on the House floor in defending in detail the recommendations we bring to you. Likewise the Members are at a disadvantage in attacking the budget suggestions we bring to you. I understand that is a difficulty. But if you can think of a better way for the House to conduct this sensitive oversight, then I would like to hear it.

I think that the challenges offered us by the gentleman from Massachusetts [Mr. FRANK] today and yesterday are appropriate and by the gentleman from Vermont [Mr. SANDERS] for they prompt us to provide to you as much information to the House about the budget for the Intelligence Community as possible. I do think the gentleman from New Mexico [Mr. RICHARDSON] has gone a long way in explaining the impact of the Frank amendment cuts in his recent comments.

One final point about the Select Committee: We cannot take the chance of faking it, of overstating our budget requirements for the Intelligence Committee when we come to you, because we understand we are in some difficulty defending whatever our recommendations are because of the nature and sensitivity of the information with which we are provided and which we utilize.

So, we are more likely than any other authorizing committee to bring you our very best and realistic budgetary effort, without padding and nothing more.

Second, this morning I would like to follow up on a few comments that were offered yesterday when the gentleman from Vermont [Mr. SANDERS] offered his amendment, because I think those comments may underlie some of the arguments and thoughts of people who may be tempted to vote for the Frank amendment here today.

To support their contention that the intelligence budget was fat and supports cold war systems, they made repeated references to a Congressional Budget Office study of February 1993, which is entitled "Reducing the Deficit: Spending and Revenue Options."

□ 1230

The CHAIRMAN. The time of the gentleman from Nebraska has expired.

(By unanimous consent, Mr. BEREUTER was allowed to proceed for 3 additional minutes.)

Mr. BEREUTER. Madam Chairman, I thought at the time perhaps they were reading a different report than the one I remember. In fact, the construction was very different. I have gone back to refresh my memory about that report. I must tell you that they reach a very different conclusion than this Member and a different one than I think you would too, if you looked at the report.

First of all, they said that there was support in the report for a 10-percent budget cut in the fiscal year 1994 Intelligence budget, and that they were being generous to the Intelligence Community in only proposing a 10-percent cut because the CBO report had suggested a 20-percent cut would not hurt the capabilities at all.

First of all, the CBO report attached an incredible string of qualifiers and caveats to their contention and to their figures.

Second and most important, I will point out, the CBO was suggesting the possibility of a 20-percent cut over the next 5 years, not 10 percent in 1 year. And, indeed, we have already brought you a budget that is 3.7 percent less than the President had asked. It is 6 percent less than the baseline from last year, and so we are on a glide path to easily meet the 20-percent cut in 5 years that the CBO says may be possible.

Finally, on the CBO report, let me give you a few additional comments about that CBO report and what it says about some of our satellite and technical programs which are indeed very costly elements of our Intelligence budget and what it says about cold war collection systems.

May I also suggest it also says something about United States-Russian relations that we ought to hear, because it addresses this question of how dangerous the former Soviet Union's republics are to our national interest. Here is the second to last paragraph in chapter 2 of that report:

> Major changes in U.S. intelligence operations, though probably feasible given the dissolution of the Soviet threat, must be made with a good deal of caution. Most intelligence assets cannot be directly and exclusively related to the Soviet threat. Even if that was their primary focus in the past, they generally had other important missions that have lasted beyond the end of the Cold War. Moreover, in a period of increased trust and disarmament between the United States and the former Soviet republics, having very substantial intelligence capabilities—even if they involve some redundancies and some capabilities that may be larger than historical norms—may provide a prudent and economical form of insurance against volatility in central Eurasia. Consequently, reductions in intelligence funding, though they may be feasible, should be attempted only if waste or inefficiency has been clearly identified.

Madam Speaker, this committee has brought you a recommendation that takes into account the need to cut any waste and inefficiencies. If there were any such areas, we have attempted to strike them.

So let me conclude these remarks, my colleagues, by saying that the Intelligence Committee has been fully engaged in specific cuts, as the CBO report suggests we should be. We have taken seriously our responsibilities to make the hard choices, to weigh costs and benefits of specific programs after hearing and exhaustively studying the options and the cautions presented to us by the CBO and other sources.

So I would suggest to my colleagues, it is important that you oppose the Frank amendment today, and I ask you for that vote.

Mr. EDWARDS of California. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, in the work that I do as chairman of the Subcommittee on Civil and Constitutional Rights of the Committee on the Judiciary, which has jurisdiction over the FBI, we collaborate and work very closely with the members of the Intelligence Committee and, of course, their very excellent staff that is very cooperative and helps us a lot and we try to help them, because a lot of the work that the FBI does has to do with espionage and counterespionage and other important intelligence issues.

I think we ought to remember a little bit about the history of both the FBI and the CIA. I have been here a long time. I think that under chairmen like the gentleman from Kansas [Mr. GLICKMAN] and the previous chairmen in the last few years and under the good members from the other side, the CIA has come into a new era. It is a vastly improved organization.

I do not think we should ever forget the bad old days, and let me tell you, they were terrible. The CIA was described as a rogue elephant, and this happened just up to a few years ago when the CIA secretly hired a secret army of several hundred thousand people in Nicaragua and carried on without the knowledge of the American people a very expensive and divisive war. But I cannot blame the CIA today for what they were doing then or the FBI for what it did in the COINTELPRO and all those things, not only immoral, but in many ways illegal. Those days are over, I assure you, for the FBI and they are over, I am happy to say, for the CIA.

But I think it is our job in oversight, and this is a good committee, this is I think the best Intelligence Committee in my experience, I am sure they have in mind that when any agency, and especially a police agency or an intelligence agency, finds that they are running out of work or have less responsibility, and this happened to the FBI, I assure you, and they want to get into some new things, into some new expensive data banks on gangs and things like that we say, "No, you stick to your work. You stick to catching terrorists and crooks and putting them in jail. That is what we hired you for."

I am happy to say that the gentleman from Kansas [Mr. GLICKMAN] has pointed out to me on a number of occasions that he has a narrow view of the responsibilities of the CIA. It is getting those terrorists and doing the things that have to do with the national security of the United States.

So let me come to this, and I hope the chairman of the committee will respond, because it has to do with the excellent debate we have had here, and I think we all should be grateful to the gentleman from Massachusetts [Mr. FRANK] and to the gentleman from Vermont yesterday. I think a lot of important things have been said, and certainly all of us have done more valuable thinking than we have done in a long time about the CIA and Intelligence generally.

I was shocked an hour or so ago to find that the CIA is about or interested in getting into new areas that really do not have very much to do with what I consider the security of the United States.

Somebody had a Washington Post article there, stating the CIA is considering getting into global issues, the environment, immigration, refugees, epidemics, world food supplies.

I know that in this bill there is a provision to help high schools train science students. And industrial espionage. Most of those items, I would say, if the CIA is going to go into these areas, they should be authorized by this committee and they should be subject to debate.

Mr. GLICKMAN. Madam Chairman, will the gentleman yield?

Mr. EDWARDS of California. I am happy to yield to the gentleman from Kansas.

Mr. GLICKMAN. First of all, Madam Chairman, let me just mention that the fact of the matter is that the Intelligence Committee ought to be focusing primarily if not exclusively on those things that directly relate to the national security of the United States. That would mean terrorism, proliferation, the kind of conflicts that could result in military action, and then support of our military forces.

I have done my best to encourage the intelligence community not to venture into other things that do not directly relate to that. I think there is less of that than there used to be.

I have read the same story. I have found out that it is actually the State Department that asked the intelligence community to provide backup for the global issues.

The CHAIRMAN. The time of the gentleman from California has expired.

(At the request of Mr. GLICKMAN, and by unanimous consent, Mr. EDWARDS of California was allowed to proceed for 3 additional minutes.)

Mr. GLICKMAN. Madam Chairman, if the gentleman will continue to yield, the State Department asked for intelligence community support for former Senator Writh's new position in the area of epidemics, world food supplies, primarily to get a better collection of intelligence so the State Department would then know more about what they needed to do on those issues.

I submit that this is a very, very small effort. We are going to oversee it quite effectively to make sure that it is not an excessive effort.

I have been somewhat concerned there may be some interest from perhaps the Office of the Vice President and others about environmental work in this area.

The committee vastly reduced those requests as well.

What I am trying to say here is, that unfortunately just because it was in the Washington Post this morning does not mean that that particular reporter understands from whence this came.

□ 1240

As I understand it, it came from policy makers in the State Department and the White House who wanted the intelligence support, but you have my assurance that we are going to do whatever we can to minimize things that do not directly relate to national security.

Mr. BEREUTER. Madam Chairman, will the gentleman yield?

Mr. FRANK of Massachusetts. Madam Chairman, will the gentleman yield?

Mr. EDWARDS of California. Let me yield first to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Let me say in fairness to the Washington Post reporter, and I do think fairness to reporters ought to be kept to a minimum, but sometimes it is unavoidable, that reporter does say this request came from the State Department, but that is part of my point, why we ought to be reducing it. On the one hand you say this is the CIA, this is the intelligence community, it is unique, and they have to get a greater degree of deference, both the committee and the agency. Then they start subcontracting for the State Department. If the State Department wants it, let the State Department put it in its budget where the Committee on Foreign Affairs and you can, both, look at it where it will get the usual scrutiny. That is my point. You are confusing time and time again in this debate the essential Massachusetts security issues of proliferation and terrorism and then something the State Department finds useful. That does not belong under that rubric.

Mr. GLICKMAN. Madam Chairman, will the gentleman yield?

Mr. EDWARDS of California. I yield to the gentleman from Kansas.

Mr. GLICKMAN. Madam Chairman, I just want to say that when the intelligence community embarks down some of these roads, we do say, "No," or we do say, "Stop it," and in some of the areas we have said——

Mr. FRANK of Massachusetts. They probably did not hear the gentleman this time.

Mr. BEREUTER. Madam Chairman, will the gentleman yield?

Mr. EDWARDS of California. I yield to the gentleman from Nebraska.

Mr. BEREUTER. Madam Chairman, I thank the gentleman from California [Mr. EDWARDS] for yielding to me. I think I can shed a little bit of light here, or perhaps help a little bit.

About 2 or 3 years ago, Madam Chairman, this gentleman was concerned after hearing some scientists from Europe discuss the level of the ecological disaster in the Soviet Union, and I found, with some great astonishment, that some of the best information in the world on the level of ecological disaster in the former Soviet Union existed within this Central Intelligence Agency. It seemed to me only proper that I urge them to try to release some of that information to policy makers here and in the Soviet Union. In fact, we have better information than they did about some of their ecological problems and about their own morbidity rates related to ecological conditions.

Now that is information which the CIA did not go out and collect for release.

That information was on file, readily available within the CIA. There were analysts that were familiar with it.

The CHAIRMAN. The time of the gentleman from California [Mr. EDWARDS] has expired.

(On request of Mr. BEREUTER and by unanimous consent, Mr. EDWARDS of California was allowed to proceed for 1 additional minute.)

Mr. BEREUTER. Madam Chairman, if the gentleman from California would continue to yield, I would like to give him one additional example.

Not too long ago, this gentleman is willing to tell his colleagues, I asked members of the intelligence community, "Have they looked at the potential ramifications of an extraordinary AIDS epidemic in Africa? What would it do to the political institutions of the region? What would it do to the cultural base? What would be the ramifications for the United States of America?" And I think it was appropriate for them to begin to gather information that they had and to make some suggestions about alternatives scenarios and projections—not to make decisions, but to provide it to this Member so that we are assured that we have the intellectual elements on which our policymakers in the State Department, and the President and others, can make related decisions.

So, there are two examples of why it is possible, I think, that we can advantageously use information already available in our intelligence agency for a much broader and salutary effort.

Mr. EDWARDS of California. Madam Chairman, I reclaim my time.

The CHAIRMAN. The time of the gentleman from California [Mr. EDWARDS] has expired.

(By unanimous consent, Mr. EDWARDS of California was allowed to proceed for 30 additional seconds.)

Mr. EDWARDS of California. Madam Chairman, I appreciate the points that the gentleman made, and he is talking about incidental information that the CIA picks up in its regular duties. What I am talking about are new duties that the CIA and the FBI, or any police agency, or bureaucracy, will seek when they are starting to cut back on the work allocated to them by Congress. It is our job to tell the CIA what we want them to do and the FBI, what we want them to do. It is not up to them to decide on the money that we appropriate to pick up a number of new areas of investigation.

Mr. BEREUTER. Madam Chairman, will the gentleman yield?

The CHAIRMAN. The time of the gentleman from California [Mr. EDWARDS] has expired.

(On request of Mr. BEREUTER and by unanimous consent, Mr. EDWARDS of California was allowed to proceed for 30 additional seconds.)

Mr. BEREUTER. Madam Chairman, will the gentleman yield?

Mr. EDWARDS of California. I yield to the gentleman from Nebraska.

Mr. BEREUTER. Madam Chairman, I thank the gentleman from California for yielding.

I understand the distinction that the gentleman is making is entirely appropriate, that for new responsibilities, authorizations should be sought and given before they move into those areas. And I think you can count on this committee to give exactly that kind of scrutiny to proposed new activities to make sure they are authorized, and make recommendations to the Congress for any additional duties.

Mr. LAUGHLIN. Madam Chairman, I move to strike the requisite number of words.

Mr. GLICKMAN. Madam Chairman, will the gentleman yield to me for one quick comment?

Mr. LAUGHLIN. I yield to the gentleman from Kansas.

Mr. GLICKMAN. Mr. Chairman, I am just curious about how many additional speakers there are on this amendment. I am not going to limit them, but I would like to have some idea. There are three over here, and one here, and myself, and perhaps the gentleman from Massachusetts [Mr. FRANK]. He may be in part of the discussion.

I am just trying to get some idea of the time before. We are talking about probably 30 additional minutes before a vote.

Mr. LAUGHLIN. Madam Chairman, I rise in opposition to the amendment offered by the gentleman from Massachusetts [Mr. FRANK], and I would urge all our colleagues to vote against it.

While all Members of this body very seriously take the oath of office to support and defend the Constitution and the United States, I am proud of the experience I have had on the Permanent Select Committee on Intelligence, watching the committee operate under the leadership of our chairman and the ranking member, and I assure the gentleman from Massachusetts [Mr. FRANK] that the gentlewoman from California [Ms. PELOSI] indeed wanted far greater cuts, as did other members of this committee, and there were some of us, like myself, that thought we ought to have greater increase; in fact, increases in the intelligence budget because of the defense cut that this body has done. But we did not reach this budget figure based on averages or compromise. We did not reach this figure based on philosophical beliefs in the strengths or weaknesses of America or the intelligence community. We reached this after scrubbing through a lot of the programs and requiring the director of the CIA, James Woolsey, to come back to the committee several times. We reached this by having the programs that we knew we would cut, if we cut further, evaluated and explained to us, and many of us did not understand some of those programs.

So, Madam Chairman, this decision on this budget was reached through what was a proud moment behind closed doors, as it should have been, by people who are very liberal, and people who are very conservative, and people in between who were doing what they took an oath of office to do, and that is to support and defend our country, and that is how we reached this decision.

It is true, as the gentleman from Massachusetts [Mr. FRANK] has said, and the gentleman from New York yesterday, and the gentleman from Vermont, the Soviet Union does not exist anymore. No one debates that, and the threat is philosophical in our differences. But I would remind the gentlemen that today Libya, Iran, Iraq exist. Today they are funding terrorist groups, and it was not until this year in the history of our country that we had an act of terrorism at the World Trade Center. Nothing in the history of this country has happened to that magnitude, and, yes, there have been other attempts. But we should not know and talk about the successes of the intelligence community. We should talk about their failures because we can only analyze their failures and try to do better.

Madam Chairman, just as the Soviet Union does not exist today, the Abu Nidal organization exists, as does the Islamic Jihad, and the PLO, and the Japanese Red Army, all committed to acts of terrorism against our country and against our people whom we have supported to defend, and in response to one of the gentleman yesterday who made the comment that they got a lot of information out of the Los Angeles Times and the New York Times, not once in the years I have been able to read have I read an ad in the New York Times and the Los Angeles Times where any of these groups have run an advertisement that they were getting ready to commit some act of terrorism against the American people, and I would submit that not once in the future will any of these groups talk about running ads, or even consider running ads, in the New York Times or the Los Angeles Times.

Just today, if we think the Soviet Empire is gone, Madam Chairman, just today, in the Washington Post which we do not have to rely on all the time, but just today it was reported that Iran has purchased another submarine, and guess what? They bought it from one of the Republics that used to be in the Soviet Empire. Indeed they bought it from the Soviet Union, from Russia, and while the Soviet Union does not exist anymore, certainly the nuclear weapons that were under control of the Soviet Union still exist today, as do the many weapons of mass destruction. Indeed it is worse in some respects. I would suggest that there are arms merchants in some of these countries who indeed are trying to sell some of these weapons to the countries that are pushing the acts of terrorism.

□ 1250

The CHAIRMAN. The time of the gentleman from Texas [Mr. LAUGHLIN] has expired.

(By unanimous consent, Mr. LAUGHLIN was allowed to proceed for 2 additional minutes.)

Mr. LAUGHLIN. Madam Chairman, so we are here today to ask for support of the committee report, from a committee that worked together to ensure the best for America, not for the best of this committee, because the chairman of this committee will be gone in 18 months to the Committee on Agriculture or the Committee on Foreign Affairs and to other good work in the Congress. The ranking member will be on to other congressional assignments. In 6 years every member of this committee will go to other committees. There will not be one member of this committee still on this committee trying to perpetuate the goodness of this committee and the work it does.

So I would ask all of us to respond to the needs of our country and to stand with the Select Committee on Intelligence, who has worked very hard to reach a figure that is good for the defense of America and one that ensures the safety of American citizens as well as their security.

Mr. LEWIS of California. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, we had a very vigorous debate yesterday on the amendment of the gentleman from Vermont [Mr. SANDERS], and it is with no small amount of reluctance that I rise to oppose the amendment of my friend the gentleman from Massachusetts [Mr. FRANK] today. I have an immense respect for the intellectual capability of the gentleman from Massachusetts. On any number of policy issues I find myself very impressed with his quality of evaluation and his options in terms of solving problems. But from time to time, Madam Chairman, even my colleague from Massachusetts is wrong, and today on this matter he is flat wrong.

First, Madam Chairman, this is President Clinton's budget, not George Bush's budget. The President is opposed to any cutting amendments and has stated so in writing.

Madam Chairman, let me quote:

> I will oppose any amendment on the House floor which seeks to reduce intelligence spending beyond the reductions already proposed by the committee.

Madam Chairman, in the committee I was one of those who argued that we ought to put additional funding in this package. Not because I was one of those proposing a fat budget for the intelligence community, but because I knew precisely there would be this kind of amendment proposed on the floor. But my chairman and ranking member argued very effectively against that position. They felt a responsibility to go item by item through this budget and to impact those programs in a way that cut at the fat, while at the same time recognizing the reality that as we were shrinking our national defense budget, we absolutely must make sure that the information available to the President is the best possible information in this time of crisis.

Madam Chairman, second, not one penny of the cuts that would be made in this amendment will pass on to programs like those social programs that many are concerned about. I made this point earlier. There is no question with the shortage we have in outlays in the Defense Subcommittee on Appropriations, that if we make this cut, it will be gobbled up like that. The information base needed by the committees in this House and needed indeed by the President will negatively be impacted as the result.

Third, while the budget brought to the floor by the chairman and by the gentleman from Texas [Mr. COMBEST], does reflect 3.7 percent below last year's authorized level, it is also 3.7 percent below that which President Clinton requested. I argued we ought to go to at least the level the President requested. But the chairman and the ranking member prevailed in that connection.

Fourth, let me say that the gentlewoman from California [Ms. PELOSI], in opposing the Sanders amendment yesterday, noted eloquently that as we reduce defense spending, it would be foolhardy to cut intelligence further. We need reliability in our information early in this ever increasingly dangerous world, that is a differently dangerous world.

Lastly, let me make this point, Madam Chairman: it has been suggested time and time again that as the Soviet Union is no more, the KGB is no more. To suggest that that means that Russia does not have an intelligence network would at best be naive. Combining that reality with the fact that there is a whole array of intelligence work and responsibility that involves satellites and the like that you just do not put up there or take down at will, you cannot just lightly cut those budgets without doing long-term serious harm to our most important intelligence network.

Madam Chairman, let me suggest, even though I am hopeful that we are faced with a world in the future of peace for our children and grandchildren, with no East-West confrontation, the difficulties of Somalia are ahead of us, the difficulties of Bosnia are a part of our life, as are the difficulties of the Shining Path in Peru. The challenges of the future in Cuba are ahead of us. We must, Madam Chairman, make certain that the President has the information he needs and the appropriate committees have the information they need to do an adequate job on behalf of this country and free voices throughout the world.

Mr. CARDIN. Madam Chairman, I move to strike the last word.

Madam Chairman, I take this time to explain my opposition to the Frank amendment. As I explained yesterday, I do not serve on the Select Committee on Intelligence. I have had a chance to visit one of the intelligence agencies and talk with and meet the people who are working for gathering the intelligence needs of our Nation, meeting the intelligence needs of our Nation, and I am impressed by their dedication and hard work.

But one point should be underscored, and that is, as we are debating some of the needs of our Nation, those that perhaps have the most expertise in the area are refrained from joining in our debate because of the work that they do. They are not here to defend some of the criticisms that have been made, and they cannot be here to advocate some of the needs.

We have an intelligence community that is going to be called upon to do more as the defense tools of our country are reduced. We have less in defense. We have cut the defense budget. But we need more information in order to be able to deploy our limited defense capacity in a more efficient way. We are going to be calling upon the intelligence community to do more with less.

As has been pointed out on this floor, the committee bill, the authorization that has been reported to this House, already is a cut over last year's authorization. We should reward the committee for the work that it has done and we should support the committee's results.

Madam Chairman, I would urge my colleague's to reject the Frank amendment and stick with the committee's recommendation so that we do not further compromise the intelligence capacity of this country, which will be called upon in a more significant way as we try to meet the needs of the Nation.

Mr. HOAGLAND. Madam Chairman, will the gentleman yield?

Mr. CARDIN. I yield my remaining time to the gentleman from Nebraska.

The CHAIRMAN. The gentleman from Nebraska [Mr. HOAGLAND] is recognized for 3 minutes.

Mr. HOAGLAND. Madam Chairman, I also rise in opposition to the Frank amendment. Let me say initially there have been many persuasive arguments made this morning and yesterday, and I do not want to repeat those. I just want to make three brief points.

First, this is an authorization bill, not an appropriations bill. The Committee on Appropriations and the gentleman from Washington [Mr. DICKS] tell me the appropriators for this particular agency will be the Defense Appropriations Subcommittee.

Madam Chairman, the appropriators can always come in with a lesser amount. All we are doing in this legislation is setting the outer limits. If there is any question about whether there might be enough funds available to fund what we need to do at a national level, why, let us leave the outer limits in place. Savings, if justified, can be shown later. Not just through the appropriations process, but also Mr. Woolsey does not have to spend the funds if he thinks they are not warranted. There are ways he can recommend a rescission to the White House and other methods by which the funds do not have to be spent.

Second, let me emphasize that the President opposes this, as we know, as does the very capable Director of the CIA, Jim Woolsey, a man I have known and greatly respected for many, many years.

I think we should give our new President and the Director an opportunity to implement changes they would like to make, which have been explained to us in confidential sessions in some detail, and which are going to be expensive initially, but which will save dollars in the long run.

□ 1300

Third, this will be a very expensive cut. As others have said, the committee is already setting us 3 percent below last year's budget. I see no point in adopting this amendment. Let us let the process go forward and ratify the committee's decision.

Mr. CUNNINGHAM. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, to the gentleman from Massachusetts [Mr. FRANK], I understand the spirit of the gentleman's amendment. We have supported the gentleman, I think, on the National Endowment for Democracy and some of the other spending cuts, because we did not see a direct correlation on American lives and how it would affect this country.

But let me tell the gentleman why I oppose his amendment more through a personal view and a personal inference and using the intelligence community.

First of all, President Clinton supports the Permanent Select Committee on Intelligence and no cuts in it for a very good reason. And where the President is wrong, we will sure lambaste him on this side. But where he is good, we need to praise President Clinton. I support his position in this.

But there are no points for second place. When we are dealing with the lives of our young American fighting men and women, we are not competing for six gold medals.

Let me tell Members about some specific examples. In North Vietnam, there was a place called Hourglass over the Red River Valley. The intelligence that we had is that the active SA-2 SAM sites were down. We went in over an overcast, and we lost four aircraft in one afternoon because the intelligence was wrong.

Let me give another specific example. There was a place called Operation Proud Deep, in which we had 3 days to strike the supplies over North Vietnam. Our intel told us that most of those SAM sites had not been supplied. Madam Chairman, we lost 37 aircraft in 3 days, many of my very close friends, because of faulty intelligence.

There was another strike called Protective Reaction Strikes, in which we were to strike the enemy in North Vietnam. There also, because of a lack of knowledge of the surface-to-air missile sites, myself was fired at about 37 SA-2 surface-to-air missiles, fired in pairs. The intel said that the MIG's were operating against our B-52's, which was correct. But with the lack of knowledge of the SAM sites, we went in and we lost American lives, because of faulty intel on that.

The Bekaa Valley in the Middle East. We had the Israelis, who lost zero aircraft in the Bekaa Valley, where the opposition lost over 400 aircraft, because of good intelligence.

In 1973, while flying over Mount Hermone, the intelligence that we had in the Middle East saved many, many lives and would today. The President is asking our American pilots, men and women, to fly in Bosnia. We have the technology to tell what real targets are. Since World War I, we have gone into targets and they have had false targets. And if we could go in and strike the real targets, that means that we do not have to go back a second and a third time, which means survivability and less time of exposure over hostile environment for our pilots.

In Top Gun, I was an instructor where we taught pincer tactics, as a direct result of our satellites and monitoring enemy tactics and formations that they would fly against American pilots and our allies. We fly today those tactics at Navy Fighter Weapons School, at the Air Force Aggressor Squadrons and others. And what that is is a direct result. And if we get into a conflict in Bosnia, Serbia, Libya, or wherever it happens to be, we will have the edge on whatever those potential enemies are.

Our priorities should be with the young men and women that we ask to serve. There is a favorite saying, those who fight for life, Madam Chairman, have a special flavor for life that the protected will never know.

On 10 May 1972, I was shot down with an SA-2 missile over North Vietnam. One month ago, I met the Soviet scientist, who is now one of my voters and gives me campaign money, that developed the SA-2 missile that shot me down. Those scientists are all over the world. I have no doubt that Libya and many of our enemies have some of those same scientists.

With $217 billion in cuts in our defense budget is it any wonder that we need more intelligence? This Member has a personal vendetta or maybe not a vendetta but a personal gripe against the CIA. I would love to cut them, but not when it is going to cost the lives of men and women in our armed services.

It is like the movie "Critters," where in the Soviet Union you dissolve one and that one becomes 100. There is an additional need for the CIA and our intelligence community and the information tools that we get to determine what the factors are in the air order of battle and land battles that we could face in the future.

Madam Chairman, this is an example of survival. We need to support our men and women who ask to lay their lives, especially with dwindling military support. I ask to defeat the Frank amendment, and I support the request of the Permanent Select Committee on Intelligence.

Mr. SHAYS. Madam Chairman, I move to strike the requisite number of words.

I rise in support of this amendment.

I have nothing but the highest respect for the members who serve on the Permanent Select Committee on Intelligence and the work of the ranking member and chairman.

But having said that, I have high respect for the members who serve on the Budget Committee or the Committee on Science, Space, and Technology and other committees of Congress. But it doesn't mean I have to agree with them. And the fact is I disagree with a budget that cannot be cut.

I look at this as a budget vote. I am sorry, that is the way I look at it.

I see the President has come in with a budget that significantly increases spending over the next 5 years. But then I see my colleagues, who want no new taxes. We can't have it both ways. We either have to cut spending or raise taxes. I prefer to cut spending.

When I look at the budget presented by the President I see the national debt will increase 42 percent in the next 5 years. And 60 percent of all his spending cuts, happen in the 4th and 5th years.

I think we have to cut the budget. I think we have to cut the budget in every department, in every agency.

So when I look at this authorization, I say, yes, I want an intelligence community that does a better job. I want it to do more. But I want it to do more with less, like we ask everybody else in this Government to do.

I want us to do what is being done in the private sector. Companies are cutting back. And they are becoming more productive, because they do not have the layers of bureaucracy.

I look at this intelligence community, starting out with the Central Intelligence Agency and the Defense Intelligence Agency and the National Security Agency and the Army Intelligence and the Navy Intelligence and the Air Force Intelligence and the Marine Corps Intelligence, the Central Imagery Office, the National Reconnaissance Office and conclude we need to consolidate. Then we have the FBI, the Department of Treasury, the Department of Energy, the Department of State, all getting involved as well. Why should we exempt the intelligence community from downsizing and becoming more efficient?

Taking $500 million on what is reported by the media as, give or take a $28 billion budget, amounts to less than a 2-percent reduction. Every day Members of this great body say we need to cut from this department and that department and from this agency and that agency.

I do not serve on the Permanent Select Committee on Intelligence. I fully acknowledge that. So I do not know what happens behind its closed doors. But the one thing I do know is that a 2-percent cut is not too much to ask in any large department or agency especially when there is so much opportunity for consolidation.

Mr. DICKS. Madam Chairman, will the gentleman yield?

Mr. SHAYS. I yield to the gentleman from Washington.

Mr. DICKS. Madam Chairman, I just want to make sure that the gentleman realizes, last year we cut this budget by 7.6 percent. This year we have cut it by 3.7 percent. So the committee has not been derelict in its responsibilities.

Mr. SHAYS. Let us not have a debate on whether the committee is derelict or not. The issue is, are the spending cuts off the baseline? Are they an actual, absolute decrease or a relative one? Can this authorization be cut by $500,000,000? I think it can.

The bottom line is, this budget, and I have seen the intelligence budget, it is pretty much about the same, give or take a little bit.

Mr. DICKS. Madam Chairman, if the gentleman will continue to yield, as the gentleman realizes, of course, this intelligence authorization is part of the Defense appropriations bill. So any savings in the intelligence arena is going to be utilized for Defense appropriations.

Mr. SHAYS. I want to point out to the gentleman that I have amendments to cut the defense budget as well.

□ 1310

Mr. FRANK of Massachusetts. Madam Chairman, if the gentleman will yield, I would just have to say, the gentleman from Washington has probably got a rule book that none of the rest of us have that says once something is within the general jurisdiction of the Subcommittee on Defense of the Committee on Appropriations, that they have a right to spend every penny of it and no votes take place.

I have to remind the gentleman again that not everyone shares his appetite for spending every last penny that might come within a mile of the Subcommittee on Defense of the Committee on Appropriations.

Mr. SHAYS. Madam Chairman, in conclusion, I just make this point. The private sector is cutting back. We asked our own government departments and agencies to cut back. Efficiencies are taking place. I want to see consolidation in the intelligence community take place as well. I want to see some reductions in this area of government spending.

I recognize, and fully acknowledge, that in some cases it is more difficult to track the parts than the whole. I do not make the argument that because the Soviet Union has broken apart that our job is easier or that we do not need to track what is happening there. I just make the argument that $28 billion, give or take, is a great deal of money that can do a heck of a lot of things.

I think the intelligence community should be able to live with that amount minus the $500 million cut required in Mr. Frank's amendment.

Mr. McCURDY. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I rise in opposition to the Frank amendment, which is probably not a surprise, but I do so just to make a couple of quick points. I want to commend the committee for its actions. It was a very difficult session, and I know there is a great deal of pressure to cut more out of the budget.

In the last Congress, with the collapse of the Soviet Union and the end of the cold war, there was a tremendous debate within the administration, the Bush administration, that was soon to be outgoing, and the Congress regarding the role of intelligence. At that time the chairman of the Senate Intelligence Committee and myself initiated legislation to bring about a major reorganization of the intelligence community. It was somewhat controversial, because we pressed the administration, we pressed the envelope, as they say, in order to help bring about the kinds of organizational changes that would be producing an intelligence community that was more responsive in a post-cold-war environment, and a community that would deal with the threats that were most likely to occur with the changing world.

The Bush administration, to its credit, Director Gates and others, through their review process, initiated, and by Executive action, most of the reforms that the chairman of Senate Intelligence Committee and I had undertaken. We also took action to cut the budget. We cut the budget by over 6 percent. We agreed upon a personnel cut of 17½ percent, which, when we are talking about jobs, we are still talking about people in the intelligence community because it is personnel-intensive. That is because we rely on these people.

Does that mean everything is perfect? No. Director Woolsey has his hands full. He is going to try to bring out additional reforms. He also needs to provide the direction for the community that is most relevant for the future. The intelligence community, unfortunately, in the past was often more known for the so-called failures than it was for the successes.

I wish that Members had the opportunity that the relatively small number of Members in the House and the Senate have had of serving on the Intelligence Committee, because there are a number of successes, but they do not get published. It is hard to put a dollar amount, or it is hard to appreciate the lives saved in Desert Storm by the contributions of intelligence. It is hard to calculate that.

We have actually established a standard in defense these days which is almost no fault, no pain, no loss. The small number of Americans who made the ultimate sacrifice in the war, I believe, was very low because of the information and the ability to know what the adversary was doing.

During the cold war we had a lot of focus, perhaps too much focus, on the former Soviet Union and Warsaw Pact. Today we are shifting that. We are looking at a broader spectrum of problems and challenges, whether it is Bosnia, whether it is Somalia, whether it is the Middle East, or whether it is investments in Asia.

I can guarantee that many of these same people who are today asking us to cut even further from what I consider a prudent downsizing would be here saying, "Why did the CIA miss the estimate on a dictatorship that took over an African country," or "Why would the CIA miss this particular estimate?"

The fact of the matter is, we are talking about improving the analytical capability, improving the type of analysis, so it is relevant for those kinds of challenges, and I believe that will be the appropriate direction. I believe this budget and the new direction can provide that.

Mr. FRANK of Massachusetts. Will the gentleman yield?

Mr. MCCURDY. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Madam Chairman, I would tell the gentleman, he can look at everything I have ever said. He will never find any statement that I have made that I have been second-guessing the CIA. In fact, the gentleman reinforces my point when he talks about military intelligence involved in the gulf. He is absolutely right. We should not touch that a bit.

When we get into questions of political and economic and sociological intelligence, then the case is a very different one. That becomes a case of more or less there, I think, the same budgetary discipline should apply.

I do think it is essential that we provide full military protection to people who are risking their lives, but when it comes to guessing, estimating which African dictator is or is not going to be trouble, then the stakes are far smaller, one, and two, the objectives and standards are very, very different.

The gentleman is very wrong if he is implying that I have ever made any unfair criticism of the CIA in not making that distinction. Indeed, my amendment, with a less-than-2-percent cut, rests on that distinction, so the hard, military-related intelligence is, in fact, not touched.

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. DICKS and by unanimous consent, Mr. MCCURDY was allowed to proceed for 2 additional minutes.)

Mr. MCCURDY. Madam Chairman, I would say to my friend and colleague, the gentleman from Massachusetts [Mr. FRANK], that certainly I would not do anything to impugn the integrity or the honor or intentions or motives of my friend, and he is a friend and I respect him.

The point I am trying to make is that because of the different types of challenges we face today, we are having to develop a broader range of abilities in analysis, and I think in many ways it is more challenging than it was just having a clear enemy or potential threat, as we did during the cold war.

Also, one point, I am not so sure that the gentleman and I have very different views on the issues of economic intelligence. I happen to be one of those who urges caution in that area, and believes that there are safeguards that need to be taken. I think the community understands that point as well. I think we are not that far off.

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. DICKS and by unanimous consent, Mr. MCCURDY was allowed to proceed for 2 additional minutes.)

Mr. DICKS. Madam Chairman, will the gentleman yield?

Mr. MCCURDY. I yield to the gentleman from Washington.

Mr. DICKS. Madam Chairman, one thing that the gentleman knows, having served with great distinction on this committee as chairman for several years and as a Member for 9 years, is how to be able to talk on the floor about certain aspects of this program. One thing I wanted to just reiterate was, we are this year starting on several modernization efforts as it relates to certain space-based assets.

The problem is, we have to invest some money up front in order to do that modernization. We think that with it we will be able to simplify the architecture. This is Mr. Woolsey's goal and objective, that over the 5-year plan we will save considerable resources, because we will be able to have fewer ground stations. We will need fewer of these satellites. In order to do it, we have to invest some money up front. That is why the budget goes up a little bit this year.

That is why regarding the impact of the so-called Frank amendment, we have taken this down as far as we think is prudent. The additional $500 million will make it impossible for us to do the modernization that is necessary in order to save the money in the longer term.

It is difficult to discuss this, but I feel very strongly that the number that the chairman has reached and the ranking member and the committee have adopted is about the right number. I know that the gentleman, with his experience, understands the difficulty we have in trying to clearly explain this to our colleagues.

□ 1320

Mr. COLEMAN. Madam Chairman, I move to strike the requisite number of words.

Mr. GLICKMAN. Madam Chairman, if the gentleman will yield, I would like to get some idea of time and how many more speakers we have. I note that at this stage there might be a way to limit the time.

Mr. FRANK of Massachusetts. Madam Chairman, if the gentleman will yield, whatever time the gentleman decides is appropriate, I would want a 50–50 split, and I would take the other half.

Mr. GLICKMAN. Madam Chairman, I ask unanimous consent that the debate on this amendment, and all amendments thereto, end in 10 minutes, the time to be divided, one-half to myself—and I will yield to Members on the other side who are standing—and one-half to the gentleman from Massachusetts [Mr. FRANK], providing he gives me some of his time.

The CHAIRMAN. Is there objection to the request of the gentleman from Kansas?

There was no objection.

The CHAIRMAN. The gentleman from Texas [Mr. COLEMAN] was previously recognized for 5 minutes before the gentleman from Kansas made his unanimous consent request.

The Chair recognizes the gentleman from Texas [Mr. COLEMAN].

Mr. COLEMAN. Madam Chairman, there are some points that I think need to be made.

First of all, this year's bill is not at a cold war high level. We have all discussed that and debated it. Everyone knows that is not the case.

Second, in the debate yesterday as well as this morning we heard oftentimes that there were those who suggested that the Soviet Union's failure of its political system somehow must equate to the disappearance of a number of the problems and concerns that the Soviet target represented. I do not think that is the case.

There are still thousands of nuclear weapons and hundreds of nuclear weapons experts in the former Soviet Union. If these experts are selling their services to Iran or Iraq, how do we know that? Are we going to wait for CNN to tell us? I do not think so.

I do not think that means that we necessarily have to eliminate the intelligence service and our capabilities to inform us of what is going on. In fact, I submit it is arguably more expensive, not less expensive to keep track of proliferation and the monitoring of weapons of mass destruction without the predictability of the former Soviet Union and its political system.

Third, and I think this goes to the heart of some of the arguments we have heard on the economics and the economy of what we are attempting to do with this amendment, and the reason I think the Frank amendment is inappropriate is because of the same infrastructure that was used against the Soviet Union targets is the infrastructure we will use against the targets of terrorism, of proliferation and other national security interests that we want to protect.

Everyone says they do not want to touch those. Everybody gets up and says oh, no, we do not want to cut those, we do not want to do that yet. But that is exactly what this amendment would do.

Intelligence does not consist of sending a swarm of case officers to enemy country. We did not do that in the Soviet Union, and obviously we are not going to do that in other countries that are of critical interest to us today. Good intelligence consists of an infrastructure that is expensive, yes. It is technical, and although it is being reduced by this very budget, by this bill that is before the Congress as we did last year, even though we did that, we know that we cannot reduce it by the same percentage of the intelligence budget that the Soviet Union supposedly represented.

I would say to all Members here this afternoon that I would hope they would review what it is we give up. It is the old question that you are asked in law school early on. You know, to try to prove a negative is very difficult. That question is simple, and I want a specific answer. How many ships did the lighthouse save? Hard to know, is it not? Hard to know.

I submit that it is our responsibility to see to it that we maintain a strong intelligence service for the United States.

Mr. GLICKMAN. Madam Chairman, I yield 2 minutes to my colleague, the gentleman from California [Mr. HUNTER].

Mr. HUNTER. Madam Chairman, I thank the gentleman for yielding the time.

Madam Chairman, I want to say simply as a Member who watches many committees come to the floor, and there is always a call to defer to the credibility and to the work product of the committee, I think of all of the committees that come to the floor, the Intelligence Committee is one committee where truly, in Scoop Jackson's words, partisanship ends at the water's edge. There is an enormous work product put together behind closed doors. There is in this committee I think, in my estimation, less politics, less in terms of outside interests, deferment, less in terms of the political process that we see in all of the other committees, and I think that there is a certain credibility in this committee that Members who are not on the committee should defer to. And I am not a member of the committee, and in the absence of compelling evidence to the contrary, the way that members of this committee, Republican and Democrat are a little like the members in our intelligence agencies who serve throughout the world, who get very little in terms of public relations, they do not get any ticker tape parades down Main Street, but they do a lot of work. They do a very difficult job, and they put together a good product.

Let me just say, to reiterate, what my colleague, DUKE CUNNINGHAM, who was nominated for the Congressional Medal of Honor for his air operations over the skies of North Vietnam, said. He said good intelligence operations save lives. And the world that we have in this post-cold-war environment is a much more complex world than that we dealt with before. Whereas we had one fairly predictable adversary, we now have many. We have four nations where we had one Soviet Union, all holding nuclear weapons, the pink slip of which is somewhat in doubt.

So I would ask my colleagues, unless they think there is compelling evidence that has been offered to support this cut to defer to the good judgment of the committee, and I thank the gentleman for yielding the time.

Mr. GLICKMAN. Madam Chairman, I would inquire if I have the right to close the debate?

The CHAIRMAN. The gentleman from Kansas has the right to close debate.

Mr. GLICKMAN. Madam Chairman, I yield 3 minutes to the gentleman from Louisiana [Mr. LIVINGSTON], a former member of this committee.

Mr. LIVINGSTON. Madam Chairman, I thank my friend for yielding the time. And I will not take the full 3 minutes. But as a former member of the Intelligence Committee, I have to say that I would think that the adoption of this amendment would be very, very foolish.

We have cut the defense appropriations since 1985 by an incredible amount. When you factor in inflation, operations, maintenance, training, procurement of ships and planes, tanks and whatnot have been cut tremendously. And if we had to do some of the things we were capable of only a few years ago, we would not be able to do them.

That is all well and good. Times have changed. The Soviet empire has collapsed, and we should declare victory and save the expense of much defense weaponry.

But it would be foolish to believe that because this is now a peaceful world, we could withdraw altogether. I think that when the House voted a couple of weeks ago to repeal the National Endowment for Democracy, we made a great mistake. We need the National Endowment for Democracy. We should be spreading freedom, and peace, and respect for human rights around the world, so we need civilians going out and working toward those goals within that framework. There are some wonderful success stories within the sectors of the National Endowment for Democracy.

But there are also some wonderful success stories that we do not hear about in the intelligence world. And if we start cutting our human intelligence and our capability to understand what potential adversaries are doing, we risk the possibility that all of the many billions of dollars that we saved in defense will be for naught, and that we will have to begin rebuilding our defense posture by spending more billions, many more billions, in what possible could become a full-fledged heated war somewhere in the world, or even in several places in the world.

□ 1330

Intelligence can actually save us the possibility of war at a later date. We need to be increasing our intelligence capability, not decreasing it.

I am totally against this amendment, and if I had thought about it, I might have offered an increase in funding for the intelligence capability of this Nation.

We are not going to do that right now, but I urge the defeat of this amendment.

Mr. FRANK of Massachusetts. Madam Chairman, I yield myself 5 minutes.

Madam Chairman, we are talking here about a cut of less than 2 percent probably of the overall budget.

The committee has said they have done it all and there really is no need for the rest of the House. I do not think it can be sustained that somehow in this situation, unlike every other, the whole House suspend its judgment for the committee. Any vote like this is a combination of factors.

Arguing that this is somehow the result of a finely balanced purely technical judgment in which philosophical values and competing priorities and how much you think the deficit is important do not enter, and simply are not accurate. We have a very large bureaucracy in the intelligence bureaucracy. They have worked hard to persuade people what they need The committee, to its credit, has resisted that some.

But that does not in the slightest reduce the burden on the whole House. In fact, intelligence has many components. I believe that the military intelligence that would have to support actual combat, that terrorism, and that nuclear proliferation are very, very important and, therefore, my amendment would not touch them by talking about a cut of less than 2 percent.

But it is also clear that the intelligence community has been in economic areas. It has been in environmental areas. It has been in other areas. It is seeking to expand. That is a natural rule of bureaucracy is seeking to expand.

The Soviet Union used to take up about two-thirds or so of the budget. People have said on the floor from the committee that they are now doing only about half of that for the Soviet Union. That means about a third of the budget has now been freed up, that 33 percent of what used to be the budget has been freed up to go to these other areas. I am talking about instead of giving them 33 percent for the new areas giving them 31 percent.

The argument has been in part, "Oh, but we need much more," because incredibly to me, I have heard Member after Member say, and not everybody, but Member after Member has said that now that the Soviet Union has collapsed, the world is now more dangerous. I guess if it were not for the fact that this would mean less freedom for all of the people, we should all be working to reconstitute the Soviet Union. I gather the argument is we should long for the good old days when we were secure, when we had a Soviet Union there to protect us. The argument is nonsense.

Nuclear proliferation, terrorism, all of those issues were issues 5 years ago.

But there is a qualitative difference. Five years ago and before, there was an entity capable of physically destroying the United States. That is what drove many of us to say you err greatly on the side of security.

We have a new set of dangers, yes, to other people in the world. We have the old dangers, but they are qualitatively different in that none of them represents the ability to destroy the United States.

Mr. DICKS. Madam Chairman, will the gentleman yield?

Mr. FRANK of Massachusetts. I am happy to yield to the gentleman from Washington.

Mr. DICKS. Madam Chairman, one point I would make is I think we, in fairness, have entered into some very comprehensive arms control agreements, and I hope we can have START I and START II, but they are not yet ratified.

We now have, instead of one country controlling the 10,000 warheads of the Soviet Union, 4 different Republics, which presents us with some extraordinary challenges.

So I would just say to the gentleman that the 16 Republics of the former Soviet Union present us with 16 new challenges for the intelligence community.

The only point I am making is the world obviously is less dangerous. I agree with you, but there are still significant dangers out there.

Mr. FRANK of Massachusetts. I thank my friend from Washington for separating himself from those who have argued that the defeat of the Soviet Union has made the world more dangerous. He agrees it has made it less dangerous.

The fact, however, is that he understates still the degree to which we have benefited. Yes, there are now four former Soviet countries with nuclear weapons. Not one of them, nor in combination, do they present as much of a threat to the security of the United States. The delivery capacity is gone.

By the way, we have also completely lost the Warsaw Pact, the conventional problem. Remember, we were in Europe, and we were worried about the conventional forces.

Were none of our intelligence assets used to watch the armies of East Germany, Poland, Hungary, Czechoslovakia in those nations? They are all gone.

The fact is this: We will, with my amendment, leave the intelligence community fully empowered to deal with the military threats, with counterterrorism, and with nuclear proliferation, but their tendency to expand in the economic area, to expand in the environmental area, to get into other areas which will be interesting, which will be useful, but which are not of the same order of magnitude of a threat; they will be curtailed, and if the intelligence community cannot take a 2-percent-minus cut and allocate it without wrecking all of their plans, then they are, in fact, confessing a great degree of incompetence.

Madam Chairman, I reserve the balance of my time.

Mr. GLICKMAN. Madam Chairman, I yield 2½ minutes to the gentleman from California [Mr. LANTOS].

Mr. LANTOS. Madam Chairman, I have the highest regard for my friend, the gentleman from Massachusetts, and in all the years we have served in this body together, this is the first time I have reason to speak in opposition to his amendment.

The gentleman from Massachusetts made the point that it is customary in this body to have committees protect their own budget. I am not a member of the Intelligence Committee, but I am chairman of the International Security Subcommittee of the Committee on Foreign Affairs, and if anything has become obvious to me since the collapse of the Soviet Union, it is that our intelligence tasks have become infinitely more complex and multitudinous than they had been during the cold war confrontation.

As a matter of fact, a very strong case could be made for increasing the intelligence budget to deal with this enormously turbulent, unpredictable, fluid international situation.

I take advantage of intelligence briefings. Just today we had an extensive intelligence briefing concerning the tragic situation surrounding the city of Sarajevo. It is a miracle how much valuable, indispensable, preventive material of all types is provided this body by the intelligence community.

An argument can be made that in all the arena of defending the security of the United States, an argument can be made that probably the most effective dollar we spend in the field of providing security to the United States is the funds we spend on our intelligence community.

I ask with all the emphasis at my command all of my colleagues to reject this amendment which I think would be detrimental to the security of the United States of America.

Mr. GLICKMAN. Madam Chairman, I yield 2 minutes to the distinguished gentleman from Florida [Mr. YOUNG], a member of the committee.

Mr. YOUNG of Florida. Madam Chairman, one of our friends and colleagues made the comment that this was a budget vote. This is not an appropriation bill. This is an authorizing bill. You will have an opportunity to make the budget votes when the appropriations bill comes to the floor.

This is pure and simple a vote on national security. It deals with the ability of the United States to recognize a potential threat and to deter that threat before it becomes real.

Yesterday I made the comment that the world in the post-Soviet Union stage was arming itself in a very dramatic fashion, in a drastic fashion, and that is true, and not just arming themselves with rifles and bullets and guns and things of this nature, but weapons of mass destruction.

Because of our effective intelligence, we are aware that some terrorist countries have the ability and the facility to manufacture chemical weapons, for example. We know that the proliferation of nuclear capability, nuclear technology, is expanding throughout the world at an alarming rate.

Our own security demands that we know about this, that we know who is doing it, what their plans are, and how they plan to carry them out. That is in the interests of America.

Now, when the Soviet Union went away, I, like most of our colleagues, breathed a big sigh of relief, and I thought that the world is going to be safe, a generation of peace.

□ 1340

The Berlin Wall came down, the Iron Curtain melted, things changed in the Soviet Union, elections in Russia. And while we were breathing that sigh of relief, up from the sands of the desert came a would-be dictator named Saddam Hussein. We did not expect that, but it happened. We do not know where that might happen again. It is essential that we keep our intelligence capability intact and that we not make a cut that would reduce the capability of the United States to look out into the world and see what people are plotting against us—and believe me, they are there.

I say again this is not a budget vote that we vote here today; this is a vote dealing with the security of the United States of America.

Mr. FRANK of Massachusetts. Madam Chairman, I yield myself 2 minutes.

Madam Chairman, we are at a very important moment in our history. We have succeeded through a united national effort in helping the destruction of the major threat to the world, the Soviet Union. There are still threats to the peace and security of the world. Virtually all of them existed alongside the Soviet Union. The fundamental logic flaw here that we are getting is to equate a threat to our very existence as a society with the other threats that now exist and did then exist. No one is talking about dismantling our intelligence community. This is a cut of less than 2 percent, in a very large bureaucracy which has many, many parts and which has been expanding into new areas, as acknowledged today in the Washington Post, to becoming a new office to advise the State Department on a range of policy issues not related to security in the most direct sense.

The question is: Given the collapse not simply of the largest single component of the threat but the only one that threatened our national existence, can we make any substantial reduction in the intelligence budget? If in fact Members are correct that a cut of less than 2 percent would cripple the intelligence community, then it is a miracle that we have survived this far because apparently all these threats—counterterrorism, nuclear proliferation, chemicals weapons—have been ignored because with the collapse of the Soviet Union, the end of the Warsaw Pact, billions of dollars of intelligence assets have been freed up for that purpose.

The question is whether they need exactly the same amount or not, because one of the very great coincidences of history is that with the collapse of the Soviet Union, the end of the Warsaw Pact, the defection of all those countries, with that no longer a threat, somehow today they need about exactly the same amount of money that they used to have. Anyone who thinks that is a result of an objective calculation and not bureaucratic inertia at work does not understand the way Government functions.

Madam Chairman, I yield my remaining 3 minutes to the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Madam Chairman, I believe I have 30 seconds remaining on my own time.

The CHAIRMAN. Yes. The gentleman from Kansas [Mr. GLICKMAN] is recognized for 3½ minutes.

Mr. GLICKMAN. First, I long for the day when Mr. McCURDY and Mr. BEILENSON were in the chair when they had quick debates and no amendments. I do not know if it is me or the world; but I assume it's the world.

First of all, let me make a point: Mr. FRANK is not cutting 2 percent; Mr. FRANK is cutting 2 percent over what the committee cut, which is 3.7 percent under last year, which is one of the few places where this Congress and a congressional committee have cut dramatically under the President. You know, we could have come in, as the gentleman from Texas [Mr. COMBEST] said, with an inflated, or, as Mr. BEREUTER said, fake number so that the Members could cut further because I know there is a cutting zeal on the floor. But we did not do that. We talked about that, and we did not do it. We decided to play this game straight.

So, we cut 3.7 percent. We are under the President's budget by nearly the same amount, and the President believes we should cut no more.

I say to my colleagues on my side of the aisle, while I realize there is another vote he wants tomorrow or Friday, in the area of national security I think you have to give some deference to the President of the United States. The fact of the matter is Mr. FRANK's amendment cuts $500 million; will this make a difference to our national security? I do not know for sure. But the President thinks it will make a difference to our national security. He is out there negotiating with Bosnia and Herzegovina, China, North Korea, Pakistan, and every place else, nuclear weapons proliferation all over the world, 10,000 warheads in the old Soviet Union alone. He thinks, "better not make this additional cut, this might be a threat to America. Can't be sure that it is, but it might be." It might be one less conversation that we pick up, one less picture that you get.

You see, the money is in a system, the infrastructure, and that system has to be preserved for the contingencies of the world: blowing up a tunnel, blowing up a bridge, killing thousands of Americans with a nuclear device that we never had to worry about before.

Let me talk for a moment about a couple of examples of why this is important. In Desert Storm there is no question in my mind that 2,000 to 3,000 American soldiers' lives were saved because we knew, in many cases before the Iraqi commanders knew, where they were going to be. There is no way to actually prove that, but I can tell you this: that we accessed information in an almost surrealistic, miraculous way before they knew it. Our soldiers and sailors need that.

Will this cut by Mr. FRANK make the difference. I do not know for sure, but I do not want to risk it now and neither does the President of the United States want to risk it.

Let us talk about nuclear weapons for a moment. There have been many cases in the last 20 years where our intelligence community have stopped the proliferation of warheads, missiles, and nuclear weapons from bad people getting them, things that could be aimed at the United States. Will Mr. FRANK'S amendment stop that? I do not know if it will or not. But it could. Why risk it now?

Finally, one other point: He says the threat has been reduced. The Soviet threat has been reduced, but the North Korean threat, the threat from Rafsanjani and Iran, that has not been reduced over the last 5 years. These are people that are blowing up buildings in the United States, not the Russians. The threat from Pakistan, the threat from nuclear weapons around the world, these threats have increased. Maybe it is because the big Russian bear isn't there anymore to contain them any longer. But I say to you in a personal way: This vote could affect American lives. There is no reason to take the risk right now. Support the committee on this one.

We cut rather radically, I might say. Support the President of the United States, a Democratic President who says to you any further cuts jeopardize national security.

I urge defeat of the Frank amendment.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Massachusetts [Mr. FRANK].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. FRANK of Massachusetts. Madam Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 134, noes 299, not voting 5, as follows:

[Roll No. 393]

AYES—134

Abercrombie
Andrews (ME)
Barca
Barrett (WI)
Becerra
Blackwell
Bonior
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Cantwell
Clay
Clayton
Clyburn
Coble
Collins (IL)
Collins (MI)
Condit
Conyers
Coyne
DeFazio
DeLauro
Dellums
Dooley
Duncan
Durbin
Edwards (CA)
Engel
English (AZ)
Eshoo
Evans
Farr
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Furse
Gejdenson
Gibbons
Gonzalez
Gutierrez
Hall (OH)
Hamburg
Hilliard
Hinchey
Inslee
Jacobs
Kanjorski
Kennedy
Kennelly
Kingston
Kleczka
Klink
Kopetski
Lambert
Lewis (GA)
Long
Manzullo
Markey
McDermott
McKinney
Meehan
Mfume
Miller (CA)
Minge
Mink
Moakley
Murphy
Nadler
Neal (MA)
Norton (DC)
Nussle
Oberstar
Obey
Olver
Orton
Owens
Pastor
Payne (NJ)
Pelosi
Penny
Peterson (MN)
Petri
Poshard
Quillen
Rangel
Roemer
Rohrabacher
Rostenkowski
Roth
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schenk
Schroeder
Sensenbrenner
Serrano
Shays
Shepherd
Slattery
Slaughter
Stark
Stokes
Strickland
Studds
Sundquist
Swett
Synar
Thompson
Thurman
Torres
Towns
Tucker
Unsoeld
Valentine
Velazquez
Vento
Washington
Waters
Watt
Williams
Woolsey
Wyden
Wynn
Yates

NOES—299

Ackerman
Allard
Andrews (NJ)
Andrews (TX)
Applegate
Archer
Armey
Bacchus (FL)
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barlow
Barrett (NE)
Bartlett
Barton
Bateman
Beilenson
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Borski
Brewster
Brooks
Browder
Bunning
Burton
Buyer
Byrne
Callahan
Calvert
Camp
Canady
Cardin
Carr
Castle
Chapman
Clement
Clinger
Coleman
Collins (GA)
Combest
Cooper
Coppersmith
Costello
Cox
Cramer
Crane
Crapo
Cunningham
Danner
Darden
de la Garza
de Lugo (VI)
Deal
DeLay
Derrick
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doolittle
Dornan
Dreier
Dunn
Emerson
English (OK)
Everett

Ewing
Faleomavaega (AS)
Fawell
Fazio
Fields (TX)
Fish
Fowler
Franks (CT)
Franks (NJ)
Frost
Gallegly
Gallo
Gekas
Gephardt
Geren
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Goodlatte
Goodling
Gordon
Goss
Grams
Grandy
Green
Greenwood
Gunderson
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings
Hayes
Hefley
Hefner
Herger
Hoagland
Hobson
Hochbrueckner
Hoekstra
Hoke
Holden
Horn
Hoyer
Huffington
Hughes
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Istook
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E.B.
Johnson, Sam
Johnston
Kaptur
Kasich
Kildee
Kim
King
Klein
Klug
Knollenberg
Kolbe
Kreidler
Kyl
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Leach
Lehman
Levin
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Lowey
Machtley
Maloney
Mann
Manton
Margolies-Mezvinsky
Martinez
Matsui
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McHale
McHugh
McInnis
McKeon
McMillan
McNulty
Meek
Menendez
Meyers
Mica
Michel
Miller (FL)
Mineta
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Natcher
Neal (NC)
Ortiz
Oxley
Pallone
Parker
Paxon
Payne (VA)
Peterson (FL)
Pickett
Pickle
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Quinn
Rahall
Ramstad
Ravenel
Reed
Regula
Reynolds
Richardson
Ridge
Roberts
Rogers
Romero-Barcelo (PR)
Ros-Lehtinen
Rose
Rowland
Royce
Sangmeister
Santorum
Sarpalius
Saxton
Schaefer
Schiff
Schumer
Scott
Sharp
Shaw
Shuster
Sisisky
Skaggs
Skeen
Skelton
Smith (IA)
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stearns
Stenholm
Stump
Stupak
Swift
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thornton
Torkildsen
Torricelli
Traficant
Underwood (GU)
Upton
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Waxman
Weldon
Wheat
Whitten
Wilson
Wise
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—5

Edwards (TX)
Houghton
Jefferson
Packard
Talent

□ 1410

Mr. HUTTO and Mrs. MEEK changed their vote from "aye" to "no."

Miss COLLINS of Michigan, Mr. MANZULLO, Ms. LONG, Mr. MOAKLEY, Mrs. KENNELLY, and Mrs. CLAYTON changed their vote from "no" to "aye".

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mrs. MALONEY. Mr. Speaker, on rollcall No. 393, I inadvertently voted in opposition to the amendment. It has been my position to support deeper cuts to H.R. 2330, the intelligence authorization bill and wish to record my support for Mr. FRANK's amendment.

□ 1410

AMENDMENT OFFERED BY MR. GOSS

Mr. GOSS. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Goss:—Page 30, after line, 3, add the following:

SEC. 306. DISCLOSURE OF CLASSIFIED INFORMATION BY MEMBERS OF CONGRESS.

During the fiscal year 1994, no element of the United States Government for which funds are authorized in this Act may provide any classified information concerning or derived from the intelligence or intelligence related activities of any such element to a Member of the House of Representatives unless and until a copy of the following oath of secrecy has been signed by that Member and has been published in the Congressional Record:

"I do solemnly swear that I will not willfully directly or indirectly disclose to any unauthorized person any classified information received from any department of the Government funded in the Intelligence Authorization Act for Fiscal Year 1994 in the course of my duties as a Member of the United States House of Representatives, except pursuant to the Rules and Procedures of the House.".

Mr. GOSS (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. GOSS. Madam Chairman, this is a simple amendment. It seeks to underscore that all House Members have responsibility to protect classified information by asking them to take a simple oath not to willfully—and I stress willfully—disclose classified information.

When I first came to Congress, I was surprised to learn that no such commitment exists for Members of the House, even though every newcomer to our intelligence organizations is required to take one. Two years ago, the House took another important step in safeguarding classified information when it approved an amendment similar to mine offered by Republican SHUSTER. His amendment extended the oath to members and staff of the Permanent Select Committee on Intelligence. It passed by voice vote.

There's a good reason for such precaution, and for such support. Our ability to gather timely and accurate information is critical to our policymaker's decisionmaking. At times this body has fallen short of the standard it should be setting when it comes to the handling of classified material. The open political forum of the House, and our open political process in general, is one of this Nation's great strengths. But we can never permit this forum or the people who serve it to use this openness to divulge classified material. The costs are too high, both in terms of national security, threats to our sources, and to the credibility of this institution.

That's why, with the help of the distinguished former ranking member of the House Permanent Select Committee on Intelligence, HENRY HYDE, I offer this amendment.

Let me be very clear what this amendment does and does not do. This amendment only addresses willful disclosure of classified information. In effect it simply asks Members who wish to receive classified information transferred by relevant elements of the executive branch to sign a statement that they will not willfully disclose that information, just like anybody else who gets classified material in the United States. Of course any Member who does not wish this responsibility has the option not to get involved with classified material. It does not change any standing rule of the House, nor does it interfere with the constitutional speech and debate protection enjoyed by Members. Should a Member violate this oath, the established investigative procedure of this House could be activated. In short, Madam Chairman, this is a very simple way of raising the consciousness of Members to the serious business of protecting our Nation's legitimate secrets.

As many here know, I was a clandestine services officer for the CIA for 12 years. I can testify firsthand the damage done to our intelligence-gathering capabilities when classified information is compromised. National security is jeopardized, as are the lives of the dedicated members of our intelligence community who risk their lives to advance the causes of freedom and democracy.

I, in fact, knew one such individual who died violently and needlessly, leaving a grieving family because information was released to the wrong person at the wrong time.

This simple and long-overdue reform would also help bolster the confidence of our overseas allies who are sometimes distressed by the leakage within the legislative branch. In addition, I believe such an oath would shore up confidence and trust between our own branches of Government that today's classified briefing won't become tomorrow's headlines. I think that would promote increased readiness to share critical information, which we all need.

Madam Chairman, what this boils down to really is a few simple words of commitment, that do not seem to be a whole lot to ask of our membership, given what is at stake.

Now, I very well know that the distinguished chairman of the committee, the gentleman from Kansas [Mr. GLICKMAN], is proposing to offer an amendment to my amendment. I believe that it is a well-inspired offer that he is going to make, and I share very much his enthusiasm and the intent of this.

My problem with the Glickman amendment is practical, and I will address that with him, if the gentleman will allow, as to how it will work.

My amendment only goes to Members of the House of Representatives. It does not include Members of the other body as to this oath, and it does not include members of the executive branch, most of whom, frankly, already have to sign disclosures and oaths in the process of receiving classified information. I say that because I do not wish there to be a lot of confusion in the debate.

AMENDMENT OFFERED BY MR. GLICKMAN TO THE AMENDMENT OFFERED BY MR. GOSS

Mr. GLICKMAN. Madam Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. GLICKMAN to the amendment offered by Mr. GOSS: Strike all after "**SEC. 306.**" and insert the following:

DISCLOSURE OF CLASSIFIED INFORMATION BY MEMBERS OF CONGRESA AND EXECUTIVE BRANCH OFFICERS AND EMPLOYEES.

During the fiscal year 1994, no element of the United States Government for which funds are authorized in this Act may provide any classified information concerning or derived from the intelligence or intelligence-related activities of such element to a Member of Congress or to an officer or employee of the executive branch of the United States Government unless and until a copy of the following oath of secrecy has been signed by that member, or officer or employee, as the case may be, and has been published, in an appropriate manner, in the Congressional Record:

"I do solemnly swear that I will not willfully directly or indirectly disclose to any unauthorized person any classified information received from any department of the Government funded in the Intelligence Authorization Act for Fiscal Year 1994 in the course of my duties as a Member of Congress (except pursuant to the rules and procedures of the appropriate House of the Congress), or as an officer or employee in the executive branch of the Government, as the case may be.

As used in this section, the term 'Member of Congress' means a Member of the Senate or a Representative in, or a Delegate or Resident Commissioner to, the House of Representatives."

Mr. GLICKMAN (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Kansas?

There was no objection.

Mr. GLICKMAN. Madam Chairman, quite frankly, I would rather not have to offer this amendment, because I do not think that any additional secrecy oaths are needed. I think Members of the House and the Senate keep matters secret. Virtually all the leaks that take place in this country occur someplace at the executive branch level, and always have. Let me explain my amendment to the Goss amendment.

The Goss amendment requires House Members, all House Members, not just members of the Select Committee on Intelligence, to sign an oath which will be published in the CONGRESSIONAL RECORD. Before a Member has received classified information of any kind, the Member has to sign an oath saying, "I do solemnly swear that I will not willfully disclose anything that I have so received."

□ 1420

The gentleman from Florida [Mr. GOSS] can explain it in more depth.

I think that the secrecy oath mandated by the Goss amendment is not necessary. I particularly object, however, to the fact that the amendment would only require the oath of Members of the House, not the Senate, not the executive branch, but the House only, thereby creating the unfortunate impression that Members of this body are particularly incapable of maintaining the security of classified information. That is absolutely not true.

As a matter of fact, I think that this body over the years has been beyond reproach. Most House committees have rules with respect to the treatment of classified information already.

As an example, members of the Permanent Select Committee on Intelligence are bound by House and committee rules not to disclose classified material. On top of that, we execute an oath pledging not to do what the rules already prohibit us from doing, making unauthorized disclosures of secret information. That is, the rules prohibit it, but we sign another oath to say that we will not do that.

If yet another prohibition against disclosure is going to be established, I want to make sure that it reaches beyond this House to apply to those especially in the executive branch who have historically found it much more difficult than Members of this body to keep secret information secret.

My amendment would do just that. It will make sure that the oath, which would be required under the Goss amendment, will apply to everyone, to Members of the House, Members of the Senate, and members of the executive branch who receive classified information from agencies whose budgets are authorized by this bill.

If we are truly worried about the disclosure of classified information, it would seem to me that we would want to ensure that any security procedures designed to guard against it have the widest possible applicability. That is the purpose of this amendment.

I know there are some concerned about the applicability of this to the executive branch, particularly to members of the intelligence agencies, I want to assure my colleagues that the language of my amendment includes what I call the where appropriate language, which will allow the intelligence community to safeguard against certain people having to disclose their identities.

The bottom line is this. If we are going to put this additional oath of secrecy on every Member of this body who receives classified information, then we ought to demand exactly the same thing of the other body, the U.S. Senate, and we ought to demand the exact same thing of the bureaucrats in this Government who are the ones stamping the documents "top secret" to begin with.

I would urge the adoption of my amendment.

Mr. HEFNER. Madam Chairman, will the gentleman yield?

Mr. GLICKMAN. I yield to the gentleman from North Carolina.

Mr. HEFNER. Madam Chairman, under the Goss amendment, would it be fair to say that if we signed the agreement, that we would be receiving information, classified information from people who had not signed the agreement, who were not bound by the agreement?

Mr. GLICKMAN. Madam Chairman, that is correct.

Mr. HEFNER. Madam Chairman, if the gentleman will continue to yield, if we got some classified information from the executive branch, we would be required to sign for classified but they would be able to give us classified information but they would not be bound by any agreement, that or the other body?

Mr. GLICKMAN. That is correct. Certainly not by the agreement that we would be bound by. They may be bound by general statutes of the Government, but they would not be bound against disclosing that information in the same way that we would be bound, which is ridiculous.

Mr. HYDE. Madam Chairman, I rise in opposition to the amendment offered by the gentleman from Kansas.

Madam Chairman, I am not sure that it is appropriate for us to install security procedures for the Senate, nor for the executive. I am sure they would be resented.

I do know that for this Chamber, for this body, it is appropriate that we require an oath of secrecy from somebody who is going to receive highly classified information. The oath itself ought not to offend anybody. We take an oath, when we are sworn in as Congressmen. We take an oath, when we get married. We take an oath, if we are a witness in a trial. We take an oath, if we are going to be a juror.

As a matter of fact, if we are called as a witness before one of the committees or subcommittees of this body, we are required to take an oath.

I do not see that it is anything to make one bristle about. What it does is solemnize, emphasize the gravity of the undertaking that we are going to receive information that is classified, that is best kept secret. And sometimes this information is very critical to people's lives, to sources of intelligence, to methods of collection.

It just seems to me, leaks being a major problem, and I do not dispute the characterization of the gentleman from Kansas [Mr. GLICKMAN], most leaks coming from the executive, obviously, they do. There are more people over there to leak. They have access to classified information, some people do, on a regular basis.

But the fact is, it is a serious problem, and the law is a teacher. And if we were to pass this amendment of the gentleman from Florida [Mr. GOSS] requiring people who receive classified information to raise their concern, elevate their consciousness, their sensitivity to the importance of what they are doing by taking an oath of secrecy, it seems to me that is all to the good.

Again, by our example, we might impress the executive. We might impress the other body to follow suit.

Now, insofar as the amendment of the gentleman from Kansas, I see great difficulty with it. It seems to me it requires the printing in the CONGRESSIONAL RECORD of the names of anybody and everybody in the executive branch who receives classified information. That, it would seem to me, could be very dangerous. We might have to reveal the names of people who are receiving classified information who, in the interest of our intelligence, ought not to be revealed, nor identified.

Now, it is true, he says "in an appropriate manner." These are words of art that escape me. I do not know if he means there is a Presidential waiver. I do not know what he means. But I do know if we read his amendment, thousands of names are going to have to be printed in the CONGRESSIONAL RECORD, if Congress is in session and a CONGRESSIONAL RECORD is printed. If Congress is not, and no RECORD is printed, I guess all sharing of classified material must halt.

It is just totally unworkable. It vitiates entirely what the gentleman from Florida [Mr. GOSS] is trying to do with his amendment.

I understand the gentleman's sensitivity to having to take an oath of secrecy, but I appeal to the gentleman that if we set the tone, we can act as role models for the rest of the Government.

But the gentleman's amendment is unworkable, and it negates entirely what the gentleman from Florida [Mr. GOSS] is doing.

I respectfully urge my colleagues to vote no on the amendment of the gentleman from Kansas [Mr. GLICKMAN] and to support the amendment of the gentleman from Florida [Mr. GOSS].

The CHAIRMAN. The question is on the amendment offered by the gentleman from Kansas [Mr. GLICKMAN] to the amendment offered by the gentleman from Florida [Mr. GOSS].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. GOSS. Madam Chairman, I demand a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. The Chair announces that this will be followed by a 5-minute vote on the Goss amendment, if ordered.

The vote was taken by electronic device, and there were—ayes 262, noes 171, not voting 5, as follows:

[Roll No. 394]

AYES—262

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Ballenger
Barca
Barcia
Barlow
Barrett (WI)
Becerra
Beilenson
Berman
Bevill
Bilbray
Bishop
Blackwell
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
de Lugo (VI)
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Engel
English (AZ)
English (OK)
Eshoo
Evans
Faleomavaega (AS)
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Ford (MI)
Ford (TN)
Fowler
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Glickman
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Harman
Hastings
Hayes
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Holden
Hoyer
Hughes
Hutto
Inslee
Jacobs
Jefferson
Johnson (GA)
Johnson (SD)
Johnson, E.B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lehman
Levin
Lewis (GA)
Lipinski
Lloyd
Long
Lowey
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Mazzoli
McCandless
McCloskey
McCurdy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Murphy
Murtha
Nadler
Natcher
Neal (MA)
Neal (NC)
Norton (DC)
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reed
Reynolds
Richardson
Roemer
Romero-Barcelo (PR)
Rose
Rostenkowski
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Schenk
Schroeder
Schumer
Scott
Serrano
Sharp
Shepherd
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (IA)
Spratt
Stark
Stenholm
Stokes
Strickland
Studds
Stupak
Swett
Swift
Synar
Tanner
Tauzin
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Valentine
Velazquez
Vento
Visclosky
Volkmer
Waters
Watt
Waxman
Wheat
Whitten
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOES—171

Allard
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Carr
Castle
Clinger
Coble
Collins (GA)
Combest
Cox
Crane
Crapo
Cunningham
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Emerson
Everett
Ewing
Fawell
Fields (TX)
Fish
Franks (CT)
Franks (NJ)
Gallegly
Gallo
Gekas
Gilchrest
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Goss
Grams
Grandy
Greenwood
Gunderson
Hancock
Hansen
Hastert
Hefley
Herger
Hobson
Hoekstra
Hoke
Horn
Houghton
Huffington
Hunter
Hutchinson
Hyde
Inglis
Inhofe
Istook
Johnson (CT)
Johnson, Sam
Kasich
Kim
King
Kingston
Klug
Knollenberg
Kolbe
Kyl
Lazio
Leach
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Livingston
Machtley
Manzullo
McCollum
McCrery
McDade
McHugh
McInnis
McKeon
McMillan
Meyers
Mica
Michel
Miller (FL)
Molinari
Moorhead
Morella
Myers
Oxley
Paxon
Petri
Pickle
Pombo
Porter
Portman
Pryce (OH)
Quillen
Quinn
Ramstad
Ravenel
Regula
Ridge
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Santorum
Saxton
Schaefer
Schiff
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stump
Sundquist
Taylor (NC)
Thomas (CA)
Torkildsen
Upton
Vucanovich
Walker
Walsh
Washington
Weldon
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—5

Matsui
Packard
Talent
Thomas (WY)
Underwood (GU)

□ 1449

Messrs. LAZIO, DICKEY, and GILMAN changed their vote from "aye" to "no."

Mr. BORSKI, Miss COLLINS of Michigan, Mr. HILLIARD, and Mr. CONYERS changed their vote from "no" to "aye."

So the amendment to the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida [Mr. GOSS], as amended.

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. GOSS. Madam Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 341, noes 86, not voting 11, as follows:

[Roll No. 395]

AYES—341

Abercrombie
Ackerman
Andrews (NJ)
Andrews (TX)
Applegate
Archer
Armey
Bacchus (FL)
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barca
Barlow
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Borski
Boucher
Brewster
Brooks
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burton
Buyer
Byrne
Callahan
Calvert
Camp
Canady
Cantwell
Cardin
Carr
Castle
Chapman
Clayton
Clement
Clinger
Coble
Collins (GA)
Combest
Condit
Cooper
Coppersmith
Costello
Cox
Cramer
Crane
Crapo
Cunningham
Danner
Darden
de la Garza
Deal
DeLauro
DeLay
Derrick
Deutsch
Diaz-Balart
Dickey
Dicks
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Durbin
Edwards (TX)
Emerson
English (AZ)
English (OK)
Eshoo
Evans
Everett
Ewing
Faleomavaega (AS)
Farr
Fawell
Fazio
Fields (TX)
Fingerhut
Flake
Ford (TN)
Fowler
Franks (CT)
Franks (NJ)
Frost
Gallegly
Gallo
Gekas
Gephardt
Geren
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Gordon
Goss
Grams
Grandy
Greenwood
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hayes
Hefley
Hefner
Herger
Hoagland
Hobson
Hochbrueckner
Hoekstra
Hoke
Holden
Horn
Houghton
Hoyer
Huffington
Hughes
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Inslee
Istook
Jacobs
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E.B.
Johnson, Sam
Johnston
Kaptur
Kasich
Kennedy
Kennelly
Kim
King
Kingston
Kleczka
Klein
Klink
Klug
Knollenberg
Kolbe
Kopetski
Kreidler
Kyl
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Leach
Lehman
Levin
Levy
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Long
Lowey
Machtley
Maloney
Mann
Manton
Manzullo
Margolies-Mezvinsky
Martinez
Mazzoli
McCandless
McCollum
McCrery
McCurdy
McHale
McHugh
McInnis
McKeon
McMillan
McNulty
Meehan
Menendez
Meyers
Mica
Michel
Miller (FL)
Mineta
Minge
Mink
Moakley
Molinari
Montgomery
Moorhead
Moran
Morella
Murphy
Murtha
Myers
Natcher
Neal (MA)
Neal (NC)
Nussle
Ortiz
Orton
Owens
Oxley
Pallone
Parker
Pastor
Paxon
Payne (VA)
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Rahall
Ramstad
Rangel
Ravenel
Regula
Richardson
Ridge
Roberts
Roemer
Rogers
Rohrabacher
Romero-Barcelo (PR)
Ros-Lehtinen
Rose
Roth
Roukema
Rowland
Royce
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Schenk
Schiff
Sensenbrenner
Sharp
Shaw
Shays
Shepherd
Shuster
Sisisky
Skeen
Skelton
Slattery
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stenholm
Strickland
Stump
Stupak
Sundquist
Swett
Swift
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thornton
Thurman
Torkildsen
Torricelli
Towns
Traficant
Tucker
Upton
Valentine
Velazquez
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Weldon
Wheat
Whitten
Wilson
Wise
Wolf
Woolsey
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—86

Allard
Andrews (ME)
Becerra
Beilenson
Berman
Bevill
Blackwell
Clay
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Coyne
de Lugo (VI)
DeFazio
Dellums
Dingell
Dixon
Edwards (CA)
Engel
Fields (LA)
Filner
Fish
Foglietta
Ford (MI)
Frank (MA)
Furse
Gejdenson
Gibbons
Glickman
Gonzalez
Green
Gutierrez
Hamburg
Hastings
Hilliard
Hinchey
Jefferson
Kanjorski
Kildee
LaFalce
Markey
Matsui
McCloskey
McDade
McDermott
McKinney
Meek
Mfume
Miller (CA)
Mollohan
Nadler
Norton (DC)
Oberstar
Obey
Olver
Pelosi
Quillen
Reed
Reynolds
Roybal-Allard
Rush
Sanders
Schroeder
Schumer
Scott
Serrano
Skaggs
Smith (IA)
Stark
Stearns
Stokes
Studds
Synar
Thompson
Unsoeld
Vento
Washington
Waters
Watt
Waxman
Williams
Wyden
Wynn
Yates

NOT VOTING—11

Barcia
Browder
Gilchrest
Packard
Payne (NJ)
Rostenkowski
Sabo
Talent
Thomas (WY)
Torres
Underwood (GU)

☐ 1459

Messrs. WYDEN, BLACKWELL, and RUSH changed their vote from "aye" to "no."

So the amendment, as amended, was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. FRANK OF MASSACHUSETTS

Mr. FRANK of Massachusetts. Madam Chairman, I offer an amendment. It is the amendment to section 306.

The Clerk read as follows:

Amendment offered by Mr. FRANK of Massachusetts: Page 30, after line 3, add the following:

SEC. 306. DISCLOSURE OF ANNUAL INTELLIGENCE BUDGET.

Beginning in 1995, and in each year thereafter, the aggregate amounts requested and authorized for, and spent on, intelligence and intelligence-related activities shall be disclosed to the public in an appropriate manner.

Mr. FRANK of Massachusetts (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

☐ 1500

Mr. FRANK of Massachusetts. Madam Chairman, I yield to the chairman of the full committee, the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Madam Chairman, this is the last amendment to this bill.

I ask unanimous consent that debate on this amendment and all amendments thereto be limited to 40 minutes, 20 minutes controlled by the gentleman from Massachusetts [Mr. FRANK], and 20 minutes controlled by the gentleman from Texas [Mr. COMBEST].

The CHAIRMAN. Is there objection to the request of the gentleman from Kansas?

There was no objection.

The CHAIRMAN. The gentleman from Massachusetts [Mr. FRANK] will be recognized for 20 minutes, and the gentleman from Texas [Mr. COMBEST] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Madam Chairman, I yield myself 2 minutes.

Madam Chairman, this is a very straightforward amendment. We have all been acting all day almost as if it was in effect. Under the law, it is illegal to mention the gross total of the appropriation. People have hinted at it, danced around it, said it while mumbling, implied it, suggested it, and probably the law inadvertently nudged, kneaded, and bruised. People have argued that if those who are the targets of our intelligence know too much about our intelligence, they will frustrate it.

That has a lot of merit. I do not believe that if they knew the absolute total of the appropriation, an amount which had been alluded to on this floor, which has been written about in the newspapers, perhaps not with exactitude but with a near enough degree so that they could know about it, it would not make—we already know about this.

What this will do would comply the practice with the law.

Mr. COLEMAN. Madam Chairman, will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentleman from Texas.

Mr. COLEMAN. I thank the gentleman for yielding.

I guess my question is, and I do not think everybody has made up their mind on this completely, but the question is whether or not, having gotten that number, that would be sufficient for the Members? Or do you now believe that following that we will have more requests from Members about the amounts that we spend on specific programs?

Mr. FRANK of Massachusetts. First of all, let me say it has been my experience when, say, Oh, that will lead to this, around here Tuesday does not always lead to Wednesday.

Second, this is the end of the amendment process for this bill. There are no other amendments filed. We are going to finish it. If a year from now somebody might come up with that, I have no control over that. But I do not believe, frankly, whether or not we go forward with this is going to lead to that.

My guess is people are going to be finding out it is not a big deal and not go any further.

Mr. COMBEST. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, this amendment, on the surface, I think looks innocent. I do not imply in that that there is anything beyond that in the mind of the gentleman from Massachusetts [Mr. FRANK] in offering it. But let me express what my concerns are and why I think this amendment would be ill advised.

First, I want to indicate for the record so that Members are certain that they understand that the director of Central Intelligence, Jim Woolsey, has stated on numerous occasions that he is vigorously opposed to the effect of this amendment as well as the administration's official position, and I am quoting from the statement of administration policy, "The administration opposes any change to H.R. 2330 that would disclose or require the disclosure of the aggregate amount of funds authorized for intelligence activity."

So the director of Central Intelligence and the administration are opposed to this amendment.

Now, I do not think there is a rush of American people out there who are beating on our doors saying, "We want to know how much is in the intelligence budget." In fact, I think the American people understand that we have secrets in this country. I think they expect us to have, and I think they expect us to continue.

In fact, I think if we really could get to it, they are probably more concerned about the inability of people to keep those secrets than they are about the fact that the secrets exist.

But the gentleman mentioned, and we all read the articles in the papers, where numbers are presumed by the media. But if you will notice, those stories are on some other subject, such as the one that was mentioned a number of times yesterday, erroneously, I might say for the record, about the cost of the loss of the rocket and the satellite. But in those stories appears a presumed amount. I will not confirm or deny that is correct. But that is what it is. But that is only part of a story which is on some other subject matter.

If in fact we make this specific, "this is the line item, this is how much we spend," that becomes the story. Well, it does not end there. If that was all that would be required, it probably would not be much of a problem. But then there comes, "How is it expended? What purposes is this money being expended for in the intelligence budget?" When we know in fact that it is x number of billions of dollars.

There are times that we find, due to threat assessments and other threat changes, that we have to make changes either in the total amount up and down or in various portions of it. And it is the various portions of the intelligence that then will become the subject, "This is the total amount. How much are they expending on the various programs?"

If that is a public document, then we prenotify those that we are attempting to protect against when we make a change in the appropriations or in the budget for intelligence that would impact those particular people.

Again, I do not think it is the American people who are concerned about the fact that this is still a classified number. I think this will be something that a lot of other countries of the world that we may be focusing on as targets would be very interested in knowing. In fact, it does not help the membership.

Some 140 Members of the House and the Senate this year have gone to the Intelligence Committees as well as a number of very highly qualified and cleared staff members to look at the intelligence budget, to know what that figure is. Making that number public does not have any difference on the amount of information available to any Member today who wishes to go and find out what that number is. It does not change that debate at all. We can find out exactly what it is. That is information that any Member of this House or any Member of the Senate can go and discover. Basically, what we would be doing is providing this information, in effect, providing it to the people who really might end up being a target of it.

So, then, that goes forward, "Well, this year we have x plus \$4 billion and next year we will have x plus \$8 billion," people want to know what is that increase for? What has been built up within that budget? And that becomes the focus of the discussion, that becomes the focus of the article rather than the fact that it is simply mentioned in a hypothetical or guessing manner that is always indicated in the article when it is talking about some other subject.

Madam Chairman, I am very much opposed to this. Again, I reiterate the fact that the Director of Central Intelligence is opposed as well as the administration.

Madam Chairman, I reserve the balance of my time.

Mr. FRANK of Massachusetts. Madam Chairman, I yield 3 minutes to the gentlewoman from Colorado [Mrs. SCHROEDER].

□ 1510

Mrs. SCHROEDER. Madam Chairman, I thank the gentleman from Massachusetts for his very, very difficult day here on the floor; but I think this amendment is very important if we are ever going to have an intelligent debate about this.

I had wanted to engage the gentleman earlier about the interesting position we are in. Yesterday we had votes to cut 10 percent of this unknown number that we do not dare utter or go to jail.

Today the gentleman had an amendment to cut \$500 million, but we could not say what percent because then you may be able to do the math to figure out what this unknown number is.

Now, really, are we not mature enough to know what this number is? We ought to be able to fill it in to engage in any kind of debate about different priorities.

I heard many people here today say, "Oh, but this debate on the gentleman's amendment to do cuts, this is the wrong place. It should have happened when we talked about budget priorities," except you cannot do it when you have budget priorities, either, because you cannot say that number, or you have gone against the United States of America.

Now, I think it is very important that we get that number out there, because I must say every time I pick up a national magazine there is the CIA telling me something more they would like to get into. One day they are going to go out and be spies for American industries overseas. The next day they are going to get into refugees. Then they are going to look at the world's weather system.

It looks to me like an agency out there trying to justify their budget in the New World. I am sorry. I have listened to this rhetoric all day long, but we cannot put any reality to this rhetoric because we cannot say the number.

Much too often in this body we are talking in shadows, but this is real darkness.

So I must say for all the people who are wearing little sunshine buttons today and for all the people who believe in sunshine, and I, too, believe in sunshine, government is not a fungus. It can operate in the sunshine, and we can certainly know at least how much of our precious tax dollars are going to the CIA so we can track it year after year to find out whether it is going up or down in accordance with how we think it is doing its job; but I do not know how you measure it, how you know it is doing its job or how you even attempt to do your oversight job here in any way, shape or form with any kind of respectability if you cannot at least write a number in the blank.

So the gentleman is absolutely correct. I certainly hope that we put a little sunshine on this number. I think we also know it must be very high, or they would not be working in high gear and overtime 24 hours a day to try to find a mission to justify the number in case we happen to be able to say what the number is.

Mr. COMBEST. Madam Chairman, I yield myself such time as I may consume.

I would just say to the gentlewoman that probably before the vote comes on this bill, the gentlewoman can run up to the Intelligence Committee and find out exactly what it is, if she has not been up there.

Mrs. SCHROEDER. Madam Chairman, will the gentleman yield?

Mr. COMBEST. I am happy to yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. Madam Chairman, the gentlewoman knows what the number is.

The issue is the American people cannot find out what the number is.

When we talk about balancing priorities, going through the difficult budget debates and things like we are doing tomorrow and we talk about the debt, it is unbelievable to think that the American people cannot know how much of their tax dollars are being allocated; so I do know. I have seen that. I want the gentleman to be assured of that. I am shocked by it, and I hope the gentleman's amendment passes.

Mr. COMBEST. I will tell the gentlewoman that I feel comfortable to find out what it is. I am glad the gentlewoman has done that.

Again, I do not think the American people are clamoring to find out what it is. I think in fact they are more concerned about the problem that many people cannot keep it secret.

Madam Chairman, I yield 2 minutes to the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Madam Chairman, I thank the gentleman for yielding this time to me.

It may surprise my friend, the gentlewoman from Colorado, to know that most Americans understand we have a representative democracy. Most Americans understand there are some things that are best kept classified and confidential, and most Americans trust the two Intelligence Select Committees in the House and in the Senate.

Most Americans trust the two subcommittees of the Committee on Appropriations in the House and in the Senate, and most Americans trust the two Armed Services Committees in the House and in the Senate.

Most Americans have trust in the President as Commander in Chief, in the National Security Council, and understanding that we have a representative democracy and understanding that there are some things that are best kept secret, most Americans are comfortable with the fact that we have an abundance of effective oversight.

I also would like to point out the number is meaningless unless you know what it is spent for. A number is just a couple digits, three digits or five digits, who knows; but what it is spent for is the relevant information, and that indeed is classified.

Our intelligence services depend upon the cooperation of other intelligence services around the globe. If they think their sources, their methods are going to be compromised, they are not going to cooperate with us.

I trust everybody on all those committees that have oversight over that sum of money, that expenditure, and as far as I am concerned, in trusting them I do not really need to know the aggregate amount because there are adequate numbers of people who know that.

Besides, I can go upstairs and look at it.

So I suggest this is a bad amendment, harmful to our national security, and I hope it is resoundingly defeated.

Mrs. SCHROEDER. Madam Chairman, will the gentleman yield?

Mr. HYDE. I yield to my dear friend, the gentlewoman from Colorado.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

Mr. COMBEST. Madam Chairman, I yield 1 additional minute to the gentleman from Illinois [Mr. HYDE].

Mrs. SCHROEDER. Madam Chairman, if the gentleman will continue to yield, I just want to say to the gentleman from Illnois, we are only asking that the gross amount of the number be put out there, because I think budget considerations are so serious, you want to see how they are allocated.

I also want to say to the gentleman, on the Armed Services Committee we marked up practically the entire bill in the open this year because we have been very, very mindful of the fact that we want to justify in public how these different expenditures are being allocated; so 13 of the 15 hours we did in open session.

I think the people understand more where their tax money would go if they can see what is happening.

Mr. HYDE. Is the gentlewoman satisfied with the product that emerged from her committee?

Mrs. SCHROEDER. Absolutely.

Mr. HYDE. So am I.

Mrs. SCHROEDER. They can have full sunshine at the end just by knowing the numbers. We are not asking to go to the committee hearings or opening up the whole process.

Mr. HYDE. The gentlewoman can learn that number. Why do your constituents need to know? Are you not their Representative?

Mrs. SCHROEDER. My constituents want to know because every time they pick up a magazine they see the CIA trying to find some new jobs, so they think they may be trying to get too much money.

Mr. HYDE. Does the gentlewoman not think the number is meaningless without understanding what it is spent for?

The CHAIRMAN. The time of the gentleman from Illinois [Mr. HYDE] has expired.

Mr. FRANK of Massachusetts. Madam Chairman, I yield 2 minutes to the gentleman from California [Mr. EDWARDS].

Mr. EDWARDS of California. Madam Chairman, I thank the gentleman from Massachusetts [Mr. FRANK] for yielding me this time.

I think this argument is rather unnecessary. I think most of us have taken American history No. 1 in grammar school.

Article I of the Constitution is very clear. It says explicitly that all expenditures of the Federal Government must be made public. For the last 42 years we have thumbed our nose at that particular provision in the Constitution.

Now, let me also remind my colleagues that Robert Gates, certainly no radical, he was Bush's and Reagan's electee for Director of the CIA, testified publicly that he was in favor of making the budget public.

Also, I might add that this House and the Congress in 1991 in a nonbinding resolution voted to make the total figure public and again we did it in 1992.

Unfortunately, both President Bush and now President Clinton, and I do not think President Clinton has thought about it, I think when he does he will approve what we are trying to do; so in other words, we have already voted on this twice, and I cannot imagine why we are starting to back up now on a very clear constitutional issue.

Lastly, our founders more than 200 years ago were not stupid. They did not do anything reckless. The lived in a lot more perilous age than we do. They had the British, they had the French, they had an Indian war going on. They did not have much of a military, and yet they went ahead and not only passed the Bill of Rights, but they put this in the Constitution, that all expenditures shall be made public. That is what the amendment of the gentleman from Massachusetts [Mr. FRANK] offers, and I think that we certainly should approve it.

Let us stick with article I of the Constitution. We have done very well by it for a long time.

Mr. COMBEST. Madam Chairman, I yield 3 minutes to the gentleman from Texas [Mr. LAUGHLIN].

Mr. LAUGHLIN. Madam Chairman, I rise in opposition to the amendment of the gentleman from Massachusetts.

I want to say there is good reason why we do not reveal the aggregate number, because just as the gentlewoman from Colorado said, there will be questions about the numbers. When you get to asking questions about the numbers, then you have got to start specifying about the advantages of the intelligence activity. You have got to reveal what the methods and procedures are and the sources. That would certainly dry up the ability of our Nation to gather intelligence, to carry out the sole purpose of the intelligence community, and that is to insure that the Commander in Chief, the director of all the Armed Forces of this Nation, is well informed before decisions are made.

□ 1520

No other government in the world releases its intelligence budget number.

When I thought about what my good friend, the gentleman from Massachusetts [Mr. FRANK] has said, I tried to figure out an analogy, and the only one I come up with that is close is our own campaign funds. None of us, before we start election campaigning, tell our opponents what our number is. We do not tell them how much we are going to put into the TV. We do not tell them how much into the newspapers. We do not tell them how much into the consultants and staff workers and how many ads we are going to run in a particular area.

That is exactly, in my mind, what we will do if we adopt this figure because next, after the amendment offered by the gentleman from Massachusetts [Mr. FRANK] on the aggregate number, then we will come and we will find out that the other side wants more. They will want to know the details.

My colleagues, we do not tell our opponents which advertising markets we are going to put our ads in or how many dollars we are going to spend to run, and the last thing that I think is important is the men and women of this Nation that our Government hires to put into the intelligence world, we should not do anything to run the risk of their lives and the lives of the men and women that we expect to defend this Nation, and it is for these reasons I strongly oppose the gentleman's amendment.

Mr. FRANK of Massachusetts. Madam Chairman, will the gentleman yield?

Mr. LAUGHLIN. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Well, the gentleman says his analogy was not close, and I certainly subscribe to that, but let me ask him, even given his distant analogy:

We do under the election laws require that the amount spent in the last election be published. So is the gentleman then saying he does not want it published now in advance, but as soon as the fiscal year is over——

Mr. LAUGHLIN. No.

Mr. FRANK of Massachusetts. Or does his not close analogy break down what is not suitable for him?

Mr. LAUGHLIN. Well, that is why I said the only analogy I could come even close to, and it is not even a good one, I say to the gentleman——

Mr. FRANK of Massachusetts. I would agree with the gentleman. It is not a good one.

Mr. LAUGHLIN. I say to the gentleman, "Thank you."

Mr. FRANK of Massachusetts. Madam Chairman, I yield 3 minutes to the gentleman from Connecticut [Mr. SHAYS].

Mr. SHAYS. Madam Chairman, I thank the gentleman from Massachusetts [Mr. FRANK] for yielding this time to me.

The bottom line for me is: I believe our enemies know what our overall budget numbers are. I believe our allies and friends, the Germans, the French, the British, the Japanese and so on know what our overall budget spending is for intelligence. The only people, I think, we do not know are the American people, and they are the ones who pay the bill.

I have not heard one credible reason why the taxpayers of the United States should not know the overall spending for intelligence in this country, and I would just add another point.

Madam Chairman, we try to funnel all this money through a variety of different departments, to hide our intelligence expenditure levels artificially inflating the budgets of some departments. We artificially inflate the budgets of some departments that should not have to be held accountable for an expenditure that is not truly theirs.

What this amendment seeks to do is something very simple. It seeks to let the American people know what the rest of the world already knows.

Mr. LEWIS of California. Madam Chairman, will the gentleman yield?

Mr. SHAYS. I yield to the gentleman from California.

Mr. LEWIS of California. If I presume that my colleague were correct in his presumption that everybody else in the world knows, I would very likely support his position. But the gentleman is not correct.

Mr. SHAYS. Let me ask the gentleman a question, Madam Chairman:

"Are you saying to this body that you do not think that the Soviet Union knows what our overall budget is?"

Mr. LEWIS of California. I am suggesting the gentleman is not correct if he presumes that.

Mr. SHAYS. Well, I do presume that. I presume it based on what I read, and what I see, and what I can gather myself, and I think others have the ability——

Mr. LEWIS of California. Madam Chairman, if the gentleman would yield further, I must suggest to the gentleman that that is precisely why the very intelligent comments of my colleague, the gentleman from Illinois [Mr. HYDE], were so much on target. The American public does believe that there are some areas where we must have, for the benefit of our country and for freedom in the world, some items that are——

Mr. SHAYS. Reclaiming my time, Madam Chairman, I agree with my colleague, the gentleman from Illinois [Mr. HYDE], that the individual amounts should be kept from the American people and from the rest of the world. I believe very strongly however that the total amount of spending should be known, and that is what this amendment does.

Madam Chairman, this amendment does not seek to describe how, when or where we spend our money. It just seeks to let the American people know the total aggregate amount of our intelligence expenditures. I contend with anyone in this Chamber that that number is known to most already. Why shouldn't it be known by all who ultimately pay the bill—the American taxpayer.

Mr. COMBEST. Madam Chairman, I yield 3 minutes to the gentleman from Texas [Mr. COLEMAN].

Madam Chairman, I thank my colleague, the gentleman from Texas [Mr. COMBEST] for yielding this time to me.

Let me answer the question that was just posed.

So, we have got a number. All America knows the number. So, what do we do with a number? Well, the first thing we do is what we did here today and yesterday and, some hope, tomorrow. We attempt to amend that number.

Well, certainly everyone understands it is going to be much harder not to state publicly then the reasons for the proposed changes in that budget level. But we got to tell them; do we not? I mean the gentleman is recommending a cut of $500 million from the number that everybody now knows. I suppose we are going to have to defend what it is that went into that overall number.

Well, now we are getting a little bit more specific. I think any discussion about how we acquire intelligence and what the funding is for needs to remain secret in order for us to continue to acquire that intelligence.

I do not understand the thinking of those who suggest that we are not headed down some slippery slope here. Of course we are. I suggest that doing this in the statutes is wrong, as my colleagues know, and, besides that, we are not going to get just one number.

Now, Madam Chairman, I serve on the Committee on Appropriations. Let me tell my colleagues what the number is they are asking for. They are asking for three numbers. They want the amount that was requested, they want the amount that is going to be authorized, they want the amount spent on intelligence and intelligence related activities. I think those are normal questions to ask. We can ask them. As has been pointed our over and over again, every Member of this House is entitled to each and every one of those numbers.

Madam Chairman, I think the disclosure of those three numbers will not improve the public debate on the intelligence budget. How can it? As Members of Congress, as I said, we have access. We can and do discuss in the open a great deal of information without reference to budget totals. We can and do discuss in the open the underlying policy considerations. We have, just today, about the threats, the former threats and the ones that we think are coming. This will be no different after the release of those three numbers because we will be able to go no further in specifically explaining the change in the numbers. What will occur is greater pressure, I submit, for more disclosures, or unwise or inadvertent disclosures, of sensitive information.

Why are we concerned about that kind of information? Because it is, after all, the men and women who work for you and me, who work for the American public, whom we must remain and try to keep safe, and so those kinds of disclosures are unwise. If they take countermeasures, those who are enemies, and there are some, believe it or not, in the world, our investment could be wasted in some new technology that they may determine we either are or are not working on, and I think that is the kind of funding that we make in vain.

The United States already has the most open intelligence community in the world. Our constituents are not clamoring for this information, and, therefore, this amendment should be defeated.

Mr. FRANK of Massachusetts. Madam Chairman, I yield 2 minutes to the gentleman from Colorado [Mr. SKAGGS], a member of the Permanent Select Committee on Intelligence.

Mr. SKAGGS. Madam Chairman, I thank the gentleman from Massachusetts [Mr. FRANK] for yielding this time to me.

Clearly a fundamental tenet in our free society and our form of government is that the public should be presumed to have a right to know about the operations of its government. It is not an absolute presumption, but it is the starting point for an issue like this.

This proposal is not without some risk, but it is a risk that I do not think poses a serious danger to important national security considerations. There is always a push and a pull between these legitimate national security considerations and the right of the people of this country to know what their government is about.

I doubt that many of us have a clamor from our constituents about this issue. However, Madam Chairman, that is not the issue. We do not make decisions like this based upon whether we are getting cards and letters urging the disclosure of the total amount of spending on intelligence. Nonetheless, I think it is important, whenever possible, for the people of this country, for the press, for those that are engaged in debate about the course that the Nation is on, to have access to government information—at least to a gross number like this that gives a sense of the order of magnitude. Madam Chairman, for those reasons I will be supporting the amendment offered by the gentleman from Massachusetts [Mr. FRANK].

I want to say also that we ought to be in a position to defend this total number, and, if we cannot, then efforts like his previous amendment would likely pass. I opposed that. I think it was defensible for us to stick to the number, as we did, that the committee came out with.

This is, in fact, a slope. I do not think it needs to be a slippery slope. And I say to the gentleman in supporting his amendment this year: "I will resist," and I think many of us who support him this year would resist taking the next step down the slope.

□ 1530

But this is the step that we can properly take. It is one that does honor to the right of the people of this country to know about their government.

The CHAIRMAN. The gentleman from Texas [Mr. COMBEST] has 6 minutes remaining.

Mr. COMBEST. Madam Chairman, might I inquire, who would have the right to close?

The CHAIRMAN. The gentleman from Texas [Mr. COMBEST] will have the right to close.

Mr. COMBEST. Madam Chairman, I yield 3 minutes to the gentleman from Florida [Mr. YOUNG].

Mr. YOUNG of Florida. Madam Chairman, releasing the overall budget of the intelligence community of the United States will not mean a whole lot to anyone except those involved in intelligence, and there are a lot of hostile intelligence services out there.

Having had the opportunity and privilege to serve on this committee for some time, you get to learn a lot about how the intelligence community operates. Madam Chairman, I can tell Members that while most of us, if we get a picture puzzle and set it down on a table or a desk, we take days to work at it to find out where the pieces go. But a good intelligence officer or a good intelligence analyst can take two or three pieces of that puzzle, lay them on the desk, and they can build the rest of the puzzle.

Madam Chairman, it is amazing, unbelievable, what a good intelligence analyst is able to do with a little bit of information.

So if we release the overall budget of our intelligence community, the next step is, as has been admitted, to describe what it means, how does it work, how does it relate to this or to that or to something else. And those are the pieces of the puzzle that a good intelligence officer would have to have before they knew about all they wanted to know about our intelligence activities.

Madam Chairman, I want to read this statement from Stanfield Turner, the Director of the Central Intelligence Agency under President Jimmy Carter, made in January 1978. He said, "In short, the detailed intelligence budget in the hands of our enemies would be a powerful weapon with which they could make our collection efforts more difficult, more hazardous to life, and more costly. The way we spend our intelligence money in this country, then, is one of our necessary secrets."

Madam Chairman, I think the statement that Admiral Turner made then is just as effective today as it was in 1978.

Mr. FRANK of Massachusetts. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, let me say that when the gentleman from Florida [Mr. YOUNG] quoted Admiral Turner saying that the detailed intelligence budget in the hands of our enemies would be a problem, I agree. And if an amendment comes up that would do that, I hope the gentleman would repeat that speech, because it would be a shame to waste it on an amendment to which it was wholly irrelevant.

No one is talking about a detailed release. In fact, Madam Chairman, as Members of this body, we understand that when Members fail to object to the proposition that is before them and spend all their time arguing about the propositions that are not before them, it is because they cannot come up with any good reasons for what they are arguing.

The gentleman from Florida [Mr. YOUNG] said "the detailed budget." This is not a detailed budget. This says, and it is clear in the amendment, only the total.

Now, the notion, and this is very interesting, that you know a lot from the total has been simultaneously derided and advocated by people opposing this amendment. On the one hand, they say knowing the total is useless, knowing the total means nothing, knowing the total is a total waste, but it will betray the security of the United States.

It cannot simultaneously be of no value to the American people and terribly damaging. And I think that shows the hollowness of the argument. We are not talking about the specifics, we are not talking about the details. About 98 percent of the arguments against this amendment have been against an amendment that has not been offered.

Madam Chairman, perhaps Members misread the CONGRESSIONAL RECORD. Perhaps thee is some other amendment coming up. Maybe, because this is a matter of secrecy, maybe there is a secret amendment on the floor that nobody told me about, and maybe that is what all the Members of the Committee on Intelligence are debating.

But for those of us who think we are debating the amendment before us, almost none of what they said has any relevance to the proposition under consideration at all.

Madam Chairman, I yield such time as she may consume to the gentlewoman from California [Ms. PELOSI], an exception among members of the Committee on Intelligence so far today.

Ms. PELOSI. Madam chairman, since the gentleman mentioned the CONGRESSIONAL RECORD, I did want to read from the RECORD.

Madam Chairman, the amendment of the gentleman from Massachusetts [Mr. FRANK] says, "Beginning in 1996 and in each year thereafter, the aggregate amounts," with an "s," "requested and authorized for and spent on intelligence and intelligence-related activities, shall be disclosed to the public in an appropriate manner."

Madam Chairman, I would ask the gentleman from Massachusetts [Mr. FRANK], when he says "aggregate amounts," what is the plural?

Mr. FRANK of Massachusetts. Madam Chairman, the aggregate amounts, it is because there is a request for amount requested and the amount voted. It is simply the gross total. If there is any question about that, we could make it clear. It is just the gross total. This is not dealing with any subtotals.

Madam Chairman, one of the Members who is going to speak on it got disgusted when he heard that is all it did, and he walked away. This is only the gross total, only the overall amount, which Members against it have said is of no value to anybody, but if we release it, it could be damaging.

Madam Chairman, let me address what they have been saying. The gentleman from Illinois said to the gentlewoman from Colorado, "Why do your constituents have to know that? They have you."

That is a touching tribute by the gentleman from Illinois to the gentlewoman from Colorado. For the gentleman from Illinois to tell the gentlewoman from Colorado that her constituents need not go beyond her say-so is very much an example of good fellowship, but it is not the way the democratic society works.

Madam Chairman, the problem we have is this: From understanding, and the Members who have said this does not tell you right. For the purpose of understanding how the intelligence community functions, knowing the gross number is not useful at all. For knowing what percentage of America's public resources are going to Intelligence, then it is useful. For knowing whether we think we can go up or down in the absence of the Soviet Union or the presence of new threats, it is useful. So it is a useful datum for people who care about public expenditures, who care about how we spend public money, and that is the only information that people here seek to deny to the public.

Ms. PELOSI. Madam Chairman, if the gentleman will yield further, I rise in support of the gentleman's amendment. I believe that we should disclose the aggregate amount and that we should move toward more openness, not only in doing that, but in the work of our Intelligence Committee.

Extensive and timely clearance of historical material, more unclassified publications on intelligence studies, more work with academic institutions, the Security Commission reforms of classification and compartmentation and more open hearings with Congress all demonstrate a new openness.

Madam Chairman, some of that started with our chairman, the gentleman from Kansas [Mr. GLICKMAN]. I commend the gentleman for it. I did yesterday, too, in commending him for the open hearing with Mr. Woolsey this year and the briefing for Members, which I think was unprecedented.

Madam Chairman, with that, once again I say that in the spirit of openness, I support the gentleman's amendment.

Mr. FRANK of Massachusetts. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, to close, let me say that Members had these buttons on about sunshine. I guess they are going to have to go back and print a little eclipse on them. What it means is when it comes to one very significant chunk of the budget, we are not going to tell the American people whether it is going up or down. We are not going to tell them what that overall total is.

Madam Chairman, I agree with those that say that knowing the gross total tells you nothing about the way in which we could do intelligence. What it tells you is what has been the judgment of the elected Representatives of how much overall we should spend.

The gentleman from Connecticut said, and I am sure he is right, our main enemies know that gross total. What we now have is a situation in which the American people will be given correct and precise information about one very important number.

I do not believe it is inconsistent with democratic practice to say that the percentage of our overall resources which go to the intelligence function ought to be withheld from the public. Yes, we as Members know it, but people here have not held that knowledge on our part is a total substitute for knowledge in the public.

Basically what people are saying is this: When it comes to the question of whether or not intelligence ought to be up or down in gross amounts, what the overall percentage ought to be, that is none of the public's business. The specifics and the details have to be withheld.

□ 1540

But to tell the public that the overall amount we spend and the direction we go in is none of their business is a very grave error. And if we do not give them the overall number, they do not know that. I hope that the amendment is agreed to.

Mr. COMBEST. Madam Chairman, I yield myself the balance of my time.

I appreciate the gentlewoman's indulgence through these 2 days. I would just simply state, rather than reiterate all the arguments, the administration and Director of Central Intelligence Woolsey are opposed to this amendment. I would urge that my colleagues support that position and vote no on the Frank amendment.

The fact that this is the end of the debate, all of the general debate has ended, I would like to commend the gentlewoman from New York for an exemplary job in the chair. It was as fair and smoothly run as any I have seen.

I would like to thank my chairman for a wonderful job. I would like to thank the Members. There was never any intent in this debate to cut off the time any Member wished to discuss the subjects at length whatever. We wanted to make certain every Member felt the opportunity to do that.

There was a tremendous amount, I think, of decorum on the floor. There was a tremendous amount of patience on the floor. With very few exceptions, there was a tremendous amount of silence on the floor.

I think this has been a very good debate. This is exactly how it should be.

I commend the Members on all sides of the issues for the work which we have just completed. I am sure they are as glad as we are that we are about finished.

Mr. FRANK of Massachusetts. Madam Chairman, will the gentleman yield?

Mr. COMBEST. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Madam Chairman, I just want to say that I hope Members will not put me at a disadvantage because I am debating all these Members who are nicer than I am.

Mr. COMBEST. Madam Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts [Mr. FRANK].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. COMBEST. Madam Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 169, noes 264, not voting 5, as follows:

[Roll No. 396]

AYES—169

Abercrombie
Andrews (ME)
Bacchus (FL)
Baesler
Barrett (WI)
Becerra
Beilenson
Berman
Blackwell
Bonior
Brooks
Brown (CA)
Brown (OH)
Byrne
Cantwell
Clay
Clayton
Clement
Clyburn
Collins (IL)
Collins (MI)
Condit
Conyers
Coppersmith
Coyne
Danner
de Lugo (VI)
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dooley
Duncan
Durbin
Edwards (CA)
Engel
English (AZ)
Eshoo
Evans
Faleomavaega (AS)
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Furse
Gejdenson
Gephardt
Gibbons
Glickman
Gonzalez
Gutierrez
Hamburg
Hamilton
Harman
Hastings
Hefner
Hinchey
Holden
Inslee
Istook
Jacobs
Jefferson
Johnson (SD)
Kanjorski
Kildee
Klink
Kopetski
Kreidler
LaRocco
Levin
Lewis (GA)
Long
Lowey
Maloney
Margolies-Mezvinsky
Markey
Martinez
Mazzoli
McCloskey
McDermott
McHale
McKinney
Meehan
Meek
Mfume
Miller (CA)
Minge
Mink
Moakley
Moran
Murphy
Nadler
Neal (MA)
Neal (NC)
Norton (DC)
Nussle
Oberstar
Obey
Olver
Owens
Pastor
Payne (NJ)
Pelosi
Penny
Peterson (MN)
Pickle
Pomeroy
Price (NC)
Rangel
Reed
Reynolds
Richardson
Roemer
Rohrabacher
Romero-Barcelo (PR)
Rose
Rostenkowski
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sawyer
Schroeder
Schumer
Scott
Serrano
Sharp
Shays
Shepherd
Skaggs
Slattery
Spratt
Stark
Stokes
Strickland
Studds
Stupak
Swett
Swift
Synar
Thurman
Torres
Torricelli
Towns
Tucker
Underwood (GU)
Unsoeld
Valentine
Velazquez
Vento
Washington
Waters
Watt
Waxman
Wheat
Williams
Woolsey
Wyden
Wynn
Yates
Zimmer

NOES—264

Ackerman
Allard
Andrews (NJ)
Andrews (TX)
Applegate
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barca
Barcia
Barlow
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Borski
Boucher
Brewster
Browder
Brown (FL)
Bryant
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Carr
Castle
Clinger
Coble
Coleman
Collins (GA)
Combest
Cooper
Costello
Cox
Cramer
Crane
Crapo
Cunningham
Darden
de la Garza
Deal
DeLay
Deutsch
Diaz-Balart
Dickey
Dingell
Dixon
Doolittle
Dornan
Dreier
Dunn
Edwards (TX)
Emerson
English (OK)
Everett
Ewing
Fawell
Fields (TX)
Fish
Fowler
Franks (CT)
Franks (NJ)
Frost
Gallegly
Gallo
Gekas
Geren
Gilchrest
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Gordon
Goss
Grams
Grandy
Green
Greenwood
Gunderson
Hall (OH)
Hall (TX)
Hancock
Hansen
Hastert
Hayes
Hefley
Herger
Hilliard
Hoagland
Hobson
Hochbrueckner
Hoekstra
Hoke
Horn
Houghton
Hoyer
Huffington
Hughes
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Johnson (CT)
Johnson (GA)
Johnson, E.B.
Johnson, Sam
Johnston
Kaptur
Kasich
Kennedy
Kennelly
Kim
King
Kingston
Kleczka
Klein
Klug
Knollenberg
Kolbe
Kyl
LaFalce
Lambert
Lancaster
Lantos
Laughlin
Lazio
Leach
Lehman
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Mann
Manton
Manzullo
Matsui
McCandless
McCollum
McCrery
McCurdy
McDade
McHugh
McInnis
McKeon
McMillan
McNulty
Menendez
Meyers
Mica
Michel
Miller (FL)
Mineta
Molinari
Mollohan
Montgomery
Moorhead
Morella
Murtha
Myers
Natcher
Ortiz
Orton
Oxley
Pallone
Parker
Paxon
Payne (VA)
Peterson (FL)
Petri
Pickett
Pombo
Porter
Portman
Poshard
Pryce (OH)
Quillen
Quinn
Rahall
Ramstad
Ravenel
Regula
Ridge
Roberts
Rogers
Ros-Lehtinen
Roth
Roukema
Rowland
Royce
Santorum
Sarpalius
Saxton
Schaefer
Schenk
Schiff
Sensenbrenner
Shaw
Shuster
Sisisky
Skeen
Skelton
Slaughter
Smith (IA)
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stenholm
Stump
Sundquist
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thornton
Torkildsen
Traficant
Upton
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Weldon
Whitten
Wilson
Wise
Wolf
Young (AK)
Young (FL)
Zeliff

NOT VOTING—5

Chapman
Machtley
Packard
Talent
Thompson

☐ 1601

Mr. ENGLISH of Oklahoma changed his vote from "aye" to "no."

Messrs. SPRATT, ROHRABACHER, KREIDLER, SCHUMER, NEAL of North Carolina, and SWIFT changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. SAM JOHNSON of Texas. Madam Chairman, I rise today in support of this measure with no additional cuts, because I believe it shows fiscal responsibility while still enabling our intelligence community to work without sacrificing the security network we so painstakingly put in place.

We are in an ever-changing world. During the 1980's almost 60 percent of the intelligence budget was spent on monitoring the Soviet Union. That was a time when Soviet communism was our greatest fear.

Now, less than half that amount is spent in that region of the world. Our greatest fears are now terrorism, nuclear weapon proliferation, and regional hot spots which directly threaten American lives here and abroad. Our intelligence community must be flexible in order to adapt to the changing times in the world—and that flexibility comes at price.

Regional hot spots include: Bosnia, Somalia, Middle East, Haiti, Cuba, Nicaragua, and parts of the former Soviet Union. The list changes daily.

These agencies are already undergoing reorganizations in response to a reduced budget and new geopolitical forces.

These changes in their mission are requiring the agencies to make a series of changes in their operations.

Some of the changes are:

Focus on terrorism, weapons proliferation, regional instability;

Reorganize the CIA and DIA in order to streamline costs and structure;

Canceling numerous overseas operations and activities; and

Reducing and restructuring our satellite collecting systems.

But, we can only cut so much. Any further reductions would truly jeopardize the effectiveness and safety of our intelligence programs.

The Intelligence Committee, under the exemplary leadership of Mr. GLICKMAN and Mr. COMBEST, have carefully analyzed each program and objective of our intelligence budget. This is a time when we must trust their judgment.

I urge all of my colleagues to support this measure with no additional cuts.

The CHAIRMAN. Are there other amendments to the bill?

If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. MCNULTY] having assumed the chair, Ms.

SLAUGHTER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2330) to authorize appropriations for fiscal year 1994 for intelligence and intelligence-related activities of the U.S. Government and the Central Intelligence Agency retirement and disability system, and for other purposes, pursuant to House Resolution 229, she reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole?

Mr. SOLOMON. Mr. Speaker, I demanded a separate vote on the so-called Goss amendment as amended by the Glickman amendment.

The SPEAKER pro tempore. Is a separate vote demanded on any other amendment?

If not, the Clerk will report the amendment on which a separate vote has been demanded.

The Clerk read as follows:

Amendment: At the end of title III, add the following new section:

SEC. 307. DISCLOSURE OF CLASSIFIED INFORMATION BY MEMBERS OF CONGRESS AND EXECUTIVE BRANCH OFFICERS AND EMPLOYEES.

During the fiscal year 1994, no element of the United States Government for which funds are authorized in this Act may provide any classified information concerning or derived from the intelligence or intelligence-related activities of such element to a Member of Congress or to an officer or employee of the executive branch of the United States Government unless and until a copy of the following oath of secrecy has been signed by that Member, or officer or employee, as the case may be, and has been published, in an appropriate manner, in the Congressional Record:

"I do solemnly swear that I will not willfully directly or indirectly disclose to any unauthorized person any classified information received from any department of the Government funded in the Intelligence Authorization Act for Fiscal Year 1994 in the course of my duties as a Member of Congress (except pursuant to the rules and procedures of the appropriate House of the Congress), or as an officer or employee in the executive branch of the Government, as the case may be.

As used in this section, the term "Member of Congress' means a Member of the Senate or a Representative in, or a Delegate or Resident Commissioner to, the House of Representatives."

Mr. SOLOMON (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER pro tempore. The question is on the amendment.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. SOLOMON. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 342, noes 85, not voting 6, as follows:

[Roll No. 397]

AYES—342

Abercrombie
Ackerman
Andrews (NJ)
Andrews (TX)
Applegate
Archer
Armey
Bacchus (FL)
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barca
Barcia
Barlow
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (OH)
Bryant
Bunning
Burton
Buyer
Byrne
Callahan
Calvert
Camp
Canady
Cantwell
Cardin
Carr
Castle
Chapman
Clayton
Clement
Clinger
Coble
Collins (GA)
Combest
Condit
Cooper
Coppersmith
Costello
Cox
Cramer
Crane
Crapo
Cunningham
Danner
Darden
de la Garza
Deal
DeLauro
DeLay
Derrick
Deutsch
Diaz-Balart
Dickey
Dicks
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Durbin
Edwards (TX)
Emerson
English (AZ)
English (OK)
Eshoo
Evans
Everett
Ewing
Farr
Fawell
Fazio
Fields (TX)
Fingerhut
Flake
Ford (TN)
Fowler
Franks (CT)
Franks (NJ)
Frost
Furse
Gallegly
Gallo
Gekas
Gephardt
Geren
Gilchrest
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Gordon
Goss
Grams
Grandy
Green
Greenwood
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hayes
Hefley
Hefner
Herger
Hoagland
Hobson
Hochbrueckner
Hoekstra
Hoke
Holden
Horn
Houghton
Hoyer
Huffington
Hughes
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Inslee
Istook
Jacobs
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, Sam
Johnston
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kim
King
Kingston
Kleczka
Klein
Klink
Klug
Knollenberg
Kolbe
Kopetski
Kreidler
Kyl
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Leach
Lehman
Levin
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Long
Lowey
Maloney
Mann
Manton
Manzullo
Margolies-Mezvinsky
Martinez
Mazzoli
McCandless
McCollum
McCrery
McCurdy
McDade
McHale
McHugh
McInnis
McKeon
McMillan
McNulty
Meehan
Menendez
Meyers
Mica
Michel
Miller (FL)
Mineta
Minge
Mink
Moakley
Molinari
Montgomery
Moorhead
Moran
Morella
Murphy
Murtha
Myers
Natcher
Neal (MA)
Neal (NC)
Nussle
Ortiz
Orton
Owens
Oxley
Pallone
Parker
Pastor
Paxon
Payne (VA)
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Rahall
Ramstad
Ravenel
Regula
Richardson
Ridge
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Royce
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Schenk
Schiff
Sensenbrenner
Sharp
Shaw
Shays
Shepherd
Shuster
Sisisky
Skeen
Skelton
Slattery
Slaughter
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stenholm
Strickland
Stump
Stupak
Sundquist
Swett
Swift
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thornton
Thurman
Torkildsen
Torres
Torricelli
Traficant
Tucker
Upton
Valentine
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Weldon
Wheat
Whitten
Wilson
Wise
Wolf
Woolsey
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—85

Allard
Andrews (ME)
Becerra
Beilenson
Berman
Blackwell
Brown (CA)
Brown (FL)
Clay
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Coyne
DeFazio
Dellums
Dingell
Dixon
Edwards (CA)
Engel
Fields (LA)
Filner
Fish
Foglietta
Ford (MI)
Frank (MA)
Gejdenson
Gibbons
Glickman
Gonzalez
Gutierrez
Hamburg
Hastings
Hilliard
Hinchey
Jefferson
Johnson, E.B.
Kildee
LaFalce
Lewis (GA)
Markey
Matsui
McCloskey
McDermott
McKinney
Meek
Mfume
Miller (CA)
Mollohan
Nadler
Oberstar
Obey
Olver
Payne (NJ)
Pelosi
Quillen
Reed
Reynolds
Roybal-Allard
Rush
Sabo
Sanders
Schroeder
Schumer
Scott
Serrano
Skaggs
Stark
Stearns
Stokes
Studds
Synar
Thompson
Towns
Unsoeld
Velazquez
Vento
Washington
Waters
Watt
Waxman
Wyden
Wynn
Yates

NOT VOTING—6

Machtley
Packard
Rangel
Smith (MI)
Talent
Williams

☐ 1623

Mr. VENTO and Mr. JEFFERSON changed their vote from "aye" to "no."

Mrs. KENNELLY changed her vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. MCNULTY). The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. GLICKMAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 400, nays 28, not voting 5, as follows:

[Roll No. 398]

YEAS—400

Abercrombie
Ackerman
Allard
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Archer
Armey
Bacchus (FL)
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barca
Barcia
Barlow
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bateman
Beilenson
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Blackwell
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burton
Buyer
Byrne
Callahan
Calvert
Camp
Canady
Cantwell
Cardin
Carr
Castle
Chapman
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Cooper
Coppersmith

Costello
Cox
Coyne
Cramer
Crane
Crapo
Cunningham
Danner
Darden
de la Garza
Deal
DeLauro
DeLay
Derrick
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Dooley
Doolittle
Dornan
Dreier
Dunn
Durbin
Edwards (CA)
Edwards (TX)
Emerson
Engel
English (AZ)
English (OK)
Eshoo
Evans
Everett
Ewing
Farr
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Fingerhut
Fish
Flake
Foglietta
Ford (MI)
Fowler
Franks (CT)
Franks (NJ)
Frost
Furse
Gallegly
Gallo
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Goodlatte
Goodling
Gordon
Goss
Grams
Grandy
Green
Greenwood
Gunderson
Gutierrez

Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings
Hayes
Hefley
Hefner
Herger
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoekstra
Hoke
Holden
Horn
Houghton
Hoyer
Huffington
Hughes
Hunter
Hutchinson
Hutto
Inglis
Inhofe
Inslee
Istook
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E.B.
Johnson, Sam
Johnston
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klein
Klink
Klug
Knollenberg
Kolbe
Kopetski
Kreidler
Kyl
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Leach
Lehman
Levin
Levy
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Linder
Lipinski
Livingston

Lloyd
Long
Lowey
Machtley
Maloney
Mann
Manton
Manzullo
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McHale
McHugh
McInnis
McKeon
McMillan
McNulty
Meehan
Meek
Menendez
Meyers
Mica
Michel
Miller (CA)
Miller (FL)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Nadler
Natcher
Neal (MA)
Neal (NC)
Oberstar
Olver
Ortiz
Orton
Oxley
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)

Pelosi
Penny
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quillen
Quinn
Rahall
Ramstad
Rangel
Ravenel
Reed
Regula
Reynolds
Richardson
Ridge
Roberts
Roemer
Rogers
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal-Allard
Royce
Rush
Sabo
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Schenk
Schiff
Schumer
Scott
Sharp
Shaw
Shepherd
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (IA)
Smith (MI)
Smith (NJ)

Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stark
Stearns
Stenholm
Stokes
Strickland
Studds
Stump
Stupak
Sundquist
Swett
Swift
Synar
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Upton
Valentine
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Waters
Watt
Waxman
Weldon
Whitten
Williams
Wilson
Wise
Wolf
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—28

Becerra
Conyers
DeFazio
Dellums
Duncan
Frank (MA)
Gonzalez
Hamburg
Hilliard
Kanjorski

McDermott
McKinney
Mfume
Minge
Murphy
Nussle
Obey
Owens
Petri
Rohrabacher

Sanders
Schroeder
Sensenbrenner
Serrano
Shays
Velazquez
Washington
Woolsey

NOT VOTING—5

Ford (TN)
Hyde

Packard
Talent

Wheat

□ 1640

Messrs. KANJORSKI, SERRANO, and MFUME changed their vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

TITLE AMENDMENT OFFERED BY MR. GLICKMAN

Mr. GLICKMAN. Mr. Speaker, I offer an amendment to the title:

The Clerk read as follows:

Title amendment offered by Mr. GLICKMAN: Amend the title so as to read: "A bill to authorize appropriations for fiscal year 1994 for the intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.".

The SPEAKER pro tempore. Without objection, the amendment to the title is agreed to.

There was no objection.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. WHEAT. Mr. Speaker, I was absent during rollcall 398 as a result of arriving in the Chamber late. Had I been present, Mr. Speaker, I would have voted "aye."

□ 1640

AUTHORIZING CORRECTIONS IN ENGROSSMENT OF H.R. 2330, INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1994

Mr. GLICKMAN. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 2330, the Clerk be authorized to make such technical and conforming changes as may be necessary to correct such things as spelling, punctuation, cross-referencing, and section numbering.

The SPEAKER pro tempore. (Mr. MCNULTY). Is there objection to the request of the gentleman from Kansas?

There was no objection.

GENERAL LEAVE

Mr. GLICKMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on H.R. 2330, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kansas?

There was no objection.

ANNOUNCEMENT OF INTENTION TO OFFER MOTION TO INSTRUCT CONFEREES ON H.R. 2264, OMNIBUS BUDGET RECONCILIATION ACT OF 1993

(Mr. ROHRABACHER asked and was given permission to address the House for 1 minute.)

Mr. ROHRABACHER. Mr. Speaker, pursuant to clause 1(c) of rule XXVIII, I hereby announce to the House my intention to offer a motion to instruct House conferees as follows:

Mr. ROHRABACHER moves that the managers on the part of the House on the disagreeing votes of the two Houses on the Senate Amendment to H.R. 2264, the Omnibus Budget Reconciliation Act, be instructed to insist on the House's disagreement to all provisions of the Senate Amendment increasing the level of federal tax on motor fuels, to recede to the Senate Amendment's absence of provisions corresponding to the energy tax provisions of the House bill, and to reject any other increase in energy taxes.

PARLIAMENTARY INQUIRY

Mr. TRAFICANT. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. TRAFICANT. Mr. Speaker, there are Democrats in the House of Representatives who do not favor the taxes in the budget bill. There is no opportunity for those Members to be heard, the way the distribution of time has been awarded.

Mr. Speaker, I would ask if those in opposition can be given a representative share of the time to be able to be heard, and, if that is possible, I would ask to be able to control that time.

The SPEAKER pro tempore. There is no rule governing that debate yet, so the Chair will not entertain the inquiry of the gentleman from Ohio.

APPOINTMENT OF CONFEREES ON H.R. 2010, NATIONAL SERVICE TRUST ACT OF 1993

Mr. FORD of Michigan. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2010) to amend the National and Community Service Act of 1990 to establish a Corporation for national Service, enhance opportunities for national service, and provide national service educational awards to persons participating in such service, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

MOTION TO INSTRUCT OFFERED BY MR. GOODLING

Mr. GOODLING. Mr. Speaker, I offer a motion to instruct conferees.

The Clerk read as follows:

> Mr. GOODLING moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the bill H.R. 2010, be instructed to include in their report section 301 of the House passed bill in so far as it adds a new subsection (d) to section 501 of the National and Community Service Act of 1990.

The SPEAKER pro tempore. The gentleman from Pennsylvania [Mr. GOODLING] will be recognized for 30 minutes, and the gentleman from Michigan [Mr. FORD] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. GOODLING].

Mr. GOODLING. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. Mr. Speaker, for obvious reasons, I strongly support the motion offered by the gentleman from Pennsylvania [Mr. GOODLING] to instruct conferees to insist on the Solomon amendment to this national service bill.

As my colleagues will recall, my amendment was initially adopted in the Committee of the Whole on July 21 by a vote of 259 to 171. It was then readopted in the House on July 28 by an overwhelming margin of 385 to 38.

What the amendment does is quite simple. It says that these national service educational and service benefits shall be considered part of budget function 500, which covers education, training, employment, and social services. As such they shall be considered as related to the programs of the Departments of Labor, Health and Human Services, and Education for budgetary purposes.

Mr. Speaker, while this amendment might seem to be self-evident and unnecessary, the fact is that the new National Service Program was being forced into competition with veterans programs in a completely different Appropriations Subcommittee and section 602(b) budget suballocation, than other education and volunteer programs.

Why was this being done? The answer is that some of the powers that be in this Congress did not want one of President Clinton's major education initiatives to compete with existing higher education programs for dollars.

So, they figured, why not shuffle this off to another Appropriations subcommittee where it can compete for dollars with veterans rather than other education, labor, and social service programs where it belongs.

This is not merely idle speculation on my part. It was already done in this year's HUD, VA bill. Moreover, while the President's national service initiative was budgeted at $384 million in fiscal 1994, the same budget was cutting back veterans' educational benefits by $340 million.

Well, our national veterans' organizations will have no part of this little shell game being played at the expense of our Nation's veterans. They are 100 percent behind my amendment to ensure that we keep these programs in distinct budget categories, subcommittees, and suballocations.

Mr. Speaker, let these new, nonveterans education programs compete with existing nonveteran education programs for funding. That's the only way we are going to make hard decisions on spending priorities in related areas.

We cannot afford to simply pile new programs on top of old ones without sorting these things out and determining what is needed and what is not.

In conclusion, Mr. Speaker, I urge overwhelming support for this motion to instruct conferees so that they will have no doubt as to the ironclad will of this House that our veterans be protected against this attempted encroachment, and that the Solomon amendment not be dropped in conference.

Mr. FORD of Michigan. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Members of the House may remember that at the time that the gentleman from New York [Mr. SOLOMON] first offered his amendment that I attempted to accept it, and that did not fit with what somebody had in mind over there about how to make a fight out of this. I am not sure. I would have to check the RECORD. But I think I voted for the gentleman's amendment, and I believe I voted for it when it came back into the House, and I did that mainly because I do not believe the gentleman's amendment does anything.

Mr. Speaker, I say to the gentleman, "I believe that your amendment has, as its purpose, to try to create the impression with some people that there is a peculiar sort of a threat to veterans programs by national service."

It is true, in a purer sense, that any money allocated in the budget to the National Service Program out of discretionary funds in the budget is in competition with every program that is in the discretionary part of the budget, and that includes some of the sacred cows, to me, like Head Start, and students aid, and all the rest of them. If I truly believed that we were setting up something directly in competition with any one of those programs, I would not be here with the bill, and moreover, Mr. Speaker, as a veteran two times over, I would not under any circumstances support anything that was a threat to veterans benefits. That would be the height of hypocrisy. The Veterans' Administration sent me to college and turned me into a lawyer instead of an autoworker.

□ 1650

I will be ever grateful for that, and I know that some people, not all, but some people in America will be glad that my life took that turn as a result of the Veterans' Administration. I have been their friend for almost 29 years in this body, and will continue to be their friend. And I will protect them. But if it makes the gentleman from New York [Mr. SOLOMON] feel better with his amendment, I have no objection to it. I recommend that anybody that feels they want to say they did something for veterans, because they have some doubt about whether they are perceived as a friend of veterans, go ahead and call for a vote and vote for it.

Mr. GOODLING. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. Mr. Speaker, let me just say to my good friend, the gentleman from Michigan [Mr. FORD], that we have great respect for the gentleman. The gentleman knows his committee and he knows his stuff.

Likewise, I was a member of the Committee on Veterans' Affairs for 10 years and served as a ranking member on that committee. For years we had to fight, even under Reagan and Bush administrations, for every nickel of the money we spent on veterans hospital health care benefits. And we really took a beating in all those years.

We are still taking those beatings. I am just concerned that the benefits in the National Service Act are benefits which take in education, which take in labor, which take in social services. Those are the benefits that are being provided in the National Service Act to these young people that would take advantage of the program.

Therefore, I just want to make sure, and I am very sincere about it, I am not playing games, I am very sincere about wanting to make sure those funds do come out of the relevant departments and the 602(b) allocations of the Departments of Education, Labor, and Social Services.

So it merely is a strong clarification so there will not be any question about it when the appropriators—and, Mr. Speaker, the gentleman from Michigan [Mr. FORD] knows the fight we have all had with the appropriators—get into the authorizing committees. So there will not be any question at all.

Mr. Speaker, that is why we are offering this, and that is why I appreciate the consideration of the gentleman from Michigan [Mr. FORD].

Mr. FORD of Michigan. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, will the gentleman from New York [Mr. SOLOMON] stipulate for the RECORD that it is probable that I stood with the gentleman every time either the Reagan or Bush budget tried to cut veterans benefits, and particularly from veterans hospitals, and voted against them on that issue with the veterans?

Mr. SOLOMON. Mr. Speaker, if the gentleman will yield, it was not just those administrations, it was also the Congress and the appropriators that we had to fight.

Mr. FORD of Michigan. Mr. Speaker, will the gentleman from New York [Mr. SOLOMON] concede I voted with the gentleman for the veterans?

Mr. SOLOMON. The gentleman from Michigan [Mr. FORD] is a strong supporter of veterans benefits in this Congress, always has been, and I hope always will be.

Mr. GOODLING. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. FORD of Michigan. Mr. Speaker, I have no further request for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. McNULTY). Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 422, nays 7, not voting 4, as follows:

[Roll No. 399]

YEAS—422

Abercrombie
Ackerman
Allard
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Archer
Armey
Bacchus (FL)
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barca
Barcia
Barlow
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bateman
Becerra
Beilenson
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Blackwell
Bliley
Blute
Boehlert
Boehner
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burton
Buyer
Byrne
Callahan
Calvert
Camp
Canady
Cantwell
Cardin
Carr
Castle
Chapman
Clayton
Clement
Clinger
Clyburn
Coble
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Coppersmith
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cunningham
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
DeLay
Dellums
Derrick
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Durbin
Edwards (CA)
Edwards (TX)
Emerson
Engel
English (AZ)
English (OK)
Eshoo
Evans
Everett
Ewing
Farr
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Fingerhut
Fish
Flake
Ford (MI)
Ford (TN)
Fowler
Frank (MA)
Franks (CT)
Franks (NJ)
Frost
Furse
Gallegly
Gallo
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Grams
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Johnson, Sam
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Ros-Lehtinen
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NAYS—7

Clay
Smith (IA)
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Watt
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NOT VOTING—4

Bonilla
Foglietta
Johnston
Packard

□ 1718

Mr. STOKES changed his vote from "yea" to "nay."

So the motion to instruct was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. McNULTY). Without objection, the Chair appoints the following conferees:

From the Committee on Education and Labor: Messrs. FORD of Michigan, MURPHY, KILDEE, MARTINEZ, OWENS, GOODLING, Mrs. ROUKEMA, and Mr. GUNDERSON.

From the Committee on Government Operations: Mr. CONYERS, Mrs. COLLINS of Illinois, and Messrs. WAXMAN, CLINGER, and MCCANDLESS.

From the Committee on the Judiciary: Messrs. BROOKS, BRYANT, SCOTT, FISH, and MOORHEAD.

From the Committee on Natural Resources: Messrs. MILLER of California, VENTO, and YOUNG of Alaska.

From the Committee on Post Office and Civil Service: Mr. CLAY, Mrs. SCHROEDER, Mr. MCCLOSKEY, Mr. MYERS of Indiana, and Mrs. MORELLA.

From the Committee on Public Works and Transportation: Messrs. MINETA, RAHALL, TRAFICANT, SHUSTER, and PETRI.

There was no objection.

□ 1720

PROVIDING FOR CONSIDERATION OF H.R. 2401, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1994

Mr. FROST. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 233 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 233

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 2401) to authorize appropriations for fiscal year 1994 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 1994, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and the amendment in the nature of a substitute recommended by the Committee on Armed Services now printed in the bill and shall not exceed two hours equally divided and controlled by the chairman and ranking minority member of the Committee on Armed Services. After general debate the Committee shall rise without motion. No further consideration of the bill shall be in order except pursuant to a subsequent order of the House.

The SPEAKER pro tempore (Mr. MCNULTY). The gentleman from Texas [Mr. FROST] is recognized for 1 hour.

Mr. FROST. Mr. Speaker, I yield the customary 30 minutes to the gentleman from New York [Mr. SOLOMON] for the purpose of debate only, pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 233 provides for the initial consideration of H.R. 2401, the National Defense Authorization Act for Fiscal Year 1994. This resolution provides for 2 hours of general debate, equally divided and controlled by the chairman and ranking minority member of the Armed Services Committee. General debate shall be confined to the bill and the amendment in the nature of a substitute recommended by the Committee on Armed Services now printed in the bill.

The resolution waives all points of order against consideration of the bill. After general debate the committee shall rise without motion. Finally, the resolution provides that no further consideration of the bill shall be in order except as subsequently ordered by the House.

Mr. Speaker, with adoption of this resolution we can begin the important debate on our Nation's defense policy. H.R. 2401 authorizes $262.8 billion for defense and for Department of Energy national security programs. This is $10.2 billion less than what was appropriated in fiscal year 1993, and $600 million less than requested by the Clinton administration.

H.R. 2401 provides funding authorizations for our Nation's defense activities, including procurement, research, development, test and evaluation, operation and maintenance, military personnel, defense conversion, and other items necessary to our national defense efforts.

The changes that have taken place in the world, particularly in the former Soviet Union and Eastern Europe, have necessitated a major review of our defense policy. It is no longer a time of escalating defense expenditures, but rather a time to bring defense spending to a level more in line with the threats facing the United States in today's world.

Mr. Speaker, all the changes in the world have led to a need to review the entire basis for the configuration of our national security apparatus. Secretary of Defense Aspin has ordered a long-term review of our national defense needs in light of shifting international security environment. This bottom-up review of our defense needs and programs is expected to be completed later this year.

Because this review is ongoing and is expected to better inform us on how we should structure our national defense, H.R. 2401 defers making dramatic policy shifts pending the completion of the Defense Department's evaluation.

Another important provision of H.R. 2401 continues the efforts we initiated last year to help those individuals and communities who will suffer as a result of declining defense expenditures. As defense contracts are terminated and military bases are closed, assistance will be required to help defense workers and businesses adjust. This defense authorization bill provides $3.054 billion for defense conversion, reinvestment, and transition assistance. We cannot forget the millions of Americans whose work helped make our country strong and secure. This assistance will help in the economic adjustment to the post-cold-war world.

H.R. 2401 also will permit the House to engage in a debate on the military policy toward gays. President Clinton recently announced his "don't ask, don't tell, don't pursue" policy on gays serving in the military. The bill reported by the Armed Services Committee codifies a modified version of the President's policy. We will have the opportunity to fully discuss the issue of gays in the military.

Mr. Speaker, the Rules Committee will be meeting later this week to fashion a second rule that will allow for the consideration of amendments to H.R. 2401. We may take up this second rule and begin the next phase of the defense debate shortly after the August recess.

Mr. Speaker, the world remains a dangerous place. We cannot deceive ourselves into thinking that, just because the former Soviet Union has broken up, we can let down our guard. Armed conflict can arise at any time, at any place, requiring the use of American power to protect our national security interests. We must remain prepared to deal with those threats.

H.R. 2401 provides the authorizations to ensure that we have the resources necessary to respond to threats to our national security. It ensures that the men and women who serve our Nation are well trained, and have the equipment and systems required to protect our shores and advance our interests in the world.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Colleagues back in your offices, if you are worried about the possibility of America going to war while we are on recess, I would ask you to listen to this debate a little bit here in the next hour.

As the gentleman from Texas has just indicated, we now have before us a rule that simply provides for 2 hours of general debate on the defense authorization bill. No amendments to this bill will be considered today under the terms of this rule.

Mr. Speaker, it is my understanding that the Rules Committee is likely to meet later this week in order to grant a second rule which would provide for the consideration of amendments to the bill. It is further my understanding that this second rule will most likely be brought to the floor in September, after the August recess. In other words, no amendment to this bill will be considered on the floor today, and it is exceedingly unlikely that any will be considered this week at all.

Having said all of that, Mr. Speaker, I must also say that I am compelled to oppose this rule. I have no objection to holding off the amendment process until September. Indeed, I believe that a bill of this size and this importance should be debated in an orderly fashion, without interruption, and without delays. The chairman of the Armed Services Committee and the ranking member feel the same way.

But there are a couple of issues that should be taken up before the August recess. First, there are several amendments dealing with the issue of homosexuals in the military. We were led to believe, the other day, that these amendments were to be considered this week, and that is what I would have preferred and most of the Members of this House would have preferred. But I was taken aback to hear some of my friends on the other side of the aisle suggest that Members should not be required to vote on that kind of an issue during the same week that we are also having to vote on the budget reconciliation bill. That attitude, Mr. Speaker, really surprises me, and I would simply say to my friends on the other side of the aisle that the American people did not send us here to dodge the tough issues. They expect us to take a stand, not to establish a quota system whereby the House of Representatives votes on only one controversial issue per week. I mean, what is going on around here?

And believe me, the decisions we are being called on to make are not going to get any easier in the months ahead. They are going to get harder.

Mr. Speaker, if we start putting off votes on all of these though calls, there is no possible way the public's business can go forward. And the public would be well advised to send people to Washington who are ready and who are willing and able to stand up for their convictions.

□ 1730

Thinking about making hard decisions leads me, Mr. Speaker, to my second reason for opposing this rule. I believe very strongly that every Member of this House should have the obligation of voting on the question of whether or not United States troops should be deployed in Bosnia or Macedonia. It is imperative that this vote take place before, not after, the August recess.

Three weeks ago today the Republican leadership of the House sent a letter to the Secretary of State, to the President of the United States, and to the Secretary of Defense asking for a briefing for all Members of this Congress on United States policy concerning the war in the former Yugoslavia. Only last night, under intense pressure, did the administration finally agree to hold a briefing.

Mr. Speaker, after attending that briefing this morning, I concluded, as did I think everybody there on both sides of the aisle, why the administration has been so reluctant to brief Congress on its policy in the Balkans. There is no policy. A chronology of events does not constitute a policy, but a chronology is all that we heard this morning. It is all that was given to us at the briefing this morning, and Democrats as well as Republicans came away scratching their heads in disbelief.

Mr. Speaker, 300 American troops are already on the ground in Macedonia, and the administration is contemplating air strikes over Bosnia. All of this is taking place when Congress is preparing to leave town for a district work period which will last nearly 5 weeks. By that time, by the time we get back, it could be too late. Our country could find itself embroiled in a war from which there is no extricating ourselves.

Mr. Speaker, the conflict in the former Yugoslavia, I think, defies rational analysis. But here we are ready to go in with troops and planes, and the President of the United States cannot or will not answer four basic questions that Congress and the American people have been asking now for weeks.

No. 1: What are our objectives, and what is our strategic interest in Bosnia?

No. 2: Is there a strong likelihood of success in achieving our defined objectives, if we find out what they are?

No. 3: Do we have an exit strategy defining both how and when we get out?

And, No. 4: Do we have the support of the American people for what could be a long campaign, one that could last for years, ladies and gentlemen?

Mr. Speaker, I ask Members to vote against this rule so that it can be sent back to the Committee on Rules.

The distinguished Republican whip, the gentleman from Georgia [Mr. GINGRICH], who will be here in a few minutes, filed two amendments to this bill which must be considered by the time this House leaves the day after tomorrow. Each of the amendments is very simple. One would prohibit the deployment of United States troops in Macedonia. We have 300 troops there now.

The other amendment would prohibit the deployment of United States troops in Bosnia, and that includes air strikes.

Mr. Speaker, did this Nation learn anything in Lebanon a decade ago? I was one of those that was here, and I was one of those who voted to put Americans into Beirut; and I was one of those who voted not to take the marines out, and they came out in body bags. I will never forget the mistake I made on that vote. It is the lesson that our troops should never ever be committed into a hostile situation without having a clearly defined mission to perform in support of a clearly defined national objective and national policy.

And where is that policy on the Balkans today? And where is that national objective?

More than that, my friends, never ever should our troops be sent into a hostile situation without having the right and the means to defend themselves against any and all eventualities. My blood ran cold the other day when a Danish general said over in Macedonia that our United States troops there would have to lay down their arms if and when they were fired upon. Did you ever hear of anything like that? Lay down your arms if you are fired upon? That is just plain nonsense. There is foreign control of our military personnel for the first time in the history of this Nation.

Now, we all had better think about that. These are the issues we ought to be debating on this floor instead of having 2 hours of general debate and then going home for 5 weeks and God knows what is going to happen.

This rule should be defeated. It should be sent back to the Committee on Rules so the two Gingrich amendments can be made in order, not after the August recess, but right now.

We are derelict in our duty as the representatives of the American people if we leave town before taking a stand on the ongoing disaster in the Balkans. It is already a catastrophe for the people who live there. Let us not make it a catastrophe and a responsibility for America as well. We are going to regret it, Mr. Speaker, if we do.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 5 minutes to the gentleman from Mississippi [Mr. MONTGOMERY].

Mr. MONTGOMERY. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in support of the rule for H.R. 2401, the fiscal year 1994 DOD authorization bill. It is a balanced bill that meets the minimum needs of the military while recognizing the realities of the changing world order and the realities of the Federal budget.

It has many provisions that are good for the military and I support them. It approves the strength levels requested in the budget, it establishes in law the "don't ask, don't tell" policy on gays in the military, it sets a minimum force structure for the Army National Guard, it establishes separate commands for the reserve components, it provides for about $1 billion in procurement authorization to modernize the Guard and Reserves, and it expands the Reserve GI bill to authorize use for graduate studies.

Mr. Speaker, I want to go on record to say this bill represents the minimum level of funding that I can support for the Defense Department. I have believed for some time now that we are going too far too fast in cutting our defense spending. The severe cuts proposed in the future are not right and will seriously damage our capability to provide for our national security.

Defense is the only Federal department that has been reduced in the past few years. We cannot continue to cut defense to pay for other programs. Defense is not a bottomless pot of money to be cut and cut. The attacks on the Defense budget come from many sides. The firewalls are gone that protected defense cuts from being used for anything except the budget deficit. In addition, there are several items that eat up defense funds that are not strictly defense items, such as $3 billion for defense conversion, $11.4 billion for environmental cleanup, $1 billion in aid to the former Soviet Union, and $1.1 billion for counter-drug activities. When you combine these programs with the required funding for the humanitarian relief operations such as in Somalia, Bosnia, and so forth, the real spending power of the Defense budget is greatly reduced. At some point we must draw a line below which we will not take the Defense budget.

Mr. Speaker, I believe we have reached that line with this year's budget. We have begun working to maintain the Defense budget at or above the current level. I urge my colleagues who share our beliefs to work with us in the coming year and years on preserving our national security.

Mr. Speaker, in closing I urge my colleagues to support H.R. 2401, the DOD authorization bill for fiscal year 1994.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the very distinguished member of the Committee on Rules from Los Angeles, the gentleman from California [Mr. DREIER].

Mr. DREIER. Mr. Speaker, I thank my friend from Glens Falls, the gentleman from New York, for yielding me this time.

Mr. Speaker, our great new ranking Republican member of the Committee on Armed Services, the gentleman from South Carolina [Mr. SPENCE], testified before the Committee on Rules and stated it very clearly. He said that the Director of Central Intelligence, Mr. Woolsey, said that we may have successfully slain the dragon, but there are a lot of snakes out there.

I was just looking at a list that my friend from San Diego, the gentleman from California [Mr. HUNTER], had of some of the trouble spots that remain in the world. We have the statement from the gentleman from New York [Mr. SOLOMON] concerning Bosnia and Macedonia, and I strongly support our attempt to try and make these amendments in the order that they are offered by the gentleman from Georgia [Mr. GINGRICH].

But there are many other trouble spots that we need to look to. North Korea is just one of them. It is a very delicate and challenging situation for us.

Mr. Speaker, now, this rule is one which does something that I have consistently opposed, and that is it establishes this two-part procedure. This schedule calls for us to have 2 hours of general debate as we proceed with this measure. And then we leave for 4 weeks.

Needless to say, there are going to be a lot of very, very varying schedules over the next 4 weeks that Members will have.

□ 1740

And then we are to come back, have a complete understanding of what took place in early August on this measure and then proceed with the process of amendments. That is not the way the system should work. We should not have two-part rules.

So, for that reason, along with the others outlined by the gentleman from New York [Mr. SOLOMON], I urge a "no" vote on this rule. Let us go back upstairs into our Committee on Rules, make the Gingrich amendments in order, come back and proceed with a process which would be more balanced. Better yet, let us have the entire debate on the Armed Services bill considered together in one rule.

Mr. Speaker, I thank my friend from Glens Falls for yielding.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 6 minutes to the gentleman from Washington [Mr. DICKS].

Mr. DICKS. Mr. Speaker, I rise in strong support of this rule and urge my colleagues in the House to vote for the rule after this debate. And it is clearly going to be a very spirited debate. I want to compliment my colleague from Mississippi, Congressman SONNY MONTGOMERY, for his speech which he just gave the House on the defense budget and our overall defense policy and defense strategy. I think sometimes the American people believe that we just have been throwing money at defense, we have been spending money in a reckless fashion. Much has been made, of course, about the buildup during the Reagan years and the buildup in defense spending. But I want to remind my colleagues that that buildup ended in fiscal year 1985. Since then we have been systematically cutting back our Defense Establishment, our defense bases, defense spending. On procurement alone we have reduced spending by about $70 billion a year in real terms. If we keep going the direction we are headed, by fiscal year 1997—and we are using here constant fiscal year 1993 dollars—we will have reduced the defense budget from a high of $360 billion in fiscal year 1985 down to $233 billion, or a reduction of $127 billion. We all know that defense spending should be reduced because of the change in the threat. The issue is how sharply, how deeply are we going to cut the budget.

I must tell my colleagues here today and the American people that I am concerned about this sharp decline in defense spending. I am concerned about what I first heard about when I came to the Congress, when I was first put on the defense subcommittee back in 1979. I listened to Gen. Shy Meyers and Adm. Tom Hayworth talk about a hollow force, a hollow Navy and a hollow Army where we did not have units fully staffed, fully manned; where we were not able to retain personnel; where we were unable to recruit people with high school educations; where the training levels got so low that we frankly were not prepared to deploy the force.

Like many of my colleagues here on the floor, we worked during the 1980's to turn that around. We worked to make certain that we had the finest people possible in the military. We tried to give them the best equipment, made sure they had the spare parts, made sure that they had the O&M for their training and readiness.

Now, today, with this sharp decline in defense spending, I am afraid we are headed back to the days of the hollow force. And what a shame, because the troops we sent out into the gulf just a few years ago did an extraordinary job. It probably was the finest military operation ever conducted by our Government. We had outstanding people.

I went out to the gulf twice with the distinguished chairman of the Subcommittee on Defense of the Committee on Appropriations, the gentleman from Pennsylvania, Congressman MURTHA. We had an extraordinary force that did a great job. They were well equipped, well trained, were ready to do their job.

I am just concerned as we keep cutting down defense spending, as we keep reducing the training and the readiness, that we are going to be back and have that same hollow force again.

I urge our colleagues here in the House to take a very serious look at the direction in which we are headed, and I urge our former colleague, the new Secretary of Defense, Les Aspin, to come forth and explain the new administration's defense policy. We need to know from this so-called bottom-up review what we are going to be spending in the near future and whether we are going to be protecting readiness and training and the key essentials to a good military force.

I think it is a challenge for this Congress and for the new administration.

I have been concerned about the loss of jobs all over this country, many in the State of California, where we have had thousands and thousands of people lose their jobs in the defense industry. I worry about whether we are going to have the industrial base in the future to build the defense systems that we relied on so heavily in the gulf. These people are going to go into other activities.

We talk so much about conversion, and it is a worthy concept, but we are in a market economy and when you change your products you have to be able to sell that product or you have to go into another area of activity.

So, I think we need to seriously think about the future here. I look forward to the debate in the fall on the defense authorization bill and debate on the defense appropriations bill. Most importantly, we need, as a Congress—and we have under the Constitution ultimate responsibility for raising the military forces of our country—we need to make certain that we are not letting a great force decline and become second rate and hollow as it did after the Vietnam War.

I know that there are a group of Members of this Congress, many of them on my side of the aisle, who have been meeting recently, who are concerned about this. We want to make it clear to Secretary Aspin and the President that there is a solid group of Democrats who are prepared to stand up and defend the defense budget. You are going to hear more from us in the future.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume. I associate myself with the remarks of the gentleman from Washington. He has been an outstanding member of the Subcommittee on Defense of the Committee on Appropriations.

Mr. Speaker, I yield 2½ minutes to a distinguished member of the Committee on Armed Services, the gentleman from California [Mr. HUNTER].

Mr. HUNTER. I thank the gentleman for yielding this time to me.

Mr. Speaker, I am happy to follow my friend, the gentleman from Washington, because he laid out the mistakes of the past that we made that he saw in 1979 and I saw, coming in as a new Member, in 1980; the hollow Army, the fact that we had 2,000 petty officers a month leave the Navy, the people who actually operate the Navy; military families on food stamps. And we said, as we said before, never again.

My colleague has pointed out the problems that we have had, the fact that defense spending has declined, not since last year or the year before, but since 1986 it has been in real decline.

I just wanted to take a moment to match up the threat with this decline in dollars and see the reduced threat that will meet this reduced budget.

Despite the fall of the Soviet Union or the dissolution of the Soviet Union, we have more complex problems than we had beforehand. We have the Soviet Union that now, instead of consisting of one Soviet Government that has nuclear weapons under tight control, we now have four former Soviet States, all of which have nuclear weapons in their possession. The pink slips on those nuclear weapons are in doubt. We have some changing situations that are based on politics. We do not know which way those politics are going to go. We are not sure that we are going to be able to follow through on disarmament of those systems.

In North Korea we have a government that is charging straight ahead on the development of a nuclear device and the means to carry that device into the territories of our allies and our own military.

□ 1750

We are not able to stop North Korea from doing that. They are marching ahead strongly.

Let me just say, I think this is the start of a downward slide. It is the first of a 5-year plan that is going to take this Nation back to unpreparedness. We should be asking the hard questions now, not putting them off for 30 days. We are avoiding those hard questions and those tough issues.

Mr. Speaker, I would urge a "no" vote on the rule.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Indiana [Mr. MCCLOSKEY].

Mr. MCCLOSKEY. Mr. Speaker, I thank the gentleman from Texas for yielding me this time.

Mr. Speaker, I rise in strong support of the rule, and particularly to my good friend, the gentleman from New York [Mr. SOLOMON], I would say the Bosnian situation and the fact that opportunities for amendments as to a Bosnian-Balkan policy were rejected in the DOD bill is no reason in essence to be against the rule.

I, for one, and the gentleman from New York [Mr. SOLOMON] think the time for a detailed debate and the give and take of that, the education that would be involved, is long overdue in this House. I hope we do get it, but I think it would be a mistake to use an argument on the DOD bill to arbitrarily tie the President's hands on foreign policy.

The simple fact is that I do not recall this was ever done on the Republican side or attempted in 12 years of Republican Presidential action or proposals in the international arena.

Even as we talk, the news is coming over the AP wire of Reuters that if anything, given the more assertive actions on the part of the west, the Serbs are picking up their offensive. They have taken Mount Igman. They have cut off in essence supplies going in and out of Sarajevo, and if anything, are really saying that a full-scale final onslaught on Sarajevo is imminent.

If that happens, we can see hundreds of thousands more dead, millions more refugees and real international security problems for us throughout Eastern Europe and elsewhere.

I would note this is not a partisan issue. Such noble Republican leaders as Senator DOLE and the gentleman from Illinois [Mr. HYDE], our dear colleague in the House, I think generally in regard to how the gentleman from Illinois [Mr. HYDE] would vote on this rule would share my concerns.

So I would just say this should not be used as a vehicle to tie the President's hands.

Mr. Speaker, I am in strong support of the rule, and hopefully this issue will be resolved within a matter of days, not weeks or months.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the very distinguished gentleman from Wisconsin [Mr. ROTH], who came to this Congress with me 15 years ago and who has been an outstanding member of the Committee on Foreign Affairs.

Mr. ROTH. Mr. Speaker, I thank the gentleman for yielding this time to me, but 2 minutes is not a very long time when we are here to debate a very important issue.

We have a duty and a responsibility, each and every one of us, because each and every one of us has an oath registered in heaven that we will uphold the Constitution of the United States.

By all accounts, the President is poised to begin military operations in the Balkans, to begin bombing in the Balkans.

This is serious business. Our Air Force, our Navy, our ground troops are assembled in the Adriatic. The British, the French, the Germans, all have been consulted. This Congress has not been consulted.

When you read the Constitution, only Congress can declare war. The President can ask for a declaration, but only Congress can declare war.

We are not meeting our obligations. Make no mistake about it, the first time a bomb drops, we are involved in that bloody civil war.

Congress has an obligation, yet Congress is mute, mute as a tomb.

If air strikes begin and they are not successful, what is the next step? Escalation.

What took place? We have 300 troops in Macedonia. Were any of you consulted? There was not a single Congressman who said yes, put in 300 troops in Macedonia; but yet when our troops are on the border and they enforce the embargo, the Serbs will go after them.

And what has the President said? In a letter to me the President said:

> Let me assure you that I will not send our American forces anywhere without protecting them, if necessary. Our contingency plans provide for their full protection if needed and requested.

What does that mean? That is like trying to decipher what they had to decipher the day before Pearl Harbor. Our contingency plans provide for their full protection. Is there anyone in Congress who knows what these contingency plans are?

The SPEAKER pro tempore (Mr. MCNULTY). The time of the gentleman from Wisconsin has expired.

Mr. SOLOMON. Mr. Speaker, I yield 30 additional seconds to the gentleman from Wisconsin [Mr. ROTH].

Mr. ROTH. Mr. Speaker, I ask all of you to just take a look at the classic Barbara Tushman's "Guns of August." It concludes:

> Afterwards there was no turning back. The nations were caught in a trap made during the first 30 days out of the battles that failed to be decisive, a trap from which there was no exit, no escape.

This is history talking, friends. This is serious business. Do not close your eyes to it.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 5 minutes to the gentleman from Maine [Mr. ANDREWS].

Mr. ANDREWS of Maine. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I stand in support of this rule. I think as many can gather from the comments made already that we are in for a robust and very important debate on our national defense and our national defense priorities.

This Nation needs such a debate.

Let me just say, Mr. Speaker, as a member of the Committee on Armed Services, I am quite excited about the prospect of this debate because we have had at the helm of our committee a new chairman, the gentleman from California [Mr. DELLUMS], who has exercised tremendous leadership and vision in bringing all sides of this issue together, calling for an opening of minds and a complete and thorough analysis of not only what we are going to be spending in terms of defense, but also the threats and the concerns that we are facing as a nation, and to put this debate in the most solid context possible and look forward to rebuilding this Nation's economic strength as we rebuild the strength of our Nation's security.

It was the former Director of the Office of Management and Budget who quipped that the cold war ended up being a race to bankruptcy between the Soviet Union and the United States. He concluded that fortunately the Soviet Union won.

Well, Mr. Speaker, they might have won, but they did not win by very much.

We have to recognize in this country that the strength and security of this Nation and our ability to be leaders in the world is going to be based more upon our economic strength and the security of our people here at home more than anything else. Unless we recognize and address the priorities that we need to address as a nation with respect to that economic strength and the great needs that have gone unmet in this country, then we are not going to have the security. We are not going to have the capacity for international leadership. We are not going to have the kind of Nation that our children deserve. So that is what this debate, Mr. Speaker, is all about.

I am very pleased that the Armed Services Committee looked very carefully at the issue of the economic strength of this Nation, particularly when it comes to economic conversion. That is going out to all the industries and all the people and all the communities and states across this country who were there when our Nation asked them to be there, to provide for the Nation's defense and are now finding themselves without hope, in some cases without opportunity, without a place to turn.

This committee has looked very carefully at this issue and will bring before this House a debate and a proposal for economic conversion that addresses the fundamental foundation of this country's economic strength. Much of the industrial base that helped to serve this Nation in terms of defense is there as a resource to help this Nation rebuild its economic foundation and become competitive, in fact become leaders in the world then it comes to critical technologies and critical areas that this Nation can invest in and take advantage of in the years to come.

One example, Mr. Speaker, is in the area of shipbuilding. We have a tremendous opportunity as a Nation, a shipbuilding opportunity that provides this country with an enormous opportunity to take advantage of the growing amount of shipbuilding orders that we can expect over the next few years. Ninety-five percent of the goods and services that are imported and exported in this Nation are on ships, but we have watched over the last 12 years our commercial shipbuilding industry go from an international power to virtual nonexistence, to the point where because our competitor nations have subsidized and assisted their commercial shipbuilding industries and because our Nation has turned its back on commercial shipbuilding, we have watched virtually 100 percent of our market share in this vital industry go overseas, along with 120,000 shipbuilding jobs.

□ 1800

This bill before us, Mr. Speaker, will provide a specific program that addresses that critical ship building industrial base, seeks to level the playing field, seeks to make a tremendous investment in our people and our ship building industries to give us the chance to level the playing field and provide for jobs and opportunities for ship builders and shipyards across this country.

My colleagues, the time has come for this Congress and for this Nation to look at our national security and our national defense, not just in terms of missile systems, or tanks, or even personnel, but in terms of our economic strength, in terms of the security of our people, in terms of our ability to be influential, because this Nation has come together and grappled with its problems at home.

That is what we are going to see in this debate, those are the issues that this particular bill is addressing, and, my colleagues, I do hope that we support this rule and this bill coming before us.

Mr. SOLOMON. Mr. Speaker, I yield 3 minutes to the gentleman from Minnesota [Mr. RAMSTAD], an outstanding Member of this House.

Mr. RAMSTAD. Mr. Speaker, I thank the gentleman from New York [Mr. SOLOMON] for yielding this time to me.

Mr. Speaker, it is essential that the Congress address further United States military involvement in the Yugoslav civil war now—not after the August recess. There is a full-scale war waiting to happen in the Balkans involving U.S. troops and Congress is asleep at the switch. It is also essential that the Clinton administration start consulting Congress before they haphazardly insert the U.S. Armed Forces into the worst quagmire in the world today.

Mr. Speaker, it is highly unfortunate that we have not found an appropriate forum to discuss this matter in the House until now.

Back on June 10—2 months ago—the Clinton administration announced that the United States would send 300 of our troops to join U.N. peacekeeping forces in the former Yugoslav Republic of Macedonia.

On June 24, 85 Members of this House—from both sides of the aisle—joined me in sending a letter to President Clinton expressing our "strong concerns and reservations about the lack of a well-defined mission" for this troop deployment.

On July 5, the first contingent of United States troops arrived in Macedonia. Now, more than a month later, we are finally asking—what exactly are they doing there?

Despite the fact that no clear mission has yet been defined for these ground forces, they are under United Nations command as peacekeepers and are the first U.S. combat troops to wear the blue helmets in our Nation's history.

The Danish commander of our troops clearly revealed that our troops will serve essentially as a tripwire when he said, "if the Serbs attack, then I want the Americans there."

Mr. Speaker, it is clear that 300 United States troops, and a total U.N. force of 1,000, are no match for a Serbian assault. They are simply not in a position to defend—or even effectively monitor—the 260-mile border which separates Macedonia from Serbia and Albania.

As Gen. Colin Powell has stated, the first rule of U.S. military engagement should be this: Before deploying U.S. forces anywhere and putting American lives at risk, it is absolutely imperative to first define their mission.

Equally important is the critical question of whether U.S. troops can complete that mission and how we can get them out if they get into trouble.

In a letter to me dated July 19, President Clinton said:

> Let me assure you that I would not send American forces anywhere without ensuring that we would be able to protect them if necessary. Our contingency plans provide for their full protection if needed and requested.

But, last month, the Macedonia Defense Minister said that "if war erupted, Macedonia would appeal for 5,000 to 10,000 more American troops."

Mr. Speaker, we need to ask how would the United States respond to such a request? Are we prepared to send thousands of young men and women to the Balkans if needed?

Mr. Speaker, the lessons of Vietnam should be clear. Our commitment of 300 ground troops in Macedonia and 20,000 United States troops for the NATO operation in Bosnia clearly threatens to escalate our military involvement in the Balkans. Our presence will not solve the intractable Balkan puzzle but will only expand the fighting there.

It is high time President Clinton consulted the Congress and it is high time the Congress let him know that American troops must not be used as symbolic sitting ducks anywhere in the world.

I urge my colleagues, especially the 85 who signed my letter to the President and have cosponsored my resolution disapproving of the United States troop deployment to Macedonia, to oppose this rule and give us a vote on the important amendments offered by Mr. GINGRICH now.

Let us get United States ground troops out of Macedonia and out of the Balkans before its too late.

Mr. SOLOMON. Mr. Speaker, I yield 3 minutes to the gentleman from Florida [Mr. MICA], a distinguished, outstanding new Member of this House, the brother of a former Member, Dan Mica.

Mr. MICA. Mr. Speaker, I come here this afternoon to urge my colleagues to defeat this rule because I, too, offered an amendment to the Committee on Rules that will not be heard, and I think it is an important amendment and an important question that needs to be resolved before this Congress recesses and does not return for another month.

Along with my colleagues, every one of us supported, very strongly, the humanitarian effort when we provided aid to the suffering in Somalia. I was proud to be supportive of that effort. The original intention of that effort was to have our troops there from December to January. The estimated cost was $200 to $300 million.

My colleagues, we will not get an opportunity to debate what is happening there now. This is August, and let me say to my colleagues what we have done:

We have spent almost a billion dollars, and we are about to spend another half a billion dollars. Just a few days ago, we stood on the floor of this House of Representatives and agonized for days about spending $3 billion aid for our flood victims, and we cannot spend a few minutes here to discuss and debate this issue intelligently?

Let me tell my colleagues what the situation is: There are 20,000 troops in Somalia today. Four thousand of those troops are American, American sitting ducks. But is there a big conflict there? The latest reports are that there are 300 rebels. They are down to 300 hardcore rebels. We are now spending $10 for military aid for every $1 of humanitarian aid. Now, we are going to spend another half billion dollars of the taxpayers' hard-earned money there, and because of this rule, we will not have an opportunity to discuss this important issue before we leave.

The former Ambassador of the United States to Somalia told a House committee very recently that we are turning triumph into tragedy.

This Congress has a responsibility to act, not to react.

My colleagues heard about the body bags that my distinguished colleague from New York [Mr. SOLOMON] just mentioned in his tragic personal experience. That should not be the experience of the United States, one to lose lives or one to waste money.

I have a quote from a nurse serving in Somalia, Mr. Speaker. Let me repeat the words of an American nurse who recently wrote and said:

"We are not wanted in Somalia."

"Nor can we solve Somalia's political problems."

Unfortunately, that is what this situation has evolved into—a civil and political question. But we will not get an opportunity to debate that matter here because this rule denies me the opportunity to bring that question before the House, and I urge the defeat of this rule.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 4 minutes to the gentleman from California [Mr. DELLUMS], the distinguished chairman of the Committee on Armed Services.

Mr. DELLUMS. Mr. Speaker, I have been listening very carefully to the debate, and I am troubled on the procedural issue, and I would like to comment on the substantive question.

Mr. Speaker, Members, I take second to not one person in this body concerned about maintaining the integrity of Congress' ability to engage in the process of declaring war. I am one of the few Members on this side of the aisle that voted against the War Powers Act on the grounds that I felt that it was a permanent Gulf of Tonkin resolution, that it diluted Congress' ability to engage in the declaration of war, if that would be the wisdom of this body.

This gentleman felt so strongly about that, when the President of the United States, former President Bush, was saying to the American people that he saw no need to come to the Congress for any support to use violence in the conduct of Desert Storm, this gentleman felt so strongly about that, that I took the President of the United States to court to maintain the integrity of the Constitution of the United States.

So, I understand the gentleman's arguments, but now let us go to process.

As this gentleman understands it, Mr. Speaker, all we are debating here is a rule that governs general debate. As I understand it, theoretically the Committee on Rules, and I am not a member, and I am certainly not part of the leadership of this body, but the Committee on Rules has not turned down any amendments that have been introduced and at least theoretically could come back to the Committee on Rules and determine a second rule. This gentleman was always told that there would be more than one rule. So what I am having great difficulty understanding is why we are importuning this particular rule, that has nothing to do with anything except general debate.

□ 1810

Mr. Speaker, I would be happy to yield to my colleague, the gentleman from New York [Mr. SOLOMON], so I can understand.

Mr. SOLOMON. Mr. Speaker, I want to commend the gentleman from California [Mr. DELLUMS] because we have such great respect for the chairman of the Committee on Armed Services. He has been a very, very fair chairman, although we do not always agree.

But let me say the reason for this debate is that we are not going to have an opportunity to discuss this issue. The gentleman is right, this is a simple rule which offers 2 hours of general debate. But it does not offer any opportunity for us to have a vote on the issues that are of such great concern to our constituents back home, and those concerns are Bosnia and Macedonia. Our young men and women are serving in that part of the world today.

That is the problem. Perhaps, we are going to put out another rule tomorrow which might make in order these amendments that we want to consider on the floor, but we will be denied the right to vote on them before we recess this coming Friday. We will not take them up until we come back 5 weeks from now.

We are concerned that President Clinton, or whomever, may institute some air strikes and commit some ground forces during that period of time. We ought to at least have the right to be in a consultative position in at least working with the President on these issues. We are going to be denied that under the present procedure.

Mr. DELLUMS. Mr. Speaker, reclaiming my time, I thank the gentleman from New York [Mr. SOLOMON]. I listened very carefully to the gentleman. As the gentleman well knows, this gentleman feels very strongly about the prerogatives of Congress. I came here as an advocate of peace, and feel very strongly about Congress' role in warmaking.

But the gentleman from New York [Mr. SOLOMON] would agree with me that at this particular moment, this particular rule is not controversial in that regard because the Committee on Rules can come back with a second rule and, at least theoretically, make those amendments in order.

Mr. Speaker, I would ask the gentleman from New York [Mr. SOLOMON], am I not correct?

Mr. SOLOMON. Mr. Speaker, if the gentleman will yield, the gentleman is not correct in that sense, because this is the only vote that we will be able to have in which we will be able to bring back to the floor the amendment that we want. If we do not get a new rule, then there is no opportunity to meet this issue later on this week.

Mr. DELLUMS. Mr. Speaker, reclaiming my time, as this gentleman understood it, I was told that the gentleman probably would bring back a second rule that would be voted on before we leave here that would govern a number of amendments.

Mr. SOLOMON. Mr. Speaker, if the gentleman will yield further, I would say to the gentleman from California [Mr. DELLUMS] that, no, that policy has been changed by his leadership on that side of the aisle. Now they say that if the Committee on Rules produces another rule tomorrow, we will not bring that rule to the floor until the week that we return from the August recess.

Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Michigan [Mr. UPTON].

Mr. UPTON. Mr. Speaker, I come tonight to oppose the rule, and I come tonight to oppose the rule because of the failure of the Committee on Rules to offer an amendment that would do very much along the lines of what we did in the gulf war back in 1991.

Back in 1991 I supported an amendment to a resolution offered by the gentleman from Illinois [Mr. DURBIN] and the gentleman from Florida, Mr. Bennett, that the adoption of this concurrent resolution expressed the sense of Congress that the Constitution vests the power to declare war in Congress and the President must gain congressional approval before any offensive military action can be taken against Iraq. It was adopted in this House by a vote of 302 to 131.

Mr. Speaker, I might note in looking at the Congressional Quarterly from that day back in 1991, all of the current Democratic members of the Committee on Rules voted for this resolution.

The reason that I bring this up tonight is that we have a very similar situation with what is happening in Bosnia today, and it is my understanding that a number of Members wanted to bring a similar resolution up before any action might take place in Bosnia.

Mr. Speaker, if I might inquire of the gentleman from Texas [Mr. FROST] as to what his reaction might be to a similar amendment when it might be offered, knowing that in fact the gentleman voted for the same resolution when it came up in the situation with Iraq. I note that this is along the same circumstances of what we had in the war with Iraq.

Mr. Speaker, when Members, myself and others, would go back to our districts, it seemed like wherever we went, church, the grocery store, any place we went, people were asking us for a number of months what might happen in Iraq, and they would hope that Congress would take some type of action before we do so.

Mr. Speaker, I was among the 41 Republicans that supported this Durbin-Bennett resolution back in January 1991. I note that the gentleman from Texas [Mr. FROST] voted for it on the floor as well.

Mr. Speaker, it seemed to me as I was watching this debate on TV in my office that we are sort of under the same type of parallel circumstance here.

Mr. Speaker, I would inquire of the gentleman from Texas [Mr. FROST] what his reaction might be.

Mr. FROST. Mr. Speaker, will the gentleman yield?

Mr. UPTON. I yield to the gentleman from Texas.

Mr. FROST. Mr. Speaker, in response to the gentleman, on his time, my recollection of the events leading up to the invasion and then the war against Saddam Hussein was that then President Bush, of course, committed troops into Saudi Arabia and had them on the ground for a sustained period of time. There was a lot of discussion as to whether or not there would be a vote in the House.

Ultimately the President, in agreement with our leadership, and I recall it was the leadership on both sides, agreed that there would be a series of votes, and there in fact were a series of votes. I voted with the President, with President Bush, even though he was from the other party. I voted with him to authorize the use of force.

Mr. UPTON. Mr. Speaker, reclaiming my time, I also recall that on the Bennett-Durbin resolution, which came prior to the resolution authorizing the President to send troops and to use force, that we had this resolution which in fact required that the Congress take some action before we had that resolution. I know that the gentleman from Texas [Mr. FROST] supported it on the floor. I would suspect that the gentleman supported it in the Committee on Rules as well.

Mr. Speaker, it seems to me as we enter this same debate now with Bosnia, not having the ability to offer a similar amendment, that we ought to have the same type of resolution.

What I would like to know from the gentleman from Texas [Mr. FROST], with his good work on the Committee on Rules, is if we might have something similar.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 4 minutes to the gentleman from Virginia [Mr. PICKETT].

Mr. PICKETT. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise in support of the rule. I think it is way past time that we begin the debate on the defense authorization bill for 1994. As my colleague, the gentleman from Washington [Mr. DICKS], said in his remarks a few moments ago we are on the verge of getting a hollow force for our Nation.

Mr. Speaker, I would like to read a letter that was directed to me just a few days ago, prior to the time that we marked up the defense authorization bill for 1994.

This letter from a master chief aviation ordnanceman presently on active duty in the U.S. Navy.

He says:

DEAR MR. PICKETT: Let me preface this by saying that I have never before corresponded with a senior outside my immediate chain of command and it is only because I have reached the limit of my endurance that I feel compelled to do so now.

I am a Master Chief Aviation Ordnanceman currently serving in a Command Master Chief billet in Attack Squadron EIGHTY-FIVE (the liaison point between the enlisted men and the Commanding Officer) and deploy aboard USS AMERICA (CV–66). My career encompasses over 20 years of Naval service, 13 of which have been served in various tours of sea duty or in overseas commands. My two shore duty (continental United States) tours have been on the prestigious staffs of COMTRALANT and COMNAVAIRLANT.

I have been awarded three (3) Navy Commendation Medals, and two (2) Navy Achievement Medals among my many awards and accolades. My motivation in giving you this background information is to assure you that I am a dedicated career Master Chief Petty Officer vice a disgruntled sailor looking for a new venue to express a grievance.

I am writing to you due the genuine concern I have for the safety of the crew aboard USS AMERICA (CV–66). This ship is scheduled to deploy in 4 weeks to the Mediterranean/Adriatic Sea and may very well be called into action. While I am proud to serve in the United States Navy and do my part to protect United States interest I am greatly distressed that the deplorable condition of this ship may prevent a well trained crew from being able to defend themselves.

As I write this we sit in the Virginia Capes Operating Area on only two generators, a fire in the number four switchboard, without radar, and unable to pump fuel, thus impairing our ability to launch aircraft and "wage war". This has been the status quo throughout our workup cycle. Other problems we have experienced previously and routinely include: major steam leaks (on one occasion with temperatures reaching 1200F in some spaces and literally melting electrical cables, warping bulkheads and scorching paint), main space fuel oil leaks, generator losses, insufficient fresh feed water requiring the ship to go on water hours, and the loss of catapults. The ship limped in off Refresher Training (REFTRA) with only one of four catapults operational. The fact that the ship recently failed its Operational Propulsion Plant Examination (OPPE) is not surprising.

I want to make it very clear that I do not attribute this state of degradation to any member of the crew. Quite the contrary, there are 5,000 men aboard, from the Commanding Officer down to the most junior airman, who continually give 110% effort. I do attribute it largely to insufficient funding that prevents us from procuring the vital parts and spares necessary to keep this "Old Lady" steaming and our aircraft flying, and the very, very demanding operational tempo that this ship and Air Wing has sustained over the almost three years that I have currently served aboard.

Sir, I, and every man and woman on active duty in the United States military have sworn an oath to support and defend the Constitution of the United States and to obey the orders of the Officers appointed over us. This we gladly accept. Send us to sea, send us to war, but don't send us to our deaths aboard crippled ships that cannot adequately defend themselves.

□ 1820

Mr. Speaker, the time has come to remedy the hollow force that we are facing in our Nation.

Mr. SOLOMON. Mr. Speaker, I yield the balance of my time to the gentleman from Georgia [Mr. GINGRICH], our minority whip, soon to be majority whip, we hope.

The SPEAKER pro tempore (Mr. McNULTY). The gentleman from Georgia [Mr. GINGRICH] is recognized for 4 minutes.

Mr. GINGRICH. Mr. Speaker, I thank the gentleman from New York for yielding time to me.

Let me say that I think it is important for this Congress to have a debate, for this House to have a debate before we leave town. We are going to be gone during most of August and the beginning of September.

It is clear from the newspaper accounts and from various briefings that there is a very serious possibility of military action in Bosnia involving, at a minimum, the area around Sarajevo and involving, at a minimum, air strikes by American aircraft. There is a possibility that something could happen in the Kosovo region involving the area around Skopje and the potential where 300 American troops have now been sent to a landlocked country and where they are potentially faced with 20,000 Serbians.

All of this is going on, frankly, with very inadequate consultation with the Congress. But I want to raise a deeper point. I want to be very candid.

I, frankly, believe that, I do not mean this in a partisan sense, I mean it only in terms of observing what has been happening so far, that this administration's approach to the issue of military and diplomatic planning is exactly backward.

Let me explain what I mean. I believe when we are faced with a problem around the world, we first turn to our professional military and we ask them to develop a contingency plan.

We say to them, if we take step A and the other side does not agree and they do something we do not like, what is step B? And if we take step B and the other side does not agree and they do something we do not like, what is step C?

The great virtue of Desert Shield/Desert Storm was that we amassed overwhelming power in the region and were capable of crushing the Iraqi military with minimum loss of American lives in a 4-day ground campaign preceded by a 6-week air campaign. That is a decisive, militarily defined contingent plan that allows the United States to impose its will.

In that kind of correct professional approach, our military first tells us what we are capable of. Then we tell the diplomats what risks we are willing to take, and we ask the diplomats to use America's negotiating leverage to achieve our end. But we are prepared, once we have staked our national prestige, to execute a professionally thought-out military campaign.

What we have today is the opposite. We have diplomats, just as in Vietnam and elsewhere, dragging us down a road, just as in South Korea in 1950, saying things without adequate planning. We have American troops being put at the point without logistics, without support, without a capability of immediate reinforcement.

We have a situation around Sarajevo where we basically have a Dien Bien Phu type of environment.

The only air field is covered by direct fire by the Serbians. We are in a situation where the mountains look straight down into the city, and there is a desperate danger that the Serbians could take actions which we would be currently unable to respond to, only with air power.

My only point to the House is that with no consultation with the Congress, with no understanding of the contingency plans, with no preparation for the downside on the military side, the administration has gone off to our NATO allies, where they are actually first negotiating the diplomatic side, and then asking the military questions.

They are saying "Gee, what do you diplomats think we might get 16 countries to agree to?"

And then they are saying to the military, "Could you execute item A?"

And the answer is, technically, yes, we can execute item A.

But no one is then saying, gee, what if the Serbians do not agree to item A? Or what if the Bosnian Serbs do not agree to item A?

Finally, we have the question of the United Nations rules of engagement. The Danish general assigned by the United Nations to Macedonia suggested to the Americans that the correct response on being confronted was to surrender.

Now, I would just suggest that it is in the Congress' interest to have this debate before we go home. I would ask for a no vote on the rule so we have an opportunity to thoroughly explore this.

Mr. FROST. Mr. Speaker, to conclude debate, I yield the balance of my time to the gentleman from California [Mr. DELLUMS], chairman of the Committee on Armed Services.

The SPEAKER pro tempore. The gentleman from California [Mr. DELLUMS] is recognized for 2 minutes.

Mr. DELLUMS. Mr. Speaker, first, to the substantive issue, as I have said before, I take second to no person in this Congress preserving the integrity of the prerogatives of the Congress when it comes to the incredible notion of the use of force anywhere in the world. But now let us go to the process.

The bill that is before us is the 1994 authorization bill. That will probably not go to conference until October. And even if the amendments passed, this is a symbolic act. This is a 1994 authorization.

If they did, indeed, go into Bosnia, 1993 dollars would be used.

Let us deal honestly with each other. This is simply a symbolic act. If we really want to raise the policy issue, then raise the issue on policy terms.

The House Committee on Armed Services does not have jurisdiction over the War Powers Act. That is the business of the Committee on Foreign Affairs.

I would suggest that not one Member on the other side of the aisle went to the Committee on Rules and asked for a point of order waiving jurisdiction of the Committee on Foreign Affairs.

If we want to talk policy, then bring a policy resolution. This is an inappropriate vehicle to raise the issues.

If we want to stop war in the context of Bosnia, then do not engage in a symbolic act of a 1994 authorization bill. Have the courage to stand up and bring a policy matter to the floor of this Congress, and we can debate.

As an advocate of peace, I will stand there saying we should not introduce ourselves violently in other places in the world. And as a mature Nation, we ought to find a way to solve our problems politically and diplomatically.

My colleagues, this act today is impotent. It is symbolic. It is meaningless. Let us get on with discussing and debating the fiscal year 1994 DOD authorization.

If we really want to stop policy, bring the War Powers Act to the floor.

□ 1830

The SPEAKER pro tempore (Mr. McNULTY). The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SOLOMON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 250, nays 175, not voting 8, as follows:

[Roll No. 400]

YEAS—250

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Barca
Barcia
Barlow
Barrett (WI)
Becerra
Beilenson
Berman
Bevill
Bilbray
Bishop
Blackwell
Bonior
Borski
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Carr
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Engel
English (AZ)
English (OK)
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Glickman
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Harman
Hastings
Hayes
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Holden
Hoyer
Hughes
Hutto
Inslee
Jefferson
Johnson (GA)
Johnson (SD)
Johnson, E.B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lehman
Levin
Lewis (GA)
Lipinski
Lloyd
Long
Lowey
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCurdy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Murtha
Nadler
Natcher
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reed
Reynolds
Richardson
Roemer
Rose
Rostenkowski
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Schenk
Schroeder
Schumer
Scott
Serrano
Sharp
Shepherd
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (IA)
Spratt
Stark
Stenholm
Stokes
Strickland
Studds
Stupak
Swett
Swift
Synar
Talent
Tanner
Tauzin
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Valentine
Velazquez
Vento
Visclosky
Volkmer
Washington
Waters
Watt
Waxman
Wheat
Wise
Woolsey
Wyden
Wynn
Yates

NAYS—175

Allard
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Clinger
Coble
Collins (GA)
Combest
Cox
Crane
Crapo
Cunningham
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Emerson
Everett
Ewing
Fawell
Fields (TX)
Fish
Fowler
Franks (CT)
Franks (NJ)
Gallegly
Gallo
Gekas
Gilchrest
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Goss
Grams
Grandy
Greenwood
Gunderson
Hancock
Hansen
Hastert
Hefley
Herger
Hobson
Hoekstra
Hoke
Horn
Houghton
Huffington
Hunter
Hutchinson
Hyde
Inglis
Inhofe
Istook
Jacobs
Johnson (CT)
Johnson, Sam
Kasich
Kim
King
Kingston
Klug
Knollenberg
Kolbe
Kyl
Lazio
Leach
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Livingston
Machtley
Manzullo
McCandless
McCollum
McCrery
McDade
McHugh
McInnis
McKeon
McMillan
Meyers
Mica
Michel
Miller (FL)
Molinari
Moorhead
Morella
Myers
Nussle
Oxley
Paxon
Petri
Pombo
Porter
Portman
Pryce (OH)
Quillen
Quinn
Ramstad
Ravenel
Regula
Ridge
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Santorum
Saxton
Schaefer
Schiff
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stump
Sundquist
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Torkildsen
Upton
Vucanovich
Walker
Walsh
Weldon
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—8

Boucher
Chapman
Miller (CA)
Murphy
Packard
Whitten
Williams
Wilson

□ 1851

Mr. McINNIS and Mr. TAYLOR of Mississippi changed their vote from "yea" to "nay."

Ms. McKINNEY changed her vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. McNULTY). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. FROST. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 248, noes 173, not voting 12, as follows:

[Roll No. 401]

AYES—248

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Barca
Barcia
Barlow
Barrett (WI)
Becerra
Beilenson
Berman
Bevill
Bilbray
Bishop
Blackwell
Bonior
Borski
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Carr
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Engel
English (AZ)
English (OK)
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Glickman
Gonzalez
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Harman
Hastings
Hayes
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Holden
Hoyer
Hughes
Hutto
Inslee
Jacobs
Jefferson
Johnson (GA)
Johnson (SD)
Johnson, E.B.
Johnston
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Klein
Klink
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lehman
Levin
Lewis (GA)
Lipinski
Lloyd
Long
Lowey
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCurdy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Murtha
Nadler
Natcher
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Orton
Owens
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reed
Reynolds
Richardson
Roemer
Rose
Rostenkowski
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Schenk
Schroeder
Schumer
Scott
Serrano
Sharp
Shepherd
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (IA)
Spratt
Stark
Stenholm
Stokes
Strickland
Studds
Stupak
Swett
Swift
Synar
Tanner
Tauzin
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Valentine
Velazquez
Vento
Visclosky
Volkmer
Washington
Waters
Watt
Waxman
Wheat
Woolsey
Wyden
Wynn
Yates

NOES—173

Allard
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Clinger
Coble
Collins (GA)
Combest
Cooper
Cox
Crane
Crapo
Cunningham
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier

Duncan
Dunn
Emerson
Everett
Ewing
Fawell
Fields (TX)
Fish
Fowler
Franks (CT)
Franks (NJ)
Gallegly
Gallo
Gekas
Gilchrest
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Goss
Grams
Grandy
Greenwood
Gunderson
Hancock
Hansen
Hastert
Hefley
Herger
Hobson
Hoekstra
Hoke
Horn
Houghton
Huffington
Hunter
Hutchinson
Hyde
Inglis
Inhofe
Istook
Johnson (CT)
Johnson, Sam
Kim
King
Kingston
Klug
Knollenberg
Kolbe
Kyl
Lazio
Leach
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Livingston
Machtley
Manzullo
McCandless
McCollum
McCrery
McDade
McHugh
McInnis
McKeon
McMillan
Meyers
Mica
Michel
Miller (FL)
Molinari
Moorhead
Morella
Myers
Nussle
Oxley
Paxon
Petri
Pombo
Porter
Portman
Pryce (OH)
Quillen
Quinn
Ramstad
Ravenel
Regula
Ridge
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Santorum
Saxton
Schaefer
Schiff
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stump
Sundquist
Talent
Taylor (NC)
Thomas (CA)
Thomas (WY)
Torkildsen
Upton
Vucanovich
Walker
Walsh
Weldon
Wolf
Young (AK)
Zeliff
Zimmer

NOT VOTING—12

Boucher
Gordon
Kleczka
Miller (CA)
Murphy
Ortiz
Packard
Whitten
Williams
Wilson
Wise
Young (FL)

□ 1908

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 2264, OMNIBUS BUDGET RECONCILIATION ACT OF 1993

Mr. SABO submitted the following conference report and statement on the bill (H.R. 2264) to provide for reconciliation pursuant to section 7 of the concurrent resolution on the budget for fiscal year 1994:

CONFERENCE REPORT (H. REPT. 103-213)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2264) to provide for reconciliation pursuant to section 7 of the concurrent resolution on the budget for fiscal year 1994, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Omnibus Budget Reconciliation Act of 1993".

SEC. 2. TABLE OF CONTENTS.

The table of contents is as follows:

TITLE I—AGRICULTURE AND RELATED PROVISIONS
TITLE II—ARMED SERVICES PROVISIONS
TITLE III—BANKING AND HOUSING PROVISIONS
TITLE IV—STUDENT LOANS AND ERISA PROVISIONS
TITLE V—TRANSPORTATION AND PUBLIC WORKS PROVISIONS
TITLE VI—COMMUNICATIONS LICENSING AND SPECTRUM ALLOCATION PROVISIONS
TITLE VII—NUCLEAR REGULATORY COMMISSION PROVISIONS
TITLE VIII—PATENT AND TRADEMARK OFFICE PROVISIONS
TITLE IX—MERCHANT MARINE PROVISIONS
TITLE X—NATURAL RESOURCES PROVISIONS
TITLE XI—CIVIL SERVICE AND POST OFFICE PROVISIONS
TITLE XII—VETERANS' AFFAIRS PROVISIONS
TITLE XIII—REVENUE, HEALTH CARE, HUMAN RESOURCES, INCOME SECURITY, CUSTOMS AND TRADE PROVISIONS, FOOD STAMP PROGRAM, AND TIMBER SALE PROVISIONS
TITLE XIV—BUDGET PROCESS PROVISIONS

TITLE I—AGRICULTURAL PROGRAMS

SEC. 1001. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the "Agricultural Reconciliation Act of 1993".

(b) TABLE OF CONTENTS.—The table of contents of this title is as follows:

Sec. 1001. Short title and table of contents.
Subtitle A—Commodity Programs
Sec. 1101. Upland cotton program.
Sec. 1102. Wheat program.
Sec. 1103. Feed grain program.
Sec. 1104. Rice program.
Sec. 1105. Dairy program.
Sec. 1106. Tobacco program.
Sec. 1107. Sugar program.
Sec. 1108. Oilseeds program.
Sec. 1109. Peanut program.
Sec. 1110. Honey program.
Sec. 1111. Wool and mohair program.
Subtitle B—Rural Electrification
Sec. 1201. Refinancing and prepayment of FFB loans.
Subtitle C—Agricultural Trade
Sec. 1301. Acreage reduction requirements.
Sec. 1302. Market promotion program.
Subtitle D—Miscellaneous
Sec. 1401. Admission, entrance, and recreation fees.
Sec. 1402. Environmental conservation acreage reserve program amendments.
Sec. 1403. Federal crop insurance.

Subtitle A—Commodity Programs

SEC. 1101. UPLAND COTTON PROGRAM.

(a) IN GENERAL.—Section 103B of the Agricultural Act of 1949 (7 U.S.C. 1444-2) is amended—

*(1) in the section heading, by striking "**1995**" and inserting "**1997**";*

(2) in subsections (a)(1), (b)(1), (c)(1)(A), (c)(1)(B)(ii), and (o), by striking "1995" each place it appears and inserting "1997";

(3) in subparagraphs (B)(i), (D)(i), (E)(i), and (F)(i) of subsection (a)(5), by striking "1996" each place it appears and inserting "1998";

(4) in subsection (c)(1)(D)—

(A) in the subparagraph heading, by striking "50/92 PROGRAM" and inserting "50/85 PROGRAM";

(B) by inserting after "8 percent" both places it appears the following: "for each of the 1991 through 1993 crops, and 15 percent for each of the 1994 through 1997 crops (except as provided in clause (v)(II)),"; and

(C) in clause (v)—

(i) by striking "(v) PREVENTED PLANTING.—If" and inserting the following:

"(v) PREVENTED PLANTING AND REDUCED YIELDS.—

"(I) 1991 THROUGH 1993 CROPS.—In the case of each of the 1991 through 1993 crops of upland cotton, if"; and

(ii) by adding at the end the following new subclause:

"(II) 1994 THROUGH 1997 CROPS.—In the case of each of the 1994 through 1997 crops of upland cotton, producers on a farm shall be eligible to receive deficiency payments as provided in clause (iii) if an acreage limitation program under subsection (e) is in effect for the crop and—

"(aa) the producers have been determined by the Secretary (in accordance with section 503(c)) to be prevented from planting the crop or have incurred a reduced yield for the crop (due to a natural disaster) and the producers elect to devote a portion of the maximum payment acres for upland cotton (as calculated under subparagraph (C)(ii)) equal to more than 8 percent of the upland cotton acreage, to conservation uses; or

"(bb) the producers elect to devote a portion of the maximum payment acres for upland cotton (as calculated under subparagraph (C)(ii)) equal to more than 8 percent of the upland cotton acreage, to alternative crops as provided in subparagraph (E)."; and

(5) in subsection (e)(1)(D), by inserting after "30 percent" the following: "for each of the 1991 through 1994 crops, 29½ percent for each of the 1995 and 1996 crops, and 29 percent for the 1997 crop".

(b) PROVISIONS NECESSARY TO THE OPERATION OF THE PROGRAM.—

(1) DEFICIENCY AND LAND DIVERSION PAYMENTS.—Section 114 of the Agricultural Act of 1949 (7 U.S.C. 1445j) is amended by striking "1995" each place it appears in subsections (a)(1) and (c) and inserting "1997".

(2) ACREAGE BASE AND YIELD SYSTEM.—Title V of such Act (7 U.S.C. 1461 et seq.) is amended—

(A) in section 503 (7 U.S.C. 1463)—

(i) in subsection (c)(3)—

(I) by striking "0/92 or 50/92"; and

(II) by striking "1995" and inserting "1997"; and

(ii) in subsection (h)(2)(A), by striking "1995" each place it appears and inserting "1997";

(B) in paragraphs (1) and (2) of section 505(b) (7 U.S.C. 1465(b)), by striking "1995" each place it appears and inserting "1997"; and

(C) in section 509 (7 U.S.C. 1469), by striking "1995" and inserting "1997".

(3) PAYMENT LIMITATIONS.—The Food Security Act of 1985 (Public Law 99-198; 99 Stat. 1354) is amended—

(A) in paragraphs (1)(A), (1)(B), and (2)(A) of section 1001 (7 U.S.C. 1308), by striking "1995" each place it appears and inserting "1997"; and

(B) in section 1001C(a) (7 U.S.C. 1308-3(a)), by striking "1995" both places it appears and inserting "1997".

SEC. 1102. WHEAT PROGRAM.

Section 107B(c)(1)(E) of the Agricultural Act of 1949 (7 U.S.C. 1445b-3a(c)(1)(E)) is amended—

(1) in the subparagraph heading, by striking "0/92 PROGRAM" and inserting "0/85 PROGRAM";

(2) in clause (i), by inserting after "8 percent" both places it appears the following: "for each

of the 1991 through 1993 crops, and 15 percent for each of the 1994 through 1997 crops (except as provided in clause (vii)),"; and

(3) by adding at the end of the subparagraph the following new clause:

"(vii) EXCEPTIONS TO 0/85.—In the case of each of the 1994 through 1997 crops of wheat, producers on a farm shall be eligible to receive deficiency payments as provided in clause (ii) if an acreage limitation program under subsection (e) is in effect for the crop and—

"(I)(aa) the producers have been determined by the Secretary (in accordance with section 503(c)) to be prevented from planting the crop or have incurred a reduced yield for the crop (due to a natural disaster); and

"(bb) the producers elect to devote a portion of the maximum payment acres for wheat (as calculated under subparagraph (C)(ii)) equal to more than 8 percent of the wheat acreage, to conservation uses; or

"(II) the producers elect to devote a portion of the maximum payment acres for wheat (as calculated under subparagraph (C)(ii)) equal to more than 8 percent of the wheat acreage, to alternative crops as provided in subparagraph (F).".

SEC. 1103. FEED GRAIN PROGRAM.

Section 105B(c)(1)(E) of the Agricultural Act of 1949 (7 U.S.C. 1444f(c)(1)(E)) is amended—

(1) in the subparagraph heading, by striking "0/92 PROGRAM" and inserting "0/85 PROGRAM";

(2) in clause (i), by inserting after "8 percent" both places it appears the following: "for each of the 1991 through 1993 crops, and 15 percent for each of the 1994 through 1997 crops (except as provided in clause (vii)),"; and

(3) by adding at the end of the subparagraph the following new clause:

"(vii) EXCEPTIONS TO 0/85.—In the case of each of the 1994 through 1997 crops of feed grains, producers on a farm shall be eligible to receive deficiency payments as provided in clause (ii) if an acreage limitation program under subsection (e) is in effect for the crop and—

"(I)(aa) the producers have been determined by the Secretary (in accordance with section 503(c)) to be prevented from planting the crop or have incurred a reduced yield for the crop (due to a natural disaster); and

"(bb) the producers elect to devote a portion of the maximum payment acres for feed grains (as calculated under subparagraph (C)(ii)) equal to more than 8 percent of the feed grain acreage, to conservation uses; or

"(II) the producers elect to devote a portion of the maximum payment acres for feed grains (as calculated under subparagraph (C)(ii)) equal to more than 8 percent of the feed grain acreage, to alternative crops as provided in subparagraph (F).".

SEC. 1104. RICE PROGRAM.

Section 101B(c)(1)(D) of the Agricultural Act of 1949 (7 U.S.C. 1441-2(c)(1)(D)) is amended—

(1) in the subparagraph heading, by striking "50/92 PROGRAM" and inserting "50/85 PROGRAM";

(2) in clause (i), by inserting after "8 percent" both places it appears the following: "for each of the 1991 through 1993 crops, and 15 percent for each of the 1994 through 1997 crops (except as provided in clause (v)(II)),"; and

(3) in clause (v)—

(A) by striking "(v) PREVENTED PLANTING.—If" and inserting the following:

"(v) PREVENTED PLANTING AND REDUCED YIELDS.—

"(I) 1991 THROUGH 1993 CROPS.—In the case of each of the 1991 through 1993 crops of rice, if"; and

(B) by adding at the end the following new subclause:

"(II) 1994 THROUGH 1997 CROPS.—In the case of each of the 1994 through 1997 crops of rice, producers on a farm shall be eligible to receive deficiency payments as provided in clause (iii) if an acreage limitation program under subsection (e) is in effect for the crop and—

"(aa) the producers have been determined by the Secretary (in accordance with section 503(c)) to be prevented from planting the crop or have incurred a reduced yield for the crop (due to a natural disaster) and the producers elect to devote a portion of the maximum payment acres for rice (as calculated under subparagraph (C)(ii)) equal to more than 8 percent of the rice acreage, to conservation uses; or

"(bb) the producers elect to devote a portion of the maximum payment acres for rice (as calculated under subparagraph (C)(ii)) equal to more than 8 percent of the rice acreage, to alternative crops as provided in subparagraph (E).".

SEC. 1105. DAIRY PROGRAM.

(a) IN GENERAL.—Section 204 of the Agricultural Act of 1949 (7 U.S.C. 1446e) is amended—

(1) in the section heading, by striking "1995" and inserting "1996";

(2) in subsections (a), (b), (d)(1)(A), (d)(2)(A), (d)(3), (g)(1), and (k), by striking "1995" each place it appears and inserting "1996";

(3) in subsection (c)(3)—

(A) in the first sentence of subparagraph (A), by striking "The Secretary" and inserting "Subject to subparagraph (B), the Secretary";

(B) by redesignating subparagraph (B) as subparagraph (C); and

(C) by inserting after subparagraph (A) the following new subparagraph:

"(B) GUIDELINES.—In the case of purchases of butter and nonfat dry milk that are made by the Secretary under this section on or after the date of enactment of the Omnibus Budget Reconciliation Act of 1993, in allocating the rate of price support between the purchase prices of butter and nonfat dry milk under this paragraph, the Secretary may not—

"(i) offer to purchase butter for more than $0.65 per pound; or

"(ii) offer to purchase nonfat dry milk for less than $1.034 per pound.";

(4) in subsection (h)(2)—

(A) by striking "and" at the end of subparagraph (A);

(B) by striking the period at the end of subparagraph (B) and inserting "; and"; and

(C) by adding at the end the following new subparagraph:

"(C) during each of calendar years 1996 and 1997, 10 cents per hundredweight of milk marketed, which rate shall be adjusted on or before May 1 of the respective calendar year in the manner provided in subparagraph (B)."; and

(5) in subsection (g)(2), by striking "1994" and inserting "1996".

(b) PROVISIONS NECESSARY TO THE OPERATION OF THE PROGRAM.—Section 101(b) of the Agriculture and Food Act of 1981 (7 U.S.C. 608c note) is amended by striking "1995" and inserting "1996".

(c) REDUCTION IN PRICE RECEIVED.—

(1) DEFINITIONS.—As used in this subsection:

(A) BOVINE GROWTH HORMONE.—The term "bovine growth hormone" means a synthetic growth hormone produced through the process of recombinant DNA techniques that is intended for use in bovine animals.

(B) DATE OF APPROVAL.—The term "date of approval" means the date the Food and Drug Administration, pursuant to authority under section 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b), first approves an application with respect to the use of bovine growth hormone.

(2) REDUCTION IN PRICE RECEIVED.—In order to offset the economic effects of the sale of bovine growth hormone, the Secretary of Agriculture shall decrease the amount of the reduction in price received by producers specified in subparagraph (B) or (C) (as appropriate) of section 204(h)(2) of the Agricultural Act of 1949 (7 U.S.C. 1446e(h)(2)) by 10 percent during the period beginning on the date of approval and ending 90 days after the date of approval and, during the period, it shall be unlawful for a person to sell bovine growth hormone for commercial agricultural purposes.

SEC. 1106. TOBACCO PROGRAM.

(a) DOMESTIC MARKETING ASSESSMENT.—Part I of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1311 et seq.) is amended by adding at the end the following new section:

"SEC. 320C. DOMESTIC MARKETING ASSESSMENT.

"(a) CERTIFICATION.—A domestic manufacturer of cigarettes shall certify to the Secretary, for each calendar year, the percentage of the quantity of tobacco used by the manufacturer to produce cigarettes during the year that is produced in the United States.

"(b) PENALTIES.—

"(1) IN GENERAL.—Subject to subsection (f), a domestic manufacturer of cigarettes that has failed, as determined by the Secretary after notice and opportunity for a hearing, to use in the manufacture of cigarettes during a calendar year a quantity of tobacco grown in the United States that is at least 75 percent of the total quantity of tobacco used by the manufacturer, or to comply with subsection (a), shall be subject to the requirements of subsections (c), (d), and (e).

"(2) FAILURE TO CERTIFY.—For purposes of this section, if a manufacturer fails to comply with subsection (a), the manufacturer shall be presumed to have used only imported tobacco in the manufacture of cigarettes produced by the manufacturer.

"(3) REPORTS AND RECORDS.—

"(A) IN GENERAL.—The Secretary shall require manufacturers of domestic cigarettes to make such reports and maintain such records as are necessary to carry out this section. If the reports and records are insufficient, the Secretary may request other persons to provide supplemental information.

"(B) EXAMINATIONS.—For the purpose of ascertaining the correctness of any report or record required under this section, or of obtaining further information required under this section, the Secretary and the Office of Inspector General may examine such records, books, and other materials as the Secretary has reason to believe may be relevant. In the case of a manufacturer of domestic cigarettes, the Secretary may charge a fee to the manufacturer to cover the reasonable costs of any such examination.

"(C) PENALTIES.—Any person who fails to provide information required under this paragraph or who provides false information under this paragraph shall be subject to section 1001 of title 18, United States Code.

"(D) CONFIDENTIALITY.—Section 320A(c) shall apply to information submitted by manufacturers of domestic cigarettes and other persons under this paragraph.

"(E) DISCLOSURE.—Notwithstanding any other provision of law, information on the percentage or quantity of domestic or imported tobacco in cigarettes or on the volume of cigarette production that is submitted under this section shall be exempt from disclosure under section 552 of title 5, United States Code.

"(c) DOMESTIC MARKETING ASSESSMENT.—

"(1) IN GENERAL.—A domestic manufacturer of cigarettes described in subsection (b) shall remit to the Commodity Credit Corporation a nonrefundable marketing assessment in accordance with this subsection.

"(2) AMOUNT.—The amount of an assessment imposed on a manufacturer under this subsection shall be determined by multiplying—

"(A) the quantity by which the quantity of imported tobacco used by the manufacturer to

produce cigarettes during a preceding calendar year exceeds 25 percent of the quantity of all tobacco used by the manufacturer to produce cigarettes during the preceding calendar year; by

"(B) the difference between—

"(i) ½ of the sum of—

"(I) the average price per pound received by domestic producers for Burley tobacco during the preceding calendar year; and

"(II) the average price per pound received by domestic producers for Flue-cured tobacco during the preceding calendar year; and

"(ii) the average price per pound of unmanufactured imported tobacco during the preceding calendar year, as determined by the Secretary.

"(3) COLLECTION.—An assessment imposed under this subsection shall be—

"(A) collected by the Secretary and transmitted to the Commodity Credit Corporation; and

"(B) enforced in the same manner as provided in section 320B.

"(d) PURCHASE OF BURLEY TOBACCO.—

"(1) IN GENERAL.—A domestic manufacturer of cigarettes described in subsection (b) shall purchase from the inventories of the producer-owned cooperative marketing associations for Burley tobacco described in section 320B(a)(2), at the applicable list price published by the association, the quantity of tobacco described in paragraph (2).

"(2) QUANTITY.—Subject to paragraph (3), the quantity of Burley tobacco required to be purchased by a manufacturer during a calendar year under this subsection shall equal ½ of the quantity of imported tobacco used by the manufacturer to produce cigarettes during the preceding calendar year that exceeds 25 percent of the quantity of all tobacco used by the manufacturer to produce cigarettes during the preceding calendar year.

"(3) LIMITATION.—If the total quantity of Burley tobacco required to be purchased by all manufacturers under paragraph (2) would reduce the inventories of the producer-owned cooperative marketing associations for Burley tobacco to less than the reserve stock level for Burley tobacco, the Secretary shall reduce the quantity of tobacco required to be purchased by manufacturers under paragraph (2), on a pro rata basis, to ensure that the inventories will not be less than the reserve stock level for Burley tobacco.

"(4) NONCOMPLIANCE.—If a manufacturer fails to purchase from the inventories of the producer-owned cooperative marketing associations the quantity of Burley tobacco required under this subsection, the manufacturer shall be subject to a penalty of 75 percent of the average market price (calculated to the nearest whole cent) for Burley tobacco for the immediately preceding year on the quantity of tobacco as to which the failure occurs.

"(5) PURCHASE REQUIREMENTS.—Tobacco purchased by a manufacturer under this subsection shall not be included in determining the quantity of tobacco purchased by the manufacturer under section 320B.

"(e) PURCHASE OF FLUE-CURED TOBACCO.—

"(1) IN GENERAL.—A domestic manufacturer of cigarettes described in subsection (b) shall purchase from the inventories of the producer-owned cooperative marketing association for Flue-cured tobacco described in section 320B(a)(2), at the applicable list price published by the association, the quantity of tobacco described in paragraph (2).

"(2) QUANTITY.—Subject to paragraph (3), the quantity of Flue-cured tobacco required to be purchased by a manufacturer during a calendar year under this subsection shall equal ½ of the quantity of imported tobacco used by the manufacturer to produce cigarettes during the preceding calendar year that exceeds 25 percent of the quantity of all tobacco used by the manufacturer to produce cigarettes during the preceding calendar year.

"(3) LIMITATION.—If the total quantity of Flue-cured tobacco required to be purchased by all manufacturers under paragraph (2) would reduce the inventories of the producer-owned cooperative marketing association for Flue-cured tobacco to less than the reserve stock level for Flue-cured tobacco, the Secretary shall reduce the quantity of tobacco required to be purchased by manufacturers under paragraph (2), on a pro rata basis, to ensure that the inventories will not be less than the reserve stock level for Flue-cured tobacco.

"(4) NONCOMPLIANCE.—If a manufacturer fails to purchase from the inventories of the producer-owned cooperative marketing association the quantity of Flue-cured tobacco required under this subsection, the manufacturer shall be subject to a penalty of 75 percent of the average market price (calculated to the nearest whole cent) for Flue-cured tobacco for the immediately preceding year on the quantity of tobacco as to which the failure occurs.

"(5) PURCHASE REQUIREMENTS.—Tobacco purchased by a manufacturer under this subsection shall not be included in determining the quantity of tobacco purchased by the manufacturer under section 320B.

"(f) CROP LOSSES DUE TO DISASTERS.—

"(1) IN GENERAL.—If the Secretary, in consultation with producer-owned cooperative marketing associations, determines that because of drought, insect or disease infestation, or other natural disaster, or other condition beyond the control of producers, the total quantity of a crop of domestic Burley tobacco or Flue-cured tobacco that is harvested and suitable for marketing is substantially less than the expected yield for the crop, and that pool inventories for the kind of tobacco involved have been depleted, effective for the calendar year following the year in which the crop loss occurs, the Secretary may reduce the minimum percentage of domestic tobacco specified in subsection (a) to a percentage below 75 percent, as determined by the Secretary, that reflects the reduced availability of domestic supplies of the kind of tobacco involved.

"(2) DETERMINATION OF EXPECTED YIELD.—For purposes of paragraph (1), the Secretary shall determine the expected yield for a crop of Burley tobacco or Flue-cured tobacco by taking into consideration—

"(A) the total acreage planted to the crop (including acreage that the producers were prevented from planting because of a condition referred to in paragraph (1)); and

"(B) normal farm yields established for the crop.

"(3) DEADLINE FOR DETERMINATIONS.—The Secretary shall make determinations under paragraph (1) about crop losses and announce the reduced percentage of the domestic tobacco pool not later than November 30 of the year in which the applicable crop of Burley tobacco or Flue-cured tobacco is harvested.".

(b) BUDGET DEFICIT ASSESSMENT.—

(1) IN GENERAL.—Section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445) is amended by adding at the end the following new subsection:

"(h)(1) Effective only for each of the 1994 through 1998 crops of tobacco, an importer of tobacco that is produced outside the United States shall remit to the Commodity Credit Corporation a nonrefundable marketing assessment in an amount equal to the product obtained by multiplying—

"(A) the number of pounds of tobacco that is imported by the importer; by

"(B) the sum of—

"(i) the per pound marketing assessment imposed on purchasers of domestic Burley tobacco pursuant to subsection (g); and

"(ii) the per pound marketing assessment imposed on purchasers of domestic Flue-cured tobacco pursuant to subsection (g).

"(2) An assessment imposed under this subsection shall be paid by the importer.

"(3)(A) The importer shall remit the assessment at such time and in such manner as may be prescribed by the Secretary.

"(B) If the importer fails to comply with subparagraph (A), the importer shall be liable, in addition, for a marketing penalty at a rate equal to 37.5 percent of the sum of the average market price (calculated to the nearest whole cent) of Flue-cured and Burley tobacco for the immediately preceding year on the quantity of tobacco as to which the failure occurs.

"(C) This subsection shall be enforced in the same manner as subparagraphs (B) and (C) of paragraph (1), and paragraphs (2) and (3), of section 106A(h).

"(4) Any penalty collected by the Secretary under this subsection shall be deposited for use by the Commodity Credit Corporation.".

(2) IMPORTER ASSESSMENTS FOR NO NET COST TOBACCO FUND.—Section 106A of such Act (7 U.S.C. 1445–1) is amended—

(A) in subsection (c), by inserting "and importers" after "purchasers";

(B) in subsection (d)(1)(A)—

(i) by striking "and" at the end of clause (i); and

(ii) by inserting after clause (ii) the following new clause:

"(iii) each importer of Flue-cured or Burley tobacco shall pay to the appropriate association, for deposit in the Fund of the association, an assessment, in an amount that is equal to the product obtained by multiplying—

"(I) the number of pounds of tobacco that is imported by the importer; by

"(II) the sum of the amount of per pound producer contributions and purchaser assessments that are payable by domestic producers and purchasers of Flue-cured and Burley tobacco under clauses (i) and (ii); and";

(C) in subsection (d)(2)—

(i) by inserting "or importer" after "or purchaser";

(ii) by striking "and" at the end of subparagraph (B);

(iii) by inserting "and" at the end of subparagraph (C); and

(iv) by adding at the end the following new subparagraph:

"(D) if the tobacco involved is imported by an importer, from the importer."; and

(D) in subsection (h)(1)—

(i) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively; and

(ii) by inserting after subparagraph (A) the following new subparagraph:

"(B) Each importer who fails to pay to the association an assessment as required by subsection (d)(2) at such time and in such manner as may be prescribed by the Secretary, shall be liable, in addition to any amount due, for a marketing penalty at a rate equal to 75 percent of the average market price (calculated to the nearest whole cent) for the respective kind of tobacco for the immediately preceding year on the quantity of tobacco as to which the failure occurs.".

(3) IMPORTER ASSESSMENTS TO NO NET COST TOBACCO ACCOUNT.—Section 106B of such Act (7 U.S.C. 1445–2) is amended—

(A) in subsection (c)(1), by striking "producers and purchasers" and inserting "producers, purchasers, and importers";

(B) in subsection (d)(1)—

(i) by designating the first and second sentences as subparagraphs (A) and (B), respectively; and

(ii) by adding at the end the following new subparagraph:

"(C) The Secretary shall also require (in lieu of any requirement under section 106A(d)(1)) that each importer of Flue-cured and Burley tobacco shall pay to the Corporation, for deposit in the Account of the association, an assessment, as determined under paragraph (2) and collected under paragraph (3), with respect to purchases of all such kinds of tobacco imported by the importer.";

(C) in subsection (d)(2), by adding at the end the following new subparagraph:

"(C) The amount of the assessment to be paid by importers shall be an amount that is equal to the product obtained by multiplying—

"(i) the number of pounds of tobacco that is imported by the importer; by

"(ii) the sum of the amount of per pound producer and purchaser assessments that are payable by domestic producers and purchasers of the respective kind of tobacco under this paragraph.";

(D) in subsection (d)(3), by adding at the end the following new subparagraph:

"(D) If Flue-cured or Burley tobacco is imported by an importer, any importer assessment required by subsection (d) shall be collected from the importer."; and

(E) in subsection (j)(1)—

(i) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively; and

(ii) by inserting after subparagraph (A) the following new subparagraph:

"(B) Each importer who fails to pay to the Corporation an assessment as required by subsection (d) at such time and in such manner as may be prescribed by the Secretary, shall be liable, in addition to any amount due, to a marketing penalty at a rate equal to 75 percent of the average market price (calculated to the nearest whole cent) for the respective kind of tobacco for the immediately preceding year on the quantity of tobacco as to which the failure occurs.".

(c) FEES FOR INSPECTING IMPORTED TOBACCO.—The second sentence of section 213(d) of the Tobacco Adjustment Act of 1983 (7 U.S.C. 511r(d)) is amended by inserting before the period at the end the following: ", and which shall be comparable to fees and charges fixed and collected for services provided in connection with tobacco produced in the United States".

(d) EXTENSION OF QUOTA REDUCTION FLOORS.—

(1) BURLEY TOBACCO.—Section 319(c)(3)(C)(ii) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e(c)(3)(C)(ii)) is amended—

(A) by striking "1993" and inserting "1996"; and

(B) by inserting before the period at the end the following: ", except that, in the case of each of the 1995 and 1996 crops of Burley tobacco, the Secretary may waive the requirements of this clause if the Secretary determines that the requirements would likely result in inventories of the producer-owned cooperative marketing associations for Burley tobacco described in section 320B(a)(2) to exceed 150 percent of the reserve stock level for Burley tobacco".

(2) FLUE-CURED TOBACCO.—Section 317(a)(1)(C)(ii) of such Act (7 U.S.C. 1314c(a)(1)(C)(ii)) is amended—

(A) by striking "1993" and inserting "1996"; and

(B) by inserting before the period at the end the following: ", except that, in the case of each of the 1995 and 1996 crops of Flue-cured tobacco, the Secretary may waive the requirements of this clause if the Secretary determines that the requirements would likely result in inventories of the producer-owned cooperative marketing association for Flue-cured tobacco described in section 320B(a)(2) to exceed 150 percent of the reserve stock level for Flue-cured tobacco".

SEC. 1107. SUGAR PROGRAM.

(a) IN GENERAL.—Section 206 of the Agricultural Act of 1949 (7 U.S.C. 1446g) is amended—

*(1) in the section heading, by striking "**1995**" and inserting "**1997**";*

(2) in subsections (a), (c), (d)(1), and (j), by striking "1995" each place it appears and inserting "1997"; and

(3) in subsection (i)—

(A) in paragraph (1), by striking "equal to" and all that follows through the period at the end and inserting the following: "equal to—

"(A) in the case of marketings during each of fiscal years 1992 through 1994, 1.0 percent of the loan level established under subsection (b) per pound of raw cane sugar (but not more than .18 cents per pound of raw cane sugar), processed by the processor from domestically produced sugarcane or sugarcane molasses, that has been marketed (including the transfer or delivery of the sugar to a refinery for further processing or marketing); and

"(B) in the case of marketings during each of fiscal years 1995 through 1998, 1.1 percent of the loan level established under subsection (b) per pound of raw cane sugar (but not more than .198 cents per pound of raw cane sugar), processed by the processor from domestically produced sugarcane or sugarcane molasses, that has been marketed (including the transfer or delivery of the sugar to a refinery for further processing or marketing).";

(B) in paragraph (2), by striking "equal to" and all that follows through the period at the end and inserting the following: "equal to—

"(A) in the case of marketings during each of fiscal years 1992 through 1994, 1.0722 percent of the loan level established under subsection (b) per pound of beet sugar (but not more than .193 cents per pound of beet sugar), processed by the processor from domestically produced sugar beets or sugar beet molasses, that has been marketed; and

"(B) in the case of marketings during each of fiscal years 1995 through 1998, 1.1794 percent of the loan level established under subsection (b) per pound of beet sugar (but not more than .2123 cents per pound of beet sugar), processed by the processor from domestically produced sugar beets or sugar beet molasses, that has been marketed."; and

(C) by adding at the end the following new paragraph:

"(6) EXCESS MARKETINGS.—In addition to the assessment required under paragraph (1) or (2), a processor who knowingly markets sugar in excess of the allocated allotment of the processor under section 359d of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359dd) shall pay an assessment in an amount that is double the applicable assessment required under paragraph (1) or (2) per pound of sugar marketed.".

(b) PROVISIONS NECESSARY TO THE OPERATION OF THE PROGRAM.—Section 359b of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359bb) is amended—

(1) in subsection (a)(1), by striking "1996" and inserting "1998"; and

(2) in subsection (d)—

(A) by striking paragraph (1) and inserting the following new paragraph:

"(1) IN GENERAL.—During any fiscal year or portion thereof for which marketing allotments have been established, no processor of sugar beets or sugarcane shall market a quantity of sugar in excess of the allocation established for such processor, except to enable another processor to fulfill an allocation established for such other processor or to facilitate the exportation of such sugar."; and

(B) in paragraph (3), by inserting "knowingly" after "who" each place it appears.

SEC. 1108. OILSEEDS PROGRAM.

Section 205 of the Agricultural Act of 1949 (7 U.S.C. 1446f) is amended—

(1) in subsection (c)—

(A) in paragraph (1), by inserting after "$5.02 per bushel" the following: "for each of the 1991 through 1993 crops and $4.92 per bushel for each of the 1994 through 1997 crops"; and

(B) in paragraph (2), by inserting after "$0.089 per pound" the following: "for each of the 1991 through 1993 crops and $0.087 per pound for each of the 1994 through 1997 crops";

(2) in subsection (h), by striking "mature on the last day of the 9th month following the month the application for the loan is made." and inserting the following: "mature—

"(1) in the case of each of the 1991 through 1993 crops, on the last day of the 9th month following the month the application for the loan is made; and

"(2) in the case of each of the 1994 through 1997 crops, on the last day of the 9th month following the month the application for the loan is made, except that the loan may not mature later than the last day of the fiscal year in which the application is made."; and

(3) in subsection (m), by adding at the end the following new paragraph:

"(3) APPLICABILITY.—This subsection shall apply only to each of the 1991 through 1993 crops of oilseeds.".

SEC. 1109. PEANUT PROGRAM.

(a) IN GENERAL.—Section 108B of the Agricultural Act of 1949 (7 U.S.C. 1445c–3) is amended—

*(1) in the section heading, by striking "**1995**" and inserting "**1997**";*

(2) in subsections (a)(1), (a)(2), (b)(1), (g)(1), and (h), by striking "1995" each place it appears and inserting "1997"; and

(3) in subsection (g)—

(A) in paragraph (1), by inserting after "1 percent" both places it appears the following: "for each of the 1991 through 1993 crops, 1.1 percent for each of the 1994 and 1995 crops, 1.15 percent for the 1996 crop, and 1.2 percent for the 1997 crop,"; and

(B) in paragraph (2)(A), by striking clauses (i) and (ii) and inserting the following new clauses:

"(i) collect from the producer a marketing assessment equal to the quantity of peanuts acquired multiplied by—

"(I) in the case of each of the 1991 through 1993 crops, .5 percent of the applicable national average support rate;

"(II) in the case of each of the 1994 and 1995 crops, .55 percent of the applicable national average support rate;

"(III) in the case of the 1996 crop, .6 percent of the applicable national average support rate; and

"(IV) in the case of the 1997 crop, .65 percent of the applicable national average support rate;

"(ii) pay, in addition to the amount collected under clause (i), a marketing assessment in an amount equal to the quantity of peanuts acquired multiplied by—

"(I) in the case of each of the 1991 through 1993 crops, .5 percent of the applicable national average support rate; and

"(II) in the case of each of the 1994 through 1997 crops, .55 percent of the applicable national average support rate; and".

(b) ASSESSMENT UNDER PEANUT MARKETING AGREEMENT.—Section 8b(b)(1) of the Agricultural Adjustment Act (7 U.S.C. 608b(b)(1)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended—

(1) by striking "and" at the end of subparagraph (A);

(2) by striking the period at the end of subparagraph (B) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(C) any assessment (except with respect to any assessment for the indemnification of losses on rejected peanuts) imposed under the agreement shall—

"(i) apply to peanut handlers (as defined by the Secretary) who have not entered into such an agreement with the Secretary in addition to

those handlers who have entered into the agreement; and

"(ii) be paid to the Secretary.".

(c) PROVISIONS NECESSARY TO THE OPERATION OF THE PROGRAM.—Part VI of subtitle B of title III of the Agricultural Adjustment Act of 1938 is amended—

(1) in section 358–1 (7 U.S.C. 1358–1)—

(A) in the section heading, by striking "**1995**" and inserting "**1997**"; and

(B) in subsections (a)(1), (b)(1)(A), (b)(1)(B), (b)(2)(A), (b)(2)(C), (b)(3)(A), and (f), by striking "1995" each place it appears and inserting "1997"; and

(2) in section 358e (7 U.S.C. 1359a)—

(A) in the section heading, by striking "**1995**" and inserting "**1997**"; and

(B) in subsection (i), by striking "1995" and inserting "1997".

SEC. 1110. HONEY PROGRAM.

Section 207 of the Agricultural Act of 1949 (7 U.S.C. 1446h) is amended—

(1) by striking "1995" each place it appears in subsections (a), (c)(1), and (j) and inserting "1998";

(2) in subsection (a), by striking "than 53.8 cents per pound." and inserting "than—

"(1) 53.8 cents per pound for each of the 1991 through 1993 crop years;

"(2) 50 cents per pound for each of the 1994 and 1995 crop years;

"(3) 49 cents per pound for the 1996 crop year;

"(4) 48 cents per pound for the 1997 crop year; and

"(5) 47 cents per pound for the 1998 crop year.";

(3) in subsection (e)(1)—

(A) by striking "and" at the end of subparagraph (C); and

(B) by striking subparagraph (D) and inserting the following new subparagraphs:

"(D) $125,000 in the 1994 crop year;

"(E) $100,000 in the 1995 crop year;

"(F) $75,000 in the 1996 crop year; and

"(G) $50,000 in each of the 1997 and 1998 crop years."; and

(4) in subsection (i)(1), by striking "1995" and inserting "1993".

SEC. 1111. WOOL AND MOHAIR PROGRAM.

The National Wool Act of 1954 (7 U.S.C. 1781 et seq.) is amended—

(1) in section 703 (7 U.S.C. 1782), by striking "1995" both places it appears in subsections (a) and (b)(2) and inserting "1997";

(2) in section 704 (7 U.S.C. 1783)—

(A) in subsection (b)(1)—

(i) by striking "and" at the end of subparagraph (C); and

(ii) by striking subparagraph (D) and inserting the following new subparagraphs:

"(D) $125,000 for the 1994 marketing year;

"(E) $100,000 for the 1995 marketing year;

"(F) $75,000 for the 1996 marketing year; and

"(G) $50,000 for the 1997 marketing year."; and

(B) in subsection (c), by striking "through 1995" and inserting "and 1992"; and

(3) in section 706 (7 U.S.C. 1785), by inserting after the second sentence the following new sentence: "In determining the net sales proceeds and national payment rates for shorn wool and shorn mohair, the Secretary shall not deduct marketing charges for commissions, coring, or grading.".

Subtitle B—Rural Electrification

SEC. 1201. REFINANCING AND PREPAYMENT OF FFB LOANS.

(a) IN GENERAL.—Title III of the Rural Electrification Act of 1936 (7 U.S.C. 931 et seq.) is amended by inserting after section 306B (7 U.S.C. 936b) the following new section:

"SEC. 306C. REFINANCING AND PREPAYMENT OF FFB LOANS.

"(a) IN GENERAL.—A borrower of a loan made by the Federal Financing Bank and guaranteed under section 306 may, at the option of the borrower, refinance or prepay the loan or an advance on the loan, or any portion of the loan or advance.

"(b) PENALTY.—

"(1) DETERMINATION OF PENALTY.—A penalty shall be assessed against a borrower that refinances or prepays a loan or loan advance, or any portion of a loan or advance, under this section. Except as provided in paragraph (2), the penalty shall be equal to the lesser of—

"(A) the difference between the outstanding principal balance of the loan being refinanced and the present value of the loan discounted at a rate equal to the then current cost of funds to the Department of the Treasury for obligations of comparable maturity to the loan being refinanced or prepaid;

"(B) 100 percent of the amount of interest for 1 year on the outstanding principal balance of the loan or loan advance, or any portion of the loan or advance, being refinanced, multiplied by the ratio that—

"(i) the number of quarterly payment dates between the date of the refinancing or prepayment and the maturity date for the loan advance; bears to

"(ii) the number of quarterly payment dates between the first quarterly payment date that occurs 12 years after the end of the year in which the amount being refinanced was advanced and the maturity date of the loan advance; and

"(C)(i) the present value of 100 percent of the amount of interest for 1 year on the outstanding principal balance of the loan or loan advance, or any portion of the loan or advance, being refinanced or prepaid; plus

"(ii) for the interval between the date of the refinancing or prepayment and the first quarterly payment date that occurs 12 years after the end of the year in which the amount being refinanced or prepaid was advanced, the present value of the difference between—

"(I) each payment scheduled for the interval on the loan amount being refinanced or prepaid; and

"(II) the payment amounts that would be required during the interval on the amounts being refinanced or prepaid if the interest rate on the loan were equal to the then current cost of funds to the Department of the Treasury for obligations of comparable maturity to the loan being refinanced or prepaid.

"(2) LIMITATION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the penalty provided by paragraph (1)(A) shall be required for refinancing or prepayment under this section.

"(B) EXCEPTION.—In the case of a loan advanced under an agreement that permits the refinancing or prepayment of the loan advance based on the payment of 1 year of interest on the outstanding principal balance of the loan advance, a borrower may, in lieu of the penalty required by paragraph (1)(A), pay a penalty as provided by—

"(i) paragraph (1)(B), if the loan advance has reached the 12-year maturity required under the loan agreement for the refinancing or prepayment; or

"(ii) paragraph (1)(C), if the loan advance has not reached the 12-year maturity required under the loan agreement for the refinancing or prepayment.

"(3) FINANCING OF PENALTY.—

"(A) IN GENERAL.—In the case of a refinancing under this section, a borrower may, at the option of the borrower, meet the penalty requirements of paragraph (1) by—

"(i) making a payment in the amount of the required penalty at the time of the refinancing; or

"(ii) increasing the outstanding principal balance of the loan advance guaranteed by the Administrator that is being refinanced under this section by the amount of the penalty.

"(B) INCREASED PRINCIPAL.—If a borrower meets the penalty requirements of paragraph (1) by increasing the outstanding principal balance of the loan advance that is being refinanced, the borrower shall make a payment at the time of the refinancing equal to 2.5 percent of the amount of the penalty that is added to the outstanding principal balance of the loan.

"(c) LOAN TERMS AND CONDITIONS AFTER REFINANCING.—

"(1) IN GENERAL.—On the payment of a penalty as provided by subsection (b), the loan or loan advance, or any portion of the loan or advance, shall be refinanced at the interest rate described in paragraph (2) for a term selected by the borrower pursuant to paragraph (3), except that this paragraph shall not apply if the loan advance, or any portion of the advance, is prepaid by the borrower.

"(2) INTEREST RATE.—The interest rate on a loan refinanced under this section shall be determined to be equal to the then current cost of funds to the Department of the Treasury for obligations of comparable maturity to a term selected by the borrower pursuant to paragraph (3).

"(3) LOAN TERM.—Subject to paragraph (4), the borrower of a loan that is refinanced under this section—

"(A) shall select the term for which an interest rate shall be determined pursuant to paragraph (2); and

"(B) at the end of the term (and any succeeding term selected by the borrower under this paragraph), may renew the loan for another term selected by the borrower.

"(4) MAXIMUM TERM.—The borrower may not select a term pursuant to paragraph (3) that ends after the maturity date set for the loan before the refinancing of the loan under this section.

"(5) EXISTING LOANS.—In the case of the refinancing of a loan of a borrower pursuant to this section and the inclusion of a penalty in the outstanding principal balance of the refinanced loan pursuant to subsection (b)(3)—

"(A) the refinancing and inclusion of the penalty shall not be subject to appropriations or limited by the amount provided during a fiscal year for new loans, loan guarantees, or other credit activity;

"(B) the request of the borrower for the refinancing under this section may not be denied or delayed; and

"(C) the borrower may not be limited in the selection of any refinancing or prepayment option provided by this section to the borrower.".

(b) REGULATIONS.—Not later than 45 days after the date of enactment of this section, the Administrator of the Rural Electrification Administration shall issue interim final regulations to carry out the amendment made by subsection (a).

Subtitle C—Agricultural Trade

SEC. 1301. ACREAGE REDUCTION REQUIREMENTS.

(a) IN GENERAL.—Section 1104 of the Omnibus Budget Reconciliation Act of 1990 (7 U.S.C. 1445b–3a note) is amended—

(1) in subsection (a), by striking paragraph (2) and inserting the following new paragraph:

"(2) corn under which the acreage planted to corn for harvest on a farm would be limited to the corn crop acreage base for the farm for the crop reduced by not less than 7½ percent."; and

(2) in subsection (b)(2), by striking "grain sorghum, and barley,".

(b) READJUSTMENT OF SUPPORT LEVELS.—Section 1302 of such Act (7 U.S.C. 1421 note) is amended—

(1) in subsection (b)—

(A) by striking paragraph (1); and

(B) by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively;

(2) in subsection (c), by striking "and other programs"; and

(3) in subsection (d)—

(A) in paragraph (1)—

(i) by striking subparagraph (A); and

(ii) by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively;

(B) in paragraph (2), by striking "(A), (B), and (C)" and inserting "(A) and (B)"; and

(C) in paragraph (3)—

(i) by striking "measures specified in subparagraph (A) of paragraph (1) and"; and

(ii) by striking "(B) or (C)" and inserting "(A) or (B)".

SEC. 1302. MARKET PROMOTION PROGRAM.

(a) REDUCTION OF FUNDING LEVEL.—Section 211(c)(1) of the Agricultural Trade Act of 1978 (7 U.S.C. 5641(c)(1)) is amended by striking "through 1995" and inserting "through 1993, and not less than $110,000,000 for each of the fiscal years 1994 through 1997,".

(b) SECRETARIAL ACTIONS TO ACHIEVE SAVINGS.—In order to enable the Secretary of Agriculture to achieve the savings required in the market promotion program established by section 203 of the Agricultural Trade Act of 1978 (7 U.S.C. 5623) as a result of the amendments made by this section:

(1) UNFAIR TRADE PRACTICES.—Paragraph (2) of section 203(c) of such Act is amended to read as follows:

"(2) UNFAIR TRADE PRACTICES.—

"(A) REQUIREMENT.—Except as provided in subparagraph (B), the Secretary shall provide assistance under this section only to counter or offset the adverse effects of a subsidy, import quota, or other unfair trade practice of a foreign country.

"(B) EXCEPTION.—The Secretary shall waive the requirements of this paragraph in the case of activities conducted by small entities operating through the regional State-related organizations.".

(2) GUIDELINES.—The Secretary of Agriculture should implement changes in the market promotion program established by section 203 of such Act, beginning with fiscal year 1994, in order to improve the effectiveness of the program and to meet the following objectives:

(A) PRIORITY.—In providing assistance for branded promotion, the Secretary should give priority to small-sized entities.

(B) GRADUATION.—The Secretary should not provide assistance under the program to promote a specific branded product in a single market for more than 5 years unless the Secretary determines that further assistance is necessary in order to meet the objectives of the program.

(C) CONTRIBUTION LEVEL.—

(i) IN GENERAL.—The Secretary should require a minimum contribution level of 10 percent from an eligible trade organization that receives assistance for nonbranded promotion.

(ii) INCREASES IN CONTRIBUTION LEVEL.—The Secretary may increase the contribution level in any subsequent year that an eligible trade organization receives assistance for nonbranded promotion.

(D) ADDITIONALITY.—The Secretary should require each participant in the program to certify that any Federal funds received supplement, but do not supplant, private or third party participant funds or other contributions to program activities.

(E) INDEPENDENT AUDITS.—If as a result of an evaluation or audit of activities of a participant under the program, the Secretary determines that a further review is justified in order to ensure compliance with the requirements of the program, the Secretary should require the participant to contract for an independent audit of the program activities, including activities of any subcontractor.

(3) TOBACCO.—No funds made available under the market promotion program may be used for activities to develop, maintain, or expand foreign markets for tobacco.

(c) REGULATIONS.—Not later than 90 days after the date of enactment of this Act, the Secretary of Agriculture shall issue regulations to implement this section and the amendments made by this section.

Subtitle D—Miscellaneous

SEC. 1401. ADMISSION, ENTRANCE, AND RECREATION FEES.

(a) DEFINITIONS.—As used in this section:

(1) AREA OF CONCENTRATED PUBLIC USE.—The term "area of concentrated public use" means an area managed by the Secretary that meets each of the following criteria:

(A) The area is managed primarily for outdoor recreation purposes.

(B) Facilities and services necessary to accommodate heavy public use are provided in the area.

(C) The area contains at least 1 major recreation attraction.

(D) Public access to the area is provided in such a manner that admission fees can be efficiently collected at 1 or more centralized locations.

(2) BOAT LAUNCHING FACILITY.—The term "boat launching facility" includes any boat launching facility, regardless of whether specialized facilities or services, such as mechanical or hydraulic boat lifts or facilities, are provided.

(3) CAMPGROUND.—The term "campground" means any campground where a majority of the following amenities are provided, as determined by the Secretary:

(A) Tent or trailer spaces.

(B) Drinking water.

(C) An access road.

(D) Refuse containers.

(E) Toilet facilities.

(F) The personal collection of recreation use fees by an employee or agent of the Secretary.

(G) Reasonable visitor protection.

(H) If campfires are permitted in the campground, simple devices for containing the fires.

(4) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(b) AUTHORITY TO IMPOSE FEES.—The Secretary may charge—

(1) admission or entrance fees at national monuments, national volcanic monuments, national scenic areas, and areas of concentrated public use administered by the Secretary; and

(2) recreation use fees at lands administered by the Secretary in connection with the use of specialized outdoor recreation sites, equipment, services, and facilities, including visitors' centers, picnic tables, boat launching facilities, and campgrounds.

(c) AMOUNT OF FEES.—The amount of the admission, entrance, and recreation fees authorized to be imposed under this section shall be determined by the Secretary.

SEC. 1402. ENVIRONMENTAL CONSERVATION ACREAGE RESERVE PROGRAM AMENDMENTS.

(a) ENVIRONMENTAL CONSERVATION ACREAGE RESERVE PROGRAM.—Section 1230(b) of the Food Security Act of 1985 (16 U.S.C. 3830(b)) is amended by striking "to place in" and all that follows through "acres".

(b) CONSERVATION RESERVE PROGRAM.—Section 1231(d) of such Act (16 U.S.C. 3831(d)) is amended—

(1) by striking "may" and inserting "shall";

(2) by striking "the amount of acres specified in section 1230(b)" and inserting "a total of 38,000,000 acres during the 1986 through 1995 calendar years"; and

(3) by striking "each of calendar years 1994 and 1995" and inserting "the 1995 calendar year".

(c) WETLANDS RESERVE PROGRAM.—Section 1237 of such Act (16 U.S.C. 3837) is amended—

(1) by striking subsection (b) and inserting the following new subsection:

"(b) MINIMUM ENROLLMENT.—The Secretary shall enroll into the wetlands reserve program—

"(1) a total of not less than 330,000 acres by the end of the 1995 calendar year; and

"(2) a total of not less than 975,000 acres during the 1991 through 2000 calendar years."; and

(2) in subsection (c), by striking "1995" and inserting "2000".

SEC. 1403. FEDERAL CROP INSURANCE.

(a) ACTUARIAL SOUNDNESS.—Section 506 of the Federal Crop Insurance Act (7 U.S.C. 1506) is amended by adding at the end the following new subsection:

"(n) ACTUARIAL SOUNDNESS.—The Corporation shall take such actions as are necessary to improve the actuarial soundness of Federal multiperil crop insurance coverage made available under this title to achieve, on and after October 1, 1995, an overall projected loss ratio of not greater than 1.1, including—

"(1) instituting appropriate requirements for documentation of the actual production history of insured producers to establish recorded or appraised yields for Federal crop insurance coverage that more accurately reflect the associated actuarial risk, except that the Corporation may not carry out this paragraph in a manner that would prevent beginning farmers from obtaining adequate Federal crop insurance, as determined by the Corporation;

"(2) establishing in counties, to the extent practicable, a crop insurance option based on area yields in a manner that allows an insured producer to qualify for an indemnity if a loss has occurred in a specified area in which the farm of the insured producer is located;

"(3) establishing a database that contains the social security account and employee identification numbers of participating producers and using the numbers to identify insured producers who are high risk for actuarial purposes and insured producers who have not documented at least 4 years of production history, to assess the performance of insurance providers, and for other purposes permitted by law; and

"(4) taking any other measures authorized by law to improve the actuarial soundness of the Federal crop insurance program while maintaining fairness and effective coverage for agricultural producers.".

(b) CONFORMING AMENDMENTS.—

(1) REINSURANCE.—Section 508(h) of such Act (7 U.S.C. 1508(h)) is amended by striking the fifth sentence and inserting the following new sentence: "The Corporation shall also pay operating and administrative costs to insurers of policies on which the Corporation provides reinsurance in an amount determined by the Corporation.".

(2) AREA YIELD PLAN.—Section 508 of such Act (7 U.S.C. 1508) is amended by adding at the end the following new subsection:

"(n) AREA YIELD PLAN.—

"(1) IN GENERAL.—Notwithstanding any other provision of this title, the Corporation may offer, only as an option to individual crop insurance coverage available under this Act, a crop insurance plan based on an area yield that allows an insured producer to qualify for an indemnity if a loss has occurred in an area, as specified by the Corporation, in which the farm of the producer is located.

"(2) LEVEL OF COVERAGE.—Under a plan offered under paragraph (1), an insured producer shall be allowed to select the level of production at which an indemnity will be paid consistent with terms and conditions established by the Corporation.".

(3) YIELD COVERAGE.—Section 508A of such Act (7 U.S.C. 1508a) is amended—

(A) in subsection (a)(1), by striking "may" and inserting "shall"; and

(B) in subsection (b)—

(i) in paragraph (1)(A)—

(I) by striking "A crop insurance contract" and all that follows through "producer—" and inserting "Under regulations issued by the Corporation, a crop insurance contract offered under this title to an eligible insured producer of a commodity with respect to which the Corporation provides crop insurance coverage shall make available to the producer either—";

(II) by striking "or" at the end of clause (i);

(III) in clause (ii)—

(aa) by striking "5" and inserting "4 building to 10"; and

(bb) by striking the period at the end and inserting "; or"; and

(IV) by adding at the end the following new clause:

"(iii) yield coverage based on—

"(I) not less than 65 percent of the transitional yield of the producer (adjusted to reflect actual experience), as specified in regulations issued by the Corporation based on production history requirements; or

"(II) the area yield under section 508(n) for the crop established under the program for the commodity involved.";

(ii) in paragraph (1)(B)—

(I) by striking "two" and inserting "3"; and

(II) by inserting after "subparagraph (A)" the following: ", where available (as determined by the Corporation),";

(iii) in paragraph (2)—

(I) by striking "5" and inserting "4 building to 10"; and

(II) by inserting after "previous crops," the following: "not less than 65 percent of the transitional yield of the producer (adjusted to reflect actual experience), or the area yield,"; and

(iv) in paragraph (3)(A)(i), by inserting after "farm program yield" the following: ", not less than 65 percent of the transitional yield of the producer (adjusted to reflect actual experience), as specified in regulations issued by the Corporation based on production history requirements, or the area yield under section 508(n), whichever is applicable,".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), this section and the amendments made by this section shall become effective on October 1, 1993.

(2) REGULATIONS.—Not later than 30 days after the date of enactment of this Act, the Secretary of Agriculture shall publish, for public comment, proposed regulations to implement the amendments made by this section.

TITLE II—ARMED SERVICES PROVISIONS

SEC. 2001. LIMITATION ON COST-OF-LIVING ADJUSTMENTS FOR MILITARY RETIREES.

Section 1401a(b) of title 10, United States Code, is amended—

(1) in paragraph (2), by striking out "The Secretary" and inserting in lieu thereof "Except as provided in paragraph (6), the Secretary"; and

(2) by adding at the end the following new paragraph:

"(6) SPECIAL RULES FOR PARAGRAPH (2) FOR FISCAL YEARS 1994 THROUGH 1998.—

"(A) FISCAL YEAR 1994.—In the case of an increase in the retired pay of a member or former member referred to in paragraph (2) that, pursuant to paragraph (1), becomes effective on December 1, 1993, the initial month for which such increase is payable as part of such retired pay shall (notwithstanding such December 1 effective date) be March 1994.

"(B) FISCAL YEARS 1995 THROUGH 1998.—In the case of an increase in retired pay of a member or former member referred to in paragraph (2) that, pursuant to paragraph (1), becomes effective on December 1 of 1994, 1995, 1996, or 1997, the initial month for which such increase is payable as part of such retired pay shall (notwithstanding such December 1 effective date) be September of the following year.

"(C) INAPPLICABILITY TO DISABILITY RETIREES.—Subparagraphs (A) and (B) do not apply with respect to the retired pay of a member retired under chapter 61 of this title.".

TITLE III—BANKING AND HOUSING PROVISIONS

SEC. 3001. NATIONAL DEPOSITOR PREFERENCE.

(a) IN GENERAL.—Section 11(d)(11) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(11)) is amended to read as follows:

"(11) DEPOSITOR PREFERENCE.—

"(A) IN GENERAL.—Subject to section 5(e)(2)(C), amounts realized from the liquidation or other resolution of any insured depository institution by any receiver appointed for such institution shall be distributed to pay claims (other than secured claims to the extent of any such security) in the following order of priority:

"(i) Administrative expenses of the receiver.

"(ii) Any deposit liability of the institution.

"(iii) Any other general or senior liability of the institution (which is not a liability described in clause (iv) or (v)).

"(iv) Any obligation subordinated to depositors or general creditors (which is not an obligation described in clause (v)).

"(v) Any obligation to shareholders or members arising as a result of their status as shareholders or members (including any depository institution holding company or any shareholder or creditor of such company).

"(B) EFFECT ON STATE LAW.—

"(i) IN GENERAL.—The provisions of subparagraph (A) shall not supersede the law of any State except to the extent such law is inconsistent with the provisions of such subparagraph, and then only to the extent of the inconsistency.

"(ii) PROCEDURE FOR DETERMINATION OF INCONSISTENCY.—Upon the Corporation's own motion or upon the request of any person with a claim described in subparagraph (A) or any State which is submitted to the Corporation in accordance with procedures which the Corporation shall prescribe, the Corporation shall determine whether any provision of the law of any State is inconsistent with any provision of subparagraph (A) and the extent of any such inconsistency.

"(iii) JUDICIAL REVIEW.—The final determination of the Corporation under clause (ii) shall be subject to judicial review under chapter 7 of title 5, United States Code.

"(C) ACCOUNTING REPORT.—Any distribution by the Corporation in connection with any claim described in subparagraph (A)(v) shall be accompanied by the accounting report required under paragraph (15)(B).".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 11(c)(13) of the Federal Deposit Insurance Act (12 U.S.C. 1821(c)(13)) is amended—

(A) in subparagraph (A), by striking "subject to subparagraph (B),";

(B) by inserting "and" after the semicolon at the end of subparagraph (A);

(C) by striking subparagraph (B); and

(D) by redesignating subparagraph (C) as subparagraph (B).

(2) Section 11(g)(4) of the Federal Deposit Insurance Act (12 U.S.C. 1921(g)(4)) is amended by striking "If the Corporation" and inserting "Subject to subsection (d)(11), if the Corporation".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to insured depository institutions for which a receiver is appointed after the date of the enactment of this Act.

SEC. 3002. TRANSFER OF FEDERAL RESERVE SURPLUSES.

(a) IN GENERAL.—The 1st undesignated paragraph of section 7 of the Federal Reserve Act (12 U.S.C. 289) is amended to read as follows:

"(a) DIVIDENDS AND SURPLUS FUNDS OF RESERVE BANKS.—

"(1) STOCKHOLDER DIVIDENDS.—

"(A) IN GENERAL.—After all necessary expenses of a Federal reserve bank have been paid or provided for, the stockholders of the bank shall be entitled to receive an annual dividend of 6 percent on paid-in capital stock.

"(B) DIVIDEND CUMULATIVE.—The entitlement to dividends under subparagraph shall be cumulative.

"(2) DEPOSIT OF NET EARNINGS IN SURPLUS FUND.—That portion of net earnings of each Federal reserve bank which remains after dividend claims under subparagraph (A) have been fully met shall be deposited in the surplus fund of the bank.

"(3) PAYMENT TO TREASURY.—During fiscal years 1997 and 1998, any amount in the surplus fund of any Federal reserve bank in excess of the amount equal to 3 percent of the total paid-in capital and surplus of the member banks of such bank shall be transferred to the Board for transfer to the Secretary of the Treasury for deposit in the general fund of the Treasury.".

(b) ADDITIONAL TRANSFERS FOR FISCAL YEARS 1997 AND 1998.—

(1) IN GENERAL.—In addition to the amounts required to be transferred from the surplus funds of the Federal reserve banks pursuant to section 7(a)(3) of the Federal Reserve Act, the Federal reserve banks shall transfer from such surplus funds to the Board of Governors of the Federal Reserve System for transfer to the Secretary of the Treasury for deposit in the general fund of the Treasury, a total amount of $106,000,000 in fiscal year 1997 and a total amount of $107,000,000 in fiscal year 1998.

(2) ALLOCATION BY FED.—Of the total amount required to be paid by the Federal reserve banks under paragraph (1) for fiscal year 1997 or 1998, the Board of Governors of the Federal Reserve System shall determine the amount each such bank shall pay in such fiscal year.

(3) REPLENISHMENT OF SURPLUS FUND PROHIBITED.—No Federal reserve bank may replenish such bank's surplus fund by the amount of any transfer by such bank under paragraph (1) during fiscal years 1997 and 1998.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) The penultimate undesignated paragraph of section 7 of the Federal Reserve Act (12 U.S.C. 290) is amended by striking "The net earnings derived" and inserting "(b) USE OF EARNINGS TRANSFERRED TO THE TREASURY.—The net earnings derived".

(2) The last undesignated paragraph of section 7 of the Federal Reserve Act (12 U.S.C. 531) is amended by striking "Federal reserve banks" and inserting "(c) EXEMPTION FROM TAXATION.—Federal reserve banks".

SEC. 3003. USE OF RETURN DATA FOR INCOME VERIFICATION UNDER CERTAIN HOUSING ASSISTANCE PROGRAMS.

Section 904 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (42 U.S.C. 3544) is amended as follows:

(1) DEFINITION.—In subsection (a), by adding at the end the following:

"(4) PROGRAM OF THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.—The term 'program of the Department of Housing and Urban Development' includes Indian housing programs assisted under title II of the United States Housing Act of 1937.".

(2) CONSENT FORMS.—In subsection (b)—

(A) in paragraph (1), by striking "and" at the end;

(B) in paragraph (2), by striking the period at the end and inserting "; and";

(C) by inserting after paragraph (2) the following new paragraph:

"(3) sign a consent form approved by the Secretary authorizing the Secretary to request the

Commissioner of Social Security and the Secretary of the Treasury to release information pursuant to section 6103(l)(7)(D)(ix) of the Internal Revenue Code of 1986 with respect to such applicant or participant for the sole purpose of the Secretary verifying income information pertinent to the applicant's or participant's eligibility or level of benefits."; and

(D) in the last sentence, by striking "This" and inserting the following: "Except as provided in this subsection, this".

(3) APPLICANT, PARTICIPANT, AND PUBLIC HOUSING AGENCY PROTECTIONS.—In subsection (c)(2)—

(A) in subparagraph (A)—

(i) in the matter preceding clause (i)—

(I) by inserting after "compensation law" the following: "or pursuant to section 6103(l)(7)(D)(ix) of the Internal Revenue Code of 1986 from the Commissioner of Social Security or the Secretary of the Treasury"; and

(II) by inserting "(in the case of information obtained pursuant to such section 303(i))" before "representatives"; and

(ii) in clause (ii), by inserting "or public housing agency" after "owner" each place it appears; and

(B) in subparagraph (B), by inserting after "wages" each place it appears the following: ", other earnings or income,".

(4) PENALTY.—In subsection (c)(3)—

(A) in subparagraph (A), by inserting "or section 6103(l)(7)(D)(ix) of the Internal Revenue Code of 1986 without consent pursuant to subsection (b) of this section or" after "Social Security Act"; and

(B) in the first sentence of subparagraph (B)—

(i) by striking clause (i) and inserting the following: "(i) a negligent or knowing disclosure of information referred to in this section, section 303(i) of the Social Security Act, or section 6103(l)(7)(D)(ix) of the Internal Revenue Code of 1986 about such person by an officer or employee of any public housing agency or owner (or employee thereof), which disclosure is not authorized by this section, such section 303(i), such section 6103(l)(7)(D)(ix), or any regulation implementing this section, such section 303(i), or such section 6103(l)(7)(D)(ix), or for which consent, pursuant to subsection (b) of this section, has not been granted, or"; and

(ii) in clause (ii), by inserting "such section 6103(l)(7)(D)(ix)," after "303(i),".

(5) CONFORMING AMENDMENT.—The heading of subsection (c) of section 904 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 is amended by striking "STATE EMPLOYMENT".

SEC. 3004. GNMA REMIC GUARANTEE FEES.

Section 306(g)(3) of the National Housing Act (12 U.S.C. 1721(g)(3)) is amended by adding at the end the following new subparagraph:

"(E)(i) Notwithstanding subparagraphs (A) through (D), fees charged for the guarantee of, or commitment to guarantee, multiclass securities backed by a trust or pool of securities or notes guaranteed by the Association under this subsection, and other related fees shall be charged by the Association in an amount the Association deems appropriate. The Association shall take such action as may be necessary to reasonably assure that such portion of the benefit, resulting from the Association's multiclass securities program, as the Association determines is appropriate accrues to mortgagors who execute eligible mortgages after the date of the enactment of this subparagraph.

"(ii) The Association shall provide for the initial implementation of the program for which fees are charged under the first sentence of clause (i) by notice published in the Federal Register. The notice shall be effective upon publication and shall provide an opportunity for public comment. Not later than 12 months after publication of the notice, the Association shall issue regulations for such program based on the notice, comments received, and the experience of the Association in carrying out the program during such period.

"(iii) The Association shall consult with persons or entities in such manner as the Association deems appropriate to ensure the efficient commencement and operation of the multiclass securities program.

"(iv) No State or local law, and no Federal law (except Federal law enacted expressly in limitation of this clause after the effective date of this subparagraph) shall preclude or limit the exercise by the Association of its power to contract with persons or entities, and its rights to enforce such contracts, for the purpose of ensuring the efficient commencement and continued operation of the multiclass securities program.".

SEC. 3005. MUTUAL MORTGAGE INSURANCE FUND PREMIUMS.

To improve the actuarial soundness of the Mutual Mortgage Insurance Fund under the National Housing Act, the Secretary of Housing and Urban Development shall increase the rate at which the Secretary earns the single premium payment collected at the time of insurance of a mortgage that is an obligation of such Fund (with respect to the rate in effect on the date of the enactment of this Act). In establishing such increased rate, the Secretary shall consider any current audit findings and reserve analyses and information regarding the expected average duration of mortgages that are obligations of such Fund and may consider any other information that the Secretary determines to be appropriate.

TITLE IV—STUDENT LOAN AND ERISA PROVISIONS

SEC. 4001. TABLE OF CONTENTS.

The table of contents for this title is as follows:

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Subtitle A—Direct Student Loan Provisions

SEC. 4011. SHORT TITLE; REFERENCES.

(a) SHORT TITLE.—This subtitle may be cited as the "Student Loan Reform Act of 1993".

(b) REFERENCES.—References in this subtitle and subtitles B and C to "the Act" are references to the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.).

CHAPTER 1—FEDERAL DIRECT STUDENT LOAN PROGRAM

SEC. 4021. FEDERAL DIRECT STUDENT LOAN PROGRAM.

Part D of title IV (20 U.S.C. 1087a) is amended to read as follows:

"PART D—FEDERAL DIRECT STUDENT LOAN PROGRAM

"SEC. 451. PROGRAM AUTHORITY.

There are hereby made available, in accordance with the provisions of this part, such sums as may be necessary to make loans to all eligible students (and the eligible parents of such students) in attendance at participating institutions of higher education selected by the Secretary, to enable such students to pursue their courses of study at such institutions during the period beginning July 1, 1994. Such loans shall be made by participating institutions, or consortia thereof, that have agreements with the Secretary to originate loans, or by alternative originators designated by the Secretary to make loans for students in attendance at participating institutions (and their parents).

"SEC. 452. FUNDS FOR ORIGINATION OF DIRECT STUDENT LOANS.

"(a) IN GENERAL.—The Secretary shall provide, on the basis of the need and the eligibility of students at each participating institution, and parents of such students, for such loans, funds for student and parent loans under this part—

"(1) directly to an institution of higher education that has an agreement with the Secretary under section 454(a) to participate in the direct student loan programs under this part and that also has an agreement with the Secretary under section 454(b) to originate loans under this part; or

"(2) through an alternative originator designated by the Secretary to students (and parents of students) attending institutions of higher education that have an agreement with the Secretary under section 454(a) but that do not have an agreement with the Secretary under section 454(b).

"(b) FEES FOR ORIGINATION SERVICES.—

"(1) FEES FOR INSTITUTIONS.—The Secretary shall pay fees to institutions of higher education (or a consortium of such institutions) with agreements under section 454(b), in an amount established by the Secretary, to assist in meeting the costs of loan origination. Such fees—

"(A) shall be paid by the Secretary based on all the loans made under this part to a particular borrower in the same academic year;

"(B) shall be subject to a sliding scale that decreases the per borrower amount of such fees as the number of borrowers increases; and

"(C)(i) for academic year 1994–1995, shall not exceed a program-wide average of $10 per borrower for all the loans made under this part to such borrower in the same academic year; and

"(ii) for succeeding academic years, shall not exceed such average fee as the Secretary shall establish pursuant to regulations.

"(2) FEES FOR ALTERNATIVE ORIGINATORS.—The Secretary shall pay fees for loan origination services to alternative originators of loans made *under this part in an amount established by the Secretary in accordance with the terms of the contract described in section 456(b) between the Secretary and each such alternative originator.*

"(c) NO ENTITLEMENT TO PARTICIPATE OR ORIGINATE.—No institution of higher education shall have a right to participate in the programs authorized by this part, to originate loans, or to perform any program function under this part. Nothing in this subsection shall be construed so as to limit the entitlement of an eligible student attending a participating institution (or the eligible parent of such student) to borrow under this part.

"(d) DELIVERY OF LOAN FUNDS.—Loan funds shall be paid and delivered to an institution by the Secretary prior to the beginning of the payment period established by the Secretary in a manner that is consistent with payment and delivery of basic grants under subpart 1 of part A of this title.

"SEC. 453. SELECTION OF INSTITUTIONS FOR PARTICIPATION AND ORIGINATION.

"(a) PHASE-IN OF PROGRAM.—

"(1) GENERAL AUTHORITY.—The Secretary shall enter into agreements pursuant to section 454(a) with institutions of higher education to participate in the direct student loan program under this part, and agreements pursuant to section 454(b) with institutions of higher education, or consortia thereof, to originate loans in such program, for academic years beginning on or after July 1, 1994. Alternative origination services, through which an entity other than the participating institution at which the student is in attendance originates the loan, shall be provided by the Secretary, through 1 or more contracts under section 456(b) or such other means as the Secretary may provide, for students attending participating institutions that do not originate direct student loans under this part. Such agreements for the academic year 1994–1995 shall, to the extent feasible, be entered into not later than January 1, 1994.

"(2) TRANSITION PROVISIONS.—In order to ensure an expeditious but orderly transition from the loan programs under part B of this title to the direct student loan program under this part, the Secretary shall, in the exercise of the Secretary's discretion, determine the number of institutions with which the Secretary shall enter into agreements under subsections (a) and (b) of section 454 for any academic year, except that the Secretary shall exercise such discretion so as to achieve the following goals:

"(A) for academic year 1994–1995, loans made under this part shall represent 5 percent of the new student loan volume for such year;

"(B) for academic year 1995–1996, loans made under this part shall represent 40 percent of the new student loan volume for such year;

"(C) for academic years 1996–1997 and 1997–1998, loans made under this part shall represent 50 percent of the new student loan volume for such years; and

"(D) for the academic year that begins in fiscal year 1998, loans made under this part shall represent 60 percent of the new student loan volume for such year.

"(3) EXCEPTION.—The Secretary may exceed the percentage goals described in subparagraphs (C) or (D) of paragraph (2) if the Secretary determines that a higher percentage is warranted by the number of institutions of higher education that desire to participate in the program under this part and that meet the eligibility requirements for such participation.

"(4) NEW STUDENT LOAN VOLUME.—For the purpose of this subsection, the term 'new student loan volume' means the estimated sum of all loans (other than consolidation loans) that will be made, insured or guaranteed under this part and part B in the year for which the determination is made. The Secretary shall base the estimate described in the preceding sentence on the most recent program data available.

"(b) SELECTION CRITERIA.—

"(1) APPLICATION.—Each institution of higher education desiring to participate in the direct student loan program under this part shall submit an application satisfactory to the Secretary containing such information and assurances as the Secretary may require.

"(2) SELECTION PROCEDURE.—The Secretary shall select institutions for participation in the direct student loan program under this part, and shall enter into agreements with such institutions under section 454(a), from among those institutions that submit the applications described in paragraph (1), and meet such other eligibility requirements as the Secretary shall prescribe, by, to the extent possible—

"(A)(i) categorizing such institutions according to anticipated loan volume, length of academic program, control of the institution, highest degree offered, size of student enrollment, geographic location, annual loan volume, and default experience; and

"(ii) beginning in academic year 1995–1996 selecting institutions that are reasonably representative of each of the categories described pursuant to clause (i); and

"(B) if the Secretary determines it necessary to carry out the purposes of this part, selecting additional institutions.

"(c) SELECTION CRITERIA FOR ORIGINATION.—

"(1) IN GENERAL.—The Secretary may enter into a supplemental agreement with an institution (or a consortium of such institutions) that—

"(A) has an agreement under subsection 454(a);

"(B) desires to originate loans under this part; and

"(C) meets the criteria described in paragraph (2).

"(2) TRANSITION SELECTION CRITERIA.—For academic year 1994–1995, the Secretary may approve an institution to originate loans only if such institution—

"(A) made loans under part E of this title in academic year 1993–1994 and did not exceed the applicable maximum default rate under section 462(g) for the most recent fiscal year for which data are available;

"(B) is not on the reimbursement system of payment for any of the programs under subpart 1 or 3 of part A, part C, or part E of this title;

"(C) is not overdue on program or financial reports or audits required under this title;

"(D) is not subject to an emergency action, or a limitation, suspension, or termination under section 428(b)(1)(T), 432(h), or 487(c);

"(E) in the opinion of the Secretary, has not had significant deficiencies identified by a State postsecondary review entity under subpart 1 of part H of this title;

"(F) in the opinion of the Secretary, has not had severe performance deficiencies for any of the programs under this title, including such deficiencies demonstrated by audits or program reviews submitted or conducted during the 5 calendar years immediately preceding the date of application;

"(G) provides an assurance that such institution has no delinquent outstanding debts to the Federal Government, unless such debts are being repaid under or in accordance with a repayment arrangement satisfactory to the Federal Government, or the Secretary in the Secretary's discretion determines that the existence or amount of such debts has not been finally determined by the cognizant Federal agency; and

"(H) meets such other criteria as the Secretary may establish to protect the financial interest of the United States and to promote the purposes of this part.

"(3) REGULATIONS GOVERNING APPROVAL AFTER TRANSITION.—For academic year 1995–1996 and subsequent academic years, the Secretary shall promulgate and publish in the Federal Register regulations governing the approval of institutions to originate loans under this part in accordance with section 457(a)(2).

"(d) ELIGIBLE INSTITUTIONS.—The Secretary may not select an institution of higher education for participation under this section unless such institution is an eligible institution under section 435(a).

"(e) CONSORTIA.—Subject to such requirements as the Secretary may prescribe, eligible institutions of higher education (as determined under subsection (d)) with agreements under section 454(a) may apply to the Secretary as consortia to originate loans under this part for students in attendance at such institutions. Each such institution shall be required to meet the requirements of subsection (c) with respect to loan origination.

"SEC. 454. AGREEMENTS WITH INSTITUTIONS.

"(a) PARTICIPATION AGREEMENTS.—An agreement with any institution of higher education for participation in the direct student loan program under this part shall—

"(1) provide for the establishment and maintenance of a direct student loan program at the institution under which the institution will—

"(A) identify eligible students who seek student financial assistance at such institution in accordance with section 484;

"(B) estimate the need of each such student as required by part F of this title for an academic year, except that, any loan obtained by a student under this part with the same terms as loans made under section 428H (except as otherwise provided in this part), or a loan obtained by a parent under this part with the same terms as loans made under section 428B (except as otherwise provided in this part), or obtained under any State-sponsored or private loan program, may be used to offset the expected family contribution of the student for that year;

"(C) provide a statement that certifies the eligibility of any student to receive a loan under this part that is not in excess of the annual or aggregate limit applicable to such loan, except that the institution may, in exceptional circumstances identified by the Secretary, refuse to certify a statement that permits a student to receive a loan under this part, or certify a loan amount that is less than the student's determination of need (as determined under part F of this title), if the reason for such action is documented and provided in written form to such student;

"(D) set forth a schedule for disbursement of the proceeds of the loan in installments, consistent with the requirements of section 428G; and

"(E) provide timely and accurate information—

"(i) concerning the status of student borrowers (and students on whose behalf parents borrow under this part) while such students are in attendance at the institution and concerning any new information of which the institution becomes aware for such students (or their parents) after such borrowers leave the institution, to the Secretary for the servicing and collecting of loans made under this part; and

"(ii) if the institution does not have an agreement with the Secretary under subsection (b), concerning student eligibility and need, as determined under subparagraphs (A) and (B), to the Secretary as needed for the alternative origination of loans to eligible students and parents in accordance with this part;

"(2) provide assurances that the institution will comply with requirements established by the Secretary relating to student loan information with respect to loans made under this part;

"(3) provide that the institution accepts responsibility and financial liability stemming from its failure to perform its functions pursuant to the agreement;

"(4) provide that students at the institution and their parents (with respect to such students) will be eligible to participate in the programs under part B of this title at the discretion of the Secretary for the period during which such institution participates in the direct student loan program under this part, except that a student or parent may not receive loans under both this part and part B for the same period of enrollment;

"(5) provide for the implementation of a quality assurance system, as established by the Secretary and developed in consultation with institutions of higher education, to ensure that the institution is complying with program requirements and meeting program objectives;

"(6) provide that the institution will not charge any fees of any kind, however described, to student or parent borrowers for origination activities or the provision of any information necessary for a student or parent to receive a loan under this part, or any benefits associated with such loan; and

"(7) include such other provisions as the Secretary determines are necessary to protect the interests of the United States and to promote the purposes of this part.

"(b) ORIGINATION.—An agreement with any institution of higher education, or consortia thereof, for the origination of loans under this part shall—

"(1) supplement the agreement entered into in accordance with subsection (a);

"(2) include provisions established by the Secretary that are similar to the participation agreement provisions described in paragraphs (1)(E)(ii), (2), (3), (4), (5), (6), and (7) of subsection (a), as modified to relate to the origination of loans by the institution or consortium;

"(3) provide that the institution or consortium will originate loans to eligible students and parents in accordance with this part; and

"(4) provide that the note or evidence of obligation on the loan shall be the property of the Secretary.

"(c) WITHDRAWAL AND TERMINATION PROCEDURES.—The Secretary shall establish procedures by which institutions or consortia may withdraw or be terminated from the program under this part.

"SEC. 455. TERMS AND CONDITIONS OF LOANS.

"(a) IN GENERAL.—

"(1) PARALLEL TERMS, CONDITIONS, BENEFITS, AND AMOUNTS.—Unless otherwise specified in this part, loans made to borrowers under this part shall have the same terms, conditions, and benefits, and be available in the same amounts, as loans made to borrowers under sections 428, 428B, and 428H of this title.

"(2) DESIGNATION OF LOANS.—Loans made to borrowers under this part that, except as otherwise specified in this part, have the same terms, conditions, and benefits as loans made to borrowers under—

"(A) section 428 shall be known as 'Federal Direct Stafford Loans';

"(B) section 428B shall be known as 'Federal Direct PLUS Loans'; and

"(C) section 428H shall be known as 'Federal Direct Unsubsidized Stafford Loans'.

"(b) INTEREST RATE.—

"(1) RATES FOR FDSL AND FDUSL.—For Federal Direct Stafford Loans and Federal Direct Unsubsidized Stafford Loans for which the first disbursement is made on or after July 1, 1994, the applicable rate of interest shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to—

"(A) the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held prior to such June 1; plus

"(B) 3.1 percent,

except that such rate shall not exceed 8.25 percent.

"(2) IN SCHOOL AND GRACE PERIOD RULES.—(A) Notwithstanding the provisions of paragraph (1), but subject to paragraph (3), with respect to any Federal Direct Stafford Loan or Federal Direct Unsubsidized Stafford Loan for which the first disbursement is made on or after July 1, 1995, the applicable rate of interest for interest which accrues—

"(i) prior to the beginning of the repayment period of the loan; or

"(ii) during the period in which principal need not be paid (whether or not such principal is in fact paid) by reason of a provision described in section 428(b)(1)(M) or 427(a)(2)(C),

shall not exceed the rate determined under subparagraph (B).

"(B) For the purpose of subparagraph (A), the rate determined under this subparagraph shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to—

"(i) the bond equivalent rate of 91-day Treasury bills auctioned at the final auction prior to such June 1; plus

"(ii) 2.5 percent,

except that such rate shall not exceed 8.25 percent.

"(3) OUT-YEAR RULE.—Notwithstanding paragraphs (1) and (2), for Federal Direct Stafford Loans and Federal Direct Unsubsidized Stafford Loans made on or after July 1, 1998, the applicable rate of interest shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to—

"(A) the bond equivalent rate of the security with a comparable maturity as established by the Secretary; plus

"(B) 1.0 percent,

except that such rate shall not exceed 8.25 percent.

"(4) RATES FOR FDPLUS.—(A) For Federal Direct PLUS Loans for which the first disbursement is made on or after July 1, 1994, the applicable rate of interest shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to—

"(i) the bond equivalent rate of 52-week Treasury bills auctioned at final auction held prior to such June 1; plus

"(ii) 3.1 percent,

except that such rate shall not exceed 9 percent.

"(B) For Federal Direct PLUS loans made on or after July 1, 1998, the applicable rate of interest shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to—

"(i) the bond equivalent rate of the security with a comparable maturity as established by the Secretary; plus

"(ii) 2.1 percent,

except that such rate shall not exceed 9 percent.

"(5) PUBLICATION.—The Secretary shall determine the applicable rates of interest under this subsection after consultation with the Secretary of Treasury and shall publish such rate in the Federal Register as soon as practicable after the date of determination.

"(c) LOAN FEE.—The Secretary shall charge the borrower of a loan made under this part an origination fee of 4.0 percent of the principal amount of loan.

"(d) REPAYMENT PLANS.—

"(1) DESIGN AND SELECTION.—Consistent with criteria established by the Secretary, the Secretary shall offer a borrower of a loan made under this part a variety of plans for repayment of such loan, including principal and interest on the loan. The borrower shall be entitled to accelerate, without penalty, repayment on the borrower's loans under this part. The borrower may choose—

"(A) a standard repayment plan, with a fixed annual repayment amount paid over a fixed period of time, consistent with subsection (a)(1) of this section;

"(B) an extended repayment plan, with a fixed annual repayment amount paid over an extended period of time, except that the borrower shall annually repay a minimum amount determined by the Secretary in accordance with section 428(b)(1)(L);

"(C) a graduated repayment plan, with annual repayment amounts established at 2 or more graduated levels and paid over a fixed or extended period of time, except that the borrower's scheduled payments shall not be less than 50 percent, nor more than 150 percent, of what the amortized payment on the amount owed would be if the loan were repaid under the standard repayment plan; and

"(D) an income contingent repayment plan, with varying annual repayment amounts based on the income of the borrower, paid over an extended period of time prescribed by the Secretary, not to exceed 25 years, except that the plan described in this subparagraph shall not be available to the borrower of a Federal Direct PLUS loan.

"(2) SELECTION BY SECRETARY.—If a borrower of a loan made under this part does not select a repayment plan described in paragraph (1), the Secretary may provide the borrower with a repayment plan described in subparagraph (A), (B), or (C) of paragraph (1).

"(3) CHANGES IN SELECTIONS.—The borrower of a loan made under this part may change the borrower's selection of a repayment plan under paragraph (1), or the Secretary's selection of a plan for the borrower under paragraph (2), as the case may be, under such terms and conditions as may be established by the Secretary.

"(4) ALTERNATIVE REPAYMENT PLANS.—The Secretary may provide, on a case by case basis, an alternative repayment plan to a borrower of a loan made under this part who demonstrates to the satisfaction of the Secretary that the terms and conditions of the repayment plans available under paragraph (1) are not adequate to accommodate the borrower's exceptional circumstances. In designing such alternative repayment plans, the Secretary shall ensure that such plans do not exceed the cost to the Federal Government, as determined on the basis of the present value of future payments by such borrowers, of loans made using the plans available under paragraph (1).

"(5) REPAYMENT AFTER DEFAULT.—The Secretary may require any borrower who has defaulted on a loan made under this part to—

"(A) pay all reasonable collection costs associated with such loan; and

"(B) repay the loan pursuant to an income contingent repayment plan.

"(e) INCOME CONTINGENT REPAYMENT.—

"(1) INFORMATION AND PROCEDURES.—The Secretary may obtain such information as is reasonably necessary regarding the income of a borrower (and the borrower's spouse, if applicable) of a loan made under this part that is, or may be, repaid pursuant to income contingent repayment, for the purpose of determining the annual repayment obligation of the borrower. Returns and return information (as defined in section 6103 of the Internal Revenue Code of 1986) may be obtained under the preceding sentence only to the extent authorized by section 6103(l)(13) of such Code. The Secretary shall establish procedures for determining the borrower's repayment obligation on that loan for such year, and such other procedures as are necessary to implement effectively income contingent repayment.

"(2) REPAYMENT BASED ON ADJUSTED GROSS INCOME.—A repayment schedule for a loan made under this part and repaid pursuant to income

contingent repayment shall be based on the adjusted gross income (as defined in section 62 of the Internal Revenue Code of 1986) of the borrower or, if the borrower is married and files a Federal income tax return jointly with the borrower's spouse, on the adjusted gross income of the borrower and the borrower's spouse.

"(3) ADDITIONAL DOCUMENTS.—A borrower who chooses, or is required, to repay a loan made under this part pursuant to income contingent repayment, and for whom adjusted gross income is unavailable or does not reasonably reflect the borrower's current income, shall provide to the Secretary other documentation of income satisfactory to the Secretary, which documentation the Secretary may use to determine an appropriate repayment schedule.

"(4) REPAYMENT SCHEDULES.—Income contingent repayment schedules shall be established by regulations promulgated by the Secretary and shall require payments that vary in relation to the appropriate portion of the annual income of the borrower (and the borrower's spouse, if applicable) as determined by the Secretary.

"(5) CALCULATION OF BALANCE DUE.—The balance due on a loan made under this part that is repaid pursuant to income contingent repayment shall equal the unpaid principal amount of the loan, any accrued interest, and any fees, such as late charges, assessed on such loan. The Secretary may promulgate regulations limiting the amount of interest that may be capitalized on such loan, and the timing of any such capitalization.

"(6) NOTIFICATION TO BORROWERS.—The Secretary shall establish procedures under which a borrower of a loan made under this part who chooses or is required to repay such loan pursuant to income contingent repayment is notified of the terms and conditions of such plan, including notification of such borrower—

"(A) that the Internal Revenue Service will disclose to the Secretary tax return information as authorized under section 6103(l)(13) of the Internal Revenue Code of 1986; and

"(B) that if a borrower considers that special circumstances, such as a loss of employment by the borrower or the borrower's spouse, warrant an adjustment in the borrower's loan repayment as determined using the information described in subparagraph (A), or the alternative documentation described in paragraph (3), the borrower may contact the Secretary, who shall determine whether such adjustment is appropriate, in accordance with criteria established by the Secretary.

"(f) DEFERMENT.—

"(1) EFFECT ON PRINCIPAL AND INTEREST.—A borrower of a loan made under this part who meets the requirements described in paragraph (2) shall be eligible for a deferment, during which periodic installments of principal need not be paid, and interest—

"(A) shall not accrue, in the case of a—

"(i) Federal Direct Stafford Loan; or

"(ii) a Federal Direct Consolidation Loan that consolidated only Federal Direct Stafford Loans, or a combination of such loans and Federal Stafford Loans for which the student borrower received an interest subsidy under section 428; or

"(B) shall accrue and be capitalized or paid by the borrower, in the case of a Federal Direct PLUS Loan, a Federal Direct Unsubsidized Stafford Loan, or a Federal Direct Consolidation Loan not described in subparagraph (A)(ii).

"(2) ELIGIBILITY.—A borrower of a loan made under this part shall be eligible for a deferment during any period—

"(A) during which the borrower—

"(i) is carrying at least one-half the normal full-time work load for the course of study that the borrower is pursuing, as determined by the eligible institution (as such term is defined in section 435(a)) the borrower is attending; or

"(ii) is pursuing a course of study pursuant to a graduate fellowship program approved by the Secretary, or pursuant to a rehabilitation training program for individuals with disabilities approved by the Secretary,

except that no borrower shall be eligible for a deferment under this subparagraph, or a loan made under this part (other than a Federal Direct PLUS Loan or a Federal Direct Consolidation Loan), while serving in a medical internship or residency program;

"(B) not in excess of 3 years during which the borrower is seeking and unable to find full-time employment;

"(C) not in excess of 3 years during which the Secretary determines, in accordance with regulations prescribed under section 435(o), that the borrower has experienced or will experience an economic hardship.

"(g) FEDERAL DIRECT CONSOLIDATION LOANS.—A borrower of a loan made under this part may consolidate such loan with the loans described in section 428C(a)(4) only under such terms and conditions as the Secretary shall establish pursuant to section 457(a)(1) or regulations promulgated under this part. Loans made under this subsection shall be known as 'Federal Direct Consolidation Loans'.

"(h) BORROWER DEFENSES.—Notwithstanding any other provision of State or Federal law, the Secretary shall specify in regulations (except as authorized under section 457(a)(1)) which acts or omissions of an institution of higher education a borrower may assert as a defense to repayment of a loan made under this part, except that in no event may a borrower recover from the Secretary, in any action arising from or relating to a loan made under this part, an amount in excess of the amount such borrower has repaid on such loan.

"(i) LOAN APPLICATION AND PROMISSORY NOTE.—The common financial reporting form required in section 483(a)(1) shall constitute the application for loans made under this part (other than a Federal Direct PLUS loan). The Secretary shall develop, print, and distribute to participating institutions a standard promissory note and loan disclosure form.

"(j) LOAN DISBURSEMENT.—

"(1) IN GENERAL.—Proceeds of loans to students under this part shall be applied to the student's account for tuition and fees, and, in the case of institutionally owned housing, to room and board. Loan proceeds that remain after the application of the previous sentence shall be delivered to the borrower by check or other means that is payable to and requires the endorsement or other certification by such borrower.

"(2) PAYMENT PERIODS.—The Secretary shall establish periods for the payments described in paragraph (1) in a manner consistent with payment of basic grants under subpart 1 of part A of this title.

"(k) FISCAL CONTROL AND FUND ACCOUNTABILITY.—

"(1) IN GENERAL.—(A) An institution shall maintain financial records in a manner consistent with records maintained for other programs under this title.

"(B) Except as otherwise required by regulations of the Secretary, or in a notice under section 457(a)(1), an institution may maintain loan funds under this part in the same account as other Federal student financial assistance.

"(2) PAYMENTS AND REFUNDS.—Payments and refunds shall be reconciled in a manner consistent with the manner set forth for the submission of a payment summary report required of institutions participating in the program under subpart 1 of part A, except that nothing in this paragraph shall prevent such reconciliations on a monthly basis.

"(3) TRANSACTION HISTORIES.—All transaction histories under this part shall be maintained using the same system designated by the Secretary for the provision of basic grants under subpart 1 of part A of this title.

"SEC. 456. CONTRACTS.

"(a) CONTRACTS FOR SUPPLIES AND SERVICES.—

"(1) IN GENERAL.—The Secretary shall, to the extent practicable, award contracts for origination, servicing, and collection described in subsection (b). In awarding such contracts, the Secretary shall ensure that such services and supplies are provided at competitive prices.

"(2) ENTITIES.—The entities with which the Secretary may enter into contracts shall include only entities which the Secretary determines are qualified to provide such services and supplies and will comply with the procedures applicable to the award of such contracts. In the case of awarding contracts for the origination, servicing, and collection of loans under this part, the Secretary shall enter into contracts only with entities that have extensive and relevant experience and demonstrated effectiveness. The entities with which the Secretary may enter into such contracts shall include, where practicable, agencies with agreements with the Secretary under sections 428(b) and (c), if such agencies meet the qualifications as determined by the Secretary under this subsection and if those agencies have such experience and demonstrated effectiveness. In awarding contracts to such State agencies, the Secretary shall, to the extent practicable and consistent with the purposes of this part, give special consideration to State agencies with a history of high quality performance to perform services for institutions of higher education within their State.

"(3) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as a limitation of the authority of any State agency to enter into an agreement for the purposes of this section as a member of a consortium of State agencies.

"(b) CONTRACTS FOR ORIGINATION, SERVICING, AND DATA SYSTEMS.—The Secretary may enter into contracts for—

"(1) the alternative origination of loans to students attending institutions of higher education with agreements to participate in the program under this part (or their parents), if such institutions do not have agreements with the Secretary under section 454(b);

"(2) the servicing and collection of loans made under this part;

"(3) the establishment and operation of 1 or more data systems for the maintenance of records on all loans made under this part;

"(4) services to assist in the orderly transition from the loan programs under part B to the direct student loan program under this part; and

"(5) such other aspects of the direct student loan program as the Secretary determines are necessary to ensure the successful operation of the program.

"SEC. 457. REGULATORY ACTIVITIES.

"(a) NOTICE IN LIEU OF REGULATIONS FOR FIRST YEAR OF PROGRAM.—

"(1) NOTICE IN LIEU OF REGULATIONS FOR FIRST YEAR OF PROGRAM.—The Secretary shall publish in the Federal Register whatever standards, criteria, and procedures, consistent with the provisions of this part, the Secretary, in consultation with members of the higher education community, determines are reasonable and necessary to the successful implementation of the first year of the direct student loan program authorized by this part. Section 431 of the General Education Provisions Act shall not apply to the publication of such standards, criteria, and procedures.

"(2) NEGOTIATED RULEMAKING.—Beginning with academic year 1995–1996, all standards, criteria, procedures, and regulations implementing this part as amended by the Student Loan Reform Act of 1993 shall, to the extent practicable,

be subject to negotiated rulemaking, including all such standards, criteria, procedures, and regulations promulgated from the date of enactment of such Act.

"(b) CLOSING DATE FOR APPLICATIONS FROM INSTITUTIONS.—The Secretary shall establish a date not later than October 1, 1993, as the closing date for receiving applications from institutions of higher education desiring to participate in the first year of the direct loan program under this part.

"(c) PUBLICATION OF LIST OF PARTICIPATING INSTITUTIONS.—Not later than January 1, 1994, the Secretary shall publish in the Federal Register a list of the institutions of higher education selected to participate in the first year of the direct loan program under this part.

"SEC. 458. FUNDS FOR ADMINISTRATIVE EXPENSES.

"(a) IN GENERAL.—Each fiscal year, there shall be available to the Secretary of Education from funds available pursuant to section 422(g) and from funds not otherwise appropriated, funds to be obligated for administrative costs under this part, including the costs of the transition from the loan programs under part B to the direct student loan programs under this part (including the costs of annually assessing the program under this part and the progress of the transition) and transition support (including administrative costs) for the expenses of guaranty agencies in servicing outstanding loans in their portfolios and in guaranteeing new loans, not to exceed (from such funds not otherwise appropriated) $260,000,000 in fiscal year 1994, $345,000,000 in fiscal year 1995, $550,000,000 in fiscal year 1996, $595,000,000 in fiscal year 1997, and $750,000,000 in fiscal year 1998. If in any fiscal year the Secretary determines that additional funds for administrative expenses are needed as a result of such transition or the expansion of the direct student loan programs under this part, the Secretary is authorized to use funds available under this section for a subsequent fiscal year for such expenses, except that the total expenditures by the Secretary (from such funds not otherwise appropriated) shall not exceed $2,500,000,000 in fiscal years 1994 through 1998. The Secretary is also authorized to carry over funds available under this section to a subsequent fiscal year.

"(b) AVAILABILITY.—Funds made available under subsection (a) shall remain available until expended.

"(c) BUDGET JUSTIFICATION.—No funds may be expended under this section unless the Secretary includes in the Department of Education's annual budget justification to Congress a detailed description of the specific activities for which the funds made available by this section have been used in the prior and current years (if applicable), the activities and costs planned for the budget year, and the projection of activities and costs for each remaining year for which administrative expenses under this section are made available.

"(d) NOTIFICATION.—In the event the Secretary finds it necessary to use the authority provided to the Secretary under subsection (a) to draw funds for administrative expenses from a future year's funds, no funds may be expended under this section unless the Secretary immediately notifies the Committees on Appropriations of the Senate and of the House of Representatives, and the Labor and Human Resources Committee of the Senate and the Education and Labor Committee of the House of Representatives, of such action and explain the reasons for such action.".

CHAPTER 2—CONFORMING AMENDMENTS TO THE HIGHER EDUCATION ACT OF 1965

SEC. 4041. PRESERVING LOAN ACCESS.

(a) ADVANCES TO GUARANTY AGENCIES FOR LENDER-OF-LAST-RESORT SERVICES.—

(1) AMENDMENT.—Section 428(j) of the Act (20 U.S.C. 1078(j)) is amended by striking paragraph (3) and inserting the following:

"(3) ADVANCES TO GUARANTY AGENCIES FOR LENDER-OF-LAST-RESORT SERVICES DURING TRANSITION TO DIRECT LENDING.—(A) In order to ensure the availability of loan capital during the transition from the Federal Family Education Loan Program under this part to the Federal Direct Student Loan Program under part D of this title, the Secretary is authorized to provide a guaranty agency with additional advance funds in accordance with section 422(c)(7), with such restrictions on the use of such funds as are determined appropriate by the Secretary, in order to ensure that the guaranty agency will make loans as the lender-of-last-resort. Such agency shall make such loans in accordance with this subsection and the requirements of the Secretary.

"(B) Notwithstanding any other provision in this part, a guaranty agency serving as a lender-of-last-resort under this paragraph shall be paid a fee, established by the Secretary, for making such loans in lieu of interest and special allowance subsidies, and shall be required to assign such loans to the Secretary on demand. Upon such assignment, the portion of the advance represented by the loans assigned shall be considered repaid by such guaranty agency.".

(2) CONFORMING AMENDMENTS.—

(A) ADVANCES TO GUARANTEE AGENCIES.—Section 422(c)(7) of the Act (20 U.S.C. 1072(c)(7)) is amended by striking all beginning with "to a guaranty agency" through the period and inserting "to a guaranty agency—

"(A) in accordance with section 428(j), in order to ensure that the guaranty agency shall make loans as the lender-of-last-resort during the transition from the Federal Family Education Loan Program under this part to the Federal Direct Student Loan Program under part D of this title; or

"(B) if the Secretary is seeking to terminate the guaranty agency's agreement, or assuming the guaranty agency's functions, in accordance with section 428(c)(10)(F)(v), in order to assist the agency in meeting its immediate cash needs, ensure the uninterrupted payment of claims, or ensure that the guaranty agency shall make loans as described in subparagraph (A);".

(B) RULES AND OPERATING PROCEDURES.—Section 428(j)(2) of the Act (20 U.S.C. 1078(j)(2)) is amended—

(i) in subparagraph (A), by inserting before the semicolon at the end the following: "and ensure a response within 60 days after the student's original complete application is filed under this subsection";

(ii) by redesignating subparagraphs (B) through (D) as subparagraphs (C) through (E), respectively; and

(iii) by inserting after subparagraph (A) the following new subparagraph:

"(B) consistent with standards established by the Secretary, students applying for loans under this subsection shall not be subject to additional eligibility requirements or requests for additional information beyond what is required under this title in order to receive a loan under this part from an eligible lender, nor be required to receive more than two rejections from eligible lenders in order to obtain a loan under this subsection;".

(b) LENDER REFERRAL SERVICES.—Section 428(e) of the Act (20 U.S.C. 1078(e)) is amended—

(1) in paragraph (1)—

(A) by amending the paragraph heading to read as follows: "IN GENERAL; AGREEMENTS WITH GUARANTY AGENCIES.—";

(B) by inserting the subparagraph designation "(A)" immediately before "The Secretary";

(C) by striking "in any State" and inserting "with which the Secretary has an agreement under subparagraph (B)"; and

(D) by adding at the end the following new subparagraph:

"(B)(i) The Secretary may enter into agreements with guaranty agencies that meet standards established by the Secretary to provide lender referral services in geographic areas specified by the Secretary. Such guaranty agencies shall be paid in accordance with paragraph (3) for such services.

"(ii) The Secretary shall publish in the Federal Register whatever standards, criteria, and procedures, consistent with the provisions of this part and part D of this title, the Secretary determines are reasonable and necessary to provide lender referral services under this subsection and ensure loan access to student and parent borrowers during the transition from the loan programs under this part to the direct student loan programs under part D of this title. Section 431 of the General Education Provisions Act shall not apply to the publication of such standards, criteria, and procedures.";

(2) in paragraph (2)—

(A) in the matter preceding subparagraph (A), by striking "in a State" and inserting "with which the Secretary has an agreement under paragraph (1)(B)";

(B) by amending subparagraph (A) to read as follows:

"(A)(i) such student is either a resident of, or is accepted for enrollment in, or is attending, an eligible institution located in a geographic area for which the Secretary (I) determines that loans are not available to all eligible students, and (II) has entered into an agreement with a guaranty agency under paragraph (1)(B) to provide lender referral services; and";

(3) in paragraph (3), by striking "The" and inserting "From funds available for costs of transition under section 458 of the Act, the"; and

(4) by striking paragraph (5).

(c) LENDER-OF-LAST-RESORT FUNCTIONS OF STUDENT LOAN MARKETING ASSOCIATION.—Subsection (q) of section 439 of the Act (20 U.S.C. 1087–2(q)) is amended to read as follows:

"(q) LENDER OF LAST RESORT.—

"(1) ACTION AT REQUEST OF SECRETARY.—(A) Whenever the Secretary determines that eligible borrowers are seeking and are unable to obtain loans under this part, the Association or its designated agent shall, not later than 90 days after the date of enactment of the Student Loan Reform Act of 1993, begin making loans to such eligible borrowers in accordance with this subsection at the request of the Secretary. The Secretary may request that the Association make loans to borrowers within a geographic area or for the benefit of students attending institutions of higher education that certify, in accordance with standards established by the Secretary, that their students are seeking and unable to obtain loans.

"(B) Loans made pursuant to this subsection shall be insurable by the Secretary under section 429 with a certificate of comprehensive insurance coverage provided for under section 429(b)(1) or by a guaranty agency under paragraph (2)(A) of this subsection.

"(2) ISSUANCE AND COVERAGE OF LOANS.—(A) Whenever the Secretary, after consultation with, and with the agreement of, representatives of the guaranty agency in a State, or an eligible lender in a State described in section 435(d)(1)(D), determines that a substantial portion of eligible borrowers in such State or within an area of such State are seeking and are unable to obtain loans under this part, the Association or its designated agent shall begin making such loans to borrowers in such State or within an area of such State in accordance with this subsection at the request of the Secretary.

"(B) Loans made pursuant to this subsection shall be insurable by the agency identified in

subparagraph (A) having an agreement pursuant to section 428(b). For loans insured by such agency, the agency shall provide the Association with a certificate of comprehensive insurance coverage, if the Association and the agency have mutually agreed upon a means to determine that the agency has not already guaranteed a loan under this part to a student which would cause a subsequent loan made by the Association to be in violation of any provision under this part.

"(3) TERMINATION OF LENDING.—The Association or its designated agent shall cease making loans under this subsection at such time as the Secretary determines that the conditions which caused the implementation of this subsection have ceased to exist.".

SEC. 4042. GUARANTY AGENCY RESERVES.

Section 422 of the Act (20 U.S.C. 1072) is amended by adding at the end the following new subsection:

"(g) PRESERVATION AND RECOVERY OF GUARANTY AGENCY RESERVES.—

"(1) AUTHORITY TO RECOVER FUNDS.—Notwithstanding any other provision of law, the reserve funds of the guaranty agencies, and any assets purchased with such reserve funds, regardless of who holds or controls the reserves or assets, shall be considered to be the property of the United States to be used in the operation of the program authorized by this part or the program authorized by part D of this title. However, the Secretary may not require the return of all reserve funds of a guaranty agency to the Secretary unless the Secretary determines that such return is in the best interest of the operation of the program authorized by this part or the program authorized by part D of this title, or to ensure the proper maintenance of such agency's funds or assets or the orderly termination of the guaranty agency's operations and the liquidation of its assets. The reserves shall be maintained by each guaranty agency to pay program expenses and contingent liabilities, as authorized by the Secretary, except that—

"(A) the Secretary may direct a guaranty agency to return to the Secretary a portion of its reserve fund which the Secretary determines is unnecessary to pay the program expenses and contingent liabilities of the guaranty agency;

"(B) the Secretary may direct the guaranty agency to require the return, to the guaranty agency or to the Secretary, of any reserve funds or assets held by, or under the control of, any other entity, which the Secretary determines are necessary to pay the program expenses and contingent liabilities of the guaranty agency, or which are required for the orderly termination of the guaranty agency's operations and the liquidation of its assets;

"(C) the Secretary may direct a guaranty agency, or such agency's officers or directors, to cease any activities involving expenditure, use or transfer of the guaranty agency's reserve funds or assets which the Secretary determines is a misapplication, misuse, or improper expenditure of such funds or assets; and

"(D) any such determination under subparagraph (A) or (B) shall be based on standards prescribed by regulations that are developed through negotiated rulemaking and that include procedures for administrative due process.

"(2) TERMINATION PROVISIONS IN CONTRACTS.—(A) To ensure that the funds and assets of the guaranty agency are preserved, any contract with respect to the administration of a guaranty agency's reserve funds, or the administration of any assets purchased or acquired with the reserve funds of the guaranty agency, that is entered into or extended by the guaranty agency, or any other party on behalf of or with the concurrence of the guaranty agency, after the date of enactment of this subsection shall provide that the contract is terminable by the Secretary upon 30 days notice to the contracting parties if the Secretary determines that such contract includes an impermissible transfer of the reserve funds or assets, or is otherwise inconsistent with the terms or purposes of this section.

"(B) The Secretary may direct a guaranty agency to suspend or cease activities under any contract entered into by or on behalf of such agency after January 1, 1993, if the Secretary determines that the misuse or improper expenditure of such guaranty agency's funds or assets or such contract provides unnecessary or improper benefits to such agency's officers or directors.

"(3) PENALTIES.—Violation of any direction issued by the Secretary under this subsection may be subject to the penalties described in section 490 of this Act.

"(4) AVAILABILITY OF FUNDS.—Any funds that are returned or otherwise recovered by the Secretary pursuant to this subsection shall be available for expenditure for expenses pursuant to section 458 of this Act.".

SEC. 4043. TERMS OF LOANS.

(a) AMENDMENT.—Section 428 of the Act (20 U.S.C. 1078) is amended—

(1) in subsection (b)(1)(D), by striking "be subject to" through the semicolon and inserting "be subject to income contingent repayment in accordance with subsection (m);"; and

(2) in subsection (m)—

(A) by amending paragraph (1) to read as follows:

"(1) AUTHORITY OF SECRETARY TO REQUIRE.—The Secretary shall require at least 10 percent of the borrowers who have defaulted on loans made under this part that are assigned to the Secretary under subsection (c)(8) to repay those loans under an income contingent repayment plan, the terms and conditions of which shall be established by the Secretary and the same as, or similar to, an income contingent repayment plan established for purposes of part D of this title."; and

(B) by striking paragraphs (2), (3), and (4) and inserting the following new paragraph:

"(2) LOANS FOR WHICH INCOME CONTINGENT REPAYMENT MAY BE REQUIRED.—A loan made under this part may be required to be repaid under this subsection if the note or other evidence of the loan has been assigned to the Secretary pursuant to subsection (c)(8).".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 1, 1994.

SEC. 4044. ASSIGNMENT OF LOANS.

Section 428(c)(8) of the Act (20 U.S.C. 1078(c)(8)) is amended—

(1) in the first sentence, by inserting the subparagraph designation "(A)" before "If the";

(2) by striking the second and third sentences; and

(3) by adding at the end the following new subparagraph:

"(B) An orderly transition from the Federal Family Education Loan Program under this part to the Federal Direct Student Loan Program under part D of this title shall be deemed to be in the Federal fiscal interest, and a guaranty agency shall promptly assign loans to the Secretary under this paragraph upon the Secretary's request.".

SEC. 4045. TERMINATION OF GUARANTY AGENCY AGREEMENTS; ASSUMPTION OF GUARANTY AGENCY FUNCTIONS BY THE SECRETARY.

Section 428(c)(10) of the Act is amended—

(1) in subparagraph (C), by inserting ", as appropriate," after "the Secretary shall require";

(2) in subparagraph (D)—

(A) by inserting the clause designation "(i)" before "Each";

(B) by striking "Each" and inserting "If the Secretary is not seeking to terminate the guaranty agency's agreement under subparagraph (E), or assuming the guaranty agency's functions under subparagraph (F), a";

(C) by adding at the end the following new clause:

"(ii) If the Secretary is seeking to terminate the guaranty agency's agreement under subparagraph (E), or assuming the guaranty agency's functions under subparagraph (F), a management plan described in subparagraph (C) shall include the means by which the Secretary and the guaranty agency shall work together to ensure the orderly termination of the operations, and liquidation of the assets, of the guaranty agency.";

(3) in subparagraph (E)—

(A) in clause (ii), by striking "or" after the semicolon;

(B) in clause (iii), by striking the period and inserting a semicolon; and

(C) by adding at the end the following new clauses:

"(iv) the Secretary determines that such action is necessary to protect the Federal fiscal interest;

"(v) the Secretary determines that such action is necessary to ensure the continued availability of loans to student or parent borrowers; or

"(vi) the Secretary determines that such action is necessary to ensure an orderly transition from the loan programs under this part to the direct student loan programs under part D of this title.";

(4) in subparagraph (F)—

(A) in the matter preceding clause (i), by striking "Except as provided in subparagraph (G), if" and inserting "If";

(B) by amending clause (v) to read as follows:

"(v) provide the guaranty agency with additional advance funds in accordance with section 422(c)(7), with such restrictions on the use of such funds as is determined appropriate by the Secretary, in order to—

"(I) meet the immediate cash needs of the guaranty agency;

"(II) ensure the uninterrupted payment of claims; or

"(III) ensure that the guaranty agency will make loans as the lender-of-last-resort, in accordance with subsection (j);";

(C) in clause (vi)—

(i) by striking "and to avoid" and inserting "to avoid";

(ii) by striking the period and inserting a comma and "and to ensure an orderly transition from the loan programs under this part to the direct student loan programs under part D of this title."; and

(iii) by redesignating such clause as clause (vii); and

(D) by inserting after clause (v) the following new clause:

"(vi) use all funds and assets of the guaranty agency to assist in the activities undertaken in accordance with this subparagraph and take appropriate action to require the return, to the guaranty agency or the Secretary, of any funds or assets provided by the guaranty agency, under contract or otherwise, to any person or organization; or";

(5) by striking subparagraph (G);

(6) by redesignating subparagraphs (H), (I), and (J) as subparagraphs (I), (J), and (K), respectively;

(7) by inserting after subparagraph (F) the following new subparagraphs:

"(G) Notwithstanding any other provision of Federal or State law, if the Secretary has terminated or is seeking to terminate a guaranty agency's agreement under subparagraph (E), or has assumed a guaranty agency's functions under subparagraph (F)—

"(i) no State court may issue any order affecting the Secretary's actions with respect to such guaranty agency;

"(ii) any contract with respect to the administration of a guaranty agency's reserve funds, or the administration of any assets purchased or acquired with the reserve funds of the guaranty agency, that is entered into or extended by the guaranty agency, or any other party on behalf of or with the concurrence of the guaranty agency, after the date of enactment of this subparagraph shall provide that the contract is terminable by the Secretary upon 30 days notice to the contracting parties if the Secretary determines that such contract includes an impermissible transfer of the reserve funds or assets, or is otherwise inconsistent with the terms or purposes of this section; and

"(iii) no provision of State law shall apply to the actions of the Secretary in terminating the operations of a guaranty agency.

"(H) Notwithstanding any other provision of law, the Secretary's liability for any outstanding liabilities of a guaranty agency (other than outstanding student loan guarantees under this part), the functions of which the Secretary has assumed, shall not exceed the fair market value of the reserves of the guaranty agency, minus any necessary liquidation or other administrative costs."; and

(8) in subparagraph (K) (as redesignated by paragraph (5)), by striking all beginning with "system, together" through the period and inserting "system and the progress of the transition from the loan programs under this part to the direct student loan programs under part D of this title.".

SEC. 4046. CONSOLIDATION LOANS.

(a) COST SAVINGS FROM CONSOLIDATION LOANS.—Section 428C of the Act (20 U.S.C. 1078–3) is amended—

(1) in subsection (a) by amending paragraph (3)(A) to read as follows:

"(3) DEFINITION OF ELIGIBLE BORROWERS.—(A) For the purpose of this section, the term 'eligible borrower' means a borrower who, at the time of application for a consolidation loan is in repayment status, or in a grace period preceding repayment, or is a delinquent or defaulted borrower who will reenter repayment through loan consolidation.";

(2) in subsection (b)—

(A) in paragraph (1)—

(i) in subparagraph (A)(ii), by inserting "with income-sensitive repayment terms" after "obtain a consolidation loan";

(ii) by redesignating subparagraph (E) as subparagraph (F); and

(iii) by inserting after subparagraph (D) the following new subparagraph:

"(E) that the lender shall offer an income-sensitive repayment schedule, established by the lender in accordance with the regulations promulgated by the Secretary, to the borrower of any consolidation loan made by the lender on or after July 1, 1994; and";

(B) in paragraph (4), by amending subparagraph (C) to read as follows:

"(C)(i) provides that periodic installments of principal need not be paid, but interest shall accrue and be paid in accordance with clause (ii), during any period for which the borrower would be eligible for a deferral under section 428(b)(1)(M), and that any such period shall not be included in determining the repayment schedule pursuant to subsection (c)(2) of this section; and

"(ii) provides that interest shall accrue and be paid—

"(I) by the Secretary, in the case of a consolidation loan that consolidated only Federal Stafford Loans for which the student borrower received an interest subsidy under section 428; or

"(II) by the borrower, or capitalized, in the case of a consolidation loan other than a loan described in subclause (I);"; and

(C) by adding at the end the following new paragraph:

"(5) DIRECT LOANS.—In the event that a borrower is unable to obtain a consolidation loan from a lender with an agreement under subsection (a)(1), or is unable to obtain a consolidation loan with income-sensitive repayment terms acceptable to the borrower from such a lender, the Secretary shall offer any such borrower who applies for it, a direct consolidation loan. Such direct consolidation loan shall, as requested by the borrower, be repaid either pursuant to income contingent repayment under part D of this title or pursuant to any other repayment provision under this section. The Secretary shall not offer such loans if, in the Secretary's judgment, the Department of Education does not have the necessary origination and servicing arrangements in place for such loans."; and

(3) in subsection (c)—

(A) in paragraph (1), by amending subparagraphs (B) and (C) to read as follows:

"(B) A consolidation loan made before July 1, 1994, shall bear interest at an annual rate on the unpaid principal balance of the loan that is equal to the greater of—

"(i) the weighted average of the interest rates on the loans consolidated, rounded to the nearest whole percent; or

"(ii) 9 percent.

"(C) A consolidation loan made on or after July 1, 1994, shall bear interest at an annual rate on the unpaid principal balance of the loan that is equal to the weighted average of the interest rates on the loans consolidated, rounded upward to the nearest whole percent.";

(B) in paragraph (2)—

(i) in subparagraph (A)—

(I) in the matter preceding clause (i), by striking "income sensitive repayment schedules. Such repayment terms" and inserting "income sensitive repayment schedules, established by the lender in accordance with the regulations of the Secretary. Except as required by such income sensitive repayment schedules, or by the terms of repayment pursuant to income contingent repayment offered by the Secretary under subsection (b)(5), such repayment terms";

(II) by redesignating clauses (i), (ii), (iii), (iv), and (v) as clauses (ii), (iii), (iv), (v), and (vi), respectively; and

(III) by inserting before clause (ii) (as redesignated by subclause (II)) the following new clause:

"(i) is less than $7,500, then such consolidation loan shall be repaid in not more than 10 years;";

(ii) by striking subparagraph (B); and

(iii) by redesignating subparagraph (C) as subparagraph (B); and

(C) in paragraph (3)(B), by inserting "except as required by the terms of repayment pursuant to income contingent repayment offered by the Secretary under subsection (b)(5)," before "the lender".

(b) COHORT DEFAULT RATE CONFORMING AMENDMENTS.—

(1) AMENDMENTS TO DEFINITION.—Section 435(m)(1) of the Act (20 U.S.C. 1085) is amended—

(A) in subparagraph (A), by inserting "(or on the portion of a loan made under section 428C that is used to repay any such loans)" immediately after "on such loans";

(B) in subparagraph (C), by inserting "(or on the portion of a loan made under section 428C that is used to repay any such loans)" immediately after "on such loans"; and

(C) in subparagraph (D)—

(i) by inserting "(or the portion of a loan made under section 428C that is used to repay a loan made under such section)" after "section 428A" the first place it appears; and

(ii) by inserting "(or a loan made under section 428C a portion of which is used to repay a loan made under such section)" after "section 428A" the second place it appears.

(2) CONFORMING AMENDMENT.—Section 428C(a)(3)(B)(ii) of the Act (20 U.S.C. 1078–3 (a)(3)(B)(ii)) is amended by striking the second sentence.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 1, 1994, except that the amendments made by subsection (a)(2)(B) shall take effect upon enactment.

SEC. 4047. CONSOLIDATION OF PROGRAMS.

(a) IN GENERAL.—Section 428H of the Act (20 U.S.C. 1078–9) is amended—

(1) in the matter preceding paragraph (1) of subsection (b), by inserting "(including graduate and professional students as defined in regulations promulgated by the Secretary)" after "484";

(2) by amending subsection (d) to read as follows:

"(d) LOAN LIMITS.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the annual and aggregate limits for loans under this section shall be the same as those established under section 428(b)(1), less any amount received by such student pursuant to the subsidized loan program established under section 428.

"(2) ANNUAL LIMITS FOR INDEPENDENT, GRADUATE, AND PROFESSIONAL STUDENTS.—The maximum annual amount of loans under this section an independent student (or a student whose parents are unable to borrow under section 428B or the Federal Direct PLUS Loan Program) may borrow in any academic year or its equivalent or in any period of 7 consecutive months, whichever is longer, shall be the amount determined under paragraph (1), plus—

"(A) in the case of such a student attending an eligible institution who has not completed such student's first 2 years of undergraduate study—

"(i) $4,000, if such student is enrolled in a program whose length is at least one academic year in length (as determined under section 481);

"(ii) $2,500, if such student is enrolled in a program whose length is less than one academic year, but at least ⅔ of such an academic year; and

"(iii) $1,500, if such student is enrolled in a program whose length is less than ⅔, but at least ⅓, of such an academic year;

"(B) in the case of such a student attending an eligible institution who has completed the first 2 years of undergraduate study but who has not completed the remainder of a program of undergraduate study—

"(i) $5,000, if such student is enrolled in a program whose length is at least one academic year in length (as determined under section 481);

"(ii) $3,325, if such student is enrolled in a program whose length is less than one academic year, but at least ⅔ of such an academic year; and

"(iii) $1,675, if such student is enrolled in a program whose length is less than ⅔, but at least ⅓, of such an academic year; and

"(C) in the case of such a student who is a graduate or professional student attending an eligible institution, $10,000.

"(3) AGGREGATE LIMITS FOR INDEPENDENT, GRADUATE, AND PROFESSIONAL STUDENTS.—The maximum aggregate amount of loans under this section a student described in paragraph (2) may borrow shall be the amount described in paragraph (1), adjusted to reflect the increased annual limits described in paragraph (2), as prescribed by the Secretary by regulation."; and

(3) in subsection (e), by adding at the end the following new paragraphs:

"(5) AMORTIZATION.—The amount of the periodic payment and the repayment schedule for any loan made pursuant to this section shall be established by assuming an interest rate equal to the applicable rate of interest at the time the repayment of the principal amount of the loan commences. At the option of the lender, the note or other written evidence of the loan may require that—

"(A) the amount of the periodic payment will be adjusted annually; or

"(B) the period of repayment of principal will be lengthened or shortened,

in order to reflect adjustments in interest rates occurring as a consequence of section 427A(c)(4).

"(6) REPAYMENT PERIOD.—For purposes of calculating the 10-year repayment period under section 428(b)(1)(D), such period shall commence at the time the first payment of principal is due from the borrower.".

(b) REPEAL.—Section 428A of the Act is repealed.

(c) TERMS, CONDITIONS AND BENEFITS.—Notwithstanding the amendments made by this section, with respect to loans provided under sections 428A and 428H of the Act (as such sections existed on the date preceding the date of enactment of this Act) the terms, conditions and benefits applicable to such loans under such sections shall continue to apply to such loans after the date of enactment of this Act.

(d) EFFECTIVE DATE.—Except as otherwise provided herein, the amendments made by this section shall take effect on July 1, 1994.

Subtitle B—Additional Savings From The Student Loan Programs

SEC. 4101. REDUCTION OF BORROWER INTEREST RATES.

Section 427A of the Act (20 U.S.C. 1077a) is amended—

(1) in subsection (c)(4), by adding at the end the following new subparagraph:

"(E) Notwithstanding subparagraphs (A) and (D) for any loan made pursuant to section 428B for which the first disbursement is made on or after July 1, 1994—

"(i) subparagraph (B) shall be applied by substituting "3.1" for "3.25"; and

"(ii) the interest rate shall not exceed 9 percent.";

(2) by redesignating subsections (f), (g) and (h) as subsections (i), (j), and (k) respectively;

(3) by adding after subsection (e) the following new subsections:

"(f) INTEREST RATES FOR NEW LOANS AFTER JULY 1, 1994.—

"(1) IN GENERAL.—Notwithstanding subsections (a), (b), (d), and (e) of this section, with respect to any loan made, insured, or guaranteed under this part (other than a loan made pursuant to section 428B or 428C) for which the first disbursement is made on or after July 1, 1994, the applicable rate of interest shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to—

"(A) the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held prior to such June 1; plus

"(B) 3.10 percent,

except that such rate shall not exceed 8.25 percent.

"(2) CONSULTATION.—The Secretary shall determine the applicable rate of interest under paragraph (1) after consultation with the Secretary of the Treasury and shall publish such rate in the Federal Register as soon as practicable after the date of determination.

"(g) IN SCHOOL AND GRACE PERIOD RULES.—

"(1) GENERAL RULE.—Notwithstanding the provisions of subsection (f), but subject to subsection (h), with respect to any loan under section 428 or 428H of this part for which the first disbursement is made on or after July 1, 1995, the applicable rate of interest for interest which accrues—

"(A) prior to the beginning of the repayment period of the loan; or

"(B) during the period in which principal need not be paid (whether or not such principal is in fact paid) by reason of a provision described in section 428(b)(1)(M) or 427(a)(2)(C), shall not exceed the rate determined under paragraph (2).

"(2) RATE DETERMINATION.—For purposes of paragraph (1), the rate determined under this paragraph shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to—

"(A) the bond equivalent rate of 91-day Treasury bills auctioned at the final auction prior to such June 1; plus

"(B) 2.5 percent,

except that such rate shall not exceed 8.25 percent.

"(3) CONSULTATION.—The Secretary shall determine the applicable rate of interest under this subsection after consultation with the Secretary of the Treasury and shall publish such rate in the Federal Register as soon as practicable after the date of determination.

"(h) INTEREST RATES FOR NEW LOANS AFTER JULY 1, 1998.—

"(1) IN GENERAL.—Notwithstanding subsections (a), (b), (d), (e), (f), and (g) of this section, with respect to any loan made, insured, or guaranteed under this part (other than a loan made pursuant to sections 428B and 428C) for which the first disbursement is made on or after July 1, 1998, the applicable rate of interest shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to—

"(A) the bond equivalent rate of the securities with a comparable maturity as established by the Secretary; plus

"(B) 1.0 percent,

except that such rate shall not exceed 8.25 percent.

"(2) INTEREST RATES FOR NEW PLUS LOANS AFTER JULY 1, 1998.—Notwithstanding subsections (a), (b), (d), (e), (f), and (g), with respect to any loan made under section 428B for which the first disbursement is made on or after July 1, 1998, paragraph (1) shall be applied—

"(A) by substituting '2.1 percent' for '1.0 percent' in subparagraph (B); and

"(B) by substituting '9.0 percent' for '8.25 percent' in the matter following such subparagraph.

"(3) CONSULTATION.—The Secretary shall determine the applicable rate of interest under this subsection after consultation with the Secretary of the Treasury and shall publish such rate in the Federal Register as soon as practicable after the date of determination.".

SEC. 4102. REDUCTION IN LOAN FEES PAID BY STUDENTS.

(a) ORIGINATION FEES.—Section 438 of the Act (20 U.S.C. 1087–1) is amended—

(1) in the heading of subsection (c) by inserting "FROM STUDENTS" after "ORIGINATION FEES"; and

(2) in subsection (c)—

(A) in paragraph (2)—

(i) by striking "428A, 428B, 428C," and inserting '428C"; and

(ii) by striking "5 percent" and inserting "3.0 percent"; and

(B) in paragraph (6), by striking "5 percent" and inserting "3.0 percent".

(b) ORIGINATION FEE; INSURANCE PREMIUM FOR UNSUBSIDIZED LOANS.—Section 428H of the Act (20 U.S.C. 1078–8) is amended—

(1) in subsection (f)—

(A) in the subsection heading, by striking "INSURANCE PREMIUM" and inserting "ORIGINATION FEE";

(B) in the heading of paragraph (1), by striking "/INSURANCE PREMIUM";

(C) in paragraph (1)—

(i) by striking "a combined origination fee and insurance premium in the amount of 6.5 percent" and inserting "an origination fee in the amount of 3.0 percent"; and

(ii) by striking the second sentence;

(D) in paragraph (2), by striking "combined fee and premium" and inserting "origination fee";

(E) in paragraph (3), by striking "combined origination fee and insurance premium" and inserting "origination fee";

(F) in paragraph (4)—

(i) in the heading, by striking "INSURANCE PREMIUM" and inserting "ORIGINATION FEE";

(ii) by striking "combined origination fee and insurance premiums" and inserting "origination fees"; and

(iii) by striking "and premiums to pay" and inserting "to pay"; and

(G) in paragraph (5)—

(i) in the heading, by inserting "ORIGINATION FEE AND" before "INSURANCE"; and

(ii) in the second sentence—

(I) by striking "6.5 percent insurance premium" and inserting "combined origination fee under this subsection and the insurance premium under subsection (h)"; and

(II) by inserting "origination fee and" before "insurance"; and

(2) by adding at the end the following new subsection:

"(l) INSURANCE PREMIUM.—Each State or nonprofit private institution or organization having an agreement with the Secretary under section 428(b)(1) may charge a borrower under this section an insurance premium equal to not more than 1.0 percent of the principal amount of the loan, if such premium will not be used for incentive payments to lenders."

(c) INSURANCE PREMIUM.—Section 428(b)(1)(H) of the Act (20 U.S.C. 1078(b)(1)(H)) is amended by striking "3 percent" and inserting "1.0 percent".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 1, 1994.

SEC. 4103. LOAN FEES FROM LENDERS.

Section 438 of the Act (20 U.S.C 1087–1) is further amended—

(1) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively; and

(2) by inserting after subsection (c) the following new subsection:

"(d) LOAN FEES FROM LENDERS.—

"(1) DEDUCTION FROM INTEREST AND SPECIAL ALLOWANCE SUBSIDIES.—Notwithstanding subsection (b), the Secretary shall reduce the total amount of interest and special allowance payable under section 428(a)(3)(A) and subsection (b) of this section, respectively, to any holder of a loan by a loan fee in an amount determined in accordance with paragraph (2) of this subsection. If the total amount of interest and special allowance payable under section 428(a)(3)(A) and subsection (b) of this section, respectively, is less than the amount of such loan fee, then the Secretary shall deduct such excess amount from subsequent quarters' payments until the total amount has been deducted.

"(2) AMOUNT OF LOAN FEES.—With respect to any loan under this part for which the first disbursement was made on or after October 1, 1993, the amount of the loan fee which shall be deducted under paragraph (1) shall be equal to 0.50 percent of the principal amount of the loan.

"(3) DISTRIBUTION OF LOAN FEES.—The Secretary shall deposit all fees collected pursuant to paragraph (3) into the insurance fund established in section 431.".

SEC. 4104. OFFSET FEE.

Subsection (h) of section 439 of the Act (20 U.S.C. 1087–2(h)) is amended by adding at the end the following new paragraph:

"(7) OFFSET FEE.—(A) The Association shall pay to the Secretary, on a monthly basis, an offset fee calculated on an annual basis in an amount equal to 0.30 percent of the principal *amount of each loan made, insured or guaranteed under this part that the Association holds (except for loans made pursuant to sections 428C, 439(o), or 439(q)) and that was acquired on or after the date of enactment of this paragraph.*

"(B) If the Secretary determines that the Association has substantially failed to comply with subsection (q), subparagraph (A) shall be applied by substituting '1.0 percent' for '0.3 percent'.

"(C) The Secretary shall deposit all fees collected pursuant to this paragraph into the insurance fund established in section 431.".

SEC. 4105. ELIMINATION OF TAX EXEMPT FLOOR.

Section 438(b)(2)(B) of the Act (20 U.S.C. 1087–1(b)(2)(B)) is amended by adding at the end the following new clause:

"(iv) Notwithstanding clauses (i) and (ii), the quarterly rate of the special allowance for holders of loans which are financed with funds obtained by the holder from the issuance of obligations originally issued on or after October 1, 1993, the income from which is excluded from gross income under the Internal Revenue Code of 1986, shall be the quarterly rate of the special allowance established under subparagraph (A), (E), or (F), as the case may be. Such rate shall also apply to holders of loans which were made or purchased with funds obtained by the holder from collections or default reimbursements on, or interest or other income pertaining to, eligible loans made or purchased with funds described in the preceding sentence of this subparagraph or from income on the investment of such funds.".

SEC. 4106. REDUCTION IN INTEREST RATE FOR CONSOLIDATION LOANS; REBATE FEE.

(a) AMENDMENT.—Section 428C of the Act (20 U.S.C. 1078–3) is amended by adding at the end the following new subsection:

"(f) INTEREST PAYMENT REBATE FEE.—

"(1) IN GENERAL.—For any month beginning on or after October 1, 1993, each holder of a consolidation loan under this section for which the first disbursement was made on or after October 1, 1993, shall pay to the Secretary, on a monthly basis and in such manner as the Secretary shall prescribe, a rebate fee calculated on an annual basis equal to 1.05 percent of the principal plus accrued unpaid interest on such loan.

"(2) DEPOSIT.—The Secretary shall deposit all fees collected pursuant to subsection (a) into the insurance fund established in section 431.".

(b) ENFORCEMENT.—Subsection (d) of section 435 of the Act (20 U.S.C. 1085(d)) is amended—

(1) in the matter preceding subparagraph (A) of paragraph (1), by striking "(5)" and inserting "(6)"; and

(2) by adding at the end the following new paragraph:

"(6) REBATE FEE REQUIREMENT.—To be an eligible lender under this part, an eligible lender shall pay rebate fees in accordance with section 428C(f).".

SEC. 4107. REINSURANCE FEES AND ADMINISTRATIVE COST ALLOWANCE.

(a) REINSURANCE FEES.—Section 428(c) of the Act (20 U.S.C. 1078(c)) is amended—

(1) by striking paragraph (9); and

(2) by redesignating paragraph (10) as paragraph (9).

(b) ADMINISTRATIVE COST ALLOWANCE.—Section 428(f)(1) of the Act (20 U.S.C. 1078(f)(1)) is amended—

(1) in subparagraph (A), by striking "The Secretary" and inserting "For a fiscal year prior to fiscal year 1994, the Secretary"; and

(2) in subparagraph (B), by inserting "prior to fiscal year 1994" after "any fiscal year".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1993.

SEC. 4108. RISK SHARING.

(a) GUARANTY AGENCY REINSURANCE PERCENTAGE.—Section 428(c)(1) of the Act (20 U.S.C. 1078(c)(1)) is amended—

(1) in the fourth sentence of subparagraph (A), by striking "100 percent" and inserting "98 percent";

(2) in subparagraph (B)(i), by striking "90 percent" and inserting "88 percent";

(3) in subparagraph (B)(ii), by striking "80 percent" and inserting "78 percent"; and

(4) by adding at the end the following new subparagraphs:

"(E) Notwithstanding any other provisions of this section, in the case of a loan made pursuant to a lender-of-last-resort program, the Secretary shall apply the provisions of—

"(i) the fourth sentence of subparagraph (A) by substituting '100 percent' for '98 percent';

"(ii) subparagraph (B)(i) by substituting '100 percent' for '88 percent'; and

"(iii) subparagraph (B)(ii) by substituting '100 percent' for '78 percent'.

"(F) Notwithstanding any other provisions of this section, in the case of an outstanding loan transferred to a guaranty agency from another guaranty agency pursuant to a plan approved by the Secretary in response to the insolvency of the latter such guarantee agency, the Secretary shall apply the provision of—

"(i) the fourth sentence of subparagraph (A) by substituting '100 percent' for '98 percent';

"(ii) subparagraph (B)(i) by substituting '90 percent' for '88 percent'; and

"(iii) subparagraph (B)(ii) by substituting '80 percent' for '78 percent'.".

(b) RISK SHARING BY THE LOAN HOLDERS.—Section 428(b)(1)(G) of the Act (20 U.S.C. 1078(b)(1)(G)) is amended—

(1) by striking "100 percent" and inserting "98 percent"; and

(2) by adding before the semicolon at the end the following: ", except that such program shall insure 100 percent of the unpaid principal of loans made with funds advanced pursuant to section 428(j) or 439(q)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any loan for which the first disbursement is made on or after October 1, 1993.

SEC. 4109. PLUS LOAN DISBURSEMENTS.

(a) MULTIPLE DISBURSEMENT REQUIRED.—The matter preceding paragraph (1) of section 428B(c) of the Act (20 U.S.C. 1078–2(c)) is amended by inserting "shall be disbursed in accordance with the requirements of section 428G and" after "under this section".

(b) CONFORMING AMENDMENTS.—Section 428G(e) of the Act (20 U.S.C. 1078–7(e) is amended—

(1) in the subsection heading, by striking "PLUS, CONSOLIDATION," and inserting "CONSOLIDATION"; and

(2) by striking "section 428B or 428C" and inserting "section 428C".

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to loans for which the first disbursement is made on or after October 1, 1993.

SEC. 4110. SECRETARY'S EQUITABLE SHARE.

(a) AMENDMENT.—Section 428(c)(6)(A)(ii) of the Act (20 U.S.C. 1078(c)(6)(A)(ii)) is amended by striking "30 percent" and inserting "27 percent".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1993.

SEC. 4111. REDUCTION IN THE SPECIAL ALLOWANCE PAYMENT.

Paragraph (2) of section 438(b) of the Act (20 U.S.C. 1087–1(b)(2)) is amended—

(1) in subparagraph (A)—

(A) by striking "and (D)" and inserting "(D), (E), and (F)"; and

(B) by striking "427A(e)" and inserting "427A(f)"; and

(2) by adding at the end the following new subparagraphs:

"(E) In the case of any loan for which the applicable rate of interest is described in section 427A(g)(2), subparagraph (A)(iii) shall be applied by substituting '2.5 percent' for '3.10 percent'.

"(F) Subject to paragraph (4), the special allowance paid pursuant to this subsection on loans for which the applicable rate of interest is determined under section 427A(h) shall be computed (i) by determining the applicable bond equivalent rate of the security with a comparable maturity, as established by the Secretary, (ii) by subtracting the applicable interest rates on such loans from such applicable bond equivalent rate, (iii) by adding 1.0 percent to the resultant percent, and (iv) by dividing the resultant percent by 4. If such computation produces a number less than zero, such loans shall be subject to section 427A(f).".

SEC. 4112. SUPPLEMENTAL PRECLAIMS ASSISTANCE.

(a) AMENDMENT.—Section 428(l)(2) of the Act (20 U.S.C. 1078(l)(2)) is amended by striking the second sentence and inserting the following: "For each loan on which such assistance is performed and for which a default claim is not presented to the guaranty agency by the lender on or before the 150th day after the loan becomes 120 days delinquent, such payment shall be equal to one percent of the total of the unpaid principle and the accrued unpaid interest of the loan.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on October 1, 1993.

Subtitle C—Cost Sharing by States

SEC. 4201. COST SHARING BY STATES.

(a) AMENDMENT.—Section 428 of the Act (20 U.S.C. 1078) is amended by adding at the end the following new subsection:

"(n) STATE SHARE OF DEFAULT COSTS.—

"(1) IN GENERAL.—In the case of any State in which there are located any institutions of higher education that have a cohort default rate that exceeds 20 percent, such State shall pay to the Secretary an amount equal to—

"(A) the new loan volume attributable to all institutions in the State for the current fiscal year; multiplied by

"(B) the percentage specified in paragraph (2); multiplied by

"(C) the quotient of—

"(i) the sum of the amounts calculated under paragraph (3) for each such institution in the State; divided by

"(ii) the total amount of loan volume attributable to current and former students of institutions located in that State entering repayment in the period used to calculate the cohort default rate.

"(2) PERCENTAGE.—For purposes of paragraph (1)(B), the percentage used shall be—

"(A) 12.5 percent for fiscal year 1995;

"(B) 20 percent for fiscal year 1996; and

"(C) 50 percent for fiscal year 1997 and succeeding fiscal years.

"(3) CALCULATION.—For purposes of paragraph (1)(C)(i), the amount shall be determined by calculating for each institution the amount by which—

"(A) the amount of the loans received for attendance by such institution's current and former students who (i) enter repayment during the fiscal year used for the calculation of the cohort default rate, and (ii) default before the end of the following fiscal year; exceeds

"(B) 20 percent of the loans received for attendance by all the current and former students who enter repayment during the fiscal year used for the calculation of the cohort default rate.

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"(4) FEE.—A State may charge a fee to an institution of higher education that participates in the program under this part and is located in that State according to a fee structure, approved by the Secretary, that is based on the institution's cohort default rate and the State's risk of loss under this subsection. Such fee structure shall include a process by which an institution with a high cohort default rate is exempt from any fees under this paragraph if such institution demonstrates to the satisfaction of the State that exceptional mitigating circumstances, as determined by the State and approved by the Secretary, contributed to its cohort default rate.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on October 1, 1994.

Subtitle D—Group Health Plans

SEC. 4301. STANDARDS FOR GROUP HEALTH PLAN COVERAGE.

(a) IN GENERAL.—Part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1161 et seq.) is amended by adding at the end the following new section:

"ADDITIONAL STANDARDS FOR GROUP HEALTH PLANS

"SEC. 609. (a) GROUP HEALTH PLAN COVERAGE PURSUANT TO MEDICAL CHILD SUPPORT ORDERS.—

"(1) IN GENERAL.—Each group health plan shall provide benefits in accordance with the applicable requirements of any qualified medical child support order.

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) QUALIFIED MEDICAL CHILD SUPPORT ORDER.—The term 'qualified medical child support order' means a medical child support order—

"(i) which creates or recognizes the existence of an alternate recipient's right to, or assigns to an alternate recipient the right to, receive benefits for which a participant or beneficiary is eligible under a group health plan, and

"(ii) with respect to which the requirements of paragraphs (3) and (4) are met.

"(B) MEDICAL CHILD SUPPORT ORDER.—The term 'medical child support order' means any judgment, decree, or order (including approval of a settlement agreement) issued by a court of competent jurisdiction which—

"(i) provides for child support with respect to a child of a participant under a group health plan or provides for health benefit coverage to such a child, is made pursuant to a State domestic relations law (including a community property law), and relates to benefits under such plan, or

"(ii) enforces a law relating to medical child support described in section 1908 of the Social Security Act (as added by section 13822 of the Omnibus Budget Reconciliation Act of 1993) with respect to a group health plan.

"(C) ALTERNATE RECIPIENT.—The term 'alternate recipient' means any child of a participant who is recognized under a medical child support order as having a right to enrollment under a group health plan with respect to such participant.

"(3) INFORMATION TO BE INCLUDED IN QUALIFIED ORDER.—A medical child support order meets the requirements of this paragraph only if such order clearly specifies—

"(A) the name and the last known mailing address (if any) of the participant and the name and mailing address of each alternate recipient covered by the order,

"(B) a reasonable description of the type of coverage to be provided by the plan to each such alternate recipient, or the manner in which such type of coverage is to be determined,

"(C) the period to which such order applies, and

"(D) each plan to which such order applies.

"(4) RESTRICTION ON NEW TYPES OR FORMS OF BENEFITS.—A medical child support order meets the requirements of this paragraph only if such order does not require a plan to provide any type or form of benefit, or any option, not otherwise provided under the plan, except to the extent necessary to meet the requirements of a law relating to medical child support described in section 1908 of the Social Security Act (as added by section 13822 of the Omnibus Budget Reconciliation Act of 1993).

"(5) PROCEDURAL REQUIREMENTS.—

"(A) TIMELY NOTIFICATIONS AND DETERMINATIONS.—In the case of any medical child support order received by a group health plan—

"(i) the plan administrator shall promptly notify the participant and each alternate recipient of the receipt of such order and the plan's procedures for determining whether medical child support orders are qualified medical child support orders, and

"(ii) within a reasonable period after receipt of such order, the plan administrator shall determine whether such order is a qualified medical child support order and notify the participant and each alternate recipient of such determination.

"(B) ESTABLISHMENT OF PROCEDURES FOR DETERMINING QUALIFIED STATUS OF ORDERS.—Each group health plan shall establish reasonable procedures to determine whether medical child support orders are qualified medical child support orders and to administer the provision of benefits under such qualified orders. Such procedures—

"(i) shall be in writing,

"(ii) shall provide for the notification of each person specified in a medical child support order as eligible to receive benefits under the plan (at the address included in the medical child support order) of such procedures promptly upon receipt by the plan of the medical child support order, and

"(iii) shall permit an alternate recipient to designate a representative for receipt of copies of notices that are sent to the alternate recipient with respect to a medical child support order.

"(6) ACTIONS TAKEN BY FIDUCIARIES.—If a plan fiduciary acts in accordance with part 4 of this subtitle in treating a medical child support order as being (or not being) a qualified medical child support order, then the plan's obligation to the participant and each alternate recipient shall be discharged to the extent of any payment made pursuant to such act of the fiduciary.

"(7) TREATMENT OF ALTERNATE RECIPIENTS.—

"(A) TREATMENT AS BENEFICIARY GENERALLY.—A person who is an alternate recipient under a qualified medical child support order shall be considered a beneficiary under the plan for purposes of any provision of this Act.

"(B) TREATMENT AS PARTICIPANT FOR PURPOSES OF REPORTING AND DISCLOSURE REQUIREMENTS.—A person who is an alternate recipient under any medical child support order shall be considered a participant under the plan for purposes of the reporting and disclosure requirements of part 1.

"(8) DIRECT PROVISION OF BENEFITS PROVIDED TO ALTERNATE RECIPIENTS.—Any payment for benefits made by a group health plan pursuant to a medical child support order in reimbursement for expenses paid by an alternate recipient or an alternate recipient's custodial parent or legal guardian shall be made to the alternate recipient or the alternate recipient's custodial parent or legal guardian.

"(b) RIGHTS OF STATES WITH RESPECT TO GROUP HEALTH PLANS WHERE PARTICIPANTS OR BENEFICIARIES THEREUNDER ARE ELIGIBLE FOR MEDICAID BENEFITS.—

"(1) COMPLIANCE BY PLANS WITH ASSIGNMENT OF RIGHTS.—A group health plan shall provide that payment for benefits with respect to a participant under the plan will be made in accordance with any assignment of rights made by or on behalf of such participant or a beneficiary of the participant as required by a State plan for medical assistance approved under title XIX of the Social Security Act pursuant to section 1912(a)(1)(A) of such Act (as in effect on the date of the enactment of the Omnibus Budget Reconciliation Act of 1993).

"(2) ENROLLMENT AND PROVISION OF BENEFITS WITHOUT REGARD TO MEDICAID ELIGIBILITY.—A group health plan shall provide that, in enrolling an individual as a participant or beneficiary or in determining or making any payments for benefits of an individual as a participant or beneficiary, the fact that the individual is eligible for or is provided medical assistance under a State plan for medical assistance approved under title XIX of the Social Security Act will not be taken into account.

"(3) ACQUISITION BY STATES OF RIGHTS OF THIRD PARTIES.—A group health plan shall provide that, to the extent that payment has been made under a State plan for medical assistance approved under title XIX of the Social Security Act in any case in which a group health plan has a legal liability to make payment for items or services constituting such assistance, payment for benefits under the plan will be made in accordance with any State law which provides that the State has acquired the rights with respect to a participant to such payment for such items or services.

"(c) GROUP HEALTH PLAN COVERAGE OF DEPENDENT CHILDREN IN CASES OF ADOPTION.—

"(1) COVERAGE EFFECTIVE UPON PLACEMENT FOR ADOPTION.—In any case in which a group health plan provides coverage for dependent children of participants or beneficiaries, such plan shall provide benefits to dependent children placed with participants or beneficiaries for adoption under the same terms and conditions as apply in the case of dependent children who are natural children of participants or beneficiaries under the plan, irrespective of whether the adoption has become final.

"(2) RESTRICTIONS BASED ON PREEXISTING CONDITIONS AT TIME OF PLACEMENT FOR ADOPTION PROHIBITED.—A group health plan may not restrict coverage under the plan of any dependent child adopted by a participant or beneficiary, or placed with a participant or beneficiary for adoption, solely on the basis of a preexisting condition of such child at the time that such child would otherwise become eligible for coverage under the plan, if the adoption or placement for adoption occurs while the participant or beneficiary is eligible for coverage under the plan.

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) CHILD.—The term 'child' means, in connection with any adoption, or placement for adoption, of the child, an individual who has not attained age 18 as of the date of such adoption or placement for adoption.

"(B) PLACEMENT FOR ADOPTION.—The term 'placement', or being 'placed', for adoption, in connection with any placement for adoption of a child with any person, means the assumption and retention by such person of a legal obligation for total or partial support of such child in anticipation of adoption of such child. The child's placement with such person terminates upon the termination of such legal obligation.

"(d) CONTINUED COVERAGE OF COSTS OF A PEDIATRIC VACCINE UNDER GROUP HEALTH PLANS.—A group health plan may not reduce its coverage of the costs of pediatric vaccines (as defined under section 1928(h)(6) of the Social Security Act as amended by section 13830 of the Omnibus Budget Reconciliation Act of 1993) below the coverage it provided as of May 1, 1993.

"(e) Regulations.—Any regulations prescribed under this section shall be prescribed by the Secretary of Labor, in consultation with the Secretary of Health and Human Services.".

(b) Conforming Amendments to ERISA to Ensure Compliance with Medicare and Medicaid Coverage Data Bank Requirements.—

(1) Reports to data bank.—Section 101 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021) is amended—

(A) by redesignating subsection (f) as subsection (g); and

(B) by inserting after subsection (e) the following new subsection:

"(f) Information Necessary To Comply With Medicare and Medicaid Coverage Data Bank Requirements.—

"(1) Provision of information by group health plan upon request of employer.—

"(A) In general.—An employer shall comply with the applicable requirements of section 1144 of the Social Security Act (as added by section 13581 of the Omnibus Budget Reconciliation Act of 1993). Upon the request of an employer maintaining a group health plan, any plan sponsor, plan administrator, insurer, third-party administrator, or other person who maintains under the plan the information necessary to enable the employer to comply with the applicable requirements of section 1144 of the Social Security Act shall, in such form and manner as may be prescribed in regulations of the Secretary (in consultation with the Secretary of Health and Human Services), provide such information (not inconsistent with paragraph (2))—

"(i) in the case of a request by an employer described in subparagraph (B) and a plan that is not a multiemployer plan or a component of an arrangement described in subparagraph (C), to the Medicare and Medicaid Coverage Data Bank;

"(ii) in the case of a plan that is a multiemployer plan or is a component of an arrangement described in subparagraph (C), to the employer or to such Data Bank, at the option of the plan; and

"(iii) in any other case, to the employer or to such Data Bank, at the option of the employer.

"(B) Employer described.—An employer is described in this subparagraph for any calendar year if such employer normally employed fewer than 50 employees on a typical business day during such calendar year.

"(C) Arrangement described.—An arrangement described in this subparagraph is any arrangement in which two or more employers contribute for the purpose of providing group health plan coverage for employees.

"(2) Information not required to be provided.—Any plan sponsor, plan administrator, insurer, third-party administrator, or other person described in paragraph (1)(A) (other than the employer) that maintains the information under the plan shall not provide to an employer in order to satisfy the requirements of section 1144 of the Social Security Act, and shall not provide to the Data Bank under such section, information that pertains in any way to—

"(A) the health status of a participant, or of the participant's spouse, dependent child, or other beneficiary,

"(B) the cost of coverage provided to any participant or beneficiary, or

"(C) any limitations on such coverage specific to any participant or beneficiary.

"(3) Regulations.—The Secretary may, in consultation with the Secretary of Health and Human Services, prescribe such regulations as are necessary to carry out this subsection.".

(c) Conforming Amendments.—

(1) Civil actions.—Section 502(a) of such Act (29 U.S.C. 1132(a)) is amended—

(A) in paragraph (5), by striking "or" at the end;

(B) in paragraph (6), by striking the period and inserting a semicolon; and

(C) by adding at the end the following new paragraphs:

"(7) by a State to enforce compliance with a qualified medical child support order (as defined in section 609(a)(2)(A)); or

"(8) by the Secretary, or by an employer or other person referred to in section 101(f)(1), (A) to enjoin any act or practice which violates subsection (f) of section 101, or (B) to obtain appropriate equitable relief (i) to redress such violation or (ii) to enforce such subsection.".

(2) Civil penalty.—Section 502(c) of such Act (29 U.S.C. 1132(c)) is amended by adding at the end the following new paragraph:

"(4) The Secretary may assess a civil penalty of not more than $1,000 for each violation by any person of section 101(f)(1). For purposes of this paragraph, each violation described in subparagraph (A) with respect to any single participant, and each violation described in subparagraph (B) with respect to any single participant or beneficiary, shall be treated as a separate violation. The Secretary and the Secretary of Health and Human Services shall maintain such ongoing consultation as may be necessary and appropriate to coordinate enforcement under this subsection with enforcement under section 1144(c)(8) of the Social Security Act.".

(3) Jurisdiction.—Section 502(e)(1) of such Act (29 U.S.C. 1132(e)(1)) is amended—

(A) in the first sentence, by striking "or fiduciary" and inserting "fiduciary, or any person referred to in section 101(f)(1)"; and

(B) in the second sentence, by striking "subsection (a)(1)(B)" and inserting "paragraphs (1)(B) and (7) of subsection (a)".

(4) Effect on other laws.—Section 514 of such Act (29 U.S.C. 1144) is amended—

(A) in subsection (b)(7)(D), by inserting ", qualified medical child support orders (within the meaning of section 609(a)(2)(A)), and the provisions of law referred to in section 609(a)(2)(B)(ii) to the extent enforced by qualified medical child support orders" before the period; and

(B) by striking subsection (b)(8) and inserting the following:

"(8) Subsection (a) of this section shall not be construed to preclude any State cause of action—

"(A) with respect to which the State exercises its acquired rights under section 609(b)(3) with respect to a group health plan (as defined in section 607(1)), or

"(B) for recoupment of payment with respect to items or services pursuant to a State plan for medical assistance approved under title XIX of the Social Security Act which would not have been payable if such acquired rights had been executed before payment with respect to such items or services by the group health plan.";

(5) Clerical amendments.—

(A) The heading for part 6 of subtitle B of title I of such Act is amended to read as follows:

"Part 6—Group Health Plans".

(B) The table of contents in section 1 of such Act is amended—

(i) by striking the item relating to the heading for part 6 of subtitle B of title I and inserting the following:

"Part 6—Group Health Plans";

and

(ii) by inserting after the item relating to section 608 the following new item:

"Sec. 609. Additional standards for group health plans.".

(d) Effective Date.—

(1) In general.—The amendments made by this section shall take effect on the date of the enactment of this Act.

(2) Plan amendments not required until January 1, 1994.—Any amendment to a plan required to be made by an amendment made by this section shall not be required to be made before the first plan year beginning on or after January 1, 1994, if—

(A) during the period after the date before the date of the enactment of this Act and before such first plan year, the plan is operated in accordance with the requirements of the amendments made by this section, and

(B) such plan amendment applies retroactively to the period after the date before the date of the enactment of this Act and before such first plan year.

A plan shall not be treated as failing to be operated in accordance with the provisions of the plan merely because it operates in accordance with this paragraph.

Subtitle E—Fee Increase

SEC. 4401. FEE INCREASE.

The Tea Importation Act (21 U.S.C. 41 et seq.) is amended—

(1) by inserting the 4th undesignated paragraph under the center heading "FOOD AND DRUG ADMINISTRATION" of title II of the Labor-Federal Security Appropriation Act, 1942 (21 U.S.C. 46a) as a new section 13 of the Tea Importation Act, and

(2) by amending such new section 13 to read as follows:

"Sec. 13. No tea or merchandise described as tea shall be examined for importation into the United States, or released by the Customs Service, under the Tea Importation Act unless the importer or consignee of such tea or merchandise has paid, before the examination, a fee in an amount equal to—

"(1) 10 cents for each hundred weight or fraction thereof of the tea or merchandise; or

"(2) the approximate cost of the examinations; whichever amount is less. Such fee shall be deposited into the Treasury of the United States as miscellaneous receipts."

TITLE V—TRANSPORTATION AND PUBLIC WORKS PROVISIONS

SEC. 5001. RECREATIONAL USER FEES.

(a) In General.—Section 210 of the Flood Control Act of 1968 (16 U.S.C. 460d–3) is amended—

(1) by striking "Sec. 210. No entrance" and inserting the following:

"SEC. 210. RECREATIONAL USER FEES.

"(a) Prohibition on Admissions Fees.—No entrance";

(2) by striking the second sentence; and

(3) by adding at the end the following new subsection:

"(b) Fees for Use of Developed Recreation Sites and Facilities.—

"(1) Establishment and collection.—Notwithstanding section 4(b) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–6a(b)), the Secretary of the Army is authorized, subject to paragraphs (2) and (3), to establish and collect fees for the use of developed recreation sites and facilities, including campsites, swimming beaches, and boat launching ramps but excluding a site or facility which includes only a boat launch ramp and a courtesy dock.

"(2) Exemption of certain facilities.—The Secretary shall not establish or collect fees under this subsection for the use or provision of drinking water, wayside exhibits, roads, scenic drives, overlook sites, picnic tables, toilet facilities, surface water areas, undeveloped or lightly developed shoreland, or general visitor information.

"(3) Per vehicle limit.—The fee under this subsection for use of a site or facility (other than an overnight camping site or facility or any other site or facility at which a fee is charged for use of the site or facility as of the date of the enactment of this paragraph) for

persons entering the site or facility by private, noncommercial vehicle transporting not more than 8 persons (including the driver) shall not exceed $3 per day per vehicle. Such maximum amount may be adjusted annually by the Secretary for changes in the Consumer Price Index of All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor.

"(4) DEPOSIT INTO TREASURY ACCOUNT.—All fees collected under this subsection shall be deposited into the Treasury account for the Corps of Engineers established by section 4(i) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l-6a(i)).".

(b) CONFORMING AMENDMENT FOR CAMPSITES.—Section 4(b) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l-6a(b)) is amended by striking the next to the last sentence.

TITLE VI—COMMUNICATIONS LICENSING AND SPECTRUM ALLOCATION IMPROVEMENT

SEC. 6001. TRANSFER OF AUCTIONABLE FREQUENCIES.

(a) AMENDMENT.—The National Telecommunications and Information Administration Organization Act (47 U.S.C. 901 et seq.) is amended—

(1) by striking the heading of part B and inserting the following:

"PART C—SPECIAL AND TEMPORARY PROVISIONS";

(2) by redesignating sections 131 through 135 as sections 151 through 155, respectively; and

(3) by inserting after part A the following new part:

"PART B—TRANSFER OF AUCTIONABLE FREQUENCIES.

"SEC. 111. DEFINITIONS.

"As used in this part:

"(1) The term 'allocation' means an entry in the National Table of Frequency Allocations of a given frequency band for the purpose of its use by one or more radiocommunication services.

"(2) The term 'assignment' means an authorization given to a station licensee to use specific frequencies or channels.

"(3) The term 'the 1934 Act' means the Communications Act of 1934 (47 U.S.C. 151 et seq.).

"SEC. 112. NATIONAL SPECTRUM ALLOCATION PLANNING.

"The Assistant Secretary and the Chairman of the Commission shall meet, at least biannually, to conduct joint spectrum planning with respect to the following issues:

"(1) the extent to which licenses for spectrum use can be issued pursuant to section 309(j) of the 1934 Act to increase Federal revenues;

"(2) the future spectrum requirements for public and private uses, including State and local government public safety agencies;

"(3) the spectrum allocation actions necessary to accommodate those uses; and

"(4) actions necessary to promote the efficient use of the spectrum, including spectrum management techniques to promote increased shared use of the spectrum that does not cause harmful interference as a means of increasing commercial access.

"SEC. 113. IDENTIFICATION OF REALLOCABLE FREQUENCIES.

"(a) IDENTIFICATION REQUIRED.—The Secretary shall, within 18 months after the date of the enactment of the Omnibus Budget Reconciliation Act of 1993, prepare and submit to the President and the Congress a report identifying and recommending for reallocation bands of frequencies—

"(1) that are allocated on a primary basis for Federal Government use;

"(2) that are not required for the present or identifiable future needs of the Federal Government;

"(3) that can feasibly be made available, as of the date of submission of the report or at any time during the next 15 years, for use under the 1934 Act (other than for Federal Government stations under section 305 of the 1934 Act);

"(4) the transfer of which (from Federal Government use) will not result in costs to the Federal Government, or losses of services or benefits to the public, that are excessive in relation to the benefits to the public that may be provided by non-Federal licensees; and

"(5) that are most likely to have the greatest potential for productive uses and public benefits under the 1934 Act if allocated for non-Federal use.

"(b) MINIMUM AMOUNT OF SPECTRUM RECOMMENDED.—

"(1) IN GENERAL.—In accordance with the provisions of this section, the Secretary shall recommend for reallocation, for use other than by Federal Government stations under section 305 of the 1934 Act (47 U.S.C. 305), bands of frequencies that in the aggregate span not less than 200 megahertz, that are located below 5 gigahertz, and that meet the criteria specified in paragraphs (1) through (5) of subsection (a). Such bands of frequencies shall include bands of frequencies, located below 3 gigahertz, that span in the aggregate not less than 100 megahertz.

"(2) MIXED USES PERMITTED TO BE COUNTED.—Bands of frequencies which a report of the Secretary under subsection (a) or (d)(1) recommends be partially retained for use by Federal Government stations, but which are also recommended to be reallocated to be made available under the 1934 Act for use by non-Federal stations, may be counted toward the minimum spectrum required by paragraph (1) of this subsection, except that—

"(A) the bands of frequencies counted under this paragraph may not count toward more than one-half of the minimums required by paragraph (1) of this subsection;

"(B) a band of frequencies may not be counted under this paragraph unless the assignments of the band to Federal Government stations under section 305 of the 1934 Act (47 U.S.C. 305) are limited by geographic area, by time, or by other means so as to guarantee that the potential use to be made by such Federal Government stations is substantially less (as measured by geographic area, time, or otherwise) than the potential use to be made by non-Federal stations; and

"(C) the operational sharing permitted under this paragraph shall be subject to the interference regulations prescribed by the Commission pursuant to section 305(a) of the 1934 Act and to coordination procedures that the Commission and the Secretary shall jointly establish and implement to ensure against harmful interference.

"(c) CRITERIA FOR IDENTIFICATION.—

"(1) NEEDS OF THE FEDERAL GOVERNMENT.—In determining whether a band of frequencies meets the criteria specified in subsection (a)(2), the Secretary shall—

"(A) consider whether the band of frequencies is used to provide a communications service that is or could be available from a commercial provider or other vendor;

"(B) seek to promote—

"(i) the maximum practicable reliance on commercially available substitutes;

"(ii) the sharing of frequencies (as permitted under subsection (b)(2));

"(iii) the development and use of new communications technologies; and

"(iv) the use of nonradiating communications systems where practicable; and

"(C) seek to avoid—

"(i) serious degradation of Federal Government services and operations;

"(ii) excessive costs to the Federal Government and users of Federal Government services; and

"(iii) excessive disruption of existing use of Federal Government frequencies by amateur radio licensees.

"(2) FEASIBILITY OF USE.—In determining whether a frequency band meets the criteria specified in subsection (a)(3), the Secretary shall—

"(A) assume that the frequency will be assigned by the Commission under section 303 of the 1934 Act (47 U.S.C. 303) within 15 years;

"(B) assume reasonable rates of scientific progress and growth of demand for telecommunications services;

"(C) seek to include frequencies which can be used to stimulate the development of new technologies; and

"(D) consider the immediate and recurring costs to reestablish services displaced by the reallocation of spectrum.

"(3) ANALYSIS OF BENEFITS.—In determining whether a band of frequencies meets the criteria specified in subsection (a)(5), the Secretary shall consider—

"(A) the extent to which equipment is or will be available that is capable of utilizing the band;

"(B) the proximity of frequencies that are already assigned for commercial or other non-Federal use;

"(C) the extent to which, in general, commercial users could share the frequency with amateur radio licensees; and

"(D) the activities of foreign governments in making frequencies available for experimentation or commercial assignments in order to support their domestic manufacturers of equipment.

"(4) POWER AGENCY FREQUENCIES.—

"(A) APPLICABILITY OF CRITERIA.—The criteria specified by subsection (a) shall be deemed not to be met for any purpose under this part with regard to any frequency assignment to, or any frequency assignment used by, a Federal power agency for the purpose of withdrawing that assignment.

"(B) MIXED USE ELIGIBILITY.—The frequencies assigned to any Federal power agency may only be eligible for mixed use under subsection (b)(2) in geographically separate areas, but in those cases where a frequency is to be shared by an affected Federal power agency and a non-Federal user, such use by the non-Federal user shall not cause harmful interference to the affected Federal power agency or adversely affect the reliability of its power system.

"(C) DEFINITION.—As used in this paragraph, the term 'Federal power agency' means the Tennessee Valley Authority, the Bonneville Power Administration, the Western Area Power Administration, the Southwestern Power Administration, the Southeastern Power Administration, or the Alaska Power Administration.

"(5) LIMITATION ON REALLOCATION.—None of the frequencies recommended for reallocation in the reports required by this subsection shall have been recommended, prior to the date of enactment of the Omnibus Budget Reconciliation Act of 1993, for reallocation to non-Federal use by international agreement.

"(d) PROCEDURE FOR IDENTIFICATION OF REALLOCABLE BANDS OF FREQUENCIES.—

"(1) SUBMISSION OF PRELIMINARY IDENTIFICATION TO CONGRESS.—Within 6 months after the date of the enactment of the Omnibus Budget Reconciliation Act of 1993, the Secretary shall prepare, make publicly available, and submit to the President, the Congress, and the Commission a report which makes a preliminary identification of reallocable bands of frequencies which meet the criteria established by this section.

"(2) PUBLIC COMMENT.—The Secretary shall provide interested persons with the opportunity

to submit, within 90 days after the date of its publication, written comment on the preliminary report required by paragraph (1). The Secretary shall immediately transmit a copy of any such comment to the Commission.

"(3) COMMENT AND RECOMMENDATIONS FROM COMMISSION.—The Commission shall, within 90 days after the conclusion of the period for comment provided pursuant to paragraph (2), submit to the Secretary the Commission's analysis of such comments and the Commission's recommendations for responses to such comments, together with such other comments and recommendations as the Commission deems appropriate.

"(4) DIRECT DISCUSSIONS.—The Secretary shall encourage and provide opportunity for direct discussions among commercial representatives and Federal Government users of the spectrum to aid the Secretary in determining which frequencies to recommend for reallocation. The Secretary shall provide notice to the public and the Commission of any such discussions, including the name or names of any businesses or other persons represented in such discussions. A representative of the Commission (and of the Secretary at the election of the Secretary) shall be permitted to attend any such discussions. The Secretary shall provide the public and the Commission with an opportunity to comment on the results of any such discussions prior to the submission of the final report required by subsection (a).

"(e) TIMETABLE FOR REALLOCATION AND LIMITATION.—

"(1) TIMETABLE REQUIRED.—The Secretary shall, as part of the reports required by subsections (a) and (d)(1), include a timetable that recommends effective dates by which the President shall withdraw or limit assignments of the frequencies specified in such reports.

"(2) EXPEDITED REALLOCATION.—

"(A) REQUIRED REALLOCATION.—The Secretary shall, as part of the report required by subsection (d)(1), specifically identify and recommend for immediate reallocation bands of frequencies that in the aggregate span not less than 50 megahertz, that meet the criteria described in subsection (a), and that can be made available for reallocation immediately upon issuance of the report required by subsection (d)(1). Such bands of frequencies shall include bands of frequencies, located below 3 gigahertz, that in the aggregate span not less than 25 megahertz .

"(B) PERMITTED REALLOCATION.—The Secretary may, as part of such report, identify and recommend bands of frequencies for immediate reallocation for a mixed use pursuant to subsection (b)(2), but such bands of frequencies may not count toward the minimums required by subparagraph (A).

"(3) DELAYED EFFECTIVE DATES.— In setting the recommended delayed effective dates, the Secretary shall—

"(A) consider the need to reallocate bands of frequencies as early as possible, taking into account the requirements of paragraphs (1) and (2) of section 115(b);

"(B) be based on the useful remaining life of equipment that has been purchased or contracted for to operate on identified frequencies;

"(C) consider the need to coordinate frequency use with other nations; and

"(D) take into account the relationship between the costs to the Federal Government of changing to different frequencies and the benefits that may be obtained from commercial and other non-Federal uses of the reassigned frequencies.

"SEC. 114. WITHDRAWAL OR LIMITATION OF ASSIGNMENT TO FEDERAL GOVERNMENT STATIONS.

"(a) IN GENERAL.—The President shall—

"(1) within 6 months after receipt of a report by the Secretary under subsection (a) or (d)(1) of section 113, withdraw the assignment to a Federal Government station of any frequency which the report recommends for immediate reallocation;

"(2) within either such 6-month period, limit the assignment to a Federal Government station of any frequency which the report recommends be made immediately available for mixed use under section 113(b)(2);

"(3) by the delayed effective date recommended by the Secretary under section 113(e) (except as provided in subsection (b)(4) of this section), withdraw or limit the assignment to a Federal Government station of any frequency which the report recommends be reallocated or made available for mixed use on such delayed effective date;

"(4) assign or reassign other frequencies to Federal Government stations as necessary to adjust to such withdrawal or limitation of assignments; and

"(5) transmit a notice and description to the Commission and each House of Congress of the actions taken under this subsection.

"(b) EXCEPTIONS.—

"(1) AUTHORITY TO SUBSTITUTE.—If the President determines that a circumstance described in paragraph (2) exists, the President—

"(A) may substitute an alternative frequency or frequencies for the frequency that is subject to such determination and withdraw (or limit) the assignment of that alternative frequency in the manner required by subsection (a); and

"(B) shall submit a statement of the reasons for taking the action described in subparagraph (A) to the Commission, Committee on Energy and Commerce of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate.

"(2) GROUNDS FOR SUBSTITUTION.—For purposes of paragraph (1), the following circumstances are described in this paragraph:

"(A) the reassignment would seriously jeopardize the national defense interests of the United States;

"(B) the frequency proposed for reassignment is uniquely suited to meeting important governmental needs;

"(C) the reassignment would seriously jeopardize public health or safety;

"(D) the reassignment will result in costs to the Federal Government that are excessive in relation to the benefits that may be obtained from commercial or other non-Federal uses of the reassigned frequency; or

"(E) the reassignment will disrupt the existing use of a Federal Government band of frequencies by amateur radio licensees.

"(3) CRITERIA FOR SUBSTITUTED FREQUENCIES.—For purposes of paragraph (1), a frequency may not be substituted for a frequency identified and recommended by the report of the Secretary under section 113(a) unless the substituted frequency also meets each of the criteria specified by section 113(a).

"(4) DELAYS IN IMPLEMENTATION.—If the President determines that any action cannot be completed by the delayed effective date recommended by the Secretary pursuant to section 113(e), or that such an action by such date would result in a frequency being unused as a consequence of the Commission's plan under section 115, the President may—

"(A) withdraw or limit the assignment to Federal Government stations on a later date that is consistent with such plan, except that the President shall notify each committee specified in paragraph (1)(B) and the Commission of the reason that withdrawal or limitation at a later date is required; or

"(B) substitute alternative frequencies pursuant to the provisions of this subsection.

"SEC. 115. DISTRIBUTION OF FREQUENCIES BY THE COMMISSION.

"(a) ALLOCATION AND ASSIGNMENT OF IMMEDIATELY AVAILABLE FREQUENCIES.—With respect to the frequencies made available for immediate reallocation pursuant to section 113(e)(2), the Commission, not later than 18 months after the date of enactment of the Omnibus Budget Reconciliation Act of 1993, shall issue regulations to allocate such frequencies and shall propose regulations to assign such frequencies.

"(b) ALLOCATION AND ASSIGNMENT OF REMAINING AVAILABLE FREQUENCIES.—With respect to the frequencies made available for reallocation pursuant to section 113(e)(3), the Commission shall, not later than 1 year after receipt of the report required by section 113(a), prepare, submit to the President and the Congress, and implement, a plan for the allocation and assignment under the 1934 Act of such frequencies. Such plan shall—

"(1) not propose the immediate allocation and assignment of all such frequencies but, taking into account the timetable recommended by the Secretary pursuant to section 113(e), shall propose—

"(A) gradually to allocate and assign the frequencies remaining, after making the reservation required by subparagraph (B), over the course of 10 years beginning on the date of submission of such plan; and

"(B) to reserve a significant portion of such frequencies for allocation and assignment beginning after the end of such 10-year period;

"(2) contain appropriate provisions to ensure—

"(A) the availability of frequencies for new technologies and services in accordance with the policies of section 7 of the 1934 Act (47 U.S.C. 157);

"(B) the availability of frequencies to stimulate the development of such technologies; and

"(C) the safety of life and property in accordance with the policies of section 1 of the 1934 Act (47 U.S.C. 151);

"(3) address (A) the feasibility of reallocating portions of the spectrum from current commercial and other non-Federal uses to provide for more efficient use of the spectrum, and (B) innovation and marketplace developments that may affect the relative efficiencies of different spectrum allocations;

"(4) not prevent the Commission from allocating frequencies, and assigning licenses to use frequencies, not included in the plan; and

"(5) not preclude the Commission from making changes to the plan in future proceedings.

"SEC. 116. AUTHORITY TO RECOVER REASSIGNED FREQUENCIES.

"(a) AUTHORITY OF PRESIDENT.—Subsequent to the withdrawal of assignment to Federal Government stations pursuant to section 114, the President may reclaim reassigned frequencies for reassignment to Federal Government stations in accordance with this section.

"(b) PROCEDURE FOR RECLAIMING FREQUENCIES.—

"(1) UNALLOCATED FREQUENCIES.—If the frequencies to be reclaimed have not been allocated or assigned by the Commission pursuant to the 1934 Act, the President shall follow the procedures for substitution of frequencies established by section 114(b) of this part.

"(2) ALLOCATED FREQUENCIES.—If the frequencies to be reclaimed have been allocated or assigned by the Commission, the President shall follow the procedures for substitution of frequencies established by section 114(b) of this part, except that the statement required by section 114(b)(1)(B) shall include—

"(A) a timetable to accommodate an orderly transition for licensees to obtain new frequencies and equipment necessary for its utilization; and

"(B) an estimate of the cost of displacing spectrum users licensed by the Commission.

"(c) COSTS OF RECLAIMING FREQUENCIES.—The Federal Government shall bear all costs of reclaiming frequencies pursuant to this section, including the cost of equipment which is rendered unusable, the cost of relocating operations to a different frequency, and any other costs that are directly attributable to the reclaiming of the frequency pursuant to this section, and there are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

"(d) EFFECTIVE DATE OF RECLAIMED FREQUENCIES.—The Commission shall not withdraw licenses for any reclaimed frequencies until the end of the fiscal year following the fiscal year in which a statement under section 114(b)(1)(B) pertaining to such frequencies is received by the Commission.

"(e) EFFECT ON OTHER LAW.—Nothing in this section shall be construed to limit or otherwise affect the authority of the President under section 706 of the 1934 Act (47 U.S.C. 606).

"SEC. 117. EXISTING ALLOCATION AND TRANSFER AUTHORITY RETAINED.

"(a) ADDITIONAL REALLOCATION.—Nothing in this part prevents or limits additional reallocation of spectrum from the Federal Government to other users.

"(b) IMPLEMENTATION OF NEW TECHNOLOGIES AND SERVICES.—Notwithstanding any other provision of this part—

"(1) the Secretary may, consistent with section 104(e) of this Act, at any time allow frequencies allocated on a primary basis for Federal Government use to be used by non-Federal licensees on a mixed-use basis for the purpose of facilitating the prompt implementation of new technologies or services and for other purposes; and

"(2) the Commission shall make any allocation and licensing decisions with respect to such frequencies in a timely manner and in no event later than the date required by section 7 of the 1934 Act.".

(b) CONFORMING AMENDMENT TO ENSURE COLLECTION OF FCC FEES.—Section 104 of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 903) is amended by adding at the end the following new subsection:

"(e) PROOF OF COMPLIANCE WITH FCC LICENSING REQUIREMENTS.—

"(1) AMENDMENT TO MANUAL REQUIRED.—Within 90 days after the date of enactment of this subsection, the Secretary and the NTIA shall amend the spectrum management document described in subsection (a) to require that—

"(A) no person or entity (other than an agency or instrumentality of the United States) shall be permitted, after 1 year after such date of enactment, to operate a radio station utilizing a frequency that is authorized for the use of government stations pursuant to section 103(b)(2)(A) of this Act for any non-government application unless such person or entity has submitted to the NTIA proof, in a form prescribed by such manual, that such person or entity has obtained a license from the Commission; and

"(B) no person or entity (other than an agency or instrumentality of the United States) shall be permitted, after 1 year after such date of enactment, to utilize a radio station belonging to the United States for any non-government application unless such person or entity has submitted to the NTIA proof, in a form prescribed by such manual, that such person or entity has obtained a license from the Commission.

"(2) RETENTION OF FORMS.—The NTIA shall maintain on file the proofs submitted under paragraph (1), or facsimiles thereof.

"(3) CERTIFICATION.—Within 1 year after the date of enactment of this subsection, the Secretary and the NTIA shall certify to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate that—

"(A) the amendments required by paragraph (1) have been accomplished; and

"(B) the requirements of subparagraphs (A) and (B) of such paragraph are being enforced.".

SEC. 6002. AUTHORITY TO USE COMPETITIVE BIDDING.

(a) USE OF COMPETITIVE BIDDING.—Section 309 of the Communications Act of 1934 (47 U.S.C. 309) is amended by adding at the end the following new subsection:

"(j) USE OF COMPETITIVE BIDDING.—

"(1) GENERAL AUTHORITY.—If mutually exclusive applications are accepted for filing for any initial license or construction permit which will involve a use of the electromagnetic spectrum described in paragraph (2), then the Commission shall have the authority, subject to paragraph (10), to grant such license or permit to a qualified applicant through the use of a system of competitive bidding that meets the requirements of this subsection.

"(2) USES TO WHICH BIDDING MAY APPLY.—A use of the electromagnetic spectrum is described in this paragraph if the Commission determines that—

"(A) the principal use of such spectrum will involve, or is reasonably likely to involve, the licensee receiving compensation from subscribers in return for which the licensee—

"(i) enables those subscribers to receive communications signals that are transmitted utilizing frequencies on which the licensee is licensed to operate; or

"(ii) enables those subscribers to transmit directly communications signals utilizing frequencies on which the licensee is licensed to operate; and

"(B) a system of competitive bidding will promote the objectives described in paragraph (3).

"(3) DESIGN OF SYSTEMS OF COMPETITIVE BIDDING.—For each class of licenses or permits that the Commission grants through the use of a competitive bidding system, the Commission shall, by regulation, establish a competitive bidding methodology. The Commission shall seek to design and test multiple alternative methodologies under appropriate circumstances. In identifying classes of licenses and permits to be issued by competitive bidding, in specifying eligibility and other characteristics of such licenses and permits, and in designing the methodologies for use under this subsection, the Commission shall include safeguards to protect the public interest in the use of the spectrum and shall seek to promote the purposes specified in section 1 of this Act and the following objectives:

"(A) the development and rapid deployment of new technologies, products, and services for the benefit of the public, including those residing in rural areas, without administrative or judicial delays;

"(B) promoting economic opportunity and competition and ensuring that new and innovative technologies are readily accessible to the American people by avoiding excessive concentration of licenses and by disseminating licenses among a wide variety of applicants, including small businesses, rural telephone companies, and businesses owned by members of minority groups and women;

"(C) recovery for the public of a portion of the value of the public spectrum resource made available for commercial use and avoidance of unjust enrichment through the methods employed to award uses of that resource; and

"(D) efficient and intensive use of the electromagnetic spectrum.

"(4) CONTENTS OF REGULATIONS.—In prescribing regulations pursuant to paragraph (3), the Commission shall—

"(A) consider alternative payment schedules and methods of calculation, including lump sums or guaranteed installment payments, with or without royalty payments, or other schedules or methods that promote the objectives described in paragraph (3)(B), and combinations of such schedules and methods;

"(B) include performance requirements, such as appropriate deadlines and penalties for performance failures, to ensure prompt delivery of service to rural areas, to prevent stockpiling or warehousing of spectrum by licensees or permittees, and to promote investment in and rapid deployment of new technologies and services;

"(C) consistent with the public interest, convenience, and necessity, the purposes of this Act, and the characteristics of the proposed service, prescribe area designations and bandwidth assignments that promote (i) an equitable distribution of licenses and services among geographic areas, (ii) economic opportunity for a wide variety of applicants, including small businesses, rural telephone companies, and businesses owned by members of minority groups and women, and (iii) investment in and rapid deployment of new technologies and services;

"(D) ensure that small businesses, rural telephone companies, and businesses owned by members of minority groups and women are given the opportunity to participate in the provision of spectrum-based services, and, for such purposes, consider the use of tax certificates, bidding preferences, and other procedures; and

"(E) require such transfer disclosures and antitrafficking restrictions and payment schedules as may be necessary to prevent unjust enrichment as a result of the methods employed to issue licenses and permits.

"(5) BIDDER AND LICENSEE QUALIFICATION.—No person shall be permitted to participate in a system of competitive bidding pursuant to this subsection unless such bidder submits such information and assurances as the Commission may require to demonstrate that such bidder's application is acceptable for filing. No license shall be granted to an applicant selected pursuant to this subsection unless the Commission determines that the applicant is qualified pursuant to subsection (a) and sections 308(b) and 310. Consistent with the objectives described in paragraph (3), the Commission shall, by regulation, prescribe expedited procedures consistent with the procedures authorized by subsection (i)(2) for the resolution of any substantial and material issues of fact concerning qualifications.

"(6) RULES OF CONSTRUCTION.—Nothing in this subsection, or in the use of competitive bidding, shall—

"(A) alter spectrum allocation criteria and procedures established by the other provisions of this Act;

"(B) limit or otherwise affect the requirements of subsection (h) of this section, section 301, 304, 307, 310, or 706, or any other provision of this Act (other than subsections (d)(2) and (e) of this section);

"(C) diminish the authority of the Commission under the other provisions of this Act to regulate or reclaim spectrum licenses;

"(D) be construed to convey any rights, including any expectation of renewal of a license, that differ from the rights that apply to other licenses within the same service that were not issued pursuant to this subsection;

"(E) be construed to relieve the Commission of the obligation in the public interest to continue to use engineering solutions, negotiation, threshold qualifications, service regulations, and other means in order to avoid mutual exclusivity in application and licensing proceedings;

"(F) be construed to prohibit the Commission from issuing nationwide, regional, or local licenses or permits;

“(G) be construed to prevent the Commission from awarding licenses to those persons who make significant contributions to the development of a new telecommunications service or technology; or

“(H) be construed to relieve any applicant for a license or permit of the obligation to pay charges imposed pursuant to section 8 of this Act.

“(7) CONSIDERATION OF REVENUES IN PUBLIC INTEREST DETERMINATIONS.—

“(A) CONSIDERATION PROHIBITED.—In making a decision pursuant to section 303(c) to assign a band of frequencies to a use for which licenses or permits will be issued pursuant to this subsection, and in prescribing regulations pursuant to paragraph (4)(C) of this subsection, the Commission may not base a finding of public interest, convenience, and necessity on the expectation of Federal revenues from the use of a system of competitive bidding under this subsection.

“(B) CONSIDERATION LIMITED.—In prescribing regulations pursuant to paragraph (4)(A) of this subsection, the Commission may not base a finding of public interest, convenience, and necessity solely or predominantly on the expectation of Federal revenues from the use of a system of competitive bidding under this subsection.

“(C) CONSIDERATION OF DEMAND FOR SPECTRUM NOT AFFECTED.—Nothing in this paragraph shall be construed to prevent the Commission from continuing to consider consumer demand for spectrum-based services.

“(8) TREATMENT OF REVENUES.—

“(A) GENERAL RULE.—Except as provided in subparagraph (B), all proceeds from the use of a competitive bidding system under this subsection shall be deposited in the Treasury in accordance with chapter 33 of title 31, United States Code.

“(B) RETENTION OF REVENUES.—Notwithstanding subparagraph (A), the salaries and expenses account of the Commission shall retain as an offsetting collection such sums as may be necessary from such proceeds for the costs of developing and implementing the program required by this subsection. Such offsetting collections shall be available for obligation subject to the terms and conditions of the receiving appropriations account, and shall be deposited in such accounts on a quarterly basis. Any funds appropriated to the Commission for fiscal years 1994 through 1998 for the purpose of assigning licenses using random selection under subsection (i) shall be used by the Commission to implement this subsection.

“(9) USE OF FORMER GOVERNMENT SPECTRUM.—The Commission shall, not later than 5 years after the date of enactment of this subsection, issue licenses and permits pursuant to this subsection for the use of bands of frequencies that—

“(A) in the aggregate span not less than 10 megahertz; and

“(B) have been reassigned from Government use pursuant to part B of the National Telecommunications and Information Administration Organization Act.

“(10) AUTHORITY CONTINGENT ON AVAILABILITY OF ADDITIONAL SPECTRUM.—

“(A) INITIAL CONDITIONS.—The Commission's authority to issue licenses or permits under this subsection shall not take effect unless—

“(i) the Secretary of Commerce has submitted to the Commission the report required by section 113(d)(1) of the National Telecommunications and Information Administration Organization Act;

“(ii) such report recommends for immediate reallocation bands of frequencies that, in the aggregate, span not less than 50 megahertz;

“(iii) such bands of frequencies meet the criteria required by section 113(a) of such Act; and

“(iv) the Commission has completed the rulemaking required by section 332(c)(1)(D) of this Act.

“(B) SUBSEQUENT CONDITIONS.—The Commission's authority to issue licenses or permits under this subsection on and after 2 years after the date of the enactment of this subsection shall cease to be effective if—

“(i) the Secretary of Commerce has failed to submit the report required by section 113(a) of the National Telecommunications and Information Administration Organization Act;

“(ii) the President has failed to withdraw and limit assignments of frequencies as required by paragraphs (1) and (2) of section 114(a) of such Act;

“(iii) the Commission has failed to issue the regulations required by section 115(a) of such Act;

“(iv) the Commission has failed to complete and submit to Congress, not later than 18 months after the date of enactment of this subsection, a study of current and future spectrum needs of State and local government public safety agencies through the year 2010, and a specific plan to ensure that adequate frequencies are made available to public safety licensees; or

“(v) the Commission has failed under section 332(c)(3) to grant or deny within the time required by such section any petition that a State has filed within 90 days after the date of enactment of this subsection;

until such failure has been corrected.

“(11) TERMINATION.—The authority of the Commission to grant a license or permit under this subsection shall expire September 30, 1998.

“(12) EVALUATION.—Not later than September 30, 1997, the Commission shall conduct a public inquiry and submit to the Congress a report—

“(A) containing a statement of the revenues obtained, and a projection of the future revenues, from the use of competitive bidding systems under this subsection;

“(B) describing the methodologies established by the Commission pursuant to paragraphs (3) and (4);

“(C) comparing the relative advantages and disadvantages of such methodologies in terms of attaining the objectives described in such paragraphs;

“(D) evaluating whether and to what extent—

“(i) competitive bidding significantly improved the efficiency and effectiveness of the process for granting radio spectrum licenses;

“(ii) competitive bidding facilitated the introduction of new spectrum-based technologies and the entry of new companies into the telecommunications market;

“(iii) competitive bidding methodologies have secured prompt delivery of service to rural areas and have adequately addressed the needs of rural spectrum users; and

“(iv) small businesses, rural telephone companies, and businesses owned by members of minority groups and women were able to participate successfully in the competitive bidding process; and

“(E) recommending any statutory changes that are needed to improve the competitive bidding process.”.

(b) CONFORMING AMENDMENTS.—

(1) LIMITATIONS ON LOTTERIES.—Section 309 of the Communications Act of 1934 (47 U.S.C. 309) is further amended—

(A) by striking subsection (i)(1) and inserting the following:

“(i) RANDOM SELECTION.—

“(1) GENERAL AUTHORITY.—If—

“(A) there is more than one application for any initial license or construction permit which will involve a use of the electromagnetic spectrum; and

“(B) the Commission has determined that the use is not described in subsection (j)(2)(A);

then the Commission shall have the authority to grant such license or permit to a qualified applicant through the use of a system of random selection.”; and

(B) in paragraph (4), by adding at the end the following new subparagraph:

“(C) Not later than 180 days after the date of enactment of this subparagraph, the Commission shall prescribe such transfer disclosures and antitrafficking restrictions and payment schedules as are necessary to prevent the unjust enrichment of recipients of licenses or permits as a result of the methods employed to issue licenses under this subsection.”.

(2) REGULATORY TREATMENT TO ENHANCE AUCTION VALUE OF SPECTRUM LICENSES.—

(A) AMENDMENT.—Section 332 of the Communications Act of 1934 (47 U.S.C. 332) is amended—

(i) by striking “PRIVATE LAND” from the heading of the section;

(ii) by striking “land” each place it appears in subsections (a) and (b); and

(iii) by striking subsection (c) and inserting the following:

“(c) REGULATORY TREATMENT OF MOBILE SERVICES.—

“(1) COMMON CARRIER TREATMENT OF COMMERCIAL MOBILE SERVICES.—(A) A person engaged in the provision of a service that is a commercial mobile service shall, insofar as such person is so engaged, be treated as a common carrier for purposes of this Act, except for such provisions of title II as the Commission may specify by regulation as inapplicable to that service or person. In prescribing or amending any such regulation, the Commission may not specify any provision of section 201, 202, or 208, and may specify any other provision only if the Commission determines that—

“(i) enforcement of such provision is not necessary in order to ensure that the charges, practices, classifications, or regulations for or in connection with that service are just and reasonable and are not unjustly or unreasonably discriminatory;

“(ii) enforcement of such provision is not necessary for the protection of consumers; and

“(iii) specifying such provision is consistent with the public interest.

“(B) Upon reasonable request of any person providing commercial mobile service, the Commission shall order a common carrier to establish physical connections with such service pursuant to the provisions of section 201 of this Act. Except to the extent that the Commission is required to respond to such a request, this subparagraph shall not be construed as a limitation or expansion of the Commission's authority to order interconnection pursuant to this Act.

“(C) The Commission shall review competitive market conditions with respect to commercial mobile services and shall include in its annual report an analysis of those conditions. Such analysis shall include an identification of the number of competitors in various commercial mobile services, an analysis of whether or not there is effective competition, an analysis of whether any of such competitors have a dominant share of the market for such services, and a statement of whether additional providers or classes of providers in those services would be likely to enhance competition. As a part of making a determination with respect to the public interest under subparagraph (A)(iii), the Commission shall consider whether the proposed regulation (or amendment thereof) will promote competitive market conditions, including the extent to which such regulation (or amendment) will enhance competition among providers of commercial mobile services. If the Commission determines that such regulation (or amendment) will promote competition among providers of commercial mobile services, such determination

may be the basis for a Commission finding that such regulation (or amendment) is in the public interest.

"(D) The Commission shall, not later than 180 days after the date of enactment of this subparagraph, complete a rulemaking required to implement this paragraph with respect to the licensing of personal communications services, including making any determinations required by subparagraph (C).

"(2) NON-COMMON CARRIER TREATMENT OF PRIVATE MOBILE SERVICES.—A person engaged in the provision of a service that is a private mobile service shall not, insofar as such person is so engaged, be treated as a common carrier for any purpose under this Act. A common carrier (other than a person that was treated as a provider of a private land mobile service prior to the enactment of the Omnibus Budget Reconciliation Act of 1993) shall not provide any dispatch service on any frequency allocated for common carrier service, except to the extent such dispatch service is provided on stations licensed in the domestic public land mobile radio service before January 1, 1982. The Commission may by regulation terminate, in whole or in part, the prohibition contained in the preceding sentence if the Commission determines that such termination will serve the public interest.

"(3) STATE PREEMPTION.—(A) Notwithstanding sections 2(b) and 221(b), no State or local government shall have any authority to regulate the entry of or the rates charged by any commercial mobile service or any private mobile service, except that this paragraph shall not prohibit a State from regulating the other terms and conditions of commercial mobile services. Nothing in this subparagraph shall exempt providers of commercial mobile services (where such services are a substitute for land line telephone exchange service for a substantial portion of the communications within such State) from requirements imposed by a State commission on all providers of telecommunications services necessary to ensure the universal availability of telecommunications service at affordable rates. Notwithstanding the first sentence of this subparagraph, a State may petition the Commission for authority to regulate the rates for any commercial mobile service and the Commission shall grant such petition if such State demonstrates that—

"(i) market conditions with respect to such services fail to protect subscribers adequately from unjust and unreasonable rates or rates that are unjustly or unreasonably discriminatory; or

"(ii) such market conditions exist and such service is a replacement for land line telephone exchange service for a substantial portion of the telephone land line exchange service within such State.

The Commission shall provide reasonable opportunity for public comment in response to such petition, and shall, within 9 months after the date of its submission, grant or deny such petition. If the Commission grants such petition, the Commission shall authorize the State to exercise under State law such authority over rates, for such periods of time, as the Commission deems necessary to ensure that such rates are just and reasonable and not unjustly or unreasonably discriminatory.

"(B) If a State has in effect on June 1, 1993, any regulation concerning the rates for any commercial mobile service offered in such State on such date, such State may, no later than 1 year after the date of enactment of the Omnibus Budget Reconciliation Act of 1993, petition the Commission requesting that the State be authorized to continue exercising authority over such rates. If a State files such a petition, the State's existing regulation shall, notwithstanding subparagraph (A), remain in effect until the Commission completes all action (including any reconsideration) on such petition. The Commission shall review such petition in accordance with the procedures established in such subparagraph, shall complete all action (including any reconsideration) within 12 months after such petition is filed, and shall grant such petition if the State satisfies the showing required under subparagraph (A)(i) or (A)(ii). If the Commission grants such petition, the Commission shall authorize the State to exercise under State law such authority over rates, for such period of time, as the Commission deems necessary to ensure that such rates are just and reasonable and not unjustly or unreasonably discriminatory. After a reasonable period of time, as determined by the Commission, has elapsed from the issuance of an order under subparagraph (A) or this subparagraph, any interested party may petition the Commission for an order that the exercise of authority by a State pursuant to such subparagraph is no longer necessary to ensure that the rates for commercial mobile services are just and reasonable and not unjustly or unreasonably discriminatory. The Commission shall provide reasonable opportunity for public comment in response to such petition, and shall, within 9 months after the date of its submission, grant or deny such petition in whole or in part.

"(4) REGULATORY TREATMENT OF COMMUNICATIONS SATELLITE CORPORATION.—Nothing in this subsection shall be construed to alter or affect the regulatory treatment required by title IV of the Communications Satellite of 1962 of the corporation authorized by title III of such Act.

"(5) SPACE SEGMENT CAPACITY.—Nothing in this section shall prohibit the Commission from continuing to determine whether the provision of space segment capacity by satellite systems to providers of commercial mobile services shall be treated as common carriage.

"(6) FOREIGN OWNERSHIP.—The Commission, upon a petition for waiver filed within 6 months after the date of enactment of the Omnibus Budget Reconciliation Act of 1993, may waive the application of section 310(b) to any foreign ownership that lawfully existed before May 24, 1993, of any provider of a private land mobile service that will be treated as a common carrier as a result of the enactment of the Omnibus Budget Reconciliation Act of 1993, but only upon the following conditions:

"(A) The extent of foreign ownership interest shall not be increased above the extent which existed on May 24, 1993.

"(B) Such waiver shall not permit the subsequent transfer of ownership to any other person in violation of section 310(b).

"(d) DEFINITIONS.—For purposes of this section—

"(1) the term 'commercial mobile service' means any mobile service (as defined in section 3(n)) that is provided for profit and makes interconnected service available (A) to the public or (B) to such classes of eligible users as to be effectively available to a substantial portion of the public, as specified by regulation by the Commission;

"(2) the term 'interconnected service' means service that is interconnected with the public switched network (as such terms are defined by regulation by the Commission) or service for which a request for interconnection is pending pursuant to subsection (c)(1)(B); and

"(3) the term 'private mobile service' means any mobile service (as defined in section 3(n)) that is not a commercial mobile service or the functional equivalent of a commercial mobile service, as specified by regulation by the Commission.".

(B) ADDITIONAL CONFORMING AMENDMENTS.—(i) Section 2(b) of the Communications Act of 1934 (47 U.S.C. 152(b)) is amended by inserting "and section 332," after "inclusive,".

(ii) Section 3 of the Communications Act of 1934 (47 U.S.C. 153) is amended—

(I) in subsection (n) by inserting "(1)" after "and includes", and by inserting before the period at the end the following: ", (2) a mobile service which provides a regularly interacting group of base, mobile, portable, and associated control and relay stations (whether licensed on an individual, cooperative, or multiple basis) for private one-way or two-way land mobile radio communications by eligible users over designated areas of operation, and (3) any service for which a license is required in a personal communications service established pursuant to the proceeding entitled 'Amendment to the Commission's Rules to Establish New Personal Communications Services' (GEN Docket No. 90-314; ET Docket No. 92-100), or any successor proceeding"; and

(II) by striking subsection (gg).

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section are effective on the date of enactment of this Act.

(2) EFFECTIVE DATES OF MOBILE SERVICE AMENDMENTS.—The amendments made by subsection (b)(2) shall be effective on the date of enactment of this Act, except that—

(A) section 332(c)(3)(A) of the Communications Act of 1934, as amended by such subsection, shall take effect 1 year after such date of enactment; and

(B) any private land mobile service provided by any person before such date of enactment, and any paging service utilizing frequencies allocated as of January 1, 1993, for private land mobile services, shall, except for purposes of section 332(c)(6) of such Act, be treated as a private mobile service until 3 years after such date of enactment.

(d) DEADLINES FOR COMMISSION ACTION.—

(1) GENERAL RULEMAKING.—The Federal Communications Commission shall prescribe regulations to implement section 309(j) of the Communications Act of 1934 (as added by this section) within 210 days after the date of enactment of this Act.

(2) PCS ORDERS AND LICENSING.—The Commission shall—

(A) within 180 days after such date of enactment, issue a final report and order (i) in the matter entitled "Redevelopment of Spectrum to Encourage Innovation in the Use of New Telecommunications Technologies" (ET Docket No. 92-9); and (ii) in the matter entitled "Amendment of the Commission's Rules to Establish New Personal Communications Services" (GEN Docket No. 90-314; ET Docket No. 92-100); and

(B) within 270 days after such date of enactment, commence issuing licenses and permits in the personal communications service.

(3) TRANSITIONAL RULEMAKING FOR MOBILE SERVICE PROVIDERS.—Within 1 year after the date of enactment of this Act, the Federal Communications Commission—

(A) shall issue such modifications or terminations of the regulations applicable (before the date of enactment of this Act) to private land mobile services as are necessary to implement the amendments made by subsection (b)(2);

(B) in the regulations that will, after such date of enactment, apply to a service that was a private land mobile service and that becomes a commercial mobile service (as a consequence of such amendments), shall make such other modifications or terminations as may be necessary and practical to assure that licensees in such service are subjected to technical requirements that are comparable to the technical requirements that apply to licensees that are providers of substantially similar common carrier services;

(C) shall issue such other regulations as are necessary to implement the amendments made by subsection (b)(2); and

(D) shall include, in such regulations, modifications, and terminations, such provisions as are necessary to provide for an orderly transition.

(e) Special Rule.—The Federal Communications Commission shall not issue any license or permit pursuant to section 309(i) of the Communications Act of 1934 (47 U.S.C. 309(i)) after the date of enactment of this Act unless—

(1) the Commission has made the determination required by paragraph (1)(B) of such section (as added by this section); or

(2) one or more applications for such license were accepted for filing by the Commission before July 26, 1993.

SEC. 6003. ADDITIONAL COMMUNICATIONS FEES.

(a) Regulatory Fees.—

(1) Amendment.—Title I of the Communications Act of 1934 is amended by inserting after section 8 the following new section:

"SEC. 9. REGULATORY FEES.

"(a) General Authority.—The Commission, in accordance with this section, shall assess and collect regulatory fees to recover the costs of the following regulatory activities of the Commission: enforcement activities, policy and rulemaking activities, user information services, and international activities.

"(b) Establishment and Adjustment of Regulatory Fees.—

"(1) In general.—The fees assessed under subsection (a) shall—

"(A) be derived by determining the full-time equivalent number of employees performing the activities described in subsection (a) within the Private Radio Bureau, Mass Media Bureau, Common Carrier Bureau, and other offices of the Commission, adjusted to take into account factors that are reasonably related to the benefits provided to the payor of the fee by the Commission's activities, including such factors as service area coverage, shared use versus exclusive use, and other factors that the Commission determines are necessary in the public interest;

"(B) be established at amounts that will result in collection, during each fiscal year, of an amount that can reasonably be expected to equal the amount appropriated for such fiscal year for the performance of the activities described in subsection (a); and

"(C) until adjusted or amended by the Commission pursuant to paragraph (2) or (3), be the fees established by the Schedule of Regulatory Fees in subsection (g).

"(2) Mandatory adjustment of schedule.—For any fiscal year after fiscal year 1994, the Commission shall, by rule, revise the Schedule of Regulatory Fees by proportionate increases or decreases to reflect, in accordance with paragraph (1)(B), changes in the amount appropriated for the performance of the activities described in subsection (a) for such fiscal year. Such proportionate increases or decreases shall—

"(A) be adjusted to reflect, within the overall amounts described in appropriations Act under the authority of paragraph (1)(A), unexpected increases or decreases in the number of licensees or units subject to payment of such fees; and

"(B) be established at amounts that will result in collection of an aggregate amount of fees pursuant to this section that can reasonably be expected to equal the aggregate amount of fees that are required to be collected by appropriations Acts pursuant to paragraph (1)(B).

Increases or decreases in fees made by adjustments pursuant to this paragraph shall not be subject to judicial review. In making adjustments pursuant to this paragraph the Commission may round such fees to the nearest $5 in the case of fees under $1,000, or to the nearest $25 in the case of fees of $1,000 or more.

"(3) Permitted amendments.—In addition to the adjustments required by paragraph (2), the Commission shall, by regulation, amend the Schedule of Regulatory Fees if the Commission determines that the Schedule requires amendment to comply with the requirements of paragraph (1)(A). In making such amendments, the Commission shall add, delete, or reclassify services in the Schedule to reflect additions, deletions, or changes in the nature of its services as a consequence of Commission rulemaking proceedings or changes in law. Increases or decreases in fees made by amendments pursuant to this paragraph shall not be subject to judicial review.

"(4) Notice to congress.—The Commission shall—

"(A) transmit to the Congress notification of any adjustment made pursuant to paragraph (2) immediately upon the adoption of such adjustment; and

"(B) transmit to the Congress notification of any amendment made pursuant to paragraph (3) not later than 90 days before the effective date of such amendment.

"(c) Enforcement.—

"(1) Penalties for late payment.—The Commission shall prescribe by regulation an additional charge which shall be assessed as a penalty for late payment of fees required by subsection (a) of this section. Such penalty shall be 25 percent of the amount of the fee which was not paid in a timely manner.

"(2) Dismissal of applications for filings.—The Commission may dismiss any application or other filing for failure to pay in a timely manner any fee or penalty under this section.

"(3) Revocations.—In addition to or in lieu of the penalties and dismissals authorized by paragraphs (1) and (2), the Commission may revoke any instrument of authorization held by any entity that has failed to make payment of a regulatory fee assessed pursuant to this section. Such revocation action may be taken by the Commission after notice of the Commission's intent to take such action is sent to the licensee by registered mail, return receipt requested, at the licensee's last known address. The notice will provide the licensee at least 30 days to either pay the fee or show cause why the fee does not apply to the licensee or should otherwise be waived or payment deferred. A hearing is not required under this subsection unless the licensee's response presents a substantial and material question of fact. In any case where a hearing is conducted pursuant to this section, the hearing shall be based on written evidence only, and the burden of proceeding with the introduction of evidence and the burden of proof shall be on the licensee. Unless the licensee substantially prevails in the hearing, the Commission may assess the licensee for the costs of such hearing. Any Commission order adopted pursuant to this subsection shall determine the amount due, if any, and provide the licensee with at least 30 days to pay that amount or have its authorization revoked. No order of revocation under this subsection shall become final until the licensee has exhausted its right to judicial review of such order under section 402(b)(5) of this title.

"(d) Waiver, Reduction, and Deferment.—The Commission may waive, reduce, or defer payment of a fee in any specific instance for good cause shown, where such action would promote the public interest.

"(e) Deposit of Collections.—Moneys received from fees established under this section shall be deposited as an offsetting collection in, and credited to, the account providing appropriations to carry out the functions of the Commission.

"(f) Regulations.—

"(1) In general.—The Commission shall prescribe appropriate rules and regulations to carry out the provisions of this section. Such rules and regulations shall permit payment by installments in the case of fees in large amounts, and in the case of fees in small amounts, shall require the payment of the fee in advance for a number of years not to exceed the term of the license held by the payor.

"(g) Schedule.—Until amended by the Commission pursuant to subsection (b), the Schedule of Regulatory Fees which the Federal Communications Commission shall, subject to subsection (a)(2), assess and collect shall be as follows:

"Schedule of Regulatory Fees

Bureau/Category	*Annual Regulatory Fee*
Private Radio Bureau	
Exclusive use services (per license)	
Land Mobile (above 470 MHz, Base Station and SMRS) (47 C.F.R. Part 90)	*$16*
Microwave (47 C.F.R. Part 94)	*16*
Interactive Video Data Service (47 C.F.R. Part)	*16*
Shared use services (per license unless otherwise noted)	*7*
Amateur vanity call-signs	*7*
Mass Media Bureau (per license)	
AM radio (47 C.F.R. Part 73)	....
Class D Daytime	*250*
Class A Fulltime	*900*
Class B Fulltime	*500*
Class C Fulltime	*200*
Construction permits	*100*
FM radio (47 C.F.R. Part 73)	....
Classes C, C1, C2, B	*900*
Classes A, B1, C3	*600*
Construction permits	*500*
TV (47 C.F.R. Part 73)	
VHF Commercial	
Markets 1 thru 10	*18,000*
Markets 11 thru 25	*16,000*
Markets 26 thru 50	*12,000*
Markets 51 thru 100	*8,000*
Remaining Markets	*5,000*
Construction permits	*4,000*
UHF Commercial	
Markets 1 thru 10	*14,400*
Markets 11 thru 25	*12,800*
Markets 26 thru 50	*9,600*
Markets 51 thru 100	*6,400*
Remaining Markets	*4,000*
Construction permits	*3,200*
Low Power TV, TV Translator, and TV Booster (47 C.F.R. Part 74)	*135*
Broadcast Auxiliary (47 C.F.R. Part 74)	*25*
International (HF) Broadcast (47 C.F.R. Part 73)	*200*
Cable Antenna Relay Service (47 C.F.R. Part 78)	*220*
Cable Television System (per 1,000 subscribers) (47 C.F.R. Part 76)	*370*
Common Carrier Bureau	
Radio Facilities	
Cellular Radio (per 1,000 subscribers) (47 C.F.R. Part 22)	*60*
Personal Communications (per 1,000 subscribers) (47 C.F.R.)	*60*
Space Station (per operational station in geosynchronous orbit) (47 C.F.R. Part 25)	*65,000*
Space Station (per system in low-earth orbit) (47 C.F.R. Part 25)	*90,000*
Public Mobile (per 1,000 subscribers) (47 C.F.R. Part 22)	*60*
Domestic Public Fixed (per call sign) (47 C.F.R. Part 21)	*55*
International Public Fixed (per call sign) (47 C.F.R. Part 23)	*110*
Earth Stations (47 C.F.R. Part 25)	

"SCHEDULE OF REGULATORY FEES—CONTINUED

Bureau/Category	Annual Regulatory Fee
VSAT and equivalent C-Band antennas (per 100 antennas) ..	6
Mobile satellite earth stations (per 100 antennas)	6
Earth station antennas	
Less than 9 meters (per 100 antennas)	6
9 Meters or more	
Transmit/Receive and Transmit Only (per meter)	85
Receive only (per meter)	55
Carriers	
Inter-Exchange Carrier (per 1,000 presubscribed access lines)	60
Local Exchange Carrier (per 1,000 access lines)	60
Competitive access provider (per 1,000 subscribers)	60
International circuits (per 100 active 64KB circuit or equivalent)	220

"(h) EXCEPTIONS.—The charges established under this section shall not be applicable to (1) governmental entities or nonprofit entities; or (2) to amateur radio operator licenses under part 97 of the Commission's regulations (47 C.F.R. Part 97).

"(i) ACCOUNTING SYSTEM.—The Commission shall develop accounting systems necessary to making the adjustments authorized by subsection (b)(3). In the Commission's annual report, the Commission shall prepare an analysis of its progress in developing such systems and shall afford interested persons the opportunity to submit comments concerning the allocation of the costs of performing the functions described in subsection (a) among the services in the Schedule.".

(2) CONFORMING AMENDMENTS.—Section 8 of the Communications Act of 1934 (47 U.S.C. 158) is amended—

(A) by striking the heading of such section and inserting "APPLICATION FEES";

(B) by striking "charges" each place it appears and inserting "application fees";

(C) by striking "charge" each place it appears in subsection (c) and inserting "application fee";

(D) by striking out "Schedule of Charges" each place it appears and inserting "Schedule of Application Fees"; and

(E) in the schedule contained in subsection (g)—

(i) by striking "SCHEDULE OF CHARGES" and inserting "SCHEDULE OF APPLICATION FEES";

(ii) by striking "charge" and "Charges" each place they appear and inserting "application fee" and "Application fee", respectively; and

(iii) by striking "CHARGES" and inserting "APPLICATION FEES".

(b) USE OF REGULATORY FEES.—Section 6 of the Communications Act of 1934 (47 U.S.C. 156) is amended by adding at the end the following new subsection:

"(d) Of the sum appropriated in any fiscal year under this section, a portion, in an amount determined under section 9(b), shall be derived from fees authorized by section 9.".

TITLE VII—NUCLEAR REGULATORY COMMISSION PROVISIONS

SEC. 7001. NUCLEAR REGULATORY COMMISSION ANNUAL CHARGES.

Section 6101(a)(3) of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 2214(a)(3)) is amended by striking "September 30, 1995" and inserting "September 30, 1998".

TITLE VIII—PATENT AND TRADEMARK FEES

SEC. 8001. PATENT AND TRADEMARK FEES.

Section 10101 of the Omnibus Budget Reconciliation Act of 1990 (35 U.S.C. 41 note) is amended—

(1) in subsection (a) by striking "1995" and inserting "1998";

(2) in subsection (b)(2) by striking "1995" and inserting "1998"; and

(3) in subsection (c)—

(A) by striking "through 1995" and inserting "through 1998"; and

(B) by adding at the end the following:

"(6) $111,000,000 in fiscal year 1996.

"(7) $115,000,000 in fiscal year 1997.

"(8) $119,000,000 in fiscal year 1998.".

TITLE IX—MERCHANT MARINE PROVISIONS

SEC. 9001. EXTENSION OF VESSEL TONNAGE DUTIES.

(a) EXTENSION OF DUTIES.—Section 36 of the Act of August 5, 1909 (36 Stat. 111; 46 App. U.S.C. 121), is amended by—

(1) striking "and 1995," each place it appears and inserting "1995, 1996, 1997, 1998,";

(2) striking "place," and inserting "place;"; and

(3) striking "port, not, however, to include vessels in distress or not engaged in trade" and inserting "port. However, neither duty shall be imposed on vessels in distress or not engaged in trade".

(b) CONFORMING AMENDMENT.—The Act of March 8, 1910 (36 Stat. 234; 46 App. U.S.C. 132), is amended by striking "and 1995," and inserting "1995, 1996, 1997, and 1998,".

(c) TECHNICAL CORRECTION.—

(1) CORRECTION.—Section 10402(a) of the Omnibus Budget Reconciliation Act of 1990 (104 Stat. 1388–398) is amended by striking "in the second paragraph".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall be effective on and after November 5, 1990.

TITLE X—NATURAL RESOURCE PROVISIONS

Subtitle A—Recreation Use Fees

SEC. 10001. ADMISSION FEES.

(a) ADDITIONAL AREAS.—(1) The first sentence of section 4(a) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-6a(a)) is amended by inserting after "National Park System" the phrase "or National Conservation Areas" and by inserting after "National Recreation Areas" the following ", National Monuments, National Volcanic Monuments, National Scenic Areas, and no more than 21 areas of concentrated public use".

(2) Section 4(a) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-6a(a) is amended by inserting the following after the first sentence: "For purposes of this subsection, the term 'area of concentrated public use' means an area that is managed primarily for outdoor recreation purposes, contains at least one major recreation attraction, where facilities and services necessary to accommodate heavy public use are provided, and public access to the area is provided in such a manner that admission fees can be efficiently collected at one or more centralized locations.".

(b) GOLDEN AGE PASSPORT.—The second sentence of section 4(a)(4) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–6a(a)(4)) is amended by striking "without charge," and inserting in lieu thereof "for a one-time charge of $10,".

SEC. 10002. RECREATION USER FEES.

(a) IN GENERAL.—(1) The first sentence of section 4(b) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-6a(b)) is amended by striking out "toilet facilities, picnic tables, or boat ramps" and all that follows down through the end of the sentence and inserting in lieu thereof: "or toilet facilities, nor shall there be any such charge solely for the use of picnic tables: Provided, That in no event shall there be a charge for the use of any campground not having a majority of the following: tent or trailer spaces, picnic tables, drinking water, access road, refuse containers, toilet facilities, personal collection of the fee by an employee or agent of the Federal agency operating the facility, reasonable visitor protection, and simple devices for containing a campfire (where campfires are permitted). For the purposes of this subsection, the term 'specialized outdoor recreation sites' includes, but is not limited to, campgrounds, swimming sites, boat launch facilities, and managed parking lots.".

(2) Section 4(b) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-6a(b)) is amended by striking the second sentence.

(b) COSTS OF COLLECTION.—Section 4(i)(1) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–6a(i)) is amended by inserting "(A)" after "(1)" and by adding the following at the end of paragraph (1):

"(B) Notwithstanding subparagraph (A), in any fiscal year, the Secretary of Agriculture and the Secretary of the Interior may withhold from the special account established under subparagraph (A) such portion of all receipts collected from fees imposed under this section in such fiscal year as the Secretary of Agriculture or the Secretary of the Interior, as appropriate, determines to be equal to the fee collection costs for that fiscal year: Provided, That such costs shall not exceed 15 percent of all receipts collected from fees imposed under this section in that fiscal year. The amounts so withheld shall be retained by the Secretary of Agriculture or the Secretary of the Interior, as appropriate, and shall be available, without further appropriation, for expenditure by the Secretary concerned to cover fee collection costs in that fiscal year. The Secretary concerned shall deposit into the special account established pursuant to subparagraph (A) any amounts so retained which remain unexpended and unobligated at the end of the fiscal year. For the purposes of this subparagraph, for any fiscal year, the term 'fee collection costs' means those costs for personnel and infrastructure directly associated with the collection of fees imposed under this section.".

(c) COMMERCIAL TOUR USE FEES.—Section 4 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–6a) is amended by adding the following new subsection at the end thereof:

"(n)(1) In the case of each unit of the National Park System for which an admission fee is charged under this section, the Secretary of the Interior shall establish, by October 1, 1993, a commercial tour use fee to be imposed on each vehicle entering the unit for the purpose of providing commercial tour services within the unit. Fee revenue derived from such commercial tour use fees shall be deposited into the special account established under subsection (i).

"(2) The Secretary shall establish the amount of fee per entry as follows:

"(A) $25 per vehicle with a passenger capacity of 25 persons or less, and

"(B) $50 per vehicle with a passenger capacity of more than 25 persons.

"(3) The Secretary may periodically make reasonable adjustments to the commercial tour use fee imposed under this subsection.

"(4) The commercial tour use fee imposed under this subsection shall not apply to either of the following:

"(A) Any vehicle transporting organized school groups or outings conducted for educational purposes by schools or other bona fide educational institutions.

"(B) Any vehicle entering a park system unit pursuant to a contract issued under the Act of October 9, 1965 (16 U.S.C. 20–20g) entitled 'An Act relating to the establishment of concession policies in the areas administered by the National Park Service and for other purposes.'.

"(5)(A) The provisions of this subsection shall apply to aircraft entering the airspace of units of the National Park System identified in section 2(b) and section 3 of Public Law 100-91 for the specific purpose of providing commercial tour services within the airspace of such units.

"(B) The provisions of this subsection shall also apply to aircraft entering the airspace of other units of the National Park System for the specific purpose of providing commercial tour services if the Secretary determines that the level of such services is equal to or greater than the level at those units of the National Park System specified in subparagraph (A).".

(d) NON-FEDERAL GOLDEN EAGLE PASSPORT SALES.—Section 4(a)(1)(A) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–6a(a)(1)(A)) is amended by inserting "(i)" after "(A)" and by adding at the end thereof the following new clause:

"(ii) The Secretary of the Interior and the Secretary of Agriculture may authorize businesses, nonprofit entities, and other organizations to sell and collect fees for the Golden Eagle Passport subject to such terms and conditions as the Secretaries may jointly prescribe. The Secretaries shall develop detailed guidelines for promotional advertising of non-Federal Golden Eagle Passport sales and shall monitor compliance with such guidelines. The Secretaries may authorize the sellers to withhold amounts up to, but not exceeding 8 percent of the gross fees collected from the sale of such passports as reimbursement for actual expenses of the sales. Receipts from such non-Federal sales of the Golden Eagle Passport shall be deposited into the special account established in subsection (i), to be allocated between the Secretary of the Interior and the Secretary of Agriculture in the same ratio as receipts from admission into Federal fee areas administered by the Secretary of Agriculture and the Secretary of the Interior pursuant to subsection (a).".

(e) CONFORMING AMENDMENT.—Section 4(a)(1)(A) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–6a(a)(1)(A)) is amended by striking the third sentence in its entirety and inserting in lieu thereof "The annual permit shall be valid for a period of 12 months from the date the annual fee is paid.".

SEC. 10003. COMMUNICATION SITE FEES.

Notwithstanding any other provision of law, for fiscal year 1994 the Secretary of Agriculture and the Secretary of the Interior shall assess and collect annual charges for the utilization of existing radio, television, and commercial telephone transmission communication sites located on Federal lands administered by the Forest Service and the Bureau of Land Management at a level 10 percent above the fee assessed and collected during fiscal year 1993. For a site located after the enactment of this Act, the charges for fiscal year 1994 shall be equal in amount to the charges assessed for a comparable new site located before the enactment of this Act, plus 10 percent.

Subtitle B—Hardrock Mining Claim Maintenance Fee

SEC. 10101. FEE.

(a) CLAIM MAINTENANCE FEE.—The holder of each unpatented mining claim, mill or tunnel site located pursuant to the Mining Laws of the United States, whether located before or after the enactment of this Act, shall pay to the Secretary of the Interior, on or before August 31 of each year, for years 1994 through 1998, a claim maintenance fee of $100 per claim. Such claim maintenance fee shall be in lieu of the assessment work requirement contained in the Mining Law of 1872 (30 U.S.C. 28–28e) and the related filing requirements contained in section 314(a) and (c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744(a) and (c)).

(b) TIME OF PAYMENT.—The claim maintenance fee payable pursuant to subsection (a) for any assessment year shall be paid before the commencement of the assessment year, except that for the initial assessment year in which the location is made, the locator shall pay the claim maintenance fee at the time the location notice is recorded with the Bureau of Land Management. The location fee imposed under section 10102 shall be payable not later than 90 days after the date of location.

(c) OIL SHALE CLAIMS SUBJECT TO CLAIM MAINTENANCE FEES UNDER ENERGY POLICY ACT OF 1992.—This section shall not apply to any oil shale claims for which a fee is required to be paid under section 2511(e)(2) of the Energy Policy Act of 1992 (Public Law 102–486; 106 Stat. 3111; 30 U.S.C. 242).

(d) WAIVER.—(1) The claim maintenance fee required under this section may be waived for a claimant who certifies in writing to the Secretary that on the date the payment was due, the claimant and all related parties—

(A) held not more than 10 mining claims, mill sites, or tunnel sites, or any combination thereof, on public lands; and

(B) have performed assessment work required under the Mining Law of 1872 (30 U.S.C. 28–28e) to maintain the mining claims held by the claimant and such related parties for the assessment year ending on noon of September 1 of the calendar year in which payment of the claim maintenance fee was due.

(2) For purposes of paragraph (1), with respect to any claimant, the term "related party" means—

(A) the spouse and dependent children (as defined in section 152 of the Internal Revenue Code of 1986), of the claimant; and

(B) a person who controls, is controlled by, or is under common control with the claimant.

For purposes of this section, the term control includes actual control, legal control, and the power to exercise control, through or by common directors, officers, stockholders, a voting trust, or a holding company or investment company, or any other means.

SEC. 10102. LOCATION FEE.

Notwithstanding any other provision of law, for every unpatented mining claim, mill or tunnel site located after the date of enactment of this subtitle and before September 30, 1998, pursuant to the Mining Laws of the United States, the locator shall, at the time the location notice is recorded with the Bureau of Land Management, pay to the Secretary of the Interior a location fee, in addition to the claim maintenance fee required by section 10101, of $25.00 per claim.

SEC. 10103. CO-OWNERSHIP.

The co-ownership provisions of the Mining Law of 1872 (30 U.S.C. 28) shall remain in effect, except that in applying such provisions, the annual claim maintenance fee required under this Act shall, where applicable, replace applicable assessment requirements and expenditures.

SEC. 10104. FAILURE TO PAY.

Failure to pay the claim maintenance fee or the location fee as required by this subtitle shall conclusively constitute a forfeiture of the unpatented mining claim, mill or tunnel site by the claimant and the claim shall be deemed null and void by operation of law.

SEC. 10105. OTHER REQUIREMENTS.

(a) FEDERAL LAND POLICY AND MANAGEMENT ACT REQUIREMENTS.—Nothing in this subtitle shall change or modify the requirements of section 314(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744(b)), or the requirements of section 314(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744(c)) related to filings required by section 314(b), and such requirements shall remain in effect with respect to claims, and mill or tunnel sites for which fees are required to be paid under this section.

(b) REVISED STATUTES SECTION 2324.—The third sentence of section 2324 of the Revised Statutes (30 U.S.C. 28) is amended by inserting after "On each claim located after the tenth day of May, eighteen hundred and seventy-two," the following: "that is granted a waiver under section 10101 of the Omnibus Budget Reconciliation Act of 1993,".

(c) FEE ADJUSTMENTS.—(1) The Secretary of the Interior shall adjust the fees required by this subtitle to reflect changes in the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor every 5 years after the date of the enactment of this Act, or more frequently if the Secretary determines an adjustment to be reasonable.

(2) The Secretary shall provide claimants notice of any adjustment made under this subsection not later than July 1 of any year in which the adjustment is made.

(3) A fee adjustment under this subsection shall begin to apply the first assessment year which begins after adjustment is made.

SEC. 10106. REGULATIONS.

The Secretary of the Interior shall promulgate rules and regulations to carry out the terms and conditions of this subtitle as soon as practicable after the date of the enactment of this subtitle.

Subtitle C—Mineral Receipts

SEC. 10201. AMENDMENT TO THE MINERAL LEASING ACT.

Section 35 of the Mineral Leasing Act (30 U.S.C. 191) is amended as follows:

(1) Delete the last sentence and redesignate the remaining language as subsection (a).

(2) Amend subsection (a) by inserting the "and, subject to the provisions of subsection (b)," between the words "United States;" and "50 per centum".

(3) Add a new subsection (b) as follows:

"(b)(1) In calculating the amount to be paid to States during any fiscal year under this section or under any other provision of law requiring payment to a State of any revenues derived from the leasing of any onshore lands or interest in land owned by the United States for the production of the same types of minerals leasable under this Act or of geothermal steam, 50 percent of the portion of the enacted appropriation of the Department of the Interior and any other agency during the preceding fiscal year allocable to the administration of all laws providing for the leasing of any onshore lands or interest in land owned by the United States for the production of the same types of minerals leasable under this Act or of geothermal steam, and to enforcement of such laws, shall be deducted from the receipts derived under those laws in approximately equal amounts each month (subject to paragraph (4)) prior to the division and distribution of such receipts between the States and the United States.

"(2) The proportion of the deduction provided in paragraph (1) allocable to each State shall be determined by dividing the monies disbursed to the State during the preceding fiscal year derived from onshore mineral leasing referred to in paragraph (1) in that State by the total money disbursed to States during the preceding fiscal year from such onshore mineral leasing in all States.

"(3) In the event the deduction apportioned to any State under this subsection exceeds 50 percent of the Secretary of the Interior's estimate of the amounts attributable to onshore mineral leasing referred to in paragraph (1) within that State during the preceding fiscal year, the deduction from receipts received from leases in that State shall be limited to such estimated amounts and the total amount to be deducted from such onshore mineral leasing receipts shall be reduced accordingly.

"(4) If the amount otherwise deductible under this subsection in any month from the portion of receipts to be distributed to a State exceeds the amount payable to the State during that month, any amount exceeding the amount payable shall be carried forward and deducted from amounts payable to the State in subsequent months. If any amount remains to be carried forward at the end of the fiscal year, such amount shall not be deducted from any disbursements in any subsequent fiscal year.

"(5) All deductions to be made pursuant to this subsection shall be made in full during the fiscal year in which such deductions were incurred.".

SEC. 10202. CONFORMING AMENDMENTS.

(a) Mineral Leasing Act for Acquired Lands.—Section 6(a) of the Mineral Leasing Act for Acquired Lands (30 U.S.C. 355) is amended by striking "All receipts" at the beginning of the first sentence and inserting the following: "Subject to the provisions of section 35(b) of the Mineral Leasing Act (30 U.S.C. 191(b)), all receipts".

(b) Geothermal Steam Act.—Section 20 of the Geothermal Steam Act (30 U.S.C. 1019) is amended by striking "All moneys" at the beginning of thereof and inserting "Subject to the provisions of section 35(b) of the Mineral Leasing Act (30 U.S.C. 191(b)), all moneys".

TITLE XI—CIVIL SERVICE AND POST OFFICE PROVISIONS

Subtitle A—Civil Service

SEC. 11001. DELAY IN COST-OF-LIVING ADJUSTMENTS IN FEDERAL EMPLOYEE RETIREMENT BENEFITS DURING FISCAL YEARS 1994, 1995, AND 1996.

(a) Applicability.—This section shall apply with respect to any cost-of-living increase scheduled to take effect, during fiscal year 1994, 1995, or 1996, under—

(1) section 8340(b) or 8462(b) of title 5, United States Code;

(2) section 826 or 858 of the Foreign Service Act of 1980; or

(3) section 291 of the Central Intelligence Agency Retirement Act (50 U.S.C. 2131), as set forth in section 802 of the CIARDS Technical Corrections Act of 1992 (Public Law 102–496; 106 Stat. 3196).

(b) Delay in Effective Date of Adjustments.—A cost-of-living increase described in subsection (a) shall not take effect until the first day of the third calendar month after the date such increase would otherwise take effect.

(c) Rule of Construction.—Nothing in this section shall be considered to affect any determination relating to eligibility for an annuity increase or the amount of the first increase in an annuity under section 8340(b) or (c) or section 8462(b) or (c) of title 5, United States Code, or comparable provisions of law.

SEC. 11002. PERMANENT ELIMINATION OF THE ALTERNATIVE-FORM-OF-ANNUITY OPTION EXCEPT FOR INDIVIDUALS WITH A CRITICAL MEDICAL CONDITION.

(a) Civil Service Retirement System; Federal Employees' Retirement System.—Sections 8343a and 8420a of title 5, United States Code, are each amended—

(1) in subsection (a) by striking "an employee or Member may," and inserting "any employee or Member who has a life-threatening affliction or other critical medical condition may,"; and

(2) by striking subsection (f).

(b) Foreign Service Retirement and Disability System.—Section 807(e)(1) of the Foreign Service Act of 1980 (22 U.S.C. 4047(e)(1)) is amended by striking "a participant may," and inserting "any participant who has a life-threatening affliction or other critical medical condition may,".

(c) Central Intelligence Agency Retirement and Disability System.—Section 294(a) of the Central Intelligence Agency Retirement Act (50 U.S.C. 2143(a)), as set forth in section 802 of the CIARDS Technical Corrections Act of 1992 (Public Law 102–496; 106 Stat. 3196), is amended by striking "a participant may," and inserting "any participant who has a life-threatening affliction or other critical medical condition may,".

(d) Effective Date.—The amendments made by this section shall become effective on October 1, 1994, and shall apply with respect to any annuity commencing on or after that date.

SEC. 11003. APPLICATION OF MEDICARE PART B LIMITS TO PHYSICIANS' SERVICES FURNISHED TO FEDERAL EMPLOYEE HEALTH BENEFITS ENROLLEES AGE 65 OR OLDER.

(a) In General.—Section 8904(b) of title 5, United States Code, is amended—

(1) in paragraph (1) by inserting "(A)" after "(b)(1)" and by adding at the end the following:

"(B)(i) A plan, other than a prepayment plan described in section 8903(4), may not provide benefits, in the case of any retired enrolled individual who is age 65 or older and is not entitled to Medicare supplementary medical insurance benefits under part B of title XVIII of the Social Security Act (42 U.S.C. 1395j et seq.), to pay a charge imposed for physicians' services (as defined in section 1848(j) of such Act, 42 U.S.C. 1395w–4(j)) which are covered for purposes of benefit payments under this chapter and under such part, to the extent that such charge exceeds the fee schedule amount under section 1848(a) of such Act (42 U.S.C. 1395w–4(a)).

"(ii) Physicians and suppliers who have in force participation agreements with the Secretary of Health and Human Services consistent with section 1842(h)(1) of such Act (42 U.S.C. 1395u(h)(1)), whereby the participating provider accepts Medicare benefits (including allowable deductible and coinsurance amounts) as full payment for covered items and services shall accept equivalent benefit and enrollee cost-sharing under this chapter as full payment for services described in clause (i). Physicians and suppliers who are nonparticipating physicians and suppliers for purposes of part B of title XVIII of such Act shall not impose charges that exceed the limiting charge under section 1848(g) of such Act (42 U.S.C. 1395w–4(g)) with respect to services described in clause (i) provided to enrollees described in such clause. The Office of Personnel Management shall notify a physician or supplier who is found to have violated this clause and inform them of the requirements of this clause and sanctions for such a violation. The Office of Personnel Management shall notify the Secretary of Health and Human Services if a physician or supplier is found to knowingly and willfully violate this clause on a repeated basis and the Secretary of Health and Human Services may invoke appropriate sanctions in accordance with sections 1128A(a) and section 1848(g)(1) of such Act (42 U.S.C. 1320a–7a(a), 1395w–4(g)(1)) and applicable regulations.

"(C) If the Secretary of Health and Human Services determines that a violation of this subsection warrants excluding a provider from participation for a specified period under title XVIII of the Social Security Act, the Office shall enforce a corresponding exclusion of such provider for purposes of this chapter.";

(2) in paragraph (3)(B)—

(A) by inserting "(i)" after "includes"; and

(B) by inserting before the period at the end the following: ", and (ii) the fee schedule amounts and limiting charges for physicians' services established under section 1848 of such Act (42 U.S.C. 1395w–4) and the identity of participating physicians and suppliers who have in force agreements with such Secretary under section 1842(h) of such Act (42 U.S.C. 1395u(h))"; and

(3) by adding at the end the following:

"(4) The Director of the Office of Personnel Management shall enter into an arrangement with the Secretary of Health and Human Services, to be effective before the first day of the fifth month that begins before each contract year, under which—

"(A) physicians and suppliers (whether or not participating) under the Medicare program will be notified of the requirements of paragraph (1)(B);

"(B) enforcement procedures will be in place to carry out such paragraph (including enforcement of protections against overcharging of beneficiaries); and

"(C) Medicare program information described in paragraph (3)(B)(ii) will be supplied to carriers under paragraph (3)(A).".

(b) Effective Date.—The amendments made by subsection (a) shall apply with respect to contract years beginning on or after January 1, 1995.

SEC. 11004. FEDERAL EMPLOYEES' SURVIVOR ANNUITY IMPROVEMENTS.

(a) Civil Service Retirement System.—

(1) Reduction for spousal annuity.—Section 8339(j) of title 5, United States Code, is amended—

(A) in paragraph (3)—

(i) in the second sentence by striking ", within such 2-year period,"; and

(ii) by striking the fourth sentence and inserting the following: "The Office shall, by regulation, provide for payment of the deposit required under this paragraph by a reduction in the annuity of the employee or Member. The reduction shall, to the extent practicable, be designed so that the present value of the future reduction is actuarially equivalent to the deposit required under this paragraph, except that the total reductions in the annuity of an employee or Member to pay deposits required by the provisions of this paragraph, paragraph (5), or subsection (k)(2) shall not exceed 25 percent of the annuity computed under subsections (a) through (i), (n), and (q), including adjustments under section 8340. The reduction, which shall be effective on the same date as the election under this paragraph, shall be permanent and unaffected by any future termination of the entitlement of the former spouse. Such reduction shall be independent of and in addition to the reduction required under the first sentence of this paragraph."; and

(B) in paragraph (5)(C)—

(i) in clause (ii) by striking ", within 2 years after the date of the remarriage or, if later, the death or remarriage of the former spouse (or of the last such surviving former spouse),"; and

(ii) by amending clause (iii) to read as follows:

"(iii) The Office shall, by regulation, provide for payment of the deposit required under clause (ii) by a reduction in the annuity of the employee or Member. The reduction shall, to the extent practicable, be designed so that the present value of the future reduction is actuarially equivalent to the deposit required under clause (ii), except that total reductions in the annuity of an employee or Member to pay deposits required by the provisions of this paragraph or paragraph (3) shall not exceed 25 percent of the annuity computed under subsections (a) through (i), (n), and (q), including adjustments under section 8340. The reduction required by this clause, which shall be effective on the same date as the election under clause (i), shall be permanent and unaffected by any future termination of the marriage. Such reduction shall be independent of and in addition to the reduction required under clause (i).".

(2) REDUCTION RELATING TO FORMER SPOUSE.—Section 8339(k)(2) of title 5, United States Code, is amended—

(A) in subparagraph (B)(ii) by striking "Within 2 years after the date of the marriage, the" and inserting "The"; and

(B) by amending subparagraph (C) to read as follows:

"(C) The Office shall, by regulation, provide for payment of the deposit required under subparagraph (B)(ii) by a reduction in the annuity of the employee or Member. The reduction shall, to the extent practicable, be designed so that the present value of the future reduction is actuarially equivalent to the deposit required under subparagraph (B)(ii), except that total reductions in the annuity of an employee or Member to pay deposits required by this subsection or subsection (j)(3) shall not exceed 25 percent of the annuity computed under subsections (a) through (i), (n), and (q), including adjustments under section 8340. The reduction required by this subparagraph, which shall be effective on the same date as the election under subparagraph (A), shall be permanent and unaffected by any future termination of the marriage. Such reduction shall be independent of and in addition to the reduction required under subparagraph (A).".

(3) DEPOSITS.—Section 8334(h) of title 5, United States Code, is amended by striking "and by section 8339(j)(5)(C) and the last sentence of section 8339(k)(2) of this title".

(b) FEDERAL EMPLOYEES' RETIREMENT SYSTEM.—Section 8418 of title 5, United States Code, is amended—

(1) in subsection (a)(1) by striking ", before the expiration of the 2-year period involved,"; and

(2) by amending subsection (b) to read as follows:

"(b) The Office shall, by regulation, provide for payment of the deposit required under subsection (a) by a reduction in the annuity of the employee or Member. The reduction shall, to the extent practicable, be designed so that the present value of the future reduction is actuarially equivalent to the deposit required under subsection (a), except that the total reductions in the annuity of an employee or Member to pay deposits required by this section shall not exceed 25 percent of the annuity computed under section 8415 or section 8452, including adjustments under section 8462. The reduction required by this subsection, which shall be effective at the same time as the election under section 8416 (b) and (c) or section 8417(b), shall be permanent and unaffected by any future termination of the marriage or the entitlement of the former spouse. Such reduction shall be independent of and in addition to the reduction required under section 8416 (b) and (c) or section 8417(b).".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on the first day of the first month beginning at least 30 days after the date of the enactment of this Act and shall apply to all deposits required under section 8339(j) (3) or (5), 8339(k)(2), or 8418 of title 5, United States Code, on which no payment has been made prior to such effective date.

(2) PARTIAL DEPOSIT.—For any deposit required under section 8339(j) (3) or (5), 8339(k)(2), or 8418 of title 5, United States Code, or section 4 (b) or (c) of the Civil Service Retirement Spouse Equity Act of 1984 (5 U.S.C. 8341 note) that has been partially, but not fully, paid before the effective date of this Act, the Office shall by regulation provide for determining the remaining portion of the deposit and for payment of the remaining portion of the deposit by a prospective reduction in the annuity of the employee or Member. The reduction shall be similar to the reductions provided pursuant to the amendments made under this section.

SEC. 11005. TEMPORARY EXTENSION AND MODIFICATION OF THE METHOD FOR DETERMINING GOVERNMENT CONTRIBUTIONS UNDER FEHBP IN THE ABSENCE OF A GOVERNMENT-WIDE INDEMNITY BENEFIT PLAN.

Public Law 101-76 (5 U.S.C. 8906 note) is amended by striking the matter after the enacting clause and before paragraph (2) of subsection (a) and inserting the following:

"That (a)(1) in the administration of chapter 89 of title 5, United States Code, for each of contract years 1990 through 1998 (inclusive), in order to compute the average subscription charges under section 8906(a) of such title for such contract years, the subscription charges in effect for the indemnity benefit plan on the beginning date of each such contract year—

"(A) shall be deemed to be the subscription charges which were in effect for such plan on the beginning date of the preceding contract year as adjusted under paragraph (2); or

"(B) if subparagraph (A) does not apply, shall be deemed to be—

"(i) the subscription charges which were deemed under this Act to have been in effect for such plan with respect to the preceding contract year as adjusted under paragraph (2), except as provided in clause (ii); or

"(ii) for each of contract years 1997 and 1998, the subscription charges which would be derived by applying the terms of clause (i), reduced by 1 percent.".

Subtitle B—Postal Service

SEC. 11101. PAYMENTS TO BE MADE BY THE UNITED STATES POSTAL SERVICE.

(a) RELATING TO CORRECTED CALCULATIONS FOR PAST RETIREMENT COLAS.—In addition to any other payments required under section 8348(m) of title 5, United States Code, or any other provision of law, the United States Postal Service shall pay into the Civil Service Retirement and Disability Fund a total of $693,000,000, of which—

(1) at least one-third shall be paid not later than September 30, 1996;

(2) at least two-thirds shall be paid not later than September 30, 1997; and

(3) any remaining balance shall be paid not later than September 30, 1998.

(b) RELATING TO CORRECTED CALCULATIONS FOR PAST HEALTH BENEFITS.—In addition to any other payments required under section 8906(g)(2) of title 5, United States Code, or any other provision of law, the United States Postal Service shall pay into the Employees Health Benefits Fund a total of $348,000,000, of which—

(1) at least one-third shall be paid not later than September 30, 1996;

(2) at least two-thirds shall be paid not later than September 30, 1997; and

(3) any remaining balance shall be paid not later than September 30, 1998.

TITLE XII—VETERANS' AFFAIRS PROVISIONS

SEC. 12001. SHORT TITLE.

This title may be cited as the "Veterans Reconciliation Act of 1993".

SEC. 12002. EXTENSION OF AUTHORITY TO REQUIRE THAT CERTAIN VETERANS AGREE TO MAKE COPAYMENTS IN EXCHANGE FOR RECEIVING HEALTH-CARE BENEFITS.

(a) HOSPITAL AND MEDICAL CARE.—Section 8013(e) of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508; 38 U.S.C. 1710 note) is amended—

(1) by striking out "September 30, 1992" in the first sentence and inserting in lieu thereof "September 30, 1998"; and

(2) by striking out the second sentence.

(b) OUTPATIENT MEDICATIONS.—Section 1722A(c) of title 38, United States Code, is amended—

(1) by striking out "September 30, 1992" in the first sentence and inserting in lieu thereof "September 30, 1998"; and

(2) by striking out the second sentence.

SEC. 12003. EXTENSION OF AUTHORITY FOR MEDICAL CARE COST RECOVERY.

Section 1729(a)(2)(E) of title 38, United States Code, is amended by striking out "before August 1, 1994," and inserting in lieu thereof "before October 1, 1998,".

SEC. 12004. EXTENSION OF CERTAIN INCOME VERIFICATION AUTHORITY.

Section 5317(g) of title 38, United States Code, is amended by striking out "September 30, 1997" and inserting in lieu thereof "September 30, 1998".

SEC. 12005. EXTENSION OF LIMITATION ON PENSION FOR CERTAIN RECIPIENTS OF MEDICAID-COVERED NURSING HOME CARE.

Section 5503(f)(7) of title 38, United States Code, is amended by striking out "September 30, 1997" and inserting in lieu thereof "September 30, 1998".

SEC. 12006. EXTENSION OF PROCEDURES APPLICABLE TO LIQUIDATION SALES ON DEFAULTED HOME LOANS GUARANTEED BY THE DEPARTMENT OF VETERANS AFFAIRS.

(a) INCLUSION OF LOSSES.—Section 3732(c) of title 38, United States Code, is amended—

(1) in paragraph (1)(C), by striking out "resale," and inserting in lieu thereof "resale (including losses sustained on the resale of the property),"; and

(2) in paragraph (11), by striking out "shall" and all that follows and inserting in lieu thereof "shall apply to loans closed before October 1, 1998.".

(b) EFFECTIVE DATE.—The amendments made by this section shall become effective October 1, 1993.

SEC. 12007. LOAN FEES.

(a) INCREASE IN HOME LOAN FEES.—Subsection (a) of section 3729 of title 38, United States Code, is amended—

(1) by striking out paragraph (6); and

(2) by inserting after paragraph (3) the following:

"(4) With respect to a loan closed after September 30, 1993, and before October 1, 1998, for which a fee is collected under paragraph (1), the amount of such fee, as computed under paragraph (2), shall be increased by 0.75 percent of the total loan amount other than in the case of a loan described in subparagraph (A), (D)(ii), or (E) of paragraph (2).".

(b) FEE FOR MULTIPLE USE OF HOUSING ASSISTANCE.—Subsection (a) of such section, as amended by subsection (a) of this section, is amended by adding at the end the following:

"(5)(A) Except as provided in subparagraph (B) of this paragraph, notwithstanding paragraphs (2) and (4) of this subsection, after a veteran has obtained an initial loan pursuant to section 3710 of this title, the amount of such fee with respect to any additional loan obtained under this chapter by such veteran shall be 3 percent of the total loan amount.

"(B) Subparagraph (A) of this paragraph does not apply with respect to (i) a loan obtained by a veteran with a downpayment described in paragraph (2)(B), (2)(C), or (2)(D)(iii) of this subsection, and (ii) loans described in paragraph (2)(E) of this subsection.

"(C) This paragraph applies with respect to a loan closed after September 30, 1993, and before October 1, 1998.".

(c) CONFORMING AMENDMENT.—Paragraph (2) of subsection (a) of such section is amended by striking out "paragraph (6)" and inserting in lieu thereof "paragraphs (4) and (5)".

SEC. 12008. POLICY REGARDING COST-OF-LIVING ADJUSTMENT IN COMPENSATION RATES.

(a) POLICY.—The fiscal year 1994 cost-of-living adjustments in the rates of and limitations

for compensation payable under chapter 11 of title 38, United States Code, and of dependency and indemnity compensation payable under chapter 13 of such title, except as provided in subsection (b) of this section, will be no more than a percentage equal to the percentage by which benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased effective December 1, 1993, as a result of a determination under section 215(i) of such Act (42 U.S.C. 415(i)), with all increased monthly rates and limitations (other than increased rates or limitations equal to a whole dollar amount) rounded down to the next lower dollar.

(b) LIMITATION ON FISCAL YEAR 1994 COST-OF-LIVING ADJUSTMENT FOR CERTAIN DIC RECIPIENTS.—(1) During fiscal year 1994, the amount of any increase in any of the rates of dependency and indemnity compensation in effect under section 1311(a)(3) of title 38, United States Code, will not exceed 50 percent of the new law increase, rounded down (if not an even dollar amount) to the next lower dollar.

(2) For purposes of paragraph (1), the new law increase is the amount by which the rate of dependency and indemnity compensation provided for recipients under section 1311(a)(1) of such title is increased for fiscal year 1994.

SEC. 12009. LIMITATION REGARDING COST-OF-LIVING ADJUSTMENTS FOR MONTGOMERY GI BILL BENEFITS.

(a) BENEFITS PAYABLE UNDER CHAPTER 30.—Section 3015(g) of title 38, United States Code, is amended—

(1) by striking out "(1)" and all that follows through "(2)" and by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively; and

(2) in paragraph (2), as redesignated by paragraph (1) of this subsection, by striking out "subparagraph (A)" and inserting in lieu thereof "paragraph (1)".

(b) BENEFITS PAYABLE UNDER SELECTED RESERVE PROGRAM.—Section 2131(b)(2) of title 10, United States Code, is amended—

(1) by striking out "(A)" the first place it appears and all that follows through "(B) With respect to" and inserting in lieu thereof "With respect to";

(2) by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively; and

(3) in subparagraph (B), as redesignated by paragraph (2) of this subsection, by striking out "clause (i)" and inserting in lieu thereof "subparagraph (A)".

(c) LIMITATION.—The fiscal year 1995 cost-of-living adjustments in the rates of educational assistance payable under chapter 30 of title 38, United States Code, and under chapter 106 of title 10, United States Code, shall be the percentage equal to 50 percent of the percentage by which such assistance would be increased under section 3015(g) of title 38, and under section 2131(b)(2) of title 10, United States Code, respectively, but for this section.

(d) TECHNICAL AMENDMENTS.—(1) Section 301(c) of Public Law 102-568 (106 Stat. 4326) is amended by striking out "Section 3015(f)" and inserting in lieu thereof "Section 3015(g) (as redesignated by section 307(a)(1))".

(2) Section 307(a) of such Public Law (106 Stat. 4328) is amended by striking out "(as amended by section 301)".

(3) The amendments made by paragraphs (1) and (2) shall apply as if included in the enactment of Public Law 102-568.

TITLE XIII—REVENUE, HEALTH CARE, HUMAN RESOURCES, INCOME SECURITY, CUSTOMS AND TRADE, FOOD STAMP PROGRAM, AND TIMBER SALE PROVISIONS

CHAPTER 1—REVENUE PROVISIONS

SEC. 13001. SHORT TITLE; ETC.

(a) SHORT TITLE.—This chapter may be cited as the "Revenue Reconciliation Act of 1993".

(b) AMENDMENT TO 1986 CODE.—Except as otherwise expressly provided, whenever in this chapter an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) SECTION 15 NOT TO APPLY.—Except in the case of the amendments made by section 13221 (relating to corporate rate increase), no amendment made by this chapter shall be treated as a change in a rate of tax for purposes of section 15 of the Internal Revenue Code of 1986.

(d) WAIVER OF ESTIMATED TAX PENALTIES.—No addition to tax shall be made under section 6654 or 6655 of the Internal Revenue Code of 1986 for any period before April 16, 1994 (March 16, 1994, in the case of a corporation), with respect to any underpayment to the extent such underpayment was created or increased by any provision of this chapter.

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Subchapter A—Training and Investment Incentives

PART I—PROVISIONS RELATING TO EDUCATION AND TRAINING

SEC. 13101. EMPLOYER-PROVIDED EDUCATIONAL ASSISTANCE.

(a) EXTENSION OF EXCLUSION.—

(1) IN GENERAL.—Subsection (d) of section 127 (relating to educational assistance programs) is amended to read as follows:

"(d) TERMINATION.—This section shall not apply to taxable years beginning after December 31, 1994."

(2) CONFORMING AMENDMENT.—Paragraph (2) of section 103(a) of the Tax Extension Act of 1991 is hereby repealed.

(b) COORDINATION WITH SECTION 132.—Paragraph (8) of section 132(i) is amended to read as follows:

"(8) APPLICATION OF SECTION TO OTHERWISE TAXABLE EDUCATIONAL OR TRAINING BENEFITS.—Amounts paid or expenses incurred by the employer for education or training provided to the employee which are not excludable from gross income under section 127 shall be excluded from gross income under this section if (and only if) such amounts or expenses are a working condition fringe."

(c) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendments made by subsection (a) shall apply to taxable years ending after June 30, 1992.

(2) SUBSECTION (b).—The amendment made by subsection (b) shall apply to taxable years beginning after December 31, 1988.

SEC. 13102. TARGETED JOBS CREDIT.

(a) EXTENSION OF CREDIT.—Paragraph (4) of section 51(c) (relating to termination) is amended by striking "June 30, 1992" and inserting "December 31, 1994".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to individuals who begin work for the employer after June 30, 1992.

PART II—INVESTMENT INCENTIVES

Subpart A—Research and Clinical Testing Credits

SEC. 13111. EXTENSION OF RESEARCH AND CLINICAL TESTING CREDITS.

(a) RESEARCH CREDIT.—

(1) IN GENERAL.—Subsection (h) of section 41 (relating to credit for research activities) is amended—

(A) by striking "June 30, 1992" each place it appears and inserting "June 30, 1995", and

(B) by striking "July 1, 1992" each place it appears and inserting "July 1, 1995".

(2) CONFORMING AMENDMENT.—Subparagraph (D) of section 28(b)(1) is amended by striking "June 30, 1992" and inserting "June 30, 1995".

(b) CLINICAL TESTING CREDIT.—Subsection (e) of section 28 is amended by striking "June 30, 1992" and inserting "December 31, 1994".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after June 30, 1992.

SEC. 13112. MODIFICATION OF FIXED BASE PERCENTAGE FOR STARTUP COMPANIES.

(a) GENERAL RULE.—Clause (ii) of section 41(c)(3)(B) is amended to read as follows:

"(ii) FIXED-BASE PERCENTAGE.—In a case to which this subparagraph applies, the fixed-base percentage is—

"(I) 3 percent for each of the taxpayer's 1st 5 taxable years beginning after December 31, 1993, for which the taxpayer has qualified research expenses,

"(II) in the case of the taxpayer's 6th such taxable year, 1/6 of the percentage which the aggregate qualified research expenses of the taxpayer for the 4th and 5th such taxable years is of the aggregate gross receipts of the taxpayer for such years,

"(III) in the case of the taxpayer's 7th such taxable year, 1/3 of the percentage which the aggregate qualified research expenses of the taxpayer for the 5th and 6th such taxable years is of the aggregate gross receipts of the taxpayer for such years,

"(IV) in the case of the taxpayer's 8th such taxable year, 1/2 of the percentage which the aggregate qualified research expenses of the taxpayer for the 5th, 6th, and 7th such taxable years is of the aggregate gross receipts of the taxpayer for such years,

"(V) in the case of the taxpayer's 9th such taxable year, 2/3 of the percentage which the aggregate qualified research expenses of the taxpayer for the 5th, 6th, 7th, and 8th such taxable years is of the aggregate gross receipts of the taxpayer for such years,

"(VI) in the case of the taxpayer's 10th such taxable year, 5/6 of the percentage which the aggregate qualified research expenses of the taxpayer for the 5th, 6th, 7th, 8th, and 9th such taxable years is of the aggregate gross receipts of the taxpayer for such years, and

"(VII) for taxable years thereafter, the percentage which the aggregate qualified research expenses for any 5 taxable years selected by the taxpayer from among the 5th through the 10th such taxable years is of the aggregate gross receipts of the taxpayer for such selected years.".

(b) CONFORMING AMENDMENTS.—

(1) Clause (iii) of section 41(c)(3)(B) is amended by striking "clause (i)" and inserting "clauses (i) and (ii)".

(2) Subparagraph (D) of section 41(c)(3) is amended by striking "subparagraph (A)" and inserting "subparagraphs (A) and (B)(ii)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1993.

Subpart B—Capital Gain Provisions

SEC. 13113. 50-PERCENT EXCLUSION FOR GAIN FROM CERTAIN SMALL BUSINESS STOCK.

(a) GENERAL RULE.—Part I of subchapter P of chapter 1 (relating to capital gains and losses) is amended by adding at the end thereof the following new section:

"SEC. 1202. 50-PERCENT EXCLUSION FOR GAIN FROM CERTAIN SMALL BUSINESS STOCK.

"(a) 50-PERCENT EXCLUSION.—In the case of a taxpayer other than a corporation, gross income shall not include 50 percent of any gain from the sale or exchange of qualified small business stock held for more than 5 years.

"(b) PER-ISSUER LIMITATION ON TAXPAYER'S ELIGIBLE GAIN.—

"(1) IN GENERAL.—If the taxpayer has eligible gain for the taxable year from 1 or more dispositions of stock issued by any corporation, the aggregate amount of such gain from dispositions of stock issued by such corporation which may be taken into account under subsection (a) for the taxable year shall not exceed the greater of—

"(A) $10,000,000 reduced by the aggregate amount of eligible gain taken into account by the taxpayer under subsection (a) for prior taxable years and attributable to dispositions of stock issued by such corporation, or

"(B) 10 times the aggregate adjusted bases of qualified small business stock issued by such corporation and disposed of by the taxpayer during the taxable year.

For purposes of subparagraph (B), the adjusted basis of any stock shall be determined without regard to any addition to basis after the date on which such stock was originally issued.

"(2) ELIGIBLE GAIN.—For purposes of this subsection, the term 'eligible gain' means any gain from the sale or exchange of qualified small business stock held for more than 5 years.

"(3) TREATMENT OF MARRIED INDIVIDUALS.—

"(A) SEPARATE RETURNS.—In the case of a separate return by a married individual, paragraph (1)(A) shall be applied by substituting '$5,000,000' for '$10,000,000'.

"(B) ALLOCATION OF EXCLUSION.—In the case of any joint return, the amount of gain taken into account under subsection (a) shall be allocated equally between the spouses for purposes of applying this subsection to subsequent taxable years.

"(C) MARITAL STATUS.—For purposes of this subsection, marital status shall be determined under section 7703.

"(c) QUALIFIED SMALL BUSINESS STOCK.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this section, the term 'qualified small business stock' means any stock in a C corporation which is originally issued after the date of the enactment of the Revenue Reconciliation Act of 1993, if—

"(A) as of the date of issuance, such corporation is a qualified small business, and

"(B) except as provided in subsections (f) and (h), such stock is acquired by the taxpayer at its original issue (directly or through an underwriter)—

"(i) in exchange for money or other property (not including stock), or

"(ii) as compensation for services provided to such corporation (other than services performed as an underwriter of such stock).

"(2) ACTIVE BUSINESS REQUIREMENT; ETC.—

"(A) IN GENERAL.—Stock in a corporation shall not be treated as qualified small business stock unless, during substantially all of the taxpayer's holding period for such stock, such corporation meets the active business requirements of subsection (e) and such corporation is a C corporation.

"(B) SPECIAL RULE FOR CERTAIN SMALL BUSINESS INVESTMENT COMPANIES.—

"(i) WAIVER OF ACTIVE BUSINESS REQUIREMENT.—Notwithstanding any provision of subsection (e), a corporation shall be treated as meeting the active business requirements of such subsection for any period during which such corporation qualifies as a specialized small business investment company.

"(ii) SPECIALIZED SMALL BUSINESS INVESTMENT COMPANY.—For purposes of clause (i), the term 'specialized small business investment company' means any eligible corporation (as defined in subsection (e)(4)) which is licensed to operate under section 301(d) of the Small Business Investment Act of 1958 (as in effect on May 13, 1993).

"(3) CERTAIN PURCHASES BY CORPORATION OF ITS OWN STOCK.—

"(A) REDEMPTIONS FROM TAXPAYER OR RELATED PERSON.—Stock acquired by the taxpayer shall not be treated as qualified small business stock if, at any time during the 4-year period beginning on the date 2 years before the issuance of such stock, the corporation issuing such stock purchased (directly or indirectly) any of its stock from the taxpayer or from a person related (within the meaning of section 267(b) or 707(b)) to the taxpayer.

"(B) SIGNIFICANT REDEMPTIONS.—Stock issued by a corporation shall not be treated as qualified business stock if, during the 2-year period beginning on the date 1 year before the issuance of such stock, such corporation made 1 or more purchases of its stock with an aggregate value (as of the time of the respective purchases) exceeding 5 percent of the aggregate value of all of its stock as of the beginning of such 2-year period.

"(C) TREATMENT OF CERTAIN TRANSACTIONS.—If any transaction is treated under section 304(a) as a distribution in redemption of the stock of any corporation, for purposes of subparagraphs (A) and (B), such corporation shall be treated as purchasing an amount of its stock equal to the amount treated as such a distribution under section 304(a).

"(d) QUALIFIED SMALL BUSINESS.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified small business' means any domestic corporation which is a C corporation if—

"(A) the aggregate gross assets of such corporation (or any predecessor thereof) at all times on or after the date of the enactment of the Revenue Reconciliation Act of 1993 and before the issuance did not exceed $50,000,000,

"(B) the aggregate gross assets of such corporation immediately after the issuance (determined by taking into account amounts received in the issuance) do not exceed $50,000,000, and

"(C) such corporation agrees to submit such reports to the Secretary and to shareholders as the Secretary may require to carry out the purposes of this section.

"(2) AGGREGATE GROSS ASSETS.—

"(A) IN GENERAL.—For purposes of paragraph (1), the term 'aggregate gross assets' means the amount of cash and the aggregate adjusted bases of other property held by the corporation.

"(B) TREATMENT OF CONTRIBUTED PROPERTY.—For purposes of subparagraph (A), the adjusted basis of any property contributed to the corporation (or other property with a basis determined in whole or in part by reference to the adjusted basis of property so contributed) shall be determined as if the basis of the property contributed to the corporation (immediately after such contribution) were equal to its fair market value as of the time of such contribution.

"(3) AGGREGATION RULES.—

"(A) IN GENERAL.—All corporations which are members of the same parent-subsidiary controlled group shall be treated as 1 corporation for purposes of this subsection.

"(B) PARENT-SUBSIDIARY CONTROLLED GROUP.—For purposes of subparagraph (A), the term 'parent-subsidiary controlled group' means any controlled group of corporations as defined in section 1563(a)(1), except that—

"(i) 'more than 50 percent' shall be substituted for 'at least 80 percent' each place it appears in section 1563(a)(1), and

"(ii) section 1563(a)(4) shall not apply.

"(e) ACTIVE BUSINESS REQUIREMENT.—

"(1) IN GENERAL.—For purposes of subsection (c)(2), the requirements of this subsection are met by a corporation for any period if during such period—

"(A) at least 80 percent (by value) of the assets of such corporation are used by such corporation in the active conduct of 1 or more qualified trades or businesses, and

"(B) such corporation is an eligible corporation.

"(2) SPECIAL RULE FOR CERTAIN ACTIVITIES.—For purposes of paragraph (1), if, in connection with any future qualified trade or business, a corporation is engaged in—

"(A) start-up activities described in section 195(c)(1)(A),

"(B) activities resulting in the payment or incurring of expenditures which may be treated as research and experimental expenditures under section 174, or

"(C) activities with respect to in-house research expenses described in section 41(b)(4),

assets used in such activities shall be treated as used in the active conduct of a qualified trade or business. Any determination under this paragraph shall be made without regard to whether a corporation has any gross income from such activities at the time of the determination.

"(3) QUALIFIED TRADE OR BUSINESS.—For purposes of this subsection, the term 'qualified trade or business' means any trade or business other than—

"(A) any trade or business involving the performance of services in the fields of health, law, engineering, architecture, accounting, actuarial science, performing arts, consulting, athletics, financial services, brokerage services, or any trade or business where the principal asset of such trade or business is the reputation or skill of 1 or more of its employees,

"(B) any banking, insurance, financing, leasing, investing, or similar business,

"(C) any farming business (including the business of raising or harvesting trees),

"(D) any business involving the production or extraction of products of a character with respect to which a deduction is allowable under section 613 or 613A, and

"(E) any business of operating a hotel, motel, restaurant, or similar business.

"(4) ELIGIBLE CORPORATION.—For purposes of this subsection, the term 'eligible corporation' means any domestic corporation; except that such term shall not include—

"(A) a DISC or former DISC,

"(B) a corporation with respect to which an election under section 936 is in effect or which has a direct or indirect subsidiary with respect to which such an election is in effect,

"(C) a regulated investment company, real estate investment trust, or REMIC, and

"(D) a cooperative.

"(5) STOCK IN OTHER CORPORATIONS.—

"(A) LOOK-THRU IN CASE OF SUBSIDIARIES.—For purposes of this subsection, stock and debt in any subsidiary corporation shall be disregarded and the parent corporation shall be deemed to own its ratable share of the subsidiary's assets, and to conduct its ratable share of the subsidiary's activities.

"(B) PORTFOLIO STOCK OR SECURITIES.—A corporation shall be treated as failing to meet the requirements of paragraph (1) for any period during which more than 10 percent of the value

of its assets (in excess of liabilities) consists of stock or securities in other corporations which are not subsidiaries of such corporation (other than assets described in paragraph (6)).

"(C) SUBSIDIARY.—For purposes of this paragraph, a corporation shall be considered a subsidiary if the parent owns more than 50 percent of the combined voting power of all classes of stock entitled to vote, or more than 50 percent in value of all outstanding stock, of such corporation.

"(6) WORKING CAPITAL.—For purposes of paragraph (1)(A), any assets which—

"(A) are held as a part of the reasonably required working capital needs of a qualified trade or business of the corporation, or

"(B) are held for investment and are reasonably expected to be used within 2 years to finance research and experimentation in a qualified trade or business or increases in working capital needs of a qualified trade or business,

shall be treated as used in the active conduct of a qualified trade or business. For periods after the corporation has been in existence for at least 2 years, in no event may more than 50 percent of the assets of the corporation qualify as used in the active conduct of a qualified trade or business by reason of this paragraph.

"(7) MAXIMUM REAL ESTATE HOLDINGS.—A corporation shall not be treated as meeting the requirements of paragraph (1) for any period during which more than 10 percent of the total value of its assets consists of real property which is not used in the active conduct of a qualified trade or business. For purposes of the preceding sentence, the ownership of, dealing in, or renting of real property shall not be treated as the active conduct of a qualified trade or business.

"(8) COMPUTER SOFTWARE ROYALTIES.—For purposes of paragraph (1), rights to computer software which produces active business computer software royalties (within the meaning of section 543(d)(1)) shall be treated as an asset used in the active conduct of a trade or business.

"(f) STOCK ACQUIRED ON CONVERSION OF OTHER STOCK.—If any stock in a corporation is acquired solely through the conversion of other stock in such corporation which is qualified small business stock in the hands of the taxpayer—

"(1) the stock so acquired shall be treated as qualified small business stock in the hands of the taxpayer, and

"(2) the stock so acquired shall be treated as having been held during the period during which the converted stock was held.

"(g) TREATMENT OF PASS-THRU ENTITIES.—

"(1) IN GENERAL.—If any amount included in gross income by reason of holding an interest in a pass-thru entity meets the requirements of paragraph (2)—

"(A) such amount shall be treated as gain described in subsection (a), and

"(B) for purposes of applying subsection (b), such amount shall be treated as gain from a disposition of stock in the corporation issuing the stock disposed of by the pass-thru entity and the taxpayer's proportionate share of the adjusted basis of the pass-thru entity in such stock shall be taken into account.

"(2) REQUIREMENTS.—An amount meets the requirements of this paragraph if—

"(A) such amount is attributable to gain on the sale or exchange by the pass-thru entity of stock which is qualified small business stock in the hands of such entity (determined by treating such entity as an individual) and which was held by such entity for more than 5 years, and

"(B) such amount is includible in the gross income of the taxpayer by reason of the holding of an interest in such entity which was held by the taxpayer on the date on which such pass-thru entity acquired such stock and at all times thereafter before the disposition of such stock by such pass-thru entity.

"(3) LIMITATION BASED ON INTEREST ORIGINALLY HELD BY TAXPAYER.—Paragraph (1) shall not apply to any amount to the extent such amount exceeds the amount to which paragraph (1) would have applied if such amount were determined by reference to the interest the taxpayer held in the pass-thru entity on the date the qualified small business stock was acquired.

"(4) PASS-THRU ENTITY.—For purposes of this subsection, the term 'pass-thru entity' means—

"(A) any partnership,

"(B) any S corporation,

"(C) any regulated investment company, and

"(D) any common trust fund.

"(h) CERTAIN TAX-FREE AND OTHER TRANSFERS.—For purposes of this section—

"(1) IN GENERAL.—In the case of a transfer described in paragraph (2), the transferee shall be treated as—

"(A) having acquired such stock in the same manner as the transferor, and

"(B) having held such stock during any continuous period immediately preceding the transfer during which it was held (or treated as held under this subsection) by the transferor.

"(2) DESCRIPTION OF TRANSFERS.—A transfer is described in this subsection if such transfer is—

"(A) by gift,

"(B) at death, or

"(C) from a partnership to a partner of stock with respect to which requirements similar to the requirements of subsection (g) are met at the time of the transfer (without regard to the 5-year holding period requirement).

"(3) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of section 1244(d)(2) shall apply for purposes of this section.

"(4) INCORPORATIONS AND REORGANIZATIONS INVOLVING NONQUALIFIED STOCK.—

"(A) IN GENERAL.—In the case of a transaction described in section 351 or a reorganization described in section 368, if qualified small business stock is exchanged for other stock which would not qualify as qualified small business stock but for this subparagraph, such other stock shall be treated as qualified small business stock acquired on the date on which the exchanged stock was acquired.

"(B) LIMITATION.—This section shall apply to gain from the sale or exchange of stock treated as qualified small business stock by reason of subparagraph (A) only to the extent of the gain which would have been recognized at the time of the transfer described in subparagraph (A) if section 351 or 368 had not applied at such time. The preceding sentence shall not apply if the stock which is treated as qualified small business stock by reason of subparagraph (A) is issued by a corporation which (as of the time of the transfer described in subparagraph (A)) is a qualified small business.

"(C) SUCCESSIVE APPLICATION.—For purposes of this paragraph, stock treated as qualified small business stock under subparagraph (A) shall be so treated for subsequent transactions or reorganizations, except that the limitation of subparagraph (B) shall be applied as of the time of the first transfer to which such limitation applied (determined after the application of the second sentence of subparagraph (B)).

"(D) CONTROL TEST.—In the case of a transaction described in section 351, this paragraph shall apply only if, immediately after the transaction, the corporation issuing the stock owns directly or indirectly stock representing control (within the meaning of section 368(c)) of the corporation whose stock was exchanged.

"(i) BASIS RULES.—For purposes of this section—

"(1) STOCK EXCHANGED FOR PROPERTY.—In the case where the taxpayer transfers property (other than money or stock) to a corporation in exchange for stock in such corporation—

"(A) such stock shall be treated as having been acquired by the taxpayer on the date of such exchange, and

"(B) the basis of such stock in the hands of the taxpayer shall in no event be less than the fair market value of the property exchanged.

"(2) TREATMENT OF CONTRIBUTIONS TO CAPITAL.—If the adjusted basis of any qualified small business stock is adjusted by reason of any contribution to capital after the date on which such stock was originally issued, in determining the amount of the adjustment by reason of such contribution, the basis of the contributed property shall in no event be treated as less than its fair market value on the date of the contribution.

"(j) TREATMENT OF CERTAIN SHORT POSITIONS.—

"(1) IN GENERAL.—If the taxpayer has an offsetting short position with respect to any qualified small business stock, subsection (a) shall not apply to any gain from the sale or exchange of such stock unless—

"(A) such stock was held by the taxpayer for more than 5 years as of the first day on which there was such a short position, and

"(B) the taxpayer elects to recognize gain as if such stock were sold on such first day for its fair market value.

"(2) OFFSETTING SHORT POSITION.—For purposes of paragraph (1), the taxpayer shall be treated as having an offsetting short position with respect to any qualified small business stock if—

"(A) the taxpayer has made a short sale of substantially identical property,

"(B) the taxpayer has acquired an option to sell substantially identical property at a fixed price, or

"(C) to the extent provided in regulations, the taxpayer has entered into any other transaction which substantially reduces the risk of loss from holding such qualified small business stock.

For purposes of the preceding sentence, any reference to the taxpayer shall be treated as including a reference to any person who is related (within the meaning of section 267(b) or 707(b)) to the taxpayer.

"(k) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this section, including regulations to prevent the avoidance of the purposes of this section through split-ups, shell corporations, partnerships, or otherwise."

(b) ONE-HALF OF EXCLUSION TREATED AS PREFERENCE FOR MINIMUM TAX.—

(1) IN GENERAL.—Subsection (a) of section 57 (relating to items of tax preference) is amended by adding at the end thereof the following new paragraph:

"(8) EXCLUSION FOR GAINS ON SALE OF CERTAIN SMALL BUSINESS STOCK.—An amount equal to one-half of the amount excluded from gross income for the taxable year under section 1202."

(2) CONFORMING AMENDMENT.—Subclause (II) of section 53(d)(1)(B)(ii) is amended by striking "and (6)" and inserting "(6), and (8)".

(c) PENALTY FOR FAILURE TO COMPLY WITH REPORTING REQUIREMENTS.—Section 6652 is amended by inserting before the last subsection thereof the following new subsection:

"(k) FAILURE TO MAKE REPORTS REQUIRED UNDER SECTION 1202.—In the case of a failure to make a report required under section 1202(d)(1)(C) which contains the information required by such section on the date prescribed therefor (determined with regard to any extension of time for filing), there shall be paid (on notice and demand by the Secretary and in the same manner as tax) by the person failing to make such report, an amount equal to $50 for each report with respect to which there was such a failure. In the case of any failure due to negligence or intentional disregard, the preceding sentence shall be applied by substituting '$100' for '$50'. In the case of a report covering periods in 2 or more years, the penalty determined under preceding provisions of this subsection shall be multiplied by the number of such years."

(d) CONFORMING AMENDMENTS.—

(1)(A) Section 172(d)(2) (relating to modifications with respect to net operating loss deduction) is amended to read as follows:

"(2) CAPITAL GAINS AND LOSSES OF TAXPAYERS OTHER THAN CORPORATIONS.—In the case of a taxpayer other than a corporation—

"(A) the amount deductible on account of losses from sales or exchanges of capital assets shall not exceed the amount includable on account of gains from sales or exchanges of capital assets; and

"(B) the exclusion provided by section 1202 shall not be allowed."

(B) Subparagraph (B) of section 172(d)(4) is amended by inserting ", (2)(B)," after "paragraph (1)".

(2) Paragraph (4) of section 642(c) is amended to read as follows:

"(4) ADJUSTMENTS.—To the extent that the amount otherwise allowable as a deduction under this subsection consists of gain described in section 1202(a), proper adjustment shall be made for any exclusion allowable to the estate or trust under section 1202. In the case of a trust, the deduction allowed by this subsection shall be subject to section 681 (relating to unrelated business income)."

(3) Paragraph (3) of section 643(a) is amended by adding at the end thereof the following new sentence: "The exclusion under section 1202 shall not be taken into account.".

(4) Paragraph (4) of section 691(c) is amended by striking "1201, and 1211" and inserting "1201, 1202, and 1211".

(5) The second sentence of paragraph (2) of section 871(a) is amended by inserting "such gains and losses shall be determined without regard to section 1202 and" after "except that".

(6) The table of sections for part I of subchapter P of chapter 1 is amended by adding after the item relating to section 1201 the following new item:

"Sec. 1202. 50-percent exclusion for gain from certain small business stock."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to stock issued after the date of the enactment of this Act.

SEC. 13114. ROLLOVER OF GAIN FROM SALE OF PUBLICLY TRADED SECURITIES INTO SPECIALIZED SMALL BUSINESS INVESTMENT COMPANIES.

(a) IN GENERAL.—Part III of subchapter O of chapter 1 (relating to common nontaxable exchanges) is amended by adding at the end the following new section:

"SEC. 1044. ROLLOVER OF PUBLICLY TRADED SECURITIES GAIN INTO SPECIALIZED SMALL BUSINESS INVESTMENT COMPANIES.

"(a) NONRECOGNITION OF GAIN.—In the case of the sale of any publicly traded securities with respect to which the taxpayer elects the application of this section, gain from such sale shall be recognized only to the extent that the amount realized on such sale exceeds—

"(1) the cost of any common stock or partnership interest in a specialized small business investment company purchased by the taxpayer during the 60-day period beginning on the date of such sale, reduced by

"(2) any portion of such cost previously taken into account under this section.

This section shall not apply to any gain which is treated as ordinary income for purposes of this subtitle.

"(b) LIMITATIONS.—

"(1) LIMITATION ON INDIVIDUALS.—In the case of an individual, the amount of gain which may be excluded under subsection (a) for any taxable year shall not exceed the lesser of—

"(A) $50,000, or

"(B) $500,000, reduced by the amount of gain excluded under subsection (a) for all preceding taxable years.

"(2) LIMITATION ON C CORPORATIONS.—In the case of a C corporation, the amount of gain which may be excluded under subsection (a) for any taxable year shall not exceed the lesser of—

"(A) $250,000, or

"(B) $1,000,000, reduced by the amount of gain excluded under subsection (a) for all preceding taxable years.

"(3) SPECIAL RULES FOR MARRIED INDIVIDUALS.—For purposes of this subsection—

"(A) SEPARATE RETURNS.—In the case of a separate return by a married individual, paragraph (1) shall be applied by substituting '$25,000' for '$50,000' and '$250,000' for '$500,000'.

"(B) ALLOCATION OF GAIN.—In the case of any joint return, the amount of gain excluded under subsection (a) for any taxable year shall be allocated equally between the spouses for purposes of applying this subsection to subsequent taxable years.

"(C) MARITAL STATUS.—For purposes of this subsection, marital status shall be determined under section 7703.

"(4) SPECIAL RULES FOR C CORPORATION.—For purposes of this subsection—

"(A) all corporations which are members of the same controlled group of corporations (within the meaning of section 52(a)) shall be treated as 1 taxpayer, and

"(B) any gain excluded under subsection (a) by a predecessor of any C corporation shall be treated as having been excluded by such C corporation.

"(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) PUBLICLY TRADED SECURITIES.—The term 'publicly traded securities' means securities which are traded on an established securities market.

"(2) PURCHASE.—The term 'purchase' has the meaning given such term by section 1043(b)(4).

"(3) SPECIALIZED SMALL BUSINESS INVESTMENT COMPANY.—The term 'specialized small business investment company' means any partnership or corporation which is licensed by the Small Business Administration under section 301(d) of the Small Business Investment Act of 1958 (as in effect on May 13, 1993).

"(4) CERTAIN ENTITIES NOT ELIGIBLE.—This section shall not apply to any estate, trust, partnership, or S corporation.

"(d) BASIS ADJUSTMENTS.—If gain from any sale is not recognized by reason of subsection (a), such gain shall be applied to reduce (in the order acquired) the basis for determining gain or loss of any common stock or partnership interest in any specialized small business investment company which is purchased by the taxpayer during the 60-day period described in subsection (a). This subsection shall not apply for purposes of section 1202."

(b) CONFORMING AMENDMENT.—Paragraph (24) of section 1016(a) is amended—

(1) by striking "section 1043" and inserting "section 1043 or 1044", and

(2) by striking "section 1043(c)" and inserting "section 1043(c) or 1044(d), as the case may be".

(c) CLERICAL AMENDMENT.—The table of sections for part III of subchapter O of chapter 1 is amended by adding at the end the following new item:

"Sec. 1044. Rollover of publicly traded securities gain into specialized small business investment companies."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to sales on and after the date of the enactment of this Act, in taxable years ending on and after such date.

Subpart C—Modification To Minimum Tax Depreciation Rules

SEC. 13115. MODIFICATION TO MINIMUM TAX DEPRECIATION RULES.

(a) ELIMINATION OF ACE DEPRECIATION ADJUSTMENT.—Clause (i) of section 56(g)(4)(A) (relating to depreciation adjustments for computing adjusted current earnings) is amended by adding at the end thereof the following new sentence: "The preceding sentence shall not apply to any property placed in service after December 31, 1993, and the depreciation deduction with respect to such property shall be determined under the rules of subsection (a)(1)(A).".

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to property placed in service after December 31, 1993.

(2) COORDINATION WITH TRANSITIONAL RULES.—The amendments made by this section shall not apply to any property to which paragraph (1) of section 56(a) of the Internal Revenue Code of 1986 does not apply by reason of subparagraph (C)(i) thereof.

Subpart D—Increase in Expense Treatment for Small Businesses

SEC. 13116. INCREASE IN EXPENSE TREATMENT FOR SMALL BUSINESSES.

(a) GENERAL RULE.—Paragraph (1) of section 179(b) (relating to dollar limitation) is amended by striking "$10,000" and inserting "$17,500".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1992.

Subpart E—Tax Exempt Bonds

SEC. 13121. HIGH-SPEED INTERCITY RAIL FACILITY BONDS EXEMPT FROM STATE VOLUME CAP.

(a) IN GENERAL.—Paragraph (4) of section 146(g) (relating to exemption for certain bonds) is amended by adding at the end thereof the following flush sentence:

"Paragraph (4) shall be applied without regard to '75 percent of' if all of the property to be financed by the net proceeds of the issue is to be owned by a governmental unit (within the meaning of section 142(b)(1))."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to bonds issued after December 31, 1993.

SEC. 13122. PERMANENT EXTENSION OF QUALIFIED SMALL ISSUE BONDS.

(a) IN GENERAL.—Subparagraph (B) of section 144(a)(12) is amended to read as follows:

"(B) BONDS ISSUED TO FINANCE MANUFACTURING FACILITIES AND FARM PROPERTY.—Subparagraph (A) shall not apply to any bond issued as part of an issue 95 percent or more of the net proceeds of which are to be used to provide—

"(i) any manufacturing facility, or

"(ii) any land or property in accordance with section 147(c)(2)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to bonds issued after June 30, 1992.

(c) TREATMENT UNDER INDUCEMENT REGULATIONS.—If the 1-year period specified in Treasury Regulation §1.103–8(a)(5) (as in effect before July 1, 1993) or any successor regulation would (but for this subsection) expire after June 30, 1992, and before January 1, 1994, such period shall not expire before January 1, 1994.

PART III—EXPANSION AND SIMPLIFICATION OF EARNED INCOME TAX CREDIT

SEC. 13131. EXPANSION AND SIMPLIFICATION OF EARNED INCOME TAX CREDIT.

(a) GENERAL RULE.—Section 32 (relating to earned income credit) is amended by striking subsections (a) and (b) and inserting the following:

"(a) ALLOWANCE OF CREDIT.—

"(1) IN GENERAL.—In the case of an eligible individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to the credit percentage of so much of the taxpayer's earned income for the taxable year as does not exceed the earned income amount.

"(2) LIMITATION.—The amount of the credit allowable to a taxpayer under paragraph (1) for any taxable year shall not exceed the excess (if any) of—

"(A) the credit percentage of the earned income amount, over

"(B) the phaseout percentage of so much of the adjusted gross income (or, if greater, the earned income) of the taxpayer for the taxable year as exceeds the phaseout amount.

"(b) PERCENTAGES AND AMOUNTS.—For purposes of subsection (a)—

"(1) PERCENTAGES.—The credit percentage and the phaseout percentage shall be determined as follows:

"(A) IN GENERAL.—In the case of taxable years beginning after 1995:

In the case of an eligible individual with:	The credit percentage is:	The phaseout percentage is:
1 qualifying child	34	15.98
2 or more qualifying children	40	21.06
No qualifying children	7.65	7.65

"(B) TRANSITIONAL PERCENTAGES FOR 1995.—In the case of taxable years beginning in 1995:

In the case of an eligible individual with:	The credit percentage is:	The phaseout percentage is:
1 qualifying child	34	15.98
2 or more qualifying children	36	20.22
No qualifying children	7.65	7.65

"(C) TRANSITIONAL PERCENTAGES FOR 1994.—In the case of a taxable year beginning in 1994:

In the case of an eligible individual with:	The credit percentage is:	The phaseout percentage is:
1 qualifying child	26.3	15.98
2 or more qualifying children	30	17.68
No qualifying children	7.65	7.65

"(2) AMOUNTS.—The earned income amount and the phaseout amount shall be determined as follows:

"(A) IN GENERAL.—In the case of taxable years beginning after 1994:

In the case of an eligible individual with:	The earned income amount is:	The phaseout amount is:
1 qualifying child	$6,000	$11,000
2 or more qualifying children	$8,425	$11,000
No qualifying children	$4,000	$5,000

"(B) TRANSITIONAL AMOUNTS.—In the case of a taxable year beginning in 1994:

In the case of an eligible individual with:	The earned income amount is:	The phaseout amount is:
1 qualifying child	$7,750	$11,000
2 or more qualifying children	$8,425	$11,000
No qualifying children	$4,000	$5,000".

(b) ELIGIBLE INDIVIDUAL.—Subparagraph (A) of section 32(c)(1) (defining eligible individual) is amended to read as follows:±

"(A) IN GENERAL.—The term 'eligible individual' means—

"(i) any individual who has a qualifying child for the taxable year, or

"(ii) any other individual who does not have a qualifying child for the taxable year, if—

"(I) such individual's principal place of abode is in the United States for more than one-half of such taxable year,

"(II) such individual (or, if the individual is married, either the individual or the individual's spouse) has attained age 25 but not attained age 65 before the close of the taxable year, and

"(III) such individual is not a dependent for whom a deduction is allowable under section 151 to another taxpayer for any taxable year beginning in the same calendar year as such taxable year.

For purposes of the preceding sentence, marital status shall be determined under section 7703."

(c) INFLATION ADJUSTMENTS.—Section 32(i) (relating to inflation adjustments) is amended—

(1) by striking paragraphs (1) and (2) and inserting the following new paragraph:

"(1) IN GENERAL.—In the case of any taxable year beginning after 1994, each dollar amount contained in subsection (b)(2)(A) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3), for the calendar year in which the taxable year begins, by substituting 'calendar year 1993' for 'calendar year 1992'.", and

(2) by redesignating paragraph (3) as paragraph (2).

(d) CONFORMING AMENDMENTS.—

(1) Subparagraph (D) of section 32(c)(3) is amended—

(A) by striking "clause (i) or (ii)" in clause (iii) and inserting "clause (i)",

(B) by striking clause (ii), and

(C) by redesignating clause (iii) as clause (ii).

(2) Paragraph (3) of section 162(l) is amended to read as follows:

"(3) COORDINATION WITH MEDICAL DEDUCTION.—Any amount paid by a taxpayer for insurance to which paragraph (1) applies shall not be taken into account in computing the amount allowable to the taxpayer as a deduction under section 213(a)."

(3) Section 213 is amended by striking subsection (f).

(4) Subsection (b) of section 3507 is amended by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively, and by inserting after paragraph (1) the following new paragraph:

"(2) certifies that the employee has 1 or more qualifying children (within the meaning of section 32(c)(3)) for such taxable year,".

(5) Subparagraph (B) of section 3507(c)(2) is amended by striking clauses (i) and (ii) and inserting the following:

"(i) of not more than 60 percent of the credit percentage in effect under section 32(b)(1) for an eligible individual with 1 qualifying child and with earned income not in excess of the earned income amount in effect under section 32(b)(2) for such an eligible individual, which

"(ii) phases out at 60 percent of the phaseout percentage in effect under section 32(b)(1) for such an eligible individual between the phaseout amount in effect under section 32(b)(2) for such an eligible individual and the amount of earned income at which the credit under section 32(a) phases out for such an eligible individual, or".

(6) Section 3507 is amended by adding at the end thereof the following new subsection:

"(f) INTERNAL REVENUE SERVICE NOTIFICATION.—The Internal Revenue Service shall take such steps as may be appropriate to ensure that taxpayers who have 1 or more qualifying children and who receive a refund of the credit under section 32 are aware of the availability of earned income advance amounts under this section."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1993.

PART IV—INCENTIVES FOR INVESTMENT IN REAL ESTATE

Subpart A—Extension of Qualified Mortgage Bonds and Low-Income Housing Credit

SEC. 13141. PERMANENT EXTENSION OF QUALIFIED MORTGAGE BONDS.

(a) IN GENERAL.—Paragraph (1) of section 143(a) (defining qualified mortgage bond) is amended to read as follows:

"(1) QUALIFIED MORTGAGE BOND DEFINED.—For purposes of this title, the term 'qualified mortgage bond' means a bond which is issued as part of a qualified mortgage issue."

(b) MORTGAGE CREDIT CERTIFICATES.—Section 25 is amended by striking subsection (h) and by redesignating subsections (i) and (j) as subsections (h) and (i), respectively.

(c) TREATMENT OF RESALE PRICE CONTROL AND SUBSIDY LIEN PROGRAMS.—Subsection (k) of section 143 is amended by adding at the end thereof the following new paragraph:

"(10) TREATMENT OF RESALE PRICE CONTROL AND SUBSIDY LIEN PROGRAMS.—

"(A) IN GENERAL.—In the case of a residence which is located in a high housing cost area (as defined in section 143(f)(5)), the interest of a governmental unit in such residence by reason of financing provided under any qualified program shall not be taken into account under this section (other than subsection (m)), and the acquisition cost of the residence which is taken into account under subsection (e) shall be such cost reduced by the amount of such financing.

"(B) QUALIFIED PROGRAM.—For purposes of subparagraph (A), the term 'qualified program' means any governmental program providing mortgage loans (other than 1st mortgage loans) or grants—

"(i) which restricts (throughout the 9-year period beginning on the date the financing is provided) the resale of the residence to a purchaser qualifying under this section and to a price determined by an index that reflects less than the full amount of any appreciation in the residence's value, or

"(ii) which provides for deferred or reduced interest payments on such financing and grants the governmental unit a share in the appreciation of the residence,

but only if such financing is not provided directly or indirectly through the use of any tax-exempt private activity bond."

(d) FINANCING ALLOWED FOR CONTRACT FOR DEED AGREEMENTS.—

(1) IN GENERAL.—Paragraph (2) of section 143(d) (relating to exceptions to 3-year requirement) is amended—

(A) by striking "and" at the end of subparagraph (A),

(B) by adding "and" at the end of subparagraph (B), and

(C) by inserting after subparagraph (B) the following new subparagraph:

"(C) financing with respect to land described in subsection (i)(1)(C) and the construction of any residence thereon."

(2) EXCEPTION TO NEW MORTGAGE REQUIREMENT.—Paragraph (1) of section 143(i) (relating

to mortgages must be new mortgages) is amended by adding at the end thereof the following new subparagraph:

"(C) EXCEPTION FOR CERTAIN CONTRACT FOR DEED AGREEMENTS.—

"(i) IN GENERAL.—In the case of land possessed under a contract for deed by a mortgagor—

"(I) whose principal residence (within the meaning of section 1034) is located on such land, and

"(II) whose family income (as defined in subsection (f)(2)) is not more than 50 percent of applicable median family income (as defined in subsection (f)(4)),

the contract for deed shall not be treated as an existing mortgage for purposes of subparagraph (A).

"(ii) CONTRACT FOR DEED DEFINED.—For purposes of this subparagraph, the term 'contract for deed' means a seller-financed contract for the conveyance of land under which—

"(I) legal title does not pass to the purchaser until the consideration under the contract is fully paid to the seller, and

"(II) the seller's remedy for nonpayment is forfeiture rather than judicial or nonjudicial foreclosure."

(3) ACQUISITION COST INCLUDES COST OF LAND.—Clause (iii) of section 143(k)(3)(B) is amended by inserting "(other than land described in subsection (i)(1)(C)(i))" after "cost of land".

(e) FINANCING OF NEW 2-FAMILY RESIDENCES PERMITTED.—Paragraph (7) of section 143(k) is amended by adding at the end thereof the following flush sentence:

"Subparagraph (B) shall not apply to any 2-family residence if the residence is a targeted area residence and the family income of the mortgagor meets the requirement of subsection (f)(3)(B)."

(f) EFFECTIVE DATES.—

(1) BONDS.—The amendment made by subsection (a) shall apply to bonds issued after June 30, 1992.

(2) CERTIFICATES.—The amendment made by subsection (b) shall apply to elections for periods after June 30, 1992.

(3) SUBSECTIONS (c) AND (e).—The amendments made by subsections (c) and (e) shall apply to qualified mortgage bonds issued and mortgage credit certificates provided on or after the date of enactment of this Act.

(4) CONTRACT FOR DEED AGREEMENTS.—The amendments made by subsection (d) shall apply to loans originated and credit certificates provided after the date of the enactment of this Act.

SEC. 13142. LOW-INCOME HOUSING CREDIT.

(a) PERMANENT EXTENSION.—

(1) IN GENERAL.—Section 42 (relating to low-income housing credit) is amended by striking subsection (o).

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to periods ending after June 30, 1992.

(b) MODIFICATIONS.—

(1) HOUSING CREDIT AGENCY DETERMINATION OF REASONABLENESS OF PROJECT COSTS.—Subparagraph (B) of section 42(m)(2) (relating to credit allocated to building not to exceed amount necessary to assure project feasibility) is amended—

(A) by striking "and" at the end of clause (ii),

(B) by striking the period at the end of clause (iii) and inserting ", and", and

(C) by inserting after clause (iii) the following new clause:

"(iv) the reasonableness of the developmental and operational costs of the project."

(2) UNITS WITH CERTAIN FULL-TIME STUDENTS NOT DISQUALIFIED.—Subparagraph (D) of section 42(i)(3) (defining low-income unit) is amended to read as follows:

"(D) CERTAIN STUDENTS NOT TO DISQUALIFY UNIT.—A unit shall not fail to be treated as a low-income unit merely because it is occupied—

"(i) by an individual who is—

"(I) a student and receiving assistance under title IV of the Social Security Act, or

"(II) enrolled in a job training program receiving assistance under the Job Training Partnership Act or under other similar Federal, State, or local laws, or

"(ii) entirely by full-time students if such students are—

"(I) single parents and their children and such parents and children are not dependents (as defined in section 152) of another individual, or

"(II) married and file a joint return."

(3) TREASURY WAIVERS OF CERTAIN DE MINIMIS ERRORS AND RECERTIFICATIONS.—Subsection (g) of section 42 (relating to qualified low-income housing projects) is amended by adding at the end thereof the following new paragraph:

"(8) WAIVER OF CERTAIN DE MINIMIS ERRORS AND RECERTIFICATIONS.—On application by the taxpayer, the Secretary may waive—

"(A) any recapture under subsection (j) in the case of any de minimis error in complying with paragraph (1), or

"(B) any annual recertification of tenant income for purposes of this subsection, if the entire building is occupied by low-income tenants."

(4) DISCRIMINATION AGAINST TENANTS PROHIBITED.—Section 42(h)(6)(B) (defining extended low-income housing commitment) is amended by redesignating clauses (iv) and (v) as clauses (v) and (vi) and by inserting after clause (iii) the following new clause:

"(iv) which prohibits the refusal to lease to a holder of a voucher or certificate of eligibility under section 8 of the United States Housing Act of 1937 because of the status of the prospective tenant as such a holder,".

(5) HOME ASSISTANCE NOT TO RESULT IN CERTAIN BUILDINGS BEING FEDERALLY SUBSIDIZED.—Paragraph (2) of section 42(i) (relating to determination of whether building is federally subsidized) is amended by adding at the end thereof the following new subparagraph:

"(E) BUILDINGS RECEIVING HOME ASSISTANCE.—

"(i) IN GENERAL.—Assistance provided under the HOME Investment Partnerships Act (as in effect on the date of the enactment of this subparagraph) with respect to any building shall not be taken into account under subparagraph (D) if 40 percent or more of the residential units in the building are occupied by individuals whose income is 50 percent or less of area median gross income. Subsection (d)(5)(C) shall not apply to any building to which the preceding sentence applies.

"(ii) SPECIAL RULE FOR CERTAIN HIGH-COST HOUSING AREAS.—In the case of a building located in a city described in section 142(d)(6), clause (i) shall be applied by substituting '25 percent' for '40 percent'."

(6) EFFECTIVE DATES.—

(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), the amendments made by this subsection shall apply to—

(i) determinations under section 42 of the Internal Revenue Code of 1986 with respect to housing credit dollar amounts allocated from State housing credit ceilings after June 30, 1992, or

(ii) buildings placed in service after June 30, 1992, to the extent paragraph (1) of section 42(h) of such Code does not apply to any building by reason of paragraph (4) thereof, but only with respect to bonds issued after such date.

(B) WAIVER AUTHORITY AND PROHIBITED DISCRIMINATION.—The amendments made by paragraphs (3) and (4) shall take effect on the date of the enactment of this Act.

(C) HOME ASSISTANCE.—The amendment made by paragraph (2) shall apply to periods after the date of the enactment of this Act.

(c) ELECTION TO DETERMINE RENT LIMITATION BASED ON NUMBER OF BEDROOMS AND DEEP RENT SKEWING.—

(1) In the case of a building to which the amendments made by subsection (e)(1) or (n)(2) of section 7108 of the Revenue Reconciliation Act of 1989 did not apply, the taxpayer may elect to have such amendments apply to such building if the taxpayer has met the requirements of the procedures described in section 42(m)(1)(B)(iii) of the Internal Revenue Code of 1986.

(2) In the case of the amendment made by such subsection (e)(1), such election shall apply only with respect to tenants first occupying any unit in the building after the date of the election.

(3) In the case of the amendment made by such subsection (n)(2), such election shall apply only if rents of low-income tenants in such building do not increase as a result of such election.

(4) An election under this subsection may be made only during the 180 day period beginning on the date of the enactment of this Act and, once made, shall be irrevocable.

Subpart B—Passive Loss Rules

SEC. 13143. APPLICATION OF PASSIVE LOSS RULES TO RENTAL REAL ESTATE ACTIVITIES.

(a) RENTAL REAL ESTATE ACTIVITIES OF PERSONS IN REAL PROPERTY BUSINESS NOT AUTOMATICALLY TREATED AS PASSIVE ACTIVITIES.—Subsection (c) of section 469 (defining passive activity) is amended by adding at the end thereof the following new paragraph:

"(7) SPECIAL RULES FOR TAXPAYERS IN REAL PROPERTY BUSINESS—

"(A) IN GENERAL.—If this paragraph applies to any taxpayer for a taxable year—

"(i) paragraph (2) shall not apply to any rental real estate activity of such taxpayer for such taxable year, and

"(ii) this section shall be applied as if each interest of the taxpayer in rental real estate were a separate activity.

Notwithstanding clause (ii), a taxpayer may elect to treat all interests in rental real estate as one activity. Nothing in the preceding provisions of this subparagraph shall be construed as affecting the determination of whether the taxpayer materially participates with respect to any interest in a limited partnership as a limited partner.

"(B) TAXPAYERS TO WHOM PARAGRAPH APPLIES.—This paragraph shall apply to a taxpayer for a taxable year if—

"(i) more than one-half of the personal services performed in trades or businesses by the taxpayer during such taxable year are performed in real property trades or businesses in which the taxpayer materially participates, and

"(ii) such taxpayer performs more than 750 hours of services during the taxable year in real property trades or businesses in which the taxpayer materially participates.

In the case of a joint return, the requirements of the preceding sentence are satisfied if and only if either spouse separately satisfies such requirements. For purposes of the preceding sentence, activities in which a spouse materially participates shall be determined under subsection (h).

"(C) REAL PROPERTY TRADE OR BUSINESS.—For purposes of this paragraph, the term 'real property trade or business' means any real property development, redevelopment, construction, reconstruction, acquisition, conversion, rental, operation, management, leasing, or brokerage trade or business.

"(D) SPECIAL RULES FOR SUBPARAGRAPH (B).—

"(i) CLOSELY HELD C CORPORATIONS.—In the case of a closely held C corporation, the requirements of subparagraph (B) shall be treated as met for any taxable year if more than 50 percent of the gross receipts of such corporation for such taxable year are derived from real property trades or businesses in which the corporation materially participates.

"(ii) PERSONAL SERVICES AS AN EMPLOYEE.—For purposes of subparagraph (B), personal services performed as an employee shall not be treated as performed in real property trades or businesses. The preceding sentence shall not apply if such employee is a 5-percent owner (as defined in section 416(i)(1)(B)) in the employer."

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 469(c) is amended by striking "The" and inserting "Except as provided in paragraph (7), the".

(2) Clause (iv) of section 469(i)(3)(E) is amended by inserting "or any loss allowable by reason of subsection (c)(7)" after "loss".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1993.

Subpart C—Provisions Relating to Real Estate Investments by Pension Funds

SEC. 13144. REAL ESTATE PROPERTY ACQUIRED BY A QUALIFIED ORGANIZATION.

(a) MODIFICATIONS OF EXCEPTIONS.—Paragraph (9) of section 514(c) (relating to real property acquired by a qualified organization) is amended by adding at the end thereof the following new subparagraphs:

"(G) SPECIAL RULES FOR PURPOSES OF THE EXCEPTIONS.—Except as otherwise provided by regulations—

"(i) SMALL LEASES DISREGARDED.—For purposes of clauses (iii) and (iv) of subparagraph (B), a lease to a person described in such clause (iii) or (iv) shall be disregarded if no more than 25 percent of the leasable floor space in a building (or complex of buildings) is covered by the lease and if the lease is on commercially reasonable terms.

"(ii) COMMERCIALLY REASONABLE FINANCING.—Clause (v) of subparagraph (B) shall not apply if the financing is on commercially reasonable terms.

"(H) QUALIFYING SALES BY FINANCIAL INSTITUTIONS.—

"(i) IN GENERAL.—In the case of a qualifying sale by a financial institution, except as provided in regulations, clauses (i) and (ii) of subparagraph (B) shall not apply with respect to financing provided by such institution for such sale.

"(ii) QUALIFYING SALE.—For purposes of this clause, there is a qualifying sale by a financial institution if—

"(I) a qualified organization acquires property described in clause (iii) from a financial institution and any gain recognized by the financial institution with respect to the property is ordinary income,

"(II) the stated principal amount of the financing provided by the financial institution does not exceed the amount of the outstanding indebtedness (including accrued but unpaid interest) of the financial institution with respect to the property described in clause (iii) immediately before the acquisition referred to in clause (iii) or (v), whichever is applicable, and

"(III) the present value (determined as of the time of the sale and by using the applicable Federal rate determined under section 1274(d)) of the maximum amount payable pursuant to the financing that is determined by reference to the revenue, income, or profits derived from the property cannot exceed 30 percent of the total purchase price of the property (including the contingent payments).

"(iii) PROPERTY TO WHICH SUBPARAGRAPH APPLIES.—Property is described in this clause if such property is foreclosure property, or is real property which—

"(I) was acquired by the qualified organization from a financial institution which is in conservatorship or receivership, or from the conservator or receiver of such an institution, and

"(II) was held by the financial institution at the time it entered into conservatorship or receivership.

"(iv) FINANCIAL INSTITUTION.—For purposes of this subparagraph, the term 'financial institution' means—

"(I) any financial institution described in section 581 or 591(a),

"(II) any other corporation which is a direct or indirect subsidiary of an institution referred to in subclause (I) but only if, by virtue of being affiliated with such institution, such other corporation is subject to supervision and examination by a Federal or State agency which regulates institutions referred to in subclause (I), and

"(III) any person acting as a conservator or receiver of an entity referred to in subclause (I) or (II) (or any government agency or corporation succeeding to the rights or interest of such person).

"(v) FORECLOSURE PROPERTY.—For purposes of this subparagraph, the term 'foreclosure property' means any real property acquired by the financial institution as the result of having bid on such property at foreclosure, or by operation of an agreement or process of law, after there was a default (or a default was imminent) on indebtedness which such property secured.".

(b) CONFORMING AMENDMENT.—Paragraph (9) of section 514(c) is amended—

(1) by adding the following new sentence at the end of subparagraph (A): "For purposes of this paragraph, an interest in a mortgage shall in no event be treated as real property.", and

(2) by striking the last sentence of subparagraph (B).

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to acquisitions on or after January 1, 1994.

(2) SMALL LEASES.—The provisions of section 514(c)(9)(G)(i) of the Internal Revenue Code of 1986 shall, in addition to any leases to which the provisions apply by reason of paragraph (1), apply to leases entered into on or after January 1, 1994.

SEC. 13145. REPEAL OF SPECIAL TREATMENT OF PUBLICLY TREATED PARTNERSHIPS.

(a) GENERAL RULE.—Subsection (c) of section 512 is amended—

(1) by striking paragraph (2),

(2) by redesignating paragraph (3) as paragraph (2), and

(3) by striking "paragraph (1) or (2)" in paragraph (2) (as so redesignated) and inserting "paragraph (1)".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to partnership years beginning on or after January 1, 1994.

SEC. 13146. TITLE-HOLDING COMPANIES PERMITTED TO RECEIVE SMALL AMOUNTS OF UNRELATED BUSINESS TAXABLE INCOME.

(a) GENERAL RULE.—Paragraph (25) of section 501(c) is amended by adding at the end thereof the following new subparagraph:

"(G)(i) An organization shall not be treated as failing to be described in this paragraph merely by reason of the receipt of any otherwise disqualifying income which is incidentally derived from the holding of real property.

"(ii) Clause (i) shall not apply if the amount of gross income described in such clause exceeds 10 percent of the organization's gross income for the taxable year unless the organization establishes to the satisfaction of the Secretary that the receipt of gross income described in clause (i) in excess of such limitation was inadvertent and reasonable steps are being taken to correct the circumstances giving rise to such income."

(b) CONFORMING AMENDMENT.—Paragraph (2) of section 501(c) is amended by adding at the end thereof the following new sentence: "Rules similar to the rules of subparagraph (G) of paragraph (25) shall apply for purposes of this paragraph."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning on or after January 1, 1994.

SEC. 13147. EXCLUSION FROM UNRELATED BUSINESS TAX OF GAINS FROM CERTAIN PROPERTY.

(a) GENERAL RULE.—Subsection (b) of section 512 (relating to modifications) is amended by adding at the end thereof the following new paragraph:

"(16)(A) Notwithstanding paragraph (5)(B), there shall be excluded all gains or losses from the sale, exchange, or other disposition of any real property described in subparagraph (B) if—

"(i) such property was acquired by the organization from—

"(I) a financial institution described in section 581 or 591(a) which is in conservatorship or receivership, or

"(II) the conservator or receiver of such an institution (or any government agency or corporation succeeding to the rights or interests of the conservator or receiver),

"(ii) such property is designated by the organization within the 9-month period beginning on the date of its acquisition as property held for sale, except that not more than one-half (by value determined as of such date) of property acquired in a single transaction may be so designated,

"(iii) such sale, exchange, or disposition occurs before the later of—

"(I) the date which is 30 months after the date of the acquisition of such property, or

"(II) the date specified by the Secretary in order to assure an orderly disposition of property held by persons described in subparagraph (A), and

"(iv) while such property was held by the organization, the aggregate expenditures on improvements and development activities included in the basis of the property are (or were) not in excess of 20 percent of the net selling price of such property.

"(B) Property is described in this subparagraph if it is real property which—

"(i) was held by the financial institution at the time it entered into conservatorship or receivership, or

"(ii) was foreclosure property (as defined in section 514(c)(9)(H)(v)) which secured indebtedness held by the financial institution at such time.

For purposes of this subparagraph, real property includes an interest in a mortgage."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to property acquired on or after January 1, 1994.

SEC. 13148. EXCLUSION FROM UNRELATED BUSINESS TAX OF CERTAIN FEES AND OPTION PREMIUMS.

(a) LOAN COMMITMENT FEES.—Paragraph (1) of section 512(b) (relating to modifications) is amended by inserting "amounts received or accrued as consideration for entering into agreements to make loans," before "and annuities".

(b) OPTION PREMIUMS.—The second sentence of section 512(b)(5) is amended—

(1) by striking "all gains on" and inserting "all gains or losses recognized, in connection with the organization's investment activities, from",

(2) by striking ", written by the organization in connection with its investment activities," and

(3) by inserting "or real property and all gains or losses from the forfeiture of good-faith deposits (that are consistent with established business practice) for the purchase, sale, or lease of real property in connection with the organization's investment activities" before the period.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts received on or after January 1, 1994.

SEC. 13149. TREATMENT OF PENSION FUND INVESTMENTS IN REAL ESTATE INVESTMENT TRUSTS.

(a) GENERAL RULE.—Subsection (h) of section 856 (relating to closely held determinations) is amended by adding at the end thereof the following new paragraph:

"(3) TREATMENT OF TRUSTS DESCRIBED IN SECTION 401(a).—

"(A) LOOK-THRU TREATMENT.—

"(i) IN GENERAL.—Except as provided in clause (ii), in determining whether the stock ownership requirement of section 542(a)(2) is met for purposes of paragraph (1)(A), any stock held by a qualified trust shall be treated as held directly by its beneficiaries in proportion to their actuarial interests in such trust and shall not be treated as held by such trust.

"(ii) CERTAIN RELATED TRUSTS NOT ELIGIBLE.—Clause (i) shall not apply to any qualified trust if one or more disqualified persons (as defined in section 4975(e)(2), without regard to subparagraphs (B) and (I) thereof) with respect to such qualified trust hold in the aggregate 5 percent or more in value of the interests in the real estate investment trust and such real estate investment trust has accumulated earnings and profits attributable to any period for which it did not qualify as a real estate investment trust.

"(B) COORDINATION WITH PERSONAL HOLDING COMPANY RULES.—If any entity qualifies as a real estate investment trust for any taxable year by reason of subparagraph (A), such entity shall not be treated as a personal holding company for such taxable year for purposes of part II of subchapter G of this chapter.

"(C) TREATMENT FOR PURPOSES OF UNRELATED BUSINESS TAX.—If any qualified trust holds more than 10 percent (by value) of the interests in any pension-held REIT at any time during a taxable year, the trust shall be treated as having for such taxable year gross income from an unrelated trade or business in an amount which bears the same ratio to the aggregate dividends paid (or treated as paid) by the REIT to the trust for the taxable year of the REIT with or within which the taxable year of the trust ends (the 'REIT year') as—

"(i) the gross income (less direct expenses related thereto) of the REIT for the REIT year from unrelated trades or businesses (determined as if the REIT were a qualified trust), bears to

"(ii) the gross income (less direct expenses related thereto) of the REIT for the REIT year.

This subparagraph shall apply only if the ratio determined under the preceding sentence is at least 5 percent.

"(D) PENSION-HELD REIT.—The purposes of subparagraph (C)—

"(i) IN GENERAL.—A real estate investment trust is a pension-held REIT if such trust would not have qualified as a real estate investment trust but for the provisions of this paragraph and if such trust is predominantly held by qualified trusts.

"(ii) PREDOMINANTLY HELD.—For purposes of clause (i), a real estate investment trust is predominantly held by qualified trusts if—

"(I) at least 1 qualified trust holds more than 25 percent (by value) of the interests in such real estate investment trust, or

"(II) 1 or more qualified trusts (each of whom own more than 10 percent by value of the interests in such real estate investment trust) hold in the aggregate more than 50 percent (by value) of the interests in such real estate investment trust.

"(E) QUALIFIED TRUST.—For purposes of this paragraph, the term 'qualified trust' means any trust described in section 401(a) and exempt from tax under section 501(a)."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1993.

Subpart D—Discharge of Indebtedness

SEC. 13150. EXCLUSION FROM GROSS INCOME FOR INCOME FROM DISCHARGE OF QUALIFIED REAL PROPERTY BUSINESS INDEBTEDNESS.

(a) IN GENERAL.—Paragraph (1) of section 108(a) (relating to income from discharge of indebtedness) is amended by striking "or" at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting ", or", and by adding at the end the following new subparagraph:

"(D) in the case of a taxpayer other than a C corporation, the indebtedness discharged is qualified real property business indebtedness."

(b) QUALIFIED REAL PROPERTY BUSINESS INDEBTEDNESS.—Section 108 is amended by inserting after subsection (b) the following new subsection:

"(c) TREATMENT OF DISCHARGE OF QUALIFIED REAL PROPERTY BUSINESS INDEBTEDNESS.—

"(1) BASIS REDUCTION.—

"(A) IN GENERAL.—The amount excluded from gross income under subparagraph (D) of subsection (a)(1) shall be applied to reduce the basis of the depreciable real property of the taxpayer.

"(B) CROSS REFERENCE.—For provisions making the reduction described in subparagraph (A), see section 1017.

"(2) LIMITATIONS.—

"(A) INDEBTEDNESS IN EXCESS OF VALUE.—The amount excluded under subparagraph (D) of subsection (a)(1) with respect to any qualified real property business indebtedness shall not exceed the excess (if any) of—

"(i) the outstanding principal amount of such indebtedness (immediately before the discharge), over

"(ii) the fair market value of the real property described in paragraph (3)(A) (as of such time), reduced by the outstanding principal amount of any other qualified real property business indebtedness secured by such property (as of such time).

"(B) OVERALL LIMITATION.—The amount excluded under subparagraph (D) of subsection (a)(1) shall not exceed the aggregate adjusted bases of depreciable real property (determined after any reductions under subsections (b) and (g)) held by the taxpayer immediately before the discharge (other than depreciable real property acquired in contemplation of such discharge).

"(3) QUALIFIED REAL PROPERTY BUSINESS INDEBTEDNESS.—The term 'qualified real property business indebtedness' means indebtedness which—

"(A) was incurred or assumed by the taxpayer in connection with real property used in a trade or business and is secured by such real property,

"(B) was incurred or assumed before January 1, 1993, or if incurred or assumed on or after such date, is qualified acquisition indebtedness, and

"(C) with respect to which such taxpayer makes an election to have this paragraph apply.

Such term shall not include qualified farm indebtedness. Indebtedness under subparagraph (B) shall include indebtedness resulting from the refinancing of indebtedness under subparagraph (B) (or this sentence), but only to the extent it does not exceed the amount of the indebtedness being refinanced.

"(4) QUALIFIED ACQUISITION INDEBTEDNESS.—For purposes of paragraph (3)(B), the term 'qualified acquisition indebtedness' means, with respect to any real property described in paragraph (3)(A), indebtedness incurred or assumed to acquire, construct, reconstruct, or substantially improve such property.

"(5) REGULATIONS.—The Secretary shall issue such regulations as are necessary to carry out this subsection, including regulations preventing the abuse of this subsection through cross-collateralization or other means."

(c) TECHNICAL AMENDMENTS.—

(1) Subparagraph (A) of section 108(a)(2) is amended by striking "and (C)" and inserting ", (C), and (D)".

(2) Subparagraph (B) of section 108(a)(2) is amended to read as follows:

"(B) INSOLVENCY EXCLUSION TAKES PRECEDENCE OVER QUALIFIED FARM EXCLUSION AND QUALIFIED REAL PROPERTY BUSINESS EXCLUSION.—Subparagraphs (C) and (D) of paragraph (1) shall not apply to a discharge to the extent the taxpayer is insolvent."

(3) Subsection (d) of section 108 is amended—

(A) by striking "subsections (a), (b), and (g)" in paragraphs (6) and (7)(A) and inserting "subsections (a), (b), (c), and (g)",

(B) by striking "SUBSECTIONS (a), (b), AND (g)" in the subsection heading and inserting "CERTAIN PROVISIONS", and

(C) by striking "SUBSECTIONS (a), (b), AND (g)" in the headings of paragraphs (6) and (7)(A) and inserting "CERTAIN PROVISIONS".

(4) Subparagraph (B) of section 108(d)(7) is amended by adding at the end thereof the following new sentence: "The preceding sentence shall not apply to any discharge to the extent that subsection (a)(1)(D) applies to such discharge."

(5) Subparagraph (A) of section 108(d)(9) is amended by inserting "or under paragraph (3)(B) of subsection (c)" after "subsection (b)".

(6) Paragraph (2) of section 1017(a) is amended by striking "or (b)(5)" and inserting ", (b)(5), or (c)(1)".

(7) Subparagraph (A) of section 1017(b)(3) is amended by inserting "or (c)(1)" after "subsection (b)(5)".

(8) Section 1017(b)(3) is amended by adding at the end the following new subparagraph:

"(F) SPECIAL RULES FOR QUALIFIED REAL PROPERTY BUSINESS INDEBTEDNESS.—In the case of any amount which under section 108(c)(1) is to be applied to reduce basis—

"(i) depreciable property shall only include depreciable real property for purposes of subparagraphs (A) and (C),

"(ii) subparagraph (E) shall not apply, and

"(iii) in the case of property taken into account under section 108(c)(2)(B), the reduction with respect to such property shall be made as of the time immediately before disposition if earlier than the time under subsection (a)."

(9) Paragraph (1) of section 703(b) is amended by striking "subsection (b)(5)" and inserting "subsection (b)(5) or (c)(3)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to discharges after December 31, 1992, in taxable years ending after such date.

Subpart E—Increase in Recovery Period for Nonresidential Real Property

SEC. 13151. INCREASE IN RECOVERY PERIOD FOR NONRESIDENTIAL REAL PROPERTY.

(a) GENERAL RULE.—Paragraph (1) of section 168(c) (relating to applicable recovery period) is amended by striking the item relating to nonresidential real property and inserting the following:

"Nonresidential real property .... 39 years.".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by subsection (a) shall apply to property placed in service by the taxpayer on or after May 13, 1993.

(2) EXCEPTION.—The amendments made by this section shall not apply to property placed in service by the taxpayer before January 1, 1994, if—

(A) the taxpayer or a qualified person entered into a binding written contract to purchase or construct such property before May 13, 1993, or

(B) the construction of such property was commenced by or for the taxpayer or a qualified person before May 13, 1993.

For purposes of this paragraph, the term "qualified person" means any person who transfers his rights in such a contract or such property to the taxpayer but only if the property is not placed in service by such person before such rights are transferred to the taxpayer.

PART V—LUXURY TAX

SEC. 13161. REPEAL OF LUXURY EXCISE TAXES OTHER THAN ON PASSENGER VEHICLES.

(a) IN GENERAL.—Subchapter A of chapter 31 (relating to retail excise taxes) is amended to read as follows:

"Subchapter A—Luxury Passenger Automobiles

"Sec. 4001. Imposition of tax.

"Sec. 4002. 1st retail sale; uses, etc. treated as sales; determination of price.

"Sec. 4003. Special rules.

"SEC. 4001. IMPOSITION OF TAX.

"(a) IMPOSITION OF TAX.—There is hereby imposed on the 1st retail sale of any passenger vehicle a tax equal to 10 percent of the price for which so sold to the extent such price exceeds $30,000.

"(b) PASSENGER VEHICLE.—

"(1) IN GENERAL.—For purposes of this subchapter, the term 'passenger vehicle' means any 4-wheeled vehicle—

"(A) which is manufactured primarily for use on public streets, roads, and highways, and

"(B) which is rated at 6,000 pounds unloaded gross vehicle weight or less.

"(2) SPECIAL RULES.—

"(A) TRUCKS AND VANS.—In the case of a truck or van, paragraph (1)(B) shall be applied by substituting 'gross vehicle weight' for 'unloaded gross vehicle weight'.

"(B) LIMOUSINES.—In the case of a limousine, paragraph (1) shall be applied without regard to subparagraph (B) thereof.

"(c) EXCEPTIONS FOR TAXICABS, ETC.—The tax imposed by this section shall not apply to the sale of any passenger vehicle for use by the purchaser exclusively in the active conduct of a trade or business of transporting persons or property for compensation or hire.

"(d) EXEMPTION FOR LAW ENFORCEMENT USES, ETC.—No tax shall be imposed by this section on the sale of any passenger vehicle—

"(1) to the Federal Government, or a State or local government, for use exclusively in police, firefighting, search and rescue, or other law enforcement or public safety activities, or in public works activities, or

"(2) to any person for use exclusively in providing emergency medical services.

"(e) INFLATION ADJUSTMENT.—

"(1) IN GENERAL.—If, for any calendar year, the excess (if any) of—

"(A) $30,000, increased by the cost-of-living adjustment for the calendar year, over

"(B) the dollar amount in effect under subsection (a) for the calendar year,

is equal to or greater than $2,000, then the $30,000 amount in subsection (a) and section 4003(a) (as previously adjusted under this subsection) for any subsequent calendar year shall be increased by the amount of such excess rounded to the next lowest multiple of $2,000.

"(2) COST-OF-LIVING ADJUSTMENT.—For purposes of paragraph (1), the cost-of-living adjustment for any calendar year shall be the cost-of-living adjustment under section 1(f)(3) for such calendar year, determined by substituting 'calendar year 1990' for 'calendar year 1992' in subparagraph (B) thereof.

"(f) TERMINATION.—The tax imposed by this section shall not apply to any sale or use after December 31, 1999.

"SEC. 4002. 1ST RETAIL SALE; USES, ETC. TREATED AS SALES; DETERMINATION OF PRICE.

"(a) 1ST RETAIL SALE.—For purposes of this subchapter, the term '1st retail sale' means the 1st sale, for a purpose other than resale, after manufacture, production, or importation.

"(b) USE TREATED AS SALE.—

"(1) IN GENERAL.—If any person uses a passenger vehicle (including any use after importation) before the 1st retail sale of such vehicle, then such person shall be liable for tax under this subchapter in the same manner as if such vehicle were sold at retail by him.

"(2) EXEMPTION FOR FURTHER MANUFACTURE.—Paragraph (1) shall not apply to use of a vehicle as material in the manufacture or production of, or as a component part of, another vehicle taxable under this subchapter to be manufactured or produced by him.

"(3) EXEMPTION FOR DEMONSTRATION USE.—Paragraph (1) shall not apply to any use of a passenger vehicle as a demonstrator.

"(4) EXCEPTION FOR USE AFTER IMPORTATION OF CERTAIN VEHICLES.—Paragraph (1) shall not apply to the use of a vehicle after importation if the user or importer establishes to the satisfaction of the Secretary that the 1st use of the vehicle occurred before January 1, 1991, outside the United States.

"(5) COMPUTATION OF TAX.—In the case of any person made liable for tax by paragraph (1), the tax shall be computed on the price at which similar vehicles are sold at retail in the ordinary course of trade, as determined by the Secretary.

"(c) LEASES CONSIDERED AS SALES.—For purposes of this subchapter—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the lease of a vehicle (including any renewal or any extension of a lease or any subsequent lease of such vehicle) by any person shall be considered a sale of such vehicle at retail.

"(2) SPECIAL RULES FOR LONG-TERM LEASES.—

"(A) TAX NOT IMPOSED ON SALE FOR LEASING IN A QUALIFIED LEASE.—The sale of a passenger vehicle to a person engaged in a passenger vehicle leasing or rental trade or business for leasing by such person in a long-term lease shall not be treated as the 1st retail sale of such vehicle.

"(B) LONG-TERM LEASE.—For purposes of subparagraph (A), the term 'long-term lease' means any long-term lease (as defined in section 4052).

"(C) SPECIAL RULES.—In the case of a long-term lease of a vehicle which is treated as the 1st retail sale of such vehicle—

"(i) DETERMINATION OF PRICE.—The tax under this subchapter shall be computed on the lowest price for which the vehicle is sold by retailers in the ordinary course of trade.

"(ii) PAYMENT OF TAX.—Rules similar to the rules of section 4217(e)(2) shall apply.

"(iii) NO TAX WHERE EXEMPT USE BY LESSEE.—No tax shall be imposed on any lease payment under a long-term lease if the lessee's use of the vehicle under such lease is an exempt use (as defined in section 4003(b)) of such vehicle.

"(d) DETERMINATION OF PRICE.—

"(1) IN GENERAL.—In determining price for purposes of this subchapter—

"(A) there shall be included any charge incident to placing the passenger vehicle in condition ready for use,

"(B) there shall be excluded—

"(i) the amount of the tax imposed by this subchapter,

"(ii) if stated as a separate charge, the amount of any retail sales tax imposed by any State or political subdivision thereof or the District of Columbia, whether the liability for such tax is imposed on the vendor or vendee, and

"(iii) the value of any component of such passenger vehicle if—

"(I) such component is furnished by the 1st user of such passenger vehicle, and

"(II) such component has been used before such furnishing, and

"(C) the price shall be determined without regard to any trade-in.

"(2) OTHER RULES.—Rules similar to the rules of paragraphs (2) and (4) of section 4052(b) shall apply for purposes of this subchapter.

"SEC. 4003. SPECIAL RULES.

"(a) SEPARATE PURCHASE OF VEHICLE AND PARTS AND ACCESSORIES THEREFOR.—Under regulations prescribed by the Secretary—

"(1) IN GENERAL.—Except as provided in paragraph (2), if—

"(A) the owner, lessee, or operator of any passenger vehicle installs (or causes to be installed) any part or accessory on such vehicle, and

"(B) such installation is not later than the date 6 months after the date the vehicle was 1st placed in service,

then there is hereby imposed on such installation a tax equal to 10 percent of the price of such part or accessory and its installation.

"(2) LIMITATION.—The tax imposed by paragraph (1) on the installation of any part or accessory shall not exceed 10 percent of the excess (if any) of—

"(A) the sum of—

"(i) the price of such part or accessory and its installation,

"(ii) the aggregate price of the parts and accessories (and their installation) installed before such part or accessory, plus

"(iii) the price for which the passenger vehicle was sold, over

"(B) $30,000.

"(3) EXCEPTIONS.—Paragraph (1) shall not apply if—

"(A) the part or accessory installed is a replacement part or accessory,

"(B) the part or accessory is installed to enable or assist an individual with a disability to operate the vehicle, or to enter or exit the vehicle, by compensating for the effect of such disability, or

"(C) the aggregate price of the parts and accessories (and their installation) described in paragraph (1) with respect to the vehicle does not exceed $200 (or such other amount or amounts as the Secretary may by regulation prescribe).

The price of any part or accessory (and its installation) to which paragraph (1) does not apply by reason of this paragraph shall not be taken into account under paragraph (2)(A).

"(4) INSTALLERS SECONDARILY LIABLE FOR TAX.—The owners of the trade or business installing the parts or accessories shall be secondarily liable for the tax imposed by this subsection.

"(b) IMPOSITION OF TAX ON SALES, ETC., WITHIN 2 YEARS OF VEHICLES PURCHASED TAX-FREE.—

"(1) IN GENERAL.—If—

"(A) no tax was imposed under this subchapter on the 1st retail sale of any passenger vehicle by reason of its exempt use, and

"(B) within 2 years after the date of such 1st retail sale, such vehicle is resold by the purchaser or such purchaser makes a substantial nonexempt use of such vehicle,

then such sale or use of such vehicle by such purchaser shall be treated as the 1st retail sale of such vehicle for a price equal to its fair market value at the time of such sale or use.

"(2) EXEMPT USE.—For purposes of this subsection, the term 'exempt use' means any use of

a vehicle if the 1st retail sale of such vehicle is not taxable under this subchapter by reason of such use.

"(c) PARTS AND ACCESSORIES SOLD WITH TAXABLE PASSENGER VEHICLE.—Parts and accessories sold on, in connection with, or with the sale of any passenger vehicle shall be treated as part of the vehicle.

"(d) PARTIAL PAYMENTS, ETC.—In the case of a contract, sale, or arrangement described in paragraph (2), (3), or (4) of section 4216(c), rules similar to the rules of section 4217(e)(2) shall apply for purposes of this subchapter."

(b) TECHNICAL AMENDMENTS.—

(1) Subsection (c) of section 4221 is amended by striking "4002(b), 4003(c), 4004(a)" and inserting "4001(d)".

(2) Subsection (d) of section 4222 is amended by striking "4002(b), 4003(c), 4004(a)" and inserting "4001(d)".

(3) The table of subchapters for chapter 31 is amended by striking the item relating to subchapter A and inserting the following:

"Subchapter A. Luxury passenger vehicles."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1993, except that the provisions of section 4001(e) of the Internal Revenue Code of 1986 (as amended by subsection (a)) shall take effect on the date of the enactment of this Act.

SEC. 13162. EXEMPTION FROM LUXURY EXCISE TAX FOR CERTAIN EQUIPMENT INSTALLED ON PASSENGER VEHICLES FOR USE BY DISABLED INDIVIDUALS.

(a) IN GENERAL.—Paragraph (3) of section 4004(b) (relating to separate purchase of article and parts and accessories therefor), as in effect on the day before the date of the enactment of this Act, is amended—

(1) by striking "or" at the end of subparagraph (A),

(2) by redesignating subparagraph (B) as subparagraph (C),

(3) by inserting after subparagraph (A) the following new subparagraph:

"(B) the part or accessory is installed on a passenger vehicle to enable or assist an individual with a disability to operate the vehicle, or to enter or exit the vehicle, by compensating for the effect of such disability, or", and

(4) by inserting after subparagraph (C) the following flush sentence:

"The price of any part or accessory (and its installation) to which paragraph (1) does not apply by reason of this paragraph shall not be taken into account under paragraph (2)(A)."

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the amendments made by section 11221(a) of the Omnibus Budget Reconciliation Act of 1990.

(c) PERIOD FOR FILING CLAIMS.—If refund or credit of any overpayment of tax resulting from the application of the amendments made by this section is prevented at any time before the close of the 1-year period beginning on the date of the enactment of this Act by the operation of any law or rule of law (including res judicata), refund or credit of such overpayment (to the extent attributable to such amendments) may, nevertheless, be made or allowed if claim therefor is filed before the close of such 1-year period.

SEC. 13163. TAX ON DIESEL FUEL USED IN NONCOMMERCIAL BOATS.

(a) GENERAL RULE.—

(1) Paragraph (2) of section 4092(a) (defining diesel fuel) is amended by striking "or a diesel-powered train" and inserting ", a diesel-powered train, or a diesel-powered boat".

(2) Paragraph (1) of section 4041(a) is amended—

(A) by striking "diesel-powered highway vehicle" each place it appears and inserting "diesel-powered highway vehicle or diesel-powered boat", and

(B) by striking "such vehicle" and inserting "such vehicle or boat".

(3) Subparagraph (B) of section 4092(b)(1) is amended by striking "commercial and noncommercial vessels" each place it appears and inserting "vessels for use in an off-highway business use (as defined in section 6421(e)(2)(B))".

(b) EXEMPTION FOR USE IN FISHERIES OR COMMERCIAL TRANSPORTATION.—Subparagraph (B) of section 6421(e)(2) is amended to read as follows:

"(B) USES IN BOATS.—

"(i) IN GENERAL.—Except as otherwise provided in this subparagraph, the term 'off-highway business use' does not include any use in a motorboat.

"(ii) FISHERIES AND WHALING.—The term 'off-highway business use' shall include any use in a vessel employed in the fisheries or in the whaling business.

"(iii) EXCEPTION FOR DIESEL FUEL.—The term 'off-highway business use' shall include the use of diesel fuel in a boat in the active conduct of—

"(I) a trade or business of commercial fishing or transporting persons or property for compensation or hire, and

"(II) except as provided in clause (iv), any other trade or business.

"(iv) NONCOMMERCIAL BOATS.—In the case of a boat used predominantly in any activity which is of a type generally considered to constitute entertainment, amusement, or recreation, clause (iii)(II) shall not apply to—

"(I) the taxes under sections 4041(a)(1) and 4081 for the period after December 31, 1993, and before January 1, 2000, and

"(II) so much of the tax under sections 4041(a)(1) and 4081 as does not exceed 4.3 cents per gallon for the period after December 31, 1999."

(c) RETENTION OF TAXES IN GENERAL FUND.—Subsection (b) of section 9508 (relating to transfers to Leaking Underground Storage Tank Trust Fund) is amended by adding at the end thereof the following new sentence: "For purposes of this subsection, there shall not be taken into account the taxes imposed by sections 4041 and 4081 on diesel fuel sold for use or used as fuel in a diesel-powered boat."

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1994.

PART VI—OTHER CHANGES

SEC. 13171. ALTERNATIVE MINIMUM TAX TREATMENT OF CONTRIBUTIONS OF APPRECIATED PROPERTY.

(a) REPEAL OF TAX PREFERENCE.—Subsection (a) of section 57 (as amended by section 13113) is amended by striking paragraph (6) (relating to appreciated property charitable deduction) and by redesignating paragraphs (7) and (8) as paragraphs (6) and (7), respectively.

(b) EFFECT ON ADJUSTED CURRENT EARNINGS.—Paragraph (4) of section 56(g) is amended by adding at the end thereof the following new subparagraph:

"(J) TREATMENT OF CHARITABLE CONTRIBUTIONS.—Notwithstanding subparagraphs (B) and (C), no adjustment related to the earnings and profits effects of any charitable contribution shall be made in computing adjusted current earnings."

(c) CONFORMING AMENDMENT.—Subclause (II) of section 53(d)(1)(B)(ii) (as amended by section 13113) is amended by striking "(5), (6), and (8)" and inserting "(5), and (7)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made after June 30, 1992, except that in the case of any contribution of capital gain property which is not tangible personal property, such amendments shall apply only if the contribution is made after December 31, 1992.

SEC. 13172. SUBSTANTIATION REQUIREMENT FOR DEDUCTION OF CERTAIN CHARITABLE CONTRIBUTIONS.

(a) SUBSTANTIATION REQUIREMENT.—Section 170(f) (providing special rules relating to the deduction of charitable contributions and gifts) is amended by adding at the end the following new paragraph:

"(8) SUBSTANTIATION REQUIREMENT FOR CERTAIN CONTRIBUTIONS.—

"(A) GENERAL RULE.—No deduction shall be allowed under subsection (a) for any contribution of $250 or more unless the taxpayer substantiates the contribution by a contemporaneous written acknowledgment of the contribution by the donee organization that meets the requirements of subparagraph (B).

"(B) CONTENT OF ACKNOWLEDGEMENT.—An acknowledgement meets the requirements of this subparagraph if it includes the following information:

"(i) The amount of cash and a description (but not value) of any property other than cash contributed.

"(ii) Whether the donee organization provided any goods or services in consideration, in whole or in part, for any property described in clause (i).

"(iii) A description and good faith estimate of the value of any goods or services referred to in clause (ii) or, if such goods or services consist solely of intangible religious benefits, a statement to that effect.

For purposes of this subparagraph, the term 'intangible religious benefit' means any intangible religious benefit which is provided by an organization organized exclusively for religious purposes and which generally is not sold in a commercial transaction outside the donative context.

"(C) CONTEMPORANEOUS.—For purposes of subparagraph (A), an acknowledgment shall be considered to be contemporaneous if the taxpayer obtains the acknowledgment on or before the earlier of—

"(i) the date on which the taxpayer files a return for the taxable year in which the contribution was made, or

"(ii) the due date (including extensions) for filing such return.

"(D) SUBSTANTIATION NOT REQUIRED FOR CONTRIBUTIONS REPORTED BY THE DONEE ORGANIZATION.—Subparagraph (A) shall not apply to a contribution if the donee organization files a return, on such form and in accordance with such regulations as the Secretary may prescribe, which includes the information described in subparagraph (B) with respect to the contribution.

"(E) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this paragraph, including regulations that may provide that some or all of the requirements of this paragraph do not apply in appropriate cases."

(b) EFFECTIVE DATE.—The provisions of this section shall apply to contributions made on or after January 1, 1994.

SEC. 13173. DISCLOSURE RELATED TO QUID PRO QUO CONTRIBUTIONS.

(a) DISCLOSURE REQUIREMENT.—Subchapter B of chapter 61 (relating to information and returns) is amended by redesignating section 6115 as section 6116 and by inserting after section 6114 the following new section:

"SEC. 6115. DISCLOSURE RELATED TO QUID PRO QUO CONTRIBUTIONS.

"(a) DISCLOSURE REQUIREMENT.—If an organization described in section 170(c) (other than paragraph (1) thereof) receives a quid pro quo contribution in excess of $75, the organization shall, in connection with the solicitation or receipt of the contribution, provide a written statement which—

"(1) informs the donor that the amount of the contribution that is deductible for Federal income tax purposes is limited to the excess of the

amount of any money and the value of any property other than money contributed by the donor over the value of the goods or services provided by the organization, and

"(2) provides the donor with a good faith estimate of the value of such goods or services.

"(b) QUID PRO QUO CONTRIBUTION.—For purposes of this section, the term 'quid pro quo contribution' means a payment made partly as a contribution and partly in consideration for goods or services provided to the payor by the donee organization. A quid pro quo contribution does not include any payment made to an organization, organized exclusively for religious purposes, in return for which the taxpayer receives solely an intangible religious benefit that generally is not sold in a commercial transaction outside the donative context."

(b) PENALTY FOR FAILURE TO DISCLOSE.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by inserting after section 6713 the following new section:

"SEC. 6714. FAILURE TO MEET DISCLOSURE REQUIREMENTS APPLICABLE TO QUID PRO QUO CONTRIBUTIONS.

"(a) IMPOSITION OF PENALTY.—If an organization fails to meet the disclosure requirement of section 6115 with respect to a quid pro quo contribution, such organization shall pay a penalty of $10 for each contribution in respect of which the organization fails to make the required disclosure, except that the total penalty imposed by this subsection with respect to a particular fundraising event or mailing shall not exceed $5,000.

"(b) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause."

(c) CLERICAL AMENDMENTS.—

(1) The table for subchapter B of chapter 61 is amended by striking the item relating to section 6115 and inserting the following new items:

"Sec. 6115. Disclosure related to quid pro quo contributions.

"Sec. 6116. Cross reference."

(2) The table for part I of subchapter B of chapter 68 is amended by inserting after the item for section 6713 the following new item:

"Sec. 6714. Failure to meet disclosure requirements applicable to quid pro quo contributions."

(d) EFFECTIVE DATE.—The provisions of this section shall apply to quid pro quo contributions made on or after January 1, 1994.

SEC. 13174. TEMPORARY EXTENSION OF DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(a) IN GENERAL.—

(1) EXTENSION.—Paragraph (6) of section 162(l) (relating to special rules for health insurance costs of self-employed individuals) is amended by striking "June 30, 1992" and inserting "December 31, 1993".

(2) CONFORMING AMENDMENT.—Paragraph (2) of section 110(a) of the Tax Extension Act of 1991 is hereby repealed.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years ending after June 30, 1992.

(b) DETERMINATION OF ELIGIBILITY FOR EMPLOYER-SPONSORED HEALTH PLAN.—

(1) IN GENERAL.—Paragraph (2)(B) of section 162(l) is amended to read as follows:

"(B) OTHER COVERAGE.—Paragraph (1) shall not apply to any taxpayer for any calendar month for which the taxpayer is eligible to participate in any subsidized health plan maintained by any employer of the taxpayer or of the spouse of the taxpayer."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years beginning after December 31, 1992.

Subchapter B—Revenue Increases

PART I—PROVISIONS AFFECTING INDIVIDUALS

Subpart A—Rate Increases

SEC. 13201. INCREASE IN TOP MARGINAL RATE UNDER SECTION 1.

(a) GENERAL RULE.—Section 1 (relating to tax imposed) is amended by striking subsections (a) through (e) and inserting the following:

"(a) MARRIED INDIVIDUALS FILING JOINT RETURNS AND SURVIVING SPOUSES.—There is hereby imposed on the taxable income of—

"(1) every married individual (as defined in section 7703) who makes a single return jointly with his spouse under section 6013, and

"(2) every surviving spouse (as defined in section 2(a)),

a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $36,900	15% of taxable income.
Over $36,900 but not over $89,150.	$5,535, plus 28% of the excess over $36,900.
Over $89,150 but not over $140,000.	$20,165, plus 31% of the excess over $89,150.
Over $140,000	$35,928.50, plus 36% of the excess over $140,000.

"(b) HEADS OF HOUSEHOLDS.—There is hereby imposed on the taxable income of every head of a household (as defined in section 2(b)) a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $29,600	15% of taxable income.
Over $29,600 but not over $76,400.	$4,440, plus 28% of the excess over $29,600.
Over $76,400 but not over $127,500.	$17,544, plus 31% of the excess over $76,400.
Over $127,500	$33,385, plus 36% of the excess over $127,500.

"(c) UNMARRIED INDIVIDUALS (OTHER THAN SURVIVING SPOUSES AND HEADS OF HOUSEHOLDS).—There is hereby imposed on the taxable income of every individual (other than a surviving spouse as defined in section 2(a) or the head of a household as defined in section 2(b)) who is not a married individual (as defined in section 7703) a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $22,100	15% of taxable income.
Over $22,100 but not over $53,500.	$3,315, plus 28% of the excess over $22,100.
Over $53,500 but not over $115,000.	$12,107, plus 31% of the excess over $53,500.
Over $115,000	$31,172, plus 36% of the excess over $115,000.

"(d) MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—There is hereby imposed on the taxable income of every married individual (as defined in section 7703) who does not make a single return jointly with his spouse under section 6013, a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $18,450	15% of taxable income.
Over $18,450 but not over $44,575.	$2,767.50, plus 28% of the excess over $18,450.
Over $44,575 but not over $70,000.	$10,082.50, plus 31% of the excess over $44,575.
Over $70,000	$17,964.25, plus 36% of the excess over $70,000.

"(e) ESTATES AND TRUSTS.—There is hereby imposed on the taxable income of—

"(1) every estate, and

"(2) every trust,

taxable under this subsection a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $1,500	15% of taxable income.
Over $1,500 but not over $3,500.	$225, plus 28% of the excess over $1,500.
Over $3,500 but not over $5,500.	$785, plus 31% of the excess over $3,500.
Over $5,500	$1,405, plus 36% of the excess over $5,500."

(b) CONFORMING AMENDMENTS.—

(1) Section 531 is amended by striking "28 percent" and inserting "36 percent".

(2) Section 541 is amended by striking "28 percent" and inserting "36 percent".

(3)(A) Subsection (f) of section 1 is amended—

(i) by striking "1990" in paragraph (1) and inserting "1993", and

(ii) by striking "1989" in paragraph (3)(B) and inserting "1992".

(B) Subsection (f) of section 1 is amended by adding at the end thereof the following new paragraph:

"(7) SPECIAL RULE FOR CERTAIN BRACKETS.—

"(A) CALENDAR YEAR 1994.—In prescribing the tables under paragraph (1) which apply with respect to taxable years beginning in calendar year 1994, the Secretary shall make no adjustment to the dollar amounts at which the 36 percent rate bracket begins or at which the 39.6 percent rate begins under any table contained in subsection (a), (b), (c), (d), or (e).

"(B) LATER CALENDAR YEARS.—In prescribing tables under paragraph (1) which apply with respect to taxable years beginning in a calendar year after 1994, the cost-of-living adjustment used in making adjustments to the dollar amounts referred to in subparagraph (A) shall be determined under paragraph (3) by substituting '1993' for '1992'."

(C) Subparagraph (C) of section 41(e)(5) is amended by striking "1989" each place it appears and inserting "1992".

(D) Subparagraph (B) of section 63(c)(4) is amended by striking "1989" and inserting "1992".

(E) Subparagraph (B) of section 68(b)(2) is amended by striking "1989" and inserting "1992".

(F) Subparagraph (B) of section 132(f)(6) is amended by striking ", determined by substituting" and all that follows down through the period at the end thereof and inserting a period.

(G) Subparagraphs (A)(ii) and (B)(ii) of section 151(d)(4) are each amended by striking "1989" and inserting "1992".

(H) Clause (ii) of section 513(h)(2)(C) is amended by striking "1989" and inserting "1992".

(4) Paragraph (3) of section 453A(c) is amended by adding at the end thereof the following new sentence:

"For purposes of applying the preceding sentence with respect to so much of the gain which, when recognized, will be treated as long-term capital gain, the maximum rate on net capital gain under section 1(h) or 1201 (whichever is appropriate) shall be taken into account."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

(d) ELECTION TO PAY ADDITIONAL 1993 TAXES IN INSTALLMENTS.—

(1) IN GENERAL.—At the election of the taxpayer, the additional 1993 taxes may be paid in 3 equal installments.

(2) DATES FOR PAYING INSTALLMENTS.—In the case of any tax payable in installments by reason of paragraph (1)—

(A) the first installment shall be paid on or before the due date for the taxpayer's taxable year beginning in calendar year 1993,

(B) the second installment shall be paid on or before the date 1 year after the date determined under subparagraph (A), and

(C) the third installment shall be paid on or before the date 2 years after the date determined under subparagraph (A).

For purposes of the preceding sentence, the term "due date" means the date prescribed for filing the taxpayer's return determined without regard to extensions.

(3) EXTENSION WITHOUT INTEREST.—For purposes of section 6601 of the Internal Revenue

Code of 1986, the date prescribed for the payment of any tax payable in installments under paragraph (1) shall be determined with regard to the extension under paragraph (1).

(4) ADDITIONAL 1993 TAXES.—

(A) IN GENERAL.—For purposes of this subsection, the term "additional 1993 taxes" means the excess of—

(i) the taxpayer's net chapter 1 liability as shown on the taxpayer's return for the taxpayer's taxable year beginning in calendar year 1993, over

(ii) the amount which would have been the taxpayer's net chapter 1 liability for such taxable year if such liability had been determined using the rates which would have been in effect under section 1 of the Internal Revenue Code of 1986 for taxable years beginning in calendar year 1993 but for the amendments made by this section and section 13202 and such liability had otherwise been determined on the basis of the amounts shown on the taxpayer's return.

(B) NET CHAPTER 1 LIABILITY.—For purposes of subparagraph (A), the term "net chapter 1 liability" means the liability for tax under chapter 1 of the Internal Revenue Code of 1986 determined—

(i) after the application of any credit against such tax other than the credits under sections 31 and 34, and

(ii) before crediting any payment of estimated tax for the taxable year.

(5) ACCELERATION OF PAYMENTS.—If the taxpayer does not pay any installment under this section on or before the date prescribed for its payment or if the Secretary of the Treasury or his delegate believes that the collection of any amount payable in installments under this section is in jeopardy, the Secretary shall immediately terminate the extension under paragraph (1) and the whole of the unpaid tax shall be paid on notice and demand from the Secretary.

(6) ELECTION ON RETURN.—An election under paragraph (1) shall be made on the taxpayer's return for the taxpayer's taxable year beginning in calendar year 1993.

(7) EXCEPTION FOR ESTATES AND TRUSTS.—This subsection shall not apply in the case of an estate or trust.

SEC. 13202. SURTAX ON HIGH-INCOME TAXPAYERS.

(a) GENERAL RULE.—

(1) Subsection (a) of section 1 (as amended by section 13201) is amended by striking the last item in the table contained therein and inserting the following:

"Over $140,000 but not over $250,000.	$35,928.50, plus 36% of the excess over $140,000.
Over $250,000	$75,528.50, plus 39.6% of the excess over $250,000."

(2) Subsection (b) of section 1 (as so amended) is amended by striking the last item in the table contained therein and inserting the following:

"Over $127,500 but not over $250,000.	$33,385, plus 36% of the excess over $127,500.
Over $250,000	$77,485, plus 39.6% of the excess over $250,000."

(3) Subsection (c) of section 1 (as so amended) is amended by striking the last item in the table contained therein and inserting the following:

"Over $115,000 but not over $250,000.	$31,172, plus 36% of the excess over $115,000.
Over $250,000	$79,772, plus 39.6% of the excess over $250,000."

(4) Subsection (d) of section 1 (as so amended) is amended by striking the last item in the table contained therein and inserting the following:

"Over $70,000 but not over $125,000.	$17,964.25, plus 36% of the excess over $70,000.
Over $125,000	$37,764.25, plus 39.6% of the excess over $125,000."

(5) Subsection (e) of section 1 (as so amended) is amended by striking the last item in the table contained therein and inserting the following:

"Over $5,500 but not over $7,500.	$1,405, plus 36% of the excess over $5,500.
Over $7,500	$2,125, plus 39.6% of the excess over $7,500."

(b) TECHNICAL AMENDMENT.—Sections 531 and 541 (as amended by section 13201) are each amended by striking "36 percent" and inserting "39.6 percent".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

SEC. 13203. MODIFICATIONS TO ALTERNATIVE MINIMUM TAX RATES AND EXEMPTION AMOUNTS.

(a) INCREASE IN RATE.—Paragraph (1) of section 55(b) (defining tentative minimum tax) is amended to read as follows:

"(1) AMOUNT OF TENTATIVE TAX.—

"(A) NONCORPORATE TAXPAYERS.—

"(i) IN GENERAL.—In the case of a taxpayer other than a corporation, the tentative minimum tax for the taxable year is the sum of—

"(I) 26 percent of so much of the taxable excess as does not exceed $175,000, plus

"(II) 28 percent of so much of the taxable excess as exceeds $175,000.

The amount determined under the preceding sentence shall be reduced by the alternative minimum tax foreign tax credit for the taxable year.

"(ii) TAXABLE EXCESS.—For purposes of clause (i), the term 'taxable excess' means so much of the alternative minimum taxable income for the taxable year as exceeds the exemption amount.

"(iii) MARRIED INDIVIDUAL FILING SEPARATE RETURN.—In the case of a married individual filing a separate return, clause (i) shall be applied by substituting '$87,500' for '$175,000' each place it appears. For purposes of the preceding sentence, marital status shall be determined under section 7703.

"(B) CORPORATIONS.—In the case of a corporation, the tentative minimum tax for the taxable year is—

"(i) 20 percent of so much of the alternative minimum taxable income for the taxable year as exceeds the exemption amount, reduced by

"(ii) the alternative minimum tax foreign tax credit for the taxable year."

(b) INCREASE IN EXEMPTION AMOUNTS.—Paragraph (1) of section 55(d) (defining exemption amount) is amended—

(1) by striking "$40,000" in subparagraph (A) and inserting "$45,000",

(2) by striking "$30,000" in subparagraph (B) and inserting "$33,750", and

(3) by striking "$20,000" in subparagraph (C) and inserting "$22,500".

(c) CONFORMING AMENDMENTS.—

(1) The last sentence of section 55(d)(3) is amended by striking "$155,000 or (ii) $20,000" and inserting "$165,000 or (ii) $22,500".

(2)(A) Subparagraph (A) of section 897(a)(2) is amended by striking "the amount determined under section 55(b)(1)(A) shall not be less than 21 percent of" and inserting "the taxable excess for purposes of section 55(b)(1)(A) shall not be less than".

(B) The heading for paragraph (2) of section 897(a) is amended by striking "21-PERCENT".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

SEC. 13204. OVERALL LIMITATION ON ITEMIZED DEDUCTIONS FOR HIGH-INCOME TAXPAYERS MADE PERMANENT.

Subsection (f) of section 68 (relating to overall limitation on itemized deductions) is hereby repealed.

SEC. 13205. PHASEOUT OF PERSONAL EXEMPTION OF HIGH-INCOME TAXPAYERS MADE PERMANENT.

Section 151(d)(3) (relating to phaseout of personal exemption) is amended by striking subparagraph (E).

SEC. 13206. PROVISIONS TO PREVENT CONVERSION OF ORDINARY INCOME TO CAPITAL GAIN.

(a) INTEREST EMBEDDED IN FINANCIAL TRANSACTIONS.—

(1) IN GENERAL.—Part IV of subchapter P of chapter 1 (relating to special rules for determining capital gains and losses) is amended by adding at the end the following new section:

"SEC. 1258. RECHARACTERIZATION OF GAIN FROM CERTAIN FINANCIAL TRANSACTIONS.

"(a) GENERAL RULE.—In the case of any gain—

"(1) which (but for this section) would be treated as gain from the sale or exchange of a capital asset, and

"(2) which is recognized on the disposition or other termination of any position which was held as part of a conversion transaction,

such gain (to the extent such gain does not exceed the applicable imputed income amount) shall be treated as ordinary income.

"(b) APPLICABLE IMPUTED INCOME AMOUNT.—For purposes of subsection (a), the term 'applicable imputed income amount' means, with respect to any disposition or other termination referred to in subsection (a), an amount equal to—

"(1) the amount of interest which would have accrued on the taxpayer's net investment in the conversion transaction for the period ending on the date of such disposition or other termination (or, if earlier, the date on which the requirements of subsection (c) ceased to be satisfied) at a rate equal to 120 percent of the applicable rate, reduced by

"(2) the amount treated as ordinary income under subsection (a) with respect to any prior disposition or other termination of a position which was held as a part of such transaction.

The Secretary shall by regulations provide for such reductions in the applicable imputed income amount as may be appropriate by reason of amounts capitalized under section 263(g), ordinary income received, or otherwise.

"(c) CONVERSION TRANSACTION.—For purposes of this section, the term 'conversion transaction' means any transaction—

"(1) substantially all of the taxpayer's expected return from which is attributable to the time value of the taxpayer's net investment in such transaction, and

"(2) which is—

"(A) the holding of any property (whether or not actively traded), and the entering into a contract to sell such property (or substantially identical property) at a price determined in accordance with such contract, but only if such property was acquired and such contract was entered into on a substantially contemporaneous basis,

"(B) an applicable straddle,

"(C) any other transaction which is marketed or sold as producing capital gains from a transaction described in paragraph (1), or

"(D) any other transaction specified in regulations prescribed by the Secretary.

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) APPLICABLE STRADDLE.—The term 'applicable straddle' means any straddle (within the meaning of section 1092(c)); except that the term 'personal property' shall include stock.

"(2) APPLICABLE RATE.—The term 'applicable rate' means—

"(A) the applicable Federal rate determined under section 1274(d) (compounded semiannually) as if the conversion transaction were a debt instrument, or

"(B) if the term of the conversion transaction is indefinite, the Federal short-term rates in effect under section 6621(b) during the period of the conversion transaction (compounded daily).

"(3) TREATMENT OF BUILT-IN LOSSES.—

"(A) IN GENERAL.—If any position with a built-in loss becomes part of a conversion transaction—

"(i) for purposes of applying this subtitle to such position for periods after such position becomes part of such transaction, such position shall be taken into account at its fair market value as of the time it became part of such transaction, except that

"(ii) upon the disposition or other termination of such position in a transaction in which gain or loss is recognized, such built-in loss shall be recognized and shall have a character determined without regard to this section.

"(B) BUILT-IN LOSS.—For purposes of subparagraph (A), the term 'built-in loss' means the loss (if any) which would have been realized if the position had been disposed of or otherwise terminated at its fair market value as of the time such position became part of the conversion transaction.

"(4) POSITION TAKEN INTO ACCOUNT AT FAIR MARKET VALUE.—In determining the taxpayer's net investment in any conversion transaction, there shall be included the fair market value of any position which becomes part of such transaction (determined as of the time such position became part of such transaction).

"(5) SPECIAL RULE FOR OPTIONS DEALERS AND COMMODITIES TRADERS.—

"(A) IN GENERAL.—Subsection (a) shall not apply to transactions —

"(i) of an options dealer in the normal course of the dealer's trade or business of dealing in options, or

"(ii) of a commodities trader in the normal course of the trader's trade or business of trading section 1256 contracts.

"(B) DEFINITIONS.—For purposes of this paragraph—

"(i) OPTIONS DEALER.—The term 'options dealer' has the meaning given such term by section 1256(g)(8).

"(ii) COMMODITIES TRADER.— The term 'commodities trader' means any person who is a member (or, except as otherwise provided in regulations, is entitled to trade as a member) of a domestic board of trade which is designated as a contract market by the Commodity Futures Trading Commission.

"(C) LIMITED PARTNERS AND LIMITED ENTREPRENEURS.—In the case of any gain from a transaction recognized by an entity which is allocable to a limited partner or limited entrepreneur (within the meaning of section 464(e)(2)), subparagraph (A) shall not apply if—

"(i) substantially all of the limited partner's (or limited entrepreneur's) expected return from the entity is attributable to the time value of the partner's (or entrepreneur's) net investment in such entity,

"(ii) the transaction (or the interest in the entity) was marketed or sold as producing capital gains treatment from a transaction described in subsection (c)(1), or

"(iii) the transaction (or the interest in the entity) is a transaction (or interest) specified in regulations prescribed by the Secretary."

(2) CLERICAL AMENDMENT.—The table of sections for part IV of subchapter P of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 1258. Recharacterization of gain from certain financial transactions."

(3) EFFECTIVE DATE.—The amendments made by this section shall apply to conversion transactions entered into after April 30, 1993.

(b) REPEAL OF CERTAIN EXCEPTIONS TO MARKET DISCOUNT RULES.—

(1) MARKET DISCOUNT BONDS ISSUED ON OR BEFORE JULY 18, 1984.—The following provisions are hereby repealed:

(A) Section 1276(e).

(B) Section 1277(d).

(2) TAX-EXEMPT OBLIGATIONS.—

(A) IN GENERAL.—Paragraph (1) of section 1278(a) (defining market discount bond) is amended—

(i) by striking clause (ii) of subparagraph (B) and redesignating clauses (iii) and (iv) of such subparagraph as clauses (ii) and (iii), respectively,

(ii) by redesignating subparagraph (C) as subparagraph (D), and

(iii) by inserting after subparagraph (B) the following new subparagraph:

"(C) SECTION 1277 NOT APPLICABLE TO TAX-EXEMPT OBLIGATIONS.—For purposes of section 1277, the term 'market discount bond' shall not include any tax-exempt obligation (as defined in section 1275(a)(3))."

(B) CONFORMING AMENDMENTS.—

(i) Sections 1276(a)(4) and 1278(b)(1) are each amended by striking "sections 871(a)" and inserting "sections 103, 871(a),".

(ii) Subparagraph (B) of section 1278(a)(4) is amended by inserting before the period at the end thereof the following: "or, in the case of a tax-exempt obligation, the aggregate amount of the original issue discount which accrued in the manner provided by section 1272(a) (determined without regard to paragraph (7) thereof) during periods before the acquisition of the bond by the taxpayer".

(3) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations purchased (within the meaning of section 1272(d)(1) of the Internal Revenue Code of 1986) after April 30, 1993.

(c) TREATMENT OF STRIPPED PREFERRED STOCK.—

(1) IN GENERAL.—Section 305 is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) TREATMENT OF PURCHASER OF STRIPPED PREFERRED STOCK.—

"(1) IN GENERAL.—If any person purchases after April 30, 1993, any stripped preferred stock, then such person, while holding such stock, shall include in gross income amounts equal to the amounts which would have been so includible if such stripped preferred stock were a bond issued on the purchase date and having original issue discount equal to the excess, if any, of—

"(A) the redemption price for such stock, over

"(B) the price at which such person purchased such stock.

The preceding sentence shall also apply in the case of any person whose basis in such stock is determined by reference to the basis in the hands of such purchaser.

"(2) BASIS ADJUSTMENTS.—Appropriate adjustments to basis shall be made for amounts includible in gross income under paragraph (1).

"(3) TAX TREATMENT OF PERSON STRIPPING STOCK.—If any person strips the rights to 1 or more dividends from any stock described in paragraph (5)(B) and after April 30, 1993, disposes of such dividend rights, for purposes of paragraph (1), such person shall be treated as having purchased the stripped preferred stock on the date of such disposition for a purchase price equal to such person's adjusted basis in such stripped preferred stock.

"(4) AMOUNTS TREATED AS ORDINARY INCOME.—Any amount included in gross income under paragraph (1) shall be treated as ordinary income.

"(5) STRIPPED PREFERRED STOCK.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'stripped preferred stock' means any stock described in subparagraph (B) if there has been a separation in ownership between such stock and any dividend on such stock which has not become payable.

"(B) DESCRIPTION OF STOCK.—Stock is described in this subsection if such stock—

"(i) is limited and preferred as to dividends and does not participate in corporate growth to any significant extent, and

"(ii) has a fixed redemption price.

"(6) PURCHASE.—For purposes of this subsection, the term 'purchase' means—

"(A) any acquisition of stock, where

"(B) the basis of such stock is not determined in whole or in part by the reference to the adjusted basis of such stock in the hands of the person from whom acquired."

(2) COORDINATION WITH SECTION 167(e).—Paragraph (2) of section 167(e) is amended to read as follows:

"(2) COORDINATION WITH OTHER PROVISIONS.—

"(A) SECTION 273.—This subsection shall not apply to any term interest to which section 273 applies.

"(B) SECTION 305(e).—This subsection shall not apply to the holder of the dividend rights which were separated from any stripped preferred stock to which section 305(e)(1) applies."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on April 30, 1993.

(d) TREATMENT OF CAPITAL GAIN UNDER LIMITATION ON INVESTMENT INTEREST.—

(1) IN GENERAL.—Subparagraph (B) of section 163(d)(4) (defining investment income) is amended to read as follows:

"(B) INVESTMENT INCOME.—The term 'investment income' means the sum of—

"(i) gross income from property held for investment (other than any gain taken into account under clause (ii)(I)),

"(ii) the excess (if any) of—

"(I) the net gain attributable to the disposition of property held for investment, over

"(II) the net capital gain determined by only taking into account gains and losses from dispositions of property held for investment, plus

"(iii) so much of the net capital gain referred to in clause (ii)(II) (or, if lesser, the net gain referred to in clause (ii)(I)) as the taxpayer elects to take into account under this clause."

(2) COORDINATION WITH SPECIAL CAPITAL GAINS RATE.—Subsection (h) of section 1 is amended by adding at the end the following new sentence:

"For purposes of the preceding sentence, the net capital gain for any taxable year shall be reduced (but not below zero) by the amount which the taxpayer elects to take into account as investment income for the taxable year under section 163(d)(4)(B)(iii)."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 1992.

(e) TREATMENT OF CERTAIN APPRECIATED INVENTORY.—

(1) IN GENERAL.—Paragraph (1) of section 751(d) is amended to read as follows:

"(1) SUBSTANTIAL APPRECIATION.—

"(A) IN GENERAL.—Inventory items of the partnership shall be considered to have appreciated substantially in value if their fair market value exceeds 120 percent of the adjusted basis to the partnership of such property.

"(B) CERTAIN PROPERTY EXCLUDED.—For purposes of subparagraph (A), there shall be excluded any inventory property if a principal purpose for acquiring such property was to avoid the provisions of this section relating to inventory items."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to sales, exchanges, and distributions after April 30, 1993.

Subpart B—Other Provisions

SEC. 13207. REPEAL OF LIMITATION ON AMOUNT OF WAGES SUBJECT TO HEALTH INSURANCE EMPLOYMENT TAX.

(a) HOSPITAL INSURANCE TAX.—

(1) Paragraph (1) of section 3121(a) (defining wages) is amended—

(A) by inserting "in the case of the taxes imposed by sections 3101(a) and 3111(a)" after "(1)",

(B) by striking "applicable contribution base (as determined under subsection (x))" each place it appears and inserting "contribution and benefit base (as determined under section 230 of the Social Security Act)", and

(C) by striking "such applicable contribution base" and inserting "such contribution and benefit base".

(2) Section 3121 is amended by striking subsection (x).

(b) SELF-EMPLOYMENT TAX.—

(1) Subsection (b) of section 1402 is amended—

(A) by striking "that part of the net" in paragraph (1) and inserting "in the case of the tax imposed by section 1401(a), that part of the net",

(B) by striking "applicable contribution base (as determined under subsection (k))" in paragraph (1) and inserting "contribution and benefit base (as determined under section 230 of the Social Security Act)",

(C) by inserting "and" after "section 3121(b),", and

(D) by striking "and (C) includes" and all that follows through "3111(b)".

(2) Section 1402 is amended by striking subsection (k).

(c) RAILROAD RETIREMENT TAX.—

(1) Subparagraph (A) of section 3231(e)(2) is amended by adding at the end thereof the following new clause:

"(iii) HOSPITAL INSURANCE TAXES.—Clause (i) shall not apply to—

"(I) so much of the rate applicable under section 3201(a) or 3221(a) as does not exceed the rate of tax in effect under section 3101(b), and

"(II) so much of the rate applicable under section 3211(a)(1) as does not exceed the rate of tax in effect under section 1401(b)."

(2) Clause (i) of section 3231(e)(2)(B) is amended to read as follows:

"(i) TIER 1 TAXES.—Except as provided in clause (ii), the term 'applicable base' means for any calendar year the contribution and benefit base determined under section 230 of the Social Security Act for such calendar year."

(d) TECHNICAL AMENDMENTS.—

(1) Paragraph (1) of section 6413(c) is amended by striking "section 3101 or section 3201" and inserting "section 3101(a) or section 3201(a) (to the extent of so much of the rate applicable under section 3201(a) as does not exceed the rate of tax in effect under section 3101(a))".

(2) Subparagraphs (B) and (C) of section 6413(c)(2) are each amended by striking "section 3101" each place it appears and inserting "section 3101(a)".

(3) Subsection (c) of section 6413 is amended by striking paragraph (3).

(4) Sections 3122 and 3125 are each amended by striking "applicable contribution base limitation" and inserting "contribution and benefit base limitation".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to 1994 and later calendar years.

SEC. 13208. TOP ESTATE AND GIFT TAX RATES MADE PERMANENT.

(a) GENERAL RULE.—The table contained in paragraph (1) of section 2001(c) is amended by striking the last item and inserting the following new items:

"Over $2,500,000 but not over $3,000,000.	$1,025,800, plus 53% of the excess over $2,500,000.
Over $3,000,000	$1,290,800, plus 55% of the excess over $3,000,000."

(b) CONFORMING AMENDMENTS.—

(1) Subsection (c) of section 2001 is amended by striking paragraph (2) and by redesignating paragraph (3) as paragraph (2).

(2) Paragraph (2) of section 2001(c), as redesignated by paragraph (1), is amended by striking "($18,340,000 in the case of decedents dying, and gifts made, after 1992)".

(3) The last sentence of section 2101(b) is amended by striking "section 2001(c)(3)" and inserting "section 2001(c)(2)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply in the case of decedents dying and gifts made after December 31, 1992.

SEC. 13209. REDUCTION IN DEDUCTIBLE PORTION OF BUSINESS MEALS AND ENTERTAINMENT.

(a) GENERAL RULE.—Paragraph (1) of section 274(n) (relating to only 80 percent of meal and entertainment expenses allowed as deduction) is amended by striking "80 percent" and inserting "50 percent".

(b) CONFORMING AMENDMENT.—The subsection heading for section 274(n) is amended by striking "80" and inserting "50".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1993.

SEC. 13210. ELIMINATION OF DEDUCTION FOR CLUB MEMBERSHIP FEES.

(a) IN GENERAL.—Subsection (a) of section 274 (relating to disallowance of certain entertainment, etc., expenses) is amended by adding at the end thereof the following new paragraph:

"(3) DENIAL OF DEDUCTION FOR CLUB DUES.—Notwithstanding the preceding provisions of this subsection, no deduction shall be allowed under this chapter for amounts paid or incurred for membership in any club organized for business, pleasure, recreation, or other social purpose."

(b) EXCEPTION FOR EMPLOYEE RECREATIONAL EXPENSES NOT TO APPLY.—Paragraph (4) of section 274(e) is amended by adding at the end thereof the following: "This paragraph shall not apply for purposes of subsection (a)(3)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after December 31, 1993.

SEC. 13211. DISALLOWANCE OF DEDUCTION FOR CERTAIN EMPLOYEE REMUNERATION IN EXCESS OF $1,000,000.

(a) GENERAL RULE.—Section 162 (relating to trade or business expenses) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) CERTAIN EXCESSIVE EMPLOYEE REMUNERATION.—

"(1) IN GENERAL.—In the case of any publicly held corporation, no deduction shall be allowed under this chapter for applicable employee remuneration with respect to any covered employee to the extent that the amount of such remuneration for the taxable year with respect to such employee exceeds $1,000,000.

"(2) PUBLICLY HELD CORPORATION.—For purposes of this subsection, the term 'publicly held corporation' means any corporation issuing any class of common equity securities required to be registered under section 12 of the Securities Exchange Act of 1934.

"(3) COVERED EMPLOYEE.—For purposes of this subsection, the term 'covered employee' means any employee of the taxpayer if—

"(A) as of the close of the taxable year, such employee is the chief executive officer of the taxpayer or is an individual acting in such a capacity, or

"(B) the total compensation of such employee for the taxable year is required to be reported to shareholders under the Securities Exchange Act of 1934 by reason of such employee being among the 4 highest compensated officers for the taxable year (other than the chief executive officer).

"(4) APPLICABLE EMPLOYEE REMUNERATION.—For purposes of this subsection—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'applicable employee remuneration' means, with respect to any covered employee for any taxable year, the aggregate amount allowable as a deduction under this chapter for such taxable year (determined without regard to this subsection) for remuneration for services performed by such employee (whether or not during the taxable year).

"(B) EXCEPTION FOR REMUNERATION PAYABLE ON COMMISSION BASIS.—The term 'applicable employee remuneration' shall not include any remuneration payable on a commission basis solely on account of income generated directly by the individual performance of the individual to whom such remuneration is payable.

"(C) OTHER PERFORMANCE-BASED COMPENSATION.—The term 'applicable employee remuneration' shall not include any remuneration payable solely on account of the attainment of one or more performance goals, but only if—

"(i) the performance goals are determined by a compensation committee of the board of directors of the taxpayer which is comprised solely of 2 or more outside directors,

"(ii) the material terms under which the remuneration is to be paid, including the performance goals, are disclosed to shareholders and approved by a majority of the vote in a separate shareholder vote before the payment of such remuneration, and

"(iii) before any payment of such remuneration, the compensation committee referred to in clause (i) certifies that the performance goals and any other material terms were in fact satisfied.

"(D) EXCEPTION FOR EXISTING BINDING CONTRACTS.—The term 'applicable employee remuneration' shall not include any remuneration payable under a written binding contract which was in effect on February 17, 1993, and which was not modified thereafter in any material respect before such remuneration is paid.

"(E) REMUNERATION.—For purposes of this paragraph, the term 'remuneration' includes any remuneration (including benefits) in any medium other than cash, but shall not include—

"(i) any payment referred to in so much of section 3121(a)(5) as precedes subparagraph (E) thereof, and

"(ii) any benefit provided to or on behalf of an employee if at the time such benefit is provided it is reasonable to believe that the employee will be able to exclude such benefit from gross income under this chapter.

For purposes of clause (i), section 3121(a)(5) shall be applied without regard to section 3121(v)(1).

"(F) COORDINATION WITH DISALLOWED GOLDEN PARACHUTE PAYMENTS.—The dollar limitation contained in paragraph (1) shall be reduced (but not below zero) by the amount (if any) which would have been included in the applicable employee remuneration of the covered employee for the taxable year but for being disallowed under section 280G."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to amounts which would otherwise be deductible for taxable years beginning on or after January 1, 1994.

SEC. 13212. REDUCTION IN COMPENSATION TAKEN INTO ACCOUNT IN DETERMINING CONTRIBUTIONS AND BENEFITS UNDER QUALIFIED RETIREMENT PLANS.

(a) QUALIFICATION REQUIREMENT.—

(1) IN GENERAL.—Section 401(a)(17) is amended—

(A) by striking "$200,000" in the first sentence and inserting "$150,000",

(B) by striking the second sentence, and

(C) by adding at the end the following new subparagraph:

"(B) COST-OF-LIVING ADJUSTMENT.—

"(i) IN GENERAL.—If, for any calendar year after 1994, the excess (if any) of—

"(I) $150,000, increased by the cost-of-living adjustment for the calendar year, over

"(II) the dollar amount in effect under subparagraph (A) for taxable years beginning in the calendar year,

is equal to or greater than $10,000, then the $150,000 amount under subparagraph (A) (as previously adjusted under this subparagraph) for any taxable year beginning in any subsequent calendar year shall be increased by the amount of such excess, rounded to the next lowest multiple of $10,000.

"(ii) COST-OF-LIVING ADJUSTMENT.—The cost-of-living adjustment for any calendar year shall be the adjustment made under section 415(d) for such calendar year, except that the base period for purposes of section 415(d)(1)(A) shall be the calendar quarter beginning October 1, 1993."

(2) CONFORMING AMENDMENT.—Section 401(a)(17) is amended by striking "(17) A trust" and inserting:

"(17) COMPENSATION LIMIT.—

"(A) IN GENERAL.—A trust".

(b) SIMPLIFIED EMPLOYEE PENSIONS.—

(1) IN GENERAL.—Paragraphs (3)(C) and (6)(D)(ii) of section 408(k) are each amended by striking "$200,000" and inserting "$150,000".

(2) COST-OF-LIVING.—Paragraph (8) of section 408(k) is amended to read as follows:

"(8) COST-OF-LIVING ADJUSTMENT.—The Secretary shall adjust the $300 amount in paragraph (2)(C) at the same time and in the same manner as under section 415(d) and shall adjust the $150,000 amount in paragraphs (3)(C) and (6)(D)(ii) at the same time, and by the same amount, as any adjustment under section 401(a)(17)(B)."

(c) OTHER RELATED PROVISIONS.—

(1) IN GENERAL.—Sections 404(l) and 505(b)(7) are each amended—

(A) by striking "$200,000" in the first sentence and inserting "$150,000", and

(B) by striking the second sentence and inserting "The Secretary shall adjust the $150,000 amount at the same time, and by the same amount, as any adjustment under section 401(a)(17)(B)."

(2) CONFORMING AMENDMENT.—The heading for section 505(b)(7) is amended by striking "$200,000".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to benefits accruing in plan years beginning after December 31, 1993.

(2) COLLECTIVELY BARGAINED PLANS.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before the date of the enactment of this Act, the amendments made by this section shall not apply to contributions or benefits pursuant to such agreements for plan years beginning before the earlier of—

(A) the latest of—

(i) January 1, 1994,

(ii) the date on which the last of such collective bargaining agreements terminates (without regard to any extension, amendment, or modification of such agreements on or after such date of enactment), or

(iii) in the case of a plan maintained pursuant to collective bargaining under the Railway Labor Act, the date of execution of an extension or replacement of the last of such collective bargaining agreements in effect on such date of enactment, or

(B) January 1, 1997.

(3) TRANSITION RULE FOR STATE AND LOCAL PLANS.—

(A) IN GENERAL.—In the case of an eligible participant in a governmental plan (within the meaning of section 414(d) of the Internal Revenue Code of 1986), the dollar limitation under section 401(a)(17) of such Code shall not apply to the extent the amount of compensation which is allowed to be taken into account under the plan would be reduced below the amount which was allowed to be taken into account under the plan as in effect on July 1, 1993.

(B) ELIGIBLE PARTICIPANT.—For purposes of subparagraph (A), an eligible participant is an individual who first became a participant in the plan during a plan year beginning before the 1st plan year beginning after the earlier of—

(i) the plan year in which the plan is amended to reflect the amendments made by this section, or

(ii) December 31, 1995.

(C) PLAN MUST BE AMENDED TO INCORPORATE LIMITS.—This paragraph shall not apply to any eligible participant of a plan unless the plan is amended so that the plan incorporates by reference the dollar limitation under section 401(a)(17) of the Internal Revenue Code of 1986, effective with respect to noneligible participants for plan years beginning after December 31, 1995 (or earlier if the plan amendment so provides).

SEC. 13213. MODIFICATIONS TO DEDUCTION FOR MOVING EXPENSES.

(a) DEFINITION OF DEDUCTIBLE EXPENSES.—

(1) IN GENERAL.—Subsection (b) of section 217 (defining moving expenses) is amended to read as follows:

"(b) DEFINITION OF MOVING EXPENSES.—

"(1) IN GENERAL.—For purposes of this section, the term 'moving expenses' means only the reasonable expenses—

"(A) of moving household goods and personal effects from the former residence to the new residence, and

"(B) of traveling (including lodging) from the former residence to the new place of residence. Such term shall not include any expenses for meals.

"(2) INDIVIDUALS OTHER THAN TAXPAYER.—In the case of any individual other than the taxpayer, expenses referred to in paragraph (1) shall be taken into account only if such individual has both the former residence and the new residence as his principal place of abode and is a member of the taxpayer's household."

(2) CONFORMING AMENDMENTS.—

(A) Section 217 is amended by striking subsection (e).

(B) Subsection (f) of section 217 is amended to read as follows:

"(f) SELF-EMPLOYED INDIVIDUAL.—For purposes of this section, the term 'self-employed individual' means an individual who performs personal services—

"(1) as the owner of the entire interest in an unincorporated trade or business, or

"(2) as a partner in a partnership carrying on a trade or business."

(C) Paragraph (3) of section 217(g) is amended by inserting "and" at the end of subparagraph (A), by striking subparagraph (B), and by redesignating subparagraph (C) as subparagraph (B).

(D) Subsection (h) of section 217 is amended by striking paragraph (1) and redesignating the following paragraphs accordingly.

(E) Section 1001 is amended by striking subsection (f).

(F) Subsection (e) of section 1016 is amended to read as follows:

"(e) CROSS REFERENCE.—

"For treatment of separate mineral interests as one property, see section 614."

(b) INCREASE IN MILEAGE REQUIREMENT.—Paragraph (1) of section 217(c) is amended by striking "35 miles" each place it appears and inserting "50 miles".

(c) DEDUCTION ALLOWED IN COMPUTING ADJUSTED GROSS INCOME.—

(1) IN GENERAL.—Subsection (a) of section 62 (defining adjusted gross income) is amended by inserting after paragraph (14) the following new paragraph:

"(15) MOVING EXPENSES.—The deduction allowed by section 217."

(2) CONFORMING AMENDMENT.—Subsection (b) of section 67 is amended by striking paragraph (6) and redesignating the following paragraphs accordingly.

(d) EXCLUSION OF EMPLOYER REIMBURSEMENT FOR DEDUCTIBLE EXPENSES.—

(1) IN GENERAL.—Subsection (a) of section 132 (relating to certain fringe benefits) is amended by striking "or" at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting ", or", and by adding at the end thereof the following new paragraph:

"(6) qualified moving expense reimbursement."

(2) QUALIFIED MOVING EXPENSE REIMBURSEMENT DEFINED.—Section 132 is amended by redesignating subsections (g), (h), (i), (j), (k), and (l), as subsections (h), (i), (j), (k), (l), and (m), respectively, and by inserting after subsection (f) the following new subsection:

"(g) QUALIFIED MOVING EXPENSE REIMBURSEMENT.—For purposes of this section, the term 'qualified moving expense reimbursement' means any amount received (directly or indirectly) by an individual from an employer as a payment for (or a reimbursement of) expenses which would be deductible as moving expenses under section 217 if directly paid or incurred by the individual. Such term shall not include any payment for (or reimbursement of) an expense actually deducted by the individual in a prior taxable year."

(3) CONFORMING AMENDMENTS.—

(A) Section 82 is amended by striking "There shall" and inserting "Except as provided in section 132(a)(6), there shall".

(B) Subsection (j) of section 132 (as redesignated by paragraph (2)) is amended by striking "subsection (f)" in paragraph (4)(B)(iii) thereof and inserting "subsection (h)".

(C) Subsection (l) of section 132 (as redesignated by paragraph (2)) is amended by striking "subsection (e)" and inserting "subsections (e) and (g)".

(D) Section 4977(c) is amended by striking "section 132(g)(2)" and inserting "section 132(i)(2)".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to expenses incurred after December 31, 1993; except that the amendments made by subsection (d) shall apply to reimbursements or other payments in respect of expenses incurred after such date.

SEC. 13214. SIMPLIFICATION OF INDIVIDUAL ESTIMATED TAX SAFE HARBOR BASED ON LAST YEAR'S TAX.

(a) IN GENERAL.—Paragraph (1) of section 6654(d) (relating to amount of required estimated tax installments) is amended by striking subparagraphs (C), (D), (E), and (F) and by inserting the following new subparagraph:

"(C) LIMITATION ON USE OF PRECEDING YEAR'S TAX.—

"(i) IN GENERAL.—If the adjusted gross income shown on the return of the individual for the preceding taxable year exceeds $150,000, clause (ii) of subparagraph (B) shall be applied by substituting '110 percent' for '100 percent'.

"(ii) SEPARATE RETURNS.—In the case of a married individual (within the meaning of section 7703) who files a separate return for the taxable year for which the amount of the installment is being determined, clause (i) shall be applied by substituting '$75,000' for '$150,000'.

"(iii) SPECIAL RULE.—In the case of an estate or trust, adjusted gross income shall be determined as provided in section 67(e)."

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (A) of section 6654(j)(3) is amended by striking "and subsection (d)(1)(C)(iii) shall not apply".

(2) Paragraph (4) of section 6654(l) is amended by striking "paragraphs (1)(C)(iv) and (2)(B)(i) of subsection (d)" and inserting "subsection (d)(2)(B)(i)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1993.

SEC. 13215. SOCIAL SECURITY AND TIER 1 RAILROAD RETIREMENT BENEFITS.

(a) ADDITIONAL INCLUSION FOR CERTAIN TAXPAYERS.—

(1) IN GENERAL.—Subsection (a) of section 86 (relating to social security and tier 1 railroad retirement benefits) is amended by adding at the end the following new paragraph:

"(2) ADDITIONAL AMOUNT.—In the case of a taxpayer with respect to whom the amount determined under subsection (b)(1)(A) exceeds the adjusted base amount, the amount included in gross income under this section shall be equal to the lesser of—

"(A) the sum of—

"(i) 85 percent of such excess, plus

"(ii) the lesser of the amount determined under paragraph (1) or an amount equal to one-half of the difference between the adjusted base amount and the base amount of the taxpayer, or

"(B) 85 percent of the social security benefits received during the taxable year."

(2) CONFORMING AMENDMENTS.—Subsection (a) of section 86 is amended—

(A) by striking "Gross" and inserting:

"(1) IN GENERAL.—Except as provided in paragraph (2), gross", and

(B) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively.

(b) ADJUSTED BASE AMOUNT.—Section 86(c) (defining base amount) is amended to read as follows:

"(c) BASE AMOUNT AND ADJUSTED BASE AMOUNT.—For purposes of this section—

"(1) BASE AMOUNT.—The term 'base amount' means—

"(A) except as otherwise provided in this paragraph, $25,000,

"(B) $32,000 in the case of a joint return, and

"(C) zero in the case of a taxpayer who—

"(i) is married as of the close of the taxable year (within the meaning of section 7703) but does not file a joint return for such year, and

"(ii) does not live apart from his spouse at all times during the taxable year.

"(2) ADJUSTED BASE AMOUNT.—The term 'adjusted base amount' means—

"(A) except as otherwise provided in this paragraph, $34,000,

"(B) $44,000 in the case of a joint return, and

"(C) zero in the case of a taxpayer described in paragraph (1)(C)."

(c) TRANSFERS TO THE HOSPITAL INSURANCE TRUST FUND.—

(1) IN GENERAL.—Paragraph (1) of section 121(e) of the Social Security Amendments of 1983 (Public Law 92–21) is amended by—

(A) striking "There" and inserting:

"(A) There";

(B) inserting "(i)" immediately following "amounts equivalent to"; and

(C) striking the period and inserting the following: ", less (ii) the amounts equivalent to the aggregate increase in tax liabilities under chapter 1 of the Internal Revenue Code of 1986 which is attributable to the amendments to section 86 of such Code made by section 13215 of the Revenue Reconciliation Act of 1993.

"(B) There are hereby appropriated to the hospital insurance trust fund amounts equal to the increase in tax liabilities described in subparagraph (A)(ii). Such appropriated amounts shall be transferred from the general fund of the Treasury on the basis of estimates of such tax liabilities made by the Secretary of the Treasury. Transfers shall be made pursuant to a schedule made by the Secretary of the Treasury that takes into account estimated timing of collection of such liabilities."

(2) DEFINITION.—Paragraph (3) of section 121(e) of such Act is amended by redesignating subparagraph (B) as subparagraph (C), and by inserting after subparagraph (A) the following new subparagraph:

"(B) HOSPITAL INSURANCE TRUST FUND.—The term 'hospital insurance trust fund' means the fund established pursuant to section 1817 of the Social Security Act.".

(3) CONFORMING AMENDMENT.—Paragraph (2) of section 121(e) of such Act is amended in the first sentence by striking "paragraph (1)" and inserting "paragraph (1)(A)".

(4) TECHNICAL AMENDMENTS.—Paragraph (1)(A) of section 121(e) of such Act, as redesignated and amended by paragraph (1), is amended by striking "1954" and inserting "1986".

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to taxable years beginning after December 31, 1993.

PART II—PROVISIONS AFFECTING BUSINESSES

SEC. 13221. INCREASE IN TOP MARGINAL RATE UNDER SECTION 11.

(a) GENERAL RULE.—Paragraph (1) of section 11(b) (relating to amount of tax) is amended—

(1) by striking "and" at the end of subparagraph (B),

(2) by striking subparagraph (C) and inserting the following:

"(C) 34 percent of so much of the taxable income as exceeds $75,000 but does not exceed $10,000,000, and

"(D) 35 percent of so much of the taxable income as exceeds $10,000,000.", and

(3) by adding at the end thereof the following new sentence: "In the case of a corporation which has taxable income in excess of $15,000,000, the amount of the tax determined under the foregoing provisions of this paragraph shall be increased by an additional amount equal to the lesser of (i) 3 percent of such excess, or (ii) $100,000."

(b) CERTAIN PERSONAL SERVICE CORPORATIONS.—Paragraph (2) of section 11(b) is amended by striking "34 percent" and inserting "35 percent".

(c) CONFORMING AMENDMENTS.—

(1) Clause (iii) of section 852(b)(3)(D) is amended by striking "66 percent" and inserting "65 percent".

(2) Subsection (a) of section 1201 is amended by striking "34 percent" each place it appears and inserting "35 percent".

(3) Paragraphs (1) and (2) of section 1445(e) are each amended by striking "34 percent" and inserting "35 percent".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning on or after January 1, 1993; except that the amendment made by subsection (c)(3) shall take effect on the date of the enactment of this Act.

SEC. 13222. DENIAL OF DEDUCTION FOR LOBBYING EXPENSES.

(a) DISALLOWANCE OF DEDUCTION.—Section 162(e) (relating to appearances, etc., with respect to legislation) is amended to read as follows:

"(e) DENIAL OF DEDUCTION FOR CERTAIN LOBBYING AND POLITICAL EXPENDITURES.—

"(1) IN GENERAL.—No deduction shall be allowed under subsection (a) for any amount paid or incurred in connection with—

"(A) influencing legislation,

"(B) participation in, or intervention in, any political campaign on behalf of (or in opposition to) any candidate for public office,

"(C) any attempt to influence the general public, or segments thereof, with respect to elections, legislative matters, or referendums, or

"(D) any direct communication with a covered executive branch official in an attempt to influence the official actions or positions of such official.

"(2) EXCEPTION FOR LOCAL LEGISLATION.—In the case of any legislation of any local council or similar governing body—

"(A) paragraph (1)(A) shall not apply, and

"(B) the deduction allowed by subsection (a) shall include all ordinary and necessary expenses (including, but not limited to, traveling expenses described in subsection (a)(2) and the cost of preparing testimony) paid or incurred during the taxable year in carrying on any trade or business—

"(i) in direct connection with appearances before, submission of statements to, or sending communications to the committees, or individual members, of such council or body with respect to legislation or proposed legislation of direct interest to the taxpayer, or

"(ii) in direct connection with communication of information between the taxpayer and an organization of which the taxpayer is a member with respect to any such legislation or proposed legislation which is of direct interest to the taxpayer and to such organization,

and that portion of the dues so paid or incurred with respect to any organization of which the taxpayer is a member which is attributable to the expenses of the activities described in clauses (i) and (ii) carried on by such organization.

"(3) APPLICATION TO DUES OF TAX-EXEMPT ORGANIZATIONS.—No deduction shall be allowed under subsection (a) for the portion of dues or other similar amounts paid by the taxpayer to an organization which is exempt from tax under this subtitle which the organization notifies the taxpayer under section 6033(e)(1)(A)(ii) is allocable to expenditures to which paragraph (1) applies.

"(4) INFLUENCING LEGISLATION.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'influencing legislation' means any attempt to influence any legislation through communication with any member or employee of a legislative body, or with any government official or employee who may participate in the formulation of legislation.

"(B) LEGISLATION.—The term 'legislation' has the meaning given such term by section 4911(e)(2).

"(5) OTHER SPECIAL RULES.—

"(A) EXCEPTION FOR CERTAIN TAXPAYERS.—In the case of any taxpayer engaged in the trade or business of conducting activities described in paragraph (1), paragraph (1) shall not apply to expenditures of the taxpayer in conducting such activities directly on behalf of another person (but shall apply to payments by such other person to the taxpayer for conducting such activities).

"(B) DE MINIMIS EXCEPTION.—

"(i) IN GENERAL.—Paragraph (1) shall not apply to any in-house expenditures for any taxable year if such expenditures do not exceed $2,000. In determining whether a taxpayer exceeds the $2,000 limit under this clause, there shall not be taken into account overhead costs otherwise allocable to activities described in paragraphs (1)(A) and (D).

"(ii) IN-HOUSE EXPENDITURES.—For purposes of clause (i), the term 'in-house expenditures' means expenditures described in paragraphs (1)(A) and (D) other than—

"(I) payments by the taxpayer to a person engaged in the trade or business of conducting activities described in paragraph (1) for the conduct of such activities on behalf of the taxpayer, or

"(II) dues or other similar amounts paid or incurred by the taxpayer which are allocable to activities described in paragraph (1).

"(C) EXPENSES INCURRED IN CONNECTION WITH LOBBYING AND POLITICAL ACTIVITIES.—Any amount paid or incurred for research for, or preparation, planning, or coordination of, any activity described in paragraph (1) shall be treated as paid or incurred in connection with such activity.

"(6) COVERED EXECUTIVE BRANCH OFFICIAL.—For purposes of this subsection, the term 'covered executive branch official' means—

"(A) the President,

"(B) the Vice President,

"(C) any officer or employee of the White House Office of the Executive Office of the President, and the 2 most senior level officers of each of the other agencies in such Executive Office, and

"(D)(i) any individual serving in a position in level I of the Executive Schedule under section 5312 of title 5, United States Code, (ii) any other individual designated by the President as having Cabinet level status, and (iii) any immediate deputy of an individual described in clause (i) or (ii).

"(7) SPECIAL RULE FOR INDIAN TRIBAL GOVERNMENTS.—For purposes of this subsection, an Indian tribal government shall be treated in the same manner as a local council or similar governing body.

"(8) CROSS REFERENCE.—

"For reporting requirements and alternative taxes related to this subsection, see section 6033(e)."

(b) DISALLOWANCE OF CHARITABLE DEDUCTION IN CERTAIN CASES.—Section 170(f) (relating to disallowance of deduction in certain cases and special rules), as amended by section 13172, is amended by adding at the end the following new paragraph:

"(9) DENIAL OF DEDUCTION WHERE CONTRIBUTION FOR LOBBYING ACTIVITIES.—No deduction shall be allowed under this section for a contribution to an organization which conducts activities to which section 162(e)(1) applies on matters of direct financial interest to the donor's trade or business, if a principal purpose of the contribution was to avoid Federal income tax by securing a deduction for such activities under this section which would be disallowed by reason of section 162(e) if the donor had conducted such activities directly. No deduction shall be allowed under section 162(a) for any amount for which a deduction is disallowed under the preceding sentence."

(c) REPORTING REQUIREMENTS.—Section 6033 (relating to returns by exempt organizations) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) SPECIAL RULES RELATING TO LOBBYING ACTIVITIES.—

"(1) REPORTING REQUIREMENTS.—

"(A) IN GENERAL.—If this subsection applies to an organization for any taxable year, such organization—

"(i) shall include on any return required to be filed under subsection (a) for such year information setting forth the total expenditures of the organization to which section 162(e)(1) applies and the total amount of the dues or other similar amounts paid to the organization to which such expenditures are allocable, and

"(ii) except as provided in paragraphs (2)(A)(i) and (3), shall, at the time of assessment or payment of such dues or other similar amounts, provide notice to each person making such payment which contains a reasonable estimate of the portion of such dues or other similar amounts to which such expenditures are so allocable.

"(B) ORGANIZATIONS TO WHICH SUBSECTION APPLIES.—

"(i) IN GENERAL.—This subsection shall apply to any organization which is exempt from taxation under this subtitle other than an organization described in section 501(c)(3).

"(ii) SPECIAL RULE FOR IN-HOUSE EXPENDITURES.—This subsection shall not apply to the in-house expenditures (within the meaning of section 162(e)(5)(B)(ii)) of an organization for a taxable year if such expenditures do not exceed $2,000. In determining whether a taxpayer exceeds the $2,000 limit under this clause, there shall not be taken into account overhead costs otherwise allocable to activities described in subparagraphs (A) and (D) of section 162(e)(1).

"(C) ALLOCATION.—For purposes of this paragraph—

"(i) IN GENERAL.—Expenditures to which section 162(e)(1) applies shall be treated as paid out of dues or other similar amounts to the extent thereof.

"(ii) CARRYOVER OF LOBBYING EXPENDITURES IN EXCESS OF DUES.—If expenditures to which section 162(e)(1) applies exceed the dues or other similar amounts for any taxable year, such excess shall be treated as expenditures to which section 162(e)(1) applies which are paid or incurred by the organization during the following taxable year.

"(2) TAX IMPOSED WHERE ORGANIZATION DOES NOT NOTIFY.—

"(A) IN GENERAL.—If an organization—

"(i) elects not to provide the notices described in paragraph (1)(A) for any taxable year, or

"(ii) fails to include in such notices the amount allocable to expenditures to which section 162(e)(1) applies (determined on the basis of actual amounts rather than the reasonable estimates under paragraph (1)(A)(ii)),

then there is hereby imposed on such organization for such taxable year a tax in an amount equal to the product of the highest rate of tax imposed by section 11 for the taxable year and the aggregate amount not included in such notices by reason of such election or failure.

"(B) WAIVER WHERE FUTURE ADJUSTMENTS MADE.—The Secretary may waive the tax imposed by subparagraph (A)(ii) for any taxable year if the organization agrees to adjust its estimates under paragraph (1)(A)(ii) for the following taxable year to correct any failures.

"(C) TAX TREATED AS INCOME TAX.—For purposes of this title, the tax imposed by subparagraph (A) shall be treated in the same manner as a tax imposed by chapter 1 (relating to income taxes).

"(3) EXCEPTION WHERE DUES GENERALLY NONDEDUCTIBLE.—Paragraph (1)(A) shall not apply to an organization which establishes to the satisfaction of the Secretary that substantially all of the dues or other similar amounts paid by persons to such organization are not deductible without regard to section 162(e)."

(d) CONFORMING AMENDMENT.—Section 7871(a)(6) is amended by striking subparagraph (B) and by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after December 31, 1993.

SEC. 13223. MARK TO MARKET ACCOUNTING METHOD FOR SECURITIES DEALERS.

(a) GENERAL RULE.—Subpart D of part II of subchapter E of chapter 1 (relating to inventories) is amended by adding at the end thereof the following new section:

"SEC. 475. MARK TO MARKET ACCOUNTING METHOD FOR DEALERS IN SECURITIES.

"(a) GENERAL RULE.—Notwithstanding any other provision of this subpart, the following rules shall apply to securities held by a dealer in securities:

"(1) Any security which is inventory in the hands of the dealer shall be included in inventory at its fair market value.

"(2) In the case of any security which is not inventory in the hands of the dealer and which is held at the close of any taxable year—

"(A) the dealer shall recognize gain or loss as if such security were sold for its fair market value on the last business day of such taxable year, and

"(B) any gain or loss shall be taken into account for such taxable year.

Proper adjustment shall be made in the amount of any gain or loss subsequently realized for gain or loss taken into account under the preceding sentence. The Secretary may provide by regulations for the application of this paragraph at times other than the times provided in this paragraph.

"(b) EXCEPTIONS.—

"(1) IN GENERAL.—Subsection (a) shall not apply to—

"(A) any security held for investment,

"(B)(i) any security described in subsection (c)(2)(C) which is acquired (including originated) by the taxpayer in the ordinary course of a trade or business of the taxpayer and which is not held for sale, and (ii) any obligation to acquire a security described in clause (i) if such obligation is entered into in the ordinary course of such trade or business and is not held for sale, and

"(C) any security which is a hedge with respect to—

"(i) a security to which subsection (a) does not apply, or

"(ii) a position, right to income, or a liability which is not a security in the hands of the taxpayer.

To the extent provided in regulations, subparagraph (C) shall not apply to any security held by a person in its capacity as a dealer in securities.

"(2) IDENTIFICATION REQUIRED.—A security shall not be treated as described in subparagraph (A), (B), or (C) of paragraph (1), as the case may be, unless such security is clearly identified in the dealer's records as being described in such subparagraph before the close of the day on which it was acquired, originated, or entered into (or such other time as the Secretary may by regulations prescribe).

"(3) SECURITIES SUBSEQUENTLY NOT EXEMPT.—If a security ceases to be described in paragraph (1) at any time after it was identified as such under paragraph (2), subsection (a) shall apply to any changes in value of the security occurring after the cessation.

"(4) SPECIAL RULE FOR PROPERTY HELD FOR INVESTMENT.—To the extent provided in regulations, subparagraph (A) of paragraph (1) shall not apply to any security described in subparagraph (D) or (E) of subsection (c)(2) which is held by a dealer in such securities.

"(c) DEFINITIONS.—For purposes of this section—

"(1) DEALER IN SECURITIES DEFINED.—The term 'dealer in securities' means a taxpayer who—

"(A) regularly purchases securities from or sells securities to customers in the ordinary course of a trade or business; or

"(B) regularly offers to enter into, assume, offset, assign or otherwise terminate positions in securities with customers in the ordinary course of a trade or business.

"(2) SECURITY DEFINED.—The term 'security' means any—

"(A) share of stock in a corporation;

"(B) partnership or beneficial ownership interest in a widely held or publicly traded partnership or trust;

"(C) note, bond, debenture, or other evidence of indebtedness;

"(D) interest rate, currency, or equity notional principal contract;

"(E) evidence of an interest in, or a derivative financial instrument in, any security described in subparagraph (A), (B), (C), or (D), or any currency, including any option, forward contract, short position, and any similar financial instrument in such a security or currency; and

"(F) position which—

"(i) is not a security described in subparagraph (A), (B), (C), (D), or (E),

"(ii) is a hedge with respect to such a security, and

"(iii) is clearly identified in the dealer's records as being described in this subparagraph before the close of the day on which it was acquired or entered into (or such other time as the Secretary may by regulations prescribe).

Subparagraph (E) shall not include any contract to which section 1256(a) applies.

"(3) HEDGE.—The term 'hedge' means any position which reduces the dealer's risk of interest rate or price changes or currency fluctuations, including any position which is reasonably expected to become a hedge within 60 days after the acquisition of the position.

"(d) SPECIAL RULES.—For purposes of this section—

"(1) COORDINATION WITH CERTAIN RULES.—The rules of sections 263(g), 263A, and 1256(a) shall not apply to securities to which subsection (a) applies, and section 1091 shall not apply (and section 1092 shall apply) to any loss recognized under subsection (a).

"(2) IMPROPER IDENTIFICATION.—If a taxpayer—

"(A) identifies any security under subsection (b)(2) as being described in subsection (b)(1) and such security is not so described, or

"(B) fails under subsection (c)(2)(F)(iii) to identify any position which is described in subsection (c)(2)(F) (without regard to clause (iii) thereof) at the time such identification is required,

the provisions of subsection (a) shall apply to such security or position, except that any loss under this section prior to the disposition of the security or position shall be recognized only to the extent of gain previously recognized under this section (and not previously taken into account under this paragraph) with respect to such security or position.

"(3) CHARACTER OF GAIN OR LOSS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B) or section 1236(b)—

"(i) IN GENERAL.—Any gain or loss with respect to a security under subsection (a)(2) shall be treated as ordinary income or loss.

"(ii) SPECIAL RULE FOR DISPOSITIONS.—If—

"(I) gain or loss is recognized with respect to a security before the close of the taxable year, and

"(II) subsection (a)(2) would have applied if the security were held as of the close of the taxable year,

such gain or loss shall be treated as ordinary income or loss.

"(B) EXCEPTION.—Subparagraph (A) shall not apply to any gain or loss which is allocable to a period during which—

"(i) the security is described in subsection (b)(1)(C) (without regard to subsection (b)(2)),

"(ii) the security is held by a person other than in connection with its activities as a dealer in securities, or

"(iii) the security is improperly identified (within the meaning of subparagraph (A) or (B) of paragraph (2)).

"(e) REGULATORY AUTHORITY.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including rules—

"(1) to prevent the use of year-end transfers, related parties, or other arrangements to avoid the provisions of this section, and

"(2) to provide for the application of this section to any security which is a hedge which cannot be identified with a specific security, position, right to income, or liability."

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 988(d) is amended—

(A) by striking "section 1256" and inserting "section 475 or 1256", and

(B) by striking "1092 and 1256" and inserting "475, 1092, and 1256".

(2) The table of sections for subpart D of part II of subchapter E of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 475. Mark to market accounting method for dealers in securities."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to all taxable years ending on or after December 31, 1993.

(2) CHANGE IN METHOD OF ACCOUNTING.—In the case of any taxpayer required by this section to change its method of accounting for any taxable year—

(A) such change shall be treated as initiated by the taxpayer,

(B) such change shall be treated as made with the consent of the Secretary, and

(C) except as provided in paragraph (3), the net amount of the adjustments required to be taken into account by the taxpayer under section 481 of the Internal Revenue Code of 1986 shall be taken into account ratably over the 5-taxable year period beginning with the first taxable year ending on or after December 31, 1993.

(3) SPECIAL RULE FOR FLOOR SPECIALISTS AND MARKET MAKERS.—

(A) IN GENERAL.—If—

(i) a taxpayer (or any predecessor) used the last-in first-out (LIFO) method of accounting with respect to any qualified securities for the 5-taxable year period ending with its last taxable year ending before December 31, 1993, and

(ii) any portion of the net amount described in paragraph (2)(C) is attributable to the use of such method of accounting,

then paragraph (2)(C) shall be applied by taking such portion into account ratably over the 15-taxable year period beginning with the first taxable year ending on or after December 31, 1993.

(B) QUALIFIED SECURITY.—For purposes of this paragraph, the term "qualified security" means any security acquired—

(i) by a floor specialist (as defined in section 1236(d)(2) of the Internal Revenue Code of 1986) in connection with the specialist's duties as a specialist on an exchange, but only if the security is one in which the specialist is registered with the exchange, or

(ii) by a taxpayer who is a market maker in connection with the taxpayer's duties as a market maker, but only if—

(I) the security is included on the National Association of Security Dealers Automated Quotation System,

(II) the taxpayer is registered as a market maker in such security with the National Association of Security Dealers, and

(III) as of the last day of the taxable year preceding the taxpayer's first taxable year ending on or after December 31, 1993, the taxpayer (or any predecessor) has been actively and regularly engaged as a market maker in such security for the 2-year period ending on such date (or, if shorter, the period beginning 61 days after the security was listed in such quotation system and ending on such date).

SEC. 13224. CLARIFICATION OF TREATMENT OF CERTAIN FSLIC FINANCIAL ASSISTANCE.

(a) GENERAL RULE.—For purposes of chapter 1 of the Internal Revenue Code of 1986—

(1) any FSLIC assistance with respect to any loss of principal, capital, or similar amount upon the disposition of any asset shall be taken into account as compensation for such loss for purposes of section 165 of such Code, and

(2) any FSLIC assistance with respect to any debt shall be taken into account for purposes of section 166, 585, or 593 of such Code in determining whether such debt is worthless (or the extent to which such debt is worthless) and in determining the amount of any addition to a reserve for bad debts arising from the worthlessness or partial worthlessness of such debts.

(b) FSLIC ASSISTANCE.—For purposes of this section, the term "FSLIC assistance" means any assistance (or right to assistance) with respect to a domestic building and loan association (as defined in section 7701(a)(19) of such Code without regard to subparagraph (C) thereof) under section 406(f) of the National Housing Act or section 21A of the Federal Home Loan Bank Act (or under any similar provision of law).

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection—

(A) The provisions of this section shall apply to taxable years ending on or after March 4, 1991, but only with respect to FSLIC assistance not credited before March 4, 1991.

(B) If any FSLIC assistance not credited before March 4, 1991, is with respect to a loss sustained or charge-off in a taxable year ending before March 4, 1991, for purposes of determining the amount of any net operating loss carryover to a taxable year ending on or after March 4, 1991, the provisions of this section shall apply to such assistance for purposes of determining the amount of the net operating loss for the taxable year in which such loss was sustained or debt written off. Except as provided in the preceding sentence, this section shall not apply to any FSLIC assistance with respect to a loss sustained or charge-off in a taxable year ending before March 4, 1991.

(2) EXCEPTIONS.—The provisions of this section shall not apply to any assistance to which the amendments made by section 1401(a)(3) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 apply.

SEC. 13225. MODIFICATION OF CORPORATE ESTIMATED TAX RULES.

(a) INCREASE IN REQUIRED INSTALLMENT BASED ON CURRENT YEAR TAX.—

(1) IN GENERAL.—Clause (i) of section 6655(d)(1)(B) (relating to amount of required installment) is amended by striking "91 percent" each place it appears and inserting "100 percent".

(2) CONFORMING AMENDMENTS.—

(A) Subsection (d) of section 6655 is amended—

(i) by striking paragraph (3), and

(ii) by striking "91 PERCENT" in the paragraph heading of paragraph (2) and inserting "100 PERCENT".

(B) Clause (ii) of section 6655(e)(2)(B) is amended by striking the table contained therein and inserting the following:

"In the case of the following required installments:	*The applicable percentage is:*
1st	*25*
2nd	*50*
3rd	*75*
4th	*100."*

(C) Clause (i) of section 6655(e)(3)(A) is amended by striking "91 percent" and inserting "100 percent".

(b) MODIFICATION OF PERIODS FOR APPLYING ANNUALIZATION.—

(1) Clause (i) of section 6655(e)(2)(A) is amended—

(A) by striking "or for the first 5 months" in subclause (II),

(B) by striking "or for the first 8 months" in subclause (III), and

(C) by striking "or for the first 11 months" in subclause (IV).

(2) Paragraph (2) of section 6655(e) is amended by adding at the end thereof the following new subparagraph:

"(C) ELECTION FOR DIFFERENT ANNUALIZATION PERIODS.—

"(i) If the taxpayer makes an election under this clause—

"(I) subclause (I) of subparagraph (A)(i) shall be applied by substituting '2 months' for '3 months',

"(II) subclause (II) of subparagraph (A)(i) shall be applied by substituting '4 months' for '3 months',

"(III) subclause (III) of subparagraph (A)(i) shall be applied by substituting '7 months' for '6 months', and

"(IV) subclause (IV) of subparagraph (A)(i) shall be applied by substituting '10 months' for '9 months'.

"(ii) If the taxpayer makes an election under this clause—

"(I) subclause (II) of subparagraph (A)(i) shall be applied by substituting '5 months' for '3 months',

"(II) subclause (III) of subparagraph (A)(i) shall be applied by substituting '8 months' for '6 months', and

"(III) subclause (IV) of subparagraph (A)(i) shall be applied by substituting '11 months' for '9 months'.

"(iii) An election under clause (i) or (ii) shall apply to the taxable year for which made and such an election shall be effective only if made on or before the date required for the payment of the first required installment for such taxable year."

(3) The last sentence of section 6655(g)(3) is amended by striking "and subsection (e)(2)(A)" and inserting "and, except in the case of an election under subsection (e)(2)(C), subsection (e)(2)(A)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1993.

SEC. 13226. MODIFICATIONS OF DISCHARGE OF INDEBTEDNESS PROVISIONS.

(a) REPEAL OF STOCK FOR DEBT EXCEPTION IN DETERMINING INCOME FROM DISCHARGE OF INDEBTEDNESS.—

(1) IN GENERAL.—Subsection (e) of section 108 is amended—

(A) by striking paragraph (10) and by redesignating paragraph (11) as paragraph (10), and

(B) by amending paragraph (8) to read as follows:

"(8) INDEBTEDNESS SATISFIED BY CORPORATION'S STOCK.—For purposes of determining income of a debtor from discharge of indebtedness, if a debtor corporation transfers stock to a creditor in satisfaction of its indebtedness, such corporation shall be treated as having satisfied the indebtedness with an amount of money equal to the fair market value of the stock."

(2) CONFORMING AMENDMENTS.—

(A) Subparagraph (C) of section 382(l)(5) is amended to read as follows:

"(C) COORDINATION WITH SECTION 108.—In applying section 108(e)(8) to any case to which subparagraph (A) applies, there shall not be taken into account any indebtedness for interest described in subparagraph (B)."

(B) Section 108(e)(6) is amended by striking "For" and inserting "Except as provided in regulations, for".

(3) EFFECTIVE DATE.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, the amendments made by this subsection shall apply to stock transferred after December 31, 1994, in satisfaction of any indebtedness.

(B) EXCEPTION FOR TITLE 11 CASES.—The amendments made by this subsection shall not apply to stock transferred in satisfaction of any indebtedness if such transfer is in a title 11 or similar case (as defined in section 368(a)(3)(A) of the Internal Revenue Code of 1986) which was filed on or before December 31, 1993.

(b) TAX ATTRIBUTES SUBJECT TO REDUCTION.—

(1) MINIMUM TAX CREDIT.—Section 108(b)(2) (relating to tax attributes affected; order of reduction) is amended by redesignating subparagraphs (C), (D), and (E) as subparagraphs (D), (E), and (F) and by adding after subparagraph (B) the following new subparagraph:

"(C) MINIMUM TAX CREDIT.—The amount of the minimum tax credit available under section 53(b) as of the beginning of the taxable year immediately following the taxable year of the discharge."

(2) PASSIVE ACTIVITY LOSSES AND CREDITS.—Section 108(b)(2), as amended by paragraph (1), is amended by redesignating subparagraph (F) as subparagraph (G) and by adding after subparagraph (E) the following new subparagraph:

"(F) PASSIVE ACTIVITY LOSS AND CREDIT CARRYOVERS.—Any passive activity loss or credit carryover of the taxpayer under section 469(b) from the taxable year of the discharge."

(3) CONFORMING AMENDMENTS.—

(A) Subparagraph (B) of section 108(b)(3) is amended to read as follows:

"(B) CREDIT CARRYOVER REDUCTION.—The reductions described in subparagraphs (B), (C), and (G) shall be 33⅓ cents for each dollar excluded by subsection (a). The reduction described in subparagraph (F) in any passive activity credit carryover shall be 33⅓ cents for each dollar excluded by subsection (a)."

(B) Subparagraph (B) of section 108(b)(4) is amended by striking "(C)" in the text and heading thereof and inserting "(D)".

(C) Subparagraph (C) of section 108(b)(4) is amended by striking "(E)" in the text and heading thereof and inserting "(G)".

(D) Subparagraph (B) of section 108(g)(3) is amended—

(i) by striking "subparagraphs (A), (B), (C), and (E)" and inserting "subparagraphs (A), (B), (C), (D), (F), and (G)",

(ii) by striking "subparagraphs (B) and (E)" and inserting "subparagraphs (B), (C), and (G)", and

(iii) by inserting before the period at the end the following: "and the attribute described in subparagraph (F) of subsection (b)(2) to the extent attributable to any passive activity credit carryover".

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to discharges of indebtedness in taxable years beginning after December 31, 1993.

SEC. 13227. LIMITATION ON SECTION 936 CREDIT.

(a) GENERAL RULE.—Subsection (a) of section 936 (relating to Puerto Rico and possession tax credit) is amended—

(1) by striking "as provided in paragraph (3)" in paragraph (1) and inserting "as otherwise provided in this section"; and

(2) by adding at the end thereof the following new paragraph:

"(4) LIMITATIONS ON CREDIT FOR ACTIVE BUSINESS INCOME.—

"(A) IN GENERAL.—The amount of the credit determined under paragraph (1) for any taxable year with respect to income referred to in subparagraph (A) thereof shall not exceed the sum of the following amounts:

"(i) 60 percent of the sum of—

"(I) the aggregate amount of the possession corporation's qualified possession wages for such taxable year, plus

"(II) the allocable employee fringe benefit expenses of the possession corporation for the taxable year.

"(ii) The sum of—

"(I) 15 percent of the depreciation allowances for the taxable year with respect to short-life qualified tangible property,

"(II) 40 percent of the depreciation allowances for the taxable year with respect to medium-life qualified tangible property, and

"(III) 65 percent of the depreciation allowances for the taxable year with respect to long-life qualified tangible property.

"(iii) If the possession corporation does not have an election to use the method described in subsection (h)(5)(C)(ii) (relating to profit split) in effect for the taxable year, the amount of qualified possession income taxes for the taxable year allocable to nonsheltered income.

"(B) ELECTION TO TAKE REDUCED CREDIT.—

"(i) IN GENERAL.—If an election under this subparagraph applies to a possession corporation for any taxable year—

"(I) subparagraph (A), and the provisions of subsection (i), shall not apply to such possession corporation for such taxable year, and

"(II) the credit determined under paragraph (1) for such taxable year with respect to income referred to in subparagraph (A) thereof shall be the applicable percentage of the credit which would otherwise have been determined under such paragraph with respect to such income.

Notwithstanding subclause (I), a possession corporation to which an election under this subparagraph applies shall be entitled to the benefits of subsection (i)(3)(B) for taxes allocable (on a pro rata basis) to taxable income the tax on which is not offset by reason of this subparagraph.

"(ii) APPLICABLE PERCENTAGE.—The term 'applicable percentage' means the percentage determined in accordance with the following table:

"In the case of taxable years beginning in:	The percentage is:
1994	60
1995	55
1996	50
1997	45
1998 and thereafter	40.

"(iii) ELECTION.—

"(I) IN GENERAL.—An election under this subparagraph by any possession corporation may be made only for the corporation's first taxable year beginning after December 31, 1993, for which it is a possession corporation.

"(II) PERIOD OF ELECTION.—An election under this subparagraph shall apply to the taxable year for which made and all subsequent taxable years unless revoked.

"(III) AFFILIATED GROUPS.—If, for any taxable year, an election is not in effect for any possession corporation which is a member of an affiliated group, any election under this subparagraph for any other member of such group is revoked for such taxable year and all subsequent taxable years. For purposes of this subclause, members of an affiliated group shall be determined without regard to the exceptions contained in section 1504(b) and as if the constructive ownership rules of section 1563(e) applied for purposes of section 1504(a). The Secretary may prescribe regulations to prevent the avoidance of this subclause through deconsolidation or otherwise.

"(C) CROSS REFERENCE.—

"For definitions and special rules applicable to this paragraph, see subsection (i)."

(b) DEFINITIONS AND SPECIAL RULES.—Section 936 is amended by adding at the end thereof the following new subsection:

"(i) DEFINITIONS AND SPECIAL RULES RELATING TO LIMITATIONS OF SUBSECTION (a)(4).—

"(1) QUALIFIED POSSESSION WAGES.—For purposes of this section—

"(A) IN GENERAL.—The term 'qualified possession wages' means wages paid or incurred by the possession corporation during the taxable year in connection with the active conduct of a trade or business within a possession of the United States to any employee for services performed in such possession, but only if such services are performed while the principal place of employment of such employee is within such possession.

"(B) LIMITATION ON AMOUNT OF WAGES TAKEN INTO ACCOUNT.—

"(i) IN GENERAL.—The amount of wages which may be taken into account under subparagraph (A) with respect to any employee for any taxable year shall not exceed 85 percent of the contribution and benefit base determined under section 230 of the Social Security Act for the calendar year in which such taxable year begins.

"(ii) TREATMENT OF PART-TIME EMPLOYEES, ETC.—If—

"(I) any employee is not employed by the possession corporation on a substantially full-time basis at all times during the taxable year, or

"(II) the principal place of employment of any employee with the possession corporation is not within a possession at all times during the taxable year,

the limitation applicable under clause (i) with respect to such employee shall be the appropriate portion (as determined by the Secretary) of the limitation which would otherwise be in effect under clause (i).

"(C) TREATMENT OF CERTAIN EMPLOYEES.—The term 'qualified possession wages' shall not include any wages paid to employees who are assigned by the employer to perform services for another person, unless the principal trade or business of the employer is to make employees available for temporary periods to other persons in return for compensation. All possession corporations treated as 1 corporation under paragraph (5) shall be treated as 1 employer for purposes of the preceding sentence.

"(D) WAGES.—

"(i) IN GENERAL.—Except as provided in clause (ii), the term 'wages' has the meaning given to such term by subsection (b) of section 3306 (determined without regard to any dollar limitation contained in such section). For purposes of the preceding sentence, such subsection (b) shall be applied as if the term 'United States' included all possessions of the United States.

"(ii) SPECIAL RULE FOR AGRICULTURAL LABOR AND RAILWAY LABOR.—In any case to which subparagraph (A) or (B) of paragraph (1) of section 51(h) applies, the term 'wages' has the meaning given to such term by section 51(h)(2).

"(2) ALLOCABLE EMPLOYEE FRINGE BENEFIT EXPENSES.—

"(A) IN GENERAL.—The allocable employee fringe benefit expenses of any possession corporation for any taxable year is an amount which bears the same ratio to the amount determined under subparagraph (B) for such taxable year as—

"(i) the aggregate amount of the possession corporation's qualified possession wages for such taxable year, bears to

"(ii) the aggregate amount of the wages paid or incurred by such possession corporation during such taxable year.

In no event shall the amount determined under the preceding sentence exceed 15 percent of the amount referred to in clause (i).

"(B) EXPENSES TAKEN INTO ACCOUNT.—For purposes of subparagraph (A), the amount determined under this subparagraph for any taxable year is the aggregate amount allowable as a deduction under this chapter to the possession corporation for such taxable year with respect to—

"(i) employer contributions under a stock bonus, pension, profit-sharing, or annuity plan,

"(ii) employer-provided coverage under any accident or health plan for employees, and

"(iii) the cost of life or disability insurance provided to employees.

Any amount treated as wages under paragraph (1)(D) shall not be taken into account under this subparagraph.

"(3) TREATMENT OF POSSESSION TAXES.—

"(A) AMOUNT OF CREDIT FOR POSSESSION CORPORATIONS NOT USING PROFIT SPLIT.—

"(i) IN GENERAL.—For purposes of subsection (a)(4)(A)(iii), the amount of the qualified possession income taxes for any taxable year allocable to nonsheltered income shall be an amount which bears the same ratio to the possession income taxes for such taxable year as—

"(I) the increase in the tax liability of the possession corporation under this chapter for the taxable year by reason of subsection (a)(4)(A) (without regard to clause (iii) thereof), bears to

"(II) the tax liability of the possession corporation under this chapter for the taxable year determined without regard to the credit allowable under this section.

"(ii) LIMITATION ON AMOUNT OF TAXES TAKEN INTO ACCOUNT.—Possession income taxes shall not be taken into account under clause (i) for any taxable year to the extent that the amount of such taxes exceeds 9 percent of the amount of the taxable income for such taxable year.

"(B) DEDUCTION FOR POSSESSION CORPORATIONS USING PROFIT SPLIT.—Notwithstanding subsection (c), if a possession corporation is not described in subsection (a)(4)(A)(iii) for the taxable year, such possession corporation shall be allowed a deduction for such taxable year in an amount which bears the same ratio to the possession income taxes for such taxable year as—

"(i) the increase in the tax liability of the possession corporation under this chapter for the taxable year by reason of subsection (a)(4)(A), bears to

"(ii) the tax liability of the possession corporation under this chapter for the taxable year determined without regard to the credit allowable under this section.

In determining the credit under subsection (a) and in applying the preceding sentence, taxable income shall be determined without regard to the preceding sentence.

"(C) POSSESSION INCOME TAXES.—For purposes of this paragraph, the term 'possession income taxes' means any taxes of a possession of the United States which are treated as not being income, war profits, or excess profits taxes paid or accrued to a possession of the United States by reason of subsection (c).

"(4) DEPRECIATION RULES.—For purposes of this section—

"(A) DEPRECIATION ALLOWANCES.—The term 'depreciation allowances' means the depreciation deductions allowable under section 167 to the possession corporation.

"(B) CATEGORIES OF PROPERTY.—

"(i) QUALIFIED TANGIBLE PROPERTY.—The term 'qualified tangible property' means any tangible property used by the possession corporation in a possession of the United States in the active conduct of a trade or business within such possession.

"(ii) SHORT-LIFE QUALIFIED TANGIBLE PROPERTY.—The term 'short-life qualified tangible property' means any qualified tangible property to which section 168 applies and which is 3-year property or 5-year property for purposes of such section.

"(iii) MEDIUM-LIFE QUALIFIED TANGIBLE PROPERTY.—The term 'medium-life qualified tangible property' means any qualified tangible property to which section 168 applies and which is 7-year property or 10-year property for purposes of such section.

"(iv) LONG-LIFE QUALIFIED TANGIBLE PROPERTY.—The term 'long-life qualified tangible property' means any qualified tangible property to which section 168 applies and which is not described in clause (ii) or (iii).

"(v) TRANSITIONAL RULE.—In the case of any qualified tangible property to which section 168 (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) applies, any reference in this paragraph to section 168 shall be treated as a reference to such section as so in effect.

"(5) ELECTION TO COMPUTE CREDIT ON CONSOLIDATED BASIS.—

"(A) IN GENERAL.—Any affiliated group may elect to treat all possession corporations which would be members of such group but for section 1504(b) (3) or (4) as 1 corporation for purposes of this section. The credit determined under this section with respect to such 1 corporation shall be allocated among such possession corporations in such manner as the Secretary may prescribe.

"(B) ELECTION.—An election under subparagraph (A) shall apply to the taxable year for which made and all succeeding taxable years unless revoked with the consent of the Secretary.

"(6) POSSESSION CORPORATION.—The term 'possession corporation' means a domestic corporation for which the election provided in subsection (a) is in effect."

(c) MINIMUM TAX TREATMENT.—

(1) IN GENERAL.—Subclause (I) of section 56(g)(4)(C)(ii) (relating to special rule for certain dividends) is amended by striking "sections 936 and 921" and inserting "sections 936 (including subsections (a)(4) and (i) thereof) and 921".

(2) TREATMENT OF FOREIGN TAXES.—Clause (iii) of section 56(g)(4)(C) is amended by adding at the end thereof the following subclauses:

"(IV) SEPARATE APPLICATION OF FOREIGN TAX CREDIT LIMITATIONS.—In determining the alternative minimum foreign tax credit, section 904(d) shall be applied as if dividends from a corporation eligible for the credit provided by section 936 were a separate category of income referred to in a subparagraph of section 904(d)(1).

"(V) COORDINATION WITH LIMITATION ON 936 CREDIT.—Any reference in this clause to a dividend received from a corporation eligible for the credit provided by section 936 shall be treated as a reference to the portion of any such dividend for which the dividends received deduction is disallowed under clause (i) after the application of clause (ii)(I)."

(d) CONFORMING AMENDMENT.—Paragraph (4) of section 904(b) is amended by inserting before the period at the end thereof the following: "(without regard to subsections (a)(4) and (i) thereof)".

(e) INCREASE IN LIMITATION ON COVER OVER.—Paragraph (1) of section 7652(f) is amended to read as follows:

"(1) $10.50 ($11.30 in the case of distilled spirits brought into the United States during the 5-year period beginning on October 1, 1993), or."

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1993; except that the amendment made by subsection (e) shall take effect on October 1, 1993.

SEC. 13228. MODIFICATION TO LIMITATION ON DEDUCTION FOR CERTAIN INTEREST.

(a) GENERAL RULE.—Paragraph (3) of section 163(j) (defining disqualified interest) is amended to read as follows:

"(3) DISQUALIFIED INTEREST.—For purposes of this subsection, the term 'disqualified interest' means—

"(A) any interest paid or accrued by the taxpayer (directly or indirectly) to a related person if no tax is imposed by this subtitle with respect to such interest, and

"(B) any interest paid or accrued by the taxpayer with respect to any indebtedness to a person who is not a related person if—

"(i) there is a disqualified guarantee of such indebtedness, and

"(ii) no gross basis tax is imposed by this subtitle with respect to such interest."

(b) DEFINITIONS.—Paragraph (6) of section 163(j) is amended by adding at the end thereof the following new subparagraphs:

"(D) DISQUALIFIED GUARANTEE.—

"(i) IN GENERAL.—Except as provided in clause (ii), the term 'disqualified guarantee' means any guarantee by a related person which is—

"(I) an organization exempt from taxation under this subtitle, or

"(II) a foreign person.

"(ii) EXCEPTIONS.—The term 'disqualified guarantee' shall not include a guarantee—

"(I) in any circumstances identified by the Secretary by regulation, where the interest on the indebtedness would have been subject to a net basis tax if the interest had been paid to the guarantor, or

"(II) if the taxpayer owns a controlling interest in the guarantor.

For purposes of subclause (II), except as provided in regulations, the term 'a controlling interest' means direct or indirect ownership of at least 80 percent of the total voting power and value of all classes of stock of a corporation, or 80 percent of the profit and capital interests in any other entity. For purposes of the preceding sentence, the rules of paragraphs (1) and (5) of section 267(c) shall apply; except that such rules shall also apply to interest in entities other than corporations.

"(iii) GUARANTEE.—Except as provided in regulations, the term 'guarantee' includes any arrangement under which a person (directly or indirectly through an entity or otherwise) assures, on a conditional or unconditional basis, the payment of another person's obligation under any indebtedness.

"(E) GROSS BASIS AND NET BASIS TAXATION.—

"(i) GROSS BASIS TAX.—The term 'gross basis tax' means any tax imposed by this subtitle which is determined by reference to the gross amount of any item of income without any reduction for any deduction allowed by this subtitle.

"(ii) NET BASIS TAX.—The term 'net basis tax' means any tax imposed by this subtitle which is a not a gross basis tax."

(c) CONFORMING AMENDMENTS.—

(1) Subparagraph (B) of section 163(j)(5) is amended by striking "to a related person".

(2) The subsection heading for subsection (j) of section 163 is amended to read as follows:

"(j) LIMITATION ON DEDUCTION FOR INTEREST ON CERTAIN INDEBTEDNESS.—".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to interest paid or accrued in taxable years beginning after December 31, 1993.

PART III—FOREIGN TAX PROVISIONS

Subpart A—Current Taxation of Certain Earnings of Controlled Foreign Corporations

SEC. 13231. EARNINGS INVESTED IN EXCESS PASSIVE ASSETS.

(a) GENERAL RULE.—Paragraph (1) of section 951(a) (relating to amounts included in gross income of United States shareholders) is amended by striking "and" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting "; and", and by adding at the end thereof the following new subparagraph:

"(C) the amount determined under section 956A with respect to such shareholder for such year (but only to the extent not excluded from gross income under section 959(a)(3))."

(b) AMOUNT OF INCLUSION.—Subpart F of part III of subchapter N of chapter 1 is amended by inserting after section 956 the following new section:

"SEC. 956A. EARNINGS INVESTED IN EXCESS PASSIVE ASSETS.

"(a) GENERAL RULE.—In the case of any controlled foreign corporation, the amount determined under this section with respect to any United States shareholder for any taxable year is the lesser of—

"(1) the excess (if any) of—

"(A) such shareholder's pro rata share of the amount of the controlled foreign corporation's excess passive assets for such taxable year, over

"(B) the amount of earnings and profits described in section 959(c)(1)(B) with respect to such shareholder, or

"(2) such shareholder's pro rata share of the applicable earnings of such controlled foreign corporation determined after the application of section 951(a)(1)(B).

"(b) APPLICABLE EARNINGS.—For purposes of this section, the term 'applicable earnings' means, with respect to any controlled foreign corporation, the sum of—

"(1) the amount referred to in section 316(a)(1) to the extent such amount was accumulated in taxable years beginning after September 30, 1993, and

"(2) the amount referred to in section 316(a)(2),

but reduced by distributions made during the taxable year and reduced by the earnings and profits described in section 959(c)(1) to the extent that the earnings and profits so described were accumulated in taxable years beginning after September 30, 1993.

"(c) EXCESS PASSIVE ASSETS.—For purposes of this section—

"(1) IN GENERAL.—The excess passive assets of any controlled foreign corporation for any taxable year is the excess (if any) of—

"(A) the average of the amounts of passive assets held by such corporation as of the close of each quarter of such taxable year, over

"(B) 25 percent of the average of the amounts of total assets held by such corporation as of the close of each quarter of such taxable year.

For purposes of the preceding sentence, the amount taken into account with respect to any asset shall be its adjusted basis as determined for purposes of computing earnings and profits.

"(2) PASSIVE ASSET.—

"(A) IN GENERAL.—Except as otherwise provided in this section, the term 'passive asset' means any asset held by the controlled foreign corporation which produces passive income (as defined in section 1296(b)) or is held for the production of such income.

"(B) COORDINATION WITH SECTION 956.—The term 'passive asset' shall not include any United States property (as defined in section 956).

"(3) CERTAIN RULES TO APPLY.—For purposes of this subsection, the rules of the following provisions shall apply:

"(A) Section 1296(c) (relating to look-thru rules).

"(B) Section 1297(d) (relating to leasing rules).

"(C) Section 1297(e) (relating to intangible property).

"(d) TREATMENT OF CERTAIN GROUPS OF CONTROLLED FOREIGN CORPORATIONS.—

"(1) IN GENERAL.—For purposes of applying subsection (c)—

"(A) all controlled foreign corporations which are members of the same CFC group shall be treated as 1 controlled foreign corporation, and

"(B) the amount of the excess passive assets determined with respect to such 1 corporation shall be allocated among the controlled foreign corporations which are members of such group in proportion to their respective amounts of applicable earnings.

"(2) CFC GROUP.—For purposes of paragraph (1), the term 'CFC group' means 1 or more chains of controlled foreign corporations connected through stock ownership with a top tier corporation which is a controlled foreign corporation, but only if—

"(A) the top tier corporation owns directly more than 50 percent (by vote or value) of the stock of at least 1 of the other controlled foreign corporations, and

"(B) more than 50 percent (by vote or value) of the stock of each of the controlled foreign corporations (other than the top tier corporation) is owned (directly or indirectly) by one or more other members of the group.

"(e) SPECIAL RULE WHERE CORPORATION CEASES TO BE CONTROLLED FOREIGN CORPORATION DURING TAXABLE YEAR.—If any foreign corporation ceases to be a controlled foreign corporation during any taxable year—

"(1) the determination of any United States shareholder's pro rata share shall be made on the basis of stock owned (within the meaning of section 958(a)) by such shareholder on the last day during the taxable year on which the foreign corporation is a controlled foreign corporation, and

"(2) the amount of such corporation's excess passive assets for such taxable year shall be determined by only taking into account quarters ending on or before such last day, and

"(3) in determining applicable earnings, the amount taken into account by reason of being described in paragraph (2) of section 316(a) shall be the portion of the amount so described which is allocable (on a pro rata basis) to the part of such year during which the corporation is a controlled foreign corporation.

"(f) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section, including regulations to prevent the avoidance of the provisions of this section through reorganizations or otherwise."

(c) PREVIOUSLY TAXED INCOME RULES.—

(1) IN GENERAL.—Subsection (a) of section 959 (relating to exclusion from gross income of previously taxed earnings and profits) is amended by striking "or" at the end of paragraph (1), by adding "or" at the end of paragraph (2), and by inserting after paragraph (2) the following new paragraph:

"(3) such amounts would, but for this subsection, be included under section 951(a)(1)(C) in the gross income of,".

(2) ALLOCATION RULES.—

(A) Subsection (a) of section 959 is amended by adding at the end thereof the following new sentence: "The rules of subsection (c) shall apply for purposes of paragraph (1) of this subsection and the rules of subsection (f) shall apply for purposes of paragraphs (2) and (3) of this subsection.".

(B) Section 959 is amended by adding at the end thereof the following new subsection:

"(f) ALLOCATION RULES FOR CERTAIN INCLUSIONS.—

"(1) IN GENERAL.—For purposes of this section—

"(A) amounts that would be included under subparagraph (B) of section 951(a)(1) (determined without regard to this section) shall be treated as attributable first to earnings described in subsection (c)(2), and then to earnings described in subsection (c)(3), and

"(B) amounts that would be included under subparagraph (C) of section 951(a)(1) (determined without regard to this section) shall be treated as attributable first to earnings described in subsection (c)(2) to the extent the earnings so described were accumulated in taxable years beginning after September 30, 1993, and then to earnings described in subsection (c)(3).

"(2) TREATMENT OF DISTRIBUTIONS.—In applying this section, actual distributions shall be taken into account before amounts that would be included under subparagraphs (B) and (C) of section 951(a)(1) (determined without regard to this section)."

(C) Paragraph (1) of section 959(c) is amended to read as follows:

"(1) first to the aggregate of—

"(A) earnings and profits attributable to amounts included in gross income under section 951(a)(1)(B) (or which would have been included except for subsection (a)(2) of this section), and

"(B) earnings and profits attributable to amounts included in gross income under section

951(a)(1)(C) (or which would have been included except for subsection (a)(3) of this section),

with any distribution being allocated between earnings and profits described in subparagraph (A) and earnings and profits described in subparagraph (B) proportionately on the basis of the respective amounts of such earnings and profits,".

(3) COORDINATION WITH PFIC INCLUSIONS.—Subsection (c) of section 1293 is amended by adding at the end thereof the following new sentence: "If the passive foreign investment company is a controlled foreign corporation (as defined in section 957(a)), the preceding sentence shall not apply to any United States shareholder (as defined in section 951(b)) in such corporation, and, in applying section 959 to any such shareholder, any inclusion under this section shall be treated as an inclusion under section 951(a)(1)(A).".

(4) CONFORMING AMENDMENTS.—

(A) Subsections (a) and (b) of section 959 are each amended by striking "earnings and profits for a taxable year" and inserting "earnings and profits".

(B) Paragraph (2) of section 959(c) is amended to read as follows:

"(2) then to earnings and profits attributable to amounts included in gross income under section 951(a)(1)(A) (but reduced by amounts not included under subparagraph (B) or (C) of section 951(a)(1) because of the exclusions in paragraphs (2) and (3) of subsection (a) of this section), and"

(C) Subsection (b) of section 989 is amended by striking "section 951(a)(1)(B)" and inserting "subparagraph (B) or (C) of section 951(a)(1)".

(d) MODIFICATIONS TO PASSIVE FOREIGN INVESTMENT COMPANY RULES.—

(1) ADJUSTED BASIS USED IN CERTAIN DETERMINATIONS.—Subsection (a) of section 1296 is amended by striking the material following paragraph (2) and inserting the following:

"In the case of a controlled foreign corporation (or any other foreign corporation if such corporation so elects), the determination under paragraph (2) shall be based on the adjusted bases (as determined for purposes of computing earnings and profits) of its assets in lieu of their value. Such an election, once made, may be revoked only with the consent of the Secretary."

(2) TREATMENT OF CERTAIN SUBPART F INCLUSIONS.—Subsection (b) of section 1297 is amended by adding at the end thereof the following new paragraph:

"(9) TREATMENT OF CERTAIN SUBPART F INCLUSIONS.—Any amount included in gross income under subparagraph (B) or (C) of section 951(a)(1) shall be treated as a distribution received with respect to the stock."

(3) TREATMENT OF CERTAIN DEALERS IN SECURITIES.—Subsection (b) of section 1296 is amended by adding at the end thereof the following new paragraph:

"(3) TREATMENT OF CERTAIN DEALERS IN SECURITIES.—

"(A) IN GENERAL.—In the case of any foreign corporation which is a controlled foreign corporation (as defined in section 957(a)), the term 'passive income' does not include any income derived in the active conduct of a securities business by such corporation if such corporation is registered as a securities broker or dealer under section 15(a) of the Securities Exchange Act of 1934 or is registered as a Government securities broker or dealer under section 15C(a) of such Act. To the extent provided in regulations, such term shall not include any income derived in the active conduct of a securities business by a controlled foreign corporation which is not so registered.

"(B) APPLICATION OF LOOK-THRU RULES.—For purposes of paragraph (2)(C), rules similar to the rules of subparagraph (A) of this paragraph shall apply in determining whether any income of a related person (whether or not a corporation) is passive income.

"(C) LIMITATION.—The preceding provisions of this paragraph shall only apply in the case of persons who are United States shareholders (as defined in section 951(b)) in the controlled foreign corporation."

(4) LEASING AND INTANGIBLE ASSET RULES.—Section 1297 is amended by redesignating subsection (d) as subsection (f) and by inserting after subsection (c) the following new subsections:

"(d) TREATMENT OF CERTAIN LEASED PROPERTY.—For purposes of this part—

"(1) IN GENERAL.—Any tangible personal property with respect to which a foreign corporation is the lessee under a lease with a term of at least 12 months shall be treated as an asset actually held by such corporation.

"(2) DETERMINATION OF ADJUSTED BASIS.—

"(A) IN GENERAL.—The adjusted basis of any asset to which paragraph (1) applies shall be the unamortized portion (as determined under regulations prescribed by the Secretary) of the present value of the payments under the lease for the use of such property.

"(B) PRESENT VALUE.—For purposes of subparagraph (A), the present value of payments described in subparagraph (A) shall be determined in the manner provided in regulations prescribed by the Secretary—

"(i) as of the beginning of the lease term, and

"(ii) except as provided in such regulations, by using a discount rate equal to the applicable Federal rate determined under section 1274(d)—

"(I) by substituting the lease term for the term of the debt instrument, and

"(II) without regard to paragraph (2) or (3) thereof.

"(3) EXCEPTIONS.—This subsection shall not apply in any case where—

"(A) the lessor is a related person (as defined in section 954(d)(3)) with respect to the foreign corporation, or

"(B) a principal purpose of leasing the property was to avoid the provisions of this part or section 956A.

"(e) SPECIAL RULES FOR CERTAIN INTANGIBLES.—

"(1) RESEARCH EXPENDITURES.—The adjusted basis of the total assets of a controlled foreign corporation shall be increased by the research or experimental expenditures (within the meaning of section 174) paid or incurred by such foreign corporation during the taxable year and the preceding 2 taxable years. Any expenditure otherwise taken into account under the preceding sentence shall be reduced by the amount of any reimbursement received by the controlled foreign corporation with respect to such expenditure.

"(2) CERTAIN LICENSED INTANGIBLES.—

"(A) IN GENERAL.—In the case of any intangible property (as defined in section 936(h)(3)(B)) with respect to which a controlled foreign corporation is a licensee and which is used by such foreign corporation in the active conduct of a trade or business, the adjusted basis of the total assets of such foreign corporation shall be increased by an amount equal to 300 percent of the payments made during the taxable year by such foreign corporation for the use of such intangible property.

"(B) EXCEPTIONS.—Subparagraph (A) shall not apply to—

"(i) any payments to a foreign person if such foreign person is a related person (as defined in section 954(d)(3)) with respect to the controlled foreign corporation, and

"(ii) any payments under a license if a principal purpose of entering into such license was to avoid the provisions of this part or section 956A.

"(3) CONTROLLED FOREIGN CORPORATION.—For purposes of this subsection, the term 'controlled foreign corporation' has the meaning given such term by section 957(a)."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years of foreign corporations beginning after September 30, 1993, and to taxable years of United States shareholders in which or with which such taxable years of foreign corporations end.

SEC. 13232. MODIFICATION TO TAXATION OF INVESTMENT IN UNITED STATES PROPERTY.

(a) GENERAL RULE.—Section 956 (relating to investment of earnings in United States property) is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and

(2) by striking subsection (a) and inserting the following:

"(a) GENERAL RULE.—In the case of any controlled foreign corporation, the amount determined under this section with respect to any United States shareholder for any taxable year is the lesser of—

"(1) the excess (if any) of—

"(A) such shareholder's pro rata share of the average of the amounts of United States property held (directly or indirectly) by the controlled foreign corporation as of the close of each quarter of such taxable year, over

"(B) the amount of earnings and profits described in section 959(c)(1)(A) with respect to such shareholder, or

"(2) such shareholder's pro rata share of the applicable earnings of such controlled foreign corporation.

The amount taken into account under paragraph (1) with respect to any property shall be its adjusted basis as determined for purposes of computing earnings and profits, reduced by any liability to which the property is subject.

"(b) SPECIAL RULES.—

"(1) APPLICABLE EARNINGS.—For purposes of this section, the term 'applicable earnings' has the meaning given to such term by section 956A(b), except that the provisions of such section excluding earnings and profits accumulated in taxable years beginning before October 1, 1993, shall be disregarded.

"(2) SPECIAL RULE FOR U.S. PROPERTY ACQUIRED BEFORE CORPORATION IS A CONTROLLED FOREIGN CORPORATION.—In applying subsection (a) to any taxable year, there shall be disregarded any item of United States property which was acquired by the controlled foreign corporation before the first day on which such corporation was treated as a controlled foreign corporation. The aggregate amount of property disregarded under the preceding sentence shall not exceed the portion of the applicable earnings of such controlled foreign corporation which were accumulated during periods before such first day.

"(3) SPECIAL RULE WHERE CORPORATION CEASES TO BE CONTROLLED FOREIGN CORPORATION.—Rules similar to the rules of section 956A(e) shall apply for purposes of this section."

(b) REGULATORY AUTHORITY.—Section 956 is amended by adding at the end thereof the following new subsection:

"(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section, including regulations to prevent the avoidance of the provisons of this section through reorganizations or otherwise."

(c) CONFORMING AMENDMENTS.—

(1) Subparagraph (B) of section 951(a)(1) is amended to read as follows:

"(B) the amount determined under section 956 with respect to such shareholder for such year (but only to the extent not excluded from gross income under section 959(a)(2)); and"

(2) Subsection (a) of section 951 is amended by striking paragraph (4).

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years of controlled foreign corporations beginning after September 30, 1993, and to taxable years of United States shareholders in which or with which such taxable years of controlled foreign corporations end.

SEC. 13233. OTHER MODIFICATIONS TO SUBPART F.

(a) SAME COUNTRY EXCEPTION NOT TO APPLY TO CERTAIN DIVIDENDS.—

(1) IN GENERAL.—Paragraph (3) of section 954(c) (relating to certain income received from related persons) is amended by adding at the end thereof the following new subparagraph:

"(C) EXCEPTION FOR CERTAIN DIVIDENDS.—Subparagraph (A)(i) shall not apply to any dividend with respect to any stock which is attributable to earnings and profits of the distributing corporation accumulated during any period during which the person receiving such dividend did not hold such stock either directly, or indirectly through a chain of one or more subsidiaries each of which meets the requirements of subparagraph (A)(i)."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years of controlled foreign corporations beginning after September 30, 1993, and to taxable years of United States shareholders in which or with which such taxable years of controlled foreign corporations end.

(b) AMENDMENTS TO SECTION 960(b).—

(1) IN GENERAL.—Subsection (b) of section 960 is amended—

(A) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively, and

(B) by striking paragraphs (1) and (2) and inserting the following new paragraphs:

"(1) INCREASE IN SECTION 904 LIMITATION.—In the case of any taxpayer who—

"(A) either (i) chose to have the benefits of subpart A of this part for a taxable year beginning after September 30, 1993, in which he was required under section 951(a) to include any amount in his gross income, or (ii) did not pay or accrue for such taxable year any income, war profits, or excess profits taxes to any foreign country or to any possession of the United States,

"(B) chooses to have the benefits of subpart A of this part for any taxable year in which he receives 1 or more distributions or amounts which are excludable from gross income under section 959(a) and which are attributable to amounts included in his gross income for taxable years referred to in subparagraph (A), and

"(C) for the taxable year in which such distributions or amounts are received, pays, or is deemed to have paid, or accrues income, war profits, or excess profits taxes to a foreign country or to any possession of the United States with respect to such distributions or amounts,

the limitation under section 904 for the taxable year in which such distributions or amounts are received shall be increased by the lesser of the amount of such taxes paid, or deemed paid, or accrued with respect to such distributions or amounts or the amount in the excess limitation account as of the beginning of such taxable year.

"(2) EXCESS LIMITATION ACCOUNT.—

"(A) ESTABLISHMENT OF ACCOUNT.—Each taxpayer meeting the requirements of paragraph (1)(A) shall establish an excess limitation account. The opening balance of such account shall be zero.

"(B) INCREASES IN ACCOUNT.—For each taxable year beginning after September 30, 1993, the taxpayer shall increase the amount in the excess limitation account by the excess (if any) of—

"(i) the amount by which the limitation under section 904(a) for such taxable year was increased by reason of the total amount of the inclusions in gross income under section 951(a) for such taxable year, over

"(ii) the amount of any income, war profits, and excess profits taxes paid, or deemed paid, or accrued to any foreign country or possession of the United States which were allowable as a credit under section 901 for such taxable year and which would not have been allowable but for the inclusions in gross income described in clause (i).

Proper reductions in the amount added to the account under the preceding sentence for any taxable year shall be made for any increase in the credit allowable under section 901 for such taxable year by reason of a carryback if such increase would not have been allowable but for the inclusions in gross income described in clause (i).

"(C) DECREASES IN ACCOUNT.—For each taxable year beginning after September 30, 1993, for which the limitation under section 904 was increased under paragraph (1), the taxpayer shall reduce the amount in the excess limitation account by the amount of such increase.

"(3) DISTRIBUTIONS OF INCOME PREVIOUSLY TAXED IN YEARS BEGINNING BEFORE OCTOBER 1, 1993.—If the taxpayer receives a distribution or amount in a taxable year beginning after September 30, 1993, which is excluded from gross income under section 959(a) and is attributable to any amount included in gross income under section 951(a) for a taxable year beginning before October 1, 1993, the limitation under section 904 for the taxable year in which such amount or distribution is received shall be increased by the amount determined under this subsection as in effect on the day before the date of the enactment of the Revenue Reconcilation Act of 1993."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years beginning after September 30, 1993.

Subpart B—Allocation of Research and Experimental Expenditures

SEC. 13234. ALLOCATION OF RESEARCH AND EXPERIMENTAL EXPENDITURES.

(a) GENERAL RULE.—Subparagraph (B) of section 864(f)(1) (relating to allocation of research and experimental expenditures) is amended by striking "64 percent" each place it appears and inserting "50 percent".

(b) CONFORMING AMENDMENTS.—

(1) Subsection (f) of section 864 is amended by striking paragraph (5) and inserting the following new paragraphs:

"(5) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this subsection, including regulations relating to the determination of whether any expenses are attributable to activities conducted in the United States or outside the United States and regulations providing such adjustments to the provisions of this subsection as may be appropriate in the case of cost-sharing arrangements and contract research.

"(6) APPLICABILITY.—This subsection shall apply to the taxpayer's first taxable year (beginning on or before August 1, 1994) following the taxpayer's last taxable year to which Revenue Procedure 92–56 applies or would apply if the taxpayer elected the benefits of such Revenue Procedure."

(2) Subparagraph (D) of section 864(f)(4) is amended by striking "subparagraph (C)" and inserting "subparagraph (B) or (C)".

Subpart C—Other Provisions

SEC. 13235. REPEAL OF CERTAIN EXCEPTIONS FOR WORKING CAPITAL.

(a) PROVISIONS RELATING TO OIL AND GAS INCOME.—

(1) AMENDMENTS TO SECTION 907.—

(A) Paragraph (1) of section 907(c) is amended by adding at the end thereof the following new flush sentence:

"Such term does not include any dividend or interest income which is passive income (as defined in section 904(d)(2)(A)).".

(B) Paragraph (2) of section 907(c) is amended by adding at the end thereof the following new flush sentence:

"Such term does not include any dividend or interest income which is passive income (as defined in section 904(d)(2)(A)).".

(2) SEPARATE APPLICATION OF FOREIGN TAX CREDIT.—Clause (iii) of section 904(d)(2)(A) is amended by inserting "and" at the end of subclause (II), by striking ", and" at the end of subclause (III) and inserting a period, and by striking subclause (IV).

(3) TREATMENT UNDER SUBPART F.—

(A) Paragraph (1) of section 954(g) is amended by adding at the end thereof the following new flush sentence:

"Such term shall not include any foreign personal holding company income (as defined in subsection (c)).".

(B) Paragraph (8) of section 954(b) is amended by striking "(1),".

(b) TREATMENT OF SHIPPING INCOME.—Subsection (f) of section 954 is amended by adding at the end thereof the following new sentence: "Except as provided in paragraph (1), such term shall not include any dividend or interest income which is foreign personal holding company income (as defined in subsection (c)).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

SEC. 13236. MODIFICATIONS OF ACCURACY-RELATED PENALTY.

(a) THRESHOLD REQUIREMENT.—Clause (ii) of section 6662(e)(1)(B) (relating to substantial valuation misstatement under chapter 1) is amended to read as follows:

"(ii) the net section 482 transfer price adjustment for the taxable year exceeds the lesser of $5,000,000 or 10 percent of the taxpayer's gross receipts."

(b) CERTAIN ADJUSTMENTS EXCLUDED IN DETERMINING THRESHOLD.—Subparagraph (B) of section 6662(e)(3) is amended to read as follows:

"(B) CERTAIN ADJUSTMENTS EXCLUDED IN DETERMINING THRESHOLD.—For purposes of determining whether the threshold requirements of paragraph (1)(B)(ii) are met, the following shall be excluded:

"(i) Any portion of the net increase in taxable income referred to in subparagraph (A) which is attributable to any redetermination of a price if—

"(I) it is established that the taxpayer determined such price in accordance with a specific pricing method set forth in the regulations prescribed under section 482 and that the taxpayer's use of such method was reasonable,

"(II) the taxpayer has documentation (which was in existence as of the time of filing the return) which sets forth the determination of such price in accordance with such a method and which establishes that the use of such method was reasonable, and

"(III) the taxpayer provides such documentation to the Secretary within 30 days of a request for such documentation.

"(ii) Any portion of the net increase in taxable income referred to in subparagraph (A) which is attributable to a redetermination of price where such price was not determined in accordance with such a specific pricing method if—

"(I) the taxpayer establishes that none of such pricing methods was likely to result in a price that would clearly reflect income, the taxpayer used another pricing method to determine such price, and such other pricing method was likely to result in a price that would clearly reflect income,

"(II) the taxpayer has documentation (which was in existence as of the time of filing the return) which sets forth the determination of such *price in accordance with such other method and which establishes that the requirements of subclause (I) were satisfied, and*

"(III) the taxpayer provides such documentation to the Secretary within 30 days of request for such documentation.

"(iii) Any portion of such net increase which is attributable to any transaction solely between foreign corporations unless, in the case of any such corporations, the treatment of such transaction affects the determination of income from sources within the United States or taxable income effectively connected with the conduct of a trade or business within the United States."

(c) COORDINATION WITH REASONABLE CAUSE EXCEPTION.—Paragraph (3) of section 6662(e) is amended by adding at the end thereof the following new subparagraph:

"(D) COORDINATION WITH REASONABLE CAUSE EXCEPTION.—For purposes of section 6664(c) the taxpayer shall not be treated as having reasonable cause for any portion of an underpayment attributable to a net section 482 transfer price adjustment unless such taxpayer meets the requirements of clause (i), (ii), or (iii) of subparagraph (B) with respect to such portion."

(d) CONFORMING AMENDMENT.—Clause (iii) of section 6662(h)(2)(A) is amended to read as follows:

"(iii) in paragraph (1)(B)(ii)—

"(I) '$20,000,000' for '$5,000,000', and

"(II) '20 percent' for '10 percent'."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1993.

SEC. 13237. DENIAL OF PORTFOLIO INTEREST EXEMPTION FOR CONTINGENT INTEREST.

(a) GENERAL RULE.—

(1) Subsection (h) of section 871 (relating to repeal of tax on interest of nonresident alien individuals received from certain portfolio debt investments) is amended by redesignating paragraphs (4), (5), and (6) as paragraphs (5), (6), and (7), respectively, and by inserting after paragraph (3) the following new paragraph:

"(4) PORTFOLIO INTEREST NOT TO INCLUDE CERTAIN CONTINGENT INTEREST.—For purposes of this subsection—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'portfolio interest' shall not include—

"(i) any interest if the amount of such interest is determined by reference to—

"(I) any receipts, sales or other cash flow of the debtor or a related person,

"(II) any income or profits of the debtor or a related person,

"(III) any change in value of any property of the debtor or a related person, or

"(IV) any dividend, partnership distributions, or similar payments made by the debtor or a related person, or

"(ii) any other type of contingent interest that is identified by the Secretary by regulation, where a denial of the portfolio interest exemption is necessary or appropriate to prevent avoidance of Federal income tax.

"(B) RELATED PERSON.—The term 'related person' means any person who is related to the debtor within the meaning of section 267(b) or 707(b)(1), or who is a party to any arrangement undertaken for a purpose of avoiding the application of this paragraph.

"(C) EXCEPTIONS.—Subparagraph (A)(i) shall not apply to—

"(i) any amount of interest solely by reason of the fact that the timing of any interest or principal payment is subject to a contingency,

"(ii) any amount of interest solely by reason of the fact that the interest is paid with respect to nonrecourse or limited recourse indebtedness,

"(iii) any amount of interest all or substantially all of which is determined by reference to any other amount of interest not described in subparagraph (A) (or by reference to the principal amount of indebtedness on which such other interest is paid),

"(iv) any amount of interest solely by reason of the fact that the debtor or a related person enters into a hedging transaction to reduce the risk of interest rate or currency fluctuations with respect to such interest,

"(v) any amount of interest determined by reference to—

"(I) changes in the value of property (including stock) that is actively traded (within the meaning of section 1092(d)) other than property described in section 897(c)(1) or (g),

"(II) the yield on property described in subclause (I), other than a debt instrument that pays interest described in subparagraph (A), or stock or other property that represents a beneficial interest in the debtor or a related person, or

"(III) changes in any index of the value of property described in subclause (I) or of the yield on property described in subclause (II), and

"(vi) any other type of interest identified by the Secretary by regulation.

"(D) EXCEPTION FOR CERTAIN EXISTING INDEBTEDNESS.—Subparagraph (A) shall not apply to any interest paid or accrued with respect to any indebtedness with a fixed term—

"(i) which was issued on or before April 7, 1993, or

"(ii) which was issued after such date pursuant to a written binding contract in effect on such date and at all times thereafter before such indebtedness was issued."

(2) Subsection (c) of section 881 is amended by redesignating paragraphs (4), (5), and (6) as paragraphs (5), (6), and (7), respectively, and by inserting after paragraph (3) the following new paragraph:

"(4) PORTFOLIO INTEREST NOT TO INCLUDE CERTAIN CONTINGENT INTEREST.—For purposes of this subsection, the term 'portfolio interest' shall not include any interest which is treated as not being portfolio interest under the rules of section 871(h)(4)."

(b) ESTATE TAX TREATMENT.—Subsection (b) of section 2105 is amended—

(1) by striking "this subchapter" in the material preceding paragraph (1) and inserting "this subchapter, the following shall not be deemed property within the United States", and

(2) by striking paragraph (3) and all that follows down through the period at the end thereof and inserting the following:

"(3) debt obligations, if, without regard to whether a statement meeting the requirements of section 871(h)(5) has been received, any interest thereon would be eligible for the exemption from tax under section 871(h)(1) were such interest received by the decedent at the time of his death.

Notwithstanding the preceding sentence, if any portion of the interest on an obligation referred to in paragraph (3) would not be eligible for the exemption referred to in paragraph (3) by reason of section 871(h)(4) if the interest were received by the decedent at the time of his death, then an appropriate portion (as determined in a manner prescribed by the Secretary) of the value (as determined for purposes of this chapter) of such debt obligation shall be deemed property within the United States."

(c) CONFORMING AMENDMENTS.—

(1) Clause (ii) of section 871(h)(2)(B) is amended by striking "paragraph (4)" and inserting "paragraph (5)".

(2) Clause (ii) of section 881(c)(2)(B) is amended by striking "section 871(h)(4)" and inserting "section 871(h)(5)".

(3) Paragraph (6) of section 881(c) (as redesignated by subsection (a)) is amended by striking "section 871(h)(5)" each place it appears and inserting "section 871(h)(6)".

(4) Paragraph (9) of section 1441(c) is amended by striking "section 871(h)(3)" and inserting "section 871(h)(3) or (4)".

(5) Subsection (a) of section 1442 is amended—

(A) by striking "871(h)(3)" and inserting "871(h)(3) or (4)", and

(B) by striking "881(c)(3)" and inserting "881(c)(3) or (4)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to interest received after December 31, 1993; except that the amendments made by subsection (b) shall apply to the estates of decedents dying after December 31, 1993.

SEC. 13238. REGULATIONS DEALING WITH CONDUIT ARRANGEMENTS.

Section 7701 is amended by redesignating subsection (l) as subsection (m) and by inserting after subsection (k) the following new subsection:

"(l) REGULATIONS RELATING TO CONDUIT ARRANGEMENTS.—The Secretary may prescribe regulations recharacterizing any multiple-party financing transaction as a transaction directly among any 2 or more of such parties where the Secretary determines that such recharacterization is appropriate to prevent avoidance of any tax imposed by this title."

SEC. 13239. TREATMENT OF EXPORT OF CERTAIN SOFTWOOD LOGS.

(a) FOREIGN SALES CORPORATIONS.—Paragraph (2) of section 927(a) (relating to exclusion of certain property) is amended by striking "or" at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting ", or", and by adding at the end the following:

"(E) any unprocessed timber which is a softwood.

For purposes of subparagraph (E), the term 'unprocessed timber' means any log, cant, or similar form of timber."

(b) DOMESTIC INTERNATIONAL SALES CORPORATIONS.—Paragraph (2) of section 993(c) (relating to exclusion of certain property) is amended—

(1) by striking "or" at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting ", or", and by adding after subparagraph (D) the following new subparagraph:

"(E) any unprocessed timber which is a softwood.", and

(2) by adding at the end the following new sentence: "For purposes of subparagraph (E), the term 'unprocessed timber' means any log, cant, or similar form of timber."

(c) SOURCE RULE.—Subsection (b) of section 865 (relating to source rules for personal property sales) is amended by adding at the end the following: "Notwithstanding the preceding sentence, any income from the sale of any unprocessed timber which is a softwood and was cut from an area in the United States shall be sourced in the United States and the rules of sections 862(a)(6) and 863(b) shall not apply to any such income. For purposes of the preceding sentence, the term 'unprocessed timber' means any log, cant, or similar form of timber."

(d) ELIMINATION OF DEFERRAL.—Subsection (d) of section 954 is amended by adding at the end the following new paragraph:

"(4) SPECIAL RULE FOR CERTAIN TIMBER PRODUCTS.—For purposes of subsection (a)(2), the term 'foreign base company sales income' includes any income (whether in the form of profits, commissions, fees, or otherwise) derived in connection with—

"(A) the sale of any unprocessed timber referred to in section 865(b), or

"(B) the milling of any such timber outside the United States.

Subpart G shall not apply to any amount treated as subpart F income by reason of this paragraph."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to sales, exchanges, or other dispositions after the date of the enactment of this Act.

PART IV—TRANSPORTATION FUELS PROVISIONS

Subpart A—Transportation Fuels Tax

SEC. 13241. TRANSPORTATION FUELS TAX.

(a) GASOLINE.—Clause (iii) of section 4081(a)(2)(B) (relating to rates of tax) is amended to read as follows:

"(iii) the deficit reduction rate is 6.8 cents per gallon."

(b) DIESEL FUEL AND NONCOMMERCIAL AVIATION FUEL.—

(1) DIESEL FUEL.—Paragraph (4) of section 4091(b) (relating to rate of tax) is amended by striking "2.5 cents" and inserting "6.8 cents".

(2) AVIATION FUEL.—

(A) GASOLINE IN NONCOMMERCIAL AVIATION.—Paragraph (3) of section 4041(c) is amended to read as follows:

"(3) RATE OF TAX.—The rate of tax imposed by paragraph (2) on any gasoline is 1 cent per gallon."

(B) FUEL OTHER THAN GASOLINE.—

(i) Clause (ii) of section 4091(b)(1)(A) is amended by inserting "and the aviation fuel deficit reduction rate" after "financing rate".

(ii) Subsection (b) of section 4091 is amended by redesignating paragraph (6) as paragraph (7) and by inserting after paragraph (5) the following new paragraph:

"(6) AVIATION FUEL DEFICIT REDUCTION RATE.—For purposes of paragraph (1), the aviation fuel deficit reduction rate is 4.3 cents per gallon."

(iii) Paragraph (1) of section 4041(c) is amended—

(I) by striking "of 17.5 cents a gallon", and

(II) by inserting before the last sentence the following new sentence:

"The rate of the tax imposed by this paragraph shall be the sum of the Airport and Airway Trust Fund financing rate and the aviation fuel deficit reduction rate in effect under section 4091 at the time of such sale or use."

(c) CERTAIN ALCOHOL FUELS.—Section 4041(m)(1)(A) is amended to read as follows:

"(A) under subsection (a)(2)—

"(i) the Highway Trust Fund financing rate shall be 5.75 cents per gallon, and

"(ii) the deficit reduction rate shall be 5.55 cents per gallon."

(d) FUEL USED IN COMMERCIAL TRANSPORTATION ON INLAND WATERWAYS.—

(1) IN GENERAL.—Section 4042(b)(1) (relating to amount of tax) is amended—

(A) by striking "and" at the end of subparagraph (A),

(B) by striking the period at the end of subparagraph (B) and inserting ", and", and

(C) by adding at the end thereof the following new subparagraph:

"(C) the deficit reduction rate."

(2) RATE.—Section 4042(b)(2) (relating to rates) is amended by adding at the end the following new subparagraph:

"(C) The deficit reduction rate is 4.3 cents per gallon."

(e) COMPRESSED NATURAL GAS.—

(1) IN GENERAL.—Subsection (a) of section 4041 is amended by adding at the end thereof the following new paragraph:

"(3) COMPRESSED NATURAL GAS.—

"(A) IN GENERAL.—There is hereby imposed a tax on compressed natural gas—

"(i) sold by any person to an owner, lessee, or other operator of a motor vehicle or motorboat for use as a fuel in such motor vehicle or motorboat, or

"(ii) used by any person as a fuel in a motor vehicle or motorboat unless there was a taxable sale of such gas under clause (i).

The rate of the tax imposed by this paragraph shall be 48.54 cents per MCF (determined at standard temperature and pressure).

"(B) BUS USES.—No tax shall be imposed by this paragraph on any sale for use, or use, described in subparagraph (B) or (C) of section 6427(b)(2) (relating to school bus and intracity transportation).

"(C) ADMINISTRATIVE PROVISIONS.—For purposes of applying this title with respect to the taxes imposed by this subsection, references to any liquid subject to tax under this subsection shall be treated as including references to compressed natural gas subject to tax under this paragraph, and references to gallons shall be treated as including references to MCF with respect to such gas."

(2) EXEMPTION FROM LEAKING UNDERGROUND STORAGE TANK TRUST FUND TAX.—Paragraph (1) of section 4041(d) is amended by striking "subsection (a)" the second place it appears in the text and inserting "subsection (a)(1) or (2)".

(f) CONFORMING AMENDMENTS.—

(1) Paragraph (3) of section 4041(f) is hereby repealed.

(2) Subsection (g) of section 4041 is amended by striking the last sentence.

(3) Subparagraphs (A) and (B) of section 4093(c)(2) are amended to read as follows:

"(A) NO EXEMPTION FROM CERTAIN TAXES ON FUEL USED IN DIESEL-POWERED TRAINS.—In the case of fuel sold for use in a diesel-powered train, paragraph (1) shall not apply to so much of the tax imposed by section 4091 as is attributable to the Leaking Underground Storage Tank Trust Fund financing rate and the diesel fuel deficit reduction rate imposed under such section. The preceding sentence shall not apply in the case of fuel sold for exclusive use by a State or any political subdivision thereof.

"(B) NO EXEMPTION FROM LEAKING UNDERGROUND STORAGE TANK TRUST FUND TAXES ON FUEL USED IN COMMERCIAL AVIATION.—In the case of fuel sold for use in commercial aviation (other than supplies for vessels or aircraft within the meaning of section 4221(d)(3)), paragraph (1) also shall not apply to so much of the tax imposed by section 4091 as is attributable to the Leaking Underground Storage Tank Trust Fund financing rate imposed by such section. For purposes of the preceding sentence, the term 'commercial aviation' means any use of an aircraft other than in noncommercial aviation (as defined in section 4041(c)(4))."

(4) Section 4093(d) is amended by inserting "and the aviation fuel deficit reduction rate" after "rate".

(5) Section 6420 is amended by striking subsection (h).

(6) Paragraph (3) of section 6421(f) is amended by inserting "and at the deficit reduction rate" after "financing rate", and by inserting "AND DEFICIT REDUCTION TAX" after "TAX" in the heading.

(7) Section 6421 is amended by striking subsection (i).

(8) Paragraph (2) of section 6427(b) is amended—

(A) by striking "3.1 cents" in subparagraph (A) and inserting "7.4 cents", and

(B) by striking "3-CENT REDUCTION" in the paragraph heading and inserting "REDUCTION".

(9) Section 6427(l) is amended by striking paragraphs (3) and (4) and inserting the following new paragraphs:

"(3) NO REFUND OF CERTAIN TAXES ON FUEL USED IN DIESEL-POWERED TRAINS.—In the case of fuel used in a diesel-powered train, paragraph (1) shall not apply to so much of the tax imposed by section 4091 as is attributable to the Leaking Underground Storage Tank Trust Fund financing rate and the diesel fuel deficit reduction rate imposed by such section. The preceding sentence shall not apply in the case of fuel sold for exclusive use by a State or any political subdivision thereof.

"(4) NO REFUND OF LEAKING UNDERGROUND STORAGE TANK TRUST FUND TAXES ON FUEL USED IN COMMERCIAL AVIATION.—In the case of fuel used in commercial aviation (as defined in section 4093(c)(2)(B)) (other than supplies for vessels or aircraft within the meaning of section 4221(d)(3)), paragraph (1) shall not apply to so much of the tax imposed by section 4091 as is attributable to the Leaking Underground Storage Tank Trust Fund financing rate imposed by such section."

(10) Section 6427 is amended by striking subsections (m) and (o).

(g) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1993.

(h) FLOOR STOCKS TAXES.—

(1) IMPOSITION OF TAX.—In the case of gasoline, diesel fuel, and aviation fuel on which tax was imposed under section 4081 or 4091 of the Internal Revenue Code of 1986 before October 1, 1993, and which is held on such date by any person, there is hereby imposed a floor stocks tax of 4.3 cents per gallon on such gasoline, diesel fuel, and aviation fuel.

(2) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—A person holding gasoline, diesel fuel, or aviation fuel on October 1, 1993, to which the tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be paid in such manner as the Secretary shall prescribe.

(C) TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid on or before November 30, 1993.

(3) DEFINITIONS.—For purposes of this subsection—

(A) HELD BY A PERSON.—Gasoline, diesel fuel, and aviation fuel shall be considered as "held by a person" if title thereto has passed to such person (whether or not delivery to the person has been made).

(B) GASOLINE.—The term "gasoline" has the meaning given such term by section 4082 of such Code.

(C) DIESEL FUEL.—The term "diesel fuel" has the meaning given such term by section 4092 of such Code.

(D) AVIATION FUEL.—The term "aviation fuel" has the meaning given such term by section 4092 of such Code.

(E) SECRETARY.—The term "Secretary" means the Secretary of the Treasury or his delegate.

(4) EXCEPTION FOR EXEMPT USES.—The tax imposed by paragraph (1) shall not apply to gasoline, diesel fuel, or aviation fuel held by any person exclusively for any use to the extent a credit or refund of the tax imposed by section 4081 or 4091 of such Code, as the case may be, is allowable for such use.

(5) EXCEPTION FOR FUEL HELD IN VEHICLE TANK.—No tax shall be imposed by paragraph (1) on gasoline or diesel fuel held in the tank of a motor vehicle or motorboat.

(6) EXCEPTION FOR CERTAIN AMOUNTS OF FUEL.—

(A) IN GENERAL.—No tax shall be imposed by paragraph (1)—

(i) on gasoline held on October 1, 1993, by any person if the aggregate amount of gasoline held by such person on such date does not exceed 4,000 gallons, and

(ii) on diesel fuel or aviation fuel held on October 1, 1993, by any person if the aggregate amount of diesel fuel or aviation fuel held by such person on such date does not exceed 2,000 gallons.

The preceding sentence shall apply only if such person submits to the Secretary (at the time and in the manner required by the Secretary) such information as the Secretary shall require for purposes of this paragraph.

(B) EXEMPT FUEL.—For purposes of subparagraph (A), there shall not be taken into account fuel held by any person which is exempt from the tax imposed by paragraph (1) by reason of paragraph (4) or (5).

(C) CONTROLLED GROUPS.—For purposes of this paragraph—

(i) CORPORATIONS.—

(I) IN GENERAL.—All persons treated as a controlled group shall be treated as 1 person.

(II) CONTROLLED GROUP.—The term "controlled group" has the meaning given to such term by subsection (a) of section 1563 of such Code; except that for such purposes the phrase "more than 50 percent" shall be substituted for the phrase "at least 80 percent" each place it appears in such subsection.

(ii) NONINCORPORATED PERSONS UNDER COMMON CONTROL.—Under regulations prescribed by the Secretary, principles similar to the principles of clause (i) shall apply to a group of persons under common control where 1 or more of such persons is not a corporation.

(7) OTHER LAW APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4081 of such Code in the case of gasoline and section 4091 of such Code in the case of diesel fuel and aviation fuel shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply with respect to the floor stock taxes imposed by paragraph (1) to the same extent as if such taxes were imposed by such section 4081 or 4091.

Subpart B—Modifications to Tax on Diesel Fuel

SEC. 13242. MODIFICATIONS TO TAX ON DIESEL FUEL.

(a) IN GENERAL.—Subparts A and B of part III of subchapter A of chapter 32 (relating to manufacturers excise taxes), as amended by subpart A, are amended to read as follows:

"Subpart A—Gasoline and Diesel Fuel

"Sec. 4081. Imposition of tax.

"Sec. 4082. Exemptions for diesel fuel.

"Sec. 4083. Definitions; special rule; administrative authority.

"Sec. 4084. Cross references.

"SEC. 4081. IMPOSITION OF TAX.

"(a) TAX IMPOSED.—

"(1) TAX ON REMOVAL, ENTRY, OR SALE.—

"(A) IN GENERAL.—There is hereby imposed a tax at the rate specified in paragraph (2) on—

"(i) the removal of a taxable fuel from any refinery,

"(ii) the removal of a taxable fuel from any terminal,

"(iii) the entry into the United States of any taxable fuel for consumption, use, or warehousing, and

"(iv) the sale of a taxable fuel to any person who is not registered under section 4101 unless there was a prior taxable removal or entry of such fuel under clause (i), (ii), or (iii).

"(B) EXEMPTION FOR BULK TRANSFERS TO REGISTERED TERMINALS OR REFINERIES.—The tax imposed by this paragraph shall not apply to any removal or entry of a taxable fuel transferred in bulk to a terminal or refinery if the person removing or entering the taxable fuel and the operator of such terminal or refinery are registered under section 4101.

"(2) RATES OF TAX.—

"(A) IN GENERAL.—The rate of the tax imposed by this section is—

"(i) in the case of gasoline, 18.3 cents per gallon, and

"(ii) in the case of diesel fuel, 24.3 cents per gallon.

"(B) LEAKING UNDERGROUND STORAGE TANK TRUST FUND TAX.—The rates of tax specified in subparagraph (A) shall each be increased by 0.1 cent per gallon. The increase in tax under this subparagraph shall in this title be referred to as the Leaking Underground Storage Tank Trust Fund financing rate.

"(b) TREATMENT OF REMOVAL OR SUBSEQUENT SALE BY BLENDER.—

"(1) IN GENERAL.—There is hereby imposed a tax at the rate determined under subsection (a) on taxable fuel removed or sold by the blender thereof.

"(2) CREDIT FOR TAX PREVIOUSLY PAID.—If—

"(A) tax is imposed on the removal or sale of a taxable fuel by reason of paragraph (1), and

"(B) the blender establishes the amount of the tax paid with respect to such fuel by reason of subsection (a),

the amount of the tax so paid shall be allowed as a credit against the tax imposed by reason of paragraph (1).

"(c) TAXABLE FUELS MIXED WITH ALCOHOL.—Under regulations prescribed by the Secretary—

"(1) IN GENERAL.—The rate of tax under subsection (a) shall be the alcohol mixture rate in the case of the removal or entry of any qualified alcohol mixture.

"(2) TAX PRIOR TO MIXING.—

"(A) IN GENERAL.—In the case of the removal or entry of any taxable fuel for use in producing at the time of such removal or entry a qualified alcohol mixture, the rate of tax under subsection (a) shall be the applicable fraction of the alcohol mixture rate. Subject to such terms and conditions as the Secretary may prescribe (including the application of section 4101), the treatment under the preceding sentence also shall apply to use in producing a qualified alcohol mixture after the time of such removal or entry.

"(B) APPLICABLE FRACTION.—For purposes of subparagraph (A), the applicable fraction is—

"(i) in the case of a qualified alcohol mixture which contains gasoline, the fraction the numerator of which is 10 and the denominator of which is—

"(I) 9 in the case of 10 percent gasohol,

"(II) 9.23 in the case of 7.7 percent gasohol, and

"(III) 9.43 in the case of 5.7 percent gasohol, and

"(ii) in the case of a qualified alcohol mixture which does not contain gasoline, $^{10}/_{9}$.

"(3) ALCOHOL; QUALIFIED ALCOHOL MIXTURE.—For purposes of this subsection—

"(A) ALCOHOL.—The term 'alcohol' includes methanol and ethanol but does not include alcohol produced from petroleum, natural gas, or coal (including peat). Such term does not include alcohol with a proof of less than 190 (determined without regard to any added denaturants).

"(B) QUALIFIED ALCOHOL MIXTURE.—The term 'qualified alcohol mixture' means—

"(i) any mixture of gasoline with alcohol if at least 5.7 percent of such mixture is alcohol, and

"(ii) any mixture of diesel fuel with alcohol if at least 10 percent of such mixture is alcohol.

"(4) ALCOHOL MIXTURE RATES FOR GASOLINE MIXTURES.—For purposes of this subsection—

"(A) IN GENERAL.—The alcohol mixture rate for a qualified alcohol mixture which contains gasoline is the excess of the rate which would (but for this paragraph) be determined under subsection (a) over—

"(i) 5.4 cents per gallon for 10 percent gasohol,

"(ii) 4.158 cents per gallon for 7.7 percent gasohol, and

"(iii) 3.078 cents per gallon for 5.7 percent gasohol.

In the case of a mixture none of the alcohol in which consists of ethanol, clauses (i), (ii), and (iii) shall be applied by substituting '6 cents' for '5.4 cents', '4.62 cents' for '4.158 cents', and '3.42 cents' for '3.078 cents'.

"(B) 10 PERCENT GASOHOL.—The term '10 percent gasohol' means any mixture of gasoline with alcohol if at least 10 percent of such mixture is alcohol.

"(C) 7.7 PERCENT GASOHOL.—The term '7.7 percent gasohol' means any mixture of gasoline with alcohol if at least 7.7 percent, but not 10 percent or more, of such mixture is alcohol.

"(D) 5.7 PERCENT GASOHOL.—The term '5.7 percent gasohol' means any mixture of gasoline with alcohol if at least 5.7 percent, but not 7.7 percent or more, of such mixture is alcohol.

"(5) ALCOHOL MIXTURE RATE FOR DIESEL FUEL MIXTURES.—The alcohol mixture rate for a qualified alcohol mixture which does not contain gasoline is the excess of the rate which would (but for this paragraph) be determined under subsection (a) over 5.4 cents per gallon (6 cents per gallon in the case of a qualified alcohol mixture none of the alcohol in which consists of ethanol).

"(6) LIMITATION.—In no event shall any alcohol mixture rate determined under this subsection be less than 4.3 cents per gallon.

"(7) LATER SEPARATION OF FUEL FROM QUALIFIED ALCOHOL MIXTURE.—If any person separates the taxable fuel from a qualified alcohol mixture on which tax was imposed under subsection (a) at a rate determined under paragraph (1) or (2) (or with respect to which a credit or payment was allowed or made by reason of section 6427(f)(1)), such person shall be treated as the refiner of such taxable fuel. The amount of tax imposed on any removal of such fuel by such person shall be reduced by the amount of tax imposed (and not credited or refunded) on any prior removal or entry of such fuel.

"(8) TERMINATION.—Paragraphs (1) and (2) shall not apply to any removal, entry, or sale after September 30, 2000.

"(d) TERMINATION.—

"(1) IN GENERAL.—On and after October 1, 1999, each rate of tax specified in subsection (a)(2)(A) shall be 4.3 cents per gallon.

"(2) LEAKING UNDERGROUND STORAGE TANK TRUST FUND FINANCING RATE.—The Leaking Underground Storage Tank Trust Fund financing rate under subsection (a)(2) shall not apply after December 31, 1995.

"(e) REFUNDS IN CERTAIN CASES.—Under regulations prescribed by the Secretary, if any person who paid the tax imposed by this section with respect to any taxable fuel establishes to the satisfaction of the Secretary that a prior tax was paid (and not credited or refunded) with respect to such taxable fuel, then an amount equal to the tax paid by such person shall be allowed as a refund (without interest) to such person in the same manner as if it were an overpayment of tax imposed by this section.

"SEC. 4082. EXEMPTIONS FOR DIESEL FUEL.

"(a) IN GENERAL.—The tax imposed by section 4081 shall not apply to diesel fuel—

"(1) which the Secretary determines is destined for a nontaxable use,

"(2) which is indelibly dyed in accordance with regulations which the Secretary shall prescribe, and

"(3) which meets such marking requirements (if any) as may be prescribed by the Secretary in regulations.

Such regulations shall allow an individual choice of dye color approved by the Secretary or chosen from any list of approved dye colors that the Secretary may publish.

"(b) NONTAXABLE USE.—For purposes of this section, the term 'nontaxable use' means—

"(1) any use which is exempt from the tax imposed by section 4041(a)(1) other than by reason of a prior imposition of tax,

"(2) any use in a train, and

"(3) any use described in section 6427(b)(1) (after the application of section 6427(b)(3)).

"(c) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to *carry out this section, including regulations requiring the conspicuous labeling of retail diesel fuel pumps and other delivery facilities to assure that persons are aware of which fuel is available only for nontaxable uses.*

''(d) Cross Reference.—

"For tax on train and certain bus uses of fuel purchased tax-free, see section 4041(a)(1).

"SEC. 4083. DEFINITIONS; SPECIAL RULE; ADMINISTRATIVE AUTHORITY.

''(a) Taxable Fuel.—For purposes of this subpart—

''(1) In general.—The term 'taxable fuel' means—

''(A) gasoline, and

''(B) diesel fuel.

''(2) Gasoline.—The term 'gasoline' includes, to the extent prescribed in regulations—

''(A) gasoline blend stocks, and

''(B) products commonly used as additives in gasoline.

For purposes of subparagraph (A), the term 'gasoline blend stock' means any petroleum product component of gasoline.

''(3) Diesel fuel.—The term 'diesel fuel' means any liquid (other than gasoline) which is suitable for use as a fuel in a diesel-powered highway vehicle, a diesel-powered train, or a diesel-powered boat.

''(b) Certain Uses Defined as Removal.—If any person uses taxable fuel (other than in the production of gasoline, diesel fuel, or special fuels referred to in section 4041), such use shall for the purposes of this chapter be considered a removal.

''(c) Administrative Authority.—

''(1) In general.—In addition to the authority otherwise granted by this title, the Secretary may in administering compliance with this subpart, section 4041, and penalties and other administrative provisions related thereto—

''(A) enter any place at which taxable fuel is produced or is stored (or may be stored) for purposes of—

''(i) examining the equipment used to determine the amount or composition of such fuel and the equipment used to store such fuel, and

''(ii) taking and removing samples of such fuel, and

''(B) detain, for the purposes referred in subparagraph (A), any container which contains or may contain any taxable fuel.

''(2) Inspection sites.—The Secretary may establish inspection sites for purposes of carrying out the Secretary's authority under paragraph (1)(B).

''(3) Penalty for refusal of entry.—The penalty provided by section 7342 shall apply to any refusal to admit entry or other refusal to permit an action by the Secretary authorized by paragraph (1), except that section 7342 shall be applied by substituting '$1,000' for '$500' for each such refusal.

"SEC. 4084. CROSS REFERENCES.

''(1) For provisions to relieve farmers from excise tax in the case of gasoline used on the farm for farming purposes, see section 6420.

''(2) For provisions to relieve purchasers of gasoline from excise tax in the case of gasoline used for certain nonhighway purposes, used by local transit systems, or sold for certain exempt purposes, see section 6421.

''(3) For provisions to relieve purchasers from excise tax in the case of taxable fuel not used for taxable purposes, see section 6427.

''Subpart B—Aviation Fuel

''Sec. 4091. Imposition of tax.

''Sec. 4092. Exemptions.

''Sec. 4093. Definitions.

"SEC. 4091. IMPOSITION OF TAX.

''(a) Tax on Sale.—

''(1) In general.—There is hereby imposed a tax on the sale of aviation fuel by the producer or the importer thereof or by any producer of aviation fuel.

''(2) Use treated as sale.—For purposes of paragraph (1), if any producer uses aviation fuel (other than for a nontaxable use as defined in section 6427(l)(2)(B)) on which no tax has been imposed under such paragraph, then such use shall be considered a sale.

''(b) Rate of Tax.—

''(1) In general.—The rate of the tax imposed by subsection (a) shall be 21.8 cents per gallon.

''(2) Leaking underground storage tank trust fund tax.—The rate of tax specified in paragraph (1) shall be increased by 0.1 cent per gallon. The increase in tax under this paragraph shall in this title be referred to as the Leaking Underground Storage Tank Trust Fund financing rate.

''(3) Termination.—

''(A) On and after January 1, 1996, the rate of tax specified in paragraph (1) shall be 4.3 cents per gallon.

''(B) The Leaking Underground Storage Tank Fund financing rate shall not apply during any period during which the Leaking Underground Storage Tank Trust Fund financing rate under section 4081 does not apply.

''(c) Reduced Rate of Tax for Aviation Fuel in Alcohol Mixture, Etc.—Under regulations prescribed by the Secretary—

''(1) In general.—The rate of tax under subsection (a) shall be reduced by 13.4 cents per gallon in the case of the sale of any mixture of aviation fuel if—

''(A) at least 10 percent of such mixture consists of alcohol (as defined in section 4081(c)(3)), and

''(B) the aviation fuel in such mixture was not taxed under paragraph (2).

In the case of such a mixture none of the alcohol in which is ethanol, the preceding sentence shall be applied by substituting '14 cents' for '13.4 cents'.

''(2) Tax prior to mixing.—In the case of the sale of aviation fuel for use (at the time of such sale) in producing a mixture described in paragraph (1), the rate of tax under subsection (a) shall be $^{10}/_{9}$ *of the rate which would (but for this paragraph) have been applicable to such mixture had such mixture been created prior to such sale.*

''(3) Later separation.—If any person separates the aviation fuel from a mixture of the aviation fuel and alcohol on which tax was imposed under subsection (a) at a rate determined under paragraph (1) or (2) (or with respect to which a credit or payment was allowed or made by reason of section 6427(f)(1)), such person shall be treated as the producer of such aviation fuel. The amount of tax imposed on any sale of such aviation fuel by such person shall be reduced by the amount of tax imposed (and not credited or refunded) on any prior sale of such fuel.

''(4) Limitation.—In no event shall any rate determined under paragraph (1) be less than 4.3 cents per gallon.

''(5) Termination.—Paragraphs (1) and (2) shall not apply to any sale after September 30, 2000.

"SEC. 4092. EXEMPTIONS.

''(a) Nontaxable Uses.—No tax shall be imposed by section 4091 on aviation fuel sold by a producer or importer for use by the purchaser in a nontaxable use (as defined in section 6427(l)(2)(B)).

''(b) No Exemption From Certain Taxes on Fuel Used in Commercial Aviation.—In the case of fuel sold for use in commercial aviation (other than supplies for vessels or aircraft within the meaning of section 4221(d)(3)), subsection (a) shall not apply to so much of the tax imposed by section 4091 as is attributable to—

''(1) the Leaking Underground Storage Tank Trust Fund financing rate imposed by such section, and

''(2) in the case of fuel sold after September 30, 1995, 4.3 cents per gallon of the rate specified in section 4091(b)(1).

For purposes of the preceding sentence, the term 'commercial aviation' means any use of an aircraft other than in noncommercial aviation (as defined in section 4041(c)(4)).

''(c) Sales to Producer.—Under regulations prescribed by the Secretary, the tax imposed by section 4091 shall not apply to aviation fuel sold to a producer of such fuel.

"SEC. 4093. DEFINITIONS.

''(a) Aviation Fuel.—For purposes of this subpart, the term 'aviation fuel' means any liquid (other than any product taxable under section 4081) which is suitable for use as a fuel in an aircraft.

''(b) Producer.—For purposes of this subpart—

''(1) Certain persons treated as producers.—

''(A) In general.—The term 'producer' includes any person described in subparagraph (B) and registered under section 4101 with respect to the tax imposed by section 4091.

''(B) Persons described.—A person is described in this subparagraph if such person is—

''(i) a refiner, blender, or wholesale distributor of aviation fuel, or

''(ii) a dealer selling aviation fuel exclusively to producers of aviation fuel.

''(C) Reduced rate purchasers treated as producers.—Any person to whom aviation fuel is sold at a reduced rate under this subpart shall be treated as the producer of such fuel.

''(2) Wholesale distributor.—For purposes of paragraph (1), the term 'wholesale distributor' includes any person who sells aviation fuel to producers, retailers, or to users who purchase in bulk quantities and accept delivery into bulk storage tanks. Such term does not include any person who (excluding the term 'wholesale distributor' from paragraph (1)) is a producer or importer.''

(b) Civil Penalty For Using Reduced-Rate Fuel For Taxable Use, Etc .—

(1) In general.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end thereof the following new section:

"SEC. 6714. DYED FUEL SOLD FOR USE OR USED IN TAXABLE USE, ETC.

''(a) Imposition of Penalty.—If—

''(1) any dyed fuel is sold or held for sale by any person for any use which such person knows or has reason to know is not a nontaxable use of such fuel,

''(2) any dyed fuel is held for use or used by any person for a use other than a nontaxable use and such person knew, or had reason to know, that such fuel was so dyed, or

''(3) any person willfully alters, or attempts to alter, the strength or composition of any dye or marking done pursuant to section 4082 in any dyed fuel,

then such person shall pay a penalty in addition to the tax (if any).

''(b) Amount of Penalty.—

''(1) In general.—Except as provided in paragraph (2), the amount of the penalty under subsection (a) on each act shall be the greater of—

''(A) $1,000, or

''(B) $10 for each gallon of the dyed fuel involved.

''(2) Multiple violations.—In determining the penalty under subsection (a) on any person, paragraph (1) shall be applied by increasing the amount in paragraph (1)(A) by the product of such amount and the number of prior penalties (if any) imposed by this section on such person (or a related person or any predecessor of such person or related person).

''(c) Definitions.—For purposes of this section—

"(1) DYED FUEL.—The term 'dyed fuel' means any dyed diesel fuel, whether or not the fuel was dyed pursuant to section 4082.

"(2) NONTAXABLE USE.—The term 'nontaxable use' has the meaning given such term by section 4082(b).

"(d) JOINT AND SEVERAL LIABILITY OF CERTAIN OFFICERS AND EMPLOYEES.—If a penalty is imposed under this section on any business entity, each officer, employee, or agent of such entity who willfully participated in any act giving rise to such penalty shall be jointly and severally liable with such entity for such penalty."

(2) CLERICAL AMENDMENT.—The table of sections for such part I is amended by adding at the end thereof the following new item:

"Sec. 6714. Dyed fuel sold for use or used in taxable use, etc."

(c) REGISTERED VENDORS TO ADMINISTER CLAIMS FOR CERTAIN REFUNDS OF DIESEL FUEL.—

(1) IN GENERAL.—Section 6427(l) (relating to nontaxable uses of diesel fuel and aviation fuel) is amended by adding at the end the following new paragraph:

"(5) REGISTERED VENDORS TO ADMINISTER CLAIMS FOR REFUND OF DIESEL FUEL SOLD TO FARMERS AND STATE AND LOCAL GOVERNMENTS.—

"(A) IN GENERAL.—Paragraph (1) shall not apply to diesel fuel used—

"(i) on a farm for farming purposes (within the meaning of section 6420(c)), or

"(ii) by a State or local government.

"(B) PAYMENT TO ULTIMATE, REGISTERED VENDOR.—The amount which would (but for subparagraph (A)) have been paid under paragraph (1) with respect to any fuel shall be paid to the ultimate vendor of such fuel, if such vendor—

"(i) is registered under section 4101, and

"(ii) meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1)."

(2) SPECIAL REFUND RULES.—

(A) Subsection (i) of section 6427 is amended by adding at the end thereof the following new paragraph:

"(5) SPECIAL RULE FOR VENDOR REFUNDS.—

"(A) IN GENERAL.—A claim may be filed under subsection (l)(5) by any person with respect to fuel sold by such person for any period—

"(i) for which $200 or more is payable under subsection (l)(5), and

"(ii) which is not less than 1 week.

Notwithstanding subsection (l)(1), paragraph (3)(B) shall apply to claims filed under the preceding sentence.

"(B) TIME FOR FILING CLAIM.—No claim filed under this paragraph shall be allowed unless filed on or before the last day of the first quarter following the earliest quarter included in the claim."

(B) Paragraph (1) of section 6427(i) is amended by striking "provided in paragraphs (2), (3), and (4)" and inserting "otherwise provided in this subsection".

(C) Paragraph (2) of section 6427(k) is amended by striking "or (4)" and inserting "(4), or (5)".

(D) Paragraph (3) of section 6427(i) is amended by adding at the end thereof the following new subparagraph:

"(C) TIME FOR FILING CLAIM.—No claim filed under this paragraph shall be allowed unless filed on or before the last day of the first quarter following the earliest quarter included in the claim."

(d) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Sections 4101(a) and 4103 are each amended by striking "4081" and inserting "4041(a)(1), 4081,".

(2) Section 4102 is amended by striking "gasoline" and inserting "any taxable fuel (as defined in section 4083)".

(3) Paragraph (1) of section 4041(a), as amended by subchapter A, is amended to read as follows:

"(1) TAX ON DIESEL FUEL IN CERTAIN CASES.—

"(A) IN GENERAL.—There is hereby imposed a tax on any liquid other than gasoline (as defined in section 4083)—

"(i) sold by any person to an owner, lessee, or other operator of a diesel-powered highway vehicle, a diesel-powered train, or a diesel-powered boat for use as a fuel in such vehicle, train, or boat, or

"(ii) used by any person as a fuel in a diesel-powered highway vehicle, a diesel-powered train, or a diesel-powered boat unless there was a taxable sale of such fuel under clause (i).

"(B) EXEMPTION FOR PREVIOUSLY TAXED FUEL.—No tax shall be imposed by this paragraph on the sale or use of any liquid if tax was imposed on such liquid under section 4081 and the tax thereon was not credited or refunded.

"(C) RATE OF TAX.—

"(i) IN GENERAL.—Except as otherwise provided in this subparagraph, the rate of the tax imposed by this paragraph shall be the rate of tax specified in section 4081(a)(2)(A) on diesel fuel which is in effect at the time of such sale or use.

"(ii) RATE OF TAX ON TRAINS.—In the case of any sale for use, or use, of diesel fuel in a train, the rate of tax imposed by this paragraph shall be—

"(I) 6.8 cents per gallon after September 30, 1993, and before October 1, 1995,

"(II) 5.55 cents per gallon after September 30, 1995, and before October 1, 1999, and

"(III) 4.3 cents per gallon after September 30, 1999.

"(iii) RATE OF TAX ON CERTAIN BUSES.—

"(I) IN GENERAL.—Except as provided in subclause (II), in the case of fuel sold for use or used in a use described in section 6427(b)(1) (after the application of section 6427(b)(3)), the rate of tax imposed by this paragraph shall be 7.3 cents per gallon (4.3 cents per gallon after September 30, 1999).

"(II) SCHOOL BUS AND INTRACITY TRANSPORTATION.—No tax shall be imposed by this paragraph on any sale for use, or use, described in subparagraph (B) or (C) of section 6427(b)(2).

"(D) DIESEL FUEL USED IN MOTORBOATS.—In the case of any sale for use, or use, of fuel in a diesel-powered motorboat—

"(i) effective during the period after September 30, 1999, and before January 1, 2000, the rate of tax imposed by this paragraph is 24.3 cents per gallon, and

"(ii) the termination of the tax under subsection (d) shall not occur before January 1, 2000."

(4) Paragraph (2) of section 4041(a) is amended—

(A) by striking "or paragraph (1) of this subsection", and

(B) by striking the last sentence and inserting the following new flush sentence:

"The rate of the tax imposed by this paragraph shall be the rate of tax specified in section 4081(a)(2)(A) on gasoline which is in effect at the time of such sale or use."

(5)(A) Subparagraph (B) of section 4041(b)(1) is amended by striking "paragraph (1)(B) or (2)(B)" and inserting "paragraph (1)(B), (2)(B), or (3)(A)(ii)" and by inserting before the period "(if any)".

(B) Subparagraph (C) of section 4041(b)(1) is amended by inserting before the period "; except that such term shall not, for purposes of subsection (a)(1), include use in a diesel-powered train".

(C) Clause (i) of section 4041(b)(2)(A) is amended by striking "Highway Trust Fund financing".

(6) Paragraph (1) of section 4041(c), as amended by subpart A, is amended by striking the next to the last sentence and inserting the following new flush sentence:

"The rate of the tax imposed by this paragraph shall be the rate of tax specified in section 4091(b)(1) which is in effect at the time of such sale or use."

(7) Paragraph (2) of section 4041(c) is amended by striking "any product taxable under section 4081" and inserting "gasoline (as defined in section 4083)".

(8) Paragraph (5) of section 4041(c) is amended by adding at the end thereof the following: "The termination under the preceding sentence shall not apply to so much of the tax imposed by paragraph (1) as does not exceed 4.3 cents per gallon.".

(9) Subsection (d) of section 4041 is amended by striking paragraph (2) and by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(10) Paragraph (2) of section 4041(d), as redesignated by the preceding paragraph, is amended by striking "(other than any product taxable under section 4081)" and inserting "(other than gasoline (as defined in section 4083))".

(11) Subparagraph (A) of section 4041(k)(1) is amended—

(A) by striking "Highway Trust Fund financing", and

(B) by striking "sections 4081(c) and 4091(c), as the case may be" and inserting "section 4081(c)".

(12) Subparagraph (B) of section 4041(k)(1) is amended by striking "4091(d)" and inserting "4091(c)".

(13) Subparagraphs (A) and (B) of section 4041(m)(1) are amended to read as follows:

"(A) the rate of the tax imposed by subsection (a)(2) shall be—

"(i) 11.3 cents per gallon after September 30, 1993, and before October 1, 1999, and

"(ii) 4.3 cents per gallon after September 30, 1999, and

"(B) the rate of the tax imposed by subsection (c)(1) shall be the comparable rate under section 4091(c)(1)."

(14) Section 6206 is amended by striking "4041 or 4091" and inserting "4041, 4081, or 4091".

(15) The heading for subsection (f) of section 6302 is amended by inserting "AND DIESEL FUEL" after "GASOLINE".

(16) Paragraph (1) of section 6412(a) is amended by striking "gasoline" each place it appears (including the heading) and inserting "taxable fuel".

(17)(A) Subparagraph (A) of section 6416(a)(4) is amended by striking "product" each place it appears and inserting "gasoline".

(B) Subparagraph (B) of section 6416(a)(4) is amended—

(i) by striking "section 4092(b)(2)" and inserting "section 4093(b)(2)", and

(ii) by striking all that follows "substituting" and inserting "'any gasoline taxable under section 4081' for 'aviation fuel' therein)."

(18) The material following the first sentence of section 6416(b)(2) is amended by inserting "any tax imposed under section 4041(a)(1) or 4081 on diesel fuel and" after "This paragraph shall not apply in the case of".

(19)(A) Subparagraph (A) of section 6416(b)(3) is amended by striking "gasoline taxable under section 4081 and other than any fuel taxable under section 4091" and inserting "any fuel taxable under section 4081 or 4091".

(B) Subparagraph (B) of section 6416(b)(3) is amended by striking "gasoline taxable under section 4081 or any fuel taxable under section 4091, such gasoline or fuel" and inserting "any fuel taxable under section 4081 or 4091, such fuel".

(20) Sections 6420(c)(5) and 6421(e)(1) are each amended by striking "section 4082(b)" and inserting "section 4083(a)".

(21) Subsections (a) and (c) of section 6427 are each amended by striking "section 4041(a) or

(c)" and inserting "paragraph (2) or (3) of section 4041(a) or section 4041(c)".

(22) Subsection (c) of section 6421 is amended by adding at the end thereof the following: "The preceding sentence shall apply notwithstanding paragraphs (2)(A) and (3) of subsection (f)."

(23) Subparagraph (B) of section 6421(f)(2) is amended by inserting before the period "and, in the case of fuel purchased after September 30, 1995, at so much of the rate specified in section 4081(a)(2)(A) as does not exceed 4.3 cents per gallon".

(24) Paragraph (3) of section 6421(f), as amended by subpart A, is amended to read as follows:

"(3) GASOLINE USED IN TRAINS.—In the case of gasoline used as a fuel in a train, this section shall not apply with respect to—

"(A) the Leaking Underground Storage Tank Trust Fund financing rate under section 4081, and

"(B) so much of the rate specified in section 4081(a)(2)(A) as does not exceed—

"(i) 6.8 cents per gallon after September 30, 1993, and before October 1, 1995,

"(ii) 5.55 cents per gallon after September 30, 1995, and before October 1, 1999, and

"(iii) 4.3 cents per gallon after September 30, 1999."

(25) Subsection (b) of section 6427 is amended—

(A) by striking "if any fuel" in paragraph (1) and inserting "if any fuel other than gasoline (as defined in section 4083(a))", and

(B) by striking "4091" each place it appears and inserting "4081".

(26)(A) Paragraph (1) of section 6427(f) is amended by striking ", 4091(c)(1)(A), or 4091(d)(1)(A)" and inserting "or 4091(c)(1)(A)".

(B) Paragraph (2) of section 6427(f) is amended to read as follows:

"(2) DEFINITIONS.—For purposes of paragraph (1)—

"(A) REGULAR TAX RATE.—The term 'regular tax rate' means—

"(i) in the case of gasoline or diesel fuel, the aggregate rate of tax imposed by section 4081 determined without regard to subsection (c) thereof, and

"(ii) in the case of aviation fuel, the aggregate rate of tax imposed by section 4091 determined without regard to subsection (c) thereof.

"(B) INCENTIVE TAX RATE.—The term 'incentive tax rate' means—

"(i) in the case of gasoline or diesel fuel, the aggregate rate of tax imposed by section 4081 with respect to fuel described in subsection (c)(2) thereof, and

"(ii) in the case of aviation fuel, the aggregate rate of tax imposed by section 4091 with respect to fuel described in subsection (c)(2) thereof."

(27) Subsection (h) of section 6427 is amended by striking "section 4082(b)" and inserting "section 4083(a)(2)".

(28) Paragraph (3) of section 6427(i) is amended—

(A) by striking "GASOHOL" in the heading and inserting "ALCOHOL MIXTURE", and

(B) by striking "gasoline used to produce gasohol (as defined in section 4081(c)(1))" in subparagraph (A) and inserting "gasoline or diesel fuel used to produce a qualified alcohol mixture (as defined in section 4081(c)(3))".

(29) Paragraph (1) of section 6427(j) is amended by striking "section 4041" and inserting "sections 4041, 4081, and 4091".

(30) The heading of paragraph (4) of section 6427(i) is amended by inserting "4081 OR" before "4091".

(31) So much of subsection (l) of section 6427, as previously amended by this part, as precedes paragraph (5) is amended to read as follows:

"(l) NONTAXABLE USES OF DIESEL FUEL AND AVIATION FUEL.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection and in subsection (k), if—

"(A) any diesel fuel on which tax has been imposed by section 4041 or 4081, or

"(B) any aviation fuel on which tax has been imposed by section 4091,

is used by any person in a nontaxable use, the Secretary shall pay (without interest) to the ultimate purchaser of such fuel an amount equal to the aggregate amount of tax imposed on such fuel under section 4041, 4081, or 4091, as the case may be.

"(2) NONTAXABLE USE.—For purposes of this subsection, the term 'nontaxable use' means—

"(A) in the case of diesel fuel, any use which is exempt from the tax imposed by section 4041(a)(1) other than by reason of a prior imposition of tax, and

"(B) in the case of aviation fuel, any use which is exempt from the tax imposed by section 4041(c)(1) other than by reason of a prior imposition of tax.

"(3) REFUND OF CERTAIN TAXES ON FUEL USED IN DIESEL-POWERED TRAINS.—For purposes of this subsection, the term 'nontaxable use' includes fuel used in a diesel-powered train. The preceding sentence shall not apply with respect to—

"(A) the Leaking Underground Storage Tank Trust Fund financing rate under sections 4041 and 4081, and

"(B) so much of the rate specified in section 4081(a)(2)(A) as does not exceed—

"(i) 6.8 cents per gallon after September 30, 1993, and before October 1, 1995,

"(ii) 5.55 cents per gallon after September 30, 1995, and before October 1, 1999, and

"(iii) 4.3 cents per gallon after September 30, 1999.

The preceding sentence shall not apply in the case of fuel sold for exclusive use by a State or any political subdivision thereof.

"(4) NO REFUND OF CERTAIN TAXES ON FUEL USED IN COMMERCIAL AVIATION.—In the case of fuel used in commercial aviation (as defined in section 4092(b)) (other than supplies for vessels or aircraft within the meaning of section 4221(d)(3)), paragraph (1) shall not apply to so much of the tax imposed by section 4091 as is attributable to—

"(A) the Leaking Underground Storage Tank Trust Fund financing rate imposed by such section, and

"(B) in the case of fuel purchased after September 30, 1995, so much of the rate of tax specified in section 4091(b)(1) as does not exceed 4.3 cents per gallon."

(32) Section 9502 is amended by adding at the end thereof the following new subsection:

"(f) DEFINITION OF AIRPORT AND AIRWAY TRUST FUND FINANCING RATE.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the Airport and Airway Trust Fund financing rate is—

"(A) in the case of fuel used in an aircraft in noncommercial aviation (as defined in section 4041(c)(4)), 17.5 cents per gallon, and

"(B) in the case of fuel used in an aircraft other than in noncommercial aviation (as so defined), zero.

"(2) ALCOHOL FUELS.—If the rate of tax on any fuel is determined under section 4091(c), the Airport and Airway Trust Fund financing rate is the excess (if any) of the rate of tax determined under section 4091(c) over 4.4 cents per gallon (10/9 of 4.4 cents per gallon in the case of a rate of tax determined under section 4091(c)(2)).

"(3) TERMINATION.—Notwithstanding the preceding provisions of this subsection, the Airport and Airway Trust Fund financing rate is zero with respect to tax received after December 31, 1995."

(33) Paragraph (2) of section 9502(b) is amended by striking "(to the extent attributable to the Highway Trust Fund financing rate and the deficit reduction rate)" and inserting "(to the extent of 14 cents per gallon)".

(34) Paragraph (1) of section 9503(b) is amended—

(A) by striking "gasoline)," in subparagraph (E) and inserting "gasoline and diesel fuel), and",

(B) by striking subparagraph (F), and

(C) by redesignating subparagraph (G) as subparagraph (F).

(35)(A) Subparagraph (B) of section 9503(b)(4) is amended by striking ", 4081, and 4091" and inserting "and 4081" and by striking "rates under such sections" and inserting "rate".

(B) Subparagraph (C) of section 9503(b)(4), as amended by subchapter A, is amended by striking "4091" and inserting "4081".

(36) Paragraph (5) of section 9503(b) is amended by striking ", (E), and (F)" and inserting "and (E)".

(37) Subparagraph (D) of section 9503(c)(6) is amended by striking ", 4081, and 4091" and inserting "and 4081".

(38) Subparagraph (D) of section 9503(c)(4) is amended by striking "rates under such sections" and inserting "rate".

(39) Subparagraph (B) of section 9503(c)(5) is amended by striking "rate under such section" and inserting "rate".

(40) Paragraph (2) of section 9503(e) is amended—

(A) by striking ", 4081, and 4091" and inserting "and 4081", and

(B) by striking ", 4081, or 4091" and inserting "or 4081".

(41) Section 9503 is amended by adding at the end thereof the following new subsection:

"(f) DEFINITION OF HIGHWAY TRUST FUND FINANCING RATE.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the Highway Trust Fund financing rate is—

"(A) in the case of gasoline and special motor fuels, 11.5 cents per gallon (14 cents per gallon after September 30, 1995), and

"(B) in the case of diesel fuel, 17.5 cents per gallon (20 cents per gallon after September 30, 1995).

"(2) CERTAIN USES.—

"(A) TRAINS.—In the case of fuel used in a train, the Highway Trust Fund financing rate is zero.

"(B) CERTAIN BUSES.—In the case of diesel fuel used in a use described in section 6427(b)(1) (after the application of section 6427(b)(3)), the Highway Trust Fund financing rate is 3 cents per gallon.

"(C) CERTAIN BOATS.—In the case of diesel fuel used in a boat described in clause (iv) of section 6421(e)(2)(B), the Highway Trust Fund financing rate is zero.

"(D) COMPRESSED NATURAL GAS.—In the case of the tax imposed by section 4041(a)(3), the Highway Trust Fund financing rate is zero.

"(E) CERTAIN OTHER NONHIGHWAY USES.—In the case of gasoline and special motor fuels used as described in paragraph (4)(D), (5)(B), or (6)(D) of subsection (c), the Highway Trust Fund financing rate is 11.5 cents per gallon; and, in the case of diesel fuel used as described in subsection (c)(6)(D), the Highway Trust Fund financing rate is 17.5 cents per gallon.

"(3) ALCOHOL FUELS.—

"(A) IN GENERAL.—If the rate of tax on any fuel is determined under section 4041(b)(2)(A), 4041(k), or 4081(c), the Highway Trust Fund financing rate is the excess (if any) of the rate so determined over—

"(i) 6.8 cents per gallon after September 30, 1993, and before October 1, 1999,

"(ii) 4.3 cents per gallon after September 30, 1999.

In the case of a rate of tax determined under section 4081(c), the preceding sentence shall be applied by increasing the rates specified in clauses (i) and (ii) by 0.1 cent.

"(B) FUELS USED TO PRODUCE MIXTURES.—In the case of a rate of tax determined under section 4081(c)(2), subparagraph (A) shall be applied by substituting rates which are $^{10}/_{9}$ *of the rates otherwise applicable under clauses (i) and (ii) of subparagraph (A).*

"(C) PARTIALLY EXEMPT METHANOL OR ETHANOL FUEL.—In the case of a rate of tax determined under section 4041(m), the Highway Trust Fund financing rate is the excess (if any) of the rate so determined over—

"(i) 5.55 cents per gallon after September 30, 1993, and before October 1, 1995, and

"(ii) 4.3 cents per gallon after September 30, 1995.

"(4) TERMINATION.—Notwithstanding the preceding provisions of this subsection, the Highway Trust Fund financing rate is zero with respect to taxes received in the Treasury after June 30, 2000."

(42) Subsection (b) of section 9508 is amended—

(A) by inserting "and diesel fuel" after "gasoline" in paragraph (2),

(B) by striking "diesel fuel and" in paragraph (3), and

(C) by striking "4091" in the last sentence, as added by subtitle A, and inserting "4081".

(43) The table of subparts for part III of subchapter A of chapter 32 is amended by striking the items relating to subparts A and B and inserting the following new items:

"Subpart A. Gasoline and diesel fuel.

"Subpart B. Aviation fuel."

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1994.

SEC. 13243. FLOOR STOCKS TAX.

(a) IN GENERAL.—There is hereby imposed a floor stocks tax on diesel fuel held by any person on January 1, 1994, if—

(1) no tax was imposed on such fuel under section 4041(a) or 4091 of the Internal Revenue Code of 1986 as in effect on December 31, 1993, and

(2) tax would have been imposed by section 4081 of such Code, as amended by this Act, on any prior removal, entry, or sale of such fuel had such section 4081 applied to such fuel for periods before January 1, 1994.

(b) RATE OF TAX.—The rate of the tax imposed by subsection (a) shall be the amount of tax which would be imposed under section 4081 of the Internal Revenue Code of 1986 if there were a taxable sale of such fuel on such date.

(c) LIABILITY AND PAYMENT OF TAX.—

(1) LIABILITY FOR TAX.—A person holding the diesel fuel on January 1, 1994, to which the tax imposed by this section applies shall be liable for such tax.

(2) METHOD OF PAYMENT.—The tax imposed by this section shall be paid in such manner as the Secretary shall prescribe.

(3) TIME FOR PAYMENT.—The tax imposed by this section shall be paid on or before July 31, 1994.

(d) DEFINITIONS.—For purposes of this section—

(1) DIESEL FUEL.—The term "diesel fuel" has the meaning given such term by section 4083(a) of such Code.

(2) SECRETARY.—The term "Secretary" means the Secretary of the Treasury or his delegate.

(e) EXCEPTIONS.—

(1) PERSONS ENTITLED TO CREDIT OR REFUND.—The tax imposed by this section shall not apply to fuel held by any person exclusively for any use to the extent a credit or refund of the tax imposed by section 4081 is allowable for such use.

(2) COMPLIANCE WITH DYEING REQUIRED.—Paragraph (1) shall not apply to the holder of any fuel if the holder of such fuel fails to comply with any requirement imposed by the Secretary with respect to dyeing and marking such fuel.

(f) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4081 of such Code shall, insofar as applicable and not inconsistent with the provisions of this section, apply with respect to the floor stock taxes imposed by this section to the same extent as if such taxes were imposed by such section 4081.

Subpart C—Other Provisions

SEC. 13244. INCREASED DEPOSITS INTO MASS TRANSIT ACCOUNT.

(a) IN GENERAL.—Paragraph (2) of section 9503(e) is amended by striking "1.5 cents" and inserting "2 cents".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to amounts attributable to taxes imposed on or after October 1, 1995.

SEC. 13245. FLOOR STOCKS TAX ON COMMERCIAL AVIATION FUEL HELD ON OCTOBER 1, 1995.

(a) IMPOSITION OF TAX.—In the case of commercial aviation fuel on which tax was imposed under section 4091 of the Internal Revenue Code of 1986 before October 1, 1995, and which is held on such date by any person, there is hereby imposed a floor stocks tax of 4.3 cents per gallon.

(b) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(1) LIABILITY FOR TAX.—A person holding aviation fuel on October 1, 1995, to which the tax imposed by subsection (a) applies shall be liable for such tax.

(2) METHOD OF PAYMENT.—The tax imposed by subsection (a) shall be paid in such manner as the Secretary shall prescribe.

(3) TIME FOR PAYMENT.—The tax imposed by subsection (a) shall be paid on or before April 30, 1996.

(c) DEFINITIONS.—For purposes of this subsection—

(1) HELD BY A PERSON.—Aviation fuel shall be considered as "held by a person" if title thereto has passed to such person (whether or not delivery to the person has been made).

(2) COMMERCIAL AVIATION FUEL.—The term "commercial aviation fuel" means aviation fuel (as defined in section 4093 of such Code) which is held on October 1, 1995, for sale or use in commercial aviation (as defined in section 4092(b) of such Code).

(3) SECRETARY.—The term "Secretary" means the Secretary of the Treasury or his delegate.

(d) EXCEPTION FOR EXEMPT USES.—The tax imposed by subsection (a) shall not apply to aviation fuel held by any person exclusively for any use for which a credit or refund of the entire tax imposed by section 4091 of such Code is allowable for aviation fuel purchased after September 30, 1995, for such use.

(e) EXCEPTION FOR CERTAIN AMOUNTS OF FUEL.—

(1) IN GENERAL.—No tax shall be imposed by subsection (a) on aviation fuel held on October 1, 1995, by any person if the aggregate amount of commercial aviation fuel held by such person on such date does not exceed 2,000 gallons. The preceding sentence shall apply only if such person submits to the Secretary (at the time and in the manner required by the Secretary) such information as the Secretary shall require for purposes of this paragraph.

(2) EXEMPT FUEL.—For purposes of paragraph (1), there shall not be taken into account fuel held by any person which is exempt from the tax imposed by subsection (a) by reason of subsection (d).

(3) CONTROLLED GROUPS.—For purposes of this subsection—

(A) CORPORATIONS.—

(i) IN GENERAL.—All persons treated as a controlled group shall be treated as 1 person.

(ii) CONTROLLED GROUP.—The term "controlled group" has the meaning given to such term by subsection (a) of section 1563 of such Code; except that for such purposes the phrase "more than 50 percent" shall be substituted for the phrase "at least 80 percent" each place it appears in such subsection.

(B) NONINCORPORATED PERSONS UNDER COMMON CONTROL.—Under regulations prescribed by the Secretary, principles similar to the principles of subparagraph (A) shall apply to a group of persons under common control where 1 or more of such persons is not a corporation..

(f) OTHER LAW APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4091 of such Code shall, insofar as applicable and not inconsistent with the provisions of this section, apply with respect to the floor stock taxes imposed by subsection (a) to the same extent as if such taxes were imposed by such section 4091.

PART V—COMPLIANCE PROVISIONS

SEC. 13251. MODIFICATIONS TO SUBSTANTIAL UNDERSTATEMENT PENALTY.

(a) REASONABLE BASIS REQUIRED.—Clause (ii) of section 6662(d)(2)(B) (relating to reduction for understatement due to position of taxpayer or disclosed item) is amended to read as follows:

"(ii) any item if—

"(I) the relevant facts affecting the item's tax treatment are adequately disclosed in the return or in a statement attached to the return, and

"(II) there is a reasonable basis for the tax treatment of such item by the taxpayer."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to returns the due dates for which (determined without regard to extensions) are after December 31, 1993.

SEC. 13252. RETURNS RELATING TO THE CANCELLATION OF INDEBTEDNESS BY CERTAIN FINANCIAL ENTITIES.

(a) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 (relating to information concerning transactions with other persons) is amended by adding at the end thereof the following new section:

"SEC. 6050P. RETURNS RELATING TO THE CANCELLATION OF INDEBTEDNESS BY CERTAIN FINANCIAL ENTITIES.

"(a) IN GENERAL.—Any applicable financial entity which discharges (in whole or in part) the indebtedness of any person during any calendar year shall make a return (at such time and in such form as the Secretary may by regulations prescribe) setting forth—

"(1) the name, address, and TIN of each person whose indebtedness was discharged during such calendar year,

"(2) the date of the discharge and the amount of the indebtedness discharged, and

"(3) such other information as the Secretary may prescribe.

"(b) EXCEPTION.—Subsection (a) shall not apply to any discharge of less than $600.

"(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) APPLICABLE FINANCIAL ENTITY.—The term 'applicable financial entity' means—

"(A) any financial institution described in section 581 or 591(a) and any credit union,

"(B) the Federal Deposit Insurance Corporation, the Resolution Trust Corporation, the National Credit Union Administration, and any other Federal executive agency (as defined in section 6050M), and any successor or subunit of any of the foregoing, and

"(C) any other corporation which is a direct or indirect subsidiary of an entity referred to in subparagraph (A) but only if, by virtue of being affiliated with such entity, such other corporation is subject to supervision and examination

by a Federal or State agency which regulates entities referred to in subparagraph (A).

"(2) GOVERNMENTAL UNITS.—In the case of an entity described in paragraph (1)(B), any return under this section shall be made by the officer or employee appropriately designated for the purpose of making such return.

"(d) STATEMENTS TO BE FURNISHED TO PERSONS WITH RESPECT TO WHOM INFORMATION IS REQUIRED TO BE FURNISHED.—Every applicable financial entity required to make a return under subsection (a) shall furnish to each person whose name is required to be set forth in such return a written statement showing—

"(1) the name and address of the entity required to make such return, and

"(2) the information required to be shown on the return with respect to such person.

The written statement required under the preceding sentence shall be furnished to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was made."

(b) PENALTIES.—

(1) RETURNS.—Subparagraph (B) of section 6724(d)(1) is amended by inserting after clause (vii) the following new clause (and by redesignating the following clauses accordingly):

"(viii) section 6050P (relating to returns relating to the cancellation of indebtedness by certain financial entities),".

(2) STATEMENTS.—Paragraph (2) of section 6724(d) is amended by redesignating subparagraphs (P) through (S) as subparagraphs (Q) through (T), respectively, and by inserting after subparagraph (O) the following new subparagraph:

"(P) section 6050P(d) (relating to returns relating to the cancellation of indebtedness by certain financial entities),".

(c) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by adding at the end thereof the following new item:

"Sec. 6050P. Returns relating to the cancellation of indebtedness by certain financial entities."

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to discharges of indebtedness after December 31, 1993.

(2) GOVERNMENTAL ENTITIES.—In the case of an entity referred to in section 6050P(c)(1)(B) of the Internal Revenue Code of 1986 (as added by this section), the amendments made by this section shall apply to discharges of indebtedness after the date of the enactment of this Act.

PART VI—TREATMENT OF INTANGIBLES

SEC. 13261. AMORTIZATION OF GOODWILL AND CERTAIN OTHER INTANGIBLES.

(a) GENERAL RULE.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by adding at the end thereof the following new section:

"SEC. 197. AMORTIZATION OF GOODWILL AND CERTAIN OTHER INTANGIBLES.

"(a) GENERAL RULE.—A taxpayer shall be entitled to an amortization deduction with respect to any amortizable section 197 intangible. The amount of such deduction shall be determined by amortizing the adjusted basis (for purposes of determining gain) of such intangible ratably over the 15-year period beginning with the month in which such intangible was acquired.

"(b) NO OTHER DEPRECIATION OR AMORTIZATION DEDUCTION ALLOWABLE.—Except as provided in subsection (a), no depreciation or amortization deduction shall be allowable with respect to any amortizable section 197 intangible.

"(c) AMORTIZABLE SECTION 197 INTANGIBLE.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this section, the term 'amortizable section 197 intangible' means any section 197 intangible—

"(A) which is acquired by the taxpayer after the date of the enactment of this section, and

"(B) which is held in connection with the conduct of a trade or business or an activity described in section 212.

"(2) EXCLUSION OF SELF-CREATED INTANGIBLES, ETC.—The term 'amortizable section 197 intangible' shall not include any section 197 intangible—

"(A) which is not described in subparagraph (D), (E), or (F) of subsection (d)(1), and

"(B) which is created by the taxpayer.

This paragraph shall not apply if the intangible is created in connection with a transaction (or series of related transactions) involving the acquisition of assets constituting a trade or business or substantial portion thereof.

"(3) ANTI-CHURNING RULES.—

"For exclusion of intangibles acquired in certain transactions, see subsection (f)(9).

"(d) SECTION 197 INTANGIBLE.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this section, the term 'section 197 intangible' means—

"(A) goodwill,

"(B) going concern value,

"(C) any of the following intangible items:

"(i) workforce in place including its composition and terms and conditions (contractual or otherwise) of its employment,

"(ii) business books and records, operating systems, or any other information base (including lists or other information with respect to current or prospective customers),

"(iii) any patent, copyright, formula, process, design, pattern, knowhow, format, or other similar item,

"(iv) any customer-based intangible,

"(v) any supplier-based intangible, and

"(vi) any other similar item,

"(D) any license, permit, or other right granted by a governmental unit or an agency or instrumentality thereof,

"(E) any covenant not to compete (or other arrangement to the extent such arrangement has substantially the same effect as a covenant not to compete) entered into in connection with an acquisition (directly or indirectly) of an interest in a trade or business or substantial portion thereof, and

"(F) any franchise, trademark, or trade name.

"(2) CUSTOMER-BASED INTANGIBLE.—

"(A) IN GENERAL.—The term 'customer-based intangible' means—

"(i) composition of market,

"(ii) market share, and

"(iii) any other value resulting from future provision of goods or services pursuant to relationships (contractual or otherwise) in the ordinary course of business with customers.

"(B) SPECIAL RULE FOR FINANCIAL INSTITUTIONS.—In the case of a financial institution, the term 'customer-based intangible' includes deposit base and similar items.

"(3) SUPPLIER-BASED INTANGIBLE.—The term 'supplier-based intangible' means any value resulting from future acquisitions of goods or services pursuant to relationships (contractual or otherwise) in the ordinary course of business with suppliers of goods or services to be used or sold by the taxpayer.

"(e) EXCEPTIONS.—For purposes of this section, the term 'section 197 intangible' shall not include any of the following:

"(1) FINANCIAL INTERESTS.—Any interest—

"(A) in a corporation, partnership, trust, or estate, or

"(B) under an existing futures contract, foreign currency contract, notional principal contract, or other similar financial contract.

"(2) LAND.—Any interest in land.

"(3) COMPUTER SOFTWARE.—

"(A) IN GENERAL.—Any—

"(i) computer software which is readily available for purchase by the general public, is subject to a nonexclusive license, and has not been substantially modified, and

"(ii) other computer software which is not acquired in a transaction (or series of related transactions) involving the acquisition of assets constituting a trade or business or substantial portion thereof.

"(B) COMPUTER SOFTWARE DEFINED.—For purposes of subparagraph (A), the term 'computer software' means any program designed to cause a computer to perform a desired function. Such term shall not include any data base or similar item unless the data base or item is in the public domain and is incidental to the operation of otherwise qualifying computer software.

"(4) CERTAIN INTERESTS OR RIGHTS ACQUIRED SEPARATELY.—Any of the following not acquired in a transaction (or series of related transactions) involving the acquisition of assets constituting a trade business or substantial portion thereof:

"(A) Any interest in a film, sound recording, video tape, book, or similar property.

"(B) Any right to receive tangible property or services under a contract or granted by a governmental unit or agency or instrumentality thereof.

"(C) Any interest in a patent or copyright.

"(D) To the extent provided in regulations, any right under a contract (or granted by a governmental unit or an agency or instrumentality thereof) if such right—

"(i) has a fixed duration of less than 15 years, or

"(ii) is fixed as to amount and, without regard to this section, would be recoverable under a method similar to the unit-of-production method.

"(5) INTERESTS UNDER LEASES AND DEBT INSTRUMENTS.—Any interest under—

"(A) an existing lease of tangible property, or

"(B) except as provided in subsection (d)(2)(B), any existing indebtedness.

"(6) TREATMENT OF SPORTS FRANCHISES.—A franchise to engage in professional football, basketball, baseball, or other professional sport, and any item acquired in connection with such a franchise.

"(7) MORTGAGE SERVICING.—Any right to service indebtedness which is secured by residential real property unless such right is acquired in a transaction (or series of related transactions) involving the acquisition of assets (other than rights described in this paragraph) constituting a trade or business or substantial portion thereof.

"(8) CERTAIN TRANSACTION COSTS.—Any fees for professional services, and any transaction costs, incurred by parties to a transaction with respect to which any portion of the gain or loss is not recognized under part III of subchapter C.

"(f) SPECIAL RULES.—

"(1) TREATMENT OF CERTAIN DISPOSITIONS, ETC.—

"(A) IN GENERAL.—If there is a disposition of any amortizable section 197 intangible acquired in a transaction or series of related transactions (or any such intangible becomes worthless) and one or more other amortizable section 197 intangibles acquired in such transaction or series of related transactions are retained—

"(i) no loss shall be recognized by reason of such disposition (or such worthlessness), and

"(ii) appropriate adjustments to the adjusted bases of such retained intangibles shall be made for any loss not recognized under clause (i).

"(B) SPECIAL RULE FOR COVENANTS NOT TO COMPETE.—In the case of any section 197 intangible which is a covenant not to compete (or

other arrangement) described in subsection (d)(1)(E), in no event shall such covenant or other arrangement be treated as disposed of (or becoming worthless) before the disposition of the entire interest described in such subsection in connection with which such covenant (or other arrangement) was entered into.

"(C) SPECIAL RULE.—All persons treated as a single taxpayer under section 41(f)(1) shall be so treated for purposes of this paragraph.

"(2) TREATMENT OF CERTAIN TRANSFERS.—

"(A) IN GENERAL.—In the case of any section 197 intangible transferred in a transaction described in subparagraph (B), the transferee shall be treated as the transferor for purposes of applying this section with respect to so much of the adjusted basis in the hands of the transferee as does not exceed the adjusted basis in the hands of the transferor.

"(B) TRANSACTIONS COVERED.—The transactions described in this subparagraph are—

"(i) any transaction described in section 332, 351, 361, 721, 731, 1031, or 1033, and

"(ii) any transaction between members of the same affiliated group during any taxable year for which a consolidated return is made by such group.

"(3) TREATMENT OF AMOUNTS PAID PURSUANT TO COVENANTS NOT TO COMPETE, ETC.—Any amount paid or incurred pursuant to a covenant or arrangement referred to in subsection (d)(1)(E) shall be treated as an amount chargeable to capital account.

"(4) TREATMENT OF FRANCHISES, ETC.—

"(A) FRANCHISE.—The term 'franchise' has the meaning given to such term by section 1253(b)(1).

"(B) TREATMENT OF RENEWALS.—Any renewal of a franchise, trademark, or trade name (or of a license, a permit, or other right referred to in subsection (d)(1)(D)) shall be treated as an acquisition. The preceding sentence shall only apply with respect to costs incurred in connection with such renewal.

"(C) CERTAIN AMOUNTS NOT TAKEN INTO ACCOUNT.—Any amount to which section 1253(d)(1) applies shall not be taken into account under this section.

"(5) TREATMENT OF CERTAIN REINSURANCE TRANSACTIONS.—In the case of any amortizable section 197 intangible resulting from an assumption reinsurance transaction, the amount taken into account as the adjusted basis of such intangible under this section shall be the excess of—

"(A) the amount paid or incurred by the acquirer under the assumption reinsurance transaction, over

"(B) the amount required to be capitalized under section 848 in connection with such transaction.

Subsection (b) shall not apply to any amount required to be capitalized under section 848.

"(6) TREATMENT OF CERTAIN SUBLEASES.—For purposes of this section, a sublease shall be treated in the same manner as a lease of the underlying property involved.

"(7) TREATMENT AS DEPRECIABLE.—For purposes of this chapter, any amortizable section 197 intangible shall be treated as property which is of a character subject to the allowance for depreciation provided in section 167.

"(8) TREATMENT OF CERTAIN INCREMENTS IN VALUE.—This section shall not apply to any increment in value if, without regard to this section, such increment is properly taken into account in determining the cost of property which is not a section 197 intangible.

"(9) ANTI-CHURNING RULES.—For purposes of this section—

"(A) IN GENERAL.—The term 'amortizable section 197 intangible' shall not include any section 197 intangible which is described in subparagraph (A) or (B) of subsection (d)(1) (or for which depreciation or amortization would not have been allowable but for this section) and which is acquired by the taxpayer after the date of the enactment of this section, if—

"(i) the intangible was held or used at any time on or after July 25, 1991, and on or before such date of enactment by the taxpayer or a related person,

"(ii) the intangible was acquired from a person who held such intangible at any time on or after July 25, 1991, and on or before such date of enactment, and, as part of the transaction, the user of such intangible does not change, or

"(iii) the taxpayer grants the right to use such intangible to a person (or a person related to such person) who held or used such intangible at any time on or after July 25, 1991, and on or before such date of enactment.

For purposes of this subparagraph, the determination of whether the user of property changes as part of a transaction shall be determined in accordance with regulations prescribed by the Secretary. For purposes of this subparagraph, deductions allowable under section 1253(d) shall be treated as deductions allowable for amortization.

"(B) EXCEPTION WHERE GAIN RECOGNIZED.—If—

"(i) subparagraph (A) would not apply to an intangible acquired by the taxpayer but for the last sentence of subparagraph (C)(i), and

"(ii) the person from whom the taxpayer acquired the intangible elects, notwithstanding any other provision of this title—

"(I) to recognize gain on the disposition of the intangible, and

"(II) to pay a tax on such gain which, when added to any other income tax on such gain under this title, equals such gain multiplied by the highest rate of income tax applicable to such person under this title,

then subparagraph (A) shall apply to the intangible only to the extent that the taxpayer's adjusted basis in the intangible exceeds the gain recognized under clause (ii)(I).

"(C) RELATED PERSON DEFINED.—For purposes of this paragraph—

"(i) RELATED PERSON.—A person (hereinafter in this paragraph referred to as the 'related person') is related to any person if—

"(I) the related person bears a relationship to such person specified in section 267(b) or section 707(b)(1), or

"(II) the related person and such person are engaged in trades or businesses under common control (within the meaning of subparagraphs (A) and (B) of section 41(f)(1)).

For purposes of subclause (I), in applying section 267(b) or 707(b)(1), '20 percent' shall be substituted for '50 percent'.

"(ii) TIME FOR MAKING DETERMINATION.—A person shall be treated as related to another person if such relationship exists immediately before or immediately after the acquisition of the intangible involved.

"(D) ACQUISITIONS BY REASON OF DEATH.—Subparagraph (A) shall not apply to the acquisition of any property by the taxpayer if the basis of the property in the hands of the taxpayer is determined under section 1014(a).

"(E) SPECIAL RULE FOR PARTNERSHIPS.—With respect to any increase in the basis of partnership property under section 732, 734, or 743, determinations under this paragraph shall be made at the partner level and each partner shall be treated as having owned and used such partner's proportionate share of the partnership assets.

"(F) ANTI-ABUSE RULES.—The term 'amortizable section 197 intangible' does not include any section 197 intangible acquired in a transaction, one of the principal purposes of which is to avoid the requirement of subsection (c)(1) that the intangible be acquired after the date of the enactment of this section or to avoid the provisions of subparagraph (A).

"(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this section, including such regulations as may be appropriate to prevent avoidance of the purposes of this section through related persons or otherwise."

(b) MODIFICATIONS TO DEPRECIATION RULES.—

(1) TREATMENT OF CERTAIN PROPERTY EXCLUDED FROM SECTION 197.—Section 167 (relating to depreciation deduction) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) TREATMENT OF CERTAIN PROPERTY EXCLUDED FROM SECTION 197.—

"(1) COMPUTER SOFTWARE.—

"(A) IN GENERAL.—If a depreciation deduction is allowable under subsection (a) with respect to any computer software, such deduction shall be computed by using the straight line method and a useful life of 36 months.

"(B) COMPUTER SOFTWARE.—For purposes of this section, the term 'computer software' has the meaning given to such term by section 197(e)(3)(B); except that such term shall not include any such software which is an amortizable section 197 intangible.

"(2) CERTAIN INTERESTS OR RIGHTS ACQUIRED SEPARATELY.—If a depreciation deduction is allowable under subsection (a) with respect to any property described in subparagraph (B), (C), or (D) of section 197(e)(4), such deduction shall be computed in accordance with regulations prescribed by the Secretary.

"(3) MORTGAGE SERVICING RIGHTS.—If a depreciation deduction is allowable under subsection (a) with respect to any right described in section 197(e)(7), such deduction shall be computed by using the straight line method and a useful life of 108 months."

(2) ALLOCATION OF BASIS IN CASE OF LEASED PROPERTY.—Subsection (c) of section 167 is amended to read as follows:

"(c) BASIS FOR DEPRECIATION.—

"(1) IN GENERAL.—The basis on which exhaustion, wear and tear, and obsolescence are to be allowed in respect of any property shall be the adjusted basis provided in section 1011, for the purpose of determining the gain on the sale or other disposition of such property.

"(2) SPECIAL RULE FOR PROPERTY SUBJECT TO LEASE.—If any property is acquired subject to a lease—

"(A) no portion of the adjusted basis shall be allocated to the leasehold interest, and

"(B) the entire adjusted basis shall be taken into account in determining the depreciation deduction (if any) with respect to the property subject to the lease."

(c) AMENDMENTS TO SECTION 1253.—Subsection (d) of section 1253 is amended by striking paragraphs (2), (3), (4), and (5) and inserting the following:

"(2) OTHER PAYMENTS.—Any amount paid or incurred on account of a transfer, sale, or other disposition of a franchise, trademark, or trade name to which paragraph (1) does not apply shall be treated as an amount chargeable to capital account.

"(3) RENEWALS, ETC.—For purposes of determining the term of a transfer agreement under this section, there shall be taken into account all renewal options (and any other period for which the parties reasonably expect the agreement to be renewed)."

(d) AMENDMENT TO SECTION 848.—Subsection (g) of section 848 is amended by striking "this section" and inserting "this section or section 197".

(e) AMENDMENTS TO SECTION 1060.—

(1) Paragraph (1) of section 1060(b) is amended by striking "goodwill or going concern value" and inserting "section 197 intangibles".

(2) Paragraph (1) of section 1060(d) is amended by striking "goodwill or going concern value (or similar items)" and inserting "section 197 intangibles".

(f) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Subsection (g) of section 167 (as redesignated by subsection (b)) is amended to read as follows:

"(g) CROSS REFERENCES.—

"(1) For additional rule applicable to depreciation of improvements in the case of mines, oil and gas wells, other natural deposits, and timber, see section 611.

"(2) For amortization of goodwill and certain other intangibles, see section 197."

(2) Subsection (f) of section 642 is amended by striking "section 169" and inserting "sections 169 and 197".

(3) Subsection (a) of section 1016 is amended by striking paragraph (19) and by redesignating the following paragraphs accordingly.

(4) Subparagraph (C) of section 1245(a)(2) is amended by striking "193, or 1253(d) (2) or (3)" and inserting "or 193".

(5) Paragraph (3) of section 1245(a) is amended by striking "section 185 or 1253(d) (2) or (3)".

(6) The table of sections for part VI of subchapter B of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 197. Amortization of goodwill and certain other intangibles.".

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply with respect to property acquired after the date of the enactment of this Act.

(2) ELECTION TO HAVE AMENDMENTS APPLY TO PROPERTY ACQUIRED AFTER JULY 25, 1991.—

(A) IN GENERAL.—If an election under this paragraph applies to the taxpayer—

(i) the amendments made by this section shall apply to property acquired by the taxpayer after July 25, 1991,

(ii) subsection (c)(1)(A) of section 197 of the Internal Revenue Code of 1986 (as added by this section) (and so much of subsection (f)(9)(A) of such section 197 as precedes clause (i) thereof) shall be applied with respect to the taxpayer by treating July 25, 1991, as the date of the enactment of such section, and

(iii) in applying subsection (f)(9) of such section, with respect to any property acquired by the taxpayer on or before the date of the enactment of this Act, only holding or use on July 25, 1991, shall be taken into account.

(B) ELECTION.—An election under this paragraph shall be made at such time and in such manner as the Secretary of the Treasury or his delegate may prescribe. Such an election by any taxpayer, once made—

(i) may be revoked only with the consent of the Secretary, and

(ii) shall apply to the taxpayer making such election and any other taxpayer under common control with the taxpayer (within the meaning of subparagraphs (A) and (B) of section 41(f)(1) of such Code) at any time after August 2, 1993, and on or before the date on which such election is made.

(3) ELECTIVE BINDING CONTRACT EXCEPTION.—

(A) IN GENERAL.—The amendments made by this section shall not apply to any acquisition of property by the taxpayer if—

(i) such acquisition is pursuant to a written binding contract in effect on the date of the enactment of this Act and at all times thereafter before such acquisition,

(ii) an election under paragraph (2) does not apply to the taxpayer, and

(iii) the taxpayer makes an election under this paragraph with respect to such contract.

(B) ELECTION.—An election under this paragraph shall be made at such time and in such manner as the Secretary of the Treasury or his delegate shall prescribe. Such an election, once made—

(i) may be revoked only with the consent of the Secretary, and

(ii) shall apply to all property acquired pursuant to the contract with respect to which such election was made.

SEC. 13262. TREATMENT OF CERTAIN PAYMENTS TO RETIRED OR DECEASED PARTNER.

(a) SECTION 736(b) NOT TO APPLY IN CERTAIN CASES.—Subsection (b) of section 736 (relating to payments for interest in partnership) is amended by adding at the end thereof the following new paragraph:

"(3) LIMITATION ON APPLICATION OF PARAGRAPH (2).—Paragraph (2) shall apply only if—

"(A) capital is not a material income-producing factor for the partnership, and

"(B) the retiring or deceased partner was a general partner in the partnership."

(b) LIMITATION ON DEFINITION OF UNREALIZED RECEIVABLES.—

(1) IN GENERAL.—Subsection (c) of section 751 (defining unrealized receivables) is amended—

(A) by striking "sections 731, 736, and 741" each place they appear and inserting ", sections 731 and 741 (but not for purposes of section 736)", and

(B) by striking "section 731, 736, or 741" each place it appears and inserting "section 731 or 741".

(2) TECHNICAL AMENDMENTS.—

(A) Subsection (e) of section 751 is amended by striking "sections 731, 736, and 741" and inserting "sections 731 and 741".

(B) Section 736 is amended by striking subsection (c).

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply in the case of partners retiring or dying on or after January 5, 1993.

(2) BINDING CONTRACT EXCEPTION.—The amendments made by this section shall not apply to any partner retiring on or after January 5, 1993, if a written contract to purchase such partner's interest in the partnership was binding on January 4, 1993, and at all times thereafter before such purchase.

PART VII—MISCELLANEOUS PROVISIONS

SEC. 13271. DISALLOWANCE OF INTEREST ON CERTAIN OVERPAYMENTS OF TAX.

(a) GENERAL RULE.—Subsection (e) of section 6611 is amended to read as follows:

"(e) DISALLOWANCE OF INTEREST ON CERTAIN OVERPAYMENTS.—

"(1) REFUNDS WITHIN 45 DAYS AFTER RETURN IS FILED.—If any overpayment of tax imposed by this title is refunded within 45 days after the last day prescribed for filing the return of such tax (determined without regard to any extension of time for filing the return) or, in the case of a return filed after such last date, is refunded within 45 days after the date the return is filed, no interest shall be allowed under subsection (a) on such overpayment.

"(2) REFUNDS AFTER CLAIM FOR CREDIT OR REFUND.—If—

"(A) the taxpayer files a claim for a credit or refund for any overpayment of tax imposed by this title, and

"(B) such overpayment is refunded within 45 days after such claim is filed,

no interest shall be allowed on such overpayment from the date the claim is filed until the day the refund is made.

"(3) IRS INITIATED ADJUSTMENTS.—If an adjustment initiated by the Secretary, results in a refund or credit of an overpayment, interest on such overpayment shall be computed by subtracting 45 days from the number of days interest would otherwise be allowed with respect to such overpayment."

(b) EFFECTIVE DATES.—

(1) Paragraph (1) of section 6611(e) of the Internal Revenue Code of 1986 (as amended by subsection (a)) shall apply in the case of returns the due date for which (determined without regard to extensions) is on or after January 1, 1994.

(2) Paragraph (2) of section 6611(e) of such Code (as so amended) shall apply in the case of claims for credit or refund of any overpayment filed on or after January 1, 1995, regardless of the taxable period to which such refund relates.

(3) Paragraph (3) of section 6611(e) of such Code (as so amended) shall apply in the case of any refund paid on or after January 1, 1995, regardless of the taxable period to which such refund relates.

SEC. 13272. DENIAL OF DEDUCTION RELATING TO TRAVEL EXPENSES.

(a) IN GENERAL.—Section 274(m) (relating to additional limitations on travel expenses) is amended by adding at the end thereof the following new paragraph:

"(3) TRAVEL EXPENSES OF SPOUSE, DEPENDENT, OR OTHERS.—No deduction shall be allowed under this chapter (other than section 217) for travel expenses paid or incurred with respect to a spouse, dependent, or other individual accompanying the taxpayer (or an officer or employee of the taxpayer) on business travel, unless—

"(A) the spouse, dependent, or other individual is an employee of the taxpayer,

"(B) the travel of the spouse, dependent, or other individual is for a bona fide business purpose, and

"(C) such expenses would otherwise be deductible by the spouse, dependent, or other individual."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to amounts paid or incurred after December 31, 1993.

SEC. 13273. INCREASE IN WITHHOLDING FROM SUPPLEMENTAL WAGE PAYMENTS.

If an employer elects under Treasury Regulation 31.3402 (g)–1 to determine the amount to be deducted and withheld from any supplemental wage payment by using a flat percentage rate, the rate to be used in determining the amount to be so deducted and withheld shall not be less than 28 percent. The preceding sentence shall apply to payments made after December 31, 1993.

Subchapter C—Empowerment Zones, Enterprise Communities, Rural Development Investment Areas, Etc.

PART I—EMPOWERMENT ZONES, ENTERPRISE COMMUNITIES, AND RURAL DEVELOPMENT INVESTMENT AREAS

SEC. 13301. DESIGNATION AND TREATMENT OF EMPOWERMENT ZONES, ENTERPRISE COMMUNITIES, AND RURAL DEVELOPMENT INVESTMENT AREAS.

(a) IN GENERAL.—Chapter 1 (relating to normal taxes and surtaxes) is amended by inserting after subchapter T the following new subchapter:

"Subchapter U—Designation and Treatment of Empowerment Zones, Enterprise Communities, and Rural Development Investment Areas

"Part I. Designation.

"Part II. Tax-exempt facility bonds for empowerment zones and enterprise communities.

"Part III. Additional incentives for empowerment zones.

"Part IV. Regulations.

"PART I—DESIGNATION

"Sec. 1391. Designation procedure.

"Sec. 1392. Eligibility criteria.

"Sec. 1393. Definitions and special rules.

"SEC. 1391. DESIGNATION PROCEDURE.

"(a) IN GENERAL.—From among the areas nominated for designation under this section, the appropriate Secretaries may designate empowerment zones and enterprise communities.

"(b) NUMBER OF DESIGNATIONS.—

"(1) ENTERPRISE COMMUNITIES.—The appropriate Secretaries may designate in the aggregate 95 nominated areas as enterprise communities under this section, subject to the availability of eligible nominated areas. Of that number, not more than 65 may be designated in urban areas and not more than 30 may be designated in rural areas.

"(2) EMPOWERMENT ZONES.—The appropriate Secretaries may designate in the aggregate 9 nominated areas as empowerment zones under this section, subject to the availability of eligible nominated areas. Of that number, not more than 6 may be designated in urban areas and not more than 3 may be designated in rural areas. If 6 empowerment zones are designated in urban areas, no less than 1 shall be designated in an urban area the most populous city of which has a population of 500,000 or less and no less than 1 shall be a nominated area which includes areas in 2 States and which has a population of 50,000 or less. The Secretary of Housing and Urban Development shall designate empowerment zones located in urban areas in such a manner that the aggregate population of all such zones does not exceed 750,000.

"(c) PERIOD DESIGNATIONS MAY BE MADE.—A designation may be made under this section only after 1993 and before 1996.

"(d) PERIOD FOR WHICH DESIGNATION IS IN EFFECT.—

"(1) IN GENERAL.—Any designation under this section shall remain in effect during the period beginning on the date of the designation and ending on the earliest of—

"(A) the close of the 10th calendar year beginning on or after such date of designation,

"(B) the termination date designated by the State and local governments as provided for in their nomination, or

"(C) the date the appropriate Secretary revokes the designation.

"(2) REVOCATION OF DESIGNATION.—The appropriate Secretary may revoke the designation under this section of an area if such Secretary determines that the local government or the State in which it is located—

"(A) has modified the boundaries of the area, or

"(B) is not complying substantially with, or fails to make progress in achieving the benchmarks set forth in, the strategic plan under subsection (f)(2).

"(e) LIMITATIONS ON DESIGNATIONS.—No area may be designated under subsection (a) unless—

"(1) the area is nominated by 1 or more local governments and the State or States in which it is located for designation under this section,

"(2) such State or States and the local governments have the authority—

"(A) to nominate the area for designation under this section, and

"(B) to provide the assurances described in paragraph (3),

"(3) such State or States and the local governments provide written assurances satisfactory to the appropriate Secretary that the strategic plan described in the application under subsection (f)(2) for such area will be implemented,

"(4) the appropriate Secretary determines that any information furnished is reasonably accurate, and

"(5) such State or States and local governments certify that no portion of the area nominated is already included in an empowerment zone or in an enterprise community or in an area otherwise nominated to be designated under this section.

"(f) APPLICATION.—No area may be designated under subsection (a) unless the application for such designation—

"(1) demonstrates that the nominated area satisfies the eligibility criteria described in section 1392,

"(2) includes a strategic plan for accomplishing the purposes of this subchapter that—

"(A) describes the coordinated economic, human, community, and physical development plan and related activities proposed for the nominated area,

"(B) describes the process by which the affected community is a full partner in the process of developing and implementing the plan and the extent to which local institutions and organizations have contributed to the planning process,

"(C) identifies the amount of State, local, and private resources that will be available in the nominated area and the private/public partnerships to be used, which may include participation by, and cooperation with, universities, medical centers, and other private and public entities,

"(D) identifies the funding requested under any Federal program in support of the proposed economic, human, community, and physical development and related activities,

"(E) identifies baselines, methods, and benchmarks for measuring the success of carrying out the strategic plan, including the extent to which poor persons and families will be empowered to become economically self-sufficient, and

"(F) does not include any action to assist any establishment in relocating from one area outside the nominated area to the nominated area, except that assistance for the expansion of an existing business entity through the establishment of a new branch, affiliate, or subsidiary is permitted if—

"(i) the establishment of the new branch, affiliate, or subsidiary will not result in a decrease in employment in the area of original location or in any other area where the existing business entity conducts business operations, and

"(ii) there is no reason to believe that the new branch, affiliate, or subsidiary is being established with the intention of closing down the operations of the existing business entity in the area of its original location or in any other area where the existing business entity conducts business operation, and

"(3) includes such other information as may be required by the appropriate Secretary.

"SEC. 1392. ELIGIBILITY CRITERIA.

"(a) IN GENERAL.—A nominated area shall be eligible for designation under section 1391 only if it meets the following criteria:

"(1) POPULATION.—The nominated area has a maximum population of—

"(A) in the case of an urban area, the lesser of—

"(i) 200,000, or

"(ii) the greater of 50,000 or 10 percent of the population of the most populous city located within the nominated area, and

"(B) in the case of a rural area, 30,000.

"(2) DISTRESS.—The nominated area is one of pervasive poverty, unemployment, and general distress.

"(3) SIZE.—The nominated area—

"(A) does not exceed 20 square miles if an urban area or 1,000 square miles if a rural area,

"(B) has a boundary which is continuous, or, except in the case of a rural area located in more than 1 State, consists of not more than 3 noncontiguous parcels,

"(C)(i) in the case of an urban area, is located entirely within no more than 2 contiguous States, and

"(ii) in the case of a rural area, is located entirely within no more than 3 contiguous States, and

"(D) does not include any portion of a central business district (as such term is used for purposes of the most recent Census of Retail Trade) unless the poverty rate for each population census tract in such district is not less than 35 percent (30 percent in the case of an enterprise community).

"(4) POVERTY RATE.—The poverty rate—

"(A) for each population census tract within the nominated area is not less than 20 percent,

"(B) for at least 90 percent of the population census tracts within the nominated area is not less than 25 percent, and

"(C) for at least 50 percent of the population census tracts within the nominated area is not less than 35 percent.

"(b) SPECIAL RULES RELATING TO DETERMINATION OF POVERTY RATE.—For purposes of subsection (a)(4)—

"(1) TREATMENT OF CENSUS TRACTS WITH SMALL POPULATIONS.—

"(A) TRACTS WITH NO POPULATION.—In the case of a population census tract with no population—

"(i) such tract shall be treated as having a poverty rate which meets the requirements of subparagraphs (A) and (B) of subsection (a)(4), but

"(ii) such tract shall be treated as having a zero poverty rate for purposes of applying subparagraph (C) thereof.

"(B) TRACTS WITH POPULATIONS OF LESS THAN 2,000.—A population census tract with a population of less than 2,000 shall be treated as having a poverty rate which meets the requirements of subparagraphs (A) and (B) of subsection (a)(4) if more than 75 percent of such tract is zoned for commercial or industrial use.

"(2) DISCRETION TO ADJUST REQUIREMENTS FOR ENTERPRISE COMMUNITIES.—In determining whether a nominated area is eligible for designation as an enterprise community, the appropriate Secretary may, where necessary to carry out the purposes of this subchapter, reduce by 5 percentage points one of the following thresholds for not more than 10 percent of the population census tracts (or, if fewer, 5 population census tracts) in the nominated area:

"(A) The 20 percent threshold in subsection (a)(4)(A).

"(B) The 25 percent threshold in subsection (a)(4)(B).

"(C) The 35 percent threshold in subsection (a)(4)(C).

If the appropriate Secretary elects to reduce the threshold under subparagraph (C), such Secretary may (in lieu of applying the preceding sentence) reduce by 10 percentage points the threshold under subparagraph (C) for 3 population census tracts.

"(3) EACH NONCONTIGUOUS AREA MUST SATISFY POVERTY RATE RULE.—A nominated area may not include a noncontiguous parcel unless such parcel separately meets (subject to paragraphs (1) and (2)) the criteria set forth in subsection (a)(4).

"(4) AREAS NOT WITHIN CENSUS TRACTS.—In the case of an area which is not tracted for population census tracts, the equivalent county divisions (as defined by the Bureau of the Census for purposes of defining poverty areas) shall be used for purposes of determining poverty rates.

"(c) FACTORS TO CONSIDER.—From among the nominated areas eligible for designation under section 1391 by the appropriate Secretary, such appropriate Secretary shall make designations of empowerment zones and enterprise communities on the basis of—

"(1) the effectiveness of the strategic plan submitted pursuant to section 1391(f)(2) and the assurances made pursuant to section 1391(e)(3), and

"(2) criteria specified by the appropriate Secretary.

"SEC. 1393. DEFINITIONS AND SPECIAL RULES.

"(a) IN GENERAL.—For purposes of this subchapter—

"(1) APPROPRIATE SECRETARY.—The term 'appropriate Secretary' means—

"(A) the Secretary of Housing and Urban Development in the case of any nominated area which is located in an urban area, and

"(B) the Secretary of Agriculture in the case of any nominated area which is located in a rural area.

"(2) RURAL AREA.—The term 'rural area' means any area which is—

"(A) outside of a metropolitan statistical area (within the meaning of section 143(k)(2)(B)), or

"(B) determined by the Secretary of Agriculture, after consultation with the Secretary of Commerce, to be a rural area.

"(3) URBAN AREA.—The term 'urban area' means an area which is not a rural area.

"(4) SPECIAL RULES FOR INDIAN RESERVATIONS.—

"(A) IN GENERAL.—No empowerment zone or enterprise community may include any area within an Indian reservation.

"(B) INDIAN RESERVATION DEFINED.—The term 'Indian reservation' has the meaning given such term by section 168(j)(6).

"(5) LOCAL GOVERNMENT.—The term 'local government' means—

"(A) any county, city, town, township, parish, village, or other general purpose political subdivision of a State, and

"(B) any combination of political subdivisions described in subparagraph (A) recognized by the appropriate Secretary.

"(6) NOMINATED AREA.—The term 'nominated area' means an area which is nominated by 1 or more local governments and the State or States in which it is located for designation under section 1391.

"(7) GOVERNMENTS.—If more than 1 State or local government seeks to nominate an area under this part, any reference to, or requirement of, this subchapter shall apply to all such governments.

"(8) SPECIAL RULE.—An area shall be treated as nominated by a State and a local government if it is nominated by an economic development corporation chartered by the State.

"(9) USE OF CENSUS DATA.—Population and poverty rate shall be determined by the most recent decennial census data available.

"(b) EMPOWERMENT ZONE; ENTERPRISE COMMUNITY.—For purposes of this title, the terms 'empowerment zone' and 'enterprise community' mean areas designated as such under section 1391.

"PART II—TAX-EXEMPT FACILITY BONDS FOR EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES

"Sec. 1394. Tax-exempt enterprise zone facility bonds.

"SEC. 1394. TAX-EXEMPT ENTERPRISE ZONE FACILITY BONDS.

"(a) IN GENERAL.—For purposes of part IV of subchapter B of this chapter (relating to tax exemption requirements for State and local bonds), the term 'exempt facility bond' includes any bond issued as part of an issue 95 percent or more of the net proceeds (as defined in section 150(a)(3)) of which are to be used to provide any enterprise zone facility.

"(b) ENTERPRISE ZONE FACILITY.—For purposes of this section—

"(1) IN GENERAL.—The term 'enterprise zone facility' means any qualified zone property the principal user of which is an enterprise zone business, and any land which is functionally related and subordinate to such property.

"(2) QUALIFIED ZONE PROPERTY.—The term 'qualified zone property' has the meaning given such term by section 1397C; except that the references to empowerment zones shall be treated as including references to enterprise communities.

"(3) ENTERPRISE ZONE BUSINESS.—The term 'enterprise zone business' has the meaning given to such term by section 1397B, except that—

"(A) references to empowerment zones shall be treated as including references to enterprise communities, and

"(B) such term includes any trades or businesses which would qualify as an enterprise zone business (determined after the modification of subparagraph (A)) if such trades or businesses were separately incorporated.

"(c) LIMITATION ON AMOUNT OF BONDS.—

"(1) IN GENERAL.—Subsection (a) shall not apply to any issue if the aggregate amount of outstanding enterprise zone facility bonds allocable to any person (taking into account such issue) exceeds—

"(A) $3,000,000 with respect to any 1 empowerment zone or enterprise community, or

"(B) $20,000,000 with respect to all empowerment zones and enterprise communities.

"(2) AGGREGATE ENTERPRISE ZONE FACILITY BOND BENEFIT.—For purposes of subparagraph (A), the aggregate amount of outstanding enterprise zone facility bonds allocable to any person shall be determined under rules similar to the rules of section 144(a)(10), taking into account only bonds to which subsection (a) applies.

"(d) ACQUISITION OF LAND AND EXISTING PROPERTY PERMITTED.—The requirements of sections 147(c)(1)(A) and 147(d) shall not apply to any bond described in subsection (a).

"(e) PENALTY FOR CEASING TO MEET REQUIREMENTS.—

"(1) FAILURES CORRECTED.—An issue which fails to meet 1 or more of the requirements of subsections (a) and (b) shall be treated as meeting such requirements if—

"(A) the issuer and any principal user in good faith attempted to meet such requirements, and

"(B) any failure to meet such requirements is corrected within a reasonable period after such failure is first discovered.

"(2) LOSS OF DEDUCTIONS WHERE FACILITY CEASES TO BE QUALIFIED.—No deduction shall be allowed under this chapter for interest on any financing provided from any bond to which subsection (a) applies with respect to any facility to the extent such interest accrues during the period beginning on the first day of the calendar year which includes the date on which—

"(i) substantially all of the facility with respect to which the financing was provided ceases to be used in an empowerment zone or enterprise community, or

"(ii) the principal user of such facility ceases to be an enterprise zone business (as defined in subsection (b)).

"(3) EXCEPTION IF ZONE CEASES.—Paragraphs (1) and (2) shall not apply solely by reason of the termination or revocation of a designation as an empowerment zone or an enterprise community.

"(4) EXCEPTION FOR BANKRUPTCY.—Paragraphs (1) and (2) shall not apply to any cessation resulting from bankruptcy.

"PART III—ADDITIONAL INCENTIVES FOR EMPOWERMENT ZONES

"SUBPART A. Empowerment zone employment credit.

"SUBPART B. Additional expensing.

"SUBPART C. General provisions.

"Subpart A—Empowerment Zone Employment Credit

"Sec. 1396. Empowerment zone employment credit.

"Sec. 1397. Other definitions and special rules.

"SEC. 1396. EMPOWERMENT ZONE EMPLOYMENT CREDIT.

"(a) AMOUNT OF CREDIT.—For purposes of section 38, the amount of the empowerment zone employment credit determined under this section with respect to any employer for any taxable year is the applicable percentage of the qualified zone wages paid or incurred during the calendar year which ends with or within such taxable year.

"(b) APPLICABLE PERCENTAGE.—For purposes of this section, the term 'applicable percentage' means the percentage determined in accordance with the following table:

"In the case of wages paid or incurred during calendar year:	***The applicable percentage is:***
1994 through 2001	*20*
2002	*15*
2003	*10*
2004	*5*

"(c) QUALIFIED ZONE WAGES.—

"(1) IN GENERAL.—For purposes of this section, the term 'qualified zone wages' means any wages paid or incurred by an employer for services performed by an employee while such employee is a qualified zone employee.

"(2) ONLY FIRST $15,000 OF WAGES PER YEAR TAKEN INTO ACCOUNT.—With respect to each qualified zone employee, the amount of qualified zone wages which may be taken into account for a calendar year shall not exceed $15,000.

"(3) COORDINATION WITH TARGETED JOBS CREDIT.—

"(A) IN GENERAL.—The term 'qualified zone wages' shall not include wages taken into account in determining the credit under section 51.

"(B) COORDINATION WITH PARAGRAPH (2).—The $15,000 amount in paragraph (2) shall be reduced for any calendar year by the amount of wages paid or incurred during such year which are taken into account in determining the credit under section 51.

"(d) QUALIFIED ZONE EMPLOYEE.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the term 'qualified zone employee' means, with respect to any period, any employee of an employer if—

"(A) substantially all of the services performed during such period by such employee for such employer are performed within an empowerment zone in a trade or business of the employer, and

"(B) the principal place of abode of such employee while performing such services is within such empowerment zone.

"(2) CERTAIN INDIVIDUALS NOT ELIGIBLE.—The term 'qualified zone employee' shall not include—

"(A) any individual described in subparagraph (A), (B), or (C) of section 51(i)(1),

"(B) any 5-percent owner (as defined in section 416(i)(1)(B)),

"(C) any individual employed by the employer for less than 90 days,

"(D) any individual employed by the employer at any facility described in section 144(c)(6)(B), and

"(E) any individual employed by the employer in a trade or business the principal activity of which is farming (within the meaning of subparagraphs (A) or (B) of section 2032A(e)(5)), but only if, as of the close of the taxable year, the sum of—

"(i) the aggregate unadjusted bases (or, if greater, the fair market value) of the assets owned by the employer which are used in such a trade or business, and

"(ii) the aggregate value of assets leased by the employer which are used in such a trade or business (as determined under regulations prescribed by the Secretary),

exceeds $500,000.

"(3) SPECIAL RULES RELATED TO TERMINATION OF EMPLOYMENT.—

"(A) IN GENERAL.—Paragraph (2)(C) shall not apply to—

"(i) a termination of employment of an individual who before the close of the period referred to in paragraph (2)(C) becomes disabled to perform the services of such employment unless such disability is removed before the close of such period and the taxpayer fails to offer reemployment to such individual, or

"(ii) a termination of employment of an individual if it is determined under the applicable State unemployment compensation law that the termination was due to the misconduct of such individual.

"(B) CHANGES IN FORM OF BUSINESS.—For purposes of paragraph (2)(C), the employment relationship between the taxpayer and an employee shall not be treated as terminated—

"(i) by a transaction to which section 381(a) applies if the employee continues to be employed by the acquiring corporation, or

"(ii) by reason of a mere change in the form of conducting the trade or business of the taxpayer if the employee continues to be employed in such trade or business and the taxpayer retains a substantial interest in such trade or business.

"SEC. 1397. OTHER DEFINITIONS AND SPECIAL RULES.

"(a) WAGES.—For purposes of this subpart—

"(1) IN GENERAL.—The term 'wages' has the same meaning as when used in section 51.

"(2) CERTAIN TRAINING AND EDUCATIONAL BENEFITS.—

"(A) IN GENERAL.—The following amounts shall be treated as wages paid to an employee:

"(i) Any amount paid or incurred by an employer which is excludable from the gross income of an employee under section 127, but only to the extent paid or incurred to a person not related to the employer.

"(ii) In the case of an employee who has not attained the age of 19, any amount paid or incurred by an employer for any youth training program operated by such employer in conjunction with local education officials.

"(B) RELATED PERSON.—A person is related to any other person if the person bears a relationship to such other person specified in section 267(b) or 707(b)(1), or such person and such other person are engaged in trades or businesses under common control (within the meaning of subsections (a) and (b) of section 52). For purposes of the preceding sentence, in applying section 267(b) or 707(b)(1), '10 percent' shall be substituted for '50 percent'.

"(b) CONTROLLED GROUPS.—For purposes of this subpart—

"(1) all employers treated as a single employer under subsection (a) or (b) of section 52 shall be treated as a single employer for purposes of this subpart, and

"(2) the credit (if any) determined under section 1396 with respect to each such employer shall be its proportionate share of the wages giving rise to such credit.

"(c) CERTAIN OTHER RULES MADE APPLICABLE.—For purposes of this subpart, rules similar to the rules of section 51(k) and subsections (c), (d), and (e) of section 52 shall apply.

"Subpart B—Additional Expensing

"Sec. 1397A. Increase in expensing under section 179.

"SEC. 1397A. INCREASE IN EXPENSING UNDER SECTION 179.

"(a) GENERAL RULE.—In the case of an enterprise zone business, for purposes of section 179—

"(1) the limitation under section 179(b)(1) shall be increased by the lesser of—

"(A) $20,000, or

"(B) the cost of section 179 property which is qualified zone property placed in service during the taxable year, and

"(2) the amount taken into account under section 179(b)(2) with respect to any section 179 property which is qualified zone property shall be 50 percent of the cost thereof.

"(b) RECAPTURE.—Rules similar to the rules under section 179(d)(10) shall apply with respect to any qualified zone property which ceases to be used in an empowerment zone by an enterprise zone business.

"Subpart C—General Provisions

"Sec. 1397B. Enterprise zone business defined.

"Sec. 1397C. Qualified zone property defined.

"SEC. 1397B. ENTERPRISE ZONE BUSINESS DEFINED.

"(a) IN GENERAL.—For purposes of this part, the term 'enterprise zone business' means—

"(1) any qualified business entity, and

"(2) any qualified proprietorship.

"(b) QUALIFIED BUSINESS ENTITY.—For purposes of this section, the term 'qualified business entity' means, with respect to any taxable year, any corporation or partnership if for such year—

"(1) every trade or business of such entity is the active conduct of a qualified business within an empowerment zone,

"(2) at least 80 percent of the total gross income of such entity is derived from the active conduct of such business,

"(3) substantially all of the use of the tangible property of such entity (whether owned or leased) is within an empowerment zone,

"(4) substantially all of the intangible property of such entity is used in, and exclusively related to, the active conduct of any such business,

"(5) substantially all of the services performed for such entity by its employees are performed in an empowerment zone,

"(6) at least 35 percent of its employees are residents of an empowerment zone,

"(7) less than 5 percent of the average of the aggregate unadjusted bases of the property of such entity is attributable to collectibles (as defined in section 408(m)(2)) other than collectibles that are held primarily for sale to customers in the ordinary course of such business, and

"(8) less than 5 percent of the average of the aggregate unadjusted bases of the property of such entity is attributable to nonqualified financial property.

"(c) QUALIFIED PROPRIETORSHIP.—For purposes of this section, the term 'qualified proprietorship' means, with respect to any taxable year, any qualified business carried on by an individual as a proprietorship if for such year—

"(1) at least 80 percent of the total gross income of such individual from such business is derived from the active conduct of such business in an empowerment zone,

"(2) substantially all of the use of the tangible property of such individual in such business (whether owned or leased) is within an empowerment zone,

"(3) substantially all of the intangible property of such business is used in, and exclusively related to, the active conduct of such business,

"(4) substantially all of the services performed for such individual in such business by employees of such business are performed in an empowerment zone,

"(5) at least 35 percent of such employees are residents of an empowerment zone,

"(6) less than 5 percent of the average of the aggregate unadjusted bases of the property of such individual which is used in such business is attributable to collectibles (as defined in section 408(m)(2)) other than collectibles that are held primarily for sale to customers in the ordinary course of such business, and

"(7) less than 5 percent of the average of the aggregate unadjusted bases of the property of such individual which is used in such business is attributable to nonqualified financial property.

For purposes of this subsection, the term 'employee' includes the proprietor.

"(d) QUALIFIED BUSINESS.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the term 'qualified business' means any trade or business.

"(2) RENTAL OF REAL PROPERTY.—The rental to others of real property located in an empowerment zone shall be treated as a qualified business if and only if—

"(A) the property is not residential rental property (as defined in section 168(e)(2)), and

"(B) at least 50 percent of the gross rental income from the real property is from enterprise zone businesses.

"(3) RENTAL OF TANGIBLE PERSONAL PROPERTY.—The rental to others of tangible personal property shall be treated as a qualified business if and only if substantially all of the rental of such property is by enterprise zone businesses or by residents of an empowerment zone.

"(4) TREATMENT OF BUSINESS HOLDING INTANGIBLES.—The term 'qualified business' shall not include any trade or business consisting predominantly of the development or holding of intangibles for sale or license.

"(5) CERTAIN BUSINESSES EXCLUDED.—The term 'qualified business' shall not include—

"(A) any trade or business consisting of the operation of any facility described in section 144(c)(6)(B), and

"(B) any trade or business the principal activity of which is farming (within the meaning of subparagraphs (A) or (B) of section 2032A(e)(5)), but only if, as of the close of the preceding taxable year, the sum of—

"(i) the aggregate unadjusted bases (or, if greater, the fair market value) of the assets owned by the taxpayer which are used in such a trade or business, and

"(ii) the aggregate value of assets leased by the taxpayer which are used in such a trade or business,

exceeds $500,000.

For purposes of subparagraph (B), rules similar to the rules of section 1397(b) shall apply.

"(e) NONQUALIFIED FINANCIAL PROPERTY.—For purposes of this section, the term 'nonqualified financial property' means debt, stock, partnership interests, options, futures contracts, forward contracts, warrants, notional principal contracts, annuities, and other similar property specified in regulations; except that such term shall not include—

"(1) reasonable amounts of working capital held in cash, cash equivalents, or debt instruments with a term of 18 months or less, or

"(2) debt instruments described in section 1221(4).

"SEC. 1397C. QUALIFIED ZONE PROPERTY DEFINED.

"(a) GENERAL RULE.—For purposes of this part—

"(1) IN GENERAL.—The term 'qualified zone property' means any property to which section 168 applies (or would apply but for section 179) if—

"(A) such property was acquired by the taxpayer by purchase (as defined in section 179(d)(2)) after the date on which the designation of the empowerment zone took effect,

"(B) the original use of which in an empowerment zone commences with the taxpayer, and

"(C) substantially all of the use of which is in an empowerment zone and is in the active conduct of a qualified business by the taxpayer in such zone.

"(2) SPECIAL RULE FOR SUBSTANTIAL RENOVATIONS.—In the case of any property which is substantially renovated by the taxpayer, the requirements of subparagraphs (A) and (B) of paragraph (1) shall be treated as satisfied. For

purposes of the preceding sentence, property shall be treated as substantially renovated by the taxpayer if, during any 24-month period beginning after the date on which the designation of the empowerment zone took effect, additions to basis with respect to such property in the hands of the taxpayer exceed the greater of (i) an amount equal to the adjusted basis at the beginning of such 24-month period in the hands of the taxpayer, or (ii) $5,000.

"(b) SPECIAL RULES FOR SALE-LEASEBACKS.—For purposes of subsection (a)(1)(B), if property is sold and leased back by the taxpayer within 3 months after the date such property was originally placed in service, such property shall be treated as originally placed in service not earlier than the date on which such property is used under the leaseback.

"PART IV—REGULATIONS

"Sec. 1397D. Regulations.

"SEC. 1397D. REGULATIONS.

"The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of parts II and III, including—

"(1) regulations limiting the benefit of parts II and III in circumstances where such benefits, in combination with benefits provided under other Federal programs, would result in an activity being 100 percent or more subsidized by the Federal Government,

"(2) regulations preventing abuse of the provisions of parts II and III, and

"(3) regulations dealing with inadvertent failures of entities to be enterprise zone businesses."

(b) CLERICAL AMENDMENT.—The table of subchapters for chapter 1 is amended by inserting after the item relating to subchapter T the following new item:

"Subchapter U. Designation and treatment of empowerment zones, enterprise communities, and rural development investment areas."

SEC. 13302. TECHNICAL AND CONFORMING AMENDMENTS.

(a) EMPOWERMENT ZONE EMPLOYMENT CREDIT PART OF GENERAL BUSINESS CREDIT.—

(1) Subsection (b) of section 38 (relating to current year business credit) is amended by striking "plus" at the end of paragraph (7), by striking the period at the end of paragraph (8) and inserting ", and", and by adding at the end the following new paragraph:

"(9) the empowerment zone employment credit determined under section 1396(a)."

(2) Subsection (d) of section 39 is amended by adding at the end the following new paragraph:

"(4) EMPOWERMENT ZONE EMPLOYMENT CREDIT.—No portion of the unused business credit which is attributable to the credit determined under section 1396 (relating to empowerment zone employment credit) may be carried to any taxable year ending before January 1, 1994."

(b) DENIAL OF DEDUCTION FOR PORTION OF WAGES EQUAL TO EMPOWERMENT ZONE EMPLOYMENT CREDIT.—

(1) Subsection (a) of section 280C (relating to rule for targeted jobs credit) is amended—

(A) by striking "the amount of the credit determined for the taxable year under section 51(a)" and inserting "the sum of the credits determined for the taxable year under sections 51(a) and 1396(a)", and

(B) by striking "TARGETED JOBS CREDIT" in the subsection heading and inserting "EMPLOYMENT CREDITS".

(2) Subsection (c) of section 196 (relating to deduction for certain unused business credits) is amended by striking "and" at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting ", and", and by adding at the end the following new paragraph:

"(6) the empowerment zone employment credit determined under section 1396(a)."

(c) EMPOWERMENT ZONE EMPLOYMENT CREDIT MAY OFFSET 25 PERCENT OF MINIMUM TAX.—

(1) IN GENERAL.—Section 38(c) (relating to limitation based on amount of tax) is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

"(2) EMPOWERMENT ZONE EMPLOYMENT CREDIT MAY OFFSET 25 PERCENT OF MINIMUM TAX.—

"(A) IN GENERAL.—In the case of the empowerment zone employment credit credit—

"(i) this section and section 39 shall be applied separately with respect to such credit, and

"(ii) for purposes of applying paragraph (1) to such credit—

"(I) 75 percent of the tentative minimum tax shall be substituted for the tentative minimum tax under subparagraph (A) thereof, and

"(II) the limitation under paragraph (1) (as modified by subclause (I)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the empowerment zone employment credit).

"(B) EMPOWERMENT ZONE EMPLOYMENT CREDIT.—For purposes of this paragraph, the term 'empowerment zone employment credit' means the portion of the credit under subsection (a) which is attributable to the credit determined under section 1396 (relating to empowerment zone employment credit)."

(d) AMENDMENT OF TARGETED JOBS CREDIT.—Subparagraph (A) of section 51(i)(1) is amended by inserting ", or, if the taxpayer is an entity other than a corporation, to any individual who owns, directly or indirectly, more than 50 percent of the capital and profits interests in the entity," after "of the corporation".

(e) CARRYOVERS.—Subsection (c) of section 381 (relating to carryovers in certain corporate acquisitions) is amended by adding at the end the following new paragraph:

"(26) ENTERPRISE ZONE PROVISIONS.—The acquiring corporation shall take into account (to the extent proper to carry out the purposes of this section and subchapter U, and under such regulations as may be prescribed by the Secretary) the items required to be taken into account for purposes of subchapter U in respect of the distributor or transferor corporation."

SEC. 13303. EFFECTIVE DATE.

The amendments made by this part shall take effect on the date of the enactment of this Act.

PART II—CREDIT FOR CONTRIBUTIONS TO CERTAIN COMMUNITY DEVELOPMENT CORPORATIONS

SEC. 13311. CREDIT FOR CONTRIBUTIONS TO CERTAIN COMMUNITY DEVELOPMENT CORPORATIONS.

(a) IN GENERAL.—For purposes of section 38 of the Internal Revenue Code of 1986, the current year business credit shall include the credit determined under this section.

(b) DETERMINATION OF CREDIT.—The credit determined under this section for each taxable year in the credit period with respect to any qualified CDC contribution made by the taxpayer is an amount equal to 5 percent of such contribution.

(c) CREDIT PERIOD.—For purposes of this section, the credit period with respect to any qualified CDC contribution is the period of 10 taxable years beginning with the taxable year during which such contribution was made.

(d) QUALIFIED CDC CONTRIBUTION.—For purposes of this section—

(1) IN GENERAL.—The term "qualified CDC contribution" means any transfer of cash—

(A) which is made to a selected community development corporation during the 5-year period beginning on the date such corporation was selected for purposes of this section,

(B) the amount of which is available for use by such corporation for at least 10 years,

(C) which is to be used by such corporation for qualified low-income assistance within its operational area, and

(D) which is designated by such corporation for purposes of this section.

(2) LIMITATIONS ON AMOUNT DESIGNATED.—The aggregate amount of contributions to a selected community development corporation which may be designated by such corporation shall not exceed $2,000,000.

(e) SELECTED COMMUNITY DEVELOPMENT CORPORATIONS.—

(1) IN GENERAL.—For purposes of this section, the term "selected community development corporation" means any corporation—

(A) which is described in section 501(c)(3) of such Code and exempt from tax under section 501(a) of such Code,

(B) the principal purposes of which include promoting employment of, and business opportunities for, low-income individuals who are residents of the operational area, and

(C) which is selected by the Secretary of Housing and Urban Development for purposes of this section.

(2) ONLY 20 CORPORATIONS MAY BE SELECTED.—The Secretary of Housing and Urban Development may select 20 corporations for purposes of this section, subject to the availability of eligible corporations. Such selections may be made only before July 1, 1994. At least 8 of the operational areas of the corporations selected must be rural areas (as defined by section 1393(a)(3) of such Code).

(3) OPERATIONAL AREAS MUST HAVE CERTAIN CHARACTERISTICS.—A corporation may be selected for purposes of this section only if its operational area meets the following criteria:

(A) The area meets the size requirements under section 1392(a)(3).

(B) The unemployment rate (as determined by the appropriate available data) is not less than the national unemployment rate.

(C) The median family income of residents of such area does not exceed 80 percent of the median gross income of residents of the jurisdiction of the local government which includes such area.

(f) QUALIFIED LOW-INCOME ASSISTANCE.—For purposes of this section, the term "qualified low-income assistance" means assistance—

(1) which is designed to provide employment of, and business opportunities for, low-income individuals who are residents of the operational area of the community development corporation, and

(2) which is approved by the Secretary of Housing and Urban Development.

PART III—INVESTMENT IN INDIAN RESERVATIONS

SEC. 13321. ACCELERATED DEPRECIATION FOR PROPERTY ON INDIAN RESERVATIONS.

(a) IN GENERAL.—Section 168 is amended by adding at the end the following new subsection:

"(j) PROPERTY ON INDIAN RESERVATIONS.—

"(1) IN GENERAL.—For purposes of subsection (a), the applicable recovery period for qualified Indian reservation property shall be determined in accordance with the table contained in paragraph (2) in lieu of the table contained in subsection (c).

"(2) APPLICABLE RECOVERY PERIOD FOR INDIAN RESERVATION PROPERTY.—For purposes of paragraph (1)—

"In the case of:	The applicable recovery period is:
3-year property	2 years
5-year property	3 years
7-year property	4 years
10-year property	6 years
15-year property	9 years
20-year property	12 years
Nonresidential real property	22 years.

"(3) DEDUCTION ALLOWED IN COMPUTING MINIMUM TAX.—For purposes of determining alternative minimum taxable income under section 55, the deduction under subsection (a) for property to which paragraph (1) applies shall be determined under this section without regard to any adjustment under section 56.

"(4) QUALIFIED INDIAN RESERVATION PROPERTY DEFINED.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified Indian reservation property' means property which is property described in the table in paragraph (2) and /which is—

"(i) used by the taxpayer predominantly in the active conduct of a trade or business within an Indian reservation,

"(ii) not used or located outside the Indian reservation on a regular basis,

"(iii) not acquired (directly or indirectly) by the taxpayer from a person who is related to the taxpayer (within the meaning of section 465(b)(3)(C)), and

"(iv) not property (or any portion thereof) placed in service for purposes of conducting or housing class I, II, or III gaming (as defined in section 4 of the Indian Regulatory Act (25 U.S.C. 2703)).

"(B) EXCEPTION FOR ALTERNATIVE DEPRECIATION PROPERTY.—The term 'qualified Indian reservation property' does not include any property to which the alternative depreciation system under subsection (g) applies, determined—

"(i) without regard to subsection (g)(7) (relating to election to use alternative depreciation system), and

"(ii) after the application of section 280F(b) (relating to listed property with limited business use).

"(C) SPECIAL RULE FOR RESERVATION INFRASTRUCTURE INVESTMENT.—

"(i) IN GENERAL.—Subparagraph (A)(ii) shall not apply to qualified infrastructure property located outside of the Indian reservation if the purpose of such property is to connect with qualified infrastructure property located within the Indian reservation.

"(ii) QUALIFIED INFRASTRUCTURE PROPERTY.—For purposes of this subparagraph, the term 'qualified infrastructure property' means qualified Indian reservation property (determined without regard to subparagraph (A)(ii)) which—

"(I) benefits the tribal infrastructure,

"(II) is available to the general public, and

"(III) is placed in service in connection with the taxpayer's active conduct of a trade or business within an Indian reservation.

Such term includes, but is not limited to, roads, power lines, water systems, railroad spurs, and communications facilities.

"(5) REAL ESTATE RENTALS.—For purposes of this subsection, the rental to others of real property located within an Indian reservation shall be treated as the active conduct of a trade or business within an Indian reservation.

"(6) INDIAN RESERVATION DEFINED.—For purposes of this subsection, the term 'Indian reservation' means a reservation, as defined in—

"(A) section 3(d) of the Indian Financing Act of 1974 (25 U.S.C. 1452(d)), or

"(B) section 4(10) of the Indian Child Welfare Act of 1978 (25 U.S.C. 1903(10)).

"(7) COORDINATION WITH NONREVENUE LAWS.—Any reference in this subsection to a provision not contained in this title shall be treated for purposes of this subsection as a reference to such provision as in effect on the date of the enactment of this paragraph.

"(8) TERMINATION.—This subsection shall not apply to property placed in service after December 31, 2003."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after December 31, 1993.

SEC. 13322. INDIAN EMPLOYMENT CREDIT.

(a) ALLOWANCE OF INDIAN EMPLOYMENT CREDIT.—Section 38(b) (relating to general business credits) is amended by striking "plus" at the end of paragraph (8), by striking the period at the end of paragraph (9) and inserting ", plus", and by adding after paragraph (9) the following new paragraph:

"(10) the Indian employment credit as determined under section 45A(a)."

(b) AMOUNT OF INDIAN EMPLOYMENT CREDIT.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by adding at the end thereof the following new section:

"SEC. 45A. INDIAN EMPLOYMENT CREDIT.

"(a) AMOUNT OF CREDIT.—For purposes of section 38, the amount of the Indian employment credit determined under this section with respect to any employer for any taxable year is an amount equal to 20 percent of the excess (if any) of—

"(1) the sum of—

"(A) the qualified wages paid or incurred during such taxable year, plus

"(B) qualified employee health insurance costs paid or incurred during such taxable year, over

"(2) the sum of the qualified wages and qualified employee health insurance costs (determined as if this section were in effect) which were paid or incurred by the employer (or any predecessor) during calendar year 1993.

"(b) QUALIFIED WAGES; QUALIFIED EMPLOYEE HEALTH INSURANCE COSTS.—For purposes of this section—

"(1) QUALIFIED WAGES.—

"(A) IN GENERAL.—The term 'qualified wages' means any wages paid or incurred by an employer for services performed by an employee while such employee is a qualified employee.

"(B) COORDINATION WITH TARGETED JOBS CREDIT.—The term 'qualified wages' shall not include wages attributable to service rendered during the 1-year period beginning with the day the individual begins work for the employer if any portion of such wages is taken into account in determining the credit under section 51.

"(2) QUALIFIED EMPLOYEE HEALTH INSURANCE COSTS.—

"(A) IN GENERAL.—The term 'qualified employee health insurance costs' means any amount paid or incurred by an employer for health insurance to the extent such amount is attributable to coverage provided to any employee while such employee is a qualified employee.

"(B) EXCEPTION FOR AMOUNTS PAID UNDER SALARY REDUCTION ARRANGEMENTS.—No amount paid or incurred for health insurance pursuant to a salary reduction arrangement shall be taken into account under subparagraph (A).

"(3) LIMITATION.—The aggregate amount of qualified wages and qualified employee health insurance costs taken into account with respect to any employee for any taxable year (and for the base period under subsection (a)(2)) shall not exceed $20,000.

"(c) QUALIFIED EMPLOYEE.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the term 'qualified employee' means, with respect to any period, any employee of an employer if—

"(A) the employee is an enrolled member of an Indian tribe or the spouse of an enrolled member of an Indian tribe,

"(B) substantially all of the services performed during such period by such employee for such employer are performed within an Indian reservation, and

"(C) the principal place of abode of such employee while performing such services is on or near the reservation in which the services are performed.

"(2) INDIVIDUALS RECEIVING WAGES IN EXCESS OF $30,000 NOT ELIGIBLE.—An employee shall not be treated as a qualified employee for any taxable year of the employer if the total amount of the wages paid or incurred by such employer to such employee during such taxable year (whether or not for services within an Indian reservation) exceeds the amount determined at an annual rate of $30,000.

"(3) INFLATION ADJUSTMENT.—The Secretary shall adjust the $30,000 amount under paragraph (2) for years beginning after 1994 at the same time and in the same manner as under section 415(d).

"(4) EMPLOYMENT MUST BE TRADE OR BUSINESS EMPLOYMENT.—An employee shall be treated as a qualified employee for any taxable year of the employer only if more than 50 percent of the wages paid or incurred by the employer to such employee during such taxable year are for services performed in a trade or business of the employer. Any determination as to whether the preceding sentence applies with respect to any employee for any taxable year shall be made without regard to subsection (e)(2).

"(5) CERTAIN EMPLOYEES NOT ELIGIBLE.—The term 'qualified employee' shall not include—

"(A) any individual described in subparagraph (A), (B), or (C) of section 51(i)(1),

"(B) any 5-percent owner (as defined in section 416(i)(1)(B)), and

"(C) any individual if the services performed by such individual for the employer involve the conduct of class I, II, or III gaming as defined in section 4 of the Indian Gaming Regulatory Act (25 U.S.C. 2703), or are performed in a building housing such gaming activity.

"(6) INDIAN TRIBE DEFINED.—The term 'Indian tribe' means any Indian tribe, band, nation, pueblo, or other organized group or community, including any Alaska Native village, or regional or village corporation, as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

"(7) INDIAN RESERVATION DEFINED.—The term 'Indian reservation' has the meaning given such term by section 168(j)(6).

"(d) EARLY TERMINATION OF EMPLOYMENT BY EMPLOYER.—

"(1) IN GENERAL.—If the employment of any employee is terminated by the taxpayer before the day 1 year after the day on which such employee began work for the employer—

"(A) no wages (or qualified employee health insurance costs) with respect to such employee shall be taken into account under subsection (a) for the taxable year in which such employment is terminated, and

"(B) the tax under this chapter for the taxable year in which such employment is terminated shall be increased by the aggregate credits (if any) allowed under section 38(a) for prior taxable years by reason of wages (or qualified employee health insurance costs) taken into account with respect to such employee.

"(2) CARRYBACKS AND CARRYOVERS ADJUSTED.—In the case of any termination of employment to which paragraph (1) applies, the carrybacks and carryovers under section 39 shall be properly adjusted.

"(3) SUBSECTION NOT TO APPLY IN CERTAIN CASES.—

"(A) IN GENERAL.—Paragraph (1) shall not apply to—

"(i) a termination of employment of an employee who voluntarily leaves the employment of the taxpayer,

"(ii) a termination of employment of an individual who before the close of the period referred to in paragraph (1) becomes disabled to perform the services of such employment unless such disability is removed before the close of such period and the taxpayer fails to offer reemployment to such individual, or

"(iii) a termination of employment of an individual if it is determined under the applicable State unemployment compensation law that the termination was due to the misconduct of such individual.

"(B) CHANGES IN FORM OF BUSINESS.—For purposes of paragraph (1), the employment relationship between the taxpayer and an employee shall not be treated as terminated—

"(i) by a transaction to which section 381(a) applies if the employee continues to be employed by the acquiring corporation, or

"(ii) by reason of a mere change in the form of conducting the trade or business of the taxpayer if the employee continues to be employed in such trade or business and the taxpayer retains a substantial interest in such trade or business.

"(4) SPECIAL RULE.—Any increase in tax under paragraph (1) shall not be treated as a tax imposed by this chapter for purposes of—

"(A) determining the amount of any credit allowable under this chapter, and

"(B) determining the amount of the tax imposed by section 55.

"(e) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) WAGES.—The term 'wages' has the same meaning given to such term in section 51.

"(2) CONTROLLED GROUPS.—

"(A) All employers treated as a single employer under section (a) or (b) of section 52 shall be treated as a single employer for purposes of this section.

"(B) The credit (if any) determined under this section with respect to each such employer shall be its proportionate share of the wages and qualified employee health insurance costs giving rise to such credit.

"(3) CERTAIN OTHER RULES MADE APPLICABLE.—Rules similar to the rules of section 51(k) and subsections (c), (d), and (e) of section 52 shall apply.

"(4) COORDINATION WITH NONREVENUE LAWS.—Any reference in this section to a provision not contained in this title shall be treated for purposes of this section as a reference to such provision as in effect on the date of the enactment of this paragraph.

"(5) SPECIAL RULE FOR SHORT TAXABLE YEARS.—For any taxable year having less than 12 months, the amount determined under subsection (a)(2) shall be multiplied by a fraction, the numerator of which is the number of days in the taxable year and the denominator of which is 365.

"(f) TERMINATION.—This section shall not apply to taxable years beginning after December 31, 2003."

(c) DENIAL OF DEDUCTION FOR PORTION OF WAGES EQUAL TO INDIAN EMPLOYMENT CREDIT.—

(1) Subsection (a) of section 280C (relating to rule for targeted jobs credit) is amended by striking "51(a)" and inserting "45A(a), 51(a), and".

(2) Subsection (c) of section 196 (relating to deduction for certain unused business credits) is amended by striking "and" at the end of paragraph (5), by striking the period at the end of paragraph (6) and inserting ", and", and by adding at the end the following new paragraph:

"(7) the Indian employment credit determined under section 45A(a)."

(d) DENIAL OF CARRYBACKS TO PREENACTMENT YEARS.—Subsection (d) of section 39 is amended by adding at the end thereof the following new paragraph:

"(5) NO CARRYBACK OF SECTION 45 CREDIT BEFORE ENACTMENT.—No portion of the unused business credit for any taxable year which is attributable to the Indian employment credit determined under section 45A may be carried to a taxable year ending before the date of the enactment of section 45A."

(e) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end thereof the following:

"Sec. 45A. Indian employment credit."

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to wages paid or incurred after December 31, 1993.

Subchapter D—Other Provisions

PART I—DISCLOSURE PROVISIONS

SEC. 13401. DISCLOSURE OF RETURN INFORMATION FOR ADMINISTRATION OF CERTAIN VETERANS PROGRAMS.

(a) GENERAL RULE.—Subparagraph (D) of section 6103(l)(7) (relating to disclosure of return information to Federal, State, and local agencies administering certain programs) is amended by striking "September 30, 1997" in the second sentence following clause (viii) and inserting "September 30, 1998".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 13402. DISCLOSURE OF RETURN INFORMATION TO CARRY OUT INCOME CONTINGENT REPAYMENT OF STUDENT LOANS.

(a) GENERAL RULE.—Subsection (l) of section 6103 (relating to confidentiality and disclosure of returns and return information) is amended by adding at the end thereof the following new paragraph:

"(13) DISCLOSURE OF RETURN INFORMATION TO CARRY OUT INCOME CONTINGENT REPAYMENT OF STUDENT LOANS.—

"(A) IN GENERAL.—The Secretary may, upon written request from the Secretary of Education, disclose to officers and employees of the Department of Education return information with respect to a taxpayer who has received an applicable student loan and whose loan repayment amounts are based in whole or in part on the taxpayer's income. Such return information shall be limited to—

"(i) taxpayer identity information with respect to such taxpayer,

"(ii) the filing status of such taxpayer, and

"(iii) the adjusted gross income of such taxpayer.

"(B) RESTRICTION ON USE OF DISCLOSED INFORMATION.—Return information disclosed under subparagraph (A) may be used by officers and employees of the Department of Education only for the purposes of, and to the extent necessary in, establishing the appropriate income contingent repayment amount for an applicable student loan.

"(C) APPLICABLE STUDENT LOAN.—For purposes of this paragraph, the term 'applicable student loan' means—

"(i) any loan made under the program authorized under part D of title IV of the Higher Education Act of 1965, and

"(ii) any loan made under part B or E of title IV of the Higher Education Act of 1965 which is in default and has been assigned to the Department of Education.

"(D) TERMINATION.—This paragraph shall not apply to any request made after September 30, 1998."

(b) CONFORMING AMENDMENTS.—

(1) So much of paragraph (4) of section 6103(m) as precedes subparagraph (B) thereof is amended to read as follows:

"(4) INDIVIDUALS WHO OWE AN OVERPAYMENT OF FEDERAL PELL GRANTS OR WHO HAVE DEFAULTED ON STUDENT LOANS ADMINISTERED BY THE DEPARTMENT OF EDUCATION.—

"(A) IN GENERAL.—Upon written request by the Secretary of Education, the Secretary may disclose the mailing address of any taxpayer—

"(i) who owes an overpayment of a grant awarded to such taxpayer under subpart 1 of part A of title IV of the Higher Education Act of 1965, or

"(ii) who has defaulted on a loan—

"(I) made under part B, D, or E of title IV of the Higher Education Act of 1965, or

"(II) made pursuant to section 3(a)(1) of the Migration and Refugee Assistance Act of 1962 to a student at an institution of higher education,

for use only by officers, employees, or agents of the Department of Education for purposes of locating such taxpayer for purposes of collecting such overpayment or loan ."

(2) Subparagraph (B) of section 6103(m)(4) is amended—

(A) in clause (i), by striking "under part B" and inserting "under part B or D"; and

(B) in clause (ii), by striking "under part E" and inserting "under subpart 1 of part A, or part D or E,";

(3) Section 6103(p) is amended—

(A) in paragraph (3)(A), by striking "(11), or (12), (m)" and inserting "(11), (12), or (13), (m)";

(B) in paragraph (4)—

(i) in the matter preceding subparagraph (A), by striking out "(10), or (11)," and inserting "(10), (11), or (13),", and

(ii) in subparagraph (F)(ii), by striking "(11), or (12)," and inserting "(11), (12), or (13),".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 13403. USE OF RETURN INFORMATION FOR INCOME VERIFICATION UNDER CERTAIN HOUSING ASSISTANCE PROGRAMS.

(a) IN GENERAL.—Subparagraph (D) of section 6103(l)(7) (relating to the disclosure of return information to Federal, State, and local agencies administering certain programs) is amended—

(1) in clause (vii), by striking "and" at the end;

(2) in clause (viii), by striking the period at the end and inserting "; and";

(3) by inserting after clause (viii) the following new clause:

"(ix) any housing assistance program administered by the Department of Housing and Urban Development that involves initial and periodic review of an applicant's or participant's income, except that return information may be disclosed under this clause only on written request by the Secretary of Housing and Urban Development and only for use by officers and employees of the Department of Housing and Urban Development with respect to applicants for and participants in such programs."; and

(4) by adding at the end thereof the following: "Clause (ix) shall not apply after September 30, 1998."

(b) CONFORMING AMENDMENT.—The heading of paragraph (7) of section 6103(l) is amended by inserting after "CODE" the following: ", OR CERTAIN HOUSING ASSISTANCE PROGRAMS".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

PART II—PUBLIC DEBT LIMIT

SEC. 13411. INCREASE IN PUBLIC DEBT LIMIT.

(a) GENERAL RULE.—Subsection (b) of section 3101 of title 31, United States Code, is amended by striking out the dollar limitation contained in such subsection and inserting in lieu thereof "$4,900,000,000,000".

(b) REPEAL OF TEMPORARY INCREASE.—Effective on and after the date of the enactment of this Act, section 1 of Public Law 103–12 is hereby repealed.

PART III—VACCINE PROVISIONS

SEC. 13421. EXCISE TAX ON CERTAIN VACCINES MADE PERMANENT.

(a) TAX.—Subsection (c) of section 4131 (relating to tax on certain vaccines) is amended to read as follows:

"(c) APPLICATION OF SECTION.—The tax imposed by this section shall apply—

"(1) after December 31, 1987, and before January 1, 1993, and

"(2) during periods after the date of the enactment of the Revenue Reconciliation Act of 1993."

(b) TRUST FUND.—Paragraph (1) of section 9510(c) (relating to expenditures from Vaccine Injury Compensation Trust Fund) is amended by striking "and before October 1, 1992,".

(c) FLOOR STOCKS TAX.—

(1) IMPOSITION OF TAX.—On any taxable vaccine—

(A) which was sold by the manufacturer, producer, or importer on or before the date of the enactment of this Act,

(B) on which no tax was imposed by section 4131 of the Internal Revenue Code of 1986 (or, if such tax was imposed, was credited or refunded), and

(C) which is held on such date by any person for sale or use,

there is hereby imposed a tax in the amount determined under section 4131(b) of such Code.

(2) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—The person holding any taxable vaccine to which the tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be paid in such manner as the Secretary shall prescribe by regulations.

(C) TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid on or before the last day of the 6th month beginning after the date of the enactment of this Act.

(3) DEFINITIONS.—For purposes of this subsection, terms used in this subsection which are also used in section 4131 of such Code shall have the respective meanings such terms have in such section.

(4) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4131 of such Code shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply to the floor stocks taxes imposed by paragraph (1), to the same extent as if such taxes were imposed by such section 4131.

SEC. 13422. CONTINUATION COVERAGE UNDER GROUP HEALTH PLANS OF COSTS OF PEDIATRIC VACCINES.

(a) IN GENERAL.—Paragraph (1) of section 4980B(f) is amended by inserting "the coverage of the costs of pediatric vaccines (as defined under section 2162 of the Public Health Service Act) is not reduced below the coverage provided by the plan as of May 1, 1993, and only if" after "only if".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to plan years beginning after the date of the enactment of this Act.

PART IV—DISASTER RELIEF PROVISIONS

SEC. 13431. MODIFICATION OF INVOLUNTARY CONVERSION RULES FOR CERTAIN DISASTER-RELATED CONVERSIONS.

(a) IN GENERAL.—Section 1033 (relating to involuntary conversions) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) SPECIAL RULES FOR PRINCIPAL RESIDENCES DAMAGED BY PRESIDENTIALLY DECLARED DISASTERS.—

"(1) IN GENERAL.—If the taxpayer's principal residence or any of its contents is compulsorily or involuntarily converted as a result of a Presidentially declared disaster—

"(A) TREATMENT OF INSURANCE PROCEEDS.—

"(i) EXCLUSION FOR UNSCHEDULED PERSONAL PROPERTY.—No gain shall be recognized by reason of the receipt of any insurance proceeds for personal property which was part of such contents and which was not scheduled property for purposes of such insurance.

"(ii) OTHER PROCEEDS TREATED AS COMMON FUND.—In the case of any insurance proceeds (not described in clause (i)) for such residence or contents—

"(I) such proceeds shall be treated as received for the conversion of a single item of property, and

"(II) any property which is similar or related in service or use to the residence so converted (or contents thereof) shall be treated for purposes of subsection (a)(2) as property similar or related in service or use to such single item of property.

"(B) EXTENSION OF REPLACEMENT PERIOD.—Subsection (a)(2)(B) shall be applied with respect to any property so converted by substituting '4 years' for '2 years'.

"(2) PRESIDENTIALLY DECLARED DISASTER.—For purposes of this subsection, the term 'Presidentially declared disaster' means any disaster which, with respect to the area in which the residence is located, resulted in a subsequent determination by the President that such area warrants assistance by the Federal Government under the Disaster Relief and Emergency Assistance Act.

"(3) PRINCIPAL RESIDENCE.—For purposes of this subsection, the term 'principal residence' has the same meaning as when used in section 1034, except that such term shall include a residence not treated as a principal residence solely because the taxpayer does not own the residence.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to property compulsorily or involuntarily converted as a result of disasters for which the determination referred to in section 1033(h)(2) of the Internal Revenue Code of 1986 (as added by this section) is made on or after September 1, 1991, and to taxable years ending on or after such date.

PART V—MISCELLANEOUS PROVISIONS

SEC. 13441. INCREASE IN PRESIDENTIAL ELECTION CAMPAIGN FUND CHECK-OFF.

(a) IN GENERAL.—Section 6096(a) (relating to designation by individuals) is amended—

(1) by striking "$1" each place it appears and inserting "$3", and

(2) by striking "$2" and inserting "$6".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply with respect to tax returns required to be filed after December 31, 1993.

SEC. 13442. SPECIAL RULE FOR HOSPITAL SERVICES.

(a) IN GENERAL.—Section 162 (relating to trade or business deductions), as amended by section 13211, is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

"(n) SPECIAL RULE FOR CERTAIN GROUP HEALTH PLANS.—

"(1) IN GENERAL.—No deduction shall be allowed under this chapter to an employer for any amount paid or incurred in connection with a group health plan if the plan does not reimburse for inpatient hospital care services provided in the State of New York—

"(A) except as provided in subparagraphs (B) and (C), at the same rate as licensed commercial insurers are required to reimburse hospitals for such services when such reimbursement is not through such a plan,

"(B) in the case of any reimbursement through a health maintenance organization, at the same rate as health maintenance organizations are required to reimburse hospitals for such services for individuals not covered by such a plan (determined without regard to any government-supported individuals exempt from such rate), or

"(C) in the case of any reimbursement through any corporation organized under Article 43 of the New York State Insurance Law, at the same rate as any such corporation is required to reimburse hospitals for such services for individuals not covered by such a plan.

"(2) STATE LAW EXCEPTION.—Paragraph (1) shall not apply to any group health plan which is not required under the laws of the State of New York (determined without regard to this subsection or other provisions of Federal law) to reimburse at the rates provided in paragraph (1).

"(3) GROUP HEALTH PLAN.—For purposes of this subsection, the term 'group health plan' means a plan of, or contributed to by, an employer or employee organization (including a self-insured plan) to provide health care (directly or otherwise) to any employee, any former employee, the employer, or any other individual associated or formerly associated with the employer in a business relationship, or any member of their family."

(b) EFFECTIVE DATE.—The provisions of this section shall apply to services provided after February 2, 1993, and on or before May 12, 1995.

SEC. 13443. CREDIT FOR PORTION OF EMPLOYER SOCIAL SECURITY TAXES PAID WITH RESPECT TO EMPLOYEE CASH TIPS.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by adding at the end the following new section:

"SEC. 45B. CREDIT FOR PORTION OF EMPLOYER SOCIAL SECURITY TAXES PAID WITH RESPECT TO EMPLOYEE CASH TIPS.

"(a) GENERAL RULE.—For purposes of section 38, the employer social security credit determined under this section for the taxable year is an amount equal to the excess employer social security tax paid or incurred by the taxpayer during the taxable year.

"(b) EXCESS EMPLOYER SOCIAL SECURITY TAX.—For purposes of this section—

"(1) IN GENERAL.—The term 'excess employer social security tax' means any tax paid by an employer under section 3111 with respect to tips received by an employee during any month, to the extent such tips—

"(A) are deemed to have been paid by the employer to the employee pursuant to section 3121(q), and

"(B) exceed the amount by which the wages (excluding tips) paid by the employer to the employee during such month are less than the total amount which would be payable (with respect to such employment) at the minimum wage rate applicable to such individual under section 6(a)(1) of the Fair Labor Standards Act of 1938 (determined without regard to section 3(m) of such Act).

"(2) ONLY TIPS RECEIVED AT FOOD AND BEVERAGE ESTABLISHMENTS TAKEN INTO ACCOUNT.—In applying paragraph (1), there shall be taken into account only tips received from customers in connection with the provision of food or beverages for consumption on the premises of an establishment with respect to which the tipping of employees serving food or beverages by customers is customary.

"(c) DENIAL OF DOUBLE BENEFIT.—No deduction shall be allowed under this chapter for any amount taken into account in determining the credit under this section.

"(d) ELECTION NOT TO CLAIM CREDIT.—This section shall not apply to a taxpayer for any taxable year if such taxpayer elects to have this section not apply for such taxable year."

(b) CREDIT TO BE PART OF GENERAL BUSINESS CREDIT.—

(1) IN GENERAL.—Subsection (b) of section 38 (relating to current year business credit) is

amended by striking "plus" at the end of paragraph (9), by striking the period at the end of paragraph (10) and inserting ", plus", and by adding at the end the following new paragraph:

"(11) the employer social security credit determined under section 45B(a)."

(2) LIMITATION ON CARRYBACKS.—Subsection (d) of section 39 (relating to transitional rules) is amended by adding at the end the following new paragraph:

"(6) NO CARRYBACK OF SECTION 45 CREDIT BEFORE ENACTMENT.—No portion of the unused business credit for any taxable year which is attributable to the employer social security credit determined under section 45B may be carried back to a taxable year ending before the date of the enactment of section 45B."

(c) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

"Sec. 45B. Credit for portion of employer social security taxes paid with respect to employee cash tips."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to taxes paid after December 31, 1993.

SEC. 13444. AVAILABILITY AND USE OF DEATH INFORMATION.

(a) RESTRICTION ON DISCLOSURE OF TAX RETURN INFORMATION.—Subsection (d) of section 6103 is amended by adding at the end thereof the following new paragraph:

"(4) AVAILABILITY AND USE OF DEATH INFORMATION.—

"(A) IN GENERAL.—No returns or return information may be disclosed under paragraph (1) to any agency, body, or commission of any State (or any legal representative thereof) during any period during which a contract meeting the requirements of subparagraph (B) is not in effect between such State and the Secretary of Health and Human Services.

"(B) CONTRACTUAL REQUIREMENTS.—A contract meets the requirements of this subparagraph if—

"(i) such contract requires the State to furnish the Secretary of Health and Human Services information concerning individuals with respect to whom death certificates (or equivalent documents maintained by the State or any subdivision thereof) have been officially filed with it, and

"(ii) such contract does not include any restriction on the use of information obtained by such Secretary pursuant to such contract, except that such contract may provide that such information is only to be used by the Secretary (or any other Federal agency) for purposes of ensuring that Federal benefits or other payments are not erroneously paid to deceased individuals.

Any information obtained by the Secretary of Health and Human Services under such a contract shall be exempt from disclosure under section 552 of title 5, United States Code, and from the requirements of section 552a of such title 5.

"(C) SPECIAL EXCEPTION.—The provisions of subparagraph (A) shall not apply to any State which on July 1, 1993, was not, pursuant to a contract, furnishing the Secretary of Health and Human Services information concerning individuals with respect to whom death certificates (or equivalent documents maintained by the State or any subdivision thereof) have been officially filed with it."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by subsection (a) shall take effect on the date one year after the date of the enactment of this Act.

(2) SPECIAL RULE.—The amendment made by subsection (a) shall take effect on the date 2 years after the date of the enactment of this Act in the case of any State if it is established to the satisfaction of the Secretary of the Treasury that—

(A) under the law of such State as in effect on the date of the enactment of this Act, it is impossible for such State to enter into an agreement meeting the requirements of section 6103(d)(4)(B) of the Internal Revenue Code of 1986 (as added by subsection (a)), and

(B) it is likely that such State will enter into such an agreement during the extension period under this paragraph.

CHAPTER 2—HEALTH CARE, HUMAN RESOURCES, INCOME SECURITY, AND CUSTOMS AND TRADE PROVISIONS

Subchapter A—Medicare

SEC. 13500. REFERENCES IN SUBCHAPTER; TABLE OF CONTENTS OF SUBCHAPTER.

(a) AMENDMENTS TO SOCIAL SECURITY ACT.—Except as otherwise specifically provided, whenever in this subchapter an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

(b) REFERENCES TO OBRA.—In this subchapter, the terms "OBRA-1986", "OBRA-1987", "OBRA-1989", and "OBRA-1990" refer to the Omnibus Budget Reconciliation Act of 1986 (Public Law 99-509), the Omnibus Budget Reconciliation Act of 1987 (Public Law 100-203), the Omnibus Budget Reconciliation Act of 1989 (Public Law 101-239), and the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508), respectively.

(c) TABLE OF CONTENTS OF SUBCHAPTER.—The table of contents of this subchapter is as follows:

SUBCHAPTER A—MEDICARE

Sec. 13500. References in subchapter; table of contents of subchapter.

PART I—PROVISIONS RELATING TO PART A

Sec. 13501. Payments for PPS hospitals.
Sec. 13502. Reductions in payments for PPS-exempt hospitals.
Sec. 13503. Reductions in payments for skilled nursing facility services.
Sec. 13504. Reductions in payments for hospice services.
Sec. 13505. Hemophilia pass-through extension.
Sec. 13506. Graduate medical education payments in hospital-owned community health centers.
Sec. 13507. Extension of rural hospital demonstration.
Sec. 13508. Reduction in part A premium for certain individuals with 30 or more quarters of Social Security coverage.

PART II—PROVISIONS RELATING TO PART B

SUBPART A—PHYSICIANS' SERVICES

Sec. 13511. Reduction in default update for conversion factor for 1994 and 1995.
Sec. 13512. Reduction in performance standard rate of increase and increase in maximum reduction permitted in default update.
Sec. 13513. Practice expense relative value units.
Sec. 13514. Separate payment for interpretation of electrocardiograms.
Sec. 13515. Payments for new physicians and practitioners.
Sec. 13516. Payments for anesthesia.
Sec. 13517. Extension of physician payment provisions to nonparticipating suppliers and other persons.
Sec. 13518. Antigens under physician fee schedule.

SUBPART B—OUTPATIENT HOSPITAL SERVICES

Sec. 13521. Extension of 10 percent reduction in payments for capital-related costs of outpatient hospital services.
Sec. 13522. Extension of reduction in payments for other costs of outpatient hospital services.

SUBPART C—AMBULATORY SURGICAL CENTER SERVICES

Sec. 13531. Ambulatory surgical center services.
Sec. 13532. Designation of certain hospitals as eye or eye and ear hospitals.
Sec. 13533. Reduction in payments for intraocular lenses.

SUBPART D—DURABLE MEDICAL EQUIPMENT

Sec. 13541. Payment for parenteral and enteral nutrients, supplies, and equipment during 1994 and 1995.
Sec. 13542. Revisions to payment rules for durable medical equipment.
Sec. 13543. Treatment of nebulizers, aspirators, and certain ventilators.
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PART I—PROVISIONS RELATING TO PART A *COM007*

SEC. 13501. PAYMENTS FOR PPS HOSPITALS.

(a) REDUCTIONS IN PAYMENTS.—

(1) REDUCTIONS IN INFLATION UPDATES.—Section 1886(b)(3)(B)(i) (42 U.S.C. 1395ww(b)(3)(B)(i)) is amended—

(A) in subclause (IX)—

(i) by inserting "minus 2.5 percentage points" after "market basket percentage increase" the first place it appears, and

(ii) by striking "plus 1.5 percentage points" and inserting "minus 1.0 percentage point";

(B) in subclause (X)—

(i) by inserting "minus 2.5 percentage points" after "market basket percentage increase", and

(ii) by striking "and" at the end;

(C) in subclause (XI)—

(i) by striking "and each subsequent fiscal year",

(ii) by inserting "minus 2.0 percentage points" after "market basket percentage increase", and

(iii) by striking the period at the end and inserting a comma; and

(D) by adding at the end the following new subclauses:

"(XII) for fiscal year 1997, the market basket percentage increase minus 0.5 percentage point for hospitals in all areas, and

"(XIII) for fiscal year 1998 and each subsequent fiscal year, the market basket percentage increase for hospitals in all areas.".

(2) UPDATES FOR SOLE COMMUNITY HOSPITALS AND MEDICARE-DEPENDENT, SMALL RURAL HOSPITALS.—

(A) IN GENERAL.—Section 1886(b)(3)(B) (42 U.S.C. 1395ww(b)(3)(B)) is amended by adding at the end the following new clause:

"(iv) For purposes of subparagraphs (C) and (D), the 'applicable percentage increase' is—

"(I) for 12-month cost reporting periods beginning during fiscal years 1986 through 1993, the applicable percentage increase specified in clause (ii),

"(II) for fiscal year 1994, the market basket percentage increase minus 2.3 percentage points (taking into account any portion of the 12-month cost reporting period beginning during fiscal year 1993 that occurred during fiscal year 1994),

"(III) for fiscal year 1995, the market basket percentage increase minus 2.2 percentage points, and

"(IV) for fiscal year 1996 and each subsequent fiscal year, the applicable percentage increase under clause (i).".

(B) CONFORMING AMENDMENTS.—Section 1886(b)(3) (42 U.S.C. 1395ww(b)(3)) is amended—

(i) in subparagraph (B)(ii), by striking ", (C), (D),";

(ii) in subparagraph (C)(i)(II), by striking "or" at the end;

(iii) in clause (ii) of subparagraph (C)—

(I) by striking "period, the target" and inserting "period beginning before fiscal year 1994, the target",

(II) by striking "subparagraph (B)(ii)" and inserting "subparagraph (B)(iv)", and

(III) by striking the period at the end of such clause and inserting a comma;

(iv) in subparagraph (C), by inserting after clause (ii) the following new clauses:

"(iii) with respect to discharges occurring in fiscal year 1994, the target amount for the cost reporting period beginning in fiscal year 1993 increased by the applicable percentage increase under subparagraph (B)(iv), or

"(iv) with respect to discharges occurring in fiscal year 1995 and each subsequent fiscal year, the target amount for the preceding year increased by the applicable percentage increase under subparagraph (B)(iv).";

(v) in clause (ii) of subparagraph (D)—

(I) by striking "period, the target" and inserting "period beginning before fiscal year 1994, the target",

(II) by striking "(B)(ii)" and inserting "(B)(iv)", and

(III) by striking the period at the end of such clause and inserting ", and"; and

(vi) in subparagraph (D), by inserting after clause (ii) the following new clause:

"(iii) with respect to discharges occurring in fiscal year 1994, the target amount for the cost reporting period beginning in fiscal year 1993 increased by the applicable percentage increase under subparagraph (B)(iv).".

(3) REDUCTION IN FEDERAL PORTION OF CAPITAL PAYMENT RATE.—Section 1886(g)(1)(A) (42 U.S.C. 1395ww(g)(1)(A)) is amended by adding at the end the following new sentence: "For discharges occurring after September 30, 1993, the Secretary shall reduce by 7.4 percent the unadjusted standard Federal capital payment rate (as described in 42 CFR 412.308(c), as in effect on the date of the enactment of the Omnibus Budget Reconciliation Act of 1993) and shall (for hospital cost reporting periods beginning on or after October 1, 1993) redetermine which payment methodology is applied to the hospital under such system to take into account such reduction.".

(b) WAGE INDEX HOLD HARMLESS PROTECTION.—

(1) IN GENERAL.—Section 1886(d)(8)(C) (42 U.S.C. 1395ww(d)(8)(C)) is amended by adding at the end the following new clause:

"(iv) The application of subparagraph (B) or a decision of the Medicare Geographic Classification Review Board or of the Secretary under paragraph (1) may not result in a reduction in an urban area's wage index if—

"(I) the urban area has a wage index below the wage index for rural areas in the State in which it is located; or

"(II) the urban area is located in a State that is composed of a single urban area.".

(2) NO STANDARDIZED AMOUNT ADJUSTMENT.—The Secretary of Health and Human Services shall not revise the fiscal year 1992 or fiscal year 1993 standardized amounts pursuant to subsections (d)(3)(B) and (d)(8)(D) of section 1886 of the Social Security Act to account for the amendment made by paragraph (1).

(3) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to discharges occurring on or after October 1, 1991.

(c) TRANSITION FOR HOSPITAL OUTLIER THRESHOLDS.—Section 1886(d)(5)(A) (42 U.S.C. 1395ww(d)(5)(A)) is amended—

(1) in clause (i), by striking "The Secretary" and inserting "For discharges occurring during fiscal years ending on or before September 30, 1997, the Secretary";

(2) in clause (ii), by striking the period at the end and inserting the following: ", or, for discharges in fiscal years beginning on or after October 1, 1994, exceed the applicable DRG prospective payment rate plus a fixed dollar amount determined by the Secretary.";

(3) in clause (iii), by striking "shall approximate" and inserting "shall (except as payments under clause (i) are required to be reduced to take into account the requirements of clause (v)) approximate"; and

(4) by adding at the end the following new clauses:

"(v) The Secretary shall provide that—

"(I) the day outlier percentage for fiscal year 1995 shall be 75 percent of the day outlier percentage for fiscal year 1994;

"(II) the day outlier percentage for fiscal year 1996 shall be 50 percent of the day outlier percentage for fiscal year 1994; and

"(III) the day outlier percentage for fiscal year 1997 shall be 25 percent of the day outlier percentage for fiscal year 1994.

"(vi) For purposes of this subparagraph, the term 'day outlier percentage' means, for a fiscal year, the percentage of the total additional payments made by the Secretary under this subparagraph for discharges in that fiscal year which are additional payments under clause (i).".

(d) EXTENSION FOR REGIONAL REFERRAL CENTERS.—

(1) EXTENSION OF CLASSIFICATION THROUGH FISCAL YEAR 1994.—Any hospital that is classified as a regional referral center under section 1886(d)(5)(C) of the Social Security Act as of September 30, 1992, shall continue to be so classified for cost reporting periods beginning during fiscal year 1993 or fiscal year 1994, unless the area in which the hospital is located is redesignated as a Metropolitan Statistical Area by the Office of Management and Budget for such a fiscal year.

(2) PERMITTING HOSPITALS TO DECLINE RECLASSIFICATION.—If any hospital fails to qualify as a rural referral center under section 1886(d)(5)(C) of the Social Security Act as a result of a decision by the Medicare Geographic Classification Review Board under section 1886(d)(10) of such Act to reclassify the hospital as being located in an urban area for fiscal year 1993 or fiscal year 1994, the Secretary of Health and Human Services shall—

(A) notify such hospital of such failure to qualify,

(B) provide an opportunity for such hospital to decline such reclassification, and

(C) if the hospital—

(i) declines such reclassification, administer the Social Security Act (other than section 1886(d)(8)(D)) for such fiscal year as if the decision by the Review Board had not occurred, or

(ii) fails to decline such reclassification, administer the Social Security Act without regard to paragraph (1).

(3) REQUIRING LUMP-SUM RETROACTIVE PAYMENT FOR HOSPITALS LOSING CLASSIFICATION.—

(A) IN GENERAL.—In the case of a hospital described in paragraph (1), the Secretary of Health and Human Services shall make a lump sum payment to the hospital equal to the difference between the aggregate payment made to the hospital under section 1886 of such Act (excluding outlier payments under subsection (d)(5)(A) of such section) during the period of applicability described in subparagraph (B) and the aggregate payment that would have been made to the hospital under such section if, during the period of applicability, the hospital was classified a regional referral center under section 1886(d)(5)(C) of such Act.

(B) PERIOD OF APPLICABILITY.—In subparagraph (A), the "period of applicability" is the period that begins on October 1, 1992, and ends on the date of the enactment of this Act.

(e) EXTENSION FOR MEDICARE-DEPENDENT, SMALL RURAL HOSPITALS.—

(1) EXTENSION OF ADDITIONAL PAYMENTS.—Section 1886(d)(5)(G) (42 U.S.C. 1395ww (d)(5)(G)) is amended—

(A) in clause (i) in the matter preceding subclause (I), by striking "ending on or before March 31, 1993," and all that follows and inserting the following: "before October 1, 1994, in the case of a subsection (d) hospital which is a medicare-dependent, small rural hospital, payment under paragraph (1)(A) shall be equal to the sum of the amount determined under clause (ii) and the amount determined under paragraph (1)(A)(iii).";

(B) by redesignating clauses (ii) and (iii) as clauses (iii) and (iv); and

(C) by inserting after clause (i) the following new clause:

"(ii) The amount determined under this clause is—

"(I) for discharges occurring during the first 3 12-month cost reporting periods that begin on or after April 1, 1990, the amount by which the hospital's target amount for the cost reporting period (as defined in subsection (b)(3)(D)) exceeds the amount determined under paragraph (1)(A)(iii); and

"(II) for discharges occurring during any subsequent cost reporting period (or portion thereof) and before October 1, 1994, 50 percent of the amount by which the hospital's target amount for the cost reporting period (as defined in subsection (b)(3)(D)) exceeds the amount determined under paragraph (1)(A)(iii).".

(2) PERMITTING HOSPITALS TO DECLINE RECLASSIFICATION.—If any hospital fails to qualify as a medicare-dependent, small rural hospital under section 1886(d)(5)(G)(i) of the Social Security Act as a result of a decision by the Medicare Geographic Classification Review Board under section 1886(d)(10) of such Act to reclassify the hospital as being located in an urban area for fiscal year 1993 or fiscal year 1994, the Secretary of Health and Human Services shall—

(A) notify such hospital of such failure to qualify,

(B) provide an opportunity for such hospital to decline such reclassification, and

(C) if the hospital declines such reclassification, administer the Social Security Act (other than section 1886(d)(8)(D)) for such fiscal year as if the decision by the Review Board had not occurred.

(3) REQUIRING LUMP-SUM RETROACTIVE PAYMENT.—

(A) IN GENERAL.—In the case of a hospital treated as a medicare-dependent, small rural hospital under section 1886(d)(5)(G) of the Social Security Act, the Secretary of Health and Human Services shall make a lump sum payment to the hospital equal to the difference between the aggregate payment made to the hospital under section 1886 of such Act (excluding outlier payments under subsection (d)(5)(A) of such section) during the period of applicability described in subparagraph (B) and the aggregate payment that would have been made to the hospital under such section if, during the period of applicability, section 1886(d)(5)(G) of such Act had been applied as if the amendments made by paragraph (1) had been in effect.

(B) PERIOD OF APPLICABILITY.—In subparagraph (A), the "period of applicability" is, with respect to a hospital, the period that begins on the first day of the hospital's first 12-month cost reporting period that begins after April 1, 1992, and ends on the date of the enactment of this Act.

(f) EXTENSION OF REGIONAL FLOOR.—Section 1886(d)(1)(A)(iii) (42 U.S.C. 1395ww(d)(1)(A)(iii)) is amended to read as follows:

"(iii) beginning on or after April 1, 1988, is equal to—

"(I) the national adjusted DRG prospective payment rate determined under paragraph (3) for such discharges, or

"(II) for discharges occurring during a fiscal year ending on or before September 30, 1996, the sum of 85 percent of the national adjusted DRG prospective payment rate determined under paragraph (3) for such discharges and 15 percent of the regional adjusted DRG prospective payment rate determined under such paragraph, but only if the average standardized amount (described in clause (i)(I) or clause (ii)(I) of paragraph (3)(D)) for hospitals within the region of, and in the same large urban or other area (or, for discharges occurring during a fiscal year ending on or before September 30, 1994, the same rural, large urban, or other urban area) as, the hospital is greater than the average standardized amount (described in the respective clause) for hospitals within the United States in that type of area for discharges occurring during such fiscal year.".

SEC. 13502. REDUCTIONS IN PAYMENTS FOR PPS-EXEMPT HOSPITALS.

(a) IN GENERAL.—Section 1886(b)(3)(B) (42 U.S.C. 1395ww(b)(3)(B)), as amended by section 13501(a)(2)(B)(i), is amended—

(1) in clause (ii)—

(A) by striking "and" at the end of subclause (III);

(B) in subclause (IV)—

(i) by striking "subsequent fiscal years" and inserting "a subsequent fiscal year ending on or before September 30, 1993,", and

(ii) by striking the period at the end and inserting a comma; and

(C) by adding at the end the following new subclauses:

"(V) fiscal years 1994 through 1997, is the market basket percentage increase minus the applicable reduction (as defined in clause (v)(II)), or in the case of a hospital for a fiscal year for which the hospital's update adjustment percentage (as defined in clause (v)(I)) is at least 10 percent, the market basket percentage increase, and

"(VI) subsequent fiscal years is the market basket percentage increase."; and

(2) by adding at the end the following new clause:

"(v) For purposes of clause (ii)(V)—

"(I) a hospital's 'update adjustment percentage' for a fiscal year is the percentage by which the hospital's allowable operating costs of inpatient hospital services recognized under this title for the cost reporting period beginning in fiscal year 1990 exceeds the hospital's target amount (as determined under subparagraph (A)) for such cost reporting period, increased for each fiscal year (beginning with fiscal year 1994) by the sum of any of the hospital's applicable reductions under subclause (V) for previous fiscal years; and

"(II) the 'applicable reduction' with respect to a hospital for a fiscal year is the lesser of 1 percentage point or the percentage point difference between 10 percent and the hospital's update adjustment percentage for the fiscal year.".

(b) EFFECT OF PAYMENT REDUCTION ON EXCEPTIONS AND ADJUSTMENTS.—Section 1886(b)(4)(A) (42 U.S.C. 1395ww(b)(4)(A)) is amended—

(1) by inserting "(i)" after "(A)", and

(2) by adding at the end the following:

"(ii) The payment reductions under paragraph (3)(B)(ii)(V) shall not be considered by the Secretary in making adjustments pursuant to clause (i).".

SEC. 13503. REDUCTIONS IN PAYMENTS FOR SKILLED NURSING FACILITY SERVICES.

(a) PAYMENTS BASED ON COST LIMITS.—

(1) NO CHANGES IN COST LIMITS.—The Secretary of Health and Human Services may not provide for any change in the limits on per diem routine service costs for extended care services under section 1888 of the Social Security Act for cost reporting periods beginning during fiscal years 1994 and 1995, except as may be necessary to take into account the amendments made by paragraph (3)(A). The effect of the preceding sentence shall not be considered by the Secretary in making adjustments pursuant to section 1888(c) of such Act to the payment limits for such services during such fiscal years.

(2) DELAY IN UPDATES.—The last sentence of section 1888(a) (42 U.S.C. 1395yy(a)) is amended by inserting after "October 1, 1992" the following: ", on or after October 1, 1995,".

(3) REPEAL OF EXCESS OVERHEAD ALLOCATIONS FOR HOSPITAL-BASED FACILITIES.—

(A) IN GENERAL.—Section 1888(b) (42 U.S.C. 1395yy(b)) is amended—

(i) by striking "shall recognize" and inserting "may not recognize"; and

(ii) by striking "(as determined by" and all that follows and inserting a period.

(B) EFFECTIVE DATE.—The amendments made by subparagraph (A) shall apply to cost reporting periods beginning on or after October 1, 1993.

(b) PAYMENTS DETERMINED ON PROSPECTIVE BASIS.—The Secretary of Health and Human Services may not change the amount of any prospective payment paid to a skilled nursing facility under section 1888(d) of the Social Security Act for services furnished during cost reporting periods beginning during fiscal years 1994 and 1995, except as may be necessary to take into account the amendment made by subsection (c)(1)(A).

(c) ELIMINATION OF RETURN ON EQUITY FOR PROPRIETARY SKILLED NURSING FACILITIES.—

(1) REPEAL OF REQUIREMENT FOR RETURN ON EQUITY.—(A) Section 1861(v)(1)(B) (42 U.S.C. 1395x(v)(1)(B)) is amended to read as follows:

"(B) In the case of extended care services, the regulations under subparagraph (A) shall not include provision for specific recognition of a return on equity capital.".

(B) Section 1878(f)(2) (42 U.S.C. 1395oo(f)(2)) is amended by striking "the rate of return on equity capital established by regulation pursuant to section 1861(v)(1)(B) and in effect at the time" and inserting "the rate of interest on obligations issued for purchase by the Federal Hospital Insurance Trust Fund for the month in which".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect October 1, 1993.

SEC. 13504. REDUCTIONS IN PAYMENTS FOR HOSPICE SERVICES.

Section 1814(i)(1)(C) (42 U.S.C. 1395f(i)(1)(C)) is amended by striking "increased by" and all that follows and inserting the following: "increased by—

"(I) for a fiscal year ending on or before September 30, 1993, the market basket percentage increase (as defined in section 1886(b)(3)(B)(iii)) for the fiscal year;

"(II) for fiscal year 1994, the market basket percentage increase for the fiscal year minus 2.0 percentage points;

"(III) for fiscal year 1995, the market basket percentage increase for the fiscal year minus 1.5 percentage points;

"(IV) for fiscal year 1996, the market basket percentage increase for the fiscal year minus 1.5 percentage points;

"(V) for fiscal year 1997, the market basket percentage increase for the fiscal year minus 0.5 percentage point; and

"(VI) for a subsequent fiscal year, the market basket percentage increase for the fiscal year.".

SEC. 13505. HEMOPHILIA PASS-THROUGH EXTENSION.

Effective as if included in the enactment of OBRA–1989, section 6011(d) of such Act is amended by striking "2 years after the date of enactment of this Act" and inserting "September 30, 1994".

SEC. 13506. GRADUATE MEDICAL EDUCATION PAYMENTS IN HOSPITAL-OWNED COMMUNITY HEALTH CENTERS.

Section 1886(d)(5)(B)(iv) (42 U.S.C. 1395ww(d)(5)(B)(iv)) is amended by inserting after "the hospital" the following: "or providing services at any entity receiving a grant under section 330 of the Public Health Service Act that is under the ownership or control of the hospital (if the hospital incurs all, or substantially all, of the costs of the services furnished by such interns and residents)".

SEC. 13507. EXTENSION OF RURAL HOSPITAL DEMONSTRATION.

Section 4008(i)(1) of OBRA–1990 is amended by adding at the end the following new sentence: "The Secretary shall continue any such demonstration project until at least July 1, 1997.".

SEC. 13508. REDUCTION IN PART A PREMIUM FOR CERTAIN INDIVIDUALS WITH 30 OR MORE QUARTERS OF SOCIAL SECURITY COVERAGE.

(a) IN GENERAL.—Section 1818(d) (42 U.S.C. 1395i–2(d)) is amended—

(1) in the second sentence of paragraph (2), by striking "Such amount" and inserting "Subject to paragraph (4), the amount of an individual's monthly premium under this section"; and

(2) by adding at the end the following new paragraph:

"(4)(A) In the case of an individual described in subparagraph (B), the monthly premium for a month shall be reduced by the applicable reduction percent specified in the following table:

"For a month in:	*The applicable reduction percent is:*
1994	*25 percent*
1995	*30 percent*
1996	*35 percent*
1997	*40 percent*
1998 or subsequent year	*45 percent.*

"(B) An individual described in this subparagraph with respect to a month is an individual who establishes to the satisfaction of the Secretary that, as of the last day of the previous month, the individual—

"(i) had at least 30 quarters of coverage under title II;

"(ii) was married (and had been married for the previous 1 year period) to an individual who had at least 30 quarters of coverage under such title;

"(iii) had been married to an individual for a period of at least 1 year (at the time of such individual's death) if at such time the individual had at least 30 quarters of coverage under such title; or

"(iv) is divorced from an individual and had been married to the individual for a period of at least 10 years (at the time of the divorce) if at such time the individual had at least 30 quarters of coverage under such title.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to monthly premiums under section 1818 of the Social Security Act for months beginning with January 1, 1994.

PART II—PROVISIONS RELATING TO PART B

Subpart A—Physicians' Services

SEC. 13511. REDUCTION IN DEFAULT UPDATE FOR CONVERSION FACTOR FOR 1994 AND 1995.

(a) IN GENERAL.—Section 1848 (42 U.S.C. 1395w–4) is amended—

(1) in subsection (d)(3)(A)—

(A) in clause (i), by striking "clause (iii)" and inserting "clauses (iii) through (v)", and

(B) by adding at the end the following new clauses:

"(iv) ADJUSTMENT IN PERCENTAGE INCREASE FOR 1994.—In applying clause (i) for services furnished in 1994, the percentage increase in the appropriate update index shall be reduced by—

"(I) 3.6 percentage points for services included in the category of surgical services (as defined for purposes of subsection (j)(1)), and

"(II) 2.6 percentage points for other services.

"(v) ADJUSTMENT IN PERCENTAGE INCREASE FOR 1995.—In applying clause (i) for services furnished in 1995, the percentage increase in the appropriate update index shall be reduced by 2.7 percentage points.

"(vi) EXCEPTION FOR CATEGORY OF PRIMARY CARE SERVICES.—Clauses (iv) and (v) shall not apply to services included in the category of primary care services (as defined for purposes of subsection (j)(1))."; and

(2) in subsection (j)(1), by striking "Secretary)" and inserting "Secretary and including anesthesia services), primary care services (as defined in section 1842(i)(4)),".

(b) EFFECTIVE DATES.—The amendments made by this section shall apply to services furnished on or after January 1, 1994; except that amendment made by subsection (a)(2) shall not apply—

(1) to volume performance standard rates of increase established under section 1848(f) of the Social Security Act for fiscal years before fiscal year 1994, and

(2) to adjustment in updates in the conversion factors for physicians' services under section 1848(d)(3)(B) of such Act for physicians' services to be furnished in calendar years before 1996.

SEC. 13512. REDUCTION IN PERFORMANCE STANDARD RATE OF INCREASE AND INCREASE IN MAXIMUM REDUCTION PERMITTED IN DEFAULT UPDATE.

(a) REDUCTION IN PERFORMANCE STANDARD FACTOR.—Section 1848(f)(2)(B) (42 U.S.C. 1395w–4(f)(2)(B)) is amended—

(1) by striking "and" at the end of clause (ii), and

(2) by striking clause (iii) and inserting the following:

"(iii) for 1993 is 2 percentage points,

"(iv) for 1994 is 3½ percentage points, and

"(v) for each succeeding year is 4 percentage points.".

(b) INCREASE IN MAXIMUM REDUCTION PERMITTED IN DEFAULT UPDATE.—Section 1848(d)(3)(B)(ii) (42 U.S.C. 1395w–4(d)(3)(B)(ii)) is amended—

(1) in subclause (II), by striking "or 1995", and

(2) in subclause (III), by striking "3" and inserting "5".

SEC. 13513. PRACTICE EXPENSE RELATIVE VALUE UNITS.

Section 1848(c)(2) (42 U.S.C. 1395w–4(c)(2)) is amended by adding at the end the following new subparagraph:

"(E) REDUCTION IN PRACTICE EXPENSE RELATIVE VALUE UNITS FOR CERTAIN SERVICES.—

"(i) IN GENERAL.—Subject to clause (ii), the Secretary shall reduce the practice expense relative value units applied to services described in clause (iii) furnished in—

"(I) 1994, by 25 percent of the number by which the number of practice expense relative value units (determined for 1994 without regard to this subparagraph) exceeds the number of work relative value units determined for 1994,

"(II) 1995, by an additional 25 percent of such excess, and

"(III) 1996, by an additional 25 percent of such excess.

"(ii) FLOOR ON REDUCTIONS.—The practice expense relative value units for a physician's service shall not be reduced under this subparagraph to a number less than 128 percent of the number of work relative value units.

"(iii) SERVICES COVERED.—For purposes of clause (i), the services described in this clause are physicians' services that are not described in clause (iv) and for which—

"(I) there are work relative value units, and

"(II) the number of practice expense relative value units (determined for 1994) exceeds 128 percent of the number of work relative value units (determined for such year).

"(iv) EXCLUDED SERVICES.—For purposes of clause (iii), the services described in this clause are services which the Secretary determines at least 75 percent of which are provided under this title in an office setting.".

SEC. 13514. SEPARATE PAYMENT FOR INTERPRETATION OF ELECTROCARDIOGRAMS.

(a) IN GENERAL.—Paragraph (3) of section 1848(b) (42 U.S.C. 1395w–4(b)) is amended to read as follows:

"(3) TREATMENT OF INTERPRETATION OF ELECTROCARDIOGRAMS.—The Secretary—

"(A) shall make separate payment under this section for the interpretation of electrocardiograms performed or ordered to be performed as part of or in conjunction with a visit to or a consultation with a physician, and

"(B) shall adjust the relative values established for visits and consultations under subsection (c) so as not to include relative value units for interpretations of electrocardiograms in the relative value for visits and consultations.".

(b) ASSURING BUDGET NEUTRALITY.—Section 1848(c)(2) (42 U.S.C. 1395w–4(c)(2)), as amended by section 13513, is further amended by adding at the end the following new subparagraph:

"(F) BUDGET NEUTRALITY ADJUSTMENTS.—The Secretary—

"(i) shall reduce the relative values for all services (other than anesthesia services) established under this paragraph (and, in the case of anesthesia services, the conversion factor established by the Secretary for such services) by such percentage as the Secretary determines to be necessary so that, beginning in 1996, the amendment made by section 13514(a) of the Omnibus Budget Reconciliation Act of 1993 would not result in expenditures under this section that exceed the amount of such expenditures that would have been made if such amendment had not been made, and

"(ii) shall reduce the amounts determined under subsection (a)(2)(B)(ii)(I) by such percentage as the Secretary determines to be required to assure that, taking into account the reductions made under clause (i), the amendment made by section 13514(a) of the Omnibus Budget Reconciliation Act of 1993 would not result in expenditures under this section in 1994 that exceed the amount of such expenditures that would have been made if such amendment had not been made.".

(c) CONFORMING AMENDMENTS.—Section 1848 (42 U.S.C. 1395w–4) is amended—

(1) in subsection (a)(2)(B)(ii)(I), by inserting "and as adjusted under subsection (c)(2)(F)(ii)" after "for 1994";

(2) in subsection (c)(2)(A)(i), by adding at the end the following: "Such relative values are subject to adjustment under subparagraph (F)(i)."; and

(3) in subsection (i)(1)(B), by adding at the end "including adjustments under subsection (c)(2)(F),".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 1994.

SEC. 13515. PAYMENTS FOR NEW PHYSICIANS AND PRACTITIONERS.

(a) EQUAL TREATMENT OF NEW PHYSICIANS AND PRACTITIONERS.—(1) Section 1848(a) (42 U.S.C. 1395w–4(a)) is amended by striking paragraph (4).

(2) Section 1842(b)(4) (42 U.S.C. 1395u(b)(4)) is amended by striking subparagraph (F).

(b) BUDGET NEUTRALITY ADJUSTMENT.—Notwithstanding any other provision of law, the Secretary of Health and Human Services shall reduce the following values and amounts for 1994 (to be applied for that year and subsequent years) by such uniform percentage as the Secretary determines to be required to assure that the amendments made by subsection (a) will not result in expenditures under part B of title XVIII of the Social Security Act in 1994 that exceed the amount of such expenditures that would have been made if such amendments had not been made:

(1) The relative values established under section 1848(c) of such Act for services (other than anesthesia services) and, in the case of anesthesia services, the conversion factor established under section 1848 of such Act for such services.

(2) The amounts determined under section 1848(a)(2)(B)(ii)(I) of such Act.

(3) The prevailing charges or fee schedule amounts to be applied under such part for services of a health care practitioner (as defined in section 1842(b)(4)(F)(ii)(I) of such Act, as in effect before the date of the enactment of this Act).

(c) CONFORMING AMENDMENTS.—Section 1848 (42 U.S.C. 1395w–4), as amended by section 13514(c), is amended—

(1) in subsection (a)(2)(B)(ii)(I), by inserting "and under section 13515(b) of the Omnibus Budget Reconciliation Act of 1993" after "subsection (c)(2)(F)(ii)";

(2) in subsection (c)(2)(A)(i), by inserting "and section 13515(b) of the Omnibus Budget Reconciliation Act of 1993" after "under subparagraph (F)(i)"; and

(3) in subsection (i)(1)(B), by inserting "and section 13515(b) of the Omnibus Budget Reconciliation Act of 1993" after "under subsection (c)(2)(F)".

(d) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to services furnished on or after January 1, 1994.

SEC. 13516. PAYMENTS FOR ANESTHESIA.

(a) PAYMENT TO A PHYSICIAN FOR MEDICAL DIRECTION.—

(1) IN GENERAL.—Section 1848(a) (42 U.S.C. 1395w–4(a)), as amended by section 13515(a)(1), is amended by adding at the end the following new paragraph:

"(4) SPECIAL RULE FOR MEDICAL DIRECTION.—

"(A) IN GENERAL.—With respect to physicians' services furnished on or after January 1, 1994, and consisting of medical direction of two, three, or four concurrent anesthesia cases, the fee schedule amount to be applied shall be equal to one-half of the amount described in subparagraph (B).

"(B) AMOUNT.—The amount described in this subparagraph, for a physician's medical direction of the performance of anesthesia services, is the following percentage of the fee schedule amount otherwise applicable under this section if the anesthesia services were personally performed by the physician alone:

"(i) For services furnished during 1994, 120 percent.

"(ii) For services furnished during 1995, 115 percent.

"(iii) For services furnished during 1996, 110 percent.

"(iv) For services furnished during 1997, 105 percent.

"(v) For services furnished after 1997, 100 percent.".

(2) ELIMINATION OF REDUCTION FOR MEDICAL DIRECTION OF MULTIPLE NURSE ANESTHETISTS AND ESTABLISHMENT OF CONSISTENT BASE AND TIME UNITS.—Paragraph (13) of section 1842(b) (42 U.S.C. 1395u(b)) is amended—

(A) by striking subparagraphs (A) and (B) and inserting the following:

"(13)(A) In determining payments under section 1833(l) and section 1848 for anesthesia services furnished on or after January 1, 1994, the methodology for determining the base and time units used shall be the same for services furnished by physicians, for medical direction by physicians of two, three, or four certified registered nurse anesthetists, or for services furnished by a certified registered nurse anesthetist (whether or not medically directed) and shall be based on the methodology in effect, for anesthesia services furnished by physicians, as of the date of the enactment of Omnibus Budget Reconciliation Act of 1993.";

(B) by redesignating subparagraph (C) as subparagraph (B); and

(C) by striking "subparagraph (A) or (B)" in subparagraph (B) (as so redesignated) and inserting "subparagraph (A)".

(b) PAYMENT TO A CERTIFIED REGISTERED NURSE ANESTHETIST FOR MEDICALLY DIRECTED SERVICES.—Section 1833(l)(4)(B) (42 U.S.C. 1395l(l)(4)(B)) is amended—

(1) in clause (i), by inserting "and before January 1, 1994," after "1991,";

(2) in clause (ii)—

(A) by adding "and" at the end of subclause (II),

(B) by striking the comma at the end of subclause (III) and inserting a period, and

(C) by striking subclauses (IV) through (VII); and

(3) by adding at the end the following new clause:

"(iii) In the case of services of a certified registered nurse anesthetist who is medically directed or medically supervised by a physician which are furnished on or after January 1, 1994, the fee schedule amount shall be one-half of the amount described in section 1848(a)(5)(B) with respect to the physician.".

SEC. 13517. EXTENSION OF PHYSICIAN PAYMENT PROVISIONS TO NONPARTICIPATING SUPPLIERS AND OTHER PERSONS.

(a) IN GENERAL.—Section 1848 (42 U.S.C. 1395w–4) is amended—

(1) in subsection (a)(3)—

(A) in the heading, by inserting "AND SUPPLIERS" after "PHYSICIANS",

(B) by inserting "or a nonparticipating supplier or other person" after "nonparticipating physician", and

(C) by adding at the end the following: "In the case of physicians' services (including services which the Secretary excludes pursuant to subsection (j)(3)) of a nonparticipating physician, supplier, or other person for which payment is made under this part on a basis other than the fee schedule amount, the payment shall be based on 95 percent of the payment basis for such services furnished by a participating physician, supplier, or other person.";

(2) in subsection (g)(1)—

(A) by inserting "or nonparticipating supplier or other person (as defined in section 1842(i)(2))" after "nonparticipating physician",

(B) by inserting "including services which the Secretary excludes pursuant to subsection (j)(3)," after "physician's services (",

(C) by inserting ", supplier, or other person" after "such physician", and

(D) by adding at the end the following: "In applying this subparagraph, any reference in such section to a physician is deemed also to include a reference to a supplier or other person under this subparagraph.";

(3) in subsection (g)(2)(C), by inserting "or for nonparticipating suppliers or other persons" after "nonparticipating physicians";

(4) in subsection (g)(2)(D), by inserting "(or, if payment under this part is made on a basis other than the fee schedule under this section, 95 percent of the other payment basis)" after "subsection (a)";

(5) in subsection (h)—

(A) by inserting "or nonparticipating supplier or other person furnishing physicians' services (as defined in section 1848(j)(3))" after "physician" the first place it appears,

(B) by inserting ", supplier, or other person" after "physician" the second place it appears, and

(C) by inserting ", suppliers, and other persons" after "physicians" the second place it appears; and

(6) in subsection (j)(3), by inserting ", except for purposes of subsections (a)(3), (g), and (h)" after "tests and".

(b) CONFORMING DEFINITION.—Section 1842(i)(2) (42 U.S.C. 1395u(i)(2)) is amended—

(1) by striking ", and the term" and inserting "; the term", and

(2) by inserting before the period at the end the following: "; and the term 'nonparticipating supplier or other person' means a supplier or other person (excluding a provider of services) that is not a participating physician or supplier (as defined in subsection (h)(1))".

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to services furnished on or after January 1, 1994.

SEC. 13518. ANTIGENS UNDER PHYSICIAN FEE SCHEDULE.

(a) IN GENERAL.—Section 1848(j)(3) (42 U.S.C. 1395w–4(j)(3)) is amended by inserting "(2)(G)," after "(2)(D),".

(b) BUDGET NEUTRALITY ADJUSTMENT IN 1995.—Notwithstanding any other provision of law, the Secretary of Health and Human Services shall implement the amendment made by subsection (a) in a manner to assure that such amendment will result in expenditures under part B of title XVIII of the Social Security Act in 1995 for services described in such amendment that shall be equal to the amount of expenditures for such services that would have been made if such amendment had not been made.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to services furnished on or after January 1, 1995.

Subpart B—Outpatient Hospital Services

SEC. 13521. EXTENSION OF 10 PERCENT REDUCTION IN PAYMENTS FOR CAPITAL-RELATED COSTS OF OUTPATIENT HOSPITAL SERVICES.

Section 1861(v)(1)(S)(ii)(I) (42 U.S.C. 1395x(v)(1)(S)(ii)(I)) is amended by striking "fiscal year 1992, 1993, 1994, or 1995" and inserting "fiscal years 1992 through 1998".

SEC. 13522. EXTENSION OF REDUCTION IN PAYMENTS FOR OTHER COSTS OF OUTPATIENT HOSPITAL SERVICES.

Section 1861(v)(1)(S)(ii)(II) (42 U.S.C. 1395x(v)(1)(S)(ii)(II)) is amended by striking ", 1992, 1993, 1994, or 1995" and inserting "through 1998".

Subpart C—Ambulatory Surgical Center Services

SEC. 13531. AMBULATORY SURGICAL CENTER SERVICES.

The Secretary of Health and Human Services shall not provide for any inflation update in the payment amounts under subparagraphs (A) and (B) of section 1833(i)(2) of the Social Security Act for fiscal year 1994 or for fiscal year 1995.

SEC. 13532. DESIGNATION OF CERTAIN HOSPITALS AS EYE OR EYE AND EAR HOSPITALS.

(a) IN GENERAL.—Section 1833(i) (42 U.S.C. 1395l(i)) is amended—

(1) in paragraph (3)(B)(ii)—

(A) in the matter preceding subclause (I), by striking "the last sentence of this clause" and inserting "paragraph (4)", and

(B) by striking the last sentence; and

(2) by inserting after paragraph (3) the following new paragraph:

"(4)(A) In the case of a hospital that—

"(i) makes application to the Secretary and demonstrates that it specializes in eye services or eye and ear services (as determined by the Secretary),

"(ii) receives more than 30 percent of its total revenues from outpatient services, and

"(iii) on October 1, 1987—

"(I) was an eye specialty hospital or an eye and ear specialty hospital, or

"(II) was operated as an eye or eye and ear unit (as defined in subparagraph (B)) of a general acute care hospital which, on the date of the application described in clause (i), operates less than 20 percent of the beds that the hospital operated on October 1, 1987, and has sold or otherwise disposed of a substantial portion of the hospital's other acute care operations,

the cost proportion and ASC proportion in effect under subclauses (I) and (II) of paragraph (3)(B)(ii) for cost reporting periods beginning in fiscal year 1988 shall remain in effect for cost reporting periods beginning on or after October 1, 1988, and before January 1, 1995.

"(B) For purposes of this subparagraph (A)(iii)(II), the term 'eye or eye and ear unit' means a physically separate or distinct unit containing separate surgical suites devoted solely to eye or eye and ear services.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to portions of cost reporting periods beginning on or after January 1, 1994.

SEC. 13533. REDUCTION IN PAYMENTS FOR INTRAOCULAR LENSES.

Notwithstanding section 1833(i)(2)(A)(iii) of the Social Security Act the amount of payment determined under such section for an intraocular lens inserted subsequent to or during cataract surgery in an ambulatory surgical center on or after January 1, 1994, and before January 1, 1999, shall be equal to $150.

Subpart D—Durable Medical Equipment

SEC. 13541. PAYMENT FOR PARENTERAL AND ENTERAL NUTRIENTS, SUPPLIES, AND EQUIPMENT DURING 1994 AND 1995.

In determining the amount of payment under part B of title XVIII of the Social Security Act with respect to parenteral and enteral nutrients, supplies, and equipment during 1994 and 1995, the charges determined to be reasonable with respect to such nutrients, supplies, and equipment may not exceed the charges determined to be reasonable with respect to such nutrients, supplies, and equipment during 1993.

SEC. 13542. REVISIONS TO PAYMENT RULES FOR DURABLE MEDICAL EQUIPMENT.

(a) BASING NATIONAL PAYMENT LIMITS ON MEDIAN OF LOCAL PAYMENT AMOUNTS.—

(1) INEXPENSIVE AND ROUTINELY PURCHASED ITEMS; ITEMS REQUIRING FREQUENT AND SUBSTANTIAL SERVICING.—(A) Paragraphs (2)(C)(i)(II) and (3)(C)(i)(II) of section 1834(a) (42 U.S.C. 1395m(a)) are each amended—

(i) by striking "1992" the first place it appears and inserting "1992, 1993, and 1994"; and

(ii) by striking "1992" the second place it appears and inserting "the year".

(B) Paragraphs (2)(C)(ii) and (3)(C)(ii) of section 1834(a) (42 U.S.C. 1395m(a)) are each amended—

(i) by striking "and" at the end of subclause (I);

(ii) by redesignating subclause (II) as subclause (IV); and

(iii) by inserting after subclause (I) the following new subclauses:

"(II) for 1992 and 1993, the amount determined under this clause for the preceding year increased by the covered item update for such subsequent year,

"(III) for 1994, the local payment amount determined under clause (i) for such item or device for that year, except that the national limited payment amount may not exceed 100 percent of the median of all local payment amounts determined under such clause for such item for that year and may not be less than 85 percent of the median of all local payment amounts determined under such clause for such item or device for that year, and".

(2) MISCELLANEOUS DEVICES AND ITEMS.—Section 1834(a)(8) (42 U.S.C. 1395m(a)(8)) is amended—

(A) in subparagraph (A)(ii)(III), by striking "1992" and inserting "1992, 1993, and 1994"; and

(B) in subparagraph (B)—

(i) by striking "and" at the end of clause (i),

(ii) by redesignating clause (ii) as (iv), and

(iii) by inserting after clause (i) the following new clauses:

"(ii) for 1992 and 1993, the amount determined under this subparagraph for the preceding year increased by the covered item update for such subsequent year;

"(iii) for 1994, the local purchase price computed under subparagraph (A)(ii) for the item for the year, except that such national limited purchase price may not exceed 100 percent of the median of all local purchase prices computed for the item under such subparagraph for the year and may not be less than 85 percent of the median of all local purchase prices computed under such subparagraph for the item for the year; and".

(3) OXYGEN AND OXYGEN EQUIPMENT.—Section 1834(a)(9) (42 U.S.C. 1395m(a)(9)) is amended—

(A) in subparagraph (A)(ii)(II), by striking "1991 and 1992" and inserting "1991, 1992, 1993, and 1994"; and

(B) in subparagraph (B)—

(i) by striking "and" at the end of clause (i),

(ii) by redesignating clause (ii) as (iv), and

(iii) by inserting after clause (i) the following new clauses:

"(ii) for 1992 and 1993, the amount determined under this subparagraph for the preceding year increased by the covered item update for such subsequent year;

"(iii) for 1994, the local monthly payment rate computed under subparagraph (A)(ii) for the item for the year, except that such national limited monthly payment rate may not exceed 100 percent of the median of all local monthly payment rates computed for the item under such subparagraph for the year and may not be less than 85 percent of the median of all local monthly payment rates computed for the item under such subparagraph for the year; and".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to items furnished on or after January 1, 1994.

SEC. 13543. TREATMENT OF NEBULIZERS, ASPIRATORS, AND CERTAIN VENTILATORS.

(a) IN GENERAL.—Section 1834(a)(3)(A) (42 U.S.C. 1395m(a)(3)(A)) is amended by striking "ventilators, aspirators, IPPB machines, and nebulizers" and inserting "IPPB machines and ventilators, excluding ventilators that are either continuous airway pressure devices or intermittent assist devices with continuous airway pressure devices".

(b) PAYMENT FOR ACCESSORIES RELATING TO NEBULIZERS, ASPIRATORS, AND CERTAIN VENTILATORS.—Section 1834(a)(2)(A) (42 U.S.C. 1395m(a)) is amended—

(1) by striking "or" at the end of clause (i),

(2) by adding "or" at the end of clause (ii), and

(3) by inserting after clause (ii) the following new clause:

"(iii) which is an accessory used in conjunction with a nebulizer, aspirator, or a ventilator excluded under paragraph (3)(A),".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to items furnished on or after January 1, 1994.

SEC. 13544. PAYMENT FOR OSTOMY SUPPLIES AND OTHER SUPPLIES.

(a) OSTOMY SUPPLIES, TRACHEOSTOMY SUPPLIES, AND UROLOGICALS.—

(1) IN GENERAL.—Section 1834(h)(1) (42 U.S.C. 1395m(h)(1)) is amended by adding at the end the following new subparagraph:

"(E) EXCEPTION FOR CERTAIN ITEMS.—Payment for ostomy supplies, tracheostomy supplies, and urologicals shall be made in accordance with subparagraphs (B) and (C) of section 1834(a)(2).".

(2) CONFORMING AMENDMENT.—Section 1834(h)(1)(B) (42 U.S.C. 1395m(h)(1)(B)) is amended by striking "subparagraph (C)," and inserting "subparagraphs (C) and (E),".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to items furnished on or after January 1, 1994.

(b) SURGICAL DRESSINGS.—

(1) IN GENERAL.—Section 1834 (42 U.S.C. 1395m) is amended by adding at the end the following new subsection:

"(i) PAYMENT FOR SURGICAL DRESSINGS.—

"(1) IN GENERAL.—Payment under this subsection for surgical dressings (described in section 1861(s)(5)) shall be made in a lump sum amount for the purchase of the item in an amount equal to 80 percent of the lesser of—

"(A) the actual charge for the item; or

"(B) a payment amount determined in accordance with the methodology described in subparagraphs (B) and (C) of subsection (a)(2) (except that in applying such methodology, the national limited payment amount referred to in such subparagraphs shall be initially computed based on local payment amounts using average reasonable charges for the 12-month period ending December 31, 1992, increased by the covered item updates described in such subsection for 1993 and 1994).

"(2) EXCEPTIONS.—Paragraph (1) shall not apply to surgical dressings that are—

"(A) furnished as an incident to a physician's professional service; or

"(B) furnished by a home health agency.".

(2) CONFORMING AMENDMENT.—Section 1833(a)(1) (42 U.S.C. 1395l(a)(1)) is amended—

(A) by striking "and" before "(N)";

(B) with respect to the matter inserted by section 4155(b)(2)(B) of OBRA–1990—

(i) by striking "(M)" and inserting ", (O)", and

(ii) by transferring it and inserting it (as amended) immediately before the semicolon at the end; and

(C) by inserting before the semicolon at the end the following: ", and (P) with respect to surgical dressings, the amounts paid shall be the amounts determined under section 1834(i)".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to items furnished on or after January 1, 1994.

SEC. 13545. PAYMENTS FOR TENS DEVICES.

(a) IN GENERAL.—Section 1834(a)(1)(D) (42 U.S.C. 1395m(a)(1)(D)) is amended by striking "15 percent" the second place it appears and inserting "45 percent".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to items furnished on or after January 1, 1994.

SEC. 13546. PAYMENTS FOR ORTHOTICS, PROSTHETICS, AND PROSTHETIC DEVICES.

Section 1834(h)(4)(A) (42 U.S.C. 1395m(h)(4)(A)) is amended—

(1) in clause (i), by striking "and";

(2) in clause (ii), by striking "a subsequent year" and inserting "1992 and 1993"; and

(3) by adding at the end the following new clauses:

"(iii) for 1994 and 1995, 0 percent, and

"(iv) for a subsequent year, the percentage increase in the consumer price index for all urban consumers (United States city average) for the 12-month period ending with June of the previous year;".

Subpart E—Other Provisions

SEC. 13551. PAYMENTS FOR CLINICAL DIAGNOSTIC LABORATORY TESTS.

(a) UPDATE FREEZE.—Section 1833(h)(2)(A)(ii) (42 U.S.C. 1395l(h)(2)(A)(ii)) is amended—

(1) by striking "and" at the end of subclause (II),

(2) by striking the period at the end of subclause (III) and inserting ", and", and

(3) by adding at the end the following new subclause:

"(IV) the annual adjustment in the fee schedules determined under clause (i) for each of the years 1994 and 1995 shall be 0 percent.".

(b) LOWER CAP.—Section 1833(h)(4)(B) (42 U.S.C. 1395l(h)(4)(B)) is amended—

(1) by striking "and" at the end of clause (iii),

(2) by striking clause (iv) and inserting the following:

"(iv) after December 31, 1990, and before January 1, 1994, is equal to 88 percent of such median,

"(v) after December 31, 1993, and before January 1, 1995, is equal to 84 percent of such median,

"(vi) after December 31, 1994, and before January 1, 1996, is equal to 80 percent of such median, and

"(vii) after December 31, 1995, is equal to 76 percent of such median.".

SEC. 13552. EXTENSION OF ALZHEIMER'S DISEASE DEMONSTRATION PROJECTS.

Section 9342 of OBRA–1986, as amended by section 4164(a)(2) of OBRA–1990, is amended—

(1) in subsection (c)(1), by striking "4 years" and inserting "5 years"; and

(2) in subsection (f)—

(A) by striking "$55,000,000" and inserting "$58,000,000", and

(B) by striking "$3,000,000" and inserting "$5,000,000".

SEC. 13553. ORAL CANCER DRUGS.

(a) NEW COVERAGE OF CERTAIN SELF-ADMINISTERED ANTICANCER DRUGS.—Section 1861(s)(2) (42 U.S.C. 1395(s)(2)) is amended—

(1) by striking "and" at the end of subparagraph (O);

(2) by adding "and" at the end of subparagraph (P); and

(3) by adding at the end the following new subparagraph:

"(Q) an oral drug (which is approved by the Federal Food and Drug Administration) prescribed for use as an anticancer chemotherapeutic agent for a given indication, and containing an active ingredient (or ingredients), which is the same indication and active ingredient (or ingredients) as a drug which the carrier determines would be covered pursuant to subparagraph (A) or (B) if the drug could not be self-administered;".

(b) Uniform Coverage of "Off-Label" Anticancer Drugs.—Section 1861(t) (42 U.S.C. 1395x(t)) is amended—

(1) by inserting "(1)" after "(t)";

(2) by striking "(m)(5) of this section" and inserting "(m)(5) and paragraph (2)"; and

(3) by adding at the end the following new paragraph:

"(2)(A) For purposes of paragraph (1), the term 'drugs' also includes any drugs or biologicals used in an anticancer chemotherapeutic regimen for a medically accepted indication (as described in subparagraph (B)).

"(B) In subparagraph (A), the term 'medically accepted indication', with respect to the use of a drug, includes any use which has been approved by the Food and Drug Administration for the drug, and includes another use of the drug if—

"(i) the drug has been approved by the Food and Drug Administration; and

"(ii)(I) such use is supported by one or more citations which are included (or approved for inclusion) in one or more of the following compendia: the American Hospital Formulary Service-Drug Information, the American Medical Association Drug Evaluations, the United States Pharmacopoeia-Drug Information, and other authoritative compendia as identified by the Secretary, unless the Secretary has determined that the use is not medically appropriate or the use is identified as not indicated in one or more such compendia, or

"(II) the carrier involved determines, based upon guidance provided by the Secretary to carriers for determining accepted uses of drugs, that such use is medically accepted based on supportive clinical evidence in peer reviewed medical literature appearing in publications which have been identified for purposes of this subclause by the Secretary.

The Secretary may revise the list of compendia in clause (ii)(I) as is appropriate for identifying medically accepted indications for drugs.".

(c) Effective Date.—The amendments made by subsections (a) and (b) shall apply to items furnished on or after January 1, 1994.

SEC. 13554. CLARIFICATION OF COVERAGE OF CERTIFIED NURSE-MIDWIFE SERVICES PERFORMED OUTSIDE THE MATERNITY CYCLE.

(a) In General.—Section 1861(gg)(2) (42 U.S.C. 1395x(gg)(2)) is amended by striking ", and performs services" and all that follows and inserting a period.

(b) Effective Date.—The amendment made by subsection (a) shall apply to services furnished on or after January 1, 1994.

SEC. 13555. INCREASE IN ANNUAL CAP ON AMOUNT OF MEDICARE PAYMENT FOR OUTPATIENT PHYSICAL THERAPY AND OCCUPATIONAL THERAPY SERVICES.

(a) Increase in Annual Limitation.—Section 1833(g) (42 U.S.C. 1395l(g)) is amended by striking "$750" and inserting "$900" each place it appears.

(b) Effective Date.—The amendment made by subsection (a) shall apply to services furnished on or after January 1, 1994.

SEC. 13556. RURAL HEALTH CLINICS AND FEDERALLY QUALIFIED HEALTH CENTERS.

(a) In General.—Paragraph (4) of section 1861(aa) (42 U.S.C. 1395x(aa)) is amended—

(1) by striking "or" at the end of subparagraph (B);

(2) by striking the period at the end of subparagraph (C) and inserting "; or"; and

(3) by adding at the end the following new subparagraph:

"(D) is an outpatient health program or facility operated by a tribe or tribal organization under the Indian Self-Determination Act or by an urban Indian organization receiving funds under title V of the Indian Health Care Improvement Act.".

(b) Effective Date.—The amendments made by subsection (a) shall take effect as if included in the enactment of section 4161(a)(2)(C) of OBRA–1990.

SEC. 13557. EXTENSION OF MUNICIPAL HEALTH SERVICE DEMONSTRATION PROJECTS.

Section 9215 of the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended by section 6135 of OBRA–1989, is amended—

(1) by striking "December 31, 1993" and inserting "December 31, 1997", and

(2) in the second sentence, by inserting after "beneficiary costs," the following: "costs to the medicaid program and other payers, access to care, outcomes, beneficiary satisfaction, utilization differences among the different populations served by the projects,".

PART III—PROVISIONS RELATING TO PARTS A AND B

SEC. 13561. MEDICARE AS SECONDARY PAYER.

(a) Extension of and Modifications to Data Match Program.—

(1) Section 1862(b)(5)(C)(iii) (42 U.S.C. 1395y(b)(5)(C)(iii)) is amended by striking "1995" and inserting "1998".

(2) Section 6103(l)(12) of the Internal Revenue Code of 1986 is amended—

(A) in subparagraph (B)(i), by inserting ", above an amount (if any) specified by the Secretary of Health and Human Services," after "section 3401(a))";

(B) in subparagraph (B)(ii), in the matter preceding subclause (I) by inserting ", above an amount (if any) specified by the Secretary of Health and Human Services," after "wages"; and

(C) in subparagraph (F)—

(i) in clause (i), by striking "1995" and inserting "1998",

(ii) in clause (ii)(I), by striking "1994" and inserting "1997", and

(iii) in clause (ii)(II), by striking "1995" and inserting "1998".

(b) Extension of Medicare Secondary Payer to Disabled Beneficiaries.—Section 1862(b)(1)(B)(iii) (42 U.S.C. 1395y(b)(1)(B)(iii)) is amended by striking "1995" and inserting "1998".

(c) Extension of 18-month Rule for ESRD Beneficiaries.—Section 1862(b)(1) (42 U.S.C. 1395y(b)(1)) is amended—

(1) in the second sentence of subparagraph (C), by striking "on or before January 1, 1996" and inserting "before October 1, 1998";

(2) in each of subparagraphs (A)(iv) and (B)(ii)—

(A) by striking "Clause (i) shall not apply" and inserting "Subparagraph (C) shall apply instead of clause (i)", and

(B) by inserting "(without regard to entitlement under section 226)" after "individual is, or"; and

(3) in subparagraph (C), by striking "benefits under this title solely by reason of" and inserting "or eligible for benefits under this title under" each place it appears.

(d) Application of Aggregation Rules.—

(1) In General.—Section 1862(b)(1) (42 U.S.C. 1395y(b)(1)) is amended by adding at the end the following new subparagraph:

"(E) General Provisions.—For purposes of this subsection:

"(i) Aggregation Rules.—

"(I) All employers treated as a single employer under subsection (a) or (b) of section 52 of the Internal Revenue Code of 1986 shall be treated as a single employer.

"(II) All employees of the members of an affiliated service group (as defined in section 414(m) of such Code) shall be treated as employed by a single employer.

"(III) Leased employees (as defined in section 414(n)(2) of such Code) shall be treated as employees of the person for whom they perform services to the extent they are so treated under section 414(n) of such Code.

In applying sections of the Internal Revenue Code of 1986 under this clause, the Secretary shall rely upon regulations and decisions of the Secretary of the Treasury respecting such sections.".

(2) Conforming Amendment.—Section 5000(b)(2) of the Internal Revenue Code of 1986 (relating to large group health plans) is amended by adding at the end the following: "For purposes of the preceding sentence—

"(A) all employers treated as a single employer under subsection (a) or (b) of section 52 shall be treated as a single employer,

"(B) all employees of the members of an affiliated service group (as defined in section 414(m)) shall be treated as employed by a single employer, and

"(C) leased employees (as defined in section 414(n)(2)) shall be treated as employees of the person for whom they perform services to the extent they are so treated under section 414(n). ".

(3) The amendments made by this subsection shall take effect 90 days after the date of the enactment of this Act.

(e) Uniform Treatment of Current Employment Status.—

(1) In General.—Section 1862(b)(1) (42 U.S.C. 1395y(b)(1)) is amended—

(A) in subparagraph (A)(i), by amending subclauses (I) and (II) to read as follows:

"(I) may not take into account that an individual (or the individual's spouse) who is covered under the plan by virtue of the individual's current employment status with an employer is entitled to benefits under this title under section 226(a), and

"(II) shall provide that any individual age 65 or over (and the individual's spouse age 65 or older) who is covered under the plan by virtue of the individual's current employment status with an employer shall be entitled to the same benefits under the plan under the same conditions as any such individual (or spouse) under age 65.";

(B) in subparagraph (A)(ii), by striking "unless the plan" and all that follows through "employees" and inserting "unless the plan is a plan of, or contributed to by, an employer or employee organization that has 20 or more individuals in current employment status";

(C) in subparagraph (A)(iii), by striking "by virtue of employment" and all that follows through "calendar year or" and inserting "by virtue of current employment status with an employer that does not have 20 or more individuals in current employment status for each working day in each of 20 or more calendar weeks in the current calendar year and";

(D) in subparagraph (A)(v), by inserting ", without regard to section 5000(d) of such Code" before the period at the end of each subparagraph;

(E) in the heading of subparagraph (B), by striking "ACTIVE";

(F) in subparagraph (B)(i), by striking "clause (iv)(II)) may not take into account that an active individual (as defined in clause (iv)(I))" and inserting "clause (iv)) may not take into account that an individual (or a member of the individual's family) who is covered under the plan by virtue of the individual's current employment status with an employer";

(G) by amending clause (iv) of subparagraph (B) to read as follows:

"(iv) LARGE GROUP HEALTH PLAN DEFINED.—In this subparagraph, the term 'large group health plan' has the meaning given such term in section 5000(b)(2) of the Internal Revenue Code of 1986, without regard to section 5000(d) of such Code."; and

(H) by adding at the end of subparagraph (E), as added by subsection (d)(1), the following:

"(ii) CURRENT EMPLOYMENT STATUS DEFINED.—An individual has 'current employment status' with an employer if the individual is an employee, is the employer, or is associated with the employer in a business relationship.

"(iii) TREATMENT OF SELF-EMPLOYED PERSONS AS EMPLOYERS.—The term 'employer' includes a self-employed person.".

(2)(A) Section 5000 of the Internal Revenue Code of 1986 is amended—

(i) in subsection (a), by inserting "(including a self-employed person)" after "employer",

(ii) by amending paragraph (1) of subsection (b) to read as follows:

"(1) GROUP HEALTH PLAN.—The term 'group health plan' means a plan (including a self-insured plan) of, or contributed to by, an employer (including a self-employed person) or employee organization to provide health care (directly or otherwise) to the employees, former employees, the employer, others associated or formerly associated with the employer in a business relationship, or their families.", and

(iii) in subsection (c), by striking "of section 1862(b)(1)" and inserting "of paragraph (1), or with the requirements of paragraph (2), of section 1862(b)".

(B) Section 6103(l)(12)(E)(ii) of such Code is amended to read as follows:

"(ii) GROUP HEALTH PLAN.—The term 'group health plan' means any group health plan (as defined in section 5000(b)(1)).".

(f) RETROACTIVE EXEMPTION FOR CERTAIN SITUATIONS INVOLVING RELIGIOUS ORDERS.—Section 1862(b)(1)(D) of the Social Security Act applies, with respect to items and services furnished before October 1, 1989, to any claims that the Secretary of Health and Human Services had not identified as of that date as subject to the provisions of section 1862(b) of such Act.

SEC. 13562. PHYSICIAN OWNERSHIP AND REFERRAL.

(a) IN GENERAL.—Section 1877 (42 U.S.C. 1395nn) is amended—

(1) by amending subsections (a) through (e) to read as follows:

"(a) PROHIBITION OF CERTAIN REFERRALS.—

"(1) IN GENERAL.—Except as provided in subsection (b), if a physician (or an immediate family member of such physician) has a financial relationship with an entity specified in paragraph (2), then—

"(A) the physician may not make a referral to the entity for the furnishing of designated health services for which payment otherwise may be made under this title, and

"(B) the entity may not present or cause to be presented a claim under this title or bill to any individual, third party payor, or other entity for designated health services furnished pursuant to a referral prohibited under subparagraph (A).

"(2) FINANCIAL RELATIONSHIP SPECIFIED.—For purposes of this section, a financial relationship of a physician (or an immediate family member of such physician) with an entity specified in this paragraph is—

"(A) except as provided in subsections (c) and (d), an ownership or investment interest in the entity, or

"(B) except as provided in subsection (e), a compensation arrangement (as defined in subsection (h)(1)) between the physician (or an immediate family member of such physician) and the entity.

An ownership or investment interest described in subparagraph (A) may be through equity, debt, or other means and includes an interest in an entity that holds an ownership or investment interest in any entity providing the designated health service.

"(b) GENERAL EXCEPTIONS TO BOTH OWNERSHIP AND COMPENSATION ARRANGEMENT PROHIBITIONS.—Subsection (a)(1) shall not apply in the following cases:

"(1) PHYSICIANS' SERVICES.—In the case of physicians' services (as defined in section 1861(q)) provided personally by (or under the personal supervision of) another physician in the same group practice (as defined in subsection (h)(4)) as the referring physician.

"(2) IN-OFFICE ANCILLARY SERVICES.—In the case of services (other than durable medical equipment (excluding infusion pumps) and parenteral and enteral nutrients, equipment, and supplies)—

"(A) that are furnished—

"(i) personally by the referring physician, personally by a physician who is a member of the same group practice as the referring physician, or personally by individuals who are directly supervised by the physician or by another physician in the group practice, and

"(ii)(I) in a building in which the referring physician (or another physician who is a member of the same group practice) furnishes physicians' services unrelated to the furnishing of designated health services, or

"(II) in the case of a referring physician who is a member of a group practice, in another building which is used by the group practice—

"(aa) for the provision of some or all of the group's clinical laboratory services, or

"(bb) for the centralized provision of the group's designated health services (other than clinical laboratory services),

unless the Secretary determines other terms and conditions under which the provision of such services does not present a risk of program or patient abuse, and

"(B) that are billed by the physician performing or supervising the services, by a group practice of which such physician is a member under a billing number assigned to the group practice, or by an entity that is wholly owned by such physician or such group practice,

if the ownership or investment interest in such services meets such other requirements as the Secretary may impose by regulation as needed to protect against program or patient abuse.

"(3) PREPAID PLANS—In the case of services furnished by an organization—

"(A) with a contract under section 1876 to an individual enrolled with the organization,

"(B) described in section 1833(a)(1)(A) to an individual enrolled with the organization,

"(C) receiving payments on a prepaid basis, under a demonstration project under section 402(a) of the Social Security Amendments of 1967 or under section 222(a) of the Social Security Amendments of 1972, to an individual enrolled with the organization, or

"(D) that is a qualified health maintenance organization (within the meaning of section 1310(d) of the Public Health Service Act) to an individual enrolled with the organization.

"(4) OTHER PERMISSIBLE EXCEPTIONS.—In the case of any other financial relationship which the Secretary determines, and specifies in regulations, does not pose a risk of program or patient abuse.

"(c) GENERAL EXCEPTION RELATED ONLY TO OWNERSHIP OR INVESTMENT PROHIBITION FOR OWNERSHIP IN PUBLICLY TRADED SECURITIES AND MUTUAL FUNDS.—Ownership of the following shall not be considered to be an ownership or investment interest described in subsection (a)(2)(A):

"(1) Ownership of investment securities (including shares or bonds, debentures, notes, or other debt instruments) which may be purchased on terms generally available to the public and which are—

"(A)(i) securities listed on the New York Stock Exchange, the American Stock Exchange, or any regional exchange in which quotations are published on a daily basis, or foreign securities listed on a recognized foreign, national, or regional exchange in which quotations are published on a daily basis, or

"(ii) traded under an automated interdealer quotation system operated by the National Association of Securities Dealers, and

"(B) in a corporation that had, at the end of the corporation's most recent fiscal year, or on average during the previous 3 fiscal years, stockholder equity exceeding $75,000,000.

"(2) Ownership of shares in a regulated investment company as defined in section 851(a) of the Internal Revenue Code of 1986, if such company had, at the end of the company's most recent fiscal year, or on average during the previous 3 fiscal years, total assets exceeding $75,000,000.

"(d) ADDITIONAL EXCEPTIONS RELATED ONLY TO OWNERSHIP OR INVESTMENT PROHIBITION.—The following, if not otherwise excepted under subsection (b), shall not be considered to be an ownership or investment interest described in subsection (a)(2)(A):

"(1) HOSPITALS IN PUERTO RICO.—In the case of designated health services provided by a hospital located in Puerto Rico.

"(2) RURAL PROVIDER.—In the case of designated health services furnished in a rural area (as defined in section 1886(d)(2)(D)) by an entity, if substantially all of the designated health services furnished by such entity are furnished to individuals residing in such a rural area.

"(3) HOSPITAL OWNERSHIP.—In the case of designated health services provided by a hospital (other than a hospital described in paragraph (1)) if—

"(A) the referring physician is authorized to perform services at the hospital, and

"(B) the ownership or investment interest is in the hospital itself (and not merely in a subdivision of the hospital).

"(e) EXCEPTIONS RELATING TO OTHER COMPENSATION ARRANGEMENTS.—The following shall not be considered to be a compensation arrangement described in subsection (a)(2)(B):

"(1) RENTAL OF OFFICE SPACE; RENTAL OF EQUIPMENT.—

"(A) OFFICE SPACE.—Payments made by a lessee to a lessor for the use of premises if—

"(i) the lease is set out in writing, signed by the parties, and specifies the premises covered by the lease,

"(ii) the space rented or leased does not exceed that which is reasonable and necessary for the legitimate business purposes of the lease or rental and is used exclusively by the lessee when being used by the lessee, except that the lessee may make payments for the use of space consisting of common areas if such payments do not exceed the lessee's pro rata share of expenses for such space based upon the ratio of the space used exclusively by the lessee to the total amount of space (other than common areas) occupied by all persons using such common areas,

"(iii) the lease provides for a term of rental or lease for at least 1 year, *"(iv) the rental charges over the term of the lease are set in advance, are consistent with fair market value, and are not determined in a manner that takes into account the volume or value of any referrals or other business generated between the parties,*

"(v) the lease would be commercially reasonable even if no referrals were made between the parties, and

"(vi) the lease meets such other requirements as the Secretary may impose by regulation as needed to protect against program or patient abuse.

"(B) EQUIPMENT.—Payments made by a lessee of equipment to the lessor of the equipment for the use of the equipment if—

"(i) the lease is set out in writing, signed by the parties, and specifies the equipment covered by the lease,

"(ii) the equipment rented or leased does not exceed that which is reasonable and necessary for the legitimate business purposes of the lease or rental and is used exclusively by the lessee when being used by the lessee,

"(iii) the lease provides for a term of rental or lease of at least 1 year,

"(iv) the rental charges over the term of the lease are set in advance, are consistent with fair market value, and are not determined in a manner that takes into account the volume or value of any referrals or other business generated between the parties,

"(v) the lease would be commercially reasonable even if no referrals were made between the parties, and

"(vi) the lease meets such other requirements as the Secretary may impose by regulation as needed to protect against program or patient abuse.

"(2) BONA FIDE EMPLOYMENT RELATIONSHIPS.—Any amount paid by an employer to a physician (or an immediate family member of such physician) who has a bona fide employment relationship with the employer for the provision of services if—

"(A) the employment is for identifiable services,

"(B) the amount of the remuneration under the employment—

"(i) is consistent with the fair market value of the services, and

"(ii) is not determined in a manner that takes into account (directly or indirectly) the volume or value of any referrals by the referring physician,

"(C) the remuneration is provided pursuant to an agreement which would be commercially reasonable even if no referrals were made to the employer, and

"(D) the employment meets such other requirements as the Secretary may impose by regulation as needed to protect against program or patient abuse.

Subparagraph (B)(ii) shall not prohibit the payment of remuneration in the form of a productivity bonus based on services performed personally by the physician (or an immediate family member of such physician).

"(3) PERSONAL SERVICE ARRANGEMENTS.—

"(A) IN GENERAL.—Remuneration from an entity under an arrangement (including remuneration for specific physicians' services furnished to a nonprofit blood center) if—

"(i) the arrangement is set out in writing, signed by the parties, and specifies the services covered by the arrangement,

"(ii) the arrangement covers all of the services to be provided by the physician (or an immediate family member of such physician) to the entity,

"(iii) the aggregate services contracted for do not exceed those that are reasonable and necessary for the legitimate business purposes of the arrangement,

"(iv) the term of the arrangement is for at least 1 year,

"(v) the compensation to be paid over the term of the arrangement is set in advance, does not exceed fair market value, and except in the case of a physician incentive plan described in subparagraph (B), is not determined in a manner that takes into account the volume or value of any referrals or other business generated between the parties,

"(vi) the services to be performed under the arrangement do not involve the counseling or promotion or a business arrangement or other activity that violates any State or Federal law, and

"(vii) the arrangement meets such other requirements as the Secretary may impose by regulation as needed to protect against program or patient abuse.

"(B) PHYSICIAN INCENTIVE PLAN EXCEPTION.—

"(i) IN GENERAL.—In the case of a physician incentive plan (as defined in clause (ii)) between a physician and an entity, the compensation may be determined in a manner (through a withhold, capitation, bonus, or otherwise) that takes into account directly or indirectly the volume or value of any referrals or other business generated between the parties, if the plan meets the following requirements:

"(I) No specific payment is made directly or indirectly under the plan to a physician or a physician group as an inducement to reduce or limit medically necessary services provided with respect to a specific individual enrolled with the entity.

"(II) In the case of a plan that places a physician or a physician group at substantial financial risk as determined by the Secretary pursuant to section 1876(i)(8)(A)(ii), the plan complies with any requirements the Secretary may impose pursuant to such section.

"(III) Upon request by the Secretary, the entity provides the Secretary with access to descriptive information regarding the plan, in order to permit the Secretary to determine whether the plan is in compliance with the requirements of this clause.

"(ii) PHYSICIAN INCENTIVE PLAN DEFINED.—For purposes of this subparagraph, the term 'physician incentive plan' means any compensation arrangement between an entity and a physician or physician group that may directly or indirectly have the effect of reducing or limiting services provided with respect to individuals enrolled with the entity.

"(4) REMUNERATION UNRELATED TO THE PROVISION OF DESIGNATED HEALTH SERVICES.—In the case of remuneration which is provided by a hospital to a physician if such remuneration does not relate to the provision of designated health services.

"(5) PHYSICIAN RECRUITMENT.—In the case of remuneration which is provided by a hospital to a physician to induce the physician to relocate to the geographic area served by the hospital in order to be a member of the medical staff of the hospital, if—

"(A) the physician is not required to refer patients to the hospital,

"(B) the amount of the remuneration under the arrangement is not determined in a manner that takes into account (directly or indirectly) the volume or value of any referrals by the referring physician, and

"(C) the arrangement meets such other requirements as the Secretary may impose by regulation as needed to protect against program or patient abuse.

"(6) ISOLATED TRANSACTIONS.—In the case of an isolated financial transaction, such as a one-time sale of property or practice, if—

"(A) the requirements described in subparagraphs (B) and (C) of paragraph (2) are met with respect to the entity in the same manner as they apply to an employer, and

"(B) the transaction meets such other requirements as the Secretary may impose by regulation as needed to protect against program or patient abuse.

"(7) CERTAIN GROUP PRACTICE ARRANGEMENTS WITH A HOSPITAL.—

"(A) IN GENERAL.—An arrangement between a hospital and a group under which designated health services are provided by the group but are billed by the hospital if—

"(i) with respect to services provided to an inpatient of the hospital, the arrangement is pursuant to the provision of inpatient hospital services under section 1861(b)(3),

"(ii) the arrangement began before December 19, 1989, and has continued in effect without interruption since such date,

"(iii) with respect to the designated health services covered under the arrangement, substantially all of such services furnished to patients of the hospital are furnished by the group under the arrangement,

"(iv) the arrangement is pursuant to an agreement that is set out in writing and that specifies the services to be provided by the parties and the compensation for services provided under the agreement,

"(v) the compensation paid over the term of the agreement is consistent with fair market value and the compensation per unit of services is fixed in advance and is not determined in a manner that takes into account the volume or value of any referrals or other business generated between the parties,

"(vi) the compensation is provided pursuant to an agreement which would be commercially reasonable even if no referrals were made to the entity, and

"(vii) the arrangement between the parties meets such other requirements as the Secretary may impose by regulation as needed to protect against program or patient abuse.

"(8) PAYMENTS BY A PHYSICIAN FOR ITEMS AND SERVICES.—Payments made by a physician—

"(A) to a laboratory in exchange for the provision of clinical laboratory services, or

"(B) to an entity as compensation for other items or services if the items or services are furnished at a price that is consistent with fair market value.";

(2) by amending subsection (h) to read as follows:

"(h) DEFINITIONS AND SPECIAL RULES.—For purposes of this section:

"(1) COMPENSATION ARRANGEMENT; REMUNERATION.—(A) The term 'compensation arrangement' means any arrangement involving any remuneration between a physician (or an immediate family member of such physician) and an entity other than an arrangement involving only remuneration described in subparagraph (C).

"(B) The term 'remuneration' includes any remuneration, directly or indirectly, overtly or covertly, in cash or in kind.

"(C) Remuneration described in this subparagraph is any remuneration consisting of any of the following:

"(i) The forgiveness of amounts owed for inaccurate tests or procedures, mistakenly performed tests or procedures, or the correction of minor billing errors.

"(ii) The provision of items, devices, or supplies that are used solely to—

"(I) collect, transport, process, or store specimens for the entity providing the item, device, or supply, or

"(II) order or communicate the results of tests or procedures for such entity.

"(iii) A payment made by an insurer or a self-insured plan to a physician to satisfy a claim, submitted on a fee for service basis, for the furnishing of health services by that physician to an individual who is covered by a policy with the insurer or by the self-insured plan, if—

"(I) the health services are not furnished, and the payment is not made, pursuant to a contract or other arrangement between the insurer or the plan and the physician,

"(II) the payment is made to the physician on behalf of the covered individual and would otherwise be made directly to such individual,

"(III) the amount of the payment is set in advance, does not exceed fair market value, and is not determined in a manner that takes into account directly or indirectly the volume or value of any referrals, and

"(IV) the payment meets such other requirements as the Secretary may impose by regulation as needed to protect against program or patient abuse.

"(2) EMPLOYEE.—An individual is considered to be 'employed by' or an 'employee' of an entity if the individual would be considered to be an employee of the entity under the usual common law rules applicable in determining the employer-employee relationship (as applied for purposes of section 3121(d)(2) of the Internal Revenue Code of 1986).

"(3) FAIR MARKET VALUE.—The term 'fair market value' means the value in arms length transactions, consistent with the general market value, and, with respect to rentals or leases, the value of rental property for general commercial purposes (not taking into account its intended use) and, in the case of a lease of space, not adjusted to reflect the additional value the prospective lessee or lessor would attribute to the proximity or convenience to the lessor where the lessor is a potential source of patient referrals to the lessee.

"(4) GROUP PRACTICE.—

"(A) DEFINITION OF GROUP PRACTICE.—The term 'group practice' means a group of 2 or more physicians legally organized as a partnership, professional corporation, foundation, not-for-profit corporation, faculty practice plan, or similar association—

"(i) in which each physician who is a member of the group provides substantially the full range of services which the physician routinely provides, including medical care, consultation, diagnosis, or treatment, through the joint use of shared office space, facilities, equipment and personnel,

"(ii) for which substantially all of the services of the physicians who are members of the group are provided through the group and are billed under a billing number assigned to the group and amounts so received are treated as receipts of the group,

"(iii) in which the overhead expenses of and the income from the practice are distributed in accordance with methods previously determined,

"(iv) except as provided in subparagraph (B)(i), in which no physician who is a member of the group directly or indirectly receives compensation based on the volume or value of referrals by the physician,

"(v) in which members of the group personally conduct no less than 75 percent of the physician-patient encounters of the group practice, and

"(vi) which meets such other standards as the Secretary may impose by regulation.

"(B) SPECIAL RULES.—

"(i) PROFITS AND PRODUCTIVITY BONUSES.—A physician in a group practice may be paid a share of overall profits of the group, or a productivity bonus based on services personally performed or services incident to such personally performed services, so long as the share or bonus is not determined in any manner which is directly related to the volume or value of referrals by such physician.

"(ii) FACULTY PRACTICE PLANS.—In the case of a faculty practice plan associated with a hospital, institution of higher education, or medical school with an approved medical residency training program in which physician members may provide a variety of different specialty services and provide professional services both within and outside the group, as well as perform other tasks such as research, subparagraph (A) shall be applied only with respect to the services provided within the faculty practice plan.

"(5) REFERRAL; REFERRING PHYSICIAN.—

"(A) PHYSICIANS' SERVICES.—Except as provided in subparagraph (C), in the case of an item or service for which payment may be made under part B, the request by a physician for the item or service, including the request by a physician for a consultation with another physician (and any test or procedure ordered by, or to be performed by (or under the supervision of) that other physician), constitutes a 'referral' by a 'referring physician'.

"(B) OTHER ITEMS.—Except as provided in subparagraph (C), the request or establishment of a plan of care by a physician which includes the provision of the designated health service constitutes a 'referral' by a 'referring physician'.

"(C) CLARIFICATION RESPECTING CERTAIN SERVICES INTEGRAL TO A CONSULTATION BY CERTAIN SPECIALISTS.—A request by a pathologist for clinical diagnostic laboratory tests and pathological examination services, a request by a radiologist for diagnostic radiology services, and a request by a radiation oncologist for radiation therapy, if such services are furnished by (or under the supervision of) such pathologist, radiologist, or radiation oncologist pursuant to a consultation requested by another physician does not constitute a 'referral' by a 'referring physician'.

"(6) DESIGNATED HEALTH SERVICES.—The term 'designated health services' means any of the following items or services:

"(A) Clinical laboratory services.

"(B) Physical therapy services.

"(C) Occupational therapy services.

"(D) Radiology or other diagnostic services.

"(E) Radiation therapy services.

"(F) Durable medical equipment.

"(G) Parenteral and enteral nutrients, equipment, and supplies.

"(H) Prosthetics, orthotics, and prosthetic devices.

"(I) Home health services.

"(J) Outpatient prescription drugs.

"(K) Inpatient and outpatient hospital services.";

(3) in subsection (f), by striking "clinical laboratory services" and inserting "designated health services"; and

(4) in paragraph (1) of subsection (g), by striking "clinical laboratory service" and inserting "designated health service".

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to referrals—

(A) made on or after January 1, 1992, in the case of clinical laboratory services, and

(B) made after December 31, 1994, in the case of other designated health services.

(2) EXCEPTIONS.—With respect to referrals made for clinical laboratory services on or before December 31, 1994—

(A) the requirements of clauses (iv) and (v) of section 1877(h)(4)(A) of the Social Security Act, as amended by this section, shall not apply; and

(B) the second sentence of subsection (a)(2), and subsections (b)(2)(B), (c), (d)(2), (e)(1), and (h)(4)(B) of section 1877 of such Act, as in effect on the day before the date of the enactment of this Act, shall apply (instead of the corresponding provision in such section as so amended).

SEC. 13563. DIRECT GRADUATE MEDICAL EDUCATION.

(a) ELIMINATION OF COST-OF-LIVING UPDATE IN PER RESIDENT AMOUNTS FOR DIRECT MEDICAL EDUCATION.—Section 1886(h) (42 U.S.C. 1395ww(h)) is amended—

(1) in paragraph (2)(D)—

(A) by striking "For each" and inserting "(i) Except as provided in clause (ii), for each", and

(B) by adding at the end the following new clause:

"(ii) For cost reporting periods beginning during fiscal year 1994 or fiscal year 1995, the approved FTE resident amount for a hospital shall not be updated under clause (i) for a resident who is not a primary care resident (as defined in paragraph (5)(H)) or a resident enrolled in an approved medical residency training program in obstetrics and gynecology."; and

(2) in paragraph (5)—

(A) by redesignating subparagraph (H) as subparagraph (I); and

(B) by inserting after subparagraph (G) the following new subparagraph:

"(H) PRIMARY CARE RESIDENT.—The term 'primary care resident' means a resident enrolled in an approved medical residency training program in family medicine, general internal medicine, general pediatrics, preventive medicine, geriatric medicine, or osteopathic general practice.".

(b) INITIAL RESIDENCY PERIOD.—

(1) IN GENERAL.—Section 1886(h)(5)(F) (42 U.S.C. 1395ww(h)(5)(F)) is amended—

(A) by striking "plus one year", and

(B) in clause (ii), by inserting "or a preventive medicine residency or fellowship program" after "fellowship program".

(2) EFFECTIVE DATES.—The amendments made by paragraphs (1)(A) and (1)(B) shall take effect on July 1, 1995, and the date of the enactment of this Act, respectively.

(c) ADJUSTMENT FOR PUBLICLY-FUNDED FAMILY PRACTICE RESIDENCY PROGRAMS.—

(1) IN GENERAL.—Section 1886(h)(5) (42 U.S.C. 1395ww(h)(5)), as amended by subsection (a), is amended by adding at the end the following new subparagraph:

"(J) ADJUSTMENTS FOR CERTAIN FAMILY PRACTICE RESIDENCY PROGRAMS.—

"(i) IN GENERAL.—In the case of an approved medical residency training program (meeting the requirements of clause (ii)) of a hospital which received funds from the United States, a State, or a political subdivision of a State or an instrumentality of such a State or political subdivision (other than payments under this title or a State plan under title XIX) for the program during the cost reporting period that began during fiscal year 1984, the Secretary shall—

"(I) provide for an average amount under paragraph (2)(A) that takes into account the Secretary's estimate of the amount that would have been recognized as reasonable under this title if the hospital had not received such funds, and

"(II) reduce the payment amount otherwise provided under this subsection in an amount equal to the proportion of such program funds received during the cost reporting period involved that is allocable to this title.

"(ii) ADDITIONAL REQUIREMENTS.—A hospital's approved medical residency program meets the requirements of this clause if—

"(I) the program is limited to training for family and community medicine;

"(II) the program is the only approved medical residency program of the hospital; and

"(III) the average amount determined under paragraph (2)(A) for the hospital (as determined without regard to the increase in such amount described in clause (i)(I)) does not exceed $10,000.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to payments under section 1886(h) of the Social Security Act for cost reporting periods beginning on or after October 1, 1992.

(d) ADJUSTMENT IN GME BASE-YEAR COSTS OF FEDERAL INSURANCE CONTRIBUTIONS ACT.—

(1) IN GENERAL.—In determining the amount of payment to be made under section 1886(h) of the Social Security Act in the case of a hospital described in paragraph (2) for cost reporting periods beginning on or after October 1, 1992, the Secretary of Health and Human Services shall redetermine the approved FTE resident amount to reflect the amount that would have been paid the hospital if, during the hospital's base cost reporting period, the hospital had been liable for FICA taxes or for contributions to the retirement system of a State, a political subdivision of a State, or an instrumentality of such a State or political subdivision with respect to interns and residents in its medical residency training program.

(2) HOSPITALS AFFECTED.—A hospital described in this paragraph is a hospital that did not pay FICA taxes with respect to interns and residents in its medical residency training program during the hospital's base cost reporting period, but is required to pay FICA taxes or make contributions to a retirement system described in paragraph (1) with respect to such interns and residents because of the amendments made by section 11332(b) of OBRA–1990.

(3) DEFINITIONS.—In this subsection:

(A) The "base cost reporting period" for a hospital is the hospital's cost reporting period that began during fiscal year 1984.

(B) The term "FICA taxes" means, with respect to a hospital, the taxes under section 3111 of the Internal Revenue Code of 1986.

SEC. 13564. REDUCTION IN PAYMENTS FOR HOME HEALTH SERVICES.

(a) IN GENERAL.—

(1) NO CHANGES IN COST LIMITS.—The Secretary of Health and Human Services shall not provide for any change in the per visit cost limits for home health services under section 1861(v)(1)(L) of such Act for cost reporting periods beginning on or after July 1, 1994, and before July 1, 1996, except as may be necessary to take into account the amendment made by subsection (b)(1). The effect of the preceding sentence shall not be considered by the Secretary in making adjustments pursuant to section 1861(v)(1)(L)(ii) of such Act to the payment limits for such services during such cost reporting periods.

(2) DELAY IN UPDATES.—Section 1861(v)(1)(L)(iii) (42 U.S.C. 1395x(v)(1)(L)(iii)) is amended by striking "thereafter," and inserting "thereafter (but not for cost reporting periods beginning on or after July 1, 1994, and before July 1, 1996),".

(b) ELIMINATION OF ADD-ON FOR OVERHEAD OF HOSPITAL-BASED HOME HEALTH AGENCIES.—

(1) GENERAL RULE.—The first sentence of section 1861(v)(1)(L)(ii) (42 U.S.C. 1395x(v)(1)(L)(ii)) is amended by striking ", with appropriate adjustment for administrative and general costs of hospital-based agencies".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to cost reporting periods beginning on or after October 1, 1993.

SEC. 13565. IMMUNOSUPPRESSIVE DRUG THERAPY.

Section 1861(s)(2)(J) (42 U.S.C. 1395x(s)(2)(J)) is amended by striking "title, within" and all that follows and inserting the following: "title, but only in the case of drugs furnished—

"(i) before 1995, within 12 months after the date of the transplant procedure,

"(ii) during 1995, within 18 months after the date of the transplant procedure,

"(iii) during 1996, within 24 months after the date of the transplant procedure,

"(iv) during 1997, within 30 months after the date of the transplant procedure, and

"(v) during any year after 1997, within 36 months after the date of the transplant procedure;".

SEC. 13566. REDUCTION IN PAYMENTS FOR ERYTHROPOIENTIN.

(a) IN GENERAL.—Section 1881(b) (42 U.S.C. 1395rr(b)) is amended—

(1) in paragraph (1)(C), by striking "1861(s)(2)(Q)" and inserting "1861(s)(2)(P)"; and

(2) in paragraph (11)(B)(ii)(I)—

(A) by striking "1991" and inserting "1994", and

(B) by striking "$11" and inserting "$10".

(b) SELF-ADMINISTRATION OF ERYTHROPOIENTIN.—Subparagraph (P) of section 1861(s)(2) (42 U.S.C. 1395x(s)(2)) is amended—

(1) by striking "home", and

(2) by moving such subparagraph two ems to the left.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to erythropoietin furnished on or after January 1, 1994.

SEC. 13567. EXTENSION OF SOCIAL HEALTH MAINTENANCE ORGANIZATION DEMONSTRATIONS.

(a) EXTENSION OF CURRENT WAIVERS.—Section 4018(b) of OBRA–1987, as amended by section 4207(b)(4)(B) of OBRA–1990, is amended—

(1) in paragraph (1) by striking "December 31, 1995" and inserting "December 31, 1997"; and

(2) in paragraph (4) by striking "March 31, 1996" and inserting "March 31, 1998".

(b) EXPANSION OF DEMONSTRATIONS.—Section 2355 of the Deficit Reduction Act of 1984 is amended—

(1) in the last sentence of subsection (a) by striking "12 months" and inserting "36 months"; and

(2) in subsection (b)(1)(B)—

(A) by striking "or" at the end of clause (iii); and

(B) by redesignating clause (iv) as clause (v) and inserting after clause (iii) the following new clause:

"(iv) integrating acute and chronic care management for patients with end-stage renal disease through expanded community care case management services (and for purposes of a demonstration project conducted under this clause, any requirement under a waiver granted under this section that a project disenroll individuals who develop end-stage renal disease shall not apply); or".

(c) EXPANSION OF NUMBER OF MEMBERS PER SITE.—The Secretary of Health and Human Services may not impose a limit of less than 12,000 on the number of individuals that may participate in a project conducted under section 2355 of the Deficit Reduction Act of 1984.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of OBRA–90.

SEC. 13568. TIMING OF CLAIMS PAYMENT.

(a) IN GENERAL.—Sections 1816(c)(3)(B) (42 U.S.C. 1395h(c)(3)(B)) and 1842(c)(3)(B) (42 U.S.C. 1395u(c)(3)(B)) are each amended by striking clauses (i) and (ii) and inserting the following:

"(i) with respect to claims submitted electronically as prescribed by the Secretary, 13 days, and

"(ii) with respect to claims submitted otherwise, 26 days.".

(b) TIME LIMIT OF 30 DAYS FOR CLEAN CLAIMS.—Sections 1816(c)(2)(B)(ii) (42 U.S.C. 1395h(c)(2)(B)(ii)) and 1842(c)(2)(B)(ii) (42 U.S.C. 1395u(c)(2)(B)(ii)) are each amended—

(A) in subclause (IV), by striking "period," and inserting "period ending on or before September 30, 1993,", and

(B) by adding at the end the following new subclause:

"(V) with respect to claims received in the 12-month period beginning October 1, 1993, and claims received in any succeeding 12-month period, 30 calendar days.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to claims received on or after October 1, 1993.

SEC. 13569. EXTENSION OF WAIVER FOR WATTS HEALTH FOUNDATION.

Section 9312(c)(3)(D) of OBRA–1986, as added by section 4018(d) of OBRA–1987 and as amended by section 6212(a)(1) of OBRA–1989, is amended by striking "1994" and inserting "1996".

PART IV—PROVISION RELATING TO PART B PREMIUM

SEC. 13571. PART B PREMIUM.

Section 1839 (42 U.S.C. 1395r) is amended—

(1) in subsection (e)(1)(A), by striking "December 1983 and prior to January 1991 shall be an amount equal to 50 percent" and inserting "after December 1995 and prior to January 1999 shall be an amount equal to 50 percent", and

(2) in subsection (e)(2), by striking "1991" and inserting "1998".

PART V—PROVISION RELATING TO DATA BANK

SEC. 13581. MEDICARE AND MEDICAID COVERAGE DATA BANK.

(a) ESTABLISHMENT OF MEDICARE AND MEDICAID COVERAGE DATA BANK.—Part A of title XI (42 U.S.C. 1301 et seq.) is amended by adding at the end the following new section:

"MEDICARE AND MEDICAID COVERAGE DATA BANK

"SEC. 1144. (a) ESTABLISHMENT OF DATA BANK.—The Secretary shall establish a Medicare and Medicaid Coverage Data Bank (hereafter in this section referred to as the 'Data Bank') to—

"(1) further the purposes of section 1862(b) in the identification of, and collection from, third parties responsible for payment for health care items and services furnished to medicare beneficiaries, and

"(2) assist in the identification of, and the collection from, third parties responsible for the reimbursement of costs incurred by any State plan under title XIX with respect to medicaid beneficiaries, upon request by the State agency described in section 1902(a)(5) administering such plan.

"(b) INFORMATION IN DATA BANK.—

"(1) IN GENERAL.—The Data Bank shall contain information obtained pursuant to section 6103(l)(12) of the Internal Revenue Code of 1986 and subsection (c).

"(2) DISCLOSURE OF INFORMATION IN DATA BANK.—The Secretary is authorized until September 30, 1998—

"(A) (subject to the restriction in subparagraph (D)(i) of section 6103(l)(12) of the Internal Revenue Code of 1986) to disclose any information in the Data Bank obtained pursuant to such section solely for the purposes of such section, and

"(B) (subject to the restriction in subsection (c)(7)) to disclose any other information in the Data Bank to any State agency described in section 1902(a)(5), employer, or group health plan solely for the purposes described in subsection (a).

"(c) REQUIREMENT THAT EMPLOYERS REPORT INFORMATION.—

"(1) REPORTING REQUIREMENT.—

"(A) IN GENERAL.—Any employer described in paragraph (2) shall report to the Secretary (in such form and manner as the Secretary determines will minimize the burden of such reporting) with respect to each electing individual the information required under paragraph (5) for each calendar year beginning on or after January 1, 1994, and before January 1, 1998.

"(B) SPECIAL RULE.—To the extent a group health plan provides information required under paragraph (5) in a form and manner specified by the Secretary (in consultation with the Secretary of Labor) on behalf of an employer in accordance with section 101(f) of Employee Retirement Income Security Act of 1974, the employer *has complied with the reporting requirement under subparagraph (A) with respect to the reporting of such information.*

"(2) EMPLOYER DESCRIBED.—An employer is described in this paragraph if such employer has, or contributes to, a group health plan, with respect to which at least 1 employee of such employer is an electing individual.

"(3) ELECTING INDIVIDUAL.—For purposes of this subsection, the term 'electing individual' means an individual associated or formerly associated with the employer in a business relationship who elects coverage under the employer's group health plan.

"(4) CERTAIN INDIVIDUALS EXCLUDED.—For purpose of this subsection, an individual providing service referred to in section 3121(a)(7)(B) of the Internal Revenue Code of 1986 shall not be considered an employee or electing individual with respect to an employer.

"(5) INFORMATION REQUIRED.—For purposes of paragraph (1), each employer shall provide the following information:

"(A) The name and TIN of the electing individual.

"(B) The type of group health plan coverage (single or family) elected by the electing individual.

"(C) The name, address, and identifying number of the group health plan elected by such electing individual.

"(D) The name and TIN of each other individual covered under the group health plan pursuant to such election.

"(E) The period during which such coverage is elected.

"(F) The name, address, and TIN of the employer.

"(6) TIME OF FILING.—For purposes of determining the date for filing the report under paragraph (1), such report shall be treated as a statement described in section 6051(d) of the Internal Revenue Code of 1986.

"(7) LIMITS ON DISCLOSURE OF INFORMATION REPORTED.—

"(A) IN GENERAL.—The disclosure of the information reported under paragraph (1) shall be restricted by the Secretary under rules similar to the rules of subsections (a) and (p) of section 6103 of the Internal Revenue Code of 1986.

"(B) PENALTY FOR UNAUTHORIZED WILLFUL DISCLOSURE OF INFORMATION.—The unauthorized disclosure of any information reported under paragraph (1) shall be subject to the penalty described in paragraph (1), (2), (3), or (4) of section 7213(a) of such Code.

"(9) PENALTY FOR FAILURE TO REPORT.—In the case of the failure of an employer (other than a Federal or other governmental entity) to report under paragraph (1)(A) with respect to each electing individual, the Secretary shall impose a penalty as described in part II of subchapter B of chapter 68 of the Internal Revenue Code of 1986.

"(d) FEES FOR DATA BANK SERVICES.—The Secretary shall establish fees for services provided under this section which shall remain available, without fiscal year limitation, to the Secretary to cover the administrative costs to the Data Bank of providing such services.

"(f) DEFINITIONS.—In this section:

"(1) MEDICARE BENEFICIARY.—The term 'medicare beneficiary' means an individual entitled to benefits under part A, or enrolled under part B, of title XVIII, but does not include such an individual enrolled in part A under section 1818.

"(2) MEDICAID BENEFICIARY.—The term 'medicaid beneficiary' means an individual entitled to benefits under a State plan for medical assistance under title XIX (including a State plan operating under a Statewide waiver under section 1115).".

"(3) GROUP HEALTH PLAN.—The term 'group health plan' shall have the meaning given to such term by section 5000(b)(1) of the Internal Revenue Code of 1986.

"(4) TIN.—The term 'TIN' shall have the meaning given to such term by section 7701(a)(41) of such Code.".

(b) CONFORMING AMENDMENTS.—

(1) MEDICARE.—Section 1862(b)(5) (42 U.S.C. 1395y(b)(5)) is amended—

(A) in subparagraph (B), by striking "under subparagraph (A)" and all that follows and inserting "under—

"(i) subparagraph (A), and

"(ii) section 1144,

for purposes of carrying out this subsection.", and

(B) in subparagraph (C)(i), by striking "subparagraph (B)" and inserting "subparagraph (B)(i)".

(2) MEDICAID.—Section 1902(a)(25)(A)(i) (42 U.S.C. 1396a(a)(25)(A)(i)) is amended by striking "(as specified" and inserting "(including the use of information collected by the Medicare and Medicaid Coverage Data Bank under section 1144 and any additional measures as specified".

(c) CONFORMING AMENDMENT RELATING TO DATA MATCHES.—Subsection (a)(8)(B) of section 552a of title 5, United States Code, is amended—

(1) in clause (v), by striking "; or" at the end;

(2) in clause (vi), by striking the semicolon at the end and inserting "; or"; and

(3) by adding at the end the following new clause:

"(vii) matches performed pursuant to section 6103(l)(12) of the Internal Revenue Code of 1986 and section 1144 of the Social Security Act;".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1994.

Subchapter B—Medicaid

SEC. 13600. REFERENCES IN SUBCHAPTER; TABLE OF CONTENTS OF SUBCHAPTER.

(a) AMENDMENTS TO SOCIAL SECURITY ACT.—Except as otherwise specifically provided, whenever in this subchapter an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

(b) REFERENCES TO OBRA.—In this subchapter, the terms "OBRA–1986", "OBRA–1987", "OBRA–1989", and "OBRA–1990" refer to the Omnibus Budget Reconciliation Act of 1986 (Public Law 99–509), the Omnibus Budget Reconciliation Act of 1987 (Public Law 100–203), the Omnibus Budget Reconciliation Act of 1989 (Public Law 101–239), and the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508), respectively.

(c) TABLE OF CONTENTS OF SUBCHAPTER.—The table of contents of this subchapter is as follows:

Sec. 13600. References in subchapter; table of contents of subchapter.

PART I—SERVICES

Sec. 13601. Personal care services furnished outside the home as optional benefit.
Sec. 13602. Additional Federal savings through modifications to drug rebate program.
Sec. 13603. Optional medicaid coverage of TB-related services for certain TB-infected individuals.
Sec. 13604. Limiting Federal medicaid matching payment to bona fide emergency services for undocumented aliens.
Sec. 13605. Coverage of nurse-midwife services performed outside the maternity cycle.
Sec. 13606. Treatment of certain clinics as Federally-qualified health centers.

PART II—ELIGIBILITY

Sec. 13611. Transfers of assets; treatment of certain trusts.
Sec. 13612. Medicaid estate recoveries.

PART III—PAYMENTS

Sec. 13621. Assuring proper payments to disproportionate share hospitals.
Sec. 13622. Liability of third parties to pay for care and services.
Sec. 13623. Medical child support.
Sec. 13624. Application of medicare rules limiting certain physician referrals.
Sec. 13625. State medicaid fraud control.

PART IV—IMMUNIZATIONS

Sec. 13631. Medicaid pediatric immunization provisions.
Sec. 13632. National Vaccine Injury Compensation Program amendments.

PART V—MISCELLANEOUS

Sec. 13641. Increase in limit on Federal medicaid matching payments to Puerto Rico and other territories.
Sec. 13642. Extension of moratorium on treatment of certain facilities as institutions for mental diseases.
Sec. 13643. Demonstration projects.
Sec. 13644. Extension of period of applicability of enrollment mix requirement to certain health maintenance organizations providing services under Dayton Area Health Plan.

PART I—SERVICES

SEC. 13601. PERSONAL CARE SERVICES FURNISHED OUTSIDE THE HOME AS OPTIONAL BENEFIT.

(a) IN GENERAL.—Section 1905(a) (42 U.S.C. 1396d(a)) is amended—

(1) in paragraph (7), by striking "including personal care services" and all that follows through "nursing facility";

(2) by striking "and" at the end of paragraph (21);

(3) in paragraph (24), by striking the comma at the end and inserting a semicolon;

(4) by redesignating paragraphs (22), (23), and (24) as paragraphs (25), (22), and (23), respectively, by striking the semicolon at the end of paragraph (25), as so redesignated, and inserting a period, and by transferring and inserting paragraph (25) after paragraph (23), as so redesignated; and

(5) by inserting after paragraph (23), as so redesignated, the following new paragraph:

"(24) personal care services furnished to an individual who is not an inpatient or resident of a hospital, nursing facility, intermediate care facility for the mentally retarded, or institution for mental disease that are (A) authorized for the individual by a physician in accordance with a plan of treatment or (at the option of the State) otherwise authorized for the individual in accordance with a service plan approved by the State, (B) provided by an individual who is qualified to provide such services and who is not a member of the individual's family, and (C) furnished in a home or other location; and".

(b) CONFORMING AMENDMENTS.—(1) Section 1902(a)(10)(C)(iv) (42 U.S.C. 1396a(a)(10)(C)(iv)) is amended by striking "through (21)" and inserting "through (24)".

(2) Section 1902(j) (42 U.S.C. 1396a(j)) is amended by striking "through (22)" and inserting "through (25)".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect as if included in the enactment of section 4721(a) of OBRA–1990.

SEC. 13602. ADDITIONAL FEDERAL SAVINGS THROUGH MODIFICATIONS TO DRUG REBATE PROGRAM.

(a) CHANGES IN REBATE PROGRAM.—

(1) IN GENERAL.—Section 1927 (42 U.S.C. 1396r–8) is amended by striking subsection (c) and all that follows through "(2)" in subsection (f)(2) and inserting the following:

"(c) DETERMINATION OF AMOUNT OF REBATE.—

"(1) BASIC REBATE FOR SINGLE SOURCE DRUGS AND INNOVATOR MULTIPLE SOURCE DRUGS.—

"(A) IN GENERAL.—Except as provided in paragraph (2), the amount of the rebate specified in this subsection for a rebate period (as defined in subsection (k)(8)) with respect to each dosage form and strength of a single source drug or an innovator multiple source drug shall be equal to the product of—

"(i) the total number of units of each dosage form and strength paid for under the State plan in the rebate period (as reported by the State); and

"(ii) subject to subparagraph (B)(ii), the greater of—

"(I) the difference between the average manufacturer price and the best price (as defined in subparagraph (C)) for the dosage form and strength of the drug, or

"(II) the minimum rebate percentage (specified in subparagraph (B)(i)) of such average manufacturer price,

for the rebate period.

"(B) RANGE OF REBATES REQUIRED.—

"(i) MINIMUM REBATE PERCENTAGE.—For purposes of subparagraph (A)(ii)(II), the 'minimum rebate percentage' for rebate periods beginning—

"(I) after December 31, 1990, and before October 1, 1992, is 12.5 percent;

"(II) after September 30, 1992, and before January 1, 1994, is 15.7 percent;

"(III) after December 31, 1993, and before January 1, 1995, is 15.4 percent;

"(IV) after December 31, 1994, and before January 1, 1996, is 15.2 percent; and

"(V) after December 31, 1995, is 15.1 percent.

"(ii) TEMPORARY LIMITATION ON MAXIMUM REBATE AMOUNT.—In no case shall the amount applied under subparagraph (A)(ii) for a rebate period beginning—

"(I) before January 1, 1992, exceed 25 percent of the average manufacturer price; or

"(II) after December 31, 1991, and before January 1, 1993, exceed 50 percent of the average manufacturer price.

"(C) BEST PRICE DEFINED.—For purposes of this section—

"(i) IN GENERAL.—The term 'best price' means, with respect to a single source drug or innovator multiple source drug of a manufacturer, the lowest price available from the manufacturer during the rebate period to any wholesaler, retailer, provider, health maintenance organization, nonprofit entity, or governmental entity within the United States, excluding—

"(I) any prices charged on or after October 1, 1992, to the Indian Health Service, the Department of Veterans Affairs, a State home receiving funds under section 1741 of title 38, United States Code, the Department of Defense, the Public Health Service, or a covered entity described in subsection (a)(5)(B);

"(II) any prices charged under the Federal Supply Schedule of the General Services Administration;

"(III) any prices used under a State pharmaceutical assistance program; and

"(IV) any depot prices and single award contract prices, as defined by the Secretary, of any agency of the Federal Government.

"(ii) SPECIAL RULES.—The term 'best price'—

"(I) shall be inclusive of cash discounts, free goods that are contingent on any purchase requirement, volume discounts, and rebates (other than rebates under this section);

"(II) shall be determined without regard to special packaging, labeling, or identifiers on the dosage form or product or package; and

"(III) shall not take into account prices that are merely nominal in amount.

"(2) ADDITIONAL REBATE FOR SINGLE SOURCE AND INNOVATOR MULTIPLE SOURCE DRUGS.—

"(A) IN GENERAL.—The amount of the rebate specified in this subsection for a rebate period, with respect to each dosage form and strength of a single source drug or an innovator multiple source drug, shall be increased by an amount equal to the product of—

"(i) the total number of units of such dosage form and strength dispensed after December 31, 1990, for which payment was made under the State plan for the rebate period; and

"(ii) the amount (if any) by which—

"(I) the average manufacturer price for the dosage form and strength of the drug for the period, exceeds

"(II) the average manufacturer price for such dosage form and strength for the calendar quarter beginning July 1, 1990 (without regard to whether or not the drug has been sold or transferred to an entity, including a division or subsidiary of the manufacturer, after the first day of such quarter), increased by the percentage by which the consumer price index for all urban consumers (U.S. city average) for the month before the month in which the rebate period begins exceeds such index for September 1990.

"(B) TREATMENT OF SUBSEQUENTLY APPROVED DRUGS.—In the case of a covered outpatient drug approved by the Food and Drug Administration after October 1, 1990, clause (ii)(II) of subparagraph (A) shall be applied by substituting 'the first full calendar quarter after the day on which the drug was first marketed' for 'the calendar quarter beginning July 1, 1990' and 'the month prior to the first month of the first full calendar quarter after the day on which the drug was first marketed' for 'September 1990'.

"(3) REBATE FOR OTHER DRUGS.—

"(A) IN GENERAL.—The amount of the rebate paid to a State for a rebate period with respect to each dosage form and strength of covered outpatient drugs (other than single source drugs and innovator multiple source drugs) shall be equal to the product of—

"(i) the applicable percentage (as described in subparagraph (B)) of the average manufacturer price for the dosage form and strength for the rebate period, and

"(ii) the total number of units of such dosage form and strength dispensed after December 31, 1990, for which payment was made under the State plan for the rebate period.

"(B) APPLICABLE PERCENTAGE DEFINED.—For purposes of subparagraph (A)(i), the 'applicable percentage' for rebate periods beginning—

"(i) before January 1, 1994, is 10 percent, and

"(ii) after December 31, 1993, is 11 percent.

"(d) LIMITATIONS ON COVERAGE OF DRUGS.—

"(1) PERMISSIBLE RESTRICTIONS.—(A) A State may subject to prior authorization any covered outpatient drug. Any such prior authorization program shall comply with the requirements of paragraph (5).

"(B) A State may exclude or otherwise restrict coverage of a covered outpatient drug if—

"(i) the prescribed use is not for a medically accepted indication (as defined in subsection (k)(6));

"(ii) the drug is contained in the list referred to in paragraph (2);

"(iii) the drug is subject to such restrictions pursuant to an agreement between a manufacturer and a State authorized by the Secretary under subsection (a)(1) or in effect pursuant to subsection (a)(4); or

"(iv) the State has excluded coverage of the drug from its formulary established in accordance with paragraph (4).

"(2) LIST OF DRUGS SUBJECT TO RESTRICTION.—The following drugs or classes of drugs, or their medical uses, may be excluded from coverage or otherwise restricted:

"(A) Agents when used for anorexia, weight loss, or weight gain.

"(B) Agents when used to promote fertility.

"(C) Agents when used for cosmetic purposes or hair growth.

"(D) Agents when used for the symptomatic relief of cough and colds.

"(E) Agents when used to promote smoking cessation.

"(F) Prescription vitamins and mineral products, except prenatal vitamins and fluoride preparations.

"(G) Nonprescription drugs.

"(H) Covered outpatient drugs which the manufacturer seeks to require as a condition of sale that associated tests or monitoring services be purchased exclusively from the manufacturer or its designee.

"(I) Barbiturates.

"(J) Benzodiazepines.

"(3) UPDATE OF DRUG LISTINGS.—The Secretary shall, by regulation, periodically update the list of drugs or classes of drugs described in paragraph (2) or their medical uses, which the Secretary has determined, based on data collected by surveillance and utilization review programs of State medical assistance programs, to be subject to clinical abuse or inappropriate use.

"(4) REQUIREMENTS FOR FORMULARIES.—A State may establish a formulary if the formulary meets the following requirements:

"(A) The formulary is developed by a committee consisting of physicians, pharmacists, and other appropriate individuals appointed by the Governor of the State (or, at the option of the State, the State's drug use review board established under subsection (g)(3)).

"(B) Except as provided in subparagraph (C), the formulary includes the covered outpatient drugs of any manufacturer which has entered into and complies with an agreement under subsection (a) (other than any drug excluded from coverage or otherwise restricted under paragraph (2)).

"(C) A covered outpatient drug may be excluded with respect to the treatment of a specific disease or condition for an identified population (if any) only if, based on the drug's labeling (or, in the case of a drug the prescribed use of which is not approved under the Federal Food, Drug, and Cosmetic Act but is a medically accepted indication, based on information from the appropriate compendia described in subsection (k)(6)), the excluded drug does not have a significant, clinically meaningful therapeutic advantage in terms of safety, effectiveness, or clinical outcome of such treatment for such population over other drugs included in the formulary and there is a written explanation (available to the public) of the basis for the exclusion.

"(D) The State plan permits coverage of a drug excluded from the formulary (other than any drug excluded from coverage or otherwise restricted under paragraph (2)) pursuant to a prior authorization program that is consistent with paragraph (5).

"(E) The formulary meets such other requirements as the Secretary may impose in order to achieve program savings consistent with protecting the health of program beneficiaries.

A prior authorization program established by a State under paragraph (5) is not a formulary subject to the requirements of this paragraph.

"(5) REQUIREMENTS OF PRIOR AUTHORIZATION PROGRAMS.—A State plan under this title may require, as a condition of coverage or payment for a covered outpatient drug for which Federal financial participation is available in accordance with this section, with respect to drugs dispensed on or after July 1, 1991, the approval of the drug before its dispensing for any medically accepted indication (as defined in subsection (k)(6)) only if the system providing for such approval—

"(A) provides response by telephone or other telecommunication device within 24 hours of a request for prior authorization; and

"(B) except with respect to the drugs on the list referred to in paragraph (2), provides for the

dispensing of at least 72-hour supply of a covered outpatient prescription drug in an emergency situation (as defined by the Secretary).

"(6) OTHER PERMISSIBLE RESTRICTIONS.—A State may impose limitations, with respect to all such drugs in a therapeutic class, on the minimum or maximum quantities per prescription or on the number of refills, if such limitations are necessary to discourage waste, and may address instances of fraud or abuse by individuals in any manner authorized under this Act.

"(e) TREATMENT OF PHARMACY REIMBURSEMENT LIMITS.—

"(1) IN GENERAL.—During the period beginning on January 1, 1991, and ending on December 31, 1994—

"(A) a State may not reduce the payment limits established by regulation under this title or any limitation described in paragraph (3) with respect to the ingredient cost of a covered outpatient drug or the dispensing fee for such a drug below the limits in effect as of January 1, 1991, and

"(B) except as provided in paragraph (2), the Secretary may not modify by regulation the formula established under sections 447.331 through 447.334 of title 42, Code of Federal Regulations, in effect on November 5, 1990, to reduce the limits described in subparagraph (A).

"(2) SPECIAL RULE.—If a State is not in compliance with the regulations described in paragraph (1)(B), paragraph (1)(A) shall not apply to such State until such State is in compliance with such regulations.

"(3) EFFECT ON STATE MAXIMUM ALLOWABLE COST LIMITATIONS.—This section shall not supersede or affect provisions in effect prior to January 1, 1991, or after December 31, 1994, relating to any maximum allowable cost limitation established by a State for payment by the State for covered outpatient drugs, and rebates shall be made under this section without regard to whether or not payment by the State for such drugs is subject to such a limitation or the amount of such a limitation.

"(4)".

(2) CONFORMING AMENDMENTS.—Section 1927 (42 U.S.C. 1396r–8) is amended as follows:

(A) In subsection (b)—

(i) in paragraph (1)(A)—

(I) by striking "each calendar quarter (or periodically in accordance with a schedule specified by the Secretary)" and inserting "for a rebate period", and

(II) by striking "dispensed under the plan during the quarter (or other period as the Secretary may specify) and inserting "dispensed after December 31, 1990, for which payment was made under the State plan for such period";

(ii) in paragraph (2)(A)—

(I) by striking "calendar quarter" and "the quarter" and inserting "rebate period" and "the period", respectively,

(II) by striking "dosage units" and inserting "units of each dosage form and strength and package size", and

(III) by inserting "after December 31, 1990, for which payment was made" after "dispensed"; and

(iii) in paragraph (3)(A)(i), by striking "quarter" each place it appears and inserting "rebate period under the agreement".

(B) In subsection (k)—

(i) in paragraph (1)—

(I) by striking "calendar quarter" and inserting "rebate period", and

(II) by inserting before the period at the end the following: ", after deducting customary prompt pay discounts";

(ii) in paragraph (3)—

(I) in subparagraph (E), by striking "**** emergency room visits",

(II) in subparagraph (F), by striking "services" and inserting "services and services provided by an intermediate care facility for the mentally retarded", and

(III) in the matter following subparagraph (H)—

(a) by striking "which is used" and inserting "for which a National Drug Code number is not required by the Food and Drug Administration or a drug or biological used"; and

(b) by adding at the end the following: "Any drug, biological product, or insulin excluded from the definition of such term as a result of this paragraph shall be treated as a covered outpatient drug for purposes of determining the best price (as defined in subsection (c)(1)(C)) for such drug, biological product, or insulin.";

(iii) in paragraph (6), by striking ", which appears" and all that follows and inserting "or the use of which is supported by one or more citations included or approved for inclusion in any of the compendia described in subsection (g)(1)(B)(i).";

(iv) in paragraph (7)(A)(i), by striking "calendar quarter" and inserting "rebate period"; and

(v) by redesignating paragraph (8) as paragraph (9) and by inserting after paragraph (7) the following new paragraph:

"(8) REBATE PERIOD.—The term 'rebate period' means, with respect to an agreement under subsection (a), a calendar quarter or other period specified by the Secretary with respect to the payment of rebates under such agreement.".

(b) LIMITING FEDERAL PAYMENTS FOR CERTAIN DRUGS.—Paragraph (10) of section 1903(i) (42 U.S.C. 1396b(i)) (as inserted by section 4401(a)(1)(B) of OBRA–1990) is amended to read as follows:

"(10)(A) with respect to covered outpatient drugs unless there is a rebate agreement in effect under section 1927 with respect to such drugs or unless section 1927(a)(3) applies, and

"(B) with respect to any amount expended for an innovator multiple source drug (as defined in section 1927(k)) dispensed on or after July 1, 1991, if, under applicable State law, a less expensive multiple source drug could have been dispensed, but only to the extent that such amount exceeds the upper payment limit for such multiple source drug;".

(c) ELIMINATION OF PROHIBITION AGAINST STATE USE OF FORMULARIES TO ACHIEVE FEDERAL SAVINGS.—Paragraph (54) of section 1902(a) (42 U.S.C. 1396a(a)) is amended to read as follows:

"(54) in the case of a State plan that provides medical assistance for covered outpatient drugs (as defined in section 1927(k)), comply with the applicable requirements of section 1927;".

(d) EFFECTIVE DATES.—(1) Except as provided in paragraph (2), the amendments made by this section shall take effect as if included in the enactment of OBRA–1990.

(2) The amendment made by subsection (a)(1) (insofar as such subsection amends section 1927(d) of the Social Security Act) and the amendment made by subsection (c) shall apply to calendar quarters beginning on or after October 1, 1993, without regard to whether or not regulations to carry out such amendments have been promulgated by such date.

SEC. 13603. OPTIONAL MEDICAID COVERAGE OF TB-RELATED SERVICES FOR CERTAIN TB-INFECTED INDIVIDUALS.

(a) COVERAGE AS OPTIONAL, CATEGORICALLY NEEDY GROUP.—Section 1902(a)(10)(A)(ii) (42 U.S.C. 1396a(a)(10)(A)(ii)) is amended—

(1) by striking "or" at the end of subclause (X),

(2) by adding "or" at the end of subclause (XI), and

(3) by adding at the end the following new subclause:

"(XII) who are described in subsection (z)(1) (relating to certain TB-infected individuals);".

(b) GROUP AND BENEFIT DESCRIBED.—Section 1902 is amended by adding at the end the following new subsection:

"(z)(1) Individuals described in this paragraph are individuals not described in subsection (a)(10)(A)(i)—

"(A) who are infected with tuberculosis;

"(B) whose income (as determined under the State plan under this title with respect to disabled individuals) does not exceed the maximum amount of income a disabled individual described in subsection (a)(10)(A)(i) may have and obtain medical assistance under the plan; and

"(C) whose resources (as determined under the State plan under this title with respect to disabled individuals) do not exceed the maximum amount of resources a disabled individual described in subsection (a)(10)(A)(i) may have and obtain medical assistance under the plan.

"(2) For purposes of subsection (a)(10), the term 'TB-related services' means each of the following services relating to treatment of infection with tuberculosis:

"(A) Prescribed drugs.

"(B) Physicians' services and services described in section 1905(a)(2).

"(C) Laboratory and X-ray services (including services to confirm the presence of infection).

"(D) Clinic services and Federally-qualified health center services.

"(E) Case management services (as defined in section 1915(g)(2)).

"(F) Services (other than room and board) designed to encourage completion of regimens of prescribed drugs by outpatients, including services to observe directly the intake of prescribed drugs.".

(c) LIMITATION ON BENEFITS.—Section 1902(a)(10) (42 U.S.C. 1396a(a)(10)) is amended in the matter following subparagraph (F)—

(1) by striking "; and (XI)" and inserting ", (XI)",

(2) by striking "individuals, and (XI)" and inserting "individuals, (XII)", and

(3) by inserting before the semicolon at the end the following: ", and (XIII) the medical assistance made available to an individual described in subsection (z)(1) who is eligible for medical assistance only because of subparagraph (A)(ii)(XII) shall be limited to medical assistance for TB-related services (described in subsection (z)(2))".

(d) CONFORMING EXPANSION OF CASE MANAGEMENT SERVICES OPTION.—Section 1915(g)(1) (42 U.S.C. 1396n(g)(1)) is amended by inserting "or to individuals described in section 1902(z)(1)(A)" after "or with either,".

(e) CONFORMING AMENDMENT.—Section 1905(a) (42 U.S.C. 1396d(a)) is amended—

(1) by striking "or" at the end of clause (ix),

(2) by adding "or" at the end of clause (x),

(3) by inserting after clause (x) the following new clause:

"(xi) individuals described in section 1902(z)(1),", and

(4) by amending paragraph (19) to read as follows:

"(19) case management services (as defined in section 1915(g)(2)) and TB-related services described in section 1902(z)(2)(F);".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to medical assistance furnished on or after January 1, 1994, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

SEC. 13604. LIMITING FEDERAL MEDICAID MATCHING PAYMENT TO BONA FIDE EMERGENCY SERVICES FOR UNDOCUMENTED ALIENS.

(a) IN GENERAL.—Section 1903(v)(2) (42 U.S.C. 1396b(v)(2)) is amended—

(1) by striking "and" at the end of subparagraph (A),

(2) by striking the period at the end of subparagraph (B) and inserting ", and", and

(3) by adding at the end the following new subparagraph:

"(C) such care and services are not related to an organ transplant procedure.".

(b) EFFECTIVE DATES.—(1) Subject to paragraph (2), the amendments made by subsection (a) shall apply as if included in the enactment of OBRA–1986.

(2) The Secretary of Health and Human Services shall not disallow expenditures made for the care and services described in section 1903(v)(2)(C) of the Social Security Act, as added by subsection (a), furnished before the date of the enactment of this Act.

SEC. 13605. COVERAGE OF NURSE-MIDWIFE SERVICES PERFORMED OUTSIDE THE MATERNITY CYCLE.

(a) IN GENERAL.—Section 1905(a)(17) (42 U.S.C. 1396d(a)(17)) is amended by inserting before the semicolon at the end the following: ", and without regard to whether or not the services are performed in the area of management of the care of mothers and babies throughout the maternity cycle".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to services furnished on or after October 1, 1993.

SEC. 13606. TREATMENT OF CERTAIN CLINICS AS FEDERALLY-QUALIFIED HEALTH CENTERS.

(a) IN GENERAL.—Section 1905(l)(2)(B) (42 U.S.C. 1396d(l)(2)(B)) is amended—

(1) by striking "or" at the end of clause (i),

(2) by striking the semicolon at the end of clause (ii)(II) and inserting a comma,

(3) by moving clause (ii) 4 ems to the left,

(4) by adding "or" at the end of clause (iii), and

(5) by inserting after clause (iii) the following new clause:

"(iv) was treated by the Secretary, for purposes of part B of title XVIII, as a comprehensive Federally funded health center as of January 1, 1990;".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to calendar quarters beginning on or after July 1, 1993.

PART II—ELIGIBILITY

SEC. 13611. TRANSFERS OF ASSETS; TREATMENT OF CERTAIN TRUSTS.

(a) PERIODS OF INELIGIBILITY FOR TRANSFERS OF ASSETS.—

(1) IN GENERAL.—Section 1917(c)(1) (42 U.S.C. 1396p(c)(1)) is amended to read as follows:

"(1)(A) In order to meet the requirements of this subsection for purposes of section 1902(a)(18), the State plan must provide that if an institutionalized individual or the spouse of such an individual (or, at the option of a State, a noninstitutionalized individual or the spouse of such an individual) disposes of assets for less than fair market value on or after the look-back date specified in subparagraph (B)(i), the individual is ineligible for medical assistance for services described in subparagraph (C)(i) (or, in the case of a noninstitutionalized individual, for the services described in subparagraph (C)(ii)) during the period beginning on the date specified in subparagraph (D) and equal to the number of months specified in subparagraph (E).

"(B)(i) The look-back date specified in this subparagraph is a date that is 36 months (or, in the case of payments from a trust or portions of a trust that are treated as assets disposed of by the individual pursuant to paragraph (3)(A)(iii) or (3)(B)(ii) of subsection (d), 60 months) before the date specified in clause (ii).

"(ii) The date specified in this clause, with respect to—

"(I) an institutionalized individual is the first date as of which the individual both is an institutionalized individual and has applied for medical assistance under the State plan, or

"(II) a noninstitutionalized individual is the date on which the individual applies for medical assistance under the State plan or, if later, the date on which the individual disposes of assets for less than fair market value.

"(C)(i) The services described in this subparagraph with respect to an institutionalized individual are the following:

"(I) Nursing facility services.

"(II) A level of care in any institution equivalent to that of nursing facility services.

"(III) Home or community-based services furnished under a waiver granted under subsection (c) or (d) of section 1915.

"(ii) The services described in this subparagraph with respect to a noninstitutionalized individual are services (not including any services described in clause (i)) that are described in paragraph (7), (22), or (24) of section 1905(a), and, at the option of a State, other long-term care services for which medical assistance is otherwise available under the State plan to individuals requiring long-term care.

"(D) The date specified in this subparagraph is the first day of the first month during or after which assets have been transferred for less than fair market value and which does not occur in any other periods of ineligibility under this subsection.

"(E)(i) With respect to an institutionalized individual, the number of months of ineligibility under this subparagraph for an individual shall be equal to—

"(I) the total, cumulative uncompensated value of all assets transferred by the individual (or individual's spouse) on or after the look-back date specified in subparagraph (B)(i), divided by

"(II) the average monthly cost to a private patient of nursing facility services in the State (or, at the option of the State, in the community in which the individual is institutionalized) at the time of application.

"(ii) With respect to a noninstitutionalized individual, the number of months of ineligibility under this subparagraph for an individual shall not be greater than a number equal to—

"(I) the total, cumulative uncompensated value of all assets transferred by the individual (or individual's spouse) on or after the look-back date specified in subparagraph (B)(i), divided by

"(II) the average monthly cost to a private patient of nursing facility services in the State (or, at the option of the State, in the community in which the individual is institutionalized) at the time of application.

"(iii) The number of months of ineligibility otherwise determined under clause (i) or (ii) with respect to the disposal of an asset shall be reduced—

"(I) in the case of periods of ineligibility determined under clause (i), by the number of months of ineligibility applicable to the individual under clause (ii) as a result of such disposal, and

"(II) in the case of periods of ineligibility determined under clause (ii), by the number of months of ineligibility applicable to the individual under clause (i) as a result of such disposal.

(2) EXCEPTIONS.—Section 1917(c) is amended—

(A) in paragraph (2)(A), by striking "resources" and inserting "assets";

(B) by amending paragraph (2)(B) to read as follows:

"(B) the assets—

"(i) were transferred to the individual's spouse or to another for the sole benefit of the individual's spouse,

"(ii) were transferred from the individual's spouse to another for the sole benefit of the individual's spouse,

"(iii) were transferred to, or to a trust (including a trust described in subsection (d)(4)) established solely for the benefit of, the individual's child described in subparagraph (A)(ii)(II), or

"(iv) were transferred to a trust (including a trust described in subsection (d)(4)) established solely for the benefit of an individual under 65 years of age who is disabled (as defined in section 1614(a)(3));";

(C) in paragraph (2)(C)—

(i) by striking "resources" each place it appears and inserting "assets",

(ii) by striking "any",

(iii) by striking "or (ii)" and inserting "(ii)", and

(iv) by striking "; or" and inserting ", or (iii) all assets transferred for less than fair market value have been returned to the individual; or";

(D) by amending paragraph (2)(D) to read as follows:

"(D) the State determines, under procedures established by the State (in accordance with standards specified by the Secretary), that the denial of eligibility would work an undue hardship as determined on the basis of criteria established by the Secretary;";

(E) by striking paragraph (3) and inserting the following:

"(3) For purposes of this subsection, in the case of an asset held by an individual in common with another person or persons in a joint tenancy, tenancy in common, or similar arrangement, the asset (or the affected portion of such asset) shall be considered to be transferred by such individual when any action is taken, either by such individual or by any other person, that reduces or eliminates such individual's ownership or control of such asset."; and

(F) by adding at the end of paragraph (4) the following: "In the case of a transfer by the spouse of an individual which results in a period of ineligibility for medical assistance under a State plan for such individual, a State shall, using a reasonable methodology (as specified by the Secretary), apportion such period of ineligibility (or any portion of such period) among the individual and the individual's spouse if the spouse otherwise becomes eligible for medical assistance under the State plan.".

(b) TREATMENT OF TRUST AMOUNTS.—Section 1917 (42 U.S.C. 1396p) is amended by adding at the end the following:

"(d)(1) For purposes of determining an individual's eligibility for, or amount of, benefits under a State plan under this title, subject to paragraph (4), the rules specified in paragraph (3) shall apply to a trust established by such individual.

"(2)(A) For purposes of this subsection, an individual shall be considered to have established a trust if assets of the individual were used to form all or part of the corpus of the trust and if any of the following individuals established such trust other than by will:

"(i) The individual.

"(ii) The individual's spouse.

"(iii) A person, including a court or administrative body, with legal authority to act in place of or on behalf of the individual or the individual's spouse.

"(iv) A person, including any court or administrative body, acting at the direction or upon the request of the individual or the individual's spouse.

"(B) In the case of a trust the corpus of which includes assets of an individual (as determined under subparagraph (A)) and assets of any other person or persons, the provisions of this subsection shall apply to the portion of the trust attributable to the assets of the individual.

"(C) Subject to paragraph (4), this subsection shall apply without regard to—

"(i) the purposes for which a trust is established,

"(ii) whether the trustees have or exercise any discretion under the trust,

"(iii) any restrictions on when or whether distributions may be made from the trust, or *"(iv) any restrictions on the use of distributions from the trust.*

"(3)(A) In the case of a revocable trust—

"(i) the corpus of the trust shall be considered resources available to the individual,

"(ii) payments from the trust to or for the benefit of the individual shall be considered income of the individual, and

"(iii) any other payments from the trust shall be considered assets disposed of by the individual for purposes of subsection (c).

"(B) In the case of an irrevocable trust—

"(i) if there are any circumstances under which payment from the trust could be made to or for the benefit of the individual, the portion of the corpus from which, or the income on the corpus from which, payment to the individual could be made shall be considered resources available to the individual, and payments from that portion of the corpus or income—

"(I) to or for the benefit of the individual, shall be considered income of the individual, and

"(II) for any other purpose, shall be considered a transfer of assets by the individual subject to subsection (c); and

"(ii) any portion of the trust from which, or any income on the corpus from which, no payment could under any circumstances be made to the individual shall be considered, as of the date of establishment of the trust (or, if later, the date on which payment to the individual was foreclosed) to be assets disposed by the individual for purposes of subsection (c), and the value of the trust shall be determined for purposes of such subsection by including the amount of any payments made from such portion of the trust after such date.

"(4) This subsection shall not apply to any of the following trusts:

"(A) A trust containing the assets of an individual under age 65 who is disabled (as defined in section 1614(a)(3)) and which is established for the benefit of such individual by a parent, grandparent, legal guardian of the individual, or a court if the State will receive all amounts remaining in the trust upon the death of such individual up to an amount equal to the total medical assistance paid on behalf of the individual under a State plan under this title.

"(B) A trust established in a State for the benefit of an individual if—

"(i) the trust is composed only of pension, Social Security, and other income to the individual (and accumulated income in the trust),

"(ii) the State will receive all amounts remaining in the trust upon the death of such individual up to an amount equal to the total medical assistance paid on behalf of the individual under a State plan under this title, and

"(iii) the State makes medical assistance available to individuals described in section 1902(a)(10)(A)(ii)(V), but does not make such assistance available to individuals for nursing facility services under section 1902(a)(10)(C).

"(C) A trust containing the assets of an individual who is disabled (as defined in section 1614(a)(3)) that meets the following conditions:

"(i) The trust is established and managed by a non-profit association.

"(ii) A separate account is maintained for each beneficiary of the trust, but, for purposes of investment and management of funds, the trust pools these accounts.

"(iii) Accounts in the trust are established solely for the benefit of individuals who are disabled (as defined in section 1614(a)(3)) by the parent, grandparent, or legal guardian of such individuals, by such individuals, or by a court.

"(iv) To the extent that amounts remaining in the beneficiary's account upon the death of the beneficiary are not retained by the trust, the trust pays to the State from such remaining amounts in the account an amount equal to the total amount of medical assistance paid on behalf of the beneficiary under the State plan under this title.

"(5) The State agency shall establish procedures (in accordance with standards specified by the Secretary) under which the agency waives the application of this subsection with respect to an individual if the individual establishes that such application would work an undue hardship on the individual as determined on the basis of criteria established by the Secretary.".

"(6) The term 'trust' includes any legal instrument or device that is similar to a trust but includes an annuity only to such extent and in such manner as the Secretary specifies.".

(c) DEFINITIONS.—Section 1917 (42 U.S.C. 1396p), as amended by subsection (b), is further amended by adding at the end the following new subsection:

"(e) In this section, the following definitions shall apply:

"(1) The term 'assets', with respect to an individual, includes all income and resources of the individual and of the individual's spouse, including any income or resources which the individual or such individual's spouse is entitled to but does not receive because of action—

"(A) by the individual or such individual's spouse,

"(B) by a person, including a court or administrative body, with legal authority to act in place of or on behalf of the individual or such individual's spouse, or

"(C) by any person, including any court or administrative body, acting at the direction or upon the request of the individual or such individual's spouse.

"(2) The term 'income' has the meaning given such term in section 1612.

"(3) The term 'institutionalized individual' means an individual who is an inpatient in a nursing facility, who is an inpatient in a medical institution and with respect to whom payment is made based on a level of care provided in a nursing facility, or who is described in section 1902(a)(10)(A)(ii)(VI).

"(4) The term 'noninstitutionalized individual' means an individual receiving any of the services specified in subsection (c)(1)(C)(ii).

"(5) The term 'resources' has the meaning given such term in section 1613, without regard (in the case of an institutionalized individual) to the exclusion described in subsection (a)(1) of such section.".

(d) CONFORMING AMENDMENTS.—

(1) Section 1902 (42 U.S.C. 1396a) is amended—

(A) in subsection (a)(18), by striking "and transfers of assets" and inserting ", transfers of assets, and treatment of certain trusts";

(B) in subsection (a)(51)—

(i) by striking "(A)"; and

(ii) by striking ", and (B)" and all that follows and inserting a semicolon; and

(C) by striking subsection (k).

(2) Section 1924(b)(2)(B)(i) (42 U.S.C. 1396r-5(b)(2)(B)(i)) is amended by striking "1902(k)" and inserting "1917(d)".

(e) EFFECTIVE DATES.—(1) The amendments made by this section shall apply, except as provided in this subsection, to payments under title XIX of the Social Security Act for calendar quarters beginning on or after October 1, 1993, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

(2) The amendments made by this section shall not apply—

(A) to medical assistance provided for services furnished before October 1, 1993,

(B) with respect to assets disposed of on or before the date of the enactment of this Act, or

(C) with respect to trusts established on or before the date of the enactment of this Act.

(3) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirements imposed by the amendment made by subsection (b), the State plan shall not be regarded as failing to comply with the requirements imposed by such amendment solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the preceding sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

SEC. 13612. MEDICAID ESTATE RECOVERIES.

(a) MANDATE TO SEEK RECOVERY.—Section 1917(b)(1) (42 U.S.C. 1396p(b)(1)) is amended by striking "except—" and all that follows and inserting the following: "except that the State shall seek adjustment or recovery of any medical assistance correctly paid on behalf of an individual under the State plan in the case of the following individuals:

"(A) In the case of an individual described in subsection (a)(1)(B), the State shall seek adjustment or recovery from the individual's estate or upon sale of the property subject to a lien imposed on account of medical assistance paid on behalf of the individual.

"(B) In the case of an individual who was 55 years of age or older when the individual received such medical assistance, the State shall seek adjustment or recovery from the individual's estate, but only for medical assistance consisting of—

"(i) nursing facility services, home and community-based services, and related hospital and prescription drug services, or

"(ii) at the option of the State, any items or services under the State plan.

"(C)(i) In the case of an individual who has received (or is entitled to receive) benefits under a long-term care insurance policy in connection with which assets or resources are disregarded in the manner described in clause (ii), except as provided in such clause, the State shall seek adjustment or recovery from the individual's estate on account of medical assistance paid on behalf of the individual for nursing facility and other long-term care services.

"(ii) Clause (i) shall not apply in the case of an individual who received medical assistance under a State plan of a State which had a State plan amendment approved as of May 14, 1993, which provided for the disregard of any assets or resources—

"(I) to the extent that payments are made under a long-term care insurance policy; or

"(II) because an individual has received (or is entitled to receive) benefits under a long-term care insurance policy.".

(b) HARDSHIP WAIVER.—Section 1917(b) (42 U.S.C. 1396p(b)) is amended by adding at the end the following new paragraph:

"(3) The State agency shall establish procedures (in accordance with standards specified by the Secretary) under which the agency shall waive the application of this subsection (other than paragraph (1)(C)) if such application would work an undue hardship as determined on the basis of criteria established by the Secretary.".

(c) DEFINITION OF ESTATE.—Section 1917(b) (42 U.S.C. 1396p(b)), as amended by subsection (b), is amended by adding at the end the following new paragraph:

"(4) For purposes of this subsection, the term 'estate', with respect to a deceased individual—

"(A) shall include all real and personal property and other assets included within the individual's estate, as defined for purposes of State probate law; and

"(B) may include, at the option of the State (and shall include, in the case of an individual to whom paragraph (1)(C)(i) applies), any other real and personal property and other assets in which the individual had any legal title or interest at the time of death (to the extent of such interest), including such assets conveyed to a survivor, heir, or assign of the deceased individual through joint tenancy, tenancy in common, survivorship, life estate, living trust, or other arrangement.".

(d) EFFECTIVE DATES.—(1)(A) Except as provided in subparagraph (B), the amendments made by this section shall apply to payments under title XIX of the Social Security Act for calendar quarters beginning on or after October 1, 1993, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

(B) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirements imposed by the amendments made by this section, the State plan shall not be regarded as failing to comply with the requirements imposed by such amendments solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the preceding sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

(2) The amendments made by this section shall not apply to individuals who died before October 1, 1993.

PART III—PAYMENTS

SEC. 13621. ASSURING PROPER PAYMENTS TO DISPROPORTIONATE SHARE HOSPITALS.

(a) DISPROPORTIONATE SHARE HOSPITALS REQUIRED TO PROVIDE MINIMUM LEVEL OF SERVICES TO MEDICAID PATIENTS.—

(1) IN GENERAL.—Section 1923 (42 U.S.C. 1396r-4) is amended—

(A) in subsection (a)(1)(A), by striking "requirement" and inserting "requirements";

(B) in subsection (b)(1), by striking "requirement" and inserting "requirements";

(C) in the heading to subsection (d), by striking "REQUIREMENT" and inserting "REQUIREMENTS";

(D) by adding at the end of subsection (d) the following new paragraph:

"(3) No hospital may be defined or deemed as a disproportionate share hospital under a State plan under this title or under subsection (b) or (e) of this section unless the hospital has a medicaid inpatient utilization rate (as defined in subsection (b)(2)) of not less than 1 percent.";

(E) in subsection (e)(1)—

(i) by striking "and" before "(B)", and

(ii) by inserting before the period at the end the following: ", and (C) the plan meets the requirement of subsection (d)(3) and such payment adjustments are made consistent with the last sentence of subsection (c)"; and

(F) in subsection (e)(2)—

(i) in subparagraph (A), by inserting "(other than the last sentence of subsection (c))" after "(c)",

(ii) by striking "and" at the end of subparagraph (A),

(iii) by striking the period at the end of subparagraph (B) and inserting ", and", and

(iv) by adding at the end the following new subparagraph:

"(C) subsection (d)(3) shall apply.".

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to payments to States under section 1903(a) of the Social Security Act for payments to hospitals made under State plans after—

(A) the end of the State fiscal year that ends during 1994, or

(B) in the case of a State with a State legislature which is not scheduled to have a regular legislative session in 1994, the end of the State fiscal year that ends during 1995;

without regard to whether or not final regulations to carry out such amendments have been promulgated by either such date.

(b) LIMITING AMOUNT OF HOSPITAL PAYMENT ADJUSTMENT TO UNCOVERED COSTS.—

(1) IN GENERAL.—Section 1923 (42 U.S.C. 1396r-4) is amended by adding at the end the following new subsection:

"(g) LIMIT ON AMOUNT OF PAYMENT TO HOSPITAL.—

"(1) AMOUNT OF ADJUSTMENT SUBJECT TO UNCOMPENSATED COSTS.—

"(A) IN GENERAL.—A payment adjustment during a fiscal year shall not be considered to be consistent with subsection (c) with respect to a hospital if the payment adjustment exceeds the costs incurred during the year of furnishing hospital services (as determined by the Secretary and net of payments under this title, other than under this section, and by uninsured patients) by the hospital to individuals who either are eligible for medical assistance under the State plan or have no health insurance (or other source of third party coverage) for services provided during the year. For purposes of the preceding sentence, payments made to a hospital for services provided to indigent patients made by a State or a unit of local government within a State shall not be considered to be a source of third party payment.

"(B) LIMIT TO PUBLIC HOSPITALS DURING TRANSITION PERIOD.—With respect to payment adjustments during a State fiscal year that begins before January 1, 1995, subparagraph (A) shall apply only to hospitals owned or operated by a State (or by an instrumentality or a unit of government within a State).

"(C) MODIFICATIONS FOR PRIVATE HOSPITALS.—With respect to hospitals that are not owned or operated by a State (or by an instrumentality or a unit of government within a State), the Secretary may make such modifications to the manner in which the limitation on payment adjustments is applied to such hospitals as the Secretary considers appropriate.

"(2) ADDITIONAL AMOUNT DURING TRANSITION PERIOD FOR CERTAIN HOSPITALS WITH HIGH DISPROPORTIONATE SHARE.—

"(A) IN GENERAL.—In the case of a hospital with high disproportionate share (as defined in subparagraph (B)), a payment adjustment during a State fiscal year that begins before January 1, 1995, shall be considered consistent with subsection (c) if the payment adjustment does not exceed 200 percent of the costs of furnishing hospital services described in paragraph (1)(A) during the year, but only if the Governor of the State certifies to the satisfaction of the Secretary that the hospital's applicable minimum amount is used for health services during the year. In determining the amount that is used for such services during a year, there shall be excluded any amounts received under the Public Health Service Act, title V, title XVIII, or from third party payors (not including the State plan under this title) that are used for providing such services during the year.

"(B) HOSPITALS WITH HIGH DISPROPORTIONATE SHARE DEFINED.—In subparagraph (A), a hospital is a 'hospital with high disproportionate share' if—

"(i) the hospital is owned or operated by a State (or by an instrumentality or a unit of government within a State); and

"(ii) the hospital—

"(I) meets the requirement described in subsection (b)(1)(A), or

"(II) has the largest number of inpatient days attributable to individuals entitled to benefits under the State plan of any hospital in such State for the previous State fiscal year.

"(C) APPLICABLE MINIMUM AMOUNT DEFINED.—In subparagraph (A), the 'applicable minimum amount' for a hospital for a fiscal year is equal to the difference between the amount of the hospital's payment adjustment for the fiscal year and the costs to the hospital of furnishing hospital services described in paragraph (1)(A) during the fiscal year.".

(2) CONFORMING AMENDMENTS.—Section 1923 is amended—

(A) in subsection (c) in the matter preceding paragraph (1), by striking "subsection (f)" and inserting "subsections (f) and (g)"; and

(B) in subsection (e)(2) (as amended by subsection (a)(1)(F))—

(i) by striking "and" at the end of subparagraph (B);

(ii) by striking the period at the end of subparagraph (C) and inserting ", and"; and

(iii) by adding at the end the following new subparagraph:

"(D) subsection (g) shall apply.".

(3) EFFECTIVE DATE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by this subsection shall apply to payments to States under section 1903(a) of the Social Security Act for payments to hospitals made under State plans after—

(i) the end of the State fiscal year that ends during 1994, or

(ii) in the case of a State with a State legislature which is not scheduled to have a regular legislative session in 1994, the end of the State fiscal year that ends during 1995;

without regard to whether or not final regulations to carry out such amendments have been promulgated by either such date.

(B) DELAY IN IMPLEMENTATION FOR PRIVATE HOSPITALS.—With respect to a hospital that is not owned or operated by a State (or by an instrumentality or a unit of government within a State), the amendments made by this subsection shall apply to payments to States under section 1903(a) for payments to hospitals made under State plans for State fiscal years that begin during or after 1995, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

SEC. 13622. LIABILITY OF THIRD PARTIES TO PAY FOR CARE AND SERVICES.

(a) LIABILITY OF ERISA PLANS.—(1) Section 1902(a)(25)(A) (42 U.S.C. 1396a(a)(25)(A)) is amended by striking "insurers)" and inserting "insurers, group health plans (as defined in section 607(1) of the Employee Retirement Income Security Act of 1974), service benefit plans, and health maintenance organizations)".

(2) Section 1903(o) (42 U.S.C. 1396b(o)) is amended by striking "regulation)" and inserting "regulation and including a group health plan (as defined in section 607(1) of the Employee Retirement Income Security Act of 1974)), a service benefit plan, and a health maintenance organization)".

(b) REQUIRING STATE TO PROHIBIT INSURERS FROM TAKING MEDICAID STATUS INTO ACCOUNT.—Section 1902(a)(25) (42 U.S.C. 1396a(a)(25)) is amended—

(1) by striking "and" at the end of subparagraph (F);

(2) by adding "and" at the end of subparagraph (G); and

(3) by adding after subparagraph (G) the following new subparagraph:

"(H) that the State prohibits any health insurer (including a group health plan, as defined in section 607(1) of the Employee Retirement Income Security Act of 1974, a service benefit plan, and a health maintenance organization), in enrolling an individual or in making any payments for benefits to the individual or on the individual's behalf, from taking into account that the individual is eligible for or is provided medical assistance under a plan under this title for such State, or any other State;".

(c) STATE RIGHT TO THIRD PARTY PAYMENTS.—Section 1902(a)(25) (42 U.S.C. 1396a(a)(25)), as amended by subsection (b), is amended—

(1) by striking "and" at the end of subparagraph (G);

(2) by adding "and" at the end of subparagraph (H); and

(3) by adding after subparagraph (H) the following new subparagraph:

"(I) that to the extent that payment has been made under the State plan for medical assistance in any case where a third party has a legal liability to make payment for such assistance, the State has in effect laws under which, to the extent that payment has been made under the State plan for medical assistance for health care items or services furnished to an individual, the State is considered to have acquired the rights of such individual to payment by any other party for such health care items or services;".

(d) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), the amendments made by subsections (a)(1), (b), and (c) shall apply to calendar quarters beginning on or after October 1, 1993, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirements imposed by the amendments made by subsections (a) and (b), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the preceding sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

(3) The amendment made by subsection (a)(2) shall apply to items and services furnished on or after October 1, 1993.

SEC. 13623. MEDICAL CHILD SUPPORT.

(a) STATE PLAN REQUIREMENT.—Section 1902(a) (42 U.S.C. 1396a(a)) is amended—

(1) by striking "and" at the end of paragraph (54);

(2) in the paragraph (55) inserted by section 4602(a)(3) of OBRA–1990, by striking the period at the end and inserting a semicolon;

(3) by redesignating the paragraph (55) inserted by section 4604(b)(3) of OBRA–1990 as paragraph (56), by transferring and inserting it after the paragraph (55) inserted by section 4602(a)(3) of such Act, and by striking the period at the end and inserting a semicolon;

(4) by placing paragraphs (57) and (58), inserted by section 4751(a)(1)(C) of OBRA–1990, immediately after paragraph (56), as redesignated by paragraph (3);

(5) in the paragraph (58) inserted by section 4751(a)(1)(C) of OBRA–1990, by striking the period at the end and inserting a semicolon;

(6) by redesignating the paragraph (58) inserted by section 4752(c)(1)(C) of OBRA–1990 as paragraph (59) and by transferring and inserting it after the paragraph (58) inserted by section 4751(a)(1)(C) of such Act, and by striking the period at the end and inserting "; and"; and

(7) by inserting after paragraph (59) the following new paragraph:

"(60) provide that the State agency shall provide assurances satisfactory to the Secretary that the State has in effect the laws relating to medical child support required under section 1908.".

(b) MEDICAL CHILD SUPPORT LAWS.—Title XIX (42 U.S.C. 1936 et seq.) is amended by inserting after section 1907 the following new section:

"REQUIRED LAWS RELATING TO MEDICAL CHILD SUPPORT

"SEC. 1908. (a) IN GENERAL.—The laws relating to medical child support, which a State is required to have in effect under section 1902(a)(60), are as follows:

"(1) A law that prohibits an insurer from denying enrollment of a child under the health coverage of the child's parent on the ground that—

"(A) the child was born out of wedlock,

"(B) the child is not claimed as a dependent on the parent's Federal income tax return, or

"(C) the child does not reside with the parent or in the insurer's service area.

"(2) In any case in which a parent is required by a court or administrative order to provide health coverage for a child and the parent is eligible for family health coverage through an insurer, a law that requires such insurer—

"(A) to permit such parent to enroll under such family coverage any such child who is otherwise eligible for such coverage (without regard to any enrollment season restrictions);

"(B) if such a parent is enrolled but fails to make application to obtain coverage of such child, to enroll such child under such family coverage upon application by the child's other parent or by the State agency administering the program under this title or part D of title IV; and

"(C) not to disenroll (or eliminate coverage of) such a child unless the insurer is provided satisfactory written evidence that—

"(i) such court or administrative order is no longer in effect, or

"(ii) the child is or will be enrolled in comparable health coverage through another insurer which will take effect not later than the effective date of such disenrollment.

"(3) In any case in which a parent is required by a court or administrative order to provide health coverage for a child and the parent is eligible for family health coverage through an employer doing business in the State, a law that requires such employer—

"(A) to permit such parent to enroll under such family coverage any such child who is otherwise eligible for such coverage (without regard to any enrollment season restrictions);

"(B) if such a parent is enrolled but fails to make application to obtain coverage of such child, to enroll such child under such family coverage upon application by the child's other parent or by the State agency administering the program under this title or part D of title IV; and

"(C) not to disenroll (or eliminate coverage of) any such child unless—

"(i) the employer is provided satisfactory written evidence that—

"(I) such court or administrative order is no longer in effect, or

"(II) the child is or will be enrolled in comparable health coverage which will take effect not later than the effective date of such disenrollment, or

"(ii) the employer has eliminated family health coverage for all of its employees; and

"(D) to withhold from such employee's compensation the employee's share (if any) of premiums for health coverage (except that the amount so withheld may not exceed the maximum amount permitted to be withheld under section 303(b) of the Consumer Credit Protection Act), and to pay such share of premiums to the insurer, except that the Secretary may provide by regulation for appropriate circumstances under which an employer may withhold less than such employee's share of such premiums.

"(4) A law that prohibits an insurer from imposing requirements on a State agency, which has been assigned the rights of an individual eligible for medical assistance under this title and covered for health benefits from the insurer, that are different from requirements applicable to an agent or assignee of any other individual so covered.

"(5) A law that requires an insurer, in any case in which a child has health coverage through the insurer of a noncustodial parent—

"(A) to provide such information to the custodial parent as may be necessary for the child to obtain benefits through such coverage;

"(B) to permit the custodial parent (or provider, with the custodial parent's approval) to submit claims for covered services without the approval of the noncustodial parent; and

"(C) to make payment on claims submitted in accordance with subparagraph (B) directly to such custodial parent, the provider, or the State agency.

"(6) A law that permits the State agency under this title to garnish the wages, salary, or other employment income of, and requires withholding amounts from State tax refunds to, any person who—

"(A) is required by court or administrative order to provide coverage of the costs of health services to a child who is eligible for medical assistance under this title,

"(B) has received payment from a third party for the costs of such services to such child, but

"(C) has not used such payments to reimburse, as appropriate, either the other parent or guardian of such child or the provider of such services,

to the extent necessary to reimburse the State agency for expenditures for such costs under its plan under this title, but any claims for current or past-due child support shall take priority over any such claims for the costs of such services.

"(b) DEFINITION.—For purposes of this section, the term 'insurer' includes a group health plan, as defined in section 607(1) of the Employee Retirement Income Security Act of 1974, a health maintenance organization, and an entity offering a service benefit plan.".

(c) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), the amendments made by this section apply to calendar quarters beginning on or after April 1, 1994, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

(2) In the case of a State plan under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by this section, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act. For purposes of the preceding sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

SEC. 13624. APPLICATION OF MEDICARE RULES LIMITING CERTAIN PHYSICIAN REFERRALS.

(a) In General.—Section 1903 (42 U.S.C.1396b) is amended by inserting after subsection (r) the following new subsection:

"(s) Notwithstanding the preceding provisions of this section, no payment shall be made to a State under this section for expenditures for medical assistance under the State plan consisting of a designated health service (as defined in subsection (h)(6) of section 1877) furnished to an individual on the basis of a referral that would result in the denial of payment for the service under title XVIII if such title provided for coverage of such service to the same extent and under the same terms and conditions as under the State plan, and subsections (f) and (g)(5) of such section shall apply to a provider of such a designated health service for which payment may be made under this title in the same manner as such subsections apply to a provider of such a service for which payment may be made under such title.".

(b) Effective Date.—The amendment made by subsection (a) shall apply to referrals made on or after December 31, 1994.

SEC. 13625. STATE MEDICAID FRAUD CONTROL.

(a) In General.—Section 1902(a) (42 U.S.C. 1396a(a)), as amended by section 13623(a), is amended—

(1) by striking "and" at the end of paragraph (59);

(2) by striking the period at the end of paragraph (60) and inserting "; and"; and

(3) by inserting after paragraph (60) the following new paragraph:

"(61) provide that the State must demonstrate that it operates a medicaid fraud and abuse control unit described in section 1903(q) that effectively carries out the functions and requirements described in such section, as determined in accordance with standards established by the Secretary, unless the State demonstrates to the satisfaction of the Secretary that the effective operation of such a unit in the State would not be cost-effective because minimal fraud exists in connection with the provision of covered services to eligible individuals under the State plan, and that beneficiaries under the plan will be protected from abuse and neglect in connection with the provision of medical assistance under the plan without the existence of such a unit.".

(b) Effective Date.—Section 1902(a)(61) of the Social Security Act (as added by subsection (a)) shall take effect January 1, 1995, and the standards referred to in such section shall be established not later than March 31, 1994.

PART IV—IMMUNIZATIONS

SEC. 13631. MEDICAID PEDIATRIC IMMUNIZATION PROVISIONS.

(a) State Plan Requirement for Pediatric Immunization Distribution Program.—Section 1902(a) (42 U.S.C. 1396a(a)), as amended by sections 13623(a) and 13625(a), is amended—

(1) by striking "and" at the end of paragraph (60);

(2) by striking the period at the end of paragraph (61) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(62) provide for a program for the distribution of pediatric vaccines to program-registered providers for the immunization of vaccine-eligible children in accordance with section 1928.".

(b) Description of Required Program.—Title XIX is amended—

(1) by redesignating section 1928 as section 1931 and by moving such section to the end of such title, and

(2) by inserting after section 1927 the following new section:

"PROGRAM FOR DISTRIBUTION OF PEDIATRIC VACCINES

"Sec. 1928. (a) Establishment of Program.—

"(1) In general.—In order to meet the requirement of section 1902(a)(62), each State shall establish a pediatric vaccine distribution program (which may be administered by the State department of health), consistent with the requirements of this section, under which—

"(A) each vaccine-eligible child (as defined in subsection (b)), in receiving an immunization with a qualified pediatric vaccine (as defined in subsection (h)(8)) from a program-registered provider (as defined in subsection (c)) on or after October 1, 1994, is entitled to receive the immunization without charge for the cost of such vaccine; and

"(B)(i) each program-registered provider who administers such a pediatric vaccine to a vaccine-eligible child on or after such date is entitled to receive such vaccine under the program without charge either for the vaccine or its delivery to the provider, and (ii) no vaccine is distributed under the program to a provider unless the provider is a program-registered provider.

"(2) Delivery of sufficient quantities of pediatric vaccines to immunize federally vaccine-eligible children.—

"(A) In general.—The Secretary shall provide under subsection (d) for the purchase and delivery on behalf of each State meeting the requirement of section 1902(a)(62) (or, with respect to vaccines administered by an Indian tribe or tribal organization to Indian children, directly to the tribe or organization), without charge to the State, of such quantities of qualified pediatric vaccines as may be necessary for the administration of such vaccines to all Federally vaccine-eligible children in the State on or after October 1, 1994. This paragraph constitutes budget authority in advance of appropriations Acts, and represents the obligation of the Federal Government to provide for the purchase and delivery to States of the vaccines (or payment under subparagraph (C)) in accordance with this paragraph.

"(B) Special rules where vaccine is unavailable.—To the extent that a sufficient quantity of a vaccine is not available for purchase or delivery under subsection (d), the Secretary shall provide for the purchase and delivery of the available vaccine in accordance with priorities established by the Secretary, with priority given to Federally vaccine-eligible children unless the Secretary finds there are other public health considerations.

"(C) Special rules where State is a manufacturer.—

"(i) Payments in lieu of vaccines.—In the case of a State that manufactures a pediatric vaccine the Secretary, instead of providing the vaccine on behalf of a State under subparagraph (A), shall provide to the State an amount equal to the value of the quantity of such vaccine that otherwise would have been delivered on behalf of the State under such subparagraph, but only if the State agrees that such payments will only be used for purposes relating to pediatric immunizations.

"(ii) Determination of value.—In determining the amount to pay a State under clause (i) with respect to a pediatric vaccine, the value of the quantity of vaccine shall be determined on the basis of the price in effect for the qualified pediatric vaccine under contracts under subsection (d). If more than 1 such contract is in effect, the Secretary shall determine such value on the basis of the average of the prices under the contracts, after weighting each such price in relation to the quantity of vaccine under the contract involved.

"(b) Vaccine-Eligible Children.—For purposes of this section:

"(1) In general.—The term 'vaccine-eligible child' means a child who is a Federally vaccine-eligible child (as defined in paragraph (2)) or a State vaccine-eligible child (as defined in paragraph (3)).

"(2) Federally vaccine-eligible child.—

"(A) In general.—The term 'Federally vaccine-eligible child' means any of the following children:

"(i) A medicaid-eligible child.

"(ii) A child who is not insured.

"(iii) A child who (I) is administered a qualified pediatric vaccine by a Federally-qualified health center (as defined in section 1905(l)(2)(B)) or a rural health clinic (as defined in section 1905(l)(1)), and (II) is not insured with respect to the vaccine.

"(iv) A child who is an Indian (as defined in subsection (h)(3)).

"(B) Definitions.—In subparagraph (A):

"(i) The term 'medicaid-eligible' means, with respect to a child, a child who is entitled to medical assistance under a state plan approved under this title.

"(ii) The term 'insured' means, with respect to a child—

"(I) for purposes of subparagraph (A)(ii), that the child is enrolled under, and entitled to benefits under, a health insurance policy or plan, including a group health plan, a prepaid health plan, or an employee welfare benefit plan under the Employee Retirement Income Security Act of 1974; and

"(II) for purposes of subparagraph (A)(iii)(II) with respect to a pediatric vaccine, that the child is entitled to benefits under such a health insurance policy or plan, but such benefits are not available with respect to the cost of the pediatric vaccine.

"(3) State vaccine-eligible child.—The term 'State vaccine-eligible child' means, with respect to a State and a qualified pediatric vaccine, a child who is within a class of children for which the State is purchasing the vaccine pursuant to subsection (d)(4)(B).

"(c) Program-Registered Providers.—

"(1) Defined.—In this section, except as otherwise provided, the term 'program-registered provider' means, with respect to a State, any health care provider that—

"(A) is licensed or otherwise authorized for administration of pediatric vaccines under the law of the State in which the administration occurs (subject to section 333(e) of the Public Health Service Act), without regard to whether or not the provider participates in the plan under this title;

"(B) submits to the State an executed provider agreement described in paragraph (2); and

"(C) has not been found, by the Secretary or the State, to have violated such agreement or other applicable requirements established by the Secretary or the State consistent with this section.

"(2) Provider agreement.—A provider agreement for a provider under this paragraph is an agreement (in such form and manner as the Secretary may require) that the provider agrees as follows:

"(A)(i) Before administering a qualified pediatric vaccine to a child, the provider will ask a parent of the child such questions as are necessary to determine whether the child is a vaccine-eligible child, but the provider need not independently verify the answers to such questions.

"(ii) The provider will, for a period of time specified by the Secretary, maintain records of responses made to the questions.

"(iii) The provider will, upon request, make such records available to the State and to the Secretary, subject to section 1902(a)(7).

"(B)(i) Subject to clause (ii), the provider will comply with the schedule, regarding the appropriate periodicity, dosage, and contraindications applicable to pediatric vaccines, that is established and periodically reviewed and, as appropriate, revised by the advisory committee referred to in subsection (e), except in such cases *as, in the provider's medical judgment subject to accepted medical practice, such compliance is medically inappropriate.*

"(ii) The provider will provide pediatric vaccines in compliance with applicable State law, including any such law relating to any religious or other exemption.

"(C)(i) In administering a qualified pediatric vaccine to a vaccine-eligible child, the provider will not impose a charge for the cost of the vaccine. A program-registered provider is not required under this section to administer such a vaccine to each child for whom an immunization with the vaccine is sought from the provider.

"(ii) The provider may impose a fee for the administration of a qualified pediatric vaccine so long as the fee in the case of a Federally vaccine-eligible child does not exceed the costs of such administration (as determined by the Secretary based on actual regional costs for such administration).

"(iii) The provider will not deny administration of a qualified pediatric vaccine to a vaccine-eligible child due to the inability of the child's parent to pay an administration fee.

"(3) ENCOURAGING INVOLVEMENT OF PROVIDERS.—Each program under this section shall provide, in accordance with criteria established by the Secretary—

"(A) for encouraging the following to become program-registered providers: private health care providers, the Indian Health Service, health care providers that receive funds under title V of the Indian Health Care Improvement Act, and health programs or facilities operated by Indian tribes or tribal organizations; and

"(B) for identifying, with respect to any population of vaccine-eligible children a substantial portion of whose parents have a limited ability to speak the English language, those program-registered providers who are able to communicate with the population involved in the language and cultural context that is most appropriate.

"(4) STATE REQUIREMENTS.—Except as the Secretary may permit in order to prevent fraud and abuse and for related purposes, a State may not impose additional qualifications or conditions, in addition to the requirements of paragraph (1), in order that a provider qualify as a program-registered provider under this section. This subsection does not limit the exercise of State authority under section 1915(b).

"(d) NEGOTIATION OF CONTRACTS WITH MANUFACTURERS.—

"(1) IN GENERAL.—For the purpose of meeting obligations under this section, the Secretary shall negotiate and enter into contracts with manufacturers of pediatric vaccines consistent with the requirements of this subsection and, to the maximum extent practicable, consolidate such contracting with any other contracting activities conducted by the Secretary to purchase vaccines. The Secretary may enter into such contracts under which the Federal Government is obligated to make outlays, the budget authority for which is not provided for in advance in appropriations Acts, for the purchase and delivery of pediatric vaccines under subsection (a)(2)(A).

"(2) AUTHORITY TO DECLINE CONTRACTS.—The Secretary may decline to enter into such contracts and may modify or extend such contracts.

"(3) CONTRACT PRICE.—

"(A) IN GENERAL.—The Secretary, in negotiating the prices at which pediatric vaccines will be purchased and delivered from a manufacturer under this subsection, shall take into account quantities of vaccines to be purchased by States under the option under paragraph (4)(B).

"(B) NEGOTIATION OF DISCOUNTED PRICE FOR CURRENT VACCINES.—With respect to contracts entered into under this subsection for a pediatric vaccine for which the Centers for Disease Control and Prevention has a contract in effect under section 317(j)(1) of the Public Health Service Act as of May 1, 1993, no price for the purchase of such vaccine for vaccine-eligible children shall be agreed to by the Secretary under this subsection if the price per dose of such vaccine (including delivery costs and any applicable excise tax established under section 4131 of the Internal Revenue Code of 1986) exceeds the price per dose for the vaccine in effect under such a contract as of such date increased by the percentage increase in the consumer price index for all urban consumers (all items; United States city average) from May 1993 to the month before the month in which such contract is entered into.

"(C) NEGOTIATION OF DISCOUNTED PRICE FOR NEW VACCINES.—With respect to contracts entered into for a pediatric vaccine not described in subparagraph (B), the price for the purchase of such vaccine shall be a discounted price negotiated by the Secretary that may be established without regard to such subparagraph.

"(4) QUANTITIES AND TERMS OF DELIVERY.—Under such contracts—

"(A) the Secretary shall provide, consistent with paragraph (6), for the purchase and delivery on behalf of States (and tribes and tribal organizations) of quantities of pediatric vaccines for Federally vaccine-eligible children; and

"(B) each State, at the option of the State, shall be permitted to obtain additional quantities of pediatric vaccines (subject to amounts specified to the Secretary by the State in advance of negotiations) through purchasing the vaccines from the manufacturers at the applicable price negotiated by the Secretary consistent with paragraph (3), if (i) the State agrees that the vaccines will be used to provide immunizations only for children who are not Federally vaccine-eligible children and (ii) the State provides to the Secretary such information (at a time and manner specified by the Secretary, including in advance of negotiations under paragraph (1)) as the Secretary determines to be necessary, to provide for quantities of pediatric vaccines for the State to purchase pursuant to this subsection and to determine annually the percentage of the vaccine market that is purchased pursuant to this section and this subparagraph.

The Secretary shall enter into the initial negotiations under the preceding sentence not later than 180 days after the date of the enactment of the Omnibus Budget Reconciliation Act of 1993.

"(5) CHARGES FOR SHIPPING AND HANDLING.—The Secretary may enter into a contract referred to in paragraph (1) only if the manufacturer involved agrees to submit to the Secretary such reports as the Secretary determines to be appropriate to assure compliance with the contract and if, with respect to a State program under this section that does not provide for the direct delivery of qualified pediatric vaccines, the manufacturer involved agrees that the manufacturer will provide for the delivery of the vaccines on behalf of the State in accordance with such program and will not impose any charges for the costs of such delivery (except to the extent such costs are provided for in the price established under paragraph (3)).

"(6) ASSURING ADEQUATE SUPPLY OF VACCINES.—The Secretary, in negotiations under paragraph (1), shall negotiate for quantities of pediatric vaccines such that an adequate supply of such vaccines will be maintained to meet unanticipated needs for the vaccines. For purposes of the preceding sentence, the Secretary shall negotiate for a 6-month supply of vaccines in addition to the quantity that the Secretary otherwise would provide for in such negotiations. In carrying out this paragraph, the Secretary shall consider the potential for outbreaks of the diseases with respect to which the vaccines have been developed.

"(7) MULTIPLE SUPPLIERS.—In the case of the pediatric vaccine involved, the Secretary shall, as appropriate, enter into a contract referred to in paragraph (1) with each manufacturer of the vaccine that meets the terms and conditions of the Secretary for an award of such a contract (including terms and conditions regarding safety and quality). With respect to multiple contracts entered into pursuant to this paragraph, the Secretary may have in effect different prices under each of such contracts and, with respect to a purchase by States pursuant to paragraph (4)(B), the Secretary shall determine which of such contracts will be applicable to the purchase.

"(e) USE OF PEDIATRIC VACCINES LIST.—The Secretary shall use, for the purpose of the purchase, delivery, and administration of pediatric vaccines under this section, the list established (and periodically reviewed and as appropriate revised) by the Advisory Committee on Immunization Practices (an advisory committee established by the Secretary, acting through the Director of the Centers for Disease Control and Prevention).

"(f) REQUIREMENT OF STATE MAINTENANCE OF IMMUNIZATION LAWS.—In the case of a State that had in effect as of May 1, 1993, a law that requires some or all health insurance policies or plans to provide some coverage with respect to a pediatric vaccine, a State program under this section does not comply with the requirements of this section unless the State certifies to the Secretary that the State has not modified or repealed such law in a manner that reduces the amount of coverage so required.

"(g) TERMINATION.—This section, and the requirement of section 1902(a)(62), shall cease to be in effect beginning on such date as may be prescribed in Federal law providing for immunization services for all children as part of a broad-based reform of the national health care system.

"(h) DEFINITIONS.—For purposes of this section:

"(1) The term 'child' means an individual 18 years of age or younger.

"(2) The term 'immunization' means an immunization against a vaccine-preventable disease.

"(3) The terms 'Indian', 'Indian tribe' and 'tribal organization' have the meanings given such terms in section 4 of the Indian Health Care Improvement Act.

"(4) The term 'manufacturer' means any corporation, organization, or institution, whether public or private (including Federal, State, and local departments, agencies, and instrumentalities), which manufactures, imports, processes, or distributes under its label any pediatric vaccine. The term 'manufacture' means to manufacture, import, process, or distribute a vaccine.

"(5) The term 'parent' includes, with respect to a child, an individual who qualifies as a legal guardian under State law.

"(6) The term 'pediatric vaccine' means a vaccine included on the list under subsection (e).

"(7) The term 'program-registered provider' has the meaning given such term in subsection (c).

"(8) The term 'qualified pediatric vaccine' means a pediatric vaccine with respect to which a contract is in effect under subsection (d).

"(9) The terms 'vaccine-eligible child', 'Federally vaccine-eligible child', and 'State vaccine-eligible child' have the meaning given such terms in subsection (b).".

(c) LIMITATION ON MEDICAID PAYMENTS.—Section 1903(i) (42 U.S.C. 1396b(i)), as amended by section 2(b)(2) of the Medicaid Voluntary Contribution and Provider-Specific Tax Amendments of 1991, is amended—

(1) in the paragraph (10) inserted by section 4401(a)(1)(B) of OBRA–1990, by striking all that follows "1927(g)" and inserting a semicolon;

(2) by redesignating the paragraph (12) inserted by section 4752(a)(2) of OBRA–1990 as paragraph (11), by transferring and inserting it after the paragraph (10) inserted by section 4401(a)(1)(B) of OBRA–1990, and by striking the period at the end and inserting a semicolon;

(3) by redesignating the paragraph (14) inserted by section 4752(e) of OBRA–1990 as paragraph (12), by transferring and inserting it after paragraph (11), as redesignated by paragraph (2), and by striking the period at the end and inserting a semicolon;

(4) by redesignating the paragraph (11) inserted by section 4801(e)(16)(A) of OBRA–1990 as paragraph (13), by transferring and inserting it after paragraph (12), as redesignated by paragraph (3), and by striking the period at the end and inserting "; or"; and

(5) by inserting after paragraph (13), as so redesignated, the following new paragraph:

"(14) with respect to any amount expended on administrative costs to carry out the program under section 1928.".

(d) CONTINUED COVERAGE OF COSTS OF A PEDIATRIC VACCINE UNDER CERTAIN GROUP HEALTH PLANS.—

(1) REQUIREMENT.—The requirement of this paragraph, with respect to a group health plan for plan years beginning after the date of the enactment of this Act, is that the group health plan not reduce its coverage of the costs of pediatric vaccines (as defined under section 1928(h)(6) of the Social Security Act) below the coverage it provided as of May 1, 1993.

(2) ENFORCEMENT.—For purposes of section 2207 of the Public Health Service Act, the requirement of paragraph (1) is deemed a requirement of title XXII of such Act.

(e) AVAILABILITY OF MEDICAID PAYMENTS FOR CHILDHOOD VACCINE REPLACEMENT PROGRAMS.—

(1) IN GENERAL.—Section 1902(a)(32) (42 U.S.C. 1396a(a)(32)) is amended—

(A) by striking "and" at the end of subparagraph (B),

(B) by striking the period at the end of subparagraph (C) and inserting "; and", and

(C) by adding at the end the following new subparagraph:

"(D) in the case of payment for a childhood vaccine administered before October 1, 1994, to individuals entitled to medical assistance under the State plan, the State plan may make payment directly to the manufacturer of the vaccine under a voluntary replacement program agreed to by the State pursuant to which the manufacturer (i) supplies doses of the vaccine to providers administering the vaccine, (ii) periodically replaces the supply of the vaccine, and (iii) charges the State the manufacturer's price to the Centers for Disease Control and Prevention for the vaccine so administered (which price includes a reasonable amount to cover shipping and the handling of returns);".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on the date of the enactment of this Act.

(f) OUTREACH AND EDUCATION.—

(1) IN GENERAL.—Section 1902(a) (42 U.S.C. 1396a(a)) is amended—

(A) in paragraph (11)(B)—

(i) by striking "effective July 1, 1969,",

(ii) by striking "and" before "(ii)", and

(iii) by striking "to him under section 1903" and inserting "to the individual under section 1903, and (iii) providing for coordination of information and education on pediatric vaccinations and delivery of immunization services";

(B) in paragraph (11)(C), by inserting ", including the provision of information and education on pediatric vaccinations and the delivery of immunization services," after "operations under this title"; and

(C) in paragraph (43)(A), by inserting before the comma at the end the following: "and the need for age-appropriate immunizations against vaccine-preventable diseases".

(2) COVERAGE OF PUBLIC HOUSING HEALTH CENTERS AND CERTAIN INDIAN HEALTH CARE PROVIDERS AS FEDERALLY-QUALIFIED HEALTH CENTERS.—Section 1905(l)(2)(B) (42 U.S.C. 1396d(l)(2)(B)) is amended—

(A) by striking "or 340" each place it appears and inserting "340, or 340A", and

(B) by inserting "or by an urban Indian organization receiving funds under title V of the Indian Health Care Improvement Act for the provision of primary health services" after "93–638)".

(3) EFFECTIVE DATES.—(A) Except as provided in subparagraph (B), the amendments made by this subsection shall apply to calendar quarters beginning on or after October 1, 1993, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

(B) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirements imposed by the amendments made by this subsection, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

(g) SCHEDULE OF IMMUNIZATIONS UNDER EPSDT.—

(1) IN GENERAL.—Section 1905(r)(1) (42 U.S.C. 1396d(r)(1)) is amended—

(A) in subparagraph (A)(i), by inserting "and, with respect to immunizations under subparagraph (B)(iii), in accordance with the schedule referred to in section 1928(c)(2)(B)(i) for pediatric vaccines" after "child health care"; and

(B) in subparagraph (B)(iii), by inserting "(according to the schedule referred to in section 1928(c)(2)(B)(i) for pediatric vaccines)" after "appropriate immunizations".

(2) EFFECTIVE DATE.—The amendments made by subparagraphs (A) and (B) of paragraph (1) shall first apply 90 days after the date the schedule referred to in subparagraphs (A)(i) and subparagraph (B)(iii) of section 1905(r)(1) of the Social Security Act (as amended by such respective subparagraphs) is first established.

(h) DENIAL OF FEDERAL FINANCIAL PARTICIPATION FOR INAPPROPRIATE ADMINISTRATION OF SINGLE-ANTIGEN VACCINE.—

(1) IN GENERAL.—Section 1903(i) (42 U.S.C. 1396b(i)), as amended by subsection (c), is amended—

(A) in paragraph (13), by striking "or" at the end,

(B) in paragraph (14), by striking the period at the end and inserting "; or", and

(C) by inserting after paragraph (14) the following new paragraph:

"(15) with respect to any amount expended for a single-antigen vaccine and its administration in any case in which the administration of a combined-antigen vaccine was medically appropriate (as determined by the Secretary).".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to amounts expended for vaccines administered on or after October 1, 1993.

(i) EFFECTIVE DATE.—Except as otherwise provided in this section, the amendments made by this section shall apply to payments under State plans approved under title XIX of the Social Security Act for calendar quarters beginning on or after October 1, 1994.

SEC. 13632. NATIONAL VACCINE INJURY COMPENSATION PROGRAM AMENDMENTS.

(a) AMENDMENT OF VACCINE INJURY TABLE.—

(1) FILING.—Section 2116(b) of the Public Health Service Act (42 U.S.C. 300aa–16(b)) is amended by striking "such person may file" and inserting "or to significantly increase the likelihood of obtaining compensation, such person may, notwithstanding section 2111(b)(2), file".

(2) ADDITIONAL VACCINES.—Section 2114(e) of the Public Health Service Act (42 U.S.C. 300aa–14) is amended to read as follows:

"(e) ADDITIONAL VACCINES.—

"(1) VACCINES RECOMMENDED BEFORE AUGUST 1, 1993.—By August 1, 1995, the Secretary shall revise the Vaccine Injury Table included in subsection (a) to include—

"(A) vaccines which are recommended to the Secretary by the Centers for Disease Control and Prevention before August 1, 1993, for routine administration to children,

"(B) the injuries, disabilities, illnesses, conditions, and deaths associated with such vaccines, and

"(C) the time period in which the first symptoms or manifestations of onset or other significant aggravation of such injuries, disabilities, illnesses, conditions, and deaths associated with such vaccines may occur.

"(2) VACCINES RECOMMENDED AFTER AUGUST 1, 1993.—When after August 1, 1993, the Centers for Disease Control and Prevention recommends a vaccine to the Secretary for routine administration to children, the Secretary shall, within 2 years of such recommendation, amend the Vaccine Injury Table included in subsection (a) to include—

"(A) vaccines which were recommended for routine administration to children,

"(B) the injuries, disabilities, illnesses, conditions, and deaths associated with such vaccines, and

"(C) the time period in which the first symptoms or manifestations of onset or other significant aggravation of such injuries, disabilities, illnesses, conditions, and deaths associated with such vaccines may occur.".

(3) EFFECTIVE DATE.—A revision by the Secretary under section 2114(e) of the Public Health Service Act (42 U.S.C. 300aa–14(e)) (as amended by paragraph (2)) shall take effect upon the effective date of a tax enacted to provide funds for compensation paid with respect to the vaccine to be added to the vaccine injury table in section 2114(a) of the Public Health Service Act (42 U.S.C. 300aa–14(a)).

(b) INCREASED SPENDING.—Section 2115(j) of the Public Health Service Act (42 U.S.C. 300aa–15(j)) is amended by striking "$80,000,000 for each succeeding fiscal year" and inserting in lieu thereof "$110,000,000 for each succeeding fiscal year".

(c) EXTENSION OF TIME FOR DECISION.—Section 2112(d)(3)(D) of the Public Health Service Act (42 U.S.C. 300aa–12(d)(3)(D)) is amended by striking "540 days" and inserting "30 months (but for not more than 6 months at a time)".

PART V—MISCELLANEOUS

SEC. 13641. INCREASE IN LIMIT ON FEDERAL MEDICAID MATCHING PAYMENTS TO PUERTO RICO AND OTHER TERRITORIES.

(a) IN GENERAL.—Paragraphs (1) through (5) of section 1108(c) (42 U.S.C. 1308(c)) are amended to read as follows:

"(1) Puerto Rico shall not exceed (A) $116,500,000 for fiscal year 1994 and (B) for each succeeding fiscal year the amount provided in this paragraph for the preceding fiscal year increased by the percentage increase in the medical care component of the consumer price index

for all urban consumers (as published by the Bureau of Labor Statistics) for the twelve-month period ending in March preceding the beginning of the fiscal year, rounded to the nearest $100,000;

"(2) the Virgin Islands shall not exceed (A) $3,837,500 for fiscal year 1994, and (B) for each succeeding fiscal year the amount provided in this paragraph for the preceding fiscal year increased by the percentage increase referred to in paragraph (1)(B), rounded to the nearest $10,000;

"(3) Guam shall not exceed (A) $3,685,000 for fiscal year 1994, and (B) for each succeeding fiscal year the amount provided in this paragraph for the preceding fiscal year increased by the percentage increase referred to in paragraph (1)(B), rounded to the nearest $10,000;

"(4) Northern Mariana Islands shall not exceed (A) $1,110,000 for fiscal year 1994, and (B) for each succeeding fiscal year the amount provided in this paragraph for the preceding fiscal year increased by the percentage increase referred to in paragraph (1)(B), rounded to the nearest $10,000; and

"(5) American Samoa shall not exceed (A) $2,140,000 for fiscal year 1994, and (B) for each succeeding fiscal year the amount provided in this paragraph for the preceding fiscal year increased by the percentage increase referred to in paragraph (1)(B), rounded to the nearest $10,000.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply beginning with fiscal year 1994.

SEC. 13642. EXTENSION OF MORATORIUM ON TREATMENT OF CERTAIN FACILITIES AS INSTITUTIONS FOR MENTAL DISEASES.

Effective as if included in the enactment of OBRA–1989, section 6408(a)(3) of such Act is amended by striking "180 days" and all that follows and inserting "December 31, 1995.".

SEC. 13643. DEMONSTRATION PROJECTS.

(a) EXTENSION OF DEMONSTRATION PROJECT ON THE EFFECT OF ALLOWING STATES TO EXTEND MEDICAID COVERAGE TO CERTAIN LOW-INCOME FAMILIES.—Effective as if included in the enactment of OBRA–1990, section 4745 of such Act is amended—

(1) in paragraph (1) of subsection (e), by striking "$12,000,000 in each of fiscal years 1991, 1992, and 1993, and to no more than $4,000,000 in fiscal year 1994" and inserting "$40,000,000"; and

(2) in paragraph (2) of subsection (f) by striking "January 1, 1995" and inserting "one year after the termination of the projects".

(b) RENEWAL OF UNFUNDED DEMONSTRATION PROJECT FOR LOW-INCOME PREGNANT WOMEN AND CHILDREN.—Effective as if included in the enactment of OBRA–1989, section 6407 of such Act is amended—

(1) in subsection (f), by striking "$10,000,000 in each of fiscal years 1990, 1991, and 1992" and inserting "$30,000,000"; and

(2) in subsection (g)(2), by striking "January 1, 1994" and inserting "one year after the termination of the demonstration projects".

(c) APPLICATION OF SPOUSAL IMPOVERISHMENT RULES TO THE ON LOK FRAIL ELDERLY DEMONSTRATION PROJECT.—(1) Section 1924(a)(5), as added by section 4744(b)(1) of OBRA–1990, is amended by striking "1986." and inserting "1986 or a waiver under section 603(c) of the Social Security Amendments of 1983.".

(2) Section 603(c) of the Social Security Amendments of 1983 is amended—

(A) by striking "(c)" and inserting "(c)(1)";

(B) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B); and

(C) by adding at the end the following new paragraph:

"(2) Section 1924 of the Social Security Act shall apply to any individual receiving services from an organization receiving a waiver under this subsection.".

SEC. 13644. EXTENSION OF PERIOD OF APPLICABILITY OF ENROLLMENT MIX REQUIREMENT TO CERTAIN HEALTH MAINTENANCE ORGANIZATIONS PROVIDING SERVICES UNDER DAYTON AREA HEALTH PLAN.

Section 2 of Public Law 102–276 is amended by striking "January 31, 1994" and inserting "December 31, 1995".

Subchapter C—Human Resources and Income Security Amendments

SEC. 13701. TABLE OF CONTENTS.

The table of contents of this subchapter is as follows:

Subchapter C—Human Resources and Income Security Amendments

Sec. 13701. Table of contents.
Sec. 13702. References.

PART I—CHILD WELFARE SERVICES, FOSTER CARE, AND ADOPTION ASSISTANCE

Sec. 13711. Entitlement funding for services designed to strengthen and preserve families.
Sec. 13712. Entitlement funding for State courts to assess and improve handling of proceedings relating to foster care and adoption.
Sec. 13713. Enhanced match for automated data systems.
Sec. 13714. Permanent extension of independent living program.
Sec. 13715. Training of agency staff and foster and adoptive parents.
Sec. 13716. Moratorium on collection of disallowances.

PART II—CHILD SUPPORT ENFORCEMENT

Sec. 13721. State paternity establishment programs.

PART III—SUPPLEMENTAL SECURITY INCOME

Sec. 13731. Fees for Federal administration of State supplementary payments.
Sec. 13732. Exclusion from income and resources of State relocation assistance.
Sec. 13733. Prevention of adverse effects on eligibility for, and amount of, benefits when spouse or parent of beneficiary is absent from the household due to active military service.
Sec. 13734. Eligibility for children of Armed Forces personnel residing outside the United States other than in foreign countries.
Sec. 13735. Valuation of certain in-kind support and maintenance when there is a cost of living adjustment in benefits.
Sec. 13736. Exclusion from income of certain amounts received by Indians from interests held in trust.

PART IV—AID TO FAMILIES WITH DEPENDENT CHILDREN

Sec. 13741. 50 percent Federal match of State administrative costs.
Sec. 13742. Increase in stepparent income disregard.

PART V—UNEMPLOYMENT INSURANCE

Sec. 13751. Extension of current Federal unemployment rate.

PART VI—SOCIAL SERVICES IN EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES

Sec. 13761. Increase in block grants to States for social services.

SEC. 13702. REFERENCES.

Except as otherwise expressly provided, wherever in this subchapter an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Social Security Act.

PART I—CHILD WELFARE SERVICES, FOSTER CARE, AND ADOPTION ASSISTANCE

SEC. 13711. ENTITLEMENT FUNDING FOR SERVICES DESIGNED TO STRENGTHEN AND PRESERVE FAMILIES.

(a) IN GENERAL.—Part B of title IV (42 U.S.C. 620–628) is amended—

(1) by striking the heading and inserting the following:

"PART B—CHILD AND FAMILY SERVICES

"Subpart 1—Child Welfare Services"; and

(2) by adding at the end the following:

"Subpart 2—Family Preservation and Support Services

"SEC. 430. PURPOSES; LIMITATIONS ON AUTHORIZATIONS OF APPROPRIATIONS; RESERVATION OF CERTAIN AMOUNTS.

"(a) PURPOSES; LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.—For the purpose of encouraging and enabling each State to develop and establish, or expand, and to operate a program of family preservation services and community-based family support services, there are authorized to be appropriated to the Secretary the amounts described in subsection (b) for the fiscal years specified in subsection (b).

"(b) DESCRIPTION OF AMOUNTS.—The amount described in this subsection is—

"(1) for fiscal year 1994, $60,000,000;

"(2) for fiscal year 1995, $150,000,000;

"(3) for fiscal year 1996, $225,000,000;

"(4) for fiscal year 1997, $240,000,000; or

"(5) for fiscal year 1998, the greater of—

"(A) $255,000,000; or

"(B) the amount described in this subsection for fiscal year 1997, increased by the inflation percentage applicable to fiscal year 1998.

"(c) INFLATION PERCENTAGE.—For purposes of subsection (b)(5)(B) of this section, the inflation percentage applicable to any fiscal year is the percentage (if any) by which—

"(1) the average of the Consumer Price Index (as defined in section 1(f)(5) of the Internal Revenue Code of 1986) for the 12-month period ending on December 31 of the immediately preceding fiscal year; exceeds

"(2) the average of the Consumer Price Index (as so defined) for the 12-month period ending on December 31 of the 2nd preceding fiscal year.

"(d) RESERVATION OF CERTAIN AMOUNTS.—

"(1) EVALUATION, RESEARCH, TRAINING, AND TECHNICAL ASSISTANCE.—The Secretary shall reserve $2,000,000 of the amount described in subsection (b) for fiscal year 1994, and $6,000,000 of the amounts so described for each of fiscal years 1995, 1996, 1997, and 1998, for expenditure by the Secretary—

"(A) for research, training, and technical assistance related to the program under this subpart; and

"(B) for evaluation of State programs funded under this subpart and any other Federal, State, or local program, regardless of whether federally assisted, that is designed to achieve the same purposes as the program under this subpart.

"(2) STATE COURT ASSESSMENTS.—The Secretary shall reserve $5,000,000 of the amount described in subsection (b) for fiscal year 1995, and $10,000,000 of the amounts so described for each of fiscal years 1996, 1997, and 1998, for grants under section 13712 of the Omnibus Budget Reconciliation Act of 1993.

"(3) INDIAN TRIBES.—The Secretary shall reserve 1 percent of the amounts described in subsection (b) for each fiscal year, for allotment to Indian tribes in accordance with section 433(a).

"SEC. 431. DEFINITIONS.

"(a) IN GENERAL.—As used in this subpart:

"(1) FAMILY PRESERVATION SERVICES.—The term 'family preservation services' means services for children and families designed to help

families (including adoptive and extended families) at risk or in crisis, including—

"(A) service programs designed to help children—

"(i) where appropriate, return to families from which they have been removed; or

"(ii) be placed for adoption, with a legal guardian, or, if adoption or legal guardianship is determined not to be appropriate for a child, in some other planned, permanent living arrangement;

"(B) preplacement preventive services programs, such as intensive family preservation programs, designed to help children at risk of foster care placement remain with their families;

"(C) service programs designed to provide followup care to families to whom a child has been returned after a foster care placement;

"(D) respite care of children to provide temporary relief for parents and other caregivers (including foster parents); and

"(E) services designed to improve parenting skills (by reinforcing parents' confidence in their strengths, and helping them to identify where improvement is needed and to obtain assistance in improving those skills) with respect to matters such as child development, family budgeting, coping with stress, health, and nutrition.

"(2) FAMILY SUPPORT SERVICES.—The term 'family support services' means community-based services to promote the well-being of children and families designed to increase the strength and stability of families (including adoptive, foster, and extended families), to increase parents' confidence and competence in their parenting abilities, to afford children a stable and supportive family environment, and otherwise to enhance child development.

"(3) STATE AGENCY.—The term 'State agency' means the State agency responsible for administering the program under subpart 1.

"(4) STATE.—The term 'State' includes an Indian tribe or tribal organization, in addition to the meaning given such term for purposes of subpart 1.

"(5) TRIBAL ORGANIZATION.—The term 'tribal organization' means the recognized governing body of any Indian tribe.

"(6) INDIAN TRIBE.—The term 'Indian tribe' means any Indian tribe (as defined in section 482(i)(5)) and any Alaska Native organization (as defined in section 482(i)(7)(A)).

"(b) OTHER TERMS.—For other definitions of other terms used in this subpart, see section 475.

"SEC. 432. STATE PLANS.

"(a) PLAN REQUIREMENTS.—A State plan meets the requirements of this subsection if the plan—

"(1) provides that the State agency shall administer, or supervise the administration of, the State program under this subpart;

"(2)(A)(i) sets forth the goals intended to be accomplished under the plan by the end of the 5th fiscal year in which the plan is in operation in the State, and (ii) is updated periodically to set forth the goals intended to be accomplished under the plan by the end of each 5th fiscal year thereafter;

"(B) describes the methods to be used in measuring progress toward accomplishment of the goals;

"(C) contains assurances that the State—

"(i) after the end of each of the 1st 4 fiscal years covered by a set of goals, will perform an interim review of progress toward accomplishment of the goals, and on the basis of the interim review will revise the statement of goals in the plan, if necessary, to reflect changed circumstances; and

"(ii) after the end of the last fiscal year covered by a set of goals, will perform a final review of progress toward accomplishment of the goals, and on the basis of the final review (I) will prepare, transmit to the Secretary, and make available to the public a final report on progress toward accomplishment of the goals, and (II) will develop (in consultation with the entities required to be consulted pursuant to subsection (b)) and add to the plan a statement of the goals intended to be accomplished by the end of the 5th succeeding fiscal year;

"(3) provides for coordination, to the extent feasible and appropriate, of the provision of services under the plan and the provision of services or benefits under other Federal or federally assisted programs serving the same populations;

"(4) contains assurances that not more than 10 percent of expenditures under the plan for any fiscal year with respect to which the State is eligible for payment under section 434 for the fiscal year shall be for administrative costs, and that the remaining expenditures shall be for programs of family preservation services and community-based family support services with significant portions of such expenditures for each such program;

"(5) contains assurances that the State will—

"(A) annually prepare, furnish to the Secretary, and make available to the public a description (including separate descriptions with respect to family preservation services and community-based family support services) of—

"(i) the service programs to be made available under the plan in the immediately succeeding fiscal year;

"(ii) the populations which the programs will serve; and

"(iii) the geographic areas in the State in which the services will be available; and

"(B) perform the activities described in subparagraph (A)—

"(i) in the case of the 1st fiscal year under the plan, at the time the State submits its initial plan; and

"(ii) in the case of each succeeding fiscal year, by the end of the 3rd quarter of the immediately preceding fiscal year;

"(6) provides for such methods of administration as the Secretary finds to be necessary for the proper and efficient operation of the plan;

"(7)(A) contains assurances that Federal funds provided to the State under this subpart will not be used to supplant Federal or non-Federal funds for existing services and activities which promote the purposes of this subpart; and

"(B) provides that the State will furnish reports to the Secretary, at such times, in such format, and containing such information as the Secretary may require, that demonstrate the State's compliance with the prohibition contained in subparagraph (A); and

"(8) provides that the State agency will furnish such reports, containing such information, and participate in such evaluations, as the Secretary may require.

"(b) APPROVAL OF PLANS.—

"(1) IN GENERAL.—The Secretary shall approve a plan that meets the requirements of subsection (a) only if the plan was developed jointly by the Secretary and the State, after consultation by the State agency with appropriate public and nonprofit private agencies and community-based organizations with experience in administering programs of services for children and families (including family preservation and family support services).

"(2) PLANS OF INDIAN TRIBES.—

"(A) EXEMPTION FROM INAPPROPRIATE REQUIREMENTS.—The Secretary may exempt a plan submitted by an Indian tribe from any requirement of this section that the Secretary determines would be inappropriate to apply to the Indian tribe, taking into account the resources, needs, and other circumstances of the Indian tribe.

"(B) SPECIAL RULE.—Notwithstanding subparagraph (A) of this paragraph, the Secretary may not approve a plan of an Indian tribe under this subpart to which (but for this subparagraph) an allotment of less than $10,000 would be made under section 433(a) if allotments were made under section 433(a) to all Indian tribes with plans approved under this subpart with the same or larger numbers of children.

"SEC. 433. ALLOTMENTS TO STATES.

"(a) INDIAN TRIBES.—From the amount reserved pursuant to section 430(d)(3) for any fiscal year, the Secretary shall allot to each Indian tribe with a plan approved under this subpart an amount that bears the same ratio to such reserved amount as the number of children in the Indian tribe bears to the total number of children in all Indian tribes with State plans so approved, as determined by the Secretary on the basis of the most current and reliable information available to the Secretary.

"(b) TERRITORIES.—From the amount described in section 430(b) for any fiscal year that remains after applying section 430(d) for the fiscal year, the Secretary shall allot to each of the jurisdictions of Puerto Rico, Guam, the Virgin Islands, the Northern Mariana Islands, and American Samoa an amount determined in the same manner as the allotment to each of such jurisdictions is determined under section 421.

"(c) OTHER STATES.—

"(1) IN GENERAL.—From the amount described in section 430(b) for any fiscal year that remains after applying section 430(d) and subsection (b) of this section for the fiscal year, the Secretary shall allot to each State (other than an Indian tribe) which is not specified in subsection (b) of this section an amount equal to such remaining amount multiplied by the food stamp percentage of the State for the fiscal year.

"(2) FOOD STAMP PERCENTAGE DEFINED.—

"(A) IN GENERAL.—As used in paragraph (1) of this subsection, the term 'food stamp percentage' means, with respect to a State and a fiscal year, the average monthly number of children receiving food stamp benefits in the State for months in the 3 fiscal years referred to in subparagraph (B) of this paragraph, as determined from sample surveys made under section 16(c) of the Food Stamp Act of 1977, expressed as a percentage of the average monthly number of children receiving food stamp benefits in the States described in such paragraph (1) for months in such 3 fiscal years, as so determined.

"(B) FISCAL YEARS USED IN CALCULATION.—For purposes of the calculation pursuant to subparagraph (A), the Secretary shall use data for the 3 most recent fiscal years, preceding the fiscal year for which the State's allotment is calculated under this subsection, for which such data are available to the Secretary.

"SEC. 434. PAYMENTS TO STATES.

"(a) ENTITLEMENT.—

"(1) GENERAL RULE.—Except as provided in paragraph (2) of this subsection, each State which has a plan approved under this subpart shall be entitled to payment of the lesser of—

"(A) 75 percent of the total expenditures by the State for activities under the plan during the fiscal year or the immediately succeeding fiscal year; or

"(B) the allotment of the State under section 433 for the fiscal year.

"(2) SPECIAL RULE.—Upon submission by a State to the Secretary during fiscal year 1994 of an application in such form and containing such information as the Secretary may require (including, if the State is seeking payment of an amount pursuant to subparagraph (B) of this paragraph, a description of the services to be provided with the amount), the State shall be entitled to payment of an amount equal to the sum of—

"(A) such amount, not exceeding $1,000,000, from the allotment of the State under section 433 for fiscal year 1994, as the State may require to *develop and submit a plan for approval under section 432; and*

"(B) an amount equal to the lesser of—

"(i) 75 percent of the expenditures by the State for services to children and families in accordance with the application and the expenditure rules of section 432(a)(4); or

"(ii) the allotment of the State under section 433 for fiscal year 1994, reduced by any amount paid to the State pursuant to subparagraph (A) of this paragraph.

"(b) PROHIBITIONS.—

"(1) NO USE OF OTHER FEDERAL FUNDS FOR STATE MATCH.—Each State receiving an amount paid under paragraph (1) or (2)(B) of subsection (a) may not expend any Federal funds to meet the costs of services described in this subpart not covered by the amount so paid.

"(2) AVAILABILITY OF FUNDS.—A State may not expend any amount paid under subsection (a)(1) for any fiscal year after the end of the immediately succeeding fiscal year.

"(c) DIRECT PAYMENTS TO TRIBAL ORGANIZATIONS OF INDIAN TRIBES.—The Secretary shall pay any amount to which an Indian tribe is entitled under this section directly to the tribal organization of the Indian tribe.

"SEC. 435. EVALUATIONS.

"(a) EVALUATIONS.—

"(1) IN GENERAL.—The Secretary shall evaluate the effectiveness of the programs carried out pursuant to this subpart in accomplishing the purposes of this subpart, any may evaluate and any other Federal, State, or local program, regardless of whether federally assisted, that is designed to achieve the same purposes as the program under this subpart, in accordance with criteria established in accordance with paragraph (2).

"(2) CRITERIA TO BE USED.—In developing the criteria to be used in evaluations under paragraph (1), the Secretary shall consult with appropriate parties, such as—

"(A) State agencies administering programs under this part and part E;

"(B) persons administering child and family services programs (including family preservation and family support programs) for private, nonprofit organizations with an interest in child welfare; and

"(C) other persons with recognized expertise in the evaluation of child and family services programs (including family preservation and family support programs) or other related programs.

"(b) COORDINATION OF EVALUATIONS.—The Secretary shall develop procedures to coordinate evaluations under this section, to the extent feasible, with evaluations by the States of the effectiveness of programs under this subpart.".

(b) CONFORMING AMENDMENTS.—

(1) Section 422 (42 U.S.C. 622) is amended—

(A) in subsection (a), by striking "this part" and inserting "this subpart";

(B) in subsection (b), by striking "this part" each place such term appears and inserting "this subpart"; and

(C) in subsection (b)(2), by inserting "under the State plan approved under subpart 2 of this part," after "part A of this title,".

(2) Section 423(a) (42 U.S.C. 623(a)) is amended by striking "this part" and inserting "this subpart".

(3) Section 428(a) (42 U.S.C. 628(a)) is amended by striking "this part" each place such term appears and inserting "this subpart".

(4) Section 471(a)(2) (42 U.S.C. 671(a)(2)) is amended by inserting "subpart 1 of" before "part B".

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to calendar quarters beginning on or after October 1, 1993.

SEC. 13712. ENTITLEMENT FUNDING FOR STATE COURTS TO ASSESS AND IMPROVE HANDLING OF PROCEEDINGS RELATING TO FOSTER CARE AND ADOPTION.

(a) IN GENERAL.—The Secretary shall make grants, in accordance with this section, to the highest State courts in States participating in the program under part E of title IV of the Social Security Act, for the purpose of enabling such courts—

(1) to conduct assessments, in accordance with such requirements as the Secretary shall publish, of the role, responsibilities, and effectiveness of State courts in carrying out State laws requiring proceedings (conducted by or under the supervision of the courts)—

(A) that implement parts B and E of title IV of such Act;

(B) that determine the advisability or appropriateness of foster care placement;

(C) that determine whether to terminate parental rights; and

(D) that determine whether to approve the adoption or other permanent placement of a child; and

(2) to implement changes deemed necessary as a result of the assessments.

(b) APPLICATIONS.—In order to be eligible for a grant under this section, a highest State court shall submit to the Secretary an application at such time, in such form, and including such information and assurances as the Secretary shall require.

(c) ALLOTMENTS.—

(1) IN GENERAL.—Each highest State court which has an application approved under subsection (b), and is conducting assessment activities in accordance with this section, shall be entitled to payment, for each of fiscal years 1995 through 1998, from amounts reserved pursuant to section 430(d)(2) of the Social Security Act, of an amount equal to the sum of—

(A) for fiscal year 1995, $75,000 plus the amount described in paragraph (2) for fiscal year 1995; and

(B) for each of fiscal years 1996 through 1998, $85,000 plus the amount described in paragraph (2) for each of such fiscal years.

(2) FORMULA.—The amount described in this paragraph for any fiscal year is the amount that bears the same ratio to the amount reserved pursuant to section 430(d)(2) of the Social Security Act for the fiscal year (reduced by the dollar amount specified in paragraph (1) of this subsection for the fiscal year) as the number of individuals in the State who have not attained 21 years of age bears to the total number of such individuals in all States the highest State courts of which have approved applications under subsection (b).

(d) USE OF GRANT FUNDS.—Each highest State court which receives funds paid under this section may use such funds to pay—

(1) any or all costs of activities under this section in fiscal year 1995; and

(2) not more than 75 percent of the cost of activities under this section in each of fiscal years 1996, 1997, and 1998.

SEC. 13713. ENHANCED MATCH FOR AUTOMATED DATA SYSTEMS.

(a) PAYMENTS TO STATES.—

(1) IN GENERAL.—Section 474(a)(3) (42 U.S.C. 674(a)(3)) is amended—

(A) by striking "and" at the end of subparagraph (B);

(B) by redesignating subparagraph (C) as subparagraph (E); and

(C) by inserting after subparagraph (B) the following:

"(C) 75 percent of so much of such expenditures as are for the planning, design, development, or installation of statewide mechanized data collection and information retrieval systems (including 75 percent of the full amount of expenditures for hardware components for such systems) but only to the extent that such systems—

"(i) meet the requirements imposed by regulations promulgated pursuant to section 479(b)(2);

"(ii) to the extent practicable, are capable of interfacing with the State data collection system that collects information relating to child abuse and neglect;

"(iii) to the extent practicable, have the capability of interfacing with, and retrieving information from, the State data collection system that collects information relating to the eligibility of individuals under part A (for the purposes of facilitating verification of eligibility of foster children); and

"(iv) are determined by the Secretary to be likely to provide more efficient, economical, and effective administration of the programs carried out under a State plan approved under part B or this part; and

"(D) 50 percent of so much of such expenditures as are for the operation of the statewide mechanized data collection and information retrieval systems referred to in subparagraph (C); and".

(2) TREATMENT OF STATE EXPENDITURES FOR DATA COLLECTION AND INFORMATION RETRIEVAL SYSTEMS.—Section 474 (42 U.S.C. 674) is amended by adding at the end the following:

"(e) AUTOMATED DATA COLLECTION EXPENDITURES.—The Secretary shall treat as necessary for the proper and efficient administration of the State plan all expenditures of a State necessary in order for the State to plan, design, develop, install, and operate data collection and information retrieval systems described in subsection (a)(3)(C), without regard to whether the systems may be used with respect to foster or adoptive children other than those on behalf of whom foster care maintenance payments or adoption assistance payments may be made under this part.".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on October 1, 1993.

(b) TERMINATION OF ENHANCED MATCH.—

(1) IN GENERAL.—Section 474(a)(3)(C) (42 U.S.C. 674(a)(3)(C)), as amended by subsection (a) of this section, is amended by striking "75 percent" each place such term appears and inserting "50 percent".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to expenditures during fiscal years beginning on or after October 1, 1996.

SEC. 13714. PERMANENT EXTENSION OF INDEPENDENT LIVING PROGRAM.

(a) IN GENERAL.—Section 477 (42 U.S.C. 677) is amended—

(1) in subsection (a)(1), by striking the 3rd sentence;

(2) in subsection (c), by striking "of the fiscal years 1988 through 1992" and inserting "succeeding fiscal year";

(3) in subsection (e)(1)(A), by striking "each of the fiscal years 1987 through 1992" and inserting "fiscal year 1987 and any succeeding fiscal year";

(4) in subsection (e)(1)(B), by striking "fiscal years 1991 and 1992" and inserting "fiscal year 1991 and any succeeding fiscal year"; and

(5) in subsection (e)(1)(C)(ii), by striking "fiscal year 1992" and inserting "any succeeding fiscal year".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to activities engaged in on or after October 1, 1992.

SEC. 13715. TRAINING OF AGENCY STAFF AND FOSTER AND ADOPTIVE PARENTS.

Section 8006(b) of the Omnibus Budget Reconciliation Act of 1989 (42 U.S.C. 674 note) is amended by inserting ", and to expenditures made on or after October 1, 1993" before the period.

SEC. 13716. MORATORIUM ON COLLECTION OF DISALLOWANCES.

The Secretary of Health and Human Services shall not, before October 1, 1994—

(1) reduce any payment to, withhold any payment from, or seek any repayment from any State under part B or E of title IV of the Social Security Act by reason of a determination made in connection with a review of State compliance with section 427 of such Act for any Federal fiscal year before fiscal year 1995; or

(2) reduce any payment to, withhold any payment from, or seek any repayment from any State under such part E by reason of a determination made in connection with any on-site Federal financial review, or any audit conducted by the Inspector General using similar methodologies.

PART II—CHILD SUPPORT ENFORCEMENT

SEC. 13721. STATE PATERNITY ESTABLISHMENT PROGRAMS.

(a) PERFORMANCE STANDARDS.—Section 452(g) (42 U.S.C. 652(g)) is amended—

(1) in paragraph (1)—

(A) by striking "1991" and inserting "1994";

(B) by inserting "is based on reliable data and" before "equals or exceeds";

(C) by inserting "(rounded to the nearest whole percentage point)" before "equals"; and

(D) by striking subparagraphs (A), (B), and (C) and inserting the following:

"(A) 75 percent;

"(B) for a State with a paternity establishment percentage of not less than 50 percent but less than 75 percent for such fiscal year, the paternity establishment percentage of the State for the immediately preceding fiscal year plus 3 percentage points;

"(C) for a State with a paternity establishment percentage of not less than 45 percent but less than 50 percent for such fiscal year, the paternity establishment percentage of the State for the immediately preceding fiscal year plus 4 percentage points;

"(D) for a State with a paternity establishment percentage of not less than 40 percent but less than 45 percent for such fiscal year, the paternity establishment percentage of the State for the immediately preceding fiscal year plus 5 percentage points; or

"(E) for a State with a paternity establishment percentage of less than 40 percent for such fiscal year, the paternity establishment percentage of the State for the immediately preceding fiscal year plus 6 percentage points."; and

(2) in paragraph (2)—

(A) in subparagraph (A)—

(i) by striking "(or under all such plans)" each place such term appears and inserting "or E";

(ii) in clause (i), by inserting "during the fiscal year" before the comma;

(iii) in clause (ii)—

(I) in subclause (I), by striking "for such" and inserting "as of the end of the"; and

(II) in subclause (II), by striking "for the" and inserting "as of the end of the";

(iv) in clause (iii), by inserting "or acknowledged during the fiscal year" before the comma; and

(v) in the matter following clause (iii)—

(I) by striking "have been" and inserting "were";

(II) by inserting "during the immediately preceding fiscal year" after "wedlock";

(III) by striking "is being" and inserting "was being";

(IV) by striking "for such" and inserting "as of the end of such preceding";

(V) by striking "are being" and inserting "were being"; and

(VI) by striking "for the" and inserting "as of the end of such preceding";

(B) by striking subparagraph (B) and inserting the following:

"(B) the term 'reliable data' means the most recent data available which are found by the Secretary to be reliable for purposes of this section.";

(C) by inserting "unless paternity is established for such child" after "the death of a parent"; and

(D) by inserting "or any child with respect to whom the State agency administering the plan under part E determines (as provided in section 454(4)(B)) that it is against the best interests of such child to do so" after "cooperate under section 402(a)(26)".

(b) STATE PLAN REQUIREMENTS FOR THE ESTABLISHMENT OF PATERNITY.—Section 466(a) (42 U.S.C. 666(a)) is amended—

(1) in paragraph (2)—

(A) by striking "at the option of the State,"; and

(B) by inserting "or paternity establishment" after "support order issuance and enforcement";

(2) in paragraph (5), by adding at the end the following:

"(C) Procedures for a simple civil process for voluntarily acknowledging paternity under which the State must provide that the rights and responsibilities of acknowledging paternity are explained and ensure that due process safeguards are afforded. Such procedures must include a hospital-based program for the voluntary acknowledgment of paternity during the period immediately before or after the birth of a child.

"(D) Procedures under which the voluntary acknowledgment of paternity creates a rebuttable, or at the option of the State, conclusive presumption of paternity, and under which such voluntary acknowledgment is admissible as evidence of paternity.

"(E) Procedures under which the voluntary acknowledgment of paternity must be recognized as a basis for seeking a support order without requiring any further proceedings to establish paternity.

"(F) Procedures which provide that (i) any objection to genetic testing results must be made in writing within a specified number of days before any hearing at which such results may be introduced into evidence, and (ii) if no objection is made, the test results are admissible as evidence of paternity without the need for foundation testimony or other proof of authenticity or accuracy.

"(G) Procedures which create a rebuttable or, at the option of the State, conclusive presumption of paternity upon genetic testing results indicating a threshold probability that the alleged father is the father of the child.

"(H) Procedures requiring a default order to be entered in a paternity case upon a showing of service of process on the defendant and any additional showing required by State law."; and

(3) by inserting after paragraph (10) the following new paragraph:

"(11) Procedures under which a State must give full faith and credit to a determination of paternity made by any other State, whether established through voluntary acknowledgment or through administrative or judicial processes.".

(c) EFFECTIVE DATE.—The amendments made by this section shall become effective with respect to a State on the later of—

(1) October 1, 1993 or,

(2) the date of enactment by the legislature of such State of all laws required by such amendments,

but in no event later than the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

PART III—SUPPLEMENTAL SECURITY INCOME

SEC. 13731. FEES FOR FEDERAL ADMINISTRATION OF STATE SUPPLEMENTARY PAYMENTS.

(a) IN GENERAL.—

(1) OPTIONAL STATE SUPPLEMENTARY PAYMENTS.—Section 1616(d) (42 U.S.C. 1382e(d)) is amended—

(A) by inserting "(1)" after "(d)";

(B) by inserting ", plus an administration fee assessed in accordance with paragraph (2) and any additional services fee charged in accordance with paragraph (3)" before the period; and

(C) by adding after and below the end the following:

"(2)(A) The Secretary shall assess each State an administration fee in an amount equal to—

"(i) the number of supplementary payments made by the Secretary on behalf of the State under this section for any month in a fiscal year; multiplied by

"(ii) the applicable rate for the fiscal year.

"(B) As used in subparagraph (A), the term 'applicable rate' means—

"(i) for fiscal year 1994, $1.67;

"(ii) for fiscal year 1995, $3.33;

"(iii) for fiscal year 1996, $5.00; and

"(iv) for fiscal year 1997 and each succeeding fiscal year, $5.00, or such different rate as the Secretary determines is appropriate for the State.

"(C) Upon making a determination under subparagraph (B)(iv), the Secretary shall promulgate the determination in regulations, which may take into account the complexity of administering the State's supplementary payment program.

"(D) All fees assessed pursuant to this paragraph shall be transferred to the Secretary at the same time that amounts for such supplementary payments are required to be so transferred.

"(3)(A) The Secretary may charge a State an additional services fee if, at the request of the State, the Secretary provides additional services beyond the level customarily provided, in the administration of State supplementary payments pursuant to this section.

"(B) The additional services fee shall be in an amount that the Secretary determines is necessary to cover all costs (including indirect costs) incurred by the Federal Government in furnishing the additional services referred to in subparagraph (A).

"(4) All administration fees and additional services fees collected pursuant to this subsection shall be deposited in the general fund of the Treasury of the United States as miscellaneous receipts.".

(2) MANDATORY STATE SUPPLEMENTARY PAYMENTS.—Section 212(b)(3) of Public Law 93-66 (42 U.S.C. 1382 note) is amended—

(A) by inserting "(A)" after "(3)";

(B) by inserting ", plus an administration fee assessed in accordance with subparagraph (B) and any additional services fee charged in accordance with subparagraph (C)" before the period; and

(C) by adding after and below the end the following:

"(B)(i) The Secretary shall assess each State an administration fee in an amount equal to—

"(I) the number of supplementary payments made by the Secretary on behalf of the State under this subsection for any month in a fiscal year; multiplied by

"(II) the applicable rate for the fiscal year.

"(ii) As used in clause (i), the term 'applicable rate' means—

"(I) for fiscal year 1994, $1.67;

"(II) for fiscal year 1995, $3.33;

"(III) for fiscal year 1996, $5.00; and

"(IV) for fiscal year 1997 and each succeeding fiscal year, $5.00, or such different rate as the Secretary determines is appropriate for the State, taking into account the complexity of administering the State's supplementary payment program.

"(iii) Upon making a determination under clause (ii)(IV), the Secretary shall promulgate the determination in regulations, which may take into account the complexity of administering the State's supplementary payment program.

"(iv) All fees assessed pursuant to this subparagraph shall be transferred to the Secretary at the same time that amounts for such supplementary payments are required to be so transferred.

"(C)(i) The Secretary may charge a State an additional services fee if, at the request of the State, the Secretary provides additional services beyond the level customarily provided, in the administration of State supplementary payments pursuant to this subsection.

"(ii) The additional services fee shall be in an amount that the Secretary determines is necessary to cover all costs (including indirect costs) incurred by the Federal Government in furnishing the additional services referred to in clause (i).

"(D) All administration fees and additional services fees collected pursuant to this paragraph shall be deposited in the general fund of the Treasury of the United States as miscellaneous receipts.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to supplementary payments made pursuant to section 1616(a) of the Social Security Act or section 212(a) of Public Law 93–66 for any calendar month beginning after September 30, 1993, and to services furnished after such date, regardless of whether regulations to implement such amendments have been promulgated by such date, or whether any agreement entered into under such section 1616(a) or such section 212(a) has been modified.

SEC. 13732. EXCLUSION FROM INCOME AND RESOURCES OF STATE RELOCATION ASSISTANCE.

Section 5035(c) of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 1382a note; 104 Stat. 1388–225) is amended by striking "in the 3-year period that begins on" and inserting "on or after".

SEC. 13733. PREVENTION OF ADVERSE EFFECTS ON ELIGIBILITY FOR, AND AMOUNT OF, BENEFITS WHEN SPOUSE OR PARENT OF BENEFICIARY IS ABSENT FROM THE HOUSEHOLD DUE TO ACTIVE MILITARY SERVICE.

(a) ABSENT PERSON GENERALLY DEEMED TO BE LIVING IN THE HOUSEHOLD.—Section 1614(f) (42 U.S.C. 1382c(f)) is amended by adding at the end the following:

"(4) For purposes of paragraphs (1) and (2), a spouse or parent (or spouse of such a parent) who is absent from the household in which the individual lives due solely to a duty assignment as a member of the Armed Forces on active duty shall, in the absence of evidence to the contrary, be deemed to be living in the same household as the individual.".

(b) EXCLUSION FROM INCOME OF HOSTILE FIRE PAY RECEIVED WHILE IN ACTIVE MILITARY SERVICE.—Section 1612(b) (42 U.S.C. 1382a(b)) is amended—

(1) in paragraph (18), by striking "and" the 2nd place such term appears;

(2) in paragraph (19), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(20) special pay received pursuant to section 310 of title 37, United States Code.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the 1st day of the 2nd month that begins after the date of the enactment of this Act.

SEC. 13734. ELIGIBILITY FOR CHILDREN OF ARMED FORCES PERSONNEL RESIDING OUTSIDE THE UNITED STATES OTHER THAN IN FOREIGN COUNTRIES.

(a) IN GENERAL.—Section 1614(a)(1)(B)(ii) (42 U.S.C. 1382c(a)(1)(B)(ii)) is amended by striking "the District of Columbia" and all that follows to the period and inserting "and who, for the month before the parent reported for such assignment, received a benefit under this title".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the 1st day of the 3rd month that begins after the date of the enactment of this Act.

SEC. 13735. VALUATION OF CERTAIN IN-KIND SUPPORT AND MAINTENANCE WHEN THERE IS A COST OF LIVING ADJUSTMENT IN BENEFITS.

(a) IN GENERAL.—Section 1611(c) (42 U.S.C. 1382(c)) is amended—

(1) in paragraph (1), by striking "and (5)" and inserting "(5), and (6)"; and

(2) by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively; and

(3) by inserting after paragraph (5) the following:

"(6) The dollar amount in effect under subsection (b) as a result of any increase in benefits under this title by reason of section 1617 shall be used to determine the value of any in-kind support and maintenance required to be taken into account in determining the benefit payable under this title to an individual (and the eligible spouse, if any, of the individual) for the 1st 2 months for which the increase in benefits applies.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to benefits paid for months after the calendar year 1994.

SEC. 13736. EXCLUSION FROM INCOME OF CERTAIN AMOUNTS RECEIVED BY INDIANS FROM INTERESTS HELD IN TRUST.

(a) IN GENERAL.—Section 8 of the Act of October 19, 1973, (25 U.S.C. 1408) is amended by inserting ", and up to $2,000 per year of income received by individual Indians that is derived from such interests shall not be considered income," after "resource".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on January 1, 1994.

PART IV—AID TO FAMILIES WITH DEPENDENT CHILDREN

SEC. 13741. 50 PERCENT FEDERAL MATCH OF STATE ADMINISTRATIVE COSTS.

(a) AFDC MATCHING.—Section 403(a)(3) (42 U.S.C. 603(a)(3)) is amended to read as follows:

"(3) in the case of any State, 50 percent of the total amounts expended during such quarter as found necessary by the Secretary for the proper and efficient administration of the State plan, except that no payment shall be made with respect to amounts expended in connection with the provision of any service described in section 2002(a) other than services furnished pursuant to section 402(g); and".

(b) TERRITORIAL PROGRAMS FOR AGED, BLIND, AND DISABLED.—Sections 3(a)(4), 1003(a)(3), 1403(a)(3), and 1603(a)(4) (42 U.S.C. 303(a)(3), 1203(a)(3), 1353(a)(3), and 1383 note) (as in effect as provided by section 303 of the Social Security Amendments of 1972) are each amended by striking "the sum of" and all that follows and inserting "50 percent of the total amounts expended during such quarter as found necessary by the Secretary for the proper and efficient administration of the State plan.".

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2) of this subsection, the amendments made by subsections (a) and (b) shall be effective with respect to calendar quarters beginning on or after April 1, 1994.

(2) SPECIAL RULE.—In the case of a State whose legislature meets biennially, and does not have a regular session scheduled in calendar year 1994, the amendments made by subsections (a) and (b) shall be effective no later than the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act.

SEC. 13742. INCREASE IN STEPPARENT INCOME DISREGARD.

(a) IN GENERAL.—Section 402(a)(31) (42 U.S.C. 602(a)(31)) is amended by striking "$75" and inserting "$90".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1993, and shall apply to payments under part A of title IV of the Social Security Act for fiscal year 1994 and such payments for succeeding fiscal years.

PART V—UNEMPLOYMENT INSURANCE

SEC. 13751. EXTENSION OF CURRENT FEDERAL UNEMPLOYMENT RATE.

Section 3301 of the Internal Revenue Code of 1986 is amended—

(1) by striking "1996" in paragraph (1) and inserting "1998", and

(2) by striking "1997" in paragraph (2) and inserting "1999".

PART VI—SOCIAL SERVICES IN EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES

SEC. 13761. INCREASE IN BLOCK GRANTS TO STATES FOR SOCIAL SERVICES.

Title XX (42 U.S.C. 1397–1397e) is amended by adding at the end the following:

"SEC. 2007. ADDITIONAL GRANTS.

"(a) ENTITLEMENT.—

"(1) IN GENERAL.—In addition to any payment under section 2002, each State shall be entitled to—

"(A) 2 grants under this section for each qualified empowerment zone in the State; and

"(B) 1 grant under this section for each qualified enterprise community in the State.

"(2) AMOUNT OF GRANTS.—

"(A) EMPOWERMENT GRANTS.—The amount of each grant to a State under this section for a qualified empowerment zone shall be—

"(i) if the zone is designated in an urban area, $50,000,000, multiplied by that proportion of the population of the zone that resides in the State; or

"(ii) if the zone is designated in a rural area, $20,000,000, multiplied by such proportion.

"(B) ENTERPRISE GRANTS.—The amount of the grant to a State under this section for a qualified enterprise community shall be $\frac{1}{95}$ of $280,000,000, multiplied by that proportion of the population of the community that resides in the State.

"(C) POPULATION DETERMINATIONS.—The Secretary shall make population determinations for purposes of this paragraph based on the most recent decennial census data available.

"(3) TIMING OF GRANTS.—

"(A) QUALIFIED EMPOWERMENT ZONES.—With respect to each qualified empowerment zone, the Secretary shall make—

"(i) 1 grant under this section to each State in which the zone lies, on the date of the designation of the zone under part I of subchapter U of chapter 1 of the Internal Revenue Code of 1986; and

"(ii) 1 grant under this section to each such State, on the 1st day of the 1st fiscal year that begins after the date of the designation.

"(B) QUALIFIED ENTERPRISE COMMUNITIES.—With respect to each qualified enterprise community, the Secretary shall make 1 grant under this section to each State in which the community lies, on the date of the designation of the community under part I of subchapter U of chapter 1 of the Internal Revenue Code of 1986.

"(4) FUNDING.—$1,000,000,000 shall be made available to the Secretary for grants under this section.

"(b) PROGRAM OPTIONS.—Notwithstanding section 2005(a):

"(1) In order to prevent and remedy the neglect and abuse of children, a State may use amounts paid under this section to make grants to, or enter into contracts with, entities to provide residential or nonresidential drug and alcohol prevention and treatment programs that offer comprehensive services for pregnant women and mothers, and their children.

"(2) In order to assist disadvantaged adults and youths in achieving and maintaining self-sufficiency, a State may use amounts paid under this section to make grants to, or enter into contracts with—

"(A) organizations operated for profit or not for profit, for the purpose of training and employing disadvantaged adults and youths in construction, rehabilitation, or improvement of affordable housing, public infrastructure, and community facilities; and

"(B) nonprofit organizations and community or junior colleges, for the purpose of enabling such entities to provide short-term training courses in entrepreneurism and self-employment, and other training that will promote individual self-sufficiency and the interests of the community.

"(3) A State may use amounts paid under this section to make grants to, or enter into contracts with, nonprofit community-based organizations to enable such organizations to provide activities designed to promote and protect the interests of children and families, outside of school hours, including keeping schools open during evenings and weekends for mentoring and study.

"(4) In order to assist disadvantaged adults and youths in achieving and maintaining economic self-support, a State may use amounts paid under this section to—

"(A) fund services designed to promote community and economic development in qualified empowerment zones and qualified enterprise communities, such as skills training, job counseling, transportation services, housing counseling, financial management, and business counseling;

"(B) assist in emergency and transitional shelter for disadvantaged families and individuals; or

"(C) support programs that promote home ownership, education, or other routes to economic independence for low income families and individuals.

"(c) USE OF GRANTS.—

"(1) IN GENERAL.—Subject to subsection (d) of this section, each State that receives a grant under this section with respect to an area shall use the grant—

"(A) for services directed only at the goals set forth in paragraphs (1), (2), and (3) of section 2001;

"(B) in accordance with the strategic plan for the area; and

"(C) for activities that benefit residents of the area for which the grant is made.

"(2) TECHNICAL ASSISTANCE.—A State may use a portion of any grant made under this section in the manner described in section 2002(e).

"(d) REMITTANCE OF CERTAIN AMOUNTS.—

"(1) PORTION OF GRANT UPON TERMINATION OF DESIGNATION.—Each State to which an amount is paid under this subsection during a fiscal year with respect to an area the designation of which under part I of subchapter U of chapter 1 of the Internal Revenue Code of 1986 ends before the end of the fiscal year shall remit to the Secretary an amount equal to the total of the amounts so paid with respect to the area, multiplied by that proportion of the fiscal year remaining after the designation ends.

"(2) AMOUNTS PAID TO THE STATES AND NOT OBLIGATED WITHIN 2 YEARS.—Each State shall remit to the Secretary any amount paid to the State under this section that is not obligated by the end of the 2-year period that begins with the date of the payment.

"(e) DEFINITIONS.—As used in this section:

"(1) QUALIFIED EMPOWERMENT ZONE.—The term 'qualified empowerment zone' means, with respect to a State, an area—

"(A) which has been designated (other than by the Secretary of the Interior) as an empowerment zone under part I of subchapter U of chapter 1 of the Internal Revenue Code of 1986;

"(B) with respect to which the designation is in effect;

"(C) the strategic plan for which is a qualified plan; and

"(D) part or all of which is in the State.

"(2) QUALIFIED ENTERPRISE COMMUNITY.—The term 'qualified enterprise community' means, with respect to a State, an area—

"(A) which has been designated (other than by the Secretary of the Interior) as an enterprise community under part I of subchapter U of chapter 1 of the Internal Revenue Code of 1986;

"(B) with respect to which the designation is in effect;

"(C) the strategic plan for which is a qualified plan; and

"(D) part or all of which is in the State.

"(3) STRATEGIC PLAN.—The term 'strategic plan' means, with respect to an area, the plan contained in the application for designation of the area under part I of subchapter U of chapter 1 of the Internal Revenue Code of 1986.

"(4) QUALIFIED PLAN.—The term 'qualified plan' means, with respect to an area, a plan that—

"(A) includes a detailed description of the activities proposed for the area that are to be funded with amounts provided under this section;

"(B) contains a commitment that the amounts provided under this section to any State for the area will not be used to supplant Federal or non-Federal funds for services and activities which promote the purposes of this section;

"(C) was developed in cooperation with the local government or governments with jurisdiction over the area; and

"(D) to the extent that any State will not use the amounts provided under this section for the area in the manner described in subsection (b), explains the reasons why not.

"(5) RURAL AREA.—The term 'rural area' has the meaning given such term in section 1393(a)(2) of the Internal Revenue Code of 1986.

"(6) URBAN AREA.—The term 'urban area' has the meaning given such term in section 1393(a)(3) of the Internal Revenue Code of 1986.".

Subchapter D—Customs and Trade Provisions

SEC. 13800. TABLE OF CONTENTS.

SUBCHAPTER D—CUSTOMS AND TRADE PROVISIONS

Sec. 13800. Table of contents.

PART I—EXTENSION OF CUSTOMS USER FEE, GSP, AND TRADE ADJUSTMENT ASSISTANCE PROGRAMS

Sec. 13801. Extension of authority to levy customs user fees.
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PART II—CUSTOMS OFFICER PAY REFORM

Sec. 13811. Overtime and premium pay for customs officers.
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PART I—EXTENSION OF CUSTOMS USER FEE, GSP, AND TRADE ADJUSTMENT ASSISTANCE PROGRAMS

SEC. 13801. EXTENSION OF AUTHORITY TO LEVY CUSTOMS USER FEES.

Section 13031(j)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended by striking out "1995" and inserting "1998".

SEC. 13802. GENERALIZED SYSTEM OF PREFERENCES.

(a) TREATMENT OF COUNTRIES FORMERLY WITHIN THE UNION OF SOVIET SOCIALIST REPUBLICS.—The table in section 502(b) of the Trade Act of 1974 (19 U.S.C. 2462(b)) is amended by striking out "Union of Soviet Socialist Republics".

(b) EXTENSION OF DUTY-FREE TREATMENT UNDER SYSTEM.—

(1) IN GENERAL.—Section 505(a) of the Trade Act of 1974 (19 U.S.C. 2465(a)) is amended by striking out "July 4, 1993" and inserting "September 30, 1994".

(2) RETROACTIVE APPLICATION FOR CERTAIN LIQUIDATIONS AND RELIQUIDATIONS.—Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon proper request filed with the appropriate customs officer within 180 days after the date of the enactment of this Act, the entry—

(A) of any article to which duty-free treatment under title V of the Trade Act of 1974 would have applied if the entry had been made on July 4, 1993, and

(B) that was made after July 4, 1993, and before such date of enactment,

shall be liquidated or reliquidated as free of duty, and the Secretary of the Treasury shall refund any duty paid with respect to such entry. As used in this paragraph, the term "entry" includes a withdrawal from warehouse for consumption.

SEC. 13803. EXTENSION OF TRADE ADJUSTMENT ASSISTANCE PROGRAM.

(a) EXTENSION.—

(1) Section 285 of the Trade Act of 1974 (19 U.S.C. 2271, preceding note) is amended—

(A) by striking "No" and all that follows through "and no duty" in subsection (b) and inserting "No duty"; and

(B) by adding at the end the following new subsection:

"(c) No assistance, vouchers, allowances, or other payments may be provided under chapter 2, and no technical assistance may be provided under chapter 3, after September 30, 1998.".

(2) Sections 245 and 256(b) of the Trade Act of 1974 (19 U.S.C. 2317 and 2346(b)) are each amended by striking "1988, 1989, 1990, 1991, 1992, and 1993" and inserting "1993, 1994, 1995, 1996, 1997, and 1998".

(b) TRAINING.—Section 236(a)(2)(A) of the Trade Act of 1974 (19 U.S.C. 2296(a)(2)(A)) is amended by inserting before the end period ", except that for fiscal year 1997, the total amount of payments made under paragraph (1) shall not exceed $70,000,000".

PART II—CUSTOMS OFFICER PAY REFORM

SEC. 13811. OVERTIME AND PREMIUM PAY FOR CUSTOMS OFFICERS.

(a) IN GENERAL.—Section 5 of the Act of February 13, 1911 (19 U.S.C. 261 and 267) is amended to read as follows:

"SEC. 5. OVERTIME AND PREMIUM PAY FOR CUSTOMS OFFICERS.

"(a) OVERTIME PAY.—

"(1) IN GENERAL.—Subject to paragraph (2) and subsection (c), a customs officer who is officially assigned to perform work in excess of 40 hours in the administrative workweek of the officer or in excess of 8 hours in a day shall be compensated for that work at an hourly rate of pay that is equal to 2 times the hourly rate of

the basic pay of the officer. For purposes of this paragraph, the hourly rate of basic pay for a customs officer does not include any premium pay provided for under subsection (b).

"(2) SPECIAL PROVISIONS RELATING TO OVERTIME WORK ON CALLBACK BASIS.—

"(A) MINIMUM DURATION.—Any work for which compensation is authorized under paragraph (1) and for which the customs officer is required to return to the officer's place of work shall be treated as being not less than 2 hours in duration; but only if such work begins at least 1 hour after the end of any previous regularly scheduled work assignment and ends at least 1 hour before the beginning of the following regularly scheduled work assignment.

"(B) COMPENSATION FOR COMMUTING TIME.—

"(i) IN GENERAL.—Except as provided in clause (ii), in addition to the compensation authorized under paragraph (1) for work to which subparagraph (A) applies, the customs officer is entitled to be paid, as compensation for commuting time, an amount equal to 3 times the hourly rate of basic pay of the officer.

"(ii) EXCEPTION.—Compensation for commuting time is not payable under clause (i) if the work for which compensation is authorized under paragraph (1)—

"(I) does not commence within 16 hours of the customs officer's last regularly scheduled work assignment, or

"(II) commences within 2 hours of the next regularly scheduled work assignment of the customs officer.

"(b) PREMIUM PAY FOR CUSTOMS OFFICERS.—

"(1) NIGHT WORK DIFFERENTIAL.—

"(A) 3 P.M. TO MIDNIGHT SHIFTWORK.—If the majority of the hours of regularly scheduled work of a customs officer occurs during the period beginning at 3 p.m. and ending at 12 a.m., the officer is entitled to pay for work during such period (except for work to which paragraph (2) or (3) applies) at the officer's hourly rate of basic pay plus premium pay amounting to 15 percent of that basic rate.

"(B) 11 P.M. TO 8 A.M. SHIFTWORK.—If the majority of the hours of regularly scheduled work of a customs officer occurs during the period beginning at 11 p.m. and ending at 8 a.m., the officer is entitled to pay for work during such period (except for work to which paragraph (2) or (3) applies) at the officer's hourly rate of basic pay plus premium pay amounting to 20 percent of that basic rate.

"(C) 7:30 P.M. TO 3:30 A.M. SHIFTWORK.—If the regularly scheduled work assignment of a customs officer is 7:30 p.m. to 3:30 a.m., the officer is entitled to pay for work during such period (except for work to which paragraph (2) or (3) applies) at the officer's hourly rate of basic pay plus premium pay amounting to 15 percent of that basic rate for the period from 7:30 p.m. to 11:30 p.m. and at the officer's hourly rate of basic pay plus premium pay amounting to 20 percent of that basic rate for the period from 11:30 p.m. to 3:30 a.m.

"(2) SUNDAY DIFFERENTIAL.—A customs officer who performs any regularly scheduled work on a Sunday that is not a holiday is entitled to pay for that work at the officer's hourly rate of basic pay plus premium pay amounting to 50 percent of that basic rate.

"(3) HOLIDAY DIFFERENTIAL.—A customs officer who performs any regularly scheduled work on a holiday is entitled to pay for that work at the officer's hourly rate of basic pay plus premium pay amounting to 100 percent of that basic rate.

"(4) TREATMENT OF PREMIUM PAY.—Premium pay provided for under this subsection may not be treated as being overtime pay or compensation for any purpose.

"(c) LIMITATIONS.—

"(1) FISCAL YEAR CAP.—The aggregate of overtime pay under subsection (a) (including commuting compensation under subsection (a)(2)(B)) and premium pay under subsection (b) that a customs officer may be paid in any fiscal year may not exceed $25,000; except that the Commissioner of Customs or his designee may waive this limitation in individual cases in order to prevent excessive costs or to meet emergency requirements of the Customs Service.

"(2) EXCLUSIVITY OF PAY UNDER THIS SECTION.—A customs officer who receives overtime pay under subsection (a) or premium pay under subsection (b) for time worked may not receive pay or other compensation for that work under any other provision of law.

"(d) REGULATIONS.—The Secretary of the Treasury shall promulgate regulations to prevent—

"(1) abuse of callback work assignments and commuting time compensation authorized under subsection (a)(2); and

"(2) the disproportionately more frequent assignment of overtime work to customs officers who are near to retirement.

"(e) DEFINITIONS.—As used in this section:

"(1) The term 'customs officer' means an individual performing those functions specified by regulation by the Secretary of the Treasury for a customs inspector or canine enforcement officer. Such functions shall be consistent with such applicable standards as may be promulgated by the Office of Personnel Management.

"(2) The term 'holiday' means any day designated as a holiday under a Federal statute or Executive order.".

(b) NECESSARY CONFORMING AMENDMENTS.—

(1) Section 2 of the Act of June 3, 1944 (19 U.S.C. 1451a), is repealed.

(2) Section 450 of the Tariff Act of 1930 (19 U.S.C. 1450) is amended—

(A) by striking out "at night" in the section heading and inserting "during overtime hours";

(B) by striking out "at night" and inserting "during overtime hours"; and

(C) by inserting "aircraft," immediately before "vessel".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) apply to customs inspectional services provided on or after January 1, 1994.

SEC. 13812. ADDITIONAL BENEFITS FOR CUSTOMS OFFICERS.

(a) TREATMENT OF CERTAIN PAY FOR RETIREMENT PURPOSES.—Section 8331(3) of title 5, United States Code, is amended—

(1) by striking out "and" at the end of subparagraph (C);

(2) by striking out the semicolon at the end of subparagraph (D) and inserting "; and";

(3) by adding after subparagraph (D) the following:

"(E) with respect to a customs officer (referred to in subsection (e)(1) of section 5 of the Act of February 13, 1911), compensation for overtime inspectional services provided for under subsection (a) of such section 5, but not to exceed 50 percent of any statutory maximum in overtime pay for customs officers which is in effect for the year involved;"; and

(4) by striking out "subparagraphs (B), (C), and (D) of this paragraph," and inserting "subparagraphs (B), (C), (D), and (E) of this paragraph".

(b) FOREIGN LANGUAGE PROFICIENCY AWARDS.—Cash awards for foreign language proficiency may, under regulations prescribed by the Secretary of the Treasury, be paid to customs officers (as referred to in section 5(e)(1) of the Act of February 13, 1911) to the same extent and in the same manner as would be allowable under subchapter III of chapter 45 of title 5, United States Code, with respect to law enforcement officers (as defined by section 4521 of such title).

(c) EFFECTIVE DATES.—

(1) SUBSECTION (a) AMENDMENTS.—The amendments made by subsection (a) take effect on January 1, 1994, and apply only with respect to service performed on or after such date.

(2) SUBSECTION (b).—Subsection (b) takes effect on January 1, 1994.

SEC. 13813. REIMBURSEMENTS FROM THE CUSTOMS USER FEE ACCOUNT.

Section 13031(f)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(f)(3)) is amended—

(1) by amending clause (i) of subparagraph (A) to read as follows: "(i) in—

"(I) paying overtime compensation under section 5(a) of the Act of February 13, 1911,

"(II) paying premium pay under section 5(b) of the Act of February 13, 1911, but the amount for which reimbursement may be made under this subclause may not, for any fiscal year, exceed the difference between the cost of the premium pay for that year calculated under such section 5(b) as amended by section 13811 of the Omnibus Budget Reconciliation Act of 1993 and the cost of such pay calculated under subchapter V of chapter 55 of title 5, United States Code,

"(III) paying agency contributions to the Civil Service Retirement and Disability Fund to match deductions from the overtime compensation paid under subclause (I),

"(IV) providing all preclearance services for which the recipients of such services are not required to reimburse the Secretary of the Treasury, and

"(V) paying foreign language proficiency awards under section 13812(b) of the Omnibus Budget Reconciliation Act of 1993, and";

(2) by inserting before the flush sentence appearing after clause (ii) of subparagraph (A) the following sentence: "The transfer of funds required under subparagraph (C)(iii) has priority over reimbursements under this subparagraph to carry out subclauses (II), (III), (IV), and (V) of clause (i).";

(3) by striking out "except for costs described in subparagraph (A)(i) (I) and (II)," in subparagraph (B)(i); and

(4) by amending subparagraph (C)—

(A) by striking out "to fully reimburse inspectional overtime and preclearance costs" in clause (i) and inserting "to reimburse costs described in subparagraph (A)(i)"; and

(B) by inserting after clause (ii) of subparagraph (C) the following:

"(iii) For each fiscal year, the Secretary of the Treasury shall calculate the difference between—

"(I) the estimated cost for overtime compensation that would have been incurred during that fiscal year for inspectional services if section 5 of the Act of February 13, 1911 (19 U.S.C. 261 and 267), as in effect before the enactment of section 13811 of the Omnibus Budget Reconciliation Act of 1993, had governed such costs, and

"(II) the actual cost for overtime compensation, premium pay, and agency retirement contributions that is incurred during that fiscal year in regard to inspectional services under section 5 of the Act of February 13, 1911, as amended by section 13811 of the Omnibus Budget Reconciliation Act of 1993, and under section 8331(3) of title 5, United States Code, as amended by section 13812(a)(1) of such Act of 1993, plus the actual cost that is incurred during that fiscal year for foreign language proficiency awards under section 13812(b) of such Act of 1993,

and shall transfer from the Customs User Fee Account to the General Fund of the Treasury an amount equal to the difference calculated under this clause, or $18,000,000, whichever amount is less. Transfers shall be made under this clause at least quarterly and on the basis of estimates to the same extent as are reimbursements under subparagraph (B)(iii).".

CHAPTER 3—FOOD STAMP PROGRAM

SEC. 13901. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This chapter may be cited as the "Mickey Leland Childhood Hunger Relief Act".

(b) TABLE OF CONTENTS.—The table of contents of this chapter is as follows:

CHAPTER 3—FOOD STAMP PROGRAM

Sec. 13901. Short title; table of contents.
Sec. 13902. References to Act.

SUBCHAPTER A—ENSURING ADEQUATE FOOD ASSISTANCE

Sec. 13911. Helping low-income high school students.
Sec. 13912. Families with high shelter expenses.
Sec. 13913. Resource exclusion for earned income tax credits.
Sec. 13914. Homeless families in transitional housing.
Sec. 13915. Households benefiting from general assistance vendor payments.
Sec. 13916. Continuing benefits to eligible households.
Sec. 13917. Improving the nutritional status of children in Puerto Rico.

SUBCHAPTER B—PROMOTING SELF-SUFFICIENCY

Sec. 13921. Child support payments to nonhousehold members.
Sec. 13922. Improving access to employment and training activities.
Sec. 13923. Vehicles needed to seek and continue employment and for household transportation.
Sec. 13924. Vehicles necessary to carry fuel or water.
Sec. 13925. Testing resource accumulation.

SUBCHAPTER C—SIMPLIFYING THE PROVISION OF FOOD ASSISTANCE

Sec. 13931. Simplifying the household definition for households with children and others.
Sec. 13932. Eligibility of children of parents participating in drug or alcohol treatment programs.

SUBCHAPTER D—IMPROVING PROGRAM INTEGRITY

Sec. 13941. Additional means of claims collection.
Sec. 13942. Disqualification of recipients for trading firearms, ammunition, explosives, or controlled substances for coupons.
Sec. 13943. Increased cap for civil money penalty for trafficking in coupons.
Sec. 13944. Increased cap for civil money penalty for selling firearms, ammunition, explosives, or controlled substances for coupons.

SUBCHAPTER E—IMPROVING FOOD STAMP PROGRAM MANAGEMENT

Sec. 13951. Expedited claim collection; adjustments to error rate calculations.

SUBCHAPTER F—UNIFORM REIMBURSEMENT RATES

Sec. 13961. Uniform reimbursement rates.
Sec. 13962. Mandatory funding for nutrition programs.

SUBCHAPTER G—IMPLEMENTATION AND EFFECTIVE DATES

Sec. 13971. Implementation and effective dates.

SEC. 13902. REFERENCES TO THE ACT.

Except as otherwise provided in this chapter, references in this chapter to "the Act" and sections of the Act shall be deemed to be references to the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) and the sections of such Act.

Subchapter A—Ensuring Adequate Food Assistance

SEC. 13911. HELPING LOW-INCOME HIGH SCHOOL STUDENTS.

Section 5(d)(7) of the Act (7 U.S.C. 2014(d)(7)) is amended by striking "who is a student, and who has not attained his eighteenth birthday" and inserting "who is an elementary or secondary school student, and who is 21 years of age or younger".

SEC. 13912. FAMILIES WITH HIGH SHELTER EXPENSES.

(a) COMPUTATION.—Section 5(e) of the Act (7 U.S.C. 2014(e)) is amended—

(1) in the fourth sentence by striking ": Provided, That the amount" and all that follows through "June 30"; and

(2) in the fifth sentence by striking "under clause (2) of the preceding sentence".

(b) LIMITATIONS.—

(1) INTERIM CAPS.—Section 5(e) of the Act (7 U.S.C. 2014(e)) is amended by inserting after the fourth sentence the following:

"In the 15-month period ending September 30, 1995, such excess shelter expense deduction shall not exceed $231 a month in the 48 contiguous States and the District of Columbia, and shall not exceed, in Alaska, Hawaii, Guam, and the Virgin Islands of the United States, $402, $330, $280, and $171 a month, respectively. In the 15-month period ending December 31, 1996, such excess shelter expense deduction shall not exceed $247 a month in the 48 contiguous States and the District of Columbia, and shall not exceed, in Alaska, Hawaii, Guam, and the Virgin Islands of the United States, $429, $353, $300, and $182 a month, respectively.".

(2) SUBSEQUENT REMOVAL OF CAP.—Section 5(e) of the Act (7 U.S.C. 2014(e)), as amended by paragraph (1), is amended by striking the fifth and sixth sentences.

SEC. 13913. RESOURCE EXCLUSION FOR EARNED INCOME TAX CREDITS.

Section 5(g)(3) of the Act (7 U.S.C. 2014(g)(3)) is amended by adding at the end the following: "The Secretary shall also exclude from financial resources any earned income tax credits received by any member of the household for a period of 12 months from receipt if such member was participating in the food stamp program at the time the credits were received and participated in such program continuously during the 12-month period.".

SEC. 13914. HOMELESS FAMILIES IN TRANSITIONAL HOUSING.

Section 5(k)(2)(F) of the Act (7 U.S.C. 2014(k)(2)(F)) is amended to read as follows:

"(F) housing assistance payments made to a third party on behalf of the household residing in transitional housing for the homeless;".

SEC. 13915. HOUSEHOLDS BENEFITING FROM GENERAL ASSISTANCE VENDOR PAYMENTS.

Section 5(k)(1)(B) of the Act (7 U.S.C. 2014(k)(1)(B)) is amended by striking "living expenses" and inserting "housing expenses, not including energy or utility-cost assistance,".

SEC. 13916. CONTINUING BENEFITS TO ELIGIBLE HOUSEHOLDS.

Section 8(c)(2)(B) of the Act (7 U.S.C. 2017(c)(2)(B)) is amended by inserting "of more than one month in" after "following any period".

SEC. 13917. IMPROVING THE NUTRITIONAL STATUS OF CHILDREN IN PUERTO RICO.

Section 19(a)(1)(A) of the Act (7 U.S.C. 2028(a)(1)(A)) is amended—

(1) by striking "$1,091,000,000" and inserting "$1,097,000,000"; and

(2) by striking "$1,133,000,000" and inserting "$1,143,000,000".

Subchapter B—Promoting Self-Sufficiency

SEC. 13921. CHILD SUPPORT PAYMENTS TO NON-HOUSEHOLD MEMBERS.

Section 5(e) of the Act (7 U.S.C. 2014(e)) is amended by adding at the end the following:

"Before determining the excess shelter expense deduction, all households shall be entitled to a deduction for child support payments made by a household member to or for an individual who is not a member of the household if such household member was legally obligated to make such payments, except that the Secretary is authorized to prescribe by regulation the methods, including calculation on a retrospective basis, that State agencies shall use to determine the amount of the deduction for child support payments.".

SEC. 13922. IMPROVING ACCESS TO EMPLOYMENT AND TRAINING ACTIVITIES.

(a) DEPENDENT CARE DEDUCTION.—Section 5(e) of the Act (7 U.S.C. 2014(e)) is amended in clause (1) of the fourth sentence—

(1) by striking "$160 a month for each dependent" and inserting "$200 a month for each dependent child under 2 years of age and $175 a month for each other dependent"; and

(2) by striking ", regardless of the dependent's age,".

(b) REIMBURSEMENTS TO PARTICIPANTS IN EMPLOYMENT AND TRAINING PROGRAMS.—Section 6(d)(4)(I)(i)(II) of the Act (7 U.S.C. 2015(d)(4)(I)(i)(II)) is amended to read as follows:

"(II) the actual costs of such dependent care expenses that are determined by the State agency to be necessary for the participation of an individual in the program (other than an individual who is the caretaker relative of a dependent in a family receiving benefits under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) in a local area where an employment, training, or education program under title IV of such Act is in operation, or was in operation, on the date of enactment of the Hunger Prevention Act of 1988) up to any limit set by the State agency (which limit shall not be less than the limit for the dependent care deduction under section 5(e)), but in no event shall such payment or reimbursements exceed the applicable local market rate as determined by procedures consistent with any such determination under the Social Security Act. Individuals subject to the program under this paragraph may not be required to participate if dependent costs exceed the limit established by the State agency under this subclause or other actual costs exceed any limit established under subclause (I).".

(c) CONFORMING AMENDMENT.—Section 16(h)(3) of the Act (7 U.S.C. 2025(h)(3)) is amended by striking "representing $160 per month per dependent" and inserting "equal to the payment made under section 6(d)(4)(I)(i)(II) but not more than the applicable local market rate,".

SEC. 13923. VEHICLES NEEDED TO SEEK AND CONTINUE EMPLOYMENT AND FOR HOUSEHOLD TRANSPORTATION.

Section 5(g)(2) of the Act (7 U.S.C. 2014(g)(2)) is amended by striking "$4,500" and inserting the following:

"a level set by the Secretary, which shall be $4,500 through August 31, 1994, $4,550 beginning September 1, 1994, through September 30, 1995, $4,600 beginning October 1, 1995, through September 30, 1996, and $5,000 beginning October 1, 1996, as adjusted on such date and on each October 1 thereafter to reflect changes in the new car component of the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics for the 12-month period ending on June 30 preceding the date of such adjustment and rounded to the nearest $50".

SEC. 13924. VEHICLES NECESSARY TO CARRY FUEL OR WATER.

Section 5(g)(2) of the Act (7 U.S.C. 2014(g)(2)) is amended by adding at the end the following:

"The Secretary shall exclude from financial resources the value of a vehicle that a household depends upon to carry fuel for heating or water for home use when such transported fuel or water is the primary source of fuel or water for the household.".

SEC. 13925. TESTING RESOURCE ACCUMULATION.

Section 17 of the Act (7 U.S.C. 2026) is amended by adding at the end the following:

"(k) The Secretary shall conduct, under such terms and conditions as the Secretary shall prescribe, for a period not to exceed 4 years, projects to test allowing not more than 11,000 eligible households, in the aggregate, to accumulate resources up to $10,000 each (which shall be excluded from consideration as a resource) for later expenditure for a purpose directly related to improving the education, training, or employability (including self-employment) of household members, for the purchase of a home for the household, for a change of the household's residence, or for making major repairs to the household's home.".

Subchapter C—Simplifying the Provision of Food Assistance

SEC. 13931. SIMPLIFYING THE HOUSEHOLD DEFINITION FOR HOUSEHOLDS WITH CHILDREN AND OTHERS.

Section 3(i) of the Act (7 U.S.C. 2012(i)) is amended—

(1) in the first sentence—

(A) by striking "(2)" and inserting "or (2)";

(B) by striking ", or (3) a parent of minor children and that parent's children" and all that follows through "parents and children, or siblings, who live together", and inserting the following:

". Spouses who live together, parents and their children 21 years of age or younger (who are not themselves parents living with their children or married and living with their spouses) who live together, and children (excluding foster children) under 18 years of age who live with and are under the parental control of a person other than their parent together with the person exercising parental control"; and

(C) striking ", unless one of" and all that follows through "disabled member"; and

(2) in the second sentence by striking "clause (1) of the preceding sentence" and inserting "the preceding sentences".

SEC. 13932. ELIGIBILITY OF CHILDREN OF PARENTS PARTICIPATING IN DRUG OR ALCOHOL ABUSE TREATMENT PROGRAMS.

Section 3 of the Act (7 U.S.C. 2012) is amended—

(1) in the last sentence of subsection (i) by inserting ", together with their children," after "narcotics addicts or alcoholics"; and

(2) in subsection (g)(5) by inserting ", and their children," after "or alcoholics".

Subchapter D—Improving Program Integrity

SEC. 13941. ADDITIONAL MEANS OF CLAIMS COLLECTION.

(a) SAFEGUARDS.—Section 11(e)(8) of the Act (7 U.S.C. 2020(e)(8)) is amended—

(1) by striking "and (B)" and inserting "(B)"; and

(2) by striking the semicolon at the end and inserting the following:

", and (C) such safeguards shall not prevent the use by, or disclosure of such information, to agencies of the Federal Government (including the United States Postal Service) for purposes of collecting the amount of an overissuance of coupons, as determined under section 13(b) of this Act and excluding claims arising from an error of the State agency, that has not been recovered pursuant to such section, from Federal pay (including salaries and pensions) as authorized pursuant to section 5514 of title 5 of the United States Code;".

(b) RECOVERY.—Section 13 of the Act (7 U.S.C. 2022) is amended by adding at the end the following:

"(d) The amount of an overissuance of coupons as determined under subsection (b) and except for claims arising from an error of the State agency, that has not been recovered pursuant to such subsection may be recovered from Federal pay (including salaries and pensions) as authorized by section 5514 of title 5 of the United States Code.".

SEC. 13942. DISQUALIFICATION OF RECIPIENTS FOR TRADING FIREARMS, AMMUNITION, EXPLOSIVES, OR CONTROLLED SUBSTANCES FOR COUPONS.

Section 6(b)(1) of the Act (7 U.S.C. 2015(b)(1)) is amended by striking subdivisions (ii) and (iii) and inserting the following:

"(ii) for a period of 1 year upon—

"(I) the second occasion of any such determination; or

"(II) the first occasion of a finding by a Federal, State, or local court of the trading of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) for coupons; and

"(iii) permanently upon—

"(I) the third occasion of any such determination;

"(II) the second occasion of a finding by a Federal, State, or local court of the trading of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) for coupons; or

"(III) the first occasion of a finding by a Federal, State, or local court of the trading of firearms, ammunition, or explosives for coupons.".

SEC. 13943. INCREASED CAP FOR CIVIL MONEY PENALTY FOR TRAFFICKING IN COUPONS.

Section 12(b)(3)(B) of the Act (7 U.S.C. 2021(b)(3)(B)) is amended by striking "during a 2-year period" and inserting "for violations occurring during a single investigation".

SEC. 13944. INCREASED CAP FOR CIVIL MONEY PENALTY FOR SELLING FIREARMS, AMMUNITION, EXPLOSIVES, OR CONTROLLED SUBSTANCES FOR COUPONS.

Section 12(b)(3)(C) of the Act (7 U.S.C. 2021(b)(3)(C)) is amended—

(1) by striking "substances (as the term is" and inserting "substance (as"; and

(2) by striking "during a 2-year period" and inserting "for violations occurring during a single investigation".

Subchapter E—Improving Food Stamp Program Management

SEC. 13951. EXPEDITED CLAIM COLLECTION; ADJUSTMENTS TO ERROR RATE CALCULATIONS.

(a) COLLECTION AND DISPOSITION OF CLAIMS.—Section 13(a)(1) of the Act (7 U.S.C. 2022(a)(1)) is amended—

(1) in the fifth sentence by striking "(after a determination on any request for a waiver for good cause related to the claim has been made by the Secretary)"; and

(2) in the sixth sentence by striking "2 years" and inserting "1 year".

(b) ADMINISTRATIVE AND JUDICIAL REVIEW.—Section 14(a) of the Act (7 U.S.C. 2023(a)) is amended—

(1) in the sixth sentence by inserting after "pursuant to section 16(c)" the following: "(including determinations as to whether there is good cause for not imposing all or a portion of the penalty)"; and

(2) by striking the last sentence.

(c) QUALITY CONTROL SYSTEM.—Section 16(c) of the Act (7 U.S.C. 2025(c)) is amended—

(1) in paragraph (1)(C)—

(A) by striking "payment error tolerance level" and inserting "national performance measure"; and

(B) by striking "equal to" and all that follows through the first period and inserting the following: "equal to—

"(i) the product of—

"(I) the value of all allotments issued by the State agency in the fiscal year; times

"(II) the lesser of—

"(aa) the ratio of—

"(aaa) the amount by which the payment error rate of the State agency for the fiscal year exceeds the national performance measure for the fiscal year; to

"(bbb) the national performance measure for the fiscal year, or

"(bb) 1; times

"(III) the amount by which the payment error rate of the State agency for the fiscal year exceeds the national performance measure for the fiscal year.";

(2) in paragraph (3)(A) by striking "60 days (or 90 days at the discretion of the Secretary)" and inserting "120 days";

(3) in paragraph (6) by striking "shall be used to establish" and all that follows through "level" the last place it appears; and

(4) by adding at the end the following:

"(8)(A) This paragraph applies to the determination of whether a payment is due by a State agency for a fiscal year under paragraph (1)(C).

"(B) Not later than 180 days after the end of the fiscal year, the case review and all arbitrations of State-Federal difference cases shall be completed.

"(C) Not later than 30 days thereafter, the Secretary shall—

"(i) determine final error rates, the national average payment error rate, and the amounts of payment claimed against State agencies; and

"(ii) notify State agencies of the payment claims.

"(D) A State agency desiring to appeal a payment claim determined under subparagraph (C) shall submit to an administrative law judge—

"(i) a notice of appeal, not later than 10 days after receiving a notice of the claim; and

"(ii) evidence in support of the appeal of the State agency, not later than 60 days after receiving a notice of the claim.

"(E) Not later than 60 days after a State agency submits evidence in support of the appeal, the Secretary shall submit responsive evidence to the administrative law judge to the extent such evidence exists.

"(F) Not later than 30 days after the Secretary submits responsive evidence, the State agency shall submit rebuttal evidence to the administrative law judge to the extent such evidence exists.

"(G) The administrative law judge, after an evidentiary hearing, shall decide the appeal—

"(i) not later than 60 days after receipt of rebuttal evidence submitted by the State agency; or

"(ii) if the State agency does not submit rebuttal evidence, not later than 90 days after the State agency submits the notice of appeal and evidence in support of the appeal.

"(H) In considering a claim under this paragraph, the administrative law judge shall consider all grounds for denying the claim, in whole or in part, including the contention of a State agency that the claim should be waived, in whole or in part, for good cause.

"(I) The deadlines in subparagraphs (D), (E), (F), and (G) shall be extended by the administrative law judge for cause shown.

"(9) As used in this subsection, the term 'good cause' includes—

"(A) a natural disaster or civil disorder that adversely affects food stamp program operations;

"(B) a strike by employees of a State agency who are necessary for the determination of eligibility and processing of case changes under the food stamp program;

"(C) a significant growth in food stamp caseload in a State prior to or during a fiscal year, such as a 15 percent growth in caseload;

"(D) a change in the food stamp program or other Federal or State program that has a substantial adverse impact on the management of the food stamp program of a State; and

"(E) a significant circumstance beyond the control of the State agency.".

Subchapter F—Uniform Reimbursement Rates

SEC. 13961. UNIFORM REIMBURSEMENT RATES.

Section 16 of the Act (7 U.S.C. 2025) is amended—

(1) in the first sentence of subsection (a)—

(A) by striking "and (5)" and inserting "(5)";

(B) by inserting before ": Provided," the following: ", (6) automated data processing and information retrieval systems subject to the conditions set forth in subsection (g), (7) food stamp program investigations and prosecutions, and (8) implementing and operating the immigration status verification system established under section 1137(d) of the Social Security Act (42 U.S.C. 1320b–7(d))"; and

(C) in the proviso, by striking "authorized to pay each State agency an amount not less than 75 per centum of the costs of State food stamp program investigations and prosecutions, and is further";

(2) in subsection (g) by striking "an amount equal to 63 percent effective on October 1, 1991, of" and inserting "the amount provided under subsection (a)(6) for";

(3) by striking subsection (j); and

(4) by redesignating subsection (k) as subsection (j).

SEC. 13962. MANDATORY FUNDING FOR NUTRITION PROGRAMS.

Out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall pay to the Secretary of Agriculture $230,000 for each of the fiscal years 1994, 1995, and 1996 for the purchase, processing, and distribution of additional commodities which are relatively lower in saturated fats, are a good source of calcium, are relatively low in sodium and sugars, or are high in iron, and which are a good source of protein or other valuable nutrients. Such commodities shall be easy for low-income families to use, be not easily spoilable, and be easy to handle. Such commodities shall include low-sodium peanut butters, low-fat or low-sodium cheeses, lower fat canned meats, fruits and vegetables, or other similar foods. The Secretary shall select 2 States to carry out this 3-year required effort to improve the health of low-income individuals and to test the acceptability by, ease of storage and preparation by, and impact on low-income participants in the emergency food assistance program established under the Emergency Food Assistance Act of 1983 (7 U.S.C. 612 note). These additional commodities shall be provided to each such State and such State shall be entitled to receive such commodities during each such fiscal year 1994, 1995, and 1996 and in addition to any commodities provided under other Federal programs. Out of $230,000 required to be provided each year to the Secretary of Agriculture by the Secretary of the Treasury, $220,000 ($110,000 per State) shall be used by the Secretary of Agriculture to purchase, process and distribute the commodities to such States and $10,000 ($5,000 per State) shall be provided to such States for State and local payments for costs associated with the distribution of commodities by emergency feeding organizations in such States.

Subchapter G—Implementation and Effective Dates

SEC. 13971. IMPLEMENTATION AND EFFECTIVE DATES.

(a) GENERAL EFFECTIVE DATE AND IMPLEMENTATION.—Except as provided in subsection (b), this chapter and the amendments made by this chapter shall take effect, and shall be implemented beginning on, October 1, 1993.

(b) SPECIAL EFFECTIVE DATES AND IMPLEMENTATION.—(1)(A) Except as provided in subparagraph (B), section 13951 shall take effect on October 1, 1991.

(B) The amendment made by section 13951(c)(2) shall take effect on October 1, 1992.

(2)(A) Except as provided in subparagraph (B), the amendments made by section 13961 shall be effective with respect to calendar quarters beginning on or after April 1, 1994.

(B) In the case of a State whose legislature meet biennially, and does not have a regular session scheduled in calendar year 1994, and that demonstrates to the satisfaction of the Secretary of Agriculture that there is no mechanism, under the constitution and laws of the State, for appropriating the additional funds required by the amendments made by this section before the next such regular legislative session, the Secretary may delay the effective date of all or part of the amendments made by section 13961 until the beginning date of a calendar quarter that is not later than the first calendar quarter beginning after the close of the first regular session of the State legislature after the date of enactment of this Act.

(3) Sections 13912(a) and 13912(b)(1) shall take effect, and shall be implemented beginning on, July 1, 1994.

(4) Sections 13911, 13913, 13914, 13915, 13916, 13922, 13924, 13931, 13932, and 13942 shall take effect, and shall be implemented beginning on, September 1, 1994.

(5)(A) Except as provided in subparagraph (B), section 13921 shall take effect, and shall be implemented beginning on, September 1, 1994.

(B) State agencies shall implement the amendment made by section 13921 not later than October 1, 1995.

(6) Section 13912(b)(2) shall take effect, and shall be implemented beginning on, January 1, 1997.

CHAPTER 4—TIMBER SALES

SEC. 13981. TABLE OF CONTENTS.

The table of contents of this chapter is as follows:

CHAPTER 4—TIMBER SALES

Sec. 13981. Table of contents.
Sec. 13982. Sharing of forest service timber sale receipts.
Sec. 13983. Sharing of bureau of land management timber sale receipts.

SEC. 13982. SHARING OF FOREST SERVICE TIMBER SALE RECEIPTS.

(a) DEFINITIONS.—As used in this section:

(1) APPLICABLE PERCENTAGE.—The term "applicable percentage" means—

(A) for fiscal year 1994, 85 percent; and

(B) for each of fiscal years 1995 through 2003, 3 percentage points less than the applicable percentage for the preceding fiscal year.

(2) 25-PERCENT PAYMENTS TO STATES.—The term "25-percent payments to States" means the 25 percent payments authorized by the Act of May 23, 1908 (35 Stat. 260, chapter 192; 16 U.S.C. 500) for the States of Washington, Oregon, and California for the benefit of counties in which national forests are situated and that are affected by decisions related to the northern spotted owl.

(3) SPECIAL PAYMENT AMOUNT.—The term "special payment amount" means the amount determined by multiplying—

(A) the applicable percentage; by

(B) the annual average of the 25-percent payments to States made to a county pursuant to such Acts during the 5-year period consisting of fiscal years 1986 through 1990.

(b) PAYMENTS.—

(1) IN GENERAL.—In lieu of making the 25-percent payments to States, the Secretary of the Treasury shall make payments to States, for the benefit of counties, that are eligible to receive the 25-percent payments to States as of the date of enactment of this Act in accordance with paragraph (2).

(2) AMOUNT OF PAYMENTS.—

(A) FISCAL YEARS 1994 THROUGH 1998.—For each of fiscal years 1994 through 1998, the payment to each State for the benefit of each county in the State referred to in paragraph (1) shall be equal to the sum of the special payment amounts for each county in the State.

(B) FISCAL YEARS 1999 THROUGH 2003.—

(i) IN GENERAL.—For each of fiscal years 1999 through 2003, the payment to each State for the benefit of each county in the State referred to in paragraph (1) shall be equal to the sum of the payments for each county in the State as calculated under clause (ii).

(ii) PAYMENTS FOR COUNTIES.—The payment for each county referred to in clause (i) shall be equal to the greater of—

(I) the special payment amount for the county; or

(II) the share of the 25-percent payments to States allocable to the county.

SEC. 13983. SHARING OF BUREAU OF LAND MANAGEMENT TIMBER SALE RECEIPTS.

(a) DEFINITIONS.—As used in this section:

(1) APPLICABLE PERCENTAGE.—The term "applicable percentage" means—

(A) for fiscal year 1994, 85 percent; and

(B) for each of fiscal years 1995 through 2003, 3 percentage points less than the applicable percentage for the preceding fiscal year.

(2) 50-PERCENT PAYMENTS TO COUNTIES.—The term "50-percent payments to counties" means the 50-percent share paid to counties in the States of Oregon and California pursuant to title II of the Act of August 28, 1937 (50 Stat. 875, chapter 876; 43 U.S.C. 1181f), and the payments made to counties pursuant to the Act of May 24, 1939 (53 Stat. 753, chapter 144; 43 U.S.C. 1181f–1 et seq.).

(3) SPECIAL PAYMENT AMOUNT.—The term "special payment amount" means the amount determined by multiplying—

(A) the applicable percentage; by

(B) the annual average of the 50-percent payments to counties made to a county pursuant to such Acts during the 5-year period consisting of fiscal years 1986 through 1990.

(b) PAYMENTS.—

(1) IN GENERAL.—In lieu of making the 50-percent payments to counties, the Secretary of the Treasury shall make payments to counties that are eligible to receive the 50-percent payments as of the date of enactment of this Act in accordance with paragraph (2).

(2) AMOUNT OF PAYMENTS.—

(A) FISCAL YEARS 1994 THROUGH 1998.—For each of fiscal years 1994 through 1998, the Secretary of the Treasury shall pay to each county referred to in paragraph (1) the special payment amount.

(B) FISCAL YEARS 1999 THROUGH 2003.—For each of fiscal years 1999 through 2003, the Secretary of the Treasury shall pay to each county referred to in paragraph (1) the greater of—

(i) the special payment amount; or

(ii) the share of the 50-percent payments to counties allocable to the county.

TITLE XIV—BUDGET PROCESS PROVISIONS

SEC. 14001. PURPOSE.

The Congress declares that it is essential to—

(1) preserve the deficit reduction achieved by this Act;

(2) extend the system of discretionary spending limits for the single discretionary category set forth in section 601 of the Congressional Budget Act of 1974;

(3) extend the pay-as-you-go enforcement system; and

(4) prohibit the consideration of direct spending or receipts legislation that would decrease the pay-as-you-go surplus achieved by this Act and created under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985.

SEC. 14002. DISCRETIONARY SPENDING LIMITS.

(a) Definition of "Discretionary Spending Limit".—Section 601(a)(2) of the Congressional Budget Act of 1974 is amended—

(1) in subparagraph (D) by striking the word "and"; and

(2) by inserting after subparagraph (E) the following:

"and

"(F) with respect to fiscal years 1996, 1997, and 1998, for the discretionary category, the amounts set forth for those years in section 12(b)(1) of House Concurrent Resolution 64 (One Hundred Third Congress);".

(b) Point of Order in the Senate.—Section 601(b)(1) of the Congressional Budget Act of 1974 is amended to read as follows:

"(1) Except as otherwise provided in this subsection, it shall not be in order in the Senate to consider any concurrent resolution on the budget for fiscal year 1995, 1996, 1997, or 1998 (or amendment, motion, or conference report on such a resolution) that would exceed any of the discretionary spending limits in this section.".

(c) Conforming Amendments.—(1) Section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(A) in subsection (a) by striking "Fiscal Years 1991–1995 Enforcement.—" and inserting "Fiscal Years 1991–1998 Enforcement.—";

(B) in subsection (b)(1)—

(i) in the matter before subparagraph (A), by—

(I) striking "When the President submits the budget under section 1105(a) of title 31, United States Code, for budget year 1992, 1993, 1994, or 1995" and inserting "When the President submits the budget under section 1105(a) of title 31, United States Code, for budget year 1992, 1993, 1994, 1995, 1996, 1997, or 1998"; and

(II) striking "the budget shall include, adjustments to discretionary spending limits (and those limits as cumulatively adjusted) for the budget year and each outyear through 1995" and inserting "the budget shall include, adjustments to discretionary spending limits (and those limits as cumulatively adjusted) for the budget year and each outyear through 1998";

(ii) in paragraph (1)(B), by inserting at the end thereof the following new clause:

"(iii) For a budget submitted for budget year 1996, 1997, or 1998, the adjustments shall be those necessary to reflect changes in inflation estimates since those of March 31, 1993, set forth on page 46 of House Conference Report 103–48.";

(iii) in the matter before subparagraph (A) in paragraph (2) by—

(I) striking "When OMB submits a sequestration report under section 254 (g) or (h) for fiscal year 1991, 1992, 1993, 1994, or 1995" and inserting "When OMB submits a sequestration report under section 254 (g) or (h) for fiscal year 1991, 1992, 1993, 1994, 1995, 1996, 1997, or 1998"; and

(II) striking "for the fiscal year and each succeeding year through 1995," and inserting "for the fiscal year and each succeeding year through 1998,";

(iv) in paragraph (2)(D)(i), by striking "for fiscal year 1991, 1992, 1993, 1994, or 1995," and inserting "for any fiscal year,";

(v) in paragraph (2)(E), by—

(I) striking the final word "and" in subparagraph (ii); and

(II) inserting before the final period the following:

"; and

"(iv) if, for fiscal years 1994, 1995, 1996, 1997, and 1998, the amount of new budget authority provided in appropriation Acts exceeds the discretionary spending limit on new budget authority due to technical estimates made by the director of the Office of Management and Budget, the adjustment is the amount of the excess, but not to exceed an amount (for any one fiscal year) equal to 0.1 percent of the adjusted discretionary spending limit on new budget authority for that fiscal year"; and

(vi) in paragraph (2)(F), by inserting immediately before the final period the following: ", and not to exceed 0.5 percent of the adjusted discretionary spending limit on outlays for the fiscal year in fiscal year 1996, 1997, or 1998".

(2) Reports.—Sections 254(d)(2) and 254(g)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 are each amended by striking "1995" and inserting "1998".

(3) Expiration.—(A) Notwithstanding section 275(b) of the Balanced Budget and Emergency Deficit Control Act of 1985, sections 250, 251, 252, and 254 through 258C of that Act shall expire on September 30, 1998.

(B) Section 607 of the Congressional Budget Act of 1974 is amended by striking "shall apply to fiscal years 1991 to 1995" and inserting "shall apply to fiscal years 1991 to 1998".

SEC. 14003. ENFORCING PAY-AS-YOU-GO.

(a) Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) in subsection (a), by striking "Fiscal Year 1992–1995 Enforcement." and inserting "Fiscal Year 1992–1998 Enforcement.";

(2) in subsection (d), by striking "estimate of the amount of change in outlays or receipts, as the case may be, in each fiscal year through fiscal year 1995" both places that it appears and inserting "estimate of the amount of change in outlays or receipts, as the case may be, in each fiscal year through fiscal year 1998" both places; and

(3) in subsection (e), by striking "for fiscal year 1991, 1992, 1993, 1994, or 1995," and inserting "for any fiscal year from 1991 through 1998,".

(b) Section 254(g)(3) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking "1995" and inserting "1998".

(c) Upon enactment of this Act, the director of the Office of Management and Budget shall reduce the balances of direct spending and receipts legislation applicable to each fiscal year under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 by an amount equal to the net deficit reduction achieved through the enactment in this Act of direct spending and receipts legislation for that year.

SEC. 14004. EXERCISE OF RULE-MAKING POWERS.

The Congress enacts the provisions of this part—

(1) as an exercise of the rule-making power of the Senate and the House of Representatives, respectively, and as such these provisions shall be considered as part of the rules of each House, respectively, or of that House to which they specifically apply, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to such House) at any time, in the same manner, and to the same extent as in the case of any other rule of such House.

And the Senate agree to the same.

From the Committee on the Budget, for consideration of the House bill, and the Senate amendment, and modifications committed to conference:

Martin Olav Sabo,
Richard Gephardt,
Charlie Stenholm,
Earl Pomeroy,
Dale E. Kildee,

As additional conferees from the Committee on the Budget, for consideration of title I and section 9005(a)–(c) and (f) of the House bill, and title I and sections 5001, 5002(a), (b), and (d), and 5003 of the Senate amendment, and modifications committed to conference:

As additional conferees from the Committee on the Budget, for consideration of title II and section 12009 of the House bill, and title II and section 13003 of the Senate amendment, and modifications committed to conference:

Louise Slaughter,
Alan Mollohan,
Bart Gordon,

As additional conferees from the Committee on the Budget, for consideration of title III of the House bill, and title III (except section 3003(b)) of the Senate amendment, and modifications committed to conference:

Barney Frank,
Lucien E. Blackwell,
Lynn C. Woolsey,
Rick Lazio,

As additional conferees from the Committee on the Budget, for consideration of title IV and sections 5117, 13233, 13263, 13270, 13420, and 14402(d) of the House bill, and sections 7904, 12001–50, 12061, 12071, 12101, and 12301–02 of the Senate amendment, and modifications committed to conference:

Dale E. Kildee,
David E. Price,
Barbara B. Kennelly,

As additional conferees from the Committee on the Budget, for consideration of sections 5000–187, 13234, 13242, 13264, 13400–571, and 14411 of the House bill, and sections 7000–501, 7601(c), 7801, 7802(b) and (c), 7904, 7951, 12101–02, and 12321 of the Senate amendment, and modifications committed to conference:

Tony Beilenson,
Louise Slaughter,
Harry Johnston,

As additional conferees from the Committee on the Budget, for consideration of sections 5200–44, 5301, and 9006–07 of the House bill, and sections 4001–11 and 6001 of the Senate amendment, and modifications committed to conference:

John Bryant,
William J. Coyne,
Jerry F. Costello,

As additional conferees from the Committee on the Budget, for consideration of title VII and that portion of section 4002 which adds a new section 455(j) to the Higher Education Act of 1965, section 4025(7) and that portion of section 5203 which adds a new section 309(j)(8) to the Communications Act of 1934, and section 5187(b) of the House bill, and title XI, section 4008(c), that portion of section 12011 which adds a new section 455(j) to the Higher Education Act of 1965, sections 12045(7), 12047(a), and 12105 of the Senate amendment, and modifications committed to conference:

Michael A. Andrews,
Alan Mollohan,
Lynn C. Woolsey,

As additional conferees from the Committee on the Budget, for consideration of title VIII and section 9004 of the House bill, and section 4051 of the Senate amendment, and modifications committed to conference:

Barbara B. Kennely,
Jerry F. Costello,
Patsy T. Mink,

As additional conferees from the Committee on the Budget, for consideration of title IX and sections 1402, 5301, and 11002 of the House bill, and titles V and VI and section 1503 of the Senate amendment, and modifications committed to conference:

John Bryant,
Patsy T. Mink,
Lucien E. Blackwell,

As additional conferees from the Committee on the Budget, for consideration of titles VI and X and sections 13702 and 13704 of the House bill, and title IX and X and sections 12103–04 of the Senate amendment, and modifications committed to conference:

HOWARD L. BERMAN,
MICHAEL A. ANDREWS,
BART GORDON,

Provided, that for consideration of title VI and sections 10001 and 10002 of the House bill, and title IX of the Senate amendment, Mr. Pomeroy is appointed in lieu of Mr. Berman; Messrs, Cox and Smith of Michigan are appointed in lieu of Messrs. Kolbe and Miller of Florida.

EARL POMEROY,

As additional conferees from the Committee on the Budget, for consideration of title XI and sections 8002 and 9005(a) of the House bill, and sections 5002(a) and 6002 of the Senate amendment, and modifications committed to conference:

BOB WISE,
JERRY F. COSTELLO,
HOWARD L. BERMAN,

As additional conferees from the Committee on the Budget, for consideration of title XII of the House bill, and title XIII (except section 13008(b)) and section 7901(b) and (c) of the Senate amendment, and modifications committed to conference:

DAVID E. PRICE,
WILLIAM J. COYNE,
HARRY JOHNSTON,

As additional conferees from the Committee on the Budget, for consideration of sections 4032, 4033(3), 8002, 9004, 11001, 12004(b), 13001–20, 13201–84, 13601–02, and 13604–705 of the House bill, and sections 1106, 1403, 1504, 3003(b), 7433, 7601–03, 7701–02, 7901(a) and (c), 7902–03, 7950–54, that portion of section 12011 which adds a new section 457 to the Higher Education Act of 1965, 12055, 12203(d), 12025, 13008(b), 15001, and 15002 of the Senate amendment, and modifications committed to conference:

WILLIAM J. COYNE,
TONY BEILENSON,

As additional conferees from the Committee on the Budget, for consideration of title XV and XVI, section 1405(c) of the House bill, those portions of section 4002 which add new sections 453(a)(3) and 456(a)(2) to the Higher Education Act of 1965, section 4029, those portions of section 5181 which add new sections 2158(b)(3)(B) and 2161(b) to the Public Health Service Act, 9008, and 13560 of the House bill, and title XIV, that portion of section 1201 which adds a new section 305(c)(4) to the Rural Electrification Act, those portions of section 12011 which add new sections 453(a)(4) and 456(a)(2) to the Higher Education Act of 1965, of the Senate amendment, and modifications committed to conference:

CHARLIE STENHOLM,
BOB WISE,
BARNEY FRANK,

As additional conferees from the Committee on Agriculture, for consideration of title I and section 9005(a)–(c) and (f) of the House bill, and title I and sections 5001, 5002(a), (b), and (d), and 5003 of the Senate amendment, and modifications committed to conference:

KIKA DE LA GARZA,
CHARLIE ROSE,
DAN GLICKMAN,
HAROLD L. VOLKMER,
TIMOTHY J. PENNY,

As additional conferees from the Committee on Armed Services, for consideration of title II and section 12009 of the House bill, and title II and section 13003 of the Senate amendment, and modifications committed to conference:

RONALD V. DELLUMS,
G.V. MONTGOMERY,
PAT SCHROEDER,
EARL HUTTO,
IKE SKELTON,

Provided, for consideration of section 12009 of the House bill, and section 13003 of the Senate amendment, Mr. McCurdy is appointed in lieu of Mr. Montgomery, and Mr. Hunter is appointed in lieu of Mr. Stump.

DAVE MCCURDY,

As additional conferees from the Committee on Banking, Finance and Urban Affairs, for consideration of title III of the House bill, and title III (except section 3003(b)) of the Senate amendment, and modifications committed to conference:

HENRY B. GONZALEZ,
STEVE NEAL,
JOHN J. LAFALCE,
BRUCE F. VENTO,
CHARLES SCHUMER,
JAMES A. LEACH,
MARGE ROUKEMA,

As additional conferees from the Committee on Education and Labor, for consideration of title IV and sections 5117, 13233, 13263–64, 13270, 13420, and 14402(d) of the House bill, and sections 7904, 12001–50, 12061, 12071, 12101, and 12301–02 of the Senate amendment, and modifications committed to conference:

WILLIAM D. FORD,
WILLIAM L. CLAY,
GEORGE MILLER,
AUSTIN J. MURPHY,
PAT WILLIAMS,

Solely for purposes of sections 4201–4203 of the House bill and sections 12301 and 12302 of the Senate amendment:

WILLIAM F. GOODLING,
THOMAS E. PETRI,
(Except for sections 5117, 13233, 13263, 13264, 13270, and 13420, of the House bill and sections 7904 and 12101 of the Senate amendment)

Solely for purposes of sections 4201–4203 of the House bill and sections 12301 and 12302 of the Senate amendment:

MARGE ROUKEMA,

As additional conferees from the Committee on Energy and Commerce, for consideration of [communications] sections 5200–44 of the House bill, and sections 4001–11 of the Senate amendment, and modifications committed to conference:

JOHN D. DINGELL,
EDWARD J. MARKEY,
BILLY TAUZIN,
THOMAS J. MANTON,
LYNN SCHENK,
CARLOS J. MOORHEAD,
JACK FIELDS,
MICHAEL G. OXLEY,

As additional conferees from the Committee on Energy and Commerce, for consideration of [health] sections 5000–5091, 5100–87, 13010 (a) and (c), 13413(e), 13234, 13242, 13264, 13431–13571, and 14411 of the House bill, and sections 1105(b), 7000, 7201–7501, 7601(c), 7801, 7802 (b) and (c), 7904, 7951, 12101–12205, and 12321 of the Senate amendment, and modifications committed to conference:

JOHN D. DINGELL,
HENRY A. WAXMAN,
RON WYDEN,
EDOLPHUS TOWNS,
JIM SLATTERY,

As additional conferees from the Committee on Energy and Commerce, for consideration of [energy] sections 5301 and 9006–07 of the House bill, and section 6001 of the Senate amendment, and modifications committed to conference:

JOHN D. DINGELL,
PHILIP R. SHARP,
CRAIG A. WASHINGTON,
MIKE KREIDLER,
AL SWIFT,
CARLOS J. MOORHEAD,
MIKE BILIRAKIS,
JOE BARTON,

As additional conferees from the Committee on Foreign Affairs, for consideration of title VI and sections 10001 and 10002 of the House bill, and title IX of the Senate amendment, and modifications committed to conference:

LEE H. HAMILTON,
HOWARD L. BERMAN,
ENI FALEOMAVAEGA,
M.G. MARTINEZ,
ROBERT E. ANDREWS,
BENJAMIN A. GILMAN,
OLYMPIA SNOWE,
HENRY J. HYDE,

As additional conferees from the Committee on Government Operations, for consideration of section 1405(c) of the House bill, and that portion of section 1201 which adds a new section 305(c)(4) to the Rural Electrification Act, of the Senate amendment, and modifications committed to conference:

JOHN CONYERS, Jr.,
GLENN ENGLISH,
COLLINS C. PETERSON,
TOM BARRETT,
CRAIG A. WASHINGTON,

As additional conferees from the Committee on Government Operations, for consideration of those portions of section 4002 which add new sections 453(a)(3) and 456(a)(2) to the Higher Education Act of 1965, and sections 4029 and 13560 of the House bill, and those portions of section 12011 which add new sections 453(a)(4) and 456(a)(2) to the Higher Education Act of 1965, of the Senate amendment, and modifications committed to conference:

JOHN CONYERS, Jr.,
CARDISS COLLINS,
EDOLPHUS TOWNS,
HENRY A. WAXMAN,
JOHN M. SPRATT, Jr.,

As additional conferees from the Committee on Government Operations, for consideration of those portions of section 5181 which add new sections 2158(b)(3)(B) and 2161(b) to the Public Health Service Act, of the House bill, and modifications committed to conference:

JOHN CONYERS, Jr.,
JOHN M. SPRATT, Jr.,
MIKE SYNAR,
DONALD M. PAYNE,

As additional conferees from the Committee on Government Operations, for consideration of section 9008 of the House bill, and modifications committed to conference:

JOHN CONYERS, Jr.,
CARDISS COLLINS,
JOHN M. SPRATT, Jr.,
MIKE SYNAR,
CRAIG A. WASHINGTON,

As additional conferees from the Committee on Government Operations, for consideration of title XVI and sections 15001–111, 15206, and 15301 of the House bill, and title XIV of the Senate amendment, and modifications committed to conference:

JOHN CONYERS, Jr.,
JOHN M. SPRATT, Jr.,
HENRY A. WAXMAN,
CARDISS COLLINS,
MIKE SYNAR,

As additional conferees from the Committee on the Judiciary, for consideration of title

VII of the House bill, and title XI and section 12047(a) of the Senate amendment, and modifications committed to conference:

JACK BROOKS,
WILLIAM J. HUGHES,
DON EDWARDS,
JOHN CONYERS, Jr.,
MIKE SYNAR,
CARLOS J. MOORHEAD,
HOWARD COBLE,
HAMILTON FISH, Jr.,

As additional conferees from the Committee on the Judiciary, for consideration of that portion of section 4002 which adds a new section 455(j) to the Higher Education Act of 1965, section 4025(7), and that portion of section 5203 which adds a new section 309(j)(8) to the Communications Act of 1934, of the House bill, and section 4008(c), that portion of section 12011 which adds a new section 455(j) to the Higher Education Act of 1965, and section 12045(7) of the Senate amendment, and modifications committed to conference:

JACK BROOKS,
JOHN CONYERS, Jr.,
MIKE SYNAR,
PAT SCHROEDER,
HOWARD L. BERMAN,
HAMILTON FISH, Jr.,

As additional conferees from the Committee on the Judiciary, for consideration of section 5187(b) of the House bill, and section 12105 of the Senate amendment, and modifications committed to conference:

JACK BROOKS,
JOHN BRYANT,
DAN GLICKMAN,
BARNEY FRANK,
HOWARD L. BERMAN,
GEORGE W. GEKAS,
JIM RAMSTAD,
HAMILTON FISH, Jr.,

As additional conferees from the Committee on Merchant Marine and Fisheries, for consideration of title VIII and section 9004 of the House bill, and section 4051 of the Senate amendment, and modifications committed to conference:

GERRY E. STUDDS,
BILLY TAUZIN,
WILLIAM O. LIPINSKI,
SOLOMON P. ORTIZ,
THOMAS J. MANTON,
JACK FIELDS,

Provided, for consideration of title VIII of the House bill, and section 4051 of the Senate amendment, Mr. Inhofe is appointed: for consideration of section 9004 of the House bill, Mr. Saxton is appointed.

JAMES M. INHOFE,
JIM SAXTON,

As additional conferees from the Committee on Natural Resources, for consideration of title IX and sections 1402, 5301, and 11002, of the House bill, and titles V and VI and section 1503 of the Senate amendment, and modifications committed to conference:

GEORGE MILLER,
BRUCE F. VENTO,
RON DE LUGO,
RICHARD LEHMAN,
BILL RICHARDSON,

As additional conferees from the Committee on Post Office and Civil Service, for consideration of title X and sections 13702 and 13704 of the House bill, and titles IX and X and sections 12103-04 of the Senate amendment, and modifications committed to conference:

WILLIAM L. CLAY,
PAT SCHROEDER,
FRANK MCCLOSKEY,
ELEANOR H. NORTON,
BARBARA-ROSE COLLINS,
CONSTANCE MORELLA,

As additional conferees from the Committee on Public Works and Transportation, for consideration of title XI and sections 8002 and 9005(a) of the House bill, and sections 5002(a) and 6002 of the Senate amendment, and modifications committed to conference:

NORMAN Y. MINETA,
JIM OBERSTAR,
DOUGLAS APPLEGATE,
NICK J. RAHALL II,
ROBERT A BORSKI,
BUD SHUSTER,
BILL CLINGER,
SHERWOOD L. BOEHLERT,

As additional conferees from the Committee on Rules, for consideration of title XVI and sections 13560, 13605, and 15201-15212 of the House bill, and title XIV of the Senate amendment, and modifications committed to conference:

JOHN MOAKLEY,
BUTLER DERRICK,
TONY BEILENSON,
MARTIN FROST,
DAVID BONIOR,

As additional conferees from the Committee on Veterans' Affairs, for consideration of title XII of the House bill, and title XIII (except section 13008(b)) and section 7901 (b) and (c) of the Senate amendment, and modifications committed to conference:

G.V. MONTGOMERY,
LANE EVANS,
J. ROY ROWLAND,
JIM SLATTERY,
GEORGE E. SANGMEISTER,
BOB STUMP,

As additional conferees from the Committee on Ways and Means, for consideration of title XIV (except sections 14402(d) and 14411) and section 13603 of the House bill, and title VIII of the Senate amendment, and modifications committed to conference:

DAN ROSTENKOWSKI,
SAM GIBBONS,
J.J. PICKLE,
CHARLES B. RANGEL,

As additional conferees from the Committee on Ways and Means, for consideration of sections 13001-20 of the House bill, and modifications committed to conference:

DAN ROSTENKOWSKI,
SAM GIBBONS,
J.J. PICKLE,
ANDREW JACOBS, Jr.,

As additional conferees from the Committee on Ways and Means, for consideration of sections 13201-84 of the House bill, and sections 7601-03 and 7802 of the Senate amendment, and modifications committed to conference:

DAN ROSTENKOWSKI,
SAM GIBBONS,
J.J. PICKLE,
HAROLD FORD,

As additional conferees from the Committee on Ways and Means, for consideration of title XVI of the House bill, and modifications committed to conference:

DAN ROSTENKOWSKI,
PETE STARK,

As additional conferees from the Committee on Ways and Means, for consideration of sections 4032, 4033(3), 5000-91, 5117, those portions of section 5181 which add new sections 2161 and 2173(b) to the Public Health Service Act, sections 5181(b), 8002, 9004, 11001, 12004(b), 13400-571, 13601-02, 13604-705, 14402(d), 14411, and 15301 of the House bill, and sections 1106, 1403, 1504, 3003(b), 7000-305, 7433, 7701-02, 7901(a) and (c), 7902-04, 7950-54, that portion of section 12011 which adds a new section 457 to the Higher Education Act of 1965, sections 12055, 12101-02, that portion of section 12202 which adds a new section 2148(b) to the Public Health Service Act, sections 12203(d), 12025, 13008(b), 15001, and 15002 of the Senate amendment, and modifications committed to conference:

DAN ROSTENKOWSKI,
SAM GIBBONS,
J.J. PICKLE,
CHARLES B. RANGEL,
PETE STARK,
Managers on the Part of the House.

From the Committee on Agriculture, Nutrition, and Forestry:

PATRICK J. LEAHY,

From the Committee on Banking, Housing, and Urban Affairs:

DON RIEGLE,
PAUL SARBANES,

From the Committee on the Budget:

JIM SASSER,
ERNEST F. HOLLINGS,
J. BENNETT JOHNSTON,

From the Committee on Commerce, Science, and Transportation:

ERNEST F. HOLLINGS,
DANIEL K. INOUYE,
JOHN BREAUX,

From the Committee on Energy and Natural Resources:

J. BENNETT JOHNSTON,
DALE BUMPERS,
WENDELL FORD,

From the Committee on Environment and Pubic Works:

MAX BAUCUS,
DANIEL PATRICK MOYNIHAN,

From the Committee on Finance:

DANIEL PATRICK MOYNIHAN,
MAX BAUCUS,
BILL BRADLEY,
GEORGE J. MITCHELL,
DAVID PRYOR,
DON RIEGLE,
JOHN D. ROCKEFELLER IV,

From the Committee on Foreign Relations:

CLAIBORNE PELL,
JOHN F. KERRY,

From the Committee on Governmental Affairs:

JOHN GLENN,
CARL LEVIN,
DAVID PRYOR,

From the Committee on the Judiciary:

DENNIS DECONCINI,

From the Committee on Labor and Human Resources:

EDWARD M. KENNEDY,
CLAIBORNE PELL,
CHRISTOPHER J. DODD,
PAUL SIMON,
TOM HARKIN,
BARBARA A. MIKULSKI,
JEFF BINGAMAN,
PAUL WELLSTONE,
HARRIS WOFFORD,

From the Committee on Veterans' Affairs:

JAY ROCKEFELLER,
DENNIS DECONCINI,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2264) to provide for reconciliation pursuant to section 7 of the concurrent resolution on the budget for fiscal year 1994, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment that is a substitute for the House bill and the Senate amendment. The difference between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clerical changes.

OVERVIEW

The Conference Agreement on the Omnibus Budget Reconciliation Act of 1993 is a carefully crafted, rational and constructive compromise which implements the basic objectives of both the House and the Senate bills. It embodies the President's economic program and meets the objectives of the House and Senate conferees. It confirms and extends those budget process changes enacted in the Budget Enforcement Act of 1990 which have exercised effective discipline over the Federal budget.

In February of this year, President Clinton proposed to move the American economy in a new direction. The Congressional budget resolution passed in March adopted and strengthened the President's budget proposal. By passing this conference agreement, the Congress will fulfill the promise of the budget resolution. This conference agreement, unlike the substitute bills that were offered in both Houses, will:

Reduce Federal deficits by approximately $500 billion over the five years 1994–1998, with more than half the reduction coming from spending cuts and the remainder from tax increases;

Restore fairness to our tax system;

Shift the nation's priorities towards investment.

With the passage of this conference agreement, America will begin to move to a new path of lower deficits and higher wages and standards of living for America's working families.

The economic policies of the 1980's and early 1990's were based on lower taxes for the wealthy, large government deficits, and high interest rates. The results were that:

The income and living standards of the American worker stagnated. From 1980 to 1992, the weekly earnings of the typical full-time worker rose less than 0.1 percent per year in real terms (after removing the effects of inflation).

We borrowed nearly a trillion dollars (net) from foreigners. At the end of 1980, U.S. holdings of assets abroad exceeded foreign holdings here by $393 billion; at the end of 1992, foreign assets here exceeded our assets abroad by $521 billion.

Consequently, our international trade balance deteriorated, from a current-account *surplus* of $2 billion in 1980 to a deficit that peaked at $167 billion in 1987 and was still $66 billion in 1992.

The economic gains that took place benefited the wealthy most; the distribution of income and wealth became much more unequal.

These policies—and the results they produced—were repudiated by the American people in the 1992 election. This conference agreement represents the response of the President and the Congress, working together, to the need for change.

The expectation that a deficit reduction plan such as this would become law has already laid the groundwork for a better future. Long-term interest rates have come down about 1 percentage point since November 1992. In recent testimony to the Congress, Alan Greenspan, Chairman of the Board of Governors of the Federal Reserve System, confirmed that the belief by capital markets in a deficit-reduction package has "tilted long-term rates down in the last several months." Already this decline has benefited consumers and businesses. For example, a reduction of 1 percentage point in the mortgage interest rate lowers the *monthly* payment on the mortgage on a typical home by about $70.

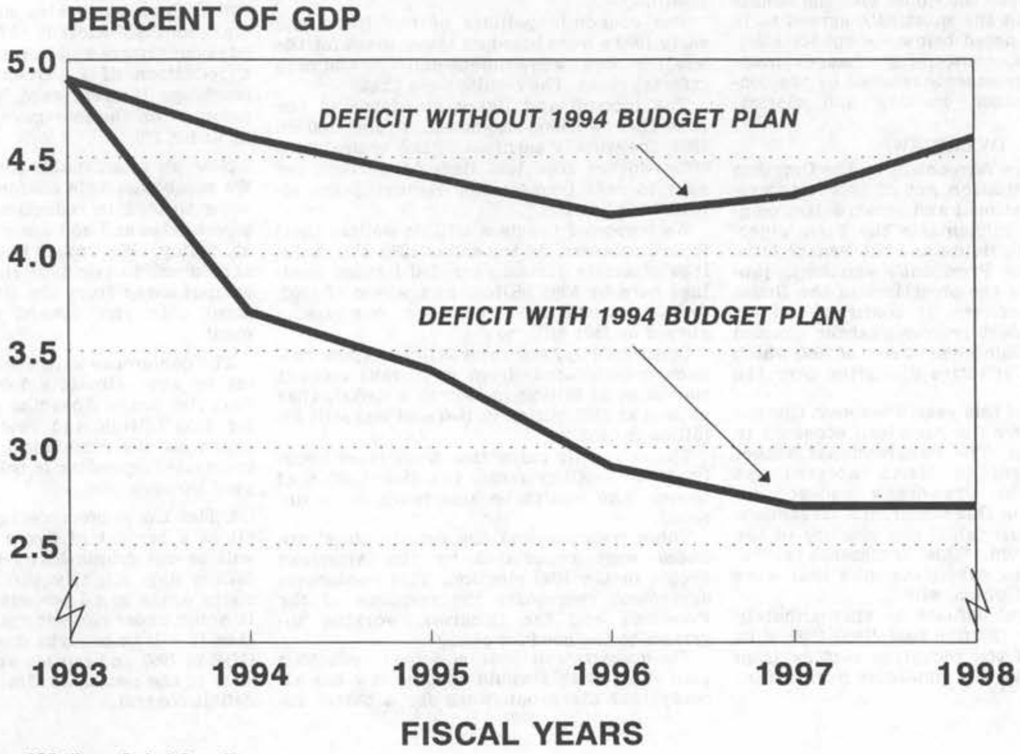
Now we must make good on the promise. We must pass this conference agreement in order to lock in reductions in long-term interest rates and end uncertainty about budget policy. We must pass this conference agreement to begin to channel our nation's savings away from the financing of government debt and toward productive investment.

The conference agreement reduces the deficit by approximately $500 billion over the next five years. Spending reductions account for $255 billion and revenue increases account for the remainder. Discretionary (appropriated) spending is below 1993 levels each year through 1998.

Under the conference agreement, the deficit as a percent of Gross Domestic Product will be cut dramatically by 1998. Instead of falling only slightly through 1996 and then rising again to 4.6 percent of GDP in 1998, as it would under current spending and tax policies, it will be brought down to 2.7 percent of GDP in 1997 and remain at that level in 1998. This is the necessary first step in long-term deficit control.

Figure 1

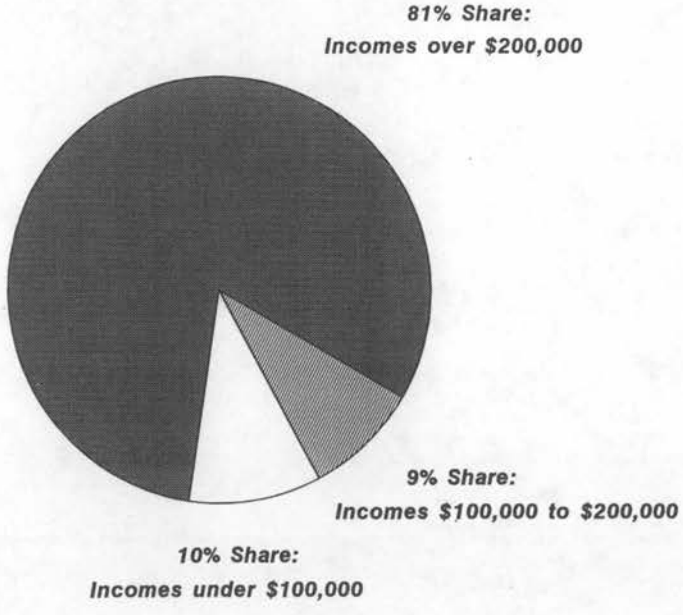
DEFICIT REDUCTION FROM THE 5-YEAR ECONOMIC PACKAGE



Source: CBO, House Budget Committee.

Figure 2

DISTRIBUTION OF HIGHER TAXES UNDER BUDGET PLAN



Source: CBO.

At the end of fiscal year 1998, the federal debt will be lower than it would have been under current policies by nearly half a trillion dollars.

Every policy change in this conference agreement is specific and enforceable. It changes entitlement law, changes tax law, and establishes new caps on discretionary spending to ensure that appropriations do not exceed the levels established in the budget resolution.

This conference agreement will improve in important ways the lives of all Americans:

It reduces the huge drain on the nation's savings pool that the deficit represents. Every dollar of deficit reduction means either a dollar more for *private* investment in housing, plant, and equipment, or a dollar not borrowed overseas. Increases in private investment are required to raise standards of living and give American workers more tools to improve their productivity and earnings. Reduction in borrowing overseas means more jobs kept in the United States.

The conference agreement includes $48 billion in tax incentives for investment, jobs, and rewarding work, aimed specifically at small business, distressed communities and the working poor.

This conference agreement specifically mandates—and finances—increases in childhood immunization and family preservation and support. For immunization, $500 million over five years is included to provide free vaccines to children who have no health insurance coverage or are eligible for Medicaid, with an additional $85 million to build vaccine stockpiles.

Other Presidential programs for investment in people and in the physical infrastructure of our country can be financed by redirecting spending within the overall caps on discretionary spending.

More than half of the deficit reduction is made on the spending side. The conference agreement mandates $88 billion in net entitlement cuts. The caps on discretionary spending will reduce outlays by $102 billion compared with a continuation of current policies. Debt service savings, changes in debt management and miscellaneous effects will account for another $65 billion.

But the budget can't be brought under control by spending cuts alone—not without making deep cuts in vital benefit programs, inflicting undue hardship, and short-changing investment programs.

Alternative plans offered in both the House and the Senate which did not include revenues failed to come near President Clinton's $500 billion deficit reduction target. Chairman Greenspan indicated that financial markets would react "appropriately negatively" to any perception that we were backing off the $500 billion commitment.

Furthermore, the additional spending cuts in these alternative plans fell mainly on the poor and the elderly. A budget balanced by spending cuts alone will place an unfair burden on those who can least afford it.

This legislation improves the progressivity of the tax structure and requires those who benefited from the policies of the 1980's and early 1990's to pay their share of the bill that has come due.

The revenue component is a net increase of $241 billion.

The tax package restores tax code progressivity lost in recent years.

Most of the tax increases affect *only* higher-income individuals and corporations. The exception is the gasoline tax, which will cost the average household less than one dollar a week. Overall, the Congressional Budget Office estimates that 81 percent of the tax increase will fall on households with incomes over $200,000. Furthermore, 76 percent of the net tax increase will be on the wealthiest 1 percent of the population.

The conference agreement helps low-income people, particularly workers and their children, and does not hurt those who rely on Social Security as their main source of income.

Social Security benefit payments are not touched. Changes in the taxation of Social Security benefits affect only higher-income retirees, and bring them closer to the tax treatment of working people with similar incomes. Everyone who now pays no tax on his or her Social Security benefits will continue to be exempt.

The expanded Earned Income Tax Credit allows a full-time minimum wage worker with one or two children to bring his or her family up to the poverty line. It encourages work. The proposal will reduce the U.S. child poverty rate, which was one of every four children under age six in 1991. In 1991, 5.5 million poor persons lived in families with children in which someone was employed full-time, year-round.

The conference agreement increases funding for Food Stamps by $2.5 billion over the next five years, targeted to the estimated 5.5 million hungry children and an additional 6 million children at risk of hunger in America. The elimination of the shelter cost cap will assist the most needy families with children, who are most at risk of homelessness.

The Omnibus Budget Reconciliation Act of 1993 represents a major step forward in dealing with the two deficits which became chronic in the last decade—the Federal budget deficit and the deficit in investment in the earning power and well-being of America's workers and their children. It begins a serious program of economic reconstruction. And it represents the first real attempt in more than a decade to invest in America's future and that of our children and grandchildren.

TITLE I—AGRICULTURE

(Numbers in parentheses refer to the section numbers of the provisions in the House Bill (H), the Senate Amendment (S), and the Conference Report (CR))

The Managers on the part of the House and the Senate on title I of the bill met to resolve a number of issues in disagreement between the House Bill and the Senate Amendment. A number of provisions agreed to by the Managers are included in the Conference Substitute. However, a number of provisions that were agreed to by the Managers were subsequently removed from the Conference Substitute pursuant to the Manager's agreement that provisions potentially violative of Section 313 of the Congressional Budget Act of 1974, commonly referred to as the "Byrd Rule", be removed from the conference Substitute.

The Byrd Rule provides, in pertinent part, that during Senate debate on a reconciliation conference report, any Senator may make a point of order against extraneous material that, if sustained, will result in the extraneous material being stricken and result in the conference report being sent back to the House. The Rule also provides guidance as to what constitutes extraneous matter in a reconciliation conference report.

SUBTITLE A—COMMODITY PROGRAMS

UPLAND COTTON. (H. 1103; S. 1103; CR. 1101)

Triple Base. (H. 1103(a))

The *House Bill* amends section 103B(c)(1)(C)(ii) of the Agricultural Act of 1949 ('49 Act) to decrease eligible payment acres under the cotton program from 85% to 80% of the crop base, less the Acreage Conservation Reserve (ACR) requirement for the crop, beginning with crop year 1994.

The *Senate Amendment* contains no similar provision.

The *Conference Substitute* deletes the *House* provision.

50/92 Program. (S. 1103(a); CR. 1101(a)(4))

The *House Bill* contains no similar provision.

The *Senate Amendment* amends section 103B(c)(1)(D) of the '49 Act to reduce the acres eligible for deficiency payments under the program to 85% of payment acres for the 1994 and 1995 crops, except in the case of prevented planting, reduced acres, or planting of alternative crops (in which case payments would be made on 92% of payment acres).

The *Conference Substitute* adopts the *Senate* provision.

Provisions Necessary to the Operation of the Program. (H. 1103(b); CR. 1101(b))

The *House Bill* extends the provisions of the price support program through crop year 1998.

The *Senate Amendment* contains no similar provision.

The Managers agreed to include the *House* provision in the *Conference Substitute*, with an amendment to extend the provisions of the price support program through crop year 1997 including bases and yields, deficiency and land diversion payments, and payment limits. However, certain provisions relating to cotton skiprow practices, extra long staple cotton, cottonseed and cottonseed oil support, preliminary allotments for the 1998 cotton crop, suspension of marketing quotas and acreage allotments, and related provisions, and the suspension of parity-based price support provisions were subsequently deleted from the *Conference Substitute* in order to comply with the Byrd Rule.

The Managers understand that certain of these deleted provisions might be considered necessary in order to prevent potential conflicts between different price support and other provisions of law. It is a well settled legal convention that a later enacted statute takes precedence over a prior enacted conflicting law. The Managers intend that, consistent with this principle, any amendments made or provisions of law extended by this bill should take precedence over any provisions of law that may appear to be in conflict with the operation of the cotton price support program in its current manner as a result of the failure to extend certain of these provisions beyond 1995.

Acreage Limitation Program. (S. 1103(b); CR. 1101(a)(5))

The *House Bill* contains no similar provision.

The *Senate Amendment* amends section 103B(e)(1)(D) of the '49 Act to amend, effective for the 1995 crop, the requirement that the Secretary achieve a ratio of carryover to total disappearance of upland cotton (stocks-to-use ratio) from the present 30 percent to 29½ percent.

The *Conference Substitute* adopts the *Senate* provision with an amendment to require, effective for the 1997 crop of upland cotton, that the Secretary achieve a ratio of carryover to total disappearance of upland cotton (stocks-to-use ratio) of 29 percent.

WHEAT. (H. 1101; S. 1101; CR. 1102)

Triple Base. (H. 1101(a))

The *House Bill* amends section 107(B)(c)(1)(C)(ii) of the '49 Act to decrease eligible payment acres under the wheat program from 85 percent of the crop base, less the ACR requirement for the crop, beginning with crop year 1994.

The *Senate Amendment* contains no similar provision.

The *Conference Substitute* deletes the *House* provision.

0/92 Program. (S. 1101; CR. 1102(a)(4))

The *House Bill* contains no similar provision.

The *Senate Amendment* amends section 107B(c)(1)(E) of the '49 Act to reduce the acres eligible for deficiency payments under the program to 85 percent of payment acres for the 1994 and 1995 crops; except in the case of prevented planting, reduced yields, or planting of alternative crops (in which case payments would be made on 92 percent of payment acres).

The *Conference Substitute* adopts the *Senate* provision with an amendment to extend the 0/92 program through 1997.

Provisions Necessary to the Operation of the Program. (H. 1101(b))

The *House Bill* extends the provisions of the price support program through crop year 1998.

The *Senate Amendment* contains no similar provision.

The Managers agreed to include the *House* provision in the *Conference Substitute* with an amendment to extend the provisions of the price support program through crop year 1997. However, these provisions were subsequently deleted from the *Conference Substitute* in order to comply with the Byrd Rule.

FEED GRAINS. (H. 1102; S. 1102; CR. 1103)

Triple Base. (H. 1102(a))

The *House Bill* amends section 105B(c)(1)(C) of the '49 Act to decrease eligible payment acres under the feed grains program from 85% to 80% of the crop base, less the ACR requirement for the crop, beginning with crop year 1994.

The *Senate Amendment* contains no similar provision.

The *Conference Substitute* deletes the *House* provision.

0/92 Program. (S.1102(a); CR.1103(a)(4))

The *House Bill* contains no similar provision.

The *Senate Amendment* amends section 105B(c)(1)(E) of the '49 Act to reduce the acres eligible for deficiency payments under the program to 85% of payment acres for the 1994 and 1995 crops; except in the case of prevented planting, reduced yields, or planting of alternative crops (in which case payments would be made on 92% of payment acres).

The *Conference Substitute* adopts the *Senate* provision with an amendment to extend the 0/92 program through 1997.

Provisions Necessary to the Operation of the Program. (H.1102(b))

The *House Bill* extends the provisions of the price support program through crop year 1998.

The *Senate Amendment* contains no similar provision.

The Managers agreed to include the *House* provisions in the *Conference Substitute*, with an amendment to extend the provisions of the price support program through crop year 1997. However, these provisions were subsequently deleted from the *Conference Substitute* in order to comply with the Byrd Rule.

Deficiency Payments for Barley. (S.1102(b); CR.1103(a)(4)))

The *House Bill* contains no similar provision.

The *Senate Amendment* amends section 105B(c)(1)(B)(iii)(IV)(bb) of the '49 Act to make a technical correction to extend the feed barley formula through crop year 1995.

The Managers agreed to include the *Senate* provision in the *Conference Substitute*, however, the provision was subsequently deleted from the *Conference Substitute* in order to comply with the Byrd Rule.

RICE (H.1104; S.1104; CR.1104)

Triple Base. (H.1104(a))

The *House Bill* amends section 101B(c)(1)(C)(ii) of the '49 Act to decrease eligible payment acres under the rice program from 85% to 80% of the crop base, less the ACR requirement for the crop, beginning with crop year 1994.

The *Senate Amendment* contains no similar provision.

The *Conference Substitute* deletes the *House* provision.

50/92 Program. (S.1104; CR.1104)

The *House Bill* contains no similar provision.

The *Senate Amendment* amends section 101B(c)(1)(D) of the '49 Act to reduce the acres eligible for deficiency payments under the program to 85% of payment acres for the 1994 and 1995 crops, except in the case of prevented planting, reduced yields, or planting of alternative crops (in which case payments would be made on 92% of payment acres).

The *Conference Substitute* adopts the *Senate* provision with an amendment to extend the 50/92 program through 1997.

Provisions Necessary to the Operation of the Program. (H.1104(b))

The *House Bill* extends the provisions of the price support program through crop year 1998.

The *Senate Amendment* contains no similar provision.

The Managers agreed to include to include the *House* provision in the *Conference Substitute* with an amendment to extend the provisions of the price support program through crop year 1997. However, the provision was subsequently deleted from the *Conference Substitute* in order to comply with the Byrd Rule.

DAIRY (H.1105; S.1105; CR.1105)

Butter/Powder. (H.1105(a); S.1105(a)(1); CR.1105(a)(3))

The *House Bill* amends section 204(c)(3) of the '49 Act to readjust the purchase prices for butter (to no more than $0.65/pound) and nonfat dry milk (to no less than $1.034/pound) beginning on the date of enactment.

The *Senate Amendment* is identical to the House provision except for technical differences.

The *Conference Substitute* adopts the *Senate* provision.

Reduction in Price Received. (H.1105(b); S.1105(a)(2); CR.1105(a)(4))

The *House Bill* amends section 204(h)(2)(B) of the '49 Act to extend the reduction in the price received by milk producers for the 1996 through 1998 calendar years at the reduced level of 10 cents per hundredweight.

The *Senate Amendment* is comparable to the House provision except that it extends the 10 cent reduction in price through the 1996 calendar year only.

The *Conference Substitute* adopts the *Senate* provision.

Provisions Necessary to the Operation of the Program. (H.1105(c)(1); S.1105(c); CR.1105(b))

The *House Bill* extends the provisions of the dairy price support program through the 1998 calendar year.

The *Senate Amendment* extends the dairy price support program through the 1996 calendar year.

The *Conference Substitute* adopts the *House* provision with an amendment to extend the provisions of the price support program through 1996.

Conforming amendments to Extend Other Dairy Provisions. (H.1105(a)(2)–(5))

The *House Bill* extends certain programs through calendar year 1998.

The *Senate Amendment* contains no similar provision.

The Managers agreed to include the *House* provision in the *Conference Substitute*, with an amendment to extend these provisions through 1997. However, certain provisions were extended only through 1996 and other provisions relating to transfer of dairy products to military and veterans hospitals, the Dairy Indemnity Program, the Dairy Export Incentive Program, and Export Sales of Dairy Products were subsequently deleted from the *Conference Substitute* in order to comply with the Byrd Rule.

Bovine Growth Hormone. (S.1105(b); CR.1105(c))

The *House Bill* contains no similar provision.

The *Senate Amendment* amends section 204 of the '49 Act to provide that, from the date of enactment through September 30, 1994, it shall be unlawful to use, market, or sell bovine growth hormone for commercial purposes.

The *Conference Substitute* adopts the *Senate* provision with an amendment. The amendment: (1) changes the period of the prohibition on the sale of bovine growth hormone to the 90-day period immediately following the date on which the Food and Drug Administration first approves the sale of bovine growth hormone; and (2) requires a ten percent reduction in the assessment on dairy producers imposed by the Omnibus Budget Reconciliation Act of 1990 during such 90-day period.

TOBACCO. (H.1106; S.1106; CR.1106)

Marketing Assessment. (H.1106(a))

The *House Bill* amends section 106(g) of the '49 Act to increase the marketing assessment by 10 percent (to .55 percent of the national price support level) for the 1994 through 1998 crops.

The *Senate Amendment* contains no similar provision.

The *Conference Substitute* deletes the *House* provision.

Extension of Marketing Assessment. (H.1106(b); S.1106(b)(1)(A))

The *House Bill* extends the marketing assessment through the 1998 crop.

The *Senate Amendment* is identical to the *House* provision.

The Managers agreed to include the *House* and the *Senate* provisions in the *Conference Substitute*, however, the provision was deleted in order to comply with the Byrd Rule.

Importer Contribution to Marketing Assessment. (S.1106(b)(1)(B)1 CR.1106(b)(1))

The *House Bill* contains no similar provision.

The *Senate Amendment* adds a new subsection (h) to section 106 of the '49 Act to provide that, subject to a monetary penalty for nonpayment, a marketing assessment must be paid by importers of tobacco produced outside of the United States, calculated by multiplying the number of pounds imported times the sum of the per pound marketing assessments imposed on purchasers of domestic Burley and domestic Flue-cured tobacco.

The *Conference Substitute* adopts the *Senate* provision.

Quotas and Allotments. (H.1106(c))

The *House Bill* amends certain quota and allotment provisions in order to improve the effectiveness of the program.

The *Senate Amendment* contains no similar provision.

The Managers agreed to include the *House* provision in the *Conference Substitute*, with amendments directing the Secretary of Agriculture to conduct a referendum in the State of Virginia to determine whether growers favor cross-county leasing of certain marketing quotas. If such a referendum was approved, leasing would be permitted only between farms in adjacent counties as of the date of enactment of the provision. However, these provisions were subsequently deleted from the *Conference Substitute* in order to comply with the Byrd Rule.

Domestic Marketing Assessment. (S.1106(a); CR.1106(a))

The *House Bill* contains no similar provision.

The *Senate Amendment* adds a new section 320C to the Agricultural Adjustment Act of 1938 (1938 Act) to require domestic manufacturers of cigarettes to certify annually to the Secretary the United States, produced percentage of the total quantity of tobacco used by the domestic manufacturers who fail to use at least 75 percent domestic tobacco in cigarettes, or to certify the percentage of domestic tobacco used, shall pay a nonrefundable marketing assessment to the Commodity Credit Corporation (CCC), calculated by multiplying—

(1) the quantity of imported tobacco used by the manufacturer to produce cigarettes in the prior calendar year in excess of 25 percent of total tobacco used, by

(2) the difference between—

(a) the average price per pound of domestic Burley tobacco and domestic Flue-cured tobacco during the preceding year; and

(b) the average price per pound of unmanufactured imported tobacco during the preceding year, as determined by the Secretary.

A domestic manufacturer who uses less than 75 percent domestically grown tobacco also shall purchase from producer-owned cooperative marketing associations a quantity of tobacco (equally divided between Burley and Flue-Cured tobacco) equal to the quantity of imported tobacco used by the manufacturer in excess of 25 percent of all tobacco used to produce cigarettes during the preceding year. Failure to purchase the required amounts of Burley or Flue-cured tobacco from the associations shall result in a penalty in an amount equal to 75 percent of the total purchase shortage.

The *Conference Substitute* adopts the *Senate* provision with amendments. Under the *Conference Substitute*, manufacturers of domestic cigarettes are required to make reports and maintain sufficient records for carrying out the requirements. The *Conference Substitute* clarifies that any person who provides false information or who fails to provide required information is to be subject to applicable Federal criminal sanctions.

The Managers recognize that Turkish and Oriental tobaccos are not grown in the United States. In setting a domestic content standard, the Managers' intent and belief is that the level is sufficient to permit continued importation of Turkish and Oriental tobaccos necessary to maintain current manufacturing blends.

The *Conference Substitute* also contains provisions authorizing the Secretary of Agriculture to reduce the domestic content percentage level under the provision to respond to natural disasters which cause reduced tobacco production. Whenever the Secretary, in consultation with producer-owned cooperative marketing associations, determines that disastrous losses have occurred to an annual crop of Burley or Flue-cured tobacco, and that pool inventories for the kind of tobacco involved have been depleted, the Secretary may reduce the domestic tobacco percentage for cigarettes below 75 percent to a level that approximately reflects the reduced availability of domestic supplies due to disaster losses to such crop. The *Conference Substitute* details guidelines the Secretary is to follow in determining whether disastrous losses have occurred and the extent to which such losses should be factored into a determination of the domestic tobacco percentage.

Importer Contributions to No Net Cost Tobacco Fund. (S. 1106(b)(2); CR.1106(b)(2) and (3))

The *House Bill* contains no similar provision.

The *Senate Amendment* amends sections 106A and 106B of the 1949 Act to require each importer of Flue-cured or Burley tobacco to pay an assessment to the applicable association funds, or the Commodity Credit Corporation No Net Cost Tobacco Accounts, equal to the product of—

(1) the number of pounds imported; and

(2) the sum of the amount of per pound producer contributions and purchaser assessments that are required of domestic producers and purchasers.

Failure by an importer to pay into the No Net Cost Fund or Account will result in a penalty equal to 75 percent of the average market price for the respective kind of tobacco on the quantity of tobacco as to which the failure occurs.

The *Conference Substitute* adopts the *Senate* provision.

Fees for Inspecting Imported Tobacco. (S.1106(c); CR.1106(c))

The *House Bill* contains no similar provision.

The *Senate Amendment* amends section 213(d) of the Tobacco Adjustment Act of 1983 to require the Secretary to collect from importers an amount for user fees paid for inspection services provided at a rate comparable to those fees and charges collected in connection with inspection of tobacco produced in the United States.

The *Conference Substitute* adopts the *Senate* provision.

Quota Reduction Floor. (S.1106(d); CR.1106(d))

The *House Bill* contains no similar provision.

The *Senate Amendment* amends sections 319(c) and 317(c) of the 1938 Act, respectively, to extend the Burley and Flue-cured tobacco quota reduction floors to 1996, and authorize the Secretary to reduce the 1995 and 1996 Burley and Flue-cured national marketing quotas by more than 10% of the preceding year's national marketing quotas if the use of the statutory minimum national marketing quota would cause inventories of burley or flue-cured tobacco to exceed 150 percent of the applicable reserve stock level.

The *Conference Substitute* adopts the *Senate* provisions.

SUGAR. (H.1107; S.1107; CR.1107)

Marketing Assessment. (H.1107(a); S.1107; CR.1107(a))

The *House Bill* amends section 206(i) of the '49 Act to increase the current marketing assessment by 10% to 0.198 cents per pound of raw cane sugar, and 0.2123 cents per pound of beet sugar, for all marketings during fiscal years 1995 through 1999.

The *Senate Amendment* is comparable to the *House* provision except it does not require the assessments beyond the fiscal year 1996.

The *Conference Substitute* adopts the *House* provision with an amendment to increase the marketing assessment for fiscal years 1995 through 1998 to an amount equal to 1.1 percent of the loan level for raw cane sugar, and 1.1794 percent of such loan level per pound of beet sugar. Processors of sugarcane or sugar beets who knowingly market sugar in excess of their allocated allotment under section 359d of the Agricultural Adjustment Act of 1938 are required to pay an additional assessment equal to double the applicable marketing assessment.

Provisions Necessary to the Operation of the Program. (H.1107(b); CR.1107(b))

The *House Bill* extends the sugar price support program through the 1998 crops.

The *Senate Amendment* contains no similar provision.

The *Conference Substitute* adopts the House provision with an amendment to extend the provisions of the price support program through the 1997 crops.

OILSEEDS. (H.1108; S.1108; CR.1108)

Provisions Necessary to the Operation of the Program. (H.1108(a); CR.1108))

The *House Bill* extends the provisions of the oilseeds program through the 1998 marketing year.

The *Senate Amendment* contains no similar provision.

The Managers agreed to include in the *Conference Substitute* the *House* provision with an amendment to extend the provisions of the price support program through the 1997 marketing year. However, the provision was deleted from the *Conference Substitute* in order to comply with the Byrd Rule.

Loan Level. (S.1108(a); CR.1108(3))

The *House Bill* contains no similar provision.

The *Senate Amendment* amends section 205(c) of the '49 Act to lower the soybean loan rate to $4.92 per bushel from $5.02 per bushel and the minor oilseed loan rate to $0.087 per pound from $4.089 per pound for the 1994 through 1995 crops.

The *Conference Substitute* adopts the *Senate* provision with an amendment to extend the changed loan rates through 1997.

Loan Maturity. (S.1108(b); CR.1108(4))

The *House Bill* contains no similar provision.

The *Senate Amendment* amends section 205(h) of the '49 Act to provide that oilseed loans for the 1994 and 1995 crops shall mature 9 months after the application is made, but in no case later than the last day of the fiscal year in which they are made.

The *Conference Substitute* adopts the *Senate* provision with an amendment to apply the provision through the 1997 crop.

Loan Origination Fee. (S.1108(c); CR.1108(5))

The *House Bill* contains no similar provision.

The *Senate Amendment* amends section 205(m) of the '49 Act to limit the applicability of the loan origination fee to the 1991 through 1993 crops of soybeans and minor oilseeds.

The *Conference Substitute* adopts the *Senate* provision.

PEANUTS (H.1109; S.1109; CR.1109)

Additional Marketing Assessment. (H.1109(a))

The *House Bill* amends section 108B of the '49 Act to establish an additional marketing assessment of 2 percent in addition to the current 1 percent required in section 108B of the national average quota or additional peanut support rate per pound for the 1993 through 1998 crops of peanuts. Producers and handlers of peanuts would each pay one-half of the additional assessment. Assessments collected would be used to defray realized losses of the peanut program. Monies assessed would be put into a reserve account and used to cover losses incurred by the

Commodity Credit Corporation (CCC) for the sale or disposal of peanuts for which price support has been provided.

The *Senate Amendment* contains no similar provision.

The *Conference Substitute* deletes the *House* provision.

Provisions Necessary to the Operation of the Program. (H.1109(b); CR.1109(c))

The *House Bill* extends the peanut price support program through crop year 1998.

The *Senate Amendment* contains no similar provision.

The Managers agreed to include the *House* provision in the *Conference Substitute* with an amendment to extend the provisions of the price support program through crop year 1997. However, the provisions of the *House Bill* that extended current provisions relating to Peanut Experimental and Research Programs, the suspension of marketing quotas, acreage allotments, and certain price support provisions, producer referenda on proundage quotas, transfer of quota, and others through 1997 were subsequently deleted from the *Conference Substitute* in order to comply with the Byrd Rule.

The Managers understand that certain of these deleted provisions might be considered necessary in order to prevent potential conflicts between different price support and other provisions of law. It is a well settled legal convention that a later enacted statute takes precedence over a prior enacted conflicting law. The Managers intended that, consistent with this principle, any amendments made or provisions of law extended by this bill should take precedence over any provisions of law that may appear to be in conflict with the operation of the peanut price support program in its current manner as a result of the failure to extend certain of these provisions beyond 1995.

Assessment Under Marketing Agreement. (H.1109(c); CR.1109(b))

The *House Bill* adds a new provision to section 8b(b)(1) of the Agricultural Adjustment Act (7 U.S.C. 608(b)(1)(1)), which authorizes the Secretary, if assessments exist under a marketing agreement entered into under the authority of section 8b of the Agricultural Adjustment Act, to apply the assessment to all peanut handlers, regardless of whether they have entered into such agreement.

The *Senate Amendment* contains no similar provision.

The *Conference Substitute* adopts the *House* provision with an amendment to exempt nonparticipating peanut handlers from assessments for purposes of indemnifying producers for peanuts rejected under the agreement.

Marketing Assessment. (H.1109(b); S.1109; CR.1109(a)(3))

The *House Bill* amends section 108B(g) of the '49 Act to extend the current marketing assessment on peanut producers and first purchasers through the 1998 crop.

The *Senate Amendment* amends section 108B(g) of the '49 Act to increase the total marketing assessment by 10% for the 1994 through 1997 crops, with producers paying 0.6%, and first purchasers paying 0.5%, of the product of the applicable national average support rate times the quantity of peanuts marketed.

The Manager agreed to include the *Senate* provision with an amendment to increase and extend marketing assessments through the 1997 crop, with further increases in the last two years, and to split the increased marketing assessment between producers and first purchasers as follows:

	Total assessment	Producer	1st purchaser
1993	1.0	0.5	0.5
1994	1.1	.55	.55
1995	1.1	.55	.55
1996	1.15	.6	.55
1997	1.2	.65	.55

Honey. (H.1110; S.1110; CR.1110)

Support Rate. (H.1110(a); S.1110(a); CR.1110(2))

The *House Bill* amends section 207(a) of the '49 Act to reduce the minimum price support level for honey from 53.8 cents per pound to 50 cents per pound for the 1994 through 1997 crop years.

The *Senate Amendment* amends section 207(a) of the '49 Act to reduce the minimum price support level for honey from 53.8 cents per pound to 47 cents per pound for the 1994 through 1997 crop years.

The *Conference Substitute* adopts the *Senate* provision with an amendment to ratchet down the support rate for crop years 1994 through 1998. The price support level per pound for honey under the amendment will be as set out in the following table:

Crop year and price support rate:
1993—53.8 cents (current law).
1994—50 cents.
1995—50 cents.
1996—49 cents.
1997—48 cents.
1998—47 cents.

Payment Limitations. (H.1110(b); S.1110(b); CR.1110(3))

The *House Bill* amends section 207(e) of the '49 Act to reduce the amount of payments that may be received by a person from $125,000 in the 1994 crop year to $100,000 in the 1995 crop year, $75,000 in the 1996 crop year, and $50,000 in the 1997 and subsequent crop years.

The *Senate Amendment* is comparable to the House provision, except it does not apply beyond the 1997 crop year.

The *Conference Substitute* adopts the *House* provision with an amendment to extend the payment limit only through 1998.

Provision Necessary to the Operation of the Program. (H.1110(c); S. 1110(c); CR.1110))

The *House Bill* extends the honey price support program through the 1998 crop year.

The *Senate Amendment* extends the honey price support program through the 1997 crop year.

The *Conference Substitute* adopts the *House* provision.

Marketing Assessment. (H.1110(d); CR.1110(4))

The *House Bill* amends section 207(i) of the '49 Act to eliminate the honey marketing assessment beginning in crop year 1994.

The *Senate Amendment* contains no similar provision.

The *Conference Substitute* adopts the *House* provision.

WOOL and MOHAIR (H.1111; S.1111; CR.1111)

Payment Limitations. (H.1111(a); S.1111(a); CR.1111(2))

The *House Bill* amends section 704(b) of the National Wool Act of 1954 to reduce the amount of incentive payments that a person may receive to $125,000 in the 1994 marketing year, to $100,000 in the 1995 marketing year, $75,000 in the 1996 marketing year, and $50,000 in the 1997 and subsequent marketing years.

The *Senate Amendment* is comparable to the House provision except it does not apply beyond the 1997 marketing year.

The *Conference Substitute* adopts the *Senate* provision.

Marketing Charges. (H.1111(b); S.1111(d); CR.1111(3))

The *House Bill* amends section 706 of the National Wool Act of 1954 to reduce outlays by prohibiting the Secretary from deducting specified marketing charges in determining net sales proceeds for shorn wool and shorn mohair.

The *Senate Amendment* is identical to the House provision, except for technical differences.

The *Conference Substitute* adopts the *Senate* provision.

Provisions Necessary to the Operation of the Program. (H.1111(c); S.1111(e)(2); CR.1111(1))

The *House Bill* extends the price support program for wool and mohair through the 1998 marketing year.

The *Senate Amendment* extends the price support program for wool and mohair through the 1997 marketing year.

The *Conference Substitute* adopts the *Senate* provision.

Marketing Assessment. (H.1111(d); S.1111(c); CR.1111(2)(B))

The *House Bill* amends section 704(c) of the National Wool Act of 1954 to eliminate the wool and mohair marketing assessment beginning with the 1993 marketing year.

The *Senate Amendment* is identical to the *House* provision, except for technical differences.

The *Conference Substitute* adopts the *Senate* provision.

Policy of Congress. (H.1111(e)(1))

The *House Bill* amends section 702 of the National Wool Act of 1954 to strike the reference to wool as a strategic commodity and to strike the finding that the wool promotion policy is a measure of national security.

The *Senate Amendment* contains no similar provision.

The *Conference Substitute* contains no similar provision.

The Managers agreed to include the *House* provision in the *Conference Substitute*, however, the provision was subsequently deleted from the *Conference Substitute* in order to comply with the Byrd Rule.

Cap on Price Support for Shorn Wool; Technical Deletion of Obsolete Language. (H.1111(e)(2); S.1111(e)(1) & 1111(b))

The *House Bill* amends section 703(b)(3) of the National Wool Act of 1954 to eliminate obsolete language which does not affect the current calculation of price support for wool.

The *Senate Amendment* revises section 703(b)(3) of the National Wool Act of 1954 to prohibit the support price for shorn wool for the 1994 through 1997 marketing years from exceeding the support price for the 1993 marketing year. This section also eliminates obsolete language.

Section 1111(e)(1) also strikes "1982" and inserts "1990", which is consistent with the *House* provision.

The Managers agreed to include the *House* provision, however, the provision was subsequently deleted from the *Conference Substitute* in order to comply with the Byrd Rule.

Advertising and Sales Promotion Program. (H.1111(e)(3))

The *House Bill* adds a new section 708(b) of the National Wool Act of 1954 to require that funds of the Commodity Credit Corporation be used to provide funds for a wool and mohair promotion program if funding for a marketing year would be less than was available in the previous marketing year.

The *Senate Amendment* contains no similar provision.

The *Conference Substitute* deletes the *House* provision.

Conforming Amendments To Extension of Commodity Titles (H.1112)

The *House Bill* extends all other provisions of titles I–XI of the 1990 Farm Bill through

1998. This includes, among others, programs such as Deficiency Payments, the Acreage Base and Yield System, the National Cost of Production Standards Review Board, and the Options Pilot Program.

The *Senate Amendment* contains no similar provision.

The Managers agreed to include the *House* provisions with an amendment to extend the provisions through 1997. However, the provisions were subsequently deleted from the *Conference Substitute* in order to comply with the Byrd Rule.

SUBTITLE B—RESTRUCTURING OF RURAL ELECTRIFICATION LOAN PROGRAMS

Restructuring of Certain Loan Programs. (H.1201; S.1201)

The *House Bill* amends sections 2, 4, 7, 13, 18, 203, 305, 307, 309, 314, 406, and 408 of, adds new sections 306C and 306D to, the REAct, and makes certain amendments to the Consolidated Farm and Rural Development Act, to restructure the Rural Electrification Administration (REA) direct and insured electric and telephone loan programs, to target assistance provided under such programs, to reduce the cost of the programs, and to delete the current authority for the REA to make electric and telephone loans at 2% interest rates.

The *Senate Amendment* is similar to the House provision except that it does not amend section 7 of the REAct, it omits certain provisions of the House bill, and includes other provisions not included in the House bill, in addition to a number of other technical differences.

The Managers agreed to resolve the provisions of Subtitle B of title I to include those provisions indicated below. However, a number of these items were subsequently deleted from the Conference Substitute in order to comply with the Byrd Rule.

Insured Electric Loans (H.1201(a)(1); S.1201(a)(1))

The *House Bill* amends section 305(c) of the REAct to establish a hardship loan program under which the Administrator is directed to make electric loans and charge interest of 5% annually, if—

(1) the average revenue per kilowatt-hour sold by the applicant is not less than 120 percent of the State average;

(2) the average *residential* revenue per kilowatt-hour sold by the applicant is not less than 120 percent of the State average; and

(3) the average per capita income (or median household income) of residents in the service area of the applicant is less than the State average.

New section 305(c)(1)(B) authorizes the Administrator to make 5% hardship loans to applicants that, in the discretion of the Administrator, have experienced a severe hardship. Section 305(c)(1)(C) provides that no hardship loan may be made to an applicant if the average number of consumers per line mile of the system exceeds 17 and the purpose of the loan is to furnish or improve service to an urban area.

New section 305(c)(2) establishes a municipal rate loan program under which the Administrator is directed to make electric loans and charge interest at a rate equal to the current market yield on municipal bonds of similar maturities. Section 305(c)(2) limits the interest that may be charged under the program to 7% if—

(1) the average number of consumers does not exceed 5.5 per line mile; or

(2)(A) the average revenue per kilowatt-hour sold by the applicant is not less than the State average; and

(B) the average per capita income (or median household income) of residents in the service area of the applicant is less than the State average.

Section 305(c)(2) provides that the program's 7% interest rate cap will not apply to certain borrowers with more than 17 consumers per line mile if the purpose of the loan is to furnish or improve electric service to consumers in an urban area. Section 305(c)(2) also makes available a prepayment option to borrowers. Section 305(c)(3) prohibits the Administrator from requiring that borrowers of hardship loans obtain credit elsewhere as a condition of obtaining such REA electric loan.

Section 305(c)(2)(C)(ii) allows borrowers to select the term of their loan repayment, up to 35 years.

The *Senate Amendment* is identical to the House provision except—

(1) for technical differences; and

(2) that section 305(c)(2)(C)(ii) of the Senate provision allows borrowers to select the term of their loan repayment, up to 35 years, subject to the REA Administrator's authority to prohibit an applicant from selecting a term that would result in the total term of the loan being greater than the useful life of the assets being financed.

The Managers agreed to adopt the *Senate* provision with a number of technical amendments. However, the provision was subsequently *deleted* from the *Conference Substitute* in order to comply with the Byrd Rule.

Insured Telephone Loans. (H. 1201(a)(1); S. 1201(a)(1))

The *House Bill* amends section 305(d) of the REAct to delete the current authority for the REA to make telephone loans at 2% interest and establishes a multi-leveled telephone loan program.

New section 305(d)(1) establishes a hardship loan program under which the Administrator is directed to make telephone loans and charge interest of 5% annually, if—

(1) the average number of subscribers per line mile in the loan applicant's service are is not more than 4;

(2) the applicant is capable of producing income or margins, before interest payments on the loan applied for, not less than that necessary to service interest requirements on all outstanding debt and not more than three times such interest service requirements; and

(3) the Administrator has approved a telecommunications modernization plan for the State and, if a borrower-developed plan, the applicant is a participant in the plan.

New section 305(d)(1)(B) authorizes the Administrator to waive the income requirement in (2) above, under certain emergencies or in the case of severe hardship. Section 305(d)(1)(C) allows applicants to request a Rural Telephone Bank loan if funds for the hardship loan program are exhausted.

New section 305(d)(2) establishes a cost-of-money loan program under which the Administrator is directed to make telephone loans and charge interest at a rate equal to the current cost of money to the Federal Government and limits the interest that may be charged under the program to 7% if—

(1) the applicant's average number of subscribers does not exceed 15 per line mile;

(2) the applicant is capable of producing income or margins, before interest payments on the loan applied for, not less than that necessary to service interest requirements on all outstanding debt, and not greater than five times such interest service requirements; and

(3) the Administrator has approved a telecommunications modernization plan for the State and, if a borrower-developed plan, the applicant is a participant in the plan.

New section 305(d)(2)(B) requires the Administrator to offer cost-of-money loan program applicants the option to include in the loan agreement the right of the applicant to prepay.

New section 305(d)(2)(C) requires the Administrator, on the request of a cost-of-money loan program applicant, to—

(1) consider the application to be for a Rural Telephone Bank (RTB) loan; and

(2) if the applicant is eligible for such an RTB loan, make a cost-of-money loan to the applicant concurrently with an RTB loan, in specified amounts from each program.

New section 305(d)(2)(D) allows applicants to request an REA loan guarantee if funds for the cost-of-money loan program are exhausted.

New section 305(d)(3) requires that a telecommunications modernization plan be approved for the State in order for borrowers in the State to be eligible for telephone loans and allows States 6 months after final regulations for the program are promulgated to develop the plan, after which time the Administrator must approve a plan developed by a majority of the telephone borrowers in the State. New section 305(d)(3) also establishes criteria for the modernization plan and prohibits the disapproval of the plan once it has been approved by the Administrator.

The *Senate Amendment* is identical to the *House* provision except—

(1) for technical differences;

(2) section 305(d)(1)(A)(ii) as added by the Senate provision requires an applicant for a loan to be capable of producing net income or margins, after interest payments on the loan applied for, of not less than the amount necessary to service interest requirements on all outstanding debt and not greater than five times such interest service requirements;

(3) section 305(d)(2)(B) requires the Administrator to offer cost-of-money loan program applicants the option to include a prepayment right in the loan agreements, on terms consistent with similar provisions of commercial loans.

(4) that section 305(d)(3)(B)(vi) of the REAct as added by the Senate provision requires that telecommunications modernization plan to provide for such additional requirements for service standards as maybe required by the Administrator; and

(5) that section 305(d)(3)(C) of the REAct as added by the Senate provision provides for a grace period during which loans maybe made to a borrower serving a State that does not have an approved telecommunication modernization plan if the loan is made less than 1 year after the REA Administrator has adopted final regulations to implement the modernization plan requirement.

The Managers agreed to adopt the *House* provision with a number amendments, including an amendment to exclude from eligibility for telephone loans under the hardship program applicants with an average number of subscribers per mile of line in the area included in the proposed loan of more than 17. However, the provision was subsequently *deleted* from the *Conference Substitute* in order to comply with the Byrd Rule.

Rural Telephone Bank Loan Program Purposes. (H. 1201(a)(2)(A); S. 1201(a)(2)(A))

The *House Bill* amends section 408(a) of the REAct to strike the first and second purposes and to require that RTB loans be made (1) "for the purchase and installation of telephone lines, systems, and facilities (other than buildings used primarily for administrative purposes, vehicles not used primarily in construction, and personal customer premise equipment) directly related to the furnishing, improvement, or extension of rural telecommunications service or the acquisition of a rural telecommunications capability", and (2) for the purchase of class B stock.

The *Senate Amendment* similarly amends section 408(a), except—

(1) for certain technical differences; and

(2) the Senate provision does not delete purpose (1), as currently included in section 408(a) of the REAct.

The Managers agree to adopt the *Senate* provision. However, the provision was subsequently *deleted* from the *Conference Substitute* in order to comply with the Byrd Rule.

Rural Telephone Bank Loan Program Eligibility. (H. 1201(a)(2)(B)(i); S. 1201(a)(2)(B)(i))

The *House Bill* amends section 408(b)(4) of the REAct to provide that the RTB may make a loan to an applicant only if—

(1) the average number of subscribers in the applicant's service area does not exceed 15 per line mile;

(2) The applicant is capable of producing net income or margins, *before* interest payments on the loan applied for, of not less than that necessary to service interest requirements on all outstanding debt and not greater than five times such interest service requirements; and

(3) the Administrator has approved a telecommunications modernization plan for the State, and, if a borrower-developed plan, the applicant is a participant in the plan.

The *Senate Amendment* is identical to the House provision, except—

(1) for technical differences; and

(2) the Senate provision requires an applicant for a loan to be capable of producing net income or margins, *after* interest payments on the loan applied for, of not less than that necessary to service interest requirements on all outstanding debt and not greater than five times such interest service requirements.

The Managers agreed to adopt the *Senate* provision. However, the provision was subsequently *deleted* from the *Conference Substitute* in order to comply with the Byrd Rule.

Rural Telephone Bank Loan Prepayments. (H. 1201(a)(2)(B)(ii); S. 1201(a)(2)(B)(ii))

The *House Bill* amends section 408(b)(8) of the REAct to extend the prepayment authority under such section to allow the prepayment at face value of RTB loans made after the date of enactment of Omnibus Budget Reconciliation Act of 1993 (OBRA '93). The amendment also requires that the RTB must use funds from such prepayments to repay obligations issued to the U.S. Treasury under section 407(b) of the REAct, and that in repaying such obligations the Governor must first repay the advances bearing the greatest rate of interest.

The *Senate Amendment* is identical to the House provision, except that the Senate Amendment does not require the RTB to give priority, in repaying obligations issued to the U.S. Treasury with funds from prepayments, to the repayment of advances bearing the greatest rate of interest.

The Managers agreed to adopt the *House* provision. However, the provision was subsequently *deleted* from the *Conference Substitute* in order to comply with the Byrd Rule.

Rural Telephone Bank—Concurrent Loan Authority. (H. 1201(a)(2)(B)(iii); S. 1201(a)(2)(B)(iii))

The *House Bill* adds new paragraphs (9) and (10) to section 408 of the REAct that require the Governor of the RTB, on the request of an RTB loan applicant, to—

(1) consider the application to be for a Rural Telephone Bank (RTB) loan under section 408 and for a REA cost-of-money telephone loan under section 305(d)(2) of the REAct; and

(2) if the applicant is eligible for such a REAct loan, make a cost-of-money loan to the applicant concurrently with an REA loan, in specified proportions from each program.

The *Senate Amendment* is identical to the House provision, except for technical differences.

The Managers agreed to adopt the *Senate* provision. However, the provision was subsequently *deleted* from the *Conference Substitute* in order to comply with the Byrd Rule.

Rural Telephone Bank—Interest Rates. (H. 1201(a)(2)(C))

The *House Bill* adds a new section 408(e) to the REAct to require that RTB loans and advances made on or after November 5, 1990 must bear an interest rate as determined under section 408 of the REAct. The application of the section is limited to loans obligated after the date of enactment of OBRA '93.

The *Senate Amendment* contains no comparable provision.

The Managers agreed to adopt the *House* provision with an amendment to clarify that funds are not authorized under section 408(e) until actually appropriated. However, the provision was subsequently *deleted* from the *Conference Substitute* in order to comply with the Byrd Rule.

Authorization of Appropriations. (H. 1201(a)(3); S. 1201(a)(3))

The *House Bill* amends section 314 of the REAct to require that loans be made for the REA electric and telephone programs at the following levels:

(1) Electric hardship loans—$125 million per year through 1998, adjusted for inflation after 1994.

(2) Electric municipal rate loans—$600 million per year through 1998, adjusted for inflation after 1994.

(3) Telephone hardship loans—$125 million per year through 1998, adjusted for inflation after 1994.

(4) Telephone cost-of-money loans—$198 million per year through 1998, adjusted for inflation after 1994.

The *Senate Amendment* is comparable to the *House* provision, except for technical differences.

The Managers agreed to adopt the *Senate* provision. However, the provision was subsequently *deleted* from the *Conference Substitute* in order to comply with the Byrd Rule.

Rule of Interpretation. (H. 1201(a)(4))

The *House Bill* adds at the end of section 309(a) of the REAct a sentence to clarify that section 309(a) shall not be construed to make section 408(b)(2) or section 412 applicable to title III of the REAct.

Section 408(b)(2) of the REAct provides, in pertinent part, that all loans made pursuant to the REAct for facilities for telephone systems with an average subscriber density of three or fewer per line mile shall be made under section 201 of the REAct, unless the borrower elects to have such loan made by the RTB. Section 412 prohibits the making of a section 201 loan to any borrower that during the immediately preceding year had a net worth in excess of 20 percent of its assets, unless the Administrator finds that the borrower cannot obtain such a loan from the RTB or from other reliable sources at reasonable rates of interest and terms and conditions.

The *Senate Amendment* contains no comparable provision.

The Managers agreed to adopt the *House* provision. However, the provision was subsequently *deleted* from the *Conference Substitute* in order to comply with the Byrd Rule.

Demand Side Management Programs. (H. 1201(a)(5)(A) & (B); S. 1201(a)(4)(A) & (B))

The *House Bill* amends section 2 and 4 of the Rural Electrification Act of 1936 (REAct) to clarify that the rural electric loan program may be used to furnish *and improve* electric service, and to assist electric borrowers to implement demand side management and energy conservation programs.

The *Senate Amendment* is identical to the House provision, except for technical differences.

The Managers agreed to adopt the *Senate* provision. However, the provision was subsequently *deleted* from the *Conference Substitute* in order to comply with the Byrd Rule.

Protection Against Municipal Condemnation. (H. 1201(a)(5)(C))

The *House Bill* amends section 7 of the REAct to extend the provisions of section 306(b) of the Consolidated Farm and Rural Development Act (regarding rural water associations) to REAct rural electric and telephone borrowers. The provision would also prohibit municipal and other governmentally-owned utilities from curtailing or limiting the ability of rural electric and telephone borrowers from continuing to service their current territories.

The *Senate Amendment* contains no comparable provision.

The Managers agreed to adopt the *House* provision. However, the provision was subsequently *deleted* from the *Conference Substitute* in order to comply with the Byrd Rule.

Rural Area Definition—Electric Program. (H. 1201(a)(5)(D); S. 1201(a)(4)(C))

The *House Bill* amends section 13 of the REAct to change the definition of "rural area", for purposes of titles I, III, IV, and V of the Act, to mean those areas not within an urban *or urbanized* area, as defined by the Bureau of the Census.

The *Senate Amendment* is similar to the House provision, except that it defines rural area to mean those areas not within an urban area, as defined by the Bureau of the Census.

The Managers agreed to adopt the *Senate* provision. However, the provision was subsequently *deleted* from the *Conference Substitute* in order to comply with the Byrd Rule.

Rural Area Definition—Title II Telephone Program. (H. 1201(a)(5)(E); S. 1201(a)(4)(D))

The *House Bill* amends section 203(b) of the REAct to change the definition of "rural area" for purposes of title II of the Act to mean those areas not within a city, village, or borough in excess of 5,000 inhabitants.

The *Senate Amendment* is identical to the House provision.

The Managers agreed to adopt the *Senate* provision. However, the provision was subsequently *deleted* from the *Conference Substitute* in order to comply with the Byrd Rule.

Miscellaneous Amendments—Title III. (H. 1201(a)(5)(F); S. 1201(a)(4)(E) & (F))

The *House Bill* amends section 307 of the REAct to prohibit the Administrator from requesting that an electric loan applicant apply for and accept a loan from other sources in an amount exceeding 30 percent of the credit needs of the applicant.

The *Senate Amendment* is identical to the House provision. Section 1201(a)(4)(E) makes technical amendments to section 305 of the REAct not included in the House provision.

The Managers agreed to adopt the *Senate* provision. However, the provision was subsequently *deleted* from the *Conference Substitute* in order to comply with the Byrd Rule.

RTB Investments. (H. 1201(a)(5)(G); S. 1201(a)(4)(G))

The *House Bill* adds a new subsection (i) to section 406 of the REAct to authorize the RTB to invest funds from the RTB Equity Account in obligations of the United States.

The *Senate Amendment* is identical to the House provision.

The Managers agreed to adopt the *Senate* provision. However, the provision was subsequently *deleted* from the *Conference Substitute* in order to comply with the Byrd Rule.

Loan Origination Fee Prohibition. (H. 1201(a)(5)(H); S. 1201(a)(4)(H))

The *House Bill* adds a new subsection (b) to section 18 of the REAct to prohibit the Administrator and the Governor from charging any fee or charge not expressly provided for in the Act in connection with any loan under the Act.

The *Senate Amendment* is similar to the House provision, except that in new subsection (b) of section 18, it prohibits the charging of fees in connection with any loan *made or guaranteed* under the Act.

The Managers agreed to adopt the *Senate* provision. However, the provision was subsequently *deleted* from the *Conference Substitute* in order to comply with the Byrd Rule.

Consultants—Generally. (S. 1201(a)(4)(H))

The *House Bill* contains no comparable provision.

The *Senate Amendment* adds a new subsection (c) to section 18 of the REAct that—

(1) in new paragraph (1), authorizes the Administrator to permit a borrower to voluntarily provide funds for use by the Administrator in obtaining technical, engineering, legal or other assistance required in the review of an application for a loan or loan guarantee;

(2) in new paragraph (2), requires the Administrator to ensure that a consultant hired for such a purpose must have no financial or other conflict of interest in the outcome of the application of the borrower;

(3) in new paragraph (3), prohibits the Administrator from requiring a borrower to pay consultancy costs as a condition of processing a loan application, without the consent of the borrower;

(4) in new paragraph (4), authorizes the Administrator to enter into such contracts, grants, or cooperative agreements as are necessary to carry out section 18 of the REAct, without regard to any requirements for competition, section 3709 of the Revised Statutes, and section 3324 of title 31, United States Code; and

(5) in new paragraph (5), provides that nothing in the new subsection (c) may limit the Administrator's authority to retain consultants from funds otherwise made available to the Administrator.

The Managers agreed to adopt the *Senate* provision with an amendment to delete the clause in paragraph (4) that authorizes the Administrator to enter into such contracts "without regard to any requirements for competition, section 3709 of the Revised Statutes, and section 3324 of title 31, U.S.C." However, the provision was subsequently *deleted* from the *Conference Substitute* in order to comply with the Byrd Rule.

Distribution Borrower Eligibility; Administrative Prohibitions. (H. 1201(a)(5)(I); S. 1201(a)(4)(I))

The *House Bill* adds a new section 306C to the REAct to provide that—

(1) a distribution borrower not in default on the repayment of any loan made or guaranteed under the Act shall be eligible for a loan, loan guarantee, or lien accommodation under title III of the REAct; and

(2) for the purpose of determining such eligibility, a default by a borrower from which a distribution borrower purchases wholesale power shall not be considered a default by the distribution borrower.

Section 1201(a)(5)(I) also adds a new section 306D to the REAct to prohibit the REA Administrator from—

(1) requiring prior approval of;

(2) imposing any requirement, restriction, or prohibition with respect to the operation of; or

(3) denying or delaying the granting of a lien accommodation to, any electric borrower whose net worth exceeds 110 percent of the outstanding principal balance on all loans made or guaranteed to the borrower by the Administrator.

The *Senate Amendment* is similar to the *House* provision, except that, with regard to new section 306C, it also provides that a default by a borrower from which the distribution borrower purchases wholesale power shall not—

(1) reduce the eligibility of the distribution borrower for assistance under the REAct; or

(2) be the cause, directly or indirectly, or imposing any requirement of restriction on the borrower as a condition of assistance, except as necessary to implement a debt restructuring agreed on by the power supply borrower and the Government.

The Managers agreed to adopt the *Senate* provision. However, the provision was subsequently *deleted* from the *Conference Substitute* in order to comply with the Byrd Rule.

Water and Waste Loan Eligibility. (H.1201(b); S.1021(b))

The *House Bill* amends section 306(a)(1) of the Consolidated Farm and Rural Development Act to expand the eligibility for water and waste loans under section 306(a)(1) to include any borrower to whom a loan has been made under the REAct.

The *Senate Amendment* is identical to the *House* provision, except for technical differences.

The Managers agreed to adopt the *Senate* provision. However, the provision was subsequently *deleted* from the *Conference Substitute* in order to comply with the Byrd Rule.

Regulations. (H.1201(c); S.1201(d))

The *House Bill* requires the Administrator of the Rural Development Administration, not later than October 1, 1993, to issue interim final rules to implement the amendments made by section 1201.

The *Senate Amendment* requires that interim final rules to implement the amendments made by section 1201 must be issued not later than October 1, 1993 by—

(1) the REA Administrator in the case of amendments to programs administered by the Administrator; and

(2) the Rural Development Administration Administrator in the case of amendments to programs administered by the Administrator.

The Managers agreed to adopt the *Senate* provision. However, the provision was subsequently *deleted* from the *Conference Substitute* in order to comply with the Byrd Rule.

Transfer of REAct Administration to RDA. (H.1202(a))

The *House Bill* amends section 1 of the REAct to provide that the Administrator of the Rural Development Administration shall carry out the REAct under the supervision of the Secretary of Agriculture, and makes a number of conforming amendments.

The *Senate Amendment* contains no comparable provision.

The *Conference Substitute* deletes the *House* provision.

Other REA Functions Transferred to RDA. (H.1202(b))

The *House Bill* adds a new subsection (g) to section 364 of the Consolidated Farm and Rural Development Act to—

(1) transfer the rights, interests, obligations, and duties of the REA Administrator to the RDA Administrator;

(2) provide that any reference in law to the REA be deemed to be a reference to the RDA;

(3) clarify that the transfer of such authorities shall not abate or effect any proceedings involving the REA; and

(4) transfer all REA personnel to the RDA.

The *Senate Amendment* contains no comparable provision.

The *Conference Substitute* deletes the *House* provision.

Structure of the Rural Development Administration. (H. 1202(c))

The *House Bill* adds a new subsection (h) to section 364 of the Consolidated Farm and Rural Development Act to—

(1) require the appointment of a Deputy Administrator for rural utilities to administer the programs authorized under the REAct and the RDA ruralwater and waste disposal program; and

(2) authorize the appointment of 4 Assistant RDA Administrators responsible for electric; telephone; water and sewer; and rural utility engineering, management, and accounting programs and functions.

The *Senate Amendment* contains no comparable provision.

The *Conference Substitute* deletes the *House* provision.

Rural Development Program Eligibility. (H. 1202(d); S. 1201(c))

The *House Bill* adds a new subsection (i) to section 364 of the Consolidated Farm and Rural. Development Act to provide that a borrower of a loan or loan guarantee under the REAct shall be eligible for assistance under all programs administered by the RDA, and to require the RDA Administrator to encourage and facilitate the full participation of REA borrowers in RDA programs.

The *Senate Amendment* is identical to the House provision, except for technical differences.

The Managers agreed to adopt the *House* provision. However, the provision was *deleted* from the Conference Substitute in order to comply with the Byrd Rule.

Technical Assistance Unit. (H. 1202(d))

The *House Bill* adds a new subsection (j) to section 364 of the Consolidated Farm and Rural Development Act to require the RDA Administrator to provide all RDA program borrowers advice and guidance on community and economic development activities. Section 1202(d)(2) repeals section 11A of the REAct.

The *Senate Amendment* contains no comparable provision.

The *Conference Substitute* deletes the *House* provision.

Regulations; Electric Loan Prepayment. (H. 1202(e); CR. 1201)

The *House Bill* requires the RDA Administrator, not later than January 1, 1994, to issue interim final rules to implement the amendments made by section 1202.

The *Senate Amendment* contains no comparable provision.

The *Conference Substitute* deletes the *House* provision.

The Managers agreed to adopt the *House* provision. However, the provision was subsequently *deleted* from the *Conference Substitute* in order to comply with the Byrd Rule.

The *Conference Substitute* also adopts an amendment included in section 1201 of the

Substitute to provide for the refinancing of Federal Financing Bank electric loans made under section 306 of the Rural Electrification Act.

The adoption of new section 306C shall not be construed to affect the ability of rural electric cooperatives to prepay without penalty outstanding Rural Electrification Act (REA) guaranteed loans from the Federal Financing Bank (FFB) outstanding on July 2, 1986 under REA section 306A (whereby, a cooperative can prepay without penalty so long as the Secretary of the Treasury does not determine that the prepayment will have an adverse effect on the operation of the FFB) and Public Law No. 100-202 (whereby, a cooperative can prepay without penalty based only on the affirmative approval of the Secretary of the Treasury).

SUBTITLE C—AGRICULTURAL TRADE

Acreage Reduction Requirements. (H. 1112(j); S. 1402; CR. 1301)

Minimum ARPs. (S. 1402(a); CR. 1301(a))

The *House Bill* contains no comparable provision.

The *Senate Amendment* amends section 1104 of the Omnibus Budget Reconciliation Act 1990 to eliminate the minimum set-aside requirements under the Acreage Reduction Programs for the 1991 through 1995 crops of grain sorghum and barley.

The *Conference Substitute* adopts the *Senate* provision.

Waiver Authority. (H:1112(j); S:1402(b); CR.1301(b))

The *House Bill* extends certain provisions of section 1302 of the OBRA-90 which authorize the Secretary to waive any minimum ARP for the 1993 through 1998 crops of wheat, feed grains, upland cotton, or rice.

The *Senate Amendment* amends section 1302 of the OBRA-90 to eliminate the "GATT Trigger" authority to waive minimum ARPs or agricultural spending cuts required by OBRA-90.

The *Conference Substitute* adopts the *Senate* provision.

The Omnibus Budget Reconciliation Act of 1990 (OBRA-90) gives the Secretary the authority to waive the minimum acreage reduction program (ARP) rates specified in law, because no GATT agreement was reached by dates specified in OBRA-90.

Title I eliminates the authority to waive minimum ARPs previously specified in law, but retains "GATT trigger" language with regard to wheat and feed grain marketing loans and spending on export programs.

Eliminating the "GATT trigger" authority has the effect of reestablishing minimum ARPs for wheat and corn put in place by OBRA-90. However, these minimum ARPs do not apply if market conditions indicate stock-to-use levels would fall below triggers established in OBRA-90 (20 percent for corn, and 34 percent for wheat). The Managers intend that the Secretary look ahead to the estimated stock-to-use ratio for the year in question. As a result, the Secretary should have adequate discretion to set ARPs that can properly respond to an expected small crop or high export demand.

The Managers strongly intend that the minimum ARPs established for the 1991 through 1995 period by OBRA-90 should not be assumed to apply to the 1996 and subsequent crops.

The Managers are aware of the mandate contained in section 1302 of the OBRA-90, requiring the Secretary of Agriculture to increase by $1 billion for the period beginning October 1, 1993, and ending September 30, 1995, the level of export promotion programs, since no agricultural trade agreement was reached under the General Agreement on Tariffs and Trade (GATT) by June 30, 1992. The Managers will aggressively pursue fulfillment of this mandate.

Marketing Loans for Wheat and Feed Grains. (H:1112(j))

The *House Bill* also extends the marketing loan requirement through 1998.

The *Senate Amendment* contains no comparable provision.

The Managers agreed to adopt the *House* provision, however, the provision was subsequently *deleted* from the *Conference Substitute* in order to comply with the Byrd Rule.

MARKET PROMOTION PROGRAM (H:1402; S:1502; CR.1302).

Maximum Expenditures Under the Market Promotion Program. (H:1401(a); S:1401(a); CR.1302(a))

The *House Bill* amends section 211(c)(1) of the Agricultural Trade Act of 1978 to reduce the minimum and the maximum amount of funds made available for the Market Promotion Program to $147,734,000 for each of the fiscal years 1994 through 1998.

The *Senate Amendment* amends subsection 211(c) of the Agricultural Trade Act of 1978 to reduce the funding level for fiscal years 1994 and 1995 for the Market Promotion Program to equal the sum of—

(A) not less than $33,000,000 for—

(1) branded promotion activities of small-sized commercial entities and medium-sized commercial entities that are beginning exporters; and

(2) non-branded promotion that only benefits small-sized commercial entities, medium-sized commercial entities, small-sized agricultural producers, and medium-sized agricultural producers; and

(B) not less than $77,000,000 for program activities by any eligible trade organization, including organizations specified above.

The Secretary has discretion to determine which commercial entities are beginning exporters; and which agricultural producers are small-sized or medium-sized.

The *Conference Substitute* adopts the *Senate* provision with an amendment to section 211(c)(1) of the Agricultural Trade Act of 1978 to reduce the minimum funding authorization for the Market Promotion Program established in section 203 of such Act (hereinafter the "program") to $110,000,000 for each of the fiscal years 1994 through 1997.

Extension of program. (H:1401; S:1401; CR.1302(a))

The *House Bill* extends funding for the Market Promotion Program through fiscal year 1998.

The *Senate Amendment* does not extend the funding level for the Market Promotion Program beyond fiscal year 1995.

The *Conference Substitute* adopts the *House* provision with an amendment to extend funding for the Market Promotion Program through fiscal year 1997.

Definitions. (S:1401(b))

The *House Bill* contains no comparable provision.

The *Senate Amendment* amends section 102 of the Agricultural Trade Act of 1978 to define a commercial entity as a cooperative or private organization that exports or promotes an agricultural commodity, including an entity that controls, is controlled by, or is under common control with such a cooperative or private organization. The section also defines a small-sized commercial entity as having not more than 50 employees, and a medium-sized commercial entity as having between 51 and 500 employees.

The *Conference Substitute* deletes the *Senate* provision.

Secretarial Actions to Achieve Savings. (CR. 1302(b))

Section 1302(b) of the *Conference Substitute* includes several actions to enable the Secretary of Agriculture (the "Secretary") to achieve the savings required by this section in the program as follows:

Requirement of Unfair Trade Practices

Section 1302(b)(1) amends section 203(c)(2) of such Act to require the Secretary to provide assistance under the program only to counter or offset the adverse effects of an unfair trade practice of a foreign country such as an unfair subsidy or import quota, or an other unfair trade practice; except the Secretary may waive this requirement in the case of activities conducted by small entities operating through regional State-related organizations. The Managers agree that the Secretary may offset unfair trade practices by targeting markets other than those in which the unfair trade practice exists.

Guidelines

Section 1302(b)(2) provides that the Secretary should implement changes in the program beginning with fiscal year 1994 in order to improve the effectiveness of the program and to meet the following objectives:

Priority for Small Entities

Section 1302(b)(2)(A) provides that the Secretary should give priority under the branded program to small entities. The Secretary in determining what is a small entity for reason of granting priority funding should refer to the Standard Industrial Classification (SIC) Codes and Size Standards (13 CFR 121.601) issued by the Small Business Administration. Where the size or annual sales data are not listed in the SBA regulation, the Secretary should refer to the SIC for other agricultural products.

Graduation

Section 1302(b)(2)(B) provides that the Secretary should not provide assistance under the program to promote a specific branded product in a single market for more than 5 years unless the Secretary determines that further assistance is necessary in order to meet the objectives of the Program. The Managers agree that the Secretary may provide assistance for more than 5 years where necessary in order to meet the objectives of the program; for example, small entities beginning to export. The Secretary may terminate assistance in less than 5 years if warranted.

Contribution Level

Section 1302(b)(2)(C) provides that the Secretary should require a minimum contribution level of 10 percent from an eligible trade organization that receives assistance for nonbranded promotion, and that the Secretary may increase the contribution level in any subsequent year that an eligible trade organization receives assistance for nonbranded promotion. The Managers intend that the Secretary should take into account the ability of participants to increase their contribution beyond the minimum contribution.

Additionality

Section 1302(b)(2)(D) provides that the Secretary should require each participant in the program to certify that any federal funds received supplement, but do not supplant, private or third party participant funds or other contributions to program activities. The Managers agree that the Secretary should conduct spot checks to ensure compliance with this requirement, and may assess penalties for false certification, consistent with compliance provisions in section 402 of the Agricultural Trade Act of 1978 (7 U.S.C. 5662). Also the Secretary may take into account marketing strategies, including planned variations in expenditures from year to year in various countries, market and crop conditions, and other factors, in implementing this requirement.

Independent Audits

Section 1302(b)(2)(E) provides that if, as a result of an evaluation or audit of activities of a participant under the program, the Secretary determines that a further review is justified in order to ensure compliance with the requirements of the program, the Secretary should require the participant to contract for an independent audit of the program activities, including activities of any subcontractor. The Managers agree that any costs of an evaluation or audit required by the Secretary under this paragraph shall be solely the responsibility of the participant, and not paid with program funds.

Tobacco ban

Section 1302(b)(3) requires that no funds made available under the program may be used for activities to develop, maintain, or expand foreign markets for tobacco.

Regulations

Section 1302(c) requires the Secretary to issue regulations to implement this section and the amendment made by this section not later than 90 days after enactment of this Act.

END-USE CERTIFICATES (S: 1403)

In General. (S. 1403(a))

The *House Bill* contains no comparable provision.

The *Senate Amendment* amends the Agricultural Trade Act of 1978 by adding a new section 404 to require end-use certifications on imported wheat and barley.

The *Conference Substitute* deletes the Senate provision.

The Managers agreed to adopt a substitute provision for section 1403 of the Senate Amendment, however, the provision was subsequently *deleted* from the *Conference Substitute* in order to comply with the Byrd Rule.

The deleted provision was a free-standing provision that established an end-use requirement for the following: (1) wheat imported into the United States from any foreign country or instrumentality that requires, as of the effective date of this section, end-use certificates on United States-produced wheat; and (2) barely imported into the United States from any foreign country or instrumentality that requires, as of the effective date of this section, end-use certificate on United States-produced barely. The purpose of the end-use requirements was to ensure that foreign agricultural commodities are not used in United States export programs.

Definitions. (S. 1403(a))

The *House Bill* contains no comparable provision.

The *Senate Amendment* defines "covered foreign commodity" (imported wheat and barely) and "end-use certificate".

The *Conference Substitute* deletes the Senate provision.

Purpose. (S. 1403(a))

The *House Bill* contains no comparable provision.

The *Senate Amendment* requires the Secretary to improve monitoring of the end use of the covered foreign commodity to ensure that agricultural exports under agricultural trade programs are entirely produced in the United States.

The *Conference Substitute* deletes the *Senate* provision.

Requirement of Certificate. (S. 1403(a))

The *House Bill* contains no comparable provision.

The *Senate Amendment* requires the Commissioner of Customs to prohibit the entry of the covered foreign commodity unless the importer presents an end-use certificate consistent with this section.

The *Conference Substitute* deletes the *Senate* provision.

Maintenance of Certification. (S. 1403(a))

The *House Bill* contains no comparable provision.

The *Senate Amendment* requires that the end-use certificate be maintained with the covered foreign commodity until it reaches its end use.

The *Conference Substitute* deletes the *Senate* provision.

Certification. (S:1403(a))

The *House Bill* contains no comparable provision.

The *Senate Amendment* requires importers or consignees of covered foreign commodities to certify every quarter to the Secretary of Agriculture whether those covered foreign commodities have been used or transferred.

The *Conference Substitute* deletes the *Senate* provision.

Compliance. (S:1403(a))

The *House Bill* contains no comparable provision.

The *Senate Amendment* ensures that the compliance requirements of section 402 of that Act apply to importers or consignees subject to this section.

The *Conference Substitute* deletes the *Senate* provision.

Effective Date. (S:1403(b))

The *House Bill* contains no comparable provision.

The *Senate Amendment* states that the amendments made by this section are effective 120 days after the date of enactment.

The *Conference Substitute* deletes the *Senate* provision.

EXPORTS OF VEGETABLE OIL. (S:1404)

The *House Bill* contains no comparable provision.

The *Senate Amendment* provides a sense of Congress that the Secretary of Agriculture should continue to aggressively promote the export of vegetable oil through the Export Enhancement Program and other available authorities.

The Managers agreed to adopt the *Senate* provision, however, the provision was subsequently *deleted* from the *Conference Substitute* in order to comply with the Byrd Rule.

SUBTITLE D—MISCELLANEOUS

ADMISSION, ENTRANCE, AND RECREATION FEES (H:1402; S:1503; CR.1401)

Authority to impose fees. (H:1402(a); S:1503(b)(1), (2); CR.1401(b))

The *House Bill* authorizes the Secretary of Agriculture to charge—

(a) entrance or admission fees at National Monuments, National Volcanic Monuments, National Scenic Areas, and areas of concentrated public use administered by the Secretary; and

(b) recreation use fees at lands administered by the Secretary for specialized outdoor recreation sites, equipment, services, or facilities (including visitors' centers, picnic tables, boat launching facilities, or campgrounds).

The *Senate Amendment* is identical to the House provision, except for technical differences.

The *Conference Substitute* adopts the *Senate* provision.

Amount of fees. (H:1402(b); S:1503(c); CR.1401(c))

The *House Bill* clarifies that the amount of the admission, entrance, and recreation use fees will be determined by the Secretary.

The *Senate Amendment* is identical to the House provision, except for technical differences.

The *Conference Substitute* adopts the *Senate* provision.

Definitions. (H:1402(c); S:1503(a); CR.1401(a))

The *House Bill* defines the terms "area of concentrated public use" "boat launching facility", "campground", and "Secretary" for purposes of section 1402.

The *Senate Amendment* is identical to the House provision, but for technical differences.

The *Conference Substitute* adopts the *Senate* provision.

STEWARDSHIP INCENTIVE PROGRAM. (S:1503(b)(2))

The *House Bill* contains no comparable provision.

The *Senate Amendment* requires the Forest Service to reimburse the Agricultural Stabilization and Conservation Service for administrative costs of the Stewardship Incentive Program for actual costs of services, except that these costs shall not exceed 10 percent of total annual appropriations for the program.

The Managers agreed to include the *Senate* provision, however, the provision was subsequently *deleted* from the *Conference Substitute* in order to comply with the Byrd Rule.

ENVIRONMENTAL CONSERVATION ACREAGE RESERVE PROGRAM AMENDMENTS (H:1404; S:1502; CR.1402)

Conservation Reserve Program. (H:1404(a)(1); S:1502(1) and (2); CR.1502(b))

The *House Bill* amends section 1231(d) of the Food Security Act of 1985 (FSA of 1985) to limit the enrollment of land in the Conservation Reserve Program to not more than 38 million acres through calendar year 1995 and to direct the Secretary to reserve 1 million acres for enrollment in the program during calendar year 1995.

The *Senate Amendment* is identical to the *House* provision, but for technical differences.

The *Conference Substitute* adopts the *Senate* provision.

Wetlands Reserve Program. (H:1404(a)(2); S:1502(3); CR.1402(c))

The *House Bill* amends section 1237(b) of the FSA of 1985 to require the Secretary to enroll in the Wetlands Reserve Program not less than 330,000 acres by the end of calendar year 1995, and not less than 975,000 acres through the year 2000.

The *Senate Amendment* is identical to the *House* provision, but for technical differences.

The *Conference Substitute* adopts the *Senate* provision.

Use of Commodity Credit Corporation. (H:1404(b); S:1502(4); CR.1402(d))

The *House Bill* amends section 1241 of the FSA of 1985 to require the Secretary to use the funds of the Commodity Credit Corporation to fund conservation programs in subtitle D of such Act.

The *Senate Amendment* is identical to the *House* provision, but for technical differences.

The *Conference Substitute* adopts the *Senate* provision with an amendment to clarify that Commodity Credit Corporation funds are to be used for the Conservation Reserve Program and Wetlands Reserve Program only, however the provision was subsequently deleted from the *Conference Substitute* in order to comply with the Byrd Rule.

CROP INSURANCE (H:1405(a), (b), (c); CR. 1403))

Levels of Coverage. (H:1405(a))

The *House Bill* adds a new section 508B to the Federal Crop Insurance Act (FCIA).

New section 508B(a) directs the Federal Crop Insurance Corporation (FCIC) to make available four levels of insurance coverage to producers of agricultural commodities based upon the percentage loss in yields.

Level I coverage is available only to producers who do not purchase insurance at coverage levels II, III, or IV. Coverage level I must provide indemnification to producers for losses in yields to the extent such losses exceed 65 percent of the determined yield of the commodity for the farm.

Level II, III, and IV must provide indemnification to producers for losses in yield to the extent these losses exceed 50, 35, and 25 percent, respectively, of the average proven yield for the commodity for the farm based on the actual documented production history, or, if such records are unavailable or insufficient, on an approved adjusted recorded or appraised yield for a representative period.

New FCIA section 508B(b) defines the term "determined yield" as ASCS yield for program crops and recorded or appraised average yield, as adjusted, for other commodities.

The *Senate Amendment* contains no comparable provision.

The *Conference Substitute* deletes the *House* provision.

ASCS Yields. (H:1405(a))

The *House Bill* provides that a producer may elect to use the ASCS yield for a crop of a commodity for a farm rather than the determined yield for the farm for coverage levels II, III, and IV, subject to an additional premium for the coverage. The FCIC may not provide any premium subsidy or administrative subsidy for such additional coverage.

The *Senate Amendment* contains no comparable provision.

The *Conference Substitute* deletes the *House* provision.

Price Elections. (H:1405(a))

The *House Bill* provides that the FCIC must establish a high and low price election for each commodity for which insurance is available. The high price may not be less than the projected market price of the commodity. Level I coverage may be offered only at the low price election. Levels II, III and IV shall be offered at a price election which is equal to or less than the high price election.

The *Senate Amendment* contains no comparable provision.

The *Conference Substitute* deletes the *House* provision.

Information/Annual Reports. (H:1405(a))

The *House Bill* provides that the FCIC must provide producers with adequate insurance-related information at the time of application. New section 508B(f) requires FCIC to file annual reports to Congress.

The *Senate Amendment* contains no comparable provision.

The *Conference Substitute* deletes the *House* provision.

Premium Subsidies. (H:1405(b))

The *House Bill* revises paragraph (3) of FCIA section 508(e) to require the FCIC to pay the full premium for each producer Level I coverage, and, for Levels II, III, and IV, a premium equal to the amount that would have been paid under Level I coverage.

The *Senate Amendment* contains no comparable provision.

The *Conference Substitute* deletes the *House* provision.

Reinsurance. (H:1405(c))

The *House Bill* revises subsection (h) of FCIA section 508 to direct the FCIC to provide reinsurance to private and governmental insurers, subject to principles under the Office of Federal Procurement Policy Act (41 U.S.C. 401, et seq.).

Payment of operating and administration costs authorized, but for coverage level I policies, insurers will be paid only $50 per policy, of which $25.50 shall be paid by the policyholder at the time of application and $24.50 shall be paid by the corporation.

The *Senate Amendment* contains no comparable provision.

The *Conference Substitute* deletes the *House* provision.

Actuarial Soundness. (S:1501(a); CR. 1501(a))

The *House Bill* contains no comparable provision.

The *Senate Amendment* adds a new subsection (n) to FCIA section 506 which requires the FCIC to take such actions as are necessary to improve the actuarial soundness of Federal multiperil crop insurance to achieve, on and after October 1, 1995, an overall loss ratio of not greater than 1.1. These steps include those discussed under items (117), (118), (119) and (120), below.

The *Conference Substitute* adopts the *Senate* provision.

Actual Production History Records. (S:1501(a); CR. 1403(a))

The *House Bill* contains no comparable provision.

The *Senate Amendment* requires that FCIC must institute appropriate requirements for documentation of the actual production history of agricultural producers to establish recorded or appraised yields for Federal crop insurance coverage that better reflect the associated actuarial risks, except that the FCIC may not carry out this paragraph in a manner that would prevent beginning farmers, as defined by FCIC, from obtaining adequate Federal crop insuranee (*See* item below that describes Conforming Amendments/Implementing Rules).

The *Conference Substitute* adopts the *Senate* provision. In so doing, the Managers reiterate the expectation stated in the report of the Senate Committee on Agriculture, Nutrition, and Forestry with respect to this provision that the FCIC, in finalizing plans to go forward with the program outlined in its May 26, 1993 "Informational memorandum" for the 1994 crop years, will make appropriate adjustments to its actual production history (APH) rules to avoid drastic impacts on a producer's insured yield resulting from catastrophic loss during the development of the producer's multi-year history. The Mangers stress that the relevant statutory language is intended to be broad enough to accommodate such adjustment.

A possible "catastrophic yield adjustment" was considered in the earlier FCIC Managers' Bulletin MGR-92-056; others have suggested so-called "caps" and "cups" in annual changes to an individual participant's yield. This issue is an important concern to the Managers and to a wide range of program users. A resolution of this issue as part of the package prior to implementation will greatly enhance the viability of the new rules and their acceptance among farm producers.

The Managers expect that the FCIC will analyze promptly these issues and concerns raised by the APH program outlined in the May 26, 1993 memorandum and appraise them of how it has resolved them before it finalizes its plans and rules for applying that program to the 1994 crop year. Should the FCIC be unable to resolve these issues and concerns on time for implementation for some or all of the 1994 crop year, the Managers expect that the FCIC will delay that implementation temporarily.

Area Yield Pilot Program. (S:1501(a); CR.1403(a))

The *House Bill* contains no comparable provision.

The *Senate Amendment* requires that FCIC shall establish in counties, to the extent practicable, a crop insurance option to individual multiperil coverage based on area yields that allows an insured producer to qualify for an indemnity if a loss has occurred in a specified area in which the producer's farm is located.

The *Conference Substitute* adopts the *Senate* provision.

Tracking System. (S:1501(a); CR.1403(a))

The *House Bill* contains no comparable provision.

The *Senate Amendment* requires that FCIC must create a database that contains the social security account numbers of participating producers and use the numbers to identify producers who are high risk for actuarial purposes and producers who have not documented at least four years of production history, to assess the performance of insurance providers, and for other purposes permitted by law.

The *Conference Substitute* adopts the *Senate* provision.

Other Measures Necessary to Achieve a Loss Ratio of 1.1. (S:1501(a); CR.1403(a))

The *House Bill* contains no comparable provision.

The *Senate Amendment* requires that FCIC must take other measures authorized by law to improve the actuarial soundness of the Federal crop insurance program while maintaining fairness and effective coverage for producers.

The *Conference Substitute* adopts the *Senate* provision.

Conforming Amendments/Implementing Rules. (S:1501(b); CR.1403(b))

The *House Bill* contains no comparable provision.

The *Senate Amendment* contains amendments to FCIA sections 508 and 508A to provide FCIC with flexible authority to implement items described above under Actual Production History Records and Area Yield Pilot Program items. Yield coverage shall be offered based on 4-building-to-10 years of actual production history, or, in the absence thereof, not less than 65% of the transition yield.

The *Conference Substitute* adopts the *Senate* provision.

Regulations. (S:1501(c)(2); CR.1403(c)(2))

The *House Bill* contains no comparable provision.

The *Senate Amendment* requires that not later than 30 days after the date of enactment, the Secretary of Agriculture shall publish for public comment proposed regulations to implement the amendments made by this section.

The *Conference Substitute* adopts the *Senate* provision.

Effective Date. (H:1405(d); S:1401(c)(1); CR.1403(c)(1))

The *House Bill* provides that the amendments made by section 1405 apply beginning with crops to be harvested in 1995.

The *Senate Amendment* provides that, except as provided by section 1501(c)(2), the new section and the amendments made by it shall become effective on October 1, 1993.

The *Conference Substitute* adopts the *Senate* provision.

Consistent with the concern for greater actuarial soundness and the required improvement in overall program loss ratio mandated under this legislation and in order to explore various alternatives to providing risk protection for agricultural producers, the Managers encourage the Federal Crop Insurance Corporation to carry out, beginning in 1994, a pilot program to make available to producers in States (including Minnesota, North Dakota, and Mississippi) revenue insurance under which producers may be indemnified based on their average cost of production. At the conclusion of the pilot program, the Corporation would be expected to evaluate the program and report to Congress thereon.

SENSE OF THE SENATE REGARDING DEFICIT REDUCTION. (S:1504)

The *House Bill* contains no comparable provision.

The *Senate Amendment* is a sense of the Senate that farmers should not have to pay more than their fair share necessary to achieve the desired level of deficit reduction, including consideration of any energy or other tax, user fees and reduction in interest rates which affect agriculture, of any budget reduction measure.

The Managers agreed to include the *Senate* provision in the *Conference Substitute*, however, the provision was subsequently deleted from the *Conference Substitute* in order to comply with the Byrd Rule.

TITLE II—COMMITTEE ON ARMED SERVICES

The House bill contained a provision (sec. 2001) that would provide a full cost of living adjustment (COLA) on a delayed schedule for all nondisabled military retirees. COLAs would be delayed by four months in fiscal year 1994 and by three additional months for each of the next four years. The House provision would exclude survivor benefits and disabled retirees from the COLA delay.

The Senate bill contained a provision (sec. 2001) that would delay COLAs for nondisabled retirees in fiscal years 1994 through 1997 by nine months, from January 1 of each year to October 1. In fiscal year 1998, the COLA would be delayed eight months, from January 1 until September 1. The Senate provision would also exclude survivor benefits and disabled retirees from the delay.

The conferees agree to delay COLAs for nondisabled retirees by three months in fiscal year 1994 and by nine months in fiscal years 1995, 1996, 1997 and 1998. The fiscal year 1994 COLA would be paid on April 1, 1994. COLAs for fiscal years 1995 through 1998 would be paid on October 1. COLA increases would revert to their normal date under current law on January 1, 1999, beginning with the fiscal year 1999 COLA.

COLAs for disabled retirees and for survivor benefits would not be affected by this provision and will continue to be paid at the same dates provided under current law. The COLA delay applies to all members of the uniformed services, including the Coast Guard and commissioned members of the Public Health Service and the National Oceanic and Atmospheric Administration.

The House bill also contained a provision (sec. 2002) that would freeze military pay in fiscal year 1994 and reduce the amount of the pay raise up one percentage point in fiscal years 1995 through 1998.

The Senate bill contained no similar provision.

The House recedes. The savings in the defense budget that would have resulted from the House provision will be achieved through reductions contained in the National Defense Authorization Act for Fiscal Year 1994.

TITLE III—BANKING AND HOUSING PROGRAM PROVISIONS

SECTION 3001—DEPOSITOR PREFERENCE

This provision amends the Federal Deposit Insurance Act to give depositors a preference over general and subordinated creditors and shareholders when a receiver distributes assets from failed banks and thrifts. Currently, the FDIC pays depositors on a pro rata basis with general creditors when distributing the assets of a failed national bank or of a state bank or thrift in a state that does not have a depositor preference law. Depositor preference will increase the amount of the distribution to depositors of failed institutions. Because the FDIC is subrogated to the claims of insured depositors, it will increase its recovery and therefore realize a savings under a depositor preference scheme.

Twenty-nine states have depositor preference laws. Under this provision, state laws that govern the distribution of receivership assets for thrifts and state-chartered banks will be preempted if, and to the extent, they are inconsistent with this law.

The House and Senate passed similar provisions to implement depositor preference. However, the House specifically referenced the payment of claims of employees of the failed institution as a priority for payment after depositors have been paid. The Senate is silent on this issue. The House recedes to the Senate on this provision.

By remaining silent on this issue, it is the conferees' intent that the FDIC interpret the depositor preference provision for the payment of administrative expenses of the receiver as including ordinary and necessary expenses of the institution that are unpaid at the time of failure, but only those that the receiver determines are necessary to maintain services and facilities to effect an orderly resolution of the institution. Thus, the conferees intend that the FDIC continue its current practice of paying these expenses prior to paying deposits or other expenses if it determines such payment is required for an orderly resolution of the institution. These expenses are limited to pre-existing obligations of the institution for expenses such as the salaries of employees, utility bills and data processing. Golden parachutes or other expenses that do not preserve the value or the operation of the failed institution in preparation for resolution are not considered administrative expenses of the receiver.

The conferees intend that the FDIC promulgate regulations regarding the meaning of "administrative expenses." Prior to the implementation of such regulations, it is the conferees' intent that the FDIC continue its current practice of paying these expenses before paying depositors.

The terms of this provision also apply to the RTC and its resolution of institutions.

SECTION 3002—FEDERAL RESERVE SURPLUS FUNDS

This provision requires the Federal Reserve Board to transfer $106 million in fiscal year 1997 and $107 million in fiscal year 1998 from the surplus funds of Federal Reserve banks to the Treasury. At the end of 1992, the Federal Reserve System had in excess of $3 billion in surplus funds. The Federal Reserve's practice has been to match the dollar amount of its surplus funds with that of its paid in capital. Under this provision, in fiscal years 1997 and 1998, surplus accounts of the Federal Reserve banks are limited to 3% of member banks' paid up capital stock and surplus less the amounts required to be transferred to the Treasury from these accounts by this provision.

The Committee intends that the $213 million to be transferred to the Treasury in fiscal years 1997 and 1998 from the surplus accounts of the Federal Reserve banks be in addition to, and not in any way diminish, the amounts the Federal Reserve Board would otherwise transfer to the Treasury. Additionally, once the funds are transferred to the Treasury from the surplus account, the Federal Reserve is prohibited from replenishing those funds during fiscal years 1997 and 1998.

SECTION 3003—USE OF RETURN DATA FOR INCOME VERIFICATION UNDER CERTAIN HOUSING ASSISTANCE PROGRAMS

GENERAL

Both House and Senate bills contain a provision amending section 904 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988, aimed at preventing fraud and abuse in housing programs. The legislation authorizes HUD to utilize income return data, pursuant to the Internal Revenue Code and to verify or cross-match the income of applicants and participants of HUD programs. The differences between the two bills were primarily technical in nature. The conference report contains the Senate provision, as amended.

CONSENT FORMS

The House bill amended section 904(b) of the McKinney Act to give HUD the authority to require applicants and participants of HUD programs that involve initial and periodic review of income (including the Indian Housing Program under title II of the Untied States Housing Act of 1937), to sign a consent form authorizing HUD to request the Commissioner of Social Security and the Secretary of the Treasury to release return information pursuant to the Internal Revenue Code. The Senate bill had a similar amendment to section 904(b), but made no specific reference to "Indian housing programs" in that section. Instead, the Senate bill adds a new section 904(a)(4) of the McKinney Act, defining the term "program of the Department of Housing and Urban Development" to include "Indian housing programs assisted under title II of the United States Housing Act of 1937." The conference report contains the Senate provision. The sole purpose for the release of information is to verify the applicant's or participant's eligibility or level of benefits.

APPLICANT, PARTICIPANT, AND PUBLIC HOUSING AGENCY PROTECTIONS

The House bill, in a subsection entitled "Applicant and Participant Protections", amended section 904(c)(2)(A) of the McKinney Act to protect applicants for, and recipients of, benefits under HUD programs from improper use of return information. The Senate bill contained a similar provision except that the subsection in the Senate bill was entitled "Applicant, Participant, and Public Housing Agency Protections." The conference report contains the Senate provision. The legislation limits the use of this information to: 1) verification of eligibility for, or level of, benefits; and 2) informing an owner or public housing agency that an applicant's or participant's eligibility for or level of benefits is uncertain, and requesting the verification of income information.

HEARING REQUIREMENT

The House bill amended section 904(c)(2)(C) of the McKinney Act to require that an applicant or participant be given the opportunity to contest findings based on verified information made by the agency or owner at a hearing that provides the basic elements of due process. The Senate chose to subject eligibility and recertification decisions made with information obtained through this program to the same due process and fair hearing requirements which ordinarily apply to these determinations. For this reason, the Senate bill did not contain a similar provision. The conference report adopts the Senate position.

After implementation of the changes to section 904 of the McKinney Act, the conferees direct HUD to include in the subsequent annual report to Congress, under section 8 of the Department of Housing and Urban Development Act, a report describing and analyzing the use of information, obtained pursuant to the HUD-IRS income matching program (ie., section 6103(1)(7)(D)(ix) of the Internal Revenue Code and section 904 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988).

The report should include: 1) an analysis of the effect of this program upon applicants for and participants in covered housing assistance programs, including an analysis of any erroneous rejections, terminations or reductions of assistance; 2) a review of the adequacy of procedures used to protect applicants for and participants in covered housing assistance programs from adverse actions due to erroneous determinations of income; 3) a description of the inadequacies in such procedures and proposals for correcting such inadequacies; 4) a review of any privacy rights consideration raised by this section; 5) a description of the costs and savings associated with the program under this section.

This report is necessary because of concerns that potential errors in the implementation of this new income-matching program could have a negative impact on low-income tenants through possible criminal prosecutions, rent increases, payments for unreported income, terminations of assistance and possible evictions.

The conferees note that there is currently no uniformity in tenant protections through hearings or other methods across the various HUD assisted housing programs. The conferees are concerned that tenants under all assisted housing programs have access to adequate procedures to challenge terminations of assistance or evictions.

The conferees believe that public housing authorities and entities administering subsidized housing assistance, as covered under this program, should have the flexibility to enter into repayment plans, in lieu of requiring lump-sum payments, when tenants are found to have underreported income and to owe additional rent. The conferees direct HUD to issue guidelines making it clear that such flexibility exists.

PENALTY PROVISION

Both the House and Senate bills contain a provision amending section 904(c) of the McKinney Act to provide penalties for misuse of this program. Both bills: 1) make it a misdemeanor, punishable by fine of up to $5000, to obtain information through this program under false pretenses or to disclose such information to an unauthorized person; 2) authorize civil actions for damages against owners and public housing agencies who have violated the requirements of this program. The conference agreement contains a provision originally included in the Senate bill in another form which would extend the penalty provision to include requesting information pursuant to the section without first obtaining the signed consent of the concerned individual.

OPERATING SUBSIDY ADJUSTMENTS

The Senate bill amended section 9(a) of the United States Housing Act of 1937 to require that adjustments to a public housing agency's operating subsidy, made by HUD, reflect actual changes in rental income collections resulting from the application of section 904 of the McKinney Act. The House bill did not contain a similar provision. The conference report does not contain the Senate provision.

The conferees direct HUD to make adjustments to a public housing agency's operating subsidy only to reflect actual changes in rental income collections resulting from the application of section 904 of the McKinney Act.

AMENDMENTS TO IRS CODE

Title III of the Senate bill included amendments to section 6103(1)(7)(D) of the Internal Revenue Code to permit the IRS to provide these data to the HUD Secretary. Similar provisions were also included in Title VII of the Senate bill and Title XIV of the House bill. This conference report includes a similar provision in another title.

SECTION 3004—GOVERNMENT NATIONAL MORTGAGE ASSOCIATION REAL ESTATE MORTGAGE INVESTMENT CONDUIT FEES

GENERAL

Both House and Senate bills amended section 306(g)(3) of the National Housing Act to give the Government National Mortgage Association (GNMA) the authority to charge flexible fees in a new multiclass security program known as Real Estate Mortgage Investment Conduits (REMICs), with some differences. The conference report contains the Senate provision.

FEES

The House bill specifically required that fees charged for the guarantee of, or commitment to guarantee, multiclass securities backed by a trust or a pool of securities or notes guarantied by GNMA, shall be charged by GNMA in an amount not to exceed the value, as determined by GNMA, of the guarantee or commitment to guarantee. The Senate bill contained a similar provision. The conference report contains the Senate provision.

ACCRUAL OF BENEFIT TO FUTURE MORTGAGORS

The House bill required GNMA to take such action as may be necessary to reasonably assure that such portion of the value of the guarantees or commitments to guarantee as GNMA determines is appropriate accrues to the benefit of future mortgagors under the mortgages by or upon which such securities or notes are backed. The Senate bill contained a similar provision. The conference report contains the Senate provision.

Consistent with this provision, the conferees expect GNMA to take such action that it deems appropriate to ensure that as much as possible of the value of the GNMA guarantee is passed on to future Farmers Home Administration (FmHA), Federal Housing Administration (FHA), and Veterans Administration (VA) homeowners.

REPORTING REQUIREMENTS

The House bill required GNMA to submit a report to Congress for each fiscal year, describing any activities of GNMA with respect to guaranteeing and making commitments to guarantee multiclass securities. The Senate bill contained a similar provision, but required the information to be provided in GNMA's annual report, rather than a separate annual report to Congress.

The conferees direct GNMA, in its annual report, to provide a summary of each activity of GNMA pertaining to GNMA's multiclass securities program. Each summary shall contain a description of the activity and shall include: 1) information pertaining to the size of the transactions closed, the number of mortgages involved, the amount of fees charged and earned, those persons or entities receiving payments for services provided and the amounts of such payments; and 2) an estimate of the portion of the benefit of the multiclass securities program accruing to mortgagors as well as a description of any action taken by GNMA to ensure such accrual.

CONSULTATION

The Senate bill requires GNMA to consult with persons or entities as it deems appropriate, to ensure the efficient commencement and operation of the multiclass securities program. The House bill did not contain a similar provision. The conference report contains the Senate provision.

The conferees anticipate that GNMA, in designing its REMICs program, will wish to consult with the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac) and other entities experienced in REMICs markets. The conferees encourage such discussions and the conference report grants GNMA explicit authorization for them. However, care should be taken to ensure that such consultation does not result in the provision of an unfair competitive or financial advantage. GNMA is also given authority to contract with persons or entities to perform certain functions in the administration of its ongoing multiclass securities program. GNMA should be careful to avoid contracting for advice or assistance in connection with the administration of its REMIC program with persons or entities whose other financial interests significantly conflict those of GNMA.

FNMA CONTRACTING RIGHTS

The Senate bill provided that no State, local or Federal law shall preclude or limit the exercise by GNMA of its power to contract with persons or entities, and its rights to enforce such contracts, for the purpose of ensuring the efficient commencement and continued operation of the multiclass securities program. The House bill did not contain a similar provision. The conference report contains the Senate provision.

The conferees understand that similar language has been in existing law since 1980, in section 306(g)(1) of the National Housing Act, with regard to the GNMA Mortgage-Backed Securities program. The conferees have thus added this provision to apply similarly to the GNMA REMIC program.

REPORT TO CONGRESS PRIOR TO COMMENCEMENT OF PROGRAM

The Senate bill required GNMA, prior to the commencement of the multiclass securities program, to provide the Senate and House Banking Committees, a report describing GNMA's design of the program, including program elements that ensure minimization of risks arising from the operation of the program. The House bill did not contain a similar provision. The conference report does not contain the Senate provision.

The conferees direct that prior to the commencement of the multiclass securities program, GNMA shall provide to the Senate Committee on Banking, Housing, and Urban Affairs and the House Committee on Banking, Finance and Urban Affairs a report describing GNMA's design of the multiclass securities program, including program elements that ensure the minimization of risks arising from the operation of the multiclass securities program, such as: 1) any industry proven safeguards, including capital standards for sponsors and provisions for indemnification from private parties for events that may result in GNMA's liability under its guaranty or commitment to guaranty; and 2) the sufficiency of GNMA's staff resources to administer the multiclass securities program.

Section 3005—Mutual Mortgage Insurance Fund Programs

Both House and Senate bills had identical provisions.

TITLE IV—STUDENT LOAN AND ERISA PROVISIONS

Unless otherwise noted section references are to sections of the Higher Education Act of 1965, as proposed to be added or amended by the conference report.

Contractual Right

House bill

No provision.

Senate amendment

Section 452(c) clarifies that an eligible borrower has a contractual right to receive a direct loan if they attend an institution that participates in direct lending.

Conference agreement

The Senate recedes.

Delivery of Funds

House bill

No provision.

Senate amendment

Section 452(d) provides that funds under the direct student loan program shall be delivered to the institution in the same manner as Pell funds are delivered to the institution.

Conference agreement

The House recedes. The conferees believe that the Department of Education should allow the use of a master disbursement check in the part B programs, so that all institutions can receive the benefit of the efficiencies available to institutions able to use electronic funds transfer for loan disbursement. A master check disbursement would allow a lender or disbursement agency to combine the funds of all students at an institution into a single check.

Phase In

House bill

Section 453 provides that the phase-in schedule for the direct student loan program would be 4% of the sum of the new student loan volume under parts D and B in 1994-95, 25% in 1995-96, 60% in 1996-97 and 100% in 1997-98.

Senate amendment

Section 453 provides that the phase-in schedule for the direct student loan program would be 5% of the new student loan volume in 1994-95, 30% in 1995-96, 40% in 1996-97 and 50% in 1997-98 and fiscal year 1998. Section 453 also defines new student loan volume as the estimated sum of loans made under parts D and B, where the Secretary will base the estimate on the most recent available data.

Conference agreement

The conference agreement provides that the phase-in schedule for the direct student loan program would be 5% of the new student loan volume in 1994-95, 40% in 1995-96, 50% in 1996-97, 50% in 1997-98 and 60% in the academic year beginning in fiscal year 1998. Beginning in 1996-97, the percent phase-in goal may be exceeded, if the Secretary determines that a higher percentage is warranted by the number of institutions that want to participate in the programs and meet the eligibility criteria. The agreement also defines new student loan volume as the estimated sum of loans made under parts D and B, where the Secretary will base the estimate on the most recent available data.

Participating Institutions

House bill

Section 453(b) requires the Secretary to categorize institutions according to anticipated loan volume, length of academic program and control of institution.

Senate amendment

Section 453(b) is similar to the House provision. In addition, the Senate amendment requires the Secretary, to the extent possible, to categorize institutions according to highest degree offered, size of student enrollment, percentage of students borrowing under part B, geographic location, annual loan volume, default experience and composition of the student body. The Senate amendment also postpones these requirements until the 1995-96 academic year.

Conference agreement

The House recedes with an amendment striking "percentage of students borrowing under part B" and "composition of the student body" from the Senate's list. It is the intent of the conferees that the Secretary, in selecting institutions for participation, is required to ensure that a representative and proportional sample of all types of eligible postsecondary institutions of higher education are included in each academic year beginning with 1995-96. The conferees further note that the Secretary can only require the participation of institutions in the program if the requirement for a representative and proportional sample of all types of eligible postsecondary institutions is not achieved. The conferees emphasize their commitment to a varied and balanced selection of all eligible institutions as the Federal Direct Student Loan Program is phased-in and during the selection of additional institutions as the program expands. It is further the understanding of the conferees that an institution withdrawing or terminated from the program under this part shall not be penalized for such action, unless the institution was terminated because of fraud and abuse. The conferees expect that the Department will ensure that procedure that an institution withdrawing from the part D program will not be excluded from participation in the programs authorized under part B.

30-Day Delayed Disbursement

House bill

Section 454(a) provides that first year students will not have the first disbursement of their loan delayed 30 days.

Senate amendment

Section 454(a) contains a similar provision.

Conference agreement

The conference agreement deletes both of these provisions.

Simultaneous Participation

House bill

Section 454(a) provides that institutions cannot participate in part D and part B at the same time.

Senate amendment

Section 454(a) provides that, at the discretion of the Secretary, institutions may participate in part D and part B at the same time.

Conference agreement

The House recedes with an amendment clarifying that a student may only borrow under one program per period of enrollment.

Consultation With Institutions of Higher Education

House bill

No provision.

Senate amendment

Section 454(a)(5) requires the Secretary to consult with institutions of higher education in establishing a quality assurance system.

Conference agreement

The House recedes.

Supplemental Loans for Students

House bill

Section 455(a) provides that Federal Direct Supplemental Loans for Students under part D are to have the same terms, conditions and benefits as Supplemental Loans for Students under part B.

Senate amendment

Section 455(a) merges the Federal Supplemental Loans for Students program and the Federal Unsubsidized Stafford loan program into one loan program under part D—Federal Direct Unsubsidized Stafford loans.

Conference agreement

The House recedes with an amendment providing that an independent student's loan limit under the Federal Direct Unsubsidized Loan program would equal the student's loan limit under the Federal Supplemental Loan for Students program (as in effect upon enactment) plus his or her loan limit under the Federal Direct Stafford Loan program minus the amount of any assistance the student received under Federal Direct Stafford Loan program.

Designation of Loans

House bill

Section 455(a)(2) names the part D loans that are similar to section 428 loans as Federal Direct Student Loans and loans that are similar to section 428H loans as Federal Direct Unsubsidized Student Loans.

Senate amendment

Section 455(a)(2) names these loans Federal Direct Stafford Loans and Federal Direct Unsubsidized Stafford Loans.

Conference agreement

The House recedes.

Interest Rate Cap

House bill

No provision.

Senate amendment

Section 455(b) changes the interest rate cap on Federal Direct Stafford Loans and Federal Direct Unsubsidized Stafford Loans from 9 percent to 8.25 percent beginning with loans first disbursed on or after July 1, 1994.

Conference agreement

The House recedes.

Interest Rates

House bill

No provision.

Senate amendment

Section 455(b) sets the interest rate on Federal Direct Stafford Loans and Federal Direct Unsubsidized Stafford Loans at the 91-day T-bill +2.5 percent while the student is in school and during any grace or deferment period. This provision applies to loans first disbursed on or after July 1, 1994.

Conference agreement

The House recedes with an amendment that maintains current law for academic year 1994-95 and applies this provision to loans first disbursed on or after July 1, 1995.

Interest Rates (Federal Direct Stafford Loans and Federal Direct Unsubsidized Stafford Loans)

House bill

Section 455(b) changes the interest rate on Federal Direct Stafford Loans and Federal Direct Unsubsidized Stafford Loans to the bond equivalent rate of the security with a comparable maturity plus one percent for loans made on or after July 1, 1997.

Senate amendment

No provision.

Conference agreement

The Senate recedes with an amendment to apply this to loans made on or after July 1, 1998.

Interest Rate (Federal Direct Supplemental Loans for Students)

House bill

Section 455(b) changes the interest rate on Federal Direct Supplemental Loans for Student loans to the bond equivalent rate of the security with a comparable maturity plus 1.5 percent for loans made on or after July 1, 1997.

Senate amendment

No provision.

Conference agreement

The House recedes.

Interest Rate for PLUS Loans

House bill

Section 455(b) changes the interest rate on Federal Direct PLUS Loans to the bond equivalent rate of the security with a comparable maturity plus 2.1 percent for loans made on or after July 1, 1997.

Senate amendment

Section 455(b) lowers the interest rate cap on Federal Direct PLUS Loans to 9 percent for loans first disbursed on or after July 1, 1994.

Conference agreement

The conference agreement incorporates both provisions, changing the effective date of the House provision to July 1, 1998.

Origination Fee

House bill

Section 455(c) sets the student's loan fee at 5 percent for years 1994-95 through 1996-97 and at 3.65 percent for years 1997-98 and beyond under part D.

Senate amendment

Section 455(c) the student's loan origination fee at 4 percent under part D, beginning in academic year 1994-95.

Conference agreement

The House recedes.

Income Contingent Repayment Plan

House bill

Section 455(d) designates the income contingent repayment plan an EXCEL Account and permits the Secretary to determine the length of repayment.

Senate amendment

Section 455(d) limits the income contingent repayment term to 20 years.

Conference agreement

The House recedes on the name. The Senate recedes on the length with an amendment permitting the Secretary to determine the length of the repayment but providing that the repayment terms will not exceed 25 years.

Repayment Schedules

House bill

Section 455(e) provides that the income contingent repayments will be measured as a percentage of the appropriate portion of the borrower's annual income.

Senate amendment

Section 455(e) provides that the payments will vary in relation to the appropriate portion of the borrower's income.

Conference agreement

The House recedes.

Eligible Institutions

House bill

No provision.

Senate amendment

Section 455(f) specifies that an eligible institution is one as defined under section 435.

Conference agreement

The House recedes with an amendment providing that an eligible institution under part D must meet the definition under section 435(a).

Requirement for Regulations

House bill

No provision.

Senate amendment

Section 455(g) requires the Secretary to establish the terms and conditions of the Federal Direct Consolidation Loan Program pursuant to regulations.

Conference agreement

The House recedes with an amendment to require this for academic years 1995-96 and beyond.

Optically Imaged Documents

House bill

No provision.

Senate amendment

Section 455(i) allows optically imaged documents to be used in any loan proceeding.

Conference agreement

The Senate recedes.

Dischargeability in Bankruptcy

House bill

Section 455(i) provides that loans under this part will not be dischargeable in bankruptcy.

Senate amendment

The Senate has a similar provision (section 455(j)).

Conference agreement

The conference agreement contains no provision with respect to dischargeability in bankruptcy. The conferees determined to delete these provisions from both the House bill and the Senate amendment. The conferees believe that current provisions of the Bankruptcy Code are sufficient to protect against unnecessary discharge of direct student loans in bankruptcy. Section 523(a)(8) of the Bankruptcy Code operates to prevent the discharge of federally guaranteed education loans except in cases where the loan first became due more than seven years before the date of the filing of the bankruptcy petition, or where failure to allow the discharge would impose an undue hardship on the borrower and the borrower's dependents. [11 U.S.C. 523 (a)(8)] This limitation on discharge of education loans applies to wage earner cases filed under Chapter 13 of the Bankruptcy Code. [11 U.S.C. 1328(a)(2)] It is the intent of the conferees that loans made pursuant to the Federal Direct Student Loan Program would be subject to these same limitations on discharge.

Common Financial Reporting Form

House bill

No provision.

Senate amendment

Section 455(k) provides that the common financial reporting form will be the application form for part D loans and that the Secretary should develop, print and distribute a standard promissory note and loan disclosure form.

Conference agreement

The House recedes with an amendment to exclude PLUS loans from this requirement.

Loan Disbursement

House bill

No provision.

Senate amendment

Section 455(l) specifies that loans will be disbursed to the student by crediting the student's account and that any remaining funds will be returned to the student in the same manner as under part B. The Senate amendment further specifies that the payment periods will be consistent with the Pell grant payment periods.

Conference agreement

The House recedes with an amendment requiring this disbursement to be applied, rather than credited, to a student's account and providing that the student must acknowledge that his or her loan proceeds will be disbursed in this manner. It is the intent of the conferees that direct loans be disbursed to students in a manner consistent with the Federal Pell Grant program except that a system shall be developed to ensure that students retain the authority to cancel or approve the final disbursement of loan proceeds as is currently provided by the requirement that students sign the loan check.

Maintenance of Funds

House bill

No provision.

Senate amendment

Section 455(m) provides that 1) an institution shall maintain financial records in a manner consistent with other Title IV programs; 2) that an institution may maintain part D loan funds in the same account as other student financial aid; 3) that reconciliation shall be in the same manner and schedule as the Pell quarterly schedule; and 4) that transaction histories are maintained using the same system as used under the Pell grant program.

Conference agreement

The House recedes on the first provision. The House recedes on the second provision with an amendment allowing the Secretary to require separate accounts by regulation. The House recedes on the third provision with an amendment allowing for a different schedule than the Pell schedule, including monthly reconciliation of payments. The House recedes on the fourth provision. It is the intent of the conferees that institutions of higher education be able to maintain uniform financial records, distribution systems, and methods of reconciliation for all of their Federal student aid programs. The purpose of this and other amendments on this issue is to ease the burden on institutions and to make it clear to them as to how the Federal Direct Student Loan Program will operate by using the Federal Pell Grant delivery system that is well known and efficient model.

Contractual Right

House bill

No provision.

Senate amendment

Section 455(n) stipulates that an eligible student has a contractual right against the

United States for a loan made under this part if the student is attending an institution that participates in direct lending.

Conference agreement

The Senate recedes.

CONTRACTS FOR SUPPLIES AND SERVICES

House bill

Section 456(a)(1) specifically allows the Secretary to contract with lenders and guaranty agencies if they otherwise are qualified and comply with the applicable procedures.

Senate amendment

Section 456(a)(1) mandates, for the servicing of loans, the Secretary contract only with entities that have extensive experience and a demonstrated record in loan servicing and collection.

Conference agreement

The conference agreement incorporates both provisions. In addition, the conference agreement requires the Secretary, to the extent practicable and consistent with the purposes of the program, to give special consideration to state agencies with a history of quality performance. The conference agreement further allows state agencies to apply for contracts in consortia. The conferees note the importance of ensuring that in contracting with alternative loan originators, the Department of Education shall require that such originators equitably serve all students attending eligible institutions.

CONTRACTING EXEMPTIONS

House bill

Section 456(a)(2) provides that, in order to obtain an exemption from the Federal Property and Administrative Services Act, the Office of Federal Procurement Policy Act and the Small Business Act, the Secretary must determine in writing that the Government's need for the services and supplies to be provided under the contract is of such an unusual and compelling urgency that sources from which the Secretary solicits bids or proposals must be limited, that the Secretary notifies Congress in writing in not more than 30 days after the award of the contract, and that the exemption from the requirements is in the public interest and necessary for the orderly transition from the loan programs under part B to direct lending.

Senate amendment

Section 456(20 provides for these exemptions if the exemption is in the public interest and necessary for the orderly transition from part B to part D.

Conference agreement

The conference agreement contains neither provision.

GAO REPORT

House bill

No provision.

Senate amendment

Sections 459(c), (d), and (e) require the General Accounting Office to submit an interim final report by January 1, 1997 on the Federal Direct Student Loan Program that includes—1) administrative costs, including cost per loan, incurred by participating institutions; 2) administrative costs, including costs per loan, incurred by the Department of Education and its contractors for origination, data systems, servicing and collection; 3) an evaluation of its effectiveness in providing services, including organization, financial aid packaging, tracking of student status, responsiveness to student inquiries and processing of deferments, forbearances and repayments; 4) frequency and cost of borrowers delinquency and default and associated costs to institutions and servicers, including costs incurred by improper origination or servicing; 5) timeliness of capital availability and cost of loan capital; 6) effectiveness of the income contingent repayment option; 7) comparison of institutions participating in the direct loans with the control group concerning items 1–6; 8) evaluation of the administrative performance of the Department; 9) reasons why institutions chose not to participate or withdrew or were terminated from the Federal Direct Student Loan Program; 10) an analysis of the experience of borrowers with loans under both parts B and D and recommendations of effective repayment procedures for them; 11) comparison of the cost of loan capital for parts B and D; 12) an analysis of instructions which participation as part of a consortia; and 13) recommendations for modifications, continuation, expansion, suspension or termination of the part D program or the replacement of all or some of the part B programs. The Senate amendment further provides for a final report from the General Accounting Office by May 1, 1998 including the same matters discussed above. Further, the Senate amendment requires the Secretary to select a control group of institutions participating in part B which is comparable to the institutions participating in part D. Finally, the Senate amendment provides that in reporting costs, the General Accounting Office should report separately nonrecurrent costs, administrative costs incurred by institutions because of the General Accounting Office's reporting requirements, and normal operating costs for the Federal Direct Student Loan Program.

Conference agreement

The Senate recedes.

CONSULTATION

House bill

No provision.

Senate amendment

Section 458 requires the Secretary to develop the notices implementing the Federal Direct Student Loan program in academic year 1994–95 in consultation with the higher education community.

Conference agreement

The House recedes.

NEGOTIATED RULEMAKING

House bill

No provision.

Senate amendment

Section 458(a)(2) requires that regulations for years 1995–96 and beyond be developed through negotiated rulemaking, including consolidation loans.

Conference agreement

The House recedes with an amendment making this requirement applicable to the extent practicable. It is the intention of the conferees that the Secretary immediately begin the negotiated rulemaking process so as to develop through that process the standards, criteria, procedures and regulations necessary to implement the Federal Direct Student Loan program for the 1995–96 academic year and subsequent academic years. However, should the Secretary find it necessary to develop such standards, criteria, procedures, and regulations outside of that process in order to avoid violating the Master Calendar provided in section 482 of the Higher Education Act relative to the 1995–96 academic year, the conferees intend that the Secretary do so. Nevertheless, should the Secretary find it necessary to exercise this option for the 1995–96 academic year, the conferees intend that such standards, criteria, procedures, and regulations for the 1996–97 academic year and subsequent academic years by subject to the negotiated rulemaking process.

ADMINISTRATIVE EXPENSES

House bill

Section 459 provides $261 million in funding for administrative costs in FY 1994, $346 million in FY 1995, $552 million in FY 1996, $596 million in FY 1997 and $749 million in FY 1998, with a four year cap of $2.504 billion.

Senate amendment

Section 460 provides $20 million in funding for administrative costs in FY 1994, $70 million in FY 1995, $170 million in FY 1996, $305 million in FY 1997 and $480 million in FY 1998, with a four year cap of $1.045 billion.

Conference agreement

The conference agreement provides $260 million in funding for administrative costs in FY 1994, $345 million in FY 1995, $550 million in FY 1996, $595 million in FY 1997 and $750 million in FY 1998, with a four year cap of $2.5 billion. The conferees intend that these caps not apply to funds recovered from guaranty agency reserves and used for the purposes specified in section 459.

BUDGET JUSTIFICATION

House bill

No provision.

Senate amendment

Section 460(c) requires the Secretary to include, in the Department's annual budget justification, a detailed description of use of administrative funds.

Conference agreement

The House recedes.

NOTIFICATION

House bill

No provision.

Senate amendment

Section 460(d) requires the Secretary to notify the authorizing and appropriations committees in the House and Senate when the Secretary draws funds from future years allocations for administrative expenses.

Conference agreement

The House recedes.

STUDENT LOAN REFORM COMMISSION

House bill

No provision.

Senate amendment

Section 460A establishes the National Student Loan Reform Commission to monitor, evaluate, and report on the implementation of the Federal Direct Student Loan Program and the continued operation of the Federal Family Education Loan Program. The Senate amendment authorizes up to $2 million per year in mandatory spending, for each of fiscal years 1994–1998, for the expenses of the bipartisan 15 member commission. The Senate amendment further requires the commission to submit to the Congress and the President no later than January 1, 1997, its final recommendations on the advisability of replacing the Federal Family Education Loan Program with a full-scale direct lending program.

Conference agreement

The Senate recedes. The conferees intend, however, that the duties that would have been assigned to the National Student Loan

Reform Commission pursuant to the Senate bill be performed instead by the Advisory Committee on Student Financial Assistance (established by section 491 of the Higher Education Act). Specifically, it is the intent of the conferees that the Advisory Committee on Student Financial Assistance advise the Secretary and the Congress on the operation of the Federal Direct Student Loan Program and the Federal Family Education Loan Program. The conferees further intend that the Advisory Committee evaluate and report to the Congress on these program on not less than an annual basis, with final recommendations on the advisability of proceeding to full direct lending to be submitted to the Secretary and the Congress no later than January 1, 1997.

Student Loan Marketing Association

House bill

Section 4021(d) of the House bill requires the Student Loan Marketing Association (Sallie Mae) to make lender-of-last-resort loans. The House bill stipulates that Sallie Mae does not have to make these loans to institutions with high default rates, institutions that have participated in part B less than 18 months, or institutions currently subject to an emergency action or an L, S or T proceeding.

Senate amendment

Section 12041 of the Senate amendment is similar. The Senate amendment does not include the House exceptions. The Senate further stipulates that Sallie Mae must begin making these loans by no later than July 1, 1994.

Conference agreement

The conference agreement requires the Student Loan Marketing Association to make lender-of-last-resort loans beginning no later than 90 days after date of enactment. The conference agreement does not include the exemptions contained in the House bill. The conference agreement further provides that lender-of-last-resort loans will be delivered in a timely fashion and that students will have no additional eligibility requirements than they do for the other part B loans. The conferees note that this section and section 4041(a) of this Act would expand the "lender-of-last-resort" provisions in the Higher Education Act, under which a lender is designated to make loans to eligible students who are unable to obtain loans from eligible lenders through the usual process. However, certain Federal Trade Commission (FTC) regulations, commonly known as the "Holder Rule," require a notice be included in consumer loan contracts in which the lender and the seller have a business or referral arrangement notifying the consumer that the holder of the contract may be subject to defenses to repayment raised by the consumer. The Holder Rule applies to student loan borrowers attending for-profit institutions, and the new Federal Family Education Loan promissory note includes the required notice. It is the conferees' understanding that the Holder Rule does not create liability for a lender-of-last-resort if the institution provides information to a student regarding the lender-of-last-resort services available in a state. The conferees understand that the FTC has provided an informal opinion to the Department that the Holder Rule is not applicable if the institution provides such information. The conferees urge the FTC to confirm this interpretation in formal guidance to ensure that student loan access under the lender-of-last-resort provisions is not jeopardized.

Reserve Funds

House bill

No provision.

Senate amendment

Section 422(g) allows the Secretary to require the return of all of the reserve funds of a guaranty agency in order to ensure the proper maintenance of such agency's funds or assets.

Conference agreement

The House recedes with an amendment requiring that regulations for this provision be developed through negotiated rulemaking and that these regulations contain a provision for administrative due process. The amendment provides that the Secretary, in making a determination to direct a guaranty agency to return assets, shall make such determination based on standards developed through the negotiated rulemaking process and published by the Secretary in regulations, and that those standards shall include procedures for administrative due process. The conferees have included this language so that the Secretary and the higher education community will engage in a full and open discussion of this issue, and actively cooperate to develop these standards. However, the conferees wish to emphasize that this language is not intended to diminish the longstanding and judicially-supported view that a guaranty agency's assets are dedicated to the loan programs and may not be used for unauthorized purposes. It is the conferees further intention that all references to guaranty agencies reserves contained in amendments to section 422 refer only to the "Federal portion" of such reserves.

Guaranty Agency Activity

House bill

No provision.

Senate amendment

Section 422(g) allows the Secretary to direct a guaranty agency to cease activities involving its reserve funds if the Secretary determines there may be a misapplication, misuse or improper expenditure of these funds.

Conference agreement

The House recedes. While this language does not cover the ability of the Department to recover reserve funds in the case of misuse, misapplication or improper expenditure of the funds, it is the intent of the conferees that when negotiated rulemaking is conducted on the issue of reserve funds, the issue of recovery in the case of misuse, misapplication or improper expenditure will be addressed. However, it is the intent of the conferees that the Department has the ability to recover reserve funds in the case of misuse, misapplication or improper expenditure without regulations developed through negotiated rulemaking.

Suspension of Contract

House bill

No provision.

Senate amendment

Section 422(g) allows the Secretary to suspend or cease a guaranty agency contract if the Secretary finds misuse of guaranty agency's funds or unnecessary and improper benefits to the officers or directors of a guaranty agency.

Conference agreement

The House recedes.

Penalties

House bill

No provision.

Senate amendment

Section 422(g) provides that violations relating to misuse of guaranty agency reserve funds are subject to the same criminal penalties as fraud and abuse in the student aid programs (section 490 of the Higher Education Act).

Conference agreement

The House recedes.

Eligibility of Guaranty Agencies to File for Bankruptcy

House bill

Section 4025(7) prohibits a guaranty agency from filing for bankruptcy.

Senate amendment

Section 12045(7) contains a similar provision.

Conference agreement

The conference agreement removes these provisions from both bills. The conferees do not intend that bankruptcy serve as a vehicle to frustrate or delay the policies embedded in Higher Education Act relative to the Federal Family Education Loan program and the transition from the Family Federal Education Loan program to the Federal Direct Student Loan program. The conferees intend that the Department retain and use its considerable power and authority with respect to the guaranty agency and its assets in the event a guaranty agency is threatened with insolvency and/or is eligible to file for bankruptcy protection.

Administrative Cost Allowance

House bill

Section 4026 of the House bill eliminates guaranty agency's administrative cost allowance after fiscal year 1994.

Senate amendment

No provision.

Conference agreement

The Senate recedes. It is the understanding of the conferees that the Department of Education will pay on a timely basis to each guaranty agency an amount equivalent to that which they otherwise would have received under the administrative cost allowance provision terminated in this legislation. It is the intention of the conferees that funding for this payment will come from the administrative funds provided under section 458.

Direct Consolidation Loans

House bill

Section 428C allows a borrower to obtain a direct consolidation loan from the Secretary, if he or she is unable to obtain a consolidation loan with income-sensitive repayment terms acceptable to the borrower.

Senate amendment

Section 428C allows a borrower to obtain a direct consolidation loan from the Secretary, if he or she is unable to obtain a consolidation loan. The Senate amendment allows these direct consolidation loans to have repayment provisions similar to regular consolidation loans as well as the income contingent repayment plan provided by both bills.

Conference agreement

The conference agreement allows a borrower to obtain a direct consolidation loan from the Secretary, if he or she is unable to obtain a consolidation loan or a consolidation loan with income-sensitive repayment terms acceptable to the borrower. The conference agreement further allows these direct consolidation loans to have repayment provisions similar to regular consolidation loans as well as the income contingent repayment plan provided by both bills. The conference agreement also includes a conforming amendment to prevent institutions from using consolidation loans to circumvent the default rate cut off provisions of the Higher Education Act.

INTEREST RATES (CONSOLIDATION LOANS)

House bill

Section 4027(3) of the House bill changes the interest rates on consolidation loans to the weighted average rounded upward to the nearest whole percent, effective July 1, 1994.

Senate amendment

No provision.

Conference agreement

The Senate recedes.

STUDY OF THE STUDENT LOAN MARKETING ASSOCIATION

House bill

Section 4028 of the House bill directs the Secretaries of Education and Treasury to conduct a study of the future of the Student Loan Marketing Association.

Senate amendment

No provision.

Conference agreement

The House recedes.

OPTICALLY IMAGED DOCUMENTS

House bill

No provision.

Senate amendment

Section 12047 of the Senate amendment provides for the use of optically imaged documents, including promissory notes and repayment agreements, in any proceeding with respect to these programs or loans. This section also provides that an optically imaged copy of any document or record may be introduced as evidence in any proceeding with respect to these programs or loans in any court.

Conference agreement

The Senate recedes.

CONSOLIDATION OF PROGRAMS

House bill

No provision.

Senate amendment

Section 10248 the Senate amendment changes the annual loan limits on unsubsidized loans to equal the loan limits on the Federal Supplemental Loans for Students program for independent students and students whose parents are unable to borrow under the Federal PLUS program. For these same students, the aggregate loan limit would be raised to reflect the increases in the annual limits.

Conference agreement

The House recedes with an amendment providing that an independent student's loan limit under the Federal Unsubsidized Stafford Loan program would equal the student's loan limit under the Federal Supplemental Loan for Students program plus his or her loan limit under Federal Stafford Loan program minus the amount of any assistance the student received under the Federal Stafford Loan program.

AMORTIZATION OF INTEREST RATES

House bill

No provision.

Senate amendment

Section 12048(a)(3) of the Senate amendment sets the interest rate used to calculate the amortized interest prior to repayment as the applicable interest rate at the time of repayment. The Senate amendment further defines the repayment period to commence when the first payment of principal is due.

Conference agreement

The House recedes.

CONSOLIDATION OPTIONS

House bill

No provisions.

Senate amendment

Section 12048(a)(4) of the Senate amendment allows lenders to consolidate all Federal Unsubsidized Stafford, Federal Supplemental Loan for Students and Federal PLUS loans into a single repayment schedule, with interest set at the weighted average of the interest rates on the loans rounded to the nearest whole percent. This provision allows for the extension of the repayment period but forbids the payments of additional insurance premiums.

Conference agreement

The Senate recedes.

REFINANCING (VARIABLE INTEREST RATE)

House bill

No provision.

Senate amendment

Section 12048(a)(4) of the Senate amendment allows a lender to refinance a Federal Unsubsidized Stafford loan, a Federal Supplemental Loan for Students or Federal PLUS loan in order to obtain more favorable interest rates for the borrower. The lender could charge an administrative fee of up to $100. If the borrower is denied refinancing from the borrower's original lender, another lender may refinance the loan and may charge additional insurance in place of the administrative costs. Holders must notify borrowers of refinancing options.

Conference agreement

The Senate recedes.

REPEAL OF SUPPLEMENTAL LOANS FOR STUDENTS PROGRAM

House bill

No provision.

Senate amendment

Section 12048(b) of the Senate amendment repeals the Supplemental Loans for Students program effective July 1, 1994.

Conference agreement

The House recedes.

ORIGINATION FEE; INSURANCE PREMIUM

House bill

No provision.

Senate amendment

Section 12049 of the Senate amendment changes the 6.5 percent origination fee/insurance premium in the Unsubsidized loan program to a 3 percent origination fee. The Senate amendment also provides for up to a 1 percent guaranty agency insurance premium for unsubsidized loans. Both of these provisions take effect in the 1994-95 academic year.

Conference agreement

The House recedes.

DELAYED DISBURSEMENT

House bill

No provision.

Senate amendment

Section 12050 of the Senate amendment eliminates the 30-day delayed disbursement requirement for first year borrowers in the Federal Family Education Loan program.

Conference agreement

The Senate recedes.

SECRETARY'S EQUITABLE SHARE

House bill

No provision.

Senate amendment

Section 12021 of the Senate amendment lowers the percentage of collections that guaranty agencies may retain from 30 percent to 27 percent.

Conference agreement

The House recedes.

INTEREST RATES

House bill

No provision.

Senate amendment

Section 12022 of the Senate amendment lowers the cap on PLUS loan interest rates from 10 percent to 9 percent and lowers the cap on Federal Stafford Loan program and Federal Unsubsidized Stafford Loan program interest rates from 9 percent to 8.25 percent, effective July 1, 1994.

Conference agreement

The House recedes.

INTEREST RATES (IN-SCHOOL GRACE PERIOD)

House bill

No provision.

Senate amendment

Section 12022(4) of the Senate amendment lowers the interest rate on all loans in the Federal Family Education Loan Program during the in-school and deferment and grace periods to 91-day T-bill plus 2.5 percent, effective July 1, 1994.

Conference agreement

The House recedes with an amendment applying this to loans first disbursed on or after July 1, 1995.

ORIGINATION FEES (STAFFORD, SLS, AND PLUS)

House bill

No provision.

Senate amendment

Section 12023(1) of the Senate amendment lowers the origination fee from 5 percent to 3 percent on Federal Stafford, Supplemental Loans for Students and PLUS loans.

Conference agreement

The House recedes.

LENDER ORIGINATION FEE

House bill

No provision.

Senate amendment

Section 12023(4) of the Senate amendment institutes a 0.5 percent lender origination fee to be collected from the lenders and distributed in the same manner as student loan origination fees.

Conference agreement

The House recedes.

OFFSET FEE

House bill

No provision.

Senate amendment

Section 12024 of the Senate amendment provides that the Student Loan Marketing Association should pay an annual fee (paid on a monthly basis) of 0.3 percent of the principal amount of each part B loan which the Student Loan Marketing Association holds.

Conference agreement

The conference agreement provides that the Student Loan Marketing Association should pay an annual fee (paid on a monthly basis) of 0.3 percent of the principal amount of each part B loan which the Student Loan Marketing Association acquires on or after date of enactment. The conference agreement further provides that the Secretary shall increase this fee to 1.0 percent if he determines that the Student Loan Marketing Association has substantially failed to comply with the requirement to make lender-of-last-resort loans.

TAX EXEMPT FLOOR

House bill

No provision.

Senate amendment

Section 12025 of the Senate amendment lowers the guaranteed special allowance for secondary markets from a minimum of 9.5 percent to 8.5 percent of the special allowance for other lenders.

Conference agreement

The conference agreement lowers the guaranteed special allowance for secondary markets from a minimum of 9.5 percent to the special allowance for other lenders.

INTEREST RATES
(CONSOLIDATION LOANS)

House bill

No provision.

Senate amendment

Section 12026(a)(1) of the Senate amendment changes the interest rate for consolidation loans to the 91-day t-bill plus 3.1 percent, with a maximum of 9 percent.

Conference agreement

The Senate recedes.

INTEREST PAYMENT REBATE FEE

House bill

No provision.

Senate amendment

Section 12026(a)(2) of the Senate amendment requires holders of consolidation loans to pay the Secretary an annual rebate fee (calculated and paid on a monthly basis) of 0.7 percent of the principal plus accrued interest on the consolidation loan.

Conference agreement

The conference agreement requires holders of consolidation loans obtained after October 1, 1993 to pay the Secretary an annual rebate fee (calculated and paid on a monthly basis) of 1.05 percent of the principal plus accrued interest on the consolidation loan.

INSURANCE PREMIUM

House bill

No provision.

Senate amendment

Section 12027(a) of the Senate amendment lowers the maximum guaranty agency insurance premium from 3 percent to 1 percent.

Conference agreement

The House recedes.

REINSURANCE FEES

House bill

No provision.

Senate amendment

Section 12027(b) of the Senate amendment eliminates guaranty agency reinsurance fees, effective July 1, 1994.

Conference agreement

The House recedes with an amendment changing the effective date to October 1, 1993.

LOAN TRANSFER FEE

House bill

No provision.

Senate amendment

Section 12028 of the Senate amendment provides for a loan transfer fee of 0.25 percent of the principal and accrued unpaid interest on any loan sold, payable by the buyer of the loan. This provision is effective October 1, 1993 and exempts the sale of loans to an affiliate of the lender, the sale of loans pursuant to merger, or the sale that results from the sale of a substantial portion of the lender's total business or student loan business.

Conference agreement

The Senate recedes.

GUARANTY AGENCY REIMBURSEMENT PERCENTAGE

House bill

No provision.

Senate amendment

Section 12029(a) of the Senate amendment lowers the guaranty agency reimbursement percentages from 100/90/80 percent to 98/88/78 percent. However, loans made under a lender-of-last resort program and loans made under an agreement resulting from guaranty agency insolvency are exempt from this reduction.

Conference agreement

The House recedes.

RISK SHARING

House bill

No provision.

Senate amendment

Section 12029(b) of the Senate amendment provides that the Student Loan Marketing Association would receive 95 percent payment on defaulted loans from the Federal Government, effective October 1, 1993.

Conference agreement

The conference agreement provides that all holders of loans be allowed 98 percent payment on defaulted loans from the guaranty agency or the Secretary, as appropriate, effective October 1, 1993. Lender-of-last-resort loans would receive 100 percent insurance from the guaranty agency or the Secretary, as appropriate.

PLUS LOAN MAXIMUM

House bill

No provision.

Senate amendment

Section 12030(a) of the Senate amendment sets the maximum PLUS loan at $10,000, effective July 1, 1994.

Conference agreement

The Senate recedes.

MULTIPLE DISBURSEMENT OF PLUS LOANS

House bill

No provision.

Senate amendment

Section 12030(b) of the Senate amendment requires multiple disbursement of PLUS loans.

Conference agreement

The House recedes.

BALANCED BUDGET ACT AMENDMENT

House bill

Section 4029 of the House bill amends the Balanced Budget and Emergency Deficit Control Act of 1985 to provide for a mandatory increase of 0.5 percent for fees paid by students in the Federal Direct Student Loan Program in the event of a sequestration.

Senate amendment

No provision.

Conference agreement

The House recedes.

EFFECTIVE DATE

House bill

Section 4031(a) of the House bill specifically provides an effective date for all of the student loan amendments as the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement provides a general effective date and separate effective dates for many provisions.

EFFECTIVE DATE (SECTION 428C AMENDMENTS)

House bill

Section 4031(b) of the House bill provides an effective date for the changes to section 428C of July 1, 1994. The House bill also provides that the changes made with respect to deferments of consolidation loans would be effective upon enactment.

Senate amendment

The Senate amendment provides only the July 1, 1994, effective date.

Conference agreement

The Senate recedes.

IRS STUDY

House bill

Section 4032 of the House bill directs the Secretary of Education in consultation with the Secretary of Treasury to conduct a study on the feasibility of having I.R.S. collect student loans, the results of which the Secretary of Education shall report to Congress in 6 months.

Senate amendment

Section 457 directs the Secretaries of Education and Treasury to submit a plan to the President to provide for I.R.S. collection of student loans and to evaluate other options for wage withholding. If the President determines that options contained in the plan would further the purposes of this part, the Secretaries of Education and Treasury would implement those options. The Senate amendment further provides a method for funding the implementation of the plan.

Conference agreement

The conference agreement deletes both provisions. Accordingly, the managers request that the Secretaries of Education and Treasury jointly develop a plan for the involvement of the Internal Revenue Service in the collection of student loans, including an analysis of its feasibility, the additional resources that would be required for the IRS, the enforcement procedures that should be used, the effect on the collection of ordinary income taxes, and the effect on the management of Federal student loan collections and on borrower repayment of such loans. The Secretaries are further requested to submit to the Congress the plan for implementing such a collection system, together with the results of the feasibility analysis and any legislative recommendations they may deem advisable, no later than six months after the date of enactment of this bill.

IRS COLLECTION

House bill

Section 4033 of the House bill expresses the sense of the Committee on Education and Labor to support I.R.S. collection of student loans.

Senate amendment

No provision.

Conference agreement

The House recedes. The House bill contained a section expressing the sense of the

Education and Labor Committee that although it lacked jurisdiction over amendments to the International Revenue Code, it would support provisions providing for the collection of student loans using the Internal Revenue Service, as well as amendments to the Higher Education Act, in the manner proposed by H.R. 2073, introduced by Mr. Petri on May 11, 1993. The managers on the part of both Houses reaffirm that IRS collection of student loans should be explored and that the following principles behind H.R. 2073 provide a useful guide to that exploration:

1. That IRS collection should be as convenient as possible for borrowers.

2. That it should impose no additional burden on employers.

3. That to produce the simplest, most efficient program and minimize burdens on the IRS, it should conform as closely as possible to the operations of the IRS in collecting the regular individual income tax, self employment tax, and social security taxes on tip income not reported to an employer.

4. That in the case of income dependent loans:

a. the repayment schedules should accommodate large loan volumes,

b. payments should be kept manageable for borrowers, including borrowers with dependents,

c. no payments should be required of borrowers whose incomes fall below the income tax filing threshold,

d. payments should generally be directly proportional to the amount borrowed (to discourage over borrowing),

e. borrowers should be excused from further payments when they have repaid their loans at some effective interest rate,

f. most borrowers should finish in a reasonable period of time,

g. borrowers should be allowed to repay, without penalty, in any year, more than they owe under the income-dependent schedules, in order to complete their obligations more rapidly, and

h. there should be adequate treatment of marriage, including:

no excessive marriage penalties or subsidies,

no ability to avoid payment by shifting income between spouses,

equal payments for couples with equal joint income and borrowing, and

fair allocation of a joint payment between two spouses' accounts (in case of later divorce).

5. That the combination of IRS collection and an income-dependent repayment option provides an opportunity further to streamline student loan programs and to target subsidies more fairly based on the ability to repay loans, which can be determined by post-school income.

DISCLOSURE OF TAX RETURN INFORMATION

House bill

No provision.

Senate amendment

Section 12055 describes the income tax return disclosure process for borrowers choosing income contingent repayment by amending the Internal Revenue Code.

Conference agreement

The Senate recedes. The conferees note that this provision appears in the section of this Act amending the Internal Revenue Code.

COST SHARING BY STATES

House bill

Section 428(n) permits States to pass on to institutions State default fees.

Senate amendment

Section 428(n) requires states to charge institutions a fee based on their cohort default rate.

Conference agreement

The Senate recedes. The conferees attempted to find other means to generate the cost savings produced by this part, but the conferences were unable to find other sources of revenue. This provision is not intended to place undue burdens on states. States will be reimbursed for the costs of performing the functions contained in section 494B of the Higher Education Act.

TEMPORARY RULES GOVERNING PREEMPTION OF CERTAIN STATE LAWS

House bill

Section 4203 of the House bill amends section 514(b) of ERISA to provide 2-year exemptions from preemption for certain provisions of state law, as follows:

(1) the Hawaii Prepaid Health Care Act;

(2) subtitle 2 of title 19 of the Annotated Code of Maryland, which establishes the Health Services Cost Review Commission and authorizes an all-payer hospital rate setting system;

(3) Section 295.52 of the Minnesota Statutes (relating to the 2% gross revenues tax on providers), section 19 of Article 9 of the Minnesota Health Right Act (permitting providers to pass the above tax), and other specified sections of such Act (relating to data collection); and

(4) specified sections of the New York Public Health Law relating to the all-payer hospital rate setting system, the 13% surcharge, uniform hospital charges, the variable surcharge for HMOs, and the allowances for bad debt, charity care, health services, financially distressed hospitals, and excessive malpractice insurance.

Senate amendment

No provision

Conference agreement

The House recedes.

COORDINATION OF ERISA PREEMPTION RULES

House bill

Section 4201 of the House bill amended section 514(b)(8) of ERISA to exempt from preemption certain additional provisions of state laws.

In 1986, ERISA was amended to add subsection (b)(8) in order to facilitate the ability of the states to assure that Medicaid was the secondary payor for all eligible individuals also covered under group health plans. Under the amendments to title XIX of the Social Security Act contained in title V of the House bill, additional requirements relating to third-party payors are imposed on the states as a condition of receiving Federal matching Medicaid funds. The amendments to ERISA under section 4201 permit states to enforce laws enacted as a result of these additional Medicaid requirements.

Senate amendment

Similar to House bill.

Conference agreement

The Senate recedes with an amendment.

Under the conference agreement, group health plans are required to pay benefits in accordance with any assignments of rights on behalf of participants and beneficiaries that is required by Title XIX of the Social Security Act. In enrolling individuals under group health plans, plans are precluded from taking into account the fact that an individual is eligible for or provided assistance under Title XIX.

In addition, under the conference agreement and consistent with provisions title V of this Act, to the extent that payment has been made under Title XIX, states would acquire the right of any other party to payment. State laws enforcing these rights must be honored by group health plans since those laws would be exempt from ERISA's preemption.

MEDICAL CHILD SUPPORT ORDERS

House bill

No provision.

Senate amendment

Section 12301(a) of the Senate amendment amends section 514(b)(8) of ERISA to require group health plans to comply with state laws relating to assignment of rights of payment and child health insurance support.

Conference agreement

The House recedes with an amendment.

Under the conference agreement, group health plans are required to honor "qualified medical child support orders." The term "medical child support order" means generally any judgment, decree, or order (including approval of a settlement agreement) issued by a court of competent jurisdiction providing for child support or health benefit coverage for a child of a participant. The child on whose behalf such an order is issued is an "alternative recipient" and will be treated as a participant under the plans. An order is "qualified" and must be honored by the plan if it meets certain specified requirements.

In addition, group health plans that provide for coverage for dependent children must treat dependent children placed for adoption in the home of participants under the plan the same as dependent children who are the natural children of participants, irrespective of whether that adoption has become final. For purposes of these provisions, a child is defined as an individual who has not attained age 18 as of the date of adoption or placement for adoption.

MEDICAL AND MEDICAID COVERAGE DATA BANK

House bill

Section 5117 of the House bill, as reported by the Committee on Energy and Commerce, established a Health Coverage Clearinghouse in order to identify third parties which may be liable for payment as primary payors for health care items and services for Medicaid beneficiaries. Under the House bill, qualified employers are required to provide information to the clearinghouse with respect to every individual who has received wages from such employers and for whom group health plan coverage is available. The information to be provided includes the name and taxpayer identification number of the individual, the name, address, and taxpayer identification number of the employer, and whether the employer has made available group health plan coverage for the individual and his or her family.

Senate amendment

Sections 7904 and 12101 of the Senate amendment (as reported by the Senate Finance and Senate Labor and Human Resources Committee, respectively) establish similar clearinghouses and impose similar requirements on employers.

Conference agreement

A full description of the conference agreement appears in the statement of managers describing section 13581. Conforming amendments to ERISA, ensuring that group health plans furnish required data needed for employer compliance, are adopted as part of section 4301 of the conference agreement.

TEA INSPECTION FEES

Current law

The Tea Importation Act (21 U.S.C. 41 et seq.) establishes a program under which the Secretary of Health and Human Services sets standards for tea, through the Board of Tea Experts, and operates a program under which tea and tea products are examined for inspection into the United States. Under the law, a fee of 3.5 cents for each hundredweight of tea is required from each importer or consignee.

Conference agreement

Under the conference agreement, the fee on imported tea is increased from 3.5 cents to 10 cents per hundredweight of tea. This increase should provide that expenses of the Food and Drug Administration associated with the standardization and inspection of tea, including expenses associated with the Board of Tea Experts, will be funded by fees paid by the industry. Provision is made such that the fees will not exceed the actual cost of these activities.

TITLE V—TRANSPORTATION AND PUBLIC WORKS PROVISIONS

SECTION 5001—RECREATIONAL USER FEES

House bill

Authorizes the Secretary of the Army to establish and collect fees for the use of developed recreation sites and facilities. New fees established under the authorization are limited to $3 per private, noncommercial vehicle. It also deletes the existing requirement for one free campground at Corps facilities where camping is permitted.

Senate amendment

Authorizes the Secretary of the Army to charge fees for the use of developed recreation sites and facilities, and deletes the existing requirement for one free campground at Corps facilities where camping is permitted.

Conference agreement

Adopts a combination of the two provisions authorizing the Secretary of the Army to establish and collect fees for the use of developed recreation sites and facilities. The new fees are limited to $3 per private, noncommercial vehicle transporting not more than 8 persons. It also deletes the existing requirement for one free campground at Corps facilities where camping is permitted.

Individual conferees on this issue want to make it clear that his or her position on the issue does not necessarily reflect his or her position on other issues of this conference report.

Aircraft registration fees (sec. 11001 of the House bill and sec. 313(f) of the Federal Aviation Act of 1958)

Present law

Under present law (sec. 313(f) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1354(f)), the Administrator of the Federal Aviation Administration (FAA) may establish and collect such fees as may be necessary to cover the costs associated with issuance of certificates of registration of aircraft, issuance of airman certificates to pilots, and processing of forms for major repairs and alterations of fuel tanks and fuel systems of aircraft. The current FAA aircraft registration fee is a one-time fee of $5. The other fees are not being collected.

The maximum fee schedule authorized under present law is as follows:

Type of fee	*Statutory authorized maximum amount*
Renewal of aircraft registration ..	$15.00
Registration of aircraft after transfer of ownership	25.00
Airman's pilot certificate	12.00
Processing of form major repair or alteration of a fuel tank or fuel system of an aircraft	7.50

The amount of fees collected are to be credited to the FAA for expense of carrying out Titles V and VI of the Federal Aviation Act of 1958.

House bill

Imposing of fees.—The House bill (sec. 11001) replaces the current FAA fee schedule with the following fees:

Type of fee	*Amount (in dollars)*
Annual aircraft registration fee:	
Aircraft 3,500 lbs. and under	$40
Aircraft over 3,500–6,500 lbs.	175
Aircraft over 6,500–10,000 lbs.	500
Aircraft over 10,000–100,000 lbs.	1,500
Aircraft over 100,000 lbs.	2,000
Aircraft transfer fee (average based on aircraft weight, to be set by FAA)	200
Aviation Medical Examiner's fee	500
Pilot's certificate fee (triennial)	12
Continues authorization of fee for processing of forms for major repairs and alterations of fuel tanks and fuel systems of aircraft	7.50

Exemptions.—The annual aircraft registration fee and the aircraft transfer fee do not apply to (1) commercial air carrier, (2) aircraft owned by or operated exclusively for, the United States Government (3) a dealer's registered aircraft. (4) aircraft without an engine driven electrical system, and (5) balloons or gliders.

Deposit of fee revenues.—The fees under the House bill are to be deposited in the Airport and Airway Trust Fund.

Effective date.—The provision applies to fiscal years beginning after September 30, 1993 (fiscal year 1994).

Senate amendment

No provision.

Conference agreement

The conference agreement is that the House recede to the Senate and not include these fees from the House bill.

Each conferee on this issue wants to make it clear that his or her position on the issue does not necessarily reflect his or her position on other issues of this Conference Report.

TITLE VI—COMMUNICATIONS LICENSING AND SPECTRUM ALLOCATION IMPROVEMENT

Section 6001 of H.R. 2264 provides for the orderly transfer of frequencies, including frequencies that can be licensed utilizing competitive bidding procedures, from the Federal Government to the Federal Communications Commission.

SECTION 6001—TRANSFER OF AUCTIONABLE FREQUENCIES

SECTION 111

House bill

Section 117 defines "allocation", "assignment", "commercial provider", and "the Act".

Senate amendment

Section 4011 of the Senate Amendment is virtually identical, except this section also defines the terms "Commission" and "Secretary".

Conference agreement

The conferees adopted the House provision, except the term "commercial provider" was deleted

FINDINGS

House bill

Section 111 sets forth congressional findings concerning the Federal Government's use of the spectrum, the scarcity of assignable frequencies for licensing by the Commission, and the fact that reassignment of the spectrum can produce significant economic returns.

Senate amendment

Section 4002(1)–(7) of the Senate Amendment sets forth congressional findings with respect to reallocation of spectrum that are similar to the House provision, except the Senate amendment finds that a reassignment of Federal Government spectrum can be accomplished without an adverse impact on amateur radio licenses that currently share spectrum with Government users.

Conference agreement

The Conference Agreement eliminates the findings section of the House bill and Senate Amendment because these provisions do not have a budgetary impact and could violate the Byrd rule. However, the conferees believe that these findings and conclusions are important and lay the predicate for this legislation, and incorporate the findings of both bills herein by reference.

SECTION 112

House bill

Section 112(a) requires the Assistant Secretary and the Chairman of the Commission to meet at least biannually to conduct joint spectrum planning. Section 112(b) requires a report by the Assistant Secretary and the Chairman to the Committee on Energy and Commerce and the Committee on Commerce, Science, and Transportation, the Secretary, and the Commission, on the joint planning activities. Section 112(c) sets forth the analysis that should be included in the first annual report.

Senate amendment

Section 4003(a) of the Senate Amendment is essentially the same as the House provision. Section 4003(b) requires a similar report as the House provision, but includes the requirement of recommendations for actions developed pursuant to the planning activities. The Senate Amendment also requires recommendations for the reform of the process of allocating spectrum between Federal uses and non-Federal uses.

Conference agreement

Section 112 of the Conference Agreement contains the provision on national spectrum allocation planning. The conferees adopted the language from both the House bill and the Senate Amendment with respect to the requirement of annual meetings between the Assistant Secretary and the Chairman of the Commission. One of the purposes of these annual meetings is to plan for the shared use of spectrum between commercial and Federal Government users. Such planning will provide certainty to potential bidders for commercial licenses and will thus increase the value of such licenses.

The conferees also added an issue for the joint spectrum planning activity, namely the extent to which licenses for spectrum use can be issued subject to the Commission's auction authority under section 309(j) of the 1934 Act. The purpose of this provision is to ensure that the Secretary and the Commission are reviewing all relevant issues of spectrum management.

Due to concerns about the non-budgetary impact of the reporting requirements, the Conference Agreement removes the statutory requirement concerning reports by the Secretary and the Commission about the scope of their planning activities and what progress had been made. Nonetheless, the conferees find this report necessary and expect the Assistant Secretary and the Chairman of the Commission to submit a joint annual report to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, and to include an analysis of the effect on spectrum efficiency and the cost of equipment to Federal spectrum users of maintaining separate allocations for Federal Government and non-Federal licensees for the same or similar services.

SECTION 113

House bill

Section 113(a) requires the Secretary to submit a report within 24 months to the President and Congress, identifying and recommending for reallocation frequencies that are assigned to Federal Government stations and are not required for the present or identifiable future needs of the Federal Government. The frequencies are to be those which are, or will be, feasible to make available during the next 15 years and have the greatest potential for commercial use.

Subsection (b) requires that the spectrum identified for reallocation must be located below 5 gHz, except that a maximum of 20 megahertz of the identified frequencies may be located between 5 and 6 gigahertz. Subsection (c) requires the Secretary to consider a number of factors affecting the usefulness and appropriateness of identified spectrum. Subsection (c)(4) provides additional criteria which the Secretary must consider in identifying reallocable spectrum, including the requirement that frequencies that Federal power agencies are licensed to use may only be eligible for mixed use in geographically separate areas and shall not be subject to withdrawal as part of the minimum 200 Mhz that is required by section 113(b) of this chapter.

Subsection (d) describes the procedures for the identification of frequencies. The Secretary is required to prepare and submit to Congress, within 12 months, a report which makes preliminary identification of frequencies to be reallocated. The Secretary is to convene an Advisory Committee to review the frequencies identified in the preliminary report.

Subsection (e) requires the Secretary to include a timetable for reallocation that recommends immediate and delayed effective dates by which the President shall withdraw or limit assignments on the frequencies specified in the report. To expedite the availability of at least a portion of the spectrum to be reassigned, this section authorizes the Secretary to identify an initial 30 megahertz of spectrum to be made available for reallocation immediately upon issuance of the report.

Senate amendment

Section 4004 of the Senate Amendment is similar to the House provision, with a number of exceptions. First, section 4004(b)(1) requires that all of the 200 megahertz identified by the Secretary be below 5 gigahertz. Next, it adds the requirement that at least one-half of the 200 megahertz identified by the Secretary for reallocation fall below 3 gigahertz. Paragraph (b)(2)(C) also requires any sharing of spectrum between Federal and non-Federal users be subject to coordination procedures established by both the Commission and the Secretary. The Senate Amendment also directed the Secretary to seek to avoid excessive disruption of amateur licensees.

With respect to frequencies assigned to Federal power agencies, paragraph (c)(4) provides that the criteria for eligibility of spectrum shall be deemed not to be met for any frequency assigned to such an agency.

The timetable for the preliminary report on allocable frequencies in subsection (d)(2) of the Senate Amendment is for 6 months; the House provision allowed 12 months. Subsection (d)(5) provides that within 18 months of enactment the Secretary shall prepare and submit a final report that recommends reallocation of at least 170 megahertz. In addition, the Senate Amendment provided for public comment on the report and direct discussion among commercial representatives and Federal Government users, but did not provide for an advisory committee.

In order to ensure the spectrum identified by the Secretary would be of maximum use, subsection (d)(6) requires that none of the 200 megahertz may be frequencies identified for reallocation by international agreement. Moreover, the Senate Amendment requires that none of the spectrum identified for immediate reallocation as part of the Secretary's 6-month report be allocated for mixed use, and that at least one-half of the spectrum identified for immediate reallocation must be below 3 gigahertz.

Conference agreement

Section 113 of the Conference Agreement reflects the House provision with a number of key portions of the Senate Amendment. The conferees adopted the Senate position regarding 6 months as the time period in which the Secretary must prepare and submit a preliminary report identifying reallocable spectrum, and 18 months in which to submit a final report. Given the fact that this legislation has passed the House three times in six years, the conferees are confident that this legislation comes as no surprise for the Secretary, and that this deadline can be met.

The Conference Agreement adopts the Senate language requiring that all spectrum identified by the Secretary be below 5 gigahertz, and that one-half be below 3 gigahertz. This provision was included since it guarantees that the spectrum identified by the Secretary will be useful to the commercial sector, and this will advance the primary goals of the legislation.

In order to encourage the maximum usefulness of the spectrum that will be reallocated in the near future, the conferees increased the amount of spectrum subject to this expedited process from 30 megahertz to 50 megahertz. Moreover, the conferees agreed to the Senate language requiring that one-half of such spectrum be below 3 gigahertz, and that none of the spectrum be allocated for mixed use.

The Conference Agreement adopts the Senate language that any operational sharing permitted under this paragraph must be subject to coordination and interference standards worked out by the Secretary and the Commission.

With respect to obtaining input on the Secretary's preliminary identification of reallocable spectrum, the Conference Agreement adopts the Senate language on public comment and direct discussions between commercial representatives and Federal Government users in lieu of the House provision on advisory committees. However, the conferees also added a provision requiring the Commission to submit to the Secretary its analysis of the public comments received by the Secretary and its recommendations for responses to such comments. The intent of this provision is to ensure that the Secretary gets another expert analysis of the numerous technical, regulatory and commercial issues that will be generated by the preliminary identification report. The Commission's processes and analysis will serve the same purposes as the Advisory Committee that was required by the House bill, but will not cause delays and increase expenditures.

In order to afford some protection to amateur licensees, the Conference Agreement adopts the Senate language directing the Secretary to seek to avoid excessive disruption of existing use of Federal Government frequencies by amateur radio licensees. The conferees believe the concerns of amateurs should be taken into consideration, and that the Secretary should seek to avoid excessive disruption.

The Conference Agreement adopts the Senate language providing that spectrum scheduled for reallocation by international agreement would not be eligible for identification by the Secretary. With respect to the Federal power agencies, the Conference Agreement incorporated the Senate language.

The conferees note that in assessing the criteria for identifying reallocable spectrum, the Secretary must assume that there will be reasonable rates of scientific progress and growth in demand for telecommunications services, and that the frequencies identified for reassignment will be assigned by the Commission within a fifteen-year period. These assumptions will help to assure that the frequencies that are reallocated will be able to be utilized as the state of radio art advances, as well as help stimulate the development of new spectrum-dependent technologies.

The conferees also observe that these delayed effective dates shall permit the earliest possible reallocation of the frequency bands, while taking into consideration the relationship between the cost to the Federal Government of changing to different frequencies and the commercial benefits of reassignment of these frequencies.

SECTION 114

House bill

Section 114(a) requires the President to withdraw the assignment to a Government station of any frequency recommended in the Secretary's report for immediate reallocation within six months after receiving such report. The President also is required to limit the assignment to a Government station of any frequency the report recommends for immediate mixed use. Subsection (b) recognizes that exceptions may be required to the recommendations made by the Secretary and provides procedures to be utilized by the President when the criteria established in subsection (b) are met. Subsection (c) limits the ability of the President to delegate the functions assigned by the Act.

Senate amendment

Section 4005 of the Senate Amendment is similar to the House provision, with these exceptions. The Senate Amendment provides that a ground for the President removing spectrum from the list identified by the Secretary and substituting other spectrum is that the identified spectrum will disrupt amateur radio licensees. Subsection (c) authorizes those Federal users who are displaced by virtue of a reallocation to be reimbursed, from the revenues generated by the competitive bidding, for their incremental costs directly attributable to the displacement. Subsection (d) clarifies that nothing in this subtitle prevents or limits additional reallocation of spectrum from the Federal Government to commercial or other users. The subsection also provides that the Secretary can permit the sharing of its frequencies to facilitate implementation of new technologies, and that the Commission shall expedite the allocation and associated licensing of any such frequencies.

Conference agreement

Section 114 of the Conference Agreement reflects the decision of the conferees to adopt the House provision with the following changes. The conference agreement incorporated the Senate language regarding disruption to amateur licensees as a grounds for substituting identified spectrum.

With regard to federal agencies getting reimbursed for costs associated with any reallocation of spectrum, the conference agreement does not include any statutory authorization in the Conference Agreement. However, the conferees believe that any Federal agency whose operation is displaced from a frequency assignment should be reimbursed for the incremental costs such agency incurs. Such costs must be directly attributable to the displacement from the frequency.

The Senate language with respect to implementation of new technologies and additional reallocation is generally incorporated in the Conference Agreement in section 117. However, the conferees concluded that the Commission should make any allocation decisions pertinent to such sharing in a timely manner and in accordance with the expedited timetable set forth in section 7 of the Communications Act of 1934.

The conferees find that the timetables authorized under this section will allow optimal use of frequencies that have been selected for reallocation and should impose only a minimal financial burden on the Government.

SECTION 115

House bill

Section 115 states that no less than one year after the President notifies the Commission of a frequency band to be reallocated, pursuant to section 114(a)(5), the Commission is required to submit to the President and Congress a plan for distribution of the reassigned frequencies. This plan shall not propose the immediate distribution of frequencies, and must take into account the timetable recommended by the Secretary.

Senate amendment

The differences between the Senate Amendment and the House Bill are few. Section 4006(b) requires consultation by the Commission with the Assistant Secretary, whereas the House language leaves such consultation at the Commission's discretion. More significantly, the Senate requires the Commission to not just submit a plan, but to implement it as well. Subsection (b)(2) directs the Commission to contain appropriate provisions to ensure the safety of life and property. Finally, subsection (c) amends section 303 of the Communications Act of 1934 by stipulating that any frequencies reallocated could be licensed by the Commission, but that any such assignment shall be expressly subject to the right of the President to reclaim that frequency.

Conference agreement

The Conference Agreement adopted the Senate language with one significant change. In order to ensure that the 50 megahertz of spectrum identified for immediate reallocation by section 13(e)(2) be allocated and assigned on an expedited basis by the Commission, the conferees agreed that the Commission shall have rules in place in 18 months allocating such spectrum and shall propose regulations to assign such frequencies.

The Conference Agreement provides that the Commission shall both submit a plan and begin to implement that plan on distribution and allocation of frequencies, and consequently adopted the Senate language. The Conference Agreement also provides that in developing its plan, the Commission shall contain appropriate provisions to ensure the safety of life and property in accordance with section 1 of the 1934 Act. The conferees agreed to delete subsection (c) of the Senate Amendment.

The Conferees note that advances in low power (e.g., below 5 mW) biomedical telemetry systems may greatly improve the quality and significantly decrease the cost of certain health care services. These systems are designed to operate in either the VHF or UHF bands. The Conferees believe that the NTIA and the FCC should carefully consider the needs of hospitals and other health care providers for inference-free radio spectrum in their respective allocation decisions made pursuant to this Act.

SECTION 116

House bill

This section establishes the process by which the President can reclaim frequencies which already have been reallocated to the Commission for reassignment. Subsection (e) stipulates that nothing contained in this chapter limits or otherwise affects the President's authority under sections 305 and 706 of the Communications Act, including the ability to withdraw or limit the use of all frequencies utilized by Government users.

Senate amendment

Section 4011 of the Senate Amendment is virtually identical to the House provision, except that subsection (e) sets forth a rule of construction that nothing in this section shall be construed to limit or otherwise affect the authority of the President under section 706.

Conference agreement

The conferees adopted the Senate provision.

SECTION 117

House bill

No provision.

Senate amendment

Section 4005(d) clarifies that nothing in this subtitle prevents or limits additional reallocation of spectrum from the Federal Government to commercial or other users. The subsection also provides that the Secretary can permit the sharing of Government frequencies to facilitate implementation of new technologies, and that the Commission shall expedite the allocation and associated licensing of any such frequencies.

Conference agreement

Section 117(a) of the Conference Agreement is similar to the Senate provision in section 4005(d). Subsection (b) adds a new section 104(e) to the NTIA Organization Act (47 U.S.C. 903), to require the Secretary and the NTIA to amend their rules and regulations to require that any person (other than an agency or instrumentality of the United States) utilizing a frequency that is allocated for the use of government stations, or utilizing a radio station belonging to the United States for any non-government application, must submit proof to the NTIA that such person has obtained a license from the Commission. The subsection further requires that the NTIA retain on file proof that such licenses have been obtained, and that the Secretary and the NTIA certify to Congress that such licenses have been obtained.

The conferees find it necessary to include this provision because it has become evident that some persons, despite clear law to the contrary, make use of frequencies assigned to government stations without obtaining a license from the Commission. This practice offends the essence of Title III of the Communications Act of 1934, circumvents the licensing fee process, and undermines the mission of the FCC as the agency charged with licensing all non-Federal users of the spectrum. The conferees are committed to terminating this practice immediately, and thus have placed these obligations on the Secretary as well as NTIA.

SECTION 6002—AUTHORITY TO USE COMPETITIVE BIDDING

Section 6002 of H.R. 2264 amends the Communications Act of 1934 (47 U.S.C. 151 *et seq.*) to permit the Federal Communications Commission (FCC) to utilize a system of competitive bidding to issue licenses for the use of frequencies. Specifically, section 6002 amends section 309 of the Act (47 U.S.C. 309) by adding a new subsection (j) that would permit such competitive bidding, and limits the circumstances under which existing authority to license frequencies utilizing a system of random selection could be used.

House bill

Section 5202 of H.R. 2264 contained four findings.

Senate amendment

Section 4002 of the Senate Amendment contained thirteen findings.

Due to the circumstances governing the consideration of the Conference Report, the Conferees have omitted them from the statutory text. They are, however, incorporated herein by reference.

SECTION 309(j)(1) AND 309(j)(2)

House bill

Subsection 309(j) confers the authority for the FCC to utilize a system of competitive bidding to issue licenses, and establishes the general criteria that the FCC must meet in order to utilize such authority. The Commission is restricted to utilizing competitive bidding procedures only when mutually exclusive applications are filed for subscription-based services.

Senate amendment

Subsection 309(j) would require the Commission to utilize a system of competitive bidding, but exempts certain classes of licenses from the requirement. Specifically, paragraph (4) of subsection 309(j) prohibits the use of the competitive bidding authority for license renewals and modifications thereof; for issuing new licenses to state and local government entities; for issuing new licenses in the amateur radio service, for over-the-air terrestrial radio and television licenses; for public safety and radio astronomy services; for non-mutually exclusive applications (such as specialized mobile radio, maritime and aeronautical end-user licenses); and for the modification of any non-Federal license that is required in order to make spectrum available for new technologies.

Conference agreement

The Conference Agreement adopts the provisions of the House bill, with an amendment to clarify the terms and conditions that must be met in order for the Commission to carry out its responsibilities under this Act.

Under the terms of the Conference Agreement, competitive bidding procedures would be utilized for a limited number of licenses. These procedures will only be utilized when the Commission accepts for filing mutually exclusive applications for a license, and the Commission has determined that the principal use of that license will be to offer service in return for compensation from subscribers.

The House Committee Report (H.R. Rept. 103-111) contains many examples of the types of licenses that would be covered by the competitive bidding procedures authorized in this Act, which are incorporated herein by reference.

The Conferees note that the principal use of licenses in the Instructional Television Fixed Service is the provision of educational television programming services to public school systems, parochial schools and other educational institutions. The fact that the Commission's rules permit licensees in this service to allow MMDS operators to utilize these frequencies when they are not needed for their principal use will not alter the manner by which these licenses will be issued as the result of the enactment of this legislation. Similarly, although such licensees are permitted to receive payments from such MMDS operators, such payments are not to be construed by the Commission to indicate that ITFS licensees are receiving compensation from "subscribers" as that term is used in section 309(j)(2).

SECTION 309(j)(3)

House bill

Paragraph (3) of the House bill requires the Commission to establish competitive bidding systems that meet the requirements of this section. In particular, the Commission is required to develop methodologies that promote the development and rapid deployment of new technologies; promote economic opportunity and competition and ensure that new and innovative technologies are available to the American people by avoiding excessive concentration and by disseminating licenses among a wide variety of applicants, including small business and businesses owned by members of minority groups and women; recover for the public a portion of the value of the public spectrum resource made available to the licensee and the avoidance of unjust enrichment; and promote the efficient and intensive use of the spectrum.

Senate amendment

Section 309(j)(2) requires the Commission seek to adopt rules to implement competitive bidding, and requires that such rules include safeguards to protect the public interest and ensure the opportunity for successful participation by small businesses and minority-owned businesses.

The original House provision requires the Commission to disseminate licenses to a wide variety of applicants, including small businesses and businesses owned by minority groups and women. The Amendment adds rural telephone companies to the list of examples of the term "wide variety of applicants."

Conference agreement

The Conference Agreement adopts the provisions of the House bill with an amendment. The amendment requires that the Commission disseminate licenses among a wide variety of applicants, including small business, rural telephone companies, and businesses owned by members of minority groups and women.

SECTION 309(j)(4)

House bill

Section 309(j)(4) contains requirements for the rules that the Commission must issue in order to implement this section. The Commission is required to consider alternative payment schedules and methods of calculation, including initial lump sums, installment or royalty payments, guaranteed annual minimum payments, or other schedules or methods (including combinations of methods) that promote the objectives of this Act.

In addition, the Commission is required to include performance requirements, such as appropriate deadlines and penalties for performance failures, to ensure prompt delivery of service to rural and other areas, and to prevent stockpiling of frequencies.

Consistent with the public interest, the purposes of this Act, and the characteristics of the proposed service, the Commission is also required to prescribe area designations and bandwidth assignments that promote an equitable distribution of licenses and services among geographic areas; economic opportunity for a wide variety of applicants, including small businesses and businesses owned by members of minority groups and women; and investment in and rapid deployment of new technologies and services.

Finally, the Commission must require such transfer disclosures and antitrafficking restrictions and payment schedules as may be necessary to prevent unjust enrichment as a result of the methods employed to issue licenses.

Senate amendment

Section 309(j)(2)(C) requires that the Commission's rules implementing the amendments to section 309(j) establish the method of bidding (including but not limited to sealed bids) and the basis for payment (such as installment of lump payments, royalties on future income, a combination thereof, or other reasonable forms of payment as specified by the Commission).

Section 309(j)(3) requires the Commission to establish at least one license per market as a "rural program license" for any service that will compete with telephone exchange service provided by a qualified common carrier. This section also stipulates the terms and conditions for any such license, including requirements to pay an amount equal to the value of comparable licenses issued utilizing competitive bids.

Conference agreement

The Conference Agreement adopts the House provisions, with several amendments. First, the Conference Agreement modifies the requirements regarding the use of installment or royalty payments and guaranteed annual minimum payments. The modification clarifies that the Commission can utilize payment schedules that include lump sums or guaranteed installment payments, with or without royalty payments.

The reason for the modification is to ensure that the Commission is not placed in the position of evaluating bids that are submitted solely in the form of promises to pay a royalty on future income, and attempting to determine which bid is greater based on speculation about the amount of money that will be generated thereby. Such a situation would force the Commission to assume all of the risk that is properly borne by the licensee and its financial underwriters, and force the Commission to make determinations that surely would be litigated, further delaying the availability of service to the public.

The Conferees anticipate that under some circumstances, the Commission will require bidder to agree to pay a stipulated lump sum or annual minimum, and, in addition to those amounts, a percentage of future revenues that are derived from the use of the license. Such an approach will reduce the likelihood of protracted litigation that could delay the availability of service to the public, and hold the Commission harmless in the event that projections of future revenue fall short.

The Conferees also agreed to require that the Commission provide economic opportunities for rural telephone companies in addition to small business and businesses owned by members of minority groups and women.

The Conference Agreement also modifies the House provision to include a provision, based on but not identical to a Senate provision, that requires the Commission to ensure that small businesses, rural telephone companies, and businesses owned by minority groups and women are given the opportunity to participate in the provision of spectrum-based services, and, for such purposes, consider the use of tax certificates, bidding preferences and other procedures.

SECTION 309(j)(5)

House bill

Section 309(j)(5) requires the Commission to adopt procedures that will assure that no license is accepted for filing that does not meet the Commission's requirements. It provides that no license shall be granted unless the Commission determines that the applicant is qualified pursuant to subsection (a) of section 309 and sections 308(b) and 310 of the Communications Act of 1934. Finally, it requires the Commission to adopt expedited procedures for the resolution of any substantial and material issues of fact concerning qualifications.

Senate bill

Section 309(j)(2)(B) instructs the Commission to prescribe rules that require potential bidders to file a first-stage application indicating an intent to participate in the competitive bidding process, and containing such other information as the Commission finds necessary. After conducting the bidding, the Commission must require the winner to submit such other information as it deems necessary in order to determine that the bidder is qualified.

This section also clarifies that participants in the competitive bidding process shall be subject to the schedule of charges contained in section 8 of the Communications Act.

Conference agreement

The Conference Agreement adopts the House provisions.

SECTION 309(j)(6)

House bill

Section 309(j)(6) contains rules of construction, and stipulates that nothing in the use of competitive bidding for the award of licenses shall limit or otherwise affect the requirements of the Communications Act that limit the rights of licensees, or require the Commission to adhere to other requirements. In particular, the adoption of competitive bidding procedures does not affect the requirements of sections 301, 304, 307, 309(h), 310, 706, or any other provision of the Act other than subsections (d)(2) and (e) of Section 309.

In addition, the House bill requires that nothing in this subsection, or in the use of competitive bidding, shall be construed to convey any rights, including any expectation of renewal of a license, that differ from the rights that apply to other licenses within the same service that were not issued pursuant to this subsection, or construed to prohibit the Commission from issuing nationwide licenses or permits.

Senate amendment

Section 309(j)(5) states that nothing in the competitive bidding provisions of this Act shall be construed to alter spectrum allocation criteria and procedures established by the other provisions of the Communications Act; allow the Commission to consider potential revenues from competitive bidding when making decisions concerning spectrum allocation; diminish the authority of the Commission under the other provisions of the Communications Act to regulate or reclaim spectrum licenses; grant any right to a licensee different from the rights awarded to licensees who obtained their license through assignment methods other than competitive bidding; or prevent the Commission from awarding licenses to those persons who make significant contributions to the development of a new telecommunications service or technology.

Conference agreement

The Conference Agreement adopts the House provisions with an amendment. The amendment includes three provisions from the Senate Amendment, including the provision of section 309(j)(5)(E) concerning the so-called "Pioneer's Preference."

In addition, the Conference Agreement includes a provision that requires the Commission to continue to use engineering solutions, negotiation, threshold qualifications, service regulations, and other means in order to avoid mutual exclusivity in application and licensing proceedings.

The Conference Agreement also includes the provisions contained in the House Bill that retains for the Commission its ability to issue nationwide licenses or permit, but clarifies that the Commission retains its discretion to issue nationwide, regional, or local licenses or permits.

Finally, the Conference Agreement includes the provision of the Senate Amendment (309(j)(2)(B)(iii) that requires applicants to pay any fee imposed pursuant to section 8 of the Communications Act.

SECTION 309(j)(7)

House bill

Section 309(j)(7) limits the ability of the Commission to base allocation decisions, or its decisions concerning payment schedules, area designations and bandwidth assignments, solely or predominantly on expectations of Federal revenues.

Senate amendment

Section 309(j)(5)(B) prohibits the Commission from considering potential revenues from competitive bidding when making decisions concerning spectrum allocation.

Conference agreement

The Conference Agreement prohibits the Commission from basing a finding of public interest, convenience, and necessity on the expectation of Federal revenues from competitive bidding when making allocation decisions pursuant to section 303(c) or paragraph 4(C) of subsection 309(j).

In prescribing regulations pursuant to paragraph (4)(A) of subsection 309(j), the Conference Agreement prohibits the Commission from basing a finding of public interest, convenience, and necessity solely or predominantly on the expectation of Federal revenues from the use of competitive bidding.

Finally, the Conference Agreement recognizes that the Commission historically has attempted to project demand for services as part of its determinations, and preserves that ability for the Commission in the future.

SECTION 309(j)(8)(A)

House bill

Section 309(j)(8) requires that all proceeds from the use of a competitive bidding system under this subsection shall be deposited in the Treasury in accordance with chapter 33 of title 31, U.S. Code.

This section also stipulates that a license or permit issued by the Commission shall not be treated as the property of the licensee for tax purposes by any State or local government entity.

Senate amendment

Section 309(j)(6) requires that moneys received from competitive bidding pursuant to this subsection shall be deposited in the general fund of the Treasury.

Section 4008(c) of the Senate Amendment to H.R. 2264 amends the Communications Act by creating a new section 714, which states that a license or permit issued by the Commission under the Act shall not be treated as the property of the licensee for property tax purposes, or other similar tax purposes, by any State or local government entity.

Conference agreement

The Conference Agreement adopts the language contained in the House Bill pertaining to the treatment of revenues derived from competitive bidding.

The Conferees agree to drop the language contained in both the House bill and the Senate Amendment relating to State and local government tax treatment of parties who have obtained licenses under the Communications Act. It is the intent of the Conferees to clarify that nothing in this Act alters or affects the authority or lack of authority of State and local governments to assess *ad valorem* property, or other taxes on the licensee. The Conferees do not intend for the deletion of the proposed House and Senate language to create any other inference regarding the subject matter of the proposed provisions.

SECTION 309(j)(8)(B)

House bill

No provision.

Senate amendment

Section 4008(a)(2) of the Senate Amendment to H.R. 2264 permits the Commission to retain as an offsetting collection such sums as may be necessary from the receipts received pursuant to section 309(j) for the costs of developing and implementing the competitive bidding procedures required by this Act.

Conference agreement

The Conference Agreement includes the Senate provision.

SECTION 309(j)(9)

House bill

No provision.

Senate amendment

No provisions.

Conference agreement

Section 309(j)(9) of the Conference Agreement requires that, within 5 years after the enactment of this section, the Commission issue licenses and permits, utilizing the provisions of section 309(j), that in the aggregate span not less than 10 megahertz, and that have been reassigned from Government use pursuant to part B of the National Telecommunications and Information Administration Organization Act.

SECTION 309(j)(10)

House bill

No provision.

Senate amendment

No provision.

Conference agreement

Section 309(j)(10) stipulates the conditions that must have been met in order for the Commission to commence issuing licenses pursuant to section 309(j), and in order that the Commission continue to have such authority over the course of the next five years.

The initial authority for the Commission to utilize competitive bidding procedures is conditioned on the Secretary of Commerce submitting to the Commission the report required by section 113(d)(1) of the National Telecommunications and Information Administration Organization Act; that such report recommends for immediate reallocation bands of frequencies that, in the aggregate, span not less than 50 megahertz; and that such bands of frequencies meet the criteria required by section 113(a) of such Act.

In addition, in order to utilize the competitive bidding procedures authorized by section 309(j), the Commission must have completed the rulemaking required by section 332(c)(1)(D) of H.R. 2264.

Subparagraph (B) of this subsection stipulates that the Commission's authority to utilize competitive bidding procedures on and after two years after the enactment of this Act shall cease to be effective if the Secretary of Commerce has failed to submit the report required by section 113(a) of the National Telecommunications and Information Administration Organization Act; if the President has failed to withdraw and limit assignments of frequencies as required by paragraphs (1) and (2) of such Act; or if the Commission has failed to issue the regulations required by section 115(a) of such Act.

In addition, the Commission's authority to utilize competitive bidding procedures shall cease to be effective if the Commission has failed to complete and submit to Congress, not later than 18 months after the date of enactment of this subsection, a study of current and future spectrum needs of state and local government public safety agencies through the year 2010, and a specific plan to ensure that adequate frequencies are made available to public safety licensees, or the Commission has failed, under section 332(c)(3), to grant or deny within the time required by such section any petition that a State has filed within 90 days after the enactment of this subsection. The authority to reinstate competitive bidding procedures is conditioned on the correction of the failure that required that such authority cease to be effective.

SECTION 309(j)(11)

House bill

Section 309(j)(9) of the House bill terminates the competitive bidding authority contained in section 309(j) on September 30, 1998.

Senate amendment

Section 4008(a) of the Senate Amendment to H.R. 2264 requires the Commission to utilize competitive bidding procedures under appropriate circumstances, but terminates that requirement when the Secretary of the Treasury determines that competitive bidding has resulted in or is reasonably expected to result in the receipt of $7,200,000,000 by the end of fiscal year 1998, or at the end of fiscal year 1998, whichever is earlier. The Senate Amendment contains no provision that terminates the Commission's discretionary authority to utilize competitive bidding procedures.

Conference agreement

The Conference Agreement includes the House provision.

SECTION 309(j)(12)

House bill

Section 309(j)(9) includes a provision that requires the Commission to conduct a public inquiry and submit to the congress a report concerning the implementation of section 309(j). The report must describe the methodologies established by the Commission; compare the relative advantages and disadvantages of such methodologies in terms of attaining the objectives stipulated in this Act; evaluates the extent to which such methodologies have secured prompt delivery of service to rural areas; and contain a statement of the revenues obtained, and a projection of the future revenues that are derived from the use of competitive bidding.

Senate amendment

Section 4008(a)(1)(C) of the Senate Amendment contained a similar reporting requirement.

Conference agreement

The Conference Agreement adopts the House provisions with an amendment, which contains several provisions required by the Senate Amendment. In addition to the reporting requirements required by the House Bill, the Conference Agreement requires that such report evaluate whether and to what extent competitive bidding significantly improved the efficiency and effectiveness of the licensing process; facilitated the introduction of new spectrum-based technologies and the entry of new companies into the telecommunications market; and enabled small business, rural telephone companies, and businesses owned by members of minority groups and women to participate successfully in the competitive bidding process. In addition, the Conference Agreement requires that the Commission include any recommendations for statutory changes that may be necessary to improve the competitive bidding process.

SECTION 6002(b)

House bill

Section 5204 of the House bill contains conforming amendments that limit the ability of the Commission to utilize the provisions of section 309(i) to award licenses by random selection. these amendments condition the use of the provisions of section 309(i) on a prior determination that the Commission cannot utilize the competitive bidding authority contained in section 309(j) because the use of the license is not one for which the Commission is authorized to use competitive bidding procedures.

In addition, the House bill contains a requirement that, within 180 days of the date of the enactment of this section, the Commission adopt regulations that include such transfer disclosures and antitrafficking restrictions and payment schedules as are necessary to prevent the unjust enrichment of recipients of licenses that are issued by a system of random selection.

Senate amendment

No provision.

Conference agreement

The Conference Agreement includes the provisions of the House Bill.

SECTION 332(c)(1)

House bill

Section 332(c)(1)(A) states that any person providing commercial mobile service shall be treated as a common carrier subject to the requirements of title II of the communications Act. The Commission is given authority to specify by rule which provisions of title II may not apply. In specifying sections or provisions of sections that shall not apply, the Commission may not specify sections 201, 202, or 208. In addition, the Commission may not specify a provision that is necessary to ensure charges are just and reasonable and not unjustly or unreasonably discriminatory, or otherwise in the public interest.

The House bill requires in section 332(c)(1)(B) that the Commission shall order a common carrier to establish interconnection with any person providing commercial mobile service, upon reasonable request. Nothing here shall be construed to expand or limit the Commission's authority under section 201, except as this paragraph provides.

Senate amendment

Section 332(c)(1)(A) of the Senate Amendment is the same as the House provision except:

the Senate amendment states expressly that the Commission may waive the requirements of sections 203, 204, 205, and 214, and the 30-day notice requirement of section 309(a):

the Senate amendment specifies that the Commission may not waive sections 201, 202, 206, 208, 209, 215(c), 216, 217, 220(d) or (e), 223, 225, 22(a), (b), (c), (d), (e), (f), (g), or (i), 227 or 228.

Section 332(c)(1)(B) of the Senate provision is identical to the House provision.

Section 332(c)(7) as added by the Senate bill states that the Commission, in any proceeding under this subsection, (i) shall consider the ability of new entrants to compete in the services to which such proceeding relates, and (ii) shall have the flexibility to amend, modify, or forbear from any regulation of new entrants under this subsection, or consistent with the public interest, take other appropriate action, to provide a full opportunity for new entrants to compete in such services.

Conference agreement

With regard to section 332(c)(1)(A), the Conference Agreement adopts the House approach with some modifications. The intent of this provision, as modified, is to establish a Federal regulatory framework to govern the offering of all commercial mobile services. The Conference Agreement adds two additional requirements that the Commission must meet before specifying any provision as inapplicable. In addition to requiring that the Commission determine that enforcement of the provision is not necessary in order to ensure that charges are reasonable, the Conference Agreement requires the FCC to determine that enforcement of the provision is not necessary for the protection of consumers and that specifying such provision is consistent with the public interest. The Conference Agreement adopts the House provision of section 332(C)(1)(B). Differential regulation of providers of commercial mobile services is permissible but is not required in order to fulfill the intent of this section.

By dropping the list of provisions in the Senate Amendment that the Commission may not specify by rule, the Conferees do not intend to diminish the importance of these provisions to consumers. The Conferees intend to give the Commission the flexibility to determine whether or not the enforcement of these provisions is necessary, in light of their significance to consumers.

The fact that all commercial mobile services will be treated as common carriers under this provision is not intended to affect the telephone-cable cross-ownership provision contained in Section 613(b) of the Communications Act.

Section 332(c)(1)(C) of the Conference Agreement directs the Commission to review and analyze competitive market conditions with respect to commercial mobile services in its annual report. This section also states that the Commission, as part of determining whether a provision is consistent with the public interest under subparagraph (A)(iii), shall consider whether the proposed regulation (or amendment thereof) will promote competitive market conditions. If the Commission determines that such regulation will promote competition among providers of commercial mobile services, such determination may be the basis for a Commission finding that such regulation is in the public interest.

The purpose of this provision is to recognize that market conditions may justify differences in the regulatory treatment of some providers of commercial mobile services. While this provision does not alter the treatment of all commercial mobile services as common carriers, this provision permits the Commission some degree of flexibility to determine which specific regulations should be applied to each carrier. For instance, the Commission may, under the authority of this provision, forbear from regulating some providers of commercial mobile services if it finds that such regulation is not necessary to promote competition or to protect consumers against unjust or unreasonable rates or unjustly or unreasonably discriminatory rates. At the same time, the Commission may determine that it should not specify some provisions as inapplicable to some commercial mobile services providers, or may choose to "unspecify" certain provisions for certain providers, if it determines, after analyzing the market conditions for commercial mobile services, that application of such provisions would promote competition and protect consumers.

Section 332(c)(1)(D) of the Conference Agreement provides that the Commission shall conduct a rulemaking to implement this paragraph with respect to the licensing of personal communications services within 180 days after the enactment of this Act. This provision is necessary because the Act elsewhere requires the Commission, in order to speed the licensing of personal communications services, to complete two other proceedings concerning the rules for personal communications services within 180 days. Completion of a rulemaking regarding the regulatory treatment of personal communications services prior to the issuance of licenses through competitive bidding for these services will provide regulatory certainty that will enhance the value of the licenses.

SECTION 332(c)(2)

House bill

Section 332(c)(2) as added by the House bill clarifies that a party engaged in private land mobile service shall not be treated as a common carrier. This section also clarifies that parties deemed common carriers by virtue of paragraph (1)(A) can continue to offer radio dispatch service. In addition, this section authorizes the FCC to decide whether all common carriers should be able to provide dispatch service in the future.

Senate amendment

The provision of the Senate bill is almost identical to the House provision.

Conference agreement

The Conference Agreement adopts the House language.

SECTION 332(c)(3)

House bill

Section 332(c)(3)(A) added by the House bill provides that state or local governments cannot impose rate or entry regulation on private land mobile service or commercial mobile services; this paragraph further stipulates that nothing shall preclude a state from regulating the other terms and conditions of commercial mobile services. Section 332(c)(3)(B) permits states to petition the Commission for authority to regulate rates for any commercial mobile services where mobile services have become a substitute for telephone service, or where market conditions are such that consumers are not protected from unreasonable and unjust rates. The FCC is required to respond to any state's petition within 9 months of filing.

Senate amendment

Section 332(c)(3)(A) of the Senate Amendment is identical to the House provision except that it explicitly recognizes that nothing in this subparagraph exempts providers of commercial mobile services (where such services are a substitute for land line telephone exchange service for a substantial portion of the communications within such State) from requirements imposed by a State commission on all providers of telecommunications services necessary to ensure the continued availability of telephone exchange service at affordable rates.

Similarly, section 332(c)(3)(B) as added by the Senate Amendment permits the State to petition for the right to regulate, but under slightly different standards. Under the Senate Amendment, a state may obtain regulatory authority if the state demonstrates that the commercial mobile service is a substitute for land line telephone exchange service for a substantial portion of the communications within such State (rather than substantial portion of the public).

Section 332(c)(3)(C) of the Senate Amendment is a "grandfathering" provision that permits states that regulate the rates for any commercial mobile services as of June 1, 1993 to continue to exercise such authority until the Commission issues a final order in response to a petition filed by the State requesting that the State be authorized to continue exercising authority over such rates. The Commission must rule on such a petition within nine months and must grant the petition if the State satisfies the showing required under subparagraph (B)(i) or (B)(ii). Section 332(c)(3)(D) of the Senate Amendment permits any interested party to petition the Commission, after a reasonable period of time after the issuance of an order under subparagraph (B) or (C), for an order that the State authority to regulated rates is no longer necessary. After receiving public comment on the petition, the Commission must rule on such petition within 9 months.

Conference agreement

The Conference Agreement retains the Senate language concerning universal service, with slight modifications to clarify that universal service can be provided by any provider of telecommunications service. The Conference Agreement adopts the language "substantial portion of the telephone land line exchange service" rather than either "communications" or "public" to more accurately describe the situation in which state authority to regulate commercial mobile services should be granted. For instance, the Conferees intend that the Commission should permit States to regulate radio service provided for basic telephone service if subscribers have no alternative means of obtaining basic service if subscribers have no alternative means of obtaining basic telephone service. If, however, several companies offer radio service as a means of providing basic telephone service in competition with each other, such that consumers can choose among alternative providers of this service, it is not the intention of the conferees that States should be permitted to regulate these competitive services simply because they employ radio as a transmission means.

The Conference Agreement merges subparagraphs (C) and (D) of the Senate Amendment into subparagraph (B) to provide regulatory certainty to potential bidders for licenses to provide commercial mobile services. The Conference Agreement clarifies that State authority to regulate is "grandfathered" only to the extent that it regulates commercial mobile services "offered in such State on such date". The Conference Agreement also clarifies that the State authority continues in effect until the Commission completes all action on the petition (including reconsideration). The Commission must complete all action on any state petition (including action on petitions for reconsideration) within 12 months after the petition is filed. The Conference Agreement further clarifies that State authority to regulate is only "grandfathered" if the State files a petition seeking such authority within 1 year after the date of enactment; if the State fails to file a petition within this time, the State authority is preempted as all other States are preempted under subsection (c)(3)(A).

It is the intent of the Conferees that the Commission, in considering the scope, duration or limitation of any State regulation shall ensure that such regulation is consistent with the overall intent of this subsection as implemented by the Commission, so that, consistent with the public interest, similar services are accorded similar regulatory treatment.

SECTION 332(c)(4)

House bill

Section 332(c)(4) of the House Bill states that nothing in this provision affects the regulation of Comsat pursuant to title IV of the Communications Satellite Act of 1962.

Senate amendment

The Senate provision is identical to the House provision.

Conference agreement

The Conference Agreement accepts the House provision.

SECTION 332(c)(5)

House bill

No provision.

Senate amendment

Section 332(c)(5) as added by the Senate Amendment provides that the Commission shall continue to determine whether the provision of space segment capacity by satellite systems to providers of commercial mobile services shall be treated as common carriage.

Conference agreement

The Conference Agreement adopts the Senate provision with slight modification to clarify that the Commission may continue to use its existing procedures to determine whether the provision of space segment capacity to providers of commercial mobile services shall be treated as common carriage. Under section 332(c)(1)(A), however, the provision of space segment capacity directly to users of commercial mobile services shall be treated as common carriage.

SECTION 332(c)(6)

House bill

No provision.

Senate amendment

Section 332(c)(6) as added by the Senate Amendment states that the foreign ownership restrictions of Section 310(b) shall not apply to any lawful foreign ownership in a provider of commercial mobile services prior to May 24, 1993, if that provider was not regulated as a common carrier prior to the date of enactment of this Act and is deemed a common carrier as a result of this Act.

Conference agreement

The Conference Agreement adopts a modified version of the Senate provision. The purpose of this provision is to "grandfather" any foreign ownership in a provider of private land mobile services that existed prior to May 24, 1993 if that provider becomes a common carrier under this Act. Section 310(b) of the Communications Act limits the amount of private foreign ownership in a common carrier service but does not impose any such limits on the foreign ownership in private radio service. Currently, some foreign-owned companies provide private radio services. Some of these companies will become common carriers as a result of section 332(c)(1)(A). Without this "grandfathering" provision, these companies would be forced to divest themselves of any foreign ownership when this Act becomes effective.

In order to avoid this result, the Conference Agreement accepts the Senate provision with modifications to limit its application. First, Section 332(c)(6) as added by the Conference Report requires a person that may be affected by this provision to file a waiver request with the Commission within 6 months of enactment. The FCC may grant the waiver only on the following conditions:

(1) The extent of foreign ownership interest shall not be increased above the extent which existed on May 24, 1993.

(2) Such waiver shall not permit the subsequent transfer of ownership to any other person in violation of section 310(b). In effect, this condition "grandfathers" only the particular person who holds the foreign ownership on May 25, 1993; the "grandfathering" does not transfer to any future foreign owners.

Section 310(b) addresses the permissible extent of foreign investment in certain radio licenses, including common carriers. One effect of the denomination of commercial mobile services as common carrier services is to broaden the range of services subject to limitations on foreign investment. In securing regulatory parity for commercial mobile services, the Conference Agreement does not restrict the FCC's discretion, pursuant to section 310(b)(4), to permit foreign investors to acquire interests in U.S.-licensed enterprises. These amendments in no way affect the Commission's authority under section 310(b).

SECTION 322(d)

House bill

Section 322(d) of the House bill defines the terms "commercial mobile service" and "private mobile service". "Commercial mobile service" is defined as a mobile service, as defined in section 3(n), that is interconnected with the Public switched telephone network offered for profit and held out to the public, or offered on an indiscriminate basis to classes of eligible users, or to such a broad class so as to equal the public. "Private mobile service" is defined as anything that does not fall under commercial mobile service. The provisions also direct the Commission to define "interconnected" and "public switched telephone network".

Senate amendment

Section 322(c)(8) as added by the Senate Amendment contains similar definitions of the terms "commercial mobile service" and "private land mobile service". The differences in the Senate definition of "commercial mobile service" are: 1) that "offered on an indiscriminate basis" is not one of the tests for determining a "commercial mobile service" in the Senate Amendment; 2) the Senate definition expressly recognizes the Commission's authority to define the terms used in defining "commercial mobile service"; and 3) the Senate definition requires that "interconnected service" must be made available to the public, as opposed to the House definition which simply requires the service offered to the public to be "interconnected". In other words, under the House definition, only one aspect of the service needs to be interconnected, whereas under the Senate language, the interconnected service must be broadly available. The Senate Amendment defines "interconnected service" as a service that is interconnected with the public switched network or service for which an interconnection request is pending. The definition of "private land mobile service" in the Senate amendment is virtually identical to the definition of "private mobile service" in the House bill.

Conference agreement

The Conference agreement adopts the Senate definitions with minor changes. The Conference Report deletes the word "broad" before "classes of users" in order to ensure that the definition of "commercial mobile services" encompasses all providers who offer their services to broad or narrow classes of users so as to be effectively available to a substantial portion of the public.

Further, the definition of "private mobile service" is amended to make clear that the term includes neither a commercial mobile service nor the functional equivalent of a commercial mobile service, as specified by regulation by the Commission.

The Commission may determine, for instances, that a mobile service offered to the public and interconnected with the public switched network is not the functional equivalent of a commercial mobile service if it is provided over a system that, either individually or as part of a network of systems or licensees, does not employ frequency or channel reuse or its equivalent (or any other techniques for augmenting the number of channels of communication made available for such mobile service) and does not make service available throughout a standard metropolitan statistical area or other similar wide geographic area.

SECTION (B)

House bill

Subsection (B) of the House bill adds a conforming amendment to the definition in Section 3(n) of the Communications Act of "mobile service" to clarify that the term includes all items previously defined as "private land mobile service" and includes the licenses to be issued by the Commission pursuant to the proceedings for personal communications services.

Senate amendment

The Senate Amendment makes almost the identical changes to the definition of "mobile service" in Section 3(n) of the Communications Act except that the Senate Amendment clarifies that the term does not include rural radio service or the provision by a local exchange carrier of telephone exchange service by radio instead of by wire.

Conference agreement

The Conference Agreement adopts the House definition.

SUBSECTION (b)(2)

House bill

Section (b)(2) of the House bill makes additional conforming amendments to clarify headings and spacing.

Senate amendment

The Senate Amendment does not contain the provisions contained in the House bill. The Senate Amendment contains a technical amendment to Section 2(b) of the Communications Act to clarify that the Commission has the authority to regulate commercial mobile services.

Conference agreement

The Conference Agreement adopts the Senate position.

SUBSECTION (c)

House bill

Section 5206 of the House bill established effective dates and deadlines for Commission action. Under the House bill, the amendments made by the above chapter are effective upon the date of enactment, except that the amendments made by section 5205 on regulatory parity take effect one year after enactment, and that persons that provide private land mobile services shall continue to be treated as a provider of private land mobile service until 3 years after enactment. The House bill directs the FCC to prescribe rules to implement competitive bidding within 210 days of enactment. The House bill directs the Commission to, within 180 days after enactment, issue a final report and order in two proceedings regarding personal communications services and begin issuing licenses within 270 days after enactment. Finally, the House bill directs the Commission, within 1 year after enactment, to alter its rules regarding private land mobile services to provide for an orderly transition of these services to regulation as common carrier services.

Senate amendment

Under the Senate Amendment, all provisions regarding regulatory parity take effect one year after enactment, except: 1) the provisions in 332(c)(1)(A) regarding the treatment of commercial mobile services as common carrier services take effect upon enactment; and 2) any person that provides private land mobile services before such date of enactment shall continue to be treated as a provider of private land mobile service until 3 years after enactment. The deadlines for Commission action with regard to personal communications services are identical to the House deadlines. The Senate Amendment also directs the Commission to alter its rules regarding private mobile services to provide for a transition to the treatment of these services as common carrier services.

Conference agreement

The Conference Agreement adopts the House provisions that generally establish the effective date as the date of enactment, except that the provisions of section 332(c)(3)(A) shall take effect one year after enactment. The Conference Agreement adds that any private land mobile service provided prior to enactment, and any paging service utilizing frequencies allocated as of January 1, 1993, for private land mobile services shall be treated as a private mobile service until 3 years after enactment, except for the foreign ownership provisions of section 332(c)(6).

The Conferees included the specific references to paging services in order to clarify that if a paging service that was not offered prior to the enactment of this section is offered in a state that restricts entry for common carriers, and the Commission's regulations preempting such state entry regulation has not yet taken effect, the paging service is not to be treated as a common carrier and subjected to such entry regulation.

The Conference Agreement adopts the House language concerning the transitional rulemaking for mobile services with slight modifications to clarify that the rules are intended to ensure that services that were formerly private land mobile services and become common carrier services as a result of this Act are subjected to technical requirements that are comparable to the technical requirements that apply to similar common carrier services.

SECTION (C)—SPECIAL RULE

House bill

The House bill provides that the Commission may not issue any license or permit by lottery after the date of enactment unless the Commission has made the determination required by paragraph (1)(B) that the use is not of a type described in subsection (2)(A).

Senate amendment

The Senate Amendment accomplishes the same purpose by requiring competitive bidding to be used for all except exempted communications licenses.

Conference agreement

The Conference Agreement adopts the House approach and adds additional language which permits the Commission to use lotteries for applications that were accepted for filing before July 26, 1993. This provision will permit the Commission to conduct lotteries for the nine Interactive Video Data Service markets for which applications have already been accepted, and several other licenses. This provision does not permit the FCC to conduct lotteries of applications that were not filed prior to July 26, 1993.

House bill

Section 5241 of the House Bill contained a series of technical amendments to the Communications Act to make clerical corrections, transfer provisions of law, and eliminate expired or outdated provisions.

Senate amendment

No provision.

Conference agreement

The Conference Agreement does not contain this package of technical amendments.

SECTION 6003—ADDITIONAL COMMUNICATIONS FEES

House bill

No provision.

Senate amendment

No provision.

Conference agreement

The Conference agreement contains a new section 9 of the Communications Act, which has a table of regulatory fees to be collected by the Commission from its licensees in order to recover for the Commission the costs of enforcement, policy and rulemaking, international coordination, and user information services with respect to those licensees. The Commission is given authority to review these fees after one year and make any recommendations for their adjustment. In addition, the Commission is required to adjust the fees to reflect proportionate changes in its appropriations, and is permitted through a rulemaking, to make changes to the fee schedule, including adding, deleting, or reclassifying services when the Commission determines that such changes are necessary to ensure such fees are reasonably related to the benefits provided to the payor of the fee by the Commission's activities.

The Conference Agreement also authorizes late payment penalties, dismissal of application, and revocation. The Conference Agreement also authorizes the Commission to waive, reduce, or defer payment of a fee for good cause.

With the exception of the level of the fees themselves, the fee provisions contained in this section are virtually identical to those contained in H.R. 1674, which passed the House in 1991. To the extent applicable, the appropriate provisions of the House Report (H.R. Rept. 102-207 are incorporated herein by reference.

TITLE VII—NRC USER FEES AND ANNUAL CHARGES

Present law

Section 6101 of the Omnibus Budget Reconciliation Act of 1990 (P.L. 101-508) requires the Nuclear Regulatory Commission (NRC) to collect 100% of its budget authority (less amounts appropriated to the NRC from the Nuclear Waste Fund established by 42 U.S.C. 10222(c) and fees collected under the Independent Offices Appropriations Act of 1952) from annual charges on NRC licensees. This authority expires at the end of fiscal year 1995. After fiscal year 1995, the NRC is authorized to collect 33% of its costs from annual fees and charges, pursuant to Section 7601 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (P.L. 99-272).

House bill

The House bill extends present law for three years, through fiscal year 1998.

Senate amendment

The language in the Senate amendment is identical to the language in the House bill.

Conference agreement

The Conference Agreement adopts the same language as in the House bill and the Senate amendment.

TITLE VIII—PATENT AND TRADEMARK OFFICE PROVISIONS

PATENT AND TRADEMARK FEES

The House bill contains language raising Patent Office Fees by $345 million through fiscal year 1998.

The Senate amendment contains identical language.

The conferees agreed to retain the language in the conference report.

TITLE IX—MERCHANT MARINE PROVISIONS

TONNAGE DUTIES

Current law

The United States imposes a tonnage duty on a vessel which enters the U.S. from any foreign port or place; the duty is also imposed on a vessel which departs from and returns to a U.S. port or place on a "voyage to nowhere".

The tonnage duty is imposed on the cargo-carrying capacity of the vessel and is assessed regardless of whether the vessel is empty or is carrying cargo.

A vessel arriving from a foreign port in the northern Western Hemisphere (Canada, Mexico, Central America, West Indies, Bahamas, Bermuda, and northern South America) and a vessel returning from a "voyage to nowhere" must pay a tonnage duty of nine cents per ton. However, the maximum payment for any vessel in a single year is 45 cents per ton.

A vessel arriving from a foreign port anywhere else in the world must pay a tonnage duty of 27 cents per ton, not to exceed $1.35 per ton in a single year.

Under current law, in Fiscal Year 1996, the tonnage duties will revert to earlier, lesser amounts (two cents per ton, not to exceed ten cents per ton in a single year for vessels entering from the northern Western Hemisphere and from "voyages to nowhere;" six cents per ton, not to exceed 30 cents per ton for other vessels subject to the duty).

House bill

Section 8001 amends section 36 of the Act of August 5, 1909, and the Act of March 8, 1910, to maintain the tonnage duties at current levels through Fiscal Year 1998. Section 8001 also makes related technical corrections in relevant statutes.

Senate amendment

Section 4051 is substantively identical to the House provision.

Conference agreement

Section 9001 contains this provision.

SENSE OF CONGRESS ON INCREASES IN INLAND WATERWAYS FUEL TAXES

House bill

Section 8002 of the House Bill contains a Sense of the Congress Resolution which expresses the Congress' intention that the inland waterways fuel tax should not be further increased beyond those increases already mandated by law.

The inland waterways fuel tax is a tax paid by commercial cargo vessel operators on the inland waterway system and the intra-coastal waterway. Receipts from this tax are transferred to the Inland Waterways Trust Fund. Barge operators on these inland waterways currently pay a tax of 17 cents per gallon. Under current law, this amount will increase to 19 cents per gallon in 1994 and to 20 cents in 1995 and thereafter. In addition, these barge operators pay a one-cent-per-gallon tax on the same fuel for the Leaking Underground Storage Tank Trust Fund.

Senate bill

The Senate had no comparable provision.

Conference agreement

The Conference Agreement does not include the House provision.

TITLE X—NATURAL RESOURCES PROVISIONS

RECREATIONAL USER FEES

ENTRANCE FEES

House bill

The House bill made no changes in current law.

Senate amendment

The Senate amendment would authorize entrance fees at National Recreation Areas, National Monuments, National Volcanic Monuments, National Scenic Areas, BLM National Conservation Areas and areas of concentrated public use.

Conference agreement

The Conference agreement authorizes entrance fees at Congressionally designated Forest Service and BLM areas and at up to 21 areas of concentrated public use administered by the Secretary of Agriculture.

GOLDEN AGE PASSPORT

House bill

The House bill would impose a one-time processing fee of $10.

Senate amendment

The Senate amendment did not contain a similar provision.

Conference agreement

The Conference agreement adopts the House provision.

USER FEES

House bill

The House bill would authorize user fees at day use recreation sites including swimming areas, boat ramps and managed parking lots on Department of the Interior, Department of Agriculture and Army Corps of Engineers outdoor recreation sites. The bill would retain the current prohibition on fees for drinking water, wayside exhibits, roads and overlooks, visitor centers, scenic drives and picnic tables. In addition, the bill would authorize overnight camping fees if 5 of 8 criteria (tent or trailer space, drinking water, access roads, refuse containers, toilet facilities, fee collection, visitor protection, campfire facilities) are met.

Senate amendment

The Senate version contained a similar provision, except the prohibition on picnic tables and visitor centers was not retained and camping fees would be charged if 5 of 9 criteria were met.

Conference agreement

The Conference agreement includes the Senate provision, but retains the prohibitions on visitor centers and prohibits charging fees solely for the use of picnic tables.

COSTS OF COLLECTION

House bill

The House bill would authorize the Secretary of the Interior and the Secretary of Agriculture to retain costs of fee collection from additional fee revenues.

Senate amendment

The Senate amendment contained an identical provision.

Conference agreement

The Conference agreement authorizes the Secretaries to retain all direct costs of collection associated with existing and additional fee revenues, but caps the amount that may be retained at 15% of the fee revenues collected for that year.

COMMERCIAL TOUR FEES

House bill

The House bill would authorize commercial tour use fees for vehicles and aircraft entering National Park System units for the sole purpose of providing commercial tour services.

Senate amendment

The Senate amendment would authorize commercial tour use fees for vehicles only.

Conference agreement

The Conference agreement authorizes commercial tour use fees for vehicles and aircraft at certain park system units with high levels of overflight activity.

NON-FEDERAL GOLDEN EAGLE PASSPORT SALES

House bill

The House bill contained no provision.

Senate amendment

The Senate amendment would authorize the sale of Golden Eagle Passports by non-federal entities, with such entities retaining 7% of gross receipts as reimbursements for actual expenses.

Conference agreement

The Conference agreement includes the Senate provision, except that non-federal entities would retain 8% of gross receipts, with proceeds to be divided among agencies based on a share of entrance fee revenues. The

Managers intend that all fee revenues derived from the non-federal sale of the Golden Eagle Passport will be solely for resource protection, rehabilitation and conservation projects carried out by conservation corps pursuant to Public Law 91-378, or other related programs or authorities, on lands administered by the Secretary of the Interior and the Secretary of Agriculture.

CORPS FREE CAMPGROUND

House bill

The House bill would repeal the existing statutory requirement that all Army Corps of Engineers lakes and reservoirs have one free campground.

Senate amendment

The Senate amendment contained no similar provision.

Conference agreement

The Conference agreement adopts the House provision.

RIGHT-OF-WAY

House bill

The House bill would require the National Park Service to charge fair market rental fees for rights-of-way in units of the National Park System.

Senate amendment

The Senate amendment did not contain a similar provision.

Conference agreement

The Conference agreement deletes this provision.

COMMUNICATION SITE FEES

House bill

The House bill would provide for the payment of fair market value, as determined by the Secretary of the Interior or Secretary of Agriculture, for the use of BLM-managed public lands and National Forest lands for commercial telephone transmission facilities.

Senate amendment

The Senate amendment contains a fee schedule for commercial radio and television facilities and establishes an advisory committee for certain other site users.

Conference agreement

The Conference agreement provides that the fees assessed and collected in FY 1994 by the Secretaries of the Interior and Agriculture for the utilization of radio, television, and commercial telephone transmission communications sites located on Forest Service and BLM lands shall be 10% above the fee assessed and collected during FY 1993.

HARDROCK MINING CLAIMS MAINTENANCE FEE

House bill

The House provision would permanently extend the $100 per claim maintenance fee in lieu of annual assessment work. In addition, the House bill would allow the Secretary of the Interior to waive or reduce the fee for claimants holding 50 or fewer claims. Finally, the House bill would impose a $25 location fee for all new claims.

Senate amendment

The Senate amendment would extend the $100 fee for fiscal years 1994–1998 and require the Secretary to waive the maintenance fee for claimants holding 10 or fewer claims. The Senate amendment would also impose the $25 location fee.

Conference agreement

The Conferees agreed to extend the $100 claim maintenance fee for fiscal years 1994–1998 and provided the Secretary with discretion to waive the fee for claimants holding 10 of fewer claims. The Conference agreement also imposes the $25 location fee for new claims. The Conference notes that the discretionary fee waiver for 10 claims in the House language and the mandatory fee waiver for 10 claims in the Senate amendment were scored as receiving the same level of savings.

MINERAL RECEIPTS

House bill

The House provision would amend the Mineral Leasing Act of 1920, as amended, (MLA) to direct the Secretary of the Interior to deduct 50 percent of the costs to the federal government of administering the onshore mineral leasing programs from the gross receipts of such programs prior to statutory disbursement to the states and federal treasury. The deduction would be made on a pro rata sharing of revenues.

Senate amendment

The Senate amendment would also amend the MLA to direct the Secretary to deduct 50 percent of the administrative costs from the gross receipts. However, the Senate amendment also provides that in the event the pro rata deduction for a state exceeds 50 percent of the annual amount attributable to onshore leasing in a state, that state's deduction would be based on actual costs associated with federal administrative costs in that state.

Conference agreement

The Conference agreement adopts the Senate amendment.

FEDERAL RECLAMATION PROJECT OPERATION AND MAINTENANCE CHARGES

House bill

The House Bill would require that entities receiving water from reclamation or certain Corps projects, exempting the Central Valley Project in California, pay an annual operation and maintenance fee. These funds would be deposited into the Natural Resources Restoration Fund and would be used for the restoration of fish and wildlife resources and related habitat adversely affected by the construction and operation of reclamation projects.

Senate amendment

The Senate had no similar provision.

Conference agreement

The Conferees agreement deletes the House provision.

UNFUNDED LIABILITIES OF THE FEDERAL GOVERNMENT

House bill

The House Bill would require the President to transmit with the budget estimates the unfunded future liabilities of the Federal government.

Senate amendment

The Senate amendment did not include a parallel provision.

Conference agreement

The Conference agreement deletes the House provision.

ANNUAL DIRECT GRANT ASSISTANCE TO INSULAR AREAS

House bill

The House bill would have repealed the annual federal entitlement of $27.72 million to the Commonwealth of the Northern Mariana Islands (CNMI) and require Congressional approval for future funding. The bill also would have authorized $3 million for the American Memorial Park in the CNMI and $19 million for capital improvement projects in other insular areas at the discretion of the Secretary. Finally, the House bill would have required federal agencies to report to the Congress on such matters as immigration, revenue burden and minimum wage.

Senate amendment

The Senate amendment would have reduced, but not repealed, federal annual assistance to the CNMI to between $6–12 million over the next three years. After 1996, the annual federal commitment of $27.72 million would have been restored.

Conference agreement

The Conference agreement deletes this provision.

TITLE XI—CIVIL SERVICE AND POST OFFICE PROVISIONS

SUBTITLE A—CIVIL SERVICE

RETIREMENT COLA DELAY

House bill

Section 10001 of the House bill delays by three months the cost-of-living adjustments (COLAs) that are scheduled to take effect under certain Federal employ retirement systems during fiscal years 1994, 1995, and 1996. Under existing laws, COLAs are effective December 1 of each year. Under this provision, COLAs would not take effect until March 1 in fiscal years 1994, 1995, and 1996. The COLA delay applies to all annuities payable under the Civil Service Retirement System, the Federal Employees' Retirement System, the Foreign Service retirement systems, and the CIA retirement systems. The provisions of section 10001 affect only the effective date of the COLAs, and nothing in section 10001 should be construed to affect the amount of an adjustment or any individual's eligibility for an annuity increase.

Senate amendment

Sections 9001, 10001, and 12103 of the Senate amendment contain substantially the same provisions as the house bill.

Conference agreement

The Conference agreement includes the substance of the House and Senate provisions.

LUMP-SUM RETIREMENT OPTION

House bill

Section 10002 of the House bill amends the alternative-form-of-annuity provisions under the Civil Service Retirement System, the Federal Employees' Retirement System, and the retirement systems applicable to employees of the Foreign Service and the Central Intelligence Agency. The lump-sum option would remain in effect for employees who have a life-threatening affliction or other critical medical condition, but would be terminated for all other employees, effective January 1, 1994.

Senate amendment

Sections 9002, 10002, and 12104 of the Senate amendment contain substantially the same provisions as the house bill except, with respect to civil service and CIA employees, the lump-sum option would be terminated effective October 1, 1995. With respect to Foreign Service employees, the repeal would be effective January 1, 1994.

Conference agreement

The Conference agreement includes the substance of the House and Senate provisions. Under the conference agreement the lump-sum option is repealed effective October 1, 1994.

PAY LIMITATIONS

House bill

Section 10003 of the House bill eliminates the 2.2 percent annual pay adjustment for

Federal civilian employees, including Members of Congress and Federal judges, that is scheduled to take effect in 1994. In addition, the section reduces by one percent the annual pay adjustments, based on the Employment Cost Index, scheduled to take effect in 1995, 1996, and 1997. In those years the pay adjustments would be based on the ECI minus 1.5 percent.

Senate amendment

The Senate amendment has no comparable provision.

Conference agreement

The House recedes to the Senate.

LOCALITY PAY LIMITS AND OTHER REDUCTIONS

House bill

Section 10004 of the House bill delays locality pay adjustments under section 5304 of title 5, United States Code, until July 1 of each year; limits the total amount payable for locality pay during the period 1994–1998; changes the effective date of the annual pay adjustments (based on the ECI) from January 1 to July 1 of each year during the period 1995 through 2003; limits the amount of annual leave that senior executives (SES) may accumulate; prohibits the payment of performance awards and other cash awards to Federal employees during fiscal years 1994–1998; and establishes limitations on the average total of civilian employees in the executive branch in fiscal years 1994–1998.

Senate amendment

The Senate amendment has no comparable provisions.

Conference agreement

The House recedes to the Senate.

MEDICARE PART B FEE LIMITS

House bill

Section 10005 of the House bill applies the Medicare Part B limiting charges for physicians' services to retirees enrolled in the Federal Employees Health Benefits Program (FEHBP) who are 65 years of age and older and do not participate in Medicare Part B. The Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508, Sec. 7002(f)(1), November 5, 1990) amended the FEHBP law effective January 1, 1992, to require FEHBP plans which pay for covered health care services on a fee-for-service basis, to apply the Medicare Part A limitations on payments for hospital charges when FEHB benefits for the same services are provided to retired FEHB enrollees who are age 65 or older and are ineligible for Medicare (5 U.S.C. 8904(b)). Section 10005 would now apply the Part B fee schedule limits for physician services in the same manner.

Subsection 10005(a)(1) would redesignate current provisions for FEHB/Medicare Part A coordination of 5 U.S.C. 8904(b)(1) as 8904(b)(1)(A) and would add subparagraph (b)(1)(B) providing for FEHB/Medicare Part B coordination to parallel current provisions with respect to Medicare Part A. It would also add subparagraph (b)(1)(C) mandating exclusion of providers from the FEHB Program for violations of Section 8904(b) which have resulted in exclusion from Medicare participation. Under subparagraph (b)(1)(B), the Office of Personnel Management (OPM) would be required to notify any physician who is in violation of the law of the potential consequences and, as in the case of Medicare part A, to refer those guilty of repeated violations to the Department of Health and Human Services (DHHS) for possible sanction under the Medicare law.

Subsection 10005(a)(2) would amend current FEHB law at 5 U.S.C. 8904(b)(3)(B) to expand authority for DHHS and OPM to exchange necessary information for administration of that section to include Medicare fee schedule amounts and limiting charge information applicable to physicians and the identity of Medicare participating physicians.

Subsection 10005(a)(3) would amend current FEHB law at 5 U.S.C. 8904(b) to add new paragraph (4) that requires OPM to certify by July 31 preceding the beginning of calendar year 1995 and every year thereafter, that an adequate arrangement with DHHS is in effect to ensure that, before the beginning of the contract year, necessary information for purposes of subsection 8904(b)(1)(B), including Medicare Program Information under section 8904(b)(3)(B), will be available to FEHB insurers and affected Medicare providers and that enforcement procedures, including protection against overcharging beneficiaries, will be in place.

Subsection 10005(b) provides that the amendments shall apply with respect to contract years beginning on or after January 1, 1995.

Senate amendment

The Senate amendment has no comparable provision.

Conference agreement

The conference agreement includes the House provision with an amendment. The conference agreement retains the requirement that the OPM Director enter into an arrangement with DHHS as set forth in section 10005(a)(3) of the House bill, but eliminates the certification requirement.

EXTENSION OF PROXY PREMIUM LAW

House bill

Section 10006 of the House bill extends through contract year 1998 the method for determining the Government contributions under the Federal Employees Health Benefits Program in the absence of a Government-wide indemnity benefit plan (formerly Aetna).

Senate amendment

The Senate amendment has no comparable provision.

Conference agreement

The conference agreement includes the House provision with an amendment. For each of contract years 1997 and 1998, the amount of the subscription charge deemed to be representing the premium of the government-wide indemnity benefit plan (i.e., the Aetna proxy premium) is reduced by 1 percent.

D.C. GOVERNMENT PAYMENTS FOR HEALTH BENEFITS

Senate amendment

Section 10003 of the Senate amendment requires the District of Columbia Government to pay the employer share of Federal Employee Health Benefits Program premiums, beginning on October 1, 1993, for certain retirees of the D.C. Government.

House bill

The House bill has no comparable provision.

Conference agreement

The Senate recedes to the House.

POST-RETIREMENT SURVIVOR ANNUITY ELECTIONS

Senate amendment

Section 10201 of the Senate amendment amends the Federal employees retirement provisions to provide for a permanent actuarial reduction in a retiree's annuity in the case of retirees who marry after retirement and elect survivor benefits. Under existing law, retirees who marry after retirement and choose to elect survivor benefits must make a deposit into the retirement fund to cover the amount that their annuities would have been reduced if the survivor coverage had been in effect since the date of retirement. The amendments take effect on the first day of the first month beginning 30 days after the date of enactment.

House bill

The House bill has no comparable provision.

Conference agreement

The House recedes to the Senate.

SUBTITLE B—POSTAL SERVICE

POSTAL SERVICE PAYMENTS

House bill

Section 10101 of the House bill requires the Postal Service to make certain payments for past retiree COLAs and health benefits. Subsection (a) requires a payment, over and above any other payments required by law, of $693 million to the Civil Service Retirement and Disability Fund. This payment would be made in three equal annual installments beginning in fiscal year 1995. Subsection (b) requires a payment, over and above any other payments required by law, of $348 million to the Employees Health Benefits Fund. This payment also would be made in three equal annual installments beginning in fiscal year 1995.

Senate amendment

Section 10101 of the Senate amendment requires the same Postal Service payments as the House bill except the installments are to be paid in fiscal years 1996, 1997, and 1998.

Conference agreement

The House recedes to the Senate.

The Senate and House conferees believed in 1990 that the 1990 Omnibus Budget Reconciliation Act represented the final chapter in Postal Service payments for past retiree COLAs and health benefits. With these additional payments the conferees believe that the Postal Service will have paid its debt *completely* for past retiree COLAs and health benefits.

REVENUE FORGONE REFORM

House bill

Sections 10201 through 10208 of the House bill repeal the authorization for revenue forgone appropriations for all mail except free-for-the-blind and overseas voting rights mail. These provisions create a new mechanism for rate setting which increases rates for nonprofit, in-county and library rate mail but also maintains reduced postage rates for that mail without an appropriation subsidy. The resultant rate increases would be phased-in over 6 years. The reform includes restrictions on commercial uses of nonprofit second- and third-class mail and library rate mail. Finally, the reform authorizes a $29 million per year appropriation until 2035 to reimburse the Postal Service for losses incurred by the phase-in of the nonprofit rate increase and past revenue forgone appropriation shortfalls.

Senate amendment

The Senate amendment has no comparable provisions.

Conference agreement

The House recedes to the Senate.

TITLE XII—VETERANS' AFFAIRS PROVISIONS

Extension of Authority To Require That Certain Veterans Agree To Make Copayments in Exchange for Receiving Health-Care Benefits

Current law

Sections 1710 and 1712 of title 38, United States Code, as amended by section 8013 of the Omnibus Budget Reconciliation Act of 1990 (OBRA 90), establish categories for access to VA care and require certain veterans to pay a copayment in connection with their care. The OBRA 90 amendments are to expire on September 30, 1997.

Section 1722A of title 38 (a) requires a veteran (other than a veteran who has a service-connected disability rated 50 percent or more or whose income is at or below the maximum annual rate of VA pension) to pay $2 for each 30-day supply of a medication furnished on an outpatient basis, (b) prohibits reduction in the amount of the copayment if the initial amount of medication is less than a 30-day supply, and (c) requires that amounts collected under this authority be credited to VA's Medical Care Cost Recovery Fund. This requirement is to expire on September 30, 1997.

House bill

Section 12002 would extend for one year, through September 30, 1998, the OBRA 90 eligibility categories and copayment requirements and VA's authority to collect copayments for medication from certain veterans.

Senate amendment

Section 13007 would make the eligibility categories and copayments requirements permanent.

Compromise agreement

Section 12002 follows the House bill.

Extension of Authority for Medical Care Cost Recovery

Current law

Section 1729(a) of title 38 authorizes VA, through August 1, 1994, to collect from a health care payment plan the reasonable cost of medical care furnished for a non-service-connected disability of a veteran who has a service-connected disability and who is entitled to care (or payment of the costs associated with receiving care) under the health care payment plan.

House bill

Section 12003 would (a) extend for four years and two months, through September 30, 1998, VA's authority to collect from a health care payment plan the reasonable cost of medical care furnished to a veteran who has a service-connected disability for treatment of a non-service-connected disability, and (b) authorize VA, through September 30, 1998, to collect from a health care payment plan the reasonable cost of medical care furnished to such a veteran for treatment of a service-connected disability.

Senate amendment

Section 13006 would make permanent VA's authority to collect from a health care payment plan the reasonable cost of medical care furnished to a veteran who has a service-connected disability for treatment of a non-service-connected disability.

Compromise agreement

Section 12003 would extend for four years and two months, through September 30, 1998, VA's authority to collect from a health care payment plan the reasonable cost of medical care furnished to a veteran who has a service-connected disability for treatment of a non-service-connected disability.

Extension of Certain Income Verification Authority

Current law

Section 5317 of title 38 authorizes the Secretary of Veterans Affairs to verify the eligibility of recipients of, or applicants for, VA need-based benefits using income data from the Internal Revenue Service and Social Security Administration. Section 6103(1)(7) of the Internal Revenue Code of 1986 provides the Secretary with access to that information.

These provisions expire on September 30, 1997.

House bill

Section 12004 would extend these provisions to September 30, 1998.

Senate amendment

Section 13008 would make these provisions permanent.

Compromise agreement

Section 12004 follows the House bill with regard to the portion of the provision amending title 38 and the expiration date of that amendment. Title XIII of the conference report contains a provision substantively identical to the House and Senate provisions amending the Internal Revenue Code and includes the House bill expiration date.

Extension of Limitation on Pension for Certain Recipients of Medicaid-Covered Nursing Home Care

Current law

Section 5503(f) of title 38 limits to $90 a month the maximum amount of VA need-based pension that may be paid to Medicaid-eligible veterans and surviving spouses who have no dependents and who are in nursing homes that participate in Medicaid.

This provision expires on September 30, 1997.

House bill

Section 12005 would extend this limitation to September 30, 1998.

Senate amendment

Section 13001 would make the limitation permanent.

Compromise agreement

Section 12005 follows the House bill.

Extension of Procedures Applicable to Liquidation Sales on Defaulted Home Loans Guaranteed by the Department of Veterans Affairs

Current law

Section 3722(c)(1)(C) of title 38 defines the term "net value" for purposes of the "no-bid" formula, which the Secretary uses to determine whether it is less expensive to the government to purchase and resell a property securing a VA-guaranteed home loan in default, or simply pay off the VA guaranty. The subsection containing the no-bid formula would have expired on December 31, 1992, according to section 3732(c)(11).

The Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1993 (Public Law 102–389) effectively extended the no-bid formula by applying it to loans closed before October 1, 1993, and modifying the formula to require VA to consider its "losses sustained on the resale of the property."

House bill

Section 13004 would codify the modification of the no-bid formula that was enacted in Public Law 102–389 and extend the expiration date of section 3732(c) to September 30, 1998.

Senate amendment

Section 13004 is substantively identical to the House bill, except that it would make permanent the modified no-bid formula.

Compromise agreement

Section 12006 contains the House provision.

Loan Fees

Current law

Section 3729 of title 38 provides for VA to collect a fee from each veteran who does not have a service-connected disability obtaining a housing loan guaranteed, insured, or made under chapter 37 of title 38. The basic fee is 1.25 percent of the loan amount for a veteran and 2 percent for a reservist eligible for loans under section 3701(b)(5); 0.75 percent for a veteran and 1.5 percent for a reservist who makes a downpayment of at least 5 percent, but less than 10 percent, of the price or cost of the property; and 0.50 percent for a veteran and 1.25 percent for a reservist making a downpayment of at least 10 percent.

Different fees apply to assumptions of VA-guaranteed loans, vendee and other direct loans, interest-rate-reduction refinancing loans, and loans for the purchase of manufactured housing.

Section 3702(b) sets forth the requirements for a veteran to regain entitlement to a VA guaranty. Generally, the veteran must sell the property securing the VA-guaranteed loan and pay off the loan in full. Veterans also may obtain reinstatement of their entitlement when another person assumes the loan in accordance with the requirements of chapter 37 or to refinance an existing VA-guaranteed home loan.

House bill

Section 12008 would increase the fees borrowers pay to VA for a VA-guaranteed home loan by 0.75 percent of the loan amount. The fee increase would not apply to vendee, direct, manufactured-home, or interest-rate-reduction-refinancing loans, or to assumptions of a VA-guaranteed loan. The increased fee would apply to loans closed between October 1, 1993, and September 30, 1998.

Senate amendment

Section 13004 is substantively identical to the House bill, except it would make the increased fees permanent.

Compromise agreement

Section 12007(a) follows the House bill.

Section 12007(b) establishes a fee of 3 percent of the amount of the loan for a veteran who previously obtained VA-guaranteed home loan under section 3710 of title 38. The increased fee would not apply to loans obtained by a veteran who makes a downpayment of at least 5 percent of the price or cost of the property. The increased fee would apply in the case of second and subsequent loans closed between October 1, 1993, and September 30, 1998.

Policy Regarding Cost-of-Living Adjustment in Compensation Rates

Current law

Under chapter 11 of title 38, VA pays monthly cash benefits to veterans who have service-connected disabilities. The basic amounts of compensation paid are based on percentage-of-disability ratings—which are in multiples of 10 percentage points—assigned to the veteran. Special monthly rates are payable to totally disabled veterans with certain specific, severe disabilities and combinations of disabilities. A veteran whose disability is rated 30 percent or more disabling also receives additional compensation for a spouse, children, and dependent parents.

Under chapter 13 of title 38, VA pays dependency and indemnity compensation (DIC) to the survivors of servicemembers or veterans who died from a disease or injury incurred or aggravated during military service. DIC also is paid when the veteran's death was not service connected, if the veteran, immediately prior to death, had been receiving (or had been entitled to receive) compensation at the 100-percent rate continuously for 10 or more years or for at least 5 years from the date of discharge or release from active duty.

For deaths prior to January 1, 1993, surviving spouses may receive DIC at rates determined by the pay grade (service rank) of the deceased veteran. For deaths on or after January 1, 1993, surviving spouses receive $750 per month and, if the deceased veteran was totally disabled for a continuous period of at least eight years immediately prior to death, an additional $165 per month. Under section 1311(a)(3), surviving spouses of veterans who died prior to January 1, 1993, receive benefits under the prior DIC program if it would provide a higher monthly benefit.

Under both programs, VA pays the surviving spouse additional amounts (1) if the surviving spouse is so disabled as to be housebound or in need of regular aid and attendance; and (2) on behalf of the veteran's surviving dependent children. When there is no surviving spouse, DIC is paid to surviving children.

House bill

No provision.

Senate amendment

Section 13002 states that (1) each increased rate resulting from enactment of an FY 1994 COLA for veterans disability compensation and DIC would be rounded down to the next lower whole dollar; and (2) the effective date of the COLA would not be earlier than December 4, 1993.

Conference agreement

Section 12008(a) follows the Senate amendment, except that it contains no limitation on the effective date of the COLAs.

LIMITATION ON FISCAL YEAR 1994 COST-OF-LIVING ADJUSTMENT FOR CERTAIN DIC RECIPIENTS

Current law

Under chapter 13 of title 38, VA pays dependency and indemnity compensation (DIC) to the survivors of servicemembers or veterans who died from a disease or injury incurred or aggravated during military service. DIC is also paid when the veteran's death was not service connected, if the veteran, immediately prior to death, had been receiving (or had been entitled to receive) compensation at the 100-percent rate continuously for 10 or more years or for at least 5 years from the date of discharge or release from active duty.

For deaths prior to January 1, 1993, surviving spouses may receive DIC at rates determined by the pay grade (service rank) of the deceased veteran. For deaths on or after January 1, 1993, surviving spouses receive $750 per month and, if the deceased veteran was totally disabled for a continuous period of at least eight years immediately prior to death, an additional $165 per month. Under section 1311(a)(3), surviving spouses who had been receiving benefits under the prior DIC program are paid under whichever program will pay the higher benefit.

Under both programs, VA pays the surviving spouse additional amounts (1) if the surviving spouse is so disabled as to be housebound or in need of regular aid and attendance; and (2) on behalf of the veteran's surviving dependent children. When there is no surviving spouse, DIC is paid to surviving children.

House bill

Section 12006 would prohibit a cost-of-living adjustment for FY 1994 in the rates of DIC paid to survivors under section 1311(a)(3).

Senate amendment

No provision.

Conference agreement

Section 12008(b) would limit the FY 1994 COLA for DIC paid under section 1311(a)(3) to one-half of the COLA provided for DIC paid under section 1311(a)(1).

LIMITATION REGARDING COST-OF-LIVING ADJUSTMENTS FOR MONTGOMERY GI BILL BENEFITS

Current law

Section 3015(g)(1) of title 38 and section 2131(b)(2)(A) of title 10, United States Code, require the Secretary of Veterans Affairs, with respect to the fiscal year beginning on October 1, 1993, to provide a percentage increase in the monthly rates payable under the Montgomery GI Bill to participants in the active-duty and Selected Reserve programs, respectively, equal to the percentage by which the Consumer Price Index (CPI) for the 12-month period ending June 30, 1993, exceeds the Consumer Price Index for the 12-month period ending June 30, 1992. CBO currently estimates that the COLA will be 3 percent.

For fiscal years beginning on or after October 1, 1994, the Secretary is required to provide a percentage increase in such monthly rates equal to the percentage by which the CPI for the 12-month period ending on the June 30 preceding the fiscal year for which the increase is made, exceeds the CPI for the prior 12-month period.

House bill

Section 12009 would reduce the fiscal year 1994 cost-of-living adjustment for Montgomery GI Bill benefits for both active-duty and Selected Reserve participants by one percentage point. This would have the effect of reducing the expected COLA to 2 percent, according to CBO.

Senate amendment

No provision.

Compromise agreement

Section 12009 would eliminate the COLA to be paid under section 3015(g)(1) for Montgomery GI Bill benefits for fiscal year 1994 and limit the FY 1995 COLA to one-half the amount otherwise authorized by such section.

TITLE XIII—REVENUE, HEALTH CARE, HUMAN RESOURCES, CUSTOMS AND TRADE PROVISIONS, FOOD STAMP PROGRAM, AND TIMBER SALES PROVISIONS

CHAPTER 1—REVENUE PROVISIONS

I. TRAINING AND INVESTMENT PROVISIONS

A. Education and Training Provisions

1. Extension of employer-provided educational assistance (sec. 14101 of the House bill, sec. 8101 of the Senate amendment, sec. 13101 of the conference agreement, and sec. 127 of the Code)

Present Law

Prior to July 1, 1992, an employee's gross income and wages for income and employment tax purposes did not include amounts paid or incurred by the employer for educational assistance provided to the employee if such amounts were paid or incurred pursuant to an educational assistance program that met certain requirements (sec. 127). This exclusion, which expired with respect to amounts paid after June 30, 1992, was limited to $5,250 of educational assistance with respect to an individual during a calendar year. Education that did not qualify for the exclusion (e.g., because it exceeded the $5,250 limit) was excludable from income if and only if it qualified as a working condition fringe benefit (sec. 132). To be excluded as a working condition fringe, the cost of the education must have been a job-related deductible expense.

In the absence of the exclusion, for purposes of income and employment taxes, an employee generally is required to include in income and wages the value of educational assistance provided by the employer unless the cost of such assistance qualifies as a deductible job-related expense of the employee.

House Bill

The House bill retroactively and permanently extends the exclusion for employer-provided educational assistance.

The House bill includes a number of transition rules to deal with cases in which employers provided educational assistance to employees between July 1, 1992, and December 31, 1992. First, no interest, penalty, or addition to tax is imposed on employers or employees who continued to exclude from income educational assistance payments made after June 30, 1992. Second, if an employer included educational assistance payments made after June 30, 1992, in its employees' income and wages (for purposes of income or employment taxes) the amount included is deducted from income and wages paid in 1993 rather than requiring the taxpayers to file a request for refund for 1992.

The House bill also clarifies the rule under which educational assistance that does not satisfy section 127 may be excluded from income if and only if it meets the requirements of a working condition fringe benefit.

Effective date.—The extension of the exclusion is effective for taxable years ending after June 30, 1992. The clarification to the working condition fringe benefit rule is effective for taxable years beginning after December 31, 1988.

Senate Amendment

The Senate amendment is the same as the House bill except that the exclusion is extended retroactively and through June 30, 1994, and the Senate amendment does not contain special rules for educational assistance provided between July 1, 1992, and December 31, 1992.

Effective date.—The Senate amendment is the same as the House bill.

Conference Agreement

The conference agreement follows the Senate amendment, except that the exclusion for employer-provided educational assistance is extended retroactively and through December 31, 1994.

The conferees intend that the Secretary will use his existing authority to the fullest extent possible to alleviate any administrative problems that may result from the expiration and retroactive extension of the exclusion and to facilitate in the simplest way possible the recoupment of excess taxes paid with respect to educational assistance provided in the last half of 1992.

Effective date.—The conference agreement follows the Senate amendment.

2. Extension of targeted jobs tax credit (sec. 14102 of the House bill, sec. 8102 of the Senate amendment, sec. 13102 of the conference agreement, and sec. 51 of the Code)

Present Law

Tax credit

Prior to July 1, 1992, the targeted jobs tax credit was available to employers on an elective basis for hiring individuals from several targeted groups. The targeted groups consist of individuals who are either recipients of payments under means-tested transfer programs, economically disadvantaged, or disabled.

The credit generally is equal to 40 percent of up to $6,000 of qualified first-year wages paid to a member of a targeted group. Thus, the maximum credit generally is $2,400 per individual. With respect to economically disadvantaged summer youth employees, however, the credit is equal to 40 percent of up to $3,000 of wages, for a maximum credit of $1,200.

The credit expired for individuals who began work for an employer after June 30, 1992.

Certification of members of targeted groups

Generally, an individual is not treated as a member of a targeted group unless certain certification conditions are satisfied. On or before the day on which the individual begins work for the employer, the employer has to have received or have requested in writing from the designated local agency certification that the individual is a member of a targeted group. In the case of a certification of an economically disadvantaged youth participating in a cooperative education program, this requirement is satisfied if necessary certification is requested or received from the participating school on or before the day on which the individual begins work for the employer.

The deadline for requesting certification of targeted group membership is extended until five days after the day the individual begins work for the employer, provided that, on or before the day the individual begins work, the individual has received a written preliminary determination of targeted group eligibility (a "voucher") from the designated local agency (or other agency or organization designated pursuant to a written agreement with the designated local agency). The "designated local agency" is the State employment security agency.

Authorization of appropriations

Appropriations for administrative and publicity expenses relating to the targeted jobs credit was authorized through June 30, 1992. These monies were to be used by the Internal Revenue Service and the Department of Labor to inform employers of the credit program.

House Bill

Extension of credit

The House bill permanently and retroactively extends the targeted jobs tax credit for individuals who begin work for the employer after June 30, 1992. The House bill also extends the authorization of appropriations for administrative and publicity expenses relating to the credit.

Approved school-to-work program

In addition, the targeted jobs tax credit is expanded to include qualified participants in an approved school-to-work program, for participation beginning after December 31, 1993.

Effective date

The extension of the targeted jobs tax credit is effective for individuals who begin work for the employer after June 30, 1992. The approved school-to-work program is effective for individuals beginning work for an employer after December 31, 1993.

Senate Amendment

Extension of credit

The Senate amendment extends for 24 months the targeted jobs tax credit for individuals who begin work for the employer after June 30, 1992 and before July 1, 1994. Under the Senate amendment, the targeted jobs tax credit does not apply with respect to individuals who begin work for the employer after June 30, 1994. The Senate amendment also extends the authorization of appropriations for administrative and publicity expenses relating to the credit.

Approved school-to-work program

No provision.

Effective date

The extension of the targeted jobs tax credit is effective for individuals who begin work for the employer after June 30, 1992 and before July 1, 1994.

Conference Agreement

Extension of credit

The conference agreement extends for 30 months the targeted jobs tax credit for individuals who begin work for the employer after June 30, 1992 and on or before December 31, 1994.

Approved school-to-work program

The conference agreement does not include the House bill provision.

Effective date

The extension of the targeted jobs tax credit is effective for individuals who begin work for the employer after June 30, 1992 and before December 31, 1994.

B. Investment Incentives

1. Extension of research tax credit; Modification of fixed base percentage for startup companies (secs. 14111 and 14112 of the House bill, secs. 8111 and 8112 of the Senate amendment, secs. 13111 (a) and (c) and 13112 of the conference agreement, and sec. 41 of the Code)

Present Law

The research and experimentation tax credit ("research tax credit") provides a credit equal to 20 percent of the amount by which a taxpayer's qualified research expenditures for a taxable year exceed its base amount for that year. The credit expired after June 30, 1992.

The base amount for the current year generally is computed by multiplying the taxpayer's "fixed-base percentage" by the average amount of the taxpayer's gross receipts for the four preceding years. If a taxpayer both incurred qualified research expenditures and had gross receipts during each of at least three years from 1984 through 1988, then its "fixed-base percentage" is the ratio that its total qualified research expenditures for the 1984–1988 period bears to its total gross receipts for that period (subject to a maximum ratio of .16). All other taxpayers (such as "start-up" firms) are assigned a fixed-base percentage of .03.

In computing the credit, a taxpayer's base amount may not be less than 50 percent of its current-year qualified research expenditures.

Qualified research expenditures eligible for the credit consist of: (1) "in-house" expenses of the taxpayer for research wages and supplies used in research; (2) certain time-sharing costs for computer use in research; and (3) 65 percent of amounts paid by the taxpayer for contract research conducted on the taxpayer's behalf. The credit is not available for expenditures attributable to research that is conducted outside the United States. In addition, the credit is not available for research in the social sciences, arts, or humanities, nor is it available for research to the extent funded by any grant, contract, or otherwise by another person (or governmental entity).

The 20-percent research tax credit also applies to the *excess* of (1) 100 percent of corporate cash expenditures (including grants or contributions) paid for basic research conducted by universities (and certain scientific research organizations) *over* (2) the sum of (a) the greater of two fixed research floors plus (b) an amount reflecting any decrease in nonresearch giving to universities by the corporation as compared to such giving during a fixed-base period, as adjusted for inflation.

Deductions for expenditures allowed to a taxpayer under section 174 (or any other section) are reduced by an amount equal to 100 percent of the taxpayer's research tax credit determined for the taxable year.[1]

House Bill

The research tax credit (including the university basic research credit) is permanently extended.

The House bill also adds a new rule regarding the determination of the fixed-base percentage of start-up firms. Under the provision, a taxpayer that did not have gross receipts in at least three years during the 1984-1988 period will be assigned a fixed base percentage of .03 for each of its first five taxable years after 1993 in which it incurs qualified research expenditures. The taxpayer's fixed-base percentage for its sixth through tenth taxable years after 1993 in which it incurred qualified research expenditures will be as follows: (1) for the taxpayer's sixth year, its fixed-base percentage will be one-sixth of its ratio of qualified research expenditures to gross receipts for its fourth and fifth years; (2) for its seventh year, its fixed-base percentage will be one-third of its ratio for its fifth and sixth years; (3) for its eighth year, its fixed-base percentage will be one-half of its ratio for its fifth through seventh years; (4) for its ninth year, its fixed-base percentage will be two-thirds of its ratio for its fifth through eighth years; and (5) for its tenth year, its fixed-base percentage will be five-sixths of its ratio for its fifth through ninth years. For subsequent taxable years, the taxpayer's fixed-base percentage will be its actual ratio of qualified research expenditures to gross receipts for five years selected by the taxpayer from its fifth through tenth taxable years.

The committee report to the House bill states that, in extending the research tax credit, the committee wishes to reaffirm Congressional intent that neither the enactment of the credit in 1981 nor the "targeting" modifications to the credit in 1986 affect the definition of "research or experimental expenditures" for purposes of section 174. Thus, the various new credit limitations enacted in the Tax Reform Act of 1986 apply in determining eligibility for the credit (in taxable years beginning after December 31, 1985), and do not determine eligibility of product development costs under section 174.

Effective date.—The provision applies to expenditures paid or incurred after June 30, 1992.

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[1] Taxpayers may alternatively elect to claim a reduced research credit amount in lieu of reducing deductions otherwise allowed (sec. 280C(c)(3)).

Senate Amendment

The research tax credit (including the university basic research credit) is extended for 12 months (i.e., for expenditures paid or incurred during the period July 1, 1993, through June 30, 1994).

The Senate amendment also adds the same rule contained in the House bill regarding the determination of the fixed-base percentage of start-up firms in taxable years after the firm's start-up period. In addition, the committee report to the Senate amendment contains the same language as included in the House bill committee report regarding the effect on section 174 of the enactment of the research credit in 1981 and the targeting modifications to the credit in 1986.

Effective date.—The Senate amendment applies to expenditures paid or incurred during the period July 1, 1993, through June 30, 1994.

Conference Agreement

Under the conference agreement, the research tax credit (including the university basic research credit) is extended for three years (i.e., for expenditures paid or incurred during the period July 1, 1992, through June 30, 1995.)

The conference agreement also adds the rule contained in the House bill and the Senate amendment regarding the determination of the fixed-base of start-up firms in taxable years after the firm's start-up period. In addition, the conferees reiterate the intent expressed in the House bill committee report and the Senate amendment committee report that neither the enactment of the credit in 1981 nor the "targeting" modifications to the credit in 1986 affect the definition of "research or experimental expenditures" for purposes of section 174. Thus, the various new credit limitations enacted in the Tax Reform Act of 1986 apply in determining eligibility for the credit (in taxable years beginning after December 31, 1985), and do not determine eligibility of product development costs under section 174.

Effective date.—The conference agreement applies to expenditures paid or incurred during the period July 1, 1992, through June 30, 1995.

2. Capital gains exclusion for certain small business stock (sec. 14113 of the House bill, sec. 13113 of the conference agreement, and new sec. 1202 of the Code)

Present Law

Gain from the sale or exchange of stock held for more than one year generally is treated as long-term capital gain.

Net capital gain (i.e., long-term capital gain less short-term capital loss) of an individual is taxed at the same rates that apply to ordinary income, subject to a maximum rate of 28 percent.

House Bill

In general

The House bill generally permits a noncorporate taxpayer who holds qualified small business stock for more than 5 years to exclude 50 percent of any gain on the sale or exchange of the stock. The amount of gain eligible for the 50 percent exclusion is limited to the greater of (1) 10 times the taxpayer's basis in the stock or (2) $10 million gain from stock in that corporation.

Qualified small business stock

In order for stock held by a taxpayer to qualify as small business stock, the following requirements must be met.

Eligible stock and redemptions

The stock must be acquired by the taxpayer at the original issuance (directly or through an underwriter) in exchange for money, other property (not including stock) or as compensation for services provided to the issuing corporation (other than services performed as an underwriter of the stock).

In order to prevent evasion of the requirement that the stock be newly issued, the exclusion does not apply if the issuing corporation (1) purchases any stock from the stockholder (or a related person) within 2 years of the issuance of the stock or (2) redeems more than 5 percent (by value) of its own stock within 1 year of the issuance. For purposes of this anti-evasion rule, purchases by persons related to the issuing corporation are treated as purchases by the issuing corporation.

Qualified corporation

The issuing corporation must be a qualified small business as of the date of issuance and during substantially all of the period that the taxpayer holds the stock.

A qualified small business is a subchapter C corporation other than: a DISC or former DISC, a corporation with respect to which an election under section 936 is in effect, a regulated investment company, a real estate investment trust, a real estate mortgage investment conduit, or a cooperative. The corporation also generally cannot own (i) real property the value of which exceeds 10 percent of its total assets or (ii) portfolio stock or securities the value of which exceeds 10 percent of its total assets in excess of liabilities.

Active business

During substantially all of the taxpayer's holding period for the stock, at least 80 percent (by value) of the corporation's gross assets (including intangible assets) must be used by the corporation in the active conduct of a qualified trade or business. If in connection with any future qualified trade or business, a corporation uses assets in certain start-up activities, research and experimental activities or in-house research activities, the corporation is treated as using such assets in the active conduct of a qualified trade or business.

Assets that are held to meet reasonable working capital needs of the corporation, or are held for investment and are reasonably expected to be used within 2 years to finance future research and experimentation, are treated as used in the active conduct of a trade or business. In addition, certain rights to computer software are treated as assets used in the active conduct of a trade or business.

A qualified trade or business is any trade or business other than one involving the performance of services in the fields of health, law, engineering, architecture, accounting, actuarial science, performing arts, consulting, athletics, financial services, brokerage services, or any trade or business where the principal asset of the trade or business is the reputation or skill of 1 or more of its employees. The term also excludes any banking, insurance, leasing, financing, investing, or similar business, any farming business (including the business of raising or harvesting trees), any business involving the production or extraction of products of a character for which percentage depletion is allowable, or any business of operating a hotel, motel, restaurant or similar business.

A corporation that is a specialized small business investment company ("SSBIC") is treated as meeting the active business test. An SSBIC is defined as any corporation (other than certain non-qualified corporations) that is licensed by the Small Business Administration under section 301(d) of the Small Business Act of 1958, as in effect on May 13, 1993.

Gross assets

As of the date of issuance of the stock, the excess of (1) the amount of cash and the aggregate adjusted bases of other property held by the corporation, over (2) the aggregate amount of indebtedness of the corporation that does not have an original maturity of more than one year (such as short-term payables), cannot exceed $50 million. For this purpose, amounts received in the issuance are taken into account.

If a corporation satisfies the gross assets test as of the date of issuance but subsequently exceeds the $50 million threshold, stock that otherwise constitutes qualified small business stock would not lose that characterization solely as a result of that subsequent event. If a corporation (or a predecessor corporation) exceeds the $50 million threshold at any time after December 31, 1992, the corporation cannot issue stock that would qualify for the exclusion.

Subsidiaries of issuing corporation

In the case of a corporation that owns at least 50 percent of the vote or value of a subsidiary, the parent corporation is deemed to own its ratable share of the subsidiary's assets for purposes of the "qualified corporation," "active business," and "gross assets" tests described above.

Pass-through entities

Gain from the disposition of qualified small business stock by a partnership, S corporation, regulated investment company or common trust fund that is taken into account by a partner, shareholder or participant (other than a C corporation) is eligible for the exclusion, provided that (1) all eligibility requirements with respect to qualified small business stock are met, (2) the stock was held by the entity for more than 5 years, and (3) the partner, shareholder or participant held its interest in the entity on the date the entity acquired the stock and at all times thereafter and before the disposition of the stock. In addition, a partner, shareholder, or participant cannot exclude gain received from an entity to the extent that the partner's, shareholder's, or participant's share in the entity's gain exceeded the partner's, shareholder's or participant's interest in the entity at the time the entity acquired the stock.

Certain tax-free and other transfers

If qualified small business stock is transferred by gift or at death, the transferee is treated as having acquired the stock in the same manner as the transferor, and as having held the stock during any continuous period immediately preceding the transfer during which it was held by the transferor. A partner can treat stock distributed by a partnership as qualified small business stock as long as (1) all eligibility requirements with respect to qualified small business stock are met by the partnership with respect to its investment in the stock, and (2) the partner held its interest in the partnership on the date the partnership acquired the stock and at all times thereafter and before the disposition of the stock. In addition, a partner cannot treat stock distributed by a partnership as qualified small business stock to the extent that the partner's share of the stock distributed by the partnership exceeded the partner's interest in the partnership at the time the partnership acquired the stock.

Transferees in other cases are not eligible for the exclusion. Thus, for example, if qualified small business stock is transferred to a partnership and the partnership disposes of the stock, any gain from the disposition will not be eligible for the exclusion.

In the case of certain incorporations and reorganizations where qualified small business stock is transferred for other stock, the transferor treats the stock received as qualified small business stock. The holding period of the original stock is added to that of the stock received. However, the amount of gain eligible for the exclusion is limited to the gain accrued as of the date of the incorporation or reorganization.

Special basis rules

If property (other than money or stock) is transferred to a corporation in exchange for its stock, the basis of the stock received is treated as not less than the fair market value of the property exchanged. Thus, only gains that accrue after the transfer are eligible for the exclusion.

Options, nonvested stock, and convertible instruments

Stock acquired by the taxpayer through the exercise of options or warrants, or through the conversion of convertible debt, is treated as acquired at original issue. The determination whether the gross assets test is met is made at the time of exercise or conversion, and the holding period of such stock is treated as beginning at that time.

In the case of convertible preferred stock, the gross assets determination is made at the time the convertible stock is issued, and the holding period of the convertible stock is added to that of the common stock acquired upon conversion.

Stock received in connection with the performance of services is treated as issued by the corporation and acquired by the taxpayer when included in the taxpayer's gross income in accordance with the rules of section 83.

Offsetting short positions

A taxpayer cannot exclude gain from the sale of qualified small business stock if the taxpayer (or a related person) held an offsetting short position with respect to that stock anytime before the 5-year holding period is satisfied. If the taxpayer (or a related person) acquires an offsetting short position with respect to qualified small business stock after the 5-year holding period is satisfied, the taxpayer must elect to treat the acquisition of the offsetting short position as a sale of the qualified small business stock in order to exclude any gain from that stock.

An offsetting short position is defined to be (1) a short sale of property substantially identical to the qualified small business stock (including writing a call option that the holder is more likely than not to exercise or selling the stock for future delivery) or (2) an option to sell substantially identical property at a fixed price.

Capital gains and investment interest

Any gain that is excluded from gross income under the bill is not taken into account in computing long-term capital gain or in applying the capital loss rules of sections 1211 and 1212. In addition, the taxable portion of the gain is taxed under section 1(h), which provides for a maximum rate of 28 percent.

The amount treated as investment income for purposes of the investment interest limitation does not include any gain that is excluded from gross income under the bill.

Minimum tax

One-half of any excluded gain is treated as a preference for purposes of the alternative minimum tax.

Effective date

The provision applies to stock issued after December 31, 1992.

Senate Amendment

No provision.

Conference Agreement

The conference agreement follows the House bill, with the following modifications:

In general

The agreement clarifies that the $10 million limitation on eligible gain is applied on a shareholder-by-shareholder basis. The conferees also wish to clarify that for purposes of the 10-times-basis limitation, basis is determined by valuing any contributed property at fair market value (at the date of contribution).

Qualified small business stock

Redemptions.—The agreement eliminates the rule in the House bill that treats purchases by persons related to an issuing corporation as purchases by the corporation for purposes of determining whether there has been a redemption. In lieu of this rule, a corporation is treated as purchasing an amount of its stock equal to the amount of its stock treated as redeemed under section 304(a).

Qualified corporation.—The agreement excludes from the definition of eligible corporation any corporation that has a direct or indirect subsidiary with respect to which an election under section 936 is in effect.

Active business.—The agreement clarifies that the active business requirement is met by a corporation with 80 percent of its assets used in the active conduct of one or more qualified trades or businesses.

Gross assets.—The conference agreement provides that the $50 million size limitation is based on the issuer's gross assets (i.e., the sum of the cash and the adjusted bases of other property held by the corporation) without subtracting the short-term indebtedness of the corporation. For purposes of this rule, the adjusted basis of property contributed to the corporation is determined as if the basis of the property immediately after the contribution were equal to its fair market value.

Subsidiaries of issuing corporation

The agreement provides that corporations that are part of a parent-subsidiary controlled group (using a more than 50% ownership test) are treated as a single corporation for purposes of the gross assets test. The conferees also wish to clarify that, for purposes of the active business requirement, a parent's ratable share of a subsidiary's assets (and activities) is based on the percentage of outstanding stock owned (by value).

Certain tax-free and other transfers

The conference agreement follows the House bill by limiting the gain that is eligible for exclusion on the sale of stock that was acquired through incorporation or reorganization where the stock acquired would not have been stock of a qualified small business (at the time acquired). The agreement, however, also provides that the limit will not apply to gain from stock that was acquired through incorporation or reorganization that would have been stock of a qualified small business.

Alternative minimum tax study

The conferees understand that the individual alternative minimum tax (AMT) may operate to disallow deductions that may be associated with the production of income, including section 212 expenses associated with income derived through partnerships. A provision was included in H.R. 11 last year to allow a certain amount of the distributive share of section 212 expenses of a partner in a partnership to be deductible for AMT purposes. Concern has been expressed that the present-law AMT treatment of section 212 expenses might create a disincentive for the long-term investments that Congress has intended to foster through the capital gains exclusion. Accordingly, the conferees urge that the Treasury Department study the question whether the present-law AMT treatment of section 212 expenses creates such a disincentive, and provide the House Committee on Ways and Means and the Senate Finance Committee with a report of such study by March 1, 1994. The study should include the Treasury Department's views and recommendations as to whether a statutory amendment is appropriate insofar as the AMT treatment of section 212 expenses is concerned, along with a discussion of the merits and consequences of any such amendment.

Effective date

The conference agreement applies to stock issued after the date of enactment.

3. Rollover of gain from sale of publicly-traded securities into specialized small business investment companies (sec. 14114 of the House bill, sec. 13114 of the conference agreement and new sec. 1044 of the Code)

Present Law

In general, gain or loss is recognized on any sale, exchange or other disposition of property. The Internal Revenue Code contains provisions under which taxpayers may elect not to recognize gain realized on certain "like-kind" exchanges (sec. 1031), or for certain involuntary conversions (sec. 1033).

House Bill

The House bill permits any corporation or individual to elect to roll over without payment of tax any capital gain realized upon the sale of publicly-traded securities where the corporation or individual uses the proceeds from the sale to purchase common stock or a partnership interest in a specialized small business investment company ("SSBIC") within 60 days of the sale of the securities. To the extent the proceeds from the sale of the publicly-traded securities exceed the cost of the SSBIC common stock or partnership interest, gain will be recognized currently. The taxpayer's basis in the SSBIC common stock or partnership interest is reduced by the amount of any gain not recognized on the sale of the securities.[2]

Estates, trusts, S-corporations, and partnerships are not eligible to make this election to roll over gains. In addition, "publicly-traded securities" are defined as stock or debt traded on an established securities market. An SSBIC is defined as any partnership or corporation that is licensed by the Small Business Administration under section 301(d) of the Small Business Investment Act of 1958, as in effect on May 13, 1993.

The amount of gain that an individual may elect to roll over under this provision for a taxable year is limited to the lesser of (1) $50,000 or (2) $500,000 reduced by the gain previously excluded under this provision. For corporations, these limits are $250,000 and $1,000,000.

Effective date.—The provision is effective for sales of publicly-traded securities on or after the date of enactment.

Senate Amendment

No provision.

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[2] Basis in common stock of a corporate SSBIC is not reduced for purposes of calculating the gain eligible for the 50 percent exclusion for qualified small business stock under new section 1202 as provided in the House bill.

Conference Agreement

The conference agreement follows the House bill.

4. Modification to minimum tax depreciation rules (sec. 14115 of the House bill, sec. 8115 of the Senate amendment, sec. 13115 of the conference agreement, and sec. 56 of the Code)

Present Law

A taxpayer is subject to an alternative minimum tax (AMT) to the extent that the taxpayer's tentative minimum tax exceeds the taxpayer's regular income tax liability. A taxpayer's tentative minimum tax generally equals 20 percent (24 percent in the case of an individual) of the taxpayer's alternative minimum taxable income in excess of an exemption amount. Alternative minimum taxable income (AMTI) is the taxpayer's taxable income increased by certain tax preferences and adjusted by determining the tax treatment of certain items in a manner which negates the deferral of income resulting from the regular tax treatment of those items.

One of the adjustments which is made to taxable income to arrive at AMTI relates to depreciation. For AMT purposes, depreciation on most personal property to which the modified Accelerated Cost Recovery System (MACRS) adopted in 1986 applies is calculated using the 150-percent declining balance method (switching to straight line in the year necessary to maximize the deduction) over the property's class life. The class lives of MACRS property generally are longer than the recovery periods allowed for regular tax purposes.

For taxable years beginning after 1989, the AMTI of a corporation is increased by an amount equal to 75 percent of the amount by which adjusted current earnings (ACE) of the corporation exceed AMTI (as determined before this adjustment). In general, ACE means AMTI with additional adjustments that generally follow the rules presently applicable to corporations in computing their earnings and profits. For purposes of ACE, depreciation is computed using the straight-line method over the class life of the property. Thus, a corporation generally must make two depreciation calculations for purposes of the AMT—once using the 150-percent declining balance method over the class life and again using the straight-line method over the class life. Taxpayers may elect to use either method for regular tax purposes. If a taxpayer uses the straight-line method for regular tax purposes, it must also use the straight-line method for AMT purposes.

House Bill

The House bill eliminates the depreciation component of the ACE adjustment. In addition, taxpayers, including individuals, will compute AMT depreciation by using the 120-percent declining balance method over the recovery periods applicable for regular tax purposes. The provision does not apply to property eligible only for the straight-line method for regular tax purposes (e.g., residential and nonresidential real property).

Effective date.—The provision is effective for property placed in service after December 31, 1993.

Senate Amendment

The Senate amendment eliminates the depreciation component of the ACE adjustment. Thus, corporations will compute AMT depreciation by using the rules generally applicable to individuals (i.e., the 150-percent declining balance method over the class life of the property for tangible personal property.)

Effective date.—The provision is effective for property placed in service after December 31, 1993.

Conference Agreement

The conference agreement follows the Senate amendment.

5. Increase expensing deduction for small business (sec. 14116 of the House bill, sec. 8119 of the Senate amendment, sec. 13116 of the conference agreement, and sec. 179 of the Code)

Present Law

In lieu of depreciation, a taxpayer with a sufficiently small amount of annual investment may elect to deduct up to $10,000 of the cost of qualifying property placed in service for the taxable year. In general, qualifying property is defined as depreciable tangible personal property that is purchased for use in the active conduct of a trade or business. The $10,000 amount is reduced (but not below zero) by the amount by which the cost of qualifying property placed in service during the taxable year exceeds $200,000. In addition, the amount eligible to be expensed for a taxable year may not exceed the taxable income of the taxpayer for the year that is derived from the active conduct of a trade or business (determined without regard to this provision). Any amount that is not allowed as a deduction because of the taxable income limitation may be carried forward to succeeding taxable years (subject to similar limitations).

House Bill

The House bill increases the $10,000 amount allowed to be expensed under section 179 to $25,000.

Effective date.—The provision is effective for property placed in service in taxable years beginning after December 31, 1992.

Senate Amendment

The Senate amendment increases the $10,000 amount allowed to be expensed under section 179 to $20,500.

Effective date.—The provision is effective for property placed in service in taxable years beginning after December 31, 1992.

Conference Agreement

The conference agreement increases the $10,000 amount allowed to be expensed under section 179 to $17,500 for property placed in service in taxable years beginning after December 31, 1992.

6. Bonds for high-speed intercity rail facilities (sec. 14121 of the House bill, sec. 13121 of the conference agreement, and sec. 146 of the Code)

Present Law

High-speed intercity rail facilities qualify for tax-exempt bond financing if trains operating on the facility are reasonably expected to carry passengers and their baggage at average speeds in excess of 150 miles per hour between stations. Such facilities need not be governmentally-owned, but the owner must irrevocably elect not to claim depreciation or any tax credit with respect to bond-financed property.

Twenty-five percent of each bond issue for high-speed intercity rail facilities must receive an allocation from a State private activity bond volume limitation. If facilities are located in two or more States, this requirement must be met on a State-by-State basis for the financing of facilities located in each State.

House Bill

The House bill repeals the requirement that 25 percent of each high-speed rail facility bond issue receive an allocation from a State private activity bond volume limitation.

Effective date.—The provision is effective for bonds issued after December 31, 1993.

Senate Amendment

No provision.

Conference Agreement

The conference agreement follows the House bill, with a modification. Under the agreement, the requirement that 25 percent of each high-speed rail facility bond issue receive an allocation from a State private activity bond volume limitation would be repealed only if all the bond-financed property were governmentally owned. (Bonds issued for privately-owned property would remain subject to the current-law rules with respect to the 25-percent volume cap allocation requirement.)

Effective date.—The provision is effective for bonds issued after December 31, 1993.

7. Extension of qualified small-issue bonds (sec. 14122 of the House bill, sec. 8121 of the Senate amendment, sec. 13122 of the conference agreement, and sec. 144 of the Code)

Present Law

Interest on certain small issues of private activity bonds is excluded from income if at least 95 percent of the bond proceeds is used to finance: (1) manufacturing facilities or (2) agricultural land or property for first-time farmers ("qualified small-issue bonds"). Qualified small-issue bonds are those for which (i) the aggregate authorized face amount of the issue is $1 million or less, or (ii) the aggregate face amount of the issue, together with the aggregate amount of certain related capital expenditures during the six-year period beginning three years before the date of the issue and ending three years after that date, does not exceed $10 million. Special limits apply to these bonds for first-time farmers. As private activity bonds, qualified small-issue are subject to the volume cap. Treasury Department regulation sec. 1.103-8(a)(5) generally requires that qualified small-issue bonds be issued within one year after the property being financed is placed in service.

Authority to issue qualified small-issue bonds expired after June 30, 1992.

House Bill

The House bill permanently extends the authority to issue qualified small-issue bonds.

Effective date.—The provision is effective for bonds issued after June 30, 1992.

Senate Amendment

The Senate amendment extends the authority to issue qualified small-issue bonds for 24 months (through June 30, 1994).

Effective date.—The provision is effective for bonds issued after June 30, 1992 and before July 1, 1994.

Conference Agreement

The conference agreement follows the House bill with a modification with respect to qualified small-issue bonds that could not be issued within the regulatory one-year placed-in-service period due to the lapse of the program. Specifically, the conference agreement provides that the one-year placed-in-service period does not expire before January 1, 1994 for property with respect to which this one year period, under Treasury Regulation sec. 1.103-8(a)(5) or any successor regulation otherwise would expire after June 30, 1992, and before January 1, 1994. Because these bonds must be issued no later than December 31, 1993 and because carryforwards of qualified small-issue bonds are not allowed under the State private activity bond volume limitation rules, the applicable State volume limitation from which an allocation is required is that for calendar year 1993.

Effective date.—The extension is effective for bonds issued after June 30, 1992. The provision relating to Treasury regulation 1.103-8(a)(5) is effective on the date of enactment.

8. Extension of tax credit for orphan drug clinical testing expenses (sec. 13111(b) of the conference agreement and sec. 28 of the Code)

Present Law

The orphan drug tax credit (sec. 28) provides a 50-percent nonrefundable tax credit for a taxpayer's qualified clinical testing expenses paid or incurred in the testing of certain drugs for rare diseases, generally referred to as "orphan drugs." Qualified testing expenses are costs incurred to test an orphan drug after the drug has been approved for human testing by the Food and Drug Administration (FDA) but before the drug has been approved for sale by the FDA. Present law defines a rare disease or condition as one that (1) affects less than 200,000 persons in the United States or (2) affects more than 200,000 persons, but there is no reasonable expectation that businesses could recoup the costs of developing a drug for such disease or condition from U.S. sales of the drug. These rare diseases and conditions include Huntington's disease, myoclonus, ALS (Lou Gehrig's disease), Tourette's syndrome, and Duchenne's dystrophy (a form of muscular dystrophy).[3]

The orphan drug tax credit expired after June 30, 1992.

House Bill

No provision.

Senate Amendment

No provision.

Conference Agreement

The conference agreement extends the orphan drug tax credit for 30 months (i.e., for qualified clinical testing expenses incurred during the period July 1, 1992, through December 31, 1994).

Effective date.—The provision is effective for qualified clinical testing expenses incurred during the period July 1, 1992, through December 31, 1994.

C. Expansion and Simplification of Earned Income Tax Credit (sec. 14131 of the House bill, sec. 8131 of the Senate amendment, sec. 13131 of the conference agreement, and secs. 32, 162, 213, and 3507 of the Code)

Present Law

Eligible low-income workers can claim a refundable earned income tax credit (EITC) of up to 18.5 percent of the first $7,750 of earned income for 1993 (19.5 percent for taxpayers with more than one qualifying child). The maximum amount of credit for 1993 is $1,434 ($1,511 for taxpayers with more than one qualifying child).

This maximum credit is reduced by 13.21 percent of earned income (or adjusted gross income, if greater) in excess of $12,200 (13.93 percent for taxpayers with more than one qualifying child). In 1993, the EITC is totally phased out for workers with earned income (or adjusted gross income, if greater) over $23,050. The maximum amount of earned income on which the EITC may be claimed, and the income threshold for the phaseout of the EITC, are indexed for inflation. Earned income consists of wages, salaries, other employee compensation, and net self-employment income.

Present law provides that the credit rates for the EITC increase in 1994, as shown in the following table.

Year	One qualifying child—		Two or more qualifying children—	
	Credit rate	Phase-out rate	Credit rate	Phase-out rate
1993	18.5	13.21	19.5	13.93
1994 and after	23.0	16.43	25.0	17.86

A worker may elect to receive the EITC on an advance basis by furnishing a certificate of eligibility to his or her employer. For such a worker, the employer makes an advance payment of the credit at the time wages are paid.

A supplemental young child credit is available to taxpayers with qualifying children under the age of one year. This young child credit rate is 5 percent and the phase-out rate is 3.57 percent. It is computed on the same income base as the ordinary EITC. The maximum supplemental young child credit for 1993 is $388.

A supplemental health insurance credit is available to taxpayers who provide health insurance coverage for their qualifying children. This health insurance credit rate is 6 percent and the phase-out rate is 4.285 percent. It is computed on the same income base as the ordinary EITC, but the credit claimed cannot exceed the out-of-pocket cost of the health insurance coverage. In addition, the taxpayer is denied an itemized deduction for medical expenses of qualifying insurance coverage up to the amount of credit claimed. The maximum supplemental health insurance credit for 1993 is $465.

House Bill

For taxpayers with one qualifying child, the EITC is increased to 26.60 percent of the first $7,750 of earned income in 1994. The maximum credit in 1994 is $2,062 which is reduced by 16.16 percent of earned income (or adjusted gross income, if greater) in excess of $11,000. The credit is completely phased out for taxpayers with earned income (or adjusted gross income, if greater) over $23,760. For 1995 and thereafter, the credit rate is increased to 34.37 percent. The maximum amount of earned income on which the credit could be claimed is reduced to (an estimated) $6,170 (this is a $6,000 base in 1994, adjusted for projected inflation). Thus, the maximum credit in 1995 is projected to be $2,120 (which equals the maximum credit available in 1994, adjusted for projected inflation). The phaseout rate remains the same as in 1994.

For taxpayers with two or more qualifying children, the EITC is increased to 31.59 percent of the first $8,500 of earned income in 1994. The maximum credit is $2,685 which is reduced by 15.79 percent of earned income (or adjusted gross income, if greater) in excess of $11,000. Thus, in 1994, the credit is completely phased out for taxpayers with earned income (or adjusted gross income, if greater) over $28,000. For 1995 and thereafter, the credit rate increases to 39.66 percent. The maximum amount of earned income on which the credit could be claimed is projected to be $8,730 in 1995 (which equals the 1994 level, adjusted for projected inflation). Thus, the maximum credit in 1995 is projected to be $3,460. The phase-out rate for 1995 and thereafter is 19.83 percent.

Under the House bill, the EITC is extended to low-income workers who (1) do not have any qualifying children (including workers with children who are not qualifying children with respect to that worker); (2) are age 22 or older; and (3) who may not be claimed as a dependent on another taxpayer's return. For these taxpayers, the EITC is 7.65 percent of the first $4,000 of earned income (for a maximum credit of $306 in 1994). The maximum credit is reduced by 7.65 percent of earned income (or adjusted gross income, if greater) above $5,000. In 1994 the credit is completely phased out for taxpayers with earned income (or adjusted gross income, if greater) over $9,000. This credit is not available on an advance payment basis.

As under present law, all dollar thresholds for years after 1994 are indexed for inflation.

The supplemental young child credit and the supplemental health insurance credit are repealed.

Effective date.—The provision is effective for taxable years beginning after December 31, 1993.

Senate Amendment

The Senate amendment generally follows the House bill, with the following exceptions:

For taxpayers with one qualifying child, the EITC is 26.0 percent of the first $7,750 of earned income in 1994. The maximum credit in 1994 is $2,015 and is reduced by 16.16 percent of earned income (or adjusted gross income, if greater) in excess of $11,000. For 1995 and thereafter, the credit rate increases to 34.0 percent. The maximum amount of earned income on which the credit could be claimed is (an estimated) $6,170 (this is a $6,000 base in 1994, adjusted for projected inflation).

For taxpayers with two or more qualifying children, the EITC is 30.0 percent of the first $8,500 of earned income in 1994. The maximum credit for 1994 is $2,550 and is reduced by 15.94 percent of earned income (or adjusted gross income, if greater) in excess of $11,000. The credit rate increases over time and equals 34.0 percent for 1995 and 39.0 percent for 1996 and thereafter. The phase-out rate is 18.06 percent for 1995 and 20.72 percent for 1996 and thereafter.

There is no credit available for workers without qualifying children.

Effective date.—The Senate amendment is the same as the House bill.

Conference Agreement

The conference agreement generally follows the House bill and the Senate amendment, with the following modifications.

For taxpayers with one qualifying child, the EITC is 26.3 percent of the first $7,750 of earned income in 1994. The maximum credit in 1994 is $2,038 and is reduced by 15.98 percent of earned income (or adjusted gross income, if greater) in excess of $11,000. For 1995 and thereafter, the credit rate increases to 34.0 percent. The maximum amount of earned income on which the credit could be claimed is (an estimated) $6,170 (this is a $6,000 base in 1994, adjusted for projected inflation). The phaseout rate for 1995 and thereafter is 15.98 percent.

For taxpayers with two or more qualifying children, the EITC is 30.0 percent of the first $8,425 of earned income in 1994. The maximum credit for 1994 is $2,527 and is reduced by 17.68 percent of earned income (or adjusted gross income, if greater) in excess of $11,000. The credit rate increases over time and equals 36.0 percent for 1995 and 40.0 percent for 1996 and thereafter. The phase-out rate is 20.22 percent for 1995 and 21.06 percent for 1996 and thereafter.

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[3] A taxpayer's otherwise allowable deduction for clinical testing expenses is reduced by the amount of any orphan drug tax credit allowed for the taxable year (sec. 280C(b)).

The EITC is extended to taxpayers with no qualifying children, as in the House bill, with a modification to the age requirement. Under the conference agreement, this credit for taxpayers with no qualifying children would only be available to taxpayers over age 25 and below age 65.

The Internal Revenue Service (IRS) is required to provide notice to taxpayers with qualifying children who receive a refund on account of the EITC that the credit may be available on an advance payment basis. To prevent taxpayers from incurring an unexpectedly large tax liability due to receipt of the EITC on an advance payment basis, the amount of advance payment allowable in a taxable year is limited to 60 percent of the maximum credit available to a taxpayer with one qualifying child. After providing these notices to taxpayers for two taxable years, the Secretary of the Treasury is directed to study the effect of the notice program on utilization of the advance payment mechanism. Based on the results of this study, the Secretary may recommend modifications to the notice program to the Committee on Ways and Means and the Committee on Finance.

Finally, the conferees are concerned that working homeless individuals may not claim the full amount of EITC to which they are entitled. The conferees urge the IRS to explore the use of outreach programs that target homeless individuals and that aim to educate these individuals of the availability of the EITC.

D. Real Estate Investment Provisions

1. Extension of qualified mortgage bonds and mortgage credit certificates (sec. 14141 of the House bill, sec. 8141 and 8141A of the Senate amendment, sec. 13141 of the conference agreement, and secs. 25 and 143 of the Code)

Present Law

Qualified mortgage bonds

Qualified mortgage bonds ("QMBs") are bonds the proceeds of which are used to finance the purchase, or qualifying rehabilitation or improvement, of single-family, owner-occupied residences located within the jurisdiction of the issuer of the bonds (sec. 143). Persons receiving QMB loans must satisfy a home purchase price, borrower income, first-time homebuyer, and other requirements. Part or all of the interest subsidy provided by QMBs is recaptured if the borrower experiences substantial increases in income and disposes of the subsidized residence within nine years after purchase.

Mortgage credit certificates

Qualified governmental units may elect to exchange QMB authority for authority to issue mortgage credit certificates ("MCCs") (sec. 25). MCCs entitle homebuyers to nonrefundable income tax credits for a specified percentage of interest paid on mortgage loans on their principal residences. Once issued, an MCC remains in effect as long as the loan remains outstanding and the residence being financed continues to be the certificate-recipient's principal residence. MCCs are subject to the same targeting requirements as QMBs.

Expiration

Authority to issue QMBs and to elect to trade in bond volume authority to issue MCCs expired after June 30, 1992.

House Bill

The House bill permanently extends the authority to issue QMBs and to elect to trade in QMB authority for authority to issue MCCs.

Effective date.—The extension of the QMB and MCC programs is effective after June 30, 1992.

Senate Amendment

The Senate amendment extends the authority to issue QMBs and to elect to trade in QMB authority for authority to issue MCCs for 24 months (through June 30, 1994).

Effective date.—Same as the House bill.

Conference Agreement

The conference agreement follows the House bill with three modifications.

Treatment of certain housing affordability programs

The conference agreement provides that, in high housing cost areas, the fact that an issuer of QMBs or MCCs also provides certain mortgage loans or grants other than first mortgage loans or grants to homebuyers in conjunction with QMB or MCC financing will not preclude availability of the QMB- or MCC-assistance on the purchase of a residence. Qualifying subordinate mortgage loans or grants may not be financed directly or indirectly with tax-exempt private activity bonds. Also qualifying subordinate mortgage loans or grants either must be accompanied by a "resale price control restriction", (or in the case of loans must be, "shared appreciation loans"). Finally, the local government must retain its interest in the home's appreciation for a period at least as long as the Federal QMB and MCC recapture period.

A resale price control restriction is defined as a deed restriction, right of repurchase, or similar mechanism which (1) requires the owner to sell the unit to a purchaser qualifying for QMB or MCC financing and (2) limits the resale price to an amount not exceeding the initial purchase price plus an indexed amount that is less than the full appreciation on the residence. A shared appreciation loan is defined as a below-market rate or deferred interest loan which entitles the governmental lender to a share of any appreciation in value (attributable to the portion of the residence financed with the shared appreciation loan) realized upon disposition of the residence as repayment for the subsidy provided by the loan.

Any interest of a governmental unit in a QMB- or MCC-financed residence attributable to a qualifying subordinated mortgage loan will be disregarded for purposes of (1) the first-time homebuyer and owner-occupied residence requirements of the QMB and MCC programs; (2) the maximum purchase price limit for QMB-and MCC-financed residences; (3) the rules for determining who is the owner of a QMB- or MCC-financed residence; and (4) the rules for determining the effective rate of interest on QMB-financed loans. The terms of the subordinated mortgage loan or grant will be taken into account, however, for measuring the amount of the homeowner's gain, if any, under the QMB- and MCC-recapture restrictions. The conferees intend that the special rules for these housing affordability programs will not apply to any subordination loans or grant if the governmental unit's interest under the loan or grant is structured so as to realize an amount in excess of the pro rata portion of the appreciation on the residence financed with the subordinated mortgage loan or grant (e.g., by allocating to the governmental unit an amount of gain on disposition greater than the proportionate amount of the total subsidy to the homebuyer that is provided by the subordinated mortgage loan).

Treatment of certain contracts for deeds

The conference agreement also provides that, in the case of certain homebuyers whose family incomes do not exceed fifty percent of applicable median family income, ownership of land subject to certain contracts for deed does not violate the requirement that QMB- and MCC-financed homebuyers be first-time homebuyers and that the financing provided be for new mortgages. Thus, QMB-financed loans may be made (and MCCs to be granted) to individuals who own and maintain their principal residence on land subject to these contracts for deed provided that the homebuyers satisfy (a) all otherwise applicable requirements of the QMB and MCC programs but for the contract for deed and (b) the special income limit. These loans may be used to repay the contract for deed and to finance a new residence on the land. Also, as under present law, these homebuyers will remain eligible for qualified home improvement loans to rehabilitate existing principal residences on the land held subject to the contracts for deed.

Treatment of certain two-family housing

The conference agreement expands a present-law exception to the requirement that all residences receiving qualified mortgage bond financing or MCCs be single family, owner-occupied housing to allow certain newly constructed two-family housing to qualify. Under the expanded exception, newly constructed two-family housing will be eligible for these subsidies if (a) the housing is located in a targeted area of economic distress (sec. 143(j)), (b) at least one of the two units is occupied as the principal residence of the mortgager, and (c) the family income of the mortgagor is 140 percent or less of the applicable area median family income.[4]

Effective date

The extension of the QMB and MCC programs is effective after June 30, 1992. The three modifications are effective for QMB and MCC-financing provided after the date of enactment.

2. Extension and modification of the tax credit for low-income rental housing (sec. 14142 of the House bill, sec. 8142 of the Senate amendment, sec. 13142 of the conference agreement, and sec. 42 of the Code)

Present Law

In general

A tax credit is allowed in annual installments over 10 years for qualifying newly constructed or substantially rehabilitated low-income residential rental housing. For most qualifying housing, the credit has a present value of 70 percent of the qualified basis of the low-income housing units. For housing also receiving other Federal subsidies (e.g., tax-exempt bond financing) and for the acquisition cost (e.g., costs other than rehabilitation expenditures) of existing housing that is substantially rehabilitated, the credit has a present value of 30 percent of qualified costs.

HOME funds

Housing which receives assistance under the National Affordable Housing Act of 1990 generally is treated as Federally subsidized and therefore not eligible for the 70 percent present value credit.

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[4] The conferees intend, however, that the interest of a governmental unit will be disregarded under the recapture restriction if the governmental unit's interest is structured so as to capture any amount otherwise subject to Federal recapture e.g. by allocating to the governmental unit an amount of gain on disposition greater than the proportionate amount of the total subsidy to the homebuyer that is provided by the subordinated mortgage loan.

Full-time students

A housing unit generally is not eligible for the low-income housing tax credit if the tenants are full-time students who are not married individuals filing joint returns. Exceptions to this rule allow the credit to be claimed on housing units occupied by persons who are enrolled in certain job training programs or by students who are receiving Aid to Families with Dependent Children (AFDC) payments.

Deep-rent skewing

Generally, the credit amount is based on the qualified basis of the housing units serving low-income tenants. A residential rental project will qualify for the credit only if (1) 20 percent or more of the aggregate residential rental units in the project are occupied by individuals whose incomes do not exceed 50 percent of area median income, or (2) 40 percent or more of the aggregate residential rental units in the project are occupied by individuals whose incomes do not exceed 60 percent of area median income. A different income targeting rule applies to entities described in sec. 142(d)(6) of the Code. These income figures are adjusted for family size. The low income set-aside is elected when the project is placed in service.

To qualify under the deep rent skewing exception from the general targeting requirements, at least 15 percent of the low-income units must be occupied by tenants whose incomes do not exceed 40 percent of area median income, the rents on such units must be restricted to 30 percent of the qualifying income limitation, and rents on the market rate units must be at least 200 percent of rents charged on comparable rent restricted units. For projects receiving allocations prior to 1990, rents on market rate units must be at least 300 percent of rents charged on comparable rent restricted units.

Maximum rent

The maximum rent that may be charged a family in a low-income housing tax credit unit depends on the number of bedrooms in that unit. Prior to 1990, maximum allowable rent was determined on the basis of the actual family size of the occupants.

Tenant occupancy

Under the general low-income tenant occupancy requirement, a residential rental project qualifies for the low-income housing tax credit only if at least: (1) 20 percent or more of the aggregate residential rental units in the project are occupied by individuals whose incomes do not exceed 50 percent of area median income or, (2) 40 percent or more of the aggregate residential rental units in the project are occupied by individuals whose incomes do not exceed 60 percent of area median income.

Income recertification

Generally, the owner of a low-income housing project must annually recertify tenant incomes to meet the low-income tenant occupancy requirements, regardless of whether the building is entirely occupied by low-income tenants.

Tenant protection

The low-income housing tax credit provisions in the Code do not include any specific provisions concerning the grounds for denial of admission to low-income housing projects, for termination of a tenancy, or for refusal to renew the lease of a tenant.

Developmental and operational costs

In general, housing credit agencies cannot allocate more low-income housing tax credits to a project than are necessary for the financial feasibility of the project and its viability as a qualified low-income housing project throughout the 10-year credit period. In making this determination, a housing credit agency must consider (1) the sources and uses of funds and the total financing of the project, (2) any proceeds expected to be generated by reason of tax benefits and (3) the percentage of the housing credit dollar amount to be used for project costs other than the costs of intermediaries.

Allocation between buyer and seller in month of disposition

The Code requires that the low-income housing tax credit be divided between a buyer and seller of a low-income housing tax credit project based upon the number of days during the year of disposition that the project was held by each. The Internal Revenue Service has issued guidance that requires a mid-month averaging convention.

Expiration

The low-income housing tax credit expired after June 30, 1992.

House Bill

Extension

The House bill permanently extends the low-income housing tax credit.

HOME funds

The House bill provides that a building shall not be treated as Federally subsidized solely by reason of assistance with respect to that building received under the National Affordable Housing Act of 1990 (as in effect on the date of enactment of this provision) if 40 percent or more of the aggregate residential rental units in the residential rental project receiving the assistance are occupied by individuals with 50 percent or less of area median income. These projects are eligible for the 70 percent and 30 percent credits but not for the 91 percent or 39 percent credits otherwise available in qualified census tracts and difficult development areas.

Full-time students

No provision.

Deep-rent skewing

No provision.

Maximum rent

No provision.

Tenant occupancy

No provision.

Income recertification

No provision.

Tenant protection

No provision.

Developmental and operational costs

No provision.

Allocation between buyer and seller in month of disposition

No provision.

Effective date

The House bill generally is effective after June 30, 1992. The provision relating to Federal subsidies under the National Affordable Housing Act of 1990 is effective on the date of enactment.

Senate Amendment

Extension

The Senate amendment is the same as the House bill.

HOME funds

No provision.

Full-time students

The Senate amendment provides that a housing unit occupied entirely by full-time students may qualify for the credit if the full-time students are a single parent and his or her minor children and none of the tenants is a dependent of a third party. The Senate amendment also codifies the present-law exception regarding married students filing joint returns (which continues to apply to all buildings placed in service since original enactment of the low-income housing tax credit by the Tax Reform Act of 1986).

Deep-rent skewing

The Senate amendment allows an irrevocable election by the owner of a low-income building receiving a credit allocation before 1990 to satisfy the 200-percent rent restriction rather than the 300-percent rent restriction. The election is available only to taxpayers who enter into a compliance monitoring agreement with a housing credit agency. Further, the election applies only with respect to tenants first occupying any unit in the building after the date of the election, and must be made within 180 days after the date of enactment.

Maximum rent

The Senate amendment allows an irrevocable election by the owner of a low-income building placed in-service before 1990 to use either apartment size or family size in determining maximum allowable rent. The election is available only to taxpayers who enter into a compliance monitoring agreement with a housing credit agency. Further, the election applies only with respect to tenants first occupying any unit in the building after the date of the election, and must be made within 180 days after the date of enactment.

Tenant occupancy

The Senate amendment authorizes the Treasury Department to provide a waiver of penalties for de minimis errors in the application of the low-income tenant occupancy requirement.

Income recertification

The Senate amendment authorizes the Treasury Department to grant a waiver from the annual recertification of tenant income for tenants in buildings that are occupied entirely by low-income tenants.

Tenant protection

The Senate amendment provides that an applicant may not be denied admission to a low-income housing tax credit project because the applicant holds a voucher or certificate of eligibility under Section 8 of the Housing Act of 1937.

Developmental and operational costs

The Senate amendment requires a housing credit agency to consider the reasonableness of the developmental and operational costs of a project as an additional factor in making its determination as to the proper amount of low-income housing tax credits to allocate to a project.

Allocation between buyer and seller in month of disposition

The bill provides that the buyer and seller may agree to use either the exact number of days or the mid-month convention to determine the division of the credit in the month of disposition.

Effective date

The extension of the low-income housing tax credit and the provisions relating to: (1) full-time students, and (2) developmental and operational costs are effective after June 30, 1992. The provisions relating to: (1) tenant occupancy, (2) income certification, (3) tenant protection, and (4) allocations between the buyer and seller are effective on the date of enactment. The elections relating to deep-rent skewing and maximum rent must be made within 180 days after the date of enactment.

Conference Agreement

Extension

The conference agreement follows the House bill and the Senate amendment.

HOME funds

The conference agreement follows the House bill with a modification to the House bill requirement that 40 percent or more of the aggregate residential rental units in the residential rental project receiving the assistance are occupied by individuals with 50 percent or less of area median income. Specifically 40 percent would be reduced to 25 percent for entities described in Code section 142(d)(6), consistent with the income targeting rules currently applicable to such entities. The House bill requirement limiting this provision to the 70 percent and 30 percent credits but not for the 91 percent or 39 percent credits otherwise available in qualified census tracts and difficult development areas is retained.

Full-time students

The conference agreement follows the Senate amendment.

Deep-rent skewing

The conference agreement follows the Senate amendment with a modification. The modification provides that the irrevocable election would apply to both current and future tenants but would not allow rent increases on existing low-income tenants.

Maximum rent

The conference agreement follows the Senate amendment.

Tenant occupancy

The conference agreement follows the Senate amendment.

Income recertification

The conference agreement follows the Senate amendment with a modification. The conference agreement provides that third-party verification of a tenant's or prospect tenant's income from his combined assets is not necessary if (1) the combined assets do not exceed $5,000 and (2) the tenant or prospective tenant provides a signed, sworn statement to this effect to the building owner. Further the conferees do not intend to modify the treatment of individuals receiving section 8 assistance.

Tenant protection

The conference agreement follows the Senate amendment.

Development and operational costs

The conference agreement follows the Senate amendment with a clarification that the provision is not intended to create a national standard of reasonableness. The conferees intend for allocating agencies to set standards of reasonableness reflecting the applicable facts and circumstances including the location of the projects and the uses for which the projects are built.

Allocation between buyer and seller in month of disposition

The conference agreement follows the Senate amendment.

Effective date

The extension of the low-income housing tax credit and the provision relating to: (1) full-time students, and (2) developmental and operational cost are effective after June 30, 1992. The provisions relating to: (1) tenant occupancy, (2) income recertification, (3) tenant protection, (4) allocations between the buyer and seller, and (5) HOME funds are effective on the date of enactment. The elections relating to maximum rent and deep-rent skewing must be made within 180 days after the date of enactment.

3. Modification of passive loss rules for certain real estate persons (sec. 14143 of the House bill, sec. 8143 of the Senate amendment, sec. 13143 of the conference agreement, and sec. 469 of the Code)

Present Law

The passive loss rules limit deductions and credits from passive trade or business activities. Deductions attributable to passive activities, to the extent they exceed income from passive activities, generally may not be deducted against other income, such as wages, portfolio income, or business income that is not derived from a passive activity. A similar rule applies to credits. Deductions and credits that are suspended under these rules are carried forward and treated as deductions and credits from passive activities in the next year. The suspended losses from a passive activity are allowed in full when a taxpayer disposes of his entire interest in the passive activity to an unrelated person.

The passive loss rules apply to individuals, estates and trusts, closely held C corporations, and personal service corporations. A special rule permits closely held C corporations to apply passive activity losses and credits against active business income (or tax liability allocable thereto) but not against portfolio income.

Passive activities are defined to include trade or business activities in which the taxpayer does not materially participate. Rental activities (including rental real estate activities) are also treated as passive activities, regardless of the level of taxpayer's participation. A special rule permits the deduction of up to $25,000 of losses from rental real estate activities (even though they are considered passive), if the taxpayer actively participates in them. This $25,000 amount is allowed for taxpayers with adjusted gross incomes of $100,000 or less, and is phased out for taxpayers with adjusted gross incomes between $100,000 and $150,000.

House Bill

The House bill treats a taxpayer's rental real estate activities in which he materially participates as not subject to limitation under the passive loss rules if the taxpayer meets eligibility requirements relating to real property trades or businesses in which the taxpayer performs services.

Real property trade or business means any real property development, redevelopment, construction, reconstruction, acquisition, conversion, rental, operation, management, leasing, or brokerage trade or business.

An individual taxpayer meets the eligibility requirements if more than half of the personal services the taxpayer performs in trades or businesses during the taxable year are in real property trades or businesses in which he materially participates. Personal services performed as an employee are not treated as performed in a real property trade or business unless the person performing services has more than a 5 percent ownership interest in the employer.

In the case of a joint return, each spouse's personal services are taken into account separately. In determining material participation, however, the provision does not change the present-law rule that the participation of the spouse of the taxpayer is taken into account. Thus, for example, a husband and wife filing a joint return meet the eligibility requirements of the provision if during the taxable year one spouse performs at least half of his or her business services in a real property trade or business in which either spouse materially participates.

A closely held C corporation meets the eligibility requirements if more than 50 percent of its gross receipts for the taxable year are derived from real property trades or businesses in which the corporation materially participates.

Effective date.—The provision is effective with respect to taxable years beginning after December 31, 1993.

Senate Amendment

The Senate amendment is the same as the House bill, except that an eligible taxpayer's net loss from rental real estate activities in which the taxpayer materially participates generally is allowed to offset income from real property trade or business activities. The loss allowed under the provision may not exceed the least of (1) the taxpayer's net loss for the taxable year from rental real estate activities in which the taxpayer materially participates, (2) the taxpayer's net loss for the taxable year from all rental real estate activities, (3) the taxpayer's net income for the taxable year from real property trade or business activities which are not passive activities, or (4) the taxpayer's taxable income for the taxable year (determined without regard to this provision). A similar rule applies with respect passive activity credits. The Senate amendment does not apply to closely held C corporations.

Effective date.—Same as the House bill.

Conference Agreement

The conference agreement follows the House bill, with a modification. Under the conference agreement, an individual taxpayer meets the eligibility requirements if (1) more than half of the personal services the taxpayer performs in trades or businesses during the taxable year are performed in real property trades or businesses in which the taxpayer materially participates, and (2) such taxpayer performs more than 750 hours of services during the taxable year in real property trades or businesses in which the taxpayer materially participates. In the case of a joint return, the eligibility requirements are met only if either spouse separately satisfies the requirements. Thus, one of the spouses separately must satisfy the requirement with respect to half of such spouse's personal services and the requirement with respect to 750 hours of services, without regard to services performed by the other spouse. In determining material participation, however, the conference agreement does not change the present-law rule that the participation of the spouse of the taxpayer is taken into account.

4. Changes relating to real estate investments by pension funds and others (secs. 14144-14149 of the House bill, secs. 8144-8149 of the Senate amendment, and secs. 13144-13149 of the conference agreement)

a. Modification of the rules related to debt-financed income (sec. 14144 of the House bill and sec. 8144 of the Senate amendment, sec. 13144 of the conference agreement, and sec. 514 of the Code)

Present Law

In general, a qualified pension trust or an organization that is otherwise exempt from Federal income tax is taxed on income from a trade or business that is unrelated to the organization's exempt purposes (Unrelated Business Taxable Income or "UBTI") (sec. 511). Certain types of income, including rents, royalties, dividends, and interest are excluded from UBTI, except when such income is derived from "debt-financed property." Income from debt-financed property generally is treated as UBTI in proportion to the amount of debt financing (sec. 514(a)).

An exception to the rule treating income from debt-financed property as UBTI is available to pension trusts, educational institutions, and certain other exempt organizations (collectively referred to as "qualified organizations") that make debt-financed investments in real property (sec. 514(c)(9)(A)). Under this exception, income from investments in real property is not treated as income from debt-financed property. Mortgages are not considered real property for purposes of the exception.

The real property exception to the debt-financed property rules is available for investments in debt-financed property, only if the following six restrictions are satisfied: (1) the purchase price of the real property is a fixed amount determined as of the date of the acquisition (the "fixed price restriction"); (2) the amount of the indebtedness or any amount payable with respect to the indebtedness, or the time for making any payment of any such amount, is not dependent (in whole or in part) upon revenues, income, or profits derived from the property (the "participating loan restriction"); (3) the property is not leased by the qualified organization to the seller or to a person related to the seller (the "leaseback restriction"); (4) in the case of a pension trust, the seller or lessee of the property is not a disqualified person (the "disqualified person restriction"); (5) the seller or a person related to the seller (or a person related to the plan with respect to which a pension trust was formed) is not providing financing in connection with the acquisition of the property (the "seller-financing restriction"); and (6) if the investment in the property is held through a partnership, certain additional requirements are satisfied by the partnership (the "partnership restrictions") (sec. 514(c)(9)(B)(i) through (vi)).

House Bill

Relaxation of the leaseback and disqualified person restrictions

The House bill relaxes the leaseback and disqualified person restrictions to permit a limited leaseback of debt-financed real property to the seller (or a person related to the seller) or to a disqualified person.[5] The exception applies only where (1) no more than 25 percent of the leasable floor space in a building (or complex of buildings) is leased back to the seller (or related party) or to the disqualified person, and (2) the lease is on commercially reasonable terms, independent of the sale and other transactions.

Relaxation of the seller-financing restriction

The House bill relaxes the seller-financing restriction to permit seller financing on terms that are commercially reasonable independent of the sale and other transactions. The House bill grants authority to the Treasury Department to issue regulations for the purpose of determining commercially reasonable financing terms.

The House bill does not modify the present-law fixed price and participating loan restrictions. Thus, for example, income from real property acquired with seller-financing where the timing or amount of payment is based on revenue, income, or profits from the property generally will continue to be treated as income from debt-financed property, unless some other exception applies.

Relaxation of the fixed price and participating loan restriction for property acquired from financial institutions

The House bill relaxes the fixed price and participating loan restrictions for certain sales of real property foreclosed upon by financial institutions.[6] The relaxation of these rules is limited to cases where: (1) a qualified organization acquires the property from a financial institution that acquired the real property by foreclosure (or after an actual or imminent default), or was held by the selling financial institution at the time that it entered into conservatorship or receivership; (2) any gain recognized by the financial institution with respect to the property is ordinary income; (3) the stated principal amount of the seller financing does not exceed the financial institution's outstanding indebtedness (including accrued but unpaid interest) with respect to the property at the time of foreclosure or default; and (4) the present value of the maximum amount payable pursuant to any participation feature cannot exceed 30 percent of the total purchase price of the property (including contingent payments).

Effective date

The House bill is effective for acquisitions (and also for leases entered into) on or after January 1, 1994.

Senate Amendment

The Senate amendment is the same as the House bill.

Conference Agreement

The conference agreement follows the House bill and the Senate amendment.

b. Repeal of the automatic UBTI rule for publicly-traded partnerships (sec. 14145 of the House bill, sec. 8145 of the Senate amendment, sec. 13145 of the conference agreement, and sec. 512 of the Code)

Present Law

In general, the character of a partner's distributive share of partnership income is the same as if the income had been directly realized by the partner. Thus, whether a tax-exempt organization's share of income from a partnership (other than from a publicly-traded partnership) is treated as unrelated business income depends on the underlying character of the income (sec. 512(c)(1)).

By contrast, a tax-exempt organization's distributive share of gross income from a publicly-traded partnership (that is not otherwise treated as a corporation) automatically is treated as gross income derived from an unrelated trade or business (sec. 512(c)(2)(A)). The organization's share of the partnership deductions is allowed in computing the organization's UBTI (sec. 512(c)(2)(B)).

House Bill

The House bill repeals the rule that automatically treats income from publicly-traded partnerships as UBTI. Thus, under the House bill, investments in publicly-traded partnerships are treated the same as investments in other partnerships for purposes of the UBTI rules.

Effective date.—The provision is effective for partnership years beginning on or after January 1, 1994.

Senate Amendment

The Senate amendment is the same as the House bill.

Conference Agreement

The conference agreement follows the House bill and the Senate amendment.

c. Permit title-holding companies to receive small amounts of UBTI (sec. 14146 of the House bill, sec. 8146 of the Senate amendment, sec. 13146 of the conference agreement, and secs. 501(c)(2) and (c)(25) of the Code)

Present Law

Section 501(c)(2) provides tax-exempt status to certain corporations organized for the exclusive purpose of holding title to property and remitting any income from the property to one or more related tax-exempt organizations. Section 501(c)(25) provides tax-exempt status to certain corporations and trusts that are organized for the exclusive purposes of acquiring and holding title to real property, collecting income from such property, and remitting the income to no more than 35 shareholders or beneficiaries that are: (1) qualified pension, profit-sharing, or stock bonus plans (sec. 401(a)); (2) governmental pension plans (sec. 414(d)); (3) the United States, a State or political subdivision, or governmental agencies or instrumentalities; or (4) tax-exempt charitable, educational, religious, or other organizations described in section 501(c)(3). However, the IRS has taken the position that a title-holding company described in section 501(c)(2) or 501(c)(25) will lose its tax-exempt status if it generates any amount of certain types of UBTI.[7]

House Bill

The House bill permits a title-holding company that is exempt from tax under sections 501(c)(2) or 501(c)(25) to receive UBTI (that would otherwise disqualify the company) up to 10 percent of its gross income for the taxable year, provided that the UBTI is incidentally derived from the holding of real property. For example, income generated from parking or operating vending machines located on real property owned by a title-holding company generally would qualify for the 10-percent de minimis rule, while income derived from an activity that is not incidental to the holding of real property (e.g., manufacturing) would not qualify. In cases where unrelated income is incidentally derived from the holding of real property, receipt by a title-holding company of such income (up to the 10-percent limit) will not jeopardize the title-holding company's tax-exempt status, but nonetheless, will be subject to tax as UBTI.

In addition, the House bill provides that a section 501(c)(2) or 501(c)(25) title-holding company will not lose its tax-exempt status if UBTI that is incidentally derived from the holding of real property exceeds the 10-percent limitation, provided that the title-holding company establishes to the satisfaction of the Secretary of the Treasury that the receipt of UBTI in excess of the 10-percent limitation was inadvertent and reasonable steps are being taken to correct the circumstances giving rise to such excess UBTI.

Effective date.—The provision is effective for taxable years beginning on or after January 1, 1994.

Senate Amendment

The Senate amendment is the same as the House bill.

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[5] As under present law, a leaseback to a disqualified person is subject to the prohibited transaction rules set forth in section 4975.

[6] For this purpose, financial institutions include financial institutions in conservatorship or receivership, certain affiliates of financial institutions, and government corporations that succeed to the rights and interests of a receiver or conservator.

[7] IRS Notice 88-121, 1988-2 C.B. 457. See also Treas. Reg. sec. 1.501(c)(2)-1(a).

Conference Agreement

The conference agreement follows the House bill and the Senate amendment.

d. Exclusion from UBTI of gains from the disposition of real property acquired from financial institutions in conservatorship or receivership (sec. 14147 of the House bill, sec. 8147 of the Senate amendment, sec. 13147 of the conference agreement, and sec. 512(b) of the Code)

Present Law

In general, gains or losses from the sale, exchange or other disposition of property are excluded from UBTI (sec. 512(b)(5)). However, gains or losses from the sale, exchange or other disposition of property held primarily for sale to customers in the ordinary course of a trade or business are not excluded from UBTI (the "dealer UBTI rule") (sec. 512(b)(5)(B)).

House Bill

The House bill provides an exception to the dealer UBTI rule by excluding gains and losses from the sale, exchange or other disposition of certain real property and mortgages acquired from financial institutions that are in conservatorship or receivership. Only real property and mortgages owned by a financial institution (or that was security for a loan held by the financial institution) at the time that the institution entered conservatorship or receivership are eligible for the exception.

The exclusion is limited to properties designated as disposal property within nine months of acquisition, and disposed of within two-and-a-half years of acquisition. The two-and-a-half year disposition period may be extended by the Secretary if an extension is necessary for the orderly liquidation of the property. No more than one-half by value of properties acquired in a single transaction may be designated as disposal property.

The exclusion is not available for properties that are improved or developed to the extent that the aggregate expenditures on development do not exceed 20 percent of the net selling price of the property.

Effective date.—The provision is effective for property acquired on or after January 1, 1994.

Senate Amendment

The Senate amendment is the same as the House bill.

Conference Agreement

The conference agreement follows the House bill and the Senate amendment.

e. Exclusion of certain option premiums and loan commitment fees from UBTI (sec. 14148 of the House bill, sec. 8148 of the Senate amendment, sec. 13148 of the conference agreement, and sec. 512(b) of the Code)

Present Law

Income from a trade or business that is unrelated to an exempt organization's purpose generally is UBTI. Passive income such as dividends, interest, royalties, and gains or losses from the sale, exchange or other disposition of property generally is excluded from UBTI (sec. 512(b)). In addition, gains on the lapse or termination of options on securities are explicitly exempted from UBTI (sec. 512(b)(5)).

Present law is unclear on whether premiums from unexercised options on real estate and loan commitment fees are UBTI.

House Bill

The House bill expands the current exception for gains on the lapse or termination of options on securities to gains or losses from such options (without regard to whether they are written by the organization), from options on real property, and from the forfeiture of good-faith deposits (that are consistent with established business practice) for the purchase, sale or lease of real property.

In addition, the House bill excludes loan commitment fees from UBTI. For purposes of this provision, loan commitment fees are non-refundable charges made by a lender to reserve a sum of money with fixed terms for a specified period of time. These charges are to compensate the lender for the risk inherent in committing to make the loan (e.g., for the lender's exposure to interest rate changes and for potential lost opportunities).

Effective date.—The provision is effective for premiums or loan commitment fees that are received on or after January 1, 1994.

Senate Amendment

The Senate amendment is the same as the House bill.

Conference Agreement

The conference agreement follows the House bill and the Senate amendment.

f. Relaxation of limitations on investments in real estate investment trusts by pension funds (sec. 14149 of the House bill, sec. 8149 of the Senate amendment, sec. 13149 of the conference agreement, and sec. 856(h) of the Code)

Present Law

A real estate investment trust ("REIT") is not taxed on income distributed to shareholders. A corporation does not qualify as a REIT if at any time during the last half of its taxable year more than 50 percent in value of its outstanding stock is owned, directly or indirectly, by five or fewer individuals ("the five or fewer rule"). A domestic pension trust is treated as a single individual for purposes of this rule.

Dividends paid by a REIT are not UBTI,[8] unless the stock in the REIT is debt-financed. Depending on its character, income earned by a partnership may be UBTI (sec. 512(c)). Special rules treat debt-financed income earned by a partnership as UBTI (sec. 514(c)(9)(B)(vi)).

House Bill

Qualification as a REIT

The House bill provides that a pension trust generally is not treated as a single individual for purposes of the five-or-fewer rule. Rather, the bill treats beneficiaries of the pension trust as holding stock in the REIT in proportion to their actuarial interests in the trust. This rule does not apply if disqualified persons, within the meaning of section 4975(e)(2) (other than by reason of subparagraphs (B) and (I)), together own five percent or more of the value of the REIT stock and the REIT has earnings and profits attributable to a period during which it did not qualify as a REIT.[9]

In addition, the bill provides that a REIT cannot be a personal holding company and, therefore, is not subject to the personal holding company tax on its undistributed income.

Unrelated business taxable income

Under the bill, certain pension trusts owning more than 10 percent of a REIT must treat a percentage of dividends from the REIT as UBTI. This percentage is the gross income derived from an unrelated trade or business (determined as if the REIT were a pension trust) divided by the gross income of the REIT for the year in which the dividends are paid. Dividends are not treated as UBTI, however, unless this percentage is at least five percent.

The UBTI rule applies only if the REIT qualifies as a REIT by reason of the above modification of the five or fewer rule. Moreover, the UBTI rule applies only if (1) one pension trust owns more than 25 percent of the value of the REIT, or (2) a group of pension trusts individually holding more than 10 percent of the value of the REIT collectively own more than 50 percent of the value of the REIT.

Effective date

The provision applies to taxable years beginning on or after January 1, 1994.

Senate Amendment

The Senate amendment is the same as the House bill.

Conference Agreement

The conference agreement follows the House bill and the Senate amendment.

5. Treatment of certain real property business debt of individuals (sec. 14150 of the House bill, sec. 13150 of the conference agreement, and secs. 108 and 1017 of the Code)

Present Law

The discharge of indebtedness generally gives rise to gross income to the debtor taxpayer. Present law provides exceptions to this general rule. Among the exceptions are rules providing that income from the discharge of indebtedness of the taxpayer is excluded from income if the discharge occurs in a title 11 case, the discharge occurs when the taxpayer is insolvent, or in the case of certain farm indebtedness. The amount excluded from income under these exceptions is applied to reduce tax attributes of the taxpayer.

House Bill

The House bill provides an election to taxpayers other than C corporations to exclude from gross income certain income from discharge of qualified real property business indebtedness. The amount so excluded cannot exceed the basis of certain depreciable real property of the taxpayer and is treated as a reduction in the basis of that property.

Qualified real property business indebtedness is indebtedness that (1) is incurred or assumed in connection with real property used in a trade or business, (2) is secured by that real property, and (3) with respect to which the taxpayer has made an election under this provision. Indebtedness incurred or assumed on or after January 1, 1993 is not qualified real property business indebtedness unless it is either (1) debt incurred to refinance qualified real property business debt incurred or assumed before that date (but only to the extent the amount of such debt does not exceed the amount of debt being refinanced) or (2) qualified acquisition indebtedness. Qualified real property business indebtedness does not include qualified farm indebtedness.

Qualified acquisition indebtedness is debt incurred to acquire, construct or substantially improve real property that is secured by such debt, and debt resulting from the refinancing of qualified acquisition debt, to the extent the amount of such debt does not exceed the amount of debt being refinanced.

The amount excluded under the provision with respect to the discharge of any qualified real property business indebtedness may not exceed the excess of (1) the outstanding principal amount of such debt (immediately before the discharge), over (2) the fair market value (immediately before the discharge) of the business real property which is security for the debt. For this purpose, the fair market value of the property is reduced by the outstanding principal amount of any other qualified real property indebtedness secured by the property immediately before the discharge.

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[8] See Rev. Rul. 66-151, 1966-1 C.B. 151.

[9] Moreover, as under present law, any investment by a pension trust must be in accordance with the fiduciary rules of the Employee Retirement Security Act ("ERISA") and the prohibited transaction rules of the Code and ERISA.

The amount excluded under the provision also may not exceed the aggregate adjusted bases (determined as of the first day of the next taxable year or, if earlier, the date of disposition) of depreciable real property held by the taxpayer immediately before the discharge, determined after any reductions under subsections (b) and (g) of section 108. The amount of debt discharge excluded under the provision is applied, using the rules of section 1017 (as modified by the provision), to reduce the basis of business real property held by the taxpayer at the beginning of the taxable year following the taxable year in which the discharge occurs.

The amount that is recaptured as ordinary income (under applicable recapture rules) is reduced over the time the taxpayer continues to hold the property, as the taxpayer forgoes depreciation deductions due to the basis reduction.

Effective date.—The provision is effective with respect to discharges after December 31, 1992 in taxable years ending after that date.

Senate Amendment

No provision.

Conference Agreement

The conference agreement follows the House bill.

6. Increase recovery period for depreciation of nonresidential real property (sec. 14151 of the House bill, sec. 8151 of the Senate amendment, sec. 13151 of the conference agreement, and sec. 168 of the Code)

Present Law

A taxpayer is allowed to recover, through annual depreciation allowances, the cost or other basis of nonresidential real property (other than land) that is used in a trade or business or that is held for the production of rental income. For regular tax purposes, the amount of the depreciation deduction allowed with respect to nonresidential real property for any taxable year generally is determined by using the straight-line method and a recovery period of 31.5 years. For alternative minimum tax purposes, the amount of the depreciation deduction allowed with respect to nonresidential real property for any taxable year is determined by using the straight-line method and a recovery period of 40 years.

House Bill

The House bill requires the depreciation deduction allowed with respect to nonresidential real property for regular tax purposes to be determined by using a recovery period of 39 years. The bill does not change the depreciation deduction allowed with respect to nonresidential real property for alternative minimum tax purposes.

Effective date.—The provision generally applies to property placed in service on or after February 25, 1993. The provision does not apply to property that a taxpayer places in service before January 1, 1994, if (1) the taxpayer or a qualified person entered into a binding written contract to purchase or construct the property before February 25, 1993, or (2) construction of the property was commenced by or for the taxpayer or a qualified person before February 25, 1993. A qualified person for this purpose is any person who transfers rights in such a contract or such property to the taxpayer, but only if the property is not placed in service by such person before such rights are transferred to the taxpayer.

Senate Amendment

The Senate amendment is the same as the House bill, except that the recovery period is 38 years.

Effective date.—Same as the House bill.

Conference Agreement

The conference agreement follows the House bill, with a modification to the effective date.

Effective date.—Under the conference agreement, the provision generally applies to property placed in service on or after May 13, 1993. The provision does not apply to property that a taxpayer places in service before January 1, 1994, if (1) the taxpayer or a qualified person entered into a binding written contract to purchase or construct the property before May 13, 1993, or (2) construction of the property was commenced by or for the taxpayer or a qualified person before May 13, 1993. A qualified person for this purpose is any person who transfers rights in such a contract or such property to the taxpayer, but only if the property is not placed in service by such person before such rights are transferred to the taxpayer.

The conferees wish to clarify that the provision does not change the recovery period of any property to which the ACRS amendments made by section 201 of the Tax Reform Act of 1986 do not apply.

E. Luxury Excise Tax; Diesel Fuel Tax for Motorboats

1. Repeal of luxury excise tax on boats, aircraft, jewelry, and furs; Index and modify luxury excise tax on automobiles (secs. 14161 and 14162 of the House bill, secs. 8161 and 8162 of the Senate amendment, secs. 13161 and 13162 of the conference agreement, and secs. 4001–4012 of the Code)

Present Law

Present law imposes a 10-percent excise tax on the portion of the retail price of the following items that exceeds the thresholds specified: automobiles above $30,000; boats above $100,000; aircraft above $250,000; jewelry above $10,000; and furs above $10,000. The tax also applies to subsequent purchases of component parts and accessories occurring within six months of the date the automobile, boat, or aircraft is placed in service.

The tax applies to sales before January 1, 2000.

House Bill

Repeal of luxury tax on boats, aircraft, jewelry, and furs

The House bill repeals the luxury excise tax imposed on boats, aircraft, jewelry, and furs.

Indexing of tax on automobiles

The House bill modifies the luxury excise tax on automobiles to provide that the $30,000 threshold is indexed annually for inflation occurring after 1990.

Exemption for certain equipment installed on passenger vehicles for use by disabled individuals

The House bill provides that the luxury excise tax does not apply to a part or accessory installed on a passenger vehicle to enable or assist an individual with a disability to operate the vehicle, or to enter or exit the vehicle, in order to compensate for the effect of the disability.

Exemption for demonstrator vehicles

The House bill exempts passenger vehicle dealers from paying the luxury tax on vehicles used as demonstrators for potential customers. Under the provision, the tax, if any, is to be assessed and paid on the sales price of the vehicle when the vehicle is sold.

Effective date

The repeal of the luxury excise taxes on boats, aircraft, jewelry, and furs is effective for sales on or after January 1, 1993. The indexation of the threshold applicable to passenger vehicles is effective for sales on or after January 1, 1993. The provision relating to the purchase of accessories or modifications by disabled persons is effective for purchases after December 31, 1990. The provision relating to the use before sale of demonstrator vehicles is effective for vehicles used after December 31, 1992.

Senate Amendment

The Senate amendment is the same as the House bill.

Conference Agreement

The conference agreement follows the House bill and the Senate amendment except for the indexation of the threshold applicable to passenger vehicles. The conference agreement provides that indexation will occur in increments of $2,000. The threshold for any year will be computed by increasing $30,000 by the cumulative inflation since 1990 with the result rounded down to the nearest increment of $2,000. In addition, the conference agreement modifies the effective date to provide that indexation of the threshold applicable to passenger vehicles is effective for sales on or after the date of enactment. The applicable threshold for purchases in 1993, on or after the date of enactment, will be $30,000 increased by the 1991 and 1992 inflation rates (8.49 percent), or $32,547, which when rounded down to the nearest $2,000 is a threshold of $32,000.

2. Impose excise tax on diesel fuel used in noncommercial motorboats (sec. 14163 of the House bill, sec. 8163 of the Senate amendment, sec. 13163 of the conference agreement, and secs. 4092, 4041, 6421, 9503, and 9508 of the Code).

Present Law

Federal excise taxes generally are imposed on gasoline and special motor fuels used in highway transportation and by certain off-highway recreational trail vehicles and by motorboats (14 cents per gallon). A Federal excise tax also is imposed on diesel fuel (20 cents per gallon) used in highway transportation. Diesel fuel used in trains is taxed at 2.5 cents per gallon.

The revenues from these taxes, minus the 2.5-cents-per-gallon General Fund rate are deposited in various trust funds. Revenues from the remaining 2.5 cents per gallon are retained in the General Fund through September 30, 1995, after which time the 2.5-cents-per-gallon portion of the taxes (including the tax on diesel fuel used in trains) is scheduled to expire.[10]

An additional 0.1-cent-per-gallon tax applies to these fuels to finance the Leaking Underground Storage Trust Fund, generally through December 31, 1995.

Diesel fuel used in motorboats is not currently taxed.

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[10] A separate provision of the conference agreement extends the 2.5-cents-per-gallon rate through September 30, 1999, and transfers applicable highway-related revenues to the Highway Trust Fund for the extended period. (See section 13244 of the conference agreement, Item II.D.4., below.)

House Bill

The House bill extends the current 20.1-cents-per-gallon diesel fuel excise taxes to diesel fuel used by noncommercial motorboats. Fuel used by boats for commercial fishing, transportation for compensation or hire, or for business use other than predominantly for entertainment, amusement, or recreation, remains exempt.

A separate provision of the House bill imposes a Btu tax beginning July 1, 1994. Diesel fuel used by noncommercial motorboats also is subject to the Btu tax beginning at that time.[11]

The tax is collected at the same point in the distribution chain as the highway diesel fuel tax. A separate provision modifies the point of collection for highway diesel fuel.[12]

The revenues from the 20.1-cents-per-gallon tax on diesel fuel used by motorboats are to be retained in the General Fund.

Effective date.—The provision is effective after December 31, 1993.

Senate Amendment

The Senate amendment is the same as the House bill with two modifications. First, revenues from 17.5 cents per gallon of the tax are to be transferred to the Aquatic Resources Trust Fund. Second, the Senate amendment provides that the provision is effective after December 31, 1993, and before January 1, 2000.

In addition, a separate provision of the Senate amendment imposes a 4.3-cents-per-gallon transportation fuels tax effective October 1, 1993. Diesel fuel used by noncommercial motorboats also is to be subject to the transportation fuels tax beginning at that time.[13]

Also, a separate provision of the Senate amendment modifies the point of collection for the highway diesel fuel tax.[14]

Conference Agreement

The conference agreement follows the Senate amendment with the modification that the revenues from the 20.1-cents-per-gallon tax will be retained in the General Fund. In addition, separate provisions of the conference agreement establish a transportation fuels tax and modify the point of collection for diesel fuel tax.[15] Diesel fuel used by noncommercial motorboats also is subject to the 4.3-cents-per gallon transportation fuels tax, also beginning on January 1, 1994. The tax on diesel fuel used by noncommercial motorboats will be collected at the same point as the tax on highway diesel fuels.

F. Other Provisions

1. Alternative minimum tax treatment for contributions of appreciated property (sec. 14171 of the House bill, sec. 8171 of the Senate amendment, sec. 13171 of the conference agreement, and secs. 56 and 57 of the Code)

Present Law

Donations of appreciated property

In computing taxable income, a taxpayer who itemizes deductions generally is allowed to deduct the fair market value of property contributed to a charitable organization.[16] However, in the case of a charitable contribution of inventory or other ordinary-income property, short-term capital gain property, or certain gifts to private foundations, the amount of the deduction is limited to the taxpayer's basis in the property.[17] In the case of a charitable contribution of tangible personal property, a taxpayer's deduction is limited to the adjusted basis in such property if the use by the recipient charitable organization is unrelated to the organization's tax-exempt purpose (sec. 170(e)(1)(B)(i)).

For purposes of computing alternative minimum taxable income (AMTI), the deduction for charitable contributions of capital gain property (real, personal, or intangible) is disallowed to the extent that the fair market value of the property exceeds its adjusted basis (sec. 57(a)(6)). However, in the case of a contribution made in a taxable year beginning in 1991 or made before July 1, 1992, in a taxable year beginning in 1992, this rule does not apply to contributions of tangible personal property.

For taxable years beginning after 1989, the AMTI of a corporation is increased by 75 percent of the amount by which adjusted current earnings (ACE) exceeds AMTI (calculated before this adjustment). ACE generally is computed pursuant to the rules that a corporation uses to determine its earnings and profits (sec. 56(g)).

Valuation procedures

Present law and current IRS practice do not provide for a procedure by which a taxpayer may seek determination of the IRS' position with respect to the value of property before the taxpayer donates the property to a charitable organization. However, if a taxpayer claims a charitable contribution deduction for a noncash gift in excess of $5,000 per item or group of similar items (other than certain publicly traded securities), the taxpayer must attach to his of her income tax return a separate form (Form 8283), which provides specific information about the donated property and which is signed by a qualified appraiser.[18]

House Bill

Permanent AMT relief for donated appreciated property

The House bill eliminates the treatment of contributions of appreciated property (real, personal, and intangible) as a tax preference for AMT purposes. In addition, the House bill provides that no adjustment related to the earnings and profits effects of any charitable contribution shall be made in computing the ACE component of the corporate AMT.

Thus, the difference between the fair market value of donated appreciated property and the adjusted basis of such property is not treated as a tax preference item for alternative minimum tax (AMT) purposes. If a taxpayer makes a gift to charity of property (other than inventory or other ordinary income property, short-term capital gain property, or certain gifts to private foundations) that is real property, intangible property, or tangible personal property the use of which is related to the donee's tax-exempt purpose, the taxpayer is allowed to claim a deduction for both regular tax and AMT purposes in the amount of the property's fair market value (subject to present-law percentage limitations).[19]

Treasury report on advance valuation procedure

Under the House bill, not later than one year after the date of enactment of the bill, the Secretary of the Treasury is required to submit a report to the House Committee on Ways and Means and the Senate Committee on Finance, reporting on the development of an advance valuation procedure under which a taxpayer could elect to enter into an agreement with the Secretary regarding the value of tangible personal property prior to the donation of such property to a qualifying charitable organization (provided that time limits for donation and any other conditions contained in the agreement are satisfied). The report should address the advisability of establishing threshold amounts for claimed value and imposing user fees as prerequisites for seeking an agreement under the procedure, possible limitations on applying the procedure only to items with significant artistic or cultural value, and recommendations for legislative action needed to implement the procedure.

Effective date

The House bill provision governing the AMT treatment of gifts of appreciated property is effective for contributions of tangible personal property made after June 30, 1992, and contributions of other property made after December 31, 1992.

The Treasury Department must report to Congress not later than one year after the date of enactment on the development of an advance valuation procedure.

Senate Amendment

Permanent AMT relief for donated appreciated property

The Senate amendment is the same as the House bill.

Treasury report on advance valuation procedure

No provision.

Conference Agreement

Permanent AMT relief for donated appreciated property

The conference agreement follows the House bill and the Senate amendment.[20]

Treasury report on advance valuation procedure

The conference agreement follows the Senate amendment, but the conferees intend that the Secretary of the Treasury will report to Congress on the development of an advance valuation procedure as contemplated under the House bill statutory provision.

2. Substantiation and disclosure requirements for charitable contributions (secs. 14271 and 14272 of the House bill, secs. 8172 and 8173 of the Senate amendment, secs. 13172 and 13173 of the conference agreement, and sec. 170 and new secs. 6115 and 6714 of the Code)

Present Law

An individual taxpayer who itemizes deductions must separately state (on Schedule

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[11] See section 14241 of the House bill, Item II.D.1., below.

[12] See sections 14242-14243 of the House bill, Item II.D.3., below.

[13] See section 8241 of the Senate amendment, Item II.D.2., below.

[14] See section 8242 of the Senate amendment, Item II.D.3., below.

[15] See section 13241 and sections 13242 and 13243 of the conference agreement, Items II.D.2. and II.D.3. below.

[16] The amount of the deduction allowable for a taxable year with respect to a charitable contribution may be reduced depending on the type of property contributed, the type of charitable organization to which the property is contributed, and the income of the taxpayer (secs. 170(b) and 170(e)).

[17] Section 170(e)(3) provides an augmented deduction for certain corporate contributions of inventory property for the care of the ill, the needy, or infants.

[18] Form 8283 must be attached to an income tax return (Form 1040) in all cases where total noncash contributions exceed $500, but the Form 8283 need not be signed by a qualified appraiser unless the $5,000 threshold per item or group of similar items is exceeded. In the case of donated art for which a deduction of $20,000 or more is claimed, a complete copy of the signed appraisal must be attached to the Form 8283.

[19] Contributions of inventory or other ordinary income property, short-term capital gain property, and certain gifts to private foundations continue to be governed by present-law rules.

[20] The provision is effective for contributions of tangible personal property made after June 30, 1992, and of other property made after December 31, 1992. Thus, the conferees wish to clarify that the relief provided by the provision does not apply to any carryover from a contribution made prior to the applicable effective date (see Rev. Rul. 90-111, 1990-2 C.B. 30).

A to the Form 1040) the aggregate amount of charitable contributions made by cash or check and the aggregate amount of donated property other than cash or check.

A taxpayer is not required to provide specific information on his or her return regarding a claimed charitable contribution made by cash or check; nor in such a case is a donee organization required to file an information return with the IRS, regardless of the amount of cash or check involved. However, taxpayers must provide certain information (on Form 8283) if the amount of the claimed deduction for all noncash contributions exceeds $500.[21]

A payment to a charity (regardless of whether it is termed a "contribution") in exchange for which the payor receives an economic benefit is not deductible under section 170, except to the extent that the taxpayer can demonstrate that the payment exceeds the fair market value of the benefit received from the charity.[22]

The Code does not require a tax-exempt organization that is eligible to receive tax-deductible contributions to state explicitly, in its solicitations for support from members or the general public, whether an amount paid to the organization is deductible as a charitable contribution or whether all or part of the payment constitutes consideration for goods or services furnished to the payor.[23] In contrast, tax-exempt organizations that are *not* eligible to receive tax-deductible contributions are required to state expressly in certain fund-raising solicitations that contributions or gifts to the organization are not deductible as charitable contributions for Federal income tax purposes (sec. 6113).[24] A penalty is imposed on such organizations for failure to comply with the section 6113 disclosure requirement, unless reasonable cause is shown (sec. 6710).

Tax-exempt organizations generally are required to file an annual information return (Form 990) with the IRS. However, churches (and their affiliated organizations), as well as tax-exempt organizations (other than private foundations) that normally have gross receipts in each taxable year of not more than $25,000, are not required to file the Form 990.[25] If a charity is required to file a Form 990, then it must report, among other items, the names and addresses of all persons who contributed, bequeathed, or devised $5,000 or more (in cash or other property) during the taxable year.[26]

House Bill

The House bill contains the following two provisions that require substantiation and disclosure relating to charitable contributions:

Substantiation requirement

Section 170 is amended to provide that no deduction is allowed under that section for a separate contribution of $750 or more[27] unless the taxpayer has written substantiation from the donee organization of the contribution (including a good faith estimate of the value of any good or service that has been provided to the donor in exchange for making the gift to the donee).

This provision does not impose an information reporting requirement upon charities; rather, it places the responsibility upon taxpayers who claim an itemized deduction for a separate contribution of $750 or more to request (and maintain in their records) substantiation from the charity of their contribution (and any good or service received in exchange). Taxpayers may not rely solely on a canceled check as substantiation for a donation of $750 or more.

Under the provision, a taxpayer must obtain substantiation prior to filing his or her return for the taxable year in which the contribution was made (or if earlier, the due date, including extensions, for filing such return). Substantiation is not required if the donee organization files a return with the IRS (in accordance with Treasury regulations) reporting information sufficient to substantiate the amount of the deductible contribution.[28]

Information disclosure for quid pro quo contributions

A charitable organization that receives a *quid pro quo* contribution (meaning "a payment made partly as a contribution and partly in consideration for goods or services provided to the payor by the donee organization") will be required, in connection with the solicitation or receipt of such a contribution, to (1) inform the donor that the amount of the contribution deductible for Federal income tax purposes is limited to the excess of the amount of any money (and the value of any property other than money) contributed by the donor over the value of the goods or services provided by the organization, and (2) provide the donor with a good faith estimate of the value of goods or services furnished to the donor by the organization.

The disclosure requirement applies to all *quid pro quo* contributions regardless of the dollar amount of the contribution involved (e.g., even in cases with payments of less than $750), and the disclosure must be made by the charity in connection with either the solicitation or receipt of the contribution. Thus, for example, if a charity receives a $75 contribution from a donor, in exchange for which the donor receives a dinner valued at $40, then the charity must inform the donor that only $35 is deductible as a charitable contribution. However, the provision will not apply if only *de minimis*, token goods or services are given to a donor (see Rev. Procs. 90-12 and 92-49, discussed above). Also, the provision will not apply to transactions that have no donative element (e.g., sales of goods by a museum gift shop that are not, in part, donations).

The provision also provides that penalties ($10 per contribution, but capped at $5,000 per particular fundraising event or mailing) may be imposed upon charities that fail to make the required disclosure, unless the failure was due to reasonable cause. The penalties will apply if an organization either fails to make any disclosure in connection with a *quid pro quo* contribution or makes a disclosure that is incomplete or inaccurate (e.g., an estimate not determined in good faith of the value of goods or services furnished to the donor).

Effective date

The provision is effective for contributions made after December 31, 1993.

Senate Amendment

The Senate amendment contains the following two provisions that require substantiation and disclosure relating to certain charitable contributions:

Substantiation requirement

Section 170 is amended to provide that no deduction is allowed under that section for a separate contribution of $250 or more[29] unless the taxpayer has written substantiation from the donee organization of the contribution (including a good faith estimate of the value of any good or service that has been provided to the donor in exchange for making the gift to the donee).[30]

This provision does not impose an information reporting requirement upon charities; rather, it places the responsibility upon taxpayers who claim an itemized deduction for a contribution of $250 or more to request

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[21] If the claimed deduction for a noncash gift exceeds $5,000 per item or group of similar items (other than certain publicly traded securities), a qualified appraiser must sign the Form 8283. In addition, an authorized representative of the donee charity must sign the Form 8283, acknowledging receipt of the gift and providing certain other information. In certain situations, information reporting by the donee charity is required if it subsequently disposes of donated property (sec. 6050L).

[22] See, e.g., Rev. Rul. 67–246, 1967–2 C.B. 104.

Under current IRS practice, certain small items and token benefits (e.g., key chains and bumper stickers) that have insubstantial value are disregarded, such that the full amount of the contribution is deductible. Rev. Proc. 90–12, 1990–1 C.B. 471, provides that tokens or benefits given to the donor in connection with a contribution will be considered to have insubstantial value if (1) the payment occurs in the context of a fundraising campaign in which the charity informs patrons how much of their payment is a deductible contribution, *and* (2) *either* (a) the fair market value of all the benefits received in connection with the payment is not more than two percent of the payment, or $50, *whichever is less, or* (b) the payment made by the patron is $25 or more (adjusted for inflation) and the only benefits received in connection with the payment are token items (e.g., key chains or mugs) that bear the organization's name or logo and that (in the aggregate) are within the limits for "low-cost items" under section 513(h)(2). See also Rev. Proc. 92–49, 1992–26 I.R.B. 18 (amplifying Rev. Proc. 90–12, by allowing charities to distribute certain low-cost items to contributors without affecting the deductibility of the contribution).

[23] However, Schedule A to the Form 1040 and the accompanying instructions inform taxpayers that if they made a contribution to a charity and received a benefit in return, the value of the benefit must be subtracted in calculating the charitable contribution deduction.

[24] However, the disclosure requirement of section 6113 does not apply to an organization the gross receipts of which in each taxable year are normally not more than $100,000, nor does the disclosure requirement apply to any solicitation made by letter or telephone call if such letter or call is not part of a coordinated fundraising campaign soliciting more than 10 persons during the calendar year (sec. 6113(b)(2)(A) and (c)(2)).

[25] See section 6033(a)(2) and Rev. Proc. 83-23, 1983-1 C.B. 687.

[26] See section 6033(b)(5) and Treas. Reg. sec. 1.6033-2(a)(2)(ii)(f). The names and addresses of substantial contributors to a public charity must be reported to the IRS but are not subject to public inspection (sec. 6104(e)(1)(C)).

[27] Separate payments generally will be treated as separate contributions and will not be aggregated for the purposes of applying the $750 threshold. In cases of contributions paid by withholding from wages, the deduction from each paycheck will be treated as separate payments.

[28] In addition, the House bill provides that the Secretary of the Treasury shall issue regulations as may be necessary to carry out the purposes of the substantiation provision, including regulations that may provide that some or all of the requirements of the provision do not apply in appropriate cases.

[29] Separate payments generally will be treated as separate contributions and will not be aggregated for the purposes of applying the $250 threshold. In cases of contributions paid by withholding from wages, the deduction from each paycheck will be treated as a separate payment. However, the Senate committee explanation states that it is expected that the Secretary of the Treasury will issue anti-abuse rules to prevent avoidance of the substantiation requirement by writing multiple checks on the same date.

[30] If the donee organization provided no goods or services to the taxpayer in consideration of the taxpayer's contribution, the written substantiation is required to include a statement to that effect. The substantiation need *not* contain the taxpayer's social security number or taxpayer identification number (TIN).

(and maintain in their records) substantiation from the charity of their contribution (and any good or service received in exchange).[31] Taxpayers may not rely solely on a canceled check as substantiation for a donation of $250 or more.

Under the provision, a taxpayer must obtain substantiation prior to filing his or her return for the taxable year in which the contribution was made (or if earlier, the due date, including extensions, for filing such return).[32] Substantiation is not required if the donee organization files a return with the IRS (in accordance with Treasury regulations) reporting information sufficient to substantiate the amount of the deductible contribution.[33]

The provision explicitly provides that, if in return for making a contribution of $250 or more to a religious organization, a donor receives in return solely an intangible religious benefit that generally is not sold in commercial transactions outside the donative context (e.g., admission to a religious ceremony[34]), then such a religious benefit may be disregarded for purposes of the substantiation requirement.

Information disclosure for quid pro quo contributions

A charitable organization that receives a *quid pro quo* contribution in excess of $75 (meaning a payment exceeding $75 "made partly as a contribution and partly in consideration for goods or services provided to the payor by the donee organization") is required, in connection with the solicitation or receipt of such a contribution, to provide a written statement to the donor that (1) informs the donor that the amount of the contribution that is deductible for Federal income tax purposes is limited to the excess of the amount of any money (and the value of any property other than money) contributed by the donor over the value of the goods or services provided by the organization, and (2) provides the donor with a good faith estimate of the value of goods or services furnished to the donor by the organization.[35]

The disclosure requirement applies to all *quid pro quo* contributions where the donor makes a payment of more than $75.[36] Thus, for example, if a charity receives a $100 contribution from a donor, in exchange for which the donor receives a dinner valued at $40, then the charity must inform the donor in writing that only $60 is deductible as a charitable contribution. However, the provision does not apply if only *de minimis*, token goods or services are given to a donor (see Rev. Procs. 90-12 and 92-49, discussed above). In addition, as with the substantiation provision (described above), the provision does not apply to a contribution in return for which the contributor receives solely an intangible religious benefit that generally is not sold in a commercial transaction outside the donative context.[37] Furthermore, the provision does not apply to transactions that have no donative element (e.g., sales of goods by a museum gift shop that are not, in part, donations).

The provision also provides that penalties ($10 per contribution, but capped at $5,000 per particular fundraising event or mailing) may be imposed upon charities that fail to make the required disclosure, unless the failure was due to reasonable cause. The penalties will apply if an organization either fails to make any disclosure in connection with a *quid pro quo* contribution or makes a disclosure that is incomplete or inaccurate (e.g., an estimate not determined in good faith of the value of goods or services furnished to the donor).

Effective date

The provisions are effective for contributions made after December 31, 1993.[38]

Conference Agreement

The conference agreement follows the Senate amendment.

However, with respect to the substantiation provision, the conference agreement clarifies that in cases where, in consideration (in whole or in part) for a contribution of $250 or more, a religious organization furnishes to the contributor solely an intangible religious benefit generally not sold in a commercial transaction outside the donative context, the written substantiation must contain a statement to the effect that an intangible religious benefit was so furnished, but the substantiation need not further describe, nor provide a valuation for, such benefit.[39]

In addition, the conferees intend that the authority granted to the Secretary of the Treasury to issue regulations providing that some or all of the requirements of the substantiation provision do not apply in appropriate cases shall be exercised to clarify the treatment of contributions made through payroll deductions.

3. Extension of General Fund transfer to Railroad Retirement Tier 2 Fund (sec. 14172 of the House bill and sec. 8174 of the Senate amendment)

Present Law

A portion of the railroad retirement tier 2 benefits are included in gross income of recipients (similar to the treatment accorded recipients of private pensions) for Federal income tax purposes. The proceeds from the income taxation of railroad retirement tier 2 benefits received prior to October 1, 1992, have been transferred from the General Fund of the Treasury to the railroad retirement account. Proceeds from the income taxation of benefits received after September 30, 1992, remain in the General Fund.

House Bill

Under the House bill, the transfer of proceeds from the income taxation of railroad retirement tier 2 benefits from the General Fund of the Treasury to the railroad retirement account is made permanent.

Effective date.—The House bill is effective for income taxes on benefits received after September 30, 1992.

Senate Amendment

The Senate amendment is the same as the House bill.

Effective date.—Same as the House bill.

Conference Agreement

The conference agreement does not include the provision in the House bill or the Senate amendment.

4. Extension of health insurance deduction for self-employed individuals (sec. 14173 of the House bill, sec. 8175 of the Senate amendment, sec. 13174 of the conference agreement, and sec. 162(l) of the Code)

Present Law

Under present law, an incorporated business can generally deduct, as an employee compensation expense, the full cost of any health insurance coverage provided for its employees (including owners serving as employees) and its employees' spouses and dependents. Self-employed individuals can fully deduct the cost of health insurance for employees as employee compensation, but can only deduct the cost of health insurance coverage for the individual and his or her dependents to the extent that the cost of the coverage, together with other allowable medical expenses, exceeds 7.5 percent of adjusted gross income. Other individuals (e.g., employees who are not covered by an employer-sponsored plan) who purchase health insurance can deduct the cost of the insurance only to the extent that it, together with their other medical expenses, exceeds 7.5 percent of adjusted gross income.

For coverage prior to July 1, 1992, a self-employed individual was allowed to deduct as a business expense up to 25 percent of the amount paid for health insurance coverage for the taxpayer, the taxpayer's spouse, and the taxpayer's dependents. Only amounts paid prior to July 1, 1992, for coverage before that date were eligible for the deduction. The deduction was not allowed if the self-employed individual or his or her spouse were eligible for employer-paid health benefits.

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[31] In the case where a taxpayer makes a noncash contribution claimed by the taxpayer to be worth $250 or more, the taxpayer is required to obtain from the charity a receipt that describes the donated property (and indicates whether any good or service was given to the taxpayer in exchange), but the provision specifically provides that the charity is not required to value the property it receives from the taxpayer.

[32] The provision requires that the written acknowledgment provide information sufficient to substantiate the amount of the deductible contribution, but the acknowledgment need not take any particular form. Thus, for example, acknowledgments may be made by letter, postcard, or computer-generated forms. Further, a donee organization may prepare a separate acknowledgment for each contribution, or may provide donors with periodic (e.g., annual) acknowledgments that set forth the required information for each contribution of $250 or more made by the donor during the period. The Senate committee explanation states that is intended that a charitable organization that knowingly provides a false written substantiation to a donor may be subject to the penalties provided for by section 6701 for aiding and abetting an understatement of tax liability.

[33] In addition, the Senate amendment provides that the Secretary of the Treasury shall issue regulations as may be necessary to carry out the purposes of the substantiation provision, including regulations that may provide that some or all of the requirements of the provision do not apply in appropriate cases.

[34] This exception does not apply, for example, to tuition for education leading to a recognized degree, travel services, or consumer goods. However, the Senate committee explanation states that it is intended that *de minimis* tangible benefits furnished to contributors that are incidental to a religious ceremony (such as wine) generally may be disregarded.

[35] The Senate committee explanation states that it is intended that the disclosure be made in a manner that is reasonably likely to come to the attention of the donor. For example, a disclosure of the required information in small print set forth within a larger document might not meet the requirement.

[36] For purposes of the $75 threshold, separate payments made at different times of the year with respect to separate fundraising events generally will not be aggregated. However, the conferees intend that the Secretary will issue anti-abuse rules to prevent avoidance of the *quid pro quo* disclosure requirement by writing multiple checks for the same transaction.

[37] The Senate committee explanation states that no inference is intended, however, regarding the full or partial deductibility of any payment outside the scope of the *quid pro quo* disclosure provision or substantiation provision under the present-law requirements of section 170.

[38] The Senate committee explanation states that it is intended that, following enactment of the bill, the Secretary of the Treasury will expeditiously issue a notice or other announcement providing guidance with respect to the substantiation and disclosure provisions. In this regard, it is expected that such Treasury guidance will urge charities to assist taxpayers in meeting the substantiation requirement.

[39] As under the Senate amendment, charities are not required to make any disclosure under the *quid pro quo* disclosure provision when no benefit *other than* an intangible religious benefit is furnished to the donor.

House Bill

Under the House bill, the 25-percent deduction is extended retroactively from July 1, 1992, through December 31, 1993. In addition, the bill provides that the determination of whether a self-employed individual or his or her spouse are eligible for employer-paid health benefits is made on a monthly basis.

Effective date.—The House bill is effective for taxable years ending after June 30, 1992.

Senate Amendment

The Senate amendment is the same as the House bill.

Conference Agreement

The conference agreement follows the House bill and the Senate amendment.

II. REVENUE-RAISING PROVISIONS

A. Individual Income and Estate and Gift Tax Provisions

1. Increased tax rates for higher-income individuals (secs. 14201-14205 of the House bill, secs. 8201-8205 of the Senate amendment, secs. 13201-13205 of the conference agreement, and secs. 1, 55, 68, and 151 of the Code)

PRESENT LAW

Regular tax rates

For 1993, the individual income tax rates are as follows—

If taxable income is:	Then income tax equals:
SINGLE INDIVIDUALS	
$0-$22,100	15 percent of taxable income.
$22,100-$53,500	$3,315.00 plus 28% of the amount over $22,100.
Over $53,500	$12,107.00 plus 31% of the amount over $53,500.
HEADS OF HOUSEHOLD	
$0-$29,600	15 percent of taxable income.
$29,600-$76,400	$4,440.00 plus 28% of the amount over $29,600.
Over $76,400	$17,544.00 plus 31% of the amount over $76,400.
MARRIED INDIVIDUALS FILING JOINT RETURNS	
$0-$36,900	15 percent of taxable income.
$36,900-$89,150	$5,535 plus 28% of the amount over $36,900.
Over $89,150	$20,165 plus 31% of the amount over $89,150.
MARRIED INDIVIDUALS FILING SEPARATE RETURNS	
$0-$18,450	15 percent of taxable income.
$18,450-$44,575	$2,767.50 plus 28% of the amount over $18,450.
Over $44,575	$10,082.50 plus 31% of the amount over $44,575.
ESTATES AND TRUSTS	
$0-$3,750	15 percent of taxable income.
$3,750-$11,250	$562.50 plus 28% of the amount over $3,750.
Over $11,250	$2,662.50 plus 31% of the amount over $11,250.

Net capital gains income is subject to a maximum tax rate of 28 percent.

The individual income tax brackets are indexed each year for inflation.

Alternative minimum tax

An individual taxpayer is subject to an alternative minimum tax (AMT) to the extent that the taxpayer's tentative minimum tax exceeds the taxpayer's regular tax liability. A taxpayer's tentative minimum tax generally equals 24 percent of alternative minimum taxable income (AMTI) in excess of an exemption amount. The exemption amount is $40,000 for married taxpayers filing joint returns, $30,000 for unmarried taxpayers filing as single or head of household, and $20,000 for married taxpayers filing separate returns, estates, and trusts. The exemption amount is phased out for taxpayers with AMTI above specified thresholds. These thresholds are: $150,000 for married taxpayers filing joint returns, $112,500 for unmarried taxpayers filing as single or head of household, and $75,000 for married taxpayers filing separate returns, estates, and trusts. The exemption is completely phased out for individuals with AMTI above $310,000 (married taxpayers filing joint returns) or $232,500 (unmarried taxpayers filing as single or head of household). The exemption amount and the thresholds are not indexed for inflation.

Surtax on higher-income taxpayers

Under present law, there is no surtax imposed on higher-income individuals.

Itemized deduction limitation

Under present law, individuals who do not elect the standard deduction may claim itemized deductions (subject to certain limitations) for certain expenses incurred during the taxable year. Among these deductible expenses are unreimbursed medical expenses, unreimbursed casualty and theft losses, charitable contributions, qualified residence interest, State and local income and property taxes, unreimbursed employee business expenses, and certain other miscellaneous expenses.

Certain itemized deductions are allowed only to the extent that the amount exceeds a specified percentage of the taxpayer's adjusted gross income (AGI). Unreimbursed medical expenses for care of the taxpayer and the taxpayer's spouse and dependents are deductible only to the extent that the total of these expenses exceeds 7.5 percent of the taxpayer's AGI. Nonbusiness, unreimbursed casualty or theft losses are deductible only to the extent that the amount of loss arising from each casualty or theft exceeds $100 and only to the extent that the net amount of casualty and theft losses exceeds 10 percent of the taxpayer's AGI. Unreimbursed employee business expenses and certain other miscellaneous expenses are deductible only to the extent that the total of these expenses exceeds 2 percent of the taxpayer's AGI.

The total amount of otherwise allowable itemized deductions (other than medical expenses, casualty and theft losses, and investment interest) is reduced by 3 percent of the amount of the taxpayer's AGI in excess of $108,450 in 1993 (indexed for inflation). Under this provision, otherwise allowable itemized deductions may not be reduced by more than 80 percent. In computing the reduction of total itemized deductions, all present-law limitations applicable to such deductions are first applied and then the otherwise allowable total amount of deductions is reduced in accordance with this provision.

The reduction of otherwise allowable itemized deductions does not apply to taxable years beginning after December 31, 1995.

Personal exemption phaseout

Present law permits a personal exemption deduction from gross income for an individual, the individual's spouse, and each dependent. For 1993, the amount of this deduction is $2,350 for each exemption claimed. This exemption amount is adjusted for inflation. The deduction for personal exemptions is phased out for taxpayers with AGI above a threshold amount (indexed for inflation) which is based on filing status. For 1993, the threshold amounts are $162,700 for married taxpayers filing joint returns, $81,350 for married taxpayers filing separate returns, $135,600 for unmarried taxpayers filing as head of household, and $108,450 for unmarried taxpayers filing as single.

The total amount of exemptions that may be claimed by a taxpayer is reduced by 2 percent for each $2,500 (or portion thereof) by which the taxpayer's AGI exceeds the applicable threshold. (The phaseout rate is 2 percent for each $1,250 for married taxpayers filing separate returns.) Thus, the personal exemptions claimed are phased out over a $122,500 range (which is not indexed for inflation), beginning at the applicable threshold.

This provision does not apply to taxable years beginning after December 31, 1996.

House Bill

New marginal tax rates

The House bill imposes a new 36-percent marginal tax rate on taxable income in excess of the following thresholds:

Filing status:	*Applicable threshold*
Married individuals filing joint returns	$140,000
Heads of households	127,500
Unmarried individuals	115,000
Married individuals filing separate returns	70,000
Estates and trusts	5,500

For estates and trusts, the 15-percent rate applies to income up to $1,500, the 28-percent rate applies to income between $1,500 and $3,500, and the 31-percent rate applies to income between $3,500 and $5,500. Under this modified tax rate schedule for estates and trusts, the benefits of the rates below the 39.6-percent surtax-included rate (described below) for 1993 approximate the benefits of the 15- and 28-percent rates for 1993 under present law.

As under present law, the tax rate bracket thresholds are indexed for inflation. However, indexing of thresholds for the 36-percent rate applies to taxable years beginning after December 31, 1994.

Alternative minimum tax

The House bill provides a two-tiered graduated rate schedule for the AMT for taxpayers other than corporations. A 26-percent rate applies to the first $175,000 of a taxpayer's AMTI in excess of the exemption amount, and a 28-percent rate applies to AMTI more than $175,000 above the exemption amount. For married individuals filing separate returns, the 28-percent rate applies to AMTI more than $87,500 above the exemption amount. The bill increases the exemption amount to $45,000 for married individuals filing joint returns, to $33,750 for unmarried individuals, and to $22,500 for married individuals filing separate returns, estates, and trusts.

Surtax on higher-income taxpayers

The House bill provides a 10-percent surtax on individuals with taxable income in excess of $250,000 and on estates and trusts with taxable income in excess of $7,500. For married taxpayers filing separate returns, the threshold amount for the surtax is $125,000. The surtax is computed by applying a 39.6-percent rate to taxable income in excess of the applicable threshold. Under this method of computation, unlike a simple 10-percent increase in tax liability, net capital gain income is not subject to tax at a rate in excess of the current 28-percent maximum rate. The thresholds for the surtax are indexed for inflation in the same manner as other individual income tax rate thresholds for taxable years beginning after December 31, 1994.

Itemized deduction limitation and phaseout of personal exemptions

The House bill makes permanent the provisions that limit itemized deductions and phase out personal exemptions.

Effective date

The provision is effective for taxable years beginning after December 31, 1992. Withholding tables for 1993 will not be revised to reflect the changes in tax rates. Penalties for the underpayment of estimated taxes will be waived for underpayments of 1993 taxes attributable to these changes in tax rates.

Senate Amendment

New marginal tax rates

The Senate amendment generally follows the House bill with respect to the new 36-percent marginal tax rate. However, for taxable years beginning in 1993, a blended rate (described below) is used.

Alternative minimum tax

The Senate amendment generally follows the House bill. However, for taxable years beginning in 1993, a blended rate (described below) is used.

Surtax on higher-income taxpayers; surtax on net capital gain

The Senate amendment generally follows the House bill and imposes a 10-percent surtax on individuals with taxable income in excess of $250,000 and on estates and trusts with taxable income in excess of $7,500. For married taxpayers filing separate returns, the threshold amount for the surtax is $125,000. The surtax is computed by applying a 39.6-percent rate to taxable income in excess of the applicable threshold. However, the Senate amendment also imposes the surtax on net capital gain income. An individual's net capital gain is subject to the surtax by applying a maximum rate of 30.8 percent (instead of the present-law maximum rate of 28 percent) to capital gain income to the extent an individual's taxable income exceeds $250,000. For taxable years beginning in 1993, a blended rate (described below) is used.

Itemized deduction limitation and phaseout of personal exemptions

The Senate amendment is the same as the House bill.

Effective date

The Senate amendment generally follows the House bill. However, for taxable years beginning in 1993, blended tax rates are used: the 36-percent tax rate is reduced to 33.5 percent and the 39.6-percent rate is reduced to 35.3 percent. In addition, the 30.8-percent maximum rate on capital gains income is reduced to 29.4 percent for taxable years beginning in 1993. Similarly, for taxable years beginning in 1993, the 26- percent and 28-percent alternative minimum tax rates is reduced to 25 percent and 26 percent, respectively. The permanent rate levels are used for 1994 and later years.

Conference Agreement

The conference agreement follows the House bill.

In addition, the conference agreement contains a provision permitting individual taxpayers to elect to pay their additional 1993 taxes that are attributable to the rate increases contained in the conference agreement in three annual installments. The first installment must be paid on or before the due date for the individual's taxable year that begins in calendar year 1993; the second installment must be paid on or before the date one year after that date; and the third installment must be paid on or before the date two years after that date. The election must be made on the tax return for the individual's taxable year that begins in 1993 (which, in general, is due on April 15, 1994).

The amount eligible for this installment payment election is the excess of the individual's net liability under chapter 1 of the Code as shown on the individual's tax return over the amount that would have been the individual's net liability but for the amendments made by the conference report that alter the individual tax rates (i.e., the 36 percent and 39.6 percent marginal tax rates). These amounts are computed after the application of any credit (except the credit for wage withholding and the credit for special fuel uses) and before crediting any payment of estimated tax. Amounts required to be shown on the return but not actually shown on the return are ineligible for this installment payment election.

The Secretary shall immediately terminate this installment payment election, and the whole amount of the unpaid tax shall be paid immediately upon notice and demand from the Secretary, if either (1) the taxpayer does not pay any installment on or before the required date, or (2) the Secretary believes that the collection of any amount under this installment payment election is in jeopardy.

Because this installment payment election applies only to amounts actually shown on the individual's tax return, those amounts are considered to be assessed. Consequently, the 10-year statute of limitations applicable to collection after assessment (sec. 6502) is applicable to these installment payments.

2. Provisions to prevent conversion of ordinary income to capital gain (sec. 14206 of the House bill, sec. 8206 of the Senate amendment, and sec. 13206 of the conference agreement)

a. Recharacterization of capital gain as ordinary income for certain financial transactions (sec. 13206(a) of the House bill, sec. 8206(a) of the Senate amendment, sec. 13206(a) of the conference agreement, and new sec. 1258 of the Code)

Present Law

Under present law, the maximum rate of individual income tax on ordinary income is 31 percent. Interest from a loan generally is treated as ordinary income.

Gain or loss from the sale or exchange of a capital asset generally is treated as capital gain or loss. Net capital gain (i.e., net long-term capital gain less net short-term capital loss) of an individual is subject to a maximum tax rate of 28 percent. Generally, capital losses are not deductible against ordinary income.

House Bill

Under the provision, capital gain from the disposition of property that was part of a "conversion transaction" would be recharacterized as ordinary income, with certain limitations discussed below. No inference is intended as to when income from a conversion transaction is properly treated as capital gain under present law.

A conversion transaction is a transaction, generally consisting of two or more positions taken with regard to the same or similar property, where substantially all of the taxpayer's return is attributable to the time value of the taxpayer's net investment in the transaction. In a conversion transaction, the taxpayer is in the economic position of a lender—he has an expectation of a return from the transaction which in substance is in the nature of interest and he undertakes no significant risks other than those typical of a lender. However, a transaction is not a conversion transaction subject to the provision unless it also satisfies one of the following four criteria: (1) the transaction consists of the acquisition of property by the taxpayer and a substantially contemporaneous agreement to sell the same or substantially identical property in the future; (2) the transaction is a straddle, within the meaning of section 1092;[40] (3) the transaction is one that was marketed or sold to the taxpayer on the basis that it would have the economic characteristics of a loan but the interest-like return would be taxed as capital gain; or (4) the transaction is described as a conversion transaction in regulations promulgated by the Secretary of the Treasury.

Under the provision, gain realized by a taxpayer from a conversion transaction that would otherwise be treated as capital gain will be treated as ordinary income (but not as interest) for all purposes of the Internal Revenue Code. The amount of gain so recharacterized will not exceed the amount of interest that would have accrued on the taxpayer's net investment for the relevant period at a yield equal to 120% of the "applicable rate". This limit is subject to appropriate reduction to reflect prior inclusion of ordinary income items from the conversion transaction or the capitalization of interest on acquisition indebtedness under section 263(g). The "applicable rate" is the applicable Federal rate under section 1274(d) at the time the taxpayer enters into the conversion transaction (if the conversion transaction has a definite term) or the Federal short term rate determined under section 6621(b) (if the conversion transaction has an indefinite term).

Effective date.—The provision is effective for conversion transactions entered into after April 30, 1993.

Senate Amendment

The Senate amendment is the same as the House bill, except that the amendment clarifies that property or positions may be part of a conversion transaction, and that transactions of options dealers and commodities traders in the normal course of their trade or business of dealing in options or section 1256 contracts, respectively, generally will not be considered to be conversion transactions.

Conference Agreement

The conference agreement follows the Senate amendment, with a clarification of the determination of the "applicable rate," a clarification of the conferees' intent with respect to transactions entered into by options dealers and commodities traders, and a modification to the definition of commodities trader.

First, the conferees clarify that the Secretary has the authority (under sec. 1274(d)(1)(D)) to provide for the use of an applicable rate lower than the applicable Federal rate in appropriate cases. Second, the conferees clarify that transactions (including transactions involving positions other than options or section 1256 contracts) of options dealers and commodities traders in the normal course of their trade or business of dealing in options or trading section 1256 contracts, respectively, will not be considered conversion transactions, except as provided in the special rules noted below.

Third, under the agreement, the term "commodities trader" includes any person who is a member of a domestic board of trade (including a member having member trading privileges only with respect to a portion of the contracts available for trading on the board of trade) which is designated as a contract market by the Commodity Futures Trading Commission. "Commodities trader" also, except as otherwise provided by Treasury regulations, includes a person entitled to trade as a member, such as a lessee of a membership or an entity that is (or is affiliated with) a beneficial owner of a membership if such entity is eligible for any preferential rates available to members with respect to transaction fees or margins imposed by the board of trade or for the clearing of trades on the board of trade. Other persons eligible for such member rates also will be treated as "commodities traders" for purposes of the exception; however, the Secretary may promulgate regulations that prevent unwarranted expansion of the exception, by excluding from the definition of "commodities trader" a person who acquires some attributes of board of trade membership for the principal purpose of qualifying for the "commodities trader" exception or whose margins or fees are substantially more than the margins or fees associated with owned or leased memberships.

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[40] Except that stock also is treated as personal property in defining a straddle for purposes of the conversion transaction provision.

Special rules limit the availability of the options dealer and commodities trader exception for limited partners or limited entrepreneurs in an entity that is an options dealer or a commodities trader.

b. Repeal of certain exceptions to the market discount rules (sec. 14206(b) of the House bill and sec. 8206(b) of the Senate amendment, sec. 13206(b) of the conference agreement, and secs. 1276, 1277, 1278 of the Code)

Present Law

Generally, a market discount bond is a bond that is acquired for a price that is less than the principal amount of the bond.[41] Market discount generally arises when the value of a debt obligation declines after issuance (typically, because of an increase in prevailing interest rates or a decline in the credit-worthiness of the borrower).

Gain on the disposition of a market discount bond generally must be recognized as ordinary income to the extent of the market discount that has accrued. This ordinary income rule, however, does not apply to tax-exempt obligations or to market discount bonds issued on or before July 18, 1984. Under current law, income attributable to accrued market discount on tax-exempt bonds is not tax-exempt but is taxable as capital gain if the bond is held as a capital asset.

House Bill

The bill extends the ordinary income rule to tax-exempt obligations and to market discount bonds issued on or before July 18, 1984. Thus, gain on the disposition of a tax-exempt obligation or any other market discount bond that is acquired for a price that is less than the principal amount of the bond generally will be treated as ordinary income (instead of capital gain) to the extent of accrued market discount.

Effective date.—The provision is effective for bonds purchased after April 30, 1993. Thus, current owners of tax-exempt bonds and other market discount bonds issued on or before July 18, 1984, will not be required to treat accrued market discount as ordinary income, if they acquired their bonds before May 1, 1993.

Senate Amendment

The Senate amendment is the same as the House bill.

Conference Agreement

The conference agreement follows the House bill and the Senate amendment, with a technical amendment of the definition of revised issue price in Code section 1278(a)(4) to account for the accrual of tax-exempt original issue discount.

c. Accrual of income by holders of stripped preferred stock (sec. 14206(c) of the House bill, sec. 8206(c) of the Senate amendment, sec. 13206(c) of the conference agreement, and sec. 305 of the Code)

Present Law

In general, if a bond is issued at a price approximately equal to its redemption price at maturity, the expected return to the holder of the bond is in the form of periodic interest payments. In the case of original issue discount ("OID") bonds, however, the issue price is below the redemption price, and the holder receives part or all of his expected return in the form of price appreciation. The difference between the issue price and the redemption price is the OID, and a portion of the OID is required to be accrued and included in the income of the holder annually. Similarly, for certain preferred stock that is issued at a discount from its redemption price, a portion of the redemption premium must be included in income annually.

A stripped bond (i.e., a bond issued with interest coupons some of which are subsequently "stripped" so that the ownership of the bond is separated from the ownership of the interest coupons) generally is treated as a bond issued with OID equal to (1) the stated redemption price of the bond at maturity minus (2) the amount paid for the stripped bond.

If preferred stock is stripped of some of its dividend rights, however, the stripped stock is not subject to the rules that apply to stripped bonds or to the rules that apply to bonds and certain preferred stock issued at a discount.

House Bill

The bill treats the purchaser of stripped preferred stock (and a person who strips preferred stock and disposes of the stripped dividend rights) in generally the same way that the purchaser of a stripped bond would be treated under the OID rules. Thus, stripped stock is treated like a bond issued with OID equal to (1) the stated redemption price of the stock minus (2) the amount paid for the stock. The discount accrued under the provision is treated as ordinary income and not as interest or dividends.

Stripped preferred stock is defined as any preferred stock where the ownership of the stock has been separated from the right to receive any dividend that has not yet become payable. The provision applies to stock that is limited and preferred as to dividends, does not participate in corporate growth to any significant extent, and has a fixed redemption price.

No inference is intended as to as to the treatment of stripped preferred stock for tax purposes with respect to any issues not directly addressed by this legislation, including the availability of the dividends received deduction to a holder of dividends stripped from preferred stock, the allocation of basis by the creator of stripped preferred stock, or the proper characterization of a purported sale of stripped dividend rights.

Effective date.—The bill is effective for stripped stock that is purchased after April 30, 1993.

Senate Amendment

The Senate amendment is the same as the House bill.

Conference Agreement

The conference agreement follows the House bill and the Senate amendment.

d. Treatment of net capital gains as investment income (sec. 14206(d) of the House bill and sec. 8206(d) of the Senate amendment, sec. 13206(d) of the conference agreement, and sec. 163(d) of the Code)

Present Law

In the case of a taxpayer other than a corporation, deductions for interest on indebtedness that is allocable to property held for investment ("investment interest") are limited to the taxpayer's net investment income for the taxable year. Disallowed investment interest is carried forward to the next taxable year. Investment income includes gross income (other than gain on disposition) from property held for investment and any net gain attributable to the disposition of property held for investment.

Investment interest that is allowable is deductible against income taxable at ordinary income rates. The net capital gain (i.e., net long-term capital gain less net short-term capital loss) of a noncorporate taxpayer is taxed at a maximum rate of 28 percent.

Prior to 1986, when a significant rate differential existed between long-term capital gains and ordinary income, long-term capital gains were not included in investment income for purposes of computing the investment interest limitation.

House Bill

The House bill generally excludes net capital gain attributable to the disposition of property held for investment from investment income for purposes of computing the investment interest limitation. A taxpayer, however, can elect to include so much of his net capital gain in investment income as the taxpayer chooses if he also reduces the amount of net capital gain eligible for the 28-percent maximum capital gains rate by the same amount.

Effective date.—The provision is effective for taxable years beginning after December 31, 1992.

Senate Amendment

The Senate amendment is the same as the House bill.

Conference Agreement

The conference agreement follows the House bill and the Senate amendment.

e. Definition of "substantially appreciated" inventory (sec. 14206(e) of the House bill, sec. 8206(e) of the Senate amendment, sec. 13206(e) of the conference agreement, and sec. 751(d) of the Code)

Present Law

Under present law, amounts received by a partner in exchange for his interest in a partnership are treated as ordinary income to the extent they are attributable to substantially appreciated inventory of the partnership. In addition, distributions by a partnership in which a partner receives substantially appreciated inventory in exchange for his interest in certain other partnership property (or receives certain other property in exchange for substantially appreciated inventory) are treated as a taxable sale or exchange of property, rather than as a nontaxable distribution.

For these purposes, inventory is treated as substantially appreciated if the value of the partnership's inventory exceeds both 120 percent of its adjusted basis and 10 percent of the value of all partnership property (other than money).

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[41] Or, in the case of a bond issued with original issue discount (OID), a price that is less than the amount of the issue price plus accrued OID.

House Bill

The House bill eliminates the requirement that the partnership's inventory exceed 10 percent of the value of all partnership property in order to be substantially appreciated. Thus, if the partnership's inventory is worth more than 120 percent of its adjusted basis, the inventory is treated as substantially appreciated. In addition, any inventory property acquired with a principal purpose to reduce the appreciation to less than 120 percent in order to avoid ordinary income treatment will be disregarded in applying the 120-percent test.

Effective date.—The provision applies to sales, exchanges, and distributions after April 30, 1993.

Senate Amendment

The Senate amendment is the same as the House bill.

Conference Agreement

The conference agreement follows the House bill and the Senate amendment.

3. Repeal health insurance wage base cap (sec. 14207 of the House bill, sec. 8207 of the Senate amendment, sec. 13207 of the conference agreement, and sec. 3121(x) of the Code)

Present Law

As part of the Federal Insurance Contributions Act (FICA), a tax is imposed on employees and employers up to a maximum amount of employee wages. The tax is comprised of two parts: old-age, survivor, and disability insurance (OASDI) and Medicare hospital insurance (HI). For wages paid in 1993 to covered employees, the HI tax rate is 1.45 percent on both the employer and the employee on the first $135,000 of wages and the OASDI tax rate is 6.2 percent on both the employer and the employee on the first $57,600 of wages.

Under the Self-Employment Contributions Act of 1954 (SECA), a tax is imposed on an individual's self-employment income. The self-employment tax rate is the same as the total rate for employers and employees (i.e., 2.9 percent for HI and 12.40 percent for OASDI). For 1993, the HI tax is applied to the first $135,000 of self-employment income and the OASDI tax is applied to the first $57,600 self-employment income. In general, the tax is reduced to the extent that the individual had wages for which employment taxes were withheld during the year.

The cap on wages and self-employment income subject to FICA and SECA taxes is indexed to changes in the average wages in the economy.

House Bill

The bill repeals the dollar limit on wages and self-employment income subject to HI taxes.

Effective date.—The provision is effective for wages and income received after December 31, 1993.

Senate Amendment

The Senate amendment is the same as the House bill. The legislative history to the Senate amendment expresses the concern of the Senate that HI taxes paid by high-income workers under the provision would bear little relation to Medicare benefits such workers could expect to receive, and that this may make the HI program look more like welfare than social insurance. It is suggested that it may be appropriate to revisit the issue in the context of health care reform or Medicare financing improvements.

Effective date.—The Senate amendment is the same as the House bill.

Conference Agreement

The conference agreement follows the House bill and the Senate amendment.

4. Reinstate top estate and gift tax rates (sec. 14208 of the House bill, sec. 8208 of the Senate amendment, sec. 13208 of the conference agreement, and sec. 2001 of the Code)

Present Law

A Federal gift tax is imposed on transfers by gift during life and a Federal estate tax is imposed on transfers at death. The Federal estate and gift taxes are unified, so that a single graduated rate schedule is applied to an individual's cumulative gifts and bequests. For decedents dying (or gifts made) after 1992, the estate and gift tax rates begin at 18 percent on the first $10,000 of taxable transfers and reach a maximum of 50 percent on taxable transfers over $2.5 million. Previously, for the nine-year period beginning after 1983 and ending before 1993, two additional brackets applied at the top of the rate schedule: a rate of 53 percent on taxable transfers exceeding $2.5 million and below $3 million, and a maximum marginal tax rate of 55 percent on taxable transfers exceeding $3 million. The generation-skipping transfer tax is computed by reference to the maximum Federal estate tax rate (sec. 2641).

In order to phase out the benefit of the graduated brackets and unified credit, the estate and gift tax is increased by five percent on cumulative taxable transfers between $10 million and $18,340,000, for decedents dying and gifts made after 1992.[42] (Prior to 1993, this phase out of the graduated rates and unified credit applied to cumulative taxable transfers between $10 million and $21,040,000.)

House Bill

The House bill provides that, for taxable transfers over $2.5 million but not over $3 million, the estate and gift tax rate is 53 percent. For taxable transfers over $3 million, the estate and gift tax rate is 55 percent. The phase out of the graduated rates and unified credit applies with respect to cumulative taxable transfers between $10 million and $21,040,000. Also, since the generation-skipping transfer tax is computed by reference to the maximum Federal estate tax rate, the rate of tax on generation-skipping transfers under the bill is 55 percent.

Effective date.—The House bill is effective for decedents dying, gifts made, and generation skipping transfers occurring after December 31, 1992.

Senate Amendment

The Senate amendment is the same as the House bill.

Conference Agreement

The conference agreement follows the House bill and the Senate amendment.

5. Reduce deductible portion of business meals and entertainment expenses (sec. 14209 of the House bill, secs. 8209 and 8209A of the Senate amendment, sec. 13209 of the conference agreement, and sec. 274(n) of the Code)

Present Law

In general, a taxpayer is permitted a deduction for all ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business and, in the case of an individual, for the production of income. No deduction generally is allowed for personal, living, or family expenses.

Meal and entertainment expenses incurred for business or investment reasons are deductible if certain legal and substantiation requirements are met. The amount of the deduction generally is limited to 80 percent of the expense that meets these requirements. No deduction is allowed, however, for meal or beverage expenses that are lavish or extravagant under the circumstances.

No deduction is allowed with respect to business meal and entertainment expenses (as well as other specified items) unless the taxpayer substantiates by adequate records or by sufficient evidence corroborating the taxpayer's own statement (1) the amount of the expense, (2) the time and place of the expense, (3) the business purpose of the expense, and (4) the business relationship to the taxpayer of the persons entertained. Under Treasury regulations, such documentary evidence is required for expenditures of $25 or more (Treas. Reg. sec. 1.274-5T(c)(2)(iii)(B)).

House Bill

The House bill reduces the deductible portion of otherwise allowable business meals and entertainment expenses from 80 percent to 50 percent.

Effective date.—The provision is effective for taxable years beginning after December 31, 1993.

Senate Amendment

Section 8209 of the Senate amendment is the same as the House bill, except that, in addition, the substantiation threshold for business meals is reduced from $25 to $20.

Section 8209A of the Senate amendment includes a sense of the Senate resolution that the conferees should reduce or eliminate the proposed reduction in the deductible portion of otherwise allowable business meals and entertainment expenses.

Conference Agreement

The conference agreement follows the House bill.

6. Deny deduction for club dues (sec. 14210 of the House bill, sec. 8210 of the Senate amendment, sec. 13210 of the conference agreement, and sec. 274(a) of the Code)

Present Law

No deduction is permitted for club dues unless the taxpayer establishes that his or her use of the club was primarily for the furtherance of the taxpayer's trade or business and the specific expense was directly related to the active conduct of that trade or business (Code sec. 274(a)). No deduction is permitted for an initiation or similar fee that is payable only upon joining a club if the useful life of the fee extends over more than one year. Such initial fees are nondeductible capital expenditures.[43]

House Bill

Under the House bill, no deduction is permitted for club dues. This rule applies to all types of clubs (other than those exempted below), including business, social, athletic, luncheon, and sporting clubs. Specific business expenses (e.g., meals) incurred at a club are deductible only to the extent they otherwise satisfy the standards for deductibility.

Dues for airline and hotel clubs are not subject to the deduction disallowance.

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[42] The additional five percent rate applies to the taxable transfers of a nonresident noncitizen in excess of $10 million only to the extent necessary to phase out the graduated rates and unified credit actually allowed, either by statute or by treaty (where applicable).

[43] *Kenneth D. Smith*, 24 TCM 899 (1965).

Effective date.—The provision is effective for taxable years beginning after December 31, 1993.

Senate Amendment

The Senate amendment is the same as the House bill, except that dues for airline and hotel clubs are subject to the deduction disallowance.

Conference Agreement

The conference agreement follows the Senate amendment.

7. Deny deduction for executive pay over $1 million (sec. 14211 of the House bill, sec. 8211 of the Senate amendment, sec. 13211 of the conference agreement, and sec. 162 of the Code)

Present Law

An employer is allowed a deduction for reasonable salaries and other compensation. Whether compensation is reasonable is determined on a case-by-case basis. However, the reasonableness standard has been used primarily to limit payments by closely-held companies where nondeductible dividends may be disguised as deductible compensation.

House Bill

In general

Under the House bill, for purposes of the regular income tax and the alternative minimum tax, the otherwise allowable deduction for compensation paid or accrued with respect to a covered employee of a publicly held corporation is limited to no more than $1 million per year.

Certain types of compensation are not subject to the deduction limit and are not taken into account in determining whether other compensation exceeds $1 million. The following types of compensation are not taken into account: (1) remuneration payable on a commission basis; (2) remuneration payable solely on account of the attainment of one or more performance goals if certain independent director and shareholder approval requirements are met; (3) payments to a tax-qualified retirement plan (including salary reduction contributions); (4) amounts that are excludable from the executive's gross income (such as employer-provided health benefits and miscellaneous fringe benefits (sec. 132)); and (5) any remuneration payable under a written binding contract which was in effect on February 17, 1993, and all times thereafter before such remuneration was paid and which was not modified thereafter in any material respect before such remuneration was paid.

Effective date

The House bill applies to compensation that is otherwise deductible by the corporation in a taxable year beginning on or after January 1, 1994.

Senate Amendment

The Senate amendment is the same as the House bill, except that the Senate amendment refers to "outside" directors rather than "independent" directors and there are some minor differences in the legislative history.

Effective date.—The Senate amendment is the same as the House bill.

Conference Agreement

In general

The conference agreement follows the Senate amendment, with certain modifications and clarifications.

Under the conference agreement, for purposes of the regular income tax and the alternative minimum tax, the otherwise allowable deduction for compensation paid or accrued with respect to a covered employee of a publicly held corporation is limited to no more than $1 million per year.[44]

Definition of publicly held corporation

For purposes of this provision, a corporation is treated as publicly held if the corporation has a class of common equity securities that is required to be registered under section 12 of the Securities Exchange Act of 1934. In general, the Securities Exchange Act requires a corporation to register its common equity securities under section 12 if (1) the securities are listed on a national securities exchange or (2) the corporation has $5 million or more of assets and 500 or more holders of such securities. A corporation is not considered publicly held under the provision if registration of its equity securities is voluntary. Such a voluntary registration might occur, for example, if a corporation that otherwise is not required to register its equity securities does so in order to take advantage of other procedures with regard to public offerings of debt securities.

Covered employees

Covered employees are defined by reference to the Securities and Exchange Commission (SEC) rules governing disclosure of executive compensation. Thus, with respect to a taxable year, a person is a covered employee if (1) the employee is the chief executive officer of the corporation (or an individual acting in such capacity) as of the close of the taxable year or (2) the employee's total compensation is required to be reported for the taxable year under the Securities Exchange Act of 1934 because the employee is one of the four highest compensated officers for the taxable year (other than the chief executive officer). If disclosure is required with respect to fewer than four executives (other than the chief executive officer) under the SEC rules, then only those for whom disclosure is required are covered employees.

Compensation subject to the deduction limitation

In general

Unless specifically excluded, the deduction limitation applies to all remuneration for services, including cash and the cash value of all remuneration (including benefits) paid in a medium other than cash. If an individual is a covered employee for a taxable year, the deduction limitation applies to all compensation not explicitly excluded from the deduction limitation, regardless of whether the compensation is for services as a covered employee and regardless of when the compensation was earned. The $1 million cap is reduced by excess parachute payments (as defined in sec. 280G) that are not deductible by the corporation.

The deduction limitation applies when the deduction would otherwise be taken. Thus, for example, in the case of a nonqualified stock option, the deduction is normally taken in the year the option is exercised, even though the option was granted with respect to services performed in a prior year.[45]

Certain types of compensation are not subject to the deduction limit and are not taken into account in determining whether other compensation exceeds $1 million. The following types of compensation are not taken into account: (1) remuneration payable on a commission basis; (2) remuneration payable solely on account of the attainment of one or more performance goals if certain outside director and shareholder approval requirements are met; (3) payments to a tax-qualified retirement plan (including salary reduction contributions); (4) amounts that are excludable from the executive's gross income (such as employer-provided health benefits and miscellaneous fringe benefits (sec. 132)); and (5) any remuneration payable under a written binding contract which was in effect on February 17, 1993, and all times thereafter before such remuneration was paid and which was not modified thereafter in any material respect before such remuneration was paid.

Commissions

In order to qualify for the exception for compensation paid in the form of commissions, the commission must be payable solely on account of income generated directly by the individual performance of the executive receiving such compensation. Thus, for example, compensation that equals a percentage of sales made by the executive qualifies for the exception. Remuneration does not fail to be attributable directly to the executive merely because the executive utilizes support services, such as secretarial or research services, in generating the income. However, if compensation is paid on account of broader performance standards, such as income produced by a business unit of the corporation, the compensation would not qualify for the exception because it is not paid with regard to income that is directly attributable to the individual executive.

Other performance-based compensation

In general.—Compensation qualifies for the exception for performance-based compensation only if (1) it is paid solely on account of the attainment of one or more performance goals, (2) the performance goals are established by a compensation committee consisting solely of two or more outside directors, (3) the material terms under which the compensation is to be paid, including the performance goals, are disclosed to and approved by the shareholders in a separate vote prior to payment, and (4) prior to payment, the compensation committee certifies that the performance goals and any other material terms were in fact satisfied.

Definition of performance-based compensation.—Compensation (other than stock options or other stock appreciation rights) is not treated as paid solely on account of the attainment of one or more performance goals unless the compensation is paid to the particular executive pursuant to a preestablished objective performance formula or standard that precludes discretion.[46] In general, this means that a third party with knowledge of the relevant performance results could calculate the amount to be paid to the executive. It is intended that what constitutes a performance goal be broadly defined, and include, for example, any objective performance standard that is applied to the individual executive, a business unit (e.g., a division or a line of business), or the corporation as a whole. Performance standards could include, for example, increases in stock price, market share, sales, or earnings per share.

Stock options or other stock appreciation rights generally are treated as meeting the exception for performance-based compensation, provided that the requirements for outside director and shareholder approval are met (without the need for certification that the performance standards have been met), because the amount of compensation attributable to the options or other rights received by the executive would be based solely on an increase in the corporation's stock price. In the case of stock options, it is intended that the directors may retain discretion as to the exact number of options that are granted to an executive, provided that the maximum number of options that the individual executive may receive during a specified period is predetermined.

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[44] The provision does not modify the present-law requirement that, in order to be deductible, compensation must be reasonable. Thus, as under present law, in certain circumstances compensation less than $1 million may not be deductible.

[45] Of course, if the executive is no longer a covered employee at the time the options are exercised, then the deduction limitation would not apply.

[46] Discretion does not exist merely because the outside directors have the authority to interpret a compensation plan, agreement, or contract in accordance with its terms.

Stock-based compensation is not treated as performance-based if it is dependent on factors other than corporate performance. For example, if a stock option is granted to an executive with an exercise price that is less than the current fair market value of the stock at the time of grant, then the executive would have the right to receive compensation on the exercise of the option even if the stock price decreases or stays the same. Thus, stock options that are granted with an exercise price that is less than the fair market value of the stock at the time of grant do not meet the requirements for performance-based compensation. Similarly, if the executive is otherwise protected from decreases in the value of the stock (such as through automatic repricing), the compensation is not performance-based.

In contrast to options or other stock appreciation rights, grants of restricted stock are not inherently performance-based because the executive may receive compensation even if the stock price decreases or stays the same. Thus, a grant of restricted stock is treated like cash compensation and does not satisfy the definition of performance-based compensation unless the grant or vesting of the restricted stock is based upon the attainment of a performance goal and otherwise satisfies the standards for performance-based compensation under the bill.

Compensation does not qualify for the performance-based exception if the executive has a right to receive the compensation notwithstanding the failure of (1) the compensation committee to certify attainment of the performance goal (or goals) or (2) the shareholders to approve the compensation.

Definition of outside directors.—For purposes of the exception for performance-based compensation, a director is considered an outside director if he or she is not a current employee of the corporation (or related entities), is not a former employee of the corporation (or related entities) who is receiving compensation for prior services (other than benefits under a tax-qualified pension plan), was not an officer of the corporation (or related entities) at any time, and is not currently receiving compensation for personal services in any capacity (e.g., for services as a consultant) other than as a director.

Shareholder approval and adequate disclosure.—In order to meet the shareholder approval requirement, the material terms under which the compensation is to be paid must be disclosed and, after disclosure of such terms, the compensation must be approved by a majority of shares voting in a separate vote.

In the case of performance-based compensation paid pursuant to a plan (other than a stock option plan), the shareholder approval requirement generally is satisfied if the shareholders approve the specific terms of the plan, including the class of executives to which it applies. In the case of a stock option plan, the shareholders generally must approve the specific terms of the plan, the class of executives to which it applies, the option price (or formula under which the price is determined), and the maximum number of shares subject to option that can be awarded under the plan to any executive. Further shareholder approval of payments under a plan or grants of options is not required after the plan has been approved. Of course, if there are material changes to the plan, shareholder approval would have to be obtained again in order for the exception to apply to payments under the modified plan.

It is intended that not all the details of a plan (or agreement) need be disclosed in all cases. In developing standards as to whether disclosure of the terms of a plan or agreement is adequate, the Secretary should take into account the SEC rules regarding disclosure. To the extent consistent with those rules, however, disclosure should be as specific as possible. It is expected that shareholders will, at a minimum, be made aware of the general performance goals on which the executive's compensation is based and the maximum amount that could be paid to the executive if such performance goals were met. For example, it would not be adequate if the shareholders were merely informed that an executive would be awarded $x "if the executive meets certain performance goals established by the compensation committee."

Under present law, in the case of a privately held company that becomes publicly held, the prospectus is subject to the rules similar to those applicable to publicly held companies. Thus, if there has been disclosure that would satisfy the rules described above, persons who buy stock in the publicly held company will be aware of existing compensation arrangements. No further shareholder approval is required of compensation arrangements existing prior to the time the company became public unless there is a material modification of such arrangements. It is intended that similar rules apply in the case of other business transactions.

Compensation payable under a written binding contract

Remuneration payable under a written binding contract which was in effect on February 17, 1993, and at all times thereafter before such remuneration was paid is not subject to the deduction limitation.

Compensation paid pursuant to a plan qualifies for this exception provided that the right to participate in the plan is part of a written binding contract with the covered employee in effect on February 17, 1993. For example, suppose a covered employee was hired by XYZ Corporation on January 17, 1993, and one of the terms of the written employment contract is that the executive is eligible to participate in the "XYZ Corporation Executive Deferred Compensation Plan" in accordance with the terms of the plan. Assume further that the terms of the plan provide for participation after 6 months of employment, amounts payable under the plan are not subject to discretion, and the corporation does not have the right to amend materially the plan or terminate the plan (except on a prospective basis before any services are performed with respect to the applicable period for which such compensation is to be paid). Provided that the other conditions of the binding contract exception are met (e.g., the plan itself is in writing), payments under the plan are grandfathered, even though the employee was not actually a participant in the plan on February 17, 1993.[47]

The fact that a plan was in existence on February 17, 1993, is not by itself sufficient to qualify the plan for the exception for binding written contracts.

The exception for remuneration paid pursuant to a binding written contract ceases to apply to amounts paid after there has been a material modification to the terms of the contract. The exception does not apply to new contracts entered into or renewed after February 17, 1993. For purposes of this rule, any contract that is entered into on or before February 17, 1993, and that is renewed after such date is treated as a new contract entered into on the day the renewal takes effect. A contract that is terminable or cancelable unconditionally at will by either party to the contract without the consent of the other, or by both parties to the contract, is treated as a new contract entered into on the date any such termination or cancellation, if made, would be effective. However, a contract is not treated as so terminable or cancelable if it can be terminated or cancelled only by terminating the employment relationship of the covered employee.

Effective date

The conference agreement follows the Senate amendment.

8. Reduce compensation taken into account for qualified retirement plan purposes (sec. 14212 of the House bill, sec. 8212 of the Senate amendment, sec. 13212 of the conference agreement, and sec. 401(a)(17) of the Code)

Present Law

Under present law, the amount of a participant's compensation that can be taken into account under a tax-qualified pension plan is limited (sec. 401(a)(17)). The limit applies for determining the amount of the employer's deduction for contributions to the plan as well as for determining the amount of the participant's benefits. The limit on includible compensation is $235,840 for 1993, and is adjusted annually for inflation. The limit in effect at the beginning of a plan year applies for the entire plan year.

House Bill

Under the House bill, the limit on compensation taken into account under a qualified plan (sec. 401(a)(17)) is reduced to $150,000. As under present law, this limit is indexed for inflation on an annual basis. Corresponding changes also are made to other provisions (secs. 404(l), 408(k)(3)(C), (6)(D)(ii), and (8), and 505(b)(7)) that take into account the section 401(a)(17) limit.

Effective date.—The provision in the House bill applies to benefits accruing in plan years beginning after December 31, 1993. Benefits accrued prior to the effective date for compensation in excess of the reduced limit are grandfathered.

Senate Amendment

The Senate amendment is the same as the House bill, except that the limit on compensation is indexed for inflation in increments of $10,000.

Effective date.—Same as the House bill except that special transition rules apply to governmental plans and plans maintained pursuant to a collective bargaining agreement.

In the case of an eligible participant in a plan maintained by a State or local government, the limit on compensation taken into account is the greater of the limit under the Senate amendment and the compensation allowed to be taken into account under the plan as in effect on July 1, 1993. For purposes of this rule, an eligible participant is an individual who first became a participant in the plan during a plan year beginning before the first plan year beginning after the earlier of: (1) the plan year in which the plan is amended to reflect the proposal, or (2) December 31, 1995. This special rule does not apply unless the plan is amended to incorporate the dollar limit in effect under section 401(a)(17) by reference, effective with respect to persons other than eligible participants for benefits accruing in plan years beginning after December 31, 1995 (or earlier if the plan amendment so provides).

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[47] Of course, as discussed below in the text, the grandfather ceases to apply if the plan is materially amended.

In the case of a plan maintained pursuant to one or more collective bargaining agreements ratified before the date of enactment, the provision does not apply to contributions or benefits accruing under such agreements in plan years beginning before the earlier of (1) the latest of (a) January 1, 1994, (b) the date on which the last of such collective bargaining agreements terminates (without regard to any extension or modification on or after the date of enactment), or (c) in the case of a plan maintained pursuant to collective bargaining under the Railway Labor Act, the date of execution of an extension or replacement of the last of such collective bargaining agreements in effect on the date of enactment, or (2) January 1, 1997.

Conference Agreement

The conference agreement follows the Senate amendment.

9. Modify deduction for moving expenses (sec. 14213 of the House bill, sec. 8213 of the Senate amendment, sec. 13213 of the conference agreement, and secs. 62, 132, and 217 of the Code)

Present Law

An employee or self-employed individual may claim a deduction from gross income for certain expenses incurred as a result of moving to a new residence in connection with beginning work at a new location (sec. 217). The deduction is not subject to the floor that generally limits a taxpayer's allowable miscellaneous itemized deductions to those amounts that exceed two percent of the taxpayer's adjusted gross income. Any amount received directly or indirectly by such individual as a reimbursement of moving expenses must be included in the taxpayer's gross income as compensation (sec. 82). The taxpayer may offset this income by deducting the moving expenses that are deductible items under section 217.

Deductible moving expenses are the expenses of transporting the taxpayer and members of the taxpayer's household, as well as household goods and personal effects, from the old residence to the new residence; the cost of meals and lodging enroute; the expenses for pre-move househunting trips; temporary living expenses for up to 30 days in the general location of the new job; and certain expenses related to either the sale of (or settlement of an unexpired lease) on the old residence, or the purchase of (or acquisition of a lease on) a new residence in the general location of the new job.

The moving expense deduction is subject to a number of limitations. A maximum of $1,500 can be deducted for pre-move househunting and temporary living expenses in the general location of the new job. A maximum of $3,000 (reduced by any deduction claimed for househunting or temporary living expenses) can be deducted for certain qualified expenses for the sale or purchase of a residence or settlement or acquisition of a lease. If both a husband and wife begin new jobs in the same general location, the move is treated as a single commencement of work. If a husband and wife file separate returns, the maximum deductible amounts available to each are one-half the amounts otherwise allowed.

Also, in order for a taxpayer to claim a moving expense deduction, the taxpayer's new principal place of work must be at least 35 miles farther from the taxpayer's former residence than was the taxpayer's former principal place of work (or at least 35 miles from the taxpayer's former residence, if the taxpayer has no former place of work).

House Bill

The House bill excludes from the definition of moving expenses: (1) the costs related to the sale of (or settlement of an unexpired lease on) the old residence, and the purchase of (or acquisition of a lease on) the new residence in the general location of the new job, and (2) the costs of meals consumed while traveling and while living in temporary quarters near the new job.

Effective date.— Generally, the provision is effective for expenses incurred after December 31, 1993.

Senate Amendment

The Senate bill is the same as the House bill with an additional restriction. Under this restriction, an overall $10,000 cap is imposed on allowable moving expenses (including expenses subject to the limit on househunting and temporary living expenses) for each qualified move (including foreign moves). The $10,000 amount is indexed for inflation occurring after December 31, 1993.

Effective date.—Same as the House bill.

Conference Agreement

In general

The conference agreement follows the House bill with the following modifications: (1) the cost of pre-move househunting trips is excluded from the definition of moving expenses; (2) the cost of temporary living expenses for up to 30 days in the general location of the new job is excluded from the definition of moving expenses; (3) the mileage limit is increased from 35 miles to 50 miles; (4) moving expenses not paid or reimbursed by the taxpayer's employer are allowable as a deduction in calculating adjusted gross income; and (5) moving expenses paid or reimbursed by the taxpayer's employer are excludable from gross income.

Definition of moving expenses

Under the conference agreement, moving expenses are defined as the reasonable costs of (1) moving household goods and personal effects from the former residence to the new residence and (2) traveling (including lodging during the period of travel) from the former residence to the new place of residence. Moving expenses do not include any expenses for meals.

Employer-paid moving expenses

Moving expenses are excludable from gross income and wages for income and employment tax purposes to the extent paid for by the taxpayer's employer (whether directly or through reimbursement). Moving expenses are not excludable if the taxpayer actually deducted the expenses in a prior taxable year. The conferees intend that the employer treat moving expenses as excludable unless it has actual knowledge that the employee deducted the expenses in a prior year. The employer has no obligation to determine whether the individual deducted the expenses.

The conferees intend that rules similar to the rules relating to accountable plans under section 62(c) will apply to reimbursed expenses.

Moving expenses not paid for by the employer

Moving expenses are deductible in computing adjusted gross income to the extent not paid for by the taxpayer's employer (whether directly or through reimbursement). Allowing such a deduction will treat taxpayers whose expenses are not paid for by their employer in a comparable manner to taxpayers whose moving expenses are paid for by their employer.

Effective date

The conference agreement follows the House bill and the Senate amendment.

10. Modify estimated tax requirements for individuals (sec. 14214 of the House bill, sec. 8214 of the Senate amendment, sec. 13214 of the conference agreement, and sec. 6654 of the Code)

Present Law

Under present law, an individual taxpayer generally is subject to an addition to tax for any underpayment of estimated tax. An individual generally does not have an underpayment of estimated tax if he or she makes timely estimated tax payments at least equal to: (1) 100 percent of the tax shown on the return of the individual for the preceding year (the "100 percent of last year's liability safe harbor") or (2) 90 percent of the tax shown on the return for the current year. Income tax withholding from wages is considered to be a payment of estimated taxes. For estimated tax purposes, some trusts and estates are treated as individuals.

In addition, for taxable years beginning after 1991 and before 1997, a special rule provides that the 100 percent of last year's liability safe harbor generally is not available to a taxpayer that (1) has a modified adjusted gross income (AGI) in the current year that exceeds the taxpayer's AGI in the preceding year by more than $40,000 ($20,000 in the case of a separate return by a married individual) and (2) has a modified AGI in excess of $75,000 in the current year ($37,500 in the case of a separate return by a married individual).

House Bill

The special rule that denies the use of the 100 percent of last year's liability safe harbor is repealed for taxable years beginning after 1993. However, the 100 percent of last year's liability safe harbor is modified to be a 110 percent of last year's liability safe harbor for any individual with an AGI of more than $150,000 as shown on the return for the preceding taxable year. For this purpose, the AGI of a trust or an estate is determined pursuant to rules similar to those in Code section 67(e).

For taxable years beginning after 1993, the House bill does not change the availability of (1) the 100 percent of last year's liability safe harbor for an individual with a preceding year AGI of $150,000 or less, or (2) the present-law rule that allows any individual to base estimated tax payments on 90 percent of the tax shown on the return for the current year.

Effective date.—The provision is effective for estimated tax payments applicable to taxable years beginning after December 31, 1993.

Senate Amendment

The Senate amendment is the same as the House bill.

Conference Agreement

The conference agreement follows the House bill and the Senate amendment.

11. Increase taxable portion of Social Security and Railroad Retirement Tier 1 benefits (sec. 14215 of the House bill, sec. 8215 of the Senate amendment, sec. 13215 of the conference agreement, and sec. 86 of the Code)

Present Law

Under present law, a portion of Social Security and Railroad Retirement Tier 1 benefits is includible in gross income for taxpayers whose provisional incomes exceed a threshold amount. For purposes of this computation, a taxpayer's provisional income includes modified adjusted gross income (adjusted gross income plus tax-exempt interest plus certain foreign source income) plus one-half of the taxpayer's Social Security or Railroad Retirement Tier 1 benefit. The threshold amount is $25,000 for unmarried taxpayers, $32,000 for married taxpayers filing joint returns, and $0 for married taxpayers filing separate returns. A taxpayer is required to include in gross income the lesser of: (1) 50 percent of the taxpayer's Social Security or Railroad Retirement Tier 1 benefit, or (2) 50 percent of the excess of the taxpayer's provisional income over the applicable threshold amount.

A taxpayer may receive a lump-sum payment of benefits which includes benefits for one or more earlier years. In general, such payments are includible in total benefits in the year received. However, a taxpayer receiving these lump-sum benefits may elect to calculate their tax liability as if the benefits had been received in the year to which they are attributable (using the other elements of provisional income related to that year) and then include the appropriate amount in gross income for the current taxable year (in addition to the amount of benefits attributable to the current taxable year that are includible in gross income).

Proceeds from the income taxation of these benefits are credited quarterly to the Old-Age and Survivors Insurance Trust Fund, the Disability Insurance Trust Fund, or the Social Security Equivalent Benefit Account (of the Railroad Retirement system), as appropriate.

House Bill

The House bill provides that, for taxpayers with provisional incomes above the applicable present-law thresholds, a taxpayer's gross income includes the lesser of: (1) 85 percent of the taxpayer's Social Security or Railroad Retirement Tier 1 benefit, or (2) 85 percent of the excess of the taxpayer's provisional income over the applicable present-law threshold amounts. A taxpayer's provisional income for purposes of this computation (modified adjusted gross income plus one-half of the taxpayer's Social Security or Railroad Retirement Tier 1 benefit) is calculated in the same manner as under present law.

Proceeds from the income taxation of Social Security and Railroad Retirement Tier 1 benefits attributable to the increased portion of benefits included in gross income will be retained in the General Fund.

Effective date.—The provision is effective for taxable years beginning after December 31, 1993.

Senate Amendment

The Senate amendment creates a second tier of Social Security benefit inclusion in gross income. Present-law inclusion rules apply to taxpayers with provisional income below $32,000 for unmarried taxpayers or $40,000 for married taxpayers filing joint returns.

For taxpayers with provisional incomes above these higher thresholds, gross income includes the lesser of:

(1) 85 percent of the taxpayer's Social Security or Railroad Retirement Tier 1 benefit or

(2) the sum of:

(a) the smaller of (i) the amount included under present law; or (ii) $3,500 (for unmarried taxpayers) or $4,000 (for married taxpayers filing joint returns),[48]

plus,

(b) 85 percent of the excess of the taxpayer's provisional income over the applicable second-tier threshold amounts.

For married taxpayers filing separate returns, gross income includes the lesser of 85 percent of the taxpayer's Social Security or Railroad Retirement Tier 1 benefit or 85 percent of the taxpayer's provisional income.

For purposes of this computation, a taxpayer's provisional income (modified adjusted gross income plus one-half of the taxpayer's Social Security or Railroad Retirement Tier 1 benefit) is calculated in the same manner as under present law.

Revenues from the income taxation of Social Security and Railroad Retirement Tier 1 benefits attributable to the increased portion of benefits included in gross income will be transferred to the Medicare Hospital Insurance (HI) Trust Fund.

Effective date.—The Senate amendment is the same as the House bill.

Conference Agreement

The conference agreement follows the Senate amendment, except that present law applies to taxpayers with provisional income below $34,000 for unmarried individuals and $44,000 for married individuals filing joint returns. The conference agreement does not change the present-law election permitting a taxpayer to treat a lump-sum payment of benefits as received in the year to which benefits are attributable. Taxpayers electing this treatment compute the amount of benefits includible in gross income using the inclusion formula that applies to the taxable year to which the benefits are attributable. For example, if in 1994, a taxpayer receives a lump-sum payment of benefits that includes benefits attributable to 1992 and 1993, the amount of benefits attributable to 1992 and 1993 that is includible in gross income is determined using the present-law inclusion formula. The amount of benefits attributable to 1994 that is includible in gross income is computed using the inclusion formula in the conference agreement.

Effective date.—The conference agreement follows the House bill and the Senate amendment.

B. Business Provisions

1. Increase corporate tax rate (sec. 14221 of the House bill, sec. 8221 of the Senate amendment, sec. 13221 of the conference agreement, and sec. 11 of the Code)

Present Law

The highest marginal tax rate imposed on the taxable income of corporations is 34 percent. The maximum rate of tax on corporate net capital gain is also 34 percent. This rate applies to income in excess of $75,000. A 15-percent rate applies to taxable income not exceeding $50,000 and a 25-percent rate applies to taxable income over $50,000 and not exceeding $75,000. A corporation with taxable income in excess of $100,000 is required to increase its tax liability by the lesser of 5 percent of the excess or $11,750. This increase in tax phases out the benefits of the 15- and 25-percent rates for corporations with taxable income between $100,000 and $335,000; a corporation with taxable income in excess of $335,000, in effect, pays tax at a flat 34-percent rate.

House Bill

The bill provides a new 35-percent marginal tax rate on corporate taxable income in excess of $10 million. The maximum rate of tax on corporate net capital gains is also 35 percent.

A corporation with taxable income in excess of $15 million is required to increase its tax liability by the lesser of 3 percent of the excess or $100,000. This increase in tax recaptures the benefits of the 34-percent rate in a manner analogous to the recapture of the benefits of the 15- and 25-percent rates.

Effective date.—The 35-percent marginal rate is effective for taxable years beginning on or after January 1, 1993. Under existing law provisions regarding changes in tax rates during a taxpayer's taxable year (section 15 of the Code), a fiscal year corporation is required to use a "blended rate" for its fiscal year that includes January 1, 1993. Accordingly, the corporation's tax liability will be a weighted average of the tax resulting from applying the existing corporate rate schedule and the tax resulting from applying the changes described above, weighted by the number of days before and after January 1, 1993. Penalties for the underpayment of estimated taxes, however, are waived for underpayments of 1993 taxes attributable to the changes in tax rates.

Senate Amendment

The Senate amendment is the same as the House bill.

Conference Agreement

The conference agreement follows the House bill and the Senate amendment.

Some taxpayers may be subject to the increased corporate tax rates with respect to a taxable year that has already ended. Those taxpayers may have filed an application for an extension of the time for filing their corporate income tax returns pursuant to section 6081. For such a filing to be valid, the taxpayer must remit "the amount of the properly estimated unpaid tax liability" (Treas. Reg. sec. 1.6081-3). The conferees intend that the IRS apply this provision by computing that amount by reference to the law in effect on the date the application for the extension was filed.

2. Disallowance of deduction for lobbying expenses (sec. 14222 of the House bill, sec. 8222 of the Senate amendment, sec. 13222 of the conference agreement, and secs. 162, 170, and 6033 of the Code)

Present Law

Trade or business expenses

Taxpayers engaged in a trade or business generally are allowed a deduction for all ordinary and necessary expenses paid or incurred during the taxable year in carrying on such trade or business (sec. 162). Present-law section 162(e)(1) specifically provides a deduction for certain so-called "direct lobbying" expenses (including travel expenses, costs of preparing testimony, and a portion of dues) paid in carrying on a trade or business if such expenses are (1) in direct connection with appearances before, submissions of statements to, or sending communications to, the committees, or individual members, of Congress or of any legislative body of a State, a possession of the United States, or a political subdivision of any of the foregoing with respect to legislation or proposed legislation of direct interest to the taxpayer, or (2) in direct connection with communication of information between the taxpayer and an organization of which the taxpayer is a member with respect to legislation or proposed legislation of direct interest to the taxpayer and to such organization.[49]

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[48] These figures equal 50 percent of the difference between the present law thresholds for 50-percent Social Security benefit inclusion and the proposed second-tier thresholds for 85-percent Social Security benefit inclusion.

Section 162(e)(2) provides, however, that no deduction is allowed for any amount paid (whether by contribution, gift, or otherwise) for participation or intervention in any political campaign (i.e., "political campaign" expenses) or in connection with any attempt to influence the general public, or segments thereof, with respect to legislative matters, elections or referendums (i.e., "grass roots lobbying").

Treasury regulations further provide that if expenditures for lobbying purposes do not meet the requirements of section 162(e)(1), such expenditures are not deductible as ordinary and necessary business expenses (Treas. Reg. sec. 1.162-20(c)(1)). Thus, for example, lobbying of foreign government officials is not a deductible business expense under section 162. Under the regulations, however, expenditures for institutional or "good will" advertising which keeps the taxpayer's name before the public are generally deductible, provided such expenditures are related to patronage the taxpayer might reasonably expect in the future (Treas. Reg. sec. 1.162-20(a)(2)).

Rules governing lobbying by tax-exempt organizations

Non-charitable tax-exempt organizations.—Although most tax-exempt organizations other than charitable organizations (e.g., social welfare organizations and trade associations) generally may engage in unlimited lobbying efforts, some restrictions do exist. If political campaign or grass roots lobbying activities constitute a substantial part of the activities of an organization such as a labor union or a trade association, the portion of dues or other payments to the organization attributable to such activities cannot be deducted by the payor under section 162.

Charitable organizations.—A charitable organization otherwise described in section 501(c)(3) is not entitled to tax-exempt status under that section if a substantial part of its activities consists of "carrying on propaganda, or otherwise attempting, to influence legislation."[50] There is no statutory definition under section 501(c)(3) of "propaganda, or otherwise attempting, to influence legislation," but Treasury regulations provide that an organization will be regarded as "attempting to influence legislation" if it (1) contacts, or urges the public to contact, members of a legislative body for the purpose of proposing, supporting, or opposing legislation, or (2) advocates the adoption or rejection of legislation (meaning action by Congress or another legislative body) (Treas. Reg. sec. 1.501(c)(3)-1(c)(3)). Conducting nonpartisan research (while not advocating legislative action) is not considered lobbying for purposes of the section 501(c)(3) restriction, nor is seeking to protect the organization's own existence or responding to a governmental request for testimony.[51]

An organization will not fail to meet the requirements of section 501(c)(3) merely because it advocates, as an insubstantial part of its activities, the adoption or rejection of legislation (Treas. Reg. sec. 1.501(c)(3)-1(c)(3)). Similarly, a public charity making the section 501(h) election can incur lobbying expenditures in an amount determined in accordance with a numeric formula set forth in section 501(h) without jeopardizing its exempt status. However, if a public charity's lobbying expenditures (for either all lobbying or grass roots lobbying in particular) made during a taxable year exceed the amount allowable under the formula, an excise tax equal to 25 percent of the excess lobbying expenditures is imposed on the organization (sec. 4911(a)). If the sum of the electing organization's lobbying expenditures during a four-year period exceeds 150 percent of the sum of the allowable amounts during that period, the organization loses its tax-exempt status under section 501(c)(3) (Treas. Reg. sec. 1.501(h)-3(b)).

Section 501(h) defines "lobbying expenditures" as "expenditures for the purpose of influencing legislation (as defined in section 4911(d))." Section 4911(d) defines the term "influencing legislation" as—

"(A) any attempt to influence any legislation through an attempt to affect the opinions of the general public or any segment thereof, and

(B) any attempt to influence any legislation through communication with any member or employee of a legislative body, or with any government official or employee who may participate in the formulation of the legislation."

However, section 4911(d)(2) specifically *excludes* from the definition of "influencing legislation" the following activities:

(A) making available the results of nonpartisan analysis, study, or research;[52]

(B) providing of technical advice or assistance (where such advice would otherwise constitute the influencing of legislation) to a governmental body or to a committee or other subdivision thereof in response to a written request by such body or subdivision, as the case may be;[53]

(C) appearances before, or communications to, any legislative body with respect to a possible decision of such body which might affect the existence of the organization, its powers and duties, tax-exempt status, or the deduction of contributions to the organization;

(D) communications between the organization and its bona fide members with respect to legislation or proposed legislation of direct interest to the organization and such members, other than communications which directly encourage members to contact a legislative body in an attempt to influence legislation, or which directly encourage members to urge persons other than members to attempt to affect the opinions of the general public or to contact a legislative body in an attempt to influence legislation; and

(E) any communication with a government official or employee, other than—

(i) a communication with a member or employee of a legislative body (where such communication would otherwise constitute the influencing of legislation), or

(ii) a communication the principal purpose of which is to influence legislation.

For purposes of section 4911, the term "legislation" is defined in section 4911(e)(2) to include action with respect to Acts, bills, resolutions, or similar items by the Congress, any State legislature, any local council, or similar governing body, or by the public in a referendum, initiative, constitutional amendment, or similar procedure. Treasury regulations provide that "legislation" for purposes of section 4911(e)(2) includes action by legislative bodies but does not include action by "executive, judicial, or administrative bodies" (Treas. Reg. sec. 56.4911-2(d)(3)). Treasury regulations further provide that "administrative bodies" include school boards, housing authorities, sewer and water districts, zoning boards, and other similar Federal, State, or local special purpose bodies, whether elective or appointive (Treas. Reg. sec. 56.4911-2(d)(4)).

Private foundations.—Private foundations (as distinguished from public charities) generally are subject to penalty excise taxes under section 4945 if they engage in any direct or grass roots lobbying. For purposes of section 4945, lobbying is defined in a manner similar to the definition under section 4911(d). Specifically, the section 4945 penalty excise taxes do not apply to nonpartisan analysis, the provision of technical advice to a governmental body in response to a written request or lobbying before a legislative body with respect to a possible decision of such body which might affect the existence of the private foundation, its powers and duties, its tax-exempt status or the deduction of contributions to such foundation (sec. 4945(e)).

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[49] Prior to 1963, Treasury Department regulations (originally dating back to 1915) provided that *all* expenditures for lobbying purposes, for the promotion or defeat of legislation, for political campaign purposes, or for propaganda (including advertising) related to any such purposes, were not deductible as "ordinary and necessary" business expenses. See *Cammarano v. United States*, 358 U.S. 498 (1959)(upholding validity of regulation denying deduction for lobbying expenses, even if expenses related to proposed legislation that affected the very survival of the taxpayer's business). In response to the *Cammarano* decision, Congress enacted, as part of the Revenue Act of 1962, the statutory rule contained in section 162(e)(1) specifically allowing a deduction for certain "direct lobbying" expenses.

[50] See *Regan v. Taxation With Representation*, 461 U.S. 540 (1983)(upholding constitutionality of section 501(c)(3) lobbying restriction on grounds that legislature is not required to subsidize lobbying through a tax exemption or deduction).

[51] See Rev. Rul. 70-79, 1970-1 C.B. 127; Rev. Rul. 70-449, 1970-2 C.B. 111; *Slee v. Commr*, 42 F.2d 184 (2d Cir. 1930).

[52] Under the section 4911 regulations, "nonpartisan analysis, study, or research" means an independent and objective exposition of a particular subject matter, including any activity that is "educational" within the meaning of Treasury Regulation section 1.501(c)(3)-1(d)(3). Thus, "nonpartisan analysis, study, or research" may advocate a particular position or viewpoint so long as there is a sufficiently full and fair exposition of the pertinent facts to enable the public or an individual to form an independent opinion or conclusion. The mere presentation of unsupported opinion does not qualify as "nonpartisan analysis, study, or research." Nonpartisan analysis may be made available to the general public, a segment thereof, or governmental bodies. Communications may not be limited to, or be directed toward, persons who are interested solely in one side of a particular issue (Treas. Reg. sec. 56.4911-2(c)(1)).

Furthermore, a Treasury regulation under section 4911 provides that "[e]xaminations and discussions of broad social, economic, and similar problems are neither direct lobbying communications . . . nor grass roots lobbying communications . . . even if the problems are of the type with which government would be expected to deal ultimately. Thus, . . . lobbying communications do not include public discussion, or communications with members of legislative bodies or governmental employees, the general subject of which is also the subject of legislation before a legislative body, so long as such discussion does not address itself to the merits of a specific legislative proposal and so long as such discussion does not directly encourage recipients to take action with respect to legislation" (Treas. Reg. sec. 56.4911-2(c)(2)).

[53] Under this exception, the request for assistance or advice must be made in the name of the requesting governmental body, committee, or subdivision rather than an individual member thereof; and the response to such request must be made available to every member of the requesting body, committee, or subdivision. Treasury regulations further provide that because such assistance or advice may be given only at the express request of a governmental body, the oral or written presentation of such assistance or advice need not qualify as nonpartisan analysis, study or research. The offering of opinions or recommendations will ordinarily qualify under this exception only if such opinions or recommendations are specifically requested by the governmental body or are directly related to the materials so requested (Treas. Reg. secs. 56.4911-2(c)(3) and 53.4945-2(d)(2)).;

House Bill

General rule

The House bill disallows a deduction for amounts paid or incurred in connection with any attempt to influence legislation through communication with any member or employee of a legislative body, or with any government official or employee who may participate in the formulation of legislation.

The present-law disallowance of business deductions for expenses of grass roots lobbying and participation in political campaigns remains in effect under the House bill, as does the present-law rule disallowing a deduction for lobbying of foreign governments.

Scope of general rule

The general disallowance rule contained in the House bill applies to attempts to influence legislation (as defined in present-law section 4911(e)(2)) through communications with the legislative branch, as well as the executive branch, of the Federal government, or any State or local government.[54]

Exception

Taxpayers are permitted to deduct expenditures for providing technical advice or assistance to a governmental body or to a committee or other subdivision thereof in response to a specific written request by such governmental entity.

Association dues

The House bill provides a flow-through rule to disallow a deduction for a portion of membership dues (or similar payments) paid to a tax-exempt organization which engages in political or lobbying activities. Trade associations and similar organizations are required to report annually to their members (and the IRS) the portion of membership dues (or similar payments) that is attributable to lobbying activities of the organization (unless this reporting requirement is waived by Treasury regulation).

Charities

Contributions to charities are not affected by the House bill. However, present-law rules which prevent charities from engaging in a substantial amount of lobbying remain in effect.

Penalties

Organizations will be subject to penalties for failing to meet the reporting requirements of the provision. In addition to the normal reporting penalties (generally, $50 for each failure to report to the IRS or organization member), a special penalty applies if an organization materially underreports its lobbying expenses to its members (meaning the aggregate amount of nondeductible dues reported to members is less than 75 percent of the correct amount).

Effective date

The House bill is effective for amounts paid or incurred after December 31, 1993.

Senate Amendment

General rule

The Senate amendment disallows the costs of any "lobbying contact," meaning (1) in the case of a "lobbyist" (as defined below), any oral or written communication with a legislative branch official or employee or certain high-ranking Federal executive branch officials,[55] and (2) in the case of any other person (i.e., a non-lobbyist), any oral or written communication with a legislative branch official or employee in an attempt to influence the formulation of legislation or with certain high-ranking Federal executive branch officials in an attempt to influence legislation or the formulation or administration of Federal rules, regulations, programs or policies (with certain exceptions described below).

Under the Senate amendment, the present-law rules disallowing business deductions for expenses of grass roots lobbying, participation in political campaigns, and lobbying of foreign governments remain in effect.

Scope of general rule

The general disallowance rule contained in the Senate amendment applies to attempts to influence legislation (as defined in present-law section 4911(e)(2)) through communications with the legislative branch, as well as the executive branch, of the Federal government, or any State or local government. In addition, the Senate amendment disallows expenses incurred in connection with lobbying with respect to certain Federal executive branch actions, and the costs of certain communications by "lobbyists" are disallowed under a *per se* rule.

Activities in support of lobbying

The Senate amendment disallows the costs of activities in support of a "lobbying contact" (as defined above), including (1) any preparation or planning activity relating to a lobbying contact (including, in the case of a lobbyist, the formulation, review, and management of the lobbying contacts on behalf of a client), (2) any research or other background work relating to a lobbying contact, and (3) any activity coordinating the lobbying activity of two or more persons.

Exceptions

Exception for legislative lobbying.—The Senate amendment does not apply to the costs of contacting a legislative branch official or employee if such contact is required by subpoena, civil investigative demand, or otherwise compelled by statute or other action of Congress or a State or local legislative body.

Exceptions for Federal executive branch lobbying.—Exceptions to the general disallowance rule for lobbying of certain high-ranking Federal executive branch officials are provided for contacts that are (1) compelled by statute, regulation, or other action of a Federal agency, (2) communications with respect to the administration or execution of Federal programs or policies (including the award of a Federal contract, grant, or license) if such communications are made to executive branch officials in the agency responsible for taking such action who serve in the Senior Executive Service, or who are members of the uniformed services whose pay grade is lower than O-9 under 37 U.S.C. section 201, (3) written comments filed in a public docket or other communications that are made on the record in a public proceeding, (4) made in response to a notice in the Federal Register, Commerce Business Daily, or similar publication soliciting communications from the public and directed to the agency official specifically designated in the notice to receive such communications, (5) made to agency officials with regard to judicial proceedings, criminal or civil law enforcement inquiries, investigations or proceedings, or filings required by statute or regulation, (6) made in compliance with written agency procedures regarding an adjudication conducted by the agency under 5 U.S.C. section 554 (or substantially similar provisions), or (7) made on behalf of an individual with regard to such individual's benefits, employment, other personal matters involving only that individual, or disclosures by that individual pursuant to applicable whistleblower statutes.

Definition of "lobbyist"

As described above, the Senate amendment provides a presumption that communications made by "lobbyists" to certain government officials are nondeductible lobbying. In contrast, communications made by other persons (i.e., non-lobbyists) to certain government officials are nondeductible lobbying only if such communications are made *in an attempt to influence* legislation or certain Federal executive branch actions. For purposes of the Senate amendment, the term "lobbyist" has a meaning similar to the definition under the Lobbying Disclosure Act of 1993 (S. 349), as passed by the Senate on May 6, 1993, and includes any person who is employed or retained by another for financial or other compensation to perform services that include any attempt to influence the formulation of legislation or the formulation or administration of Federal rules, regulations, programs, or policies (with the exceptions described above). However, the term "lobbyist" does not include a person whose lobbying activities are only incidental to, and are not a significant part of, the services provided by such person to the client. The determination of whether an individual is a "lobbyist" is made on a client-by-client basis.

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[54] For purposes of the provision, the term "legislation" has the same meaning as under section 4911(e)(2), which, in turn, defines "legislation" as including "action with respect to Acts, bills, resolutions, or similar items by the Congress, any State legislature, any local council, or similar governing body, or by the public in a referendum, initiative, constitutional amendment, or similar procedure."

Treasury regulations provide that "legislation" for purposes of section 4911(e)(2) includes action by legislative bodies but does not include action by "executive, judicial, or administrative bodies" (Treas. Reg. sec. 56.4911-2(d)(3)). Treasury regulations further provide that "administrative bodies" includes school boards, housing authorities, sewer and water districts, zoning boards, and other similar Federal, State, or local special purpose bodies, whether elective or appointive (Treas. Reg. sec. 56.4911-2(d)(4)). Thus, communications with, and attempts to influence, members of a local zoning board (acting in their capacity as members of that board, regardless of whether or not such members are elected to their position) will not be affected by the provision.

[55] The Senate amendment applies to the costs of communications with the following Federal executive branch officials: (1) the President; (2) the Vice President; (3) any officer or employee of the Executive Office of the President other than a clerical or secretarial employee; (4) any officer or employee serving in an Executive level I, II, III, IV, or V position, as designated in statute or Executive order (such as Secretaries, Deputy Secretaries and Assistant Secretaries, Directors, and Commissioners); (5) any officer or employee serving in a Senior Executive Service position as defined under 5 U.S.C. section 3232(a)(2); (6) any member of the uniformed services whose pay grade is at or in excess of O-7 under 37 U.S.C. section 201; and (7) any officer or employee serving in a position of confidential or policy-determining character under Schedule C of the excepted service pursuant to 5 U.S.C. section 7511. Under the Lobbying Disclosure Act of 1993 (S. 349), as passed by the Senate on May 6, 1993, such Federal executive branch officials are referred to as "covered executive branch officials," communications to whom are subject to the Act's reporting requirements.

Association dues

The Senate amendment provides a flow-through rule to disallow a deduction for a portion of membership dues (or other similar amounts) paid by a person to a tax-exempt organization (other than a charity eligible to receive tax-deductible contributions) if such dues are allocable to lobbying activities conducted by the organization. Trade associations and similar organizations are required to report annually to their members (and the IRS) the portion of membership dues (or similar payments) that is attributable to lobbying activities of the organization (unless this reporting requirement is waived by Treasury regulation).

However, the Senate amendment also provides a *de minimis* exception, so that flow-through reporting to members or the IRS is not required if the lobbying expenditures of the organization for the calendar year are less than $2,000. For purposes of applying the $2,000 *de minimis* exception, an organization is required to take into account direct expenses incurred for lobbying activities (i.e., labor and materials costs and fees paid to third parties for lobbying), but need not take into account indirect expenses (i.e., a portion of general overhead) otherwise allocable to lobbying.

Charities

The Senate amendment provides for a flow-through of the lobbying disallowance rule in the case of contributions, dues, or similar amounts paid to a charity (other than a church) eligible to receive tax-deductible contributions under section 170 to the extent that the contribution (or other amount) is attributable to amounts incurred for lobbying activities by the charity, provided that (1) the lobbying activities of the charity are of direct interest to the payor's (or a related person's) trade or business and (2) the payor makes total payments to the charity during the year exceeding $2,000. In such cases, a portion of a contribution that otherwise may be deductible under section 170 is disallowed.

Penalties

Under the Senate amendment, penalties may be imposed under present-law section 6721 on organizations for failing to make the required flow-through information reporting.

Meals, entertainment or travel

The Senate amendment provides a *per se* rule disallowing any amount paid or incurred by a taxpayer in connection with providing meals, entertainment, or travel to legislative officials or employees or certain high-ranking Federal executive branch officials (or to an individual accompanying such official or employee).

Effective date

The Senate amendment is effective for amounts paid or incurred after December 31, 1993.

Conference Agreement

The conference agreement includes a lobbying expense disallowance rule that contains elements from both the House bill and the Senate amendment.

General rule

Under the conference agreement, no deduction is allowed under section 162 for any amount paid or incurred in connection with (1) influencing Federal or State legislation or (2) any communication with certain covered Federal executive branch officials in an attempt to influence the official actions or positions of such officials.

The present-law rules disallowing business deductions for expenses of grass roots lobbying and participation in political campaigns will remain in effect. Similarly, the conferees intend that the present-law rule disallowing a deduction for lobbying of foreign governments will remain in effect.

Scope of general rule

The conference agreement applies to attempts to influence Federal or State legislation (as defined in present-law section 4911(e)(2)) through communication with a member or employee of Congress or a State legislative body, or with any other government official or employee who may participate in the formulation of legislation.[56] In addition, the conference agreement disallows a deduction for costs incurred in connection with any direct communication with a "covered executive branch official" in an attempt to influence the official actions or positions of such official.[57] For this purpose, the term "covered executive branch official" means the following Federal officials: (1) the President; (2) the Vice President; (3) an individual serving in a position in level I of the Executive Schedule (e.g., a Cabinet member)[58] or any other individual designated by the President as having Cabinet-level status; (4) any immediate deputy of an individual listed in (3) above; (5) the two most senior-level officers of each agency within the Executive Office of the President;[59] and (6) any other officer or employee of the White House Office of the Executive Office of the President.

The conference agreement does not apply to attempts to influence legislative actions of a "local council or similar governing body."[60] The conferees intend that any legislative body of a political subdivision of a State (e.g., a county or city council) be considered to be a "local council or similar governing body." Thus, attempts to influence the actions of such local bodies are not affected by the conference agreement and remain subject to present-law rules.[61]

De minimis rule

The conference agreement provides a *de minimis* rule that exempts certain in-house lobbying expenditures from the general disallowance rule if a taxpayer's total amount of such expenditures for a taxable year does not exceed $2,000 (computed without taking into account general overhead costs otherwise allocable to lobbying). For purposes of this rule, "in-house expenditures" means expenditures for lobbying (e.g., labor and materials costs) other than (1) payments to a person engaged in the trade or business of lobbying to conduct lobbying for the taxpayer (e.g., a payment to hire a professional lobbyist), and (2) dues or other similar payments that are allocable to lobbying (e.g., association dues).

Thus, so long as a taxpayer's in-house lobbying expenditures do not exceed $2,000, such expenditures (including allocable overhead) may be disregarded and are not subject to the disallowance rule. However, payments made by a taxpayer to third-party lobbyists and dues payments allocable to lobbying are subject to the disallowance rules of the conference agreement, regardless of whether or not the taxpayer's in-house expenses are exempted under the *de minimis* rule.[62] In addition, the *de minimis* rule contained in the conference agreement does not apply to expenses incurred for political activity, grassroots lobbying, or foreign lobbying, which continue to be disallowed in their entirety under present-law rules.

Activities in support of lobbying

The conference agreement provides that any amount paid or incurred for research for, or preparation, planning, or coordination of, any lobbying activity subject to the general disallowance rule described above will be treated as paid or incurred in connection with such lobbying activity.

The conferees intend that the Secretary of the Treasury will provide guidance for distinguishing costs incurred in connection with (1) attempts to influence legislation from (2) mere monitoring of legislative activities where there is no attempt to influence the formulation or enactment of legislation. In cases where a taxpayer (or tax-exempt organization) monitors legislation and subsequently attempts to influence the formulation or enactment of the same (or similar) legislation, the conferees intend the costs of the monitoring activities generally will be treated as incurred "in connection with" nondeductible lobbying activity.[63]

In determining the expenses incurred in connection with any direct communication with a covered executive branch official in an attempt to influence the official actions or positions of such official, only the costs attributable to the direct communication itself are nondeductible under the conference agreement. Thus, for example, if a taxpayer works for an extended period to influence the actions of non-covered executive branch officials and, at the end of the project, a covered executive branch official approves the final decision through a separate communication with the taxpayer (e.g., a briefing or review of the matter), only the direct costs of the communication with the covered official would be disallowed (and not the costs of the work product from the earlier period). In contrast, if a taxpayer conducts research and analysis with a view toward directly communicating with a covered executive branch official, the costs of such research and analysis would be disallowed as attributable to the direct communication with the covered official.

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[56] Thus, if a taxpayer communicates with any executive branch official or employee (regardless of rank) in an attempt to influence the official's or employee's participation in the Federal or State legislative process, then costs incurred in connection with the communication are nondeductible. Under present-law section 4911 regulations, "legislation" does not include actions of Federal or State administrative or special purpose bodies, whether elective or appointive (Treas. Reg. sec. 56.4911-2(d)(4)).

[57] The conferees intend that direct communications include all written and oral communications with covered executive branch officials. A communication will be considered to be a *direct* communication with a covered executive branch official if such official is the intended primary recipient of the communication, regardless of whether the communication is formally addressed to the official.

[58] See 5 U.S. Code sec. 5312.

[59] In the case of councils or other agencies within the Executive Office of the President with respect to which the President, Vice President or one or more Cabinet members serve as ranking members, the covered officers include the two most senior administrative officers (other than the ranking members) of the council or agency.

[60] The conference agreement provides that, for purposes of the section 162 lobbying rules, a tribal government of an Indian reservation will be treated as a "local council or similar governing body." Thus, lobbying with respect to such tribal governments continues to be governed by present-law rules.

[61] Under present law, at the local government level, lobbying expenses are deductible only if incurred in direct connection with communications to government officials (or an organization of which the taxpayer is a member) with respect to local legislation of direct interest to the taxpayer (and to the organization). Expenditures for grass roots lobbying with respect to local legislation or for participation in local elections are not deductible.

[62] The conference agreement includes a *de minimis* rule primarily to provide administrative convenience to taxpayers. Therefore, if, during a taxable year, a taxpayer incurs in-house expenditures in excess of $2,000, then the full amount of its lobbying expenses must be determined and such amount (including the first $2,000 of in-house expenditures) is subject to the disallowance rule.

[63] In addition, the conferees intend that the Secretary of the Treasury will permit taxpayers to adopt reasonable methods for allocating expenses to lobbying (and related research and other background) activities in order to reduce taxpayer recordkeeping responsibilities.

Exceptions

The conference agreement does not include any of the statutory exceptions to the general disallowance rule that are contained in the House bill or Senate amendment. However, the conferees wish to clarify that (consistent with pre-1962 interpretations) any communication compelled by subpoena, or otherwise compelled by Federal or State law, does not constitute an "attempt to influence" legislation or an official's actions and, therefore, is not subject to the general disallowance rule.

Association dues

The conference agreement provides a flowthrough rule to disallow a deduction for a portion of the membership dues (or similar payments[16]) paid to a tax-exempt organization (other than a charitable organization) which engages in political or lobbying activities. Trade associations and similar organizations generally are required under the conference agreement to provide annual information disclosure (but not Form 1099 information reporting) to members estimating the portion of their dues allocable to lobbying. However, such disclosure is not required for an organization that (1) incurs only *de minimis* amounts of in-house lobbying expenditures; (2) elects to pay a proxy tax on its lobbying expenditures incurred during the taxable year; or (3) establishes pursuant to Treasury regulation (or other procedure) that substantially all of its dues monies are paid by members not entitled to deduct such dues in computing their taxable income.

De minimis rule

Under the conference agreement, in-house lobbying expenses of $2,000 or less incurred by a tax-exempt organization during a taxable year are exempt from the general disallowance rule. This *de minimis* rule for tax-exempt organizations operates in the same manner as the *de minimis* rule for taxable businesses (described above). That is, in determining whether the $2,000 *de minimis* exception applies, an organization is required to take into account any direct in-house expenses incurred for lobbying activities (i.e., labor and materials costs), but may disregard indirect expenses (i.e., a portion of general overhead) otherwise allocable to lobbying. Amounts paid to outside lobbyists (or as dues to another organization that lobbies) do not qualify for the *de minimis* exception.

Information disclosure

Tax-exempt organizations that engage in more than a *de minimis* amount of in-house lobbying (or make payments to third-party lobbyists or other associations that lobby) generally are required to meet certain disclosure requirements. First, the organization must disclose on its annual tax return both the total amount of its lobbying and political expenditures (as defined by the provisions of the conference agreement), and the total amount of dues (or similar payments) allocable to such expenditures. For this purpose, an organization's lobbying expenditures for the taxable year are allocated to the dues received during the taxable year. Any excess amount of lobbying expenditures is carried forward and allocated to dues received in the following taxable year.

An organization also is required to provide notice to each person paying dues (or similar payments) at the time of assessment or payment of such dues (or similar payments) of the portion of dues that the organization reasonably estimates will be allocable to the organization's lobbying expenditures during the year and that is, therefore, not deductible by the member. This estimate must be provided at the time of assessment or payment of such dues and be reasonably calculated to provide organization members with adequate notice of the nondeductible amount.[17] If an organization's actual lobbying and political expenditures for a taxable year exceed the estimated allocable amount of such expenditures (either because of higher-than-anticipated lobbying expenses or lower-than-projected dues receipts), then the organization is required to pay a proxy tax on the excess amount or may seek permission to adjust the following year's notice of estimated expenditures, as described below.

Proxy tax

As an alternative to the disclosure requirements described above, an organization may elect to pay a proxy tax on the total amount of its lobbying expenditures (up to the amount of dues and other similar payments received by the organization) during the taxable year. If, for the current taxable year, an organization does not provide its members with reasonable notice of anticipated lobbying expenditures allocable to dues, then the organization is subject to the proxy tax on its aggregate lobbying expenditures for such year. Similarly, as stated above, an organization is required to pay a proxy tax on the amount by which its actual lobbying and political expenditures for a taxable year exceed the estimated allocable amount of such expenditures.[18]

If the amount of lobbying expenditures exceeds the amount of dues and other similar payments for the taxable year, the proxy tax is imposed on an amount equal to the dues and similar payments; any excess lobbying expenditures are carried forward to the next taxable year.[19] The proxy tax rate is equal to the highest corporate rate in effect for the taxable year. If an organization elects to pay the proxy tax rather than to provide any information disclosure to members, no portion of any dues or other payments made by members of the organization will be deemed non-deductible as the result of the organization's lobbying activities.

Waiver

If an organization establishes to the satisfaction of the Secretary of the Treasury (pursuant to regulation or other procedure) that substantially all of the dues monies it receives are paid by members who (even if lobbying were not involved) are not entitled to deduct their dues payments, then the organization is not subject to the disclosure requirements or the proxy tax. The conferees intend that the waiver be available to any organization that receives 90 percent or more of its total dues (and similar payments) from persons not entitled to deduct such payments.[20] The conference agreement contemplates that waivers will be provided pursuant to Treasury Department regulation or other Treasury Department procedure.

Penalties

Any organization that underreports the total amount of its lobbying expenses in any taxable year is required to pay the proxy tax (at the highest corporate tax rate) on any undisclosed or underreported amount. This tax may be imposed regardless of whether the organization has elected disclosure of lobbying expenses to its members or payment of the proxy tax for the taxable year. In such cases, the conferees intend that the proxy tax be imposed in addition to interest charges and any other penalties which may apply.[21]

Charities

Under the conference agreement, charitable organizations described in section 501(c)(3) are not subject to the disclosure requirements (or proxy tax option) imposed on other tax-exempt organizations. However, the conference agreement does contain an anti-avoidance rule designed to prevent donors from using charities as a conduit to conduct lobbying activities, the costs of which would be nondeductible if conducted directly by the donor.

Therefore, the conference agreement provides that no deduction will be allowed under sections 170 or 162 for amounts contributed to a charity that conducts lobbying activities, if (1) the charity's lobbying activities regard matters of direct financial interest to the donor's trade or business and (2) a principal purpose of the contribution is to avoid the general disallowance rule that would apply if the contributor directly had conducted such lobbying activities.[22]

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[16] Payments that are similar to dues include voluntary payments made by members and special assessments imposed by the recipient organization to conduct lobbying activities. This is comparable to the treatment of special assessments for grass roots lobbying or campaign expenses under present-law Treasury Regulation section 1.162-20(c)(3).

[17] The conferees intend that such notice be provided in a conspicuous and easily recognizable format. See section 6113 and the regulations issued thereunder for guidance regarding the appropriate format of the disclosure statement.

[18] In this case, the conference agreement grants the Secretary of the Treasury authority to waive the proxy tax otherwise imposed if an organization agrees to adjust its notice of estimated lobbying expenditures provided to members in the following year. Further, the conferees intend that the Secretary will prescribe regulations governing the treatment of organizations that incur actual lobbying expenditures below the estimated amount.

[19] For example, if during a taxable year, an organization receives $100,000 in dues, spends $150,000 on lobbying and elects to pay the proxy tax (rather than provide flow-through disclosure to members), the proxy tax for that year would be imposed on $100,000 of lobbying expenditures. The remaining $50,000 of lobbying expenditures would be carried forward to the subsequent year, during which the organization could comply with the disclosure requirements outlined above or elect to pay the proxy tax with respect to such amount, as well as any additional lobbying expenditures incurred during that subsequent year.

[20] Examples of such organizations include organizations that receive 90 percent or more of their dues monies from members that are tax-exempt charities or who are individuals not entitled to deduct the dues payments in determining taxable income because the payments are not ordinary and necessary business expenses. Another example would be a union that establishes to the satisfaction of the Secretary that 90 percent or more of its dues monies are paid by individuals who do not deduct such dues because of the operation of the two-percent floor on miscellaneous itemized deductions (sec. 67).

[21] See, e.g., section 6652(c)(1)(A)(ii).

[22] The conference agreement does not alter present-law rules under sections 501(c)(3) and 4911 regarding the impact of lobbying on a charity's tax-exempt status. Thus, even if a contributor is subject to the anti-avoidance rule in a particular case because its payment to a charity is made with a principal purpose of funding "lobbying" as defined under

The conferees intend that the determination regarding a principal purpose of the contribution for purposes of this rule be based on the facts and circumstances surrounding the contribution, including the existence of any formal or informal instructions relating to the charity's use of the contribution for lobbying efforts (including nonpartisan analysis), the temporal nexus between the making of the contribution and conduct of the lobbying activities, and any historical pattern of contributions by the donor to the charity.

Anti-cascading rule

The conference agreement contains a special provision to prevent a "cascading" of the lobbying disallowance rule. The purpose of the provision is to ensure that, when multiple parties are involved, the general lobbying disallowance rule results in the denial of a deduction at only one level. Thus, the conference agreement provides that, in the case of a taxpayer engaged in the trade or business of lobbying activities or a taxpayer who is an employee and receives employer reimbursements for lobbying expenses, the disallowance rule does not apply to expenditures of the taxpayer in conducting such activities directly on behalf of a client or employer. Instead, the lobbying payments made by the client (or employer) to the lobbyist (or employee) are nondeductible under the general disallowance rule.

The anti-cascading rule applies where there is a direct, one-on-one relationship between the taxpayer and the entity conducting the lobbying activity, such as a client or employee relationship. Thus, the conferees intend that the anti-cascading rule will *not* apply to dues or other payments to taxable membership organizations which act to further the interests of *all* their members rather than the interests of any one particular member. Such organizations are themselves subject to the general disallowance rule based on the amount of their lobbying expenditures, and dues payments to such organizations are not affected by the conference agreement.

Effective date

The conference agreement is effective for amounts paid or incurred after December 31, 1993.

3. Mark-to-market accounting method for dealers in securities (sec. 14223 of the House bill, sec. 8223 of the Senate amendment, sec. 13223 of the conference agreement, and new sec. 475 of the Code)

Present Law

A taxpayer that is a dealer in securities is required for Federal income tax purposes to maintain an inventory of securities held for sale to customers. A dealer in securities is allowed for Federal income tax purposes to determine (or value) the inventory of securities held for sale based on: (1) the cost of the securities; (2) the lower of the cost or market (LCM) value of the securities; or (3) the market value of the securities.

If the inventory of securities is determined based on cost, unrealized gains and losses with respect to the securities are not taken into account for Federal income tax purposes. If the inventory of securities is determined based on the LCM value, unrealized losses (but not unrealized gains) with respect to the securities are taken into account for Federal income tax purposes. If the inventory of securities is determined based on market value, both unrealized gains and losses with respect to the securities are taken into account for Federal income tax purposes.

House Bill

In general

The House bill provides two general rules (the "mark-to-market rules") that apply to certain securities that are held by a dealer in securities. First, any such security that is inventory in the hands of the dealer is required to be included in inventory at its fair market value. Second, any such security that is not inventory in the hands of the dealer and that is held as of the close of any taxable year is treated as sold by the dealer for its fair market value on the last business day of the taxable year and any gain or loss is required to be taken into account by the dealer in determining gross income for that taxable year.

If gain or loss is taken into account with respect to a security by reason of the second mark-to-market rule, then the amount of gain or loss subsequently realized as a result of a sale, exchange, or other disposition of the security, or as a result of the application of the mark-to-market rules, is to be appropriately adjusted to reflect such gain or loss.

Character of gain or loss

Any gain or loss taken into account under the provision (or any gain or loss recognized with respect to a security that would be subject to the provision if held at the end of the year) generally is treated as ordinary gain or loss. This character rule does not apply to any gain or loss allocable to any period during which the security (1) is a hedge of a position, right to income, or a liability that is not subject to a mark-to-market rule under the provision, or (2) is held by the taxpayer other than in its capacity as a dealer in securities. In addition, the character rule does not apply to any security that is improperly identified by the taxpayer.

No inference is intended as to the character of any gain or loss recognized in taxable years prior to the enactment of this provision or any gain or loss recognized with respect to any property to which this character rule does not apply.

Definitions

A dealer in securities is defined as any taxpayer that either (1) regularly purchases securities from, or sells securities to, customers in the ordinary course of a trade or business, or (2) regularly offers to enter into, assume, offset, assign, or otherwise terminate positions in securities with customers in the ordinary course of a trade or business.

A security is defined as: (1) any share of stock in a corporation; (2) any partnership or beneficial ownership interest in a widely-held or publicly-traded partnership or trust; (3) any note, bond, debenture, or other evidence of indebtedness; (4) any interest rate, currency, or equity notional principal contract (but not any other notional principal contract such as a notional principal contract that is based on the price of oil, wheat, or other commodity); and (5) any evidence of an interest in, or any derivative financial instrument in, any currency or in a security described in (1) through (4) above, including any option, forward contract, short position, or any similar financial instrument in such a security or currency.

In addition, a security is defined to include any position if: (1) the position is not a security described in the preceding paragraph; (2) the position is a hedge with respect to a security described in the preceding paragraph; and (3) before the close of the day on which the position was acquired or entered into (or such other time as the Treasury Department may specify in regulations), the position is clearly identified in the dealer's records as a hedge with respect to a security described in the preceding paragraph.

Exceptions to the mark-to-market rules

Under the House bill, the mark-to-market rules generally do not apply to: (1) any security that is held for investment; (2) any evidence of indebtedness that is acquired (including originated) by a dealer in the ordinary course of its trade or business, but only if the evidence of indebtedness is not held for sale; (3) any security which is a hedge with respect to a security that is not subject to the mark-to-market rules (i.e., any security that is a hedge with respect to (a) a security held for investment, or (b) an evidence of indebtedness described in (2); and (4) any security which is a hedge with respect to a position, right to income, or a liability that is not a security in the hands of the taxpayer.

In addition, the exceptions to the mark-to-market rules do not apply unless, before the close of the day on which the security (including any evidence of indebtedness) is acquired, originated, or entered into (or such other time as the Treasury Department may specify in regulations), the security is clearly identified in the dealer's records as being described in one of the exceptions listed above.

Improper identification

The House bill provides that if (1) a dealer identifies a security as qualifying for an exception to the mark-to-market rules but the security does not qualify for that exception, or (2) a dealer fails to identify a position that is not a security as a hedge of a security but the position is a hedge of a security, then the mark-to-market rules are to apply to any such security or position, except that loss is to be recognized under the mark-to-market rules prior to the disposition of the security or position only to the extent of gain previously recognized under the mark-to-market rules (and not previously taken into account under this provision) with respect to the security or position.

Other rules

The House bill provides that the uniform cost capitalization rules of section 263A of the Code and the rules of section 263(g) of the Code that require the capitalization of certain interest and carrying charges in the case of straddles do not apply to any security to which the mark-to-market rules apply because the fair market value of a security should include the costs that the dealer would otherwise capitalize.

In addition, a security subject to the provision is not to be treated as sold and reacquired for purposes of section 1091 of the Code. Section 1092 of the Code will apply to any loss recognized under the mark-to-market rules (but will have no effect if all the offsetting positions that make up the straddle are subject to the mark-to-market rules).

Furthermore, the House bill provides that (1) the mark-to-market rules do not apply to any section 988 transaction (generally, a foreign currency transaction) that is part of a section 988 hedging transaction, and (2) the determination of whether a transaction is a section 988 transaction is to be made without regard to whether the transaction would otherwise be marked-to-market under the bill.

For purposes of the House bill, fair market value generally is determined by valuing each security on an individual security basis.

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section 162, the charity's tax-exempt status will not be jeopardized if its activity qualifies as non-partisan analysis or does not constitute "substantial lobbying" under the present-law section 501(c)(3) or section 4911 standards.

Thus, if a taxpayer holds a large block of securities of the same type, the securities should be valued without taking any blockage discount into account. It is expected that the Treasury Department will authorize the use of appropriate valuation methods that will alleviate unnecessary compliance burdens of taxpayers under the bill.

Finally, the House bill authorizes the Treasury Department to promulgate such regulations as may be necessary or appropriate to carry out the provisions of the bill, including rules to prevent the use of year-end transfers, related persons, or other arrangements to avoid the provisions of the House bill.

Effective date

In general

The provision applies to taxable years ending on or after December 31, 1993. A taxpayer that is required to change its method of accounting to comply with the requirements of the provision is treated as having initiated the change in method of accounting and as having received the consent of the Treasury Department to make such change. The net amount of the section 481(a) adjustment is to be taken into account ratably over a 5-taxable year period beginning with the first taxable year ending on or after December 31, 1993.

Special rule for certain floor specialists and market makers

To the extent that a portion of the section 481(a) adjustment of a floor specialist or a market maker is attributable to the use of the LIFO inventory method of accounting for any qualified security, such portion of the adjustment generally is taken into account ratably over the shorter of (1) a 20-taxable year period or (2) the number of years the taxpayer (or any predecessor) had utilized the LIFO inventory method for that security, beginning with the first taxable year ending on or after December 31, 1993. In no event may the period be less than 5 years.

Senate Amendment

In general

Except as provided below, the Senate amendment generally is the same as the House bill.

Exceptions to the mark-to-market rules

Under the Senate amendment, the mark-to-market rules generally do not apply to: (1) any security that is held for investment; (2) any security that is a hedge with respect to a security that is not subject to the mark-to-market rules (i.e., any security that is a hedge with respect to a security held for investment); or (3) any security which is a hedge with respect to a position, right to income, or a liability that is not a security in the hands of the taxpayer. Under the Senate amendment, securities held for investment include debt instruments acquired (including originated) by the taxpayer in the ordinary course of a trade or business of the taxpayer and not held for sale.

Effective date

The effective date of the Senate amendment generally is the same as that of the House bill.

However, under the Senate amendment, to the extent that a portion of the section 481(a) adjustment of a floor specialist or a market maker is attributable to the use of the LIFO inventory method of accounting for any qualified security, such portion of the adjustment generally is taken into account ratably over a 15-taxable year period if the taxpayer (or any predecessor) had utilized the LIFO inventory method for that security for at least 5 years.

Conference Agreement

The conference agreement generally follows the House bill, with the following modifications:

Exceptions to the mark-to-market rules

The exceptions to the mark-to-market rules do not apply unless, before the close of the day on which the security (including any evidence of indebtedness) is acquired, originated, or entered into (or such other time as the Treasury Department may specify in regulations), the security is clearly identified in the dealer's records as being described in one of the exceptions listed above. The conferees anticipate that the Treasury regulations will permit a financial institution that is treated as a dealer under the provision and that originates evidences of indebtedness in the ordinary course of a trade or business to identify such evidences of indebtedness as held for investment based on the accounting practices of the institution, but in no event later than the date that is 30 days after the date that any such evidence of indebtedness is originated. Where appropriate, Treasury regulations may provide similar identification rules for similar debt that is acquired, rather than originated, by a financial institution. Further, it is anticipated that the Treasury regulations will permit a dealer that enters into commitments to acquire mortgages to identify such commitments as being held for investment if the dealer acquires the mortgages and holds the mortgages as investments. It is anticipated that this identification of commitments to acquire mortgages will occur within an appropriate period after the acquisition of the mortgages, but in no event later than the date that is 30 days after the date that the mortgages are acquired.

Further, the conferees anticipate that the identification rules with respect to hedges will be applied in such a manner as to minimize the imposition of additional accounting burdens on dealers in securities. For example, it is understood that certain taxpayers engage in risk management strategies known as "global hedging." Under global hedging, the positions of one business unit of the taxpayer may be counter-balanced by positions of another separate business unit; any remaining net risk of the enterprise may then be hedged by entering into positions with unrelated third parties. The conferees understand that taxpayers engaging in global hedging often use accounting systems that clearly identify and treat the transactions entered into between the separate business units as if such transactions were entered into with unrelated third parties. The conferees anticipate that, subject to Treasury regulations, such an accounting system generally will provide adequate evidence for purposes of determining whether, and to what extent, a hedge with a third party is (1) a hedge of a security that is subject to the mark-to-market rules or (2) a hedge of a position, right to income, or a liability that is not subject to a mark-to-market rule, for purposes of applying the mark-to-market rules and the special character rule to a hedge with a third party.

Regulatory authority

The provision grants authority to the Treasury Department to promulgate regulations as may be necessary or appropriate to carry out the provisions of the bill. Such authority includes the authority to promulgate such regulations to prevent the use of year-end transfers, related persons, or other arrangements to take unintended advantage of the provisions of the bill. For instance, assume that an individual who is not subject to the mark-to-market rules contributes a security that has a built-in loss in the hands of the individual to a partnership that is subject to the mark-to-market rules. Consistent with rules that govern the treatment of a security that ceases to qualify for one of the exceptions to the mark-to-market rules in the hands of a single taxpayer, the Treasury regulations may provide that any loss that arose prior to the contribution to the partnership may not be taken into account by the partnership under the mark-to-market rules and that the suspended loss may be taken into account when the security is sold. Conversely, assume that prior to year end, a partnership that is subject to the mark-to-market rules distributes a security with a built-in gain to a partner that is not subject to such rules. Consistent with the authority to apply the mark-to-market rules at times other than at the end of a taxable year, the Treasury regulations may provide that the mark-to-market rules are to apply to the partnership with respect to such security as of the date of distribution.

Valuation of securities

The conference agreement does not provide any explicit rules mandating valuation methods that are required to be used for purposes of applying the mark-to-market rules. However, the conferees expect that the Treasury Department will authorize the use of valuation methods that will alleviate unnecessary compliance burdens for taxpayers and clearly reflect income for Federal income tax purposes.

Other hedging transactions

The conference agreement generally provides that any gain or loss with respect to hedges that are subject to the mark-to-market rules of the bill will be treated as ordinary gain or loss. The conferees understand that hedging transactions are also important to the management of risks by businesses that are not subject to these mark-to-market rules. Hedging transactions are part of a sound business strategy in fields as diverse as farming, banking, manufacturing and energy production. However, the conferees understand that there may be a level of uncertainty regarding the tax treatment of such hedging transactions following a decision by the United States Supreme Court in 1988, *Arkansas Best Corp. v. Commissioner*, 485 U.S. 212 (1988). Despite subsequent litigation, (e.g., *Federal National Mortgage Association V. Commissioner*, 100 T.C. No. 36 (June 17, 1993)), the scope of the United States Supreme Court decision, and its effect on hedging transactions, may be unclear in some instances. The conferees believe that this is a significant issue. To the extent a solution to this issue may require coordination between the executive and legislative branches, the conferees urge the Administration, in the strongest terms, to advise the House Ways and Means and the Senate Finance Committees, within 90 days of the enactment of this Act, how best to proceed.

Effective date

The conference agreement adopts the effective date contained in the Senate amendment.

4. Tax treatment of certain FSLIC financial assistance (sec. 14224 of the House bill, sec. 8224 of the Senate amendment, sec. 13224 of the conference agreement, and secs. 165, 166, 585, and 593 of the Code)

Present Law and Background

A taxpayer may claim a deduction for a loss on the sale or other disposition of property only to the extent that the taxpayer's adjusted basis for the property exceeds the amount realized on the disposition and the loss is not compensated for by insurance or otherwise (sec. 165 of the Code). In the case of a taxpayer on the specific charge-off method of accounting for bad debts, a deduction is allowable for the debt only to the extent that the debt becomes worthless and the taxpayer does not have a reasonable prospect of being reimbursed for the loss. If the taxpayer accounts for bad debts on the reserve method, the worthless portion of a debt is charged against the taxpayer's reserve for bad debts, potentially increasing the taxpayer's deduction for an addition to this reserve.

A special statutory tax rule, enacted in 1981, excluded from a thrift institution's income financial assistance received from the Federal Savings and Loan Insurance Corporation (FSLIC), and prohibited a reduction in the tax basis of the thrift institution's assets on account of the receipt of the assistance. Under the Technical and Miscellaneous Revenue Act of 1988 (TAMRA), taxpayers generally were required to reduce certain tax attributes by one-half the amount of financial assistance received from the FSLIC pursuant to certain acquisitions of financially troubled thrift institutions occurring after December 31, 1988. These special rules were repealed by the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA), but still apply to transactions that occurred before May 10, 1989.

In September 1990, the Resolution Trust Corporation (RTC), in accordance with the requirements of FIRREA, issued a report to Congress and the Oversight Board of the RTC on certain FSLIC-assisted transactions (the "1988/89 FSLIC transactions"). The report recommended further study of the covered loss and other tax issues relating to these transactions. A March 4, 1991 Treasury Department report on tax issues relating to the 1988/89 FSLIC transactions concluded that deductions should not be allowed for losses that are reimbursed with exempt FSLIC assistance.

House Bill

Any FSLIC assistance with respect to any loss of principal, capital, or similar amount upon the disposition of an asset shall be taken into account as compensation for such loss for purposes of section 165 of the Code. Any FSLIC assistance with respect to any debt shall be taken into account for purposes of determining whether such debt is worthless (or the extent to which such debt is worthless) and in determining the amount of any addition to a reserve for bad debts. For this purpose, FSLIC assistance means any assistance or right to assistance with respect to a domestic building and loan association (as defined in section 7701(a)(19) of the Code without regard to subparagraph (C) thereof) under section 406(f) of the National Housing Act or section 21A of the Federal Home Loan Bank Act (or under any similar provision of law).

The House bill does not apply to any financial assistance to which the amendments made by section 1401(a)(3) of FIRREA apply.

No inference is intended as to prior law or as to the treatment of any item to which the bill does not apply.

Effective date.—The House bill applies to financial assistance credited on or after March 4, 1991, with respect to (1) assets disposed of and charge-offs made in taxable years ending on or after March 4, 1991; and (2) assets disposed of and charge-offs made in taxable years ending before March 4, 1991, but only for purposes of determining the amount of any net operating loss carryover to a taxable year ending on or after March 4, 1991.

In accordance with the general estimated tax penalty provisions of the bill, no addition to tax is to be made under section 6654 or 6655 of the Code for any period before March 16, 1994 in the case of a corporation (April 16, 1994 in the case of an individual). However, in providing this relief, no inference is intended as to prior law, the effect of the bill on prior law, or the treatment of any item to which the bill does not apply.

Senate Amendment

The Senate amendment is the same as the House bill.

Conference Agreement

The conference agreement is the same as the House bill and the Senate amendment.

As stated in both the House and Senate committee reports, it is expected that for purposes of the adjusted current earnings adjustment of the corporate alternative minimum tax, there will not be any net positive adjustment to the extent that FSLIC assistance is taken into account as compensation for a loss or in determining worthlessness and there is, therefore, no deductible loss or bad debt charge off. The conferees wish to clarify that this result is expected to apply to all taxpayers, including those who received IRS determinations regarding the treatment of FSLIC assistance for earnings and profits purposes in the form of a ruling or closing agreement. The conferees also wish to clarify that, for all taxpayers, Treasury is expected to treat such FSLIC assistance for other earnings and profits purposes in a manner that is consistent with the purposes of this provision.

5. Modify corporate estimated tax rules (sec. 14225 of the House bill, sec. 8225 of the Senate amendment, sec. 13225 of the conference agreement, and sec. 6655 of the Code)

Present Law

A corporation is subject to an addition to tax for any underpayment of estimated tax. For taxable years beginning after June 30, 1992, and before 1997, a corporation does not have an underpayment of estimated tax if it makes four equal timely estimated tax payments that total at least 97 percent of the tax liability shown on its return for the current taxable year. A corporation may estimate its current year tax liability prior to year-end by annualizing its income through the period ending with either the month or the quarter ending prior to the estimated tax payment due date. For taxable years beginning after 1996, the 97-percent requirement becomes a 91-percent requirement.

A corporation that is not a "large corporation" generally may avoid the addition to tax if it makes four timely estimated tax payments each equal to at least 25 percent of the tax liability shown on its return for the preceding taxable year. A large corporation may also use this rule with respect to its estimated tax payment for the first quarter of its current taxable year. A large corporation is one that had taxable income of $1 million or more for any of the three preceding taxable years.

House Bill

A corporation is required to base its estimated tax payments on 100 percent (rather than 97 percent or 91 percent) of the tax shown on its return for the current year, whether such tax is determined on an actual or annualized basis. The House bill does not change the present-law availability of the 100 percent of last year's liability safe harbor for large or small corporations.

In addition, the bill modifies the rules relating to income annualization for corporate estimated tax purposes. In general, the bill (1) adds a new, third set of periods over which corporations may elect to annualize income and (2) requires corporations to annually elect which of the three periods they will use to annualize income for the year.

Effective date.—The provision is effective for taxable years beginning after December 31, 1993.

Senate Amendment

The Senate amendment is the same as the House bill.

Conference Agreement

The conference agreement follows the House bill and the Senate amendment.

6. Repeal stock-for-debt exception to cancellation of indebtedness income (sec. 8226(a) of the Senate amendment, sec. 13226(a) of the conference agreement, and sec. 108 of the Code)

Present Law

Gross income generally includes cancellation of indebtedness (COD) income. Taxpayers in title 11 cases and insolvent taxpayers, however, generally exclude COD income from gross income but reduce tax attributes by the amount of COD income. The amount of COD income that an insolvent taxpayer excludes cannot exceed the amount by which the taxpayer is insolvent.

The amount of COD income generally is the difference between the adjusted issue price of the debt being canceled and the amount of cash and the value of any property used to satisfy the debt. Thus, for purposes of determining the amount of COD income of a debtor corporation that transfers stock to a creditor in satisfaction of its indebtedness, the corporation generally is treated as realizing COD income equal to the excess of the adjusted issue price of the debt over the fair market value of the stock. However, if the debtor corporation is in a title 11 case or is insolvent, the excess of the debt discharged over the fair market value of the transferred stock generally does not constitute COD income (the "stock-for-debt exception"). Thus, a corporate debtor that qualifies for the stock-for-debt exception is not required to reduce its tax attributes as a result of the debt discharge. The stock-for-debt exception does not apply to the issuance of certain preferred stock, nominal or token shares of stock, or stock issued to unsecured creditors on a relatively disproportionate basis. In the case of an insolvent debtor not in a title 11 case, the exception applies only to the extent the debtor is insolvent.

House Bill

No provision.

Senate Amendment

The Senate amendment repeals the stock-for-debt exception. Thus, regardless of whether a debtor corporation is insolvent or in bankruptcy, the transfer of its stock in satisfaction of its indebtedness is treated as if the corporation satisfied the indebtedness with an amount of money equal to the fair market value of the stock that had been transferred. Under the Senate amendment, an insolvent corporation or a corporation in a title 11 case may exclude from income all or a portion of the COD income created by the transfer of its stock in satisfaction of indebtedness by reducing tax attributes.

Effective date.—The provision is effective for stock transferred in satisfaction of any indebtedness after June 17, 1993, unless (1) the transfer is in a title 11 or similar case filed on or before June 17, 1993; (2) the transfer occurs on or before December 31, 1993, and the transfer is pursuant to a binding contract in effect on June 17, 1993; or (3) the transfer occurs on or before December 31, 1993, and the taxpayer had filed with the SEC on or before June 17, 1993, a registration statement which proposed a stock-for-debt exchange with respect to such indebtedness, and which discussed the possible application of the stock-for-debt exception to such exchange.

Conference Agreement

The conference agreement follows the Senate amendment with the following modifications.

The conference agreement provides authority to the Treasury Department to promulgate such regulations as are necessary to coordinate the present-law rules regarding the acquisition by a corporation of its debt from a shareholder as a contribution to capital (sec. 108(e)(6)) with the repeal of the stock-for-debt exception.

In addition, the conferees clarify that no inference is intended with the enactment of this provision as to the treatment of any cancellation of the indebtedness of any entity that is not a corporation in exchange for an ownership or equity interest in such entity.

Effective date.—The provision is effective for stock transferred after December 31, 1994, in satisfaction of any indebtedness, unless the transfer is in a title 11 or similar case that was filed on or before December 31, 1993.

7. Treatment of passive activity losses and credits and alternative minimum tax credits in certain discharges of indebtedness (sec. 8226(b) of the Senate amendment, sec. 13226(b) of the conference agreement, and sec. 108(b) of the Code)

Present Law

The discharge of indebtedness generally gives rise to gross income to the debtor taxpayer. Present law provides exceptions to this general rule. Among the exceptions are rules providing that income from the discharge of indebtedness of the taxpayer is excluded from income if the discharge occurs in a title 11 case, the discharge occurs when the taxpayer is insolvent, or in the case of certain farm indebtedness (sec. 108(a)(1)). The amount excluded from income under these exceptions is applied to reduce tax attributes of the taxpayer. The tax attributes reduced (in order) are (1) net operating losses and carryovers, (2) general business credit carryovers, (3) net capital losses and capital loss carryovers, (4) the basis of certain property of the taxpayer, and (5) foreign tax credit carryovers (sec. 108(b)). The amount of the reduction is generally one dollar for each dollar excluded, except that the reduction in the case of credits is 33-1/3 cents for each dollar excluded.

Under present law, the passive loss rules limit deductions and credits from passive trade or business activities (sec. 469). Deductions and credits suspended under these rules are carried forward to the next taxable year, and suspended losses are allowed in full when the taxpayer disposes of his entire interest in the passive activity to an unrelated person. Passive losses and credits are not tax attributes that are reduced under the rule relating to exclusion of discharge of indebtedness income.

Present law generally allows a minimum tax credit against a taxpayer's regular tax for the taxable year, for taxpayers who paid alternative minimum tax in a prior year (sec. 53). The minimum tax credit generally is the excess of (1) the sum of the minimum tax imposed for all prior taxable years following 1986, over (2) the amount allowed as a minimum tax credit for those prior taxable years. Minimum tax credits are not tax attributes that are reduced under the rule relating to exclusion of discharge of indebtedness income.

House Bill

No provision.

Senate Amendment

The Senate amendment adds additional tax attributes to the list of those that are reduced in the case of a discharge of indebtedness of the taxpayer that is excludable from income under section 108(a)(1). The attributes added are (1) minimum tax credits as of the beginning of the taxable year immediately after the taxable year of the discharge, and (2) passive activity loss and credit carryovers from the taxable year of the discharge. The amount of the reduction is generally one dollar for each dollar excluded, except that the reduction in the case of credits is 33-1/3 cents for each dollar excluded.

Effective date.—The provision is effective for discharges of indebtedness in taxable years beginning after December 31, 1993.

Conference Agreement

The conference agreement follows the Senate amendment.

8. Limitation on section 936 credit (sec. 14226 of the House bill, sec. 8227 of the Senate amendment, sec. 13227 of the conference agreement, and secs. 56, 936 and 7652 of the Code)

Present Law

Section 936 credit

Certain domestic corporations with business operations in the U.S. possessions[68] may elect the use of the section 936 credit which generally eliminates the U.S. tax on certain income related to their operations in the possessions.[69] Income exempt from U.S. tax under this provision falls into two broad categories: business income, which in order to be exempt must be income treated as foreign source income derived from the active conduct of a trade or business within a U.S. possession or from the sale or exchange of substantially all of the assets that were used in such a trade or business; and investment income, which in order to be exempt must be derived from certain investments in the possessions or in certain Caribbean Basin countries. The investment income exempted under the provision is known as "qualified possession source investment income" (QPSII). For these and other purposes, income derived within a possession is encompassed within the term "foreign source income."

In order to qualify for the section 936 credit, a domestic corporation must satisfy two requirements. Under one requirement, the corporation must be treated as deriving at least 75 percent of its gross income from the active conduct of a trade or business within a possession over a three-year period. Under the other requirement, the corporation must be treated as deriving at least 80 percent of its gross income from sources within a possession during that same three-year period.

Three alternative rules are provided that relate to allocating income from intangible property between a domestic corporation that elects the section 936 credit (a "possession corporation") and its U.S. shareholders. The general rule is to prohibit the possession corporation from earning any return on intangible property. A possession corporation can instead elect to subject itself to one of two alternative rules, if it satisfies certain conditions.

One such rule is referred to as the "cost sharing method." Use of this method requires the possession corporation to pay to the appropriate members of its affiliated group of corporations (including foreign affiliates) an amount which represents its current share of the costs of the research and development expenses of the group. The Code determines that share to be the greater of (1) the total amount of the group's research and development expenses concerning the possession corporation's product area, multiplied by 110 percent of the proportion of its sales as compared to total product area sales of the group; or (2) the amount of the royalty payment or inclusion that would be required under sections 367(d) and 482 with respect to intangible assets which the possession corporation is treated as owning under the cost sharing method, were the possession corporation a foreign corporation (whether or not the intangible assets actually are transferred to the possession corporation). By making this cost sharing payment, the possession corporation becomes entitled to treat its income as including a return from certain intangibles, primarily manufacturing intangibles, associated with the products it manufactures in the possessions.

The alternative elective rule for allocating income from intangible property between a possession corporation and its U.S. affiliates is a "profit split" approach. This method generally permits allocation to the possession corporation of 50 percent of the affiliated group of U.S. corporations' combined taxable income derived from sales of products which are manufactured in a possession.[70]

Dividends paid by a possession corporation to a U.S. shareholder may qualify for the deduction for dividends received from a domestic corporation (sec. 243). In cases where at least 80 percent of the stock of the possession corporation is owned by a single domestic corporation, the possession corporation's possession source income generally may be distributed without the parent corporation incurring any regular U.S. income tax.

Taxes paid or accrued by possession corporations to foreign countries or possessions on income which is taken into account in determining the section 936 credit are neither deductible nor allowable for purposes of determining the foreign tax credit.

A possession corporation's income, the tax on which may be offset by the section 936 credit, is not included in the alternative minimum taxable income (AMTI) of the possession corporation. Thus, possession corporations generally are exempt not only from the regular income tax but also from the alternative minimum tax (AMT). Moreover, dividends received by a U.S. corporation from a possession corporation generally do not constitute AMTI of the recipient corporation since, as described above, they may be offset by the dividends received deduction.

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[68] Possessions to which special tax rules presently apply include Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the U.S. Virgin Islands.

[69] In contrast to the foreign tax credit, the section 936 credit is a "tax sparing" credit. That is, the credit is granted whether or not the electing corporation pays income tax to the possession.

[70] A special allocation of research and development expenses as required by section 936(h)(5)(C)(ii)(II) can cause the proportion of the combined taxable income which is allocable to the possession corporation to be less than 50 percent.

For purposes of determining a U.S. corporation's adjustment to AMTI based on adjusted current earnings (ACE), a deduction is allowed for certain dividends received. Specifically, a deduction is available (to the extent allowed under section 243 or 245) for any dividend that qualifies for the 100-percent dividends received deduction for regular tax purposes, or that is received from a 20-percent owned corporation (as defined in section 243(c)(2)), but only to the extent that the dividend is attributable to income of the paying corporation which is subject to U.S. income tax *determined after the application of section 936*. A dividend received by a U.S. corporation from its wholly owned possession corporation subsidiary generally does not qualify for the dividends received deduction, and thus increases the ACE of the recipient, because the income of the possession corporation typically is not taxed by the United States due to the section 936 credit.

For purposes of computing the foreign tax credit, the Code provides that dividends paid by a possession corporation to an affiliated U.S. corporation are characterized as foreign source income. Unless an exception applies, dividends are subject to the separate foreign tax credit limitation for passive income. In computing the AMT foreign tax credit, 75 percent of any withholding or income tax paid to a possession with respect to dividends received from a possession corporation generally is treated as a creditable tax.[71] Moreover for such computation, taxes paid to a possession by a possession corporation are deemed to be such a withholding tax for this purpose to the extent they would be treated as taxes paid by the recipient of the dividend under rules similar to the rules of the indirect foreign tax credit (secs. 78 and 902) if the possession corporation were a foreign corporation.

Cover over of excise taxes

U.S. excise taxes generally do not apply within the possessions, including Puerto Rico and the U.S. Virgin Islands. Articles that are manufactured in the possessions and brought into the United States for use or consumption are taxed on entry into the United States in the same manner as if the articles were imported from a foreign country. Thus, under general excise tax principles, these articles are taxed at the same rate that applies to domestically produced like articles.

In the case of excise taxes on certain articles brought into the United States from Puerto Rico and the Virgin Islands, and in the case of the distilled spirits excise tax on rum, a portion of the revenues is transferred ("covered over") to the treasuries of Puerto Rico and the Virgin Islands. This revenue cover over is significantly limited, both as to the taxes included and as to activities (e.g., manufacturing value added) that must occur in the possession from which the article comes as a condition of payment.

For example, revenues equal to $10.50 (less an administrative fee) per proof gallon of the $13.50 per proof gallon excise tax on rum imported from any foreign country is covered over to Puerto Rico and the Virgin Islands. On the other hand, cover over of tobacco excise tax revenues to Puerto Rico is limited to products where significant manufacturing value is added in the possession from which the product enters the United States, and no cover over is allowed for taxes on distilled spirits other than rum. Further, no cover over is permitted for many other excise taxes, e.g., the fuels excise taxes currently included in the Internal Revenue Code.

House Bill

Section 936 credit

In general, the House bill provides that the section 936 credit is determined as under present law, but is subject to two limitations. Under the first limitation, the credit allowed to a possession corporation for a taxable year against U.S. tax on its business income (i.e., income derived from the active conduct of a possession-based business, or from the sale of assets used in such a business) is limited to 60 percent of the qualified possession wages the possession corporation pays to its employees.

For purposes of this limitation, qualified possession wages generally are wages paid or incurred by the possession corporation during the taxable year to any employee for services performed in a U.S. possession, but only if the services are performed while the principal place of employment of the employee is within the possession. In computing the wage-based credit limitation, only certain wages paid to employees in the possessions are taken into account. For this purpose, wages are defined by reference to the Federal Unemployment Tax Act (FUTA) definition of wages, and the amount of wages taken into account for each employee is limited to the maximum earnings subject to tax under the OASDI portion of Social Security (currently $57,600).

The House bill provides that qualified possession wages do not include amounts paid to employees who are assigned by the employer to perform services for another person, unless the principal trade or business of the employer (and any related possession corporations) is to make employees available for temporary periods to other persons in return for compensation.

The second limitation placed on the section 936 credit under the House bill deals with QPSII. Under this provision, the credit allowed against U.S. tax on QPSII is limited in cases where the possession corporation's assets that generate QPSII exceed 80 percent of its qualified tangible business investment in the possessions. In such a case, no section 936 credit is allowed against U.S. tax on the portion (determined on a pro-rata basis) of its QPSII attributable to QPSII assets which exceed that 80-percent threshold.

For purposes of the QPSII limitation, the amount of a possession corporation's QPSII assets for a taxable year is determined by computing the average of the aggregate adjusted bases (for purposes of computing earnings and profits) of its assets which generate QPSII as of the close of each quarter of that year. Similarly, a possession corporation's qualified tangible business investment for a taxable year is determined by computing the average of the aggregate adjusted bases (for purposes of computing earnings and profits) of tangible property used in a possession by the corporation in the conduct of an active trade or business.

The House bill allows an affiliated group of corporations (generally as defined in sec. 1504, but treating possession corporations as includible corporations) to elect to consolidate related possession corporations for purposes of determining the application of the bill's two limitations on the section 936 credit. For a group so electing, the available consolidated credit amount is to be allocated among the possession corporations under rules prescribed by the Treasury Secretary.

If the section 936 credit of a possession corporation is reduced by either of the limitations for a taxable year, the House bill permits the corporation to claim a deduction for a portion of its income taxes paid or accrued to a possession for that year. The portion of the taxes so deductible would be the portion that is allocable on a pro-rata basis to the corporation's taxable income (computed before taking into account any possession tax), the U.S. tax on which is not offset by the section 936 credit as a result of the bill's limitations.

The House bill requires possession corporations to certify that the establishment of new operations in a possession after May 13, 1993 (or the addition, after that date, to an existing possession-based business) will not result in a decrease in employment at an existing business operation of the corporation or a related person in the United States. If the corporation fails to provide the certification with respect to such an establishment or addition, or if there is reason to believe that the establishment or addition was done with the intention of closing down a related U.S.-based operation, then for purposes of computing the House bill's limitations on the section 936 credit, the wages paid and the tangible business property used by the possession corporation with respect to the new operation will be disregarded.

Foreign tax credit limitation for dividends from possession corporations

The House bill also creates a new separate foreign tax credit limitation category for purposes of computing the AMT foreign tax credit. The new category would include the portion of dividends received from a possession corporation for which the dividends received deduction is disallowed, and thus is included in alternative minimum taxable income.

Effective date

The provision is effective for taxable years beginning after December 31, 1993. For taxable years beginning in 1994 and taxable years beginning in 1995, possession corporations may elect to claim an alternative credit not subject to the House bill's two limitations described above. The section 936 credit would be 80 percent of the current law-credit if this alternative is elected for taxable years beginning in 1994, and 60 percent of the current-law credit if elected for taxable years beginning in 1995. Taxes imposed by the possessions on income the U.S. tax on which is not offset by the section 936 credit as a result of the percentage limitations are deductible by the possession corporation.

Senate Amendment

Section 936 credit

In general

The Senate amendment generally cuts back the income-based section 936 credit by 2.5 percent.

In general, the Senate amendment provides that the section 936 credit allowed to a possession corporation for a taxable year against U.S. tax on its active business income (i.e., income derived from the active conduct of a possession-based business, or from the sale of assets used in such a business) is determined as under present law (as modified by the 2.5 percent reduction), but is subject to either of two alternative limitations. One alternative limitation is based on factors that reflect the corporation's economic activity in the possessions (the "economic-activity limitation"), and the other limitation is based on a statutorily defined percentage of the section 936 credit that would be allowable under present-law rules (the "percentage limitation").

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[71] The amount of tax allowable for purposes of the credit is limited to 75 percent of possessions tax paid in order to correspond to the portion of a dividend from a possession corporation that would be included in the recipient shareholder's AMTI as a result of the ACE adjustment.

The option of which alternative limitation to apply is left to the taxpayer. In order to utilize the percentage limitation, however, a corporation must elect use of that limitation for its first taxable year beginning after 1993 for which it claims a section 936 credit. Once a possession corporation elects to use the percentage limitation, it must continue to compute its section 936 credit under that limitation for all subsequent taxable years unless the election is revoked.

The Senate amendment includes a consistency rule that requires all affiliated possession corporations to utilize the same alternative limitation. If, for example, a possession corporation that uses the percentage limitation becomes a member of an affiliated group that contains a second possession corporation that uses the economic-activity limitation, then the first corporation will be deemed to have revoked its election to use the percentage limitation. The determination whether a possession corporation is part of an affiliated group generally is made by reference to the consolidated return rules, except that stock owned by attribution under the rules of section 1563 is treated as owned directly, and the exclusions from the definition of "includible corporation" listed in section 1504(b) are disregarded. The Senate amendment also grants authority to the Treasury Secretary to develop rules that would treat 2 or more possession corporations as members of the same affiliated group to prevent avoidance of the consistency rule through deconsolidation or other means.

Other than the 2.5 percent reduction described above, the Senate amendment does not reduce the present-law section 936 credit against U.S. tax on QPSII.

Economic-activity limitation

In general

Under the economic activity limitation, the credit allowed to a possession corporation for a taxable year against U.S. tax on its business income may not exceed the sum of the following three components: (1) 95 percent of qualified compensation; (2) an applicable percentage of depreciation deductions claimed for regular tax purposes by the corporation for the taxable year with respect to qualified tangible property—i.e., tangible property located in a possession and used there by the corporation in the active conduct of its trade or business; and (3) if the corporation does not elect the profit-split method for computing its income, a portion of the possession income taxes it incurs during the taxable year. In order to compute the U.S. tax liability (if any) on the active business income of a possession corporation under the economic-activity limitation, the sum of the three components listed above is subtracted from an amount of pre-credit U.S. tax that would be owed if taxable income of the possession corporation were grossed up by qualified possession compensation and depreciation on qualified tangible property.

Compensation

For purposes of the economic-activity limitation, qualified compensation generally is the sum of (1) the aggregate amount of the possession corporation's qualified possession wages for the taxable year, and (2) its allocable employee fringe benefit expenses for the taxable year. The Senate amendment defines "qualified possession wages" as wages paid or incurred by the possession corporation during the taxable year to any employee for services performed in a possession, but only if the services are performed while the principal place of employment of the employee is within that possession.

For this purpose, the term wages refers to the Federal Unemployment Tax Act (FUTA) definition of wages, and the cumulative amount of wages for each employee that are taken into account for a taxable year in computing the credit limitation may not exceed 85 percent of the maximum earnings subject to tax under the OASDI portion of Social Security (currently $57,600). The Senate amendment specifies that the Treasury Secretary will provide rules for making appropriate adjustments to this limit in the cases of part-time employees and of employees whose principal place of employment is not within a possession for the entire year. In addition, the Senate amendment does not include in qualified possession wages amounts paid to employees who are assigned by the employer to perform services for another person, unless the principal trade or business of the employer (and any related possession corporations) is to make employees available for temporary periods to other persons in return for compensation.

Allocable employee fringe benefit expenses are equal to the aggregate amount allowable to the possession corporation as a deduction for the taxable year of the fringe benefits listed below, multiplied by a fraction the numerator of which is the aggregate amount of the corporation's qualified possession wages (as defined above) for the year and the denominator of which is the aggregate amount of the wages it pays or incurs during that year. In no event, however, may the corporation's allocable employee fringe benefit expenses for a taxable year exceed 15 percent of the aggregate amount of its qualified possession wages for that year.

Fringe benefit expenses that are taken into account for purposes of determining the credit limitation are (1) employer contributions under a stock bonus, pension, profit-sharing, or annuity plan, (2) employer-provided coverage under any accident or health plan for employees, and (3) the cost of life or disability insurance provided to employees. Fringe benefit expenses do not include any amount that is treated as wages.

Depreciation

Depreciation deductions taken into account in determining the economic-activity limitation are as follows. With respect to short-life qualified tangible property (i.e., qualified tangible property to which section 168 applies and which is 3-year or 5-year property as classified under section 168(e)), 50 percent of the depreciation deductions allowable to the possession corporation for the taxable year are taken into account. With respect to medium-life qualified tangible property (i.e., qualified tangible property to which section 168 applies and which is classified as 7-year or 10-year property under section 168(e)), 75 percent of such deductions are taken into account. With respect to long-life qualified tangible property (i.e., all other qualified tangible property to which section 168 applies), 100 percent of such deductions are taken into account.

Possession income tax

As a general rule, for possession corporations that do not elect the profit-split method, taxes paid or accrued to a possession with respect to taxable income which is taken into account in computing the section 936 credit are factored into the credit-limitation base. However, possession income taxes paid in excess of a 9-percent effective rate of tax are not included for purposes of determining the limitation. Moreover, only the portion of taxes satisfying the effective-rate requirement that are allocable (on a pro-rata basis taking all possession income taxes into account) to nonsheltered income are so included. The fraction of possession income taxes allocated to nonsheltered income is determined by computing the ratio of two hypothetical U.S. tax amounts that are computed under the assumption that no credit or deduction is allowed for possession income taxes.

The numerator of the ratio described above is the U.S. tax liability of the possession corporation that would arise under the bill by virtue of the economic-activity limitation determined without regard to any credit or deduction for possession income taxes. The denominator of the ratio is the pre-section 936 credit U.S. tax liability of the possession corporation that would be imposed on the income of the corporation (such income being computed under the rules that apply under current section 936) without regard to any credit or deduction for possession income taxes.

A possession corporation that utilizes the profit-split method for allocating any income from intangible property for the taxable year is not permitted to include any taxes in its credit-limitation base. Such a corporation, however, is allowed a deduction for a portion of its possession income taxes paid or accrued during that taxable year. The deductible portion of possession income taxes is the portion that is allocable (on a pro-rata basis) to the corporation's taxable income (computed before taking into account any deduction for such taxes), the U.S. tax on which is not offset by the section 936 credit as a result of the Senate amendment's limitation.

Denial of double benefit

For purposes of computing the pre-section 936 credit U.S. income tax liability of a possession corporation that utilizes the economic-activity limitation, the Senate amendment requires the corporation to compute taxable income by reducing its otherwise deductible amounts of compensation and depreciation by the amounts that are included in its credit-limitation base.

Election to treat affiliated corporations as one corporation

For purposes of computing the economic-activity limitation, the Senate amendment allows an affiliated group of corporations (generally as defined in sec. 1504, but treating possession corporations and foreign corporations as includible corporations) to elect to treat all affiliated possession corporations as one corporation. For a group so electing, the available consolidated credit amount is to be allocated among the possession corporations of the group under rules prescribed by the Treasury Secretary. Any election to consolidate applies to the taxable year for which made and to all succeeding taxable years unless revoked with the consent of the Treasury Secretary.

Percentage limitation

Under the percentage limitation, the section 936 credit allowed to a possession corporation against U.S. tax on business income for a taxable year is limited to an applicable percentage (40 percent once fully phased in) of the credit that would be allowable under present-law rules (as modified by the 2.5 percent reduction). Under a transition rule that provides a 5-year phase in, the applicable percentage is as follows:

Taxable years beginning in:	*Applicable percentage*
1994	60
1995	55
1996	50
1997	45
1998 and thereafter	40

A taxpayer that utilizes the percentage limitation is permitted a deduction for a portion of its possession income taxes paid or accrued during the taxable year. The portion of the taxes so deductible is the portion that is allocable (on a pro-rata basis) to the corporation's taxable income (computed before taking into account any deduction for possession tax), the U.S. tax on which is not offset by the section 936 credit as a result of the limitation.

Foreign tax credit limitation for dividends from possession corporations

The Senate amendment also creates a new separate foreign tax credit limitation category for purposes of computing the AMT foreign tax credit. The new category includes the portion of dividends received from a possession corporation for which the dividends received deduction is disallowed, and thus is included in alternative minimum taxable income.

Excise tax cover over

The Senate amendment also temporarily increases the cover over of rum excise taxes to Puerto Rico and the Virgin Islands from $10.50 per proof gallon to $11.30 per proof gallon. This increased cover over rate applies in the case of distilled spirits brought into the United States during the five year period beginning on July 1, 1995.

Effective date

The provision generally is effective for taxable years beginning after December 31, 1993.

Conference Agreement

The conference agreement follows the Senate amendment with modifications and clarifications described below.

First, the conference agreement does not include the provision requiring a reduction of 2.5 percent of a taxpayer's otherwise allowable section 936 credit.

Second, the conference agreement provides that the economic-activity limitation base includes 60 percent of qualified compensation, 15 percent of depreciation deductions for short-life qualified tangible property, 40 percent of depreciation deductions for medium-life qualified tangible property, and 65 percent of depreciation deductions for long-life qualified tangible property. The conference agreement further provides that there is no disallowance of deductions for compensation or depreciation amounts which are included in the credit-limitation base.

Third, the conference agreement provides that the temporary increase in the cover over of rum excise taxes to Puerto Rico and the Virgin Islands applies in the case of distilled spirits brought into the United States during the five-year period beginning on October 1, 1993.

In addition, the conferees intend that the Secretary take into account the significant nature of the modifications made by the conference agreement to the operation of the section 936 credit in cases where a possession corporation either seeks to change its method of allocating income from intangible property or to revoke its election to use the section 936 credit.

9. Enhance earnings stripping rules (sec. 14227 of the House bill, sec. 8228 of the Senate amendment, sec. 13228 of the conference agreement, and sec. 163(j) of the Code)

Present Law

Interest expenses of a U.S. corporate taxpayer are generally deductible, whether or not the interest is paid to a related party and whether or not the interest income is subject to U.S. taxation in the hands of the recipient. In certain cases where interest is paid by a corporation to a related person, and no U.S. tax is imposed on the recipient's interest income, the so-called "earnings stripping rules" in the Code provide for denial of interest deductions by the corporate payor to the extent that the corporation's net interest expenses exceed 50 percent of its adjusted taxable income. The disallowance is limited by, among other things, the amount of tax-exempt interest paid to related persons. The disallowance does not apply to interest on debt with a fixed term which was issued on or before July 10, 1989, or which was issued after that date pursuant to certain written binding contracts in effect on that date.

The Treasury is authorized to provide such regulations as may be appropriate to prevent the avoidance of the purposes of this provision, including regulations that would disallow deductions for interest paid to unrelated creditors in certain cases: for example, certain cases that involve guarantees of the debt by parties related to the debtor. The legislative history accompanying the bill enacting the provision, however, indicates an intent that such regulations not generally subject third-party interest to disallowance whenever a guarantee is given in the ordinary course. The legislative history further indicates an expectation that any such regulations would not apply to debt outstanding prior to notice of the rule if and to the extent that the regulations depart from positions the Service and Treasury might properly take under analogous principles of law that would recharacterize guaranteed debt as equity.

To date, Treasury has promulgated no proposed or final regulations that interpret the application of the earnings stripping rules to third-party debt that is guaranteed by a person related to the debtor.

House Bill

Under the House bill, interest is subject to disallowance under the earnings stripping rules without regard to whether it is interest on a fixed-term obligation issued before, on, or after July 10, 1989. Under the House bill, interest paid on a loan from an unrelated party generally is treated under the earnings stripping rules as interest paid to a related person with respect to which no U.S. tax is imposed if no gross-basis U.S. income tax is imposed on the interest (whether or not the interest recipient is subject to net-basis U.S. income tax with respect to that interest), a related person guaranteed the loan, and the related person is either exempt from U.S. Federal income tax or is a foreign person. Exceptions apply where the taxpayer controls the guarantor, and in cases, identified by regulation, where the interest on the indebtedness would have been subject to net basis tax if the interest had been paid to the guarantor. Except as provided in regulations, a guarantee is defined to include any arrangement under which a person directly or indirectly assures, on a conditional or unconditional basis, the payment of another's obligation.

Effective date.—The House bill provision applies to any interest paid or accrued in taxable years beginning after December 31, 1993.

Senate Amendment

The Senate amendment is the same as the House bill.

Conference Agreement

The conference agreement follows the House bill and the Senate amendment.

C. Foreign Provisions

1. Current taxation of certain earnings of controlled foreign corporations (secs. 14231-14233 of the House bill, secs. 8231-8233 of the Senate amendment, secs. 13231-13233 of the conference agreement, and secs. 951(a), 954(c), 956, 959, 960(b), 1296, 1297, and new sec. 956A of the Code)

Present Law

U.S. citizens and residents and U.S. corporations (collectively, "U.S. persons") generally are taxed currently by the United States on their worldwide income. Income earned by a foreign corporation, the stock of which is owned in whole or in part by U.S. persons, generally is not taxed by the United States until the foreign corporation repatriates those earnings by payment to its U.S. stockholders.

Under the controlled foreign corporation rules of subpart F, a controlled foreign corporation is defined generally as any foreign corporation if U.S. persons own more than 50 percent of the corporation's stock, taking into account only so-called "U.S. shareholders": namely, those U.S. persons that own (directly, indirectly or by attribution) at least 10 percent of its voting stock. A "U.S. shareholder" may be taxed by the United States on certain earnings of the controlled foreign corporation that have not been distributed by the foreign corporation to the U.S. shareholder. Such "inclusions" of undistributed controlled foreign corporation earnings are triggered by two different provisions of the controlled foreign corporation rules.

Under one such provision, a U.S. shareholder is taxed currently on its proportionate share of the controlled foreign corporation's "subpart F income" earned during the taxable year. Subpart F income typically is foreign income that is relatively movable from one taxing jurisdiction to another and that is subject to low rates of foreign tax relative to the U.S. rate. Excluded from the definition of subpart F income, among other things, are certain dividends and interest received from a related corporation organized and operated in the same foreign country as the recipient.

The other provision taxing U.S. shareholders on undistributed controlled foreign corporation earnings applies to the controlled foreign corporation's total current or accumulated earnings (other than subpart F income), to the extent of an increase in the amount of those earnings invested by the controlled foreign corporation in certain U.S. property (as defined in Code section 956).

Earnings and profits of a controlled foreign corporation that have been included in the income of U.S. shareholders before actual repatriation are not taxed again when such earnings are in fact distributed to the U.S. shareholders.

If any foreign corporation (including a controlled foreign corporation) is a "passive foreign investment company" (PFIC), U.S. persons (including 10-percent "U.S. shareholders") that own any stock in the PFIC may be subject to one of two other sets of operating rules that eliminate or reduce the benefits of deferral. A PFIC generally is defined as any foreign corporation if (1) 75 percent or more of its gross income for the taxable year consists of passive income, or (2) 50 percent or more of its assets consist of passive assets, defined as assets that produce, or are held for the production of, passive income.

A U.S. person owning PFIC stock may elect to include currently in gross income its share of the PFIC's total earnings. A nonelecting U.S. person owning PFIC stock pays no current tax on the PFIC's undistributed income. However, when realizing income earned through ownership of PFIC stock (such as certain dividends distributed by the PFIC or capital gains from selling PFIC stock), the nonelecting U.S. person may pay an additional interest charge.

House Bill

In general

The House bill limits the availability of deferral of U.S. tax on certain earnings of controlled foreign corporations. As explained further below, the bill generally requires current inclusions in the income of U.S. shareholders of a controlled foreign corporation to the extent of the corporation's accumulated earnings invested in excess passive assets. The bill also conforms the treatment of earnings of controlled foreign corporations invested in U.S. property to the new rules for earnings invested in excess passive assets, and makes related modifications to other rules applicable to controlled foreign corporations and PFICs.

Inclusions based on excess passive assets

Amount included

The House bill adds new section 956A to the Code, which measures the amount of retained earnings of a controlled foreign corporation that potentially is subject to inclusion in the income of a U.S. shareholder of the foreign corporation as a result of the foreign corporation's investment in "excess passive assets." The amount determined under section 956A with respect to a U.S. shareholder of a controlled foreign corporation is the lesser of two amounts.

The first amount is the excess (if any) of the U.S. shareholder's pro rata share of the controlled foreign corporation's "excess passive assets," over that portion of the retained earnings of the foreign corporation that is treated as having been previously included in the income of the U.S. shareholder on account of excess passive assets. The second amount, defined as the "applicable earnings" of the controlled foreign corporation, is the U.S. shareholder's pro rata share of the controlled foreign corporation's current and accumulated earnings and profits (but not reduced by a deficit in accumulated earnings and profits), reduced by the portion of the retained earnings of the foreign corporation that was previously included in the income of the U.S. shareholder on account of either investments in U.S. property or investments in excess passive assets.

The income inclusion for a U.S. shareholder of the controlled foreign corporation is the amount determined as above under new section 956A, less retained earnings of the controlled foreign corporation that are treated as having been previously taxed to the U.S. shareholder as subpart F income of the controlled foreign corporation under section 951(a)(1)(A).

Excess passive assets

"Excess passive assets" are defined as the excess (if any) for the taxable year of the average amount of passive assets held by the controlled foreign corporation as of the close of each quarter of its taxable year, over 25 percent of the average amount of total assets held by the controlled foreign corporation as of the close of each quarter of its taxable year. For this purpose, an asset is measured by its adjusted basis as determined for purposes of computing earnings and profits.[1]

Modification of section 956

The House bill treats earnings invested by a controlled foreign corporation in U.S. property under revised rules that parallel those that govern the treatment of excess passive assets, as described above. Under the revised rules, the amount determined under section 956 with respect to a U.S. shareholder of a controlled foreign corporation is the lesser of two amounts.

The first amount is the excess (if any) of the U.S. shareholder's pro rata share of the U.S. property of the controlled foreign corporation, over that portion of the retained earnings of the foreign corporation that is treated as having been previously included in the income of the U.S. shareholder on account of earnings invested in U.S. property. The second amount is the U.S. shareholder's pro rata share of the controlled foreign corporation's current and accumulated earnings and profits (but not reduced by a deficit in accumulated earnings and profits), reduced by the portion of the retained earnings of the foreign corporation that was previously included in the income of the U.S. shareholder on account of either investments in U.S. property or investments in excess passive assets.

The income inclusion for a U.S. shareholder of the controlled foreign corporation is the amount determined as above under section 956, less retained earnings of the controlled foreign corporation that are treated as having been previously taxed to the U.S. shareholder as subpart F income of the controlled foreign corporation under section 951(a)(1)(A).

Study on investments in U.S. property

The House bill requires that the Treasury Department study the tax treatment of investments by controlled foreign corporations in obligations of U.S. persons other than corporations, and provide the Committee on Ways and Means with a report of such study by December 31, 1993. The study is to include the Treasury's views as to whether those rules should be amended insofar as they relate to the treatment of investments by controlled foreign corporations in the obligations of U.S. persons other than corporations, along with a discussion of the merits and consequences of any such amendment.

Other modifications to the subpart F rules

The House bill limits the application of the same-country exception to the determination of subpart F income in the case of certain dividends received by controlled foreign corporations. Under the bill, amounts distributed with respect to stock owned by the controlled foreign corporation do not qualify for the same-country exception to the extent that the distributed earnings and profits were accumulated by the distributing corporation during periods when the controlled foreign corporation did not hold the stock. In addition, the House bill modifies the effect on the foreign tax credit limitation of distributions of previously taxed income. Under the bill, receipt of a distribution of previously taxed income by a U.S. shareholder of one or more controlled foreign corporations increases the U.S. shareholder's foreign tax credit limitation to the extent of the aggregate amount in a single "excess limitation account" maintained by that U.S. shareholder for each of its separate foreign tax credit limitation categories.

Modification of certain PFIC rules

The House bill makes several modifications to the PFIC rules:

The House bill modifies the present-law rules for applying the PFIC asset test in the case of U.S. shareholders of controlled foreign corporations. In testing a controlled foreign corporation for PFIC status with respect to its "U.S. shareholders," under the bill, assets are measured by adjusted basis as determined for purposes of calculating earnings and profits, with no option to use fair market value.

The House bill excludes from the definition of passive income under the PFIC rules income derived in the active conduct of a securities business by certain corporations registered in the United States as brokers or dealers in securities, and, to the extent provided in Treasury regulations, income so derived by any other corporation engaged in the active conduct of a trade or business as a broker or dealer in securities. As with the asset-valuation rule above, this exclusion applies only to a controlled foreign corporation, and only for purposes of the treatment of its U.S. shareholders. The bill provides that similar rules apply in determining whether the income of a related person is passive (whether or not the related person is a corporation), solely for purposes of classifying amounts paid by that related person to a controlled foreign corporation pursuant to the PFIC related-person rule (sec. 1296(b)(2)(C)).

Under the House bill, inclusions of income on account of investments of earnings of a controlled foreign corporation in U.S. property, or ownership of excess passive assets, are treated as distributions for purposes of computing the interest charge on excess distributions to the U.S. shareholders of PFICs that are controlled foreign corporations.

The House bill treats certain leased property as assets held by the foreign corporation for purposes of the PFIC asset test. This rule applies to tangible personal property with respect to which the foreign corporation is the lessee under a lease with a term of at least 12 months. Under the bill, the measure of leased property for purposes of applying the asset test is the unamortized portion of the present value of the payments under the lease.

Effective date

The House bill generally is effective for taxable years of foreign corporations beginning after September 30, 1993, and for taxable years of domestic shareholders in which or with which such taxable years end.

Under the House bill, the excess passive assets provision is phased in during taxable years beginning after September 30, 1993, and before October 1, 1997. The amount of income included under the provision is 20 percent of the amount otherwise determined in the case of taxable years beginning after September 30, 1993, and before October 1, 1994; 25 percent of the amount otherwise determined in the case of taxable years beginning after September 30, 1994, and before October 1, 1995; 35 percent of the amount otherwise determined in the case of taxable years beginning after September 30, 1995, and before October 1, 1996; and 50 percent of the amount otherwise determined in the case of taxable years beginning after September 30, 1996, and before

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[1] Unlike the PFIC rules of present law, the House bill offers no option to measure assets by fair market value.

October 1, 1997. The provision is fully effective for taxable years beginning after September 30, 1997.

Senate Amendment

The Senate amendment is the same as the House bill, except as described below.

Inclusions based on excess passive assets

The Senate amendment applies only to earnings and profits of the controlled foreign corporation that are attributable to taxable years beginning after September 30, 1993, and includes certain aggregation and anti-abuse rules.

Under the Senate amendment, the "applicable earnings" of the controlled foreign corporation include only that portion of the controlled foreign corporation's total current earnings and profits (but not reduced by a deficit in accumulated earnings and profits) and earnings and profits to the extent accumulated in taxable years beginning after September 30, 1993. In computing the potential amount of earnings invested in excess passive assets that might be includable in the income of the U.S shareholders of the controlled foreign corporation, applicable earnings under the Senate amendment are reduced by the portion of such post-1993 retained earnings of the foreign corporation that was previously included in the income of the U.S. shareholder on account of either investments in U.S. property or investments in excess passive assets.

The Senate amendment provides an aggregation rule applicable to any chain of controlled foreign corporations that are connected through stock ownership, where more than 50 percent, by vote or value, of the stock of each member of the chain (other than the top-tier controlled foreign corporation) is owned, directly or indirectly, by one or more other controlled foreign corporations that are members of the chain ("CFC chain"). Under this rule, the amount of excess passive assets of the CFC chain would be determined on the basis of the sum of the assets of each controlled foreign corporation in the CFC chain and the sum of the passive assets of each controlled foreign corporation in the CFC chain. The total applicable earnings of the CFC chain would be determined as the sum of the applicable earnings of each controlled foreign corporation in the CFC chain. Each controlled foreign corporation in the CFC chain would be treated as holding its pro rata share of the excess passive assets of the CFC chain, on the basis of that controlled foreign corporation's percentage share of the total applicable earnings of the CFC chain.

Modification of certain PFIC rules

The Senate amendment includes special rules to increase the basis of assets (for purposes of this provision) to reflect certain research and experimental expenditures and certain payments with respect to licensed intangible property.

Under the Senate amendment, as under the House bill, in testing a controlled foreign corporation for PFIC status with respect to its "U.S. shareholders," assets generally are measured by adjusted basis as determined for purposes of calculating earnings and profits, with no option to use fair market value.

Under the Senate amendment, however, adjusted basis for this purpose is modified to take into account certain research and experimental expenditures and certain payments for the use of intangible property that is licensed to the controlled foreign corporation. First, the aggregate adjusted basis of the total assets of the controlled foreign corporation is increased by the total amount of research and experimental expenditures made by the controlled foreign corporation for qualified research or experimental expenditures (as defined for purposes of Code section 174 and the Treasury regulations thereunder), taking into account payments and expenditures (including cost-sharing payments) made in the current taxable year and the two most recent preceding taxable years. In addition, the aggregate adjusted basis of the total assets of the controlled foreign corporation is increased by the amount of three times the total payments made during the taxable year to unrelated persons and related U.S. persons for the use of intangible property with respect to which the controlled foreign corporation is a licensee, and which the controlled foreign corporation uses in the active conduct of its trade or business. Payments made to related foreign persons are not taken into account.

Study on investments in U.S. property

The Senate amendment does not include the House bill provision requiring a Treasury department study on the tax treatment of certain investments in U.S. property.

Effective date

Like the House bill, the Senate amendment generally is effective for taxable years of foreign corporations beginning after September 30, 1993, and for taxable years of domestic shareholders in which or with which such taxable years end. However, under the Senate amendment, the excess passive assets provision is effective immediately rather than phased in during taxable years beginning after September 30, 1993, and before October 1, 1997.

Conference Agreement

The conference agreement follows the Senate amendment, with certain modifications.

Inclusions based on excess passive assets

Aggregation rule

The conference agreement clarifies the Senate amendment's aggregation rule for the determination of excess passive assets of related controlled foreign corporations. The aggregation rule in the conference agreement applies to a "CFC group" of controlled foreign corporations, clarifying that the group can include one or more chains of related controlled foreign corporations, linked by common ownership by a top-tier controlled foreign corporation. As is true for a "CFC chain" under the Senate amendment, the CFC group under the conference agreement determines the amount of excess passive assets for the group by treating all group members as a single corporation, and then apportions such aggregate excess passive assets among the members of the group on a pro rata basis in accordance with each member's percentage share of the total applicable earnings of the CFC group.

The conferees wish to clarify that under the conference agreement, as is typically the case where a group of corporations is treated as a single corporation for tax purposes, intercompany stock and obligations generally are disregarded in the determination of excess passive assets. For example, stock owned by one member of the group in another member of the group is disregarded, as are intercompany loans, other intercompany receivables, and intercompany licenses. As another example, assume that one member of the group provides goods or services to an unrelated customer, thereby acquiring a trade or service receivable. Assume further that the group member then factors the receivable to another member of the group, and the second member later receives the payment from the customer, which gives rise to income for the second member which is treated as passive interest income. During the period when the receivable is held by the second group member, the basis of the receivable in the hands of group, for purposes of applying the conference agreement to the group, would reflect the cost incurred by the second member to acquire the receivable in the factoring transaction with the first member. The conferees intend that the characterization of the receivable as a passive or nonpassive asset for purposes of determining excess passive assets depend on the activities by which the group as a whole derived the receivable. If the receivable properly would be viewed as a nonpassive asset based on those activities (without regard to which member of the group carried out the activities), the conferees anticipate that interest incidentally received by the second group member generally would not cause the receivable to be characterized as a passive asset (see, e.g., Notice 88–22, 1988–1 C.B. 489).

Inasmuch as stock owned by one member of the group in another member of the group would be disregarded, the look-through rule of section 1296(c) does not apply within a CFC group. However, the look-through rule of section 1296(c) does apply in the case of stock owned by one or more members of the CFC group in a foreign corporation that is not a member of the CFC group. For example, if one member of the CFC group owns 20 percent of the stock of another controlled foreign corporation that is not a member of the CFC group, and a second member of the CFC group owns 10 percent of the stock of such non-member controlled foreign corporation, the CFC group would be treated as owning 30 percent of the assets of the non-member controlled foreign corporation under the look-through rule of section 1296(c).

For purposes of the conference agreement's aggregation rule and look-through rule, all amounts of assets and earnings must be converted into units of a single currency, ordinarily the U.S. dollar. The conferees anticipate that Treasury will provide guidance as to the translation method appropriate to such conversion. The conferees anticipate that Treasury will authorize the use of the spot rate on the date of measurement for such purpose. In addition, the conferees anticipate that Treasury may authorize an alternative method, under which the U.S. shareholders of a controlled foreign corporation would be permitted to determine the adjusted basis of the assets of the controlled foreign corporation using the historical cost in U.S. dollars of the foreign-currency-denominated assets, in cases where the Secretary is satisfied that such historical costs can be established in a reasonably administrable fashion consistent with the purposes of the provision. Until guidance is issued by the Secretary, the conferees intend that taxpayers be permitted to convert asset costs to a single currency using any reasonable method (which may be, for example, a spot-rate conversion method or a historical dollar-cost method), so long as the method is consistently applied to all controlled foreign corporations (whether or not members of a CFC group) in all taxable years.

Treatment of certain previously taxed PFIC inclusions

The House bill and the Senate amendment provide rules for avoiding the double taxation of income in the case of subpart F inclusions under section 951(a)(1)(A) from controlled foreign corporations with excess passive assets. The conference agreement adds a similar coordination rule for controlled foreign corporations that are also PFICs, and that are subject to current inclusion of income under section 1293. Under the conference agreement, any inclusion of income under section 1293 to a U.S. shareholder of a controlled foreign corporation that is also a PFIC is treated as an inclusion of income under section 951(a)(1)(A) for purposes of the rules of subpart F pertaining to previously taxed income.

Modification of certain PFIC rules

Treatment of certain banking and securities income

Present law provides regulatory authority to the Treasury to except from the definition of passive income certain income derived in the active conduct of a banking business. The House bill and the Senate amendment provide similar authority, in the case of U.S. shareholders of a PFIC that is also a controlled foreign corporation, with respect to certain income derived in the active conduct of a securities business. The conferees are informed that there is a significant commonality between the business activities that may be conducted by a controlled foreign corporation in the course of a banking business and the business activities that may be conducted by a controlled foreign corporation in the course of a securities business. The conferees intend to clarify that these grants of regulatory authority are sufficiently broad to encompass, in appropriate circumstances, the income derived by a single controlled foreign corporation in the active conduct of a business that consists in part of banking activities and in part of securities activities.

Study on treatment of certain financing and credit services businesses

The conference agreement provides that certain income derived in the conduct of a banking or insurance business, or, in the case of U.S. shareholders of a controlled foreign corporation, a securities business, may be excluded from the definition of passive income for purposes of the PFIC rules and the excess passive assets rules. These rules, however, do not apply to income derived in the conduct of financing and credit services businesses. The conferees intend that the Treasury Department study the tax treatment of income derived in the conduct of financing and credit services businesses, and provide the House Committee on Ways and Means and the Senate Committee on Finance with a report of such study by March 1, 1994. The study should include the Treasury's views and recommendations as to whether the PFIC rules and the excess passive assets rules should be amended insofar as they relate to the treatment of such income, along with a discussion of the merits and consequences of any such amendment. In addition, the study should address any special considerations that might pertain in this regard with respect to a foreign corporation that is not a controlled foreign corporation, and discuss the extent to which appropriate anti-abuse rules would be sufficient to address special concerns that might arise in this context.

Special rule for certain intangible property

The Senate amendment provides a special rule for determining the basis of assets in the case of certain research and experimental expenditures and certain payments for the use of intangible property that is licensed to the controlled foreign corporation. Payments made to related foreign persons are not taken into account. The conference agreement clarifies that all research and experimental expenditures that are taken into account for purposes of this special rule are net of any reimbursements (such as cost-sharing payments, to the extent they represent such expenditures) received by the controlled foreign corporation with respect to such expenditures. In addition, the conference agreement clarifies that payments made by a controlled foreign corporation for the use of intangible property are disregarded if one principal purpose of licensing the intangible property was to avoid the PFIC rules or the excess passive assets provisions. For example, assume a domestic corporation licensed intangible property through a controlled foreign corporation to an unrelated person, rather than directly to the unrelated person, and one principal purpose for licensing the property indirectly was to increase the measurement of the controlled foreign corporation's active assets. In such a case, the payment made by the controlled foreign corporation to its domestic parent with respect to the intangible property would not be taken into account. As another example, assume a controlled foreign corporation licensed intangible property to its domestic parent and the U.S. parent relicensed all or a portion of the intangible property rights to a second controlled foreign corporation, and one principal purpose for licensing the property indirectly was to increase the measurement of the second controlled foreign corporation's active assets. In such a case, the payment made by the second controlled foreign corporation to its domestic parent with respect to the intangible property would not be taken into account.

Study on treatment of certain marketing expenditures

The conference agreement increases the adjusted basis of the assets of a controlled foreign corporation by reference to expenditures deductible under section 174. When a controlled foreign corporation incurs research and experimental expenditures, the practical effect may be to enhance the corporation's ability to generate active business income over an extended period; yet inasmuch as such expenditures are commonly deductible under section 174, these types of expenditures may affect the corporation's adjusted basis in its assets differently than expenditures to generate active business income over an extended period that take the form of a purchase of tangible or intangible assets. The conference agreement provides for adjustments to the adjusted basis of the assets of the controlled foreign corporation to take account of this difference. Taxpayers have argued that the practical effect of marketing expenditures that are properly deductible under section 162 as ordinary and necessary business expenses may also be to enhance the corporation's ability to generate active business income over an extended period. The conferees intend that the Treasury Department study the question whether similar basis adjustments should be made for such expenses, and provide the House Committee on Ways and Means and the Senate Committee on Finance with a report of such study by March 1, 1994. The study should include the Treasury's views and recommendations as to whether the excess passive assets rules should be amended insofar as they relate to the treatment of such expenses, along with a discussion of the merits and consequences of any such amendment.

Modifications to section 956

Special rule for U.S. property acquired before foreign corporation is U.S. controlled

The conference agreement includes a provision that clarifies the application of section 956 of the Code, as modified by the bill, in the case of U.S. property acquired by a foreign corporation before the foreign corporation becomes a controlled foreign corporation. Under the conference agreement, the measure of U.S. property held by a controlled foreign corporation for any taxable year generally does not include any specific items of U.S. property that were acquired by the foreign corporation before the first day on which the foreign corporation was treated as a controlled foreign corporation. The aggregate amount of U.S. property so excluded with respect to a controlled foreign corporation for any taxable year, however, cannot exceed the applicable earnings of the controlled foreign corporation to the extent that they were accumulated in periods prior to the first day on which the foreign corporation was treated as a controlled foreign corporation.[73] The conferees note that applicable earnings are reduced, under the conference agreement, both by actual distributions and by income inclusions of excess passive assets or U.S. property.

The conference agreement also provides regulatory authority under which the Treasury is instructed to prescribe such regulations as may be necessary to carry out the purposes of section 956, and to prevent their avoidance. Within this authority, the conferees anticipate that the Treasury may prescribe regulations that, for example, would prevent taxpayers from taking advantage of the differences between the excess passive assets rules and the rules of section 956.

Study on investments in U.S. property

The conferees understand that a controlled foreign corporation is not treated as holding U.S. property under section 956 if it invests in an obligation of an unrelated U.S. corporation. A similar rule, however, is not applicable to an investment in an obligation of an unrelated U.S. person other than a corporation. The conferees intend that the Treasury Department study the tax treatment of investments by controlled foreign corporations in obligations of U.S. persons other than corporations, and provide the House Committee on Ways and Means and the Senate Committee on Finance with a report of such study by December 31, 1993. The study should include the Treasury's views and recommendations as to whether the rules of section 956 should be amended insofar as they relate to the treatment of investments by controlled foreign corporations in the obligations of unrelated U.S. persons other than corporations, along with a discussion of the merits and consequences of any such amendment.

Other modifications to the subpart F rules

The House bill and the Senate amendment limit the availability of the same-country exception applicable to the determination of subpart F income in the case of certain dividends received by controlled foreign corporations. Under the conference agreement, amounts distributed with respect to stock owned by the controlled foreign corporation do not qualify for the same-country exception to the extent that the distributed earnings and profits were accumulated by the distributing corporation during periods when the controlled foreign corporation did not hold the stock either directly or indirectly through a chain of one or more subsidiaries, each of which qualifies as a same-country corporation. For example, the same-country exception is available under the conference agreement in the case of a chain of three wholly owned same-country subsidiaries, where the middle-tier subsidiary is liquidated prior to the payment of a dividend from the lowest tier subsidiary to the highest tier subsidiary, and the dividend comprises earnings of the lowest tier subsidiary that were accumulated solely during periods when it was (indirectly) owned by the highest tier subsidiary.

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[73] Under the present-law ordering rules for the attribution of actual distributions or income inclusions to years of earnings, earnings from more recent years are treated as distributed or included before earnings from earlier years. Thus, the pre-acquisition earnings, which operate as a limit to the exclusion of certain U.S. property acquired before the foreign corporation became a controlled foreign corporation, will not be treated as distributed or included until actual distributions or income inclusions from the controlled foreign corporation carry out all more recent earnings.

2. Allocation of research expenditures (sec. 14234 of the House bill, sec. 8234 of the Senate amendment, sec. 13234 of the conference agreement, and sec. 864(f) of the Code)

Present Law

In order that the foreign tax credit will offset only the U.S. tax on the taxpayer's foreign source taxable income, a limitation formula is prescribed in the Code. To compute the limitations, it is necessary to divide the taxable income of a U.S. person into U.S. source taxable income, foreign source taxable income in each applicable separate limitation category, and foreign source taxable income in the general foreign tax credit limitation category.

Foreign source taxable income in any limitation category equals foreign source gross income in that category less the expenses, losses and other deductions properly apportioned or allocated to that income. A Treasury regulation issued in 1977 describes methods for allocating expenses between U.S. and foreign source income, including rules for the allocation of research expenses. Since 1981, however, the research expense allocation regulation has been subject to a series of statutory temporary suspensions and modifications. The most recent temporary statutory provision (set forth in Code section 864(f)) was applicable generally for the first six months of the first taxable year beginning after August 1, 1991. For this purpose, total research expenses for the year were deemed to be incurred evenly throughout the year.

For expenses deemed paid or incurred during the first six months of the year referred to above (other than amounts incurred to meet certain legal requirements, and thus allocable to one geographical source), 64 percent of U.S.-incurred research expenses were allocated to U.S. source income, and 64 percent of foreign-incurred research expenses were allocated to foreign source income. The remainder of research expenses were allocated and apportioned either on the basis of sales or gross income, but subject to the condition that if income-based apportionment was used, the amount apportioned to foreign source income could have been no less than 30 percent of the amount that would have been apportioned to foreign source income had the sales method been used.

The Treasury has announced that during what would ordinarily be an 18-month period following the six-month period referred to above—that is, the last six months of the taxpayer's first taxable year beginning after August 1, 1991 and the immediately succeeding taxable year—taxpayers may continue to allocate research expenses in accordance with the method set forth in Code section 864(f). In granting the transitional period, Treasury stated that the transitional method was not intended to suggest any particular views about the proper allocation and apportionment of research expenses. Rather, Treasury stated, the transition method was intended solely to provide taxpayers with transitional relief and to minimize audit controversy and facilitate business planning during the conduct of the regulatory review.

House Bill

The House bill makes permanent the research allocation rules of Code section 864(f), except that the portion of research expense automatically allocated and apportioned to income sourced in the place of performance of the research is 50 percent, rather than 64 percent. Thus, for research expense other than amounts incurred to meet certain legal requirements, and thus allocable to one geographical source, 50 percent of U.S.-incurred research expense is allocated and apportioned to U.S. source income, and 50 percent of foreign-incurred research expense is allocated and apportioned to foreign source income. The remaining research expense is allocated and apportioned either on the basis of sales or gross income, but subject to the condition that if income-based apportionment is used, the amount apportioned to foreign source income can be no less than 30 percent of the amount that would have been apportioned to foreign source income had the sales method been used.

The House bill provides regulatory authority for the implementation of certain adjustments regarding section 936 companies. In addition, the bill authorizes the Treasury to prescribe such regulations as may be appropriate to carry out the purposes of this provision, including regulations relating to the determination of whether research activities are conducted inside or outside the United States and making such adjustments as may be appropriate in the case of cost sharing arrangements and contract research.

Effective date.—The House bill provision applies to taxable years ending after date of enactment, except that it does not apply to any taxable year to which Rev. Proc. 92-56 applies, or would have applied had the taxpayer elected the benefits of that Revenue Procedure.

Senate Amendment

The Senate amendment temporarily adopts for one year the provisions (including those providing regulatory authority) adopted permanently in the House bill. The Senate amendment applies to the first taxable year (beginning on or before August 1, 1994) following the taxpayer's last taxable year to which Rev. Proc. 92-56 applies, or would have applied had the taxpayer elected the benefits of that Revenue Procedure.

Conference Agreement

The conference agreement follows the Senate amendment.

3. Eliminate working capital exception for foreign oil and gas and shipping income (sec. 14235 of the House bill, sec. 8235 of the Senate amendment, sec. 13235 of the conference agreement, and secs. 904(d), 907, and 954 of the Code)

Present Law

Foreign tax credit separate limitations

Foreign tax credit limitations are computed separately for certain categories of foreign source income, including passive income, high withholding tax interest, financial services income, shipping income, dividends from each noncontrolled section 902 corporation, certain distributions from DISCs and FSCs, certain types of income earned by a FSC, and all other (i.e., "overall basket" or "general basket") income. Passive income generally includes income which is of a kind which would be foreign personal holding company income as defined under Code section 954(c) (e.g., interest and dividends) and typically is not subject to high levels of foreign tax. The separate limitation for passive income generally prevents the cross-crediting of high foreign taxes on income which falls in the general basket against the residual U.S. tax on passive income.

The separate foreign tax credit limitation for passive income was enacted in 1986 and replaced the prior law separate foreign tax credit limitation for passive interest income.[74] Prior law excluded from the passive interest separate limitation category interest derived from any transaction which is directly related to the active conduct by the taxpayer of a trade or business in a foreign country. Regulations under prior law expressly treated certain types of interest on working capital as interest derived from a transaction which is directly related to the active conduct of a trade or business.[75] No such general working capital exception exists under the passive income definition as established in 1986. As a result of the interaction of the Code and Treasury regulations originally developed prior to 1987, however, the working capital exception has been retained for the oil and gas and shipping industries.

Special limitation on credits for foreign extraction taxes and taxes on foreign oil related income

In addition to the foreign tax credit limitations that apply to all creditable foreign taxes, a special limitation is placed on foreign income taxes on foreign oil and gas extraction income (FOGEI). Under this special limitation, amounts claimed as taxes paid on FOGEI of a U.S. corporation qualify as creditable taxes (if they otherwise so qualify) only to the extent they do not exceed the product of the highest marginal U.S. tax rate on corporations (presently 34 percent) multiplied by such extraction income. Foreign taxes paid in excess of that amount on such income are, in general, neither creditable nor deductible (unless a credit carryover provision applies).

A similar special limitation may apply to foreign taxes paid on foreign oil related income (FORI) in certain cases where that type of income is subjected to a materially greater level of tax by a foreign jurisdiction than non oil and gas income generally would be. Under this limitation, a portion of the foreign taxes on FORI may be deductible, but not creditable.

As previously described, regulations issued prior to 1986 and still effective define FOGEI and FORI to include interest on working capital related to extraction or oil related activities, as the case may be. Thus, under current regulations, FOGEI and FORI include what generally would be considered as passive income for foreign tax credit limitation purposes.

House Bill

In general

The House bill prevents the cross-crediting of foreign taxes on FOGEI, FORI, and shipping income by placing certain passive income related to oil and gas and shipping operations in the passive category for foreign tax credit limitation purposes. In addition, the House bill excludes certain passive income related to foreign oil and gas extraction or other foreign oil related activities from the computation of the FOGEI and FORI foreign tax credit limitations.

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[74] P.L. 99-514, sec. 1201(a) (1986).

[75] Former Treas. Reg. sec. 1.904-4(b).

Foreign tax credit separate limitations

With respect to the separate foreign tax credit limitation for passive income, the House bill eliminates the present-law exclusion of FOGEI from the definition of passive income. Thus, if a taxpayer has gross income that falls within the definition of passive income under section 904, and also satisfies the definition of FOGEI under section 907, the income would be treated as passive income in determining the taxpayer's foreign tax credit.

In addition, the House bill amends the present-law rule applicable to income which by definition qualifies both as foreign personal holding company income under section 954(c) and as foreign base company oil related income under section 954(g). The House bill provides that such income is to be treated as foreign personal holding company income. As such, the income generally would be passive income for foreign tax credit purposes.

Likewise, the House bill specifies that dividend or interest income that by definition qualifies as both foreign personal holding company income and foreign base company shipping income is to be treated as foreign personal holding company income. Thus, for foreign tax credit purposes, the income would fall in the passive basket rather than in the separate basket for shipping income.

Special FOGEI and FORI limitations

The House bill provides that the term "foreign oil and gas extraction income" does not include any dividend or interest income which is passive income as defined for foreign tax credit limitation purposes. Since, as discussed above, the House bill treats gross interest income on working capital related to foreign oil and gas extraction activities, for example, as passive income, such income is not considered FOGEI for purposes of computing the special limitation for foreign taxes paid on FOGEI.

In addition, the House bill specifies that the term "foreign oil related income" does not include any dividend or interest income which is passive income as defined under the foreign tax credit provisions. As a result, for example, gross interest income on working capital related to activities which generate foreign oil related income would not be treated as FORI for purposes of computing the special limitation for foreign taxes paid on FORI.

Effective date

The provision applies to income earned in taxable years beginning after December 31, 1992.

Senate Amendment

The Senate amendment is the same as the House bill.

Conference Agreement

The conference agreement is the same as the House bill and Senate amendment with clarifications.

The conference agreement clarifies that for purposes of applying section 954(f), dividends and interest received from a foreign corporation in respect of which taxes are deemed paid under section 902 are classified as foreign base company shipping income (as under present law) to the extent attributable to foreign base company shipping income. Similarly, the conferees intend that dividends and interest received from a foreign corporation in respect of which taxes are deemed paid under section 902 are classified as FOGEI or FORI, respectively, to the extent attributable to FOGEI or FORI.

The conferees also wish to clarify the treatment (under sec. 954(b)(6)(B)) of a post-effective date corporate distribution of income earned by the payor in a pre-effective date year. The determination whether such pre-effective date income was shipping income for this purpose will be made under the laws defining shipping income in effect for the year in which the income was earned.

4. Transfer pricing initiative (sec. 14236 of the House bill, sec. 8236 of the Senate amendment, sec. 13236 of the conference agreement, and sec. 6662 of the Code)

Present Law

A "substantial" valuation misstatement may result in a penalty of 20 percent of the understatement of tax attributable to the substantial valuation misstatement (sec. 6662(a) and (b)(2)). The penalty for a "gross" valuation misstatement is 40 percent of the tax understatement (sec. 6662(h)). No valuation misstatement penalty is imposed if it is shown that there was reasonable cause for the underpayment and that the taxpayer acted in good faith (see sec. 6664(c)).

There is a substantial valuation misstatement if, among other things, the net section 482 transfer price adjustment for the taxable year exceeds $10 million. The analogous "gross valuation misstatement" involves a net section 482 transfer price adjustment of $20 million. The net section 482 transfer price adjustment is the net increase in taxable income for a taxable year resulting from adjustments under section 482 in the price for any property or services (or use of property). However, a net increase in taxable income attributable to a price redetermination is disregarded, for this purpose, if it is shown that there was a reasonable cause for the taxpayer's determination of the price, and that the taxpayer acted in good faith with respect to the price.

House Bill

Under the House bill, the threshold amount of net section 482 transfer price adjustment that generally would trigger a substantial valuation misstatement penalty is lowered to $5,000,000. In addition, the term substantial valuation misstatement is expanded to include a case where the net section 482 transfer price adjustment for the taxable year exceeds 10 percent of the taxpayer's gross receipts. The term gross valuation misstatement includes a case where the net section 482 transfer price adjustment exceeds 20 percent of gross receipts.

In measuring the amount of a taxpayer's net section 482 transfer price adjustment, a net increase in taxable income attributable to a price redetermination is disregarded under the House bill only if the taxpayer satisfies certain statutory requirements.

The taxpayer would meet the requirements if it established that each of three criteria were met. First, the taxpayer would have to establish that the price it used was determined under a pricing method specified in the section 482 regulations. Second, the taxpayer would have to establish that it applied the method reasonably. (In order for the application of the method to have been reasonable, it is intended that any procedural or other requirements imposed under the regulations must have been observed. For example, if certain adjustments required under a particular method were not made, the application of that method would not be reasonable.) Third, the taxpayer would have to establish that it had documentation, in existence as of the time of filing its original return, setting forth the reasonable determination of the price as described above, which documentation the taxpayer provides to the IRS within 30 days of a request for it.

Alternatively, the taxpayer would meet the requirements if it established that none of the methods specified in the section 482 regulations was likely to result in a price that would clearly reflect income, that it used another method which was likely to result in such a price, and that it had documentation, in existence as of the time of filing its original return, setting forth the determination of the price and establishing the foregoing requirements, which documentation the taxpayer provides to the IRS within 30 days of a request for it.

Under the House bill, it is intended that the application of any method would not be considered reasonable if the taxpayer became aware prior to filing its tax return that such application more likely than not did not lead to an arm's length result.

In the case of a valuation misstatement due to a net section 482 transfer price adjustment, no penalty would be excused for reasonable cause and good faith unless the above requirements were met.

Effective date.—The House bill provision is effective for taxable years beginning after December 31, 1993.

Senate Amendment

The Senate amendment is the same as the House bill.

Conference Agreement

The conference agreement follows the House bill and the Senate amendment. The conferees note that under the agreement, a taxpayer that does not apply a pricing method specified in the section 482 regulations may nevertheless have its net increase in taxable income attributable to a section 482 adjustment disregarded in determining the amount of its net section 482 transfer price adjustment, but in order to do so the taxpayer must establish (among other things) that none of the methods specified in the section 482 regulations was likely to result in a price that would clearly reflect income. With respect to those various types of transactions that generally are not the subject of any pricing methods specified in the section 482 regulations, the conferees wish to clarify that to meet the above requirement, it will be necessary simply to establish that the transaction is of a type for which no methods are specified in the section 482 regulations.

5. Deny portfolio interest exemption for contingent interest (sec. 14237 of the House bill, sec. 8237 of the Senate amendment, sec. 13237 of the conference agreement, and secs. 871(h), 881(c), and 2105(b) of the Code)

Present Law

Deductibility of interest

As a general rule, a deduction is allowed for all interest paid or accrued on indebtedness. Whether a financial instrument is treated as debt for Federal income tax purposes depends on the facts of the particular case. Under existing law, an instrument may qualify as debt even if it provides the holder with significant equity participation rights. For example, the IRS has ruled that in certain cases, contingent interest paid on a shared appreciation mortgage loan used to finance the purchase of a personal residence may be deductible by a cash basis payor.[76] As another example, contingent interest based on a share of the borrower's profits has been determined to be deductible in certain cases.[77]

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[76] Rev. Rul. 83-51, 1983-1 C.B. 48.

[77] See, e.g., *Dorzback v. Collison*, 195 F.2d 69 (3d Cir. 1952).

Interest received by foreign persons

The Internal Revenue Code provides that U.S. source interest income earned by a nonresident alien individual or a foreign corporation that is not effectively connected with the conduct of a U.S. trade or business generally is subject to a gross-basis 30-percent withholding tax. A significant statutory exemption from that tax applies to so-called "portfolio interest" received by foreign persons.

Portfolio interest generally is defined as any U.S. source interest (including original issue discount) that is not effectively connected with the conduct of a trade or business and (1) is paid on an obligation that satisfies certain registration requirements or specified exceptions thereto, and (2) is not received by a 10-percent owner of the issuer of the obligation, taking into account shares owned by attribution.[78]

Foreign investment in U.S. real property—shared appreciation debt

A foreign person's gain on the disposition of a U.S. real property interest (USRPI) is treated as income that is effectively connected with the conduct of a U.S. trade or business, and thus is subject to net-basis tax at ordinary U.S. income tax rates pursuant to the Foreign Investment in Real Property Tax Act of 1980 (FIRPTA). USRPIs include interests (other than solely as a creditor) in (1) real property, and (2) domestic corporations that are U.S. real property holding corporations (USRPHCs).

Whether a financial instrument is considered debt under any provisions of the Code is not determinative of whether it constitutes an "interest solely as a creditor" for purposes of FIRPTA. Regulations provide that an interest in real property other than an interest solely as a creditor includes any right to share in the appreciation in the value of, or in the gross or net proceeds or profits generated by, the real property. Similarly, an interest in an entity (such as a USRPHC) other than an interest solely as a creditor includes any right to share in the appreciation in the value of an interest in, or the assets of, the entity, or a right to share in the gross or net proceeds or profits derived by, the entity.

Regulations further provide that amounts otherwise treated for tax purposes as principal and interest payments on debt obligations of all kinds (including obligations that are interests other than solely as a creditor) do not give rise to gain or loss that is subject to U.S. tax under FIRPTA.[79] Thus, a foreign owner of a note that pays interest contingent on appreciation in U.S. real property incurs U.S. income tax if he disposes of the note, but may not incur U.S. income tax if he holds the note and receives interest payments under its terms.

Estate tax treatment of portfolio obligations

As a general rule, estate tax is imposed on the transfer of the taxable estate of every decedent nonresident who was not a citizen of the United States. For this purpose, the value of the gross estate of such a decedent that is subject to tax is that part of his or her gross estate which at the time of death (or as provided in section 2104(b)) is situated in the United States. Certain types of property are specifically excluded by statute from a nonresident decedent's gross estate. One type of property granted such an exclusion is a debt obligation if any interest thereon would be eligible for the exemption from income tax for portfolio interest were such interest received by the decedent at the time of his or her death, determined without regard to whether a statement has been received that the beneficial owner of the obligation is not a United States person.

House Bill

The House bill makes the portfolio interest exemption inapplicable to certain contingent interest income received by foreign persons. In the case of an instrument on which a foreign holder earns both contingent and noncontingent interest, denial of the portfolio interest exemption applies only to the portion of the interest which is contingent interest.

Under the House bill, contingent interest includes interest determined by reference to any of the following attributes of the debtor or any related person: receipts, sales, or other cash flow; income or profits; or changes in the value of property.[80] In addition, contingent interest includes interest determined by reference to any dividend, partnership distribution, or similar payment made by the debtor or a related person.

The House bill provides a number of exceptions to the general definition of contingent interest as detailed above. Under one such exception, interest is not considered contingent solely because the timing of the interest or any related principal payment is subject to a contingency. In addition, portfolio interest treatment is not denied under the House bill solely because the interest is paid with respect to nonrecourse or limited recourse indebtedness. Interest also is not denied portfolio treatment under the House bill if all or substantially all of it is determined by reference to certain other amounts of interest that is *not* described as contingent above (or by reference to the principal amount of indebtedness on which such other interest is paid). In determining whether all or substantially all of an amount of interest payable on a debt obligation is computed by reference to another amount of interest that is not contingent interest, other factors that affect the amount of interest payable on the debt obligation, but which are not contingencies as contemplated by the House bill, are not taken into account.

Another of the House bill's exceptions provides that interest is not denied portfolio treatment solely because the debtor or a related person enters into a hedging transaction to reduce the risk of interest rate or currency fluctuations with respect to such interest. Interest also is not denied portfolio treatment under the House bill if it is determined by reference to changes in the value of (or any index of the value of) actively traded property other than a USRPI. For this purpose, the term "property" includes stock, and the term "actively traded" has the meaning given to that term under section 1092(d) of the Code. In general, portfolio treatment also is not denied if the interest is determined by reference to the yield (or any index of the yield) on such actively traded property. However, this exception for interest contingent on the yield of actively traded property does not apply if the property is a debt instrument that itself pays contingent interest as described above, or the actively traded property is stock or other property that represents a beneficial interest in the debtor or a related person.

The House bill provides that application of the provision may be extended to any type of contingent interest not specifically described in the bill, if identified by the Treasury Secretary in regulations. The Secretary is granted authority under the House bill to issue such regulations to supplement the statutory description of contingent interest in order to address cases where a denial of the portfolio interest exemption is necessary or appropriate to prevent avoidance of U.S. income tax. The House bill additionally provides that the Secretary may by regulation exempt any type of interest from denial, under the bill, of portfolio treatment.

The provision is not intended to override existing treaties that reduce or eliminate U.S. withholding tax on interest paid to foreign persons.

Effective date.—The provision applies to interest received after December 31, 1993. It does not apply, however, to any interest paid or accrued with respect to any indebtedness with a fixed term that was issued on or before April 7, 1993, or was issued after such date pursuant to a written binding contract in effect on such date and at all times thereafter before such indebtedness was issued.

Senate Amendment

The Senate amendment is the same as the House bill.

Conference Agreement

The conference agreement follows the House bill and the Senate amendment with one clarification. In addition, the conference agreement provides specific rules for the estate tax treatment of contingent interest obligations.

The conferees wish to clarify the treatment under the provision of a debt instrument with a minimum non-contingent interest rate. For example, assume that the interest rate on a debt instrument is stated as the greater of either of two amounts—6% of the principal amount or 10% of gross profits. In such a case, only the gross-profits-based interest is contingent interest. The conferees wish to clarify that with respect to such an instrument, only the excess of the contingent amount, if any, over the minimum fixed interest amount is disqualified from portfolio interest treatment.

The conference agreement provides that, for purposes of determining the gross estate of a nonresident noncitizen decedent subject to the estate tax, a special rule applies to debt instruments that provide for both contingent and noncontingent interest. Under the conference agreement, an appropriate portion of the value of such an instrument, as determined in a manner prescribed by the Secretary of the Treasury, is treated as property within the United States and, thus, is included in the decedent's gross estate. Until rules are issued that provide guidance as to the proper method for determining the appropriate portion of such an instrument that is treated as situated in the United States, the conferees intend that taxpayers be permitted to use any reasonable method for making such determination.

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[78] Certain additional exceptions to this general rule apply only in the case of a corporate recipient of interest. In such a case, the term portfolio interest generally excludes (1) interest received by a bank on a loan extended in the ordinary course of its business (except in the case of interest paid on an obligation of the United States), and (2) interest received by a controlled foreign corporation from a related person.

[79] Treas. Reg. sec. 1.897–1(h). FIRPTA applies in the case of a "disposition" of a USRPI. Treasury Reg. sec. 1.897–1(h) generally defines a disposition as a transaction that gives rise to gain under section 1001 of the Code. Section 1001 does not apply to interest received on indebtedness.

[80] For purposes of determining whether interest is contingent interest under the House bill, the term related person means any person who is related to the borrower under Code section 267(b) or 707(b)(1). In addition, a related person, for this purpose, includes a party to an arrangement undertaken for a purpose of avoiding the application of this provision of the House bill.

The estate tax provision is effective for decedents dying after December 31, 1993. The provision does not apply to any obligation with a fixed term that was issued on or before April 7, 1993, or was issued after such date pursuant to a written binding contract in effect on such date and at all times thereafter before it was issued.

6. Regulatory authority to address multiple-party financing arrangements (sec. 14238 of the House bill, sec. 8238 of the Senate amendment, sec. 13238 of the conference agreement, and new sec. 7701(l) of the Code)

Present Law

The tax treatment of a transaction may depend on the identity of the parties to the transaction. For example, a loan by a controlled foreign corporation to a related U.S. borrower is treated as an investment in U.S. property under Code section 956, and as such, may result in an inclusion of income to U.S. shareholders of the foreign corporation. On the other hand, an income inclusion to the U.S. shareholders of the foreign corporation would not have resulted had the loan been made by the same foreign corporation to an unrelated foreign borrower.

Under the Code, payments of interest by U.S. persons to related foreign persons may be subject to 30-percent gross-basis withholding tax. On the other hand, no such tax applies to payments by U.S. persons to unrelated foreign persons of so-called portfolio interest. Under treaties, payments of interest by U.S. persons to related foreign persons who are resident in the treaty country may be subject to little or no U.S. gross-basis tax. By contrast, if the related recipient of interest is resident in a country with respect to which no U.S. income tax treaty is in force, the 30-percent gross-basis tax would be imposed.

Courts have stated that the incidence of taxation depends upon the substance of a transaction as a whole.[81] In certain cases, courts have recharacterized transactions in order to impose tax consistent with this principle. For example, where three parties have engaged in a chain of transactions, the courts have at times ignored the "middle" party as a mere "conduit," and imposed tax as if a single transaction had been carried out between the parties at the ends of the chain.

In *Aiken Industries, Inc. v. Commissioner*,[82] the Tax Court recharacterized an interest payment by a U.S. person on its note held by a related treaty-country resident, which in turn had a precisely matching obligation to a related non-treaty-country resident, as a payment directly by the U.S. person to the non-treaty-country resident. The transaction in its recharacterized form resulted in a loss of the treaty protection that would otherwise have applied on the payment of interest by the U.S. person to the treaty-country resident, and thus caused the interest payment to give rise to 30-percent U.S. tax.

The IRS has taken the position that it will apply a similar result in cases where the back-to-back related party debt obligations are less closely matched than those in *Aiken Industries*, so long as the intermediary entity does not obtain complete dominion and control over the interest payments.[83] The IRS has taken an analogous position where an unrelated financial intermediary is interposed between the two related parties as lender to one and borrower from the other, as long as the intermediary would not have made or maintained the loan on the same terms without the corresponding borrowing.[84] In a recent technical advice memorandum, the IRS has taken the position that interest payments by a U.S. company to a related, treaty-protected financial intermediary may be treated as payments by the U.S. company directly to the foreign parent of the financial intermediary even though the matching payments from the intermediary to the parent are not interest payments, but rather are dividends.[85]

House Bill

The House bill authorizes the Treasury Secretary to promulgate regulations that set forth rules for recharacterizing any multiple-party financing transaction as a transaction directly among any two or more of such parties where the Secretary determines that such recharacterization is appropriate to prevent avoidance of any tax imposed by the Internal Revenue Code.

It is intended that the provision apply not solely to back-to-back loan transactions, but also to other financing transactions. For example, it would be within the proper scope of the provision for the Secretary to issue regulations dealing with multiple-party transactions involving debt guarantees or equity investments.

Effective date.—The provision is effective on date of enactment.

Senate Amendment

The Senate amendment is the same as the House bill.

Conference Agreement

The conference agreement follows the House bill and the Senate amendment.

7. Exports of certain unprocessed softwood timber (sec. 8239 of the Senate amendment, sec. 13239 of the conference agreement, and secs. 861–865, 921–927, 951–964, and 991–996 of the Code)

Present Law

Rules for sourcing income

Subject to significant exceptions, income from the sale of personal property generally is sourced on the basis of the residence of the seller. One set of exceptions apply to sales of inventory property. Income derived from the purchase of inventory property within the United States and its sale outside the United States constitutes foreign source income. Similarly, income derived from the purchase of inventory property outside the United States and its sale within the United States constitutes domestic source income. Income attributable to the marketing of inventory property by U.S. residents in other cases may also have its source determined to be the place of sale. For this purpose, the place of sale generally is the place where title to the property passes to the purchaser (the "title passage" rule).

Income derived from the manufacture of products in the United States and their sale elsewhere is treated as having a divided source. Under Treasury regulations, 50 percent of such income generally is attributed to the place of production (in this case, the United States), and 50 percent of the income is attributed to marketing activities and is sourced on the basis of the place of sale (determined under the title passage rule). Under certain circumstances, the division of the income between production and marketing activities must be made on the basis of an independent factory or production price, rather than on a 50-50 basis, where a taxpayer sells part of its output to wholly independent distributors or other selling concerns in such a way as to establish fairly the independent factory or production price unaffected by considerations of tax liability (Treas. Reg. sec. 1.863-3(b)(2), *Example (1)*; Notice 89-10, 1989-4 I.R.B. 10).

Income earned by foreign corporations

The United States exerts jurisdiction to tax all income, whether derived in the United States or elsewhere, of U.S. citizens, residents, and corporations. By contrast, the United States taxes nonresident aliens and foreign corporations only on income with a sufficient nexus to the United States. In the case of income earned by a U.S.-owned foreign corporation, generally no U.S. tax is imposed until that income is distributed to the U.S. shareholders as a dividend.

When a U.S.-controlled foreign corporation earns so-called "subpart F income," the United States generally taxes the corporation's 10-percent U.S. shareholders currently on their pro-rata share of that income regardless of whether the income is actually distributed currently to the shareholders. Included among the types of income deemed distributed (generally referred to as "subpart F income") is foreign base company sales income.

Certain subpart F income derived by a controlled foreign corporation that is an export trade corporation (ETC) from certain export activities is exempt from current taxation. Under this exemption, the subpart F income of an ETC is reduced by certain amounts that constitute export trade income (as defined in section 971). No foreign corporation may qualify as an ETC unless it has so qualified generally since 1971.

Foreign sales corporations

A portion of the income of an eligible foreign sales corporation (FSC) that is generated from export property is exempt from Federal income tax. If the income earned by the FSC is determined under special administrative pricing rules, then the exempt foreign trade income generally is 15/23 of the foreign trade income the FSC derives from the transaction. In addition, a domestic corporation is allowed a 100-percent dividends-received deduction for dividends distributed from the FSC out of earnings attributable to certain foreign trade income. Thus, there generally is no corporate level tax imposed on a portion of the income from exports of a FSC.

Foreign trade income is defined as the gross income of a FSC attributable to foreign trading gross receipts. Foreign trade income includes both the profits earned by the FSC itself from exports and commissions earned by the FSC from products exported by others and services related thereto. In general, the term foreign trading gross receipts means the gross receipts of a FSC which are attributable to the export of certain goods and services. Foreign trading gross receipts are the gross receipts of the FSC that are attributable to the following types of transactions: the sale of export property, the lease or rental of export property, services related and subsidiary to the sale or lease of export property, engineering and architectural services, and export management services.

Export property, for purposes of the FSC rules, is defined as property that is (1) manufactured, produced, grown, or extracted in the United States by a person other than a FSC, (2) held primarily for sale, lease, or rental, in the ordinary conduct of a trade or business by, or to, a FSC, for direct use, consumption, or disposition outside the United States, and (3) not more than 50 percent of the fair market value of which is attributable to articles imported into the United States.

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[81] See, e.g., *Commissioner v. Court Holding Co.*, 324 U.S. 331 (1945).

[82] 56 T.C. 925 (1971), *acq. on another issue*, 1972-2 C.B. 1.

[83] Rev. Rul. 84-152, 1984-2 C.B. 381; Rev. Rul. 84-153, 1984-2 C.B. 383.

[84] Rev. Rul. 87-89, 1987-2 C.B. 195.

[85] Tech. Adv. Mem. 9133004 (May 3, 1991).

Domestic International Sales Corporations

Prior law provided for a system of tax deferral for corporations known as Domestic International Sales Corporations, or "DISCs," and their shareholders. Under this system, the profits of a DISC were not taxed to the DISC but were taxed to the shareholders of the DISC when distributed or deemed distributed to them. Each year, a DISC was deemed to have distributed a portion of its income, thereby subjecting that income to current taxation in its shareholders' hands. Federal income tax could generally be deferred on the remaining portion of the DISC's taxable income until the income was actually distributed to the shareholders.

Under current law, a DISC is permitted to continue to defer income attributable to $10 million or less of qualified export receipts. However, unlike the prior-law DISC rules, an interest charge is imposed on the shareholders of the DISC. The amount of the interest is based on the tax otherwise due on the deferred income computed as if the income were distributed. Taxable income of the DISC attributable to qualified export receipts that exceed $10 million is deemed distributed to the DISC's shareholders.

To qualify for DISC treatment, at least 95 percent of a domestic corporation's gross receipts must consist of qualified export receipts. In general, qualified export receipts are receipts, including commission receipts, derived from the sale or lease for use outside the United States of export property, or from the furnishing of services related or subsidiary to the sale or lease of export property. Export property must be manufactured, produced, grown, or extracted in the United States.

House Bill

No provision.

Senate Amendment

The Senate amendment modifies certain provisions of the Internal Revenue Code as they apply to exporters of unprocessed timber which is a softwood. For this purpose, the term "unprocessed timber" means any log, cant, or similar form of timber.

The Senate amendment excludes from the definition of "export property" for purposes of the FSC rules any unprocessed timber which is a softwood. Similarly, the Senate amendment excludes from the definition of "export property" for purposes of the DISC rules any unprocessed timber which is a softwood.

The Senate amendment also amends the sales source rules as they apply to inventory property. In this case, the Senate amendment provides that any income from the sale of any unprocessed timber which is a softwood and which was cut from an area located in the United States would be domestic source income.

Finally, the Senate amendment treats as subpart F foreign base company sales income any income derived by a controlled foreign corporation in connection with the sale of any unprocessed timber which is a softwood and was cut from an area located in the United States. In addition, the Senate amendment treats as subpart F foreign base company sales income any income derived by a controlled foreign corporation from the milling of any such timber outside the United States. Any income treated as subpart F income under the Senate amendment that is earned by an export trade corporation is not subject to reduction by the export trade income of the corporation.

Effective date.—The Senate amendment provision is effective for transactions occurring after date of enactment of the proposal.

Conference Agreement

The conference agreement follows the Senate amendment.

D. Energy and Motor Fuels Tax Provisions

1. Energy Btu tax (sec. 14241 of the House bill)

Present Law

No comprehensive Federal energy tax is imposed under present law. Specific Federal excise taxes are imposed on motor fuels (gasoline, special motor fuels, and diesel fuel) used for highway transportation, gasoline and special motor fuels used in motorboats, diesel fuel used in trains, fuels used in inland waterway transportation, and aviation fuels used in noncommercial aviation. Excise taxes also are imposed on coal from domestic mines and on crude oil received at domestic refineries and petroleum products entered into the United States.

House Bill

In general

The House bill imposes excise taxes on petroleum products, natural gas, coal, alcohol fuels, and electricity. The taxes are imposed at a base rate of 26.8 cents per million Btus on all fuels; an additional (supplemental) rate of 34.2 cents per million Btus is imposed on most petroleum products and on alcohol fuels. The electricity tax rate is calculated separately by each seller based on the Btu content of the fuels used in generating its electricity, and on statutorily assumed Btu contents for hydro- and nuclear-generated electricity.

The bill imposes an imputed Btu tax on imported products that the Treasury Department designates as "energy intensive." The tax applies only to products of industries classified, or individual products classified, as having direct energy inputs, measured as a percentage of the value of the finished product, in excess of two percent.

Points of collection

The petroleum and alcohol fuels taxes are collected on removal of those fuels from registered terminal facilities. The natural gas, coal, and electricity taxes are collected at the retail level. Use of these products is taxable if the use occurs before the point at which tax normally is imposed.

Exemptions

Number 2 distillate fuel oil used for the heating of any building and gasoline and diesel fuel used on farms are exempt from the supplemental petroleum rate. Full exemptions are provided for: electricity generated from renewable sources or biomass; direct energy exports; feedstocks (including electricity used in electrolytic production processes); certain fuels used to produce taxable energy products; fuels used in international commercial transportation; a portion of coal used in certain coke production; and methane recovered from biomass or certain coal mining operations.

Effective date

Effective on July 1, 1994, with the full tax rates being phased in ratably over a three-year period. After that period, the tax rates are indexed for inflation. Floor stocks taxes are imposed on taxable products held beyond the point of collection on July 1, 1994, and on the date of each subsequent rate change.

Senate Amendment

No provision.

Conference Agreement

The conference agreement does not include the House bill provision.

2. Transportation fuels tax increase (sec. 8241 of the Senate amendment, sec. 13241 of the conference agreement, and secs. 4041, 4042, 4081, 4091, 6416, 6421, 6427, 9502, 9503 of the Code)

Present Law

Several separate Federal excise taxes are imposed on specified transportation fuels. Taxable fuels include motor fuels (gasoline, diesel fuel and special motor fuels[86]) used for highway transportation gasoline used in motorboats diesel fuel used in trains fuels used in inland waterways transportation and aviation fuel (gasoline and jet fuel) used in most aviation.

In general, gasoline and special motor fuels used in highway vehicles and motorboats are taxed at a total rate of 14.1 cents per gallon; highway diesel fuel is taxed at a total rate of 20.1 cents per gallon (except certain intercity bus diesel fuel is taxed at a reduced rate of 3.1 cents per gallon); noncommercial aviation gasoline is taxed at a total rate of 15.1 cents per gallon; noncommercial aviation jet fuel is taxed at a total rate of 17.6 cents per gallon; commercial aviation fuels are taxed at a total rate of 0.1 cent per gallon; railroad diesel fuel is taxed at a total rate of 2.6 cents per gallon; and inland waterways fuels are taxed at a total rate of 17.1 cents per gallon in 1993 (increasing to 19.1 cents per gallon in 1994 and 20.1 cents per gallon in 1995 and thereafter).

Revenues from most of these excise taxes are deposited in various trust funds to finance specific Federal public works and environmental programs. The set of fuels subject to each tax generally reflects the purposes of the trust fund to which the revenues are dedicated. The above rates also include a 2.5-cents-per-gallon general deficit reduction tax (in effect through September 30, 1995[87]) imposed on highway motor fuels, motorboat gasoline and special motor fuels, and train diesel fuel. Revenues from this deficit reduction tax are retained in the General Fund of the Treasury.

One of the dedicated excise taxes is a 0.1 cent per gallon tax (0.05 cent per gallon for qualified ethanol and methanol fuels) imposed on all of the fuels listed above, except liquefied petroleum gas. This tax, in effect through 1995, is deposited into the Leaking Underground Storage Tank ("LUST") Trust Fund, which is used to fund cleanup costs associated with leaking underground storage tanks containing petroleum products.

Certain fuel uses are exempt from the LUST excise tax. Exempt uses include No. 2 distillate fuel oil[88] used as heating oil; gasoline and diesel fuel used on farms for farming purposes; off-highway business uses of fuel (for example, fuel used to operate pumps, generators, compressors, forklift trucks, or bulldozers, or fuel used in vessels used by fisheries or whaling businesses); fuels used by State and local governments; fuels used by nonprofit educational organizations; exported fuels, including fuels used in international aviation and international shipping; and fuel for military ships and aircraft.

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[86] Special motor fuels include benzol, benzene, naphtha, liquefied petroleum gas, casing head and natural gasoline, and any other liquid (other than kerosene, gas oil, fuel oil, or gasoline) sold for use in motor vehicles or motorboats.

[87] See Item II.D.4., below, for the extension and transfer of the deficit reduction tax rate.

[88] No. 2 residual fuel oil can be used either as diesel fuel or as home heating oil.

The gasoline excise tax (including the LUST rate on gasoline) is imposed when the fuel leaves terminal storage facilities (i.e., at the terminal rack). The diesel fuel excise tax is imposed on the wholesale sale of that fuel.

House Bill

No provision.

Senate Amendment

In general

The Senate amendment imposes a permanent excise tax of 4.3 cents per gallon on: (1) all transportation fuels currently subject to the Leaking Underground Storage Tank Trust Fund ("LUST") excise tax, except jet fuels used in aviation; (2) liquefied petroleum gases currently taxable as special motor fuels; and (3) diesel fuel used in noncommercial motorboats. Taxable fuels include motor fuels (gasoline, diesel fuel and special motor fuels) used for highway transportation or in motorboats; gasoline used in aviation; gasoline used in off-highway non-business uses (e.g., small engines and recreational trail uses); diesel fuel used in trains; and fuels used in inland waterways transportation.

Point of collection

The new 4.3-cents-per-gallon excise tax generally is collected in the same manner as the existing excise taxes on these fuels (i.e., the tax on gasoline and diesel fuel (see item II.D.3., below) is collected on removal of these fuels from registered terminal facilities, the tax on special motor fuels is collected upon the retail sale of these fuels, and the tax on fuels used in inland waterways is collected on the use of these fuels).

Exemptions

Most fuel uses that are exempt from the LUST tax are exempt from the new tax. These uses include, for example, number 2 distillate (diesel) fuel used as heating oil; gasoline and diesel fuel used on farms for farming purposes; off-highway business uses (such as to operate stationary pumps or compressors or in construction vehicles or vessels operated by fisheries); fuels used by State and local governments and nonprofit schools including fuel used in privately operated school and intracity buses; exported fuels; fuels used in international aviation; and, international and domestic shipping (other than shipping on the inland waterways system).

Disposition of revenues

The 4.3-cents-per-gallon highway and rail fuel revenues are to be transferred to the Highway Trust Fund; aviation gasoline revenues are to be transferred to the Airport and Airway Trust Fund; inland waterways transportation fuel revenues are to be transferred to the Inland Waterways Trust Fund; motorboat fuels and small-engine gasoline revenues are to be transferred to the Aquatic Resources Trust Fund; and non-highway recreational vehicle fuels revenues are to be transferred to the National Recreational Trails Trust Fund.

Effective date

The provision is effective on October 1, 1993, with appropriate floor stocks taxes being imposed on that date.

Conference Agreement

The conference agreement follows the Senate amendment, with the following modifications.

The tax base is expanded to include compressed natural gas (CNG) used in highway motor vehicles or motorboats, and jet fuel used in noncommercial aviation. In addition, gasoline and jet fuel used in commercial aviation is subject to the 4.3 cent-per-gallon rate beginning on October 1, 1995 (with appropriate floor stocks taxes being imposed on that date).

CNG used in highway vehicles or motorboats is taxed at a rate of 48.54 cents per mcf (thousand cubic feet) at standard temperature and pressure. The tax is collected on the retail sale or use of CNG under the same provisions as the special motor fuels tax currently is collected.

Revenues from the new 4.3-cents-per-gallon tax (48.54 cents per mcf on compressed natural gas) are retained in the General Fund of the Treasury.

Effective Date.—The provision is effective on October 1, 1993, with appropriate floor stocks taxes being imposed on that date.

3. Modification of the collection of the diesel fuel excise tax (secs. 14242–14243 of the House bill, secs. 8242–8243 of the Senate amendment, secs. 13242–13243 of the conference agreement, and secs. 4041, 4081 and 4091 of the Code)

Present Law

Diesel fuel tax collection

Taxes totalling 20.1 cents per gallon generally are imposed on the sale of diesel fuel by a producer or importer. A reduced rate of 3.1 cents per gallon applies to sales of diesel fuel for use in certain intercity buses. A reduced rate of 2.6 cents per gallon applies to sales of diesel fuel for use in trains.

Diesel fuel for heating and for certain other non-taxable uses (including use on a farm for farming purposes) is exempt from tax. Diesel fuel may be sold without the payment of tax only if certain prescribed conditions are satisfied, which may include registration by the buyer and seller and certification of exempt use by the buyer to the seller.

The producer making a taxable sale generally is liable for the tax. The term producer generally includes refiners, compounders, blenders, wholesale distributors of diesel fuel and dealers selling any diesel fuel exclusively to producers of diesel fuel. Producers must be registered with the Internal Revenue Service ("IRS") and, as a condition of registration, may be required to post a bond. Producers who are registered may sell diesel fuel to other registered producers without the payment of tax. Thus, in general, most diesel fuel tax is collected at the wholesale distributor level.

Reduced-rate and exempt users who buy diesel fuel after tax has been paid on the fuel may file a claim for credit or refund. These users must, however, keep business records that will enable the IRS to verify the amount claimed.

Gasoline tax collection

Taxes totalling 14.1 cents a gallon generally are imposed on (1) the removal of gasoline from any refinery, (2) the removal of gasoline from any terminal, (3) the entry of gasoline into the United States, and (4) the sale to any unregistered person unless there was a prior taxable removal or entry of the gasoline under (1), (2), or (3) above. The tax, however, does not apply to any entry or removal of gasoline transferred in bulk to a terminal if all the persons involved (including the terminal operator) are registered. Thus, tax generally is imposed when gasoline is removed by truck from a terminal (this is called removal at the "terminal rack").

As under the diesel fuel tax, exemptions from the gasoline tax are provided for certain uses, such as for farming or for off-highway business use. Taxpayers who use gasoline for an exempt use are eligible to claim a credit or refund of the excise tax included in the price of the gasoline.

Under Treasury Department regulations, the person liable for the tax imposed on gasoline removed from a terminal rack is the "position holder," which, in general, is the person that holds the inventory position to gasoline as reflected on the records of the terminal operator (i.e., has a contract with the terminal operator for the use of storage facilities and terminaling services at a terminal). In addition, the terminal operator may be jointly and severally liable for the tax if the position holder is not registered with Treasury. Terminal operators are required to be registered and, as a condition of registration, may be required to post a bond in such sum as the Treasury determines.

House Bill

Point of collection

The House bill provides that the full 20.1 cents per gallon diesel fuel excise tax rate will be collected on removal from a terminal (i.e., at the terminal rack) under generally the same rules as the gasoline tax currently is collected. However, unlike the gasoline tax, removal of diesel fuel that is destined for an exempt use will not be taxed as the fuel is removed from the terminal if certain dyeing (and marking) requirements are met.

As under present law, a reduced-rate or exempt user that uses tax-paid undyed diesel fuel is permitted a refund if the user establishes that a prior tax was paid with respect to the fuel and that the fuel has been used for an exempt or reduced-rate use.

Administrative provisions

As under present law, the Treasury Department is permitted to require appropriate registration, record-keeping and reporting by persons necessary to implement the collection of the diesel fuel tax.

In addition, the Treasury Department is authorized to impose a new penalty on any person who sold dyed fuel to a person whom the seller knew or had reason to know would use the fuel for a taxable use, or any person who knew or had reason to know that it used dyed fuel for a taxable use. This new penalty is the greater of $1,000 or twice the otherwise applicable tax on the diesel fuel so used.

Effective date

The provision applies to diesel fuel removed from terminals after March 30, 1994.

Senate Amendment

The Senate amendment generally is the same as the House bill, except that marking is not permitted for fuel that is destined for an exempt use. The amendment also provides that the color of the dye may be chosen by the person who is dyeing the fuel but the color must be approved by the Treasury Department or selected from a list of approved colors.

In addition, vendors to farmers and State and local governments are required to apply for refunds for these exempt users, if the vendors sell tax-paid fuel to these persons for use in an exempt use. For other cases of exempt use of tax-paid fuel (e.g., construction, mining, mineral extraction, timber, home heating fuel, nonprofit educational organizations), the exempt user must apply for the refund if tax-paid fuel is used.

Effective date.—The Senate amendment applies to diesel fuel removed from terminals after December 31, 1993.

Conference Agreement

The conference agreement follows the Senate amendment, except that marking is permitted (as provided by regulations) for fuel that is destined for an exempt use. In addition, the conference agreement clarifies that Treasury has authority to physically inspect terminals, dyes and dyeing equipment and storage facilities, and downstream storage facilities; to stop, detain and inspect vehicles, and to establish vehicle inspection sites. The conference agreement provides a $1,000 penalty on facility owners who refuse to permit the Treasury to perform its inspection duties.

The agreement also modifies the penalty for persons who improperly sell or use dyed fuel to be the greater of $1,000 or $10 for each gallon of dyed fuel involved in the violation. For repeated violations, the penalty is multiplied by the number of prior penalties that had been imposed under this provision. Any officer, employee, or agent who willfully participated in any act giving rise to the above penalties will be jointly and severally liable with any business entity that is liable for the penalty. Dyed fuel means any fuel that is dyed, regardless of whether or not the fuel was dyed to administer compliance with the diesel fuel tax provisions.

Effective date.—The conference agreement follows the Senate amendment.

4. Extend the current 2.5-cents-per-gallon motor fuels excise tax rate; Transfer of revenues (sec. 14244 of the House bill, sec. 8244 of the Senate amendment, sec. 13244 of the conference agreement, and secs. 4041, 4081, and 4091 of the Code)

Present Law

The Federal motor fuels excise taxes generally are imposed on motor fuels (gasoline, special motor fuels, and diesel fuel) used for highway transportation, gasoline and special motor fuels used in motorboats, and diesel fuel used in trains. Off-highway business uses generally are exempt from motor fuels taxes, as are sales for export, for the exclusive use of State and local governments and nonprofit educational organizations, and for farming uses.

The rate of tax on motor fuels is 14.1 cents per gallon on gasoline and special motor fuels and 20.1 cents per gallon on diesel fuel; this rate includes a "deficit reduction rate" (General Fund rate) of 2.5 cents per gallon and a Leaking Underground Storage Tank (LUST) Trust Fund rate of 0.1 cents per gallon. Diesel used in trains is subject only to the 2.5-cents deficit reduction rate and to the 0.1-cents LUST rate (not to the full 20.1 cents per gallon rate). The deficit reduction rate does not apply after September 30, 1995. Revenues from the deficit reduction rate are retained in the General Fund, while the balance of the highway motor fuels tax revenues are transferred to the Highway Trust Fund through September 30, 1999. Revenues from the 0.1-cent-per-gallon LUST tax rate are transferred to the LUST Trust Fund through December 31, 1995.

House Bill

The House bill extends the additional 2.5-cents-per-gallon motor fuels tax rate from October 1, 1995, through September 30, 1999. The revenues from this rate generally are to be transferred into the Highway Trust Fund, with revenues equivalent to 2 cents per gallon credited to the Highway Account and 0.5 cent per gallon to the Mass Transit Account. However, revenues from the 2.5-cents-per-gallon tax on diesel used in trains are to be retained in the General Fund as are revenues from 2.5 cents per gallon of the tax on motorboat, small-engine, and nonhighway recreational fuels. The provision retains present-law motor fuels tax exemptions.

Effective date.—The extension of the 2.5-cents-per-gallon rate applies after September 30, 1995.

Senate Amendment

The Senate amendment follows the House bill, except that the revenues from the taxes on motorboat fuels and small-engine gasoline are to be transferred to the Aquatic Resources Trust Fund.

Conference Agreement

The conference agreement follows the House bill, except that the tax is 1.25 cents per gallon on diesel used in trains (with the revenues to be retained in the general fund).

5. Increase inland waterways fuel excise tax (secs. 14413 and 8002 of the House bill and sec. 4042 of the Code)

Present Law

A Federal inland waterway fuel tax is imposed on diesel and other liquid fuels used by commercial cargo vessels on specified inland or intracoastal waterways of the United States (sec. 4042). Revenues from this tax are transferred to the Inland Waterways Trust Fund (sec. 9506).

The tax rate on these fuels is 17 cents per gallon for 1993, 19 cents per gallon for 1994, and 20 cents per gallon for 1995 and thereafter. In addition, there is a 0.1-cent-per-gallon tax on such fuels for the Leaking Underground Storage Tank Trust Fund through December 31, 1995 (sec. 9508).

House Bill

Title XIV

The House bill (sec. 14413) increases the Federal inland waterway fuel tax by 50 cents per gallon in a series of steps. Under the House bill, inland waterways fuel is to be taxed at a rate of 24 cents per gallon in 1994, 40 cents per gallon in 1995, 55 cents per gallon in 1996, and 70 cents per gallon in 1997 and thereafter. The House bill does not change the additional 0.1-cent-per-gallon fuel tax imposed for the Leaking Underground Storage Tank Trust Fund.

Effective date.—The provision is effective beginning January 1, 1994.

Title VIII

The House bill (sec. 8002) also includes a Sense of Congress resolution that the inland waterways fuel tax should not be further increased beyond those increases already scheduled under present law.

Senate Amendment

No provision.

Conference Agreement

The conference agreement does not include the House bill provisions.

E. Compliance Provisions

1. Reporting rule for service payments to corporations (sec. 14251 of the House bill, and secs. 6041 and 6041A of the Code)

Present Law

A person engaged in a trade or business who makes payments during the calendar year of $600 or more to a person for services performed must file an information return with the Internal Revenue Service ("IRS") reporting the amount of such payments, as well as the name, address and taxpayer identification number of the person to whom such payments were made. A similar statement must also be furnished to the person to whom such payments were made. Treasury regulations generally provide, however, that payments to corporations (including payments for services) need not be reported (Treas. Reg. sec. 1.6041-3(c); Prop. Treas. Reg. sec. 1.6041A-1(d)(2)).[89]

House Bill

The House bill provides that payments for services purchased in the course of the payor's trade or business will not be exempt from the information reporting requirements merely because the payments are made to a corporation.

Effective date.— The provision in the House bill applies to payments for services made after December 31, 1993.

Senate Amendment

No provision.

Conference Agreement

The conference agreement does not include the House bill provision.

The conferees intend that the Office of Management and Budget (OMB) provide a report to the chairmen of the House Ways and Means Committee and the Senate Finance Committee within six months from the date of enactment recommending ways to improve information reporting compliance by Federal executive agencies. Such recommendations could include, for example, requiring Federal executive agencies to disclose their level of compliance in their published annual reports and requiring OMB to report annually to the chairmen of the two tax-writing committees regarding Federal executive agencies' compliance with information reporting obligations. The OMB report should also address appropriate sanctions for Federal executive agency noncompliance with all information reporting requirements and any changes to the law that may be needed to impose such sanctions. For example, IRS could be permitted to assess penalties on an agency for failure to comply with information reporting requirements and to collect the penalties assessed out of the agency's appropriated funds.

The conferees understand that the effectiveness of information reporting generally will be enhanced, and the burden on reporting businesses will be reduced, by a comprehensive taxpayer identification number (TIN) matching system. Accordingly, the conferees encourage the IRS to establish a TIN matching pilot program as soon as practicable and to include governmental agencies in such pilot program.

2. Raise standard for accuracy-related and preparer penalties (sec. 14252(a) of the House bill, sec. 8252(a) of the Senate amendment, sec. 13251 of the conference agreement, and secs. 6662 and 6694 of the Code)

Present Law

A 20-percent penalty is imposed on any portion of an underpayment of tax that is attributable either to a substantial understatement of income tax on a return, or to negligence or disregard of rules or regulations (sec. 6662).

For this purpose, an understatement[90] is considered substantial if it exceeds the greater of 10 percent of the tax required to be shown on the year's return or $5,000 ($10,000 for corporations other than S corporations and personal holding companies). In determining whether an understatement is substantial, the amount of the understatement is reduced by any portion attributable to an item if (1) the treatment of the item on the return is or was supported by substantial authority, or (2) facts relevant to the tax treatment of the item were adequately disclosed on the tax return (or a statement attached to the return), provided that the treatment of the disclosed item was not "frivolous" (Treas. Reg. sec. 1.6662-4). Special rules apply to tax shelters.

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[89] In general, information returns are required regarding payments to a corporation engaged in providing medical and health care services or engaged in billing and collecting payments with respect to medical and health care services.

[90] An "understatement" of income tax is the excess of the tax required to be shown on the return over the tax imposed which is shown on the return (reduced by any rebates of tax).

The term "negligence" includes any failure to make a reasonable attempt to comply with the internal revenue laws, a failure to exercise ordinary and reasonable care in the preparation of a tax return, and a failure to keep adequate books and records or to substantiate items properly (Treas. Reg. sec. 1.6662-3(b)(1)). The term "disregard" includes any careless, reckless, or intentional disregard of rules or regulations (sec. 6662(c)). The penalty for negligence or disregard of rules or regulations does not apply where the position taken is adequately disclosed, the position is not "frivolous", and the taxpayer has adequate books and records and has substantiated items properly (Treas. Reg. sec. 1.6662-3(c)).[91]

A $250 penalty with respect to a return or claim for refund of income tax may be imposed on the preparer if any understatement of tax liability on the return or claim for refund resulted from a position that did not have a realistic possibility of being sustained on its merits and the preparer knew or reasonably should have known of the position (sec. 6694(a)). The penalty is $1,000 per return or claim for refund if the understatement is due to any reckless or intentional disregard of rules or regulations (sec. 6694(b)). These penalties may be avoided where the position taken on the return or claim for refund is adequately disclosed and is not "frivolous" (Treas. Reg. secs. 1.6694-2(c), 1.6694-3(c)(2)).[92]

A "frivolous" position with respect to an item for purposes of all of these penalty provisions is one that is "patently improper" (Treas. Reg. sec. 1.6662-3(b)(3), 1.6662-4(e)(2)(i), 1.6694-2(c)(2), 1.6694-3(c)(2)).

House Bill

The House bill replaces the "not frivolous" standard with a "reasonable basis" standard for purposes of the accuracy-related and income tax return preparer penalties. Thus, under the House bill, a taxpayer can avoid a substantial understatement penalty by adequately disclosing a return position only if the position has at least a reasonable basis. Similarly, a taxpayer can avoid the penalty that applies to disregarding rules or regulations by adequately disclosing a return position only if the position has at least a reasonable basis. The disclosure exception is no longer relevant with respect to the penalty for negligence, because a taxpayer generally is not considered to have been negligent with respect to a return position, regardless of whether it was disclosed, if the position has a reasonable basis. Also, a preparer can avoid a penalty by adequately disclosing a return position only if the position has at least a reasonable basis.

The House bill also eliminates the reasonable cause and good faith exception for fraud, because fraud is inconsistent with reasonable cause and good faith.

Effective date.—The provision in the House bill applies to tax returns due (without regard to extensions) after December 31, 1993.

Senate Amendment

The Senate amendment is the same as the House bill, except that (i) the "not frivolous" standard remains applicable with respect to the income tax return preparer penalty, and (ii) the reasonable cause and good faith exception for fraud is not eliminated.

Conference Agreement

The conference agreement follows the Senate amendment. The conferees intend that "reasonable basis" be a relatively high standard of tax reporting, that is, significantly higher than "not patently improper." This standard is not satisfied by a return position that is merely arguable or that is merely a colorable claim.

3. Modify tax shelter rules for purposes of the substantial understatement penalty (sec. 14252(b) of the House bill and sec. 6662(d) of the Code)

Present Law

Under present law, a 20-percent penalty applies to any portion of an underpayment of income tax required to be shown on a return that is attributable to a substantial understatement of income tax (sec. 6662). For this purpose, an understatement is considered substantial if it exceeds the greater of (1) 10 percent of the tax required to be shown on the return, or (2) $5,000 ($10,000 in the case of a corporation other than an S corporation or a personal holding company). The amount of an understatement of income tax is the excess of the tax required to be shown on the return, over the tax imposed which is shown on the return (reduced by any rebates of tax).

In determining whether an understatement is substantial, the understatement generally is reduced by the portion of the understatement that is attributable to an item for which there was substantial authority or adequate disclosure (sec. 6662(d)(2)). However, in the case of tax shelter items, the understatement is reduced only by the portion of the understatement that is attributable to an item both for which there was substantial authority and with respect to which the taxpayer reasonably believed that the claimed treatment of the item was more likely than not the proper treatment (sec. 6662(d)(2)(C)(i)). Disclosure made with respect to a tax shelter item does not affect the amount of an understatement.

A "tax shelter" is any partnership or other entity, any investment plan or arrangement, or any other plan or arrangement if the principal purpose of such partnership, entity, plan or arrangement is to avoid or to evade Federal income tax (sec. 6662(d)(2)(C)(ii)). An item of income, gain, loss, deduction or credit is a "tax shelter item" if the item is directly or indirectly attributable to the principal purpose of the tax shelter (Treas. Reg. sec. 1.6662-4(g)(3)).

House Bill

Under the House bill, an understatement is reduced by the portion of the understatement attributable to a tax shelter item only if, in addition to satisfying existing requirements, the taxpayer can demonstrate that the reasonably anticipated after-tax benefits from the taxpayer's investment in the shelter do not significantly exceed the reasonably anticipated net pre-tax economic profit from such investment. The House bill does not alter the definition of "tax shelter" for purposes of the substantial understatement penalty and, therefore, applies only to investments in arrangements that are considered tax shelters without regard to the House bill.

Effective date.—This provision in the House bill applies to tax returns due (without regard to extensions) after December 31, 1993.

Senate Amendment

No provision.

Conference Agreement

The conference agreement does not include the House bill provision.

4. Information returns relating to the discharge of indebtedness by certain financial entities (sec. 14253 of the House bill, sec. 8253 of the Senate amendment, sec. 13252 of the conference agreement, and sec. 6050P of the Code)

Present Law

Under section 61(a)(12), a taxpayer's gross income includes income from the discharge of indebtedness. The Code, however, does not currently require lenders to file information returns with respect to discharged debt.[93]

The determination of when a discharge of indebtedness occurs under section 61(a)(12) is a question of fact. See, e.g., *Carl T. Miller Trust v. Commissioner*, 76 T.C. 191 (1981). In general, a debtor has discharge of indebtedness income where a debt is repurchased or otherwise deemed satisfied for less than its outstanding balance. For example, discharge of indebtedness income may be triggered by a debt modification under Code section 1001 or where a court adjudicates favorably a defense for the borrower. Discharge of indebtedness income is generally not deemed to result merely because the lender (1) has not actively pursued its claim against the debtor, provided a legal claim still exists, (2) claims a deduction for financial or regulatory reporting purposes, or (3) claims a partial or full bad debt deduction for tax purposes. However, the existence of several factors such as these may, when considered collectively, indicate that a discharge of indebtedness has occurred.

Pursuant to a 1984 Office of Management and Budget memorandum, Treasury Department guidelines currently require Federal agencies to report forgiven debt amounts exceeding $600 to the Internal Revenue Service (IRS) on a Form 1099-G, except where prohibited by law. The Federal Deposit Insurance Corporation (FDIC) and Resolution Trust Corporation (RTC) do not issue such reports because of concerns that information reporting may violate the Right to Financial Privacy Act of 1978 (RFPA). The RFPA permits such information reporting if the Code specifically requires it.

House Bill

The House bill requires "applicable financial entities" to file information returns with the IRS regarding any discharge of indebtedness (within the meaning of sec. 61(a)(12)) of $600 or more. Such information returns are required regardless of whether the debtor is subject to tax on the discharged debt. For example, Congress does not expect reporting financial institutions and agencies to determine whether the debtor qualifies for an exclusion under section 108.

The information return must set forth the name, address and taxpayer identification number of the person whose debt was discharged, the amount of debt discharged, and the date on which the debt was discharged.[94] The information return must be filed in the manner and at the time specified by the IRS. The same information also must be provided to the person whose debt is discharged by January 31 of the year following the discharge.

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[91] In the case of a position contrary to a regulation, the position taken must also represent a good faith challenge to the validity of the regulation.

[92] In the case of a position contrary to a regulation, the position taken must also represent a good faith challenge to the validity of the regulation.

[93] Lenders are generally required to report any foreclosure or other acquisition of property in satisfaction of a debt secured by that property (sec. 6050J). Such events may effect a discharge of indebtedness. The conferees intend that the Treasury Department issue guidance to coordinate reporting under this section with reporting on foreclosures and abandonments under section 6050J.

For purposes of the House bill, "applicable financial entities" include: (1) the FDIC, the RTC, the National Credit Union Administration, and any successor or subunit of any of them;[95] (2) any financial institution (as described in secs. 581 or 591(a)); (3) any credit union; and (4) any subsidiary of an entity described in (2) or (3) which, by virtue of being affiliated with such entity, is subject to supervision and examination by a Federal or State agency regulating such entities.

Under the House bill, the penalties for failure to file correct information reports with the IRS and to furnish statements to taxpayers are similar to those imposed with respect to a failure to provide other information returns. For example, the penalty for failure to furnish statements to taxpayers is generally $50 per failure, subject to a maximum of $100,000 for any calendar year.[96] These penalties are not applicable if the failure is due to reasonable cause and not to willful neglect.

Effective date.—The provision applies to discharges of indebtedness after the date of enactment.

Senate Amendment

The Senate amendment is the same as the House bill with a technical modification clarifying that other Federal agencies (which are required to report under the current Treasury Department guidelines) are also subject to this provision, so that all Federal agencies are subject to uniform rules.

Conference Agreement

The conference agreement follows the Senate amendment, except that non-governmental entities are only required to report under the provision with respect to discharges of indebtedness after December 31, 1993. Accordingly, governmental entities are required to report under the provision with respect to discharges of indebtedness after the date of enactment. The conferees do not intend that this provision alter the present law determination of when a discharge of indebtedness occurs under section 61(a)(12).

F. Treatment of Intangibles

1. Amortization of goodwill and certain other intangible assets (sec. 14261 of the House bill, sec. 8261 of the Senate amendment, sec. 13261 of the conference agreement, and new sec. 197 of the Code)

Present Law

In determining taxable income for Federal income tax purposes, a taxpayer is allowed depreciation or amortization deductions for the cost or other basis of intangible property that is used in a trade or business or held for the production of income if the property has a limited useful life that may be determined with reasonable accuracy. Treas. Reg. sec. 1.167(a)-(3). These Treasury Regulations also state that no depreciation deductions are allowed with respect to goodwill.

The U.S. Supreme Court recently held that a taxpayer able to prove that a particular asset can be valued, and that the asset has a limited useful life which can be ascertained with reasonable accuracy, may depreciate the value over the useful life regardless of how much the asset appears to reflect the expectancy of continued patronage. However, the Supreme Court also characterized the taxpayer's burden of proof as "substantial" and stated that it "often will prove too great to bear." *Newark Morning Ledger Co. v. United States*, —— U.S.——, 61 U.S.L.W. 4313 at 4320, 4319 (April 20, 1993).

House Bill

In general

The bill allows an amortization deduction with respect to the capitalized costs of certain intangible property (defined as a "section 197 intangible") that is acquired by a taxpayer and that is held by the taxpayer in connection with the conduct of a trade or business or an activity engaged in for the production of income. The amount of the deduction is determined by amortizing the adjusted basis (for purposes of determining gain) of the intangible ratably over a 14-year period that begins with the month that the intangible is acquired.[97] No other depreciation or amortization deduction is allowed with respect to a section 197 intangible that is acquired by a taxpayer.

In general, the bill applies to a section 197 intangible acquired by a taxpayer regardless of whether it is acquired as part of a trade or business. In addition, the bill generally applies to a section 197 intangible that is treated as acquired under section 338 of the Code. The bill generally does not apply to a section 197 intangible that is created by the taxpayer if the intangible is not created in connection with a transaction (or series of related transactions) that involves the acquisition of a trade or business or a substantial portion thereof.

Except in the case of amounts paid or incurred under certain covenants not to compete (or under certain other arrangements that have substantially the same effect as covenants not to compete) and certain amounts paid or incurred on account of the transfer of a franchise, trademark, or trade name, the bill generally does not apply to any amount that is otherwise currently deductible (i.e., not capitalized) under present law.

No inference is intended as to whether a depreciation or amortization deduction is allowed under present law with respect to any intangible property that is either included in, or excluded from, the definition of a section 197 intangible. In addition, no inference is intended as to whether an asset is to be considered tangible or intangible property for any other purpose of the Internal Revenue Code.

Definition of section 197 intangible

In general

The term "section 197 intangible" is defined as any property that is included in any one or more of the following categories: (1) goodwill and going concern value; (2) certain specified types of intangible property that generally relate to workforce, information base, know-how, customers, suppliers, or other similar items; (3) any license, permit, or other right granted by a governmental unit or an agency or instrumentality thereof; (4) any covenant not to compete (or other arrangement to the extent that the arrangement has substantially the same effect as a covenant not to compete) entered into in connection with the direct or indirect acquisition of an interest in a trade or business (or a substantial portion thereof); and (5) any franchise, trademark, or trade name.

Certain types of property, however, are specifically excluded from the definition of the term "section 197 intangible." The term "section 197 intangible" does not include: (1) any interest in a corporation, partnership, trust, or estate; (2) any interest under an existing futures contract, foreign currency contract, notional principal contract, interest rate swap, or other similar financial contract; (3) any interest in land; (4) certain computer software; (5) certain interests in films, sound recordings, video tapes, books, or other similar property; (6) certain rights to receive tangible property or services; (7) certain interests in patents or copyrights; (8) any interest under an existing lease of tangible property; (9) any interest under an existing indebtedness (except for the deposit base and similar items of a financial institution); (10) a franchise to engage in any professional sport, and any item acquired in connection with such a franchise; and (11) certain transaction costs.

In addition, the Treasury Department is authorized to issue regulations that exclude certain rights of fixed duration or amount from the definition of a section 197 intangible.

Goodwill and going concern value

For purposes of the bill, goodwill is the value of a trade or business that is attributable to the expectancy of continued customer patronage, whether due to the name of a trade or business, the reputation of a trade or business, or any other factor.

In addition, for purposes of the bill, going concern value is the additional element of value of a trade or business that attaches to property by reason of its existence as an integral part of a going concern. Going concern value includes the value that is attributable to the ability of a trade or business to continue to function and generate income without interruption notwithstanding a change in ownership. Going concern value also includes the value that is attributable to the use or availability of an acquired trade or business (for example, the net earnings that otherwise would not be received during any period were the acquired trade or business not available or operational).

Workforce, information base, know-how, customer-based intangibles, supplier-based intangibles and other similar items

Workforce.—The term "section 197 intangible" includes workforce in place (which is sometimes referred to as agency force or assembled workforce), the composition of a workforce (for example, the experience, education, or training of a workforce), the terms and conditions of employment whether contractual or otherwise, and any other value placed on employees or any of their attributes. Thus, for example, the portion (if any) of the purchase price of an acquired trade or business that is attributable to the existence of a highly-skilled workforce is to be amortized over the 14-year period specified in the bill. As a further example, the cost of acquiring an existing employment contract (or contracts) or a relationship with employees or consultants (including but not limited to any "key employee" contract or relationship) as part of the acquisition of a trade or business is to be amortized over the 14-year period specified in the bill.

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[94] The date of discharge is required to facilitate the use of such information returns with respect to fiscal year taxpayers.

[95] With respect to these entities, any return required by the provision shall be made by the officer or employee appropriately designated to make these returns.

[96] In the case of intentional disregard of the filing requirements, the penalty is not less than $100 per failure and the $100,000 annual limitation does not apply.

[97] In the case of a short taxable year, the amortization deduction is to be based on the number of months in such taxable year.

Information base.—The term "section 197 intangible" includes business books and records, operating systems, and any other information base including lists or other information with respect to current or prospective customers (regardless of the method of recording such information). Thus, for example, the portion (if any) of the purchase price of an acquired trade or business that is attributable to the intangible value of technical manuals, training manuals or programs, data files, and accounting or inventory control systems is to be amortized over the 14-year period specified in the bill. As a further example, the cost of acquiring customer lists, subscription lists, insurance expirations,[98] patient or client files, or lists of newspaper, magazine, radio or television advertisers is to be amortized over the 14-year period specified in the bill.

Know-how.—The term "section 197 intangible" includes any patent, copyright, formula, process, design, pattern, know-how, format, or other similar item. For this purpose, the term "section 197 intangible" is to include package designs, computer software, and any interest in a film, sound recording, video tape, book, or other similar property, except as specifically provided otherwise in the bill.[99]

Customer-based intangibles.—The term "section 197 intangible" includes any customer-based intangible, which is defined as the composition of market, market share, and any other value resulting from the future provision of goods or services pursuant to relationships with customers (contractual or otherwise) in the ordinary course of business. Thus, for example, the portion (if any) of the purchase price of an acquired trade or business that is attributable to the existence of customer base, circulation base, undeveloped market or market growth, insurance in force, mortgage servicing contracts, investment management contracts, or other relationships with customers that involve the future provision of goods or services, is to be amortized over the 14-year period specified in the bill. On the other hand, the portion (if any) of the purchase price of an acquired trade or business that is attributable to accounts receivable or other similar rights to income for those goods or services that have been provided to customers prior to the acquisition of a trade or business is not to be taken into account under the bill.[100]

In addition, the bill specifically provides that the term "customer-based intangible" includes the deposit base and any similar asset of a financial institution. Thus, for example, the portion (if any) of the purchase price of an acquired financial institution that is attributable to the checking accounts, savings accounts, escrow accounts and other similar items of the financial institution is to be amortized over the 14-year period specified in the bill.

Supplier-based intangibles.—The term "section 197 intangible" includes any supplier-based intangible, which is defined as the value resulting from the future acquisition of goods or services pursuant to relationships (contractual or otherwise) in the ordinary course of business with suppliers of goods or services to be used or sold by the taxpayer. Thus, for example, the portion (if any) of the purchase price of an acquired trade or business that is attributable to the existence of a favorable relationship with persons that provide distribution services (for example, favorable shelf or display space at a retail outlet), the existence of a favorable credit rating, or the existence of favorable supply contracts, is to be amortized over the 14-year period specified in the bill.[101]

Other similar items.—The term "section 197 intangible" also includes any other intangible property that is similar to workforce, information base, know-how, customer-based intangibles, or supplier-based intangibles.

Licenses, permits, and other rights granted by governmental units

The term "section 197 intangible" also includes any license, permit, or other right granted by a governmental unit or any agency or instrumentality thereof (even if the right is granted for an indefinite period or the right is reasonably expected to be renewed for an indefinite period).[102] Thus, for example, the capitalized cost of acquiring from any person a liquor license, a taxi-cab medallion (or license), an airport landing or takeoff right (which is sometimes referred to as a slot), a regulated airline route, or a television or radio broadcasting license is to be amortized over the 14-year period specified in the bill. For purposes of the bill, the issuance or renewal of a license, permit, or other right granted by a governmental unit or an agency or instrumentality thereof is to be considered an acquisition of such license, permit, or other right.

Covenants not to compete and other similar arrangements

The term "section 197 intangible" also includes any covenant not to compete (or other arrangement to the extent that the arrangement has substantially the same effect as a covenant not to compete; hereafter "other similar arrangement") entered into in connection with the direct or indirect acquisition of an interest in a trade or business (or a substantial portion thereof). For this purpose, an interest in a trade or business includes not only the assets of a trade or business, but also stock in a corporation that is engaged in a trade or business or an interest in a partnership that is engaged in a trade or business.

Any amount that is paid or incurred under a covenant not to compete (or other similar arrangement) entered into in connection with the direct or indirect acquisition of an interest in a trade or business (or a substantial portion thereof) is chargeable to capital account and is to be amortized ratably over the 14-year period specified in the bill. In addition, any amount that is paid or incurred under a covenant not to compete (or other similar arrangement) after the taxable year in which the covenant (or other similar arrangement) was entered into is to be amortized ratably over the remaining months in the 14-year amortization period that applies to the covenant (or other similar arrangement) as of the beginning of the month that the amount is paid or incurred.

For purposes of this provision, an arrangement that requires the former owner of an interest in a trade or business to continue to perform services (or to provide property or the use of property) that benefit the trade or business is considered to have substantially the same effect as a covenant not to compete to the extent that the amount paid to the former owner under the arrangement exceeds the amount that represents reasonable compensation for the services actually rendered (or for the property or use of property actually provided) by the former owner. As under present law, to the extent that the amount paid or incurred under a covenant not to compete (or other similar arrangement) represents additional consideration for the acquisition of stock in a corporation, such amount is not to be taken into account under this provision but, instead, is to be included as part of the acquirer's basis in the stock.

Franchises, trademarks, and trade names

The term "section 197 intangible" also includes any franchise, trademark, or trade name. For this purpose, the term "franchise" is defined, as under present law, to include any agreement that provides one of the parties to the agreement the right to distribute, sell, or provide goods, services, or facilities, within a specified area.[103] In addition, as provided under present law, the renewal of a franchise, trademark, or trade name is to be treated as an acquisition of such franchise, trademark, or trade name.[104]

The bill continues the present-law treatment of certain contingent amounts that are paid or incurred on account of the transfer of a franchise, trademark, or trade name. Under these rules, a deduction is allowed for amounts that are contingent on the productivity, use, or disposition of a franchise, trademark, or trade name only if (1) the contingent amounts are paid as part of a series of payments that are payable at least annually throughout the term of the transfer agreement, and (2) the payments are substantially equal in amount or payable under a fixed formula.[105] Any other amount, whether fixed or contingent, that is paid or incurred on account of the transfer of a franchise, trademark, or trade name is chargeable to capital account and is to be amortized ratably over the 14-year period specified in the bill.

Exceptions to the definition of a section 197 intangible

In general.—The bill contains several exceptions to the definition of the term "section 197 intangible." Several of the exceptions contained in the bill apply only if the intangible property is not acquired in a transaction (or series of related transactions) that involves the acquisition of assets which constitute a trade or business or a substantial portion of a trade or business. It is anticipated that the Treasury Department will exercise its regulatory authority to require any intangible property that would otherwise be excluded from the definition of the term "section 197 intangible" to be taken into account under the bill under circumstances where the acquisition of the intangible property is, in and of itself, the acquisition of an asset which constitutes a trade or business or a substantial portion of a trade or business.

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[98] Insurance expirations are records that are maintained by insurance agents with respect to insurance customers. These records generally include information relating to the type of insurance, the amount of insurance, and the expiration date of the insurance.

[99] See below for a description of the exceptions for certain patents, certain computer software, and certain interests in films, sound recordings, video tapes, books, or other similar property.

[100] As under present law, the portion of the purchase price of an acquired trade or business that is attributable to accounts receivable is to be allocated among such receivables and is to be taken into account as payment is received under each receivable or at the time that a receivable becomes worthless.

[101] See below, however, for a description of the exception for certain rights to receive tangible property or services from another person.

[102] A right granted by a governmental unit or an agency or instrumentality thereof that constitutes an interest in land or an interest under a lease of tangible property is excluded from the definition of a section 197 intangible. See below for a description of the exceptions for interests in land and for interests under leases of tangible property.

[103] Section 1253(b)(1) of the Code.

[104] Only the costs incurred in connection with the renewal, however, are to be amortized over the 14-year period that begins with the month that the franchise, trademark, or trade name is renewed. Any costs incurred in connection with the issuance (or an earlier renewal) of a franchise, trademark, or trade name are to continue to be taken into account over the remaining portion of the amortization period that began at the time of such issuance (or earlier renewal).

[105] Section 1253(d)(1) of the Code.

The determination of whether acquired assets constitute a substantial portion of a trade or business is to be based on all of the facts and circumstances, including the nature and the amount of the assets acquired as well as the nature and amount of the assets retained by the transferor. It is not intended, however, that the value of the assets acquired relative to the value of the assets retained by the transferor is determinative of whether the acquired assets constitute a substantial portion of a trade or business.

For purposes of the bill, a group of assets is to constitute a trade or business if the use of such assets would constitute a trade or business for purposes of section 1060 of the Code (i.e., if the assets are of such a character that goodwill or going concern value could under any circumstances attach to the assets). In addition, the acquisition of a franchise, trademark or trade name is to constitute the acquisition of a trade or business or a substantial portion of a trade or business.

In determining whether a taxpayer has acquired an intangible asset in a transaction (or series of related transactions) that involves the acquisition of assets that constitute a trade or business or a substantial portion of a trade or business, only those assets acquired in a transaction (or a series of related transactions) by a taxpayer (and persons related to the taxpayer) from the same person (and any related person) are to be taken into account. In addition, any employee relationships that continue (or covenants not to compete that are entered into) as part of the transfer of assets are to be taken into account in determining whether the transferred assets constitute a trade or business or a substantial portion of a trade or business.

Interests in a corporation, partnership, trust, or estate.—The term "section 197 intangible" does not include any interest in a corporation, partnership, trust, or estate. Thus, for example, the bill does not apply to the cost of acquiring stock, partnership interests, or interests in a trust or estate, whether or not such interests are regularly traded on an established market.[106]

Interests under certain financial contracts.—The term "section 197 intangible" does not include any interest under an existing futures contract, foreign currency contract, notional principal contract, interest rate swap, or other similar financial contract, whether or not such interest is regularly traded on an established market. Any interest under a mortgage servicing contract, credit card servicing contract or other contract to service indebtedness issued by another person, and any interest under an assumption reinsurance contract[107] is not excluded from the definition of the term "section 197 intangible" by reason of the exception for interests under certain financial contracts.

Interests in land.—The term "section 197 intangible" does not include any interest in land. Thus, the cost of acquiring an interest in land is to be taken into account under present law rather than under the bill. For this purpose, an interest in land includes a fee interest, life estate, remainder, easement, mineral rights, timber rights, grazing rights, riparian rights, air rights, zoning variances, and any other similar rights with respect to land. An interest in land is not to include an airport landing or takeoff right, a regulated airline route, or a franchise to provide cable television services.

The costs of acquiring licenses, permits, and other rights relating to improvements to land, such as building construction or use permits, are to be taken into account in the same manner as the underlying improvement in accordance with present law.

Certain computer software.—The term "section 197 intangible" does not include computer software (whether acquired as part of a trade or business or otherwise) that (1) is readily available for purchase by the general public; (2) is subject to a non-exclusive license; and (3) has not been substantially modified. In addition, the term "section 197 intangible" does not include computer software which is not acquired in a transaction (or a series of related transactions) that involves the acquisition of assets which constitute a trade or business or a substantial portion of a trade or business.

For purposes of the bill, the term "computer software" is defined as any program (i.e., any sequence of machine-readable code) that is designed to cause a computer to perform a desired function. The term "computer software" includes any incidental and ancillary rights with respect to computer software that (1) are necessary to effect the legal acquisition of the title to, and the ownership of, the computer software, and (2) are used only in connection with the computer software. The term "computer software" does not include any data base or similar item (other than a data base or item that is in the public domain and that is incidental to the software)[108] regardless of the form in which it is maintained or stored.

If a depreciation deduction is allowed with respect to any computer software that is not a section 197 intangible, the amount of the deduction is to be determined by amortizing the adjusted basis of the computer software ratably over a 36-month period that begins with the month that the computer software is placed in service. For this purpose, the cost of any computer software that is taken into account as part of the cost of computer hardware or other tangible property under present law is to continue to be taken into account in such manner under the bill. In addition, the cost of any computer software that is currently deductible (*i.e.*, not capitalized) under present law is to continue to be taken into account in such manner under the bill.

Certain interests in films, sound recordings, video tapes, books, or other similar property.—The term "section 197 intangible" does not include any interest (including an interest as a licensee) in a film, sound recording, video tape, book, or other similar property (including the right to broadcast or transmit a live event) if the interest is not acquired in a transaction (or a series of related transactions) that involves the acquisition of assets which constitute a trade or business or a substantial portion of a trade or business.

Certain rights to receive tangible property or services.—The term "section 197 intangible" does not include any right to receive tangible property or services under a contract (or any right to receive tangible property or services granted by a governmental unit or an agency or instrumentality thereof) if the right is not acquired in a transaction (or a series of related transactions) that involves the acquisition of assets which constitute a trade or business or a substantial portion of a trade or business.

If a depreciation deduction is allowed with respect to a right to receive tangible property or services that is not a section 197 intangible, the amount of the deduction is to be determined in accordance with regulations to be promulgated by the Treasury Department. It is anticipated that the regulations may provide that in the case of an amortizable right to receive tangible property or services in substantially equal amounts over a fixed period that is not renewable, the cost of acquiring the right will be taken into account ratably over such fixed period. It is also anticipated that the regulations may provide that in the case of a right to receive a fixed amount of tangible property or services over an unspecified period, the cost of acquiring such right will be taken into account under a method that allows a deduction based on the amount of tangible property or services received during a taxable year compared to the total amount of tangible property or services to be received.

For example, assume that a taxpayer acquires from another person a favorable contract right of such person to receive a specified amount of raw materials each month for the next three years (which is the remaining life of the contract) and that the right to receive such raw materials is not acquired as part of the acquisition of assets that constitute a trade or business or a substantial portion thereof (i.e., such contract right is not a section 197 intangible). It is anticipated that the taxpayer may be required to amortize the cost of acquiring the contract right ratably over the three-year remaining life of the contract. Alternatively, if the favorable contract right is to receive a specified amount of raw materials during an unspecified period, it is anticipated that the taxpayer may be required to amortize the cost of acquiring the contract right by multiplying such cost by a fraction, the numerator of which is the amount of raw materials received under the contract during any taxable year and the denominator of which is the total amount of raw materials to be received under the contract.

It is also anticipated that the regulations may require a taxpayer under appropriate circumstances to amortize the cost of acquiring a renewable right to receive tangible property or services over a period that includes all renewal options exercisable by the taxpayer at less than fair market value.

Certain interests in patents or copyrights.—The term "section 197 intangible" does not include any interest in a patent or copyright which is not acquired in a transaction (or a series of related transactions) that involves the acquisition of assets which constitute a trade or business or a substantial portion of a trade or business.

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[106] A temporal interest in property, outright or in trust, may not be used to convert a section 197 intangible into property that is amortizable more rapidly than ratably over the 14-year period specified in the bill.

[107] See below for a description of the treatment of assumption reinsurance contracts.

[108] For example, a data base would not include a dictionary feature used to spell-check a word processing program.

If a depreciation deduction is allowed with respect to an interest in a patent or copyright and the interest is not a section 197 intangible, then the amount of the deduction is to be determined in accordance with regulations to be promulgated by the Treasury Department. It is expected that the regulations may provide that if the purchase price of a patent is payable on an annual basis as a fixed percentage of the revenue derived from the use of the patent, then the amount of the depreciation deduction allowed for any taxable year with respect to the patent equals the amount of the royalty paid or incurred during such year.[109]

Interests under leases of tangible property.—The term "section 197 intangible" does not include any interest as a lessor or lessee under an existing lease of tangible property (whether real or personal).[110] The cost of acquiring an interest as a lessor under a lease of tangible property where the interest as lessor is acquired in connection with the acquisition of the tangible property is to be taken into account as part of the cost of the tangible property. For example, if a taxpayer acquires a shopping center that is leased to tenants operating retail stores, the portion (if any) of the purchase price of the shopping center that is attributable to the favorable attributes of the leases is to be taken into account as a part of the basis of the shopping center and is to be taken into account in determining the depreciation deduction allowed with respect to the shopping center.

The cost of acquiring an interest as a lessee under an existing lease of tangible property is to be taken into account under present law (see section 178 of the Code and Treas. Reg. sec. 1.162–11(a)) rather than under the provisions of the bill.[111] In the case of any interest as a lessee under a lease of tangible property that is acquired with any other intangible property (either in the same transaction or series of related transactions), however, the portion of the total purchase price that is allocable to the interest as a lessee is not to exceed the excess of (1) the present value of the fair market value rent for the use of the tangible property for the term of the lease,[112] over (2) the present value of the rent reasonably expected to be paid for the use of the tangible property for the term of the lease.

Interests under indebtedness.—The term "section 197 intangible" does not include any interest (whether as a creditor or debtor) under any indebtedness that was in existence on the date that the interest was acquired.[113] Thus, for example, the value of assuming an existing indebtedness with a below-market interest rate is to be taken into account under present law rather than under the bill. In addition, the premium paid for acquiring the right to receive an above-market rate of interest under a debt instrument may be taken into account under section 171 of the Code, which generally allows the amount of the premium to be amortized on a yield-to-maturity basis over the remaining term of the debt instrument. This exception for interests under existing indebtedness does not apply to the deposit base and other similar items of a financial institution.

Professional sports franchises.—The term "section 197 intangible" does not include a franchise to engage in professional baseball, basketball, football, or other professional sport, and any item acquired in connection with such a franchise. Consequently, the cost of acquiring a professional sports franchise and related assets (including any goodwill, going concern value, or other section 197 intangibles) is to be allocated among the assets acquired as provided under present law (see, for example, section 1056 of the Code) and is to be taken into account under the provisions of present law.

Certain transaction costs.—The term section 197 intangible does not include the amount of any fees for professional services, and any transaction costs, incurred by parties to a transaction with respect to which any portion of the gain or loss is not recognized under part III of subchapter C. This provision addresses a concern that some taxpayers might attempt to contend that the 14-year amortization provided by the provision applies to any such amounts that may be required to be capitalized under present law but that do not relate to any asset with a readily identifiable useful life.[114] The exception is provided solely to clarify that section 197 is not to be construed to provide 14-year amortization for any such amounts. No inference is intended that such amounts would (but for this provision) be properly characterized as amounts eligible for such 14-year amortization, nor is any inference intended that any amounts not specified in this provision should be so characterized. In addition, no inference is intended regarding the proper treatment of professional fees or transaction costs in other circumstances under present law.

Regulatory authority regarding rights of fixed term or duration.—The bill authorizes the Treasury Department to issue regulations that exclude a right received under a contract, or granted by a governmental unit or an agency or instrumentality thereof, from the definition of a section 197 intangible if (1) the right is not acquired in a transaction (or a series of related transactions) that involves the acquisition of assets which constitute a trade or business (or a substantial portion thereof) and (2) the right either (A) has a fixed duration of less than 14 years or (B) is fixed as to amount[115] and the cost is properly recoverable (without regard to this provision) under a method similar to the unit of production method.

Generally, it is anticipated that the mere fact that a taxpayer will have the opportunity to renew a contract or other right on the same terms as are available to others, in a competitive auction or similar process that is designed to reflect fair market value and in which the taxpayer is not contractually advantaged, will not be taken into account in determining the duration of such right or whether it is for a fixed amount. However, the fact that competitive bidding occurs at the time of renewal and that there are or may be modifications in price (or in terms or requirements relating to the right that increase the cost to the bidder) shall not be within the scope of the preceding sentence unless the bidding also actually produces a fair market value price comparable to the price that would obtain if the rights were purchased immediately after renewal from a person (other than the person granting the renewal) in an arm's length transaction. Furthermore, it is expected that, as under present law, the Treasury Department will take into account all the facts and circumstances, including any facts indicating an actual practice of renewals or expectancy of renewals.

For example, assume Company A enters into a license with Company B to use certain know-how developed by B. In addition, assume that the license is for five years, that the license cannot be renewed by A except on terms that are fully available to A's competitors and that the price paid by A will reflect the arm's length price that a third party would pay A for the license immediately after renewal. Finally, assume that the license does not constitute a substantial portion of a trade or business and is not entered into as part of a transaction (or series of related transactions) that constitute the acquisition of a trade or business or substantial portion thereof. It is anticipated that in these circumstances the regulations will provide that the license is not a section 197 intangible because it is of fixed duration.

The regulations may also prescribe rules governing the extent to which renewal options and similar items will be taken into account for the purpose of determining whether rights are fixed in duration or amount. It is also anticipated that such regulations may prescribe the appropriate method of amortizing the capitalized costs of rights which are excluded by such regulations from the definition of a section 197 intangible.

Exception for certain self-created intangibles

The bill generally does not apply to any section 197 intangible that is created by the taxpayer if the section 197 intangible is not created in connection with a transaction (or a series of related transactions) that involves the acquisition of assets which constitute a trade or business or a substantial portion thereof.

For purposes of this exception, a section 197 intangible that is owned by a taxpayer is to be considered created by the taxpayer if the intangible is produced for the taxpayer by another person under a contract with the taxpayer that is entered into prior to the production of the intangible. For example, a technological process or other know-how that is developed specifically for a taxpayer under an arrangement with another person pursuant to which the taxpayer retains all rights to the process or know-how is to be considered created by the taxpayer.

The exception for "self-created" intangibles does not apply to the entering into (or renewal of) a contract for the use of a section 197 intangible. Thus, for example, the exception does not apply to the capitalized costs incurred by a licensee in connection with the entering into (or renewal of) a contract for the use of know-how or other section 197 intangible. These capitalized costs are to be amortized over the 14-year period specified in the bill.

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[109] See *Associated Patentees, Inc.*, 4 T.C. 979 (1945); and Rev. Rul. 67–136, 1967–1 C.B. 58.

[110] The bill provides that a sublease is to be treated in the same manner as a lease of the underlying property. Thus, the term "section 197 intangible" does not include any interest as a sublessor or sublessee of tangible property.

[111] The lease of a gate at an airport for the purpose of loading and unloading passengers and cargo is a lease of tangible property for this purpose. It is anticipated that such treatment will serve as guidance to the Internal Revenue Service and taxpayers in resolving existing disputes.

[112] In no event is the present value of the fair market value rent for the use of the tangible property for the term of the lease to exceed the fair market value of the tangible property as of the date of acquisition. The present value of such rent is presumed to be less than the value of the tangible property if the duration of the lease is less than the economic useful life of the property.

[113] For purposes of this exception, the term "interest under any existing indebtedness" is to include mortgage servicing rights to the extent that the rights are stripped coupons under section 1286 of the Code. See Rev. Rul. 91–46, 1991–34 I.R.B. 5 (August 26, 1991).

[114] See, e.g., *INDOPCO, Inc. v. Commissioner*, 112 S. Ct. 1039 (1992).

[115] For example, an emission allowance granted a public utility under Title IV of the Clean Air Act Amendments of 1990 is a right that is limited in amount within the meaning of this provision, because each allowance grants a right to a fixed amount of emissions. It is expected that the Treasury Department will provide guidance regarding the interaction of section 461 with these provisions. No inference is intended that would require the Treasury Department to disturb the result in Rev. Proc. 92–91, 1992–46 I.R.B. 32.

In addition, the exception for "self-created" intangibles does not apply to: (1) any license, permit, or other right that is granted by a governmental unit or an agency or instrumentality thereof; (2) any covenant not to compete (or other similar arrangement) entered into in connection with the direct or indirect acquisition of an interest in a trade or business (or a substantial portion thereof); and (3) any franchise, trademark, or trade name. Thus, for example, the capitalized costs incurred in connection with the development or registration of a trademark or trade name are to be amortized over the 14-year period specified in the bill.

Special rules

Determination of adjusted basis

The adjusted basis of a section 197 intangible that is acquired from another person generally is to be determined under the principles of present law that apply to tangible property that is acquired from another person. Thus, for example, if a portion of the cost of acquiring an amortizable section 197 intangible is contingent, the adjusted basis of the section 197 intangible is to be increased as of the beginning of the month that the contingent amount is paid or incurred. This additional amount is to be amortized ratably over the remaining months in the 14-year amortization period that applies to the intangible as of the beginning of the month that the contingent amount is paid or incurred.

Treatment of certain dispositions of amortizable section 197 intangibles

Special rules apply if a taxpayer disposes of a section 197 intangible that was acquired in a transaction or series of related transactions and, after the disposition,[116] the taxpayer retains other section 197 intangibles that were acquired in such transaction or series or related transactions.[117] First, no loss is to be recognized by reason of such a disposition. Second, the adjusted bases of the retained section 197 intangibles that were acquired in connection with such transaction or series of related transactions are to be increased by the amount of any loss that is not recognized. The adjusted basis of any such retained section 197 intangible is increased by the product of (1) the amount of the loss that is not recognized solely by reason of this provision, and (2) a fraction, the numerator of which is the adjusted basis of the intangible as of the date of the disposition and the denominator of which is the total adjusted bases of all such retained section 197 intangibles as of the date of the disposition.

For purposes of these rules, all persons treated as a single taxpayer under section 41(f)(1) of the Code are treated as a single taxpayer. Thus, for example, a loss is not to be recognized by a corporation upon the disposition of a section 197 intangible if after the disposition a member of the same controlled group as the corporation retains other section 197 intangibles that were acquired in the same transaction (or a series of related transactions) as the section 197 intangible that was disposed of. It is anticipated that the Treasury Department will provide rules for taking into account the amount of any loss that is not recognized due to this rule (for example, by allowing the corporation that disposed of the section 197 intangible to amortize the loss over the remaining portion of the 14-year amortization period).

Treatment of certain nonrecognition transactions

If any section 197 intangible is acquired in a transaction to which section 332, 351, 361, 721, 731, 1031, or 1033 of the Code applies (or any transaction between members of the same affiliated group during any taxable year for which a consolidated return is filed),[118] the transferee is to be treated as the transferor for purposes of applying this provision with respect to the amount of the adjusted basis of the transferee that does not exceed the adjusted basis of the transferor.

For example, assume that an individual owns an amortizable section 197 intangible that has been amortized under section 197 for 4 full years and has a remaining unamortized basis of $300,000. In addition, assume that the individual exchanges the asset and $100,000 for a like-kind amortizable section 197 intangible in a transaction to which section 1031 applies. Under the bill, $300,000 of the basis of the acquired amortizable section 197 intangible is to be amortized over the 10 years remaining in the original 14-year amortization period for the transferred asset and the other $100,000 of basis is to be amortized over the 14-year period specified in the bill.[119]

Treatment of certain partnership transactions

Generally, consistent with the rules described above for certain nonrecognition transactions, a transaction in which a taxpayer acquires an interest in an intangible held through a partnership (either before or after the transaction) will be treated as an acquisition to which the bill applies only if, and to the extent that, the acquiring taxpayer obtains, as a result of the transaction, an increased basis for such intangible.[120]

For example, assume that A, B and C each contribute $700 for equal shares in partnership P, which on January 1, 1994, acquires as its sole asset an amortizable section 197 intangible for $2,100. Assume that on January 1, 1998, (1) the sole asset of P is the intangible acquired in 1994, (2) the intangible has an unamortized basis of $1,500 and A, B, and C each have a basis of $500 in their partnership interests, and (3) D (who is not related to A, B, or C) acquires A's interest in P for $800. Under the bill, if there is no section 754 election in effect for 1998, there will be no change in the basis or amortization of the intangible and D will merely step into the shoes of A with respect to the intangible. D's share of the basis in the intangible will be $500, which will be amortized over the 10 years remaining in the amortization period for the intangible.

On the other hand, if a section 754 election is in effect for 1998, then D will be treated as having an $800 basis for its share of P's intangible. Under section 197, D's share of income and loss will be determined as if P owns two intangible assets. D will be treated as having a basis of $500 in one asset, which will continue to be amortized over the 10 remaining years of the original 14-year life. With respect to the other asset, D will be treated as having a basis of $300 (the amount of step-up obtained by D under section 743 as a result of the section 754 election) which will be amortized over a 14-year period starting with January of 1998. B and C will each continue to share equally in a $1,000 basis in the intangible and amortize that amount over the remaining 10-year life.

As an additional example, assume the same facts as described above, except that D acquires both A's and B's interests in P for $1,600. Under section 708, the transaction is treated as if P is liquidated immediately after the transfer, with C and D each receiving their pro rata share of P's assets which they then immediately contribute to a new partnership. The distributions in liquidation are governed by section 731. Under the bill, C's interest in the intangible will be treated as having a $500 basis, with a remaining amortization period of 10 years. D will be treated as having an interest in two assets: one with a basis of $1,000 and a remaining amortization period of 10 years, and the other with a basis of $600 and a new amortization period of 14 years.

As discussed more fully below, the bill also changes the treatment of payments made in liquidation of the interest of a deceased or retired partner in exchange for goodwill. Except in the case of payments made on the retirement or death of a general partner of a partnership for which capital is not a material income-producing factor, such payments will not be treated as a distribution of partnership income. Under the bill, however, if the partnership makes an election under section 754, section 734 will generally provide the partnership the benefit of a stepped-up basis for the retiring or deceased partner's share of partnership goodwill and an amortization deduction for the increase in basis under section 197.

For example, using the facts from the preceding examples, assume that on January 1, 1998, A retires from the partnership in exchange for a payment from the partnership of $800, all of which is in exchange for A's interest in the intangible asset owned by P. Under the bill, if there is a section 754 election in effect for 1998, P will be treated as having two amortizable section 197 intangibles: one with a basis of $1,500 and a remaining life of 10 years, and the other with a basis of $300 and a new life of 14 years.

Treatment of certain reinsurance transactions

The bill applies to any insurance contract that is acquired from another person through an assumption reinsurance transaction (but not through an indemnity reinsurance transaction).[121] The amount taken into account as the adjusted basis of such a section 197 intangible, however, is to equal the excess of (1) the amount paid or incurred by the acquirer/reinsurer under the assumption reinsurance transaction,[122] over (2) the amount of the specified policy acquisition expenses (as determined under section 848 of the Code) that is attributable to premiums received under the assumption reinsurance transaction. The amount of the specified policy acquisition expenses of an insurance company that is attributable to premiums received under an assumption reinsurance transaction is to be amortized over the period specified in section 848 of the Code.

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[116] For this purpose, the abandonment of a section 197 intangible or any other event that renders a section 197 intangible worthless is to be considered a disposition of a section 197 intangible.

[117] These special rules do not apply to a section 197 intangible that is separately acquired (i.e., a section 197 intangible that is acquired other than in a transaction or a series of related transactions that involve the acquisition of other section 197 intangibles). Consequently, a loss may be recognized upon the disposition of a separately acquired section 197 intangible. In no event, however, is the termination or worthlessness of a portion of a section 197 intangible to be considered the disposition of a separately acquired section 197 intangible. For example, the termination of one or more customers from an acquired customer list or the worthlessness of some information from an acquired data base is not to be considered the disposition of a separately acquired section 197 intangible.

[118] The termination of a partnership under section 708(b)(1)(B) of the Code is a transaction to which this rule applies. In such a case, the bill applies only to the extent that the adjusted basis of the section 197 intangibles before the termination exceeds the adjusted basis of the section 197 intangibles after the termination. (See the example below in the discussion of "Treatment of certain partnership transactions.")

[119] No inference is intended whether any asset treated as a section 197 intangible under the bill is eligible for like kind exchange treatment.

[120] This discussion is subject to the application of the anti-churning rules which are discussed below.

Treatment of amortizable section 197 intangible as depreciable property

For purposes of chapter 1 of the Internal Revenue Code, an amortizable section 197 intangible is to be treated as property of a character which is subject to the allowance for depreciation provided in section 167. Thus, for example, an amortizable section 197 intangible is not a capital asset for purposes of section 1221 of the Code, but an amortizable section 197 intangible held for more than one year generally qualifies as property used in a trade or business for purposes of section 1231 of the Code. As further examples, an amortizable section 197 intangible is to constitute section 1245 property, and section 1239 of the Code is to apply to any gain recognized upon the sale or exchange of an amortizable section 197 intangible, directly or indirectly, between related persons.

Treatment of certain amounts that are properly taken into account in determining the cost of property that is not a section 197 intangible

The bill does not apply to any amount that is properly taken into account under present law in determining the cost of property that is not a section 197 intangible. Thus, for example, no portion of the cost of acquiring real property that is held for the production of rental income (for example, an office building, apartment building or shopping center) is to be taken into account under the bill (i.e., no goodwill, going concern value or any other section 197 intangible is to arise in connection with the acquisition of such real property). Instead, the entire cost of acquiring such real property is to be included in the basis of the real property and is to be recovered under the principles of present law applicable to such property.

Modification of purchase price allocation and reporting rules for certain asset acquisitions

Sections 338(b)(5) and 1060 of the Code authorize the Treasury Department to promulgate regulations that provide for the allocation of purchase price among assets in the case of certain asset acquisitions. Under regulations that have been promulgated pursuant to this authority, the purchase price of an acquired trade or business must be allocated among the assets of the trade or business using the "residual method."

Under the residual method specified in the Treasury regulations, all assets of an acquired trade or business are divided into the following four classes: (1) Class I assets, which generally include cash and cash equivalents; (2) Class II assets, which generally include certificates of deposit, U.S. government securities, readily marketable stock or securities, and foreign currency; (3) Class III assets, which generally include all assets other than those included in Class I, II, or IV (generally all furniture, fixtures, land, buildings, equipment, other tangible property, accounts receivable, covenants not to compete, and other amortizable intangible assets); and (4) Class IV assets, which include intangible assets in the nature of goodwill or going concern value. The purchase price of an acquired trade or business (as first reduced by the amount of the assets included in Class I) is allocated to the assets included in Class II and Class III based on the value of the assets included in each class. To the extent that the purchase price (as reduced by the amount of the assets in Class I) exceeds the value of the assets included in Class II and Class III, the excess is allocable to assets included in Class IV.

It is expected that the present Treasury regulations which provide for the allocation of purchase price in the case of certain asset acquisitions will be amended to reflect the fact that the bill allows an amortization deduction with respect to intangible assets in the nature of goodwill and going concern value. It is anticipated that the residual method specified in the regulations will be modified to treat all amortizable section 197 intangibles as Class IV assets and that this modification will apply to any acquisition of property to which the bill applies.

Section 1060 also authorizes the Treasury Department to require the transferor and transferee in certain asset acquisitions to furnish information to the Treasury Department concerning the amount of any purchase price that is allocable to goodwill or going concern value. The bill provides that the information furnished to the Treasury Department with respect to certain asset acquisitions is to specify the amount of purchase price that is allocable to amortizable section 197 intangibles rather than the amount of purchase price that is allocable to goodwill or going concern value. In addition, it is anticipated that the Treasury Department will exercise its existing regulatory authority to require taxpayers to furnish such additional information as may be necessary or appropriate to carry out the provisions of the bill, including the amount of purchase price that is allocable to intangible assets that are not amortizable section 197 intangibles.[123]

General regulatory authority

The Treasury Department is authorized to prescribe such regulations as may be appropriate to carry out the purposes of the bill including such regulations as may be appropriate to prevent avoidance of the purposes of the bill through related persons or otherwise. It is anticipated that the Treasury Department will exercise its regulatory authority where appropriate to clarify the types of intangible property that constitute section 197 intangibles.

Study

The Treasury Department is directed to conduct a continuing study of the implementation and effects of the bill, including effects on merger and acquisition activities (including hostile takeovers and leveraged buyouts). It is expected that the study will address effects of the legislation on the pricing of acquisitions and on the reported values of different types of intangibles (including goodwill). The Treasury Department is to report the initial results of such study as expeditiously as possible and no later than December 31, 1994. The Treasury Department is to provide additional reports annually thereafter.

Report regarding backlog of pending cases

The purpose of the provision is to simplify the law regarding the amortization of intangibles. The severe backlog of cases in audit and litigation is a matter of great concern, and any principles established in such cases will no longer have precedential value due to the provision. Therefore, the Internal Revenue Service is urged in the strongest possible terms to expedite the settlement of cases under present law. In considering settlements and establishing procedures for handling existing controversies in an expedient and balanced manner, the Internal Revenue Service is strongly encouraged to take into account the principles of the bill so as to produce consistent results for similarly situated taxpayers. However, no inference is intended that any deduction should be allowed in these cases for assets that are not amortizable under present law.

The Treasury Department is required to report annually to the House Ways and Means Committee and the Senate Finance Committee, regarding the volume of pending disputes in audit and litigation involving the amortization of intangibles and the progress made in resolving such disputes. It is expected that the report will also address the effects of the provision on the volume and nature of disputes regarding the amortization of intangibles. The first such report is to be made no later than December 31, 1994.

Effective date

In general

The provision generally applies to property acquired after the date of enactment of the bill. As more fully described below, however, a taxpayer may elect to apply the bill to all property acquired after July 25, 1991. In addition, a taxpayer that does not make this election may elect to apply present law (rather than the provisions of the bill) to property that is acquired after the date of enactment of the bill pursuant to a binding written contract in effect on the date of enactment of the bill and at all times thereafter until the property is acquired. Finally, special "anti-churning" rules may apply to prevent taxpayers from converting existing goodwill, going concern value, or any other section 197 intangible for which a depreciation or amortization deduction would not have been allowable under present law into amortizable property to which the bill applies.

Election to apply bill to property acquired after July 25, 1991

A taxpayer may elect to apply the bill to all property acquired by the taxpayer after July 25, 1991. If a taxpayer makes this election, the bill also applies to all property acquired after July 25, 1991, by any taxpayer that is under common control with the electing taxpayer (within the meaning of subparagraphs (A) and (B) of section 41(f)(1)) of the

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[121] An assumption reinsurance transaction is an arrangement whereby one insurance company (the reinsurer) becomes solely liable to policyholders on contracts transferred by another insurance company (the ceding company). In addition, for purposes of the bill, an assumption reinsurance transaction is to include any acquisition of an insurance contract that is treated as occurring by reason of an election under section 338 of the Code.

[122] The amount paid or incurred by the acquirer/reinsurer under an assumption reinsurance transaction is to be determined under the principles of present law. (See Treas. Reg. sec. 1.817-4(d)(2).)

[123] There is no intention to codify any aspect of the existing regulations under section 1060 or other provisions. Furthermore, it is expected that the Treasury Department will review the operation of the regulations under sections 1060 and 338 in light of new section 197.

Code) at any time during the period that began on November 22, 1991, and that ends on the date that the election is made.[124]

The election is to be made at such time and in such manner as may be specified by the Treasury Department,[125] and the election may be revoked only with the consent of the Treasury Department.

Elective binding contract exception

A taxpayer may also elect to apply present law (rather than the provisions of the bill) to property that is acquired after the date of enactment of the bill if the property is acquired pursuant to a binding written contract that was in effect on the date of enactment of the bill and at all times thereafter until the property is acquired. This election may not be made by any taxpayer that is subject to either of the elections described above that apply the provisions of the bill to property acquired before the date of enactment of the bill.

The election is to be made at such time and in such manner as may be specified by the Treasury Department,[126] and the election may be revoked only with the consent of the Treasury Department.

Anti-churning rules

Special rules are provided by the bill to prevent taxpayers from converting existing goodwill, going concern value, or any other section 197 intangible for which a depreciation or amortization deduction would not have been allowable under present law into amortizable property to which the bill applies.

Under these "anti-churning" rules, goodwill, going concern value, or any other section 197 intangible for which a depreciation or amortization deduction would not be allowable but for the provisions of the bill[127] may not be amortized as an amortizable section 197 intangible if: (1) the section 197 intangible is acquired by a taxpayer after the date of enactment of the bill; and (2) either (a) the taxpayer or a related person held or used the intangible at any time during the period that begins on July 25, 1991, and that ends on the date of enactment of the bill; (b) the taxpayer acquired the intangible from a person that held such intangible at any time during the period that begins on July 25, 1991, and that ends on the date of enactment of the bill and, as part of the transaction, the user of the intangible does not change; or (c) the taxpayer grants the right to use the intangible to a person (or a person related to such person) that held or used the intangible at any time during the period that begins on July 25, 1991, and that ends on the date of enactment of the bill. The anti-churning rules, however, do not apply to the acquisition of any intangible by a taxpayer if the basis of the intangible in the hands of the taxpayer is determined under section 1014(a) (relating to property acquired from a decedent).

For purposes of the anti-churning rules, a person is related to another person if: (1) the person bears a relationship to that person which would be specified in section 267(b)(1) or 707(b)(1) of the Code if those sections were amended by substituting 20 percent for 50 percent; or (2) the persons are engaged in trades or businesses under common control (within the meaning of subparagraphs (A) and (B) of section 41(f)(1) of the Code). A person is treated as related to another person if such relationship exists immediately before or immediately after the acquisition of the intangible involved.

In addition, in determining whether the anti-churning rules apply with respect to any increase in the basis of partnership property under section 732, 734, or 743 of the Code, the determinations are to be made at the partner level and each partner is to be treated as having owned or used the partner's proportionate share of the partnership property. Thus, for example, the anti-churning rules do not apply to any increase in the basis of partnership property that occurs upon the acquisition of an interest in a partnership that has made a section 754 election if the person acquiring the partnership interest is not related to the person selling the partnership interest.[128]

These "anti-churning" rules are not to apply to any section 197 intangible that is acquired from a person with less than a 50-percent relationship to the acquirer to the extent that: (1) the seller recognizes gain on the transaction with respect to such intangible; and (2) the seller agrees, notwithstanding any other provision of the Code, to pay a tax on such gain which, when added to any other Federal income tax imposed on such gain, equals the product of such gain and the highest rate of tax imposed by section 1 or 11 of the Code, whichever is applicable. The seller is treated as satisfying the second requirement if the excess of (1) the total tax liability for the year of the transaction over (2) what its tax liability for such year would have been had the sale of the intangible (but not the remainder of the transaction) been excluded from the computation equals or exceeds the product of the gain on that asset times the relevant maximum rate.

The bill also contains a general anti-abuse rule that applies to any section 197 intangible that is acquired by a taxpayer from another person. Under this rule, a section 197 intangible may not be amortized under the provisions of the bill if the taxpayer acquired the intangible in a transaction one of the principal purposes of which is to (1) avoid the requirement that the intangible be acquired after the date of enactment of the bill or (2) avoid any of the anti-churning rules described above that are applicable to goodwill, going concern value, or any other section 197 intangible for which a depreciation or amortization deduction would not be allowable but for the provisions of the bill.

Finally, the special rules described above that apply in the case of a transactions described in section 332, 351, 361, 721, 731, 1031, or 1033 of the Code also apply for purposes of the effective date. Consequently, if the transferor of any section 197 property is not allowed an amortization deduction with respect to such property under this provision, then the transferee is not allowed an amortization deduction under this provision to the extent of the adjusted basis of the transferee that does not exceed the adjusted basis of the transferor. In addition, this provision is to apply to any subsequent transfers of any such property in a transaction described in section 332, 351, 361, 721, 731, 1031, or 1033.

Senate amendment

The Senate amendment is the same as the House bill with the following modifications:

The amount of deduction with respect to any amortizable section 197 intangible is determined by amortizing 75 percent of the adjusted basis of the intangible over 14 years. The remaining 25 percent of adjusted basis is not amortizable.

Purchased mortgage servicing rights not acquired with a trade or business or substantial portion thereof are excluded from the definition of a section 197 intangible. Any depreciation deduction allowable with respect to such excluded rights must be taken over 9 years (108 months) on a straight-line basis.

In addition to the provisions of the House bill regarding computer software, special allocation and amortization rules apply to acquisitions of certain businesses that have made certain computer software expenditures. Fifty percent of the amortizable portion of "amortizable section 197 intangibles" (i.e., 50 percent of 75 percent of the basis of such assets) is amortized on a straight-line basis over 5 years. The remaining 50 percent of 75 percent is amortized over 14 years under the general rule of the provision.

The Senate amendment does not contain any requirement of reports from the Treasury department.

Conference Agreement

The conference agreement follows the House bill, deleting the statutory requirements of reports from the Treasury Department and with the following additional modifications:

Period of amortization

The straight line amortization period for an amortizable section 197 intangible is 15 years rather than 14 years.

Treasury regulatory authority regarding rights of fixed duration or amount

As a conforming amendment to the change in amortization period, under the conference agreement the Treasury regulatory authority regarding rights of fixed duration or amount applies to rights that have a fixed duration of less than 15 years (rather than 14 years).

Purchased mortgage servicing rights

The conference agreement follows the Senate bill in excluding purchased mortgage servicing rights (not acquired in connection with the acquisition of a trade or business or substantial portion thereof) from the definition of a section 197 intangible. Any depreciation deduction allowable with respect to such excluded rights must be computed on a straight line basis over a period of 9 years (108 months).[129]

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[124] However, with certain exceptions, an amortization deduction is not to be allowed under the bill for goodwill, going concern value, or any other section 197 intangible for which a depreciation or amortization deduction would not be allowable but for the provisions of the bill if: (1) the section 197 intangible is acquired after July 25, 1991; and (2) either (a) the taxpayer or a related person held or used the intangible on July 25, 1991; (b) the taxpayer acquired the intangible from a person that held such intangible on July 25, 1991, and, as part of the transaction, the user of the intangible does not change; or (c) the taxpayer grants the right to use the intangible to a person (or a person related to such person) that held or used the intangible on July 25, 1991. See below for a more detailed description of these "anti-churning" rules.

[125] It is anticipated that the Treasury Department will require the election to be made on the timely filed Federal income tax return of the taxpayer for the taxable year that includes the date of enactment of the bill.

[126] It is anticipated that the Treasury Department will require the election to be made on the timely filed Federal income tax return of the taxpayer for the taxable year that includes the date of enactment of the bill.

[127] Amounts that are properly deductible pursuant to section 1253 under present law are to be treated for purposes of the anti-churning provision as amounts for which depreciation or amortization is allowable under present law.

[128] In addition to these rules, it is anticipated that rules similar to the anti-churning rules under section 168 of the Code will apply in determining whether persons are related. (See Prop. Treas. Reg. 1.168-4 (February 16, 1984).) For example, it is anticipated that a corporation, partnership, or trust that owned or used property at any time during the period that begins on July 25, 1991, and that ends on the date of enactment of the bill and that is no longer in existence will be considered to be in existence for purposes of determining whether the taxpayer that acquired the property is related to such corporation, partnership, or trust.

As a further example, it is anticipated that in the case of a transaction to which section 338 of the Code applies, the corporation that is treated as selling its assets will not to be considered related to the corporation that is treated as purchasing the assets if at least 80 percent of the stock of the corporation that is treated as selling its assets is acquired by purchase after July 25, 1991.

Technical correction regarding losses on covenants not to compete

The conference agreement contains a technical correction conforming the statute to both the House and Senate committee reports regarding the amortization of covenants not to compete. The correction provides that a covenant not to compete (or other arrangement to the extent such arrangement has substantially the same effect as a covenant not to compete) shall not be considered to have been disposed of or to have become worthless until the disposition or worthlessness of all interests in the trade or business or substantial portion thereof that was directly or indirectly acquired in connection with such covenant (or other arrangement).

Thus, for example, in the case of an indirect acquisition of a trade or business (e.g., through the acquisition of stock that is not treated as an asset acquisition), it is clarified that a covenant not to compete (or other arrangement) entered into in connection with the indirect acquisition cannot be written off faster than on a straight-line basis over 15 years (even if the covenant or other arrangement expires or otherwise becomes worthless) unless all the trades or businesses indirectly acquired (e.g., acquired through such stock interest) are also disposed of or become worthless.

Modification of related party rule for purposes of the July 25, 1991 election

The conference agreement modifies the rules regarding the effect of an election on certain related parties, in order to reflect the passage of time since the election was originally proposed (H. Res. 292, introduced November 22, 1991).

The conference agreement provides that an election by a taxpayer affects all property acquired by that taxpayer since July 25, 1991, and also affects all property acquired since that date by parties that are related to the taxpayer at any time between August 2, 1993 (rather than November 22, 1991) and the date of the election.

Consistent with the operation of the consolidated return rules, for this purpose it is intended that any property acquired after July 25, 1991 by an entity that is a member of an affiliated group filing a consolidated return at the time of such acquisition is treated as property acquired by the taxpayer group filing such return for purposes of any election by that taxpayer group.

An election by an affiliated group filing a consolidated return would not force an election to be made by an acquirer of a former group member, even if such acquirer would normally continue the treatment of such former group member's assets (e.g., an acquirer in a transaction that does not affect the inside basis of the assets of the former group member). Similarly, a failure by the former group to make an election would not affect the ability of the former group member, or a new acquirer that is related to such member on the date of the election, to make an election that would affect the post-July 25, 1991 intangible asset acquisitions of that former group member (including such intangible asset acquisitions made while it was a member of the former group).[130]

The conferees expect that the Treasury Department will provide rules regarding appropriate adjustments, if any, to be made where property acquired after July 25, 1991 has been transferred from one related party group to another in a transaction that would not involve a change in asset basis and one or both groups independently make a July 25, 1991 election that would affect the amortization of such property.[131]

Reports regarding backlog of pending cases and implementation and effects of the bill

The conferees reiterate the intended purpose of the provision, as stated in both the House and Senate reports, to simplify the law regarding the amortization of intangibles. The severe backlog of cases in audit and litigation is a matter of great concern to the conferees; and any principles established in such cases will no longer have precedential value due to the provision contained in the conference agreement. Therefore, the conferees urge the Internal Revenue Service in the strongest possible terms to expedite the settlement of cases under present law. In considering settlements and establishing procedures for handling existing controversies in an expedited and balanced manner, the conferees strongly encourage the Internal Revenue Service to take into account the principles of the bill so as to produce consistent results for similarly situated taxpayers. However, no inference is intended that any deduction should be allowed in these cases for assets that are not amortizable under present law.

The conferees intend that the Treasury Department report annually to the House Ways and Means Committee and the Senate Finance Committee regarding the volume of pending disputes in audit and litigation involving the amortization of intangibles and the progress made in resolving disputes. It is intended that the report also address the effects of the provision on the volume and nature of disputes regarding the amortization of intangibles. It is intended that the first such report shall be made no later than December 31, 1994.

The conferees also intend that the Treasury Department conduct a continuing study of the implementation and effects of the bill, including effects on merger and acquisition activities (including hostile takeovers and leveraged buyouts). It is expected that the study will address effects of the legislation on the pricing of acquisitions and on the reported values of different types of intangibles (including goodwill). It is intended that the Treasury Department will report the initial results of such study as expeditiously as possible and no later than December 31, 1994. The Treasury Department is expected to provide additional reports annually thereafter.

2. Modify special treatment of certain liquidation payments (sec. 14262 of the House bill, sec. 8262 of the Senate amendment, sec. 13262 of the conference agreement, and sec. 736 of the Code)

Present Law

Payments for purchase of goodwill and accounts receivable

A current deduction generally is not allowed for a capital expenditure (i.e., an expenditure that yields benefits beyond the current taxable year). The cost of goodwill acquired in connection with the assets of a going concern normally is a capital expenditure, as is the cost of acquiring accounts receivable. The cost of acquiring goodwill is recovered only when the goodwill is disposed of, while the cost of acquiring accounts receivable is taken into account only when the receivable is disposed of or becomes worthless.

Payments made in liquidation of partnership interest

The tax treatment of a payment made in liquidation of the interest of a retiring or deceased partner depends upon whether the payment is made in exchange for the partner's interest in partnership property. A liquidating payment made in exchange for such property is treated as a distribution by the partnership (sec. 736(b)). Such distribution generally results in gain to the retiring partner only to the extent that the cash distributed exceeds such partner's adjusted basis in the partnership interest.

A liquidating payment not made in exchange for the partner's interest in partnership property receives either of two possible treatments. If the amount of the payment is determined without reference to partnership income, it is treated as a guaranteed payment and is generally deductible (sec. 736(a)(2)). If the amount of payment is determined by reference to partnership income, the payment is treated as a distributive share of partnership income, thereby reducing the distributive shares of other partners (which is equivalent to a deduction) (sec. 736(a)(2)).

A special rule treats amounts paid for goodwill of the partnership (except to the extent provided in the partnership agreement) and unrealized receivables as not made in exchange for an interest in partnership property (sec. 736(b)(2)(B)). Thus, such amounts may be deductible. Unrealized receivables include unbilled amounts, accounts receivable, depreciation recapture, market discount, and certain other items (sec. 751(c)).

Sale or exchange of a partnership interest

The sale or exchange of a partnership interest results in capital gain or loss to the transferor partner, except to the extent that ordinary income or loss is recognized with respect to the partner's share of the partnership's unrealized receivables and substantially appreciated inventory items (sec. 741).

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[129] Consistent with both the House and Senate bills, purchased mortgage servicing rights are not depreciable to the extent that the rights are stripped coupons under section 1286 of the Code. To the extent that the rights are stripped coupons under section 1286 of the Code, they will not be amortized on a straight line basis over 108 months. See Rev. Rul. 91-46, 1991-2 C.B. 358.

[130] For example, assume the following facts. Corporation P is the parent of an affiliated group filing a consolidated return that includes subsidiary S. The P group files its consolidated return on the basis of the calendar year. S acquires certain intangible assets on August 1, 1991. The stock of S is sold to corporation X on December 31, 1992, in a transaction in which S's adjusted basis in its assets is not changed. Corporation X is also the parent of an affiliated group filing a consolidated return that now includes S. S remains in the X group. Under the conference agreement, if the X group makes the July 25, 1991 election, such election does not require the P group also to make the election. If the P group makes the July 25, 1991 election, the election will affect the amortization deductions allowed on the P group's 1991 and 1992 consolidated returns with respect to the assets acquired by S on August 1, 1991. Such election does not require the X group also to make the election.

[131] For example, such rules would apply if a corporation that is a member of an affiliated group filing a consolidated return acquires property after July 25, 1991 and then, before August 2, 1993 becomes a member of another group in a transaction that does not affect the basis of that corporation's assets. In such a case, the first group could make the election for periods when the corporation was included in that group's consolidated return. In addition, the second group could make the election because the corporation was related to the second group on August 2, 1993.

It is often unclear whether a payment by a partnership to a retiring partner is made in sale or exchange of, or in liquidation of, a partnership interest.

House bill

In general

The bill generally repeals the special treatment of liquidation payments made for goodwill and unrealized receivables. Thus, such payments would be treated as made in exchange for the partner's interest in partnership property, and not as a distributive share or guaranteed payment that could give rise to a deduction or its equivalent. The bill does not change present law with respect to payments made to a general partner in a partnership in which capital is not a material income-producing factor. The determination of whether capital is a material income-producing factor would be made under principles of present and prior law.[132] For purposes of this provision, capital is not a material income-producing factor where substantially all the gross income of the business consists of fees, commissions, or other compensation for personal services performed by an individual. The practice of his or her profession by a doctor, dentist, lawyer, architect, or accountant will not, as such, be treated as a trade or business in which capital is a material income-producing factor even though the practitioner may have a substantial capital investment in professional equipment or in the physical plant constituting the office from which such individual conducts his or her practice so long as such capital investment is merely incidental to such professional practice. In addition, the bill does not affect the deductibility of compensation paid to a retiring partner for past services.

Unrealized receivables

The bill also repeals the special treatment of payments made for unrealized receivables (other than unbilled amounts and accounts receivable) for all partners. Such amounts would be treated as made in exchange for the partner's interest in partnership property. Thus, for example, a payment for depreciation recapture would be treated as made in exchange for an interest in partnership property, and not as a distributive share or guaranteed payment that could give rise to a deduction or its equivalent.

Effective Date

The provision generally applies to partners retiring or dying on or after January 5, 1993. The provision does not apply to any partner who retires on or after January 5, 1993, if a written contract to purchase the partner's interest in the partnership was binding on January 4, 1993 and at all times thereafter until such purchase. For this purpose, a written contract is to be considered binding only if the contract specifies the amount to be paid for the partnership interest and the timing of any such payments.

Senate Amendment

The Senate amendment is the same as the House bill.

Conference Agreement

The conference agreement is the same as the House bill and the Senate amendment.

G. Miscellaneous Revenue-Raising Provisions

1. Expansion of 45-day interest-free period for certain refunds (sec. 14273 of the House bill, sec. 7950 of the Senate amendment, sec. 13271 of the conference agreement, and sec. 6611(e) of the Code)

Present Law

No interest is paid by the Government on a refund arising from an original income tax return if the refund is issued by the 45th day after the later of the due date for the return (determined without regard to any extensions) or the date the return is filed (sec. 6611(e)).

There is no parallel rule for refunds of taxes other than income taxes (i.e., employment, excise, and estate and gift taxes), for refunds of any type of tax arising from amended returns, or for claims for refunds of any type of tax.

If a taxpayer files a timely original return with respect to any type of tax and later files an amended return claiming a refund, and if the IRS determines that the taxpayer is due a refund on the basis of the amended return, the IRS will pay the refund with interest computed from the due date of the original return.

House Bill

No interest is to be paid by the Government on a refund arising from any type of original tax return if the refund is issued by the 45th day after the later of the due date for the return (determined without regard to any extensions) or the date the return is filed.

A parallel rule applies to amended returns and claims for refunds: if the refund is issued by the 45th day after the date the amended return or claim for refund is filed, no interest is to be paid by the Government for that period of up to 45 days (interest would continue to be paid for the period from the due date of the return to the date the amended return or claim for refund is filed). If the IRS does not issue the refund by the 45th day after the date the amended return or claim for refund is filed, interest would be paid (as under present law) for the period from the due date of the original return to the date the IRS pays the refund.

A parallel rule also applies to IRS-initiated adjustments (whether due to computational adjustments or audit adjustments). With respect to these adjustments, the IRS is to pay interest for 45 fewer days than it otherwise would.

Effective date.—The extension of the 45-day processing rule is effective for returns required to be filed (without regard to extensions) on or after January 1, 1994. The amended return rule is effective for amended returns and claims for refunds filed on or after January 1, 1995 (regardless of the taxable period to which they relate). The rule relating to IRS-initiated adjustments applies to refunds paid on or after January 1, 1995 (regardless of the taxable period to which they relate).

Senate Amendment

The Senate amendment is the same as the House bill.

Conference Agreement

The conference agreement follows the House bill and the Senate amendment.

2. Deny deductions relating to travel expenses paid or incurred in connection with travel of taxpayer's spouse or dependents (sec. 14274 of the House bill, sec. 8271 of the Senate amendment, sec. 13272 of the conference agreement, and sec. 274(m) of the Code)

Present Law

In general, a taxpayer is permitted a deduction for all ordinary and necessary expenses paid or incurred during the taxable year (1) in carrying on any trade or business and (2) in the case of an individual, for the production of income. Such deductible expenses may include reasonable travel expenses paid or incurred while away from home, such as transportation costs and the cost of meals and lodging.

In the case of ordinary and necessary business expenses, if a taxpayer travels to a destination and while at that destination engages in both business and personal activities, travel expenses to and from such destination are deductible only if the trip is related primarily to the taxpayer's trade or business. If the trip is primarily personal in nature, expenses while at the destination that are properly allocable to the taxpayer's trade or business are deductible even though the traveling expenses to and from the destination are not deductible (Treas. Reg. sec. 1.162-2(b)(1)).

Under Treasury regulations, if the taxpayer's spouse accompanies the taxpayer on a business trip, expenses attributable to the spouse's travel are not deductible unless it is adequately shown that the spouse's presence on the trip has a bona fide business purpose (Treas. reg. sec. 1.162-2(c)). The performance of some incidental service by the spouse does not cause the expenses to qualify as deductible business expenses. Under the Treasury regulations, the same rules apply to any other members of the taxpayer's family who accompany the taxpayer on such a trip.

House Bill

The House bill denies a deduction for travel expenses paid or incurred with respect to a spouse, dependent, or other individual accompanying a person on business travel, unless (1) the spouse, dependent, or other individual accompanying the person is a bona fide employee of the person paying or reimbursing the expenses, (2) the travel of the spouse, dependent, or other individual is for a bona fide business purpose, and (3) the expenses of the spouse, dependent, or other individual would otherwise be deductible. No inference is intended as to the deductibility of these expenses under present law. The denial of the deduction does not apply to expenses that would otherwise qualify as deductible moving expenses.

Effective date.—The provision is effective for amounts paid or incurred after December 31, 1993.

Senate Amendment

The Senate amendment is the same as the House bill.

Conference Agreement

The conference agreement follows the House bill and the Senate amendment.

3. Increase withholding rate on supplemental wage payments (sec. 14275 of the House bill, sec. 8272 of the Senate amendment, sec. 13273 of the conference agreement, and sec. 3402(g) of the Code)

Present Law

Under Treasury regulations, withholding on supplemental wage payments (such as bonuses, commissions, and overtime pay) that are not paid concurrently with wages (or that are paid concurrently with wages, but are separately stated) for a payroll period may be done at a rate of 20 percent (at the employer's election) (Treas. Reg. sec. 31.3402(g)-1).[133]

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[132] E.g., sections 401(c)(2) and 911(d) of the Code and old section 1348(b)(1)(A) of the Code.

House Bill

The House bill increases the applicable withholding rate on supplemental wage payments to 28 percent.

Effective date.—The provision is effective for payments made after December 31, 1993.

Senate Amendment

The Senate amendment is the same as the House bill.

Conference Agreement

The conference agreement follows the House bill and the Senate amendment.

III. EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES

1. Tax benefits for empowerment zones and enterprise communities (secs. 14301–14304 of the House bill, sec. 15001 of the Senate amendment, secs. 13301–13304 of the conference agreement, and new secs. 1391–1397D of the Code)

Present Law

The Internal Revenue Code does not contain general rules that target specific geographic areas for special Federal income tax treatment. Within certain Code sections, however, there are definitions of targeted areas for limited purposes (e.g., low-income housing credit and qualified mortgage bond provisions target certain economically distressed areas). In addition, present law provides favorable Federal income tax treatment for certain U.S. corporations that operate in Puerto Rico, the U.S. Virgin Islands, or possessions of the United States to encourage the conduct of trades or businesses within these areas.

House Bill

Designation of eligible areas

In general

A total of 10 empowerment zones and 100 enterprise communities will be designated (subject to availability of eligible areas) during 1994 and 1995. Empowerment zones and enterprise communities will be designated from areas nominated by State and local governments or a governing body of an Indian reservation.[134] Empowerment zones will be eligible for additional tax incentives beyond those provided in the areas designated as enterprise communities.

The Secretary of Housing and Urban Development (HUD) will designate in eligible urban areas six empowerment zones and 65 enterprise communities. (The six empowerment zones located in urban areas will include at least one zone in an urban area the most populous city of which has a population of 500,000 or less.) The Secretary of Agriculture will designate in eligible rural areas[135] three empowerment zones and 30 enterprise communities. In addition, the Secretary of the Interior will designate in eligible Indian reservation areas one empowerment zone and five enterprise communities.[136] Nominated areas located in Indian reservations also will be eligible for designation (provided the bill's criteria are met) as rural areas. All designations will be made in consultation with an Enterprise Board (to be established in the future), which will include officials from various Federal agencies. The designations will be made prior to January 1, 1996.

Designations of areas as empowerment zones or enterprise communities generally will remain in effect for 10 years. An area's designation can be revoked if the local government(s) or State(s) modify the boundaries of the designated area or do not comply with the agreed-upon strategic plan for the area (described below).[137]

Eligibility criteria for zones

The eligibility criteria for urban areas, rural areas, and Indian reservations generally are the same (except as noted below). To be eligible for designation, a nominated area is required to possess *all* of the following characteristics:

Resident population.—An eligible urban area is subject to a maximum population of the lesser of (1) 200,000, or (2) the greater of 50,000 or 10 percent of the population of the most populous city within the nominated area. (In addition, the Secretary of HUD is required to designate empowerment zones located in urban areas in such a manner that the *aggregate* population of such zones does not exceed 750,000.) Rural areas are subject to a maximum population of 30,000. Indian reservations are not subject to a population limit.

General condition.—An eligible area must have a condition of pervasive poverty, unemployment, and general economic distress (which may include distress from a high incidence of crime and narcotics use).

Area.—The nominated area must either (1) have a continuous boundary, or (2) except in the case of a rural area located in more than one State, consist of not more than three noncontiguous parcels. Urban areas must be located entirely within no more than two contiguous States, and rural areas must be located entirely within no more than three contiguous States.

Size.—The nominated area must not exceed (1) 20 square miles for urban areas, or (2) 1,000 square miles for rural areas and Indian reservations.

Poverty.—Each of the census tracts within a nominated area must have a poverty rate of at least 20 percent;[138] at least 90 percent of the area's census tracts must each have a poverty rate of at least 25 percent; and at least 50 percent of the area's census tracts must each have a poverty rate of at least 35 percent.[139] For purposes of these measurements, unpopulated census tracts and census tracts with limited populations and 75 percent or more zoned for commercial or industrial use will be treated as satisfying the bill's 20-percent and 25-percent poverty rate criteria. With respect to empowerment zones, each census tract located in a central business district (as such term is used for purposes of the most recent Census of Retail Trade) must have a poverty rate of at least 35 percent. With respect to enterprise communities, each census tract located in a central business district must have a poverty rate of at least 30 percent.[140] If the nominated area consists of noncontiguous parcels, each parcel must separately satisfy the above poverty criteria.

Strategic plan.—A strategic plan must be submitted by the nominating body for purposes of accomplishing the goals of this legislation.

Contents of strategic plan

In order for a nominated area to be eligible for designation, the local government(s) and State(s) in which the area is located[141] are required to provide a strategic plan that: (1) describes the coordinated economic, human, community, and physical development plan and related activities proposed for the nominated area; (2) describes the process by which the affected community is a full partner in the process of developing and implementing the plan and the extent to which local institutions and organizations have contributed to the planning process; (3) identifies the amount of State, local, and private resources that will be available in the nominated area and the private/public partnerships to be used, which may include participation by, and cooperation with, universities, medical centers, and other private and public entities; (4) identifies the funding requested under any Federal program in support of the proposed economic, human, community, and physical development and related activities; (5) identifies baselines, methods, and benchmarks for measuring the success of carrying out the strategic plan, including the extent to which poor persons and families will be empowered to become economically self-sufficient, and (6) generally does not include any action to assist any establishment in relocating from an area outside the nominated area to the nominated area.[142]

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[133] If the employer chooses not to use the 20-percent method, withholding may be computed by aggregating the supplemental payments with regular wages paid within the same calendar year for the last preceding payroll period or the current payroll period. The employer would then use withholding tables to determine the total tax on this aggregate amount. The amount to be withheld for the supplemental wages is the total tax less any amount already withheld for regular wages included in the aggregate amount.

[134] An area will be treated as nominated by a State or local government if it is nominated by such other entity as may be specified by an Enterprise Board (to be established in the future).

[135] For purposes of the House bill, a "rural area" means any area which is (1) outside a metropolitan statistical area as defined by the Secretary of Commerce, or (2) determined by the Secretary of Agriculture to be a rural area. The term "urban area" means any area which is not a rural area.

[136] Under the House bill, the term "Indian reservation" means a reservation as defined in (1) section 3(d) of the Indian Financing Act of 1974 (25 U.S.C. 1452(d)), or (2) section 4(10) of the Indian Child Welfare Act of 1978 (25 U.S.C. 1903(10)).

[137] An area's designation may be revoked only after a hearing on the record at which officials of the State and local governments are given an opportunity to participate.

[138] The poverty rate is to be determined by the 1990 census or subsequent census data. If areas are not tracted as population census tracts, the equivalent county divisions as defined by the Bureau of the Census for purposes of defining poverty areas would be treated as population census tracts.

[139] With respect to an area nominated to be an empowerment zone, the appropriate Secretary may reduce one of these poverty criteria by five percentage points for not more than 10 percent of the population census tracts (up to a maximum of five population census tracts) in the nominated area. With respect to an area nominated to be an enterprise community, the appropriate Secretary may reduce one of the poverty criteria as described in the preceding sentence or, as an alternative, may reduce the 35-percent poverty threshold by ten percentage points (i.e., to 25 percent) for up to three population census tracts.

[140] The appropriate Secretary has no discretion to reduce the 35-percent poverty rate threshold for tracts located in a central business district that is part of an empowerment zone or to reduce the 30-percent poverty rate threshold for tracts located in a central business district that is part of an enterprise community.

[141] In the case of an Indian reservation, the reservation governing body is deemed to be both the State and local governments with respect to such area.

[142] The House bill provides that the required strategic plan may not include any action to assist any business in relocating from one area outside the nominated area to the nominated area, except that assistance for the expansion of an existing business entity through establishment of a new branch, affiliate, or subsidiary is permitted if (1) the establishment of the new branch, affiliate, or subsidiary will

Selection process and criteria

From among the eligible areas, designations of empowerment zones and enterprise communities will be made on the basis of (1) the effectiveness of the strategic plan for a nominated area and the assurances that such plan will be implemented and (2) criteria specified by the Enterprise Board.

Tax incentives for empowerment zones

Employer wage credit

A 25-percent credit against income tax liability is available to all employers for the first $20,000 of qualified wages paid to each employee who (1) is a zone resident (i.e., his or her principal place of abode is within the zone[143]), and (2) performs substantially all employment services within the zone in a trade or business of the employer.

The maximum credit per qualified employee is $5,000 per year. Wages paid to a qualified employee continue to be eligible for the credit if the employee earns more than $20,000, although only the first $20,000 of wages will be eligible for the credit.[144] The wage credit is available with respect to a qualified employee, regardless of the number of other employees who work for the employer or whether the employer meets the definition of an "enterprise zone business" (which applies for the investment tax incentives described below).[145]

The credit will be phased out beginning in 2001. The credit rate will be reduced to 20 percent in 2001, 15 percent in 2002, 10 percent in 2003, and five percent in 2004. The credit will not be available after December 31, 2004.

Qualified wages include the first $20,000 of "wages," defined to include (1) salary and wages as generally defined for FUTA purposes, and (2) certain training and educational expenses paid on behalf of a qualified employee, provided that (a) the expenses are paid to an unrelated third party and are excludable from gross income of the employee under section 127 (which is retroactively and permanently extended under another provision of the bill), or (b) in the case of an employee under age 19, the expenses are incurred by the employer in operating a youth training program in conjunction with local education officials.

The credit is allowed with respect to full-time and part-time employees. However, the employee must be employed by the employer for a minimum period of at least 90 days. Wages are not eligible for the credit if paid to certain relatives of the employer or, if the employer is a corporation or partnership, certain relatives of a person who owns more than 50 percent of the business. In addition, wages are not eligible for the credit if paid to a person who owns more than five percent of the stock (or capital or profits interests) of the employer.[146]

An employer's deduction otherwise allowed for wages paid is reduced by the amount of credit claimed for that taxable year. Wages are not be taken into account for purposes of the empowerment zone employment credit if taken into account in determining the employer's targeted jobs tax credit (TJTC).

The credit is allowable to offset up to 25 percent of alternative minimum tax liability.

Expansion of targeted jobs tax credit (TJTC)

The present-law targeted jobs tax credit (sec. 51) is expanded so that an economically disadvantaged person[147] who resides in an empowerment zone but is employed outside of an empowerment zone will be treated as a member of a targeted group for purposes of that credit.[148] Thus, employers located outside of empowerment zones are entitled to claim the 40-percent TJTC credit on up to $6,000 of qualified first-year wages paid to economically disadvantaged employees who reside within an empowerment zone. An employer located in an empowerment zone may be able to claim the TJTC with respect to wages paid to a member of another targeted group (e.g., a qualified summer youth employee or a participant in a school-to-work program), but such an employer may not utilize the bill's expanded TJTC provision for certain empowerment zone residents who work outside of the zone.

As under present law, an employer's deduction otherwise allowed for wages paid is reduced by the amount of TJTC claimed for that taxable year.

Empowerment savings credit

A tax credit is available to employers for certain contributions made to a tax-qualified defined contribution plan on behalf of employees with respect to whom the wage credit could be claimed. Thus, in general, the credit is available with respect to contributions made on behalf of employees who (1) are zone residents and (2) perform substantially all employment services within the zone in a trade or business of the employer.[149] The credit is equal to 50 percent of contributions up to two percent of compensation (as defined in sec. 414(s)) not in excess of $35,000. If an area is not designated as an empowerment zone for an entire taxable year, the $35,000 compensation limit is ratably reduced to reflect the portion of the year the designation is not in effect.

The credit is available for contributions to any tax-qualified defined contribution plan other than an employee stock ownership plan, stock bonus plan, or a plan subject to the minimum funding requirements (sec. 412). Contributions may also be made to a simplified employee pension (as defined in sec. 408(k) (SEP)). Except as specifically provided, the rules applicable to qualified plans and SEPs (as the case may be) apply to contributions for which the credit is available.

To be eligible for the credit, the employer contribution must be 100 percent vested, and must be either a matching or nonelective contribution; salary reduction contributions are not eligible for the credit. The plan is required to permit an employee with respect to whom the credit can be claimed to withdraw contributions from the plan (and earnings thereon) for higher education or health expenses, first-time home purchase, or to invest in a qualified enterprise zone business. A plan that permits such withdrawals will not fail to be a tax-qualified plan merely because it does so. The 10-percent early withdrawal tax (sec. 72(t)) will not apply to such withdrawals. The special withdrawal provisions apply only while the employee meets the qualifications for the credit.

The credit is available in lieu of the otherwise available deduction for the contributions and may be claimed in addition to the employment and training credit. The credit is elective.

Definition of "enterprise zone business"

The investment tax incentives for empowerment zones described below (but not the labor incentives described above) are available only with respect to trade or business activities that satisfy the criteria for an "enterprise zone business." Under the proposal, an "enterprise zone business" is defined as a corporation or partnership (or proprietorship) if for the taxable year: (1) the sole trade or business of the corporation or partnership is the active conduct of a qualified business within an empowerment zone;[150] (2) at least 80 percent of the total gross income is derived from the active conduct of a "qualified business" within a zone; (3) substantially all of the use of its tangible property occurs within a zone; (4) substantially all of its intangible property is used in, and exclusively related to, the active conduct of such business; (5) substantially all of the services performed by employees are performed within a zone; (6) at least 35 percent of the employees are residents of the zone;[151] and (7) no more than five percent of the average of the aggregate unadjusted bases of the property owned by the business is attributable to (a) certain financial property, or (b) collectibles not held primarily for sale to customers in the ordinary course of an active trade or business.

A "qualified business" is defined as any trade or business other than a trade or business that consists predominantly of the development or holding of intangibles for sale or license.[152] In addition, the leasing of real

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not result in a decrease in employment in the area of original location or in any other area where the existing business entity conducts business operations, and (2) there is no reason to believe that the new branch, affiliate, or subsidiary is being established with the intention of closing down the operations of the existing business entity in the area of its original location or in any other area where the existing business entity conducts business operations.

[143] The House committee report indicates that it is intended that employers will undertake reasonable measures to verify an employee's residence within the zone, so that the employer will be able to substantiate a wage credit claimed under the House bill.

[144] To prevent avoidance of the $20,000 limit, all employers of a controlled group of corporations (or partnerships or proprietorships under common control) would be treated as a single employer.

[145] Employers would be required to take reasonable steps to notify all qualified zone employees of the availability to eligible individuals of receiving advance payments of the earned income tax credit (EITC).

[146] The wage credit is not available with respect to any individual employed at any facility described in present-law section 144(c)(6)(B) (i.e., a private or commercial golf course, country club, massage parlor, hot tub facility, suntan facility, racetrack or other facility used for gambling, or any store the principal business of which is the sale of alcoholic beverages for consumption off premises). In addition, the wage credit is not available with respect to any individual employed by a trade or business the principal activity of which is farming (within the meaning of subparagraphs (A) and (B) of section 2032A(e)(5)), but only if, as of the close of the preceding taxable year, the sum of the aggregate unadjusted bases (or, if greater, the fair market value) of assets of the farm exceed $500,000.

[147] For this purpose, an individual is economically disadvantaged if he or she is a member of an economically disadvantaged family under present-law section 51(d)(11).

[148] The TJTC expired on June 30, 1992, but it is to be extended until December 31, 1994 by section 13102 of the conference agreement.

[149] The restrictions regarding employees with respect to whom the wage credit can be claimed also apply here. Thus, for example, the credit for savings contributions is not available with respect to any individual employed at certain facilities. See the discussion under the wage credit for further explanation.

[150] This requirement does not apply to a business carried on by an individual as a proprietorship.

[151] For this purpose, the term "employee" includes a self-employed individual (within the meaning of section 401(c)(1)).

The House committee report indicates that it is intended that the Secretary of the Treasury will prescribe regulations to determine the appropriate treatment of part-time employees for purposes of calculating whether 35 percent of the employees are residents of the empowerment zone.

[152] However, the House bill specifically provides that a "qualified business" does not include (1) any

property that is located within the empowerment zone to others is treated as a qualified business only if (1) the leased property is not residential property, and (2) at least 50 percent of the gross rental income from the real property is from enterprise zone businesses. The rental of tangible personal property to others is not a qualified business unless substantially all of the rental of such property is by enterprise zone businesses or by residents of an empowerment zone.

Activities of legally separate (even if related) parties would not be aggregated for purposes of determining whether an entity qualifies as an enterprise zone business.

Increased section 179 expensing

The expensing allowance for certain depreciable business property provided under section 179 is increased to $75,000 for qualified zone property of an enterprise zone business (as defined above). In addition, the types of property eligible for section 179 expensing are expanded to include buildings used in enterprise zone businesses.

"Qualified zone property" is defined as depreciable tangible property (including buildings), provided that: (1) such property was acquired by the taxpayer (but not from a related party) after the zone designation took effect; (2) the original use of the property in the zone commences with the taxpayer;[153] and (3) substantially all of the use of the property is in the zone in the active conduct of a trade or business by the taxpayer in the zone. In the case of property which is substantially renovated by the taxpayer, however, such property need not be acquired by the taxpayer after zone designation or originally used by the taxpayer within the zone if during any 24-month period after zone designation the additions to the taxpayer's basis in such property exceed 100 percent of the taxpayer's basis in such property at the beginning of the period or $5,000 (whichever is greater).[154]

As under present law, the section 179 expensing allowance is phased out for certain taxpayers with investment in qualified property during the taxable year above a specified threshold. However, under the bill, the present-law phase-out range is applied by decreasing the amount of the cost of qualified zone property that is deductible under section 179 by one-half of the amount by which the cost of qualified zone property (other than real estate) and other section 179 property exceeds $200,000. Thus, the section 179 deduction applicable to qualified zone property is completely phased-out when the cost of qualified zone property (other than real estate) and other section 179 property placed in service during the taxable year reaches $350,000. For example, assume that a taxpayer places $270,000 of qualified zone property (none of which is real estate) in service during the taxable year and that the taxpayer does not place any property in service outside the zone. Under the bill, the taxpayer will be allowed to claim a section 179 deduction of $40,000 ($75,000 section 179 amount less $35,000 (one-half of the difference between $270,000 and $200,000)).

As under present-law section 179, all component members of a controlled group are treated as one taxpayer for purposes of the expensing allowance and application of the phaseout range (sec. 179(d)(6)). Also, as under present law, the $75,000 expensing allowance is to apply at both the partnership (and S corporation) and partner (and shareholder) levels.

The increased expensing allowance would apply for purposes of the alternative minimum tax (i.e., it is not treated as an adjustment for purposes of the alternative minimum tax). The section 179 expensing deduction will be recaptured if the property is not used predominantly in a enterprise zone business (under rules similar to present-law section 179(d)(10)).

Accelerated depreciation

An enterprise zone business (as defined above) will determine depreciation deductions with respect to "qualified zone property" (also defined above) by using the following recovery periods:

	Years
3-year property	2
5-year property	3
7-year property	4
10-year property	6
15-year property	9
20-year property	12
Nonresidential real property	22

The shorter recovery periods allowed for qualified zone property of enterprise zone businesses will be allowed for alternative minimum tax purposes.

Tax-exempt financing

In general.—The House bill creates a new category of exempt facility private activity bonds, qualified enterprise zone facility bonds for use in empowerment zones. Generally qualified enterprise zone facility bonds are bonds 95 percent or more of the net proceeds of which is used to finance qualified zone property (as generally defined under the bill) for a qualified enterprise zone business (as generally defined under the bill) and land located in the empowerment zone which is functionally related and subordinate to the qualified zone property. These bonds may be issued only while a zone designation is in effect.

Special rules on issue size and use to finance certain facilities.—The aggregate face amount of all outstanding qualified enterprise zone bonds per qualified enterprise zone business may not exceed $3 million for each zone. In addition total outstanding qualified enterprise zone bond financing for each qualified enterprise zone business may not exceed $20 million for all zones. For purposes of these determinations, the aggregate amount of outstanding enterprise zone facility bonds allocable to any business shall be determined under rules similar to rules contained in section 144(a)(10).

As with other exempt facility bonds, these bonds may be issued only to finance identified facilities. However the House committee report indicates that it is not intended that the $3 million per enterprise zone business requirement will limit issuance of a single issue of bonds (in excess of $3 million) for more than one identified facility, provided that the $3 million limit is satisfied with respect to each zone business. The House committee report contemplates that ease of marketing these exempt facility bonds, like other exempt facility bonds, may require common marketing of separate issues of bonds for discrete facilities if such issues are simultaneous or proximate in time.

The House bill exempts qualified enterprise zone facility bonds from the general restrictions on financing the acquisition of existing property (sec. 147(d)). Additionally, these bonds are exempted from the general restriction on financing land (or an interest therein) with 25 percent or more of the net proceeds of a bond issue (sec. 147(c)(1)(A)). Unless otherwise noted, all tax-exempt bond rules relating to exempt facility bonds shall apply to qualified enterprise zone facility bonds.

Penalty for failure to continue as zone business or to use bond-financed property in the zone business.—The House bill extends change-in-use rules to qualified enterprise zone facility bonds. Accordingly, interest on all bond-financed loans to a business that no longer qualifies as an enterprise zone business, or on loans to finance property that ceases to be used by the business in the enterprise zone, becomes nondeductible, effective from the first day of the taxable year in which the disqualification or cessation of use occurs. This penalty is waived if: (1) the issuer and principal user in good faith attempted to meet these requirements and (2) any failure to meet such requirements is corrected within a reasonable period after such failure is first discovered. This penalty does not apply solely by reason of the termination or revocation of a designation as an empowerment zone. The good faith rule described above also applies to certain other requirements of qualified enterprise zone facility bonds.

Partial exemption from State volume limitations.—Under the House bill, only 25 percent of the amount of qualified enterprise zone facility bonds is subject to the State private activity volume cap, provided that enterprise zone residents possess more than a 50-percent ownership interest in the principal user of the bond-proceeds. If the resident ownership requirement is not satisfied, then 50 percent of the qualified enterprise zone facility bonds (rather than 25 percent) is subject to the State private activity volume cap.

Exception from bank pro rata interest deduction disallowance.—The House bill exempts financial institutions from the general rule denying them a ratable portion of their otherwise allowable interest expense deductions to the extent that they have invested in qualified enterprise zone facility bonds (sec. 265(b)).

Tax incentives available in both empowerment zones and enterprise communities

Tax-exempt financing

Under the House bill, the tax-exempt financing benefits described above are available (with one modification) to otherwise qualifying businesses that are located in enterprise communities. The one modification to the tax-exempt financing benefits is that 50 percent (rather than 25 percent) of the amount of the enterprise zone facility bonds is subject to the State private activity volume cap, regardless of whether enterprise zone residents possess more than a 50 percent ownership interest in the principal user of the bond-proceeds.

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trade or business consisting of the operation of any facility described in present-law section 144(c)(6)(B) (i.e., a private or commercial golf course, country club, massage parlor, hot tub facility, suntan facility, racetrack or other facility used for gambling, or any store the principal business of which is the sale of alcoholic beverages for consumption off premises, or (2) any trade or business the principal activity of which is farming (within the meaning of subparagraphs (A) or (B) of section 2032A(e)(5)), but only if, as of the close of the preceding taxable year, the sum of the aggregate unadjusted bases (or, if greater, the fair market value) of assets of the farm exceed $500,000.

[153] Thus, used property may constitute qualified zone property so long as it has not previously been used within the empowerment zone.

[154] Qualified zone property does not include any property to which the alternative depreciation system under section 168(g) applies, determined (1) without regard to section 168(g)(7), and (2) after application of section 280F(b).

Low-income housing credit (LIHC) expansion

For purposes of the low-income housing credit (sec. 42)[155], a building located (1) in an empowerment zone or an enterprise community, and (2) in a census tract having a poverty rate of at least 30 percent will be treated as being located in a "difficult to develop" area, within which the eligible basis of buildings for purposes of computing the credit is 130 percent of the cost basis. (Thus, the credit will be based on 91 percent of present value instead of the regular LIHC rate of 70 percent of present value.) The present-law State credit cap and other rules continue to apply.

The House bill also provides an additional housing credit dollar amount of $818,000 to each empowerment zone and enterprise community. Allocation of this amount may be made over a three-year period. This amount is available for allocation only during calendar years 1994, 1995, and 1996. The House committee report indicates that it is intended that these amounts be allocated in a way that will not displace, but will supplement, allocations to low-income housing credit buildings located within empowerment zones and enterprise communities.

Effective date

Under the House bill, empowerment zone and enterprise community designations will be made only during calendar years 1994 and 1995. The tax incentives will be available during the period that the designation remains in effect, which generally will be a period of 10 years.

Senate Amendment

No provision. (However, section 15001 of the Senate amendment states that it is the sense of the Senate that Congress should adopt Federal enterprise zone legislation.)

Conference Agreement

The conference agreement generally follows the House bill in providing certain tax benefits for areas designated as empowerment zones and enterprise communities. However, the conference agreement makes certain modifications regarding the designation of areas as zones or communities as well as the extent and nature of tax incentives available in such areas.[156]

Designation of eligible areas

In general

The conference agreement follows the House bill, except that Indian reservations are not eligible for designation as empowerment zones or enterprise communities. The conference agreement provides separate tax incentives for businesses operating in Indian reservations in sections 13411 and 13412. Thus, under the conference agreement, nine empowerment zones and 95 enterprise communities will be designated (subject to availability of eligible areas) during 1994 and 1995. Six empowerment zones and 65 enterprise communities will be located in eligible urban areas[157] and three empowerment zones and 30 enterprise communities will be located in rural areas.[158]

Eligibility criteria for zones

The conference agreement follows the House bill, except that, with respect to an area nominated to be an empowerment zone, the conference agreement does not allow the appropriate Secretary (the Secretary of HUD with respect to urban areas and the Secretary of Agriculture with respect to rural areas) discretion to reduce the applicable poverty criteria in a nominated area.[159] In addition, as under the House bill, no area may be designated as an empowerment zone or enterprise community unless the nominating State and local governments provide written assurances that their strategic plan will be implemented.[160]

"General distress" may be indicated by factors such as high crime rates, high vacancy rates, or designation of an area as a disaster area or high intensity drug trafficking area ("HIDTA") under the Anti-Drug Abuse Act of 1988; job loss (including manufacturing job loss); and economic distress due to closures of military bases or restrictions on timber harvesting. In addition, consideration should be given to communities along the U.S. border in which population has increased significantly, without a corresponding expansion of basic infrastructure, and in which a significant portion of the area's population reside in substandard housing.

Tax incentives for empowerment zones

The conference agreement provides the following tax incentives for areas designated as empowerment zones:

Employer wage credit

A 20-percent credit against income tax liability is available to all employers for the first $15,000 of qualified wages paid to each employee who (1) is a zone resident (i.e., his or her principal place of abode is within the zone[161]), and (2) performs substantially all employment services within the zone in a trade or business of the employer.

The maximum credit per qualified employee is $3,000 per year. Wages paid to a qualified employee continue to be eligible for the credit if the employee earns more than $15,000, although only the first $15,000 of wages will be eligible for the credit.[162] The wage credit is available with respect to a qualified employee, regardless of the number of other employees who work for the employer or whether the employer meets the definition of an "enterprise zone business" (which applies for the increased section 179 expensing and the tax-exempt financing provisions described below).[163]

The credit will be phased out beginning in 2002. The credit rate will be reduced to 15 percent in 2002, 10 percent in 2003, and five percent in 2004. The credit will not be available after December 31, 2004.

Qualified wages include the first $15,000 of "wages," defined to include (1) salary and wages as generally defined for FUTA purposes, and (2) certain training and educational expenses paid on behalf of a qualified employee, provided that (a) the expenses are paid to an unrelated third party and are excludable from gross income of the employee under section 127 (which is retroactively and permanently extended under another provision of the bill), or (b) in the case of an employee under age 19, the expenses are incurred by the employer in operating a youth training program in conjunction with local education officials.

The credit is allowed with respect to full-time and part-time employees. However, the employee must be employed by the employer for a minimum period of at least 90 days. Wages are not eligible for the credit if paid to certain relatives of the employer or, if the employer is a corporation or partnership, certain relatives of a person who owns more than 50 percent of the business. In addition, wages are not eligible for the credit if paid to a person who owns more than five percent of the stock (or capital or profits interests) of the employer.[164]

An employer's deduction otherwise allowed for wages paid is reduced by the amount of credit claimed for that taxable year. Wages are not be taken into account for purposes of the empowerment zone employment credit if taken into account in determining the employer's targeted jobs tax credit (TJTC).

The credit is allowable to offset up to 25 percent of alternative minimum tax liability.

Increased section 179 expensing

For an enterprise zone business, the expensing allowance for certain depreciable business property provided under section 179 is increased by the lesser of: (1) $20,000 or (2) the cost of section 179 property that is "qualified zone property" (as defined in the

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[155] The low-income housing credit expired on June 30, 1992, but is permanently extended by section 13142 of the Conference agreement.

[156] The conference agreement does not include section 15001 of the Senate amendment (the sense of the Senate resolution).

[157] The conference agreement provides that, if six urban empowerment zones are designated, not less than one urban empowerment zone must be designated in an area the most populous city of which has a population of 500,000 or less, and not less than one urban empowerment zone shall be a nominated area (1) with a population of 50,000 or less, and (2) which includes areas located in two States.

[158] The conference agreement does not provide for the creation of an Enterprise Board which, under the House bill, was to participate in the designation of eligible areas as empowerment zones and enterprise communities. In addition, the conference agreement does not provide a procedure for the revocation of an area's designation as an eligible zone or community. However, the conferees intend that (i) the Secretary will promulgate rules regarding both the selection and revocation processes and (ii) a designation will be revoked only after a hearing on the record involving officials of the State and local governments. The conferees further intend that, if an area's zone or community designation is revoked, the relevant Secretary shall not designate another area as a zone or community in lieu thereof.

[159] With respect to an area nominated to be an enterprise community, the appropriate Secretary may reduce one of the poverty criteria by five percentage points for not more than 10 percent of the population census tracts (up to a maximum of five population census tracts) in the nominated area, or, as an alternative, may reduce the 35-percent poverty threshold by 10 percentage points (i.e., to 25 percent) for up to three population census tracts.

[160] The conferees intend that, in the case of an urban empowerment zone located in two States, the nominating States and local governments shall provide written assurances satisfactory to the Secretary of HUD that the incentives afforded the zone on the account of the designation will be distributed equitably between the two States.

[161] The conferees intend that employers will undertake reasonable measures to verify an employee's residence within the zone, so that the employer will be able to substantiate a wage credit claimed under the conference agreement.

[162] To prevent avoidance of the $15,000 limit, all employers of a controlled group of corporations (or partnerships or proprietorships under common control) will be treated as a single employer.

[163] The conferees intend that employers take reasonable steps to notify all qualified zone employees of the availability to eligible individuals of advance payments of the earned income tax credit (EITC).

[164] The wage credit is not available with respect to any individual employed at any facility described in present-law section 144(c)(6)(B) (i.e., a private or commercial golf course, country club, massage parlor, hot tub facility, suntan facility, racetrack or other facility used for gambling, or any store the principal business of which is the sale of alcoholic beverages for consumption off premises). In addition, the wage credit is not available with respect to any individual employed by a trade or business the principal activity of which is farming (within the meaning of subparagraphs (A) and (B) of section 2032A(e)(5)), but only if, as of the close of the preceding taxable year, the sum of the aggregate unadjusted bases (or, if greater, the fair market value) of assets of the farm exceed $500,000.

House bill) and that is placed in service during the taxable year. As under present law, the types of property eligible for section 179 expensing under this provision do not include buildings.

As under present law, the section 179 expensing allowance is phased out for certain taxpayers with investment in qualified property during the taxable year above a specified threshold. However, under the conference agreement, the present-law phaseout range is applied by taking into account only one-half of the cost of qualified zone property that is section 179 property. In applying the section 179 phaseout, the cost of section 179 property that is not qualified zone property is not reduced.

In general, all other provisions of present-law section 179 apply to the increased expensing for enterprise zone businesses. Thus, all component members of a controlled group are treated as one taxpayer for purposes of the expensing allowance and the application of the phaseout range (sec. 179(d)(6)). The limitations apply at both the partnership (and S corporation) and partner (and shareholder) levels. The increased expensing allowance is allowed for purposes of the alternative minimum tax (i.e., it is not treated as an adjustment for purposes of the alternative minimum tax). The section 179 expensing deduction will be recaptured if the property is not used predominantly in a enterprise zone business (under rules similar to present-law section 179(d)(10)).

Definition of "enterprise zone business"

The conference agreement follows the House bill.

Tax-exempt facility bonds available for both empowerment zones and enterprise communities

In general

The conference agreement creates a new category of exempt facility private activity bonds—qualified enterprise zone facility bonds—for use in empowerment zones and enterprise communities. These bonds are fully subject to the State private activity bond volume limitations.

Generally, qualified enterprise zone facility bonds are bonds 95 percent or more of the net proceeds of which are used to finance: (1) qualified zone property the principal user of which is a qualified enterprise zone business, and (2) functionally related and subordinate land located in the empowerment zone or enterprise community. Qualified zone property for these purposes is generally defined as under the House bill, except that it also includes property which would qualify as qualified zone property but for the fact that it is located in an enterprise community rather than in an empowerment zone. For these purposes, the term "enterprise zone business" has the same meaning generally given to it under the House bill, but also includes a business located in a zone or community which would qualify as an enterprise zone business if it were separately incorporated.[165] These bonds may only be issued while an empowerment zone or enterprise community designation is in effect.

Special rules on issue size and use to finance certain facilities

The aggregate face amount of all outstanding qualified enterprise zone bonds per qualified enterprise zone business may not exceed $3 million for each zone or community. In addition, total outstanding qualified enterprise zone bond financing for each principal user of these bonds may not exceed $20 million for all zones and communities. For purposes of these determinations, the aggregate amount of outstanding enterprise zone facility bonds allocable to any business shall be determined under rules similar to rules contained in section 144(a)(10).

As with other exempt facility bonds, these bonds may be issued only to finance identified facilities. However, the $3 million-per-enterprise zone business requirement should not limit issuance of a single issue of bonds (in excess of $3 million) for more than one identified facility, provided that the $3 million limit is satisfied with respect to each zone business. The conferees recognize that it may be necessary to permit common marketing of separate issues of bonds for discrete facilities (if such issues are simultaneous or proximate in time) to enable qualified enterprise zone facility bonds to be marketed in a manner comparable to other exempt facility bonds.

The conference agreement exempts qualified enterprise zone facility bonds from the general restrictions on financing the acquisition of existing property (sec. 147(d)). Additionally, these bonds are exempted from the general restriction on financing land (or an interest therein) with 25 percent or more of the net proceeds of a bond issue (sec. 147(c)(1)(A)). Unless otherwise noted, all other tax-exempt bond rules relating to exempt facility bonds (including the restrictions on bank deductibility of interest allocable to tax-exempt bonds) apply to qualified enterprise zone facility bonds.

Penalty for failure to continue as zone business or to use bond-financed property in the zone business

The conference agreement extends change-in-use rules to qualified enterprise zone facility bonds. Accordingly, interest on all bond-financed loans to a business that no longer qualifies as an enterprise zone business, or on loans to finance property that ceases to be used by the business in the empowerment zone or enterprise community, becomes nondeductible, effective from the first day of the taxable year in which the disqualification or cessation of use occurs. This penalty is waived if: (1) the issuer and principal user in good faith attempted to meet these requirements and (2) any failure to meet such requirements is corrected within a reasonable period after such failure is first discovered. This penalty does not apply solely by reason of the termination or revocation of a designation as an empowerment zone or enterprise community. The good faith rule described above also applies to certain other requirements of qualified enterprise zone facility bonds.

Effective date

The conference agreement follows the House bill.

2. Tax credit for contributions to certain community development corporations (sec. 14311 of the House bill, sec. 13311 of the conference agreement, and sec. 38 of the Code)

Present Law

There are no tax credits available for contributions to community development corporations (CDCs).

House Bill

Under the House bill, a taxpayer will receive a credit for qualified cash contributions made to certain CDCs. If a taxpayer makes a qualified contribution, the credit may be claimed by the taxpayer for each taxable year during a 10-year period beginning with the taxable year during which the contribution was made. The credit that may be claimed for each year is equal to five percent of the amount of the contribution to the CDC. Thus, during the 10-year credit period, the taxpayer may claim aggregate credit amounts totalling 50 percent of the contribution.

For purposes of this provision, a qualified contribution is defined as any transfer of cash that meets the following requirements: (1) it is made to one of up to 10 CDCs selected by the Secretary of HUD, provided that the contribution is made during the five-year period after the CDC is so selected by the Secretary of HUD; (2) the amount is available for use by the CDC for at least 10 years;[166] (3) the contribution is to be used by the CDC to provide qualified low-income assistance[167] within its operational area; and (4) the CDC designates the contribution as eligible for the credit. The aggregate amount of contributions which may be designated by a selected CDC as eligible for the credit may not exceed $4 million.

Prior to July 1, 1994, the Secretary of HUD may select up to 10 CDCs as eligible to participate in the program (subject to the availability of eligible CDCs), at least four of which must operate in rural areas. To be selected, a CDC must have the following characteristics: (1) it must be a tax-exempt charity described in section 501(c)(3) of the Code; (2) its principal purposes must include promoting employment and business opportunities for individuals who are residents of its operational area; and (3) its operational area must (a) meet the geographic limitations that would apply if the area were designated as an empowerment zone or enterprise community, (b) have an unemployment rate that is not less than the national average, and (c) have a median family income which does not exceed 80 percent of the median family income of residents within the jurisdiction of the local government.

The credit is subject to the general business credit limitations of section 38 and, therefore, may not be used to reduce tentative minimum tax.

Effective date.—The provision is effective on the date of enactment.

Senate Amendment

No provision.

Conference Agreement

The conference agreement follows the House bill, except that the aggregate amount of contributions which may be designated by a selected CDC as eligible for the credit may not exceed $2 million, and the Secretary of HUD may select up to 20 CDCs as eligible to participate in the program.[168] In addition, the conferees intend that, in selecting CDCs, the Secretary of HUD shall give priority to corporations with a demonstrated record of performance in administering community development programs which target at least 75 percent of the jobs emanating from their investment funds to low income or unemployed individuals.

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[165] For example, an establishment which is part of a national chain could qualify as an enterprise zone business for purposes of the tax-exempt financing incentive, provided that such establishment would satisfy the definition of an enterprise zone business if it were separately incorporated.

[166] The contribution of the CDC must be available for use by the CDC for up to a 10-year period, but need not meet the requirements of a "contribution or gift" for purposes of section 170. In other words, a contribution eligible for the credit under the bill may be made in the form of a 10-year loan (or other long-term investment), the principal of which is to be returned to the taxpayer after the 10-year period. However, in the case of a donation of cash made by a taxpayer to an eligible CDC, the taxpayer would be allowed to claim a charitable contribution deduction (subject to the present-law rules under section 170) and, in addition, could claim the credit under the bill's provisions.

[167] The House bill defines "qualified low-income assistance" as assistance (1) which is designed to provide employment and business opportunities to individuals who are residents of the operational area of the CDC, and (2) which is approved by the Secretary of HUD.

3. Tax incentives for businesses on Indian reservations (secs. 8181–8182 of the Senate amendment, sec. 13321–13322 of the conference agreement, secs. 280C(a), 196(c), 39(d), and 38(b), and new secs. 168(j) and 45A of the Code)

Present Law

The Internal Revenue Code does not contain general rules that target specific geographic areas for special Federal income tax treatment. Within certain Code sections, however, there are definitions of targeted areas for limited purposes (e.g., low-income housing credit and qualified mortgage bond provisions target certain economically distressed areas). In addition, present law provides favorable Federal income tax treatment for certain U.S. corporations that operate in Puerto Rico, the U.S. Virgin Islands, or a possession of the United States to encourage the conduct of trades or businesses within these areas.

House Bill

No provision.

Senate Amendment

In general

Under the Senate amendment, businesses located on Indian reservations[169] generally are allowed a credit against income tax liability for certain investments (the "Indian reservation credit") and a credit against income tax liability for certain wages and health insurance costs (the "Indian employment credit").

Indian reservation credit

A credit against income tax liability is allowed for investments in certain property located or used within an Indian reservation which has a level of unemployment that greatly exceeds the national average. In general, the amount of the credit allowed a taxpayer for any taxable year equals the sum of: (1) 10 percent of the qualified investment in "reservation personal property" placed in service by the taxpayer during the taxable year; and (2) 15 percent of the qualified investment in "new reservation construction property" and "reservation infrastructure investment" placed in service by the taxpayer during the taxable year.

The full amount of the credit is allowed only if the Indian unemployment rate[170] on the applicable Indian reservation exceeds 300 percent of the national average unemployment rate at any time during the calendar year in which the property is placed in service or during either of the immediately preceding two calendar years.[171] If the Indian unemployment rate on the applicable Indian reservation exceeds 150 percent but does not exceed 300 percent of the national average unemployment rate at any time during the relevant calendar years, then only one-half of the otherwise allowable credit may be claimed (i.e., the credit rates are 7.5 percent and 5 percent). If the Indian unemployment rate on the applicable Indian reservation does not exceed 150 percent of the national average unemployment rate at any time during the relevant calendar years, then no credit is allowed.

For purposes of the credit, "reservation personal property" is defined as property: (1) for which a depreciation deduction is allowable under section 168 of the Code; (2) which is not nonresidential real property, residential rental property, or any other real property with a class life of more than 12.5 years; (3) which is used by the taxpayer predominantly in the active conduct of a trade or business within an Indian reservation; and (4) which is not used or located outside the Indian reservation on any regular basis.

In addition, "new reservation construction property" is defined as property: (1) which is nonresidential real property, residential rental property, or any other real property with a class life of more than 12.5 years for which a depreciation deduction is allowable under section 168 of the Code; (2) which is located in an Indian reservation; (3) which is used by the taxpayer predominantly in the active conduct of a trade or business within an Indian reservation;[172] and (4) which is originally placed in service by the taxpayer.

Further, "reservation infrastructure investment" is defined as property: (1) for which a depreciation deduction is allowable under section 168 of the Code (whether real or personal property); (2) which benefits the tribal infrastructure; (3) which is available to the general public; and (4) which is placed in service in connection with the taxpayer's active conduct of a trade or business within an Indian reservation. The term "reservation infrastructure investment" is to include otherwise qualifying property that is used or located outside an Indian reservation only if the purpose of the property is to connect to existing tribal infrastructure in the reservation (including, but not limited to, roads, power lines, water systems, railroad spurs, and communications facilities).

Notwithstanding the above definitions, property will not qualify for the Indian reservation credit if the property is acquired (directly or indirectly) by the taxpayer from a person who is related to the taxpayer (within the meaning of section 465(b)(3)(C) of the Code). In addition, property will not qualify for the credit if the property (or any portion thereof) is placed in service for purposes of conducting or housing certain gaming activities.[173] Finally, property will not qualify for the Indian reservation credit if the energy credit or the rehabilitation credit is allowed with respect to the property.

In the case of reservation personal property and new reservation construction property, the qualified investment for purposes of determining the amount of the credit is the taxpayer's basis in the property. In the case of reservation infrastructure investment, the qualified investment for purposes of determining the amount of the credit is the amount expended by the taxpayer for the acquisition or construction of the property. The at-risk rules of section 49 of the Code also apply in determining the amount of the qualified investment for purposes of the Indian reservation credit.

The basis of new reservation construction property is reduced by the full amount of the credit allowed with respect to the property. The basis of reservation personal property and reservation infrastructure investment is reduced by only 50 percent of the credit allowed with respect to the property. The Indian reservation credit is recaptured (i.e., the amount of tax due is increased) if, before the end of the applicable recovery period with respect to the property, the property is disposed of by the taxpayer, or, in the case of reservation personal property, is removed from the Indian reservation, converted, or otherwise ceases to be reservation personal property with respect to the taxpayer.

Indian employment credit

A credit against income tax liability is also allowed to employers for certain wages and health insurance costs paid or incurred by the employer with respect to certain employees. In general, the amount of the credit allowed an employer for any taxable year equals 10 percent[174] of the sum of (1) the wages paid or incurred by the employer for services performed by an employee while the employee is a qualified employee ("qualified wages");[175] and (2) the amount paid or incurred by the employer for health insurance (other than health insurance provided pursuant to a salary reduction arrangement) to the extent that such amount is attributable to coverage provided to an employee while the employee is a qualified employee ("qualified employee health insurance costs").

The credit is available to an employer, however, only to the extent its qualified wages and health insurance costs during the current year exceed such wages and costs incurred by the employer during 1993. Specifically, the amount of the credit allowed an employer for any taxable year is limited to an amount equal to the credit rate multiplied by the excess (if any) of (1) the sum of the qualified wages and qualified health insurance costs paid or incurred by the employer during the taxable year with respect to employees whose wages (which are paid or incurred by the employer) for such taxable year do not exceed the amount determined at an annual rate of $30,000 (as adjusted for inflation for years beginning after 1993), over (2) the sum of the qualified wages and qualified health insurance costs paid or incurred by the employer (or any predecessor) during the 1993 calendar year with respect to employees whose wages (which are paid or incurred by the employer or any predecessor) for such taxable year do not exceed the amount determined at an annual rate of $30,000.[176] For purposes of this limitation, all employees of a controlled group of corporations (or partnerships or proprietorships under common control) are treated as employed by a single employer.

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[168] Under the conference agreement, at least eight of the selected CDCs must operate in rural areas.

[169] For purposes of the Indian employment and investment incentives, the term "Indian reservation" means a reservation as defined in (1) section 3(d) of the Indian Financing Act of 1974 (25 U.S.C. 1452(d)), as in effect on the date of enactment of the provision, or (2) section 4(10) of the Indian Child Welfare Act of 1978 (25 U.S.C. 1903(10)), as in effect on the date of enactment of the provision.

[170] The Indian unemployment rate is to be based on the number of Indians unemployed and able to work and is to be certified by the Secretary of the Interior.

[171] A special rule applies to qualifying property that has (or is a component of a project that has) an estimated construction period of more than two years or a cost of more than $1 million. With respect to such property, the relevant unemployment rate is the rate during the calendar year in which the taxpayer enters into a binding agreement to make a qualified investment (or, if earlier, the first calendar year in which the taxpayer has expended at least 10 percent of the qualified investment) or during the immediately preceding calendar year.

[172] The active conduct of a trade or business for purposes of the Indian reservation credit includes the rental to others of real property located in an Indian reservation. In addition, the credit for new reservation construction property is allowed with respect to otherwise qualifying property that is used to furnish lodging.

[173] The limitation applies to class I, II, or III gaming as defined in section 4 of the Indian Regulatory Act (25 U.S.C. 2703), as in effect on the date of enactment of the provision.

[174] If, for the entire taxable year of the employer, at least 85 percent of the employees of the employer are enrolled members of an Indian tribe or spouses of enrolled members of an Indian tribe, then the amount of the credit for such taxable year is to be determined by using a 30-percent rate rather than the 10-percent rate.

[175] Wages are not eligible for the credit if attributable to services rendered by an employee during the first year he or she begins work for the employer if any portion of such wages is taken into account in determining the targeted jobs tax credit (TJTC) under present-law section 51.

In general, an individual is a qualified employee of an employer for any period only if: (1) the individual is an enrolled member of an Indian tribe or the spouse of an enrolled member of an Indian tribe;[177] (2) substantially all of the services performed during such period by the employee for such employer are performed within an Indian reservation; (3) the principal place of abode of the employee while performing such services is on or near the Indian reservation within which the services are performed; and (4) the employee began work for such employer on or after January 1, 1994.

An employee may be treated as a qualified employee for a maximum period of seven years after the day on which the employee first begins work for the employer. In addition, an employee will not be treated as a qualified employee for any taxable year of the employer if the total amount of wages paid or incurred by the employer with respect to such employee during such taxable year (whether or not for services rendered within the Indian reservation) exceeds an amount determined at an annual rate of $30,000 (as adjusted for inflation for years beginning after 1993). Further, an employee will be treated as a qualified employee for a taxable year of the employer only if more than 50 percent of the wages paid or incurred by the employer to such employee during such taxable year are for services performed in a trade or business of the employer.

Qualified employees do not include certain relatives or dependents of the employer (described under present-law section 51(i)(1)) or, if the employer is a corporation, certain relatives of a person who owns more than 50 percent of the corporation. In addition, any person who owns more than five percent of the stock of the employer (or if the employer is not a corporation, more than five percent of the capital or profits interests in the employer) cannot be a qualified employee. Finally, a qualified employee does not include any individual if the services performed by the individual for the employer involve certain gaming activities or are performed in a building housing such gaming activities.[178]

The Indian employment credit is allowed with respect to full-time and part-time employees. However, if an employee is terminated less than one year after the date of initial employment, the amount of credits previously claimed by the employer with respect to that employee generally is recaptured (unless the employee voluntarily leaves, becomes disabled, or is fired due to misconduct).

An employer's deduction otherwise allowed for wages is reduced by the amount of the credit claimed for the taxable year. The Senate amendment also provides that the employment credit is not refundable. Finally, the Indian employment credit is subject to the general business credit limitations of section 38,[179] and, therefore, the credit may not be used to reduce tentative minimum tax.

Effective date

Under the Senate amendment, the Indian reservation credit applies to property placed in service after December 31, 1993, and the Indian employment credit applies to wages paid or incurred after December 31, 1993.

Conference Agreement

The conference agreement provides the following tax incentives for Indian reservations.[180]

Accelerated Depreciation

With respect to certain property used in connection with the conduct of a trade or business within an Indian reservation, depreciation deductions for purposes of section 168 will be determined using the following recovery periods:

	Years
3-year property	2 years
5-year property	3 years
7-year property	4 years
10-year property	6 years
15-year property	9 years
20-year property	12 years
Nonresidential real property	22 years

"Qualified Indian reservation property" eligible for accelerated depreciation includes property which is (1) used by the taxpayer predominantly in the active conduct of a trade or business within an Indian reservation[181], (2) not used or located outside the reservation on a regular basis, (3) not acquired (directly or indirectly) by the taxpayer from a person who is related to the taxpayer (within the meaning of section 465(b)(3)(C)), and (4) described in the recovery-period table above.[182] In addition, property is not "qualified Indian reservation property" if it is placed in service for purposes of conducting gaming activities.[183]

The conference agreement includes a special rule for "qualified infrastructure property" which may be eligible for the accelerated depreciation even if located *outside* an Indian reservation, provided that the purpose of such property is to connect with qualified infrastructure property located *within* the reservation (e.g., roads, power lines, water systems, railroad spurs, and communications facilities). For this purpose, "qualified infrastructure property" must be property that is (1) allowed a depreciation deduction under section 168, (2) benefits the tribal infrastructure, (3) available to the general public, and (4) placed in service in connection with the taxpayer's active conduct of a trade or business within a reservation.

The depreciation deduction allowed for regular tax purposes is also allowed for purposes of the alternative minimum tax.

Indian employment credit

The conference agreement follows the Senate amendment, except that (1) a single-rate 20-percent credit applies (rather than the two-tiered 10-percent and 30-percent credit rates of the Senate amendment); and (2) the credit is available only for the first $20,000 of qualified wages and qualified employee health insurance costs paid to each qualified employee.

As under the Senate amendment, a tribal member or spouse is a qualified employee only if he or she works on a reservation (and lives on or near that reservation) and is paid wages that do not exceed $30,000 annually.[184] The credit is an incremental credit, such that an employer's current-year qualified wages and qualified employee health insurance costs (up to $20,000 per employee) are eligible for the credit only to the extent that the sum of such costs exceeds the sum of comparable costs paid during 1993 to employees whose wages did not exceed $30,000.

Effective date

The accelerated depreciation for Indian reservations is available with respect to property placed in service on or after January 1, 1994, and before December 31, 2003. The wage credit is available for wages paid or incurred on or after January 1, 1994, in a taxable year that begins before December 31, 2003.

IV. OTHER REVENUE PROVISIONS

A. Disclosure Provisions

1. Extend access to tax information for the Department of Veterans Affairs (sec. 14401 of the House bill, secs. 7901 and 13008 of the Senate amendment, sec. 13401 of the conference agreement, and sec. 6103 of the Code)

Present Law

The Internal Revenue Code prohibits disclosure of tax returns and return information, except to the extent specifically authorized by the Internal Revenue Code (sec. 6103). Unauthorized disclosure is a felony punishable by a fine not exceeding $5,000 or imprisonment of not more than five years, or both (sec. 7213). An action for civil damages also may be brought for unauthorized disclosure (sec. 7431). No tax information may be furnished by the Internal Revenue Service (IRS) to another agency unless the other agency establishes procedures satisfactory to the IRS for safeguarding the tax information it receives (sec. 6103(p)).

Among the disclosures permitted under the Code is disclosure to the Department of Veterans Affairs ("DVA") of self-employment tax information and certain tax information supplied to the Internal Revenue Service and Social Security Administration by third parties. Disclosure is permitted to assist DVA in determining eligibility for, and establishing correct benefit amounts under, certain of its needs-based pension and other programs (sec. 6103(l)(7)(D)(viii)). The income tax returns filed by the veterans themselves are not disclosed to DVA.

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[176] In the case of a short taxable year, the qualified wages and the qualified health insurance costs paid or incurred by the employer are to be annualized and the limitation for such taxable year is to equal the otherwise applicable limitation determined using such annualized amounts multiplied by a fraction, the numerator of which is the number of days in the taxable year and the denominator of which is 365.

[177] For this purpose, an Indian tribe is defined as any Indian tribe, band, nation, pueblo, or other organized group or community, including any Alaska Native village, or regional or village corporation, as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et. seq.), as in effect on the date of enactment of the provision, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

[178] The limitation applies to class I, II, or III gaming as defined in section 4 of the Indian Regulatory Act (25 U.S.C. 2703), as in effect on the date of enactment of the provision.

[179] No portion of the unused business credit for any taxable year that is attributable to the Indian employment credit may be carried back to a taxable year ending before the date of enactment of the provision.

[180] As under the Senate amendment, the term "Indian reservation" means a reservation as defined in (1) section 3(d) of the Indian Financing Act of 1974 (25 U.S.C. 1452(d)), as in effect on the date of enactment of this provision, or (2) section 4(10) of the Indian Child Welfare Act of 1978 (25 U.S.C. 1903(10)), as in effect on the date of enactment of this provision.

[181] The conference agreement treats the rental of real property located within a reservation as an active trade or business.

[182] In addition, the conference agreement provides that accelerated depreciation is not available for any property to which the alternative depreciation system under section 168(g) applies (determined without regard to subsection 168(g)(7) and after application of section 280F(b)).

[183] For this purpose, gaming activities include class I, II, or III gaming, as defined in section 4 of the Indian Regulatory Act (25 U.S.C. sec. 2703), as in effect on the date of enactment of this provision.

[184] The $30,000 amount for determining qualified employees is adjusted for inflation beginning after 1994.

The DVA is required to comply with the safeguards currently contained in the Code and in section 1137(c) of the Social Security Act (governing the use of disclosed tax information). These safeguards include independent verification of tax data, notification to the individual concerned, and the opportunity to contest agency findings based on such information.

The DVA disclosure provision is scheduled to expire after September 30, 1997.

House Bill

The House bill extends the authority to disclose tax information to the DVA for one year, through September 30, 1998.

Effective date.—The provision in the House bill applies after September 30, 1997.

Senate Amendment

Section 7901 of the Senate amendment is the same as the House bill. Section 13008 of the Senate amendment permanently extends the authority to disclose tax information to the DVA.

Conference Agreement

The conference agreement follows the House bill and section 7901 of the Senate amendment.

2. Access to tax information by the Department of Education (secs. 4032, 4033, and 14402 of the House bill, secs. 7902, 12011, and 12055 of the Senate amendment, sec. 13402 of the conference agreement and sec. 6103 of the Code)

Present Law

The Internal Revenue Code prohibits disclosure of tax returns and return information except to the extent specifically authorized by the Code (sec. 6103). Unauthorized disclosure is a felony punishable by a fine not exceeding $5,000 or imprisonment of not more than five years, or both (sec. 7213). An action for civil damages also may be brought for unauthorized disclosure (sec. 7431). No tax information may be furnished by the Internal Revenue Service (IRS) to another agency unless the other agency establishes procedures satisfactory to the IRS for safeguarding the tax information it receives (sec. 6103(p)).

The IRS may disclose to the Department of Education the mailing address of taxpayers who have defaulted on certain student loans. The Department of Education may in turn make this information available to its agents and to the holders of such loans (and their agents) for the purpose of locating the taxpayers and collecting the loan.

House Bill

Access to certain tax return information to implement direct student loan program

Section 14402 of the House bill gives the Department of Education access to certain tax return information in order to implement a direct student loan program. The only information the Department of Education is permitted to obtain is the name, address, taxpayer identification number, filing status, and adjusted gross income of the former student. Disclosure of this information may be made only to Department of Education employees and may only be used by these employees in establishing the appropriate income-contingent repayment amount for an applicable student loan. Applicable student loans are loans under the new direct student loan program and other student loans that are in default and have been assigned to the Department of Education. The Department of Education and its employees would be subject to the restrictions on unauthorized disclosure in present law.

The authority to disclose tax information to the Department of Education for purposes of implementing the direct student loan program expires on September 30, 1998.

Access to mailing addresses of taxpayers owing overpayments of Pell Grants

Section 14402 of the House bill also permits the Department of Education to obtain the mailing address of any taxpayer who owes an overpayment (i.e., has received more than the proper amount) on a Federal Pell Grant or who has defaulted on certain additional student loans administered by the Department of Education. This authority is permanent.

Evaluation of student loan repayment through wage withholding

Section 14402 of the House bill requires the Treasury Department, in consultation with the Department of Education, to conduct a study of the feasibility of student loan repayment through wage withholding or other means involving the IRS. The study is to include an examination of (1) whether the IRS could conduct such a system of student loan repayment within its current resources and without impairing its ability to collect tax revenues, (2) the impact of increased disclosure of tax information on voluntary compliance with the tax laws, (3) the effect of such a system of student loan repayment on collections and repayment of such loans, and (4) the ability of the IRS to service student loans. The study must be submitted to the Congress within six months of the date of enactment. If the Treasury Department finds that the IRS's current resources are inadequate to permit the IRS to increase its involvement in student loan collection, then it should identify the amount of additional resources or appropriations needed.

Section 4032 of the House bill contains the same provision for a feasibility study, except that the requirement is imposed on the Department of Education, in consultation with the Treasury Department.

Preference for IRS collection of student loan repayments

Section 4033 of the House bill expresses the sense of the Committee on Education and Labor supporting IRS collection of student loan repayments.

Effective date

The provisions in section 14402 of the House bill are effective on the date of enactment.

Senate Amendment

Access to certain tax return information to implement direct student loan program

With respect to this provision, Section 7902 of the Senate amendment is the same as section 14402 of the House bill.

With respect to this provision, Section 12055 of the Senate amendment is the same as both section 7902 of the Senate amendment and section 14402 of the House bill, except that disclosure of the tax return information is permitted to agents of the Department of Education.

Access to mailing addresses of taxpayers owing overpayments of Pell Grants

With respect to this provision, Section 7902 of the Senate amendment is the same as section 14402 of the House bill.

With respect to this provision, Section 12055 of the Senate amendment is the same as both section 7902 of the Senate amendment and section 14402 of the House bill, except that the authority expires after September 30, 1998.

Evaluation of student loan repayment through wage withholding

Section 12011 of the Senate amendment requires the Secretaries of Education and Treasury to present to the President a plan that provides for repayment of student loans through wage withholding and evaluates the feasibility of other wage withholding repayment options for such loans. The study must be submitted to the President within six months of the date of enactment.

With respect to this provision, Section 12055 of the Senate amendment is similar to section 14402 of the House bill, except that (1) no study is required; (2) upon a determination by the President (pursuant to the study described in section 12011 of the Senate amendment) that repayment of student loans should be done through wage withholding or other means involving the IRS, the Secretary of the Treasury may enter into an agreement with the Secretary of Education to allow the IRS to collect student loan repayments as if they were taxes (without the need for additional legislative authorization); and (3) the agreement described in (2) is authorized to include an alternate system of fees and penalties for nonpayment of amounts due.

Effective date

Same as the provisions in section 14402 of the House bill.

Conference Agreement

Access to certain tax return information to implement direct student loan program

With respect to this provision, the conference agreement follows section 14402 of the House bill and section 7902 of the Senate amendment.

Access to mailing addresses of taxpayers owing overpayments of Pell Grants

With respect to this provision, the conference agreement follows section 14402 of the House bill and section 7902 of the Senate amendment.

Evaluation of student loan repayment through wage withholding

With respect to this provision, the conference agreement does not include the provisions in sections 4032, 4033, or 14402 of the House bill or sections 12011 or 12055 of the Senate amendment.

The conferees direct the Treasury Department, in consultation with the Department of Education, to conduct a study of the feasibility of implementing a system for the repayment of Federal student loans through wage withholding or other means involving the IRS. Such study should include an examination of: (1) whether the IRS could implement such a system of student loan repayment with its current resources and without adversely affecting its ability to collect tax revenues, (2) the cumulative impact of increased disclosure of tax information and increased IRS involvement in nontax collection activities on voluntary compliance with the tax laws, (3) the ability of the IRS to enforce collection of student loans using an alternate system of dispute resolution, penalties, and collection devices, (4) the effect of separating loan collection from other loan servicing functions, and (5) the anticipated effect on the management of Federal student loan collections and on borrower repayment of such loans. If the study concludes that IRS collection is feasible, the Treasury Department and the Department of Education should develop a plan to implement such a collection system. The feasibility study and any plan that is developed, together with any legislative recommendations that the Secretaries may deem advisable, should be submitted to the Congress within six months of the date of enactment.

Effective date

The provisions in the conference agreement are effective on the date of enactment.

3. Access to tax information by the Department of Housing and Urban Development (sec. 14403 of the House bill, secs. 7903 and 3003 of the Senate amendment, sec. 13403 of the conference agreement, and sec. 6103 of the Code)

Present Law

The Internal Revenue Code prohibits disclosure of tax returns and return information, except to the extent specifically authorized by the Internal Revenue Code (sec. 6103). Unauthorized disclosure is a felony punishable by a fine not exceeding $5,000 or imprisonment of not more than five years, or both (sec. 7213). An action for civil damages also may be brought for unauthorized disclosure (sec. 7431). No tax information may be furnished by the IRS to another agency unless the other agency establishes procedures satisfactory to the IRS for safeguarding the tax information it receives (sec. 6103(p)).

House Bill

The House bill permits disclosure of certain tax information with respect to applicants for, and participants in, certain Department of Housing and Urban Development (HUD) programs. Such disclosure may be made only to HUD employees and is to be used solely in verifying the taxpayer's eligibility for (or correct amount of benefits under) those HUD programs. The House bill extends the current law restrictions on unauthorized disclosure to HUD and its employees. HUD employees may not redisclose tax information to State or local housing agencies, public housing authorities, or any other third party. However, they may inform such parties of the fact that a discrepancy exists between the information provided by the applicant (or participant) and information provided by other sources.

The House bill requires the Treasury Department, in consultation with HUD, to conduct a study to determine (1) whether the tax return information disclosed to HUD is being used effectively, (2) whether HUD is complying with the Code's safeguards against unauthorized disclosure of the information, and (3) the impact on the privacy rights of applicants and participants in HUD housing programs. The study must be submitted to the tax-writing committees before January 1, 1998.

Effective date.—The provision in the House bill is effective on the date of enactment. The authority to disclose tax information to HUD under the House bill expires after September 30, 1998.

Senate Amendment

Section 7903 of the Senate amendment is the same as the House bill, except that no study is required. Section 3003 of the Senate amendment is the same as the House bill, except that (1) requests for disclosure need not be written, (2) information may only be disclosed with respect to applicants for, and participants in, HUD programs who have executed consent forms under section 904(b)(3) of the Stewart B. McKinney Homeless Assistance Act of 1988, and (3) no study is required.

Conference Agreement

The conference agreement follows section 7903 of the Senate amendment. The conferees anticipate that information will be provided to HUD by means of low-cost computer exchanges of information. The conferees intend that the Treasury Department, in consultation with HUD, shall conduct a study to determine (1) whether the tax return information disclosed to HUD is being used effectively, (2) whether HUD is complying with the Code's safeguards against unauthorized disclosure of the information, and (3) the impact on the privacy rights of applicants and participants in HUD housing programs. The study shall be submitted to the tax-writing committees before January 1, 1998.

B. Increase in Public Debt Limit (sec. 14421 of the House bill, sec. 7955 of the Senate amendment, and sec. 13411 of the conference agreement)

Present Law

The statutory limit on the public debt currently is $4.37 trillion. It was set at this level temporarily in P.L. 103–12, enacted into law on April 6, 1993. The current debt limit will expire after September 30, 1993.

House Bill

The bill repeals the temporary limit that expires after September 30, 1993, and instead increases the statutory limit on the public debt to $4.9 trillion. The new debt limit has no expiration date.

Effective date.—The provision is effective on the date of enactment.

Senate Amendment

The Senate amendment is the same as the House bill.

Conference Agreement

The conference agreement follows the House bill and the Senate amendment.

C. Vaccine Provisions:

Extension of the excise tax on certain vaccines for the Vaccine Injury Compensation Trust Fund; Provisions relating to the childhood vaccine immunization program (secs. 14431–14433 of the House bill, secs. 8237 and 12203(b) of the Senate amendment, secs. 13421–13422 of the conference agreement, and secs. 4131, 4980B(f), and 9510 of the Code)

Present Law

The Vaccine Injury Compensation Trust Fund ("Vaccine Trust Fund") provides a source of revenue to compensate individuals who are injured (or die) as a result of the administration of certain vaccines: diphtheria, pertussis, and tetanus ("DPT"); diphtheria and tetanus ("DT"); measles, mumps, and rubella ("MMR"); and polio. The Vaccine Trust Fund provides the funding source for the National Vaccine Injury Compensation Program ("Program"), which provides a substitute, Federal "no-fault" insurance system for the State-law tort and private liability insurance systems otherwise applicable to vaccine manufacturers.

Under the Program, all persons who were immunized with a covered vaccine after the effective date of the Program, October 1, 1988, are prohibited from commencing a civil action in State court for vaccine-related damages unless they first file a petition with the United States Claims Court, where such petitions are assigned to a special master and governed by streamlined procedural rules designed to expedite the proceedings.[185] In these cases, the Federal Government is the respondent party in the proceedings, and the claimant generally must show only that certain medical conditions (or death) followed the administration of a covered vaccine and that the first onset of symptoms occurred within a prescribed time period.[186] Compensation under the Program generally is limited to actual and projected unreimbursed medical, rehabilitative, and custodial expenses, lost earnings, pain and suffering (or, in the event of death, a recovery for the estate) up to $250,000, and reasonable attorney's fees.[187] Only if the final settlement under the Program is rejected may the claimant proceed with a civil tort action in the appropriate State court, where recovery generally will be governed by State tort law principles,[188] subject to certain limitations and specifications imposed by the National Childhood Vaccine Injury Act of 1986.[189]

Present law authorizes up to $6 million per year from the Vaccine Trust Fund for administrative expenses incurred in administering the Vaccine Injury Compensation Program.

The Vaccine Trust Fund is funded by net revenues from a manufacturer's excise tax on DPT, DT, MMR, and polio vaccines (and any other vaccines used to prevent these diseases). Prior to the expiration of the vaccine excise tax, the excise tax per dose was $4.56 for DPT, $0.06 for DT, $4.44 for MMR, and $0.29 for polio vaccines.

The vaccine excise tax expired after December 31, 1992. Amounts in the Vaccine Trust Fund are available for the payment of compensation under the Program with respect to vaccines administered after September 30, 1988, and before October 1, 1992.

House Bill

Permanent extension of excise tax and Program funding

The House bill permanently extends the excise taxes imposed on certain vaccines. Authorization for compensation to be paid from the Vaccine Trust Fund under the National Vaccine Injury Compensation Program for certain damages resulting from vaccines administered after September 30, 1988, also is permanently extended.[190]

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[185] Persons who received vaccines before the Program's effective date of October 1, 1988 ("retrospective cases") also may be eligible for compensation under the Program if they had not yet received compensation and elected to file a petition with the United States Claims Court on or before January 31, 1991. Under the Program, awards in retrospective cases are somewhat limited compared to "prospective cases" (i.e., those where the vaccine was administered on or after October 1, 1988). Awards in retrospective cases are not paid out of the Vaccine Trust Fund but are paid out of funds specially authorized by Congress. See 42 U.S.C. sec. 300aa-15(i), (j) (appropriating $80 million for fiscal year 1989 and for each subsequent year).

[186] Compensation may not be awarded, however, if there is a preponderance of the evidence that the claimant's condition or death resulted from factors unrelated to the vaccine in question.

[187] 42 U.S.C. sec. 300aa-15.

[188] In most State proceedings, significant issues arise whether injuries suffered by an individual after immunization were, in fact, caused by the vaccine administered and whether the manufacturer was at fault in either the manufacture or marketing of the vaccine.

[189] Title III, P.L. 99-660. This Act preempts State tort law to a limited extent by imposing limits on recovery from vaccine manufacturers. Among the limitations are a prohibition on compensation if the injury or death resulted from side effects that were unavoidable; a presumption that manufacturers are not negligent in manufacturing or marketing vaccines if they complied, in all material respects, with Federal Food and Drug Administration requirements; and limits on punitive damage awards.

Study

The Secretary of the Treasury, in consultation with the Secretary of Health and Human Services, is directed to conduct a study of: (1) the estimated amount that will be paid from the Vaccine Trust Fund with respect to vaccines administered after September 30, 1988; (2) the rates of vaccine-related injury or death with respect to various types of vaccines; (3) new vaccines and immunization practices being developed or used for which amounts may be paid from the Vaccine Trust Fund; (4) whether additional vaccines should be included in the National Vaccine Injury Compensation Program; and (5) the appropriate treatment of vaccines produced by State governmental entities. Not later than one year after the date of enactment, the Secretary of the Treasury must submit a report detailing his findings to the House Committee on Ways and Means and the Senate Committee on Finance.

Childhood immunization program trust fund

The House bill establishes a new Childhood Immunization Trust Fund ("Childhood Trust Fund") in the Internal Revenue Code. Monies in the Childhood Trust Fund are to be available, subject to appropriations Acts, for the childhood immunization entitlement program (under part A of subtitle 3 of title XXI of the Public Health Service Act), adopted by the Committee on Energy and Commerce as part of its reconciliation recommendations.

Maintenance-of-effort requirement for pediatric vaccine health care coverage

The House bill makes the failure of health plans that provide coverage for the cost of pediatric vaccines as of May 1, 1993, to continue to provide that level of coverage subject to the excise tax penalty (under sec. 4980B(f)) applicable to plans that fail to provide COBRA health plan continuation coverage.

Effective date

The extension of coverage under the National Vaccine Injury Compensation Program is effective for vaccines administered on or after October 1, 1992. The extension of the vaccine excise taxes is effective on the date of enactment, with a floor stocks tax imposed on vaccines purchased after December 31, 1992, that are being held for sale or use on the date of enactment.

The maintenance-of-effort requirement for pediatric vaccine health care coverage applies to plan years beginning after the date of enactment.

Senate Amendment

Permanent extension of excise tax and Program funding

The Senate amendment is the same as the House bill.

Study

No provision.

Childhood immunization program trust fund

No provision for a childhood immunization program trust fund.

Maintenance-of-effort requirement for pediatric vaccine health care coverage

No tax provision.

Conference Agreement

Permanent extension of excise tax and Program funding

The conference agreement follows the House bill and the Senate amendment.

Study

The conference agreement follows the Senate amendment, but the conferees intend that the Secretary of the Treasury will conduct a study of the Vaccine Trust Fund and related matters as contemplated by the statutory provision contained in the House bill, including a report to the House Committee on Ways and Means and the Senate Committee on Finance within one year after the date of enactment.

Childhood immunization program trust fund

The conference agreement does not include the House bill provision for a childhood immunization program trust fund.

Maintenance-of-effort requirement for pediatric vaccine health care coverage

The conference agreement follows the House bill.

D. Other Revenue-Related Provisions

1. Disaster loss relief for individuals whose principal residences were damaged by Presidentially declared disasters (sec. 13431 of the conference agreement and sec. 1033 of the Code)

Present Law

Under present law, no gain is recognized by the taxpayer if property is involuntarily converted into property similar or related in service or use. If property is involuntarily converted into money or property not similar or related in service or use to the converted property, then gain generally is recognized. If during the applicable period, however, the taxpayer replaces the converted property with property similar or related in service or use to the converted property, the taxpayer may elect to recognize gain only to the extent that the amount realized upon such conversion exceeds the cost of the replacement property. The applicable period begins with the date of the disposition of the converted property (or the earliest date of the threat or imminence of requisition or condemnation of the converted property, whichever is earlier) and generally ends two years after the close of the first taxable year in which any part of the gain upon conversion is realized.

House Bill

No provision.

Senate Amendment

No provision.

Conference Agreement

The conference agreement contains provisions applicable to taxpayers whose principal residence[191] (or any of its contents) is involuntarily converted as a result of a Presidentially declared disaster. In such cases, no gain is recognized by reason of the receipt of insurance proceeds for unscheduled personal property that was part of the contents of such residence. In the case of any other insurance proceeds for such residence or its contents, the proceeds may be treated as a common pool of funds. If such pool of funds is used to purchase any property similar or related in service or use to the converted residence (or its contents), the taxpayer may elect to recognize gain only to the extent that the amount of the pool of funds exceeds the cost of the replacement property.

In addition, the conference agreement extends the ending of the applicable period for the replacement of property involuntarily converted as a result of a Presidentially declared disaster to four years after the close of the first taxable year in which any part of the gain upon conversion is realized.

The conference agreement applies to residences located in areas subject to a disaster that resulted in a subsequent determination by the President that assistance by the Federal Government was warranted under the Disaster Relief and Emergency Assistance Act.

Effective date.—The provisions are effective for property involuntarily converted as a result of disasters for which a Presidential declaration is made on or after September 1, 1991, and to taxable years ending on or after such date.

2. Increase amount of Presidential Election Campaign Fund checkoff (sec. 7953 of the Senate amendment, sec. 13441 of the conference agreement, and sec. 6096(a) of the code)

Present Law

The Presidential Election Campaign Fund ("Fund") provides for public financing of a portion of qualified Presidential election campaign expenditures and certain qualified convention costs (sec. 9001 et seq.). The Fund is financed through the voluntary designation by individual taxpayers on tax returns of $1 of tax liability, which is commonly known as the Presidential election campaign checkoff. The Treasury Department accumulates revenues in the Fund over a four-year period and then disburses funds to eligible candidates for President, Vice President, and conventions during the Presidential election year.

House Bill

No provision.

Senate Amendment

The Senate amendment increases the amount of the checkoff from $1 to $3.

Effective date.—Effective for tax returns required to be filed after December 31, 1993.

Conference Agreement

The conference agreement follows the Senate amendment.

3. Disallowance of deduction for amounts paid or incurred in connection with certain noncomplying group health plans (sec. 13442 of the conference agreement and new sec. 162(n) of the Code)

Present Law

Under present law, employers can generally deduct the full cost of health coverage provided to participants under a group health plan. Under New York state law, commercial insurers of inpatient hospital services, group health plans, health maintenance organizations, and Blue Cross and Blue Shield corporations are required to reimburse hospitals for inpatient hospital services at various rates set by the state of New York. In February of 1993, a Federal district court invalidated a number of New York statutes imposing inpatient hospital-rate surcharges on the ground that they were preempted by the Employee Retirement Income Security Act of 1974 (ERISA), but ordered insurers of inpatient hospital services to comply with New York's rate-setting statutes pending a final determination of the case.

House Bill

No provision. (However, section 4203 of the House bill would have temporarily waived ERISA preemption as applied to the New York surcharges and certain other New York statutes.)

Senate Amendment

No provision.

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[190] The House committee report states that it is intended that the Secretary of the Treasury expeditiously (within 60 days of enactment) adopt rules for purposes of Code section 4221 for determining the conditions under which exported vaccines to be administered to individuals not eligible for compensation under the program are not subject to tax.

[191] Principle residence is defined as under section 1034, except that renters receiving insurance proceeds as a result of the involuntary conversion of their property in a rented residence also qualify for relief under this provision to the extent the rented residence would constitute their principal residence if they owned it.

Conference Agreement

In general, the conference agreement disallows employer deductions for any amounts paid or incurred in connection with a group health plan (including amounts reimbursed through a voluntary employees' beneficiary association (VEBA)) if the plan fails to reimburse hospitals for inpatient services provided in the state of New York at the same rate that licensed commercial insurers are required to reimburse hospitals for inpatient services for individuals not covered by a group health plan. For purposes of this provision, a licensed commercial insurer is a commercial insurer licensed to do business in the state of New York and authorized to write accident and health insurance, and whose policies provide inpatient hospital coverage on an expense incurred basis. Blue Cross and Blue Shield is not a licensed commercial insurer for this purpose.

If a group health plan provides inpatient hospital services through a health maintenance organization (HMO), the conference agreement disallows employer deductions in connection with the plan if the plan fails to reimburse hospitals for inpatient services at the same rate (without regard to exempt individuals) that HMOs are required to reimburse hospitals for individuals not covered by a group health plan.

If a group health plan provides coverage for inpatient hospital services through a Blue Cross and Blue Shield corporation, the conference agreement disallows employer deductions in connection with the plan if the plan fails to reimburse hospitals for inpatient services at the same rate that such corporations are required to reimburse hospitals for individuals not covered by a group health plan.

The deduction disallowance does not apply to any group health plan which is not required under the laws of the state of New York (determined without regard to this provision or other provisions of Federal law) to reimburse for hospital services at the rates described above. Thus, self-insured plans are not subject to the deduction disallowance with respect to the 11 percent surcharge imposed on commercial insurers through March 31, 1993. Similarly, the deduction disallowance does not apply to self-insured plans that do not provide for reimbursement directly to hospitals on an expense incurred basis. The deduction denial also does not apply to payments by self-insured plans exempt from New York's all-payer reimbursement system because of agreements in effect on May 1, 1985.

No inference is intended as to whether any provision of the New York all-payer hospital reimbursement system is preempted by ERISA.

Effective date.—The provision is effective with respect to inpatient hospital services provided to participants after February 2, 1993, and on or before May 12, 1995.

4. Employer tax credit for FICA taxes paid on tip income (sec. 13443 of the conference agreement and sec. 45B of the Code)

Present Law

Under present law, all employee tip income is treated as employer-provided wages for purposes of the Federal Unemployment Tax Act (FUTA) and the Federal Insurance Contributions Act (FICA). For purposes of the minimum wage provisions of the Fair Labor Standards Act (FLSA), reported tips are treated as employer-provided wages to the extent they do not exceed one-half of such minimum wage.

House Bill

No provision.

Senate Amendment

No provision.

Conference Agreement

The conference agreement provides a business tax credit for food or beverage establishments in an amount equal to the employer's FICA tax obligation (7.65 percent) attributable to reported tips with respect to the food or beverage establishment in excess of those treated as wages for purposes of satisfying the minimum wage provisions of the FLSA. A food or beverage establishment is any trade or business (or portion thereof) which provides food or beverages for consumption on the premises and with respect to which the tipping of employees serving food or beverages by customers is customary. No credit is allowed with respect to FICA taxes paid on tips that are not received in connection with the provision of food or beverages on the premises of the establishment. It is intended that the rules under section 6053(c)(4) apply[192] in determining whether the tips are received with respect to a trade or business (or portion thereof) which provides food or beverages and with respect to which the tipping of employees serving food or beverages by customers is customary.

To prevent double dipping, no deduction is allowed for any amount taken into account in determining the credit. The conference agreement prohibits carryback of unused FICA credits to a taxable year ending before the date of enactment.

Effective date.—The provision is effective for taxes paid after December 31, 1993.

5. Availability and use of death information (sec. 13020 of the House bill, sec. 13444 of the conference agreement, and sec. 6103 of the Code)

Present Law

The Secretary of Health and Human Services is authorized to enter into voluntary contracts with the States for the purpose of obtaining death certificate and other related information. In addition, the Secretary is authorized to redisclose this information to other Federal, State, and local agencies for certain specified purposes, subject to such safeguards as the Secretary determines are necessary to prevent any unauthorized redisclosure. However, because these contracts with the States are entirely voluntary, the States are able, at their discretion, to include contract provisions preventing the Secretary from redisclosing this information to other Federal, State, and local agencies.

House Bill

The House bill prohibits a State from using an individual's Social Security account number in the administration of any driver's license or motor vehicle registration law where the State has not entered into a contract to provide death certificate and related information to the Secretary, or where the State is a party to a contract with the Secretary which includes any restrictions on the use of the death information provided to the Secretary by the State, except to the extent that such use may be restricted under section 205(r)(6) of the Social Security Act.

In addition, the House bill requires the Secretary of Health and Human Services to conduct a study of possible improvements in the current methods of gathering and reporting death information by Federal, State, and local governments that would result in more efficient and expeditious handling of such information. The House bill also requires the Secretary to submit a written report by June 1, 1994, to the Committee on Ways and Means and the Committee on Finance setting forth the results of this study, together with such administrative and legislative recommendations as the Secretary considers appropriate.

Effective date.—The House bill is effective one year after the date of enactment.

Senate Amendment

No provision.

Conference Agreement

The conference agreement follows the House bill, with modifications. The conference agreement prohibits the disclosure of Federal tax returns or return information to any agency, body or commission of any State in connection with the administration of State tax laws where the State has not entered into a contract to provide death certificate and related information to the Secretary, or where the State is a party to a contract with the Secretary that includes any restrictions on the use of the death information provided to the Secretary by the State, except that such contract may provide that such information is only to be used for purposes of ensuring that Federal benefits or other payments are not erroneously paid to deceased individuals. The conference agreement does not apply to any State that, on July 1, 1993, was not furnishing by contract any death certificate or related information to the Secretary of Health and Human Services. The conference agreement does not include the provision in the House bill prohibiting a State from using Social Security account numbers for certain purposes.

Effective date.—The conference agreement is effective one year after the date of enactment, except that it is effective two years after the date of enactment with respect to a State if it is established to the satisfaction of the Secretary of the Treasury that it is legally impossible under existing State law for such a contract to be signed. The conferees intend that the authority of the Secretary of the Treasury to grant an extension of the effective date insure that those States that have not yet entered into a contract with the Federal Government allowing for government-wide dissemination of death information have up to two years to resolve, through their State legislatures, any legal impediments to the timely signing of such a contract.

6. BATF user fees for processing applications for alcohol certificates of label approval (sec. 14411 of the House bill and sec. 7951 of the Senate amendment)

Present Law

The Treasury Department's Bureau of Alcohol, Tobacco, and Firearms (BATF) is required to approve all alcoholic beverage labels and conduct various laboratory analyses to assure compliance with the Federal Alcohol Administration Act (27 U.S.C., Chapter 8) and Chapter 51 of the Internal Revenue Code. There is currently no charge or fee for these BATF services.

Under the Internal Revenue Code, annual alcohol occupational excise taxes are imposed as follows:

Producers of distilled spirits, wines or beer (secs. 5081, 5091).	$100 per year[1] per premise
Wholesale dealers of liquors, wines or beer (sec. 5121).	$500 per year
Retail dealers in liquors, wines or beer (sec. 5121).	$250 per year
Nonbeverage use of distilled spirits (sec. 5131).	$500 per year

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[192] Section 6053(c)(4) is to be applied without regard to the number of employees.

Industrial use of distilled spirits (sec. 5276).	$250 per year

[1] Tax is $500 per year per premise for businesses with gross receipts of less than $500,000 in the preceding taxable year.

House Bill

Under the House bill, BATF user fees are established for the processing of applications for certificates of alcohol label approval (or exemptions therefrom) required by the Federal Alcohol Administration Act and formula (and statement of process) reviews or laboratory tests and analyses performed under that Act and the Internal Revenue Code and regulations.

The Secretary of the Treasury is authorized to implement the user fee program and to establish fee rates: not less than $50 for each application and not less than $250 for each formula (and statement of process) review or test and analysis. The fees charged under this program are to be determined so that the Secretary estimates that the aggregate of such fees received during any fiscal year will be $5 million. A maximum of $5 million of these fees are to be offsetting receipts deposited in the Treasury and ascribed to BATF's Compliance Alcohol Program.

Effective date.—The provision applies for applications filed and for formula (and statement of process) reviews or tests and analyses initiated 90 days from the date of enactment.

Senate Amendment

The Senate amendment is the same as the House bill.

Conference Agreement

The conference agreement does not include the House bill provision or the Senate amendment.

7. Use of Harbor Maintenance Trust Fund for administrative expenses (sec. 14412 of the House bill, sec. 7952 of the Senate amendment, and sec. 9505(c) of the Code)

Present Law

Under present law (Code sec. 9595(c)), amounts in the Harbor Maintenance Trust Fund ("Harbor Fund") are available, as provided by appropriation Acts, for making expenditures:

(1) under section 210(a) of the Water Resources Development Act of 1986 (Army Corps of Engineers costs for dredging and maintaining harbors at U.S. ports);

(2) for payments of rebates of certain St. Lawrence Seaway tolls or charges; and

(3) for payment of expenses incurred by the Department of the Treasury in administering the harbor maintenance excise tax (but not more than $5 million per fiscal year) for periods during which no Customs processing fee applies under the Consolidated Omnibus Budget Reconciliation Act of 1985 ("1985 Act").

The Customs processing fee currently is in effect through September 30, 1995.[193] Thus, since the Customs processing fee is in effect under the 1985 Act, the Harbor Fund is not currently permitted to be used for Treasury expenses for administering the harbor maintenance excise tax.

House Bill

The House bill allows (subject to appropriations) up to $5 million per fiscal year from the Harbor Fund to be used by the Department of the Treasury to improve compliance with the existing harbor maintenance excise tax. This is accomplished by removing the current Harbor Fund restriction against such use while the Customs processing fee is in effect.

Effective date.—The provision applies to fiscal years beginning after the date of enactment.

Senate Amendment

The Senate amendment is the same as the House bill, except that the Senate amendment also includes the Army Corps of Engineers and the Department of Commerce as eligible to receive Harbor Fund money for expenses of administering the harbor maintenance excise tax.

Conference Agreement

The conference agreement does not include the House bill provision or the Senate amendment.

8. Federal and State income tax refund offset for medical assistance (sec. 7433 of the Senate amendment)

Present Law

Federal agencies are authorized to notify the IRS that a person owes a past due, legally enforceable debt to the agency. The IRS then is required to reduce the amount of any Federal tax refund due such person by the amount of the debt and pay that amount to the agency. The refund offset program applies with respect to debts of individuals and corporations.

Before a refund can be offset under this program, the agency owed the debt is required to certify to the IRS that the debtor has been notified about the proposed offset and has been given at least 60 days to present evidence that all or part of the debt is not past due or not legally enforceable. The agency also is required to enter into agreement with the IRS prior to transmitting proposed offsets. If a refund otherwise due an individual is subject to offset both under this provision and because of past-due support under the Aid to Families with Dependent Children (AFDC) program, the offset for AFDC past-due support is implemented first.

House Bill

No provision.

Senate Amendment

The Senate amendment permits States to request that the Internal Revenue Service offset a Federal income tax refund by the amount of a legally enforceable debt to the State for specified medical assistance. A State may request a refund offset only if it has in place a parallel State refund offset program.

Effective date.—The provision is effective for taxable years beginning after December 31, 1993.

Conference Agreement

The conference agreement does not include the Senate amendment provision.

9. Annual report to taxpayers on Federal finances (sec. 15002 of the Senate amendment)

Present Law

The IRS is required to include two pie charts in individual income tax return instruction booklets: one showing sources of Government revenue and the other showing how that revenue is spent. There is no requirement that the instruction booklets include a financial report of the Federal government.

House Bill

No provision.

Senate Amendment

Under the Senate amendment, the director of the Office of Management and Budget is required to supervise and direct the content and preparation of an annual financial report of the Federal government. The Secretary of the Treasury is required each year to include in the instruction booklets for individual income tax returns a summary of the annual financial report. The complete annual financial report would be made available to taxpayers upon request (subject to a possible processing fee).

Effective date.—The provision is effective on the date of enactment.

Conference Agreement

The conference agreement does not include the Senate amendment.

CHAPTER 2

SUBTITLE A—MEDICARE

PROVISIONS RELATING TO PART A

1. Inpatient Hospital Services Update (Sec. 13401 of the House bill; sec. 7101 of the Senate amendment)

Present Law

(a) PPS Hospitals.—The update factor for hospitals located in urban areas is set to equal the percentage increase in the hospital market basket for fiscal years 1994 and thereafter. The fiscal year 1994 update factor for rural hospitals is set to equal the increase in the hospital market basket plus 1.5 percentage points. For fiscal year 1995, the update factor for rural hospitals is set to equal the market basket increase plus the amount needed to equalize the standardized amount for rural hospitals to the standardized amount for hospitals in urban areas other than those with more than one million people.

The standardized amounts are updated annually effective with discharges occurring on or after October 1 of each year. Other factors in PPS payments, including DRG classifications, the area wage index, outlier payment thresholds, and hospital geographic classification are also revised at the start of each fiscal year. Disproportionate share payments for urban hospitals with 100 or more beds are scheduled to increase, effective for discharges on or after October 1, 1993.

A sole community hospital or Medicare-dependent small rural hospital is paid based on the higher of the applicable standardized amount or a hospital-specific rate. The hospital-specific rate is updated annually effective with the beginning of the hospital's cost reporting period. The update is set equal to the projected percentage increase in the hospital market basket for the fiscal year in which the cost reporting period begins.

(b) PPS-Exempt Hospitals.—For cost reporting periods beginning during fiscal years 1994 and thereafter, the target amounts for PPS-exempt hospitals are increased by the projected increase in the hospital market basket. The Secretary is authorized to grant exceptions or adjustments to target amounts to reflect cost increases beyond a hospital's control or other extraordinary circumstances.

House Bill

(a) PPS Hospitals.—For fiscal years 1994 and 1995 the market basket used in updating the prospective payment system standardized amounts would be deemed to equal zero. The additional amounts provided under current law to eliminate the differential between the rural and "other urban" standardized amounts by fiscal year 1995 would continue to apply.

(b) PPS-Exempt Hospitals.—For cost reporting periods beginning in fiscal years 1994 and 1995, the market basket used in updating the target amounts for PPS-exempt hospitals would be deemed to equal zero.

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[193] A separate trade provision (sec. 13602 of the House bill and sec. 7701 of the Senate amendment) would extend the current Customs processing fee for three years, through September 30, 1998.

Senate Amendment

(a) PPS Hospitals.—PPS rates would be updated annually effective for discharges occurring on or after January 1 of each year. The payment rates in effect as of September 30, 1993 would continue in effect through December 31, 1993. No changes in the standardized amounts, DRG classification system or relative weights, outlier thresholds, wage index values, or in a hospital's geographic classification would occur until January 1, 1994. The increase in disproportionate share payments for urban hospitals with at least 100 beds would be postponed and would become effective for discharges occurring on or after January 1, 1994. The regional floor would be extended through December 31, 1993.

The standardized amounts would be updated on a calendar year basis as follows:

1994: The urban standardized amounts would be updated by the estimated percentage increase in the hospital market basket minus 2.18 percentage points. The rural standardized amounts would be updated by the market basket increase minus .68 percentage points.

1995: The urban standardized amounts would be updated by the estimated percentage increase in the hospital market basket minus 2.27 percentage points and the labor and non-labor portions of the standardized amounts would be recomputed based on the labor and non-labor proportions in the national average standardized amount for all hospitals. The rural standardized amount would be updated to equal the standardized amount applicable to hospitals located in "other urban" areas so that there would be a single standardized amount applicable to hospitals located in rural and "other urban" areas.

1996: The standardized amounts would be updated by the percentage increase in the hospital market basket minus 2.0 percentage points.

1997: The standardized amounts would be updated by the percentage increase in the hospital market basket minus 1.0 percentage point.

1998 and thereafter: The standardized amounts would be updated by the percentage increase in the hospital market basket.

The effective date of the update in the hospital-specific rate applicable to a sole community hospital or a Medicare-dependent, small rural hospital would be changed from the beginning of the hospital's cost reporting period to January 1. The update factor would equal 75 percent of the difference between the percentage increase in the hospital market basket and 2.0 percentage points in 1994 (after a 3 month freeze) and the percentage increase in the hospital market basket minus 2.0 percentage points in 1995. For 1996 and later years the update would be the same as for PPS hospitals.

(b) PPS-Exempt Hospitals.—Beginning January 1, 1994, the market basket projection would be made on a calendar year basis and would be applicable to cost reporting periods beginning in that calendar year. For cost reporting periods beginning in 1994, the update factor for the target amount would be determined based on 75 percent of the difference between the estimated percentage increase in the hospital market basket and 1.0 percentage point. For cost reporting periods beginning in 1995 through 1997, the update factor for the target amount would equal the percentage increase in the hospital market basket minus 1.0 percentage point.

Conference Agreement

(a) PPS Hospitals.—The conference agreement includes the Senate amendment, with modifications. Annual updates and other changes in PPS payment factors will continue to take effect on a fiscal year basis, and the scheduled change in disproportionate share payment policy is not postponed. The provision relating to recomputation of the labor and non-labor portions of the standardized amounts is not included.

Update factors are revised as follows:

Fiscal year 1994: For urban hospitals, the estimated percentage increase in the hospital market basket minus 2.5 percentage points; for rural hospitals, the market basket increase minus 1.0 percentage point.

Fiscal year 1995: For urban hospitals, the percentage increase in the hospital market basket minus 2.5 percentage points; for rural hospitals, the amount necessary to equalize the rural and "other urban" standardized amounts.

Fiscal year 1996: For all hospitals, the percentage increase in the hospital market basket minus 2.0 percentage points.

Fiscal year 1997: For all hospitals, the percentage increase in the hospital market basket minus 0.5 percentage points.

For fiscal years 1998 and thereafter, the update is set equal to the percentage increase in the hospital market basket.

The update factors for the hospital-specific rates applicable to a sole community hospital or a Medicare-dependent, small rural hospital are set equal to the percentage increase in the hospital market basket minus 2.3 percent in fiscal year 1994, and minus 2.2 percent in fiscal year 1995. These factors are equal to the weighted average updates for urban and rural hospitals in those years. For fiscal years 1996 and thereafter, the update is set equal to the update factors for other hospitals. The effective date of the update is moved from the beginning of the hospital's cost reporting period to October 1. The conferees believe that the Secretary should evaluate the policy of combining base year data when two sole community hospitals merge.

For discharges occurring after fiscal year 1993, the agreement reduces the Federal rate for hospital capital expenses by 7.4 percent, to correct inflation forecast errors accrued prior to the most recent update of capital cost data. Effective with cost reporting periods beginning in fiscal year 1994, the Secretary is required to redetermine which capital payment methodology should be applied to each hospital, to take account of this reduction.

The conferees note that in the proposed rule for fiscal year 1994 changes to the hospital inpatient prospective payment systems that was published in the Federal Register on May 26, 1993, the Secretary indicated that insufficient information was available to complete a systematic evaluation of the obligated capital criteria for hospitals in States with a lengthy Certificate-of-Need process in time to consider appropriate changes during the fiscal year 1994 rule-making process. The conferees expect the Secretary to complete the assessment in time for consideration in the fiscal year 1995 rule-making process and that appropriate changes in payment policy will be made to address the problems of hospitals subject to a lengthy Certificate-of-Need review process or subject to other circumstances which are not fully addressed under the current transition rules. In addition, the conferees believe the Secretary should evaluate whether current policies provide adequate protection to sole community hospitals and hospitals that serve a disproportionate share of low income patients.

(b) PPS-Exempt Hospitals.—The conference agreement includes the Senate amendment, with modifications. Updates in target amounts will continue to take effect for cost reporting periods beginning in a fiscal year. Update factors are set equal to the percentage increase in the hospital market basket minus 1.0 percentage point in fiscal years 1994 through 1997. For cost reporting periods beginning in fiscal years 1998 and thereafter, the update is set equal to the percentage increase in the hospital market basket. A hospital whose operating costs during a cost reporting period beginning in fiscal year 1990 exceeded its target amount by 10 percent or more will be exempt from these reductions in all years, with partial reductions applied to hospitals near the 10 percent threshold. The Secretary is instructed not to consider the reductions in granting exceptions or adjustments to target amounts.

The conferees note that OBRA 90 required the Secretary to develop a proposal to modify the current payment methodology for hospitals that are excluded from the prospective payment system. The report was to be submitted to Congress by April 1, 1992. The conferees urge that the Secretary submit the report promptly.

2. Payments for Hospice Care (Sec. 13401 of the House bill)

Present Law

Payment rates for hospice services are updated each year by the projected increase in the hospital market basket.

House Bill

The hospital market basket used to update payment rates for hospice services for fiscal years 1994 and 1995 would be deemed to equal zero.

Senate Amendment

No provision.

Conference Agreement

The conference agreement includes the House provision, with an amendment. Update factors for hospice services are set equal to the percentage increase in the hospital market basket minus 2.0 percentage points in fiscal year 1994, market basket minus 1.5 percentage points in fiscal years 1995 and 1996, and market basket minus 0.5 percentage point in fiscal year 1997. For fiscal years 1998 and thereafter, the update is set equal to the percentage increase in the hospital market basket.

3. Skilled Nursing Facilities (Secs. 13402 and 13425 of the House bill; Secs. 7105 and 7104 of the Senate amendment)

(a) Cost Limits.—Payments for skilled nursing facility services are made on a reasonable cost basis, subject to per-diem cost limits. The limit is based on 112 percent of the mean per diem routine service costs for freestanding facilities. There is an add-on to the limit for hospital-based facilities equal to 50 percent of the difference between 112 percent of the mean per diem routine costs for free-standing facilities and 112 percent of the mean per diem costs for hospital-based facilities. The Secretary is required to make payment, regardless of the cost limits, for costs of a hospital-based facility attributable to excess overhead cost allocated to the facility. Any skilled nursing facility may receive an exception to the cost limits based on case mix or circumstances beyond the control of the facility.

(b) Return on Equity.—Proprietary skilled nursing facilities (SNFs) receive, in addition to payments for the costs of providing services, a return on equity payment, which provides the investors in the facility a return on their investment equivalent to what they would have earned if they had invested the same amount in specified government securities. SNFs are the only providers still receiving Medicare return on equity payments.

(c) Wage Index.—Skilled nursing facilities are reimbursed on a reasonable cost basis, subject to per-diem limits. The labor-related portion of the limits are to be adjusted by an appropriate wage index. The Secretary currently uses a wage index based on wage data collected from hospitals. In its March 1, 1992, Report and Recommendations to the Congress, the Prospective Payment Assessment Commission recommended that the Secretary collect data on employee compensation and paid hours of employment for nursing facilities for the purpose of implementing a nursing facility wage index to adjust the cost limits. The limits are to be updated every two years.

House Bill

(a) Cost Limits.—The Secretary would be prohibited from applying an update factor to the cost limits for skilled nursing facility cost reporting periods beginning in fiscal years 1994 and 1995.

(b) Return on Equity.—No provision.

(c) Wage Index.—The Secretary would be required to begin collecting the data necessary to compute a wage index based on wages specific to skilled nursing facilities within one year of enactment. The Prospective Payment Assessment Commission would be required to study and report by March 1, 1994, on the impact of applying routine per-diem cost limits on a regional basis.

Senate Amendment

(a) Cost Limits.—The cost limit would be lowered to 110 percent of the median per diem routine service costs for freestanding facilities. The add-on for hospital-based facilities would equal 50 percent of the difference between 110 percent of the median per diem routine costs for freestanding facilities and 110 percent of the median per diem routine costs for hospital-based facilities. The lower cost limits would be effective for cost reporting periods beginning on or after October 1, 1993. The other requirements would be effective upon the date of enactment.

(b) Return on Equity.—The payment to SNFs for return on equity capital would be eliminated, applicable to portions of cost reporting periods beginning on or after October 1, 1993.

(c) Wage Index.—Similar to House bill, except that the Commission report is due March 31, 1994.

Conference Agreement

(a) Cost Limits.—The conference agreement includes the House provision, with an amendment to require that there be no changes in skilled nursing facility cost limits (including no adjustments for changes in the wage index or applicable MSAs) for cost reporting periods beginning in fiscal years 1994 and 1995, or in prospective payment amounts for services rendered during such cost reporting periods. The Secretary is required, when granting or extending exceptions to cost limits, to limit any exception to the amount that would have been granted if there were no restriction on changes in cost limits. Additional payments for excess overhead costs allocated to hospital-based facilities are eliminated, effective for cost reporting periods beginning on or after October 1, 1993.

The conferees believe that Medicare costs for skilled nursing facilities can best be controlled through a prospective payment system. Such a payment system will encourage provider efficiency and simplify administrative requirements. Therefore, the conferees expect that the Secretary will complete development of a prospective payment system and present recommendations to Congress in time for implementation no later than October 1, 1995. The recommendations should also address whether the differential payment for hospital-based facilities should be maintained. The conferees understand that sufficient information on which to base a prospective payment system on case mix may not be available. However, the conferees expect the Secretary to develop an interim prospective payment system for inpatient routine service costs, using appropriate proxies to account for differences in patient resource requirements, with improved case mix indicators incorporated into the system over time.

(b) Return on Equity.—The conference agreement includes the Senate amendment. The conferees expect the Secretary to adjust prospective payment rates for low-volume skilled nursing facilities to reflect the elimination of return-on-equity payments as of that date.

(c) Wage Index.—The conference agreement does not include the House provision or the Senate amendment. The conferees expect that the Secretary will begin to collect data on employee compensation and hours of employment specific to skilled nursing facilities, for potential use in development of a skilled nursing facility wage index, within one year of enactment.

4. Hospital Wage Index (Sec. 13411 of the House bill)

Present Law

A change in classification of hospitals from one wage area to another may not result in the reduction in the wage index for a county to an amount below the level of the rural wage index for a State. No similar protection applies in the case of an urban area with a wage index already below the rural wage index for a State, or in the case of an urban area located in a State without any rural areas. Certain hospitals in rural counties adjacent to one or more urban areas are treated as part of an urban area if they otherwise meet certain requirements with respect to commuting standards used in designating Metropolitan Statistical Areas or New England County Metropolitan Areas as published in the Federal Register on January 3, 1980. In development of guidelines for reclassification of hospitals into different wage index areas, the Secretary is required to take into account occupational mix.

House Bill

A change in classification of hospitals from one area to another could not result in a reduction in the wage index for an urban area if the area has a wage index below the rural wage index for the State. A change in classification of hospitals could not result in a reduction in the wage index for an urban area if the area is the only urban area in a State with no rural areas. The Secretary would be instructed not to make retroactive revisions in standardized amounts to reflect the wage index changes. The January 3, 1980, requirements with respect to commuting standards would be replaced with the most recently available standards. Any hospital qualifying for treatment as an urban county under the 1980 standards, but not meeting the most recent standards would continue to qualify. The Secretary would be authorized, but not required, to take occupational mix into account in the development of guidelines for reclassification to the extent the Secretary determines is appropriate.

Effective on the date of enactment, except that the provision relating to urban areas with a wage index below the rural wage index for the State would be effective on October 1, 1991, the provision relating to commuting standards would be effective on October 1, 1993, and the provision relating to occupational mix would be effective as if included in the Omnibus Reconciliation Act of 1989 (OBRA 89).

Senate Amendment

No provision.

Conference Agreement

The conference agreement includes the House provision, with amendments. The provision relating to commuting standards is eliminated. The provision relating to an urban area in a State with no rural areas is made effective on October 1, 1991. The agreement does not include the provision related to consideration of occupational mix.

The conferees note that in the proposed rule for FY 1994 changes to the hospital inpatient prospective payment systems that was published May 26, 1993, the Secretary indicated an intention to evaluate the "nearest neighbor" labor market areas recommended by the Prospective Payment Assessment Commission and other alternatives to the existing labor market area definition. The conferees reaffirm that sections 1886(d)(2)(H) and 1886(d)(3)(E) of the Social Security Act give the Secretary broad discretion to define hospital labor market areas. In the event new labor market areas are established that are not based on Metropolitan Statistical Areas, the conferees note that the hold harmless protections provided under section 1886(d)(8)(C) would have no practical effect.

5. Hospital Outlier Payments (Sec. 13412 of House bill)

Present Law

The Secretary of Health and Human Services (the Secretary) is required to make additional payment for outlier cases, which are defined as those cases involving long stays or extraordinary costs as compared to other cases in the same DRG.

House Bill

The Secretary would be required to phase out payments for day outlier cases beginning in fiscal year 1995 and ending in fiscal year 1998. The proportion of outlier payments calculated using the day outlier methodology in fiscal year 1994 would be reduced by 25% for fiscal year 1995, 50% for fiscal year 1996, 75% for fiscal year 1997, and eliminated beginning in fiscal year 1998.

Senate Amendment

No provision.

Conference Agreement

The conference agreement includes the House provision, with an amendment to require that the payment threshold for cost outlier cases be set at the applicable DRG payment plus a fixed dollar amount. The Secretary is authorized to achieve reductions in the proportion of outlier payments attributable to day outliers by reducing payments for marginal costs of days of care exceeding the outlier threshold.

The conferees note that the Prospective Payment Assessment Commission has expressed concern that the Secretary's outlier policy penalizes hospitals that receive a large number of transfer cases. The conferees expect that the Commission will evaluate whether the changes in outlier policy required by this Act will be sufficient to reduce the risk of large losses on transfer cases for such hospitals and make recommendations regarding whether additional changes in payment methodology would be appropriate.

6. Essential Access Community Hospital Amendments (Sec. 13413 of the House bill)

(a) Under the Essential Access Community Hospital demonstration program up to 7 States may be designated by the Secretary to receive grants to develop rural health networks consisting of essential access community hospitals and rural primary care hospitals. Individual hospitals may be designated as essential access community hospitals (EACHs) and rural primary care hospitals (RPCHs). Authorization of appropriations for fiscal years 1990, 1991, and 1992 is $10 million a year for grants to States and $15 million a year for grants to hospitals. In order to receive designation by a State as a rural primary care hospital, a facility must meet certain criteria, including a requirement that inpatient stays not exceed 72 hours.

(b) The Secretary of Health and Human Services is required to make grants to up to seven States to participate in the EACH program.

(c) The Secretary may designate an urban hospital as an essential access community hospital if it meets the criteria for designation as a regional referral center.

(d) The Secretary may designate a hospital as an essential access community hospital if it is located in a State receiving an EACH program grant.

(e) Rural primary care hospitals are required to have written policies governing the provision of services, and have a physician, physician assistant, or nurse practitioner responsible for the execution of those policies.

(f) A rural primary care hospital may not provide more than 6 inpatient beds, meeting such conditions as the Secretary may establish. RPCHs are authorized to maintain "swing beds" as skilled nursing beds or to operate a distinct-part skilled nursing facility.

(g) Medicare inpatient hospital benefits are subject to the inpatient hospital deductible and to coinsurance after 60 days of hospitalization during a spell of illness.

(h) Payments for outpatient services in a rural primary care hospital prior to 1993 are determined either by a cost-based facility fee or an all-inclusive rate, as elected by the RPCH. The Secretary is required to develop and implement by January 1, 1993, a prospective payment system for outpatient services provided in an RPCH.

House Bill

(a) Authorization for appropriations would be continued at current levels ($10 million a year for grants to States and $15 million a year for grants to hospitals) through fiscal year 1995. The length of stay requirement for State designation of rural primary care hospitals would be modified to provide that no patient may be admitted unless the attending physician certifies that the patient may reasonably be expected to be discharged or transferred within 72 hours, and that the facility may not provide surgery or other services requiring general anesthesia (other than procedures approved for performance on an ambulatory basis) unless the attending physician certifies that the risk of transfer to another facility for the services outweighs the benefits. The Secretary would be authorized to terminate the designation of a rural primary care hospital whose average length of stay (not counting longer stays during periods of inclement weather or other emergencies) exceeds 72 hours. The General Accounting Office would report to the Congress, within 2 years after enactment, on the application and impact of the changes in length-of-stay requirements.

(b) The number of States eligible for grants under the EACH program would be increased from seven to nine.

(c) The Secretary would be authorized to designate an urban hospital as an essential access community hospital if the hospital otherwise meets the criteria for designation. However, urban hospitals would not be eligible for a change in Medicare payment as a result of the designation.

(d) A State receiving a grant under the EACH program could designate a facility in an adjoining State as an essential access community hospital or a rural primary care hospital if the facility is otherwise eligible for designation. The Secretary would be authorized to designate a facility as an essential access community hospital or a rural primary care hospital if the facility is not in a State receiving an EACH program grant and if the facility is a member of a rural health network of a State receiving a grant.

(e) The requirements for written policies and procedures and the supervision of those procedures in rural primary care hospitals would be amended to clarify that the requirements are similar to those for hospitals. Specifically, rural primary care hospitals would be required to appoint a physician, as defined in section 1861(r)(1) of the Social Security Act, to supervise the implementation of the policies.

(f) A rural primary care hospital that had a swing-bed agreement at the time of designation would be authorized to provide swing-bed services up to the hospital's licensed acute care bed capacity at the time of conversion, minus the number of inpatient beds retained by the rural primary care hospital.

(g) The applicability of the inpatient hospital deductible and coinsurance to stays in rural primary care hospitals would be clarified.

(h) The Secretary would be required to implement a prospective payment system for outpatient RPCH services by January 1, 1996. The election of payment alternatives would continue until the Secretary implemented the new system. Payment for outpatient rural primary care hospital services would be made without regard to lesser-of-cost-or-charges limits. Minor drafting errors would be corrected.

Senate Amendment

No provision.

Conference Agreement

The conference agreement does not include the House provision.

7. Rural Health Transition Grant Program (Sec. 13414 of the House bill)

Present Law

OBRA 87 instituted a program of grants to assist rural hospitals with fewer than 100 beds in developing and implementing projects to modify the type and extent of services they provide. Grants may be used to develop health systems with other providers, diversify services, recruit physicians, improve management systems, and provide instruction and consultation via telecommunications to physicians in manpower shortage areas. The program is authorized at $25 million per year for fiscal years 1990, 1991, and 1992.

House Bill

Appropriations for the rural health transition grant program would be authorized at $30 million a year for fiscal years 1993 through 1997.

Senate Amendment

No provision.

Conference Agreement

The conference agreement does not include the House provision.

8. Regional Referral Center Extension (Sec. 13415 of the House bill; sec. 7102 of the Senate amendment)

Present Law

OBRA 89 provided that hospitals classified as regional referral centers on September 30, 1989, would retain such status through cost reporting periods beginning before October 1, 1992.

House Bill

All hospitals classified as regional referral centers on September 30, 1992, would retain such status through September 30, 1994. The Secretary would be required to make a lump sum payment to these hospitals for the additional payments that would have been made had they not lost classification as regional referral centers. Hospitals to which this provision applies that lost regional referral center status as a result of a favorable reclassification decision by the Medicare Geographic Classification Review Board for fiscal years 1993 or 1994 would have the opportunity to decline the reclassification and retain referral center status.

Senate Amendment

Hospitals that were classified as regional referral centers as of September 30, 1992 would continue to receive the "other urban" standardized amount for discharges occurring before the earlier of January 1, 1995, or the date on which the hospital is reclassified by the Medicare Geographic Classification Review Board.

Similar provision with respect to lump sum payments, except that payments would not make up for any lost disproportionate share payments resulting from the loss of regional referral center status. Identical provision with respect to the opportunity to decline reclassification.

Conference Agreement

The conference agreement includes the House provision.

9. Small Medicare-Dependent, Rural Hospital Payment Extension (Sec. 13416 of the House bill; sec. 7103 of the Senate amendment)

Present Law

OBRA 89 provides for special payment for rural hospitals qualifying as Medicare dependent hospitals (MDHs). In order to qualify for MDH status, a hospital must be located in a rural area, have no more than 100 beds, and have had at least 60 percent of its inpatient days or discharges attributed to Medicare patients during the cost reporting period beginning during fiscal year 1987. MDHs are eligible for payment under the same rules as sole community hospitals for cost reporting periods beginning on or after April 1, 1990, and ending before April 1, 1993. Beginning on October 1, 1994, payments to all hospitals in rural areas will be based on the same standardized amount as payment to hospitals in "other urban" areas (those with less than 1 million people).

House Bill

Special payments for small rural, Medicare dependent hospitals would be continued for discharges occurring through September 30, 1994, on a phase-down basis. For discharges occurring during cost reporting periods beginning on or after April 1, 1990, and before

April 1, 1993, existing MDH payments would apply. For discharges occurring during any cost reporting period beginning on or after April 1, 1993, through September 30, 1994, an MDH would receive 50 percent of the difference between their payment under the existing MDH rules and the payment regularly provided under the prospective payment system. The Secretary would be required to make a lump sum payment to these hospitals for the additional payments that would have been made had they not lost classification as Medicare dependent hospitals. Hospitals that lost MDH status as a result of a favorable reclassification decision by the Medicare Geographic Classification Review Board for fiscal years 1993 or 1994 would be offered the opportunity to decline the reclassification and retain Medicare dependent hospital status.

Senate Amendment

Similar provision to House bill, except that the 50 percent payment would continue for portions of cost reporting periods occurring before January 1, 1995.

Conference Agreement

The conference agreement includes the House provision.

10. Extension of Regional Floor (Sec. 13417 of the House bill; sec. 7101 of the Senate amendment)

Present Law

For discharges occurring beginning on or after April 1, 1988, and ending on September 30, 1993, payments to prospective payment system hospitals in census regions for which the regional standardized amount is higher than the national standardized amount are equal to 15% of the regional amount and 85% of the national amount.

House Bill

The regional floor provision would be extended through fiscal year 1996.

Senate Amendment

The regional floor would be extended through December 31, 1993.

Conference Agreement

The conference agreement includes the House provision.

11. Rural Demonstration Extension (Sec. 13418 of the House bill)

Present Law

OBRA 90 gave the Secretary authority to waive provisions of Title XVIII as necessary in order to conduct any demonstration project of limited-service rural hospitals with respect to which the Secretary has entered into an agreement prior to enactment of OBRA 89.

House Bill

The Secretary would be required to continue any such demonstration projects at least through December 31, 1995.

Senate Amendment

No provision.

Conference Agreement

The conference agreement includes the House provision, with an amendment to extend the demonstration projects until at least July 1, 1997.

The conferees expect that the Secretary will make recommendations by January 1995 regarding legislative changes that are needed to make the limited-service rural hospital demonstration projects permanent. The recommendations should take into consideration the adequacy of the current payment system, staffing and service standards, and quality assurance procedures.

12. Hemophilia Pass-through Extension (Sec. 13419 of the House bill)

Present Law

Additional payments for the costs of administering blood clotting factor to Medicare beneficiaries with hemophilia admitted for hospital stays were applied to clotting factor furnished between June 19, 1990, and December 19, 1991.

House Bill

Additional payments for hemophilia clotting factor would be extended for clotting factor furnished through September 30, 1994.

Senate Amendment

No provision.

Conference Agreement

The conference agreement includes the House provision.

13. State Hospital Payment Programs (Sec. 13420 of House bill)

Present Law

Under Section 1814(b) of the Social Security Act, the Secretary may provide that Medicare payments to hospitals in a State be made in accordance with a State hospital reimbursement system meeting certain standards. The State system must meet requirements pertaining to the rate of increase in hospital costs per admission for Medicare beneficiaries occurring under the State system relative to the national average.

House Bill

In the case of a State with a Medicare-approved payment system under section 1814(b), no provision of law would be construed as preventing the system from providing that payment for services covered under the State system be made on the basis of rates provided for under the system. The State program would continue to be required to meet the standards for Medicare-approved payment systems under section 1814.

Senate Amendment

No provision.

Conference Agreement

The conference agreement does not include the House provision.

14. Psychology Services in Hospitals (Sec. 13421 of the House bill)

Present Law

Clinical psychologists are authorized to provide qualified psychologist services to Medicare beneficiaries. In order to participate in Medicare, hospitals must require that all Medicare patients are under the care of a physician, defined to include doctors of medicine, osteopathy, dentists, podiatrists, chiropractors, and optometrists practicing within the scope of State law. Certain States authorize psychologists to supervise the care of inpatients receiving psychologist services.

House Bill

In a State in which such supervision is authorized by State law, the care of hospital inpatients receiving qualified psychologist services could be supervised by a clinical psychologist with respect to such services to the extent permitted by State law.

Senate Amendment

No provision.

Conference Agreement

The conference agreement does not include the House provision.

15. Graduate Medical Education Payments in Hospital-Owned Community Health Centers (Sec. 13422 of the House bill)

Present Law

Additional payments to hospitals for the indirect costs of medical education are based on the ratio of interns and residents at the hospital to the number of beds in the hospital. Interns and residents training in a hospital outpatient department are included for purposes of determining the ratio.

House Bill

Services of an intern or resident in a community health center (as defined in the Public Health Service Act) that is wholly owned or controlled by a hospital would be counted for purposes of determining the hospital's intern and resident-to-bed ratio if the hospital incurs all or substantially all of the cost of such services.

Senate Amendment

No provision.

Conference Agreement

The conference agreement includes the House provision.

16. Treatment of Certain Military Facilities (Sec. 13423 of the House bill)

Present Law

Other than Indian Health Service hospitals, hospitals owned by, or under contract to, the Federal government are not eligible for reimbursement under Medicare. Uniformed services treatment facilities are private hospitals under contract to the Federal government and are not eligible for reimbursement under Medicare for services provided to individuals eligible for Department of Defense health programs. The Assistant Secretary of Defense for Health Affairs has been directed to prepare a report on joint military/civilian health centers.

House Bill

The Secretary would be prohibited from taking action to recover certain amounts paid by Medicare to uniformed services treatment facilities in Boston, Baltimore, and Seattle for services that were provided between October 1, 1986, and December 31, 1989, to members of the uniformed services or their dependents who were also eligible for Medicare except to the extent that funds are made available for that purpose under the fiscal year 1993 Department of Defense Appropriations Act. The Secretary, in consultation with the Secretary of Defense and the Secretary of Veterans Affairs, would be required to conduct a study of the feasibility and desirability of establishing joint medical facilities among the Department of Defense, Department of Veterans Affairs, and other public and private entities and report to Congress by October 1, 1993.

Senate Amendment

No provision.

Conference Agreement

The conference agreement does not include the House provision.

17. Epilepsy DRG (Sec. 13424 of the House bill)

Present Law

The Secretary is required to establish and maintain classifications of inpatient hospital discharges by diagnosis related group (DRG) and a methodology for classifying specific hospital discharges within these groups.

House Bill

The Secretary would be required to (1) complete the appropriate analyses of Medicare inpatient claims data for patients with intractable epilepsy admitted to the hospital for a comprehensive medical evaluation including intensive neurodiagnostic monitoring and (2) determine the most appropriate mechanism to account for the resource requirements of these patients beginning with discharges occurring during fiscal year 1995. In carrying out these requirements, the Secretary would be required to consult with the ProPAC and national organizations that represent individuals with epilepsy or those who provide specialized medical services.

Senate Amendment

No provision.

Conference Agreement

The conference agreement does not include the House provision.

18. Hospice Information to Beneficiaries (Sec. 13426 of the House bill)

Present Law

Medicare beneficiaries who are certified as terminally ill by a physician may elect to receive hospice benefits in lieu of other Medicare covered services. Skilled nursing facilities (SNFs) are required to provide each resident at the time of admission with a written statement of rights. SNFs must also inform each resident of services available and of the related charges for services, including any charges not covered under Medicare or by the facility's basic per diem charge.

Hospitals are required to meet Medicare conditions of participation in order to receive reimbursement for treatment of Medicare beneficiaries. Conditions of participation for discharge planning in hospitals require an evaluation of a patient's likely need for appropriate post-hospital services and the availability of those services.

House Bill

Skilled nursing facilities would be required to inform beneficiaries of the hospice benefit under Medicare, if a Medicare-participating hospice is located in the geographic area of the SNF or it is common medical practice to refer patients to hospices out of the area. SNFs would be required to provide the information to all beneficiaries at the time of admission as part of the oral and written statement of rights.

Hospital conditions of participation with respect to discharge planning would be modified to require an evaluation of a patient's likely need for appropriate post-hospital services, including hospice services, and the availability of those services.

Senate Amendment

No provision.

Conference Agreement

The conference agreement does not include the House provision.

19. Part A Premium (Sec. 13427 of the House bill)

Present Law

In general, individuals become entitled to benefits under Medicare Part A when they reach age 65 and are also eligible for monthly Social Security retirement or survivor benefits or railroad retirement benefits. Individuals ages 65 or over who are not entitled to benefits under Part A may enroll in the program if they pay a monthly premium. The monthly premium is based upon the actuarial value of benefits under Part A.

House Bill

The Part A premium would be reduced, on a phased-in basis, for individuals with credits for 30 or more quarters paid into the Social Security system, and the spouses of such individuals. The Part A premium would be reduced by 25 percent in 1994, by 30 percent in 1995, by 35 percent in 1996, by 40 percent in 1997, and by 45 percent in 1998 and subsequent years. The reduction in Part A premium payments would also apply to the surviving spouse, or divorced spouse of an individual who had at least 30 quarters of coverage under the Social Security system.

Senate Amendment

No provision.

Conference Agreement

The conference agreement includes the House provision.

20. Periodic Updates to Salary Equivalency Guidelines (Sec. 13428 of the House bill)

Present Law

Skilled nursing facilities and other providers may provide physical, respiratory and other therapy services to patients by contracting with independent therapists or companies that employ such therapists. Medicare reimbursement is limited to no more than what Medicare would pay if the therapist was on salary as an employee of the provider. Salary equivalency guidelines, developed by HCFA to determine Medicare reimbursement for physical and rehabilitation therapy provided under such arrangements, are currently based upon 1982 data.

House Bill

The Secretary would be required to recalculate and issue updated salary equivalency guidelines for physical and respiratory therapy services, based upon data appropriate for services provided in nursing homes, using timely and accurate data. The updated guidelines should be issued by no later than December 31, 1993, effective for cost reporting periods beginning on or after July 1, 1993, and every three years thereafter.

Senate Amendment

No provision.

Conference Agreement

The conference agreement does not include the House provision.

21. Extension of Application Deadline for Certain Reclassified Hospitals (Sec. 13429 of the House bill)

Present Law

Hospitals may apply to the Medicare Geographic Reclassification Review Board for a change in geographic classification under the prospective payment system. Hospitals requesting a change for payments in a fiscal year must submit an application to the Board not later than the first day of the preceding fiscal year.

House Bill

Hospitals that have been reclassified from urban to rural as a result of revisions to the Metropolitan Statistical Area definitions issued by the Office of Management and Budget on December 28, 1992, may submit applications for reclassification in fiscal year 1994 to the Medicare Geographic Classification Review Board. Applications must be submitted not later than 60 days after enactment.

Senate Amendment

No provision.

Conference Agreement

The conference agreement does not include the House provision.

22. Clarification of DRG Window (Sec. 13430 of the House bill)

Present Law

Services provided by a hospital (or an entity wholly owned or operated by the hospital) to an inpatient of a hospital during the three days prior to admission are not separately reimbursed under part B of Medicare if they are diagnostic services or otherwise related to the admission.

House Bill

The DRG window provision would not apply to hospitals that are not paid on the basis of diagnosis related groups (DRGs). Other minor technical corrections would be made to Part A.

Senate Amendment

No provision.

Conference Agreement

The conference agreement does not include the House provision.

23. Skilled Nursing Facilities (Sec. 7422 of Senate amendment)

Present Law

A skilled nursing facility may not require individuals to waive their rights to Medicare or Medicaid benefits or to require assurance that such individuals are not eligible for, or will not apply for, benefits under Medicare or Medicaid. A similar provision applicable to nursing facilities is in the Medicaid law.

House Bill

No provision.

Senate Amendment

Skilled nursing facilities would be prohibited from requiring individuals applying to reside in the facility, or family members of such individuals, to provide any financial information other than to identify the source of payment the individual intends to use.

Conference Agreement

The conference agreement does not include the Senate amendment.

SUBTITLE C—MEDICARE AMENDMENTS RELATING TO PART B

1. Updates for Physician Services (Secs. 13431 and 5001 of House bill; sec. 7201 of Senate amendment)

Present Law

Under current law, payments for services covered under Part B are generally updated each year by an inflation index. Prior to 1984, physician fees were updated annually by the Medicare Economic Index (MEI). The MEI measures inflation in the cost of providing physician services. From 1984 through 1991, the MEI update was generally set in reconciliation legislation. The MEI is currently estimated to be 2.6 percent for 1994 and 2.7 percent for 1995.

Beginning in 1992, Medicare fees for physician services are updated annually by a default formula. The update is based on two things: (a) the MEI; and (b) a comparison of actual physician spending in a base period compared to an expenditure goal known as the Medicare Volume Performance Standard (MVPS). Separate goals are set for surgical and non-surgical services.

If the MVPS was exceeded in the base period, the update for services within the category is equal to the MEI reduced by the percentage by which the target was exceeded. If expenditures were less than the MVPS, the update is the MEI increased by the percentage by which expenditures in the category were below the target.

Under the default formula, the estimated 1994 increase would be 12.2% for surgical services and 6.6% for non-surgical services.

House Bill

W&M: The Medicare Economic Index (MEI) would be deemed to be zero for 1994 and 1995. Physician fees still would be adjusted by the percentage by which spending under the Medicare Volume Performance Standard system is above or below the goals established.

E&C: The default update otherwise applicable to all non-surgical services for calendar year 1994, except primary care services, is reduced by 2 percentage points, and the update for surgical services is reduced by 3 percentage points.

Senate Amendment

The default updates would be reduced by 8.0 percentage points for surgical services, 4.4 percentage points for non-surgical services, except for primary care, which would receive the full update under current law for non-surgical services.

Conference Agreement

The conference agreement includes the Senate amendment with an amendment. The provision reduces the default update for the fee schedule conversion factor for 1994 and 1995. For 1994, the default update is reduced by 3.6 percentage points for surgical services. The default update is reduced by 2.6 percentage points for all other services (including anesthesia services) with the exception of primary care services which receive the full default update.

For 1995, the default update is reduced by 2.7 percentage points for surgical and all other services (including anesthesia services) with the exception of primary care services which receive the full default update.

2. Reduction in Performance Standard Rate of Increase and Increase in Maximum Reduction Permitted in Default Update and Creation of Primary Care Category (Secs. 5002 and 5003 of House bill; and sec. 7202 of Senate amendment)

Present Law

(a) Establishment of Primary Care Category.—The Secretary is required to establish separate Medicare Volume Performance Standards (MVPSs) for two categories of physicians' services. Currently, there are separate volume performance standards for surgical and non-surgical services.

(b) Reduction in Default MVPS and Updates.—The Secretary is required to establish a MVPS for each fiscal year for surgical services and non-surgical services. The rate of increase is determined by a formula that takes into account inflation, changes in program enrollment, historic average increases in the volume and intensity of services, and changes in law or regulations, reduced by a specified performance standard factor. For fiscal year 1994 the performance standard factor is 2 percentage points.

Under the default update formula, the annual MEI increase is reduced if actual expenditures in the base period exceeded the MVPS for that period. However, the update in 1994 and 1995 can be no lower than the MEI minus 2.5 percentage points; in subsequent years it can be no lower than the MEI minus 3 percentage points.

House Bill

(a) Establishment of Primary Care Category.—W&M: No provision.

E&C: Effective for Fiscal Year 1994, the Secretary would establish a separate category for primary care services (as defined in Section 1842(i)(4)) with respect to the application of a volume performance standard. The default update formula would be applied to the new primary care services category for calendar year 1996 and all succeeding years.

(b) Reduction in Default MVPS and Updates.—W&M: No provision.

E&C: The performance standard factor for fiscal year 1994 would be increased to 3 and one-half percentage points, and to 4 percentage points for each subsequent fiscal year. In addition, the allowable reduction in the default update formula related to the Medicare Volume Performance Standard would be increased from 3 percentage points in calendar year 1994 to 5 percentage points in calendar year 1995 and any succeeding year.

Senate Amendment

(a) Establishment of Primary Care Category.—Identical to E&C provision.

(b) Reduction in Default MVPS and Updates.—Identical to E&C, except that the performance standard factor for primary care would be zero.

Conference Agreement

(a) Establishment of Primary Care Category.—The conference agreement includes the House E&C provision with an amendment relating to anesthesia services. The agreement specifies that for purposes of calculating the Medicare volume performance standards, anesthesia services are included in the surgical services category beginning in fiscal year 1994. This will affect calculation of the conversion factor update beginning with calendar year 1996. The anesthesia services moved into the category of surgical services are those that are paid on the basis of base and time units.

(b) Reduction in Default MVPS and Updates.—The conference agreement includes the House E&C provision.

3. Phased-in Reduction in Practice Expense Relative Value Units for Certain Services (Sec. 5004 of House bill; and sec. 7203 of Senate amendment)

Present Law

Under current law Medicare payments for physicians' services are based on three components: 1) a work component; 2) a practice expense component; and 3) a malpractice component. Relative values are determined for each component and combined into a single relative value for each service. While the relative values for the work component of physicians' services are based on resource costs, relative values for practice and malpractice expenses are based on historic charges.

House Bill

W&M: No provision.

E&C: The Secretary would phase-in reductions to the practice expense relative value units (RVUs) for certain services. Specifically, for a given service, the number of practice expense RVUs would be reduced if they exceed 110 percent of the number of work RVUs. Beginning in 1994, 25 percent of the difference between practice cost RVUs and work RVUs would be eliminated. Further differences would be eliminated in 25 percent increments over the succeeding two years. In no case would practice cost RVUs for any service be reduced below 110 percent of the work RVUs.

Reductions in practice cost RVUs would not be applied to services without a work component, to anesthesia and radiology services or to services provided in an office setting at least 75 percent of the time.

The Secretary would be required to develop a methodology for implementing in 1997 a resource-based system for determining practice expense RVUs. The Secretary would be required to submit a report to Congress on the methodology by June 30, 1996.

Senate Amendment

Similar to E&C provision except that anesthesiology and radiology services would not be exempt from the application of the rules for reducing RVUs.

Conference Agreement

The conference agreement includes the Senate amendment with an amendment to specify that the practice expense relative value units may not be reduced to a number less than 128 percent of the number of work relative value units. The agreement does not require the Secretary to develop a resource-based system for determining practice expense RVUs.

4. Limitation on Payments for Medically Directed CRNAs and for the Anesthesia Care Team (Secs. 13471 and 5005 of House bill; sec. 7204 of Senate amendment)

Present Law

A significant proportion of anesthesia services in the United States are provided by anesthesia care teams consisting of an anesthesiologist supervising two or more certified registered nurse anesthetists (CRNAs). When anesthesia services are provided by a team, Medicare payments to the supervising anesthesiologist are based on reduced base and time units. The law specifies that the base units are reduced by 10 percent for supervision of two concurrent procedures, 25 percent for supervision of three concurrent procedures, and forty percent for supervision of four concurrent procedures. When services are personally performed by an anesthesiologist, time units are measured in fifteen minute periods; for medically-directed services, time units are measured in on 30 minute intervals. The law specifies that time units are to be counted based on actual time rather than rounded to full time units.

Payments to the CRNA are based on a separate fee schedule with its own dollar conversion factor. Time units for medically-directed services are based on 30 minute intervals.

As a result of this payment policy, payments for a procedure to an anesthesia care team are significantly higher than payment would be to a single anesthesiologist. According to the Physician Payment Review Commission (PPRC), in most payment areas, payments to a team consisting of one anesthesiologist supervising two CRNAs are 20 percent to 30 percent higher than payments to a single anesthesiologist.

OBRA 90 set payment levels for medically directed CRNAs at 70 percent of the amount paid to physicians. These services are paid on the basis of a fee schedule which contains a dollar conversion factor. OBRA 90 specified the conversion factors through 1997 based on the amount physicians were estimated to be paid for these services. Since that time, however, the actual amounts paid to physicians for these services have been lowered as a result of refinements to physician payments. As a result, the dollar conversion factors specified in the law are greater than 70 percent.

House Bill

W&M: The conversion factor used to determine payments to medically-directed CRNAs would be frozen at $10.75, from 1993 through 1997. In subsequent years, the percentage update for these services would be the same as for physician anesthesia services.

E&C: For anesthesia services provided by anesthesia care teams on or after January 1, 1994, payments would be limited to 120 percent of the fee that would be made to a single anesthesiologist in the same locality. This anesthesia care team fee for a procedure would be equally divided between the supervising anesthesiologist and the CRNA. In each of the succeeding four calendar years the anesthesia care team payment would be reduced by 5 percent, so that in 1998, payments to the anesthesia care team would be limited to 100 percent of the fee for a single anesthesiologist in the same locality. The provision would also repeal the reduction in the number of base units paid to anesthesiologists medically directing CRNAs.

Senate Amendment

Identical to E&C provision.

Conference Agreement

The conference agreement includes the Senate amendment with an amendment. For services furnished on or after January 1, 1994, the methodology for determining base and time units is the same for services furnished by physicians, for physician medical direction of two, three or four CRNAs, or for services furnished by CRNAs (whether or not medically directed). The calculation is to be based on the methodology currently in effect for anesthesiology services furnished by physicians.

5. Reinstating Separate Payment for the Interpretation of Electrocardiograms (EKGs) (Secs. 13441 and 5007 of House bill; sec. 7205 of Senate amendment)

Present Law

OBRA 90 eliminated separate payments for interpretation of EKGs performed or ordered to be performed as part of, or in conjunction with, a medical visit or consultation, effective January 1, 1992.

House Bill

W&M: The prohibition on separate payments for interpretation of EKGs would be repealed. Separate fee schedule payment amounts for interpreting EKGs in all settings would be established. The proposal provides for several adjustments to the fee schedule in order to comply with budget neutrality rules.

The Secretary would subtract the relative value units for EKG interpretation that were bundled into medical visits and consultation relative values. The Secretary would be required to reduce the relative value for all services (except anesthesia services) so that beginning in 1996 expenditures under the fee schedule would not exceed those which would have been made in the absence of this provision. For anesthesia services, the adjustment would be made to the conversion factor. Adjustments also would be made to the historical payment basis in the fee schedule to account for the fact that more EKG interpretations would be paid at the full fee schedule amount than medical visits and consultations during the transition.

E&C: Identical provision.

Senate Amendment

Identical to W&M provision.

Conference Agreement

The conference agreement includes the Senate amendment. The conferees are concerned about the impact of the restoration of separate payments for the interpretation of EKGs on payments for services provided in hospital emergency rooms. The conferees urge HCFA, when implementing this provision, to reexamine the issue of providing payment to emergency physicians for the interpretation of EKGs provided in emergency rooms.

6. Payments for New Physicians and Practitioners (Secs. 13432 and 5008 of House bill; sec. 7206 of Senate amendment)

Present Law

New physicians and practitioners receive reduced payments during their first four years of practice. These reductions were imposed on the first two years of practice by OBRA 87 and extended to the third and fourth years of practice in OBRA 90. Payments are 80 percent of the amount otherwise recognized during the first year of practice, 85 percent during the second year, 90 percent during the third year, and 95 percent during the fourth year. These reductions apply to payments under the fee schedule, prevailing charges, or other fee schedule payment amounts.

House Bill

W&M: The reductions in payments to new physicians and practitioners would be repealed.

The Secretary would reduce the following values and amounts for 1994 (to be applied for that year and subsequent years) so that Part B expenditures would not exceed the amount of expenditures that would have been made in the absence of this provision. The specified values and amounts are: (i) the relative values for services (except for anesthesia services, where the reduction would be applied to the conversion factor); (ii) the historical payment portion of the 1994 transition payments; and (iii) the prevailing charge or fee schedule amounts to be applied for services of a health care practitioner (as that term was defined before enactment of this Act).

E&C: Identical provision.

Senate Amendment

Identical provision.

Conference Agreement

The conference agreement includes the Senate amendment.

7. Retaining Payment for Actual Anesthesia Time (Secs. 13443 and 5006 of House bill)

Present Law

Anesthesia services are paid on the basis of a fee schedule. One component of the fee schedule is actual time spent administering anesthesia. In the proposed rule implementing the RBRVS physician fee schedule, the Health Care Financing Administration announced its intention to eliminate the use of actual time and substitute average time. The final rule stated that actual time would continue to be used temporarily while other methods of accounting for time in the payment of anesthesia services were being analyzed.

House Bill

W&M: The Secretary could not change the methodology of calculating anesthesia time in the fee schedules for anesthesia services from the methodology that applied as of January 1, 1992.

E&C: Similar provision, except specifies that for services furnished on or after January 1, 1994, the Secretary may not modify the methodology in effect as of January 1, 1993.

Senate Amendment

No provision.

Conference Agreement

The conference agreement does not include the House provisions.

8. Geographic Adjustment Refinements (Secs. 13444 and 5009 of House bill)

Present Law

(a) Use of More Recent Data.—One of the components of the Medicare fee schedule for physicians' services is a geographic adjustment which is designed to measure local variations in the costs of practicing medicine. Separate geographic cost of practice indexes (GPCIs) have been developed for each of the three components of the relative value unit, namely a work GPCI, a practice expense GPCI, and a malpractice GPCI. A separate geographic adjustment is made for each component. The three adjusted components are added together to produce an indexed relative value for the locality. The Secretary is required to review the GPCI values at least every three years. HCFA has previously indicated that they intend to revise the GPCI by 1995. The current index is based in part on 1980 data from the Bureau of Census.

(b) Development of Criteria for Use in Determining Payment Localities.—Geographic adjustments for physician payments are based on geographic localities. In general, the current localities were defined when Medicare was initially established in 1965, and have not been significantly revised since then.

House Bill

(a) Use of More Recent Data.—W&M: The Secretary would review and revise the geographic practice cost index by January 1, 1995 using the most recent data available. The Secretary would consult with appropriate representatives of physicians in reviewing the adjustment factors and indices. The Secretary would report to the Congress on the construction of the index by April 1, 1994.

The Secretary would conduct a study and, within one year of enactment, report to the Congress on: (1) the data necessary to review and revise the GPCI indices; (2) any limitations on the availability of data necessary to review and revise the indices at least every 3 years; (3) ways to address such limitations, with attention to the development of alternative data sources for input components for which current index values are based on data collected less frequently than every three years; and (4) the costs of developing more accurate and timely data sources.

E&C: Similar provision except does not require the April 1, 1994 report to Congress.

(b) Development of Criteria for Use in Determining Payment Localities.—W&M: The Physician Payment Review Commission would conduct a study to develop criteria that would be used for redefining the localities used within States for adjusting physician fees under the RB RVS. The Commission would include the results of the study in its 1994 annual report to the Congress.

E&C: No provision.

Senate Amendment

(a) Use of More Recent Data.—No provision.

(b) Development of Criteria for Use in Determining Payment Localities.—No provision.

Conference Agreement

(a) Use of More Recent Data.—The conference agreement does not include the House provision.

(b) Development of Criteria for Use in Determining Payment Localities.—The conference agreement does not include the House provision.

9. Extra-billing (Secs. 13445 and 5010 of House bill; sec. 7207 of Senate amendment)

Present Law

(a) Limitations on Beneficiary Liability.—OBRA 89 established limits on the amount above the Medicare approved payment amount nonparticipating physicians may charge Medicare beneficiaries. OBRA 89 permitted the Secretary to impose sanctions on physicians who knowingly and willfully bill above the limiting charge on a repeated basis. However, it did not specifically prohibit physicians from billing beneficiaries more than the limiting charge. OBRA 89 also did not require physicians to make refunds to beneficiaries when they billed above the limiting charge and did not absolve beneficiaries from liability for amounts billed above the Medicare limiting charge.

(b) Pre-Payment Screening of Claims.—Carriers are not currently required by law to screen unassigned claims submitted by nonparticipating physicians prior to payment in order to determine whether the amount billed exceeds the limiting charge.

(c) Information Regarding Limiting Charges.—There is currently no requirement that beneficiaries be given information on the Explanation of Medicare Benefits (EOMB) form if physicians have charged beneficiaries in excess of the limiting charge.

(d) Applying the Limiting Charge to Nonphysician Services Provided Under the Physician Fee Schedule.—The five percent differential in payments to nonparticipating physicians and suppliers does not apply to nonphysician services furnished under the Medicare physician fee schedule. These services generally consist of the technical components of services, such as services rendered by free-standing radiology centers or independent physiological laboratories.

(e) Clarification of Mandatory Assignment Rules for Certain Practitioners.—There is some ambiguity in current law regarding the application of mandatory assignment rules for certain nonphysician practitioners.

House Bill

(a) Limitations on Beneficiary Liability.—W&M: Nonparticipating physicians and nonparticipating suppliers would be prohibited from billing or collecting from any person an actual charge in excess of the Medicare limiting charge. No person would be liable for payment of any amount billed in excess of the limiting charge. Physicians, suppliers and other persons who bill or collect amounts exceeding the limiting charge would be required to: (1) refund the full amount collected in excess of the limiting charge; (2) reduce the outstanding balance owed for other items and services furnished to the individual by the amount of the charge exceeding the limiting charge and refund any amount in excess of the outstanding balance; or (3) in the case of where the excess charges have not been collected by the physician, reduce the actual charge billed for the service to the amount approved by Medicare.

The physician would be required to refund or credit excess charges within 30 days after the date the physician, supplier, or other person is notified by the carrier of the violation.

A physician who (1) knowingly and willfully bills or collects amounts in excess of the limiting charge on a repeated basis; or (2) fails to comply with the refund requirements would be subject to sanctions in accordance with Section 1842(j) of the Social Security Act.

E&C: Identical provision.

(b) Pre-Payment Screening of Claims.—W&M: Carriers would be required to screen 100 percent of unassigned claims submitted by nonparticipating physicians prior to making payment to determine whether the amount billed exceeds the limiting charge. Carriers would be required to notify a physician within 30 days if the physician has billed in excess of the limiting charge.

E&C: Identical provision.

(c) Information Regarding Limiting Charges.—W&M: Carriers would be required to provide limiting charge information on the Explanation of Medicare Benefits form after the submission of an unassigned claim which exceeds the limiting charge, and to include on such forms information relating to the beneficiary's right to a refund of any excess amounts collected.

The Secretary would report to the Congress annually on the extent to which annual charges exceeded limiting charges, the number and types of services involved, and the average amount of excess charges.

E&C: Identical provision.

(d) Applying the Limiting Charge to Nonphysician Services Provided Under the Physician Fee Schedule.—W&M: The five percent differential between payments to participating and nonparticipating physicians and suppliers and limiting charge restrictions would apply to: the technical components of nonphysician services paid on the basis of the physician fee schedule, services of nonparticipating suppliers or other persons who furnish a physician's service that is paid under the physician fee schedule, and services that would be paid under the fee schedule but have been excluded from the fee schedule by the Secretary.

E&C: Identical provision.

(e) Clarification of Mandatory Assignment Rules for Certain Practitioners.—W&M: Specifies that physicians' assistants, nurse practitioners, clinical nurse specialists, certified registered nurse anesthetists, certified nurse-midwives, clinical social workers and clinical psychologists could only bill for services on an assignment-related basis and that no person is liable for amounts billed in violation of the assignment-related basis. The Secretary could impose sanctions under Section 1842(j) of the Social Security Act on a practitioner who knowingly and willfully bills in violation of this requirement.

E&C: Identical provision.

Senate Amendment

(a) Limitations on Beneficiary Liability.—Identical provision.

(b) Pre-Payment Screening of Claims.—Identical provision.

(c) Information Regarding Limiting Charges.—Identical provision.

(d) Applying the Limiting Charge to Nonphysician Services Provided Under the Physician Fee Schedule.—Identical provision.

(e) Clarification of Mandatory Assignment Rules for Certain Practitioners.—Identical provision.

Conference Agreement

(a) Limitations on Beneficiary Liability.—The conference agreement does not include the House or Senate provisions.

(b) Pre-Payment Screening of Claims.—The conference agreement does not include the House or Senate provisions.

(c) Information Regarding Limiting Charges.—The conference agreement does not include the House or Senate provisions.

(d) Applying the Limiting Charge to Nonphysician Services Provided Under the Physician Fee Schedule.—The conference agreement includes the House provision.

(e) Clarification of Mandatory Assignment Rules for Certain Practitioners.—The conference agreement does not include the House or Senate provisions.

10. Development of RB RVS for Pediatric Services (Secs. 13446 and 5011 of House bill)

Present Law

No provision.

During the development of the RB RVS by Harvard University, pediatric services were included in the initial study. These data were not fully refined by Harvard nor were they refined by the Secretary during further development of the RB RVS.

House Bill

W&M: The Secretary would fully develop and refine by July 1, 1994 the relative values for the full range of physicians' pediatric services. The Secretary would conduct a study of the relative values for pediatric and other physicians' services to determine whether there are significant variations in the resources used in providing similar services to different populations. In conducting the study, the Secretary would consult with appropriate organizations representing pediatricians and other physicians, and submit a report to the Congress by July 1, 1994.

E&C: Similar to W&M except that the Secretary is also directed to consult with physical and occupational therapists.

Senate Amendment

No provision.

Conference Agreement

The conference agreement does not include the House provision.

11. Antigens Under RB RVS (Secs. 13447 and 5012 of House bill)

Present Law

In general, physician services are paid under the RB RVS. Antigens used in allergy immunotherapy currently are paid on a reasonable charge basis.

House Bill

W&M: Payments for antigens and related services would be paid under the RB RVS physician fee schedule, effective January 1, 1995.

E&C: Identical to W&M but would be effective on January 1, 1994.

Senate Amendment

No provision.

Conference Agreement

The conference agreement includes the House W&M provision with an amendment providing for a budget neutrality adjustment in 1995.

12. Claims Relating to Physician Services (Secs. 13448 and 5013 of House bill)

Present Law

The law does not specifically prohibit the imposition of carrier user fees.

OBRA 90 permitted physicians to submit a claim for a service provided by a second physician when the first physician was not available to provide the service. Such billing was permitted only in cases where the arrangement is temporary and reciprocal.

House Bill

W&M: The Secretary and carriers would be prohibited from imposing any fees related to the filing of claims for physicians' services, for claims errors or denials, for administrative appeals, for obtaining unique identifier numbers, or for responding to inquiries concerning the status of pending claims.

The Secretary would be permitted to recognize substitute billing arrangements between two physicians. In order to be recognized, such substitute billing arrangements would be required either to be informal, reciprocal, coverage agreements or per diem or other fee-for-time agreements. The duration of such agreements would be limited to 60 continuous days, and claims for services provided pursuant to such agreements would be required to include the unique identifying number of both physicians. These requirements would be effective for services provided under such arrangements in the first month beginning more than 60 days after the enactment of this Act.

E&C: Identical provision.

Senate Amendment

No provision.

Conference Agreement

The conference agreement does not include the House provision.

13. Miscellaneous Technical Corrections (Secs. 13449 and 5014 of House bill)

Present Law

(a) Overvalued Procedures.—OBRA 90 subjected all unsurveyed overvalued services to a 6.5 percent reduction unless the law specifically exempted them from the reduction. Unsurveyed services are those not included in earlier surveys conducted to determine relative values of physicians' services; these unsurveyed services were considered to be overvalued. The list of services specifically exempted from the 6.5 percent reduction contained certain errors.

(b) Radiology Services.—OBRA 90 reduced the locally defined conversion factors for radiology services paid on the basis of the radiology fee schedule. The maximum reduction was not to exceed 9.5 percent. However, OBRA 90 contained an error that would increase conversion factors in some localities.

(c) Anesthesia Services.—OBRA 87 established a fee schedule for anesthesia services based on a relative value guide for anesthesia services and local conversion factors. OBRA 90 reduced the local conversion factors. The maximum reduction was not to exceed 9.5 percent. However OBRA 90 contained an error that would increase the conversion factors in some localities.

(d) Assistants at Surgery.—OBRA 90 specified that payment to a physician serving as an assistant at surgery cannot exceed 16 percent of the payment made for the global surgical service.

(e) Technical Components of Diagnostic Services.—OBRA 90 capped the reasonable charge for technical components of specified diagnostic services at the national median charge for the service in all localities.

(f) Statewide Fee Schedules.—OBRA 90 required the Secretary to treat the States of Nebraska and Oklahoma as statewide payment localities if they met certain requirements specified in the law. Each member of the Congressional delegation from those States and organizations representing urban and rural physicians would have to agree to the statewide locality provision. This requirement raised constitutional concerns relating to the separation of powers between the executive and legislative branches.

(g) Reciprocal Billing Arrangements.—OBRA 90 permitted physicians to submit a claim for a service provided by a second physician when the first physician was not available to provide the service. Such billing was permitted only in cases where the arrangement is temporary and reciprocal.

(h) Study of Aggregation Rule for Claims of Similar Physician Services.—OBRA 90 required the Secretary to study the effects of aggregating physician claims and report to the Congress by December 31, 1992.

(i) Additional Technical Amendments.—The law requires the Secretary to report to Congress on modifying visit codes to reflect time. The law also authorizes bonus payments to carriers who increase the proportion of physicians in the locality who are participating physicians.

House Bill

(a) Overvalued Procedures.—W&M: Some procedures would be deleted from the list of exempted services and errors in the names of other services would be corrected. The procedures that would be deleted from the list of exempted services are: lobectomy; enterectomy; colectomy; cholecystectomy; and sacral laminectomy.

E&C: Identical provision.

(b) Radiology Services.—W&M: The conversion factors below the maximum reduction amount would not be permitted to be increased. The provision makes other technical changes to OBRA 90.

E&C: Identical provision.

(c) Anesthesia Services.—W&M: The conversion factors below the maximum reduction amount would not be permitted to increase. The provision makes other technical changes to OBRA 90.

E&C: Identical provision.

(d) Assistants at Surgery.—W&M: The application of the extra-billing limits to physicians serving as assistants at surgery would be clarified.

E&C: Identical provision.

(e) Technical Components of Diagnostic Services.—W&M: The limits on payment for the technical component of diagnostic services would not apply to services whose payments were reduced under the OBRA 89 overvalued procedure list.

E&C: Identical provision.

(f) Statewide Fee Schedules.—W&M: The OBRA 90 requirement for agreement from members of Congress would be eliminated, and Nebraska and Oklahoma would be statewide localities beginning in 1991.

E&C: Identical provision.

(g) Reciprocal Billing Arrangements.—W&M: OBRA 90 would be amended to clarify the services that may be covered under reciprocal billing. All physician services, including services incident to physician services, would be covered. The provision would also permit reciprocal billing arrangements that are both informal or reciprocal (as in current law) or involve per diem or other fee-for-time compensation.

E&C: No provision. (See Item 12.)

(h) Study of Aggregation Rule for Claims of Similar Physician Services.—W&M: The date that the study must be submitted to the Congress would be changed from December 31, 1992 to December 31, 1993.

A number of technical and drafting errors contained in OBRA 90 would be made through minor and conforming amendments.

E&C: Identical provision.

(i) Additional Technical Amendments.—W&M: The provision would make additional technical changes.

E&C: Similar provision. In addition, the provision would delete the requirement for a report to Congress on modifying visit codes to reflect time; it would also delete the provision authorizing carrier bonus payments.

Senate Amendment

(a) Overvalued Procedures.—No provision.

(b) Radiology Services.—No provision.

(c) Anesthesia Services.—No provision.

(d) Assistants at Surgery.—No provision.

(e) Technical Components of Diagnostic Services.—No provision.

(f) Statewide Fee Schedules.—No provision.

(g) Reciprocal Billing Arrangements.—No provision.

(h) Study of Aggregation Rule for Claims of Similar Physician Services.—No provision.

(i) Additional Technical Amendments.—No provision

Conference Agreement

(a) Overvalued Procedures.—The conference agreement does not include the House provision.

(b) Radiology Services.—The conference agreement does not include the House provision.

(c) Anesthesia Services.—The conference agreement does not include the House provision.

(d) Assistants at Surgery.—The conference agreement does not include the House provision.

(e) Technical Components of Diagnostic Services.—The conference agreement does not include the House provision.

(f) Statewide Fee Schedules.—The conference agreement does not include the House provision.

(g) Reciprocal Billing Arrangements.—The conference agreement does not include the House provision.

(h) Study of Aggregation Rule for Claims of Similar Physician Services.—The conference agreement does not include the House provision.

(i) Additional Technical Amendments.—The conference agreement does not include the House provision.

14. Extension of 10 Percent Reduction in Payments for Capital-Related Costs of Outpatient Hospital Services (Sec. 5021 of House bill; sec. 7221 of Senate amendment)

Present Law

Medicare pays the capital costs of hospitals allocated to outpatient departments on the basis of reasonable cost principles, subject to a 10 percent reduction through fiscal year 1995. Sole community hospitals and primary care hospitals are exempt from these reductions.

House Bill

W&M: No provision.

E&C: The 10 percent reduction for such hospital outpatient capital payments would be extended through fiscal year 1998.

Senate Amendment

Identical to E&C provision.

Conference Agreement

The conference agreement includes the House provision.

15. Extension of Reduction in Payments for Cost Related Outpatient Hospital Services (Sec. 5022 of House bill; sec. 7222 of Senate amendment)

Present Law

Under current law, Medicare payments for hospital outpatient services made on a reasonable cost basis and the cost portion of outpatient services paid on the basis of a blended amount are both reduced by 5.8 percent through fiscal year 1995.

House Bill

W&M: No provision.

E&C: The bill extends the 5.8 percent reduction in such payments through fiscal year 1998.

Senate Amendment

Identical to E&C provision.

Conference Agreement

The conference agreement includes the Senate amendment.

16. Updates for Ambulatory Surgical Centers (Secs. 13433 and 5023 of House bill)

Present Law

Payments for services in ASCs do not have a statutory annual update. However, the Secretary has generally provided for an update equal to the CPI–U under the Secretary's general authority for determining reasonable costs and charges.

House Bill

W&M: Payments for services in ASCs would not be updated in 1994 and 1995.

E&C: The update to ambulatory surgery payments would be suspended for fiscal year 1994.

Senate Amendment

No provision.

Conference Agreement

The conference agreement includes the House W&M provision freezing payments for FY's 1994 and 1995.

17. Designation of Certain Hospitals As Eye and Ear Hospitals (Secs. 13451 and 5024 of House bill)

Present Law

Hospitals designated as eye, or as eye and ear hospitals, receive a blended payment rate for ambulatory surgery for which 75 percent is based on the hospital's costs and 25 percent is based on the rate paid to freestanding Ambulatory Surgery Centers (ASCs). This special rule applies for cost reporting periods beginning on or after October 1, 1988, and before January 1, 1995. In general, the blended payment rate to hospitals for outpatient surgery is based 42 percent on costs and 58 percent on the ASC rate. To receive designation as an eye, or eye and ear hospital, a facility must specialize in these services, receive more than 30 percent of its revenue from outpatient services, and must have been an eye, or an eye and ear hospital, on October 1, 1987.

House Bill

W&M: The eligibility for designation as an eye, or as an eye and ear hospital, would be extended to hospitals that otherwise meet the criteria but, on October 1, 1987, operated as a physically separate, or distinct eye and ear unit of a general acute care hospital, which has sold or otherwise disposed of a substantial portion of its other acute care operations, effective for portions of cost-reporting periods beginning on or after January 1, 1994.

E&C: Identical provision.

Senate Amendment

No provision.

Conference Agreement

The conference agreement includes the House provision.

18. Payment Limits for Intraocular Lenses (IOLs) (Secs. 13452 and 5025 of House bill; sec. 7223(a) of Senate amendment)

Present Law

OBRA 90 established a payment limit of $200 for intraocular lenses inserted during 1991 and 1992.

House Bill

W&M: The $200 payment limit for IOLs would be extended for two years, through 1994.

The Secretary would conduct a study of the recent costs of IOLs provided to Medicare beneficiaries. Included in the study would be an examination of issues related to new technology lenses. The Secretary would submit a report on the study, including recommendations on the reasonable costs and charges for IOLs, within one year of the date of enactment.

E&C: Identical provision, except that it does not include the study.

Senate Amendment

The $200 payment limit would be maintained until December 31, 1993. The provision would establish payments for intraocular lenses inserted in an ambulatory surgery center during or subsequent to cataract surgery on or after January 1, 1994 and on or before December 31, 1998 at $150.

Conference Agreement

The conference agreement includes the Senate amendment.

19. Technical Amendments for Ambulatory Surgical Services (Secs. 13453 and 5026 of House bill; secs. 7223(b)(1), (b)(2), and (b)(3) of Senate amendment)

Present Law

(a) Payment Amounts.—Current law requires the Secretary to update ambulatory surgery center payment rates by July 1, 1987 and annually thereafter, if the Secretary determines that an update is appropriate.

(b) Adjustments to Payment Amounts for New Technology Intraocular Lenses.—OBRA 90 included a provision capping payments for IOLs at $200 in 1991 and 1992. As drafted, the statutory language could be interpreted as limiting payments for cataract surgery to $200. The OBRA 90 conferees also agreed to a provision providing for a process by which the fee for new technology intraocular lenses (IOLs) could be adjusted. Statutory language reflecting this agreement was inadvertently omitted from OBRA 90.

(c) Other Technical Amendments.—OBRA 90 included several technical errors relating to the calculation of the blend amounts for limiting payment in hospital outpatient departments and relating to payments for cataract surgery.

House Bill

(a) Payment Amounts.—W&M: The update for ambulatory surgery services would be established, beginning with fiscal year 1995, at the CPI-U for the twelve-month period ending with March of the preceding year. The Secretary would be required to conduct a survey, based on a representative sample of procedures and facilities, taken not later than January 1, 1994 and updated every five years thereafter, of the actual audited costs of ambulatory surgery facilities. The survey results would be used in establishing payment rates. The Secretary would be required to consult with appropriate trade and professional organizations in updating the list of procedures that can be performed in ambulatory surgery centers.

E&C: Similar provision, except that the survey would be taken not later than January 1, 1995, and that the initial update under this policy would apply to services provided in or after fiscal year 1996.

(b) Adjustments to Payment Amounts for New Technology Intraocular Lenses.—W&M: The Secretary would be required, within one year after the date of enactment, to develop and implement a process for reviewing reimbursement for new technology intraocular lenses (IOLs). In order to be considered a new technology IOL, the device would have to be approved by the FDA. The Secretary would also be required to consider specific circumstances in determining whether to adjust the payment amount for new technology IOLs. The provision also would specify the administrative procedures for reviewing and approving new technology IOLs.

E&C: Identical provision.

(c) Other Technical Amendments.—W&M: Certain technical corrections would be made.

E&C: No provision.

Senate Amendment

(a) Payment Amounts.—Similar to E&C provision, except does not include requirement for the update.

(b) Adjustments to Payment Amounts for New Technology Intraocular Lenses.—Identical to W&M provision.

(c) Other Technical Amendments.—Identical to W&M provision.

Conference Agreement

(a) Payment Amounts.—The conference agreement does not include the House provision or the Senate amendment.

(b) Adjustments to Payment Amounts for New Technology Intraocular Lenses.—The conference agreement does not include the House provision or Senate amendment.

(c) Other Technical Amendments.—The conference agreement does not include the House provision or the Senate amendment.

20. Payments for Laboratory Services (Secs. 13432(a) and 5061 of House bill; sec. 7262 of Senate amendment)

Present Law

(a) Update.—Medicare payments for clinical laboratory services are made on the basis of local fee schedules that are in place in payment areas designated by the Secretary. The fee schedules are adjusted annually by the increase or decrease in the CPI-U, except that for fiscal years 1991, 1992, and 1993 the update was limited to 2 percent.

(b) Lower Cap on Fee Schedules.—Each fee schedule is limited by a national cap which is currently equal to 88 percent of the median of all the fee schedules established for a particular test.

House Bill

(a) Update.—W&M: The consumer price index (CPI-U) would be deemed to be zero for the purposes of updating these fees in 1994 and 1995.

E&C: The 2 percent annual update policy would be extended through fiscal year 1998.

(b) Lower Cap on Fee Schedules.—W&M: No provision.

E&C: The national cap on the fee schedules for laboratory services would be reduced to 76 percent of the median of all the fee schedules for a particular test.

Senate Amendment

(a) Update.—The update to the clinical laboratory fee schedule would be eliminated from 1994 through 1998.

(b) Lower Cap on Fee Schedules.—Identical to E&C provision.

Conference Agreement

(a) Update.—The conference agreement includes the House W&M provision.

(b) Lower Cap on Fee Schedules.—The conference agreement follows the Senate amendment with an amendment to phase-in the reduction in the cap over a 3-year period. The cap is set at 84 percent of the median in 1994, 80 percent in 1995, and 76 percent in 1996 and thereafter.

21. Updates for Other Part B Items and Services (Sec. 13434 of House bill; sec. 7261(d) of Senate Amendment)

Present Law

Part B services, other than physician services, laboratory services, durable medical equipment, and ASC services, are subject to payment screens or payment caps that are used to determine reasonable costs or reasonable charges. These are updated annually according to a variety of different rules.

House Bill

W&M: All payment screens used to determine reasonable costs or reasonable charges for such services would not be updated in 1994 and 1995. Services affected would include services in Federally Qualified Health Centers, and ambulance services.

E&C: No provision.

Senate Amendment

No provision.

Conference Agreement

The conference agreement does not include the House provision.

22. Payment for Durable Medical Equipment (Secs. 13432, 5031, and 5032 of the House bill; secs. 7231, 7232 and 7233 of the Senate amendment)

Present Law

(a) Update for DME.—Fees for durable medical equipment, orthotics and prosthetics, and enteral and parenteral services are updated annually by the CPI-U. The CPI-U is currently estimated to be 2.6 percent for 1994 and 1995.

(b) Use of national limits for prosthetics and orthotics.—Medicare currently pays for prosthetics and orthotics on a basis of a fee schedule that has regional floors and ceilings on payments.

(c) Use median to set national limits.—Medicare currently pays for DME on the basis of a fee schedule that has national floors and ceilings. The floor is equal to 85 percent of the weighted average of local payment amounts and the ceiling is equal to 100 percent of the weighted average of local payment amounts. Medicare pays for prosthetics and orthotics on the basis of a fee schedule that has regional floors and ceiling, with the floor equal to 85 percent of the weighted average of local payment amounts and the ceiling equal to 120 percent of the weighted average of local payment amounts.

House Bill

(a) Update for DME.—W&M: Provision would set the update to zero for DME, orthotics and prosthetics, and enteral and parenteral services for 1994 and 1995.

E&C: Provision would eliminate the update for parenteral and enteral nutrients, supplies, and equipment for 1994.

(b) Use of national limits for prosthetics and orthotics.—W&M: No provision.

E&C: Provision would establish national payment limits, based on the median of local payment amounts, for orthotics and prosthetics.

(c) Use median to set national limits.—W&M: No provision.

E&C: Provision would base national payment limits for DME on median of local payment amounts.

Senate Amendment

(a) Update for DME.—No provision.

(b) Use of national limits for prosthetics and orthotics.—Identical to E&C provision.

(c) Use median to set national limits.—Identical to E&C provision.

Conference Agreement

(a) Update for DME.—The conference agreement follows the House provisions with amendments to eliminate updates for orthotics and prosthetics and parenteral and enteral nutrients, supplies, and equipment for FY 1994 and FY 1995.

(b) Use of national limits for prosthetics and orthotics.—The conference agreement does not include the House E&C provision or the Senate amendment.

(c) Use of median to set national limits.—The conference agreement includes the House provision with an amendment to base national payment limits for DME on the median of local payment amounts. The provision regarding application of the median limits to prosthetics and orthotics is not included.

23. Durable Medical Equipment (Secs. 13461, and 5034 of the House bill)

Present Law

(a) Certification of Suppliers.—There are no statutory standards that suppliers of durable medical equipment (DME), prosthetic devices, prosthetics and orthotics, surgical dressings, splints, casts, and other devices for fractures and dislocations, home dialysis supplies, and immunosuppressive drugs must meet in order to supply items to Medicare beneficiaries.

(b) Prohibition Against Multiple Billing Numbers.—No provision.

(c) Standardized Certificates of Medical Necessity.—There are no provisions relating to standardized medical necessity certificates.

(d) Distribution of Certificates of Medical Necessity.—OBRA 90 prohibited suppliers of durable medical equipment from distributing, for commercial purposes, completed or partially completed certificates of medical necessity to physicians or Medicare beneficiaries.

(e) Uniform National Coverage and Utilization Review Requirements.—There are no provisions relating to uniform coverage or utilization review criteria for DME. HCFA is currently in the process of developing uniform coverage and utilization review policies for 100 items.

(f) Studies.—

(i) Use of covered items by disabled beneficiaries.—No provision.

(ii) Variations in quality of equipment.—No provision.

House Bill

(a) Certification of Suppliers.—W&M: Suppliers of medical equipment and supplies (durable medical equipment, prosthetic devices, orthotics and prosthetics, surgical dressings and such other items as the Secretary may determine and home dialysis supplies and equipment and immunosuppressive drugs) will not be reimbursed for these items unless they have a Medicare supplier number. A supplier may not obtain a supplier number for equipment and supplies furnished on or after October 1, 1993, and before December 31, 1994, unless the supplier meets uniform national standards prescribed by the Secretary. By January 1, 1995, the Secretary would revise the standards. The standards would require suppliers to (1) comply with all applicable State and Federal licensure and regulatory requirements; (2) maintain a physical facility and inventory on an appropriate site; (3) have proof of appropriate liability insurance; (4) meet other requirements established by the Secretary. In addition, the requirement for suppliers to obtain a supplier number does not apply to medical equipment and supplies furnished as an incident to a physician's service. The Secretary is prohibited from delegating the responsibility to determine whether the supplier meets the standards necessary to obtain a supplier number.

E&C: Identical to W&M provision, with the exception that application begins one year later.

(b) Prohibition Against Multiple Billing Numbers.—W&M: The Secretary would be prohibited from issuing more than one billing number to any supplier, unless the issuance of more than one number is appropriate to identify subsidiary or regional entities under the supplier's ownership or control.

E&C: Identical to W&M provision.

(c) Standardized Certificates of Medical Necessity.—W&M: The Secretary would be required to develop by October 1, 1993, one or more standardized certificates of medical necessity for medical equipment and supplies if a certificate of medical necessity is required by the Secretary.

E&C: Identical to W&M provision, with the exception that requirement applies one year later.

(d) Distribution of Certificates of Medical Necessity.—W&M: The OBRA 90 provision prohibiting suppliers of medical equipment and supplies from distributing completed or partially completed certificates of medical necessity would be modified. Beginning October 1, 1993, suppliers of potentially overused and abused items would be prohibited from distributing completed or partially completed certificates of medical necessity. Suppliers of items which are not potentially overused and abused would be permitted to complete information identifying beneficiaries and suppliers, a description of the item, a product code identifying the item, and any other information required by the Secretary. If a supplier provides any of the above information on a certificate of medical necessity, the supplier would be required to include the fee schedule amount and the supplier's charge prior to distribution to the physician for completion. Suppliers who violate the provisions would be subject to a civil money penalty in an amount not to exceed $1,000 for each certificate of medical necessity so distributed.

E&C: Identical to W&M provision, with the exception that provisions apply one year later.

(e) Uniform National Coverage and Utilization Review Requirements.—W&M: Not later than January 1, 1995, the Secretary would, in consultation with representatives of DME suppliers, beneficiaries, and medical specialty organizations, develop and establish uniform national coverage and utilization review criteria for 200 items of medical equipment and supplies. The criteria would be published as instructions to carriers and intermediaries, and no further publication, including Federal Register publication, would be required.

The Secretary would select an item for development of national coverage and utilization review criteria if: (1) the item is frequently rented or purchased by beneficiaries; (2) the item is frequently subject to a determination that it is not medically necessary; or (3) coverage or utilization review criteria applied to the item is not consistent among carriers. The Secretary would be required annually to review and determine whether items not on the list should be subject to uniform national coverage and utilization review criteria and to subject them to these criteria if necessary. The Secretary would also be required to submit a report to the Congress by July 1, 1995, analyzing the impact of these uniform criteria on the utilization of items subject to the criteria by Medicare beneficiaries.

E&C: Identical to W&M provision, with the exception that application begins one year later and the report is due July 1, 1996.

(f) Studies.—

(i) Use of covered items by disabled beneficiaries.

W&M: The Secretary would study and report to the Congress by May 1, 1994 on the effects of the methodology for determining payments for durable medical equipment items and supplies on the ability of persons entitled to disability benefits to obtain equipment, including customized items.

E&C: Identical to W&M provision, with the exception that the report is due one year after enactment.

(ii) Variations in quality of equipment.

W&M: The Secretary would study and report to the Congress by July 1, 1994, describing prosthetic devices or orthotics and prosthetics that do not require individualized or custom fitting and adjustment and report an appropriate method for determining the amount of payment for such items under the program that do not require individualized or custom fitting and adjustment.

E&C: Identical to W&M, with the exception that the report is due one year after enactment.

Senate Amendment

(a) Certification of Suppliers.—No provision.

(b) Prohibition Against Multiple Billing Numbers.—No provision.

(c) Standardized Certificates of Medical Necessity.—No provision.

(d) Distribution of Certificates of Medical Necessity.—No provision.

(e) Uniform National Coverage and Utilization Review Requirements.—No provision.

(f) Studies.—

(i) Use of covered items by disabled beneficiaries.—No provision.

(ii) Variations in quality of equipment.—No provision.

Conference Agreement

(a) Certification of Suppliers.—The conference agreement does not include the House provision.

(b) Prohibition Against Multiple Billing Numbers.—The conference agreement does not include the House provision.

(c) Standardized Certificates of Medical Necessity.—The conference agreement does not include the House provision.

(d) Distribution of Certificates of Medical Necessity.—The conference agreement does not include the House provision.

(e) Uniform National Coverage and Utilization Review Requirements.—The conference agreement does not include the House provision.

(f) Studies.—

(i) Use of covered items by disabled beneficiaries.—The conference agreement does not include the House provision.

(ii) Variations in quality of equipment.—The conference agreement does not include the House provision.

24. Prohibition Against Carrier Forum Shopping (Secs. 13462 and 5035 of the House bill)

Present Law

There are no prohibitions against carrier forum shopping in current DME law. HCFA is currently establishing four regional carriers to process all claims for beneficiaries residing within their areas.

House Bill

W&M: The Secretary would be authorized to designate in a regulation one carrier for one or more entire regions to process all claims within the region for covered durable medical equipment, prosthetic devices, and orthotics and prosthetics. Suppliers would be required to submit claims to the carrier having jurisdiction over the geographic area that includes the permanent residence of the patient to whom the item is furnished.

E&C: Identical to W&M provision.

Senate Amendment

No provision.

Conference Agreement

The conference agreement does not include the House provision.

25. Restrictions on Certain Marketing and Sales Activity (Secs. 13463 and 5036 of the House bill)

Present Law

No provision.

House Bill

W&M: Suppliers would be prohibited from making unsolicited telephone contacts with Medicare beneficiaries, unless the individual gives permission to the supplier, or the supplier has furnished the individual with a covered item within the preceding 15 months. Medicare would not pay for items provided subsequent to a prohibited telephone contact. The Secretary would be required to exclude from programs under the Social Security Act suppliers who knowingly make prohibited telephone contacts to such an extent that the supplier's conduct establishes a pattern of contacts in violation of the prohibition. Beneficiaries would not be liable for the cost of items provided as a result of prohibited telephone contacts, and the supplier would be required to refund any amounts collected on a timely basis or be subject to certain sanctions.

E&C: Identical to W&M provision.

Senate Amendment

No provision.

Conference Agreement

The conference agreement does not include the House provision.

26. Anti-kickback Clarification (Sec. 13464 and 5037 of the House bill)

Present Law

Current law exempts employees in bona-fide employment relationships from penalties assessed for knowingly and willfully soliciting or receiving remuneration (including kickbacks, bribes, or rebates) or offering or paying remuneration as an incentive for Medicare business.

House Bill

W&M: The exemption from anti-kickback penalties for employees in bona-fide employment relationships with providers of Medicare-covered services and supplies would not include the tasks of transmitting assignment rights of Medicare beneficiaries to suppliers of covered items, or performing warehousing or stock inventory functions.

E&C: Identical to W&M provision.

Senate Amendment

No provision.

Conference Agreement

The conference agreement does not include the House provision.

27. Limitations on Beneficiary Liability for Non-covered Services (Secs. 13465 and 5038 of the House bill)

Present Law

No provision.

House Bill

W&M: Effective October 1, 1993, Medicare beneficiaries would not be financially liable for covered items furnished by a supplier on an unassigned basis if: (1) the supplier is excluded from Medicare participation; (2) Medicare has denied payment for the item in advance; or (3) the supplier does not meet Medicare standards for suppliers of medical equipment and supplies.

E&C: Similar to W&M provision, with the exception that it also applies to items furnished on an assigned basis and is effective one year later.

Senate Amendment

No provision.

Conference Agreement

The conference agreement does not include the House provision.

28. Adjustments for Inherent Reasonableness (Secs. 13466 and 5039 of the House bill)

Present Law

The Secretary is permitted to increase or decrease the Medicare DME fee schedules in cases where the payment amount is grossly excessive or grossly deficient and not inherently reasonable. Such adjustment must reflect costs in the base year of the fee schedules.

House Bill

W&M: The Secretary would determine whether the payment amounts for decubitus care mattresses, transcutaneous electrical nerve stimulators (TENS), and any other items considered appropriate by the Secretary are inherently reasonable and would adjust payments for these items if the amounts are not inherently reasonable. Adjustments for these items would be based on the prices and costs applicable at the time the item is furnished.

E&C: Identical to W&M provision.

Senate Amendment

No provision.

Conference Agreement

The conference agreement does not include the House provision.

29. Treatment of Nebulizers and Aspirators (Secs. 13467 and 5033 of the House bill; sec. 7232 of Senate amendment)

Present Law

There are five categories of items and supplies in the DME fee schedule. Aspirators, nebulizers, ventilators, and IPPB machines are in a category referred to as items requiring frequent and substantial servicing. This category is intended to include items which require frequent servicing in order to avoid imminent danger to a beneficiary's health.

House Bill

W&M: Aspirators and nebulizers would be removed from the category of DME items requiring frequent and substantial servicing. Disposable supplies used in conjunction with aspirators and nebulizers would be placed in the category of inexpensive and other routinely purchased equipment.

E&C: Identical to W&M provision.

Senate Amendment

Similar to W&M provision but would also remove ventilators and IPPB from the category of DME items requiring frequent and substantial servicing.

Conference Agreement

The conference agreement follows the Senate amendment with an amendment to specify that the frequent servicing category will include IPPB machines and ventilators, excluding ventilators that are either continuous airway pressure devices or intermittent assist devices with continuous airway pressure devices. Separate payment will be made for accessories used with nebulizers, aspirators or excluded ventilators as inexpensive or routinely purchased items.

30. Payment for Ostomy Supplies and Other Supplies (Secs. 13468, 5031(b), 5040 and 5041 of the House bill; secs. 7233 and 7234 of Senate amendment)

Present Law

Ostomy supplies, tracheostomy supplies, urologicals, surgical and other medical supplies are included in the prosthetics and orthotics fee schedule, which is subject to regional payment limits.

The DME fee schedule specifies reductions in payments for transcutaneous electrical nerve stimulators (TENS).

House Bill

W&M: Ostomy supplies, tracheostomy supplies and urologicals would be subject to national payment limits. Payment for surgical dressings would be made in a lump sum in an amount equal to eighty percent of the lesser of the actual charge for the item or the national payment limit (computed based on local payment amounts using average reasonable charges for the twelve month period ending December 31, 1992, increased by the covered item update for 1993 and 1994.

These provisions would not apply to surgical dressings furnished incident to a physician's professional service or furnished by a home health agency.

The DME fee schedule amount for transcutaneous electrical nerve stimulation (TENS) devices would be reduced by an additional thirty percent.

E&C: Identical to W&M provision.

Senate Amendment

Similar to W&M provision, except does not include a separate provision for ostomy supplies, tracheostomy supplies, and urologicals. (Note: the bill establishes elsewhere national payment limits for prosthetics and orthotics.)

Conference Agreement

The conference agreement includes the House provision.

31. DME Miscellaneous and Technical Corrections (Secs. 13469 and 5042 of the House bill)

Present Law

(a) Updates to Payment Amounts.—OBRA 90 contains a drafting error regarding the update to the durable medical equipment fee schedule for 1991 and 1992.

(b) Potentially Overused Items and Advance Determinations of Coverage.—OBRA 90 included two provisions regarding special carrier review of potentially overutilized items and advance determinations of coverage for certain items. These two provisions were combined in drafting so that they do not properly reflect the conference agreement.

(c) Study in Variations in Durable Medical Equipment Supplier Costs.—OBRA 90 provided for a system of upper and lower limits on DME fees. The OBRA 90 conferees agreed to a study of regional variations in durable medical equipment supplier costs which was not included in the statutory language.

(d) Oxygen Retesting.—OBRA 90 included a provision requiring periodic retesting of beneficiaries receiving oxygen if their initial blood gas reading value was at or above a partial value of 55.

House Bill

(a) Updates to Payment Amounts.—W&M: The OBRA 90 error would be corrected by specifying that the 1991 and 1992 update is the CPI-U minus one percentage point.

E&C: Identical to W&M provision.

(b) Potentially Overused Items and Advance Determinations of Coverage.—W&M: OBRA 90 would be modified with respect to treatment of potentially overused items. The Secretary would be able to add items to the list of potentially overused items if they are marketed directly to beneficiaries, if offers to waive coinsurance are made, if items have been subject to consistent patterns of overutilization, or if a high proportion of claims for an item are denied based on absence of medical necessity. Payment for items on this list would not be made unless the carrier has subjected the claim to special scrutiny or has determined in advance whether an item is medically necessary and covered by Medicare. Carriers would also be required to make advance coverage decisions for customized items and for specified covered items requiring a physician's written order.

E&C: Identical to W&M provision.

(c) Study in Variations in Durable Medical Equipment Supplier Costs.—W&M: The Secretary would be required to collect data on supplier costs for DME and analyze them to determine costs attributable to service and product components and the extent to which they vary by type of equipment and geographic region. The HCFA administrator would be required to submit a report and recommendations for a geographic cost adjustment index for DME supplies and an analysis of the impact of such an index on Medicare payments. The Comptroller General would be required to submit a report analyzing on a geographic basis the supplier costs of durable medical equipment under the Medicare program.

E&C: Identical to W&M provision.

(d) Oxygen Retesting.—W&M: The OBRA 90 language regarding the arterial blood gas values would be amended to require retesting when a beneficiary's initial value is at or above 56.

In addition, the proposal includes certain technical corrections to Sections 4152 and 4153 of OBRA 90.

E&C: Identical to W&M provision.

Senate Amendment

(a) Updates to Payment Amount.—No provision.

(b) Potentially Overused Items and Advance Determinations of Coverage.—No provision.

(c) Study in Variations in Durable Medical Equipment Supplier Costs.—No provision.

(d) Oxygen Retesting.—No provision.

Conference Agreement

(a) Updates to Payment Amounts.—The conference agreement does not include the House provision.

(b) Potentially Overused Items and Advance Determinations of Coverage.—The conference agreement does not include the House provision.

(c) Study in Variations in Durable Medical Equipment Supplier Costs.—The conference agreement does not include the House provision.

(d) Oxygen Retesting.—The conference agreement does not include the House provision.

32. Extension of Alzheimer's Demonstration Projects (Secs. 13472 and 5064 of House bill)

Present Law

OBRA 86 authorized $40 million to conduct up to 10 Alzheimer's disease demonstration projects to provide comprehensive services to Medicare beneficiaries with Alzheimer's disease. The demonstrations were originally authorized for three years, but were extended an additional year in OBRA 90.

House Bill

W&M: The Alzheimer's disease demonstration projects would be extended for an additional year.

E&C: Identical provision, except increases expenditures to $60 million instead of $58 million for extension of demonstration.

Senate Amendment

No provision.

Conference Agreement

The conference agreement includes the House W&M provision.

33. Oral Cancer Drugs (Secs. 13473 and 5065 of House bill)

Present Law

(a) Coverage of Self-Administered Drugs.—Under current law, Medicare coverage for outpatient prescription drugs (with exceptions for immunosuppressive drugs and erythropoietin) is limited to drugs which are not to be self-administered. Drugs taken orally are not covered.

(b) Coverage of Off-Label Uses of Anti-Cancer Drugs.—No provision.

(c) Study.—No provision.

House Bill

(a) Coverage of Self-Administered Drugs.—W&M: Medicare coverage would be extended to include oral cancer drugs if they are the same chemical entity as anti-cancer drugs covered by Medicare when administered intravenously, effective January 1, 1994.

E&C: Identical provision.

(b) Coverage of Off-Label Uses of Anti-Cancer Drugs.—W&M: Medicare would cover drugs or biologicals used in an anti-cancer chemotherapeutic regimen for a medically accepted indication. Coverage would be limited to the Food and Drug Administration (FDA) approved drugs but not necessarily limited to the uses approved by the FDA as described on the label.

Carriers would determine, based upon guidance by the Secretary, that the use is medically accepted taking into account (1) the inclusion of such drugs in one of the three specified major medical compendia, or (2) supportive clinical research regarding the off-label use of such drugs that appears in peer-reviewed medical literature. The Secretary would specify the medical journals which would be appropriate for consideration by the carriers in making these coverage decisions.

E&C: No provision.

(c) Study.—W&M: The Secretary would be required to study the costs of patient care for Medicare beneficiaries enrolled in clinical trials of new cancer therapies (where the protocol for the trial has been approved by the National Cancer Institute or meets similar scientific and ethical standards, including approval by an Institutional Review Board). The Secretary would be required to report on the study within two years and include recommendations as to coverage under Medicare of such beneficiaries.

E&C: No provision.

Senate Amendment

(a) Coverage of Self-Administered Drugs.—No provision.

(b) Coverage of Off-Label Uses of Anti-Cancer Drugs.—No provision.

(c) Study.—No provision.

Conference Agreement

(a) Coverage of Self-Administered Drugs.—The conference agreement includes the House provision.

(b) Coverage of Off-Label Uses of Anti-Cancer Drugs.—The conference agreement includes the House provision with an amendment providing that coverage would be extended to other uses of anti-cancer drugs if such use is supported by one or more citations in one of three specified medical compendia and other authoritative compendia identified by the Secretary, unless the Secretary has determined that the use is not medically appropriate or the use is identified as not indicated in one or more such compendia.

(c) Study.—The conference agreement does not include the House provision.

34. Part B Premium Penalty (Sec. 13474 of House bill)

Present Law

(a) Part B Premium Penalty for Late Enrollment.—Individuals who enroll in Medicare Part B after the applicable enrollment period are subject to an increased premium for late enrollment. The monthly premiums are increased by ten percent for every twelve months of late enrollment. In general, the premium increase is calculated based upon the number of months of delayed enrollment beyond the initial enrollment period. In the case of individuals who delay enrollment because they have primary coverage under an employer group health plan, months of enrollment in the employer group health plan are not included for purposes of calculating the increased premium.

(b) Part B Premium Payments by States.—States are permitted to pay premiums on behalf of individuals who enroll in Part B.

House Bill

(a) Part B Premium Penalty for Late Enrollment.—W&M: The Part B premium penalty for delayed enrollment would be capped at 25 percent for Federal employees who meet the following conditions. First, at the time of the initial enrollment period, the individual delayed enrollment because he or she was enrolled in a group health plan that provided items or services covered under Part B. Second, the individual was enrolled in a group health plan that stopped providing coverage of such services subsequent to the individual's initial enrollment period. This provision would apply to premiums for months beginning January 1, 1992.

E&C: No provision.

(b) Part B Premium Payments by States.—W&M: The Secretary would be authorized to enter into agreements with States for purposes of allowing States to make premium payments for penalties associated with late enrollment under Part B. States would be permitted to make quarterly payments on a lump-sum basis, effective upon enactment. Individuals covered under the agreement would not be subject to a delayed enrollment penalty.

E&C: No provision.

Senate Amendment

(a) Part B Premium Penalty for Late Enrollment.—No provision.

(b) Part B Premium Payments by States.—No provision.

Conference Agreement

(a) Part B Premium Penalty for Late Enrollment.—The conference agreement does not include the House provision.

(b) Part B Premium Payments by States.—The conference agreement does not include the House W&M provision.

35. Coverage of Speech-Language Pathologists and Audiologists (Sec. 13475 of House bill)

Present Law

The services of speech therapists and audiologists are covered under certain limited circumstances. In addition, speech therapy is covered under the home health benefit. The law does not include a specific definition of these services or providers.

House Bill

W&M: The term "speech pathologist" would be changed to "speech-language pathologist" where it appears, except that this amendment would not change the definition of services covered in any setting. A statutory definition of speech-language pathologists and audiologists would be established, consistent with current coverage guidelines.

E&C: No provision.

Senate Amendment

No provision.

Conference Agreement

The conference agreement does not include the House provision.

36. Municipal Health Service Demonstration Projects (Secs. 13476 and 5066 of House bill)

Present Law

OBRA 89 extended existing waivers for the four municipal health service demonstration projects through December 31, 1993, and provided for a study of the waiver program with respect to the quality of health care and beneficiary costs.

House Bill

W&M: The waivers for the four municipal health service demonstration projects would be extended through December 31, 1997. In conducting the study mandated under OBRA 89, HCFA would be required to include consideration of costs to Medicaid and other payers, access to care, outcomes, beneficiary satisfaction, and utilization differences among the different populations being served by the centers.

E&C: Identical provision.

Senate Amendment

No provision.

Conference Agreement

The conference agreement includes the House provision. The conferees intend that the Department (HCFA) assess its current process of examining and paying claims for Municipal Health Services Program Demonstration services and alter the process where necessary to make it more accurate and efficient.

37. Treatment of Certain Indian Health Programs and Facilities as Federally Qualified Health Centers (Secs. 13477 and 5067 of House bill)

Present Law

Medicare provides payments to services provided in certain qualified health centers, known as Federally Qualified Health Centers (FQHC).

House Bill

W&M: The current definition of Federally Qualified Health Centers would be revised, for services furnished on or after January 1, 1994, to include outpatient programs and facilities operated by Indian tribes under the Indian Self-Determination Act.

E&C: Identical provision, except that it is effective as if included in OBRA 90.

Senate Amendment

No provision.

Conference Agreement

The conference agreement includes the House E&C provision.

38. Treatment of Inpatients and Provision of Diagnostic and Therapeutic X-ray Services by Rural Health Clinics and Federally Qualified Health Centers (Sec. 5062 of House bill)

Present Law

Under current law, Rural Health Clinic (RHC) and Federally Qualified Health Center (FQHC) services are a covered Medicare benefit. RHCs and FQHCs that provide physician and other covered outpatient services to Medicare beneficiaries are paid on the basis of an inclusive rate.

House Bill

W&M: No provision.

E&C: The provision clarifies that RHCs and FQHCs are not limited to providing services solely to outpatients. Physician services provided to Medicare patients of a RHC or a FQHC would be covered (and paid for through the all-inclusive rate) when such patients are inpatients in a covered medical facility. In addition, diagnostic and therapeutic X-ray services would be covered as qualified RHC and FQHC services.

Senate Amendment

No provision.

Conference Agreement

The conference agreement does not include the House provision.

39. Application of Mammography Certification Requirements (Sec. 5063 of House bill)

Present Law

In 1992, the Congress enacted the Mammography Quality Standards Act which established a certification program for mammography facilities under Section 354 of the Public Health Service Act.

House Bill

W&M: No provision.

E&C: Any mammography facility providing covered screening or diagnostic mammograms to Medicare beneficiaries would be required to hold a certificate (or provisional certificate) issued in accordance with the provisions of the Public Health Service Act.

Senate Amendment

No provision.

Conference Agreement

The conference agreement does not include the House provision.

40. Clarification of Coverage of Certified Nurse-midwife Services Performed Outside the Maternity Cycle (Sec. 5069 of House bill)

Present Law

OBRA 1987 provided for direct reimbursement of certified nurse midwives under both Medicare and Medicaid. The statutory definition of certified nurse midwifery services has been erroneously interpreted under regulations promulgated by the Secretary to limit coverage to services provided within the maternity cycle.

House Bill

W&M: No provision.

E&C: The statutory definition of nurse midwifery services would be amended by deleting any reference to the maternity cycle.

Senate Amendment

No provision.

Conference Agreement

The conference agreement includes the House provision.

41. Increase in, and Study of, Annual Cap on Amount of Medicare Payment for Outpatient Physical Therapy and Occupational Therapy Services (Sec. 5069A of House bill)

Present Law

Under current law, covered outpatient physical and occupational therapy services provided by independently practicing physical and occupational therapists are limited on an annual basis to $750.

House Bill

W&M: No provision.

E&C: The bill increases the annual limit on these outpatient therapy services to $900, effective for services provided on or after January 1, 1994. The Physician Payment Review Commission would be required to conduct a study of the appropriateness of continuing an annual limitation on outpatient therapy services and report on the study by January 1, 1995.

Senate Amendment

No provision.

Conference Agreement

The conference agreement includes the House provision with an amendment to delete the study requirement.

42. Other Technical Amendments Relating to Part B of the Medicare Program (Secs. 13478 and 5070 of House bill)

Present Law

(a) Revision of Information on Part B Claims.—Each Part B claim for which the entity submitting the claim knows or has reason to believe that there has been a referral by a physician must include the name and provider number of the referring physician and must indicate whether the referring physician is an investor in the entity.

(b) Consultation for Social Workers.—OBRA 90 provided for direct reimbursement for the services of clinical psychologists and clinical social workers. The Secretary was required to develop criteria for psychologists' services under which psychologists would be required to consult with a patient's attending physician.

(c) Reports on Hospital Outpatient Payment.—OBRA 87 required the Prospective Payment Assessment Commission (ProPAC) to conduct a study of Medicare payment for hospital outpatient services. Part of the study was to be submitted to the Congress by July 1, 1990 and part by March 1, 1991. Section 1135(d)(6) of the Social Security Act also requires the Secretary to report to the Congress on the development of a prospective method for ambulatory surgery services.

(d) Radiology and Diagnostic Services Provided in Hospital Outpatient Departments.—Payment for outpatient radiology and diagnostic services is limited to a blend of the hospital's costs and physician fee schedule that would apply if the procedure were performed in a physician's office.

(e) Payments to Nurse Practitioners in Rural Areas.—OBRA 90 provided for direct reimbursement of nurse practitioners and clinical nurse specialists in rural areas. While current law excludes the services of physician assistants, nurse midwives, certified registered nurse anesthetists, and psychologists from the definition of inpatient hospital care, payments for nurse practitioners and clinical nurse specialists were not included in this provision.

(f) Other Technical and Conforming Amendments.—Elderly or disabled employees and their spouses who are covered by employer health plans are not required to enroll in the same enrollment period applicable to others. However, they cannot enroll while enrolled in an employer group health plan. Coverage for such individuals begins generally on the first day of the month in which the individual is no longer enrolled in an employer group health plan. The OBRA 90 conferees intended to modify this provision, but statutory language to that effect was omitted from the law.

House Bill

(a) Revision of Information on Part B Claims.—W&M: The claim form would be required to include the unique physician identification number (UPIN), and the requirement that claims indicate whether the referring physician is an investor in the entity would be repealed.

E&C: Identical provision.

(b) Consultation for Social Workers.—W&M: Clinical social workers would be required to consult with a patient's attending physician in the same manner as clinical psychologists.

E&C: Identical provision.

(c) Reports on Hospital Outpatient Payment.—W&M: The requirement for the preparation of reports contained in Section 6137 of OBRA 89 and Section 1135(d)(6) of the Social Security Act would be repealed.

E&C: Identical provision.

(d) Radiology and Diagnostic Services Provided in Hospital Outpatient Departments.—W&M: Outpatient payment limits would apply to diagnostic services. The physician component of the limit would be based on the resource based relative value scale.

E&C: Identical provision.

(e) Payments to Nurse Practitioners in Rural Areas.—W&M: The services of nurse practitioners and clinical nurse specialists would be added to the list of services excluded from the definition of inpatient hospital services.

E&C: Identical provision.

(f) Other Technical and Conforming Amendments.—W&M: The special enrollment period would be modified to allow individuals who have employer group health coverage to enroll in Part B at any time they are enrolled in the group health plan, rather than after they leave the plan. If an individual enrolls in Part B while enrolled in the group health plan or in the first month after leaving the plan, Medicare coverage would begin on the first day of the month in which the individual enrolled (or, at the option of the individual) on the first day of any of the following three months).

Various technical and conforming amendments to Sections 4154 through 4164 of OBRA 90 would be made.

E&C: Identical provision, except does not include technical amendment on certified registered nurse anesthetists.

Senate Amendment

(a) Revision of Information on Part B Claims.—No provision.

(b) Consultation for Social Workers.—No provision.

(c) Reports on Hospital Outpatient Payment.—No provision.

(d) Radiology and Diagnostic Services Provided in Hospital Outpatient Departments.—No provision.

(e) Payments to Nurse Practitioners in Rural Areas.—No provision.

(f) Other Technical and Conforming Amendments.—No provision.

Conference Agreement

(a) Revision of Information on Part B Claims.—The conference agreement does not include the House provision.

(b) Consultation of Social Workers.—The conference agreement does not include the House provision.

(c) Reports on Hospital Outpatient Payments.—The conference agreement does not include the House provision.

(d) Radiology and Diagnostic Services Provided in Hospital Outpatient Departments.—The conference agreement does not include the House provision.

(e) Payments to Nurse Practitioners in Rural Areas.—The conference agreement does not include the House provision.

(f) Other Technical and Conforming Amendments.—The conference agreement does not include the House provision.

CHAPTER 3

AMENDMENTS RELATING TO PARTS A AND B AND OTHER HEALTH AMENDMENTS

1. Direct Medical Education (Secs. 13501, 13551 and 5072 of House bill; sec. 7301 of Senate amendment)

Present Law

(a) Updating Base Year Amounts.—Payments to hospitals for the direct costs of graduate medical education are based on Medicare's share of each hospital's direct costs per full-time equivalent (FTE) resident, in a base year, updated each year by the consumer price index.

(b) Adjustment in GME Base-Year Costs for FICA Taxes.—Payments for the direct costs of graduate medical education are based on Medicare's share of each hospital's direct costs per full-time equivalent (FTE) resident, in a base year, updated each year by the consumer price index. The base year is defined as a hospital's cost reporting period beginning during FY 1984. The law provides for no adjustments to the base year amount.

Prior to enactment of OBRA 90, some teaching institutions were not required to pay either FICA taxes, or to make other retirement contributions for residents. Section 11332(b) of OBRA 90 required these institutions to begin making such payments. However, their base-year costs do not reflect such payments, and the Secretary is prohibited from adjusting their base year costs to reflect the new requirements for such payments.

(c) Adjustments for Certain Family Residency Programs.—Payments for the direct costs of graduate medical education are based on Medicare's share of each hospital's direct costs per full-time equivalent (FTE) resident, in a base year, updated each year by the consumer price index. The base year is defined as a hospital's cost reporting period beginning during FY 1984. The law provides for no adjustments to the base year amount. In the case of a hospital that did not have an approved medical residency training program or was not participating in the Medicare program during the base year, the Secretary shall provide for an FTE resident amount as the Secretary determines to be appropriate based on approved FTE resident amounts for comparable programs.

(d) Preventive Care Residencies.—Medicare payments for the direct costs of medical education are based on the recognized costs during a resident's so-called "initial period" of residency. This period is defined as the period necessary to be board eligible plus one year, but in no case more than five years. Up to two years of a geriatric residency or fellowship are treated as part of the initial residency period, but the time spent in the geriatric program is not counted toward the limitation on the initial residency period.

(e) Different Weighting Factors for Primary Care and Non-Primary Care Residency Programs.—Full time residents in their initial residency period count as 1.0 FTE. Residents beyond their initial residency period count as 0.5 FTE.

(f) Initial Residency Period.—Medicare payments for the direct costs of medical education are based on the recognized costs during a resident's so-called "initial period" of residency. This period is defined as the period necessary to be board eligible plus one year, but in no case more than five years. Up to two years of a geriatric residency or fellowship are treated as part of the initial residency period, but the time spent in the geriatric program is not counted toward the limitation on the initial residency period.

(g) Report.—No provision.

(h) Foreign Medical Graduates.—A graduate of a foreign medical school is not counted unless the resident has passed parts I and II of the Foreign Medical Graduate Examination in the Medical Sciences (FMGEMS).

House Bill

(a) Updating Base Year Amounts.—W&M: Per-resident amounts would not be updated for cost reporting periods beginning during fiscal years 1994 and 1995.

E&C: No provision.

(b) Adjustment in GME Base-Year Costs for FICA Taxes.—W&M: In the case of a hospital that did not pay FICA taxes or make other specified retirement contributions for residents in the base year and that must now pay such taxes or contributions as a result of section 11332(b) of OBRA 1990, the Secretary shall redetermine the FTE resident amount to reflect the amount that would be allowed if the hospital had made such payments during the base year.

The provision would apply to cost reporting periods beginning on or after October 1, 1992.

E&C: No provision.

(c) Adjustments for Certain Family Residency Programs.—In the case of a facility whose only medical residency program in the cost reporting period that began in fiscal year 1984 was in family and community medicine, received Federal, State or local funding, and had a base year per resident amount of $10,000 or less, the Secretary would be required, in computing FTE resident amount in the base year, to estimate the costs that would have been allowed as reasonable if the program had not received such government assistance, other than such assistance under Medicare or Medicaid programs. The Secretary would also reduce the payment amount so determined by the amount equal to the proportion of such program payments during the base period by Medicare. This would apply to cost reporting periods beginning on or after October 1, 1990.

E&C: No provision.

(d) Preventive Care Residencies.—For cost reporting periods beginning on or after October 1, 1993, for the purpose of determining whether a resident is in an initial residency period for payment purposes, a resident in a preventive care residency or fellowship program would be treated in the same way as a geriatric resident or fellow; that is, a period of up to two years of such training would be treated as part of the initial residency period and would not count towards the limitation on such period.

E&C: No provision.

(e) Different Weighting Factors for Primary Care and Non-Primary Care Residency Programs.—W&M: No provision.

E&C: The Secretary would be directed to conduct a study of the methodology used to determine payments to hospitals for the costs of graduate medical education programs, including an analysis of the causes of the variation among such hospital per resident costs, including the extent of support for such programs from non-hospital sources. The report, which shall include any recommendations for modifications to current payment policy, would be due to the Congress one year after the date of enactment of this provision.

(f) Initial Residency Period.—No provision.

(g) Report.—No provision.

(h) Foreign Medical Graduates.—W&M: No provision.

E&C: No provision.

Senate Amendment

(a) Updating Base Year Amounts.—No provision.

(b) Adjustment in GME Base-Year Costs for FICA Taxes.—No provision.

(c) Adjustments for Certain Family Residency Programs.—No provision.

(d) Preventive Care Residencies.—Similar provision.

(e) Different Weighting Factors for Primary Care and Non-Primary Care Residency Programs.—Effective for residents entering a primary care or non-primary care specialty training program (including a sub-specialty training program) on or after September 1, 1993, a full-time resident in the initial residency period of a primary care residency program would be counted as 1.1 FTE; a full-time resident in the initial residency period of a non-primary care residency program would be counted as 0.7 FTE. If completion of a primary care training program is a prerequisite for board eligibility in a non-primary care specialty or sub-specialty, a resident would count as 1.1 FTE for the time spent in the primary care residency program. A full-time resident in training beyond the initial residency period would continue to count as 0.5 FTE.

Primary care residency programs would be defined as residency programs in family medicine, general internal medicine, general pediatrics, preventive care, geriatric care and osteopathic general practice.

(f) Initial Residency Period.—Effective July 1, 1995, the "initial residency period" would be defined as the minimum number of years required for board eligibility.

(g) Report.—The Secretary would be required to submit by July 31, 1994, a report concerning 1) the causes for the variation in the per resident amounts, 2) whether provisions should be made for adjustments in the per resident amounts to recognize substantial changes in operating a residency program since the base year, and 3) any changes that should be made in graduate medical education payments that would promote residency training in non-hospital ambulatory sites.

(h) Foreign Medical Graduates.—Effective as if included in COBRA 85, a foreign medical graduate would be counted if the resident has passed parts I and II of the FMGEMS or a successor test recognized by the Secretary.

Conference Agreement

(a) Updating Base Year Amounts.—The conference agreement includes the House provision, with an amendment exempting primary care residents and residents in obstetrics and gynecology from the elimination of the update to the per resident payment amount. The term "primary care resident" is defined as a resident enrolled in a training program in family medicine, general internal medicine, general pediatrics, geriatric medicine, preventive medicine, or osteopathic general practice.

(b) Adjustment in GME Base-Year Costs for FICA Taxes.—The conference agreement includes the House provision.

(c) Adjustments for Certain Family Residency Programs.—The conference agreement includes the House provision, with an amendment changing the effective date to October 1, 1992. The conferees intend that hospitals with residency programs meeting the stated conditions receive the adjustment whether the hospital or residents received Federal or State payments directly, or indirectly through a university.

(d) Preventive Care Residencies.—The conference agreement includes the House provision.

(e) Different Weighting Factors for Primary Care and Non-Primary Care Residency Programs.—The conference agreement does not include the Senate amendment.

(f) Initial Residency Period.—The conference agreement includes the Senate amendment, with an amendment making the effective date of the provision July 1, 1995.

(g) Report.—The conference agreement does not include the Senate amendment.

(h) Foreign Medical Graduates.—The conference agreement does not include the Senate amendment.

2. Home Health Services (Secs. 13502 and 5071 of House bill; sec. 7302 of Senate amendment)

Present Law

Home health services are reimbursed on a reasonable cost basis, subject to aggregate cost limits which are updated annually. The Omnibus Budget Reconciliation Act of 1987 (OBRA 87) limited payment for home health agency costs to 112 percent of the mean labor-related and non labor per visit costs for freestanding HHAs. For hospital-based HHAs, the Secretary is required to make appropriate adjustments in the limits for administrative and general costs. A home health care agency may receive an exception to the cost limits based on the special care needs of patients or circumstances beyond its control.

House Bill

W&M: Effective upon the date of enactment, cost limits applicable to home health services would not be updated for cost reporting periods beginning during fiscal years 1994 and 1995.

E&C: The provision would repeal the requirement for the special adjustment for the administrative costs of hospital-based home health agencies effective for cost reporting periods beginning after fiscal year 1993.

Senate Amendment

Effective for cost reporting periods beginning on or after October 1, 1993, the cost limit would be lowered to 110 percent of the median labor-related and non labor per visit costs for all home health agencies. The add-on for hospital-based home health agencies would be eliminated.

Conference Agreement

The conference agreement follows the House provisions with an amendment to prohibit the Secretary from making any changes in home health services cost limits (including no adjustments for changes in the wage index or applicable MSAs) for cost reporting periods beginning on or after July 1, 1994, and before July 1, 1996. The Secretary is required, when granting or extending exceptions to cost limits, to limit any exception to the amount that would have been granted if there were no restriction on changes in the cost limits. Additional payments for administrative and general costs of hospital-based home health agencies are eliminated for cost reporting periods beginning on or after October 1, 1993.

3. Secondary Payer Provisions (Secs. 13511–13514 and 5073 of House bill; sec. 7302 of Senate amendment)

Present Law

(a) Extension of Transfer of Data.—OBRA 89 authorized the establishment of a database to identify working beneficiaries and their spouses to improve identification of cases in which Medicare is secondary to other third party payers. The data match links Internal Revenue Service (IRS) tax records with data from the Social Security Administration (SSA) and the Health Care Financing Administration (HCFA). OBRA 90 extended through September 30, 1995 the requirements established in OBRA 90 pertaining to identification of secondary payer situations.

(b) Extension of Medicare Secondary Payer for Disabled Beneficiaries.—Medicare is secondary payer to certain group health plans, offered by employers of 100 or more, covering disabled beneficiaries. The authority for this provision expires September 30, 1995.

(c) Extension of 18-Month Rule for ESRD Beneficiaries.—Medicare is secondary payer to certain employer group health plans covering beneficiaries with end stage renal disease (ESRD) beneficiaries during the first 18 months of a beneficiary's entitlement to Medicare on the basis of ESRD. The authority for this provision expires September 30, 1995.

(d) Medicare Secondary Payer Reforms.—

(1) Improved Identification and Enforcement of Medicare Secondary Payer Situations.—The Department of HHS identifies Medicare secondary payer cases in the following ways: beneficiary questionnaires; provider identification of third party coverage when services are provided; Medicare contractor screening and data collection and exchange; and data transfers with other Federal and State agencies including the Internal Revenue Service and the Social Security Administration.

The Secretary is authorized to develop standards, criteria, procedures and reporting requirements to evaluate the performance of organizations facilitating Medicare payments to providers of services. Primary payers are required to make payments for any item or service for which Medicare is secondary payer when they receive notice that payments are due. The Secretary is authorized to charge interest on late recoveries under the Medicare Secondary Payer program.

(2) Application to Members of Religious Orders.—Medicare secondary payer provisions do not apply to certain members of religious orders for items and services furnished on or after October 1, 1989.

(3) Uniform Rules for Size of Employer.—Under current law, different rules apply to employer size and type of eligibility for Medicare. For the working aged, secondary payer rules apply to employers with 20 or more employees. For the disabled, secondary payer rules apply to employers with 100 or more employees. For beneficiaries with end stage renal disease, secondary payer rules apply to all employers, regardless of the number of employees.

(4) Permanent Application to Disabled Active Individuals.—Under current law, Medicare is secondary payer to a large group health plan providing benefits to a disabled active individual, which is defined as an individual who (1) is eligible for Medicare on the basis of disability; and (2) continues to be treated as an employee by an employer, on the basis of commonly accepted indicators of employee status, even though the individual is not currently working. This provision expires October 1, 1995.

House Bill

(a) Extension of Transfer of Data.—W&M: The authorization for requirements pertaining to the IRS/SSA/HCFA data match would be extended through September 30, 1998.

E&C: The requirement for employers to respond to carriers would be extended through September 30, 1998.

(b) Extension of Medicare Secondary Payer for Disabled Beneficiaries.—W&M: The Medicare secondary payer requirements for disabled beneficiaries would be extended for three additional years through September 30, 1998.

E&C: Similar to W&M provision.

(c) Extension of 18-Month Rule for ESRD Beneficiaries.—W&M: The Medicare secondary payer requirements for beneficiaries with end stage renal disease (ESRD) would be extended for three additional years through September 30, 1998.

E&C: Similar to W&M provision.

(d) Medicare Secondary Payer Reforms.—

(1) Improved Identification and Enforcement of Medicare Secondary Payer Situations.—W&M: The Administrator of HCFA would be required to mail questionnaires to individuals, before such individuals become entitled to benefits under Part A or enroll in Part B, to determine whether the individual is covered under a primary plan. In addition, the provision would clarify that payments would not be denied for covered services solely on the grounds that a beneficiary's questionnaire fails to note the existence of other health plan coverage.

Providers and suppliers would be required to complete information on claim forms regarding potential coverage under other plans.

Civil monetary penalties would be established for an entity that knowingly, willfully and repeatedly fails to complete a claim form with accurate information.

Contractors would be required to submit a report to the Secretary annually regarding steps taken to recover mistaken payments. The Secretary would be required to evaluate the performance of contractors in identifying cases in which Medicare is secondary payer.

The provision would clarify the Secretary's authority to charge interest if payment is not received within 60 days after notice is given.

The definition of a non complying plan would be clarified to include a plan that refuses to refund amounts to HCFA demanded through the Medicare secondary payer provisions.

E&C: Similar provisions.

(2) Application to Members of Religious Orders.—W&M: The provision, effective as if included in OBRA 89 would clarify that the Medicare secondary payer provisions do not apply to secondary payer situations identified after October 1, 1989 for services provided prior to such date to members of religious orders who are considered "deemed employees" because of an election of Social Security coverage.

E&C: Identical Provision.

(3) Uniform Rules for Size of Employer.—W&M: For purposes of determining the application of Medicare secondary payer provisions to employer group health plans, aggregation rules as defined in the Internal Revenue Code would be used to determine size of employer.

E&C: The provision would expand the Medicare secondary payer provisions to apply to employers with 20 or more employees. Employers, multiemployers, or multiple employer group health plans of 20 or more would be required to comply with secondary payer rules for all Medicare beneficiaries.

(4) Permanent Application to Disabled Active Individuals.—W&M: No provision.

E&C: The provision for the disabled would be modified to tie directly to employment status consistent with the provision that applies to aged beneficiaries. The provision would be made permanent.

Senate Amendment

(a) Extension of Transfer of Data.—Similar to W&M provision.

(b) Extension of Medicare Secondary Payer for Disabled Beneficiaries.—Identical to W&M provision.

(c) Extension of 18-Month Rule for ESRD Beneficiaries.—The provision would extend the requirement that Medicare be secondary payer to specified group health plans for beneficiaries who are entitled to Medicare solely on the basis of end stage renal disease for 24 months until September 30, 1998. This would apply with respect to items and services furnished after the third calendar month beginning after enactment.

(d) Medicare Secondary Payer Reform.—

(1) Improved Identification and Enforcement of Medicare Secondary Payer Situations.—No provision.

(2) Application to Members of Religious Orders.—Identical to W&M provision.

(3) Uniform Rules for Size of Employer.—Similar to the W&M provision concerning use of aggregation rules to determine size of employer. Similar to the E&C provision concerning uniform application of Medicare secondary payer provisions to employers with 20 or more employees.

(4) Permanent Application to Disabled Active Individuals.—Identical to E&C provision.

Conference Agreement

(a) Extension of Transfer of Data.—The conference agreement includes the House provision.

(b) Extension of Medicare Secondary Payer for Disabled Beneficiaries.—The conference agreement includes the Senate amendment.

(c) Extension of 18-Month Rule for ESRD Beneficiaries.—The conference agreement includes the House provision.

(d) Medicare Secondary Payer Reform.—

(1) Improved Identification and Enforcement of Medicare Secondary Payer Situations.—The conference agreement does not include the House provision.

(2) Application to Members of Religious Orders.—The conference agreement includes the Senate amendment.

(3) Uniform Rules for Size of Employer.—The conference agreement includes the Senate amendment to clarify employer aggregation rules, with an amendment to maintain current law thresholds applied to employers with respect to disabled and ESRD beneficiaries.

(4) Permanent Application to Disabled Active Individuals.—The conference agreement includes the House provision clarifying the definition of active employee for disabled beneficiaries to conform with the definition for working aged beneficiaries. A disabled beneficiary would be considered an active employee if covered under an employer plan by virtue of the individuals current employment status.

4. Expansion of Medicare Ban on Self-Referrals (Secs. 13521 and 5031 of the House bill; sec. 7451 of Senate amendment)

Present Law

Physicians (or immediate family members of such physicians) with a financial relationship with clinical laboratories are prohibited from referring Medicare patients to those entities.

House Bill

W&M: The Medicare ban would apply to all payers for designated health services. No payment could be made under Medicare, another Federal health care program or a State health care program for which a claim was presented in violation of the ban. No individual, third party payer, or other entity would be liable for payment of a claim for designated services in violation of the ban. Sanctions provisions would be extended to all payers.

E&C: The provision would apply Medicare rules to Medicaid.

Senate Amendment

Similar to E&C provision.

Conference Agreement

The conference agreement includes the House E&C provision.

5. Extension of Self-Referral Ban to Additional Services (Secs. 13522 and 5074(a) of the House bill; sec. 7304(a) of the Senate amendment)

Present Law

Physicians (or immediate family members of such physicians) with a financial relationship with clinical laboratories are prohibited from referring Medicare patients to those entities

House Bill

W&M: The provision expands current law to cover the following designated health services: (1) physical and occupational therapy services; (2) radiology services (including magnetic resonance imaging, computerized axial tomography scans, and ultrasound services); (3) radiation therapy services; (4) durable medical equipment; (5) parenteral and enteral nutrition equipment and supplies; (6) prosthetic devices and orthotics and prosthetics; (7) outpatient prescription drugs; (8) home infusion therapy services; (9) home dialysis; (10) home health services; (11) ambulance services; (12) inpatient and outpatient hospital services; (13) comprehensive outpatient rehabilitation facility services; (14) contact lenses; (15) eyeglasses; and (16) hearing aids.

E&C: The provision expands current law to cover the following designated health services: (1) physical or occupational therapy services; (2) radiology or other diagnostic services; (3) radiation therapy services; (4) the furnishing of durable medical equipment; (5) the furnishing of parenteral and enteral nutritional nutrients, supplies, and equipment; (6) home health services; and (7) home infusion therapy services.

Senate Amendment

The provision would expand the prohibition on referring patients to services in which a physician has an ownership or investment interest to include the following services: (1) physical or occupational therapy; (2) radiology or other diagnostic services; (3) radiation therapy; (4) the furnishing of durable medical equipment; (5) the furnishing of parenteral and enteral nutrition equipment or supplies; (6) the furnishing of prosthetics, orthotics, and prosthetic devices; and (7) home health services.

Conference Agreement

The conference agreement includes the House E&C provision with an amendment. Under the agreement, the following services are included as designated health services: (1) clinical laboratory services; (2) physical therapy services; (3) occupational therapy services; (4) radiology or other diagnostic services; (5) radiation therapy services; (6) durable medical equipment; (7) parenteral and enteral nutrients, equipment, and supplies; (8) prosthetics, orthotics, and prosthetic devices; (9) home health services; (10) outpatient prescription drugs; and (11) inpatient and outpatient hospital services.

6. Exceptions For Both Ownership and Compensation Arrangements (Secs. 13523 and 5074(b) and (e) of the House bill; sec. 7304(b) and (e) of Senate amendment)

Present Law

(a) In-Office Ancillary Services.—There are a series of general exceptions to both the ownership and compensation provisions, including: (1) physicians' services provided by or under the personal supervision of a physician or another physician in the same group practice; and (2) in-office ancillary services. In-office ancillary services are defined as services furnished by the physician himself, another physician in the same group practice, or employees of the physician or the physician's group practice.

To be exempted from the referral ban, the services must be provided in a building in which the physician or other member of the group practice provides services unrelated to laboratory services, or in a central building set up by the group to perform ancillary services for its members. The services must be billed by the physician performing or supervising the services or by that physician's group, or by an entity owned by the physician or the physician's group practice. In addition, the ownership or compensation interests in such in-office ancillary services must meet other requirements that the Secretary may impose by regulation as needed to protect against patient fraud and abuse.

(b) Rural Provider Exception.—In addition to the general exceptions, the law includes specific exceptions from just the ownership prohibitions and specific exceptions from just the compensation provisions. The law includes an exception under the ownership prohibition for rural providers. Proposed implementing regulations contain provisions directed at preventing possible abuses of this exception.

(c) Shared Facility Laboratory Services.—Current law does not contain an exception for shared laboratory facilities.

House Bill

(a) In-Office Ancillary Services.—W&M: The exception for in-office ancillary services would apply to all designated health services other than durable medical equipment, parenteral and enteral nutrition equipment and supplies and ambulance services. Ancillary services provided by a group practice with multiple office locations would be exempted from the prohibition on referrals.

E&C: Similar to W&M except that the in-office ancillary exception would apply to all designated health services. In addition, the provision would delete the employment requirement from the in-office ancillary exception and add a direct supervision requirement.

(b) Rural Provider Exception.—W&M: Ownership and compensation arrangements relating to the provision of services in rural areas (as defined for purposes of Medicare's hospital prospective payment system) would be exempt from the ban on referrals if substantially all of the services furnished by the entity are furnished to individuals who reside in such a rural area.

E&C: Similar to W&M provision except requires all of the services provided to Medicare beneficiaries are provided to those in rural areas.

(c) Shared Facility Laboratory Services.—W&M: No provision.

E&C: The provision adds an exception for shared facility laboratory services that are furnished: (i) personally by the referring physician who is a shared facility physician, by an individual supervised by such physician, or by another shared facility physician and employed under the arrangement; (ii) by a shared facility in a building which the referring physician furnishes services unrelated to shared lab services; and (iii) to a patient of a shared facility physician. The services must be billed by the referring physician or by an entity wholly owned by the physician. The exception only applies if the facility and the arrangement were in effect as of June 26, 1992. The GAO would be required to study such arrangements and report to Congress by January 1, 1995.

Senate Amendment

(a) In-Office Ancillary Services.—Similar to W&M, except that the provision would delete the employment requirement from the in-office ancillary exception and add a direct supervision requirement.

(b) Rural Provider Exception.—Similar to W&M, except does not specify that entity must be in the rural area.

(c) Shared Facility Laboratory Services.—No provision.

Conference Agreement

(a) In-Office Ancillary Services.—The conference agreement includes the Senate amendment with an amendment. The provision would apply to all designated health services except durable medical equipment (excluding infusion pumps) and parenteral and enteral nutrients, equipment, and supplies.

The conference agreement includes an exception for clinical laboratory services provided by a group practice with multiple office locations. For all other designated health services the exception for group practices applies only if the services are provided in a centralized location. The conferees expect that the Secretary will publish regulations specifying such other terms and conditions under which group practices may qualify for a group practice exception to the general prohibition on referrals to an entity with which the referring physician has a financial relationship.

The conferees intend that the requirement for direct supervision by a physician would be met if the lab is in a physician's office which is personally supervised by a lab director, or a physician, even if the physician is not always on site.

The conference agreement modifies the existing general exception for prepaid plans by including federally qualified health maintenance organizations (as defined in section 1310(d) of the Public Health Service Act) in the list of entities meeting the definition.

(b) Rural Provider Exception.—The conference agreement includes the Senate provision with an amendment. The provision modifies the current ownership or investment exception to apply to designated health services furnished in a rural area (as defined for purposes of PPS) by an entity if substantially all the designated health services furnished by such entity are furnished to individuals residing in the rural area.

(c) Shared Facility Laboratory Services.—The conference agreement does not include the House E&C provision.

7. Exceptions Related Only to Ownership or Investment (Secs. 13524 and 5074(h) of the House bill; sec. 7304(g) of Senate amendment)

Present Law

There is a specific exception for ownership in publicly-traded securities which are listed for trading on the New York Stock Exchange or American Stock Exchange or operated by the National Association of Securities Dealers. This exception applies only if a corporation had total assets exceeding $100 million at the end of the corporation's most recent fiscal year.

House Bill

W&M: The current standard for asset determination under the publicly-traded securities exception would be modified to require that a corporation have stockholder equity in excess of $100 million.

E&C: The current standard for asset determination under the publicly-traded securities exception would be modified to require that a corporation have stockholder equity in excess of $75 million.

Senate Amendment

Similar to E&C provision.

Conference Agreement

The conference agreement includes the House E&C provision with an amendment. Under the agreement, ownership of investment securities which may be purchased on terms generally available to the public is not considered to be an ownership or investment interest, provided the following conditions are met. The securities are: (i) listed on the New York Stock Exchange, the American Stock Exchange, or regional exchange in which quotations are published on a daily basis, or (ii) foreign securities listed on a recognized foreign, national, or regional exchange in which quotations are published on a daily basis, or (iii) traded under an automated inter-dealer quotation system operated by the National Association of Securities Dealers. Further, the securities must be in a corporation that had at the end of the most recent fiscal year, or on average during the three previous fiscal years, stockholder equity exceeding $75 million. The exception also applies to ownership of shares in a regulated investment company provided the company has assets meeting similar requirements.

8. Exceptions Related Only to Compensation Arrangements (Secs. 13525 and 5074(c) and (d) of the House bill; sec. 7304(c) of Senate amendment)

Present Law

(a) Rental of Office Space.—The law includes specific exceptions for the rental of office space. There must be a written agreement, signed by the parties, for the rental or lease of the space which: (1) specifies the space covered by the agreement; (2) provides for a term of rental or lease of at least one year; (3) provides for payment on a periodic basis of an amount consistent with fair market value; (4) provides for an amount of aggregate payments that does not vary directly or indirectly based on the volume or value of any referrals between the parties; and (5) would be considered to be commercially reasonable even if no referrals were made between the two parties.

(b) Rental of Equipment.—There is no exception for the rental of equipment.

(c) Employment Arrangements With Hospitals.—There is a specific exception for employment arrangements between hospitals and physicians.

(d) Personal Service Arrangements.—There are a series of exceptions for other service arrangements, including: (1) services as a medical director; (2) services to an individual receiving hospice care; (3) services furnished to a nonprofit blood center; and (4) administrative services.

(e) Services Under Arrangements.—Some group practices operate full-service laboratories and contract with hospitals and other providers to furnish clinical laboratory services to hospital and other provider patients "under arrangements" with such entities. Medicare requires that the hospital or other provider bill for such services. These "under arrangements" services are not protected under the general exception for in-office ancillary services.

(f) Physician Recruitment.—There is a specific exception in the case of remuneration which is provided by a hospital to a physician to induce the physician to relocate.

(g) Isolated Transactions.—There is a specific exception in the case of an isolated financial transaction, such as a one-time sale of property.

(h) Payments by a Physician.—No provision.

House Bill

(a) Rental of Office Space.—W&M: The exception for the rental of office space would be clarified to apply for the use of premises if: (i) the lease is set out in writing, signed by the parties and specifies the premises covered by the lease; (ii) the aggregate space rented or leased does not exceed that which is reasonable and necessary for the legitimate business purpose of the rental and is used exclusively by the lessee when being used by the lessee; (iii) the term of the lease is at least one year; (iv) the aggregate rental charges are set in advance, are consistent with fair market value, and are not determined in a manner that takes into account the volume or value of any referrals or other business generated between the two parties; (v) the lease would be commercially reasonable even if no referrals were made between the parties; (vi) the lease covers all of the premises leased between the parties for the period of the lease; and (vii) the compensation arrangement meets such other requirements as the Secretary may impose to protect against program or patient abuse.

E&C: Identical to W&M provision, except deletes the word aggregate in subparagraph (iv) and deletes "does not exceed that which" in paragraph (ii).

(b) Rental of Equipment.—W&M: An exception for the leasing of equipment would be added. The requirements for the lease of equipment are the same as those applicable to the lease of premises, except that items (ii), (iv) and (vi) above relate to the equipment rented or leased (rather than the aggregate space or premises).

E&C: Identical to W&M provision except deletes the word aggregate in subparagraph (iv) and deletes "does not exceed that which" in paragraph (ii).

(c) Employment Arrangements With Hospitals.—W&M: The exception for employment and service arrangements with hospitals would be broadened to include any amounts paid by any employer (including providers other than hospitals) to a physician (or immediate family member) with a bona fide employment relationship for the provision of services. The provision would also modify the standards to allow a physician to be paid shares of overall profits or a productivity bonus based on services performed personally by the physician or family member, if the amount of the remuneration is not determined in a manner that takes into account directly the volume or value of any referrals by a referring physician. The standards for the exception relating to employment and service arrangements between physicians and hospitals under current law also would apply to this broader provision.

E&C: Identical to W&M provision.

(d) Personal Service Arrangements.—W&M: The provision would replace the current language with an exception for payments from an entity under a personal service arrangement if: (i) the arrangement is set out in writing, specifies the services covered by the arrangement, and is signed by the parties; (ii) the arrangement covers all of the services to be provided by the physician or family member to the entity; (iii) the term of the arrangement is for not less than one year; (iv) the aggregate services contracted for do not exceed those that are reasonable and necessary for the legitimate business purposes of the arrangement; (v) the compensation to be paid over the term of the arrangement is set in advance, does not exceed fair market value and is not determined in a manner that takes into account (directly or indirectly) the volume or value of any referral or business generated between the parties; (vi) the services performed under the arrangement do not involve the counseling or promotion of a business arrangement or other activity that violates any State or Federal law; and (vii) the arrangement meets such other requirements as the Secretary may impose to protect against program or patient abuse.

E&C: Identical to W&M provision except that the provision (i) retains the current law exception for "other service arrangements," (ii) eliminates the reference to physician or family member in item (ii), and (iii) eliminates reference to directly or indirectly in item (v). In addition, the provision provides an exception for payments for pathology services of a group practice.

(e) Services Under Arrangements.—W&M: An exception would be provided for health services provided by a group practice billed in the name of a hospital if the arrangement is pursuant to the provision of inpatient hospital services and if the arrangement began prior to December 19, 1989, and meets standards similar to those provided for payments for health services of a group practice.

E&C: Similar to W&M provision, except amends definition of group practice rather than adding a new exception.

(f) Physician Recruitment.—W&M: The standards in the current exception relating to physician recruitment would be expanded to include the requirement that the arrangement be set out in writing and signed by the parties, and that it specify the benefits provided by the hospital, the terms under which the benefits are to be provided, and the obligations of the parties.

E&C: No provision.

(g) Isolated Transaction.—W&M: The exception would be clarified to refer to a one-time financial transaction, such as a one-time sale of property or practice.

E&C: No provision.

(h) Payments by a Physician.—W&M: An exception would be provided for payments by a physician to an entity as compensation for an item or service, if the item or service is furnished at a price that is consistent with the fair market value.

An exception would be provided for payments by a physician to a clinical laboratory in exchange for the provision of clinical laboratory services.

E&C: Identical to W&M provision.

Senate Amendment

(a) Rental of Office Space.—Identical to E&C provision except deletes the word aggregate in subparagraph (ii). In addition, the provision adds the following language to subparagraph (ii) "except that the lessee may make payments for the use of space consisting of common areas, if such payments do not exceed the lessee's pro rata share of expenses for such space, based upon the ratio of the space used exclusively by the lessee to the total amount of space (other than common areas) occupied by all persons using such common areas."

(b) Rental of Equipment.—Identical to E&C provision.

(c) Employment Arrangements with Hospitals.—Similar to W&M provision, except: (i) refers to employment relationship; and (ii) revises exception to only allow payment of a productivity bonus based on services performed personally by the physician or immediate family member of the physician.

(d) Personal Service Arrangements.—Similar to E&C provision except does not include exception for pathology services of a group practice.

(e) Services Under Arrangements.—Identical to W&M provision.

(f) Physician Recruitment.—No provision.

(g) Isolated Transaction.—No provision.

(h) Payments by a Physician.—Identical to W&M provision, except specifies that clinical lab tests are diagnostic.

Conference Agreement

(a) Rental of Office Space.—The conference agreement includes the Senate amendment with an amendment striking item (vi) and modifying item (ii) to add the phrase "does not exceed that which" to the reasonable and necessary limitation.

(b) Rental of Equipment.—The conference agreement includes the Senate amendment with an amendment striking item (vi) and modifying item (ii) to add the phrase "does not exceed that which" to the reasonable and necessary limitation.

The conferees intend that charges for space and equipment leases may be based on daily, monthly, or other time-based rates, or rates based on units of service furnished, so long as the amount of the time-based or units of service rates does not fluctuate during the contract period based on the volume or value of referrals between the parties to the lease or arrangement.

(c) Employment Arrangements with Hospitals.—The conference agreement includes the Senate amendment.

(d) Personal Service Arrangements.—The conference agreement includes the Senate amendment with an amendment. It (1) does not retain the current law exception for other service arrangements; and (2) does not strike reference to physician or family member in item ii.

The conferees intend that this exception would apply to payments made by a nonprofit Medical Foundation under a contract with physicians to provide health care services and which conducts medical research. The requirement that the compensation be paid in advance is not intended to prohibit arrangements where entities pay physicians on a per service basis, as long as other requirements are satisfied.

The conference agreement adds an exception for physician incentive plans. A physician incentive plan is defined as a compensation arrangement between an entity and a physician or physician group that may directly or indirectly have the effect of reducing or limiting services provided with respect to individuals enrolled with the entity. To be eligible for an exception, the compensation may be determined in a manner (through a capitation, bonus, or otherwise) that takes into account directly or indirectly the volume or value of any referrals or other business generated between the parties provided the plan meets specified requirements. No specific payment may be made directly or indirectly under the plan to a physician or physician group as an inducement to reduce or limit medically necessary services provided to an enrollee of the entity. If the plan places the physician or physician group at substantial financial risk (as determined by the Secretary using rules developed for Medicare risk sharing contracts) it must comply with any requirements the Secretary may impose pursuant to that section. Further, the organization must provide the Secretary, on request, with access to descriptive information regarding the plan in order to permit the Secretary to determine whether the plan is in compliance with the requirements.

(e) Services Under Arrangements.—The conference agreement includes the House W&M provision with clarifying language specifying that with respect to designated health services provided under the arrangement, substantially all of such services furnished to patients of the hospital are furnished by the group under the arrangement.

(f) Physician Recruitment.—The conference agreement does not include the House W&M provision.

(g) Isolated Transactions.—The conference agreement includes the House W&M provision with an amendment. Under the provision, the current exception would be clarified to refer to a one-time sale of a practice as well as property.

(h) Payments by a Physician.—The conference agreement includes the House provision.

9. Civil Money Penalties (Sec. 13526 of the House bill)

Present Law

The law provides for civil monetary penalties and exclusion from the Medicare program for any person that presents or causes to be presented a bill or claim for a service in violation of the self-referral ban.

House Bill

W&M: The provision would clarify that a physician who makes a prohibited referral would also be subject to a civil monetary penalty.

E&C: No provision.

Senate Amendment

No provision.

Conference Agreement

The conference agreement does not include the House W&M provision.

10. Requirements for Group Practices (Secs. 13527 and 5074(d) of the House bill; sec. 7304(d) of Senate amendment)

Present Law

(a) Definition of a Group Practice.—The law contains a definition of group practice for purposes of the self-referral provision. Under this definition, a group practice is defined as a group of two or more physicians legally organized as partnership, professional corporation, foundation, not-for-profit corporation, faculty practice plan, or similar association in which: (1) each physician group member furnishes substantially the full range of his or her services through the joint use of office space, facilities, equipment, and personnel; (2) substantially all of the services of the physician group members are furnished through the group and billed in the name of the group, with billing receipts treated as receipts of the group; (3) the practice cost expenses and income generated by group members are distributed in accordance with predetermined methodologies; and (4) any additional standards established by the Secretary are met.

The definition of group practice does not specifically address the issue of part-time or independent contractor arrangements. Many group practices, particularly those in smaller communities, arrange for specialists, usually from other communities, to provide services for the group on a part-time basis, usually as independent contractors. Many of these specialists are either already members of another group practice, have their own practice, or have similar contractual arrangements with several group practices.

(b) Faculty Practice Plans.—Faculty practice plans operated by a hospital fall under the definition of group practice only for those services provided within the faculty practice plan.

House Bill

(a) Definition of a Group Practice.—W&M: The current standards used to define a group practice would be expanded. No physician who is a member of the group may receive compensation based on the volume or value of referrals by the physician except that: (i) a physician can be paid shares of overall profits of the group as long as the share is not determined in any manner which is directly related to the volume or value of referrals by that physician; and (ii) a physician can be paid a productivity bonus based on services personally performed or personally supervised by a physician or by another physician in the group so long as the bonus is not determined in any manner which is directly related to the volume or value of referrals by that physician. The group may have no less than, on average, five physicians for each office location, except where there is only a single office for the entire group practice. Members of the group would be required to personally conduct no less than 75 percent of the physician-patient encounters of the group practice.

For purposes of the standard, the term "office location" would be defined as an office where physician services are offered to patients. However, locations consisting solely of diagnostic facilities, nursing homes, treatment facilities (such as physical or occupational therapy centers), or administrative services affiliated with the group practice would not be included in the definition of office location. Any office location which is physically located immediately adjacent to another office location shall be treated as the same office location. Offices located in a rural area (outside MSAs) are not included as an office location as long as at least 85 percent of the physician services at those locations are provided to individuals who reside in such rural areas.

Groups would also be required to bill under a billing number assigned to the group.

E&C: The provision includes a billing provision similar to W&M provision.

(b) Faculty Practice Plans.—W&M: The definition of a faculty practice plan would be expanded to include faculty of an institution of higher learning or a medical school.

E&C: Identical to W&M provision.

Senate Amendment

(a) Definition of Group Practice.—Similar to W&M provision except: (i) clarifies that compensation received cannot be based directly or indirectly on the volume or value of referrals; and (ii) provides that groups of less than fifteen physicians would be allowed to have up to three office locations.

(b) Faculty Practice Plans.—Identical to W&M provision.

Conference Agreement

(a) Definition of Group Practice.—The conference agreement includes the House W&M provision except that the agreement does not specify the number of physicians for each office location nor define office location.

(b) Faculty Practice Plans.—The conference agreement includes the House W&M provision.

11. Preemption of State Law (Secs. 13528 of the House bill)

Present Law

No provision.

House Bill

W&M: The provision would provide that the Federal law would not preempt State laws that were more restrictive.

E&C: No provision.

Senate Amendment

No provision.

Conference Agreement

The conference provision does not include the House W&M provision.The Conferees intend that Federal law not preempt State laws that are more restrictive.

12. Miscellaneous Provisions (Secs. 13529 and 5074(c) and (g) of the House bill; sec. 7304(f) of Senate amendment)

Present Law

(a) Financial Relationship Specified.—A financial relationship is defined as including an ownership or investment interest in the entity or a compensation arrangement between the physician (or immediate family member) and the entity.

(b) Minor Remuneration.—The term "compensation arrangement" is defined as any arrangement involving any remuneration between a physician (or immediate family member) and an entity. The term remuneration includes any remuneration, directly or indirectly, overtly or covertly, in cash or in kind.

(c) Referring Physician.—A request by a pathologist for clinical diagnostic laboratory tests and pathological examination services, if such services are furnished by (or under the supervision of) such pathologist pursuant to a consultation requested by another physician does not constitute a "referral."

House Bill

(a) Financial Relationship Specified.—W&M: The definition of financial relationship would be modified to include explicitly that an interest in an entity (i.e., holding company) that holds an investment or ownership interest in another entity is a financial relationship for purposes of the referral prohibition.

E&C: No provision.

(b) Minor Remuneration.—W&M: An exception would be provided for certain minor remuneration, including: (i) the forgiveness of amounts for inaccurate or mistakenly performed tests or procedures, correction of minor billing errors; or (ii) the provision of items, devices, or supplies used solely to collect, transport, process, or store specimens or to communicate test results.

E&C: Similar to W&M provision, except strikes current law definition of remuneration.

(c) Referring Physician.—W&M: The provision would clarify that a request by a radiologist for diagnostic radiology services and a radiation oncologist for radiation therapy would not constitute a "referral" by a "referring physician."

E&C: Identical to W&M provision.

Senate Amendment

(a) Financial Relationship Specified.—No provision.

(b) Minor Remuneration.—Identical to W&M provision.

(c) Referring Physician.—Identical to W&M provision.

Conference Agreement

(a) Financial Relationship Specified.—The conference agreement includes the House W&M provision.

(b) Minor Remuneration.—The conference agreement includes the House W&M provision with an amendment. Included within the definition of remuneration are payments made by an insurer or a self-insured plan to a physician to satisfy a claim, submitted on a fee-for-service basis, for the furnishing of health services by that physician to an individual covered by a policy with the insurer or self-insured plan. In order to meet the definition, the following conditions must be met. The services may not be furnished and the payment may not be made pursuant to a contract or other arrangement between the insurer or the plan and the physician. The payment is made to the physician on behalf of the covered individual and would otherwise be made directly to the individual. The amount of the payment must be set in advance, not exceed fair market value, and not be determined in a manner that takes into account directly or indirectly the volume or value of any referrals. Further, the payment must meet such other requirements as the Secretary may impose by regulation to protect against patient or program abuse.

(c) Referring Physician.—The conference agreement includes the Senate amendment.

13. Effective Dates (Secs. 13530 and 5074(j) of the House bill; sec. 7304(i) of Senate amendment)

Present Law

No provision.

House Bill

W&M: The provisions would generally apply to referrals made on or after January 1, 1992, except expansions to additional services and additional payers would apply to referrals made on or after December 31, 1994. The following provisions apply to referrals made on or after December 31, 1994: (a) Section 13523(b) rural provider exception; (b) Section 13524(a) relating to publicly traded securities; (c) Section 13525(a) relating to the exception for office rental; (d) Section 13525(c)(1) relating to exception for personal services arrangements; (e) Section 13525(d) relating to physician recruitment; (f) Section 13526 relating to civil money penalty; (g) Section 13527 relating to requirement for group practices (other than that relating to faculty practice plans), (h) Section 12528 relating to nonpreemption; and (i) Section 13529(a) relating to indirect financial relationships.

E&C: Subsection (a) of section 5074 (extension to designated health services) would be effective December 31, 1994. All other subsections other than subsection (a) would be effective January 1, 1992. Section 5131 (Medicaid) applies to items and services furnished on or after October 1, 1993.

Senate Amendment

The provision would apply to referrals made on or after January 1, 1992, except that extension to additional designated health services would apply to physician referrals made after December 31, 1994. Extension to Medicaid (Section 7451) would be effective October 1, 1993.

Conference Agreement

The conference agreement includes the House W&M provision with an amendment. Under the agreement, the self-referral provisions apply to referrals for clinical lab services made on or after January 1, 1992. The provisions apply to referrals for other designated health services made on or after December 31, 1994. The provisions relating to physician incentive plans and additional requirements for group practice plans do not apply to referrals made before December 31, 1994. The following new subsections of Section 1877 do not apply to referrals made before December 31, 1994 (but the previous law continues to apply): (a)(2)—indirect financial relationship; (b)(2)(B)—billing numbers; (c)—publicly traded securities; (d)(2)—rural provider exception; and (e)(1)(A) exception for office rental.

14. Immunosuppressive Drug Therapy (Sec. 13552 of House bill)

Present Law

Medicare currently pays for immunosuppressive drug therapy for Medicare beneficiaries who have received organ transplants for one year following the date of the transplant procedure.

House Bill

W&M: Medicare coverage of immunosuppressive drug therapy would be extended as follows. Effective January 1, 1994, coverage would be extended to an 18-month period. Effective January 1, 1995, coverage would be extended to a 24-month period. Effective January 1, 1996, coverage would be extended to a 30-month period. Effective January 1, 1998, coverage would be extended to a 36-month period.

E&C: No provision.

Senate Amendment

No provision.

Conference Agreement

The conference agreement includes the House provision with an amendment to delay the phase-in of extended coverage. Effective January 1, 1995, coverage will be extended to an 18-month period. Effective January 1, 1996, coverage will be extended to a 24-month period. Effective January 1, 1997, coverage will be extended to a 30-month period. Effective January 1, 1998, coverage will be extended to a 36-month period.

15. Reduction in Payments for Erythropoietin (Sec. 13553 and 5075 of House bill; sec. 7305 of Senate amendment)

Present Law

Medicare is the principal purchaser of erythropoietin (EPO), an anti-anemia drug given to end-stage renal disease (ESRD) beneficiaries with a specified level of anemia. Payment for the drug is made as an add-on to the composite rate paid to facilities for dialysis treatment. Payments to facilities are made in increments of 1,000 unit doses, rounded to the nearest 100 units, with a maximum payment of $11 per 1,000 units.

For ESRD beneficiaries who are not treated through dialysis facilities, payment is made to physicians for drug costs in a variety of ways.

House Bill

W&M: Effective for services furnished on or after January 1, 1994, Medicare payments for EPO would be reduced by $1.00 per 1,000 units. The provision would not alter payments for EPO provided in a physician's office.

E&C: Identical provision.

Senate Amendment

Identical provision.

Conference Agreement

The conference agreement includes the Senate amendment with an amendment to permit all dialysis patients to self-administer EPO.

16. Qualified Medicare Beneficiary Outreach (Secs. 13554 and 5078 of House bill)

Present Law

The Medicare Catastrophic Coverage Act of 1988 required States to pay Medicare premiums, deductibles and coinsurance for "Qualified Medicare Beneficiaries" (QMBs). QMBs are those Medicare beneficiaries whose family incomes are below 100 percent of the Federal poverty level and whose assets are no more than twice the amount allowed under SSI.

OBRA 90 accelerated the phase-in schedule for QMB coverage, and required States to pay premiums for QMBs with incomes up to 110 percent of poverty by January 1, 1993, and to 120 percent of poverty by January 1, 1995. Less than half of eligible beneficiaries are currently participating in the QMB program.

House Bill

W&M: The Secretary would be required to establish and implement a method for obtaining information from newly eligible Medicare beneficiaries that may be used to determine eligibility for benefits under the QMB program.

E&C: Identical provision.

Senate Amendment

No provision.

Conference Agreement

The conference agreement does not include the House provision.

17. Extension of Social Health Maintenance Organization Demonstrations (SHMOs) (Secs. 13555 and 5079 of House bill)

Present Law

The Deficit Reduction Act of 1984 required the Secretary to grant three-year waivers for demonstrations of social health maintenance organizations (SHMOs). These demonstrations provide integrated health and long-term care services on a prepaid capitated basis. OBRA 87 required the Secretary to extend the waivers for SHMOs through September 30, 1992. OBRA 90 extended the waivers through December 31, 1995 and required the Secretary to add up to four additional sites. It also authorized $3.5 million for technical assistance and evaluation.

House Bill

W&M: The SHMO demonstrations would be extended for an additional 2 years, and the Secretary could not impose a limit of less than 12,000 beneficiaries per site. In addition, one of the SHMO demonstration sites would be permitted to enroll Medicare end-stage renal disease (ESRD) beneficiaries.

E&C: Identical provision.

Senate Amendment

No provision.

Conference Agreement

The conference agreement includes the House provision.

18. Hospice Notification to Home Health Beneficiaries (Secs. 13559 and 5081 of House bill)

Present Law

Medicare beneficiaries who are certified as terminally ill by a physician may elect to receive hospice benefits in lieu of other Medicare covered services. Home health agencies are required to meet Medicare conditions of participation in order to receive reimbursement for treatment of Medicare beneficiaries.

House Bill

W&M: Home health agencies would be required to inform beneficiaries of the hospice benefit under Medicare, if a Medicare participating hospice is located in the geographic area or it is common medical practice to refer patients to hospices out of the area. As a condition of participation in Medicare, home health agencies would be required to provide the information in advance of the patient's coming under care of the agency. This provision would apply to services furnished on or after the first day of the first month beginning more than one year after the date of enactment.

E&C: Identical provision.

Senate Amendment

No provision.

Conference Agreement

The conference agreement does not include the House provision.

19. Interest Payments (Secs. 13557 and 5068 of the House bill)

Present Law

The Social Security Act requires the payment of interest if payment is not made within 24 days of receipt of a clean claim for payment, and within 17 days in the case of a clean claim from a participating physician.

House Bill

W&M: Interest payments would be made on clean claims if payment is not made within 30 days of receipt for fiscal year 1993.

E&C: The provision would provide for a maximum of 27 calendar days for the payment of clean paper claims and prohibits any interest payment for claims during any period for which no payment may be issued, mailed or otherwise transmitted.

Senate Amendment

No provision.

Conference Agreement

The conference agreement establishes new standards for payment of Medicare claims. Effective with claims received on or after October 1, 1993, no payment shall be made for claims submitted electronically within 13 days after receipt, and for all other claims within 26 days after receipt. Contractors would be required to pay 95 percent of clean claims within 30 calendar days for claims received in the 12-month period beginning October 1, 1993, and any succeeding 12-month period. Interest payments would be made on clean claims if payment is not made within 30 days of receipt .

20. Peer Review Organizations (Secs. 13558 and 5080 of House bill)

Present Law

(a) Peer Review Organizations.—OBRA 90 required Peer Review Organizations (PROs) to provide notice to State licensing entities when a physician is found to have furnished services in violation of Section 1154(a) of the Social Security Act. This subsection includes requirements that PROs review the quality of medical care and determine whether certain services are covered by Medicare. As drafted, OBRA 90 requires PROs to notify State boards in the case of a variety of administrative findings, as well as in the case of a problem regarding quality of care.

(b) Repeal of PRO Precertification Requirement.—Under current law, PROs are required to precertify selected surgical procedures.

House Bill

(a) Peer Review Organizations.—W&M: The requirement that PROs notify State boards regarding administrative matters would be eliminated, but PROs would continue to be required to notify them in cases of unnecessary or poor quality care. In addition, drafting errors in OBRA 90 would be corrected.

E&C: Identical provision.

(b) Repeal of PRO precertification requirement.—W&M: The requirement that PROs precertify selected surgical procedures would be repealed.

E&C: Identical provision.

Senate Amendment

(a) Peer Review Organizations.—No provision.

(b) Repeal of PRO precertification requirement.—No provision.

Conference Agreement

(a) Peer Review Organizations.—The conference agreement does not include the House provision.

(b) Repeal of PRO precertification requirement.—The conference agreement does not include the House provision.

21. Health Maintenance Organizations (Secs. 13559 and 5082 of House bill)

Present Law

OBRA 90 required the Secretary to submit a provision to the Congress by January 1, 1992, providing for a more accurate method for HMOs paid on a risk basis. The Secretary was required to publish a proposed rule by March 1, 1992. The Comptroller General was required to review and report to the Congress by May 1, 1992, on recommendations to modify the proposed methodology. OBRA 90 also contained a number of minor and technical drafting errors.

House Bill

W&M: The Secretary would be required to revise the payment methodology for HMOs for contract years beginning with 1994 to take into account variation in costs associated with beneficiaries for whom Medicare is the secondary payer. The Secretary would be further required to submit a proposal to the Congress by October 1, 1993, that provides for revisions to the payment methodology for contract years beginning with 1995. In proposing the revisions, the Secretary would be required to consider (1) the difference in costs associated with beneficiaries with different health status and (2) the effects of using alternative geographic classifications. The Comptroller General would be required to report to the Congress on the proposed revisions no later than three months after the Secretary's proposal was submitted. The provision also includes technical corrections to OBRA 90.

E&C: Similar provision, except that the Secretary's proposal for revisions in the payment methodology would be due January 1, 1995, and would apply for contract years beginning with 1996.

Senate Amendment

No provision.

Conference Agreement

The conference agreement does not include either House provision.

22. Medicare Administration Budget Process (Sec. 13560 of House bill)

Present Law

The Balanced Budget and Emergency Deficit Control Act of 1985 provides for certain adjustments to the discretionary spending limits provided in the Act. There are no adjustments relating to the discretionary spending under the Medicare program.

House Bill

W&M: The Balanced Budget and Emergency Deficit Control Act of 1985 would be amended to provide that to the extent that appropriations are enacted that provide budget authority above a base level of spending in fiscal year 1992 of $1.526 billion, the appropriate discretionary spending limits would be adjusted to accommodate additional budget authority in fiscal years 1994 and 1995. The adjustments would be cumulative and would equal $198 million in fiscal year 1994, and $220 million in fiscal year 1995.

E&C: No provision.

Senate Amendment

No provision.

Conference Agreement

The conference agreement does not include the House provision.

23. Medicare Hospital Agreements with Organ Procurement Organizations (Sec. 5076 of the House bill)

Present Law

Current law provides for Medicare payment of organ procurement costs incurred by designated organ procurement organizations (OPOs). OPOs are required to have agreements with hospitals to facilitate the identification of organ donors and to retrieve donated organs. Hospitals are required to notify OPOs of any potential organ donors.

House Bill

W&M: No provision.

E&C: The provision would require hospitals to enter into agreements with the OPO designated by the Secretary for the geographic area in which the hospital is located.

Senate Amendment

No provision.

Conference Agreement

The conference agreement does not include the House provision.

24. Extension of Waiver for Watts Health Foundation (Sec. 5077 of the House bill)

Present Law

The Watts Health Foundation has a waiver under Medicare from the requirement that no more than half of its enrollees can be Medicare or Medicaid beneficiaries. This waiver expires December 31, 1994.

House Bill

W&M: No provision.

E&C: The provision would extend for two years the waiver under the Medicare program for the Watts Health Foundation.

Senate Amendment

No provision.

Conference Agreement

The conference agreement includes the House provision.

25. Other Provisions Relating to Parts A and B of the Medicare Program (Secs. 13561 and 5083 of the House bill)

Present Law

(a) Survey and Certification Requirements.—The Secretary is prohibited from imposing user fees on facilities for determining compliance with any requirement of Medicare. Current law could be interpreted to mean that user fees imposed pursuant to the Clinical Laboratory Improvement Act (CLIA) are prohibited. In addition, there are minor drafting errors regarding the survey and certification process.

(b) Other Technical Amendments.—No provision.

House Bill

(a) Survey and Certification Requirements.—W&M: The provision would clarify that user fees imposed under the Clinical Laboratory Improvement Act are not subject to the general ban on user fees.

Minor and technical errors relating to a home dialysis demonstration program authorized under OBRA 90 and Medicare secondary payer requirements in OBRA 90 would be corrected.

E&C: Identical provisions.

(b) Other Technical Amendments.—A number of minor technical amendments relating to Parts A and B of the Medicare program would be made. In addition, the provision would correct minor and technical errors in Sections 4201 through 4207 of OBRA 90.

E&C: Identical provisions.

Senate Amendment

(a) Survey and Certification Requirements.—No provision.

(b) Other Technical Amendments.—No provision.

Conference Agreement

(a) Survey and Certification Requirements.—The conference agreement does not include the House provision.

(b) Other Technical Amendments.—The conference agreement does not include the House provision.

26. Standards for Medicare Supplemental Insurance Policies (Secs. 13571 and 5091 of the House bill)

Present Law

(a) Preventing Duplication.—The OBRA 90 amendments strengthen prohibitions against the sale of duplicative coverage to Medicare beneficiaries. The sale of a Medigap policy to an individual already covered under a Medigap policy is prohibited, as is, in general, the sale of a Medigap policy to a Medicaid beneficiary. Insurers are required to obtain written information from applicants regarding existing health insurance coverage.

The language also appears to prohibit the sale of any health benefits that duplicate any health coverage (including Medicare) to which a Medicare beneficiary is entitled.

(b) Loss Ratios and Refund of Premiums.—The OBRA 90 amendments increased the minimum loss ratio standard for individual Medigap insurance policies from 60 percent to 65 percent. The standard is 75 percent for group policies. Policy issuers are required to provide a refund or credit against future premiums if needed to meet the loss ratio requirements.

(c) Pre-existing Condition Limitations.—The OBRA 90 amendments prohibit medical underwriting and certain other practices with respect to Medicare supplemental insurance policies for which an individual age 65 or older applies during the six month period beginning with the first month during which the individual is first enrolled for benefits under part B.

(d) Other Miscellaneous and Technical Corrections.—The conference report to accompany OBRA 90 states the intent of the conferees that the National Association of Insurance Commissioners, in promulgating changes to the Model Medigap Regulations to conform with Federal requirements, would delete from section 12(C) all that follows "unless", which is an exception to limitations on certain sales commissions. The OBRA 90 amendments also include a number of minor and technical drafting errors.

House Bill

(a) Preventing Duplication.—W&M: This provision would continue the current law prohibition on the sale of duplicative health insurance policies subject to the conditions described in the following paragraph. The provision would clarify that it is unlawful to sell or issue to an individual entitled to benefits under Part A or enrolled under Part B: (i) a health insurance policy with knowledge that such policy duplicates health benefits to which such an individual is otherwise entitled under Medicare or Medicaid; (ii) a Medigap policy with knowledge that the individual is entitled to benefits under another Medigap policy; and, (iii) a health insurance policy, other than a Medigap policy, with knowledge that such policy duplicates health benefits to which the individual is otherwise entitled.

Penalties would not apply, however, to the sale or issuance of a policy or plan that duplicates health benefits under Medicare or Medicaid or a policy or plan that duplicates health benefits to which the individual is otherwise entitled if, under the policy or plan, all benefits are fully payable directly to or on behalf of the individual without regard to other health benefit coverage of the individual. In addition, for the penalty to be waived in the case of the sale or issuance of a policy or plan that duplicates benefits under Medicare or Medicaid, the application for the policy must include a statement, prominently displayed, disclosing the extent to which benefits payable under the policy or plan duplicate Medicare benefits.

Policies that would be subject to the disclosure requirement include, but are not limited to: specific disease policies, hospital confinement indemnity policies, long term care policies, policies that provide fixed indemnity benefits for nursing home care, nursing services in the home or for home care, and policies that provide fixed indemnity benefits for any medical or surgical service or treatment.

The new provisions pertaining to non-duplication would not alter in any way the current law prohibition on the sale of a Medigap policy to a Medicaid beneficiary.

E&C: Identical provision.

(b) Loss Ratios and Refund of Premiums.—W&M: The provision would clarify that the OBRA 90 loss ratio standard would apply to policies sold or renewed after the effective date of the provision. With respect to a refund or credit for policies issued prior to the effective date of the provision, the calculation would be based on aggregate benefits provided and premiums collected for all policies issued by an insurer in a state and based only on aggregate benefits provided and premiums collected under the policies after the effective date. Other minor and technical drafting errors would be corrected.

E&C: Identical provision.

(c) Pre-existing Condition Limitations.—W&M: The provision would clarify the intent of OBRA 90 that, in the case of individuals enrolled in part B prior to age 65, Medigap insurers are required to offer coverage, regardless of medical history, for a six-month period when the individual reaches age 65. The provision would also clarify that insurers are prohibited from discriminating in the price of policies for such an individual, based upon the medical or health status of the policyholder.

E&C: Identical provision.

(d) Other Miscellaneous and Technical Corrections.—The effective dates for various provisions would be modified. Other minor and technical drafting errors would be corrected.

E&C: Identical provision.

Senate Amendment

(a) Preventing Duplication.—No provision.

(b) Loss Ratios and Refund of Premiums.—No provision.

(c) Pre-existing Condition Limitations.—No provision.

(d) Other Miscellaneous and Technical Corrections.—No provision.

Conference Agreement

(a) Preventing Duplication.—The conference agreement does not include the House provision.

(b) Loss Ratios and Refund of Premiums.—The conference agreement does not include the House provision.

(c) Pre-existing Condition Limitations.—The conference agreement does not include the House provision.

(d) Other Miscellaneous and Technical Corrections.—The conference agreement does not include the House provision.

CHAPTER 4

AMENDMENTS RELATING TO THE PART B PREMIUM

1. Part B Premium (Secs. 13481 and 5051 of the House bill; sec. 7251 of the Senate amendment)

Present Law

From 1984 through 1990 the Part B premium was set to cover 25 percent of program costs for aged beneficiaries. The remaining 75 percent was covered by general revenues. OBRA 90 established the monthly Part B premium in statute through 1995 to cover 25 percent of program costs as follows: $29.90 in 1991, $31.80 in 1992, $36.60 in 1993, $41.10 in 1994 and $46.10 in 1995. In 1996, the method for calculating the premium will revert to the formula used prior to 1984, so that the Part B premium increases will be limited by the percentage by which cash benefits were increased in the previous year under the COLA provisions of the Social Security program.

A special provision applies to low-income persons who have their premiums deducted from their Social Security checks. If the Social Security COLA is less than the premium increase, the premium increase otherwise applicable is reduced to prevent a reduction in the individual's Social Security check.

House Bill

W&M: The Part B premium would cover 25 percent of program costs in 1996 and 1997. In subsequent years, the Part B premium would increase by the percentage by which cash benefits are increased under the COLA provisions of the Social Security program.

E&C: Identical provision.

Senate Amendment

Similar provision, except extends the 25 percent policy for three years—1996–1998.

Conference Agreement

The conference agreement includes the Senate amendment.

CHAPTER 5

MEDICARE AND MEDICAID COVERAGE DATA BANK

Present Law

No Medicare and Medicaid Coverage Data Bank exists under present law. OBRA 89 authorized the establishment of a database to identify working Medicare beneficiaries and their spouses to improve identification of cases in which Medicare is secondary payer to other third party payers.

House Bill

W&M: No provision.

E&C: The House bill directs the Secretary of Health and Human Services to establish and operate a Health Coverage Clearinghouse for the purpose of identifying indemnity insurers, service benefit plans, group health plans under the Employee Retirement Income Security Act of 1974, as amended (ERISA), health maintenance organizations, and other third parties that may be liable for payment for services provided to Medicaid, Medicare, or Indian Health Service beneficiaries (or individuals receiving services funded under the Maternal and Child Health Block Grant). The House bill directs the Administrator of the Health Care Financing Administration and State agencies to request information from the clearinghouse concerning the employment and group health coverage of a beneficiary, the beneficiary's spouse, or, if the beneficiary is a dependent child, the beneficiary's parents. The House bill requires IRS and the Social Security Administration to provide taxpayer identity information on these individuals. The House bill sets forth procedures under which programs may obtain this information from the clearinghouse as well as procedures for the maintenance of a data bank by the clearinghouse. The House bill also directs employers to provide information relating to coverage of individuals under the employer's group health plan to the clearinghouse and provides a civil monetary penalty for willful and repeated failure to comply. The provision is effective on April 1, 1995. Employers are not required to provide information to the clearinghouse after September 30, 1998.

Senate Amendment

Section 7904 of the Senate amendment directs the Secretary of Health and Human Services to establish and operate a clearinghouse to increase information available to Medicare and Medicaid on third-party health insurance coverage available to program beneficiaries. Section 7904 of the Senate amendment requires employers to include limited health insurance information on each Form W-2 given to an employee, as well as on each copy that is provided to the IRS. The Senate amendment specifically requires employers to indicate on each Form W-2 whether an employee obtained (or could have obtained) coverage under a group health plan offered by the employer, as well as the type of plan coverage (single or family) that was chosen by the employee (if any.) These requirements are made a part of the Internal Revenue Code.

The clearinghouse is given access to the following information from every Form W-2 that is filed with the IRS: the name and taxpayer identification number of every employee; the name, address, and employer identification number of every employee's employer; and the health plan information described above. In addition, the IRS is required (upon request) to disclose to the clearinghouse a taxpayer's filing status and identify information as to whether the taxpayer was married for a specified year, and, if so, the name and taxpayer identification number of the spouse.

This information is available to appropriate Federal program administrators through the clearinghouse. The clearinghouse is to maintain a data bank that matches the tax return information with the lists of health program beneficiaries. The clearinghouse also is authorized to assist these programs in collecting amounts due from insurers and is to maintain information obtained through computer matches and contacts with employers. Employers who fail to provide information on health insurance coverage are subject to civil monetary penalties. The provision is effective April 1, 1995.

Section 12101 of the Senate amendment is generally the same as the House bill, except that the beneficiaries affected differ and the list of agencies eligible to receive the information is expanded.

Conference Agreement

The conference agreement establishes a Medicare and Medicaid Coverage Data Bank within the Department of Health and Human Services. The Secretary is required to establish the Data Bank for the purposes of identifying and collecting from third parties responsible for payment of health care items and services furnished to Medicare beneficiaries, and assisting in the collection of, or collecting, amounts due from liable third parties to reimburse costs incurred by any State plan under the Medicaid program.

Employers are required to report certain information to the Data Bank concerning employee health coverage on an annual basis for years beginning with calendar year 1994 and ending in calendar year 1997. The information, reported will include: the name and taxpayer identification number (TIN) of the electing individual; the type of group health plan coverage (single or family) elected; the name, address, and identifying number of the group health plan elected by the employee; the name and TIN of each other individual (e.g., spouses and dependents) covered under the group health plan; the period during which such coverage is elected; and the name, address, and TIN of the employer.

All employers required to file a Form W-2, with employees that elect coverage under a group health plan, will report health coverage information to the Data Bank at the same time as the filing of Form W-2 required under section 6051(d) of the Internal Revenue Code of 1986. The first filing will occur on February 28, 1995. The conferees expect the Secretary to minimize the burden of this reporting requirement and coordinate, to the maximum extent possible, with the format and filing procedures established for the Form W-2.

The Data Bank will maintain health insurance information on individuals covered under employer group health plans, as required under this section, as well as certain information to verify the employment status of Medicare beneficiaries and their spouses pursuant to section 6103(l)(12) of the Internal Revenue Code of 1986. The Secretary is authorized to disclose information provided to the Data Bank by employers to State Medicaid agencies, employers, and group health plans solely for carrying out the purposes of the Data Bank. Information that the Data Bank receives pursuant to section 6103(l)(12) can only be disclosed in the manner provided in section 6103.

The Secretary is required to maintain a system of safeguards against unauthorized disclosure of Data Bank information that are similar to those provided under sections 6103(a) and (p) of the Internal Revenue Code of 1986 regarding the confidentiality and recordkeeping procedures required with respect to tax return information, including penalties as prescribed under Section 7213 (a) of such Code. The conferees intend that in establishing such procedures, the Secretary is authorized to require any party receiving Data Bank information to agree to ensure the confidentiality of this information.

Employers failing to report the required information to the Data Bank generally will be subject to penalties similar to those imposed under the Internal Revenue Code for failure to supply information returns. Such penalties may be abated if the failure to file is due to reasonable cause; penalties may be increased if the failure is willful.

The Secretary is authorized, at the request of the administrator of any State agency administering the Medicaid program, to collect or assist in the collection of amounts due from liable third parties to reimburse costs incurred by such program or plan for health care items or services. States are required to request and use information from the Data Bank, when cost effective, and to pay the required fee for the provision of information. The fee for providing collection services may be computed as a percentage of the amount collected and may be retained by the Secretary from the total amount collected.

SUBCHAPTER B

MEDICAID PROVISIONS

Part I—Services

Personal Care Services (Section 13601).—Repeals current law mandate for coverage of personal care services. Allows States to cover personal care services furnished outside the home, effective October 1, 1994.

Drug Rebate Program Modifications (Section 13602).—Permits States to operate prescription drug formularies meeting certain requirements. Removes current law prohibition on the imposition of prior authorization controls with respect to new drugs during the first 6 months following FDA approval. Repeals the weighted average manufacturer price (WAMP) inflation formula for calculating the additional rebate under current law. Effective October 1, 1993. The conference agreement does not contain a specific administrative or judicial appeal requirement. The conferees intend to preserve any appeal rights that are available to beneficiaries and providers (including drug manufacturers) under State and Federal law.

Optional Coverage of TB-Related Services (Section 13603).—Allows States to cover prescribed drugs, directly observed therapy, and other ambulatory services for low-income individuals infected with tuberculosis. Effective January 1, 1994. The House bill would have provided coverage for persons who "test positively" for TB infection. Because of concern about both false positive and false negative test results, the Conferees modified the House provision to include all low-income persons who are "infected with" TB rather than relying on these test results. The conferees have further specified that TB-related services include confirmatory tests for the infection. The conferees are aware that traditional TB tests and diagnostic methods are of questionable value, particularly among persons with low immune function. Because of the seriousness of the emerging TB epidemic, the conferees intend that eligibility be interpreted as broadly as possible in this area in order to allow the maximum number of TB-infected persons to receive services.

Bona Fide Emergency Services for Undocumented Aliens (Section 13604).—Clarifies that emergency services for which Federal Medicaid matching funds are available with respect to illegal aliens under current law do not include care and services related to organ transplant procedures. Effective for services furnished on or after date of enactment.

Coverage of Nurse Midwife Services (Section 13605).—Expands the scope of nurse midwife services required under current law to include services that midwives are authorized to perform under State law that are outside the maternity cycle. Effective October 1, 1993.

Treatment of Certain Clinics as FQHCs (Section 13606).—Designates entities treated as comprehensive Federally funded health centers as of January 1, 1990, as Federally qualified health centers for purposes of Medicaid. Effective July 1, 1993.

Part II—Eligibility

Transfers of Assets; Treatment of Certain Trusts (Section 13611).—Provides for a delay in Medicaid eligibility for institutionalized individuals (or their spouses) who dispose of assets for less than fair market value on or after a specified look-back date (36 months prior to either the date of application for benefits or the date of institutionalization, whichever is later). The number of months of delay in eligibility is equal to the total, cumulative uncompensated value of all assets transferred or after the look-back date, divided by the average monthly cost to a private patient of nursing facilities in the State. The period of delay begins with the first month during which the assets were disposed of. Penalties are not applied to transfers to spouses, transfers to minor or disabled children, or transfers to trusts solely for the benefit of disabled individuals under 65. Effective with respect to assets disposed of on or after enactment.

Sets forth rules under which funds and other assets of an individual placed in trust by or on behalf of an individual (or the individual's spouse) are treated, for purposes of Medicaid eligibility, as resources available to the individual, and under which payments from the trust are to be considered assets disposed of by the individual. Specifies that, for purposes of applying transfer of assets prohibitions, the look-back period with respect to trusts in 60 months. Provides exceptions for trusts containing the assets of a disabled individual under 65, specified income trusts in certain States, and "pooled" trusts for disabled individuals. Requires States to establish procedures for waiving the application of these rules in cases of undue hardship. Effective with respect to trusts established on or after the date of enactment.

The Conference agreement does not include section 7422(c) of the Senate amendment relating to financial screening by nursing facilities. The conferees have been informed that a point of order could be raised in the Senate, under the so-called "Byrd rule" (section 313 of the Congressional Budget Act of 1974) to the substance of this provision if included in the conference agreement. In order to avoid such a possible point of order, and because the conferees believe that the provision does nothing more than restate authority the Secretary has under current law, the provision has not been included. This provision would have made explicit a prohibition on discrimination in admission to nursing facilities through the use of financial screening. The conferees believe that the existing provisions of titles XVIII and XIX gives broad authority to the Secretary to implement such a prohibition to the degree necessary to protect applicants' rights to receive freely, or apply for, Medicare and Medicaid benefits. Absent some limit on financial screening, the purpose of the existing statutory protections would be circumvented because nursing home could effectively condition admission on financial information which indicates whether and when individuals are likely to receive or apply for Medicare or Medicaid benefits. Since this practice clearly violates these existing statutory rights, the Secretary may restrict financial screening in order to properly administer the existing statutory provisions assuring those rights.

Medicaid Estate Recoveries (Section 13612).—Requires States to recover the costs of nursing facility and other long-term care services furnished to Medicaid beneficiaries from the estate of such beneficiaries. Further requires States to establish hardship procedures for waiver of recovery in cases where undue hardship procedures for waiver of recovery in cases where undue hardship would result. At the option of the State, the estate against such recovery is sought may include any real or personal property or other assets in which the beneficiary had any legal title or interest at the time of death, including the home. Different estate recovery provisions apply to certain individuals who purchase specified long-term care insurance policies in designated States. Effective October 1, 1993.

Part III—Payments

Assuring Proper Payments to Disproportionate Share Hospitals (Section 13621).—Prohibits designation of a hospital as a disproportionate share hospital for purposes of Medicaid reimbursement unless the hospital has a Medicaid inpatient utilization rate of at least one percent. Limits disproportionate share hospital (DSH) payment adjustments to no more than the costs of providing inpatient and outpatient services to Medicaid and uninsured patients, less payments received from Medicaid (other than DSH payment adjustments) and uninsured patients. Applies to public hospitals in State fiscal years beginning in 1994. Provides for transition rules for high-volume public DSH hospitals (meeting a high volume test or with a Medicaid inpatient utilization rate of one standard deviation above the mean for the State) during the State fiscal year beginning in 1994. During this transition year, a hospital may receive DSH payments in an amount up to 200 percent of costs of providing services to Medicaid and uninsured patients (net of non-DSH Medicaid revenues), so long as the Governor certifies to the Secretary that the payments in excess of 100 percent of the costs are used for health services. Applies to private hospitals in State fiscal years beginning in 1995, subject to such modifications in the manner in which the payment limitations are applied as the Secretary considers appropriate.

Liability of Third Parties to Pay for Care and Services (Section 13622).—Requires States to enact laws prohibiting insurers (including group health plans under ERISA, service benefit plans, and HMOs) from taking Medicaid status into account in enrollment or payment for benefits, and to enact laws giving the State rights to payments by liable third parties. Effective October 1, 1993.

Medicaid Child Support Enforcement Improvements (Section 13623).—Requires States to have in effect specified laws to ensure the compliance of insurers and employers in carrying out a court or administrative order for medical child support. Effective April 1, 1994.

Application of Medicare Rules Limiting Certain Physician Referrals (Section 13624).—Applies the Medicare rules regarding limitations on physician ownership and referrals (set forth in section 13562) to the Medicaid program. Effective December 1994.

State Medicaid Fraud Control (Section 13625).—Requires States to operate effective Medicaid fraud control units, meeting requirements established by the Secretary, unless the State demonstrates that effective operation of a unit would not be cost-effective and that, in the absence of a unit, beneficiaries will be protected from abuse and neglect. Effective January 1, 1995.

Part V—Miscellaneous

Increased Federal Payments to Puerto Rico and Other Territories (Section 13641).—Provides for increases in current law limits on Federal matching payments for Medicaid programs in Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa. Effective in fiscal year 1994. In subsequent years, the new limits are adjusted for inflation.

Extension of Moratorium on Treatment of Certain Facilities as Institutions for Mental Diseases (Section 13642).—Extends through December 31, 1995, the classification of certain facilities as institutions for mental diseases (IMDs) for purposes of Medicaid reimbursement. Effective upon enactment.

Extension of Certain Demonstration Projects (Section 13643).—Extends funding periods for demonstration projects authorized under OBRA 89 concerning low-income pregnant women, and projects authorized under OBRA 90 concerning low-income families, and makes funds designated for these demonstrations available until expended. Applies spousal impoverishment eligibility rules to the On Lok waiver demonstration program. Effective upon enactment.

Extension of Period of Applicability of Enrollment Mix Requirement to Certain Health Maintenance Organizations Providing Services Under Dayton Area Health Plan (Section 13644).—Extends through January 31, 1995, the current waiver of the enrollment mix requirement with respect to the Dayton Area Health Plan. Effective upon enactment.

CHILD WELFARE SERVICES, FOSTER CARE AND ADOPTION ASSISTANCE

1. Funding for Family Preservation and Family Support Services (including Services to Foster and Adoptive Families) (Sec. 13211 of House bill)

Present Law

The child welfare services program under title IV-B of the Social Security Act authorizes 75 percent Federal matching grants to States for child welfare services. These funds may be used: (1) to protect and promote the welfare of children; (2) to prevent or remedy, or assist in the solution of problems that may result in, the neglect, abuse, exploitation or delinquency of children; (3) to prevent the unnecessary separation of children from their families by identifying family problems, assisting families in resolving their problems, and preventing breakup of the family where the prevention of child removal is desirable and possible; (4) to restore children to their families by the provision of services to the child and the family; (5) to place children in adoptive homes if restoration is not possible or appropriate; and (6) to assure adequate foster care when children cannot return home or be placed for adoption.

The authorization level for the title IV-B program is $325 million per fiscal year. Funds are distributed to the States and outlying areas on the basis of their under-age-21 population and per capita income. The Secretary may, where appropriate, make payments directly to an Indian tribal organization. For fiscal year 1993, appropriations for the program total $295 million.

Title IV–B does not include a specific reserve for services designed to strengthen and preserve families, although States have the flexibility to use their title IV–B child welfare services funds for such services.

House Bill

(a) Authorization of Appropriations.—The House bill would amend title IV–B to establish capped entitlement funding for grants to States to provide family preservation and family support services. The authorization level for the capped entitlement would equal $60 million for fiscal year 1994; $135 million for fiscal year 1995; $240 million for fiscal Year 1996; $360 million for fiscal year 1997; and $600 million for fiscal year 1998. Funds allotted for a fiscal year would have to be expended in the fiscal year or in the succeeding fiscal year.

(b) Use of Funds.—States would use the funds to develop and establish, or to expand, and to operate a program of family preservation services and community-based family support services.

The term "family support services" means community-based services to promote the well-being of children and families designed to increase the strength and stability of families (including foster, adoptive and extended families), to increase parents' confidence and competence in their parenting abilities, to afford children a stable and supportive family environment, and otherwise to enhance child development, including:

(i) services designed to improve parenting skills;

(ii) respite care of children to provide temporary relief for parents and other caregivers;

(iii) structured activities involving parents and children to strengthen the parent-child relationship;

(iv) drop-in centers to afford families opportunities for informal interaction with other families and with program staff;

(v) information and referral services to afford families access to other community services, including child care, health care, nutrition programs, adult education and literacy programs, and counseling and mentoring services; and

(vi) early developmental screening of children to assess the needs of such children, and assistance to families in securing specific services to meet these needs.

The term "family preservation services" means services for children and families designed to help families (including adoptive and extended families) at risk or in crisis, including:

(i) service programs designed to help children, where appropriate, return to families from which they have been removed or be placed for adoption, with a legal guardian, or, where appropriate with respect to a child, in some other planned, permanent living arrangement;

(ii) preplacement preventive services programs, such as intensive family preservation programs, designed to help children at risk of foster care placement remain with their families;

(iii) service programs designed to provide follow-up care to families to whom a child has been returned following a foster care placement;

(iv) respite care of children to provide temporary relief for parents and other caregivers (such as foster parents); and

(v) services designed to improve parenting skills.

(c) Allotment of Funds.—One percent of the amount appropriated would be reserved for expenditure by the Secretary for evaluation, research, training, and technical assistance.

For a four-year period beginning with fiscal year 1995, specific amounts would be reserved for grants for assessments of State courts (see item 3 below).

One percent would be reserved for allotment to tribal organizations of Indian tribes that have submitted a plan (which need not meet any State plan requirement specified below that the Secretary determines is inappropriate with respect to the tribe) and whose allotment would be greater than $10,000. Tribal allotments would be made based on the number of children in the tribe relative to the number of children in all tribes with approved plans, as determined by the Secretary on the basis of the most current and reliable information available.

The allotment to Puerto Rico, Guam, the Virgin Islands, the Northern Mariana Islands and American Samoa would be determined according to the formula in effect under present law. Remaining funds would be distributed to States according to a formula, based on the State's share of children in all States receiving food stamp benefits.

(d) Matching Rate.—States would be entitled to payments equal to their allotments, for use in paying not more than 75 percent of the costs of activities under the approved State plan. The remaining 25 percent of costs must be paid with funds from non-Federal sources.

(e) State Plan Requirements.—To be eligible to receive its share of entitlement funds for a fiscal year, a State must have an approved plan, developed jointly by the Secretary and the State agency, after consultation with appropriate public and nonprofit private agencies and community-based organizations. For fiscal year 1994, however, a State that has not completed development of its plan may receive up to $1 million for plan development, plus any remaining portion of its allotment to provide services to children and families, so long as it has submitted an appropriate application to the Secretary. The State would have to expend its allotment for fiscal year 1994 in fiscal year 1994.

The State plan must:

(i) provide that the State child welfare agency will administer or supervise the administration of the program;

(ii) set forth (and periodically update) program goals for each five-year period under the plan, and the methods to be used in measuring progress toward the goals; contain commitments to perform interim and final progress reviews and, on the basis of the final review, to prepare a final report and to develop goals for the next five-year period;

(iii) provide for coordination, to the extent feasible and appropriate, with other Federal or Federally-assisted programs serving the same populations;

(iv) provide assurances that not less than 90 percent of expenditures will be used for services for children and families, and that significant portions of the 90 percent will be expended for family preservation services and for community-based family support services;

(v) provide that by the beginning of the sixth fiscal year during which the plan is in effect, programs under the plan will be available on a statewide basis, to the extent feasible and appropriate;

(vi) provide assurances that the State will annually prepare a description of the service programs to be made available in the following fiscal year, the populations that will be served, and the geographic areas in the State in which the services will be available. The description must be furnished to the Secretary, and made available to the public, when the initial plan is submitted and, in succeeding fiscal years, by the end of the third quarter of the preceding fiscal year;

(vii) provide for such methods of administration as are found by the Secretary to be necessary for the proper and efficient administration of the plan;

(viii) provide assurances that Federal funds provided under this amendment will not be used to supplant Federal or non-Federal funds for existing services and activities which promote the same purposes, and that the State will furnish reports as required demonstrating the State's compliance with this provision; and

(ix) provide that the State will furnish reports and participate in evaluations as required by the Secretary.

Effective Date

October 1, 1993.

Senate Amendment

No provision.

Conference Agreement

The conference agreement follows the House bill, modified as follows: (1) the authorization level for the capped entitlement equals $60 million for fiscal year 1994, $150 million for fiscal year 1995, $225 million for fiscal year 1996, $240 million for fiscal year 1997, and $255 million for fiscal year 1998; (2) reserves $2 million for fiscal year 1994, and $6 million for each of fiscal years 1995 through 1998, for evaluation, research, training and technical assistance, including the evaluation of State programs regardless of whether federally assisted; (3) clarifies that the new entitlement funds may be expended only for programs of community-based family support and family preservation services; (4) clarifies that the Secretary would not have to approve an unawardable plan of an Indian tribe; (5) clarifies that, for fiscal year 1994, funds for plan development must come from the State's allotment; (6) excludes the State plan requirement regarding statewideness; (7) would allow States to spend the fiscal year 1994 allotment by the end of fiscal year 1995; and (8) includes several technical amendments.

In addition, under the conference agreement, the definition of "family support services" excludes the illustrative list of activities that may be undertaken. However, the conferees intend that the term "family support services" include the following community-based services:

(1) services, including in-home visits, parent support groups, and other programs, designed to improve parenting skills (by reinforcing parents' confidence in their strengths, and helping them to identify where improvement is needed and to obtain assistance in improving those skills) with respect to matters such as child development, family budgeting, coping with stress, health, and nutrition;

(2) respite care of children to provide temporary relief for parents and other caregivers;

(3) structured activities involving parents and children to strengthen the parent-child relationship;

(4) drop-in centers to afford families opportunities for informal interaction with other families and with program staff;

(5) information and referral services to afford families access to other community services, including child care, health care, nutrition programs, adult education and literacy programs, and counseling and mentoring services; and

(6) early developmental screening of children to assess the needs of such children, and assistance to families in securing specific services to meet these needs.

2. Evaluations; Reports (Sec. 13211 of House bill)

Present Law

Section 426 of title IV–B authorizes funds for research, training and demonstration projects, including grants to: (a) public and non-profit institutions of higher learning and child welfare agencies for research or demonstration projects in the field of child welfare that are of regional or national significance and for special projects to demonstrate new methods that will advance child welfare; (b) State and local child welfare agencies for research to encourage experimental and special types of child welfare services; and (c) institutions of higher learning to train personnel for work in the child welfare field.

House Bill

The provision would require the Secretary to evaluate the effectiveness of the family support and family preservation services authorized by the amendment in accordance with criteria developed by the Secretary. In developing the criteria, the Secretary must consult with appropriate parties, such as State child welfare agencies, persons administering child and family services programs for private, nonprofit organizations with an interest in child welfare, and other persons with recognized expertise in the evaluation of child and family services programs or related programs. The Secretary would have to coordinate these evaluations, to the extent feasible, with evaluations by the States of the effectiveness of their programs. The Secretary would have to report evaluation findings to the Congress by December 31, 1997.

Effective Date

October 1, 1993.

Senate Amendment

No provision.

Conference Agreement

The conference agreement follows the House bill, modified to clarify that the Secretary may evaluate family support and family preservation programs that are not funded under title IV–B, and to exclude the statutory requirement that the Secretary issue a single report on the evaluations.

The conferees intend that the Secretary will provide the Committee on Ways and Means and the Committee on Finance with interim evaluation findings by December 31, 1996, and final findings by December 31, 1997.

3. Grants to State Courts to Assess and Improve Handling of Proceedings Related to Foster Care and Adoption (Sec. 13212 of House bill)

Present Law

No provision.

House Bill

Of amounts reserved (as described in item 1(c) above) a sum of $5 million for fiscal year 1995, and $10 million for each of fiscal years 1996 through 1998, would be used for a four-year program of grants to the highest State courts involved in proceedings relating to foster care and adoption. The grants would enable the courts to conduct assessments of the role, responsibilities and effectiveness of State courts in carrying out State laws requiring proceedings (conducted by or under the supervision of the courts) to determine the advisability or appropriateness of foster care placement, to determine whether to terminate parental rights, and to legally recognize the adoption of a child; and to implement changes deemed necessary by the assessments.

The assessments would have to identify the requirements imposed on State courts, with respect to these proceedings, addressing separately:

(a) rules, standards and criteria imposed under State laws (including laws implementing parts B and E of title IV, laws relating to child abuse and neglect, or any other laws on related matters) applicable to decisions concerning the placement of a child, the parent-child relationship, or other matters of child welfare, including determinations: (i) whether to remove a child from or return a child to its home, (ii) whether to place a child in foster care or to continue a foster care placement, (iii) whether to terminate parental rights, (iv) whether to place a child for adoption or in another permanent arrangement, and (v) whether to set aside or to make final an adoption, and;

(b) procedures and rules, imposed by law or adopted voluntarily by the court system, addressing matters such as choice between administrative and judicial proceedings; timetables for proceedings; procedural safeguards for parents, guardians, and children; and general rules for conduct of the proceeding.

The assessments would also have to: (i) evaluate the performance of the court system in implementing these requirements by assessing the extent of conformity of State court rules and practices with the recommendations of national organizations concerned with the permanent placement of children; (ii) assess the extent to which particular requirements imposed on State courts facilitate or impede achievement of title IV–B and IV–E program goals, or impose significant burdens on the courts; and (iii) make specific recommendations for improvement (including recommendations for changes in State or Federal laws, regulations or policies; changes in procedures and practices of the courts or of State child welfare and foster care agencies; additional education or training of court or agency personnel; collection and dissemination of additional data or information; or increases in manpower, reductions in numbers of case reviews, or other changes needed to enable the courts to manage their caseloads).

In order to be eligible for a grant, a highest State court must submit to the Secretary an application containing a timetable, budget and methodology for conducting the assessment; certification by the State child welfare agency and foster care citizen review board (if any) that they had an opportunity for review and comment; assurances that grant funds not needed for the assessment will be used to implement recommended changes, and that grant funds will not supplant other State or local funds used for similar purposes; a commitment to furnish to the Secretary interim and final reports; and such other information as the Secretary requires.

Each court with an approved application would be allotted an amount, for each of fiscal years 1995 through 1998, equal to the sum of: (1) $75,000 for fiscal year 1995, and $85,000 for each of the three succeeding fiscal years, plus (2) a share of the remaining funds reserved for this purpose based on the State's share of individuals under age 21.

Courts could use grant funds without providing local matching in fiscal year 1995, but would have to provide 25 percent State or local matching of grant funds for the three remaining years.

Effective Date

Upon enactment.

Senate Amendment

No provision.

Conference Agreement

The conference agreement follows the House bill regarding the reserve amount for grants to State courts, the allotment of funds to courts with approved applications, and the use of grant funds.

Under the conference agreement, the grants would enable courts to: (1) conduct assessments, in accordance with requirements published by the Secretary, of the role, responsibilities, and effectiveness of State courts in carrying out State laws requiring proceedings that: (a) implement parts B and E of title IV; (b) determine the advisability or appropriateness of foster care placement; (c) determine whether to terminate parental rights; (d) determine whether to approve the adoption or other permanent placement of a child; and (2) implement changes deemed necessary as a result of the assessments.

In order to be eligible for a grant, a court must submit an application to the Secretary at such time, in such form and including such information and commitments as the Secretary requires.

The conferees intend that each assessment:

(1) identify the requirements imposed on State courts with respect to the proceedings listed above, addressing separately: (a) rules, standards, and criteria imposed pursuant to State laws implementing parts B and E of title IV of the Social Security Act and State laws designed to achieve safe, timely, and permanent placements for abused and neglected children, to be applied in the court proceedings; and (b) rules and procedures, established by or under State law or adopted by the State court system on its own initiative, with respect to the conduct of the proceedings, that address matters such as: (i) whether a proceeding should be judicial or administrative, (ii) timetables for proceedings, (iii) procedural safeguards of the rights of parents (including foster and adoptive parents), guardians, and children, such as provisions for legal representation of parents and children and for guardians ad litem; and (iv) provisions concerning the admissibility of evidence and the opportunity to present witnesses;

(2) evaluate the performance of the State courts in implementing the requirements identified under paragraph (1) by assessing: (a) the extent to which particular practices or procedures have been successful in facilitating compliance with such requirements; (b) the frequency of failures to comply with any such requirements, and patterns with respect to the circumstances of and factors contributing to the failures; (c) the frequency and severity of judicial delays; (d) whether there are limitations in available court time inhibiting the presentation of evidence and the making of arguments; (e) the extent to which parties and attorneys actually call witnesses, introduce evidence, and make pertinent legal arguments in connection with the requirements of parts B and E of title IV of the Social Security Act; (f) the extent to which caseload size and resource limitations affect judicial performance in relation to issues identified in (b), (c), (d), and (e); and (g) how often parents and children have legal representation and the adequacy of such representation;

(3) determine the extent to which the rules and practices identified under paragraph (1) or (2) are in accord with the recommended

standards of national organizations concerned with the permanent placement of foster children;

(4) determine, from the standpoint of the State courts, the extent to which particular requirements under paragraph (1): (a) are facilitating or impeding achievement of the purposes of parts B and E, including the goal of appropriate permanent placement for each child, and (b) are imposing significant administrative burdens on the State court system; and

(5) make specific recommendations for improvement, based on the conclusions reached as a result of activities described in paragraphs (1) through (4), including recommendations for: (a) changes in State and Federal laws, regulations or policies; (b) changes in procedures and practices of the State courts or of the State agencies administering foster care, adoption, child welfare and child protective services programs; (c) additional education or training of State court judges, or of personnel of the judicial system or of the State agencies described in (b); (d) improvements in the selection, compensation, and training of court-appointed legal representatives of parents and children; (e) collection or dissemination of additional data or information for purposes of increasing the understanding of personnel of State courts and State agencies of matters relating to case review proceedings in general, or to specific case review proceedings; and (f) increases in manpower, improvements in judicial caseflow management, reductions in the number of case reviews, or other changes needed to enable the State courts to better manage their caseloads with respect to case review proceedings.

The conferees intend that the application contain: (a) a timetable for conducting and completing the assessment; (b) a budget for the assessment; (c) a description of the methods to be used to select State courts for inclusion in, and to conduct, the assessment; (d) certifications that the head of the State agency administering the State program under part E, and the State foster care citizen review board or State organization of review boards (if any), have had an opportunity to review and comment on a draft of the application before its submission, and a copy of such comments; (e) a description of the process to be used by the court to consult with the entities referred to in (d) in conducting the assessment; (f) a commitment that, to the extent funds provided are not necessary to complete the assessment, the court will use the funds to implement, to the extent feasible, recommendations made under (5) above; (g) a commitment that funds will not be used to supplant State or local funds which would otherwise be used for similar purposes; (h) a commitment to furnish the Secretary an interim report following the end of the second year of assessment activities and a final report following the completion of the assessment; and (i) any other information the Secretary may require.

4. Protections for Foster Children (Sec. 13213 of House bill)

Present Law

In order to receive its share of the title IV-B allocation in excess of $141 million, each State is required under section 427(a) of title IV-B to conduct an inventory of children in foster care; and to implement and operate, to the satisfaction of the Secretary, a tracking system for children in foster care, a case review system for children in foster care, and a service program designed to help children, where appropriate, return to families from which they have been removed or be placed for adoption or legal guardianship.

Further, under section 427(b), if the appropriations for the title IV-B program equal $325 million for two consecutive years, a State does not receive its title IV-B allotment in excess of its share of the 1979 funding level unless it has met all the section 427 requirements outlined above, and in addition, has implemented a preplacement preventive services program designed to help children remain with their families. Finally, States that have elected to provide Federally-supplemented foster care payments for voluntarily-placed foster children are required to implement all section 427 protections, including the preplacement preventive services program.

House Bill

Beginning for fiscal year 1995, the provision would repeal section 427 of title IV-B and require that the State plan for basic title IV-B funds provide for the foster care protections currently outlined in section 427.

In addition, within 12 months after enactment, States would be required to review State laws and administrative and judicial procedures in effect for children abandoned at or shortly after birth (including laws and procedures providing for legal representation of such children), and, within 24 months after enactment, to enact and implement such laws and procedures as the State determines necessary to enable permanent decisions to be made expeditiously regarding the placement of such children.

Also, funds withheld or recovered from a State based on its failure to comply substantially with these protections could not be reallotted among other States.

Statutory language is included stating that the amendments shall not be construed to permit any State to interrupt the provision of the foster care protections described in section 427 (as in effect on the effective date of the amendments).

Effective Date

October 1, 1994.

Senate Amendment

No provision.

Conference Agreement

The conference agreement does not include the provision in the House bill.

5. State Plan Requirement Regarding the Indian Child Welfare Act (Sec. 13214 of House bill)

Present Law

The Indian Child Welfare Act (P.L. 95-608) includes a number of State requirements relating to the foster care or adoptive placement, or termination of parental rights, of Indian children. There is currently no statutory link between the Indian Child Welfare Act and the child welfare services programs under the Social Security Act.

House Bill

A State plan for title IV-B must contain a description, developed after consultation with tribal organizations in the State, of the specific measures taken by the State to comply with the Indian Child Welfare Act.

Effective Date

October 1, 1994.

Senate Amendment

No provision.

Conference Agreement

The conference agreement does not include the provision in the House bill.

6. Child Welfare Traineeships (Sec. 13215 of House bill)

Present Law

Title IV-B authorizes such sums as may be necessary to enable the Secretary to make grants to public or private nonprofit institutions of higher education for training personnel for work in the field of child welfare.

House Bill

The Secretary could award grants to institutions of higher learning for child welfare traineeships with stipends only where the grant application provides assurances that:

(a) students given stipends would have to agree to participate in training at a child welfare agency and either to serve in a public or private child welfare agency for a period equal to the period of training, or to repay the cost (or an appropriately pro-rated part) of the stipend, plus interest and, if applicable, reasonable collection fees (in accordance with regulations promulgated by the Secretary). Exceptions to repayment may be prescribed by the Secretary in regulations;

(b) the institution would enter into agreements with child welfare agencies for on-site training of stipend recipients, accept applications from individuals already employed in the field of child welfare services, and track, for a period of three years after completion of a course of study, the employment record of each former student.

Effective Date

Would apply to grants awarded on or after April 1, 1994.

Senate Amendment

No provision.

Conference Agreement

The conference agreement does not include the provision in the House bill.

7. Changes to Reimbursement Policy under Title IV-E (Sec. 13216-13217 of House bill)

Present Law

(a) Dissolved adoptions.—Under title IV-E, the Federal government reimburses States for foster care maintenance payments made on behalf of children from AFDC-eligible families. A child on whose behalf title IV-E adoption assistance payments are made (and whose adoption has been legally finalized by a judicial decree of adoption), but whose adoption is subsequently set aside by the court and who returns to foster care, is often not eligible for title IV-E foster care maintenance and adoption assistance payments, because the income or resources of the adoptive family have made the child ineligible.

(b) Time frame for hearing on voluntary placements.—No payment may be made under title IV-E to reimburse a State for foster care maintenance payments in the case of any child who was removed from the home as a result of a voluntary placement agreement and has remained in the placement for more than 180 days, unless there has been a judicial determination within the first 180 days of the placement to the effect that the placement is in the best interests of the child.

House Bill

(a) Dissolved adoptions.—The provision would permit States to make foster care maintenance payments under title IV-E on behalf of a child: (i) with respect to whom such payments were previously made, (ii) whose adoption has been set aside by a court, (iii) who meets certain eligibility requirements under title IV-E (i.e., the child was removed from the home pursuant to a voluntary placement agreement or judicial determination; the child is under the responsibility of the State; and the child has been placed into foster care as a result of a voluntary placement agreement or judicial determination; and (iv) does not meet specified AFDC eligibility requirements, but would meet the requirements if the child were in the same financial and other circumstances the child was in the last time the child was determined eligible, and the adoption were treated as having never occurred.

(b) Time frame for hearing on voluntary placements.—If a judicial determination is made after the first 180 days of placement, permits Federal reimbursement for foster care maintenance payments beginning 180 days after the date that such judicial determination is finally made.

Effective Date

(a) The provision would apply to payments in fiscal years beginning on or after October 1, 1995.

(b) The provision would apply to foster care maintenance payments made in fiscal year 1996 and thereafter, on behalf of children placed in foster care on or after October 1, 1995.

Senate Amendment

No provision.

Conference Agreement

The conference agreement does not include the provisions in the House bill.

8. Study of Reasonable Efforts (Sec. 13218 of House bill)

Present Law

In order for a State to be eligible for title IV–E funding, the State plan must specify that, in each case, reasonable efforts will be made prior to the placement of a child in foster care to prevent the need for foster care and make it possible for the child to return home (sec. 471(a)(15)). The statute also provides that for each child entering foster care after October 1, 1983, a judicial determination must be made that there were reasonable efforts to prevent placement in foster care (sec. 472(a)(1)).

House Bill

The provision would require the Secretary to conduct a study of the ways in which States implement the "reasonable efforts" requirement of sec. 471(a)(15). The Secretary's study would have to give particular attention to:

(a) a State's standards used to determine what steps to take, and whether and for how long to continue efforts — (1) prior to the placement of a child in foster care, to prevent or eliminate the need for removal of the child from his home; and (2) to return a child home rather than seek some other planned, permanent placement; and

(b) the responses of the courts to the State actions described in (a) above, including whether such responses facilitate or impede State agencies' achievement of the objectives of the reasonable efforts requirement.

The Secretary would have to submit a report to Congress within 18 months of enactment, with such recommendations as the Secretary finds appropriate, based on the results of the study. The report must describe State practices found effective in achieving the objectives of the reasonable efforts requirement, and if appropriate, must set forth model standards for consideration by the States.

Effective Date

Upon enactment.

Senate Amendment

No provision.

Conference Agreement

The conference agreement does not include the provision in the House bill.

The conferees strongly urge the Secretary to conduct a study of State implementation of the reasonable efforts requirements, as outlined in the House bill, and to submit a report to Congress within 18 months of enactment with recommendations. In addition, the conferees urge the Secretary to convene an advisory group to provide recommendations to the Secretary on the implementation of the "reasonable efforts" requirements. The advisory group should include representatives of the following types of organizations and agencies: (1) private, nonprofit organizations with an interest in child welfare; (2) agencies of States and their political subdivisions responsible for child protective services, foster care services, or adoption services; and (3) judicial bodies of States and their political subdivisions responsible for adjudicating issues of family law.

9. Enhanced Match for Automated Data Systems (Sec. 13219 of House bill)

Present Law

Section 479 of title IV–E provides for the implementation of a foster care and adoption data collection system. The data collection system is required to provide national information with respect to foster and adoptive children.

House Bill

Would provide for 90 percent matching of State expenditures for planning, design, development or installation of statewide mechanized data collection and information retrieval systems (including 90 percent of the full amount of expenditures for hardware components). To qualify for matching, systems would have to comply with regulations concerning collection of data relating to adoption and foster care; to the extent practicable, be compatible with other State data collection systems relating to child neglect and abuse and to eligibility for AFDC; and be determined by the Secretary to be likely to provide more efficient, economical, and effective administration of the programs under title IV–E and title IV–B.

Would provide 50 percent matching of State expenditures for operation of the systems. Expenditures for the systems would be considered administrative expenditures under the State's title IV–E plan, regardless of whether the systems are used in part to collect data on children ineligible for title IV–E benefits.

Effective Date

The 90 percent match would be in effect for fiscal years 1994 through 1996; the rate would be 50 percent thereafter.

Senate Amendment

No provision.

Conference Agreement

The conference agreement follows the House bill, modified to provide for a 75 percent enhanced matching rate, rather than a 90 percent rate.

10. Periodic Reevaluation of Foster Care Maintenance Payments (Sec. 13220 of House bill)

Present Law

Each State establishes its own foster care maintenance payment levels. Under current title IV–E law, as part of the State plan requirements, States must review periodically their foster care maintenance and adoption assistance payments.

House Bill

The bill amends title IV–E to require that States review their foster care maintenance payment and adoption assistance levels at least every three years to assure their continuing appropriateness, and report the results of the review to the Secretary and the public in such form and manner as the Secretary may by regulation require.

At a minimum, the report must include: (i) a statement of the manner in which the foster care maintenance payment level is determined, including information on how the payment level compares to the actual cost of foster care; (ii) information regarding the basic payment level and whether this level includes an amount to cover the cost of clothing, and whether such payment level varies by the type of care or the special needs or age of the child, and, if so, the payment levels for each special needs, care or age category. States that do not pay a differential rate for children who are HIV-positive or have AIDS, or children who are drug-addicted or have complications due to drug or alcohol exposure, or have other severe special needs, must state the reasons for this decision. In addition, the report must include information on any limitations imposed by the State on adoption assistance payment levels.

Effective Date

October 1, 1994.

Senate Amendment

No provision.

Conference Agreement

The conference agreement does not include the provision in the House bill.

11. Case Review System Requirements (Secs. 13221 and 13222 of House bill)

Present Law

In order to receive certain incentive funds under title IV–B, States are required to implement and operate, in addition to other activities, a case review system for each child receiving foster care under the supervision of the State. Section 475 of title IV–E defines "case review system" to mean a procedure for assuring that: (a) each child has a case plan meeting certain specified requirements; (b) the status of each child is reviewed at least once every six months by a court or by administrative review; and (c) each child in foster care is guaranteed a dispositional hearing in a family or juvenile court or another court of competent jurisdiction, or by an administrative body appointed or approved by the court, no later than 18 months after the original placement in foster care (and periodically thereafter during a continuation of foster care).

The dispositional hearing determines: (a) the future status of the child, including but not limited to, whether the child should be returned to the parent, should be continued in foster care for a specified period, should be placed for adoption, or should be continued in foster care on a permanent or long-term basis; and (b) for a child who is age 16 or older, the services needed to assist the child to make the transition to independent living.

House Bill

(a) Dispositional hearing.—The initial dispositional hearing would continue to have to take place no later than 18 months after the original placement in foster care, but subsequent hearings would have to take place at least every 12 months thereafter (rather than "periodically").

(b) Health care plans for foster children.—Each child's case plan would have to include a record that the foster care provider was advised (where appropriate) of the child's eligibility for early and periodic screening, diagnostic, and treatment services.

The Committee report includes language requesting that the Secretary review the efficiency and performance of State foster care programs that rely on citizen review panels or citizen participation in State administrative reviews, and compare such State programs to other State programs. The Secretary also is requested to examine impediments to additional States adopting citizen participation in foster care reviews, and possible incentives for further State implementation of such citizen participation. The Secretary's report should be completed within 12 months after the date of enactment.

Effective Date

(a) Upon enactment.

(b) The amendment would apply to case plans established or reviewed on or after January 1, 1994.

Senate Amendment

No provision.

Conference Agreement

The conference agreement does not include the provisions in the House bill.

The conferees request the Secretary to conduct a review of State programs that include citizen review panels or citizen participation in State administrative reviews, and contrast their performance in meeting the goals of the Act with States that do not involve citizens in the review process. Beyond the comparison of overall performance, the Secretary's assessment should address, at a minimum, the nature of citizen involvement in reviews in different States, the structural relationships of citizen boards to both agencies and courts, the role review boards play in assisting States' compliance with the periodic and dispositional review requirements in P.L. 96-272, the data maintained by citizen review boards, the annual reports generated as a result of administrative reviews, and the continuity in personnel and case planning review boards offer for families and children who come before them. The Secretary should also report on impediments to additional States implementing citizen review panels or other citizen participation programs in foster care reviews, and possible Federal incentives for State implementation of such systems. The Secretary should report to the Congress within 18 months of enactment.

12. Amendments to the Independent Living Program (Sec. 13223 of House bill)

Present Law

The independent living program is a Federal-State entitlement program designed to help ease the transition of foster children age 16 and older to independent living. States may include children who are not receiving title IV-E foster care benefits in the program, and may also allow children who have left foster care, up to age 21, to participate.

The AFDC resource test applies to a foster child on whose behalf the State is claiming reimbursement under the title IV-E foster care maintenance payments program. Should such a child accumulate assets above those allowed under the AFDC test while on foster care: (1) the child may become ineligible to participate in the independent living program, if the State in which the child resides allows only title IV-E eligible foster children to participate; and (2) the child may lose Medicaid benefits, since foster children receiving State-only benefits are not categorically eligible for Medicaid and generally must meet a resource test.

Youths who leave foster care and apply for or receive AFDC benefits are subject to the same rules regarding income and resources as other AFDC applicants and recipients.

The authorization for the independent living program expired at the end of fiscal year 1992. The entitlement ceiling in fiscal year 1992 was $70 million.

House Bill

(a) Treatment of assets of youth participating in independent living program.—Effective beginning fiscal year 1996, with respect to a child who is receiving assistance under an independent living program, reasonable amounts (as determined by the State) of the assets of the child which would otherwise be regarded as resources for purposes of determining eligibility for programs under title IV may be disregarded for the purpose of allowing the child to establish a household, pursue further education, or otherwise complete the transition to independent living.

(b) Permanent extension of program.—The authorization for the independent living program would be made permanent, effective October 1, 1992, at $70 million per year.

Senate Amendment

No provision.

Conference Agreement

The conference agreement does not include the provision in the House bill modifying the treatment of assets of youths participating in independent living programs. The conference agreement follows the House bill with respect to the permanent extension of the independent living program.

13. Elimination of Foster Care Ceiling and Transfer Authority (Sec. 13224 of House bill)

Present Law

The foster care ceilings and the authority to transfer foster care funds to child welfare services expired September 30, 1992.

Prior to the expiration, the law imposed mandatory State-by-State ceilings on foster care funds if the Federal appropriation for child welfare services reached a specified trigger level, most recently $325 million. In the absence of a mandatory foster care ceiling, States could elect to operate under a voluntary ceiling. A State could use one of several methods to calculate the most favorable ceiling. The mandatory ceiling did not go into effect after 1981.

Under a voluntary ceiling, a State could transfer a portion of its unused foster care funds to its child welfare services program. However, the amount transferred, together with the State's IV-B allocation, could not exceed what the State would have received if the child welfare services funding had triggered the ceiling. It is estimated that the amount transferred by States equaled less than $1 million for fiscal year 1991, and no funds were transferred for fiscal year 1992.

House Bill

Repeals the ceiling and transfer provisions.

Effective Date

October 1, 1993.

Senate Amendment

No provision.

Conference Agreement

The conference agreement does not include the provision in the House bill.

14. Training of Agency Staff and Foster and Adoptive Parents (Sec. 13225 of House bill)

Present Law

Prior law provided that States were entitled under the title IV-E program to a payment equal to 75 percent of expenditures for the training of personnel employed or preparing for employment by the State or local child welfare agency, and for the training of foster and adoptive parents. This enhanced Federal match expired at the end of fiscal year 1992.

House Bill

The authorization for Federal reimbursement at 75 percent would be extended permanently.

Effective Date

Effective retroactive to October 1, 1992.

Senate Amendment

No provision.

Conference Agreement

The conference agreement follows the House bill, effective October 1, 1993.

15. On-Site Reviews and Audits of State Claims for Foster Care and Adoption Assistance (Sec. 13226 of House bill)

Present Law

Section 471(a)(13) requires, as a component of State plans under title IV-E, that States arrange for periodic and independent audits of their activities under titles IV-B and IV-E, to be conducted at least once every three years. The Secretary may disallow expenditures for Federal reimbursement under title IV-E as a result of several review procedures, including audits conducted pursuant to section 471(a)(13). Disallowances may result from audits conducted by the Inspector General, regional office reviews of quarterly expenditure reports submitted by States as part of the claims reimbursement process, or Federal financial reviews.

Title IV-E financial reviews are conducted retrospectively, after conclusion of the fiscal year. However, States are not generally reviewed annually, and States may be reviewed for more than one fiscal year at a time.

States may appeal disallowances to the Departmental Appeals Board.

House Bill

The provision would require the Secretary to:

(a) publish regulations to be used in on-site reviews and audits of State title IV-E programs, which must specify the criteria to be used to determine the appropriateness of expenditures identified in sampled case files, the criteria to be used to determine the appropriateness of expenditures for child placement services and administration, and types of erroneous expenditures which will be disregarded for purposes of determining the appropriateness of payments (including erroneous payments resulting from the State's reliance upon and correct use of formal written statements of Federal law or policy provided by the Secretary to the State); and

(b) after consultation with State and local agencies, furnish State agencies a written description of the procedures and methodologies to be used in on-site reviews and audits, which must specify the methods and procedures to be used to select a sample of case files for review or audit, the procedures to be used in reviewing or auditing sampled case files to determine erroneous expenditures, the procedures to be used to review or audit State expenditures for child placement services and plan administration, and the methodology to be used to extrapolate from review or audit findings to all expenditures.

The Secretary could not use, in a review or audit of State expenditures during a fiscal year, any criteria, methodology, or procedure, unless published in a final regulation or furnished to the State in writing (as applicable) not later than three months before the beginning of that fiscal year.

Effective Date

The amendment made by this section would be effective with respect to State programs in fiscal years beginning on or after October 1, 1994.

Senate Amendment

No provision.

Conference Agreement

The conference agreement does not include the provision in the House bill. The conferees understand that the Secretary already has the necessary authority to publish the regulations required by the House provision and urge the Secretary to use that authority to carry out the purpose of the House provision.

16. Reviews of State Conformity with State Plan Requirements (Sec. 13227 of House bill)

Present Law

(a) Title IV-B.—Section 427 of title IV-B contains certain protections for foster children with which States must comply to be eligible to receive incentive funds (see item A.4 above). The Department of Health and Human Services (HHS) has developed a review system to determine State compliance with these protections.

States self-certify their compliance with section 427 requirements, and are then reviewed by HHS to determine actual compliance. To verify compliance with section 427, HHS conducts a two-stage review. The first stage is an administrative review to determine whether States have developed policies and procedures necessary to implement section 427 protections for all children in foster care under the responsibility of the State. The second stage is a case record survey to determine if these policies are being implemented throughout the State.

An initial review is conducted for the first year in which the State self-certifies its eligibility. The case record survey in the initial review must confirm that section 427 protections are provided for at least 66 percent of the children in foster care. If a State meets the initial review requirements, a subsequent review is conducted for the following fiscal year, which must find that section 427 protections are provided for at least 80 percent of the children. States which meet the subsequent review will be reviewed for the third fiscal year following the fiscal year for which the subsequent review was conducted. This triennial review must find section 427 protections are being provided for at least 90 percent of the children in foster care. If a State does not meet the requirements for any year under review, the review is conducted each succeeding fiscal year until eligibility is established for title IV-B incentive funds, or until the State withdraws its self-certification.

(b) Title IV-E.—Section 471(a)(13) of title IV-E requires, as a component of State plans under title IV-E, that States arrange for periodic and independent audits of their activities under titles IV-B and IV-E, to be conducted at least once every three years. In addition, section 471(b) allows the Secretary of HHS to withhold or reduce payments to States upon finding that a State plan no longer complies with State plan requirements, or, in the State's administration of the plan, there is substantial failure to comply with its provisions. The Secretary must first provide reasonable notice and opportunity for a hearing.

House Bill

The provision would bar the Secretary from imposing financial penalties on States for failures of State programs under titles IV-B and IV-E to conform to provisions of the State plan and to applicable State plan requirements under Federal statutes and regulations, except under final regulations published in accordance with this amendment after consultation with the State agencies administering those programs.

The regulations would have to:

(a) specify the review timetable, which would have to require annual reviews of each State program in the first two years of program operation and within one year following any review finding a State not to be in substantial compliance; and could permit less frequent reviews of State programs found in substantial compliance, but would permit the Secretary to reinstate a more frequent review schedule based on any information indicating problems with compliance;

(b) specify the plan requirements subject to review, and the criteria for measuring compliance with such requirements and whether there is a substantial failure to comply;

(c) specify the method to be used to determine the financial penalty to be imposed for failure to comply, under which: (i) no penalty could be imposed unless the program fails substantially to comply, (ii) no penalty could be imposed for a failure resulting from the State's reliance upon and correct use of formal written statements of Federal law or policy provided to the State by the Secretary, and (iii) the penalty would be related to the extent of noncompliance;

(d) require the Secretary, with respect to any State found to have failed substantially to comply with plan requirements, (i) to afford the State an opportunity to adopt and implement a corrective action plan, approved by the Secretary, designed to end the noncompliance, (ii) to make technical assistance available to the State to the extent necessary to enable the State to develop and implement the corrective action plan, (iii) to suspend the imposition of any penalty while the corrective action plan is in effect, and (iv) to forgive any penalty if the noncompliance is ended by successful completion of the corrective action plan.

The regulations must: (i) require the Secretary to give notice to a State not later than 10 days after the determination of noncompliance, stating the basis for the determination and the amount of the financial penalty (if any) imposed on the State, (ii) afford the State an opportunity to appeal the determination to the Departmental Appeals Board within 60 days of receipt of the notice (or, if later, after failure to continue or to complete a corrective action plan), and (iii) afford the State an opportunity to obtain judicial review of an adverse decision of the Board, by appeal to the appropriate Federal district court within 60 days after receiving notice of the Board's decision.

Statutory language is added stating that the provision could not be construed to prevent the Secretary, in the interim before the effective date of the final regulations, from conducting compliance reviews of State programs for the purpose of providing information and technical assistance to States on corrective actions needed in order to comply with applicable requirements.

Effective Date

Upon enactment.

Senate Amendment

No provision.

Conference Agreement

The conference agreement does not include the provision in the House bill.

17. Repeal of Annual Report on Voluntary Placement (Sec. 13228 of House bill)

Present Law

The Secretary is required to report annually to Congress on the number of children placed in foster care pursuant to voluntary placement agreements, and the reasons for such placements, together with a description of the extent to which such placements have contributed to the achievement of the objectives of title I of the Adoption Assistance Act of 1980, including recommendations on the continuation of the authority for voluntary placements.

House Bill

The provision would repeal the requirement for the annual report on voluntary placements.

Effective Date

Upon enactment

Senate Amendment

No provision.

Conference Agreement

The conference agreement does not include the provision in the House bill.

18. Demonstration Projects (Sec. 13229 of House bill)

Present Law

No similar provision.

House Bill

The provision would authorize the Secretary to permit up to 10 States to conduct demonstration projects which she finds likely to promote the objectives of titles IV-B or IV-E. The Secretary could waive State compliance with any requirement of titles IV-B and IV-E, which, if applied, would prevent the State from carrying out the demonstration or from effectively achieving the purpose of the demonstration, except the Secretary could not waive: (i) the foster care child protections of title IV-B, (ii) the requirement for the reporting of data on adoption and foster care (section 479), and (iii) any provision of title IV-E which, if waived, would impair the entitlement of any qualified child or family to benefits under title IV-E.

For purposes of Federal payments, expenditures under an approved demonstration could be treated, at State option, as expenditures under title IV-B or under title IV-E.

Demonstrations would be limited to five years. A State seeking to conduct a demonstration project must submit an application to the Secretary, in the form the Secretary requires, which includes:

(a) a description of the proposed project, the geographic area in which the project would be conducted, the children or families to be served, and the services to be provided (which must provide, where appropriate, for random assignment of children and families to groups served under the demonstration and to control groups);

(b) a statement of the period during which the project would be conducted;

(c) a discussion of the benefits that are expected from the project;

(d) an estimate of the costs or savings of the project;

(e) a statement of current program requirements for which waivers would be needed to permit conduct of the demonstration;

(f) a description of the proposed evaluation design; and

(g) such additional information as the Secretary may require.

The State must obtain an evaluation by an independent contractor of the effectiveness of the demonstration project, using an evaluation design approved by the Secretary which provides for: (i) comparison of methods of service delivery under the demonstration, and such methods under a State plan or plans, with respect to efficiency, economy, and any other appropriate measures of program management; (ii) comparison of outcomes for children and families (and groups of children and families) under the demonstration, and such outcomes under the State plan or plans, for purposes of assessing the effectiveness of the demonstration in achieving its goals; and (iii) any other information that the Secretary requires. The State must provide interim and final evaluation reports to the Secretary at such times and in such manner as the Secretary may require.

The Secretary could not authorize a State to conduct a demonstration unless the Secretary determines that the total amount of Federal funds that will be expended under (or by reason of) the demonstration over its approved term (or some portion thereof or other period the Secretary may find appropriate) will not exceed the amount of such funds that would be spent under the State programs under part B and E of title IV in the State if the demonstration were not conducted.

Effective Date

Upon enactment.

Senate Amendment

No provision.

Conference Agreement

The conference agreement does not include the provision in the House bill.

19. Placement Accountability (Sec. 13230 of House bill)

Present Law

Title IV-E does not require the States to implement any specialized reviews or procedures in the case of children who are placed in foster care outside the State.

Under title IV-E, States are required to provide for the development of a case plan for each child receiving foster care maintenance payments, which must meet certain requirements.

House Bill

The case plan for a child placed in a foster family home or child care institution a substantial distance from his home, or in a different State, would have to include a declaration of the reasons why the placement is in the best interests of the child. Also, in the case of a child placed in foster care in a different State, the case plan for the child must require that, at least every 6 months, an agency caseworker of either State visit the child in the foster home or institution, and submit a report on the visit to the State agency of the child's home State. In addition, the dispositional hearing (see item I.A.11.) for a child placed in foster care in a different State must determine whether the out-of-State placement continues to be appropriate and in the best interests of the child.

The statutorily-mandated data collection system relating to adoption and foster care (section 479(b)(2) of title IV-E) must provide information on the number and characteristics of children placed in foster care outside the State.

Effective Date

October 1, 1994.

Senate Amendment

No provision.

Conference Agreement

The conference agreement does not include the provision in the House bill. The conferees urge the Secretary to ensure that information on children placed in foster care outside the State is provided through the foster care and adoption data collection system of section 479 of title IV-E.

20. Payments of State Claims for Foster Care and Adoption Assistance (Sec. 13231 of House bill)

Present Law

No provision. However, Federal regulations provide a timetable for the treatment of State claims for foster care and adoption assistance, and other programs.

House Bill

The provision would codify the regulations. Title IV-E would provide that upon receipt of a State claim for expenditures, the Secretary must within 60 days allow, disallow, or defer the claim. Within 15 days after a decision to defer a claim, the Secretary must notify the State of the reasons for the deferral action and of the additional information which the Secretary believes is necessary to determine the allowability of the claim. Within 90 days after receiving all information (in readily reviewable form) necessary to determine the allowability of the claim, the Secretary must either: (1) disallow the claim, if able to complete the review and make a determination that the claim is not allowable, or (2) in any other case, allow the claim subject, as necessary, to later disallowance upon completion of the review, and subject, in any case, to later disallowance on the basis of findings of an audit or financial management review.

Effective Date

Upon enactment.

Senate Amendment

No provision.

Conference Agreement

The conference agreement does not include the provision in the House bill.

21. Moratorium on Collection of Disallowances (Sec. 13232 of House bill)

Present Law

No provision.

House Bill

The provision would prohibit the Secretary: (1) before October 1, 1994, from reducing any payment to, withholding any payments from, or seeking any payments from any State, under titles IV-B or IV-E, by reason of a determination made in connection with a review of State compliance with the title IV-B (section 427) foster care protections for any fiscal year before fiscal year 1995; and (2) from reducing any payments to, withholding any payments from, or seeking any repayments from any State, under title IV-E, by reason of a determination made in connection with a Federal title IV-E financial review or an audit conducted by the Inspector General.

Effective Date

Upon enactment.

Senate Amendment

No provision.

Conference Agreement

The conference agreement follows the House bill, modified to provide that the moratorium on the collection of disallowances under title IV-E resulting from a financial review or an audit conducted by the Inspector General would end on October 1, 1994.

22. Border Region Child Welfare Worker Training Demonstration (Sec. 13233 of House bill)

Present Law

No provision.

House Bill

The provision would authorize training demonstrations in States along the United States-Mexico border (Texas, New Mexico, Arizona and California) for the delivery of culturally sensitive and bilingual child welfare services to residents of the border region of the States. The Secretary would have to make grants to up to 5 institutions of higher learning. One demonstration program would have to provide training to deliver services to historically unserved or underserved populations in an urban center with a high concentration of such populations.

The term historically unserved or underserved populations would include: (1) socially and economically disadvantaged populations; (2) persons with limited English proficiency; (3) urban populations exhibiting a high incidence of child neglect, abuse or abandonment; (4) homeless persons; (5) persons who are, or are in danger of becoming, infected with human immunodeficiency virus; and (6) alcohol and drug abusers.

In order to receive approval by the Secretary, an application would have to (i) demonstrate that the institution has a history of, or plan for, training students to deliver culturally-sensitive and bilingual child welfare services in a border county; (ii) provide assurances that the institution will develop and implement, in consultation with the child welfare agency of the State in which the applicant is located, a curriculum in the field of child welfare services that is sensitive to the culture of the areas of the United States that border on Mexico (or, for the urban center demonstration, the historically unserved or underserved populations of the urban center) and that includes training for identification of health problems of children and their families and of child abuse and neglect; and (iii) provide assurances that each individual who receives a stipend will enter into an agreement with the institution of higher learning under which the recipient agrees to be employed for a number of years equivalent to the period of the traineeship in a public or private nonprofit family assistance agency that provides services directly to residents of the border county in which the agency is located (or, for the urban center demonstration, the urban center in which the agency is located). In the event a recipient fails to comply, the recipient would have to repay all or part of the amount of the stipend, plus interest, and if applicable, reasonable collection fees.

Each institution that conducts a demonstration would have to develop and carry out a plan for evaluating the effects of the training provided under the project, and would have to submit a report on the evaluation.

A border county is defined as a county that is on the Mexico border and a county that borders on a county on the border.

The term urban center is defined to mean an area in a metropolitan statistical area, as designated by the Director of the Office of Management and Budget, which has a high incidence of individuals in historically unserved or underserved populations who are in need of social services, as determined by the Secretary using the most recent and best available information.

Effective Date

Upon enactment.

Senate Amendment

No provision.

Conference Agreement

The conference agreement does not include the provision in the House bill. The conferees encourage the Secretary to conduct border region demonstration projects under section 426 of title IV–B of the Social Security Act, under which grants are made for research, training and demonstration projects in the field of child welfare.

23. Effect of Failure to Carry Out State Plan (Suter v. Artist M.) (Sec. 13234 of House bill)

Present Law

The "State plan" titles of the Social Security Act include Aid to Families with Dependent Children (AFDC) (Title IV–A), Child Welfare Services (Title IV–B), Child Support and Establishment of Paternity (Title IV–D), Foster Care and Adoption Assistance (Title IV–E), Job Opportunities and Basic Skills Training (JOBS) (Title IV–F), and Medicaid (Title XIX). Under these titles, as a precondition of funding, each participating State is required to develop a written "State plan" that meets certain statutory requirements in order to be approved by the Secretary of the Department of Health and Human Services (HHS).

The Adoption Assistance and Child Welfare Act of 1980 amended the Social Security Act to require States to provide in their title IV–E plans that, in the case of each child, reasonable efforts will be made (a) prior to the placement of the child in foster care, to prevent or eliminate the need for removal of the child from his home, and (b) to make it possible for the child to return to his home (Sec. 471(a)(15)).

On March 15, 1992, the U.S. Supreme Court held in Suter v. Artist M., that the "reasonable efforts" clause does not confer a federally-enforceable right on its beneficiaries, nor does it create an implied cause of action on their behalf. In rendering its opinion, the Court also stated that although section 471(a) does place a requirement on the States, that requirement "only goes so far as to ensure that the States have a plan approved by the Secretary which contains the 16 listed features."

House Bill

The provision would amend title XI of the Social Security Act by adding a new section that reads as follows:

"In an action brought to enforce a provision of the Social Security Act, such provision is not to be deemed unenforceable because of its inclusion in a section of the Act requiring a State plan or specifying the required contents of a State plan. This section is not intended to limit or expand the grounds for determining the availability of private actions to enforce State plan requirements other than by overturning any such grounds applied in Suter v. Artist M., 112 S. Ct. 1360 (1992), but not applied in prior Supreme Court decisions respecting such enforceability; provided, however, that this section is not intended to alter the holding in Suter v. Artist M. that section 471(a)(15) of the Act is not enforceable in a private right of action."

The committee report states: "The intent of the provision is to assure that individuals who have been injured by a State's failure to comply with the Federal mandates of the State plan titles of the Social Security Act are able to seek redress in the federal courts to the extent they were able to prior to the decision in Suter v. Artist M., while also making clear that there is no intent to overturn or reject the determination in Suter that the reasonable efforts clause of title IV–E does not provide a basis for a private right of action. The Committee does not believe that Suter v. Artist M. would be applied to the unemployment compensation program."

Effective Date

The amendment would apply to actions pending on the date of enactment and to actions brought on or after the date of enactment.

Senate Amendment

No provision.

Conference Agreement

The conference agreement does not include the provision in the House bill. The conferees note their strong support for the provision in the House bill. The provision's exclusion from the conference agreement should not be read by any court as a statement by Congress on the merits of the provision.

CHILD SUPPORT ENFORCEMENT

1. State Paternity Establishment Programs (Sec. 13241 of House bill; sec. 7602 of Senate amendment)

Present Law

The Child Support Enforcement Program was enacted as part of the Social Security Act in 1975. The States operate their own programs within Federal law and regulations. The Federal Government pays for 66 percent of the administrative costs. States are responsible for establishing paternity, locating absent parents, establishing child support orders, and enforcing child support. The Federal role includes monitoring and evaluating State programs, providing technical assistance, and in certain instances, helping States locate absent parents and collect child support payments. The Internal Revenue Service (IRS) collects some child support in arrears by offsetting income tax refunds otherwise due to taxpaying obligors.

Paternity Establishment Performance Standards.—A State shall be found in compliance with Federal law if its paternity establishment percentage for fiscal years beginning on or after October 1, 1991 is at least: (a) 50 percent; (b) the paternity establishment percentage of the State for fiscal year 1988, increased by 3 percentage points for each year after fiscal year 1989 and ending before the fiscal year for which the standard is to apply; or (c) the paternity establishment percentage determined with respect to all States for the fiscal year.

The term "paternity establishment percentage" for a State for a given fiscal year is the percent obtained by dividing the number of children in the State who are born out of wedlock, are receiving cash benefits or Title IV–D child support enforcement services, and for whom paternity has been established by the number of children who are born out of wedlock and are receiving cash benefits or IV–D child support services.

House Bill

Paternity Establishment Performance Standards.—A new paternity establishment standard would require that a State's paternity establishment percentage be based on the most recent data available which are found by the Secretary to be reliable, and must: (1) be 75 percent; or (2) have increased by 3 percentage points over the previous fiscal year for a State with a percentage between 50 and 75 percent, or by 6 percentage points over the previous fiscal year for a State with a percentage below 50 percent.

Additional Requirements.—The provision would require each State to have in effect laws requiring the use of additional procedures:

(1) for a simple civil process for voluntarily acknowledging paternity under which the State must explain the rights and responsibilities of acknowledging paternity and afford due process safeguards. Procedures must include. (A) a hospital-based program for the voluntary acknowledgment of paternity during the period immediately preceding or following the birth of a child; and (B) the inclusion of signature lines on applications for official birth certificates which, once signed by the father, and the mother, constitute a voluntary acknowledgment of paternity;

(2) under which the voluntary acknowledgment of paternity in the manner described in (1)(B) above creates a rebuttable, or at the option of the State, conclusive presumption of paternity, and under which such voluntary acknowledgments are admissible as evidence of paternity;

(3) under which the voluntary acknowledgment of paternity in the manner described in (1)(B) must be recognized as a basis for seeking a support order without first requiring any further proceedings to establish paternity;

(4) which provide that any objection to genetic testing results must be made in writing within a specified number of days prior to any hearing at which such results may be introduced in evidence, and if no objection is made the test results are admissible as evidence of paternity without the need for foundation testimony or other proof of authenticity or accuracy;

(5) which create a rebuttable or, at the option of the State, conclusive presumption of paternity upon genetic testing results indicating a threshold probability of the alleged father being the father of the child; and

(6) which require default orders in paternity cases upon a showing that process has been served on the defendant and whatever additional showing may be required by State law.

(7) which require States to have expedited processes for paternity establishment in contested cases and to require that a State give full faith and credit to determinations of paternity made by other States.

The State plan requirements are further amended by requiring States to have in effect procedures under which, in the administration of any law involving the issuance, reissuance, or amendment of a birth certificate, the State must require each parent to furnish the social security number (SSN) to assist in identifying the parents of the child, unless the State (in accordance with regulations prescribed by the Secretary) finds good cause for not requiring the furnishing of the number. The SSN could not appear on the birth certificate, and the use of the SSN is restricted to child support purposes, unless the Privacy Act of 1974 does not prohibit the State from requiring the disclosure of the number.

Effective Date

The provision would be effective on: (1) October 1, 1993, or (2) if later, upon enactment by the State legislature of all laws required by the provision, but in no event later than the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after enactment of this bill.

Senate Amendment

Same as House bill, except does not require that the voluntary acknowledgment be "in the manner described in (1)(B)," does not require that the voluntary acknowledgment be "in the manner described in (1)(B)," and does not require State procedures to acquire social security numbers in conjunction with issuing birth certificates.

Effective Date

Same as House bill.

Conference Agreement

The conference agreement follows the Senate amendment, with technical changes in the paternity establishment percentage definition and standards.

2. Enforcement of Health Insurance Support (Sec. 13242 of House bill; sec. 7432 of Senate amendment)

Present Law

Public Law 98-378, the Child Support Enforcement Amendments of 1984, required the Secretary of Health and Human Services to issue regulations to require State agencies to petition to include medical support as part of any child support order whenever health care coverage is available to the noncustodial parent at a reasonable cost. The regulations were required to provide for improved information exchange between State child support enforcement agencies and the Medicaid agencies with respect to the availability of health insurance coverage.

Title XIX of the Social Security Act requires State Medicaid plans to provide that, as a condition of eligibility for Medicaid, an individual must assign to the State any rights to medical support that has been ordered by a court or administrative order. The individual is also required to cooperate with the State in identifying, and providing information to assist the State in pursuing, any third party who may be liable to pay for medical services, unless the State Medicaid agency determines that the individual has good cause for refusing to do so.

House Bill

The provision would amend title IV-D of the Social Security Act to require the State to have in effect laws requiring health insurers:

(1) to disregard an individual's eligibility for Medicaid benefits in determining eligibility for and coverage under the insurer's policy;

(2) to treat all State Medicaid programs as subrograted to Medicaid recipients' rights under health insurance policies in cases where an individual has assigned medical support rights to the States; and to treat State Medicaid agencies (when acting as agents or subrogees of applicants or beneficiaries) no differently from any other applicant, beneficiary, agent, or subrogee with respect to deadlines for filing claims or any other matters;

(3) not to bar coverage of a child under a parent's health insurance on grounds that the child does not reside with the parent or was born out of wedlock;

(4) where a parent is required by court or administrative order to provide health insurance coverage for a child, require insurers, without regard to otherwise applicable enrollment season restrictions, (A) to permit that parent to enroll in family coverage (if otherwise eligible and not already so enrolled) and to enroll the child, and (B) if that parent fails to apply, to enroll the child under that parent's family coverage upon application by the child's other parent or by the State Medicaid or child support enforcement agency; and

(5) to process and pay claims for medical care of such child submitted by the custodial parent, the service provider, or the State Medicaid agency, without the approval of the noncustodial parent.

State laws would be required to require employers to: (1) upon notice of a court or administrative order for such coverage, and upon application by the employee, (or, where the employee fails to apply, by the other parent, or the State Medicaid or child support enforcement agency), to permit enrollment at any time, under employer-sponsored group health coverage, of any employee's child who is the subject of such an order; (2) to permit disenrollment only upon receipt of satisfactory, written evidence that the order is no longer in effect or that alternative insurance coverage will take effect immediately; and (3) to withhold any employee share of premiums from the employee's pay.

State laws would be required to require the State child support agency to garnish employment income of, and to withhold amounts from State tax refunds to, any person who: (1) is required by court or administrative order to provide coverage of the costs of medical services to a Medicaid-eligible individual; (2) has received third-party payment for such costs; and (3) has not used such payments to reimburse, as appropriate, either the individual or the provider for such costs. Such garnishment or withholding would be permitted to the extent necessary to reimburse the Medicaid agency for expenditures for such costs, but claims for child support would take priority over claims for such medical costs.

Effective Date

Calendar quarters beginning on or after April 1, 1994, except in the case of a State that the Secretary determines requires State legislation in order for the program to need the additional requirements imposed by these provisions. The exception would expire the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act. In the case of a State that has a two-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

Senate Amendment

The provision amends title XIX as follows: Each State is required to have laws that:

(1) prohibit an insurer from denying enrollment of a child under the health insurance coverage of the child's parent on the grounds that the child was born out of wedlock, is not claimed as a dependent on the parent's Federal income tax return, or does not reside with the parent or in the insurer's service area;

(2) require an insurer and an employer doing business in the State, in any case in which a parent is required by court or administrative order to provide health coverage for a child and the child is otherwise eligible for family health coverage through the insurer, (a) to permit the parent, without regard to any enrollment season restrictions, to enroll such child under such family coverage; (b) if the parent fails to provide health insurance coverage for a child, to enroll the child upon application by the child's other parent or the State child support or Medicaid agency; and (c) with respect to employers, not to disenroll (or eliminate coverage of) the child unless there is satisfactory written evidence that the order is no longer in effect, or the child is or will be enrolled in comparable health coverage through another insurer that will take effect not later than the effective date of the disenrollment;

(3) require an employer doing business in the State, in the case of health insurance coverage offered through employment and providing coverage for a child pursuant to a court or administrative order, to withhold from the employee's compensation the employee's share of premiums for health insurance, and to pay that share to the insurer. The Secretary of Health and Human Services may provide by regulation for such exceptions to this requirement (and other requirements described above that apply to employers) as the Secretary determines necessary to ensure compliance with an order, or with the limits on withholding that are specified in section 303(b) of the Consumer Credit Protection Act;

(4) prohibit an insurer from imposing requirements upon a State agency, which is acting as an agent or assignee of an individual eligible for medical assistance and covered by the insurer, that are different from requirements applicable to an agent or assignee of any other individual;

(5) require an insurer, in the case of a child who has coverage through the insurer of a noncustodial parent, (a) to provide the custodial parent with the information necessary for the child to obtain benefits; (b) to permit the custodial parent (or provider, with the custodial parent's approval) to submit claims for covered services without the approval of the noncustodial parent; and (c) to make payment on claims directly to the custodial parent, the provider, or the State agency; and

(6) permit the State Medicaid agency to garnish the wages, salary, or other employment income of, and to withhold State tax refunds to, any person who (a) is required by court or administrative order to provide health insurance coverage to an individual eligible for Medicaid, (b) has received payment from a third party for the costs of medical services to that individual, and (c) has not reimbursed either the individual or the provider. The amount subject to garnishment or withholding would be the amount required to reimburse the State agency for expenditures for costs of medical services provided under the Medicaid program. However, claims for current or past-due child support shall take priority over any claims for the costs of medical services.

Effective Date

April 1, 1994, or, if the Secretary determines that State legislation is needed, the State plan shall not be regarded as failing to comply with the requirements of title IV-D because it has not met these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment. In the case of a State that has a two-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

Conference Agreement

The conference agreement is described in the Medicaid section because it amends Title XIX instead of Title IV of the Social Security Act.

3. Reports to Credit Bureaus on Persons Delinquent in Child Support Payments (Sec. 13243 of House bill)

Present Law

The Child Support Enforcement Amendments of 1984 required State child support enforcement agencies to provide information regarding the amount of overdue support owed by an obligor residing in the State to any consumer reporting agency, as defined under the Fair Credit Reporting Act, upon the request of that agency, if the arrearage exceeds $1,000. If the amount of overdue support is less than $1,000, the State may choose whether or not to report the delinquency.

The information may not be made available to the consumer reporting agency until notice of the proposed action has been sent to the obligor, the obligor has been given a reasonable opportunity to contest the accuracy of the information and all procedural due process requirements of the State have been fulfilled. Also, a fee, not to exceed the cost of furnishing the information, may be imposed on the requesting agency by the State.

The Ted Weiss Child Support Enforcement Act of 1992 amended the Fair Credit Reporting Act to require consumer reporting agencies to include in any consumer report information on child support delinquencies provided by or verified by State or local child support enforcement agencies which predates the report by no more than seven years

House Bill

The provision would require State child support enforcement agencies to report periodically the names of obligors who are at least 2 months delinquent in the payment of support and the amount of the delinquency to consumer reporting agencies. The present law requirement that the amount of the delinquency must exceed $1,000, and the requirement for notice and due process, would be retained. The provision relating to payment of a fee by the credit reporting agencies would be repealed.

Information could not be made available to a consumer reporting agency if: (1) the State determined that the consumer reporting agency lacked capacity to make systematic and timely use of the information; and (2) it did not furnish evidence satisfactory to the State that it conforms to the definition of a "consumer reporting agency" under Federal law.

Effective Date

October 1, 1994, except if the Secretary determines that a State is unable to comply with the provision. Such State would be exempt from compliance until the State establishes an automated data processing and information retrieval system or October 1, 1995, whichever occurs earlier.

Senate Amendment

No provision.

Conference Agreement

The conference agreement does not include the provision in the House bill.

SUPPLEMENTAL SECURITY INCOME

1. Fee for Federal Administration of State Supplementary Payments (Sec. 13251 of House bill)

Present Law

The Social Security Administration administers the State supplementation of Supplemental Security Income (SSI) benefits in 27 States and the District of Columbia. No fee is charged for this service.

States have the option to supplement the Federal SSI benefit standard. All but nine States and jurisdictions provide State supplementation. Those that do not are: Arkansas, Georgia, Kansas, Mississippi, North Dakota, Northern Mariana Islands, Tennessee, Texas, and West Virginia. States may elect to administer their supplementary payments themselves or may contract with the Social Security Administration for Federal administration. Since the SSI program began in 1974, six States have shifted from Federal to State administration of their optional State supplementation program.

In addition, all States must supplement SSI benefits paid to beneficiaries if their current level of payment would be less than beneficiaries received under State programs prior to establishment of the SSI program in 1974.

House Bill

The Social Security Administration would be required to charge States fees for the Federal cost of administering State supplemental SSI payments. The fee would apply to both optional and mandatory supplementary payments. The fee would be: (1) $1.67 for each monthly supplementary payment for fiscal year 1994; (2) $3.33 for each monthly supplementary payment for fiscal year 1995; and (3) $5.00 for each monthly supplementary payment for fiscal year 1996. The fee for subsequent fiscal years would be $5.00 or such amount as the Secretary determines is appropriate, taking into consideration the complexity of the State's supplementary payment program.

Further, the Secretary would be required to charge fees for additional services requested by States that are beyond the level customarily provided for administration of the State's supplementary payment program.

Effective Date

The provision would be effective for supplementary payments made in months beginning after September 1993.

Senate Amendment

Same as House bill, except the fees begin in fiscal year 1995 rather than in 1994.

Conference Agreement

The conference agreement follows the House bill with technical modifications.

2. Exclusion of State Relocation Assistance from Countable Income under the SSI Program (Sec. 13252 of House bill)

Present Law

The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 excludes from income and resources any relocation assistance provided under the Act to individuals receiving Federal assistance, including SSI. Relocation assistance is paid when individuals are required to move by the Government. For example, the Government might need their land for a public building or highway or they might need to move because toxic wastes were discovered on the site. Under Public Law 101-508, comparable State or local relocation assistance was excluded from countable income under SSI and also from resources for no more than 9 months, for the three-year period ending May 1, 1994.

House Bill

The provision would make permanent the exclusion of State and local relocation assistance from countable income under the SSI program.

Effective Date

Upon enactment.

Senate Amendment

No provision.

Conference Agreement

The conference agreement follows the House bill, modified to also provide for exclusion from countable resources.

3. Prevention of Adverse Effects on Eligibility for, and Amount of, SSI Benefits when Spouse or Parent of Beneficiary is Absent from the Household Due to Active Military Service (Sec. 13253 of House bill)

Present Law

If the parent or spouse of family members who receive Supplemental Security Income (SSI) payments resides in the household and then is required to be absent from the household because of an active military duty assignment, this absence can cause the family members to lose benefits or eligibility for SSI. This is because absence from the household causes more of the income of the absent member to be attributed to those receiving SSI in the household. Also, if the military duty assignment involves armed conflict, the service member may receive hazardous duty pay. This additional income, if sent back to the household, can also reduce the SSI payments or cause ineligibility of family members.

House Bill

The provision would require that a spouse or parent who is absent from an SSI household solely because of a military assignment on active duty be deemed to be still living in the household. Certain hazardous duty pay would be excluded from countable income under the SSI program.

Effective Date

The first day of the second month that begins after the date of enactment.

Senate Amendment

No provision.

Conference Agreement

The conference agreement follows the House bill.

4. Eligibility for Children of Armed Forces Personnel Residing Outside the United States Other Than in Foreign Countries (Sec. 13254 of House bill)

Present Law

SSI benefits are generally continued for children who are U.S. citizens and who accompany their parents on U.S. military assignments to foreign countries. Benefits do not continue if the parents are stationed in Puerto Rico or in the territories or possessions of the United States.

House Bill

The provision would continue SSI benefits to children who are U.S. citizens if they received SSI benefits in the United States and then accompany their parents on U.S. military assignment to Puerto Rico or territories or possessions of the United States.

Effective Date

The first day of the second month that begins after the date of enactment.

Senate Amendment

No provision.

Conference Agreement

The conference agreement follows the House bill.

5. Definition of Disability for Children under Age 18 Applied to All Individuals under Age 18 (Sec. 13255 of House bill)

Present Law

Present law provides a definition of disability applicable to children. Under this definition, a child's physical or mental impairments are evaluated according to criteria that have been developed especially for children. The SSI program defines a child as someone who is neither married nor the head of a household, and who is:

(1) under age 18, or (2) under age 22 and a student regularly attending a school, college, or university, or a course of vocational or technical training designed to prepare him for gainful work. As a result, the special evaluation criteria developed to evaluate childhood disabilities may not be used for some SSI applicants who are under age 18.

House Bill

The provision would extend the SSI childhood definition of disability to any person under age 18.

Effective Date

Applies to determinations made on or after the date of enactment.

Senate Amendment

No provision.

Conference Agreement

The conference agreement does not include the provision in the House bill.

6. Valuation of Certain In-kind Support and Maintenance When There is a Cost of Living Adjustment in SSI Benefits (Sec. 13256 of House bill)

Present Law

A person who lives in the household of another person and receives in-kind support and maintenance from the householder must have his or her Federal SSI benefit reduced by one-third of the Federal benefit. Regulations provide for a "presumed maximum value" for measuring in-kind support and maintenance for a person who lives in his or her own household and receives in-kind support and maintenance, or lives in another person's household and receives food or shelter, but not both. This "presumed maximum value" is one-third of the Federal SSI benefit plus $20 per month (the amount of the unearned income exclusion from countable income).

Under the 2-month retrospective accounting principle that generally governs SSI benefit calculations, SSI benefits are determined after looking at the income in the second preceding month. In this system, an individual's countable income in the second month before the current month is used to determine the SSI benefit for the current month (e.g., January's SSI benefit is based on income received in November).

As a result of this use of retrospective accounting, the presumed value of in-kind support is not increased at the time an annual cost-of-living adjustment (COLA) to SSI benefits takes effect. Each time SSI benefits are increased by a COLA, SSI benefits for January and February are calculated using the increased value, but the reduction in benefits for receipt of support and maintenance in-kind is made on the lower pre-COLA November and December Federal SSI benefit. A 2-month lag occurs between the receipt of the COLA and the adjustment for increased value of in-kind support. A beneficiary will receive a COLA in January and February. Then in March, when the post-COLA Federal SSI benefit is used for valuing the reduction for in-kind support and maintenance, SSI benefits will drop.

House Bill

This provision would require that the current month's Federal benefit amount be used in determining the value of in-kind support and maintenance in calculating the current month's Federal benefit to be paid. This would eliminate the unintended benefit increase for January and February following a COLA and the offsetting reduction for March.

Effective Date

Applies to benefits paid for months after calendar year 1993.

Senate Amendment

No provision.

Conference Agreement

The conference agreement follows the House bill. The provision applies to benefits paid for months after the calendar year 1994.

7. Exclusion of Certain Income Received by Indians from Interests Held in Trust (Sec. 13257 of House bill)

Present Law

Income received by Indians from tribally-owned trust lands is exempt from consideration under Federal welfare programs, such as AFDC and Supplemental Security Income (SSI). This income is distributed on a per capita basis to tribal members, but the land is owned by the tribe as a whole and managed for the tribe's benefit by the Bureau of Indian Affairs.

Individually-owned trust or restricted Indian lands are excluded from resources in applying the resource test under AFDC and SSI. However, income derived from leases on individually-owned trust or restricted Indian lands and paid to an individual is included in countable income when determining eligibility and benefit amounts for these cash welfare programs.

House Bill

The provision exempts the first $2,000 per year of income received by an individual derived from leases on individually-owned trust or restricted Indian lands in determining eligibility and benefit levels under the AFDC and SSI programs.

Effective Date

January 1, 1993.

Senate Amendment

No provision.

Conference Agreement

The conference agreement follows the House bill, effective January 1, 1994.

AID TO FAMILIES WITH DEPENDENT CHILDREN

1. Limit Federal Funding Match to 50 Percent for State Administrative Costs (Sec. 13261 of House bill; sec. 7601 of Senate amendment)

Present Law

In general, the Federal Government provides 50 percent reimbursement for State administrative expenses under the aid to families with dependent children (AFDC) program. Enhanced Federal reimbursement is available, however, for three categories of expenses:

(a) Expenditures related to the verification of the immigration status of aliens.—Under the Social Security Act, States must require and determine, as a condition of an individual's eligibility, that the individual is either a citizen, or an alien lawfully admitted for permanent residence or otherwise residing permanently in the U.S. under color of law. If an individual is not a citizen, the State must verify the individual's immigration status with the Immigration and Naturalization Service (INS), through an immigration status verification system. State expenditures for the costs of implementing and operating the system are fully reimbursed by the Federal government.

(b) Expenditures related to information management.—Under the AFDC program, States may establish and operate a statewide management information system, in accordance with an initial and annually updated advance planning document approved by the Secretary. State expenditures relating to the planning, design, development and installation of the system are reimbursed by the Federal government at a rate equal to 90 percent.

(c) Expenditures related to fraud control.—Under the AFDC program, States may establish and operate a fraud control program in accordance with certain statutory guidelines. In general, under the program, certain penalties (in the form of benefit reductions) apply for a specified period in cases where an individual is found to have intentionally committed fraud for the purpose of maintaining his family's eligibility for benefits or securing increases in the amount of aid. State expenditures relating to the costs of carrying out the fraud control program, including costs related to investigation, prosecution, and administrative hearing of fraudulent cases, and collection, are reimbursed by the Federal government at a rate equal to 75 percent.

House Bill

The provision would reduce the Federal matching rates for each of these three categories of expenditures to 50 percent.

In addition, the provision would make the State verification of the individual's immigration status with the Immigration and Naturalization Service (INS), through an immigration status verification system, optional.

Effective Date

The provision would be effective April 1, 1994, except that the Secretary may delay applicability to a qualified State until the first calendar quarter that begins after the close of the first regular session of the State legislature that begins after the date of enactment. The Secretary shall establish what the term "qualified State" means and apply it uniformly, including whether the State legislature meets biennially and does not have a regular session scheduled in calendar year 1994.

Senate Amendment

Same as House bill except for technical difference; there is also no provision making the verification of an individual's immigration status optional with the States.

Effective Date

The provision would be effective April 1, 1994. In the case of a State whose legislature meets biennially, and does not have a regular session scheduled in calendar year 1994, the amendment would be effective no later than the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment.

Conference Agreement

The conference agreement follows the Senate amendment.

2. Delay in Effective Date of AFDC-UP Participation Rate Requirements (Sec. 13262 of House bill)

Present Law

In general, the Family Support Act of 1988 included a provision that requires States to require at least one parent in an AFDC-UP family (a family eligible for AFDC due to the unemployment of the principal earner in the family) to participate in any of certain specified work activities at least 16 hours a week, if either parent is not exempt from participation.

The requirement is not effective until fiscal year 1994. States will be considered to have met this requirement for a fiscal year if the following average monthly percentages of AFDC-UP families in the State participate in work activities: 40 percent for fiscal year 1994; 50 percent for fiscal year 1995; 60 percent for fiscal year 1996; and 75 percent for fiscal year 1997 and 1998. HHS regulations provide that the Federal matching rate to a State for the JOBS program will be reduced to 50 percent if the State does not satisfy the participation rate requirement for the prior year. (Non-administrative JOBS expenditures are generally matched by the Federal government at the Medicaid rate, with a minimum Federal match of 60 percent).

The Secretary may waive any penalty if she finds that (1) the State has made a good faith effort to meet the requirement but has been unable to do so because of economic conditions in the State (including significant numbers of recipients living in remote locations or isolated rural areas where the availability of work sites is severely limited), or because of rapid and substantial increases in the caseload that cannot reasonably be planned for, and (2) the State has submitted a proposal which is likely to achieve the required percentage of participants for the subsequent fiscal years.

House Bill

The provision would delay by one year Federal requirements regarding AFDC-UP participation rates. States will be considered to have met the requirement for a fiscal year if the following average monthly percentages of AFDC-UP families in the State participate in work activities: 40 percent for fiscal year 1995; 50 percent for fiscal year 1996; 60 percent for fiscal year 1997; and 75 percent for fiscal years 1998 and 1999.

Effective Date

Upon enactment.

Senate Amendment

No provision.

Conference Agreement

The conference agreement does not include the provision in the House bill.

3. Report to Congress on Performance Standards in the JOBS Program (Sec. 13263 of House bill)

Present Law

Section 487 of the Social Security Act requires the Secretary, not later than 3 years after the effective date of the Family Support Act of 1988, to develop performance standards for the Job Opportunities and Basic Skills (JOBS) program and to submit her recommendations for performance standards to appropriate committees of Congress. The recommendations must include recommendations with respect to specific measurements of outcomes, may not be based solely on levels of activity or participation, and must take into account what States reasonably can be expected to achieve.

House Bill

The provision would delay the required date for recommendations by one year. Also, the Secretary would be required to develop criteria for the performance standards, rather than performance standards.

Effective Date

Upon enactment.

Senate Amendment

No provision.

Conference Agreement

The conference agreement does not include the provision in the House bill.

4. Measurement and Reporting of the Degree to Which Families Depend on Income from Welfare (Sec. 13264 of House bill)

Present Law

National and State information on AFDC receipt and the characteristics and financial circumstances of AFDC recipients is compiled annually by the Department of Health and Human Services (DHHS), using data from the National Integrated Quality Control Review System (NIQCS).

House Bill

The provision would require the Secretary of Health and Human Services, in consultation with the Secretary of Agriculture, to develop (1) measures of the rate at which, and the degree to which, families depend on income from welfare programs; and the duration of welfare participation; and (2) predictors of welfare receipt. Not later than 2 years after the date of enactment, the Secretaries of HHS and Agriculture would be required to submit an interim report with conclusions to designated committees of Congress.

A temporary Advisory Board on Welfare Participation would be created, composed of 12 Members with equal numbers appointed by the House of Representatives, the Senate and the President. The Board would be composed of experts in the field of welfare research and statistical methodology, representatives of State and local welfare agencies, and organizations concerned with welfare issues. The Board will provide advice and recommendations to the Secretary on the development of the measures described above, and on the development and presentation of the annual report on welfare participation.

The provision would require the Secretary to prepare an annual report on welfare participation, that provides information on the measures described above, trends in the measures, predictors of welfare participation, the causes of welfare participation, patterns of multiple program participation, and such other information as the Secretary deems relevant; and such recommendations for legislation, which shall not include proposals to reduce eligibility levels or impose barriers to program access, as the Secretary may determine to be necessary or desirable to reduce (1) the rate at which, and the degree to which, families depend on income from welfare programs; and (2) the duration of welfare participation. The report shall include analysis of families and individuals receiving assistance under means-tested programs, including AFDC, food stamps, SSI, and State or local general assistance. The first report would be due no later than 3 years after the date of enactment.

Effective Date

Upon enactment.

Senate Amendment

No provision.

Conference Agreement

The conference agreement does not include the provision in the House bill.

5. New Hope Demonstration Project (Sec. 13265 of House bill)

Present Law

No provision.

House Bill

The provision would allow the Secretary to provide for a demonstration project for a qualified program to be conducted in Milwaukee, Wisconsin. A qualified program is defined as a program operated by the New Hope Project, Inc., a private not-for-profit corporation in Milwaukee, which offers low-income residents employment, wage supplements, child care, health care, and counseling and training for job retention or advancement.

The provision would require the Secretary to make payments for no more than 20 quarters, in an amount equal to the aggregate amount that would otherwise have been payable to the State with respect to participants in the program, in the absence of the program, for cash assistance and child care under Title IV-A, and for administrative expenses for these programs. Expenses of the program relating to evaluation would qualify for 50 percent Federal matching.

The operator of the program must provide in the application that the following conditions will be met: (1) the operator will implement an evaluation plan designed to provide reliable information on the impact and implementation of the program, that will include adequately sized groups of participants and control groups assigned at random; (2) the operator will develop and implement a plan addressing the services and assistance to be provided by the program, the timing and determination of payments from the Secretary to the operator of the program, and the roles and responsibilities of the Secretary and the operator with respect to meeting specified requirements; (3) the operator will specify a methodology for determining expenditures to be paid to the operator by the Secretary, with assistance from the Secretary in calculating the amount; and (4) the operator will issue an interim and final report on the results of the evaluation of the program at such times as required by the Secretary.

Effective Date

The provision would take effect on the first day of the first calendar quarter that begins after the date of enactment.

Senate Amendment

No provision.

Conference Agreement

The conference agreement does not include the provision in the House bill.

6. Delay in AFDC-UP Mandate for Outlying Jurisdictions (Sec. 13266 of House bill)

Present Law

The Family Support Act of 1988 included a requirement that any State AFDC plan make AFDC available to needy dependent children of unemployed parents (for at least 6 out of 12 months). The amendment was effective for the States on October 1, 1990, and for Puerto Rico, Guam, the Virgin Islands and American Samoa on October 1, 1992. (American Samoa, however, does not participate in the AFDC program.) Unlike States, these outlying areas are subject to limitations on payments for AFDC and related programs.

House Bill

This provision would delay the requirement for implementation of the Unemployed Parent program in Puerto Rico, Guam, the Virgin Islands, and American Samoa until such time as the limitations on Federal matching payments to these jurisdictions for purposes of making AFDC maintenance payments are repealed.

Effective Date

Upon enactment.

Senate Amendment

No provision.

Conference Agreement

The conference agreement does not include the provision in the House bill.

7. Declaration of Citizen and Alien Status (Sec. 13267 of House bill; sec. 7601 of Senate amendment)

Present Law

Section 1137(d) of the Social Security Act specifies that States must require, as a condition of eligibility for the AFDC, Medicaid, unemployment compensation, and food stamp programs, a declaration in writing by each adult individual (or, in the case of a child, by another individual on the child's behalf), stating whether the individual is a citizen or national of the U.S., and if not, that the individual is in a satisfactory immigration status. Under AFDC policy, a newborn child may not be eligible until a declaration has been signed.

Legislation enacted in 1990 overrode the provision of sec. 1137 with respect to the food stamp program. Under that legislation, one adult member of the food stamp household is required to sign, under penalty of perjury, a written declaration as to the citizenship or satisfactory immigration status of all household members, and by regulation, a declaration for newborn children is allowed no later than the next redetermination of eligibility.

House Bill

With respect to the AFDC program, this provision would allow one adult member of a family or household to sign a declaration, under penalty of perjury, on behalf of other adults in the household. In addition, in the case of a newborn child, it would permit an adult to sign a declaration on behalf of the child no later than the date of the next redetermination of the eligibility of the family or household.

Effective Date

The provision would become effective with respect to benefits provided on or after October 1, 1993.

Senate Amendment

Same as House bill, except applies to all programs listed under section 1137(d).

Effective Date

Upon enactment.

Conference Agreement

No provision.

8. Increase in Disregard of Stepparent Income (Sec. 13268 of House bill)

Present Law

Effective in July 1963, Federal law required the AFDC agency to disregard "reasonable" work expenses when counting the earned income of AFDC applicants and recipients. The 1981 Omnibus Budget Reconciliation Act (Public Law 97-35) replaced the reasonable work expense deduction with a standard work expense disregard of $75 monthly. In 1981, Congress required that a portion of the income of the stepparent of an AFDC applicant or recipient, even in States that did not hold all stepparents to be financially responsible for stepchildren, must be deemed available to the stepchild; and it then extended the $75 disregard to stepparent earnings. In 1988, effective October 1, 1989, the standard work expense disregard was increased from $75 to $90 per month for AFDC applicants and recipients, but not for stepparents living with AFDC-eligible children.

House Bill

This provision would increase the earnings disregard for stepparents to $90 monthly. This amount of earnings would not be counted in determining the eligibility and benefit amounts of AFDC applicants and recipients.

Effective Date

October 1, 1993.

Senate Amendment

No provision.

Conference Agreement

The conference agreement follows the House bill.

9. Extension of New York State Child Assistance Program (Sec. 13269 of House bill)

Present Law

New York State currently operates a Child Assistance Program (CAP) demonstration under Federal waiver authority enacted under the Omnibus Budget Reconciliation Act of 1987. The demonstration is testing an alternative to AFDC for families with child support orders and monthly earnings. The five year waiver is effective through March 31, 1994.

House Bill

The provision would extend the CAP demonstration project for an additional five years, to April 1, 1999.

Effective Date

Upon enactment.

Senate Amendment

No provision.

Conference Agreement

The conference agreement does not include the provision in the House bill.

10. Early Childhood Development Projects (Sec. 13270 of House bill)

Present Law

The Family Support Act of 1988 authorized up to 10 demonstration projects to test and evaluate the effect of early childhood development programs on families receiving AFDC and participating in Job Opportunities and Basic Skills Training (JOBS), and authorized $6 million for each of fiscal years 1990, 1991, and 1992 for these and two other categories of projects. No funds were appropriated for the early childhood development projects for fiscal years 1990 through 1993.

House Bill

The provision would extend the authorization for early childhood development projects through fiscal year 1998. It authorizes to be appropriated for these projects up to $3 million for each of fiscal years 1994 through 1998.

Effective Date

Date of enactment.

Senate Amendment

No provision.

Conference Agreement

The conference agreement does not include the provision in the House bill. The conferees encourage the Secretary to conduct early childhood demonstration projects under section 1110 of the Social Security Act, which funds social services and income maintenance research.

11. State Option to Condition AFDC Payments on Child Immunization

Present Law

No provision.

House Bill

No provision.

Senate Amendment

States would have the option of providing that if a family receiving AFDC includes a child under age 6 who has not received appropriate immunizations (as determined by the State), the State will take actions to encourage timely immunization including, but not limited to, reducing the total benefits received by the family by all or a portion of the benefits allocable to the parent or guardian of the child.

The State would have the option of either placing all or a portion of the amount in an account; until the family demonstrates to the State that the child has been appropriately immunized, or using all or a portion of the amount to provide services to the family intended to ensure that the child receives appropriate immunizations.

The Secretary of HHS would be required to provide for the establishment of programs intended to ensure the appropriate immunization of children to be operated in a State; that elects to take actions to encourage the timely immunization of children. The Secretary would pay each State conducting a program an amount equal to the State's Federal percentage (as determined under sec. 403(a) of the Social Security Act) of the expenditures incurred by the State in conducting the program. In conducting programs, the Secretary could pay no State more than $250,000 in any year for expenses incurred under title IV and sec. 1903 of the Social Security Act.

Effective Date

Upon date of enactment.

Conference Agreement

The conference agreement does not include the Senate amendment.

UNEMPLOYMENT INSURANCE

1. Short Time Compensation (Sec. 13271 of House bill)

Present Law

All funds withdrawn from the unemployment trust fund of a State must be used solely in payment of unemployment compensation, exclusive of administrative expenses and refunds of erroneously paid sums except: (1) certain authorized disability payments; (2) certain "Reed Act" expenses; (3) authorized health insurance costs; (4) repayments of overpayments; and (5) short-time compensation.

Short-time compensation is a plan under which an employer, faced with the need for layoffs because of reduced workload, might spread the hours of work required to produce a given product, avoiding layoffs by reducing the number of regularly scheduled hours of work for all employees in an establishment or work unit. Unemployment benefits are payable to workers for hours of work lost as a fraction of the weekly benefit amount. For example, workers laid off for one day per week would receive one-fifth of their weekly benefit amounts. Duration is often limited. For example, California and New York limit duration to 20 weeks.

States with short-time compensation programs are: Arizona, Arkansas, California, Florida, Iowa, Kansas, Louisiana, Maryland, Massachusetts, Missouri, New York, Oregon, Rhode Island, Texas, Vermont, and Washington. Connecticut authorized a pilot program, but had not issued regulations on it as of the beginning of 1993.

Public Law 102-318, the Unemployment Compensation Amendments of 1992, explicitly authorized the use of unemployment trust funds for payment of short-time compensation. Although this law defined short-time compensation, it did not define short-time compensation in the Federal Unemployment Tax Act for the purposes of approving State laws and withdrawing funds from the unemployment trust fund to pay short-time compensation. The Solicitor of the U.S. Department of Labor has concluded that this puts States with short-time compensation programs at risk of being out of compliance with Federal law because existing State laws might not comply with the vague language in the Federal Unemployment Tax Act now.

House Bill

The provision would amend the Federal Unemployment Tax Act to define explicitly a short-time compensation program.

Effective Date

Upon enactment.

Senate Amendment

No provision.

Conference Agreement

The conference agreement does not include the provision in the House bill.

2. Unemployment Trust Fund Transfers (Sec. 13272 of House bill)

Present Law

Title IX of the Social Security Act allocates Federal unemployment tax revenue into three accounts of the unemployment trust fund: (1) the Employment Security Administration Account (ESAA); (2) the Extended Unemployment Compensation Account (EUCA); and (3) the Federal Unemployment Account (FUA).

House Bill

The provision would strike language that was inadvertently included in the Emergency Unemployment Compensation Act, as amended. The language would have allocated funding that was not adopted in conference committee and therefore, is not needed.

Effective Date

Upon enactment.

Senate Amendment

No provision.

Conference Agreement

The conference agreement does not include the provision in the House bill.

3. Advisory Council on Unemployment Compensation (Sec. 13273 of House bill)

Present Law

The Emergency Unemployment Compensation Act of 1991 authorized a quadrennial advisory council on unemployment compensation to examine the purpose, goals, and functioning of the unemployment compensation system, and to make recommendations for improvement. Its first report is due by February 1, 1994.

House Bill

The provision would delay the Council's report for one year to February 1, 1995.

Effective Date

Upon enactment.

Senate Amendment

No provision.

Conference Agreement

The conference agreement does not include the provision in the House bill.

4. Emergency Unemployment Compensation (Sec. 13274 of House bill)

Present Law

Under the Emergency Unemployment Act, as amended by the Unemployment Compensation Amendments of 1992, Public Law 102–318 (H.R. 5260), the Emergency Unemployment Compensation program was intended to phase down when the national unemployment rate for two consecutive months fell below 7 percent. The number of weeks of benefits was intended to drop from the current 20 or 26 weeks to 10 or 15 weeks if the national unemployment rate were below 7 percent for two consecutive months. Further, if the national unemployment rate fell below 6.8 percent for two consecutive months, it was intended that the number of weeks of benefits available would fall to 7 or 13 weeks.

Under the Department of Labor's interpretation of the statute, the number of weeks of benefits would be reduced if the "average" rate of national unemployment for a 2-month period falls below 7 percent.

House Bill

The provision would amend the phase-down trigger language to reflect the intent of the conferees on H.R. 5260 so that the program would phase down as the national unemployment rate falls during two consecutive months.

Effective Date

Effective as if included in the amendments made by section 101 (b) of the Unemployment Compensation Amendments of 1992.

Senate Amendment

No provision.

Conference Agreement

The conference agreement does not include the provision in the House bill.

5. Increase in Amount of Federal Reimbursement for Extended Benefits (Sec. 13275 of House bill)

Present Law

The Federal matching rate under the Extended Benefits program is 50 percent.

House Bill

The provision would increase the Federal matching rate to 75 percent.

Effective Date

Weeks beginning after October 2, 1993. In the case of any State legislature which has not been in session for at least 30 calendar days between the date of enactment and October 1, 1993, the provision would not be a State law requirement before 30 calendar days after the first day on which its legislature is in session on or after October 1, 1993.

Senate Amendment

No provision.

Conference Agreement

The conference agreement does not include the provision in the House bill.

6. Repeal of Special Eligibility Requirements for Extended Benefits (Sec. 13275 of House bill)

Present Law

Public Law 102–318, the Unemployment Compensation Amendments of 1992, suspended certain Extended Benefits (EB) suitable work, job search, and re-employment requirements until January 1, 1995. During the suspension, States may apply the same requirements they use in their regular State programs.

Under the suspended requirements of the Extended Benefits program (EB), benefits may not be paid to an individual in any week of unemployment if: (a) he fails to accept an offer of "suitable work" or he fails to apply for suitable work to which he was referred by the State agency; or (b) he fails to actively seek work, unless: (1) he was issued a summons to appear for jury duty before any court of the United States or any State, or (2) he was hospitalized for treatment of any emergency or a life-threatening condition if such exemptions apply to claimants of regular State benefits and the State chooses to apply them to claimants of EB.

If a claimant is ineligible because of either (a) or (b) above, the claimant is disqualified for the week following the week in which the violation occurred and for each subsequent week until he has been employed for at least 4 weeks and earned at least 4 times his weekly benefit amount.

The term "suitable work" means any work within the claimant's capabilities, except that if the individual furnishes evidence that his prospects for obtaining work in his customary occupation within a reasonably short time period are good, the definition of "suitable work" conforms to State law.

EB may not be denied to a claimant for a failure to apply for or accept a suitable job if: (a) the gross pay does not exceed the claimant's weekly benefit amount plus any supplemental benefits payable to him; (b) the position was not offered in writing and was not listed with the State employment service; (c) such failure would not result in a denial of regular State benefits as long as other conditions of the EB program are met; or (d) the job pays wages less than the higher of; (1) the Federal minimum wage, or (2) the applicable State or local minimum wage.

The claimant is treated as actively seeking work if: (a) he has engaged in a systematic and sustained effort to obtain work; and (b) he provides tangible evidence to the State agency that he has engaged in such effort.

The State must provide for referring applicants for EB to any suitable work to which these provisions apply.

No provision of State law which terminates a disqualification of a claimant for regular State benefits because of voluntarily leaving a job, being discharged for misconduct, or refusing suitable work applies to the EB program unless such termination is based on subsequent employment.

House Bill

The provision would repeal the currently suspended eligibility requirements.

Effective Date

Weeks beginning on or after October 2, 1993.

Senate Amendment

No provision.

Conference Agreement

The conference agreement does not include the provision in the House bill.

7. Two-Year Extension of Federal Unemployment Surtax (Sec. 13276 of House bill)

Present Law

The Federal unemployment tax of 0.8 percent is paid by employers on the first $7,000 paid annually to each employee. Of the 0.8 percent tax rate, 0.6 percentage point is permanent and 0.2 percentage point is scheduled to expire at the end of 1996.

House Bill

The 0.2 percent surtax would be extended for two years, through 1998.

Effective Date

Upon enactment.

Senate Amendment

No provision.

Conference Agreement

The conference agreement follows the House bill.

8. Disclosure of Information to Railroad Retirement Board (Sec. 13277 of House bill)

Present Law

The Railroad Retirement Board (RRB) has access to returns and return information regarding taxes imposed under the Railroad Retirement Tax Act for purposes of the administration of the Railroad Retirement Act (RRA), but it is not authorized to receive returns and return information filed under the Railroad Repayment Tax provisions. (The Railroad Unemployment Repayment Tax was imposed to repay loans from the Railroad Retirement Account obtained by the Railroad Unemployment Insurance Account.) In addition, there is no specific authority to disclose RRA information for purposes of the administration of the Railroad Unemployment Insurance Act (RUIA).

House Bill

The provision would amend the Internal Revenue Code to enable the RRB to obtain Railroad Unemployment Tax information.

Effective Date

Upon enactment.

Senate Amendment

No provision.

Conference Agreement

The conference agreement does not include the provision in the House bill.

SOCIAL SERVICES BLOCK GRANT

1. Targeted Federal Assistance for Social Services

Present Law

Under title XX of the Social Security Act, States are entitled to receive social services block grant funds. Title XX is a capped entitlement, with an entitlement ceiling of $2.8 billion per fiscal year. The share for each State is based on its relative share of the national population.

States may use the block grant funds for a wide range of social services, directed at five goals: (1) achieving or maintaining economic self-support to prevent, reduce or eliminate dependency; (2) achieving or maintaining self-sufficiency, including reduction or prevention of dependency; (3) preventing or remedying neglect, abuse, or exploitation of children and adults unable to protect their own interests, or preserving, rehabilitating or reuniting families; (4) preventing or reducing inappropriate institutional care by providing for community-based care, home-based care, or other forms of less intensive care; and (5) securing referral or admission for institutional care when other forms of care are not appropriate, or providing services to individuals in institutions.

According to State preexpenditure reports, which describe the intended use of block grant funds, in fiscal year 1992 States funded such services as: substance abuse services; residential care and treatment; education and training; employment; transportation; health-related services; prevention and intervention services; and social support services (such as recreation, camping, family development and physical activities).

House Bill

No provision.

Senate Amendment

No provision.

Conference Agreement

The conference agreement makes $1 billion available under Title XX to the Secretary for grants to States for social services. Each State is entitled to grants for each qualified empowerment zone and each qualified enterprise community in the State.

An empowerment zone or enterprise community is qualified if it has been designated a zone or community under part I of subchapter U of chapter 1 of the Internal Revenue Code of 1986 and if its strategic plan (required in an application for designation under the Internal Revenue Code) is qualified.

A qualified plan is a plan that: (a) includes a detailed description of the activities proposed for the area that are to be funded with the grant; (b) contains a commitment that the amounts provided will not be used to supplant Federal or non-Federal funds for services and activities which promote the purposes of the grant; (c) to the extent a State does not use the funds on certain program options (see below), explains the reasons why not; and (d) was developed in cooperation with the local government or governments with jurisdiction over the zone or community.

With respect to each empowerment zone, the Secretary will make one grant to each State in which the zone lies, on the date of its designation, and a second grant on the first day of the first fiscal year that begins after the designation. With respect to each enterprise community, the Secretary will make one grant to each State in which the community lies, on the date of its designation.

The amount of each grant to a State for an empowerment zone will equal $50 million if the zone is designated in an urban area and $20 million if the zone is designated in a rural area (multiplied by the proportion of the population of the urban or rural zone that resides in the State).

The amount of each grant to a State for an enterprise community will equal 1/95 of $280 million, multiplied by the proportion of the population of the community that resides in the State.

A State must use the grant funds: (a) for social services directed at three goals: (i) achieving or maintaining economic self-support to prevent, reduce or eliminate dependency; (ii) achieving or maintaining self-sufficiency, including reduction or prevention of dependency; or (iii) preventing or remedying neglect, abuse, or exploitation of children and adults unable to protect their own interests, or preserving, rehabilitating or reuniting families; (b) in accordance with the strategic plan for the zone or community; and (c) on activities that benefit residents of the zone or community.

The following are among the program options available to the States:

(1) in order to prevent and remedy the neglect and abuse of children, a State may use the grant funds to make grants to, or enter into contracts with, entities to provide residential or nonresidential drug and alcohol prevention and treatment programs that offer comprehensive services for pregnant women and mothers, and their children.

The conferees intend that such programs provide, directly or in collaboration with other community-based programs, pregnant women and mothers, and their children, a wide array of services based on their need for services, such as: referral and linkages to obstetric and pediatric medical care; addiction and substance abuse education, counseling and treatment; parenting skills counseling and education with an emphasis on infant and child development; access to schools and child care; job counseling and training, transitional housing assistance; transportation; post-program follow-up services and activities; and referral and linkages to other services.

(2) In order to assist disadvantaged adults and youths in achieving and maintaining self-sufficiency, a State may use the grant funds to make grants to, or enter into contracts with: (a) organizations operated for profit or not for profit, for the purpose of training and employing disadvantaged adults and youths in the construction, rehabilitation, or improvement of affordable housing, public infrastructure, and community facilities; and (b) nonprofit organizations and community or junior colleges, for the purpose of enabling them to provide short-term training courses in entrepreneurism and self-employment, and other training that will promote individual self-sufficiency and the interests of the community.

The conferees intend that, to the extent possible, programs under (2)(a) use public funds to match private investment, by entities located in the zone, in projects to rehabilitate public infrastructure that will benefit the community.

(3) A State may use grant funds to make grants to, or enter into contracts with, nonprofit community-based organizations to enable them to provide activities designed to promote and protect the interests of children and families, outside of school hours, including keeping schools open during evenings and weekends for mentoring and study.

(4) In order to assist disadvantaged adults and youths in achieving and maintaining economic self-support, a State may use grant funds to: (a) fund services designed to promote community and economic development, such as skills training, job counseling, transportation services, housing counseling, financial management and business counseling; (b) assist in emergency and transitional shelter for disadvantaged families and individuals; or (c) support programs that promote home ownership, education or other routes to economic independence for low income families and individuals.

The conferees intend that funds may be used for transportation services that improve access by zone residents to areas of high job growth that are not located in the zone. For example, funds may be used to supplement job training and placement programs with transportation services in the form of van service operated by a public or private job program; to provide transportation counseling to supplement job counseling; and to provide a direct subsidy of transportation expenses.

TECHNICAL PROVISIONS

1. Corrections Related to the Income Security and Human Resource Provisions of the Omnibus Budget Reconciliation Act of 1990 (Sec. 13281 of House bill)

Present Law

No provision.

House Bill

The provision would correct references and punctuation in various SSI and AFDC provisions, eliminate conflicting provisions concerning the reporting date of the National Commission on Children, and correct and simplify language concerning special sequestration rules for JOBS funds.

Senate Amendment

No provision.

Conference Agreement

The conference agreement does not include the provision in the House bill.

2. Corrections Related to the Human Resource and Income Security Provisions of the Omnibus Budget Reconciliation Act of 1989 (Sec. 13282 of House bill)

Present Law

No provision.

House Bill

The provision would correct a word and spacing in AFDC quality control and adoption assistance legislative language, and a reference concerning foster care and adoption assistance.

Senate Amendment

No provision.

Conference Agreement

The conference agreement does not include the provision in the House bill.

3. Elimination of Obsolete Provisions Relating to Treatment of the Earned Income Tax Credit (Sec. 13283 of House bill)

Present Law

No provision.

House Bill

The provision would eliminate provisions in SSI law about treatment of EITC made obsolete by OBRA 1990, which specifies that SSI (and AFDC, Medicaid, and food stamps) are to disregard EITC as income.

Senate Amendment

No provision.

Conference Agreement

The conference agreement does not include the provision in the House bill.

4. Redesignation of Certain Provisions (Sec. 13284 of House bill)

Present Law

No provision.

House Bill

The provision would redesignate two subparagraphs of the Social Security Act concerning when face-to-face interviews at field offices must be granted.

Senate Amendment

No provision.

Conference Agreement

The conference agreement does not include the provision in the House bill.

OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM

1. Clarification of Statutory Requirement for Public Telephone Access to Local Social Security Offices (Sec. 13001 of House bill)

Present Law

The Omnibus Budget Reconciliation Act of 1990 (P.L. 101-508), requires SSA to: (a) maintain telephone access to local offices at the level generally available as of September 30, 1989, and (b) relist the numbers of affected offices in local telephone directories. P.L. 101-508 also required the General Accounting Office to report to Congress on the level of public telephone access to local offices following enactment of these requirements.

In September 1991, the GAO reported that SSA had generally complied with the requirement that it relist local office telephone numbers. It also reported that general inquiry lines to the offices to which the provisions of P.L. 101-508 apply had decreased by 30 percent, or 766 lines, below the level that existed on September 30, 1989.

House Bill

The provision would add the following sentence to the current statutory requirement that SSA maintain public access to its local offices at the level generally available on September 30, 1989: "In carrying out the requirements of the preceding sentence, the Secretary shall reestablish and maintain in service the same number of telephone lines to each such local office which were in place as of such date, including telephone sets for connections to such lines."

In addition, the General Accounting Office would be required to make an independent determination of the number of telephone lines to each SSA local office which are in place 90 days after enactment and to report its findings to the House Committee on Ways and Means and the Senate Committee on Finance no later than 150 days after enactment.

SSA would be required to maintain its toll-free service at a level at least equal to that in effect on the date of enactment.

Effective Date

The provision relating to local telephone access would be effective 90 days after enactment. The provision relating to toll-free service would be effective upon enactment.

Senate Amendment

No provision.

Conference Agreement

The conference agreement does not include the House provision.

2. Increase in Social Security Exclusion for Election Workers (Sec. 13002 of the House bill)

Present Law

Election workers who earn less than $100 per year are subject to three Social Security exclusions: (a) at the option of a State, they may be excluded from the State's voluntary coverage agreement with the Secretary of Health and Human Services (HHS); (b) they are excluded from the requirement that State and local workers hired after March 31, 1986, pay the hospital insurance portion of the Social Security tax (1.45 percent); and (c) they are excluded from the requirement in the Omnibus Budget Reconciliation Act of 1990 (P.L. 101-508) that State and local workers who are neither covered by a State or local retirement system nor by a voluntary agreement pay the full Social Security tax (7.65 percent).

House Bill

These three exclusions would be modified to apply to election workers with annual earnings of up to $1,000, rather than the current $100; and the new exempt amount would be indexed for increases in wages in the economy.

Effective Date

The provision would apply to service performed on or after January 1, 1994.

Senate Amendment

No provision.

Conference Agreement

The conference agreement does not include the House provision.

3. Use of Social Security Numbers for Jury Selection (Sec. 13003 of House bill)

Present Law

The Privacy Act of 1974 prohibits States from requiring individuals to provide Social Security numbers for identification purposes unless the State was doing so prior to January 1, 1975, or the State is specifically permitted to do so under Federal law. The Social Security Act currently authorizes States to use the Social Security number in administration of any tax, general public assistance and driver's license or motor vehicle registration law within its jurisdiction. Other Federal statutes authorize the State use of the Social Security number for other purposes.

Currently, courts utilize jury source lists within their jurisdiction to select jurors. Source lists (most commonly made up of lists of licensed drivers and registered voters) are usually computer tapes merged by the courts to form one pool—or master list—from which jurors are selected.

States which are permitted under current law to collect Social Security numbers for purposes such as driver's licenses and voter registration are not allowed to use those Social Security numbers for other purposes such as refining jury selection master lists to identify and eliminate duplicate names, unless the court was using the Social Security number for that purpose before the Privacy Act took effect.

Current law likewise prevents State and Federal Courts from using the Social Security number to run the merged list against computerized lists of convicted felons in order to eliminate these individuals from jury pools.

House Bill

States and Federal District Courts would be permitted to use Social Security numbers which have already been collected for purposes permitted under current law to eliminate duplicate names and names of convicted felons from jury source lists. Any Federal law enacted prior to enactment of this provision which is inconsistent with the above policy would be null, void, and of no effect.

Effective Date

The provision would be effective upon enactment.

Senate Amendment

No provision.

Conference Agreement

The conference agreement does not include the House provision.

4. Authority for Optional Social Security Coverage of Police Officers and Firefighters under a Retirement System (Sec. 13004 of House bill)

Present Law

In general, employees of State and local governments who participate in a public retirement system can be brought under Social Security by means of voluntary agreements entered into by the States with the Secretary of Health and Human Services.

However, the State option to obtain Social Security coverage for police officers and firefighters who are under a public retirement system applies only in 24 States that are named in the Social Security Act. (An additional option applies with respect to firefighters only: any State may obtain coverage for them if the governor certifies that it would improve the overall benefit protection of firefighters in the coverage group and a referendum is held among the group under authorization of the State). The Act also provides that, in the 24 named States, Social Security coverage can be obtained only after a State-sponsored referendum.

House Bill

The provision would extend to all States the option to provide police officers and firefighters who participate in a public retirement system with Social Security coverage under their voluntary agreements with the Secretary of HHS. The existing requirement for a referendum held under the authority of the State would continue to apply.

Effective Date

The provision would apply with respect to State requests made after enactment.

Senate Amendment

No provision.

Conference Agreement

The conference agreement does not include the House provision.

5. Limited Exemption from SECA for American Ministers Working and Resident in Canada (Sec. 13005 of House bill)

Present Law

Section 233(c)(1) of the Social Security Act authorizes the President to enter into "totalization agreements" with foreign countries to coordinate entitlement to Social Security benefits in the U.S. with pension benefits in those foreign countries. The law requires that international agreements concluded pursuant to that section provide for the elimination of dual coverage of work under the Social Security systems of the United States and another country.

Article V(7) of the totalization agreement between the United States and Canada provides that individuals considered self-employed by the United States who are American citizens but are residents of Canada are covered only under the Canadian Pension Plan.

Under the Social Security Act, an individual who is a duly ordained, commissioned, or licensed minister of a church or a member of a religious order is generally considered self-employed for Social Security payroll tax purposes and subject to SECA taxes.

The Canadian social insurance program treats ministers as employees of the church rather than self-employed.

Prior to the 1984 totalization agreement with Canada, duly ordained and licensed ministers who were American citizens but residents of Canada were required to pay

SECA taxes to the United States and Social Security taxes to Canada.

In some cases, ministers who were American citizens but residents of Canada failed to file tax returns or pay SECA tax believing that they were not required to do so because they were paying into the Canadian Pension Plan as residents of Canada. The Internal Revenue Service has assessed taxes and penalties against those ministers who failed to file a return and pay the required taxes prior to the 1984 agreement.

House Bill

The provision would exempt ministers who failed to pay SECA taxes in the United States on earnings from services performed in Canada before the 1984 totalization agreement between the United States and Canada went into effect, and who were required to pay social insurance taxes in Canada on such earnings, from the payment of such taxes or related penalties, owed to the United States.

In addition, the provision provides that the ministers' Social Security earnings records would not be credited for years in which the SECA tax was not paid.

Effective Date

The provision would be effective for individuals who meet the requirements of the statute and who file a certificate with the Internal Revenue Service within six months after the IRS issues regulations implementing this provision. The certificate shall be effective for taxable years 1979 through 1984.

Senate Amendment

No provision.

Conference Agreement

The conference agreement does not include the House provision.

6. Totalization Benefits and the Windfall Elimination Provision (Sec. 13006 of House bill)

Present Law

The President is authorized to enter into "totalization agreements" with foreign countries. If an individual has worked under Social Security systems in both the U.S. and a foreign country with which the U.S. has an agreement, but has not worked long enough to qualify for a benefit, a totalization agreement allows the individual's coverage under both systems to be combined, or "totalized," in order for one country (or both) to pay a benefit. Benefits paid under a totalization agreement are generally prorated to take account of the fact that the person did not work for an entire career under the system that is paying benefits.

The windfall elimination provision (WEP) is applied to the computation of Social Security benefits for workers who are eligible for both Social Security and a pension from work not covered by Social Security. Under the WEP, a different benefit formula yielding a lower amount is used to calculate the worker's Social Security benefit.

With respect to individuals who have worked under Social Security systems in both the United States and a foreign country with which the United States has a totalization agreement, the WEP applies: 1) in the computation of some U.S. totalization benefits, and 2) in the computation of regular U.S. Social Security benefits if the individual receives a foreign totalization benefit.

House Bill

The provision would disregard the windfall elimination provision in computing any U.S. totalization benefit, and in computing the amount of a regular U.S. benefit of an individual who (1) receives a foreign totalization benefit based in part on U.S. employment and (2) does not receive any other pension which is based on noncovered employment.

Effective Date

The provision would be effective with respect to benefits payable for months after October, 1993.

Senate Amendment

No provision.

Conference Agreement

The conference agreement does not include the House provision.

7. Exclusion of Military Reservists from Application of the Government Pension Offset and the Windfall Elimination Provision (Sec. 13007 of House bill)

Present Law

The Government Pension Offset (GPO) and the Windfall Elimination Provision (WEP) are intended to reduce Social Security benefits payable to an individual who qualifies for both a Social Security benefit and a pension based on employment not covered by Social Security.

The WEP reduces a worker's Social Security retirement or disability benefit in cases where the worker is receiving both a Social Security benefit and a pension based on employment not covered by Social Security. The WEP is designed to eliminate the windfall resulting from the weighted Social Security benefit formula which is intended to replace a higher proportion of wages for low-earning workers than for high-earning workers.

Active military service became covered under Social Security in 1957. Inactive duty by reservists (such as weekend drills) became covered under Social Security in 1988. A pension based on either type of service (active or inactive), if performed before 1957, does not trigger the WEP. The only military pension which triggers the WEP is a pension based on inactive duty after 1956 and before 1988.

Under the GPO, spouse's and widow(er)'s benefits received by an individual based on his or her spouse's Social Security-covered work are reduced by two-thirds of the amount of any government pension to which the individual is entitled based on his or her own work in a government job not covered under Social Security.

In general, an individual is exempt from the GPO if the last day of his or her work in a government job was covered by Social Security. Thus, reservists who retired from military service before 1988 may be subject to the GPO depending on whether the last day of their duty status happened to be covered (active duty, such as two-week training duty) and therefore exempt from the GPO or not covered (inactive duty) and therefore subject to the GPO.

House Bill

An individual's receipt of a pension based wholly on service performed as a member of a uniformed service, whether on active or inactive duty and whether performed prior to 1988 or not, would not trigger application of the GPO and WEP to the individual's Social Security benefits.

Effective Date

The provision would be effective with respect to benefits payable for months after October, 1993.

Senate Amendment

No provision.

Conference Agreement

The conference agreement does not include the House provision.

8. Repeal of Facility-of-Payment Provision (Sec. 13008 of House bill)

Present Law

As a general rule, when an individual receiving benefits as the dependent of a worker has a deduction in his or her benefits—for example, due to his or her own earnings above the earnings test exempt amount—and the Maximum Family Benefit rule applies, the withheld benefits are redistributed and paid to the other dependents. (The Maximum Family Benefit, or MFB, is a limit on the total amount of benefits which can be paid on a worker's record to the worker and his or her dependents).

However, if all of the dependents are living in the same household, the affected individual's benefit check is not actually withheld; instead, the individual receives a notice from the Social Security Administration accompanying the benefit check. This notice explains that the beneficiary is subject to a benefit deduction and should not actually receive the benefit check. However, the benefit is being paid with the understanding that it is for the use and benefit of the other dependent beneficiaries. This procedure is known as the facility-of-payment provision.

In cases where all of the dependent beneficiaries are not residing in the same household, the facility-of-payment provision does not apply and the withheld benefits are redistributed and paid directly to the remaining dependents.

House Bill

The facility-of-payment provision would be repealed. As result, a beneficiary who is subject to a deduction would have his or her benefits withheld, and the withheld amount would be redistributed and paid directly to the other dependents.

Effective Date

The provision would be effective for benefits for months after December, 1994.

Senate Amendment

No provision.

Conference Agreement

The conference agreement does not include the House provision.

9. Application of Subsequent Entitlement Guarantee to Maximum Family Benefits (Sec. 13009 of House bill)

Present Law

A guarantee is provided for workers who receive disability benefits, then stop receiving disability benefits, and subsequently become reentitled to benefits due to death, retirement or disability. This "subsequent entitlement guarantee" provides that the basic benefit amount (the Primary Insurance Amount, or PIA) of a worker who becomes reentitled to benefits or dies (thereby entitling his or her survivors) cannot be less than the PIA in effect in the last month of the worker's prior entitlement to disability benefits.

Due to a drafting error in the 1977 Social Security Amendments, when this guarantee was created, the guarantee does not extend to the Maximum Family Benefit (MFB) payable on the worker's record, which is determined based upon the PIA. (The MFB is a limit on the total amount of benefits which may be paid on a worker's record to the worker and his or her dependents.) As a result, the MFB which is payable when the worker becomes reentitled to benefits or dies may be less than the MFB payable in the last month of the worker's prior entitlement to disability benefits.

House Bill

The provision would make a conforming change in the Maximum Family Benefit, so that the guaranteed PIA would be the basis for calculating the guaranteed MFB.

Effective Date

The provision would be effective for the MFB of workers who become reentitled to benefits or die (after previously having been entitled) after October, 1993.

Senate Amendment

No provision.

Conference Agreement

The conference agreement does not include the House provision.

10. Disclosure of Social Security Administration Information for Epidemiological Research (Sec. 13010 of House bill)

Present Law

Current law prohibits Federal agencies from releasing personal information contained in an individual file without the written consent of the individual.

Prior to the 1989 Supreme Court decision United States Department of Justice v. Reporters Committee for Freedom of the Press (Reporters Committee), the Social Security Administration (SSA) would permit disclosure of personally identifiable information to epidemiological researchers believing that it was permitted to do so under the Freedom of Information Act (FOIA). Disclosure of personal information is permitted under FOIA when the public interest served by the disclosure outweighs the privacy interest served by withholding the information.

In the Reporters Committee decision, the Supreme Court restricted disclosures of personally identifiable information under FOIA, ruling that disclosure of personal information serves the public interest only when the requested information gives the public insight into the Federal government's performance of its statutory duties.

As a result of the Reporters Committee decision, SSA has discontinued the practice of disclosing information from its files to epidemiological researchers.

Epidemiological research examines specific risk factors (such as exposure to chemical agents or specific medical treatments) that may cause disease by measuring the effect of these factors on a known population. For example, medical researchers may need to know which members of a research population have died or in which state they died (in order to follow-up on the cause of death). The information is usually requested by private researchers and colleges and universities conducting research on behalf of private entities.

House Bill

The provision would require SSA, under certain circumstances, to disclose limited personally identifiable information for epidemiological research purposes only, and it would permit the Secretary of the Treasury to provide such information to SSA for purposes of complying with such requirement.

Under the provision, SSA would be required to comply with requests for information showing whether an individual is alive or deceased. However, the requestor would be required to meet two conditions:

(1) the information would be used for epidemiological or similar research which the Secretary determined showed a reasonable promise of contributing to a national health interest; and

(2) the requestor agrees to reimburse the Secretary for providing such information and agree to comply with limitations on safeguarding and rerelease or redisclosure of such information, as specified by the Secretary.

The Secretary of the Treasury would be permitted to provide such information to SSA for purposes of complying with such a requirement.

Effective Date

The provision would apply to requests for information made after the date of enactment.

Senate Amendment

No provision.

Conference Agreement

The conference agreement does not include the House provision.

11. Prohibition of Misuse of Symbols, Emblems or Names Related to the Social Security Administration, Health Care Financing Administration and the Department of Health and Human Services (Sec. 13011 of House bill)

Present Law

In 1988, Congress enacted a provision prohibiting the use of words, letters, symbols and emblems of the Social Security Administration (SSA) and the Health Care Financing Administration (HCFA) in a manner that the user knows or should know would convey the false impression that such an item was approved, endorsed, or authorized by the Social Security Administration, the Health Care Financing Administration or the Department of Health and Human Services, or that the user has some connection with, or authorization from, these agencies.

The law permits the Secretary of Health and Human Services (HHS) to impose civil monetary penalties not to exceed $5,000 per violation or, in the case of a broadcast or telecast, $25,000 per violation. The total amount of penalties which may be imposed is limited to $100,000 per year.

Amounts collected by the Secretary are deposited as miscellaneous receipts of the Treasury of the United States.

House Bill

The provision would amend current law to:

(a) eliminate the annual cap on penalties;

(b) also prohibit the use of words and letters of the Department of Health and Human Services, Supplemental Security Income Program, or Medicaid, and the symbols or emblems of the Department of Health and Human Services;

(c) define a "violation," with regard to mailings, as each individual piece of mail in a mass mailing;

(d) further prohibit the use of the names, letters or emblems of SSA, HCFA, or HHS in a manner that reasonably could be interpreted to convey a relationship with these agencies;

(e) exempt from the prohibition the use by any State agency or instrumentality of State, or political subdivision of any words, letters, symbols, or emblems which identify an agency or instrumentality of the State or political subdivision;

(f) repeal the present law requirement that the Department of Health and Human Services obtain a formal declination from the Department of Justice (DOJ) before pursuing a civil monetary penalty case under this provision;

(g) provide that penalties collected by the Secretary for violations of this provision would be deposited in the Old-Age and Survivors Insurance Trust Fund;

(h) stipulate that no person may reproduce, reprint, or distribute for a fee any form, application, or other publication of the Social Security Administration unless such person has obtained specific written authorization for such activity in accordance with regulations prescribed by the Secretary.

(i) provide that any determination of whether there is a violation of this provision shall be made without regard to a disclaimer; and

(j) require the HHS Secretary to report annually to the Congress detailing the number of complaints of deceptive practices received by SSA, the number of cases in which SSA sent a notice of violation of this section to an individual requesting that the individual cease misleading activities, the number of cases referred by SSA to the HHS Inspector General (IG), the number of investigations undertaken by the HHS IG, the number of civil monetary penalties formally assessed by the HHS IG in a demand letter, the total amount of civil monetary penalties assessed during the year, the total amount of civil monetary penalties deposited in the OASI trust fund during the year, and the number of hearings requested pursuant to this provision and their disposition.

(k) clarify that the provisions in section 1140 would continue to be enforced by the Office of the Inspector General of the Department of Health and Human Services.

Effective Date

The provision would apply to violations occurring after the date of enactment.

Senate Amendment

No provision.

Conference Agreement

The conference agreement does not include the House provision.

12. Increase in Penalties for Unauthorized Disclosure of Social Security Information (Sec. 13012 of House bill)

Present Law

Each year, the Social Security Administration (SSA) receives and maintains earnings information, including the names and addresses of employers, on over 130 million working Americans in its computer system. Employers are required to file annually with the Social Security Administration copies of their workers' W-2 statements. The statements contain the worker's Social Security numbers and the amount of wages the workers received during the year. In addition, each SSA file contains an individual's birth certificate information, such as date of birth, father's name and mother's maiden name. For those receiving Social Security benefits, the file contains a current address and monthly benefit amounts.

The Social Security Act includes provisions which prohibit the unauthorized disclosure of information contained in Social Security Administration files. The Act provides that any person who violates these provisions and makes an unauthorized disclosure can be found guilty of a misdemeanor and, upon conviction, punished by a fine not exceeding $1,000 or by imprisonment not exceeding one year, or both.

House Bill

The provision stipulates that unauthorized disclosure of information and fraudulent attempts to obtain personal information under the Social Security Act would be a felony. Each occurrence of a violation would be punishable by a fine not exceeding $10,000 or by imprisonment not exceeding five years, or both.

Effective Date

The provision would apply to violations occurring after the date of enactment.

Senate Amendment

No provision.

Conference Agreement

The conference agreement does not include the House provision.

13. Simplification of Employment Taxes on Domestic Services (Sec. 13013 of House bill)

Present Law

Individuals who hire domestic employees such as baby-sitters, housekeepers, and yard workers are required to withhold and pay employment taxes when the worker's wages exceed certain thresholds. (Individuals who hire independent contractors to provide domestic services are excluded from these requirements.) For Social Security, the wage threshold is $50 per quarter; for Federal unemployment insurance, it is $1,000 per quarter. When the $50 threshold is reached, the employer must file a quarterly report (form 942) with the Internal Revenue Service, submitting with it the required Social Security tax for both the employer and the employee. The employer must also provide the employee and the Social Security Administration with a Wage and Tax Statement (form W-2) at the end of the year. When the $1,000 unemployment insurance wage threshold is reached in any calendar quarter, the employer must file a report (form 940) with the IRS at the end of the year, submitting the required tax.

In addition, employers of domestic workers must: notify employees who may be eligible for the earned income tax credit of the existence of this credit; withhold income tax if the employee requests it and the employer agrees; file and pay State unemployment insurance tax in each quarter in which the State unemployment insurance wage threshold (equal to the $1,000 Federal threshold is 45 States) is reached; and, in some States, report wages paid to domestic employees to the State for purposes of State income tax.

House Bill

The provision would:

Change the threshold for withholding and paying Social Security taxes on domestic workers from $50 per quarter to $1,800 annually in 1994 and index it thereafter for increases in average wages in the economy;

Adjust the Social Security tax threshold retroactively for increases in average wages in the economy since 1950 and annualize the threshold retroactively. No underpayment of taxes (or any penalty or interest with respect to such underpayment) which is covered by this provision for the years 1951 through 1993 shall be assessed (or, if assessed, shall be collected), effective on or after the date of enactment. No tax refunds would be provided;

Require individuals who employ only domestic workers to report on a calendar-year basis any Social Security or Federal unemployment tax obligations for wages paid to these workers and authorize the Secretary of the Treasury to revise Federal form 1040 to enable such employers to report both taxes on their own Federal income tax returns;

Include domestic employers' Social Security and Federal unemployment taxes in estimated tax provisions, thereby enabling these employers to satisfy their tax obligations through regular estimated tax payments or increased tax withholding from their own wages;

Authorize the Secretary of the Treasury to enter into agreements with States to collect State unemployment taxes in the manner described above; and

Require the Secretary of the Treasury to provide to domestic employers a comprehensive package of informational materials, including all requirements of Federal law and a notification that they may also be subject to State unemployment insurance and workers compensation laws.

Effective Date

The provision would generally apply to remuneration paid in calendar years beginning after December 31, 1993.

Senate Amendment

No provision.

Conference Agreement

The conference agreement does not include the House provision.

14. Increase in Authorized Period for Extension of Time to File Annual Earnings Report (Sec. 13014 of House bill)

Present Law

In general, individuals under age 70 who receive Social Security retirement or survivors benefits must file an annual report of their earnings with the Social Security Administration for any taxable year in which their earnings or wages exceed the annual exempt amount of earnings under the Social Security earnings test. These reports are due to be filed by the same date as Federal income tax returns, the fifteenth day of the fourth month after the close of the taxable year (normally April 15). Individuals may be granted a reasonable extension of time for filing an earnings report if there is a valid reason for delay, but not more than 3 months. An extension of time for filing an income tax return may be granted for up to 4 months.

House Bill

The time for which an extension could be granted for filing an earnings report would be increased to 4 months.

Effective Date

The provision would be effective with respect to reports of earnings for taxable years ending on or after December 31, 1993.

Senate Amendment

No provision.

Conference Agreement

The conference agreement does not include the House provision.

15. Reallocation of a Portion of the Old-Age and Survivors' Insurance Payroll Tax to the Disability Insurance Trust Fund (Sec. 13015 of House bill)

Present Law

Employees and employers each pay a tax of 7.65 percent on earnings up to a specified ceiling. Of the 7.65 percent, 1.45 percent is allocated to the Hospital Insurance Trust Fund, 5.6 percent is allocated to the Old-Age and Survivors Insurance Trust Fund, and 0.6 percent is allocated to the Disability Insurance Trust Fund. The 15.3 percent tax on net earnings from self-employment is similarly allocated to the HI Trust Fund (2.90 percent), the OASI Trust Fund (11.2 percent) and the DI Trust Fund (1.2 percent). As a result of the 1983 Social Security Amendments (P.L. 98-21), 0.71 percent will be allocated to the DI Trust Fund beginning in the year 2000.

In its 1993 report to Congress, the Social Security Board of Trustees determined that, under its intermediate economic assumptions, the DI Trust Fund will be depleted during 1995.

House Bill

The provision would allocate an additional 0.275 percent of the employer and employee Social Security payroll tax rate, each, and 0.55 of the self-employment tax rate from the OASI Trust Fund to the DI Trust Fund, effective for 1993 and future years. The combined OASDHI tax rate of 7.65 percent would remain unchanged.

In addition, the Secretary of Health and Human Services would be required to conduct a comprehensive study of the reasons for rising costs in the DI program. The study would determine the relative importance of: (a) increased numbers of applications for benefits, (b) higher rates of benefit allowances, and (c) decreased rates of benefit terminations in increasing DI program costs. It would also identify, to the extent possible, underlying social, economic, demographic, programmatic, or other trends responsible for changes in DI applications, allowances, and terminations. No later than December 31, 1995, the Secretary would be required to issue a report to the House Committee on Ways and Means and the Senate Committee on Finance summarizing the results of the study and, if appropriate, making legislative recommendations.

Effective Date

The provision would apply to wages paid after December 31, 1992, and to self-employment income for taxable years beginning after this date.

Senate Amendment

No provision.

Conference Agreement

The conference agreement does not include the House provision.

16. Extension of Disability Insurance Program Demonstration Project Authority (Sec. 13016 of House bill)

Present Law

Section 505(a) of the Social Security Disability Insurance Amendments (P.L. 96-265), as extended by the Omnibus Budget Reconciliation Act of 1989 (P.L. 101-239) and the Omnibus Budget Reconciliation Act of 1990 (P.L. 102-508), authorizes the Secretary of Health and Human Services to waive compliance with the benefit requirements of titles II and XVIII for purposes of conducting work incentive demonstration projects to encourage disabled beneficiaries to return to work. The authority to waive compliance applies to projects initiated prior to June 10, 1993. A final report is due no later than Oct. 1, 1993.

House Bill

The Secretary's authority to initiate disability work incentive demonstration projects that waive compliance with benefit provisions (as provided in P.L. 96-265) would be extended through June 9, 1996.

Effective Date

The provision would be effective upon enactment.

Senate Amendment

No provision.

Conference Agreement

The conference agreement does not include the House provision.

17. Technical Corrections (Sec. 13017 of House bill)

Present Law

The Social Security Act contains a number of typographical errors, erroneous references, circular cross references, inconsistent margination, incorrect punctuation, and references to outdated versions of the Internal Revenue Code.

House Bill

The provision would correct those technical errors.

Effective Date

Senate Amendment

No provision.

Conference Agreement

The conference agreement does not include the House provision.

18. Cross-Matching of Social Security Account Numbers and Employer Identification Numbers Maintained by the Department of Agriculture (Sec. 13018 of House bill)

Present Law

Under current law, the Department of Agriculture is allowed to collect and maintain a list of the names, Social Security numbers and employer identification numbers of the owners and officers of retail grocery stores which redeem food stamps. The list is used only to keep track of grocery store operators who have been sanctioned for violations under the Food Stamp Act.

House Bill

The provision would permit the Secretary of Agriculture to share the list of names and identifying numbers with other Federal agencies which otherwise have access to Social Security account numbers for the purpose of effective administration and enforcement of the Food Stamp Act of 1977 or for investigating violations of other Federal laws, or enforcement of such laws. The Secretary of Agriculture must restrict access to Social Security account numbers obtained pursuant to this provisions to officers and employees of the United States whose duties or responsibilities require access for such purposes.

Effective Date

The provision would be effective upon enactment.

Senate Amendment

No provision.

Conference Agreement

The conference agreement does not include the House provision.

19. Prohibition of Misuse of Symbols, Emblems, or Names Related to the Department of the Treasury and the Internal Revenue Service (Sec. 13019 of House bill)

Present Law

There is no provision in present law prohibiting the use of titles, symbols, emblems, and names of the Department of the Treasury (and its subsidiary agencies) in connection with advertisements, mailings, solicitations, or other business activities.

House Bill

The provision would prohibit the use in advertisements, solicitations, and other business activities of words, abbreviations, titles, letters, symbols, or emblems associated with the Department of the Treasury (and services, bureaus, offices or subdivisions of the Department, including the Internal Revenue Service) in a manner which could reasonably be interpreted as conveying a connection with or approval by the Department of the Treasury.

The bill would establish a civil penalty of not more than $5,000 per violation (or not more than $25,000 in the case of a broadcast or telecast). In addition, the bill would establish a criminal penalty of not more than $10,000 (or not more than $50,000 in the case of a broadcast or telecast) or imprisonment of not more than one year, or both, in any case in which the prohibition is knowingly violated. Any determination of whether there is a violation would be made without regard to the use of a disclaimer of affiliation with the Federal Government. The Secretary of the Treasury would be required to provide to the Committee on Ways and Means and the Committee on Finance, no later than May 1, 1995, a report on enforcement activities relating to the implementation of the provision.

Effective Date

The provisions would be effective upon enactment.

Senate Amendment

No provision.

Conference Agreement

The conference agreement does not include the House provision.

SUBCHAPTER D—CUSTOMS AND TRADE PROVISIONS

PART I—EXTENSION OF CUSTOMS USER FEE, GSP, AND TRADE ADJUSTMENT ASSISTANCE PROGRAMS

Extension of Authority to Levy Customs User Fees (Sec. 13602 of House bill; sec. 7701 of Senate amendment; sec. 13801 of conference agreement)

Present Law

Section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) (19 U.S.C. 58c) authorizes the U.S. Customs Service to collect user fees for services the agency provides to the traveling and importing public. A statutory schedule of flat rate fees is imposed for the processing of air and sea passengers, commercial vessels, barges, rail cars, trucks, dutiable mail packages and customs brokers permits ("COBRA fees"). Fees collected reimburse appropriations for the costs incurred by Customs in providing inspectional overtime and excess preclearance costs. Also, expenditures are authorized from surplus revenues in excess of $30 million to add new positions and acquire equipment to enhance services provided to the payers of the fees.

Customs also collects a 0.19 percent ad valorem merchandise processing fee (MPF) on the value of formally entered imported commercial cargo, subject to a $21 minimum and $400 maximum fee. In addition, a $2, $5, or $8 entry fee is charged for processing informal entries valued below $1,250. Certain products and countries are exempt from the fee; the MPF for Canadian goods will be eliminated as of January 1, 1994, and currently is 20 percent of the rate applicable to goods from other sources.

Receipts from the MPF are deposited into a "Customs User Fee Account" within the general fund and, subject to authorization and appropriation, offset Customs costs incurred in commercial operations. User fee collections are scored as receipts which offset direct spending.

All user fee authority expires September 30, 1995.

House Bill

Section 13602 of H.R. 2264 as passed by the House amends section 13031(j)(3) of the COBRA to extend all customs user fee authority (both COBRA fees and MPF) for three additional fiscal years through fiscal year 1998.

Senate Amendment

Section 7701 of the Senate amendment is identical to the House bill.

Conference Agreement

Section 13801 of the conference agreement retains the provisions in the House bill and Senate amendment.

Generalized System of Preferences (sec. 13603 of House bill; sec. 13802 of conference agreement)

Present Law

Title V of the Trade Act of 1974, as amended, authorizes the President to grant preferential duty-free treatment (Generalized System of Preferences) on imports of eligible articles from designated beneficiary developing countries, subject to certain conditions and limitations. Section 502(b) includes the "Union of Soviet Socialist Republics", and thus its successor independent republics, on a specific list of countries which the President is prohibited from designating as eligible for beneficiary country status under the GSP program.

Section 505(a) of the Trade Act of 1974 provides that no duty-free treatment under Title V shall remain in effect after July 4, 1993.

House Bill

Section 13603(a) of H.R. 2264 as passed by the House amends section 502(b) of the Trade Act of 1974 to remove the "Union of Soviet Socialist Republics" from the statutory list of countries prohibited from designation for beneficiary status under the GSP program.

Section 13603(b) amends section 505(a) of the Trade Act of 1974 to authorize a 15-month extension of GSP duty-free treatment through September 30, 1994. It also provides that, notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, the entry (including withdrawal from warehouse for consumption) of any article made after July 4, 1993, and before date of enactment of the extension to which GSP duty-free treatment would have applied shall be liquidated or reliquidated as free of duty and the Secretary of the Treasury shall refund any duty paid, upon proper request filed with the appropriate customs officer within 180 days after the date of enactment.

Senate Amendment

No provision.

Conference Agreement

Section 13802 of the conference agreement follows the House bill.

Extension of Trade Adjustment Assistance Program (sec. 13604 of House bill; sec. 7702 of Senate amendment; sec. 13803 of conference agreement)

Present Law

Title II of the Trade Act of 1974 authorizes the Trade Adjustment Assistance (TAA) programs for workers and firms certified by the Secretary of Labor and the Secretary of Commerce, respectively, as adversely affected by increased imports. Eligible workers are entitled to weekly cash payments, training and other employment services, and job search and relocation allowances, subject to specific qualifying requirements and limitations. Certified firms are eligible for technical assistance to prepare and implement economic adjustment plans, or for industry-wide assistance, subject to certain conditions.

Section 245 of the Trade Act of 1974 authorizes appropriations to the Department of Labor of such sums as may be necessary for the TAA program for workers through fiscal year 1993.

Section 256(b) of the Trade Act of 1974 authorizes appropriations to the Secretary of Commerce of such sums as may be necessary to remain available until expended for the TAA program for firms through fiscal year 1993.

Section 285(b) of the Trade Act of 1974 provides that no assistance, vouchers, allowances or other payments may be provided under the TAA program for workers, and that no technical assistance may be provided under the TAA program for firms, after September 30, 1993.

House Bill

Section 13604(a) of H.R. 2264 as passed by the House amends section 285(b) of the Trade Act of 1974 to extend the termination date for the TAA program for workers for three years through September 30, 1996. Section 13604(b) amends section 245 of the Trade Act of 1974 to authorize appropriations of such sums as may be necessary for the worker TAA program for fiscal years 1994, 1995, and 1996.

Senate Amendment

Section 7702(a) of the Senate amendment amends section 285(b) of the Trade Act of 1974 to extend the termination dates for the provisions of assistance for both the worker and the firm TAA programs for five years through September 30, 1998. Section 7702(b) amends sections 245 and 256(b) of the Trade Act of 1974 to authorize appropriations for the worker and firm TAA programs for fiscal years 1994, 1995, 1996, 1997, and 1998.

Conference Agreement

Section 13803 of the conference agreement follows the Senate amendment with an amendment to section 236(a)(2)(A) of the Trade Act of 1974 reducing the total amount of payments that may be made for training under section 236(a)(1) in fiscal year 1997 from a maximum of $80,000,000 to a maximum of $70,000,000.

Customs and Trade Agency Authorizations for Fiscal Years 1994 and 1995 (sec. 13601 of House bill)

Present Law

Section 330(e)(2) of the Tariff Act of 1930, as amended, authorizes two-year appropriations for the U.S. International Trade Commission (ITC). The most recent authorization (section 101 of the Customs and Trade Act of 1990, Public Law 101–382) was $44,052,000 for fiscal year 1992. The total appropriation to the ITC for fiscal year 1993 (Public Law 102–395) is $44,852,000, of which an amount not to exceed $2,500 is available to be used for reception and entertainment expenses, subject to the approval of the Chairman of the Commission.

The Customs Procedural Reform and Simplification Act of 1978 (Public Law 95–110) provides for a two-year authorization of appropriations for the U.S. Customs Service. The Omnibus Budget Reconciliation Act of 1986 (Public Law 99–509) requires that the salaries and expenses portion of the Customs Service authorization specify separate amounts for noncommercial and commercial operations. The most recent authorization (section 101 of the Customs and Trade Act of 1990, Public Law 101–382) was $542,091,000 for noncommercial operations and $705,793,000 for commercial operations in fiscal year 1992, and $150,199,000 was authorized for the Air Interdiction Program. The total budget authority under the Treasury Appropriation Act (Public Law 102–393) for fiscal year 1993 is $1,328,694,000 for Customs Service salaries and expenses and $132,416,000 for the Air Interdiction Program.

Section 141(g)(1) of the Trade Act of 1974, as amended, authorizes two-year appropriations to carry out the functions of the Office of the U.S. Trade Representative (USTR). The most recent authorization (section 103 of the Customs and Trade Act of 1990, Public Law 101–382)) was $21,077,000 for fiscal year 1992. The appropriation to the USTR for fiscal year 1993 (Public Law 102–395) is $19,992,000, of which not to exceed $98,000 is available for official reception and entertainment expenses and not to exceed $2,500,000 shall remain available until expended, plus a supplemental appropriation of $500,000 (Public Law 103–50).

House Bill

Section 13601(a) of H.R. 2264 as passed by the House amends section 330(e)(2) of the Tariff Act of 1930 to provide an authorization of appropriations for the ITC of $45,416,000 for fiscal year 1994 and $45,974,000 for fiscal year 1995. Of these amounts, not more than $2,500 per fiscal year may be used for reception and entertainment expenses, subject to the approval of the Chairman of the Commission.

Section 13601(b) amends section 301(b) of the Customs Procedural Reform and Simplification Act of 1978 to authorize appropriations for the U.S. Customs Service not to exceed $540,783,000 in fiscal year 1994 and $527,000,000 in fiscal year 1995 for salaries and expenses incurred in noncommercial operations, and not less than $771,036,000 in fiscal year 1994 and $748,000,000 in fiscal year 1995 for salaries and expenses incurred in commercial operations. The authorization for operation and maintenance of the Air and Marine Interdiction Program is $95,156,000 in fiscal year 1994 and $128,000,000 in fiscal year 1995.

Section 13601(c) amends section 141(g)(1) of the Trade Act of 1974 to provide a two-year authorization of appropriations to the USTR of $20,143,000 in fiscal year 1994 and $20,419,000 in fiscal year 1995. Of these amounts, not to exceed $98,000 may be used for entertainment and representation expenses and not to exceed $2,500,000 shall remain available until expended.

Senate Amendment

No provision.

Conference Agreement

The conference agreement follows the Senate amendment, with the understanding that the Senate intends to consider these provisions in separate legislation as soon as possible.

Extension of Uruguay Round Trade Agreement Negotiation and Proclamation Authority and of "Fast Track" Procedures to Implementing Legislation (sec. 13605 of House bill)

Present Law

Section 1102(a) of the Omnibus Trade and Competitiveness Act of 1988 authorizes the President, before June 1, 1993, to enter into trade agreements with foreign countries and to proclaim tariff modifications (subject to limitations) he determines to be required or appropriate to carry out such agreements. Section 1102(b) of the Act authorizes the President, before June 1, 1993, to enter into trade agreements with foreign countries to reduce, eliminate, prohibit, or limit nontariff barriers.

Section 1103(a)(1) of the 1988 Act provides that agreements entered into under section 1102(b) shall enter into force only if the President notifies the House and Senate at least 90 calendar days in advance of his intention to enter into the agreement (for purposes of consultations required with committees of jurisdiction under subsection (c)) and, after entering into the agreement, the President submits to the House and Senate a copy of the final legal text, a draft implementing bill and statement of any proposed administrative action, and supporting information, and the implementing bill is enacted into law. Section 1103(b) provides that the "fast track" procedures under section 151 of the Trade Act of 1974 apply to implementing bills submitted with respect to trade agreements entered into before June 1, 1991 (extended until June 1, 1993, through operation of provisions of section 1103(b)). Under these procedures, implementing (revenue) bills, upon submission by the President and introduction on the same day by the leadership of the House and Senate, are subject to a maximum 90-legislative day period for Congressional consideration (60 days in the House), without amendment.

Section 135(e) of the Trade Act of 1974, as amended, requires the Advisory Committee for Trade Policy and Negotiations and appropriate private sector policy, functional or sectoral advisory committees to report to the President, the Congress, and the USTR on each trade agreement entered into under section 1102 of the 1988 Act not later than the date the President notifies the Congress of his intention to enter into the agreement.

House Bill

Section 13605 of H.R. 2264 as passed by the House amends section 1102 of the Omnibus Trade and Competitiveness Act of 1988 by adding a new subsection (e) that—

(1) Authorizes the President to enter into trade agreements under sections 1102(a) and (b) after May 31, 1993, and *before April 16, 1994*, resulting from the Uruguay Round of multilateral trade negotiations under the auspices of the General Agreement on Tariffs and Trade (GATT), if these negotiations have not resulted in agreements by May 31, 1993;

(2) Provides that no proclamation under section 1102(a) to carry out provisions of an Uruguay Round trade agreement regarding tariffs may take effect before enactment of legislation that implements the provisions of the agreement on nontariff barriers;

(3) Requires the President to provide the House and Senate under section 1103(a)(1)(A) of the Act at least 120 days advance notice of his intention to enter into the trade agreement, but *not later than December 15, 1993;* and extends the application of "fast track" procedures to implementing bills submitted with respect to such an agreement entered into *before April 16, 1994;* and

(4) Requires the reports by private sector advisory committees under section 135 of the Trade Act of 1974 not later than 30 days after the President notifies the Congress, but before January 15, 1994.

Senate Amendment

No provision.

Conference Agreement

The conference agreement follows the Senate amendment. Public Law 103–49, enacted on July 2, 1993, contains identical provisions.

Repeal of East-West Trade Statistics Monitoring System (sec. 13606 of House bill)

Present Law

Section 410 of the Trade Act of 1974, as amended (19 U.S.C. 2440) established the East-West Trade Statistics Monitoring System. It requires the U.S. International Trade Commission to monitor U.S. imports from, and exports to, nonmarket economy countries. Such data must be published and transmitted to Congress each quarter.

House Bill

Section 13606 of H.R. 2264 as passed by the House repeals section 410 of the Trade Act of 1974.

Senate Amendment

No provision.

Conference Agreement

The conference agreement follows the Senate amendment, with the understanding that the Senate intends to consider this provision in separate legislation as soon as possible.

PART II—CUSTOMS OFFICER PAY REFORM

Overtime and Premium Pay for Customs Officers (sec. 13701 of House bill; sec. 13811 of conference agreement)

Present Law

Customs inspectors are compensated with overtime pay for work performed outside the statutorily-defined work week (i.e., Monday through Saturday, 8:00 a.m. through 5:00 p.m.). Overtime pay is paid at a rate of two times basic pay, with any amount of work conducted during a 2-hour period treated as 4 hours pay (2 hour minimum at a rate of two times basic pay).

Customs inspectors who are required to work after their normal duty (callback), between 5:00 p.m. and 9:00 p.m., are paid overtime beginning at 5:00 p.m. and for hours actually worked, at a rate of two times basic pay. Customs inspectors who are required to work after their normal duty (callback), between 9:00 p.m. and 6:00 a.m., are paid for 8 hours (4 minimum hours at a rate of two times basic pay), plus hours actually worked of at least 4 hours (2 minimum hours at a rate of two times basic pay), for a total of 12 hours pay for any time worked.

There is no separate provision in present law to compensate Customs inspectors for a second commute due to callback.

Customs inspectors are compensated with overtime pay for work performed at night and on Sundays and holidays, plus certain minimum hour credits, at a rate of two times basic pay. At night (after 5:00 p.m. and before 8:00 a.m.), Customs inspectors are compensated with 4 hours pay (2 hours minimum at a rate of two times basic pay) for any time worked. On Sundays, Customs inspectors are compensated with 16 hours pay (8 hours minimum at a rate of two time basic pay) for any time worked. On holidays, Customs inspectors are compensated with 16 hours pay (as on a Sunday) plus basic pay for any time worked.

Customs inspectors may receive up to $25,000 in overtime pay, annually.

Customs Canine Enforcement Officers are provided overtime compensation in the same manner as other Federal employees under the Federal Employee Pay Act (FEPA).

House Bill

Customs officers would be defined as any individual performing those functions specified by regulation by the Secretary of the Treasury for a Customs inspector or canine enforcement officer.

Customs officers would be compensated with overtime pay for work performed in excess of a 40-hour week or 8-hour day, at a rate of two times basic pay, for actual time worked.

Customs officers who must return to their place of work (callback) beyond their normal duty, where the work begins more than 1 hour after their duty ends or before their next duty begins, would be paid 4 hours pay (2 minimum hours at a rate of two times basic pay), plus hours actually worked beyond 2 hours (at a rate of two times basic pay).

In addition to callback pay, Customs officers would be paid 3 hours (at the basic pay rate) as compensation for travel time. Compensation is not payable if the work does not begin within 16 hours of the last assignment, or if it starts within 2 hours of the next assignment.

Customs officers would be provided additional compensation (15 percent of basic pay) where a majority of the work is performed at night (between 3:00 p.m. and midnight) and additional compensation (20 percent of basic pay) where a majority of the work is performed at night (between 11:00 p.m. and 8:00 a.m.), where the night work is performed during their regular work week. Customs officers who work between 7:30 p.m. and 3:30 a.m. would receive additional compensation in the amount of 15 percent of basic pay for the period from 7:30 p.m. to 11:30 p.m. and 20 percent of basic pay for the period from 11:30 p.m. to 3:30 a.m.

Customs officers would be provided additional compensation (at a rate of time and one-half basic pay) for work performed on Sunday, where the Sunday work was performed during their regular work week.

Customs officers would be provided additional compensation (at a rate of two times basic pay) for work on a holiday.

The newly-created premium pay for work performed at night, on a Sunday, and on a holiday, and compensation received for any second commute would be subject to the annual $25,000 overtime pay limitation. Also, the annual overtime pay limitation would be made a part of the same law that controls payment of inspectional overtime.

The Secretary of the Treasury would be authorized to promulgate regulations to insure that callback assignments are commensurate with the overtime compensation authorized for such work and to prevent the disproportionate assignment of overtime work to Customs officers near retirement. This provision would be effective on October 1, 1993.

Senate Amendment

No provision.

Conference Agreement

The conference agreement follows the House bill, with clarification that the Secretary of the Treasury would be required to promulgate regulations to prevent abuses in the areas of callbacks and retirement benefits. The conferees understand that the Secretary already has the authority to promulgate regulations otherwise implementing this Section. The conference agreement also delays the effective date to January 1, 1994.

With respect to the provision that includes premium pay within the $25,000 annual cap on overtime pay, it is not the intention of the conferees in any way to diminish unfairly the retirement benefits of those Customs officers required to work in the evenings or at night. Although such Customs officers would earn premium pay for such work, the amount of overtime pay (which would count toward retirement benefits) they could earn may be correspondingly reduced. It is the conferees intention to monitor closely the operation of this provision, and to revisit this issue if it appears that Customs officers required to work evenings and nights are being disadvantaged with respect to their retirement benefits.

Additional Benefits for Customs Officers (sec. 13812 of conference agreement)

Treatment of Certain Pay for Retirement Purposes (sec. 13704 of House bill; sec. 13812(a) of conference agreement)

Present Law

Customs inspector overtime pay is not treated as compensation for Federal retirement benefit purposes when calculating employee retirement annuities.

House Bill

Overtime pay would be included when calculating retirement annuities for Customs officers, up to an amount equal to 50 percent of the overtime pay cap. Fifty percent of the current overtime pay cap is $12,500. This provision would be effective upon enactment.

Senate Amendment

No provision.

Conference Agreement

The conference agreement follows the House bill, with a technical amendment melding this provision into a single section regarding additional benefits for Customs officers. No substantive changes are intended.

Foreign Language Proficiency Awards (sec. 13702 of House bill; sec. 13812(b) of conference agreement)

Present Law

There is no provision in present law authorizing Foreign Language Proficiency Awards for Customs inspectors.

House Bill

The Secretary of the Treasury would be authorized to pay up to 5 percent of basic pay to any Customs officer who possesses and makes substantial use of one or more foreign languages in the performance of official duties.

Senate Amendment

No provision.

Conference Agreement

The conference agreement follows the House bill, with a technical amendment to provide, in section 13813 of the conference agreement, that these awards would be paid from the Customs COBRA User Fee Account, rather than be subject to appropriations. The conference agreement also clarifies that the provisions are effective on January 1, 1994.

Reimbursements from the Customs User Fee Account (sec. 13703 of House bill; sec. 13813 of conference agreement)

Present Law

User fees are authorized to be collected on various conveyances and air passengers (the "COBRA" User Fees) and are paid into a dedicated Customs User Fee Account. The fees are used to pay the costs of inspectional overtime, preclearance operations, additional officers, and equipment. The Customs COBRA User Fee Account is not subject to annual authorization and appropriation. Spending for inspectional overtime and preclearance operations is not subject to Office of Management and Budget apportionment authority. Spending for existing premium pay is funded from the Salaries and Expenses appropriations.

House Bill

The Secretary of the Treasury would be authorized to use the Customs COBRA User Fee Account, in addition to present law purposes, for a portion of Customs officer premium pay and for Customs retirement-fund contributions for Customs officer overtime pay. The Customs COBRA User Fee Account would continue to be available without the annual authorization and appropriation process. However, it would be subject to Office of Management and Budget apportionment.

Funds in the Customs COBRA User Fee Account would only be used to pay that portion of premium pay not currently authorized under FEPA. The portion of premium pay that would be authorized under current law and currently paid from the annual appropriated salaries and expenses account would continue to be paid from that account. Only the difference between the newly-created premium pay authorized by this bill and the premium pay currently authorized by FEPA would be paid from the COBRA User Fee Account.

Senate Amendment

No provision.

Conference Agreement

The conference agreement follows the House bill, with a modification to provide for the reimbursement from the COBRA User Fee Account of Foreign Language Proficiency Awards, after payments for all other purposes other than payments for the hiring of full-time inspectors.

With respect to OMB apportionment of the Customs COBRA User Fee Account, it is not the intention of the conferees that this provision interfere with Customs' ability to allocate resources and effectively serve the travel and trade communities. The conferees intend to monitor closely the implementation of this provision to ensure that the apportionment authority does not impair Customs' ability to accomplish its drug enforcement and facilitation missions.

The conferees believe that the user fee structure used to finance inspectional services may have become ineffective, inefficient, and inequitable. Accordingly, the conferees intend that the Secretary of the Treasury, as part of the President's fiscal year 1995 budget request, submit recommendations for improvements to the user fee laws used to finance inspectional services. This report should address, at a minimum: (1) whether all activities relating to air passenger processing should be consolidated under the Customs COBRA User Fee Account; (2) whether the Customs COBRA User Fee Account should be subject to the authorization and appropriation process, and; (3) whether the Secretary should have the authority to adjust periodically the COBRA User Fee in a way similar to that currently authorized for the merchandise processing fee. The conferees also intend that the Secretary submit to the Committee on Ways and Means and the Committee on Finance, at the end of each fiscal year, an accounting for all Customs COBRA User Fee Account expenditures. Finally, the conferees intend that, within one year of the date of enactment, the Comptroller General review the effectiveness, efficiency, and fairness of the user fees used to finance inspectional services and report to the Committee on Ways and Means and the Committee on Finance.

Reports (sec. 13705 of House bill)

Present Law

The Secretary of the Treasury is required to report annually to the Congress on expenditures for additional officers and additional equipment from the Customs COBRA User Fee Account.

House Bill

The Secretary of the Treasury would be required, at the end of each fiscal year, to report to the Committee on Ways and Means and the Committee on Finance on Customs COBRA User Fee Account expenditures including overtime expenditures and de minimis callback assignments. The Secretary also would be required to submit proposals for improvements to the user fee laws used to finance inspectional services. The Comptroller General would be required, within one year after date of enactment, to review user fees used to finance inspectional services and identify additional cost savings.

Senate Amendment

No provision.

Conference Agreement

The conference agreement follows the Senate amendment.

CHAPTER 3

FOOD STAMP PROGRAM

Short title (H. 1301)

The *House Bill* provides that the bill may be cited as the "Mickey Leland Childhood Hunger Relief Act".

The *Senate Amendment* contains no comparable provision.

The *Conference Substitute* adopts the *House* provision.

References to Act (H. 1302)

The *House Bill* provides that references in the bill to "the Act" are references to the Food Stamp Act of 1977.

The *Senate Amendment* contains no comparable provision.

The *Conference Substitute* adopts the *House* provision.

Maximum benefit level (H. 1311)

The *House Bill* provides that food stamp benefits will be based on 104% of the thrifty food plan beginning in fiscal year 1994.

The *Senate Amendment* contains no comparable provision.

The *Conference Substitute* deletes the *House* provision.

Helping low-income high school students (H. 1312)

The *House Bill* excludes the income of elementary and secondary school students 21 years of age or under for the purpose of calculating eligibility and benefit levels for the Food Stamp Program.

The *Senate Amendment* contains no comparable provision.

The *Conference Substitute* adopts the *House* provision.

Families with high shelter expenses (H. 1313)

The *House Bill* removes the shelter deduction cap for households that do not contain elderly or disabled members effective October 1, 1994. In the interim, it increases shelter deduction caps for fiscal year 1994; the cap for households in the contiguous 48 states is increased to $214.

The *Senate Amendment* contains no comparable provision.

The *Conference Substitute* adopts the *House* provisions with an amendment establishing interim caps until January 1, 1997, at which time the cap will be removed.

In administering the shelter deduction, the managers expect the Secretary will fully implement existing law, including the amendments included in the 1985 Farm Bill, except to the extent that they have been changed by subsequent legislation. The 1985 amendments on households receiving energy assistance, which reflect the results of debate and votes on the floor of both houses, were accurately explained in the narrative accompanying the U.S. Department of Agriculture's 1986 and 1987 *Federal Register* rule-makings on these issues. The managers believe that the 1985 amendments establish a rule that should be relatively simple for states to administer. The Department should not establish or enforce a policy that imposes administrative burdens on the states or dilutes the benefits of any energy assistance, whatever the source, except as specifically authorized by the 1985 amendments and not precluded by subsequent legislation.

Resource exclusion for earned income tax credits (H. 1314)

The *House Bill* excludes earned income tax credits received by households from consideration as resources for one year following their receipt.

The *Senate Amendment* contains no comparable provision.

The *Conference Substitute* adopts the *House* provision. The requirement of continuous participation in this section is not intended to deny the exclusion to households that temporarily leave the program for a short time for administrative reasons, such as a deadline being missed at recertification or a monthly reporting sanction, but who continue otherwise to meet the Food Stamp Program's income and resource eligibility criteria.

Homeless families in transitional housing (H. 1315)

The *House Bill* excludes from food stamp income the full amount of vendor payments for transitional housing for homeless households.

The *Senate Amendment* contains no comparable provision.

The *Conference Substitute* adopts the *House* provision.

Households benefiting from general assistance vendor payments (H. 1316)

The *House Bill* includes only GA vendor payments provided for housing expenses, but excluding energy or utility-cost assistance, as income for determining food stamp eligibility and benefit levels.

The *Senate Amendment* contains no comparable provision.

The *Conference Substitute* adopts the *House* provision.

Continuing benefits to eligible households (H. 1317)

The *House Bill* provides that eligible households reapplying or recertified during the first month following the end of their prior certification period will receive full benefits for the first month of their certification period.

The *Senate Amendment* contains no comparable provisions.

The *Conference Substitute* adopts the *House* provision.

Improving the nutritional status of children in Puerto Rico (H. 1318)

The *House Bill* provides that for fiscal year 1994 the block grant funding for Puerto Rico is increased from $1.091 billion to $1.111 billion, and for fiscal year 1995 it is increased from $1.133 billion to $1.158 billion.

The *Senate Amendment* contains no comparable provision.

The *Conference Substitute* adopts the *House* provision with an amendment to increase the funding for the Puerto Rico block grant to $1.096 billion for fiscal year 1994 and to $1.143 billion for fiscal year 1995.

Income exclusion for education assistance (H. 1321)

The *House Bill* requires that all education assistance be excluded from consideration as income for purposes of determining Food Stamp program eligibility and allotment levels.

The *Senate Amendment* contains no comparable provision.

The *Conference Substitute* deletes the *House* provision.

Child support payments to non-household members (H. 1322)

The *House Bill* excludes from consideration as income for purposes of determining Food Stamp Program eligibility and allotment levels any child support payments a household member makes to support a child outside of the household, if the payments are a legal obligation.

The *Senate Amendment* contains no comparable provision.

The *Conference Substitute* adopts the *House* provision with an amendment changing the treatment of these child support payments from an exclusion to a deduction. This provision is effective beginning September 1, 1994, and states must implement it no later than October 1, 1995.

This provision authorizes the Secretary to promulgate rules establishing a system to determine the amount of the deduction to be provided to absent parents for their child support payments. This authority is intended to allow the Secretary to minimize burdens on State agencies and households alike. For example, states could be permitted to base a household's deduction for a certification period on the average amount it paid in the prior certification period (with appropriate adjustments for any changes in the order) rather than having to keep track throughout a certification period of how much the absent parent actually pays each month. The managers do not intend for this procedure to deny a household a deduction for any child support actually paid, but rather the intention is to give states the option to use consistent budgeting procedures that would minimize the number of changes they would be required to make. State agencies correctly following such procedures would not be charged with quality control errors if the amount of child support that a household paid increased or decreased as long as the state agency adjusted the household's allotment prospectively at its next recertification.

Child support exclusion (H. 1323)

The *House Bill* excludes from consideration as household income in determining Food Stamp Program eligibility and allotment levels the first $50 a month received for child support. The requirement for states to reimburse the Federal government is deleted by the amendment.

The *Senate Amendment* contains no comparable provision.

The *Conference Substitute* deletes the *House* provision.

Improving access to employment and training activities (H. 1324)

The *House Bill* raises the current dependent care deduction, allowed in computing household income for purposes of determining program eligibility and benefit levels to $200 a month for children under age 2 and $175 a month for other dependents.

The *Senate Amendment* contains no comparable provision.

The *Conference Substitute* adopts the *House* provision.

The *House Bill* raises dependent care reimbursements to the applicable local market rate as determined using procedures consistent with those used for employment and training programs in the Aid to Families with Dependent Children (AFDC) program, but no less than the cap on the dependent care deduction ($200 for children under 2 years old and $175 for other dependents).

The *Senate Amendment* contains no comparable provision.

The *Conference Substitute* adopts the *House* provision.

The *House Bill* clarifies that State agencies may reimburse any work-related, non-dependent care costs for Food Stamp Program employment and training program participants that they reimburse for AFDC's Job Opportunities and Basic Skills Training Program. It further stipulates that State agencies can set the reimbursement limit for work-related, non-dependent care costs at any level, but not less than $25 a month.

The *Senate Amendment* contains no comparable provision.

The *Conference Substitute* deletes the *House* provisions.

The *House Bill* makes a conforming change to raise the amounts of E&T dependent care and other work-related reimbursements made by State agencies to recipients for which State agencies will be reimbursed (at the normal fifty percent rate) by USDA.

The *Senate Amendment* contains no comparable provision.

The *Conference Substitute* adopts the *House* provision with an amendment making it applicable only to dependent care reimbursements.

The managers believe that the dependent care deduction and dependent care reimbursement provisions should be implemented in ways that will minimize administrative burdens on State agencies. For example, when a child reaches his or her second birthday before the end of a certification period, the State agency should not be required to reduce the ceiling on the allowable dependent care costs until the household's next regularly scheduled recertification.

Vehicles needed to seek and continue employment and for household transportation (H. 1325)

The *House Bill* raises the vehicle fair market value threshold to $5,500 for fiscal year 1994 and then requires that the $5,500 threshold be adjusted, beginning October 1, 1994, and on each October 1 thereafter, to reflect changes in the Consumer Price Index.

The *Senate Amendment* contains no comparable provision.

The *Conference Substitute* adopts the *House* provision with an amendment *raising the vehicle fair market value* threshold from $4,500 to $4,550 beginning September 1, 1994, to $4,600 beginning October 1, 1995, and then requiring that the threshold be adjusted, using for purposes of calculation a base of $5,000, beginning on October 1, 1996, and on each October 1, thereafter, to reflect changes in the Consumer Price Index. The managers understand, based on estimates of the Congressional Budget Office, that using this method, the threshold for fiscal year 1997 will be $5,150.

Vehicles necessary to carry fuel or water (H. 1326)

The *House Bill* excludes from financial resources, for purposes of determining Food Stamp Program eligibility, a vehicle that is used by a household to transport fuel for heating or water when that fuel or water is the primary source for the household.

The *Senate Amendment* contains no comparable provision.

The *Conference Substitute* adopts the *House* provision. The managers expect that households without heating fuel or water piped into their homes will receive the benefit of this exclusion without having to meet any additional tests concerning the nature, capabilities, or other uses of the vehicle.

Demonstration projects testing resource accumulation. (H. 1327)

The *House Bill* authorizes the Secretary to conduct demonstration projects allowing households already receiving food stamp benefits to accumulate up to $10,000 in resources and remain eligible for program participation. Separate accounts would have to be established and designated for a specific goal that could provide self-sufficiency. Such goals would be limited to improving the education, training, or employability of household members, buying a house for the household's use, changing the household's residence, or making major household repairs.

The *Senate Amendment* contains no comparable provision.

The *Conference Substitute* adopts the *House* provision with an amendment to mandate that the Secretary conduct the project.

Simplifying the household definition for households with children and others (H. 1331)

The *House Bill* requires that parents and their children 21 years of age or younger (who are not themselves parents living with their children or married living with their spouses) who live together, children under the age of 18 who live with and are under the parental control of a person other than their parent (with the exception of foster children) together with that person, and spouses who live together would continue to be treated as a group of individuals who customarily purchase and prepare meals together even if they do not do so.

The *Senate Amendment* contains no comparable provision.

The *Conference Substitute* adopts the *House* provision. This provision clearly prohibits minor children under the parental control of adult household members from establishing separate households. The managers intend for this limitation to prevent young children from being treated as separate households when they are in the care of adults whether or not legal adoption has taken place. It is not intended to discourage friends and relatives from taking in children who might otherwise have to be placed through the foster care system. The managers understand that State agencies have reported few problems with the policy on verification of household status that the Secretary adopted in implementing the Food Stamp Act of 1977 and has maintained ever since. The managers expect this policy to be continued.

Eligibility of children of parents participating in drug or alcohol treatment programs (H. 1332)

The *House Bill* provides Food Stamp Program eligibility to children living with their program-eligible parents in a drug or alcohol rehabilitation center.

The *Senate Amendment* contains no comparable provision.

The *Conference Substitute* adopts the *House* provision.

Resources of households with disabled members (H. 1333)

The *House Bill* increases the resource limit for determining Food Stamp Program eligibility from $2,000 to $3,000 for any household containing a disabled member.

The *Senate Amendment* contains no comparable provision.

The *Conference Substitute* deletes the *House* provision.

Ensuring adequate funding for the Food Stamp Program (H. 1334)

The *House Bill* requires that the USDA monthly report on whether supplemental appropriations will be needed to operate the Food Stamp Program be made quarterly. It also authorizes a reduction in food stamp benefits and notification to the States if the Secretary determines that Food Stamp Program funding is insufficient.

The *Senate Amendment* contains no comparable provision.

The *Conference Substitute* deletes the *House* provision.

Use and disclosure of information provided by retail food stores and wholesale food concerns (H. 1341)

The *House Bill* permits disclosure of information provided by retail food stores and wholesale food concerns, including sales and food stamp redemption information, to State and Federal law enforcement and investigative agencies for the purposes of administering or enforcing the Food Stamp Act or other Federal or State laws.

The *House Bill* also establishes penalties to be imposed against those who publish, divulge, or disclose to any extent not authorized by Federal law any of the information obtained pursuant to this amendment.

The *Senate Amendment* contains no comparable provision.

The *Conference Substitute* deletes the *House* provision.

Additional means of claims collection (H. 1342)

The *House Bill* permits information obtained from former food stamp recipients to be provided to Federal agencies for purposes of collecting coupon overissuances arising from household errors through offset of Federal tax or pay.

The *Senate Amendment* contains no comparable provision.

The *Conference Substitute* adopts the *House* provision with an amendment deleting the reference to Federal tax.

The *House Bill* authorizes collection of these types of claims by offset of Federal pay and clarifies the authority to collect these types of claims by offset of Federal tax.

The *Senate Amendment* contains no comparable provision.

The *Conference Substitute* adopts the *House* provision with an amendment deleting the reference to Federal tax.

The managers feel strongly that this provision should be implemented in a manner that protects federal employees and any other affected individual from stigma, ridicule, or invasion of privacy because he or she is a current or former food stamp recipient who is having a claim recovered in this manner. The managers intend that this procedure only be employed to collect claims that have been determined valid after the household member has received specific notice of the basis and calculation of the claim and the action contemplated and has had opportunity to respond.

Demonstration projects testing activities directed at street trafficking in food stamps (H. 1343)

The *House Bill* authorizes the Secretary to use up to $4 million of demonstration project funds provided in advance in appropriations Acts to conduct demonstration projects in fiscal year 1994 in which State or local food stamp agencies can test new ideas for working with State or local law enforcement agencies to investigate and prosecute street food stamp trafficking.

The *Senate Amendment* contains no comparable provision.

The *Conference Substitute* deletes the *House* provision.

Clarification of categorical eligibility (H. 1351)

The *House Bill* adds to the exceptions for categorical eligibility for the Food Stamp Program those households disqualified from the program for failure to comply with the requirements of a food stamp workfare program.

The *House Bill* also removes the reference to title II of the Social Security Act in section 5(j).

The *Senate Amendment* contains no comparable provision.

The *Conference Substitute* deletes the *House* provision.

Technical amendments related to electronic benefit transfer (H. 1352)

The *House Bill* includes references to the access devices used for electronic benefits transfer (EBT) in provisions concerning disqualifications of individuals for intentional program violations and imposition of civil money penalties against or disqualification of retail food stores for trafficking.

The *Senate Amendment* contains no comparable provision.

The *Conference Substitute* deletes the *House* provision. The managers are very much aware of the benefits to recipients, retailers, and program administrators of electronic benefits transfer systems. The Secretary is strongly urged by the managers to encourage States to develop and establish such delivery systems. The standards for the approval of such a system should include determining on a prospective basis the cost effectiveness of the system to ensure that the operational cost of the system, including the pro rata cost of capital expenditures and other reasonable start-up costs and considering any credit for government savings attributed to reduced benefit loss and other government savings or benefits derived from substituting an EBT system for a coupon-based system, does not exceed the operational cost of issuance systems in use prior to the implementation of the on-line EBT system.

Disqualification of recipients for trading firearms, ammunition, explosives, or controlled substances for food stamps (H. 1353)

The *House Bill* requires a one year disqualification from Food Stamp Program eligibility of food stamp recipients on the first occasion of a finding of their trading controlled substances for food coupons, and permanent disqualification on the second such finding. This amendment also requires permanent disqualification from Food Stamp Program eligibility on a finding of trading of firearms, ammunition, or explosives for food coupons.

The *Senate Amendment* contains no comparable provision.

The *Conference Substitute* adopts the *House* Provision with an amendment to clarify that any finding of trading coupons for firearms, ammunition, explosives, or controlled substances should be made by a Federal, State, or local court, and not a State hearing officer.

Increased cap for civil money penalty for trafficking in food stamps (H. 1354)

The *House Bill* removes the $40,000 cap on civil money penalties that can be imposed during a two year period on a retailer for food stamp trafficking. The provisions of current law limiting to $20,000 per violation the amount of a civil money penalty that may be imposed on a retailer for trafficking is unchanged by the House provision.

The *Senate Amendment* contains no comparable provision.

The *Conference Substitute* adopts the *House* provision with an amendment deleting the House provision, striking the words "during a two year period" from current law, and establishing that the civil money penalty may not exceed $40,000 for all violations (NOT each violation) occurring during a single investigation. The managers agree that any civil money penalty imposed in lieu of disqualification will be applied on a store by store basis.

Increased cap for civil money penalty for selling firearms, ammunition, explosives, or controlled substances for food stamps (H. 1355)

The *House Bill* removes the $40,000 cap on civil money penalties that can be imposed on retailers for selling firearms, ammunition, explosives, or controlled substances for food stamps. The provisions of current law limiting to $20,000 per violation the amount of a civil money penalty that may be imposed on a retailer for these offenses is unchanged by the House provision.

The *Senate Amendment* contains no comparable provision.

The *Conference Substitute* adopts the *House* provision with an amendment deleting the House provision, striking the words "during a two year period" from current law, and establishing that the civil money penalty may not exceed $40,000 for all violations (NOT each violation) occurring during a single investigation. The managers agree that any civil money penalty imposed in lieu of disqualification will be applied on a store by store basis.

This provision, and other program integrity provisions in the bill, expand upon the previous efforts of Congress to maintain strict vigilance against fraud and abuse in the Program. An earlier effort in a similar vein was the provision of the 1990 Farm Bill authorizing the Secretary to require authorized retail food stores to apply for reauthorization to continue participating in the Program. The managers note that the 1990 amendment authorized the Secretary to promulgate regulations, which would provide an opportunity for public notice and comment, before any reauthorization efforts take place.

The managers believe that reauthorization is a potentially important tool in maintaining the integrity of the Program, but they also believe that serious misunderstandings might result if the Secretary were to proceed without first promulgating rules. In particular, some stores might inadvertently submit incorrect, misleading, or otherwise unreliable information to the Secretary if they are asked to complete forms that are not completely clear or that omit important information about the program's eligibility requirements.

For example, the application form sent to retail stores before the end of the previous Administration to reauthorize all the stores omitted critical information regarding which foods were "staple foods." The official notice with the form thus could have misled stores.

This is very important since staple food sales have to equal or exceed 50 percent of total food sales in order for the store to participate.

If foods that should have been considered as staple foods were omitted from consideration as staple foods then the store could have incorrectly reported that its staple food sales did not equal or exceed 50 percent of all food sales.

For example, staple foods are defined in the USDA form to include "fresh produce (fruit and vegetables)". Stores could have been mislead into thinking that frozen vegetables were not staple foods. They clearly are staple foods.

In the list of staple foods provided by the USDA beans and potatoes are omitted. Beans and potatoes are clearly staple foods.

Pasta is omitted. Is pasta a staple food? If a store guesses wrong it could be thrown off the food stamp program.

This demonstrates the need for advance public comment regarding the entire process including the content of the retailer application form. This process should not continue until regulations are issued and made final pursuant to notice and comment rulemaking.

Modifying the food stamp quality control system (H. 1356)

The *House Bill* requires the use of an annual national average and a sliding scale to determine the level of penalty, beginning with the penalties to be assessed for fiscal year 1992. Penalties are to be assessed for error rates in excess of the national average combined error rate (overpayments, payments to ineligible households, and underpayments) announced for each fiscal year. Under this provision, sanctions will be adjusted to reflect how far above the national average tolerance level a state's combined error rate is. In addition the *House bill* extends to 120 days the grace period of 60 days (or 90 days at the discretion of the Secretary) immediately following the implementation date of a change to regulations affecting program eligibility or benefits determinations within which a State will be held harmless for errors made in implementing the change.

The *Senate Amendment* contains no comparable provision.

The *Conference Substitute* adopts the *House* provision with an amendment to streamline the appeals process for quality control claims. The determination to waive all or part of a State agency's quality control liability will be made by an administrative law judge if the administrative law judge determines that the State agency had good cause for failure to meet its error rate goal. In addition, to promote prompt resolution of these claims, State agencies will be assessed interest on outstanding liabilities if the administrative appeals process takes more than one year to resolve these claims. The *Conference Substitute* retains the provision that judicial review of the final determination of the administrative law judge will be a review of the administrative record created before the administrative law judge.

The *House Bill* directs the Office of Technology Assessment to undertake a study of measurement error in the food stamp quality control system and report with recommendations to the appropriate Congressional committees no later than 12 months after enactment of this subtitle. This section also directs the Secretary to conduct a study of major causal factors which contribute to the payment error rate. The Secretary shall also conduct controlled experiments to determine the degree of uniformity in quality control error rate measurements. The Secretary must report with recommendations to the appropriate Congressional committees no later than 2 years from the date of enactment of this subtitle.

The *Senate Amendment* contains no comparable provision.

The *Conference Substitute* deletes the *House* provision. However, the managers understand that the U.S. Department of Agriculture intends to form a task force to study the statistical validity of the quality control system. To assist in that effort, the managers intend to request that the Office of Technology Assessment undertake the study that would have been required by the House bill. The managers also strongly urge the Secretary of Agriculture to conduct the study that would have been required by the House bill, and recommend that the Secretary consider conducting the controlled experiments that would have been required by the House bill.

Uniform reimbursement rates (H. 1361; S. 1301)

The *House Bill* reduces the enhanced funding level for State automatic data processing costs to 60 percent on July 1, 1995, and to 50 percent on July 1, 1996. It reduces the enhanced federal funding level for State food stamp fraud investigations to 70 percent on July 1, 1994, to 60 percent on July 1, 1995, and to 50 percent on July 1, 1996. Finally, the *House Bill* reduces the federal funding for State agency use of the Systematic Alien Verification for Entitlement program to 70 percent on July 1, 1994, to 60 percent on July 1, 1995, and to 50 percent on July 1, 1996.

The *Senate Amendment* reduces enhanced funding to 50% with respect to calendar quarters beginning on or after April 1, 1994.

The *Conference Substitute* adopts the *Senate* provision.

The *House Bill* stipulates that these reductions in federal match rates shall apply to payments to States for expenditures after either the end of the State fiscal year that ends during calendar year 1994, or in the case of a State with a State legislature which is not scheduled to have a regular legislative session in calendar year 1994 the end of the State fiscal year that ends during calendar year 1994, or in the case of a State with a State legislature which is not scheduled to have a regular legislative session in calendar year 1994 the end of the State fiscal year that ends during 1995.

The *Senate Amendment* provides that the Secretary may delay the effective date of this section for a State whose legislature meets biennially, and does not have a regular session scheduled in calendar year 1994, where there is no mechanism in that State for appropriating the additional funds that would be required before the next regular legislative session.

The *Conference Substitute* adopts the *Senate* provision.

The *Conference Substitute* adds a section requiring that the Secretary of Treasury pay to the Secretary of Agriculture specified amounts for fiscal years 1994 through 1996 for the purchase, processing and distribution of additional commodities. Two states shall be selected by the Secretary of Agriculture to test the acceptability by, ease of storage and preparation by, and impact on low-income participants in the Emergency Food Assistance Program of more nutritious foods.

Implementation and effective dates (H. 1371)

The *House Bill* provides that sections 1312, 1315, 1316, 1317, 1322, 1323, 1326, 1331, 1333, and 1353 will become effective and be implemented on July 1, 1994. The quality control reforms of section 1356(a) (1) and (3) are effective October 1, 1991. The provisions of section 1356(a)(2) are effective and must be implemented beginning on October 1, 1992. Other provisions of the bill will become effective and must be implemented on October 1, 1993.

The *Senate Amendment* contains no comparable provision.

The *Conference Substitute* accommodates new section numbering consistent with changes in the bill and provides that section 1351 shall take effect on October 1, 1991, except subsection (c)(2) shall take effect on October 1, 1992. Section 1361 shall be effective with respect to calendar quarters beginning on or after April 1, 1994, and the Secretary is authorized to delay implementation for certain states with legislatures that meet biennially. Sections 1311, 1313, 1314, 1315, 1316, 1322, 1324, 1331, 1332, and 1351 shall take effect on September 1, 1994. Section 1321 shall take effect on September 1, 1994; state agencies shall implement section 1321 not earlier than September 1, 1994, and not later than October 1, 1996. Section 1312(b)(2) shall take effect on January 1, 1997. Except as otherwise provided in the subtitle, all other sections shall take effect and be implemented beginning on October 1, 1993.

The managers anticipate that these provisions will be implemented in the normal manner in that beginning on the effective date states will be required to apply several of the new rules for new applicants and for participants only at recertification.

The managers believe that several of these provisions amending the Food Stamp Act have the potential to have a significant and beneficial impact on many low-income households not now participating in the Food Stamp Program. The managers expect the Secretary to engage in meaningful outreach activities to inform low-income populations about these changes. In addition, the 1990 Farm Bill authorized funding for outreach grants to state and local entities. The managers expect the Secretary to make funding for these projects a high priority in the Department's budget deliberations.

CHAPTER 4

TIMBER SALES

Timber Receipts—Forest Service

The *House Bill* contains no comparable provision.

The *Senate Amendment* contains no comparable provision.

The *Conference Substitute* provides for a new payment calculation for fiscal years 1994 through 2003 for payments to counties in the States of Washington, Oregon, and California in which National Forests are situated and which are affected by decisions related to the Northern Spotted Owl.

Notwithstanding the provisions of the Act of May 23, 1908, payments to counties for fiscal years 1994 through 1998 will be an amount based on the new payment calculation (an applicable percentage times the average annual payment made to each State for each county pursuant to the Act of May 23, 1908 during the five year period of fiscal years 1986 through 1990).

In fiscal years 1999 through 2003, such payments will be the greater of an amount based on the new payment calculation or the amount calculated under the provisions of the Act of May 23, 1908.

The applicable percentage for fiscal years 1994 through 2003 will be as follows:

Fiscal Year:	*Applicable percentage*
1994	85
1995	82
1996	79
1997	76
1998	73
1999	70
2000	67
2001	64
2002	61
2003	58

Timber Sale Receipts—Bureau of Land Management.

The *House Bill* contains no comparable provision.

The *Senate Amendment* contains no comparable provision.

The *Conference Substitute* provides a new payment calculation for fiscal years 1994 through 2003 for counties sharing Bureau of Land Management timber sale receipts.

Notwithstanding the provisions of the Act of August 28, 1937 providing for a fifty percent share of the revenues paid to counties in the States of Oregon and California, and notwithstanding the provisions of the Act of May 24, 1939 requiring payments to counties, payments to each such county for fiscal years 1994 through 1998 will be based on a new payment calculation (equal to the applicable percentage times the average of the revenues to each such county during the five-year period of fiscal years 1986 through 1990).

In fiscal years 1999 through 2003, such payments will be the greater of the amount based on the new payment calculation or the amount calculated under the provisions of the Act of August 28, 1937 and the Act of May 24, 1939.

The applicable percentage for fiscal years 1994 through 2003 will be as follows:

Fiscal year:	*Applicable Percentage*
1994	85
1995	82
1996	79
1997	76
1998	73
1999	70
2000	67
2001	64
2002	61
2003	58

TITLE XIV—BUDGET PROCESS PROVISIONS

Note that the House recedes to the Senate on all material related to the executive and congressional budge process. The House conferees agreed to recede based on their understanding that inclusion of that material would make the entire conference report subject to a point of order in the Senate under section 306 of the Congressional Budget Act of 1974 and thereby endanger final enactment of the reconciliation bill. Therefore, the conferees' decisions should not be considered as necessarily judging the relative merits of the Senate and House positions.

DISCRETIONARY SPENDING LIMITS, THE PAY-AS-YOU-GO REQUIREMENT, AND RELATED PROCEDURES

Summary

Subtitles A and B of Title XV (Budget Process) of the House-passed bill amend the Balanced Budget and Emergency Deficit Control Act of 1985, more commonly known as the Gramm-Rudman-Hollings (GRH) Act, and the Congressional Budget Act (CBA) of 1974. The purpose of the amendments is to extend the discretionary spending limits and pay-as-you-go (PAYGO) requirement, both enforced by sequestration, through fiscal year 1998, and to make other changes in the budget process. Subtitle A, called the Budget Enforcement Act (BEA) of 1993, revises the procedures under the Gramm-Rudman-Hollings Act for enforcement of the discretionary spending limits and the pay-as-you-go requirement. Subtitle B revises and extends the discretionary spending limits in the Congressional Budget Act of 1974 (and makes other changes in the congressional budget process, which this joint statement discusses below).

Title XIV (Enforcement Procedures) of the Senate amendment extends the discretionary spending limits and the pay-as-you-go requirement through fiscal year 1998, and makes minor modifications in the procedures for enforcing them, by amending the Congressional Budget Act and the Gramm-Rudman-Hollings Act

In conference, the House recedes to the Senate. As noted, both the House and the Senate extend the discretionary caps and the pay-as-you-go requirement through 1998. Both chambers consider this extension to be important for enforcing the overall budget and economic plan. Thus, the conference disposition of title XV, subtitle A, of the House bill and title XIV of the Senate bill is consistent with the intent of both chambers.

Background

Congress enacted the Gramm-Rudman-Hollings Act (Pub. L. No. 99-177, tit. II, 99 Stat. 1037, 1038-1101 (1985)) in late 1985, following a period of prolonged deadlock over budgetary policies, to provide a strong incentive for the President and Congress to reduce the deficit each year through the regular legislative process. The Gramm-Rudman-Hollings Act established a declining series of deficit targets (referred to as "maximum deficit amounts") leading to a balanced budget in fiscal year 1991. The Act enforced the deficit targets by the sequestration process, under which automatic, across-the-board spending reductions would occur if the projected deficit exceeded the deficit targets.

Two years later, after the Supreme Court ruled the sequestration triggering mechanism in the Gramm-Rudman-Hollings Act unconstitutional in Synar v. Bowsher, 478 U.S. 714 (1986), Congress amended the Act (by the Balanced Budget and Emergency Deficit Control Act of 1987, Pub. L. No. 100-119, tit. I, 101 Stat. 754, 754-784 (1987)), extending the goal of a balanced budget to fiscal year 1993 and placing responsibility for the automatic triggering of sequestration in the hands of the Director of the Office of Management and Budget (OMB).

Congress fundamentally revised the sequestration process with the Budget Enforcement Act (BEA) of 1990 (title XIII of the Omnibus Budget Reconciliation Act of 1990, Pub. L. No. 101-508, tit. XIII, 104 Stat. 1388, 1388-573 to -630 (Nov. 5, 1990) (codified as amended in scattered sections of 2 U.S.C. and at 15 U.S.C. §1022 (Supp. II 1990)). First, the Act extended the process through fiscal year 1995 (although the budget was not required, nor expected, to be balanced by that time). Second, the Act made the deficit targets adjustable for changes in economic conditions and other factors. Third, the Act established adjustable discretionary spending limits to control the growth of annual appropriations and instituted a pay-as-you-go (PAYGO) requirement to ensure that legislative changes in mandatory spending and revenue levels do not increase the deficit in the net. The act also made these latter two procedures (in effect through fiscal year 1995) enforceable by sequestration. Congress intended that the appropriations caps and the pay-as-you-go requirement would control subsequent legislation, so that Congress and the President would not undo the deficit reduction that the 1990 budget summit agreement accomplished. Congress has the same purpose for extending the appropriations caps and the pay-as-you-go requirement in this Act—to prevent future legislation from undoing the spending cuts and revenue increases agreed to in the budget resolution and the other titles of this Act, the Omnibus Budget Reconciliation Act (OBRA) of 1993.

The Congressional Budget Act of 1974 is linked to the procedures under the Gramm-Rudman-Hollings Act in various ways. In particular, the Congress Budget Act of 1974 sets forth the deficit targets and discretionary spending limits used for purposes of sequestration.

1. DEFINITIONS (SECTION 250 OF GRAMM-RUDMAN-HOLLINGS)

Current Law

Section 250 of the Gramm-Rudman-Hollings Act provides 21 definitions and treatments that underlie the other sections of the Act. Included are "budget authority," "outlays," "deficit," "sequester," "beach," "baseline," "discretionary appropriation," and "deposit insurance," among others.

House Bill

The House bill includes many wording changes. (In the following description, all references are to the paragraph numbers in the House bill unless noted.)

In section 250(b)(1), the bill deletes a provision that includes the Health Insurance (HI) Trust Fund (Medicare Part A) in the budget for purposes of Gramm-Rudman-Hollings. That provision is also deleted in the existing section 257(b)(3). Instead, a single provision treating HI as on-budget for all purposes of Gramm-Rudman-Hollings is included in the new section 250(b)(20). A similar general rule is incorporated into the Congressional Budget Act by an amendment made in subtitle B to section 403 of that Act.

In section 250(b)(2) and many places throughout the bill, any reference to "budgetary resources" is changed to a reference to "budget authority." This simplification is made possible by a change in the definition of budget authority, in the Congressional Budget Act, made by subtitle B.

In section 250(b)(3) the term "breach" is modified by deleting obsolete references to "categories." The bill also codifies existing practice, that the measurement of enacted appropriations follows rules specified in section 257, the baseline. (Those rules themselves are also clarified, especially regarding part-year appropriations.)

The existing section 250(b)(4), defining "category," is deleted as obsolete.

In section 250(b)(6), defining "discretionary," and in section 250(b)(7), defining "direct spending," scorekeeping rule #3 is codified. This scorekeeping rule has been Gramm-Rudman-Hollings practice since 1990 and congressional practice since the Congressional Budget Act was enacted, if not before. Under scorekeeping rule #3, if the Appropriations Committee writes substantive legislation that would otherwise be considered direct spending, the effect is charged against the discretionary caps. Vice versa if an authorizing committee writes provisions that would otherwise be considered discretionary appropriations. The purpose is to maximize Committee accountability.

When this scorekeeping rule is invoked, OMB later reclassifies the amount of "otherwise direct spending" placed on the discretionary scorecard (or the amount of discretionary spending placed on the pay-as-you-go scorecard), using the authority to reclassify under section 251(b)(1). Thus, for example, if an appropriations Act includes a direct spending increase, initially the Appropriations Committee is held accountable by having the increase entered on the discretionary scorecard, but ultimately it is held accountable by having the discretionary caps lowered by the amount of the increase.

In section 250(b)(8) which replaces (b)(18), the bill envisions a new list of mandatory and discretionary appropriations to be included in the Statement of Managers. It should be noted that even with no changes in definitions or interpretations, the existing list needs updating (and can be updated without a change in statute) simply to reflect the many new accounts, changes in account names, or changes in account numbers made since 1990, especially as a result of the reform of credit accounting.

In section 250(b)(9), which defines "current" economic and technical assumptions to be those consistent with the President's budget submission, the bill allows correction of pure errors in the statement of economic and technical assumptions, if the corrections are submitted in the mid-session review. It should be noted that the existing interpretation of Gramm-Rudman-Hollings is that pure errors can and should be corrected.

In section 250(b)(10), which defines "real economic growth," the bill changes the measurement from Gross National product (GNP) to Gross Domestic Product (GDP), a similar concept of annual economic activity that is now the standard used by the government and economics profession.

In section 250(b)(14), which defines "outyear," the bill defines that term to mean each fiscal year after the budget year through 1998 for purposes of enforcing discretionary funding. But the term is defined to cover fiscal years through 2002 for pay-as-you-go purposes. This is explained more fully in the discussion of 5-year rolling enforcement under the House provisions for section 252.

The existing section 250(b)(17), dealing with pay-as-you-go scoring of legislation at the end of the 101st Congress, is deleted as obsolete.

In section 250(b)(18), defining and setting forth composite outlay rates, the definition is simplified by dropping as obsolete the separate rates for the international and domestic categories. Previously outlay rates were used to compute the spendout of the "Special Budget Authority Allowance" for those two categories, both to calculate an upward cap adjustment and a decrease in the available "Special Outlay Allowance" by the same amount. In the bill, the use of a composite outlay rate applies only to the simplified calculation of an inflation adjustment; the Special Budget Authority Allowance is dispensed with, and the Special Outlay Allowance is handled in other ways.

In section 250(b)(19), the definition of "asset sale" is limited to non-loan assets since credit reform accounting now handles loan asset sales. This codifies the existing treatment.

Senate Amendment

The Senate amendment makes no changes to section 250 of the Gramm-Rudman-Hollings Act.

Conference Agreement

The House recedes.

2. DISCRETIONARY SPENDING LIMITS (SECTION 251 OF GRAMM-RUDMAN-HOLLINGS)

Current Law

The Budget Enforcement Act of 1990 established discretionary spending limits for fiscal years 1991 through 1995 in section 601(a)(2) of the Congressional Budget Act of 1974. The limits on discretionary budget authority and discretionary outlays are used for spending control under section 251 of the Gramm-Rudman-Hollings Act and are enforceable by the sequestration process. The Budget Enforcement Act of 1990 divides total discretionary spending into three categories—defense, international, and domestic—for fiscal years 1991 through 1993. For fiscal years 1994 and 1995, the limits apply to total discretionary budget authority and total discretionary outlays.

Additionally, section 601(b) of the Congressional Budget Act of 1974 creates a point of order in the Senate against the consideration of any budget resolution or appropriations bill that violates the discretionary spending limits.

Section 251 of the Gramm-Rudman-Hollings Act sets forth a detailed procedure for the periodic, automatic adjustment of the discretionary spending limits. Adjustments are made for various factors, including (among others) changes in accounting concepts and inflation, quota increases for the International Monetary Fund, funding increases for the compliance initiative of the Internal Revenue Service, and emergency spending if so designated by the President and Congress.

Section 251 also provides: (1) that a within-session sequester may occur prior to July 1 during a fiscal year, but after that date the amount of the breach is dealt with in the subsequent fiscal year; and (2) that sequestration reductions must be applied uniformly (at the account and, if appropriate, activity level).

House Bill

The House bill continues the use of adjustable discretionary limits ("caps"). They initially are set forth in a new section 601 of the Congressional Budget Act of 1974, and cover the period 1994–1998. The current limits for fiscal years 1994 and 1995 are revised and new limits are established for fiscal years 1996 through 1998 (see table below). Those limits are consistent with the fiscal year 1994 budget resolution, H. Con. Res. 64 (103d Congress), adopted by the House on March 31, 1993, and by the Senate on April 1. As is the case under current law, separate limits are established each year for total discretionary budget authority and outlays.

Consistent with the budget resolution, the bill reduces the current budget authority limits for fiscal years 1994 and 1995 by almost $27 billion. It sets the outlay limits equal to those stated in OMB's most recent preview report plus the outlays flowing from the existing "Special Budget Authority Allowance" (section 251(b)(2)(E)(i) and (ii) of current law, as made applicable to fiscal years 1994 and 1995 under the last sentence of the current section 253(g)(1)(B)). This allows the deletion, as obsolete, of those provisions.

Current law, the House bill, and the Senate amendment have the same outlay limits for fiscal years 1994 and 1995. In the table below, the current and Senate outlay limits appear lower than those in the House bill only because they do not yet reflect the outlays from the "Special Budget Authority Allowance," an adjustment that will be made at the end of the session. The House bill and Senate amendment have the same budget authority and outlay limits for fiscal years 1996–1998.

Unlike the current process (in which adjustments are made in the limits when the President submits his budget and when the OMB Director issues a final sequestration report for the year), the bill allows adjustments to be made whenever appropriate. Further, all references to adjustments for fiscal years 1991–1993 are dropped as obsolete.

A "discretionary scorecard" is added by the bill. The scorecard captures the multiyear effects of individual appropriation Acts (as well as any sequester that occurs), listed by fiscal year. This provision codifies existing practice, and allows a clearer explanation of scorekeeping and enforcement under section 251.

In subtitle B, the bill remains with modifications (in a new section 602) the former section 606(d)(2) of the Congressional Budget Act. That section of the Congressional Budget Act reflects the fact that some adjustments to the discretionary limits are contingent upon enactment of appropriations for specific purposes. Those adjustments have the effect of "holding harmless" for some or all of those specific appropriations. In Congress, the analogous way to "hold harmless" is to not score those costs, which is what the existing section 606(d)(2) provides. The new section 602 simply conforms that approach to subtitle A.

In specific, the House bill provides for the following:

In section 251(b)(1), adjustments are required for changes in accounting concepts, as in current section 251(b)(1)(A). The purpose of this provision of current law is to ensure that discretionary programs are neither unfairly squeezed or given an inappropriate windfall. This is accomplished by adjusting the limits upward or downward to the extent that a change in what is scored as "discretionary" is just a deficit-neutral accounting change. Such a change can occur when, for example, accounting concepts are altered by the scorekeepers. The House bill makes clear that a change in accounting concepts also includes changes in scorekeeping conventions, classifications, and definitions.

An accounting change can also occur when a new law has the effect of changing the way an existing budgetary transaction should be scored, even under current accounting concepts. For example, a new law might make an existing discretionary program mandatory, or vice versa. But it is not always obvious whether such a law is establishing a new program or, in effect, reclassifying an existing one. Therefore, if (for example) Congress intends to convert an existing discretionary program to mandatory, it should provide legislative history that the new law is intended as a "change in budget classifications" under section 251(b)(1). If so, the limits are changed by the baseline amount of that program (as it existed before the bill), and savings or costs are entered on the pay-as-you-go scorecard only to the extent that they are decreased or increased by the bill. If not (i.e. if the intent is to create a new program that does not replace an existing program), the limits are not changed. Scorekeepers should give weight to Congressional intent in judging whether a reclassification has occurred.

Treatments of reclassifications are addressed in the scorekeeping rules, in part to explain the discretionary and pay-as-you-go rules that scorekeepers should follow when faced with a law that has the effect of reclassifying an existing budgetary transaction, and in part to cover the period after the enactment of the law that will generate the reclassification. The latter is needed because, under existing law, reclassifications cannot generate cap adjustments until the next session's "preview report." One purpose of the House bill is to allow cap adjustments during the immediate session.

In section 251(b)(2), the bill provides for increases or decreases to the limits if actual inflation differs from inflation as projected at the time of the fiscal year 1994 budget resolution. This is the same approach taken by current law in section 251(b)(1)(B). The bill simplifies the calculation by allowing the budget authority limit to be adjusted directly to reflect any observed change in inflation, and the outlay limit to be changed by the average composite spend out of the budget authority change. (Current law required making a baseline projection using two different sets of inflators, and treating the resulting budget authority and outlay differences as the amount by which the limits should be changed.)

The House bill also resolves the question, under current law, of whether a change in inflation applies to the entire amount of the limits or just to the "non-pay" amount; under the House bill, changes in inflation apply to the entire amount of the limits.

Finally, the bill establishes benchmark levels of "expected inflation" for the fiscal year 1996–98 cycles consistent with levels for the GDP fixed-weight deflator assumed in the fiscal year 1994 budget resolution. It also rebases the expected fiscal year 1993 benchmark (which will produce the inflation adjustment occurring with the fiscal year 1995 Budget) at the level assumed in that budget resolution.

The current section 251(b)(1)(C), allowing adjustments if OMB changes is estimates of the amount of subsidy budget authority needed to finance a given volume of direct or guaranteed loans, is deleted. Those adjustments have proven very complex, and have had very little effect on the total levels of the limits.

The current section 251(b)(2)(B), providing adjustments if appropriations were enacted in 1990 or 1991 forgiving any part of Egypt or Poland's debt to the US, is deleted as obsolete.

In section 251(b)(3), the bill provides an adjustment to the budget authority limit if a "replenishment" of the International Monetary Fund quota is enacted in an appropriation Act. This extends through 1998 a similar provision of current law, section 251(b)(2)(C). Thee are no outlays associated with such an appropriation, and many analysts do not consider it to be budget authority; it is akin to an equal-value exchange of lines of credit.

Such replenishments occur periodically, and one might be called for by fiscal year 1998.

In section 251(b)(4), the bill retains the current adjustment to the limits that occurs if appropriations for the IRS compliance initiative are above the levels in CBO's 1990 baseline. Under section 251(b)(2)(A) of current law and in the House and Senate bills, this provision applies through fiscal year 1995. The House bill simplifies the text by dropping portions relating to years already completed.

In section 251(b)(5), the bill provides a new adjustment for the net costs of the advance appropriations made in section 601 of Public Law 102–391. OMB has estimated those costs at zero, so the limits would not actually be adjusted under this provision. However, as described previously, Congress would be held harmless for CBO's higher estimate of the costs by the operation of section 602 of the Congressional Budget Act, as provided in subtitle B of the bill. The purpose of this approach is to minimize CBO–OMB scoring differences. While such estimating differences are inevitable, this is the only specific budget authority and outlay difference already on the books (because the advance appropriations were enacted last session); therefore, that estimating difference is resolved by this bill.

In section 251(b)(6), the bill provides a new adjustment to the extent that the costs of renewing expiring multiyear subsidized housing contracts or providing replacement contracts when units are lost due to "prepayments" differs from current estimates. This adjustment reflects the bitter experience Congress has had with estimates of expiring housing contracts. When such contracts expire or are prepaid, they must be renewed or the stock of subsidized housing decreases—renters are evicted. The existing baseline, the 1994 budget resolution, and the limits in the bill all include the currently estimated costs of those renewals in each fiscal year. But given the poor quality of past estimates, this bill provides an adjustment if the estimates prove wrong again.

A number of features should be noted. First, the adjustment might be up or down. Second, the adjustment is limited to changes in costs solely for renewals/prepayments. There would be no adjustment triggered by an increase or decrease in funding for subsidized housing generally, or for an appropriation that could be used for this or some other purpose. Likewise, if a later law transferred or reprogrammed any extra funding to another purpose, the limits would be adjusted down. In other words, the amount of expiring units, though quite hard to estimate in advance, is ultimately a matter of fact, not of Congressional policy—Congress cannot create extra costs simply by choosing to increase the appropriation.

In section 13560, (contained in title XIII of the house bill), a new adjustment for fiscal year 1994 and 1995 is created to cover appropriation increases for medicare administrative costs related to enforcement. The purpose is to reduce erroneous or fraudulent payments. This provision was also included last session in H.R. 11, a bill vetoed by President Bush. This provision is similar to the IRS adjustment in that it is made only if appropriations bills fund this activity above the existing baseline level, is limited to the amount of the increase, and is further limited to not more than an amount specified in the provision.

In section 251(b)(7), current law is repeated; it provides that the limits are adjusted for any appropriation that is designated as an emergency by the President and Congress. Congress must designate by statute, and the President may independently designate some or all of the amount Congress designates. When funds are designated as an emergency, the limits are increased by the amount so designated; when funds previously designated as emergency are rescinded, the limits are decreased. Current law is modified only by dropping an obsolete provision relating to Operation Desert Shield, and by requiring presidential designations to be made in writing.

As discussed above, the bill deletes the current section 251(b)(2)(E)(i) and (ii), the "Special Budget Authority Allowance."

In section 251(b)(8)(A), which is akin to the current section 251(b)(2)(E)(iii), a budget authority estimating margin is provided, extending through fiscal year 1998. The estimating margin is set at no more than one-tenth of one percent of the amount of the budget authority limit for each fiscal years 1994–1998. The intent of the provision is to provide a margin if OMB's estimates of indefinite budget authority are higher than CBO's.

In section 251(b)(8)(B), which is akin to the current section 251(b)(2)(F), an outlay estimating margin is provided, extending through fiscal year 1998. Under current law, the outlay estimating margin for fiscal years 1994 and 1995 equals $6.5 billion less the amount of outlays flowing from the "Special Budget Authority Allowance." In the bill, current law is extended through 1998; calculation of the subtraction associated with the "Special Budget Authority Allowance" is likewise extended through fiscal year 1998 (as though it had applied through that year and had not been repealed); and the total amount of the outlay estimating margin is further limited to no more than one percent of the outlay limit for each fiscal years 1994–1998. As with the budget authority margin, the intent of the provision is to provide a margin if OMB's estimates of outlays are higher than CBO's.

In section 251(c)(1), the bill establishes a "scorecard" for discretionary amounts, as discussed above. While this is a new provision in law, it confirms to OMB's existing practice. OMB is allowed to correct erroneous entries to the scorecard; as noted, this codifies current interpretations. The scorekeeping related to the scorecard is derived from the current section 251(a)(7), with the language simplified and clarified without any change in its effect.

In section 251(c)(2), the bill provides for "lookback" enforcement of supplemental appropriations enacted after June 30—so late in the fiscal year that a sequestration might be infeasible. The effect of this provision is the same as section 251(a)(5) of current law, which penalizes breaches caused by a post-June supplemental by lowering the next year's limits. The bill accomplishes the same result by putting the post-June costs on the next year's scorecard. It is easier to conform Congressional scorekeeping to the approach in the bill than to conform budget resolution allocations to the current approach (since that could require reducing the allocations already made in a budget resolution). The bill also clarifies the treatment of any fiscal year 1993 "lookback breach"—current law requires the reduction of "that category" for the next year; the phrase is ambiguous in that the meaning of "category" changes between fiscal years 1993 and 1994.

In section 251(d) of the bill, sequestration is provided as the remedy in the event a discretionary limit is breached. This provision mirrors the current section 251(a)(1)–(4), except that a *de minimis* is provided—no sequestration is needed if a budget authority or outlay breach would otherwise require a budget authority sequestration of less than $50 million.

In section 251(d)(2), which sets forth the calculation of the percentage sequestration, the bill clarifies the treatment of offseting collections credited to discretionary appropriations; they are subject to discretionary sequestration, not pay-as-you-go sequestration. Current law is ambiguous.

In section 251(d)(3), which allows the President to exempt some or all military personnel from sequestration, the language is simplified with no change in effect.

In section 251(e), which is akin to the current section 251(a)(6), a "within session" sequestration is provided for if a pre-July supplemental causes a breach. The language is simplified with no change in effect.

Senate Amendment

Section 12(a) of the concurrent resolution on the budget adopted in April of 1993 provides that "[t]he Senate declares that it is essential to . . . extend the system of discretionary spending limits set forth in section 601 of the Congressional Budget Act of 1974." H. Con. Res. 64, 103d Cong., 1st Sess. §12(a)(2), 139 CONG. REC. H1747, H1753 (daily ed. Mar. 31, 1993) (adopted). Section 12(b) set forth those limits for fiscal years 1996 through 1998 and created a point of order in the Senate to enforce them. *See id.* §12(b).

In furtherance of the budget resolution, section 14002 of the Senate amendment continues the use of adjustable discretionary spending limits through fiscal year 1998. Unlike the House bill, the Senate amendment retains the current limits for fiscal years 1994 and 1995 without charge and establishes new limits for fiscal years 1996 through 1998. (See table below.) Section 14002 provides that the discretionary spending limits for fiscal years 1996 through 1998 are those set forth in section 12(b)(1) of the budget resolution, which the House also used. As is the case for fiscal years 1994 and 1995 under current law, the Senate amendment establishes separate limits each year for total discretionary budget authority and total discretionary outlays.

The Senate amendment retains, with minor technical and conforming changes, the current law's procedures for periodically adjusting the discretionary spending limits.

Conference Agreement

The conference agreement contains the Senate language.

The table below sets forth the proposed discretionary spending limits in the House bill, the Senate amendment, and the conference agreement.

DISCRETIONARY SPENDING LIMITS: FISCAL YEARS 1994–98

[In billions of dollars]

	Fiscal year—				
	1994	1995	1996	1997	1998
Current law[1]:					
Budget authority	509.920	517.398	....	....	....
Outlays	537.254	538.952	....	....	....
House bill:					
Budget authority	500.964	506.287	519.142	528.079	530.639
Outlays	538.688	541.137	547.263	547.346	547.870
Senate amendment:					
Budget authority	509.920	517.398	519.142	528.079	530.639
Outlays	537.254	538.952	547.263	547.346	547.870
Conference agreement:					
Budget authority	509.920	517.398	519.142	528.079	530.639
Outlays	537.254	538.952	547.263	547.346	547.870

[1] Discretionary spending limits under current law are the "preview report discretionary limits" in the "Budget of the U.S. Government, fiscal year 1994, 135 (1993)". Current law provides, and the Senate amendment retains, a "special budget authority allowance" through fiscal year 1995 that will increase the limits on budget authority and outlays for those years when the end-of-session sequestration reports are prepared. Including that adjustment as currently estimated, the outlay limits for 1994 and 1995 are the same in current law, the House bill, and the Senate amendment.

3. PAY-AS-YOU-GO (PAYGO) REQUIREMENT (SECTION 252 OF GRAMM-RUDMAN-HOLLINGS)

Current Law

The Budget Enforcement Act of 1990 established a pay-as-you-go (PAYGO) requirement for fiscal years 1991 through 1995 in section 252 of the Gramm-Rudman-Hollings Act. Under pay-as-you-go, direct (mandatory) spending and revenue legislation may not increase the deficit for these fiscal years. Sequestration enforces this requirement, if necessary, applying to selected direct spending programs. A sequester does not alter revenues, nor does it affect such direct spending programs as Social Security, net interest, Federal retirement, most veterans' benefits, low-income entitlements, and regular unemployment benefits. The pay-as-you-go process does not require any offsetting action when the spending increase or revenue decrease is due to the operation of existing law, such as greater-than-forecast increase in the number of persons participating in an entitlement program.

Spending for Social Security benefits and Federal deposit insurance commitments in effect at the time the Budget Enforcement Act of 1990 was enacted (whether from current law or new legislation), as well as emergency direct spending and revenue legislation (if so designated by the President and by Congress in statute), is exempted completely from pay-as-you-go accounting and enforcement.

The budgetary effects of direct spending and revenue legislation are tracked over the full five years of the process using pay-as-you-go scorecard. Although it covers five fiscal years, pay-as-you-go is enforced one year at a time. In determining whether a pay-as-you-go sequester for a fiscal year is necessary, the pay-as-you-go deficit calculations must take into account enacted legislation affecting both that and the preceding fiscal year.

House Bill

The House bill amends section 252 of the Gramm-Rudman-Hollings Act, extending the pay-as-you-go process for legislation enacted through fiscal year 1998 (including the effects of such legislation through fiscal year 2002). The bill retains the basic elements of the existing process, consolidating and clarifying some existing provisions, rebasing the pay-as-you-go scorecard to zero, and adding two new features. The pay-as-you-go process continues to involve the sequestration of selected direct spending programs if there is a net increase for a fiscal year due to the enactment of direct spending and revenue legislation.

A significant feature of the House bill is that the pay-as-you-go scorecard is created anew and applies only to bills enacted *after* this reconciliation bill. In other words, the pay-as-you-go scorecard is rebased to zero. Rebasing has the effect of wiping out the surplus shown by OMB on the current pay-as-you-go scorecard, and of excluding all the additional deficit reduction from the scorecard as well. Put most simply, rebasing the pay-as-you-go scorecard *guarantees* that the net entitlement cuts and tax increases included in this reconciliation bill are 100% dedicated to deficit reduction. Any later attempt to spend those savings is illegal, and will create a completely offsetting sequestration.

Rebasing was a goal of the 1994 budget resolution, H. Con. Res. 64: section 11, a Sense of the House provision, and section 12(c), a new Senate point of order, both addressed this issue. As stated in the House report on the budget resolution, "the intent is that later legislation not undo the deficit reduction this budget resolution calls for." Following through, rebasing guarantees that later legislation not undo the deficit reduction this reconciliation bill achieves. This provision reinforces the effect of the 1994 budget resolution, which provided no room for future deficit increasing legislation.

The first new feature of the bill is the establishment of a pay-as-you-go scorecard and "five-year rolling enforcement." The scorecard captures amounts for the budget year and the ensuing four fiscal years. For example, under the "fixed" approach established by the Budget Enforcement Act of 1990, a measure enacted for fiscal year 1995 would be scored only for that one year, since pay-as-you-go expires after 1995 under current law. Under the Senate amendment, a measure enacted for fiscal year 1995 is scored through fiscal year 1998, since the Act is extended through that year. Under the House bill, the same measure would be scored for five years, fiscal years 1995–1999. Thus, the pay-as-you-go scorecard established by the House bill will include amounts through fiscal year 2002. A pay-as-you-go sequester could occur during fiscal years 1999 through 2002, based on pay-as-you-go legislation enacted in fiscal year 1998 and earlier years. In sessions after that for budget year 1998, no new entries would be made on the scorecard. The intent of the House bill is to provide a greater incentive for new pay-as-you-go legislation, in net, to conform to the norm of deficit neutrality.

The second new features is a *de minimis* rule, comparable to the one for discretionary spending, that sets aside the requirement for a sequester if the violation is less than $50 million.

In specific, the House bill provides for the following:

In section 252(a)(1), a pay-as-you-go scorecard is established, as noted. While this is new to the statute, it is current OMB practice. OMB is allowed to correct erroneous entries to the scorecard; as noted, this codifies current interpretations. The scorekeeping related to the scorecard is derived from the current section 252(d), with the language simplified and clarified without any change in its effect. The bill clarifies that costs or savings are measured relative to baseline.

The bill also codifies and clarifies what to do if expiring direct spending programs or taxes, assumed to be extended, actually expire (SEE section 257(b)). The budgetary effects of a Congressional decision to allow such an expiration should be entered on the scorecard, and at the end of session in which the provision expires.

The bill also codifies the current treatment of debt service; only the costs or savings of a direct spending or revenue bill count, not the effect that the costs or savings will have on the government's interest payments.

The bill also codifies a scorekeeping convention for legislation that has incidental effects on the intragovernmental receipts of Federal retirement trust funds. Excluding those incidental effects is current practice. Under this rule, only the retirement effects of retirement legislation are entered on the pay-as-you-go scorecard; if the effects on intergovernmental receipts were scored, the result could be that a bill cutting retirement benefits would be shown as increasing the deficit, and vice versa.

Legislative provisions whose *purpose* is to alter agency payments to retirement trust funds are not "incidental" and so are not covered by this rule. If Congress desires to hold the appropriations process harmless for such an alteration in required agency payments, the legislative provisions should be identified by Congress as a change in accounting concepts, so that the discretionary caps would be automatically adjusted.

In section 252(a)(2) of the bill, 5-year rolling scorekeeping through 2002 is established, as discussed above.

In section 252(a)(3) of the bill, the "lookback" feature of current law is simplified and corrected. Lookback was included in the Budget Enforcement Act of 1990 amendments because it was considered infeasible to administer within-session sequestrations each time a pay-as-you-go bill increasing the current-year deficit was enacted. Under lookback, such current-year effects were instead controlled by adding them to the budget-year effects; the sum is enforced when the end-of-session sequestration report is made. But through a drafting error in Budget Enforcement Act of 1990, lookback not only counts (in the budget year) the current-year effects of current-year legislation, but also the current-year effects of *prior* legislation. The House bill corrects the error.

In section 252(a)(4), current law is repeated; it provides that the scorecard exclude any costs/savings provision of a direct spending or revenue law that is designated as an emergency by the President and Congress. Congress must designate by statute, and the President may independently designate. Current law is modified only by requiring presidential designations to be made in writing.

In section 252(b)(1), akin to the current section 252(a), sequestration is provided if Congress ends a session with a net deficit increase on the scorecard for the budget year. As noted, a $50 million *de minimis* is provided by the House bill.

In section 252(b)(2), the sequestration calculation and process is set forth; the provisions are akin to the current section 252(b). The bill clarifies the current treatment of the three so-called "Automatic Spending Increase" (ASI) programs; the maximum reduction is made if any sequestration is needed. The bill also moves sequestration of the guaranteed student loan program from step 2 (where it is covered by a special rule) to step 3 (where it is sequestered across-the-board, as needed). The same treatment is provided for the new direct student loan program.

In section 252(b)(3), the bill simplifies accounting and prevents over-sequestering. The sequestration of some programs provides savings (or in rare cases, costs) in the first outyear. Under current law, those extra savings are not counted toward meeting a budget-year overage. This results in a higher sequestration percentage, and necessitates putting the outyear sequestration savings on the next year of the pay-as-you-go scorecard. An exception is made for CCC, for which about half of the savings occur in the first outyear; those savings *are* counted toward offsetting a budget-year overage, and are *not* placed as a credit on the pay-as-you-go scorecard. The House bill simplifies the Act by adopting the CCC model across the board, thus preventing over-sequestration and eliminating any need to make extra entries on the scorecard.

Senate Amendment

Section 12(a) of the concurrent resolution on the budget adopted in April of 1993 provides:

(a) PURPOSE.—The Senate declares that it is essential to—

(1) ensure compliance with the deficit reduction goals embodied in this resolution;

* * *

(3) extend the pay-as-you-go enforcement system;

(4) prohibit the consideration of direct spending or receipts legislation that would decrease the pay-as-you-go surplus that the reconciliation bill pursuant to section 7 of this resolution will create under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985. * * *

H. Con. Res. 64, 103d Cong., 1st Sess. §12(a), 139 Cong. Rec. H1747, H1753 (daily ed. Mar. 31, 1993) (adopted).

The Senate amendment amends section 252 of the Gramm-Rudman-Hollings Act, extending the pay-as-you-go process for legislation enacted through fiscal year 1998. The pay-as-you-go scorecard ends with fiscal year 1998; the effects of enacted direct spending and revenue legislation in fiscal year 1999 and beyond are not taken into account. Additionally, the Senate amendment requires that the yearly pay-as-you-go balances be adjusted for deficit reduction achieved by the Omnibus Budget Reconciliation Act of 1993.

Section 12(c) of the budget resolution establishes a new point of order in the Senate that supplements the pay-as-you-go process under the Gramm-Rudman-Hollings Act. The point of order bars consideration of any legislation affecting direct spending or revenues (with certain exceptions) that would increase the deficit above the levels for fiscal years 1994 through 1998 set in the budget resolution for fiscal year 1994. The point of order also applies to any such increases in deficit levels for fiscal years 1999 through 2003. While this new prohibition applies to individual pay-as-you-go measures as they are considered, the pay-as-you-go requirement under the Gramm-Rudman-Hollings Act, in contrast, is applied at the end of a session to all pay-as-you-go measures enacted into law.

Conference Agreement

The conference agreement contains the Senate language.

4. DEFICIT TARGETS OR "MAXIMUM DEFICIT AMOUNTS" (SECTION 253 OF GRAMM-RUDMAN-HOLLINGS)

Current Law

The Budget Enforcement Act of 1990 revised the deficit targets (maximum deficit amounts). The Act revised the deficit targets for fiscal years 1991 through 1993 and established new targets for fiscal years 1994 and 1995 (the targets for fiscal years 1991 through 1995 were set forth in section 601(a)(1) of the Congressional Budget Act of 1974). The sequestration procedures for enforcing the deficit targets are set forth in section 253 of the Gramm-Rudman-Hollings Act. Section 253 also provides for the periodic adjustment of the deficit targets.

The deficit targets were required to be adjusted for fiscal years 1992 and 1993, and are adjustable at the President's option for fiscal years 1994 and 1995. The President has chosen to make the 1994 adjustment, and will decide whether or not to adjust the fiscal year 1995 targets next year. Whenever a deficit target is adjusted, it is set at the level consistent with the discretionary spending limits and the pay-as-you-go requirement. Therefore, when adjusted, the deficit target provides no constraint beyond the appropriations caps and pay-as-you-go requirement, so no deficit sequester can occur.

Section 605 of the Congressional Budget Act of 1974 establishes a point of order in the Senate against the consideration of any measure that would cause the deficit target for the coming fiscal year to be exceeded. Section 606, in subsections (b) and (c), prohibits the consideration in the House and Senate of a budget resolution recommending a deficit in excess of the applicable deficit target.

House Bill

The House bill retains the procedures in section 253 of the Gramm-Rudman-Hollings Act for enforcing the deficit targets through fiscal year 1995. It also retains the feature in current law which allows the President to adjust the deficit targets again when he submits his budget for fiscal year 1995 early next year. The only amendments to section 253 are conforming; the intent is that section 253 remain in effect through 1995.

Senate Amendment

The Senate amendment contains no such changes.

Conference agreement

The conference agreement contains no such changes.

5. SEQUESTRATION REPORTS AND ORDERS (SECTION 254 OF GRAMM-RUDMAN-HOLLINGS)

Current Law

Under the Gramm-Rudman-Hollings Act, as amended, there are several basic requirements for sequestration reports and orders set out in section 254: (1) sequestration is triggered by a report from the OMB Director; (2) the OMB Director must issue a preview sequestration report with the President's budget submission, an update sequestration report by August 20, and a final sequestration report 15 days after the end of a session; (3) if a sequester is required, the President must issue a sequestration order, on the same day that the final OMB sequestration report is issued, that conforms strictly with the report; (4) the CBO Director must also issue such reports, five days before the OMB Director's reports are issued, and OMB must explain its differences with CBO; and (5) the contents of sequestration reports are prescribed in the Act.

In addition, the OMB Director must use for each sequestration report issued for a fiscal year the same economic and technical assumptions that underlie the President's most recent budget submission.

House Bill

The House bill retains the basic requirements for sequestration reports and orders set forth in section 254, with two changes: (1) the elimination of the update sequestration reports, currently required to be issued by OMB and CBO in August of each year; and (2) the weekly issuance by the OMB Director of reports on the discretionary and pay-as-you-go scorecards, beginning the second Wednesday in September.

Specific provisions include:

In section 254(a) and (c), the bill deletes the January 21 date for the President to announce his decision on adjusting the maximum deficit amount. For fiscal year 1994, that provision has been executed; for fiscal year 1995, the President's decision comes with his budget submission.

In section 254(b)(2) and (3), sequestration reports are required to include bill scoring to date, which is current OMB practice.

In section 254(e), a new requirement for bill cost reports is set forth, replacing similar requirements in the current section 251(a)(7) and section 252(d).

In section 254(f), a new requirement for weekly scorecard reports, starting the second week in September, is created, as noted. This is current OMB practice.

Also as noted, the current section 254(f), the annual update report, is deleted; it is made unnecessary by the scorecard reports.

Senate Amendment

The Senate amendment contains no such changes.

Conference Agreement

The conference agreement contains no such changes.

6. OTHER MATTERS

Current Law

The Gramm-Rudman-Hollings Act, as amended, contains additional sections that relate to the sequestration process.

Section 255 lists programs and activities that are exempt from sequestration.

Section 256 provides exceptions, limitations, and special rules that determine the manner in which sequestration is applied to certain programs and activities.

Section 257 prescribes the methodology for constructing baseline estimates for purposes of measuring appropriations bills and comparing direct spending and revenue bills to the baseline.

Section 258 and 259A–C contain certain "fast-track procedures" dealing with suspension of budget enforcement procedures in the event of war or low economic growth (section 258); the modification of a presidential sequestration order (section 258A); presidential authority to propose modifications in a sequester of defense programs, projects, and activities (section 258B); and a special reconciliation process (in the Senate only) for responding to an anticipated or actual sequester (section 258C).

Section 274 of the Gramm-Rudman-Hollings Act provides for expedited judicial review of cases involving the operation of the Act and establishes a "fallback procedure" for triggering sequestration through the legislative process.

Section 275 provides effective dates and expiration dates for sections of the Gramm-Rudman-Hollings Act.

House Bill

The House bill makes technical and conforming changes in the following sections of the Gramm-Rudman-Hollings Act: 255, 256, 257, 258, and 258A–C.

The list of exempt programs and activities in section 255 is recodified to bring it up to date. Specifically:

In section 255, the lists of accounts or activities exempt from sequestration are repeated with technical changes. Many accounts have had name changes and/or account number changes since 1990. Some accounts have expired. The bill also codifies exemptions that are freestanding provisions of law (conservation reserve; vaccine compensation). But there are *no* changes in what is exempt.[1]

In section 255(g)(1)(A), the bill exempts credit liquidating and financing accounts: financing accounts because they are non-budgetary; liquidating accounts because they pay only for prior legal obligations of the government, which are exempt under the current section 255(g)(2). As a result of this single listing, credit accounts are no longer listed under section 255(g)(2).

The bill deletes as unnecessary the current section 255(f), exempting the base amounts of Automatic Spending Increase programs from sequestration. The base amounts of the ASI programs are still exempt, and only the increase is subject to sequestration.

In the new section 255(f) created by the bill, the current optional exemption for military personnel is set forth. This corrects an error of current law, which contains two subsection (h)'s. The language also removes an obsolete reference to a "snapshot date."

In section 5181 of the House bill (contained in title V), section 2161 of the Public Health Service Act contains an exemption from sequestration for the new National Childhood Immunization Trust Fund.

The bill also makes corrections or clarifications to section 256 of the Gramm-Rudman-Hollings Act, which provides special rules for sequestration. Specifically:

In section 256(a), "budget-year sequestration," the 1st sentence clarifies existing practice—that a sequestration shall start with the date of the presidential order and apply to a program for the remainder of the fiscal year, unless the Act specifies otherwise. This makes unnecessary the current section 256(1)(4).

The second sentence is a conforming amendment. It takes the idea of crediting outyear effects to the sequestration (as explained in the discussion of section 252) and (1) treats section 253 sequestration the same way for purpose of calculating sequestration percentages, and (2) credits section 252 sequestrations against the maximum deficit amount the same way to prevent inadvertent section 253 sequestrations when the maximum deficit amount has been fully adjusted.

The current section 256(b), relating to the sequestration of the guaranteed student loan program, is deleted, for the reasons explained above under section 252. A new section 252(l) sets forth the mechanism for providing across-the-board sequestration of the that program and the new direct student loan program. Sequestration is accomplished by raising the origination fees by an amount that reduces loan costs by the standard sequestration percentage applicable to all direct spending programs in the "across-the-board" category. This may be the most logical way to sequester from those programs even in the absence of a special rule.

In section 256(e), the bill deletes obsolete provision applicable to fiscal year 1986.

In section 256(h)(4), the bill deletes a double listing of Office of Thrift Supervision and the no longer extant REFCORP.

In section 256(j), the special rule for CCC sequestration, the bill deletes as redundant the current paragraph (5)—CCC is not an Automatic Spending Increase program (only those specifically listed under section 256(b) are), and so is not subject to a double reduction. The bill inserts a new paragraph (5), which simply incorporates existing sequestration rules for the diary program, found in the Agricultural Act of 1949, into the text of the Budget Enforcement Act.

In section 256(k), the special rule for sequestration of the AFDC JOBS program, the bill makes a purely technical correction to the formula allocation by state of AFDC amounts that should apply *after* the program is cut by the full amount of a sequestration.

The bill clarifies existing rules relating to the computation of a baseline.

For discretionary programs, the baseline follows historical practice in assuming inflation adjustments until an appropriation for the fiscal year is enacted. There are three separate reasons for the baseline to reflect inflation rather than the discretionary limits imposed by section 251. (1) A "capped" baseline contains only a discretionary aggregate—it has no programmatic detail. There are a number of legal requirements in this Act (for example, the requirement to adjust the discretionary limits by the baseline amount of a program when there is a change in accounting classifications) that can only occur with a baseline that has account-level detail. (2) The lack of programmatic detail in a "capped" baseline makes it impossible to analyze discretionary policy except in aggregate; it is for this reason that CBO's annual listing of budget reduction options analyzes each option relative to the inflated baseline. (3) The spending limits imposed by section 251 require cutbacks in real (inflation-adjusted) resources. Such cutbacks might have many different results: project cancellations, reductions in Federal military or civilian personnel levels, base closings, reductions in the number of research grants, delays in maintenance schedules, etc. It is useful to the public to show the numerical extent of such cutbacks, and the individuals who are directly affected will certainly feel them as cutbacks.

The bill makes specific changes in the language of section 257:

In section 257(a) and (b)(1), the baseline modified to include the extension of "discretionary regulations" without assumed change.[2] This has been CBO's baseline practice, and was also the Gramm-Rudman-Hollings requirement before the amendments made Budget Enforcement Act of 1990. By assuming that discretionary regulations continue unchanged (as opposed to OMB's current approach of assuming future changes consistent with administration policy), congressional prerogatives in establishing policy are not made subservient to those of the administration.

In section 257(b)(2)(A), the bill makes two changes. First, it switches from $50 million in outlays to $50 million in gross budget authority the threshold that a direct spending program must atain before the baseline should assume its continuation past its scheduled expiration date. Second, the bill clarifies how to project a direct spending program is that assumed to continue after its scheduled expiration: where the program is driven by substantive provisions of authorizing law, assume that the program continues as in effect just before its expiration.[3] Expiring programs funded by backdoor definite budget authority have that budget authority inflated as though it were discretionary.

In section 257(b)(2)(A), the bill clarifies the intent of existing law: that the percent increase in veterans compensation is assumed to be the same percent as the automatic increase in veterans pensions. This does not mean that the veterans compensation baseline follows other aspects of pension law such as rounding down.

The current section 257(b)(3) relating to the treatment of Health Insurance Trust Fund, is deleted. See the discussion under section 250(b)(1) and (20).

In section 257(b)(3) the bill establishes a cutoff date after which the baseline will no longer assume the extension of certain expiring law. This codifies and makes explicit the existing implicit treatment if Congress allows a program or tax to expire.

In section 257(c), covering the projection of discretionary programs, the wording change recognizes that all spending is either direct spending or discretionary—there is no third type.

In section 257(c)(2), concerning the projection of expiring housing contracts, the bill that expiring contracts include prepayments as well (because prepayments are simply a form of expiration; the contracts expire because the budget authority runs out rather than because a time limit is reached.)

In section 257(c)(3), the bill includes OSADI administrative expenses in the special baseline rule that allows caseload changes to be taken into account; this inclusion reflects OMB's treatment of these costs as part of the Gramm-Rudman-Hollings system.

The bill deletes the current section 257(c)(4), providing for pay annualization and an offset to absorption. The reference to absorption is dropped since OMB and CBO agree it is not a meaningful concept in the absence of routine "pay supps." Annualization is covered automatically by the wording in the new section 257(c)(4) whereby inflation covers *average* rates of pay for a fiscal year.

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[1] The thrift savings fund is not deleted from the list; rather, it is retained for redundancy even though the exemption is unnecessary because the Gramm-Rudman-Hollings Act does not apply to non-budgetary transactions. The bill also contains an erroneous deletion of interest payments to the Farm Credit System, Financial Assistance Corporation (FAC) from the list, and fails to include FAC, now an on-budget account, on the list.

[2] A "discretionary regulation" is issued pursuant to a law that grants the executive branch discretion in setting some rate, date, or other feature that would affect the amount of costs or savings under a plan.

[3] In case of CCC, which reverts to older, very general authority, existing practice is to assume that authority would be used in the same manner as the just expired law.

In section 257(c)(4), the bill conforms the inflator for civilian and military personnel to the pay rate increases required by existing law. It also changes the reference for non-pay inflation from GNP to GDP.

In section 257(c)(5), the bill codifies the existing treatment of annualizing part-year budget-year appropriations, not just part-year current-year appropriations. This prevents any disjunction between the amount sequestered (which is based on a full-year scoring under section 251(d)(4)) and the amount scored, which follows baseline rules.

In section 257(c)(5), the bill allows the scoring of permissive transfers to be updated for those accomplished by the submission of the midsession review. But this change does not override the Gramm-Rudman-Hollings requirement to use budget technical assumptions of prior-year outlays in scoring bills; it applies only in the very unlikely case in which Congress adjourns without enacting even a temporary continuing appropriation to cover a set of accounts. It also applies to unofficial baseline projections made after the midsession review.

In section 257(e), the bill rewrites the treatment of asset sales to conform to existing practice: asset sales count for the budget (they are not a "means of financing"), but the proceeds of asset sales newly enacted in a session don't count in that session as negative spending, so can't be used to meet targets or cover other spending.

The bill also makes technical corrections to the "fast-track" procedures provided in section 258 and section 258A–C. Specifically:

The bill repeals the first of the two section 258's. It was intended to have been repealed by Budget Enforcement Act of 1990, and was replaced in Budget Enforcement Act of 1990 by section 258A.

In section 258A, B, and C, the bill conforms cross-references.

In the second of the two section 258's, the bill clarifies that the 1st sentence of section 258(a)(4) applies only to the Senate, as intended.

In section 258C, a conforming amendment makes this fast-track procedure triggered by receipt of a scorecard report rather than the deleted update report.

The House bill revises section 274 to make conforming amendments that should have been made in Budget Enforcement Act of 1990. Further, the fallback procedure, which was written in Gramm-Rudman-Hollings I in anticipation that it might be ruled unconstitutional (as it was), is deleted.

Finally, the House bill retains the current expiration date for section 253, extends the expiration date for sections 251, 257, and 258B to the end of fiscal year 1998, and extends the expiration date for sections 250, 252, 254, 255, 256, 258, 258A, and 258C to the end of fiscal year 2002.

In section 275, the bill provides that any part of the Act that touches pay-as-you-go sequestration is extended to 2002. The remaining parts are extended to 1998 (but this does not supersede provisions within various sections specifying a shorter application, such as the cap adjustment for IRS funding).

In section 15111(b), effective dates are set forth. The provisions of the bill are effective immediately, but they alter procedures or otherwise make changes with respect to reports, orders, calculations, etc. first applicable to fiscal year 1994. For fiscal year 1993, the current Gramm-Rudman-Hollings is deemed to remain in place.

Senate Amendment

The Senate amendment extends the expiration date of sections 250 through 258C (except for section 253, which pertains to the enforcement of the deficit targets) from the end of fiscal year 1995 to the end of fiscal year 1998.

Conference Agreement

The conference agreement contains the Senate language.

THE CONGRESSIONAL BUDGET PROCESS

Subtitle B of Title XV (Budget Process) of the House-passed bill amends the Congressional Budget Act (CBA) of 1974 (P.L. 93-344, as amended) and related Standing Rules of the House of Representatives to make various changes in the congressional budget process. (In addition, Subtitle B extends the discretionary spending limits in the CBA of 1974, which are used for purposes of sequestration under the Gramm-Rudman-Hollings Act, through fiscal year 1998; these changes are discussed elsewhere).

Title XIV (Enforcement Procedures) of the Senate amendment amends the CBA of 1974 only the purpose of extending certain procedures in Title VI of that Act (including the discretionary spending limits).

The conference agreement includes the Senate language. The House conferees believe that the recommended changes in the House proposal are useful and important and therefore intend to pursue these changes in another forum.

1. BUDGET RESOLUTION COVERAGE AND ENFORCEMENT

Current Law

The Budget Enforcement Act of 1990 put in place temporary provisions in Title VI of the Budget Act to make the congressional budget process fit with the sequestration scheme that was also a part of the 1990 Budget Enforcement Act. These provisions were only temporary since Congress was venturing into new procedural territory and needed to see how the changes would play out. Titles III (Congressional Budget Process) and VI of the CBA of 1974 establish the requirements for the coverage and enforcement of the budget resolution. Each year, Congress adopts a concurrent resolution on the budget setting forth levels of spending, revenues, the deficit, and the public debt that reflect broad congressional budget policies and priorities. In general, budgetary legislation first effective in a fiscal year may not be considered until the budget resolution for that year has been adopted, with different exceptions specified for the House and Senate—including an exception in the House for regular appropriations measures considered after May 15.

The budget resolution is enforced principally through two means: (1) points of order under the CBA of 1974, which may be raised against legislation in violation of budget resolution levels or other CBA requirements, and (2) reconciliation instructions to House and Senate committees to bring existing spending revenue, and debt limit laws within their jurisdiction into conformity with budget resolution levels.

In particular, procedures under Section 302 and Section 311 of the CBA of 1974 (and under Section 602 for fiscal years 1991 through 1995 (see below) are prominent in the enforcement of budget resolution spending levels by points of order, especially with respect to the consideration of annual appropriations measures.

Under Section 302, once the budget resolution is adopted, all committees with spending jurisdiction receive an allocation of spending under the resolution for programs within their jurisdiction. (In the House, allocations are made for new budget authority, entitlement authority and outlays; in the Senate, allocations are made for new budget authority and outlays.) Committees then are required to subdivide amounts allocated to them among their subcommittees or by program. The Appropriations Committees must subdivide by subcommittee. In general, the House or Senate may not consider spending legislation for a fiscal year that would cause any committee subdivision of spending for that year to be exceeded. Outlay subdivisions are not enforced by point of order in the House.

Under section 311, the House and Senate may not consider spending or revenue measures that would cause the aggregate levels of spending and revenues in the budget resolution to be violated. An exception is provided in the House for instances in which the spending measure would not cause the pertinent committee's allocation of new discretionary budget authority or new entitlement authority to be exceeded. Section 311 also provides a procedure only in the Senate for the enforcement of spending and revenue levels for Social Security.

Title VI of the CBA of 1974, enacted as part of the Budget Enforcement Act (BEA) of 1990, sets forth temporary requirements for budget resolution coverage and enforcement for fiscal years 1991 through 1995. Budget resolutions and committee allocations are required to cover five fiscal years (rather than three fiscal years, as required under permanent law). Enforcement procedures under Section 302 are superseded through fiscal year 1995 by temporary requirements established in Section 602, including requirements that: (1) direct spending legislation is subject to a point of order if it breaches a spending allocation in the budget year or over the 5-year period covered by the allocation; (2) only the Appropriations Committees must make subdivisions of spending of amounts allocated to them under the budget resolution; and (3) if Congress has not adopted a budget resolution by April 15, the House Budget Committee must make an allocation of spending to the House Appropriations Committee consistent with the discretionary spending limits. Title VI also provides 1-year and 5-year enforcement of revenue legislation.

Under Section 310 of the CBA of 1974, reconciliation instructions in a budget resolution typically are used to reduce mandatory spending (particularly entitlements) and increase revenues, thereby reducing the deficit. Under Section 310(g), provisions making any change in Social Security may not be included in reconciliation legislation. (Provisions relating to the timing of action on reconciliation measures are discussed in Section 4 below.)

With respect to other elements included in a budget resolution, Section 710 of the Social Security Act requires that the receipts and disbursements of the Hospital Insurance Trust Fund be placed off budget, beginning in 1993. However, section 606 of the CBA of 1974 requires that a budget resolution not exceed the maximum deficit amount as determined under section 601(a)(1). The receipts and disbursements of the Hospital Insurance Trust Fund (HI) must be included in deficit calculations, notwithstanding any other provision of law, for purposes of determining the maximum deficit amount under section 601(a)(1). So, for the last several years, the budget resolution has included a separate display of the receipts and disbursements of the Hospital Insurance Trust Fund—and two separate deficit amounts, one including and one excluding the HI amounts—in order to comply with the requirement to place HI off-budget and the requirement not to exceed the maximum deficit amount including HI. Further, the CBA of 1974 requires that credit amounts (new direct loan obligations and new primary loan guarantee commitments) be provided on a functional basis—even though the Federal Credit Reform Act of 1990 (incorporated into the CBA of 1974 as a new Title V) rendered these amounts less relevant or significant.

House Bill

In light of Congress' experience since 1990 with the Budget Enforcement Act, the House bill proposes changes that: make 5-year budget resolutions and 1-year/5-year enforcement permanent; focus points of order on the deficit impact of legislation; reduce the need for technical waivers to the congressional budget process; and rewrite points of order so that they apply only to the language that is actually before the House when it considers a bill.

Under the House bill, various changes are made in permanent provisions of the CBA of 1974, and the temporary provisions of the Act (except for the ones dealing with the discretionary spending limits) either are revised and made permanent, or are repealed. The term "budget authority" is redefined so that all types of spending including grants, loans, and entitlements compete on a level playing field. The term "direct spending" is defined so that salary and basic pay are more properly controlled as discretionary items.

The procedures for making and enforcing spending allocations to committees (in Sections 302 and 602) and for enforcing aggregate spending and revenue levels (in Section 311) are revised. In essence, the old enforcement system is replaced by an expanded enforcement procedure that focuses on committee responsibility and deficit impact.

The House bill modifies procedures for enforcing committee allocations and subdivisions in a new Section 302, which applies solely to the House and Senate Appropriations Committees, and a new Section 311, which applies to committees with jurisdiction over direct (mandatory) spending and revenues. Both provisions clarify the way points of order are applied. Under this proposal, points of order would only apply to the language that is actually before the House when it considers a bill.

Under the new Section 302, the Committees on Appropriations would receive an allocation of spending (for new budget authority and outlays), which they then would subdivide among their subcommittees. Appropriations legislation that would cause an allocation *or* subdivision of *new budget authority* to be exceeded would be out of order. The prohibition does not apply to current-year supplemental appropriations measures as long as the total allocation to the Committee is not exceeded. Outlay allocations would not be enforced in either chamber.

Under the new Section 311, committees other than the Appropriations Committees would be allocated a "deficit impact number" (or "surplus impact number") for the first fiscal year and the total for all fiscal years covered by the budget resolution. The deficit impact number (or surplus impact number) reflects the change in the deficit (or surplus) assumed under the budget resolution for direct spending or revenue legislation within a committee's jurisdiction. Legislation increasing the deficit (or lowering the surplus) in any fiscal year covered by the budget resolution that also produces a higher deficit (or lower surplus) than the committee's first-year or five-year impact number would be out of order.

Certain changes also are made by the House bill with respect to the reconciliation process under Section 310. First, spending directives may cover only direct spending, affirming the current practice that reconciliation is not applied to discretionary appropriations. Second, the current prohibition against making changes in Social Security in reconciliation legislation is changed to a prohibition against reducing Social Security benefits. Third, reconciliation instructions can either direct separate targets for revenues and spending changes or a combined deficit reduction amount. Under current law, a committee "complies" with its instructions so long as it does not exceed or fall below the separate revenue and spending targets by more than 20%. Under the House proposal, there is no wiggle room.

In addition, the following temporary requirements in Title VI are retained and made permanent: (1) that budget resolutions cover five fiscal years; and (2) that the House Budget Committee make an allocation of spending to the House Appropriations Committee consistent with the discretionary spending limits if the budget resolution is not adopted by April 30 (the House bill also retains the current law deadline of April 15 for adoption of the budget resolution).

The House bill modifies the prohibition under Section 303 against considering legislation for a fiscal year before the budget resolution for that year is adopted. Under the proposed procedure, any spending or revenue legislation first effective in the *last* fiscal year covered by the most recently agreed to budget resolution or in any subsequent fiscal year is out of order (*i.e.*, the fifth year covered by the budget resolution and subsequent fiscal years). No exceptions are specified.

Finally, the House bill also makes changes in the required and optional elements of the budget resolution. It clarifies a requirement that the budget resolution include the receipts and disbursements of the Old Age Survivors and Disability Insurance (OASDI) trust funds solely for the purpose of Senate points of order. It specifies that the receipts and disbursements of the Hospital Insurance trust fund shall be included in the budget resolution. It also deletes the requirement that budget resolutions include direct loan and loan guaranty amounts; this requirement is no longer necessary in light of the credit reform provisions in Title V and the new definition of budget authority. Finally, the bill deletes the deferred enrollment procedure from the list of optional budget resolution elements.

Senate Amendment

The Senate amendment, in Section 14002(3)(B), extends all of the temporary enforcement procedures in Title VI and the CBA of 1974 through the end of fiscal year 1998 without change.

The conferees note that in the context of the other changes made by the conference agreement, the extension of section 601(b)(1) will codify a point of order in the Senate identical in effect to that created by section 12(b)(2) of the concurrent resolution adopted in April of 1993. (H.Con.Res. 64, 103rd Cong., 1st Sess., section 12(b)(2), 139 Cong. Rec. H1747, H1753 (daily ed. Mar. 31, 1993) (adopted)).

Conference Agreement

The House recedes to the Senate. The House conferees believe that the recommended changes in the House proposal are useful and important and therefore intend to pursue these changes in another forum.

2. TIMING OF CONGRESSIONAL BUDGET ACTION

Current Law

The timetable in Section 300 provides that the House of Representatives should complete action on all of the regular appropriations bills for the coming fiscal year by June 30. (Section 300 also provides that the House Appropriations Committee should report all of the regular appropriations bills for the coming fiscal year by June 10.) In furtherance of this objective, Section 309 of the Act prohibits the House of Representatives from considering a resolution that provides for an adjournment of more than three days in July until it has passed all of the regular appropriations bills for the coming fiscal year.

The timetable in Section 300 also provides that the House of Representatives should complete action on any required reconciliation legislation for the coming fiscal year by June 15. Section 310(f) of the Act prohibits the House of Representatives from considering a resolution that provides for an adjournment of more than three days in July until it has passed the required reconciliation legislation.

Section 402 of the Act, as originally framed in 1974, required that authorizing measures for a fiscal year be reported by May 15 preceding the fiscal year; this requirement was repealed (and the original language of section 402 was replaced with an unrelated provision) by the GRH Act of 1985.

House Bill

The House bill retains the June 30 deadline in Section 300 of the CBA of 1974 for the completion of House action on the regular appropriations bills for the coming fiscal year and changes the deadline for completed House action on required reconcilation measures from June 15 of June 30. Further, the House bill repeals the prohibitions against House consideration of a July adjournment resolution if either of these conditions have not been met. In Section 309, the current language dealing with the prohibition against adjournment in July is replaced by language that encourages (but does not require) the reporting of pertinent authorizing measure by May 15.

Senate Amendment

The Senate amendment contains no such changes.

Conference Agreement

The House recedes to the Senate. The House conferees believe that the recommended changes in the House proposal are useful and important and therefore intend to pursue these changes in another forum.

3. OTHER CHANGES IN THE CONGRESSIONAL BUDGET ACT OF 1974 AND RELATED HOUSE RULES

Current Law

Title IV of the CBA of 1974 contains provisions that control "backdoor spending" (borrowing, contract, and entitlement authority) and new credit authority (in Sections 401 and 402, respectively), require the Congressional Budget Office to prepare cost estimates for legislation and the General Accounting Office to study on a continuing basis permanent forms of spending (in Sections 403 and 405, respectively), require that certain previously off-budget entities be included in the budget (in Section 406), and establish in the House a Member User Group to study budgetary scorekeeping rules and practices (in Section 407). (Section 404 amended House and Senate rules with regard to the jurisdiction of the Appropriations Committees.)

Title V, referred to as the Federal Credit Reform Act of 1990, establishes procedures for accounting for credit transactions on a subsidy basis and requiring subsidy costs to be appropriated annually for most credit programs.

Title VII amended the Legislative Reorganization Acts of 1946 and 1970 (in Sections 701 and 702) to provide for continuing program review and evaluation by House and Senate committees and by the Comptroller General and (in Section 703) required the House and Senate Budget Committees to engage in continuing study of budget process reform proposals. Section 701 was executed upon enactment in 1974, Section 702 was repealed by Public Law 97-278 (96 *Stat.* 1082), which revised and codified Title 31 (Money and Finance) of the *United States Code*, and Section 703 remains in effect.

Title VIII amended the Legislative Reorganization Act of 1970 (in Section 801) to provide for the establishment and standardization of information systems for fiscal and budgetary control and set up a consultative procedure for changes in functional categories of the budget (in Section 802). Both sections were repealed by Public Law 97-278 (96 *Stat.* 1082).

House Bill

The House bill amends Title IV of the CBA of 1974 by: (1) revising Section 401 and making it apply only to borrowing and contract authority (entitlement authority is controlled under the House bill be revised procedures in Title III); (2) making technical changes in Section 402; (3) redesignating Sections 403 and 406 as Sections 202(f)(5) and 403, respectively; and (4) repealing Sections 405 and 407.

The House bill makes largely technical changes to Title V dealing with credit budgeting.

The House bill amends Title VII by repealing Sections 701 and 702 and redesignating Section 703 as Section 701.

The House bill creates a new Title VIII (Social Security Protection), redesignating Sections 13301(a) (which deals with the off-budget status of Social Security) and 13302 (which deals with a point of order in the House maintaining the Social Security trust fund balances) of the BEA of 1990 as Sections 801 and 802, respectively.

Additionally, the House bill also makes certain technical changes in the House rules and adds a new Clause 7 to House Rule XI. Clause 7 permits a committee, by majority vote, to invoke a requirement of deficit-neutrality for amendments to direct spending or revenue legislation under consideration in that committee. Clause 7 is similar in effect to a requirement in Section 310(d) of the CBA of 1974 pertaining to floor amendments offered to reconciliation measures.

Senate Amendment

The Senate amendment contains no such changes.

Conference Agreement

The House recedes to the Senate. The House conferees believe that the recommended changes in the House proposal are useful and important and therefore intend to pursue these changes in another forum.

DEFICIT REDUCTION TRUST FUND PROVISION

Current Law

Current law includes no analogous provision.

House Bill

The House bill creates the Deficit Reduction Trust Fund, an account to identify the reduced outlays and increased receipts achieved through reconciliation. Under the requirements of reconciliation and the terms of the Trust Fund, the legislative savings could not be spent and are solely reserved for deficit reduction. The Deficit Reduction Trust Fund would provide a quantitative display of the level of deficit reduction achieved through the adoption of the President's policies in reconciliation.

The Trust Fund would operate in the following manner: 1) an amount equal to the net deficit reduction estimated to result from reconciliation is transferred to the Trust Fund within 10 days of enactment; 2) amounts in the Trust Fund are unavailable for appropriation, obligation, transfer or expenditure, and may only be used to pay off maturing public debt obligations; 3) amounts in the Trust Fund are excluded from Pay-As-You-Go budget enforcement and cannot finance new spending or tax reductions; and 4) the President's budget request is required to include a separate statement of funds held by the Trust Fund.

Senate Amendment

The Senate adopted no analogous provisions.

Conference Agreement

The conference agreement does not include the House provisions. The House conferees agreed to recede to the Senate, based on their understanding that inclusion of the Deficit Reduction Trust Fund would make the entire conference report subject to a point of order in the Senate and thereby endanger final enactment of the reconciliation bill, and based on their further understanding that President Clinton has agreed to establish a Deficit Reduction Trust Fund by Executive Order.

ENTITLEMENT REVIEW

Current Law

Current law includes no analogous provision for monitoring and budgeting federal expenditures for entitlement and mandatory programs.

House Bill

Federal spending for entitlements and other mandatory programs represent, along with interest on the national debt, the fastest growing area of federal spending. The Congressional Budget Office projects outlays for entitlement and mandatory programs to increase by 6.4% per year (FY 1993-98). However, Congress is acutely aware that entitlement programs represent important commitments to the public in vital areas such as health, income security and economic stability.

Growth in entitlement spending has resulted in large part from the explosion in health care costs throughout society. National spending on health care currently represents more than 14% of the nation's total economic output and is projected to rise to 18% of Gross Domestic Product by the year 2000 if corrective action is not taken. Through its various programs, the federal government pays approximately 25% of the nation's health care costs, primarily through the medicare and medicaid entitlement programs. The social security, medicare and medicaid programs represent nearly 70% of all entitlement spending.

The House is concerned with our ability to project, monitor and pay for rising health care costs within the federal budget. Federal spending for entitlements and other mandatory programs is expected to total approximately $770 billion in 1993, representing one-half of federal outlays and more than 12% of our nation's Gross Domestic Product.

The House, acknowledging the acute budgetary pressure placed on the federal government through rising health care costs, created an entitlement review process requiring the following action on the part of the President:

(1) Following enactment of reconciliation, the Office of Management and Budget sets targets for the total level of entitlement spending levels expected to result from enactment of reconciliation.

(2) The targets would be adjusted annually for:

(a) Increases in the number of beneficiaries for direct spending programs in which the number of beneficiaries is a variable in determining costs (e.g., Social Security, Medicare, Medicaid, Food Stamps, Unemployment Compensation, Federal Civilian/Military Retirement and Veterans' Pensions/Compensation).

(b) Subsequently enacted legislation increasing or decreasing revenues and legislation designated as an "emergency" measure under the Balanced Budget and Emergency Deficit Control Act of 1985.

(3) The President's budget must include annual review of actual and projected costs for direct spending and revenues (FY 1994-97). the report shall include: total outlays for direct spending programs and projections for the following five fiscal years; the basis of any variance from the targets, including permissible adjustments; and information regarding major categories of fiscal receipts, including any variance between projected and actual receipts.

(4) If actual outlays for direct spending programs for the prior fiscal year or projected outlays for the current fiscal year or budget year exceed the targets, the President is required to propose measures to address any overage, either through spending cuts, revenue increases or outlay target increases. However, no proposal is required if projected outlays exceed the targets by ½% estimating margin of error or less.

(5) The President and Congress should "seriously consider" all other proposals (outlay target/revenue increases, discretionary cuts or non-means tested program cuts) prior to considering reductions for means-tested programs.

The entitlement review also requires the following action on the part of Congress:

(1) If the President identifies an overage and recommends legislation to recoup or eliminate it, the budget resolution must incorporate a title to address the overage through reconciliation. The reconciliation directive can reflect any combination of spending cuts or revenue increases, but must achieve legislative savings equal to or greater than the amount recommended by the President (up to the amount of the overage).

(2) If the budget resolution recommends recouping less than the full overage, the House Budget Committee must report a House resolution directing that the outlay target shall be increased by the amount which is not offset.

(3) If the House resolution requires raising the outlay targets, the House must vote directly on the issue by a separate vote on the House resolution. If the House rejects raising the target, the budget resolution may not be considered as reported.

(4) Points of order are created: (a) The House cannot consider the budget resolution conference report unless the overage has been fully addressed, either by increasing the target or reporting reconciliation instructions to eliminate the overage or both; (b) No appropriations bills may be considered unless a budget resolution complying with this act has been adopted for the current fiscal year. However, this point of order may be

waived by vote or resolution for all appropriations bills for the fiscal year.

Senate Bill

The Senate bill adopts no analogous provisions.

Conference Agreement

The conference agreement does not include the House entitlement review provisions. The House conferees agreed to recede to the Senate, based on their understanding that inclusion of the entitlement review provisions would make the entire conference report subject to a point of order in the Senate and thereby endanger final enactment of the reconciliation bill, and based on their further understanding that President Clinton has agreed to establish by Executive Order a mechanism for monitoring entitlement outlays and making recommendations to address overages.

From the Committee on the Budget, for consideration of the House bill, and the Senate amendment, and modifications committed to conference:

Martin Olav Sabo,
Richard Gephardt,

As additional conferees from the Committee on the Budget, for consideration of title I and section 9005(a)–(c) and (f) of the House bill, and title I and sections 5001, 5002(a), (b), and (d), and 5003 of the Senate amendment, and modifications committed to conference:

Charlie Stenholm,
Earl Pomeroy,
Dale E. Kildee,

As additional conferees from the Committee on the Budget, for consideration of title II and section 12009 of the House bill, and title II and section 13003 of the Senate amendment, and modifications committed to conference:

Louise Slaughter,
Alan Mollohan,
Bart Gordon,

As additional conferees from the Committee on the Budget, for consideration of title III of the House bill, and title III (except section 3003(b)) of the Senate amendment, and modifications committed to conference:

Barney Frank,
Lucien E. Blackwell,
Lynn C. Woolsey,
Rick Lazio,

As additional conferees from the Committee on the Budget, for consideration of title IV and sections 5117, 13233, 13263, 13270, 13420, and 14402(d) of the House bill, and sections 7904, 12001–50, 12061, 12071, 12101, and 12301–02 of the Senate amendment, and modifications committed to conference:

Dale E. Kildee,
David E. Price,
Barbara B. Kennelly,

As additional conferees from the Committee on the Budget, for consideration of sections 5000–187, 13234, 13242, 13264, 13400–571, and 14411 of the House bill, and sections 7000–501, 7601(c), 7801, 7802(b) and (c), 7904, 7951, 12101–02, and 12321 of the Senate amendment, and modifications committed to conference:

Tony Beilenson,
Louise Slaughter,
Harry Johnston,

As additional conferees from the Committee on the Budget, for consideration of sections 5200–44, 5301, and 9006–07 of the House bill, and sections 4001–11 and 6001 of the Senate amendment, and modifications committed to conference:

John Bryant,
William J. Coyne,
Jerry F. Costello,

As additional conferees from the Committee on the Budget, for consideration of title VII and that portion of section 4002 which adds a new section 455(j) to the Higher Education Act of 1965, section 4025(7) and that portion of section 5203 which adds a new section 309(j)(8) to the Communications Act of 1934, and section 5187(b) of the House bill, and title XI, section 4008(c), that portion of section 12011 which adds a new section 455(j) to the Higher Education Act of 1965, sections 12045(7), 12047(a), and 12105 of the Senate amendment, and modifications committed to conference:

Michael A. Andrews,
Alan Mollohan,
Lynn C. Woolsey,

As additional conferees from the Committee on the Budget, for consideration of title VIII and section 9004 of the House bill, and section 4051 of the Senate amendment, and modifications committed to conference:

Barbara B. Kennely,
Jerry F. Costello,
Patsy T. Mink,

As additional conferees from the Committee on the Budget, for consideration of title IX and sections 1402, 5301, and 11002 of the House bill, and titles V and VI and section 1503 of the Senate amendment, and modifications committed to conference:

John Bryant,
Patsy T. Mink,
Lucien E. Blackwell,

As additional conferees from the Committee on the Budget, for consideration of titles VI and X and sections 13702 and 13704 of the House bill, and title IX and X and sections 12103–04 of the Senate amendment, and modifications committed to conference:

Howard L. Berman,
Michael A. Andrews,
Bart Gordon,

Provided, that for consideration of title VI and sections 10001 and 10002 of the House bill, and title IX of the Senate amendment, Mr. Pomeroy is appointed in lieu of Mr. Berman; Messrs. Cox and Smith of Michigan are appointed in lieu of Messrs. Kolbe and Miller of Florida.

Earl Pomeroy,

As additional conferees from the Committee on the Budget, for consideration of title XI and sections 8002 and 9005(a) of the House bill, and sections 5002(a) and 6002 of the Senate amendment, and modifications committed to conference:

Bob Wise,
Jerry F. Costello,
Howard L. Berman,

As additional conferees from the Committee on the Budget, for consideration of title XII of the House bill, and title XIII (except section 13008(b)) and section 7901(b) and (c) of the Senate amendment, and modifications committed to conference:

David E. Price,
William J. Coyne,
Harry Johnston,

As additional conferees from the Committee on the Budget, for consideration of sections 4032, 4033(3), 8002, 9004, 11001, 12004(b), 13001–20, 13201–84, 13601–02, and 13604–705 of the House bill, and sections 1106, 1403, 1504, 3003(b), 7433, 7601–03, 7701–02, 7901(a) and (c), 7902–03, 7950–54, that portion of section 12011 which adds a new section 457 to the Higher Education Act of 1965, 12055, 12203(d), 12025, 13008(b), 15001, and 15002 of the Senate amendment, and modifications committed to conference:

William J. Coyne,
Tony Beilenson,

As additional conferees from the Committee on the Budget, for consideration of title XV and XVI, section 1405(c) of the House bill, those portions of section 4002 which add new sections 453(a)(3) and 456(a)(2) to the Higher Education Act of 1965, section 4029, those portions of section 5181 which add new sections 2158(b)(3)(B) and 2161(b) to the Public Health Service Act, 9008, and 13560 of the House bill, and title XIV, that portion of section 1201 which adds a new section 305(c)(4) to the Rural Electrification Act, those portions of section 12011 which add new sections 453(a)(4) and 456(a)(2) to the Higher Education Act of 1965, of the Senate amendment, and modifications committed to conference:

Charlie Stenholm,
Bob Wise,
Barney Frank,

As additional conferees from the Committee on Agriculture, for consideration of title I and section 9005(a)–(c) and (f) of the House bill, and title I and sections 5001, 5002(a), (b), and (d), and 5003 of the Senate amendment, and modifications committed to conference:

Kika de la Garza,
Charlie Rose,
Dan Glickman,
Harold L. Volkmer,
Timothy J. Penny,

As additional conferees from the Committee on Armed Services, for consideration of title II and section 12009 of the House bill, and title II and section 13003 of the Senate amendment, and modifications committed to conference:

Ronald V. Dellums,
G.V. Montgomery,
Pat Schroeder,
Earl Hutto,
Ike Skelton,

Provided, for consideration of section 12009 of the House bill, and section 13003 of the Senate amendment, Mr. McCurdy is appointed in lieu of Mr. Montgomery, and Mr. Hunter is appointed in lieu of Mr. Stump.

Dave McCurdy,

As additional conferees from the Committee on Banking, Finance and Urban Affairs, for consideration of title III of the House bill, and title III (except section 3003(b)) of the Senate amendment, and modifications committed to conference:

Henry B. Gonzalez,
Steve Neal,
John J. LaFalce,
Bruce F. Vento,
Charles Schumer,
James A. Leach,
Marge Roukema,

As additional conferees from the Committee on Education and Labor, for consideration of title IV and sections 5117, 13233, 13263–64, 13270, 13420, and 14402(d) of the House bill, and sections 7904, 12001–50, 12061, 12071, 12101, and 12301–02 of the Senate amendment, and modifications committed to conference:

William D. Ford,
William L. Clay,
George Miller,
Austin J. Murphy,
Pat Williams,

Solely for purposes of sections 4201–4203 of the House bill and sections 12301 and 12302 of the Senate amendment:

William F. Goodling,
Thomas E. Petri,
(Except for sections 5117, 13233, 13263, 13264, 13270, and 13420, of the House bill and sections 7904 and 12101 of the Senate amendment)

Solely for purposes of sections 4201–4203 of the House bill and sections 12301 and 12302 of the Senate amendment:

MARGE ROUKEMA,

As additional conferees from the Committee on Energy and Commerce, for consideration of [communications] sections 5200–44 of the House bill, and sections 4001–11 of the Senate amendment, and modifications committed to conference:

JOHN D. DINGELL,
EDWARD J. MARKEY,
BILLY TAUZIN,
THOMAS J. MANTON,
LYNN SCHENK,
CARLOS J. MOORHEAD,
JACK FIELDS,
MICHAEL G. OXLEY,

As additional conferees from the Committee on Energy and Commerce, for consideration of [health] sections 5000–5091, 5100–87, 13010 (a) and (c), 13413(e), 13234, 13242, 13264, 13431–13571, and 14411 of the House bill, and sections 1105(b), 7000, 7201–7501, 7601(c), 7801, 7802 (b) and (c), 7904, 7951, 12101–12205, and 12321 of the Senate amendment, and modifications committed to conference:

JOHN D. DINGELL,
HENRY A. WAXMAN,
RON WYDEN,
EDOLPHUS TOWNS,
JIM SLATTERY,

As additional conferees from the Committee on Energy and Commerce, for consideration of [energy] sections 5301 and 9006–07 of the House bill, and section 6001 of the Senate amendment, and modifications committed to conference:

JOHN D. DINGELL,
PHILIP R. SHARP,
CRAIG A. WASHINGTON,
MIKE KREIDLER,
AL SWIFT,
CARLOS J. MOORHEAD,
MIKE BILIRAKIS,
JOE BARTON,

As additional conferees from the Committee on Foreign Affairs, for consideration of title VI and sections 10001 and 10002 of the House bill, and title IX of the Senate amendment, and modifications committed to conference:

LEE H. HAMILTON,
HOWARD L. BERMAN,
ENI FALEOMAVAEGA,
M.G. MARTINEZ,
ROBERT E. ANDREWS,
BENJAMIN A. GILMAN,
OLYMPIA SNOWE,
HENRY J. HYDE,

As additional conferees from the Committee on Government Operations, for consideration of section 1405(c) of the House bill, and that portion of section 1201 which adds a new section 305(c)(4) to the Rural Electrification Act, of the Senate amendment, and modifications committed to conference:

JOHN CONYERS, Jr.,
GLENN ENGLISH,
COLLINS C. PETERSON,
TOM BARRETT,
CRAIG A. WASHINGTON,

As additional conferees from the Committee on Government Operations, for consideration of those portions of section 4002 which add new sections 453(a)(3) and 456(a)(2) to the Higher Education Act of 1965, and sections 4029 and 13560 of the House bill, and those portions of section 12011 which add new sections 453(a)(4) and 456(a)(2) to the Higher Education Act of 1965, of the Senate amendment, and modifications committed to conference:

JOHN CONYERS, Jr.,
CARDISS COLLINS,
EDOLPHUS TOWNS,
HENRY A. WAXMAN,
JOHN M. SPRATT, Jr.,

As additional conferees from the Committee on Government Operations, for consideration of those portions of section 5181 which add new sections 2158(b)(3)(B) and 2161(b) to the Public Health Service Act, of the House bill, and modifications committed to conference:

JOHN CONYERS, Jr.,
JOHN M. SPRATT, Jr.,
MIKE SYNAR,
DONALD M. PAYNE,

As additional conferees from the Committee on Government Operations, for consideration of section 9008 of the House bill, and modifications committed to conference:

JOHN CONYERS, Jr.,
CARDISS COLLINS,
JOHN M. SPRATT, Jr.,
MIKE SYNAR,
CRAIG A. WASHINGTON,

As additional conferees from the Committee on Government Operations, for consideration of title XVI and sections 15001–111, 15206, and 15301 of the House bill, and title XIV of the Senate amendment, and modifications committed to conference:

JOHN CONYERS, Jr.,
JOHN M. SPRATT, Jr.,
HENRY A. WAXMAN,
CARDISS COLLINS,
MIKE SYNAR,

As additional conferees from the Committee on the Judiciary, for consideration of title VII of the House bill, and title XI and section 12047(a) of the Senate amendment, and modifications committed to conference:

JACK BROOKS,
WILLIAM J. HUGHES,
DON EDWARDS,
JOHN CONYERS, Jr.,
MIKE SYNAR,
CARLOS J. MOORHEAD,
HOWARD COBLE,
HAMILTON FISH, Jr.,

As additional conferees from the Committee on the Judiciary, for consideration of that portion of section 4002 which adds a new section 455(j) to the Higher Education Act of 1965, section 4025(7), and that portion of section 5203 which adds a new section 309(j)(8) to the Communications Act of 1934, of the House bill, and section 4008(c), that portion of section 12011 which adds a new section 455(j) to the Higher Education Act of 1965, and section 12045(7) of the Senate amendment, and modifications committed to conference:

JACK BROOKS,
JOHN CONYERS, Jr.,
MIKE SYNAR,
PAT SCHROEDER,
HOWARD L. BERMAN,
HAMILTON FISH, Jr.,

As additional conferees from the Committee on the Judiciary, for consideration of section 5187(b) of the House bill, and section 12105 of the Senate amendment, and modifications committed to conference:

JACK BROOKS,
JOHN BRYANT,
DAN GLICKMAN,
BARNEY FRANK,
HOWARD L. BERMAN,
GEORGE W. GEKAS,
JIM RAMSTAD,
HAMILTON FISH, Jr.,

As additional conferees from the Committee on Merchant Marine and Fisheries, for consideration of title VIII and section 9004 of the House bill, and section 4051 of the Senate amendment, and modifications committed to conference:

GERRY E. STUDDS,
BILLY TAUZIN,
WILLIAM O. LIPINSKI,
SOLOMON P. ORTIZ,
THOMAS J. MANTON,
JACK FIELDS,

Provided, for consideration of title VIII of the House bill, and section 4051 of the Senate amendment, Mr. Inhofe is appointed: for consideration of section 9004 of the House bill, Mr. Saxton is appointed.

JAMES M. INHOFE,
JIM SAXTON,

As additional conferees from the Committee on Natural Resources, for consideration of title IX and sections 1402, 5301, and 11002, of the House bill, and titles V and VI and section 1503 of the Senate amendment, and modifications committed to conference:

GEORGE MILLER,
BRUCE F. VENTO,
RON DE LUGO,
RICHARD LEHMAN,
BILL RICHARDSON,

As additional conferees from the Committee on Post Office and Civil Service, for consideration of title X and sections 13702 and 13704 of the House bill, and titles IX and X and sections 12103–04 of the Senate amendment, and modifications committed to conference:

WILLIAM L. CLAY,
PAT SCHROEDER,
FRANK MCCLOSKEY,
ELEANOR H. NORTON,
BARBARA-ROSE COLLINS,
CONSTANCE MORELLA,

As additional conferees from the Committee on Public Works and Transportation, for consideration of title XI and sections 8002 and 9005(a) of the House bill, and sections 5002(a) and 6002 of the Senate amendment, and modifications committed to conference:

NORMAN Y. MINETA,
JIM OBERSTAR,
DOUGLAS APPLEGATE,
NICK J. RAHALL II,
ROBERT A BORSKI,
BUD SHUSTER,
BILL CLINGER,
SHERWOOD L. BOEHLERT,

As additional conferees from the Committee on Rules, for consideration of title XVI and sections 13560, 13605, and 15201–15212 of the House bill, and title XIV of the Senate amendment, and modifications committed to conference:

JOHN MOAKLEY,
BUTLER DERRICK,
TONY BEILENSON,
MARTIN FROST,
DAVID BONIOR,

As additional conferees from the Committee on Veterans' Affairs, for consideration of title XII of the House bill, and title XIII (except section 13008(b)) and section 7901 (b) and (c) of the Senate amendment, and modifications committed to conference:

G.V. MONTGOMERY,
LANE EVANS,
J. ROY ROWLAND,
JIM SLATTERY,
GEORGE E. SANGMEISTER,
BOB STUMP,

As additional conferees from the Committee on Ways and Means, for consideration of title XIV (except sections 14402(d) and 14411) and section 13603 of the House bill, and title VIII of the Senate amendment, and modifications committed to conference:

DAN ROSTENKOWSKI,
SAM GIBBONS,
J.J. PICKLE,
CHARLES B. RANGEL,

As additional conferees from the Committee on Ways and Means, for consideration of sections 13001–20 of the House bill, and modifications committed to conference:

DAN ROSTENKOWSKI,
SAM GIBBONS,
J.J. PICKLE,
ANDREW JACOBS, Jr.,

As additional conferees from the Committee on Ways and Means, for consideration of sections 13201–84 of the House bill, and sections 7601–03 and 7802 of the Senate amendment, and modifications committed to conference:

DAN ROSTENKOWSKI,
SAM GIBBONS,
J.J. PICKLE,
HAROLD FORD,

As additional conferees from the Committee on Ways and Means, for consideration of title XVI of the House bill, and modifications committed to conference:

DAN ROSTENKOWSKI,
PETE STARK,

As additional conferees from the Committee on Ways and Means, for consideration of sections 4032, 4033(3), 5000–91, 5117, those portions of section 5181 which add new sections 2161 and 2173(b) to the Public Health Service Act, sections 5181(b), 8002, 9004, 11001, 12004(b), 13400–571, 13601–02, 13604–705, 14402(d), 14411, and 15301 of the House bill, and sections 1106, 1403, 1504, 3003(b), 7000–305, 7433, 7701–02, 7901(a) and (c), 7902–04, 7950–54, that portion of section 12011 which adds a new section 457 to the Higher Education Act of 1965, sections 12055, 12101–02, that portion of section 12202 which adds a new section 2148(b) to the Public Health Service Act, sections 12203(d), 12025, 13008(b), 15001, and 15002 of the Senate amendment, and modifications committed to conference:

DAN ROSTENKOWSKI,
SAM GIBBONS,
J.J. PICKLE,
CHARLES B. RANGEL,
PETE STARK,
Managers on the Part of the House.

From the Committee on Agriculture, Nutrition, and Forestry:

PATRICK J. LEAHY,

From the Committee on Banking, Housing, and Urban Affairs:

DON RIEGLE,
PAUL SARBANES,

From the Committee on the Budget:

JIM SASSER,
ERNEST F. HOLLINGS,
J. BENNETT JOHNSTON,

From the Committee on Commerce, Science, and Transportation:

ERNEST F. HOLLINGS,
DANIEL K. INOUYE,
JOHN BREAUX,

From the Committee on Energy and Natural Resources:

J. BENNETT JOHNSTON,
DALE BUMPERS,
WENDELL FORD,

From the Committee on Environment and Pubic Works:

MAX BAUCUS,
DANIEL PATRICK MOYNIHAN,

From the Committee on Finance:

DANIEL PATRICK MOYNIHAN,
MAX BAUCUS,
BILL BRADLEY,
GEORGE J. MITCHELL,
DAVID PRYOR,
DON RIEGLE,
JOHN D. ROCKEFELLER IV,

From the Committee on Foreign Relations:

CLAIBORNE PELL,
JOHN F. KERRY,

From the Committee on Governmental Affairs:

JOHN GLENN,
CARL LEVIN,
DAVID PRYOR,

From the Committee on the Judiciary:

DENNIS DECONCINI,

From the Committee on Labor and Human Resources:

EDWARD M. KENNEDY,
CLAIBORNE PELL,
CHRISTOPHER J. DODD,
PAUL SIMON,
TOM HARKIN,
BARBARA A. MIKULSKI,
JEFF BINGAMAN,
PAUL WELLSTONE,
HARRIS WOFFORD,

From the Committee on Veterans' Affairs:

JAY ROCKEFELLER,
DENNIS DECONCINI,
Managers on the Part of the Senate.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 501

Mr. FROST. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of the bill, H.R. 501.

The SPEAKER pro tempore (Mr. MCNULTY). Is there objection to the request of the gentleman from Texas?

There was no objection.

REQUEST TO MAKE IN ORDER ON TOMORROW OR ANY DAY THEREAFTER CONSIDERATION OF CONFERENCE REPORT ON H.R. 2493, AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1994

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that notwithstanding the provisions of clause 2 of rule XXVIII, that it be in order at any time on Thursday, August 5, 1993, or any day thereafter, to consider the conference report, amendments in disagreement, and motions to dispose of amendments in disagreement, to the bill (H.R. 2493) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs, for the fiscal year ending September 30, 1994, and for other purposes, and that the conference report, amendments in disagreement, and motions printed in the joint explanatory statement of the committee of conference to dispose of amendments in disagreement be considered as read when called up for consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

Mr. WALKER. Mr. Speaker, reserving the right to object, I had talked just a moment ago to the chairman of the subcommittee on this. There is a slight glitch that has developed that the gentleman from Pennsylvania [Mr. MCDADE] is trying to work out with the gentleman from Kentucky [Mr. NATCHER] at the moment.

We would prefer that this request be withheld for the moment until that could be worked out. We know there is agreement to go ahead with it, but we do have a glitch at the moment.

Mr. GEPHARDT. Mr. Speaker, I withdraw my request.

The SPEAKER pro tempore. The request is withdrawn.

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SMALL BUSINESS GUARANTEED CREDIT ENHANCEMENT ACT OF 1993

Mr. LAFALCE. Mr. Speaker, I ask unanimous consent that the Committee on Small Business be discharged from further consideration of the Senate bill (S. 1274) to reduce the subsidy cost for the Guaranteed Business Loan Program of the Small Business Administration, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore (Mr. MCNULTY). Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1274

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Small Business Guaranteed Credit Enhancement Act of 1993".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. General authorizations for fiscal years 1993 and 1994.
Sec. 3. Extension of State limitation on interest rates.
Sec. 4. Guaranteed business loan program amendments.
Sec. 5. Interest rate for Preferred Lenders Program.
Sec. 6. Microloan program amendments.
Sec. 7. Small Business Development Center Program.
Sec. 8. Regulations.
Sec. 9. White House Conference on Small Business.
Sec. 10. National Women's Business Council.

SEC. 2. GENERAL AUTHORIZATIONS FOR FISCAL YEARS 1993 AND 1994.

(a) FINANCINGS FOR FISCAL YEAR 1993.—Section 20(g)(2) of the Small Business Act (15 U.S.C. 631 note) is amended—

(1) by striking "$7,030,000,000" and inserting "$8,455,000,000";

(2) in subparagraph (A), by striking "$6,200,000,000" and inserting "$7,500,000,000"; and

(3) in subparagraph (C), by striking "$775,000,000" and inserting "$900,000,000".

(b) FINANCINGS FOR FISCAL YEAR 1994.—Section 20(i)(2) of the Small Business Act (15 U.S.C. 631 note) is amended—

(1) by striking "$8,083,000,000" and inserting "$9,258,000,000";

(2) in subparagraph (A), by striking "$7,200,000,000" and inserting "$8,000,000,000"; and

(3) in subparagraph (C), by striking "$825,000,000" and inserting "$1,200,000,000".

(c) REDESIGNATIONS.—Section 20 of the Small Business Act (15 U.S.C. 631 note) is amended—

(1) in subsection (l), as added by section 405(3) of the Small Business Credit and Business Opportunity Enhancement Act of 1992—

(A) by striking "(l) There" and inserting "(2) There", and indenting appropriately; and

(B) by striking "subsection (k)" and inserting "paragraph (1)";

(2) by redesignating subsection (k), as added by section 405(3) of the Small Business Credit and Business Opportunity Enhancement Act of 1992, as subsection (l);

(3) in subsection (n)—

(A) by striking "(n) There" and inserting "(2) There", and indenting appropriately; and

(B) by striking "subsection (m)" and inserting "paragraph (1)";

(4) by redesignating subsection (o) as subsection (n); and

(5) in subsection (p)—

(A) by striking "(p) There" and inserting "(2) There", and indenting appropriately; and

(B) by striking "subsection (o)" and inserting "paragraph (1)".

SEC. 3. EXTENSION OF STATE LIMITATION ON INTEREST RATES.

Section 112(c) of the Small Business Administration Reauthorization and Amendments Act of 1988 (Public Law 100-590 102 Stat. 2996) is amended—

(1) by striking paragraph (2); and

(2) by striking "(1) IN GENERAL.—".

SEC. 4. GUARANTEED BUSINESS LOAN PROGRAM AMENDMENTS.

(a) ADDITIONAL GUARANTEE FEES.—

(1) IN GENERAL.—Section 7(a)(18) of the Small Business Act (15 U.S.C. 636(a)(18)) is amended—

(A) by inserting "(A)" after "(18)"; and

(B) by adding at the end the following new subparagraph:

"(B) In addition to fees collected under subparagraph (A), the Administration shall collect an excess premium fee from the participating lending institution in any case in which the sale price of the guaranteed portion of a loan made under this section and sold on the secondary market exceeds 110 percent of the face value of the guaranteed portion of the loan. Such fee shall be equal to 50 percent of that portion of the sale price that is in excess of 110 percent of the face value of the guaranteed portion of the loan. Such fee may not be charged to the borrower.".

(2) SUNSET.—The amendments made by paragraph (1) shall remain in effect until September 30, 1996.

(b) GUARANTEE PERCENTAGES.—

(1) IN GENERAL.—Subparagraph (B) of section 7(a)(2) of the Small Business Act (15 U.S.C. 636(a)(2)) is amended to read as follows:

"(B) subject to the limitation in paragraph (3)—

"(i) not less than 70 percent nor more than 85 percent of the financing outstanding at the time of disbursement, if such financing is more than $155,000 and the period of maturity of such financing is less than 10 years, except that the participation by the Administration may be reduced below 70 percent upon request of the participating lender;

"(ii) not less than 70 percent nor more than 75 percent of the financing outstanding at the time of disbursement, if such financing is more than $155,000 and the period of maturity of such financing is not less than 10 years, except that the participation by the Administration may be reduced below 70 percent upon request of the participating lender; and

"(iii) not less than 85 percent of the financing outstanding at the time of disbursement, if such financing is a loan under paragraph (16).".

(2) ADDITIONAL AMENDMENTS.—Section 7(a)(2) of the Small Business Act (15 U.S.C. 636(a)(2)) is amended—

(A) in the second sentence, by striking "guaranteed to less than 85 percent" and inserting "guaranteed to less than the specified percentages"; and

(B) in the third sentence, by striking "80 percent" and inserting "75 percent".

(c) ANNUAL GUARANTEE FEE; PENALTY.—Section 7(a) of the Small Business Act (15 U.S.C. 636(a)) is amended by adding at the end the following new paragraph:

"(22)(A) For loans guaranteed under this subsection, the Administrator is authorized to collect, either directly or through a fiscal and transfer agent, an annual fee on each loan that is equal to ¼ of 1 percent of the declining principal balance of the loan.

"(B) The Administrator is authorized to impose and collect, either directly or through a fiscal and transfer agent, a reasonable penalty fee on late payments of the fee authorized under subparagraph (A).".

SEC. 5. INTEREST RATE FOR PREFERRED LENDERS PROGRAM.

Section 7(a)(2) of the Small Business Act (15 U.S.C. 7(a)(2)) is amended by inserting after the third sentence, the following: "The maximum interest rate for a loan under the Preferred Lenders Program shall not exceed the maximum interest rate applicable to other loan guarantee programs under section 7(a), as established by the Administrator.".

SEC. 6. MICROLOAN PROGRAM AMENDMENTS.

Section 7(m) of the Small Business Act (15 U.S.C. 636(m)) is amended—

(1) in paragraph (1)(B)(iii), by striking "$15,000" and inserting "$25,000";

(2) in paragraph (4)(C)(ii), by inserting "to defray costs associated with loan fund administration and" before "to provide";

(3) in paragraph (5)(A), by striking "6 grants" and inserting "12 grants";

(4) by amending paragraph (9)(A) to read as follows:

"(A) IN GENERAL.—The Administration may provide, directly or through an organization described in subparagraph (B), technical assistance for participants and potential participants in the Microloan Demonstration Program to give such participants and potential participants such knowledge, skills, and understanding of microlending practices necessary to operate successful microloan programs."; and

(5) in paragraph (9)(B)—

(A) by striking "3 percent" and inserting "7 percent"; and

(B) by inserting "and nonprofit organizations that have demonstrated experience in providing training support for microenterprise development and financing" after "microlending organizations".

SEC. 7. SMALL BUSINESS DEVELOPMENT CENTER PROGRAM.

Section 223(b) of the Small Business Credit and Business Opportunity Enhancement Act of 1992 (15 U.S.C. 631 note) is amended by striking "Such proposed regulations shall not be published in the Federal Register.".

SEC. 8. REGULATIONS.

Not later than 60 days after the date of enactment of this Act, the Administrator of the Small Business Administration shall promulgate interim final regulations to implement the amendments made by this Act.

SEC. 9. WHITE HOUSE CONFERENCE ON SMALL BUSINESS.

(a) DATES OF CONFERENCES.—Section 2 of the White House Conference on Small Business Authorization Act (15 U.S.C. 631 note) is amended—

(1) by striking "January 1, 1994" and inserting "May 1, 1995";

(2) by striking "April 1, 1994" and inserting "December 31, 1995"; and

(3) by striking "December 1, 1992" and inserting "March 1, 1994".

(b) APPOINTMENT OF COMMISSIONERS.—Section 5(a) of the White House Conference on Small Business Authorization Act (15 U.S.C. 631 note) is amended by striking "The President" and inserting "Not later than 30 days after the date of enactment of the Small Business Guaranteed Credit Enhancement Act of 1993, the President".

SEC. 10. NATIONAL WOMEN'S BUSINESS COUNCIL.

(a) MEMBERSHIP.—

(1) NEW MEMBERS.—Section 403 of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note) is amended in subsection (a)—

(A) by striking "nine" and inserting "eleven";

(B) in paragraph (1), by inserting ", the Secretary of Labor (or such Secretary's deputy)," after "(or such Secretary's deputy)";

(C) in paragraph (2), by striking "and" at the end;

(D) in paragraph (3), by striking the period at the end and inserting "; and"; and

(E) by adding at the end the following new paragraph:

"(4) one member shall be appointed by the President.".

(2) APPOINTMENT DATE.—The first appointment required under section 403(a)(4) of the Women's Business Ownership Act of 1988 (as added by paragraph (1)(E)) shall be made not later than 90 days after the date of enactment of this Act.

(3) TERMS OF CURRENT MEMBERS.—Any member appointed under paragraph (2) or (3) of section 403(a) of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note) and serving prior to the date of enactment of this Act shall continue to serve until the expiration of the term for which the member was appointed.

(4) CONFORMING AMENDMENTS.—Section 403(b) of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note) is amended—

(A) in paragraph (1), by striking "section (a)(2) and (3)" and inserting "paragraphs (2), (3), and (4) of subsection (a)";

(B) in paragraph (2)(C), by striking "subsection (a)(2) and (3)" and inserting "paragraphs (2), (3), and (4) of subsection (a)"; and

(C) in paragraph (2)(F)—

(i) by striking "(1) Two" and inserting "(i) Three"; and

(ii) by striking "(2) A majority" and inserting "(ii) A majority".

(5) DELETION OF OBSOLETE REFERENCES.—Section 404 of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note) is amended by striking "rate of basic pay payable for GS-18 of the General Schedule" each place it appears and inserting "rate of pay payable for a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code".

(b) AUTHORIZATION.—Section 407 of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note) is amended to read as follows:

"SEC. 407. AUTHORIZATION.

"(a) IN GENERAL.—There are authorized to be appropriated to carry out this title—

"(1) $500,000 for fiscal year 1994; and

"(2) $500,000 for fiscal year 1995.

"(b) LIMITATION ON AUTHORITY.—New spending authority or authority to enter into contracts as authorized in this Act shall be effective only to such extent and in such amounts as are provided in advance in appropriation Acts.

"(c) SUNSET.—This section shall cease to be effective on November 30, 1995.".

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. LA FALCE

Mr. LAFALCE. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. LAFALCE: Strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Small Business Guaranteed Credit Enhancement Act of 1993".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. General authorizations.
Sec. 3. Authority to impose secondary market fees.
Sec. 4. Penalties.
Sec. 5. Authority to reduce loan guarantee percentages.
Sec. 6. Study and report.
Sec. 7. Repealer.
Sec. 8. Microloan program amendments.
Sec. 9. Small Business Development Center Program.
Sec. 10. White House Conference on Small Business.
Sec. 11. National Women's Business Council.

SEC. 2. GENERAL AUTHORIZATIONS.

Section 20 of the Small Business Act (15 U.S.C. 631 note) is amended—

(1) in subsection (g)(2) by striking "$7,030,000,000" and by inserting in lieu thereof "$7,155,000,000";

(2) in subsection (g)(2) by striking "$775,000,000" and by inserting in lieu thereof "$900,000,000";

(3) in subsection (i)(2) by striking "$8,083,000,000" and by inserting in lieu thereof "$8,458,000,000"; and

(4) in subsection (i)(2) by striking "$825,000,000" and by inserting in lieu thereof "$1,200,000,000".

SEC. 3. AUTHORITY TO IMPOSE SECONDARY MARKET FEES.

(a) ADDITIONAL GUARANTEE FEES.—Section 5(g) of the Small Business Act (15 U.S.C. 634) is amended by striking paragraph (4) and by inserting in lieu thereof the following:

"(4)(A) The Administration may collect the following fees for loan guarantees sold into the secondary market pursuant to the provisions of subsection (f): an amount equal to (A) not more than 4/10 of one percent per year of the outstanding principal amount of the portion of such loan guaranteed by the Administration, and (B) not more than 50 percent of the portion of the sale price which is in excess of 110 percent of the outstanding principal amount of the portion of such loan guaranteed by the Administration. Any such fees imposed by the Administration shall be collected by the Administration or by the agent which carries out on behalf of the Administration the central registration functions required by subsection (h) of this section and shall be paid to the Administration and used solely to reduce the subsidy on loans guaranteed under section 7(a) of this Act: *Provided*, That such fees shall not be charged to the borrower whose loan is guaranteed: and, *Provided further*, That nothing herein shall preclude any agency of the Administration from collecting a fee approved by the Administration for the functions described in subsection (h)(2).".

"(B) The Administration is authorized to impose and collect, either directly or through a fiscal and transfer agent, a reasonable penalty on late payments of the fee authorized under subparagraph (A) in an amount not to exceed 5 percent of such fee per month plus interest.".

(b) Any new fees imposed by the Administration pursuant to the authority conferred by subsection (a) shall be applicable only to loans initially sold in the secondary market pursuant to the provisions of section 5(f) of the Small Business Act after August 31, 1993.

SEC. 4. PENALTIES.

Section 7(a) of the Small Business Act (15 U.S.C. 636(a)) is amended by adding at the end of the following new paragraph:

"(22) The Administration is authorized to permit participating lenders to impose and collect a reasonable penalty fee on late payments on loans guaranteed under this subsection in an amount not to exceed 5 percent of the monthly loan payment per month plus interest.".

SEC. 5. AUTHORITY TO REDUCE LOAN GUARANTEE PERCENTAGES

(A) GUARANTEE PERCENTAGES.—Section 7(a)(2) of the Small Business Act (15 U.S.C. 636) is amended— .

(1) by striking from the end of clause (B)(i) the word "and" and by redesignating clause (B)(ii) as (B)(iv) and by inserting the following after clause (B)(i):

"(ii) not less than 75 percent of the financing outstanding at the time of disbursement, if such financing is more than $155,000 and the period of maturity of such financing is more than 10 years, except that the participation by the Administration may be reduced below 75 percent upon request of the participating lender;

"(iii) not less than 85 percent of the financing outstanding at the time of disbursement, if such financing is more than $155,000 and the period of maturity of such financing is 10 years or less, except that the participation by the Administration may be reduced below 85 percent upon request of the participating lender; and";

(2) by striking the words "85 percent under subparagraph (B)" and by inserting in lieu thereof the following: "the above specified percentums";

(3) by striking from paragraph (B) the words "not less than 80 percent, except upon" and by inserting in lieu thereof the following: "not less than 70 percent, unless a lesser percent is required by clause (B)(ii) or upon the"; and

(4) by inserting after the third sentence the following: "The maximum interest rate for a loan guaranteed under the Preferred Lenders Program shall not exceed the maximum interest rate, as determined by the Administration, which is made applicable to other loan guarantees under section 7(a).".

(b) APPLICATION.—Notwithstanding any other provision of law, the amendments made by subsection (a) shall be effective September 1, 1993, but shall not be applicable to loan guarantee applications received by the Administration prior to August 21, 1993. In order to determine the percent of the loan to be guaranteed pursuant to the amendments made by subsection (a), the Administration shall aggregate the outstanding guaranteed principal of multiple loan guarantees issued on behalf of the same borrower.

SEC. 6. STUDY AND REPORT.

The Administration shall study, monitor and evaluate the impact of the amendments made by sections 3 and 5 of this Act on the ability of small business concerns and small business concerns owned and controlled by minorities and women, to obtain financing and the impact of such sections on the effectiveness, viability and growth of the secondary market authorized by section 5(f) of the Small Business Act. Not later than 16 months after the date of enactment, and annually thereafter, the Administration shall submit to the Committees on Small Business of the Senate and the House of Representatives a report containing the Administration's findings and recommendations on such impact, specifically including changes in the interest rates on financings provided to small business concerns and small business concerns owned and controlled by minorities and women, through the use of the secondary market. The Administration shall segregate such findings and recommendations in the study according to the ethnic and gender components in these categories. Solely for the purposes of the study authorized herein, the term "small business concerns owned and controlled by minorities", includes businesses owned and controlled by individuals belonging to one of the designated groups listed in section 8(d)(3)(C) of the Small Business Act.

SEC. 7. REPEALER.

Sections 3 and 5 of this Act are hereby repealed on September 30, 1996.

SEC. 8. MICROLOAN PROGRAM AMENDMENTS.

Section 7(m) of the Small Business Act (15 U.S.C. 636(m)) is amended—

(1) in paragraph (1)(B)(iii), by striking "$15,000" and inserting "$25,000";

(2) in paragraph (5)(A), by striking "6 grants" and inserting "25 grants for terms of up to 5 years"; and

(3) in paragraph (9)(B) by striking "3 percent" and inserting "7 percent".

SEC. 9. SMALL BUSINESS DEVELOPMENT CENTER PROGRAM.

(a) CLEARINGHOUSE.—Section 21(c)(7) of the Small Business Act (15 U.S.C. 648) is amended by striking "system which will" and by inserting in lieu thereof the following: "system. Subject to amounts approved in advance in appropriations acts, the Administration may make grants or enter cooperative agreements with one or more centers to carry out the provisions of this paragraph. Said grants or cooperative agreements shall be awarded for periods of no more than five years duration. The matching funds provisions of subsection (a) shall not be applicable to grants or cooperative agreements under this paragraph. The system shall".

(b) AUTHORIZATION.—Section 25(i) of the Small Business Act (15 U.S.C. 652) is amended by striking "$8,000,000 for fiscal year 1993" and by inserting in lieu thereof "$2,000,000 for each of fiscal years 1993 and 1994".

(c) REGULATIONS.—Section 223 of the Small Business Credit and Business Opportunity Enhancement Act of 1992 (15 U.S.C. 631 note) is amended by striking the last sentence of subsection (b).

SEC. 10. WHITE HOUSE CONFERENCE ON SMALL BUSINESS.

The White House Conference on Small Business Authorization Act (15 U.S.C. 631 note) is amended—

(1) in section 2 by striking from subsection (a) "not earlier than January 1, 1994, and not later than April 1, 1994" and by inserting in lieu thereof "not earlier than May 1, 1995, and not later than September 30, 1995";

(2) in section 2 by striking from subsection (a) "December 1, 1992" and by inserting in lieu thereof "March 1, 1994"; and

(3) in section 5 by striking the second sentence of subsection (a) and by inserting in

lieu thereof the following: "Subsequent to the date of enactment of this Act, but not later than 30 days after the date of enactment of this Act, the President shall select and appoint eleven individuals to the Commission.".

SEC. 11. NATIONAL WOMEN'S BUSINESS COUNCIL.

Section 407 of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note) is amended to read as follows:

"SEC. 407. AUTHORIZATION.

"(a) IN GENERAL.—There are authorized to be appropriated to carry out this title—

"(1) $500,000 for fiscal year 1993; and

"(2) $500,000 for fiscal year 1994.

"(b) LIMITATION ON AUTHORITY.—New spending authority or authority to enter into contracts as authorized in this Act shall be effective only to such extent and in such amounts as are provided in advance in appropriation Acts.

"(c) SUNSET.—This section shall cease to be effective on November 30, 1995.".

Mr. LAFALCE (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. LAFALCE. Mr. Speaker, last Monday this House passed under suspension of the rules four small business bills: H.R. 2746, to delay the White House Conference on Small Business and authorize the appointment of new commissioners to organize the conference; H.R. 2747, to increase the authorization for the development company loan and debenture guarantee programs; H.R. 2748, to amend the small business development center program; and H.R. 2766, to reduce the cost of the 7(a) loan guarantee program of the Small Business Administration.

At about the same time, the Senate approved the bill now under consideration. It contains some, but not all, of the provisions of the House-passed bills, and it also contains matters not addressed by the House.

The measures previously passed by the House are very time sensitive and need to be enacted prior to the August recess. If, for example, we do not enact the loan program amendments, we will lose savings as the program will continue under its current terms and conditions which cost more money than it would under either the proposed House changes or under the proposed Senate changes.

My amendment would consolidate all of these proposals, but after eliminating from both the Senate bill and the House bills those provisions which are not extremely urgent. The Small Business Committees will deal with them later. My amendment adds two Senate provisions which are time sensitive: extension of the authorization for the National Women's Business Council and minor amendments to the microloan program.

Most importantly, my amendment retains the provision to impose a new fee of ⅖ of 1 percent solely on SBA loans sold in the secondary market to private investors. This is the most profitable aspect of SBA lending and those who earn profits on secondary market sales should pay an additional fee. No additional fee should be imposed on those lenders who do not sell the loans, and the amendment does not do so.

Mr. Speaker, I urge passage of my amendment.

Mr. Speaker, I include with my remarks the following summary:

SECTIONAL SUMMARY OF AMENDMENT TO S. 1274

CITATION AND TABLE OF CONTENTS

Section 1 provides that the bill may be cited as "Small Business Guaranteed Credit Enhancement Act of 1993". It also provides a table of contents.

GENERAL AUTHORIZATIONS

Section 2(1) increases the total authorization for loan and debenture guarantees by the Small Business Administration in fiscal year 1993 from $7.03 billion to $7.155 billion, and within these amounts section 2(2) increases the authorization for debenture and loan guarantees for development companies from $775 million to $900 million.

Section 2(3) increases the total authorization for loan and debenture guarantees by the Small Business Administration in fiscal year 1994 from $8.083 billion to $8.458 billion, and within these amounts section 2(4) increases the authorization for debenture and loan guarantees for development companies from $825 million to $1.2 billion.

AUTHORITY TO IMPOSE SECONDARY MARKET FEES

Section 3(a) authorizes the Small Business Administration to collect two fees on new loans sold into the secondary market: first, SBA could impose a fee not to exceed 2/5 of 1% annually on the outstanding balance of loans sold in such market; and second, SBA could impose a fee of 50% of that portion of the sales price of any loan sold for a premium in excess of 110 percent of the outstanding principal amount.

Subsection 3(b) limits the new fees to loans sold in the secondary market for the first time after August 31, 1993.

PENALTIES

Section 4 authorizes SBA to permit lenders to charge a late fee of 5 percent per month on borrowers who do not make timely loan payment.

AUTHORITY TO REDUCE LOAN GUARANTEE PERCENTAGES

Section 5(a) authorizes SBA to reduce the maximum loan guarantee on real estate loans above $155,000 to 75% (instead of 85% as provided under existing law). It also authorizes SBA to reduce the maximum loan guarantee on loans made under the Preferred Lenders Program to 70% (instead of 80% as provided under existing law).

Subsection 5(b) permits the SBA to apply the lower percentages to loans approved after August 31, 1993, but it exempts loan guarantee requests which were pending at the Agency prior to August 21st.

STUDY AND REPORT

Section 6 requires SBA to study the impact of these changes (sections 3 and 5) upon the ability of small businesses to obtain financing, including the interest rate, and upon the viability of the secondary market in SBA guaranteed loans. The study would look at small business impact generally, and also specifically identify the impact on minority-owned and women-owned small business. SBA annually would report thereon to the Small Business Committees beginning 16 months after the date of enactment of this bill. The impact on minority-owned business and women-owned businesses would be separately determined and reported.

REPEALER

Section 7 repeals the changes made by sections 3 and 5 at the end of fiscal year 1996, which provides a three-year trial period.

MICROLOAN PROGRAM AMENDMENTS

Section 8(1) increased the maximum amount of a loan which may be guaranteed by an intermediary in the microloan program to $25,000 per borrower (now $15,000).

Section 8(2) increased the maximum amount of grants which may be made to intermediaries which guarantee microloans to 25 such grants for terms of up to 5 years each (now 6 grants for a one year grant).

Section 8(3) increases the amount of the loan capital appropriation which may be used for training to 7 percent (instead of 3 percent).

SMALL BUSINESS DEVELOPMENT CENTER PROGRAM

Section 9(a) authorizes the Small Business Administration to fund Small Business Development Center information sharing systems (i.e., a library of materials) by making grants or cooperative agreements with one or more such centers instead of by issuing a contract after soliciting proposals.

Subsection 9(b) reduces the authorization for the Small Business Development Center replication program in Central Europe for 1993 from $8 million to $2 million and authorizes a similar amount for fiscal year 1994.

Subsection 9(c) strikes a provision of current law which prohibits the Small Business Administration from publishing regulations on the Small Business Development Center Program in the Federal Register.

WHITE HOUSE CONFERENCE ON SMALL BUSINESS

Section 10(1) and (2) delay the dates for the White House Conference on Small Business. The state meetings would begin not earlier than March 1, 1994 (instead of not earlier than December 1, 1992), and the national conference would be held between May 1, 1995 and September 30, 1995 (instead of between January 1, 1994 and April 1, 1994 under existing law).

Section 10(3) provides that the President shall appoint commissioners to oversee the conference, and that such appointments shall be made after the enactment of this Act but not later than 30 days after the date of such enactment.

NATIONAL WOMEN'S BUSINESS COUNCIL

Section 11 extends the authorization for the Women's Business Ownership Council by authorizing $500,000 for fiscal year 1994 and by terminating the program on November 30, 1995.

Mrs. MEYERS of Kansas. Mr. Speaker, I thank the committee chairman for his explanation.

I support the passage of S. 1274 with this amendment.

The SPEAKER pro tempore. The question is on the amendment in the nature of a substitute offered by the gentleman from New York [Mr. LAFALCE].

The amendment in the nature of a substitute was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. LaFALCE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on S. 1274, the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

FLUID MILK PROMOTION AMENDMENTS ACT OF 1993

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that the Committee on Agriculture be discharged from further consideration of the Senate bill (S. 1205) to amend the Fluid Milk Promotion Act of 1990 to define fluid milk processors to exclude de minimis processors, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. ROBERTS. Reserving the right to object, Mr. Speaker, and I shall not object, I yield to the distinguished gentleman from Texas [Mr. DE LA GARZA], the chairman of the Committee on Agriculture, to explain to our colleagues the intent of the bill.

Mr. DE LA GARZA. Mr. Speaker, I appreciate the gentleman's yielding to me.

Mr. Speaker, S. 1205 would amend the Fluid Milk Promotion Act which authorizes the establishment of an industry-funded fluid milk education effort. The bill would make it explicit that if the fluid milk industry's consensus is that the program should be confined to processors with marketings exceeding a certain threshhold, then such a program may be put in place.

The Fluid Milk Promotion Act was enacted as part of the 1990 farm bill. Under its provisions, if fluid milk processors agree in a referendum, they each contribute a share of their marketing receipts from fluid milk sales to a fund dedicated to public education regarding the benefits of milk.

One of the most alarming trends that we see in nutrition today—especially in the nutrition of our Nation's children—is the increasing rate at which nutritionally bankrupt beverages are consumed at the expense of nutritious and wholesome milk.

Of course, it is no wonder that such a trend is occurring; because no matter which way you turn, the consumer is bombarded by the promotional efforts of the large, sophisticated beverage companies. Over here there's a talking soda machine, over there a giant billboard, and on TV our children see their heroes in sports and entertainment promoting soft drinks night and day. This bill will allow the fluid milk processors of our Nation to join together and match those efforts—only in this case to sell a product which is important to the health of our people.

In the process of developing a promotional program industry leaders determined that it could be carried out most effectively if participation was confined to processors of sufficient size to garner the full benefits of the educational efforts which are to be undertaken. Consequently, the united industry's proposal which is to be brought up for a vote in a referendum would require that program assessments be collected only from those processors whose monthly average marketings exceed 500,000 pounds of fluid milk products. Since the statute authorizing the program does not specifically authorize such a small processor exclusion, enactment of S. 1205 is required to remove any doubt as to the legal validity of this program detail.

Passage of this bill will help ensure that the fluid milk processing industry may have the opportunity to go forward with a vote on a self-funded program designed to educate and enlighten the public with regard to the delicious benefits of nutritious milk.

Mr. ROBERTS. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1205

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Fluid Milk Promotion Amendments Act of 1993".

SEC. 2. DEFINITION OF FLUID MILK PROCESSOR.

(a) FLUID MILK PROCESSOR.—Paragraph (4) of section 1999C of the Fluid Milk Promotion Act of 1990 (7 U.S.C. 6402(4)) is amended to read as follows:

"(4) FLUID MILK PROCESSOR.—The term 'fluid milk processor' means any person who processes and markets commercially more than 500,000 pounds of fluid milk products in consumer-type packages per month.".

(b) CONFORMING AMENDMENT.—Section 1999J(e) of such Act (7 U.S.C. 6409(e)) is amended by inserting after "4504(g))" the following: ", and that are fluid milk processors,".

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on S. 1205, the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

GENERAL LEAVE

Mr. DELLUMS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on general debate on the bill, H.R. 2401, now about to be considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1994

The SPEAKER pro tempore. Pursuant to House Resolution 233 and rule XXIII, the Chair declares the House into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2401.

□ 1915

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2401) to authorize appropriations for fiscal year 1994 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 1994, and for other purposes, with Mr. ROSTENKOWSKI in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Pursuant to the rule, the gentleman from California [Mr. DELLUMS] will be recognized for 60 minutes and the gentleman from South Carolina [Mr. SPENCE] will be recognized for 60 minutes.

The Chair recognizes the gentleman from California [Mr. DELLUMS].

Mr. DELLUMS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise to bring before my colleagues the bill, H.R. 2401, the National Defense Authorization Act of fiscal year 1994. The overall level of budget authority recommended by the committee, $262.8 billion, is approximately that recommended by President Clinton.

Before I address the particulars of this Bill, let me take a moment to put this year's action in perspective. We are in the midst of a reorientation of the national defense budget away from the needs of the cold war. The old Soviet threat is gone. While there is a great difference of opinion concerning how big a force structure will be required in the absence of such a threat, there is general agreement that our forces can and should be cut substantially. There is also general agreement that these force reductions should be carried out in an orderly way, to ensure that the force drawdown does not impair the quality and readiness of the remaining forces.

I have circulated to my colleagues my own historical perspective on President Clinton's defense budget proposals. While it may seem surprising, the current and planned drawdown is less severe and more gradual than those following the wars in Korea and Vietnam. Those who are concerned about the ability of the Pentagon to maintain ready forces should note that President Clinton's budgets continue the high ratios of defense spending to active duty personnel that produced the high-quality force of the 1980's. Given the relatively small size of the military threats to our security that can be discerned around the world, it is reasonable to ask for a detailed justification of why we will need in 1988 to spend as much in real dollars as we did during the mid-1970's, and why we will need an active duty force fully two-thirds as large as that which we maintained in those cold war years.

While there is a broad consensus that defense should be reduced in an orderly fashion, the public record so far contains little analytic basis to determine either what the end-point of the reduction should be, or how fast a reduction can be absorbed without unacceptable disruption. Our progress in this deliberation was delayed by the length of time it has taken the new administration to get its people in place and to perform the comprehensive review of defense needs and programs promised by Secretary Aspin. I pledge to my colleagues that, with Secretary Aspin's "bottom-up review" as a starting point, the House Armed Services Committee will provide an appropriate evidentiary base for more far-reaching decisions next year. For this year, the force structure reductions in the bill only modestly accelerate those already contemplated by the Bush administration.

This bill does not come as far as I would like in adapting the military budget to the needs of the post-cold war era—including our needs at home that require a smaller defense budget and greater social spending. I have already suggested that there is a prima facie case that the defense spending and program envisioned by the Clinton administration is larger than needed to deal with the security environment as it exists today. More detailed consideration and deliberation would be required to convert this prima facie case into one that would be conclusive enough to carry the Congress.

However, the bill does make significant progress that we can accelerate in the future if we can build on this year's consensus. As reported by the committee, it takes some particularly noteworthy steps away from cold war priorities:

It cuts ballistic missile defense to $3 billion—less than one-half the level planned by the Bush administration—and kills Brilliant Pebbles and other space-based systems inconsistent with the ABM treaty;

It bans developed of "mininuke" weapons, and creates a "stockpile stewardship" program to move the defense establishment further toward technical readiness for and political support of a complete nuclear test ban;

It postpones commitment to additional attack submarines until current ones are paid for, fences D-5 funds pending an administration report on options for saving money and reducing warhead levels, and maintains the previous funding cap on the B-2 Program;

It cushions the blow of the defense drawdown, strengthens the civilian economy, and improves the defense industrial base by increased funding for defense conversion, reinvestment, and transition assistance, to a total of $3 billion including dual-use technology investments, a national shipbuilding initiative, and significantly expanded community assistance funding;

It devotes a record $11.2 billion to environmental cleanup and improvement, and does so in a way that will stimulate the development of new technologies and new markets for American firms; and

It reorients civil defense programs toward disaster relief and away from an exclusive focus on nuclear war.

The committee bill also contains other element of sound defense policy:

It puts people first—and protects the quality of our military personnel—by funding a full 2.2 percent military pay raise;

It reallocates operations and maintenance spending to improve force readiness and cut defense waste and overhead;

It rationalizes and improves the affordability of tactical aircraft and other major procurement programs still relevant to the post-cold-war world;

It maintains procurement options and preserves important elements of defense industrial base by low-rate procurement and upgrades of key weapons systems;

It continues to modernize the Guard and Reserve Forces that are an increasingly important element of our overall military capability; and

It establishes a National Commission on Military Roles and Missions, to spur a more significant rationalization of the defense effort.

□ 1920

The bill also contains at least one policy that, while unacceptable to this Member in substantive terms, is not as retrograde as it might have been:

It supports the President and the Joint Chiefs of Staff on the issue of allowing gay and lesbian service members to serve their country.

Finally, without going beyond title X or embarking on comprehensive acquisition reform, the bill would make some important technical changes to defense-specific acquisition statutes. Deputy Secretary of Defense Bill Perry has plainly stated that acquisition reform is essential if we are to have an affordable defense and the strong, dual-use, industrial and technology base that is needed for a strong economy. But, as my colleagues fully recognized, this issue requires the involvement of other committees, especially Small Business and Government Operations. The committee actions should not conflict with the consideration of other procurement reform legislation, notably H.R. 2238, which I have cosponsored with my good friend JOHN CONYERS. Comprehensive acquisition reform legislation is needed, and it continues to be a priority of the committee.

As noted above, I intend that the Committee will scrutinize the Pentagon's bottom-up review and conduct its own independent investigation of how much and what sorts of military forces are needed to keep the United States secure and strong, economically and socially as well as militarily. We will also continue our oversight of the defense establishment, to ensure that defense resources are efficiently managed. As a committee we have already traveled some distance down this path, Mr. Chairman, and finally, while I believe that this bill must be seen purely and simply as a transitional one, it takes needed steps, in my humble opinion, into the future, and I believe that it can be supported by the majority of my colleagues.

With those remarks, Mr. Chairman, I reserve the balance of my time.

Mr. SPENCE. Mr. Chairman, I yield myself such time as I may consume.

(Mr. SPENCE asked and was given permission to revise and extend his remarks.)

Mr. SPENCE. Mr. Chairman, I want to commend the chairman of the full committee, the gentleman from California [Mr. DELLUMS], for the way in which he has conducted our meetings this year in the Committee on Armed Services, and I want to commend the members of the committee for their devotion to the task that we had before us. The chairman has in great detail laid out for us what this bill contains. Therefore, I want to use just a few minutes to give an assessment, in my view, of what is happening to us today from the standpoint of our national defense.

Mr. Chairman, I have served on the House Committee on Armed Services for 23 years. During the period of time I have seen Presidents and Members of

Congress, military leaders, defense budgets, come and go. I have experienced good times and bad, times of war and times of peace. I have experienced cutbacks in our military, and the hollow military. I have seen strong and weak defense budgets. I have seen them all. I have experienced, been involved in, fights over various systems involving ships, aircraft, people in our military.

Since World War II, Mr. Chairman, we have been faced with a worldwide military threat. We have won the cold war. We won it mainly because we won the arms race and the Communist system could simply not compete.

It might seem unusual to some, Mr. Chairman, but I am more concerned today for our security as a nation than ever before. My colleagues might wonder why, and I would like to tell them. Now we face many threats that we have not had before, replacing the ones we have disposed of. As has been mentioned before, CIA Director Woolsey recently said that it is as if we have slain a large dragon and found ourselves in a jungle full of a bewildering variety of very poisonous snakes. But the largest threat in my estimation that we face in the military, Mr. Chairman, is ourselves. I simply believe we are cutting back too much, too fast, too deep.

Mr. Chairman, we never seem to learn the lessons of history. There will be other wars. It is only a matter of when they will come. As long as we have human beings acting like human beings there will be other wars. We do not seem to realize what we are doing, that we are doing irreparable harm, not only to our national security, but to our economic security.

Let me remind my colleagues of what we have already done to our defenses and where we are heading in my estimation. From the standpoint of the defense share of our Federal budget, at the time of the Korean war the Defense budget accounted for 57 percent. In the Vietnam era, 43 percent of our Federal budget was devoted to defense. In 1992, Mr. Chairman, the percentage of our budget devoted to defense was down to 20.7 percent, and, under the Clinton plan, by 1997 it will be on the order of 15 percent. Expressed at a percentage of the gross national product, during the Korean war defense represented 11.9 percent; during Vietnam, 9.1 percent; and under the Bush Presidency, by 1997 it would have been 3.6 percent. Under President Clinton it will be significantly less.

□ 1930

Under President Bush and even under President Reagan, cuts were instituted, proposed, and carried out. The cuts instituted and proposed by President Bush, for instance, amounted to $50 billion even below the already low budget summit levels for defense spending.

The Bush plan cut the number of ships by 177, Air Force wings by 10, Army divisions by 6, from 18 to 12. Secretary Cheney terminated 129 weapons systems. He terminated the production of the advanced cruise missile, reduced warheads on Minuteman missiles from three to one, canceled the MX, small ICBM, and SRAM II programs.

We have closed or realigned 402 bases in the United States and 840 overseas. We cut 16,000 people each month from DOD, 530,000 since 1988. Today we are cutting 250,000 jobs a year from a defense force which includes industrial base and civilian employees totaling approximately 6 million. How much more can we cut?

The cuts proposed by President Clinton, according to CBO estimates, will cost 900,000 defense-related jobs beyond those already resulting from President Bush's cuts. People ask how can it hurt us economically? Almost daily we hear about job losses due to cutbacks in the active duty and reserves, civilian employees, industrial base plan closures, base closures, and realignments.

We hear talk of unemployment, job creation plans, retraining of workers, and conversion, all of these things in an effort to create jobs at the same time we are simultaneously eliminating hundreds of thousands of well-paying, high-skill jobs.

This is only part of the damage. All of these jobs we are cutting out, all of these employees, support families. They pay taxes and buy goods and services from other businesses, enabling them to employ people who support families and pay taxes and buy goods and services from still other families. The chain reaction of job losses due to all these cuts is simply unimaginable.

Under President Clinton's proposed reductions, there will be $127 billion in cuts over the next 4 to 5 years, cuts over twice as much as those proposed by President Bush. It is a political figure. It is not based on any threat assessment. The threat assessment has yet to come forth.

Next year's authorization bill, 1994, amounts to $263.4 billion almost $10 billion lower than fiscal year 1993 spending levels. This comes after military leaders have testified that they have already cut to the bone, that they cannot cut much more.

When reminded that these cuts for next fiscal year represent one-tenth of the cuts we are to expect under the Clinton 5-year proposal, they do not see how they can make up the other nine-tenths. And I do not either. It will be impossible to do responsibly.

We are doing irreparable harm, I repeat, not only to our military security, but to our economic security.

Mr. Chairman, we never seem to learn from history. In 1939, after cutbacks in the face of war clouds gathering in Europe and Asia, our country ranked 17th in the world as a military power, somewhere between Portugal and Bulgaria. Mr. Chairman, let us not arrive at that same place again.

Mr. Chairman, a lot has changed since the House last debated the defense authorization bill. Despite the end of the cold war, U.S. military forces continue to deploy around the world. The situation with Iraq remains tense, North Korea has rattled its nuclear saber unlike any time in recent memory, the United States-led U.N. peacekeeping effort in Somalia has fallen apart, we have begun to deploy personnel into Macedonia, and we have incrementally moved from flying humanitarian relief missions to deploying combat aircraft to provide cover for U.N. forces in Bosnia. This is all in addition to the hundreds of commitments U.S. forces have around the world each day.

On the political front, we have a new President in the White House and a new national security team in the executive branch. Here, on the Armed Services Committee, we have a new chairman and a new ranking Republican, and 20 new members. Despite all of this turbulence I believe the committee has put together a reasonable bill, even a good bill, if one is comfortable with the fact that the debate over the top-line spending figure for next fiscal year has been decided.

In putting this bill together, the chairman consulted with committee Republicans and he allowed the process to work as it should. Although full committee markup of this bill took 15 hours, the spirit in which the debate was conducted is responsible, I believe, for the support committee members gave when it came time to vote to report the bill out of committee. I commend the chairman and I commend all my colleagues on the committee.

Unfortunately, there is much more at stake as the House considers H.R. 2401 than the committee process. The fiscal year 1994 defense top-line figure is almost $17 billion below President Bush's fiscal year 1994 proposed spending figure and is $9 billion below this current fiscal year's defense spending level. This reduction follows on the heels of 8 consecutive years of real decline in defense spending, and represents only a small, first year down payment on a 5-year plan proposed by President Clinton to implement the largest reductions in defense since the end of World War II.

From the perspective of the requirements being placed on the U.S. military, I am not sure that cuts of this magnitude are advisable. Moreover, I am not convinced that the President's plan is politically sustainable with the American people and, therefore, here in Congress.

The foundation of U.S. military capability is the people and the defense infrastructure within which they operate. The skill, dedication, and abilities of the people and the strength of the supporting infrastructure dictate the degree to which U.S. forces are ready and, at the end of the day, capable.

PEOPLE

People represent the heart and soul of both the All-Volunteer Force and the highly skilled work force that equips and sustains this force. The impact that defense cutbacks are having on these people is staggering.

The Clinton administration's Bureau of Labor Statistics recently indicated that 300,000 active duty, Reserve, and civilians have been laid off since 1987, with an additional loss of 700,000 such jobs expected by 1997 under

Clinton-proposed spending levels. We all recall how the financial markets shook back in 1991 when General Motors announced its intention to lay off 75,000 employees over a 4-year period. To put the military cutbacks into some perspective, in that same year, the Army alone laid off 114,000 active duty personnel.

The news on private sector defense related employment is no better. The Bureau of Labor Statistics indicated that 600,000 jobs were lost due to the cutbacks of the late 1980's/early 1990's, with an additional loss of 1.2 million jobs expected under Clinton-proposed spending levels. The projected decline in defense spending and consequent shrinking of the industrial base will result in the lowest level of defense-related purchases of goods and services since before World War II.

INFRASTRUCTURE

During the past 4 years, the Department of Defense and the Base Closure Commission has recommended the closure or alignment of more than 200 domestic and 700 overseas bases. This represents more than 10 percent of the U.S. domestic, and 40 percent of the U.S. overseas basing infrastructure. In just the last 3 years the U.S. military presence in Europe has dropped by 50 percent with additional reductions still being implemented. In the Pacific, the United States is already implementing at least a 25-percent reduction in its presence. There should be no doubt that the military's infrastructure and forward presence is shrinking.

As for the private sector defense infrastructure, or industrial base, the contractions are equally, if not more, severe. Recent analysis indicates that the large defense contractors have reduced their work forces anywhere from 25–35 percent over the past several years with no apparent end to the down-sizing in sight. For every defense-related job that a prime contractor terminates, many additional jobs are lost at the subcontractor and vendor base level. The rapid shrinking of the defense industrial base will likely result in the demise of entire industrial sectors in the years ahead. The loss of defense jobs is significant not only based on their magnitude, but because the employees being laid off are generally were paid and highly skilled. We are losing valuable, and sometimes unique, skills as defense cutbacks result in greater job losses.

The bottom line of the defense debate is not found, however, in the dismal statistics that illustrate the size and severity of defense cutbacks. The bottom line is the impact such cutbacks are having, and will have, on the readiness and the capability of U.S. military forces. It took a generation to build the quality All Volunteer Force of today, and even longer to build the world wide infrastructure that equips and sustains it. In my opinion, the proposed spending cutbacks put much of it at risk.

READINESS AT RISK

Those of us who lived through the defense debates of the 1970's understand what a hollow military is. Although we may define and illustrate it differently, I think we all agree that repeating this painful lesson of our military's history ought to be avoided at all costs. Unfortunately, statistical and anecdotal evidence of a growing readiness problem is already becoming visible.

No single indicator of a readiness problem is, in and of itself, sufficient cause for alarm. However, when these indicators increase, and patterns develop, we need to begin paying attention. I believe that time is fast approaching.

Testimony from all the military services, recently compiled by Senator McCAIN, illustrates a troubling pattern of readiness shortfalls. For example:

In the Army:

OPTEMPO, or training dollars, per division were cut by 21 percent through the late 1980's.

Total operations and maintenance dollars per soldier have been cut by 36 percent.

There is a $5.8 billion real property maintenance backlog.

Depot maintenance dollars per division have been cut by 38 percent, and in fiscal year 1994 is only funded at 58 percent of the Army's requirement.

The number of recruits with a high school degree who are entering the Army has dropped from 100 to 90 percent in the last year.

In the Marine Corps:

Tours of duty are being extended—deployed times for an average Marine infantry battalion have increased from 43 to 57 percent of the calendar year.

Since the end of the cold war, the percentage of marines deployed overseas at any given time has grown from 22 to 30 percent.

Combat training is underfunded by $7.8 million.

The cost of correcting the growing combat equipment backlog will grow to $165 million in fiscal year 1994.

Reconstitution of the maritime pre-positioning forces used in Desert Storm is still not complete.

Real property maintenance is only being funded at 60 percent of the annual requirement.

Although the numbers vary, the pattern with regards to recruiting, training dollars, the growth in depot maintenance, and real property maintenance backlogs is becoming more prevalent. Similar indicators of a growing readiness problem are also evident in the Navy and the Air Force.

To his credit, Secretary Aspin has recognized the seriousness of the readiness problems the military services are confronting. He recently established the new position of Under Secretary for Personnel and Readiness and has also appointed an independent panel of respected retired senior military officers to monitor the readiness problem.

Unfortunately, the size of President Clinton's proposed defense outlays cuts to be implemented over a short 5-year period leaves Secretary Aspin little or no alternative but to disproportionately cut people and readiness—the only defense accounts that are fast spending enough to provide the requisite savings in such a short period of time.

At a more fundamental level, whether one believes that the Clinton-proposed defense cuts are too little or, like me, too much, everyone ought to be concerned that these cuts were proposed and endorsed without the benefit of any strategic forethought or review. Congress had already endorsed the Clinton defense cuts in the budget resolution before Secretary Aspin had even begun his so-called bottom-up review.

During testimony before the Armed Services Committee earlier this spring, Secretary Aspin responded to the allegation that the President's proposed defense cuts were pulled out of thin air by insisting that, "they are a little better than that, but not much." Recent quotes by unnamed White House officials to the affect that the President's defense cuts were essentially set in stone regardless of what Secretary Aspin's bottom-up review concluded certainly lends weight to accusations that the administration has put the political and budgetary cart before the strategic review and global commitment horse.

While I am worried about the specific implications of larger defense cuts—fewer divisions, carriers, tactical fighter wings, loss of critical job skills, crumbling of the industrial base—at the end of the day, I am most concerned over how these cuts will, in their totality, hurt our military preparedness. I believe that if the Clinton-proposed defense cuts are implemented, this Nation will end up with a dramatically reduced capability to employ military force as a tool to protect and promote U.S. national interests in the future. I can reach no other conclusion in view of the severity of the proposed cuts. This is not acceptable to me.

Mr. DELLUMS. Mr. Chairman, I yield 5 minutes to the distinguished gentlewoman from Colorado [Mrs. SCHROEDER], the chairman of the Subcommittee on Research and Technology.

Mrs. SCHROEDER. Mr. Chairman, I thank the gentleman for yielding. I want to start out by saying I am delighted that I follow the gentleman from South Carolina [Mr. SPENCE], because I must sound a lot more positive than the gentleman is right now.

First of all, it has been a wonderful year to serve under the gentleman from California [Mr. DELLUMS] and our wonderful leader over here, too, Marilyn Elrod. Having a woman head up the staff is terrific. I must say they have a vision, and what this research and this development part has done is crystallize that vision of how we have learned from history and how we make sure we never get caught short again. Because it is saying that as long as the world threat, the mega threat, of a huge giant looking at us seems to be melting down, we still must maintain a strong tech base.

So one of the things that we were tasked to do in the Subcommittee on Research and Development was look at all sorts of dual use programs, look at conversion or diversification programs, look at every innovative thing we could find to rebuild a strong, strong tech base in the civilian sector, so if it ever had to be transferred back to the military sector, we would be ready, we would be in the starting box, and there we would go. And I must say we have been more successful than we ever thought we would be.

First of all, our overall part for research and development is $29.5 billion. But $3 billion-plus of this went for this diversification program and to rebuild that tech base in the civilian sector so America remains strong and we do not lose these high-technology jobs that are so essential.

We have our technology reinvestment program, the TRP. We just finished that competition that went on nationwide. Guess what? It is so oversubscribed that the chairman and I are getting gray hair over and over again just thinking about where we get enough money to fund it.

We had in the kitty $471 million for this. We had so many proposals pour in, of which the Federal Government only funds half and the private sector funds the other half, but so many proposals came in that it would take $8.3 billion to fund the Government's share. So that means the private sector is willing to be a partner with us and gamble with us. We are so proud to say that we had added $300 million to the President's request on this. But we now see, because so many people want to participate and do this and these proposals are such high quality, that we are short. And if anybody wants to give us more money anywhere, we will take it, because we really think this is America's future. But we are trying very hard to do that.

We have also doubled the request for manufacturing technology so we can upgrade that and lower the cost of systems.

We have emphasized things such as x-ray lithography, advanced electronic packaging materials, flat panel displays, and advanced high performance computing.

We have put in money for new simulators, which will help save us money in training. We have emphasized fuel cells and electronic vehicle technology programs as we look at the dual use things out there. We have studied the medium-launch infrastructure and the competitive single-stage orbit program.

All sorts of environmental technologies are coming forward, which not only the Defense Department needs, but any number of other people need.

We have really tried very hard to make sure this country never gets caught short again. The good news is American ingenuity is out there and wants to play. They want to play. Many CEO's of major corporations told us they did not want to play. But what we found out was the scientists and engineers right below them want to play, want to do it. I really salute our chairman, because he has been doing everything he can to keep that momentum going, because that is how America remains strong.

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That is how we do not get caught short again. That is how we maintain our technological edge.

Now, when we look at the other areas, we have tried to cut out redundancy. We have cut back the number of special access programs, as much as we could. We have tried to do as many things as we could in the open and have open discussions, almost more discussions than anybody could survive.

But I think that we have really done a very good job of trying to prepare for a new day. That is not to say it is all perfect. That is not to say that everything here is wonderful. But we have gone a long way.

We have also focused on women's health and research in women's health, because it has been really ignored by the Defense Department for a very long time. And I must say, I think all of these I am very proud of. The part that I am upset about is, I wish we had been able to lift the ban against gays and homosexuals and lesbians. It bothers me very much we could not do that, because I believe in performance-based criteria, period, rather than discrimination on gender or any other reason.

Hopefully, we have gradually moved toward a more moderate position and eventually we will win.

I thank the Chairman, and I encourage every Member to get involved in this.

Mr. Chairman, I am pleased to report to the committee the research and technology portions, including the conversion provisions, of H.R. 2401, the Defense authorization bill.

This has been an unusual year. The end of the cold war and the press of the Federal budget deficit provided a unique opportunity to set a new direction for our Defense budget. The new administration brought a change of philosophies and priorities to the Department of Defense, but the lack of appointments to key policymaking positions made it difficult for the Subcommittee on Research and Technology to probe how the administration views the future.

The committee-reported bill recommends a total of $29.5 billion for research and technology, including $3 billion for conversion activities. In this day of a new world order and a declining budget, we put together this recommendation guided by four principles.

First, we supported a strong conversion program, built on principles and programs developed by the committee last year to assist defense dependent companies, communities, and personnel. We increased funding for the technology reinvestment project [TRP] by $300 million to continue last year's authorized level. Proposals for the TRP were due last month, and nearly 3,000 proposals were received by the Advanced Research Projects Agency [ARPA], seeking over $8.3 billion of Government-matched funding. We expect that many of these proposals will be high quality that merit cost-shared funding under the program.

Second, given the emphasis on dual use technology in conversion and the need to maintain a strong technology base, we strengthened the defense technology base infrastructure. We doubled the request for manufacturing technology, that will help the services attain lower cost systems in the future. We supported electronic and advanced materials, and emphasized x-ray lithography, advanced electronic packaging materials, flat panel displays, and advanced high performance computing.

We strengthened dual-use experimental programs, with emphasis on fuel cells and electric vehicle technology. We supported aerospace technology by funding the National Aerospace Plane, medium launch infrastructure, and began a competitive single-stage-to-orbit program. We emphasized environmental technologies, by increasing support for the Strategic Environmental Research and Development Program [SERDP], and requiring the development of a comprehensive database on environmental cleanup research. We renewed our commitment to health sciences and recognized the growing role of women in the military by creating a Defense Women's Health Research Center.

Third, we took a hard look at major weapon system development, including special access programs. We looked for redundancy in programs and those that did not reflect the post-cold war realities and made appropriate adjustments. We terminated the Navy AFX Program and the Marine Corps advanced short take-off vertical landing aircraft [ASTOVL]. We terminated the Army non-line-of-sight [NLOS] missile because it is unaffordable and its projected capability is provided by other systems. We reduced certain special access programs, especially those with expensive development tails. We intend to take a comprehensive look at special access programs in the near future.

But the subcommittee did not just cut programs. We supported development of new high-velocity, longer range gun technology. We supported simulation technologies, to save training and testing costs. We increased funding for the F–14 strike fighter and supported the F/A–18 E/F.

Fourth, we tried to rationalize ballistic missile defense [BMD]. In cutting BMD by nearly $800 million from the President's budget request, we supported a program that places priority on theater ballistic missile defense, with an emphasis on near-term basic capability in both the upper and lower tier. We supported a treaty-compliant ground-based system. We slowed down national missile defense and followon systems, by reducing the emphasis on space-based systems, and eliminating funding for Brilliant Pebbles.

The committee reported a strong bill that begins to reflect the new realities we face today. I urge my colleagues to support the committee's reported bill.

Mr. DELLUMS. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. SKELTON) having assumed the chair, Mr. REYNOLDS, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2401) to authorize appropriations for fiscal year 1994 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 1994, and for other purposes, had come to no resolution thereon.

MAKING IN ORDER ON TOMORROW OR ANY DAY THEREAFTER CONSIDERATION OF CONFERENCE REPORT ON H.R. 2493, AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1994

Mr. FROST. Mr. Speaker, I ask unanimous consent that notwithstanding the provisions of clause 2 of rule XXVIII, it be in order at any time on Thursday, August 5, 1993, or any day thereafter, to consider the conference report, amendments in disagreement, and motions to dispose of amendments in disagreement, to the bill (H.R. 2493) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and related agencies programs, for the fiscal year ending September 30, 1994, and for other purposes, and that the conference report, amendments in disagreement, and motions printed in the joint explanatory statement of the committee of conference to dispose of amendments in disagreement be considered as read when called up for consideration.

The SPEAKER pro tempore (Mr. SKELTON). Is there objection to the request of the gentleman from Texas?

There was no objection.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1994

The SPEAKER pro tempore. Pursuant to House Resolution 233 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 2401.

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IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2401) to authorize appropriations for fiscal year 1994 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 1994, and for other purposes, with Mr. REYNOLDS in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore (Mr. REYNOLDS). When the Committee of the Whole rose earlier today, the gentleman from California [Mr. DELLUMS] had 45 minutes remaining, and the gentleman from South Carolina [Mr. SPENCE] had 51 minutes remaining in general debate.

The Chair recognizes the gentleman from South Carolina [Mr. SPENCE].

Mr. SPENCE. Mr. Chairman, I yield 2 minutes to the gentleman from Arizona [Mr. STUMP], the ranking member of our Subcommittee on Research and Technology.

Mr. STUMP. Mr. Chairman, I would like to begin by commending the chairwoman of our Research and Technology Subcommittee, my distinguished colleague from Colorado, PAT SCHROEDER, for her leadership in her first year as our chairwoman. I commend her for her leadership on a variety of complex issues that we have addressed this year.

Although the authorization we are recommending for title II is very close to the administration's request, I have three basic concerns regarding our committee action:

First, major reductions in ballistic missile defense and intelligence programs.

Second, the continued charade of what is commonly known as defense conversion.

Third, a continuation of a disturbing trend begun in recent years of providing funding in the Defense authorization bill for nondefense purposes.

The continued proliferation of theater and longer range ballistic missiles calls for U.S. development and deployment of upgraded surveillance systems as well as both theater and national missile defense systems. Yet, over $2 billion have been cut from ballistic missile defense and intelligence programs.

In some instances, funds cut from ballistic missile defense and intelligence are being used to fund worthwhile, yet unrequested defense programs. In other cases, hundreds of millions of dollars are going for ill-defined, questionable purposes that show no direct contribution to national security.

The bill continues a very disturbing trend begun in recent years that results in larger and larger sums of what is being requested, authorized and appropriated for the Department of Defense are going for nondefense purposes.

While some of these programs are well intentioned and serve laudable purposes they should be budgeted and funded under the responsible department or agency, not out of Department of Defense funds. Let me give you just two examples of what I am talking about:

First, over $11 billion are going to be authorized for environmental research and development and cleanup. And that does not include millions of dollars out of the Department of Defense budget being contemplated by this administration for environmental cleanup in Russia. We must be concerned with environmental cleanup and related technologies, but the first concern needs to be the adequate funding of national security programs and maintenance of the defense industrial base.

Second, while the House is appropriating double digit percentage increases in health care funding for the National Institutes of Health we are diverting defense dollars from military programs to add duplicative programs in DOD. Over $200 million was added to the DOD budget by Congress last year for cancer research. Yet, none of the money has been obligated and we are again taking funds from national defense programs in this bill to add additional cancer research funds this year. Of course cancer research is important. But it should be funded in NIH or elsewhere in the Department of Health and Human Services.

The list goes on and on and I have not even yet mentioned the continued charade of defense conversion.

We are three-quarters of the way through the fiscal year, yet less than 15 percent of the $1.8 billion appropriated last year for defense conversion has been obligated. However, in the continued game of who gets to claim the larger number for defense conversion, we are authorizing another $3 billion for defense conversion in this bill.

In addition, approximately $250 million of last year's defense conversion appropriated dollars have been transferred out of DOD. Many more hundreds of millions are destined to be transferred to other departments as this ill-defined process continues.

In conclusion, Mr. Chairman, I believe it is time to refocus upon what it is the Department of Defense is supposed to be about, what we are asking our young men and women to do, and then getting on with providing the proper resources to support our national security. DOD is not the State Department. DOD is not the Agency for International Development. DOD is not the NIH. DOD is not the Department of Energy. And we should not be taking dollars intended for the Nation's security away for other purposes, resulting in underequipping and underpaying our military people so that DOD dollars can be used for all these other purposes.

We need to begin now, before we find ourselves with a Desert One force in a Desert Storm world.

Mr. DELLUMS. Mr. Chairman, I yield 4 minutes to my distinguished colleague, the gentleman from Florida [Mr. HUTTO], chairman of the Subcommittee on Readiness.

Mr. HUTTO. Mr. Chairman, I rise in support of our committee report on the Department of Defense authorization request for fiscal year 1994, particularly the issues of readiness, as I am chairman of that subcommittee.

We received a budget that was largely a layover from the prior administration. In the Readiness Subcommittee we worked hard to fashion a bill that would address some of the longstanding concerns of the committee; and while we are vitally interested in the outcome of the upcoming bottom-up review, we wanted to influence Defense spending in the right direction while we await Secretary Aspin's major overhaul.

Let me address the core of our work on the Readiness Subcommitee—that is, sustaining readiness of the force. Since the Readiness Subcommittee was created in the 97th Congress, we have worked hard to ensure the safety and effectiveness of our forces on the battlefield, including the means to get them there early and in sufficient numbers. This effort has been manifested time and again through the exemplary performance of our dedicated people as they are called upon to serve our Nation.

While we are the focal point for monitoring the readiness of the force, each subcommittee can take credit for our readiness posture. Construction of facilities, personnel initiatives, and equipment modernization are all essential elements of readiness. When we hear reports that the force is hollow, we track them down.

So far, I can report that our units are up to the job. We all have an obligation to resist crying wolf on the hollow force. Anecdotal tales do not tell the full story. But most agree—from the Secretary of Defense to commanders who testified to us this year to studies by defense think tanks—that the real danger looms that we will lose the edge in the years ahead if we foolishly reduce readiness expenditures that will take years to recover, being penny wise and pound foolish from a budgetary point of view. The general environment for today's drawdown is better than in the 1970's in both materiel and manpower, but we must be cautious about drawing down too much and too quickly and learn from history.

Secretary Aspin has created a readiness task force under the leadership of retired Army Gen. Shy Meyer. While we await the results of this report, I continue to believe that the best monitors of readiness are those unit commanders and the Joint Chiefs of Staff who have their pulse on readiness day-to-day and who ultimately will be responsible for advising the Commander-in-Chief of the readiness of our troops to commit to battle or to any mission they are called upon to do. We need to ensure that these commanders are allowed to tell it like it is when Congress seeks to ascertain our readiness posture.

This year, in many ways, is no different from other years. We have detected softening in some readiness indicators and have acted to correct these deficiencies from maintenance of equipment to operating tempo expenditures. For example:

OPTEMPO accounts have increased by $1.5 billion.

Depot maintenance has been increased by $765 million.

The contributions to the military personnel pay raise is about $250 million.

We need to ensure that support dollars are not reduced disproportionately with force structure. We need to ensure that short-term readiness is balanced with long-term readiness as we look at our investment accounts or R&D and weapons. And we have placed in law a fence around direct readiness money to keep the tip of the spear as sharp as ever.

We continue to fund readiness at the requested level, and I might point out that over the last 10 years, we have funded operation and maintenance and readiness at 96 percent of the budget request.

The funding posture does not mean that the subcommittee advocates waste and inefficiency. We will not allow overhead, bloated bureaucracy, or inefficiency and duplication to be covered by the readiness umbrella. Again this year we have met this headon.

Operation and maintenance funding now constitutes the largest segment of Defense spending at just over $89 billion. Considering inflation and new initiatives, it is still $3.8 billion below the 1993 level. We have increased funding for depot maintenance and direct readiness expenditures.

Mr. Chairman, the bottom line is that the military must live with restraints, and military leaders have to make some hard tradeoffs. We need to focus on unbalanced and inefficient distribution of resources that are caused by a rapid drawdown. We need to assist them in this process. We need to assure them that when tradeoffs are made, they are the right ones. Above all, we must make sure our forces are ready to defend the freedoms we enjoy as Americans.

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Mr. SPENCE. Mr. Chairman, I yield 3 minutes to the gentleman from Virginia [Mr. BATEMAN].

Mr. BATEMAN. Mr. Chairman, I thank my distinguished ranking member of the Committee on Armed Services for yielding me the time.

Mr. Chairman, I could spend all of this time just re-echoing the sentiments that have been expressed by the chairman of our full committee this year. Over the past 35 years or so I have presided over dozens of organizations and meetings and certainly participated in literally hundreds of organizational meetings, conferences, conventions, committee meetings, and what have you. Few if any have ever presided over such organizations or meetings or functions with greater aplomb or greater fairness than the chairman of our full committee. I want to, indeed, compliment him, as my colleagues have done, for an inordinately skillful and balanced manner in which he has assumed his new responsibilities as the chairman of the House Committee on Armed Services.

This is not the Defense bill that I would like for our committee to have written and sent to the floor. It is deficient in a number of regards, in my perspective, but given that which we had to work with and the realities of allocations of budget authority, I think we have used the budget authority available to us. There are changes that I would have preferred in the manner in which we used it, but the approach has been sound.

In the crucible of debate on the floor there will be many amendments offered to this bill, and on which I will be drawn into those debates, seeking to defend some of the decisions made, seeking to reverse others. However, the committee has done, I think, a commendable job, given what it had to work with.

In the remaining moments of my time, I would simply like to make this point. We talk about readiness, we talk about hollow forces, we talk about the adequacy of our national defense, and people talk about win-draw, win a war and a half strategies, and all of these scenarios. Little if any do I hear any more that this country, if it has the strength to deter mischievous action on the part of potential aggressors and enemies, we will have done something extraordinarily important for the security of our country and the avoidance of conflict.

I hope as we go through this Congress in this session, and most particularly in the sessions to come, as we debate and argue about the adequacy of our forces and where we should put our always limited defense dollars, that there is still room in the public policy discussion to consider and to put into the equation defense as one of the touchstones of what our national security policy should be.

There are many aspects of what I think deterrence would do for us. There are many particular programs that I would like to talk about. In the interest of time, which has expired, we will leave this for another day.

Again, my congratulations to the chairman, to the ranking member, and to all the members of the committee who have worked very hard to bring this product to the floor.

Mr. DELLUMS. Mr. Chairman, I thank my distinguished colleague for his generous remarks.

I yield 5 minutes to my distinguished colleague, the gentleman from Missouri [Mr. SKELTON], the chairman of the Subcommittee on Military Forces and Personnel of the Committee on Armed Services.

Mr. SKELTON. Mr. Chairman, I appreciate this opportunity to speak as the chairman of the subcommittee.

First, I wish to express my genuine pleasure to the chairman, the gentleman from California, RON DELLUMS, for his strong initial success as chairman of our committee. He has produced a good bill. He has been fair in his deliberations, and he has been even-handed in the debates.

I commend the gentleman on his well-deserved reputation for fairness and, sir, if I may add a personal note, for the strong backing that he has given this particular Member and subcommittee chairman in the ups and downs that we have experienced in getting this far with this bill.

THOUGHTS ON SUBCOMMITTEE HIGHLIGHTS

Mr. Speaker, on behalf of the Subcommittee on Military Forces and Personnel, I am pleased to report to the House on the personnel portions of H.R. 2401, the Defense authorization bill for fiscal year 1994.

At the outset, I want to commend all the members of the subcommittee—especially the ranking member, the gentleman from Arizona, JON KYL, for their diligence and hard work on the difficult issues before us this year. The subcommittee has held 27 hearings so far this year on force structure, Guard and Reserve effectiveness, the manpower budget request, medical care, professional military education, and homosexuals in the military.

I am especially pleased with action taken on the matter of funding a full 2.2-percent military pay raise. It was done in a responsible fashion by finding offsets in the fiscal year 1994 Defense budget request. Many in the military have come to view a pay raise as symbolic of Congress' support for maintaining an adequate quality of life. This action will help maintain morale of service members in a time of turbulence.

On the issue of DOD policy on homosexuals, the language pertaining to homosexuals in the military is the same provision offered by Senator NUNN and adopted by the Senate Armed Services Committee by a vote of 17-5. The five dissenters were Senators KENNEDY, BINGAMAN, LEVIN, LIEBERMAN, and ROBB.

In my view, the committee elected to support the men and women of the Armed Forces on this issue. The polls I have seen indicate that service members are overwhelmingly in favor of continuing the ban on homosexuals in the military. I am very cautious about any change that threatens the morale and cohesion of our fighting force. We must not risk undermining the best military force in our Nation's history. Second best is not an acceptable option on the battlefield.

Based on the testimony of the Secretary of Defense, the Joint Chiefs, the general counsel of the Department of Defense, and the services' senior enlisted members during our hearings 2 weeks ago, I am convinced that the heart and soul of the pre-January 1993 policy has been preserved. The result is a policy that will change very little of the day-to-day life of service members. The bottom line remains the same as it always has been: Homosexuals will be separated if they demonstrate conduct that is disruptive to morale and unit cohesion.

The language in the committee bill codifies the critical elements of the old policy. The language includes a statement of congressional support for reinstating the practice of asking applicants about their sexual orientation if the Secretary of Defense determines that is necessary in the future.

I know we are all anxious to put this issue behind us and get on with the many other challenges ahead. I believe codification essential if we hope to put this divisive issue behind us. The language approved by the committee allows us to achieve that purpose.

On the issue of end strengths, the committee approved the budget request for active and Reserve component end strengths with the exception of the Coast Guard Selected Reserve, which would be reduced by 2,000 less than the budget proposed. These end-strength figures represent an active duty reduction of 107,700 below fiscal year 1993 levels, and a Reserve reduction of 65,580.

Here are some other highlights. The committee voted to: establish a floor on Army National Guard force structure; increase the President's Selected Reserve call-up authority, based on the Desert Storm experience; direct the Army to develop a plan to test small unit integration; approve the Secretary of Defense's request to repeal the statutory restriction on the assignment of women to combatant vessels; and authorize funding for an improved pharmaceutical benefit for dependents and retirees.

THOUGHTS ON DEFENSE IN GENERAL

Allow me now to address the overall defense picture. Quality people, modern weapons and equipment, tough training, and intelligent, well-educated leaders are the key elements that make for strong, capable, and flexible Armed Forces. The investments of the early 1980's allowed us to raise, equip, train, and maintain military forces second to none.

The following facts should be kept in mind as we go through this examination of the fiscal year 1994 defense bill. First, this is the ninth year of a real decline in defense spending. The current request of $250.7 billion in budget authority is almost $30 billion less than what had been planned for in fiscal year 1994 only 2 years ago.

Second, over 120 major defense programs have been cut since the 1990 budget agreement.

Third, we are reducing the size of our forces and the people who man them. Over the past 3 years the Army has eliminated four active Army divisions, from 18 to 14; the Navy 99 ships, 547 to 448; and the Air Force 20 active duty squadrons, 76 to 56. This year alone, personnel reductions will total 107,000 in the active component and 65,000 in the Reserve component.

Fourth, as many of our colleagues know, bases are being closed or consolidated at home and abroad, over 800 prior to this year. In Europe, our forces have come down from 314,000 in 1990 to 160,000 by the end of this year.

Fifth, the resources freed for other needs in our society have been considerable. Outlays devoted to defense as a percentage of GNP reached 6.5 percent in fiscal year 1986. The figure for fiscal year 1993 is 4.6 percent, a drop of almost 2 percentage points. This is one way to measure the "peace dividend." Another way to measure the peace dividend, the way I measure it, is in the war that was never fought—world war III with the Soviet Union.

As I noted earlier, quality people are an important element, the most crucial element, in any military force. There are signs, however, that we are not maintaining the high standards of the past few years. High school graduates entering the services have dipped from 97 percent at the time of Desert Storm to 94 percent today. The comparable figure in 1980, the low point of the post-Vietnam era, was 68 percent. Similarly, there has been some deterioration in enlistment test results. Today, the figure for those who score in the upper half is 70 percent. During Desert Storm it was 75 percent. In 1980, it was 37 percent. Yes, we are in much better shape than we were in 1980, but there are some warning signs that we would be imprudent to ignore.

Last year, I was concerned about the cuts in the operations and maintenance accounts. These are the accounts that fund the kind of tough operational training our forces need if they are to maintain their readiness. I remain concerned but am reassured to some extent that measures are being taken in the fiscal year 1994 budget to protect direct readiness of units by the reallocation of funds to increase operating tempo and training for operational units. We will have to monitor this matter closely year by year.

My real concern relates to the size of the Defense budget and the size of the force structure in future years. We shall soon see what comes out of Secretary Aspin's "Bottom Up Review." I understand the desire of some to shift resources from defense to domestic needs. My fear is that those who would urge accelerated cuts in defense spending and force structure will lead us to the same place we have found ourselves on past occasions in our history—with military forces ill-prepared to fight. This was the case in Korea in the summer of 1950 and in the deserts of Iran in the spring of 1980.

We need not repeat these sad experiences yet again in some other distant location, and I will work to the best of my ability to ensure that, at least in this era, past is not prologue. Americans want a reduction in defense spending but they don't want to undo the great investments in time, effort, and money that have resulted in the finest military force in our Nation's history.

It is far better to maintain a larger military force than a smaller one if the larger force reduces the likelihood the Nation will have to be used in a general war. George Washington was right: "To be prepared for war is one of the most effectual means of preserving peace." And in the long run cheaper, too.

Earlier this year, in a speech at West Point, President Clinton warned about cutting defense too much. "The budget cuts that have come at the end of the cold war were necessary, even welcome," he said. "But we must be mindful," he continued, "that there is a limit beyond which we must not go." In a press interview that same day the President described his intent as sending "a cautionary note to the House and Senate." He continued, "I think we have cut all we should right now." I believe the President is right on target.

Despite the cuts in both spending and force structure, I shall vote for this measure because I believe it maintains the strong, capable, and flexible Armed Forces for the 1990's and beyond that this Nation requires. The committee members have done their homework on the bill before you today, and I request that the House take great care in its efforts to refashion the committee's work.

I close by expressing my genuine pleasure with the work of the new committee chairman, the new ranking member, and the committee staff for the fine work done on the fiscal year 1994 defense bill. This committee continues to do first class work in a variety of important defense issues.

The new chairman has led the committee in a manner that does credit to his well-deserved reputation for fairness. As did his predecessor, he has attempted to raise the sights of committee members from the line-item trees to the policy forest. He is having a fair measure of success. While there are still disagreements on line items and policies among the members, and between the Congress and the administration, the differences are to a greater degree based on well-articulated policy choices. This is how the work on national defense should be done, especially in the years ahead as the choices become tougher.

Mr. McCURDY. Mr. Chairman, I am pleased to rise in support of H.R. 2401, the National Defense Authorization Act for fiscal year 1994. As chairman of the Subcommittee on Military Installations and Facilities, it is my pleasure to report to the House on division B which would authorize $11.5 billion for military construction, family housing, reserve components, and for other purposes. I would like to take this opportunity to thank the ranking member, Mr. HUNTER, and the other members of the subcommittee for their efforts on this section of the bill.

This subcommittee has a wide range of jurisdiction, from military construction and environmental cleanup to this Nation's burdensharing initiatives. I am pleased that we were able in my first year as chair of this subcommittee to make significant progress in a number of areas within our jurisdiction.

Our subcommittee held extensive hearings and from those hearings we have developed a strong foundation from which we produced this portion of the authorization bill.

The important initiatives in this year's bill include calling upon the Secretary of Defense to submit to the Congress a strategic basing plan in order that future investment in military construction can be targeted to installations and locations that have long-term, strategic importance to the United States. This plan is imperative if the taxpayer is to support future military infrastructure development overseas and our forces are to remain a viable presence in other parts of the world.

Given the importance of the All-Volunteer Force and the need to provide service personnel and their families a decent living environment, the committee has fully funded quality of life projects, including full authorization of the family housing construction request with the addition of $68.9 million for adequately maintaining family housing units worldwide. We have also authorized several medical facilities and child development centers to better meet the health and educational needs of our Armed Forces personnel and their families.

This committee has also authorized several important environmental initiatives, including the addition of $606 million to the base closure accounts to implement expedited transfer from properties for civilian reuse. At the committee's request, through an interagency transfer of funds, we have established the mechanism for formation of field teams consisting of EPA and DOD personnel at closing bases to help expedite the cleanup process. The committee has also mandated reporting requirements in order to facilitate better tracking of progress of site remediation and expenditure of funds to give Congress the ability to provide more effective oversight. The committee has also provided additional funding for formerly used defense sites to identify and remediate additional hazardous waste problems.

Many of these initiatives that the committee has favorably acted upon were part of the President's July 2 announcement on revitalizing base closure communities. The committee felt that these initiatives should be acted upon in an expeditious manner in order to assist communities who have been adversely affected by the last three rounds of base closures. At the same time, we have also fully authorized the administration's request for military construction associated with base closures and realignments from the base closure rounds in 1988, 1991, and 1993. We have also cautioned the Department of Defense that these base closure accounts should not be viewed as a convenient fallback for projects that do not meet the necessary requirements in the regular military construction budgeting process.

In the military construction area, the committee has provided over $3.2 billion for the active forces and $639 million for guard and reserve facilities, with additional planning and design moneys to properly facilitate important congressional initiatives. We have authorized most of the administration's request and have deleted those projects which had questionable requirements.

This year has been unique in that the Subcommittee on Military Construction of the House Appropriations Committee has already passed its bill on the floor. In working closely with Chairman HEFNER, we have attempted to craft a bill which shows some parallels as we both prepare for conference.

In the burdensharing arena, the committee has fully funded the NATO Infrastructure Fund at $240 million while supporting the ongoing reform initiatives within NATO to ensure proper expenditure of cooperative funds. These reform initiatives include United States endorsement of any approved projects and projects slated for construction in the United States.

Mr. Chairman, I would like to take this opportunity to thank all of those Members with whom I have worked and believe that our section of the bill makes a positive contribution to our national defense. I urge the adoption of the bill by the House.

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Mr. SPENCE. Mr. Chairman, I yield 4 minutes to the gentleman from California [Mr. HUNTER], the ranking member on our Subcommittee on Military Installations and Facilities.

Mr. HUNTER. Mr. Chairman, this committee has a tradition of comity and respect and decorum, and I want to, as other Members have done, commend our chairman, our new chairman for continuing that tradition, and for earning the respect of all of the Members of the Republican side of the aisle. And I also want to thank our great ranking member, the gentleman from South Carolina [Mr. SPENCE] for his leadership of the Republican side of the aisle on this committee. I have often thought that the Committee on Armed Services is and necessarily should be one of the most bipartisan, nonpartisan committees in the House, and I think we have worked many issues in that tradition in this particular markup.

As ranking member of the Committee on Military Facilities and Installations, I also want to thank all of our great staff people who put together an expeditious markup in some difficult circumstances of short time and a lot of pressure and a varied schedule. All of our staff members did marvelous work, and I want to thank all of the Members, Republican and Democrat on the subcommittee, and commend the gentleman from Oklahoma [Mr. McCURDY] our chairman, for his good leadership.

Let me talk about just a couple of things that we have done in this military construction area that I think Members are interested in.

First, it is our responsibility to fund the implementation of the BRAC process. That is the base realignment and closure process, and in this bill we have $3.5 billion authorized for BRAC accounts.

I also want every one to know that language is included in the bill that requires the department to provide an analysis of how the additional $500 million for expedited cleanup of these bases will be spent. I think it is important that we get on with this process.

The realignment and closure process has been difficult for our Members, for the communities they represent, and it is now time to move along so that those communities can take those new uses for their bases that they will be involved with in the next several years, plan their strategies, make their plans, and get on with the new and different manner of using the properties that are going to be closed by the DOD.

Finally, we have a provision that was included here that allows the Secretary of Defense to transfer property located at a military base slated to be closed to any person who agrees to conduct the necessary cleanup, and that gives to DOD ability to negotiate and to look for and to make transitions with people who will say, for example, I want to use that base for an industrial park, and I am willing to pay for cleanup. That will allow us to take that base off the rolls without spending taxpayer dollars in cleaning up that property, and I think it is a good, solid step toward operating this BRAC process like a business. So I think that is a good provision.

Also we have funded quality-of-life programs in this bill. We have $68.9 million to maintain existing family housing. That is an important aspect of quality of life for our military families. And we have done that.

Finally, I think Members will be pleased to know that we have lifted the moratorium on construction that has been in place, and many bases have a severe backlog of needed construction, and this bill begins to address this backlog.

Having said that, Mr. Chairman, I want to reiterate the statements of my ranking members and the Members on both sides of the aisle on this committee that I think overall this funding level, while not serious this year, is the first in a 5-year backsliding or downsliding of military readiness. Because of that, I think that this Congress needs to address the new dangers that are manifest in this post-cold war world, and particularly the emergence of the missile age, which I think this committee has not adequately addressed with capability to defend against missile attacks. And I will be talking more about that during the amendment process.

Again I thank the gentleman for yielding the time.

Mr. DELLUMS. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from Virginia [Mr. SISISKY] who chairs the Subcommittee on Oversight and Investigations.

Mr. SISISKY. Mr. Chairman, I thank the gentleman for yielding the time and congratulate him on his success on his first markup of the bill under his chairmanship. He knows how I feel about him, and I am sure he knows how other members of the committee feel. And I also thank the gentleman from South Carolina [Mr. SPENCE] the ranking member, and of course, the gentleman from Utah [Mr. HANSEN], the ranking member of my subcommittee.

Mr. Chairman, in January I took over as chairman of the Oversight and -Investigations Subcommittee. Most of our work is related to investigations, but we handle an assortment of legislation as well. Let me just single out a handful of items in this bill.

First, the bill contains $1.1 billion for the military role in the drug interdiction effort, essentially the same as we have spent on this for the 2 previous years. We have changed the request, however, to provide $40 million for the training and other support of law enforcement officers, mainly in State and local governments. The Pentagon had requested a mere $4.5 million.

Second, we include language Defense Secretary Les Aspin requested to carry out the reorganization of OSD. Dozens of officials report to the Secretary. The span of control is much too great. Secretary Aspin wishes to create a more pyramidal structure. His request—which we have approved—would increase the number of Under Secretaries from 2 to 4 and reduce the number of Assistant Secretaries from 12 to 10. Effectively, under the new structure, Assistant Secretaries will no longer report to the Defense Secretary; they will report to the four Under Secretaries, who will report to the Defense Secretary.

Third, we have rewritten the civil defense act in light of the end of the cold war and the poor performance of FEMA in Hurricane Andrew. The civil defense law still says FEMA must use those funds principally with nuclear attack in mind. We have rewritten the law to tell FEMA to adopt the all-hazards philosophy. In other words, FEMA is being told to use civil defense funds to prepare for all kinds of disasters—ranging from hurricanes and floods to toxic spills and terrorists bombings. One of the problems we found after Hurricane Andrew was that FEMA withheld some of its communications gear and other equipment because it felt they had to be kept free in case of a nuclear attack. Under this revision, that won't happen again.

Fourth, we have been struggling with the Pentagon's proposals called global cooperative initiatives. This package got tied up in a dispute between the State and Defense Departments. As a result, we simply inserted a three-line placeholder in the committee mark. We have now got the administration proposal and are working on language in cooperation with the Foreign Affairs Committee.

There is one other provision I would like to highlight for the Members. This spring, the Military Acquisition Subcommittee and the Oversight and Investigations Subcommittee held joint hearings on the C–17 transport aircraft. This program suffers multiple and serious problems. While those problems are solvable, they are not yet solved. What the committee has done is place C–17 money into an intertheater airlift account. This encourages the administration in its review of alternatives to consider all its options, including a more sensible structure of the C–17 program.

Finally, let me address an issue that has led to some confusion—how we dealt with so-called section 800 acquisition reform. The committee, and indeed Congress, has been trying to reform the acquisition system for decades. But this isn't just an armed services issue; it requires the involvement of other committees, notably Small Business—on which I also sit—and Government Operations. For that reason, let me make clear what we did and did not do. We did propose several largely technical amendments to defense-specific statutes. We also addressed commercial products and a simplified acquisition threshold, applying the new threshold only to defense contracts and only in very specific circumstances. We did not embark on comprehensive reform or go beyond title 10. Simply put, we made a downpayment on acquisition reform in a way that won't conflict with the consideration of other legislation. We will move forward on acquisition reform—but we will do so in a structured and a comprehensive manner, not lurching about through the statute books.

Further steps will seek to create a simpler and more flexible acquisition system, better managed by fewer people using fewer tax dollars, and one that will maintain the department's technological edge.

Mr. Chairman, I encourage all Members to support the committee bill. It's very definitely a transition budget, but it takes us the first step into the post-cold war world. And that's what we need right now.

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Mr. SPENCE. Mr. Chairman, I yield 5 minutes to the gentleman from Utah [Mr. HANSEN], the ranking member of our Subcommittee on Oversight and Investigations.

Mr. HANSEN. Mr. Chairman, I join the gentleman from Virginia [Mr. SISISKY] in presenting to the House those portions of the defense authorization bill reported by the Oversight and Investigations Subcommittee.

Mr. SISISKY has already covered most of the highlights and I won't duplicate his explanations, but I want to briefly comment on a handful of the items in this bill.

First is an amendment I offered dealing with the conditions under which we commit United States troops abroad to be placed under the command of a foreign national as was just done in Somalia and Macedonia.

While much attention has been given to the debate over whether and when United States forces should be used to conduct humanitarian missions around the world, not much attention has been given to the question of how—that is, will American troops deployed to quell unrest around the world remain under United States control, or will they be allowed to be commanded by a foreign national such as what we have done in Somalia and Macedonia?

There are those who believe that the United States should almost never allow U.S. troops to be placed under foreign control. My own view is that it should be the exception rather than the rule. And, in those instances where it is necessary to place the fate of our young men and women in the hands of a foreign official, I believe that the President and the Secretary of Defense have an obligation to provide Congress and the American people with a detailed justification of why such a command and control arrangement is in the national interest.

For this reason, I offered an amendment that was accepted by the committee requiring that Congress be provided with the basic information associated with any such proposed deployments of U.S. forces. This amendment is not intended to block or determine the placement of U.S. forces under foreign command.

Instead, it is intended to allow Congress to understand what is being proposed and reach our own conclusions on the wisdom of placing the fate of young Americans in the hands of the United Nations.

Mr. Chairman, this is not an abstract issue. Earlier this year, prior to the hand off to the U.N. of the operation in Somalia, the ranking Republican of the House Armed Services Committee, Mr. SPENCE, wrote to the Secretary of Defense asking for basic information on the command and control arrangements being contemplated for United States forces once the U.N. took over the operation.

Six months later and several months after the placement of United States forces under the command of a Turkish general, Mr. SPENCE has yet to receive a response to this legitimate request of the Department of Defense.

I should state that my amendment was not prompted solely by this incident, but I mention it to underscore the need to have a formal mechanism by which Congress receives crucial information on such deployments.

The second item I would mention is the provision dealing with the Central Imagery Office or CIO. This amendment results from our discussions with the House Intelligence Committee over action taken in their bill to direct the elimination of the CIO and shift its functions to the Defense Intelligence Agency.

As the chair and ranking member on the subcommittee with oversight over DOD organization, Mr. SISISKY and I took a close look at this issue and believe the action taken by our sister committee is premature and deserves more study. Therefore, our provision places any reorganization plan on hold until the Secretary of Defense and the Director of CIA can take a closer look at the issue and give us some recommendations on what is the best thing to do.

Finally, I want to briefly mention the concerns I have with the open-ended authorization for the DOD to conduct peacekeeping military operations through the Global Cooperative Funding account contained in this bill. This topic is the subject of nine separate amendments filed with the Rules Committee and likely to receive further debate as we proceed with consideration of the bill. I will reserve my comments on this topic for a later time when we can cover it with the depth and attention it deserves.

In closing, let me once again thank Mr. SISISKY and Mr. DELLUMS for their cooperation and fair treatment during the markup process.

Mr. Chairman, the Defense budget is in a free-fall. What we see today in H.R. 2401 is the beginning installment on what I genuinely fear to be the gutting of America's defense.

After every major armed conflict of this century, we have rushed headlong to disarm ourselves with harmful, even deadly consequences.

World War I was supposed to be the "war to end all wars," but a few short years later we found ourselves engaged in a monumental struggle to wage battles in two hemispheres. V–J Day was still a recent memory when the Korean conflict arose. The tragedy of Vietnam is forever imprinted in our hearts and minds.

Now, on the heels of Desert Storm, with United States troops on the ground in Macedonia and in Somalia, and likely to be deployed to any number of hot spots now heating up in the world, we apparently are set to go down the same time-worn path of tearing down our defense, gutting our readiness in the overly optimistic hope and prayer that we will not need to send our troops into harm's way again.

Well, Mr. Chairman, as a member of the Armed Services Committee and as a newly appointed member to the Intelligence Committee, I believe we cannot continue down this slippery slope of huge defense cuts without stumbling. The chinks in our armour are already beginning to appear.

Some of the recent signs of the beginning of the deterioration of our military forces are already here. One of the Members put together a very interesting report showing where they felt we had troubles with the Marine Corps, the Army, and Navy, and the Air Force, and I would commend that to many of our friends for their reading.

Former Secretary of Defense, Dick Cheney, one of the most competent and respected Defense officials in recent memory, has had this to say about the Clinton Defense cut plan:

> The cuts proposed by President Clinton are dangerous. Could we win another Desert Storm after them? I think so. But I don't think we could do it as effectively as we did in 1990 and 1991. The cost and casualties would be higher. It would take us longer to respond to a crisis and to finish the job.
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> We saw in 1980 the problems that arise when the U.S. doesn't maintain ready forces in peacetime. Remember "Desert one," when we weren't able to mount a successful rescue operation to get our hostages out of the Embassy in Tehran? We had equipment failures, we had an accident when two aircraft collided in the desert, eight people were killed, and the whole mission had to be aborted. Now compare this with Desert Shield in 1990. From the time the President said, "go," it took us only 14 hours to send the First Tactical Fighter Wing from Langely AFB in Virginia to Saudi Arabia. Ten years before, in 1980, that same unit flunked its operational readiness exam; 47 out of the 72 aircraft were grounded for lack of spare parts.
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> That's what will happen again if the Clinton Defense cuts are ultimately approved. We'll end up with a force that's not ready to deploy on short notice, that's not capable of carrying out the missions we assign it. It's the kind of force that would cause us to suffer much higher casualties than necessary in the next conflict because we didn't maintain adequate peacetime capability. That's the real danger of the Clinton budget cuts.

Mr. Chairman, can the Defense budget be reduced in light of the end of the cold war? Yes, and the Bush/Cheney plan of a 25-percent reduction over 5 years would have done that while still preserving our readiness.

We are now spending less than 3.5 percent of our GNP on defense. That is the lowest it has been since before World War II.

Contrary to a lot of popular perceptions reinforced by the media, defense spending has been declining since 1985, and is now beginning a free-fall.

We all witnessed during the budget debates earlier this year. That Defense has been targeted by this administration as the bill payer. When additional money was needed to cover the administration's ambitious social spending agenda, where was the first area it looked? Defense; cuts were forced. The services were forced to cut into training money, money for CHAMPUS health care, and other things, just to come up with the money for the budget drill.

I did not perceive a reasoned analysis to justify additional Defense cuts. Rather, Defense was ordered to come up with the money without regard for the effect the cuts would have on readiness or our troops.

What I believe is being proposed in this bill is a first installment, is an additional $126 billion reduction over and above the Bush-Cheney reductions over 5 years. Clinton would cut $126 billion, or over double what he said during his campaign.

The President talks about creating jobs with his tax and spend program. But I hope he realizes that his additional Defense cuts are projected to cost, conservatively, over 2 million direct jobs and probably just as many indirect jobs.

I know that for a fact. My own State and district are reeling from the slash Defense policies of this administration, everything from base closures to program terminations, and more yet on the horizon.

Mr. Chairman, I would urge us to be careful as we go into this and that we look at it very carefully, and in the next time that we have this debate, I hope when we get into amendments that we can look at some of these particular areas.

I thank the gentleman for the time.

Mr. DELLUMS. Mr. Chairman, I yield 4 minutes to the distinguished gentlewoman from Tennessee [Mrs. LLOYD], a senior member of the committee.

Mr. LLOYD. Mr. Chairman, I rise in strong support of H.R. 2401, the fiscal year 1994 Defense authorization bill. We on the Armed Services Committee have put together a responsible bill that meets our Nation's evolving defense challenges. Under the outstanding and very fair leadership of our new chairman, the committee carefully worked through the issues, sought consensus and reported out a measure that this Congress can be proud of and, I would hope, support.

I would like to point out some lesser known features of this bill that I feel contribute to its overall strength and quality.

As my colleagues know, nuclear weapons research and development has been sharply reduced in recent years. While our reliance on our arsenal and the stockpile itself has shrunk, the need to maintain the capabilities to service, dismantle and perhaps produce nuclear weapons remains constant. Our bill encourages technology transfer as a means to maintain critical skills and capabilities. The stockpile stewardship program established in the bill is excellent example of wise foresight to preserve needed core intellectual and technical competencies.

The committee's obligation to environmental restoration and waste management continues in this bill. Many of our colleagues in this body have expressed concerns over the progress of the Department of Energy's environmental cleanup efforts. The committee shares these concerns and has directed DOE to prepare an annual report on the costs and schedules for cleanup activities. This should give the committee the guidance it needs to respond to our cleanup needs wisely and efficiently.

We have also chosen to continue the valuable scholarship and fellowship program to support and solicit new talent in the environmental cleanup arena.

The committee also recommends starting a pilot program to decontaminate and recycle metals. Mr. Chairman, DOE and DOD are in possession of vast amounts of valuable materials, equipment and precious metals that are being unwisely stored or disposed. In this era of recycling, it should be the intent of the Department to explore the opportunities available to recycle uncontaminated and decontaminated materials and equipment.

I am also pleased to report that provisions from the Defense Women's Health Improvement Act authorizing primary and preventive care services targeted at women have been incorporated into this bill. The bill includes funding to establish a Defense Women's Health Research Center as well as reauthorizes the Army's Breast Cancer Research Program.

Service in the military subjects women to unique health conditions that current military health care services must address. The provisions which Congresswoman SCHROEDER and I have worked on correct that deficiency and honor the women who serve and exemplifies our commitment to their health and well-being.

Mr. Chairman, we will no doubt have a parade of amendments to this legislation. I want to caution Members to think very carefully before voting to cut Defense spending any more than the committee has already. While it is politically appealing to cut spending, careless reductions to our military directly affect the first class men and women who serve. Please keep that in mind.

Mr. Chairman, I urge support for H.R. 2401.

Mr. SPENCE. Mr. Chairman, I yield 5 minutes to the gentleman from Arizona [Mr. KYL], the ranking member of the Subcommittee on Military Forces and Personnel.

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Mr. KYL. Mr. Chairman, as ranking Republican on the Military Forces and Personnel Subcommittee, I can assure my colleagues that the personnel-related provisions of H.R. 2401 reflect the bipartisan consensus of the committee.

I must compliment Mr. SKELTON, the subcommittee chairman, on the open and truly bipartisan manner in which he conducted business. It was that very openness and willingness to deal forthrightly that enabled us to resolve so many tough issues. As a result of this cooperation in the Personnel Subcommittee and to move the bill to the floor, I voted to report H.R. 2401 out of committee.

Let me briefly review some of the measures which I believe make the personnel provisions of H.R. 2401 particularly noteworthy.

Pay raise: In authorizing a full 2.2 percent pay raise, we put politics aside and did the right thing for the men and women of the Armed Forces. We have the highest quality force this Nation has ever had. To maintain that quality, it was essential to provide an increase in pay to at least keep pace with inflation. The 2.2 percent raise just barely does that. Both IKE SKELTON and I would have liked to have done more; but we can do no less.

Women in the military: The bill includes several provisions which recognize the significant role of women in the military today. While I have personal reservations about expanding the combat role of women, it was the committee's will to allow women to serve on combat ships. Similarly, in provisions that had my strongest support, the committee mandated that men and women be held to the same performance standards, and that no changes be implemented in current restrictions against women serving in ground combat positions until Congress had an opportunity to review the justification for change.

Policy on homosexuals: After 5 days of full and open hearings, extensive debate by the subcommittee and full committee, and an overwhelming vote to reject lifting the ban on homosexuals in the military, we codified a policy that preserves military unit cohesion, readiness and capability, and subordinates individual and group desires to those ends. Therefore, the bill carries forward the longstanding principle of previous DOD policy that homosexuality is incompatible with military service, and requires that service members who engage in homosexual conduct be separated from the military. In short, the bill—using the same language adopted by the Senate—maintains the ban on homosexuals in the military. Moreover, it rejects any effort to create limited zones of privacy for homosexuals, and imposes no new restrictions on commanders, NCO's and military authorities who are charged with maintaining morale, good order and discipline in their units.

Turning from the personnel issues, I want to mention some other aspects of H.R. 2401, which, unlike the personnel provisions, do give me great concern.

Mr. Chairman, there is a growing trend, evident in H.R. 2401, to blur and distort the roles and missions of the Department of Defense in an unhealthy way. By creating ways to transfer defense dollars to other Federal agencies and to require DOD to assume requirements for matters that previously were the responsibility of other departments, Congress will ultimately undermine military readiness—especially as we simultaneously reduce Defense spending far too rapidly. I will say more on this later in the debate. My point now is simply to raise this most serious issue.

A second issue that concerns me is the committee's position regarding ballistic missile defense, funding it over $600 million below Bill Clinton's request. Although the full committee increased the authorization by approximately $200 million above the amount sought by the subcommittee, the program as established under the Missile Defense Act is in shreds. Yet, our intelligence establishment has made it clear that missile defense remains of critical importance to national security. I do not believe that the amounts this committee authorized for the program truly recognizes that importance. A third area of concern is our nuclear program. We will no longer conduct underground tests, because, opponents say, we can simulate through computer analysis and other means what we used to do with tests. Now, with testing stopped, opponents argue that its no longer necessary to allocate much money to the program because we don't have to pay for tests. Its a circular argument that risks our nuclear deterrent. How did we get to the point where our most dangerous and sophisticated weapons receive less attention than the most mundane weapon?

Mr. Chairman, on the whole, H.R. 2401 is unsupportable. In my view, it sets us on a course that risks disaster, another hollow force in the short run and an inability to meet national defense missions in the long run.

Unless substantially changed, I anticipate that I will not vote to support the bill.

I thank the gentleman for the time.

Mr. DELLUMS. Mr. Chairman, I yield 3 minutes to my distinguished colleague, the gentleman from Virginia [Mr. PICKETT].

Mr. PICKETT. I thank our chairman for yielding time to me.

Mr. Chairman, during its consideration of the President's defense budget request, the Committee on Armed Services, and specifically, the Readiness Subcommittee, conducted a series of hearings on military industrial depots. To begin with, I would like to compliment the Readiness Subcommittee chairman, the gentleman from Florida [Mr. HUTTO] for providing the leadership necessary to take this important issue head on, and for his fairness for allowing all those interested to participate.

One of the primary objectives of these hearings was to try to establish the extent to which the depot-level workload of our military departments should be kept in house and what should be accomplished by the private sector. For several years, the Congress has been attempting to formally establish a level of maintenance and repair that should always be accomplished by the Government and not be offered for competition with the private sector. This basic level, or core, is necessary to maintain the ability of the military to keep the in-house capability to maintain critical inventory items that support the war fighting requirements of our Nation.

There is no doubt the production of military equipment is nearly nonexistent and the aerospace industry is fighting for survival. There are those that say we must maintain our defense contractor industrial base because when these companies shut their doors, we cannot reopen them quickly or cheaply. We cannot just put our work force on hold with the hope that one day they will be called—when they are gone, so are the critical skills that took years to build and maintain.

The same can be said for our military depots. It is a fact that the military is downsizing at near record levels. Men and equipment are being reduced at a rapid pace. One of the key elements of this drawdown is that we must accomplish the reductions with a keen eye on what will be left. We must be certain the support structure of the future will continue to keep our remaining forces at the high level of readiness we have come to demand and expect.

In the hearings before the subcommittee, many of the representatives of private industry stated they could and should perform more of the depot maintenance—that they need this work to continue to maintain their capability. There have been several recent articles in the press reporting the military services may want to put all of their depot-level maintenance in the private sector. I believe this would be a serious mistake. I am concerned that the loss of critical skills within the services maintenance and repair depots could affect the ability to surge in critical situations and also could eventually lead to the total loss of specific capabilities which could allow private contractors to establish prices without competition.

Mr. Chairman, I believe the depot maintenance task force, mandated in the committee bill, will be a significant first step in resolving these issues. It is my belief that a task force with representation from all sides is the only way we are to determine the correct mix of public and private depot workload. The ability of this Nation to respond to a national emergency, and respond as least as well as we did in Desert Storm, must be maintained.

Mr. SPENCE. Mr. Chairman, I yield 4 minutes to the gentleman from Pennsylvania [Mr. WELDON].

Mr. WELDON. Mr. Chairman, I rise in support of the committee chairman, who in his first year as chairman did, I think, a fantastic job in keeping a process moving very quickly and very open and very fair, working with our ranking Republican, the gentleman from South Carolina [Mr. SPENCE] who did a fine job of keeping all of our Republicans involved in the process and able to contribute to the success of this piece of legislation. The marathon markup that we held for almost 15 hours, and yet coming out of that markup with a sense of good feeling among the Members, is indicative of the kind of atmosphere both of those gentlemen created in this process.

I think we did make some improvements in the process. I applaud the subcommittee chairwoman, the gentlewoman from Colorado [Mrs. SCHROEDER] and our ranking member, the gentleman from Arizona [BOB STUMP] for allowing us to make some changes in the defense conversion section of the bill that I think will be good.

We in fact adopted some defense acquisition process reforms that the minority suggested.

□ 2030

We began a process of removing some of the bureaucracy that had been inserted in last year's bill when the administration was not so quick to respond to the defense conversion initiative. They were good changes and positive ones.

There were many other positive changes. I think what we did with the C–17 program was very positive and I support that, as well as what the gentleman from Virginia [Mr. SISISKY] and the gentleman from Utah [Mr. HANSEN] did in terms of reforming FEMA and the way FEMA operates and the way it interacts with the military, all positive changes.

But let me say, Mr. Chairman, I think we did the best we could in a very difficult, if not an impossible situation. That is partly because of the perception that is out there in America about defense spending. The perception is that we are spending more and more of our Federal money on the military. I think it is very important to keep things in perspective and perhaps a comparison that I use frequently back in my district.

Compare defense spending in two ways. One as a percentage of GNP, gross national product, and the other as a percentage of total Federal outlays. In the 1960's when John Kennedy was President at a time of relative peace after the Korean war, but before the Vietnam war, we were spending over 9 percent of our GNP on the military. We were spending over 50 cents of every Federal dollar on defense. That is in the 1960's in peacetime.

With this bill that we are going to pass and enact this year, we will spend about 3½ percent of our GNP of the country and about 17 cents of every Federal dollar.

So in terms as a percentage of total Federal outlays that come out of the Federal Government, we in fact are seeing a defense that is shrinking.

Let me say to my colleagues, I do not necessarily disagree with the need to cut back the military. I have supported the chairman on main programs like the B–2 and cutting back on two land-based missile systems; but the key thing that I think put us at a disadvantage this year is that we were making these cuts in a vacuum. We were not making them based upon a threat assessment.

It was a terrible disadvantage to us because our colleagues in this body expect us to go through the world troublespots and then come back and make recommendations based upon those threats.

It was Senator SAM NUNN who said, "No one knows where these cuts are going to come from. The numbers have been pulled out of the air." That is the reality of the situation and we had to deal with it and it was a very difficult task. We were handed a budget number and we had to deal with it.

In fact, Mr. Chairman, I am going to make a prediction as we begin the process of working on this bill now and in September. My prediction is that defense spending over the next 5 years is going to undo and undermine the Clinton economic plan. I say that because if you look at the Clinton economic plan, the largest and most substantive cuts are in the military. In fact, they total between $126 billion and $128 billion.

Now, I am one who believes we can make some additional cuts, but if you look at the comments that are being put forth by the Joint Chiefs of Staff that are on the record, if you look at the comments of the Defense Appropriations chairman, the gentleman from Pennsylvania [Mr. MURTHA], who is saying that we cannot live with these cuts in the outyears.

My prediction is that the defense cut levels that are predicted in the Clinton plan are not going to be able to be realized. Therefore, the Clinton budget is going to fall apart based upon the cuts not being achievable in the military segment.

Key Democrats, the Joint Chiefs and key Republicans are saying this. This is going to be our real challenge, a potential hollow force, unable to meet the needs that we have around the world and a substantial job loss.

There are two reports that I want to enter into the RECORD. One is done by the Congressional Budget Office and one by the Office of Technology Assessment, both this year, that project between 1.5 million and 2.8 million jobs over 5 years if these defense cuts are made. We are not going to be able to live with that as a House and a Senate, and I do not think the administration is, either.

Therefore, my key prediction is that the defense level that we are currently projecting in the Clinton plan over the next 5 years in fact will be the one straw that breaks the back of that plan and causes that economic plan to fall apart.

I thank the distinguished chairman for his leadership.

Mr. DELLUMS. Mr. Chairman, I thank the gentleman for his remarks.

Mr. Chairman, I yield 3 minutes to the distinguished gentlewoman from California [Ms. HARMAN].

Ms. HARMAN. Mr. Chairman, I rise in strong support H.R. 2401, the 1994 Defense authorization bill. This bill does several important things. It funds key national security programs to meet the post-cold war threats. It promotes our economic security by reinvesting in our industrial base. It takes care of people, both in the services and in transit to other careers. And finally, it makes record investments in environmental initiatives at the Defense and Energy Departments.

My district is located in the South Bay area of Los Angeles—the heart of America's aerospace industry, and a region that is reeling under the impact of falling defense budgets. My district's priorities are different from those of many of my colleagues, on and off of the committee. But I think we can all agree that it is time to make choices in our defense spending, as in every other area of the Federal budget. As defense spending is reduced further over the next few years, it is crucial that we fund only the programs we really need, so we can fund them well. There are a lot of tough decision ahead, but this bill starts us on that road.

The bill reported by the Armed Services Committee directs DOD to make choices and set priorities in many areas, including airlift, attack submarines, tactical aviation and missile defenses. It also increases funding for some new options—notably space vehicles, which I think is a key area. Many of these decisions will be part of Secretary Aspin's "Bottom-Up Review", and the committee has given defense planners the freedom to meet military needs as they think best while they cut overlap and duplication. I think this approach is responsible, and will give Congress a strong base for a more thorough review of defense spending in fiscal year 1995.

I was closely involved in several of these committee decisions and would like to highlight them. H.R. 2401 provides $1.4 billion for research and development on the F–18 E/F, the Navy's next-generation multirole fighter plane. It also provides $1.6 billion for F–18 C/Ds, which performed strongly in Operation Desert Storm and are flying today off all of our aircraft carriers. Nearly half of the F–18 is built in my district, and I think it is a sound investment in this time of hard defense choices.

I would also like to say a few words about the C–17 transport plane, which is built next door to my district in Long Beach and accounts for thousands of jobs in southern California. I have visited the C–17 plant, and I also have considered all of the testimony and materials gathered by the committee very carefully. I think that this bill takes the right action on the C–17 program: As requested by the Defense Department, it provides funds for airlift—which we clearly need—and gives Secretary Aspin time to look at requirements, cost, and capabilities and report an informed decision to the Congress. I hope that DOD can resolve its concerns in all of these areas and move the C–17 Program ahead, and I look forward to receiving its decision.

H.R. 2401 also provides over $3 billion for defense conversion and reinvestment programs. As Representative of a district hit hard by defense cuts, I cannot overstate how important these funds are. There is great human and physical capital in southern California, and many other regions, that we will lose forever if we wait for the market to replace defense spending with something else. The Research and Technology Subcommittee held a number of hearings on defense reinvestment and preserving the industrial base. We concluded that the Federal Government can and should help create market "pull" to jump-start new industries—industries that will employ defense workers to make dual-use and commercial products.

This bill does just that. It provides $575 million for the Technology Reinvestment Project, in which the Advanced Research Projects Agency and five other agencies will fund the development of key dual-use technologies, from aeronautics to communications to transportation. It also provides $50 million for ARPA demonstration of advanced technologies for electric vehicles for military and civilian use. And it authorizes $200 million to underwrite a loan guarantee program for shipbuilding, so that we can rebuild a key U.S. industry and recapture a share of that major world market. These investments will make our economy stronger and our defense more affordable, and will give former defense workers new ways to use their skills. I strongly support them.

There are important transition measures in this bill for people and property too. One program is based in part on legislation introduced by my colleague, Congressman STEVE HORN of Long Beach, to help ex-military personnel find jobs in law enforcement, teaching, health care, and environmental cleanup. This bill also provides more than $11 billion for environmental programs at DOD and DOE, including over $100 million for cleanup of bases on this year's closure list. California has a major share of these sites, and making them usable again is a very important part of our State's economic transition. Again, I commend the committee for its forward-looking work in these areas.

Mr. Chairman, I want to say a few words about one of the hardest issues that the committee dealt with in this bill: the gay ban. I have stated my view on this floor and in the Armed Services Committee, that the military gay ban is unconstitutional. I also have worked to revise the committee's report language to make clear that investigations of violations of the Uniform Code of Military Justice will proceed in an even-handed manner. Just as the military is affected by forces in international affairs and by trends in the national economy, it must be impacted by trends in American society—and that includes evolving views about homosexuality.

Finally, Mr. Chairman, let me say how extraordinary is the opportunity to serve under the committee chairman, the gentleman from California [Mr. DELLUMS]. He is fair. He is a passionate advocate of his point of view. He is multidimensional, and he knows well how to use what he aptly calls the "potent podium" behind which he sits. I am honored to be his sister Californian on the committee.

Mr. SPENCE. Mr. Chairman, I yield 5 minutes to the gentleman from California [Mr. DORNAN].

Mr. DORNAN. Mr. Chairman and my colleagues and the 1 million Americans, if that audience still hangs on through C-SPAN approaching the 9th hour on the east coast and to a few visitors in our gallery here who have enough interest in our defenses to stay with us——

The CHAIRMAN (Mr. REYNOLDS). The gentleman will address his remarks to the Chair.

Mr. DORNAN. I thank the Chair.

Mr. Chairman, I would like to point out that it has been a pleasure to serve under the gentleman from California [Mr. DELLUMS] as chairman.

I want to be very delicate in my words here and not criticize past majority party leadership, but there has to be a certain amount of honor given to someone who, although he uses the potent power of the podium, as the prior speaker just put it, allows the minority voices to be heard as potently as they choose.

The gentleman and I, over the 16 years that I have been here and the 22 years that the gentleman has served in this Chamber, we have always agreed that this Chamber and all our fellow American citizens benefit from wide open, robust, hard debate, and that makes it a joy to serve under the gentleman.

The press, over the public lifetime of the gentleman from California, has described him—this is the dominant media culture—in a flattering way as a peace warrior.

They have described me—and others—in not quite a flattering way as a cold war warrior.

And yes, on active duty as a combat ready fighter pilot under a five star general who spoke at that podium, more than anybody else, except for Franklin Roosevelt and followed by Ronald Reagan, I was never called upon to harm any other mother's son. That is the way I wish all of our fine young men and women to serve in our services.

□ 2040

Mr. Chairman, in this House, in 1977, in the depths of depression when I first got here, defense depression with a hollow force, I remember telling my brothers one night after I got home that I thought we were hell-bent toward a nuclear exchange someday because of the way we were allowing our defenses to collapse, thereby tempting an evil empire.

Now I would like to point out to the gentleman from California [Mr. DELLUMS] and all those who follow his leadership, that his goal, as a peace warrior, was always to stop people from brutalizing one another and to maximize freedom, but, as a cold war warrior, and that definition meant "very bloody, very hot, dozens of airplanes, Navy and Air Force, shot down on the perimeter of the evil empire, 33,629 killed in combat in Korea, 47,135 killed in combat in Southeast Asia," that was part of the cold war, and my objective, and I think this is why we respect one another, was identical to the gentleman from California: to stop people from brutalizing one another and to maximize freedom. So, if our goals are the same, then let us continue that robust debate.

On my side I want to thank the retired Navy captain who has never retired from defending his country and living up to that line in the Preamble that says, "To provide for the common defense." It is great to have as our skipper on the Republican side Capt. FLOYD SPENCE of the great Palmetto State.

Now it is time for me to brag about something I think I contributed to here, Mr. Chairman, and Mr. Chairman, and Mr. Republican Leader. H.R. 1670 was my freestanding bill to keep that 2.2-percent pay raise, and I appreciate the wisdom of all of my colleagues on both sides putting that money back in the bill because the almost 6 years I wore a flight suit I never considered myself just a Federal worker. Postal workers work hard, but they do not deploy 52 percent of the year to sleep in eight hot bunks on one of these assault helicopter ships in the Marine Corps. That 2.2-percent raise was an integral part of our combat readiness.

Also, my freestanding bill: 667, which got up to 107 sponsors before Senator NUNN in the other Chamber made it pretty much policy, I think resolved, and I refuse to use the word that is an adjective for gay, cheerful, happy. I repeat what I said in committee: 110,000 dead male homosexuals for anal sex is not happy. It is a homosexual ban, and it is a ban plus.

Also I want to thank the chairman for putting in those 36 OH-58D Kiowa Warrior helicopters. That gives us a robust aeroscout role.

I also thank the gentleman for the recommendation to fund single-stage rocket technology, which will, I think, create a lot of jobs in my old district there in the South Bay, and it will revolutionize military and civilian space launch capability.

There are still some very dangerous shortcomings in this bill, shortcomings that can cost us lives on the battlefield. Remember it was 50 years ago this week that the young Lt. John F. Kennedy was cut in two by a Japanese destroyer near Brackett Island and, this past weekend, August 1, 1993, marked the 50th anniversary of the famous U.S. Army Air Force bombing raid on the Nazi oil refineries at Ploesti, Rumania. On that day, 177 four-engine B-24D "Liberator" long range bombers, each carrying 4,000 pounds of explosives, took off from bases in Libya and flew across the Mediterranean and the mountains of Albania and Southern Serbia. Then, after crossing the Danube River in Bulgaria and passing the city of Pitesti in Rumania, these large bombers, commanded by Brig. Gen. Uzal G. Ent, dropped to just 500 feet in altitude—"on the deck." Lower and lower, finally, literally dodging chimneys, as well as heavy antiaircraft fire, the aircraft dropped 311 tons of explosives on the oil fields destroying 40 percent of the oil production which supplied 40 percent of the Axis petroleum needs.

The cost of this operation, called Tidal Wave, was very heavy. Fifty-four aircraft were lost and 532 men were killed or captured. Five participants in the raid were awarded our military's highest decoration, the Congressional Medal of Honor. They were Col. John R. Kane, Col. Leon W. Johnson, Lt. Col. Addison Baker, Maj. John J. Jerstad, and 2d Lt. Lloyd Hughes. Let us never forget the heroism all of those who participated in this famous raid, OR, what we can do today to minimize the allied casualties in, if Plato was correct, tomorrow's bombing operations. Plato wisely observed that only the dead have seen the end of war.

This past week, the House Armed Services Committee rejected a proposal by both the Department of Defense and the United States Air Force, to provide the revolutionary B-2 "Shadow" long range bomber with near-term precision-guided conventional munitions. Unlike the B-24, which carried heavy protective armament in the form of machine guns but still required significant fighter escort, the beloved "little brothers," the B-2 relies on "stealth" technology to remain virtually invisible to enemy radar detection. Like the B-24, the B-2 has tremendous range and payload making it capable of delivering thousands of pounds of explosives nearly anywhere in the world.

The program we failed to fund, but hopefully will agree to in conference with the Senate, is called GATS GAM.

GATS stands for GPS (Global-Positioning-Satellite) Aided Targeting System. GAM stands for GPS Aided Munition. GATS would use the B-2's already advanced radar system to accurately locate targets. This would be especially useful in targeting mobile targets such as the elusive Scud launchers in Iraq. Meanwhile, GAM would improve both the accuracy and the flexibility of bombs dropped by our B-2's. A GPS-aided munition like GAM could be dropped in any type of weather and along with GATS would ensure target accuracy within just a few feet.

By proceeding forward with this program, we would have an operational capability by mid-1996, at least 2 years earlier than any other program. With renewed ballistic missile development in North Korea, continued brutal killing in the Balkans, and continued terrorist activity in the Middle East, we very well may need this capability during those 2 years earlier. I'm sure the bomber crews of the 1943 Polesti raid would have treasured such a capability 50 years ago on a hot August day, penetrating deeper into hostile skies than any air warriors in history with no advantage of surprise.

Let's not forget the lessons of history when we make defense decisions for tomorrow. Modest investment today in programs such as GATS GAM can help ensure both the success and survival of our brave air crews who may have to fly dangerous missions against heavily defended strategic targets. As Dwight D. Eisenhower once commented:

> We should base our security upon military formations which make maximum use of science and technology in order to minimize numbers of men.

Mr. Chairman, 50 years in history is a snap of the finger. Let us not relive that.

Mr. DELLUMS. Mr. Chairman, I yield 1 minute to the gentleman from Texas, Mr. PETE GEREN, for the purposes of a colloquy.

Mr. PETE GEREN of Texas. Mr. Chairman, I rise to seek clarification of the committee report that accompanies H.R. 2401, the National Defense Authorization Act for fiscal year 1994. Specifically, I seek clarification of the procurement report language for the F-16 aircraft.

It is my understanding that the procurement tables contained in the report are correct and reflect the action taken by the committee on this program. And, that paragraphs two and three of the accompanying F-16 report language are incorrect and do not reflect final committee action.

Mr. DELLUMS. Mr. Chairman, will the gentleman yield?

Mr. PETE GEREN of Texas. I yield to the gentleman from California.

Mr. DELLUMS. Mr. Chairman, the gentleman is correct. The F-16 report language as recommended by the committee should read:

> The budget request contained $724.7 million to procure 24 F-16 aircraft in fiscal year 1994 and $70.8 million for advance procurement for fiscal year 1995.

The committee recommends authorization of $724.7 million for procurement of 24 F-16 aircraft in fiscal year 1994 and $70.8 million for advance procurement for fiscal year 1995.

Mr. PETE GEREN of Texas. Mr. Chairman, I thank the gentleman for California [Mr. DELLUMS], and let me just say in so in conclusion that I want to add my voice to those who have expressed their appreciation to the gentleman for his outstanding leadership in leading our committee this year. I say to him, "Thank you, Mr. Chairman."

Mr. SPENCE. Mr. Chairman, I yield 3 minutes to the gentleman from Colorado [Mr. HEFLEY].

Mr. HEFLEY. Mr. Chairman, let me say at the outset that there is much good about this bill within the bounds that were given to us, and the chairman, the new chairman, of our committee and our new ranking member led us very well through 15 grueling hours of committee work to try to produce this product, and, as I say, given the bounds within which we were confined, I think it is a pretty good product. But I want to express that I am concerned about the directions we are going with our national defense structure in this country.

Mr. Chairman, over and over in this committee General Powell and Dick Cheney used to come before us, and they would plead with us to let us draw down in a reasonable way. They would point out that we have never in this country drawn down in a reasonable way because we are a nation of Pollyannas. We want to believe everything will be just fine and that we will not have any more wars.

Mr. Chairman, after the First World War we dismantled. After the Second World War we dismantled. After the Korean war we dismantled again. And after Vietnam, Mr. Chairman, again we dismantled our defense structure. It would appear that now that we feel we have won the cold war that we are all in the direction, not entirely with this particular bill, but in the direction over the 5-year plan of dismantling our defense structure again.

President Bush's defense cuts have already lowered defense spending by 27 percent since 1986. I think that pretty well fit into the design that General Powell and Dick Cheney were talking about of a reasonable drawdown.

But the Clinton proposal added an additional $127 billion over 4 years, reducing defense spending by 45 percent since 1968.

I am concerned about that precipitous a reduction. By fiscal year 1997 defense spending as a percentage of gross domestic product will be at its lowest level since before World War II. Since 1985, procurement of weapons systems has declined by 57 percent. Of course this means many jobs lost, both military jobs and private sector jobs, but maybe even beyond that.

And maybe even more important than that is the danger of losing our defense industrial base, which, as has been pointed out by other speakers, once lost, cannot be reconstituted quickly in case of a national emergency, and believe me, my colleagues, there will be more national emergencies. It is not over. It is not going to be peace on earth forever. We will have other national emergencies.

There are cuts in troop levels. Five hundred thirty thousand active duty, reserve, and civilian personnel have been put out of work since 1988. Currently, there are approximately 1.8 million active duty soldiers. Clinton wants to draw down to 1.4 million.

Mr. Chairman, when Secretary of Defense Aspin was before our committee this year I asked the following question:

"Les, is the drawdown that you are proposing, the levels you are proposing, the amount of spending you are proposing, is this based upon a threat assessment, or is this based upon thin air?"

He hesitated a moment, and he said, "Well, in the outyears it pretty much comes out of thin air."

Mr. Chairman, that is not the way we ought to be doing business. We ought to be looking at the threat assessment and weighing it very, very carefully. It should not be a matter of the President calling down and saying, "Les, we need so many billions of dollars, we want to spend it for something else, and it's got to come out of defense. Find it somewhere."

That is not the way to do business.

□ 2050

I would hope as we look at this bill and as we look at defense bills in the next 2 or 3 years, we will be very careful to be mindful that the defense of this Nation is the most important thing the Government does.

Mr. DELLUMS. Mr. Chairman, I yield 3 minutes to the distinguished gentlewoman from Oregon [Ms. FURSE], a member of the committee.

Ms. FURSE. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, there are many important initiatives contained within this fiscal year 1994 defense authorization which we have before us today. I am very proud to serve on the Committee on Armed Services, but especially to serve under the distinguished chairmanship of the gentleman from California [Mr. DELLUMS]. I am also proud to serve on the Subcommittee on Research and Technology chaired by the gentlewoman from Colorado [Mrs. SCHROEDER].

Mr. Chairman, there are items in this bill that I am particularly pleased with. We have begun the process of reducing funding for certain cold-war-era weapons systems, such as star wars. We have started on the path toward prohibiting research and development of low yield nuclear weapons. These are clearly inappropriate as we attempt to convince the rest of the world to stop nuclear proliferation. And we have urged in this budget that defense contractors prepare to move toward dependence on producing weapons to dependence on other types of manufacturing. We have authorized $11.4 billion for environmental restoration, and we have begun, Mr. Chairman, to address the long neglected health care needs of the women who serve in the U.S. military.

So although we are going in the right direction toward establishing new priorities for national security, yet in my view we are not moving fast enough. This budget does not yet accurately address the real security needs of the United States for the 21st century. It is still focusing too much on warmaking and too little on conflict resolution. There is too little support for our military personnel and our veterans as they seek to rebuild their careers and their lives. There is too little funding for defense conversion to rebuild our economic foundation, and we know that conversion is working and it will flourish.

Now, in this budget we have no need to fear that a budget of $260 billion will put us at a security disadvantage. The next largest national defense budget is that of the United Kingdom, at $42 billion.

My concern with this budget is one of national economic priorities, because so many of our society are suffering and they need our support, and we have to turn them away for lack of resources.

Mr. Chairman, I believe in a strong national defense, and I believe that true national defense means strong and healthy communities. It means building healthy businesses and investing in education and our children. But in many ways we have begun to design a U.S. military that more accurately reflects this country's security needs, and I look forward to working with the distinguished chairman as we design that new security. We have begun the work, and I believe with the leadership of the gentleman from California [Mr. DELLUMS], we will reach our goal, which is national and international security based upon global peace.

Mr. SPENCE. Mr. Chairman, I yield 5 minutes to the gentleman from California [Mr. CUNNINGHAM], our Top Gun Navy pilot.

Mr. CUNNINGHAM. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, first of all, I would like to thank my chairman, the gentleman from California [Mr. DELLUMS]. I stated this in subcommittee, committee, and the press. We may disagree on a lot of issues, but the gentleman has not only been fair, he has been supportive, and there is not an issue that he has not allowed fair debate on. I know the chairman stands by that, and I would like to thank the gentleman for that.

Mr. Chairman, I do have some concerns. I served 20 years in the U.S. Navy. I have flown in combat. I was on 7th Fleet staff, which was the defense of other countries. I was a commanding officer of an adversary squadron. I flew not only in Vietnam, but in Israel. And from that combat and the needs of the men and women that work in that program and DOD every day, gave me a pretty good look at what we need in the future for the defense of this country. I have some real concerns, and I would like to go over those concerns.

Mr. Chairman, first of all, the $50 billion cut, which is a 30-percent cut, was attributed to George Bush. I would like to remind my colleagues that George Bush did not get his budget, just like we will not get our budget tomorrow. George Bush would not have cut $50 billion. And in the upcoming Clinton budget that we will be looking at tomorrow, there is a defense cut of an additional, above the $50 billion, $127 billion. One hundred twenty-seven billion dollars. And at the same time we are looking for ways to take dollars out of the rest of DOD.

Some of those, for example, will be going to Russia. We had an amendment that tried to earmark those for defense issues. For example, I think colleagues on both sides of the aisle would support DOD dollars going to dismantle nuclear weapons in Russia. I do not want my children looking at them, and neither do the Members of the other side. But yet those dollars were put into a general fund. That is wrong.

Most members on this committee, and I stress "most members," probably 99 percent of them, support the men and women in the military service. But there are some members on this committee where if the defense program is not in their district, they let us kill it. If we can weaken it and provide money for the social agenda, let us kill it.

Those Members that supported the total lifting of the ban on homosexuals, that have never fired a shot in anger, that have never been in combat, I would ask them to stick to the areas that they are knowledgeable about. Because both Colin Powell, the Joint Chiefs, and the rest of them, have stated that homosexuals are not compatible in the service. Ninety-seven percent of those people that have to serve with them say it is not compatible with what they do.

Mr. Chairman, I am not black, which is quite evident, but I attend a lot of black churches in my district. They have told me that to confuse civil rights with the homosexual agenda is wrong, that it is a disservice to the community. When 97 percent of the military do not support it, it is wrong.

We kill systems and try to prevent the advancement of those systems. A good example is the ARGUM program. There are those Members that would stop the advancement of the B-2, even though the numbers have dwindled down. ARGUM is a system that allows a 60-foot CEP for a weapon, and with a radar would bring that distance to the target that you would miss to 20 feet. Since it was an interim service, they found a way to say let us put it on the B-1. The B-1, you cannot even hang a bomb on the wing, and there is no electrical service that goes down to release that bomb. So it is not an effective system.

Mr. Chairman, my main concern is the lack of DOD and this committee on the procurement of aviation. Since the A-12 has gone down, we are looking at an F-22. The Navy is looking at an F-18EF, which I have flown. I have flown the F-14, -15, -16, and -18, and I can beat the F-18EF today, and that would be our front line fighter in 20 years. That is wrong.

Mr. Chairman, I was not aware that the F-16 procurement is in there, and I was glad to see that.

AFX has been canceled. What do we do? In the year 2010 we have no plan for a high-end fighter for the Air Force or the Navy, and we need to adjust that.

Mr. Chairman, I have supported women in combat, and I winged the very first F-14 female pilot at Kingsville, TX, just 3 weeks ago. I think she will serve with distinction.

But I would also ask the Secretary of the Navy to put Tailhook behind us. It is time that we press on and serve the men and women in the services that we have.

Mr. DELLUMS. Mr. Chairman, I yield 3 minutes to the distinguished gentlewoman from Illinois [Mrs. COLLINS].

Mrs. COLLINS of Illinois. Mr. Chairman, H.R. 2401, the Department of Defense Authorization Act for fiscal year 1994, moves us forward on a number of important priorities relating to the anticipated style of conflicts of the 1990's and early next century. However, the bill also suffers from some serious shortcomings of great consequence to our society.

First of all, I would like to commend the chairman of the Armed Services Committee Congressman RON DELLUMS, for crafting an authorization that revamps some of the past assumptions about our national defense. In particular, the focus on conversion of certain Defense activities and facilities toward other uses is to be lauded, as this was a difficult task. The bill's attention to environmental cleanup and remediation of Defense facilities is an example of how long-overlooked needs in the Department are finally getting the attention that they demand. Much needs to be done in this area and I am pleased that we are getting on with this business.

In addition, the provisions that promote gender equity in the DOD are of profound importance and deserve high praise. No longer may women in the military be viewed as mere accessories, restricted to positions that conflict with their ambition, training, and skills. America still needs a large dose of increased opportunity for women in virtually all fields, and I hope that tearing down the wall within the DOD, which has traditionally been very heavily male-dominated, will go far in sending such a message to all sectors of society.

Unfortunately however there is a shortcoming in this bill that concerns me. It is that H.R. 2401 fails to give a similar boost to minority businesses in our country. In 1986, the 1207 Program was created to establish a 5-percent set-aside for small disadvantaged businesses [SDB's] in DOD contracting.

Unfortunately, it must be noted that this program has never been given the top-level support, nor the administrative tools, that it needs in order to succeed. The 1207 Program has still not reached its 5-percent goal and, until recently, only resulted in contracting with SDB's in the 2- to 3-percent range. This is inexcusable, shocking, and downright unfair.

During the 1980's and early 1990's, the Reagan and Bush administrations offered no real encouragement to SDB's and even erected new barriers to SDB participation in Federal contracting and subcontracting. Some of these impediments included emphasis on long track records and imposition of bonding and capitalization requirements, all of which favored older, more established firms. All in all, the Reagan era contracting policy seemed to disdainfully thumb its nose at minorities, ignoring our contribution to American productivity, and the Bush administration perpetuated the transgression. Bureaucratic resistance to the 1207 Program was made possible by appalling indifference at all senior levels of those administrations.

Thus, with the start of a new era, many of us have been hopeful that we could start fresh, by equipping the 1207 Program with serious tools so that it could accomplish its original aims. In fact, the House of Representatives originally passed this program as a 10-percent set-aside, and there remains the need to bring the program up to this level. In a country where, by conservative estimates, about 25 percent of the population is composed of people of color, it is a pathetic illusion of fairness to assert that the Government needs to only do 5 percent of its business with so many millions of its citizens.

Consequently, I am disappointed that H.R. 2401 has, in effect, failed to statutorily reverse this state of affairs. Earlier this year, I introduced H.R. 1609, the Department of Defense Set-Aside Enforcement Act to remedy these inequities, bolster the program and equip it with concrete teeth for enforcement of the program. I regret that the Armed Services Committee chose to look disfavorably on H.R. 1609's provisions and ignore the plight of minority businesses trying to do business with the DOD. I will, however, continue to advance these concerns.

It is no longer sufficient to establish small-dollar, token demonstration projects. It is no longer satisfactory to point to a remote tangent of a program and suggest that the interests of 25 percent of our Nation's citizens are accommodated thereby. Instead, this is a time when fortitude must be summoned, to do what is equitable and just to create opportunities for all Americans, not just those who traditionally have done business with the Department of Defense.

Today, highly skilled minority-owned businesses have come of age in a full range of activities, from high-tech manufacturing in information and telecommunications industries to environmental cleanup and financial services. They must be recognized for their contribution, and the 1207 Program must be improved to facilitate their full access to DOD contracting and subcontracting dollars.

In short, Mr. Chairman, we were serious about our commitment to these concerns when we wrote them into our laws as the 1207 Program. It is incumbent upon us therefore, to take steps to improve the program and establish a viable enforcement mechanism.

It simply is no longer satisfactory to ignore the role of millions of Americans in the Defense process under the guise of moving forward on other issues. The two are not incompatible. We simply must recognize this fact.

□ 2100

Mr. SPENCE. Mr. Chairman, I yield 3 minutes to the gentlewoman from Florida [Mrs. FOWLER], who is a very vigorous freshman of our committee and represents the district formerly represented by our colleague, Charlie Bennett.

Mrs. FOWLER. Mr. Chairman, as a freshman on the House Armed Services Committee, I would like to commend the chairman and ranking member, FLOYD SPENCE, for his fairness to the freshmen members. I look forward to a continued relationship with my colleagues on this committee as we work to maintain a quality military.

The Defense budget has been on the decline since 1985 and will continue to plummet rapidly under the proposed Defense budget. This trend is nothing short of dangerous—it threatens the safety of our Nation.

Today this country is involved in three active conflicts in Somalia, Iraq, and the Balkans. And as we have all heard on the news in the past 48 hours the President is considering a more active role in the Balkans. We have the people to fight these conflicts and win in 1993 but will we have the ability to win them in 1995 or 1996?

We cannot afford to cut any deeper without jeopardizing the efficiency and effectiveness of the U.S. military. We are losing our ability to deter and defend.

This drawdown is about people, men and women who have sworn to protect this country with their lives and whom we reward with inadequate pay, training, and equipment—or with a pink slip.

Yes, the cold war is over, but we cannot assume that there will be no enemy rather we have to maintain our readiness for our ability to meet potential enemies and to win future conflicts.

Mr. DELLUMS. Mr. Chairman, I yield 4 minutes to my distinguished colleague, the gentlewoman from California [Ms. WOOLSEY].

Ms. WOOLSEY. Mr. Chairman, I rise today to commend the work of the chairman of the Armed Services Committee, Mr. RON DELLUMS, for his tireless work toward achieving a more sane defense policy for this Nation. I also want to make a point about two issues—first, excess defense spending, and second, discrimination against gays and lesbians in the military.

"The cold war is over." We have heard this phrase repeatedly in the House during the past few days. But, while Members of Congress keep using this phrase, we are failing to translate the message into sound peacetime spending policies.

For example, in terms of current dollars, America spent $231 billion on defense in 1975. This year's bill calls for $263 billion in defense spending, a budget that is five times that of the State of California. In 1993—a year when America has no superpower enemy—Congress is considering a bill to spend $32 billion more than the defense budget that was passed during the Nixon years. The bill does make cuts in some of the wasteful Reagan-Bush programs, but we are still spending far too much in light that the "cold war is over."

Later in the defense appropriations debate, my colleagues and I will be offering an amendment which takes aim at a most glaring example of Pentagon waste. Mr. DELLUMS, Mr. PENNY, and I will offer an amendment to save the taxpayers up to $10 billion by ending procurement of the Trident D–5 nuclear missile. This submarine-launched missile is a cold war weapons system. We already have 295 D–5's that will last well into the 21st century, and we certainly don't need more. In light of our lessened cold war defense needs, our alarming budget deficit, and our urgent need to improve programs for children and families, we cannot afford to continue this wasteful spending on Trident D–5 nuclear missiles.

As I said, Mr. Chairman, our defense budget is no lower than it was in 1975, but our policy toward gays in the military is no better than it was in the dark ages. On the policy of "don't ask/don't tell," I say, don't ask me to support it; don't tell me that it's fair. The proposal contained in this bill would not only gag gay and lesbian soldiers from admitting their sexual orientation to anyone, including family members; it would also prohibit conduct on and off the base. Moreover, it will continue to subject soldiers to unjust investigation and persecution. Mr. Chairman, I find it outrageous that the Department of Defense has wasted hundreds of millions of taxpayer dollars to conduct witch hunts, which amount to nothing less than an internal war against the citizens of this country.

Here in this Chamber, we must do what is right. We must strike codification of the "don't ask, don't tell, don't pursue" policy.

Mr. Chairman, in November 1992, the American people elected 110 new Members of Congress because they wanted change. I can tell you, Mr. Chairman, that I do not see enough change in this bill.

Mr. DELLUMS. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Pennsylvania [Mr. KLINK].

Mr. KLINK. Mr. Chairman, I thank the distinguished gentleman for yielding time to me.

I am not a member of his committee, but as a member of the Democratic Steering and Policy Committee, I worked very hard to try to get two of our Members from our State on the committee, and we did that, the gentleman from Pennsylvania [Mr. MCHALE] and the gentleman from Pennsylvania [Mr. HOLDEN]. I trust that they are contributing members of the committee.

I rise to talk tonight about the fact that we understand, as I come from the Pittsburgh area and it is the arsenal of democracy, I was happy to hear some of the Members talk earlier about the need to keep that defense work force in place.

We share your concerns with that. There are so many things the gentleman from California [Mr. DELLUMS] and the members of the committee have to look at. Not only do we look upon them to keep our armed services ready and to make sure that we have a fighting force, if and when we need it, but there are so many other smaller details in addition to the big picture that they have to look at.

I wanted to bring just one such item to Members' attention tonight. And that is, we are downsizing the military. We are also getting rid of a lot of our strategic materials stockpile. We are going to be voting on a reconciliation bill. And a part of this is to show America that we can manage. To manage we have to manage the little parts of the picture, too.

I just want to talk about something that relates to my district. Part of the stockpile is zinc.

□ 2110

Part of this stockpile is zinc. People out there might say, "What is so important about zinc?" The fact of the matter is that we are currently selling off this stockpile at $100 per ton less than the price that is being paid by our U.S. Mint, who uses this zinc to mint pennies. As a result, we could actually save the Federal Government $2.5 million a year if we would be able to work out a methodology where we could transfer from one part of Government, that is, the Department of Defense, over to the U.S. Mint, so there are many things like that we need to look at, of course, as we are downsizing.

I trust the chairman who is taking over this committee at one of the most challenging times, from what I have heard from the members of the gentleman's committee, he is certainly up to the task, and I look forward in my committee assignments and here on the floor to working with the chairman.

Mr. DELLUMS. Mr. Chairman, I yield 5 minutes to my distinguished colleague, the gentleman from New York [Mr. HOCHBRUECKNER].

Mr. HOCHBRUECKNER. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, I guess I will have to give a New York style speech here. I have a 7-minute speech, and I only have 5 minutes to present it. Let me speak quickly and to the point.

Over the last 25 years I have been very heavily associated with the naval aviation field, first serving in the U.S. Navy, then in aerospace engineering for close to 20 years, and now for 7 years in the House Committee on Armed Services. I have a great concern about naval aviation and its future.

We have to recognize that in the future of our Nation the navy is going to be the out-front service. As we look at our base closings overseas, it is very clear that by 1995, based on testimony we have heard in committee, that 51 percent of our overseas base structure is going to be on the way to shutdown. They will mostly be Army and Air Force bases, as we pull over 200,000 of our troops out of Europe. Consequently, the Navy will be the outfront service, and it is imperative that the Navy have the aircraft it needs, because it wil be the aircraft carriers that will be out front presenting the U.S. flag and protecting our interests around this world.

Certainly, nuclear is out, conventional is in, and good conventional aircraft are what we need for the future protection of our national interests.

The bill before us is not a perfect bill. It is a good bill, and I will support it, but it has some problems. There are two problems that the people of this Nation should be aware of that need to be corrected in the future. The first is that the Navy in fiscal year 1994 will be taking a $5.7 billion cut, contrasted with the Army's $3.2 billion and the Air Force's $2 billion. If we add that up, what it means is that the Navy this coming year will have a $500 million greater cut than the sum of the Air Force and the Army cuts. That is not fair, especially in light of the fact that the Navy will be the out-front service in the future. That is the first funding problem.

The second funding problem is that naval aviation has been shortchanged. Since 1985, defense spending has been declining. In fact, the Navy's budget has come down 26 percent since 1985, while naval aviation's budget has come down by 45 percent. If naval aviation in the last 7 years had just taken its equivalent share of the defense cuts, there would have been $13.5 billion more allocated to naval aviation, and we would not have naval aviation in the disarray that it is today.

Clearly naval aviation needs help. If we look at the plan this year, the bad news in this budget bill is that the A/FX is cancelled. Clearly this is the next generation of attack aircraft that is essential to our Navy and its future. The A–6 Intruder is a great aircraft. I worked on it 30 years ago when it had a drum memory computer. It is a great aircraft, but its time has passed. It is time for the next generation of attack aircraft.

Whether we call it an A/FX, a JAF, or an XYZ, it makes no difference. It has to be developed by the Navy and it has to have deep-strike capability, and hopefully a fair amount of stealth. We have to put that program back in place. Hopefully, the "Bottom-up Review" will indicate that we need that plane, and we will then restore funding next year, and all we will have seen is a 1-year delay in the program.

The good news is that the Grumman F–14 Tomcat will be upgraded to an attack version. That makes a lot of sense. That is something I have been promoting for the last 3 years, and I am delighted that the Navy asked for it this year, and both the Senate and the House Committees on Armed Services have seen fit to fund that program this year. I think it makes a lot of sense as a gap-filler between the A–6's as they get demobilized toward the end of the century until the A/FX or JAF or XYZ comes along to replace it. We really do need an attack version of the F–14.

Mr. Chairman, clearly this is a good bill, and the chairman, the gentleman from California [Mr. DELLUMS], is to be commended for the excellent work that he put into it, but nothing is perfect on this Earth. Clearly, this is a program that needs some changes.

I am hopeful that in the coming months and next year we will be able to correct some of these funding deficiencies that do exist in this bill, and in fact get on with supporting naval aviation in order to assure that the Navy, as the lead, out-front service in the future, is properly equipped with the best aircraft that this country can provide.

Mr. Chairman, I thank the chairman of the Armed Services Committee for the opportunity to say my piece on this important bill. It is a good bill. It deserves the support of this Congress, and I certainly intend to strongly support it.

Mr. DELLUMS. Mr. Chairman, I yield myself the time remaining on this side of the aisle.

The CHAIRMAN. The gentleman from California [Mr. DELLUMS] has 4 minutes remaining.

Mr. DELLUMS. Mr. Chairman, we are now in the last minutes of this debate. I would like to make a few comments and observations.

First, my distinguished colleague, the gentlewoman from Illinois [Mrs. COLLINS], made a very significant and important point here. Many of these concerns of the gentlewoman, in this gentleman's humble opinion, will be addressed at the point where we bring an acquisition reform bill to the floor in a separate piece of legislation, so many of the issues that could not be resolved in the context of this bill before us hopefully will be resolved in the context of the acquisition reform legislation. I look forward to working with my distinguished colleague in those areas. We both have no differences of opinion, and have been very strong advocates in that regard.

Second, Mr. Chairman, this is my first time coming to the floor as Chair of the Committee on Armed Services. It is a very interesting point of departure, because for the last 22 years this gentleman has tried to be the loyal opposition, to challenge ever-increasing military budgets, to challenge increasing nuclear weapons, to challenge militarism and intervention. Now I find myself on the floor bringing a piece of legislation that in some ways embodies a great deal of that, but I think that this committee has taken a turn. One has to view this bill in transition terms.

The cold war is over, the Berlin Wall is down, the Soviet Union no longer exists, and the Warsaw Pact has vanished over the radar screen. In this gentleman's humble opinion, while this bill has done some good things, I agree with a number of previous speakers who have said that we can go further. We can, indeed, do more.

There were certain handicaps this year. As I have said in other forums, this is the easiest budget, Mr. Chairman, the easiest budget for us tomorrow. What will become difficult is the budget next year and the year after that and the year after that and the year after that.

Over the years we have talked about left wing, right wing, and center We have talked about peace advocates and cold war years. We now have to reach to new ideas and new paradigms and new policies and new philosophies where those labels do not exist. We have to come to the floor with enough intellectual honesty to attempt to redefine national security, to attempt to redefine the threat that exists out there in very real and nonpolitical terms.

Mr. Chairman, we have to grapple with significant issues: What is the appropriate level of force as we proceed to the 21st century? What is the definition of force in a post-cold war world? What is the application of force in the post-Cold War world? What is the nature of our responsibilities in the world? Do we move closer to international arrangements that preclude us from engaging in militarism in the world as we have done in the past? How do we really engage in economic conversion?

It is easy for us to talk about no longer building B-2 bombers and building effective mass transit systems: no longer building weapons of war and destruction, but enhancing the quality of human life. Now the moral imperative is, how do we truly do that?

This bill starts down that road. It is a long way from where we have to go, but Mr. Chairman, I challenge each and every one of us as we begin to debate now this post-cold war era to come to the table with enough intellectual honesty to grapple with each other significantly, to try to reshape our national forces in ways that make sense, to bring our military budget down in ways that make sense, to reorder our national priorities in ways that make sense, and address the pain and the human misery of our people.

□ 2120

And I look forward to that effort, and I plan to contribute to that with as much significance as I can.

The role of the chairman is to try to help achieve a consensus, but there is also another RON DELLUMS, and that is the RON DELLUMS that is elected from the Oakland-Berkeley area in California. And I will come to the floor with that person wanting to engage you significantly around the politics that we have to pursue as we march into the 21st century.

The CHAIRMAN pro tempore (Mr. REYNOLDS). The time of the gentleman from California [Mr. DELLUMS] has expired.

Mr. SPENCE. Mr. Chairman, I have no further requests for time, and I am pleased to yield 2 additional minutes to the gentleman from California [Mr. DELLUMS].

Mr. DELLUMS. Mr. Chairman, I thank my colleague.

Finally, let me say that it has been a great pleasure to work with my distinguished colleague, the gentleman from South Carolina [Mr. SPENCE]. He is a good and decent man. We have very different politics, but he is open and easy to work with. I tried diligently to communicate openly and hopefully effectively with all of my colleagues on the Republican side of the aisle, because I think that the debates and the discussions, the fights that we have ought to go down around substance and policy, not around process and procedure. We ought to be about openness. We ought to be about fairness. We ought to be about protecting the rights of all of our colleagues. Some have complimented me on the Republican side for standing firmly in support of the rights of minorities, and maybe that is because I have been one all of my life, and I understand what that is all about.

But I came here truly committed to an open and honest debate. So let our differences be differences of substance, not on process.

Mr. Chairman, I am very proud of the fact that I have met with our Republican colleagues on more than one occasion, that we marked this bill up, and five of the six subcommittees were marked in the open, not in the dark, and 12 of the 14-plus hours of discussion and debate in marking up this bill was done in the open, with the press and the public there being able to scrutinize and see the kind of decisions that we make.

Finally, I am very proud of the fact that while my becoming chair of this committee in some way may be some minor footnote in history, I would also like to point out that in becoming chair of the House Armed Services Committee I appointed Marilyn Elrod to be the staff director. That also made some history, because for the first time in American history on either side of the Hill the House Armed Services Committee staff director is a woman. We blew down the glass ceiling, and we are going to go even further as we refine the nature of our politics in this institution, and the nature of our politics in the country and the world.

Finally, I want to thank all of the members of the staff of the House Armed Services Committee on both sides of the aisle. These are extraordinary people and very fine people, Mr. Chairman. In my capacity as a subcommittee chair I only dealt with two, three or four staff people. Now I am required to deal with thousands of items, hundreds of policy considerations and scores of staff people. And in the process of getting to this moment, I have been extraordinarily impressed with the integrity, with the energy, with the enthusiasm and the eagerness of a magnificent group of people. Give us time to increase the learning curve, Mr. Chairman, and you ain't seen nothing yet.

Mr. GOODLING. Mr. Chairman, I am becoming more and more fearful of the direction of this country is taking in regard to military readiness and defense capability.

On one hand, U.S. foreign policy has embarked on a seemingly haphazard path through the "new world disorder." The Administration has committed United States troops under U.N. command for the nexus of "nation-building," or equally nebulous, as a tripwire. The House had the opportunity to set an early withdrawal date from the quagmire in Somalia, and missed the chance. Three-hundred United States troops are deployed in Macedonia under a foreign U.N. commander who has warned the United States troops against the use of force. Our President has now threatened the use of airpower in Bosnia, although we do not know if airpower will achieve our objective—maybe we do not even know what our exact objective is.

All of this comes at a time when the defense budget is being slashed to meet budgetary requirements without regard to threat assessment. The administration is proposing to cut Defense budget authority by $127 billion below the previous administration's plan over 5 years. Under this bill, the fiscal year 1994 Defense cut represents only 9 percent of the 5-year plan's scheduled cuts. This means the cuts for the remaining 4 years must average $28 billion each year. The Congress and the two previous administrations recognized the need to exercise a policy of defense builddown, decreasing Defense budget authority by 27 percent since 1986. However, this decrease was based upon a formal review of defense requirements and the maintenance of military readiness. The new plan is not. Unspecified cuts are proposed and expected to be carried out without any regard to national security and certainly not in conjunction with a security threat assessment.

The task before the administration and Congress is twofold. First, our Government needs to outline very strict guidelines for the intervention of our troops and resources in no uncertain terms. If we do not, we will be stretched to virtually every continent in the world at great fiscal cost for almost no strategic reason. Second, we must carefully review threats to U.S. security and assess whether the proposed slashes in defense spending will destroy military readiness and impair the ability of U.S. Armed Forces to counter direct threats to U.S. national security. Noting the razor's edge of readiness on which we are now treading so precariously, the Government must oppose future slashes in defense spending which are not based on threat assessment.

Mr. PACKARD. Mr. Chairman, I rise today in strong support of a provision in the Defense Authorization Act to codify the ban on homosexuals serving in the military.

Our military is under attack from the liberals in Congress and from the Clinton administration, seriously undermining the morale and readiness of our Armed Forces.

Service in the Armed Forces is unique and unparalleled in civilian society. More than any other single factor, military unit cohesion is paramount to the success or failure of America's defense. But there are those among our country's leadership who would destroy that cohesion.

Combat ability is unalterably tied to mutual trust and confidence among servicemembers. Extensive hearings and studies have decisively proven that the presence of known homosexuals within a unit will undermine that trust and confidence, endangering the entire unit, and compromising our military mission.

From the lowest grunt to the highest commander, our military men and women have expressed time and time again that homosexuality is in no way compatible with military service.

The ban on homosexuals must remain intact for the military to maintain combat readiness in defense of our country. We can not allow the radical gay and lesbian activists to use the military as a lab to conduct their social experiments. I strongly urge my colleagues to support language in the Defense authorization bill that codifies the ban.

Mr. FARR. Mr. Chairman, I rise in support of H.R. 2401, The National Defense Authorization Act for fiscal year 1994.

The distinguished chairman of the Armed Services Committee, Mr. DELLUMS, has reported out a bill that moves closer to President Clinton's 5-year commitment to trim the Defense budget by at least $127 million. This is a positive step in a new direction toward reordering our national priorities while looking ahead to our needs of the 21st century. While the bill makes substantial cuts in a number of areas, it retains $111 million for the cost of maintaining U.S. Forces engaged in peacekeeping, disaster relief, and other international multilateral operations. This is critical to our Nation's new defense role.

Although deeper cuts in the Defense budget are still needed to meet the growing demands of new priorities, this year's Defense authorization bill makes a step in the right direction toward downsizing.

Mr. BUYER. Mr. Chairman, writing in Federalist Paper No. 3, John Jay stated that "Among the many objects to which wise and free people find it necessary to direct their attention, that of providing for their safety seems to be the first." This wise counsel, delivered at an early stage in our Nation's history, has been at the root of the annual Defense debate since Congress first considered how best to defend our interests. As early as 1794, the Untied States faced a military challenge, In February of that year, 126 sailors were held for ransom by Barbary pirates in Algiers. Congress responded the next month by creating U.S. Navy and authorized the construction of six warships to address this threat. But in what proved to be a harbinger of things to come, opponents limited the appropriation of funds, making it impossible to complete even three of the frigates within 3 years. President Washington was reduced to buying the peace with Algiers by ransoming the sailors for $1 million.

So it is today. President Clinton's fiscal year 1994 defense budget has triggered a furious debate. In his briefing before the House Armed Services Committee, Secretary of Defense Aspin called it "* * * the Clinton plan for national security." In reality, it is the Clinton plan for national insecurity. Instead of basing the plan on real world threats, the administration has opted to decide how much money needs to be cut from Defense to feed the domestic agenda, and shaped a national security policy around what was left. Jeane Kirkpatrick rightly calls this the Alice in Wonderland approach: "Sentence first, evidence later." It is nothing more than an attempt to balance the budget on the back of the Defense Department.

The clearest proof of this approach is seen in what was presented as the four new post-cold-war dangers. Although economic danger was listed as third, Mr. Aspin stated that "Bill Clinton would place it as the no. 1 threat to national security." Proposing that the slow growth of the economy and the fast growing deficit are the real threat, the administration believes redirecting military savings to the domestic front must be a priority. Following this logic, we are asked to believe that every dollar that is cut from Defense somehow improves our ability to defend ourselves. This may be a difficult concept for front line troops under fire to grasp when they discover no ammunition, no equipment, no gasoline, and no reinforcements to get them out of a life or death situation.

The administration has also proposed $488 million for new initiatives called global cooperation. This category includes $300 million for peacekeeping, and an additional $148 million for disaster relief, humanitarian assistance, and the promotion of democracy. While this appeals to those who desire that the military become more involved in the humanitarian use of force, this initiative in fact takes us down a dangerous path. A willingness to participate in these nontraditional missions implies our intervention overseas will be based on individual human rights, not on this Nation's vital interests.

While the tragedy of situations like the former Yugoslavia, Somalia, and Cambodia cannot be denied, the moral responsibility to prevent these atrocities must be balanced against the difficulties of a long-term, open-ended commitment with vaguely defined goals. Peacekeeping, peacemaking, and peace enforcement operations are missions that require a completely different type of training and mindset than those normally acquired in standard combat training. At a time when we are reducing the size of the force, adding on an additional commitment, especially one with such grave consequences, makes little sense.

The figures attached to this budget speak volumes. If enacted, the Clinton budget would result in a 41 percent real decline in the Defense budget from 1985 to 1997. The Bush plan would have already resulted in Defense spending accounting for the smallest percentage of the GNP since before WW II. The Clinton administration plans to subtract another $127 billion from this figure. This reduction, coupled with an increase in the personnel and operational tempo of our forward deployed units runs the danger of breaking the force.

The problem of reduced Defense spending without a serious defense plan based on an assessment of risks to national security is exacerbated by the fact that a great deal of money in the defense budget goes to non-defense projects. I witnessed this firsthand last week as the House Armed Services Committee marked up the Defense authorization bill. As the mark-up progressed, it became clear just how much pork was inserted by Members of Congress. A few examples will illustrate my point.

One Member seeks to establish a women's health and research center in the Member's district at a cost to the American taxpayers of $40 million by amending section 234 of the Annual Report on Ballistic Missile Defense Program. This was done discretely by adding a series of provisions as to where this particular program should be located. When you look at all those requirements, you realize that the only place in the world that meets this criteria would be a facility located in that particular district.

Another section of the Defense authorization bill would direct the Secretary of the Army to establish a cooperative program with the Secretary of Agriculture for the development of biodegradable industrial products from agriculture products. While I support initiatives that promote new uses of agriculture products, those types of programs should fall under the jurisdiction of the Department of Agriculture and not the Department of Defense.

America has every right to be proud of its accomplishments. Communism has been discredited, the cold war is over, and we have survived as the sole remaining superpower. It is time to reshape our military forces for the task ahead. Very real threats still remain. Regional conflicts that threaten our ability to conduct international trade, nuclear proliferation, and the increased belligerency of countries like Korea, are all very real and valid concerns.

I applaud Secretary Aspin's bottom-up review to consider the roles and missions of our military. But it must be a real review. First, there must be a national security plan that addresses our political goals from which we derive our basic national defense doctrine. From there, we can shape our forces to achieve our goals. The review must not be artificially restricted by budget constraints that will hamstring the military's ability to accomplish the mission. If the review finds that additional funds are required for the defense, the requirement must be seriously considered. To do less is a disservice to the American people.

John Jay, when he wrote Federalist No. 3, commented that America had already entered into six treaties with foreign governments, five of which were "* * * able to annoy and injure us. * * *" Today, we are party to a great many more treaties that could require our military strength around the globe. Before we embark on a drastic and possibly irreversible course of thoughtlessly dismantling our forces, we must think seriously about the consequences. Like Jay, it seems to me that the safety of the Nation and the people should come first.

Mr. EVERETT. Mr. Chairman: I rise in reluctant support of the Defense Authorization bill for fiscal year 1994. Even though this bill cuts nearly $12 billion off of the budget George Bush would have submitted, Secretary of Defense Les Aspin casually refers to this defense budget as merely treading water until the Clinton administration comes up with a long term defense strategy. The most frightening point about this funding level is that it represents less than 10 percent of the defense cuts called for under Clinton's outyear budget plan. Ladies and gentlemen, these are unconscionable and irresponsible levels to fund our national security programs.

Here's how Clinton's defense cuts play-out:

	Billions
Fiscal year:	
1994	$11.8
1995	15.2
1996	24.5
1997	36.2
1998	39.2
Total over the next 5 years	127

Just a short while ago, this House considered the Intelligence Authorization bill. Throughout the debate we heard Member after Member take the well and declare the world safe because the Soviet Union no longer exists. Let me remind my colleagues that we still have troops in Somalia, we now have troops in Macedonia, and the President is very close to launching air strikes over Bosnia.

Right now, we have somewhere on the order of 22,000 soldiers deployed in 60 countries; nearly doubled from last year; 200 ships forward deployed; and the Marine Corps has 30 percent of its force operating forward—that's up from 20 percent last year.

This so-called restless peace is taking our men and women in uniform to the far corners of the world with fewer and fewer resources to get the job done. We continue to ask them to do more with less. We are quickly approaching a slippery slope that will lead us to the hollow forces of the 1970's. It would be a travesty to allow the finest military in the modern world to whither away, but that is exactly what we're doing if Clinton's outyear defense budget is adopted.

Beyond the funding problems, this bill contains a number of well balanced programs and initiatives.

PAY RAISE

A 2.2 percent pay raise for all active duty personnel was included in the bill. The Clinton administration didn't request this in their budget submission, but the committee felt that men and women in uniform, many of whom have families and make less than $20,000 per year, were deserving of a raise.

GAYS IN MILITARY

The committee supported the codification of the policy that homosexuality is incompatible with military service, and that homosexual conduct will result in the immediate separation from service. Though I would have preferred that the committee would have adopted the Hunter amendment to "ask the question during enlistment," I am hopeful that the House will approve this amendment.

ACQUISITION

The modernization of Army Aviation continues with the development of the Comanche, while maintaining hot production lines for the Apache and AHIP.

The modernization of tactical aviation is also well balanced with the cancellation of the AFX and the further development of the F–22 and the F/A–18E/F.

After many hearings and much scrutiny, the committee determined that we should continue with the C–17 to meet our airlift requirements, once certain program milestones are met.

In closing, this budget places us in a holding pattern until the Clinton administration has formulated its long-term national security strategy known as the "Bottom Up Review." If it follows the $127 billion cuts that Secretary of Defense Les Aspin said were pulled out of the air, this Nation is in big trouble. As the Army Chief of Staff, General Gordon Sullivan, said before the Committee on Armed Services, "I'm mortgaging the future to pay for today's readiness."

Mr. DELLUMS. Mr. Chairman, I yield back of the balance of my time.

Mr. SPENCE. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. WATT] having assumed the chair, Mr. REYNOLDS, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2401) to authorize appropriations for fiscal year 1994 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 1994, and for other purposes, had come to no resolution thereon.

TRANSFER OF SPECIAL ORDER TIME

Mr. QUINN. Mr. Speaker, I ask unanimous consent that on Thursday, August 5, 1993, the gentleman from Michigan [Mr. UPTON] be permitted to take the 60-minute special order previously granted to the gentleman from Indiana [Mr. BURTON].

The SPEAKER pro tempore. Is there objection to the request of the gentlemen from New York?

There was no objection.

TRANSFER OF SPECIAL ORDER TIME

Mr. QUINN. Mr. Speaker, I ask unanimous consent that the gentleman from Indiana [Mr. BURTON] be permitted to take the 60-minute special order granted to the gentleman from Michigan [Mr. UPTON], for today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

TRANSFER OF SPECIAL ORDER TIME

Mr. HOCHBRUECKNER. Mr. Speaker, I ask unanimous consent that the special order granted to the gentleman from Michigan [Mr. BONIOR] for August 4, 1993, be allocated to the gentleman from Pennsylvania [Mr. KANJORSKI].

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

TRANSFER OF SPECIAL ORDER TIME

Mr. HOCHBRUECKNER. Mr. Speaker, I ask unanimous consent that the special order of the gentleman from Michigan [Mr. BONIOR] on August 5, 1993, be allocated to the gentleman from Michigan [Mr. DINGELL].

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

GENDER EQUITY IN SPORTS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Illinois [Mrs. COLLINS] is recognized for 5 minutes.

Mrs. COLLINS of Illinois. Mr. Speaker, I have come to the well on several occasions to discuss the subject of gender equity in sports. yesterday, the Congress took its own step in the direction of gender equity when three congresswomen—Democrats MARIA CANTWELL and BLANCHE LAMBERT and Republican ILEANA ROS-LEHTINEN—became the first women to play in the annual congressional baseball game. I am also proud to report that the Democrats defeated the Republicans 13 to 1.

Today the Subcommittee on Commerce, Consumer Protection, and Competitiveness held its fourth hearing on the subject of gender equity in sports. Whereas previous hearings looked at college sports, today's hearing looked at the issue from the perspective of elementary and secondary education and we received test from those in the front lines—coaches and athletes—as well as testimony on how States are tackling gender equity issues.

In 1970, less than 1 out of every 25 high school girls was an athlete. By 1990, nearly one out of every three was a girl. The number of female high school athletes has grown by 1.7 million in the last 20 years.

As a result, 35 percent of all high school athletes are now girls compared to a mere 7 percent 20 years ago. This is good. It shows improvement, but sex discrimination in athletics remains a factor in keeping this percentage below 50 percent, which represents the enrollment percentage.

At today's hearing we received testimony from two distinguished women coaches. Coach Dorothy Gaters has successfully coached the girls basketball team at John Marshall High School in my district. In fact, her team, the Marshall Lady Gladiators, is the two-time defending class AA champion in the State of Illinois.

For 14 years, Coach Wanda Oates taught the girls of Ballou High to believe in themselves and to achieve.

Throughout her coaching career, the girls team held 10 city and tournament titles. She has since returned to Ballou to coach the boys basketball team.

Each of the coaches spoke eloquently about the importance of athletics for young women, and the continuing forms of discrimination that faced girl athletes and women coaches.

We also received testimony from Christine Pride, a high school student in Silver Spring, MD, who spoke about first-hand experiences with sex discrimination from her participation in the girls' softball program. She had a point of reference for comparison, since her brother, who is now a professional baseball player with the Montreal Expos, had graduated from the same high school. She saw the perks and goodies, such as shoes and athletic wear, that were bestowed upon him while women received nothing.

High school years lay the foundation for a youngster's future, either in pursuit of a college degree or in search of employment. Participation in athletics teaches our young people how to play as a member of a team, how to take risks, how to discipline and challenge themselves.

It is important to note that, according to a 1990 study from the Institute on Athletics and Education at the University of Chicago, high school girls who play sports are 80 percent less likely to be involved in an unwanted pregnancy, 93 percent less likely to be involved with drugs, and three times more likely to graduate from high school. Athletic girls tend to have higher attendance records, better GPA's and lower dropout rates.

Girls in high school do not have the same resources as their collegiate sisters who have taken the issue of sex discrimination in athletic opportunities to court. However, they are beginning to notice the differences and speak up. At a recent basketball tournament an athletic shoe manufacturer sent along nice new shoes for the boys, but none for the girls. Girls at the tournament rode in 100-degree weather on buses without air-conditioning, while the football players and boys basketball players enjoyed riding in air-conditioned comfort. The girls brought these differences up to the coordinator, who deemed them minor complaints. Subtle differences, but continued disparities such as these have a tremendous impact on a young, maturing girl.

Enlightened State officials are beginning to pick up the ball. In Illinois, as Ola Bundy, the assistant executive director of the Illinois High School Association, testified, the State Board of Education has adopted sex equity rules, more popularly known as title IX with teeth in it. Public schools are subject to a periodic school approval process which they must pass to receive funding. This process includes a thorough review of a school's athletic program. In addition, schools must complete a sports interest survey every 4 years to ensure that the interests and abilities of the students are being met.

Recently, I conducted a survey in the schools in my own district and found that roughly one in three athletes is a girl. This ratio is similar to that which is found at the national level with one exception. The girls in schools with more resources fared far better than those girls in the poorest schools. I suspect this may be the case in other, less fortunate urban schools.

Every time a young woman is told that her team can only practice when the boys are done, every time she sees her male counterparts enjoying better equipment and better facilities, and every time she sees women coaches treated worse than their male counterparts, she is learning all of the wrong lessons: That men are entitled to better treatment than women.

My bill, H.R. 921, the Equity in Education Act, is designed to bring about gender equity in college sports through full disclosure. Yet gender equity at the college level will only be fully successful when opportunities for girls from kindergarten to high school are made equal.

As Christine Pride testified:

> I know that these changes cannot possibly occur overnight but I also know that it is harshly unfair that I, with my 3.75 g.p.a. and 1200+ S.A.T. score will have to sweat out my acceptance to the University of North Carolina at Chapel Hill, while some male basketball player who barely qualifies under Proposition 48 will be relaxed knowing that he will be accepted at almost any school he wishes to attend.

We must collectively find a way of getting our girls and women off the sidelines, onto the court, and playing the game.

☐ 2130

INTERNATIONAL TRADE COMMISSION DECISION COSTS AMERICAN JOBS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. REGULA] is recognized for 5 minutes.

Mr. REGULA. Mr. Speaker, last Tuesday, the U.S. International Trade Commission returned its vote on the 72 steel cases alleging dumping. The ITC found in favor of domestic companies on plate, galvanized, and certain cold-rolled products in less than half of the cases. All hot-rolled steel products, which constitute over 1.2 billion dollars' worth of the cases, were found to not be guilty of dumping.

Its decision to deny relief in a significant majority of the steel cases, valued at over $3.2 billion, is lost jobs for steel. But it is also losses for the supporting industries from food services to trucking.

I strongly disagree with the decision. The facts are undisputed.

The Department of Commerce had found 1 month earlier antidumping duties as high as 109 percent and set duties to offset subsidies of foreign steel as high as 73.9 percent. The findings confirmed the presence of massive and persistent subsidies and dumping of foreign steel. It is estimated that over $100 billion in subsidies have been given to foreign steel makers since 1980. Such cheating indexes have resulted in 258,000 lost jobs and closure of over 450 facilities in the United States.

Worldwide overcapacity is the root cause of current market distortions while dumping and subsidies are merely the symptoms. In 1974, world steel demand, which had been growing an average of 5 percent per year since 1960, leveled off. But massive overcapacity has continued to be built resulting in a depressed market with current Western world excess crude steel capacity at 140 million tons.

This creates a difficult situation for our Nation since it is the only net importer of steel today and has the most open market in the world. We have become the market of choice for dumping. Jobs have been lost and lives ruined by these predatory trade practices.

Clearly, world trade in steel has been distorted by foreign subsidies and dumping practices far more than any other manufacturing sector. As already noted, over $100 billion has been spent in foreign subsidies in the past decade. In France, the two state-owned steel firms, Usinor and Sacilor, suffered unbroken succession of losses for 12 consecutive years ending in 1987. Despite these losses the firms have dramatically increased spending based on subsidies estimated at $16 billion since the mid-1970's. In Italy, the steel industry has lost more money than its worth, on average, every 18 months for 15 straight years between 1975 and 1991. It has received over $20 billion in subsidies since 1980. British Steel received subsidies estimated at $15 billion from 1976 through 1988.

The clear facts are that economic logic and the free market have not prevailed in the trade of steel and U.S. producers are losing substantial revenue and market share to imports that cannot compete without subsidies on the same terms as our own mills compete.

The puzzle is how the ITC could ignore the obvious facts of injury to U.S. producers and their workers.

It is my intent and other members of the congressional steel caucus to move to urge our negotiators to address the issue of structural overcapacity in the upcoming steel talks to resume in September. We will offer a specific plan which will overcome the impact of the ITC ruling.

The core of our proposal is to permit limited types of steel subsidies based on an exchange between the value of the subsidy for reductions in a participating country's capacity to produce and to put caps on the amount of steel it may export outside its borders. It is a more effective program than originally envisioned under the MSA or operated during the VRA's in years past.

This approach is consistent with our trading partners' arguments that certain subsidies should be permitted since they encourage reductions in excess capacity. In fact, both Spain and Italy have recently petitioned the EC to allow subsidies based on this principle of valuation exchange. Our approach will put teeth in the steel agreement and address the real problem of excess capacity. This means more good jobs and a peace of mind to steelworkers that their job will continue to be there in the future.

Also, the proposal is conditioned on the permanent closing of facilities without the possibility of resale for use by another source. We employ an elaborate set of rules to prohibit the targeting of subsets of our steel industry by offshore producers and address the issue of pricing.

By mid-September, the steel caucus plans to present its concerns to the various foreign delegations in Geneva. It is our hope an agreement can be reached before the end of the year.

In conclusion, the facts clearly demonstrate that U.S. producers have suffered significant injury over the past decade from illegal and unfair trade abuses by offshore steel manufacturers and their governments. The unfair import share is significant and rising. Financial performance of steel producers has deteriorated sharply over the last 3 years. And domestic producers have lost significant sales to dumped merchandise.

Now we must act to ensure the incorrect ruling of the ITC does not rob further jobs from American workers. I ask my colleagues to help us to clean up the cheating index left untouched by the ITC.

A PLEA ON BEHALF OF ADOPTED CHILDREN AND ADOPTIVE PARENTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. KLINK] is recognized for 5 minutes.

Mr. KLINK. Mr. Speaker, I take the well tonight to again make a plea on behalf of adopted children and adoptive parents. I also want to let the House know that tens of thousands of birth parents have also been needlessly traumatized by the judicial gutlessness in the Jessica DeBoer case.

As an adoptive father I know that it does not take more than a few brief minutes to bond with a child. When someone hands the child to you and says this child is yours to raise, it does not matter if the child was one that you fathered or a child you are adopting. In my own case, our child was 5 months old and had been with us since birth, when the call came that there was a custody problem. You have to go through it, though I pray no one ever has to, to understand how it feels when the State, or county in this case, takes an action to remove your child from your home and send that child to an unsure future.

Too often the case turns on the fact that some one had sex and then conceived a child and that child is their property. Children have rights; they are not property. The DeBoer case is the Dred Scot decision of the 1990's. This must not and cannot be tolerated.

Clinical psychologist Jeree Pawl says she does not normally testify in cases like the DeBoer case. But that as an expert on infants and toddlers she would, in this instance. The doctor says, and I concur, that parents and babies come to know one another through feeding, diapering, giggles, tears, hiccups, baths, stories, and kisses. Those are the stuff of life for infants and parents. The earliest life experiences are the most profound in shaping who we are. The doctor points out that this is why abused children continue to suffer after being removed from abusive situations.

Dr. Pawl states that even with the youngest children being shifted from one primary caregiver to another can cause dramatic changes in sleep patterns, eating patterns, or other essential functions. The doctor continues: "Jessica will have only her physical self. She will not have her familiar psychological self because that self is by no means at the stage of development, independent, continuing." A small child torn from the tapestry of relationships into which she is so complexly woven, loses not only that familiar world but herself. Removing such a small child from everything and everyone she knows results not only in profound mourning and yearning for those whom the child loves, but a numbing loss of any organized sense of self.

Yet the attorney spokesman for the Schmidts would have us believe the little 2½-year-old girl took control of the situation and never even whimpered for her parents, that leaving a loving home and two people who have loved her since shortly after her birth was like going to a babysitter's house for an hour. This change is forever and will forever scar the child Jessica Deboer.

Let me repeat some things I have said before. This is not about birth parents' rights versus adoptive parents' rights. It is about children's rights. We in Congress must take action to make up for the shortcoming in our judicial interpretations. Leave no doubt that the best interest of the child is what truly matters. That when the psychological makeup is put at risk like

Jessica's, or when there is a clear and imminent physical danger, the child must be protected by the full force of law.

This is truly, ladies and gentlemen, a national moment of shame. I think, in our mind's eye, that we should not forget what it looked like when that child was being taken away from her parents, her cries and her screams, and that we should be moved to do something.

So many childless couples who are thinking about adoption, so many children who need to be adopted and need to be cared for, need to be loved, so many of them are going to hesitate because of what happened in the DeBoer case.

I will just mention that out of an estimated 50,000 adoptions every year in this country, only 500 end in cases like this. We, as Congress Members, need to move.

Mr. Speaker, I am including at this point in the RECORD the affidavit of Dr. Jeree Pawl on the DeBoer case, as follows:

AFFIDAVIT OF DR. JEREE H. PAWL

ANICUS CURIAE BRIEF—RE: JESSICA IN THE CASE DEBOER VS. SCHMIDT

My name is Jeree H. Pawl. I am a clinical psychologist with a Ph.D. conferred by the University of Michigan in December of 1959. My specialization has always been the treatment of young children and their parents. In 1973 I began focusing solely on infants, toddlers and their parents at the Child Development Project at the University of Michigan. When its Director, Mrs. Selma Fraiberg, joined the faculty of the University of California, San Francisco in 1979 and began a similar program, there, I joined her as her Associate Director. I have now been the Director of that program since 1981.

The program provides direct clinical services to infants (age birth to three) and their parents as well as to other primary caregivers. It also provides consultation to the courts, to the Department of Social Services, and to other agencies and programs providing services to this age group. This includes mental health consultation to both center and family daycare, the pediatric outpatient and inpatient departments at San Francisco General Hospital where the program is located and other services throughout the City and County of San Francisco. It is also one of the major training sites in infant mental health in the country: I am a Clinical Professor in the Department of Psychiatry and the Vice President of a national organization focusing on infancy, Zero to Three/The National Center for Clinical Infant Programs.

I do not ordinarily testify or become involved in cases where I am not directly familiar with all of the individuals concerned. The material with which I have been provided, however, indicate that the "adoptive parents" of the child have been adequate parents to this specific child. Though questions have been raised about the biological father's volatility and past behavior with other children, the biological parents also seem to fall into the range of ordinary adults, who might be expected to provide fairly reasonable caregiving for some hypothetical child under ordinary circumstances.

The young child, Jessica, (age 2 years, 2 months) is also described by everyone as a well-adjusted, ordinary child who loves well and is well loved and gives every evidence of having good capacities in all areas of her development. Because Jessica is doing well and because the sets of "parents'" capacities are not directly at issue, it is possible to speak for Jessica and to her experience. I will try to describe as well as I can what she, as an ordinary, well developing, well-loved child has currently achieved, how she is therefore organized and what one can feel confident that she will experience if she is removed from her current "parents" and sent away to live with those who are to her, total strangers.

Jessica came to the intended adoptive "parents" very shortly after her birth. This couple had long wanted a child for whom they could provide. They were ready and eager to accept Jessica as that long awaited child and to be to her the parents they so much wanted to be. Jessica, as are all babies, was totally ready to engage wholeheartedly with whomever it was that cared for her. At issue is her relationship with her parents and her sense of herself and the world that has evolved. Those relationships are formed in the most ordinary, nitty-gritty, day-afterday interactions. Parents and babies come to know one another through the feeding, diapering, giggles, tears, hiccups, baths, stories and kisses that are the stuff of life for infants and toddlers and their parents. The formation of the parent-child relationship is a process and it begins at the beginning.

Although experience throughout life are crucial and many later life experiences may be traumatizing or positively shaping, the earliest experiences are both the most ordinary and the most profound. An infant is being introduced by those who care for him or her to the way it is to *be* with other human beings. Is it good and promising? Is it bewildering or scary? Even lonely? These qualities matter tremendously to who it is a baby is likely to become, but whatever those qualities are, those who do this introducing whether the introducing is wonderful or dreadful are destined because of that role to become the central figures in a child's life. What is learned is crucial but those who teach it become all important. They become an ever-growing part of a child's internal as well as external world. This is why even abused children suffer when they are removed from their abusing parents as they sometimes must be. Despite the abysmal quality of their treatment and of their lives, they are fiercely connected simply because that is all there has ever been. The ties of severely abused children to their parents are very tortured but very strong and the ties of positively nurtured children are essentially bonds of love and are even more powerful.

We know that even with the youngest children (a matter of months) who are shifted from one primary caregiver into the care of another, we can expect dramatic shifts in their affective states, in their sleep patterns, in their eating patterns and other essential functioning. We know that they sometimes withdraw or become irritable, and inconsolable. We also know that such disruptions may be ameliorated somewhat with very young infants if, the new caregivers are more devoted, more responsive and able to behave in ways that contrast in dramatically positive ways with the previous lost relationship. We know that in the first few years the effects of such shifts increase in intensity and duration and that when the initial patterns of interaction were particularly good, the negative effects will be intensified and deepened as well. The loss of a potential parental figure or figures when a child is in the first few years of life is among the most devastating life experience that a human being can have. When the immediate and familiar family members are there it will be of some help to the child. Without that, the entire world is lost.

Adults seem always to imagine that their suffering is somehow more important than that of children and that the smaller the child, the less the suffering counts. Children, it is said, will "get over it" because they are "just little".

In point of fact, adults have many more ways of managing severe losses and at the very least they have the opportunity to understand what it is that is happening. They are able to fit the dreadful event into some narrative explanation, however anguished, angry, or hurt they may be. Very young children cannot do this, they are just beginning to create narratives for themselves at age 2 and they simply cannot cognitively comprehend so momentous an event as the loss of their parents. They have nothing with which to cope with it and in this specific traumatic instance, Jessica would be losing absolutely every single thing and person familiar to her except her physical self. Jessica will have only her physical self. She will not have her familiar psychological self because that self is by no means at this stage of development, independent of its surround and the presence of its essential core, her familiar parental figures. This sense of self is dependent on the relationships in which it is embedded. A small child torn from the tapestry of relationships into which she is so complexly woven, loses not only that familiar world, but herself. A small child relies heavily on the predictability of what it is that she can create with those around her for a sense of self-knowledge and integrity. Removing such a small child from everything and everyone she knows results not only in profound mourning and yearning for those whom the child loves, but a numbing loss of any organized sense of self. The child no longer knows who she is—in a very profound sense.

The obvious dislike of adults for states of helplessness apparently interferes with the ability of adults quite to imagine (or certainly to wish to imagine) the quality of helplessness that defines important aspects of any child's experience. This aspect of realistic helplessness is counterbalanced quite effectively by parents whose attitudes embody strong protection and the use of themselves to help a child feel the many impacts that she does in fact have and can have. Embedded in the responsiveness of the parent is the source of a child's sense of autonomy, of importance, and of value. This tempers the child's sense of helplessness but it never eliminates it. The small child is reminded of this every day and it is the good and the familiar parent who knows the child well and has evolved with the child their unique vocabulary of interaction upon whom the child can rely. It is this responsive parent who prevents the sense of helplessness from becoming a defining feature for a child but that helplessness exists and when those parents are absent, the child's confidence wanes. When the parents are permanently absent and a child of 2, like Jessica, is removed from all familiar adults there is no one who knows her or who knows her unique language—a language not of speech but a language of love learned in intimate and repeated interaction with those who have nurtured her. This is in itself a severe trauma. None of the ways she has learned to be with people work. All children experience this briefly with strangers or more intensely in a new daycare or other situation but they simultaneously rediscover themselves upon reunification with their parents and such experiences (if reasonably benign) result in flexibility and growth. If, however, as with Jessica, this happens in the context of the worst, and most awesome loss one can possibly imagine, it does not result in growth. The internal litany is anguishing. Over and over the child thinks, "They do not come. Where are they? Why have they left me?" She is utterly helpless to recover them, those human beings more important to her than anything in the world. The torment for the child is almost indescribable. No adult would ever have to face this cognitive as well as emotional inability to understand what it was that was happening. How can one expect a small child to cope with this. Is it possible that the judicial system that should be devoted to the well being and protection of children should itself inflict so dreadful a punishment? Such an experience for a child of Jessica's age is deforming. It deforms who she can become, her view of herself, of the world, and what it is that human beings can offer to one another. It is crucial that the court grant leave to appeal. This is far too serious a matter in the life of this small child to be decided on the basis of a biological father's accidental fatherhood.

Jessica, in being removed from her current "parents", will be transported into a nightmare and it is one which will never end. The feelings she will experience cannot be resolved. Perhaps the most compelling way to try to imagine it is to think of it as a kidnapping. Legally it is certainly not a kidnapping, but psychologically, that is exactly what it is from the point of view of Jessica. A small child, normal in every respect, with good and loving parents is kidnapped from a court house, or a shopping mall. The kidnappers do not intend to harm her—they just want her for their own child and so they kidnap her. What would Jessica's experience be initially? If Jessica is a particularly trusting child who feels fairly safe with people in general, she would be alarmed, she may even be stunned enough and bewildered enough to tolerate the intended kindness temporarily. Still, if these strangers are emotional and overwrought, then they will violate Jessica's notions of how strangers behave—strangers hold back, strangers don't swoop, strangers don't demand things of you and they pay some attention to how it is that you feel. Maybe these strangers would be skillful enough to quell Jessica's fears briefly but then the terror would strike—sooner or later. "Where are the people she knows? Where are my mommy and daddy? I want my mommy and daddy. I want my mommy and daddy. I want my mommy and daddy." In fact, someone's child has been stolen. A little girl has been stolen from her parents. The most important people in her world upon whom she depends for everything and for the central understanding of herself and of the world are missing. This is just the beginning for Jessica. The terror and confusion as to where her "parents" are and why it is that they don't come will not be resolved. The yearning, the fear and the sorrow are dreadful and it is only the beginning.

I cannot predict exactly the course for Jessica if this shift occurs but I do know that it will change her forever. There will be a darkness, a sadness, a lack of trust, anxiety and fear within her relationships forever. That will be her legacy. This is true whether she "remembers" or not. Feelings are not encoded in the same way as other information and a 2-year old does not encode information in the same way as an adult. Experiences are less readily digestible and as a result, become even more salient to what a child's expectations are. Jessica's expectations will be that you can lose the most precious things without any foreshadowing, without any understanding and that you are helpless to stop it and can do nothing about it. In an instant you can and will lose absolutely everything that you care about—everything. We can know that this would be the central fact of her affective understanding of human relationships. She would not be able to say that, but she will feel it and she will act it and it will interfere with her sense of what is possible between people forever.

The adults in this case have suffered and will continue to suffer though to differing degrees depending on the ultimate outcome. Jessica has been relatively protected though even the best efforts of the current "parents" cannot have shielded her from their moments of most extreme despair. How can the solution be to insure that it is now the child who will suffer more than anyone? Jessica should have some right not to suffer at the hands of the judicial system. It does not matter how clumsily or thoughtlessly any of the adults, (judicially or personally involved) have behaved in this case that has affected the time that Jessica has spent her life with her current' parental figures. She is not responsible for that. She should not and must not be punished for responding wholly naturally to the love and the care that she has received by falling in love in return. That is the nature of the human experience and Jessica must not be punished for it. Emotionally speaking, and it is all that matters from Jessica's point of view, she is with her parents. She knows and feels nothing but the absolute rightness of what it is that they have created together. The system has tricked her but it must not punish her as well.

Will Jessica care someday what her story is? Of course. All adoptive children become curious as to what their story is. If done correctly, it is a story told as the child's curiosity and interest make it relevant. The child continues to be respected as well as protected and will, when it is appropriate, know her biological parents and wrestle with the meaning of it. We know that adoption, if sanely handled, includes the possibility of a new relationship that may be available to a child with their biological parents and that the relationship with the adoptive parents only deepens.

The problems surrounding adoption have as much to do with the status of adoptive parents as second class parents as anything else. When parenthood is recognized as at least as much as a privilege as a right and that one earns one's true status of parenthood by one's assumption of the role, and not a sexual act, it will go far to improve the status both of the adoptive parents, parents in general and the attitudes toward the rights of children.

Jessica's plight alone should argue for the necessity of the court granting the leave to appeal but Jessica also represents numerous children who will face the same fate if this precedent is established. Surely this should not be allowed until every possible consideration is given to so grave a matter. The right of a child to have his or her well being considered is both too precious and as yet too fragile to dismiss without the most serious consideration.

INTRODUCTION OF CONSTITUTIONAL AMENDMENT TO PROHIBIT CONGRESS FROM RAISING TAXES RETROACTIVELY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. Royce] is recognized for 5 minutes.

Mr. ROYCE. Mr. Speaker, they say there are only two things certain in this life: death and taxes. Now, President Clinton even wants us to raise taxes on the dead.

As we learned yesterday, the President's budget reconciliation bill not only raises income taxes on millions of working Americans this year, it raises them retroactive to January 1. Now, to add insult to injury, we learn that it also raises estate taxes retroactive to the same date.

So the families of millions of people who have already passed away this year will now be assessed additional estate taxes in order to finance the biggest spending increase in American history. I guess you could say it is taxation without respiration.

And if you think that is a crime, you are wrong, because criminals are protected by the Constitution against retroactive changes in the law, but taxpayers are not. That is why I introduced a constitutional amendment in this House yesterday to prohibit Congress from raising taxes retroactively. We need to give taxpayers the same protection we give to criminals.

Mr. Speaker, there are very real consequences to retroactive taxation, economic consequences which are directly contrary to the stated intent of the President's plan. Consider the small business man who had decided to purchase a new computer this year, who now learns the will owe an extra $3,000 in back taxes under the President's plan. Scratch the computer, that money is going to Washington to pay for more Government spending. And when you multiply that effect by thousands, scratch many jobs.

Mr. Speaker, this is economic insanity. I hope all my colleagues will join me in voting against the President's plan, and in passing a constitutional amendment to House Joint Resolution 248 to end what has become an open season on taxpayers.

□ 2140

I yield to the gentleman from Oklahoma.

Mr. INHOFE. I thank the gentleman for yielding.

Mr. Speaker, I did not know that the gentleman was going to bring this subject up this evening. But I had a phone call from my district in Tulsa, OK, from someone who had retired from a large company. His retirement date started back in December. He had made preparations based on the tax laws in force at that time, and he was outraged that they are going to go back and change the rules on which he had predicated his time of retirement.

Mr. Speaker, has the gentleman in the well heard of any others like that? Are there any others like that in the country?

Mr. ROYCE. We have heard of many cases. The situation is the rules are not changed, not even before the introduction of the bill, not even up until President Clinton's term, but back into the Bush administration, back to January 1. President Clinton was sworn in on January 20. This bill reaches back 8 months from today to increase taxes retroactively so those individuals who were not aware of this fact will now find that their income taxes will go up retroactively, estate taxes, gift taxes also will be raised retroactively.

Mr. INHOFE. I was told also today that never in history have we passed a retroactive tax in terms of income tax. Is that correct, has the gentleman heard that?

Mr. ROYCE. I believe this is true.

Mr. INHOFE. Then this would be unprecedented, to the best of the gentleman's knowledge?

Mr. ROYCE. I believe it is unprecedented. It is my understanding that this is an unprecedented act not only in the history of this county, I do not know of any case where a situation of this magnitude, going back 8 months to raise taxes—I was informed today that even the new Russian Constitution protects people from a retroactive tax increase. I do not know if this is true. This information came from Senator DOLE's office, and I am going to check on it.

But at the very least, our Constitution in the United States should protect the American public and give them the same protection.

Mr. Speaker, I yield to the gentleman from Pennsylvania.

Mr. KANJORSKI. Mr. Speaker, I call the gentleman's attention to the first Income Tax Act enacted by the Congress of the Untied States, October 1917, making taxes retroactive to January 1, 1917.

Mr. INHOFE. I would suggest that may be it is only unprecedented before 1917. I certainly do not think that that makes it acceptable. My concern with this, I tell the gentleman from California, is that it is a sense-of-fairness issue. This is a fairness issue. I certainly want to be part of the gentleman's resolution and thank him for bringing it up.

THE CRIME CONTROL ACT OF 1993

The SPEAKER pro tempore. (Mr. WATT). Under a previous order of the House, the gentleman from Florida [Mr. McCOLLUM] is recognized for 5 minutes.

Mr. McCOLLUM. Mr. Speaker, I come tonight to talk to the body, because today I introduced the Crime Control Act of 1993 on behalf of the Republican task force on crime, the leadership task force on our side of the aisle, and because I think we need to talk about that a little bit, to explain what it is doing. It is one of the largest, most comprehensive bills on crime ever produced in this body by either party. I think it is something that we need to discuss in terms of why we introduced it and what its entire perspective is in this country today with respect to the whole crime issue.

First of all, I think it is important to note there have been 5 million victims of violent crime in this country since 1960. The crime rate since 1960 for violent crime is up over 500 percent, which is absolutely astonishing when you think about it for a minute.

We also know that during that same period of time, we have seen the expected punishment for violent crimes drop by about two-thirds; that is, the length of time that you are going to serve in jail is about two-thirds less than what it was back in the 1950's or 1960's for whatever crimes you happen to be convicted of and captured for.

We are releasing prisoners from our overcrowded prisons in this country, State prison systems, at untold record rates. They are going back out on the streets and committing more violent crimes again and again and again.

We simply have to put a stop to this. The American public understands that this is one of the most grevious problems facing this Nation today. That is why this comprehensive bill was created.

What it goes into in great detail is an effort to put some money, some resources, everything in the way that we possibly can to stop this, in the law if we could get this bill enacted.

Let me run by, first of all, some of the features in this bill.

In the brief time I have here, I cannot begin to discuss all of the features that there are there. First of all, we would put 20,000 new cops on the streets just for those communities where the crime rate is very, very bad, under a grant program funded with roughly $2 million over 5 years. Included in the grant program that we propose in this new legislation is a special funding for community policing projects for crime prevention programs, again only in those communities where there is a very high crime rate. Roughly $500 million over a period of 5 years to be devoted to grant programs for schools in high-crime areas in order to get crime prevention in those school systems for burglar alarms, for more security guards, and so forth.

Then, in addition to that, because the alien problem is so great, we would nearly double the number of criminal investigators in the Immigration and Naturalization Service. We would add 3,000 border patrol, which is almost double the number of border patrol that we have today.

Probably the most creative provision in the entire bill is a provision that was drafted in order to help solve the overcrowding problem. It is a sharing proposition between the States and Federal Government for a regional prison system in which certain State criminals would be incarcerated, if the States agree to pay 50 percent of the cost of construction of these prisons and they agree to pay 50 percent of the cost of the operation and maintenance, and the other 50 percent is paid for by the Federal Government.

What is involved in this is about a $3 billion program to get it going over 3 years. All of this money that I have just described coming from savings by taking a 5 percent cut across the board in administration overhead for all of our Government agencies. I think that is important to note that this prison system concept is a carrot-and-stick proposition, very little stick and a lot of carrot involved in it.

What we are talking about is a 50,000 prison bed population increase just for those who are two-time felons in the violent area, committing violent felonies, or commit serious drug traffic offenses, who then commit another crime of violence involving the use of a firearm or a crime of violence involving a sexual offense. In order to qualify, that is what the prisoner has to be.

For the State to get into the program, the State has to do more than that, and that is the real carrot in this whole process for us to contribute as much Federal resources as we would. The State has to pass truth-in-sentencing laws for those who commit violent crimes, and those who commit drug traffic offenses, whereby their prisoners in those States must serve at least 85 percent of the amount of time that is given.

All too often, sentences are being given and prisoners are getting out serving next to no time at all for the crimes that they are committing at the State level today because of overcrowding and other reasons.

We also require minimum mandatory sentences of 10 years for persons who are convicted of serious felonies and subsequently are convicted of a crime of violence involving the use of a firearm or a crime of violence involving a sexual assault.

It is a very innovative provision for regional prisons that we hope the Congress will take note of.

In addition to this, we have provisions on the protection of neighborhoods, families, and children; we would secure schools, secure neighborhoods, crimes against children, equal protection for victims of crime, sexual violence crimes, terrorism, and so on and so forth. It is a very comprehensive bill, including restoring the habeas corpus provisions that have been talked about so much where prisoners can have endless appeals from their death sentences, which we do not want anymore, and restoring the Federal death penalty.

□ 2150

It is a very comprehensive bill. It includes restoring the habeas corpus provisions that have been talked about so much where prisoners can have endless appeals from their death sentences, which we do not want anymore, and restoring the Federal death penalty. It is the most comprehensive bill ever produced by anybody.

I am proud of it. I think the Members need to know about it and I hope there will be many cosponsors to the Crime Control Act of 1993.

DISCHARGE PETITION FRAUD EXPOSED

The SPEAKER pro tempore (Mr. WATT). Under a previous order of the House, the gentleman from Oklahoma [Mr. INHOFE] is recognized for 60 minutes.

Mr. INHOFE. Mr. Speaker, in the last 5 years, this House has been plagued by more scandals than in its 200-year history before that. First we heard about the restaurant scandal. Then we heard about the gym scandal. Then we heard about the Post Office scandal. Then we heard about the Bank scandal. Now we hear about the Post Office scandal again.

In the last election, more incumbents were rejected by the Electorate than any time in contemporary history.

The irony of all this is, if you look at all these scandals, all these scandals that I just mentioned, there is one innocuous procedure in this House that inflicts far more damage on the citizens of America than all of these scandals put together.

Webster's Ninth New Collegiate Dictionary defines fraud as:

> Deceit, trickery: intentional perversion of truth * * * an act of deceiving or misrepresenting * * * one who is not what he pretends to be.

Tonight we are exposing the biggest fraud in the history of Congress—a fraud that has endured for 63 years.

Tonight I am joined by several freshmen, newly-elected Congressmen who are among the most reform-minded individuals, a lot of them are referred to as the reform brigade. They have been instrumental in bringing us to this point tonight, that when understood, will be considered the most significant reform of the last six decades. These freshman Members have wondered, as I did when I was first elected, why is it that legislation that enjoys a mandate by the people, that for example might poll 90 percent of the people in favor of it, somehow is introduced, then disappears, never to be brought up again, as if it fell into a deep, dark hole.

Tonight we are going to solve the 63-year old mystery of that deep, dark hole.

Mr. Speaker, the cornerstone of the foundation of fraud, hypocrisy, deceit, and even institutional corruption is found in a rule first articulated in 1930 by then Speaker of the House John Nance Garner.

Now, something strange was going on. I am not sure, since I am not a journalist, why it was, but prior to 1930, for some reason, nobody really cared what happened in the House of Representatives. The journalists did not write about it. The editorial boards did not endorse things. They just did not seem to care. So you had this arrogant feeling and attitude around here that we could do anything we wanted, we were immune, no one was going to say anything about it. It was perpetuating the "Insider's Club."

But in 1930, there was an investigative reporter who started focusing on voting behavior, and they even started actually printing and editorializing on specific votes on sensitive subjects. Keep in mind, this was back in 1930.

So the leadership caucused behind closed doors, I would imagine. They devised a system where they could hide their positions from the public. I mean, after all, what business was it of the public to know what the Congresspeople were doing. What right did they have, at that time, to know how their Congressmen were voting?

Speaker John Nance Garner and his leadership in Congress devised a system that was ingenious. They provided for a discharge petition that would be sacrosanct in secret, and here is how it worked. I know this is complicated. The complication of this fraud is what has made it so difficult to expose for 63 years, but you need to know how this thing works.

Bills and resolutions that were popular at home, but were against the wishes of the leadership insiders, would be assigned to a committee, such as the Rules Committee, with the unwritten understanding with the chairman of the committee that they would never bring it up for a vote.

Let us be sure we understand this. Congressmen could cosponsor legislation that is popular at home, knowing all the time that it would never have to be voted on. The only way it could come out of committee for a recorded floor vote would be for 218 Members of the House of Representatives to sign a discharge petition. The discharge petition would be kept in a locked drawer, and if the camera can go right up behind the gentleman's head there to the left of the podium where the book is, the Journal, that is where the locked drawer is, the sinister locked drawer that only Members of Congress can see, and it is kept in secret. The only time this drawer could be opened would be during a House session and then only the Members of the Congress could see the discharge petition. A Member of Congress could sign it, he could look at it, but he could not record anything that was in it. He could not even take a pen or a pencil up to the desk with him.

Now, we have got two problems here in exposing this thing. First of all, how do you know under these conditions who signed the discharge petition if you cannot go up there and write them down, because you have to get up to 218 names and that is really a job. This apparently has never been done until now. We have 200 names on a discharge petition. I showed this list to someone today and this senior member told me that to the best of his recollection, he had been here over 30 years, he has never seen a list compiled of everyone who signed a discharge petition.

If a Member of Congress somehow figured out how to obtain a list of those who signed, he could not divulge the names to the public. If he did, he would be subject to punishment which could include expulsion from the House of Representatives.

In fact, when a Member signs a discharge petition, he is given a notice called "Important Notice."

Now, if the camera could look over there at this "Important Notice", this is what is given to each Member when he signs a discharge petition. I will read, in part it says:

> The publication or release of the names of the Members who have signed this or any other Discharge Petition is strictly prohibited under the precedents of the House. The prerogative of individual Members to determine when and whether to sign a Discharge Petition is in the nature of a private and serious agreement.

It goes on to say that you are even violating the House rules if you tell someone how many names are on the discharge petition. There are 200 on this Discharge Petition No. 2 which I just filed under the House rules.

Now, I am not a lawyer and certainly not a constitutional lawyer, but I believe this directly defies article I of the Constitution which states, "Each House shall keep a Journal of its Proceedings."

Now, does this not clearly imply that the Journal is for public consumption?

Our Founding Fathers did not say a secret Journal. They referred to secrecy, but historically this has been when talking about intimate personnel matters or matters of national security. I am a great believer in the covert possibility and activities that can go on, because the public cannot know everything that affects our national security, but it certainly does not mean you hide your votes and your positions from the people at home.

Can you imagine being expelled from the House of Representatives just for telling the truth to the folks back home?

What a foolproof system they set up in 1930. A Member could make the people at home think that he was voting their wishes, while all the time he was opposing them, and it worked.

Years went by, decades went by, no one found out. No one found out until 63 years later. Tonight everyone finds out. Tonight we have the ability to ignite and annihiliate that cornerstone of the foundation of fraud, hypocrisy, deceit and institutional corruption, and this is how we will do it.

In March of this year, I introduced House Resolution 134. House Resolution 134 is a very simple resolution. Some of the greatest reforms we have are in one sentence. All this says is, "Once a motion to discharge has been filed, the Clerk shall make the signatures a matter of public record." That is all it says, very simple, let the people know.

Let me repeat that. "Once a motion to discharge has been filed, the Clerk shall make the signatures a matter of public record." Of course, as I expected, this was assigned to the Rules Committee.

Think of the irony of all this. The resolution to reform this Discharge Petition process is bottled up in the Rules Committee and the only way to get it out is with a discharge petition.

So I started getting signatures from individuals I thought to be reform oriented, one at a time. Those here with me tonight, the ones you are seeing here, are the ones who were the very first to sign this discharge petition.

□ 2200

And that gave courage to others to defy the leadership in signing this. I had to explain to each individual the process; I did not know it when I was first elected to Congress; and then ask them if they would go up and sign discharge petition No. 2 up at the desk and come back and tell me what number they had assigned to them. Each one has a number. I was No. 1. JIMMY DUNCAN was No. 2. BUCK MCKEON was No. 3. And it goes on all the way to No. 200 that we have on this. Think of the time it took.

Now, 5 months later, we have 200 signatures on the Discharge Petition No. 2. It takes 218 to discharge it to a vote. So, we are 18 short, only 18 signatures away from the most significant reform in 63 years.

Now how can we get the additional 18 signatures? Listen, Mr. Speaker. Listen very carefully.

The day after tomorrow we will be leaving for our August recess. I am announcing here on the floor of the House of Representatives that the day after tomorrow, at the close of business, I am disclosing to the Wall Street Journal, and they have agreed to print, the names of all Members who have not signed DISCHARGE Petition No. 2.

Let me repeat this so it is abundantly clear to all Members of Congress and have it into the RECORD so it cannot be confused. I will actually read this:

I am announcing tonight here on the floor of the House of Representatives that the day after tomorrow, at the close of business, I am disclosing to the Wall Street Journal, and they have agreed to print, the names of all Members who have not signed Discharge Petition No. 2.

Mr. Speaker, I understand. I have talked it over with my wife that I am taking a chance of being expelled for my actions, expelled from the House of Representatives from the position which I have been in elected to represent over a half million voters, that those half million citizens of Oklahoma could be disenfranchised through the enforcement of the rule that has somehow endured over six decades, an evenly conceived rule we intend to dispose of with House Resolution 134 and Discharge Petition No. 2.

I am doing this, Mr. Speaker, because no one else over the past 63 years has been willing to do it. I am not excited about it. I wish someone else would do it. But I am doing it to destroy that pillar on which most of the fraud, deceit and hypocrisy around here depend in order to exist. I am doing it because the people deserve to know what is going on in this place.

So, Mr. Speaker, tonight I encourage my colleagues to sign Discharge Petition No. 2, and do it quickly because once that 218th signature, only 18 more people, goes on the discharge petition, the books are closed, no one else can sign it, and you are too late to get in on this reform, and it will come out, and we will vote on it, and we will pass it.

In doing so, imagine what we will be able to accomplish. We will be able to debate and participate in recorded votes on those issues that are so important to mainstream America.

They asked the question, which all you guys, you freshmen, have heard at your townhall meetings. I think you have had them already. They say, "Why is it the Congress refuses to pass legislation that all you guys want, all the people in your districts want," and the answer is now obvious. They hide their positions behind a 63-year-old House rule.

I really do not want to be overly dramatic, but I say to my colleagues, "Do you all understand the significance of this? There will be no place left to hide our votes and our positions from the people back home. The fraud would die forever. One short trip to the secret door to sign Discharge Petition No. 2 is all it takes. Take a friend with you."

Mr. MCINNIS. Mr. Speaker, will the gentleman yield?

Mr. INHOFE. Yes, I yield to the gentleman from California.

Mr. MCINNIS. I hate to ask to be yielded to and receive an insult, but I say to the gentleman from Oklahoma that I am curious. I want to be sure that we can all understand how this compares to State legislative procedures throughout the country. I am formerly the majority leader from the State of Colorado, and we had a very open process there. We had what we call the sunshine act. All the business that we did dealing with the government of the State was subject to open meeting laws.

Can the gentleman in very simple terms so that I can understand what the discharge petition really means, can the gentleman explain how that would compare to the usual State system that he is aware of and how this compares to an open type of process?

Mr. INHOFE. I understand the gentleman from Colorado [Mr. MCINNIS] was a minority leader; was he not, in the legislature?

Mr. MCINNIS. With some deal of pride I say that I was the majority leader.

Mr. INHOFE. Majority leader. I did not know Republicans were ever majorities.

OK; let me tell the gentleman how it is in Oklahoma, and the gentleman can tell me if it is the same way in Colorado.

I say to the gentleman, "In Oklahoma, if you want to bring a bill up from a committee, and the committee boss won't allow you to do it, all you do is stand up on the floor in an open session, and move to suspend the rules and discharge from whatever committee it is whatever resolution you want. Then the person who doesn't like that normally stands up and moves to table. Then they vote on it, and it's all public record. Everybody knows it. It's out in the open."

Mr. MCINNIS. And in that process, that is all an open process. There is no, as I understand it from the process in Oklahoma, which I think tracks the process in Colorado, the names of the people that want to blast it out of the committee, so to speak, it is done on the House floor. It is not in secret.

Mr. INHOFE. It is unconscionable that this could happen. I never dreamed before I was elected to the U.S. House of Representatives—but look at that notice, the publication, release, of names of Members who have signed this or any other discharge petition. If you release those, you are subject to penalties and punishment.

Mr. MCINNIS. Explain again in terms that are not put into fancy rules, explain in terms that I can understand, exactly what the purpose and the meaning of trying to hide these things. Why do they hide the names? Why do they follow a process? Why does this body follow a process different than most of the legislative bodies in this country, if not all the legislative bodies in the country, and why is it done in such secrecy?

Mr. INHOFE. I say to the gentleman, "SCOTT, you are a freshman, so you are new in this body. I don't think you ever dreamed that there would be this kind of secrecy going on. I don't think any of you freshmen were. I wasn't when I was elected to Congress."

The difference is this:

Congress has been run for many, many years by a group of people who have been in Congress for a long time. They have become very arrogant.

Remember what Lord Acton said. He said, "Power tends to corrupt. Absolute power corrupts absolutely."

And this is what has happened in this House of Representatives. This is why they have done it in my opinion.

I say to my colleagues, "If you take anything like that—let me just describe some of the things that are popular at home. The vast majority of people in America want a strong national defense, want a budget-balancing amendment to the Constitution. They don't want Government-subsidized abortion. They don't want flag desecration. They don't want congressional pay raises done without an open vote."

Yet, Mr. Speaker, all five of these things are things that we find buried in committees because, while people at home want these things, they have strong positions, the leadership does not.

So, how else can they do it? They put it in committee, and the only way to get it out is a discharge petition, and those names are held in secret. So, a Member of Congress can go home and say, "Yes, I want a budget-balancing amendment to the Constitution. Look at me. I have my name. I have coauthored the budget-balancing amendment to the Constitution," knowing full well that he is not going to sign and be one of the 218 signatures. It will never happen.

Mr. McINNIS. I thank the gentleman.

Mr. INHOFE. Yes, sir.

I yield to the gentlewoman from Florida [Mrs. FOWLER].

Mrs. FOWLER. Mr. Speaker, I first want to thank my good friend from Oklahoma for bringing this very important issue to the House floor tonight. And I want to thank him for allowing me the time to join him in support of this effort to open up the procedures of this—the people's house.

I have the honor of serving as the cochair of my freshman Republican class congressional reform task force. Representative PETER TORKILDSEN and I worked with our 48-member freshman class to develop a list of what we believed to be the most important changes we wanted to see in this body.

While we recognized the negative impact that various perks and privileges here have on the perception of Congress by the American people, we focused our reform package on substantive and procedural reforms that will really impact the way we do business.

One of those reforms involves the discharge petition. The freshman Republican class, all 48 of us, agreed just 3 months after arriving here that all discharge petitions must be available to the public.

I want to thank the gentleman from Oklahoma because he is the one who brought the secrecy of the discharge petition to the attention of our class.

As a group of members who were sent here with a mandate for change, with a message that the American people wanted greater access to their Government and its operations, our freshman class immediately threw its support behind Mr. INHOFE's effort.

I think the gentleman should know that we spent several hours in several meetings debating what reforms would get the support of our entire freshman class. When we got to the proposal by the gentleman from Oklahoma, there was no debate.

There was disbelief. Disbelief that a member could publicly declare his or her support of a bill, with the comfortable knowledge that the real proof of that support would be kept hidden away in a secret box here on the house floor.

Tonight we began debate on the Defense authorization bill. As a member of the armed services committee, I know very well that there are things we must handle in this body, items that would jeopardize national security, that must be kept secret.

But I cannot imagine what is jeopardized by lifting the shroud of secrecy around the discharge petition. The only thing I see we stand to disclose is some hypocrisy, and that disclosure is not such a bad thing.

□ 2210

I would like to ask the gentleman one question. I understand, as you said earlier, that you plan to release the people who have not signed the discharge petition, their names, on Friday after we adjourn. What if by Friday you have reached 218 signatures on the discharge petition?

Mr. INHOFE. First of all, let me thank the gentlewoman from Florida for her remarks. I remember so well going into your caucus and facing the 40-some new freshmen that came in here and trying to explain this, because it is so difficult and unbelievable that it could happen.

I would say that is a very good question. Let me tell you what should happen. Everyone should be aware of this.

Everyone in here, except for one person sitting in this body, has signed the discharge petition. If, prior to the end of the workday on Friday, the 218th Member goes up and asks the Clerk to sign that, and he signs it, then they close the books. At that point no one else can sign it. So if someone has the intention of signing it, and there are already 218, it is a done deal. At that point it is opened up to public scrutiny. The secrecy veil is lifted once the 218th signature is on the discharge petition.

So if that happens, obviously I will not release the names to the Wall Street Journal, because it is a matter of public record.

Mrs. FOWLER. If by Friday you have picked up another 18 signatures, we will not face the possibility of losing you in this House. We would not want that to happen.

Mr. INHOFE. That may or may not be true.

Mrs. FOWLER. For a lot of reasons, we will encourage another 18 people to sign the petition between now and Friday. I commend the gentleman for bringing this to our attention and that of the American people.

Mr. INHOFE. Thank you. Let me now yield to the gentleman from Idaho [Mr. CRAPO], who is a new Member leader. There is a position in the freshman class that is in the leadership position. He represents the freshman class in the leadership along with the gentleman from Georgia [Mr. GINGRICH] and the gentleman from Illinois [Mr. MICHEL].

Mr. CRAPO. Mr. Speaker, I appreciate the opportunity you have given me tonight, the gentleman from Oklahoma, to discuss one of the important issues that our freshman class has found here in Congress and to bring it to forward.

Before I talk about that specifically, I want to just kind of set a little bit of the stage here, because this experience of coming to Congress and finding the shroud of secrecy and the procedures that are designed to keep the American public from understanding what is happening in Washington is not simply focused and does not end with this battle.

On the very first day that I served in this Congress, I was exposed to what is called the closed rule. It was that day that we came with many new opportunities and many new proposals for change in the rules of the House and the way that the House operates. We found out that day the very first technique that is used to stop us from getting into that kind of debate, and that is a closed rule, where a proposed set of House rules was put forward. Not the one with the reform measures in it, but the one which was predesigned to be the one which will govern the House, and amendments to that proposed rule were not allowed.

Then you might ask yourself, with so many people in this country and so many candidates saying we support a balanced budget amendment and a line-item veto, why is it we do not do those?

Well, the line-item veto issue came up, and we found out about the King of the Hill procedure, whereby people can put matters up, a line-item veto, and vote for it. But as long as following measures that are similar come along after it, the last one that passed knocks off all the previous ones to pass, and it becomes the measure that goes forward. The opportunity was there for those who came here claiming that they supported a line-item veto to vote for a line-item veto, only to know that it would be knocked off under the King of the Hill procedure when a later vote the very same day transpired.

We learned another way in which those who claimed to support a measure can come here and then not have to go back to their constituency with that measure being law, but being able to say that they did support it.

Here is another one, the one we are talking about tonight, the discharge petition. It has been explained very well. But it is just another way in which those who serve here can tell their constituents that they support or co-sponsored a measure. But without signing the discharge petition and having that be publicly known, they can be sure that the secrecy around that discharge petition will keep it secret and will make it so that it does not come up for a vote.

I just want to thank the gentleman from Oklahoma for bringing this to the attention of the freshman class, thank my other freshman Members who are here to support this effort, and to say that on many fronts, not just those that I have identified, we have got to go forward and make sure that we let the sunshine in on the process of how matters are raised here in this Congress and how votes are taken.

Mr. INHOFE. I thank the gentleman from Idaho. It is interesting all three things you brought up are things that are in the discharge petition that is locked in the secret drawer right now. It is very true, because no one knows who signs the discharge petitions. That is what we are going to change here tonight.

Mr. CRAPO. If the gentleman will yield further, I understand you and a former Member did something like this a little while ago in the past.

Mr. INHOFE. Yes, we did that. That is a gentleman who is no longer serving in this body, Chuck Douglas. I was giving an indoctrination talk to the class that was elected in 1988, and I explained this problem. He said, "I see a loophole. Don't expose the names of the people who signed it." Point to that, will you, Steve, to make sure everyone sees that. That is an incredible little important notice, the one that says you cannot release the names of anyone. He said, "It says you can't release the names of those who sign it. It didn't say those who didn't sign."

So we tried that with the discharge petition on the balanced budget amendment to the Constitution. We had to bluff, because we did not have the names of everyone, like I have here. This is the first time this list has been accumulated, I believe. That is how we were able to get it out and get it for a vote.

By the way, that balanced budget amendment to the Constitution only failed by seven votes.

Mr. CRAPO. But it took this kind of a procedure to force that out for a vote.

Mr. INHOFE. Somewhat devious, yes, but it worked.

Mr. CRAPO. We have not had a vote on a balanced budget amendment in this Congress.

Mr. INHOFE. No. I appreciate that when this happens and this passes, that we will.

Mr. BUYER. If the gentleman will yield, this really does help explain a lot to me. I think it helps explain a lot to the American people, and I really thank the gentleman for bringing it to the attention of the freshmen.

Many of us have had our eyes opened a lot about the processes here in Congress, and I have made this statement before, that there is no such thing as a silver bullet to fire at the Capitol to reform it in one shot. It is very difficult to talk about reforms of the discharge petition without talking about other reforms.

The gentleman from Idaho [Mr. CRAPO] mentioned about the Rules Committee, and there are so many other things. And any time that you have matters of secrecy, that bothers me. When you are making laws and setting rules and the agenda for America, there should be an open process to that.

The other thing that I have recognized in disappointment is not only this, and you can call me naive if you like, but I believe this, right here, the floor of the United States Congress, should be the arena of the greatest open debate and exchange of ideas in the world. Right now I have to stand here as a U.S. Congressman in saying that this is the most undemocratic institution I have ever seen. But, you know what? We are going to change it. And that is what is great about America. Because you can bring in the influx of new people, as a matter of fact, to make those changes, and the new people can be the adrenalin for the reforms. And hopefully the freshmen are the adrenalin for you and your courage to step forward in exactly what you are doing.

There is one thing that really surprises me. When I look at this right here, when I went to that drawer and I signed that discharge petition, I did that out of a personal belief. Yes, I believe in the balanced budget amendment. But I believe in it. I really believe in it. And if other people really believed in it, they would walk over there to that petition, open the drawer, and sign the doggone thing.

But I never knew until tonight, I guess I did not read this resolution that is also hidden in the drawer, that when I signed it, that that was a private and serious agreement among Members. I did not know that. I did not have any idea it was a private agreement.

Mr. INHOFE. I believe the gentleman from Indiana [Mr. BUYER], there is no one more qualified to talk about what makes America great. Just so everyone is aware of it, he is a warrior and one of the high decorated soldiers of the Persian Gulf War. I know you have had a lot of time to think about what make America different from other countries from the foxhole.

Mr. BUYER. You are right. I am not here to talk about the battlefield, although I can say this is a new arena of the battlefield. But I am really curious here, because I have some feelings here that you are stepping out and acting with great courage under a scrutiny and potential punishment. When you said you are facing potential expulsion from the Congress for the step forward to disclose what is an incredibly absurd procedure, can you give me some detail on what that would mean?

□ 2220

Mr. INHOFE. Yes, I can. I have here the Constitution and Jefferson's "Manual of Rules and Practice of the House of Representatives." And I can quote from it. They talk about each House "may punish its Members" et cetera. It says three methods of punishment have been "reprimand, censure, and expulsion."

Now, the most severe punishment, obviously, is that of expulsion. And it would be highly unlikely that this would happen.

In fact, a very well-known reformer around the country, whose name I probably should not mention, but Mr. Perot said that "Let them try. It will make this such a big national issue, they wouldn't dare to do that, because the people are tired of this kind of insider operation."

This is what we are going to change.

Mr. BUYER. You are absolutely right. There is a trust deficit between the American people and the Congress. But what is important is that there are Members really on both sides of the aisle, who really want to make some reforms to this institution. Hopefully, we can come together in that bipartisan effort to make this a better institution for all of America.

I salute you.

Mr. INHOFE. Mr. Speaker, I yield to the gentleman from New York [Mr. QUINN].

Mr. QUINN. Mr. Speaker, I thank the gentleman for yielding to me.

It is an interesting situation we find ourselves in at all of the microphones this evening. I want to thank the gentleman from Oklahoma [Mr. INHOFE] for his effort, not only tonight and the past few weeks to bring this matter before the American people and before the Congress, but also for your efforts in the past before this group of freshmen in this Congress.

I would like to just give a different perspective, if I may, and take a couple of minutes. I know we have a lot of speakers here tonight, but I would like to give you a personal experience that I have had since we have been here.

Back in the beginning, in the first part of January, we talked with a lot of different Members, especially the freshman class, on both sides of the aisle. And the interesting thing for me, as we came into the Congress and we talked to other Republican Members from across the country and other Democrat Members from across the country, is that all of us, all 110 of us, talked about the same things last fall in our campaign. We all talked about change and reform.

It seems that all of us, no matter what the party was, no matter what the State or district was, seemed to talk about the same theme over and over again, that we had to change the way that Congress did business, that business as usual is not what the electorate wanted anymore.

We came here, and we talked about some of those changes. And we shared a lot of the same views, Democrats and Republicans, Members from New York State, my State, Members from Indiana, Members from Michigan, from all over the country shared those same ideas.

Back in February or March, I joined with a couple of other freshman Members, and we did some work on the line-item veto. The gentleman from Massachusetts, [Mr. BLUTE], and the gentleman from Delaware, [Mr. CASTLE], worked with me. And we talked with Members on the other side of the aisle, and we worked with other senior Members who had talked about the line-item veto for a number of years here in the Congress.

We got ourselves to a position where we had a vote, and the real line-item veto that we offered was not approved. A watered-down version was, and President Clinton has that to look at right now.

But as we talked about that line-item veto, we found even more that those reform measures that we all talked about last fall was a common theme across the country. Well, our vote was not successful. We failed. We had about 200 votes. We had 30 or 35 Democrats voted with us in that instance.

But that item still now languishes in the magic box of the discharge papers. I think that experience for me, of the line-item veto, and now this information about the procedure for discharge to get a vote again, is news to me, as the other gentlemen have said.

I would be surprised if many of the freshman Members, maybe even some of the sophomores and junior Members here in the body know about this system and how it works.

We know now firsthand.

Mr. INHOFE. I talked to a senior Member of the other side of the aisle who is a very reform-minded individual. When I told him, explained it to him, he has been here a lot longer than I have, he was not aware that this veil of secrecy takes place.

Mr. QUINN. I am a little bit relieved to hear that I am not the only one, but it is a little ironic and a little disappointing then to find out that this is indeed the case. And it is the very items that many of us talked about, things like a balanced budget amendment or a line-item veto or term limits. It is those kinds of things that the country is talking about that seem to be locked up in the box that cannot be moved.

Indeed, the ironic part here, as the gentleman from Oklahoma [Mr. INHOFE] said earlier, is that the motion to change this system is part of the system. That is what makes it difficult.

It is complicated for Members to even understand. Indeed, many members, as we have just heard, do not even know about the system. Think how complicated it is for people back home in our districts. I know when I had a chance to talk back in Buffalo, NY, and a little bit around New York State about our work on the line-item veto and then explained this discharge petition process, people cannot believe it.

And one of the problems is, we do not get calls in our offices from people who say, from Buffalo or New York or anywhere else, "Hey, Mr. Quinn, change this discharge petition process, will you?" It does not happen, because there are so many other things to worry about.

Yet, if we could get some changes in that process, it is my guess that some of the other important things we have all talked about, both sides of the aisle, all across the country, like the line-item veto and like the balanced budget amendment and like term limitations, would be able to come to a vote.

The gentleman has brought that to our attention tonight. I am here, then, to add my voice, for those of us who worked on the line-item veto, to this effort this evening and to say and echo your comment that we get those 218 names on that discharge petition.

I would ask tonight for those other freshman Members from both sides of the aisle who were involved in these kinds of reforms, we ask you to come forward, too, and add your name to that. I appreciate the gentleman's efforts.

Mr. INHOFE. Mr. Speaker, I thank the gentleman from New York for his very eloquent statement. I can only give you this assurance, that when we get our 218 signatures and we get this repealed, that the line-item veto will be brought out. There is a mandate at home. People want it. Thank you very much for your statement.

Mr. Speaker, I yield to the gentleman from a neighboring district of mine, from northwestern Arkansas, the gentleman from Arkansas [Mr. HUTCHINSON].

Mr. HUTCHINSON. Mr. Speaker, I thank the gentleman from Oklahoma. I am so proud to have a neighbor to my west who has the courage of his convictions to put so much on the line.

I want to commend you this evening for your willingness to really put yourself in a position of, undoubtedly there will be criticism and there will be colleagues who resent what you are doing tonight. I want to commend your courage and your conviction for the stand that you have taken.

I am proud also to be able to stand here with the class of reform, and it is impressive, I believe, at this hour of the evening for there to be so many of my freshman colleagues who are willing to stand shoulder to shoulder with you, JIM, and to say, yes, it is time that this system was changed. It is time that the discharge petition methodology of being able to hide it away and keep it secret, it is time that that changed.

We, this class of reform, we ran as reformers. We ran against many of the abuses that the American people have become aware of in this institution.

We ran against the tilted playing field where all the rules were built to help the incumbents and to ensure that the incumbents stayed in power. And I think that as we talked about many of the reforms that were needed, many of the abuses that the American people are aware of, the one most overlooked, probably the one least heard of is this one that you have sought to repeal and to change.

Yet, it is one that will lead to so many other reforms, if we are able to initiate change here.

It is amazing that you can take something that is overwhelmingly popular with the American people and, under the system as we have it now, something popular like the balanced budget amendment, my colleagues would be allowed to go and to sign on as cosponsors, go back to their districts and proclaim to their constituents, "I am cosponsoring the balanced budget amendment to the Constitution," and yet never lift a finger to bring that kind of a proposal to a vote of their colleagues before the House of Representatives, because they have a system in the present discharge procedure that protects them and enables them to go back and get the political good and yet never be able to take the liability of casting a vote on the floor of the House of Representatives.

I know we have many, and it would be a shame if they all did not get a chance to speak. I merely want to refer to the Arkansas experience, because in the State of Arkansas, we have a discharge procedure. And I think it surely must be akin to those in California and Oklahoma and Colorado and some of the other States that we have heard about.

We have 100 Members in the Arkansas House of Representatives. If I have 51 cosponsors on a bill and my bill gets buried in the committee, where they will not allow that bill to come out for a vote on the floor of the full house, I can go to my cosponsors. I can have them sign a petition to pull it out of committee. The petition is opened. The petition is public. The petition can be examined on any day by anybody.

I can present that petition with 51 names on it, my cosponsors, and it will come to a vote of the full House of the Arkansas Legislature.

□ 2230

I think that is the way it ought to work. I think that is the way most State legislatures work. That is the way this institution needs to work, out in the sunlight where everybody can see it.

I commend the gentleman for the job he is doing, for the leadership he has taken on this. I hope the other 18 will sign up quickly and this reform will become a reality.

Mr. INHOFE. Mr. Speaker, I really thank the good gentleman from Arkansas.

Let me tell one story that is real quick. This is what stimulated this to start with back in 1987. I will not use the names, because I do not want to embarrass any of my fellow colleagues.

I was down here on the floor on the first day of January 1987, when I went up to a friend of mine who happens to be a very liberal individual from the same region of the country that I am from, and I said to him, "You know, we are here, we are representing kind of the same general part of the country. You are among the 3 percent most liberal Members of Congress, and I will be in the 3 percent most conservative Members. How do you account for that?"

Before he could answer, another guy who is a well-known liberal in Congress came up, and he is from an Eastern State, and he says, "It is easy, Inhofe. All you do is vote liberal, and in press releases, conservative."

Wow, that is really a profound statement.

Then I started looking to see, how can you do that? That is when we discovered this is the vehicle that allows people to do that.

I yield to the gentleman from Alabama [Mr. BACHUS], who has been at the forefront and the cutting edge of a lot of our reforms.

Mr. BACHUS of Alabama. Mr. Speaker, I want to point out, to the credit of the gentleman from Oklahoma tonight, that almost all of the freshman class officers are here to support you, and I think that is a tribute to what you are trying to do, that we are here standing behind you.

Mr. Speaker, it takes tremendous courage for the gentleman to do what he is doing, Mr. INHOFE, you, as you have stated, could be expelled from this body for trying to tell the people of this country the truth, for trying to uncover the fact that information has been not only concealed from them in many cases, but they have been misled.

I say that because there are people in this House that say they support important measures, and they are even sponsoring these measures, and they have campaigned on those measures, yet they are not willing to bring those measures to a vote in this House.

They are publicly listed for something or against it, writing letters every day to their constituents saying they are up here in Washington fighting for something, and as I said, even taking the extreme measure of sponsoring a measure, but yet at the same time taking an action which prevents that from being brought up on the floor of this House. That is inconceivable.

I served in the Alabama Senate, and in the Alabama House. I was one of only three Republicans in the Alabama Senate. You talk about a minority. I know exactly what you meant when you said, "I am not used to calling our Members majority leaders." I can tell you, when I am only 1 of 3 in the State senate, that is a shock to me to know that we are in the majority anywhere.

However, as few as we were in the Alabama Senate, the majority party never tried to enforce a rule like this. As outnumbered as we were, we had one powerful tool and that is the fact that everything was done in public. We had two ways to inform the public whether someone was for something or not. One was to do it as they do in Colorado and Oklahoma, and that is call it up on the floor of the House or the Senate.

We also had another way. If something was in committee, or, as it is here, locked in that box, and the American people wanted it brought to a vote, what we could do is we could sign our names to a discharge petition, yet that petition was public. Boy, that is a big difference.

We had a discharge petition in Alabama. You did not, they did not in Colorado, but ours was public. The people knew who signed it, and they knew the day they signed it. Many times when people wanted a measure up, they knew exactly who had signed it and who had not, and they called people who had not and said, "Please sign that petition." Right now we cannot do that.

Because of that, I saw on NBC News recently a report on the honeybee subsidy, and it said that over 300 Members of Congress had said, "That is a wasteful expenditure." There are some that do not think it is, but there are over 300 who said it was.

I am not here to say that it is or is not. I am only here to say that the news media for years have pointed out that we have been unable to eliminate what the vast majority of the country says is a wasteful expenditure.

If your effort is a success, the American people will know on every measure who is for it and who is against it. They can demand that those things be brought up for a vote and those measures be voted on. I want to commend the gentlemen. I want to say this. Someone has already said this in a different way. If you are successful, you will revolutionize this body. You will revolutionize it.

I have only one question for you, JIM. You have said, correctly, that right now you can be expelled from this body. My question is this. Do you think that is really a possibility? We had a Member of this body who allowed a criminal enterprise to operate from his residence. This body issued a simple censure. We had another Member that covered up criminal activity, and this body, not this membership but another body, decided that a private reprimand was in order.

I cannot imagine that you would be exposing a sham and you would be exposing the fact that many Members of this body misled the voters in their districts, and yet you would be expelled for telling the American people the truth, for actually trying to make this body the people's place.

I will say this to you, I think that when you take this action, I think we will learn a lot about this body because, JIM, they do not have to take any action against you. If they do not, the secrecy and shroud will be lifted from this body and the people of this country for the first time in 63 years will know how each and every one of us stand on each issue before this Congress.

I cannot imagine one Member of this body asking that for your action, that you be censured or that you be expelled. I say that, but at the same time, I am glad I am not you.

Mr. INHOFE. I would have to respond to the gentleman from Alabama. I do not think it will happen, either. If it did, all I would have to do is run again and you would be running with the biggest mandate in America, so I do not think it would happen.

Mr. BACHUS of Alabama. You certainly would.

Mr. INHOFE. I point that out because at least you are looking at a set of rules that say, "This is what could happen," and the people need to know that this is what could happen. I thank the gentleman from Alabama for his remarks.

I yield to the gentleman from Minnesota [Mr. HOEKSTRA].

Mr. HOEKSTRA. The gentleman from Michigan.

Mr. BACHUS of Alabama. Michigan is close enough. There are 40-some of us who came in, so please do not hold us too tight. We will make a mistake like that now and again.

Mr. HOEKSTRA. That is fine.

I think it is important to put this in context. Last night many of us had the opportunity to watch the President talk about his new tax program, his spending program, and asking the American people to support it. As we take a look at what came out in the polls today, we find out that the American people are somewhat suspect that Congress, the President, will really carry through on the promises and the commitments that are inherent in that program.

I think it is very interesting, as we take a look at the package and as we listened to the President last night, I thought there was much significance in terms of the things that the President did not ask for as the things that he did ask for.

Perhaps the gentleman from Oklahoma can tell me where this line-item veto is. I helped introduce the package, I have signed onto it. Let the American people know where is the line-item veto.

Mr. INHOFE. I wondered the same thing when I was listening to the presentation of what he was going to ask for. I remembered back on the campaign all this discussion about a line-item veto, how he was supporting it. It has disappeared. I will tell you where the line-item veto is, it is in that drawer, right behind the gentleman from California [Mr. HORN]. That drawer is locked, and the drawer will be opened when we get our signatures.

Mr. HOEKSTRA. If the gentleman will yield, so we will not be able to get a vote on the line-item veto, most likely, unless we change this petition?

Mr. INHOFE. If this petition succeeds and we eradicate the secret veil up there on the Speaker's desk, then we will bring it out for a vote, and I can assure the gentleman that it will come up.

Mr. HOEKSTRA. If the gentleman will yield further, what has happened to the balanced budget amendment?

Mr. INHOFE. It is in the drawer, too. That is Discharge Petition No. 1, I think, and term limits.

Mr. HOEKSTRA. If the gentleman will yield further, term limits, we are not going to vote on term limits, either?

Mr. INHOFE. Let us wait. If we get our 18 signatures, everything in that drawer will be brought out, because once they become public, people are going to demand that their representatives sign whatever discharge petition is in there.

□ 2240

Mr. HOEKSTRA. So unless we change the discharge petition, a lot of these reforms we have been pushing, and that we have been going home and telling our constituents about, unless we change this discharge practice, most likely all 435 of us could go back for reelection next year and say we really worked hard on it, and there would not be any recorded vote in terms of whether we actually believed or not?

Mr. INHOFE. That is right, and that is what we are going to correct, and I thank the gentleman.

Mr. HOEKSTRA. I support this effort. I think it is a need reform, and it really opens up the process.

Mr. INHOFE. I thank the gentleman from Michigan for his time and for his comments.

Mr. Speaker, I yield to the gentleman from Florida [Mr. MICA].

Mr. MICA. First I want to commend the gentleman from Oklahoma [Mr. INHOFE], for his courage and the conviction that he has had in bringing before the House of Representatives this important reform issue. I also want to thank my colleagues in the freshman class, Mr. BUCKY MCKEON, the class president of the Republican freshman class, who has kept the class together in a reform mode, and particularly TILLIE FOWLER of Florida and PETER TORKILDSEN of Massachusetts who have continued also to keep the fire of reform lit before the Congress.

Let me say having been involved in this reform measure and various reform issues, it is very difficult, it is very difficult in this Congress. This reform we are talking about may not be the reform that will change this whole institution, but what it is is it is historically symbolic of the problems with the institution, that behind that closed drawer we operate in secrecy, and we pass taxes behind closed doors in secrecy.

I come from a State that has a sunshine law. There our public records are public. Here I think in the case of national defense that we can keep things secret possibly or some personnel matters, but other than that we should let the sunshine in, let the public know. They have a right to know.

So what you are doing tonight, sir, is very symbolic of the whole problem with this institution, and the reform that really needs to go forward. And other than the few colleagues here and the names you have on that signature page, this is the only reform we are talking about that is really and truly a bipartisan effort that we have some knowledge of. So I commend you.

Now, what I challenge you to do, sir, is on tomorrow, or Friday, release the names of the people who go there and take their names off of that petition, just like they did with the balanced budget amendment and betrayed the American people. So this is symbolic. It is not the most important thing we will ever do, but your freshman Members here are with you.

So I ask you and challenge you, will you release those names?

Mr. INHOFE. Yes, in the event that happens. Of course, as was brought up earlier in the discussion, I would advise the gentleman from Florida that once the 218th name is on there, they are automatically released and are a matter of public record anyway.

Mr. MICA. What I want to know, sir, is the people that go tomorrow, who take their names, have their arms twisted and take their names off that petition.

Mr. INHOFE. And the answer is "yes," and this is a good time to repeat the challenge that I stated earlier, because it has to be repeated, because the whole reason for this is to get the point across that while I love my colleagues that I serve with, that if at the end of the business day, if Friday before our August recess we do not have the 218th signature on that Discharge Petition No. 2, I will release the names of those who have not signed to the Wall Street Journal, and they have agreed to print those names.

So I thank the gentleman very much for his comments.

Mr. Speaker, I yield to the gentleman from California [Mr. HORN].

Mr. HORN. I thank the gentleman and want to commend the others of my distinguished colleagues and my colleague from Oklahoma who serves with me on the Public Works and Transportation Committee. You have done yeoman service here, JIM, in terms of organizing this effort. And I think it will be one of the most significant reforms that has happened in this institution in years. And there is a very simple reason for that. Credibility is at stake here both for individuals in the chamber and also for the House as an institution.

When I served as a Senate staff member three decades ago, I can only recall one Member who misled me as one of the leadership staff on a vote. Our word is generally our bond with our colleagues. When we promise something, we keep that, and ordinarily we do for a very simple reason: our votes become public.

The discharge petition does not become public. The discharge petition has not led to a radical wave of legislation in this century. In fact, only two bills that have been discharged have become law in the history of the discharge petition, only two. So you cannot expect particularly a wave of reform as a result.

On the other hand, the examples that several have cited while we all know of where powerful committee chairmen come and glare down at one of their committee members who has signed the petition and forces them to go up and cross off their names, and we do not know that, because unless you can see Members on either side of the name that you have signed, you never know what has happened to the rest of the petition. So I think what you are doing to reestablish credibility, another way to reestablish it, to open up the Chamber to democracy so that people through their Representative can work their will, is absolutely essential.

Mr. INHOFE. If the gentleman will yield on this point, he gave me a very interesting statistic that I was not aware of. Only two have become law.

Mr. HORN. Only two bills.

Mr. INHOFE. A more revealing statistic would be how many discharge petitions have been successful. And I would suggest that you could count them on two hands, because of the secrecy. Now that will change as soon as it is opened up to the public and is a matter of public record. And here we are only talking about one sentence in this bill. It says once a motion to discharge has been filed, the Clerk shall make the signatures a matter of public record.

Mr. HORN. And we all have a list of items such as the line item veto. And how about the notch babies? That has been buried. How about term limits? We had a group here a few weeks ago at midnight or 1 a.m. talking to the American people about how term limits has been bottled up in the Judiciary Committee since the gentleman from Florida [Mr. MCCOLLUM], first introduced it in 1981.

Mr. HOKE. If the gentleman will yield on that, are you saying that the people of America, am I correct in understanding that last fall, 14 States passed term limits, is that correct?

Mr. HORN. A total of 15, yes, now have term limits.

Mr. HOKE. And the average margin was a margin of 3 to 1, about 75 percent?

Mr. HORN. That is correct.

Mr. HOKE. So you are saying that if pressure were put on individual Representatives to sign a discharge petition, and the people knew about the existence of such a petition and said to their individual Representative sign that petition, we want term limits, that making this public would be a way for the people to have a much more direct impact on legislation, as opposed to powerful committee chairs?

Mr. HORN. The gentleman is absolutely correct. What we have all seen happen in recent years is the cosponsorship game. People are urged to write us, "Will you lend your name to the bill?" I have refrained from cosponsoring hundreds of bills, thousands indeed, as have some of you. It is just a gimmick.

In the first place, we do not have the time to do the important issues we need to have done, and those of us working on the deficit, health care, economic prosperity, that is what is really significant, not all of the frivolous things of every special interest group that is trying to justify its existence. And yet scorecards are completed on Members of Congress simply based on our cosponsorship. So Members say, "I want to look good to that group," and they lend their name.

Mr. INHOFE. If the gentleman from California will yield, if my clock is right we only have one minute remaining, and of course I would like to hear more from the gentleman from Ohio [Mr. HOKE], and the gentleman from Arkansas [Mr. DICKEY]. But I would like to yield to the gentleman who is the president of the freshman class, the gentleman from California [Mr. MCKEON].

Mr. MCKEON. I thank the gentleman for yielding. I just wanted to be here and be a part of the freshman class in talking about the discharge petition.

A year and a half ago I knew nothing at all about how the Congress functioned, I knew nothing about the legislature, and when I go back home most of the people that I talk to know about as much as I did. And they are very interested in the day-to-day process. What do we do each day, how does legislation pass, what do you do, is it like you thought it would be. And I tell him the story about you, because you are one of my heroes.

After I won a hard fought primary last year I watched on television for several days the balanced budget amendment fight.

□ 2250

And the reason we got to watch that was because the gentleman from Oklahoma [Mr. INHOFE], because many people, many more than it took to pass that bill, had signed onto that bill, and could go back to their districts and say, "I am in support of the balanced budget amendment, and I signed onto the bill," knowing it would never be released from the committee and they would never have to vote on it and that it would never have to be brought up on the floor.

The gentleman from Oklahoma [Mr. INHOFE] then, through working with this discharge petition, made it possible that that was brought to the floor, and that we were able to have a debate and then, of course, we know that some changed and pulled their name from the bill and changed their vote and it lost by a few votes.

When I got here on the floor, I learned that that whole thing was possible because of the work the gentleman has done on this discharge petition, and I am proud to be a part of it, proud to join you in your effort to make this public and to let the American people really see how this process works and how it can work if we can open this up. I just want to commend the gentleman and to thank him.

Mr. INHOFE. I want to thank the gentleman from California [Mr. MCKEON], because he is, as I said, the president of the freshman class and has led them into this mode of reform that this Congress has not seen anything like. The fact that you took up my resolution 134 that I believe now will pass with the support we have you will be able to participate in what I would consider to be the greatest reform we have had during our time. If there is time, I yield to the gentleman from Arkansas [Mr. DICKEY].

Mr. DICKEY. I thank the gentleman for yielding.

I want to say this, that the word that comes to my mind is "slippery." I do not want to be a part of any slippery activities. I do not want to be called slippery. I do not want you, as the American people, to believe that is what we want to do up here. We do not want to make it comfortable for us up here to serve you and not be accountable. That is what you want, and that is what you are entitled to. That is the reason I am here tonight supporting these brothers and these colleagues.

Mr. INHOFE. I appreciate that. I thank the indulgence of the Chair, because I know I have gone a couple of minutes over my time. I thank the Speaker for the time and his indulgence.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT TO ACCOMPANY H.R. 2264, OMNIBUS BUDGET RECONCILIATION ACT OF 1993

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 103–217) on the resolution (H. Res. 240) waiving points of order against the conference report to accompany the bill (H.R. 2264) to provide for reconciliation pursuant to section 7 of the concurrent resolution on the budget for fiscal year 1994, which was referred to the House Calendar and ordered to be printed.

WHY WE NEED THE DEFICIT REDUCTION BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. KANJORSKI] is recognized for 60 minutes.

Mr. KANJORSKI. Mr. Speaker, I rise tonight after listening to the discussion immediately preceding me. Although my primary purpose tonight is to comment on the deficit reduction bill, I have decided to comment on the previous hour of debate slightly, because what I wish to address tonight is probably the reverse of what I have heard some of the freshmen colleagues talk about tonight, and that is that I think if I had to describe the ailment suffered by America in 1993 it is that we are having a difficult time adjusting to learning how to live in a democratic society with success.

We are in 1993. In the last 2 years we have conclusively won the third world war. We have won the war without building another cemetery anywhere in the land. We have no destroyed cities, and no destroyed cities exist in the world. We do not have pent-up consumer demand like we did at the end of World War II.

But we now have the capacity, because there is no great threat to democracy or America in the world today, that we can concentrate on our economic house in order and, of course, for the last hour I have heard words that do disturb me, "corruption," "scandal," "undemocratic," and "selfish."

To my freshman friends who are new Members of the House, I do not think, you mean those words seriously. I think, in effect, you are as proud as I am to be a member of the 103d Congress, in the 205th year of the Constitutional Republic of the United States, and to represent 560,000 Americans.

This country has trouble. But there is no one in this country who would willingly change his place and leave this country for the position, the political activity, the laws, the Government, or the society of any other nation on this Earth.

Do you know what the 7 or 8 or 10 million Americans who watch C-SPAN, who watch this Congress in action are thinking to themselves tonight? They must have been as depressed as I am for to listen for an hour to men such as you and I who have been given the quality and the trust of our fellow citizens to come here and serve, yet who belittle, desecrate, and use terminologies describing this Government and the actions of this branch of the constitutional government, the oldest existing on Earth today, to suggest that we are about to lose it when, in reality, we have the good fortune to represent the highest standard of living, the freest, best, most highly educated people in the world, living under freedom at any time in the history of the world.

Now, we have our problems, and sometimes I think the problem that we have is we overemphasize this aisle that separates the two parties on this floor. You know, you may be a Republican, I may be a Democrat, and we have a good friend of mine who is a Socialist, but before we belong to any party, we made a free election of our own conscience to run for office in this society. We got the majority support of the constituents of our districts to come here and exercise the best judgment and will we can.

The American peoples do not want to hear us desecrate the Constitution, the law, or the Government of this country. What they want us to do is learn to work together. I think that whatever we can do, and if it is reforming the rules of the House to create openness, I think you will find that there are bridges that can be built across this aisle. But I would suggest the way we will get there or should get there is not by polemic activities around midnight with derogatory expressions about this institution that have to cause psychological shock to the American people.

Mr. INHOFE. Will the gentleman yield on that point?

Mr. KANJORSKI. I certainly will yield to the gentleman from Oklahoma.

Mr. INHOFE. I will ask the gentleman, and first of all, I will make a statement that I do not think any freshman here talking was saying anything to desecrate either this body or the Constitution, but I want to ask the gentleman a question. Does the gentleman embrace the rule that keeps this secret? Do you embrace this rule?

Mr. KANJORSKI. I will reclaim my time for a second. In your remarks, I say to the gentleman from Oklahoma [Mr. INHOFE], you mentioned scandal, corruption, antidemocratic activity by the leadership of the House, and by the Members of this House. Well, I have been a member of this House for 8 years. I have never engaged in any scandalous, corrupt, or surreptitious activity which would in any way compromise the Constitution of the United States or my oath of office.

Mr. INHOFE. If the gentleman will yield further, are you aware there are many from your side of the aisle who have signed this discharge petition who find this just as repugnant as those of us on this side of the aisle? And, secondly, do you embrace the secrecy of the discharge petition process?

Mr. KANJORSKI. Let me tell you something on that very point. I tried to get your attention here.

You know, maybe we in this House should stop for a week and go up to a college or a university and take a history lesson.

Are you gentlemen aware that the Constitutional Convention of the United States that produced the greatest document that has ever governed men in freedom, in a democracy, was created in total secrecy? Now, how in the world can you suggest to the American people that a minor rule or a process here in this house is going to be so distorting when we know that as we move to govern ourselves in an egalitarian and democratic process; an experimentation of mankind after millions of years of evolution, after democracy died 5,000 years ago in Greece and only came back 205 years ago in America, and now 160 nations around this would use us as a guide and a model, and you decry that something done in secret can be criminal? Well, the Constitution of the United States was written in secret.

Mr. INHOFE. Well, your answer is you do embrace this secrecy, the secret veil of the discharge petition?

Mr. KANJORSKI. No; no. I do not embrace anything; the only thing I would suggest, and I am responding to you, is that I wish you would temper your words, your chosen words and your comments as they cast aspersions on the membership of this House, the past Members of this House. I have had the pleasure to be here and associated with this House some 40 years, not always as a Member of Congress, but I served in this House 40 years ago as a congressional page when the Speaker of this House was a man named Joseph Martin of Massachusetts, a Republican, and when Joseph Martin was the Speaker of the House from Massachusetts, and the gentleman from Oklahoma's party controlled this Congress, the same rule and order and procedure which the gentleman and his colleagues now decry existed here, and to suggest that it has some partisan view or it is done for some surreptitious purpose, I think, represents an element close to being fraudulent.

Mr. INHOFE. If the gentleman will yield one last time, you made the statement that you did not embrace anything. I do. I embrace our Constitution which says that each House shall keep a Journal of its proceedings; the intent is obviously that they want the people to know what is going on here. That violates that provision of the Constitution.

□ 2300

Mr. KANJORSKI. I think there are processes in the law, in the rules of the House and in this Government to have the gentleman's issue debated and revised without the scurrilous attacks on other Members of the House or the House itself we have heard tonight. God knows, if this world needs anything, it needs the United States of America under our Constitution. There are billions of people in this world tonight who would swim the oceans or climb across the highest mountains to claim what freedoms we all exercise so freely and nonchalantly.

I suggest to the Members here—and this is my thought—that I know there are a lot of our constituents out there who would like to start thinking positively about their country. They want to criticize us when we are wrong, they want us to correct when we can make corrections, but they also want us to respect that Government that we serve and the people we represent.

I yield to the gentleman for a moment, and I invite the gentleman to stay on here for my speech, because it is a topic which is a little more important actually than the discharge petition, not to say the discharge petition is not important in your mind. We should look at it. But stay here with me; we could have a discussion on an issue of real importance, the need to pass the deficit reduction bill.

I yield to the gentleman.

Mr. DICKEY. I want to tell you, from a freshman's viewpoint, that what you say is correct, that is the way we should have it. The bridge, though, does not need to be across this aisle. That is part of the problem.

As a freshman sees it, the top leadership in both parties get together and the Nation suffers in a lot of instances. What we need is a bridge from this body to the American people so that it can to two ways, so they can travel this way and we can travel that way and we can have communication. And our goal is not to stay out of touch.

That is what I think the freshman viewpoint really is.

I thank the gentleman.

Mr. KANJORSKI. I congratulate the gentleman. I think it is, too.

What I encourage the gentleman to do is to stay longer, because there is a lot to learn from those of us who have spent a few more years here, from several standpoints. It is not as a criticism that I say that. I will tell you that what I am going to talk about tonight is the budget of the United States.

Mr. DICKEY. And I want to listen to that.

Mr. KANJORSKI. And I want the gentleman to listen to it because the real issue that we are all talking about is not just the $500 billion deficit reduction bill, and cutting or not cutting spending, or raising or lowering tax rates; no, it is that we are a unique country in a unique time in history, where all of us average men are selected by our peers to govern. That concept is mind-boggling. Today I sat on this floor in a seat not too much farther from where Mr. HOCHBRUECKNER is sitting now, and I witnessed the President of the United States come up here to speak to the Democratic Caucus. I have had occasion over the last 6 or 7 months to spend a great deal of time with the President, but I did not know him prior to the election process.

Mr. DICKEY. He is from a very good State.

Mr. KANJORSKI. He certainly is. Although I did not have the occasion to really know him before he came to office, I feel I know him well today. But when he was elected I really had an open mind about what this man is all about.

Today he talked about the budget. I know most of the issues he raised. So it allowed my mind to wander. And the magnificent thing is that every day when I walk into this Hall, down this aisle, I am acutely aware of the fact that I am just a Representative of 560,000 people like myself. We had to pick somebody. I am pleased they picked me because I love this job.

I know most, if not all, of the Members who come and serve here do it because they love this job. They do not do it for profit. Most of them earned more money in private life than they get paid here. They do not do it for perks. Most of them don't need the perks. Most Members do not work 8 or 10 or 12 hours a day; we all work 12 hours a day, 7 days a week. We know that.

In any other area of society we would be called workaholics, almost bordering on insanity the amount of time we work.

But, you know, it is not work to us. We get a real pleasure out of the opportunity of trying to solve the serious problems that exist in our society.

Well, what struck me today with the President of the United States—because when I first met a President, it was Ike Eisenhower in that little room off there when he would come up for the State of the Union Address. And I have had the pleasure to know every President personally since Eisenhower.

Mr. Clinton, for the first time in a long time, is really a people's President. He came from Arkansas—Hope, AR—1,200 people. As a little boy, he used to sit in his back yard throwing his knife with his best friend, who went on to tremendous success, and dedicated their lives to public service and came to Washington committed to change.

What he talked about today was not exercising undue influence, was not exercising an imperial presidency; it was saying that we had to take America, unified, into a new changed era, into a third century. In order to do that under the democratic process, so difficult to live under, we had to communicate and educate ourselves as representatives of the people and the people we represent. He knows how hard that is. It is extremely hard. I am here tonight to try to help with that. I want to talk about the budget tonight.

The reason I want to talk about the budget tonight is I think it is going to be a spectacular first step that America will take into its third century. An example of leadership for not only the free world but indeed the entire world because the entire world will soon be free because of America.

Now, we have got a problem; we have fought the third world war since I was 3 years old, for 50 years. We did not do it on that many battlefields, although there were Koreas and Vietnam and Kuwait and areas like that; but we fought a challenging foe in two forms: One, totalitarianism wherever it may exist in whatever form, but finally, after the destruction and defeat of Hitler and that form of totalitarianism, we ran into an enemy known as communism and the dictatorship of the Soviet Union.

We opened our treasury, we sent our best young men and women into the military, we set the best scientific minds of America to work, and we took all the capital we could afford and all that we could borrow, and we applied it to the task of not seeing democracy disappear from the face of the Earth as it did in ancient Greece.

We as a people, 250 million people, Americans saved democracy for 5 billion people on this globe today, at a terrible cost: over $3 trillion of additional debt in 12 years, unprepared to meet a new challenge, institutions that are rather old and stagnant and not able to get out there and deal with challenges.

What are those challenges? We have no destroyed cities to put our people to work rebuilding; because our cities were not destroyed. We have no cemeteries to dig, because we killed very few people in the war. We have no pent-up consumer demand, because most Americans did not lose anything by winning the war.

The fact of the matter is, over the last 50 years we won the third world war, maintained a strong economy, the strongest quality of life in the world, and maintained all of our free institutions.

But now we are faced with a challenge, we are faced with the spoiled appetite of an immature group of people who think that you can charge and run up the debt forever. And we, some of us at least, think that that cannot be done.

Mr. DICKEY. How can I say amen to that?

Mr. KANJORSKI. I agree with you. That is what this is all about.

Here is the budget, here is a graph that indicates very clearly what is going to happen. If we do nothing, we experience the top line; the budget will continue to climb in its deficit, but, by the year 2003, just 10 years from now, it will exceed $600 billion.

□ 2310

By that time we will have an accumulated debt of somewhere around $14 trillion. If we pass the proposal that our President and our Congress, working in mutuality has framed, we will have the green line. We will have a drop for a period of about 3 to 4 years from $350 billion down to as low as $220 billion and then a reversal, again climbing up where 10 years from now the budget will be back to an imbalance of about $350 billion.

The third line is if we pass the Clinton proposals and the economy improves as anticipated, we will have a decrease from the $350 billion down to $200 billion and then just a slight leveling and increasing to around $220 billion, but still a deficit.

On the other hand, the President is saying, "Give me the first step. It isn't the best. It isn't my dream or my desire."

The fact of the matter is, it is not the desire of one of us, of 537 federally elected officials here in Washington, the program that we will be voting on tomorrow is not the ideal or the dream of any one of us.

The fact is we all have a plan, 537 plans.

Now, that is our choice. If we do nothing, the deficit goes up. If we get together and pass the program, if we correct health insurance, if the economy goes up, we can take the deficit down to a level in the next 10 years where it is down around $150 billion a year, which is minuscule and completely ineffective of its effect negatively on the economy of the United States.

Mr. DICKEY. Mr. Speaker, will the gentleman yield?

Mr. KANJORSKI. I yield to the gentleman from Arkansas.

Mr. DICKEY. I need to ask the gentleman a question, since the gentleman was here.

I have been told and I believe that President Clinton wanted to cut spending first. He could not get past the congress in that respect.

Let me ask this question. How is the promise of Congress any different now than it was to President Bush in 1990?

Mr. KANJORSKI. The promises made in the 1990 agreement were kept. They are a matter of law. They were not vitiated.

What happened to the 1990 agreement—and in a way, I am glad the gentleman is here, because this can give me an opportunity to answer some questions.

Do you know what happened in 1990? I was one of the Members who refused to vote for the compromise three times. The fourth time on October 29 after there was an adjustment on taxes on the very wealthy where it went up to 31 percent, I thought that was fair. I knew we needed that revenue to succeed.

What happened, however, at that precise moment in October, the recession had already started in September, and the business climate and the economic climate of this country was materially falling, not growing, unemployment going up and interest rates going up and no response. A completely stagnant economy was occurring. It continued on through to the very end, near the end of the Bush administration.

Mr. DICKEY. But what happened was that the tax increased that recession.

Mr. KANJORSKI. No.

Mr. DICKEY. I was in the middle of it as a businessman and I know what happened. We had to cut jobs and we had to scrimp and save.

Mr. KANJORSKI. Does the gentleman mean he had to cut jobs because we raised personal income at the highest level three percentage points?

Mr. DICKEY. Yes, and I will say this, the spending went up in Congress. I did not know it at the time, but I knew that the taxes had their effect.

Mr. KANJORSKI. I agree, the spending went up, but not proportionately.

The problem that we are having, I said this to one of my staff the other day, we are talking at each other, not to each other.

Mr. DICKEY. All right.

Mr. KANJORSKI. The reason spending would always go up, as long as the population of the United States grows spending will always go up. If we stop spending and the population grows by 10 million every year, we are significantly decreasing the quality of life of the American people.

We are always hearing these figures. Now, let us talk about real figures. When we ended the Second World War, the United States had a debt of $350 billion. We had a gross domestic product, everything we produced in the United States was worth $350 billion, a ratio of 1 to 1. We only had 120 million Americans.

Need anyone question what America was like, if you did not live in 1945 and 1946, I will tell you what it was like. I lived in a little town. I lived in the same town, on the same street that I lived in that very day.

There were two automobiles in the entire block. Half the people worked in very menial conditions with very had labor situations, rather than machinery or modern technology. The income level of the average family was not sufficient to buy a home, to buy an automobile, to send children to school, but it started to increase because there was such pent up demand, and when the boys came home America did not worry about the $350 billion debt and the $350 billion Gross Domestic Product. They said, "We are going to cut this economy loose and let it grow," and that it did and it did it with great stability.

The secret of 1945 to 1965 was the fact there was stability in interest rates in America and marginal inflation. We did not have hyper-inflation.

I remember as a school boy in that period of time investing my money in deposit accounts at the bank for half of 1 percent interest.

I remember when you could go out to Levittown and buy a middle class home for $20,000 and get a 3½ percent mortgage. Those homes today sell for $300,000. It is just in the last six months that the mortgages have fallen below 10 percent.

What this President is asking us to do is to remember what happended in 1945, but also remember the differences, and here is what the differences are.

We do not have pent-up demand for 5 years. We all have the television, cars, washing machines, homes, clothing. We have no great consumer demand that can be the engine to take us out.

We do not have any cities to rebuild, either here or anywhere in the world.

Worst or all, we have warehouses full of hundreds of billions of dollars of supplies built to fight the third world war that no longer has to be used for that purpose, and we have a defense industry that has to be disassembled involving millions of workers and hundreds and hundreds of billions in capital that if not converted are lost to society.

Mr. DICKEY. Mr. Speaker, if the gentleman will yield, that is interesting history. I do not know that. I did not live as much of that part as the gentleman has.

But what has Congress promised to do this time that is different than what it promised President Bush in 1990 as far as spending cuts are concerned? Help me there.

Mr. KANJORSKI. The President of the United States said that we have to make an adjustment. Some people say, well, let us do away with the deficit. We could do that. We could end the deficit today. We could refuse to pay interest on our lending, and that is over $300 billion, and we balance the budget.

But unfortunately, our bondholders would want to foreclose on America, and we all know that cannot happen. We cannot do that. So that is not an alternative.

We have another alternative. We could close the defense establishment of the United States, just close it down, blow up or sell off everything we have, release all the troops, close all the defense industry plants, and that will save us $300 billion a year. That is one of the basic tenets why we have a union and an actual government, to provide for the defense of the American people.

Mr. DICKEY. But that would be a spending cut, would it not?

Mr. KANJORSKI. Sure, it would.

Mr. DICKEY. All right, why is it we cannot have spending cuts? Why is it that Congress stands in the way between our goal of spending cuts as far as the Nation is concerned and taxes?

Mr. KANJORSKI. We have had spending cuts. This President is cutting defense, but he is not going to cut it anymore than he thinks he possibly can to provide for the protection of the United States. I would have him cut it more.

On this floor today, I voted to cut the Intelligence budget 10 percent. That would have been the equivalent of $2½ billion. I do not think we need that money after the fall of the Soviet Union. I think $22, $23 or $24 billion is sufficient for Intelligence expenditures in this country and the other $2½ billion to $3 billion is lesser.

My colleagues differ with me. I understand that. That is what democracy is all about.

□ 2320

I am glad I am not the only person that makes all the decisions around here because I know how often I can be mistaken, too. This is a collective, compromise judgment of the American people and their Representatives.

Mr. DICKEY. But I am differing with the gentleman also. The gentleman seems to think that this Congress, this body, both the House and the Senate, are going to cut spending, whereas they promised the same thing to President Bush and this Nation, and we increased spending. For every dollar we took in we increased spending $1.71.

Tell me as a freshman, tell me how it is different now that this Congress is promising spending cuts to a President and to an administration in later years, how is it different than what was promised to President Bush?

Mr. KANJORSKI. OK. The gentleman studied President Clinton's program and the program we are about to pass.

Mr. DICKEY. I have not studied it like the gentleman has.

Mr. KANJORSKI. Well, let me talk to some of it. It is basically——

Mr. DICKEY. Well, how is it different? How is it different than Bush? That is all I am asking.

Mr. KANJORSKI. Well, I think the gentleman has heard the term around here "smoke and mirrors."

Mr. DICKEY. Yes, sir.

Mr. KANJORSKI. The Bush agreement was a summit agreement between the leadership of the House and the Senate and the President of the United States, and unfortunately the President never went there. Mr. Darman and Mr. Sununu—now this is Mr. Darman at the end of last year, said, "Oops. I missed the deficit by a hundred and fifty billion, just a little slight miss."

I say to the gentleman, "Well, anyway, when you're dealing with people like that, and you're dealing for political advantage, and you're dealing outside of the institutions, you're mistaken. That didn't happen this time. This time the President of the United States within 30 days of taking office came up here, on February the 17th, and he told the Representatives of the American people we have got to stop the increase of the deficit."

Mr. DICKEY. We have got to stop spending; is that not what he is saying?

Mr. KANJORSKI. No. You have got to stop spending, and you have got to raise revenues so that your deficits do not exceed the growth of your gross domestic product. The President spoke the truth when he said the sky is not going to fall today, it is not going to fall tomorrow, probably not for years. I would project we could go the way we are going right now for 8 to 10 years. By that time the debt would rise to around $14 trillion. At that point no idiot in the world would buy an American bound because we would, as for all intents and purposes, be absolutely bankrupt. The President says we are not there yet. He said:

"Work with me, and let us begin to reverse the trend." This bill is the first step he is asking for.

Mr. DICKEY. He is asking that from Congress?

Mr. KANJORSKI. He said that to Congress. He said, "Give me a third of that cut."

Mr. DICKEY. How is that any different than what this Congress promised President Bush when they said, "O.K., we will not have any spending except under emergency circumstances——"

Mr. KANJORSKI. Because——

Mr. DICKEY. And then all of a sudden emergency circumstances allowed us to increase spending from a dollar of take in revenue to $1.71 expenditure. Now how is it any different? I am just a freshman.

Mr. KANJORSKI. I say to the gentleman, "When you get into the cuts and the numbers, you have to remember the revenue intake far underperformed because of the recession that occurred. Nobody anticipated the depths of the recession, nor did anyone realize that it had even started at the time. So, when your revenues are out, automatically you are going to take less in. Your spending goes up as your recession occurs. Every time you have 1 percent unemployment in the United States, it costs us $30 billion in unemployment compensation alone—every year."

Mr. DICKEY. Interest rates are that way too; are they not?

Mr. KANJORSKI. Excuse me?

Mr. DICKEY. Interest rates are that way too.

Mr. KANJORSKI. Absolutely.

As I was saying, what happened in 1990 is people got together.

I was here then, and I think in a way George Bush was a man who was willing to make a tough decision.

Mr. DICKEY. He meant well; did he not?

Mr. KANJORSKI. Oh, he absolutely did, and he thought he was doing the right thing. If I had to make a criticism of the former President it would be that he never got to know us, he never came around, he never really talked to us. He was out of touch with people and with the people's Representatives.

Mr. DICKEY. President Clinton is different from that, and he means well, too.

Mr. KANJORSKI. Exactly. He means well, and he goes one step further. He is talking to us two, three, four times a week. We are involved with him. He is inviting discourse, ideas, thought processes, and he has told us:

"This package is not the panacea."

What he is asking for, $500 billion, is just a beginning, a first step. I say to my colleague, "If you do not follow it up with containment of health care costs, it is a disaster. We go right back up again. But even if you do that, and you do not follow up with welfare reform, you are not going to have change. But even above and beyond that: This is the first President of the United States in 60 years that, as a Democrat, is internally going to reform this Government. He is going to do for Washington what Richard Nixon did for the world when he opened China to the world of nations."

Mr. DICKEY. Well, I am not going to disagree with that, and he is from Arkansas, and I want Arkansas to get the credit, if it possibly can.

But the one thing that is not different is that this Congress is the same, the insatiable desire of this body to spend money. It is exactly the same. We can have Presidents come and go, and Presidents can be different——

Mr. KANJORSKI. Mr. Speaker, let me tell the gentleman what the real facts are.

Mr. DICKEY. All right.

Mr. KANJORSKI. To date we have passed 11 of the 13 appropriations bills for fiscal year 1994. We have already come in $10 billion below what the budget agreement calls for. So, if we passed every appropriations bill from now until the end of the year, and passed the budget, as we are, we will be spending at least $10 billion less than expected. We are on our way.

We have a lot of good opportunities.

I do not know how the gentleman voted on the super collider.

Mr. DICKEY. I voted against it.

Mr. KANJORSKI. As did I, and we defeated it. I hope it is dead, but I have seen these spending monsters rear their heads several times. We kick them in the teeth, and they keep getting oxygen and staying alive. I also voted against funding the space station, and this time I was on the losing side. Those are judgment calls. I think both the SSC and the space station are magnificent. I think they help science.

Mr. DICKEY. I will agree.

Mr. KANJORSKI. They help America in the forefront.

Mr. DICKEY. Right.

Mr. KANJORSKI. Our problem is we have got to be a country of priorities. Can we afford everything at one time? At this time? No.

I had a similar discussion with a friend of mine the other day, and they said, "Well, you know, Spain—look what Queen Isabella and King Ferdinand did. They financed Columbus, who discovered the New World."

Spain, however, does not run the New World today. Spain is not a great power anymore.

We have an obligation, not be a great——

Mr. DICKEY. I ask the gentleman, "Wasn't it Portugal?"

Mr. KANJORSKI. I am sorry?

Mr. DICKEY. Was she the queen of Portugal or Spain?

Mr. KANJORSKI. Spain.

Mr. DICKEY. All right.

Mr. KANJORSKI. Spain funded the Columbus discovery of America.

Now I think this is a good history lesson to us, that, yes, there are a lot of things we would like to do. There are great explorers out there. There are great discoveries to be made, whether they be in space, in science, or in the laboratories. They all should be done, and hopefully all will be done at some time. But before financing these endeavors we must stabilize our society after having fought a war for 50 years and get our house in order.

Our President is telling us this, and instead we are arguing over details—somebody does not like this little aspect of it, and, therefore, they will not support it. We are given a choice on the House floor; one option was accepted and one was defeated, with perhaps 140 votes. If we do not pass this one, we will have no budget. We will have chaos.

Mr. DICKEY. Well, we can cut spending.

Mr. KANJORSKI. We are cutting spending, and let me get to that.

Mr. DICKEY. I am talking about cutting spending together——

Mr. KANJORSKI. We are cutting spending. We are cutting it by virtue of the law contained in this bill. The package before us mandates that $250 billion in more than 200 projects that the President highlighted will be contained or cut.

Mr. DICKEY. So long as it is not a waiver, and so long as the next Congress does not come in and say, "Wait a minute. We did not agree to that. We want to change it, and we are just going to put a waiver on it."

Mr. KANJORSKI. No, no, that is exactly the point. The President of the United States has to sign that waiver or it cannot be passed. Congress cannot change the law alone. This is going to be law. The President would have to participate in any changes. If he does back down, that is why we hold general elections in the United States, and the gentleman and I will be on the same side if he does not hold to it.

I am telling the gentleman this:

"I have not known this President personally for a long time, but he is one of the brightest men in the Government and one of the sharpest men I have ever met in my lifetime. I do not think any one can question his seriousness and this intellectual capacity, to deal with these issues and his willingness to listen and to take input from all quarters. And what he has said to us is that at this particular time we have a window of opportunity for budget deficit containment. But we cannot cut the 300 billion in one year and balance the budget—oh, we can, but we would drive America into a depression the likes of which would probably make 1930 look healthy. Just can not do it."

Now every known economist on the right and on the left and throughout the country has said that. Just last week, just last week, Alan Greenspan appeared before my committee, and his comment—now we cannot argue that Mr. Greenspan is in any way politically related to this administration. His comments were: I think it is important that some major credible deficit reduction bill be passed. There is an expectation in the marketplace that a credible initiative will eventually emerge from the process which has been going on for the last 6 months or so. I fear that should that expectation be thwarted, that the markets would respond in a negative fashion.

□ 2330

What Mr. Greenspan was saying, very simple, is do not pass this budget, go into gridlock, and the interest markets will take their toll.

Now, what will they do to us?

Mr. DICKEY. Have you said yet how it is different, what Congress promised this President as opposed to what this Congress promised President Bush? Is it any different? I can just get off of this if you will say it is exactly the same thing.

Mr. KANJORSKI. No, it is not. The programs that will be set out are specifically set out in law.

Mr. DICKEY. That was done with Bush, too?

Mr. KANJORSKI. No. The agreement with Bush was identify cuts to be made in the future.

Mr. DICKEY. But the number of dollars that were supposed to be cut are greater than what is in this one.

Mr. KANJORSKI. Not to call the name up of a very reputable Senator on the other side of the Capitol from a Midwestern State that may start with the letter K, but he suggested he had a plan. He took every one of the Democratic cuts and an additional unspecified $67 billion. And that is very analogous to what happened in 1990. That is so easy, to cut an unspecified $67 billion. Because when we talk here tonight, the American people think that there is a vast oven down here that Members of Congress like you and I, when we have nothing better to do on the House floor, run out there and shuffle greenbacks into that fire as fast as we can.

Mr. DICKEY. That is what I think.

Mr. KANJORSKI. I have been here 8 years. I have not found that. I can tell you what I have found. I have found that there are programs that are contained in the Budget of the United States for $1,500,000,000,000 that have constituencies all over the country, that cross party lines, cross social lines, cross economic lines, and cross interest lines.

I can tell you that the scientists think that the super collider is absolutely essential for $10 billion. I will tell you the homeless man in Philadelphia cannot comprehend a Government that will spend $10 billion for a 54-mile tunnel, and allow him to sleep in the cold of Philadelphia.

Who is right? I do not know. Our responsibility is to test it all. I know of no program, with the exception of a few—I do not understand the honey program, OK—but people tell me that that even does some good for somebody in pollinating crops. Maybe it does; I do not know.

But we have libraries, we have education, we have hospitals, we have research and development, we have the Armed Forces, we have Justice Department, we have the FBI, we have Congress, we have the Presidency, we have Government. We build highways; we build waterways; we build sewage plants; we build airports.

There is no blast furnace where we are burning money. Sometimes we are all guilty of not having the foresight and the vision of what the best judgment or expenditure of our dollars would be. But those dollars are not being thrown away. They are being expended for a collective judgment's idea as Representatives of the people as to what the priorities should be.

Now, what got us into trouble is very simple.

Mr. DICKEY. Let me tell you. I think you had four votes——

The SPEAKER pro tempore (Mr. WATT). The Chair would advise that the gentleman from Pennsylvania [Mr. KANJORSKI] has the time, if he wishes to yield.

Mr. KANJORSKI. I will yield to the gentleman.

Mr. DICKEY. I am supposed to say that?

Mr. BACHUS of Alabama. I would ask the gentleman to yield, not so much for debate, but I have an honest inquiry.

The SPEAKER pro tempore. The gentleman from Pennsylvania [Mr. KANJORSKI] controls the time.

Mr. KANJORSKI. Do you want to take it first?

Mr. DICKEY. Go ahead. Go ahead.

Mr. BACHUS of Alabama. I want to come down here and compliment the gentleman from Pennsylvania [Mr. KANJORSKI] about something that he said. You said that we have a tendency to speak at each other instead of to each other, and instead of engaging in sometimes meaningful debate, or even conversation about the problems that face our Nation, it is almost as if we are shooting arrows back and forth. And I think you are to be complimented on that.

Mr. DICKEY. I do, too.

Mr. BACHUS of Alabama. If this body had done more of that on this budget, we would be further along. And I also want to compliment you on something you said tonight that I am going to bear in mind. I mean, it needed to be said. And that is the fact that as this country grows and as the revenues grow, as far as spending going up, to a certain extent that is a natural process. And it should be kept in mind. So I want to compliment you for that.

There are concerns that we have about the budget. I would say this to you, just as an offering of another viewpoint. I think the President, when he said he would cut the deficit $500 billion, I think that that may have been a mistake. There is a debate now over 496 or 500.

Mr. KANJORSKI. Will the gentleman yield back for just a minute? You are right in a way. Now, the experience I have when I go to town meetings in my district—and this is not anything against my constituents—they are no different than constituents all over America. They have to support a family; they have to earn a living. They do not have the time to spend in economics and government, and they are not necessarily schooled in it.

When you use the term "deficit" or "debt," 80 or 90 percent cannot distinguish between the two. I even hear some of the best commentators and journalists make that mistake and some of our fellow Representatives that really do not know the distinction.

When you use that word, "cut the deficit," a deficit by definition adds to the debt. When you cut the deficit, you are increasing debt. But people do not know that, and we should talk about those terms.

But what the President is saying is we have got to get the increasing rate of the increasing debt because of the increasing deficit on a yearly basis under control. And if it comes to the same ratio that the gross domestic product is growing, at least we are not going behind.

We have now got it in a position that we can put some treatment to it. And none of that treatment is going to be happy, because it means we are spending more than we should and that we are willing to pay in taxes or in revenues. That is true.

But we did that to win the third world war. And now you just cannot stop that overnight without oh, oh, it is not going to affect you or me.

We are elected for 2 years. But I can tell you I have traveled this country with my committee to California, to Utah, to Montana, to Alaska, to Pennsylvania, to Ohio. All over this country there are defense industries that are directly or indirectly related to feeding that tremendous machinery. That when you disassemble the Department of Defense, the sudden reaction, the rippling effect is four and five and six jobs in the private sector for every military job we let down.

Oh, it is easy for the guy to sit in the corner bar and say, "Oh, just cut the Defense Department 100 billion."

How? How many aircraft carriers are you going to cut down? How are we going to protect the oil travel of the world? We are the only superpower in the world. We are in a very transient period, where another Hitler could rise from the ashes of hatred and conflict. We know that.

On the other hand, we cannot afford to maintain indefinitely the expense it took to win the third world war. Our people will not stand it. We have lost our unifying external force, the hate of the Soviet Union and communism. We are proving for the first time in Western civilization that a self-elected body of representatives in a democratic system are going to be able to change the economic direction of their Nation in peacetime. And by convincing and persuading, informing, and educating an electorate.

That, if done, will be the first successful attempt ever in the history of Western civilization. What a challenge. But do you know what? We have got a Rhodes scholar to do it.

Mr. DICKEY. You have got what?

Mr. KANJORSKI. We have a Rhodes scholar to do it. We have a pretty nice young team, a new generation, born after the war, coming into power, without all the prejudice that preceded with the Depression and the hatreds that went through this country in the twenties and thirties, and people that are looking off with vision.

□ 2340

And I hear a President saying to me, if we can contain this cancer and, even better yet, if we can extricate this cancer from the body, America can lead the renaissance of the world, that we will increase wealth and capital and productivity and quality of life, not only for every living American but for every free man in the world. And when he says "free man in the world," he means the whole world to be free. And I believe he could do it. I believe we can do it. But we cannot do it if we do not take that first step.

And he says, join us in taking the step.

If you do not want to—and politics is important to this country—through the fighting of the Democrats and the Republicans and challenging each other's axioms and assumptions, we get the truth, or we get nearer the truth than any other system.

We do not ask you to come over and join us and take the responsibility. What we ask you to do, and the plea I make to you tonight—I am so pleased you stayed here—the plea I make to you tonight is, it is beyond the 435 of us that sit here. I am not going to persuade you and change your philosophy, and you are not going to persuade me and change my philosophy. But we have millions of Americans that really do not know whether or not this income tax is going to affect all of them. Let us be honest with them.

You may not agree with the income tax, because you may feel that the people that it will affect it does so wrongly. I understand that.

On the other hand, it is unfair to suggest to the millions of Americans tonight that have tight budgets that their Government or their President is going to take their incomes away in income tax. He is not going to do that. What he is going to do is in this chart right here.

He is going to ask us in this Congress, if it passes this budget, we will level an income tax that will only affect people that are making more than a gross income of $180,000 a year as a married couple or a taxable income of $140,000 a year.

Now, in my congressional district in northeastern Pennsylvania, that is 800 people.

Mr. BACHUS of Alabama. Mr. Speaker, will the gentleman yield?

Mr. KANJORSKI. Surely.

Mr. BACHUS of Alabama. Let me say this to you: I think you are raising some points that are valid, but at the same time what I would say to you is this.

I think it is more important how we reduce the deficit than the amount. Instead of saying $500 billion, if it is 490 or 480, and that additional $10 to $20 billion is unfair, and most of us agree it is, I am saying, the retroactivity.

Mr. KANJORSKI. The problem is, laws in America need a majority. We have got to get 218 votes here, and we have to get 51 over there. I have been here 8 years now, and I have seen President Reagan come here and tell us how he is going to balance the budget and spend more money on defense and cut the income tax. And a lot of us scratched our heads and said, boy, it must be new economics, because when we went to school that is not the way it works. And it did not. And I do not fault the President, because I just gave him credit.

I think in the 1980's, we drove ourselves into great debt, but there was a victory. We collapsed the Soviet Union. We sat down at the poker table. We played poker stakes, and they went belly up and broke. We did not defeat them in war. We did not destroy their philosophy. We bankrupted the buggers, and we have taken that threat away.

Mr. BACHUS of Alabama. I would say this, Mr. KANJORSKI: We could debate this income tax. And we probably could debate it for an hour or two and not agree.

What I would say, and I would hope that this body can agree to at this late hour, is that instead of $500 billion, let us go for 480. I am saying this: There are certain things like the retroactivity which I think most of the Members of this body are worried about and concerned about.

Mr. KANJORSKI. Let me throw a truth out there. What nobody has said on retroactivity that I have heard, they took that into consideration.

First of all, there are many precedents. The first original income tax act was passed. The 1986 act was retroactive. So it is nothing new.

But let me give you what really effectively we are doing there. We had to come up with the revenues to meet that window of opportunity. If you slipped down to $400 billion or $350 billion, that is easy. Unfortunately, that is not enough to get us anywhere. It will not take care of the credibility of the marketplace, the financiers of the world or on Wall Street.

They will see that as nothing more than an inability of the Government to operate. You could go to $700 billion, but most of your economists say you will pay a terrible price in unemployment, lack of capacity, because you will contract the economy to the point where it not only will not grow but will materially decrease and contract in its productivity.

They say the measure, the window is somewhere in that range. Nobody knows. It could be 450. It could be 550; 500 is not a magic word. But the President wants the American people to make a dedication with us and with him to change the direction of this country.

Just recognize by putting it up there, and he says, we are not asking you to pay a terrible price. What we are asking are those people that have had exceptionally good times and have had their taxes reduced—when John Kennedy was President of the United States, the highest tax rate on wealthy people was 92 percent. It subsequently was reduced to 70 percent. Then it was reduced to 50 percent, and then it was reduced to 28 percent.

Now we took it up 3 percent in 1990, and we are asking to take it up 4 percent more.

Mr. DICKEY. Mr. Speaker, if the gentleman will continue to yield, the three of the four votes that you made against the Bush tax, that is where we are. That is where the people who are elected and who are freshman, that is exactly where we are. Could you discuss why you voted those three times against taxing the American people?

Mr. KANJORSKI. Not against taxing. I refused, because I thought it was very unfair. I thought the taxes that were going to be imposed were on the middle class, and the cuts that were going to be imposed were on the poor. We were not sufficiently taxing the wealthy people.

I have got to tell you a story. Friends of mine that are very well-to-do constantly come up to me, over the last 5, 6, 7 years, and say, "It is unconscionable not to be charging me a higher rate. You know, take it this way."

Mr. DICKEY. I will go along with that.

Mr. KANJORSKI. They are saying to you, "Look, you know what, man, I am making $1 million a year in a free nation. I can speak as I will. I can do as I will. And if you take 5 percent away from me on a million dollars, that is $50,000. That is nothing."

Mr. BACHUS of Alabama. Mr. Speaker, If the gentleman will continue to yield, I have this concern. I have the concern that 80 percent of the businesses in this country pay taxes at an individual tax rate.

Mr. KANJORSKI. They do not. I will give you the next chart.

The effect on small business. You would hear people crying or the Senator from Kansas, this is going to work havoc on small business. Has anybody looked at the program? Corporations that are earning less than $10 million a year in profit have no corporate tax increase at all.

Mr. BACHUS of Alabama. Are you saying partnerships and S corporation?

Mr. KANJORSKI. I will go through them. Corporations, the corporate tax going from 34 to 35 percent, it does not go up on corporations making less than $10 million a year in profit. So they are free. So obviously, that is not small business we are affecting there.

Let us run to businesses. If you are in business in America, you have choice. You can form a corporation and have the tax consequences of your profits done in the corporation, or you can get a tax loophole and you can get into what we call a sub S.

Most of our constituents listening to this do not know what sub S corporation is, but it is a vehicle by which the business' income can be directly transferred without tax consequences to the individual owners, if there are a limited number of owners and they qualify under the law.

In other words, it gives you the capacity to have limited liability in a corporate entity and singular advantage in tax avoidance as a private individual. It is probably one of the most successful tax loopholes to encourage business and create wealth that the Tax Code has ever created.

The only way a person with a sub S corporation ends up paying more money is if his corporation earns more than $180,000 a year in profit and he is a sub S corporation and, therefore, passes it on to him as individual income. If that is the case, he is one of 4 percent of all Americans that have incomes that are subject to taxation.

Mr. BACHUS of Alabama. You are saying that is not small businesses. That is.

Mr. KANJORSKI. I am saying all businesses. There is no new taxes on 96 percent as a result of the income tax.

☐ 2350

Mr. BACHUS of Alabama. Of the individuals?

Mr. KANJORSKI. Individuals and small business.

Mr. BACHUS of Alabama. I think your chart says "most small businesses."

Mr. KANJORSKI. I am sorry, what you are saying, most small businesses will pay no new taxes. Only this area, and this 4 percent area are individuals that either own Subchapter S partnerships or small corporations and gain salaries from those corporations of more than $180,000 a year.

Mr. BACHUS of Alabama. That 4 percent figure you are talking about, you are saying that every individual is a small business, to come up with that 4 percent, are you?

Mr. KANJORSKI. No, I am saying this is 100 percent of small businesses. Only 4 percent of them have a tax consequence. In order to have that tax consequence, they have to have a personal income from that small business in excess of $180,000.

Mr. BACHUS of Alabama. You are assuming that all the partnerships and all the S corporations go down and incorporate.

Mr. KANJORSKI. No. An S corporation would have to incorporate, but they would pass it out to the individual. That still fits in that 4 percent.

Mr. BACHUS of Alabama. But what I am saying, again, what you have taken to get to that 4 percent figure, you have taken all the individuals in the country.

Mr. KANJORSKI. Taken all the businesses in the country.

Mr. BACHUS of Alabama. And all the individuals in the country.

Mr. KANJORSKI. Individuals and businesses.

Mr. BACHUS of Alabama. But individuals are not businesses.

Mr. KANJORSKI. Individuals can have a corporation, a personal corporation. A lawyer can have a corporation. An individual can incorporate.

Mr. BACHUS of Alabama. I understand, but I think what you are saying there is you have 250 million people in this country, say 4 percent of those are going to pay more?

Mr. KANJORSKI. No, less than that. Four percent of all the people that are in business are going to pay more, and only 1.2 percent of the entire employed body of America will pay more.

The SPEAKER pro tempore (Mr. WATT). The Chair would advise the gentleman from Pennsylvania that he has 3 minutes remaining.

Mr. KANJORSKI. Mr. Speaker, let me show one more example, and I do not want you to leave, gentlemen.

Here is the best reason to support President Clinton's program, instead of playing around the edges. As I told you, only 1.2 percent of Americans will be asked to pay a higher income tax, nobody else. So 98.8 percent are tax-free. We should drive that home to the American people.

In my congressional district, the income tax increase will only affect 800 people. That is it. The average family, anybody earning under $140,000 in taxable income that is not affected by the increase in income tax, will pay a tax as a result of the increase in gasoline of $3 a month, $36 a year. With that they have the opportunity of cutting a half a trillion dollars out of the deficit, of $1.5 trillion that will accumulate in the next 5 years, for $3 a month.

Will it cost them anything? No. They will pay increased gasoline taxes of $3 a month, but do you know what they gain and have gained as a result of the decrease in interest rates? If they are an average American, and if they have a mortgage for 30 years, $100,000, the interest rate has gone down 2.5 percent, and they will save $175 a month if they refinance their mortgage.

If they have an automobile loan for $15,000 for four years, the interest rate has gone down 2 percent on their car. They will save $14 a month.

If they have a credit card, it has gone down 2 percentage points on the credit card on average across the country, and if they have a credit card that has $2,500 on it, they will save $2 a month.

They will save a grand total of $191, on average, and they will be asked in that month to contribute $3. I suggest to you with this graph that every American except the 1.2 percent that earn a taxable income in excess of $140,000 will in fact have a huge savings as a result of the program that the President has asked us to pass.

Finally, I want to say this. I do not agree with the President's program, and none of my colleagues here in the House or in the Senate agree with it, in its entirety. We are a democratic system that requires consensus, and the majority to rule.

Our choice is, we prove that democracy and representative government under our Constitution can work in the most challenging of times, both economically and historically, as I pointed out, or we abdicate that role to leadership by dictatorship or fiat.

The American people that elected us to Congress did not expect us to be more brilliant than they are or more able than they are. They have asked us to give them our best judgment, to work in their behalf, to work with their President that they elected in November to put America on the right course.

I submit to you that this is the right course. Ninety-eight point eight percent of Americans will make money if we adopt the President's budget. One point two percent will pay 4 percent for the first $100,000, 3.6 percent for all money above a quarter of a million dollars, and most of those are happy to have the opportunity to do business, have ownership of capital and exercise the freedom of wealthy men in a free Nation.

I ask my friends on the other side, tomorrow we are going to have a vote. It is impossible that every Republican agrees monolithically that this is a bad program. It is very possible that there are many among you that, like myself, do not agree in its entirety, but know that this country must go forward, and we have an elected President that wants to lead us in that change.

I would ask you to search your consciences tonight, talk with your people, but if you cannot vote with us, do not mislead the American people as a result of not knowing the facts or not having the facts available to you.

Finally, the President even made provisions for 1.2 percent. If they cannot pay that retroactive tax back to January, they will have 3 years, no interest and no penalty, in which to make that payment to catch up. That is not oppressive to wealthy people.

It would be oppressive if it were a gigantic increase and the tax collector went out and sold the assets and forced them to the wall. We are not doing that. We are asking them to pay more, but we consider it a fair share.

I want to thank you for being here. The fact that we could talk to each other civilly and in fairly decent debate style and answer some questions, I have not necessarily convinced you differently in your philosophy or ideas, and maybe you have not convinced me in mine, but I think we have shown to the American people tonight that the Congress is not all desirous of beating themselves, but in fact are looking for answers and solutions to problems that all Americans know we have, but want us to take the time and set the course to provide solutions for.

□ 2400

BUDGET RECONCILIATION

The SPEAKER pro tempore (Mr. WATT). Under a previous order of the House, the gentleman from Illinois [Mr. POSHARD] is recognized for 60 minutes.

Mr. POSHARD. Mr. Speaker, let me thank the staff of the House here and the American people for indulging us at such a late hour here this evening. I know the debate tomorrow on the budget bill is going to be long, and there is going to be a lot of Members who want to speak, and probably some of us will not get much time. I felt it important for those of us who wanted to have something a little bit more to say than the 30 seconds or 1 minute that we may be accorded tomorrow to try to say something about it tonight.

This has been a very difficult issue for many of us in the House, and difficult to decide what to do. But I appreciate your indulgence, and would like to share some of my thoughts on this debate with the American public.

I think it is easy in a debate of this nature to lose sight of the problems that we are trying to solve here. Sometimes the nature of the debate causes the issue and that gets very unfortunate, and I really appreciate the previous speaker, Mr. KANJORSKI, and the folks who stayed here to help him along with that debate.

But I would like at this point in time to restate the basic premise upon which this debate is based. I think that premise can best be stated in the form of a question. What is the single greatest problem that we face in this Nation?

I think most people would agree that the single greatest problem we face is the crushing debt that we have accrued as a people which undermines our ability to solve almost any other problem in this country. I want us to just go back to the basics here for a moment. I do not have any fancy boards here to show you some of my thoughts. My administrative assistant, Dave Strickland, and I sat down in the office a few hours ago and just kind of worked these out.

But I would like to make sure that we understand what the deficit really is and what the debt really is. The deficit is the annual amount that we spend in our Federal Government more than we take in. It is the amount we go in the hole every year in terms of our spending to meet our basic Government responsibilities.

If you will notice this little chart, back in 1980 we had a deficit that year of $73 billion that we spent more than we took in. Today, in 1993, we have a deficit of $285 billion projected this year that we will spend more than we take in, nearly four times as great as what we had in 1980. The annual accumulation of these deficits is our national debt. In 1980 we had a national debt of $908 billion, less than $1 trillion. Just 13 short years later that has quadrupled, more than quadrupled to the point where now we have a $4 trillion debt in our Federal Government.

I know these figures are staggering to the American people. They are staggering to those of us who work here in the Congress and who try to understand them. And it is hard to put them in perspective, but let me just give an idea of how much money we are talking about here, $285 billion of deficit spending this year.

I come from the State of Illinois. Illinois has the fifth largest budget in the United States of America as a State. This year the entire State budget for the State of Illinois is slightly in excess of $26 billion a year to run everything in that State, transportation, conservation, education, welfare, health care, everything for which the State has a responsibility, slightly in excess of $26 billion. We could run 10 States the size of Illinois for an entire year on just the deficit spending that we will accumulate this year in the Federal Government.

How great is our total debt of $4 trillion? Our entire federal budget this year could run everything in this country, including a little over $300 billion in interest that we are paying on that debt, which is about $1.5 trillion. As you can see, we could nearly run the entire country for three years on just the amount of money that we have accumulated, the $4 trillion on our national debt. That is an incredible amount of money, and it is by far the most pressing problem that we have in the Federal Government, to begin to deal with this deficit and this debt.

Well, how did we get here? What are the reasons for the accumulation of this kind of indebtedness?

This second chart will show in some very simplistic terms how we got here. And you know, this is where I think we get off the track in this House of Representatives, because here is where we want to start blaming each other. Instead of, as Mr. KANJORSKI said, building bridges across the aisles, we want to point fingers and blame one party or one branch of government for getting us $4 trillion in debt. We can go back again to 1980 when we were less than $1 trillion in debt, over a 200-year period of history in this country and begin there.

During the 1980's when President Reagan came into office he felt very strongly that the defense of this country should be built up tremendously, and he had his reasons for doing that. And as President of the United States he began to build the defense system of America up, for obvious reasons.

At one point in time during his administration the percentage of the national budget for defense was nearly 30 percent of the entire Federal budget, and there were several years when it was very high.

I think we can give to President Reagan this, and many of my colleagues do not want to do it, but I think it is true that the buildup of our military capability under President Reagan hastened the fall of communism and hasten the fall of the USSR, and probably in the long haul will save us trillions of dollars down the road in maybe not having to prepare for another NATO alliance as a standoff for 45 years against a Warsaw Pact community. But certainly I think it is a given that that military buildup did hasten the fall of communism. But is also exacted a tremendous price from our Federal Government in terms of having to borrow a great deal of money to afford that buildup.

The second thing that happened and has been happening for over a decade is the tremendous cost of health care in this country has just gone straight through the ceiling. Health care costs in America for the past decade have risen somewhere between 12 and 20 percent per year every year. And the American Government has responsibility for a lot of people in the area of health care in our Medicare and Medicaid programs. We have to assume a greater, extraordinary responsibility to take care of those people under a very cumbersome, high-cost health care system, and that has exacerbated the debt tremendously, because we have had to borrow money to assume that responsibility.

The third thing is, as Mr. KANJORSKI and others related in their previous statements, during that time the tax rates on the high-income people of this country were cut tremendously. One rate even stood at around 70 percent for the highest income tax bracket. That was cut during the 1980's down to 28 percent, and then brought back up in 1990 to 31 percent, and under the present budget reconciliation bill would be taken up to 35 percent.

0010

But the loss of revenue coming into the national treasury from that income bracket of people was substantial, and that exacerbated the deficit problem that we have in this country.

The fourth thing is the projected growth in the economy during the latter part of the 1980's and the early 1990's never measured up in terms of the growth that was predicted and upon which the budgets were predicated. Many of those growth predictions were around 4-percent growth in the economy, and it was assumed that we would get the natural revenue growth from that kind of growth in the economy. It never materialized. The economy grew at 2 to 2.5 or 2.7 percent during some of those years, and we did not get the revenue in that that we expected to get and, therefore, we came up short in our budgets that were already passed by this Congress.

So these four things for a period of time, the buildup of defense, the increasing cost of health care, the decrease of taxes on the wealthiest people of this country, and the lack of growth in the economy, or at least in terms of what had been predicted, all of these made up the problem for us of deficit spending and increasing tremendously from less than $1 trillion up to $4 trillion of national debt.

It does us no good to point fingers and blame people for this. The point is we are $4 trillion in debt today, and we have to go from here to find a way to solve this problem, and it will not be easy.

The choices cannot be easy. We do not need to blame people. We need to stop the blaming. The truth is all of us are at fault here. We have had an executive branch that for at least 12 years has told the American people, "You do not have to pay for anything; we are never going to raise your taxes for any reason." Well, that cannot be responsible. There are times in a democratic society when there is economic downturn or other reasons that may require us to go to the people and say we have to pay for things as we go here; we cannot borrow the money and put the next generation at risk by paying the high interest rates on the borrowed money.

We have had a legislative branch that for at least that long has been very reluctant to tell the American people, "No, you have to do without this," and an executive branch that says, "We are never going to raise your taxes. You do not have to pay for anything," and a legislative branch that says, "You do not have to do without anything." Neither of those are responsible.

At the same time we have had an American public who demand both, no taxes and no cuts.

Well, what does this budget attempt to do? In my judgment, it attempts to address both issues, and in the process hopefully changes the direction in which we have been going which is farther and farther into deficit spending and farther and farther into debt. It says there are times in this country when we must pay as we go and we must ask the people who can most afford to pay to pay a fairer share of that for the sake of the next generation.

There are times when we must say no, and it does not matter who a special interest group is, whether it belongs to those people whom the Republican Party try to protect or those people whom the Democrats try to protect. We cannot continue along this road.

Let us look at this next little chart if we may. Again, let us try to be honest here about what this budget is proposing to the American people.

We have a deficit this year of about $285 billion. Mr. Clinton has proposed in his budget not a great flowery economic growth prediction but a very conservative estimated growth of 2.7 percent in the economy. That is a conservative estimate. So that if the economy does not produce as vigorously as we would have hoped it would, at least we are not predicating a budget based upon those economic growth predictions of more money coming into the Treasury that we might otherwise expect. He has said that we will cut spending, the growth in Federal spending, of $255 billion over the next 5 years, and we will collect $241 billion of new taxes to be applied toward the deficit.

He has agreed to form a deficit-reduction trust fund to make sure that these cuts in spending and these taxes that we are going to be collecting into that trust fund can be traced toward deficit reduction.

Now, if all of this happens perfectly as the President has predicted or hopes, if we achieve this growth rate in the economy, if we achieve the cuts in spending and those are applied to the deficit, if we achieve the tax increases and those are applied to the deficit, and assuming we have no great catastrophic extraordinary events to contend with like another earthquake or hurricane or the present flood situation, and assuming that we do not have another S&L bailout of $200 billion or so to have to contend with, if this happens perfectly, we will have gone from $285 billion this fiscal year in deficit spending to somewhere around $180 billion to $185 billion deficit spending 4 or 5 years down the road.

Folks, we are not talking about wiping out the deficit here. We are talking about changing the direction fundamentally in which this Nation has been going. But this is a tough thing to do. We are not even talking about getting rid of the deficit at this point in time. We are just hopeful about reducing the deficit about 40 percent over the lifetime of this budget, and that requires all of this to happen.

But even with that, if we accomplish this objective with the deficit, the debt during those times, those 5 years, will still be increasing by the yearly amount that we go into the hole with deficit spending, somewhere between the $285 billion and $181 billion a year. So even under the best scenario, our debt will have increased from $4 trillion to $5 trillion.

Now, if you think this is tough medicine, let me ask you this: What are the alternatives? If we are not willing to ask the wealthiest 1½ percent of the people of this Nation to pay these taxes and if we are not willing to achieve these cuts, then what are the alternatives?

Well, let us look at them. Let us see what they are.

If you wipe out the taxes all together, then, fine, that is an alternative. That may be what the will of the people eventually achieves.

These taxes are broken down 80 percent of these taxes to be paid by people making over $200,000 a year, 20 percent of them come in the form of a 4.3 cent per gallon gasoline tax, which every American pays for. It is about an additional $35 a year for the average American middle-income family. If we are not willing to assume those taxes, then take that $241 billion off. All you do is add it to the deficit and add it to the debt.

□ 0020

Instead of being $5 trillion in the hole at the end of this budget, we will be $5,250,000,000,000 plus the interest we will pay on that $250 billion over the next 5 years. If that is what we want to hand to our children, we can do that. If we do not think those taxes are justified, that is.

I am not saying right or wrong or indifferent, but this is what we are facing. If we do not think we ought to make those cuts in programs, then the same thing happens again; just add it on. Yes, it is true, folks, please try to understand this, for any Member of Congress who is trying to decide what to do with regard to this budget, just let me speak from the very personal viewpoint here because these are hard things for all of us.

But just consider this: If you really did not believe that this was the right thing for us do as a nation, if you really did not believe that, why in the world would you subject yourselves to a position that has taxes increasing, services cut, the deficit still being there are the debt increasing? And all of those things are going to happen if you vote for this budget.

But, my friends, what are the alternatives? If we do nothing, this deficit goes from $285 billion this year upward of $300 billion or $400 billion a year, and this debt is exacerbated by exactly the same amount as the deficit will go up every year.

If you only want half of this package, then just cut it in half. But you will do less deficit reduction and you will do less in taking care of the debt and the interest on the debt.

That is the alternative. There are not any easy choices here. I know everybody would like to go home and say, "I didn't vote to increase taxes, I didn't vote to cut your services, I didn't vote to increase the debt," but if you do not vote for this program, then the debt is going to be higher and the deficit is going to be higher.

I wish the choices were easier also. I do not represent an extremely wealthy district. I have counties in my district which have 28 percent unemployment or better. And I have children in my district just as there are children in every congressional district in this country who are going to be facing such a massive debt in their future that, ladies and gentlemen, they will never, ever, ever see their way clear to paying off this debt if we in this Congress today are not willing to make some hard choices in their favor.

People say to me all the time, "Well, but you are only slowing down the growth of Federal spending, you are not really cutting spending below the present year's budget." It is not less spending than last year, it is just less than you would be ordinarily increasing the spending. Now, that is true. There has not been a President, say, including President Reagan—he never came into office saying, "We are going to reduce Federal spending below last year's level," he said, "We are going to reduce the growth of Government spending because in Government that is what we can do."

People say cut it below last year's level. Well, tell me how we do this. I am an educator, school teacher, a school administrator. There are millions of children coming into our school system every year above last year's numbers. Do we cut back educational funding even when there are more children coming into the system with even greater needs? How about Medicare? We will have millions of seniors added to the Medicare rolls this coming year. Are we going to cut Medicare back below this year's present level? No one is suggesting that. I serve on the Committee on Transportation. In 1980 it cost us $1 million to build 1 mile of four-lane highway in this country. Today it costs us $3.5 million per mile to build a four-lane highway in this country.

The cost for infrastructure is not going down, it goes up. Sewer systems, water systems, roads, bridges. Are you suggesting that we cut transportation below last year's level when we are already hundreds of billions of dollars in arrears on just the basic surface transportation needs in this country, which are what move our goods and services and make us competitive as a nation?

How about the Justice Department? Every town meeting I have, people get up and what they tell me is, "Get the criminals off the streets, stop the drug trafficking, build the prisons." Are you suggesting then that we cut law enforcement below its present level, that we eliminate those drug programs that are trying to keep the drug pushers off the street, cut them back?

It is right that we try to slow down the growth of Government spending in whatever arena it may be, but when we have 10 million people being added to the census rolls every year in this country, when the needs get greater, and the costs of the Government's responsibility for those needs gets greater, how can we cut back from the present year's level?

Folks, this is not very fancy, but here is the budget. I know you cannot read this, but just let me deal with this for a couple of minutes if I may. This is a very simplistic way of looking at this budget, I know that; but maybe it is something that can help us understand a little better.

There are three major parts of the budget: discretionary programs, and those are programs over which the Congress has authority to increase or decrease or do whatever we wish. Then the entitlement programs are programs in our budget to which people are entitled if they qualify; if you are 62 years old and you paid into social security, you can draw social security. If you are social security-eligible, you are Medicare-eligible. If you are below a certain poverty level, you are Medicaid-eligible or maybe food stamps-eligible. If you are a Federal retiree, you get a Federal retiree pension.

□ 0030

The other major part of the budget is the interest on the national debt.

Now, Mr. Speaker, look at this. The discretionary programs over which we have the ability to raise, lower, slow down, whatever, constitute in this year's budget 35 percent of the total $1.5 trillion or $550 billion in discretionary programs. Those are defense, foreign aid; science, space and technology; energy, environment, transportation, education, health, justice, veterans and so on, the things for which you assume this Federal Government has a responsibility and needs to meet the obligations on behalf of the American people with respect to those agencies.

Thirty-five percent of the budget is in discretionary funding this year.

Look at this, the entitlement programs, Social Security, Medicare, Medicaid, food stamps SSI, unemployment insurance, farm programs, the entitlement programs are 45 percent of the budget, or $676 billion.

Discretionary, 35 percent; entitlements, 45 percent, and here is the other major player, interest on that $4 trillion of national debt is 20 percent of the budget or $309 billion this year.

Look at this. Right now we have 65 percent, nearly two-thirds of the budget of this country which is going toward entitlement programs and interest on the debt, and only one-third, a little better than one-third going toward those other things for which we assume the Government has a major responsibility, defense and the domestic programs which we mentioned, education, health, justice and so on.

Now, if we do not choose to do anything except to accept the status quo, if we do not choose to move on this deficit and this debt, if we do not want to make the hard choices to do that, then this is what the next budgets will look like. Instead of the interest on the debt being 20 percent, it will be 21 or 22, and because the health care costs keep rising extraordinarily, Medicare will continue to go to the ceiling, Medicaid will go through the ceiling and entitlements will eat up a greater share of this budget so that it will not be two-thirds of your tax dollars going toward entitlements and interest, it will be three-fourths, and we will be running everything else in this Government, defense, education, health care, all of it, transportation, all of it on 25 cents out of every tax dollar.

Is that what you think we ought to let happen in this country? Are you telling us that we should not entertain asking the wealthiest people of this country to make up some of the taxes to help us reverse this trend and we should not ask middle and lower income Americans to pay an extra 4.3 cents a gallon on the gasoline tax to help us defray this kind of situation?

Mr. Speaker, this is critical. It is crucial. There are not any easy choices here. If we do not do something here, we will never find the courage down the road because the problems will be twice as bad.

We have to reverse this trend. The President signed today Executive orders for an entitlement cap so that we agree that this 45 percent of the budget does not go out of sight.

We have had a discretionary cap since 1990 and it has worked. Defense spending has been about the only item in the budget that has literally gone down in spending. The discretionary caps are still acquired here. We will have entitlement cap enforcement.

We have a budget deficit trust fund where we can track the taxes and the cuts for legitimate deficit reduction. We have nearly $500 billion of deficit reduction which is only the beginning, but it is a beginning. It does not solve the problem, but it is a step in the right direction.

Mr. Speaker, let me remind the Members again of the problem. The problem is $4 trillion of debt, 20 percent of our budget going to interest on that debt, and escalating health care costs which drive the entitlement part of our budget out of sight.

This is the first step in the right direction, but it is only the first step.

The second step is health care reform to keep these health care costs down so we can continue to afford Medicare and Medicaid and the other health needs of this country.

The third step is to take up additional cuts, as hard as that may be in the future, which this Congress is going to have to do.

The fourth step, as the President and Vice President have promised us, is to revise the Federal Government to make it more efficient and more effective, and that is what the Vice President is going to be coming out with in the near future, a total look at the Federal Government and revamping it for cost-effectiveness and cost-efficiency.

Well, this is not the end. It is only the start, but it is a beginning.

President Kennedy was fond of quoting an old Chinese adage which says, "A journey of 1,000 miles must be started with a single step."

Mr. Speaker, we have a journey of a lot more than 1,000 miles ahead of us, but let us begin. Let us take this first step, not to fiscal soundness yet, but in the hope that by having enough courage to do what is necessary here we will get down the road for the sake of our children and our grandchildren. Surely we can do this much.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. QUINN) to revise and extend their remarks and include extraneous material:)

Mr. GOSS, for 5 minutes, today.

Mr. ROYCE, for 5 minutes, today.

Mr. MCCOLLUM, for 5 minutes, today.

Mr. DORNAN, for 5 minutes, on August 5 and 60 minutes, on August 6.

(The following Members (at the request of Mr. HOCHBRUECKNER) to revise and extend their remarks and include extraneous material:)

Mr. PALLONE, for 5 minutes, each day on August 5 and 6.

Mr. MFUME, for 60 minutes, on August 5.

Mr. WASHINGTON, for 60 minutes, on August 5.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. QUINN) and to include extraneous matter:)

Mr. PORTMAN in two instances.

Mr. FAWELL.

Mr. PORTER in two instances.

Mr. SOLOMON in four instances.

Mr. HOEKSTRA.

Mr. GILMAN.

Mr. GALLO.

Mr. BONILLA.

Mr. HASTERT.

Mr. GALLEGLY.

Mr. CRANE in three instances.

Mr. COX.

(The following Members (at the request of Mr. HOCHBRUECKNER) and to include extraneous matter:)

Mr. MANN in two instances.

Mr. DIXON.

Mr. HAMILTON in three instances.

Mr. PETERSON of Florida.

Mr. LEVIN.

Mr. MCCURDY.

Mr. KREIDLER.

Mr. MFUME.

Mr. VENTO.

Mr. HAMBURG.

Mr. MCCLOSKEY.

Mr. RICHARDSON in two instances.

Mr. STOKES in two instances.

Mr. MAZZOLI.

Mr. SLATTERY.

Mrs. MALONEY.

Mr. TRAFICANT.

Mr. ANDREWS of Maine.

Mr. STUDDS.

Mr. MINETA.

ENROLLED BILLS SIGNED

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 416. An act to extend the period during which chapter 12 of title 11 of the United States Code remains in effect, and for other purposes, and

H.R. 798. An act to amend title 38, United States Code, to codify the rates of disability compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for survivors of such veterans as such rates took effect on December 1, 1992.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 1295. An act to amend the Rehabilitation Act of 1973 and the Education of the Deaf Act of 1986 to make technical and conforming amendments to the Act, and for other purposes.

ADJOURNMENT

Mr. POSHARD. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 39 minutes a.m.), the House adjourned until today, Thursday, August 5, 1993, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1698. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10–70, "Asbestos Licensing and Control Act of 1990 Amendment Act of 1993," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

1699. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10–74, "Confirmation Amendment Act of 1993," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

1700. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10–71, "Board of Trustees of the University of the District of Columbia Term Holdover Amendment Act of 1993," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

1701. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10–68, "Insurers Rehabilitation and Liquidation Act of 1993," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

1702. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10–69, "Law on Credit for Reinsurance Act of 1993," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

1703. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10–67, "Basic Operations Options Training Children to Adults Maturity Program Establishment Act of 1993," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

1704. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10–66, "Registered Limited Liability Partnership Amendment Act of 1993," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

1705. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10–62, "Closing of a Public Alley in Square 5359, S.O. 92–57, Act of 1993." pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

1706. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10–63, "Subsidy for Existing Low-Yield Cooperative and Single-Room Occupancy Projects Act of 1993," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

1707. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10–64, "Sales and Use Tax on Newspapers Temporary Amendment Act of 1993," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

1708. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10–65, "Authorization for Medical Consent for Children in the Care of Adults Other than Parents Amendment Act of 1993," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

1709. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 10–61, "Student Health Care Amendment Act of 1993," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

1710. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting copies of the report of political contributions by William Green Miller, of Virginia, to be Ambassador to the Ukraine, and members of his family, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

1711. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting a draft of proposed legislation to provide for the adjudication of certain claims against Iraq and for other purposes; to the Committee on Foreign Affairs.

1712. A letter from the Chairman, Federal Election Commission, transmitting proposed regulations governing multicandidate political committees, pursuant to 2 U.S.C. 438(d); to the Committee on House Administration.

1713. A letter from the Chairman, Federal Election Commission, transmitting new reporting form 1m and revised form 3x, governing notification of multicandidate committee status, pursuant to 2 U.S.C. 438(d); to the Committee on House Administration.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proposed calendar, as follows:

Mr. SABO: Committee of Conference. Conference report on H.R. 2264. A bill to provide for reconciliation pursuant to section 7 of the concurrent resolution on the budget for fiscal year 1994 (Rept. 103–213). Ordered to be printed.

Mr. STUDDS: Committee on Merchant Marine and Fisheries. H.R. 2112. A bill to provide for the development and implementation of a national strategy to encourage and promote opportunities for the U.S. private sector to provide environmentally sound technology (including marine biotechnology), goods, and services to the global market, and for other purposes; with an amendment (Rept. 103–214, Pt. 1). Ordered to be printed.

Mr. CONYERS: Committee on Government Operations. H.R. 2139. A bill to amend title 44, United States Code, to authorize appropriations for the National Historical Publications and Records Commission (Rept. 103–215). Referred to the Committee of the Whole House on the State of the Union.

Mr. CONYERS: Committee on Government Operations. A report on "The Immigration and Naturalization Service: Overwhelmed and Unprepared for the Future" (Rept. 103–216). Referred to the Committee of the Whole House on the State of the Union.

Mr. BEILENSON: Committee on Rules. House Resolution 240. Resolution waiving points of order against the conference report to accompany the bill (H.R. 2264) to provide for reconciliation pursuant to section 7 of the concurrent resolution on the budget for fiscal year 1994 (Rept. 103–217). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. TORRES (for himself, Mr. BECERRA, Mr. BERMAN, Mr. BEILENSON, Mr. BROWN of California, Mr. CALVERT, Mr. CUNNINGHAM, Mr. DELLUMS, Mr. DIXON, Mr. DOOLEY, Mr. DOOLITTLE, Mr. DORNAN, Mr. DREIER, Mr. EDWARDS of California, Ms. ESHOO, Mr. FARR, Mr. FAZIO, Mr. FILNER, Mr. GALLEGLY, Mr. HAMBURG, Ms. HARMAN, Mr. HORN, Mr. HUFFINGTON, Mr. HUNTER, Mr. KIM, Mr. LANTOS, Mr. LEHMAN, Mr. LEWIS of California, Mr. MARTINEZ, Mr. MATSUI, Mr. MCCANDLESS, Mr. MILLER of California, Mr. MINETA, Mr. MOORHEAD, Mr. PACKARD, Ms. PELOSI, Mr. ROHRABACHER, Ms. ROYBAL-ALLARD, Ms. SCHENK, Mr. STARK, Mr. THOMAS of California, Ms. WATERS, and Ms. WOOLSEY):

H.R. 2853. A bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 [Superfund] to establish a public-private partnership demonstration project for the cleanup of ground water pollution in the San Gabriel Basin; jointly, to the Committees on Energy and Commerce and Public Works and Transportation.

By Mr. ANDREWS of Maine:

H.R. 2854. A bill to reauthorize the National Women's Business Council, and for other purposes; to the Committee on Small Business.

By Mr. ANDREWS of Texas:

H.R. 2855. A bill to suspend until January 1, 1995, the duty on anthraquinone; to the Committee on Ways and Means.

By Mr. CONYERS (for himself and Mr. CLINGER):

H.R. 2856. A bill to increase the overall economy and efficiency of Government operations and enable more efficient use of Federal funding, by authorizing a demonstration program that enables local governments and private, not-for-profit organizations to use amounts available under certain Federal assistance programs in accordance with approved integrated assistance plans; to the Committee on Government Operations.

By Mr. COOPER:

H.R. 2857. A bill to amend the Internal Revenue Code of 1986 to repeal the credit provided by section 936 of such Code; to the Committee on Ways and Means.

By Mr. COX:

H.R. 2858. A bill to abolish the Interstate Commerce Commission; jointly, to the Committees on Energy and Commerce and Public Works and Transportation.

By Mr. EMERSON:

H.R. 2859. A bill to amend the Immigration and Nationality Act to provide that public ceremonies for the admission of new citizens shall be conducted solely in English; to the Committee on the Judiciary.

H.R. 2860. A bill to amend the Interstate Commerce Act to modify the Interstate Commerce Commission's regulatory responsibilities over the trucking industry, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. FAWELL (for himself, Mr. SANGMEISTER, Mr. POSHARD, Mr. COSTELLO, and Mr. HYDE):

H.R. 2861. A bill to amend the Act of September 30, 1950, to require the Secretary of Education to calculate each payment to a local educational agency under section 2 of such act on the basis of assessed valuation figures provided by the local official responsible for assessing the value of real property located in the jurisdiction of such local educational agency for purposes of levying a property tax; to the Committee on Education and Labor.

By Mr. FRANKS of Connecticut (for himself, Mr. GINGRICH, Mr. WALKER, Mr. ARMEY, Mr. HYDE, Mr. DELAY, Mr. PAXON, Mr. ALLARD, Mr. BAKER of California, Mr. BAKER of Louisiana, Mr. BARRETT of Nebraska, Mr. BARTLETT of Maryland, Mr. BATEMAN, Mr. BEREUTER, Mr. BLILEY, Mr. BLUTE, Mr. BOEHNER, Mr. BONILLA, Mr. BUNNING, Mr. BURTON of Indiana, Mr. CAMP, Mr. CALLAHAN, Mr. CANADY, Mr. CLINGER, Mr. COLLINS of Georgia, Mr. COMBEST, Mr. COX, Mr. CRANE, Mr. CUNNINGHAM, Mr. DOOLITTLE, Mr. DORNAN, Mr. DREIER, Ms. DUNN, Mr. EVERETT, Mr. FAWELL, Ms. FOWLER, Mr. GALLEGLY, Mr. GEKAS, Mr. GILMAN, Mr. GILLMOR, Mr. GOODLATTE, Mr. GOODLING, Mr. GOSS, Mr. GREENWOOD, Mr. HANCOCK, Mr. HANSEN, Mr. HASTERT, Mr. HEFLEY, Mr. HERGER, Mr. HOBSON, Mr. HOEKSTRA, Mr. HUNTER, Mr. INHOFE, Mrs. JOHNSON of Connecticut, Mr. SAM JOHNSON of Texas, Mr. KIM, Mr. KING, Mr. KINGSTON, Mr. LEVY, Mr. LEWIS of Florida, Mr. LIGHTFOOT, Mr. LIVINGSTON, Mr. MCCOLLUM, Mr. MCCRERY, Mr. MCKEON, Mr. MOORHEAD, Mr. MYERS of Indiana, Mr. OXLEY, Mr. PETRI, Mr. POMBO, Mr. PORTMAN, Ms. PRYCE of Ohio, Mr. QUILLEN, Mr. QUINN, Mr. RAMSTAD, Mr. REGULA, Mr. RIDGE, Mr. ROBERTS, Mr. ROHRABACHER, Mr. ROTH, Mr. SCHIFF, Mr. SHAYS, Mr. SHUSTER, Mr. SKEEN, Mr. SMITH of Oregon, Mr. SMITH of Texas, Mr. SMITH of Michigan, Mr. SOLOMON, Mr. STEARNS, Mr. STUMP, Mr. SUNDQUIST, Mr. TALENT, Mr. TORKILDSEN, Mr. WALSH, Mr. WELDON, Mr. YOUNG of Florida, and Mr. ZELIFF):

H.R. 2862. A bill to assure compliance with the guarantees of the 5th, 14th, and 15th amendments to the Constitution by prohibiting the intentional creation of legislative districts based on the race, color, or language minority status of voters within such districts; to the Committee on the Judiciary.

By Mr. GALLO (for himself, Ms. KAPTUR, and Ms. MOLINARI):

H.R. 2863. A bill to amend title 13, United States Code, to require that any data relating to the incidence of poverty produced or published by the Secretary of Commerce for subnational areas is corrected for difference in the cost-of-living in those areas; to the Committee on Post Office and Civil Service.

By Mr. GLICKMAN:

H.R. 2864. A bill to provide for the disclosure of financial benefits by lobbyists, and for other purposes; to the Committee on the Judiciary.

By Mr. GREENWOOD (for himself and Mr. SANTORUM):

H.R. 2865. A bill to extend until January 1, 1998, the existing suspensions of duty on m-Xylenediamine ("MXDA") and 1,3-Bis(aminomethyl) cyclohexane ("1,3-BAC"); to the Committee on Ways and Means.

By Mr. HAMBURG (for himself, Mr. STARK, Mr. STUDDS, Mr. GEPHARDT, Mr. MILLER of California, Mr. WAXMAN, Mr. DEFAZIO, Ms. WOOLSEY, Mrs. SCHROEDER, Mr. MATSUI, Mr. BRYANT, Mr. VENTO, Mr. RAVENEL, Mr. ABERCROMBIE, Mr. RICHARDSON, Mr. SMITH of Iowa, Ms. FURSE, Mr. EDWARDS of California, Mr. SABO, Mr. BROWN of Ohio, Mr. POSHARD, Miss COLLINS of Michigan, Mr. ACKERMAN, Mr. DELLUMS, Mr. ANDREWS of Maine, Mr. OLVER, Ms. MOLINARI, Mr. MARKEY, Mr. BARRETT of Wisconsin, Mr. BEILENSON, Mr. BERMAN, Mr. BISHOP, Mrs. MINK, Mr. BLACKWELL, Mr. SERRANO, Mr. BONIOR, Mr. WASHINGTON, Mr. BROWN of California, Mr. JACOBS, Mr. COLEMAN, Mr. MFUME, Ms. WATERS, Mr. WATT, Mr. TORRES, Mr. CLAYTON, Mr. RAHALL, Mr. CLYBURN, Mr. DIXON, Mrs. COLLINS of Illinois, Mr. KOPETSKI, Mr. LANCASTER, Mr. ENGEL, Ms. SHEPHERD, Mr. UNDERWOOD, Ms. ESHOO, Mr. INSLEE, Mr. POMEROY, Ms. ROYAL-ALLARD, Mr. JOHNSON of South Dakota, Mr. EVANS, Mr. LIPINSKI, Mr. FALEOMAVAEGA, Mr. MORAN, Mr. OWENS, Mr. PASTOR, Mr. FARR, Mr. FILNER, Mr. HINCHEY, Mr. SCHUMER, Mr. FRANK of Massachusetts, Mr. LANTOS, Mr. MARTINEZ, Mr. MCHALE, Mrs. MEEK, Ms. PELOSI, Mrs. UNSOELD, Ms. VELAZQUEZ, Mr. ROMERO-BARCELO, Mr. SANDERS, and Mr. SHARP):

H.R. 2866. A bill to provide for the sound management and protection of Redwood forest areas in Humboldt County, CA, by adding certain lands and waters to the Six Rivers National Forest and by including a portion of such lands in the national wilderness preservation system; jointly, to the Committees on Natural Resources and Agriculture.

By Mr. HASTINGS:

H.R. 2867. A bill to amend title VII of the Civil Rights Act of 1964 with respect to establishing an unlawful employment practice based on disparate treatment; to the Committee on Education and Labor.

By Mr. JEFFERSON (for himself, Mr. LIVINGSTON, Mr. TAUZIN, Mr. FIELDS of Louisiana, Mr. MCCRERY, Mr. BAKER of Louisiana, and Mr. HAYES):

H.R. 2868. A bill to designate the Federal building located at 600 Camp Street in New Orleans, LA, as the "John Minor Wisdom United States Courthouse"; to the Committee on Public Works and Transportation.

By Mrs. JOHNSON of Connecticut (by request):

H.R. 2869. A bill to extend until December 31, 1998, the temporary suspension of duties on 2,6-Dichlorobenzonitrile, relating to mixtures and inerts; to the Committee on Ways and Means.

By Mr. KREIDLER (for himself, Mr. SWIFT, Mr. DICKS, Ms. CANTWELL, and Mrs. UNSOELD):

H.R. 2870. A bill to amend title I of the Employee Retirement Income Security Act of 1974 to exempt from preemption under such title certain provisions of the law of the State of Washington relating to health plans; to the Committee on Education and Labor.

By Mr. SLATTERY:

H.R. 2871. A bill to amend the Public Health Service Act to provide for the conduct of expanded studies and the establishment of innovative programs with respect to traumatic brain injury, and for other purposes; to the Committee on Energy and Commerce.

By Mr. MCCOLLUM (for himself, Mr. MICHEL, Mr. GINGRICH, Mr. ARMEY, Mr. HYDE, Mr. HUNTER, Mr. DELAY, Mr. FISH, Mr. CANADY, Mr. GEKAS, Ms. PRYCE of Ohio, Mr. RAMSTAD, Mr. ROGERS, Mr. SHAW, Mr. SMITH of Texas, Mr. BAKER of California, Mr. BLILEY, Mr. BUNNING, Mr. BUYER, Mr. CAMP, Mr. CASTLE, Mr. COBLE, Mr. COX, Mr. DOOLITTLE, Mr. EWING, Ms. FOWLER, Mr. GOSS, Mr. GRAMS, Mr. GREENWOOD, Mr. HORN, Mr. KIM, Mr. KOLBE, Mr. KYL, Mr. LEWIS of Florida, Mr. LINDER, Mr. MCDADE, Mr. MCKEON, Mr. MICA, Ms. MOLINARI, Mr. MOORHEAD, Mr. OXLEY, Mr. SOLOMON, Mr. SMITH of Michigan, Mr. TORKILDSEN, Mrs. VUCANOVICH, Mr. WALKER, Mr. WELDON, Mr. ZELIFF, Mr. ZIMMER, Mr. LAZIO, Mr. MCHUGH, Mr. BALLENGER, and Mr. GALLEGLY):

H.R. 2872. A bill to prevent and punish crime, to strengthen the rights of crime victims, to assist State and local efforts against crime, and for other purposes; to the Committee on the Judiciary.

By Mr. MINETA (for himself and Mr. BOEHLERT):

H.R. 2873. A bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to provide for an expanded Federal program of hazard mitigation, relief, and insurance against the risk of catastrophic natural disasters, such as hurricanes, earthquakes and volcanic eruptions, and for other purposes; jointly, to the Committees on Public Works and Transportation and Banking, Finance and Urban Affairs.

By Mr. RICHARDSON (for himself and Mr. THOMAS of Wyoming):

H.R. 2874. A bill to improve the management of Indian fish and wildlife resources on Indian lands, and for other purposes; to the Committee on Natural Resources.

By Mr. RICHARDSON (for himself, Mr. SCHIFF, and Mr. SKEEN):

H.R. 2875. A bill to promote the industrial competitiveness and economic growth of the United States by strengthening the linkages between the laboratories of the Department of Energy and the private sector and by supporting the development and application of technologies critical to the economic, scientific, and technological competitiveness of the United States, and for other purposes; jointly, to the Committees on Science, Space, and Technology, Energy and Commerce, and Armed Services.

By Mr. TRAFICANT:

H. Con. Res. 132. Concurrent resolution concerning the case of John Demjanjuk, Sr.; to the Committee on the Judiciary.

By Mr. MOAKLEY:

H. Res. 235. Resolution providing for a required response of the House of Representatives to any special direct spending message submitted by the President; to the Committee on Rules.

By Mr. BURTON of Indiana:

H. Res. 236. Resolution to declare that July 28, 1994, be recognized as Parents Day; to the Committee on Post Office and Civil Service.

By Ms. DUNN (for herself, Mr. BACCHUS of Florida, Mr. POMBO, and Mr. ZIMMER):

H. Res. 237. Resolution amending the Rules of the House of Representatives to require open committee meetings and to allow the broadcasting and still photography of any committee meetings or hearings that are open to the public; to the Committee on Rules.

By Mr. ISTOOK (for himself, Mr. HOEKSTRA, Mr. BOEHNER, Mr. BARTLETT of Maryland, Mr. BAKER of Louisiana, Mr. SAM JOHNSON of Texas, Ms. PRYCE of Ohio, Mr. DOOLITTLE, Mr. SMITH of Michigan, Mr. BUYER, Mr. KINGSTON, Mr. POMBO, Mr. CRAPO, Mr. BLUTE, Mr. BURTON of Indiana, Mr. ZELIFF, Mr. GRAMS, and Mr. DELAY):

H. Res. 238. Resolution calling on the Committee on Standards of Official Conduct to conduct an investigation into activity at the House Post Office to determine whether House rules were broken or whether public funds were embezzled by Members; to the Committee on Rules.

By Mr. MICA (for himself, Mr GONZALEZ, Mr WELDON, Mr BONILLA, Mr RAMSTAD, Mr JACOBS, Mr CRANE, Mr HILLIARD, Mr WALSH, Mr POMBO, Mr LIVINGSTON, Mr LIGHTFOOT, and Mr. ZELIFF):

H. Res. 239. Resolution urging the President to withdraw all United States Armed Forces from Somalia; to the Committee on Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII.

231. The SPEAKER presented a memorial of the Legislature of the State of Alaska, relative to a constitutional amendment prohibiting the desecration of the American flag; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 22: Mr. GORDON and Mr. STRICKLAND.

H.R. 35: Mr. YATES.

H.R. 43: Mr. STRICKLAND.

H.R. 81: Mr. HILLIARD.

H.R. 101: Mr. BUNNING.

H.R. 207: Mr. POSHARD.

H.R. 212: Mr. COBLE.

H.R. 214: Mr. BLUTE and Ms. LONG.

H.R. 226: Mr. PETERSON of Minnesota, Mr. DURBIN, Ms. KAPTUR, Mr. DEFAZIO, Mr. TORRICELLI, and Mr. MURTHA.

H.R. 436: Ms. VELAZQUEZ, Mr. DEAL, Mrs. MINK, Mr. GENE GREEN of Texas, Mr. EWING, Mr. RAHALL and Mr. MICHEL.

H.R. 466: Mr. BREWSTER and Mr. HOAGLAND.

H.R. 515: Mr. ENGEL and Mr. GILCHREST.

H.R. 535: Mr. GOODLATTE and Mr. YOUNG of Alaska.

H.R. 551: Mr. BACHUS of Alabama, Mr. BARTLETT of Maryland, and Mr. OBERSTAR.

H.R. 558: Mr. LEWIS of Florida, Mr. SHAW, Mr. MINGE, Mr. LEVY, Mr. MCNULTY, Mr. GINGRICH, and Mr. HYDE.

H.R. 634: Mr. OBERSTAR.

H.R. 646: Mr. OBERSTAR.

H.R. 688: Mr. STUMP.

H.R. 799: Mr. GALLO, Mr. BARCA of Wisconsin, and Mr. WILSON.

H.R. 830: Ms. KAPTUR, Mr. OBERSTAR, Mr. STEARNS, Mr. LEWIS of California, Mr. LANCASTER, and Mr. INGLIS of South Carolina.

H.R. 892: Mr. DOOLITTLE and Mr. CAMP.

H.R. 894: Mr. COMBEST.

H.R. 922: Mr. BURTON of Indiana.

H.R. 930: Mr. KIM and Mr. CAMP.

H.R. 934: Mr. PRICE of North Carolina.

H.R. 937: Mr. MCDERMOTT, Mr. KILDEE, and Mr. MATSUI.

H.R. 960: Mr. BLACKWELL and Mr. PETERSON of Florida.

H.R. 1036: Mr. SERRANO and Mr. MOLLOHAN.

H.R. 1141: Mr. BAKER of California.

H.R. 1181: Mr. HEFNER, Mr. APPLEGATE, and Mr. HERGER.

H.R. 1188: Mr. GUTIERREZ and Mr. TUCKER.

H.R. 1270: Mr. FRANKS of New Jersey.

H.R. 1280: Mr. MARKEY, Mr. GILMAN, Mr. MCHALE, Mr. FAZIO, Mr. TORRICELLI, Mr. SCHUMER, and Mr. JOHNSTON of Florida.

H.R. 1302: Mr. GIBBONS.

H.R. 1322: Mr. LEVIN, Ms. SLAUGHTER, and Mr. BISHOP.

H.R. 1455: Mr. MEEHAN.

H.R. 1524: Mr. COLLINS of Georgia and Mr. DUNCAN.

H.R. 1525: Mr. JACOBS.

H.R. 1560: Mr. CUNNINGHAM.

H.R. 1604: Mr. BAKER of California.

H.R. 1645: Mr. DARDEN and Mr. JOHNSON of Florida.

H.R. 1687: Mr. MURPHY and Mr. Rose.

H.R. 1705: Mrs. UNSOELD, Ms. SCHENK, Mr. CLYBURN, Mr. HAMILTON, Mr. DEFAZIO, Mr. DEUTSCH, Mr. THOMPSON, Mr. MURPHY, Mr. FALEOMAVAEGA, Mr. FINGERHUT, Mr. BEILENSON, Mr. BACHUS of Alabama, Mr. POMEROY, Mr. MILLER of California, Mr. BARLOW, Mr. HUGHES, Mr. FROST, Mr. ROMERO-BARCELÓ, Mrs. THURMAN, Mr. SMITH of New Jersey, Mr. PASTOR, Mr. GOODLING, Mr. DE LA GARZA, Mr. ENGEL, Mr. FORD of Tennessee, Mr. FILNER, Mr. PETERSON of Minnesota, Mr. BECERRA, Mr. RANGEL, Mr. CHAPMAN, Mr. BEREUTER, Mr. PARKER, Mr. HOBSON, Mr. GUTIERREZ, Mr. EDWARDS of California, Mr. BROWDER, Mr. OBERSTAR, Mr. DINGELL, Mrs. CLAYTON, Mr. TAYLOR of Mississippi, Mr. DE LUGO, Ms. NORTON, Mr. JOHNSON of South Dakota, Ms. FURSE, Mr. Hyde, Mr. HOKE, Ms. HARMAN, Mr. SWIFT, Mr. MARTINEZ, Mr. STUPAK and Ms. PELOSI.

H.R. 1770: Mr. BISHOP.

H.R. 1771: Mr. BISHOP.

H.R. 1886: Mr. BISHOP, Mr. ROMERO-BARCELÓ, Mr. Spence, and Mr. BONIOR.

H.R. 1888: Mr. HALL of Texas, Mr. YATES, Mr. SERRANO, Mrs. JOHNSON of Connecticut, Mr. SUNDQUIST, Mr. GALLEGLY, Mr. HOBSON, and Mr. LAFALCE.

H.R. 1900: Mr. KREIDLER, Mr. SANDERS, Mr. CRAMER, Mr. TOWNS, and Mr. BRYANT.

H.R. 1910: Mr. MEEHAN, Mr. PORTMAN, Mr. EMERSON, Ms. FOWLER, Mr. PARKER, Mr. ZIMMER, and Mr. BISHOP.

H.R. 1938: Mr. RAVENEL.

H.R. 1943: Mr. STARK, Mr. PAYNE of New Jersey, Mr. SABO, and Mr. BEILENSON.

H.R. 2019: Mr. MCHALE.

H.R. 2095: Mr. MOLLOHAN.

H.R. 2119: Ms. VELÁZQUEZ, Ms. ROYBAL-ALLARD, Mr. COLEMAN, and Miss COLLINS of Michigan.

H.R. 2229: Mr. COYNE.

H.R. 2241: Mr. COLEMAN, Mr. PETE GEREN of Texas, and Mr. GIBBONS.

H.R. 2305: Mr. DELLUMS and Mr. UNDERWOOD.

H.R. 2319: Mr. BLUTE, Mr. TORKILDSEN, Mr. KIM, Mr. LEWIS of California, Mr. MILLER of Florida, and Mr. WOLF.

H.R. 2346: Mr. FLAKE and Ms. THURMAN.

H.R. 2392: Mr. BAKER of Louisiana.

H.R. 2424: Mr. LEVIN, Mr. LIPINSKI Mr. HUGHES, Mr. RANGEL, Mr. FROST, Mr. MCNULTY, Mr. GENE GREEN of Texas, and Mr. WALSH.

H.R. 2467: Mr. EVANS, Mr. EWING, Mr. GILCHREST, Mr. GORDON, Mr. GUNDERSON, Mr. LANCASTER, Mr. MCNULTY, Mr. MARTINEZ, Mr. MORAN, Mr. SOLOMON, and Ms. WOOLSEY.

H.R. 2488: Mr. ANDREWS of New Jersey, Mr. BARCA of Wisconsin, Ms. ESHOO, Ms. ROYBAL-ALLARD, and Mr. TORRICELLI.

H.R. 2499: Mr. GUNDERSON, Mr. LIVINGSTON, Mr. PARKER, and Mr. ZELIFF.

H.R. 2602: Mr. MILLER of Florida.

H.R. 2607: Mr. OWENS and Mr. BOEHLERT.

H.R. 2640: Mr. HASTERT.

H.R. 2650: Mr. SMITH of New Jersey, Mr. PALLONE, Mr. SAXTON, Mr. KLEIN, Mr. PAYNE of New Jersey, Mr. ANDREWS of New Jersey, Mr. ZIMMER, Mr. TORRICELLI, Mr. MENENDEZ, Mr. GALLO, Mr. FRANKS of New Jersey, and Mrs. ROUKEMA.

H.R. 2663: Mr. BACCHUS of Florida, Mr. LEVY, Mr. OBERSTAR, and Mr. STUPAK.

H.R. 2666: Mr. MENENDEZ, Mr. SANDERS, Mr. BISHOP, Mr. BORSKI, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. OLVER, Mr. FILNER, Mr. FROST, Mrs. MEEK, and Ms. NORTON.

H.R. 2707: Mr. SERRANO.

H.R. 2720: Ms. MOLINARI, Mr. LAZIO, Mr. DICKEY, Mr. BLUTE, Mr. QUINN, Mr. LEVY, Mr. COLLINS of Georgia, Mr. MCHUGH, Mr. BAKER of California, Mr. MCNULTY, Mr. PAXON, Mr. FRANKS of New Jersey, Mr. LIPINSKI, Mr. GILMAN, Ms. VELÁZQUEZ, Mr. HOCHBRUECKNER, Mr. FROST, Ms. PELOSI, Mr. ACKERMAN, Mr. FILNER, Mr. HYDE, Mr. CANADY, Mr. HINCHEY, Mr. SANDERS, Mr. SOLOMON, Mr. LEWIS OF California, Mr. POMBO, Mr. ENGEL, Mr. WALSH, Mr. PORTER, Mr. BOEHNER, Mr. EVANS, Mr. HUNTER, and Mr. TOWNS.

H.R. 2769: Mrs. MEEK and Mr. HINCHEY.

H.J. Res. 79: Mr. BILIRAKIS, Mr. BLILEY, Mr. BORSKI, Ms. ESHOO, Mr. GREENWOOD, Mr. LEWIS of Georgia, Mr. MCDERMOTT, Mrs. MINK, Mr. SMITH of Oregon, and Mr. CALVERT.

H.J. Res. 86: Mr. JOHNSON of South Dakota, Mr. GILMAN, Mr. SHUSTER, and Mr. ROSE.

H.J. Res. 112: Mr. SOLOMON.

H.J. Res. 139: Mr. BISHOP.

H.J. Res. 157: Mr. BORSKI, Mr. YATES, Mr. RAHALL, Mr. PAYNE of Virginia, Mr. GONZALEZ, Mr. EVANS, Mr. GREENWOOD, Mr. KILDEE, Mr. BACCHUS of Florida, Mr. LAFALCE, Ms. WATERS, Ms. PRYCE of Ohio, Mr. WAXMAN, Mr. MURTHA, Mr. DICKEY, Mr. MCNULTY, Mr. BEILENSON, Mr. BROWN of California, Mr. ROGERS, Mr. WYNN, Mr. DEUTSCH, Mr. PICKLE, Ms. BYRNE, Mr. EDWARDS of California, Mr. MILLER of California, Mr. MFUME, Mr. SAXTON, Mr. ROTH, Mr. EVERETT, Mr. TORKILDSEN, Mr. MEEHAN, Mr. CARR, Mr. SPRATT, Mr. HOAGLAND, Mr. BONIOR, Mr. SMITH of New Jersey, and Mr. BILBRAY.

H.J. Res. 175: Mr. CARDIN.

H.J. Res. 194: Mr. FAZIO, Mr. VOLKMER, Mr. HAMILTON, Mr. WHEAT, Mr. BISHOP, Mr. FIELDS of Louisiana, Ms. NORTON, Mr. RAHALL, and Mr. KLEIN.

H.J. Res. 245: Mr. MICA and Mr. BARTLETT of Maryland.

H.J. Res. 248: Mr. BAKER of California, Mr. BARTLETT of Maryland, Mr. BARTON of Texas, Mr. BLUTE, Mr. BONILLA, Mr. BURTON of Indiana, Mr. COX, Mr. GOSS, Mr. HAYES, Mr. HOEKSTRA, Mr. HOKE, Mr. HUTCHINSON, Mr. MANZULLO, Mr. KNOLLENBERG, Mr. KYL, Mr. PACKARD, Mr. POMBO, Mr. RAVENEL, Mr. RAMSTAD, Mr. ROHRABACHER, Mr. PARKER, Mr. ARMEY, Mr. DELAY, Mr. GINGRICH, Mr. KING, Mr. SPENCE, Mr. MICA, Mr. MCCOLLUM, Mr. HYDE, Mr. INHOFE, Mr. SMITH of Michigan, Mr. MCKEON, Mr. PAXON, Mr. MCINNIS, Ms. PRYCE of Ohio, Mr. EVERETT, Mr. MOORHEAD, Mr. QUINN, Mr. KIM, Mr. SOLOMON, Mr. DREIER, Mr. TORKILDSEN, and Mr. UPTON.

H. Con. Res. 5: Mr. DEFAZIO.

H. Con. Res. 100: Mr. MINETA, Mr. BAESLER, Mr. REED, Mr. RAVENEL, Mr. MARTINEZ, Mr. SHAYS, Mr. FLAKE, and Mr. MARKEY.

H. Con. Res. 117: Ms. ESHOO, Mr. HUGHES, and Mr. INSLEE.

H. Con. Res. 123: Ms. BYRNE.

H. Res. 26: Mr. SCHAEFER, Mr. SHAYS, Mr. FINGERHUT, Mr. MCCANDLESS, and Mr. HUNTER.

H. Res. 135: Mr. MENENDEZ.

H. Res. 165: Mr. APPLEGATE, Mrs. COLLINS of Illinois, Ms. FURSE, Ms. BYRNE, and Mr. RIDGE.

H. Res. 202: Mr. PORTMAN and Mr. HOEKSTRA.

H. Res. 234: Mr. STOKES, Mr. GLICKMAN, Ms. MOLINARI, Mr. KLUG, Mr. MOAKLEY, and Mr. TORKILDSEN.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 501: Mr. FROST.

EXTENSIONS OF REMARKS

MEMORANDUM TO BILL CLINTON

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 4, 1993

Mr. SOLOMON. Mr. Speaker, I recently came across an editorial in the August 3, 1993 issue of Financial World by Mr. S.A. Spencer, principal investor of Holding Capital Group, that poignantly sums up the problem with Clinton economics. I appreciate the privilege of entering this into the CONGRESSIONAL RECORD and urge my colleagues to read this well thought-out article.

MEMORANDUM TO BILL CLINTON

DEAR BILL: I am intensely patriotic and the quintessential small entrepreneur. My group has made hundreds of investments and created thousands of jobs. We work ungodly hours to pay—several dozen times over—the average taxes of our fellow citizens.

A friend writes: "Yesterday, Robert Reich said on national TV that people who earn over $200,000 per year make out like bandits. I am a 74-year-old bandit who worked 4,000 hours last year helping companies get competitive. My crime: I paid $197,340.50 in federal income taxes. Had your policies been in effect I'd have long since sat on my butt collecting Social Security."

Even a numbskull manager in industry, Bill, wouldn't deliberately install an incentive plan that penalizes effort and contribution to his own shop and rewards the reverse.

With your system, our companies will pay 40% federal and state income tax. That leaves 60¢ on each dollar earned. In many states I'd pay 50% on all dividends from that remaining 60¢. If the company fails, I lose 100% of my investment. If it succeeds, I lose 70% of my gain. Who in his right mind would invest with odds like that. No casino is worse.

Yes, I can try sub S taxes with their myriad restrictions (including limits on employee ownership), or wait years for capital gains in order to keep 41¢—rather than 30¢—of every dollar earned. Still, all the downside is mine; most of the upside is yours.

And it's not just the technical issue of taxes. It's the broad issue of personal freedom. Bill, I am just not going to work for the state, through taxes, seven to nine months each year of my life. It's not quite the Russia of old, or Cuba today, but you're getting there. The only freedom left is not to work.

Some 200 national economies exist in the world, each with decades of experience. Not counting cities and states. Have you ever checked what works and what doesn't?

The member OECD admires most today is New Zealand. Its finance minister, Ruth Richardson, created a furor in February by calling your tax proposals "unintelligent." She was polite. In New Zealand the maximum tax on income is 33%. No double tax on dividends, no capital gains tax. Where would you rather invest, Bill? Where you keep 67¢ of the dollar earned, or 30¢?

If your approach worked, Cuba would be heaven. Not a hell its people are dying to leave.

And New York City. Highest taxes in the nation. Vastly outspends Chicago, per capita. Paradise? It lost 10.5% of its jobs while the U.S. added millions.

And it's about resource allocation. The Fortune 500 lost two million jobs in the 1980s. Smaller enterprises added 20 million jobs. Obviously, small, free entities are far more effective than big bureaucracies. Especially governments.

Even a numbskull manager, Bill, wouldn't move resources from his most effective people to his least. Have you looked at the progress and condition of the "poor" in Hong Kong and Singapore, where income tax rates are in the teens? That's success, not amateur night.

And by the way, Bill: Hong Kong and Singapore have nothing. No land, oil, gas, big farms, hydroelectric, coal, ore, space, natural resources, or Marshall Plan. They have just one tiny little thing—freedom. Thousands of free, hustling entrepreneurs who don't have to work most of their poor lives for the state. Just what our ancestors tried to find when they came here.

In the last presidential campaign, all three of you monumentally missed the point. In much of the 1980s we had relative entrepreneurial freedom. And an incredible flowering of innovation.

Thus, we were vastly better off than Europe or Canada: better economy, milder recession, faster recovery, far lower unemployment, low inflation, low interest—despite deficits and the task of defending the world.

Yet the European cesspool, with its progressive, productivity-punishing taxes, high labor and social costs and 10%-to-12% unemployment, is precisely the model you've adopted.

Now we will get an immense flowering of tax shelters and investment abroad.

The problem of the 1980s was indeed greed. Government greed. From 1980 to 1992, government revenues were up 95%, spending 137%, deficit up 366%. Attacking revenue producers—not costs—is exactly where the problem is not.

It is truly tragic for America, Bill, that you and your colleagues are utterly blind to basic human motivation—and all economic history—leading us down the path that is failing so spectacularly in Europe.

GOLDEN STATE MUTUAL LIFE INSURANCE CO.

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 4, 1993

Mr. DIXON. Mr. Speaker, I rise today to pay special tribute to Golden State Mutual Life Insurance Co., and to commemorate its 68 years of dedication and service to African-American communities throughout this Nation. Since its inception in 1925, Golden State Mutual has not only provided a valuable service to oftentimes overlooked inner-city communities, but has remained a successful and model business committed to providing jobs, and actively participating in community service. On Sunday, August 8, 1993, Golden State Mutual Life Insurance Co. will celebrate, along with past and present employees and their families—its 68th anniversary, in Los Angeles, CA. In commemoration of this event, organizers have selected as their theme "Recapturing Our Past and Insuring Our Future."

Golden State Mutual was founded in 1925 by three innovative business pioneers—William Nickerson, Jr., Norman O. Houston, and George A. Beavers—each of whom shared a commitment to ensuring for African-Americans the opportunity to purchase life insurance at reasonable and affordable rates.

Faced with seemingly insurmountable social and economic obstacles, these men set out to create an institution to fill a void in the black community; a void that for far too long had allowed African-Americans to be denied life insurance protection because they were viewed as uninsurable and/or high risks. This endeavor proved to be a formidable task.

The trio's dedication paid off, however, when Mr. Nickerson discovered an old and soon-to-expire California State statute under which the firm could be organized as an assessment company. Working against the clock, Messrs. Nickerson, Houston, and Beavers raced to secure 500 prepaid applications for life insurance, and deposit $15,000 with the California State Treasurer as a guarantee fund.

The persistence of the founders brought triumphant results and on July 23, 1925—just 12 hours before the expiration of the old assessment law—Nickerson, Houston, and Beavers received a telegram from the California Department of Insurance informing them that a license to operate as the Golden State Guarantee Fund Insurance Co. of Los Angeles had been granted. By the end of 1925, the company had paid its first death claim, established its first branch office, and moved to a large home office. By the end of 1929, the company's assets had grown to $73,033.00, its annual income to $188,847.00, and its employee force stood at 126.

While the Great Depression era brought economic ruin to numerous businesses, Golden State Guarantee Fund continued to show proof of its mettle as a solid business enterprise. During this period, the company declared its first dividend payment to policyowners. In 1931, Golden State Guarantee Fund Insurance Co. became Golden State Mutual Life Insurance Co. The company continued to expand throughout California and into Illinois.

By 1941, Golden State Mutual had accumulated sufficient capital through the sale of certificates of advancement to be reclassified as a mutual legal reserve insurer. On January 2, 1942, the conversion was complete. By 1944, the company's out-of-state services had expanded to Founder William Nickerson's native

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

State of Texas with the opening of a branch office in Dallas; a second office in Houston opened a year later.

For Mr. Nickerson, who served as chief executive officer and president since the company's incorporation, the opening of the Houston office was the realization of a 20-year ambition. Less than 6 months later, he died.

Following Mr. Nickerson's death, cofounder Norman O. Houston assumed the management reins of Golden State Mutual; cofounder George A. Beavers was elected chairman of the board of directors. Together they presided at the dedication in 1949 of Golden State Mutual's new home office building at the corner of Western Avenue and Adams Boulevard in Los Angeles.

Golden State Mutual continued to grow and prosper. By 1956, the company reached the $100 million mark in insurance in force and was providing services in six States throughout some 50 branch offices and general agencies.

During the 1960's, Golden State Mutual continued to solidify its base in the community. By the end of the decade, its insurance in force had climbed to $340,227,179.

Major management changes occurred in 1970 as the company continued its unparalleled growth. Norman O. Houston retired from active management after a stellar 25 year career as chief executive officer, but remained as chairman of the board of directors. The company turned to Ivan J. Houston, CLU, FLMI, Golden State Mutual's senior vice president and actuary—and Norman's brother—as its next president and chief executive officer. Under his tutelage, insurance in force surpassed $2.7 billion and the company expanded to 22 States and the District of Columbia. In 1977, Ivan J. Houston was elected chairman of the board.

During the 1980's, Golden State Mutual continued to rank among the 50 largest mutual life insurance companies in the Nation with over $4.5 billion of insurance in force. Organizationally, the company elected Larkin Teasley, FSA, as president and chief operating officer, with Ivan J. Houston assuming the title of chairman and chief executive officer.

Today, Golden State Mutual continues to prosper under the very able leadership of Larkin Teasley, who was elected president and chief executive officer in 1990, and Ivan J. Houston who remains as chairman of the board of directors. New products and services are part of an overall company effort to remain rooted in the growth and well-being of the communities Golden State Mutual has served so effectively for almost 70 years.

Standing on the threshold of a new century and empowered by the vision and perseverance which have long served as the company's hallmark, Golden State Mutual continues its prosperous growth as a company dedicated to providing financial security for generations to come.

Mr. Speaker, I am proud to salute the accomplishments of Golden State Mutual Life Insurance Co. on the occasion of its 68th anniversary of service to thousands of policyholders throughout this country. I ask my colleagues to join me in congratulating this company on its exemplary record of service, and in extending to Larkin Teasley, Ivan J. Houston, and Golden State Mutual's large family of employees continued success and prosperity in the future.

CONGRESS AND SELF-REGULATION

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 4, 1993

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, July 28, 1993, into the CONGRESSIONAL RECORD:

CONGRESS AND SELF-REGULATION

An emerging trend in Congress is the way it is opening up to more outside involvement to reduce conflicts of interest arising when the institution in effect judges and regulates itself. This move away from self-regulation is seen in its handling of a variety of matters ranging from pay raises to perks. Various proposals have been made to expand these efforts even further.

The changes in Congress are part of a broader trend in society. A variety of professions—doctors, lawyers, even the clergy—are being pressured by the public, the media, and academics to move away from systems of self-regulation. Various changes have been made. Some states, including California, Kentucky, and Connecticut, have set up independent ethics commissions to consider charges of misconduct against legislators. Even within the legal profession, which is already subject to significant outside regulation, there are calls for further moves away from self-regulation.

PAST CHANGES

Several steps have been taken by Congress to move away from self-regulation. For example, Congress generally does not judge complaints of improper election tactics made against a candidate for Congress, instead turning such sensitive and politically charged matters over to the Federal Election Commission. Congress has passed numerous laws over the years putting restrictions on the conduct of Members (such as restrictions on office accounts, receipt of gifts, and outside employment) and has given enforcement to the Justice Department and the courts. The politically charged question of congressional pay levels has been handled by having an outside commission recommend an outside commission recommended what they feel should be the proper pay level for Members, and by requiring pay increases to apply only to the next Congress, thus allowing the voters to have a say during the intervening election. Several other changes have also been made recently: the decision of what to do about congressional "perks" has largely been turned over to an independent House administrator; an office of Inspector General has been created for the House to watch out for wrongdoing; and even congressional newsletters such as this one are reviewed by a nonpartisan panel to ensure they are not used for political purposes. In all these cases the basic goal is to ensure a more objective handling of a particular matter, and to avoid getting members bogged down in no-win situations in which no matter what they do their decisions and motives will be questioned.

PROPOSALS

This session Congress is considering additional measures to move further away from self-regulation. One proposal is to improve the way in which Congress complies with the laws it requires the public to follow, such as employment discrimination or workplace standards. For example, House employees who feel they have been subjected to sexual harassment can only take their complaints to an office overseen by a congressional committee. The idea would be to set up an independent agency within the legislative branch to make sure Congress subjects itself to comparable rules and penalties for laws it writes for others; those who feel their case has not been treated fairly could appeal to the courts. Another proposal is to deal with the innate conflict of interest of having Members judge the ethical misconduct of other Members by involving outsiders in hearing ethics complaints. Panels of distinguished public citizens (including possible former Members or retired judges) would oversee the initial investigatory work and make recommendations of guilt and punishment, which would then be voted on by the full House or Senate. Other proposals include professionalizing the joint administrative functions of the House and Senate and requiring public audits of all legislative branch expenditures.

ASSESSMENT

Several factors lie behind the trend. First, moving away from self-regulation helps eliminate inherent conflicts of interest that naturally arise when one group sets its own pay and benefits or enforces its own rules or judges its own members. These conflicts of interest can be either positive or negative. For example, some may have an interest in protecting a colleague, while others, for partisan or personal reasons, may want to see a colleague embarrassed or wounded politically. Second, turning such tasks over to outsiders can free up time for more important duties—such as Members being able to work on legislative matters rather than sit on time-consuming panels reviewing the management of the House bank or the House post office. Third, such steps could help bolster public confidence in the institution and improve the perception of fairness and impartiality. The public is immediately skeptical when it hears, for example, that far fewer fair employment complaints are considered in Congress than in the comparable agencies. Fourth, congressional proceedings should be as open and inclusive as possible. Private citizens involved in helping Congress oversee itself can bring an added perspective to the proceedings; they can also learn something about the operations of Congress that they can take back to their communities. Fifth, Congress often criticizes the self-regulation efforts of others, such as criticizing network efforts to hold down TV violence, thereby putting on pressures to reform its own self-regulation. Finally, the trend seems to be picking up steam because recent steps away from self-regulation have generally worked well, showing Congress that it could do more.

Certainly there are limits to such reforms. Legitimate separation of powers concerns mean that Congress cannot simply turn over various enforcement questions to the Executive Branch. The Framers of the Constitution were deeply concerned that an overzealous Executive Branch not be allowed to use its prerogative to attack political opponents in Congress. In addition, some proposals, while appealing in theory, could run into a host of practical difficulties. For example, an outside ethics panel faces the challenge of finding former Members without strong ties of collegiality to old friends in the Congress and finding distinguished private citizens who will not be pressing future legislative interests before Congress. Moreover, as we have seen from past reform efforts of various kinds, reforms can sometimes go too far and create unintended problems of their own. The campaign finance reforms of the 1970s were intended to reduce the impact of special interest money on Congress, but instead led to a proliferation of PACs. Finally, some say that the public skepticism about their leaders is so strong that nothing will be able to turn it around, and that no new procedure will be seen by large segments of the public as anything but a sham or smokescreen.

Congress needs to proceed cautiously and deliberately with further reforms, but my sense is that the general trend away from self-regulation for Congress and other groups is a healthy one, and one that will likely continue. It means more openness in the spirit of good government, and reflects confidence within the institution that it is able to withstand the scrutiny.

DEPARTMENT OF ENERGY NATIONAL COMPETITIVENESS TECHNOLOGY PARTNERSHIP ACT OF 1993

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 4, 1993

Mr. RICHARDSON. Mr. Speaker, I rise today to introduce the Department of Energy National Competitiveness Technology Partnership Act of 1993. This legislation, which I am pleased to introduce along with my colleagues STEVE SCHIFF and JOE SKEEN, is nearly identical to S. 473, a Senate bill introduced in March, and reported to the full Senate by the Committee on Energy and Natural Resources in June, by Senators BENNETT JOHNSTON, JEFF BINGAMAN, and PETE DOMENICI.

This legislation would strengthen the linkages between the laboratories of the Department of Energy and the private sector by supporting the development and application of critical technologies by the laboratories. At a time of challenges to U.S. competitiveness from foreign competition and the vagaries of world economic markets, this legislation will enhance the Department of Energy's [DOE] role in a national effort to improve the competitive position of U.S. industry and stimulate U.S. economic growth.

My legislation will enhance the DOE's present efforts to work with U.S. industry to utilize the significant science and engineering assets of the national laboratories to address the needs of the domestic economy. The DOE has already entered into 350 cooperative research and development agreements [CRADA's] with a total value of more than $600 million with businesses and corporations around the country. This bill will facilitate the expansion of these efforts and ensure that the future of the laboratories is not tied solely to weapons production and nuclear research, but is instead rooted in the multidisciplinary capabilities of the labs in a wide variety of applications.

The DOE, as the largest employer of scientists and engineers in the Federal Government, owns the Nation's foremost laboratories and basic science facilities. This laboratory system includes 10 multiprogram national laboratories, 11 large single-program laboratories, and 9 smaller laboratories. This system employs more than 23,000 researchers with advanced degrees in science and technology; more than 8,500 of these researchers have doctoral degrees.

U.S. competitiveness has benefited greatly from the Department's laboratories. In fact, the Nation's Federal research laboratories contribute to the national welfare in a broad range of areas including: materials science, manufacturing, high-performance computing, transportation, space, environmental science, human health, physics, nuclear fission and fusion energy, defense-related research, environmental restoration and waste management, and conservation, renewable and fossil energy sources.

My legislation will enhance the capabilities of the DOE laboratories by building on their resources through partnerships with U.S. businesses, industries, and universities in such areas as advanced manufacturing and materials, energy and environment, human health, high-performance computing and transportation. The bill establishes minimum percentage goals for each laboratory budget related to the creation of partnerships with industry and provides the Secretary of Energy with more flexibility in entering into partnerships with the private sector. To maximize the competitiveness of U.S. industry, the bill also creates new linkages between the laboratories and the private sector in the areas of intellectual property rights and patents.

Lastly, this bill creates a career path program under the Secretary of Energy to recruit employees of the national laboratories to serve in positions in the Department of Energy. Employment of national laboratory employees in the Federal Government has been problematic in the past because of employment restrictions in current law which could jeopardize future career opportunities in the national laboratory system. This bill erases those restrictions and allows laboratory employees to accept positions in the Federal Government without fear of later difficulties in securing laboratory employment.

Mr. Speaker, the national laboratory system is a precious national resource that should be supported in every way possible. If the laboratory complex did not already exist as a result of our Nation's cold war defense research, the current budgetary crisis would make it impossible to create such a system today. As we move into the 21st century and away from the heavily defense-oriented research activities of the past, we must realize that our national laboratories can continue to provide unique contributions to our national economy.

While we must preserve the existing missions and central competencies of the laboratories, we must seek to help the laboratories define their mission in a broad new context that includes a recognition of their past contributions to the Nation's technological and economic competitiveness and a realization of their future abilities in their ongoing defense-related research as well as development of new technologies in energy, environment, computing, manufacturing, health, transportation, materials research and chemistry, physics, biology, and all of the basic sciences.

I am proud to represent one of the Nation's preeminent laboratories, the Los Alamos National Laboratory in Los Alamos, NM, and I look forward to working with lab officials and my colleagues in Congress to ensure that as this Nation prepares for the 21st century we utilize the unique capabilities of the national laboratory system to the fullest extent possible. I urge my colleagues in the House to join me in this effort by cosponsoring this legislation.

THE POVERTY DATA CORRECTION ACT OF 1993

HON. DEAN A. GALLO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 4, 1993

Mr. GALLO. Mr. Speaker, today I am introducing the Poverty Data Correction Act of 1993. This bill addresses one of the key failings of our current poverty statistics—their lack of validity. Simply stated, the matter is this: We assume that the poverty data provide counts of the number of persons in need. In fact, they do no such thing. The poverty counts are numbers below one national income standard that does not take into account the very real cost-of-living differences from one area of the country to another. Because of cost-of-living differences, a person whose income is just above the poverty level but who lives in a high cost-of-living State such as New Jersey, Connecticut, Illinois, or California can be much worse off than a person whose income is just below the poverty line but who lives in a low cost-of-living area such as Louisiana or New Mexico. Despite greater need, the former is not counted as poor; the latter is.

Our current measurement of poverty, in short, does not measure relative need. And yet, relative need is the very concept Congress is groping for when we design allocation formulas to distribute program funds. Relative need is what we think the poverty data measure. Not so. By using these data, we misdirect funds, sending proportionately more funding relative to need to some areas and less to others. This means that funds adequate-to-need for remedial education, for summer jobs, for training, and for other human development purposes, are systematically denied to places like Newark, Detroit, Cleveland, Los Angeles, the former mining towns of western Pennsylvania and northern Minnesota, and remote rural locations in Vermont and Iowa. More importantly, they are denied to needy persons in those areas who by any commonsense consideration are poor. The resulting patchwork distribution of funds amounts to no Federal policy at all.

Many Members of Congress already have expressed their concern over the lack of timeliness in poverty data. Addressing the timeliness problem only deals with half the issue. It is equally important, perhaps even more important, that, in reforming the poverty data, we deal with the present inability of these data to measure relative need. The way to do this would be to use a State-by-State cost-of-living index to produce State-specific poverty income standards. A State's residents whose income falls below the State-specific poverty standard would then be counted as poor.

The bill I am introducing today does not change in any way the definitions of income that we use to measure poverty. Instead, it directs the Secretary of Commerce to use the existing national poverty threshold and, by applying a State-by-State cost-of-living index, to create a specific poverty threshold for each State. The bill directs that poverty population counts issued by the Secretary be compiled by means of these State thresholds.

I would like to submit with my statement two State-specific cost-of-living indices as examples of what can be done using existing data. The rank order of States in terms of their cost of living and the magnitude of cost differences separating them are similar in both cases. Differences of over 50 percent in the cost of living distinguish one State from another. With differences this wide, it is clear that our present use of one national income standard to determine poverty does grave injustice to the concept of need. The procedure I am advocating would multiply the national poverty standard by the values in a cost-of-living index to create poverty standards for each State.

I want to anticipate two doubts that may be raised about the idea of State-specific poverty standards. First, some analysts will posit that cost-of-living differences within States may be as great as differences between States—the example of New York City and upstate New York is often cited in this regard. Although the cost of living does vary within a State, it still is the case that a State-cost-of-living-adjusted poverty standard will come closer to the truth of what level of income constitutes need in any one State than does our present national poverty standard. In addition, the seminal work conducted at the University of Illinois shows that while there is a 57-percent difference in purchasing power between the highest and lowest States, the variation within States is in the lower ranges of 22 to 35 percent. Finally, the poverty data we have now are arbitrary and manifestly incorrect. What I am proposing is an obvious improvement, which may itself be improved further.

Second, some may argue that we need more research on this idea. In answer, I would say that while research on State cost-of-living differences is not voluminous, it is respected. Indeed, the National Center for Education Statistics plans to have one of these indices updated this fall when new census data become available. Instead of ordering more research or calling for more study, I would urge the Congress to move forward and direct the Census Bureau to implement the idea of State poverty standards. Nothing spawns research on a subject or leads to technical breakthroughs faster than Congress directing an agency to implement something.

All of us here have great respect for the research and analytical capability of our statistical agencies. We as policymakers do not have to figure out all the details of how to design data. We do need to set the direction, to point out the goal, and to issue the marching orders. I am confident that, if Congress enacts legislation directing the development and employment of State-specific poverty standards, our statistical agencies will respond to the challenge quickly and competently.

As legislators, our understanding of social conditions and our ability to formulate responsive programs depend on our having good information. In addition, because of congressional decisions taken over the past 25 years to use number-driven formulas for allocating Federal funds, we are now in a position where not only the development but also the implementation of the vast bulk of Federal domestic policy rests squarely on the Nation's statistical programs. Statistics drive billions of dollars this way and that—into some hamlets, into some cities, toward some persons, away from others. When statistical data programs fail to measure the conditions we policymakers think they are measuring, then the policies we enact also will fail. Unfortunately for well-intentioned Federal policy, the foremost example of this type of statistical failure is poverty data. The legislation I am introducing today would remedy that failure:

STATE RANKINGS IN COST-OF-LIVING STUDIES

State	McMahon study, 1988			State	Nelson study, 1989	
	Rank	Index[1] value	Percent change 1977–88		Rank	Index[1] value
District of Columbia	1	124.9	19.4	Alaksa[2]	1	
Connecticut	2	123.7	2.9	Hawaii[2]	1	
New Jersey	3	119.1	2.1	Connecticut	2	125.8
Massachusetts	4	114.0	5.8	New Jersey	2	125.8
Hawaii	5	113.9	NA	Massachusetts	3	121.8
New York	6	110.7	.3	District of Columbia	4	121.0
California	7	110.2	2.2	New York	5	113.2
Maryland	8	109.4	−3.4	Maryland	6	110.8
Illinois	9	107.7	4.5	New Hampshire	7	107.9
Minnesota	10	104.7	3.8	Rhode Island	8	106.8
Iowa	11	102.5	7.2	California	9	105.9
Michigan	12	102.2	1.5	Delaware	10	103.2
New Hampshire	13	101.9	−1.4	Pennsylvania	11	101.3
Delaware	14	101.7	−8.5	Arizona	12	100.8
Alaska	15	101.7	NA	Colorado	13	99.8
Colorado	16	101.6	1.0	Nevada	14	98.1
Washington	17	101.5	1.8	Illinois	15	97.4
Rhode Island	18	101.3	−2.2	Florida	16	97.3
Virginia	19	101.2	7.9	Virginia	17	97.1
Wisconsin	20	101.1	1.4	Washington	18	97.0
Ohio	21	100.7	.6	Ohio	19	95.8
Pennsylvania	22	100.3	5.4	Minnesota	20	95.6
Nebraska	22	100.3	5.2	Michigan	21	95.4
Oregon	23	99.5	1.4	Wisconsin	21	95.4
Kansas	24	98.0	4.5	Oregon	22	94.2
Nevada	25	97.1	−9.1	Texas	23	94.1
Missouri	26	96.8	.3	Georgia	23	94.1
Indiana	27	96.6	.3	Vermont	24	93.9
Wyoming	28	95.8	−2.5	Iowa	25	93.6
Vermont	29	94.9	−6.2	North Carolina	25	93.6
North Dakota	30	94.6	−2.8	Louisiana	26	93.4
Maine	31	94.0	2.4	Wyoming	26	93.4
South Dakota	32	92.9	−1.0	Tennessee	27	93.1
Montana	33	91.6	−5.3	New Mexico	28	92.9
Florida	34	90.6	−1.8	Utah	28	92.9
Georgia	35	90.0	−.5	Missouri	28	92.9
Tennessee	36	89.9	2.5	Nebraska	28	92.9
North Carolina	37	89.6	1.4	Indiana	28	92.9
West Virginia	38	89.4	4.8	South Carolina	29	92.6
Kentucky	39	89.2	−5.7	Oklahoma	30	92.5
Idaho	40	89.0	−7.7	North Dakota	31	92.2
Arizona	41	88.0	−11.3	Kentucky	32	92.1
Oklahoma	42	87.3	1.7	Maine	33	92.0
Texas	43	87.1	−.4	Alabama	34	91.9
Alabama	44	86.9	−.3	West Virginia	34	91.9
Louisiana	45	86.8	−3.7	Kansas	35	91.7
South Carolina	46	84.9	−3.9	South Dakota	36	91.6
Arkansas	47	84.8	−.9	Idaho	37	91.3
Utah	48	84.8	−14.2	Montana	38	91.1
New Mexico	49	83.6	−12.1	Arkansas	39	90.9
Mississippi	50	81.6	−4.8	Mississippi	40	90.3

[1] 100=national average for all states weighted by their population.

[2] Alaska and Hawaii are excluded from the study but assumed to rank first and second.

Source: Walter W. McMahon, "Geographical Cost of Living Differences: An Update." MacArthur/Spencer Series Number 7, Illinois State University, August 1988; and F. Howard Nelson, "An Interstate Cost-of-Living Index" in Educational Evaluation and Policy Analysis, Spring 1991, vol. 13, no. 1, pp. 103–111.

THE 100TH ANNIVERSARY OF B'NAI JEHOSHUA BETH ELOHIM

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 4, 1993

Mr. PORTER. Mr. Speaker, I rise today to pay tribute to Congregation B'nai Jehoshua Beth Elohim located in Glenview, IL, which will be celebrating its 100th anniversary on November 19, 1993. This is a wonderful milestone worthy of special recognition.

When this congregation was founded in 1893, it was originally known as B'nai Jehoshua and was located in Chicago. In the 1960's the congregation merged with another congregation, Beth Elohim, and relocated to Glenview, which is in my congressional district.

Throughout its 100-year history, Congregation B'nai Jehoshua Beth Elohim has provided a house of worship for thousands of Jewish families in the Chicagoland area. The strong devotion of these families to the congregation has been passed on from one generation to the next. In fact, some of the current members are descendants of families that founded the congregation. Today, Congregation B'nai Jehoshua Beth Elohim is widely recognized as a leader among Reform Jewish congregations throughout the country.

For 30 years, the congregation has been led by Rabbi Mark S. Shapiro, who has done an outstanding job in providing spiritual guidance to the members. To all members and officers of Congregation B'nai Jehoshua Beth Elohim and to Rabbi Shapiro, I want to convey my warmest congratulations and best wishes on their 100th anniversary. Their congregation is a living symbol of the faith and religious freedom that is at the heart of our Nation's strength. Here's to the next 100 years of the congregation's success and prosperity.

CONGRATULATIONS TO EAGLE SCOUT, JAMES D. BERLING

HON. DAVID MANN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 4, 1993

Mr. MANN. Mr. Speaker, I rise today to recognize the accomplishment of James D. Berling who will be awarded scouting's highest honor, the rank of Eagle Scout, at a Court of Honor on August 15, 1993.

The rank of Eagle Scout is not easily attained. As a member of Troop 510, sponsored by Bridgetown Church of Christ in Cincinnati, OH, James Berling is the youngest Scout to achieve this rank in the troop's 26-year history.

James Berling has been an exemplary Scout. He has earned the Ad Alteri Dei Religious Award and is a member of the Order of the Arrow honor campers. His Eagle Scout community improvement project involved over 150 volunteer hours with organizations in Cincinnati that exist to help the unemployed, the homeless, victims of domestic violence, and people addicted to drugs. Jim volunteered three times the number of hours a Scout is expected to spend on his community service project.

While devoted to Scouting, James has also excelled in his school endeavors. He has maintained his position on the honor roll at Bridgetown Junior High School. Jim has also been an avid soccer and basketball player while holding down a part-time job.

The adult leaders of the troop and James' parents should be justifiably proud. They share in his accomplishment through the help and support they have provided to him as he blazed the trail for other Scouts to follow. I congratulate James Berling on his outstanding accomplishment and wish him the best in all his future endeavors.

WHY GRIDLOCK

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 4, 1993

Mr. SOLOMON. Mr. Speaker, in response to the ineptitude of this House, Wednesday's Wall Street Journal carried an editorial entitled "Why Gridlock." President Clinton blames the delay and gridlock on the Republicans, all 176 of them, who can't pass or block anything by themselves even if they all voted together. In contrast, the Wall Street Journal correctly blames gridlock in Congress on boondoggle legislation.

Mr. Speaker, the British statesman Edmund Burke once said "bad laws are the worst form of tyranny." The flood relief bill that was passed by this House established a bad law. Handouts of $100-a-week to youths aged 17 to 30 is not deficit-wise legislation, it's pork barrel spending, the same old song from the same old crowd. Regardless, of its merits it didn't belong in the disaster assistance bill.

Mr. Speaker, I, and every other Member of this body, would be extremely negligent in our duties as Representatives of 585,000 constituents if we didn't oppose poor laws. The disaster assistance bill was not stopped by Republican opposition alone but also by a sizable number of Democrats. Why? Because the bill was tainted by the smell of pork. It's a very sad day when this House can't pass disaster assistance without trying to find a kickback.

Mr. Speaker, if every emergency becomes an excuse for deficit swelling pork, maybe a little gridlock isn't all a bad thing.

INTRODUCTION OF TRAUMATIC BRAIN INJURY ACT

HON. JIM SLATTERY

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 4, 1993

Mr. SLATTERY. Mr. Speaker, I am pleased to introduce today the Traumatic Brain Injury Act of 1993.

Every 15 seconds someone in the United States suffers a head injury and 98 percent of these individuals will survive the accident. According to the National Head Injury Association [NHIA], a survivor of a severe brain injury typically faces 5–10 years of intensive medical and related services at an annual cost of approximately $86,000. Estimated lifetime costs to care for a traumatic brain injury survivor can exceed $4 million.

Half of all traumatic brain injuries are caused by car accidents. Among children, abuse accounts for 64 percent of all infant head injuries, while 50,000 head injuries occur each year as a result of bicycle accidents. This act will encourage development of national standards for bicycle helmets.

The legislation I am introducing today will help raise public awareness of the serious risks and tragic consequences of head injuries and will designate a Federal agency to oversee and promote projects to prevent traumatic brain injury and to assist in rehabilitation efforts across the Nation.

This legislation also will assist States in creating advisory boards to coordinate citizen participation in community traumatic brain injury programs and will create a registry to advance epidemiologic research efforts across the Nation.

I am pleased that the State of Kansas was the first State to submit and receive approval on a title XIX home and community based services waiver to provide services to people with head injuries in their own home. I am hopeful that my legislation will encourage other States to develop home care programs for traumatic brain injury survivors and will create a nationwide network for survivors and their families and friends.

The Traumatic Brain Injury Act, which emphasizes prevention and treatment options, will help these individuals and their families cope with the debilitating and life-long consequences of these tragic accidents.

I encourage my colleagues to cosponsor this important legislation and I look forward to the speedy enactment of the Traumatic Brain Injury Act of 1993.

INTRODUCTION OF THE HEADWATERS FOREST ACT

HON. DAN HAMBURG

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 4, 1993

Mr. HAMBURG. Mr. Speaker, the Headwaters Forest Act I am introducing today is the first step in this Congress to protect permanently the largest privately owned stand of old growth redwood in the world.

These stands, located in my district in Northern California, are threatened by the owner's need to harvest aggressively to pay off high interest bond debt incurred to purchase them. In 1985, MAXXAM Inc. CEO Charles Hurwitz, with help from Michael Milken, engineered the takeover of Pacific Lumber Co., which had managed their redwood forests for sustainable yield for over 120 years. At the time of take-over, Pacific's land included about 16,000 acres of virgin old growth redwood.

Today, only about 5,300 acres of these majestic giants remain. They are the anchor for a unique ecosystem that is home to the Northern Spotted Owl, the marbled murrelet, several native stocks of salmon, and other old-growth dependent species. Headwaters Forest old growth is one of the three primary nesting sites of the marbled murrelet, listed as threatened in California in October 1992 under the Endangered Species Act.

In late 1992, in spite of concerns expressed by the Fish and Wildlife Service about potential impact on critical nesting habitat of the marbled murrelet, Pacific Lumber began a weekend harvest of one of the virgin old growth groves. Although that harvest was halted by litigation, such harvests are virtually certain to continue without Federal acquisition. An important part of our national heritage rooted in northern coastal California will be lost forever.

The Headwaters Forest Act will authorize acquisition of the remaining old growth redwood groves and the second growth forests which connect them. The act forbids timber harvest in the old growth area and requires management to enhance and sustain the old growth ecosystems. Selective sustainable harvest of the second growth forests will be allowed to the extent consistent with maximizing the needs of the old growth. A management plan will be developed detailing rehabilitation and restoration of previously logged areas, giving preference to unemployed former timber workers and fishermen for this work.

No mystery shrouds the continued listing of species dependent on old growth forests, the old growth itself is rapidly falling victim to market pressures.

The old growth redwood forest is not a renewable resource. If these ancient trees are cut, the old growth redwood ecosystem is lost. The conditions that fostered its growth no longer exist. Scientists agree it is unlikely that old growth ecosystems will be recreated even if today's young trees are allowed to grow for hundreds of years. There is much we do not understand about these unique forests but we do know they contain yet undiscovered biological resources of potential great significant value.

Safeguarding the Headwaters Forest and the species it supports will contribute significantly to political peace between logging and environmental interests in coastal northern California and will preserve for our Nation, our children, and their children a truly non-renewable natural resource.

SALUTE TO PAUL EDWARD CRAWFORD

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 4, 1993

Mr. CRANE. Mr. Speaker, as it is all too often that we overlook everyday citizens who rise above and beyond the call of duty and perform outstanding acts of heroism, I'd like to take a moment to recognize an individual in my district whose actions saved the lives of two teenage boys.

On April 7, 1992, Paul Edward Crawford of Antioch, IL rescued two young teenage boys from drowning. James E. Kirwan and a friend had been boating in Center Lake in Salem, WI when their boat went out of control, throwing the two boys into the icy water. Crawford, on the shore of the lake at the time of the accident, noticed the two boys struggling to stay afloat and immediately dived into the water. After grabbing ahold of Kirwan and his friend, Crawford safely delivered the boys back to the shore. In recognition of his heroic act, the Carnegie Hero Fund has awarded Crawford a grant of $2,500.

I salute the heroic efforts of Paul Crawford, an exceptional resident of the Eighth Congressional District of Illinois.

TRIBUTE TO FLORIDA BAPTIST THEOLOGICAL COLLEGE

HON. DOUGLAS "PETE" PETERSON

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 4, 1993

Mr. PETERSON of Florida. Mr. Speaker, I rise today to proudly join Florida Baptist Theological College in celebration of its 50th anniversary.

Established in 1943 in Lakeland, FL, the Baptist Bible Institute was created to provide a mixture of Bible and general education courses to pastors and other church leaders needing seminary training.

As the college grew and became a regional institution, school leaders decided to move the school to a location allowing it to best serve the tristate area of Georgia, Alabama, and Florida. In 1957, the institute completed a relocation to Graceville, in the northwestern panhandle of Florida, and became known as the Florida Baptist Theological College.

Mr. Speaker, throughout the last 50 years, Florida Baptist Theological College has never lost sight of its purpose: to educate and train God-called men and women for lifetime Christian service. The college offers 2- and 4-year programs in the fields of theology, religious education, and church music. The school is licensed by the Florida State Board of Colleges and Universities, holds membership in the Association of Southern Baptist Colleges and Schools, and is accredited by the Commission on Colleges of the Southern Association of Colleges and Schools.

Once again, congratulations to Florida Baptist Theological College on its upcoming September 7, 1993, Founder's Day celebration of the school's first 50 years, and best wishes and continued success for many, many more.

ADMINISTRATION OF JUSTICE PROGRAM IN GUATEMALA

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 4, 1993

Mr. HAMILTON. Mr. Speaker, on May 10 I wrote to the Honorable Brian Atwood, administrator of the Agency for International Development, to share my concern about a proposed Administration of Justice Program for Guatemala. My concern centers on aid to the Public Ministry in that country, given its past record on human rights issues.

Administrator Atwood recently responded to my letter. Because there is widespread interest in this program, I insert this correspondence in the RECORD.

WASHINGTON, DC,
July 16, 1993.

Hon. LEE HAMILTON,
Chairman, Committee on Foreign Affairs, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: I write in response to your letter of May 10, 1993, in which you expressed concerns about the Agency for International Development's plans for the new Judicial Sector Reform Support project for Guatemala (Congressional Notification #256, A.I.D. Project No. 520-0407, dated March 31, 1993.) I also want to acknowledge and respond to your request that the Agency withhold project funds for the Guatemalan Public Ministry to this time.

Guatemala's constitutional crisis has been resolved with the election by the Guatemalan Congress of the highly respected former Human Rights Ombudsman, Ramiro De Leon Carpio, as the new president on June 5. That Guatemala's crisis was resolved by peaceful, legal and constitutional means is a testament to the commitment to democracy on the part of many Guatemalans and the strong international support for a rapid return to democratic government on the part of the Organization of American States and other countries.

On June 8, Deputy Secretary Wharton met with President De Leon to underscore the support of the United States for his constitutionally elected government. After his meeting, the Deputy Secretary announced the resumption of all assistance to Guatemala which had been suspended on May 27.

The currently planned assistance for justice sector reform is now more critical than ever. However, I fully understand your reservations about the project and I am prepared to address them. As a result of consultations with your senior staff, we are prepared to proceed with a reconfigured project that responds to the concerns expressed in your letter. The project will initially include only those components for the Supreme Court, the law school of San Carlos University, and private sector advocacy with funding for project management support.

As discussed with members of your staff on June 25, we will not obligate funds for the Public Ministry training program until we are confident that the leadership of the Public Ministry is committed to ensuring the legal protection of Guatemalan citizens. We will closely monitor that the Public Ministry is making progress in the prosecution of human rights cases throughout the project.

In response to the related question subsequently raised by your staff regarding ICITAP activities in Guatemala, I have confirmed that the Bureau of Inter-American Affairs of the Department of State will apply a similar policy in its oversight of ICITAP. Once we have determined that the necessary conditions exist to warrant the provision of assistance for the Public Ministry, we will consult with your staff.

I appreciate having the benefit of your input on this project. Please be assured that I intend to ensure that A.I.D.'s programs are not only sensitive to human rights concerns, but work actively and effectively to promote human rights around the world.

Sincerely,

J. BRIAN ATWOOD.

COMMITTEE ON FOREIGN AFFAIRS,
Washington, DC, May 10, 1993.
Hon. BRIAN ATWOOD,
Administrator, Agency for International Development, Washington, DC.

DEAR BRIAN: I write to share my concern about the Agency for International Development's proposal for a new Judicial Sector Reform Support project for Guatemala. (Notification #256, project number 520-0407, dated March 31, 1993.)

I recognize that judicial assistance programs present difficult policy choices; sometimes the least desirable states are those most in need of judicial reform assistance. It is my view, however, that the United States must be committed to ensuring, to the maximum extent possible, that U.S. assistance does not help inefficient judicial systems become more efficient in brutalizing their own citizens.

I understand that Guatemala has taken steps, such as approving a new Criminal Procedures Code and increasing budget allocations for the judicial sector, that show some political resolve to improve the judicial system. I also understand that A.I.D. has made approval of a new organic law for the Public Ministry of Guatemala a key condition precedent for the Ministry's receipt of any assistance. I am pleased that A.I.D. plans to use rigorous implementation agreement mechanisms that control tightly the use of U.S. funds because the Public Ministry's accounting systems will not satisfy A.I.D. certification requirements.

While I support the positive steps by Guatemala and the specific conditions A.I.D. has placed on Public Ministry receipt of U.S. assistance. I have serious concerns about reinitiating a judicial reform project in Guatemala, particularly with respect to the Public Ministry, given the history of such assistance to Guatemala. My reservations are as follows:

A.I.D.'s prior judicial reform project was suspended in December 1991 because A.I.D. itself had determined that Guatemala failed to demonstrate sufficient political will to make it succeed.

Under its current leadership, the Public Ministry has impeded action on several pivotal human rights cases, including failure to prosecute those military officials who ordered the 1990 murder of anthropologist Myrna Mack, while pursuing specious criminal charges against human rights activists such as Amilcar Mendez, President of the CERJ human rights group.

The Public Ministry has tolerated, if not encouraged, the persistent harassment of human rights organizations in Guatemala, bolstering the widespread perception of legal impunity for military officials who have committed human rights violations.

The records of the current Attorney General and the head of the Criminal Investigations Unit, who have ties to the military and who have taken dubious actions, such as attempting to close further investigations into Mack's murder, are further cause for concern and raise the perception of U.S. support for such actions through the proposed support to the Public Ministry.

Given these reservations, it is my view while the judicial reform project itself may proceed, the Public Ministry must show that it is working to prosecute fully the major outstanding human rights cases before it receives any judicial reform assistance. The Public Ministry deserves U.S. support only if it is making efforts to ensure the legal protection of its own citizens, under the administration of officials in whom we have confidence.

I am therefore placing a "hold" on assistance to the Public Ministry under the A.I.D. judicial reform project until its commitment to prosecuting human rights violators is clarified to the satisfaction of both AID and the Congress.

Sincerely,

LEE H. HAMILTON,
Chairman.

INTRODUCTION OF IMPACT AID REFORM LEGISLATION

HON. HARRIS W. FAWELL

OF ILLINOIS
IN THE HOUSE OF REPRESENTATIVES
Wednesday, August 4, 1993

Mr. FAWELL. Mr. Speaker, today, I am introducing legislation to reform section 2 of the Impact Aid Program which serves to reimburse school districts for revenues lost as a result of the Federal Government acquiring at least 10 percent of the school district's taxable property.

As we all know, State and localities provide approximately 95 percent of education funding in the United States. The largest source of this funding is local property taxes. When a school district loses 10 percent of its taxable property, the local schools are severely impacted. In 1950, Congress responded to this problem by creating the Impact Aid Program. The 1950 statute requires that the Federal Government reimburse each section 2 school district for each year in "such amount as * * * is equal to the continuing Federal responsibility for the additional burden with respect to current expenditures placed on such school district by such acquisition of property." The meaning of this language is very clear to me—the Department of Education should reimburse each section 2 school district by the amount which the Federal presence negatively impacts the school district. The only way to accurately measure the impact which the Federal presence has on the tax base is to make the required assessed valuation of the land reflecting the type of land-use which assumes the land's best highest value use.

Unfortunately, a bureaucratic interpretation of the law has resulted in the land being assessed at values based on the use of the land at the time of the Federal acquisition, which in some cases was over 50 years ago. In the case of Lemont High School in my district, the land is assessed at farm values despite the fact that none of the surrounding land has been used for farming in at least 25 years. This is also true of the other 7 school districts in Illinois and many other school districts throughout the country.

My legislation, which enjoys the bipartisan support of Illinois section 2 representatives, would simply require that the assessed valuation be calculated by the local assessor according to the current highest best-use of the land.

This bill does not increase the appropriation or the authorization funding levels which would be determined in the authorization—appropriation process. The bill would merely restructure the program to ensure that the funds appropriated are distributed in an equitable manner, conforming to the original intent of section 2. I hope that all Members will considering cosponsoring my legislation and support correcting this inequity in the upcoming elementary and secondary education reauthorization.

CONGRATULATIONS TO WHIRLPOOL CORP.

HON. FRANK McCLOSKEY

OF INDIANA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, August 4, 1993

Mr. McCLOSKEY. Mr. Speaker, I would like to take this opportunity to congratulate Whirlpool Corp. for winning a contest sponsored by the Super Efficient Refrigerator Program, Inc. [SERP] to develop a CFC-free, super-efficient refrigerator. This $30 million winner-take-all competitive bid process was formulated to provide incentives for U.S. appliance manufacturers to accelerate the design and production of advanced energy-efficient, ozone-friendly refrigerators.

Whirlpool was chosen the winner of the environmental contest from more than 13 other companies who submitted bids. Whirlpool employees located in Evansville, IN, as well as those in the States of Michigan, Arkansas, and Tennessee, led the company-wide effort to develop a 22-cubic foot side-by-side refrigerator-freezer that exceeds the 1993 Federal energy efficiency requirements by 25 percent to 50 percent and contains no CFC's.

This initiative should serve as a model for the future coordination of government and industry resources in finding innovative solutions to environmental and technological challenges. American consumers will benefit the most since Whirlpool's technological developments will decrease domestic electric bills while providing a refrigerator with all of the design features, style, and conveniences of the latest products in the marketplace. In addition, the cost of this new refrigerator should remain in the current range of similar-sized refrigerators because of the $30 million award.

The $30 million incentive was provided by SERP with expectations that the energy saved will permit them to forego the need to build several new costly power plants, while significantly reducing current emissions of polluting carbon dioxide. The SERP is a non-profit corporation comprised of 24 utilities nationwide, in collaboration with the U.S. Environmental Protection Agency, the Natural Resources Defense Council, the electric Power Research Institute and the American Council for an Energy-Efficient Economy.

Again, I commend Whirlpool and its employees for winning this contest and for taking a leadership role in confronting the environmental and technological challenges before this Nation.

U.N. MEMBERSHIP FOR THE REPUBLIC OF CHINA

HON. GERALD B.H. SOLOMON

OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Wednesday, August 4, 1993

Mr. SOLOMON. Mr. Speaker, the rapid democratization and constitutional reforms in the

Republic of China on Taiwan have clearly impressed the world, and the 21 million people living in the Taiwan area have openly expressed the desire of serving the international community as active partners, contributors, and participants.

Due to its lack of membership in the U.N., the Republic of China has limited its international activities to the Asian Development Bank, the European Bank for Reconstruction and Development, the Inter-American Development Bank, and the Central American Bank for Economic Integration, and economic development projects in different parts of the world.

Clearly, the Republic of China on Taiwan can do a lot more in helping other countries when one takes into consideration its foreign exchange reserves, around $85 billion, and other impressive economic resources, such as its expertise and experiencing in turning an impoverished island country into a modern economic powerhouse.

A vital first step in tapping Taiwan's willingness to be an active international player is to invite the Republic of China on Taiwan back to the United Nations. Once readmitted, the Republic of China on Taiwan will clearly be a model nation, fully supportive of the aims and goals of free nations everywhere.

SMALL BUSINESSES URGE CAUTION ON BUDGET

HON. ROB PORTMAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 4, 1993

Mr. PORTMAN. Mr. Speaker, I rise today to express my grave concerns regarding the budget reconciliation bill this House will consider tomorrow. It is too light on spending cuts and far too heavy on taxes. I believe it will generally harm the economy, but I am particularly worried about the impact that the tax increases will have on small businesses.

I believe all of us in this Chamber share the President's goal of deficit reduction. Where we fundamentally disagree is how to achieve this goal.

But I did not want to espouse my views today. Instead, I want to give some of my constituents a chance to tell their unsolicited stories that have been shared with me in two recent letters. These are all small businesspersons in the Second District of Ohio that I represent who have urged me to oppose the plan because of the dramatic effect its tax increases would have on their businesses.

These are just two of many letters I have received that make it clear that the tax changes in this budget will have the opposite effect of their stated purposes of job creation and economic growth. Instead, as these unsolicited letters from my district point out, these tax increases will result in economic contraction and job reductions. The reason is quite simple: Approximately 800,000 small businesses in America will be hit hard by the retroactive tax increases on individuals. This is because most small businesses, including all subchapter S companies, partnerships, and sole proprietorships, file as individuals.

The first of my letters comes from three individuals at a small subchapter S corporation in Cincinnati who wrote to request a subchapter S corporation exclusion from the proposed income tax increases, particularly the 10-percent surtax on incomes over $250,000. Listen to what these individuals have told me about the actual impact of this legislation:

> We co-founded [our company] with several other partners in 1987 and we have built an organization that currently provides 60 full-time and 400 part-time jobs. * * * Like many small business people, [we] risked everything [we] had to get the business started (including cashing in [a] life insurance policy when [we] had run our bank account to zero). * * * Virtually every dime of profit we have made since 1987, we've plowed back into the corporation. Not only did we reinvest in an effort to build equity, which would enable us to receive a line of credit from the bank, we also invested in training, computer systems, and new people.
>
> As a result of our reinvestment, we have been able to continue to grow at a steady clip. However, President Clinton's proposed surtax will limit our ability to reinvest and grow. * * *
>
> So what precisely would the net effect of the proposed 10% surtax be on our small business? Essentially, since profits flow to individuals in subchapter S corporations, the proposed 10% surcharge will have a net effect of taxing our company profits at a 42% rate.
>
> My understanding is that a decision was made by the administration to raise the top C corporation rate to 36% and to leave the current 34% tax rate intact for companies earning less than $10MM. If this is the case, it would seem inconsistent [to] tax the majority of profits on a small business like ours at a rate of 42%. I * * * don't need to tell you what a 42% rate would do to our ability to hire new people and reinvest in our future. * * *
>
> If, in fact, Mr. Clinton believes that small business is the lifeblood of this country, he should realize taxing them to death is probably not the way to make them grow and flourish.

The second letter comes from the president of a small company he founded nearly 13 years ago that manufacturers small food specialty equipment for the food service industry. The letter is signed by all nine of the company's employees. He writes:

> During the first three years of my business, I lived at or below poverty level for a period of nearly 18 months without receiving any pay. * * * Since that time, my business has grown into sales of nearly $2,000,000, employing nine people. * * * We have seen tremendous growth in the past eight years—a 25% increase this year—and have anticipated even stronger growth in the future.
>
> Prior to President Clinton's economic proposal, I had considered building an additional 5,000 feet of manufacturing space onto our current facility, acquiring nearly $100,000 in new manufacturing equipment, and adding approximately 3-4 new employees. This is all on hold for now.
>
> I have already been notified by several of my suppliers that in response to a * * * fuel tax, I can expect anywhere from a 5-10% price increase on raw materials and transportation. If I am unable to pass these price increases on to my customers and maintain the same or greater sales volume that [my company] is currently doing, I will be forced to curtail my expansion and reduce employees. * * *
>
> * * * You control the economic future of all small businesses. Small businesses are entrepreneurs who are willing to invest money, borrow money, and take risks. * * * I take great pride in my company and feel compelled to take care of the people that work for me. The program that has been presented [by President Clinton] will drastically affect my ability to provide for my employees."
>
> I agree 100% that we must reduce the deficit and the debt of this country. I highly recommend that you vote to eliminate any further tax increases, but continue the efforts to reduce spending.* * * The upcoming threat of the now-largest tax increase will put the brakes on [small] business in ways never seen before.

Mr. Speaker, these words demonstrate, better than any speech I could give, the negative impact that the tax increases contained in the budget reconciliation bill will have on small businesses, not just in the Second District of Ohio, but all across America. I urge my colleagues to pay heed to these small businesses that are creating the bulk of jobs in America. I urge my colleagues to oppose the budget reconciliation bill.

TRIBUTE TO THE CITY OF HOLLAND, MI

HON. PETER HOEKSTRA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 4, 1993

Mr. HOEKSTRA. Mr. Speaker, I rise today to recognize the achievements of the elected leaders and citizens of Holland, MI, a city in my district, in the fight against drunk driving.

The city of Holland received the grand prize for cities with a population less than 100,000 as well as the Community Partnership Award from the National City Challenge to Stop Drunk Driving during the annual meeting of the U.S. Conference of Mayors on June 23.

The National City Challenge commends cities at the forefront of the antidrunk-driving crusade. The challenge encourages cities to develop and implement comprehensive, community-based programs. By applauding and publicizing these programs, the challenge encourages other cities to adopt these model efforts for their own.

The challenge is now in its second year. It is jointly sponsored by the Conference of Mayors and The Century Council, a nonprofit organization dedicated to combating alcohol abuse and misuse. The Century Council is supported by more than 500 distillers, vintners, brewers, and wholesalers from across the Nation.

When the leadership of Holland realized that drunk-driving incidents in their community were reaching near-epidemic proportions, they formed an integrated and aggressive community-wide effort to combat this problem. The Lakeshore Alcohol Council, with the support of Mayor Neal Berghoef, coordinated enforcement among 16 law enforcement agencies and conducted sting operations and educational efforts, virtually eliminating alcohol-related traffic deaths during the prom and graduation season.

A key to the success of the Lakeshore Alcohol Council is the commitment to all parts of the community—business, schools, churches, treatment facilities, alcohol vendors, citizens, and law enforcement officials.

In addition, the Lakeshore Alcohol Council operated without a penny of grant money or Government funds—Federal, State or local. The council functions solely on membership fees and donations from area businesses and individuals to pay for major projects.

I urge my fellow Members to alert communities in their own districts in the effective community partnership that Holland, MI, has been able to build. I hope that Holland's example will inspire communities throughout the Nation to broaden the attack on drunk driving.

I congratulate the people of Holland and I am very pleased that they were singled out by the Conference of Mayors and the Century Council for this award.

HIGHER TAXES, LOWER REVENUES

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 4, 1993

Mr. CRANE. Mr. Speaker, it is time that we stop trying to punish the wealthy for our country's economic problems. Although some of my colleagues have proposed raising taxes on the rich to pay for the fiscal irresponsibility of Congress, the reality is that further taxing the rich will not increase Federal revenues by nearly the amount estimated by the Clinton administration. In fact, a decrease in tax revenues is very possible. This scenario coupled with businesses raising prices and cutting back on employees or employee benefits will have a detrimental impact on our Nation's economic and fiscal well-being. It's time that we end the Clinton class war which strives to divide our society, and look to real solutions to solve our economic problems. Simply put, we need a tax code that provides incentives to save and invest. This will in turn create jobs, and increase the number of taxpayers, thus generating more tax revenues. In his article, "Higher Taxes, Lower Revenues," Robert J. Barro cites compelling evidence to bolster this view. I submit Mr. Barro's article, which appeared in the July 8, 1993 edition of the Wall Street Journal to my colleagues' attention.

Although the debate over the administration's tax package has focused on energy levies, the bulk of the projected revenue comes from increases in marginal income-tax rates on the "rich." This revenue underlies the administration's contention that the fiscal package is an equal mix of spending cuts and tax increases, and also forms the basis of alternative estimates that peg the ratio of spending cuts to tax increases at between 1 to 2 and 1 to 5.

A key issue, however, is whether increases in marginal tax rates at the top will raise any revenue at all. The history of responses to tax-rate changes from 1981 to 1991 suggests that the receipts generated by this part of the fiscal package probably will be close to zero and may actually be negative. Upper-income people are very "responsive" to changes in the tax code: that is, they readily move their money around or change their behavior in response to new tax law.

The debate about ratios in the administration's proposals has therefore had a surreal character. If Congress decides to abandon all new levies on energy—levies that would harm the economy, but really would raise the kind of revenue legislators are looking for—then tax receipts would be roughly constant. The magical ratio of spending cuts to tax increases could then be infinite (even though the package contains little in spending cuts).

AN ORPHAN ARGUMENT

Amazingly, neither the Democrats nor the Republicans what to make this argument. The Democrats, of course, do not want to acknowledge that the higher tax rates on the rich will generate little revenue. The Republicans do not want to press the point because, first, they do not want to look like the advocates of the rich, and, second, if tax receipts do not rise, then they could not argue that the Democrats had raised taxes (falling here into the common confusion between tax rates and revenues). One would have thought, however, that an increase in tax rates that produces no revenue is even worse than one that generates lots of revenue.

The chart shows the fraction of total federal income taxes paid by the upper 0.5% of the income distribution in the years 1960 to 1991 (returns with adjusted gross incomes above about $220,000 in 1991). The most relevant experience for evaluating the current fiscal proposals is the period of changing tax policy from 1981 to 1991.

For the top 0.5% of the income distribution, the most important changes are the shifts in the marginal tax rates at high incomes. For most of the years 1960 to 1980, years with relatively high top marginal rates, the high-income group contributed well under 20%—and even 15%—of the revenue pie. But even more relevant is the 1981-91 period. It featured a cut in the top marginal rate on unearned income to 50% from 70% in the 1981 law, a cut in the top rate on all forms of income to 28% in the 1986 law (except that this law raised the top rate on long-term capital gains to 28% from 20%), and an increase in the top rate to 31% (or a couple of percentage points more because of phaseout provisions for deductions) in the 1990 law.

The first observation from the figure is that the increase in reported taxable incomes of the rich after the 1981 law was great. It was so great that the share of taxes paid by this group rose to 18% in 1984-85 from 14% in 1981, despite (or rather because of) the reduction in the top marginal tax rate. The Laffer curve argues that increasing tax rates beyond a certain point means lower revenues—and that cutting rates widens revenues. The much-ridiculed curve turned out to work brilliantly at upper-income levels.

The share the rich paid in taxes for 1986—21%—is inflated by the surge in capital-gain realizations in anticipation of the rise in the capital-gains tax rate in 1987. But the principal observation about the 1986 reforms is that the share paid by this group remained between 20% and 22% from 1986 to 1990, well above the values from before 1986. In 1988, the final year of the Reagan administration—and, in that sense, the pinnacle of the "greedy 1980s"—the share of taxes paid by the rich reached its peak of 22%. (I do not know whether one-fifth is a "fair share" for the top 0.5% of income recipients to pay, but it does mean that the average person in this group pays 40 times as much in federal income taxes as the typical person.)

Additional evidence came when the rise in the top rate in the 1990 law was followed by a decline in the fraction of taxes paid by the rich to 19% in 1991 from 20% in 1990. Thus, the pattern in which changes in the top tax rates cause a dramatic response in the opposite direction of reported taxable incomes works for tax-rate increases as well as for tax-rate decreases. This finding is significant, because the current income-tax proposals are basically more of the same that was contained in the 1990 law.

Treasury officials claim that their estimates of large revenue gains from increased tax rates on the rich already take account of behavioral responses that lower the base of reported taxable income. This claim is misleading, however, because the responses that the Treasury seems to consider are portfolio shifts, such as the increased incentive to hold tax-exempt bonds (an effect that has to be trivial if the total supply of tax-exempt bonds does not change).

Left out of these calculations are the principal shifts in reported incomes that underlie the data in the figure. The details of these shifts are not well understood, but they seem to involve changes in the timing of income, exploitation of tax loopholes, and alterations in work effort. (People work harder after tax cuts.) In any event, the best way to project how tax payments by the rich will react to changes in tax rates is to use the information provided by the history of the responses to the 1981, 1986 and 1990 tax laws, and the Treasury's estimates fail to take account of the clear message from this history.

LIBERAL FRIENDS

Suppose that it is true that the higher tax rates on the rich will not raise revenue. Even so, the rich will suffer from the higher tax rates. The various methods employed to lower taxable income—including creating tax loopholes and working less—are undesirable activities that these people would have preferred to avoid. The income-tax proposals will succeed in burdening the rich even if they fail to generate revenue.

To me it is obvious that a tax-rate boost that makes one group suffer—even the rich—but provides no revenue is bad economic policy. Since I do not trust my instincts, however, I surveyed some liberal friends: What do you think of a policy that makes the rich worse off, but produces no revenue and therefore provides not direct benefits for the nonrich? Remarkably, the results were mixed. Some of the respondents would be willing to give up resources (revenue)—and, in fact, suffer themselves—for the sake of taking away money from the rich, so that some measures of income inequality would narrow. Apparently, the presence of wealthy people is viewed as similar to environmental pollution. One can only hope that this viewpoint is not the main driving force behind the administration's economic policies; otherwise, the economy will be in serious trouble.

IN RECOGNITION OF FEDERAL HUMAN AWARENESS WEEK

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 4, 1993

Mr. MAZZOLI. Mr. Speaker, I rise today to applaud the work of the Kentuckiana Federal Equal Employment Opportunity Council [KFEEOC], and to inform my colleagues that September 12 through September 18 is Federal Human Awareness Week.

Formed in 1976, the KFEEOC is an organization composed of Equal Employment Opportunity [EEO] officials representing various Federal agencies in Kentucky and Southern Indiana. And, the Council's number one concern is the promotion of equal opportunity for all our people regardless of race, color, religion, national origin, sex, age, physical or mental handicap.

Mr. Speaker, the KFEEOC is devoted to these goals, and every year it undertakes training seminars for Federal workers and others which are exclusively devoted to advancing an awareness of the mosaic of different kinds of people in our land, and the removal of all obstacles to equal opportunity in our society. Their efforts help point us toward becoming a more tolerant, and egalitarian community.

Mr. Speaker, I commend all those associated with the KFEEOC for their fine work, and again recognize the week of September 12–18 as Federal Human Awareness Week.

NATIONAL WOMEN'S BUSINESS COUNCIL

HON. THOMAS H. ANDREWS

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 4, 1993

Mr. ANDREWS of Maine. Mr. Speaker, I have introduced legislation which reauthorizes the National Women's Business Council. Created in 1988, the council has provided much needed support and encouragement for women in business. For too long, women found doors closed when they tried to enter the professional workplace. The National Women's Business Council has been working hard to open the doors that remain closed, and ensure that those that are open, stay open.

The council has established a national network of information and contacts to aid women in business. It has held national hearings and symposia that have served not only as an exchange of ideas, but to actually change policies on the local level that were constraining the ideas and initiatives of women. The council's activities have resulted in three reports submitted to the President and Congress in the past 3 years. These reports contain valuable recommendations for those of us interested in overcoming the problems that keep women from gaining more opportunities in business careers.

The National Women's Business Council has made significant strides in enhancing and expanding the role of women in business. Yet, the fact that only 1.5 percent of Federal procurement dollars are awarded to businesses owned by women, which constitute over one-third of all businesses in the United States, is one indication that there is much more for the National Women's Business Council to accomplish. This legislation will allow the council's fine work to continue. It enables the council to submit further recommendations to Congress and the President, to see that the recommendations it has already made are implemented properly, and to continue to provide guidance and assistance to female entrepreneurs and businesswomen across this country.

INDIAN FISH AND WILDLIFE RESOURCE ENHANCEMENT ACT OF 1993

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 4, 1993

Mr. RICHARDSON. Mr. Speaker, I am pleased to be joined by my esteemed colleague from Wyoming, Mr. THOMAS in introducing the Indian Fish and Wildlife Resource Enhancement Act of 1993. This legislation is the culmination of hearings held by the Subcommittee on Native American Affairs on fish and wildlife resources on Indian lands.

Indian fish and wildlife resources are an integral part of the economic and social structure of Indian tribes. Since time immemorial, Indian tribes have relied on fish and wildlife resources for subsistence, economic development, and cultural practices. The Federal Government has a trust responsibility to ensure that all fish and wildlife resources within the boundaries of any Indian reservation are preserved, protected, and properly regulated. In treaties with the Federal Government, many Indian tribes have reserved the right to fish, hunt, and gather in their usual and accustomed places. These rights have been recognized by the U.S. Supreme Court in several decisions. The importance of the fish and wildlife resources to Indian tribes have been and continue to be recognized by the courts.

While the courts have recognized the importance of these resources, the Department of the Interior and the Bureau of Indian Affairs have provided little support or assistance to tribal efforts to manage fish and wildlife resources. Efforts to improve fish and wildlife habitat, to increase resident populations of fish and wildlife, and to undertake conservation measures have been left entirely to Indian tribes. The protection and conservation of these important resources is part of the Federal Government's trust responsibility to Indian tribes. It is vitally important that the Federal Government fulfills its fiduciary responsibilities toward Indian fish and wildlife resources.

Indian tribes from across the country have appeared before our subcommittee and testified about the lack of Federal involvement in and assistance for tribal efforts to improve fish and wildlife habitat on Indian lands. This bill recognizes the Federal Government's trust responsibility to protect and conserve Indian fish and wildlife resources. It will improve tribal capacities to manage Indian fish and wildlife resources through the development of Indian fish and wildlife management programs. It provides for the increased production of fish and wildlife resources to provide for the subsistence, economic, and employment needs of Indian tribes. The bill provides badly needed resources to Indian tribes to develop tribal codes, resource management plans, and fish and wildlife population investigations. It will provide funds to Indian tribes to improve and restore fish and wildlife habitats and to develop tribal conservation programs. Finally, it provides for the management of Indian fish and wildlife resources consistent with integrated resource management plans.

Mr. Speaker, this bill provides the statutory framework to ensure the proper exercise of the Federal Government's trust responsibilities for the management of Indian fish and wildlife resources. This legislation is long overdue. It is time that the Federal Government lived up to its obligations to Indian tribes pursuant to its treaties with Indian tribes. It is my hope that this legislation will be an important first step to fulfilling our trust responsibilities to Native Americans. I urge my colleagues to support this legislation.

HOUSE PAYS TRIBUTE TO HORACE D. HUME, THE WIZARD OF MENDOTA, IL

HON. J. DENNIS HASTERT

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 4, 1993

Mr. HASTERT. Mr. Speaker, it is with great pleasure that I rise today to bring to my colleagues' attention the outstanding contribution Horace D. Hume has made to the city of Mendota, IL and to farmers across this great Nation.

Horace Hume is one of a rare breed of geniuses of invention. At the age 15, Horace tried to design a perpetual motion machine. It ran for more than a week before it seized up. From then on it was apparent that he had a knack for invention.

Today, he holds more than 100 patents, including one for a floating cutting bar and another for a crop pickup reel. These inventions are widely credited for the revolution in modern soybean production.

Mr. Hume, 90, has been a vital force in Mendota community affairs for over 50 years. He is a recipient of the Mendota Chamber of Commerce Community Service Award and the key of the city of Mendota. Recently Mr. Hume generously donated and provided for the construction of a new public library for the city of Mendota.

To recognize the contribution Mr. Hume has made to his community the city of Mendota has proclaimed August 15, 1993, Mr. Hume's 95th birthday, as Horace Hume Day. I join all the residents of Mendota in their salute to a true genius and a generous man.

For the RECORD, I am submitting the following Chicago Tribune article detailing Hume's numerous achievements.

[From the Chicago Tribune, Nov. 8, 1992]

THE WIZARD OF MENDOTA

(By Donna Chavez)

At the age of 15, Horace Hume acquainted himself with the art of inventing by designing a perpetual motion machine. He gave the design to the son of a farmhand on his parents's farm who built it. The machine ran for better than a week before it seized up.

"That was when I got the first notion I had an inventor's skill," Hume recalled.

Today he holds more than 100 patents. The explanation for his genius is simple.

"My mother was very encouraging. She always believed in me when I thought I could do something." Hume recently said in the

Mendota office of H.D. Hume Co., the firm he founded to manage his assets, "And nobody ever told me I couldn't."

A mother's faith and ignorance of his own limitations have served Hume and others well. Among his patents is one for a floating cutting bar and another for a crop pickup reel—items credited with revolutionizing soybean production. That's no small contribution to American agriculture since "soybeans are second only to corn in production value in the United States," according to a publication of the Chicago Board of Trade.

The same publication declares that soybean exports account for an average of $6.2 billion per year, with a total estimated farm value of $11.4 billion in 1988–89.

Carl McNair, president of HCC Inc. of Mendota, a manufacturer of components for combines, said: "Horace Hume has made major contributions to soybean production worldwide. There aren't many people who've made as significant a contribution to the grain farmer as Horace. He thinks maybe 50 years ahead of his time."

Born the oldest of four children in Endeavor, Wis., to farmers James and Lydia, Hume took the name of his birth town not so much as a starting point but as a mandate for his life. In addition to his inventions, he is the founder of eight businesses.

Community service made him mayor of Garfield, Wash., by the time he was 40. Among other things, he has been a director of the Mendota Hospital Foundation, a member of Mendota City Planning Commission, La Salle County Regional Planning Commission, La Salle County Zoning Commission, La Salle County Care and Treatment Board and chairman of the Mendota Watershed Commission.

He is the recipient of the Mendota Chamber of Commerce Community Service Award and the Key to the City of Mendota. Hume has been listed in Marquis Who's Who (in the world, in America, in the Midwest, and in Finance-Industry) for 40 years.

Horace Hume is married and the father of one son who died in his early 30s. He has two grandchildren, four great-grandchildren and three great-great-grandchildren. He and wife Dorothy have much in common, including a love of music and dancing, which they do every Saturday evening at the local Elks Club. He is an avid shuffleboard player, so much so that he's built an indoor court with five lanes and has a killer reputation around town.

A true man of the '90s, Hume is devoted to his wife and family. He and Dorothy have two homes, both of which Hume designed, across the street from each other. One Hume calls his bachelor den. The other is Dorothy's to "decorate and enjoy as she likes."

Between Horace and Dorothy—she is his third wife, he her second husband—they have seen more than 120 years of marriage. Hume is 94 years old. His bride of not quite three years is 90.

Dorothy characterized Hume as "intelligent, with good character and high morals He is so generous, too."

She loves the home Horace built, describing it as "the nicest home I've ever lived in."

"Horace has a way of not getting in the way of himself; of letting things, ideas just come to him," said Rosalie McLaughlin, coauthor of Hume's biography. The book, like Hume's life itself, is a work-in-progress. McLaughlin, also from Mendota, spoke from an office in Hume's home where the pair worked on a book recently published about his son James.

Hume's home—his bachelor den—was built in 1988, and it is nearly a perfect reflection of Horace Hume the man, the inventor, the seeker of spiritual truth, and the industrialist. In it he is more than comfortable, he is energized. It's built in a rough pyramid shape topped by a lighted cupola. Hume designed the home to duplicate the shape upon which the ancients based the great pyramids.

The resemblance to a pyramid ends there. Great tall windows and skylights flood the home with light even on a fray day. It has an open floor plan with enough unusual angles to drive any interior decorator up the wall. Hume's touch in decoration includes paintings of the 47th problem of Greek mathematician Euclid and the ancient symbol of a circle with a triangle inside.

As he toured the home, Hume spoke about himself as a "student of life. You might say I've asked myself questions and then sought to find answers. I used to read four or five hours at a time. I enjoy writers like Victor Hugo, Plutarch, H.G. Wells and Petronicus."

The walls in one of his rooms are lined with books by these authors and others.

Hume never went to college—"It wasn't considered necessary back then. But I learned how to read when I was 10 and I never stopped reading."

The stairwell walls bear photographs of serious-looking people, old farm houses and a memento of when the first Hume set foot on Ellis Island from Scotland.

While his parents weren't highly educated people, nor was his father an inventor, Hume does call his father "an innovator." He was a farmer, yet he built a telephone system between Portage (Wis.) and Endeavor. It was only a few miles, but this was back in the days when folks would hold up the [telephone] wire to see if there was a hole in it [for the sound to travel through].

When Hume was 12, the family moved to North Dakota where they added ranching to farming, and Hume saw his father build yet another telephone system. There the elder Hume added a post office/general store to the family home, which was located in the county seat of Slope County. He also sold windmills. After nine years the Humes moved farther west, where the young Horace would seek his own future.

It was in Washington where Hume went to work for an automobile dealership. As an eager, young employee of an agency that sold everything from Ford Model T's, to Chevrolets, Studebakers, Oaklands and Dodges, it was there Hume recalls he started "puttin' things together. I began to get indoctrinated into the process of inventing things to solve problems."

"It was when I was about 25 that Chevy built a car that had a four-cylinder motor that was lubricated with the dip system—which is very different from the lubrication system of cars today. Well, the cranking rods would get loose after a while and begin to wear and would get to knocking. We would have to take the pan off, fix the rods and then put the pan back on.

"It had four gaskets that were so hard to put on that it'd take an hour-and-a-half to do the job, and even then, sometimes it'd leak. The customers paid $1.50 for this job and we had a policy that if the pan leaked, we'd do it over again for nothing. Well I lost patience with it and about 4 o'clock one Sunday morning I got up and by Sunday evening I had invented a way to put the pan on in 10 minutes—no leaking.

"I went to a manufacturer and made arrangements to begin advertising to sell my system * * * actually sold a few. Then Chevy quit making the engine."

With the philosophical advantage of almost 70 years between him and the incident, Hume enjoyed the irony of this story. But even then the fact remained that, though riches eluded him that time, the invention was nonetheless a success in that it solved the problem it set out to vanquish.

A second invention, a device to make driving automobiles in the thick Pacific northwest fogs easier met with similar fate. The item was a success, the timing and the location were wrong—the Washington state legislature outlawed such devices—a version of high-beam headlights—as dangerous to oncoming traffic. Concurrently a man in Michigan, where the legislature was not so pessimistic, filed and received patent rights on a similar device.

The point Hume made with his less-than-success stories is that the experiences did nothing if not encourage him to pursue his visions. Speaking in a tone and cadence that revealed words firmly connected to thought, and with a dry sense of humor, Hume allowed that "some have called me stubborn."

Long-time friend and retired Mendota businessman Richard Phalen expanded on the thought: "You've got to be stubborn to get where Horace has gotten—stubborn but not contrary."

And stubborn he might have been. Working his way up in the car dealership, Hume became a partner. Around 1927 the dealership added farm machinery to its sales line, carrying a new item that would replace the thresher—a combine. But they didn't sell as quickly as Hume had hoped.

While seed peas were a very profitable crop for the Pacific Northwest, according to "The Magnificent Whistle Stop," a historical account of Mendota. "Mr. Hume met a great deal of sales resistance to the combine as this machine did not cut close enough to the ground to harvest the ripe peas."

Indeed Hume recalled that it was not uncommon for farmers trying to use this new implement to lose 40 to 50 percent of their crop.

"I recall one farmer who lost 90 percent because a windstorm had laid the crop even closer to the ground then normal," Hume said. "So a friend of mine and I set out to invent something to adapt the combine to harvest low-lying crops like peas."

Farmer J.E. Love and farmer-cum-salesman-cum-engineer/inventor Hume together invented the floating cutter bar. Love was delighted, Hume said, for as an owner of a combine it increased his yield. Hume was delighted since it meant increased combine sales. They could guarantee the farmer a loss no greater than 2 percent.

However, since only Hume was interested in patenting this new device, he agreed to front all patent costs (no small investment at about $500 at the time), but the men would become partners in the manufacture of their joint venture.

Within three years Hume and Love had worked the bugs out of the system so they could adapt the cutter bar to any brand of combine. The country was in the depths of the Depression when the friends opened the doors of the Hume-Love Co., manufacturer of specialized equipment, in Garfield, Wash.

"How did we do it," Hume asked rhetorically, smiled and answered, "I truly don't know. Except that nobody told us we couldn't do it. You see [the floating cutter bar] had been determined by experts to be impossible. When I took it to the patent office they called it 'new art,' since experts had said it couldn't be done."

Fed by the twin achievements of his cutter bar—it solved problems and made money—

Hume's visions began to tackle a succession of problems. According to biographer McLaughlin, "Mr. Hume spent a lot of time in the field, actually seeing if something wasn't working just right. He'd spend hours thinking of ways to make farming more profitable."

That meant taking equipment designed by big manufacturing companies such as International Harvester and adapting it to the special needs of the man in the field.

Hume confessed that his primary motive was to "aid agriculture by helping the farmer increase his yield—hopin' to get paid for it."

The principle was simple, the results lucrative. Phalen, founder of Phalen Steel Construction Company, credits Hume as the reason for his own success. "He's the reason I got where I was and I could afford to retire at 54," he said.

The move from Washington to Mendota came at the beginning of World War II, but only after Hume-Love had seen the invention of a special windrow harvester for green pea harvesting that also benefited canners in the Northwest. It might be that the '80s philosophy of win-win might not be so new after all since Hume believed that helping the farmer started a trend that advanced a chain of people from equipment manufacturer to canner to consumer.

It was soybeans that drew Hume to the Midwest, since his specialized equipment benefited the soybean farmer as well. Hume claimed it increased harvest by 7 bushels per acre, and soybeans were just beginning to enjoy a 50-year surge in the market.

"But there was a war on and building materials were hard to come by. So I went to Richard Phalen who had Quonset buildings we could use," Hume remembered.

"Here I was, a nobody in this small town, and he begged me to do business with him," Phalen said.

Hume said that the equipment had to be manufactured in the Midwest because to ship it from the Northwest was impractically expensive. "I needed Richard because those Quonset buildings were the only ones we could build at the time," Hume said.

And the plant in Mendota grew. Hume invented several types of harvesting machines, among other items. His inventive genius developed a pattern.

"I would go into the field to see what the problem was. The farmer and I would talk about it. I'd get a mental vision of what the finished device should be like and I'd sketch it for my personal engineers who would carry out the design prototype," Hume said.

Hume's reputation became well-known in the field. According to "The Magnificent Whistle Stop," Del Monte contracted with him to help improve the harvest yield of spinach. He was known at International Harvester as a man who would tackle problems they had neither the time nor the resources for, since his were principally fine-tune adjustments to large farm machinery.

"We confined ourselves to jobs too small for large companies to care about," Hume said. Jobs such as a machine to process cranberries—which, due to their unique cellular structure had been impossible to process—proved to be easy as pie for Hume.

By the early '60s, Hume Products Corp. enjoyed worldwide distribution in 60 foreign countries, had manufacturing plants in Mendota and Garden City, Kan., with sales offices in Wisconsin and Pennsylvania.

In 1964, Hume's son, James, succumbed to a massive coronary at the age of 36. He was a vice president in the company and was following in his father's footsteps in civic activities. James' daughter, Marsha Jones, 42, works for Hume today as "office manager/secretary /receptionist/everything else."

Jones refers to her grandfather, who still comes to the office daily, as "a rock. He's always been there for me. He's a big part of my life."

In 1965, Hume sold the manufacturing business and designed and built a new Mendota home—complete with fallout shelter. He spent the next six years as a member of the board of directors of Hart-Carter, as the firm was called after the sale. Hume's first wife died in Arizona in May 1972 and he remarried, but returned to Mendota upon the death of his second wife in 1987.

In 1988, at the age of 90, Hume designed and built his triangular home, the fifth home he has designed and built.

"He is constantly busy. Either working or dancing—he and Dorothy do a nice waltz—or playing shuffleboard," said Phalen.

As for the future? Hume shrugged his shoulders and insisted he has no plans * * * except for his book and maybe a few other things that nobody dares tell him he can't do.

UNITED STATES-UKRAINIAN-RUSSIAN RELATIONS

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 4, 1993

Mr. SOLOMON. Mr. Speaker, as you are aware, on July 6 the Russian Parliament voted almost unanimously in favor of a resolution claiming the Ukrainian port of Sevastopol as Russian territory.

Mr. Speaker, this should be of no surprise to any of us. The Russian Parliament is an illegitimate body made up mostly of ex-Communist apparatchiks, elected during the Soviet era and retaining many of the old, tired, and destructive ideas of the Soviet past. Fortunately for the Ukrainians, and us too, Russian foreign policy is still largely in the hands of President Yeltsin and his enlightened Foreign Minister, Mr. Kozyrev, neither of whom want any part of this reactionary imperialism.

But what if President Yeltsin fails? What if he is ousted or marginalized and these reactionary neo-imperialists gain control of Russian foreign policy? Mr. Speaker, it is long overdue that we begin to think about this potentiality. To date, it seems to me that many American leaders have given short shrift to the need to shore up the sovereignty of Ukraine and the other Republics of the former Soviet Union.

Let's face it, there were many in our country who came to see the Soviet Union as a natural and legitimate entity. For reasons that escape me, many of these same people were distressed, rather than elated, when the Soviet Union imploded. They saw it as potentially destabilizing, rather than what it really was: The liberation of more than 300 million people from the prison that was the Soviet Union. Since the U.S.S.R.'s demise, many have taken a brazen attitude toward the sovereignty and independence of the newly independent states.

This has been especially true regarding Ukraine. At times, we have been obsessed with the notion that our highest foreign policy priority should be inducing Ukraine to give up her nuclear weapons to Russia. I do not want to posit that Ukraine should not give up her nukes, but I believe our approach has been inconsiderate of Ukraine's legitimate security concerns.

And her concerns are indeed legitimate. Ukraine is a flat, mostly treeless plain and is one of the most invaded pieces of real estate in history. Ukrainians are a distinct people, with a language very different from Russian, and have been aspiring for independence since before the American revolution. The reactionaries in Russia do not recognize this, but we should. America needs to make clear to Ukraine and to Russia that we view Ukrainian sovereignty as absolutely inviolable. This goes for the other newly independent countries as well. We need to make clear that we appreciate Ukraine's legitimate security concerns, and that we do not view the nuclear question in a vacuum.

I hope that the President, the Secretary of State, our Ambassador in Moscow, and all relevant officials, including Members of Congress, will voice their concern over this imperialistic move in the Russian Parliament at every opportunity. We must stand united and speak with a clear voice, Mr. Speaker, lest there be any doubt about our view in Moscow. And that view should be, Mr. Speaker, that American recognizes, appreciates, and welcomes the fact that the Soviet Union no longer exists.

I thank the Speaker for the time today.

CLEARING THE WAY FOR HEALTH CARE REFORM IN WASHINGTON STATE

HON. MIKE KREIDLER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 4, 1993

Mr. KREIDLER. Mr. Speaker, no one understands better than the people of Washington State the need for health care reform. And no State has done more to meet that need. This year, after more than 2 years of intensive study and review, the Washington State Legislature enacted the Nation's most sweeping comprehensive health care reform law, the Washington Health Services Act, and Gov. Mike Lowry signed it into law. I was proud to have served as a member of the Washington Health Care Commission that developed the blueprint for this major reform.

Washington's new law will guarantee affordable health coverage to every State resident by 1999. It reforms the insurance market to stop the kind of cherry picking and risk selection that has made insurance affordable for small employers. It establishes purchasing cooperatives to enable individuals and small businesses to pool their buying power in the health insurance market. It requires employers to pay at least half the cost of employees' health coverage, and requires everyone in the State to be covered by 1999. It controls costs through managed competition between health plans, with limits on annual premium increases. It includes major improvements in public health programs and steps toward long term care coverage for the elderly and disabled.

But the Washington State plan cannot be implemented unless Congress amends the Employee Retirement Income Security Act, a law that prohibits States from regulating employee benefits. While pre-empting State initiatives, ERISA does nothing to assure that working Americans have any kind of health coverage. I strongly support national health care reform to break this logjam and bring affordable coverage to all Americans. But the people of Washington have been waiting for years for nationwide reform, and it is time to give them a chance to make the State plan work.

That is why I have joined with my Washington State colleagues AL SWIFT, NORM DICKS, MARIA CANTWELL, and JOLENE UNSOELD to introduce the Washington State Health Services Reform Enabling Act. Senator PATTY MURRAY is introducing a companion bill in the Senate. Our bills would exempt specified provisions of our State's health care plan from ERISA preemption, allowing the State to go forward with its reforms. I urge my colleagues, whatever their own views on national health care reform, to support Washington State's effort to achieve what we have thus far been unable to achieve in Congress—a system of universal, affordable health converage for everyone.

SUMMARY OF PROVISIONS—WASHINGTON STATE HEALTH SERVICES REFORM ENABLING ACT

The bill amends Section 514 of the Employee Retirement Income Security Act of 1974. Currently, Section 514(a) prohibits states from regulating employee benefit plans, and Section 514(b) consists of a series of exemptions from that prohibition (such as an exemption that allows states to continue regulating insurance, and exemptions for specific laws of several other states).

The bill adds a new exemption to Section 514(b), exempting eight of the provisions of Washington State's Health Services Reform Act that may currently be pre-empted by ERISA. These provisions of the state law are as follows:

Section 212, which allows the Washington Basic Health Plan to require the enrollment of a majority of the employees of a firm that chooses to enroll any of its employees in the Plan. The Plan, established in 1989, offers state-subsidized health coverage for income-based premiums. The state's 1993 law expands this Plan and offers its coverage to small businesses as long as they enroll most or all of their employees.

Section 301, which imposes a tax on health insurance plans to help finance coverage for the uninsured and other health programs.

Section 304, which taxes nonprofit hospitals to help pay for covering the uninsured and other health programs.

Sections 406(7) and 454, which permit the establishment of medical risk adjustment mechanisms that would reduce incentives for health plans to enroll healthier people and avoid less healthy people.

Section 427, which requires the largest employers, who are exempt from some requirements of the state law, to offer the same minimum benefits as other employers must offer.

Section 430, which specifies requirements the largest employers must meet to be exempted from other requirements of the state law.

Section 464, which requires all employers to offer employees a choice of qualified health plans and pay at least half the premium of the lowest cost available plan.

The bill does not amend ERISA in any other way or apply to any other state.

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Washington State Health Services Reform Enabling Act of 1993".

SEC. 2. EXEMPTION FROM ERISA PREEMPTION OF CERTAIN PROVISIONS OF THE LAW OF THE STATE OF WASHINGTON RELATING TO HEALTH PLANS.

Section 514(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144(b)) is amended by adding at the end the following new paragraph:

"(9) Subsection (a) of this section shall not apply to the following provisions of the law of the State of Washington—

"(A) section 212 of Chapter 492, Laws of 1993 (relating to enrollment of certain employees in the Washington basic health plan);

"(B) sections 301 and 304 of Chapter 492, Laws of 1993 (relating to taxation of premiums and hospitals);

"(C) sections 406(7) and 454 of Chapter 492, Laws of 1993 (relating to medical risk adjustment mechanisms);

"(D) section 427 of Chapter 492, Laws of 1993 (relating to benefits required to be offered by registered employer health plans);

"(E) section 430 of Chapter 492, Laws of 1993 (relating to requirements applicable to registered employer health plans); and

"(F) section 464 of Chapter 492, Laws of 1993, as amended by section 3 of Chapter 494, Laws of 1993 (relating to requirements that employers offer and pay a portion of the costs of employee health care coverage).".

ROTARY CLUB REACHES OUT TO PEOPLE LIVING WITH AIDS

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 4, 1993

Mr. STUDDS. Mr. Speaker, I rise to pay tribute to the 11 Rotary Clubs of Cape Cod and the Islands, whose members have joined together to sponsor CAPE AID, a concert to benefit people living with HIV and AIDS. The event will take place at Eldredge Park in Orleans, MA on Thursday, August 26. It will feature performances by singer-songwriter Judy Collins, the Smothers Brothers, and comedian Dennis Miller.

The goals of CAPE AID are twofold: to raise funds for housing, transportation, and health services for HIV and AIDS patients in the region; and to increase public awareness of the effects of the epidemic within every community.

I wish to commend CAPE AID cochairs Marcia Galazzi and Lee Sullivan, and the many other Rotary Club volunteers whose hard work and dedication have made this event possible.

CAPE AID is an example of the important work being done by Rotary Clubs throughout America to raise public awareness about AIDS. Much of this work was inspired by the Rotary AIDS project of Los Altos, CA, which has distributed informational materials to 1.1 million Rotarians in over 25,000 Rotary clubs throughout the world. The AIDS Project produced "The Los Altos Story," an award-winning 30-minute videotape documentary that received the 1990 Peabody Award for excellence in broadcasting. The film tells the story of a local community that found the courage and compassion to confront the AIDS epidemic with humanity and common sense.

The Los Altos project was conceived by Dushan "Dude" Angius, who was the incoming president of the Los Altos club at the time his son, Steven, revealed that he had AIDS. Angius developed the project in the hope that "Rotary clubs would become models of support and understanding within their communities, offering information, assistance to AIDS patients, and educational programs for school districts."

Thanks to the work of Rotary clubs from California to the Cape, this compassionate vision is being realized.

SHARE—STUDENT HUMAN RIGHTS EXCHANGE

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 4, 1993

Mr. PORTER. Mr. Speaker, I rise today to call Member's attention to the important work being done by SHARE, Student Human Rights Exchange, which is one of the first human rights organizations to combine human rights education and development.

SHARE was established in June 1991 for the purpose of expanding international human rights advocacy by establishing computer-resource centers and libraries at universities around the world. By working in regions undergoing political and economic transition, SHARE is able to establish programs and provide access to information, technology and training for students, organizations, and institutions who can make direct use of them.

To fulfill its mission, SHARE solicits used textbooks and technology which it distributes to its centers at universities around the world. Where technically possible, centers are linked to an international computer network allowing access to e-mail, educational human rights databases, wire services, and gateways to dozens of computer networks. The aim of SHARE is to empower the first generation of computer literate human rights advocates who can help to usher in a new era of electronic human rights advocacy.

One of SHARE's first projects was to undertake a mission to Mongolia to monitor Presidential elections which took place on June 6, 1993 and provide follow up to promote democracy in Mongolia. The democratic coalition's candidate, current President Punsalmaagiyn Ochirbat, defeated the Mongolian People's Revolutionary Party's [MPRP] candidate, Mr. Lodongiyn Tudev. President Ochirbat won resounding popular support, receiving 58 percent of the vote. This vote of confidence is key to further democratic reform in Mongolia; however, with a Parliament dominated by the

MPRP, a non-independent judiciary, no constitutional right to a free press and an uniformed public, this victory for democratic change in Mongolia could be short-lived.

Although Mongolia has begun to explore non-communist rule, it lacks the necessary technical and educational resources needed to develop and sustain democratic institutions or a market economy. For example, the law school of the Mongolian National University was temporarily shut down due to the scarcity of appropriate western legal texts. The Ministry of Justice's ability to implement democratic changes called for in the new constitution has been stymied by a lack of understanding even among the most elite and educated Mongolians.

To address this dilemma, on June 1, 1993, SHARE established the Marie-France Daillet Human Rights Center at Mongolian National University [MNU]. The Center is dedicated to the humanitarian efforts of French Ambassador Jean-Marie Daillet and his wife, Marie-France Daillet, who supported her husband's efforts to promote human rights and the establishment of democratic institutions around the world.

The Marie-France Daillet Center will provide students, faculty, administration and community members with access to a human rights law library with over 700 volumes, 15 computers, computer and human rights training and links to an international computer network. The Center will act as a hub for expanding the rule of law and civil society education and advocacy throughout Mongolia.

I commend the work being done by SHARE in Mongolia and in other parts of the world. By helping to pave the way toward a new global frontier of freedom by transforming equipment and textbooks into educational and human rights resources, SHARE is performing an invaluable service for the global advancement of human rights, the rule of law and democratic institutions.

BILLINGTON VIEW OF COLD WAR

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 4, 1993

Mr. SOLOMON. Mr. Speaker, I would like to call attention to a couple of remarkable passages from a book on the Second Russian Revolution by the Librarian of Congress, Dr. James Billington. The book, "Breakthrough to Hope," is a concise, incisive account of those heady days of August 1991, when Boris Yeltsin and the brave Soviet people slayed the Communist dragon.

The passages to which I refer begin on page 104, where Dr. Billington outlines the ideas and forces which impacted on the Russian psyche and enabled them to throw off their Communist shackles. One of those forces, according to Dr. Billington, was the more conservative side of America's political and cultural spectrum. Dr. Billington then states his genuine belief that it was Ronald Reagan's firm demonstration of political and military strength that caused the Soviets to change course in 1985.

But, Mr. Speaker, the most revealing portions of the book are the following passages, and I hope that Members will pay attention closely. Dr. Billington writes, and I quote, "The very qualities that annoyed many of President Reagan's critics at home—the simplicity of his message and use of moralistic language (evil empire)—found a certain resonance among Russians." Further, and this one is for all of the nuclear freezers, peaceniks, and Gorbaphiles: "It was evident in 1986—and supported by my informal poll of taxi drivers in August 1991—that Reagan was more popular than Gorbachev among Russians." Finally, Mr. Speaker, and again I quote, "Reagan seemed to have some of the directness and inner core of values that also made Yeltsin instinctively popular among ordinary Russians."

Now, please forgive me, Mr. Speaker, if I indulge myself a little bit here, but vindication feels pretty darn good. Let us recall that just 10 years ago, in the depths of the cold war, many in this country, including many Members of this body, had serious doubts about the correctness of the American role in the cold war. The doctrine of moral equivalence, which held that United States and Soviet policy were virtually indistinguishable, was in vogue on the left. They said that our policies were provocative. They preferred a nuclear freeze to the euromissile deployment. They found something human and Western in every new Soviet leader. Remember the stories about how Andropov liked jazz and scotch? These people spoke of the need to understand the Soviets, as though the Soviet Government and the Soviet people were one and the same.

All of this sounds just a little bit quaint today, doesn't it? But some leaders, like Ronald Reagan, didn't need the benefit of hindsight to know what a bunch of hogwash all of this was. Ronald Reagan, and others like him are on record as having understood the basic realities of the Soviet system long before moral equivalence became quaint, long before history proved them right. Ronald Reagan understood that evil lay at the core of the Soviet system, and who would deny the veracity of that today? Ronald Reagan knew that the euromissile deployment would bring the Soviets to the table, and we have the INF treaty as vindication of his prescience.

But most of all, Mr. Speaker, and this is where Dr. Billington's work is so enlightening, Ronald Reagan refused to believe that the Soviet people did not, as some on the left posited, want to be liberated from Communism. Ronald Reagan understood the fundamental dictatorial nature of the Soviet regime, and hence was confident that our anti-Soviet policies would not only be understood, but actually supported by the Soviet people.

Today, many on the left are born-again anticommunists. Today, everybody agrees that Communism was a mistake, a tragedy and, yes, evil. But what an irony it is, Mr. Speaker, that at precisely the moment that the newly liberated peoples of Eastern Europe and the former Soviet Union are rushing headlong into capitalism, we are heading in the opposite direction. Today, as young Russians cover Marx's statue in Moscow with flippant slogans such as "Workers of the world, forgive me," America is awash in the Marx-Leninesque rhetoric of class warfare.

And who is leading us into this time warp, Mr. Speaker? None other than many of the same people on the left who got it wrong on the cold war. Back then, they misunderstood the fundamental nature of the Soviet Union; today, they are oblivious to what is happening there, and why.

I would suggest to those on the left who want to change the fundamentalist nature of America that they take some time to ponder the changes that are taking place in the former Communist world, and they can start by reading Dr. Billington's book. They may just find that the fundamental building blocks of America—individual liberty, limited government, private enterprise, family, religion—reflect the fundamental nature of all humankind.

YOUNGSTOWN HISPANIC HERITAGE CELEBRATION

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 4, 1993

Mr. TRAFICANT. Mr. Speaker, I rise today to recognize the Organizacion Civica y Cultural Hispana Americana and the Hispanic Heritage Week Committee for their efforts in organizing the 1993 Youngstown Hispanic heritage celebration. This 3-day celebration promoting cultural awareness and pride will help to commemorate the contributions that Hispanics have made both to Youngstown and the the Nation. Further, the celebration will be aimed specifically at the younger audience in an attempt to encourage youths of Hispanic decent to recognize and value their rich cultural heritage.

Recently selected grand marshal Antonia Caraballo will oversee the events and attractions during the celebration. After emigrating to Youngstown from Puerto Rico in 1953, Mrs. Caraballo has risen to become a leader in the Latin-American community in Youngstown. Her many accomplishments on behalf of the Hispanic community include the founding of the Ladies Society of Hijos de Borinquen Club and her new position as president of the OCCHA Senior Citizens group, Youth of the Past. Mrs. Caraballo is the mother of five children and also has five beautiful grandchildren.

The Hispanic heritage queen, chosen on the basis of outstanding academic achievement, will be Ms. Diana Molina. I wish to personally congratulate Ms. Molina for her fine scholarship and wish her continued success as she enrolls at Youngstown State University in the fall.

Some of the festivities these exceptional women will preside over include Hispanic food concessions, Hispanic music, crafts, and folkloric dancers. The centerpiece of the celebration is the parade Saturday, August 7.

The celebration of the Hispanic heritage and tradition in Youngstown is a recognition of the importance of Hispanics to the Youngstown community. They are a vibrant and productive segment of our society which is growing more eminent by the day. This festival should promote pride within the entire Youngstown community for the outstanding achievements of Hispanics in all walks of life.

TEACHERS JUST WANT TO TEACH

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 4, 1993

Mr. VENTO. Mr. Speaker, I rise today to share with my colleagues a particularly insightful article about our education system and I ask to insert it into the RECORD.

Mr. Speaker, the particular article of which I speak was written by Jean Jones, a friend and one-time colleague of mine. Jean is an experienced St. Paul teacher, where for over 20 years she has pursued her profession as a labor of love.

Yet, over the years, her job has become increasingly more challenging and difficult. It is not just because the size of the classes she teaches have grown. Nor is it just the result of the increasingly diverse backgrounds of her students. Jean—as with most of her fellow teachers—has simply been overwhelmed by the constantly changing demands that distract her from her labor of love—teaching.

Social work, health training, fund raising, organizational meetings for the site-based management plan, computer programming, and language training. No one would logically suggest a teacher should master all such subjects and details, but that is what has increasingly been expected of teachers. All policy makers and our States and communities must recognize the numerous demands and requests to fulfill new needs run the risk of losing the educational and teaching focus in today's classrooms across the Nation.

Mr. Speaker, this article is especially relevant right now, as Congress is considering legislation to revamp our elementary and secondary education system. In our rush to improve the quality of our education system, let's not forget the two most basic components—the teachers and the children. As a teacher, all Jean Jones really wants is to know what she is realistically expected to do as our childrens' teacher. That seems like a very reasonable request to me.

Mr. Speaker, I urge my colleagues to read Jean's article.

PLEASE MAKE UP YOUR MINDS ABOUT WHAT TEACHERS ARE SUPPOSED TO DO

(By Jean Jones)

Dear Taxpayers: Let me state it clearly from the beginning: I love to teach. I feel blessed to make my livelihood working with our city's children. After 23 years, I still go sleepless on Labor Day night anticipating another new beginning, and I continue to feel a sense of loss as my charges leave me in June.

But I am frustrated. You have labeled me a failure because you are not satisfied with the quality of the "product" I am "producing." City schools have not lived up to your expectations. you have not made up your collective minds about just what it is you expect teachers to accomplish in their classrooms, yet you seem surprised that we are exhausted by your endless demands.

Years ago you made it pretty clear. "These are your 24 students. These are your reading, writing, math, social studies, science, music, physical education and art manuals. Teach the children what is in the manuals. If you encounter difficulty with a child, call her/his parents. Retain those who don't learn the material." It was not a perfect system. It was not as simple as all that. But at least you and I knew the ground rules and I followed them as best I could.

The world has changed. The old ways have been questioned as fewer of them seemed to work. Today I have no idea what the ground rules really are, what they should be, or whether it would be humanly possible for me to abide by them even if I could sort it all out.

I still have manuals, but they are not sensitive to differences in culture and learning style, so I must constantly rework them. I have limited instructions on how to teach about AIDS, drugs, sex and violence prevention, although these are now requirements. I am supposed to make my children computer-literate when they (and I) must share on Apple IIe. I had 32 students last year and when I try to call parents, there is often no phone in the home. I am hampered because I speak a different language from many of my children and their parents. I am directed not to retain children but I am criticized for promoting students who have not mastered all material.

Many of you believe that I have not grown with the times, that I am stuck in old practices that do not match today's kids. Others of you deride me for discarding traditional methods and standards.

I never planned to become a social services case manager. I was not trained in that role and, even though I have a master's degree, I have yet to find a good course on how to assist families as they fight their way through the maze of bureaucracies. Some people want our schools to become the sites for coordinated delivery of all social services to children and others think that schools have already diluted too much their mission to educate.

School fund-raising is now part of my life and my own wallet is a constant source of extra classroom funds. It is hard for me to accept the classification of museum trips and library books as luxurious expenditures of taxpayer money.

Please do not interpret my comments as bitterness and bellyaching. It is just that I am so very tired of running in too many directions to try to please all of you. Some days it feels as though school is about everything except teaching children.

We need to come to some mutual understanding soon, taxpayers. We are, or soon will be, sitting at site-based management team meetings in our schools. These discussions consume many, many hours. If they result in a clear mission, well-defined goals, and specific strategies to improve student achievement in every classroom, then it is time well spent. If they become ad infinitum discussions about insignificant issues (in some cases that already happens), then I will consider it a theft of the time that I should have devoted to my classroom. For now, I am making a leap of faith that local decisionmaking in schools will not be just another time-wasting fad.

As any good teacher, I must end on an upbeat note. I want all of you, especially those who have not been in a city school lately, to know that the youth of 1993 are as bright as those of 1970 when I began my career in St. Paul. They are more diverse in their ethnic background as well as their life experiences and it is unfortunate that some misguided people believe that differences have weakened the intellectual base in our schools. These people are dead wrong. Come to visit me at school and I will show you an old reading book and another that my children read today. You will be impressed.

I, too, am a taxpayer and a lifelong St. Paul resident. I am committed to my city and I believe that our schools, as much as any other factors, determine our economic and social well-being. I am doing my very best to make our children the kind of contributing citizens we all want. If I am to succeed, you must do your part by clarifying in your minds, in my mind, what it is that I can realistically be expected to do as your child's teacher.

CONGRATULATIONS TO MISS TITILAYO RACHAEL ADEDOKUN

HON. DAVID MANN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 4, 1993

Mr. MANN. Mr. Speaker, I want to take this opportunity to recognize the accomplishment of Miss Titilayo Rachael Adedokun who was crowned Miss Ohio on June 19, 1993. Miss Adedokun will be representing Ohio in the Miss America Pageant in September.

Miss Adedokun graduated magna cum laude from Judson College with a Bachelor of Arts in English and Applied Musical/Vocal Performance at the age of 18. She has gone on to obtain a second Bachelor of Music degree from the University of Cincinnati's College Conservatory of Music and is now pursuing a Master of Music degree. Miss Adedokun's ultimate goal is a professional opera career.

Miss Adedokun has also given her time and talent to the community. As a volunteer with the Cincinnati Youth Collaborative, Miss Adedokun serves as a mentor for junior high and high school students.

I extend my congratulations to Miss Adedokun and wish her the best in Atlantic City and all her future endeavors.

TRIBUTE TO THE 47TH FLIGHT TRAINING WING OF LAUGHLIN AIR FORCE BASE

HON. HENRY BONILLA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 4, 1993

Mr. BONILLA. Mr. Speaker, I rise today to recognize the 47th Flight Training Wing of Laughlin Air Force Base in Del Rio, TX, which recently competed in and won the Air Training Command's Top Flight Competition.

The 47th, which is comprised of the 85th and 87th Flight Training Squadrons, earned the award after competing against Air Training Command bases from across the country. The results of the event were based on the performances of the pilots and the maintenance crews which support them.

Through hard work and training, the men and women of Laughlin Air Force Base have become accustomed to awards of this kind. The 47th won the Top Flight Competition held last fall and the maintenance crews at Laughlin were recognized as the best in the Air Force for 1992.

Not surprisingly, the motto of the 47th is "XL," which they certainly do. Laughlin's long history of superior mission performance in its training of new pilots for the U.S. Air Force deserves our respect and heartfelt thanks. I ask my colleagues to join me in saluting the men and women of the 47th Flight Training Wing for their outstanding work and dedication to our country.

TRIBUTE TO CITY OF FERNDALE, MI

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 4, 1993

Mr. LEVIN. Mr. Speaker, I rise today to pay tribute to the city of Ferndale in southeast Michigan, which is celebrating its 75th anniversary this year.

The city of Ferndale was born on April 1, 1918, when a group of village settlers broke away from Royal Oak Township to create their own village government. Village officers oversaw a population of 1,600, a 1-man police department, and a 1-man fire department. Six years later, construction began on the first superhighway within the United States, known as Woodward Avenue. The road brought national attention and increased mobility to Ferndale, encouraging its transformation from a small village into a vibrant city.

Today, the city of Ferndale is home to 25,000 residents, a police department staffed by 28 officers, and a firefighting force of 34. Downtown Ferndale offers office facilities, commercial sources, entertainment, shopping, and dining to all of Metropolitan Detroit.

I have been involved with the city of Ferndale since opening a law office on the corner of Woodward Avenue and Nine Mile in downtown Ferndale. I have watched it continue to grow and prosper over the years, and have had the privilege of representing the city first in the State Senate, and currently in the U.S. House of Representatives. I have had the privilege of working with its dedicated elected officials and staff, as well as its active chamber of commerce and seniors program.

As the city of Ferndale marks its 75th year as a vital part of the Metropolitan Detroit area, I congratulate its residents and all those who contribute to the city. I am proud to represent the good neighbors of Ferndale who will light the way into the 21st century.

CONSUMER GROUPS SUPPORT COMPETITION IN TELECOMMUNICATIONS

HON. JIM SLATTERY

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 4, 1993

Mr. SLATTERY. Mr. Speaker, as our world becomes more information-driven, the issue of building a communications infrastructure which will enhance America's competitiveness, spur economic growth, and include all Americans in the information age continues to grow in importance.

To achieve its full potential, it is axiomatic that the telecommunications infrastructure must benefit from full and open competition by all providers, including providers of local telephone services, in the provision of information services and telecommunications equipment manufacturing.

A recent letter sent to President Clinton and Vice President GORE by more than 100 of our Nation's key consumer and public interest leaders reflects this procompetition stand. Signed by representatives of such groups as the American Council on Consumer Awareness and the National African-American Consumer Education Organization, the letter states that Americans deserve telecommunications choices from as many competing providers as possible, including the seven Bell telephone companies.

I am especially pleased that four Kansas consumers affiliates—Consumer Education and Protection Association for Kansans; Consumer Relations/Government Office, Kansas State University; Consumer Fraud Division, Sedgwick County District Attorney's Office; and the Economic Opportunity Foundation—have co-signed the letter. These consumer issues are extremely important. I was pleased that earlier this year successful negotiations between the consumer groups and the Bell telephone companies resulted in compromise legislative language which will be a part of any bill dealing with the elimination of the MFJ's telecommunications equipment manufacturing line-of-business restriction—similar to H.R. 1527 in the 102d Congress. Some 138 cosponsors joined me in strongly supporting that legislation.

Finally, Mr. Speaker, I am pleased that the Consumer Federation of America has recently reversed its longstanding opposition to MFJ relief for the Bell companies in the provision of information services and the manufacturing of telecommunications equipment. I am attaching the new CFA policy statement and the consumer letter for our colleagues' review at this point in the RECORD:

CFA BOARD UPDATES TELECOMMUNICATIONS POLICIES

At its June meeting, the CFA Board passed resolutions updating CFA's telecommunications policies and its policy resolutions process.

After divestiture in 1984, CFA members approved a resolution opposing local phone company expansion into such areas as information services, long distance service, and equipment manufacturing under all circumstances.

Although the large majority of consumer groups still favor an absolute prohibition on expanded powers, recent legislative, judiciary, and regulatory decisions to permit this expansion have led consumer advocates to emphasize the importance of Congress's establishing adequate consumer safeguards.

For several years, that has in fact been the position taken by CFA lobbyists in Congressional testimony and in serious negotiations with one Bell company over the nature of the protections. They have expressed a willingness to allow Bell company expansion if Congress fully protects consumers from inflated prices and anticompetitive practices.

At the same time, CFA and many other consumer groups have supported H.R. 5069, the "Brooks bill," which would maintain the Bell restrictions for a number of years, subject to a Justice Department review process. This support reflected not only the continuing preference of many consumer groups for strict controls on the Bells, but also the need to combat a very powerful and expensive campaign by the Bell companies for removal of restrictions.

At CFA's Annual Meeting last March, several labor and consumer groups proposed a policy change, whose implications were somewhat ambiguous, but which could have had the effect of reversing CFA's policy opposing expanded powers. Though rejected by the Policy Resolutions Committee, this resolution was introduced on the floor of the Annual Meeting.

In part because this meeting occurred during a blizzard which prevented many CFA members from attending, members present voted to submit the issue to the CFA Board for consideration at its June meeting.

Between the March Annual Meeting and June Board meeting, CFA staff worked to craft policy resolution revisions that would not dilute CFA's leadership on telecommunications issues, but which were acceptable to all members. In consultation with members who had the strongest opinions on the issue, staff worked out a policy update with three parts:

acceptance of Bell company expanded powers provided Congress approves adequate consumer protections;

support for a presidential commission to consider future telecommunications policy that would consider not only consumer but also worker interests; and

creation of an ad hoc Board committee that would seek to resolve any future conflicts between the consumer and worker interests on telecommunications issues. Although the Communications Workers of America is not a member of CFA, a CWA representative would be invited to attend these meetings.

At the June meeting, CFA Board members passed a motion approving this update of CFA policy. They also approved changes in the CFA policy resolutions process to ensure that, in the future, adopted policies are carefully considered and support the consumer interest. These changes include:

required submission of potentially controversial resolutions at least one month before the Annual Meeting or approval by at least three-quarters of the votes cast at this meeting;

justification of all resolutions in terms of the consumer interest, broadly defined; and

prohibition of organizations not part of CFA, especially business groups, from participating in the policy resolutions process unless that participation is solicited by CFA.

Noted CFA Executive Director Stephen Brobeck: "These changes should transform a policy resolutions process that has bordered on the anarchistic into one that is more orderly and provides all CFA members with the opportunity to have adequate input."

CONSUMER, PUBLIC INTEREST LEADERS URGE WHITE HOUSE TO SUPPORT MORE CHOICES IN TELECOMMUNICATIONS

WASHINGTON, DC, July 29, 1993.—One hundred of the nation's consumer and public interest leaders, in a letter to President Clinton and Vice President Gore, today called for more competition in telecommunications. The letter was presented at a meeting in the White House with President Clinton and Vice President Gore.

While commending the Clinton Administration for developing a technology agenda for economic growth, the signers said that to share the benefits of the Information Age with all Americans, consumers need telecommunications choices from as many competing providers as possible, including local telephone companies.

"We're not technical experts, but we do understand the benefits of competition," said Florence M. Rice of the National African American Consumer Education Organization, one of the signers of the letter. "We know there will be many more services for everyday people, at affordable prices, if we get more choices."

Rice said she and consumer leaders from across the country wanted the Administration to know that the choices they want to see are those that will help with health care, education and job creation. "If all of the telephone companies and other providers are allowed to develop their best plans, then competition will thrive. That is the way it should be," she said.

In their letter to President Clinton and Vice President Gore, the 100 consumer and public interest leaders expressed their support for the Administration's technology initiatives. "The technology initiatives outlined in your Administration's report, Technology for America's Economic Growth: A New Direction to Build Economic Strength, is an excellent framework for the development of a door-to-door advanced information network that will electronically link the nation's homes, hospitals, businesses, and schools," the letter said.

"Consumers benefit from competition in the marketplace, including more choices and lower prices," Rice said.

JOINT LETTER TO THE PRESIDENT AND VICE PRESIDENT OF THE UNITED STATES FROM CONCERNED AMERICAN CONSUMER LEADERS ON COMMUNICATIONS TECHNOLOGY

July 26, 1993.

Hon. BILL CLINTON,
President of the United States, Executive Office of the President, Washington, DC.

Hon. AL GORE,
Vice President of the United States, Office of the Vice President, Washington, DC.

DEAR PRESIDENT CLINTON AND VICE PRESIDENT GORE: We are writing to support your leadership in bringing the vision and benefits of advanced telecommunications to the top of the public agenda. The technology initiatives outlined in your Administration's report, *Technology for America's Economic Growth: A New Direction to Build Economic Strength*, are an excellent framework for the development of a door-to-door advanced information network that will electronically link the nation's homes, hospitals, business and schools.

As consumer and community leaders working at the state and local level, we support initiatives that will bring the advantages of the Information Age to all Americans through an advanced public telecommunications network. To achieve this goal, consumers need telecommunications choices from as many competing providers as possible, including our own local telephone companies.

We stand ready to support your leadership in that regard.

Thank you very much.

Sincerely,

Florence M. Rice, President, National African American Consumer Education Organization, Harlem, NY.

E. Thomas Garman, Ph.D., Past President, American Council on Consumer Interests,* Blacksburg, VA.

Edythe M. Rickard, State President, Organization for Consumer Justice, Hagerstown, MD.

Kenneth J. Benner, President, American Council on Consumer Awareness, Inc., St. Paul, MN.

Margaret Mc Entire, Chair, Democratic Task Force, National Women's Political Caucus,* Madison, WI.

Louis S. Meyer, Ph.D., Director, Pennsylvania Institute for Community Services, Edinboro, PA.

James Tiernan, Executive Director, American Consumers Association,* Chicago, IL.

Bill Edwards, Executive Director, Community Service Programs of West Alabama, Inc.,* Tuscaloosa, AL.

George M. Gates, Executive Director, New Orleans Council on Aging,* New Orleans, LA.

Michael Keeney, Executive Director, Communities Organized to Improve Life, Inc., Baltimore, MD.

Deborah R. Zemel, Director, Jewish Community Center Senior Center,* Milwaukee, WI.

Patrick M. Flood, Executive Director, Austin Metropolitan Ministries,* Austin, TX.

Bill McGill, Executive Director, Capital Area Community Action Agency, Inc., Tallahassee, FL.

Mary A. Gunn, Executive Director, Poor People Pulling Together, Las Vegas, NV.

Anni Chung, Executive Director, Self-Help for the Elderly, San Francisco, CA.

Kathleen Mirochine, Director, Consumer Protection and Education Services, Inc.,* New Opportunities for Waterbury (NOW), Waterbury, CT.

Judy Braiman, President, Empire State Consumer Association, Rochester, NY.

E.K. Bristow, Director, Legislative Research, Committee of 100,* Mt. Washington, KY.

Benjamin Feldman, Treasurer, Institute for Cooperative Housing,* Philadelphia, PA.

Jimmy D. Harris, Executive Director, Blount County Community Action Agency, Alcoa, TN.

Glennis M. Couchman, Ph.D., Associate Professor, Home Economics, Oklahoma State University, Stillwater, OK.

Alex Sanchez, Assistant Director, Chicano Federation of San Diego County, San Diego, CA.

Richard L.D. Morse, Ph.D., President, Consumer Education & Protection Association for Kansans, Manhattan, KS.

Juanita Joshua, President Alexandria Civic Improvement Council,* Alexandria, LA.

Kathe Reitman, Psychotherapist, Well Being Systems,* Phoenix, AZ.

Dorothy Shavers, Director, Self Help Action of Chicago,* Chicago, IL.

Max Thaxton, Vice President, Community Action Agency, CTE, Inc.,* Stamford, CT.

Arthur Johnson, Past President, NAACP, Detroit Branch, Detroit, MI.

Mary Strickland, Member, Wisconsin Women Entrepreneurs,* Madison, WI.

Manuel Alfonso, Chairman, Hispanic Business Alliance, Detroit, MI.

Don Hancock, Administrator, Southwest Research and Information Center,* Albuquerque, NM.

Jim Slusher, Executive Director, Mid-Columbia Community Action Council,* The Dalles, OR.

Richard L. Schodorf, Chief Attorney, Sedgwick County DA's Office,* Consumer Fraud Division, Wichita, KS.

Dan Richardson, Executive Director, Community Action Agency of Northwest Alabama, Florence, AL.

Josephine Lopez, Director, East Harlem Council for Human Services, New York, NY.

Hunson Greene, Pastor, Baptist Temple Church, New York, NY.

Donald Williams, Former Director, Division of Consumer Affairs, Department of Community Affairs,* Wilmington, DE.

Thomas J. Vandever, Executive Director, Independence Resource Center, Inc., Charlottesville, VA.

Michael Gregg Pritchard, Executive Director, Center For Public Representation, Madison, WI.

Härry C. Tartt, Public Information Officer, Gulf Coast Community Action Agency,* Gulfport, MS.

Sue Schultz, Head Start Director, Polk County Opportunity Council,* Bartow, FL.

Donna Chan, Legislative Liaison, Pacific Asian Women's Alliance, Monona, WI.

Sidney Elkin, Director, Alliance of Consumer Protection,* Beaver, PA.

John C. Thies, Executive Director, Omaha Education Association,* Omaha, NE.

James R. Deal, President, NE Arkansas Citizens Committee, Arkansas Solar Coalition, Blytheville, AR.

Floyd W. Pough, Executive Director, Mobile Community Action, Inc.,* Prichard, AL.

Sylvia Kassalow, Chair, NWCC Jewish Women's Caucus, Alexandria, VA.

E. Marie Watson, Executive Director, Johnston-Lee Community Action, Inc.,* Selma, NC.

Joe Heaphy, Executive Director, Iowa Citizens for Community Improvement,* Des Moines, IA.

T. Willard Fair, President/CEO, Urban League of Greater Miami, Inc., Miami, FL.

Anne Grant, Executive Director, Women's Center of Rhode Island,* Providence, RI.

Pearl Neverson, Education Director, Community Parents Head Start,* Brooklyn, NY.

Abel Amaya, Director, University of Southern California, El Centro Chicano, Los Angeles, CA.

Joanne Smith, President, Network for Professional Women,* Avon, CT.

Sarah Harder, Co-Chair, National Women's Conference Committee, Past President, AAUW, Eau Claire, WI.

Rigoberto Garnica, Executive Director, Escuela De La Raza, Blythe, CA.

Ladora Williams, Acting Director, Economic Opportunity Foundation, Inc., Kansas City, KS.

Michael Lindberg, Executive Director, ARISE, Inc.,* Springfield, MA.

Matthew Little, Immediate Past President, Minneapolis NAACP,* Minneapolis, MN.

Lucy Poulin, President, H.O.M.E.,* Orland, ME.

Eliza L. Dresang, Manager, Media, Information & Communication, Madison Metropolitan School District,* Madison, WI.

David West, Executive Director, Washington Citizen Action,* Seattle, WA.

Solomon Harge, Executive Director, Consumer Protection Association, Cleveland, OH.

Edwin S. Hill, Executive Director, Community Action Agency, Inc., Huntsville, AL.

Cleo Sims, Executive Director, Dallas Co. Community Action Committee, Dallas, TX.

Gene Schroeder, Executive Director, Organized Community Action Program, Troy, AL.

Shirley Middleton, Executive Director, Bridge the Gap Family Day Care Network, New York, NY.

Frankling Yudkin, President, Consumer Association of Kentucky,* Louisville, KY.

Frank E. Werner, President, Crawford County Citizens Advocacy Council, Meadville, PA.

Jean B. Courtney, Director, Consumer Action Center,* Springfield, MA.

Gene Boyer, President, National Women's Conference Center,* Ft. Lauderdale, FL.

C. Patrick Mudd, Executive Director, Arthur S. Kling Center,* Louisville, KY.

Alison L. Eldridge, Ph.D., Research Fellow, University of Minnesota,* Minneapolis, MN.

Tracy Hearson, Director, Consumer Relations Board, Student Government Office,* Manhattan, KS.

Alberta Mariano, Executive Director, Futures for Children,* Albuquerque, NM.

Alice Weary, Data Processing Manager, Montgomery Community Action,* Montgomery, AL.

Beatrice W. Spattsville, Former Director, Cenea Retired Teachers,* Alexandria, LA.

Mary H. Nelson, Center Director, Children's House,* Head Start, Oklahoma City, OK.

George Dillard, President, Urban League of Nebraska,* Omaha, NE.

John Robinson, Director, Lynn Economic Opportunity, Inc.,* Lynn, MA.

Charles Whitehead, Vice President, ACCORD, Inc.,* Syracuse, NY.

Meda Chamberlain, Executive Director, National Council of Negro Women, Southern California Chapter, Los Angeles, CA.

Mary E. Wambach, Executive Director, Boston Center for Independent Living, Inc., Boston, MA.

Benjamin K. Richmond, President/CEO, Louisville Urban League, Louisville, KY.

Louise F. Root-Robbins, Project Director, Wis. Comprehensive School Health Program, Wis. Department of Public Instruction,* Madison, WI.

Sylvia Brooks, President, Urban League of Houston,* Houston, TX.

Keith C. Egan, Executive Director, New Jersey Association for Retarded Citizens,* Vineland, NJ.

Stewart M. Lee, Ph.D., Professor, Emeritus, Geneva College, Former Newsletter Editor, American Council on Consumer Interests, Beaver Falls, PA.

Gwen Jackson, Chairman, Emeritus, Greater Milwaukee Chapter of American Red Cross,* Milwaukee, WI.

Jam Stempel, Member, Women Health Executives Network,* Chicago, IL.

Maureen Booth, President, Greater Duluth Coact,* Duluth, MN.

Roger Lyons, Director, Baltimore Urban League, Baltimore, MD.

Doris Adams, Executive Director, United Communities Against Poverty,* Capitol Heights, MD.

Horace L. Sheffield, Jr., Executive Director, Detroit Association of Black Organizations (DABO),* Detroit, MI.

C. Alicia Georges, Immediate Past President, National Black Nurses Association,* New York, NY.

Mercedes Kaufman, Associate Director, Center for the Independence of the Disabled in New York,* New York, NY.

Nicolas Rivera, Executive Director, Colorado River Community Action Council,* Blythe, CA.

Karen Higgins, Executive Director, Delta Community Action Foundation, Inc.,* Purcell, OK.

Nancy Spears, Director, Alabama Council on Human Relations, Auburn, AL.

Ernest E. Ortega, Executive Director, Home Education Livelihood Program (H.E.L.P.),* Albuquerque, NM.

*For affiliation purposes only

TRIBUTE TO MAJOR GENERAL DAVID C. MOREHOUSE

HON. DAVE McCURDY

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 4, 1993

Mr. McCURDY. Mr. Speaker, I would like to bring to your attention today the fine work and outstanding public service of one of our country's top military men, Maj. Gen. David C. Morehouse, The Judge Advocate General of the Air Force. Major General Morehouse retired after an especially distinguished military career on August 1.

General Morehouse was commissioned as a first lieutenant in the Department of the Judge Advocate General, U.S. Air Force Reserve, in August 1960. A 1977 graduate of the National War College, he served, among many assignments, as the staff judge advocate, Headquarters Tactical Air Command, Langley Air Force Base, VA, and later in the same position at Headquarters Strategic Air Command, Offutt Air Force Base, NE.

He attained a bachelor of science degree from the University of Nebraska in 1957, a juris doctor degree from Creighton University in 1960, and a master of law degree from George Washington University in 1972. His military education also includes squadron officers school.

This Viet Nam veteran, who served at Bien Hoa Air Base, Republic of Vietnam, was instrumental in providing necessary legal advice to command at that time and concurrently providing legal assistance to troops of all grades, when that function was more important to those individuals than it ever had been before, or probably since.

Since the spring of 1988, he has been deeply involved in the key issues in both personnel and acquisition arenas in his roles as deputy judge advocate general and then the judge advocate general here in our Nation's Capitol.

General Morehouse's military decorations include the Distinguished Service Medal, the Legion of Merit with one oak leaf cluster, the Bronze Star Medal, the Meritorious Service Medal with one oak leaf cluster, and the Air Force Commendation Medal.

Mr. Speaker, I ask that you join me, our colleagues, and General Morehouse's many friends in saluting this distinguished officer's many years of selfless service to the United States of America. I know our Nation, his wife, Sally and sons, Joe, who is a captain flight surgeon in the Air Force, and Mark, are extremely proud of his accomplishments. It is fitting that the House of Representatives pays tribute to him today.

THE GREAT FLOOD OF 1993

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 4, 1993

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, August 4, 1993 into the CONGRESSIONAL RECORD:

THE GREAT FLOOD OF 1993

The great 1993 Mississippi River flood will rank as one of the worst natural disasters in U.S. history. Not since 1927 has a flood so devastated the Midwest. Nearly 40 lives have been lost and damage estimates exceed $10 billion. A massive effort to contain the flood and assist its victims has prevented what might have been an even greater catastrophe. The heroic efforts of thousands of volunteers and the fine performance of the Federal Emergency Management Agency (FEMA), the Army Corps of Engineers, and the affected States and local governments, have saved lives and reduced damage.

Last week the House of Representatives passed a $3 billion Midwestern flood appropriation. It will provide emergency assistance to victims as well as grants and loans to rebuild roads, schools and other community facilities, to help cover agricultural losses, to help businesses rebuild, and to allow FEMA to complete its work on this flood.

RE-EXAMINING FLOOD POLICIES

Many questions have been raised by this year's flood; complex issues of flood control and flood plain use. The magnitude of this flood has given us a real test of all of our flood policies. Two issues that particularly deserve reexamination are: 1) whether our river engineering strategies work well enough, and 2) whether our policies sufficiently encourage flood insurance and discourage settlement on flood plains.

RIVER ENGINEERING

Historically, engineers have tried to contain rivers with dams, levees and flood walls. This approach works best in protecting a limited number of population centers. For example, the levee that protected downtown St. Louis is hundreds of feet across and high enough to have held the 47 foot flood crest with five feet to spare. But once the river passed that levee it easily broke over the top of smaller ones and flooded parts of South St. Louis. We have spent billions of dollars constructing seven thousand miles of levees along the Mississippi and the rivers that feed it, but we have learned again that it is simply not possible to completely contain these rivers when major floods occur.

Relying solely on levees and flood walls can actually be counter productive over the long run. The natural flow of a flooding river is to spread out and be absorbed in flood plain wetlands and forests, but the Mississippi levees have blocked the natural flow so the river rises higher, flows faster, and breaks out with more explosive force. Levees that protect upstream areas thus raise the flood risk downstream. Flood deposits of top soil that could reinvigorate the flood plain instead are left beneath the river, also raising its height and requiring even higher walls to contain it the next time.

The massive earth moving necessary to construct levees damages or destroys woods, marshes and woodlands, and intensifies the risks of floods. One estimate holds that one third of the 5 million acres of wetlands that have been lost in the lower Mississippi valley have been the result of federal flood control projects. There are gains from growing more corn and soybeans on these acres, but there are environmental costs as well in the loss of the wetlands.

Many now advocate changing our approach and working with the river instead of trying to contain it. This involves removing development adjacent to rivers and restoring or reserving wetlands to serve as natural flood basins. Closer to cities, the flood plain may be reserved for park lands and sports fields.

FLOOD PLAIN HABITATION AND FLOOD INSURANCE

Much of the money that is appropriated for flood victims will be used to restore communities on the flood plain. Eventually, most of these areas will be flooded again. While it is obviously not feasible to relocate Des Moines, in rural flood plain areas it may be feasible to build more incentives into our policies for relocation of homes and businesses farther away from the river, restoring or preserving the flood plain in all areas, and requiring those who choose to build on the flood plain to do so with reinforced structures that are elevated above the level of most floods.

Most federal policies have been moving in this direction since the 1968 passage of the National Flood Insurance Program (NFIP), which empowered FEMA to sell flood insurance directly to people who reside on the flood plain and to provide reinsurance to companies that sell such policies. The amended act now requires the purchase of flood insurance for federal and federally related mortgage financing in flood hazard areas. The NFIP also provides incentives for communities to discourage continued flood plain development, and to prepare for future floods.

Today 2.6 million people have flood policies that meet federal specifications, but this is only bout 20% of those who are required to do so. Pending legislation, which I support, would require lenders to make sure home owners buy flood insurance and keep it current. But even if we improve enforcement, around 75% of those who live in flood hazard areas will not be required to buy such policies under current law, in part because most mortgages are not Federally secured. Further, premiums are set too low to cover claims and as a result the program was about $18 million in the red before this flood.

CONCLUSION

The federal government can and should meet its responsibility to the Midwestern flood victims this year. The costs to taxpayers will be quite high. We now need to begin to plan to reduce our risk, and the risk to the potential victims, before the next flood.

For example, I believe that anyone who chooses to live on a flood plain should be required to accept some of the risk of maintaining the property through realistically priced flood insurance. We need to do a better job of achieving this goal, and also discouraging development on the flood plain.

All flood control projects need closer and sharper evaluation than they have received in the past. Each needs to be reexamined, weighing the flood control benefits against the cost. Obviously, large communities at risk must be fortified, but when huge expenditures are necessary to protect marginal land, other approaches may be better. Some levees that have been washed away should, perhaps, not be rebuilt to allow flood waters to spread out in safe areas. Changing the way we try to manage a river system may be difficult, but our emphasis should be on preserving and restoring the ecosystem so that natural flood control mechanisms can work.

LOWER TAX RATES GENERATE HIGHER REVENUES

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 4, 1993

Mr. CRANE. Mr. Speaker, as we search for ways to reduce the budget deficit, one of the proposals that is often advocated is raising taxes on the rich to try to generate enough revenues to solve our economic problems. However, the wealthy do not invest their money when they are confronted with fewer incentives through higher taxes. As a result, this approach has the opposite effect of lowering tax revenues by slowing economic expansion. As President Kennedy and President Reagan have both proved, the best way to increase tax revenue is to create jobs and economic growth. The best way to do that is to lower the tax burden on all Americans, be they rich or poor, and give them the incentive to work hard and take risks. Paul A. Gigot suggests in "Oops! Weren't We Going to Soak the Rich?" that the reason President Clinton ignores this approach and continues to propose taxing the rich is to appear to be the champion to the lower and middle class by perpetuating class-war politics. I submit Mr. Gigot's article, which appeared in the July 9, 1993, issue of the Wall Street Journal, to my colleagues' attention.

OOPS! WEREN'T WE GOING TO SOAK THE RICH?

(By Paul A. Gigot)

On his way out the door in January, a cheeky Bush official scribbled the same tax phrase again and again on a Treasury blackboard for the new Clinton team: "Low rates, broad base."

The incoming Clinton Treasury minions, more rueful than cheeky, erased the phrase each time the new White House requested even higher tax rates.

Mark the rueful down as prophets. The first evidence on income-tax receipts for 1991 is now rolling in from the Internal Revenue Service, and the usual eye-glazing numbers are suddenly eye-popping.

To wit, the rich paid less in taxes even though their tax rates went up. The nonrich paid more even though their tax rates stayed the same. President Clinton, meet the Laffer Curve.

This news is the elephant in the room of this year's tax debate, since we keep hearing that the fate of the world hangs on President Clinton's promise to reduce the deficit by "$500 billion." Most of this windfall, Mr. Clinton assures us, will come from "the rich." But what if those tax revenues from the rich turn out to be a mirage?

Then isn't the Clinton tax program doomed to fail, even as a mere deficit reduction? And shouldn't Democrats think again before they commit tax hari-kari at next week's House-Senate conference? Of course they should, but this year's Democratic theme song seems to be that old "M*A*S*H" movie anthem, "Suicide Is Painless."

The 1991 numbers are so striking because they're the first since the Great 1990 Budget Deal, which was more or less the test drive for Clintonomics. Rates had to be raised on "the rich," we were told then, in order to produce a river of new tax revenue.

Well, this is one river that didn't run through it. For we now know that total income-tax receipts fell in 1991, the first decline since 1983. And they fell in a strange and revealing way, as the chart above shows:

For the rich—defined as the top 850,000 income-earners in each year (making about $200,000 or more)—1991 tax receipts fell by $6.5 billion or 6.1%. But for everyone else, tax receipts actually rose in 1991—by $3.3 billion, or 1%. This odd dichotomy makes it difficult to attribute the revenue decline merely to a slow economy: The rich wouldn't have a bad year if everyone else had a good one. And, in fact, total income rose 3.3% for the year.

So what happened to the rich? It's impossible to know for sure, but the likely answer is that they changed their behavior in response to higher rates. Maybe they sheltered more income. Or stuffed more of it into 1990 to take advantage of that year's lower rates. Or perhaps they worked less. In short, they responded to "incentives," as economists say, and produced less income subject to tax.

This reverse-windfall is underscored by other 1991 numbers. Income from businesses fell 5.5% for the rich, but rose 2.2% for the nonrich. For so-called Subchapter S small business, which would get slammed again by Mr. Clinton, income dove 10.5% for the rich but rose 6.2% for everyone else.

All of which proves what populist, middle-class free-marketeers like me call the paradox of progressivity: To really soak the rich, keep their tax rates low.

Listen to Martin Feldstein, the Harvard economist who has never been mistaken for a wild supply-sider: "The evidence is strong that in 1991 they picked up rates at the top and revenue fell. This should make Democrats think twice about whether the tax rates they're now talking about will raise the revenues they expect." Mr. Feldstein figures they'll get only about a quarter of the $25 billion a year they advertise.

The Clinton administration knows all this, by the way, but wants it kept quiet until the tax bill passes. Treasury economist Alicia Munnell is in denial, even though her staff has calculated that Mr. Feldstein is right. Treasury's Larry Summers knows better, but is preoccupied with Japan and trade. Other Democrats don't even want to hear about it. That's because for them taxing "the rich" is about class-war politics, not revenue. It's about having a foil to run against.

But that's no excuse for Republicans, who've been just as silent about all this. Bob Dole's timid Senate Republicans didn't even offer an amendment to strip the higher rates out of the tax bill. Ohio Rep. John Kasich, supposedly the boy wonder of the budget, has made people wonder by endorsing higher rates. Like George Bush and Nicholas Brady, too many Republicans are still afraid James Carville might accuse them of belonging to a country club.

But now is the time to lay down markers for the next economic debate, educating voters about the con job they are about to experience. An optimist said last year that either the Clinton presidency would be successful, or it would be educational. But that assumes someone does the educating.

EAST EUROPEAN REFORM

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 4, 1993

Mr. SOLOMON. Mr. Speaker, please allow me a few moments to report on a couple of remarkable experiences I have had in the last couple of weeks which display the folly of our foreign aid plans for Russia and Eastern Europe.

For starters, I would like to tell the Congress about an extraordinary little country in the Balkans, Albania. Earlier this month, I had the privilege of being a member of a Congressional delegation to Eastern Europe led by my colleague MARTIN FROST of Texas. Albania is a pitiful land of abject poverty. Rarely in my life have I seen such widespread destitution, dilapidation, and disorder. Albania has been ruined by the same force which has ruined so much of this planet: Communism. The Communist dictator of Albania for 40 years, Enver Hoxha, was probably the cruelest of East European dictators. Aside from ruin and fear, his only legacy to the country is 700,000 ugly concrete bunkers, which ubiquitously dot the countryside.

Yet in this land of destitution, we found reason for hope. Indeed, Albania is one of the most inspiring places I have ever been. Smiles came readily to the faces of the people on the street, despite their dire socio-economic conditions. And the Albanian leaders with whom we met were truly extraordinary. President Berisha, Prime Minister Meksi, and Parliament Speaker Arbnori all possessed an impressive sense of purpose, and are methodically, and unapologetically, going about the business of reform.

From no one in Albania did we hear the banal excuses that are emanating from many other former Communist capitals. There were no roundabout lectures on historical and cultural uniqueness, which necessitates a gradual approach to reform. There was no leftover Socialist thinking or distrust of the market. And, most refreshingly, there were no outstretched hands, begging us for foreign aid. While the Albanians would welcome more foreign aid, and indeed they told us so, they are not waiting for it.

The Albanian Government has launched out boldly on the course which we all know is necessary, that of rapid market reform. Albania has forgotten all about socialism, and it is paying off. Sound and tight money has brought the inflation rate to zero. Pro-business economic policies have facilitated the creation of over 100,000 private sector jobs. Agricultural output has begun to grow. Albania is on her way and she is not looking back.

I have also recently had the pleasure of meeting the Ambassador from Estonia, Toomas Ilves. Ambassador Ilves briefed me on the economic situation in his country, and Estonia, like Albania, is leaving the pack behind. The policies have been virtually the same as in Albania. Estonia has introduced her own currency, passed a balanced budget law, pursued a rigorous tight money policy, drastically slashed subsidies to industry, dramatically expanded trade with Scandinavia and Western Europe, and encouraged foreign investment.

And do you know what, Mr. Speaker? Policies similar to those of Albania have produced results similar to Albania, and those results are utterly predictable: A booming private sector, led by small startups, an export boom, dramatically increased foreign investment, and a stable currency—all in a climate of low inflation. To boot, Estonia is seriously considering a flat tax and yes, abolishing the corporate income tax. No class warfare here, Mr. Speaker.

What is most interesting about Albania and Estonia, Mr. Speaker, is that neither has been the recipient of much foreign aid. In fact, the Estonians have recently rejected two aid offers, one for grain credits from the United States, and the other for currency stabilization funds from the World Bank. This is typical of our foreign aid bureaucracy, Mr. Speaker. Just get the aid out, regardless of whether it is needed or not. Estonia does not need grain credits because Estonia wants to develop her own agricultural sector. Estonia does not need currency stabilization funds because Estonia is pursuing a prudent monetary policy. These basic truths are lost on the foreign aid bureaucrats and their bankroller, the U.S. Congress.

And what has the U.S. Congress just done? We passed an aid package for Russia full of just those things which Russia does not, or should not, need—grain credits, currency stabilization funds, loans for the State-owned oil and gas sector, and a privatization fund that will subsidize former Communist bureaucrats at the expense of the new entrepreneurs who truly represent the future of Russia.

When will this body learn, Mr. Speaker? How much more empirical evidence is needed before we wake up to the fact that it is internal policy, and not foreign aid, that will liberate these countries from the shackles of communism? Mark my words: if Estonia and Albania are allowed a few years of stability by their neighbors, they will race ahead of the pack, with a minimum of foreign aid. Russia, on the other hand, despite the billions in foreign aid she will receive, will remain a backwater unless there are dramatic political changes resulting in more enlightened economic policy.

The only question, Mr. Speaker, is whether we, after wasting billions of taxpayer dollars, will rush to do it again, or whether we will have the foresight and courage to just say no.

THE NATURAL DISASTER PROTECTION ACT

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 4, 1993

Mr. MINETA. Mr. Speaker, the Loma Prieta Earthquake, the devastating hurricanes of Andrew, Iniki, and Hugo, and the current floods in the Midwest, demonstrate the vulnerability of our modern society to natural disasters. The human suffering and psychological after-affects on the survivors is difficult to measure.

The recent disasters have also added significant financial costs to the Federal Government's disaster relief programs and to private insurers due to losses that are many times higher than disasters of only a few years ago.

As people try to pick up their lives after a disaster, many are finding it impossible once they rebuild their homes to continue to carry homeowners insurance because such insurance is no longer available. Since Hurricane Iniki, most insurers have abandoned Hawaii. Sometimes lenders are able to find insurance for their borrowers but at costs that are 400 percent or more than previous rates. The high cost of specific peril insurance has left many Calfornians under-insured. Only 20 percent of Californians carry earthquake coverage; in the Midwest, which also is vulnerable to earthquakes, only 5 percent carry the insurance.

In the Virgin Islands where regular homeowners insurance has not been available since Hurricane Hugo, islanders who try to buy homes find it is impossible to get insurance and hence impossible to get a mortgage. Today hardly any homes are being sold in the Virgin Islands because of this problem. Homeowners live fearfully without insurance.

The major reason for the lack of affordable insurance, is that the reinsurance industry has determined that the risk of a catastrophic disaster makes such investments too risky. They have determined that insuring the monumental losses possible, despite their small likelihood, is not worth bankrupting their companies.

The 1993 Natural Disaster Protection Act which I am introducing today is designed to address the problem of the consequences of future catastrophic disasters. The bill creates a fund, paid for by a small charge on present homeowners policies, to create a Federal reinsurance fund. Such a fund would backstop insurance if the private insurance industry is overwhelmed by a disaster whose financial consequences are higher than Hurricane Andrew. An important part of the bill is the encouragement given local and State governments to strengthen present mitigation efforts.

In the present Flood Insurance Program many homeowners are required to have flood coverage but do not carry the necessary insurance. There is a requirement in the bill for a study to find a solution to the problem.

The proposal consists of three elements: First, incentives to State and local governments to enhance their disaster planning and mitigation efforts; second, federally sponsored primary insurance for earthquake and volcanic eruption; and third; a reinsurance program for losses from hurricanes, earthquakes, volcanic eruptions and tsunamis.

PLANNING AND MITIGATION

The bill would provide financial assistance to State and local governments to improve efforts to plan for disaster avoidance and response, as well as fund mitigation activities. To qualify, States would have to adopt one of several model building and safety codes and comply with the Flood Insurance Program. States must develop mitigation plans for disaster prone areas. It is expected that a large part of the funds will be used to improve inspections and compliance with building codes.

PRIMARY INSURANCE

The bill requires FEMA to develop a primary insurance program to insure losses arising from earthquake and volcanic eruption, and a resulting Tsunami, for residential properties located in earthquake and volcanic-eruption prone states.

The bill establishes a primary insurance program fund consisting of the premiums collected from the policyholders. The fund serves as the source of payment for claims, and the fund has authority to borrow from the treasury if assets are inadequate to pay claims.

REINSURANCE PROGRAM

The bill establishes a Federal Excess Reinsurance Program for losses connected with hurricane, earthquake, volcanic eruption or Tsunami. This program is funded by participating insurance companies paying actuarially based rates, established by FEMA, into a reinsurance fund established in the treasury.

The reinsurance fund is available to pay losses in two instances: First, losses from hurricane, earthquake, volcanic eruption, and Tsunami events occurring during any 12 month period that exceed 15 percent of property and casualty insurance industry surplus, and second, losses to an individual insurer from such an event which results in losses to that company in excess of 20 percent of surplus. The industry-wide threshold of 15 percent of surplus is currently estimated at about $28 billion, and has never been reached.

FLOOD INSURANCE

The bill includes requirements for FEMA to evaluate the feasibility and benefits of including flooding as a covered peril under the primary insurance program established in the bill. The bill also requires insurance agents and brokers participating in the flood insurance program to notify FEMA of any policyholder who refuses to purchase flood insurance, if the individual is required to purchase such insurance. Once FEMA is notified, it is to take necessary and appropriate steps to assure the purchase of flood insurance by the individual.

Clearly a major step to mitigate the losses from catastrophic and other disasters in the updating and enforcing of appropriate building codes. Insurers have estimated that 30 to 40 percent of the losses from Hurricane Andrew could have been avoided if existing building codes had been properly enforced. We must make sure in any legislation that proper incentives are in place for citizens to keep the loss due to disasters to a minimum.

As the chairman of the Committee on Public Works and Transportation that has legislative authority over the Stafford Disaster Relief and Emergency Assistance Act, I know that in times of disasters Americans willingly sacrifice for their neighbors. And our citizens expect the government to do what it can to ameliorate the suffering. In case of the "big one," or other disasters, the government will be expected to do all it is capable of doing to put peoples' lives back together. This bill could help to lower the financial cost to the government by encouraging mitigation efforts and backstopping the insurance industry so that the private insurers will bear a greater part of the loss.

This is unlikely to be the only bill on this subject introduced during this Congress. This is a problem that is growing and one that the congress must address. No legislation will, of course, be able to prevent acts of nature from inflicting damage to our Nation. But I believe that we can help to limit the damage and speed recovery. That is the intent of this legislation.

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Headwaters Forest Act".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that:

(1) Redwoods are a significant national symbol and a defining symbol of the State of California.

(2) Old growth redwood trees are a unique and irreplaceable natural resource.

(3) Most of the Nation's old growth forests have been cut. Less than 5 percent of the original 2,000,000 acre Coast redwoods remain standing. The groves that are left are crucial to maintain habitat needed for survival of old-growth dependent species. The Headwaters Forest, for example, is home to one of California's three largest population of marbled murrelets, rare sea birds that nest only in coastal old growth trees; the Northern Spotted Owl; and native salmon stocks that spawn in the Forest's creeks.

(4) The remaining unprotected stands of old growth forests and old growth redwoods are under immediate threat of being harvested without regard to their ecological importance and without following Federal timber harvest guidelines.

(5) Significant amounts of old growth redwoods in the proposed National Forest additions are being cut at a pace that is based on paying high interest rates on poor quality bonds and not at a pace that is based on sound forest management practices.

(b) PURPOSE.—The purpose of this Act is to provide for the sound management and protection of old growth Redwood forest areas in Humboldt County, California, and to preserve and enhance habitat for the marbled murrelet, Northern Spotted owl, native salmon stocks, and other old growth forest dependent species, by adding certain lands and waters to the Six Rivers National Forest and by including a portion of such lands in the national wilderness preservation system.

SEC. 3. ADDITION TO SIX RIVERS NATIONAL FOREST.

(a) EXTENSION OF BOUNDARIES.—The exterior boundaries of the Six Rivers National Forest in the State of California are hereby extended to include the area comprising approximately 44,000 acres, as generally depicted on the map entitled "Six Rivers National Forest Addition proposed", dated June 1993. Such area shall hereinafter in this Act be referred to as the Six Rivers National Forest Addition. The map shall be on file and available for public inspection in the offices of the Forest Supervisor, Six Rivers National Forest, and in the offices of the Chief of the Forest Service, Department of Agriculture.

(b) ACQUISITION OF LAND.—(1) The Secretary shall acquire lands or interests in land within the exterior boundaries of the Six Rivers National Forest Addition by donation, by purchase with donated or appropriated funds, or by exchange for other lands owned by any department, agency, or instrumentality of the United States. When any tract of land is only partly within such boundaries, the Secretary may acquire all or any portion of the land outside of such boundaries in order to minimize the payment of severance costs. Land so acquired outside of the boundaries may be exchanged by the Secretary for non-Federal lands within the boundaries, and any land so acquired and not utilized for exchange shall be reported to the General Services Administration for disposal under the Federal Property and Administrative Services Act of 1949 (63 Stat. 377). Lands, and interests in lands, within the boundaries of the Headwaters Forest which are owned by the State of California or any political subdivision thereof, may be acquired only by donation or exchange.

(2) The Secretary is authorized to accept from the State of California funds to cover the cost of acquiring lands within the Headwaters Forest, and notwithstanding any other provision of law, the Secretary may retain and expend such funds for purposes of such acquisition. Such funds shall be available for such purposes without further appropriation and without fiscal year limitation.

(c) LAND ACQUISITION PLAN.—The Secretary shall develop and implement, within 6 months after the enactment of this Act, a land acquisition plan which contains specific provisions addressing how and when lands will be acquired under subsection (b). The plan shall give priority first to the acquisition of lands within the boundaries of the Headwaters Forest Wilderness identified on the map referred to in section 3(a). The Secretary shall submit copies of such plan to the Committee on Natural Resources, the Committee on Agriculture, and the Committee on Appropriations of the United States House of Representatives and to the Committee on Energy and Commerce, the Committee on Agriculture, Nutrition, and Forestry and the Committee on Appropriations of the United States Senate.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

SEC. 4. WILDERNESS AREAS.

(a) DESIGNATION.—In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131-1136), lands in the State of California acquired under section 3 of this Act which are within the areas generally depicted on the map referred to in section 3 as the "Headwaters Forest Wilderness (Proposed)" shall be designated as wilderness and therefore as a component of the National Wilderness Preservation System, effective upon acquisition under section 3. Such lands shall be known as the Headwaters Forest Wilderness.

(b) MAP AND DESCRIPTION.—As soon as practicable after the inclusion of any lands in the Headwaters Forest Wilderness, the Secretary shall file a map and a boundary description of the area so included with the Committee on Natural Resources of the House of Representatives and with the Committee on Energy and Natural Resources of the United States Senate. The Secretary may correct clerical and typographical errors in such boundary description and such map. Each such map and boundary description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, United States Department of Agriculture.

(c) BUFFER ZONES NOT INTENDED.—The Congress does not intend that designation of any area as wilderness under this section lead to the creation of protective perimeters or buffer zones around the wilderness area. The fact that nonwilderness activities or uses can be seen or heard from areas within a wilderness shall not, of itself, preclude such activities or uses up to the boundary of the wilderness area.

(d) STATE AUTHORITY OVER FISH AND WILDLIFE.—As provided in section 4(d)(8) of the Wilderness Act, nothing in this Act shall be construed as affecting the jurisdiction or responsibilities of the State of California with respect to wildlife and fish in any areas designated by this Act as wilderness.

SEC. 5. ADMINISTRATION.

(a) MANAGEMENT PLAN.—The Secretary shall develop, within 1 year after the enactment of this Act, a comprehensive management plan detailing measures for the preservation of the existing old growth redwood ecosystems in the Six Rivers National Forest Addition, including but not limited to each of the following:

(1) Prohibition of sale of timber from lands within the old growth redwood groves as depicted generally on the map referred to in

section 3(a). Timber sales in other areas shall be allowed consistent with the purposes of this Act and other applicable Federal laws and regulations.

(2) Measures to restore lands affected by previous timber harvests to mitigate watershed degradation and impairment of habitat for the marbled murrelet, spotted owl, native salmon stocks, and other old-growth forest dependent species ("Restoration Measures"). The Management Plan shall be reviewed and revised every time the Six Rivers National Forest Land and Resource Management plan is revised or more frequently as necessary to meet the purposes of this Act.

(b) APPLICABLE LAWS AND POLICIES.—(1) The Secretary, acting through the Chief of the Forest Service, shall administer the lands acquired under section 3(b) in accordance with the Management Plan, this Act, and with the other laws, rules, and regulations applicable to such national forest. In addition, subject to valid existing rights, any lands acquired and designated as wilderness under section 4(a) shall also be administered in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness, except that any reference in such provisions to the effective date of the Wilderness Act (or any similar reference) shall be deemed to be a reference to the date of acquisition of such lands under section 3 of this Act.

(2) To the maximum extent practicable, all work to implement the management plan's Restoration Measures shall be performed by unemployed forest and timber workers, unemployed commercial fishermen, or other unemployed persons whose livelihood depends on fishery and timber resources.

(3) In order to facilitate management, the Secretary, acting through the Chief of the Forest Service may enter into agreements with the State of California for the management of lands owned by State or purchased with State assistance.

SEC. 6. PAYMENTS TO LOCAL GOVERNMENT.

(a) PILT.—Solely for purposes of payments made pursuant to chapter 69 of title 31 of the United States Code, all lands added to the Six Rivers National Forest by this Act shall be deemed to have been acquired for the purposes specified in section 6904(a) of such title 31.

(b) 10-YEAR PAYMENT.—(1) Subject to annual appropriations and the provisions of subsection (c), for a period of 10 years after acquisition by the United States of lands added to the Six Rivers National Forest by this Act, the Secretary, with respect to such acquired lands, shall make annual payments to Humboldt County in the State of California in an amount equal to the State of California Timber Yield Tax revenues payable under the California Revenue and Taxation Code (sec. 38101 et seq.) in effect as of the date of enactment of this Act that would have been paid with respect to such lands if the lands had not been acquired by the United States, as determined by the Secretary pursuant to this subsection.

(2) The Secretary shall determine the amounts to be paid pursuant to paragraph (1) of this subsection based on an assessment of a variety of factors including, but not limited to—

(A) timber actually sold in the subject year from comparable commercial forest lands of similar soil type, slope and such determination of appropriate timber harvest levels.

(B) comparable timber size class, age, and quality.

(C) market conditions.

(D) all applicable Federal, State, and local laws and regulations, and

(E) the goal of sustainable, even-flow harvest or renewable timber resources.

(c) CALIFORNIA TIMBER YIELD TAX.—The amount of State of California Timber Yield Tax payments paid to Humboldt Count in any year pursuant to the laws of California for timber sold from lands acquired under this Act shall be deducted from the sums to be paid to Humboldt County in that year under subsection (b).

(d) 25-PERCENT FUND.—Amounts paid under subsection (b) with respect to any land in any year shall be reduced by any amounts paid under the Act of May 23, 1908 (16 U.S.C. 500) which are attributable to sales from the same lands in that year.

SEC. 7. FOREST STUDY.

The Secretary shall study the lands within the area comprising approximately 13,620 acres and generally depicted as "Study Area" on the map referred to in section 3(a). The study shall analyze the area's potential to be added to the Headwaters Forest and shall identify the natural resources of the area including the location of old growth forests, old growth redwood stands, threatened and endangered species habitat and populations including the northern spotted owl and marbled murrelet, commercial timber volume, recreational opportunities, wildlife and fish, watershed management, and the cost of acquiring the land. Within one year of the date of enactment of this Act, the Secretary shall submit a report with the findings of the study to the Committees on Natural Resources, and Agriculture of the United States House of Representatives and the committees on Energy and Natural Resources, and Agriculture, Nutrition, and Forestry of the United States Senate.

DEATH OF THE WAR POWERS RESOLUTION IN SOMALIA

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 4, 1993

Mr. GILMAN. Mr. Speaker, today, August 4, 1993, may very well be remembered as the day that the War Powers Resolution died. Its death was caused by the election of President Clinton and by the erosion of popular support for his policy in Somalia.

Sixty days ago, on June 5, combat involving United States Forces broke out in Somalia and has continued ever since. Under any reasonable reading of the War Powers Resolution, the President was required to withdraw United States Forces from Somalia by today. He has not, and Congress has decided to look the other way. In so doing, Congress has acquiesced in a legal rationale that will make the War Powers Resolution a dead letter.

The War Powers Resolution provides that whenever U.S. Armed Forces are deployed into a situation of hostilities, or imminent involvement in hostilities in a foreign country, they must be withdrawn in 60 days unless Congress declares war or passes a joint resolution authorizing continuation of the deployment. United States Forces were first sent to Somalia on December 8, 1992. President Bush informed Congress at that time that he did not intend for U.S. Forces there to become involved in hostilities, meaning that the 60-day clock would not apply. While one could debate whether hostilities were imminent after December 8, in fact there was little combat, and therefore it was tenable to contend that the War Powers Resolution did not apply. President Clinton adopted the same position after taking office.

On February 4, 1993, the Senate passed Senate Joint Resolution 45, which would have provided an openended authorization for the Somalia operation. On May 25, the House passed its own version of Senate Joint Resolution 45, which differed from the Senate version principally in that it contained only a 12-month authorization.

I opposed Senate Joint Resolution 45 because I felt that the administration was not moving quickly enough to get United States Forces out of Somalia. This view was shared by many of my colleagues. My amendment to Senate Joint Resolution 45 calling for the withdrawal of all United States Forces from Somalia within 6 months, received 179 votes on the House floor.

In any event, the Senate has taken no further action on Senate Joint Resolution 45—such as appointing conferees or simply bringing the House version to a vote, so Congress has not passed a joint resolution that would satisfy the requirements of the War Powers Resolution with regard to Somalia.

On June 5, serious fighting broke out in Mogadishu. U.S. Forces have engaged in considerable combat since that time, and by all accounts, southern Mogadishu is a war zone. No Americans have yet been killed, but over a dozen have been wounded.

On June 15, I wrote to Secretary of State Christopher to ask whether the United States was now in hostilities in Somalia, such that the 60-day clock applies. The administration responded on July 21. In essence, the administration said that Somalia involves only "intermittent military engagements," each lasting less than 60 days, and therefore, does not involve "sustained hostilities" that might compel the withdrawal of United States Forces after 60 days.

The problem with that logic, of course, is that all wars consist of a series of discrete military engagements. Under this reasoning, it would not be too difficult to argue that a conflict on the scale of World War II falls outside that War Powers Resolution. After all, Pearl Harbor, the Battle of Midway, and the Battle of the Bulge each lasted less than 60 days.

It appears that we are about to see the next application of this logic in Bosnia. The administration's proposal to launch air strikes against Serbian-held positions in Bosnia has been accepted by NATO and may soon be implemented. I understand that the administration does not believe that congressional authorization will be required under the War Powers Resolution if the United States begins bombing in Bosnia. I can only surmise that the administration's logic is the same as in Somalia—the air strikes will be intermittent in the sense that each one will last less than 60 days, and therefore, the 60-day clock will never expire.

This logic on the part of the executive branch is not new, but before today, Congress had never acquiesced in it. In an analogous situation in Lebanon in 1983, the Reagan administration argued that the deteriorating security situation facing U.S. peacekeepers in Beirut had not risen to the level of hostilities because the fighting was intermittent rather than sustained. Congress rejected this logic.

In the multinational force in Lebanon resolution, signed into law on October 12, 1983, Congress declared that hostilities broke out in Lebanon on August 29, 1993, after 2 days of combat around the Beirut airport, and that 60-day clock therefore had been triggered. The resolution went on to authorize the Lebanon deployment. Because the resolution was signed into law before the 60 days had expired, the question whether the deployment violated the War Powers Resolution was not reached.

This has not happened with regard to Somalia. President Clinton is adopting the same logic as President Reagan, but Congress has chosen not to challenge him the way it challenged President Reagan. Certainly part of the explanation lies in the fact that President Clinton is a Democrat while President Reagan was a Republican.

An additional consideration is that support for the operation in Somalia is eroding. It is likely that one reason the Senate has not taken up the House-passed Somalia resolution is that it might be defeated. Given the choice between preserving the War Powers Resolution and forcing a contentious debate on an unpopular policy in Somalia, Congress has decided to throw the resolution overboard.

By looking the other way while the administration eviscerates the War Powers Resolution, Congress has avoided an embarrassing disagreement with our new President. But the precedent set today will be available to all future Presidents.

History will inevitably show that the War Powers Resolution died in Somalia.

CONGRESS OF THE UNITED STATES,
Washington, DC, June 15, 1993.

Hon. WARREN M. CHRISTOPHER,
Secretary of State, 2201 C Street, NW., Washington, DC.

DEAR MR. SECRETARY: We are writing to request your assessment of the current situation in Somalia. Until now, the Administration has taken the position that the U.S. Armed Forces in Somalia are not in a situation of hostilities or imminent involvement in hostilities within the meaning of the War Powers Resolution. In our opinion, recent events in Mogadishu call for a reexamination of this conclusion.

According to press accounts, 23 Pakistani soldiers were killed and 59 wounded in guerrilla attacks on United Nations peacekeepers on June 5. The U.S. Quick-Reaction Force had to be called out to rescue besieged Pakistanis, and three U.S. soldiers were wounded in the combat. On June 6, the U.N. Security Council adopted a resolution calling for the arrest, prosecution, and trial of those responsible for the attacks.

Between June 5 and June 12, non-essential U.N. officials and foreign aid workers were evacuated from Mogadishu, and those who remained were relocated to a heavily fortified compound in preparation for assaults on arms depots and other facilities belonging to warlord Mohamed Farah Aideed. U.S. AC-130 gunships were sent to Djibouti for use in these assaults, and over 2,000 U.S. Marines were ordered to redeploy from Kuwait to Somalia.

On June 12, the AC-130s attacked facilities in Mogadishu belonging to Aideed. Attacks by U.S. aircraft and helicopters have continued daily since June 12. These attacks have prompted demonstrations by Somali supporters of Aideed, including one in which Pakistani soldiers opened fire and killed at least 14 demonstrators.

In light of these facts, and in accordance with section 4(b) of the War Powers Resolution, we would appreciate your response to the following questions:

1. Were U.S. Armed Forces in Somalia in "hostilities" within the meaning of the War Powers Resolution on June 5?

2. Were U.S. Armed Forces in Somalia in "hostilities" or a situation "where imminent involvement in hostilities [was] clearly indicated by the circumstances" within the meaning of the War Powers Resolution between June 5 and June 12?

3. Have U.S. Armed Forces in Somalia been in "hostilities" within the meaning of the War Powers Resolution between June 12 and the date of this letter?

4. Have U.S. Armed Forces in Somalia been in "hostilities" or a situation "where imminent involvement in hostilities is clearly indicated by the circumstances" within the meaning of the War Powers Resolution at any time between the date of this letter and the date of your response?

5. Does the Administration anticipate that U.S. Armed Forces in Somalia will be in "hostilities" or a situation "where imminent involvement in hostilities is clearly indicated by the circumstances" within the meaning of the War Powers Resolution at any time subsequent to the date of your response?

6. If U.S. Armed Forces in Somalia have been, are, or are anticipated to be in "hostilities" or a situation "where imminent involvement in hostilities is clearly indicated by the circumstances" within the meaning of the War Powers Resolution, does the Administration intend to withdraw U.S. Armed Forces from Somalia within 60 days in accordance with section 5(b) of the War Powers Resolution? If not, what will be the legal basis for the U.S. military presence in Somalia after 60 days have elapsed?

Your response to these questions will be of great use to Congress as it proceeds with consideration of S.J. Res. 45, the "Resolution Authorizing the Use of United States Armed Forces in Somalia."

Sincerely,

BENJAMIN A. GILMAN,
Ranking Republican Member, Committee on Foreign Affairs.
JESSE HELMS,
Ranking Republican Member, Committee on Foreign Relations.

U.S. DEPARTMENT OF STATE,
Washington, DC, July 21, 1993.

Hon. BENJAMIN A. GILMAN,
Committee on Foreign Affairs, House of Representatives, Washington, DC.

DEAR MR. GILMAN: Thank you for your letter of June 15 (signed also by Senator Helms) to the Secretary regarding the War Powers Resolution and Somalia. I am pleased to respond on behalf of the Secretary.

You have raised several specific questions regarding whether U.S. Armed Forces in Somalia have been involved in "hostilities" since June for purposes of the War Powers Resolution. These questions all relate to the deployment that was the subject of a June 10 report to Congress by the President, and which was the subject of a supplemental report by the President on July 1. Your questions were raised in the context of section 5(b) of the War Powers Resolution, which provides that, absent Congressional action, the use of U.S. forces is to be terminated within 60 or 90 days after those forces have been introduced into hostilities or into situations where hostilities are clearly indicated by the circumstances.

In our view, no issue is presented of compliance with section 5(b) of the War Powers Resolution (regardless as to whether it is constitutional). We note at the outset that no previous Administration has considered that intermittent military engagements involving U.S. forces overseas, whether or not constituting "hostilities," would necessitate the withdrawal of such forces pursuant to section 5(b) of the Resolution. The War Powers Resolution provision on withdrawal sixty days after forces are introduced into hostilities (with certain exceptions) was intended to apply to sustained hostilities so as to ensure that the collective judgment of both Congress and the President would be applied to decisions about whether to go to war.

This is not the situation we face in Somalia. As summarized in the President's report of July 1, the significant involvement of the U.S. Quick Reaction Force in the United Nations operation against Aideed's forces and compound has not involved sustained military action. These activities have been directed at those responsible for the murder or wounding of peacekeepers, as well as other criminal activity. While significant military force was used, our actions have been in support of the United Nations humanitarian mandate and have not been directed at the forces of a sovereign state, but rather at bandits or warlords. Moreover, as you know from the President's reports, U.S. Armed Forces have made important contributions to the United Nations-led military action in support of U.N. peacekeeping efforts in Somalia.

Finally, both the House and Senate have voted in favor of bills that would provide express statutory authority to participate in peacekeeping efforts in Somalia (including authority for purposes of the War Powers Resolution). As we have stated before, although we do not believe that specific statutory authority is necessary, the Administration welcomes such Congressional support for U.S. activities in Somalia.

I hope this is useful to you. We look forward to further discussions with you on this important issue. Pleased feel free to communicate with me if I can be of further assistance.

Sincerely,

WENDY R. SHERMAN,
Assistant Secretary, Legislative Affairs.

RETROACTIVE TAX INCREASE WOULD BE EGREGIOUS INJUSTICE

HON. CHRISTOPHER COX

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 4, 1993

Mr. COX. Mr. Speaker, the retroactive income tax increase that this Congress is about to pass is an egregious injustice. I commend to my colleagues the following article, which explains in detail why this is so. It is written by a distinguished attorney with the law firm of Paul, Hastings, Janofsky, and Walker in

Washington, DC. Mr. Schmitz specializes in constitutional law, separation of powers, and federalism. During the Reagan administration he served as Special Assistant to the Attorney General of the United States.

ARE RETROACTIVE TAX INCREASES CONSTITUTIONAL?

(By Joseph E. Schmitz)

The current "Tax Compromise" includes a substantial increase in the marginal tax rate for individuals earning over $115,000 ($140,000 for married couples filing jointly), and an even larger increase for couples and individuals with taxable income over $250,000—retroactive to January 1, 1993. If Congress can impose taxes retroactively back to January 1, 1993 (before the current Administration took office), why not back to January 1, 1983, or even further? While the "wealthy" are bracing to take substantial cuts in net income over the next few months or to write large checks to Uncle Sam next April (for retroactively assessed taxes that weren't withheld), perhaps it is time to reconsider whether Congress has unfettered discretion under the Constitution to impose a tax increase retroactively—and if so, whether an amendment should be considered to restrain such power.

Article I, Section 9, of the U.S. Constitution states that "No bill of attainder or ex post facto law shall be passed." The foremost problem with *ex post facto* laws, *i.e.* retroactive legislation, is that they are repugnant to the Rule of Law principles upon which our society is based. In *Marbury v. Madison*, Chief Justice John Marshall stressed that "The government of the United States has been emphatically termed a government of laws, and not men." 5 U.S. (1 Cranch) 137, 163 (1803). Chief Justice Marshall later admonished that "the power to tax involves the power to destroy ." *McCulloch v. Maryland*, 17 U.S. (4 Wheat.) 316, 431 (1819).

Two centuries ago, retroactive laws were said to be "contrary to the first principles of the social compact," "against natural rights," "unjust," "highly injurious," "oppressive," and/or "wrong." More recently, Friedrich von Hayek described the Rule of Law, and its inherent restriction on retroactive legislation, as the singlemost distinguishing factor of a free society: "Rule of Law * * * means that the government in all its actions is bound by rules fixed and announced beforehand—rules which make it possible to foresee with fair certainty how the authority will use its coercive powers in certain circumstances and to plan one's individual affairs on the basis of this knowledge." F. Hayek, The Road to Serfdom 72 (1944).

That a general prohibition against retroactive lawmaking is deeply rooted in Anglo/American jurisprudence cannot be disputed. William Blackstone argued that "All laws should be made to commence *in futuro*." 1 W. Blackstone, *Commentaries* 46. Blackstone's basic argument was that "it is reasonable that [laws] be prescribed or promulgated and that there can be no promulgation where they commence at a time anterior to enactment * * *. As a matter of justice laws should not be enforced before the subjects have an opportunity to become acquainted with them." Smead, *The Rule Against Retroactive Legislation: A Basic Principle of Jurisprudence*, 20 Minn. L. Rev. 775, 777 (1936).

In The Federalist, James Madison wrote that "ex post facto laws, and laws impairing the obligation of contracts, are contrary to the first principles of the social compact, and to every principle of sound legislation." The Federalist No. 44, at 279 (Lodge ed. 1888). Even the Congressional Research Service admits the historical legitimacy of arguments that the *ex post facto* clause should apply to all congressional legislation: "At the time the Constitution was adopted, many persons understood the terms *ex post facto* laws to 'embrace all retrospective laws, or laws governing or controlling past transactions, whether * * * of a civil or a criminal nature.'" Congressional Research Service. The Constitution of the United States: Analysis and Interpretation, S. Doc. No. 16, 99th Cong., 1st. Sess. 381–82 (1987) (quoting 3 J. Story, *Commentaries on the Constitution of the United States* (Boston: 1833), §1339).

Though it is still axiomatic in the late Twentieth Century that "[t]he Constitution created a Federal Government of limited powers," *New York* v. *United States*, 112 S. Ct. 2408, 2417 (1992), whether Congress has the power to enact retroactive civil laws today does not lend itself to clean constitutional analysis, due to a number of prior judicial interpretations, stemming from *Calder* v. *Bull*, 3 U.S. (3 Dall.) 386 (1798), that the Constitution's express prohibition against *ex post facto* laws (Art. I. §9) does not apply in the civil context. A number of prominent jurists and scholars, however, have insisted that the *Ex Post Facto* Clause should apply in the civil context. *See, e.g.*, *Lehmann* v. *United States ex rel. Carson*, 353 U.S. 685, 690 (1957) (Black and Douglas, JJ., dissenting); *Marcello* v. *Bonds* 349 U.S. 302, 319 (1955) (Douglas, J., dissenting); *see generally* Crosskey, *The True Meaning of the Constitutional Prohibition of Ex-Post-Facto Laws*, 14 Ch. L. Rev. 539 (1947) (citing original historical sources).

Calder v. *Bull* involved Connecticut legislation that "set aside a decree of the court of Probate for Hartford * * * and granted a new hearing." 3 U.S. (3 Dall.) at 386. Justices Paterson and Iredell, in separate opinions, both expounded on the "indefinite nature" of Connecticut Legislature's powers, which at the time included both legislative and judicial functions (in stark contrast to the federal Legislature's powers then and now). Justice Iredell's dissenting opinion suggests that the Connecticut legislature's exercise of purely judicial power, *i.e.* purely retroactive legislation, was "strange," alluding to the fact that the federal Legislature could not even countenance the idea:

"It may indeed, appear strange to some of us, that in any form, there should exist a power to grant, with respect to suits depending or adjudge, new rights of trial new privileges of proceeding, not previously recognized and regulated by positive institutions; but such is the established usage of Connecticut, and it is obviously consistent with the general superintending authority of her Legislature * * * 3 U.S. (3 Dall.) at 398 (Iredell, J., dissenting)."

Notwithstanding *Calder v. Bull* and its legal progeny, it is clear from the writings of Thomas Jefferson that the framers' abhorrence of *ex post facto* laws applied to all federal laws, whether civil and criminal. In 1813, for example, Jefferson wrote of the retroactive application of a congressional patent law: "The sentiment that *ex post facto* laws are against natural rights, is so strong in the United States, that few, if any, of the state constitutions have failed to proscribe them. The federal constitution indeed interdicts them in criminal cases only, but they are equally unjust in civil as in criminal cases, and the omission of a caution which would have been right, does not justify the doing of what is wrong." T Jefferson, Letter to Isaac M'Pherson, Aug. 13, 1813, in 6 writings 176 (H. Washington ed. 1853-54).

Supporting the then-popular sentiment that retroactive criminal and civil laws were seen in the same light, the New Hampshire Constitution of 1784 warns that "Retroactive laws are highly injurious, oppressive, and unjust. No such law, therefore, should be made, either of the decision of civil causes, or the punishment of offenses." N.H. Const. of 1784, Part 1, §23. Chancellor Kent of New York went so far as to state that "there is no distinction in principle, nor any recognized in practice, between a law punishing a person criminally, for a past innocent act, or punished him civilly by divesting him of a lawfully acquired right. The distinction consists only in the degree of the oppression * * *" 7 John, (N.Y.) 477 (1811)

In a few cases since *Calder v. Bull*, the Supreme Court has stated that certain new civil laws, if applied retroactively, could be *per se* unconstitutional. *Eg.*, *Herrick v. Boquaillas Land & Cattle Co.*, 26 S. Ct. 192 (1906) (affirming Arizona Supreme Court analysis: "if construed as absolutely barring cause of action existing at the time of its passage [a new statute of limitation] was unconstitutional,—citing *Sohn v. Watersohn*, 17 Wall. 596"). Likewise, older cases have held that retroactively-imposed tax laws can be "confiscation of property in violation of due process of law." Smead, *Rule Against Retroactive Legislation: A Basic Principle of Jurisprudence*, 20 Minn. L. Rev. 775, 796 (1936) (citations omitted).

When addressing judicial challenges to retroactive civil legislation, however, the modern Supreme Court resorts to a minimum scrutiny "due process" balancing test: "Provided that the retroactive application of a statute is supported by a legitimate legislative purpose furthered by rational means, judgments about the wisdom of such legislation remain within the exclusive province of the legislative and executive branches * * *." *Pension Benefit Guarantee Corp. v. R.A. Gray & Co.*, 104 S. Ct. 2709, 2717–18 (1984). This type of Judicial deference to the Executive and Legislative branches poses little or no constraint on the type of retroactivity contained in the "Tax Compromise."

Perhaps the time is ripe for the Judiciary to reconsider the constitutional constraints against such legislation. Justice Antonin Scalia recently suggested that retroactivity, while appropriate for judicial decisions, is constitutionally problematic for legislation, even in the civil taxation context: "[I]t is said that that which distinguishes a judicial from a legislative act is, that the one is a determination of what the existing law is in relation to some existing thing already done or happened, while the other is a predetermination of what the law shall be for the regulation of all future cases." *Harper v. Virginia Dep't of Taxation*, 61 U.S.L.W. 4664, 4669 (June 18, 1993) (Scalia, J., concurring) (quoting T. Cooley, Constitutional Limitations 91 (1868)).

The Democratic leadership in both the executive and legislative branches apparently feel no constitutional or moral constraints against enacting a retroactive tax increase. Perhaps dispossessed Members of Congress and/or affected individuals can seek judicial review of the "Tax Compromise" as being an unconstitutional *ex post facto* law, or as being "contrary to the first principles of the social compact," "against natural rights," "unjust," "highly injurious," "oppressive," "wrong," or all of the foregoing. If the Judiciary is unwilling to constrain the White House and Congress, then perhaps the "people" need to consider a constitutional amendment that will constrain the power of the federal government to tax (and therefore to destroy) retroactively.

SALUTING MEMBERS OF THE BOWMAN FAMILY: GROUP CELEBRATES SEVENTH BIANNUAL REUNION

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 4, 1993

Mr. STOKES. Mr. Speaker, in just a few weeks, on August 19, 1993, members of the Bowman family will gather in Bethesda, MD, for their seventh biannual convention. The event promises to be an exciting one, as descendants of Oz and Charity Bowman gather from around the country to reflect upon their rich heritage. I am proud to rise today to salute members of the Bowman family on this auspicious occasion.

According to a member of the family, Tina Luckyadoo, the Bowman family reunion was begun in 1972. The first reunion was held at the home of Matilda Kenly Porter of Pleasantville, NJ. It was thought that the reunion offered an opportunity for family to gather together for occasions other than funerals. During the following years, the reunion grew in size and scope.

The Bowman family is particularly proud to note that in 1981, the family reunion ventured home to Irmo, SC. Here family members had an opportunity to meet other relatives, research the family tree more extensively, and envision the town of Irmo through their ancestors' eyes. In addition to New Jersey and South Carolina, Bowman family reunions have been held in Pennsylvania and Michigan.

Mr. Speaker, the Bowman family recognizes the importance of pausing to join together in celebration of their heritage, struggles, and many accomplishments over the years. I am certain that each member in attendance will benefit greatly from this special reunion. I ask that my colleagues join me today in extending our prayers and best wishes to the Bowman family.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, August 5, 1993, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

AUGUST 6

9:30 a.m.

Joint Economic

To hold hearings to examine the employment-unemployment situation for July.

2359 Rayburn Building

SEPTEMBER 8

9:30 a.m.

Commerce, Science, and Transportation
Communications Subcommittee

To resume hearings on S. 1086, to foster the further development of the Nation's telecommunications infrastructure through the enhancement of competition.

SR-253

POSTPONEMENTS

AUGUST 5

3:00 p.m.

Labor and Human Resources
Employment and Productivity Subcommittee

To hold joint hearings with the Committee on Indian Affairs on the implementation of the Job Training Partnership Act (P.L. 102-367), and the Indian Employment Training and Services Demonstration Act (P.L. 102-477).

SR-485

Indian Affairs

To hold joint hearings with the Committee on Labor and Human Resources' Subcommittee on Employment and Productivity on the implementation of the Job Training Partnership Act (P.L. 102-367), and the Indian Employment Training and Services Demonstration Act (P.L. 102-477).

SR-485

AUGUST 6

10:00 a.m.

Governmental Affairs

To hold hearings to examine environmental problems in the Federal government.

SD-342

SENATE—*Thursday, August 5, 1993*

(Legislative day of Wednesday, June 30, 1993)

The Senate met at 11 a.m., on the expiration of the recess, and was called to order by the Honorable RUSSELL D. FEINGOLD, a Senator from the State of Wisconsin.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

For what the law could not do, in that it was weak through the flesh * * *.—Romans 8:3.

Almighty God, the Apostle Paul speaks of the impotency of the law, even the perfect law of God, the Ten Commandments, to produce righteous people. Something in human nature is incapable of obeying the law.

Congress works tirelessly day and night to pass laws which fall short of their purpose. I do not pray that lawmakers will do less but that, sensitive to the limitations of law, they will recognize that the power of God alone can change human hearts and the social order. Years ago, the psychiatrist, Carl Menninger, asked the question, "Whatever became of sin?" This is the reality in human nature which renders law inadequate.

Apostle Paul exhorted, as a matter of first importance, that prayer be made for all people, especially for those in authority, "that we may lead a quiet and peaceable life in all godliness and honesty." (I Timothy 2:2.) Gracious God, in addition to all the hard work and frustration of making laws which are broken or ignored, infuse Your servants with the sense of the significance and potential of prayer to a Holy God when it is taken seriously.

In Jesus' name. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, August 5, 1993.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable RUSSELL D. FEINGOLD, a Senator from the State of Wisconsin, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. FEINGOLD thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

RECOGNITION OF THE REPUBLICAN LEADER

The ACTING PRESIDENT pro tempore. The Republican leader.

THE ECONOMIC PLAN AND A SALUTE TO THE SWITCHBOARD OPERATORS

Mr. DOLE. Mr. President, the night before last, I had the privilege of speaking to the American people about the President's economic plan, and I began by saying, like nearly all Americans, I wanted President Clinton to succeed. I know that all Members of the Senate want President Clinton to succeed. I also said I thought every Republican would oppose this plan not because he is a Democrat but because we think it takes America in the wrong direction.

He used a lot of charts, and there are a lot of fancy charts we have used and everybody has used. I suggested the Americans ask themselves four questions. I see the Washington Post, the Clinton paper in Washington, responded to my four questions. I know Clinton is their man. They want to stand by their man. That does not mean that they are accurate.

Again, does it raise taxes? Obviously, it is the biggest tax increase in the history of the world according to my colleague, the Senator from New York, Senator MOYNIHAN. It was not my statement; it was his. We are willing to accept it. I think the thing that bothers people is retroactivity. As I said yesterday, article 57 of the draft Russian Constitution said you cannot have retroactive taxes; apparently, only in America.

So the Treasury Department, boy, they have the spend machine going full blast. I do not know how many thousands of people are working at taxpayers' expense to try to sell this terrible package, but they dug up several examples of retroactive taxation. It went way back to 1917. That is how desperate this administration is. They went back to 1917 and said that during World War I, there were some retroactive taxes, and in 1918. Then they went into World War II and Korea and Vietnam.

So they take this wartime crisis in America where they did have retroactive surtaxes—I do not think they ever had a retroactive tax rate increase. That is what we are complaining about. This is a tax rate increase back to January. And then, for the first time in history, they have a retroactive tax rate increase for those who died since January. So you cannot escape this package, dead or alive. They are going to get you one way or the other in this Clinton package, and it is going to take money away from the heirs, widows, and families who did not even have notice. You cannot say you had notice when you were not even around.

What they have done is they have ginned up all this stuff from different wars, and they talk about the revenue acts.

One thing nobody has touched upon, and every Member ought to be aware of, is what is going to happen in every State? We ought to ask ourselves these very serious questions. In some States—I understand North Dakota, Rhode Island, and Vermont—if you are going to have a retroactive tax federally, it is going to be retroactive State. How much more money is it going to cost taxpayers because of increased State taxes? I hope we have that information later on in the day.

But I hope there is going to be some protection for the American taxpayer because now, if all the States are going to cash in on this big retroactive tax we are talking about, what is it going to mean to the taxpayers in Illinois or Wisconsin or Kansas or California or Oklahoma?

I think one thing we have overlooked—I will just say to my friend from Oklahoma who just walked in—if we have a retroactive Federal tax, what happens to the States? We think three States are just going to pick up that windfall—Rhode Island, Vermont, North Dakota. I am not certain what the law is in California or Oklahoma. But it seems to me that we have a real problem.

So I just suggest we ought to be on the lookout before we vote—all of us, Democrats and Republicans—because it is going to hit a lot of our people with retroactive Federal taxes and probably going to hit them with retroactive State taxes, and that is going to be double whammy, which the American people will not like.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Mr. President, I want to thank the dedicated crew of men and women who went beyond the call of duty the night before last and, I suspect, will be going above and beyond the call of duty for the next few days, and that is the crew at the Capitol switchboard.

The night before last, I gave the American people the number of the switchboard and suggested they call and let their Senators and Representatives know their opinion. The folks at AT&T estimated 10 million Americans tried to get through the night before last. And from the busy signals I have been getting when I have called that number today, I suspect that millions more were calling all day yesterday and will be calling today.

My staff did call the switchboard before my speech warning them what I was about to do. I know even a heads up could not have prepared them for 10 million phone calls.

As always, the operators are handling the calls with their usual professionalism and courtesy. They are an outstanding group of people. They have my thanks and respect.

From Republican Senators we canvassed last night, 80 percent of the phone calls coming in were opposed to the package. We think that is probably a pretty good indication that people do not like $260 billion in taxes. In this bill we are going to vote on maybe tomorrow, in the first year—I do not think it is disputed—there are $30 billion in new taxes and not one dime in savings; $30 billion to zero. So when you vote for this package, you know for the first year you are going to increase taxes $30 billion and not cut spending one dime.

OBSCURING THE CLINTON TAX PLAN

Mr. DOLE. Mr. President, as I indicated earlier, the taxpayer-funded White House boiler room has the fog machine running full blast, blowing its smoke all over Democrats in Congress, the media, and the American people to obscure how bad the Clinton tax plan really is.

What the White House spin doctors are not telling House and Senate Democrats is that a vote for this package is a sign of courage. They may be right. Trying to explain to your constituents why a political victory for the President is more important than doing what is best for the people you represent will take a lot of courage. A lot of House and Senate Democrats probably are not feeling very good this week, suffering from all the White House arm twisting, but no spin doctor can make them feel better about their votes for this package.

A lot of them are in for some real headaches, too, when they try to explain their votes to job-creating small business men and women who are going to be hit by the Clinton retroactive tax increase. It is no wonder that only one-third of American people in the latest CNN–USA Today poll want this plan to pass.

That is one-third.

Mr. President, we finally got to see the final Clinton plan only last night, all 19 pounds 12 ounces of it, and I think it is time to clear away the fog and set the record straight.

This is the largest tax increase in world history, even when you exclude user fees, which are tax increases. Almost everybody looks at them as tax increases.

The White House wants us to believe that retroactive tax increases happen all the time; that somehow that makes theirs look better. They are so desperate to divert attention from the Clinton retroactive tax rate increase that they put out a list, as I said, of retroactive tax increases going way back to 1917 and World War I, which clearly shows that most, if not all, of them were temporary wartime surtaxes as opposed to the President's permanent peacetime tax rate increase.

And keep that difference in mind, tax rate increase.

If there is one issue that has people calling my office hopping mad, it is this retroactive tax increase. They do not think it is fair and they do not like it, whether hit by it or not.

And keep in mind, as I just said earlier, we do not know what the reaction of all the States is. Are they all going to have retroactive tax increases, too? How much more is that going to cost the average American small business man or woman.

In fact, some legal experts argue that retroactive tax increases are unconstitutional, violating our Constitution's article I, section 9, clause 3, which states that no ex post facto laws shall be passed. Here is one where even the Russians are ahead of us. Article 57 of their draft constitution specifically bans retroactive tax increases.

Now, we know it is not a $500 billion package; it is only about $420 billion, and a lot of that is not real. So it is not even close to the $500 billion claimed by the President. And it seems to me that we only cut net spending $4.3 billion in 1995; it is zero in the first year, so in the first 2 years taxes go up about $75 billion and spending cuts amount to about $4 billion, so we are going to see a loss of a lot of jobs.

I ask unanimous consent to put in the RECORD, and then I will conclude, an editorial today in the Wall Street Journal about the "Tax Bill Retroactive, Unconstitutional," by Stephen C. Glazier, and also on the so-called gimmick, the trust fund gimmick, which is the biggest fraud in town right now, and that is another piece that appeared in the Wall Street Journal by Daniel J. Mitchell of the Heritage Foundation. Also, there are a couple articles in the Los Angeles Times, one entitled "Will California Vote To Cut Its Own Throat," and they talk about this terrible package and how bad it is going to be for California. And another one, "Deficit Deal Carries Seeds of Contraction," another Los Angeles Times column.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Aug. 5, 1993]

TAX BILL: RETROACTIVE, UNCONSTITUTIONAL . . .

(By Stephen C. Glazier)

As this page went to press, the new budget bill was heading toward passage by Congress. Yet the bill contains provisions that are unconstitutional because they are retroactive. These retroactive provisions need to be debated and corrected. If they are not, and the bill becomes law, we can expect taxpayer litigation to overturn the provisions.

Specifically, the bill contains tax provisions that would raise income tax rates and certain estate tax rates retroactively to Jan. 1 of this year. Yet Article I, Section 9, Clause 3 of the Constitution says that "no . . . ex post facto law shall be passed." The Founders' purpose here was to ensure that laws are general and prospective, rather than specific and retroactive.

Specific, retroactive laws tend to look more like judgments and penalties from juries than like legislation in the national interest. Retroactive laws also would allow a new party taking power after an election to, in effect, legislate history—to undo the past of its opponents. Indeed, the current budget has the flavor of a partisan effort by a new party in the White House to "repeal the decade of greed," i.e., punish the taxpayer for 10 years of economic growth during Republican administrations.

SAME OLD CONSTITUTION

The nation's courts have long wrestled with the issue of retroactivity. An 1878 Supreme Court case, Burgess v. Salmon, looked at taxes specifically. In that case, a tax increase on tobacco sales was signed into law on the afternoon of March 3, 1875. The court refused to apply the increase to a sale that took place on the morning of that March 3, saying that the (retroactive) imposition of the increase on a sale that took place before the president put pen to paper would subject the taxpayer to a "criminal punishment or penalty [in the amount of the increase]" that would be an ex post facto law. The court went on to say that if the case had been brought by the government as a criminal indictment for violating the tax law, then it would be even more clearly an ex post facto problem.

The Constitution hasn't changed on this issue, but the courts and Congress unfortunately have. In this century, with the invention of income tax and the growth of government intrusiveness, the courts have tended to limit the ex post facto concept mostly to the area of criminal law. Particularly in the case of income taxes, some retroactivity has been allowed. This budget bill's retroactive income and estate taxes, however, go beyond even these new stretched rules.

The more modern cases have allowed some retroactive tax increases but limited them by requiring specific prior notice to the taxpayer. (This is a simple application of the Constitution's procedural due process protection). Specifically, these cases tend to look at the notice of the proposed change that the taxpayer received. If the Senate or House had bills in debate detailing the tax increase by a given date, then, it is argued, the taxpayer still had enough notice to plan his affairs.

But even such stretching of the retroactivity rules has not to date applied to transfer taxes, such as estate taxes. In a 1927 case, Nicols v. Coolidge, the Supreme Court struck down a retroactive estate tax. The court said that such a law "is arbitrary, capricious and amounts to confiscation" and therefore violates the Constitution. In Untermeyer v. Anderson, a 1928 case, the Supreme Court struck down a retroactive gift tax. Both taxes were found to be unconstitutional violations of due process. The idea is that no one can properly plan his affairs if actions today can be affected somehow by future law.

Of course, any person who wrote his will in January 1993 planned according to current law. If that person died before August, he could not possibly change his will to accommodate the new law. One practical effect of the current estate tax proposal is that certain wills drafted before August—wills for people who have died this year—may fail to allocate the inheritance among the deceased's children equally—despite the intent of the deceased—because of Congress's attempt at law by surprise. Shirley Peterson, a former commissioner of internal revenue, documented this recently in the New York Times.

In this century, Congress has not succeeded in passing a retroactive estate tax increase. This despite efforts such as those struck down in Nichols. Yet this year, Congress is even proposing to tax the dead retroactively.

Under this century's precedents, income tax increases (as opposed to estate tax increases) may have some retroactivity, but not as much as this bill's authors desire. In the 1981 case U.S. v. Darusmont, the Supreme Court upheld retroactive 1976 increases in the minimum tax and discussed notice requirements. But in that case, the court found that the taxpayer had notice because the specific changes were found in Senate and House reports that appeared prior to the date the law went into effect.

Discussing the same notice test in 1984 (PBGC v. Gray & Co.), the Supreme Court upheld a retroactive pension law on employers. The retroactive law was designed to prevent employers from taking advantage of lengthy legislative processes and withdrawing from covered pension plans while Congress debated the change. But both the cases set a modern limit to retroactivity for income-tax increases. That limit is the date that the specific increase was first proposed in Congress.

On Jan. 1, the taxpayer had no such specific notice of the tax increases that the president and Congress are currently proposing. Indeed, on that date most Americans were still waiting for the famous "middle-class tax cut." Not until Feb. 17 did the president give his "Jim Florio" speech making it clear that he was going to raise taxes. Looking at the precedents, even that is not enough to provide specific notice. The effective notice could not have happened until April 8, when the language of the budget was actually proposed. This tax-by-surprise leaves the taxpayer in a tight spot. We have been living within a budget and spending money from paycheck to paycheck, based on our take home pay with a certain rate of withholding. Now Congress contemplates telling us that we have spent too much money and next April we must find the extra cash to pay extra taxes that we did not know about.

CONGRESSIONAL RESEARCH

Congress's own in-house law firm, the Congressional Research Service, has even supported this analysis of the notice requirement. In a 1986 report to support the retroactive tax increases of that year, CRS lays out the notice test for due process but argues that the 1986 increases passed muster because their effective date, although retroactive, was after the increases were first proposed in writing in Congress. But the current budget bill fails this test described by Congress's own lawyers. Clearly, this Congress doesn't care who says what about the Constitution, when it comes to taking more of our money.

It is impossible to predict reliably the outcome of any case that might go before the Supreme Court. The larger issue here, though, is not economic or legal—it is political. This type of unconstitutional legislation is the norm that will continue until the current majority of Congress is removed. Self-satisfied incumbents in Washington might like to take a look at the current draft of the new Russian constitution. That document's own Article 57 states that "laws introducing new taxes . . . are not retroactive." It seems that, in this instance, Boris Yeltsin may have more respect for the U.S. Constitution than the majority of our own House of Representatives.

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* * * AND MARRED BY TRUST FUND GIMMICK

(By Daniel J. Mitchell)

In his nationally televised speech Tuesday night, President Clinton resurrected his idea for a deficit reduction trust fund. Introduced earlier this year but quickly put aside after attracting widespread derision, the trust fund allegedly will "guarantee" deficit reduction by placing new tax revenues in a special account where they cannot be spent. In reality, however, the fund is a gimmick designed to give skittish Democrats—such as Arizona Senator Dennis DeConcini, who announced yesterday that he would finally support the President's budget—an excuse to vote for an unpopular tax bill.

The trust fund, created by an executive order that was signed by the president yesterday, does not change projected levels of government borrowing. Nor does it alter any government spending programs or change projected levels of tax receipts. Indeed, Alice Rivlin, deputy director of the Office of Management and Budget, openly confessed earlier in the year: "I don't think it affects anything. It's a display device." Robert Reischauer, director of the Congressional Budget Office, also admitted that the proposal was a sham.

The actual purpose of the trust fund is clear. The president has been desperately seeking at least one more vote in the Senate to offset the defection of Oklahoma Democrat David Boren. The White House focused on Mr. DeConcini, accurately believing that the Senator would switch his vote and support the record tax hike as long as he had a way to justify a pro-tax vote to the antitax, anti-Clinton voters of Arizona. Thus the trust fund proposal was pulled off the back burner.

Oddly, the administration's own numbers provide evidence that the trust fund is a hoax. According to OMB figures, adoption of the Clinton budget will result in a deficit of more than $300 billion by 2001—at least $15 billion higher than it is today. It does not take a rocket scientist to figure out that if the deficit in the future is higher—after the tax increase—than it is today, it must mean that every single penny of additional tax revenue will go to new spending.

When confronted, White House officials admit that these numbers are true. In the fine tradition of Washington budget math, however, they still argue that the trust fund is real since it will measure how much worse the deficit would have been if taxes were not raised at all. This logic may not make sense to people outside the Beltway, but it is par for the course in a town that defines a spending cut as something that happens whenever lawmakers increase spending by less than previously planned.

Even using Washington's twisted definitions, however, the trust fund is a fraud. The trust fund may measure how much of a given year's tax revenue is due to this year's tax increase, but that is not the same as measuring whether the deficit is smaller than it would otherwise have been. The trust fund, for instance, for instance, will not calculate how much new spending is triggered by the expectation of additional revenues. And this omission is more than a technicality: A Joint Economic Committee study found that every $1 of increased taxes between 1947 and 1990 was associated with $1.59 of new spending.

Nor will the trust fund measure changes in the tax base that are attributable to this year's tax increase. If, as almost every independent economist and forecaster predicts, the tax increase dampens savings and investment, slows economic growth and destroys jobs, the government will have a smaller pool of income and wealth to tax. Moreover, it is widely agreed that such dramatic increases in tax rates will encourage behavioral responses that lower taxable income even further. The administration, naturally, does not plan to include these offsetting revenue losses in its trust fund calculations.

Mr. Clinton's trust fund gambit is especially amusing given his harsh attacks on the "taxpayer check-off" endorsed by President Bush during last year's campaign. Mr. Bush's proposal would have allowed taxpayers to dedicate up to 10% of their income-tax liabilities to a "public debt reduction trust fund." At the same time, it would have mandated across-the-board cuts in government programs equal to the total amount of money taxpayers dedicated to the fund.

Mr. Clinton called the proposal a gimmick, but the CBO estimated that a taxpayer check-off would indeed result in savings. The actual amount, of course, would vary depending on the level of taxpayer participation, but CBO estimated that the proposal could lead to a budget surplus in as little as seven years.

If Mr. Clinton were really interested in deficit reduction, he would trash his phony trust fund and endorse the taxpayer check-off. Unfortunately, his track record does not give much reason for hope. One of his first acts as president was to suspend the Gramm-Rudman deficit reduction requirements, thus throwing out a chance to get more than $60 billion of guaranteed spending cuts over the next 2 years.

With a whooping tax increase in the offing—an increase in no way justified by Mr. Clinton's trust fund ploy—the evidence is mounting that the Clinton years will be a dark age for the American taxpayer.

[From the Los Angeles Times, Aug. 5, 1993]

Will California Vote to Cut Its Own Throat?

(By James P. Pinkerton)

Californians should be calling the tune on the "deficit reduction" bill scheduled for a vote in the House today. The Golden State produced nearly one-third of Bill Clinton's popular-vote majority last year. Three senior members of the Clinton economic team—the director of the Office of Management and Budget, the chairman of the Council of Economic Advisers and the special trade representative—are Californians. Its congressional delegation, the largest for any state in U.S. history, includes two Democrats in the Senate and 30 in the House.

Yet, the tax provisions of the bill will make California the big loser if it passes. Californians file about 12% of all federal tax returns, but with the new higher income-tax rates, they would pay 16% of the increased tax bill. That's an extra $40 billion sucked out of the state economy over the next five years.

Other states aren't hit as hard by the Clinton tax package. For example, Arkansas. Data from the spring, 1993, Statistics of Income Bulletin, published by the IRS, are revealing. Although Razorbacks filed 0.85% of 1991 tax returns, we can extrapolate, based on reported income, that they will pay only 0.4% of the new tax. Put differently, Californians file about 14 times as many returns as Arkansans, but they will be paying nearly 40 times as much of Clinton's tax increase.

Nobody blames Arkansans for looking out for their kinfolk. What's mystifying is why Californians would want to help them. To their credit, all 22 California Republican congressmen voted "no" in the first legislative go-round on the Clinton package last May, but their votes were swamped by California's Democrats. Both Sens. Barbara Boxer and Dianne Feinstein voted for Clinton's plan, as did all but two Democratic members of the House.

Californians can thus claim the dubious distinction of being largely responsible for the Clinton program getting this far: It passed by just six votes in the House, and by one vote—Vice President Al Gore's tiebreaker—in the Senate.

Ah, but the tax increases only hit "the rich," Clinton supporters say. Compared to the rest of the country, a lot of struggling Californians are "rich." California's per capita income is substantially higher than the national average, even if its ranking is heading south. However, the cost of living is also higher—something the tax bill doesn't take into account. Consider housing costs: According to the National Assn. of Home Builders, California has seven of the 10 "least affordable" housing markets in the nation. In Los Angeles, even after the real-estate slump, the median price of a home is 70% above the national median. Real estate in Orange and Ventura counties is even more expensive.

As if California didn't have enough problems, here comes Bill Clinton, wanting to open a vein in the California economy and drain away more purchasing power. Few rich people stash their money away in mattresses. They spend it—on the rest of us. We sell them everything from cars to clothes to newspapers. So it's hard to see how working Californians will be better off with $40 billion gone from circulation on the West Coast. Gov. Pete Wilson, who knows something about raising taxes and further damaging a weak economy, predicts that the Clinton package will cost 359,000 jobs a year.

So what does the California delegation do with its Washington clout? Not much. The Times reported last week that Feinstein helped win a $366-million tax break for real-estate developers. Great. So now a few big campaign contributors get taken care of, while the state's cash flow to Washington is reduced from $40 billion to a mere $39.6 billion. Meanwhile, changes that could really help California are ignored, such as an across-the-board, inflation-adjusted capital-gains tax cut to spur high-tech investment and entrepreneurship.

The only possible argument for the Clinton program is that California's sacrifice is necessary for the long-term fiscal health of the country. But the Clinton budget will raise annual spending another $300 billion by 1989. All the wasteful programs you've read about—the honey subsidy, the mohair program, the space station—have survived.

As an added kick in the teeth, the income-tax increases will now be retroactive to Jan. 1. So this December, when retail stores—and the people who work in them—are hoping for a big holiday shopping season, the crowds will be thinner as "the rich" lay money away until April 15, to pay for Uncle Sam's bees, goats and military-industrial complex boondoggles.

Deficit Deal Carries Seeds of Contraction

(By Robert Kuttner)

Let me crawl out on a limb and forecast that, for all the fanfare and editorial praise, the slaying of the deficit will not ignite a recovery. By raising taxes and cutting taxes, the deficit-reduction deal reduces purchasing power by $80 billion next year alone. This contraction will dwarf the tonic of lower interest rates.

Earlier this year, the Federal Reserve Board did cut rates. Despite that, the economy grew at less than 2% in the first half of 1993. The Fed's Open Market Committee has voted twice in a row—in May and July—against further monetary easing. And Fed Chairman Alan Greenspan has said that he expects rates to move slightly upward, not downward.

So there is nothing on the horizon to suggest anything other than a continuation of slow growth, stagnant purchasing power, insufficient investment and a relatively jobless recovery.

The Clinton Administration's economists are aware of this. All three members of the Council of Economic Advisers strongly favored the stimulus part of the President's original program, blocked by a Republican filibuster last March. In recent months, the council has steadily revised downward its forecast of economic growth.

With only one exception, the Clinton budget is surprisingly conservative. It reduces most categories of social spending, appropriates slightly less money for research and public investment than the last Bush budget and accepts the conservative shibboleth that deficit reduction is paramount. The budget is resolutely progressive only in the manner in which it raises taxes—on the rich.

The President also made a tactical decision that this would be a Democrats-only budget. It was devised and brokered virtually without Republican consultation.

With this budget, Clinton has set himself a political trap. If (when) the economy fails to revive, the Republican opposition will remind voters that virtually every GOP legislator voted nay.

Why did Clinton embrace this approach? There are four basic reasons.

The albatross effect. People view the deficit as an economic albatross and failure to slay it as a political default. That conventional view may be wrong, the White House concluded, but it is a political fact. Even if its hazards are overstated—even if deficit reduction slows the economy—better to get it out of the way early.

Winning beats losing. A new President with a shaky mandate above all needed to demonstrate resolve and leadership. Passing a budget—even one at odds with many of Clinton's own priorities—was necessary to end the public frustration with legislative deadlock.

Preempting Perot. Ross Perot, representing 19% of the electorate, defined the deficit as the central economic and political test of the new Administration. By accepting that definition, Clinton hoped to woo Perot voters.

The cheap-money cure. In Clinton's first months, he was urged by his own deficit hawks to make deficit reduction paramount. These advisers predicted that a commitment to cut the deficit would be rewarded with low interest rates. When rates did come down during the first quarter, Clinton became a believer.

But was this the only possible course?

Downplaying deficit reduction might well have left the President better positioned, politically and economically. Rather than taking it as a given, Clinton could have challenged the conventional view.

Clinton could also have attacked Perot, whose arithmetic cannot withstand serious scrutiny. Instead of using every ounce of his influence to pass a contractionary budget, he could have pressed for one that promised higher growth.

At 54% of gross national product, the national debt is lower today than it was during most of the post-World War II boom. If the economy of 1945–1973 could grow despite a much bigger relative debt load, today's lower debt need not be disabling. It is desirable to keep the debt from continuing to increase faster than GNP, but that requires only a deficit cut of about $350 billion over five years, not $500 billion (assuming that less deficit reduction yields higher growth).

Passage of the budget will temporarily enhance Clinton's image. But those gains will quickly fade when the economy fails to recover. Then he will need to revive the idea of a big stimulus program, aimed at higher public and private investment, relying on federal borrowing (and temporarily swelling the deficit).

Such a policy reversal would be even more awkward than others in recent memory, since the President has spent the entire season explaining what a monster the deficit is. But it would bring him back to his original position, which is better economics and wiser politics.

Weak Rating for Clinton Linked to Broken Vows

(By Paul Houston)

WASHINGTON.—President Clinton's approval rating remains weak, at 39%, largely because many people believe that he breaks his promises and cannot get things done, according to a poll released Wednesday by the Times Mirror Center for People and the Press.

Nevertheless, most Americans perceive Clinton as a warm, friendly person who is well-informed and say that it is too early to determine whether his presidency ultimately will be a successful one.

Relatively few can cite any Clinton accomplishments, although support for his economic plan and his handling of foreign policy and trade issues is fairly strong and up slightly from previous polls. In sharp contrast, there is clear disapproval of the President's decision to ease the ban on gays in the military.

Pollsters interviewed 1,203 adults nationwide by telephone from July 29 through Aug. 1. The margin of error was plus or minus 3 percentage points. The survey was sponsored by Times Mirror Co., which owns the Los Angeles Times and other newspaper, broadcasting and publishing enterprises.

"The public doubts Clinton's abilities but still reserves judgment," said poll director Andrew Kohut.

The survey found that only 39% approve of Clinton's job performance, while 46% disapprove. Although the President's approval rating jumped about a dozen points after the June 26 attack on Iraqi facilities in Baghdad, his latest rating has returned to the level of early June. But the jury is still out on Clinton long-term: 60% think it is too early to judge the success or failure of his presidency.

The public overwhelmingly considers the President warm and friendly (87%) and well-informed (63%). At the same time, a majority does not think that the President keeps his promises (53%) and does not believe he can get things done (54%). The public is also evenly divided on whether it thinks he is well-organized.

Support for Clinton's economic program stands at 46%, with 37% opposed. The support is up from 42% in early June. Fifty-two percent approve of his foreign policy (up from 49%) and 49% approve of his handling of trade issues (up from 36%).

The poll also gauged the public's news interest this summer. The Midwestern floods commanded the greatest audience and was on a par with such previous big stories as the Persian Gulf War, the first Rodney G. King trial and the San Francisco earthquake. Almost two of three Americans said that they were following the saga of rising waters and breached levees very closely.

Coverage of gays also drew a wide audience, with 44% saying that they followed very closely Clinton's decision to relax the ban on homosexuals in the service.

However, the press was most criticized for its coverage of this story. Fully 24% said that the issue received too much coverage, a complaint level three times higher than for any other story of the period.

Mr. DOLE. So, Mr. President, I would just say there is still time for my colleagues to take a hard look at this package, and I think the closer the look the more difficult it is going to be. It is not a $500 billion package. It is a $2.13 tax increase for every dollar in spending cuts. And we also find that we have a waiver to exempt the State of New York from provisions of the ERISA law. We have a $215 million downpayment for the spotted owl. This waiver in New York is going to cost $221 million.

We do not know how many deals were made in this package. We do not know how long it is going to take to sort through it, but we are going through it ounce by ounce, inch by inch, and we hope to have more facts later in the day.

Mr. President, I reserve the remainder of my time.

Mr. NICKLES addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I ask unanimous consent to proceed as if in morning business.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

BUDGET RECONCILIATION

Mr. NICKLES. Mr. President, I wish to compliment the Republican leader for his statement, also for his leadership in letting the American people know some of the facts about this tax bill which is now pending before Congress that is going to be voted on probably in the House today and by the Senate tomorrow.

I will also maybe make apologies to some of my constituents because I talked to one today who said they had been trying to get in for about an hour and the phones are busy.

I am pleased that the Republican leader asked people to notify their Members of Congress, and he mentioned about 80 percent were in opposition to this package. I asked my staff for the latest tallies, and it is more like 90 some percent—12 to 1 for one day's calls and over 90 percent the other day—9 to 1. One was 10 to 1; one was 12 to 1—amazing response, and overwhelmingly in opposition to the retroactivity of this package. People are really offended by the fact that Congress would try to pass a law and make it effective to raise peoples taxes going all the way back to January 1. That was before President Clinton was even sworn in.

One of my constituents suggested that we make the election retroactive back to November 1, and then maybe we could have a different result. I certainly think if candidate Bill Clinton had campaigned on the package we are going to be voting on, he would not be President today; he would still be in Arkansas, because candidate Bill Clinton campaigned against the gasoline tax increase. And this package has a gasoline tax increase. As a matter of fact, he made that statement in his book "Putting People First." In putting America first he was against the gasoline tax increase. He said so in his book. He said so in the campaign. But it is in this bill.

He said he wanted to help senior citizens, but in this bill there is a big tax on the senior citizens and not senior citizens that have income above $180,000. And I know I have heard repeatedly no American who has income less than $180,000 will have their income taxes increased. That is not correct. Senior citizens who have income, who have Social Security income and their income is above $30 some thousand are going to have a tax increase to the tune of about a $100 per month. So that is pretty significant.

Mr. President, the details are just now coming out, and I think it is important. Senator DOLE alluded to a couple of those details. Let me comment on those, and then I will submit these for the RECORD. I hope all of our colleagues will have a chance to look at some of these facts before we vote on the package. Maybe it will not change their vote. I know many of our colleagues are already committed one way or the other. But they should know the facts.

In 1994, the total taxes and fee increases, $31.7 billion. The total spending cuts, nil—maybe $100,000, $0.1 million; 1995, the total tax and fee increases in 1995, $45.9 billion; the total spending cuts, $4.3 billion. In 1996, the net new taxes and fees, $52.1 billion, the spending cuts $19.6 billion.

Mr. President, if you add those three years together, that is $129.7 billion in new taxes and fees for the first 3 years and only $24 billion in spending cuts. That is a ratio of $5.40 in taxes for every dollar of spending cuts in the first 3 years. As Senator DOLE said, no spending cuts the first year. And I hate to say this but as a result of the action that we have had yesterday in passing the urgent supplemental for flood relief, we are going to have a lot of spending that is not in the budget. Therefore, there is no savings. We are going to increase spending next year so there is no savings whatsoever, no spending cuts in 1994—none, zero.

If you add the 3 years together—the reason why I use the first 3 years, that is, 1994 through 1996, those are the years President Clinton will still be President. That is what really counts. What about 1997 and 1998. I include those years as well. And incidentally, that is where 80 percent of the spending cuts will happen, is in 1997 and 1998. And so I include that for the RECORD. And if you add all 5 years you see it has total taxes and fees for the 5-year period of $255.3 billion in new taxes, and $119.6 billion in total spending cuts—again a ratio of over 2 to 1 if you give credit for the 5 years.

Mr. President, I just mention this because I think it is important that people know the facts. Also, I might mention, Mr. President, the total of that is $427.5 billion—not $496 billion, $427.5 billion. In summary, that is $240 billion in taxes, $14.7 billion in user fees, spending cuts through reconciliation—in other words, the bill we have before us—$64.6 billion, spending cuts in appropriations—that is in the so-called caps—$65.9 billion, and increased spending of $10.7 billion, for a net spending reduction of $119.6 billion.

It assumes interest savings of $52.6 billion, I tell my colleagues, for a total deficit reduction package of $427.5 billion. Again, not $496 billion, and again, all the taxes are hitting now; some taxes are retroactive. I happen to believe it may be unconstitutional, and Senator DOLE entered into the RECORD an article from the Wall Street Journal today dealing with that.

Mr. President, I have an editorial that was in the Daily Oklahoman called "Ex Post Facto." It says the Constitution of the United States is quite clear. "No bill of attainder or ex post facto law shall be passed (Article I, section 9.)"

It goes on and gives an explanation through the history of this article in the Constitution. I will read the last couple of paragraphs.

It says:

> Americans have a fundamental right to know what the law is at any given time. To change the rules after the fact is absolute tyranny.
>
> So arrogant are Congress and this administration, that they think they can with impunity trample underfoot any constitutional right of the taxpayers.

It says:

> Any Oklahoma Senator or Congressman who votes for ex post facto law should be returned to private life post haste, which literally means, according to Webster's, "with great speed." Like at the next election.

Mr. GREGG. Will the Senator from Oklahoma yield for a question?

Mr. NICKLES. Yes.

Mr. GREGG. As I understand this retroactive tax and its relationship to the Constitution and ex post facto law, the ex post facto law language of the Constitution that has been upheld as applicable where a criminal prosecution occurs.

Now, of course, if you do not pay your taxes because you could not afford them, or because for some other reason, you simply are not able to pay this new retroactive tax, you are going to be subject to criminal prosecution. So what you are setting up here essentially is a criminal prosecution ex post facto, which theoretically will be illegal under this proposal.

Mr. NICKLES. I think the Senator makes an excellent point and one that undoubtedly will be tested in court. I think it is quite likely that this portion of the bill, if not the entire bill, could be thrown out on constitutional grounds.

Mr. GREGG. I thank the Senator.

Mr. NICKLES. I might also mention that in this editorial it defines ex post facto and, according to Webster's, it means: "Enacted, formulated, or operating retroactively as a law."

So, Mr. President, again, I compliment my colleague from New Hampshire and also my colleague, Senator DOLE, for exposing this provision. I repeat that this provision was not in the Senate bill. I remember when this passed in the House bill, many colleagues in the Senate said, "We are going to fix that because that is wrong; that is not fair." I know that President Clinton, the other night in his address, said, "This is a fair tax bill." But this provision is not fair. It is not fair in any way.

Mr. President, also, Senator DOLE urged constituents to contact Members of Congress. I hope they will do so. He also gave the number of the Capitol, 202-224-3121. I hope people will take advantage of their right to contact Members and let them know what they think about this tax bill which, in my opinion, is not fair, and in many cases it is going to put people out of work and probably stifle if not suffocate the economy.

I yield the floor.

Mr. SIMON. First, I take 1 minute, while my friend from Oklahoma is still here, I heard his eloquent speech, if I may have his attention. I heard his eloquent speech against retroactivity. I happen to think it is not sound policy, though I think on balance the budget reconciliation bill is needed by the Nation, and I am going to vote for it. But I do not remember the Senator from Oklahoma or the minority leader speaking against retroactivity when we had the 1986 tax bill up. I was one of three to vote against that 1986 tax bill. That side was audibly silent when it came to that issue in the 1986 tax bill.

Since I just have 5 minutes here, I am going to take my 5 minutes, and then I will let the Senator from Oklahoma get the floor.

Mr. NICKLES. I might mention that I voted against the 1986 tax bill as well, and if there were taxes in 1986 that were retroactive, certainly that was wrong.

Mr. SIMON. It was a major feature of that bill.

EXECUTIVE SESSION

The ACTING PRESIDENT pro tempore. The Senate will return to executive session and resume consideration of the nomination of Joycelyn Elders to be Medical Director of the Regular Corps of the Public Health Service.

NOMINATION OF M. JOYCELYN ELDERS, OF ARKANSAS, TO BE SURGEON GENERAL OF THE PUBLIC HEALTH SERVICE

The assistant legislative clerk read the nomination of M. Joycelyn Elders, of Arkansas, to be Surgeon General of the Public Health Service.

The Senate resumed consideration of the nomination.

Mr. KENNEDY. Mr. President, just briefly, as we mentioned last evening, we had an opportunity—a number of us that were on the committee and otherwise—to make the presentation in support of Dr. Elders. There were some who have expressed opposition, and spoke in opposition and indicated that they wanted to speak at greater length about that. We are grateful to the majority leader for giving us a chance to do that during the course of the day.

I know there will be other business that will be coming up. The matter that my good friend from Illinois will speak on is a matter I am enormously interested in. I hope our colleagues will help us to bring the focus and attention of the Senate today on the excellent qualifications of Dr. Elders and the compelling reasons why she should be confirmed.

Mr. SIMON addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Illinois.

Mr. SIMON. Mr. President, I ask unanimous consent to speak as in morning business for 5 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Illinois is recognized.

Mr. SIMON. I thank the Chair.

(The remarks of Mr. SIMON pertaining to the introduction of S. 1361 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

EXECUTIVE SESSION

NOMINATION OF M. JOYCELYN ELDERS, OF ARKANSAS, TO BE SURGEON GENERAL OF THE PUBLIC HEALTH SERVICE

The Senate continued with the consideration of the nomination.

Mr. SIMON. Mr. President, I would like, if my 5 minutes is used up, to proceed to the business at hand just very briefly: The nomination of Dr. Elders for Surgeon General of the United States. I wish all of our colleagues could have been here on the floor last night when Senator KENNEDY and Senator MIKULSKI spoke about Dr. Elders' background. One of eight children growing up in a three-room house, she did not see a physician until she was a freshman in college. She recalls that on two occasions when her mother had complicated childbirth experiences, and they had no medical attention for any of those eight children. They were born in their home. She tells about when her brother was 4 years old and had a ruptured appendix and was taken in great pain by a mule 10 miles to a physician. But more than that dramatic background is I sense in her a forthrightness that I think will be great as Surgeon General. It reminds me of Surgeon General Koop, frankly.

I think she will perform a great service for the Nation. I do not expect that I am going to agree with her all the time. I do not expect Senator KENNEDY will or Senator NICKLES or Senator FEINGOLD or anyone else here is going to agree. But she will be forthright. And I was pleased to see the letter from our two colleagues from Arkansas, Senator BUMPERS and Senator PRYOR, strongly endorsing her nomination.

Let me add one other point that I learned last night in the course of the discussion on Dr. Elders. She went to college and became a physician, and an outstanding physician, because the United Methodist Church had a scholarship for her and made it possible. A church group reached out and said we are going to have to make opportunities for people and grabbed this young lady of great mind but hardly any resources and made an opportunity for her. I do not happen to be a Methodist. But I think when churches and synagogues and mosques and whatever the religious affiliation or the whatever the charitable organization, when they reach out and make sure that we have opportunities for talented people, they do a great service to the Nation.

So Dr. Elders' nomination is not only a tribute to her parents and to her ability and to her family, she is a tribute also frankly to the United Methodist Church. I have not the foggiest idea who may have seen that opportunity and seen what potential this fine young woman had to make her a great physician. The Nation is going to be benefited by that.

I am pleased to support her nomination.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, Mr. President, I cannot yield the floor to my colleague but I am willing to give up the recognition and allow the Chair to recognize the distinguished Senator from Oregon.

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Mr. President, I want to thank my colleague from Arkansas. Like everybody on this floor, I am no exception. We have our schedule too tight at times. The managers have made this 11:30 a.m. slot available. I am very grateful to them.

Mr. President, when I introduced Dr. Elders at her recent confirmation hearing, and I think the circumstances of that, the reasons why I was invited to introduce her are important to note at this time because both Senators from Arkansas on the floor at this time, Senator BUMPERS and Senator PRYOR, had to be called to the memorial services for Mr. Vincent Foster of Arkansas on the day that her hearing had been scheduled; and having to go to pay their respects in that terrible tragedy. Dr. Elders having visited my office the day prior—and I had indicated to her my enthusiasm for her appointment and asked if there was anything further I might do at some point in time. She called me that evening and asked me if I would participate in her introduction to the committee, which I was pleased to do.

I said to the committee at the time, Mr. President, that I had been infected by a number of viruses that Dr. Elders brought into my office—her enthusiasm, her vision, and her hope—because she truly is a contagious personality. I must reiterate that great attribute that she possesses.

As a former Governor, I have often said that I support the authority of the chief executives to appoint their cabinet and sub-cabinet offices, and I feel the President should have this same discretion. And throughout my Senate career, I have voted for many liberal and many conservative nominees because I felt that if the candidate was qualified, the Senate should consent to his or her nomination.

In this case, Dr. Elders has proved that she is not only charismatic in personality but she is qualified in every respect to serve as Surgeon General. Dr. Elders is a distinguished medical professor, researcher, and pediatrician. Her credentials and her accomplishments are very impressive.

Starting as a valedictorian from her high school, graduating at the early age of 15, to becoming the director of the Arkansas Health Department, now being nominated as Surgeon General, Dr. Elders has had truly an amazing life.

Her story proves what one can accomplish with determination and love and support of family.

Also as I said in her confirmation hearing, Dr. Elders and I do not agree on the issue of abortion. However, when I raised this with Dr. Elders, she firmly stated "I am not about abortion. I'm about prevention." When asked her views on abortion during her confirmation hearings, Dr. Elders stated:

> I see abortion as a tragedy. My whole effort, the only effort I've made and will continue to make, is really to try and avoid teenage pregnancy. I feel that, if we stop talking about abortion and start putting our efforts on how we prevent unplanned pregnancies, we could begin to make real progress in our society.

I wholeheartedly subscribe to that proposition. I think in fact many people who now so distinctly align themselves as pro choice, or pro life, if we would lower the rhetoric on both sides and sit down and talk about how we can make abortion a moot issue, we would achieve far more, a far greater part of the goal that we both have which may be different and yet much similar.

We only have one pharmaceutical house today in America researching contraception because of the high potential of liability. Yet we need to do more in research to make safer contraception, more preventable pregnancies. It is not that one takes this stand as I do that one is advocating promiscuity, it is simply dealing with the reality of the day in which we live.

I would rather have prevention by safe contraception than to deal with the after-the-fact question of abortion. I would rather have a clear understanding among particularly our young people, an understanding upon which they base their decisions rather than ignorance. That again calls for better education on reproductive physiology.

So these are the part of the common bases on which I feel comfortable in dealing with this issue of supporting the confirmation of Dr. Elders.

I want to also indicate, Mr. President, that I have been on this floor when I have heard speeches, particularly from the Democratic side of the aisle, that bemoaned the fact of Dr. C. Everett Koop being appointed as Surgeon General. It was an outpouring of criticism, the deepest, severest, and sometimes in the most mean words about how we can see a man like Dr. Koop appointed to this position of Surgeon General.

With all due deference to my friendships on the other side of the aisle, I would classify a lot of that as knee-jerk.

But, Mr. President, after the leadership demonstration of Dr. Koop as Surgeon General, from those same people who have been so critical, I heard them stand and praise Dr. Koop and give great commendation to his leadership, to his organizing of the AIDS Commission, and of his forthrightness with raising these issues that have been submerged or ignored for too long about the health of our people.

So I would like to say that from the opposition that may be raised today of Dr. Elders, I am persuaded many of those same people who will raise opposition today, who will raise criticism today, will see the day when they will stand on this same floor and praise Dr. Elders for her leadership, for her balance, and for her great vision for American health and the health of all Americans.

Mr. President, we are facing a health crisis in this country. Everyone in this Senate knows the facts and figures about the rising cost of health care and the number of Americans who have no insurance. These are not simple issues to resolve. That is why we need public health officials like Dr. Elders who understand the benefits of comprehensive health care—it's a continuum of care from birth to death. Dr. Elders is committed to prevention, medical research and education and to assuring adequate health care is available. As I said before, this is her mission, her calling, and I am convinced she will be an effective influence in guaranteeing that all Americans will have access to comprehensive health care.

I encourage my colleagues to examine Dr. Elders' record, to look carefully at her statements and the context in which they were made. Much that has been said about Dr. Elders has been taken out of context. She is a bold advocate with a distinguished career. And, I believe she is qualified to serve in this position. I urge my colleagues to vote to confirm Dr. Elders as Surgeon General of the United States.

I yield the floor, and I thank my colleagues from Arkansas particularly for yielding to me at this point.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Arkansas.

Mr. BUMPERS. Mr. President, I want to extend my profound thanks to the distinguished Senator from Oregon for his very articulate, compassionate remarks and for, as usual, being on the right side of an issue.

Having said that, Mr. President, I ask unanimous consent that I be permitted to proceed for 4 minutes as if in morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE ECONOMIC PACKAGE

Mr. BUMPERS. Mr. President, I just listened to the minority leader a moment ago again saying essentially the same thing he said on national television the night before last about the economic package that we are going to consider tomorrow.

I sometimes wish—I divinely wish I were a Republican. What a joy that must be. Tell the American people in 1981 you are going to cut taxes from 70 percent to 28 percent, double defense spending, balance the budget; then proceed to raise the national debt by $3 trillion in 12 years, deny all responsibility, and fight like a saber-toothed tiger against those trying to deal with the biggest problem this Nation faces, the $4 trillion debt.

Do you think I like that tax bill? Do you think my phone is not ringing off the wall?

If I wanted to play games, I would get up here and make the same kind of pariah speech, playing to people's understandable "no tax" mood, and saying, "Who cares about a $4 trillion debt? I am in the U.S. Senate. I make $135,000 a year, and surely I will be the last one to suffer from the fact that this Nation is on the precipice, the economic precipice."

I do not like retroactivity, in this bill any more than the people do, and I would give anything in the world if we could change that, and perhaps we can. There are so many things in that bill that I could scream about and have people absolutely shouting with applause at my stand. If I wanted to talk about the elderly, who are going to be required, if they make over $44,000 a year, to pay taxes on 85 percent of their Social Security, that would bring people to their feet. Do you think I do not know what is popular? Do you think there is a Member on this side of the aisle that does not know on which side his political bread is buttered?

No, I do not like the retroactivity part of it. Every cab driver in Arkansas thinks he is going to get hit with this retroactivity. But the fact is, only about 1 percent of the people of my State, with the exception of Social Security recipients will pay more income tax and the percentage of Social Security recipients who will pay more is about 8 percent. Other than that, about 1 percent will pay any increase in income tax, and 50 percent of the people in my State, those making under $30,000 per year, will actually pay less.

Of course, every politician wants to be reelected. I said it 100 times. You ask someone when you sit in a coffee shop, what do you think a politician wants more than anything else? Everybody knows the answer to that. He or she wants to be reelected. What is the best way to get defeated the next time you run? Vote for a tax increase.

So why are 50 Senators willing to stand up and do the politically unpopular thing? Because we are in dire jeopardy as a Nation.

Everyone in this country who is ringing the phones off the wall of every Member of Congress thinks he or she is going to pay this bill. Most of these people are going to see their taxes go up between $12 and $30 a year. But every one of them have been convinced they are the target of those tax-and-spend Democrats.

I am going to vote for it. I do not much like the bill. I do not like it as much as I did 2 months ago. But I can tell you, there is one thing more irresponsible than voting against this bill, and that is to do nothing, to ignore the deficit, to ignore the future of our children and our grandchildren.

It is a roll of the dice. I have told the President that. It may work, and it may not. The economic assumptions of this thing may turn out to be as bad as they were in 1990. But I did not come here to fall prostrate in the aisle of the Senate Chamber playing politics when the Nation is in grave peril. We have all done a little of that, but I am telling you when it comes down to the basics, where the future of this Nation is concerned, I hope you do not catch me at it.

What does anybody want to be here for? You tell me, Mr. President? What does anybody want to serve in the U.S Senate for, if all they are going to do is take a poll every time they vote, and the country be damned? People have a right to be wrong occasionally. They were wrong in 1860 about slavery. I come from the South. My ancestors thought slavery was a great thing. I can hardly restrain my passion and my anger about how I feel, and not only about what has to be done, but toward those who absolutely try to thwart every single measure to save this country.

The ACTING PRESIDENT pro tempore. The Senator has spoken for 4 minutes.

EXECUTIVE SESSION

NOMINATION OF M. JOYCELYN ELDERS, OF ARKANSAS, TO BE SURGEON GENERAL OF THE PUBLIC HEALTH SERVICE

The Senate continued with the consideration of the nomination.

Mr. BUMPERS. Mr. President, I came here this morning to say that Dr. Joycelyn Elders' confirmation to be Surgeon General of the United States has gone on too long. It has now become a form of punishment.

If Dr. Elders were not pro-choice, she would have been long since confirmed. Make no mistake about that. And to continue delaying her confirmation is unjustified, cruel punishment of one of the finest women my State has ever produced.

She has answered every question anybody could ask. She has never been charged with anything, no wrongdoing, not even acquiescence in wrongdoing. Yes, she is unabashedly pro-choice.

But think of her background. Senator SIMON said a moment ago that he was not a Methodist. Well, I am. We are on the endangered species list. There are not many of us left.

As a child, I can remember once a year, during the Depression, my father gave us three children a nickel each to take to church, and at the end of the morning service, we walked down to the altar and knelt, and put our nickel there. You know what that was for? That was for a little black Methodist school in Little Rock called Philander Smith.

And because those who followed us put their nickels, and maybe dollar bills down, Joycelyn Elders got a scholarship and went to Philander Smith. She was 15 years old and graduated cum laude in 3 years.

Her poverty, her upbringing is now legendary. Think of where she started, and today, at this very moment, Mr. President, she is the only black female pediatric endocrinologist in America.

She is, admittedly, blunt. If you do not want to know what Dr. Elders thinks, do not ask her. But I was brought up to believe that was an asset. Politicians have a tough time with that. They go from audience to audience trying to shave, hedge, and trim so that each audience thinks they agree with them.

Herman Talmadge, the Senator from Georgia, whom some of us here served with before he left the Senate, used to have an expression about saying things so people could understand. He said, "Dale, you got to throw the corn where the hogs can get to it."

As I said, Dr. Elders does not deal in niceties. And the reason she does not is because the problems she has dealt with are not nice. When you talk about condoms and sex and HIV and teenage pregnancies, those are things that were absolutely unmentionable when I was a child—dirty words. Not AIDS, because we did not know anything about AIDS at the time.

But she does not think you are going to solve the teenage pregnancy problem by ignoring it or admonishing children to abstain. We have been doing that for 2,000 years. And we should continue teaching abstinence, but we should realize the problem is also growing worse.

I remember when Governor Clinton named Dr. Elders to head up the Public Health Department of Arkansas. I thought: Who is this woman? I never heard of her. The next time I saw him, I asked him. And he was glowing with praise of this woman he had got to know. He said, "She is truly one of the most remarkable women I have ever known."

I got to know her through my wife, Betty, because, as everybody in this body knows, Betty has been out on the cutting edge of immunization programs since I was Governor of Arkansas. Two years ago, Betty and Rosalynn Carter teamed up—we, President Carter and I, had been Governors together—to start a program to keep track of every child that is born in America through a registry and make certain that every child is fully immunized against all preventable childhood diseases by age 2. That is where we lose them; usually between 18 months and the age of 2.

And so they started crisscrossing the Nation, going from State to State and talking to Governors and public health officials. And when they finally got to Arkansas, guess what? Dr. Elders already had the system in place; thought of it and implemented it through a grant long before Betty and Rosalynn Carter thought about it.

And so it is with her tenure as head of the Department of Public Health. And that is only one program.

I sometimes wish Dr. Elders were not quite so outspoken, quite so blunt. But I am telling you, we have an expression in Arkansas: You have got to knock a mule in the head with a 2 by 4 to get his attention. And that is the way it is in this Nation. We certainly are not making much progress the other way, are we?

Well, Mr. President, she is articulate and, indeed, charismatic. She is one of the finest role models I have ever known. She is a physician, a biomedical researcher, a public health administrator. She has every quality that anybody could ask for in a Surgeon General. Any President who looked at her résumé would name her in a New York minute.

You know, Senator HATFIELD hit me right between the eyes a while ago, because I was one of those people that did, indeed, vote against Everett Koop to be Surgeon General. And I apologized to him personally later, because he was one of the best.

Do you know why he was? Just like Joycelyn Elders, he threw the corn where the hogs could get to it. He knew what he was saying. You may not agree with the semantics or the bluntness of what he and Joycelyn Elders say, but you cannot deny they are absolutely dedicated to the problems they are trying to deal with.

She will give this country a refreshingly new perspective on all of these issues.

As Senator HATFIELD has already said, the people of this Nation, by the time she leaves that office, will adore her. I support her totally for this post. The truth of the matter is being outspoken is her stock in trade. And I will tell you, it is a trait that we might well emulate around here.

Mr. President, I yield the floor.

Mr. PRYOR addressed the Chair.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Arkansas.

Mr. PRYOR. Mr. President, I thank the Chair for recognizing me this morning. It is almost afternoon now.

We are today considering the nomination of Dr. Joycelyn Elders to be the Surgeon General of the United States.

Let me, if I could, Mr. President, first, before I make my statement, take just an opportunity to thank my colleague and friend, Senator BUMPERS, for his very, very eloquent statement in relationship to this nomination. I want our colleagues in this body to know that I stand four square with him in support of Dr. Elders to be Surgeon General of the United States.

Senator BUMPERS' statement was eloquent. It was, in my opinion, from his heart, and certainly, I think, speaks to the very essence of what this nomination to be our next Surgeon General is all about.

Let me also, Mr. President, take an opportunity now to thank the distinguished Senator from Oregon, Senator HATFIELD, who a few moments ago was on the floor and spoke eloquently in Dr. Elders' behalf. We appreciated so very much, when Senator BUMPERS and myself had to attend the funeral services in Arkansas of the late Vincent Foster the Friday of the hearings for Dr. Elders, that not only did Senator HATFIELD appear before the committee in our behalf, but also our colleague and friend, Senator DAVID BOREN of Oklahoma spoke eloquently for Dr. Joycelyn Elders to be Surgeon General of the United States.

She is eminently qualified for this post, Mr. President. She has distinguished herself as a pediatrician, as a public health official, and as a researcher. She has the support and recommendations of really more organizations and groups than I even knew existed which are dedicated to improving the health of our Nation, and the admiration and respect of those with whom she has worked in the public health and research arenas.

In short, Mr. President, she is the right person to tackle the very, very tough issues with which our Nation's Surgeon General must deal.

I have known Dr. Elders for some time. I have been familiar with her record of public service for some years. I had the privilege recently of meeting with her at length in my office a few weeks ago relative to this nomination process. At that time she and I discussed some of our serious concerns about the health of America, and particularly about the difficult challenges facing our children and future generations. We spoke that afternoon of the serious threats to the safety and well-being of our young people. We spoke of the children born with many strikes against them. We spoke of the children born for whom, today, survival is going to be a very tough challenge.

This discussion led me to dig a bit further, and I must say I was very troubled by what I discovered. Every 35 seconds in our country an infant is born into poverty. Every 2 minutes, an infant is born with a low birth weight. Every 14 minutes, an infant dies in the first year of life. Every 21 seconds a 15- to 19-year-old woman becomes sexually active for the first time. Every 32 seconds, a 15- to 19-year-old woman becomes pregnant in America. Every 64 seconds an infant in America is born to a teenage mother. Chances are 1 in 5 that an unwed teenage mother will become pregnant again within a year of giving birth. Twenty-three percent of America's children today under the age of 6 live in poverty. Homicide is the second leading cause of adolescent death. Every 5 hours in our beloved country a 15- to 19-year-old person is murdered. Every day 135,000 American students bring guns to school. And every day, 30 children are wounded or killed and 10 children die from gun wounds.

This is not Uganda, this is not Bulgaria—this is America. This is our country. And it is happening to us in our neighborhoods, in our communities, in our States, in our country.

Typical American teenagers today spend less than 40 minutes a day alone with their mothers and less than 5 minutes a day alone with their fathers. Every $1 spent on early prevention and intervention can save nearly $5 in costs associated with remedial education, welfare, and crime.

These are cold and hard facts that Dr. Elders has struggled with on a daily basis in our State of Arkansas. Senator BUMPERS has told about how she grew up in poverty, and we all know that story. Senator SIMON has told about the first time she ever saw a physician she was a freshman in college. This is the reality, the reality of the world of Dr. Joycelyn Elders within which she has worked and committed her life. And these are the facts that have instilled in her an even more deep commitment to do what she can and to inspire others into action to work toward the elimination of these facts and to give our young people a chance at healthy, productive, useful and responsible lives.

She is a bold and a clear voice. That voice has been heard and that voice is awakening us, it is shaking us, it is making us talk, it is making us think about the unthinkable; about those consequences to our families, to our communities, to our country and to the very essence of the social fabric of this society where we have ignored, where we have swept under the rug the enslaving cycles of events that eat away at America's family structure and our hope for America's future.

That clear voice that we are hearing out across the land, that we have heard in our own State of Arkansas, belongs to Dr. Joycelyn Elders.

I would like to talk, if I might, for just a moment or two about her record in our State so our colleagues might know what she has done there and what she has not done there, because I think her record, as much as anything else, speaks to her competency, and to her commitment.

During her tenure in our State, total physicians practicing in the primary care field rose 34 percent, as opposed to 27 percent nationwide.

Live births to 15- and 19-year-olds between 1990 and 1991 actually went down in Arkansas from 6,999 to 6,873.

While the teen fertility rates nationwide were increasing at a rate of 18.38 percent, Dr. Elders helped to keep Arkansas' increase to 16.98 percent.

Dr. Joycelyn Elders was able to recruit 17 physicians to rural Arkansas in rural community health centers in 1992 alone.

Health assessments for Medicaid-eligible children rose from 4,186 in 1988 to 45,252 in 1992.

From 1988 to 1992, the number of WIC-eligible infants actually served actually rose from 30,359 to 32,898. For children age 5, it rose from 34,472 to 47,262. And for women the number rose from 23,205 to 41,248. For maternity patients the eligible number in our State rose during her tenure from 11,195 to 14,695.

The percentage of WIC-eligible clients actually served, rose from 36 to 60 percent from 1989 to 1992.

Immunization rates for 2-year-olds rose from 34 to 60 percent from 1989 to 1992.

Immunization rates for school-age children rose from 93 to 96 percent from 1988 to 1992.

The number of student service centers rose in the State of Arkansas during her tenure as public health director, from 1 in 1988 to 24 in 1992.

The percentage of women who did not receive prenatal care in the first trimester decreased from 33.5 to 28.6 percent from 1987 through 1991.

The infant mortality rate decreased from 10.4 to 10.3 percent, and so on.

We can see that the accomplishments of Dr. Joycelyn Elders while in the State as our public health director have been enormous indeed.

This record, Mr. President, as I have mentioned, I think can stand on its own with little need for comment. Dr. Elders has shown herself to be dedicated to eradicating unnecessary and senseless waste of human potential.

Dr. Elders sees a society in very, very deep trouble. She offers solutions to those problems that people do not like to talk about, they do not like to discuss them. Many of her detractors—they have problems, not so much with Dr. Elders' message but with how she says it. But she says what she thinks. That is her trademark. That is her hallmark. And what she says is what she believes.

With Dr. Elders there is no sugar coating, there is no abstract, bureaucratic mumbling. She is the brave person who hears a time bomb ticking and she has the boldness to say that time is running out and we must pay attention.

That is her conviction and that is leadership, the kind of leadership America needs to face down the crisis that challenges our families, our communities and our society today.

I proudly support and endorse Dr. Elders to be Surgeon General of the United States. She will challenge us all to face up to the tough problems, to reach for realistic solutions, and to help America be the very best that it can be.

There has been a great deal of innuendo, a number of charges lodged against Dr. Elders. Hearings have been delayed. Dr. Elders has made every effort, working long hours in recent weeks, to respond with total and full disclosure to the different questions which have been raised, and over 230 questions in 2 weeks have been posed to Dr. Elders since her hearing that she has answered.

We think it is time and time now for the Senate to debate this nomination, to talk about the pros and the cons of this nomination and to ultimately work its will regarding this nomination before we come back from the long break and ultimately return to the Senate in September.

We owe that to Dr. Elders. We owe this to the health of our Nation.

(Mrs. FEINSTEIN assumed the chair.)

Mr. PRYOR. Madam President, I will conclude my remarks by placing into the RECORD—but I am going to read a few of the comments in this RECORD—of the timetable of Dr. Elders' nomination because during the course of this debate, we are going to hear some of her detractors probably state we have not had enough time to look at this nominee; we have not had ample opportunity to address questions to this nominee; we need to delay this nomination because we may find something else that would be of interest to the U.S. Senate before we vote.

Let us go back in time to December 24—on Christmas eve—1992, when President-elect Clinton, at that time, announced his intention to nominate Dr. Elders to the position of Surgeon General upon the resignation, in 6 months, of Dr. Novello.

July 1: Formal nomination received by the Senate Labor and Human Resources Committee and complete FBI report available for review by each and every Member of the U.S. Senate. That was July 1.

July 2: The committee questionnaire returned by Dr. Elders to the committee and distributed to Senators on the committee.

July 7: Formal announcement that committee hearings on Dr. Elders' nomination would be held July 16, 1993.

July 8: The ethics review was received.

July 15: Scheduled hearings for July 16 postponed—postponed—to provide additional time for review of material and to gain additional information.

July 22: Supplementary—additional—FBI report dealing with additional matters available for review by all Senators.

July 23: Confirmation hearing held. Senator NICKLES, of Oklahoma, delayed this hearing until the afternoon by parliamentary objection.

July 27: The committee submits—listen to this—the committee submits 198 additional questions to Dr. Elders.

July 29: Dr. Elders turns around 2 days later and provides written responses to each and every question submitted.

July 30: The committee markup; the nomination of Dr. Elders reported favorably from the committee by a vote of 13 to 4.

August 2: Senator NICKLES submits 36 additional questions to Dr. Joycelyn Elders to be answered. Forty-eight hours later, Dr. Elders submits written answers to Senator NICKLES' questions, and then I believe in the afternoon of August 4, Dr. Elders answers an additional five questions submitted by the Senator from Mississippi, Senator LOTT.

Madam President, there is no reason—there is no reason—not to go forward with this nomination. We are looking out across our country and we are in a period of social crisis. Those facts and figures that I have just cited that are a part of the RECORD of this Senate and part of the fabric, I hate to say, of our country can no longer go unanswered, nor can we continue to sweep these problems under the rug. They are here with us. They are gnawing at the fabric of America.

We should have a Surgeon General who is on board now. She has done her part. She has answered every question. She has gone to Senate offices one on one. We asked some of Dr. Elders' detractors last evening if it would be all right if we ask Dr. Elders to come and visit with them for additional oral questions in their Senate offices.

We have done everything that we know. Dr. Elders has done everything that she knows to do to be open and aboveboard and frank, to submit herself, her life, her records to this body and to the public. It is time to approve this nomination, and it is time for a vote, we hope, on the nomination of Dr. Joycelyn Elders to be our next Surgeon General of the United States.

Madam President, I yield the floor.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

PRIVILEGE OF THE FLOOR

Mr. KENNEDY. Madam President, I ask unanimous consent that Katrina Kretzinger and Brent Zabar be given the privilege of the floor during the pending Elders nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Madam President, this is a very special week for the U.S. Senate because we have the opportunity to confirm two extraordinary women to very important positions, women who have shattered glass ceilings: Judge Ruth Bader Ginsburg, and we have acted on that nomination and she has been confirmed, and Dr. Joycelyn Elders for Surgeon General. I stand here with the great hope that we can act on this nomination within the next day.

These two women have not only shattered glass ceilings, but they have shattered cement ceilings. I know because I was faced with the kinds of prejudice they faced in their careers, in our age range, in those years when I was an economics major, graduated proudly from college and could not even get an interview to get into a training program to become a stockbroker because it just was not done. Now, imagine what Dr. Joycelyn Elders faced as an African-American woman in a field that was virtually closed to people who looked like her.

Yes, these two women that we are confirming this week have different backgrounds. One is very soft speaking and one is very plain speaking. Dr. Joycelyn Elders is a plain-speaking woman, and this is because the problems that Joycelyn Elders has been trying to solve in her professional life are so intractable and so life-threatening that she has chosen to speak in plain talk, straight from the shoulder. By her own admission, perhaps a few times she spoke too plainly.

But that does not mean that her statements should be taken out of context or that Members of this great institution should turn her into someone that she is not. I speak as a Senator and also as a mother of a daughter and a son, just as the Senator from Oklahoma—who has sought, by his own admission, to delay this confirmation—speaks as a dad.

One of the issues that was raised several times is a comment that was made about the front seat and the back seat of a car, Madam President. I think it is important that we look at that comment and we put in the RECORD Dr. Elders' own words about it.

"Yes," she said, "we have taught young people what to do in the front seat and they need to learn what to do in the back seat." And that is a plain-speaking comment.

I wish to put in the RECORD what she told the committee when she was asked about that comment. And I speak with a voice of mother. These are her words:

> In regard to the front seat and the back seat comment, I think that as we teach our children driver's education—almost every school in Arkansas has some type of driver's education—we teach them not to drink and drive. We teach them to always wear their seat belts. And we teach them sex education to be responsible. And, Senator, I believe that abstinence, I feel as much or more than anybody, I certainly feel that that is what I have taught my children. Every parent I know I feel supports and teaches abstinence. Every preacher I know supports and teaches abstinence. But we know that sometimes they are not abstinent. But the thing that I was really trying to say was that we want them to be responsible. If you can't be abstinent, I want you to be responsible. If it happens, certainly use a condom. Don't take the risk of AIDS or sexually transmitted disease or pregnancy. Everybody is excited about abortion. I have never been about abortion. I think we discuss that issue. I am about preventing unplanned pregnancies, and I think we know that if we could prevent the pregnancy, then abortion becomes a nonissue.
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> So what I was really saying was that we need to teach our children more than just "no." We need to teach them how to say no, and we need to teach them that if they get into problems, to be responsible, to make a responsible decision. I think that is what I meant by that statement. And I think in the context of the whole speech that I made, I think most people would agree that that was how I meant that statement. That is what I meant.
>
> And in regard to the condoms in the purse, again I was probably caught up in the moment. I was speaking to a high school group that was having a prom about a week or two later and we'd spent a whole hour with them asking questions and talking. And I did say, and I'm not going to deny it, I did say that I feel that they should never go out on a date with somebody that they like—and I did have that statement in there, too—unless they had a condom in their purse. What I was really saying to the girls was don't depend on the young man to say I don't have one. You make sure that you have one. And I guess I still don't disagree with that. I don't want them ever to need them. I just don't want any of them, but I want them to be responsible.

Madam President, those are the words of Dr. Joycelyn Elders, the words of a mother, Dr. Joycelyn Elders, the words of someone who cares about what is happening to our children, the words of someone who lives in the real world. There is nothing we parents want more than to bring our sons and daughters into a room and say to them, "Make me a commitment, a promise that you will never have sex until you are married. Make me that commitment, that promise. I wish to hear it from you."

Every parent wants to hear that from their children. And I am saying to you, Madam President, that is the kind of world we are working toward, the kind of world we want, where we will know that our children will be abstinent until they are in a long-term relationship. It is the world that I saw on television in the 1950's when I was growing up, and it was much more like that in those years, Madam President.

So we must work for that perfection, but in the meantime we live in reality, and we need a Surgeon General who understands that reality and knows how to break through the walls that are put up, to reach those young people, to get them to understand that it is in their best self-interest to be abstinent but, if not, they need to know how to prevent unwanted pregnancies and, therefore, unwanted abortions and, therefore, unwanted sexually transmitted diseases, not the least of which is AIDS; that is the biggest threat to our young people today.

Dr. Joycelyn Elders understands what perfection looks like and what our goals must be, but she also understands reality. Madam President, our country is crying out for people like this today.

Let us look at her achievements as director at the Arkansas Department of Health. During her tenure, maternal visits for pregnant women increased by more than 26 percent. The Arkansas childhood immunization rate increased from 34 percent to 60 percent. The number of early childhood screenings increased tenfold. HIV education and prevention programs were greatly increased.

Now, last night this Senate met until about 11 o'clock, and I listened very carefully to all the speeches on this nomination. I listened very carefully to the Senator from Oklahoma [Mr. NICKLES]. And I would note that he was only one of three Senators who opposed the nomination of Ruth Bader Ginsburg. He said that he was offended by some of Dr. Elders' statements. I completely understand that. As his colleague, I understand that. He has a right to be offended, and he has a right to oppose Dr. Elders just like he had a right to oppose Judge Ginsburg.

But I only hope—and I say it to him today—that he will not push for anymore delay even though he has been offended by some words.

I want to tell the Senate some of the things that offend me. The United

States has an infant mortality rate higher than 19 other nations. That offends me. The United States has a higher infant mortality rate for black infants than the overall rates of 31 other nations including Cuba, Bulgaria, and Kuwait. That offends me.

The United States has a death rate among preschool children worse than 19 other nations. That offends me. The United States has a worse low-birthweight rate than 30 other nations. That offends me. The United States has a low-birthweight rate problem among blacks worse than the overall rates of 73 other countries including many Third World and former Communist Eastern bloc countries. That offends me.

The United States has a smaller portion of babies immunized against polio than 16 other nations. That offends me. The United States has a ranking of 12 out of 14 among industrialized nations in science achievement among 13-year-olds. That offends me. Our Nation has an estimated 2.4 million children involved in juvenile prostitution each year. That offends me. We have the highest rate of teen drug use of any nation in the industrialized world, according to the Department of Health and Human Services. Almost 11.9 million teenagers were the victims of violent crime in 1990. That offends me. Slightly more than 1 million teenagers, about the equivalent of the entire population of San Antonio, TX, got pregnant in 1989, and that offends me.

After declining there from the early seventies the teen birth rate started to increase in 1987, and in 1989 there were 58.1 births per 1,000 women ages 15 to 19, about 1 in every 17 women in that age group gave birth in 1989, the highest rate since 1973. That offends me. Almost two-thirds of all births to teens are to unmarried girls compared with less than one-third in 1970, and that offends me.

In 1990, almost one-quarter of surveyed 12- to 17-year-olds and more than half of 18- to 25-year-olds reported having used illicit drugs—that is drugs other than alcohol and tobacco—at some time in their lives.

Since 1988, American teenaged boys have been more likely to die from gunshot wounds than from all natural causes combined, according to the National Center for Health Statistics, and that offends me. Sixty to seventy percent of all teenagers try alcohol by age 15 and more than 30 percent of high school seniors say they have engaged in binge drinking within the previous 2 weeks; that is, they have had five or more drinks in a row.

Madam President, that is a picture of young people in trouble. And as a mother, I am more than offended. I am hurt by those statistics. I cry out on behalf of those young people, and I stand here today as a mother, as a daughter, as a Senator from the largest State in the Union, along with my esteemed colleague who is in the chair, to say that we have to do something different. If someone made a few comments that were offensive, I know that she has apologized for those comments. She can reach out to these people, to these children. She can talk their talk and walk their walk. And let us not kid ourselves. We need someone who can do that. It is not pleasant to stand here and talk about some of the things we have to talk about. When I came to the House of Representatives in 1983, I never dreamed I would use the word "condom" in a speech or talk about sexually transmitted diseases or have to bury so many of my constituents from AIDS. I was offended to have to talk about these things.

So I say to my colleagues, from the bottom of my heart today, I am sorry that you were offended by some words. But I want you to be offended by the conditions that I have described today. Joycelyn Elders is a physician who has, by any measure, given her life to science, to public health, to her community, to her church, to her family, and we desperately need a woman of her commitment and dedication as U.S. Surgeon General to deal with these monumental problems that our children face today.

I believe that ultimately, if given a chance by you and by the U.S. Senate, she will be the finest Surgeon General in the history of that office.

Thank you very much, Madam President. I yield the floor.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Madam President, thank you. I know there are others who would like to also speak in behalf of this nominee. But I thought it was time we respond to some of the questions that have been raised, some of the comments that have been directed at Senators that disagree with the scheduling and with the confirmation of this nominee.

First, I want to make it clear that I oppose this nomination, and I will give some explanation of that in a few minutes. But first there has been a lot said both last night and today about the delay, about the urgency that we get this on the floor and that we vote now. Well, I have some questions about that.

THE "MONSTROUS TAX BILL"

Tomorrow, I presume, the U.S. Senate will vote on what is known as the reconciliation budget package. Of course, I refer to it as the monstrous tax bill. Just last night we got the package, 1,800 pages of it. My colleagues know that few of us, in fact probably none of us, will know the details of what is in that package for days, weeks, or months. In fact, the American people are probably going to find out the details, finally, next April 15, and they are going to be plenty mad.

So I object to this nomination being brought up and debated now, not because it is this nomination. I would object if it were somebody that I am very much for. I am for the man that has been nominated to be the head of the Federal Maritime Administration, Mr. Herberger. I think he is highly qualified. I have been trying to work with my colleagues to try to get that nomination up and other nominations, men and women. I would like to see us vote on the nomination of the lady to be the head of the Federal Railroad Administration, Jolene Molitoris.

But not now, not today, when we have the biggest tax increase in history that we are going to be voting on tomorrow. We just got the bill last night. We are going to be limited to debate that bill and will work on it, what tomorrow? We do not know when we are going to get it for consideration. Is it going to be later on this afternoon or tonight? Will it in fact be tomorrow? Will we be given 5 hours on each side to discuss this monstrous bill that has astronomical application and impact on the economy of our country? We should be talking about this bill right now. In fact, we should be having it read word for word from this rostrum right now so at least we could hear it one time. It will take 55 hours just to read it, so it will not be read. We will just say, here it is, this is the 1993 reconciliation package. Good luck, fellows, ladies, figure it out if you can.

So I would be opposed to any nominee being brought up at this time when we are faced with this vote sometime, presumably, tomorrow. We need to be talking about its implications and ramifications. We need to be trying to find out all of the little items being added here and there. We understand that yesterday some little item was added having to do with the timber industry and spotted owl, some $214 million. What is that? For what? What is that doing in the reconciliation?

We are told this is a spending cut and tax increase package. This is a spending increase and tax increase package. We are taxing the working sector of America, and we are going to move that revenue over to pay for additional new spending. We do not really know what is in that package. We really need to be talking about it. We do know this, though: it is about $255 to $260 billion in new taxes.

Of course, the argument in Washington is, "Oh, don't worry, it is just the rich guys, we are going to get the rich guys."

Yes, we have heard that before. The poor, hardworking, blue-collar taxpayers of my State have figured it out because every time Congress says, "Don't worry, we are just taxing the rich guys," guess what happens. They get hit with more taxes, more gasoline taxes, and worst of all, in many instances, the loss of jobs. The people that are working hard at the low end are the ones that do not get their job extended, or they lose their job or do not get a job because the small businessman is taxed more, because they have to pay more for gasoline.

In my State we are very energy-intensive. A lot of our people have to drive round trip 100 miles a day to get to a job. They are going to be hit with this gasoline tax. It is not going to be insignificant. In my State it will raise it up to about 36 cents tax on gasoline. People in my State will have to pay about 18 cents in State gas taxes. This, of course, will bring the Federal part over 18 cents per gallon for a total in excess of 36 cents in tax on gasoline in Mississippi.

The elderly, are they going to be taxed more? Yes; they are going to be taxed more. This is one other thing I want to remind my colleagues about. Remember in 1990—we remember that package. I opposed it on this floor then. So it is not partisan with me. I opposed the tax increase, and I thought it a very unfair tax package in 1990. I oppose this one for a lot of the same reasons, because it is the same thing all over again. We have seen it before.

But one of the things we did in 1990: Oh, let us have a luxury tax. Let us get after the people who buy these big automobiles, big boats, airplanes, jewelry, furs. We will break those rich guys. What happened? We lost revenue. Boat builders in Wisconsin and Maine lost their jobs, and in Florida. Airplane builders in Kansas lost their jobs.

So now 3 years later, in this reconciliation package, oh, gee, that was a mistake, we did not get the rich guys; we hurt the people who were working.

So this provision that we made the mistake on in 1990 is changed in this reconciliation package. We are going to take away the luxury tax that was going to sock it to them. It socked it to them all right—the blue collar working people of this country.

So the people have the tax provisions all figured out. They also have it figured out that they have more Government than they want. I am being told to go on a diet personally, go on a diet as a family, and go on a diet and slim down your small business. Corporate America is slimming down. The only thing that is not slimming down in America today is the Federal Government. Spend more money, everywhere, more money for everybody. Come up with a new program.

Some people say gridlock is bad. We need to be passing more legislation. Again, the people have it figured out. Every time we pass another new idea and a new bill, guess what? The working people pay over and over again. They know Government is too big, too bloated, programs and agencies that should be eliminated, law enforcement agencies out of control, in many cases running amuck, and doing all kinds of things like the IRS browsing through people's income tax returns in general. What is that? Do they have so much money and so many people they can just browse around through returns? What kind of Gestapo tactic is that?

How many of us still think, oh, yes, we have tightened up? We use the terms "waste, fraud, and abuse," and people say they have heard that. We have tightened it up. No; we have not. Administrative costs are still out of control. Every agency is growing. Last week, I offered an amendment to cut the Treasury, Postal Service, and other agencies appropriations bill back $325 million just back to what the President asked for. Congress cannot control itself. Congress always wants to up the ante on every appropriations bill and every entitlement. And it is not enough just that we want to raise the ante on every entitlement. We have new entitlements added every year. Then we can say we did not do that; that is beyond our control. Who created the entitlements?

Also, in this bill, there is the continued argument, oh, we are going to cut spending. Look how much is cut in the first year. I think it is either nothing or about maybe $100,000. Nothing, really. No spending cuts in the first year. We will do that later, "trust me." We will raise $30 billion in new taxes the first year and cut nothing. Next year, we will do a little better and cut a little something. Then, of course, taxes go up even more.

The spending cuts in this package will come in the third, fourth, and fifth years. Oh, great. How many of you believe that will happen? Some folks say, wait a minute, we stuck to the caps on the appropriations accounts in the 1990 agreement. Well, to a degree, I guess we did, but there are a lot of attempts to raise or ignore those caps. There were emergency waivers, but also you have to remember that the 1990 agreement did not cut any appropriated accounts. We just controlled the rate of growth. There was an agreement in those appropriated accounts that appropriations could go up. I do not know the exact percentage—7 or 8 or 9 percent—I think it was 7. And then we would control it there.

In most places, an increase of 7 percent is an increase. So you do not get any rewards or awards when you only let spending go up 7 percent. Congress is not going to keep the few spending cuts that are required in this package when the time comes. We will back away from it, and we will find a new way to spend it.

In this package, this 1,800-page monster, I wonder how many new spending programs are involved. How many little exceptions for this hospital situation, or that agriculture program? I do not know, and I am not picking on any particular area. Both of those could affect my own State. We just do not know yet.

But here we are today, debating a nominee that has only been here, by the way, less than 5 weeks. It came on July 1 from the President to the Congress. Congress was gone that entire next week. So it has only been up 4 weeks. That is not considered an extraordinarily long time to have a nomination pending, and there is not some great delaying tactic involved.

So, I think to argue that we must act on this now when there are still some questions out there of a legal nature, conflicts, perhaps, and testimony that need to be explored. In this tax bill, though, there is at least $28 billion in new spending. Again, we are taking from the working, tax-paying, shipyard worker, farmer, paper mill guy, the pulpwood hauler, and we are going to tax you more and put it over in these programs to help people that are not paying the taxes. Forty million people are not paying taxes in America. They do not care if we raise taxes. They are not going to be affected. What about the rest of you that are working and pulling the wagon?

This is a horrible package. I cannot help but refer to the fact that it is retroactive. I heard somebody this morning say, oh, retroactivity would only affect about 1 percent of the people. If it was such a small number, why did the conferees, the second day after agreeing to the retroactive back to January 1 provisions, say, wait, we are going to allow people that might be affected by this retroactivity 24 months to pay for it. You can make light of it if you want to, when you say we are going to tax people back beyond death—and that is a horrible thought—but it is true.

More important than the fact that it only affects 1 percent, and it goes back beyond the grave, is that it is one more example of the unfairness of this package. Some people say we are going to make the Tax Code fairer. Look at it. For the first time ever, we are going to tax Social Security retirees—yes, thank goodness at a higher threshold level, and we are going to take that money and move it into other spending programs. When I was at Soso, MS, a week ago, and I told people that provision, even though most of them would not be affected, they groaned because they knew, with the sea of gray hair I was looking at, oh, oh, it may not affect me now, but once the precedent is set, it could get me next time. So I know it is pretty much decided with most of us how we are going to vote on this issue. Maybe it is down to one vote—one veto. People can still have an impact. Just move one Senator from being for this package, who is undecided, over to the other column, and then we will have a chance to see if we can come up with a package that really cuts spending and provides incentive for growth in the economy.

This is what we should be discussing all day, what is in the package. Are we doing that? No. We are being criticized because we won't run through a nomination that has only been pending, in reality, a month.

And then tomorrow we are going to be told: If you want to go home for the August break period, work with the constituents at home, get this thing through.

Do you know why they really want to get it through tomorrow? It is because the leaders of this administration would not want the Congressmen and Senators to go home for the next 30 days and have to explain what is in this bill. Or maybe even in 30 days we could find out what is in it. Oh, gee whiz, would that be unbelievable?

I tell you I had someone this very morning say to me: We are not going to vote on the Elders' nomination and the tax bill in the next 24 hours, are we?

I said, well, there are those who would like to do them both.

He said: Oh, jeez, I may not go home.

I will not even say who that was. I will not infer in any way.

But we should be talking about this tax bill and arguing about it and not be getting around to it some time tomorrow afternoon and being told: Vote for it now. Do not worry about what is in it. Then you can go home or go somewhere for the next 30 days.

So that is one major reason why I oppose voting on this nomination now.

Also, it was mentioned awhile ago there have been a lot of questions submitted. There have been a lot of questions raised, and to the nominee's credit, she has tried to respond in committee and in writing and quickly. I think she deserves credit for that. In a couple areas where she has said some things earlier, then explained it, I feel better about it. At least in one instance I think she apologized. Good. That is great. That helps a little bit.

I am not a member of the committee. I did not delay action in the committee. I was watching it very intently, and so were my constituents, and a lot of questions were raised in my mind. So I reduced some of those questions to writing—I think only five questions—on Tuesday and sent them over there looking for a response.

I got the response while on the floor here today—just got it. At least I got it. It did not take but a little over a day and half. That is OK. But I would like to be able to read it and see how I am affected by it. At least in one instance I feel better about what was said. In others I still have a problem with it.

Do not blame me. I did not delay this thing. You know, we have been hearing for 7 months that she was coming. We had a good Surgeon General, a Hispanic lady, who did a great job. I would like to let her stay on. That should not be really a partisan position, Surgeon General of the United States of America.

But finally it came. And now when it was sent up, we are told get this thing through right away. We have to have a Surgeon General, they say.

Wait a minute. What is the great big rush? I have gone back twice now and looked at the responsibilities of the Surgeon General. I do not want to demean them at all. In fact, conversely, I think it is a very important position. But it is not one that the country is going to grind to a halt if we do not fill that position, this day, or this week, or this month.

On the other hand, if we pass this tax package it is going to have a devastating impact almost immediately, and more in a long time to come.

The Surgeon General is the top health position in the country and involves a lot of issues.

I say to my colleagues here, I would be probably the first to jump up to say it is not just about abortion or about teenage pregnancy. Those are very important. It involves a myriad of health issues, and we need a Surgeon General who is going to focus on all kinds of health-related problems.

Is it sort of a cheerleader position? Yes. But I do not think that is bad either. We need someone who will speak up and urge the American people to take precautions and give us information on health care.

But I think in this case there are serious problems with the emphasis that this person, Dr. Joycelyn Elders, has taken in Arkansas where she has spent her efforts, her time, and her actions, and what she would do if she became Surgeon General of the United States.

So I think we should take plenty of time to make sure the American people understand what this position is, why it is important, what the nominee would maybe do, or what she said, that we think about before we vote.

I am impressed with her background and the struggle she has had and the position she has reached and the education she has.

My State of Mississippi shares a lot of the same problems and difficulties. I am not going to dare to compare my own background, but I am the son of a sharecropper, too; sharecroppers were not just African-Americans. They were white people, too.

So, in the South and in Arkansas and Mississippi, a lot of us over the years struggled to reach for a higher star. I commend those who have tried, and I really am proud of those who succeed. There is justification for pride when you have a person like Dr. Elders who has achieved what she has, and I do not want to take that away from her.

But that does not mean she should be confirmed as Surgeon General in view of a lot of the questions that have been raised. There have been legal questions that have been asked with regard to her position on a bank's board of directors and the problems they had. But I am not going to focus on that here.

There have been some other questions of an ethical nature that have been raised, but I am not going to focus on that, at least now, today.

I am going to focus instead on what she has said. To paraphrase some famous words, by your words shall ye be judged. We all make mistakes; we make slips; even Senators.

Recently, on one nominee I said that something had been said in an editorial in a newspaper in California. It turned out it was not an editorial; it was a letter to the editor. I made a mistake. I said that was a mistake and caused misinterpretation of what I said.

We all do that. We all misspeak ourselves occasionally. But there is a pattern here that is very strong, and that is why Dr. Elders is having a problem. It is because her own words have caused her difficulty; not one sentence, not one paragraph, not one day, not one paragraph, but over a period of years, a multitude of articles. Like the Senator a while ago from California said, you know when I go home to Raleigh or Mize, I have difficulty explaining what it is she said because we do not generally go around talking about condoms. I mean, this is a new phenomenon, and I guess it is more acceptable now because it has been talked about so much. So even when I clean up what she has said, sometimes people still are shocked at what they hear.

So, if you are going to be judged by your own words, the American people need to know what it is she said.

I am going through several of the quotes, some of which she has tried to answer, perhaps even satisfactorily answered. But I think we need to hear these words and put them in the proper context when we make a final decision. Maybe some of them were a sentence, and in a whole paragraph maybe there is an explanation. But there are so many of them, and I would like to just go through some of these quotes.

Dr. Elders describes pro-lifers as "very religious, non-Christians":

> Yeah, they love little babies, as long as they're in somebody else's uterus. They don't want to support any programs that will make them into productive citizens.

Washington Post, February 16, 1993:

> We have refused to make a commitment to solving the crisis of teenage motherhood because we view pregnancy as just punishment for the sin of premarital sex.

Berkeley Women's Law Journal article by Dr. Elders.

Who is "we" to view pregnancy as a just punishment for the sin of premarital sex? Count me out. But that is a direct quote from this article.

> Lack of Medicaid funding for abortions has severely limited the availability of abortions for black teens. Sixty percent of white teens between 15 and 19 years of age who become pregnant have abortions—

Mr. KENNEDY. Will the Senator yield at that point because I think the Senator ought to continue with the quoted statement? It is about unmarried sex and the just punishment for, since maybe people feel a baby represents contraceptives for abortions denied. It is a pity. She extracted a horrible price, especially in the South, for her little sisters, in particular. I hope the Senator will note that.

Mr. LOTT. I yield for that addition.

Mr. KENNEDY. As we go through the debate, we will have a full explanation. I do not know when a particular quote is coming.

Mr. McCAIN. Regular order, Mr. President.

Mr. LOTT. I would like to say——

Mr. McCAIN. Follow the rules of the Senate.

The PRESIDING OFFICER. The Senator from Mississippi has the floor.

Mr. LOTT. I think the debate so far has certainly been on a high level, and I am sure it will continue to be. I am sure that some of these quotes need to have some additional sentences added to them, and we will have time to do this. I am sure the distinguished chairman of the committee will have time to do that.

But these are startling sentences, and I think the people need to hear them. If they are not in the right context, we are going to need an explanation, and we are going to have time to flesh that out.

The last quote was from the Berkeley Women's Law Journal. During a pro-choice rally, while serving as Arkansas Department of Health Director, Dr. Elders made the following comments:

> So the first thing—as we begin to look at women's rights and fetal rights—we would like for the right to live, anti-choice groups to really get over their love affair with the fetus and start supporting the children.

She criticized a church in Arkansas because it ran ads comparing abortion to oppressions such as slavery, the Holocaust and the plight of the American Indian. The ads show photos of a 10-week-old fetus as a voice asks, "Hasn't history taught us anything?" Dr. Elders took issue with the ads saying such religious groups were silent during the oppressions the ads mention.

> Look at who's fighting the pro-choice movement. A celibate, male-dominated church, a male-dominated legislature, and a male-dominated medical profession. It's a power struggle between the haves and the have nots, the rich and the poor and them and us. It's not about abortion. It's about power.

That is from the Arkansas Democrat Gazette, January 19, 1993.

Maybe she said more. And if there is more to that sentence or that paragraph, I would be glad to hear it.

On the NBC Today show, December 30, 1992, in an interview with Bryant Gumble, Dr. Elders said, "I feel that none of us are good enough, nor do we know enough, nor do we love enough to make the abortion decision for anybody else."

> If medicaid does not pay for abortions, does not pay for family planning, but pays for prenatal care and delivery, that's saying: I'll pay for you to have another good, healthy slave, but I won't pay for you to use your brain and make choices for yourself. * * * It's a way to keep people poor, ignorant and enslaved. If you are poor and ignorant, you are a slave.

That was from the American Medical News, January 1993.

> In the 17 years that abortion has been legal nationwide, it has had an important and positive public health effect.
>
> A ban on abortions in public hospitals "would also markedly alter the education of young physicians." Such a ban "could also markedly decrease the number of low-income women having abortions, especially minority women, as half of all patients who have abortions in hospitals are from minority groups."

And there are a number of quotes in the abortion area. And I want to make it clear that is not just where I have concerns.

There are many other areas, such as in saying that abstinence is not something we should be talking about. We should encourage, instead, the use of birth control devices, we should discuss abortion. But, abstinence, yes, it is good, but it has not worked.

Dr. Elders says her primary goal as Surgeon General would be a reduction in the teen pregnancy rate. That is a laudable goal. She says teaching teenagers sexual abstinence has not stopped teens from getting pregnant or contracting AIDS, so schools should provide other kinds of information. She says we cannot rely on parents to teach their children.

> People always say let the parents take care of it. Well nobody ever taught them, so they don't know how to teach their children.

That is from the Washington Times, February 19, 1993.

Dr. Elders told "60 Minutes," "I tell every girl that when she goes out on a date to put a condom in her purse." Great parental advice.

Dr. Elders told a group of ministers, "You've been preaching abstinence for a hundred years."

Well, I guess it has been preached for 2,000 years—but these are my words. Her quote was—I want to stick exactly to the quotes:

> You've been preaching abstinence for a hundred years. I've still got a problem. I've still got thousands of teenagers having babies every year.

That is from the New York Times, October 15, 1989.

> Every mother I know, every teacher I know, every minister I know has been teaching abstinence for a thousand years. We know they're not abstaining.

That is from the Washington Times, February 19, 1993.

With regard to birth control, Dr. Elders strongly supports making Norplant widely available, especially to welfare mothers, and to students who would learn about it through school based health clinics.

> I think if I can't find innovative ways to give Norplant to young people who have had a baby, who want it and need it then I'm not much of a health director.

In other words, if she wants to find innovative ways to give federally funded Norplant to young people, then she has failed.

Are we going to use taxpayers' dollars to pay for every teenager to get a Norplant device? Is that the answer? Is that what the people want their tax dollars to go for?

That quote was in an Associated Press article, July 15, 1991.

When asked if she would target networks for their continued refusal to air condom ads, Elders responded:

> I most certainly will. You know, I feel we air everything else and I feel that the media—I feel that the media can make very, very significant impact on the attitudes of America.

So we are going to get the networks now to air ads on the use of condoms.

That is from the Reuter Transcript Report, December 30, 1992. Dr. Elders told "60 Minutes," "I tell every girl that when she goes out on a date to put a condom in her purse."

That is from the Arkansas Gazette Telegraph, October 8, 1992.

With regard to diabetics, Dr. Elders said in a New York Times article, October 15, 1989:

> If I wanted to keep those kids healthy, I decided I had no choice but to take command of their sexuality at the first sign of puberty. I'd tell them, "You're gonna have two good babies, and I'm gonna decide when you're gonna have them."

Do you want the Surgeon General saying that? I do not think so.

I have some close friends that have wonderful children with Down's syndrome. It is a loving, beautiful relationship that they have.

Now, maybe she has apologized for this statement or maybe it was misinterpreted. But let me tell you what Dr. Elders said about Down's syndrome.

> Many families at high risk of genetic defects are willing to become pregnant only because of the option of abortion. Further, abortion has reduced the number of children afflicted with severe defects; the number of Down's syndrome infants in Washington State in 1976 was 64 percent lower than it would have been without legal abortion.

That is from an FOCA hearing, Dr. Elders' prepared statement, May 23, 1990.

And there have been some other things that have been said back and forth.

Mr. McCAIN. Will the Senator yield?

Mr. LOTT. I will.

Mr. McCAIN. Would one infer from that quote that Dr. Elders would then advocate abortion for unborn children who are found to have Down's syndrome?

Mr. LOTT. That is what it would appear to me. But, again, I am not going to try to interpret it. I am just going to tell you what she has said and let the Senators judge, let the American people judge.

Do you want that inference to be made? I do not think so. There are too many instances where she has made polarizing statements, insensitive statements, radical statements.

Should the Surgeon General be on the leading edge of innovative and new ideas in health care? Maybe. But would a little judgment, a little wisdom in controlling what you say help? I think so.

In education, Dr. Elders endorses giving children an educational and social head start by putting them in school before the age of 5.

She has advocated sex education down to the kindergarten level. When do we start giving them condoms? Is there going to be some suggestion at what age that goes down to?

With regard to the Freedom of Choice Act, Dr. Elders says:

> The Act requires States to adopt a very important principle in their regulation of abortion services, which is that States may regulate abortion services, but only in ways that are medically necessary to protect the life or health of the pregnant woman.

On homosexuality: On June 15, 1990, Elders spoke at a 1-day seminar sponsored by the Arkansas Gay and Lesbian Task Force. The seminar introduced a new program for public school students, called "One in Ten," a program designed to help homosexual students feel good about being homosexual and to teach all students that "gay is good." Elders stopped short of an endorsement of homosexuality, focusing instead on helping youth who are at risk. Several seminar presenters made the suggestion that homosexual education and homosexual counseling be offered in existing school based health clinics.

On marijuana, she said she supports a physician's right to prescribe marijuana for a patient. If physicians feel marijuana would be beneficial for use by the patient, it should be available. And yet, Federal drug agencies prohibit marijuana's medical use because smoking it may cause lung cancer, may damage brain cells, and compromise the immune and reproductive systems.

I could go on and on. I have other quotes that I will be prepared to read and discuss later, on a variety of issues.

But I see other colleagues that are here now—on both sides of this issue and both sides of the aisle—who want to get involved in the debate, so I will stop at this point. But I want to emphasize again to my colleagues that there is a divisiveness about this nominee in her comments, repeatedly, often, in news media in Arkansas and nationally. I think that many of these raise serious questions about her attitude toward the Catholic Church, Christians, and what we should do with our children. I do not believe the mainstream of American people agree with that. I do not think they want this nominee to be Surgeon General.

So I certainly will oppose this nomination and I am prepared to go forward with additional quotes and to debate this further today, tomorrow, or in September or whenever. But instead of doing this, we should be arguing about the economic needs of our children and the future of our country.

I yield the floor at this time.

The PRESIDING OFFICER (Mr. MATHEWS). The Senator from Illinois.

Ms. MOSELEY-BRAUN. Mr. President, this is now my fourth occasion to speak to the nomination of Joycelyn Elders. Frankly, the reason I have taken the floor again this morning is to urge my colleagues to consider this nomination before the August recess. We have a lot to do, but certainly this nomination has been debated ad infinitum. I certainly believe it is time to move on filling this important post.

I was here late last night, in fact, it was close to 11 o'clock, to urge a vote on this nomination this week. And I am back here again this morning because of the gravity and the severity of the situation. It would be a grave mistake to allow a small minority to prevail and force this body to delay a vote on Dr. Elders' nomination until September.

I said it last night and I must repeat it this morning—her record is available to be evaluated. How can we open the process so that some may, as they have freely stated on this floor, have the time to "dig up dirt and consolidate opposition to Dr. Elders' nomination"? It just does not make sense and it is just plain unfair.

This nomination was announced 8 months ago—8 months ago. So there has been 8 months to consider the character, the qualifications, the credentials of this nominee. Dr. Elders has undergone the appropriate review and examination required of any nominee. She was examined closely at her committee hearing on the 23d of June and responded to a wide variety of inquiries from her views on adolescent health to the care of her mother-in-law to her views about preventive health to her vision for the Surgeon General's Office. She was examined on just about everything.

In addition, she has responded to over 230 detailed, written questions. The information discussed at the hearing, and each and every one of the 230—now I understand it is more than that—230-plus questions are available for review by any Member of this body as are the FBI reports on Dr. Elders.

So the question becomes, What is our responsibility as a body? Is it our responsibility to advise and consent in a nomination, as is set forth in the Constitution of the United States? Or are we here as inquisitors conducting a 20th century inquisition? Will the Members of this body take on the role of Torquemada today to begin to put Dr. Elders through an excruciating, unfair, unprecedented examination and inquiry all leading to make a political point?

Dr. Elders has answered every question and, in fact, I had occasion to have a conversation with one of the members of the opposition who complained that she had not answered a question on how many defective condoms had been distributed by a local health department.

Seriously, how would somebody know how many defective condoms were distributed by somebody else? That is the level of the questioning that this nominee has been put to.

I submit it is absolutely unprecedented, it is mean, it is mean-spirited, and it demonstrates that the issue is not Dr. Elders' qualifications. The issue is not whether or not she has answered almost 300 questions, 230-plus questions. The issue is not her ethics. The issue is not anything in her background. No, Mr. President, it is not anything about that. It is political, pure and simple. It is political about the issue of choice. It is political about a radical right-wing social agenda. And it is political about gridlock and keeping President Clinton from being able to put together an administration for which he wants to take credit—and for which he will take credit—and responsibility. What it suggests is that we have a new litmus test. The radical right has a litmus test.

Nominees must go through hoops. They must go through tests that change every time there is a new nominee: The shifting ground rules, the changing standards, the question following the question, the rolling holds on a nomination—all of these things have been resorted to to stop this nomination.

I submit it is not acceptable. It flies in the face and makes a mockery of our responsibility as a Congress to advise and consent in Presidential nominations. This is not an inquisition. This is the U.S. Senate. I call upon my colleagues to consult and confer and make use of the information, the voluminous information, about Dr. Elders. It is not acceptable to delay a vote on this nomination because my colleagues have been uninterested in the facts or unable or unwilling to review the volumes of material that are available to them. The fact is this nominee, this woman, is being held up and beat up and stretched out over innuendo and suggestion and half quotes and pieces of statements.

There is a new standard, Mr. President. A small minority of my colleagues are seeking to delay this nomination not because there are legitimate questions concerning the information that is presented but to embark upon a campaign to generate new derogatory information. That is simply unacceptable.

I call your attention to a newspaper article. I do not normally refer to newspaper articles, but I think this is significant. In the newspaper, the Washington Post, Tuesday, August 3, page A-8—first the statement from the newspaper and then the quote.

> Republican opponents of Joycelyn Elders' nomination said they will attempt to stall her confirmation by the Senate this week in hopes of generating more opposition to Elders during Congress' month-long summer recess.

That is what this is all about. And then I quote the Senator from Mississippi, who frankly just finished speaking, who joined the Senator from Oklahoma in a press conference. Senator LOTT said he believed opposition to Elders would build over the recess. "Who knows what will happen over the August recess as more information gets out about this nominee's background?"

More information? Or more innuendo, Mr. President? More facts? It is not possible to have more facts. We have the facts. The facts are before us—and they have been. They have been around here for the last 8 months. This inquisition, this attempt to disparage and to discredit this fine woman, this doctor, this person who has pulled herself up by her bootstraps—this attempt must be rejected. This procedure is simply unacceptable.

Attempts to delay Dr. Elders' nomination have failed. Some have sought to disparage her accomplishments, paint her as an out-of-touch radical, and insinuate she has broken the law. These efforts failed and a strong minority is still seeking to gain more time to continue these insidious tactics. How can we allow a nominee to be subjected to this type of out-and-out, outright abuse. I must say if there is harassment, this defines it. This nominee has been harassed, harassed as a part of her holding herself forward for public service.

This is a nominee who has always championed children's health and advocated early health care and aggressive intervention; a nominee who during her tenure as the Director of Health for the State of Arkansas almost doubled the number of pregnant women and children receiving food assistance, giving, therefore, a chance for children to come into this world healthy; a nominee who was instrumental in luring a significant number of physicians to rural communities, rural community centers so those areas would no longer be underserved.

I am sure the President knows the problem of underserved rural areas throughout our country. She made this a cause celebre, as much as she did those inflammatory things talked about on the Senate floor.

She is a nominee who improved and established prenatal care, early childhood screening, HIV and cancer prevention programs for the State of Arkansas; a nominee who, prior to serving as the State's health director, established a successful clinical practice and research career in pediatric endocrinology at the University of Arkansas.

Mr. President, some people may not agree with all the statements she has made in a four-decade career. You can say a lot of things over 40 years that somebody might not agree with. But that does not make her unfit for public service. And that certainly does not mean that we get to pick apart everything that she has uttered in the last 40 years in order to find a reason—to find a reason—to turn this process into an inquisition.

If one reviews the facts, Mr. President, a few of which I have just outlined, you will see that Dr. Elders' record is clear and exemplary. She has devoted a lifetime to public service and she would make an excellent Surgeon General. The time is here today to consider her nomination, and I hope that the Members of this body can agree to vote on this nomination this week. Whether a Member supports or opposes, it is unconscionable to drag out and to continue to delay this nomination and not allow those of us who would like to get on with the business of this Government to have a vote. I believe that the votes are here, and I believe that Dr. Elders will be confirmed.

Reasonable people will agree that this person has the credentials, has the integrity, has the character, has the record, has the background to be a fine Surgeon General, and I believe that this body will confirm her nomination. But we have to get to that point, Mr. President. We have to get to the point where we can have a vote.

I submit to you that this filibuster—not being called that, but that is what it is—this filibuster, this death by innuendo, this assault by suggestion, this inquisition ought to stop, the gridlock needs to stop, the character assassination needs to stop, and we need to get on with the business that the people of the United States sent us here to do, that the Constitution charges us to do, and advise and consent in this President's nomination of Joycelyn Elders, to be Surgeon General of the United States.

Mr. KENNEDY. Will the Senator yield for a question?

Ms. MOSELEY-BRAUN. Yes.

Mr. KENNEDY. I, first of all, want to commend my friend and colleague for her enormously compelling statement and comment and factual assessment of the current conditions.

Is it the Senator's position that these public policy issues about school-based clinics, local control in terms of school-based clinics, are issues which have been debated repeatedly in the Congress and in Arkansas over a long period of time?

And is it the Senator's position that the public policy questions that are either being raised beyond, I think, the distortions and misrepresentations and selective quotations, that these are basically public policy matters that have been debated and discussed for months and even years; and that this nominee has been before the American people for some 7 months, and over that period of time—I wonder whether the Senator would agree with me —there have been many articles, many news reports, many documentaries about Dr. Elders, many interviews with Dr. Elders?

We had the opportunity on the Human Resources Committee over the last month to examine these issues in detail. Does the Senator agree with me that really in a very real way, Dr. Elders and her positions have been before the country and debated and discussed for a very considerable period of time?

Ms. MOSELEY-BRAUN. Thank you. To the Senator from Massachusetts, I could not agree with you more, that these issues, in general, have been debated. I could agree further that these issues specifically spoken to and acted upon by Dr. Elders have been debated.

So I would raise to the Senator from Massachusetts that, indeed, what we have here is not just a debate about public policy. This is not a debate about public policy any further. This is the use of a litmus test, a rolling litmus test, a heightening bar, changing the rules, setting up this body as a bunch of inquisitors on a nomination and using the public policy debate to make a political point.

That is what is going on here, and that is what is so very insidious about this rolling filibuster—a filibuster by any other name is still a filibuster, but that is what it is. That is what it is. A hold today and another hold tomorrow, and, by the way, a hold over here; "Oh, yes, and, by the way, we have 50 more questions and you forgot the paragraph ending on this answer."

They have used this—this radical minority—has used every device possible to pervert what is our role to advise and consent on nominations into an inquisition in order to make a larger political point. It has nothing to do with good public policy; it has nothing to do with advise and consent; it has nothing to do with the qualities of this nominee. It has to do with a political issue, gridlock, business as usual, and stalling this nominee to make an example of Dr. Elders to other nominations to come down the road.

Mr. KENNEDY. If you would yield further, earlier today our Human Resources Committee had a very extensive hearing on the issue of Lyme disease, which has grown, in terms of the total number of Americans affected, by twentyfold over the period of the last 7 or 8 years and has brought an enormous kind of havoc and death to infants and to individual members of the family.

This was the first public hearing that we had in the Human Resources Committee. Again, that is a public health issue and policy question. We need leadership in these areas of public health, all across the board, in the areas where Dr. Elders has formed a distinguished career and in many others.

Effectively, by refusing to let this nominee be judged, we are basically deferring leadership in many different areas of public policy.

Would the Senator agree with me on that?

Ms. MOSELEY-BRAUN. That is absolutely the case, and I would also add to the Senator from Massachusetts, that as you know, my home State of Illinois is still in the midst of one of the worst floods not only in this century, but it is being said that it is the 500-year flood. And there is no question but that as part of the recovery from that flood, there will be public health issues going to the cleanup, going to sanitation, going to making vaccines available, helping communities deal with their infrastructure issues so that we can maintain the public health and safety of those communities that are affected.

And right now, we do not have a Surgeon General to even be able to address those issues because this nomination has become the subject of an inquisition in this body. I think it is unfair, it is unfortunate, it is unfair to Dr. Elders—let me just digress. It is unfair to Dr. Elders on a personal level. It is unfortunate for this body, as a matter of the perversion of our role to advise and consent with the President's nominations. But it is a tragedy in terms of the public health concerns of this Nation, of people who need to have the kind of leadership, the kind of direction, the kind of energy, the kind of commitment and activity that Dr. Elders can bring to this post as Surgeon General of the United States.

Mr. KENNEDY. Just finally, does the Senator find it somewhat extraordinary that yesterday this body approved some $6 billion to help and assist those families in the Midwest—and I welcome the opportunity to support that program—but as the Senator from Illinois has just pointed out, there are enormous health hazards to those families, as well, that will affect the quality of the life of those families, and those are public health issues.

We have an individual who is prepared to assume those responsibilities and bring the kind of expertise which resulted in her being selected as the President of all the public health officials in this country by her own peers.

I would think those families out there would want that person giving some guidance to one of the really important health issues we are facing at this very time, and that is the public health issues that would result as a result of the extraordinary floods.

Does the Senator find that to be distressing as well?

Ms. MOSELEY-BRAUN. Well, it is distressing particularly in light—I say to the Senator from Massachusetts, the point is very well taken again. I would point out again, that may even be part of the design. You have gridlock so that nothing gets done; you have gridlock so that the people will turn around and blame the President when things do not happen; you have gridlock so that you can stand back—we used to have an expression when I was growing up about throwing a rock and hiding your hand.

What that essentially means is that you basically do something bad to somebody, but then you do not take responsibility for it. You throw the rock and you hide your hand.

I submit to the Senator that this is yet another instance of the kind of rock throwing and hand hiding, the kind of gridlock that has characterized the nomination process of late, that has turned it into a series of character assassinations, misstatements of re cords, a kind of inquisition.

Like I said, I do not know who is vying for the title of Torquemada in this body, but somebody ought to get that. Maybe the Senator from Massachusetts and the Senator from Maryland ought to get together for a Torquemada award, figure out who is going to get it.

But the point is that this has to stop. This is unfair. It is unfortunate and, worse yet, it really does a huge disservice to the people of this country who are entitled to have an 8-month pending nomination for Surgeon General resolved.

Mr. NICKLES. Will the Senator yield for a question?

Ms. MOSELEY-BRAUN. On the time for the——

Mr. NICKLES. There is no time limit.

Ms. MOSELEY-BRAUN. There is no time limit?

Mr. NICKLES. Will the Senator yield for a question?

Ms. MOSELEY-BRAUN. I will. Yes, I yield for a question.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NICKLES. I just ask the Senator if she is aware of rule 19.2. And I would like to let my colleague from Illinois know that at least sitting over here I think she was very close to violating the rule, if not violating the rule.

Mr. KENNEDY. Regular order, Mr. President.

Mr. NICKLES. I have not made the motion. I asked her a question, Is she aware of the rule.

Mr. KENNEDY. Regular order. A question has to be asked. And under the regular order the Senator from Illinois has the floor. A question was not asked.

The PRESIDING OFFICER. The Senate will be in order.

Mr. McCAIN. Regular order, Mr. President.

Mr. KENNEDY. That is what we are asking.

Mr. McCAIN. Regular order, Mr. President.

The PRESIDING OFFICER. The Senate will be in order.

All Senators will please suspend.

Mr. NICKLES. I would just like to ask my colleague a question, if she is aware of rule 19.2, which does state that:

> No Senator in debate shall, directly or indirectly, by any form of words, impute to another Senator or to other Senators any conduct or motive unworthy or unbecoming a Senator.

I hope my colleague is aware of that.

Ms. MOSELEY-BRAUN. To my colleague from Oklahoma, I am very aware of the rule. In fact, I have responded under this rule, and I absolutely agree with the Senator. Quite frankly, I have not, in my opinion, directly or indirectly, made any disparaging or ad hominem attacks. It is my understanding the words "ad homi nem," if you look it up in the dictionary, mean a personal attack on somebody.

I have attacked no one. And I have attacked no one person. In fact, the closest that I came to even using anyone's name was to read from a newspaper and to read this quote that appeared in the Washington Post. So I have not made a personal attack on any Member of this body.

What I have spoken to is my view of the nature of this debate, my view of what is actually going on with regard to this Elders nomination. And if the Senator from Oklahoma takes any of my remarks personally, then I certainly would apologize and suggest to the Senator that it was not intended to be a personal assault or attack on any person.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Chair will remind Senators to direct their comments to the Chair. We will proceed under the rules.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. I would like to try to set this debate back into perspective. It is my understanding—maybe I am wrong—that the nomination of Dr. Elders was sent forward on July 1. We are now in the first week in August. It is my understanding that last night, about 9 o'clock, we went on this nomination. We had about an hour of time and most of that time was taken by the Democratic side. We then went on this nomination this morning at 11 o'clock.

So it seems to me that by the broadest definition of debate, we have yet to be on this nomination for 5 hours. I suggest that anything other than a debate is going on—and much of the time this morning has been spent by people who have spoken about other subjects.

Finally, let me say I only heard one speech here. I only heard one speaker speak in opposition to Dr. Elders, and that was Senator LOTT. There was certainly nothing mean spirited in what he said.

I think all of us, as public figures, say things we wish we did not say. But I cannot imagine suggesting that you do not hold a nominee accountable for what she says. I have said lots of things that I wished I had not said after the fact. I like to think I am not as ignorant as I once was. But to suggest that it is somehow mean spirited or it is character assassination to read someone's own words into the RECORD, I think is unfair.

Finally, unless I am wrong—and I often am, and I will be happy to be corrected—Dr. Koop's nomination was before the Senate for 9 months. Our own colleague, Senator Tower's nomination was here week after week, month after month, as accusations were made, and investigations were undertaken.

So I would suggest this is a controversial nomination. This is a lady who has said things that have produced a lot of passion.

Mr. MCCAIN. Will the Senator yield for a question?

Mr. GRAMM. But to suggest, short of 5 hours of debate, that somehow people are engaged in all of these mean actions, is probably an overstatement. Maybe we should wait a couple of months before we start saying those things to each other. After only 5 hours, I think it is probably not time yet, when we had the Surgeon General for the Reagan administration held up for 9 months; when our own dear colleague, John Tower was held up and ultimately rejected; and when we have been known to debate for some length of time around here. Let us wait at least 5 days before we start yelling at each other. I do not think 5 hours is enough.

Mr. MCCAIN. Will the Senator yield for a question?

Mr. GRAMM. I will be happy to, yes.

Mr. MCCAIN. Is the Senator aware that there have been some leaders in this effort, as there are on every issue, concerning this nomination, and one of those leaders is our colleague from Oklahoma?

I was just listening to the remarks of the Senator from Illinois, who said that the opponents—and I believe I am quoting accurately—the opponents of this nomination are engaging in character assassination, inquisition, radical minority activities. I wonder if the Senator from Texas believes that is an accurate depiction of the individuals and what they are engaged in?

Mr. GRAMM. Well, if I could reclaim my time, Mr. President, I think the reason for rule 19 is to encourage each of us to focus on the issues, to state our views, to try to debate the facts, and to recognize something that Thomas Jefferson said long ago when he said good people with the same facts are often going to disagree.

I think it never serves any debate if we get into the business of trying to look into other people's minds and other people's hearts.

I would just say to my colleague that when you make statements disparaging someone else, you often live long enough to regret it. And so I think what we ought to do is debate the issue. Certainly, I do not always like having my words read back to me, but clearly in public life, talking about someone's own words, in context or out of context, is something they have to answer for.

Again, the only speech I have heard this morning was from Senator LOTT, but I saw nothing, at least in my observation, that was mean spirited about his speech.

So I suggest, only 5 hours into the debate, that people either debate this subject or talk about whatever they want to talk about and then let things stand for themselves.

Ms. MOSELEY-BRAUN. Mr. President, first I would like to thank my colleague from Texas who has brought calm——

The PRESIDING OFFICER. Did the Senator from Texas yield?

Mr. GRAMM. I would be happy to yield.

Ms. MOSELEY-BRAUN. I am sorry. I was not aware—I had given up the floor for a question. But anyway, it is OK, because I want to thank the Senator because the Senator did bring down the volume and that, frankly, is helpful.

My colleague from Oklahoma came over, and I think we patched things up as well. I suppose maybe part of being a freshman—and maybe that is the problem here—is I came to this body expecting things to get done, and it may be that this process of gridlock is the way it has always been around here. Maybe that is part of the problem.

I mean maybe one of the things that the people of this country were saying was that they were ready to get past gridlock and they were ready to have a change, they were ready to have things considered in an expeditious manner to get on with the people's business instead of this long, drawn-out process.

My colleague also raised the subject of General Koop. I was not here at the time, but my colleagues will recollect that part of the reason that nomination took as long as it did was because it required a change of the law because the Surgeon General nominee was too old, under the law, to take the position. So that was a vastly different situation.

The Senator mentioned only one speech this morning. He is probably correct. That is the only one this morning. I have been living with this and I was around for the speeches last night. I was around for the speeches the day before. It sounds like a continuing tape to me. And he is right. I did not make the distinction. Quite frankly, if the Senator spoke this morning, and if he was to take umbrage from any of my remarks, I will apologize publicly to him because it was not directed at any individual Senator.

I would also like to say that the nomination really has been around for about 7½ months. It has been around that long. It has not been on this floor; the Senator is correct in terms of the time that it has been on this floor or in the entire body. But certainly, the issues that are being raised now have been raised over time. Perhaps because I have been part of the process from the committee level—I am not on that committee, but I certainly went to introduce Dr. Elders to the committee at the time. So I have been living with this. That may be one of the reasons, between living with the nomination and being new here and expecting things to get done, that may be why I am so anxious that we get this resolved this week. Thank you.

I thank my colleague from Texas.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I think we all from time to time feel the need to get things done. I just ask my colleagues to remember that what is gridlock and evil to one, to another may be a good lock on the smokehouse door. So it depends on what you are trying to do.

I would just like to say this before I get on to my remarks. The Founding Fathers in envisioning and in putting into place the Senate and the Constitution did not envision this as an institution where things would happen on the spur of the moment, where the flare of passion would dominate. They viewed the Senate as the body where there would be a full airing of the of opinion, where there would be a real debate, and where ultimately people would make decisions.

I know many of my colleagues have heard the story, but it does not hurt to tell it here. When Jefferson came back from France and was visiting with Washington, he asked Washington why we had a Senate. And Washington, following a Southern tradition that is still in use in some areas of the country even today, poured his coffee into the saucer to cool. And Washington said that the passions of the moment would sweep through the House, but that the Senate would serve the function of the saucer so that the coffee might cool, so that passions might cool, so that good decisions would be made.

I can assure our new colleague from Illinois that there were moments during the Reagan years and during the

Bush years when I was more interested in the warm passion flowing through the Senate than I am today.

Today, to me gridlock is a good sentry at the gate. The public may not be so happy with this tax bill once it gets it. Breaking gridlock to many Americans, if my phones are an index, is not a good thing when it means raising taxes on income, and Social Security, and gasoline.

But the point is, the system serves each of us in our time. I think with Senator METZENBAUM leaving—and I would have to say that I have felt as hard in my heart at Senator METZENBAUM as anyone has as he has trooped over and brought up these issues, or raised objections, or used the parliamentary procedures to hold up, to perform the action of gridlock against what I viewed as my agenda, and America's agenda, and the agenda of good—I think that when Senator METZENBAUM is gone, some of us might miss what he does when it is against us, but, quite frankly, it is important to have people like him here to raise objections, to challenge the passion of the moment, to see that debate occurs.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I rise to compliment my friend from Texas. There is one thing about my friend—there are many things to be said about my friend from Texas, but one of them that I admire the most is that, as tough as he is and as mean as he can be in a political sense on occasion, he is always straight. And I think he has brought a little bit of reason at this moment to the floor in pointing out that occasionally rhetoric does heat up here a little bit. But I think he would be the first—and others on this floor would join me—if anyone thinks that anything that the Senator from Illinois said rose to the level of a violation of rule 19, then I respectfully suggest the rule has been violated about 7,000 times since I have been here.

I will not recount and name anyone, any name, but there have been plenty of times on this floor where specific names have been mentioned, specific accusations against Senators have been mentioned. Nothing, nothing, nothing said this morning approaches that.

The second thing that I suggest—and I compliment him for cooling things, performing the function of the saucer this morning—is that one of the problems in my experience here in a little over 20 years has been that nominations particularly, but legislation generally, often is not in the hands of, nor led by, any Member of this body. Interest groups many times lead these issues. And Senators, notwithstanding the fact they feel as strongly as any interest group might for or against a particular nominee, find themselves being the ones that do not dictate what the headlines in the newspapers are.

So when the Senator from Illinois talks about character assassination, she is not talking about any particular Senator in here. All you have to do is pick up the paper. Any nominee, whether they are liberal or conservative, Republican or Democrat, becomes the victim, if they rise to the level of any interest to anyone outside of this body, of an unfair characterization of their position.

I will recall as we read back the record of Judge Bork. In that very difficult and contentious fight that took place, there were accusations made outside of this body about Judge Bork that, in my view, were absolutely inaccurate. They were not accurate. There were readings of his records that were in fact misrepresented or taken out of context. There was one case regarding a law that said that a woman, if she worked in a battery shop where she might become sterile as a consequence of being exposed to the material that was in that shop was faced by her employer with the following option: She either not be pregnant any longer, that is, get an abortion, or move on to another shop within the company. And he, Judge Bork, ruled that the law was legitimate. Well, the headlines the next day blared that, the groups, the leaders against him—not any Senators that I recall—said Bork is for sterilizing women. Well, it was literally the outcome of the case where it would be legally possible for that to be done in that circumstance on a voluntary basis. But that was not his position. He was not out preaching that women should be sterilized or that the law required the sterilization. But he had written and said a lot.

So when the Senator from Delaware stands up and says he believes that there has been an unfair and occasionally vicious attack on Dr. Elders, which I think there has been, I am not talking about any Members of this body. I do not know any Member of this body who has made a vicious attack on her. But I do know there are vicious attacks. All you have to do is turn on some of the programs, some of the talk shows and listen to some of the groups—in this case, right-wing groups, and in the Bork case, left-wing groups.

So for the public to understand when we stand up here and talk about opposition, we are not merely talking about the opposition that is generated from this floor. Obviously, on occasion, we will find that the opposition that is carried in the press—and I am in no way being critical of the press in this—it does not have a Senator's name attached to it. It has the "ABC group" to save America, or "XYZ group" for American values, or the "QSY group" to save all the women in the world, or whatever. There are 6 billion idiotic groups out there, and there are 6 billion brilliant groups out there. But the beauty of America is that even idiots occasionally are right, and even idiots, whether they are right or wrong, have a right to say what they think.

So the press should cover what they say. And so when I stand up and I say that I think there has been character assassination—and there has been from some quarters—I am not talking about my friend from Oklahoma. I know him too well.

By the way, occasionally, as the Senator from Texas said, we all say things that border on assassination, that as soon as we finish the heat of the argument, we sit down and say, "God, I wish I had not said that." I have seen a number of times on this floor in 20 years, after a Senator makes a speech, he or she walks over after it is over and says to their colleague, "Gee, I am sorry. I went too far when I said that."

So to put this in perspective, I respectfully suggest that my friend from Illinois, who is new to the Senate, is clearly not new to the issues. She is clearly not new to the notion of governance. She is not new to legislative bodies. She is as bright and as savvy as anybody I have ever served with in the Senate.

So I think that this notion that somehow we are in a position on this nomination to suggest that when somebody says there has been character assassination, they are not talking about an individual Senator. They are talking about what they read in the paper, not what the paper generates, but what groups generate. Think of the number of groups that are out there.

By the way, one of the cherished rights is the right to petition your Government. It does not say the right for intelligent people to petition their Government, or the right for honest people to petition their Government, or the right for certain people to petition their Government. It says the right of anybody to petition their Government. That is the beauty of this Government. But it does create some misinformation on occasion.

So I am glad we are kind of slowing this whole train down about who is assassinating whom.

The Senator from Texas is literally correct when he says it has only been on the floor for x number of hours or days. He is right. But notwithstanding what some of the constituencies think, we are not, as some people may think, naive. The truth of the matter is that I will bet you if we went into the Cloakroom and I asked my friend from Oklahoma, or my friend from Arizona: Is there any time in this century you will let us vote on this? Will you give us a date certain? Is there any time in this century you will let us vote on this? I will bet you they would look at me—I may be wrong—and say "maybe." I doubt whether they would say: You know, Joe, even though we have only been doing this 5 hours, all we need is another 27 hours, or 10, or 40, or 90 hours, and then I guarantee you we will vote. It is a little like the nomination of Walter Dellinger. I say we want to vote on that. We have got into an art form here the notion of a filibuster.

Mr. McCAIN. If my friend will yield, is the Senator aware that my friend from Oklahoma, Senator NICKLES, who has been in the leadership position on this particular issue, has openly stated he would agree to a date certain after the return from recess? It is a minor point.

Mr. BIDEN. I say to my friend that it is a very important point.

Then the next question a balding old veteran of the Senate like me would ask is: I wonder why you need the 30 days of the recess? Are we going to debate it during that 30 days? If he is going to give us a date certain, what is the reason for putting it off? Is the reason that we are going to learn something more in the debate? We are not going to be here. Nobody is going to be here to debate.

Mr. McCAIN. If I may respond to that, I believe that the Senator from Oklahoma—I am sorry he is not on the floor at this time—would respond that we do not believe there is sufficient time now and tomorrow evening, when the business of this body will be a very important budget reconciliation bill, for all who want to discuss this issue.

I also understand the point being made by the Senator from Delaware, my friend, that there is always the danger of new information or new allegations being raised which may have to be responded to. So I ask my friend from Delaware if he and I remember that the John Tower situation was dragged on for many months, and there were further allegations, followed by delays, followed by allegations and, in the view of this Senator, the destruction of a very decent individual?

Mr. BIDEN. I am sure the Senator remembers that this is one Democrat who stood up and said that at the time. By the way, just so we all understand—and I appreciate the candor of my friend from Arizona—when we had nominees in the Republican administration, many of the Democrats on this floor would come to me if there were nominations that were in my committee, the Judiciary Committee, and would say, "Look, whatever you do, kick this over the recess, so we can gin up some opposition." So that is all legit. I am not suggesting it is not legit. I am suggesting that somebody has to come to the floor and basically say, look, I am going to filibuster this for a month, or for a week like in the old days. It used to be straight up in the old days. They would say, "I do not like this, and I am going to filibuster, and that is it." We have more sophisticated ways now.

Before I yield the floor, let me say to my friend from Illinois that I thought you did just fine. I do not think anything you said, or most of what was said, on this floor was out of line or an attack on anybody. If anybody thinks it is, hang on and look what happens as this season begins to ripen, and we get into the middle of debates on health care or whatever at the end of the session.

I sincerely thank my friend from Arizona and my friend from Texas for their comments.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, first of all, I see my friend from Oklahoma on the floor. Does he have a question that he would like me to yield for?

Mr. BOREN. Mr. President, no. I just wanted to speak at some point, but I see my colleague on the floor. I just came to the floor. I saw the colleague either in the midst of remarks or beginning remarks. I will wait my turn and follow him with my remarks.

Mr. McCAIN. Mr. President, I would like to get back to the subject at hand, but I would comment again that I do not believe that the Senator from Illinois intended any disparagement of the character or motivation of our colleagues here. I hope she understands that words like "character assassination" and "inquisition" and others arouse some reaction on this side of the aisle, especially those like my friend from Oklahoma who I know from many conversations with him has a firm belief about this issue.

I do not believe that the conduct of the Senator from Oklahoma during this issue in any way reflects a desire to be involved in an inquisition. I think the Senator from Oklahoma and the Senator from Mississippi are known for their fairness and decency.

I do understand the passion and the commitment that the Senator from Illinois has for this nomination, and I appreciate it. All of us do. She feels very strongly, and articulates in a very eloquent fashion that commitment.

So I congratulate her and, of course, am pleased to see that she and the Senator from Oklahoma have resolved any difference that might have existed in the course of his or her present or future remarks.

Mr. President, while I respect the right of the President to nominate whomever he pleases, I do not believe this candidate possesses qualities which are essential for this critical position. One of the central tasks for the individual holding the title of Surgeon General is that of public health advocate. In order to fill this role effectively, the individual who serves in this position must have the full confidence of the American people. After reviewing the background and views of Dr. Elders, I do not believe this would be possible.

Mr. President, while this candidate may be a fine physician, I believe she is very extreme in her views and in her policies.

Many of my colleagues may remember Dr. Everett Koop, whose name has been brought up earlier, and while some may have disagreed with his stand on a particular issue from time to time, as I know I did, he was regarded as someone of sound judgment and balanced views. Accordingly, the American public listened to and heeded his advice. I do not believe that this nominee will be able to fill this essential role due to her extreme views and politics.

I would like to review for a moment a number of this nominee's views and actions that are of concern to me and lead me to this conclusion.

First is her position regarding abortion.

Mr. President, during testimony before the Senate Labor and Human Resources Committee on May 23, 1990, Dr. Elders stated that "Abortion has had an important, and positive, public health effect." She then went on to add what she viewed as "important and positive effects."

She told the committee that, in her view, "Abortion has reduced the number of children afflicted with severe defects." Dr. Elders went on to tell the committee that, "The number of Down's syndrome infants in Washington State in 1976 was 64 percent lower than it would have been without legal abortion."

Mr. President, this is a very, very disturbing statement to this Senator. As a father of a number of young children, including an adopted daughter who was born with a birth defect, I am deeply, deeply troubled by these views. Abortion ought not to be used as a weapon to extinguish a life merely because that life might present some unique challenges. I find it appalling that this nominee might believe a death sentence ought to be rendered on a life simply because that child was going to be born with Down's syndrome.

I wonder if Dr. Elders has ever asked Gene Stallings, the coach of the Alabama football team, and his wife whether they regret having a child with Down's syndrome and would have wanted that life extinguished. I daresay they would not.

A couple of weeks ago, I had the pleasure of attending a ceremony to recognize individuals from across this Nation who have dedicated themselves to the service of others. One of the recipients of the Jefferson Award, Christy Todd from Phoenix, AZ, has Down's syndrome. Yet, in spite of her disability, this wonderful young lady has set aside her own struggles in life and dedicated her energies to opening doors in education, sports employment, and all aspects of life for others with disabilities. She is making a difference.

I daresay that her family, and the community and individuals whom she serves, would be shocked to learn that the individual who aspires to be Surgeon General of the United States may believe that Christy's life should have been extinguished before she had a chance to blossom into the outstanding example she is to all of us.

I might say I am not the only one who finds Dr. Elders' views troubling. The executive director of the National Down's Syndrome Congress sent a letter to one of my colleagues stating that these statements "raise some important questions in our minds as to her qualifications for the position of Surgeon General." I could not agree more.

I understand that reasonable people disagree on the issue of abortion, but her views as articulated are extreme. Dr. Elders appears to be advocating not a pro-choice position, but that of an abortion advocate. She believes that abortion should be used as a means to eliminate disabilities by eliminating unborn children with disabilities.

Second, I am appalled by the statement Dr. Elders has made about the Catholic Church—statements that reflect such a high degree of ignorance, which informs her apparent intolerance, that it is hard for me to believe that they could be held by a woman whose own personal history is distinguished by a struggle against intolerance.

On January 18, 1992, during an address to the Arkansas Coalition for Choice, Dr. Elders charged that the Catholic Church was "silent" and did "nothing" about slavery, the treatment of native Americans, the Holocaust, and the disenfranchisement of women. During the same address, she explained: "Look at who's fighting the pro-choice movement: a celibate, male-dominated Church * * *" And during a speech in January of this year, Dr. Elders labeled people who oppose abortions as "non-Christians with slave master mentalities."

I do not understand why Dr. Elders excoriates an entire religion because its ministers are male and celibate. Her implication is that because of their gender and vows of celibacy, Catholic priests are incapable of serving others with understanding and compassion.

That view is wrong and grossly unfair. Just as Dr. Elders has chosen to dedicate much of her life to serving others, so have the clergy of the Catholic Church. They do so with compassion, with humility, with sacrifice and, most often, with deep understanding for the needs and problems of their congregations.

Mr. President, I find it deeply distressing that an intelligent person, who knows better than many the deeply hurtful consequences of intolerance, would evince such a shameful contempt for people whose views may differ from hers, but who hold those views honorably. She simply dismisses the deeply held views of people who view unborn children as human beings with a right to life.

She does all these things and more with a callousness that is exactly the wrong characteristic for someone who aspires to an office where her most important obligation will be consensus building.

There is no other description for Dr. Elders' statements save one—intolerant. They are not, as I have heard them described, colorful, blunt, no-nonsense, or straightforward. They are the words of intolerance, and as such they are hurtful to the victims of her attacks, harmful to civil discourse on important national issues, and they should be regarded as shameful by every Member of this body.

I would point out to Dr. Elders that her explanation of these remarks which she offered in her confirmation hearing is as unacceptable as her attacks on Roman Catholics and other pro-life supporters.

She called on those who oppose abortion to "end their love affair with the fetus." Dr. Elders explained her tirades are the result of frustration with those who defend the rights of unborn children but show utter disregard for children after they are born.

How cruel and unfair that remark was. Perhaps she does not realize that millions of Catholics and others in the pro-life movement, many of whom are registered Democrats, have provided consistent and vocal support for WIC, Head Start, and other programs which are intended to improve quality of life for disadvantaged children.

To dismiss these people as fixated on the fetus and contemptuous of children is wrong. It is unfair. It is unjust. It is intolerant. And it should be unacceptable to Senators. Dr. Elders has not recanted her harsh views, she has not repented them, and she has not explained them to the satisfaction of this Senator.

Mr. President, I wish to say that I have in my life personally experienced persecution and oppression. I will defer to no one in my empathy for the victims of such cruelty. I deeply respect Dr. Elders' personal struggle with adversity. But I will not now be, nor will I ever be, bullied into agreeing with her current views which are, as I have stated, profoundly intolerant.

On these grounds alone, Mr. President, I feel strongly that the Senate has more than adequate justification to reject this nomination. But, sadly, we have abundant other reasons to judge Dr. Elders as unsuitable for the position of Surgeon General.

I am troubled about her position on the issue of birth control and children. According to Dr. Elders, "We've taught our children in driver's education what to do in the front seat, and now we've got to teach them what to do in the back seat." Furthermore, Dr. Elders believes that sex education programs ought to begin at the age of 5, before they have even learned their ABC's.

Despite her ardent and unconventional advocacy of sex education during her tenure as Arkansas Health Director, teen pregnancy rose from 68.3 births per thousand to 80.1 per thousand. Mr. President, we unarguably have a problem with teen pregnancy in this country, but, in my view, the approach being advccated by this nominee will only exacerbate this problem rather than remedy it.

Mr. President, during her tenure, Dr. Elders established a program in Arkansas to distribute condoms through the schools. In the counties where this program was implemented, the rate of teenage pregnancy increased. And when the State legislature said no, she looked for other avenues to continue this program.

But, what is perhaps most troubling regarding this program is her response to information from the Food and Drug Administration that a large portion of the condoms were defective. Rather than halt the program or inform the public of the risk, she decided that it was in the public interest to continue the program. I believe her decision was rash and indicates a recklessness that is a wholly inappropriate characteristic for one who seeks to occupy the office of Surgeon General of the United States.

I simply do not understand Dr. Elders' logic. This decision demonstrates a lack of sound judgment—sound judgment which is absolutely necessary for the position to which this individual has been nominated.

Mr. President, I am deeply troubled that we are being asked to give serious consideration to this nomination—the nomination of an individual who obviously lacks the temperament, sound judgment, balanced views, and tolerance that is required for this critical and sensitive position. I believe her extreme views and disturbing background will keep her from earning the trust and faith of the American people—factors that are critical to the success of this position.

I keenly appreciate the irony involved here. Dr. Elders' own history is, as I have already observed, a very compelling story of strong character overcoming bigotry. I, like many others, was moved by Dr. Elders' opening statement at her confirmation hearing. I find it terribly sad that it is necessary to remind Dr. Elders that the object of overcoming intolerance is not to be in a position to subject others to intolerance. Rather, it should be to prevent intolerance from occurring anywhere to anyone, especially, Mr. President, in medicine. I fear that Dr. Elders has somewhere in her life lost sight of this important truth. So, I will not vote to confirm Dr. Elders, and I strongly urge my colleagues to do likewise.

Mr. President, I yield the floor, and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BOREN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOREN. Mr. President, I, of course, have listened over the last several days to the arguments made in the debate about the nomination of Dr. Joycelyn Elders to be Surgeon General of the United States. I have respect for those who hold opinions that are different from mine.

I believe very strongly that Dr. Elders should be confirmed. I do not believe that this nomination should be delayed. I think that she should be confirmed before the Senate completes its work and goes out for the August recess.

We have many serious problems confronting this country in the health field, and I believe that we need a Surgeon General of the United States on duty looking at these problems, alerting us to these problems, speaking out about the need to meet these challenges.

Mr. President, some people have asked me why I have become as involved as I have in this particular nomination. There are several reasons for it. One is that, as a neighbor to Dr. Elders in the State of Oklahoma, having watched her work as commissioner of health, director of the State Department of Health for the State of Arkansas in our neighboring State, I have been impressed by her courage, I have been impressed by her candor, I have been impressed by her determination to help children, in particular. I have been impressed by her professional qualifications.

I had the privilege of seeing her receive an honorary degree from my own alma mater, Yale University, not too long ago, to listen as the citation of her accomplishments was read, and the reason why her colleagues in the medical field and on that faculty in particular felt that she was deserving of that singular honor.

So part of what brings me here is the qualifications of Dr. Elders—her quality as a person, as well as her qualifications as a professional.

But there is also another thing that has caused me to become involved in this nomination.

Mr. President, I believe that one of the most unhealthy things about our political process over the last 7 years is that we have tended to personalize issues; that we have tended toward too much personalization in the political process, and it is not right.

Very often, we stop remembering that the people with whom we are dealing are human beings who have worked hard to establish their professional careers, who have worked hard to build their personal reputations for integrity and forthrightness. And, instead of treating those individuals as people, as fellow human beings, weighing them on the basis of their qualifications or their character, we begin to think of them as objects, pawns in a chess game, symbols in arguments about political issues—whether that issue happens to be abortion, whether it happens to be the size of the military and what is necessary for national security, whether it happens to be how to cut the budget deficit or how not to cut it, whether to raise taxes or not to raise taxes, whether to have an activist Supreme Court or not to have an activist judiciary.

We all have our feeling about individual issues and we all have our feelings about the direction the country should go. But all too often, we allow our feelings about issues or allegiances to one party or another, or our feelings about one administration or another, get in the way of our treatment of individuals as people.

And that is why, on several occasions, I have tried to step back from the heat of the moment to weigh the individual qualifications of a person who might be caught up in the midst of a very controversial debate on one issue or another to the degree that they have become symbols.

But as we vote whether or not to confirm nominees, we are not voting about symbols, we are not even voting about issues. We are voting about the qualifications and character of individual people who have a right to be weighed on their individual merits as people.

That is why, for example, when I chaired the Intelligence Committee a few years ago, and we had the nomination of Mr. Robert Gates before us to be Director of the Central Intelligence Agency, and he happened to have been nominated by a President of the other party, and there were those who wanted to make his nomination some kind of referendum on either the directorship of Mr. Casey or the Presidency of Mr. Bush or a referendum on the Iran-Contra affair or some other issue, this Senator felt very strongly that the individual person—in that case it was Robert Gates, the nominee of the other party—had a right to have his nomination weighed on the basis of his own merits, his own professional career.

As a Democrat, I came to the floor and argued forcefully for his confirmation. I did not argue he had never made mistakes. I did not argue he had never made errors in his professional career or even in his public service. I argued that on balance his record as a person and as a professional merited his individual confirmation. In looking at his individual qualifications, I did not consider myself voting in a referendum on whether or not I liked the Iran-Contra affair, the Bush administration, or was voting on whether or not I thought Mr. Casey had been a good Director of the Central Intelligence Agency.

Individual people have a right to be considered on the basis of their qualifications as persons, not on the basis of where one might stand on one issue or another. I felt the same way recently. I issued a statement when Director Sessions, of the Federal Bureau of Investigation, was asked to resign.

Do I think Director Sessions was in every way perfect in the manner in which he conducted the affairs of the Federal Bureau of Investigation? No. Did I agree with every decision that he rendered? No. Did I believe he should be shielded from criticism of any mistakes he made in the receipt of any kind of benefit from the Government of the United States? No. But I issued a statement because I felt that, while he may have made mistakes, he also made an enormous contribution as Director of the Federal Bureau of Investigation. Again, he was a person not appointed by a President of my party, but as chairman of the Intelligence Committee I had worked with him on sensitive issues, issues that required bedrock honesty. Whether we are talking about the BNL case and the investigation into that in which he was determined to conduct an independent investigation even if it became embarrassing to an administration in which he served, he was determined to be independent. Even if it came to criticizing his own agency, as he did in an earlier case in which the agency was found to have misused resources to, in essence, surveil domestic political groups that were legal in this country and had no reason to be surveilled, he took that position. Even if it required him to criticize his own agency for not doing enough to encourage the promotion of women, minorities and others within the agency, he did that.

So I felt it only right that, even though people get caught up in bigger political agendas, I should point out that, in spite of whatever mistakes he had made, there were things in the record of Mr. Sessions, as Director of the FBI, that deserved to be praised.

So I do not care whether it is a liberal, whether it is a conservative, whether it is a Democrat, whether it is a Republican, whether it is a person caught up in the issues of national security, taxes, abortion, or any other controversial issue that might come before us. I raise my voice in behalf of the principle that those nominees, those people who have come up out of other positions or out of private life ought to be treated as individual human beings, with respect for their own integrity, their own records, their own qualities, their own achievements; and never should we be guilty of allowing larger political agendas or our position on other issues to blind us to the need and the right of every single individual who comes before us to have us comment upon their reputations and their personhood—to fair treatment.

There have been a number of interesting articles written in the last several days after the tragic death and suicide of a member of the staff of the President in the White House. Some of those articles have talked about the sensitivity that we sometimes lose in the political process in the heat of the moment of debating issues, sensitivity toward people as people. There is something going on that is dehumanizing about the political process in our country.

Yesterday the Attorney General of the United States, Janet Reno, came and spoke to my interns who are working with me this summer. I sat in on her conversation with the interns. I was glad I heard her.

She said: Do you know what this country needs? It needs for us to sort of turn down the ideological noise level in this country, start listening to each other with different perspectives and points of view and parties, and try to sit down together with mutual respect for each other and try to figure out what will work to solve the Nation's problems.

What a refreshing statement from a real person who has not changed an inch, who has not changed anything about herself since she came to Washington. She is as real today as she was on the day she arrived in the Nation's capital. She told my interns the truth. If we listen to her, she will teach us all lessons about how we ought to deal with each other as people.

Even in this Chamber, as we sometimes strongly debate with each other about issues, we need to stop and remember we must deal with each other in fairness and in sensitivity, deal with each other as people. We need to deal with this nominee, Dr. Joycelyn Elders, a distinguished member of the medical profession, outstanding human being, a person whose career path should be an inspiration to young people in this country who study it—we ought to deal with her nomination on the basis of her individual qualities and on the basis of her personhood.

So I urge my colleagues to allow this nomination to come to a vote. We have serious problems in this country. Every 32 seconds a teenage girl becomes pregnant in this country. Every 64 seconds an infant is born to a teenage mother. The number of births to unmarried mothers reached a record high of 1.2 million in 1990. Every 36 seconds a child is being born out of wedlock; in some inner cities 80 percent of all children are born out of wedlock; 70 percent of the individuals who have been incarcerated were born out of wedlock; 10 percent of our Nation's children live in households not headed by either parent—both parents are gone within a week of the child's birth. Every 35 seconds a child is born into poverty, every 14 minutes an infant dies in the first year of life. One-third of the homeless in this Nation are children. I could go on and on and on about the problems that we face.

We may not all agree about the solution to these problems, but at least Dr. Joycelyn Elders has had the courage to say these are not statistics from some underdeveloped country. These are statistics in the United States of America. We must face reality, and we must sit down and begin to work together with each other to solve these problems.

Dr. Elders was nominated by the President on December 4—9 months ago it was announced that he was going to nominate her. Two hundred questions have been submitted. She has answered them. The original FBI report has been available for over a month. Additional questions were submitted by Senators KENNEDY and KASSEBAUM, and they have been available since her confirmation hearing.

So there has been time to evaluate the qualifications of this nominee. Let me say we do not have to agree with her on every subject. I do not necessarily agree with her on every subject. But I think we should honor her courage for being willing to speak out. As Surgeon General of the United States she is not going to control policy on some of the controversial issues that have been injected into this debate. One thing she has made clear all along is that she has not tried to coerce others into accepting her own views as to the solution.

When it comes to establishing clinics in schools, she said it ought to be a matter for the local school board to determine. When it comes to whether or not certain kinds of information or treatment should be available to children, even where those clinics exist, she said it ought to be up to the parents to decide whether or not that individual program or that kind of treatment is made available to the child of that particular parent.

So she has believed in local control; she has believed in parental control. One thing that has come through loud and clear as I listened to her speak before the committee, which has recommended her confirmation to the Senate, is that she cares. She cares more about children, she cares more about the well-being of the next generation than she cares about her own professional career or her own political advancement. When we have a nominee before us of that kind of moral courage, she deserves our support and she deserves our vote on her nomination and, above all, she deserves the right to have the roll called in the Senate of the United States on her qualifications.

So, Mr. President, I urge my colleagues, as one who has come to this floor in the case of other nominations, as one who has come to this floor, whether it was the nomination of Mr. Robert Bork to be Supreme Court Justice, and cast one of the few votes cast on this side of the aisle and been willing to sit down and look at qualifications of individuals, whether he agreed with them on all matters or not, and to allow them to have votes, or whether it was coming to argue for the confirmation of Mr. Gates, the nominee of the administration of the party on the other side of the aisle to be CIA Director and other very controversial situations, this Senator has come and argued for an evaluation of people as individuals. I argue for that for Dr. Joycelyn Elders, an extraordinary person, who did not let poverty stop her; who did not let racial prejudice stop her; who worked as a janitor so that she could work her way through college; who became the first African-American woman to ever graduate from the University of Arkansas Medical School; who has been endorsed by 150 different medical associations across the country; who has been honored by the directors of the health departments of all the other States in the Union.

Give this good woman a chance to have her nomination considered and voted on by the U.S. Senate and give her a chance to have that vote before the Senate goes home for the recess. She is an extraordinary person who, by her own efforts and energies with the values we believe in in this country, has brought herself to a position where she has made an enormous contribution to the people of her State, and now seeks to make that contribution to the people of this country, not in a way in which she runs roughshod over the moral convictions of other people who may differ with her, but whose opinions she respects and I respect.

Give this good, decent nominee a chance to have fair consideration now, and a fair vote up or down on her nomination now. Let us do it today; let us not do it tomorrow; let us not do it Saturday; let us not do it in September.

No wonder people in this country hesitate to let their names come forward for major positions in this Government. No wonder good and decent men and women in this country wonder if they ever want to go through a nomination process, as much as they may want to serve their country.

Let this good person have a right to a vote on her confirmation by the U.S. Senate.

Mr. COATS addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Indiana [Mr. COATS].

Mr. COATS. Mr. President, I rise to address a question that has arisen on the Senate floor, both late last evening and today. The proponents of Dr. Elders seem to be following a script that says we are denying this poor, decent, extraordinary American woman the opportunity to have a vote on the Senate floor as to whether or not she ought to be confirmed as Surgeon General.

No one is going to deny Dr. Joycelyn Elders the right to have a vote as to whether or not this Senate is going to confirm her as Surgeon General. I do not, however, believe that those who are saying give this woman a chance to have the vote now—what is all the delay? Why can we not get to this vote—not tomorrow, not Saturday—but now? I cannot believe the proponents of that are saying that the case does not deserve to be heard on the Senate floor; that those who may hold a different opinion regarding Dr. Elders' qualifications do not have the right to at least stand up and enumerate their concerns, the concerns of their constituents, to discuss the issue as it was debated in the hearing held by the Labor and Human Resources Committee.

For goodness sakes, we have only had two or three Members down here talking about the issues. We have a list of others who wish to speak. I have not had an opportunity to speak at length, unless I wanted to do it last night at 10:30 p.m., and I chose to do it today.

Senator NICKLES from Oklahoma has taken an unmerciful beating here for simply saying "I, as a Senator, would like the right to stand up and review the case." That is our responsibility as Members of the Senate, whether it is for the position of Surgeon General, whether it is for a position as a Cabinet member or Assistant Secretary.

Mr. BOREN. Will the Senator yield?

Mr. COATS. We have a responsibility as Members of the Senate to at least stand up and state our case before the Senate before we vote. Now here we are, while the House of Representatives is undertaking a procedure to vote on the Clinton administration tax bill—it is the issue of the week; really it is the issue of this Presidency—but instead of talking about what the impact of a $500 billion bill will be on the American economy and on the American people, we are saying, for some reason, we cannot even take a few hours to discuss the nomination of the Surgeon General. Why we are even debating this at this particular time, when the issue of the day is the budget bill, kind of escapes this Senator.

That is why other Senators are coming down, including the Senator from Oklahoma, and not only talking about Dr. Elders, but also using the time to talk about the impact of the reconciliation bill.

Mr. BOREN. Will the Senator yield?

Mr. COATS. I will be happy to yield to my colleague from Oklahoma for a question.

Mr. BOREN. First, I say to my colleague, this Senator in his remarks a moment ago, did not mean to imply my good friend and colleague should not have an opportunity to state his reasons for his views about the nomination of Dr. Elders. As I said in the very beginning, I know there are people who sincerely hold different views from mine. I have respect for those.

The Senator also knows that I have had a good bit to say, and probably not totally out of sympathy with what he has had to say, about the current budget agreement.

But I ask my colleague that—while it is certainly right that those on that side of the aisle or any on this side of the aisle, if they have any questions about this nomination, should have an opportunity to be heard on that subject; since this nomination was announced 9 months ago and since there have been many, many questions answered and since the FBI reports have been available and all the rest—would my colleague agree that we should at least set some reasonable time at which point the debate should come to an end, that we do at, that point in time, after all the arguments have been heard and after my good friend and my colleague from my home State and others have had an opportunity to say exactly how they feel about this nomination, that we then should reach some reasonable agreement to allow this nomination to be voted on before the recess?

Mr. COATS. Mr. President, I will be happy to respond to the comments of my friend and colleague from Oklahoma. I very much agree that after everyone has had an opportunity to speak to this issue, we ought to bring this to a resolution and have a vote. This Senator from Indiana has no intention of filibustering or participating in a filibuster of the vote on Dr. Elders.

But I am sure my colleague would agree the record is being somewhat distorted here relative to the timing of all of this. Several Senators on the floor have indicated that this has been before the Senate since December 24, Christmas Eve. It is true that the President-elect, on December 24, announced his intention to nominate Dr. Elders as Surgeon General. But at the time he said I do not believe I will be sending that nomination to the Senate for several months. I am not sure what the reason is.

I think there was knowledge in the White House that this was a controversial nominee and that apparently they needed to do some clearances or whatever. For whatever reason, a determination was made not to send the nomination to the Senate.

So all this talk about, well, we have been sitting on this thing since December 24, is not factual at all. It has no basis.

It is true that the press has investigated Dr. Elders' record and reported many of the things that she has said, many of which the proponents and supporters of Dr. Elders hold up as a basis for her experience and qualifications for this position, many of which the opponents of Dr. Elders have said is cause for concern.

We are not sure someone with this record, who has made these statements, and who has applied this judgment to the position of public health officer of the State of Arkansas, is really qualified to be Surgeon General of the United States.

That debate has taken place among the public and in the press but not before the Senate because we did not have the papers, and we cannot formally proceed on a nomination until we receive the submittal from the White House.

So the delay from December 24 until July 1, when those papers came up, was the delay that was caused by the President of the United States and people in the administration, not by any Senators, Democrats or Republicans. It would have been impossible for us to proceed under our rules until the papers were received.

Now, those were sent on July 1. The Senate immediately went into recess for the July 4 recess. So we did not come back until well into the second week of July.

An assertion was made by a Senator this morning that the complete FBI report has been available since July 1. A summary of the FBI report was made available at 10 p.m. on July 22, just before the hearing, the postponed hearing, 1-week postponed hearing by the Senate Committee on Labor and Human Resources.

So staff received that report, not the full report but a summary of the report, in which a number of questions had been raised relative to Dr. Elders' involvement as a bank director, the report of the Comptroller of the Currency that a possible violation of the banking—well, a probable violation of the Banking Act had occurred. And so at 10 p.m., a sketchy summary of Dr. Elders' background was provided to staff and the hearing was scheduled for 9 o'clock the next morning.

So I think it is important to set the record straight here; that if there has been a delay in submitting this nomination and in the Senate considering this nomination, that delay was caused, No. 1, by the White House for unknown reasons and, No. 2, by the Senate schedule and, No. 3, by the fact that information necessary for the Senators to make a judgment in terms of the qualifications of Dr. Elders was not available. Those facts were not available to the Senators until 10 p.m., before the hearing.

Now, the hearing was delayed 1 week. It was delayed 1 week with the consent of the chairman of the committee because the information that was necessary to form a judgment on the basis of whether or not there were financial disclosure violations and violations relative to Dr. Elders' service on the board of a bank, that information was not available to Senators at the time of the hearing. And so it was delayed 1 week.

It is true that the hearing on Dr. Elders, which was scheduled for a Friday, a day when many Senators are either not here or are seeking to catch planes back to their home districts, was delayed 2½ hours.

Now, for goodness sakes, Mr. President, let us make sure we are not getting caught up in the hysteria of somehow denying this nominee the right to have a vote on the Senate floor. Let us look at the record as it exists and talk about the fact that we have only now debated this 5 hours, brought up in an extraordinary timeframe by the Senate majority leader, 9:30 on a Wednesday evening, when the Senate is trying to rush to completion of the budget reconciliation bill, when appropriations bills are waiting to be heard, and when the Senate has literally been in session for about half a month since the receipt of Dr. Elders' papers.

I would contend just the opposite is true, and that is that we are moving forward more expeditiously on this particular nomination than most nominations that come before the Senate. We have had only 18 legislative days since the papers were submitted to the Senate for consideration. And in that time we not only have had the papers submitted, we not only have had a recess of significant length, but we have held a hearing, a confirmation hearing, she has been voted out of committee, and it has been brought to this floor and is the pending business on this floor.

That is a pretty expeditious schedule. That is not unfair, quoting here, "unjustified, cruel punishment." If that is the standard, then what we have done to some of the other nominees has to fall in the range of terminal treatment. If this is cruel, unjust treatment of Dr. Elders to move this nomination in 18 days from the submittal by the President, then I think we ought to examine the record of what has happened to some of the other nominees that have been sent here.

Now, for the position of Secretary of Education, a post that many would say is just as important as Surgeon General, if not more, that confirmation process took more than twice as long as this confirmation process is taking. Lamar Alexander was nominated by President Bush on January 22. The committee expeditiously held a hearing on February 6.

The charge has been that the committee staff and Republicans submitted 198 questions, as if somehow submitting questions relative to an individual's qualifications was cruel punishment, unwarranted, unnecessary. Yet, the majority staff submitted 120 questions for Lamar Alexander.

Now, I am not sure where the dividing line is—198 is unconscionable but 120 is acceptable?

So let us be realistic in terms of how this process works.

Finally, Lamar Alexander passed out of the committee on March 13 in the process, and he was then confirmed by the Senate. That process took 2 months. We are talking about 18 days for Joycelyn Elders.

Now, if we want to bring this a little closer to home, let us look at the nomination process for Everett Koop. Dr. Koop was nominated for the same position for which Dr. Elders has been nominated. President Reagan, in February 1981, nominated Dr. Koop for the position of Surgeon General. The committee held its hearing on Dr. Koop on October 1, 1981—not the next month, March, not in April, not in May, not in June, not in July, not in August, not in September, but on October 1, 1981, 8 months after his nomination, for the identical position. The committee then took 28 days, 3 weeks after the hearing, to send the nomination to the Senate floor. And it was not until November 16, 9 months after Dr. Koop's nomination, that the Senate voted on Dr. Koop.

Mr. KENNEDY. Will the Senator yield just on that point?

Mr. COATS. I will be happy to yield.

Mr. KENNEDY. As I remember, the Senate at that time was under Republican leadership and the Republican leadership chaired particular committees that had responsibility for Dr. Koop.

Mr. COATS. It was my understanding, Mr. President, that the opposition of Dr. Koop was not coming from the Republicans. It was coming from Democrats, who insisted that his nomination be held up, who insisted on additional information, then insisted that Dr. Koop's pro-life position disqualified him for position as Surgeon General.

Mr. KENNEDY. I thank the Senator for yielding.

Mr. COATS. It was not the White House or the Senate Republicans.

Mr. KENNEDY. I indicated to both Dr. Koop and here, I voted in opposition to Dr. Koop, and he was really one of the outstanding Surgeons General.

I do believe that the committees at that time were chaired by the members of the Republican party. That may be of some value to Members.

I thank the Chair. I thank the Senator.

Mr. COATS. Mr. President, the point is that because of opposition to the nomination of Dr. Koop, the Senate took 9 months to review his papers and to review his nomination before holding a vote. Because of opposition to Dr. Elders, the Senate has now taken 18 days. So we are looking at an 18-day time frame versus a 9-month timeframe for nomination to an identical position.

So I really do not believe it is fair for individuals to keep indicating that the Senator from Oklahoma or others are engaged in some kind of unconscionable, unjustified, cruel punishment by seeking not to deal with this nomination. As a matter of fact, the offer has been made from the Republican side to set a date certain, a time in which this nomination would be discussed and debated, a limitation of the number of hours of debate and a time certain for the vote. That request was indicated last evening.

Here we are, 24 hours before the Senate is to adjourn, facing the largest single budget reconciliation bill I believe the Senate has ever considered, a matter of immense importance to the future of this country. We are not even debating it. We have people saying we ought to be using this time to debate that important issue.

So, therefore, because a number of us have concerns about Dr. Elders, would it not make more sense to debate this matter when we come back after the August recess, as long as we indicate that we will not filibuster, we will set a time certain, we will limit the number of hours of debate, and then we will have a vote? What is the problem with delaying this over the August recess?

What is the paranoia about having Dr. Elders wait 3 weeks or 4 weeks, whatever the timeframe is, 3 or 4 weeks, before her nomination? Is there something out there about Dr. Elders that we are not aware of that is going to sink this nomination? I am not aware of anything, but I just simply do not understand the unwarranted concern about holding this nomination over, especially when you look at the Senate calendar, as we now find ourselves in.

So, Mr. President, I hope this puts to rest some of the contention that the Senate is engaged in some kind of cruel, unusual punishment here for the nominee for Surgeon General.

I would state to the Senate that my objection would be the same whether this was Dr. Elders, the Secretary of Education, the Secretary of Energy, or any other nominee where there is some controversy surrounding the nomination.

THE OMNIBUS RECONCILIATION BILL

We should not be debating any of those. We ought to be debating today, and for the next 24 or 48 hours, however long it takes, the paramount issue that is before this Congress right now; that is the $500 billion proposal of the President of the United States to reduce the deficit, and whether or not the formula selected by the President is the appropriate one.

Many of us do not feel it is appropriate. We think the President has diagnosed the disease; the disease is a deficit running out of control. But we think he has proposed the wrong prescription to cure the disease. The

President has said the cure for the disease of the deficit running out of control is to raise taxes. And Republicans are saying no, that is not the prescription; the prescription is to control spending. The President has sent us a bill that essentially does nothing but raise taxes.

He talks about spending cuts, most of which are scheduled to take place after 1996. So I think we all know what Congress will do with those between now and 1996. But they have made the taxes retroactive to January 1 of this year. Whether you are dead or alive, you are going to pay the taxes.

How many people want to put money down that Congress is going to enact spending cuts? What we are saying is if you are going to cure this deficit disease, you have to have the right prescription. The right prescription is spending cuts and limitations on the growth of Government; not taking money out of the private sector; not taking money away from those very people who are creating jobs and sending it to Washington, and allowing Washington, DC, to spend it through its Congress on new Federal programs or new Federal spending.

This so-called gridlock by Republicans is not gridlock by Republicans. The President cannot get his own Democrats to vote for this. They are over in the House right now twisting arms to the point of breakage trying to get enough votes to get this thing passed. It passed by six votes the first time in the House, and was passed only in the Senate when the Vice President came here to break the tie.

The Republicans do not occupy a majority in either House. The Democrats can pass this thing without us even showing up for work. So the problem is not of gridlock on the Republican side. The problem is the President cannot convince Members of his own party that this is a good deal.

So Members have already spoken from across the aisle, indicating they do not think it is a good deal. And they are not going to support it. The pressures from the White House are legion. You can see them on the evening news, in headlines in the paper, in terms of what some of our poor colleagues are going through in terms of being yinged and yanged between the people back home and the people down at 1600 Pennsylvania Avenue.

The Republicans are sort of sitting and scratching their heads, watching in amazement as the President is trying to drum up the votes for all of this.

That is what we ought to be debating. That is the issue for the moment. No one is denying to Dr. Elders her rightful vote. We are simply saying that trying to cram this thing through before the Senate adjourns while we ought to be talking about the paramount subject, and somehow charging that there is unfair treatment here just simply does not wash.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Iowa, Mr. GRASSLEY.

Mr. GRASSLEY. Mr. President, even though I am going to speak directly about the nominee, I want to fully support a more overriding issue that is before the Senate today; and that is, the willingness of the majority to let this nominee be thoroughly understood by the public at large. In a matter of days, the Senate will recess for its traditional August recess. During this 4-week period, I hope Members will reflect more on the nominee. I think it is very important that enough time be taken to consider this very controversial nominee to such an important position within our Government.

I would like to first put forth the proposition that if Dr. Elders were the Democratic candidate for Congress, or the Democratic candidate for U.S. Senator from Arkansas, she would not be elected based on the comments she has made in the past and is being judged on today. More importantly, I would be willing to bet that President Clinton would not be in Arkansas on the same platform with her, campaigning for her for the U.S. Senate or the U.S. House for the State of Arkansas.

I would like to put forth some of the comments that Dr. Elders has made, and which probably have been repeated many times already on the floor of the Senate. These quotes, taken from speeches and newspaper articles, support my theory that if she were a candidate for the Congress, the President of the United States would not be backing her; and yet, he nominates her for a very important position in the Federal bureaucracy.

I would like to quote from the Arkansas Gazette, July 3, 1988, which is in regard to her advocacy of a comprehensive sex education beginning at kindergarten.

> An integral part of a comprehensive school-based health clinic today is that we have sexuality education beginning in kindergarten.

This is not a concept my constituents have ever advocated.

On March 4, 1992, the Evening Times quotes Dr. Elders as saying:

> We can't teach them about AIDS without telling them about sex. We taught them what to do in the front seat of a car. Now it is time to teach them what to do in the back seat.

If Dr. Elders was a candidate for the Congress and took that kind of position, I do not think it would be well received by her potential constituents, and I do not think the President of the United States would be on the platform campaigning for her.

Dr. Elders stated on July 3, 1988, and December 13, 1989, in the Arkansas Gazette:

> I don't know any parent who wouldn't go out at midnight and try to find contraceptives to start their children properly.

In a quote from the USA Today dated April 6, 1993 responding to a question about condom distribution, Dr. Elders responded:

> Well, we are not going to put them on their lunch trays, but, yes.

Dr. Elders has had this to say about Government funding of abortion:

> If Medicaid does not pay for abortions, does not pay for family planning, but pays for prenatal care and delivery, that is like saying I will pay for you to have another good healthy slave, but I won't pay for you to use your brain and make good choices for yourself.

She added:

> It's a way to keep people poor, ignorant and enslaved. If you are poor and ignorant, you are a slave.

Is that not a nice commentary for the 37 million people that are below the poverty guidelines in America? Somehow you cannot be your own self; you belong to somebody else.

If those statements were made as a candidate for Congress from Arkansas, or for the U.S. Senate from Arkansas, President Clinton would not appear on her platform.

In another quote from the West Memphis Evening Times, January 22, 1993, she was explaining her position on abortion when she told an abortion rights rally in Little Rock that abortion foes need to get over their "love affair with the fetus."

There are people all over the United States that are capable of having a debate on the subject of abortion, without using demagogic and inflaming remarks like that.

During a speech to the Texas Planned Parenthood organization, she had this to say:

> Because of our silence, we have allowed the very religious, non-Christian right to make the decisions that are destroying and eating up our children.

Does she have a right to say that Chuck Grassley, as a member of the Baptist church, is non-Christian? I do not think she has that right. And if she were a candidate for Congress from Arkansas, or a candidate for the U.S. Senate from Arkansas, do you think she would get elected making those kinds of statements? Do you think she would have President Clinton campaigning for her? I do not believe so.

Judging from Dr. Elders' history and the comments she has made, there appears to be a larger issue before us. The administration is employing shock therapy on the American public even though they received only 43 percent of the vote.

To me it seems that deep in the bowels of the bureaucracy of this administration, and maybe higher up, there are people saying it is time to challenge the things that have been traditionally American, things that have been traditionally the strength of American society, whether it be the family, or whether it be the church, or whether it be the traditional public education system in America.

If we are going to reform American society, we are going to have to break the back of the foundation of American society—over 200 years of it. I think Dr. Elders' nomination and her extreme statements are just one example of what appears to be an evolving goal of the Clinton administration. I think it is improper, and I think that it is something we better consider not only with respect to this nomination, but on other nominations as well.

I don't often come to this floor to speak on nominees, with the exception of judicial nominees. As a member of the Judiciary Committee, my time is often occupied with that process.

But I do have some points that I want to make about this nomination and nominee.

It is not easy to oppose a nominee, but after carefully examining her record and hearing the views of my constituents, this nominee is trouble from my perspective.

The Surgeon General is our Nation's top doctor and serve as a spokesperson for a range of public health issues. His or her statements carry much weight and authority because the public looks toward them for guidance and information. This is a lot of responsibility to put on someone's shoulders but that is what comes with the position of Surgeon General. Therefore, it is crucial that the Surgeon General be thoughtful, measured, and capable of exercising sound judgment. I am afraid that Dr. Elders does not meet these requirements.

Nobody I believe has attempted nor should question her medical abilities. She is an expert in the field of endocrinology and her work on adolescent diabetes is highly regarded.

However, I do question her ability to exercise sound judgment. I think some of the statements I referred to earlier make that very clear.

I do not agree with the agenda she pursued while serving as Arkansas health director, and I have a number of concerns surrounding her role on the board of directors of the National Bank of Arkansas, as well as the salary she drew this spring and summer from both the State of Arkansas and the Federal Government.

Most significantly, I have serious concerns regarding her handling of the distribution of faulty condoms across the State of Arkansas.

Dr. Elders handling of the distribution of faulty condoms in Arkansas health clinics, including school-based clinics, clearly illustrate what I regard as her lack of sound judgment. For 2 years the Arkansas Health Department knowingly distributed defective condoms. Tests by the Food and Drug Administration found them to have a defective rate 10 times higher than the normal limit. During this entire period the public was never made aware of this nor the dangers of using them. Such consequences included not only unwanted pregnancy but also the transmission of a variety of sexually transmitted diseases including AIDS. Reports published in the New England Journal of Medicine have found that condoms have failed to prevent HIV transmission at a rate as high as 17 percent if one person is HIV positive. That is the same odds one gets when playing Russian roulette. The people of Arkansas were potentially facing these odds times 10.

Mr. President, let us think about this for a moment. The New England Journal of Medicine has reported that the risk of HIV transmission using normal condoms can be as high as 17 percent. During a 2-year period, the people of Arkansas were placed at risk for HIV transmission and unwanted pregnancy. Dr. Elders made the decision not to inform the public.

I think this is irresponsible. The people of Arkansas deserved to know of the risks that they were facing. Dr. Elders was asked at her confirmation hearing why she failed to notify the public. She responded she did not want people to stop using condoms. Dr. Elders has not been the only State health department head to experience this kind of public health problem. In 1990, the New York State Department of Health recalled defective condoms. Unlike Dr. Elders they found the potential risk unacceptable.

Dr. Elders' conduct during this crisis forces me to question her judgment, and I hope it will also cause my colleagues to question it. The Surgeon General is vested by law with the responsibility of issuing warnings to the public on health hazards associated with certain products. Given her history of handling this very kind of situation in Arkansas, I question her ability to carry out this responsibility.

Dr. Elders' colorful quotes are well known by this body and the public. I admire candor. There is probably nothing wrong with being straightforward as long as there is not a larger agenda. In fact the Surgeon General should be someone who speaks honestly and plainly.

However, her remarks, as I hope I have shown you, are often inflammatory and offensive. She has remarked that abortion has reduced the number of children with Down's syndrome. This kind of remark shows insensitivity to families with Down's syndrome children.

This kind of remark is only one of many. Her candid speech has alienated many groups and individuals, forcing me to question whether she will be able to create coalitions which may include groups who hold differing views than her own.

I do not hold the same view as Dr. Elders on a variety of issues nor do the majority of Iowans who have written to me about her nomination. Dr. Elders' No. 1 priority as Arkansas health director was to reduce teenage pregnancy rates. She sought to achieve this goal by increasing the number of school-based health clinics. The focus of these clinics was not to provide general health service but to provide birth control. The presence of school-based clinics sends mixed messages to teens. A number of studies show teen pregnancy rates actually rise in the presence of programs such as school-based clinics. Therefore, it is not surprising that teenage pregnancy rates rose during Dr. Elders' tenure, even though it was her No. 1 goal to accomplish a reduction of these rates.

Throughout history, the Surgeon General has not had the authority vested by law to make public policy. Although the Surgeon General provides leadership to the more than 6,000 active members of the Public Health Service Corps, the position has limited authority to create policy. However, there is a reorganization taking place within the Department of Health and Human Services which will give the office of Surgeon General policymaking authority. Under these changes the Surgeon General will oversee a number of programs, including women's health, disease prevention, health promotion, and population affairs. Dr. Elders would have the authority to impose and transfer her views regarding sex education and school-based clinics into national policy.

As I pointed out in my earlier remarks, the administration may be pursuing a larger agenda when they put forward controversial nominees like Dr. Elders.

With respect to Dr. Elders, many argue that the kind of direct language she uses is necessary to inform the public of a range of public health issues. Her supporters appear to assume that the general public is ignorant of such issues and must be shocked in order to catch their attention. I think the public is genuinely concerned about teenage pregnancy, but they do not want to discuss the issue in the same graphic manner as Dr. Elders. Just because they do not, that does not mean they are unaware or not concerned.

My constituents want to talk about the issue in terms of right and wrong and personal responsibility, not what to do in the back seat of a car. I believe it is time to talk about the results of our actions and understand the consequences of poor decisions. I want to move in that direction. Unfortunately, Dr. Elders' nomination appears to be a move in the opposite direction.

I do not know, if it were done with a few less shocking words, if I could find fault with any sincere public official's willingness to take on these problems even in what I would consider unconventional approaches. But I hope that those approaches would be the second battlefront against these social problems.

I hope that the first and foremost place to engage people is within the traditions of American society and the principles that are basic to our society as well as a lot of other societies in America that do not necessarily fall into the Judeo-Christian tradition of America or even within non-Judeo-Christian religions in America that still have a good, sound moral base, and that in this first battleground we would have public officials as important as the Surgeon General upholding abstinence and saying that sexual promiscuity was just plain wrong and that in a long-term relationship monogamy ought to be stated as the right proposition.

Just for some moral reason today or just for some religious reason today? No. It seems to me that in the forefront of the battle against AIDS and the way that the disease has spread, that we are going to make the most ground to the extent that we have people limit those relationships and be faithful to relationships.

I yield the floor.

Mr. SMITH addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire [Mr. SMITH] is recognized.

Mr. SMITH. Thank you, Mr. President.

Mr. President, I have had the opportunity to listen to a large amount of the debate here on the nomination of Joycelyn Elders. It has been emotional at times. Perhaps Members have said some things they might regret. I think this is very normal in the course of debate to allow emotions to sometimes take hold of us. Perhaps we regret things that we say. That is very normal, I think.

But I do think it is important for all of us to understand that when a nomination for a very high position in the U.S. Government comes before the Senate, we do have a very important constitutional role, which is that of "advise and consent"; to advise the President on that nomination, consent if we agree that that person is the right person for the job, and to not consent if we believe that that person is not qualified for the job. I think not only is it proper to debate that nomination, but I think we have a responsibility to debate that nomination.

Any person who is presented before the country, in essence, by being before us here in the U.S. Senate has to stand and be prepared to defend not only his or her written words but his or her spoken words and his or her actions. I think that is fair. That is all those of us are saying here on this side who have taken the opportunity to respectfully oppose the nomination of Joycelyn Elders. It is our right to accent those beliefs and try to speak those beliefs in a way that are not confrontational but informational. That is the purpose of my being here on the floor at this time, and that is the spirit in which I will relay some of my concerns.

I ask those of my colleagues, and anyone in America who may be listening to think, as you have heard the debate—and you will hear more of it before we finish, not only from me but many of my colleagues on both sides of the nomination—to think about, out of the 250 million Americans who may have been chosen for this position—probably a very few out of the 250 million would be qualified for the position because of background—and just ask yourself if this person that is before you is the person that you would pick that you would feel represents the values, represents the policies that you yourselves feel are the correct ones.

So I think accountability is really the issue here. An individual must be accountable for their actions and their words and their writings. And under the advise and consent process clearly spelled out for the U.S. Senate under the Constitution of the United States, we have the responsibility to debate it and, I hope, debate it in a way that we would not be challenged in terms of our motives in order to conduct that debate.

I might also say that this is not the first time in the history of the U.S. Senate, in terms of debate. If we look back to the days of Clay and Webster and Calhoun and many others who have long since left this Chamber, the debates were emotional and they were on major issues of the day. We all know what they are and were.

But I think there is a certain amount of hypocrisy, I suppose would be the generic way to say it, in coming to the floor and challenging those of us who have a legitimate difference with Joycelyn Elders' policy, to somehow say there is a vindictive nature about us or there is meanness about what we want to do, to imply that.

There have been some very, very strong words spoken in the past on the floor of this Senate, Mr. President, about some very distinguished Americans.

I certainly can remember the Clarence Thomas nomination process and, frankly, Anita Hill, as well. Both of those individuals had a lot of things said about them by a lot of people in America that probably did not help them in terms of their reputations all that much. And I think, in many ways, some of the things that were said about both of those people were regrettable.

Although I was not a Member of the Senate, I do remember the debate on John Tower, one of our former colleagues, that has been referred to; very acrimonious; a lot of very strong things stated.

And I bring up, Mr. President, a comment that was made about Robert Bork, who was not chosen to be a Member of the U.S. Supreme Court due to the words and votes of many here in the U.S. Senate. And so I think that when we talk about the feelings that come to this body, I think we have a right to express them. Many times they go over the bounds.

And I do not choose to get into the actual terminology that was used, but I think, if anyone were to look back into the written record at the time, you would find references to, for example, Robert Bork as being someone who would force women into back alley abortions or would force blacks to sit at segregated lunch counters, and things like this, words to that effect.

I think there was a reference to the President of the United States at that time, President Reagan, to reach into the muck of Watergate to put Mr. Bork onto the Supreme Court.

I do not think there is any monopoly on people making comments that perhaps go a little bit too far; maybe regrettable—one may regret having said.

So let me get off that subject and talk about the nominee because I believe the American people have a right to know and hear debated the background of this nominee in terms of what she has said, what she has written, what she has stated, what she has done.

I, frankly, regret I have to come to the floor on this occasion to criticize. It is not unusual in politics to criticize and be criticized, as everyone here well knows. I do not like to criticize the nominee of the President of the United States. I frankly believe the President of the United States, who is elected by the American people, should be able to, for the most part, select his or her nominee without a lot of rancor.

But I think there are times when that selection is not the right selection, not just on policy matters but on other matters. I think this is the case in the President's choice for Surgeon General of the United States. I take this constitutional authority, responsibility to provide advice and consent on nominations, very seriously. Therefore I do feel it is necessary to spend some time highlighting some of those views which I consider to be extreme on public health policy of Dr. Joycelyn Elders.

I understand many of these things have, in some form or another, been said. There will be some repetition, I suppose. But in the process I hope it will demonstrate, with this nominee, that the President, I believe, has distanced himself a long distance away from the American people who elected him.

I think that is the issue. Does this nominee reflect the majority opinion, the majority feelings of the majority of Americans?

It is almost amusing, as I listen not only to the debates here on Joycelyn

Elders, but I hear reference whenever some of us here in the Republican Party, especially those of us who consider ourselves conservative Republicans, make comments about an issue or someone, it seems the rhetoric that comes back is they are reactionary, they are wing-nuts, they are not in the mainstream, not thoughtful. Whereas the liberal left are very thoughtful, very considerate, very knowledgeable, very intellectual and usually right on the issues.

That seems to be the way the debate gets framed around here, which tends to put one on the defensive. But I do not intend to speak as if I am on the defensive.

The way I feel, as I said, is that this nominee, with all due respect to the career she has had as a physician, I do not believe that she represents in a policy way, the majority of the American people that she will be representing as the Surgeon General.

She is an extreme advocate on abortion—abortion on demand. That is not the feelings of the majority of the American people. She supports taxpayer funding of abortion for women. I believe not only does she support these views, I believe, based on what I read and what I have heard her say, that she is basically intolerant of those who disagree with her about these issues. I think that is very important.

Everyone ought to respect and be respectful of the feelings of others on issues. We all disagree. We have disagreements—husbands and wives disagree; fathers and mothers disagree; children and their parents disagree. But we have to be tolerant of other people's views and the right to have those views. That is extremely important.

Instead of viewing 1.5 million abortions a year as a national tragedy—which I happen to believe that it is—Dr. Elders has made enthusiastic comments about that statistic. She says, "abortion has had an important and positive public health benefit."

In her hearings before the Committee on Labor and Human Resources, Dr. Elders goes into some detail on that matter. It all is a matter of public record, and I am not going to quote from it because it is a matter of public record. But she believes, therefore, that the American people ought to be pleased to pay for abortions for those—the indigent, or those who cannot afford it. And those who resist such a policy are guilty of having ugly motives. Because, she said:

> "If Medicaid does not pay for abortions, does not pay for family planning, but pays for prenatal care and delivery," Dr. Elders has said:
>
> "I'll pay for you to have another good, healthy slave."

I ask you, Mr. President, and my colleagues, to think about that statement. That is a very dramatic statement and a statement that bothers me very much.

> If Medicaid does not pay for abortions, does not pay for family planning, but pays for prenatal care and delivery, that's saying "I'll pay for you to have another good, healthy slave."

The analogy and the comparison is extremely troubling, that one would say that abortion should be equal to prenatal care and delivery, in terms of priority.

Dr. Elders is particularly enthusiastic about abortions of those diagnosed with a disability. This is even more troubling, extremely troubling. It ought to be troubling to every single American.

"Abortion has reduced the number of children afflicted with severe defects," she has said. That is what she told the Senate Labor and Human Resources Committee in 1990.

> The number of Down's syndrome infants in Washington State in 1976 was 64 percent lower than it would have been without legal abortion.

That is what she said. Those are her words. They are not mine. And as I indicated I think any person nominated by the President of the United States for high office must be accountable for those words.

To her credit she has not backed away from them. But she said them, and if she said them, if we assume she believes them, it bothers me and it ought to be bothersome to every American. These are grossly insensitive remarks. That is obvious. Down's syndrome children—testimony has already been made on the floor and will be made again about children who were born with that affliction, unfortunately, who have made tremendous contributions to American society, are still doing so, and will do so in the future if they are allowed to be born.

I would rather put the focus as the Surgeon General—would it not be nice if the Surgeon General said we are going to go all out—all out and try to find a cure for Down's syndrome. Would that not be preferable to going all out to try to kill the children who might be born with it?

Dr. Elders feels children with Down's syndrome are not worthy of a life in our society. That is what she is saying.

Down's syndrome Congress Executive Director Frank Murphy commented, "Dr. Elders appears to be saying persons with severe defects do not warrant a life and the State would be better off without them being born."

Mr. Murphy sent a letter to a Member of the Senate, my colleague, Mr. LOTT, on July 13, 1993. In that letter he expressed his grave concern. He said:

> Being a doctor one would think that if she were up-to-date in her field she would also know Down Syndrome is not an "affliction." Also, her own industry refers to Down Syndrome as "Down," not "Down's."
>
> I would hope you would take an opportunity to get more information on Dr. Elder's position on the dignity of human life and the respective value of individuals.

Dr. Elders also has attacked those who disagree with her about abortion with, I believe, an unsurpassed arrogance. Here is what she said.

> We would like for the right-to-life and the antichoice groups to really get over their love affair with the fetus and start supporting the children.

That is what she said last year in the Arkansas Gazette. People who oppose abortion, she later said, in the American Medical News, are "non-Christians with slave-master mentalities."

That is not a tolerance for other people's views, Mr. President. Let me comment a little bit more out of that Arkansas Gazette article, January 19, 1992.

I am quoting from the article:

> "Abortion opponent groups' love affair with the fetus needs to give way to supporting children," the Arkansas Department of Health Director told an abortion rights rally on Saturday. "I feel we must all begin to support the quality of life," Dr. Elders said at the Arkansas Coalition for Choice Rally at the State Capitol.

The quality of life, not life, but the quality of life.

Mr. President, with all due respect, I think we have an obligation to support life and after life occurs, we ought to do everything in our power to see to it that the quality is the best that we can make of it. But to eliminate a life or talk about eliminating a life because of its quality and to be up for the position of Surgeon General of the United States of America is troublesome, to say the least.

"People who oppose abortion are non-Christians with slavemaster mentalities."

Mr. President, Dr. Elders really does not stop there, unfortunately. Even if you do not agree with me on the issue of abortion and you agree with Dr. Elders that abortion is all right, she even goes after the Catholic Church. Dr. Elders has basically reserved a kind of special degree of animosity for the Catholic Church.

> "Look who's fighting the prochoice movement," she announced at a proabortion rally in 1992: "A celibate male-dominated church."

The Catholic Church, she added, was silent and did nothing about slavery, did nothing about the treatment of Native Americans, did nothing about the Holocaust, and did nothing about the disenfranchisement of women.

There may be some amount of truth to the fact that perhaps the Catholic Church did not do enough about Indians, or the Holocaust, or the disenfranchisement of women. Surely, Mr. President, we might add a whole long list of people to that list who perhaps did not do enough—a whole long list.

These anti-Catholic remarks prompted the Catholic League for Religious and Civil Rights to regard President Clinton's nomination of Dr. Elders, to be Surgeon General, with "alarm," they said, and to state that "there is simply no place for bigotry in public office." No place for it, I agree.

The extreme proabortion views—and they are extreme—of Dr. Elders, as well as her outrageous attacks on the prolife movement and the Catholic Church are reason enough, in my humble opinion, to oppose her nomination and to oppose her elevation to a lofty position, in this case Surgeon General of the United States.

But she also has expressed some very bizarre views on some other matters. In June of this year, Dr. Elders provided a caller to CNBC's "Talk Live" with her strange public policy views on what should be done about crack-addicted prostitutes who give birth to crack-addicted babies:

"I would hope that we would provide them Norplant," Dr. Elders suggested, "so they can still use sex if they must to buy their drugs."

In addressing the vexing problem of teenage pregnancy, Dr. Elders has utterly rejected the time-tested moral value that sexual relations should be reserved for marriage. I am not going to get into that debate, Mr. President, but she did. She said:

> I don't know of any parent who wouldn't go out at midnight and try to find contraceptives to start their children properly.

Well, I do. I know a lot of them. A whole lot of them, Mr. President, and I am one of them.

Dr. Elders commented on the CBS television show "60 Minutes" that she tells every girl to put a condom in her purse before she goes on a date.

Finally, she attributes the rise in teenage pregnancy in Arkansas to "poverty and ignorance and the Bible Belt mentality."

Let us see what her answer to the problem of teenage pregnancy is. She aggressively—aggressively—promotes sex education in the schools. There is a difference between invoking your morals and sex education. I will not get into that debate. But basically she said:

> We've taught our children in driver's education what to do in the front seat and now we've got to teach them what to do in the back seat.

What one does in the back seat ought to be reserved to the parents to teach, the churches. I am not sure it ought to be taught by somebody in the public domain. Values ought to be taught at home and in the churches, not be delegated to some public official.

Such instruction cannot begin early enough for Dr. Elders.

> An integral part of a comprehensive school-based health clinic today is that we have sexuality education beginning in kindergarten.

Kindergarten, Mr. President.

Let me quote from a USA Today article, Wednesday, July 14, 1993, by a lady by the name of Kay Coles James. She is Vice President of the Family Research Council. She says:

> As an African-American woman, I would like to take pride in the nomination of an African-American woman, Joycelyn Elders to be U.S Surgeon General. But my enthusiasm is tempered by my love of truth and of the idea that the best person ought to get the job, regardless of race or gender. Elders, who goes before a Senate committee Friday, is not the best person, for many reasons, but mainly because she seems to care little for the truth.

She goes on to say:

> At an international AIDS conclave, 800 sexologists were asked if they would have sex with a loved one with HIV using a condom. After a long pause, only one person raised a hand. If the experts know better, why foist condoms on teens?

That is what Ms. James says. She also says Elders seems concerned more with promoting a radical agenda than in reviewing scientific evidence to make educated decisions. She concludes by saying:

> I'm sorry, but speaking as a mother, this is not good enough by a long shot for my children or any of America's children. Elders is unqualified to be Surgeon General.

Due in significant degree to the stellar performance of President Reagan's Surgeon General, Dr. C. Everett Koop, Americans look to their Surgeon General not only for professional expertise —not only for that; that is important, very important—but also for some type of moral leadership.

I recall specifically the leadership that Dr. Koop took in the antismoking campaign, for example. We have come to expect a very high standard of personal dignity, but not only that, grace, in the occupancy of the office.

In this regard, I think judicial nominations are an analogy. In searching for well-qualified lawyers as candidates for nominations to the Federal bench, Presidents traditionally look not only to academic and professional qualifications but also seek what has come to be known as judicial temperament. The American Bar Association also looks to judicial temperament when evaluating judicial candidates. A good judicial temperament is a key quality that Americans have a right to expect in their judges.

I think that the American people should also have a right to expect proper temperament in their Surgeon General.

Let me state what I think the bottom line is for this Senator: Dr. Elders, with all due respect, fundamentally lacks the temperament for this job. She does not simply disagree with millions of Americans who believe, for example, that abortion is wrong or taking of a human life. There are millions who believe that; there are millions who do not. It is not that she simply disagrees. She ridicules, she attributes our belief to the worst possible motives.

Moreover, far from evincing the spirit of religious toleration, it animates the Constitution, it animates the Constitution's guarantee of the free exercise of religion. It just does not say it; it animates it. That is what it is all about. Dr. Elders has repeatedly attacked in this case the Roman Catholic Church with ugly words, Mr. President, ugly words, and gross intemperance.

The last time that President Clinton put forward a nominee with such extreme views on public policies of the day, he withdrew the nomination. He withdrew the nomination.

And in so doing, he conceded that he had not read the controversial writings before nominating her. Frankly, it was a welcome admission of candor. If he has not done so already, I hope the President would do it again. But I am not optimistic that that would happen.

In conclusion, Mr. President, I ask my colleagues to think about the numbers of people out there in the United States of America who are eminently qualified to be Surgeon General of the United States and ask yourself if this person, Joycelyn Elders, is the person who reflects the values that you have, the feelings that you have about the issues she is going to be addressing as the Surgeon General of the United States.

Dr. Elders has her views, and she is entitled to them. I have my views, and I am entitled to those. But we are also, both of us, entitled to the respect of having those views.

Now, there is one other thing that I have that Joycelyn Elders and the President of the United States do not have. I have a vote in the Senate under the advise and consent rule. My vote, Mr. President, on this nominee will be "no."

I thank the Chair and I yield the floor.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, there are a number of my colleagues who have not addressed this issue, but I would just like to take a very few moments to respond to some of the observations of my colleagues who have expressed reservations or opposition to Dr. Elders, and then we welcome other comments of our colleagues, both in favor and in opposition. But I do want to address some of these matters briefly and also reference some of the material which I think those who really are interested in her position should consult.

We have heard a lot of the quotes from Dr. Elders. What they do, they boil down to a caricature that is certainly not the nominee that I know and that those who support Dr. Elders have spoken to. Dr. Elders thinks teenage pregnancy is a tragedy. So do most Americans. She favors making contraceptives available to sexually active teenagers while encouraging them to be abstinent. So do most Americans and virtually all the public health leaders appointed by Presidents Reagan and Bush.

Antonia Novello, President Bush's Surgeon General, had this to say:

> I believe we must also educate our youth about the best way to protect themselves if they choose to be sexually active. For them, we must not fail to provide adequate instruction on the correct use of condoms.

Former Surgeon General Koop, President Reagan's appointee, advocated the use of condoms in his AIDS mailing to every household in America in 1987.

James Mason, head of the Centers for Disease Control under President Reagan and Assistant Secretary of Health under President Bush, said:

> This tension between what some of us would prefer that children and adults do and what they actually do is why the Public Health Service continues to urge abstinence in some programs and yet promotes condoms in others.

Exactly the position of Dr. Elders.

She supports freedom of choice. So do most Americans. She thinks diabetic teenagers should not have unplanned children because of the dangers to those children, particularly vulnerable, especially; teenage diabetics who have children. So does every medical authority.

She cares deeply about Down's syndrome children, but she feels it is the parent's choice whether they are to assume that burden. She has been extraordinarily effective in Arkansas in bringing people together. She sometimes becomes impatient with those she believes simply do not sincerely care about children. All of us in the heat of the moment will sometimes overstate. Let us take a very brief look at what Dr. Elders actually had to say about some of those issues that have just been mentioned here.

Down's syndrome children. This is in the course of the hearings.

> Do you feel Down's Syndrome children are not worthy of life?
>
> Dr. ELDERS. Absolutely not, Senator. The statement was in fact a statement of fact . . . I have had many patients that I have cared for with Down's syndrome. My favorite uncle, my nephew, has Down's syndrome. He is presently 20-plus years old—a wonderful, lovable child.

The idea that you are going to paint on this Senate floor that this nominee does not care about Down's syndrome children, she talks about her favorite relative.

> I feel Senator—I think we are talking about the Freedom of Choice Act when I spoke—I feel that people should be able to make that choice. I do not feel that I know enough about other people's lives to make that choice for them. I am not good enough to make that choice, and Senator, I don't feel that I love enough to make that choice. I feel that this is a choice that they have to make between themselves, their significant other, and their God. It should not be made by me.

Quite a bit different really from the kind of individual that has been talked about.

Others have criticized her in terms of her characterizations of many of the groups that have opposed her and that she has spoken out about in terms of Arkansas. During the nomination process she indicates, talking about different groups that have opposed her both in Arkansas and oppose her now:

> I don't know what they do in your State—but what they do is they fight against health education, they fight against welfare, they fight against Medicaid, but they always want to have the children born, but they do not want to support children after they are here. And that was probably where the "love affair with the fetus" may have come in, because I looked on it as an affair, that is, short-term commitment; whereas with children, that's forever. That is a very long-term commitment. And in my State, I have not seen them—

Talking about the groups—

> Out working for programs to help poor mothers. And if we had a society where everyone was provided health care, a decent place to live, an adequate education, then Senator, we would be taking care of all people. But in Arkansas, in my State, I don't see these kinds of commitments.

And then she also said: I am sorry for any offense—this is talking about groups—

> I am sorry for any offense I may have given to the many Americans who sincerely oppose abortion and who also care deeply about the well-being of mothers and children. In Arkansas, I have worked closely to develop constructive programs to prevent teen pregnancy, to promote paternal and child health with many individuals of good will who also oppose abortion on religious grounds. While I do not share their religious attitudes on this issue, I view every abortion as a failure, and I look forward to working closely with abortion opponents and prochoice advocates on a common agenda of good health for mothers and children and prevention of unwanted pregnancies.

Deeds are more important than words, and by her record in Arkansas, Dr. Elders has shown her ability to work effectively with people of widely differing viewpoints to achieve health care goals. And her record of achievement is nationally recognized as a model.

In fact she enjoys broad support from people in Arkansas despite her outspokenness. Among other organizations, she is also endorsed by the Arkansas Parent-Teacher Association, Arkansas Hospital Association, and Arkansas Medical Society.

If outspokenness disqualified someone from becoming Surgeon General, we would have had to disqualify Dr. Koop, whom we all recognize was one of our most successful Surgeon Generals. Dr. Elders is a preacher. She holds strong views. And while not everyone will agree with her ideas, she brings a compassion and commitment to the post of Surgeon General that the country needs.

I just mention finally another issue, on the question of Norplant. When she was asked about her position on the use of Norplant and prostitutes:

> Dr. ELDERS. I would agree with you, Senator Kassebaum. I think we all would like to bring people together and have them work together. And when those statements are just statements out there, out of context of a whole speech, sometimes I think the flavoring becomes very different.

She was being asked in what I thought a very sensitive way by Senator KASSEBAUM to respond to a number of these kinds of statements or quotes, many of which we have heard earlier today.

> When I made the comment, for instance, in regard to the prostitutes and Norplant, well, taken out of context—in the context that I was answering it, they were asking if I would support Federal programs or programs to pay for Norplant for drug-addicted women who were prostitutes. And I still feel that rather than having drug-addicted babies, I still would. But just to say that I would just be doing that so that they could go out and have babies or something—obviously, I don't support that. I am not about that.
>
> In regard to the front seat and the back seat comment, I think that as we teach our children driver's education—almost every school in Arkansas has some type of driver's education—we teach them not to drink and drive; we teach them always to wear their seatbelts—we teach them the sex education, to be responsible.

"And Senator, I believe that abstinence"—it is not a word that I have heard used in terms of characterizing her position. This is her position:

> I believe that abstinence—I believe as much or more than anybody—I certainly feel that this is what I have taught my children.

There was no reference to the fact that she has been an outstanding mother. This is what she has taught her children.

> Every parent I know, I feel, supports and teaches abstinence. Every preacher I know supports and teaches abstinence. But we know sometimes they are not abstinent. But the thing that I was really trying to say was that we want them to be responsible. If you can't be abstinent, I want you to be responsible. If it happens, certainly, use a condom; don't take the risk of AIDS or sexually-transmitted disease or pregnancy.

So it goes on, Mr. President. I will reference other parts of this transcript. But in terms of, I think, of trying to at least respond briefly to some of the questions or challenges that we had earlier in the day, I think as we have seen in the course of her explanations and responses to all of these questions, that I would urge our colleagues to look at that full and complete record.

She does not always make presentations perhaps the way any of us might. But I think as the Senator from Arkansas who knows her best who spoke about her willingness to speak candidly and honestly about tough and difficult and not nice subjects and as a result of that has had an extraordinary record in the areas of public health of the people that she has worked for and we should not lose sight of that particular fact.

I yield the floor.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER (Mr. KOHL). The Chair recognizes Mr. CHAFEE.

Mr. CHAFEE. Mr. President, I rise in support of Dr. Joycelyn Elders to be the next Surgeon General of the United States. I have met with her, as I assume the President of the Senate has and many others. I reviewed her accomplished career as director of the Arkansas Department of Health, and as a pediatric endocrinologist. I have concluded that Dr. Elders is well qualified for this major appointment.

Mr. President, many people have stated, and I agree, that Dr. Everett Koop defined the role of the modern Surgeon General with his determined advocacy and the candor of issues on which he spoke out ranging from AIDS to smoking. He used the position of Surgeon General of the United States as a bully pulpit, as a chief advocate of public health. Dr. Koop did not shrink from the tough public health challenges of his day and he certainly did not mince words even at the risk of offending some in our Nation.

I believe that Dr. Elders will bring that same determination, that same courage, that same force of conviction to the job that made Dr. Koop such an effective Surgeon General. I also will state that she definitely will be high profile.

Mr. President, Dr. Elders as director of the Arkansas Department of Health demonstrated leadership and vision by advancing a whole series of programs. Example: a model school-based health clinic program. She implemented policies which doubled childhood immunization rates. She expanded early childhood screening services. She extended HIV testing and counseling services to every county in Arkansas. And she increased home and hospice care services for senior citizens and medically fragile patients.

Her advocacy of children and women's health on the emphasis of preventive medicine—there is not a single Senator that does not get up on this floor and say he or she is for preventive medicine. No one is stronger for that than Dr. Elders. She is for increasing access to primary care and all of these steps are right on target and place her in the forefront of the profession she is in—the public health profession.

I strongly concur with these priorities and hope she will bring them with her to Washington, and I am confident that she will.

Dr. Elders has also attacked the difficult problem of teen pregnancy. There has been a lot of discussion of that on the floor. She has attacked it with a strong and effective media campaign which drew national acclaim, and those programs won the Peabody and the Edward R. Morrow Awards.

I know on this particular point of dealing with teenage pregnancy that some of Dr. Elders' critics have pointed to an increase of teen pregnancy in Arkansas during her tenure, thus to point out that her policies failed.

Well, what do the facts show? The facts show that between 1985 and 1990, a 6-year period, teen pregnancies in the United States went up by 17 percent. In that same period, the rate of increase in Arkansas was less than 10 percent. Just to give you an indication of how difficult this subject is, I come from a State where we put a lot of emphasis on this. In that same period, we did not go up less than 10 percent in Rhode Island, we did not go up 17 percent, we went up 22 percent. That is with a public health director in our State that spent a lot of time on this subject trying to deal with it.

Mr. President, that leads me to the troubling issue of AIDS prevention. Just yesterday I read an extremely alarming article in the Washington Post about the spread of AIDS among young women. The gist of the article was that heterosexual transmission has now replaced IV drug use as the No. 1 cause of the alarming increase in AIDS among sexually active young women. The article featured new, very disturbing reports from the World Health Organization and the Centers for Disease Control on this tragic problem.

I ask unanimous consent that a copy of this article be printed in the RECORD at the conclusion of my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. CHAFEE. There is no question—and we all agree—that abstinence is the ideal when it comes to preventing sexually transmitted diseases. Everybody is for that, as the floor manager, the distinguished senior Senator from Massachusetts has previously pointed out. That should be our primary message in connection with sex education. However, we cannot bury our heads in the sand and ignore what is happening among our young people. We must recognize the critical need for appropriate sex education so that our children know the hazards and know how to protect themselves.

As the Washington Post article concludes "Vulnerable adolescent girls should not have to pay with their lives for having had sex."

Public health professionals, including Dr. Koop and Dr. Elders, have struggled with this issue for some time and will continue to do so—given the moral conflicts that clearly it raises. But public health officials must respond to reality—not the ideal moral standard—but they have to respond with health policies that reflect actual behavior borne out by the statistics and the health outcomes in our Nation.

Dr. Elders has many admirers among her peers. I was greatly influenced by the fact that our State director of Rhode Island Department of Health, Dr. Barbara DeBuono, went out of her way to speak to me about Dr. Elders whom she has known and respected for many years and strongly urges that I support her. That was helpful to me because I have great respect for our director of the department of health in our State, Dr. DeBuono. She knew Dr. Elders, knows of her, knows of her work, knows of her professional standing.

In addition, Dr. Elders has received numerous endorsements from respected medical and public health societies and schools, as well as national organizations ranging from the Parent Teachers Association to the National Association of Children's Hospitals.

Mr. President, I appreciate this opportunity to speak out on behalf of Dr. Elders. I urge my colleagues to vote for her confirmation now, before the August recess. Time has gone on too long, Mr. President. I really feel very badly that it has taken so long for these nominations to come up. In some instances, it is not clearly the fault of the Senate; it is the fault of the FBI background checks and the interminable checks that seem to take place.

Clearly, the administration ought to be able to have its team in place as soon as possible. I hope we can confirm this nominee before we adjourn for the August recess.

I yield the floor.

EXHIBIT 1

[From the Washington Post, Aug. 4, 1993]

AIDS AND THE TEENAGE GIRL

(By Judy Mann)

Young women are now becoming infected with the AIDS virus faster than any other population group, yet research on how the disease infects women and how women can protect themselves is in its infancy.

Worldwide, 70 percent of the 3,000 women infected each day are between 15 and 25 years old, according to a United Nations Development Programme report released last week. According to the World Health Organization, 90 percent of all individuals who have become infected did so through heterosexual sex.

In the United States, more than 80,000 women between 15 and 44 are already infected. Until recently, tainted drug needles caused most cases of AIDS in females. But two weeks ago, the Centers for Disease Control reported that 50 percent of new female AIDS cases were caused by heterosexual transmission of the virus, compared with 44 percent from intravenous drug use. Last year, the number of women with AIDS rose 9.8 percent, compared with a 2.5 percent increase among men.

Taken together, the U.N. and CDC reports carry very grim news for adolescent girls, and for those of us who are parents of adolescent girls. We can no longer ignore AIDS as a tragic plague descended on the houses of gay men and drug addicts. It is descending on our own houses too. The epidemic has taken hold in the teenage population, which is now more sexually active, and sexually active at an earlier age than ever. Young women are particularly vulnerable to microlesions in the vagina through which the virus can enter the bloodstream, and too few of them insist that their partners use condoms.

"Asking someone to wear a condom is still a big barrier," says Kathleen Stoll, director of the National Resource Center on Women and AIDS, a program affiliated with the Center for Women Policy Studies. With many girls, "we are not even . . . to the point where they want to ask" a partner to use a condom "because of connotations the condom has in our country. 'Does it mean I'm fast?' 'Does it mean it's not spontaneous?' 'How will he react?'"

Stoll, who also works with middle-class suburban high school Girl Scouts, says many of them have "a very romantic, idealized image of what their sex life will be and what their relationship with their boyfriend will be like. Condoms don't fit into that. The young women I work with are very assertive and self-confident. But because of images of romance they have, there is a real barrier to talking about condoms or safe sex or AIDS or sexually transmitted diseases. You talk about HIV and try to give that touch of reality. At the same time, it would be nice to be able to tell your daughter, as we've done with contraceptives, that there is another product available that will help protect you."

Legislation sponsored by U.S. Rep. Constance A. Morella (R-Md) would take a step in that direction by supporting $30 million in research on barrier methods of preventing sexually transmitted diseases. President Clinton has proposed spending $2.7 billion for AIDS programs in the 1994 budget.

These products, called microbicides when they kill agents responsible for sexually transmitted diseases and virucides when they refer specifically to compounds that prevent the transmission of HIV, are inserted into the vagina much the way women use spermicides with diaphragms. In other words, they can be used without the knowledge of a partner and without having to negotiate with him.

"What we need to do is to educate and empower women so they have more control over the situation," says Morella. Another bill she is sponsoring would provide $120 million for outreach and prevention among high-risk women. Sen. Paul Simon (D-Ill.) plans to introduce companion legislation this week.

Penny Hitchcock, chief of sexually transmitted disease branch of the National Institute of Allergies and Infectious Diseases, says the scientific challenge is to develop a microbicide that could be applied close to the time of intercourse but which would not interfere with the vagina's natural defenses or be so abrasive that it caused the kind of vaginal lesions that make a woman susceptible to AIDS.

There's no substitute for abstinence when it comes to preventing sexually transmitted diseases. While one might shudder at the news that the New Haven, Conn., schools will start making condoms available to fifth-graders, Hitchcock notes that we have to make a distinction between what we'd like our children to be doing and what they are doing.

As the AIDS epidemic spreads into the teenage population, it becomes increasingly critical to fund AIDS research that will provide women, who are now at high risk, with ways to protect themselves that they will, in fact, use. Vulnerable adolescent girls should not have to pay with their lives for having sex.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina [Mr. HOLLINGS] is recognized.

Mr. HOLLINGS. Mr. President, I only just this week had the privilege of meeting Dr. Elders and spent a little while with her. Among other impressions, the one overriding impression was her humility and her respectfulness—"yes, sir," "no, sir," and everything else. That did not surprise me for a minority out of Arkansas, and to come here with this record she would have had to have been most respectful.

People know each other in our backyards down there in our particular section of the country, and they see through arrogance right quickly. Fortunately or unfortunately, if it is to be observed, a minority has to be even—in many instances—more than respectful in the political arena.

So when I come to the floor and hear my colleague from New Hampshire saying she is disrespectful, I demur. I have to defend her on that just on my brief visit with her. She is a very warm, sweet individual, very impressive, and if nothing else, most respectful.

Her subject matter is harsh. I do not know how you run around and talk about some of these things. It is hard for me to talk about condoms. I think of the story about little Johnny and Willie, the 7-year-olds. Willie comes running up and Johnny says, "What is that you have in your hand?" Willie said, "I found a condom on the patio." Johnny says, "Willie, what is a patio?" This new age and these grandchildren continue to surprise me. Let us not ever have it languish in the RECORD that Dr. Joycelyn Elders is disrespectful. She is most respectful, and she is outspoken. But more than anything else, I found her an inspiration. She is gifted—not just with all of the talents and smarts any parent could want in one of eight children, in a modest family—but also with a candor and a courage that makes her a natural leader. When someone with perfect qualifications is nominated to a powerful post, it is a blessing. But it is doubly so when that person brings Dr. Elders' personal qualities of courage, and honesty, and caring about public service. Moreover, Dr. Elders is tireless. At every step in her life, she has pressed on to apply her talents for the public good.

Let us look, for example, at the qualifications. Dr. Elders has been precocious in the academic preparation that arms her to fight disease. She skipped two grades, and graduated from high school early. And then, on a full scholarship at college, she did not take her time, but graduated in three years—magna cum laude. She then applied her talents to biochemistry and to pediatric endocrinology and became a professor of medicine and a medical researcher. Mr. President, she currently is the only black pediatric endocrinologist in the country.

This academic brilliance has not kept her from leadership in the public sphere.

She has served as the chief medical official in her State of Arkansas, and was elected President of the National Association of State and Territorial Health Officials.

More to the point, she has addressed herself to one of the toughest problems facing our society: teen pregnancy. Mr. President, I do not know the answer to the problem, but I do know that most in public office will find something good to work on, but they generally do not want to tackle this one.

So here we have a brave public servant who has stepped up to the plate and swung hard on behalf of the young and the needy. She helped develop the "Teenage Pregnancy: Arkansas Time Bomb" TV campaign to focus public awareness that has won the George Peabody and Edward R. Murrow awards. She established a division of the Department of Health to help schools improve health education. She provided funds for 26 school health clinics requested by local school boards; 22 more are on the waiting list.

Mr. President, as we have seen with the President's effort to reduce the deficit, no good deed goes unpunished around here. Those who would block reauthorization of the Family Planning Program for years, who would cut funding for WIC, who would blindly cut Medicaid that pays the health bill for so many poor women and children, who would block child care to let working families provide quality care for their children, will then turn and attack a woman who has tried to solve our most difficult problems. Those who would tell all pregnant teenagers they must carry their pregnancy to term will attack a woman who has worked from deepest conviction to prevent girls from being put in that situation.

Where has the Federal leadership been, Mr. President, on these problems under the past two administrations? Where has it been for the health of children? Did it take the Clinton administration to realize that we need a nationwide program for immunizations, or that all Americans need health insurance, or that the children need a hot lunch at school to concentrate on their studies? These are nonpartisan truths that have gone unspoken for 12 years, while children developed preventable diseases, teenage girls struggled daily to raise children and make ends meet, and a cycle of poverty got worse in many areas.

Mr. President, there is no excuse for inaction in the face of this suffering. But those who were inactive now will attack Dr. Elders for doing her best.

Mr. President, Dr. Elders did not solve teen pregnancy in Arkansas; she merely held the increase below the national average. But her clear victories in other areas have received less attention than her controversial challenges:

Arkansas' immunization rate for 2-year-olds rose from 34 percent in 1989 to 60 percent in 1992.

She led the "Campaign for Healthier Babies" in Arkansas to increase the number of pregnant women receiving early and regular prenatal care. She extended clinic hours, provided management for high-risk pregnancies, and raised the standard of care in Arkansas. These efforts, and others, increased the maternity caseload by 17 percent between 1990 And 1992.

Early childhood screenings rose from 4,000 in 1988 to 45,000 in 1992.

Mr. President, when we talk about the need for preventive medicine to improve a child's life and get ahead of health costs, these screenings are a fine example of what we mean. Dr. Elders has already done it is Arkansas.

Dr. Elders initiated a newborn sickle-cell screening program that now covers 45,000 infants in Arkansas.

She expanded mammograms and pap smears to prevent breast cancer and cervical cancer.

She established a division of adolescent and school health to help schools improve their health education programs and health services for adolescents.

Mr. President, again, when we talk about preventive education and its potential to save costs, Dr. Elders has hands-on experience. As many as 26 schools applied for clinics in Arkansas and got them, and 22 more are on the waiting list.

She initiated a series of programs to expand home health care in Arkansas to allow senior citizens and medically fragile patients to remain in their communities. These programs emphasize hospice care and skilled home health care for the chronically ill, and offer personal care for people who need help with daily living. Under this program, the health department offers 24-hour, 7-day care for frail to terminally ill patients. Anyone wondering how they will pay for nursing homes or just find the time and energy to care for a parent or chronically ill relative will want Dr. Elders to be Surgeon General. This is another of the pressing, nearly universal problems of our age, and we need someone with experience to help find solutions.

She has been an active member of the National Advisory Committee on Rural Health. There is a bipartisan concern, in this body particularly, to provide quality health care in rural areas. Dr. Elders knows first hand the need for these services and has been active in applying herself to solutions.

Mr. President, I would reiterate in closing—we are considering a person who is eminently qualified. Also, she is outspoken. Mr. President, I remember when I voted for an outspoken Dr. Everett C. Koop because he was qualified, even though I disagreed with him regarding a woman's right to decide. I voted for him, though I disagreed with him on major issues, because he was qualified and he was the President's choice. He made us proud, and Dr. Elders will make us prouder. She is steeped in the specific problems and solutions this country needs, and I urge Senators to stop the stalling and stand up and vote for someone who is willing and prepared to work to solve our problems.

Let me particularly thank the distinguished Senator from Rhode Island, who has just spoken in favor of the nomination. This is bipartisan, thank heavens, because it seems like everything now is spectator sport here in this national Congress and everybody has to draw up a side and cannot look at someone's qualification.

Mr. President, I could not find anyone better in the field of experience who has come from the experience and then dealt with the experience of a parent herself and who is outspoken on the subject that we would like to sweep under the rug. We need someone outspoken on this particular score of teen pregnancy. We actually need it if we are ever going to really face up to it and try it from every angle, obviously from abstinence, in the first instance, and in the last instance and in every instance, and then be realistic to realize that it just does not work that way in the real world.

We have a desperate problem in my little State of South Carolina of teen pregnancy, and I think Dr. Elders will lead not only my little State but the entire country facing up to this problem and all health problems across the spectrum in her public health role as Surgeon General.

I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Washington [Mr. GORTON].

Mr. GORTON. Mr. President, the person ultimately appointed must be the object of the President's preference, though perhaps not in the first degree. It is also not very probable that his nomination would be overruled. The Senate could not be tempted by the preference they might feel to another to reject the one proposed because they could not assure themselves that the person they might wish would be brought forward by a second or by any subsequent nomination.

Mr. President, this explanation of the role of the Senate in the confirmation process was eloquently described by Alexander Hamilton in Federalist Paper No. 76. The words of our Founding Fathers are just as relevant today as they were 200 years ago when they empowered the President in article II, section 2 of the U.S. Constitution to nominate, "with the Advice and Consent of the Senate * * * Ambassadors, other public Ministers and Consuls, Judges of the Supreme Court, and all other officers of the United States."

Both the Constitution and the Federalist Papers which were written to advocate and explain the provisions of the Constitution clearly express a deference to the President's choice of his administration. The Founders designed a Government to let the President choose whomever he wished to help him run the executive branch.

The Senate check is intended to be used only in extraordinary circumstances and, as Hamilton wrote, and I quote him again, "to be an efficacious source of stability in the administration."

Although some may call it old-fashioned or conservative, I respect this deference to the President that our Framers clearly intended. I have done so even when President Clinton has sent nominations to the Senate with whose philosophy I do not agree. I have, on the other hand, on a few rare occasions voted to reject some of the President's nominees.

After serious consideration, I voted against nominees who have proven to be intolerant of conflicting views and have used their offices to intimidate and harass their opponents. For this reason I have voted against Roberta Achtenberg and Tom Payzant, who had shown a clear hostility to the Boy Scouts of America, and Sheldon Hackney, president of the University of Pennsylvania, who showed a stunning indifference to the first amendment while he supported an agenda of political correctness.

The nomination of Dr. Joycelyn Elders raises the difficult issue of deferring to the President as the Founders intended or rejecting her. I have heard the opponents of Dr. Elders, and I believe they have legitimate and serious concerns. She is not the nominee I would have chosen myself. I agree that some of her comments in the past have been careless and offensive to those who take their religious beliefs seriously, including this Senator. The policies which she has pursued in Arkansas are not necessarily the policies I would support. Having met with Dr. Elders, however, and having reviewed her record, I am not convinced that she falls into that category of the President's nominees against whom I have voted in the past.

I will say, in passing, Mr. President, that I trust that the majority leader will not attempt to bring this nomination to a vote before the August recess, as I believe the opponents to the nominee have a legitimate right to attempt to make their case in a leisurely fashion and to make it to the country before such a vote is scheduled.

Dr. Elders has stated to me and in her Senate testimony her belief that abstinence is the only absolute guarantee to prevent sexually transmitted diseases and unwanted pregnancies. That important message is one I hope she continues to advocate as Surgeon General. Through the Senate confirmation process, she learned the value of listening carefully to those with whom she disagrees. She agreed with me that strong families are the single best answer to many of the problems in our society.

For my final decision, I refer again to the helpful words of Alexander Hamilton in No. 76 of the Federalist Papers.

If Dr. Elders is not confirmed as Surgeon General, President Clinton will simply offer another nominee with identical beliefs because those are the beliefs of the President himself. Disagreement with some of the President's beliefs is not, in the view of this Senator, sufficient reason to reject his nominees. I shall defer to the President and vote to confirm Dr. Elders.

THE BUDGET PLAN

Mr. GORTON. Mr. President, on an entirely separate subject, we will, I suspect, by late this evening or tomorrow morning be debating the overwhelming issue of the year, the President's plan for new taxes and for a budget not only for 1994, but for 4 years after 1994.

The President has attempted in recent weeks to dispel the image that his budget is a tax-and-spend budget. He began in his State of the Union Message by speaking of taxes as contributions and new spending programs as investments. That was an attempt to change the English language, Mr. President, which simply did not work.

The programs which are to receive greater funding are spending programs of the most traditional governmental type. The taxes that are to be increased are taxes that we have had literally for decades.

It is inaccurate to describe this program as anything other than a tax and spend program, particularly because taxes, and what the President denominates as spending cuts, are treated in such a dramatically different fashion: The taxes are effective immediately, or perhaps even that is an inaccurate statement. The income taxes, are to be retroactive to January 1 of this year, to a date before William Clinton was President of the United States, to a date before this Congress was sworn into office and began its deliberations, in such a fashion that no person in the United States could possibly plan for such taxes beginning on New Year's Day of this year.

The spending cuts, in almost entire measure, however, Mr. President, are dramatically different. Few of those spending cuts will take place during the course of this year or next year or the year after. Some 80 percent of those cuts will not go into effect until very shortly before William Clinton's term as President of the United States has ended. These are promises made by the President and the Congress to attempt to bind future Presidents and future Congresses in ways which they cannot possibly be bound and with a history of broken promises at the same time.

It is remarkable, Mr. President, how similar this proposal is to that which was passed as the result of the budget summit in 1990 during the Presidency of George Bush.

You will remember that that budget summit package consisted of what? It consisted of increased income tax rates on upper income individuals, exactly as this one does; an increase in gasoline tax, exactly as this one does; and promises of spending cuts in the future, exactly as this one does.

What was the result? The year after those income tax rate increases went into effect, the wealthy in the United States paid a much lower share of all of the income tax collected than they did before.

And what about the spending cuts? They never materialized. What was then advertised as the largest deficit cut in history simply disappeared, vanished into the wind. Unfortunately, that is almost certainly the fate of this now denominated greatest deficit reduction in history.

Let us take a look, Mr. President, for just a moment at the 1 year—1994—in which it is clear that this plan will be in effect. We are passing a law that will not be repealed within a year. We are passing spending ceilings and spending programs that will clearly be in effect during fiscal year 1994. Both Republicans and Democrats—the President himself, on Tuesday evening—spoke about ratios of tax increases to spending cuts.

You cannot come up with such a ratio for 1994, Mr. President, because there are no spending cuts in 1994; at least there are no spending cuts that are not matched by new program spending increases.

Spending cuts are zero, Mr. President, but the tax increase is real for fiscal year 1994. Not counting the retroactive nature of this tax, $32 billion more in taxes will be collected from the American people. So the score, Mr. President, for 1994 is 32 billion to nothing.

I note that the present Presiding Officer is a sportsman and owner of a professional basketball team. We never heard of a score of 32 billion to nothing in a sports event, Mr. President. But that is exactly what this Congress of the United States is poised to do to the American people.

Now, by 1995—if Congress keeps all of its promises, if the President keeps all of his promises, something which is perhaps dubious if we look back at history—there will then be a ratio. There will be a handful of spending cuts. There will be all of these tax increases again.

At that point in 1995, we will be talking about a ratio of $11 in tax increases to $1 in spending reductions. Oh, I know Mr. President, that the President of the United States counts this differently.

Working all the way back to February, the President still insists that a fee increase—an extra charge imposed on an individual citizen by the Government for a service—is a spending cut, rather than a revenue increase. That is the 1984 Orwellian type of language which is so frequently used here in Washington, DC. But, fairly considered, the ratio of tax and fee increases to spending cuts in 1995 will be 11 to 1 taxes over spending cuts.

It is for exactly these reasons—because we will, at best, under the President's own figure, never have a deficit of less than $200 billion a year under this program—under the President's proposals, before the end of the century, the deficit will once again go over $300 billion in spite of all these tax increase.

It is for those reasons Mr. President, that Republicans are united, and united without any slight difficulty, against a budget proposal which simply does not do what the American people wish us to do, and that is to cut spending first.

No spending priorities have been reordered. No taxing policies have been reordered. This is 1990 all over again.

Mr. President, I find it a particular paradox that a President who emphasizes spending cuts has not been able to find, with the help of Congress, a single Federal program to eliminate. We can go through this extensive budget and not see one single program the President wishes to, or now has, eliminated.

Granted, he did have one. When the budget came down, we were going to eliminate the honey subsidy. That disappeared during the course of the passage of this bill through Congress, with the President's assent.

The honey producers said, with some logic, "Why us? Why only us? Why are we the only program that needs to be eliminated?"

This President did not learn the lesson imposed on the country by President Reagan—that if you are going to cut programs, you have to cut them out wholesale so that you remove the argument of the beneficiary: "Why me?"

"Why me?" may not be a logical argument, but it is a tremendously potent argument in the Congress of the United States, and it is one, with the President's lack of courage, that has caused us to come up with a budget that eliminates no spending programs whatsoever.

Now, Mr. President, we can talk about the loss of jobs overall from this proposal. We can speak in abstract national terms.

I did note that the President, the other night, said that this program will create 8 million new jobs in the United States in the next 5 years. What the President did not note, however, is that the same analysis said that 9.4 million new jobs would be created if we did nothing at all—absolutely nothing; not deal with the budget deficit in any respect whatsoever.

So the net impact—again by the President's own statistics —of this program is that it will cause the disappearance, or the noncreation, of 1.4 million jobs across the United States during the course of the next 5 years.

Unfortunately, for those of us who debate against this bill, no individual in this country can say for certain that he or she will be among those 1.4 million jobless 5 years from now as a result of this program, but inevitably they will be there.

What each of us Senators, representing particular States, can do is, really, perhaps, look at the microeffects of this proposal on some of the businesses and individuals and industries and families and communities of his or her own State. Of course, I do that with respect to the State of Washington.

This proposal will have an adverse effect on families, communities, jobs, industries, and businesses in the State of Washington which will be significant, and it will affect everything from our largest employer, the Boeing Co., to the smallest of small businesses.

Let us take Boeing first. Boeing's principal customers are airlines. A large number of those airlines are, of course, American flag airlines. The American airline industry has lost $10 billion over the course of the last 3 or 4 years. Realizing that fact, the President joined with the Senate and House in creating a commission on the airline industry of highly noted and effective and experienced people to recommend changes in our laws or regulations which would help the airline industry to recover so, in turn, it could purchase more new aircraft and create more new jobs in the United States.

This Senator and two other members of the congressional delegation from the State of Washington were appointed as nonvoting congressional members of that Commission. The report of that Commission is now out for all practical purposes. Appointed largely by the President and by the majority party of the two Houses of Congress, the Airline Commission's principal recommendation was we should not increase the fuel tax on airline fuel. The report recommended, "exempting airline fuel from any proposed transportation fuel tax."

The Commission went on:

> At a time when the United States is looking for ways to strengthen the airline industry, an additional tax seems ill-advised.

This Senator was fortunate in sponsoring what he believes to have been the only amendment to this tax proposal during its debate here in the Senate which succeeded. That amendment was to exempt the airlines from this tax on their fuel. That went to the conference committee. The conference committee, scrambling to find anyone to impose a new tax on, has reinstated that fuel tax beginning after the first 2 years. Presumably we gained a little bit. They are exempt from it for 2 years, which I suspect it would not be had it not been for my Senate amendment. Nevertheless, in its search for new revenues, that new tax will be whacked onto the airlines 2 years from now—$1.75 billion during the 5 years that this budget covers.

Will that help those airlines to buy new aircraft? Will that help those airlines to keep fares down? Will that help those airlines to provide new jobs for the people of the United States? Of course not. It will, to exactly that extent, choke off the ability to provide those new jobs both in the airline industry and in the aircraft manufacturing industry and in all the many small business subcontractors for the aircraft industry, directly in the teeth of the recommendations of the very men and women the President and the Congress asked as experts to make recommendations for the renewal of the health of the airline industry. It seems utterly irrational to me.

But we can go to the smallest of small businesses in the State of Washington and across the country and find exactly the same kind of effect. Let me give an instance.

Mike Pederson, along with his wife, Sandi, is the owner of the Tubafor Mill in Washington. Mike tells me the combination of income tax hikes and higher gasoline taxes will make it harder for his company to compete. Mike said:

> We are already as tight as we can get on manpower. Every day we are looking at ways to lay off people and trim overhead. We may close one of our satellite operations, and that will cut two people. But you can only lay off so many people and then you are out of business.

Another small businessman friend of mine is Ford Kiene, the part owner of City Beverages in Kent, WA. He employs about 50 people in his beverage distributorship. He told me his company is organized as a subchapter S corporation, one subject to the huge tax increases included in this bill, and that directly because of the increase in taxes included in this bill he will not rehire two people he was forced to lay off because of the 1990 budget agreement and had hoped to be able to rehire. This means that two people, as a direct result of the Clinton tax plan, will not have jobs with this company and that their families will have a harder time making ends meet.

Mr. Kiene also told me that because of higher taxes at the State and Federal levels, his business is deferring the replacement of equipment. He is now replacing equipment on a 4- or 5-year schedule rather than a 3-year schedule. That obviously will have an adverse effect on employment in those equipment industries.

A third example: Bill Byrd is the owner of Pacific Die and Casting, which is a small metal parts manufacturer in Vancouver, WA. He employs 25 people. In responding to questions of how his company will react to the higher taxes, income taxes in this bill, Bill said:

> We will definitely put off hiring new people. Our customers are already asking us to reduce the price of our products, so we cannot afford to increase the price of our product and pass it off to the consumer. You know, if I could trust the Government to cut spending, I would be willing to pay a little extra in taxes, but it's just business as usual this year.

Three examples, three small businessmen, one with a handful of employees, one with 25, one with 50, all of whom will have fewer employees a year from today as a result of this tax bill than otherwise they would have had: Families without jobs, families in desperation. The small business community of this country, because we can multiply these three by hundreds of thousands, will be choked off in their ability to put together capital to expand and to provide opportunities and services and, of course, goods in their own communities as a result of the insatiable demand of this administration to spend more money, often on new spending programs like the national service bill this Senate has just passed during the course of the last couple of days.

I have extended these remarks for a certain period of time. I will not go at this point into another set of statements I have on the fact that this bill will not produce the deficit reduction that is advertised because so much of it is smoke and mirrors, savings which have already been made, constant overestimation of what various provisions will bring in. New, higher estimates were just poked into this bill during the course of the last week so it would come a little bit closer to the President's goal but without any changes in policy which would cause those increases to take place.

I will add one other point. A significant number of senior citizens, numbering in the millions, will also have their taxes increased, most of them retired, some of them still working in order to contribute to our society.

Just the other day the distinguished chairman of the Budget Committee of this body said, "Read my lips, no joint filers making less than $180,000 will see their income taxes go up under this proposal."

That is simply not true. Perhaps it is true for citizens under 65, but for America's senior citizens that income figure is not $180,000 a year. It is $44,000 a year. For some reason, it was deemed appropriate to impose new income taxes on seniors who have 25 percent—one-quarter—of the income that is required to impose new tax rates on those who are still at work on a full-time basis.

It is lost on me how these people unfairly benefited during the course of the 1980's. Perhaps the Clinton administration can explain why they need to pay more money during the course of their retirement.

This, of course, does not apply to those who are just living on Social Security alone. The people it hits are two groups: Those who were wise enough and frugal enough to save significantly for their retirement and those who have chosen to continue to work to contribute to our society when they are over the age of 65. In fact, for some of them this will be a rate increase of more than 50 percent for any extra dollars they earn. The highest marginal rates will be imposed on certain of these still-working seniors.

No, Mr. President, this bill includes new taxes on seniors, new taxes on everyone who owns or drives an automobile, new taxes on income, a large percentage of which will be imposed on the very small businesses we had asked to create new job opportunities in this country.

This plan could be more properly denominated a tax on new jobs plan, rather than a deficit reduction plan. This Senator sincerely believes that the President of the United States would be better served by the defeat of this proposal than by its passage. If the proposal is defeated, the President will have to come back in the middle of the political spectrum, offer real spending cuts, and then ask for perhaps modest revenue increases as a balance.

Under those circumstances, I suspect that he would find a broad cross-section not only of Members of Congress, but of the American people supporting it. Because such a program would be much less adverse in its impact on our economy, because such a new program would really enhance opportunities and create jobs, by the end of his term the President would be more popular than clearly he is going to be with a plan which is a tax on new jobs and will result in drastic action against his program and supported by the voters. Mr. President, I yield the floor.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Massachusetts.

EXECUTIVE SESSION

NOMINATION OF M. JOYCELYN ELDERS, OF ARKANSAS, TO BE MEDICAL DIRECTOR IN THE REGULAR CORPS OF THE PUBLIC HEALTH SERVICE

The Senate continued with the consideration of the nomination.

Mr. KENNEDY. Mr. President, as I mentioned earlier, we are quite prepared to debate this nomination. There were Members in opposition who wanted to speak. We are more than glad to hear their positions and respond to any of the questions that they might have. I want the RECORD to show that we await now some of those who want to speak in opposition to the nomination. We have had a number who have spoken in favor, as well as in opposition.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. COATS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COATS. Mr. President, I just want to indicate to our colleagues that the reason why no Republicans are on the floor speaking now is that we are in caucus right next door on the tax bill. I do not expect that will last all that long, but the Republicans are in an important meeting relative to the entire reconciliation bill. We expect to adjourn that shortly and then be back on this nomination.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MATHEWS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MATHEWS. Mr. President, it does not appear that there is anyone here who wishes to speak in opposition to the nomination of Joycelyn Elders.

Before I speak about the matter that I want to particularly address to my colleagues this afternoon, let me take just a moment to say that as a Senator and as one who has had an opportunity to talk with my constituents in Tennessee and talk to my colleagues in the Senate, I want to go on record as endorsing Dr. Elders for this post.

I want to go on record as being one of the ones who wants to stand up and say I believe that she is addressing, in a timely manner, a number of the problems that we have in our society today. I think perhaps Senator BUMPERS said it best this morning. For those of us in my generation, she is saying some things that we did not dare talk about in mixed company. But we have to stop sweeping problems under the rug and under the bed and deal with them openly and honestly.

So I wanted to, in terms of addressing another subject matter, say that I believe we need to get on about the business of this confirmation process. I want to add my endorsement to her nomination.

Mr. MATHEWS. Mr. President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

TIME FOR A CHANGE: REFORMING OUR WELFARE SYSTEM

Mr. MATHEWS. Mr. President, I rise today to bring to the attention of my colleagues the work of the Welfare Simplification and Coordination Advisory Committee. This committee was created by Congress in the 1990 farm bill. It was charged with a very specific task—to recommend ways to simplify and coordinate the Nation's four largest public assistance programs: AFDC Food Stamps, Medicaid, and Public Housing.

Members of the committee were selected in 1991 by the Secretary of Agriculture in consultation with the Secretary of Health and Human Services and the Secretary of Housing and Urban Development. The bipartisan committee brought together 11 individuals with a broad base of expertise in the public assistance arena. The committee found that the myriad programs were a complex monstrosity. Instead of working together to help families in need, the various programs create needless and burdensome barriers for needy families who are trying desperately to receive assistance. The Congress asked the newly created committee to recommend to the administration and the Congress specific steps that can and should be taken to help the welfare system work more effectively.

The committee's report, "Time for a change: Remaking the Nation's Welfare System," has done just that. It presents specific recommendations on ways to simplify and coordinate the current system to delivering public assistance. The recommendations are focused toward building a system which will help low-income individuals and families become self-sufficient.

At its first meeting here in Washington, the committee decided that it would not attempt to reinvent the wheel. The complexity of administering and accessing the many assistance programs is well documented. Thus, the committee scrutinized volumes of virtually all reports compiled over the past two decades. The conclusion of virtually all reports was the same: The system is in desperate need of change.

Mr. President, the committee traveled around the country, talking with both recipients and administrators of public assistance programs, all of whom attested to the urgent need for conformity and simplicity among the programs. The committee found that existing programs do a good job of fulfilling their own missions. For example, the Food Stamp Program distributes benefits to 26 million needy Americans each month. When viewed together as a system, however, the result is an antiquated and costly conglomeration of programs with separate goals, inconsistent policies and rules that are so complex that neither the clients nor their caseworkers can or should be expected to understand them. In too many instances, the emphasis is on doing things right, instead of doing the right thing.

Finally, the committee concluded that the delivery of services to the needy of this Nation has reached a crisis stage. Harried eligibility workers are overwhelmed by the paperwork, and many eligible individuals fail to apply for benefits because of procedural complexities.

As a way to remedy this bureaucratic nightmare, the committee recommends replacing the numerous programs that currently serve the program with one, family-focused, client-oriented, comprehensive program. Such a program would address a multitude of human needs and be simpler to administer than the jumble of programs that currently exist. It would provide a coordinated, simplified approach to meeting the interrelated needs of low-income individuals and families while they are working toward self-sufficiency.

The committee recognizes that this recommendation will not come about overnight. In the interim, it has recommended other steps that can be taken immediately to improve the current state of public assistance and provide timely relief to program administrators and the needy.

The Welfare Simplification and Coordination Advisory Committee has provided us with a valuable product. I am certain that most Members of Congress share the concerns of the committee. We should utilize their report as a blueprint for change, and we should urge the administration to do the same.

Mr. President, I urge the President to charge each member of his welfare reform task force to carefully review this advisory committee report and confer with individual members as new directions are charted in this important area.

Mr. President, President Clinton indicated early on that one of the basic programs he would address for the Nation is welfare reform. I think we have a blueprint for this committee to begin working with and on, and I urge my colleagues to join me in urging that we get about our work on this program and that we bring about meaningful reform in this area as we hope to in others.

Mr. President, I yield the floor.

Mr. DURENBERGER addressed the Chair.

The PRESIDING OFFICER (Mr. ROBB). The Chair recognizes the Senator from Minnesota [Mr. DURENBERGER].

Mr. DURENBERGER. Mr. President, I rise to make some comments on the President's nomination of Joycelyn Elders.

Before I do, I am pleased to have had the opportunity to be in the Chamber and listen to the remarks of my colleague from Tennessee on welfare reform. I guess we have not had a lot of time in the first 195 days of the Clinton administration to do a lot of reform. We got captured by the economic plan on February 17, and we have been semiparalyzed somewhere between budget reconciliation and election law reform.

But I want to, as one who has been here now 15 years wrestling with the subject to which the Senator from Tennessee has just spoken, strongly endorse his comments and to suggest that his experience and background justifies all of our paying some attention to the comments he has just articulated about his own State of Tennessee.

I think there are efforts that have been put forward by a variety of Governors to do something about welfare reform, but until we begin the process of guaranteeing income security to every American through a system that guarantees adequate earnings, a fair tax system, and a good social insurance system, we really are not going to be able to deal with the subject.

So I, too, endorse the commitment of this body and this Congress and the President, as well, to the issue of welfare reform.

I might also say the President has selected a young man with Minnesota roots who came to this administration through Harvard by the name of David Ellwood, who at a relatively young age has become a national expert on the subject, and I look forward to the leadership that he—through the President—will provide to all of us.

EXECUTIVE SESSION

NOMINATION OF M. JOYCELYN ELDERS, OF ARKANSAS, TO BE MEDICAL DIRECTOR IN THE REGULAR CORPS OF THE PUBLIC HEALTH SERVICE

The Senate continued with the consideration of the nomination.

Mr. DURENBERGER. As I said, Mr. President, I rise today not just to indicate my vote for Dr. Joycelyn Elders, which I have already given her in the Labor and Human Resources Committee, but I come here to urge my colleagues on both sides of the aisle, and I guess particularly my colleagues on this side of the aisle, who are in the minority, to confirm the President's nomination of Dr. Joycelyn Elders as Surgeon General of the United States. I also ask them now, as I have personally and privately, to give us an opportunity to vote on the nomination before the August recess.

I would first like to address the issue of timing, which my last comment suggests why I think we ought to confirm Dr. Elders now, and then I will turn to the reasons why I urge support for her nomination.

The question simply is what purpose would delaying the nomination serve? We have held hearings in the Labor Committee. Dr. Elders has testified at some length. She has answered all the questions fully and candidly. Her papers have been available in the Senate for over a month. Investigators of all stripes have combed through the papers and have been digging for information for weeks. That in and of itself is not unusual. What is unusual in this case—and I have been here 15 years, through the last 2 years of President Carter's administration, 8 years of President Reagan, 4 years of President Bush, and now the beginning of the Clinton administration—I am not sure I have ever met a candidate who was as available to me, as just one Member of the Senate, as Dr. Elders has been. At first impression, one would say, well, that is just a person who figures she is lucky to have come to Washington and been handed a big job. But after about the second meeting, you understand that there is a depth of personal commitment in this woman that goes way beyond the fact that that commitment will bring her occasionally to Washington, DC, and a different kind of responsibility than she had in the State of Arkansas.

I do not really know from my experience anyone who has been as open and as willing and as available to discuss her past views, her present views, her future expressions, if that may be the case, as Dr. Elders. I suspect, without having asked her, that in part that is a learning curve that comes off of previous Surgeons General, and Dr. Koop has already been spoken of here this morning by my colleague from Oregon, Senator HATFIELD. But the reality is that Dr. Koop got put through a lot worse than Joycelyn Elders will ever get put through. In part, it is because of the very controversial position. It always has been.

The Surgeon General is in part the health conscience of the Nation. I do not think we have ever lived in a time when this Nation needed a health conscience more than we do right now. The fact that Joycelyn Elders is willing to be that conscience and to prick the consciences of the rest of us in this Nation to do it I think is a tribute to her. Since we all need it so badly, I cannot quite understand why we need to delay another 4 or 5 weeks in getting at it.

We have a State fair in Minnesota for about 2 weeks, beginning in August, 12 days, the second biggest in the country outside of Texas, I am told. Everybody comes, 2 million people a year, and I must say that all of the controversy that I have ever seriously experienced both national and international in this country seems to occur in August. It seems to be a wonderful month to really get people to stir other people up. I do not know whether it is the heat, the temperature, or the fact that we are not here.

So there is an awful lot of opportunity to go after other people.

I remember Robert Bork in August. I remember literally thousands of people lined up outside my little booth at the Minnesota State Fair waiting to tell me why I had to be against Robert Bork for Associate Justice of the U.S. Supreme Court.

I can remember that same situation with regard to other nominees. And all of these were nominees, in each case, whom I supported, whether they were nominees by my President or by some other President. I found it difficult to stand there and convince anybody in the 90 degree heat while the ice cream is melting on some kid's cone or something like that, why this person's writings in 1981 in some obscure legal journal had disqualified them from serving in the U.S. Supreme Court.

So the fact that the nominee has been so available to every single one of them, and so open, and because of the fact that she has responded as fully as I guess you could expect anyone to respond to the questions, and because we do need that conscience in this position, I just urge my colleagues to consider this debate as part of the information process.

Go look in your mailbag; go look in your telephone lists, and so forth. We certainly have had a lot of expression of quite a variety of views on this subject. I went back and did that on my own. I have been watching my telephone count over the last 3 weeks or so. Obviously, this is a controversial nominee. My telephone count from Minnesota, I imagine, is probably the biggest I have ever had in a period of time. There are strong feelings out there.

The telephone count probably runs 8 to 1 or something like that against the nominee. If I were only to judge by that, or if I were sitting out in a small town in Minnesota and all I had to judge was a few of these one-liners—I guess there were some of them up here on the board a little while ago—I guess I would be calling my Senator, too. But I am not; I am in a different position.

So I went back. I looked at some of the mail. For the benefit of my colleagues, I am sure they all have the same mail, but maybe for the benefit of these wonderful Minnesotans who so consistently write to express their feelings about what we do or should do out here, I will quote from some of their expressions of concern.

> I am against Joycelyn Elders or any other radical feminist such as herself who advocates condoms for minors.

There are a whole bunch of letters like that. I am trying to write back to those people. Many of these letters at the bottom—they are wonderful Minnesotans—they say, "Please write". They want to know my views. I write them back and tell them a little experience I had with several of my colleagues. A few years ago when the Surgeon General who had not been Surgeon General, Dr. Koop, who would not be called a radical feminist, could not be called a pro-choice on abortion issues or anything like that, whose nomination was fought for a whole year by the media, a lot of other associations—he was also engaged in advocating the use of condoms and the use of sex education in the schools, and so forth.

This made a lot of people very nervous. We had a small group of my colleagues together to talk about that. He was very patient in going through the problem of AIDS. It was beginning to be a serious problem. In the end, in effect, what he said to all of us was, "You know, I do not know what the number is, but let us say we have several hundred thousand priests, ministers, and rabbis in this country, but we only have one Surgeon General. And the problem of AIDS is the toughest problem this Nation has faced in a long time. And," he said, "I have to make those kinds of decisions."

So in some sense or other, that is kind of the reply I gave to this person.

Here is another:

> We need to protect our children from spiritual, emotional, physical corruption, not tell them it is OK to be violated and show them how to on top of it.

Very concerned person:

> I am informed she advocates sex education in kindergarten, that she has been an outspoken supporter of abortion and that she assails parental rights. Under her leadership Arkansas jumped to having the second highest teen pregnancy rate in the Nation.

I doubt very much that it was Joycelyn Elders or Governor Bill Clinton's objective to jump the rate of teenaged pregnancy to the second highest in the Nation. But that is what that person believes.

Here is another one that urges that I vote against her "because we are against her philosophy."

Another:

> I strongly oppose her radical sex education agenda for American children. It is time to put a stop to legislative sex.

Another:

> Such an appointment would be detrimental to the entire world.

Another:

> I feel that kindergarten children are too young to be bothered with sex education. Also we do not need anyone in an official capacity who supports abortion.

Another:

> I plead with you in Heaven's name to urge opposition to her nomination. Her principles stand in opposition to everything that is decent and beneficial for America's children and all other moral citizens.

Another:

> This important position should be held by someone who more broadly represents the views of Minnesotans and probably Americans in general.

I guess I could go on and on. There are quotations from the Paul Harvey News that she was bragging about how the number of Mongoloid children in Washington, DC, or State—I did not catch which—the letter writer says "has been cut in half because of abortion. Do you suppose she hopes to institute a * * * program to eliminate all undesirables? Hitler had the same idea."

Another:

> My real concern about her is her frank statement she has made in support of abortion rights and sex education for children.

Another:

> My view on her appointment has nothing to do with race but it is because of her humanistic philosophical approach to this important position.

Another:

> Please do not allow our children to be robbed of their innocence and certainly of their childhood.

Another:

> Any government employee who abuses the system like she did by being paid by the State of Arkansas and the Federal Government at the same time is not warranted . . . if you are telling your constituents in Minnesota that you did what she did, you are really not interested in eliminating the wasteful spending in Government.

Imagine. I do not know what the total, Mr. President, of the mail count is, probably 1,000 or more and the telephone calls are probably up to 4,000 or 5,000 so far.

I must say that I, like all of the rest of you, appreciate hearing the views of my constituents. I have read the comments of just some of the constituents that I picked off at the top of the file because of the fact that I think this is about where we are going to be for another 5 or 6 weeks if we do not act on this. There is going to be more of the same.

I do not know how we are going to disprove her views on sex education or her expression regarding condoms in the schools. She has already responded very forthrightly to a variety of issues. Some people are not going to agree with her on some of these issues. Some of the things that she did as health commissioner in Arkansas, I am sure, are things that Minnesotans do not agree with even though it is going on in their own schools and being enforced by the head of the public health service in our own State.

Mr. President, I just want to suggest to my colleagues and to my special friends, of course, who are concerned about the value of greater debate and more information that, at some point there is a limit to what we are going to learn and what value this learning process is going to have to us, to her, and to the American people.

A couple weeks ago when the nomination was before the Labor Committee, I called Dr. C. Everett Koop and had a nice, long conversation with him on the telephone, and he reminded me of something I suppose some of you have forgotten—the experience he had in 1981. Those of you who want to see it in detail can read a wonderful book by a wonderful man, "The Memoirs of America's Family Doctor," by Dr. Koop. If you are interested, I advise reading the whole book, but if you are just interested in this subject, read chapter six, entitled "Confirmation." It is about 20 pages long. It is the story of the Nation's fourth pediatric surgeon. In 1945, he went into pediatric surgery, and he became the fourth. At age 64, he was asked by President Reagan to be the Surgeon General.

He was condemned for a variety of things, and one of them was being too old. Interestingly, Tip O'Neill who was then 70, accused him of being too old, at 64, to be the Surgeon General. They tried to get this case heard in the House of Representatives. It was my friend HENRY WAXMAN's contribution to trying to hold him up.

The fact of the matter is that a combination of attacks by the media, and attacks by the Public Health Association and the AMA, all of the people who, a couple years later were passing out awards to Everett Koop, managed to make it impossible for him to be confirmed for a full year. It was January 1982 before he was confirmed.

He says in his book that he learned a little something from the process. I think he probably learned it all in the first month, but it took 12 months to teach him that lesson. It was largely from people like all these letter writers from Minnesota who disagreed with certain of his express beliefs. I offer it to my colleagues. That issue, we are not going to resolve. If you do not like sex education in schools, we are not going to resolve that. Do not accuse her of not liking children or of not being in love with America's children and dying inside every day when she sees the decline in the health of America's children.

So the nomination process, I am concerned, has begun to degenerate a little bit, and I must say I am grateful to my colleague, Mr. GORTON, for having laid out the basic ground rules on which we are supposed to be operating. As I recall, a few minutes ago, he quoted from Alexander Hamilton in the Federalist Papers which set out the ground rules for nominations.

I was recalling, as I listened to him, when my law partner, Harold Le Vander, was Governor of Minnesota in the late sixties, I served as chief of staff and was responsible for a lot of nominations, particularly court judges. I always had to wrestle with the issue of how do you find the best person for the job to express the Governor's view of what ought to be.

I recall when I came here in 1979, as a relatively young Republican Member serving under a Democratic President in my first year, and I had to face that issue. It was not likely that I was going to agree with every opinion or viewpoint of President Carter or of his nominees. Was that grounds for disapproval? What is the appropriate standard of review? So I have come to treat this question very seriously, because the Constitution of the United States requires the judgment of the Senate as part of the confirmation process.

My standard is clear and has been the same from the beginning. I believe that the President of the United States should have considerable discretion to select an individual he knows and trusts. The Senate has an obligation to determine whether those persons have the professional qualifications and ethical and moral integrity to serve the Nation. The standard for evaluating judges, of course, is higher, at least in my view, than for appointees that serve the President. Judges make up a third branch of Government; they are intended to be independent of the executive, and they have lifetime appointments.

If I also personally agree with every position that individual has taken on relevant issues, so much the better. But whether we agree on every relevant policy issue is not the criterion on which to confirm or reject a nominee. Nor is whether a nominee's past views are in line with majority thinking or even my own view of what is good for our country. The President is the Executive—not the Surgeon General, the Secretary of Health and Human Services, or other appointees. It is the President who is entitled to have his values and views represented by his own nominees.

My Democratic colleagues have had 12 years of Republican Presidents to wrestle with this dilemma. Even when the Democrats enjoyed majorities in the Senate, they did not reject, as a group, every Reagan or Bush appointee. I recall Justice Scalia, one of our most conservative members of the Supreme Court, was confirmed on a 98 to 0 vote in 1986, and Justice Souter had only 9 dissenters when confirmed by a Senate with a Democrat majority in 1990. And we could go on and on.

The nomination before us today is controversial, but it is not the most controversial or divisive appointment that has come before the Senate in my time. My personal challenge, indeed my obligation to my office and my Nation, is to evaluate the nominee. Using the standards I have set forth, Dr. Joycelyn Elders should be confirmed as Surgeon General of the United States.

Few, if any, have challenged her medical and public health credentials, which is what this job is all about. She is a distinguished graduate of the University of Arkansas medical school, to pediatric training at the University of Minnesota, and has served with distinction as a professor of medicine. She has been a leader in the field of public health—both as Director of the State of Arkansas Department of Health and as the elected leader of the Association of State and Territorial Health Officers. This spring, 1993, Dr. Elders was awarded an honorary degree by the medical school of the University of Minnesota.

There have been questions raised about her integrity in personal economic matters. Having listened to all of the evidence, having participated in the hearing, I am not persuaded that those actions disqualify Dr. Elders. In fact, in weeks of digging, none of my colleagues have found financial disqualifications.

She has been accused of being controversial. There has been controversy surrounding her judgment as an administrator. She has been criticized for not warning people about potential defects in condoms. I reviewed the evidence; I talked to public health experts outside of Arkansas, and I believe there were legitimate public health reasons to support her decisions. She made a judgment call, based on her knowledge of public health and behavior, and in consultation with the FDA and other experts.

Some people have agreed that the decision was not the right one. Perhaps they are right, perhaps not. Dr. Elders' explanation to me was reasoned and rational, and it is not grounds to disqualify her as Surgeon General.

She has also been criticized for personal attacks and inflammatory statements. Some have been taken out of context, and that is why I read some of these letters. Some sound more confrontational and insensitive than they were meant, including attacks on Catholics, pro-life supporters, that were outright disrespectful and very inappropriate, in my view. She has been properly criticized for these remarks.

Mr. President, I am pro-life and I am Catholic. I am also convinced that these statements do not represent a fatal flaw in the character of Dr. Joycelyn Elders. She understands the need to tailor what is occasionally a provocative style to an old role, and she knows she can change.

Nominations have become an exercise in casting stones. It did not start here, and it did not start today. I think it has been here as long as I can remember.

Mr. President, I say to the many Minnesotans who have called and written to me that this is a controversial position to which a person whose professional life apparently has been not without some controversy has been appointed. The very first Surgeon General was so controversial that he was let out of office as soon as Thomas Jefferson left office by his successor in the Presidency.

In the 1930's, Franklin Roosevelt's Surgeon General, Dr. Thomas Parran, sought to educate the American public about syphilis and gonorrhea and how they are transmitted, and nobody wanted to talk about it but someone had to.

Subsequent Surgeons General selected other controversial public health issues. Dr. Leonard Scheel made crucial decisions about polio; Dr. Luther Terry launched the history-making study of smoking and health, both extraordinarily controversial.

Dr. Koop, about whom I have already spoken, had been our most recent controversial figure.

To me, being controversial may be a qualification, not a grounds for disqualification for this office.

So what is left? Only issues of opinions and the values on which those opinions rest.

I believe Dr. Elders shares some important and fundamental values with me and with the rest of us in this body and the Minnesotans who write to me. She believes very strongly in community and community values. She believes strongly in families and the importance of families to communicate values and virtues to children. She laments the breakdown of families and community. She grieves for the children who are unwanted and deprived of parents who will give them a chance in life. She understands the solution to our health problems lies in our ability to address issues of violence, poverty, lack of education, and homelessness. I can go and on. I share those beliefs.

We appear to disagree on some solutions to this breakdown in our moral values. I do not think that condoms handed out to kindergartners or schoolchildren will cure the underlying problems we face. I do not believe that abortion should be the solution to irresponsible teenage sexual behavior. But these disagreements do not disqualify her to serve as Surgeon General.

We do also have points of agreement. We agree that community-controlled school-based clinics are effective ways to reach out to troubled youth. We agree Government cannot do it all. In fact, we cannot do it at all without help from families, neighbors, or churches.

Debate is an integral part of the political process. I expect to debate many of these issues in the coming years, and Dr. Elders will need the support of the President, Republicans, Democrats and the American people. She cannot impose her solutions on an unwilling Nation.

Mr. President, her influence will depend on her ability to exhort, cajole, and hopefully to inspire. True leadership often speaks softly, with sensitivity to diverse cultures and values. So she will need to temper her rhetoric in order to lead.

One of the most sensitive and most telling comments made at the Labor Committee confirmation hearing was made by our ranking Republican colleague from Kansas, Senator KASSEBAUM. She wisely observed that Dr. Elders' great gift may well be that she has the ear of people who are not inclined to listen to Senators or anyone else from Washington, DC.

Time will tell whether she will become a great Surgeon General like Dr. Everett Koop or a forgotten one. We, as Americans, often have difficulty identifying our heroes in advance. But Dr. Joycelyn Elders has the trust of President Clinton, and I am willing to give her the opportunity to meet the health challenges we face in this country. I wish her well, and I hope that my colleagues will give her that opportunity as soon as possible.

The PRESIDING OFFICER. The Chair recognizes the Senator from California [Mrs. FEINSTEIN].

Mrs. FEINSTEIN. Mr. President, I thank you very much.

Mr. President, to me the Surgeons General of the United States have always been a blur until Dr. Koop.

What do I remember about him? What I remember about him on television was a uniform and a beard—which was kind of a point-counterpoint—and then, second, what he had to say about smoking. At the time, I was, myself, a reformed smoker, and it really startled me that this was the man that was going to make his mark by telling the people of the United States that smoking is truly harmful to your health.

Then Dr. Novello was a woman in the position, again in uniform. She talked about the dangers of young people driving while drunk, and I think she made a mark there.

Let me tell you where I think Dr. Elders will make her mark. Let me take it back to visiting Martin Luther King, Jr., Hospital in the city of Los Angeles, and visiting a preemie unit for babies. There were eight children in this preemie unit. Each one of the babies was crack addicted. They had catheters and tubes. They were little, tiny babies, maybe this big.

The doctor in charge of the unit said to me: You realize that to get each one of these youngsters out of this unit is a cost to the taxpayers of $250,000.

I looked at the room and I forgot for a moment about the tubes and the pathetic little beings, and I thought $2 million just to get eight babies from a preemie unit into a regular unit, and it was very stark.

Then he went on, and what he said really chilled me. He said: And 9 out of 10 times these youngsters are also central-nervous-system damaged and their parents do not want them. So, they become a burden on society to support for the rest of their young lives.

I realized for the first time the enormous cost.

Then I began to read some figures about teenage pregnancy, about the number of 14-year-old young women in our society who are getting pregnant and the numbers by the year 2000, if the trend continues, almost half of our present 14-year-olds will be pregnant and give birth to a child before the age of 20.

I remember saying to my own daughter when she was a teenager, do not do something, and I remember her turning around and doing it. I realized I could not get to her for some reason.

This is where I believe Dr. Elders is going to make a contribution. I believe she is going to speak to the youngsters who get into trouble in this country; and will educate them with words that perhaps I do not use, Mr. President, or perhaps you do not use, or perhaps the Senator from Oklahoma does not use, but words which will ring true and carry a message to young people who are deeply troubled in this country.

The other night I heard Senator KENNEDY speak very eloquently on this floor. It was late. I was sitting in your chair, and I was anxious to go home. I was tired. He went through the biography of this woman, and indeed it is a remarkable biography.

Here is a woman about to be Surgeon General, I hope, of the United States, who never saw a doctor until she went to college, never had access to a doctor. She was born in a rural county to a sharecropper father and a teenage mother. She has been there. She knows what it is like. She was educated in a segregated school system, and at the age of 15 she received a scholarship to college.

She worked as a cleaning woman to help pay her college tuition, and she was the lone African-American woman at the Arkansas Medical School. She distinguished herself in medical studies, and she went on to become a chief resident.

Now my father was chief of surgery. It is not easy to be a chief resident. You have to be pretty good to be a chief resident.

Then, as you know, since 1987 she served as director of the Arkansas Department of Health.

Now, true. Would I have said all of the things that she said? No. Would you have said all of the things that she has said? No. Is that really relevant to whether she can become the kind of Surgeon General that can instill in our young people the need for caution, the need for prevention, the need to turn away from drugs, to turn away from teenage pregnancy? I think she may very well surprise us all with the job she does in this regard.

I heard a lot of things said on the floor about Dr. Joycelyn Elders.

And as I listen to them, I keep going back to that preemie unit at Martin Luther King, Jr., Hospital and wondering what if there had been a Surgeon

General who could have spoken directly and honestly to the young women who were using crack while they were pregnant. Who, in the first place, got themselves pregnant, did not stop using crack while they were pregnant, and delivered children prematurely that will be neurologically disadvantaged and disabled for the rest of their lives. Young women who probably will not want the children when they have delivered them, and children for whom the taxpayers will take over the ultimate burden and responsibility.

I think Joycelyn Elders can speak to young people. I think she speaks their language. Is it the language that those of us in our fifties and sixties, older and even younger, would like to hear? Not always. Is it always exactly appropriate? Perhaps not.

But I think that is irrelevant. You see, I think there are millions of young people in this Nation who are not listening to anybody, who question our traditional values, and who go out and do terrible damage and get themselves into a lot of trouble.

I think that this will be the contribution that she will make. And if I am right, it will be worth a few, perhaps, inappropriate statements at times that are being used on the floor of the Senate tonight.

I think that Dr. Joycelyn Elders will distinguish herself as a Surgeon General. I suspect her constituency will not be the more affluent of the country, but will be the more deeply troubled who have never been part of the health care community. If she can bring them into this health care community, not only will she save lives, she will save taxpayers' dollars, she will turn around human life, she will prevent human tragedy, and she will make a generation of well babies.

I think that is a very important contribution for a Surgeon General to make.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from New Mexico, Senator DOMENICI.

Mr. DOMENICI. Mr. President, I ask unanimous consent that I be permitted to speak for 10 minutes, as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator is recognized accordingly.

THE RECONCILIATION BILL

Mr. DOMENICI. Mr. President, and Members of the Senate, I rise today to take just a few moments to speak about the event which is currently taking place in the U.S. House, which may or may not be before the U.S. Senate tomorrow, and that is the President's proposal, as written by the Democratic Party and its leaders here in the U.S. Senate and in the House, called the reconciliation bill.

First, might I say, the President went on television and very graciously asked the American people to let Senators and Representatives know how they felt. Strangely enough, they responded to his call and to the suggestion of our Republican leader and they called in large, large numbers. The only problem for the President is that, from everything we could find out, those telephone calls from all over America turned out to be not what the President wanted. In fact, they came out somewhere between three and four to one against the President's plan.

Now, frankly, 3 months ago, one might have said, the people expressing their views were doing so based totally on emotion because they wanted to help change the country; they listened only to the President's State of the Union Address.

But I believe what has happened since then and what the millions of phone calls reflect today—and I assume there are still hundreds of thousands of Americans who know the phone number of their Representatives and their Senators and the U.S. Senate and House Capitol operator, I assume they will still be calling—but I assume what happened, Mr. President, and fellow Senators, is that the people found out what this economic plan is all about, and it is not very complicated to them anymore.

Frankly, I think the calls would be six and eight and nine to one against it if they and Republicans could look through the 1,600-page bill and report, which was delivered late last night. We showed it to everybody here.

Frankly, the Senator from New Mexico is still amazed, as we thumb through it, that we find more and more strange and egregious kinds of things—I am going to tell the Senate about a few of them—and we are not through yet.

The poor House Members are already voting on it. There is no way, Mr. President, that they or the people of this country know what is in this bill. And I do not mean that all of the details are very interesting to people, and maybe they do not want to know about them all. But I would say there are 60 or 70 or maybe 80 provisions that clearly have not been called to the attention of the American people that were written into this reconciliation bill.

I do not have time tonight to give the history of this process and talk about what it is, but I will make a couple of observations.

The thing that keeps the reconciliation bill within limits so that it is not filled with all kinds of wishes that Members want, which have not gone through committees and that are just put in this bill, is the part of the substantive law of the land known as the Byrd rule.

Now I know some have said that it is Senator DOMENICI who is putting this Byrd rule, this yoke, around the necks of those who are trying to get this bill passed.

Mr. President, it is not Senator DOMENICI's substantive law, it is Senator BYRD's.

For those who think that had the Senator from New Mexico, who joined his chairman, Senator SASSER, and wrote to the committees saying, "The Byrd rule, watch out for it"—we are were the ones that wrote and told them to.

But let me just suggest there is one guardian around who would not let it happen, whether we wrote him or not, and that is ROBERT C. BYRD. I do not speak for him, but I will tell you if that bill would have come over here to the Senate floor the way it cleared the U.S. House in terms of extraneous material, you can count on it. You can count on it. It never would have been law, because there is no doubt it had over 1,250 provisions that under the very cursory look at the Byrd rule do not belong in it.

Now, frankly, I believe the Byrd rule cuts both ways. For those who would like not to apply it, then the next time there is one of these reconciliation bills, I say to my friend, maybe the Senate will decide to put all kinds of things in it and send it over to the House and go to conference and say, Well, we don't care. Your committee has never heard it, your committee has never had anything to do with it, but you are just going to have to take it.

So, essentially, I want to compliment, first, the leadership, especially the leadership from the Senate, with the Senate Parliamentarian, who took this Byrd rule seriously. And I must say I do not think they took it seriously singularly because I was going to raise the issue. I know why they took it seriously. Because the enforcer, ultimate enforcer, is the author of that bill.

And perhaps as many as 150 small- and medium- and large-sized extraneous matters that were subject to the Byrd rule, I must say, are removed.

So, a good job has been done in the first and most serious rounds of: "Let's make sure this bill does not fly in the face of the Byrd rule."

Having said that, clearly there are five or six or seven issues that are very close calls that remain in the bill. There has been some nice doctoring-up and writing, all legitimate, all legal, that tries to salvage some of these provisions. I assume they have asked the Parliamentarian on each and every one whether they violate the Byrd rule and I assume, although I have no reason, personal reason—I did not ask the Parliamentarian—but I assume the Parliamentarian agrees they are not extraneous under certain provisions.

Frankly, there is a little bit of latitude under one of the provisions to put in some language and make sure that you are actually raising or lowering or having a dollar effect that is real, be it up or down, and perhaps that is the language that was put in with conditions making it happen—that is, will save some of these provisions according to the Parliamentarian, at least as far as I can tell.

But I want to make it clear that up front a good job was done in going to work at cleaning this bill from its many, many scores of matters that do not belong in a deficit reduction package.

I am not going to talk about why they do not belong in. I am just going to leave it at the fact you are not supposed to put extraneous material in, which is defined generally as things which have no significant effect whatsoever on deficit reduction. There are all other kinds of reasons one could put it in. One just comes to my head: It might be easier for some to vote for a package if they get their law in. Nonetheless, I leave that issue and close again on this subject by saying I thank those who worked hard to keep the Byrd rule alive. I hope in the provisions that were left there it is not such a skimpy interpretation that it will defy the Byrd rule—defile it—such that it has no credibility hereafter. That is a risk.

Having said that, let me talk about what the House is voting on and what we may vote on. I choose to call this entire plan one where the President is addressing the right problem with the wrong program, I say to my friend from Oklahoma. The problem is the deficit. The program that is going to carry it out is essentially a tax program. Frankly, I started off by saying the American people are pretty wise collectively. And the support for this package has gone from predominantly in favor of it early on to overwhelmingly against it, and certainly for those people who have chosen to call us, overwhelmingly against it. I think there are a number of reasons but I think there are three that are absolutely vital and they understand.

First, they now understand that this has a tax provision in it that is retroactive. Let me put it my way. This retroactivity makes this income tax go into effect 21 days before this President was sworn into office. That is how retroactive it is. The tax started to go on Americans 21 days before he took office. And lo and behold, 80—I say to the occupant of the chair—80 percent of the cuts in programs occur after the term is up. Is that not interesting?

I ask for 5 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from New Mexico is recognized for 5 additional minutes.

Mr. DOMENICI. Let me make that point again. Let me tell my friend from Oklahoma about this one. I think he will be interested in this, I say to Senator NICKLES. The retroactive tax can now be explained this way. It goes into effect 21 days before President Clinton is sworn in as President. That is how retroactive it is. It is effective before he became President.

Mr. GRAMM. Will the Senator yield?

Mr. DOMENICI. Let me say the second: And the cuts are 80 percent after the first term is up.

Mr. GRAMM. Will the Senator yield?

Mr. DOMENICI. Please.

Mr. GRAMM. Do the taxes go away when the President leaves?

Mr. DOMENICI. Most interesting, they are on, and on permanently. I do not know that I have seen—other than the luxury tax which actually reduced jobs instead of raising revenue, cost jobs—I do not know of us taking tax revenues off, tax raisers. So we are stuck with them. But if the President at the end of this first term is succeeded by another President, or if in the next election he changes his mind, 80 percent of the cuts that were supposed to take place because we were taxing the people to make some kind of parity—which does not really exist, the parity is now $2.13 in taxes for $1 in cuts—but even for those cuts, 80 percent occur after the first term is up.

They understand that now. More than anything else, the people calling are saying retroactive taxes sound like they are not even American. What is this, taxing us when we have already done our business, we have already filed our W-2's, we have already made our estimates? Then you are going to say at the end of the year you have 3 months here and we are going to charge you all this? And guess what, in an act of generosity they say we need those taxes retroactive but we will give you three installments to pay it off so it will not be such a burden.

I think they understand that is not right. And then, to hear that 80 percent of the cuts do not occur until after the first term of this President, they are very, very suspicious that the cuts will not occur.

Frankly, I am too. And the cuts in the first 3 years are so minimal—let me give one simple example. If the floods cost us $24 billion—that entire flood—and we do it by way of an emergency, we will wipe out all of the cuts in the first 3 years. The flood will take all the cuts we promised the American people—because there are so few—it will wipe them out and it will be an all tax program for the first 3 years. Then we can say, "But, come 1997 and 1998, we will really get those cuts." Frankly, I believe that is the reason the American people are against this. It is patently unfair, probably unworkable, and it is taxes now and cuts later—maybe.

As I look through this, and later on I will talk more about small business and others, but I just want to go through a few things I found: $215 million in spending is a downpayment for the spotted owl agreement, I say to my friend from Texas. That is a nice new expenditure item, $215 million in a deficit reduction package—first installment on a spotted owl agreement; $221 million in a targeted waiver, a new tax expenditure for Governor Cuomo, the State of New York, which will effectively exempt it from certain provisions of the ERISA law.

In order to get the savings that were needed the conferees—and there were no Republicans present, none invited—assumed a $3 billion extra receipt from selling the Spectrum—the auction on the Spectrum. Everybody thought it was exaggerated to get $7.2 billion but this somehow shows up at $10 billion. The conferees assumed that nearly $4.3 billion in savings that had previously been enacted—and they take them again. And then there is a new little entitlement program for $10 million created for customs officers, to get around the fact that provision would have been subject to an extinction by the Byrd rule.

A new tax expenditure, I say to my good friend, Senator PACKWOOD, in the form of a tax credit available to restaurants and resorts, whereby the general public is going to pay their Social Security taxes—another $1 billion. Then, categorized under the rubric of investment, I say to my friend from Texas, is an increase in the tax from the checkoff for the Presidential campaign fund, $100 million.

I have not read all this bill yet. Nobody could. But I find those few already extremely interesting.

I close my remarks this evening by once again suggesting that the President entered into an Executive order to create a trust fund. Frankly, he called the trust fund in his campaign—I believe in the city of San Antonio—he called it a turkey. The chairman of the Budget Committee called it a variety of things, none of which were words saying it would work.

He said it will never work, it will not do anything, it will not cut a dime out of the deficit. And then Alice Rivlin, Deputy Director of the Budget, said it is kind of a counting device with no impact on the deficit.

So I thought it was appropriate, while the House is voting, that we urge people to call—they have been calling in response to the President and Senator DOLE—and that we start off by giving you some brief observations. And, hopefully, by the time we get to debating this, we will have more information of the type that I have just discussed about the kind of interesting little things that occurred in this 1,600-page bill and report.

Several Senators addressed the Chair.

Mr. DANFORTH. Will the Senator yield?

Mr. DOMENICI. Yes; I think my time is up.

Mr. DANFORTH. Are we under a time agreement?

Mr. DOMENICI. I have 10 minutes.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico retains the floor. The Senator from Missouri has asked the Senator from New Mexico to yield.

Mr. DANFORTH. I know other Senators want to speak, but I just happened to hear the Senator from New Mexico over the television talking about the Byrd rule. I would like to ask the Senator whether he believes that there is anything left of the Byrd rule?

I have been very interested in the so-called BST provision that has now been jimmied around so that $5 million of additional spending is viewed as a justification for this major substantive change in the law. And the other point that I have been looking at has to do with child immunization and the so-called State option provision which has zero budget consequences—zero—and which the Senate Parliamentarian has already ruled violates the Byrd rule when this was before the Senate.

What I would like to ask the Senator from New Mexico is: Does the Senator believe that the Byrd rule has any remaining power in it, or is it simply a rule to be interpreted one way one day and one way the next?

I say to the Senator, in asking the question, that with respect to the State option immunization provision, it is the intention of the Senator from Missouri to raise a point of order that it does violate the Byrd rule and see if the Chair will rule the same way that the Chair ruled when this was last before the Senate.

But I would be very curious as to whether the Senator from New Mexico believes that there is any remaining efficacy in the Byrd rule after this legislation?

Mr. DOMENICI. Mr. President, let me be absolutely frank with the Senator. Before he came to the floor, I indicated that the Parliamentarian and the Democratic leadership, without any of us being present because we were not invited and we were not part of it on this side of the aisle, did remove literally over 100—maybe even 125—provisions because of the Byrd rule.

So I would not want to say it has no effect. I think it does. But I do think that there has been located and some have found a way in certain situations to fall within one of the exceptions of the Byrd rule, probably in ways that were never intended.

But from my standpoint, it remains effective and defective at the same time. The two Senators from Missouri raised are very, very close calls, in my opinion. I certainly hope you continue to raise them. We are going to continue to work with the Senator and check them out.

Mr. DANFORTH. Let me ask the Senator this: With respect to the immunization provision, which has zero budgetary effect—zero —is it the position of the Senator from New Mexico that that is a close call?

Mr. DOMENICI. No; if that is the case——

Mr. DANFORTH. It seems to me that if there is zero budgetary effect—zero, nothing—then to say somehow that does not violate the Byrd rule turns the Byrd rule into nothing at all.

Mr. DOMENICI. That is correct. The Senator has told me that is what he finds it to be. All I am suggesting is that somebody might find it to have a different effect than no budgetary, plus or minus, just a pure zero, in which event there is an exception in this Byrd rule for that. But if it is no effect whatsoever, then you make a very good point.

Mr. DANFORTH. I am just saying the staff of the Congressional Budget Office has informed my staff that this particular provision has zero budgetary consequences. Now, in an effort to pass this bill, who knows what mysterious numbers will appear out of thin air? But when somebody tells you as a professional that it is zero, then can the Senator from New Mexico understand how the Chair could conceivably rule that the Byrd rule does not apply?

Mr. DOMENICI. I cannot. And, Mr. President, let me also say the situation that you have raised over and over with reference to the Byrd rule and the hormone for milk cows which would cause, in the impression of the scientists, more production and which has for some reason been vested with a moratorium even though it has been cleared and ready to go on the market, it is really a strain for me to think that we ought to have that kind of thing in a reconciliation bill.

The Senator's concern, albeit about a subject that hardly anyone knows, and the words describing it are very, very strange-sounding words, it is truly something on which I will join the Senator wherever I can in an effort to get that running through its normal course of committees. It is something we ought to hear about and vote on, and not in a package with 1,600 pages of law and reports.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mrs. BOXER). The Senator from Minnesota.

Mr. WELLSTONE. Madam President, I actually do want to speak to the nomination of Dr. Elders, but I do need to respond to my colleague, the Senator from New Mexico.

I did not expect that Senators would be down to talk about the reconciliation bill, so let me try to respond more in general terms than in specifics. I think that people who are watching these deliberations might have some appreciation for yet another perspective. We present our perspectives in good faith, but they are very different.

First of all, when I hear some Senators coming down here and very much on the attack on this deficit reduction bill, talking about the figures, making the argument that it is not significant, and so on and so forth, I just have to ask my colleagues where they have been over the last decade plus.

I think one of the best books ever written, and the journalists won the Pulitzer Prize for it, the Philadelphia Inquirer journalists, was, "America: What Went Wrong?"

Madam President, that book is quite the indictment of the decade of the 1980's. Among the arguments that are made in that book, and I think the authors do a yeoman's job of marshaling evidence—and I do not think they make their arguments as Democrats or Republicans—is that starting in 1981, the people in this country were sold a real bill of goods. They were told that what was going to happen—and this was the argument made by many of my Republican colleagues and I want to get in a moment to the point, the concern about the tax increase—the argument that was made to people in this country is: We ask you to sacrifice; would you be willing to have your taxes cut? And people said, "Yes." And then we passed what was euphemistically called the Economic Recovery Act.

Mr. DOMENICI. Which one?

Mr. WELLSTONE. In 1981, drastically reducing marginal rates for high-income, wealthy people, probably the most regressive piece of legislation passed since the twenties.

The case that was made by my colleagues was that, of course, what would happen is that these citizens and these large companies with these tax breaks would invest in the economy, there would be high levels of productivity, more jobs and, of course, the debt would be reduced.

But it was $1 trillion, or a little less than $1 trillion to $4 trillion. But those jobs were not produced, at least the jobs we were promised, jobs for people, that people could count on, jobs with decent wages, with decent health care benefits. And as a result now we see the legacy of it.

Mr. DOMENICI. Will the Senator yield for a question?

Mr. WELLSTONE. If I could for a moment get this full analysis presented, then I would be pleased to.

Mr. DOMENICI. Sure.

Mr. WELLSTONE. As a result of that, we have staggering debt in this country. We have high levels of unemployment, even higher levels of subemployment, and I think people feel the squeeze, and not just people on the bottom but middle-income people as well.

Now, when you look at who paid the taxes, it was not the high-income wealthy. People in the middle, working people.

Now, what the President has presented on the tax end, when my colleague talks about the retroactive taxes, I am just in a little bit of a disadvantage because I have not seen all of the specifics, but let me simply make the point that my understanding is that it is the richest 1 percent of the families that are going up on the income tax, not middle-income people. When we are talking about households averaging $300,000 a year or with a cutoff point about $140,000 to $170,000, it does not matter; it is way above middle income.

I think part of the problem here is that my colleagues are offended that the richest 1 percent of the American families, about 1 million total, are going to now have to pay their fair share of taxes.

Mr. D'AMATO. Will my colleague yield?

Mr. WELLSTONE. I will yield when I am done responding, but I would like to continue for a while because I have been on the floor and I have had a chance to listen to other Senators. So if I could finish the analysis, I would like to do so.

So I think what is at issue here is this tremendous concern that, roughly speaking, the richest 1 percent of American families, about 1 million total, average income of households about $300,000, are going to have to pay a higher marginal rate.

Well, I tell you something. When it comes to sacrifice, as the old Yiddish proverb goes, you cannot dance at two weddings at the same time.

If you are going to talk about deficit reduction and talk about tackling problems, then the revenue does not just sort of come here by miracle. There has to be a way that people pitch in. In this particular case—and albeit, it is a reversal of the policy of the 1980's. It is definitely a reversal of the policies of President Reagan and President Bush—people on the high-income end are going to pay their fair share of taxes.

Now, on this retroactive provision, listen, I would not in this Chamber—and this is out of respect, not of trying to ingratiate myself with someone who I consider to be a friend, Senator DOMENICI—I would not pretend to have all the Senator's expertise on all the budget issues, but I do know that since we are talking about wealthy, high-income people, from hearing the Senator talk, you would think it would be people, like when I was a teacher, making $35,000 to $40,000 a year, who are going to see an increase in their income tax. I think on the high-income end people do a pretty good job of having their tax accountants do a pretty good job of planning, and while right now I cannot provide all the specific evidence, you give me a little time, I bet I can come back in the Senate and I can give you examples of other retroactive tax increases during the decade of the 1980's. I cite but one example. And if I am wrong, I would be pleased to be corrected.

In 1982, and I will read:

> When the conference report on the Tax Equity and Fiscal Responsibility Act was reported for consideration by the full Senate, it was August of that year, and unemployment had already exceeded 10 percent in the worst recession since World War II. Facing the need to restore revenue to the Federal Treasury in the wake of massive tax cuts for the wealthy which—

I talked about in the 1981 tax cut for the wealthy—

> had passed through his committee earlier, DOLE asked the Senate to accept a provision increasing taxes on unemployment benefits.

And I go on. If I am wrong, tell me.

> Specifically, the legislation made unemployment benefits fully taxable if total income exceeded $12,000 for a single person rather than the $20,000 contained in existing law. For workers with families, the tax threshold for unemployment benefits was dropped to $18,000 from $25,000. In addition to permanently changing the law with respect to taxing future unemployment benefits, the legislation retroactively taxed benefits back to January 1, 1982.

Now, I am not the expert on tax policy. I did not know several Senators would be out here, but I have to say to my colleagues unless you can have documentation that this did not happen, there is but one example, and I have been told by others there are plenty of examples.

So, Madam President, here is what we have going on the floor of the Senate right now. We have all of this moral indignation of the richest 1 percent of American families having to pay a higher marginal rate—still probably the lowest marginal rate of any advanced economy in the world, maybe. Maybe not.

Mr. DOMENICI. It happens to be very——

Mr. WELLSTONE. Higher marginal rate—if I can finish—about 1 million total, average income $300,000 a year.

That seems to be the concern. In addition, we have people in this Chamber on the attack of President Clinton for not caring enough about the deficit and not caring about the debt, many of whom are part of a party that spearheaded the foundation of this politics of borrowed time and borrowed money, politics of illusion.

I just would ask the people of this country, do you think what happened during the decade of the 1980's, when we were promised that if we drastically reduced taxes for high-income and wealthy people, it would lead to all this investment, all this expansion and less debt, that is what happened?

Ronald Reagan said in 1980, "Are you better off today than you were 4 years ago?" I would ask people how they feel about this past decade.

And now you have a President who comes in with a package, not perfect, consistent with exactly what he said he was going to do, exactly what he said he was going to do when it came to having some fairness to the tax system in this country. And my colleagues are full of righteous indignation because wealthy high-income people this time have to pay their fair share.

Mr. D'AMATO. Will the Senator yield for a question?

Mr. WELLSTONE. I would be pleased to yield for a question, although I also want to get into a statement about Dr. Elders, which is yet another issue that is bogging us down. But I would be pleased to yield.

Mr. D'AMATO. I would like to make this observation because the Senator talks about high-income tax people. The State of New York is considered one of those—the city is. As a matter of fact, our per capita income is 19 percent higher than the national average. This tax package will cost New Yorkers over the next 5 years $32.5 billion.

Now, let me say this to you, Mr. President. Those are dollars that will be lost from the economy of New York. It will be devastating. And while we are 19 percent higher, and we will pay a higher per capita share in increased taxes than any other State, the city of New York, its cost of living is 55 percent higher than the national average. So does my friend not see the incredible damage that will be done on the altar of get the rich? This will be devastating to the economy of New York.

Mr. WELLSTONE. Let me just simply say to my colleague that he goes out of his way to avoid the basic fact of this equation, which is, once again, from listening to some of the discussion and some of the indignation, you would think that wage earners, people who were struggling, people who were teachers, people who were small businesses, people who were middle income, would be paying an increase in taxes.

The richest 1 percent of American families will be affected by the income tax increase, a total of 1 million in the United States of America, with an average income of $300,000.

What my colleague wants to argue is reminiscent of the past. Oh, no, you cannot take away that income from those citizens because, therefore, they will not have the money and they will not invest and that will be the end for New York. That is what we were told in 1981. That is what we were told during this whole decade. And what did we get as a result of it? We did not step up to the plate. We were not willing to finance what we were doing. We were not willing to ask those people on the top to pay their fair share. And who got squeezed?

So I say to my colleague, I far prefer to see us step up to the plate, raise the money, begin to get the annual budget deficits down, and do what we need to do. And if we are going to have to do that, I do not see anything wrong with wealthy, high-income people, the top 1 percent, paying their fair share.

I will tell you what I do see as wrong, which is the alternative to that, Madam President, which would be to say we all want to cut the deficit, but we do not want to have wealthy, high-income people paying their fair share of taxes. We want to have more cuts in health care benefits. We want to cut veterans' benefits, we want to cut education benefits, we want to cut children's benefits.

Madam President, we are plain running out of alternatives. I will go back to the Yiddish proverb: "You cannot dance at two weddings at the same time." If you are not going to do it this way, you will cut somewhere else. It strikes me the alternative—that is what people in the country ought to be looking at, is the alternative—is far worse.

Madam President, I do not know. Maybe if my colleagues have other questions—I do not want to yield the floor because I actually came down here to speak about Dr. Elders. I think there have been a good many attacks made on her today. I do want to speak very strongly about her nomination. But if there are other questions, I would be pleased to take them. Otherwise, I would like to move on. Is there a question?

Mr. GRAMM. Madam President, the Senator has spoken for some time. I was hoping others might get to speak.

The PRESIDING OFFICER. The Senator has the floor. Does he yield for a question?

Mr. WELLSTONE. I repeat, please, I say to my colleagues, I have about 10 minutes.

Mr. D'AMATO. I have one question.

Mr. WELLSTONE. I would be pleased to just simply make the statement that I came down here to make. I just needed to respond to some of what my colleagues said on the floor. I would be pleased to do that. I will be finished.

Mr. D'AMATO. If I might take just 10 seconds, I would like to make one observation.

Mr. WELLSTONE. That would be fine.

Mr. D'AMATO. We say this tax hits the wealthy. $140,000 adjusted gross income for a working family in New York and in New York City and in the metropolitan area is not a huge income. So I try to make that observation. These are the people who are going to be affected.

Mr. WELLSTONE. Madam President, I will go on and make my statement. Let me just simply say to you one more time—and I have not heard these figures refuted—the richest 1 percent of American families affected, 1 million total, average household incomes of $300,000. I do not know. Maybe New York is very different from Minnesota, but I say to my friend from New York, I have looked at the income profile in the United States of America. I have to tell you, it is not very high. I have to tell you, if you are making $140,000, however you define it, you are on the top. You are on the very top of the income profile in the United States of America. And it is simply impossible to make the case that these are middle-income citizens. It just does not hold up.

Madam President, let me make a transition here.

I thank my colleagues for their patience, although I did want to respond to what has been said on the floor.

EXECUTIVE SESSION

NOMINATION OF M. JOYCELYN ELDERS, OF ARKANSAS, TO BE SURGEON GENERAL OF THE UNITED STATES

The Senate continued with the consideration of the nomination.

Mr. WELLSTONE. Madam President, I rise to speak in behalf of Dr. Elders. I am saddened because I think what we have seen here on the floor of the Senate and what we have been seeing for some time is inexcusable. I will be very careful not to be personal. There is no reason to be. But I am just saddened by the whole process, because I think there is a distinction that needs to be made. I think Senators who do not believe that Dr. Elders would be a good Surgeon General, fine Surgeon General, have every right to speak on the floor. But that is not what has been going on here. What we have is a filibuster.

We scheduled a hearing in the Labor and Human Resources Committee on July 16. It was canceled at the request of our colleagues on the other side to July 23. Then in the middle of the hearing, we had to cancel it again. Colleagues sort of essentially requested that we do so. That is not quite the way it happened. We voted finally in committee to approve Dr. Elders at the end of the day on July 23. All questions were answered. And my guess is Dr. Elders will be confirmed. And I think there will be Republicans and Democrats that will vote for her. But there is a group of Senators who are doing everything possible to block this, and they have been delaying and delaying and delaying.

Presumably, they feel very strongly about this because I remember when I first came here—and I respect them for that, though I am in profound disagreement with their viewpoint—when I first came here, I remember a Republican colleague, whose name I will not use, who I think gave me some very good advice. I never thought, as a matter of fact, that I would even listen to him from what I knew of him before I came here. He said—this had to do with a nominee of President Bush. He said, "I know you do not agree on everything, but I think that the burden of proof is on you." I mean, you are making a really big decision to vote against this person, much less to try to block it. There is a President, this is who he has recommended, and I think he was right.

I think what is going on here is just, I think it is unfortunate. I will tell you something that I would worry about. We see a fine professional career that has been attacked. We see a fine family that has been put under unusual public scrutiny. And my fear is that if we do not vote on this nomination before the recess, we will see more of these attacks, and they will be very personal and they will be very hurtful. And I think we are going to soon arrive, Madam President, at the time in our country where a lot of good people—Joycelyn Elders is just one—are not going to step forward in public service if this is the kind of attack that not only they are going to have to put up with, but more importantly, their family is going to have to put up with.

I will just make three points and then I will conclude.

First, Sheila and I have had a chance to meet with Dr. Elders. My wife Sheila is very committed, as I know you are, Madam President, when it comes to issues of family violence and what is happening within families. We spoke with Dr. Elders and we were just moved by her concern. I know what she has done in the poor State of Arkansas by way of prenatal care. I know what she has done by way of childhood health screenings. I know what she has done when it comes to sickle cell disease and cancer and low-income women. I know what she has done when it comes to a concern about rural communities and making sure that health care is delivered out in rural communities. I have to tell you, Madam President, I think we are talking about a woman who will be an unusual and great Surgeon General.

And the real tragedy of what is going on here on the floor of the Senate is not even the personal attack, as bad as that is. It is that this is the delaying and obstructing of a woman who could become Surgeon General and make enormous contributions to our country. Yes, as an African-American woman Surgeon General, she will reach out to some citizens who have been left behind. She will communicate with children that we have not been able to communicate with. She will have credibility in communities that are underserved. But she also will be a Surgeon General that will reach out to the whole country. She will be a healing force in the United States of America.

In our committee the question was asked, What kind of Surgeon General will she be?

What kind of Surgeon General will she be? She will be a Surgeon General who will not be afraid to call on all of us as a Nation to confront the really difficult questions like, "Why do children have children, and what can we do?" She will be a Surgeon General who will not be afraid to relate to young people, to listen to young people, and to go into communities where many of us, as U.S. Senators, have never visited.

She will not be a Surgeon General who will be quiet, much like C. Everett Koop. She will not be a Surgeon General who will not challenge us in our country. She will be a Surgeon General who will call on Americans to be their own best selves.

Madam President, we are so in need of a Surgeon General like Joycelyn Elders. We are so in need of this kind of leadership. I find it to be nothing short of tragic that she has been nominated, and that the nomination has not been confirmed, and she is not able to get on with the business of serving communities throughout the United States of America.

I think my colleagues have made a profound mistake in their tactics, although obviously they disagree with me. I think they have made an even more profound mistake in their judgment, because I think in the United States of America we really need to see less division by race. We really need to see less division by income. We really need to see less division and acrimony by region of the country people live in. We need to see less polarization by gender. We really need to see—really need to see—less division by age, where so many young people in the United States of America just feel so disillusioned and so left out.

This is a woman who could be a great Surgeon General, and I hope that we will get on with this and that we will vote to confirm Joycelyn Elders so that she can serve our country.

I yield the floor.

Mr. NICKLES. Madam President, I would like to respond to my friend and colleague from Minnesota. One, he has engaged in longer debate than I have. So when he is looking to this side of the aisle for people who are postponing, delaying, or filibustering—he used the word "filibuster" I believe—I will tell the Presiding Officer that she spoke more on this nomination than I have, and the Senator from Minnesota has spoken more than I have.

Mr. WELLSTONE. If the Senator will yield, I do not believe the Senator from Minnesota has put a hold on this nomination. I believe that people who are watching this may want to understand that distinction.

Mr. NICKLES. Madam President, let me inform my colleague of a few facts, because he referred to the fact that I delayed the hearing for a couple of hours.

This Senator sought some information on this nominee because a lot of serious allegations were raised. I think that is appropriate. That information was not forthcoming. It was not forthcoming and was not available at 10 or 11 o'clock at night before the committee had their hearing. Their hearing, I might mention, was postponed once because allegations were raised—and I think correctly so. Senator KENNEDY and Senator KASSEBAUM requested a 1-week delay so they could get some information, and I congratulate them on that.

During that second week, additional allegations were raised, very serious allegations. We requested some information and there was, frankly, no way that that information could have been responded to by the time of the hearing, which was scheduled for July 23.

I also will tell my colleague that I informed Senator KENNEDY that night that I requested an additional day. I did not have any objection to the committee meeting the first day. But I said we would like to have an additional day after we get some information, information dealing with a health issue. I am talking defective condoms. There were reports that there were hundreds of thousands of condoms that were distributed in the State of Arkansas, and a very high percentage rate of those condoms were defective. That was just reported. Nobody really had time to get all of the information out. Certainly, we had requested some information, but certainly not all of it, and we did not have that information available.

I told the Senator from Massachusetts that I did not object if they met on the 23d, but give us an additional day to follow up. That is not an unusual request. Dr. Koop had a couple of days of hearings. I might mention that many nominees have had much more extensive time before committees and before nominations. Actually, Dr. Elders' nomination came to the Senate on July 1.

The President may have mentioned his intention somewhat earlier, but he sent the nomination up on July 1, but the summary of the FBI report was not available even to committee members on Thursday night before the committee hearing. What is the purpose of having the FBI investigation if you are not going to allow Members to see the report until the day of the hearing? So that information has been requested, and I appreciate the Senator from Kansas finally assuring me that I would be able to see the report. But it was not available even the day before the hearing.

So this Senator requested an additional day. I did not get it. I told the Senator from Massachusetts we would object to the committee meeting if he would not give us the additional day. He elected to proceed ahead after the Senate was in recess. That was his option. He held the hearing on Friday afternoon. He originally scheduled the hearing on Friday. A lot of Senators were not aware of the fact and were not in on Friday. So the hearing was rather short. They did get into some issues—not thoroughly, in my opinion.

So this Senator, and others, submitted additional questions. I have heard some people say, oh, they submitted so many questions, and that is harassment. That is hogwash. This is an unusual nominee. This is a nominee that has raised some very strong questions, questions that will affect every single family in America.

So this is a little different. This is a nominee who has made some statements that, frankly, are quite out of the norm. I am going to say the statements are radical and, at least in my opinion, they are disqualifiers. If these statements were made, they are disqualifiers.

I do not see how a person who makes statements like Dr. Elders has made, which she did not refute, is really qualified to be Surgeon General. That does not take anything away from her background, from her accomplishments, from the fact that she has risen from poverty. I compliment her on that.

One of my colleagues mentioned that she worked her way through college in a janitorial service. I especially appreciate that, because I did the same thing. But as to the number of questions that we have submitted, I see Warren Christopher had 400 written questions. Allen Woods, who was AID Director, had 327. And I remember Dr. Koop. I happened to be in the Senate when he was nominated, as my friend and colleague from New York was. That was a pretty rough nomination. That was a nomination that took 9 months—we are now in the fifth week since Dr. Elders has been before the Senate. Dr. Koop was nominated, and it took 9 months.

I can think of many, many other battles. I think of Senator Tower's nomination, and I think of Dr. Koop's, but I also think of the Supreme Court nominations that were very extensive. Robert Gates had hundreds of questions, between 500 and 1,000 questions. I will tell you that Lamar Alexander's confirmation process took 2 months and, frankly, he was a noncontroversial nominee, or so I would think. I could go on and on.

I do not think we have abused the confirmation process. What about this issue of a hold? "The Senator from Oklahoma has a hold." I read that in the paper.

Frankly, the Senator from Oklahoma, as well as a large number of my colleagues, have signed a letter saying that we would not agree to a unanimous-consent request on this nomination this week. That is not so unusual.

Nor do I think that is harassing the nominee. That letter was sent for a lot of reasons.

One, there has been a lot of allegations made that have not been totally answered. We need to get the answers.

I will admit that Dr. Elders has submitted answers as of today. So we have to review those answers. She also has statements before the committee. But many questions were asked that were not actually answered. So we have to review that as well.

My point is: We have some serious business before the Senate. We have a lot of things that we need to get done or we have a time deadline on, like the reconciliation package that all of us are well aware of. My point is that Dr. Elders is a very controversial nominee and we need to spend some time on her nomination. People need to know positions she has taken, statements she made, answers she gave to the committee and see if they are comfortable with her positions, if they think she should be the Surgeon General, which is a bully pulpit for addressing health issues.

I do not think that is an unreasonable request by this Senator or any of the other more than a dozen Senators who also said they would object to a unanimous consent request this week.

I have told my colleagues that are pushing this nomination that I would agree to a time certain, but I still wanted adequate time to debate this nomination in September. This would give us a chance to review everything. It would give me a chance. I told the Senator from Arkansas I would like to sit down and visit with Dr. Elders, but I would like to have the information and the answers first. I would like to review some of these things before I sit down and ask her, hey, did you really say this?

I have done that now in writing, and in many cases I asked her positions or views and she would quote the administration or she would quote Roe versus Wade but not really give me her views on critical issues affecting our families and health.

So, again, I just want to take issue with my friend and colleague who said—well, the word "filibuster," because no one has filibustered this bill. I have now spoken maybe for 7 minutes. I spoke for 10 minutes this morning, and I will admit about 8 of it was on the economic package. I will truthfully say that the economic package is probably first and foremost on my mind. I happen to think that is one of the most important issues that we will be confronting this year in this Congress.

I hope people know some of the facts that are in the economic package. We had a short caucus, and I might mention, too, it was the first time I heard a quorum call that means the absence of a quorum. It means no one was on the floor to debate the issue. It was the first time we had that since 11 o'clock this morning, and this Senator has been sitting in this chair for the most part ready to speak, but other Senators sought the floor.

I will tell you the proponents of Dr. Elders have had more time on the floor speaking in favor of this nomination than opponents have. I have been trying to keep a running total. I will tell you more time has been spent on proponents than opponents. Maybe they are the ones filibustering.

My point is: Yes, I object to a unanimous-consent request that is going to limit debate on the nominee because I have a lot of questions and a lot of things that I think people need to know, that I believe our colleagues need to know, and I believe the American people need to know.

Some people might say. Wait a minute. Is that going to affect the nomination? It should. If people are aware of the statements that she made and she has not refuted or has not said "No, that was a mistake," or "I regret making that statement," I think they need to be aware of that.

I have heard some people use terminology that I think is not really appropriate for the Senate floor. I have heard words such as "radical right wing," and so on, and I am not going to engage in that. I do not think that is appropriate. I do not think it is Senatorial. I do think it is important that we get into issues. I think it is important.

I heard people say this is harassment. I have no intention to harass anyone. I do think it is important that we find out what individuals have said or are saying and what Dr. Elders said. She has a record. And, frankly, records are there to be examined. Statements are there to be examined.

I might mention some other nominations. Again, I will go back to Dr. Koop. Almost every word that he had written had been examined by Members who were opposed to his nomination. I will tell you that I read a statement by my colleague, Senator KENNEDY, who has quite correctly, I think, been very complimentary of Dr. Koop. But in the CONGRESSIONAL RECORD on November 16, 1981, my friend and colleague, Senator KENNEDY, said: "Mr. President,"—and this concerns the nomination of Dr. Koop—"an even greater concern is Dr. Koop's seeming insensitivity to issues affecting women. In statement after statement he has endorsed a cruel, outdated, patronizing, discrediting, and stereotyping of women in society."

I have other quotes of individuals.

My point is the opponents of Dr. Koop held up the nomination for a long time. They had the right to do so. I disagree with that. This Senator is not seeking to hold up this nomination for a long time. I am seeking to get some answers.

I will tell you in reviewing and remembering the debate we had on Dr. Koop, his statements were not in any way as outlandish or radical or insensitive or intolerant as the statements of Dr. Elders have been.

Dr. Elders in her last years, and not just—someone said these are quotations taken from years ago. Not true. We are taking quotations that were made this year. We are taking quotations that she made last month or in June or July. We are taking quotations that were made on the steps of the Capitol on January 18, 1992. So these are recent statements. These are statements that she made as director of the Arkansas Department of Health.

So, many of these statements I might mention are very troublesome. I might also mention that a lot of these problems concerning her nomination have just come up in the last week, I say last week—the last 2 or 3 weeks. Her nomination was sent to the floor or sent to the Senate on July 1. We went into recess for a week. So we were out of session for that week.

Since that period of time, since we returned the end of the first week of July, we have had allegations concerning improprieties with a bank, and if I remember correctly during testimony and a dialog that Dr. Elders and Senator KENNEDY engaged in, she admitted that the Comptroller of the Currency reprimanded her for violating the National Bank Act.

One colleague said she has not broken any law. That is not so, she was found to be in violation of the National Bank Act. Allegations have been made that she was receiving pay in excess of what the statute would allow in the State of Arkansas.

Again, I think it is important to know. It is a case that we have some information on. I can get into some of these at length in just a moment. Allegations were then made, and I guess it was affirmed, that not only was she receiving compensation from the State of Arkansas to the tune of $42,000 per quarter, and that is equal to about $14,000 a month, in addition to that she has been receiving consulting fees from the Federal Government to the tune of around $550 a day plus $130 per diem expense. That is $680 for every day she is paid by the Federal Government in addition to $14,000 a month that she was receiving from Arkansas. The Governor of Arkansas was quite upset about that. But my point is that this was just raised, that this just came up recently.

More troubling than that was nonpayment of taxes. We have had some nominations fail because they did not pay Social Security taxes. It was revealed that Dr. and Mr. Elders did not pay Social Security taxes on an employee for several years. I will get into that in greater length. They now have remedied that situation and had to pay $15,000 in back taxes and fines.

Madam President, that is a serious allegation. It happens to be against the law not to pay taxes. That is not an optional thing. If it were optional, I guess a lot of people would not be quite so concerned about the tax bill we have before us. But it is not optional. It is serious. You have to pay your taxes. You have to pay Social Security taxes. I have been an employer. I had a janitorial service. We paid people. We paid Social Security taxes and also paid their withholding taxes. Neither was done in this case.

There are actually fines. There are actually penalties. You can go to jail for not paying people's taxes. It is not an optional situation. I believe you can do up to 12 months, and the fines are significant.

And this is interesting. What about the individual who does not receive Social Security benefits? What about the individual who does not receive Social Security credits or is not going to receive a Social Security check or not making the Social Security match? From the amounts that were paid, and I do not know the exact amounts, but it sounds like the employee was making around $10,000 or $12,000 per year, a fairly low-income person. That Social Security income would probably be quite valuable, but evidently that was not considered as well.

All this came up just since, as I tell my colleagues, the first week of July. These were not things raised by the Senator from Oklahoma. They were serious allegations. And probably the most serious was the statement that there was a large number of defective condoms that were distributed throughout the State of Arkansas with the knowledge of the Arkansas Department of Health.

Not only were they distributed but, once they found out that they were defective—and in some cases a very high percentage of the condoms were found defective—they were not recalled. That jeopardized a lot of lives. Now we are talking about something really serious, not just nonpayment of taxes, not whether or not her State salary was more than the law allowed, and so on. Now we are talking about something that would jeopardize lives. It might mean someone would get pregnant unintentionally. It might mean they would get a venereal disease unintentionally. It also might mean they could contract AIDS unintentionally. They might think that condoms are safe. In one lot there were 5 out of 100, 5 percent, defective. So someone with multiple sex partners is really very much at risk. That is the danger I talk about.

Frankly, we had not received all the information. As a matter of fact, even as late as yesterday, we were still getting information from FDA on the defective condoms and still trying to sort numbers out, and so on.

My point is, to my colleagues that alluded earlier to a filibuster, no, this is not a filibuster. It has not been a filibuster. It was this Senator and many other Senators saying we would not agree to unanimous-consent requests to limit the time on this nomination.

I will make a couple other comments.

This nomination I think is in trouble and has received a great deal of attention not because of anything I have said or anything anybody else has said. It is in trouble and received a great deal of attention because of things Dr. Elders has said.

I think in the time we have spent on other controversial nominees, none—none; zero—have made statements as outlandish, as radical, as offensive as those that Dr. Elders has made.

I could go on, and I will go on at some length at some point.

I might just touch on one issue that deals with statements she has made that I believe are quite intolerant and are bigoted toward the Catholic Church. I will start with a letter that I received.

Madam President, I have several letters, but this is concerning Dr. Elders' statement concerning the Catholic Church.

Madam President, I will read Dr. Elders quotation, and then I will read some comments made by prominent Catholics and others who are offended by this statement. I think their words may say it better than mine.

This statement was made when Dr. Elders was addressing the Arkansas Coalition for Choice on January 18 on the steps of the State Capitol.

> And there the church was silent when we talked about . . . The first 400 years black people had their freedom aborted and the church said nothing. The way of life for the Native American was aborted; the church was silent. We attempted to eradicate a whole race of people through the Holocaust, and the church was silent. Women had no right to vote. We asked why, why do these things go on? Any time when the right to choose is taken away from all of us and put into the hands of a few. These are the kinds of things that will happen over and over again. Let us look at who's fighting the pro-choice movement; a celibate, male-dominated church.

Madam President, I will read into the RECORD, a letter, from Cardinal John O'Connor, Archbishop of New York. It is addressed to Senator D'AMATO.

> I write to you as one deeply disturbed by remarks attributed to the nominee for Surgeon General, Dr. Joycelyn Elders, revealing substantial animosity toward the Catholic Church and Catholics generally. Dr. Elders is quoted as stating: "The first 400 years black people had their freedom aborted and the Church said nothing. The way of life for the Native American was aborted; the Church was silent. We attempted to eradicate a whole race of people through the Holocaust, and the Church was silent. . . . Look at who's fighting the pro-choice movement; a celibate, male-dominated Church."
>
> Catholics throughout American history have suffered from the effects of religious bigotry. It is a blot on our country's human rights record. Such blatant and broad sweeping attacks as have been attributed to Dr. Elders would be troubling on the lips of any citizen. To hear them from one appointed to a national pulpit is even more profoundly disturbing. This is particularly true considering that the stature of the Office of Surgeon General is great—particularly in recent years in the midst of a deepening national crisis over the effects of sexual irresponsibility.
>
> Dr. Elders has also expressed contempt for the millions of Americans who participate in the human rights struggle for the unborn, and for the disabled. She purportedly scorns pro-life Americans as having a "love affair with the fetus," and is quoted as saying that they "love little babies, as long as they're in someone else's uterus, rather than caring about children after they're born."
>
> One traditionally associates the profession of medicine with special concern for the small and defenseless human being. Yet nowhere do I hear Dr. Elders acknowledge the slightest good will, the slightest compassion toward the child in the womb. Her alleged statements regarding unborn Down's Syndrome children are most disquieting in this regard. She is also quoted as saying that "abortion has reduced the number of children affected with severe defects; the number of Down's Syndrome infants in Washington State in 1976 was 64% lower than it would have been without legal abortion." Apparently Dr. Elders regards the destruction of such children through abortion as part of the success story of modern medicine. As one who has spent many years of his life working with and for the retarded, I am deeply troubled by such an attitude.
>
> Dr. Elders seems also to have clearly expressed an intent not only to continue, but to intensify the utterly failed policy of offering contraception freely to teenagers. Twenty years of this practice has failed to improve our children's health and well-being. In fact, they are associated with substantial declines in the quality of their lives, with increases in teenage sexual activity, teen abortions, sexually transmitted diseases, and out-of-wedlock pregnancies. Yet nowhere do I see Dr. Elders required to assume the burden of proof as to why 20 years of failed social policy should be followed by 4 more.
>
> Thank you for your vote on August 3 on the Nickles Amendment to the Treasury/Postal Appropriations Bill. It was a tragedy that the substance of Senator Nickles' proposal did not receive the full deliberation it deserved, but I thank you for your part in seeking to obtain Senate consideration. In future votes on the Hyde Amendment and National Health Care, I hope that you will reflect on the conscience problems inherent in requiring any taxpayer, any employer, any employee, to contribute any amount, no matter how small, to an act they acknowledge to be nothing less than the deliberate destruction of innocent human life.
>
> I do hope you will consider the point I have raised. Considering the crisis of values our nation is now facing, I do not believe that concerns about religious intolerance and moral responsibility are trivial. I look forward to your reply.
>
> Faithfully in Christ,
>
> JOHN CARDINAL O'CONNOR,
> *Archbishop of New York.*

Madam President that is a very strong letter. I do not perceive that letter as written by a right-wing fanatic. I do not see the letters that I have from the Archbishop of Camden, NJ—and Madam President, I will ask to have that printed, as well.

My purpose in making these comments is not pleasant. My purpose is to show that Dr. Elders has made some very radical, intolerant statements that have offended millions of Americans.

I heard my colleague from Minnesota say that we need a Surgeon General who is outspoken. I do not disagree. I like to have people outspoken. I like to have a good, frank exchange of views. That is not my reason for objecting to Dr. Elders. It is the fact that what she said in her statements have been very offensive.

Let me read a couple of comments from the Bishop from New Jersey.

> Dr. Elders has spoken often and forcefully about her pro abortion convictions and her intent to promote abortion as a matter of free choice. She has also, quite erroneously, framed the question of permissive abortion in terms of freeing poor women and minority women from enslavement and oppression. I strongly disagree with many of her statements on abortion and birth control, and I believe that many of her public statements tend to trivialize the serious ethical and social dimensions of these issues.

He also states the Catholic quote which I will not repeat that offended so many Catholics.

I will just read this comment. He says this:

> That is demonstrably false, unjust and propagandistic. As a matter of fact, Catholic Charities agencies across the U.S. provide over one billion dollars of social and medical services to the poor and disadvantaged each year. This figure does not include the medical services in Catholic hospitals.
>
> Dr. Elders' style of inflammatory language has no place in any human society, especially the United States of America, that claims respect for all religious bodies and attempts to constitutionally protect religious institutions from discrimination and injustice. It is especially pernicious coming from government officials so closely associated with the office of President of the United States.
>
> Dr. Elders has indicated that she sees the office of Surgeon General as a "bully pulpit" and intends to use it that way. Does that include continuing bigoted and contemptuous remarks about Catholics and other Christians with whom she disagrees?
>
> Whatever the questions of competence, experience and intent the committee may investigate, I believe the anti-Catholic remarks of Dr. Elders demand close scrutiny in the confirmation process.

I ask unanimous consent that the letter be printed in the RECORD, as well.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

OFFICE OF THE BISHOP,
DIOCESE OF CAMDEN,
Camden, NJ, July 21, 1993.

Hon. TED KENNEDY,
Senate Office Building,
Washington, DC.

DEAR SENATOR: I write to you in regard to Dr. Joycelyn Elders, nominee for the office of Surgeon General, who will appear before the Senate Committee on Labor and Human Resources.

Dr. Elders has spoken often and forcefully about her pro abortion convictions and her intent to promote abortion as a matter of free choice. She has also, quite erroneous, framed the question of permissive abortion in terms of freeing poor women and minority women from enslavement and oppression. I strongly disagree with many of her statements on abortion and birth control, and I believe that many of her public statements tend to trivialize the serious ethical and social dimensions of these issues.

However, I am especially concerned about Dr. Elder's insulting remarks about the Catholic Church in one of her speeches, recently shown in part on nation-wide television. Dr. Elders stated, "The first 400 years black people had their freedom aborted and the church said nothing. The way of life for the Native American was aborted; the church was silent. We attempted to eradicate a whole race of people through the Holocaust, and the church was silent. . . . Look at who's fighting the pro-choice movement: a celibate, male-dominated church." On another occasion she also said of those in the pro-life movement, including Catholics, they "love little babies, as long as they're in someone else's uterus, rather than caring about children after they're born." That is demonstrably false, unjust and propagandistic. As a matter of fact, Catholic Charities agencies across the U.S. provide over one billion dollars of social and medical services to the poor and disadvantaged each year. This figure does not include the medical services in Catholic hospitals.

Dr. Elders' style of inflammatory language has no place in any human society, especially the United States of America, that claims respect for all religious bodies and attempts to constitutionally protect religious institutions from discrimination and injustice. It is especially pernicious coming from government officials so closely associated with the office of President of the United States.

Dr. Elders has indicated that she sees the office of Surgeon General as a "bully pulpit" and intends to use it that way. Does that include continuing bigoted and contemptuous remarks about Catholics and other Christians with whom she disagrees?

Whatever the questions of competence, experience and intent the committee may investigate, I believe the anti-Catholic remarks of Dr. Elders demand close scrutiny in the confirmation process.

Sincerely,
MOST REVEREND JAMES T. MCHUGH,
Bishop of Camden.

Mr. NICKLES. Madam President, I also ask unanimous consent a statement by the Supreme Council Convention, the Knights of Columbus, a resolution opposing the Elders nomination be printed in the RECORD, as well as a statement from the National Committee of Catholic Laymen, who also oppose this nomination, be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

SUPREME COUNCIL CONVENTION, KNIGHTS OF COLUMBUS RESOLUTION ON ELDERS NOMINATION

Whereas, untrue and offensive remarks regarding the Catholic Church have been attributed to Dr. Joycelyn Elders, nominee for the position of Surgeon General of the United States; and

Whereas, Dr. Elders is well known for her advocacy of legalized abortion and the distribution of contraceptives to students in public schools; and

Whereas, neither anti-Catholic prejudice nor the advocacy of such unwise and socially harmful positions is acceptable in one who would hold an important and highly visible national office; therefore be it

Resolved, That we call upon Dr. Elders to repudiate the anti-Catholic sentiments attributed to her; and

Further resolved, That, if she truly aspires to the office of Surgeon General of the United States, she set aside her personal views on abortion and the distribution of contraceptives to children; and

Further resolved, That, in the absence of these minimal concessions on her part, we urge either that the President withdraw her nomination or that the Senate reject it.

THE NATIONAL COMMITTEE
OF CATHOLIC LAYMEN,
New York, NY, August 3, 1993.

Hon. DON NICKLES,
U.S. Senate, Hart Senate Office Building,
Washington, DC.

DEAR SENATOR NICKLES: We write to you because you are a fellow Catholic, to urge that you vote to reject the nomination of Dr. Joycelyn Elders as Surgeon General of the United States. The plain truth is, Dr. Elders has publicly demonstrated bigotry against Christians in general, and Catholics in particular.

To give just one of many examples, here are some of the statements she made to the Arkansas Coalition for Choice from the steps of the Arkansas state capitol in January last year:

"The first 400 years black people had their freedom aborted and the Church said nothing. The way of the Native American was aborted; the Church was silent . . . [during the Holocaust] the Church was silent. . . . Look at who's fighting the pro-choice movement: a celibate, male-dominated Church. . . ."

Such slanderous defamation ought to be offensive to all Americans; without question they are outrageous to millions of American Catholics, including those we represent. We do not see why any fellow Catholic would want to vote in favor of confirming Dr. Elders—indeed, we believe that any self-respecting Roman Catholic would not only vote against Dr. Elders but also cite her own defamatory words as the reason why she should not become the next Surgeon General.

In our judgment, the confirmation vote will be a clear test of Catholic loyalty, and this Committee means to make every effort to inform like-minded Catholics of the result: Catholic voters—and good Catholics vote—ought to know how their elected representatives actually represented them on a clear-cut issue of anti-Catholic bigotry.

We would be happy to have any comments you might want to make in this regard. And we are pleased to enclose the latest issue of out newsletter, catholic eye, which we think you may find of considerable interest, not least in re Dr. Elders (see page 3). Should you want to receive catholic eye regularly, we would be glad to supply it, with our compliments.

Yours faithfully,
ROBERT MCFADDEN.

Mr. NICKLES. Madam President, I am going to read into the RECORD a letter that we received yesterday from two Commissioners on the U.S. Commission on Civil Rights. I will just mention this. It is not often that Commissioners on the U.S. Commission on Civil Rights get involved in confirmation battles. But let me read this letter. It is addressed to the President of the United States. It is dated yesterday, August 4.

AUGUST 4, 1993.

The PRESIDENT OF THE UNITED STATES,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: We respectfully ask you to withdraw the nomination of Dr. Joycelyn Elders to be Surgeon General and Assistant Secretary of Health and Human Services for health policy. Dr. Elders has made a series of public statements demonstrating religious bigotry against Catholics and other Christians. As members of the U.S. Commission on Civil Rights, we believe that these statements disqualify her from serving in a national position of public trust.

As one example of her hostile remarks, in an address last year at the State Capitol in Little Rock she was recorded as saying:

". . . the first 400 years black people had their freedom aborted, and the Church said nothing. The way of life for the Native American was aborted; the Church was silent. We attempted to eradicate a whole race of people through the Holocaust, and the Church was silent; . . . look who's fighting the pro-choice movement: a celibate, male-dominated Church. . . ."

Dr. Elders speaks contemptuously of Christians who disagree with her. Some she accuses of having "a Bible-belt mentality," while others are "very religious non-Christians" with "slave-master mentalities." She neither denies making these irresponsible remarks nor, despite vague promises, has she ever publicly apologized for doing so.

The Washington Post editors have written that the Catholic League for Religious and Civil Rights was correct when it said that Dr. Elders' remarks "smacked of ignorance or malice and that it was a 'rank distortion of history to say that the Catholic Church was "silent" or did "nothing" about past instances of societal injustice.'" The Post added that her "approach to public discourse is troubling." The truth is, it is more than troubling. It is disqualifying.

The United States Commission on Civil Rights has repeatedly denounced religious bigotry. The Commission has pointed out that the divisive political and spiritual effects of such bias threaten the very foundations of our democracy. For instance, in an October 23, 1991 letter to President Bush and the Members of Congress, the Commission wrote:

"Confronted with religious bigotry, the need for strong moral leadership is clear. . . . [T]he Commission calls on elected officials to take all action within their power to eliminate religious discrimination and bigotry."

Speaking as individual members, we believe that the nomination of someone guilty of making religiously insensitive and intolerant remarks sets back the cause of mutual respect and good will among Americans of all religious beliefs.

Recently, Senator Carol Moseley-Braun gave a powerful and moving speech in the U.S. Senate in which she convinced a large majority of Senators not to renew the design patent of the United Daughters of the Confederacy. As Senator Moseley-Braun said with great righteousness: "It is an outrage. It is an insult. It is absolutely unacceptable to me and to millions of Americans, black or white, that we would put the imprimatur of the United States Senate on a symbol of this kind of idea." She said, Mr. President, that your election signalled "a change that said we have to get past . . . the many issues that divide us as Americans, and come together as Americans so we can make this country be what it can be in the 21st century."

We believe that millions of American Catholics and other Christian faithful feel the same indignation concerning the holding of federal office by a person with a history of antireligious prejudice.

We are certain that there are a large number of medical practitioners, women and men of all ethnic and racial backgrounds who are both well qualified for this position and untainted by intolerance. Mr. President, your administration should not be tarnished with the appearance of condoning hate speech and bigotry. We therefore respectfully ask you to withdraw Dr. Elders' name.

Very sincerely yours,

CARL A. ANDERSON,
Commissioner.
ROBERT P. GEORGE,
Commissioner.

That was a letter to the President of the United States.

Madam President, I have several other letters but one of the things on this issue that bothered me was that Dr. Elders was asked to apologize, to publicly apologize. I am looking at some correspondence from Father James West, who sent Dr. Elders and Gov. Bill Clinton a letter asking that Dr. Elders publicly apologize.

I am also looking at the letter that Dr. Elders sent to Father West, and she does not apologize. She made some very offensive remarks, which I have already quoted. I do not need to repeat them. They were very offensive to Catholics.

You have an individual who has written the Governor and written Dr. Elders and requested an apology and did not get an apology. Dr. Elders' response—and I can put it in the RECORD; I do not guess I will—does not apologize.

Father West wrote Governor Clinton again and requested his input. I will just tell you what he said in part of this letter:

> Certainly you do not desire to give the voting public the impression that you condone an anti-Catholic public stance within your State administration. I, therefore, ask you once more to call upon Dr. Elders to retract her anti-Catholic rhetoric and apologize publicly to every Catholic in our State.

Madam President, in looking at this followup letter, it did not happen. I am reading a copy of the letter which she sent the Bishop. She had a meeting with the Bishop to discuss this concern that Father West had raised concerning her remarks that she made at a pro-choice rally on January 18, 1992.

I look at her last comments. I will just quote this, because she mentioned it in the hearing:

> As was discussed in my statement that was quoted in the media—

And this is from a letter Dr. Elders had written on February 26, 1992

> As was discussed . . . I did not have any preconceived malice or intent to blaspheme the Roman Catholic Church. I have the utmost respect for the Roman Catholic Church and its followers. If offense was taken at my use of the term "male-dominated" rather than "male-governed," please accept my sincere apology.

In other words, she did not apologize for the entire paragraph which was offensive to anybody, but particularly to Catholics. That is my point. People raise this issue. She had a chance to rebut it or apologize publicly, and so on, and it just did not happen.

(Mr. DASCHLE assumed the chair.)

Mr. NICKLES. Mr. President, I have additional comments on several other issues. It is not my intention to filibuster. It is my intention to thoroughly discuss some of these issues I am troubled by.

Again, I think these comments are disqualifying. Maybe I am wrong. I may be in the minority in the Senate. But I cannot help but think that the Senator from Illinois and other people, if they heard these comments from other individuals, would be quite outraged. I have not even talked yet about statements she has made concerning abortion. I have not talked about comments she has made about birth control. Or distribution of condoms. Statements that, frankly, are radical; statements that are certainly going to impact every single family in America.

Mr. President, I have many additional comments. I will make those comments. But again, I have been very patient. I have sat on the floor for several hours today, but I have always tried to allow colleagues to speak. And that certainly is my intention.

It is not my intention to filibuster. It is not my intention to dominate the floor. So I will seek the floor again once other Senators are not on the floor. I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I rise——

Mr. GRAMM. Parliamentary inquiry, Mr. President, I note we were both standing. I am happy to allow our colleague to speak, but it is the normal procedure that one would call on the Chair for recognition.

The PRESIDING OFFICER. The Chair would inform all Senators that all three Senators were standing at the time the Senator from Wisconsin was recognized. The current occupant of the chair has chosen to rotate, as long as Senators on both sides of the aisle are seeking recognition.

The Senator from Wisconsin is recognized.

Mr. SIMON. Point of parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator from Illinois will state it.

Mr. SIMON. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator from Illinois will state it.

Mr. SIMON. Point of parliamentary inquiry. Is it not true that whoever is the floor manager gets precedent in terms of recognition? The Senator from Wisconsin is a floor manager at this point.

The PRESIDING OFFICER. The Senator from Illinois is correct. Assuming the manager is standing simultaneous to others seeking recognition, the manager generally is recognized first. The Senator from Wisconsin is recognized.

Mr. SIMON. I thank the Chair.

Mr. FEINGOLD. Mr. President, I might add I did seek recognition at the same time verbally, as I stood.

Mr. President, I rise in strong support of Joycelyn Elders as well as nominee for the U.S. Surgeon General. My statement cannot compare to many of the statements that I have already heard today, in particular the statements from the two Senators from Arkansas who know the nominee so well. But I do want to add my voice. I just recently had the opportunity to meet with Joycelyn Elders in person, although her reputation certainly preceded her. I was as impressed with her in person as I had been with her record.

During my meeting with Dr. Elders, I related a story about an incident that had happened just a couple days before. I just want to share it with my colleagues now.

I was in Milwaukee, WI, holding an advisory council meeting with about 40 women who were in attendance. This is a women's advisory council we put together to advise us on issues of particular concern to women. It includes members of the community, business leaders, and women from all walks of life. I greatly value and benefit from their input.

I was running through a long list of issues bringing them up to date on what I was doing and issues I was working on. I just happened to mention that I was going to be very likely to support Dr. Elders. The room immediately erupted in applause and with great enthusiasm. In fact, she received a lot more applause at that moment than I did at any point during that day. It was apparent to me that Dr. Elders' message has reached our State of Wisconsin loud and clear, and it is a message that has been warmly received.

Mr. President, I am very impressed with Dr. Elders' candid and forthright manner, her unerring commitment to prevention in the health care area, and her no-holds-barred approach to fighting issues such as AIDS, substance abuse, and teen pregnancy. These are, of course, growing problems in Wisconsin, just as they are across the country, and we do need a Surgeon General who will be a strong advocate for the health of the Nation in response to these challenges.

As many others have said today, I have admired the work and comments of the former Surgeon General, Dr. C. Everett Koop, and his outspokenness on these same sorts of issues. I was impressed with his early endorsement of Dr. Elders. I do not need to remind this body that Dr. Koop, who was nominated by former President Reagan, was also criticized roundly for his candor in expressing certain views. I believe this is a trait that should be respected and esteemed in a nominee and certainly in someone whose role is to safeguard the health of our Nation. Mr. President, the members of my Women's Advisory Council have told me time and time again, that on the issue of being pro-choice, it does not just mean pro-choice, it means working for opening many life options to women. This means education, building self-esteem, comprehensive health care, including reproductive health, and eventually good jobs that will support a family if a woman chooses to have one.

Dr. Joycelyn Elders, who herself had never visited a physician until her first year in college, has been a tireless champion for opportunities she did not even have herself. As a result, she has already become a tremendous role model for young women who face poverty, ignorance, and gender bias everywhere.

Finally, Mr. President, I would like to speak briefly as to Dr. Elders' qualifications because, as we heard many times today, they are very impressive. She has amassed a long record as a pediatrician, researcher, and public health official. She has the glowing endorsement of the American Medical Association and the American Public Health Association, among the more than 200 other groups and individuals.

Since 1987, Dr. Elders has been Director of the Arkansas Department of Health where she has been aggressively pursuing preventive care. She has proven to be a person of great vision who can translate ideas into practical programs.

Dr. Elders is a pioneer, whose resume speaks volumes about her commitment to health and especially the health of our young people. I found in my meeting that in person her commitment is equally apparent.

Mr. President, I am very pleased, therefore, to add my name in support of Dr. Elders' nomination to the post of U.S. Surgeon General.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, there have been many people on this floor waiting a long time to speak, and I will be brief, but I do want to add my comments of concern about the nomination of Dr. Elders. I say that in regard to this most important position of public service in the United States, one that deals with the health care issues of this country and the importance of bringing people together from all interests and all diverse walks of life, to a common thread of quality health care in this country. And that has been the role of a Dr. C. Everett Koop in that he might have been outspoken, but he has always worked to bring together different groups. It is on that issue tonight and that frustration that I would like to speak briefly.

My colleague from Oklahoma has just spoken, too. Issues of religious bigotry that have flowed from the mouth of Dr. Elders, that is of great concern to many of the citizens of my State.

In the last several weeks, as these statements of the doctor have come forward and been made public, literally hundreds of letters have come in and phone calls expressing strong opposition to her nomination and great concern about the image that she portrays and would portray as a public person in this country.

I do not question her right to be opposed to the Catholic Church, nor do I question her right to express that opposition. However, as a public official, if she has differences with a particular group, religious or otherwise, she should express her opposition in a professional manner. Dr. C. Everett Koop never lost the professionalism that he has become so well known for while serving in this important capacity and, as has been recognized, while being a very outspoken individual on the issues of health.

I am also concerned about her use of a public office as a podium to express her personal convictions about a particular group. I find her defamation of the Catholic Church and inclusion of religion in an area of health care simply inappropriate. I am absolutely amazed that this Senate is quietly going to allow this nomination to, if you will, nearly slip through, while opposition continues to grow literally on an hourly basis as the record and the rhetoric of this person begins to be exposed to the American people.

She has brought religion into the issue of health care in a number of ways. We have many very different religions in this country, some of which have strict edicts on health, and the care of one's body and others who deeply hold beliefs on health care issues.

Should those religions be subject to her intolerance? They have been. I feel it is not the job of the U.S. Surgeon General to pass judgment on the form of religion an individual chooses to practice.

Mr. President, I am not a Catholic, nor do I subscribe to all of the beliefs of that church. However, I do believe in the right of Catholics and other religious groups to practice their religion and not be exposed to a Government official's attacks, and that is now the record and that is now the style of the person that we are about to confirm to a major public office in this land.

I am frustrated by the nominee's intolerance of Catholicism, especially in light of the fact that she has experienced and overcome intolerance from others herself.

I could go on to list a variety of comments and my colleague from Oklahoma has listed many. I am absolutely amazed that she would make some of the suggestions that she would make.

The last comment that my colleague referenced in relation to her speaking of blacks and Jews and the Holocaust and all of this kind of movement, Mr. President, is that is revisionist history and that should not be tolerated. To blame the Catholic Church, or any other religion, with the problems we have had to overcome in this history of ours is just simply absurd.

I am deeply troubled and frustrated by this, and I recognize the importance of time this evening and through the closing hours as we attempt to shut this Congress down and deal with some other very, very important issues.

Dr. Joycelyn Elders' performance as director of the State Department of Health in Arkansas is clouded by unresolved controversies.

In 1991 Representative TIM HUTCHINSON filed a lawsuit against Elders over her use of Federal funds to provide condoms for school-based clinics. She and then-Governor Clinton bypassed the opposition and provided the condoms using Federal funds.

The nominee also has a number of questionable financial problems. Dr. Elders and her husband paid $800–$1,000 monthly for nursing care for Mr. Elders' mother, a 97-year-old with Alzheimer's. However, they failed to pay Social Security taxes.

Mr. Elders claimed they could not afford to pay the taxes, which would have been about $1,000 per year. The Elders have a joint income of well over six figures, as well as a health investment income. To avoid this controversy, Dr. Elders' response to this situation was that the problem isn't hers, it is her mother-in-law's.

Along with Dr. Elders and her husband not paying taxes for the care given to Mr. Elders' mother, Dr. Elders has other questionable financial dealings.

Dr. Elders serves on the board of the National Bank of Arkansas. The board is currently involved in a lawsuit filed against five of the directors and former directors. It is alleged that she and several other board members approved themselves an unsecured line of credit at $230,000 and then tried to transfer the money to an Illinois S&L to cover bad lending practices.

This problem should not be overlooked. If we are to seriously consider this nominee, we should postpone confirmation until this lawsuit is completed and the allegations cleared.

I also have a number of concerns about what has previously been referred to as double-dipping in respect to the nominee's salary. In 1988, Dr. Elders was paid a salary of $103,297. This salary represented a combined arrangement made by then-Governor Clinton, to allow Dr. Elders to receive salaries from both the University of Arkansas Medical Center and the State of Arkansas for serving as the Arkansas health director.

Mr. President, this income was questionable because it exceeded the ceiling for her position, $69,395, set by State law. Dr. Elders avoided the cap on State employees' pay by having her income from the State health department transferred to the University of Arkansas Medical School, from which she was paid a significantly higher salary as a professor of pediatrics. The State health director in Arkansas is considered a full-time, full-year job.

When Dr. Elders became a nominee and was hired to serve as a consultant to Secretary of Health and Human Services Donna Shalala, she continued to be paid by the University of Arkansas, and the Arkansas State Health Department.

I have a number of concerns about this overlapping in salaries and positions, Mr. President. Until July 18, Dr. Elders was paid $550 per day, plus $135 per diem by the Federal Government for her position as a consultant.

In addition to all of this, the Arkansas Democrat Gazette reported on Friday, July 16, 1993, that Dr. Elders,

> . . . Will receive an additional $42,119 in State funds between now and September 30. She has been placed on a special three-month State contract that is permitting her to draw "vacation" pay.

Mr. President, the financial dealings of Dr. Elders outlined here have also contributed to my decision to oppose Dr. Elders' nomination to be our next Surgeon General.

Finally, I am seriously concerned about the attitude Dr. Elders has taken on the issue of abortion and abortion funding. Her comments on the debate of this issue have debased a debate that is very personal and emotional to people regardless of the position they may take.

I am also offended by her comments on the benefits abortion has had on reducing the number of infants with severe birth defects like Down's syndrome. This reference made in support of abortion during the nominee's confirmation hearing shows a disturbing lack of consideration for human life.

Below I have listed a number of statements made by Dr. Elders, showing her intolerance and insensitivity regarding the issue of abortion:

In testimony before the Senate Labor and Human Resource Committee on May 23, 1990, Dr. Elders stated that, "Abortion has had an important, and positive, public health benefit." In addition, she stated that: "Abortion was the single most important factor in the significant decrease in neonatal mortality between 1964 and 1977."

She was quoted in the January 19, 1992, edition of the Arkansas Democrat Gazette as saying, "We would like for the right to life and antichoice groups to really get over their love affair with the fetus and start supporting the children."

Dr. Elders defends her statement that people must "Get over their love affair with the fetus," by stating that she is committed to all pregnancy prevention and she would like to see the need for abortion become obsolete because all pregnancies will be planned, wanted pregnancies.

But it is unjust and untrue for her to suggest those who oppose abortions do not support children.

She was also quoted in the Washington Post, February 16, 1993, edition saying "[I]f Medicaid does not pay for abortions, does not pay for family planning, but pays for pre-natal care and delivery, that's saying: I'll pay for you to have another good, healthy slave."

Mr. President, above and beyond the issue of abortion, are we going to support a nominee who feels that those with handicaps or are afflicted with defects are not worthy of life? This exemplifies Dr. Elders' tendency to advocate a Band-Aid approach to problem solving rather than tackling the tough underlying causes of a problem.

In other words, to approach the issue of healthier infants, it is troubling that the nominee would speak so supportively of abortion. I cannot support a Surgeon General for the United States who feels that abortion is the grand solution to so many health care and social problems and who so grossly misrepresents those who may disagree with her on this issue.

Before closing, Mr. President, I would like to add that I am also concerned about Dr. Elders' position on sex education and the distribution of condoms in our schools.

When it comes right down to it, Dr. Elders has many problems that can directly affect her job as Surgeon General. Judging by her comments, Dr. Elders has little tolerance for people who disagree with her. And, she seems to drive wedges wherever she goes instead of bringing people together. Her personal views on controversial health care issues are extreme and her solutions to these problems are not solutions at all but just Band-Aids. I urge my colleagues to vote against the nomination of Dr. Joycelyn Elders for the position of U.S. Surgeon General.

Mr. President, I would ask this Senate to seek deeply into their beliefs and the clear demonstration that many of my colleagues have shown by their votes over the years to have phenomenal tolerance to not demonstrate the kind of bigotry that is now documentable in the person of Dr. Joycelyn Elders. It is clearly inappropriate for a public person of this stature to serve in a capacity of decisionmaking and leadership that she will aspire to in the position of U.S. Surgeon General and to not even attempt to retract many of the kinds of statements that are now clearly a part of the record.

I have to oppose this nomination. I urge my colleagues in the Senate to do the same. There is no place at this level of public life, or any level of public life for that matter, as we work constantly to bind our country together under some common threads, and one of those is phenomenal tolerance of diversity, to have such an intolerant person assuming the role of U.S. Surgeon General.

Mr. GLENN. Mr. President, I rise today in support of the nomination of Dr. Joycelyn Elders for the post of Surgeon General of the U.S. Public Health Service.

Dr. Elders, as Senator KENNEDY aptly commented last week, is truly a Horatio Alger of our time. Born the daughter of Arkansas sharecroppers, Dr. Elders worked full time on her family's farm during her youth, and would attend the nearby segregated elementary and secondary public schools only after the crops were harvested in November. Despite these obstacles, Dr. Elders succeeded in obtaining a scholarship to Philander Smith College in Arkansas at the age of 15, and was able to put herself through school by scrubbing dormitory bathrooms and working at various odd jobs to meet expenses. After graduating in 1952, Dr. Elders enlisted in the Army so that she could go to medical school on the GI bill. There, Dr. Elders excelled in her studies and became the first black woman to serve as chief pediatric resident at the University of Arkansas Hospital.

As a professor at the University of Arkansas Medical School, Dr. Elders has authored more than 150 articles for medical publications. In 1987 she was appointed director of the Arkansas Department of Health. Later, she also served on the executive committee of the Association of State and Territorial Health Officials and was unanimously voted to the presidency of the Association by her peers and colleagues. Dr. Elders has received such distinctions as the American Medical Association's National Congress on Adolescent Health Award, the National Education Association's Mary Futrell Award for Creative Leadership in Women's Rights, and the National Governor's Association Distinguished Service Award.

Despite her impressive array of achievement and excellent credentials demonstrating her perseverance and competence, some critics have raised concerns over her nomination because they feel that she is too radical and too out-of-touch with mainstream America to be an effective Surgeon General. In a sense, her critics are correct. Dr. Elders does want to radically alter our current public health programs. Dr. Elders radically believes that by refocusing our system toward primary care and prevention, we can significantly lower health care costs and improve the health of our Nation, and she is right. Currently, less than 3 percent of the Nation's health budget is spent on preventive care. Yet, study after study has demonstrated the cost-effectiveness of many preventive measures. Every $1 spent on immunizations, for example, saves at least $10 in after medical costs; and every $1 spent on prenatal care saves at least $3.38.

Moreover, Dr. Elders feels that health care should not begin in a doctor's office. Rather, families, communities and schools should also take up the responsibility of educating our children about how to lead a healthy life. Thus, during her tenure as director of the Arkansas Department of Health, Dr. Elders introduced and established the novel concept of school-based clinics, where teenagers have access to counseling and contraceptive services. Her rationale was that for health care clinics to be effective, they should be located in such places as schools, malls, and recreation centers which teenagers frequent. Skeptics have raised the concern that these clinics may infringe upon parental rights by offering various medical and family planning services that parents or communities may find inappropriate or undesirable. Yet, Dr. Elders' policy actually reinforces a locality's right to decide whether a school-based clinic in a given community should be established and, if so, what services should be offered. More importantly, Dr. Elders' policy requires that children obtain parental consent before receiving services at school-based clinics.

In her 5 years as the director of Arkansas State Health Department, Dr. Elders expanded and improved numerous prevention programs that directly benefit infants, children, women, the elderly, and the chronically ill. For example, Dr. Elders upgraded the standards and increased the numbers and hours of prenatal care in public health clinics, and led an award-winning campaign to improve utilization of prenatal services. In addition, Dr. Elders nearly doubled immunization rates for 2-year-olds, from 34 percent in 1989 to 60 percent in 1992, by opening clinics after hours for working families. During that time, the number of children who received early periodic screening, diagnoses, and treatment [EPSDT] services also increased tenfold, from 1,273 to 12,260. Finally, Dr. Elders was instrumental in increasing the numbers of physicians and other health care providers in rural and underserved areas. Dr. Elders' impressive record clearly demonstrates her strong commitment to prevention and her ability to get things done.

Dr. Elders has the experience, the knowledge, and most of all, the character to confront the unique health care problems we face today. Advocating for a positive change in our behaviors and attitudes about health, Dr. Elders has striven to instill in our Nation the notion of responsibility for one's own health and actions. As Surgeon General, Dr. Elders will enhance the growing awareness of the importance of prevention and help ensure that improved health for all Americans becomes a national priority. I believe that Dr. Elders will bring the same dedication, skill, and enthusiasm to addressing our national health problems as she did in Arkansas, and I strongly urge my colleagues to support her nomination to the post of Surgeon General of the United States.

Mr. SIMON. Mr. President, I shall be very brief because I know my colleague from Texas has been eager to speak.

First of all, let us face it. Statements have been taken out of context wholesale so that you get a real distortion of the real Dr. Elders. And as one who was there for the hearing, let me tell you I came away very impressed, as did most of my colleagues of both political parties. She was approved in committee 13 to 4.

Second, is she controversial? Yes, she is controversial because she is a leader. Is the Senator from South Dakota controversial? Yes, he is. Is the Senator from Texas controversial? No question about it. Is the Senator from Idaho controversial? Yes, he is. Is the Senator from New York controversial? Of course, he is controversial.

That is part of leadership. We want a leader, not just a Surgeon General. That name really is an unfortunate one. She is not going around this Nation doing surgery. She heads the Public Health Service of this country. And she is going to lead.

Bill Clinton could have taken some innocuous physician that no one ever heard of, who had never said anything and nominated that person, and it would have breezed through here. But we have someone who really is going to lead.

I remind my colleagues that this Nation is not just composed of people who live in our neighborhoods in our tax bracket. We are, frankly, just because we are Members of the Senate, at least upper middle income, and many of us have had more fortunate backgrounds and are well above that. The real problems of our country in terms of public health are those who are less fortunate.

She understands that. She will lead. I think she is going to make a great Surgeon General, if I may use that term again that is overused, and head of the Public Health Service. I am pleased to support her.

I will yield the floor to my friend and colleague from Texas, who I am sure is going to make a powerful oration in support of her nomination. And for that purpose I yield the floor to him, Mr. President.

The PRESIDING OFFICER. The Senator from Texas is recognized.

BUDGET RECONCILIATION

Mr. GRAMM. Mr. President, I thank my dear colleague from Illinois.

There are many things that one learns if he has an opportunity to serve in this, the greatest of deliberative bodies, and one of them is patience. I have learned a good lesson in that today as I have listened to others speak while waiting to speak.

I thank my colleague from Illinois for being so brief. I thank him for his invitation to join him in supporting our nominee. It seems to me, having listened to a little of the debate today, having participated in at least an effort to verbally pull two of our colleagues apart, that this debate is likely to go on for some time. We are going to be voting tomorrow on a tax bill of great importance, and so I wish to take my time to talk about that bill.

Mr. President, the debate about taxes and about spending has droned on for some time now. As we have moved toward this moment where the vote is going to occur in the House tonight and where we are going to vote tomorrow, much has been made of the fact that we have a proposal before us that was made by the President. There have been many who have supported that proposal who have said this is the only alternative. In fact, the President never tires of saying that Republicans did not offer any alternatives.

So I thought it would be helpful in beginning this debate to go back and look at every amendment that was offered in the Budget Committee on the budget and during the consideration of the tax bill in this Chamber. What I found I think is very revealing because, having watched the Senate debate on many occasions, my guess is that tomorrow there is going to be great wringing of hands and there are going to be many in support of the President's efforts to raise taxes who are going to say, well, I would have voted for more spending cuts had there been any proposals made.

I am sure there are going to be some who are going to say, well, I did not want to tax Social Security, but it was just part of this package. If I had had an opportunity not to do it, I would not have done it.

I am sure there are going to be many, both on the floor of the Senate and many at home, over the next few years who are going to say, gosh, I did not want to tax energy. I was not for a gasoline tax. I was not for the Btu tax. If I had had a chance to get rid of that part of the package, I would have done it.

And, finally, my guess is, as these taxes crush small businesses and family farms denying us the jobs our people need, there are going to be many who support this package who are going to say, I did not want to tax small businesses. I did not want to tax small farms. And if I had had an opportunity to have gotten rid of those taxes, I would have done it.

So, Mr. President, I went back, and I put together all of the votes on these subjects we had in committee and in this Chamber where we had an opportunity to cut spending or to eliminate the Social Security tax or energy taxes or taxes on small businesses, and here are the numbers.

We had 29 amendments to cut spending, and on those 29 amendments, the majority of the Members of this body, every one of whom was a Democrat, killed those 29 amendments to cut Government spending. Not once, not twice, but 29 times we had votes to cut spending or freeze spending or to reduce spending, and 29 times our Democratic colleagues said "no."

On eight occasions, we had amendments to eliminate the Social Security tax, amendments to freeze discretionary spending and eliminate the Social Security tax, amendments to shear off some of the President's add-on spending programs, to offset the revenue lost to the President's package by eliminating the Social Security tax, and eight times we had an opportunity to eliminate Social Security tax, and eight times the Democrats voted to kill those amendments.

We had 12 amendments to kill energy taxes, 12 amendments to cut spending instead of raising taxes on gasoline, instead of raising taxes on diesel, instead of raising taxes on utility bills, and 12 times the Senate on virtually a party-line vote voted for energy taxes.

And on eight occasions, eight amendments, we had an opportunity not to raise taxes on small businesses and family farms but instead to cut spending. Not one time but eight times we had amendments that would have cut spending instead of raising taxes on small businesses and family farms.

I remember two of these amendments well because I authored one and I cosponsored the other. One amendment would have frozen discretionary spending and saved enough money so that we did not have to raise taxes on small businesses and family farms. That amendment was defeated on a straight party-line vote.

We had an amendment to sheer off some of the President's add-on spending as an alternative to raising taxes on small businesses and family farms. That amendment was defeated on virtually a straight party-line vote.

So I am sure as we begin the debate that there will be many who will say, where is the alternative, when there were 29 alternatives offered to cut spending; there were eight alternatives offered to avoid Social Security taxes; there were 12 alternatives offered to avoid taxes on energy and gasoline; and there were eight alternatives offered to avoid taxing small businesses and family farms. And the Senate, on straight party-line votes, for all practical purposes, defeated every one of those opportunities.

We hear a lot of talk about what is in this bill in terms of spending cuts and tax increases. I remember vividly in the State of the Union address the President said, let us not argue about numbers. Let us let the Congressional Budget Office decide what the spending cuts are and what the taxes are and let us debate policy.

There were those of us who were skeptical about the objectivity of the Congressional Budget Office given that the director is hired by the Democratic chairman in the House and the Democratic chairman in the Senate. But what happened, Mr. President, was that the Congressional Budget Office immediately assessed the President's budget as not saving $500 billion, but saving $355 billion, and not having $1 of cuts for every $1 of taxes, but having $3 of taxes for every $1 of cuts. And miraculously, the President decided to fire the judge and jury that he had named to score his own budget. And since that day he has not referred to the Congressional Budget Office as an indicator of what is being done in the name of reducing the deficit.

We are now looking at numbers where there is discussion about taxes and about spending cuts. I would like to run through these numbers because I think they are very important.

In this first year, 1994, if the President's plan as we are going to vote on it is adopted, the President does not claim to have any cuts in spending.

I remind my colleagues that when we used the word "cut" in Washington, we do not mean the same thing that you mean in New York or Texas, because in Washington, when we say "cut spending," we are saying we are going to spend less than we would have spent. We mean that we were already going to increase spending to cover inflation, that we were going to already increase spending for programs that we had adopted, that we were going to already increase built-in growth in spending in the budget. And when we are cutting spending, we are not spending less than we used to spend. We are spending less than we would have spent.

But even by Washington's definition of a spending cut, Bill Clinton's budget does not claim to cut spending in 1994, which is next year. It does claim to raise taxes by $32 billion.

So when you ask yourself, well, the American people, in paying all these new taxes, what do they get in spending cuts next year, the answer is nothing.

Then in 1995, the President's budget has $46 billion in new taxes, and claims to spend $4 billion less than we would have spent. But now with the emergency appropriation that we have just adopted for the flood, and we had a vote on whether to pay for it or not, and the Senate voted 55 to 45 not to pay for it—that is going to more than offset that $4 billion. So in 1995, based on the spending that we have already done, there is going to be $46 billion worth of taxes, but there are going to be no net spending cuts.

Now we get into the period where spending cuts are promised, 1996, 1997, 1998. In fact over 80 percent of all the spending cuts that the President promises in his budget do not even occur until after the votes are counted in the Presidential election in 1996.

I have worked on these budgets for several years. I have watched the debates unfold. And the sad conclusion that I have reached in budgets by the Democrats and Republicans is if you do not get the spending cuts up front, you do not get them. You get the taxes, but you do not get the spending cuts.

I simply ask people to remember that in 1990, when another President, George Bush, came to the Congress and worked out a budget summit agreement where the President agreed to take $160 billion in new taxes in return for twice that volume of spending cuts, and the deficit was going to go double by $500 billion, what happened? Every dollar of the taxes happened. But the economy went soft, the spending cuts were not made, and the deficit went up.

I want to talk for a moment about spending cuts in the language that the public uses. In other words, if you ask yourself, if we adopt the President's budget, what do we spend next year relative to what we are spending right now? How much do we collect in taxes next year relative to what we are collecting right now?

When you use the language of the American people, English, the picture is totally different. I think it is very revealing. First of all, under the President's budget, the Government will collect $102 billion more in taxes next year than it does right now. Of course, every penny of those taxes will be paid directly or indirectly by the American people.

You might ask yourself, what happens to spending? If you listen to the rhetoric of the White House and some of our colleagues, you will say, of course, spending goes down. Or, if you looked at the numbers I just said, they do not claim any net spending cuts in the first year, but I remind you that was relative to what we would have spent. The reality is that next year, taxes go up by $102 billion and spending goes up by $54 billion. This is under the President's budget, if everything he asked us to do, we do. If we deliver on every promise the President has made, these are the numbers.

In 1995, taxes go up by $90 billion and spending goes up by $66 billion.

In 1996, taxes go up by $69 billion, and spending goes up by $55 billion.

In 1997, taxes go up by $71 billion, and spending goes up by $64 billion.

And in the last year of the President's budget, guess what happens? Taxes go up by $65 billion, and spending goes up by $79 billion.

Every year spending grows, and by the last year of the President's 5-year budget, spending is again growing faster than revenues and guess what? In 10 years the deficit is $400 billion.

I want to comment about a couple of facets of the budget, then I will make my major point, and then I will sit down and let some of my other colleagues speak. I just want to comment on a few details of this budget, and then talk about the real issue.

We have seen first from the Ways and Means Committee and then from the White House all this talk about how trivial the gasoline tax is.

In fact, the Ways and Means figures show that the average family is going to pay $28 a year in gasoline taxes. I kept thinking, you know, if taxes are going up by 4.3 cents a gallon, how is it possible that the average family is going to pay only $28?

So I went back to the source data and I discovered that, in fact, what the Ways and Means Committee had done is they had looked at per capita consumption of gasoline and looked at the tax as if children and little babies were going to pay the tax. In fact, when you actually look at gasoline consumption in my own State, the average Texas family, with this 4.3 cent a gallon tax on gasoline, will pay not $28 but $85.10. But that is not the whole story, because there was a temporary tax of 2.5 cents a gallon that was expiring, so the American family was not going to have to pay that tax. It has been extended and made permanent. Another 4.3 cents has been imposed.

So, actually, the tax on gasoline will go up by 6.8 cents relative to what it would have been, so that the average family in my State because of this tax, will pay $134.57 more for gasoline than they would have paid. Over the 5 years of the President's budget, that adds up to $573.93. Mr. President, that is a long way from $28 per family.

There are a couple of other provisions of this bill that I find very troubling, and I remind those who are watching this debate, and my colleagues, that we do not yet have the final version of the bill. But in terms of our Budget Committee staff going through it, let me outline some of the things that are in store for us as part of this bill that is supposed to be reducing the deficit.

I think people will be somewhat amazed to discover that this bill has $215 million of new spending to pay the timber industry in the Northwest as part of a buyout that is part of the spotted owl agreement in the Northwest. In fact, it is $215 million of new spending as a downpayment on the spotted owl agreement.

I think people, Mr. President, are going to be somewhat stunned when they discover that there is $100 million in here of taxpayer funding as an offset to revenue to fund the 1996 Presidential campaign. You might ask if our objective is to lower the deficit in this bill. If we are imposing 265 billion dollars' worth of taxes, why do we have $100 million to fund the 1996 Presidential campaign? I think the answer to that question is that there is no answer to that question.

Finally, one of the provisions that you are going to hear a lot of debate about is that, apparently, there is a new growth hormone which is supposed to dramatically increase the production of milk. In fact, the company developing that hormone has spent a tremendous amount of money in its development. They have gone through FDA, and they have gotten approval to start using this milk-producing hormone.

I see some merriment coming over the face of my dear colleague from Maryland.

Ms. MIKULSKI. If the Senator will yield, this Senator is always delighted to hear about growth hormones.

Mr. GRAMM. This particular growth hormone will help the dear Senator from Maryland, but only in making milk cheaper. But the purpose of the provision in this bill is to prevent our dear colleague from Maryland and her constituents from getting cheaper milk, because it seems that one of our colleagues in the Senate wants to stop this growth hormone, approved by FDA, from being used. So there is a provision in this bill delaying the ability of this private company to begin marketing this growth hormone because it might affect milk production positively and send down prices to the American consumer.

Mr. President, my point here is this: What are we doing in a bill that raises taxes supposedly to reduce the deficit funding spotted owl offsets to timber companies? What are we doing funding $100 million for the 1996 Presidential campaign? And what are we doing trying to prevent growth hormones that could increase the production of milk and lower prices to the consumer and raise productivity of the dairy farmer?

Well, my guess is that people are going to raise those questions, and I do not think they are going to get very good answers. My guess is that part of the deal to get a vote was to try to stop or slow down these growth hormones on cattle, and if some private company that invested hundreds of millions of dollars gets hurt, that is the way the process works.

Finally, what is wrong with this bill? You know, in a sense, we have spent so much time talking about numbers, and I have to admit that Republicans have been fixated by the difference between the President's rhetoric and the reality of this bill. The President, in the campaign, said $3 of spending cuts for every $1 of taxes. Director Leon Panetta and Secretary Lloyd Bentsen, in confirmation, said $2 of spending cuts for every $1 of taxes. In the State of the Union, the President said $1 of spending cuts for every $1 of taxes. The budget was $3.23 in taxes for every $1 of spending cuts. Now through the end of this term for Bill Clinton as President there will be about $5 in taxes for every $1 of spending cuts.

Needless to say, we have felt some frustration in trying to get the American people to understand that they were not being leveled with. But it seems to me that maybe we spent too much time trying to convince people that they were not being told the truth, and we have not spent enough time explaining to them why this is a bad bill.

So, in my remaining minutes, let me try to give that explanation. This bill is going to raise taxes on income; it is going to raise taxes on Social Security; it is going to raise taxes on gasoline; it is going to raise taxes on small businesses and family farms; it is going to raise taxes on inheritance. We are going to have retroactive taxes to January 1 on both the living and the dead.

All of these taxes are going to be taxes on people who save, and people who invest, and people who create jobs.

And as a result of these taxes, people are going to save less, invest less, and create fewer jobs.

The net result is going to be that we are going to make the economy weaker and not stronger. If we had a dramatic reduction in the deficit you might say, well, by freeing capital for private use to build more homes, more farms, more factories, we might offset the negative impact of these taxes.

But, Mr. President, there are no dramatic changes in spending. Ten years from now the deficit will be higher if everything this plan promises comes true, but what will be there is not just higher deficits but higher taxes.

The National Center for Policy Analysis has estimated that the adoption of this bill will mean that over the next 5 years our economy will create 1.34 million fewer jobs.

Mr. President, I thought this debate was about jobs. We cannot create more jobs by taxing the people who create them. And I know we have a lot of rhetoric here about how we do not feel sorry for Joe Brown & Son Hardware Store if they are making $140,000 a year. I am not worried about Joe Brown because he is running that hardware store and working hard. My guess is he will survive not only the recession but the tax increase. We are going to make it harder for him, but I am very worried about the people who would like to work for him.

I am worried about these retroactive taxes. We are buying a one-way ticket to a recession. He is not going to be able to add an additional room on his hardware store. He is not going to be able to put three more people to work. And the cumulative effect of all of that is going to be that the American economy is worse off.

I want to predict here tonight that if we adopt this bill the American economy is going to get weaker and not stronger, the deficit 4 years from today will be higher than it is today and not lower, despite the fact that we are imposing a massive tax increase, a 30-percent increase in marginal tax rates. We are going to tax 85 percent of Social Security benefits for people who make over $35,000 a year in retirement, we are going to raise gasoline taxes that people are going to pay at the pump, and they are going to pay for it in all of the products that they buy. When all is said and done, people will pay more taxes, the economy will create fewer jobs, Government will spend more money and the American people will be worse off.

I believe that hundreds of thousands of Americans will lose their jobs because of this tax bill. Three and one half years from now my guess is that the President will be one of them.

But in the meantime, a lot of other people, who did not choose this policy nor did they believe they were choosing it in the 1992 election, will be hurt.

But the essence of democracy is accountability, and we are going to have a vote on this bill tomorrow night and people are going to get an opportunity to say "yea" or "nay."

I have looked at the bill. I believe that this bill is bad for America, and it is going to hurt the people who do the work and pay the taxes and pull the wagon. That is why I am going to vote "no." I hope that this bill is defeated.

I pledge, Mr. President, if this bill is defeated to sit down with the President on a bipartisan basis. What I think we ought to do is take our proposal we made in the Senate, take the proposal made in the House, combine them, put together $500 billion of real spending cuts. We ought to ask the President to do the same. We ought to go to the White House, if this bill fails, because the American people will have rejected tax increases, and we ought to put our $500 billion of real certified cuts on the table. The President ought to put his certified cuts on the table. Where the two bills overlap, we ought to agree in advance we are going to take those cuts. Then what we ought to do is take the rest of the President's package and we get to pick half the cuts from his list. He takes the rest of our package. He picks half the future cuts from our list. We all hate it. The economy would love it. We would cut spending first. The economy would improve. Americans would go to work. And the country would benefit.

And that is why I hope we defeat the President's tax bill, giving us an opportunity to cut spending first.

I thank my colleagues for their patience, and I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Thank you very much, Mr. President.

I want to acknowledge the eloquent statement of my ranking minority on the Appropriations Committee, Senator GRAMM, who has been talking about President Clinton's deficit reduction program.

OMB MIDSESSION REVIEW AND THE PRESIDENT'S RECONCILIATION TAX BILL

Mr. CRAIG. Mr. President, I rise today to call upon the President of the United States to release an apparent political prisoner: The Office of Budget and Management's Midsession Review of the Economy and the Budget.

In contrast, I want to congratulate the senior Senator from Delaware [Mr. ROTH], who is the ranking member of the Joint Economic Committee on which we both serve, and the JEC staff. JEC Republicans are doing the work the administration was supposed to do, by releasing, this week, our own shadow Midsession Review. I ask unanimous consent to include a copy in the RECORD. Such a shadow report should not be necessary. But at least it will elevate and inform the reconciliation tax bill debate later this week.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

In recent weeks, several Senators have spoken to the failure of the administration to release its Midsession Review. On our side of the aisle, members of the JEC twice have written OMB Director Leon Panetta requesting release of a full, complete Midsession Review.

Instead, Congress received a cursory letter summarizing the deficit situation and a copy of a press release. I ask unanimous consent to include those two documents in the RECORD, at the conclusion of my statement.

The PRESIDING OFFICER. Without objection it is so ordered.

(See exhibit 2.)

A letter with one row of numbers and a press release are inadequate. They do not constitute complying with the law. In this case, the law is the Budget Act of 1974, which requires the administration to release its Midsession Review on July 15.

What is the administration's ostensible reason for holding its budget and economic review hostage? We are told that some of the numbers will change when the Budget reconciliation tax bill is enacted into law, an event the administration expects by the end of this week.

In other words, the President and his Office of Management and Budget are holding the facts hostage—the facts about how they see the economic and budget outlook—until they get their tax bill through Congress.

This kind of answer avoids responsibility, defies logic, and ignores history. The administration's stonewalling only adds to its credibility deficit with the American people.

First, by holding the budget and economic report hostage, the administration puts the horse before the cart. You would think that, to ensure responsible, informed votes on the reconciliation tax bill later this week, the President would want Congress to have the most complete, up-to-date information available. But the President is saying, "First, pass my budget, then I'll tell you what the facts are that justify that budget."

Second, final action on reconciliation may or may not occur this week. It might not occur until November or December, like in some years. Would President Clinton and his OMB have us wait until then for their assessment of the economic and budget situation?

Third, we do not need to finish the reconciliation tax bill to review OMB's estimates of baseline projections for the economy and the budget.

Why cannot the OMB send up volume 1 with baseline data now, and volume 2, estimating the effects of the reconciliation bill, after it has been passed? Couldn't the President send up volume 1 in a three-ring binder now and send up the reconciliation estimates on filler paper later? There just is not a major logistical program here.

Fourth, why should this administration be the only administration in the history of the Budget Act to duck its responsibilities?

Director Panetta's letter made me wonder: What did other Presidents and OMB Directors do under similar circumstances?

So, I asked the Congressional Research Service to supply me with the dates of past submissions of the OMB Midsession Review and the dates of initial and final Congressional action on reconciliation bills.

And, Mr. President, I found some most interesting facts.

Out of the 10 years in which there were both a Midsession Review submitted and a reconciliation bill or comparable bill acted upon:

In only 1 year, 1984, did OMB provide its Midsession Review after such a bill was signed into law. The Deficit Reduction Act of 1984 already had cleared the Congress by June 27, before the deadline for the Midsession Review.

In 2 of those years, 1980 and 1981, OMB provided its Midsession Review after one or both Chambers of Congress had taken initial action on reconciliation but before either the Senate or House had taken final action on the bill.

That is the situation we're in today; both Chambers have taken initial action on reconciliation, and it is now past the statutory deadline for submission of the Midsession Review. President Carter did it. President Reagan did it. Why can't President Clinton do it?

In 7 years, 1982, 1983, 1985, 1986, 1987, 1989, and 1990, OMB provided its Midsession Review before either body took even its initial vote on Reconciliation.

In those 7 years, President Reagan did it; President Bush did it. Why can't President Clinton do it?

I ask unanimous consent to include in the RECORD, at the end of my statement, the complete reports prepared by CRS.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

At this point, I also want to summarize the relevant, comparative dates for those 9 out of 10 years in which the President, meaning Presidents Carter, Reagan, and Bush, fulfilled their obligations to provide Congress with a Midsession Review, even though Congress had not yet completed action on reconciliation:

Exhibit 1

Brief Summary of OMB Mid-Session Review Submissions That Preceded Congressional Action on Reconciliation

In 1980: President Carter's OMB submitted its Mid-Session Review on July 21. Only the Senate, on June 30, had taken initial action on the Omnibus Reconciliation Act of 1980 before the Mid-Session Review was submitted. Final action was taken on Reconciliation on December 3, in both bodies.

In 1981: President Reagan's OMB submitted its Mid-Session Review on July 15. Initial action on the Omnibus Budget Reconciliation Act of 1981 occurred in the Senate and House on June 22 and June 25, respectively. Final action was taken on the Act on July 31 in both bodies.

In 1982: President Reagan's OMB submitted its Mid-Session Review on July 15. Initial action was not taken on the Omnibus Budget Reconciliation Act of 1982 until August 4 in the Senate and August 10 in the House.

In 1983: President Reagan's OMB submitted its Mid-Session Review on July 25. Initial action was not taken on the Omnibus Budget Reconciliation Act of 1983 until October 25 in the House and November 16 in the Senate.

In 1985: President Reagan's OMB submitted its Mid-Session Review on August 25. Initial action was not taken on the Consolidated Omnibus Budget Reconciliation Act of 1985 until October 15 in the Senate and October 31 in the House.

In 1986: President Reagan's OMB submitted its Mid-Session Review on August 6. Initial action was not taken on the Omnibus Budget Reconciliation Act of 1986 until September 19 in the Senate and September 24 in the House.

In 1987: President Reagan's OMB submitted its Mid-Session Review on August 17. Initial action was not taken on the Omnibus Budget Reconciliation Act of 1987 until October 29 in the House and December 10 in the Senate.

In 1989: President Bush's OMB submitted its Mid-Session Review on July 18. Initial action was not taken on the Omnibus Budget Reconciliation Act of 1989 until September 26 in the House and October 12 in the Senate.

In 1990: President Bush's OMB submitted its Mid-Session Review on July 16. Initial action was not taken on the Omnibus Budget Reconciliation Act of 1990 until October 16 in the House and October 17 in the Senate.

Midsession Review of the Budget Deficit, August 1993

The failure of the Office of Management and Budget (OMB) to transmit the midsession review of the budget to Congress raised questions about the economic and budgetary effects of the Administration. The OMB has provided revised deficit number to Congress, but this submission is seriously incomplete. The revenue and spending levels are omitted, as are any budget details. Most importantly, the economic assumptions underlying the submission were withheld from Congress.

To address this situation, a Joint Economic Committee Republican staff (JEC/GOP) midsession review was prepared. This analysis focuses on the effects of slower economic growth on deficit spending. Changing economic and technical assumptions can have major effects on the budget outlook, as many learned after the 1990 budget deal was enacted. For example, under this agreement, in 1990 the Congressional Budget Office (CBO) estimated that the 1995 budget deficit would fall to $29 billion; its current estimate if now $284 billion, 879 percent higher. This deterioration was largely due to CBO's unrealistic economic assumptions in the face of one of the largest tax increases in U.S. history. Under this package of tax increases and spending changes enacted in 1990, the economy failed to perform as predicted, resulting in much higher levels of deficit spending. In fairness to CBO, it should be noted that many other economic forecasts were equally inaccurate.

This *Midsession Review* examines the budgetary consequences if history were to repeat itself. The concern that the Administration's policy would slow the economy is as bipartisan as it is well founded.

For example, one Democratic Senator, considered by some a key economic spokesman, stated in a Banking Committee hearing, "My perception of the plan that the President has put forward is that . . . its impact is essentially contractionary. . . ." At a later hearing he said of the plan, that it "may be of such dimensions as to trigger the economy into a downturn." Another Senate Democratic colleague on the Banking Committee was even more blunt in raising the prospect of a recession under Clinton Administration policy, "I am very concerned about the possibility of falling back into recession as a result of the very restrictive fiscal policy we are about to adopt."

Whether approached from a Keynesian or an alternative point of view, there can be little doubt that these Senators are right to be concerned about the direction and magnitude of the economic effects of the Administration program. A realistic evaluation of the economic and budget outlook under the Administration policy would have to take its "contractionary" effects into account, relative to a baseline forecast without this policy change.

This paper examines how a moderate economic slowdown, not a recession, would increase deficit spending, GDP growth in all quarters and years analyzed is assumed to be positive. The next section will present an analysis of the effects of a one-year reduction in GDP growth for 1993 only. Though the out-year effects of a one-year change may sound trivial, the effects of the budget are actually quite large, and grow over time. This discussion will be followed by a section examining the impact of a multi-year slowdown on deficit spending.

More specifically, we will initially assume a 1993 growth rate 0.6 percentage point less than the Administration's. This would exactly comport with the Administration's reported downward revision in 1993 GDP from 3.1 percent to 2.5 percent (fourth quarter to fourth quarter). This revision is reasonable in light of the economic slowdown in the first quarter and the continued weakness in the second quarter of 1993. As many have noted, a slowdown in the economy and plunge in consumer and business confidence has followed the unveiling of the Administration tax and spending plan in February.

SLOWER GROWTH IN 1993 ALONE

The implications of the 0.6 percentage point downward revision in 1993 GDP growth are significant in and of themselves. This seemingly small change in one year adds $12 billion to the deficit by fiscal 1996 and $15 billion by fiscal 1998. Over the 1994–98 period, $61 billion would be added to the cumulative deficit, assuming GDP growth for the 1994–98 period is unchanged from the Administration's February baseline. This one revision, reportedly almost identical to one made by the Administration, offsets one quarter of the Administration's proposed tax increase for the five-year period. The effect of this revision on deficit spending is displayed below. In addition, the effect arising from a one percentage point reduction in 1993 GDP growth, with the growth rate rebounding to the Administration's February baseline thereafter, is also shown in Table I:

TABLE 1.—DEFICIT INCREASE WITH ADMINISTRATION'S 1993 GDP REVISION

[In billions of dollars]

	1994	1995	1996	1997	1998	Total	As a percent of tax increase[1]
Deficit impact of 0.6 percent reduction in 1993 GDP growth[2]	9.7	11.5	12.3	13.3	14.6	61.4	24.6
Deficit impact of 1 percent reduction in 1993 GDP growth[3]	16.2	19.1	20.5	22.1	24.3	102.2	40.9

[1] Assuming $250,000,000 in tax increases.

[2] Reported revision to a 2.5 percent real growth rate (4th quarter over 4th quarter).

[3] Growth rate consistent with statements of Secretary of the Treasury would result in a 2.1 percent 1993 growth rate.

Source: OMB and JEC/GOP staff calculations.

The Administration's downward revision for the 1993 growth rate already appears optimistic in light of the recent second quarter GDP release indicating a growth rate of 1.6 percent. Up to the day of the release most forecasters expected second quarter growth to come in above 2 percent. Now for the economy to attain the projected 2.5 percent growth rate for 1993, a sharp acceleration of GDP growth must occur in the last two quarters of 1993. An annualized growth rate averaging 4 percent, nearly four times that of the first half, would be required to meet the forecast level.

As there is little if any evidence to suggest a sharp rebound in the growth rate, a more realistic downward revision of at least one full percentage point for 1993 is called for. Even this revision seems optimistic as it requires the rate of economic growth in the second half of 1993 to rise to 3 percent, three times the growth rate of the first half. Nonetheless, Secretary Lloyd Bentsen of the Treasury Department has been quoted as "quite optimistic the economy will grow at a 3 percent rate in the second half." However, the fiscal results of this degree of optimism are not favorable to the Administration's projections. This pattern of growth would generate the results shown in the second row of Table I above.

The effects of this 1 percent downward revision for a single year's GDP are very considerable. The annual increase in deficit spending grows from $16.2 billion in 1994 to $24.3 billion by 1998. Over the five years, $102.2 billion would be added to the cumulative deficits. This slowdown in a single year would offset 41 percent of the projected tax increases requested by the Administration.

Finally, we shall examine the consequences if the GDP growth rate remains roughly at the rate set in the second quarter into the third and fourth quarters. This requires an acceleration of growth from an annualized rate of 1.15 percent in the first half of 1993 to 1.6 percent in the second half. This pattern of quarterly growth implies a reduction in GDP growth to a level of 2.2 percent on a year-over-year basis and 1.4 percent on a fourth quarter over fourth quarter basis. Again, the only assumption here is that the growth rates in the third and fourth quarter of 1993 match the 1.6 percent annualized growth rate of the second quarter.

The assumption of continuity in the growth rate from the second quarter into the last two quarters of 1993 is quite unexceptional, but it produces dramatic budget effects. The increase in deficit spending climbs from $27.5 billion in 1994 to $41.3 billion in 1998. The cumulative increase in deficits over the period would total $173.7 billion. This stable economic outlook would wash out nearly 70 percent of the Administration's static revenue increase for the entire period. This is quite a large effect considering that it occurs under the assumption that economic growth in the second half will actually be faster than in the first half. The results of this steady growth in the last two quarters of 1993 are shown in Table 2 below on an annual basis:

TABLE 2.—INCREASE IN BUDGET DEFICITS ASSUMING STABLE GDP GROWTH IN FINAL TWO QUARTERS[1]

[In billions of dollars]

	1994	1995	1996	1997	1998	Total
Increase in deficit spending	27.5	32.5	34.9	37.6	41.3	173.8
Baseline deficit	329.5	333.5	332.9	384.6	428.3	1,808.8

[1] Results from assumption that growth rate of the second quarter continues into the third and fourth quarters, which produces a 1.4-percent growth rate on a 4th quarter to 4th quarter basis.

Source: OMB and JEC/GOP staff calculations.

ECONOMIC SLOWDOWN IN 1993, 1994, AND 1995

If the changes in economic performance under the Administration tax increase resemble those under the similar 1990 tax plan, what budgetary results might be expected over the next several years? CBO's 1990 assumptions for real gross domestic product (GDP) growth exceeded the actual result by 1.2 percentage points in 1990, 3.7 percentage points in 1991, and 0.5 percentage point in 1992. Here we will examine the consequences of a milder economic slowdown only half the severity of that starting in 1990:

Under this milder slowdown, GDP growth would be positive throughout the period, with no recession in any year. This scenario is not presented as a forecast, but only as a realistic appraisal of what an economic slowdown would entail. Since even supporters of the Administration acknowledge its "contractionary" effects, it is prudent to examine how this economic outcome would alter the budget outlook.

Under the modest slowdown stipulated, GDP growth rates reduced by 0.6 percent in 1993, 1.85 percent in 1994, and 0.25 percent in 1995, will be used initially to simulate the economic effects of Administration policy. As we have seen, the 0.6 percentage point downward revision in 1993 alone has significant negative effects which grow in the outyears. When the contractionary effects of the plan are included for 1994 and 1995, the situation deteriorates much more sharply. In 1994 alone, the economic changes considered here would add $21 billion to the deficit. The increase in the deficit grows to $56 billion in 1997 and $61 billion in 1998.

As Table 3 shows, even this moderate slowdown in the economy would add $232 billion in cumulative deficits over fiscal years 1994–98. These economic effects would offset 93 percent of the revenue increases projected by the Administration under its policies. Unfortunately, Administration revenue projections are optimistic since they fail to adequately take into account behavioral and other changes that will accompany the higher tax rates. As a result, the slowdown will account for more than 100 percent of the actual revenues from the tax increase policy:

TABLE 3.—HIGHER BASELINE DEFICITS RESULTING FROM ECONOMIC SLOWDOWN[1]

[In billions of dollars]

	1994	1995	1996	1997	1998	Total
OMB baseline deficit (April)	302.0	301.0	298.0	347.0	387.0	1,635.0
Increase in deficit spending	21.4	43.1	51.7	56.0	60.6	232.8
Total current baseline deficit	323.4	344.1	349.7	403.0	447.6	1,867.8

[1] Assumes reduction in real GDP growth rate of 0.6 percent in 1993, 1.85 percent in 1994, and 0.25 percent in 1995.

Source: OMB and JEC/GOP staff calculations

The 0.6 downward revision for 1993 already appears optimistic for the statistical reasons discussed in the previous section. Substitution of a more realistic one percentage point downward revision for 1993, with the reduced growth rates for 1994 and 1995 unchanged from the previous simulations, changes the budget outlook considerably. The results are displayed in Table 4 below.

TABLE 4.—BUDGET CHANGES FROM ECONOMIC SLOWDOWN

[In billions of dollars]

	1994	1995	1996	1997	1998	Total
Increase in deficit spending	27.9	50.7	59.9	64.8	70.3	273.6
Reestimated baseline deficit	329.9	351.7	357.9	411.8	457.3	1,908.6

Source: OMB and JEC/GOP staff calculations.

Under this set of assumptions, the increase in the deficit would expand from $27.9 billion in 1994 to $59.9 billion in 1996 and $70.3 billion in 1998. Over the period $273.6 billion would be added to the cumulative deficits. This would amount to 109.4 percent of the static revenues projected under the tax increase. In other words, all the static revenue increases projected from the Administration's tax increase would be offset by a moderate slowdown in the economy, the beginning of which is apparently already underway.

CONCLUSION

A review of the budget impact of more realistic economic assumptions than hitherto provided by OMB indicate several reasons why the Administration would choose not to submit a midsession review. First of all, any underlying economic assumptions released would have to reflect the economic slowdown underway in 1993 to have any credibility. However, as we have seen, even a modest downward revision of 1993 GDP growth significantly increases the level of baseline deficit spending. This deterioration in one year could easily be powerful enough to offset as much as 70 percent of the Administration's proposed tax increase for the five-year period.

An analysis of the consequences of a multiyear slowdown is even more sobering. A reasonable scenario for a soft landing, with no recession, would add $274 billion to the cumulative deficits by 1998. Needles to say, this would completely offset all the tax increases in the Administration plan.

This JEC/GOP *Midsession Review* demonstrates the powerful budget effects produced by relatively modest changes in economic growth. It demonstrates how easily an economic policy which damages the economy will also damage the prospects for long-term fiscal control.

This study was written by JEC/GOP Senior Economist Christopher Frenze and prepared by Staff Assistant Nita Morgan.

EXHIBIT 2

OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC.

Hon. THOMAS S. FOLEY,
Speaker of the House of Representatives, Washington, DC.

DEAR MR. SPEAKER: This letter provides a preliminary update of the deficit forecast, and consistent with past practice, states the Administration's intention to issue a Mid-Session Review upon completion of the reconciliation process by the Congress.

Please find enclosed a preliminary update of the deficit forecast. As you can see from this update, it remains critical that the President's economic plan be adopted.

Enactment of the Omnibus Budget Reconciliation Act of 1993 ("OBRA"), currently pending conference action, is certain to cause significant changes in the budget estimates. We believe that these changes should be reflected in the Mid-Session Review. Without reflecting these changes, the Mid-Session Review will be outdated almost immediately and will not provide useful information on the budget. The Mid-Session Review should therefore, be issued after passage of the reconciliation bill so as to reflect the major changes that we are working to achieve.

We will submit the Mid-Session Review promptly after passage of OBRA, which we anticipate by early August. I trust that you will agree that the impending enactment of the reconciliation bill presents a special situation and that the results of reconciliation should be taken into account in the Mid-Session Review. I appreciate your understanding on this issue.

Sincerely,

LEON B. PANETTA,
Director.

PRELIMINARY MID-YEAR BUDGET REVIEW

Changes in the economic outlook, enacted legislation, and differences from technical assumptions in the Administration's April budget have combined to reduce the deficit modestly in all years over the forecast horizon. The changes are largest in 1993, the current fiscal year, and more modest for the five-year planning period from fiscal years 1994 through 1998.

In the current year, changes in the economic outlook are projected to reduce the baseline deficit—not including the direct effects of Administration policy—by about $2 billion. Most of this effect comes from lower interest rates; other outlays are slightly lower than expected, while revenues are very slightly lower than the original projection. Enacted legislation, especially the continuation of extended unemployment benefits, adds about $5 billion to the deficit. Divergences of spending and revenue from projected levels because of changed technical assumptions reduce the deficit by about $29 billion; virtually all of this change is due to lower-than-anticipated deposit insurance costs. (About half of the reduced deposit insurance costs relate to delayed funding, while the rest is the result of the improved economic environment for financial institutions.) In sum, the fiscal year 1993 deficit is now projected to be $285 billion, or $25 billion below the April baseline projection of $310 billion.

The following displays baseline deficits (in billions of dollars) as estimated in the President's budget released in April and in this preliminary mid-year budget review:

	Fiscal year—					
	1993	1994	1995	1996	1997	1998
April budget	310	302	301	298	347	387
Prelim. mid-year	285	300	286	291	340	379

While the Administration believes that there has been some modest improvement in the deficit outlook, it by no means justifies a reduced commitment to long-term deficit reduction through fundamental changes in budget policy.

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, July 15, 1993.

PRELIMINARY NUMBERS INDICATE LITTLE CHANGE IN PROJECTED DEFICITS

The Office of Management and Budget today released preliminary deficit estimates which indicate that the deficit outlook is essentially unchanged since the Administration presented its FY 1994 budget in April.

OMB Director Leon E. Panetta said that the projections "make it clear that the need for the President's deficit reduction plan is as serious as ever."

In a report to the bipartisan Congressional leadership, Panetta said that current estimates suggested that the deficit for the current Fiscal Year 1993 deficit will be approximately $285 billion, $25 billion less than the April estimate.

The projected deficits for Fiscal Years 1994–1998 are similar to the projections made in April. They are lower by a average of about $8 billion a year. The total difference is about $40 billion, out of a total of approximately $1.5 trillion in projected deficits over five years.

The projections, based on a new preliminary economic forecast and recent changes in the economy, reflect the likely deficits if no action is taken to reduce them.

Following are the baseline deficit estimates (in billions of dollars) from April and the current OMB preliminary estimates:

	Fiscal year—					
	1993	1994	1995	1996	1997	1998
April	310	302	301	298	347	387
Current	285	300	286	291	340	379

Panetta noted that the FY 1993 deficit is about $25 billion lower than the earlier baseline projection of $309.7 billion, due in part to economic and technical changes. He noted that there was only "modest" improvement from previous deficit projections for fiscal years 1994 to 1996.

"I am astounded to hear some argue that these figures suggest that the deficit problem has somehow receded," Panetta said. "The deficit problem is as big as ever, and we clearly need to enact the full $500 billion of deficit reduction that the President has called for."

"Who would argue that a $285 billion deficit in 1993 and continuing $300 billion deficits through 1998 are an argument for less deficit reduction?" he added. "Frankly, those who make that argument are essentially grabbing at straws in order to avoiding having the wealthy contribute their fair share to deficit reduction."

Panetta said that OBM will release its formal mid-session budget review promptly after enactment of the President's deficit-reduction plan, in order to incorporate the specific changes made by the legislation. Action on the reconciliation legislation is expected to be completed by early August, following a House-Senate conference which began today.

"Enactment of the Omnibus budget Reconciliation Act of 1993, currently pending conference action, is certain to cause significant changes in the budget estimates," Panetta wrote in a letter to the Congressional leadership that accompanied the report. "We believe that these changes should be reflected in the Mid-Session Review."

Otherwise, he added, " the Mid-Session Review will be outdated almost immediately and will not provide useful information on the budget. The Mid-Session Review should, therefore, be issued after passage of the reconciliation bill so as to reflect the major changes that we are working to achieve."

The mid-session review contains the Administration's latest economic forecast and provides new budget estimates based on that forecast. Unlike the estimates released today, it will incorporate legislative changes enacted by the Congress.

While the deadline for submission of the report is ordinarily July 15, that deadline has been missed in 10 of the past 12 years.

EXHIBIT 3

[CRS Report for Congress, July 15, 1993]

THE PRESIDENT'S BUDGET: DATES OF SUBMISSION OF THE MID-SESSION REVIEW (FY 1980–93)

(By Robert Keith, Specialist in American National Government, Government Division)

SUMMARY

The President is required to submit to Congress by July 15 of each year a mid-session review of his budget for the fiscal year beginning on October 1. The mid-session review has been submitted on time in only four of the last 14 years. The record of submission of the mid-session review worsened markedly for fiscal years 1985–1988 (when it was submitted in August), but has improved significantly beginning with fiscal year 1989.

BACKGROUND

Under current law (31 U.S.C. 1105(a)), the President submits his annual budget to Congress (for the fiscal year starting on October

1) on or after the first Monday in January but no later than the first Monday in February. (The deadline sometimes is extended, usually by the enactment of a law.)

The President is required (under 31 U.S.C. 1106) to submit to Congress an update of his budget by July 15. The update commonly is referred to as the "mid-session review" of the President's budget, but sometimes is referred to as the "supplemental summary," and routinely is printed as a House document.

The requirement for a mid-session review originated in Section 221(b) of the Legislative Reorganization Act of 1970 (P.L. 91–510; 84 Stat. 1169). Beginning in 1972, the President was to submit the mid-session review by June 1 (at that time, the fiscal year started on July 1). When the start of the fiscal year was changed from July 1 to October 1 (first effective for fiscal year 1976), the deadline for the mid-session review was changed from June 1 to July 15.[1]

EXPERIENCE FROM FISCAL YEARS 1980–1993

Table 1 provides information on the dates of submission of the mid-session review for fiscal years 1980–1993. During the 14 years covered, the mid-session review was submitted on time in only four instances—fiscal years 1980, 1982, 1991 (on Monday, July 16), and 1992.

TABLE 1.—DATES OF SUBMISSION OF THE MID-SESSION REVIEW OF THE PRESIDENT'S BUDGET

[Fiscal years 1980–93]

Fiscal year	Date of submission to Congress	President	House document number (and date of printing)
1980	July 12, 1979	Carter	96–163 (July 16, 1979).
1981	July 21, 1980	Carter	96–344 (July 22, 1980).
1982	July 15, 1981	Reagan	97–73 (July 15, 1981).
1983	July 30, 1982	Reagan	97–220 (August 2, 1982).
1984	July 25, 1983	Reagan	98–87 (July 26, 1983).
1985	August 15, 1984	Reagan	98–251 (September 5, 1984).
1986	August 30, 1985	Reagan	99–99 (September 4, 1985).
1987	August 6, 1986	Reagan	99–254 (August 6, 1986).
1988	August 17, 1987	Reagan	100–99 (September 9, 1987).
1989	July 28, 1988	Reagan	100–217 (July 28, 1988).
1990	July 18, 1989	Bush	101–86 (July 21, 1989).
1991	July 16, 1990	Bush	101–217 (July 18, 1990).
1992	July 15, 1991	Bush	101–115 (July 17, 1991).
1993	July 24, 1992	Bush	102–365 (July 24, 1992).

The 14-year period covered in Table 1 applies to two years of the Carter Administration and the full Reagan and Bush Administrations. Each President submitted at least one mid-session review on time and at least one late.

In five cases, the mid-session review was submitted at least 2 weeks after the deadline. The record of submission of the mid-session review worsened markedly for fiscal years 1985–1988 (when it was submitted in August), but has improved significantly beginning with fiscal year 1989.

On September 29, 1987, the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Title II of H.J. Res. 324; P.L. 100–119), which in part amended the Gramm-Rudman-Hollings (GRH) Act, as enacted. One of the changes made by P.L. 100–119 in the sequestration process under the GRH Act was the requirement that the President include in the mid-session review preliminary sequestration estimates as well as the economic and technical assumptions that would be used in the initial sequestration report for the fiscal year due in August.

The following statement was included in the joint explanatory statement accompanying the conference report on H.J. Res. 324:

"For FY 1989 and beyond, the President's July 15 mid-session budget report must provide an estimate of the deficit excess and net deficit reduction computed using the economic and technical assumptions that he will use in the initial sequestration report for that fiscal year. It is imperative that the Director of OMB actually deliver this mid-session report by July 15. When he issues the initial sequestration report, he is required to use those same economic and technical assumptions.[2]"

The increased significance given to the mid-session review by virtue of this change in the sequestration process probably accounts in part for the improved record of submission beginning with fiscal year 1989. This requirement under the GRH Act was effective for three fiscal years (1989–1991), but was terminated under revisions made in the GRH Act by the Budget Enforcement Act (BEA) of 1990.[3] President Bush used the mid-session review of fiscal year 1992 and 1993, at his own initiative, as a vehicle for appraising Congress of the status of legislation under two new enforcement tools established by the BEA of 1990—disretionary spending limits and pay-as-you-go requirement covering revenues and mandatory spending.

CRS Report for Congress, Aug. 2, 1993]

OMNIBUS BUDGET RECONCILIATION LEGISLATION: THE TIMING OF LEGISLATIVE ACTION

(By Edward Davis and Robert Keith, Specialists in American National Government, Government Division)

SUMMARY

The reconciliation process is an optional procedure provided for in Section 310 of the Congressional Budget Act of 1974. The purpose of the reconciliation process is to bring existing revenue, spending, and debt limit law into conformity with the policies of the budget resolution. In practice, reconciliation always has been used to reduce the deficit, through spending reductions, revenue increases, or a combination of the two. With regard to spending reductions, the reconciliation process for the most part has applied to mandatory spending programs and not programs funded annually by discretionary appropriations. The reconciliation process has not been used often to increase the statutory debt limit (which regularly is addressed through a different process).

There are two stages to the reconciliation process: (1) the adoption of reconciliation instructions in the budget resolution; and (2) the enactment of reconciliation legislation that implements changes in revenue or spending laws.

Reconciliation was first used in calendar year 1980 for fiscal year 1981. As an optional procedure, it has not been used every year. During the 13 years covering 1980 through 1992, ten omnibus budget reconciliation measures have been enacted into law. The process for enacting these measures into law often has been marked by contention and delay.

One reason for delay in the reconciliation process is the tardy adoption by Congress of budget resolutions. On the average, these budget resolutions were adopted about two months (52 days) after the deadline (at present, April 15) set in the Congressional Budget Act.

On average, the interval between the adoption of the budget resolution by Congress and the enactment of the required reconciliation bill(s) into law (for the period from 1980 through 1992) was 150 days. The interval during this period ranged from a low of 27 days to a high of 299 days.

Of the 150 days needed on average to develop, consider, and enact into law a reconciliation bill, roughly 90 days (60 percent of the interval) was required to secure initial passage in the house and Senate. The remaining 60 days was taken up by conference meetings, adoption of the conference report, enrollment of the legislation, and consideration and approval by the President.

INTRODUCTION

The reconciliation process is an optional procedure provided for in Section 310 of the Congressional Budget Act of 1974 (P.L. 93–344, as amended). The purpose of the reconciliation process is to bring existing revenue, spending, and debt limit law into conformity with the policies of the budget resolution. In practice, reconciliation always has been used to reduce the deficit, through spending reductions, revenue increases, or a combination of the two. With regard to spending reductions, the reconciliation process for the most part has applied to mandatory spending programs and not programs funded annually by discretionary appropriations. The reconciliation process has not been used often to increase the statutory debt limit (which regularly is addressed through a different process).

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[1] Section 501 (88 Stat. 321) of the Congressional Budget Act of 1974 (P.L. 93–344) changed the start of the fiscal year to October 1. Section 602 (88 Stat. 324) of the Act changed the deadline for submission of the mid-session review to July 15. These two provisions, among others, were codified in Title 31 (Money and Finance) of the United States Code by P.L. 97–258, signed into law on September 13, 1982. In 1990, new Sections 501 and 602 (dealing with credit reform and spending allocations) were added to the Congressional Budget Act.

[2] See page 53 of H.Rept 100–313 (September 21, 1987), Increasing the Statutory Limit on the Public Debt.

[3] The BEA of 1990 is Title XIII of the Omnibus Budget Reconciliation Act of 1990 (P.L. 101–508, signed into law on November 5, 1990).

Reconciliation was first used in calendar year 1980 for fiscal year 1981. As an optional procedure, it has not been used every year. During the 13 years covering 1980 through 1992, ten omnibus budget reconciliation measures have been enacted into law.

Two sections of the Congressional Budget Act establish a timetable for action on reconciliation legislation.

First, Section 301(a) sets April 15 as the date by which Congress should complete action on the budget resolution for the upcoming fiscal year (prior to 1986, the adoption date was May 15).[2] As mentioned previously, reconciliation instructions are included in the budget resolution. Reconciliation instructions also include a deadline by which the instructed committees must submit their legislative recommendations to their respective Budget Committee (sometimes, this deadline is extended).

Second, Section 300 (which establishes a general timetable for the congressional budget process) sets June 15 as the date by which Congress should complete action on any required reconciliation measure. This deadline first was established in 1985 for the budget resolution for fiscal year 1987.[3] Section 310(f) enforces this deadline in the House by prohibiting the consideration of a July adjournment resolution if the requirement has not been met. (The Congressional Budget Act, as originally framed, contemplated the use of reconciliation in conjunction with the adoption of a second budget resolution in September. Accordingly, the Congressional Budget Act set a deadline of September 25 for the completion of congressional action on any required reconciliation measure. Congress never considered reconciliation legislation within this framework.)

As Tables 1 and 3 show, Congress often misses these deadlines.

The Congressional Budget Act provides for the expedited consideration of reconciliation measures in the House and Senate. Among other things, debate in the Senate on any reconciliation measure is limited to 20 hours (and 10 hours on a conference report) and amendments must be germane. The House Rules Committee typically sets limitations on debate and the offering of amendments during consideration of reconciliation measures in the House.

ADOPTION OF RECONCILIATION INSTRUCTIONS

During the 13-year period from 1980 through 1992 (covering fiscal years 1981 through 1993), Congress adopted nine budget resolutions containing reconciliation instructions (see Table 1).[4] The budget resolutions for fiscal years 1985, 1989, 1992, and 1993 did not contain reconciliation instructions, except for the House-passed resolution for fiscal year 1985.[5] Each of the budget resolutions that contained reconciliation instructions led to the enactment of a single, omnibus reconciliation measure, except for the fiscal year 1983 budget resolution (which resulted in the enactment of an omnibus budget reconciliation measure reported by the Budget Committees and another measure reported by the tax committees).

TABLE 1.—RECONCILIATION INSTRUCTIONS IN BUDGET RESOLUTIONS: 1980–92[1]

Budget resolution	Date adopted[2]	Fiscal years covered by instructions[3]	Initial deadline for committee submissions[4]	Resultant reconciliation act
H. Con. Res. 307 (FY 1981)	6–12–80	[4]1981	June 20[5]	Omnibus Reconciliation Act of 1980.
H. Con. Res. 115 (FY 1982)	5–21–81	1982–1984	June 12	Omnibus Budget Reconciliation Act of 1981.
S. Con. Res. 92 (FY 1983)	6–23–82	1983–1985	August 1 (House); July 20 (Senate)[6].	Omnibus Budget Reconciliation Act of 1982 and the Tax Equity and Fiscal Responsibility Act of 1982.
H. Con. Res. 91 (FY 1984)	6–23–83	1984–1986	July 22	Omnibus Budget Reconciliation Act of 1983.
S. Con. Res. 32 (FY 1986)	8–1–85	1986–1988	September 27	Consolidated Omnibus Reconciliation Act of 1985.
S. Con. Res. 120 (FY 1987)	6–27–86	1987–1989	July 25	Omnibus Budget Reconciliation Act of 1986.
H. Con. Res. 93 (FY 1988)	6–25–87	1988–1990	July 28	Omnibus Budget Reconciliation Act of 1987.
H. Con. Res. 106 (FY 1990)	5–18–89	[7]1990–1991 [8]1990	July 15	Omnibus Budget Reconciliation Act of 1989.
H. Con. Res. 310 (FY 1991)	10–9–91	1991–1995	October 15	Omnibus Budget Reconciliation Act of 1990.

[1] The budget resolutions for fiscal years 1985, 1989, 1992, and 1993 did not contain reconciliation instructions, except for the House-passed resolution for fiscal year 1985. The reconciliation savings called for by the House in the fiscal year 1985 budget resolution eventually were incorporated into the Deficit Reduction Act (DEFRA) of 1984 (P.L. 98–369), which in enacted form was not considered to be a reconciliation measure. DEFRA was enacted into law on July 18, 1984; the House and Senate reached final agreement on the budget resolution for fiscal year 1985 on October 1, 1984.

[2] The original deadline for the completion of congressional action on the budget resolution was May 15. This was changed in 1985 (first applicable to fiscal year 1987) to April 15.

[3] The Congressional Budget Act of 1974 originally provided for a one-year reconciliation process. Over the years, Congress modified the process to extend its timeframe. Most recently, the Budget Enforcement Act of 1990 (Title XIII of P.L. 101–508, the Omnibus Budget Reconciliation Act of 1990) extended the reconciliation timeframe to five fiscal years.

[4] In some instances, the House or Senate extended the deadline for committee submissions.

[5] The Appropriations Committees were instructed to submit rescissions for fiscal year 1980 by June 16.

[6] The Senate Finance Committee was given a submission deadline of July 12.

[7] House.

[8] Senate.

The Congressional Budget Act originally provided for a one-year reconciliation process. Over the years, Congress modified the process to extend its timeframe. Most recently, the Budget Enforcement Act of 1990 (Title XIII of P.L. 101-508, the Omnibus Budget Reconciliation Act of 1990) extended the reconciliation timeframe to five fiscal years.

One reason for delay in the reconciliation process is the tardy adoption by Congress of budget resolutions. Compared to the timetable laid out in the Congressional Budget Act, Congress usually has adopted reconciliation instructions well behind schedule. As Table 1 shows, the budget resolutions that contained reconciliation instructions have been adopted as late as August and October. On the average, these budget resolutions were adopted about two months (52 days) after the deadline set in the Congressional Budget Act.

The initial deadline for committee submissions, included in the budget resolution, ranged from about one week to two months after adoption of the budget resolution. In some cases, the submission deadline was extended one or more times.

HOUSE AND SENATE ACTION ON OMNIBUS BUDGET RECONCILIATION LEGISLATION

On average, the interval between the adoption of the budget resolution by Congress and the enactment of the required reconciliation bill(s) into law (for the period from 1980 through 1992) was 150 days. As Figure 1 shows, the interval during this period ranged from a low of 27 days to a high of 299 days.

FIGURE 1.—*Reconciliation acts: Interval from adoption of budget resolution to enactment*

	Days
ORA of 1980	176
OBRA of 1981	84
TEFRA of 1982	72
OBRA of 1982	77
OBRA of 1983	299
COBRA of 1985	249
OBRA of 1986	166
OBRA of 1987	180
OBRA of 1989	215
OBRA of 1990	27

ORA=Omnibus Reconciliation Act.
OBRA=Omnibus Budget Reconciliation Act.
TEFRA=Tax Equity and Fiscal Responsibility Act.
COBRA=Consolidated Omnibus Budget Reconciliation Act.

Tables 2 and 3 provide data on the dates of initial and final House and Senate action on reconciliation measures.

Of the 150 days needed on average to develop, consider, and enact into law a reconciliation bill, roughly 90 days (60 percent of the interval) was required to secure initial passage in the House and Senate. The remaining 60 days was taken up by conference meetings, adoption of the conference report, enrollment of the legislation, and consideration and approval by the President.

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[1] The reconciliation process is discussed in more detail in Chapter 3 of the "Manual on the Federal Budget Process," by Allen Schick, Robert Keith, and Edward Davis, CRS Report 91-902 GOV, December 24, 1991.

[2] The change in the adoption date of the budget resolution was included in Section 201(b) (at 99 Stat. 1040) of the Balanced Budget and Emergency Deficit Control Act of 1985 (P.L. 99-177).

[3] An explicit requirement that Congress complete action on any necessary reconciliation measure was established in Section 310(f) of the Congressional Budget Act by Section 201(b) (at 99 Stat. 1040) of the Balanced Budget and Emergency Deficit Control Act of 1985. Section 13210(2) of the Budget Enforcement Act of 1990 deleted this requirement from Section 310(f), but left the reference to the deadline in the general timetable set forth in Section 300 unchanged.

[4] The House and Senate reached final agreement on H. Con. Res. 64, the budget resolution for fiscal year 1994, and April 1, 1993. It contained reconciliation instructions for fiscal years 1994–1998, which resulted in House and Senate consideration of H.R. 2264, the Omnibus Budget Reconciliation Act of 1993. The 1993 reconciliation process is not complete, so reconciliation actions in that year are not included in this report.

[5] The reconciliation savings called for by the House in the fiscal year 1985 budget resolution eventually were incorporated into the Deficit Reduction Act (DEFRA) of 1984 (P.L. 98-369), which in enacted form was not considered to be a reconciliation measure. DEFRA was enacted into law on July 18, 1984; the House and Senate reached final agreement on the budget resolution for fiscal year 1995 on October 1, 1984.

The interval between adoption of the budget resolution and enactment into law took more than the average of 150 days for five of the reconciliation laws. Although the timing of action on these measures is explained by many factors (especially, for several of them, revenue increases, Medicare and Medicaid cuts, and the prospect of a sequester under the Gramm-Rudman-Hollings Act), the following were some of the major controversies associated with each:

ORA of 1980—child nutrition programs, cost-of-living adjustments for Federal retirees, mortgage subsidy bonds, and the crude oil windfall profits tax;

OBRA of 1983—aggregate levels of spending reductions and revenue increases;

COBRA of 1985—trade policy, Superfund cleanup tax, and tobacco price supports;

OBRA of 1987—the "fairness doctrine" for broadcaster, Rural Electrification Administration loan prepayments, a nuclear waste disposal site, and corporate tax changes; and

OBRA of 1989—reduction of the capital gains tax and repeal of the 1988 Medicare Catastrophic Coverage Act.

In addition, the general inclusion of "extraneous matters" complicated and delayed action on these measures, especially after Senate adoption of its "Byrd Rule" as part of COBRA of 1985.[6]

TABLE 2.—OMNIBUS BUDGET RECONCILIATION ACTS: DATES OF INITIAL HOUSE AND SENATE ACTION (1980–92)[1]

Act	House and Senate bill numbers[2]	Date(s) of House action	Date(s) of Senate action
Omnibus Reconciliation Act of 1980	H.R. 7765	9–4–80	6–30–80
	S. 2885		7–23–80
	S. 2939		9–17–80
Omnibus Budget Reconciliation Act of 1981	H.R. 3982	6–25–81	6–22–81
	S. 1377	6–26–81	6–23–81
			6–24–81
			6–25–81
			7–13–81
Omnibus Budget Reconciliation Act of 1982[3]	H.R. 6955	8–10–82	8–4–82
	S. 2774		8–5–82
			8–11–82
Tax Equity and Fiscal Responsibility Act of 1982[4] (H.R. 4961)	H.R. 4961	12–15–81	7–19–82
			7–20–82
			7–21–82
			7–22–82
			7–23–82
Omnibus Budget Reconciliation Act of 1983	H.R. 4169	10–25–83	11–16–83
	S. 2062		11–18–83
			4–5–84
Consolidated Omnibus Budget Reconciliation Act of 1985	H.R. 3500[5]	10–24–85	10–15–85
	H.R. 3128[5]	10–31–85	10–16–85
	S. 1730		10–22–85
			10–23–85
			10–24–85
			11–12–85
			11–13–85
			11–14–85
Omnibus Budget Reconciliation Act of 1986	H.R. 5300	9–24–86	9–19–86
	S. 2706		9–20–86
			9–25–86
Omnibus Budget Reconciliation Act of 1987	H.R. 3545	10–29–87	12–9–87
	S. 1920		12–10–87
Omnibus Budget Reconciliation Act of 1989	H.R. 3299	9–26–89	10–12–89
	S. 1750	9–27–89	10–13–89
		9–28–89	
		10–3–89	
		10–4–89	
		10–5–89	
Omnibus Budget Reconciliation Act of 1990	H.R. 5835	10–16–90	10–17–90
	S. 3209		10–18–90

[1] The House considered and passed H.R. 5394, the Omnibus Budget Reconciliation Act of 1984, on April 12, 1984. The House action occurred pursuant to reconciliation instructions in Section 2 of H.Con.Res. 280, the budget resolution for fiscal year 1985, as passed by the House. (The Senate budget resolution for that year did not include reconciliation instructions.) The reconciliation savings in H.R. 5394, for the most part, eventually were incorporated into H.R. 4170, the Deficit Reduction Act (DEFRA) of 1984 (P.L. 98–369). DEFRA was enacted into law on July 18, 1984, and is not considered to be a reconciliation law.

In cases where multiple dates of action are listed, the last date is the date of final passage (except as otherwise indicated in note 5).

[2] In all cases, the measure finally enacted into law carried the House bill number.

[3] The House initially passed the following individual reconciliation bills and later passed an omnibus bill (H.R. 6955) which consolidated them: H.R. 6782 (passed House July 27), H.R. 6812 (passed House August 5), H.R. 6862 (passed House August 3), and H.R. 6892 (passed House August 10).

[4] The Tax Equity and Fiscal Responsibility Act (TEFRA) of 1982 became a reconciliation bill due to amendments adopted by the Senate during initial consideration in that body.

[5] The House considered and passed on October 24, 1985, H.R. 3500, the Omnibus Budget Reconciliation Act of 1985, and considered and passed on October 31, H.R. 3128, a deficit-reduction measure reported by the House Ways and Means Committee that also carried out reconciliation instructions in the budget resolution for that year. The text of the two measures eventually was incorporated into H.R. 3128.

TABLE 3.—OMNIBUS BUDGET RECONCILIATION ACTS: DATES OF FINAL HOUSE AND SENATE ACTION (1980–92)[1]

Act	Date(s) of House action	Date(s) of Senate action	Public law number (Statutes-at-large)	Date approved
Omnibus Reconciliation Act of 1980	12–3–80	12–3–80	P.L. 96–499 (94 Stat. 2599–2695)	12–5–80
Omnibus Budget Reconciliation Act of 1981	7–31–81	7–31–81	P.L. 97–35 (95 Stat. 357–933)	8–13–81
Omnibus Budget Reconciliation Act of 1982	8–17–82	8–18–82	P.L. 97–253 (96 Stat. 763–807)	9–8–82
	8–18–82			
Tax Equity and Fiscal Responsibility Act of 1982[2]	8–19–82	8–19–82	P.L. 97–248 (96 Stat. 324–807)	9–3–82
Omnibus Budget Reconciliation Act of 1983	([3])	([3])	P.L. 98–270 (98 Stat. 157–162)	4–18–84
Consolidated Omnibus Reconciliation Act of 1985	12–5–85	12–19–85	P.L. 99–272 (100 Stat. 82–391)	4–7–86
	12–19–85	12–20–85		
	12–20–85	3–14–86		
	3–6–86	3–18–86		
	3–18–86			
	3–20–86			
Omnibus Budget Reconciliation Act of 1986	10–17–86	10–17–86	P.L. 99–509 (100 Stat. 1874–2078)	10–21–86
Omnibus Budget Reconciliation Act of 1987	12–21–87	12–22–87	P.L. 100–203 (101 Stat. 1330–0 through 472)	12–22–87
Omnibus Budget Reconciliation Act of 1989	11–21–89	11–21–89	P.L. 101–239 (103 Stat. 2106–2491)	12–19–89
Omnibus Budget Reconciliation Act of 1990	10–26–90	10–27–90	P.L. 101–508 (104 Stat. 1388–0 through 630)	11–5–90

[1] The Deficit Reduction Act (DEFRA) of 1984 is excluded from the list of reconciliation acts presented in this table. Although it included savings from the House-passed Omnibus Budget Reconciliation of 1984, DEFRA is not considered to be a reconciliation law. See the discussion in note 1 under Table 2.

[2] The Tax Equity and Fiscal Responsibility Act (TEFRA) of 1982 became a reconciliation bill due to amendments adopted by the Senate during initial consideration in that body.

[3] The Senate passed the House-passed bill, H.R. 4169, without change. No conference action.

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[6] For a summary of the Byrd Rule (which now is Section 313 of the Congressional Budget Act) and a discussion of its implementation, see: "The Senate's "Byrd Rule" Against Extraneous Matter in Reconciliation Measures," by Robert Keith and Edward Davis, CRS Report 93-642 GOV, July 9, 1993, 20 pages.

EXECUTIVE SESSION

NOMINATION OF M. JOYCELYN ELDERS, OF ARKANSAS, TO BE SURGEON GENERAL OF THE PUBLIC HEALTH SERVICE

The Senate continued with the consideration of the nomination.

(Mrs. MURRAY assumed the chair.)

Ms. MIKULSKI. Madam President, I am going to talk about another deficit. I am going to talk about the social deficit facing the United States of America, and the way our President, Bill Clinton, is attempting really to deal with what no one else has done in the last decade, to deal both with the fiscal deficit and to deal with the social deficit.

Tomorrow we will be taking up the President's fiscal deficit reduction plan, and there will be many speeches and I presume they will be eloquent, lofty, factual, and will get us the votes we need. But tonight I want to focus on another deficit that does not get headlines, or the headlines are often skimmed over and not paid very much attention to.

Madam President, this country is running a social deficit. We are facing ever-increasing problems related to the escalating homeless, children with enormous insignificant illnesses, the limitation to the access to health care, rising infant mortality, a whole host of other issues along with the concerns about work force readiness, about the escalation in violence, the increase in crime.

Now, President Bill Clinton has said that he wanted to do something about it, and he has appointed a team to tackle the social deficit in the same way he has appointed a team to work with him to reduce the fiscal deficit.

He has reached out to another Governor named Dick Riley to become the Secretary of Education, to bring the practical, pragmatic experience of a Governor to a Department of Education, and at the same time, have a commitment to America's children to raise our literacy standards, to get our children ready for the work force, to learn the values that have made America great, to love their country, to do their homework, and be ready for the 21st century.

Recognizing the terrible problems related to housing, he reached out and appointed Henry Cisneros, a talented Hispanic-American, a former mayor of San Antonio, TX, to take that Housing and Urban Development agency and to create empowerment opportunities to deal, not only with housing, not only to reduce the homeless, but to view HUD as part of an opportunity structure to generate jobs in the United States of America, and to make sure we are generating jobs.

As a part of adult work force readiness, he appointed Bob Reich to be Secretary of Labor. He has begun to deescalate the traditional conflict sometimes between management and labor, and says we need work force readiness for the 21st century so we will have high-valued jobs that pay good pay for families to be able to sustain themselves.

He has given us an Attorney General in Janet Reno, who speaks not only about reducing the crime rate in the United States of America, but also the rate of violence that goes on in the American home related to child abuse, sexual abuse, and also to get the bums and thugs off of our streets.

Tonight, what we are also talking about is another appointee for part of that Clinton team, to reduce the social deficit, and that is Dr. Joycelyn Elders to be Surgeon General of the United States, and that is what this outstanding scholar-physician would help us deal with. She would help us deal with the social deficit that is facing America's children. She wants to be sure that every child in the United States of America is healthy, wanted, and, as she said, hugged, full of hugs and hope.

We have before us a pending nomination for a Surgeon General who wants to help America's children be ready for the 21st century, knowing that you start in the home helping strengthen the family, encouraging the family, encouraging health insurance reform so that those children have access to the health care they need, and as they then move through school, that they also have access to health opportunities that they might be denied because of their income.

Dr. Joycelyn Elders has spoken long and eloquently about her desire to help America's children as well as to improve the overall public health of the United States of America.

One of the approaches she wants to use is something called school-based clinics. She has been sharply, tartly criticized for advocating school-based clinics.

Now, Madam President, I happen to like school-based clinics. I also happen to like school nurses. I happen to believe that I like health care in the schools because for many of our boys and girls, because their parents do not have health insurance, or because single parents cannot take the time off to get their kids to doctors, it is often the school nurse or, as in the case of Arkansas, they could go to a school-based clinic and get the medical treatment that they need.

Dr. Joycelyn Elders knows this very well because, growing up in a very poor family in the South, she did not have her first physical until she went to college on a scholarship that the Methodist community helped her obtain.

Dr. Elders wants no child in America to have to wait until he or she is 18 years old to be able to have a physical and access to health care. She will tell you her stories about African-American men, who, many years ago, did not have their first physical until they were called up for the draft, because they were denied access to health care, not because of civil rights, but the lack of economics that enabled them to afford that.

Now let me tell you why I like school-based health care. I was, before I entered the field of politics, a social worker. I was a child welfare worker, Madam President. I worked in foster care. I worked in child abuse and I know well the problems that face many of children who are abused in their own home and in their own family.

I had to keep an eye on families that had been into court, where children were still living at home, and I had to worry whether those kids would be safe. How could I keep an eye on those kids without being a snooper, without destroying their privacy within the public school system? How could I do that?

Well, do you know how I did it, Madam President? Through the school nurse, the school nurse who would, when those kids would come in, say, "Come on over here Billy. Let me give you a hug. Let me see that muscle." And she would see if he was bruised and battered.

The school nurse, health care in the school, would say, "Come on over here, Mary. Let me just give you a hug."

It was the school nurse, through the daily activities of supervising health care at the school level, that would keep in touch with me. And nobody in the school knew that they were connected to a court action where I had to do that.

Well, I think working with that school health nurse, we made sure we prevented other abuse, made sure that the children were safe in those environments that they were in. And as that school nurse worked with me, she worked with other children to make sure they had their immunization, their eyes screened if we wondered if they could read or not, to find out whether they needed glasses, whether they needed a hearing aid.

I always say hip, hip hooray for the school nurse, and to be an advocate for school-based health care.

Everybody likes the school nurses. But it gets a little controversial when the kids start to grow up and they get into their teenage years and they will say, school-based clinics, these are incubators of sex education.

Well, Dr. Elders was an advocate of school-based clinics in Arkansas and, as part of the school-based clinic, did believe in sex education. If Dr. Elders were speaking before us this evening, she would tell the Senate what she told me.

Senator, I believe that sex education begins in the home and the family. The best teacher of America's children are their own mom and dad. But not everybody has a mom and dad, who knows how to teach them these matters. Better to learn it from professionally trained people, rather than learning it in the gutter. Better to learn it in an atmosphere of either a doctor, a nurse, or another public health specialist, so that they can learn what life is all about. But Senator, the school-based clinics are more than about sex education. They are about health care.

And it was in these school-based clinics in Arkansas where these young men and women received their physicals. Dr. Elders told me stories where many issues related to disease were detected.

Diabetes—Dr. Elders is an expert in juvenile diabetes. She will tell you of the blood work, where the kids came in to get their physical to either play sports, or to get a job, or to have their routine physical. They detected diabetes, high blood pressure, the need for eye glasses, the need for hearing aids, the need for good primary care, the need for dental care, the need to help young men and women to be healthy.

Not everybody has a mom and dad that gives them three squares a day and reads to them off the Wheaties posters. They really need other help, and that was the purpose of the school-based clinic.

Now Dr. Elders would be the first to admit it. She knew that for many people they were concerned about these issues related to sex education, and were they inadvertently encouraging abortion.

Dr. Elders will tell you if she were standing here, that she is a firm believer in abstinence for young men and women. She believes that abstinence is the best form of practicing birth control; which is not to have sex in the first place.

And however sharply she criticized these clinics, she dealt with it as she always will, head-on, candid, clear, and out there building coalitions to take her message out.

I would like to share with my colleagues in the Senate, not what Senator BARB MIKULSKI says about it, but in a magazine article in the New York Times it says this:

> Elders could not persuade her critics that her goal was to prevent pregnancy, not to encourage abortion.
>
> Dr. Elders said: "Whenever I hear of a young girl having an abortion, I consider it a personal failure."

She states, and I go on to quote, that her position on abortion as pro-choice is that she said:

> I am a pediatrician and therefore want to do all I can to help these young girls.
>
> When she was advocating the school-based clinic, letters, post cards, telegrams, and telephone calls peppered the office of then Governor Bill Clinton. The messages regarding Elders in the school clinics were among the strongest and meanest that Clinton had received since he took office.

Again I am quoting from this New York Times magazine article.

> Elders invited her opposition to meet with her in a departmental auditorium. Those who responded came in cars and vans and pickup trucks and yelled out, "Sex education is pornography. School clinics are an abortion referral agency."

Well, Dr. Elders took those on. She talked about her life and her values and her purpose. She talked about that she was a pediatrician, how she wanted school-based clinics to provide access to health care, how it was not about sex education but about health education. She said:

> Many people talk about life. As a physician, I respect life. What I saw in many of the places the nurses took me, I do not define as living. We have had 19-year-olds who already have 5 children. That is not life. We have 10-year-olds who have been raped by momma's boyfriend and having babies. I don't call that life. I want to be sure that I can help young people have those hugs, those hopes, and health.

And that is why she advocated school-based clinics. Now, she has 10 going in Arkansas.

Well, let me tell you about the 10 going in Arkansas.

Senator KASSEBAUM, during the hearings, said: "Did you have community involvement in these or were they essentially something that was mandated by Government?"

Dr. Elders said:

> Senator, I feel so strongly about the involvement of the community, and I feel that the community needs to make a commitment for these bright young people. And, because of that, there was community participation. What we did is, we said we could afford 10 school-based clinics and out of those 10 the school board had to have a meeting and pass a resolution before they could apply to be one of those programs.

And then she went on to say that when a child attended a school where there was a school-based clinic, the parents wrote affirmatively a note saying that the children could have access to the clinic and what services they approved of or not approved of. If a parent did not want that child to have any form of sex education, that child did not get it.

But what we did find, she said, was that people want the school-based clinic. At one point she believed they were going to reject all 10 of them. And she found that as they moved along they eventually wanted 24. And before she left Arkansas, there was a waiting list that school boards were asking to have school-based clinics in their communities because of what it was doing in terms of early detection, early screening, preventive health care, and giving primary care to many children who did not have access to health care in any other way.

I think that is a remarkable achievement. I do not think that is controversial. I think that is good public health policy. I believe that school-based health care is an important tool for our children, as I have indicated earlier.

So, when Dr. Elders is talked about as being an advocate of the school-based clinic, the issue around sex education is only one small part of it. It is around health education and it is around learning how to respect your body, to respect yourself, and also the basic kinds of issues of getting the permit to play sports, of getting the permit for the part-time job that maybe helps you save a few bucks to go on to the community college.

So I think Dr. Elders has answered those questions about the school-based clinics and what they did in Arkansas in a great way.

What was so great about the school-based clinics? They dealt with the social deficit, the social deficit around having access to health care. In a few short weeks the President of the United States will announce his reform proposal for the health insurance industry. The reform of health insurance will be about the financing mechanism. We can have the best financing mechanism in the world, but unless we have a public health model that embraces the idea of prevention, prevention of disease, prevention of abuse, and then primary care, health insurance will be a hollow victory.

We need a Surgeon General of the United States who wants to lead the charge in terms of prevention, in terms of primary care, and in the course of that she and I know that, as children have hope and they believe they are not being left out and left behind, that they can have aspirations, that their sense of defining themselves is not only in terms of their reproductive capacity but in terms of their intellectual capacity, the birth rates go down and even disappear.

That is what Dr. Elders wants. She wants young people to believe that their future lies in their intellectual capacity and to embrace that. And then to provide, working with this President, an opportunity structure so the children do have health, do have hope, do have a future.

I think she will be great. I can see Dr. Elders now, joining that team of Reno, Cisneros, Shalala, Riley, Kunin, dealing with the social deficit. You know what? A lot of criticism has been made about President Clinton' fiscal deficit plan. I predict 1 year from now, with the team that he has appointed, we are going to see remarkable gains in reducing our fiscal deficit and reducing our social deficit. And we will have taken the crisis we found, that we inherited from previous administrations, and turned the crisis into an opportunity and gotten our country ready for the 21st century.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Madam President, let me say that when it comes to commitment and passion for protecting children in particular, I do not think there is anyone who is as sincere and committed to this endeavor as the Senator from Maryland, Senator MIKULSKI. I do not believe the issue is one of health care in schools. I believe we will find unanimity in this laudable goal and in the goals that have been expressed by my colleague and friend from Maryland.

But I have to tell you that I am deeply troubled, as Cardinal O'Connor—in his letter to me, that has, I believe, been circulated widely throughout the Senate and placed in the RECORD today—has indicated his feeling and his reservations about what would appear to be a substantial animus towards the Catholic Church and Catholics generally.

I can only hope that this is really not the true feeling of the nominee. But it raises very substantial and troubling questions in my mind and I think in the minds of many. We are a Nation that has gone through some very difficult times. We are a Nation of diverse backgrounds and religions and cultures. We have had just recently an expression of horror that there might be some lingering doubt as it relates to the quality and the sensitivity that all of us display to our brothers and sisters who are black. That was a traumatic. It was a moving speech made by my colleague and friend from Illinois.

I have to say that as a Catholic, I find that the remarks that have been attributed to Dr. Elders are deeply distressing personally; deeply distressing. I cannot believe that she would really feel this way. I hope that is not the case. And I think that all Americans are owed an explanation. We treasure this diversity of religion, culture, and it is not one that should be disparaged even in the heat of a moment. Maybe the remarks attributed to her were made in the heat of the moment. But at the very least, I believe that the nominee should come forward and deal with them and dispel them. The country, I think, demands that. I hope President Clinton would clear this up. It is important.

Madam President, I did not intend to make extended remarks on this, but I think it is important that the RECORD reflect my concern. I will not speak to that issue any longer.

BUDGET RECONCILIATION

Mr. D'AMATO. Madam President, I will speak to an issue that is very troubling, and it is being acted on and will be acted on in a short period of time. That is the largest increase in taxes in the history of this country.

I daresay I have friends and colleagues who are voting on the other side who have not seen this bill, who do not know the provisions that are contained in its 1,800 pages. We have gotten more phony numbers, more changes, and more gimmicks that have taken place literally as the hours were going along and as the compromise was forged. Indeed, the tax increases I have heard some say were $235, $240, $250 billion—it is not any of that. The gross tax increase is $275 billion. That is what it comes to, because you have to raise $275 billion in gross taxes in order to get $241 billion in net taxes.

So it is not a $250 billion increase; it is $275 billion.

There is something that I think is very dangerous taking place in this Nation. Let me tell you what it is. It is class warfare under the theory of "let's get the rich guy, the richest 1 percent." So we set them up, target them: Those are the people we are going to get.

Let us examine what we are doing. I will tell you what we are doing. We are raising taxes on small businesses which have provided literally all of the new jobs in the past 4 years that have come from small businesses; small businesses that hire and employ 100 people or less.

What do we do? In some cases, we raise the tax on them 40 percent, the marginal rate—40 percent. We go from 31 to 44 percent. Figure that out. It is a 40-percent increase. How do you think these businesses are going to be productive? Who are they going to hire? What will they now do when they lose those revenues that otherwise would have been invested in jobs and in the creation of expansion?

I have to tell you, if you think the economy is slowing down, it is because they understand that this burden is going to hit them. And hit them? It is going to cripple them, retroactively. Now the administration comes forward in a great generosity and say, "Oh, by the way, we will give you 3 years to pay" because they understand some of those businesses would have an increase of something like 67 percent of their taxes.

It is a pretty sad thing when fully 50 percent of a person's income is going to Federal and State taxes. I want to address what that does to my State because we have 18 Democratic Congressmen who are going to vote to a person for this bill. I do not know how they are going to go back to New York and explain that to the people. They are going to have a pretty tough time when the facts come out.

It is going to cost my State in excess of $30 billion—$32.5 billion—over the next 5 years. That is what is going to come out of my State.

I want to call my colleagues' attention to a very interesting article by James P. Pinkerton in the Long Island Newsday. James Pinkerton is a Fellow in the Manhattan Institute. I am going to read part of his observations into the RECORD. He said, "Remember the holler in New York when President Gerald Ford said no to the $2.3 billion loan to New York City," called the bailout. And then the President eventually agreed to the loan. What a fallout. My gosh, he lost the State, people were angry.

Here we have $32 billion being sucked right out of the economy in 5 years; $32, $32.5 billion. I am going to tell you that State is not—is not—going to prosper. We are going to continue to lose jobs and we are going to have an exodus of the very people that we want to keep.

Let us look at the facts. Mr. Pinkerton says:

> President Clinton's plan targets New Yorkers who file just 7 percent of all Federal income taxes, but they will pay nearly 13 percent.

Understand, we file 7 percent but we will pay nearly 13 percent of all of the new taxes—13 percent. That is some hit. That is an extra $32 billion that our economy will lose over the next 5 years.

He goes on to say that other States are not hit nearly as hard. He says:

> Well, after all, they say let's tax only the rich. Clinton supporters say compared to the rest of the country, a lot of struggling New Yorkers are rich.

New Yorkers' per capita income is 19 percent higher than the national average, but the cost of living in New York City is 55 percent higher than the rest of the Nation, and that figure comes from the U.S. Chamber of Commerce.

I have to tell you, if New Yorkers were upset because a $2 billion loan was a signal of "drop dead," then what does a $32 billion tax increase indicate? That is the question that Mr. Pinkerton rightfully raises.

He goes on to say, let us examine the rich people.

> Few rich people stash their money away in a mattress. They spend it, they invest it. We sell them everything from cars to clothes to newspapers, so it is hard to see how working New Yorkers will be better off with $32 billion taken out of their economy.

I tell you, it is going to be a disaster, not only for New York, New Jersey, and Connecticut, but particularly New York because we have a higher State income tax rate than even the others. We have already lost 40 percent of the Nation's jobs from one State, New York. That exodus is going to continue. Let me just touch on why that exodus is going to continue. When you take the small businessman who pays 31 percent, and now you kick them up in New York to 44 percent as a marginal rate—and remember, the small businesses are the ones who are creating the jobs—that is a 40-percent increase. Add on to that an 8-percent State income tax. Now you have the small successful business entrepreneur, who we love to call rich here—let us get the rich guy, by the way, and you are going to get them. If all of my colleagues in the House of Representatives vote for this turkey, I will tell you what they are going to see. They are going to see the most successful entrepreneurs move. They will take their business in increasing numbers and they will move them to North Carolina, South Carolina, Georgia, and to other States—all of the States that have lower income tax rates, including Arkansas. How does that help our State?

Let me ask you: Why is it that the small entrepreneur who is successful will be paying a 44-percent effective marginal income tax rate when General Electric will be paying a 35 percent rate? Why? Why do we see GE and others, and we wonder why—and by the way, they do not create jobs. They have been a net loser of jobs, the large Fortune 500 corporations. It is the small business community that is creating jobs. And yet we target the small business community. And we do it in a manner which is going to hurt jobs and productivity.

Let us look at the record. Where are the tax increases? Individual tax rates are going to go up $145 billion but, after all, we are getting the rich guy. We forget that many of those so-called rich are the small business entrepreneurs. We make it tougher. How does increasing their tax burden by 40 percent help this economy? How is it going to create jobs? Well, we say we are going to reduce the deficit. After all, let them make a contribution.

Let us take a look at the record. Al Smith, a famous New Yorker, A Democrat, said it: Let us look at the record. So for the first year, what are the spending reductions? Zero. What are the tax increases? They will be $32 billion. For the second year, 1995, what are the spending reductions? Zero; zero. And they will get worse because while the budget says there will be $4 billion in spending reductions, we have already approved, the Congress of the United States, a flood control measure which will wipe out that savings.

So we have $46 billion in tax increases. In the third year, what do we have? The first time we have to wait until 1996, and maybe if we do not have a disaster and maybe if we make all the cuts and I do not believe it, we will have $20 billion in spending reductions. This bill is a turkey. It should be killed.

What are New Yorkers saying? New Yorkers have been calling my office, and I am going to submit the phone logs, the records we have received in the past 2 days. Yesterday, they were in opposition approximately 3 to 1, 1,524 calls came in against, 508 in support. This is a State that gave President Clinton overwhelming support. Today, 1,133 called in in opposition, 279 in support; 4 to 1 against.

I tell you, Madam President, we're going to continue to get calls as more and more Americans find out what is contained in this bill and the hocus-pocus involved—telling people that they are getting spending cuts when they are really raising fees, pulling the kinds of nonsense of phony gimmicks and phony accounting, telling them they are going to reduce the budget deficit by $500 billion when if you use all of the figures that are supplied, it is $428 billion, and it will never come to that. And 80 percent of all of the spending cuts come after the 1996 election.

Those, I suggest, are cuts that will never materialize because we do not have the courage and guts to stand up and to vote the cuts now. People understand it and they know it.

And so we have a case of telling the people one thing and doing another.

Now, when the Nation is calling or spending cuts, we should not be raising taxes. The President is wrong in this, and the Congress is wrong, and the Nation is going to suffer. I do not care about the political consequences, but the Nation is going to suffer. And this business of getting the rich guy and targeting him or her because they are successful is wrong. It is backward. It is inside out. It flies in the face of what this country is all about. And somehow we have many Members who are loaning themselves to it because we get up and say it is 1 percent—the rich.

Let me tell you, some of those so-called rich are people who have come over here in the last 4, 5, 6, 7 years because this is the land of opportunity. I thought this country was about building. I thought this country was about encouraging people to rise up to higher levels. If you are going to target the very people who create jobs, I have to tell you, by placing an onerous burden on them, we are going to kill any hope for the kind of economic recovery we have talked about. We are going to put this Nation into a recession. And you do not build faith and confidence when you begin to tax people retroactively.

Why? Why? What an absolute fiasco to reach back and tax people from January. I have to tell you something. If the people are bitter and they take it out on those who have done this to them, they have every right to do that—every right.

And I say to my colleagues in the Congress, in the House of Representatives, particularly in the State of New York, you better begin to think about your constituents. You better begin to think about the small business entrepreneur who has the highest State taxes in the country and who is leaving the State in increasing numbers. When you lose 40 percent of the jobs nationwide from one State, wake up.

Party loyalty is important. I understand it. Loyalty to our President, that is important. Loyalty and a commitment to the American people is more important. And we are wimping out on it. This business of lining up to say, well, we are going to support this because otherwise it would be the end of the Presidency; let us instead come together, Democrats and Republicans, and sit down and be invited as part of the process to make legitimate, real spending cuts; but let's not wimp out, coming in with this phony baloney nonsense and talk about cuts that are going to be made in 1996 and 1997.

And that is what we are doing because we are not attacking the structural deficiencies in this budget. And come 1996 and 1997, they are going to go right back up. We do not have the courage to address some of the issues of saying, should wealthy people be receiving some of the benefits that they do?

Let us look at Medicare and how we should or should not reform it. And all of us have to be a part of that. That is where the President should be leading us, not this phony baloney, pie-in-the-sky stuff.

Imagine, you increase fees 51 percent and you have the nerve and the temerity to say by increasing fees you are cutting spending. Increase taxes on Social Security and you have the temerity to say to people we are saving money because we are taking it from one pot and putting it in another. You are taking it from the pockets of senior citizens. That is what you are doing. Incredible. And they fool around with the gasoline tax and just make believe and use phony numbers and not talk about what the real tax increase is by the extension of the Tax Code. It has grown 2.5 cents and 4.3 cents.

Come on. And then lard it up with all kinds of junk so that we can get Members and twist them so that they are going to come out and support this turkey.

They are making a mistake. They are making a real mistake because people understand, and they are tired and they voted for change. What this package does not give them is change. It is more of the same. It is put over a lot smoother, I must tell you. And maybe some of the numbers are more accurate, maybe there has been some more honesty in the budget process. But when you get down to it, it is totally deficient.

Promises made, promises broken. We tell people we are going to go about doing business in a different way. Maybe it is glossier, maybe it is slicker, but it is the same old kind of business, and people have a right to be angry with the Congress and with the President.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

BUDGET RECONCILIATION

Mr. DASCHLE. Madam President, tomorrow is going to be a very important day because with any luck we are going to finalize what has been a very difficult process, taking us over several months, coming to grips with what has been one of the most difficult challenges that has faced us in almost now a generation.

We do not have to ask ourselves about the cost of doing nothing. We know that because, frankly, we have done virtually nothing for the last 12 years, and the incredible debt shows very clearly what the cost of doing nothing will be if we continue on the same path.

We have heard some great speeches here tonight, many by Members of the other side of the aisle who lambaste this plan for whatever reason, and they have listed many of them: Not enough cuts, too many taxes, too much at the end. You can list the arguments and nauseam. The bottom line is we know what the alternative is. The alternative is to do nothing or to accept what the Republicans have suggested this country do for the last 12 years.

Look what has happened. We have to repeat this from time to time simply, I think because people fail to appreciate that, under a Republican administration, beginning in 1980 and continuing through 1992, we compiled debt that went from $800 billion—less than $1 trillion, and it took us 200 years to accumulate it—to nearly $4 trillion—$4 trillion, five times what the debt was when Ronald Reagan took office. And now they are saying a plan that genuinely reduces the debt by a greater margin than anything we have had in the past is not good enough. They, who offered an alternative that included less deficit reduction, say that the largest deficit reduction package in history is not good enough.

There are a lot of definitions for chutzpah, but I have to tell you that is one of the best.

Madam President, the cost of doing nothing is very clear. You can project this debt out for the next 8 years, and you can see, you can calculate pretty clearly, what the cost of doing nothing will be. We are told the cost of doing nothing, or simply continuing what we have done for the last 12 years, will bring us to a point where, within the next 7 years, the debt will be $7 trillion—$7 trillion.

We talk a lot about the wealthy, and I have heard so many crocodile tears over the last several days about how those poor people at the very top need to be protected and we cannot have class warfare.

Well, I do not hear concern about class warfare every time we go after those who are unfortunate, those who do not have a job, those who do not have an income, those welfare cheats, those people at the end of the economic scale. We can go after them. They are fair game.

But ask us, ask this country, to return just part of the tax progressivity that we had just 6 years ago, and somehow that is class warfare.

Just so everybody remembers, from 1980 to 1986, the tax rate for the top 1 or 1.5 percent of the people in this country was not 39 percent, something we are proposing in this plan. It was 50 percent. And the top rate during the 1970's, Madam President, was not 50 percent. It was closer to 70 percent. And there was a time in our lifetimes when that tax on the top 1 percent was not 70 percent; it was 91—91 percent. Incidentally, that was a time when this country grew like we have never seen before, by leaps and bounds. So how is it that when we go from 91, 70, 50, now to 39 percent, that is going to stymie the economy?

I will tell you what happened when we had those kinds of tax rates. We did not have the deficit we have today. We did not have the $4 trillion debt the year Ronald Reagan took office. We had an $800 billion debt. Now it is $4 trillion.

So where were our opponents when they had the opportunity over the last 12 years to put a meaningful deficit reduction package together? Where was it? Where was the leadership from the White House? Where was the budget proposal that offered the blueprint; here is how you do it? I did not see one, frankly. I waited a long time.

We never had leadership in the White House to do that. Now we have a President willing to put his name on the line, willing to say: Look, you can talk all you want to about cuts, and honest-to-goodness, we need these and a lot more. But you are never going to whittle that debt down to zero if we do not return some progressivity to the Tax Code.

They talk a lot about taxes. That seems to be the main target for opponents to this plan—taxes. There is so much misinformation out there. I do not blame the American people, who are calling us confused about what it does and does not do. We are getting a lot of calls, like everybody else. What I am getting when people call me is a plea not to raise their taxes.

Often, the first question we ask is, "What is your income?"

They say, "$20,000"; "$30,000."

We say, "Do you know that if your income is $20,000, your taxes are not raised?"

They say, "I did not realize that."

We say, "Do you know that if your taxes are $40,000, your income tax is not raised?" They say, "We did not realize that."

We say, "Well, did you know your income could be $80,000 and there would still be no income tax increase?" They say, "You are kidding?"

We say, "Do you know that you could go all the way to $140,000, and your income taxes would not be raised?" They cannot believe it. They say, "That is not what I am hearing on television. That is not what I am hearing from all the opponents."

So certainly, if they are that confused, it is no wonder we are getting a lot of calls; it is no wonder there is opposition to this bill, because they do not know what is right and what is wrong when people interpret what is included in this plan.

I think the most confused, for good reason, are those in small business. I tell you, if you were a small businessman, I would have broken about two dozen pencils now trying to figure out what I am told, what I am not told, what is projected, and what is not projected.

The bottom line is very simple. The bottom line is if your taxable income is below $180,000, you will not see a nickel in income tax increases. A small businessman cannot figure that out sometimes because that is not what they are being told; that they can deduct all of their expenses; they can get down to that bottom line and then figure out what their taxable income is. What we are saying is, if it is below $180,000, they do not pay a nickel of additional tax—not a nickel.

When you figure it out on a percentage basis, only 4 percent of all small businesses will experience an increase in income tax under this plan.

The President has asked and hoped that we in Congress could respond in a much more favorable way, in a bipartisan way. We talk a lot about bipartisanship. And we have had our differences. But when it comes to something this consequential, one would think when one looks at that debt, that we do not have any choice but to do all that we can to work together, to put everything on the table—taxes and spending cuts—to come up with a meaningful deficit reduction package.

The Republicans had an opportunity in the Finance Committee. I will never forget it. We went through that markup in the Finance Committee point by point, item by item. There were 21 Republican amendments. They had the opportunity then to make their changes, and guess what? Not one would have reduced the deficit. Not one presented a deficit reduction plan to even chip away at the deficit we are talking about today.

So, Madam President, the American people understand rhetoric. They understand politics. They understand gridlock. They get concerned when they see that debt continuing to mount, and they watch us debate, using all of the rhetorical flourish that we have within ourselves. And the bottom line is, the debt continues to grow.

I know there are a lot of people who are anxious to speak. I do not want to take more than my share of time. We will have plenty of opportunity again tomorrow to talk about this. I have a number of charts that I will save for a presentation tomorrow.

Madam President, we do not have a choice. We have to face this deficit with realism, with determination, and hopefully sometime soon, in the spirit of bipartisanship. But we do not have any choice. The cost of doing nothing is simply too high.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

EXECUTIVE SESSION

THE NOMINATION OF M. JOYCELYN ELDERS, OF ARKANSAS, TO BE THE SURGEON GENERAL OF THE UNITED STATES

The Senate continued with the consideration of the nomination.

Mr. COATS. Madam President, I was just discussing with the chairman the potential schedule for this evening, particularly on the question of the nomination of Dr. Elders. Apparently, there is some discussion going on relative to reconciliation and whether the House may have passed that bill and will bring it over to the Senate floor, and whether we will start this evening or not.

Certainly, it is acceptable to this Senator, if it is the majority leader's desire and the minority leader's desire to begin debate on the reconciliation, that that debate begin. But until a determination is made in that regard, I would like to continue discussion on the issue at hand; that is, the nomination of Dr. Joycelyn Elders to be the next Surgeon General.

Madam President, the role of the Surgeon General is a unique one. In one sense, the Surgeon General is the Nation's doctor. We all look to our family doctor to be someone who provides understanding, comfort, helps to educate us as to health care concerns, and is willing to tell us the truth even if that truth is unpleasant and something that we do not want to hear.

Over time, the Surgeon General has developed a very unique role. The office has been one that is tempted to build its influence on the basis of persuasion. It has tried to educate, not divide, and its greatest power has really been in moral leadership, trying to build some consensus in the Nation on basic matters of public health. And, in the process, it has earned the respect and trust to say even some uncomfortable things that perhaps the Nation has not wanted to hear, like things said by a family doctor, but that are necessary for the Nation to hear.

The nomination of Dr. Joycelyn Elders to be Surgeon General of the United States has, as we are all very well aware, generated a great deal of controversy. We have heard Members on both sides of that issue speak last evening and today. Many think that this controversy is positive, that it will focus the attention of the Nation on the important public health concern in a way that it has not been focused before.

Others, myself included, have been concerned about some of Dr. Elders' actions and statements, and therefore think and believe that her tenure as Surgeon General can be divisive and will be divisive and polarizing.

Many have been personally and deeply offended by some of the remarks that she has made.

Throughout this process, the process of this nomination, I have attempted to be objective in my evaluation of Dr. Elders. I met with her personally in my office for a lengthy period of time. I spent hours reviewing her past performance and comments in the committee hearing and markup of her confirmation. I asked her a lengthy series of questions on two occasions about a variety of important issues, and I have sought to obtain important information about her financial dealings, about her duties as a public health officer in Arkansas, and a number of other areas that might shed some light and answer some of the questions that have surfaced.

Madam President, it is true that Dr. Elders has overcome many obstacles in her past. We have heard those listed. She has achieved success in areas of addressing public health issues in Arkansas.

She has fought for education programs and listed support of civic groups and churches and private agencies in private industry to form partnerships to promote healthy behavior. She helped to develop Arkansas' Campaign for Healthy Babies, which is increasing the number of pregnant women who receive early and prenatal care to combat infant mortality. I commend her for that. She has diligently worked in the area of childhood immunization, and the rate for 2-year-olds on immunization has risen substantially in Arkansas under her guidance. I commend her for that.

Her background, as many have stated, is impressive. She has risen from poverty, worked hard, educated herself, and has risen to a position of prominence.

But Dr. Elders also has a report that is disturbing and in many ways divisive. I do not believe she has shown an ability to build a consensus. In fact, she has made statements which, in my opinion, are offensive and polarizing. I believe her vision of public health has some deep, and even fatal flaws.

Much has been said on this floor about some of Dr. Elders' quotes, and I do not intend to spend very much time repeating what has already been said.

Madam President, there is a type of disagreement on issues that are important to Members, important to this body, important to the Nation. There is a type of disagreement that is serious and civil. When we talk about the issue of abortion, which is highly polarizing, controversial, and highly emotional, there are two ways to approach this. There is one way that tends to divide and polarize, and another way that tends to educate and tends to make its case, but does so in a positive way.

Dr. Elders, unfortunately, chose to make statements on this issue that, in my opinion, go beyond the standard of building consensus, go beyond the standard even of civil discourse. In describing those opposed to abortion, she said, "* * * very religious non-Christians who love little babies, as long as they are in someone else's uterus." That is a statement that does not build consensus. That is not a statement of the Nation's family doctor. That is a statement of someone who is taking an ideological position. It goes to a judgment on an individual's faith. It deeply offends many of my constituents, and it offends me. I think it offends millions of Americans.

Dr. Elders said most of our society believes that a baby is God's just punishment for fornication. "Their attitude is," she says, "I am not going to invest in a baby growing up healthy, educated, and motivated with hope. I am going to keep using him to grind in that punishment for you." In the Berkeley Women's Law Journal she said, "We refuse to make a commitment to solving the crisis of teenage motherhood, because we view pregnancy as just punishment for premarital sex."

Those are not statements of somebody who seeks to counsel the Nation as a doctor, to bring people together and educate them, and seeks to start a dialog as to how we ought to deal with some very pressing health problems facing this Nation.

They do deeply offend. That is the reason they have been repeated here, along with many other statements which I will not read. I have taken the time to read a few of these quotes into the RECORD because I want my colleagues, and I want the nominee, Dr. Elders, to understand that some statements are not just intemperate, but intolerant. Some statements are not just unguarded, but they are offensive. Some statements are not just blunt, plain talk, but they are actually hostile.

These statements do give me cause for concern. We cannot ask Dr. Elders to change her manner, but we can and must ask if this is the right person to be the spokesperson for public health issues and to be Surgeon General of the United States.

Madam President, I think it is important that we look at the record on public health, because it is as important what Dr. Elders has said and what she believes, as the matter of what she has done. President Clinton, in announcing the nomination of Dr. Elders to be Surgeon General, expressed his hope that Dr. Elders would do for America what she did for Arkansas. So I think, in that regard, it is important to look at what she has done for Arkansas.

Just a few moments ago, I acknowledged that some of her accomplishments for Arkansas were positive, and

I commend her for them. I think there are some troubling areas on which we ought to focus that indicate poor judgment and flawed decisionmaking with respect to the public's health.

During her tenure as Arkansas health director, Dr. Elders' No. 1 priority was to reduce the incidence of teenage pregnancy. She proposed to achieve this by promoting school-based clinics which would, if authorized by the local school board, distribute or otherwise make available contraceptives, including condoms.

Dr. Elders feels very deeply about the incidence of teenage pregnancy in the United States, and I share that concern. I have already read some of her strong statements on that subject, and they have already been read into the RECORD. Preventing unwanted teen pregnancy was one of her top priorities. She chose to emphasize one method in particular, nearly to the exclusion of all others. Rather than champion abstinence, not just mention it as she has in the hearings, Dr. Elders has vigorously promoted the use of condoms as a solution to the incidence of teenage pregnancy in the United States.

She has made some very controversial statements in that regard. But in looking at the record, I think it is important to see what the results have been of that particular approach. On July 29, 1993, the Arkansas Democrat Gazette ran an article looking at teen pregnancies in school-based clinics. It said:

> Teenage pregnancy rates have gone up in the two counties where the Arkansas Department of Health has been dispensing contraceptives for at least 4 years in school clinics. Arkansas had experienced a gradual decrease in teen pregnancies in the years prior to Dr. Elders' service as public health director in 1980 to 1986. However, when she took over as public health director in 1987, in the period from 1987 to 1991, during her tenure, teen pregnancy increased 10 percent.

Madam President, I am not suggesting that is solely the cause and result of Dr. Elders' approach. Obviously, social changes are taking place in this country, and that is beyond any one particular individual's ability to totally influence. By the same token, those changes were also going on in 1980 to 1986.

At the very least, it is hard to make a case that the introduction of school-based health clinics and the dispensing of contraceptives has successfully addressed Dr. Elders' No. 1 concern. But teen pregnancy has risen at a very significant rate. In fact, Arkansas ranks second in the percent of babies born whose mothers were 19 and younger.

In 1992, Arkansas ranked No. 3 nationally, in primary and secondary syphilis case rates per 100 population. The rate of syphilis has steadily increased from 1988 to 1992, and between 1990 and 1992, Arkansas went from 55.3 to 92.3 cases per 100,000. That is significantly more than the U.S. average.

So I think from the statement that "we want to do for the Nation what we have done for Arkansas" raises a number of questions about whether or not that is the goal that we actually want to pursue.

It is important to note that on a national basis we spend, through the Federal Government, over $140 million a year on family planning, primarily on the dispensing of condoms in support of planned parenthood, and only $9 million on abstinence programs in the Adolescent and Family Life Demonstration Act. I think many would suggest a far more significant emphasis on abstinence on the prevention of unwanted pregnancy is an approach that perhaps we ought to try.

Now, Madam President, Dr. Elders has the belief, which is shared by many, that contraceptives are highly effective and, therefore, should be readily available to teens and that if used properly that will help solve the problems of unwanted pregnancies.

It might be true that condoms would bring down the pregnancy rate if they worked and if the rate of teen sexual activity remained constant. That is not reality. We have a wide body of evidence—I only cite one, the FDA—which indicates that condoms do not perform effectively in every instance and therefore this whole idea of safe sex if you just use a condom, so popularly discussed by Magic Johnson, the basketball star, has some weaknesses in the argument.

I quote from the FDA:

> Condoms are known to break on occasion, and even so when effective are only 88 percent effective in preventing pregnancies and may be as much as 75 percent effective in preventing transmission of the HIV virus.

It seems to me, Madam President, that if we are following a course of action which teaches that safe sex can be achieved through the use of condoms, to be truthful with the young people that we are dispensing these condoms to, we need to inform them that, while it certainly is safer than not using condoms, they are still according to the FDA 25-percent or more risk of receiving AIDS transmission and a 12-percent risk of pregnancy.

Madam President, we could spend a lot of time talking about the effectiveness of the approach that Dr. Elders has chosen to use in addressing the problem of teen pregnancy. I raise those points simply to point out that doing for the Nation what she has done for Arkansas in this particular area is something that I think we ought to give serious consideration to.

But the most critical issue for this Senator relative to Dr. Elders' qualifications to be Surgeon General of the United States is a matter of what I think is extremely poor judgment exercised by Dr. Elders as public health director for the State of Arkansas.

I discussed this at length with Dr. Elders in committee, and I want to share some of that information with my colleagues.

We learned just a few weeks ago that as far back as 1990 the Arkansas Department of Health, under the direction of Dr. Elders, distributed defective condoms to those school-based clinics as well as other health facilities. Condoms in question were purchased from a company, Ansell, Inc., which sold them under the brand name Lifestyle. According to the Associated Press, over 1 million Lifestyle condoms were purchased by the Arkansas Health Department from Ansell.

On December 13, 1990, an official of the health department wrote to Ansell stating that a high school clinic, that is the Arkansas Health Department, a high school clinic has complained to us about breakage. But the Arkansas Health Department continued purchasing condoms from this vendor.

Letters of complaint continued to be received by the Health Department on at least four other occasions up until June 30, 1992, including a complaint from the Baxter County health unit on June 24, 1992, that three HIV antibodies test clients had experienced condom breakage in every use. I want to repeat for my colleagues. The complaint here was that this particular health unit, Baxter County, AR, had discovered that three of its clients who are HIV positive had experienced condom failure using the condoms distributed through the Arkansas Department of Public Health.

On July 24, a month later, the Food and Drug Administration was made aware of the complaints by the Arkansas Public Department of Health. They advised the Food and Drug Administration and they were then asked to draw samples from several of the lots within their possession. These were then sent to the FDA, and the FDA undertook an investigation and discovered a defective rate 10 times higher than the limits set by FDA.

So the FDA had set a limit for testing at which a condom was declared either safe or unsafe, defective or safe. And the failure rate for the lots for those samples tested from the lots utilized by the Arkansas Department of Public Health was 10 times that rate. That was on July 24.

On August 12, 1992, the FDA recommended an open-ended seizure of all condoms bearing the Ansell label in the possession of the Arkansas Department of Public Health.

The order for seizure was approved on August 27, 1992, and subsequent to that on September 8, 1992, the order was withdrawn because the company, Ansell, voluntarily agreed to retrieve the defective condoms.

Once those condoms within the possession of the Arkansas Health Department were voluntarily recalled, it became obviously apparent that many—we do not know how many—thousands of those condoms were still at large with the public because a considerable period of time had elapsed here, and obviously the clinics were dispensing the condoms and handing them out.

Now, it seemed at that point that with the notice that the condoms that were being distributed by the Arkansas Department of Public Health were 10 times more defective than the FDA allowable limit, it seems that at that point, or perhaps even earlier, but at least at that point, the Arkansas Department of Public Health should have notified the public that the defective condoms had been dispensed.

It would have been entirely appropriate to have warned those who picked up the condoms previous to the recall and asked them to come in and change them.

It seems to me that the natural thing to do was simply to put out a public service announcement to place notices at each of the dispensing agencies to notify schools, all the school clinics, to take out public service announcements and say, look, we have discovered and the FDA has determined that condoms which we were handing out to clients, students, young people, of these public health facilities are defective and, therefore, if you have secured or procured or obtained condoms from any of these facilities please bring them, do not use them, No. 1, bring them back; we will replace them with condoms that have passed the FDA standard. But you are at risk for breakage, leakage, unwanted pregnancy, transmission of sexual disease, or even HIV if you continue to use these condoms.

Now, Madam President, we routinely hear or receive notices of defective products. Who of us have not received a notice from the auto dealer or manufacturer of our car that a part that most of us have never even heard of was deemed to be defective and, therefore, the notice says this may be dangerous and so bring it in to the auto dealer and we will replace the part free of charge? We have had some celebrated recalls of automobiles and trucks and other transportation devices that have potentially been of risk to public health or even their lives.

Who of us cannot recall the notices, sometimes lead items on the evening news and headlines in the paper, relative to recalls of certain products? Tylenol has been found to be defective and so, therefore, if you have purchased Tylenol at *x* drug store do not take it, bring it back, and we will give you a new bottle free of charge. But do not take that lot. Or tainted food through XYZ food stores or distributors has been found to cause illness or botulism or could be potentially injurious to health or may be fatal. Do not eat shrimp purchased through such-and-such, or whatever. These are routine. We hear these public service announcements. They are on the news.

Who can forget the alar scare of just a couple years ago when every school in the country said we are not going to serve an apple to kids because there is a charge by a Hollywood actress that these may have been sprayed with a chemical to promote their color that may be injurious to health. It was a false scare, thank goodness, but every school cafeteria in the country seized the apples, every mother in the country told their children: "If you go to school, do not eat the apples. I think maybe something is wrong with them."

(Mr. GRAHAM assumed the chair.)

Mr. COATS. It was tremendous. There was a congressional hearing, Senate hearing on the issue. It was highly charged. Dozens of cameras and reporters and the networks were there and C-SPAN2 covered the hearing.

But here we have a situation where we have a product that can cause death because if HIV is contracted through the use of a defective condom, the result is death. Here we have a product that is sold or advertised as preventing pregnancy that can cause unwanted pregnancy. We have a defective product known to the public health official of the State of Arkansas, which was Dr. Elders, and Dr. Elders made no effort, made no attempt. There was no public service announcement, there was no notice or warning issued to distributors. There was no notice posted at the school clinics or at the public health outlets that dispensed the condoms.

I never thought I would be standing on the Senate floor using that word once, let alone dozens of times in the same speech. It shows you how much our society has changed.

So I thought I ought to ask Dr. Elders about her judgment in making a determination of notifying those who had obtained possession of the defective condoms after she realized that these were out in the general public.

And I am quoting from the testimony now:

Senator COATS. * * * The condoms, as I understand it, were purchased from Ansel, who sold them under the brand name of "Lifestyle," and you had purchased—according to Associated Press—over one million "Lifestyle" condoms were purchased by your health department The Food and Drug Administration then found a defective rate of ten times higher than that set by the Food and Drug Administration * * *

The FDA approved recommendation for recall of the condoms. * * *

I guess my question is why didn't you feel an obligation or responsibility to warn those young girls, or boys, or whomever had those condoms that they were carrying a loaded gun. * * *

Was there a public campaign in Arkansas to inform those who had been given condoms that these were defective and that potentially——

Dr. ELDERS. No, sir, there was no public campaign.

Senator COATS. How were they to know, then?

Dr. ELDERS. Well, we looked at the number that was out, and we made the decision * * * that it was in the greater public good * * *.

Senator COATS. Well, how can it be in the greater public good when you are running a risk of 50 failures per 1,000 of not only an unwanted pregnancy, but a lifetime sexually-transmitted disease, or even AIDS? How could that be in the greater public good? * * *

Dr. ELDERS. Senator, we made a public health decision. * * *

Senator COATS. Do you still believe it was the right decision?

Dr. ELDERS. Yes, I do.

Senator COATS. Even knowing that potentially some young people using these could get AIDS, and it could be a life and death decision?

Dr. ELDERS. * * * we recalled them, we exchanged, and we got new batches of condoms for our health departments, and we felt that really, creating a major scare over a whole State would markedly reduce the—make everybody afraid of the condoms and not use the condoms of the health department. So that was the decision we made.

Senator COATS. Well, the only condoms you turned in were those that were in the possession of the Arkansas Public Health Department right?

Dr. ELDERS. But all the condoms that were given out were in the possession of the Arkansas Public Health Department, and whereas they may have been out, they are out in our public health clinics.

Senator COATS. Yes, but what about those that had already been handed out to the young people?

Dr. ELDERS. Yes, well, Senator, those were out.

Senator COATS. In your position as Surgeon General, if a similar situation arose, would you make the same decision?

Dr. ELDERS. Senator, I would pull all of the people that I felt I needed around me to help me evaluate the decision, and I would always try to make the decision that was what I felt was in the best public health interest.

Mr. CONRAD. Will the Senator yield for a question, just briefly?

Mr. COATS. I will, just as soon as I finish this transcript; and I am almost through the concluding part of it.

Mr. CONRAD. I thank the Senator.

Mr. COATS. Earlier, Dr. Elders had said: "I had made a decision which I thought was in the best public health interest."

The best public health interest was not to inform individuals that they were in possession of potentially defective condoms; that it could risk their health or their very life.

And so she essentially said: I would make the same decision.

I followed and said:

Well, how about as a mother? What if your children had picked up some of those condoms at school, and you later found out that no one bothered to notify you or your child that those condoms had a failure rate of ten times what FDA recommended? Wouldn't you be a little bit upset about that, and if someone said, "Well, I made the decision in the best interest of Arkansas public health," wouldn't you as a mother be a little upset?

Dr. ELDERS. Senator, the decisions I make as a mother, the decisions that I make as a private citizen, and the decisions that I make as a public health official are sometimes different.

Now, I want my colleagues to think about that: The decisions I make as a mother, relative to my own children's safety and health, are sometimes different than decisions I make as a public health official.

Dr. Elders is being nominated to be the Nation's public health official. I want the Nation's public health official to make the same kind of decisions for my children as she makes for her own. I want her to make the same kind of decisions for the children of this Nation as she would make for her own children.

I do not understand why there is a distinction between a decision you would make for your children and a decision you would make for others.

I concluded by saying:

> Well, in this case, don't you see some potential tragic consequences of making a distinction between the difference of public health director and deciding not to recall a condom that can provide death, or unwanted pregnancy, or as a mother?

And we go on, and I will not continue, because it concluded shortly after that.

Mr. President, it seems to me that the very minimal obligation of a public health official ought to be, at the very minimum, to send out word to the 16- and 17- and 15- and 18-year-olds who think they have a condom that is going to protect them, that you have advertised as protecting them, that you are encouraging them through public health campaigns to use; that when you have been told by the Food and Drug Administration that those condoms are 10 times more defective than is allowed by FDA standards, the very least you could do is put out a notice saying there are some defective condoms out there, and if you have any questions about it, go to the place where you got them and we will replace them. Do not use them. If you think you might have a condom that you have gotten through a school clinic or public health clinic as distributed by the Arkansas Department of Public Health, bring them in and we will give you replacements.

That seems to me to be the least of the responsibilities that we have to the young people of Arkansas and the young people of America.

That is an issue that I cannot resolve in my mind relative to the judgment exercised by Dr. Elders.

Now we are calling on Dr. Elders to exercise judgment on behalf of 255 million Americans relative to our public health. Some of those decisions involve life-and-death decisions, as in this case. It is no secret Dr. Elders thinks the solution to teenage pregnancy is essentially condoms, because she thinks abstinence, while it is an important message, is one that does not work.

I am the first to acknowledge that not everyone—many, in fact—are not going to accept abstinence as a solution. Sometimes realism requires us to look for additional preventive measures. But it seems at the very least we have an obligation to make sure those who are taking those preventive measures know the risk; they are not given something that says this is safe sex and this is not, but they are given something that says this may help but you need to know the risk. And that what we give them, if we find out later is defective and we have not informed them, the very minimum we ought to do is notify them. To me that is a fatal judgmental error that disqualifies Dr. Elders to be Surgeon General of the United States. For that reason, I cannot support her.

I will be happy to yield to my colleague for a question.

The PRESIDING OFFICER. The Senator from Indiana yields to the Senator from North Dakota.

Mr. CONRAD. First of all, I wanted to apologize for interrupting my colleague. I wanted to inquire how much longer the Senator intended to go?

Mr. COATS. You now have your answer because I am now going to yield the floor.

Mr. CONRAD. I thank the Senator.

The PRESIDING OFFICER. The Senator from Virginia is recognized. It is my understanding we have been alternating from side to side.

The Senator from Virginia is recognized.

Mr. ROBB. Mr. President, I rise to support the nomination of Dr. Joycelyn Elders, for the position of Surgeon General, of the Public Health Service.

We have all heard how Dr. Elders was born in rural Arkansas, in 1933; how she entered Philander Smith College at age 15 on a United Methodist Church scholarship, and graduated magna cum laude in 3 years; how, after serving in the U.S. Army, Dr. Elders attended the University of Arkansas Medical School on the GI bill.

We know she was affiliated with the University of Arkansas, College of Medicine for many years, and we know she was named director of the Arkansas Department of Health in 1987 by then-Governor, Bill Clinton.

And we have heard how Dr. Elders fought tirelessly to expand access to health care for Arkansas' women and children.

During her tenure, the number of maternity visits rose by more than 26 percent, the number of women's cancer screenings by more than 30 percent, and the number of individuals receiving family planning services in public health clinics by 35 percent.

And we know that the number of Arkansas children adequately immunized by their second birthday increased substantially and that a statewide tracking system was implemented under her leadership.

But I would acknowledge that some of the things she has said and some of her views have generated controversy. Notwithstanding the controversy, however, I believe Dr. Elders may be just what we need in a Surgeon General.

For many years, my wife, Lynda, has worked with Dr. Elders to combat infant mortality. Lynda has told me how Dr. Elders' commitment to this important issue has assisted not only women in need in Arkansas, but women throughout the South and across the Nation.

I spoke with Dr. Elders at some length earlier this week and I saw the enthusiasm and the dedication that Lynda so admires.

Mr. President, I will admit that I would not have used the words Dr. Elders used to articulate public policy on several occasions in the past. There's no question about that. At the same time, though, I recognize that her directness can force us to see public policy issues for what they are, and can challenge us to address the really tough choices we face.

In that sense, this debate reminds me very much of that regarding the nomination of Dr. C. Everett Koop. The debate then was over a somewhat controversial, blunt-spoken doctor who had made what some considered injudicious public statements. On that occasion, the political sides happened to be reversed. But Dr. Koop was confirmed, and his candor and plain speaking went a long way toward making him a great and nonpartisan Surgeon General.

I believe that Joycelyn Elders will follow that example. She has opinions. We have all seen that. But she holds no "value" higher than the public health. And she has an ability to communicate effectively to the audiences she needs to reach, particularly young people, that could make her one of the most important and influential Surgeons General we have ever had.

In today's world, a world of AIDS, of teen pregnancy, of addiction, and of constrained budgets, America needs a committed and compassionate Surgeon General and in Joycelyn Elders, we will have one. She has battled the odds all her life, Mr. President. She has succeeded despite a childhood of rural poverty. And she overcame a segregated society to acquire an education and a respected profession.

Joycelyn Elders is a fighter, Mr. President. She chose to dedicate her life to public service and this remains her mission.

I believe the controversy she has engendered along the way is the result of her eagerness to identify and solve problems sooner rather than later, not from an effort to offend any person, or any group along the way.

Earlier this week, Dr. Elders sat on the edge of her chair in my office and talked earnestly, eloquently, and energetically about what she wants to accomplish as Surgeon General. I believe, Mr. President, that she has the qualifications, the vision, the commitment, and the energy to do an outstanding job. She certainly has the passion for her work.

I am pleased to support her nomination, and I urge my colleagues to join me in support of Dr. Elders to be Surgeon General.

Mr. President, I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, something very important has been happening in the Capitol these past couple of days. It has had such an impact on me that I wanted to talk about it a little bit; that is, that people in this country, in every State in America, are calling the Capitol and they are talking about the Clinton tax plan. They are talking about how they feel about it.

The President of the United States asked them to do that. He said in his address the night before last: Call. Call your Congressman, call your Senators. In fact, when I came into my office the next morning, my phone lines were jammed. They were jammed in Washington and I could not even call in to my home State offices in Texas because so many people were calling wanting to register how they felt.

We have had over 5,000 calls to my office in the last 2 days. The calls have been 10 to 1 against the tax plan. The people of America are speaking out and they are saying we do not want new taxes. I have talked to my colleagues from both sides of the aisle and they are having the same experience. In fact, the Capitol operators have said that 3 million calls came into the Capitol yesterday, that is far in excess of the normal number of 120,000.

So I think it is time we listen, that we listen to the outcry we are hearing. I have gotten some incredible letters. Some of them have even been faxed because they could not get through on the phone lines. I would like to share a couple of those with you.

Mrs. BOXER. Will the Senator yield to me for a moment for a question?

Mrs. HUTCHISON. The Senator will yield.

Mrs. BOXER. Thank you very much, I say to the Senator.

I remember when the Senator made her maiden speech she did a beautiful job, just as she is doing tonight. She talked about how crucial it is to cut spending. She opposes raising taxes on the wealthy. She wants to balance the budget by cutting spending.

So I would ask her again, if she had some time to think about it, is she going to join with me in cutting out the superconducting super collider, one of the largest things we spend money on around here? Is she going to join with me and others who are trying to really make a dent in this deficit?

Mrs. HUTCHISON. Mr. President, I am really pleased the Senator from California has asked me that question, because there is really a difference between what she believes is spending, and who she believes is rich, and the way I feel about it. I am also pleased that she asked about the superconducting super collider because I am proud to support the super collider, and I want to tell you why. I want to set priorities in spending money, just like every small business person in America does, and just like every household does. My spending priorities are the spending projects that will create future jobs, the real jobs, the permanent jobs that we need in this country. And I want to talk about——

Mrs. BOXER. If the Senator will yield.

Mrs. HUTCHISON. I have not yielded the floor, Mr. President.

The PRESIDING OFFICER. The Senator from Texas has the floor.

Mrs. HUTCHISON. Thank you, Mr. President. I would like to finish, because I would like to talk about the people that the Senator from California thinks are rich.

I am going to talk about Mary King, who wrote me on notebook paper who says:

> The budget plan that is being rushed through Congress is wrong and will hurt the economy and the American people. They said it will be the biggest deficit reduction plan in history. Where is Clinton getting his information? This exact same bill was passed in 1990, and look where it has gotten us. We cannot afford to make the same mistake twice.

As Mary says, we have had a tax bill before in which Congress said we will tax you now, and we will make the spending cuts later. Mrs. King knows, and you and I know, that the spending cuts never came.

She ends her letter by saying, "Please respond." I am responding tonight to Mary King from Austin, TX, and I will respond tomorrow when I vote "no" on this tax bill because the spending cuts will never come.

I also want to read to you from Jerry of Jerry's Ace Hardware:

> DEAR SENATOR HUTCHISON: I am a struggling small business person. I employ eight people in my hardware store. My wife works outside the store. I have a military retirement income for 21 years of service to my country. Because of our outside income, any profit made from the store is taxed at 43.5 percent. We are not wealthy. Most of my employees take in more wages from the store than I do. I have little enough incentive to continue operation of this store. If the President's budget package is passed, it will increase my tax rate to a point that I will have to close my store. Eight taxpaying citizens will be out of work. I strongly urge you to vote no to the budget package.

Hardward store owner Jerry Lucas from North Richland Hills, TX, is the rich person that the Senator from California is talking about.

And then I have one letter from Kingswell Oil & Gas Corp.:

> My company, Kingswell Oil and Gas, is a small but growing part of the Texas economy. It was a start-up firm in 1991 when I applied my 20 years of experience with large firms to start my own business. We file our returns in a subchapter S corporation, so it is my personal taxes. I didn't have a chance to get rich in the bad old 1980's, but I'd like to use my skills to expand a profitable business, to hire people and to have the people that I hire pay personal taxes, as well as FICA taxes.

Then there is the letter from Hubert Palmer. Hubert is from San Antonio, TX.

> I'm an 80-year-old man. President Clinton's scheme is going to kill all of us old folks, as well as everyone else paying Federal taxes. Please, don't let this happen. This will take a huge sum from my earned benefit, taxing me at 85 percent of my Social Security benefits, which I cannot afford to lose. And then President Clinton will give it to someone who knows nothing about 72-hour work weeks, low pay, and great sacrifices.

Mr. President, I think it is very important for us, as we prepare for the most important vote that we are going to have this year, that we just look at the facts, and the facts are that a small business owner who earns $115,000, or two people who earn $70,000 a piece for a total of $140,000, are going to pay 36 percent under this new bill, up from 31 percent. Eighty percent of the small business people in America file their taxes as individuals, and will pay these higher rates. So that means Jerry's Ace Hardware Co. is going to pay taxes at a greater rate than General Motors. Mr. President, I do not think that is fair, and I do not think that is what America stands for.

Now let us talk about those rich people who are getting Social Security. The people I am trying to defend are those rich people who earn $34,000 a year or, if they are married, they make $44,000 a year. Those are people who had a contract with America, and now we are going to break that contract by taxing 85 percent of their benefits because they are not considered to be rich. Mr. President, I do not think that is fair either.

The worst part of this bill is that it has a retroactive tax increase. To think that we will enact a tax tomorrow that will tax people starting last January, before the President was even sworn into office, is impossible. But that is what my friend on the other side of the aisle is going to do tomorrow. Some people talk about what is worse, gridlock or progress in the wrong direction, but I think the answer is clear. We do not have to move just to be moving. I know that the American people do not want to move backwards.

Mr. President, I have spoken about the small business people who create jobs, the Social Security recipients who have worked all their lives, and the taxpayers of this country and of my State. I hope that in 24 hours we will come to our senses, take this tax bill off the table, and sit down together, talk about spending priorities, and make sure that we spend our money on the projects that are going to create real jobs. We must support our small business people, not tax them, so that they will get this economy going by creating permanent jobs.

Mr. President, I think if we do come to our senses, we will not pass the largest tax increase in the history of America. Instead, we will support the small business people and the taxpayers, and we will say no.

Mr. President, I ask unanimous consent to print in the RECORD the letters I referred to during my remarks.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

AUSTIN, TX.

KAY BAILEY HUTCHISON,
U.S. Senate.

DEAR SENATOR HUTCHISON: The budget plan that is being rushed through Congress is wrong and will hurt the economy and the American people.

They say it will be the biggest deficit reduction plan in history. Where is Clinton getting his information? This exact same bill was passed in 1990 and look where it has gotten us. We cannot afford to make the same mistake twice.

I feel like Government is completely out of touch with the American people. The Clinton administration is now trying to start a class war. This is wrong! Eighty percent of the rich in America are first generation money. They have gotten where they are by hard work and dedication, and they employ the rest of us. If you punish them you punish us!

My suggestion to you and all of Congress is to please throw out the bill completely and start over. Don't punish success.

Sincerely,

MARY KING.

JERRY'S ACE HARDWARE,
N. Richland Hills, TX, July 20, 1993.

Senator KAY BAILEY HUTCHISON,
U.S. Senate,
Washington, DC.

DEAR SENATOR HUTCHISON: I am a struggling small business person. I employ eight people in my hardware store. My wife works outside the store. I have a military retirement income for 21 years of service to my country. Because of our outside income, any profit made from the store is taxed at 43.5 percent. We are not wealthy. Most of my employees take more in wages from the store than I do.

I have a little enough incentive to continue operation of this store. If the president's budget package is passed, it will increase my tax rate to a point that I will have to close my store. Eight tax paying citizens will be out of work.

I very strongly urge you to vote no to the budget package.

Sincerely,

JERRY K. LUCAS,
Owner.

KINGSWELL OIL & GAS CORP.,
Houston, TX, August 2, 1993.

Hon. KAY BAILEY HUTCHISON,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR HUTCHISON: My company, Kingswell Oil & Gas Corp. (KOGC), is a small, but growing part of the Texas economy. It was a "start-up" firm in 1991, when I applied my twenty years of experience with large firms to start my own business. KOGC files its tax returns as a Sub-Chapter S Corporation, so its taxes are my personal taxes.

The newest tax bill, having barely survived in both the House and Senate, will very soon be reported out of the conference committee. From the things I read (please see the enclosed Wall Street Journal article), the newest tax bill will deliver another burden to small business, mine included.

You know the issues far better than I do; please defeat this bill. After it has been defeated, please work to cut spending! Spending cuts are the only way we can reasonably hope to balance the national budget. Cuts are reductions in spending—they are not reductions in the rate of increase in spending!

I didn't have a chance to get rich in the "bad old 1980s" but I'd like to use my skills to expand a profitable business, to hire people to help me expand the business, to pay salaries (and FICA) to the people I hire and to pay personal and Sub-Chapter S taxes on income generated by a growing and profitable business. We both know that if small businesses are heavily taxed, they cannot grow. Don't let that happen.

Please vote to defeat the newest tax bill, then find ways to cut spending.

Very truly yours,

STEVEN K. HOWELL,
President.

P.S.—You've gotten off to a great start. Please keep doing a conservative job for all of Texas.—S.K.H.

SAN ANTONIO, TX,
July 28, 1993.

Hon. Senator KAY BAILEY HUTCHISON,
Senate Office Building,
Washington, DC.

DEAR SENATOR: The Clinton Budget plan is nothing but a crafty unethical project. You know it and I know it. President Clinton's scheme will increase federal spending and will also increase federal income taxes for each of the years 1993 through the year 1998. His plan is a disaster.

I am an eighty year old man and his scheme is going to kill all us old folks as well as everyone else paying federal income taxes. I went through the "Great Depression" and I cannot forget it. President Clinton's plan calls for taxing 85% of my social security benefit. This will take a huge sum of my "earned benefit" which I cannot afford to lose and then he will give it to someone who knows nothing about seventy-two hour work weeks, low pay, and great sacrifices.

Please don't let the Clinton plan become law. Thank you.

Respectfully,

HUBERT B. PALMER.

Mrs. HUTCHISON. I yield the floor. I appreciate Senator KENNEDY waiting until I was finished.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I thank the Senator. I wish I could have agreed with her on those points.

Mr. BRYAN. Mr. President, I rise today to support the confirmation of Dr. Joycelyn Elders to be Surgeon General of the United States. I have met Dr. Elders and discussed her record as the chief health officer of the State of Arkansas and her views on a variety of public health issues. While I do not agree with her on every issue, I am confident that she has the background and ability to tackle some of the tough public health problems we face in America today.

Dr. Elders' credentials for this position are impressive. She is a board-certified pediatric endocrinologist, who has been a professor at the University of Arkansas Medical School, a researcher, and the author of more than 150 articles published in medical journals. Her honors include: the American Medical Association's Outstanding Public Health Professional, the National Education Association's Award for Creative Leadership in Women's Rights, and the National Governor's Association Distinguished Service Award.

I have been particularly impressed by Dr. Elders' deep commitment to fighting teenage pregnancy. Dr. Elders has been outspoken on this serious health issue, and has shown the compassion and courage to make a difference. She has cited statistics on this issue that are particularly distressing. In the United States, every 35 seconds an infant is born into poverty, every 32 seconds a 15- to 19-year-old women becomes pregnant, and every 64 seconds an infant is born to a teenage mother. This is a tragedy that directly affects the State of Nevada. Only 5 years ago, Nevada ranked first in birth rate for unmarried teenagers.

This terrible situation strains our health care delivery system, burdens our Federal and State budgets, and deprives many young women of the promise of a better future as they must delay or stop their education to care for a child.

Some have said that Dr. Elders has been too outspoken, too willing to rub people wrong in her quest to reduce this human disaster. The critics can point to statements that would offend some sensibilities. However, I would ask the critics: Has our present course been successful? Are not teenagers having children in greater numbers than ever before? If Dr. Elders offends, I would say the greater offense—the greater moral outrage, is to not try to shake up the status quo and reach these young people in any way that we can.

Dr. Elders has the courage and the experience to challenge these teenagers, to talk to school officials and parents, and to move the system to look hard at the problems and find solutions. For these reasons, I urge the confirmation of Dr. Joycelyn Elders to be Surgeon General.

Mr. KOHL. Mr. President, I would like to join my colleagues who are calling for confirmation of Dr. Joycelyn Elders here today.

There is no reason to put off action until September. There is every reason to confirm her today. There are many crises awaiting her leadership. By far the largest in the one facing our children.

Just last week, the U.S. Development Programme released a study that found a terrifying increase in incidence of HIV-infection in adolescents. Young women between 15 and 25 make up approximately 70 percent of the 3,000 women a day who become infected with the AIDS virus. They also represent 70 percent of the 500 women a day who die of AIDS.

Two weeks ago, the Centers for Disease Control reported that women of all ages were coming down with AIDS four times as fast as men.

Of the 12 million cases of sexually transmitted diseases [STD's] annually, 3 million—one quarter—are among teenagers. And we now suspect a relationship between STD's and a predisposition to HIV infection among women.

And the 1988 National Adolescent Student Health Survey found that 55 percent of adolescent students did not know that birth control pills are ineffective in preventing STD's.

Between 1970 and 1988, the proportion of females 15 to 19 who had premarital sexual intercourse increased from 29 to 52 percent.

Births to unmarried teens continue to increase as a proportion of all births. The percentage of children being raised in single-headed households rise. The percentage of children left unattended after school is increasing.

Nationwide, the average age of first use of cigarettes, alcohol, and drugs continues to drop: 11.4 for cigarettes, 12.8 for alcohol, and 13.5 for marijuana.

And on top of all of this, the percentage of our children being raised in poverty is increasing. In Wisconsin—by most measures a great State—61.6 percent of African-American children under 6 are growing up in poverty—51st in the Nation, Mr. President.

Dr. Elders offers leadership as Surgeon General. She is an impassioned, articulate advocate for children. She knows there are no single bullets. She understands poverty. She cares about education. She values the family. She is about prevention. She is about action. Provocative, perhaps. But so are the problems we face.

She is qualified, competent, and compassionate. She is the President's choice. There could be no nominee with which each of us would agree on everything. That cannot be an excuse for inaction. It cannot be an excuse for delay.

To those here today who have asked, "What is the harm of waiting?", I would suggest that it is significant for the young people who are out there engaging in risky, fatal behavior—often ignorant of the consequences, or in denial of their mortality. It is life itself.

Let us get on with the prevention agenda of Dr. Elders. Let us move responsibly and expediently before the recess.

I thank the Chair.

EXECUTIVE SESSION

NOMINATION OF M. JOYCELYN ELDERS, OF ARKANSAS, TO BE SURGEON GENERAL OF THE PUBLIC HEALTH SERVICE

The Senate continued with the consideration of the nomination.

Mr. KENNEDY. Mr. President, we have had a full day of talking about the qualifications of Dr. Elders. A number of points have been raised. As we reach what I think is probably the end of the discussion this evening, I would like to take the Senate's time for a few moments and address some of the points that have been made by some of our colleagues.

I noticed my good friend from Indiana was talking about what happened in the area of teenage pregnancy in the State of Arkansas when Dr. Elders was head of the Department of Health.

The fact is that there are 1,200 schools in Arkansas. Only 24 of them had the clinics and only 4 of them had clinics that actually distributed condoms. This meant that the local school board had made the decision that they would permit the distribution of condoms.

So in the discussion by one of our colleagues of what happened when Dr. Elders was head of the Department of Health—after many of us had talked about the initiation of this program and about her commitment to school-based clinics and respect for local control—there was a utilization of facts and figures that I think might be considered to be not truly reflective of her initiatives. Of course, I was interested in the point that was raised as well by my friend and colleague about the number of teenage pregnancies, even though the statewide figures would not really reflect the effect of Dr. Elders' program. Actually the increase in teenage pregnancies in Arkansas is somewhat below the national level. What was also not pointed out is that, although the rate of teenage births in Arkansas is higher than the national average, it is because the proportion of the total number of abortions, is much lower. It is interesting, people who have been critical of her talked evidently that somehow she is indifferent about the problems of abortions, and yet they refuse to give any kind of credit in terms of the lower rate in the State.

Basically, this indicates something that we all know, and that is, with regard to statistics or figures, we can often show just about anything we would like.

I would like to summarize and respond to some of the questions and, indeed, the all-out assault that has been made upon Dr. Elders' character, or her views, and on her record.

Dr. Elders has eloquently stated what she stands for. She stands for preventing chronic and infectious diseases, including cancer, heart disease, hypertension, tuberculosis, and AIDS. She stands for reducing infant morbidity and mortality. She stands for eliminating the serious disparities in health problems that minority groups experience. She stands for preventing and reducing the total number of injuries and disabilities in our society. She stands for improving women's health. She stands for providing care and services for our elderly so that they can live in dignity and comfort during their final years.

Most of all she stands for giving American children the healthy start in life they deserve. And she has chosen as one focus of her efforts combating the costly and tragic plague of teenage pregnancy.

Dr. Elders' record is not about positions but about results, and her record in Arkansas is truly an outstanding one. She doubled the proportion of children receiving vaccinations and established a program that was a model for the whole country.

Senator BUMPERS and Senator PRYOR, both of whom are very familiar with the program, talked about that program with great eloquence today and in great detail.

She increased the proportion of poor children receiving comprehensive screening examinations tenfold. She brought AIDS prevention services to every county in Arkansas and dramatically expanded cancer prevention screening for women. Today, every public health clinic in Arkansas provides cervical cancer followup.

Under Dr. Elders' leadership, Arkansas now serves two-thirds of the eligible women and children under the WIC Program, a far better record than the Nation as a whole.

She has led community health projects to stop smoking, to encourage healthy eating and to promote exercise in order to combat heart and lung disease. She has been a national leader in the effort to make children's services available in the real world by making them accessible to children in their schools.

Dr. Elders' opponents know that her nomination would likely be approved unanimously if Senators focused on her real views or her words, so they have sought to create a caricature, a straw woman with which to try to fool the American people.

One particularly hurtful allegation has been aired on the Senate floor today with regard to her position on the Catholic Church. Dr. Elders has been accused of religious intolerance. I know Dr. Elders, herself a woman of deep religious faith, has worked effectively with members of all religions.

One comment that she had made in 1992 has been seized upon by her critics to once again unfairly characterize her. She has recognized that this single remark could be misinterpreted, and, as a victim of prejudice herself, nothing is more abhorrent to Dr. Elders than intolerance.

Here is how Dr. Elders has responded to the charge that she attacked the Catholic Church.

> Although my speech in January 1992 did not specifically mention the Roman Catholic Church, I understand that some Catholics may have taken offense at my remarks. My statement reflected my views that organized religion may not have done all that it could in the past to ameliorate the frightful conditions of slavery and colonization.
>
> The the extent I caused any offense, I apologize.
>
> In my responses to Senator Coats' questions, I mentioned that I had spoken with Bishop McDonald, the Roman Catholic Bishop of Little Rock, and in that conversation and in a written letter I apologized for my statements. As someone who has experienced prejudice firsthand, I reiterated to Bishop McDonald my abhorrence for bigotry in any form. I do not condone bigotry, and I will not tolerate bias and prejudice in the administration of any programs under my jurisdiction as Surgeon General should I be confirmed.

Clearly, this is an apology, a sincere expression of regret for any misinterpretation of those comments that she had made.

The heart of the caricature of this nominee is the portrayal of Dr. Elders as a woman who passes out contraceptives, encourages promiscuity, and ignores the concerns of parents and local communities. The tiny fiber of truth in that scarecrow of distortion that Dr. Elders' opponents have erected is the plain fact that Dr. Elders regards teen pregnancy as a social disaster and a human tragedy that requires a public health response.

And Dr. Elders is right. Every year there are over 1 million teenage pregnancies and less than 1 in 6 is intended—820,000 of those pregnancies will occur to unmarried teens. Almost half of all teen pregnancies end in abortion. Welfare costs for teen pregnancy were estimated at $25 billion in 1990. The human cost of this epidemic of children having children is simply astronomical. We cannot stick our heads in the sand and simply hope that teen sexual activity and teen pregnancy will go away.

One-quarter of 15-year-old girls are sexually active. Sixty percent of unmarried 18-year-olds are sexually active. The figures are even higher for boys.

Dr. Elders knows that we have to deal with the reality of teen sexual activity and that is why the New York Times said in urging Dr. Elders' confirmation:

> She's an unflinching realist, precisely what the Nation's first doctor needs to be.

But although Dr. Elders is a realist, she does not encourage sexual activity and she is sensitive to the views of parents and local communities. It is because she is sensitive to the views of local communities that she insisted that every school-based clinic be established only if the local community requested it and that it provide only those services the community wanted. And because she respects the views of parents, she also insisted that no child using any clinic be given any service unless the child's parents gave specific consent to that service.

Dr. Elders stated her views on contraceptives for teenagers very clearly before the committee. She stated:

> I do support abstinence, especially for adolescents. However, for those persons who chose to be sexually active, I have advocated the use of condoms in promoting safer sex.

Does this position make Dr. Elders a dangerous radical, someone outside the mainstream of public health leadership? On the contrary. This sensible, balanced approach is endorsed not just by Dr. Elders, not just by the New York Times, but by the major public health officials appointed by the Reagan and Bush administrations. Here is what Antonia Novello, President Bush's Surgeon General had to say:

> I believe we must also educate our youth about the best ways to protect themselves if they chose to be sexually active. For them we must not fail to provide adequate instruction on the correct use of condoms.

Former Surgeon General Koop, President Reagan's appointee advocated the use of condoms in his AIDS mailing to every household in America in 1987.

And Dr. James Mason, the head of the Centers for Disease Control under President Reagan and Assistant Secretary for Health under President Bush said:

> This tension between what some of us prefer that children and adults do and what they actually do is why the Public Health Service continues to urge abstinence in some programs and yet promotes condoms in others.

And Health Objectives 2000, the official national health goals proposed by the Bush administration, stated a goal of increased use of condoms by sexually active unmarried individuals age 19 and over, coupled with a goal of reducing the number of sexually active teenagers.

So when we look behind the caricatures erected by the opponents of Dr. Elders, what do we find? We find a woman dedicated to the health of all Americans, a woman with a superb record of achievement, a woman who, far from being outside the mainstream, holds views on appropriate public health policies that do not differ substantially from the views of the major public health officials of the Bush administration.

Mr. President, I submit that it is time to call a halt to this campaign of distortion and misrepresentation. It is time for the Senate to vote to confirm this superb nominee.

I think that by now it is obvious to the American people that Dr. Elders has answered every legitimate question there is to be asked. Her opponents are attempting to win by delay a victory that they cannot win by fair debate on the merits.

The lead paragraph in a story in the Washington Post last Tuesday says it all:

> Republican opponents of Joycelyn Elders' nomination as Surgeon General said yesterday they will attempt to stall her confirmation in the Senate this week in hopes of generating more opposition to Elders during Congress' month-long summer recess.

Let me review briefly some of the specific charges against Dr. Elders to show they have no significant bearing on her character or her fitness to serve as Surgeon General. The record shows how much opportunity the opponents of this nomination have been given to have every charge answered and every inaccurate claim refuted. And I will certainly be prepared to discuss any other issues as well.

Dr. Elders has been questioned about her role on the board of the National Bank of Arkansas in a lawsuit against the bank. The truth about this situation is the suit was a private legal action. Dr. Elders and the other directors were joint defendants in a private shareholder suit. Dr. Elders was never singled out for blame or responsibility in the lawsuit. The suit was brought by certain shareholders against the directors and the President of the bank in connection with a struggle for control of the institution.

Independently of that litigation, the Comptroller of the Currency looked into the finances of the bank. As a result of that examination, a letter of reprimand was sent to every member of the board. Dr. Elders was not singled out. A reprimand is only a warning and involves no penalties whatsoever. It is one of the lowest sanctions available to the Comptroller. In fact, as the former chief counsel of the Comptroller's office in the Reagan administration wrote to the committee, "A reprimand is the least serious enforcement tool used with respect to a director."

Most of the bank's transaction cited by the Comptroller of the Currency were based on the work of a single bank officer acting improperly. As a director, Dr. Elders acted conscientiously but erroneously on the basis of incomplete and misleading information provided by that office.

Dr. Elders has been questioned about Social Security taxes for a home health aide for her husband's elderly mother. In fact, Dr. Elders' husband has power of attorney for his mother and exercises complete control over her finances. Her husband has taken full responsibility for failing to pay the taxes and has paid them in full. Dr. Elders fully meets the guidelines established by the Senate and administration for dealing with these cases.

It is not an obstacle for other nominees and it should not be an obstacle for Dr. Elders either.

Next, Dr. Elders has been questioned about possible conflicts of interest because she worked in an Arkansas nursing home while also serving as director of the Public Health Department.

Dr. Elders' work at the nursing home violated no Arkansas law. In fact nursing homes in Arkansas are regulated by a separate State agency, not the Department of Health. In addition, the nursing home is awarded no contracts or grants by the Department of Health.

Dr. Elders' judgment has been questioned because of an incident involving the discovery of a shipment of defective condoms in Arkansas.

In fact, the condoms were distributed in over 25 States, but the Arkansas Department of Health was the only public health agency in the entire country to notify FDA of the defect. Dr. Elders' actions played a vital role in ensuring that a nationwide recall took place. She deserves praise, not blame for her handling of the situation.

The controversy arose because Dr. Elders decided not to issue a public statement about the recall, based on her professional judgment and the unanimous advice of her department's top experts. They decided the risk of people failing to use condoms outweighed the risk associated with the defect.

A letter from the Association of State and Territorial Health Officials supports Dr. Elders decision. It notes that a public announcement of the breakage of a small number of defective condoms has the potential for critical negative repercussions, including unfounded skepticism about the effect of condoms. We all know what happened to the apples at the time of Alar scare. It is difficult to believe that any Senator could seriously challenge Dr. Elders' judgment in this case.

Mr. President, I want to put into the RECORD, at this point, the letter from the Executive Committee of the Association of State and Territorial Health Officials. I will just read one paragraph.

> As State Health Officials and members of the governing committee for the Association of State and Territorial Health Officials, we believe that the Arkansas Department of Health met the criteria for sound public health practice in its response to complaints concerning breakage of condoms manufactured by Ansell. Dr. Joycelyn Elders made the right public health decision to immediately notify FDA, seize and replace all lots of the defective condoms in stock, and not publicly announcing the discovery of a small number of defective condoms already distributed. Such a public announcement has the potential for critical negative repercussions including unfounded skepticism about the effectiveness of condoms, and thus decrease in rates of condom use.

Mr. President, that is signed by 10 members of the committee. The 11th is out in Iowa dealing with the flood. Three Republicans, six Democrats and one independent; Republicans and Democrats, the members of the board of the governing body of all the State health officers in the country endorse and support Dr. Elders' public health position.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ASSOCIATION OF STATE AND
TERRITORIAL HEALTH OFFICIALS,
Washington, DC, August 2, 1993.

Senator GEORGE MITCHELL,
Senate Russell Building,
United States Senate.

DEAR SENATOR MITCHELL: As State Health Officials and members of the governing committee for the Association of State and Territorial Health Officials, we believe that the Arkansas Department of Health (ADH) met the criteria for sound public health practice in its response to complaints concerning breakage of condoms manufactured by Ansell. Dr. Joycelyn Elders made the right public health decision to immediately notify the FDA, seize and replace all lots of the defective condoms in stock, and not publicly announce the discovery of a small number of defective condoms already distributed. Such a public announcement has the potential for critical negative repercussions including unfounded skepticism about the effectiveness of condoms, and thus decrease in rates of condom use.

Arkansas immediately and consistently took the proper course of action. Between February and June of 1992, ADH received a total of four complaints concerning breakage of condoms manufactured by Ansell. Based on these complaints, ADH discontinued the distribution of Ansell condoms on July 16, 1992 and ordered the recall of these condoms six days later. ADH simultaneously contacted five other States in the region and determined that there were no reported complaints concerning Ansell condoms.

The ADH then notified the federal Food & Drug Administration (FDA) of the defective condoms on July 24, 1992. Four of the six lots tested exceeded the FDA breakage standard of 4 per thousand. The FDA notified Ansell and began seizure proceedings in August 1992. On September 3, 1992 Ansell decided to voluntarily withdraw the defective condoms from the market. Sixty-eight customers were contacted in 28 states when Ansell undertook its recall. The ADH was the only customer in the United States that noticed the problem and complained to the FDA.

Public health decisions are exceedingly difficult because they must be based on the good of the community. Although it would have been a tragedy for one condom to break; it would have been a far greater tragedy to undermine public confidence in condoms, which would lead to reduced rates of usage and pose an ever greater risk to the public health.

Sincerely,

Molly J. Coye, MD, MPH, President, Association of State and Territorial Health Officials; Director, California Department of Health Services.

Charles Mahan, MD, President-Elect, Association of State and Territorial Health Officials; Florida State Health Officer.

Davic Smith, MD, Commissioner, Texas Department of Health.

John Lewin, MD, Director, Hawaii Department of Health.

John R. Lumpkin, MD, Director, Illinois Department of Public Health.

Susan Addiss, MPH, Director, Connecticut Department of Health.

Michael Skeels, PhD, MPH, Director, Oregon Health Division.

Mark B. Horton, MD, MSPH, Director, Oregon Department of Human Resources.

Lloyd F. Novick, MD, MPH, Commissioner, New York State Health Department.

George K. Degnon, CAE, Executive Vice-President.

Mr. KENNEDY. Next, Dr. Elders' salary as the director of the State department of health has been criticized.

In fact, this issue has been discussed in Arkansas newspapers for years. Any suggestions that Dr. Elders has done anything wrong has been rejected. The salary arrangement was approved by the Arkansas State Government and permitted her to retain her academic tenure while protecting her retirement investment, which began when she first joined the State government in the early sixties.

The salary situation is not unique. Several other States, including Florida, Texas, and Washington have similar arrangements to encourage medical professionals like physicians to work in their departments of health. The arrangement was a way to prevent outstanding public servants like Dr. Elders from having to make too great a financial sacrifice for them to stay in public service.

Next, Dr. Elders has been questioned about double-dipping, by taking vacation days from her job in Arkansas to serve as a paid consultant to the Federal Government while preparing for her confirmation.

It is a standard practice for Federal nominees to retain their jobs until their confirmation by the Senate.

The ethics officer at the Department of Health and Human Services, who served in the Reagan and Bush administrations, has written a letter stating that Dr. Elders was working in accord with all relevant Federal laws and regulations and following procedures that have been used by the previous administration, Republicans and Democrats alike. Clearly she did nothing wrong in adopting this arrangement.

Next, it has been charged that Dr. Elders violated the Arkansas State Political Practices Act when she spoke to a pro-choice rally in January 1992.

In fact, a State police investigation cleared her of any violation. When a request for a special prosecutor was made to force the prosecutor to pursue these charges anyway, the Arkansas Circuit Court dismissed the request for the special prosecutor and the appeal was rejected by the Supreme Court of Arkansas.

Despite these unfair attacks, Dr. Elders has come through the process stronger than ever. She has impressed the committee, just as she will impress the country with her integrity, her forthrightness and her extraordinary commitment to the public health.

Dr. Elders easily meets the high professional and ethical standards required of the Surgeon General. In fact, she surpasses them. She may be an unconventional Surgeon General, but she also has the potential to be a great Surgeon General.

Harry Truman would have loved her. She has his gift for plain speaking, which is why the Nation will love her, too.

Many of us who have come to know and respect her in these proceedings feel that she is just what the doctor ordered for the Nation at this time in our history, with all the problems we face in public health.

That may be the real reason why her opponents are continuing their attacks long after any reasonable investigation should have ended with a vote. Their real concern is their fear that Dr. Elders will turn out to be too good in her position as the Surgeon General. I agree with that assessment. But it is no reason for the Senate to refuse to bring this nomination to a vote.

Somehow they hope additional delay until September will permit something to turn up that would sink her nomination. Frankly, I think the opposite is true. The opponents have already peaked in their opposition to Dr. Elders. They will get fewer votes against her in September than they will get today. The reason for acting now is obvious. The Nation needs her as Surgeon General. A strong majority of the Senate wants her as Surgeon General, and it is time for the Senate to make her the Surgeon General.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

LEGISLATIVE SESSION

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I have discussed the status of the budget reconciliation conference report with the distinguished Republican leader and with the chairman of the Budget Committee. And I believe, I am informed that similar discussions have occurred with the ranking member on the Republican side. We have reached an agreement with respect to the handling and disposition of the budget reconciliation conference report.

Therefore, based upon those discussions, Mr. President, I ask unanimous consent that the Senate now return to legislative session; that there then be a period of 90 minutes for debate on the subject of the budget reconciliation conference report to be equally divided between Senators SASSER and DOMENICI or their designees; that when the Senate completes its business today, it stand in recess until 9:30 a.m., on Friday, August 6; that immediately following the prayer, the Journal of proceedings be approved to date; that the time for the two leaders be reserved for their use later in the day; and that the Senate begin consideration of the conference report to accompany H.R. 2264, the budget reconciliation bill under the statutory 10 hour limitation; that the first 2 hours for consideration be limited to debate only.

The PRESIDING OFFICER. Is there objection?

Mr. GRASSLEY. Mr. President, reserving the right to object, I do not think I will have to object, but I assume, implied in that unanimous-consent ruling is, that people that control the time on this side be polite enough to let those of us who have sat around here for 3 hours have an opportunity to speak first on the issue. Will not that be implied? Would the Senator think that would be implied?

Mr. MITCHELL. I think courtesy——

Mr. GRASSLEY. I was going to speak on the budget. Does the majority leader think that would be fair to assume?

Mr. MITCHELL. I think that courtesy and politeness is always implied in our actions.

Mr. GRASSLEY. I do not object.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I think we have two Senators who want to speak who have been waiting.

Mr. GRASSLEY. It was our turn on this side. They were going back and forth. It was our turn on this side.

Mr. MITCHELL. I think——

Mr. GRASSLEY. That would be part of the courtesy I was talking about.

Mr. MITCHELL. I think if we added up all the time used on this subject today, it would be about 90 percent on that side and 10 percent on this side. So the courtesy would indicate—I am really not sure of the time. I have not been on the floor during the day. But I think we can accommodate the Senator. The Senator from Iowa wants to speak, and the Senator from Alabama has been waiting as well and wants to speak. I wonder if we can reconcile that. The managers, I think, will be happy to accommodate them.

Mr. DOMENICI. To speak the rest of the evening?

Mr. MITCHELL. I do not think that is their intention.

Mr. DOMENICI. We might accommodate that even.

Mr. MITCHELL. Might I inquire how long the Senator from Iowa wants to speak. The Senator from Alabama wants 10 minutes.

Mr. GRASSLEY. I will wait another 10 minutes. I only have 45 minutes to drive home while these guys can walk home in 10 minutes. I will yield to Senator HEFLIN.

Mr. HEFLIN. The Senator from Iowa was here before I was.

I yield to Senator GRASSLEY.

Mr. MITCHELL. We are having an excess of politeness now.

The PRESIDING OFFICER. Under the previous order, the time will be controlled by the Senator from Tennessee and the Senator from New Mexico.

Who yields time?

Mr. MITCHELL. Mr. President, I designate the Senator from Maryland, Senator SARBANES, to control the time on this side in place of Senator SASSER. Could the Senator from Iowa indicate how long he wishes to speak?

Mr. GRASSLEY. About 12 minutes.

Mr. DOMENICI. I yield 12 minutes to Senator GRASSLEY.

The PRESIDING OFFICER. The Senator from New Mexico yields to the Senator from Iowa.

IOWA CONSTITUENTS ARE AGAINST THE PRESIDENT'S BUDGET

Mr. GRASSLEY. Last night, I reported to my colleagues that my calls from Iowans were running 75 percent against the President's budget. Today, I got more calls, and the percentage against the President is now up to 80 percent. These numbers are similar around the country, and I urge people listening, who have not called yet to call that number that was given to call your Members—202-224-3121—to register your feelings about this particular issue.

I am getting not just calls, but I am getting letters and faxes as well. I am not getting them just from Iowa, but I am getting them from around the country as well.

Here is one example, Mr. President, of a fax I got. The vast majority of calls are like this fax. The message is short, it is direct, and very instructive.

As you can see here, it says: "No on Clinton's tax and spend package."

These calls were solicited by the President of the United States. He asked the people to call their elected representatives, and he asked these people to register their feelings on his budget. The people of this country have followed his instructions, and they are rejecting this program overwhelmingly. It is my judgment that the President has a moral obligation to pull down the bill and to start over again.

The American people want us to cut spending first. This budget cuts spending last. Next year, there are absolutely zero budget cuts. Taxes will go up $32 billion next year, but there are no spending cuts. The spending cuts come manana. This budget cuts spending last, and 80 percent of those cuts will come 4 or 5 years down the road in this 5-year plan, and that goes well into the term of the next President.

This town right here, Washington, DC, tends to orbit the real world rather than live in it. So I brought with me tonight a few snapshots of reality. I would like to share with President Clinton and my colleagues who support this budget some real life anecdotes that will show the negative impact this budget will have on America.

Here is a letter from a small manufacturer in Iowa. He says the tax bill will cost new jobs at his plant.

Here is what he says:

> SENATOR CHARLES GRASSLEY: Since 1986, we have created over 400 new, permanent jobs in our community of 28,000. Because the numerous disincentives to investment being discussed or proposed, we have decided to postpone our plan for a $7.5 million, 2-year plant expansion that would have created an additional 150 jobs.
>
> Dick Olsen, from Clinton, Iowa.

This one is from the vice president of a distributorship.

He says this:

> DEAR SENATOR GRASSLEY. * * * Our business has grown from 85 employees in 1991 to 112 at the present time, and the reason for our growth is that we have continually reinvested our earnings into new branches, additional employees, and new technology. Therefore, it is understandable that we are quite disturbed by the following two elements of the President's proposed economic plan:
>
> An increase in the top rate of 31 percent to 36 percent, with an additional 10 percent surtax on taxable income which exceed $250,000, for subchapter S corporations.
>
> For businesses whose annual taxable income exceeds $10 million, the top corporate rate will be increased from 34 percent to 36 percent.

Actually it turned out to be 35 percent in this compromise.

He concludes:

> Because of the impact of these proposed tax increases on both our company and our customers, we will find it very difficult to continue our investment in people, plant and equipment.
>
> James C. Schmitt, Cedar Rapids, Iowa.

This one is from the President of a gas and electric company in Iowa. This is for the benefit of those who say this budget will not tax the middle class. He tells how the higher corporate taxes will be passed on to anyone who uses utilities. I think that covers everyone, Mr. President.

Here is what he says in one paragraph:

> We are asking the Iowa Utilities Board to consider the impact of President Clinton's proposed Federal corporate income tax increase—$1.2 million—as part of the final rates, which would take effect March 3, 1994. When President Reagan reduced the corporate Federal tax rate in 1986, we reduced our electric rates by 5 percent.

Well, they will not get their electric rates reduced this time. They will get them increased, and it is because we will increase taxes.

Finally, this letter is from the President of a small software company in Iowa. This letter says it better than any speech I could give on the floor.

Here is what it says:

> DEAR SENATOR GRASSLEY: I am president of a small software company in Iowa City and I'm very concerned about the recent discussions about President Clinton's proposed tax bill. I have never before written a letter to an elected official so this illustrates my concern over the proposed legislation. In February I was forced to lay off 10% of my employees. If these tax increases are passed I expect the impact to cause additional layoffs. Although President Clinton has done very little since he was elected, his proposals have been sufficient to create tremendous uncertainty within the business world.
>
> President Clinton was elected on the premise that he would change the status quo in Washington, but this is not consistent with his actions. His proposal to raise taxes now and maybe the deficit will be reduced in 4 to 5 years is the old Washington line. I must run my company with the revenues I have. Why can't the government? Certainly it requires hard decisions, but as I tell my employees that's part of the job.
>
> The deficit is a terrible burden that we must address, but it must be done by cost reductions, now new taxes. If the economy is put back on a growth track then increased revenue will result and the deficit will be reduced if Congress has the will to control expenditures.
>
> Sincerely,
>
> REXFORD L. SMITH,
> *President.*

So, Mr. President, these are the voices of those about to be saddled with a tax-and-spent budget. This is proof that the budget will cost jobs. It is not just evidence. It is not even just compelling evidence. It is proof.

These are the people who create jobs in this country. We cannot command them to expand jobs. We pass a tax law that becomes either incentives or disincentives to create jobs, and guess which one this package is going to present us. It is a job killer, Mr. President. And I hold up these letters as proof of what the people who create jobs are saying to us because they are not going to create those jobs.

Mr. President, I yield the floor and any of my 12 minutes I yield back, as well.

The PRESIDING OFFICER (Mr. CAMPBELL). Who yields time?

The Senator from Maryland.

Mr. SARBANES. Mr. President, I yield 12 minutes to the distinguished Senator from Alabama.

The PRESIDING OFFICER. The Senator from Alabama [Mr. HEFLIN] is recognized for 12 minutes.

Mr. HEFLIN. Mr. President, I rise today in support of the Omnibus Budget Reconciliation Act of 1993 conference report. I believe this legislation to be the very best hope we have—in fact, the only hope we have—now or in the next 4 years of finally getting a real and firm handle on our massive national debt and yearly deficits and regaining control of our own economic destiny.

We are at a crossroads with regard to this legislation, and the choice facing us is crystal clear: We either keep the deficit reduction momentum going by supporting this plan or we will stop it in its tracks and go back to gridlock and business as usual. For me, the choice is obvious.

For the sake of our children and grandchildren, we must finally take responsibility and do something about deficit reduction. As Americans, we must not allow the momentum that we enjoy now to slip away, perhaps not to be regained in our lifetimes. As leaders, we must support this plan as the only credible and viable alternative aimed at controlling the deficit and cutting spending.

A majority of the public understands that more than a dozen years of borrow-and-spend economic policies have run up a horrendous $4 trillion national debt that threatens America's future.

The public's message last November was unmistakable and convincing: Business as usual is over. The fundamental question before us today is whether we will act to reduce the deficit. If we do not, the only real opportunity we have had in recent memory will be squandered.

This deficit reduction plan calls for a reduction of $496 billion over the next 5 years. That is certainly not as much as I would like to have seen come out of the conference. I had wanted over $500 billion, at least, in deficit reduction. But the fact is that this bill still provides for the largest deficit reduction in history.

Another fact is that despite its opponents' claims, this package contains the largest spending cuts in history at nearly $255 billion, compared with about $242 billion in new taxes. More than 200 specific cuts in specific programs are included in this plan.

There is a freeze on discretionary spending, not only for this year, but for the entire 5 years covered by this budget.

It is also a fact that three-fourths of the new revenue will come from those with gross incomes of more than $180,000 a year.

The only tax increase that will directly affect the broad middle class is a 4.3-cents-per-gallon gasoline tax increase. My inclination is to oppose a gasoline tax increase. But, as with most things considered by Congress, it comes down to a matter of choosing the best alternative.

According to the American Automobile Association it will cost an Alabamian, who drives 12,000 miles a year, $27 over that year, less than a dime a day. In my judgment, a small increase in the gasoline tax is a much better and more fair alternative than the original Btu tax, which I opposed from the outset.

Mr. President, the easy thing to do is to vote "no" on this package and then trumpet that vote as a stand against tax increases. There is nothing hard about doing so. Indeed, the wise political position to take is always the one against taxes. This is always the safe position to take. It takes courage and leadership to cast a "yes" vote on taxes, even when we know it is the responsible thing to do. As we know, the easy vote very often will be the most irresponsible vote.

This modest increase will be more than offset by the lower interest rates accruing to the economy as a result of serious deficit reduction. Lower interest rates will stimulate the economy by encouraging consumer spending and business investment. The immediate beneficiaries of this deficit reduction, therefore, will be home buyers, car buyers, and anyone looking to finance a major purchase. Small business owners will benefit, since they will be able to afford to finance investments in equipment or buildings.

This plan offers the twin hopes of making America grow again and helping the economy expand by reducing the deficits that have been choking off jobs and growth and by shifting the Federal budget away from wasteful spending toward sound investment.

For the first time since it began growing so rapidly 12 years ago, we have the momentum to take direct action to begin reducing the deficit. If we do not do that now, we will lose that momentum.

Some groups and media organizations have been successful at portraying this package as simply a tax bill. However, the bill's spending cuts—which its opponent rarely mention—outweigh the new taxes by several billion dollars, so it is really a disservice to label it.

Perhaps the greatest misinformation campaign surrounds the income tax increases. Judging from the telephone calls and letters to my office, everyone seems to think his income tax is going up. But this is not the case. In checking with the income tax division of the Alabama Department of Revenue, we were informed that according to its latest figures, only 32,000 Alabamians reported taxable income above $100,000 a year. According to reliable estimates, the new income tax rates contained in this bill would be applicable to fewer than 15,000 Alabama taxpayers.

These new income tax rates will affect less than 2 percent of Alabamians, as over 98 percent will see little or no change in their income tax rates. The public should understand that regardless of the distortion surrounding this plan, it is first and foremost a deficit reduction plan.

To show how misinformation has gotten out, let me give the story of a phone call that came to my office. It was answered, and the person said he was greatly opposed to this tax package. He was asked, "Well, how much money do you make a year?" He said, "I make $24,000 a year."

He got the answer back from a member of my staff who said, "You will not have a tax increase; you will have a tax cut because of the earned income tax credit that we have in the bill."

He said: "Is that right? I did not understand that. I have been told that I was going to have to pay more income tax."

And so he said, "I did not know that." Then he said, "Well, I will tell you one thing; I am against it anyway, because it is retroactive.

Now, you know retroactivity applies to tax cuts, as well as it does to tax increases. I oppose that, and I wish we did not have it. Nevertheless, we have a situation where it is not the first time. In the 1986 tax bill, under Reagan administration, there was a tax increase that was retroactive to the first of the year then.

I do not think there is any credible alternative to the legislation that is before us. There is no other plan aimed at deficit reduction, spending cuts, and expanding the economy, as this one is.

The cost of doing nothing is too great. The price of delay is too high. This balanced plan represents fundamental change for our Nation that is historic in scope: The largest deficit reduction in history and the most massive set of spending cuts in American history. More importantly, it represents the hope of a sound economic future for our children and grandchildren.

I will cast my vote in the affirmative, and support the only plan we have for restoring economic stability and promoting deficit reduction. This package puts us back in control of our economic destiny. By passing this conference report, we will be providing leadership and taking responsibility for the economic strength of this country.

The PRESIDING OFFICER. Who yields time?

Mr. SARBANES. Mr. President, I want to commend the very able Senator from Alabama for his very strong statement, and particularly for his effort to clear away a lot of the misconstruction that exists about what is contained in this package.

I think it is very important. I think it is a point that needs to be developed. I am delighted that he has been in touch with his State's tax officials in order to ascertain exactly what the facts are.

A lot of people, unfortunately, have been led into believing that they are going to be paying higher taxes. That is simply not the case. I hoped, in the course of the debate here, we would at least get out exactly what the facts are as to whom the revenue increases apply.

I thank the very able Senator from Alabama for his very strong statement.

Mr. HEFLIN. I thank the Senator.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. Mr. President, how much time has been used on my side and how much remains?

The PRESIDING OFFICER. The Senator from New Mexico has remaining 36 minutes and 34 seconds.

Mr. DOMENICI. I yield 15 minutes to my friend, the senior Senator from Alaska.

The PRESIDING OFFICER. The Senator from Alaska [Mr. STEVENS] is recognized.

Mr. STEVENS. Mr. President, it is with a heavy heart that I come to the Senate tonight, because in the 25 years I have been here, I have not seen division in this body expressed so dramatically as it is on this legislation.

As both the resolution and this bill came through the Senate, we tried to amend this package approximately 72 times. When I say we, I mean the Republican Members of the Senate. We tried to adjust the taxes. We tried to reduce spending. All of those amendments were defeated.

We have been accused of gridlock. We have been accused of not being supportive.

I have been a member of this conference committee and I come, as I said, with a heavy heart because I was not even invited to the conference. I was not allowed to attend and I was not even given notice of when it was taking place.

Mr. President, we have before us the largest tax increase in the history of the United States. On Tuesday night, President Clinton asked the American people to call their Members of Congress—and Alaskans responded. They responded because they know that in the first year of this bill they are going to pay over $10.50 in new taxes for every dollar in spending cuts.

They called my offices in Ketchikan, Juneau, Anchorage, Fairbanks, and Kenai. They even called my Washington office at a rate of nine or more against the bill for every one that called to support it.

If we had time, I could detail what this bill does to the Federal employees that I have tried to support over the years. The military retirees' COLA's will be postponed. The civilian retiree's COLA's will be postponed.

I hear people say that the tax increases are not going to affect everybody. That is wrong. I can stand here tonight and tell every Government employee they are going to be affected by this bill. Every retiree is going to be affected by this bill. Every person who drives a car is going to be affected by this bill. Every person who flies a plane is going to be affected by this bill.

And if anyone who votes for it thinks they are not going to hear from their constituents as I heard today, they are mistaken.

Hundreds of Alaskans called me. President Clinton asked them to call me, and they have. These Alaskans who are calling me nine to one know they are going to be affected by this bill.

Sure, there are some that would benefit from the earned income tax credit. They deserve help. And that, again, is why I am here with heavy heart, because I think we should have been able to fashion this bill so that it would help the people who need it but, at the same time, not hurt so many.

I have some real problems with the gasoline tax. My State—one-fifth the size of the United States—produces 25 percent of the domestically produced oil in this country. It is shipped and sold only in the United States.

We will find that this new tax may apply to the fuel that runs small generators throughout the rural parts of Alaska. I was in the Kuskokuim in July. The people in that area were paying $3.11 to $3.50 a gallon for gasoline to run their outboard motors. They are paying more than that in some places for diesel fuel to run their generators. Now they will pay even more.

I do not understand why we have to have a gas tax now when, really, taxes are not the answer. The answer lies in reducing spending. And I think the majority of American people agree on that.

The group, Citizens for a Sound Economy, estimates that 1,300 Alaska residents could be put out of work by this budget package. That figure does not take into account the 5,500 jobs that Alaska is expected to lose due to defense cuts or the defense jobs that have already been lost.

My State is a State of small business. Nationally, about two-thirds of the taxpayers affected by the income tax increases are small businesses.

In my State, 94 percent of the businesses are small businesses. Between 1988–90, they created 95 percent of the net new jobs in Alaska.

Just recently, I came to the floor and talked about the economics of small business. I just do not believe some Members of the Senate understand what it means to change policies midstream in a sector of established capital and established businesses.

The businesses in Alaska are small businesses. I have seen some of these businesses grow in my lifetime from what we call very small businesses to the larger businesses of our State, but by national standards these businesses are still small businesses. They are people who plow back into their business their earnings and live off a very, very small amount of profit that is left. They literally put their "sweat equity," as we call it, back into their businesses.

Now, whether it is a person with small planes running a bush operation, passenger operation, a fishing vessel, or a fellow running a couple of trucks that work on the highway, or the small miner, you are talking about small business people that have to plow back an overwhelming share of their after-tax dollars to pay off many of the loans that help create their businesses and help expand them.

In Alaska, we have 14,000 sole proprietorships, subchapter S corporations and partnerships, and they are going to pay much higher taxes under this bill. As I said, those businesses provide 70 percent of the private sector jobs in Alaska and are responsible for creating 95 percent of the new jobs.

Mr. President, I do not think this package is a deficit reduction bill. I wish it were. I wish we could have had the bipartisan support we should have had in dealing with the major questions that face this country—namely, the national debt and the annual Federal budget deficit.

I could go on and on, but as I said, I have a heavy heart because there are many of us who have spent a long time here who would have liked to have been involved in fashioning a bill that could have had the bipartisan support it should have at this time. Under this proposal the national debt will increase $1.5 trillion over the next 5 years.

Although my party shoulders some of the blame for the deficits of the past decade, in this instance, the responsibility for this bill which increases the debt lies on the other side of the aisle. The Republican Members of the Senate were not permitted to be part of the partnership that ought to exist in this body in formulating a bill such as this. I regret that, and I regret that I have no alternative but to vote against the bill.

Let me repeat again that I am saddened that the attempts of our young President to try to find approval for his new program cannot be accorded approval by the Members on this side of the aisle because of what I believe has been a one-sided approach to the problem of getting congressional approval. We have all just watched the proceedings in the House. We have seen how narrowly this proposal before us had been approved there.

It is my judgment that, had there been a bipartisan approach to begin with, it might have received a different welcoming here in the Senate. I am hopeful the Senate will send this proposal back to the House and tell the House we want another conference. I am hopeful we could have a conference which is bipartisan, one in which we have full participation by Republicans and Democrats, and one in which the ideas of both sides of the aisle are considered before the President is given a bill that must address the most difficult problem we face, and that is this tremendous national debt.

How much time remains of my allotted time, Mr. President?

The PRESIDING OFFICER. The Senator has about 3½ minutes.

Mr. STEVENS. Let me reserve that time for some other speaker, and I thank the Chair for his courtesy.

The PRESIDING OFFICER. Who yields time?

The Chair advises the Senator from Utah that the Senators from Maryland and New Mexico control the time.

Mr. DOMENICI. How much time do we have left on our side?

The PRESIDING OFFICER. The Senator has 23 minutes and 26 seconds.

Mr. DOMENICI. I yield 7 minutes to the Senator. I am delighted the Senator has stayed this evening so he could talk with us at this time.

The PRESIDING OFFICER. The Senator from Utah [Mr. BENNETT] is recognized.

Mr. BENNETT. Mr. President, as I was watching this debate on television from my office, a member of the President's party was carrying on in great detail about the fact that the tax rise would hit only the rich. He was repeating what we saw last night in the President's bar graphs. You remember there was a little teeny line, and a little teeny line, until you to the rich. And then there was a big bar. He said this is where all of the taxes would come.

I hurried over to the floor. The Senator who was making that statement had left the floor. So at that time I let it pass. But I am taking this opportunity to respond to that in hopes that I can add something to the understanding of the Senate with respect to this debate. Had the Senator been on the floor, I would have asked him is he was familiar with the tax form known as a K–1. All of us are familiar with the tax forms known as W–2's. We get those every year and file them with our tax returns. But a K–1 is a tax form that not very many Americans are familiar with. I am very familiar with it. If I may be personal for a few moments, let me describe how a K–1 works. I will put in my own circumstances.

I was the chief executive officer of a small business. It was growing, it was doing well, it was doing well enough that it could pay me a salary of $140,000 a year, roughly what we earn here as Members of the Senate; even a little more. I got a W–2 that said $140,000.

Four of my six children were still living at home with my wife and me. That means we had six deductions. Put them at $2,000 a piece, that is $12,000; that brings the $140,000 down to $128,000. Then the mortgage on my house, interest payments were about $10,000 a year; now we are down to $118,000. With tax payments to the State and charitable deductions—to keep the matter simple let us say my taxable income came down to $100,000 a year. Under the President's bar graph I would not be affected by this bill and I could file my tax return, pay $28,000 in Federal tax, $7,000 in State tax, or $35,000 tax liability.

Then I get my K–1. The K–1 is the form that is filed by those filers who own interest in S corporations. The S corporation does not pay any tax. Instead, it fills out K–1's and says to the shareholders: This is your share of the corporation and therefore this is your share of the corporation's profits. Therefore, this is what you have to pay tax on. The year I am referring to my K–1 said $400,000. My share of that business had earned $400,000. All of a sudden, instead of my taxable income being $100,000 my taxable income was $500,000.

Immediately I lost the deduction for my wife and my children, immediately my charitable contributions were discounted and everything else. But let us leave that out and keep the conversation simple: $500,000, instead of owing $35,000 in taxes, and all of a sudden, I owe an additional $140,000 in taxes. Where am I going to get $140,000 on a salary of $140,000? It is very simple. I go to the company and I say, "I want $400,000. You have earned $400,000, I want it." Well, actually I was a little smarter than that. I went to the controller, the chief financial officer of the company and I said, "How much have we got? We have earned $400,000, my share, everybody else's share, equal amounts."

He looked at me and said, "You know how much we have, you are the CEO of this company. We don't have any of that money. It is out in the warehouse in increased inventory we had to buy to take care of our increasing sales; it is in new buildings, new computers, new work stations we had to buy for our increased number of employees; it is in the receivables that we have had to take on as we handled these new sales. We haven't got $140,000 to give you."

Obviously, I have to have $140,000 because the Government wants it right now, and they want it in cash. They will not take the share of receivables or the share of inventory. They want it in cash, and they want it right now.

Do you know what we had to do, Mr. President? We went out and borrowed the money to pay our taxes.

That is when we were in the eighties, when we were getting rich off the terrible Reagan tax cuts. Actually, what we were doing was taking advantage of the tax atmosphere that made it possible for us to go from zero employees to today 1,400 employees. You take the taxes returned from those 1,400 employees, you take the taxes returned by people like me who were owners, who put it on our K–1's and put it on our form 1040's, and you will find that the Government got a whole lot more money as a result of the business we created and the small business that turned into a big business and the jobs we created, than they would have gotten if they had held the higher tax brackets and held down our growth.

If you look at the President's tax program, if I were to get those K–1's today, I would not be paying $28,000 for every $100,000 in K–1 income. No, I am in that big group there. All I take home is still $140,000, and the President says I am not affected. But I get that K–1 income, and, all of a sudden, I am looking at not a Federal rate of 28 percent, which was true in the case I just described, but an effective Federal rate of 42.5 percent. You add the State tax to that and I am getting perilously close to 50 percent.

So now when I go to the controller and say I want $140,000 no, no I don't want $140,000 to pay my taxes, I want $250,000 to pay my taxes, and we have to go out and borrow it, I know exactly what they will say. They will say to me, Mr. Bennett——

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. DOMENICI. I yield 1 additional minute to the Senator

The PRESIDING OFFICER. The Senator is recognized for 1 additional minute.

Mr. BENNETT. Mr. President, they will say: "Tell you what you do. The best proof against this tax bill is to slow your growth, stop making so many sales, stop needing so much inventory, stop building so many work stations and stop hiring so many people. You will grow yourself into bankruptcy."

Even in the 1980's, I had shareholders who were accusing me of doing that, saying we are growing this company too fast, we cannot afford this kind of growth because of the tax burden.

Now we have taken the tax burden which used to be 28 percent, prior to the 1990 agreement, to 42.5 percent. I tell you from personal experience, we will destroy jobs. Those of us in that big bar that the President is talking about should remember that 77 percent of the taxpayers in that bar have K–1 income on their 1040's. It is not the W–2's that we are talking about.

That is the message that I leave here tonight, Mr. President. I thank the Senator from New Mexico for the opportunity to speak.

Mr. DOMENICI. I thank the Senator for his excellent remarks.

The PRESIDING OFFICER. Who yields time?

Mr. SARBANES. I yield 15 minutes to the distinguished Senator from South Dakota.

The PRESIDING OFFICER. The Senator from South Dakota [Mr. DASCHLE] is recognized for 15 minutes.

Mr. DASCHLE. I thank the Senator for yielding time.

Mr. President, the House has just voted. It voted 218 to 216 to agree to the deficit reduction package that we are debating tonight. So attention now turns to the Senate, and within the next 24 hours, we will come to our conclusion about whether or not this Nation, this Congress, the American people commit to honest deficit reduction over the next 5 years.

We certainly cannot blame the American people for being misled, for being confused, for all of the questions they have about what is right, what is wrong, what is true, what is untrue.

There are accusations, allegations, statements, counterstatements. So it is understandable the American people would be confused when you strip away all the rhetoric and get down to who is affected, who is affected when we talk about small business?

The Senator from Utah made an excellent statement, and I commend him for it. I am sure, as he indicated, he was directly affected by the tax structure as he organized and ran his business. But the bottom line is, if this legislation passes tomorrow and taxes are enacted, over 90 percent—90 percent of all businesses will see their taxes go down. That is what the chart says: 90 percent go down, 4 percent of those in small business will see an increase. Four percent.

Those are not the numbers of the Senator from South Dakota. Those are not the numbers of Senators on this side of the aisle. Those numbers come from the Department of Treasury. They come from the Congressional Budget Office, the OMB.

Authoritative, objective analysis which has been done on this plan says that 4 percent of all business will experience an increase, and 90 percent of business will actually go down in their taxes. Why? Because we are increasing expensing almost double what it is today; because we are going to give capital gains treatment to investments in small business that they did not have before; because we are going to change the depreciation allowance for alternative minimum tax; because we are doing a number of things in real estate to allow more business the opportunity to use the tax tools available to them to qualify for this 90 percent.

So, Mr. President, that is where we start. Small business will benefit from this plan, and there should not be any confusion about that.

There is another matter that ought to be clarified and that has to do with individual tax rates. I received a lot of questions from people calling in today, yesterday, all month long, really, since we adopted it. They said: "I don't want my taxes increased." Frankly, I do not blame them. This is a difficult time for most American families. Their costs are going up, their purchasing power is going down. The last thing they need—the last thing they need—is more taxes.

So here is what this plan does and, again, I do not think anyone will dispute this fact—no one can because they are not the numbers of the Senator from South Dakota. These are the numbers from the Office of Management and Budget and the Congressional Budget Office.

The gross family income in thousands of dollars is depicted here. It is pretty simple to understand. If you fall in that zero to $35,000 gross income category, Mr. President, you can see what your tax is. It is zero. If you fall in the $25,000 to $50,000 gross income bracket, you can see what your tax is. It is zero. If you fall in the $50,000 to $75,000 tax bracket, you can see what your income tax increase is and, again, it is zero.

In fact, you can go all the way up to $180,000 on a joint income tax return and, again, as you see the chart, it is zero increase in taxes. It is only when you get to that $180,000 to $310,000, Mr. President, that we see an increase. Look at what that increase is. We are talking 5 percent. And when we go above $310,000 now you are talking about a small fraction—a small fraction—in joint returns of all those who file returns, a fraction of 1 percent, frankly, and here we are talking 8.6 percent.

So those are the facts. Those are the facts. Zero income tax increase from $25,000 all the way up to $180,000.

So I do not know how one argues that fact. The change in the income tax rates that you hear so much about do not affect those people making less than $180,000 in joint returns.

You also hear so much about what effect all these income tax rates have on the economy and have on the American people. Mr. President, I think this chart lays it out as well as any I have seen because this really tells the story.

You hear all of these crocodile tears about increases on taxing the American family. You have already seen who it affects. We are talking about people in the $310,000 category.

So let us look at history here, from 1960 to 1994. Let us examine just briefly where we have gone and where we are going. We started in 1960 not at the 39 percent we are talking about today. We started up at 91 percent for that group that I just described in my last chart—91 percent. And then we went down to 71 percent. And then in 1980 we dropped to 70 percent. And while it does not depict it here, for the first half of the 1980's we were at 50 percent, down in 1991 to 31, and now up to 39.

So if we enact this change, using those revenues, I emphasize, for deficit reduction—the President has committed to deficit reduction a trust fund set aside specifically that purpose—we are talking about a rate at merely a fraction of what it was just 34 years ago.

So no one should be confused about what it is in comparison to what it has been, Mr. President—91 to 39 percent. This increase, this 31 to 39 percent, is what we are talking about.

So I am confused, sometimes amused is a better word, at the effect of all this, all of these discussions about tax increases and cuts and this plan and how it affects the American people.

Those charts, for small business, for individuals, lay it out as clearly as anything I have seen. And I think this chart, Mr. President, lays out what happens if we stay on the present path.

The red depicts what percent of gross domestic product we are going to experience in interest if we do nothing. In the year 2000, we are going to be up at over 4½ percent of gross domestic product—all of this red, all of this increase, this dramatic increase that we see in the last 15 years attributed to the tax policies, the fiscal policies that we have endured over that period of time. We have gone from slightly over 1 percent of gross domestic product up to nearly 4.5 percent, almost a threefold increase in the aggregate amount of debt and the cost of that debt on our economy. No wonder it is hard to get economic growth beyond 1½ or 2 percent. No wonder we have 7½ percent unemployment. No wonder the projections are so miserable when we see what is happening and the effect of debt on the economy today.

So let no one be mistaken. If we fail to pass this plan and so minimally affect small business and real income tax-paying families, if we fail to do that, this is our doom. This is exactly what we are going to be subjected to for the foreseeable future.

But, Mr. President, this plan is about more than just taxes. This plan hascuts unlike anything we have seen in deficit reduction packages in the past. We are talking about real cuts, cuts that affect virtually every facet of Federal spending. And this chart, Mr. President, depicts clearly the effects of those cuts in real terms over the next 5 years.

I might ask how much time I have remaining.

The PRESIDING OFFICER. The Senator has about 4 minutes of time that was yielded to him.

Mr. DASCHLE. I thank the Chair.

We have heard a lot about how we just do not have enough cuts in this plan, that somehow we ought to have more, there ought to be more cuts.

Well, it is interesting to note that when the other side had their opportunity to present their cuts in a deficit reduction package that they would comprise, the Republican substitute had $359 billion in deficit reduction. The Clinton plan originally was $498 billion. The deficit reduction conference report is $496 billion. That is the difference—$496 to $359. So it makes you wonder how credible these arguments for greater deficit reduction can be when, when they had the opportunity, the Republican substitute mustered a mere $359 billion in real deficit reduction. And then there was no specificity in the plan provided as they unveiled it about a month ago.

We have specificity in this plan—100 specific cuts totaling more than $100 billion, a total package, Mr. President, of about $350 billion over a 5-year period of time gross, $250 billion net.

And when we talk about discretionary spending, those specific programs directly affected by the cuts, in real terms, in 1993 dollars, we are going to go from $550 billion to about $475 billion over the next 5 years—a 12½-percent real cut from what we are experiencing today.

So let no one be misled when it comes to taxes. The taxes affect those making more than $180,000. The taxes affect those businesses in only 4 percent of the highest income tax brackets available today—an average income, by the way, of about $560,000 a year.

When it comes to cuts, an aggregate of $350 billion—12½-percent real cut in discretionary spending over the next 5 years. That is a real deficit reduction plan. That is why it passed in the House of Representatives just moments ago. That is why some of us feel excited about the prospect of going to the American people and of telling them as directly as we know how to say we have given you what you have asked. You wanted deficit reduction. You want to put this economy on a better and firmer ground. You want to see some real change in leadership. You want to see sacrifice and progressivity in the tax system. You want to see something that we have only talked about getting for the last 12 years. This is your chance.

So, Mr. President, tomorrow night, within the next 24 hours, we have a chance to vote for this or to do nothing. And the cost of doing nothing, as I reminded my colleagues a couple of hours ago, is increased cost and debt service to the taxpayer, increased uncertainty, greater economic difficulty, and again missed opportunity to govern as we all know we should.

The stakes are high. The opportunity is great. Let us seize the opportunity. Let us do what we know must be done. Let us lead. Let us provide the American people with real hope that things can change.

I yield back the remainder of my time.

Mr. DOMENICI. Mr. President, how much time do we have on our side, Mr. President?

The PRESIDING OFFICER (Mr. LEVIN). Fifteen minutes 14 seconds.

Mr. DOMENICI. I yield 5 minutes 14 seconds to the assistant minority leader on this side.

The PRESIDING OFFICER. The Senator from Wyoming is recognized for 5 minutes 14 seconds.

Mr. SIMPSON. Mr. President, let me say what I am going to say as simply and directly as I can. We really are on the verge of enacting the largest tax increase in the history of the world. So let us strip away all of the rhetoric, hyperbole, hurrah, and hype, and just confine ourselves to that fact.

We are not going to reach any sensible decision at all if we do nothing but repeat political buzzwords in an endless droning mantra: "Gridlock." "Change." "Jobs." "Change." "Gridlock." "Jobs." "Pay their fair share." "Change." "Gridlock." "Failed Republican policies."

As far as I know, Ronald Reagan and George Bush are both out of office. I think that is true. I hope I have my facts correct. I think William Jefferson Clinton is President of the United States as far as I am able to determine.

So again and again we will hear the chirping of gridlock. Writing speeches for the other side of the aisle must be a pleasant and quite simple task these days. Most challenging and quite vapid, I would think.

So why do we not just try to stick with the relevant facts: $255 billion, or $260 billion, in new taxes, pick your choice. Somebody is right in that area. I have not heard anybody say less than $240 billion. Effective not today, but last January before Bill Clinton ever got to be President.

And $65 billion in cuts.

And $66 billion in hopes, pure hopes, for future cuts.

And $44 billion in claims of cuts that are already in the law. They were part of the 1990 budget deal which those on the other side chopped President Bush to shreds on.

And $14 billion in savings that CBO even cannot find.

How many spending cuts for 1994? None, zero, zip.

How many in 1995? Four billion dollars. We added more than that to the deficit this week in one bill, so we've spent it already.

Over 80 percent of the spending cuts are put off until after the 1996 election. They will not happen. You know they will never happen. The special interests will pack their money away when the hard votes come to cut spending. It will never happen.

We have all been here. We have seen it. I hope everyone who is observing this will mark these words. If we pass this bill, we will be back here in just 3 or 4 years to hear why we have to raise taxes again. Everyone here knows it. We have heard speeches about how this represents fundamental change. Who is kidding whom? All we have been doing now for a decade is trying to get taxes to catch up with runaway spending.

We have heard a lot of partisan mumbo-jumbo all year about "changing from Republican policies," and other rubbish. The power of the purse has been in the Congress for over 200 years now, and Democrats have controlled the House, where the revenue measures must be generated, and they have held the power over there for nearly the past 40 years.

But no matter whose fault it is—is this a reason to stick the American economy with over $250 billion in new taxes, when we know it will not do the job?

My phone lines are busting down with people calling me to tell me to "Cut spending, stupid." That is what they say. I have heard that before in my line of work.

We tried to amend the President's budget legislation 29 times and 29 times we had it stuck in our ear by the majority on the other side of the aisle. That is the way it works. We did try. You bet we did.

I am tired of that old argument: What did the Republicans ever do? We tried 29 times to do something and got zip.

This vote is not about whether or not we are serious about the deficit. It is about whether we want to continue to accelerate the growth of Government.

But if we want to slow that growth, then we have to go back to the drawing board. I am ready to do that.

Everyone in this Chamber is receiving the avalanche of phone calls against this package. If we pass it, it would be a sharp defiance of the will of America.

Those of us on this side of the aisle cast that vote back in 1985, got rid of 23 agencies in the Federal Government, froze things across the board. Six of our people disappeared like squash vines in the wintertime the next election. With a little ad that says "Here is the slob that cut your Social Security." "Here is the slob that cut your veterans' benefits." "Here is the slob that cut your railroad retirement." People want that? Ha. We have been there.

Is the public wrong to say we should "cut spending first?" Are they wrong? Are the people wrong when they say, "I will pay taxes to reduce the deficit, but you have to cut spending. Not to slow the future increases, or to promise me a cut down the road, but to cut spending now." That is what they are saying. They are howling that.

Are they wrong when they say they want a smaller Government? The majority should ponder that. We on the minority side tried to cut the spending in this budget. Twenty-nine times we tried, but we were overruled—voted down. Now the majority is finding they have to overrule the American people as well.

Well, I think the American public is willing to pay more taxes but I do not think they want to send it to the spotted owl, or the Presidential campaign fund, or all sorts of bucks for every shrieking segment of society—soon to be a new special interest group known as "victim PAC."

That's all in this legislation.

So in closing, let me just repeat to my colleagues—just like the Terminator, the majority "will be back" to raise taxes again. That and not honest deficit reduction is the inevitable result of the bill before us.

So I say "bah, humbug,", even though it is 142 days to Christmas. The grinch stole Christmas with a retroactive tax increase back to January 1. But next New Year's Eve, you will get your tax bill for what you are paying the beginning of this year. So, happy New Year, too.

Thank you.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. Mr. President, I yield myself all but 1 minute of the time I have. Tell me when my time is up.

First, Mr. President, I want to say to the chairman of the committee who is not here tonight, Senator SASSER, that I recall yesterday afternoon when I was speaking on the floor he asked me to yield for a question. I thought about it last night. I think I was a little bit harsh in the response and I should have been a little more gracious.

I wanted to tell him that if he were here tonight. I did not do that. It is just something that I should have done better and let him ask a question even though I only had 1 minute left. I want to set the record straight on that. He has been very gracious and accommodating. I hope I have been during this long ordeal. We are both very tired. He will express that tomorrow when he takes the floor.

Let me make a few points about the process. The American people should know that Republicans are not in this conference on this 1,600-page bill. First of all, Senators like Senator DOMENICI are invited or they do not attend. And I was an invitee by statute for every conference and invited to none. I do not think any Republicans were, except maybe a couple of times on the Finance Committee, and then they were told the work would be done when they were not present.

So if we are telling the American people what is in this 1,600-page bill and report, and in many cases saying we do nothing about it, we should have the record straight that we really were not there. We did not participate.

Second, I hope before this debate is finished that the idea that somehow or another Republicans are responsible for the difficulties the President is having, and that somehow or another we are sinking his ship in terms of deficit reduction—let me make it very clear. In the U.S. House, the Democrats have more than an 80-vote majority. In the U.S. Senate, they have 56 votes and we have 44. So if there has been any inability to get things done it is not because of us.

In addition, I might say for those who talk about gridlock, there can be no gridlock on all of this budget process because there are no filibusters possible. By law, these are the kind of measures that go through. So if there has been any delay in the President getting this plan through, it is certainly not of the Republicans' making.

Let me talk a little bit about substance.

The problem that we are all having with this package is that it is predominantly taxes and very few spending cuts. Let me talk about that with a little bit of detail shortly. But let me summarize it this way: Twenty-one days before President Clinton is sworn in as President of the United States, new taxes began on part of America, and that is the most productive part of the job-producing segment of America. Corporations had theirs raised, but I am talking about partnerships and individual proprietorships. While it is only a small percent, and we will hear it over and over—4 percent, 1 percent—the truth of the matter is that group of men and women are the ones that have produced about 75 percent of the new jobs and the present jobs. And you are going to increase their marginal tax rates from 31 to a high rate of 44 percent, and retroactive besides; so that you take their working capital, the kind of things they need in that business to have it grow.

Therefore, it is not Senator DOMENICI'S opinion, but there are very few, if any, economists of any repute that will verify the President's contention that this bill produces jobs.

Frankly, there is no doubt that it produces no jobs in the short term. The American people are clamoring for us to have the American economy grow sufficiently to produce jobs. This retroactive tax is actually a drag on the American economy, and I will insert an article from the New York Times of August 5, 1993, a credit market analysis of "Clinton's Plan and Its Economic Drag," by Jonathan Fuerbringer, which might startle some. But the big claim that interest rates are coming down because of his budget package is true. But it is not because we are cutting the deficit, it is because the taxes are a drag on the economy and, therefore, the inflation expectation is down, because there are going to be no jobs created, and the interest rate claims for growth and prosperity, the reduction in those interest rates are for the opposite reason, and the plan is seen by most as nonstimulative, noninflationary, nonjob producing, and interest rates come down.

I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CLINTON PLAN'S ECONOMIC DRAG CITED

(By Jonathan Fuerbringer)

Should the long end of the bond market rally when—and if—Congress approves President Clinton's deficit-reduction plan, he probably should not regard the buying as strictly investor applause.

In his televised address to the nation Tuesday night, the President used this year's bond market rally, which has pulled the yield on the 30-year bond down to its lowest level in 16 years, as a signal of approval from what he called "the most conservative and skeptical critics of all, those who run our financial markets."

But the reasons interest rates have been dropping are not, in general, the reasons Mr. Clinton has invoked to urge approval of the five-year budget plan: to reduce the deficit and to get the economy moving.

OPPOSITE REASON

In fact, rates are coming down partly for the opposite reason. Many analysts expect that the tax increases and spending reductions in the budget plan will restrain economic growth in the near future, which should make inflation less of a concern to investors. Inflation is the enemy of fixed-income investors because it nibbles away at their returns.

The fact that the plan calls for making an income tax increase on the so-called wealthy retroactive to Jan. 1 of this year will just add to that economic drag.

Another force pulling down the yield on the 30-year bond has nothing to do with the economy or the deficit. It is the supply factor: the Treasury has cut the annual sale of these bonds by about 40 percent and will begin auctioning them only two times a year, rather than its customary four times.

The planned deficit reduction, $496 billion over five years, is also regarded skeptically by some analysts and investors because many spending cuts would not become effective for several years. Also, the deficit would not be reduced significantly below current levels but rather just below the higher levels it would reach if no plan were approved.

SUBJECT TO QUESTION

"The deficit reduction impact of the Clinton plan is certainly subject to question," Donald Fine, chief market analyst at Chase Securities, said. "But it will put a drag on the economy and thereby prevent inflation from accelerating."

David Munro, chief United States economist at High Frequency Economics and an analyst who has praised the deficit reduction plan, agreed that many analysts would cite the fiscal drag as a reason for a decline in interest rates. "The Republicans are going to be saying that, and not because they are being partisan but because it is their intuition," he said.

He argued that "it will be the passage of the uncertainty that will spark the market."

But Mr. Munro agreed that the deficit reduction in the Clinton plan was not large. "It is not so much deficit reduction as it is that at least we've got a bridle-on-the-horse type of thing," he said, adding that the benefit of the President's plan is that something is being done after many years of drifting.

Mr. Munro agreed that the plan's combination of tax increases and spending cuts would create a drag on the economy, but discounted its severity. He estimated that annual economic growth would be about one-quarter of a percentage point lower over the next several years than it would have been without the plan in place.

KEY RATES

[In percent]

	Yesterday	Previous day	Year ago
Prime rate	6.00	6.00	6.00
Discount rate	3.00	3.00	3.00
Federal funds [1]	3.13	3.06	3.35
3-mo. Treas. bills	3.07	3.07	3.15
6-mo. Treas. bills	3.21	3.21	3.24
7-yr Treas. notes	5.50	5.44	6.12
30-yr. Treas. bonds	6.55	6.52	7.42
Telephone bonds	7.27	7.25	8.38
Municipal bonds [2]	5.74	5.74	6.14

[1] Estimated daily average, source Telerate.

[2] Municipal Bond Index, The Bond Buyer. Salomon Brothers and Telerate for Treasury's bell-weather bonds, notes and bills.

Mr. Fine said that the decline in interest rates this year, which the Clinton Administration has been counting on to spur the economy, would not be enough to offset the fiscal drag. "High interest rates are good at choking off activity but low interest rates are not as good at stimulating growth when things are slack," he said.

TREASURY MARKET

Treasury prices fell yesterday and yields rose as some investors worried about the outlook for approval of the deficit reduction package. But the plan's prospect improved after trading ended when Senator Dennis DeConcini, a Democrat of Arizona who had opposed the original plan the Senate approved, said that he would support this version.

The price of the 30-year bond was off 15/32 of a point as the yield rose to 6.55 percent, from 6.52 percent on Tuesday. The yield on the 10-year note jumped to 5.87 percent, from 5.79 percent the day before.

The Treasury announced the details of its quarterly auctions, saying it would raise a record $38.5 billion next week.

On Tuesday, the Treasury will auction $16.5 billion of 3-year notes, followed by $11 billion each of 10-year notes on Wednesday and 30-year bonds on Thursday. After next week, the 30-year bond will only be auctioned every six months.

The Treasury also said that it would continue its test of the single-price auction with two-year and five-year notes through August. It had been scheduled to end in September, but the Treasury said it needed more data before it could decide if the technique would be used in other auctions.

Under the single-price auction all securities are awarded at the highest yield bid by primary dealers. It has resulted in both aggressive bidding that has saved the Treasury money and weak bidding that has cost the Treasury in the last year, according to traders.

Under the traditional auction system still being used for other Treasury securities, the securities are awarded based on the yields bid, starting with the lowest yield. This system has a so-called winner's curse, in which the low-yield bidder can pay more than other dealers whose higher bids are accepted.

Mr. DOMENICI. Mr. President, tomorrow we will talk in more detail about this plan, but tonight I want to go through a few things. I want to call the first one egregious provisions in the 1993 reconciliation bill.

First, retroactive taxes, increased from January 1, 1993, for individuals and corporations. I want to set the record straight. The President says he really did not want to do this but was forced by Congress to do it. The trouble is that he proposed this retroactivity back in February in his so-called Vision of Change document.

The second point, $215 million in new spending as a downpayment for a spotted owl agreement is in this package.

Third, $221 million targeted for a waiver for the State of New York and Governor Cuomo, effectively they will be exempt from some provisions of the ERISA law. In order to get savings, the conferees, all of whom are from the other side, assume $3 billion more in receipts from the auction selling of the Spectrum, $3 billion more than the Congressional Budget Office estimated. The President told us in the State of the Union the Congressional Budget Office is going to be the real authenticators, so there will be no more smoke and mirrors. The conferees assume nearly $4.3 billion in savings that have been previously enacted, maybe double, and maybe triple counting.

The PRESIDING OFFICER. The time of the Senator has expired, except for 1 minute.

Mr. DOMENICI. I will withhold my 1 minute. I know the Senator might want to speak last. Perhaps I can have my last minute following you.

Mr. SARBANES. I reserve 4 minutes and yield myself the remainder of the time.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Mr. SARBANES. Mr. President, it is late at night, and I am not going to go on at great length, but I want to try to straighten out some points, and I want also to set the stage for where we are.

President Clinton, the newly elected President of the United States did his job in February when he came to the Congress of the United States and presented an economic program for our Nation. The President said the time was long past for the country to come to grips with these economic trend lines that were basically moving America deeper and deeper into the hole. The President said we cannot continue to have the budget deficit increase, as it has been doing at an escalating rate over the last decade.

When President Carter left the White House, the national debt was less than a trillion dollars. When President Bush left the White House, the national debt was well over $4 trillion. We ran deficits each year, and the debt expanded. We have to start bringing these deficits down, and President Clinton is committed to doing that.

The President also said we have to try to address some of the investment deficits in our country. We are not doing what we need to do, he said, in educating and training our work force, in upgrading our Nation's infrastructure, our transportation system, in doing research and development so that we stay at the forefront of technology. We need to be a high-technology, high-wage country, effectively competing with the other major industrial countries in the world.

The President said when we implement this program, we need to do it in a fair and balanced way, so that the people at the top of the income scale make a contribution toward achieving deficit reduction. It is, after all, that group that has benefited, disproportionately, from the economic policies of the last decade. The fact of the matter is that working people, through the 1980's, have found that their income position has stagnated. They really have not improved their situation. And the President said we are going to try to shield the people who have experienced this burden, and we are going to try, as a matter of fairness, to get those who have benefited the most to make a contribution toward our Nation's problems.

The President faced this challenge, and the President responded to it. He has responded with very careful estimates in terms of his economic assumptions. We are not dealing here with rosy scenarios. We are not dealing with big asterisks claiming "unspecified spending cut."

We have had enough of these unspecified spending cuts and magic asterisks. We even had it this year, unfortunately, from my dear friends on the other side of the aisle. They presented a plan with unspecified spending cuts and black boxes.

The President did not take this course. He came forward and laid out his plan. The House of Representatives has met its responsibility tonight. They passed the conference report, and they have sent it now to the Senate. The burden is now upon the Senate to meet its responsibilities. We have begun the debate this evening, and we will carry it through tomorrow and then vote on this matter.

I want to address the assertion of my dear friend from New Mexico about gridlock because it is very important for the American people to understand this issue. On this particular measure under the special rules in which we consider this budget bill and the reconciliation, there can be no filibuster. The time is limited, and at the end of the time, you must have a vote. It is quite correct, therefore, that this issue can be decided by 51 votes, by a simple majority of the Senate.

But much of the gridlock that we have been talking about, the inability to get things done to which the distinguished Senator referred, has involved other measures which have come before the Senate in the course of this session. We have confronted filibusters by the Republicans in the Senate time and time again. They have, in my judgment, abused the Senate's filibuster rule. They have refused to allow the Senate to vote on important measures that were before it, and the clearest example of that was the jobs bill.

My colleague earlier said, we need some stimulus in the economy. We had a jobs bill earlier in the year designed to do just that. My Republican colleagues would not let us vote on the bill. A minority of the Senate precluded the Senate from voting on that bill. And they have done it on bill after bill that has been before us in the session.

So that is where the gridlock is. That is the gridlock.

Fortunately, the Republicans cannot filibuster this bill. If it could be done on this bill, I have absolutely no doubt it would be done, and if that is not correct, I invite my colleagues on the other side to set me straight.

The other side not only is against it; they have absented themselves from a constructive participation in trying to develop this measure from the very beginning. They have been against it every step of the way. Therefore, the burden clearly falls on the majority to produce the votes to carry the measure.

Let me talk a little bit about what is in this measure.

First of all, I make some reference to the point of tax retroactivity. That has occurred before in many, many tax bills. I just want to underscore one instance when it occurred. That was in 1982. In August 1982—and I want people to listen to this very carefully—in August 1982, well into the year, in fact further into the year than we are right now, Senator DOLE, then the chairman of the Finance Committee of the U.S. Senate, proposed a provision that retroactively taxed unemployment benefits to the beginning of the year. Prior to the proposal of the senior Senator from Kansas, unemployment benefits up to a certain level had not been taxable, but his measure lowered that level and made unemployment benefits taxable.

The only people being hit by this retroactive provision are couples with gross incomes over $180,000 a year and individuals who make more than $140,000 a year, because they are the only people being hit by the higher income tax rates in this bill. The people that were hit by the provision proposed by the then chairman of the Finance Committee, now the minority leader, retroactively taxed people making between $12,000 and $25,000 a year. And it is estimated more than 5 million Americans were affected by that proposal.

So the provisions in the President's package which apply retroactively only to people with high incomes is clearly preferable to the retroactive provisions implemented in 1982 which hit predominately low-income individuals.

Mr. President, this is the biggest deficit reduction package in our history. The first question people have to face is, do they want to reduce the Federal budget deficit? I think most people would say "yes" to that. Certainly it has been the subject of national attention, national debate, and national focus.

The next question is, if you want to reduce it, how are you going to do it? What the President has said and what is contained in this legislation is that we should do it in a fair and balanced way. We are going to do it with very substantial spending cuts. In fact, a majority of the deficit reduction in this program over the 5-year period will come from spending cuts, substantial spending cuts.

In fact, people are worried about the extent of some of those cuts. Older people receiving Medicare are saying, "We are concerned about the cuts that are already in this bill in terms of our ability to receive health care." Poor people who receive Medicaid have the same concern as do young people seeking an education. So there are cuts, and substantial cuts, in this bill.

In addition, a minority of the money for the deficit reduction will come from revenue increases. Eighty percent of the revenue will come from additional income taxes on less than the top 2 percent of the population. The income taxes for an individual apply at taxable income of $115,000 which is estimated to be a total income level of $140,000, because of exemptions and deductions, and it applies at a taxable income for couples of $140,000, which equates to a total income of about $180,000. Those are the only people that are effected by higher income tax rates.

There is a 4.3-cent tax on gasoline which everyone will pay. I want to be very clear about that.

And there is a 1-point rise in the corporate income tax for corporations with taxable incomes above $10 million a year. Those above $10 million a year will pay an additional corporate income tax.

Then we hear it said, we do not want these taxes; we want more spending cuts. Let me ask, what is the fairness of taking out from this program the contribution to deficit reduction of the top 2 percent of the income scale and putting more burdens on old people with respect to receiving Medicare benefits? That is what it amounts to. One has to look at who is bearing the burden of the spending cuts. What is a reasonable burden to place upon them? And who is bearing the burden of the revenue increases?

I want to know the equity or the fairness of coming in and saying, let us let out the most wealthy in our society from making any contribution to deficit reduction. They would make a small contribution through the 4-cent gasoline tax.

But Members on the other side are saying: Let us not let them pay this income tax. Let us instead cut even more deeply into the health benefits of the elderly or of the poor.

That is not fairness, and that is not equity. And the President has tried to put together a balanced package.

Then we have had this tremendous propaganda campaign directed at the small business issue. The Wall Street Journal covered that pretty well in a news story on the 20th of July. The headline says "Foes of Clinton Tax-Boost Proposals Mislead Public and Firms on the Small-Business Aspects."

And they then go on to make the point that a very small percentage of small businesses will pay higher income taxes. You have to be up above these income levels. I mentioned earlier before you pay any taxes. Most small businesses, the overwhelming percentage, are below those levels.

They will pay no additional taxes if they are not up above the level.

In fact, this program has a number of tax advantages for small businesses. This proposal includes an increase in the expensing allowance, which is very significant. They will also get a 25-percent self-employed health deduction.

These are only two of a number of features in this bill that will work to the advantage of small business people.

In fact, this story tells of a small business owner who came to a meeting complaining about the higher taxes she was going to pay and it turned out she was not going to pay any higher taxes at all. Her business would not pay any higher taxes under the Clinton program.

But that tactic has gone on now for weeks and weeks and a lot of people believe they will be impacted. I simply submit to you that this is a fair and balanced package. And we put it together in a way to get the largest deficit reduction in our history.

I think the Nation agrees we have to try to bring the deficit down. This is the first realistic, concrete, direct effort to really address the Federal budget deficit problem that has taken place in this national body in more than a decade.

I urge the adoption of this conference report.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. Mr. President, I have 1 minute. I wonder if my friend from Maryland would permit me to have 2 minutes and then I will not interrupt him and I will be finished.

Mr. SARBANES. Mr. President, I ask unanimous consent that the Senator have 5 minutes and that I have 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. I appreciate it.

I was going to say I will not use it, but that is not true.

Mr. President, tomorrow we will go into more details about year by year. Suffice it to say that we are talking about net cuts in the budget. And, frankly, when you add up the cuts and the add-ons, you get no—no—cuts in the first year and 4.3 in the second year.

So you know, frankly, we have not been hearing from very many Americans about cuts in programs. I was talking to a number of Senators. I said, "How many calls are you getting about programs that are being cut?"

I might just say parenthetically, the chair is occupied by a Senator whose constituents are close to him. I wonder how many calls he is getting about too many cuts. My guess is none, because there are not very many cuts.

Having said that, I want to introduce a couple of things in the RECORD which we will debate a little bit further tomorrow.

Deficit reduction claims that, according to the Congressional Budget Office, are not true are listed on this piece of paper. And there are $68 billion worth of them that the Congressional Budget Office says are not true.

So this $496 billion mythical number that is even on C–SPAN just is not true, unless you do not want to abide by CBO.

I ask unanimous consent that that be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Deficit reduction claims

[5-yr savings in billions of dollars]

Democrats claimed deficit reduction	496
Savings achieved in 1990 budget agreement	−44
CBO re-estimate of administration's debt management proposal	−10
Lower interest savings using CBO capped baseline assumptions	−5
Savings from legislation enacted in previous sessions of Congress (PAYGO scorecard)	−4
Savings from FCC spectrum auction not supported by CBO estimate	−3
Cost of extended unemployment benefits (enacted March 1993) not included in baseline	−2
Total real deficit reduction in package	428

Mr. DOMENICI. Mr. President, if people wonder why there is not more deficit reduction with all these taxes and these alleged cuts, let me put two lists in the RECORD which we have now dug out of this monster bill.

One is, believe it or not, called new spending in reconciliation conference. I guess some Americans would say, "Are you kidding, Senator? I thought a reconciliation bill that talked about the deficit should be cutting spending."

Well, this list shows that in that bill there are $25.4 billion in new direct spending, everything from food stamps to FCC operating costs, to Medicare expansions, to Medicaid TB services to student loans, to national vaccines, to Presidential campaign checkoff, the total of which is $25 billion in new spending.

So if you are wondering what the total tax on you is, we have been understating it dramatically. Actually, the new taxes exceed $275 billion, and we have rather generously been saying, net—net—$245 billion.

Well, that is because of another list which I will put in the RECORD so Senators can mull over it tonight. Maybe we can go through it item by item tomorrow with the American people.

But it turns out that there are $34 billion in this bill of provisions that increase the deficit by granting additional tax cuts or tax relief to groups of Americans.

Now I am not arguing that some of those are not wonderful, some are not necessary. But we ought to not leave the message that these new taxes are going to deficit reduction when I have just given you two—and we barely scratch the surface of where the money is going—two lists that amount to over

$25 billion in new spending in this bill and $34 billion in tax relief or an extension of these kinds of items in the Tax Code, the total of which is $60 billion. That is where part of the new taxes are going to be spent.

I ask unanimous consent that those two lists be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NEW SPENDING IN RECONCILIATION CONFERENCE

[Deficit impact in billions of dollars]

Provision	1994	1995	1996	1997	1998	1994–98
Direct spending:						
Forest Service/BLM timber sales receipts to States and counties (spotted owl)	0.043	0.053	0.049	0.040	0.030	0.215
Food stamps	.056	.274	.452	.838	1.044	2.664
FCC operating costs	.002	.002	.002	.002	.002	.010
Medicare expansions	.041	.056	.074	.102	.119	.392
Medicaid: TB services	.020	.035	.045	.050	.055	.205
Medicaid: Puerto Rico	.041	.049	.058	.067	.078	.293
Medicaid: Immunizations	.006	.227	.124	.114	.114	.585
Medicaid: Other	.038	.022	.007	.005	.005	.077
Child welfare	.160	.133	.202	.247	.255	.997
SSI	.004	.004	.005	.005	.005	.023
Social service block grant (title XX)	.040	.440	.455	.035		.970
FSLIC double dip	.136	−.014	.029	.095	.109	.355
EITC expansion	.209	2.000	4.397	6.122	6.378	19.106
Presidential campaign $3 check-off			.081			.081
Customs officers' foreign language proficiency	.002	.002	.002	.002	.002	.010
Student loans	.188	.445	.540	.565	.595	2.333
National vaccine injury compensation program amendments	.001	.001	.001	.001	.001	.001
Total new spending	.888	3.402	6.022	7.412	7.718	25.438

Source: CBO/JCT cost estimates.

RECONCILIATION PROVISIONS INCREASING THE DEFICIT

[Fiscal year 1994–98 deficit impact in billions of dollars]

Provision	Senate	House	Conference
Revenue Losers:			
Employer-provided educational assistance	0.8	2.8	0.9
Targeted jobs tax credit	.6	2.4	.7
R&E tax credit	1.6	10.0	4.9
R&E allocation	.5		.5
Small business capital gains		1.0	.8
AMT depreciation	4.3	8.9	4.3
Sec. 179 expensing	2.9	8.1	4.6
Small business expensing	3.4		
Mortgage revenue bonds	.6	.9	1.0
Low-income housing credit	4.9	4.9	4.9
Passive loss relief	2.2	2.7	2.6
Repeal luxury excise tax on furs, boats, aircraft and jewelry; index cars	1.2	1.2	1.1
EITC expansion	1.5	2.7	1.7
Health insurance for self-employed	.6	.6	.6
Small-issue manufacturing bonds	.2	.2	.3
Pension investments in real estate	.3	.3	
AMT charitable gifts	.4	.4	.4
Empowerment/enterprize zones	.2	5.3	2.5
Extend General System of Preferences		.8	.8
Tax credit for FICA paid on tips			.7
New York ERISA preemption			.2
Other		1.5	.8
Total revenue loss	26.1	54.6	34.1

Note.—Preliminary CBO/JCT estimates.

Mr. DOMENICI. Mr. President, that seems to me to vindicate a little bit of what we have been talking about on tax and spend.

And when you have a net, according to the Congressional Budget Office, of no cuts in the first year and $4.3 billion in the second year, people begin to understand. And when 80 percent of the claimed cuts come after this President's first term or after he is out of office, whichever the case may be, people begin to understand that taxes are now and retroactive and permanent and the cuts—and the cuts—there are plenty of add-ons in the first 2 years, and the cuts are after the first 4 years and they are pretty much maybes.

Now, having said that, I want to close tonight by saying tomorrow we hope very much to keep the points of order to a minimum. There will be a few of them raised, and I think everybody knows that.

But what we would like to do is give as many Senators on our side an opportunity tomorrow to express their views.

Tonight, I want to say to the American people and to those listening that I believe you have answered the President's call. He said to call and tell us what you think. Senate DOLE gave a number and said call and tell us what you think.

I think they are telling us in large, large numbers by very wide margins that they do not want this.

To those who are concerned about out future, the best thing that can happen to our country is if this did not pass and if we could start over and put a real deficit reduction plan together.

I yield the floor and thank the Senator for his graciousness in asking that I have additional time.

Mr. SARBANES. Mr. President, this is obviously going to be a hard debate, because we cannot even get agreement on what the basic facts are.

The total deficit reduction in this plan is $496 billion over 5 years; $255 of that is from net spending cuts and $241 billion is from revenue increases.

So it is fair to say that every penny of revenue increase will go to deficit reduction, since the amount of revenue increase is $241 billion and the amount of deficit reduction is $496 billion.

Now, my distinguished colleague has just said, "there is some additional spending in this total budget above what it was."

The President said we were going to make some investments in the future of the country. Therefore, we cut even deeper than the $255 billion net spending cuts. In fact, we cut overall about $350 billion.

The President took $255 billion of that and applied it to reducing the deficit. He took the balance of it and he said we have to do something about educating and training our work force, we have to do something about research and development so we stay at the forefront of high technology and be competitive internationally, and we have to do something about our infrastructure.

So, whatever additional investments we are making here are being paid for by spending cuts. And the spending cuts are so deep that they cover not only the additional investment, but provide $255 billion in order to reduce the deficit. So, $255 billion to reduce the deficit comes from spending cuts; $241 billion is the total in revenue increases—all of which is going for deficit reduction.

I want to come back to this small business issue, because the other side has made much of it. They have terrified the small business community. In fact, I think it is reasonable to assume that many people in the small business community have been frozen into place because of their apprehension of what is going to happen on the basis of the misrepresentations that are being made about this legislation. Let me quote from the Wall Street Journal in an article of June 25 on this very issue:

> But many of the Republican arguments are specious. Despite GOP claims that most of the burden of the higher rates would fall on small business owners, Joint Tax Committee data show otherwise. Individuals who don't file as business owners or partnership participants would account for more than 70% of the $106.8 billion of new revenue expected over five years from the higher rates.
>
> Moreover, the higher income tax rates wouldn't affect the vast majority of small businesses, the Treasury Department says. About 300,000, or 4.2%, of the seven million taxpayers who are actively involved in S corporations, partnerships or sole proprietorships would be subject to the higher tax rates. And many of those are upper-income investment bankers, doctors and lawyers—hardly the image of small business owners evoked by some of the Republicans.
>
> "These are extremely well-to-do people," asserts Sam Sessions, the Treasury's deputy assistant secretary for tax policy. A department analysis shows that the 300,000 active

business owners who would be affected by the higher individual rates have income before itemized deductions averaging $560,000.

The simple question is, is it not reasonable that the people at these income levels should make some contribution to meeting the economic challenge of our time? Is it not reasonable that they should make some contribution toward this deficit reduction program?

The President has tried to balance that. Many people are making a contribution through the spending cuts. But it is reasonable to turn to those at the very top of our economic pyramid—and more power to them—and ask them to help with deficit reduction. We are simply saying there is some responsibility now to help us to meet and address the economic difficulties in which we find ourselves.

The President has charted a new course for the American economy. He is trying to change the direction of our economic Ship of State. The financial markets have responded to his measures by the drop in the interest rates, which provide an opportunity for expanded economic activity. For literally tens of thousands of Americans who have refinanced their mortgages, lower interest rates are like a pay increase. They have reduced their mortgage payment, $100, $150, $175 a month because of the lower interest rates. It is money in their pocket.

So the President is putting our economic house in order. He has gained stature internationally at the G–7 summit because America is finally trying to come to terms with its problem and put its economic house in order. The markets have responded and interests rates have decreased.

Mr. President, the issue before us is: Are we going to seize control of our own economic destiny? The time to do it is now. And the means to do it is this conference report. I very much hope that tomorrow the Senate will rise to meet its responsibilities as the President has done and as the House of Representatives did earlier this evening.

Mr. President, I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SARBANES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. SARBANES. Mr. President, I ask unanimous consent there now be a period for morning business with Senators permitted to speak therein for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL HOSIERY WEEK AUGUST 9–15

Mr. HELMS. Mr. President, the week of August 9–15 marks the 22d annual observance of National Hosiery Week. I'll take a moment today to express my respect and admiration for an industry which has contributed so much to the free-enterprise system of our Nation as well as to the economy of North Carolina.

Mr. President, the hosiery industry represents a significant portion of the textile and apparel complex. It alone employs 68,700 people in 347 plants around the Nation and continues to grow. The large size of the hosiery industry makes it a major contributor to our Nation's economy.

But Mr. President, it is in the many smaller communities where the hosiery industry makes its most significant contribution, but it is there that these companies constitute a large part of the local economy. In many cases, a hosiery company will serve as the major employer in the area, providing good, stable jobs for its employees.

During the past year, the hosiery industry has made great strides in the area of foreign trade. Exports in 1992 were 47 percent above 1991 levels, reaching 13,042,582 dozen pairs. This increase in exports helped push total U.S. production to 347,753,000 dozen pairs—and that, Mr. President, is a lot of hosiery.

Mr. President, members of the National Association of Hosiery Manufactures produce and distribute 83 percent of U.S. hosiery, contributing more than $6 billion to the U.S. economy each year. The hosiery industry has made great strides in improving productivity in its mills and in improving the quality of its product. These efforts to make the hosiery industry more competitive have resulted in significant technological and design improvements in the manufacture of hosiery.

Mr. President, National Hosiery Week is of special importance to me because North Carolina is the leading textile and hosiery State in the Nation. North Carolina is proud of the leadership of the hosiery industry and the fine quality of life that it has provided for so many people.

On behalf of my fellow North Carolinians, I extend my sincere thanks and congratulations to the hosiery industry and to its many thousands of employees for their outstanding contribution to our State and Nation.

TRIBUTE TO EWING MARION KAUFMAN OF KANSAS CITY, MO

Mr. BOND. Mr. President, I rise today with great sadness to pay tribute to one of the finest individuals who dedicated his life to being the best husband, father, businessman, philanthropist, and sports enthusiast. I am speaking of Kansas City, MO's most honored and beloved citizen and a very dear friend of mine, Ewing Marion Kauffman. Mr. Kauffman passed away this past Sunday, August 1, 1993, at the age of 76 in Kansas City, MO.

He was known to his friends as "Mr. K," and was one of the greatest humanitarians who touched and inspired many. Kauffman was the visionary responsible for bringing major league baseball back to Kansas City by becoming the proud owner of the Kansas City Royals Baseball Club; creating jobs by setting up Kansas City's major employer, Marion Laboratories, later to be known as Marion Merrell Dow Pharmaceuticals, Inc.; and developing a philanthropic legacy, the Kauffman Foundation, which set up programs to help develop at-risk youth to continue their education and to stop drug and alcohol abuse by youths.

Kauffman lived in Kansas City for nearly his entire life. He was born on September 21, 1916, in Cass County, MO, the son of John Samuel Kauffman and the former Effie May Winders. The family moved to Kansas City when Ewing Kauffman was 8 years old. He attended Faxon Elementary School, Westport High School and Kansas City Junior College, where he earned an associate degree in business. Kauffman enlisted in the U.S. Navy during World War II and attained the rank of Ensign Navigational Officer, serving in Europe and the Philippines.

In 1950, Kauffman founded Marion Laboratories in his home, and guided its growth from a one-man firm to a publicly traded company which gave jobs to thousands and would make everything possible for Kauffman in the years to come. In 1989, Marion merged with Merrell Dow Pharmaceuticals, Inc., to form the company which now is known as Marion Merrell Dow, Inc., making Kauffman one of the most successful businessmen in the Nation. He served as the chairman emeritus of Marion Merrell Dow. The success of his business career has been attributed to his two philosophies: treating others as you would want to be treated and sharing the company's success with the people who produce it. His philosophy of sharing success was a quality that brought him great respect and admiration from his employees, business associates and many friends. He had a passion for success and he wanted others to enjoy their successes as well.

This passion was not only apparent in the business sector. America's favorite pastime, baseball, was not something Kauffman enjoyed much in his youth. However, it soon became his love and he was the one who made it happen for Kansas City to keep a major league baseball team. In 1967, then Kansas City Athletics moved on to Oakland, CA, and the chance to keep a major league team was still feasible if someone could buy an American League expansion franchise. Kauffman did. He loved Kansas City, and he wanted the Kansas City Royals not to be considered as his team, rather, the city's team. He pledged to keep the team in Kansas City and make it a winning team. Indeed he did. The Royals began play in Royals Stadium in 1969, and their success helped them win the American League pennant in 1980 and the World Series in 1985. The Royals' silver anniversary this year was marked fittingly as they renamed the Royals Stadium, just 1 month ago, to Ewing M. Kauffman Stadium, in honor of his civic, business and sports contributions. A month earlier, in May, he was inducted into the Royals Hall of Fame.

Although the Royals baseball club was very near and dear to his heart, there was another endeavor that he committed his life to carry on in the community. Kauffman genuinely cared about others and wanted to see everyone succeed. It was this warm and unselfish personality that brought him great success with Marion Merrell Dow, Inc., the Kansas City Royals Baseball Club, and the Kauffman Foundation, Kansas City's biggest charitable foundation.

The Kauffman Foundation operates several innovative programs designed to help at-risk youth: Project STAR, a communitywide program committed to reducing drug and alcohol abuse among youth: Project Choice, a dropout prevention program for low-income, high-risk high school students that encourages students to stay in school by providing various assistance, as well as tuition for college or trade school as an incentive to graduate; Project Essential, a program to enable students to earn and maintain their self-esteem, assisting in their development as capable and ethical human beings; Project Early, a program which promotes early childhood development through effective, integrated, comprehensive and community-based support; and the Center for Entrepreneurial Leadership, which stimulates the growth of entrepreneurship by teaching and training entrepreneurial success.

Kauffman's contributions to the community brought him many honors. In 1992, he was inducted into the Entrepreneurs Hall of Fame at Babson College in Babson Park, MA, and into the National Sales Hall of Fame. He had received the Harry S Truman Foundation's Good Neighbor Award in 1991, the National Heart Association Award in 1981, and the Horatio Alger Awards in 1967. He held honorary degrees from Union College in Schenectady, NY, Drury College in Springfield, MO, and the University of Missouri-Columbia.

Kauffman is survived by his wife, Muriel, and his children, grandchildren and several great-grandchildren. He will be sadly missed by all he touched, directly and indirectly, and his memory will live on through the many contributions he made to Kansas City, MO, and to the Nation.

IRRESPONSIBLE CONGRESS? HERE IS TODAY'S BOXSCORE

Mr. HELMS. Mr. President, as anyone even remotely familiar with the U.S. Constitution knows, no President can spend a dime of Federal tax money that has not first been approved by Congress, both the House of Representatives and the U.S. Senate.

So when you hear a politician or an editor or a commentator declare that "Reagan ran up the Federal debt" or that "Bush ran it up," bear in mind that it was, and is, the constitutional duty of Congress to control Federal spending. Congress has failed miserably for about 50 years.

The fiscal irresponsibility of Congress has created a Federal debt which stood at $4,352,794,596,878.03 as of the close of business on Tuesday, August 3. Averaged out, every man, woman, and child in America owes a share of this massive debt, and that per capita share is $16,946.24.

THE PASSING OF CONGRESSMAN PAUL HENRY

Mr. COATS. Mr. President, I would like to take just a moment to say a few words about a friend, a former colleague, someone whom I admired and respected very much, who unfortunately passed away just a few days ago.

Some people make contributions to our lives by what they do. Others make those contributions by who they are. Congressman Paul Henry, a friend and Christian brother, will be remembered for both.

Paul was a careful, thoughtful legislator who knew the details of his work. He was an academic who brought broad learning to a political calling. He took his faith seriously. He conducted himself with an integrity that was obvious to everyone around him. He sought and he found a harmony between public service and service to his God.

Paul's death was untimely and difficult, difficult for him to endure and difficult for us to explain. It has left a deep and enduring sorrow. But death can only be avoided, not escaped. Every cradle implies a grave. Thankfully, for those of faith, that grave holds no lasting fear.

Paul trusted in a Gospel which teaches that sorrow and suffering are a brief prolog, not a final verdict; but that there is a path through death to joy. The strength of his faith is a comfort to those of us who survive him.

I want to offer my sympathy to Paul's wife, Karen, and his family. I want to assure them that they are in our prayers during these difficult days.

Mr. President, I yield the floor.

REPUBLICAN OPPOSITION TO EMPLOYER MANDATES

Mr. PRESSLER. Mr. President, earlier today, the members of the Senate Small Business Committee had the opportunity to visit with First Lady Hillary Rodham Clinton. We discussed health care reform and its impact on our Nation's small businesses.

Mrs. Clinton did not reveal the specifics of the administration's health care plan; nor, did she indicate an exact timetable for its release. However, it was an informative meeting. I stressed the importance of enacting health care reform legislation this year. I fear that if reform is not enacted this year, we will not act until 1995. This is unacceptable.

I believe all Republicans and Democrats share the goal of significantly lowering the cost of medical care and improving access for all Americans. However, we differ in how to achieve these goals. As we begin to learn about the administration's health care plan, it is clear that some fundamental differences exist between the administration and many Republicans in Congress.

I have served on the Republican health task force chaired by Senator JOHN CHAFEE. I do not profess to speak for the entire task force, nor am I speaking for all Republican Senators. However, I think Republicans are unified on some very basic reform principles.

First, we must not jeopardize quality of care. For the 85 percent of Americans who have insurance, our system offers the best health care in the world. Any type of reform that jeopardizes care is unacceptable.

Second, everyone must have access to affordable health insurance. This goal can best be achieved through the private sector. Market competition and other private sector incentives will work better than government price controls and spending caps.

Third, Americans should be able to choose their health insurance plan and their health care provider. The Government should in no way limit these options.

Fourth, reform must slow the growth rate of health care costs in both the private and public sector. The solution to runway costs are malpractice reform, simplifying and reducing administrative procedures, making changes in the antitrust laws, reducing waste and fraud and small market insurance reform.

As ranking member of the Senate Small Business Committee, I am concerned about the impact that escalating health costs have on small businesses. In my State of South Dakota nearly 97.5 percent of all businesses are considered small businesses. Currently, medical costs represent 10.4 percent of an employer's payroll costs. Nearly 60 percent of all insured Americans get their health insurance through an employer-provided plan. The employer is not the problem. Cost is the problem. Employers are not the reason for 37 million uninsured Americans. Cost is the reason. Health care reform must contain cost. It also should include incentives which help employers provide medical benefits. We must not impose new mandates or additional payroll taxes.

I shared my concerns with Mrs. Clinton earlier today. In fact, 40 other Republicans joined me in signing a letter which I circulated. Our message to President Clinton was clear. We support health care reform. However, reform must not come at the expense of small businesses. We do not support an employer mandate.

An employer mandate would have a negative impact on our economy. It would slow job growth and prevent many employers from expanding their businesses.

In conclusion, Mr. President, I want to state my sincere desire to cooperate with the administration in achieving meaningful health care reform this year. It can be done. I and 40 other Republicans have concluded that an employer mandate would do more harm than good. An employer mandate should not be included as part of any health plan.

Mr. President, I would like to submit for the RECORD a copy of the letter we presented to Mrs. Clinton.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, August 3, 1993.

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: We share your concern about the rapidly escalating cost of health care and the large number of Americans without health insurance. With health costs increasing ten percent a year and millions of Americans uninsured, corrective action must be taken now.

Many of us have been working to devise a proposal for comprehensive health care reform. It is essential to preserve the best elements of our existing system, while minimizing costs, and ensuring adequate health care for our nation.

We are strongly opposed to an employer mandate to pay for health care reform. Whether it is a wage based premium, payroll tax or other carefully crafted euphemism for taxes, job loss among small businesses will be unavoidable and significant.

Small businesses create the vast majority of new jobs in our country each year. Indeed, under-capitalized small businesses are often the first step to realizing the American dream of entrepreneurship. While we strongly support health care reform, small businesses and family farms cannot be sacrificed in the process.

Health care reform must include provisions to help employers provide health benefits. However, new health care taxes will cost jobs and slow the economic growth of our country.

We look forward to working with you and other members of Congress in an effort to adopt a health care reform package yet this year.

Sincerely,

Bob Dole, John H. Chafee, Larry Pressler, Don Nickels, Thad Cochran, Strom Thurmond, Dirk Kempthorne, Larry E. Craig, Al D'Amato, Lauch Faircloth, Frank H. Murkowski, Slade Gorton, Kit Bond, Phil Gramm, Trent Lott, Al Simpson, Jesse Helms, Bob Smith, Orrin G. Hatch, Robert F. Bennett, Dave Durenberger, Chuck Grassley, Mitch McConnell, Hank Brown, Jack Danforth, Conrad Burns, Connie Mack, John Warner, Dick Lugar, Mark Hatfield, John McCain, Arlen Specter, Nancy Landon Kassebaum, Kay Bailey Hutchison, Daniel Coats, Malcolm Wallop, Paul Coverdell, Judd Gregg, Bill Cohen, Pete V. Domenici, Ted Stevens.

STATEMENT ON THE NOMINATION OF THOMAS J. DODD

Mr. BIDEN. Mr. President, earlier today, Dr. Thomas J. Dodd took the oath of office as the new United States Ambassador to Uruguay. I want to take a few minutes to congratulate the new Ambassador and make some observations on his qualifications for this assignment.

It cannot be disputed that Dr. Dodd is exceptionally well qualified to be our new Ambassador in Montevideo. For nearly four decades, he has been a student and scholar of Latin America, and his work is held in high regard by the academic community. Dr. Dodd has taught at Georgetown University since 1966, but throughout this time he has also served in numerous other academic positions in this country, including at institutions such as the Foreign Service Institute and the National Defense University. Among other things, he has also served as a consultant to the Department of State. Dr. Dodd's impressive list of publications indicate not merely a prolific writer, but also a serious thinker.

I am confident that Dr. Dodd will continue in the fine tradition of other academics who also distinguished themselves as diplomats, such as our colleague PAT MOYNIHAN and John Kenneth Galbraith. I extend my sincere congratulations to Ambassador Dodd and wish him well as prepares to assume his duties in Uruguay.

ACQUISITION REFORM

Mr. BINGAMAN. Mr. President, S. 1298, the national defense authorization bill reported by the Senate Armed Services Committee, continues the important effort we began last year to address the critical issues of defense conversion and reinvestment. In the bill, we provide essential funding to assist workers, businesses, and communities in adjusting to the defense build-down and reinvesting in their futures.

One of the key elements of the reinvestment efforts is assisting defense-dependent companies in developing dual-use products and processes so that they can compete in both the government and commercial sectors. This effort, however, needs more than funding and technical assistance. We must undertake a complete overhaul of the acquisition system—the complex set of laws and regulations which make it very difficult for defense-dependent companies to use commercial practices and produce commercial products, and for commercially oriented firms to do business with government.

It is critical that the Defense Department, in the future, rely to the maximum extent possible on the commercial sector rather than try to support a duplicative effort in what Adm. Bobby Inman has termed "defense ghetto," walled off by the acquisition system from the mainstream of American commerce.

During the 1980's, the volume of acquisition laws grew as Congress and the executive branch sought to deal with problems such as cost overruns, spare parts abuses, and the Ill Wind procurement fraud scandals. While many of these laws had merit when viewed in isolation, the net result was a proliferation of often contradictory requirements that increasingly encumbered the acquisition process, as illustrated in testimony before the Armed Services Committee from the Department of Defense, industry witnesses, and such independent observers as the General Accounting Office.

During the late 1980's, our committee called on the Department of Defense to provide recommendations for improving the process, but we did not recieve any significant legislative proposals. In 1990, we concluded that we could not wait any longer for such recommendations. I worked with the then-ranking member of the Defense Industry and Technology Subcommittee, Senator MALCOLM WALLOP, to develop legislation, which was enacted as section 800 of the National Defense Authorization Act for Fiscal Year 1991, requiring the Department of Defense to establish an Advisory Panel on Streamlining and Codifying the Acquisition Laws.

The Department appointed a group of distinguished government and private sector experts to conduct an in-depth analysis of the entire body of acquisition laws—an enormous task. The Advisory Panel met this challenge head-on, producing an 1,800 page report that reviews more than 600 procurement laws and makes specific proposals to amend or repeal nearly 300 laws.

The Report, which was submitted in December 1992, focuses on the critical issue facing the Government procurement system—how to transform an outmoded system that was designed to regulate defense-dependent industries into a system that will facilitate the commercial-military integration and the development of dual-use industries that can meet the defense technology and industrial base requirements for the nineties and beyond.

The statutory changes recommended by the Advisory Panel are detailed and complex. The underlying issues, however, involve the foundations of the acquisition process—auditing practices, oversight activities, competition in contracting, paperwork reduction, integration of the government and commercial sectors, and strengthening the technology and industrial base.

The Committee on Armed Services is committed to a thorough review of the panel's recommendations and a comprehensive overhaul of the acquisition laws. We began this effort during the spring with two hearings. At the first hearing, on March 10, 1993, we received testimony from members of the Advisory Panel. At our second hearing, on June 28, 1993, we received testimony on the acquisition reform agenda of the Department of Defense from the Deputy Under Secretary for Acquisition Reform, Colleen Preston. In addition, in other hearings before the Armed Services Committee, Secretary Aspin, Deputy Secretary Perry, and Under Secretary Deutch have consistently emphasized the high priority that the Clinton administration is giving to acquisition reform. This commitment is essential, because enactment of a comprehensive acquisition reform bill will require strong leadership from the White House to unify the executive branch and address the diverse concerns that will be raised both among executive agencies and in Congress.

In addition to our hearings, we have directed the staff to undertake an intensive review of the advisory panel's proposals. This is a bipartisan effort, and it is being undertaken in conjunction with the Governmental Affairs Committee, which has jurisdiction over governmentwide procurement policy. We have had excellent cooperation from the chairmen and ranking minority members of the committees and subcommittees involved, including Senators NUNN, THURMOND, SMITH, GLENN, ROTH, LEVIN, COHEN, and BUMPERS.

The pace of our efforts will be influenced by the timing of the Senate's action on the National Defense Authorization Act, which requires a major commitment of time by the Armed Services Committee. It we complete action on the defense bill early in the fall, I believe we can make substantial progress on acquisition reform this year.

Subject to the timing of the Senate's action on the defense bill, our immediate goal is to produce an acquisition reform bill for introduction by mid-September. The bill would provide a framework for hearings on acquisition reform beginning in October. The October hearings would cover two of the key areas addressed by the advisory panel—commercial products acquisition and the small purchase threshold. Our long-term goal is to complete hearings and mark up legislation for consideration by the Senate early in 1994.

This is an ambitious schedule, but I believe that there is a growing consensus that the time for action has come. I look forward to working with my colleagues, and with representatives from government, industry, and academia, in drafting and enacting comprehensive acquisition reform legislation.

EFFORTS TO STREAMLINE THE FEDERAL ACQUISITION LAWS

Mr. LEVIN. Mr. President, I would like to thank Senator BINGAMAN for the energy and initiative he has shown in the effort to streamline our acquisition laws. His announcement, today, of a schedule of hearings for the fall advances an important effort which can save the taxpayer hundreds of millions of dollars if we do it right. For this reason, I will be joining Senator BINGAMAN in introducing a bill and holding hearings this fall on streamlining the federal acquisition laws.

As Senator BINGAMAN has explained, section 800 of the 1991 Defense Authorization Act created a DOD-industry advisory panel on streamlining the defense acquisition laws. This panel—generally known as the Section 800 Panel—delivered its report to Congress in later January. This report is eight volumes and 1,800 pages long; it contains hundreds of recommendations and a review of every procurement-related statute the panel was able to identify.

With the exception of a few obsolete provisions, every one of these statutes serves some valid purpose. We have competition requirements to ensure that we obtain low prices, avoid favoritism and conflict of interest, and provide everybody with a fair chance to compete for government contracts. We have audit requirements and cost principles to ensure that we get what we pay for under "cost" type contracts. We have socio-economic requirements to promote desirable social objectives like promoting small and minority businesses. We have ethics requirements to ensure that our procurement officials do not engage in employment discussions with contractors with whom they are negotiating contracts or show favoritism by giving inside information to contractors.

However, when all of these laws—and hundreds more requirements that are imposed by regulation—are added together, the result is an almost impossibly complex and unwieldy system. There is much that we can do and should do to streamline this system and make it cheaper and easier for the government to buy the products and services we need, without sacrificing any of the important objectives served by the procurement laws. The section 800 panel has played a vital role in helping us identify where such improvements can be made.

I am particularly pleased that the panel took a serious look at the area of commercial item acquisition and devoted a separate volume to this subject. I have been working for several years now to remove obstacles to government purchases of commercial products and to encourage Federal agencies to make greater use of products that have already been proven in the commercial marketplace.

The Senate Armed Services Committee has already held two hearings on the Section 800 report, and the staffs of the Senate Armed Services, Governmental Affairs, and Small Business Committees have been working together for months to put together an acquisition streamlining bill that would implement many of the panel's key recommendations. I am pleased that the drafting process has been bipartisan and cooperative in everyway—showing that we can work together on these issues across party lines and Committee jurisdictions. I would like to thank Senators GLENN, NUNN, ROTH, THURMOND, BUMPERS, COHEN, BINGAMAN, and SMITH, for making their staffs available to work with us on this important project.

Mr. President, I believe that the bill we plan to introduce in September can serve as the basis for enactment of a comprehensive acquisition streamlining statute in this Congress. I look forward to the hearings we will hold this fall, and I look forward to working with Senator BINGAMAN and our colleagues on the Senate Governmental Affairs, Armed Services, and Small Business Committees to make acquisition streamlining a reality.

SALUTE TO THE SOUTH DAKOTA CAMPING COALITION

Mr. PRESSLER. Mr. President, the South Dakota Camping Coalition provides an excellent example of something seen all too infrequently—the public and private sectors working together to achieve a common goal. In 1988, the South Dakota Camping Coalition, consisting of representatives in Federal, State, and local governments, and private entities, was organized to promote camping in South Dakota and improve the public's camping experience. In the 5 years since this coalition was formed, remarkable progress has been achieved in enhancing public awareness of the excellent camping facilities provided by government agencies and the private sector throughout our State.

Members of the South Dakota Camping Coalition include the South Dakota Campground Owners Association; the U.S. Forest Service; the South Dakota Department of Game, Fish, and Parks;

the South Dakota Department of Tourism; Custer State Park; the Black Hills, Badlands, and Lakes Association; and other organizations. My office has worked closely with this coalition since its inception. The coalition's goal is "to improve and perpetuate the image of South Dakota as 'the place to camp' and to promote that image both state and nationwide."

This public-private cooperation already has begun to meet its goal of improving the image of camping in South Dakota. The coalition developed an aggressive and innovative publication program that has helped to increase by 12 points the percentage of campers who believe South Dakota is the region's No. 1 camping destination.

South Dakota is well known among camping enthusiasts as one of the best places in the United States to strike their tents. In the April, 1991, issue of Trailer Life, when competing against the Midwestern and Rocky Mountain States, South Dakota ranked first in scenic and environmental quality, completeness of facilities, and cleanliness of rest rooms. And, nationally, South Dakota consistently has ranked in the top 5 for completeness of facilities and rest rooms, and in the top 10 for scenic and environmental quality.

The primary approach used by the camping coalition is to develop and publish an annual guide for visitors seeking information on the various types of camping experiences available in South Dakota. This brochure provides a comprehensive directory of every South Dakota campground, and includes a description of each campground, its facilities, and surroundings. By pooling their technical expertise and limited budgetary resources, government agencies and private sector organizations get much more bang for the buck than they would if each tried to publish its own brochure. Over 250,000 of these brochures have been furnished to tourists during the past 3 years.

On the Federal level, Black Hills National Forest officials have been very active in the coalition and have successfully utilized the Forest Service Challenge grant program to share in the publication costs. I encourage other Federal agencies with campgrounds in South Dakota to participate in this worthwhile program.

In striving to achieve other goals, the coalition has begun to advertise and to seek national media attention, reaching millions via various periodicals and electronic media. The Camping Coalition in association with Go Camping America has brought an aggressive new look to camping, and has increased dramatically the number of people coming to South Dakota to camp.

The efforts of the South Dakota Camping Coalition even have received national recognition. In 1991, the National Campground Owners Association rated the South Dakota Campground Guide as the best state directory in the Nation.

Mr. President, tourism is South Dakota's second largest industry. With a State known around the world for its natural beauty, it is no surprise that camping is an important element of South Dakota's tourism sector. The South Dakota Camping Coalition greatly improved public access to information on available camping facilities. In addition, the State's camping image has been improved.

As the interest in outdoor recreational activities continues to grow, the future of camping in South Dakota looks exciting. If all involved parties work together, the public's increased demand for information on camping services can be met. Most important, South Dakota will continue to be one of our Nation's favorite camping destinations. The South Dakota Camping Coalition provides an excellent example of government agencies and private sector organizations working together. It is a role model of public and private cooperation.

I commend the members of the South Dakota Camping Coalition for their leadership and initiative. I wish them continued success.

WETLANDS CAUCUS

Mr. STEVENS. Mr. President, Alaskans have waited a long time to make the case for legislative wetlands reform. Thanks to chairman and ranking member of the Environment Committee who introduced a wetlands bill a week ago and the commitment to deal with this issue, we will get a chance at wetlands revision during the 103d Congress.

I come from a State with more wetlands proportionately than any other State—over 45 percent of the total surface area of Alaska is wetlands and nearly 75 percent of the usable area of Alaska is wetlands.

Alaskans who want to build homeless shelters, schools, private homes, churches, roads, and other projects face delay after delay because of wetlands permitting.

Alaskans tell me that they've read the law—section 404 of the Clean Water Act—and I have too. The act does not even mention or hint at wetlands. It is inconceivable to us that wetlands can be regulated under section 404. The letter and original intent of the law is to regulate "dredge and fill" material discharged in navigable waters, not wetlands.

Alaskans and farmers, ranchers, builders, homeowners, small businessmen, corporations, and even few wildlife conservationists from across the country who have experienced the wrath of section 404 wetlands regulation, will get their shot at this law this year.

That is why the Senator from Arkansas, Senator PRYOR, and I have decided to revitalize the Senate wetlands caucus. I might add, he had the vision to first create it in 1989.

We intend the caucus to be one vehicle for Senators to inject their ideas to accommodate regional differences and regional needs of wetlands areas throughout the Nation.

A wetlands bill that passes this Congress must reflect regional wetlands differences. It should also respond to the needs of different wetlands user groups like the farmers and homebuilders. I intend the caucus to be the fulcrum to make sure of this.

Senators who have joined the caucus are Senators BREAUX, DASCHLE, DORGAN, JOHNSTON, KERREY, MATHEWS, PACKWOOD, MOSELEY-BRAUN, BENNETT, BOND, BROWN, CRAIG, FAIRCLOTH, GORTON, HATCH, KEMPTHORNE, LOTT, MACK, MURKOWSKI, PRESSLER, and SMITH. Other interested Senators are welcome to join.

I am reviewing the Baucus-Chafee bill now and I urge all caucus members and their staffs to review the bill and other wetlands bills over the August recess. Staff can begin to organize an agenda to deal with wetlands issues in Clean Water Act reauthorization over the recess.

I ask unanimous consent there appear in the RECORD the letter that Senator PRYOR and I sent to Members of the Senate, urging them to join us.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, June 18, 1993.

DEAR COLLEAGUE: We intend to establish a Senate Wetlands Caucus and would like you to join us as a member. A network of those interested in reexamining issues of federal involvement in wetlands regulation will facilitate exchange of information so that the best possible changes can be made in the wetlands program.

We have heard many talk of their concerns with wetlands issues and the current wetlands regulations regime. Indeed, the issue last surfaced on the floor during consideration of the Department of Environment Act.

The range of issues surrounding the wetlands debate is wide. Some of the issues include the status of agricultural wetlands, wetlands delineations and definitions, lengthy permitting times, regional variations in conditions that justify different treatment, and private property rights. A Senate Wetlands Caucus could help to make sure these issues are addressed.

With the Clean Water Act reauthorization scheduled for the 103d Congress, it is important to get the caucus underway soon. If you have an interest in joining, you can let either of us know directly or have your staff contact Duane Gibson (4–8479) or Bobby Franklin (4–2353).

With best wishes,
Cordially,

DAVID PRYOR.
TED STEVENS.

Mr. PRYOR. Mr. President, I am here today to recognize a problem that faces a wide variety of Americans, especialy our farmers and ranchers. The ongoing controversy surrounding the debate over wetlands continues to inconvenience so many in this country and it is time we recognize these resources as both a national treasure and responsibility.

The confusing regulations that emanate from so many different agencies imposing so many different rules are enough to make you dizzy. Between the Corps of Engineers, Soil Conservation Service, Fish and Wildlife, and Environmental Protection Agency, people all across this country are confused as to which organization either the ultimate responsibility or the most useful information to avoid a dilemma.

This confusion extends to the definition of what is or is not a wetland. In fact, one definition would designate the entire eastern half of Arkansas to be a wetland and any activity—be it for commercial, agricultural, or other purposes—could be considered breaking the law.

This confusion extends also into enforcement of wetlands laws. For instance, you might think that by violating the law, a person would simply be fined or made to provide restitution of damages. This is not the case. In fact, a case in Maryland proved just how serious and ridiculous these restrictions can be. In this widely publicized case, a gentleman was developing a wildlife sanctuary and was sent to jail for 6 months for filling in a wetland without the proper permit.

Mr. President, I am told there are hundreds of stories just like this one, which is why we are here today. The wetlands problems encountered by individuals and entities differ widely. From Alaska to Arkansas, there is a wide variety of problems related to wetland regulation which affect a broad spectrum of the population.

Therefore, Senator STEVENS and I have decided to form a Senate wetland caucus. Actually, for me, this will be the resurrection of the caucus. For it was March 30, 1990, when I stood on this very floor as the chair of the previous wetlands caucus discussing many of these same problems. I spoke about the conflict and confusion over wetlands, about the jurisdictional nightmare both in the Congress and in the agencies. Mr. President, the problems have not been resolved and unfortunately I am back to continue efforts in reaching a successful conclusion to this issue.

Mr. President, this year I hold out more hope. The new administration has been working on this problem through the formation of an Interagency Task Force. In addition, Senator BAUCUS' Committee on Environment and Public Works recently introduced the Clean Water Act reauthorization which I understand takes a much more farmer-friendly approach to the regulating of wetlands. With everyone working together, I believe there is a great opportunity for making progress toward a sensible and consistent approach to wetland management.

Mr. President, I hope this caucus can help to eliminate the confusion and ambiguity that exists in our current policies by working with the administration, the private sector, and the Congress to develop regulations that are both concrete and reasonable.

I urge my colleagues who are concerned about our wetlands and about our farmers in particular, to join Senator STEVENS and myself in this cause.

MESSAGES FROM THE HOUSE

At 12:31 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced the following bill, without amendment:

S. 1205. An act to amend the Fluid Milk Promotion Act of 1990 to define fluid milk processors to exclude de minimis processors, and for other purposes.

The message also announced that the House has passed the following bill, with an amendment, in which it requests the concurrence of the Senate:

S. 1274. An act to reduce the subsidy cost for the Guaranteed Business Loan Program of the Small Business Administration, and for other purposes.

At 10:30 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2264) to provide for reconciliation pursuant to section 7 of the concurrent resolution on the budget for fiscal year 1994.

ENROLLED BILLS SIGNED

The following enrolled bills, previously signed by the Speaker of the House, were signed today, August 5, 1993, by the President pro tempore [Mr. BYRD]:

S. 1295. An act to amend the Rehabilitation Act of 1973 and the Education of the Deaf Act of 1986 to make technical and conforming amendments to the act, and for other purposes.

H.R. 416. An act to extend the period during which chapter 12 of title II of the United States Code remains in effect, and for other purposes.

H.R. 798. An act to amend title 38, United States Code, to codify the rates of disability compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for survivors of such veterans as such rates took effect on December 1, 1992.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-1369. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report on activities relating to the Deepwater Port Act of 1974 for fiscal year 1992; referred jointly, pursuant to 33 U.S.C. Section 1519, to the Committee on Commerce, Science and Transportation, to the Committee on Energy and Natural Resources, and to the Committee on Environment and Public Works.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-236. A resolution adopted by the Senate of the State of New Hampshire; to the Committee on Commerce, Science and Transportation.

"SENATE RESOLUTION 3

"Whereas, the Federal Communications Commission is currently working on regulations to preclude cable television operators from charging for more than one cable connection per residence; and

"Whereas, the Commission should establish rates for the installation and monthly use of cable connections based upon the actual cost; and

"Whereas, cable operators should be required to use the same cost methodology which they use for the installation of other cable equipment to calculate the rates for installation of connections for additional receivers; and

"Whereas, if additional connections are installed at the same time that a subscriber's initial service is installed, cable operators should recover only the incremental cost of the additional installation; and

"Whereas, the costs of cabling used for additional connections should be recovered through one-time charges or charges that will end when the operator has recovered those costs; and

"Whereas, the general court currently has legislation pending to preclude cable operators from charging for more than one cable connection per residence: Now, therefore, be it

"*Resolved by the Senate*, That the New Hampshire senate hereby urges the Federal Communications Commission to enact regulations to preclude cable television operators from charging for more than one cable connection per residence unless the cable operators can justify additional incremental costs directly associated with providing additional connections; and

"That the general court of New Hampshire should refrain from enacting legislation on the costs of cable connections until such time as the federal regulations are in place, so that the general court can enact legislation that reflects the changes in the federal law; and

"That copies of this resolution, signed by the senate president be forwarded by the senate clerk to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, the chairperson of the Federal Communications Commission and to each member of the New Hampshire Congressional delegation."

POM-237. A resolution adopted by the Senate of the Legislature of the State of California; to the Committee on Energy and Natural Resources.

"SENATE RESOLUTION NO. 17

"Whereas, the renewable energy technology industry combines the interests of business, individuals, conservationists, and environmentalists; and

"Whereas, the renewable energy technology industry is already firmly rooted in California soil and needs to be encouraged to continue to grow; and

"Whereas, The renewable energy technology industry promotes jobs and economic development in California by increasing exports to the world market; and

"Whereas, the renewable energy technology industry conserves resources and protects the environment: Now, therefore, be it

"*Resolved by the Senate of the State of California*, That the Legislature supports efforts to promote the renewable energy technology industry by bringing together industry and government to formulate policy objectives, and supports the Renewable Energy Development Invitational (REDI) Conference to be held in Willits in August 1993, in the following ways:

"(a) By encouraging the participation of state government officials and representatives in the REDI Conference.

"(b) By directing state agencies to include renewable energy technologies in their design and specification whenever feasible.

"(c) By encouraging purchasers in state agencies to consider buying renewable energy products made and sold by California companies.

"(d) By supporting the inclusion of renewable energy technologies in the California Home Energy Rating System with a preference given to renewable energy sources.

"(e) By creating more opportunities for such financial incentives as tax credits, consumer financing, and small business development funds; and be it further

"*Resolved*, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Governor, the State Energy Resources Conservation and Development Commission, and to each Senator and Representative from California in the Congress of the United States.

"Senate Resolution No. 17 read and adopted by the Senate June 24, 1993."

POM-238. A resolution adopted by the Senate of the Legislature of the State of Hawaii; to the Committee on Energy and Natural Resources.

"SENATE RESOLUTION 81

"Whereas, the Department of Hawaiian Home Lands administers the Hawaiian Homes Commission Act of 1920; and

"Whereas, the purpose of the Hawaiian Homes Commission Act is to provide native Hawaiians with certain public lands in trust for homestead use, agricultural use, and other leases for the benefit of native Hawaiians; and

"Whereas, one of the major obstacles towards acceleration of homestead awards are the kinds of lands which require a great amount of off-site and on-site infrastructure improvements; and

"Whereas, Hawaiian home lands has the least amount of its lands on Oahu, less than 4% of its total holdings, and the highest demand for residential homesteads for Oahu, more than 40% of all applications; and

"Whereas, the United States continues to occupy more than 320 acres of Hawaiian home lands located at Kekaha, Kauai, and Pohakuloa, Hawaii, for a term of 65 years for a nominal rent of $1 for the entire term for each parcel; and

"Whereas, the United States claims fee ownership of 1,498 acres of valuable Hawaiian home lands at Lualualei, Oahu, which lands include an existing acquifer, and for which no payment has ever been made; and

"Whereas, the possible availability of federal lands, especially on Oahu, provides a unique opportunity for the United States to satisfy all or part of its obligations to resolve claims by replacing Hawaiian home lands which were taken; and

"Whereas, the addition of lands will help make whole again the Hawaiian Home Lands Trust and provide for the settlement of native Hawaiians in accordance with the mission of the Hawaiian Homes Commission Act: Now, therefore, be it

"*Resolved by the Senate of the Seventeenth Legislature of the State of Hawaii, Regular Session of 1993*, That the Federal Government of the United States is urged to explore how federal lands no longer needed for military and other purposes can be used to compensate the Hawaiian Home Lands Trust for illegal takings and uses of trust lands; and be it further

"*Resolved*, That the Senate declares its support of actions by the United States to set right those wrongs that occurred long ago and to correct deficiencies that continue today in the spirit and context of ho'oponopono; and be it further

"*Resolved*, That certified copies of this Resolution be transmitted to the President of the United States, President of the United States Senate, the Speaker of the United States House of Representatives, and the members of Hawaii's Congressional Delegation."

POM-239. A resolution adopted by the House of the Legislature of the Commonwealth of Massachusetts to the Committee on Energy and Natural Resources.

"RESOLUTION

"Whereas, New Bedford during the nineteenth century was known far and wide as the whaling capital of the world and in this role provided both the oil that fueled the Nation's lamps and the lubricants that kept the wheels of the industrial revolution turning; and

"Whereas, its whaleships and whalemen furnished the inspiration for Herman Melville's 'Moby Dick,' considered by many the greatest of all American novels; and

"Whereas, its importance in American history extended beyond whaling into areas such as immigration and black history; and

"Whereas, the people of New Bedford have over the years lovingly preserved and restored a host of fine nineteenth century buildings, including the Seaman's Bethel, immortalized in 'Moby Dick,' and the Rotch-Jones-Duff House and Garden Museum, one of the finest monuments to Greek revival architecture in the country; and

"Whereas, the city's twenty acre national historic landmark district has become a model for historic preservation and economic revitalization, successfully integrating tourism and industry in an environment of restored whaling era buildings streets and sidewalks; and

"Whereas, its national historic landmark schooner *Ernestina*, gift of the Republic of Cape Verde to the people of the United States, serves as a symbol both of our country's maritime heritage and of its ethnic diversity; and

"Whereas, its whaling museum houses the world's foremost collection of whaling artifacts and documents as well as an extensive collection of art glass and painting created in New Bedford by artists drawn to the city by whaling era prosperity; and

"Whereas, the National Park Service has determined that the theme of whaling is significant enough in American history to merit a national park; and

"Whereas, no such park exists in the National Park System today; and

"Whereas, New Bedford meets all established park service criteria and has been determined by the park service to be the best single place to present the story of whaling; and

"Whereas, a report evaluating the economic impact of a national park on the Greater New Bedford area concludes that such a park would spur the creation of hundreds of new jobs and add millions of dollars annually to the local economy: Therefore be it

"*Resolved*, That the Massachusetts House of Representatives respectfully memorializes the Congress of the United States to recognize the significance of creating a national historic park in the city of New Bedford, Massachusetts, in order to interpret and relate the history of the whaling industry in America; and be it further

"*Resolved*, That a copy of these resolutions be forwarded by the Clerk of the House of Representatives to the presiding officer of each branch of Congress and to the Members thereof from this commonwealth."

POM-240. A concurrent resolution adopted by the Legislature of the State of Michigan; to the Committee on Energy and Natural Resources.

"SENATE CONCURRENT RESOLUTION NO. 23

"Whereas, presently there are thirty-seven states in our country that have Cooperative Fish and Wildlife Research Units, a productive and efficient arm of the United States Fish and Wildlife Service (USFWS). These units combine the resources of state universities, the USFWS, and state agencies to provide fish and wildlife research, graduate education, and technical assistance. They have proven to be most successful in protecting our natural resources; and

"Whereas, Michigan, with its abundance of natural resources, has needed a Cooperative Fish and Wildlife Research Unit for decades, but today it is imperative that the Great Lake State is granted such a research unit. Michigan is the only state that includes parts of four of the Great Lakes, which contain twenty percent of the world's surface fresh water. Michigan is the home of 11,000 inland lakes, 36,300 miles of rivers and streams, 1.5 million deer, and more public land than any other state east of the Mississippi. In addition, Michigan is the nesting home of a number of endangered species. Unfortunately, this state has also undergone invasions of exotic species, including the zebra mussel, and has suffered from a variety of toxicology problems. These pressing issues and the unsurpassed diversity of natural resources demand the best in research, not only for Michigan residents, but also for the millions of people who visit this outdoor recreation playground from around the country and the world; and

"Whereas, Michigan is clearly willing and able to do its part to ensure the success of a research unit. Michigan State University, its excellent Cooperative Extension Service, the University of Michigan, and the Michigan Department of Natural Resources (DNR) are eager to combine efforts in this most important pursuit. The land grant university, MSU, has agreed to provide clerical assistance and office space and waive other indirect costs. The U of M has offered assistance in research, and the Cooperative Extension Service has offered to provide staff and facilities throughout the state. The DNR has agreed to fund four graduate students annually; and

"Whereas, with the enactment of the Great Lakes Restoration Act, considerable research and many programs will begin to protect these natural wonders. All of these projects will be funded by the USFWS. However, it would be inefficient to have units from other states come here as they have in the past. It is indeed time for Congress to join with us in protecting our natural treasures: Now, therefore, be it

"*Resolved by the Senate (the House of Representatives concurring)*, That we memorialize the Congress of the United States to grant Michigan a Cooperative Fish and Wildlife Research Unit; and be it further

"*Resolved*, That a copy of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation."

POM-241. A joint resolution adopted by the Legislature of the State of Nevada; to the Committee on Energy and Natural Resources.

"ASSEMBLY JOINT RESOLUTION NO. 9

"Whereas, the citizens of the territory of Guam share the same dreams and aspirations as do other Americans and should be granted the dignity and freedom associated with greater rights of self-determination; and

"Whereas, the government of the United States supports the extension of self-determination to all people, especially to those in territories under its jurisdiction; and

"Whereas, the Nevada Legislature supports the attempt by each territory controlled by the government of the United States to attain the political status best suited to the people of the territory; and

"Whereas, by ratifying the Guam Commonwealth Act in 1987, the citizens of the territory of Guam have demonstrated their desire to control their own political, social and economic future; and

"Whereas, attaining the status of a Commonwealth of the United States would enable the citizens of the territory of Guam to enjoy the benefits of self-government, while retaining their long-standing loyalty to the government of the United States; and

"Whereas, the territory of Guam is one of the few territorial possessions remaining in the world today, and support for its efforts to achieve the status of a Commonwealth has been widespread, including support from the states of Alaska, Colorado and Hawaii, and from the National Governors' Association, the National Conference of State Legislatures, the Western Legislative Conference of the Council of State Governments and the United States Conference of Mayors: Now, therefore, be it

"*Resolved by the Assembly and Senate of the State of Nevada, jointly*, That the Nevada Legislature hereby expresses its support for the people of the territory of Guam in their efforts to attain the status of a Commonwealth of the United States and a just and permanent relationship with the government of the United States; and be it further

"*Resolved*, That the Chief Clerk of the Assembly prepare and transmit a copy of this resolution to the President of the United States, the Vice President of the United States as presiding officer of the Senate, the Speaker of the House of Representatives, the Majority Leader of the Senate, the Chairman of the Senate Committee on Energy and Natural Resources, the Chairman of the House Committee on Interior and Insular Affairs, the Secretary of State, the Secretary of the Interior, the Governor of Guam, the Speaker of the Guam Legislature, the Guam Congressional Delegate, the Chairman of the Guam Commission on Self-Determination, the Secretariat of the Association of Pacific Island Legislatures and each member of the Nevada Congressional Delegation; and be it further

"*Resolved*, That this resolution becomes effective upon passage and approval."

POM-242. A joint resolution adopted by the Legislature of the Commonwealth of the Northern Mariana Islands; to the Committee on Energy and Natural Resources.

"H.J. RES. 8-5

"Taking note that the Covenant negotiating history makes it clear that Section 901 does not preclude the Government of the Northern Marianas from requesting that a delegate from the Northern Mariana Islands be established in the Congress of the United States;

"Finding further that Article V, Section 2, of the Commonwealth Constitution, as amended by Constitutional Amendment 24, provides that the United States may confer the status of non-voting delegate or member in the United States Congress on the Resident Representative;

"Observing that P.L. 3-92, Section 1 (Title 1, CMC, Div. 4, Subsection 4101) provides that the Resident Representative shall function pursuant to Article V of the Constitution and the terms and conditions set forth in Division 4;

"Observing further that P.L. 3-92, Section 2(b) (Title 1, CMC, Div. 4, Subsection 4202(b)) prescribes the following duties for the Resident Representative: "To represent the Commonwealth and the people of the Commonwealth on a full-time basis before the Congress of the United States, its committees and subcommittees . . . To act as a liaison office in the District of Columbia for other official and unofficial matters pertaining to the public welfare of the Commonwealth . . . To actively and fully advocate all programs and policies duly adopted by the Commonwealth" and "To coordinate all activities of the Commonwealth Government respecting federal grants and programs in the District of Columbia and appropriate regional and district offices in other states and territories";

"Realizing that many of the functions of the Resident Representative would still be needed if such additional representational status were placed upon that office and would unduly encumber the new Delegate;

"Holding it to be true that providing a separate Delegate for the Northern Mariana Islands while maintaining an Office of the Resident Representative would neither diminish the full force and effect of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America nor in any sense abrogate, qualify, or modify the right to local self-government contained in Article 1, Section 103 of the Covenant; it is

"*Resolved by the House of Representatives of the Eighth Northern Marianas Commonwealth Legislature, the Senate concurring*, That the United States of America is hereby requested to:

"(1) Establish a seat of Delegate from the Northern Mariana Islands in the United States Congress;

"(2) Provide that the Delegate from the Northern Mariana Islands receive the same compensation, allowance, and benefits as a Member of the United States House of Representatives, and be entitled to at least those same privileges and immunities granted to the non-voting delegate from the territory of Guam and serve on the same term as the Resident Commissioner from the Commonwealth of Puerto Rico;

"(3) Work closely with the Resident Representative in the drafting of the federal legislation necessary to realize the Delegate from the Northern Mariana Islands; and

"*Resolving further*, That the Speaker of the House and the President of the Senate shall certify and the House Clerk and the Senate Legislative Secretary shall attest to the adoption of this Resolution and thereafter transmit copies to: The Honorable Bill Clinton, President of the United States; the Honorable Lorenzo I. De Leon Guerrero, Governor of the Commonwealth of the Northern Mariana Islands; the Honorable Thomas Foley, Speaker of the U.S. House of Representatives, the Honorable Richard Gephardt, Majority Leader of the U.S. House of Representatives; the Honorable Robert H. Michel, Minority Leader of the U.S. House of Representatives; the Honorable George Miller, U.S. House of Representatives, the Honorable Don Young, U.S. House of Representatives; the Honorable Ron De Lugo, U.S. House of Representatives; the Honorable Elton Gallegly, U.S. House of Representatives; the Honorable Eni F.J. Faleomavaega, U.S. House of Representatives; the Honorable Eleanor Holmes Norton, U.S. House of Representatives; the Honorable Carlos Romero-Barcelo, U.S. House of Representatives; the Honorable Robert Underwood, U.S. House of Representatives; the Honorable Al Gore, Vice President of the United States and President of the U.S. Senate; the Honorable George Mitchell, Majority Leader of the U.S. Senate; the Honorable Robert Dole, Minority Leader of the U.S. Senate, the Honorable J. Bennett Johnston, U.S. Senate; the Honorable Daniel K. Akaka, U.S. Senate; the Honorable Malcolm Wallop, U.S. Senate; and the Honorable Bruce Babbitt, Secretary of the U.S. Department of Interior."

POM-243. A resolution adopted by the Dickson Electric Department of the City of Dickson, TN relative to the Tennessee Valley Authority Board of Directors; to the Committee on Environment and Public Works.

POM-244. A joint resolution adopted by the Legislature of the State of Alaska; to the Committee on Environment and Public Works.

"S.J. RES. 31

"Whereas the United States Environmental Protection Agency has established October 9, 1993, as the effective date for compliance with all minimum federal criteria for municipal solid waste landfills, except the financial assurance criteria, which are effective April 9, 1994; and

"Whereas It took the Environmental Protection Agency seven years to adopt these criteria in response to the Hazardous and Solid Waste Amendments of 1984 (P.L. 98-616) to the Resource and Conservation Recovery Act (42 U.S.C. 6901—6992k); and

"Whereas the states have had only two years' time to adopt necessary regulations and to implement measures to comply with the criteria; and

"Whereas the state of Alaska and its citizens have made a good faith effort to comply the federal criteria; and

"Whereas the criteria may require solid waste transfer stations and regional landfills to be established, and since the Alaska Department of Environmental Conservation estimates that these transfer stations and regional landfills would cost local governments more than the one percent increase in local government budgets that is considered by the Environmental Protection Agency to be a significant economic effect, complying with the criteria may exceed the practicable capacity of many local governments; and

"Whereas the problems that low density populations face in complying with the federal criteria cannot be resolved within the time allowed for compliance; be it

"*Resolved*, That the Alaska State Legislature urges the United States Congress to extend the effective date of the financial assurance criteria for municipal solid waste landfills in Alaska under 40 CFR Part 258, Subpart G, to April 9, 1996, and to extend the effective date for the state to implement all other minimum federal criteria for municipal solid waste landfills under 40 CFR Part 258, Subparts A through F, to October 9, 1995; and be it further

"*Resolved*, That the Alaska State Legislature urges the United States Congress to take appropriate action to assure that municipal solid waste landfill units in Alaska are not considered open dumps under the Resource Conservation and Recovery Act due to a failure to comply with the new minimum federal criteria for municipal solid waste landfills under 40 CFR Part 258 until on or after October 9, 1995, unless the landfill unit does not comply with the federal criteria that were in effect on October 8, 1991.

"Copies of this resolution shall be sent to the Honorable Al Gore, Jr., Vice-President of the United States and President of the U.S. Senate; the Honorable Robert C. Byrd, President Pro Tempore of the U.S. Senate; the Honorable Thomas S. Foley, Speaker of the U.S. House of Representatives; the Honorable Carol Browner, Administrator of the U.S. Environmental Protection Agency; Dana A. Rasmussen, Regional Administrator of Region 10 of the U.S. Environmental Protection Agency; and to the Honorable Ted Stevens and the Honorable Frank Murkowski, U.S. Senators, and the Honorable Don Young, U.S. Representative, members of the Alaska delegation in Congress."

POM-245. A resolution adopted by the Legislature of the State of California; to the Committee on Environment and Public Works.

"SENATE JOINT RESOLUTION NO. 10

"Whereas, California has long experienced significant air quality problems in many of its urbanized areas, and a major reason for those problems is the exhaust emissions produced by the operation of the state's 26,000,000 motor vehicles; and

"Whereas, California has long been a leader in implementing programs and measures to reduce vehicle exhaust emissions and improve the air quality of the state, including new vehicle emission standards, emission control system warranty and repair requirements, cleaner fuel formulations, increasing emphasis on public and private transit system usage, incentives for increased vehicle occupancy, and the periodic inspection and maintenance of motor vehicles; and

"Whereas, The state's vehicle inspection and maintenance (I/M) programs have progressed from a simple inspection upon change of ownership in the 1960's, to a centralized I/M program in the greater Los Angeles region, to the decentralized biennial smog check program begun in 1984 in areas of the state which are in nonattainment for ambient air quality standards, and to the upgraded BAR-90 smog check program in effect since 1990; and

"Whereas, The federal Clean Air Act Amendments of 1990 (P.L. 101-549) establish a three-pronged approach for achieving major emission reductions from transportation sources, consisting of cleaner vehicles, cleaner vehicle fuels, and the in-use control of vehicles through sophisticated I/M programs; and

"Whereas, The federal act directs the Environmental Protection Agency (EPA) to establish a minimum performance standard for enhanced I/M programs based on the performance achievable by annual inspections in a centralized testing operation, and has required the states to adopt the required changes not later than November 15, 1993; and

"Whereas, The concept of a performance standard is intended to provide the states with flexibility in choosing the design elements of the enhanced I/M program, as long as the program's overall effectiveness meets the performance standard; and

"Whereas, The California I/M Review Committee has evaluated California's current program and concluded that it does not meet either state emission reduction goals or the enhanced performance standards adopted by the EPA, and that major program improvements will be required in many urbanized areas of the state to meet the state and federal air quality standards; and

"Whereas, The EPA rule grants a reduced credit or discount to states which have a decentralized system, and the I/M committee has proposed that California adopt a centralized program which provides for the separation of inspection and repair operations; and

"Whereas, The Administrator of the EPA and the Secretary of the United States Department of Transportation have corresponded with the Governor indicating their intent to impose fiscal sanctions on California if the state does not meet a November 15, 1993, deadline for submitting an enhanced I/M program; and

"Whereas, California currently has a decentralized I/M program in which the combined testing and repair of vehicles is authorized, and, as a result, businesses participating in the program have invested considerable capital in the purchase of BAR-90 test equipment and the training of personnel to operate that equipment; and

"Whereas, The consequences of the I/M committee's recommendations for businesses, employees, and the motoring public are enormous, and include significant economic effects, job and employment considerations, and issues of public cost and inconvenience; and

"Whereas, Questions have been raised regarding the accuracy of the I/M committee's report and the appropriateness of its recommendations and conclusions, with Members of the Legislature seeking an assessment of the report by an independent, blue-ribbon panel of experts; and

"Whereas, Further assessment and a better understanding of the potential impact of the I/M report and its recommendations and the EPA's regulations are necessary before concluding any agreement on revisions to the I/M program and complying with the new federal requirements: Now, therefore, be it

"*Resolved by the Senate and Assembly of the State of California, jointly*, That the Legislature respectfully memorializes the President of the United States and the Environmental Protection Agency to give California increased flexibility in assessing the effectiveness of the state's current I/M program, in redesigning the program, and in meeting the new federal performance standards for vehicle emission reductions; and be it further

"*Resolved*, That the EPA and the Federal Highway Administration are requested to delay the imposition of fiscal sanctions during the Legislature's consideration of revisions to the I/M program; and be it further

"*Resolved*, That the EPA is requested to not impose any arbitrary discount factor on the potential effectiveness of I/M program enhancements and design elements in California's program which might differ from the theoretical model used in developing the EPA's performance standard; and be it further

"*Resolved*, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Administrator of the Environmental Protection Agency, and to each Senator and Representative from California in the Congress of the United States."

POM-246. A resolution adopted by the Legislature of the State of Nebraska; to the Committee on Environment and Public Works.

"LEGISLATIVE RESOLUTION" 53

"Whereas, Section 333 of the Fiscal Year 1991 United States Department of Transportation Appropriation Act entitled "Revocation or Suspension of the Driver's License of Individuals Convicted of Drug Offenses" requires states to enact legislation requiring the revocation or suspension of an individual's driver license upon conviction of any drug-related offenses; and

"Whereas, Section 333 requires withholding five percent of certain federal-aid highway funds in Fiscal Year 1994 and 1995 and ten percent in subsequent years from states that fail to enact legislation; and

"Whereas, Section 333 provides the following procedure to avoid the sanctions without enacting the legislation:

"(B) The Governor of the State—

"(i) submits to the Secretary no earlier than the adjournment sine die of the first regularly scheduled session of the state's legislature which begins after the date of enactment of this section a written certification stating that he is opposed to the enactment or enforcement in his state of a law described in subparagraph (A) relating to revocation, suspension, issuance, or reinstatement of driver's licenses to convicted drug offenders; and

"(ii) submits to the Secretary a written certification that the legislature (including both Houses where applicable) has adopted a resolution expressing its opposition to a law described in clause (i)"; and

"Whereas, the Tenth Amendment to the Constitution of the United States provides that: "That powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people"; and

"Whereas, while drug abuse remains a paramount and priority national problem, the imposition of federal highway fund sanctions upon states does not appropriately address or respond to the problem; and

"Whereas, the reasons for the negative recommendation include a belief that the granting or withholding of driving privileges is and always has been a prerogative of the states to decide for themselves, not the federal government.

"Now, therefore, be it

"*Resolved by the members of the Ninety-Third Legislature of Nebraska, first session:*

"1. That the Legislature opposes enactment or enforcement in this state of any federally mandated law relating to revocation, suspension, issuance, or reinstatement of driver's licenses including the sanction described in 23 U.S.C. 159.

"2. That Congress repeal 23 U.S.C. 159 and allow states the right to determine and impose appropriate sanctions upon driving privileges of drug offenders within state boundaries.

"3. That this resolution is intended to satisfy the requirement under 23 U.S.C. 159(a)(3)(B)(i) and (ii) which will protect the State of Nebraska from the loss of federal highway funds under 23 U.S.C. 159 (a)(1) and (2).

"4. That the Clerk of the Legislature transmit copies of this resolution to the President of the United States, to the President of the Senate and the Speaker of the House of Representatives of the United States Congress, to the United States Secretary of Transportation, and to the Nebraska Congressional Delegation."

POM-247. A resolution adopted by the Town Council of the Town of Ahoskie, North Carolina relative to taxes on the sale of cigarettes; to the Committee on Finance.

POM-248. A resolution adopted by the Board of Commissioners of Lee County, North Carolina relative to taxes on the sale of cigarettes; to the Committee on Finance.

POM-249. A joint resolution adopted by the Legislature of the State of California; to the Committee on Finance.

"SENATE JOINT RESOLUTION NO. 7

"Whereas, The issuance of mortgage revenue bonds that were tax exempt under federal law, also known as qualified mortgage bonds, was terminated pursuant to Section 143(a)(1)(B) of the Internal Revenue Code as of June 30, 1992; and

"Whereas, The State of California and local governments have made extensive use of this mortgage financing source to assist low-income and moderate-income families and individuals acquire their first homes; and

"Whereas, From the establishment of the California Housing Finance Agency in 1975 through June 1992, the agency funded 50,378 single-family home mortgages with a total value of approximately $3,600,000,000; and

"Whereas, Between January 1985 and September 1992, approximately $2,900,000,000 in mortgage revenue bonds have been issued by local governments to fund single-family home mortgages; and

"Whereas, The Federal authority for the use of low-income housing tax credits to stimulate the production of rental housing with units affordable to lower income families and individuals was terminated, pursuant to Section 42 of the Internal Revenue Code, as of June 30, 1992; and

"Whereas, From the establishment of the tax credit program in 1987, low-income housing tax credits have been awarded to fund 657 projects with a total of 31,524 affordable units; and

"Whereas, It is estimated that the low-income housing tax credit has raised $900,000,000 in project equity that, when combined with other housing resources, has been an important incentive for the development of low-income rental housing: Now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully proposes to the Congress of the United States that it permanently reinstate both of the following:

"(1) The authorization of the issuance of tax-exempt mortgage revenue bonds to finance mortgages for low-income and moderate-income first-time homebuyers.

"(2) The authority for the use of federal low-income housing tax credits to stimulate the production of rental housing with units affordable to lower income families and individuals; and be it further

"*Resolved*, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the United States House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-250. A resolution adopted by the Senate of Legislature of the State of Hawaii; to the Committee on Finance.

"STATE OF HAWAII S. RES. NO. 203

"Whereas, on September 11, 1992, Hurricane Iniki devastated the island of Kauai, including a substantial number of businesses and residences, leaving many people unemployed; and

"Whereas, Kauai residents have been struggling for many months to restore not only their homes but their businesses as well; and

"Whereas, individuals whose employers were paying into the state unemployment insurance program have been able to collect unemployment benefits under the state unemployment insurance program; and

"Whereas, as part of the federal disaster relief program, the Disaster Unemployment Assistance program provided twenty-six weeks of unemployment benefits paid for by funds appropriated to the Federal Emergency Management Agency (FEMA) for those individuals who were self-employed and therefore had not contributed to the State unemployment insurance program or had not worked long enough to qualify for the State unemployment insurance program; and

"Whereas, on March 4th, the President of the United States signed into law H.R. 920, the Emergency Unemployment Compensation Act Amendment of 1993, which provides unemployment benefits for an additional twenty weeks to individuals receiving benefits under the State unemployment insurance program; and

"Whereas, the benefit period under FEMA for individuals who were self-employed or had not worked long enough to qualify for the State unemployment insurance program expired on March 13, 1993, leaving approximately one thousand people without relief payments; and

"Whereas, the Hawaii congressional delegation is working to extend the FEMA unemployment benefits for an additional twenty weeks as well: Now, therefore, be it

"*Resolved by the Senate of the Seventeenth Legislature of the State of Hawaii, Regular Session of 1993*, That the United States Congress is urged to pass legislation that extends the FEMA unemployment benefits an additional twenty weeks; and be it further

"*Resolved*, That certified copies of this Resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives and to each member of Hawaii's congressional delegation."

POM-251. A resolution adopted by the Senate of the Legislature of the State of Michigan; to the Committee on Finance.

"SENATE RESOLUTION NO. 93

"Whereas, The effects of President Clinton's tax plan on the economy of the Great Lake State are of vital concern to Michigan citizens. This plan proposes taxes that include increases in individual income taxes and the imposition of a surtax on the incomes of individuals earning more than $250,000, a broad-based energy tax, increases in the corporate income tax, increases in the top marginal rates for estate taxes, and a medicare payroll tax expansion to include all wages; and

"Whereas, The increases in taxes on individuals and the imposition of a surtax on those who earn more than $250,000 will raise taxes on most Americans when the effort should be not to increase taxes, but to decrease the tax burden on American citizens by eliminating the pork barrel spending through the utilization of the line item veto and balanced budget requirements that are enjoyed and employed by 43 states in this country; and

"Whereas, The broad-based energy tax, also known as the BTU tax, would be a significant factor in increasing prices of goods and services in this state with its energy-intensive manufacturing industries. States across the nation with a concentration of manufacturing interests, as well as the energy producing states, would all be severely affected by the consequences of these energy taxes. Moreover, this tax would prove most harmful to the middle class; and

"Whereas, Increasing the corporate income tax will cloud the futures of corporations in Michigan. Large corporations with taxable incomes of more than $10 million would be subject to a new top marginal tax rate of 36 percent. This action, together with other corporate tax changes, would, very likely, curb investment in corporations and curtail growth and expansion; and

"Whereas, The entire Clinton administration tax plan would seriously destabilize the Michigan economy through decreased investment in private enterprise and increased costs to the consumer, making the goods and services generated by Michigan businesses and manufacturing industries less competitive in domestic and foreign markets. As markets for goods and services become fewer or vanish altogether and there is decreasing investment in the private sector, there will be lower production and greater unemployment. In addition, the corresponding decrease in tax revenues, as a result of lower production, higher unemployment, and the rising cost of unemployment compensation will have a substantial impact on every aspect of Michigan's economy: Now, therefore, be it

"*Resolved by the Senate*, That the members of the Michigan Legislature hereby memorialize the United States Congress to reject the entire tax package proposed by President Clinton; and be it further

"*Resolved*, That a copy of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and to the members of the Michigan congressional delegation."

POM-252. A joint resolution adopted by the Legislature of the State of Nevada; to the Committee on Finance.

"ASSEMBLY JOINT RESOLUTION NO. 28

"Whereas, Public employees in the State of Nevada participate in state or local retirement systems; and

"Whereas, A significant number of public employees and their spouses have also been employed in nonpublic sector jobs for which they and their employers have contributed to the Social Security system; and

"Whereas, Upon retirement, public employees are entitled to receive a pension based on their service and contributions to the retirement system; and

"Whereas, Public employees who have also been employed in nonpublic sector jobs or have spouses who have been so employed and have contributed to the Social Security system upon retirement expect to receive Social Security benefits which are commensurate with their Social Security-covered service and are comparable to those received by all other employees who have contributed to the Social Security system; and

"Whereas, As a result of the Social Security offset provision, subsections (b)(4), (e)(7), (f)(2) and (g)(4) of section 202 of the Social Security Act, and the windfall provision, section 215(a)(7) of the Social Security Act, the Social Security benefits for which contributions were made by the employee or the employee's spouse, respectively, are substantially reduced or eliminated depending upon whether an employee or the employee's spouse has earned other retirement benefits from public employment; and

"Whereas, Public employees should not be penalized for their years of dedicated public service and should receive Social Security benefits which are commensurate with their or their spouses' years of Social Security-covered service and contributions and are comparable to those received by all other employees: Now, therefore, be it

"*Resolved by the Assembly and Senate of the State of Nevada, jointly,* That the members of the 67th session of the Nevada Legislature hereby urge Congress to review the offset and windfall provisions of the Social Security Act and repeal or amend those provisions to provide relief to public system retirees by providing Social Security benefits to public system retirees commensurate with their or their spouses' years of Social Security-covered service and contributions and are comparable to those Social Security benefits received by other retirees; and be it further

"*Resolved,* That the Chief Clerk of the Assembly prepare and transmit a copy of this resolution to the Vice President of the United States as presiding officer of the Senate, the Speaker of the House of Representatives and each member of the Nevada Congressional Delegation; and be it further

"*Resolved,* That this resolution becomes effective upon passage and approval."

POM-253. A joint resolution adopted by the Legislature of the State of Washington; to the Committee on Finance.

"HOUSE JOINT MEMORIAL 4008

"We, your Memorialists, the Senate and House of Representatives of the State of Washington, in legislative session assembled, respectfully represent and petition as follows:

"Whereas, the federal tax reform act of 1986 put additional financial stress on the taxpayers of the state of Washington by phasing out the retail sales tax deduction; and

"Whereas, Taxpayers in other states may deduct major state taxes in determining federal income tax; and

"Whereas, Congress could easily relieve this situation by restoring the full deduction;

"Now, therefore, Your Memorialists respectfully pray that the United States Congress amend the federal tax reform act of 1986 to restore the deduction of retail sales tax under the federal income tax.

"*Be it resolved,* That copies of this Memorial be immediately transmitted to the Honorable Bill Clinton, President of the United States, the President of the United States Senate, and Speaker of the House of Representatives, and each member of Congress from the State of Washington."

POM-254. A resolution adopted by the Legislature of the State of Alaska; to the Committee on the Judiciary.

LEGISLATIVE RESOLVE NO. 15

"Whereas certain actions, although arguably related to one person's free expression, nevertheless raise issues concerning public decency, public peace, and the rights of expression and sacred values of others; and

"Whereas there are symbols of our national soul such as the Washington Monument, the United States Capitol Building, and memorials to our greatest leaders, that are the property of every American and are therefore worthy of protection from desecration and dishonor; and

"Whereas the American Flag was most nobly born in the struggle for independence that began with "The Shot Heard Round the World" on a bridge in Concord, Massachusetts; and

"Whereas in the War of 1812 the American Flag stood boldly against foreign invasion, symbolized the stand of a young and brave nation against the mighty world power of that day, and in its courageous resilience inspired our national anthem; and

"Whereas in the Second World War the American Flag was the banner that led the American battle against fascist imperialism from the depths of Pearl Harbor to the mountaintop on Iwo Jima, and from defeat in North Africa's Kasserine Pass to victory in the streets of Hitler's Germany; and

"Whereas Alaska's star was woven into the fabric of the Flag in 1959, and that 49th star has become an integral part of the Union; and

"Whereas the American Flag symbolizes the ideals that good and decent people fought for in Vietnam, often at the expense of their lives or at the cost of cruel condemnation upon their return home; and

"Whereas the American Flag symbolizes the sacred values for which loyal Americans risked and often lost their lives in securing civil rights for all Americans, regardless of race, sex, or creed; and

"Whereas the American Flag was carried to the moon as a banner of goodwill, vision, and triumph on behalf of all mankind; and

"Whereas the American Flag to this day is a most honorable and worthy banner of a nation that is thankful for its strengths and committed to curing its faults, and remains the destination of millions of immigrants attracted by the universal power of the American ideal; and

"Whereas the law as interpreted by the United States Supreme Court no longer accords to the Stars and Stripes that reverence, respect, and dignity befitting the banner of that most noble experiment of a nation-state; and

"Whereas it is only fitting that people everywhere should lend their voices to a forceful call for restoration to the Stars and Stripes of a proper station under law and decency; be it

"*Resolved by the Alaska State Legislature,* That the Congress of the United States is requested to prepare and present to the legislatures of the several states an amendment to the Constitution of the United States that would specifically provide the Congress and the legislatures of the several states the power to prohibit the physical desecration of the Flag of the United States; this request does not constitute a call for a constitutional convention; and be it further

"*Resolved,* That the legislatures of the several states are invited to join with Alaska to secure ratification of the proposed amendment.

Copies of this resolution shall be sent to the Honorable Al Gore, Vice-President of the United States and President of the U.S. Senate; the Honorable George J. Mitchell, Majority Leader of the U.S. Senate; to the Honorable Thomas S. Foley, Speaker of the U.S. House of Representatives, the governors of each of the several states; the presiding officers of each house of the legislatures of the several states; and to the Honorable Ted Stevens and the Honorable Frank Murkowski, United States Senators, and the Honorable Don Young, United States Representative, members of the Alaska delegation in Congress."

POM-255. A joint resolution adopted by the Legislature of the State of California; to the Committee on the Judiciary.

"SENATE JOINT RESOLUTION NO. 17

"Whereas, Cesar Chavez was born on March 31, 1927, on a small farm near Yuma, Arizona, that his grandfather homesteaded during the 1880's and passed away on April 22, 1993; and

"Whereas, The labor movement and all Americans have lost a great leader with the death of Cesar Chavez; and

"Whereas, One of five children, when he was 10 years of age, he and his family were forced to seek work as migrant laborers, and later he served in the United States Navy in 1944 and 1945; and

"Whereas, Cesar Chavez was an inspiring fighter for recognition of, and respect for, the human rights and dignity of farmworkers; and

"Whereas, He founded in 1962 what would later become the United Farm Workers Union. His union was the first to win collective bargaining for farmworkers. At its peak in the 1980's, the U.F.W.'s collective bargaining agreements covered about 80,000 workers in California, Arizona, and Florida; and

"Whereas, Against great odds, Cesar led a successful five-year strike boycott that rallied millions of supporters to the United Farm Workers. He forged a national support coalition of unions, church groups, students, minorities, and consumers; and

"Whereas, he was a dedicated advocate of nonviolence and galvanized public support on behalf of farm workers and his influence extended well beyond farm labor issues and enabled millions of urban Latinos to achieve educational, housing, and political opportunities; and

"Whereas, Cesar Chavez led a life of sacrifice to improve farm workers' conditions. In 1968, he conducted a 25-day fast to reaffirm the U.F.W.'s nonviolent commitment. In 1988, he conducted a 36-day fast to protest the pesticide poisoning of grape workers and their children. Like other U.F.W. officers and staff, he received an annual pay of less than $5,000 per year; and

"Whereas, Cesar Chavez's tireless commitment to improve the plight of farm workers profoundly touched the conscience of America and inspired millions of others to work for justice in their own communities; and

"Whereas, The late Senator Robert Kennedy recognized Chavez as one of the great heroic figures of our times: Now, therefore, be it

"*Resolved by the Senate and Assembly of the State of California, jointly,* That the Legislature of the State of California respectfully memorializes the President and the Congress to annually proclaim March 31 as a national public holiday known as 'Cesar Chavez Day'; and be it further

"*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-256. A resolution adopted by the Las Cruces, New Mexico Chamber of Commerce relative to workplace legislation; to the Committee on Labor and Human Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. INOUYE, from the Committee on Indian Affairs, with an amendment in the nature of a substitute:

S. 1156. A bill to provide for the settlement of land claims of the Catawba Tribe of Indians in the State of South Carolina and the restoration of the Federal trust relationship with the Tribe, and for other purposes (Rept. No. 103–124).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PELL, from the Committee on Foreign Relations:

J. Joseph Grandmaison, of New Hampshire to be Director of the Trade and Development Agency, vice Jose E. Martinez, resigned.

Alvin P. Adams, Jr., of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Peru.

Nominee: Alvin P. Adams, Jr.

Post: Peru.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, and donee.

1. Self, None.
2. Spouse, None.
3. Children and Spouses, name Lex N. Adams, None.
4. Parents, names Alvin P. Adams, 750, 1988, Bush campaign; 500, 1992, Bush campaign.
5. Grandparents, Nathan Miller (deceased), none, Elizabeth Miller (deceased), none, Orson Adams (deceased), none, and Edith L. Adams (deceased), none.
6. Brothers and spouses, names Nathan M. Adams, none, Anna-Lisa P. Adams, none.
7. Sisters and spouses, names Edith L. Kiggen, none.

John T. Sprott, of Virginia, a Career Member of the Senior Executive Service, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Swaziland.

Nominee: John T. Sprott.

Post: Kingdom of Swaziland.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, and donee.

1. Self, none.
2. Spouse Jeanne R. Sprott, none.
3. Children and spouses: Michael M. Sprott, Melissa M. Sprott (spouse), Patricia A. Sprott, Barbara J. Sprott, Theresa A. Sprott, Susan J. Rexroad, Gerald M. Rexroad (spouse) None.
4. Parents, names, Lillie A. Sprott, deceased, Alston D. Sprott, deceased.
5. Grandparents, names, deceased.
6. Brothers and spouses, names, none.
7. Sisters and spouses, names, Florence A. Collins, Robert E. Collins, none.

Roland Karl Kuchel, of Florida, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Zambia.

Nominee: Roland K. Kuchel.

Post: Ambassador to Zambia.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, and donee.

1. Self, none.
2. Spouse, none.
3. Children and spouses, names: Anna Kuchel-Rabinowitz and spouse, Jay, none, Helena Kuchel-Garcon and spouse, Orlando, none.
4. Parents, names, Thomas Kuchel, none, Teresita Kuchel, none, (father deceased).
5. Grandparents, names, deceased.
6. Brothers and spouses, names, Konrad Kuchel, none, Bernhard Kuchel and spouse, Judith, none.
7. Sisters and spouses, names, none.

Walter C. Carrington, of Maryland, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Federal Republic of Nigeria.

Nominee: Walter C. Carrington.

Post: Nigeria.

Contributions, amount, date, and donee:

1. Self, $50, June 12, 1990, Committee to Reelect Howard Wolpe, $100, June 1991, Committee to Elect Harris Wofford, $100, May 11, 1992, Committee to Elect Victor Frazier.
2. Spouse: Divorced (No contributions while married).
3. Children and spouses names: Thomas L. Carrington, none.
4. Parents names: Marjorie I. Hall, Walter R. Carrington, deceased.
5. Grandparents names: Annie Hayes, John Hayes, Estelle Holder, Richard A. Carrington, all deceased.
6. Brothers and spouses names: None.
7. Sisters and spouses names: Marilyn A. Carrington, none.

Aurelia Erskine Brazeal, of Georgia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Kenya.

Nominee: Aurelia E. Brazeal.

Post: Ambassador to Kenya.

Contributions, amount, date, and donee:

1. Self, none.
2. Spouse, none.
3. Children and spouses names: None.
4. Parents names: Dr. B.R. Brazeal, father, deceased, Mrs. B.R. Brazeal, mother, none.
5. Grandparents names: Mr. and Mrs. Edgar Frazier, deceased, Grandparents on father's side, deceased.
6. Brothers and spouses names: None.
7. Sisters and spouses names: Miss Ernestine W. Brazeal, sister, none.

John S. Davison, of Maryland, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Niger.

Nominee: John S. Davison.

Post: Ambassador to Niger.

Contributions, amount, date, and donee:

1. Self: John S. Davison, none.
2. Spouse: Therese Davison, none.
3. Children and spouses names: Alice Davison/JanGreer, none; Juliet Davison/Chris Lutes, $50, September 1992, Clinton for President.
4. Parents names: Andrew/Irene Davison, deceased.
5. Grandparents names: John Armstrong/Flora Cass, deceased; Samuel Davison/Janet Anderson, deceased, none.
6. Brothers and spouses names: None.
7. Sisters and spouses names: None.

James Robert Jones, of Oklahoma, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Mexico.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Nominee: James R. Jones.

Post: Ambassador to Mexico.

Contributions, amount, date, and donee:

1. Self, James R. Jones: $1,000, January 1993, Ed Markey Committee; $500, March 1993, Sam Gibbons Committee; $500, April 1993, Bob Krueger Committee; $1,000, March 1992, Paul Tsongas Committee; $1,500, April 1992, Democratic Congressional Campaign Committee; $250, June 1992, Joe Lieberman Committee; $200, August 1992, Steve Lewis Senate Committee; $250, August 1992, Wayne Owens Committee; $4,000, September 1992, DNC Victory Fund; $200 October 1992, Barbara Boxer Committee; $250, October 1992, Les Aspin Committee; $1,500, October 1992, Democratic Senate Campaign Committee; $500, November 1992, Wyche Fowler Committee; $2,000, April 1991, Wyche Fowler Committee; $2,500, May 1991, Democratic Congressional Campaign Committee; $500, June 1991, Gerry Ferraro Committee; $1,000, November 1991, Ed Markey Committee; $500, December 1991, Sandy Levin Committee; $100, January 1990, Emily's List; $1,000, March 1990, Bob Kerr Committee; $500, April 1990, Mike Synar Committee; $500, April 1990, Twilegare Senate Committee; $500, June 1990, Pamela Harriman Democratic Decade Committee; $2,000, November 1990, Democratic Congressional Campaign Committee; $100, November 1990, Gail Schoetler Committee; $500, November 1990, David Walters Committee.
2. Spouse: Olivia Jones.
3. Children and spouses names: Geoffrey and Adam Jones, none.

4. Parents names: Robert and Margaret Jones, deceased.

5. Grandparents names: Simon and Susan Wech/J.W. and Florida Frances Jones, deceased.

6. Brothers and spouses names: Joseph P. and Maxine Jones, none.

7. Sisters and spouses names: Mary Margaret and Robert Smith, none.

Donald J. McConnell, of Ohio, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Burkina Faso.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Nominee: Donald J. McConnell
Post: Burkina Faso
Contributions, amount, date, and donee:
1. Self: None.
2. Spouse: None.
3. Children and spouses names: none (no children).
4. Parents names: Albert McConnell none (deceased); Naomi McConnell none.
5. Grandparents names: Andrew and Frances McConnell/none (all 4 grandparents deceased); Reuben and Emma Beery.
6. Brothers and spouses names: Thomas A. McConnell, Delores; Robert N. McConnell; David W. McConnell, Susan; none.
7. Sisters and spouses names: Mrs. Virginia Flaisig, Richard; Mrs. Natalie Gravo, Richard; none.

By Mr. GLENN, from the Committee on Governmental Affairs:

Russell F. Canan, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for the term of fifteen years.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. BIDEN, from the Committee on the Judiciary:

Ruth Bader Ginsburg, of New York, to be an Associate Justice of the United States Supreme Court (together with additional views) (Ex. Rept. No. 103-6)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. SIMON (for himself, Mr. KENNEDY, Mr. DURENBERGER, Mr. WOFFORD, Mr. PELL, Mr. METZENBAUM, Mr. DODD, Mr. HATFIELD, Ms. MOSELEY-BRAUN, Mr. BREAUX, and Mrs. MURRAY):

S. 1361. A bill to establish a national framework for the development of School-to-Work Opportunities systems in all States, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. CAMPBELL:

S. 1362. A bill for the relief of Gorsha Michaelovich Sur; to the Committee on the Judiciary.

By Mr. DECONCINI:

S. 1363. A bill to authorize the Administrator of the Environmental Protection Agency to transfer funds to the Secretary of State, and award grants, to provide assistance to promote public health, the environment, and water quality in the United States-Mexico border area, and for other purposes; to the Committee on Environment and Public Works.

By Mr. DECONCINI (for himself, Mr. DOMENICI, and Mr. BINGAMAN):

S. 1364. A bill to provide for assistance to eligible communities for the construction and improvement of treatment works for wastewater treatment, and for other purposes; to the Committee on Environment and Public Works.

By Mr. WOFFORD:

S. 1365. A bill to limit the duration of certain benefits afforded to former Presidents, and for other purposes; to the Committee on Governmental Affairs.

S. 1366. A bill to limit the duration of payments of expenses of former Speakers of the House of Representatives; to the Committee on Governmental Affairs.

S. 1367. A bill to prohibit taxpayer financed mass mailings; to the Committee on Rules and Administration.

S. 1368. A bill to eliminate the discount on office equipment and furniture for Senators departing office; to the Committee on Rules and Administration.

S. 1369. A bill to reduce Federal budget deficits by delaying the beginning of initial low-rate production of two new weapon systems of the Department of Defense; to the Committee on Armed Services.

S. 1370. A bill to require the Secretary of Defense to retire all land-based intercontinental ballistic missiles before October 1, 1997; to the Committee on Armed Services.

S. 1371. A bill to terminate the Ground-Wave Emergency Network (GWEN) program; to the Committee on Armed Services.

S. 1372. A bill to eliminate the price support and production adjustment programs for tobacco, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

S. 1373. A bill to amend the Reclamation Project Act of 1939 to reform irrigation assistance repayments and to require the Secretary of the Interior to redetermine the ability of irrigators to repay construction charges at least every 5 years; to the Committee on Energy and Natural Resources.

S. 1374. A bill to reduce certain authorizations for the United States Travel and Tourism Administration, Department of Commerce; to the Committee on Commerce, Science, and Transportation.

S. 1375. A bill to eliminate funding for the Federal information centers, and for other purposes; to the Committee on Governmental Affairs.

S. 1376. A bill to repeal the Helium Act, to require the Secretary of the Interior to sell Federal real and personal property held in connection with activities carried out under the Helium Act, and for other purposes; to the Committee on Energy and Natural Resources.

S. 1377. A bill to eliminate funding for the essential air service program, and for other purposes; to the Committee on Commerce, Science, and Transportation.

S. 1378. A bill to limit the amount of funds authorized to be appropriated for international broadcasting activities for each of the fiscal years 1994 through 1998; to the Committee on Foreign Relations.

S. 1379. A bill to limit the continued availability of foreign assistance funds for obligation and expenditure; to the Committee on Foreign Relations.

By Mr. BRADLEY (for himself and Mr. LAUTENBERG):

S. 1380. A bill to designate portions of the Maurice River and its tributaries in the State of New Jersey as components of the national wild and scenic rivers system; to the Committee on Energy and Natural Resources.

By Mr. DOMENICI:

S. 1381. A bill to improve administrative services and support provided to the National Forest Foundation, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. BROWN:

S. 1382. A bill to delay the effective date of the proposed amendments to rule 11 of the Federal Rules of Civil Procedure; to the Committee on the Judiciary.

By Mr. HOLLINGS (for himself and Mr. INOUYE):

S. 1383. A bill to amend the Communications Act of 1934 to prohibit the distribution to the public of violent video programming during hours when children are reasonably likely to comprise a substantial portion of the audience; to the Committee on Commerce, Science, and Transportation.

By Mr. THURMOND:

S. 1384. A bill to extend the temporary suspension of duty on certain chemicals; to the Committee on Finance.

S. 1385. A bill to suspend temporarily the duty on polyamide resin; to the Committee on Finance.

S. 1386. A bill to suspend temporarily the duty on 4,4' biphenol; to the Committee on Finance.

S. 1387. A bill to extend the temporary suspension of duty on 2,6-HNA; to the Committee on Finance.

S. 1388. A bill to suspend temporarily the duty on certain chemicals; to the Committee on Finance.

S. 1389. A bill to suspend temporarily the duty on chloranil; to the Committee on Finance.

S. 1390. A bill to suspend temporarily the duty on 2,4-dinitro aniline; to the Committee on Finance.

S. 1391. A bill to suspend temporarily the duty on diazo-2,1,4-sulfonic acid and its salts; to the Committee on Finance.

S. 1392. A bill to extend the temporary suspension of duty on tetraamino biphenyl; to the Committee on Finance.

S. 1393. A bill to suspend temporarily the duty on Phospholan; to the Committee on Finance.

S. 1394. A bill to suspend temporarily the duty on acet-p-anisidine; to the Committee on Finance.

By Mr. LAUTENBERG (for himself, Mr. AKAKA, Mr. PELL, Mr. D'AMATO, and Mr. METZENBAUM):

S.J. Res. 122. A joint resolution designating December 1993 as "National Drunk and Drugged Driving Prevention Month"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SIMON (for himself, Mr. KENNEDY, Mr. DURENBERGER, Mr. WOFFORD, Mr. PELL, Mr. METZENBAUM, Mr. DODD, Mr. HATFIELD, Ms. MOSELEY-BRAUN, Mr. BREAUX, and Mrs. MURRAY):

S. 1361. A bill to establish a national framework for the development of school-to-work opportunities systems in all States, and for other purposes; to the Committee on Labor and Human Resources.

SCHOOL-TO-WORK OPPORTUNITIES ACT OF 1993

Mr. SIMON. Mr. President, I want to introduce a bill, the School-to-Work Opportunities Act, on behalf of myself and Senators KENNEDY, DURENBERGER, WOFFORD, PELL, METZENBAUM, DODD, HATFIELD, MOSELEY-BRAUN, BREAUX, and MURRAY.

I would just like to comment very briefly. First, I am pleased to have those cosponsors, and I particularly want to commend Senator KENNEDY, who has not only been the chair of our committee, but has been a real leader in the U.S. Senate on education matters and on all matters of social policy. I am proud to serve with him here.

I am grateful for the support of Senator DURENBERGER. This is also an area that Senator WOFFORD has worked very hard on.

We spend a great deal of money to ensure that people have college opportunities, so these pages here, and others, will be able to go to college. This is appropriate. It is a great investment in our future, but three-fourths of those who go to high school are not going to graduate from college, and we ought to be providing more opportunities for them.

We are the only industrialized nation in the world that does not have a coherent comprehensive system for preparing its young people for work. What we have to do is to create school-to-work opportunities. What we have to do is to see that people have high skills. We are living in a world where the demand for high skills is going up, and the demand for low skills or no skills is going down. That trend will continue, but our educational system, frankly, does not reflect that as it should.

What we need, clearly, is an education system that creates opportunities for both college and careers for all students. The School-to-Work Opportunities Act does just that. It is a small investment that will yield dramatic returns in productivity.

This legislation creates a national framework within which States can develop effective systems for improving the transition from school to employment. It would provide seed money to States and communities to develop programs to integrate school-based and work-based learning. It would also encourage coordination of these new and expanded systems with other Federal programs by allowing for waivers where necessary.

The Secretaries of Education and Labor deserve praise for developing the School-to-Work Opportunities Act carefully over the last several months, basing it in the best common elements of effective models across the Nation, while keeping the program flexible enough so that further innovation is promoted, not hindered.

The Departments of Education and Labor received extensive and invaluable input from the business, education, and labor communities, from community-based organizations, State and local governments and others who have had experience in developing school-to-work programs. The administration also built upon legislation that Senator WOFFORD and I introduced as well as the work of Senator KENNEDY who is, as he is on so many important issues, a leader in this area. And, of course, Senator HATFIELD's State of Oregon has been at the forefront to the effort to improve education and employment opportunities for all students.

During the campaign, President Clinton shared his vision of bringing business, labor, and education leaders together to develop a national apprenticeship-style that offers non-college-bound students valuable skills training, with the promise of good jobs when they graduate. The School-to-Work Opportunities Act will put this vision into practice.

I look forward to working with my colleagues, with President Clinton, and with Secretary Reich and Secretary Riley to enact this legislation quickly.

Mr. President, I will point out that this already, even though it is just being introduced, has been endorsed by the American Federation of Teachers, the National Alliance of Business, and I am sure will be endorsed by the National Education Association, and others.

It gives States flexibility but it encourages movement. And it does it for a relatively small price tag—$300 million the first year and such sums as may be needed after that.

I visited some model school-to-work programs in Pennsylvania and New York. I have not visited the Oregon programs. But this is the direction that we are going to have to go in the field of education. I am pleased to introduce this bill and to have bipartisan sponsorship on it.

Mr. President, I ask unanimous consent that the text of the bill and additional material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1361

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "School-to-Work Opportunities Act of 1993".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings.
Sec. 3. Purposes and Congressional intent.
Sec. 4. Definitions.
Sec. 5. Federal administration.

TITLE I—SCHOOL-TO-WORK OPPORTUNITIES BASIC PROGRAM COMPONENTS

Sec. 101. General program requirements.
Sec. 102. Work-based learning component.
Sec. 103. School-based learning component.
Sec. 104. Connecting activities component.

TITLE II—SCHOOL-TO-WORK OPPORTUNITIES SYSTEM DEVELOPMENT AND IMPLEMENTATION GRANTS TO STATES

Subtitle A—State Development Grants

Sec. 201. Purpose.
Sec. 202. State development grants.

Subtitle B—State Implementation Grants

Sec. 211. Purpose.
Sec. 212. State implementation grants.

TITLE III—FEDERAL IMPLEMENTATION GRANTS TO PARTNERSHIPS

Sec. 301. Purpose.
Sec. 302. Federal implementation grants to partnerships.
Sec. 303. School-to-work opportunities program grants in high poverty areas.

TITLE IV—NATIONAL PROGRAMS

Sec. 401. Research, demonstration, and other projects.
Sec. 402. Performance outcomes and evaluation.
Sec. 403. Training and technical assistance.

TITLE V—GENERAL PROVISIONS

Sec. 501. State request and responsibilities for a waiver of statutory and regulatory requirements.
Sec. 502. Waivers of statutory and regulatory requirements by the Secretary of Education.
Sec. 503. Waivers of statutory and regulatory requirements by the Secretary of Labor.
Sec. 504. Safeguards.
Sec. 505. Authorization of appropriations.
Sec. 506. Acceptance of gifts, and other matters.
Sec. 507. Effective date.

SEC. 2. FINDINGS.

Congress finds that—

(1) three-fourths of America's high school students enter the workforce without baccalaureate degrees, and many do not possess the academic and entry-level occupational skills necessary to succeed in the changing workplace;

(2) unemployment among American youth is intolerably high, and earnings of high school graduates have been falling relative to those with more education;

(3) the American workplace is changing in response to heightened international competition and new technologies, and these forces, which are ultimately beneficial to the Nation, are shrinking the demand for and undermining the earning power of unskilled labor;

(4) the United States is the only industrialized nation that lacks a comprehensive and coherent system to help its youth acquire knowledge, skills, abilities, and information about and access to the labor market necessary to make an effective transition from school to career-oriented work or to further education and training;

(5) American students can achieve to high standards, and many learn better and retain more when they learn in context, rather than in the abstract;

(6) work-based learning, which is modeled after the time-honored apprenticeship concept, integrates theoretical instruction with structured on-the-job training, and this approach, combined with school-based learning, can be very effective in engaging student interest, enhancing skill acquisition,

and preparing youth for high-skill, high-wage careers; and

(7) Federal resources currently fund a series of categorical, work-related education and training programs that are not administered as a coherent whole.

SEC. 3. PURPOSES AND CONGRESSIONAL INTENT.

(a) PURPOSES.—The purposes of this Act are to—

(1) establish a national framework within which all States can create statewide School-to-Work Opportunities systems that are integrated with the systems developed under the Goals 2000: Educate America Act and that offer young Americans access to a performance-based education and training program that will enable them to earn portable credentials, prepare them for a first job in a high-skill, high-wage career, and increase their opportunities for further education;

(2) transform workplaces into active learning components by making employers full partners in providing high-quality, work-based learning experiences to students;

(3) use Federal funds under this Act as venture capital, to underwrite the initial costs of planning and establishing statewide School-to-Work Opportunities systems that will be maintained with other Federal, State, and local resources;

(4) promote the formation, among secondary and postsecondary educational institutions, private and public employers, labor organizations, government, community groups, parents, and students, of local education and training systems that are dedicated to linking the worlds of school and work;

(5) help students attain high academic and occupational standards;

(6) build on and advance a range of promising programs, such as tech-prep education, career academies, school-to-apprenticeship programs, cooperative education, youth apprenticeship, and business-education compacts, that can be developed into programs funded under this Act;

(7) improve the knowledge and skills of youth by integrating academic and occupational learning, integrating school-based and work-based learning, and building effective linkages between secondary and postsecondary education;

(8) motivate youth, especially low-achieving youth and dropouts, to stay in or return to school and strive to succeed by providing enriched learning experiences and assistance in obtaining good jobs; and

(9) further the National Education Goals set forth in title I of the Goals 2000: Educate America Act.

(b) CONGRESSIONAL INTENT.—It is the intent of Congress that the Secretary of Labor and the Secretary of Education jointly administer this Act in a flexible manner that—

(1) promotes State and local discretion in establishing and implementing School-to-Work Opportunities systems and programs; and

(2) contributes to reinventing government by building on State and local capacity, eliminating duplication, supporting locally established initiatives, requiring measurable goals for performance, and offering flexibility in meeting these goals.

SEC. 4. DEFINITIONS.

As used in this Act—

(1) the term "elements of an industry" means, with respect to a particular industry that a student is preparing to enter, such elements as planning, management, finances, technical and production skills, underlying principles of technology, labor and community issues, health and safety, and environmental issues related to that industry;

(2) the term "all students" means students from the broad range of backgrounds and circumstances, including disadvantaged students, students of diverse racial, ethnic, and cultural backgrounds, students with disabilities, students with limited English proficiency, and academically talented students;

(3) the term "approved State plan" or "approved plan" means a School-to-Work Opportunities plan that is submitted by a State, is determined by the Secretaries to include the basic program components and otherwise meet the requirements of this Act, and is consistent with the State's plan under the Goals 2000: Educate America Act;

(4) the term "career major" means a coherent sequence of courses or field of study that prepares a student for a first job and that—

(A) integrates occupational and academic learning, integrates work-based and school-based learning, and establishes linkages between secondary and postsecondary education;

(B) prepares the student for employment in broad occupational clusters or industry sectors;

(C) typically includes at least two years of secondary school and one or two years of postsecondary education;

(D) results in the award of a high school diploma, a certificate or diploma recognizing successful completion of one or two years of postsecondary education (if appropriate), and a skill certificate; and

(E) may lead to further training, such as entry into a registered apprenticeship program;

(5) the term "employer" includes both public and private employers;

(6) the term "Governor" means the chief executive of a State;

(7) the term "local educational agency" shall have the same meaning as provided in paragraph 12 of section 1471 of the Elementary and Secondary Education Act of 1965, 20 U.S.C. 2891(12);

(8) the term "partnership" means a local entity that is responsible for local School-to-Work Opportunities programs and that consists of employers, public secondary and postsecondary educational institutions or agencies, and labor organizations or employee representatives as defined in section 403(c)(1)(B) of the Goals 2000: Educate America Act, and may include other entities, such as non-profit or community-based organizations, rehabilitation agencies and organizations, registered apprenticeship agencies, local vocational education entities, local government agencies, parent organizations and teacher organizations, private industry councils established under the Job Training Partnership Act, and Federally recognized Indian tribes and Alaska Native villages;

(9) the term "postsecondary education institution" means a public or private non-profit institution that is authorized within a State to provide a program of education beyond secondary education, and includes a community college, a technical college, a postsecondary vocational institution, or a tribally controlled community college;

(10) the term "registered apprenticeship agency" means either the Bureau of Apprenticeship and Training in the U.S. Department of Labor or a State apprenticeship agency recognized and approved by the Bureau of Apprenticeship and Training as the appropriate body for State registration or approval of local apprenticeship programs and agreements for Federal purposes;

(11) the term "registered apprenticeship program" means a program registered by a registered apprenticeship agency;

(12) the term "Secretaries" means the Secretary of Education and the Secretary of Labor;

(13) the term "skill certificate" means a portable, industry-recognized credential issued by a School-to-Work Opportunities program under an approved plan, that certifies that a student has mastered skills at levels that are at least as challenging as skill standards endorsed by the National Skill Standards Board established under the Goals 2000: Educate America Act, except that until such skill standards are developed, the term "skill certificate" means a credential issued under a process described in a State's approved plan;

(14) the term "State" means each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico; and

(15) the term "workplace mentor" means an employee at the workplace who possesses the skills to be mastered by a student, and who instructs the student, critiques the student's performance, challenges the student to perform well, and works in consultation with classroom teachers and the employer.

SEC. 5. FEDERAL ADMINISTRATION.

(a) Notwithstanding the Department of Education Organization Act, 20 U.S.C. 3401 *et seq.*, the General Education Provisions Act, 20 U.S.C. 1221 *et seq.*, the statutory provisions regarding the establishment of the Department of Labor, 29 U.S.C. 551 *et seq.*, and section 166 of the Job Training Partnership Act, 29 U.S.C. 1576, the Secretaries shall jointly provide for the administration of the programs established by this Act, and may issue whatever procedures, guidelines, and regulations, in accordance with 5 U.S.C. 553, they deem necessary and appropriate to administer and enforce the provisions of this Act.

(b) Section 431 of the General Education Provisions Act, 20 U.S.C. 1232, shall not apply to any programs under this Act.

TITLE I—SCHOOL-TO-WORK OPPORTUNITIES BASIC PROGRAM COMPONENTS

SEC. 101. GENERAL PROGRAM REQUIREMENTS.

A School-to-Work Opportunities program under this Act shall—

(1) integrate work-based learning and schoolbased learning, as provided for in sections 102 and 103;

(2) provide a student with the opportunity to complete a career major as defined in section 4 of this Act; and

(3) incorporate the basic program components provided in sections 102 through 104.

SEC. 102. WORK-BASED LEARNING COMPONENT.

The work-based learning component of a School-to-Work Opportunities program shall include—

(1) a planned program of job training and experiences, including skills to be mastered at progressively higher levels, that are relevant to a student's career major and lead to the award of a skill certificate;

(2) paid work experience;

(3) workplace mentoring;

(4) instruction in general workplace competencies; and

(5) broad instruction in a variety of elements of an industry.

SEC. 103. SCHOOL-BASED LEARNING COMPONENT.

The school-based learning component of a School-to-Work Opportunities program shall include—

(1) career exploration and counseling in order to help students who may be interested to identify, and select or reconsider, their interests, goals, and career majors;

(2) initial selection by interested students of a career major not later than the beginning of the 11th grade;

(3) a program of study designed to meet the same challenging academic standards established by States for all students under the Goals 2000: Educate America Act, and to meet the requirements necessary for a student to earn a skill certificate; and

(4) regularly scheduled evaluations to identify academic strengths and weaknesses of students and the need for additional learning opportunities to master core academic skills.

SEC. 104. CONNECTING ACTIVITIES COMPONENT.

The connecting activities component of a School-to-Work Opportunities program shall include—

(1) matching students with employers' work-based learning opportunities;

(2) serving as a liaison among the employer, school, teacher, parent, and student;

(3) providing technical assistance and services to employers and others in designing work-based learning components and counseling and case management services, and in training teachers, workplace mentors, and counselors;

(4) providing assistance to students who have completed the program in finding an appropriate job, continuing their education, or entering into an additional training program;

(5) collecting and analyzing information regarding post-program outcomes of students who participate in the School-to-Work Opportunities program; and

(6) linking youth development activities under this Act with employer strategies for upgrading the skills of their workers.

TITLE II—SCHOOL-TO-WORK OPPORTUNITIES SYSTEM DEVELOPMENT AND IMPLEMENTATION GRANTS TO STATES

Subtitle A—State Development Grants

SEC. 201. PURPOSE.

The purpose of this subtitle is to assist States in planning and developing comprehensive, statewide systems for school-to-work opportunities.

SEC. 202. STATE DEVELOPMENT GRANTS.

(a) IN GENERAL.—Upon the application of a State, the Secretaries may award a development grant to a State in such amount as the Secretaries determine is necessary to enable the State to complete development (that may have begun with funds awarded under the Job Training Partnership Act, 29 U.S.C. 1501 *et seq.*, and the Carl D. Perkins Vocational and Applied Technology Education Act, 20 U.S.C. 2301 *et seq.*) of a comprehensive, statewide School-to-Work Opportunities system, except that a development grant under this subtitle may not exceed $1,000,000 in any fiscal year.;

(b) APPLICATION CONTENTS.—The application for a development grant shall—

(1) include a timetable and an estimate of the amount of funding needed to complete the planning and development necessary to implement a comprehensive, statewide School-to-Work Opportunities system;

(2) describe how the Governor; the chief State school officer; the State agency officials responsible for job training and employment, economic development, and postsecondary education; and other appropriate officials will collaborate in the planning and development of the State School-to-Work Opportunities system;

(3) describe how the State will enlist the active and continued participation in the planning and development of the statewide School-to-Work Opportunities system of employers and other interested parties such as locally elected officials, secondary and postsecondary educational institutions or agencies, business associations, employees, labor organizations or associations thereof, teachers, students, parents, community-based organizations, rehabilitation agencies and organizations, registered apprenticeship agencies, and local vocational educations agencies;

(4) describe how the State will coordinate its planning activities with any local School-to-Work Opportunities program that has received a grant under title III of this Act;

(5) designate a fiscal agent to receive and be accountable for funds awarded under this subtitle; and

(6) include such other information as the Secretaries may require.

(c) STATE DEVELOPMENT ACTIVITIES.—Funds awarded under this section shall be expended by a State only for activities undertaken to develop a statewide School-to-Work Opportunities system, which may include—

(1) identifying or establishing an appropriate State structure to administer the School-to-Work Opportunities system;

(2) identifying or establishing broad-based partnerships among employers, labor, education, government, and other community organizations to participate in the design, development, and administration of School-to-Work Opportunities programs.

(3) developing a marketing plan to build consensus and support for School-to-Work Opportunities programs;

(4) promoting the active involvement of business in planning and developing local School-to-Work Opportunities programs;

(5) supporting local School-to-Work Opportunities planning and development activities to provide guidance in the development of School-to-Work Opportunities programs;

(6) initiating pilot programs for testing key components of State program design;

(7) developing a State process for issuing skill certificates that takes into account the work of the National Skill Standards Board and the criteria established under Goals 2000: Educate America Act;

(8) designing challenging curricula;

(9) developing a system for labor market analysis and strategic planning for local targeting of industry sectors or broad occupational clusters;

(10) analyzing the post high school employment experiences of recent high school graduates and dropouts; and

(11) preparing the plan required for submission of an application for an implementation Grant under subtitle B.

Subtitle B—State Implementation Grants

SEC. 211. PURPOSE.

The purpose of this subtitle is to assist States in the implementation of comprehensive, statewide School-to-Work Opportunities systems.

SEC. 212. STATE IMPLEMENTATION GRANTS.

(a) ELIGIBILITY AND APPLICATION.—A State may apply to the Secretaries for a competitive implementation grant by submitting an application that contains—

(1) a plan for a comprehensive, statewide School-to-Work Opportunities system that meets the content requirements provided in subsection (b);

(2) a description of how the State will allocate funds under this Act to local School-to-Work Opportunities partnerships;

(3) a request, if the State decides to submit such a request, for one or more waivers of certain statutory or regulatory requirements, as provided for under title V of this Act; and

(4) such other information as the Secretaries may require.

(b) CONTENTS OF STATE PLAN.—A State plan shall—

(1) designate the geographical areas to be served by partnerships, which shall, to the extent feasible, reflect local labor market areas;

(2) describe how the State will stimulate and support local School-to-Work Opportunities programs that meet the requirements of this Act, and how the State's system will be expanded over time to cover all geographic areas in the State;

(3) describe the procedure by which the Governor; the chief State school officer; the State agency officials responsible for job training and employment, economic development, and postsecondary education; and other appropriate officials will collaborate in the implementation of the State School-to-Work Opportunities system;

(4) describe the procedure for obtaining the active and continued involvement in the statewide School-to-Work Opportunities system of employers and other interested parties such as locally elected officials, secondary and postsecondary educational institutions or agencies, business associations, employees, labor organizations or associations thereof, teachers, students, parents, community-based organizations, rehabilitation agencies and organizations, registered apprenticeship agencies, and local vocational educational agencies;

(5) describe how the School-to-Work Opportunities system will coordinate the use of education and training funds from State and private sources with funds available from such related Federal programs as the Adult Education Act (20 U.S.C. 1201 *et seq.*), the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 *et seq.*), the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2701 *et seq.*), the Family Support Act of 1988 (42 U.S.C. 602 note, 606 note), the Goals 2000: Educate America Act, the Individuals with Disabilities Education Act (20 U.S.C. 1400 *et seq.*),the Job Training Partnership Act (29 U.S.C. 1501 *et seq.*), the National Apprenticeship Act (29 U.S.C. 50 *et seq.*) and the Rehabilitation Act of 1973 (29 U.S.C. 701 *et seq.*);

(6) describe the resources, including private sector resources, the State intends to employ in maintaining the School-to-Work Opportunities system when funds under this Act are no longer available;

(7) describe how the State will ensure opportunities for all students to participate in School-to-Work Opportunities programs;

(8) describe how the State will ensure opportunities for young women to participate in School-to-Work Opportunities programs in a manner that leads to employment in high-performance, high-paying jobs, including jobs in which women traditionally have been under-represented;

(9) describe how the State will ensure opportunities for low achieving students, students with disabilities, and former students who have dropped out of school to participate in School-to-Work Opportunities programs;

(10) describe the State's process for assessing the skills and knowledge required in career majors, and awarding skill certificates that take into account the work of the National Skill Standards Board and the criteria established under Goals 2000; Educate America Act;

(11) describe the manner in which the State will, to the extent feasible, continue and incorporate programs funded under section 302 of this Act in the State School-to-Work Opportunities system;

(12) describe the performance standards that the State intends to meet; and

(13) designate a fiscal agent to receive and be accountable for School-to-Work Opportunities funds awarded under this subtitle.

(c) REVIEW OF APPLICATIONS.—The Secretaries shall submit each application to a peer review process, determine whether to approve the State's School-to-Work Opportunities plan, and, if such determination is affirmative, further determine whether to take one or a combination of the following actions—

(1) award an implementation grant;

(2) approve the State's request, if any, for a waiver in accordance with the procedures in title V of this Act; and

(3) inform the State of the opportunity to apply for further development funds, except that further development funds may not be awarded to a State that receives an implementation grant.

(d) AMOUNT OF GRANT.—The Secretaries shall establish the minimum and maximum amounts available for an implementation grant, and shall determine the actual amount granted to any State based on such criteria as the scope and quality of the plan and the number of projected program participants.

(e) STATE IMPLEMENTATION ACTIVITIES.—Funds awarded under this section shall be expended by a State only for activities undertaken to implement the State's School-to-Work Opportunities system, which may include—

(1) recruiting and providing assistance to employers to provide work-based learning for students;

(2) conducting outreach activities to promote and support collaboration in School-to-Work Opportunities programs by businesses, labor organizations, and other organizations;

(3) providing training for teachers, employers, workplace mentors, counselors, and others;

(4) providing labor market information to local partnerships that is useful in determining which high-skill, high-wage occupations are in demand;

(5) designing or adapting model curricula that can be used to intergrate academic and vocational learning, school-based and work-based learning, and secondary and postsecondary education;

(6) designing or adapting model work-based learning programs and identifying best practices; and

(7) conducting outreach activities and providing technical assistance to other States that are developing or implementing School-to-Work Opportunities systems.

(f) ALLOCATION OF FUNDS TO PARTNERSHIPS.—A State shall award subgrants to partnerships, according to criteria established by the State, that total no less than 65 percent of the sums awarded to it under this section in the first year, 75 percent of such sums in the second year, and 85 percent of such sums in each year thereafter.

(g) STATE SUBGRANTS TO PARTNERSHIPS.—

(1) APPLICATION.—A partnership that seeks a subgrant to carry out a local School-to-Work Opportunities program shall submit an application to the State that—

(A) describes how the program would include the basic program components and otherwise meet the requirements of title I of this Act;

(B) sets forth measurable program goals and outcomes;

(C) describes the local strategies and timetables to provide School-to-Work Opportunities program opportunities for all students; and

(D) provides such other information as the State may require.

(2) ALLOWABLE ACTIVITIES.—A partnership shall expend funds awarded under this section only for activities undertaken to carry out School-to-Work Opportunities programs as defined in this Act, and such activities may include—

(A) recruiting and providing assistance to employers to provide the work-based learning components in the School-to-Work Opportunities program;

(B) establishing consortia of employers to support the School-to-Work Opportunities program and provide access to jobs related to students' career majors;

(C) supporting or establishing intermediaries to perform the activities described in section 104 and to provide assistance to students in obtaining jobs and further education and training;

(D) designing or adapting school curricula that can be used to integrate academic and vocational learning, school-based and work-based learning, and secondary and postsecondary education;

(E) providing training to work-based and school-based staff on new curricula, student assessments, student guidance, and feedback to the school regarding student performance;

(F) establishing in schools participating in a School-to-Work Opportunities program a graduation assistance program to assist at-risk and low-achieving students in graduating from high school, enrolling in post secondary education or training, and finding or advancing in jobs;

(G) conducting or obtaining an in-depth analysis of the local labor market and the generic and specific skill needs of employers to identify high-demand, high-wage careers to target;

(H) integrating work-based and school-based learning into existing job training programs for youth who have dropped out of school;

(I) establishing or expanding school-to-apprenticeship programs in cooperation with registered apprenticeship agencies and apprenticeship sponsors; and

(J) assisting participating employers, including small- and medium-size businesses, to identify and train workplace mentors and to develop work-based learning components.

TITLE III—FEDERAL IMPLEMENTATION GRANTS TO PARTNERSHIPS

SEC. 301. PURPOSE.

The purposes of this title are—

(1) to authorize the Secretaries to award competitive grants to partnerships in States that have not received an implementation grant under section 212, in order to provide funding for communities that have built a sound planning and development base for School-to-Work Opportunities programs and are ready to begin implementing a local School-to-Work Opportunities program; and

(2) to authorize the Secretaries to award competitive grants to implement School-to-Work Opportunities programs in high poverty areas of urban and rural communities to provide support for a comprehensive range of education, training, and support services for youth residing in designated high poverty areas.

SEC. 302. FEDERAL IMPLEMENTATION GRANTS TO PARTNERSHIPS.

(a) IN GENERAL.—The Secretaries may award School-to-Work Opportunities implementation grants to partnerships in States that have not received an implementation grant under section 212, according to competitive criteria established by the Secretaries.

(b) APPLICATION PROCEDURE.—A partnership that desires to receive a direct Federal grant under this section shall submit an application to the Secretaries in accord with procedures specified by the Secretaries, but before the partnership submits the application to the Secretaries it shall first submit the application to the State for review and comment.

(c) APPLICATION CONTENTS.—The grant application from a partnership shall include a plan for local School-to-Work Opportunities programs that—

(1) describes how the partnership will meet the requirements of this Act;

(2) includes the State's comments, if any;

(3) contains information that is consistent with the content requirements for a State plan that are specified in section 212(b)(4) through (10);

(4) designates a fiscal agent to receive and be accountable for funds under this section; and

(5) provides other information that the Secretaries may require.

(d) CONFORMITY WITH APPROVED STATE PLAN.—The Secretaries shall not award a grant under this section to a partnership in a State that has an approved plan unless the Secretaries determine, after consultation with the State, that the plan submitted by the partnership is in accord with the approved State plan.

(e) IMPLEMENTATION ACTIVITIES.—Funds awarded under this section shall be expended by a partnership only for activities undertaken to implement School-to-Work Opportunities programs under this Act, including, but not limited to, the activities specified in section 212(g)(2).

SEC. 303. SCHOOL-TO-WORK OPPORTUNITIES PROGRAM GRANTS IN HIGH POVERTY AREAS.

(a) IN GENERAL.—From the funds reserved under section 505(b), the Secretaries are authorized to award grants to implement School-to-work Opportunities programs, that include the basic program components and otherwise meet the requirements of title I of this Act, in high poverty areas, as provided in this section, of urban and rural communities, in order to provide support for a comprehensive range of education, training, and support services for youth residing in such areas. The Secretaries are authorized to award such grants according to criteria established by the Secretaries, except that the Secretaries shall not award a grant under this section to a School-to-Work Opportunities program unless the Secretaries determine after consultation with the State and partnership that it is in accord with approved State and local plans, if any.

(b) DEFINITION.—For purposes of this section, the term "high poverty area" means an urban census tract, a nonmetropolitan county, a Native American Indian reservation, or an Alaska Native village, with a poverty rate of 30 percent or more, as determined by the Bureau of the Census.

(c) ALLOWABLE ACTIVITIES.—Funds awarded under this section may be expended for activities such as those that support school-based job specialists to assist students in obtaining employment, and that recruit employers and assist them to develop work-based learning opportunities for students.

(d) USE OF FUNDS.—Funds available under this section may be awarded in combination with funds appropriated for the Youth Fair Chance Program.

TITLE IV—NATIONAL PROGRAMS

SEC. 401. RESEARCH, DEMONSTRATION, AND OTHER PROJECTS.

(a) IN GENERAL.—With funds reserved under section 505(c), the Secretaries shall conduct research and development and establish a program of experimental and demonstration projects, to further the purposes of this Act.

(b) ADDITIONAL USE OF FUNDS.—Funds reserved under section 505(c) may also be used for programs or services authorized under any other provision of this Act that are most appropriately administered at the national level and that will operate in, or benefit more than, one State.

SEC. 402. PERFORMANCE OUTCOMES AND EVALUATION.

(a) IN GENERAL.—The Secretaries, in collaboration with the States, shall by grants, contracts, or otherwise, establish a system of performance measures for assessing State and local programs regarding—

(1) progress in the development and implementation of State plans that include the basic program components and otherwise meet the requirements of title I;

(2) participation in School-to-Work Opportunities programs by employers, schools, and students;

(3) progress in developing and implementing strategies for addressing the needs of in-school and out-of-school, at-risk youth;

(4) student outcomes, including—

(A) academic learning gains;

(B) staying in school and attaining a high school diploma, skill certificate, and college degree;

(C) placement and retention in further education or training, particularly in the student's career major; and

(D) job placement, retention, and earnings, particularly in the student's career major; and

(5) the extent to which the program has met the needs of employers.

(b) EVALUATION.—The Secretaries shall conduct a national evaluation of School-to-Work Opportunities programs funded under this Act that will track and assess the progress of implementation of State and local programs and their effectiveness based on measures such as those described in subsection (a).

(c) REPORTS.—Each State shall provide periodic reports, at such intervals as the Secretaries determine, containing information described in paragraphs (1) through (4) of subsection (a).

SEC. 403. TRAINING AND TECHNICAL ASSISTANCE.

(a) PURPOSE.—The Secretaries shall work in cooperation with the States, employers and their associations, schools, labor organizations, and community organizations to increase their capacity to develop and implement effective School-to-Work Opportunities programs.

(b) AUTHORIZED ACTIVITIES.—The Secretaries shall provide, through grants, contracts, or other arrangements—

(1) training, technical assistance, and other activities that will:

(A) enhance the skills, knowledge, and expertise of the personnel involved in planning and implementing State and local School-to-Work Opportunities programs; and

(B) improve the quality of services provided to individuals served under this Act;

(2) assistance to States and partnerships in order to integrate resources available under this Act with resources available under other Federal, State, and local authorities;

(3) assistance to States and partnerships to recruit employers to provide the work-based learning component of School-to-Work Opportunities programs.

(c) PEER REVIEW.—The Secretaries may use funds under section 505(c) for the peer review of State applications and plans under section 212 and applications under title III of this Act.

TITLE V—GENERAL PROVISIONS

SEC. 501. STATE REQUEST AND RESPONSIBILITIES FOR A WAIVER OF STATUTORY AND REGULATORY REQUIREMENTS.

(A) STATE REQUEST FOR WAIVER.—A State with an approved plan may, at any point during the development or implementation of a School-to-Work Opportunities program, request a waiver of one or more statutory or regulatory provisions from the Secretaries in order to carry out the purposes of the Act.

(b) PARTNERSHIP REQUEST FOR WAIVER.—A partnership that seeks a waiver of any of the laws specified in sections 502 and 503 shall submit an application for such waiver to the State, and the State shall determine whether to submit the application for a waiver to the secretaries.

(c) WAIVER CRITERIA.—The request by the State shall meet the criteria contained in section 502 or section 503 and shall specify the laws or regulations referred to in those sections that the State wants waived.

SEC. 502. WAIVERS OF STATUTORY AND REGULATORY REQUIREMENTS BY THE SECRETARY OF EDUCATION.

(a) IN GENERAL.—(1) Except as provided in subsection (c), the Secretary of Education may waive any requirement of any statute listed in subsection (b) or of the regulations issued under such statute for a State that requests such a waiver—

(A) if, and only to the extent that, the Secretary of Education determines that such requirement impedes the ability of the State or a partnership to carry out the purposes of this Act;

(B) if the State waives, or agrees to waive, similar requirements of State law; and

(C) if the State—

(i) has provided all partnerships, and local educational agencies participating in a partnership, in the State with notice and an opportunity to comment on the State's proposal to seek a waiver; and

(ii) has submitted the comments of the partnerships and local educational agencies to the Secretary of Education.

(2) The Secretary of Education shall act promptly on any request submitted pursuant to paragraph (1).

(3) Each waiver approved pursuant to this subsection shall be for a period not to exceed five years, except that the Secretary of Education may extend such period if the Secretary of Education determines that the waiver has been effective in enabling the State or partnership to carry out the purposes of this Act.

(b) INCLUDED PROGRAMS.—The statutes subject to the waiver authority of this section are as follows—

(1) chapter 1 of title I of the Elementary and Secondary Education Act of 1965, including the Even Start Act;

(2) part A of chapter 2 of title I of the Elementary and Secondary Education Act of 1965;

(3) the Dwight D. Eisenhower Mathematics and Science Education Act (title II, part A of the Elementary and Secondary Education Act of 1965);

(4) the Emergency Immigrant Education Act of 1984 (title IV, part D of the Elementary and Secondary Education Act of 1965);

(5) the Drug-Free Schools and Communities Act of 1986 (title V of the Elementary and Secondary Education Act of 1965); and

(6) the Carl D. Perkins Vocational and Applied Technology Education Act.

(c) WAIVERS NOT AUTHORIZED.—The Secretary of Education may not waive any statutory or regulatory requirement of the programs listed in subsection (b) relating to—

(1) the basic purposes or goals of the affected programs;

(2) maintenance of effort;

(3) comparability of services;

(4) the equitable participation of students attending private schools;

(5) parental participation and involvement;

(6) the distribution of funds to State or to local educational agencies;

(7) the eligibility of an individual for participation in the affected programs;

(8) public health or safety, labor standards, civil rights, occupational safety and health, or environmental protection; or

(9) prohibitions or restrictions relating to the construction of buildings or facilities.

(d) TERMINATION OF WAIVERS.—The Secretary of Education shall periodically review the performance of any State or partnership for which the Secretary of Education has granted a waiver and shall terminate the waiver under this section if the Secretary determines that the performance of the State, partnership, or local educational agency affected by the waiver has been inadequate to justify a continuation of the waiver, or the State fails to waive similar requirements of State law as required or agreed to in accord with section 502(a)(1)(B).

SEC. 503. WAIVERS OF STATUTORY AND REGULATORY REQUIREMENTS BY THE SECRETARY OF LABOR.

(a) IN GENERAL.—(1) Except as provided in subsection (c), the Secretary of Labor may waive any requirement of any statutory provisions listed in subsection (b) or of the regulations issued under such statutory provisions for a State that requests such a waiver—

(A) if, and only to the extent that, the Secretary of Labor determines that such requirement impedes the ability of the State or a partnership to carry out the purposes of this Act;

(B) if the State waives, or agrees to waive, similar requirements of State law; and

(C) if the State—

(i) has provided all partnerships in the State with notice and an opportunity to comment on the State's proposal to seek a waiver; and

(ii) has submitted the comments of the partnerships to the Secretary of Labor.

(2) The Secretary of Labor shall act promptly on any request submitted pursuant to paragraph (1).

(3) Each waiver approved pursuant to this subsection shall be for a period not to exceed five years, except that the Secretary of Labor may extend such period if the Secretary of Labor determines that the waiver has been effective in enabling the State or partnership to carry out the purposes of this Act.

(b) INCLUDED PROGRAMS.—The statutory provisions subject to the waiver authority of this section are as follows—

(1) section 106(b)(4) (performance standards), section 107 (selection of service providers), section 108 (limitation on certain costs), section 141 (general program requirements), and section 142 (benefits) of the Job Training Partnership Act, except that section 141(c) and section 141(q) shall not be waived;

(2) section 123 of the Job Training Partnership Act (State education coordination and grants);

(3) part B of title II of the Job Training Partnership Act (Summer Youth Employment and Training Programs);

(4) part C, title II of the Job Training Partnership Act (Youth Training Program), except that section 263 (eligibility for services) shall not be waived; and

(5) part A (Employment and Training Programs for Native Americans and Migrant and Seasonal Farmworkers), part B (Job Corps), and part H (Youth Fair Chance Program) of title IV of the Job Training Partnership Act.

(c) WAIVERS NOT AUTHORIZED.—The Secretary of Labor may not waive any statutory or regulatory requirement of the programs listed in subsection (b) relating to—

(1) the basic purposes or goals of the affected programs;

(2) the eligibility of an individual for participation in the affected programs;

(3) the allocation of funds under the affected programs;

(4) public health or safety, labor standards, civil rights, occupational safety and health, or environmental protection;

(5) maintenance of effort; or

(6) prohibitions or restrictions relating to the construction of buildings or facilities.

(d) TERMINATION OF WAIVERS.—The Secretary of Labor shall periodically review the performance of any State or partnership for which the Secretary of Labor has granted a waiver and shall terminate the waiver under this section if the Secretary determines that the performance of the State or partnership affected by the waiver has been inadequate to justify a continuation of the waiver, or the State fails to waive similar requirements of State law as required or agreed to in accord with section 503(a)(1)(B).

SEC. 504. SAFEGUARDS.

The following safeguards shall apply to School-to-Work Opportunities programs under this Act:

(1) No student shall displace any currently employed worker (including a partial displacement, such as a reduction in the housing of non-overtime work, wages, or employment benefits).

(2) No School-to-Work Opportunities program shall impair existing contracts for services or collective bargaining agreements, except that no program under this Act that would be inconsistent with the terms of a collective bargaining agreement shall be undertaken without the written concurrence of the labor organization and employer concerned.

(3) No student shall be employed or job opening filled—

(A) when any other individual is on temporary layoff from the participating employer, with the clear possibility of recall, from the same or any substantially equivalent job; or

(B) when the employer has terminated the employment of any regular employee or otherwise reduced its workforce with the intention of filling the vacancy so created with a student.

(4) Students shall be provided with adequate and safe equipment and a safe and healthful workplace in conformity with all health and safety standards of Federal, State, and local law.

(5) Nothing in this Act shall be construed to modify or affect any Federal or State law prohibiting discrimination on the basis of race, religion, color, ethnicity, national origin, gender, age, or disability.

(6) Funds appropriated under authority of this Act shall not be expended for wages of students.

(7) The Secretaries shall provide such other safeguards as they may deem appropriate in order to ensure that School-to-Work Opportunities participants are afforded adequate supervision by skilled adult workers, or, otherwise, to further the purposes of this Act.

SEC. 505. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—There are authorized to be appropriated to the Secretaries $300 million in fiscal year 1995, and such sums as may be necessary in each of the seven succeeding fiscal years for allocations to carry out this Act.

(b) HIGH POVERTY AREAS.—The Secretaries may reserve up to $30 million in fiscal year 1995, and such sums as may be necessary in each of the succeeding seven years under this Act, to carry out section 303, which may be used in conjunction with funds available under the Youth Fair Chance Program, title IV–H of the Job Training Partnership Act (29 U.S.C. 1671, *et seq.*).

(c) NATIONAL PROGRAMS.—The Secretaries may reserve up to $30 million in fiscal year 1995 and such sums as they may deem necessary under this Act, in each of the seven succeeding fiscal years to carry out title IV.

(d) TERRITORIES.—The Secretaries may reserve up to one quarter of one percent for School-to-Work Opportunities programs under this Act for the territories of the United States, which are the Virgin Islands, Guam, the Northern Mariana Islands, American Samoa, the Federated States of Micronesia, and the Republic of the Marshall Islands, and which include Palau until the Compact of Free Association is signed.

(e) NATIVE AMERICAN PROGRAMS.—(1) The Secretaries may reserve up to one quarter of one percent of the funds appropriated for any fiscal year under section 505(a) for School-to-Work Opportunities programs for Indian youth that are consistent with School-to-Work Opportunities programs carried out under Title II of this Act and that involve Bureau funded schools, as defined in section 1139(3) of the Education Amendments of 1978 (25 U.S.C. 2019(3)).

(2) The Secretaries may carry out this subsection through such means as they find appropriate, including, but not limited to—

(A) the transfer of funds to the Secretary of the Interior; and

(B) the provision of financial assistance to Indian tribes and Indian organizations.

(f) AVAILABILITY OF FUNDS.—Funds obligated for any fiscal year for programs authorized under this Act shall remain available until expended.

SEC. 506. ACCEPTANCE OF GIFTS, AND OTHER MATTERS.

The Secretaries are authorized, in carrying out this Act, to accept, purchase, or lease in the name of the Department of Labor or the Department of Education, and employ or dispose of in furtherance of the purposes of this Act, any money or property, real, personal, or mixed, tangible or intangible, received by gift, devise, bequest, or otherwise, and to accept voluntary and uncompensated services notwithstanding the provisions of section 1342 of title 31.

SEC. 507. EFFECTIVE DATE.

This Act shall take effect on the day of enactment.

DEPARTMENT OF EDUCATION,
DEPARTMENT OF LABOR,
Washington, DC.

Hon. ALBERT GORE, Jr.,
President, U.S. Senate,
Washington, DC.

DEAR MR. PRESIDENT: Enclosed for the consideration of the Congress is a bill, entitled the "School-to-Work Opportunities Act of 1993," to establish a national framework for the development of a School-to-Work Opportunities system in every State. This initiative would provide American youth with the knowledge and skills necessary to make an effective transition from school to a first job in a high-skill, high-wage career.

The United States is the only industrialized nation without a system for helping youth make the transition from school to the workplace. That puts our young people, our businesses, and our Nation at a disadvantage. Our competitors overseas take pains to ensure that their non-college-bound youth enter the workplace with skills their businesses need, skills that lead to good jobs. We do not. Our young people receive little guidance about, or exposure to, the career options available to them. They receive little preparation for high-skill, high-wage jobs. That is why many of the 75 percent of our youngsters going to work without college degrees spend 5 to 10 years bouncing from one dead-end job to another before settling into a career track.

Our proposal would turn that around. It would offer "venture capital" to States and communities to build bridges from school to work through programs that provide students with an integrated array of learning experiences in the classroom and at the worksite. In order to ensure that students receive these learning experiences, all School-to-Work Opportunities programs would contain three core components:

Work-based learning that provides students with a planned program of job training and experiences in a broad range of tasks in an occupational area as well as paid work experience and workplace mentoring.

School-based learning that includes a coherent multi-year sequence of instruction—typically beginning in the eleventh grade and ending after at least one year of postsecondary education—tied to high academic and skill standards as proposed in the "Goals 2000: Educate America Act."

Connecting activities, to ensure coordination of the work- and school-based learning components of a School-to-Work Opportunities program, such as providing technical assistance in designing work-based learning components, matching students with employers' work-based learning opportunities, and collecting information on what happens to students after they complete the program.

By completing a school-to-work program, a student would earn a high school diploma, a diploma or certificate from a postsecondary institution, if appropriate, and a portable, industry-recognized credential certifying competency and mastery in an occupational area. In addition, these students would be ready to take on a first job on a career track and pursue further education and training.

Broad-based partnerships in States and communities are needed to create the School-to-Work Opportunities programs. Without such partnerships, real and lasting change will be difficult to achieve. That is why this proposal promotes the active participation of employers, educators, workers, civic leaders, parents, and policy makers. These partners need not start from scratch, but can build on promising tech prep programs, career academies, youth apprenticeships, and other promising efforts already under way. It encourages a multiplicity of approaches and recognizes that many states and communities have already begun to build bridges between school and work.

Our proposal is not a top-down, one-size-fits-all Federal solution, but an effort to stimulate State and local creativity through three intertwined mechanisms: (1) development grants for comprehensive School-to-Work Opportunities system; (2) implementation grants for States ready to begin operation of its new school-to-work system; and (3) waivers of certain statutory and regulatory provisions from other Federal job training and education programs that may impede a State's or community's ability to implement its School-to-Work Opportunities program. Implementation grants will be awarded on a competitive basis in "waves" so that lessons from the leading-edge States will inform the efforts of others.

In addition, the bill would authorize support for some Federal grants to local communities. Some of these grants will be for communities that are prepared to implement a School-to-Work Opportunities program, but that are in States not yet ready for implementation. The other grants will be for urban and rural areas characterized by high unemployment and poverty, to give these areas special support to help overcome the substantial challenges they may face in building effective School-to-Work Opportunities programs.

It is urgent that we move forward quickly on this initiative. As we begin constructing School-to-Work Opportunities systems, our international competitors not only already have such systems, but they are moving to strengthen them. It will not be enough for us to catch up with them. We must create bridges that will enable our young people and our businesses to leapfrog the competition. We urge the Congress to give the bill prompt and favorable consideration.

The Office of Management and Budget advises that there is no objection to the transmittal of this bill to the Congress and that its enactment would be in accord with the program of the President.

Sincerely,

ROBERT B. REICH,
Secretary of Labor.
RICHARD W. RILEY,
Secretary of Education.

Mr. DURENBERGER. Mr. President, I am pleased to join my friend from Illinois, Senator SIMON, and my colleagues Senator KENNEDY and Senator HATFIELD, in introducing the School-to-Work Opportunities Act of 1993.

As Senator SIMON has indicated, this legislation adopts a flexible bottom-up approach to encouraging and facilitating locally developed, locally operated, and locally administered school-to-work transition programs.

The community-based programs made possible by this initiative will bring together employers, educators, and others in a true partnership to build high quality school-to-work systems. And, it will help to provide better training and opportunities for those students who do not go on to college, so they can compete for higher skill, higher wage jobs.

Mr. President, no single approach to building school-to-work programs is appropriate for every State or every community in this Nation. And, successful school-to-work systems cannot be mandated or controlled from Washington. Instead, they must be developed through the active involvement of business and community leaders, labor organizations, parents, and educators in every community in America.

Instead of displacing State and local school-to-work initiatives with an onerous top-down bureaucratic Federal program, the School-to-Work Transition Act will provide a flexible framework so that programs like the State youth apprenticeship plan recently adopted in my home State of Minnesota can flourish.

I want to assure my colleagues on both sides of the aisle that the bill we are introducing today does not create a huge, new Federal Government apprenticeship program.

Instead, this legislation is a catalyst to encourage State and local efforts to develop school-to-work programs by building on existing programs and by removing barriers now faced by States, communities, and employers in making alternative ways of learning job skills a viable option.

I believe that this bill will ultimately help to break down some of the barriers that exist between current, separately administered programs. Indeed, the school-to-work initiative has the potential to consolidate and coordinate these programs in a way that we have thus far lacked the political will to do legislatively.

Let me say to my Republican colleagues, Mr. President, that I hope we will seize this opportunity to help shape an important legislative initiative—an initiative that is already consistent with basic Republican principles like bottom-up program development, strong community involvement, and a limited role for the Federal Government.

But, I know from past experience, that this legislation can be made even better. And, through my original cosponsorship, I've committed myself—and the expertise of my State—to help achieve that goal.

Mr. President, the Federal Government's role in this bill is confined to providing startup funding, coordination, and technical support for state and local school-to-work initiatives.

This bill recognizes that a successful national school-to-work program must build on the promising approaches being developed in States and local communities all across the country.

In addition, by providing training and opportunities for our Nation's young people, this initiative will help American businesses to compete in the increasingly competitive global marketplace. The ability of American business to thrive in this international marketplace may ultimately depend on the skills, training, and productivity of our Nation's current and future workers.

The business community recognizes this reality and, with it, the need to prepare young people using the kind of school-based and work-based learning initiatives supported by this bill.

In a recent survey of over 300 Minnesota businesses, for example, nearly two-thirds of Minnesota employers said that a typical high school education is no longer good enough for today's business standards. The survey also found that:

Job applicants who have only a high school diploma are eligible for only half the positions offered by Minnesota companies;

Even fewer jobs are available to those young people who do not have high school diplomas;

More than half of the employers of the Twin Cities believe today's job applicants lack adequate basic skills such as reading, writing, and math;

Employers in nearly 30 percent of Minnesota manufacturing firms and 80 percent of nonmanufacturing firms agree that technical qualifications are more important now than they were 10 years ago;

Two-thirds of Minnesota employers believe today's workers need a strong background in technology in order to succeed in today's business environment;

Ninety percent of Minnesota employers believe today's work environment demands greater decisionmaking and problem-solving skills; and

More than 90 percent of Minnesota employers in both manufacturing and nonmanufacturing companies said they would like graduates to be certified as meeting a minimum set of standards, and that they would be more likely to hire applicants who had been certified.

Mr. President, these numbers speak for themselves.

Minnesota's growing interest in apprenticeships is demonstrated by the work being done by Minnesota Technology, which sponsored a study trip to Europe last year so that State officials and leaders in Minnesota's business community could review successful apprenticeship programs overseas.

At the urging of Governor Arne Carlson, the Minnesota Legislature also launched a modest State program this year that is designed to encourage new ways of linking classrooms and workplaces through apprenticeships.

And, one of Minnesota's first charter schools—a joint venture involving the Teamsters union, Minnesota Business Partnership, and others will be built around the concept of hands-on learning in the community.

Mr. President, my cosponsorship of the School-to-Work Transition Act of 1993 should not be read as a blank check to pass this bill as introduced.

That's why I intend to use the time between now and the Labor Committee's markup to solicit broad input from the business community, educators, labor groups, officials in State government, and others in my State who share my interest in this important initiative.

As I approach that opportunity, several important principles will help guide my efforts to further improve this bill.

First, I believe there must be clear focus in each State to encouraging and facilitating apprenticeships as a part of school-to-work transition.

I agree that State and local efforts should involve broad collaboration among all the key stakeholders—business, labor, educators, Governors, and various State agencies. but, if past experience in Minnesota is any indication, it is critical that States designate a primary, responsible, and final decision-maker to avoid time-consuming jurisdictional squabbles.

Second, Mr. President, to the maximum extent allowed by the Constitution, I believe school-to-work opportunities should be extended to all students, including students in alternative education programs, students who have dropped out of traditional education programs, and students attending nonpublic high schools.

The opportunity to learn job skills is too important to be restricted to the traditional way in which we define public education. In fact, the traditional system has already failed many of the young people who can benefit the most from this initiative.

Third, I believe a major part of this initiative must focus on increasing access to school-to-work programs for America's future work force by removing barriers to the use of existing programs and existing resources.

One goal, in other words, is to get out of the way—to allow funds from different sources to be pooled, to eliminate unnecessary rules and mandates, and to give maximum discretion to State and local officials so that they can use existing programs more effectively.

And, fourth, we must launch this new Federal initiative in a way that delineates a realistic Federal Government role and that reflects the fiscal realities that now must dominate every decision we make.

This education initiative should not cost the taxpayers billions of new dollars. One of its most important goals must therefore be to leverage more effective outcomes from the billions of dollars already being spent.

Finally, Mr. President, let me say just a word about the manner in which this bill was put together, the spirit under which it is being introduced here today, and the process I hope we will not follow in continuing its journey through the Congress.

I hope Members of this body—and the administration—are learning important lessons from the painful difficulty we're all having this week in completing action on legislation to reduce the Federal deficit.

There aren't enough smart people in either of our political parties to do this tough job alone.

But, within that bill is a very important provision that Senator SIMON and I have worked on together now for almost 2 years—a whole new way to make and repay Federal student loans.

And earlier this week, Senator KENNEDY and I and others stood in this Chamber and pointed out how much better a job we did in responding to the opportunity the President gave us on national and community service—because we were willing to work together on an open and bipartisan basis.

This legislation offers another such opportunity—to tap the best minds we can—in our States and in both our parties—to launch an important new national school-to-work initiative.

I'm personally looking forward to that opportunity, Mr. President, to give the young people of American hope that they can achieve the same opportunities that previous generations have had to succeed in the workplace; to give employers a better way to get the skilled work force they need in an increasingly competitive world economy; and to give all Americans the hope that this Nation and this economy can continue to grow and prosper—not just for today—but for all those who will help shape the future.

Mr. KENNEDY. Mr. President, I rise today to join Senator SIMON in introducing the School-to-Work Transition Act of 1993—legislation proposed by the administration after extensive consultation with education, business, and labor groups which addresses one of the most important issues of the day: the preparation of our young people for the world of work. I am pleased to join with Senator SIMON, Senator WOFFORD, Senator PELL, Senator METZENBAUM, Senator DODD, Senator MOSELEY-BRAUN, Senator BREAUX, Senator MURRAY, and with my colleagues from the other side of the aisle, Senators DURENBERGER and HATFIELD, as an original cosponsor of this important initiative.

The School-to-Work Transition Act is designed to address what has been identified as a major deficiency in U.S. education and training: the lack of a coherent system to assist young people in school in preparing themselves for and making the transition to meaningful, productive employment. This is a particular problem for those high school students who do not go on to college—the group that the W.T. Grant Foundation has aptly described as the forgotten half of our student population.

The United States has the best higher education system in the world, and we as a nation are rightly proud of that fact. For those young people who choose to go on to college, and who are financially able to do so, our country offers a wealth of opportunity, and great deal of support. But for those who are not college-bound, we offer pitifully little.

About 50 percent of youth in the United States do not go on to college and only about 20 percent of all U.S. youth get a 4-year college degree. Despite these figures, the United States does virtually nothing to prepare non college-bound youth for employment. The United States stresses the importance of a college education without providing similar emphasis to preparing noncollege youth for employment.

High schools link their curricula to college requirements, advise students on the connection between school achievement and college admission, and offer guidance and assistance to students in choosing and getting accepted to colleges. But students who are not college oriented get virtually no assistance to help them recognize the relevance of their education to work opportunities, motivate them to do well, enable them to plan a course of study relevant to long-term career goals, and help them find suitable jobs or training programs when they leave school.

As critics have noted, students who are not considered to be college bound are frequently tracked into watered down general curriculum courses. Schools do not ask or expect high academic achievement from these students, and the system communicates to them from an early age that they are not expected to achieve.

Students rarely get counseling on career options that do not require a 4-year education. And although most U.S. youth work during their school years, because there is no formal link between their jobs and their schools, such work is typically viewed as a means to a paycheck rather than a means to a career. Schools and parents generally do not make students aware of how their after-school jobs might affect their future employment opportunities, and employers do not address the relevance of studies to the workplace.

Nor do schools feel it is their responsibility to help those students who don't go to college find suitable post school employment or training. The result is that the average high school graduate typically spends the first 5 or 6 years after high school, moving from one dead end job to another. By the time they reach the age of 23 or 24, they may have acquired enough work experience for employers to be willing to hire them for long-term jobs, but they have little more in the way of skills than they had when they were 18.

Public investment reflects the high priority the United States places on college education and the comparatively limited attention paid to the further education and training of those who do not go to college. A recent GAO study found that the average post high school public expenditure for each youth who attends college is $10,440, and rises to $15,200 for each youth who graduates from a 4-year college. In contrast, the average per youth public expenditure for noncollege youth is only $1,460.

These inequities have real consequences for students, not just during the time they are in school but for the rest of their working lives. Since the late 1970's, the differential between the wages of the college-educated work force and the high school educated work force has risen dramatically. In 1979, college-educated workers earned on average 37.7 percent more than high school graduates. By 1989, the differential was 55.7 percent. Over the same period, while real hourly wages for college-educated workers increased slightly, real hourly wages for high school graduates dropped 12.7 percent, and real wages for high school dropouts fell 18.2 percent.

In contrast to our experience, many of our most successful competitors have national policies aimed at effective employment preparation of noncollege youth.

In those countries, the skills of frontline workers are highly valued. Consequently, vocational education is not viewed as second-class education. Structured efforts are made to ease the transition from school to work by building an orientation to work into the school curriculum, combining schooling with some form of monitored work experience or on-the-job training, and offering job placement assistance.

In addition, training at all levels, including occupational training at schools, is geared to recognized national skill standards. Participants who meet specified competency standards receive nationally recognized credentials, which employers look to as evidence of the skill levels of potential hires. One consequence is that the gap between the earnings of the college educated and those who do not attend college is nowhere near as extreme as it is in this country.

The bill which we have introduced today is intended to address that problem by providing assistance to States and localities, working together with employers, schools, labor organizations, parents, and community groups, to build new and effective school-to-work transition systems at the local level.

Federal grants to States and localities will help these local partnerships plan and implement school-to-work programs which combine specially tailored academic programs with structured, supervised work experiences and give students the opportunity to pursue career majors preparing them for work in particular broad-based occupations or industries.

Each school-to-work program will be expected to consist of both work-based learning, in the form of a planned program of job training and paid work experience designed to provide students with general workplace competencies and a broad understanding of the workings of a particular industry, and school-based learning, which will include career exploration and counseling, as well as a program of study based on the academic and occupational skill standards proposed to be developed under the Goals 2000: Educate America Act. Typically, programs will involve at least 1 year of postsecondary education and will lead to a high school diploma, a certificate of diploma from a postsecondary institution, and an occupational skill certificate certifying mastery of specific occupational skills.

The Goals 2000 legislation, which is currently pending before the Senate, encourages States to adopt challenging content standards for every student, not just those who are certain they are headed for college, and is therefore entirely consistent with the goals of this school-to-work initiative. To encourage the creation of a system of lifelong learning, we will review the school-to-work proposal carefully as the legislation moves forward through the Labor and Human Resources Committee to make sure it promotes a well articulated process for students to move from meeting the academic content standards in Goals 2000, into the programs called for in this legislation, and onto the skills standards also described in Goals 2000.

I congratulate the administration for its work in developing this initiative, and I look forward to working with my colleagues toward its enactment.

By Mr. DECONCINI:

S. 1363. A bill to authorize the Administrator of the Environmental Protection Agency to transfer funds to the Secretary of State, and award grants, to provide assistance to promote public health, the environment, and water quality in the United States-Mexico border area, and for other purposes; to the Committee on Environment and Public Works.

By Mr. DECONCINI (for himself, Mr. DOMENICI, and Mr. BINGAMAN):

S. 1364. A bill to provide for assistance to eligible communities for the construction and improvement of treatment works for wastewater treatment, and for other purposes; to the Committee on Environment and Public Works.

UNITED STATES-MEXICO BORDER WASTEWATER TREATMENT LEGISLATION

• Mr. DECONCINI. Mr. President, I am introducing two bills today to deal with wastewater treatment needs critical to the environment and health of communities on the United States-Mexico border. This legislation is crucial to the welfare of citizens and permanent residents of the United States living on the Southwest border, and I feel strongly about the necessity for immediate action.

Members from this body who are not from the southwest border region may be unfamiliar with some of the really outstanding environmental and health problems faced by communities along the border and may not understand the critical need for swift action to aid border communities. These bills address the severe lack of adequate wastewater treatment facilities vital to the health and welfare of communities on the Southwest border of the United States.

The first bill I am introducing today, the Good Neighbor Environmental Assistance Act of 1993, would authorize the EPA to transfer funds to the International Boundary and Water Commission [IBWC] and other appropriate Federal agencies and to make grants to entities or border States designated by the President for wastewater treatment works. The second bill, the Colonia Assistance Authorization Act of 1993, which Senators DOMENICI and BINGAMAN are introducing with me, would authorize the EPA to provide transfers or make grants to the appropriate entity to provide financial assistance to communities along the United States-Mexico border known as colonias.

Texas, New Mexico, Arizona, and California all have communities along their southern border which are poor and disadvantaged and in desperate need of Federal assistance to meet wastewater treatment needs. A number of communities, for reasons beyond their control, are in a situation where wastewater treatment needs must be dealt with in coordination with communities in Mexico, many of which do not have an accurate idea of population, have insufficient sewer link-ups and absolutely no means of fulfilling their own wastewater needs.

In my State of Arizona, the city of Nogales is one of these communities. Nogales, AZ, is directly across the border from Nogales, Sonora, Mexico. And, until the completion of the recent expansion of the Nogales International Wastewater Treatment Plant [NIWTP], open cesspools of raw sewage existed in Nogales, Sonora which overflowed when it rained posing significant hazards to public health and the environment on both sides of the border.

The recently completed existing facility is jointly owned by the International Boundary and Water Commission [IBWC] and the city of Nogales. It was designed to satisfy treatment needs for Nogales, AZ, and Nogales, Sonora for the next 20 years. For a number of reasons, including a population explosion in Nogales, Sonora, the inability of Mexico to pretreat industrial waste and increased sewer link-ups in Mexico, the facility has already reached 75 percent of its operating capacity. By April 1994, it is estimated that the facility will be at 100 percent of its capacity and a moratorium will have to be placed on new sewer link-ups in Nogales, AZ. Thus, one of Arizona's fastest growing border communities will be penalized because of problems beyond its control across the border. Funding is desperately needed for cost-effective means of meeting treatment needs in Nogales, AZ. A delay in funding will have consequences ranging from a moratorium on growth for the city of Nogales to a recurrence of raw sewage from Mexico flowing openly in and around the city.

Mr. President, the President's budget request for the Environmental Protection Agency [EPA] for fiscal year 1994 contained funds to begin work on a number of high priority wastewater treatment projects on the United States-Mexico border, including Nogales and colonias. Actually, this is the second year in a row EPA has requested funds for the Nogales project. EPA recognizes the overwhelmingly critical need to address this issue. However, a question remains as to the existing authority to fund these projects. As a result, these projects once again are in jeopardy of not receiving funding. The effect on public health and environment by delaying this funding is not a risk we can afford to take.

Mr. President, I do not believe that there is any question regarding the merit of funding the basic wastewater needs of these communities. The necessity is desperate and urgent. We need to act quickly and decisively to authorize funding for these projects. I encourage my colleagues to support these measures so that these people and these communities do not have to live with the constant threat of health crisis due to substandard water treatment and sewage conditions.

Mr. President, I ask unanimous consent that the text of the bills be printed in the Record.

S. 1363

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Good Neighbor Environmental Assistance Act of 1993".

SEC. 2. PURPOSE.

The purpose of this Act is to protect the economy, public health, environment, and water quality of the United States-Mexico border area that is endangered and is being polluted by raw or partially treated sewage, effluent, and other pollutants.

SEC. 3. DEFINITIONS

As used in this Act:

(1) Administrator.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) Border state.—The term "border State" means each of the following States:

(A) Arizona.
(B) California.
(C) New Mexico.
(D) Texas.

(3) U.S. commissioner.—The term "U.S. Commissioner" means the U.S. Commissioner of the International Boundary and Water Commission.

(4) Construction.—The term "construction" has the meaning provided the term under section 212(1) of the Federal Water Pollution Control Act (33 U.S.C. 1292(1)).

(5) Treatment works.—The term "treatment works" has the meaning provided the term under section 212(2) of the Federal Water Pollution Control Act (33 U.S.C. 1292(2)).

SEC. 4. CONSTRUCTION ASSISTANCE.

(a) In General.—On the approval by the Administrator of the necessary plans and specifications, the Administrator is authorized—

(1) to transfer funds to—

(A) the Secretary of State, who shall transfer the funds to the U.S. Commissioner for use by the head of the American Section of the Commission; or

(B) the head of any other Federal agency; and

(2) to make a grant to—

(A) an appropriate entity designated by the President; or

(B) a border State designated by the President, to carry out the construction of an eligible project described in subsection (b).

(b) Eligible Project.—An eligible project described in this subsection is a project for the construction of—

(1) a wastewater treatment works to protect public health, the environment, and water quality from pollution resulting from inadequacies or break-downs in wastewater treatment works and water system from Mexican wastewater affecting U.S. waters or water/sewage systems; or

(2) a treatment works to provide treatment of municipal sewage and industrial waste.

(c) Requirement for a Grant for a Construction Project in Mexico.—The Administrator may make a grant for an eligible project described in subsection (b) in Mexico only if, after providing public notice and opportunity for comment, the Administrator determines that the then existing treatment works located in Mexico, in conjunction with any other then existing treatment works or treatment works scheduled to be constructed, are not sufficient (or will not be sufficient) to protect residents of border States from water pollution originating in Mexico.

(d) Operation and Maintenance.—To carry out the purpose referred to in section 2, the U.S. Commissioner, the head of a Federal agency that receives a transfer of funds pursuant to subsection (a), or the recipient of a grant referred to in subsection (a) is authorized to maintain an eligible project constructed pursuant to this section.

(e) Approval of Plans.—

(1) Plans and specifications.—Each eligible project that is funded by a transfer or a grant made pursuant to subsection (a)(1) shall be constructed in accordance with plans and specifications developed by the head of the American Section of the Commission in consultation with the head of another Federal agency of the appropriate official of an entity or border State designated by the President under subsection (a), in consultation with the appropriate official of the affected border State. Such plans shall include construction cost estimates.

(2) Approval by the administrator.—As a condition of carrying out the construction of an eligible project referred in paragraph (1), the head of the Federal agency or appropriate official of an entity or border State shall submit the plans and specifications referred to in paragraph (1) to the Administrator for approval.

(3) Standards for construction.—The Administrator may approve a plan referred to in paragraph (2) if the Administrator determines that the eligible project that is the subject of the plan meets the standards that would apply to the treatment works or other project if the treatment works or other project were constructed under appropriate standards under the laws of the U.S. and Mexico and under applicable treaties and international agreements.

(f) Federal Share.—

(1) In general.—Except as provided in paragraph (2), the Federal share of construction of an eligible project that is the subject of a transfer or grant under subsection (a) shall be 100 percent of the cost of the eligible project.

(2) Costs paid by the government of Mexico.—If the Secretary of State or another appropriate official of the Federal Government enters into an agreement with the Government of Mexico that provides for cost-sharing for an eligible project that is the subject of assistance provided pursuant to this section, the Federal share of the cost of the project shall be the amount specified in the agreement.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Environmental Protection Agency to carry out this Act such sums as may be necessary for fiscal year 1994, and for each fiscal year thereafter.

S. 1364

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Colonia Assistance Authorization Act of 1993".

SEC. 2. PURPOSE.

The purpose of this Act is to protect the economy, public health, environment, and water quality of the United States-Mexico border area that is endangered and is being polluted by raw or partially treated sewage, effluent, and other pollutants.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) Administrator.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) Border state.—The term "border State" means each of the following States:

(A) Arizona.
(B) California.
(C) New Mexico.
(D) Texas.

(3) Construction.—The term "construction" has the meaning provided the term under section 212(1) of the Federal Water Pollution Control Act (33 U.S.C. 1292(1)).

(4) Eligible community.—The term "eligible community" means a low-income community commonly referred to as a colonia that is located in the United States-Mexico border area (generally in an unincorporated area) and that lacks basic sanitation facilities such as safe drinking water, household plumbing, and a proper sewage disposal system.

(5) Treatment works.—The term "treatment works" has the meaning provided the term under section 212(2) of the Federal Water Pollution Control Act (33 U.S.C. 1292(2)).

SEC. 4. TRANSFERS AND GRANTS TO ALLEVIATE HEALTH RISK.

(a) In General.—

(1) Assistance.—The Administrator is authorized to transfer funds to another Federal agency or award grants to any other appropriate entity or border State, designated by the President, to provide assistance to eligible communities for—

(A) the conservation, development, use, and control of water (including the extension or improvement of a water supply system); and

(B) the construction or improvement of sewers, wastewater treatment works, and essential community facilities (including necessary related equipment).

(2) Use of funds.—Each transfer of funds, and each grant awarded, pursuant to paragraph (1) shall be used to provide assistance

to 1 (or more) eligible community with respect to which the residents are subject to a significant health risk (as determined by the Administrator) because a significant proportion of the residents of the eligible community do not have access to, or service by, an adequate and affordable—

(A) water supply system; or

(B) treatment works for wastewater treatment.

(b) OPERATION AND MAINTENANCE.—To carry out the purpose referred to in section 2, the Administrator and the head of each other Federal agency, entity, or border State, designated by the President pursuant to subsection (a)(1), are each authorized to operate and maintain a treatment works or other project that is constructed with funds made available pursuant to subsection (a).

(c) APPROVAL OF PLANS.—

(1) PLANS AND SPECIFICATIONS.—Each treatment works or other project that is funded by a transfer or a grant made pursuant to subsection (a)(1) shall be constructed in accordance with plans and specifications developed by the Administrator or the head of another Federal agency or the appropriate official of an entity or border State designated by the President under subsection (a), in consultation with the appropriate official of the affected border State.

(2) APPROVAL BY THE ADMINISTRATOR.—As a condition of carrying out the construction of a treatment works or other project referred in paragraph (1), the head of the Federal agency or appropriate official of an entity or border State shall submit the plans and specifications referred to in paragraph (1) to the Administrator for approval.

(3) STANDARDS FOR CONSTRUCTION.—The Administrator may approve a plan referred to in paragraph (2) if the Administrator determines that the treatment works or other project that is the subject of the plan meets the standards that would apply to the treatment works or other project if the treatment works or other project were constructed under appropriate standards under the laws of the U.S. and Mexico under applicable treaties and international agreements.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Environmental Protection Agency to carry out this Act such sums as may be necessary for fiscal year 1994, and for each fiscal year thereafter.•

By Mr. WOFFORD:

S. 1365. A bill to limit the duration of certain benefits afforded to former Presidents, and for other purposes; to the Committee on Governmental Affairs.

S. 1366. A bill to limit the duration of payments of expenses of former Speakers of the House of Representatives; to the Committee on Governmental Affairs.

S. 1367. A bill to prohibit taxpayer financed mass mailings; to the Committee on Rules and Administration.

S. 1368. A bill to eliminate the discount on office equipment and furniture for Senators departing office; to the Committee on Rules and Administration.

S. 1369. A bill to reduce Federal budget deficits by delaying the beginning of initial low-rate production of two new weapon systems of the Department of Defense; to the Committee on Armed Services.

S. 1370. A bill to require the Secretary of Defense to retire all land-based intercontinental ballistic missiles before October 1, 1997; to the Committee on Armed Services.

S. 1371. A bill to terminate the Ground-Wave Emergency Network [GWEN] program; to the Committee on Armed Services.

S. 1372. A bill to eliminate the price support and production adjustment programs for tobacco, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

S. 1373. A bill to amend the Reclamation Project Act of 1939 to reform irrigation assistance repayments and to require the Secretary of the Interior to redetermine the ability of irrigators to repay construction charges at least every 5 years; to the Committee on Energy and Natural Resources.

S. 1374. A bill to reduce certain authorizations for the United States Travel and Tourism Administration, Department of Commerce; to the Committee on Commerce, Science, and Transportation.

S. 1375. A bill to eliminate funding for the Federal information centers, and for other purposes; to the Committee on Governmental Affairs.

S. 1376. A bill to repeal the Helium Act, to require the Secretary of the Interior to sell Federal real and personal property held in connection with activities carried out under the Helium Act, and for other purposes; to the Committee on Energy and Natural Resources.

S. 1377. A bill to eliminate funding for the essential air service program, and for other purposes; to the Committee on Commerce, Science, and Transportation.

S. 1378. A bill to limit the amount of funds authorized to be appropriated for international broadcasting activities for each of the fiscal years 1994 through 1998; to the Committee on Foreign Relations.

S. 1379. A bill to limit the continued availability of foreign assistance funds for obligation and expenditure; to the Committee on Foreign Relations.

CUTS IN GOVERNMENT SPENDING LEGISLATION

• Mr. WOFFORD. Mr. President, today I am introducing and cosponsoring legislation that will cut almost $65 billion in Government spending over the next 5 years. These cuts are beyond the approximately $500 billion in deficit reduction put forth by the President and enacted by the Congress in the budget resolution.

I have announced my support for these cuts before. The introduction of this legislation is another step forward in the process of seeing these cuts become a reality.

Just like any family, government has to live within its means. This means making hard choices. This means going beyond the easy cuts of wasteful programs and government perks and cutting even those programs which have merit, but which we can no longer afford. I urge my colleagues to support these deeper spending cuts.

Mr. President, I ask unanimous consent that the full text of the legislation be inserted into the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 1365

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LIMITATIONS RELATING TO ELIGIBILITY OF A FORMER PRESIDENT FOR OFFICE SPACE AND A MONETARY ALLOWANCE.

(A) IN GENERAL.—The Act entitled "An Act to provide retirement, clerical assistants, and free mailing privileges to former Presidents of the United States, and for other purposes", approved August 25, 1958 (3 U.S.C. 102 note) is amended—

(1) in subsection (a)—

(A) by striking "(a) Each" and inserting "(a)(1) Except as provided in paragraph (2), each";

(B) by striking the second sentence; and

(C) adding at the end the following:

"(2) An allowance under this subsection shall not be payable—

"(A) for any period during which the former President holds an appointive or elective office or position in or under the Federal Government or the government of the District of Columbia to which is attached a rate of pay other than a nominal rate;

"(B) for any month if such former President has not attained retirement age (within the meaning of section 216(l)(1) of the Social Security Act (42 U.S.C. 516(l)(1) before the start of such month; or

"(C) in the case of a former President otherwise entitled to any other annuity or pension under any other Act of Congress (excluding a survivor benefit and any benefit under title XVIII of the Social Security Act), unless such former President waives the right to each such other annuity or pension."; and

(2) by repealing subsection (c).

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as of the first day of the first month beginning after the end of the 6-month period beginning on the date of the enactment of this Act.

SEC. 2. PROVISIONS RELATING TO SECRET SERVICE PROTECTION FOR A FORMER PRESIDENT OR MEMBER OF THE IMMEDIATE FAMILY OF A FORMER PRESIDENT.

(a) IN GENERAL.—Section 3056(a) of title 18, United States Code, is amended—

(1) by striking paragraph (3) and inserting the following:

"(3) Former Presidents, for the 1-year period immediately following the termination date of the person's service as President."; and

(2) by striking paragraph (4).

(b) COORDINATION WITH OTHER PROVISIONS OF LAW.—For purposes of sections 879 and 1752 of title 18, United States Code—

(1) a former President shall, after the end of the 1-year period referred to in section 3056(a)(3) of such title (as amended by subsection (a)(1)), be deemed to be a person under Secret Service protection; and

(2) children of a former President who are under 16 years of age, and a spouse of a former President (except a spouse who is

otherwise ineligible for Secret Service protection by reason of remarriage), shall be deemed to be persons under Secret Service protection;

unless such person did not have Secret Service protection, as of the date such person was last eligible therefor, by reason of a declination of protection made by such person.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act, except that the enactment of this section shall not have the effect of terminating Secret Service protection for any person before—

(1) the expiration of the 6-month period beginning on the date of the enactment of this Act; or

(2) such person has received (or been eligible to receive) Secret Service protection as a former President, or the spouse or a child of a former President, as the case may be, for at least 12 months after the termination date of such former President's service.

(d) DEFINITION.—For purposes of this section, the term "Secret Service" means the United States Secret Service, the Department of the Treasury.

S. 1366

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LIMITATION ON THE DURATION OF PAYMENTS OF EXPENSES OF FORMER SPEAKERS OF THE HOUSE OF REPRESENTATIVES.

The period for which expenses of former Speakers of the House of Representatives may be paid shall end 1 year after the date of the expiration of the term of office as Representative of the former Speaker involved, except that, in the case of a former Speaker who is receiving such expenses on the date of the enactment of this Act, the period shall end 1 year after the date of the enactment of this Act.

SEC. 2. DEFINITION.

For purposes of this Act, the term "expenses of former Speakers of the House of Representatives" means the office, allowance, and other expenses provided for former Speakers of the House of Representatives under House Resolution 1238, Ninety-first Congress, enacted into permanent law by chapter VIII of the supplemental Appropriations Act, 1971 (2 U.S.C. 31b-1 et seq.).

S. 1367

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 1. (a) This section shall apply to mailings by Senators, Senators-elect, and offices of the Senate made during fiscal year 1994 and each fiscal year thereafter in addition to any other law relating to the use of the franking privilege.

(b) For the purposes of this paragraph—

(1) the term "mass mailing"—

(A) means, with respect to a session of Congress, a mailing of 500 or more newsletters or other pieces of mail with substantially identical content (whether such mail is deposited singly or in bulk, or at the same time or different times), but

(B) does not include a mailing—

(i) of matter in direct response to communication from a person to whom the matter is mailed (to the extent of 2 such mailings) that—

(I) is the case of an initial response, is mailed at any time; or

(II) in the case of a followup response, is mailed not later than 180 days after the date of receipt of the communication;

(ii) to other members of Congress or to a Federal, State, or local government official;

(iii) of a news release to the communications media;

(iv) of a town meeting or mobile office notice; or

(v) of a Federal publication or other item that is provided by the Senate to all Senators or made available by the Senate for purchase by all Senators from official funds specifically for distribution.

(c) A Senator, Senator-elect, or office of the Senate may not mail a mass mailing under the frank.

(d) As soon as practicable after the close of each quarter of a fiscal year, the chairman of the Committee on Rules and Administration of the Senate shall cause to be printed in the Congressional Record—

(1) the dollar amount of the allocation of official mail costs made to each Senator, Senator-elect, and office of the Senate for the fiscal year;

(2) the dollar amount of official mail costs that were incurred by each Senator, Senator-elect, and Senate office during that quarter; and

(3) the balance of the allocation for official mailing costs that remain available to each Senator, Senator-elect, and Senate office.

(e)(1) In connection with their fiscal 1995 budget presentations to the Committee on Appropriations of the Senate, the Secretary of the Senate and the Sergeant at Arms and Doorkeeper of the Senate shall submit a report that describes—

(A) the best available and most recent information relating to the amount of expenditures made from each Senate office account for official mail activities during fiscal year 1994 as of the date of the budget presentation;

(B) the best available and most recent information relating to the amount of expenditures made from each Senate office account for official mail activities during fiscal year 1993 as of the date that is one year earlier than the date referred to in subparagraph (A); and

(C) the amount of any difference between the amounts described in subparagraphs (A) and (B) that is attributable to the operation of subsection (c).

(2) As used in this subsection, the term "official mail activities" includes the cost of producing, processing, and mailing of official mail.

(f)(1) On and after the date of enactment of this Act and during fiscal year 1994 and each fiscal year thereafter, no member, officer, or employee of the Senate may use any appropriated funds or any equipment or other resources that are paid for with appropriated funds for the purpose of procuring, gaining access to, or using a mailing list of any kind (including a voter registration list) that is produced by any public or private entity except a mailing list described in paragraph (2).

(2)(A) A mailing list is described in this paragraph if it is—

(i) a postal patron list or update as provided by the United States Postal Service to be used for town meeting and mobile office notices;

(ii) a list of members of the communications media;

(iii) a list of Federal, State, or local government officials; or

(iv) a list of fewer than 500 persons identifiable as having an interest in a legislative topic that is different from any legislative topic identified as a subject of interest of persons named in any list previously procured, accessed, or used by a person (or by another member of the office of which the person so procuring, accessing, or using is a member) and used for the purpose of making a mailing with official funds during a fiscal year.

(B) For the purpose of subparagraph (A)(iv), a legislative topic may be considered to be different from another legislative topic only if any mailing for which it is intended to be used (and for which it is in fact used) has a content that is not substantially identical (within the meaning of subsection (b)(1)(A)) to the content of any other mailing made by the office previously during the fiscal year.

S. 1368

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REPEAL OF DISCOUNT ON OFFICE EQUIPMENT AND FURNITURE FOR SENATORS DEPARTING OFFICE.

The Act entitled "An Act to authorize the disposition of certain office equipment and furnishings, and for other purposes" (2 U.S.C. 59b) is repealed.

S. 1369

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DELAY OF CERTAIN DEPARTMENT OF DEFENSE NEW START PROGRAMS.

(a) TRI-SERVICE STANDOFF ATTACK MISSILE PROGRAM.—Funds available for the Department of Defense for fiscal year 1994 may not be expended for advance procurement for proceeding into low-rate initial production in fiscal year 1995 under the Tri-Service Standoff Attack Missile (TSSAM) program.

(b) JAVELIN ADVANCED ANTITANK WEAPON SYSTEM PROGRAM.—Funds available for the Department of Defense for fiscal year 1994 may not be expended for proceeding into low-rate initial production under the Javelin Antitank Weapon System—Medium (AAWS-M) program of the Army.

S. 1370

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RETIREMENT OF ALL LAND BASED ICBMS.

The Secretary of Defense shall retire all land-based intercontinental ballistic missiles of the United States before October 1, 1997.

S. 1371

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TERMINATION OF THE GROUND-WAVE EMERGENCY NETWORK.

(a) TERMINATION OF PROGRAM.—The Secretary of Defense shall terminate the Ground-Wave Emergency Network (GWEN) program.

(b) FUNDING LIMITATION.—No funds may be obligated or expended after the date of the enactment of this Act under a contract for the Ground-Wave Emergency Network program except as necessary for termination or cancellation liability arising out of any such contract in effect on the date of the enactment of this Act.

S. 1372

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Tobacco Price Support Elimination Act of 1993".

SEC. 2. ELIMINATION OF TOBACCO PRICE SUPPORT AND PRODUCTION ADJUSTMENT PROGRAMS.

(a) PRICE SUPPORT PROGRAM.—

(1) PARITY PRICE SUPPORT.—Section 101 of the Agricultural Act of 1949 (7 U.S.C. 1441) is amended—

(A) in the first sentence of subsection (a), by striking "tobacco (except as otherwise provided herein), corn," and inserting "corn";

(B) by striking subsections (c), (g), (h), and (i);

(C) in subsection (d)(3)—

(i) by striking ", except tobacco,"; and

(ii) by striking "and no price support shall be made available for any crop of tobacco for which marketing quotas have been disapproved by producers;"; and

(D) by redesignating subsection (d) as subsection (c).

(2) NO NET COST PROVISIONS.—Sections 106, 106A, and 106B of such Act (7 U.S.C. 1445, 1445–1, and 1445–2) are repealed.

(3) DEFINITION OF BASIC AGRICULTURAL COMMODITY.—Section 408(c) of such Act (7 U.S.C. 1428(c)) is amended by striking "tobacco,".

(4) REVIEW OF BURLEY TOBACCO IMPORTS.—Section 3 of Public Law 98–59 (7 U.S.C. 625) is repealed.

(5) POWERS OF COMMODITY CREDIT CORPORATION.—Section 5(a) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714c(a)) is amended by inserting after "agricultural commodities" the following: "(other than tobacco)".

(b) ACREAGE ALLOTMENTS AND MARKETING QUOTAS.—

(1) DECLARATION OF POLICY.—Section 2 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1282) is amended by striking "tobacco,".

(2) DEFINITIONS.—Section 301(b) of such Act (7 U.S.C. 1301(b)) is amended—

(A) in paragraph (3)—

(i) by striking subparagraph (C); and

(ii) by redesignating subparagraph (D) as subparagraph (C);

(B) in paragraph (6)(A), by striking "tobacco,";

(C) in paragraph (7), by striking the following:

"Tobacco (flue-cured), July 1–June 30;

"Tobacco (other than flue-cured), October 1–September 30;";

(D) in paragraph (10)—

(i) by striking subparagraph (B); and

(ii) by redesignating subparagraph (C) as subparagraph (B);

(E) in paragraph (11)(B), by striking "and tobacco";

(F) in paragraph (12), by striking "tobacco,";

(G) in paragraph (14)—

(i) by striking "(A)"; and

(ii) by striking subparagraphs (B), (C), and (D);

(H) by striking paragraph (15);

(I) in paragraph (16)—

(i) by striking subparagraph (B); and

(ii) by redesignating subparagraph (C) as subparagraph (B); and

(J) by redesignating paragraphs (16) and (17) as paragraphs (15) and (16), respectively.

(3) PARITY PAYMENTS.—Section 303 of such Act (7 U.S.C. 1303) is amended by striking "rice, or tobacco," and inserting "or rice,".

(4) MARKETING QUOTAS.—Part I of subtitle B of title III of such Act (7 U.S.C. 1311 et seq.) is repealed.

(5) ADMINISTRATIVE PROVISIONS.—Section 361 of such Act (7 U.S.C. 1361) is amended by striking "tobacco,".

(6) ADJUSTMENT OF QUOTAS.—Section 371 of such Act (7 U.S.C. 1371) is amended—

(A) in subsection (a), by striking "peanuts, or tobacco" and inserting "or peanuts"; and

(B) in subsection (b), by striking "peanuts or tobacco" and inserting "or peanuts".

(7) REPORTS AND RECORDS.—Section 373 of such Act (7 U.S.C. 1373) is amended—

(A) by striking "peanuts, or tobacco" each place it appears in subsections (a) and (b) and inserting "or peanuts"; and

(B) in subsection (a)—

(i) in the first sentence, by striking "all persons engaged in the business of redrying, prizing, or stemming tobacco for producers,"; and

(ii) in the last sentence, by striking "$500;" and all that follows through the period at the end of the sentence and inserting "$500.".

(8) REGULATIONS.—Section 375(a) of such Act (7 U.S.C. 1375(a)) is amended by striking "peanuts, or tobacco" and inserting "or peanuts".

(9) EMINENT DOMAIN.—Section 378 of such Act (7 U.S.C. 1378) is amended—

(A) in the first sentence of subsection (c), by striking "cotton, tobacco, and peanuts" and inserting "cotton and peanuts"; and

(B) by striking subsections (d), (e), and (f).

(10) BURLEY TOBACCO FARM RECONSTITUTION.—Section 379 of such Act (7 U.S.C. 1379) is amended—

(A) in subsection (a)—

(i) by striking "(a)"; and

(ii) in paragraph (6), by striking ", but this clause (6) shall not be applicable in the case of burley tobacco"; and

(B) by striking subsections (b) and (e).

(11) ACREAGE-POUNDAGE QUOTAS.—Section 4 of the Act entitled "An Act to amend the Agricultural Adjustment Act of 1938, as amended, to provide for acreage-poundage marketing quotas for tobacco, to amend the tobacco price support provisions of the Agricultural Act of 1949, as amended, and for other purposes", approved April 16, 1965 (7 U.S.C. 1314c note), is repealed.

(12) BURLEY TOBACCO ACREAGE ALLOTMENTS.—The Act entitled "An Act relating to burley tobacco farm acreage allotments under the Agricultural Adjustment Act of 1938, as amended", approved July 12, 1952 (7 U.S.C. 1315), is repealed.

(13) TRANSFER OF ALLOTMENTS.—Section 703 of the Food and Agriculture Act of 1965 (7 U.S.C. 1316) is repealed.

(14) ADVANCE RECOURSE LOANS.—Section 13(a)(2)(B) of the Food Security Improvements Act of 1986 (7 U.S.C. 1433c–1(a)(2)(B)) is amended by striking "tobacco and".

(15) TOBACCO FIELD MEASUREMENT.—Section 1112 of the Omnibus Budget Reconciliation Act of 1987 (Public Law 100–203) is amended by striking subsection (c).

SEC. 3. TRANSITION PROVISIONS.

(a) LIABILITY.—The amendments made by this Act shall not affect the liability of any person under any provision of law as in effect before the application of the amendments in accordance with section 4.

(b) TOBACCO STOCKS AND LOANS.—The Secretary of Agriculture shall issue regulations that require—

(1) the orderly disposition of tobacco stocks; and

(2) the repayment of all tobacco price support loans outstanding on the date of enactment of this Act by not later than 1 year after the effective date of this Act.

(c) ADMINISTRATIVE COST SAVINGS.—The Secretary of Agriculture shall transfer to the Secretary of the Treasury, for deposit into the general fund of the Treasury, an amount equal to the administrative cost savings that result from the enactment of this Act and the amendments made by this Act.

SEC. 4. EFFECTIVE DATE.

This Act and the amendments made by this Act shall apply beginning with the marketing year that begins after the date of enactment of this Act.

S. 1373

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Irrigation Assistance Repayment Reform Act".

SEC. 2. IRRIGATION ASSISTANCE REPAYMENT REFORM.

Section 9 of the Act of August 4, 1939 (known as the Reclamation Project Act of 1939) (53 Stat. 1993; chapter 418; 43 U.S.C. 485h), is amended by adding at the end the following new subsection:

"(g)(1) Subject to paragraphs (2) and (3) and notwithstanding any other provision of law, any costs of construction that meet the requirements of paragraph (2) shall be repaid not later than 40 years after the date on which irrigation service begins for such irrigation project, division, or development unit, upon terms no less favorable to the Federal Government than payment in equal annual installments.

"(2) This subsection shall apply to costs of construction incurred after September 30, 1992, that—

"(A) are allocated to irrigation;

"(B) are beyond the ability of the water user to repay; and

"(C) may be repaid by revenues from power marketed by the Western Area Power Administration.

"(3) An increase in wholesale power rates, if any, charged as a result of the operation of paragraph (1) may not exceed one mil per kilowatt-hour per year.".

SEC. 3. DETERMINATIONS OF ABILITY TO PAY.

Section 9 of the Act of August 4, 1939 (known as the Reclamation Project Act of 1939) (53 Stat. 1993; chapter 418; 43 U.S.C. 485h) is further amended by adding at the end the following new subsection:

"(h)(1) Except where expressly precluded by contract, the Secretary shall make a determination of the ability of an irrigator to pay construction charges allocated to irrigation no less frequently than every 5 years, and shall adjust the amount of the charges to be recovered from the irrigator accordingly.

"(2) Each new or renewed contract entered into by the Secretary after the date of enactment of this subsection shall provide for the recomputation of the ability of an irrigator to pay, pursuant to the provisions of paragraph (1), and the repayment of any unpaid additional charges resulting from prior adjustments.

"(3) Nothing in this subsection shall preclude the Secretary from recovering full cost where such recovery is otherwise authorized under the reclamation laws.".

S. 1374

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REDUCTION IN AUTHORIZATION.

Section 304 of the International Travel Act of 1961 (22 U.S.C. 2126) is amended by deleting "not to exceed $22,500,000 for fiscal year 1994, not to exceed $24,000,000 for fiscal year 1995, and not to exceed $26,000,000 for fiscal year 1996" and inserting in lieu thereof "not to exceed $11,250,000 for fiscal year 1994, not to exceed $12,000,000 for fiscal year 1995, and not to exceed $13,000,000 for fiscal year 1996".

S. 1375

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

(a) TERMINATION OF FUNDING.—Notwithstanding section 112(c) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 760(c)), no appropriated funds shall be available for the operation of the Federal information centers established under section 112(a) of such Act (40 U.S.C. 760(a)).

(b) UNOBLIGATED FUNDS.—Appropriated funds made available for the Federal information centers that remain obligated on the date of enactment of this Act are hereby rescinded.

S. 1376

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

The Congress finds that—

(1) the United States Government's helium recovery program was instituted in 1925, when helium conservation was deemed to be a matter of national security and no private sector helium recovery industry existed;

(2) today, as compared to 1925, there is little likelihood that the United States will have to field a fleet of blimps on an emergency basis;

(3) private sources of helium are more than adequate for serving existing and foreseeable future national needs;

(4) since 1925, there has been a dramatic increase in private industry's involvement in helium recovery, as a result of free market discovery of numerous commercial uses for helium;

(5) currently, private industry accounts for 90 percent of all helium extraction and consumption;

(6) the Government's helium recovery program currently owes the Department of the Treasury $1,400,000,000 and loses an additional $120,000,000 yearly on interest alone, and there is no prospect for repayment of this debt without significant reform; and

(7) with combined public and private helium reserves considerably in excess of foreseeable national helium needs, there is no longer any need for the Federal Government to own and operate a helium extraction and reserve program.

SEC. 2. REPEAL.

The Helium Act (50 U.S.C. 161 et seq.) is repealed.

SEC. 3. SALE OF PROPERTY.

The Secretary of the Interior shall sell or otherwise dispose of, at the best possible terms available to the United States, all facilities, equipment, and other real or personal property, or rights thereto, held by the United States in connection with activities carried out under the Helium Act, unless such facilities, equipment, or other real or personal property, or rights thereto, are required for other Federal purposes.

SEC. 4. SALE OF HELIUM RESERVE.

The Secretary of the Interior shall sell or otherwise dispose of, at the best possible terms available to the United States, all helium reserves held by the United States other than amounts required for the specific immediate needs of the Federal Government. Such sale shall be conducted in a manner consistent with the orderly conduct of commercial helium markets.

SEC. 5. REDUCTION OF FEDERAL DEBT.

All funds received pursuant to sections 3 and 4, and all amounts remaining in the helium production fund established under section 6(f) of the Helium Act, shall be considered full repayment of loans made under section 12 of the Helium Act. Such funds shall be applied, subject to appropriations, solely to the retirement of outstanding United States Government debt, and may not be obligated or expended for any other purpose, notwithstanding any other provision of law that does not specifically reference this section.

S. 1377

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ESSENTIAL AIR SERVICE PROGRAM.

(a) TERMINATION OF AUTHORIZATION.—Subsection (*l*)(2) of section 419 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1389(*l*)(2)) is amended by striking "1994, 1995, 1996, 1997, and 1998".

(b) UNOBLIGATED FUNDS.—Funds made available to carry out section 419 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1389) that remain unobligated on the date of enactment of this Act are hereby rescinded.

S. 1378

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding any other provision of law, the total amount of funds authorized to be appropriated in the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995, to carry out international broadcasting activities for each of the fiscal years 1994, 1995, 1996, 1997, and 1998 shall be the total amount of funds so authorized, minus $26,000,000, for each such fiscal year.

S. 1379

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LIMITATION ON CONTINUED AVAILABILITY OF FOREIGN ASSISTANCE FUNDS.

Notwithstanding any other provision of law, amounts authorized to be appropriate to the President to carry out programs, projects, or activities under the Foreign Assistance Act of 1961 or the Support for East European Democracy (SEED) Act of 1989 shall remain available for obligation and expenditure not more than 36 months after the close of the fiscal year in which the funds are appropriated.

SEC. 2. WAIVER.

The President is authorized to waive the application of the limitation contained in section 1 if the President determines that to do so would be in the national interest of the United States.•

By Mr. BRADLEY (for himself and Mr. LAUTENBERG):

S. 1380. A bill to designate portions of the Maurice River and its tributaries in the State of New Jersey as components of the National Wild and Scenic Rivers System; to the Committee on Energy and Natural Resources.

THE SOUTH JERSEY WILD AND SCENIC RIVER ACT

• Mr. BRADLEY. Mr. President, I introduce the South Jersey Wild and Scenic River Act. I am proud to have Senator LAUTENBERG join me as a cosponsor. This legislation would designate some 35 miles of the Maurice River and its tributaries as national wild and scenic rivers. With this bill, we bring to a close a legislative process begun in 1987. From start to finish, this process has been driven by the desires and needs of the affected communities. There are many, many citizens who deserve enormous credit. In the House, especially, Congressman HUGHES has been a true leader and he deserves acknowledgment for all he has accomplished.

Pristine doesn't capture the beauty of the Maurice and its tributaries: A great deal of this river system is in nearly the same condition as it was when the Dutch sailing ship *Prince Maurice* foundered here almost four centuries ago.

Its natural beauty and ecological value is irreplaceable. This is the last nesting site in New Jersey for the American bald eagle. It is a winter home for bald and golden eagles, peregrine falcons, and an enormous variety of waterfowl. The Maurice pours its clean waters into the Delaware Bay and fosters the growth of crabs and oysters, on which our watermen depend. Near these streams are perhaps the highest concentration of rare, threatened, or endangered species in the State.

We're at a crossroad: our actions today will determine what these rivers will look like in the future. The natural qualities I've described have always been here. But they will only continue to be here only because the citizens of this area decide positively that they commit themselves to a pristine future for the river.

For the last 6 years, the river's future has been debated. This has been a trying experience for many. There have been a lot of concerns expressed, fears of a heavy Federal hand, condemnation, new bureaucracy, hardship for private property owners, et cetera. Repeatedly, I have pledged to work with the communities to address these concerns and reduce them. Now, it will be up to all of us to see that the many fears aren't realized while the enormous promise is.

Given the continued support of the local citizens, I am ready to push forward this legislation that will secure wild and scenic river status for these miles of unique and beautiful waterways.

I ask unanimous consent that the text of the legislation be printed following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1380

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the Maurice River and its tributaries, Menantico Creek, the Manumuskin River, and Muskee Creek, are eligible for inclusion into the national wild and scenic rivers system;

(2) a resource assessment of the Maurice River and its tributaries, Menantico Creek, the Manumuskin River, and the Muskee Creek shows that the area possesses numerous remarkable natural, cultural, scenic, and recreational resources that are significant at the local, regional, and international levels, including rare plant and animal species and critical habitats for birds migrating to and from the northern and southern hemispheres;

(3) a river management plan for the river system has been developed by the Cumberland County Department of Planning and Development and adopted by the Maurice River Township, Commercial Township, and the City of Millville that meets the requirements of section 6(c) of the Wild and Scenic Rivers Act (16 U.S.C. 1277(c));

(4) the city of Vineland has adopted a master plan that calls for river planning and management, and is in the process of adopting zoning ordinances to implement its plan; and

(5) Buena Vista Township in Atlantic County has adopted a land use plan consistent with the Pinelands Comprehensive Plan which is more restrictive than the Cumberland County local river management plan.

(b) PURPOSES.—The purposes of this Act are—

(1) to declare the importance and irreplaceable resource value of the Maurice River and its tributaries to water quality, human health, traditional economic activities, ecosystem integrity, biotic diversity, fish and wildlife, scenic open space and recreation;

(2) to protect such values through the designation of the segments as components of the national wild and scenic rivers system;

(3) to recognize that the Maurice River System will continue to be threatened by major development, and that land use regulations of the individual local political jurisdictions through which the river segments pass cannot alone provide for an adequate balance between conservation of the resources of the river and commercial and industrial development; and

(4) to recognize that segments of the Maurice River and its tributaries other than to those designated under this Act are eligible for potential designation at some point in the near future.

SEC. 2. DESIGNATION.

(a) IN GENERAL.—Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by adding at the end the following new paragraphs:

"( ) MAURICE RIVER, MIDDLE SEGMENT.—From Route 670 Bridge at Mauricetown to 3.6 miles upstream (at drainage ditch just upstream of Fralinger Farm), approximately 3.8 miles, to be administered by the Secretary of the Interior as a scenic river.

"( ) MAURICE RIVER, MIDDLE SEGMENT.—From the drainage ditch just upstream of Fralinger Farm ½ mile upstream from the United States Geological Survey Station at Burcham Farm, approximately 3.1 miles, to be administered by the Secretary of the Interior as a recreational river.

"( ) MAURICE RIVER, UPPER SEGMENT.—From ½ mile upstream from the United States Geological Survey Station at Burcham Farm to the south side of the Millville sewage treatment plan, approximately 3.6 miles, to be administered by the Secretary of the Interior as a scenic river.

"( ) MENANTICO CREEK, LOWER SEGMENT.—From its confluence with the Maurice River to the Route 55 Bridge, approximately 1.4 miles, to be administered by the Secretary of the Interior as a recreational river.

"( ) MENANTICO CREEK, UPPER SEGMENT.—From the Route 55 Bridge to the base of the impoundment at Menantico Lake, approximately 6.5 miles, to be administered by the Secretary of the Interior as a scenic river.

"( ) MANUMUSKIN RIVER, LOWER SEGMENT.—From its confluence with the Maurice River to a point 2 miles upstream, to be administered by the Secretary of the Interior as a recreational river.

"( ) MANUMUSKIN RIVER, UPPER SEGMENT.—From a point 2 miles upstream from its confluence with the Maurice River to its headwaters near Route 557, approximately 12.3 miles, to be administered by the Secretary of the Interior as a scenic river.

"( ) MUSKEE CREEK, NEW JERSEY.—From its confluence with the Maurice River to the Pennsylvania Seashore Line Railroad Bridge, approximately 2.7 miles, to be administered by the Secretary of the Interior as a scenic river.".

SEC. 3. MANAGEMENT.

(a) DUTIES OF SECRETARY.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary of the Interior shall manage the river segments designated as components of the national wild and scenic rivers system by the amendments made by section 2 this Act through cooperative agreements with the political jurisdictions within which the segments pass, pursuant to section 10(e) of the Wild and Scenic Rivers Act (16 U.S.C. 1281(e)), and in consultation with such jurisdictions.

(2) PUBLICLY OWNED LANDS.—Publicly owned lands within the boundaries of the segments referred to in paragraph (1) shall be managed by the agency having jurisdiction over such lands on the date of enactment of this Act.

(b) COOPERATIVE AGREEMENTS.—

(1) REQUIREMENTS.—Cooperative agreements for the management of the river segments referred to in subsection (a) shall—

(A) provide for the long-term protection, preservation, and enhancement of such segments;

(B) be consistent with the comprehensive management plan for such segments to be prepared by the Secretary of the Interior pursuant to section 3(d) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(d)); and

(C) be consistent with the local river management plans prepared by appropriate local political jurisdictions in conjunction with the Secretary of the Interior.

(2) DESIGNATION OF ZONING ORDINANCES.—

(A) REVIEW.—The Secretary of the Interior, in consultation with appropriate representatives of local political jurisdictions and the State of New Jersey, shall review the local river management plans described in paragraph (1) to ensure that the proper implementation of the plans will protect the values for which the river segments described in the amendments made by section 2 were described as components of the national wild and scenic rivers system.

(B) ESTABLISHMENT OF ZONING ORDINANCES.—If, after the review required by subparagraph (A), the Secretary determines that the plans and their implementing local zoning ordinances meet the protection standards specified in section 6(c) of the Wild and Scenic Rivers Act (16 U.S.C. 1277(c)), the plans shall be deemed to constitute "local zoning ordinances" and each township and other incorporated local jurisdiction covered by such plans shall be deemed to constitute a "village" for the purposes of section 6(c) of the Wild and Scenic Rivers Act (16 U.S.C. 1277(c)).

(3) COMPLIANCE.—The Secretary of the Interior shall biennially review compliance with the local river management plans described in paragraph (1), and shall promptly report to the Committee on Energy and Natural Resources of the Senate and to the Committee on Natural Resources of the House of Representatives any deviation from the management plans that would result in any diminution of the values for which the river segment concerned was designated as a component of the national wild and scenic rivers system.

(c) PLANNING ASSISTANCE.—The Secretary of the Interior may provide planning assistance to local political subdivisions of the State of New Jersey through which flow river segments that are designated as components of the national wild and scenic rivers system, and may enter into memoranda of understanding or cooperative agreements with officials or agencies of the United States or the State of New Jersey to ensure that Federal and State programs that could affect the segments are carried out in a manner consistent with the Wild and Scenic Rivers Act and applicable river management plans.

(d) SEGMENT ADDITIONS.—

(1) SEGMENTS.—The Secretary of the Interior is encouraged to continue to work with the local municipalities to negotiate agreement and support for designating those segments of the Maurice River and its tributaries that were found eligible for designation pursuant to Public Law 100-33 (100 Stat. 299) and were not designated by this Act.

(2) ADMINISTRATION.—For a period of 3 years beginning on the date of enactment of this Act, subsections (b), (c), and (d) of section 5 of the Wild and Scenic Rivers Act (16 U.S.C. 1276(b), (c), and (d)) shall apply to the eligible segments described in paragraph (1).

(3) REPORT.—Not later than 3 years after the date of enactment of this Act, the Secretary of the Interior shall report to the appropriate congressional committees on the status of discussions and negotiations with the local municipalities and on recommendations toward inclusion of additional river segments into the national wild and scenic rivers system.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this Act and the amendments made by this Act.•

• Mr. LAUTENBERG. Mr. President, I join with my colleague from New Jersey, Senator BRADLEY, in introducing this legislation to amend the Wild and Scenic Rivers Act to designate certain tributaries of the Maurice River as components of the National Wild and Scenic Rivers System.

In 1987, Senator BRADLEY and I introduced legislation which initiated a study by the National Park Service to evaluate the suitability and feasibility of designating portions of the Maurice River and its tributaries for potential inclusion in the National Wild and Scenic River System. That legislation directed the Park Service to work with the communities to determine which segments of the river and its tributaries were appropriate for designation.

I am pleased today to introduce legislation, with Senator BRADLEY, which will enact the Park Service recommendations to designate the Manumuskin River and Muskee Creek as part of the National Wild and Scenic Rivers Program. This legislation respects the individual property owners' rights and the preferences of local governments.

The Wild and Scenic Rivers Program aims to bring long-term protection of important natural resources by focusing on local initiative and management. The Wild and Scenic Rivers Act, enacted in 1968, reflected the national recognition of the need to protect our rivers. It was the intent of Congress to protect rivers and their surroundings for their scenic, recreational, historic, and cultural qualities. The Wild and Scenic Rivers Program balances the need for development on rivers with the need to preserve those rivers in their natural, free-flowing condition.

New Jersey is the most densely populated State in the Nation. As a result, preservation, enhancement, and enjoyment of our natural resources is of great value to the people of my State.

Last Congress, Senator BRADLEY and I introduced legislation which would designate portions of the Great Egg Harbor River as wild and scenic. Inclusion of the Manumuskin River and Muskee Creek within the system would complement our efforts with the Great Egg Harbor River, and enhance protection of these areas by encouraging Federal, State, and local cooperation.

Mr. President, each time I visit this area of my State I am awestruck by its beauty. Last year I was lucky enough to see a bald eagle. Large portions of the Maurice, Manumuskin, and Manantico lie within the boundaries of the Pinelands National Reserve, one of our most valuable natural resources. It is a part of our State that we New Jerseyites are most proud of and it is a side of New Jersey many people do not know exists.

Local efforts to protect these segments of the river are impressive. I am pleased to lend a Federal hand to those efforts. We must ensure that the natural resources of this area continue to be treasured so that future generations will be able to see and enjoy this area. Inclusion of the Manumuskin River and the Muskee Creek in the Wild and Scenic Rivers System will help accomplish this goal.●

By Mr. DOMENICI:

S. 1381. A bill to improve administrative services and support provided to the National Forest Foundation, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

NATIONAL FOREST FOUNDATION ACT AMENDMENT ACT OF 1993

Mr. DOMENICI. Mr. President, I rise today to offer an amendment to the Public Law 101–593, National Forest Foundation Act, Act of November 16, 1990, to enable the National Forest Foundation to properly carry out the role that this Congress intended.

The National Forest Foundation Act of 1990 provides for the establishment of a charitable, nonprofit corporation to be headquartered in the District of Columbia. The Foundation has begun to serve as a catalyst for developing cooperative relationships and partnerships with private conservation organizations, industry, the academic community, and the philanthropic community. The Foundation encourages and accepts donations and gifts in order to conduct activities that further the purposes of national forest and national grassland management; encourages educational and other assistance that supports multiple use, research, cooperative forestry, and other programs administered by the Forest Service; and promotes cooperation between the Forest Service, the private sector, and other governmental and educational institutions.

I have followed the evolution of the National Forest Foundation with great interest, and am pleased to announce that the Board of Directors is now in place and operating. I would like to personally thank each member for taking a personal interest in the Foundation and agreeing to serve on the Board of Directors, with a special thanks to the Chairman of the Foundation, Mr. Donald M. Kendall.

The initial appropriation of funds for the Foundation was not realized until fiscal year 1993, instead of a year earlier as was authorized by the act. The delay was due to the initial organization and board selection required more time than anticipated, which meant that 1 year of funding authorization envisioned in the act would not be available. This amendment will extend the funding authorization for next fiscal year for the startup funding and an additional year for its operation so that the Foundation will be able to function as intended by the act. The extension of the authorization will assure that the Foundation has the ability to bring together the talents and resources of the private sector with those in the Forest Service to enhance national forest management.

Further, the language of Public Law 101-593, directed that the majority of the startup funds be used to support the administrative functions of the Foundation. This amendment would allow for both the startup and matching funds associated with the Foundation to be used for project work. By expanding the authorization of the funds to be used for project work, the ability of the Foundation to perform this mission will be enhanced by allowing more money to be expended toward projects rather than on the Foundation's administrative operation.

Mr. President, I urge the Senate to act quickly on this amendment in order to improve the operation of the National Forest Foundation and its programs, which will further the management and understanding of our forests.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1381

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Forest Foundation Act Amendment Act of 1993".

SEC. 2. PURPOSE.

It is the purpose of this Act—

(1) to provide for start-up and matching funds for project expenses to carry out the National Forest Foundation Act; and

(2) to extend the funding authorization for start-up expenses for 1 year.

SEC. 3. ADMINISTRATIVE SERVICES AND SUPPORT.

(a) IN GENERAL.—Section 405 of the National Forest Foundation Act (16 U.S.C. 583j-3) is amended—

(1) in subsection (a)—

(A) by inserting ", project," after "administrative"; and

(B) by striking "following the date of enactment of this title" and inserting "beginning October 1, 1992"; and

(2) in subsection (b)—

(A) by striking "from the date of enactment of this title" and inserting "beginning October 1, 1992"; and

(B) by inserting "and project" after "administrative".

(b) TECHNICAL AMENDMENT.—Section 410(b) of such Act (16 U.S.C. 583–8(b)) is amended by striking "following the date of enactment of this title," and inserting "beginning October 1, 1992,".

By Mr. HOLLINGS (for himself and Mr. INOUYE):

S. 1383. A bill to amend the Communications Act of 1934 to prohibit the distribution to the public of violent video programming during hours when children are reasonably likely to comprise a substantial portion of the audience; to the Committee on Commerce, Science, and Transportation.

CHILDREN'S PROTECTION FROM VIOLENT PROGRAMMING ACT OF 1993

Mr. HOLLINGS. Mr. President, I rise today to introduce the Children's Protection From Violent Programming Act of 1993. The legislation is based upon the compelling governmental interest to protect children from the harmful effects of violent programming. The legislation is similar to the Federal Communications Commission's [FCC] rules on indecent broadcasts. This bill does not ban programs with violence, and it does not regulate the content of any program. Rather, it directs the FCC to adopt rules to require the networks and the cable industry to channel violent programming into time slots when children are not likely to comprise a substantial part of the audience.

The concern over this issue is not new. The Commerce Committee held hearings on television violence almost 20 years ago. Since then, countless studies have been done, numerous solutions have been offered, and yet the rise of violent programming only continues. Television violence is not to blame for all of our societal ills, but there is little doubt in my mind that it is a significant negative influence on children. So, the time for more studies and panel discussions is over. It is time to solve the problem.

The programming that children watch today is no longer produced by a few Hollywood studios and broadcast by three networks. We now have a fourth network, several independent television stations, and cable television, all of which have multiple sources of programming. Therefore, we can no longer hold just the three networks responsible for what children watch. That is why we must adopt a broad approach directed at all providers of video programming.

Any legislation that restricts programming content raises constitutional questions. Therefore, the legislation directs the FCC to establish regulations similar to its restrictions on indecency. The FCC's restrictions on indecent speech were upheld by the Supreme Court, in *Federal Communications Commission* v. *Pacifica Foundation*, 438 U.S. 726 (1978). The court upheld the FCC, citing two distinctions between broadcasting and other media: "First, the broadcast media have established a uniquely pervasive presence in the lives of all Americans * * * confronting the citizen, not only in public, but also in the privacy of the home * * *,"; and "Second, broadcasting is uniquely accessible to children * * *." In reaching this distinction, the Court emphasized the FCC's decision was founded on a nuisance rationale in combination with several factors, of which the most important, was the time-of-day restrictions. Similarly, this legislation seeks to channel violent programming to times of day when children most likely would not be exposed to it.

Subsequently, in *Sable Communications of California, Inc.* v. *Federal Communications Commission* 492 U.S. 115 (1989), the Court struck down a 24-hour ban on indecent broadcasts but held that the Government "may, however, regulate the content of constitutionally protected speech in order to promote a compelling interest if it chooses the least restrictive means to further the articulated interest." In order to withstand constitutional scrutiny, any restriction must be a narrowly drawn regulation without unnecessarily interfering with first amendment freedoms.

Furthermore, in July 1988, then-Judge Ruth Bader Ginsburg, as a member of the U.S. Court of Appeals for the District of Columbia, authored an opinion upholding the FCC's indecency restrictions for a morning hour broadcast (*Action for Children's Television* v. *Federal Communications Commission* (ACT I) 852 F.2d 1332 (D.C. Cir. 1988)). Judge Ginsburg's opinion upheld the FCC's order because the court could find "no principle * * * under which we might rationally command different treatment of the Infinity early morning program and the Pacific early afternoon broadcast, viewing those broadcasts in the context of the parent-child concerns underpinning the FCC's indecent speech regulation."

I am convinced this bill is the least restrictive means by which we can limit children's exposure to violent programming. I urge my colleagues to consider it carefully.

Mr. President, I ask unanimous consent that a copy of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1383

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Children's Protection from Violent Programming Act of 1993".

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) Television influences children's perception of the values and behavior that are common and acceptable in society.

(2) Television station operators, cable television system operator's, and video programmers should follow practices in connection with video programming that take into consideration that television broadcast and cable programming—

(A) has established a uniquely pervasive presence in the lives of all Americans; and

(B) is readily accessible to children.

(3) Violent video programming influences children, as does indecent programming.

(4) There is empirical evidence that children exposed to violent video programming at a young age have a higher tendency for violent and aggressive behavior later in life than those children not so exposed. Children exposed to violent video programming are prone to assume that acts of violence are acceptable behavior and therefore to imitate such behavior.

(5) There is a compelling governmental interest in limiting the negative influences of violent video programming on children.

(6) There is a compelling governmental interest in channeling programming with violent content to periods of the day when children are not likely to comprise a substantial portion of the television audience.

(7) Restricting the hours when violent video programming is shown is the least restrictive and most narrowly tailored means to achieve that compelling governmental interest.

(8) Warning labels about the violent content of video programming will not in themselves prevent children from watching violent video programming.

SEC. 3. UNLAWFUL DISTRIBUTION OF VIOLENT PROGRAMMING.

Title VII of the Communications Act of 1934 (47 U.S.C. 601 et seq.) is amended by adding at the end the following new section:

"SEC. 714. UNLAWFUL DISTRIBUTION OF VIOLENT PROGRAMMING.

"(a) UNLAWFUL DISTRIBUTION.—It shall be unlawful for any person to—

"(1) distribute to the public any violent video programming during hours when children are reasonably likely to comprise a substantial portion of the audience; or

"(2) knowingly produce or provide material for such distribution.

"(b) RULEMAKING PROCEEDING.—The Commission shall conduct a rulemaking proceeding to implement the provisions of this section and shall promulgate final regulations pursuant to that proceeding not later than 9 months after the date of enactment of this section. As part of that proceeding, the Commission—

"(1) may exempt from the prohibition under subsection (a) programming (including news programs, documentaries, educational programs, and sporting events) whose distributions does not conflict with the objective of protecting children from the negative influences of violent video programming, as that objective is reflected in the findings in section 2 of the Children's Protection from Violent Programming Act of 1993;

"(2) shall exempt premium and pay-per-view cable programming; and

"(3) shall define the term 'hours when children are reasonably likely to comprise a substantial portion of the audience' and the term 'violent video programming'.

"(c) REPEAT VIOLATIONS.—If a person repeatedly violates this section or any regulation promulgated under this section, the Commission shall, after notice and opportunity for hearing, immediately repeal any license issued to that person under this Act.

"(d) CONSIDERATION OF VIOLATIONS IN LICENSE RENEWALS.—The Commission shall consider, among the elements in its review of an application for renewal of a license under this Act, whether the licensee has complied with this section and the regulations promulgated under this section.

"(e) DEFINITION.—As used in this section, the term 'distribute' means to send, transmit, retransmit, telecast, broadcast, or cablecast, including by wire, microwave, or satellite.".

SEC. 4. EFFECTIVE DATE.

The prohibition contained in section 714 of the Communications Act of 1934 (as added by section 3 of this Act) and the regulations promulgated thereunder shall be effective on the date that is one year after the date of enactment of this Act.

By Mr. THURMOND:

S. 1384. A bill to extend the temporary suspension of duty on certain chemicals; to the Committee on Finance.

S. 1385. A bill to suspend temporarily the duty on polyamide resin; to the Committee on Finance.

S. 1386. A bill to suspend temporarily the duty on 4,4′ biphenol; to the Committee on Finance.

S. 1387. A bill to extend the temporary suspension of duty on 2,6-HNA; to the Committee on Finance.

S. 1388. A bill to suspend temporarily the duty on certain chemicals; to the Committee on Finance.

S. 1389. A bill to suspend temporarily the duty on chloranil; to the Committee on Finance.

S. 1390. A bill to suspend temporarily the duty on 2,4-dinitro aniline; to the Committee on Finance.

S. 1391. A bill to suspend temporarily the duty on diazo-2,1,4-sulfonic acid and its salts; to the Committee on Finance.

S. 1392. A bill to extend the temporary suspension of duty on tetraamino biphenyl; to the Committee on Finance.

S. 1393. a bill to suspend temporarily the duty on Phospholan; to the Committee on Finance.

S. 1394. A bill to suspend temporarily the duty on acet-p-anisidine; to the Committee on Finance.

DUTY SUSPENSION LEGISLATION

Mr. THURMOND. Mr. President, I rise today to introduce 11 bills which will suspend the duties imposed on certain chemicals used in manufacturing industries. Currently, these chemicals are imported for use in the United States because there is no known domestic supplier or readily available substitute. Therefore, suspending the duties on these chemicals would not adversely affect domestic industries.

The first bill will extend the duty suspension on five chemicals. They are:

1-Naphtol-4-sulfonic acid and the mono sodium salt (Neville and Winter's Acid) which is used in the manufacturing of reactive dyes for cotton and wool products;

2,Naphthyl amine-6-sulfonic acid (Broenner's acid) which is used in making reactive dyes for coloring cotton and wool;

2-Naphthyl amine-1, 5-disulfonic acid and the mono sodium salt (D Salt) which is used in the manufacturing of reactive dyes for cotton and wool;

3,Hydroxy-2-naphthanilide, 3-Hydroxy-2-naphtho-o-toluidide, 3-Hydroxy-2-naphtho-o-anisidide, 3-Hydroxy-2-naphtho-o-phenetidide, 3-Hydroxy-2-naphtho-o-4-chloro-2,5-dimethoxy Anilide, and N,N′-bis [acetoacetyl-O-tolidine] (naphthol AS types) which is used in the production of paints, printing inks, and colorants for plastics;

3-Amino-methoxy benzanilide (anis base) which is used in the production of Azo pigments. These pigments are used in the production of paints, printing inks, and colorants for plastics.

Mr. President, in the 101st Congress, I introduced similar legislation to suspend the duty on these chemicals. These duty suspensions were incorporated into the Customs and Trade Act of 1990 and expired on December 31, 1992.

The second bill I am introducing will extend the duty suspension on tetra amino biphenyl [TAB]. This chemical is imported into the United States from West Germany. TAB is an essential raw material used in the production of a high performance fiber called PBI.

PBI is a unique heat and chemical resistant fiber that can be used as a suitable replacement for asbestos. PBI has a wide range of thermal protective applications such as flight suits and garments for firefighters, boiler tenders, as well as refinery workers.

Mr. President, in the 98th, 100th, and 101st Congress, I introduced similar legislation to apply duty-free treatment to TAB. These bills were ultimately incorporated into the Omnibus Tariff and Trade Act of 1984, the Omnibus Trade Act of 1988, the Customs and Trade Act of 1990. The duty suspension for this chemical also expired on December 31, 1992.

Mr. President, the next nine bills I am introducing will suspend the duty on certain chemicals until December 31, 1996. These duty suspensions were introduced during the 102d Congress; however, they were not acted on by both the Senate and the House before adjournment.

The first bill will suspend the duty on 2-methyl 2.5 dioxo 1.2 oxaphospholan, commonly called phospholan. This chemical is used as a raw material in the manufacture of polyester fibers for carpeting.

The next three bills will suspend the duty on Acet-p-anisidine; Diazo-2,1,4-sulfonic acid and its salts; and Dinitro Aniline. These chemicals are used in the production of textile dyes and pigments.

The sixth bill I am introducing will suspend the duty on 2,3,4,5-tetrachloro-1,4-benzoquinone, commonly called Chloranil. This chemical is used in the manufacture of coatings for electronics parts and applications.

The seventh bill will suspend the duty on Hexafluoroisopropylidene-2,2-bis(phthalic acid anhydride) (6,Fluoro Dianhydride) until December 31, 1996. This chemical is used in the production of a polymide resin which is utilized to make high temperature (650 to 700 °F) composites. The composites are in demand by the military and aerospace industries.

The eighth bill will suspend the duty on 2,6-HNA (6-hydroxy-2 napthoic acid) until December 31, 1996. The ninth bill will suspend the duty on 4,4′ Biphenol (4,4′dihydroxy-biphenyl) until December 31, 1996. Both of these chemicals are used in the manufacturing of liquid crystal polymers for the electronics industry. Vectra, the trade name for the product made from these chemicals, is used by the computer, telecommunications equipment, and automotive components industries because this product has high heat and chemical resistance.

The final bill will temporarily suspend the duty on polymide resin and synthetic stable fibers of nylon or other copolymides until December 31, 1994. These chemicals are used in the production of plastics which are transparent, resistant to chemicals, easily moldable as well as stiff. Some common items made from these materials are fuel, air, and water filter bodies; faucet and shower handles; fashion eyeglass frames; some automotive and agricultural parts; as well as many other items.

Mr. President, suspending the duty on these chemicals will benefit the consumer by stabilizing the costs of manufacturing the end-use products. There are no known domestic producers of these materials. I hope the Senate will consider these measures expeditiously.

I ask unanimous consent that the text of the bills be printed in the CONGRESSIONAL RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 1385

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. POLYAMIDE.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.39.09	Polyamide (CAS No. 79331–75–2) (provided for in subheading 3908.90.00)	Free	No change	No change	On or before 12/31/96".

SEC. 2. EFFECTIVE DATE.

The amendment made by this Act applies with respect to articles entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

S. 1386

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. 4,4′ BIPHENOL.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.31.12	4,4′ biphenol (CAS No. 92–88–6) (provided for in subheading 2907.29.60)	Free	No change	No change	On or before 12/31/96".

SEC. 2. APPLICABILITY.

The amendment made by section 1 applies with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

S. 1387

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. 2,6-HNA.

Heading 9902.30.25 of the Harmonized Tariff Schedule of the United States is amended by striking "12/31/92" and inserting "12/31/96".

SEC. 2. EFFECTIVE DATE.

The amendment made by this Act shall apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after the date that is 15 days after the date of enactment of this Act.

S. 1388

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SUSPENSIONS OF DUTY ON CERTAIN CHEMICALS.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new subheadings:

"9902.31.12	Hexafluoroisopropylidene-2,2-bis(phthalic acid anhydride) (6,Fluoro Dianhydride) (CAS No. 11007–00–2) (provided for in subheading 2932.90.45)	Free	No change	No change	On or before 12/31/96".

SEC. 2. EFFECTIVE DATE.

The amendment made by section 1 applies with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

S. 1389

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CHLORANIL.

(a) IN GENERAL.—Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.31.12	2,3,4,5-tetrachloro-1,4-benzoquinone (CAS No. 118–75–4) (provided for in subheading 2914.70.20)	Free	No change	No change	On or before 12/31/96".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

S. 1390

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. 2,4-DINITRO ANILINE.

(a) IN GENERAL.—Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.31.12	2,4-dinitro aniline (CAS No. 97–02–9) (provided for in subheading 2921.42.50)	Free	No change	No change	On or before 12/31/96".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

S. 1391

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DIAZO-2,1,4-SULFONIC ACID AND ITS SALTS.

(a) IN GENERAL.—Subchaper II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.31.12	Diazo-2,1,4-sulfonic acid and its salts (CAS Nos. 117–70–4 and 64173–92–6) (provided for in subheadings 2927.00.40 and 2927.00.50)	Free	No change	No change	On or before 12/31/96".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

S. 1392

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF DUTY SUSPENSION.

(a) IN GENERAL.—Heading 9902.29.27 of the Harmonized Tariff Schedule of the United States (relating to tetraamino biphenyl) is amended by striking out "12/31/92" and inserting "12/31/96".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

S. 1393

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PHOSPHOLAN.

(a) IN GENERAL.—Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.31.12	(2-methyl 2.5 dioxo 1.2 oxaphospholan) (provided for in subheading 2919.00.50)	Free	No change	No change	On or before 12/31/96".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

S. 1394

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ACET-P-ANISIDINE.

(a) IN GENERAL.—Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.31.12	Acet-p-anisidine (CAS No. 51–66–1) (provided for in subheading 2924.29.09)	Free	No change	No change	On or before 12/31/96."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

By Mr. LAUTENBERG (for himself, Mr. AKAKA, Mr. PELL, Mr. D'AMATO, and Mr. METZENBAUM):

S.J. Res. 122. A joint resolution designating December 1993 as "National Drunk and Drugged Driving Prevention Month"; to the Committee on the Judiciary.

NATIONAL DRUNK AND DRUGGED DRIVING PREVENTION MONTH

• Mr. LAUTENBERG. Mr. President, I introduce a joint resolution designating the month of December 1993 as National Drunk and Drugged Driving Prevention Month. As the traditional holiday season approaches, more and more impaired individuals will be deciding whether they are capable of driving safely. In December, a coalition of antidrunk driving organizations will be launching a national campaign to significantly reduce the amount of drunk and drugged drivers on our country's roadways. I am proud to join them today.

The nationwide coalition of public and private organizations devoted to preventing alcohol- and drug-related crashes includes Mothers Against Drunk Driving, the National Highway Traffic Safety Administration, the Center for Substance Abuse Prevention, the National Commission Against Drunk Driving, the National Association of Governors' Highways Safety Representatives, and the International Association of Chiefs of Police to mention only a few. By taking a public stand against impaired driving during National Drunk and Drugged Driving Prevention Month, this coalition is reminding the country that friends don't let friends drive drunk over the holidays and year round.

Through Federal State, and local proclamation signing ceremonies, media blitzes, public forums on the dangers of impaired driving, citizens nationwide will be working together to create a safer, more enjoyable holiday season.

Mr. President, drunk and drugged driving remains the most frequently committed crime in America. Last year, almost 40,000 people were killed in motor vehicle crashes and nearly half of those fatalities were alcohol-related. In fact, between Thanksgiving and New York's Eve alone, alcohol-related traffic incidents took the lives of over 1,500 individuals.

Fortunately, this is a problem that we can do something about. Recent Federal, State, local, and private efforts to reduce impaired driving have been successful. In fact, since 1980, the number of alcohol-related traffic deaths has decreased by 36 percent—saving more than 58,000 lives. Last year alone, motor vehicle fatalities in alcohol-related crashes dropped by 11 percent—the lowest number of fatalities in years. We must work together to continue saving lives.

Over the years, Congress has passed legislation to combat impaired driving. In 1984, I teamed up with MADD to pass the National Uniform Minimum Driving Prevention Act was passed providing incentive grants to States that adopt stringent penalties on drunk and drugged driving.

Mr. President, I am proud of my association with the cause of fighting impaired driving on our Nation's highways and urge my colleagues to cosponsor National Drunk and Drugged Driving Prevention Month. I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 122

"Whereas impaired driving is the most frequently committed violent crime in the United States;

"Whereas last year 45 percent of those who died on our nation's highways were the result of alcohol involved crashes;

"Whereas last year nearly 18,000 people were killed and 1.2 million were injured in crashes involving alcohol;

"Whereas impaired driving continues to cost society some $46 billion each year in direct costs;

"Whereas medical costs associated with impaired driving run approximately $5.5 billion a year;

"Whereas injury and property damage resulting from impaired driving cause physical, emotional, and economic hardship for hundreds of thousands of adults and young people;

"Whereas the ongoing work of citizen activists groups such as Mothers Against Drunk Driving (MADD), Students Against Driving Drunk (SADD), Remove Intoxicated Drivers (RID), and the National Commission Against Drunk Driving continue to promote good prevention efforts which have contributed to a 30 percent reduction in alcohol related traffic deaths over the past decade;

"Whereas a decade of intense public education effort has proved that alcohol-related highway crashes are not accidents and can be prevented;

"Whereas comprehensive community-based strategies to further reduce and prevent impaired driving tragedies are known to be effective;

"Whereas an increased public awareness of the gravity of the problem of drunk and drugged driving may help to sustain current efforts to develop comprehensive solutions at the State and local levels;

"Whereas more than 20 public and private sector organizations have joined together to carry out a nationwide public information, education, and enforcement campaign during the December holiday season;

"Whereas the Secretary of Transportation has got a goal by the year 1997 to reduce alcohol-related fatalities to 43 percent and MADD has set a goal by the year 2000 to reduce alcohol-related traffic fatalities to 40 percent.

"Whereas the Secretary of Health and Human Services has set a goal by the year 2000 for all 50 states to prohibit any allowable blood-alcohol concentration tolerance level for drivers younger than age 21;

"Whereas December is a month of many holidays and celebrations, with more drivers on the roads and an increased number of social functions, is a particularly appropriate time to focus national attention on this critical problem: Now, therefore, be it.

"*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the month of December, 1993 is designated as "National Drunk and Drugged Driving Prevention Month", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that month with appropriate activities."●

ADDITIONAL COSPONSORS

S. 154

At the request of Mr. GRAMM, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 154, a bill to insure that any peace dividend is invested in America's families and deficit reduction.

S. 327

At the request of Mr. MURKOWSKI, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of S. 327, a bill to amend the Internal Revenue Code of 1986 to permit rollovers into individual retirement accounts of separation pay from the Armed Services.

S. 457

At the request of Mr. EXON, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 457, a bill to prohibit the payment of Federal benefits to illegal aliens.

S. 462

At the request of Mr. WOFFORD, his name was added as a cosponsor of S. 462, a bill to prohibit the expenditure of appropriated funds on the U.S. international space station *Freedom* program.

S. 463

At the request of Mr. WOFFORD, his name was added as a cosponsor of S. 463, a bill to prohibit the expenditure of appropriated funds on the superconducting super collider program.

S. 487

At the request of Mr. MITCHELL, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of S. 487, a bill to amend the Internal Revenue Code of 1986 to permanently extend and modify the low-income housing tax credit.

S. 496

At the request of Mr. SIMON, the name of the Senator from California [Mrs. BOXER] was added as a cosponsor of S. 496, a bill to amend chapter 44 of title 18, United States Code, to strengthen Federal standards for licensing firearms dealers and heighten reporting requirements, and for other purposes.

S. 517

At the request of Mr. WOFFORD, his name was added as a cosponsor of S. 517, a bill to reduce the deficit in the Federal budget for fiscal year 1994 by limiting to $2,000,000,000 the amount that may be appropriated for the Strategic Defense Initiative.

S. 518

At the request of Mr. WOFFORD, his name was added as a cosponsor of S. 518, a bill to reduce the deficit by limiting the amount of appropriations which may be available to the intelligence community for fiscal year 1994.

S. 519

At the request of Mr. WOFFORD, his name was added as a cosponsor of S. 519, a bill to reduce Federal budget deficits by prohibiting further funding of the Trident II ballistic missile program.

S. 520

At the request of Mr. WOFFORD, his name was added as a cosponsor of S. 520, a bill to prohibit the expenditure of appropriated funds on the advanced solid rocket motor program.

S. 821

At the request of Mr. ROCKEFELLER, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 821, a bill to amend title XVIII of the Social Security Act to provide for uniform coverage of anticancer drugs under the Medicare program, and for other purposes.

S. 833

At the request of Mr. GRASSLEY, the names of the Senator from Maine [Mr. COHEN] and the Senator from Nebraska [Mr. EXON] were added as cosponsors of S. 833, a bill to amend title XVIII of the Social Security Act to provide for increased Medicare reimbursement for nurse practitioners, clinical nurse specialists, and certified nurse midwives, to increase the delivery of health services in health professional shortage areas, and for other purposes.

S. 834

At the request of Mr. GRASSLEY, the names of the Senator from Maine [Mr. COHEN] and the Senator from Nebraska [Mr. EXON] were added as cosponsors of S. 834, a bill to amend title XVIII of the Social Security Act to provide for increased Medicare reimbursement for physician assistants, to increase the delivery of health services in health professional shortage area, and for other purposes.

S. 1115

At the request of Mr. REID, the names of the Senator from Tennessee [Mr. MATHEWS] and the Senator from Kansas [Mrs. KASSEBAUM] were added as cosponsors of S. 1115, a bill to amend the Fair Labor Standards Act of 1938 to ensure that minimum wage requirements do not apply to inmates with respect to work done for the incarcerating entity, and for other purposes.

S. 1124

At the request of Mr. D'AMATO, the name of the Senator from Nevada [Mr. BRYAN] was added as a cosponsor of S. 1124, a bill to enhance credit availability by streamlining Federal regulations applicable to financial institutions, and for other purposes.

S. 1345

At the request of Mr. BINGAMAN, the name of the Senator from Minnesota [Mr. WELLSTONE] was added as a cosponsor of S. 1345, a bill to provide land-grant status for tribally controlled community colleges, tribally controlled postsecondary vocational institutions, the Institute of American Indian and Alaska Native Culture and Arts Development, Southwest Indian

Polytechnic Institute, and Haskell Indian Junior College, and for other purposes.

SENATE JOINT RESOLUTION 35

At the request of Mr. PRESSLER, the name of the Senator from Maine [Mr. MITCHELL] was added as a cosponsor of Senate Joint Resolution 35, a joint resolution to designate the month of November 1993, and the month of November 1994, each as "National Alzheimer's Disease Month."

SENATE JOINT RESOLUTION 91

At the request of Mr. SPECTER, the names of the Senator from Connecticut [Mr. DODD] and the Senator from Vermont [Mr. LEAHY] were added as cosponsors of Senate Joint Resolution 91, a joint resolution designating October 1993 and October 1994 as "National Domestic Violence Awareness Month."

SENATE CONCURRENT RESOLUTION 26

At the request of Mr. SIMON, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of Senate Concurrent Resolution 26, a concurrent resolution urging the President to redirect U.S. foreign assistance policies and spending priorities toward promoting sustainable development, which reduces global hunger and poverty, protects the environment, and promotes democracy.

SENATE RESOLUTION 70

At the request of Mr. BRADLEY, the name of the Senator from Maine [Mr. MITCHELL] was added as a cosponsor of Senate Resolution 70, a resolution expressing the sense of the Senate regarding the need for the President to seek the advice and consent of the Senate to the ratification of the United Nations Convention on the Rights of the Child.

AMENDMENTS SUBMITTED

TECHNOLOGY RELATED ASSISTANCE ACT AMENDMENTS OF 1993

HATCH AMENDMENT NO. 772

Mr. SARBANES (for Mr. HATCH) proposed an amendment to the bill (S. 1283) to amend the Technology-Related Assistance for Individuals With Disabilities Act of 1988 to improve the Act, and for other purposes, as follows:

At the appropriate place, insert the following new section:

SEC. . ADMINISTRATIVE REQUIREMENTS UNDER THE HEAD START ACT.

Section 644(f) of the Head Start Act (42 U.S.C. 9839(f)) is amended—

(1) in paragraph (1)—

(A) by inserting ", or to approve a prior purchase of" after "to purchase,"; and

(B) by inserting before the period at the end thereof the following: ", and shall suspend any proceedings pending against any Head Start agency to claim costs incurred in purchasing such facilities until the agency has been afforded an opportunity to apply for approval of the purchase and the Secretary has determined whether the purchase will be approved. The Secretary shall not be required to repay claims previously satisfied by Head Start agencies for costs incurred in the purchase of facilities"; and

(2) in paragraph (2)—

(A) in subparagraph (A), by inserting "or that was previously purchased" before the semicolon; and

(B) in subparagraph (C)—

(i) by inserting ", or the previous purchase has resulted," after "purchase will result" in clause (i); and

(ii) by inserting ", or would have prevented," after "will prevent" in clause (ii).

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. SARBANES. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, August 5, 1993, immediately following the first rollcall vote on the Senate floor to hold a brief business meeting to vote on pending nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. SARBANES. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee for authority to meet for a hearing on Thursday, August 5, at 4:15 p.m. on the nomination of Lorraine Allyce Green, to be Deputy Director of the Office of Personnel Management [OPM].

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. SARBANES. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be authorized to meet on Thursday, August 5, at 10 a.m. for a markup on the following items:

LEGISLATION

S. 101, a bill to establish a National Commission on Executive Organization Reform.

NOMINATIONS

Russell Frank Canan, to be associate judge of the Superior Court of the District of Columbia.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. SARBANES. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for a hearing on "Lyme Disease: Diagnostic and Treatment Dilemma," during the session of the Senate on Thursday, August 5, 1993, at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. SARBANES. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, August 5, 1993, at 2 p.m. to hold an open hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON CLEAN WATER, FISHERIES AND WILDLIFE

Mr. SARBANES. Mr. President, I ask unanimous consent that the Subcommittee on Clean Water, Fisheries and Wildlife, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Thursday, August 5, beginning at 9:30 a.m., to conduct a hearing on reauthorization of the Clean Water Act, focusing on Federal agency monitoring and other issues.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. SARBANES. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 9:30 a.m., August 5, 1993, to receive testimony on the Actinide Recycle Program and the Department of Energy's Advanced Nuclear Reactor Program.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON MERCHANT MARINE

Mr. SARBANES. Mr. President, I ask unanimous consent that the Merchant Marine Subcommittee of the Committee on Commerce, Science, and Transportation be authorized to meet on August 5, 1993, at 10 a.m. on oversight of the foreign-flagging requests of American shipping companies.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SCIENCE, TECHNOLOGY, AND SPACE

Mr. SARBANES. Mr. President, I ask unanimous consent that the Science, Technology and Space Subcommittee of the Committee on Commerce, Science, and Transportation be authorized to meet on August 5, 1993, at 10 a.m. on advanced computing in health care.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

THE COURAGE OF RUDY HERNANDEZ

• Mr. DECONCINI. Mr. President, one of the most effective tools our law enforcement agencies in Arizona to combat the scourge of gangs is an innovative program called GREAT. Those initials stand for Gang Resistance, Education, and Training. The program is a joint effort of the Phoenix Police Department, the Bureau of Alcohol, Tobacco and Firearms, and the Federal Law Enforcement Training Institute.

These outstanding agencies have come together to battle this deadly menace of gangs on the streets of our cities and towns.

GREAT is a success story in its own right. More important is the story of one young man by the name of Rudy Hernandez.

Rudy had the courage, after attending the GREAT classes last summer, to leave the gang scene. Revenge was taken against Rudy by gang members who shot him three times, the most serious being a shot to the head.

In Rudy's own words at Good Samaritan Hospital in Phoenix, "they were measuring me for a casket." He was in a coma and the doctors did not think he would live.

But Rudy did live and he has an important message for young people. When asked what he would tell kids as a result of his involvement in GREAT and in spite of the retaliation taken against him, Rudy strongly says "I'd tell them that if you guys want to join a gang, look at what happened to me." When asked what he would tell someone thinking of joining a gang, Rudy even more strongly says "I would tell them, Man, that's stupid."

I salute Rudy Hernandez and the other young people who have the courage and foresight to take charge of their lives and futures. Rudy Hernandez is a hero to his Hispanic friends, his family, and all the young men and women who face these difficult decisions.•

THE VIRGINIA WORKING SESSION ON NAFTA

• Mr. WARNER. Mr. President, I come before the Senate today to share with my colleagues a summary of a working session on the North America Free-Trade Agreement [NAFTA] which I held recently in Richmond, VA. The purpose of the session was to listen to a cross-section of views, and thus enable myself, as well as my constituents, to make a more informed decision about NAFTA.

Mr. President, I found the working session to be extremely informative. The audience was exposed to a diversity of views, as we had speakers ranging from the U.S. Trade Representative's office to Senator DOLE's office to representatives from the AFL-CIO. All in all, I believe it was an interesting, nonpartisan event, in which everyone came away having learned something new about the ramifications of passing such a trade agreement.

And now, I implore my colleagues to not only look over this summary which I have prepared, but also to use it as a model by which they will set up similar NAFTA working sessions or town meetings in their respective States. It is imperative that each of us learn more about this extremely important, and controversial, trade agreement before we are called upon to cast our votes.

Present at our conference were representatives from the International Trade Commission at the Department of Commerce, the U.S. Trade Representative's office, the Senate Republican leader's office, the Mexican and Canadian Embassies and Ross Perot's group, United We Stand. I also had three panels, consisting of Virginia representatives from business, agriculture, and labor, presenting their views on the ramifications that passage of this agreement would have on the Commonwealth.

I have compiled a summary of the remarks, pro and con, from the conference. While many of the speakers expressed the same views, I have attempted to include all viewpoints and comments.

Spokesmen for the administration stated that NAFTA would create the richest market in the world, serving 360 million consumers. Currently, Canada is the United States largest trading partner, with $200 billion generated through this bilateral trade, while trade with Mexico results in $75 billion annually. U.S. exports to these two countries have been growing faster than our exports to the rest of the world, and imports have been growing one-third faster. Three out of every ten dollars in the value of goods the United States exports goes to Canada and Mexico.

Administration spokesmen also pointed out that Mexico joined the General Agreement on Tariffs and Trade [GATT] in 1987 and lowered its trade barriers, opening doors for foreign competitors. Due to this, United States exports to Mexico soared from $12 billion to over $40 billion, shifting our trade balance with Mexico from a substantial deficit to a substantial surplus. With growth of United States exports to Mexico came the growth of related United States jobs—over 700,000, 400,000 of those created within the past 5 years.

Currently, Mexico's tariffs are about 2.5 times higher than those of the United States. The passage of NAFTA would lock in Mexico's current trade reforms, and over a 15-year phase out period, eliminate all tariffs, quotas, and other restrictions on goods and services, and intellectual property. Further, NAFTA has safeguards built into the agreement in order to ensure orderly change, including rules of origin, dispute settlement mechanisms and temporary safeguards to protect against severe damage to a particular country.

President Clinton endorsed NAFTA before he was elected, but wanted to see additional components added to enhance the package. Supplemental agreements are currently being negotiated in regard to labor standards, environmental standards and import surges. These side agreements will not reopen the provisions of NAFTA itself, but are intended to encourage a much greater degree of cooperation and improvement in labor, worker safety, and environmental cleanup standards.

A spokesman from Senate Minority Leader DOLE's office indicated the Senator's support for NAFTA. He added that negotiators hope to wrap up negotiations soon and have the President submit the legislation to Congress, where it will be voted on under fast-track authority. It is the administration's wish to pass NAFTA by January 1, 1994. Any party to NAFTA finding the treaty unsatisfactory could back out with 6 months' notice.

The Canadian Government supports a NAFTA agreement. The United States and Canada already have a free-trade agreement, and Canada wants to retain its privileged position in the United States market, and attain equal access to the Mexican market if negotiations succeed. The Canadian equivalent to the United States House of Representatives has passed the agreement, and their Senate has begun implementing the legislation. They hope to have the process completed this summer. As is the case in the United States, organized labor in Canada is generally opposed to passage of the agreement, as is the environmental community. The overall view, however, is basic acceptance of the agreement, under the premise that Canada cannot avoid competition by isolating itself from it.

The Mexican Government supports NAFTA, and has the most to gain from passage of the agreement, at least in the short run. However, Government officials from that country realize that real economic development cannot be dependant on the transfer of resources from rich to poor countries; they also need a strong infrastructure. Such an infrastructure has three main components: maroeconomic stability, structural change and property allocation programs. So far, this process has resulted in a growing gross domestic product [GDP], reduced budget deficits, increased tax revenues, an increased budget for social expenditures and increasing wages.

Ross Perot's representative from United We Stand stressed Mr. Perot's ardent opposition to NAFTA, believing it would result in a "giant sucking sound" as U.S. manufacturing jobs are pulled south of the border. Mr. Perot's representative cited the problems Mr. Perot had with the agreement, including the disparity of wage rates between our two countries, the lack of environmental standards and pollution controls in Mexico, Mexico's low income levels, and possible capital flight from the United States into Mexico should the agreement be passed.

The business panel, in general, supported the passage of NAFTA and believed Virginia would benefit from its passage. These representatives pointed out that various trade blocs were being formed throughout our world, and it was in our best interest, long term, to be a part of Mexico's expansion. An agreement such as this, with potential for expanded exports, will help Virginia. Further, business in the future will be conducted on a global basis, and it is necessary for the United States to have open access to markets worldwide.

The labor panel was opposed to the passage of NAFTA. Their views mirrored those of Ross Perot, some of the main ones being the loss of United States manufacturing jobs, the economic and social differences between the United States and Mexico, the difference in wage rates, the politics of the two countries, Mexico's lack of health and safety standards, and, most importantly, the agreement's negative impact on United States. Organized labor is convinced that the passage of NAFTA will result in major United States companies moving to Mexico and taking advantage of its cheap labor. They expressed concern that NAFTA does not contain language for financial assistance, or for job training for workers whose jobs are relocated to Mexico.

Virginia agriculture, overall, supports the passage of NAFTA, although there are legitimate concerns within particular agricultural sectors, especially the peanut and cotton industries. Mexico represents the third largest agricultural export market in the world, behind Japan and Canada. Virginia representatives do not believe the agreement will have a huge impact on the Commonwealth in particular, but see any small effects as positive. Most of the representatives felt strongly that, from an agricultural point of view, rules of origin were imperative to the agreement, as was retention of section 22 of the Agricultural Adjustment Act. This section was retained in the United States-Canada Free-Trade Agreement.

Now that I have shared the key points with my colleagues, I renew my request for each one to hold a similar conference in his or her own State. While much of what you hear may be repetitive, I am certain that each Senator will discover new information, and will also have the opportunity to learn how their constituents, those people who will be affected by the passage of such an agreement, feel about the ramification NAFTA will have on their businesses.•

THE KINGDOM OF MOROCCO

• Mr. INOUYE. Mr. President, I would like to share with my colleagues a remarkable achievement by a good friend of the United States, the Kingdom of Morocco. At a time of economic and financial upheaval throughout the Third World, the Kingdom of Morocco is on the path of economic reform and rebirth.

It was only 10 years ago that Morocco was forced to reschedule its foreign debt. Today, Morocco's economy is growing, foreign investment is rising, and Morocco is being courted by members of the European Community. In fact, Morocco is currently negotiating what has been called "one of the closest partnership treaties * * * between the community and a non-EC country."

A July 23 Financial Times article cited Morocco as "a model for other patients of the international financial institutions to follow," and refers to its commitment to textbook economic reforms as largely responsible for this remarkable turnaround. However, obstacles remain in Morocco's path toward greater development and prosperity. Among these are the risk of social instability due to difficult economic reforms, the need for greater education and training, and Morocco's continued dependence on France for nearly one-third of its export business.

Morocco has demonstrated its deep and abiding friendship for the United States through our shared goals in the Middle East and North Africa, as well as through Morocco's participation in the Middle East peace process and Operations Desert Shield, Desert Storm, and Restore Hope. Continued American friendship and expanded economic cooperation will help Morocco to reach its goals of greater development and prosperity and maintain its position of stability and peace in the often turbulent region of North Africa.

Mr. President, I would like to submit the Financial Times article cited above regarding Morocco's economic achievements for inclusion in the RECORD.

The article follows:

[From the Financial Times, July 23, 1993]

"MODEL PATIENT" MOROCCO KEEPS MEDICINE DOWN

It is no accident that Mr. Edouard Balladur, the French prime minister, has chosen Morocco as the first non-western country to visit since he came to power.

As he meets King Hassan and members of his government over the next few days, he will be lending public support to the country's economic reforms and to its strategy of tying itself ever more closely to the European Community, at a time when both policies are showing conspicuous signs of bearing fruit.

On the economic front, gross domestic product is set to grow again this year, by 2–3 per cent, after a 3 per cent drop in 1992, in spite of a severe drought at home and the continuing downturn in western Europe, its main export market.

What is significant, while Morocco's economic performance remains vulnerable to climatic changes (farming represents roughly a fifth of GDP), is that the renewed confidence is attributable mainly to a rise in manufacturing exports and increased foreign investment—both direct results of 10 years of reform.

Foreign observers are now speaking of Morocco as a model for other patients of the international financial institutions to follow. It stands "where the IMF would like countries like Egypt to be", says Mr. Miles Moreland, of Blakeney Management, an investment adviser.

International investors have shown they agree: foreign investment has risen fourfold since 1988 to an estimated $500m (£333m) last year—spurred in part by government plans to privatise 112 companies worth an estimated $2.2bn by the end of 1995. The privatisation programme is expected to bring $250m worth of foreign exchange receipts in 1993.

The minister of industry and privatisation, Mr. Moulay Zine Zahidi, likes to point out that in 1992 external financing in the form of foreign direct investment covered the whole of the $500m current account deficit.

This is a marked change from 10 years ago, when Morocco was forced to reschedule its foreign debt. While the burden of the $21.5bn foreign debt remains significant, with total external debt at 80 per cent of GDP, the debt service ratio (debt principal and interest payments as a proportion of export earnings) has been halved to about 34 per cent—helped by Saudi Arabia's forgiveness of nearly $3bn worth of loans to thank King Hassan for support during the Gulf War.

Official reserves increased from virtually nil to $3.4bn, the equivalent of more than four months' imports.

As important have been the government's textbook economic reforms. Since 1983 taxes, tariffs and subsidies have been cut. Maximum tariff levels are down from 400 per cent to 35 per cent and Morocco has become a member of Gatt. Earlier this year, the dirham became convertible for current account operations.

A budget deficit which was running at 12 per cent of GDP 10 years ago was cut to 1.7 per cent in 1992. This has been at the price of a sharp reduction in state investment but also higher tax receipts and a more efficient tax system.

Real GDP growth averaged 4.5 per cent between 1985 and 1991 while inflation was at 5.6 per cent over the same period.

Positive change has been evident in Morocco's relations with the EC. Six years ago, King Hassan's declared intention of applying for Community membership was greeted in Brussels with a mixture of incredulity and scorn. Last winter, however, the EC agreed to a Moroccan request to negotiate later this year what promises to be one of the closest partnership treaties covering free trade and political co-operation between the Community and a non-EC country.

European countries (as well as the US) have also been heartened by the king's decision to act forcefully on illegal immigration and drug smuggling. This has secured Morocco commitments of $1bn for the development of the kingdom's northern region—the main centre of cannabis cultivation.

All this is not to say that the path of reform, however strongly the government may be politically committed to it, is problem-free. A recent report from Citicorp, the US-based banking group, cautioned: "It remains to be seen whether the Moroccan administration will succeed in balancing continuing economic adjustment with the risk of increased social instability as the unemployment rate remains high, at an estimated 20 per cent in 1992."

The reforms enacted since 1983 have increased already large income disparities and all agree that a 55 per cent illiteracy rate among men and the resulting low labour qualifications constitute a serious handicap for the expanding export sector.

A confidential World Bank study recently noted: "There has been no significant expansion [of overall manufacturing] relative to GDP since 1980. Although recent manufacturing growth has been better than average for lower middle-income countries, out-turns are less impressive when compared with several developing countries that are Morocco's international competitors."

Moroccan manufacturing faces three further challenges. The first is to move up the technology ladder faster. There are encouraging signs. In the last five years, the export of value-added products has doubled, moving from 22 to 30 per cent of the total.

The second is to spread export activity beyond the traditional Casablanca-Rabat corridor. The country's trade performance remains critically dependent on France which accounts for nearly a third of all exports.

The third is to diversify the sources of foreign investment. Here the most notable fact is the fast rise of Spain, which is consolidating its recently won position as the kingdom's second largest trade partner and source of foreign investment after France.•

THE POLITICS OF NASTINESS

• Mr. BIDEN. Mr. President, in a recent editorial in the Washington Post, E.J. Dionne offered some important insights about the current political climate. I believe Mr. Dionne has astutely analyzed the problems that have cast a shadow of doubt and distrust over American politics. I commend its reading to my colleagues and I ask that this article be printed in the RECORD.

The article follows:

[From the Washington Post, July 22, 1993]

(By E.J. Dionne, Jr.)

THE POLITICS OF NASTINESS

This weekend, my colleague David Von Drehle reported the reflections of the Arkansas friends of Vincent Foster Jr., President Clinton's deputy counsel who apparently committed suicide. It was a moving article that kept coming back to the search for what it was about Washington and our style of politics that might have pushed Foster to make what one person who knew him well called "the only bad decision of his life."

Foster's friends were not looking for glib explanations of the intensely private despair that pushes a person to take his own life. Rather, they were asking a prior question: Why has politics become such a nasty and often inhuman business?

It's a good question, even though meanness in politics is no recent innovation. Matters have gotten worse: the polls show we trust people in public life much less than we did 30 years ago. Campaigns have always been rough, but politics now runs to permanent invective, in season and out.

The politics of nastiness has no single source, but it's rooted in the fact that we're passing through a series of crises for which neither the politicans nor the idea mavens on whom they rely have satisfactory answers. No one, for example, fully understands how to deal with the global economy's impact on our living standards. Nor, if we're honest, are we clear about what steps would genuinely transform the lives and aspirations of inner-city kids growing up in the midst of violence, family breakdown and joblessness.

One could multiply these examples, but the point is that politicians are in a bad spot when it comes to promising what they usually have to promise; that they'll cure whatever ails us. The late Sam Ervin once said that when both the evidence and the facts are against lawyers, they pound the table. When the answers escape politicians, they pound each other, often viciously. It's easier to call Bill Clinton and Ted Kennedy (or George Bush and Newt Gingrich) scoundrels or worse than to admit that the problems at hand are hard to solve and that it will require a lot of experimentation—and, yes, some public money down the drain—to come up with even partial answers.

When politicians aren't assailing each other, they feel obligated to duck and evade—which deepens the cynicism that feeds the nastiness. Republicans don't really want to argue strenuously that they oppose raising taxes on the wealthy, so they pretend there's an easy way to balance the budget. Democrats don't want to say that some of their social programs will fail or have unintended consequences or deal with only part of a problem. So they oversell, overpromise—and disappoint.

Voters themselves encourage this behavior when they tell pollsters that half of what the government spends is wasted. This view puts voters in the convenient position where they can demand that government do more than tax less at the same time. Government is always asked to clean up after calamities—floods, hurricanes, bank failures, factory closings. But if it's not your calamity, you can write off these activities with epithets such as "giveaways," "bailouts" and "bloated government."

There's another difficulty that may especially affect those of us in journalism. It might be called the naivete of tough-mindedness.

It is obviously naive to think that politicians are motivated only by the public good and never, ever think of things like reelection, higher office and, in some cases, their own pocketbooks. There are a lot of opportunists out there, and the grubby quest for campaign contributions our system requires can make even the most honest pols bend.

But it is equally naive (though much more popular) to think that politicians or their aides absolutely never, ever act from motives higher than the crass and the selfish. Many of the conflicts in politics are explained not by corruption or even by stupidity but rather by genuine differences of opinion over—it's strange to say, I know—what's the right thing to do. Does anyone think that Ronald Reagan and George McGovern were—or that Bob Dole and Bill Clinton are—entirely indifferent as to the content of public policy? Of course citizens and journalists alike should look for hypocrisy, hidden motives and corruption. These things are, however, not the whole of politics.

The vicious cycle is completed by some of the best people in politics: the philosophically committed activists left, right and center. Their problems lies not in fighting their opponents but in demonizing them. Your adversary can't simply be wrong; he or she has to be a baby killer or a woman hater or a racist or a "quota queen." Name-calling is especially wide-spread on emotive issues such as abortion, affirmative action and gay rights. But it also seeps into the more quotidian matters of taxes, spending, trade and health care.

The issue here is not that politics should be "nicer." Nor is there any way around the sort of fierce but necessary scrutiny of matters such as the problems with the White House travel office or the president's appointees that seemed to so dispirit Vincent Foster. But at some point, we have to ask whether the nastiness of public life is undermining our very capacity for self-government—whether the toll we're exacting falls not only on individuals but also on our ability to reason together, which is what republican government is supposed to be about.

The attractive alternative to what we are doing now was sketched out by political philosopher Glenn Tinder, who has spoken for "a society in which people listen seriously to those with whom they fundamentally disagree." He calls this "an attentive society" and argues that this "is the proper historical setting for freedom." Such a society, he says, "would provide room for strong convictions, but its defining characteristic would be a widespread willingness to give and receive assistance on the road to truth."

Maybe this is an irrational hope. And even an "attentive society" would not provide a cure for the private desperation individuals can feel at times of great stress. But Tinder's ideal does at least push us away from a growing public despair that is incompatible with democratic rule. I can think of no political goal that is more "practical" or necessary.•

GUNS AND OUR CHILDREN

• Mr. SIMON. Mr. President, a recent poll has found that guns are much more prevalent in the lives of our children than we had previously expected. And with this widespread existence of guns comes a life of more fear and violence for our children today than has been experienced by any other generation.

Some of the statistics are shocking: 9 percent of the children said they had shot at another person at sometime in their lives, 11 percent said they had been shot at sometime in the past year, and 15 percent said they had carried a gun within the last 30 days.

But, possibly the most disturbing of all of the statistics is that nearly 60 percent of the children surveyed said they knew where to get a gun if they wanted or needed one. And a third said they could get a gun within an hour.

Mr. President, it angers and pains me every time I hear about another death from gun violence, especially a young child, because I know we here could do something about it. It is time we stopped only talking about the problem of gun violence and started really doing something about it. We need to ban certain weapons whose only function is as an assault weapon, and if we can't agree to ban them, we need to very strictly regulate their sale. We need to have a waiting period for those buying guns, so they can have some time to think about what they are buying that gun for, and for dealers to undertake basic criminal checks on potential buyers.

We also need to educate our children about the realities of guns and violence. Young children must learn what the consequences of their actions will be before they act, not after the fact when another person may be dead.

The proliferation of guns as well as the quick use of a gun to settle conflict have clearly gotten out of hand in our society. We must bring some control to the types of weapons and the general availability of weapons. We owe it to our children and grandchildren and to ourselves to get moving on this issue as soon as possible. Mr. President, at this time I would ask that several articles highlighting the Joyce Foundation report be printed in the RECORD.

The articles follow:

[From the Houston Chronicle, July 20, 1993]

ON THE FIRING LINE; 59 PERCENT OF U.S. SCHOOLCHILDREN SAY FIREARMS ARE EASILY OBTAINABLE

WASHINGTON.—Citing an emerging "gun culture" among school-age children, a new poll released Monday found that more than half of the nation's sixth through 12th-graders say they "could get a handgun if they wanted one" and more than a third believe they can get it "within an hour."

The Louis Harris poll, sponsored by the Joyce Foundation in Chicago and prepared for the Harvard School of Public Health, found that 59 percent of the students surveyed nationwide say guns are easily obtainable, while 35 percent said it would take them less than 60 minutes to get one.

"Many young people in America today are immersed in what properly might be called a gun culture," said pollster Louis Harris. Deborah Leff, president of the Joyce Foundation, a liberal philanthropic organization, said the poll dispelled the myth that gun violence "is a common problem only of urban minorities. The fact that guns permeate everyone's life, including schoolchildren, is what's so disturbing . . ."

Leff said the findings showed that guns were a staple commodity in nearly all demographic groups. She noted that students of all races reported easy access to handguns—black (72 percent), white (55 percent), Hispanic (69 percent) and Asian (47 percent).

AMONG THE FINDINGS

More than one in five (22 percent) of the students claimed they carried a weapon to school this year, with 4 percent saying the weapon was a handgun.

Almost two in five (39 percent) say someone they know personally has "either been killed or injured from gun fire," while 9 percent claimed they had fired a gun at someone.

A "hard-core" group of young people—about one in six of those surveyed—seem inured to possession and use of handguns, said Harris. But, he noted, a majority would like to see an end to the gun culture.

While only 7 percent said their schools used metal detectors to screen for weapons, 55 percent urged school officials to install them at the school entrances.

Forty-five percent of students said they favor a federal law outlawing possession of handguns, while 41 percent opposed such legislation.

Students said guns made them feel safer. Forty-four percent said they believed their family would want to fight off an attacker, even if it meant firing a gun, while 40 percent said their family would not want to do so.

Twenty-two percent said they would have a better chance of surviving a fight if they had a handgun.

Each year, guns kill nearly 5,000 Americans younger than 20, according to the National Center for Health Statistics. Among those ages 15 to 19, firearm deaths outnumber those due to natural causes.

More than half—58 percent—of suburban students and 56 percent of those in small towns and rural areas said they could get a gun if they wanted one. That nearly matched the 63 percent of the young people in central cities who said they had ready access to a handgun.

"No part of the country, no area—cities, suburbs, small towns—is immune," Harris said.

The poll, which has a margin of error plus or minus 3 percent, was administered by Harris pollsters in randomly selected classrooms in rural, suburban and urban public and private schools across the nation. The 12-page confidential questionnaire was answered by 2,508 students between April 19 and May 21.

Leff said the poll was commissioned as a part of a study aimed at raising awareness of gun violence as a public health issue. She said it was the first survey of school students.

The foundation sponsored the poll because "you can't expect kids to fix this situation unless adults become more involved and informed on this issue," she said. "Parents have to get the facts and help figure out says of stopping this violence."

The finding that 39 percent of students knew someone who had been killed or wounded by gunfire does not reflect the rate of such crimes in the student population, said Jacqueline Cohen, a criminology expert at Carnegie-Mellon University.

The figure is inflated because "many kids in the school will all be referring to the same incident," Cohen said. But the finding may be important in assessing the impact of violence on the attitudes and emotions of schoolchildren, she said.

WHAT YOUTHS THINK ABOUT GUNS

A new poll of 2,508 youths ages 10 to 19 shows how a "gun culture" has influenced the lives of young people. Some highlights:

Has anyone you know personally been killed or injured from gunfire?

Youths in:

Central cities, 40%.
Suburbs, 36%.
Small towns, 43%.
Public schools, 39%.
Private, non-Catholic, 37%.
Catholic schools, 30%.
Black, 60%.
White, 32%.
Hispanic, 47%.
Asian, 36%.

Could you get a handgun if you wanted one?

Could not, 21%.
Not sure, 20%.
Could get a handgun, 59%.

[From the New York Times, July 20, 1993]

STUDENT POLL FINDS MANY USING GUNS

(By Susan Chira)

A new nationwide survey finds startling numbers of students in the 6th to 12th grades who say they have shot at someone or have been shot at themselves.

The survey of 2,508 students in 96 schools across the country by the pollster Louis Harris, painted a bleak portrait of violence and fear among American schoolchildren. Some experts expressed doubts about that portrait, but the pollster defended it and the survey on which it was based.

Nine percent said they had shot at someone at some time; 11 percent said they themselves had been shot at in the past year. Nearly 40 percent of the students said they knew someone who had been killed or injured by a gun, and 15 percent said they had carried a gun within 30 days of the survey.

Several experts on guns were skeptical about the results, saying the figures were higher than those in any previous surveys. They suggested either that the students might be exaggerating or that the sample might have been skewed because it was conducted in just 96 schools, so a number of children in a single school could have known of the same violent incident.

A "ROMANCE ABOUT VIOLENCE"

"These estimates would imply numbers that dwarf those known to the police," said Gary Kleck, a professor of criminology and criminal justice at Florida State University in Tallahassee. "There's a certain romance about violence. I think kids are wildly overreporting."

Mr. Harris discounted both criticisms. He said internal consistencies in the way children answered different questions and previous polling experience with children and drug use persuaded him that they had answered questions honestly. And while it would have been too expensive to survey children in more schools, he said the schools selected were representative.

The poll, conducted by questionnaires handed out at the schools, has a sampling error of plus or minus three percentage points.

"What we've got here is a whole constellation of confirming evidence that this is a group that are very consistent in their answers," Mr. Harris said. "They're reporting a culture, a subculture of guns."

In many questions, a consistent minority of students emerged who said they felt safer carrying guns—about one in six, overwhelmingly boys, according to the poll, which was conducted by Mr. Harris's firm, LH Research Inc., from April 19 to May 21. The poll was financed by a grant from the Joyce Foundation, based in Chicago.

Several experts said they were particularly surprised by the finding that so many students said they had been shot at or had shot at someone. That figure is far higher than any previous survey. For example, Professor Kleck said, the 1990 National Crime Victimization Survey, conducted annually by the Census Bureau, indicates that at most 2 percent of students between the ages of 12 and 19 were the victims of crimes involving guns. In Gallup Youth Surveys dating from 1981, 3 to 5 percent of teen-agers reported being personally assaulted by any means.

"AN ALARMIST POINT OF VIEW"

Another figure that struck several experts as high was the report that 15 percent of teen-agers said they had carried a gun within 30 days of the survey. A 1991 survey of 9th to 12th graders conducted by the Centers for Disease Control and Prevention reported that 2.9 percent of students had carried a gun.

Katherine Keough, a professor of education at Xavier University in Cincinnati who has conducted previous surveys about guns in schools, said the numbers in the Harris survey "sound a little high," and added, "It suggests an alarmist point of view that is out of context."

But other experts said that even though the figures were higher than those recorded in the past, that could reflect an increase in violence.

"What strikes us as high might be quite true, but the truth is painful to accept," said Lawrence W. Sherman, a professor of criminology at the University of Maryland. "What's perhaps important is that any sampling in a school in America could come up with these numbers is clearly unacceptable.".

GUNS IN THE HOUSEHOLD

In the poll, the majority of students—59 percent—said they knew where to get a gun if they needed one, and a third of those said they could get one within an hour. Several experts said that figure was not surprising because, according to report published this year by the National Academy of Sciences, 50 percent of American households had some kind of gun.

The poll also suggested that student gun use or exposure to violence was not confined to cities. While over all, 39 percent said they knew someone personally who had been killed or injured by gunfire, the rate was 40 percent in central cities, 36 percent in suburbs and 43 percent in rural areas.

In the last few years there have been increasing reports of violent incidents in suburban as well as urban schools. But several experts said that while students in several schools could well have witnessed or participated in such gun-related violence, they were not sure that such levels of violence held nationwide.

"I think these are plausible for inner-city schools, but not as a nationally representative sample," Professor Sherman said.

Whatever the numbers, it was clear from the poll that many students lived in fear of violence. Thirty-six percent of the students answered that they were very likely or somewhat likely not to live "to a ripe old age" because "of the threat of being wiped out by guns." Although 7 percent of the students said their schools used metal detectors, 55 percent said they wanted such detectors used. And the majority of students favored some form of gun control.

[From the Associated Press, July 19, 1993]

WE CAN GET GUNS WHENEVER WE WANT THEM, STUDENTS SAY

(By James Rowley)

Handguns are now so easily available that nearly 60 percent of youngsters in grades six through 12 say they could get one quickly if they wanted to, according to a poll released Monday.

And 39 percent said they knew someone killed or wounded by gunfire.

The survey of 2,508 students in 96 middle schools and high schools nationwide released Monday also found a pronounced fear of violence and concern about crime.

Thirty-five percent said they thought it was either "somewhat likely" or "very likely" that they would not reach "a ripe old age" because they would be "wiped out from guns."

The survey showed that "the impact of guns is nothing short of pervasive" in the lives of school children, said pollster Louis Harris, whose LH Research Inc. conducted the survey for the Harvard University School of Public Health.

Harris said that fear of gun violence and availability of weapons among children was not just confined to inner cities. Results were similar among students in suburbs, small towns and rural areas.

Overall, the poll showed that 59 percent of students age 10 to 19 reported they "could get a handgun if I wanted one."

The proportion was slightly higher among city residents—63 percent—while 58 percent of suburban students and 56 percent of those in small towns or rural areas said they could easily get guns.

Of those who said they could get guns, 62 percent reported they would be able to obtain one in 24 hours, the survey found.

"There is a huge underground where kids see and get guns so readily," Harris told reporters at a news conference. He dismissed the suggestion that students' answers were motivated by showing bravado.

"I don't think kids make these things up, they're straightforward," he said, citing previous experience polling children about drug use. "Kids know better than their elders what's going on."

Forty-three percent of middle-school students said they knew where to get guns if they wanted them, said the survey, which was financed by the Chicago-based Joyce Foundation. The group sponsored a study on adult attitudes toward handguns released last month.

The adult survey found that 52 percent favored an absolute ban on handgun ownership, except in cases where courts have authorized individuals to carry weapons.

The student survey also found that 15 percent of children had carried a handgun in the last 30 days and 4 percent had carried a handgun to school during the past academic year.

Of this group, 45 percent reported they obtained their weapon "on the street" while 16 percent said the gun had been stolen.

Nine percent said they had "shot a gun at somebody," 13 percent reported having "been seriously threatened" in the last year with being shot, while 11 percent said they had been shot.

The finding that 39 percent of students knew someone who had been killed or wounded by gunfire does not reflect the rate of such crimes in the student population, said Jacqueline Cohen, a criminology expert at Carnegie-Mellon University.

The figure is inflated because "many kids in the school will all be referring to the same incident," Cohen said. But the finding may be important in assessing the impact of violence on the attitudes and emotions of school children, she said.

Harris, who also conducted the earlier poll, said both surveys reflected an increased pessimism among children and adults about the quality of life in America.

"Young people feel very lonely and feel beset by an array of problems," that include deep concerns about sexual violence, parental abuse, teen-age suicide and drug and alcohol abuse, he said.

The survey found that 71 percent of those surveyed felt that "problems affecting children have gotten worse" since their parents were young.

Fifty-six percent favored elimination of handguns from their lives while 27 percent said they "would be missing something without guns."

Harris declined to release the names of the 96 schools where questionnaires were filled out, saying that would undermine the confidentiality promised the students.

The survey, conducted between April 19 and May 21, had a margin of error of plus or minus 3 percent.•

THE C-MINUS PLAN

• Mr. DASCHLE. Mr. President, with the unveiling of President Clinton's health plan just a month away, the attacks have already begun: "It's too much too quickly; We need to study the problem a little while longer; Let's not rock the boat and cause too much disruption; We can't afford to reform our system."

We have all seen the ads on television and in the newspaper that spread inaccuracies about health care reform and try to instill fear in the hearts of Americans: "If we change our health care system, patients will lose their ability to choose their own doctor and will pay more for less care."

These attacks are frustrating because, rather than contribute to a vigorous debate on the merits of reform, they aim to distort the discussion and divert attention from the real issues.

Former Reagan administration economist Martin Feldstein added his voice to the chorus of those attacking health reform when he took to the Wall Street Journal editorial page last month, predicting gloom and doom if the President's proposal is enacted—everything from new costs heaped on to the middle class to ballooning budget deficits.

Well I have news for Professor Feldstein—his dire predictions will come true, but only if we fail to reverse the trends of the current system.

Feldstein conveniently forgets that this is a system that has allowed health care costs for workers to rise 65 times faster than wages over the last quarter decade. A system that costs every family over $7,000 per year and will cost them $14,000 by the turn of the century. A system that allows health care programs to gobble up increasing portions of federal spending, preventing us from balancing our budget. A system that allows insurance companies to drop a family's policy when a child is born with health problems.

In this vacuum, Feldstein outlines a plan that preserves the status quo with all its waste, inefficiency, and misplaced incentives. He calls his proposal the A plan. I would give it barely a C-minus. I do not question his sincerity—many who have and will continue to attack the President's plan have far more self-interest in preserving the status quo—but I do question his logic.

Let us examine his arguments.

First, he prescribes targeting the uninsured with very specific programs, rather than overhauling the system so that everyone is guaranteed comprehensive coverage. He does not want to rock the boat and cause too much disruption. After all, he notes, our system serves well those with insurance.

I question that premise. I believe that we must rebuild the boat and put in place a program that improves the system for everyone, not just the uninsured. Two million people each month lose their coverage, and one out of three members of every family is tied to their job because they fear losing their insurance. This is a problem for everyone, especially the insured, those who pay ever increasing amounts for coverage that may not be there when they need it.

No one disputes that there is much that is good about our system: We have high quality medical care, the most sophisticated technology on earth and the best doctors in the world. But what is wrong with our health care system is threatening everything that is right with it. We need to make changes to preserve our system's strengths.

Mr. President, Feldstein assumes the reform plan will impose a 10-percent tax on income, an option not even under consideration by President Clinton! Then he makes the common mistake of assuming that any program that improves the system and provides health security has to cost workers more money.

Wrong!

The middle class is already getting socked. The average family in 1993 will pay $7,000 in premiums and taxes to support our health care system. Left unchecked, they will be forking out $14,000 by the end of the decade. Over 20 percent of each worker's Federal taxes and 25 percent of State and local taxes are devoted to health care programs, and payments to support the uninsured are imbedded in inflated hospital bills and the price of every product on the market.

Right now, each American with health insurance is paying for someone who has been forced to go into an emergency room because he or she does not have coverage. The $20 hospitals charge for a Tylenol pays for patients in an emergency room who never see a bill.

Under the health reform plan being crafted by the President, everyone will be asked to contribute to their own insurance. And what each worker pays will go to his or her own self and family's coverage. But they will get much in return, especially control over their health care costs.

Clinton's plan will reduce skyrocketing charges for care by slashing redtape, clamping down on the fraud and abuse that thrive in a maze of loopholes and fine print, reforming our malpractice system, and changing the current incentives for doctors and hospitals to provide more services, whether or not they keep the patient healthy. Through these types of meaningful reform, we can reduce the amount that families will pay for health care.

As an alternative to the President's plan, Feldstein proposes a 14-percent payroll tax, up to 10 percent of which could be refunded to those with low health expenses. Sounds good in theory—tax refunds that will encourage people to use less health services. But what will happen in practice?

First, such a scheme means a hefty surtax on the sick, who tend to be older and who often have little control over their expenses. These sick people will subsidize the young and healthy. But, perhaps most troubling, individuals may be discouraged from seeking cost-effective primary and preventive care—the very services that can keep them well and save long-run health dollars. In other words, this refund may be penny wise, but it is pound foolish.

I believe that the system's incentives should be just the opposite—people should be encouraged to use primary and preventive care. And insurance should spread the risk to all individuals, not heap costs on those who become ill.

The plan that President Clinton is proposing will build a different set of incentives into the system—incentives for health plans to keep their costs down and ensure that their doctors and nurses do not provide unnecessary care; incentives for patients to choose lower cost plans; incentives for providers to keep patients healthy and for patients to use services that will avoid expensive illnesses later on.

Under such a system, everyone will have continuous health care coverage, no matter where they live or work, and the care will be easy to access. One health card will ensure people get the services they need, without filling out voluminous forms and navigating through complicated bills. Paperwork will be streamlined so providers are free to do what they do best—care for people.

Insurers will no longer be able to drop people when they switch jobs, deny coverage because a patient is ill, or charge a small business twice as much as a large one. No more pointing to loopholes and fine print as an excuse for not covering benefits.

Competition will be unleashed: Small businesses and consumers will band together into alliances that will level the playing field and give them the same bargaining power as big businesses. Consumers will have the choice of a variety of plans and be armed with the information to help them choose the one that is right for them. And everyone will have the right to choose their own doctor.

This is the kind of reform we need—systemwide improvements and simplifications that ensure we can preserve what is right with American health care. No reform plan should be taken seriously unless it addresses all of these problems.

Mr. President, over the next year, defenders of the status quo will try to instill in the public fear about reform. They will say, "You will be paying more and getting less." They will try to make this a fight about us against them. They will propose partial solutions that take the easy parts of reform and discard the improvements that can really make a difference.

But we must remember, when it comes to health care, there are no good guys and bad guys, no Republicans and Democrats. There are only Americans.

We must all pull together to bite the bullet and enact reform, for the Nation's interest and for our own self-interest.

I ask that the full text of Martin Feldstein's opinion piece be printed in the RECORD.

The article follows:

[From the Wall Street Journal, July 14, 1993]

WHAT'S WRONG WITH THE CLINTON HEALTH PLAN

(By Martin Feldstein)

Health care finance is likely to be the most substantial legislative battle of the Clinton presidency. The plan being completed by the White House staff would raise marginal tax rates by more than 12 percentage points for most taxpayers and make it more difficult to slow the growth of health care spending. Fortunately, such a radical increase in taxes is not needed to extend comprehensive insurance to the currently uninsured and to protect others against the termination of their insurance through unemployment, early retirement or the loss of a spouse.

The proposal that will soon be on President Clinton's desk looks something like this:

The government will design a standard insurance package, specifying a broad range of covered services and the amount of out-of-pocket deductibles and co-insurance that patients will pay. Medicare will continue to provide the coverage for those over age 65.

Current health insurance premiums will be replaced by a tax equal to 10% of family income up to a maximum of $5,000 at a family income of $50,000. Because of the limited taxes paid by lower-income families, a substantial shortfall would remain to be financed. Although no decisions have been made about how to finance this gap, the likely annual cost of at least $50 billion is equivalent to a further one-tenth rise in all personal income tax rates.

A "PAYROLL PREMIUM"

The effect of all this would be to raise marginal tax rates dramatically for families with incomes under $50,000. With the new taxes in place, a family with $40,000 of income would face a combined marginal tax rate of more than 60% the new 10% health insurance tax, the current 15% employer/employee Social Security tax, the 28% federal income tax rate (raised to at least 31% to finance the projected health insurance shortfall), a typical state income tax rate of 6%, plus state and local sales taxes.

In an attempt to disguise the true nature of the health insurance tax, the White House plan would describe it as a "payroll premium" to be paid by employers, with a complex adjustment process to deal with two-earner families and with nonpayroll income. But a tax is a tax. For families with incomes under $50,000, the payroll premium would require the family to pay an additional 10 cents out of every additional dollar of income.

The payroll premium tax would not go to Washington but would be paid to state-level Health Insurance Purchasing Cooperatives (HIPCs) that, in turn, would contract with health care providers—health maintenance organizations, managed care plans run by insurance companies, hospital-based care systems, etc.—to offer the package of benefits designed by the government. In principle, all plans would be open to everyone without regard to pre-existing conditions.

In my judgment, this radical reform plan is bad in four significant ways.

It raises marginal tax rates on the 70% of families with incomes below $50,000 by at least 12 percentage points: a 10% health insurance tax and higher income taxes to finance the $50 billion shortfall. Families with incomes over $50,000 would pay the $5,000 health tax plus additional income taxes.

It does not strengthen incentives to limit costs and to produce health care efficiently.

Since patients would pay little or nothing out-of-pocket at the time of care, they and their doctors would have no incentive to seek lower-cost sources of care. Major employers that now use preferred provider plans to negotiate lower costs from hospitals and physicians would no longer have any incentive to do so if their costs are set by the 10% payroll tax. The future discipline on health care spending would have to be increased government regulations, with an inevitable decline in the quality of care and personal service.

It provides no mechanism for patients and their doctors to express their true preferences about spending on health care. Personal health care now exceeds one-fifth of all consumer spending, with an even larger fraction for lower income families. Many households might prefer to spend more on housing, food and other things and less on health care. But with comprehensive insurance designed by Washington bureaucrats, households have no way of influencing how they allocate their incomes between health care and other things.

It would substantially increase future budget deficits. The government revenue calculations assume that the health insurance taxes would not alter taxpayer behavior. But raising the marginal tax rate to 62% from 49% on middle-income taxpayers—a 25% reduction in the net-of-tax share kept by taxpayers from each additional dollar of taxable income—would reduce work effort and cause shifts from taxable compensation to non-taxable fringe benefits. If this 25% reduction caused a fall of even 5% in the taxable incomes of affected taxpayers, the government would lose more than $50 billion a year in income and payroll taxes.

The government's failure to take this into account means that future deficits would be "surprisingly" large by an equal amount. But recognizing it explicitly would reduce political support for the health plan by requiring even higher tax rates. Future budget deficits would also be enlarged by cost overruns when the massive cost savings that White House officials attribute to "managed care" do not materialize.

My own preferred approach to health care reform, described briefly in the box accompanying this article, would be very different. But I also want to suggest an alternative plan that is such closer to the style and spirit of the current White House plan and therefore more likely to appeal to President Clinton and his advisers. This alternative, dubbed the A-plan (for Alternative), avoids the four serious defects of the current White House proposal.

The A-plan provides health insurance for the entire population in a way that limits the maximum health care costs to the same fraction of each family's income as the White House plan, Yet it avoids the large increases in marginal tax rates and the enlarged budget deficit. It also helps to control costs and to make health care responsive to the preferences of patients and their physicians. If President Clinton likes the current White House plan, he should like the A-plan even more.

Under the A-plan, the government would specify the same range of covered services as under the White House plan. Employers and employees would pay 10% of income (up to $5,000 maximum) to a HIPC, just as under the White House plan. The government would make up the cost shortfall from general revenue.

Up to that point, the A-plan is essentially identical to the current White House proposal. But there the similarity ends. The critical difference is that under the A-plan the family would receive a Low Claim Refund at the end of the year equal to the difference between their medical bills and the amount that they and their employer paid to the HIPC. Thus a family with $40,000 of income and $1,200 of medical bills would receive a Low Claim Refund of $2,800.

The Low Claim Refund has two distinct and important advantages.

First, the Low Claim Refund effectively eliminates the dramatic 10 percentage point increase in marginal tax rates. A family with $40,000 of income that earns an additional $100 would pay $10 more in taxes but would receive $10 more in their Low Claim Refund. Only if the family's health spending exceeded $4,000 would an increased tax payment not produce an equal increase in the Low Claim Refund. Since only 40% of families with incomes under $50,000 have health costs that exceed 10% of their incomes, 60% of those families would receive rebates and would therefore not face the additional 10% payroll tax on higher earnings.

For most families, the Low Claim Refund would make the total cost of health care lower than the White House plan. To offset this difference would require a larger subsidy to the HIPCs from general revenue. Preliminary analysis that I and my colleagues have done at the National Bureau of Economic Research indicates that this additional subsidy could be financed with a 4% payroll tax even if total family health costs were the same with the Low Claim Refund of plan A as they are with traditional insurance. In short, the Low Claim Refund cuts the 10% extra marginal tax rate to less than 4% for almost all families.

Second, the Low Claim Refund would make patients and their doctors more sensitive to the costs of care. Since an extra dollars of hospital or doctor charges would reduce the family's refund by a dollar, the patient would have a strong incentive to seek the most cost-effective care. With more than 60% of families eligible to receive refunds, the improved cost consciousness would be very substantial. With patients and doctors having a greater incentive to be cost-conscious, there would be less need for government regulation to control costs. With lower total costs, the tax rates required to finance the plan would be lower.

WITHOUT BUREAUCRACY

Moreover, patients making decisions between more health spending and greater Low Claim Refunds would help to shape the style and quantity of care instead of relying on the political/bureaucratic process to determine total health spending.

In practice, each family would also choose an insurance policy or other prepayment option from the HIPC to pay for health spending in excess of 10% of family income. To give them an incentive to choose cost-effective options, families would receive rebates for low premium options and would pay extra for high premium options.

There are many matters of detail about the A-plan that could be modified. But the fundamental difference between it and what appears to be that current White House plan is the Low Claim Refund. It would permit limiting the net health spending for each family to no more than the White House plan but without the adverse tax and budget effects and with more favorable effects on the cost and responsiveness of health care spending.

When President Clinton decides during the next few weeks what plan to send to Congress, he should recognize that there are options that achieve his goal without higher taxes and that increase rather than diminish market pressures to contain health care costs.

A WORKABLE ALTERNATIVE

(By Martin Feldstein)

There is a growing political consensus that something should be done to extend coverage to the uninsured, to protect those who fear a loss of insurance, and to control the rapid rise in health care costs. Doing so does not require a radical change in our health care system. The broad goals of increasing protection and limiting health costs could be achieved by three changes to our current system.

First, require employer-provided health insurance plans to allow employees to continue coverage at their own expense when they change jobs ("portability") and eliminate exclusions and waiting periods for pre-existing conditions. Extend the same benefits to dependents, surviving spouses and divorced spouses. Any policy that did not have these features would lose the current favorable tax treatment of being regarded as an employer cost but not included in employee income. These changes would eliminate the principle concern of the 85% of the population who now have health insurance.

Second, use targeted programs to extend coverage to the 15% who are now uninsured. For example, the unemployed could be covered by using a fraction of unemployment benefits to pay for coverage. Colleges and universities that receive federal funds could be required to provide insurance or health services to students. Targeted programs could also deal with most others who are currently uninsured. These programs involve costs and taxlike distortions. But since they deal with only 15% of the population, they involve much less interference than programs like the White House plan, which would change the insurance of every American and raise marginal tax rates sharply.

Third, to help contain costs and make health care responsive to patients' preferences, change the tax rules that currently weaken cost sensitivity. Although many employers now use managed care to improve the cost-effectiveness of their health benefit spending, their net savings to shareholders and employees are reduced by the tax rule that health insurance outlays are deductible as a business expense without any limit and are not included in employees' taxable incomes.

This special tax treatment also makes employees prefer very comprehensive health insurance with small deductibles and co-insurance. Any arrangement that limits the value of the tax-free health insurance benefits that employers can provide would encourage corporate shopping for better managed care plans and would encourage individuals to select health insurance with greater deductibles and co-insurance and therefore to be more cost sensitive when they and their doctors choose among treatment options.•

CUTTING UNNECESSARY MILITARY SPENDING

• Mr. SIMON. Mr. President, as my colleagues in the Senate know, I have been a critic of the high level of defense spending that we have had. The Defense Monitor, a regular publication for the Center for Defense Information, recently published an article titled, "Cutting Unnecessary Military Spending."

Headed by retired Rear Adm. Gene R. LaRocque, the Center for Defense Information frequently provides thoughtful analysis of events.

One of their conclusions is that Americans "are being asked to pay higher taxes to fund a military budget almost $100 billion higher than necessary." They assert that "pressures from politicians rather than military requirements keep military spending excessively high."

I ask that this article be placed in the RECORD at this point.

The article follows:

CUTTING UNNECESSARY MILITARY SPENDING

DEFENSE MONITOR IN BRIEF

Despite promises of dramatic reductions in military spending, President Clinton has proposed a small cut of only $60 Billion in Bush Administration military programs over 5 years.

President Clinton's proposed military spending remains at Cold War levels over the next 5 years and will total $1.3 Trillion.

President Clinton proposes $278 Billion for actual military expenditures in 1994, only $2 Billion less than President Bush's plan.

Additional cuts of $30 Billion can be achieved by canceling unneeded Cold War weapons and accelerating the withdrawal of U.S. troops from foreign countries, resulting in 1994 military spending of $248 Billion.

A reduction of military spending to $200 Billion by 1996 would provide strong defense forces. Savings of $255 Billion compared to the Clinton proposals can be achieved over the next 5 years.

Continued high levels of military spending are not warranted by military requirements but are driven by political considerations in Washington.

Hope versus reality

All Americans hope that the new Administration will be able to make progress in reducing the budget deficit and helping the American economy get back on track. More people are now aware that the strength of our country has been weakened by neglect of our needs at home. The Center for Defense Information has asserted for many years that strong social, economic, political, and military components and a healthy environment contribute equally to the nation's security.

President Clinton has said some promising things about the need for fundamental changes. In his first State of the Union address he called on citizens for increased "contributions" (taxes) to make his changes possible. He also called for reduced government spending.

But President Clinton's proposal to spend $278 Billion on the military next year is only $2 Billion below President Bush's plan for 1994 military spending (excluding Iraq war costs). This is a very small step in the right direction. Larger reductions in military spending can be safely made, and much more quickly. A $200 Billion military budget by 1996 would buy strong but not excessive U.S. military forces.

CDI's specific plan

In response to the President's challenge for "specific" cuts, the Center for Defense Information has prepared a list of unneeded weapons and military programs that can be eliminated from the 1994 Pentagon budget without weakening America's defenses. CDI's option would produce savings of $30 Billion in 1994 and much greater savings in the years ahead. There would be no adverse effect on our military capability to perform required tasks.

CDI's plan would cut unneeded Cold War weapons like the F-22 fighter, C-17 transport plane, and B-2 bomber. It would stop unneeded nuclear weapons programs. It would accelerate the return of U.S. troops from countries in Europe and Asia that the U.S. no longer needs to defend. (President Clinton plans to keep 200,000 U.S. troops in foreign countries, including 100,000 in Europe.) The CDI plan would rely more on reserve forces, which are less expensive than active duty units.

These measures taken together would produce a 1994 military budget of $248 Billion. This would save $30 Billion from President Clinton's proposal. Taking these actions will be the first important step toward powerful defense forces costing $200 Billion a year by 1996.

Cold war levels

The cost of not making changes in unnecessary military programs will be very high. The central fact is that huge Pentagon budgets are still being used to sustain a massive U.S. military force all around the world. Our fleets, bombers, and troops are still committed to the role of global policeman. Even after all the publicity about cuts in spending and forces, big Pentagon budgets are still being used to purchase unneeded Cold War weapons to defeat an enemy who no longer exists.

How to lower 1994 military spending: The CDI option

[In billions of dollars]

Cancel unneeded new weapons:	
F–22 Fighter	−2.3
V–22 Assault Plane	−.3
F/A–18E/F Attack Plane	−1.5
A/F–X Attack Plane	−.9
RAH–66 Scout Helicopter	−.4
New Submarine (Centurion)	−.5
MILSTAR Satellite	−1.2
C–17 Transport Plane	−3.2
JSTARS Reconnaissance Plane	−.7
B–2 Bomber	−1.8
Trident II Missile	−1.4
LHD Amphibious Assault Ship	−.9
DDG–51 Destroyer	−2.8
Total	−18
Slow Strategic Defense Initiative missile defenses program	−2
Accelerate return of U.S. troops from foreign countries & demobilize unneeded personnel	−3
Lower operations costs for a smaller force	−4
Reduce new construction at military bases	−2
Limit new nuclear weapons work	−3
Total	−32

Note.—Taking these steps will produce 1994 spending of $248,000,000. Reductions are taken from Bush administration 1994 proposal.

Source: Chart prepared by Center for Defense Information.

The hopes of Americans for change may be frustrated because politicians and military industry officials continue to push hard to keep military spending high for short-term economic considerations and political benefits. The military budget has become a jobs bill. If current trends continue, actual reductions in military spending will be modest, leaving the Pentagon at close to Cold War levels.

At a spending rate of more than $5 Billion a week, hundreds of Billions of dollars will be wasted on unnecessary military programs over the next 4 years. This will mean that inadequate resources will be available to reduce the deficit and meet important domestic needs. Our economy will remain overmilitarized and underproductive, and tax increases will be larger than they need to be.

Finding waste

It is not only the Center for Defense Information that sees the opportunity to make big cuts in unnecessary military spending. The Congressional Budget Office (CBO) recently published a report on ways to reduce federal spending. It identified 54 specific options for cutting military spending in fiscal 1994 and the future. The nonpartisan CBO did not propose any changes or cuts that have not already been widely discussed in Congress and elsewhere. The CBO's cuts add up to $30 Billion in 1994 and $282 Billion over the 5 years 1994–98.

In the big Pentagon bureaucracy there are huge pockets of waste. During the orgy of military spending in the 1980s vast, excessive stockpiles of supplies were accumulated. The General Accounting Office has identified $40 Billion in excess inventories.

The House Government Operations Committee has studied waste in the military. Its staff report concludes: "Lacking coherent plans and policies for the new post-Cold War era, the Defense Department remains the captive of special interests each promoting new, expensive weapons programs. . . . There are few incentives to save money, leading to bulging warehouses full of supplies and spare parts bought but never used."

The House Armed Services Committee points to the $86 Billion spent on operations and maintenance this year. According to the Committee, only 25 percent of these funds, or $21 Billion, directly support the readiness of our military troops. Most of the remaining $65 Billion "simply supports a Cold War-size management and acquisition bureaucracy. . . . Billions of dollars could be cut from this overhead and infrastructure (excessive inventories, inflated overseas basing costs, a bloated bureaucracy) without harming the readiness of our troops."

Focus on what's needed

Discussions of military spending in the American media have focused on imaginary "cuts" taken against hypothetical future levels of military spending. The Clinton Administration tries to dramatize how its plans may differ from the old plans of the Bush Administration. Behind the smoke and mirrors, however, President Clinton's plan is close to his campaign promise to cut only $60 Billion (4%) in military programs from the Bush plan for the five years 1993–97. This will leave military spending for the 5 years at $1.3 Trillion.

The public relations game obscures the fact that American taxpayers should only have to pay for the military forces that are really needed for the defense of the country. The basic reality here is that for the first time in more than 50 years there is no immediate military threat to the United States. Most military forces were bought to prepare for war with the Soviet Union and its allies. That enemy no longer exists but most of the U.S. Cold War military establishment still does exist.

The level of military spending should be determined by the country's real defense needs, not by comparisons to politically and economically generated military spending plans. CDI's careful military analysis indicates that a U.S. military force of 1 million active and 1 million reserve personnel would provide strong military forces for the defense of the U.S. and its interests around the world. Total annual cost would be about $200 Billion. This force, based at home, would support a strong Navy, Air Force, Army, and Marine Corps. U.S. military spending would remain far above any other country, or group of countries.

Costs of delay

Some politicians acknowledged that U.S. military spending can be cut below Cold War levels. But they want to delay large cuts in military spending in order to keep unneeded military personnel and unneeded military industry workers on the payroll. Politicians want to keep their own jobs too. These shortsighted politicians forget that the U.S. successfully made far more extensive cuts in military spending following World War II, the Korean War, and the Vietnam War.

The official Defense Conversion Commission has reported: "The planned defense spending reductions are less severe than those that followed World War II, the Korean War, and Vietnam, both in size and in pace. . . . The current drawdown is planned to occur at a slower rate than its three predecessors."

Military spending should not be a welfare program. The U.S. economy can adjust to a change in priorities from military to nonmilitary needs. The backlog of unmet needs at home can provide more than enough jobs for demobilized military men and women. Money spent on real needs will generate more jobs than are currently wasted on unneeded military programs. The standard of living for Americans and their children will benefit substantially by an end to hundreds of Billions of dollars of unproductive, wasteful military spending. The short-term pain of readjustment can be readily accommodated by the American people.

The only way that American taxpayers will continue to pay for this excessive establishment is if they are continually persuaded that war is necessary. Those who benefit from big military spending will work hard to persuade Americans that innumerable "threats" around the world require aggressive U.S. action. The opportunity for a genuine new world order and economic progress at home will be wasted. To prove that heavy funding and huge forces do serve the nation, government officials will instead find ways to put our military to work in the future.

CBO FINDS $30 BILLION TO CUT IN 1994 BUDGET

The Congressional Budget Office's (CBO) report on reducing the deficit identifies fifty-four specific options for cutting military spending in fiscal year 1994 and the future. The Congress is currently acting on the 1994 budget. The CBO's cuts add up to $30 Billion in 1994 and $282 Billion over the five years 1994–98.

The CBO's top twelve military spending cuts by amount of savings;

Military program	1994 savings *Billions*
1. Limit missile defense efforts to theater defense (canceling most of Star Wars program	3.3
2. Cancel the C–17 airlift aircraft	3.2
3. Eliminate payments to military industries for independent R&D	3.1
4. Cancel Air Force's F–22 fighter aircraft	2.6
5. Cancel Navy's F/A–18 fighter	1.4
6. Reduce spending on intelligence activities	1.3
7. Use early retirement to reduce the number of military personnel	1.0
8. Reduce procurement of DDG–51 destroyers	.9
9. Cut funding for military space programs	.8
10. Revamp military family housing	.8
11. Limit military pay raises	.7
12. Reduce emphasis on Navy's anti-submarine warfare mission	.7
Total for top 12 cuts	19.8
Forty-two additional CBO cut options	10.6
Grand total CBO cuts	30.4

Source: Chart prepared by Center for Defense Information.

MAKING SENSE OF MILITARY SPENDING

A myriad of military spending numbers coming out of Washington has created more confusion than clarity. Key issues have been obscured by seemingly contradictory figures. Behind all this complexity are hidden the central facts needed by taxpayers to make informed decisions. What are the key issues of military spending under President Clinton's plans?

Reductions overstated

A follower of the news could easily come away with the impression that the Administration is proposing large reductions in military spending. But it turns out that there are a lot fewer real spending reductions in President Clinton's plan than meet the eye. Clinton seems to be asking Congress for $264 Billion to spend on the military in 1994. But this figure is just "budget authority," or permission to spend money. Actual spending outlays in 1994 will be much higher, $278 Billion.

Spending can be higher than new budget authority because spending outlays include leftover money approved in previous years but not yet spent. Unfortunately, how much Clinton is still proposing to spend is often overshadowed by the less important question of how much less he is proposing to spend. There are several different answers to how much Clinton wants to lower military spending, but all of them indicate that the real answer is "not by much."

President Clinton said during the campaign he would lower President Bush's $1.4 Trillion 1993–97 military spending plan by $60 Billion. Since President Bush wanted military budgets to increase from $274 Billion in 1993 to $291 Billion in 1997, this was less than impressive. The Clinton Administration now says the $60 Billion campaign figure has grown to $88 Billion, but the Administration has not made any additional real military program reductions. $18 Billion of the extra "savings" come from paying all government employees less over the next few years.

Phony savings

The other $10 Billion, it turns out, will be required to pay for programs whose costs were allegedly understated by the Bush Administration. Other "savings" shown in Administration documents were achieved by recalculating how much programs would cost using lower inflation and interest rate estimates. As Senator Sam Nunn, chairman of the Senate Armed Services Committee, has stated, "we will be able to buy the same program for less money."

A pay freeze, lower inflation assumptions, reestimates of hypothetical future Bush budgets, and other accounting adjustments are not real cuts in military programs.

It is instructive to note that the Clinton Administration plans to cut 1994 military spending by only $2 Billion compared to Bush plans. The Clinton 1994 proposal can also be compared to actual spending in 1993. Clinton would spend only $8.9 Billion less in 1994 than in 1993, excluding leftover spending from the war against Iraq.

The only thing that is clear among all these different figures is that none of them propose or require a major reduction in military spending. Spending one and a third Trillion dollars on the military over the next 5 years does not seem to take into account the absence of military threats to the U.S.

Spending will remain high

Despite all the talk of "savings," military spending will remain at Cold War levels. During the Cold War we spent an average of $257 Billion in today's dollars every year on the military, excluding the extra costs of the Korean and Vietnam Wars. Military spending will remain at this level or above. The Administration wants to spend an astounding $1.3 Trillion on the military over a period of just 5 years. In the final year of the plan, the downward trend will be reversed as military spending rises again.

Pentagon 5-year plans have long been grounded in overstated threats and understated costs rather than realistic planning. By this means it has been easier to get Congress to approve military budgets. Only later is it discovered that costs for weapons end up much higher than planned.

Hidden future costs

If we don't make real changes in future military forces, we will end up wasting even more money than is being discussed now. Early official figures on how much it will cost to buy new weapons, for example, usually understate what taxpayers will end up paying. According to the government's General Accounting Office (GAO), "Program cost increases on the order of 20 to 40 percent have been common on major weapon programs, with numerous programs experiencing increases much greater than that." This means that if the Pentagon buys all the unneeded new weapons it wants to during 1993–97, it would waste not just the tens of Billions of dollars currently acknowledged, but also an extra $35 Billion or more.

That's not all. According to GAO, $53 Billion in hoped-for Pentagon management savings and $5 Billion in base closure savings during 1993–97 may not be achievable. These and other concealed costs mean that present military spending plans may exceed budgeted levels by more than $150 Billion. If we don't make serious revisions in outdated military plans, unneeded forces, and new weapons, rather than accounting changes, military spending will continue to run out of control.

Deeper drawdowns

Previous drawdowns in U.S. military forces after wars ended have been deeper and faster than the current trimming. Although the economy was growing faster then that today, previous transitions show what can be done and put today's task in perspective.

After World War II, the number of soldiers plummeted from 12.1 million to 1.6 million over just 2 years from 1945 to 1947. An astonishing total of twenty-two million people left the military or civilian employment in the war effort. Military spending dropped from 35% of the gross national product to 6%. After the Korean War, annual military spending dropped by the equivalent of $115 Billion in just 3 years. After the Vietnam War, annual spending dropped by the equivalent of $131 Billion in 6 years.

What about jobs?

Only in the short run does a smaller military mean fewer jobs. Money spent in the civilian sector by individuals, businesses, and government actually produces more jobs than spending on the military. The latest study showing this, a 1993 report by the Congressional Research Service, finds that spending $3 Billion on state and local government services would create 12,000 more jobs than spending $3 Billion on the military.

Once the short-term disruptions are surmounted, eliminating unneeded military spending will produce greater employment. Reducing the "brain drain" of scientific and engineering talent from civilian industry to military industry will also lead to a healthier, more competitive economy.

As Alan Greenspan, head of the Federal Reserve, recently stated, "the defense cutbacks will benefit the U.S. economy by freeing up resources to augment the nation's stock of physical and human capital."

CDI's $248 billion option

The alternative spending option for 1994 proposed by the Center for Defense Information would more fully take into account the absence of any significant military threats to the U.S. The CDI option proposes $248 Billion in military spending for 1994.

The majority of the savings would come from canceling new weapons. The Pentagon is still preparing to build many weapons that were originally meant to fight the Soviet Union. These ever more complex and expensive new weapons will not be needed in the foreseeable future. Canceling them would not only save $17.9 Billion in 1994, but would also produce huge savings in future years. If all these weapons are built, they will ultimately cost a total of $673 Billion. If the usual cost growth occurs as it has in the past, actual costs will be much higher than that.

President Clinton plans to keep 1.4 million personnel in the active forces. Military spending can be brought down significantly by moving to 1 million active personnel by 1996, twice as many people as went to fight the Iraq War. The active force would be supported by 1 million reserves.

Cut 1993 spending too

In addition to saving money next year, much money approved for 1993 has not yet been spent. The President and Congress can "rescind," or withdraw permission to spend, money that had previously been approved.

In 1992 $7.1 Billion of unnecessary military spending was rescinded. The House Appropriations Committee estimates that about $84 Billion of current 1993 military appropriations will not even be spent until 1994 and beyond. The program with unspent money can be examined to see if the weapons they build or the activities they perform are still needed.

The more costly candidates for rescission include the B–2 stealth bomber, the next nuclear-powered aircraft carrier, and an excessively large Strategic Defense Initiative program. The Clinton Administration has not yet proposed savings from the 1993 budget.

UNNEEDED FOREIGN BASES

Billions can be saved by closing unneeded U.S. bases in foreign countries. Today the U.S. is interested in helping Russia, not containing Soviet expansion. Because the Cold War is over, there is no requirement for the U.S. to operate military bases and station troops in Germany, Japan, and other places far from American shores. Leaving these bases and demobilizing or shifting these troops to reserve status could free up tens of Billions of dollars for pressing domestic needs such as education improvement, expanded and affordable health care, environmental protection, drug treatment, and reducing the national debt.

According to Pentagon figures, in October 1992 there were 344,065 American military personnel stationed on military bases on foreign soil or aboard naval vessels in foreign waters. An additional 41,284 U.S. civilians were employed by the Pentagon in foreign countries. In October 1991 bases in foreign countries were serving as home or work place to 103,815 foreign nationals employed by the U.S. military, and some 391,133 spouses and children of American military personnel and of Pentagon civilian employees.

Today there is no need for Americans to be garrisoned at Cold War military outposts thousands of miles from their homes. There is a clear absence of any overtly hostile threats to the U.S. or to our Cold War allies in Europe and in Asia. As the U.S. moves to draw down its military forces in the post-Cold War era it should first close down the unneeded military bases in Germany, Japan, South Korea, and the United Kingdom before closing additional bases in California, Indiana, or Texas.

The question American taxpayers should be asking is not: "How many military bases and military personnel should tax dollars be financing in foreign countries?" Rather, the real question is: "Why should tax dollars be spent to have any bases and troops in foreign countries?" Would we put bases and troops in these countries today if they were not there already?

Clinton's position

Early indications are that President Clinton accepts his predecessor's position that the U.S. must keep substantial troops in foreign countries, albeit in reduced numbers. The Bush Administration argued for an "irreducible minimum" of 150,000 American troops in Europe. President Clinton is prepared to accept a recent congressionally-mandated limit of 100,000 U.S. troops in Europe. In 1991 the Bush Administration halted a scheduled 15 percent reduction in American troop levels in Japan and South Korea. President Clinton has not specifically urged any force reductions in Asia.

100,000 troops in Europe?

In 1992 Congress imposed a cap of 100,000 on American military personnel in Europe by 1996. But are 100,000 U.S. troops really needed in Europe? For a variety of reasons the answer is a resounding no.

The scenario that long troubled Western military planners, a bolt-out-of-the-blue, Soviet-led attack through the Fulda Gap in Germany, is no longer a concern. In the absence of anything comparable to the "Soviet threat," European countries such as Germany, Italy, and the United Kingdom are more than capable of defending themselves. They long ago dug themselves out of the rubble from World War II to become the prosperous nations that they are today.

Concern that the U.S. will lose influence within Europe if it withdraws its troops is unwarranted. U.S. influence is much more dependent on its economic success. America's relationship with Europe is characterized by a high degree of interdependence. The 12 nations that comprise the European Community collectively are on the receiving end of 26 percent of all U.S. exports. U.S. direct investments in these countries total about $166 Billion.

The U.S. can and will remain actively engaged and a principal player in Europe and elsewhere in the world through the many political and economic means of influence that come with being the strongest country in the world.

80,000 troops in Japan and South Korea?

Currently there are about 80,000 American military personnel assigned to bases in Japan and South Korea. Half of all U.S. aircraft carrier battle groups and amphibious forces are deployed in East Asia and the Pacific. As is the case in Europe, these forces are not needed.

Stationing American military forces in Japan contributes little or nothing to U.S. security. In fact, it increases America's economic insecurity by subsidizing our principal economic competitor. Our forces enable Japan to invest more in its economy rather than waste larger sums on its own military. Although Japan spends less than 2 percent of its $2.1 Trillion gross national product on its military, its "Self-Defense Forces" are quite capable and formidable. Concern about a resurgence of militarism in Japan would at the present time appear unwarranted. The majority of Japanese are adamantly opposed to militarism.

The main reason cited by the Pentagon for positioning troops in East Asia is the possibility of hostile actions by North Korea against South Korea. Yet North Korea would have little to gain and much to lose by taking such action. The economic output of South Korea is more than eight times that of North Korea. It spends about twice as much on its substantially more modern military and has twice as large a population from which to draw troops. South Korea does not need U.S. garrison forces to defend itself.

Base closings?

Through August 1992 the Pentagon had announced plans to end, reduce, or place on standby status activities at 628 sites in foreign countries, 592 of which are in Europe. Additional reductions were announced in March 1993. These numbers, however, are far less impressive than they may at first appear. According to a recent House Armed Services Committee report, while the closure of foreign installations "appears to be large," the fact is that "each discrete site is considered an installation: a warehouse or radio tower, for example."

According to Representative Patricia Schroeder (D-Colorado) many of these "sites" include "gas stations on the autobahn," isolated housing units, athletic fields, and sites which have long ago been slated for closure. Very few "sites" are major bases slated for complete closure. Many installations are not being closed at all. Rather, they are simply being realigned and consolidated.

Big savings

American military bases in foreign countries are accompanied by an expensive support infrastructure designed to allow military families to replicate the American lifestyle. It includes schools for dependents, commissaries, hospitals, family centers, and family housing.

By closing its foreign bases the U.S. will cease spending Billions of dollars building, improving, supporting, and maintaining these bases. No longer will the U.S. have to pay rent disguised as foreign aid for base properties. No longer will American taxpayers pay about $4,000 in moving costs when the Pentagon relocates an enlisted soldier and dependents to Germany or $13,000 in the case of an officer with family.

Closing military bases in foreign countries and withdrawing and either demobilizing troops or shifting them to reserve status would save the U.S. government tens of Billions of dollars. Even more can be saved if the U.S. shifts away from buying expensive forces based in the U.S. to intervene in every corner of the world.•

A TRIBUTE TO JOE WHITTLE

• Mr. McCONNELL. Mr. President, I rise to pay tribute to an outstanding Kentuckian who recently left his post as the U.S. attorney for the western district of my State. Joe Whittle's service to the Commonwealth since his appointment in 1986 has been outstanding, and I commend him for his many achievements during his 7-year tenure.

Since Kentucky's first U.S. attorney was named in 1789, the Commonwealth has been served by countless individuals of prominence and integrity, many of whom gained national attention for their achievements, both as U.S. attorneys and afterwards. John Breckinridge, U.S. attorney in Kentucky from 1793–95, went on to become a U.S. Senator and Attorney General of the United States. After his stint as U.S. attorney, Kentuckian John Marshall Harlan served one of the longest tenures on the U.S. Supreme Court. I am confident that Joe Whittle will also join their ranks as one of the finest individuals ever to serve the Commonwealth as U.S. attorney.

Joe Whittle truly brought the U.S. attorney's office into the modern age. In 1986, the office was staffed by 11 assistant U.S. attorneys, one paralegal, and 14 support personnel. Today, the office has more than doubled in staff, with 30 assistant U.S. attorneys, 5 paralegals, and 31 support personnel, as well as 10 students who work as law clerks and interns. In addition, Mr. Whittle modernized the office in terms of equipment. In 1986, support personnel used either an electric typewriter or one of two antiquated word processors to draft almost all legal writing. Today, each attorney and support person is equipped with a personal computer hooked into a network that has the ability to send files from one user to another both within the office and to other U.S. attorney offices and the Department of Justice.

The most recent and one of the most noted cases of Joe Whittle's career as a U.S. attorney is the BOPTROT investigation. The case is just one example of Whittle's efforts to ensure that public officials are acting fairly, honestly, and in the best interests of the people. Mr. Whittle's actions in the BOPTROT case have resulted in a dozen convictions or guilty pleas, including nine former legislators. Upon leaving the U.S. attorney's office, Mr. Whittle commented that he regretted not having started the BOPTROT investigation sooner.

However, the BOPTROT investigation and subsequent convictions were not Joe Whittle's only achievements. In the area of criminal cases, his office was especially noted for its action in cases involving civil rights issues, including the Barzaga kidnaping-murder of a Jewish rabbi, the Warren Country-KKK church-burning case, and a number of cross-burning cases. In environmental cases, Mr. Whittle's office obtained some of the largest penalties in the Nation and became the first office in the country to obtain a felony conviction in an improper asbestos removal case. In other cases of public corruption, Mr. Whittle's office has convicted two sheriffs, a number of other officials, and five lawyers on fraud or tax charges.

But Joe Whittle says that he is most proud of his office's success in collecting money owed the government. In 1988, he combined the bankruptcy, foreclosure, and collection functions into the Financial Litigation Division. In 1986, the collection unit recovered about $1.8 million; this year, the office expects to collect more than $12 million.

All of Joe Whittle's successes have not been in the courtroom. As part of its efforts in the area of drug education and prevention, the office organized a rock band called Street Heat. The band is comprised of local police officers and three members of Mr. Whittle's office and performs at local schools every other week delivering its antidrug message to fourth and fifth graders. During his tenure, Mr. Whittle also rose to the influential position of chairman of the Attorney General's Advisory Committee, a group of U.S. attorneys from across the country who develop policy and work closely with the Attorney General.

I applaud Joe Whittle's efforts to make the U.S. attorney's office for Kentucky's western district one of the best in the Nation. Since 1986, the office and its attorneys have become recognized across the country as leaders in virtually every area of operations as a result of Joe Whittle's integrity and devotion to the Department of Justice and to the Commonwealth.

Mr. President, I ask that a recent article from Louisville's Courier-Journal be submitted in today's CONGRESSIONAL RECORD.

The article follows:

JOE WHITTLE CHIPPED AWAY AT CORRUPTION

(By Deborah Yetter)

As one of his final official duties, U.S. Attorney Joseph Whittle watched last week as former House Speaker Don Blandford was sentenced to prison, an event symbolizing the stunning success of the federal public-corruption investigation known as BOPTROT.

The ongoing probe has resulted in a dozen convictions or guilty pleas, including nine of former legislators, and it stands out as Whittle's crowning achievement as the top federal prosecutor in Kentucky's Western District.

But Whittle, as he prepares to step down, won't guarantee the impact will last.

"I think it will last only as long as the people of the commonwealth remember it," he said. "Once they forget, it'll start again."

He said he has just one significant regret about his eight-year tenure: "I wish we'd started BOPTROT sooner."

Whittle, 60 leaves office today, turning it over to his Democratic successor, Michael Troop. Troop, who reported to work Wednesday as a special assistant in the office, will take over Monday as interim U.S. attorney until the U.S. Senate confirms his presidential appointment.

Whittle, a prominent Republican and former small-town lawyer from Grayson County, was criticized by some as too inexperienced for the prosecutor's job when President Reagan appointed him in 1985. But he leaves amid general acclaim—not only for BOPTROT and other high-profile criminal cases but also for his work to expand and modernize the office.

"He took it from kind of a sleepy little outpost to a modern U.S. attorney's office," said Kent Westberry, a former assistant U.S. attorney who left in 1987 for private practice.

Since 1985, the office has grown from 11 staff attorneys to 30 and has expanded from its former cramped quarters at the federal courthouse to three floors in the Bank of Louisville building. Computer terminals have replaced typewriters and legal pads, and the staff is divided into three sections specializing in criminal and civil cases and financial litigation.

During his tenure, Whittle also rose to the influential position as chairman of the Attorney General's Advisory Committee, a group of U.S. attorneys from across the country who develop policy and work closely with the attorney general.

That role led Whittle to start asking for more money and staff for his office. "I saw what other offices had and saw that we were getting shorted," he said.

Whittle has also gained the respect of some of his former critics as a tough but fair prosecutor.

Louisville defense lawyer Thomas Clay, who in 1985 criticized Whittle's nomination because he lacked federal court experience, now sings his praises.

"I've changed my mind," Clay said. "I don't think he'd had much experience, but I think he's been a very effective U.S. attorney."

Clay represented Mel Ignatow during last year's federal prosecution of Ignatow for lying about the 1988 sex-slaying of his fiance, Brenda Schaefer. Whittle decided to charge Ignatow with perjury after a jury acquitted him of murder in state court. Later, the discovery of photographs of the crime forced Ignatow to admit his guilt and vindicated Whittleee's decision, Clay said.

The office has had other high-profile criminal cases, including the recent guilty plea of former Jefferson County Sheriff Jim Greene to tax-evasion and mail-fraud charges. That case drew some criticism because Greene is expected to get probation.

Whittle said he has no regrets about authorizing Greene's plea agreement, which required the former sheriff to resign. The government lacked sufficient evidence to ensure a prison term but wanted Greene—accused of mismanagement and massive waste of tax money—out of office, Whittle said.

Whittle noted that state officials had "come up empty-handed" in a previous criminal investigation of Greene and said federal prosecutors decided to go ahead with tax charges rather than delay for further investigation.

Whittle said he's proudest of his office's success in collecting money owed the government—fines, taxes and defaulted student or small-business loans. Whittle created a collection unit in 1986 and that year collected about $1.8 million; this year, the office expects to take in more than $12 million.

One of the more controversial aspects of collections in the seizure of property linked to crimes such as drugs or gambling, and Whittle's office has been especially aggressive in that area—sometimes seizing property when an owner was acquitted or not charged at all.

Last year, a federal judge ruled that Whittlee's office had overreached in one such case when it tried to seize the home of a convicted drug dealer's wife. The judge ordered the government to pay some of her legal expenses.

Still, Whittle says aggressive action is needed to take the profits out of drug crimes. He also continues to defend the severer sentences handed down under federal guidelines and the harsh mandatory sentences for drug crimes—both of which have been questioned by the Clinton administration.

"I think it's important that when you're in a war, you use your big guns, and the big guns are the severe sentences," he said.

After leaving the U.S. attorney's job, Whittle plans to take a vacation with his wife, Mary, then look for a job—possibly in law or in management. Whittle has been widely mentioned as a candidate for the U.S. District Court clerk's job after the current clerk, Jesse Grider, retires at the end of the year.

Whittle declined to acknowledge seeking the job, which pays $85,000 to $108,000 per year, but he didn't rule it out. He did rule out a run for public office anytime soon, saying he doesn't want to appear to be cashing in politically on his work as U.S. attorney.

"I don't want to be perceived as using the office for a springboard," he said.•

EPA'S SCIENCE ADVISORY BOARD RECOMMENDATIONS ON THE PROPOSED STANDARD FOR RADON IN DRINKING WATER

• Mr. SMITH. Mr. President, I want to call attention to, and submit for the RECORD, a document recently transmitted from the Environmental Protection Agency's Science Advisory Board [SAB] to EPA Administrator Carol Browner on the risks associated with radon in drinking water. The SAB document, which was mandated by Congress last year, raises numerous concerns with the direction EPA is taking on its radon rule under the Safe Drinking Water Act.

The approach EPA has taken with regards to setting a drinking water standard for radon will once again force Congress to intervene. The dispute arises over the relative risk of radon in drinking water and contribution of waterborne radon to an overall radon exposure level.

Congress made a point of requiring the SAB to analyze the proposed standard in order to have a nonpolitical, scientifically based recommendation on the most cost-effective way to mitigate radon exposure. It now appears that EPA lacks the scientific data and justification for finalizing its proposed radon in drinking water standard.

According to SAB, there is no direct evidence of cancer being caused by the ingestion of radon in drinking water. The report goes even further to state that in the absence of direct evidence, it is possible there is a zero risk from ingested radon. It also questions the health effects from lower levels of radon exposure and suggests additional research in this area.

Mr. President, EPA's proposed radon in drinking water rule will impose costs estimated as high as $12 billion, but would reduce indoor radon levels by only 1 percent. Instead of exhausting our resources on that 1 percent, we should be prioritizing our scarce resources to mitigate the greatest risk to radon exposure. According to SAB, the Agency's estimates of population exposure to radon in drinking water are rather uncertain and may seriously underestimate the number of community water systems impacted by the proposed drinking water standard.

Small communities and townships will certainly bear the greatest financial burden from this proposed rule. Indeed, in my home State of New Hampshire, approximately 97 percent of the water systems would not meet the proposed standard and would be mandated to treat their drinking water, even though current science reveals no known health risks.

It is incumbent on the Federal Government to base its environmental regulations on sound science and adequate risk assessment given our limited resources. In this case, it is clear that considerable data gaps exist concerning the health effects of waterborne radon. More research is in order and Congress needs to act again to delay final promulgation of the radon in drinking water rule until such research is completed.

I want to conclude by quoting Administrator Browner who recently stated, "We have to find ways to hit our environmental goals in the cheapest way possible." I couldn't agree more. Unfortunately, EPA's proposed radon in drinking water rule has been moving in a direction counter to that statement.

Mr. President, there are a number of other Senators who have expressed similar sentiments. I look forward to working with them and the chairman and ranking member of the Environment Committee in the weeks ahead to resolve this issue.

The document follows:

ENVIRONMENTAL PROTECTION AGENCY,
Washington, DC, July 30, 1993.

Hon. CAROL M. BROWNER,
Administrator, Environmental Protection Agency, Washington, DC.

DEAR MS. BROWNER: The EPA Science Advisory Board (SAB) is pleased to comment on the multimedia risk of exposure to radon and the cost of mitigation as required by Public Law 102-389 (the Chafee-Lautenberg Amendments to EPA's FY 1993 Appropriation Bill enacted October 6, 1992). The Chafee-Lautenberg Amendment states that "The Science Advisory Board shall review the Agency's study and submit its recommendation to the Administrator on its findings." The study report made available to the SAB is entitled "Multimedia Risk and Cost Assessment of Radon in Drinking Water".[1] This SAB report on the Agency's study, prepared by the Chafee-Lautenberg Study Review Committee of the SAB, complements previous detailed SAB comments transmitted to you on the uncertainty analysis of radon risks (July 9, 1993) and on costs of mitigation of risks from radon in water (July 30, 1993).

The issues of major concern in assessing risks of radon exposure and costs of mitigation may be grouped into four categories: a) population exposure profiles; b) risk estimation procedures; c) mitigation costs, and d) integration of these for regulatory decision making. The EPA study considered each of these issues and, in turn, they have been addressed by the SAB.

A. POPULATION EXPOSURE PROFILES

The Agency report estimates that 81 million people use water originating from community groundwater supplies with a population-weighted average radon activity of 246 picocuries per liter of water (pCi/L_{water}). The Agency report estimates that approximately 19 million people are served by water supplies with radon concentrations in excess of 300 pCi/L_{water}, the Maximum Concentration Level proposed by the Agency. It is the SAB's impression from information provided by public commenters, that the Agency's estimates of population exposure to radon in drinking water are rather uncertain and may seriously underestimate the number of community water systems impacted by the proposed drinking water standard. This uncertainty in exposure estimates ultimately impacts the costs of mitigation. There is clearly a need for more information and a better presentation of available data on the profile of population exposure to radon in drinking water, including the distribution of radon in drinking water exposures for communities of varying size.

B. RISK ESTIMATION PROCEDURES

The risk estimation procedures used by the Agency address both the risks from radon inhaled in air and ingested in water. The risk estimates from airborne radon with lung cancer as an endpoint are based on strong epidemiological evidence from studies of uranium miners, augmented by data on other underground miners, and supported by data from laboratory animal studies. However, there continues to be debate about the extrapolated lung cancer risk at lower levels of exposure. This issue may be clarified during the next several years when the results of several major epidemiological studies focusing on exposure to radon in homes become available. However, even though there is a potential risk at low levels of exposure to airborne radon, it must be recognized that the populations available for epidemiological studies are relatively small, the majority of residential exposures are not particularly high, and the postulated levels of risk are sufficiently low that epidemiological studies might well be unable to identify any increase in risk attributed to residential radon exposure if such a risk is present.

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[1] By way of background, the SAB early in 1993 began interactions with EPA including receipt of background material on this study. However, the specific report reviewed by the Committee was not received until July 9, 1993, and thus, limited time was available to review and comment on the report because of the July 31, 1993 deadline for submission to Congress. Continuing to the present study report, there has been a steady improvement in the quality of the analyses conducted by EPA.

The situation is quite different for estimating the risks of ingested radon in drinking water. In this case, there is no direct epidemiological or laboratory animal evidence of cancer being caused by ingestion of radon in drinking water. Thus, the approach to estimation of cancer risk from radon in drinking water is more indirect than for radon in air. In the absence of direct evidence, it is not possible to exclude the possibility of zero risk from ingested radon.

The indirect risk estimation approach involves several steps. First, the dose to various tissues has been calculated from models for the distribution of radon in the body following ingestion of radon. The model calculation is based, in part, on organ distribution information from an unpublished study with radio-xenon (as a surrogate for radon, since both are noble gases) using human subjects. The meager data base results in uncertainty in estimating tissue doses from ingested radon in drinking water. This uncertainty could be reduced through further research. In the next step, the calculated doses have been used along with organ-specific risk estimates per unit dose, derived from data on the Japanese atomic bomb survivors, to calculate cancer risk to various organs. To a large extent, this involves an extrapolation from the very acute, high dose rate, gamma (low Linear Energy Transfer) exposure of the Atomic Bomb survivors to a very protracted, very low dose rate, alpha particle (high Linear Energy Transfer) exposure with ingested radon. The SAB is of the opinion that the estimates of risk from ingested radon have additional uncertainty due to possible differences in the distribution of dose, and resulting effects, from alpha particles from radon and progeny. However, it should be noted that even at the upper bound of the uncertainty analysis for ingested radon, for most situations the risk from radon ingested in drinking water is still much lower than the risk from airborne radon entering the house directly from the soil. Indeed, for many homes the risk from the radon in water is even lower than that from radon in the outdoor air.

The available information on exposure and risk have been generally integrated under a scientifically satisfactory framework by the Agency as evidenced in the Agency's multimedia risk assessment for radon (EPA-SAB-RAC-93-014, July, 1993). However, the uncertainties noted earlier in this report are carried forward into most of the integrated analyses. However, the differences of opinion, especially with regard to the extent of the exposed population, with interested parties are not reflected in the Agency report or in the integrated analyses.

The risk estimates are illustrated in Figures 1 and 2. The population risk estimates for airborne radon indoors are the most certain, with the nominal estimate of 13,600 lung cancer deaths per year (range of 6740 to 30,600 lung cancer deaths) from exposure to indoor air.[2] Less than one percent of this lung cancer risk is attributable to radon reaching homes via water. In contrast, exposure to radon in outdoor air is estimated to produce 520 lung cancer deaths per year (range of 280 to 1500 lung cancer deaths).[3] And finally it is estimated that ingestion of radon in water is estimated to cause 46 cancers per year (range of 11 to 212 cancers per year).[4] This latter estimate is the most uncertain of all the estimates made. Airborne radon arising from water is estimated to result in 113 lung cancers per year (range of 40 to 408 lung cancers per year)[5] which are included in the estimate presented above for indoor residential air. These risk estimates for radon can be placed in perspective by comparison with an estimate of approximately 30,000 cancer deaths per year from all exposures to naturally occurring radiation, including approximately 13,600 deaths from inhaled radon and approximately 2,500 cancers estimated for naturally occurring radiopotassium in the human body.

C. MITIGATION COSTS

The costs of mitigation of radon in the water and indoor air are also uncertain. Part of the uncertainty for mitigation costs of radon in water relates to differences of opinion between the Agency staff and interested parties over the cost of mitigation systems. for example, the Agency staff estimates capital costs for mitigation of radon in water at less than $2 billion, while interested parties have estimates of capital costs in excess of $10 billion. Similar differences exist for recurring maintenance and operating costs. The other part of the uncertainty for mitigation costs of radon in water relates to the representativeness of the data base on the occurrence of radon in groundwater used by the Agency. These data are the source for estimates of the number and size of communities that would require radon mitigation depending on the level of the MCL finally selected for regulation. In contrast to the potential mandated regulation of radon in water, mitigation of radon in indoor air involves voluntary actions by homeowners. Total cost estimates of the latter are highly uncertain because the extent and cost of testing for radon in homes and the extent of voluntary participation in mitigation action in affected homes are unknown.

The SAB is of the opinion that the mitigation cost uncertainties for radon in drinking water could be reduced by the EPA working with interested parties to resolve issues to the occurrence of radon in community systems of various sizes, the cost of the various process treatment operations and processes for various system sizes, and the frequency of the need for disinfection after aeration. This may require reopening the comment period for this rulemaking. The SAB recommends that EPA, if necessary, request from the Court and Congress sufficient time to do this work to reduce uncertainties in the cost estimates and the cost per cancer avoided. The public interest will be served if the Agency carries out activities over several years which provide a better basis for deciding how to most effectively mitigate risks from radon exposure in drinking water.

D. INTEGRATION FOR REGULATORY DECISION-MAKING

Because of uncertainties in both risk estimates and costs of mitigation there is substantial uncertainly in the cost per cancer death avoided. This uncertainty is especially large for mitigation of cancers related to ingestion of water. However, even with this uncertainty, it is clear that the cost per lung cancer avoided from mitigation of indoor air radon is substantially less than the cost per cancer death avoided due to mitigation of exposure from radon in drinking water. This difference appears to be at least a factor of 4 ($3.2 million per cancer death related to drinking water and $0.7 million per cancer death related to airborne radon) and may be substantially larger. The highest costs may be those associated with mitigation of risks for radon in water for the smallest communities.

In summary, the SAB notes the extent of the uncertainties in the population exposure profiles, the risk estimates for ingested radon in drinking water and the costs of mitigation. In view of these large uncertainties for risk estimates for ingested radon in drinking water and knowledge of the substantially greater risks associated with airborne radon indoors and outdoors directly from soil, the SAB advises that EPA consider various options for mitigating radon cancer risks. The options all include continuing the Agency's efforts to encourage voluntary actions to reduce indoor air radon in view of the cost effectiveness of this approach for reducing risks.

With regard to water, as one option the Agency could promulgate a standard at 300 $\mathrm{pCi/L_{water}}$ as has been proposed. However, in doing so it must be recognized that this involves selecting a risk reduction strategy for radon that is the most costly in terms of costs per cancer death avoided; i.e., more than four times the cost of cancer risk avoidance for airborne radon indoors. Alternatively, as another option a standard might be set at some higher level such as 1000 to 3000 $\mathrm{pCi/L_{water}}$ to initiate mitigation of the highest potential risks. For example, setting a water standard at 3000 $\mathrm{pCi/L_{water}}$ would result in water contributing no more radon to indoor air than is present in outdoor air. (Keep in mind that the radon in outdoor air arises by natural processes from soil gas and there is no way to alter the outdoor radon levels.) At the same time it would be appropriate to intensify research on radon ingestion and radon mitigation, data gathering on radon occurrence for all media, and dialogue with interested parties. These actions would serve to reduce the uncertainties in the risk estimates, the costs of mitigation, and, ultimately, the estimates of cost per cancer avoided. We cannot emphasize too strongly the SAB view that a relative risk orientation should be applied to the decision making process. Comparative analysis of uncertainties on the risks of various exposure scenarios and mitigation approaches should be developed and provided to the risk managers.

The SAB strongly supports the use of a relative risk reduction orientation as an important consideration in making risk reduction decisions on all sources of risk, including those attributable to radon. Other important considerations include legislative authorities, environmental equity, economics, and the like. In short, the relative risk approach calls for giving the highest priority to mitigating the largest sources of risks first, especially when the cost-effectiveness of risk reduction of such sources is high. The SAB recognizes that the large number of laws under which EPA operates makes it difficult to implement a relative risk reduction strategy uniformly across the Agency. Radon is an excellent example of the problem with radon in drinking water governed under one statute (Safe Drinking Water Act) while radon in indoor air is not currently subject to regulation under a specific statute. The SAB strongly encourages the Agency and the Congress to work together to consider changes in existing statutes that would permit implementation of relative risk reduction strategies in a more efficient and effective manner.

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[2] Report to the United States Congress on Radionuclidas in Drinking Water, Multimedia Risk and Cast Assessment of Radon in Drinking Water. Prepared for PL 102.389. Office of Water, US Environmental Protection Agency, July 9, 1995, page S-2.

[3] *Ibid*, p. 3-3.

[4] *Ibid*, Table 7-3 beta model estimates.

[5] *Ibid*, Table 7-3.

The SAB appreciates this opportunity to advise you and the Congress on this important matter, and we look forward to receiving a response on these suggestions.

Sincerely yours,

Dr. RAYMOND C. LOEHR,
Chair, Executive Committee, Science Advisory Board.
Dr. ROGER O. MCCLELLAN,
Chair, Chafee-Lautenberg Study Review Committee.

ENVIRONMENTAL PROTECTION AGENCY SCIENCE ADVISORY BOARD, CHAFEE-LAUTENBERG STUDY REVIEW COMMITTEE

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A TRIBUTE TO FANCY FARM

● Mr. MCCONNELL. Mr. President, I rise today to pay tribute to the city of Fancy Farm in Graves County.

Fancy Farm is a small farming community in western Kentucky and is located about 30 miles from Paducah. It was settled in the second quarter of the 19th century by settlers from Maryland.

The distinguishing feature of Fancy Farm is its annual picnic which draws as many as 20,000 people. The picnic, held annually since around 1880, has assumed political significance as the unofficial start of the fall campaign. Over the years, it has attracted some high-powered visitors.

The picnic is staged every year by Fancy Farm's 600 or so residents. Through the proceeds from bingo games, raffles, and food, Fancy Farm, which does not impose taxes, realizes a good portion of what it needs to sustain itself throughout the year. And although the political speeches have gained national prominence, most people attending the picnic are there to enjoy the company of friends and relatives and to relive memories.

I applaud Fancy Farm's efforts to stage its annual picnic as both a political and a community event.

Mr. President, I ask that a recent article from Louisville's Courier-Journal be printed in today's CONGRESSIONAL RECORD.

The article follows:

FANCY FARM

(By James Malone)

At first glance, the church, the school, the post office and the shops nuzzled against a sharp curve on Ky. 80 prompt a visitor to wonder how this Western Kentucky farm community could find itself in the Guinness Book of World Records.

But after reflecting on Fancy Farm's place at the confluence of Kentucky history, political tradition and local custom, the distinction, while totally unexpected, may not be all that difficult to comprehend.

Fancy Farm is first, and always, a farming community, settled by Roman Catholics in the second quarter of the 19th century. Catholic settlers with roots in Maryland came to Fancy Farm's fertile earth (it sold for 40 cents an acre in the early 1830s) by way of Nelson County. The telephone directory is full of the surnames of the original families, among them Willett, Toon, Cash, Higdon, Carrico, Curtsinger, Ballard, Hayden, Wilson and Hobbs.

Since around 1880, Fancy Farm has held an annual picnic that helped sustain the community and the St. Jerome Parish. But over the last half century or so, the picnic assumed political significance, first as a campaign stop in the days when Kentucky held an August primary election and more recently as the unofficial start of the fall campaign. As such, for that one Saturday in August, Fancy Farm reigns as the symbolic capital of political oratory in Kentucky. (Saturday's picnic will be the 113th.)

But it is the picnic itself that is the distinguishing feature of Fancy Farm. From the proceeds of the bingo games and the raffles, and the tons of barbecued mutton, chicken and pork, Fancy Farm, which does not impose taxes, realizes a good part of what it needs to sustain itself from year to year.

The 600 or so residents tax themselves with the responsibility to stage the picnic, which draws as many as 20,000 people each year. In 1982 the crowd consumed 15,000 pounds of barbecued meat, which won Fancy Farm its place in the 1985 Guinness edition.

The picnic could sustain itself even without the intrusion of a single politician.

"I was under the impression that everyone was here for the speeches," said Father Ray Goetz, the pastor of St. Jerome Church, who is preparing for his second picnic, "but that's so minor. At 11 p.m., when the politicians have long gone, there are still 10–15 thousand people still out there reliving memories."

But make no mistake, the broader reputation of Fancy Farm is based firmly on politics. The picnic and the speeches generate enough press coverage each year to fill a small book. Locals keep yellowed clippings of flowery articles that big-city reporters pan about the event.

Ivan Potter, who edits a Frankfort newsletter on politics, called the picnic Kentucky's "premiere event for grass-roots politics * * * where you first test concepts and sound bites for the fall."

"Almost everyone here has an opinion on politics," said C.V. Higdon, who owns a country-ham business and whose son, Greg, a former state senator, is now a state official.

While the picnic is officially bipartisan, the folks in Fancy Farm are overwhelmingly Democratic. The Democratic Party is passed on from generation to generation, "kind of like faith," said Father Jerry Riney, who was at St. Jerome for six years before moving to a parish in Paducah. In 1992, 25 Republicans and 611 Democrats were registered in Fancy Farm.

Fancy Farm residents work hard, are reverent and take pride in keeping up their farms and homes. More lawns than not display a statute of the Virgin Mary. Serious crime is a rarity, and bills are pretty much paid on time.

"It's probably the way America was in the late 1800s," said Jerry Mason, who manages the Fancy Farm Credit Union, started by the church in 1957.

A church/town history is brimming with enough minutia for a local Trivial Pursuit game. Want to know how much honey Hillary Toon collected in 1850? It's in the book. (One hundred-fifty pounds.)

A postal inspector gave the town its name in 1843. Yes, he saw a local farm and thought it neat and clean.

The town consists essentially of the parishioners at St. Jerome. The church's striking stucco walls dominate the landscape. The Spanish-influenced architecture seems weirdly out of place. Goetz says the church is more or less the community. As far as churches go, it's the only game in town. Goetz has received mail addressed to the mayor.

Goetz, who describes himself as pastor, mayor and innkeeper, figures you can probably count all of Fancy Farm's protestants, Republicans and University of Louisville basketball fans on two hands. (Well, not quite.)

Fancy Farm, which is west of Mayfield near the Carlisle County line, has tried being a legal city and didn't like it. Apparently, townspeople grew reluctant to arrest, curfew and tax their brethren, said Brother Leo Willett of St. Louis, Fancy Farm's unofficial historian.

In 1959, the city was dissolved; the $340.55 left in the treasury was turned over to the local water system in 1965. Now it's up to Graves Fiscal Court or the state to pave the streets, cut the weeds and keep the peace.

That leaves everyone free to concentrate on the picnic.

Greg Higdon, born and reared in Fancy Farm and now deputy secretary of the Natural Resources and Environmental Protection Cabinet, said his 1982 appearance as master of ceremonies was an emotional moment.

"As a kid, I used to get a water pistol at the picnic and squirt people," he recalled. "As a teenager, I'd sneak over to the graveyard and steal a kiss, and as an adult, our family would work the bingo stand. That all went through my mind that day."

When the crowd leaves after that sweltering day, Fancy Farm goes about its business for another 364 days.

Goetz says the town is a bit of a rumor mill.

"Everyone is so close that the gossip sometimes get out of hand," he said jokingly. "But we feel each others' hurts. Nobody here gossips alone."

A good place to catch up on the day's news is at the Wanda Burger, a diner across from the church.

Lana K. Wilson of Wingo was named Fancy Farm's postmaster three years ago. Although the town traditionally has had one of its own handle the mail. Wilson said she has been welcomed with open arms. Wilson said her father, former state Rep. Lloyd Clapp, used to bring her to the picnics when she was a youngster. It took her a while to learn the peculiarities of sorting the mail for several families with the same last name. As for first names, she said, almost everyone is named after a saint.

Fancy Farm's post office has more business than it should for its size. Carriers handle more than 500,000 pieces of mail a year from the 120 post office box renters and 508 patrons on the lone rural route.

The busiest customer is not the church. It's James Cash, who bills himself as "The Auctioneer" and conducts 180 sales from $4,000 to $4 million each year.

Cash works in four states and calls Fancy Farm the best place in the world to live. "Everybody knows everybody," he said. "We've got some wonderful people here."

Fancy Farm saw its first fundamental change after World War II, said Willett, the historian.

Before then, children tended to follow their parents on the farm—the men cultivating the rich earth and the women rearing large families and running the home. Education often stopped after the local parochial school.

But the GI bill gave returning veterans a cheap route to college. A lot of the men went off to school and did not come back home, Willett said. More change came when the local church-supported high school became a public high school and then was converted to a public grade school.

People who moved away to find work, however, have been moving back to Fancy Farm to retire.

They return to a community that has no hospital, police force or radio station. But there is a local water district and sewer system.

And there's a newspaper of sorts. How does one know that Willard and Cecelia Elliott celebrated their 66th wedding anniversary on March 1 or that Bea Richard fell earlier this year and required 17 stitches to close the wound?

In these parts, the St. Jerome Journal is pretty much required reading.

Published bimonthly by the parish, the 12-page newsletter has become the unofficial newspaper of Fancy Farm.

In a folksy way, it reports on the sicknesses, recoveries, weddings, deaths, births and promotions that go on in any community.

With a staff of 16 "reporters" and circulation of about 650, copies are mailed far beyond Graves County.

Pages are crammed full of the stuff that daily papers, and most weeklies, now consider too trivial.

St. Jerome's grounds bear the legacy of Walter Hancock, a priest who was as much a diplomat to surrounding towns as he was a pastor to his congregation, Hancock slapped red paint on everything in sight.

At Fancy Farm for 11 years and now stationed in Cloverport, Hancock recalled taking a country ham to former Gov. Julian Carroll and lobbying successfully for a $52,000 grant to start the town's sewer system. Without it, he said, the school might have closed.

There's one tale that Hancock staunchly denies. Others insist it is true. After he turned over a tractor while mowing the church grounds, Hancock was confronted by a bishop who told him never to get on that tractor again.

Hancock, according to the tale, got a different tractor and continued to mow.•

APPOINTMENT BY THE REPUBLICAN LEADER

The PRESIDING OFFICER. The Chair, on behalf of the Republican leader, pursuant to Public Law 100–458, section 114(b)(2), reappoints the Senator from Oregon [Mr. HATFIELD] to serve a 6-year term on the board of trustees of the John C. Stennis Center for Public Service Training and Development, effective October 11, 1992.

APPOINTMENT BY THE PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, and upon the recommendation of the Republican leader, pursuant to Public Law 102–138, appoints the following Senators as members of the Senate Delegation to the British-American Parliamentary Group during the 1st session of the 103d Congress, to be held in Edinburgh, Scotland, September 1–5, 1993:

The Senator from Alaska [Mr. STEVENS], Vice Chairman;

The Senator from Mississippi [Mr. COCHRAN]; and

The Senator from Washington [Mr. GORTON].

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. SARBANES. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar Nos. 310, 311, 312, 314, 316, 317, 318, 320, 322, 323, 324 and 325.

I further ask unanimous consent that the nominees be confirmed, en bloc; that any statements appear in the RECORD as if read; that upon confirmation, the motions to reconsider be laid upon the table, en bloc; that the President be immediately notified of the Senate's action; and that the Senate then return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF DEFENSE

Graham T. Allison, Jr., of Massachusetts, to be an Assistant Secretary of Defense.

Sheila E. Widnall, of Massachusetts, to be Secretary of the Air Force.

DEPARTMENT OF LABOR

Doug Ross, of Michigan, to be an Assistant Secretary of Labor.

DEPARTMENT OF COMMERCE

Bruce A. Lehman, of Wisconsin, to be Commissioner of Patents and Trademarks.

EXECUTIVE OFFICE OF THE PRESIDENT

Lionel Skipwith Johns, of Virginia, to be an Associate Director of the Office of Science and Technology Policy.

DEPARTMENT OF TRANSPORTATION

Albert J. Herberger, of New York, to be Administrator of the Maritime Administration.

Jolene Moritz Molitoris, of Ohio, to be Administrator of the Federal Railroad Administration.

Louise Frankel Stoll, of California, to be an Assistant Secretary of Transportation.

DEPARTMENT OF COMMERCE

Loretta L. Dunn, of Kentucky, to be an Assistant Secretary of Commerce.

Mary Lowe Good, of New Jersey, to be Under Secretary of Commerce for Technology

DEPARTMENT OF TRANSPORTATION

Gordon J. Linton, of Pennsylvania, to be Federal Transit Administrator.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Nelson A. Diaz, of Pennsylvania, to be General Counsel of the Department of Housing and Urban Development.

STATEMENT ON THE NOMINATION OF LIONEL S. JOHNS

Mr. HOLLINGS. Mr. President, I am pleased that the Senate is now considering the nomination of Lionel Skipwith Johns to be Associate Director of the Office of Science and Technology [OSTP].

As a member of the Board of the Office of Technology Assessment [OTA], I have been acquainted with Skip Johns and his fine work for a long time. He brings to his job years of experience in government service. He has worked at OTA for many years, under OSTP Director Gibbons and other OTA directors, most notably as OTA's Assistant Director for Energy, Materials, and International Security. Dr. Gibbons has indicated that, if confirmed as an Associate Director of OSTP, Mr. Johns will focus on technology and space issues. These matters are of particular interest to me and of great importance to the future direction of U.S. technology competitiveness and scientific advancement.

I fully endorse Skip's nomination and I urge the Senate to do the same.

STATEMENT ON THE NOMINATION OF JOLENE M. MOLITORIS

Mr. HOLLINGS. Mr. President, today the Senate is considering the nomination of Jolene Molitoris, of Ohio, to be Administrator of the Federal Railroad Administration within the Department of Transportation. This position is an important one, and this nominee will bring to the position management experience as well as knowledge of rail transportation policy issues.

If confirmed as FRA Administrator, Ms. Molitoris will be responsible for administering and enforcing the railroad safety law of the United States. The FRA also plays a critical role in implementing Federal policies intended to ensure the vitality and econmic health of the Nation's railroads, rail labor, and the railroad supply industry. In addition, if confirmed, Ms. Molitoris will be confronted with decisions regarding many important rail issues, including the appropriate role and mission of the National Railroad Passenger Corporation [Amtrak], as well as proposals for an increased Federal role in promoting the development of new high-speed ground transportation systems in this country. These challenges will require significant effort and commitment on the part of the FRA Administrator.

The nominee has strong experience in rail transportation and agency management at the State level. Ms. Molitoris has served as deputy director of the Ohio Department of Transportation and has held a number of other senior executive positions over the past 15 years with both the Ohio DOT and the Ohio Rail Transportation Authority.

Mr. President, Ms. Molitoris is very qualified and I urge the Senate to confirm her as soon as possible.

STATEMENT ON THE NOMINATION OF LOUISE FRANKEL STOLL

Mr. HOLLINGS. Mr. President, I rise today in support of the nomination of Louise Frankel Stoll, of California, to be Assistant Secretary of Transportation for Budget and Programs.

The Assistant Secretary for Budget and Programs is the principal staff advisor to the Secretary of Transportation on the development, review, and presentation of the Department of Transportation's [DOT] budget resource requirements and on the evaluation and oversight of DOT programs. Any Government budget position is an important one, and this oné is especially so, since Ms. Stoll will be helping the Secretary to balance the Nation's transportation needs against the call for deficit reduction and fiscal constraint.

Prior to her nomination, from 1985 to 1993, Ms. Stoll was senior vice president and northern California regional manager for O'Brien-Kreitzberg and Associates, Inc., a construction management firm. She served as budget director for the San Francisco Public Utilities Commission from 1980 to 1985 and manager of government affairs of the San Francisco Clean Water Program from 1978 to 1980. Ms. Stoll served as an elected school board member of the Berkeley, CA, Unified School District from 1971 to 1978.

Ms. Stoll will bring excellent management skills to her new position. I am enthusiastic about her appointment and I urge the Senate to expedite her confirmation.

STATEMENT ON THE NOMINATION OF LORETTA L. DUNN

Mr. HOLLINGS. Mr. President, I am pleased that the Senate is now considering the nomination of Loretta L. Dunn to be Assistant Secretary of Commerce for Legislative and Intergovernmental Affairs.

I have known Loretta a long time and I can assure my colleagues that she will bring experience and enthusiasm to this important position. Loretta served as staff counsel to the Commerce Committee for 14 years, from 1979 through early 1993. From 1987, she distinguished herself as senior counsel to the Subcommittee on Foreign Commerce and Tourism.

Loretta is a skilled attorney and a genuine expert in the field of trade policy. Over the years, she has served me and other members of the committee with tremendous dedication, talent, and hard work. Loretta is a daughter of the State of Kentucky, where she earned a B.A. and law degree at the University of Kentucky, before moving on to Georgetown Law School to earn her LL.M. degree. Loretta is indeed a thoroughbred, who has earned the great respect of all those with whom she has worked.

Loretta is an inspired choice to serve the administration as Assistant Secretary of Commerce for Legislative and Intergovernmental Affairs. She has a thorough grasp of the Commerce Department and its complex jurisdiction. She knows the Senate, and we know her. I have no doubt that Loretta will fulfill her new duties with enormous ability and dedication. I know that I speak for all the committee members and staff in saying that we will truly miss her, but look forward to continued efforts together.

STATEMENT ON THE NOMINATION OF MARY LOWE GOOD

Mr. HOLLINGS. Mr. President, I rise today to speak on behalf of the nomination of Mary Lowe Good to be Under Secretary of Commerce for Technology.

The Under Secretary is the Federal Government's main civilian technology official, and oversees, among other agencies, the National Institute of Standards and Technology. Dr. Good is an excellent choice for this job. She brings a wealth of scientific, business and Government experience to the position of Under Secretary for Technology—a Ph.D. in chemistry; 26 years of teaching and research as a university professor; over 12 years of industry experience at Allied Signal, Inc., most recently as senior vice president for Technology; and a wide range of Government advisory posts, including membership on the President's Council of Advisors on Science and Technology and 11 years on the National Science Board, including three as Chair.

The President has nominated her at a crucial time, when the Nation's economic needs have now become a top priority for Federal research and development policy. If confirmed, she will play a pivotal role in reorienting research and technology programs and other Federal policies to the realities of the post-cold war world.

I am pleased the Senate is considering Dr. Good's nomination at this time and I urge its speedy confirmation.

ACTION VITIATED ON EXECUTIVE CALENDAR NO. 317

Mr. SARBANES. Mr. President, I ask unanimous consent that the action just taken on Calendar No. 317 be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

UNANIMOUS-CONSENT AGREEMENT—NOMINATION OF LOUIS J. FREEH, EXECUTIVE CALENDAR NO. 315

Mr. SARBANES. Mr. President, as in executive session, I ask unanimous consent that the majority leader, after consultation with the minority leader, may at any time turn to the consideration of the nomination of Louis J. Freeh, to be Director of the Federal Bureau of Investigation, Executive Calendar 315; that there be 10 minutes for debate, divided and controlled in the usual form, between the Senator from Delaware [Mr. BIDEN] and the Senator from Utah [Mr. HATCH]; that any statements be inserted in the RECORD as if read; that when all time is used or yielded back, the Senate vote, without any intervening action, on the nomination; and that upon confirmation, the motion to reconsider be laid upon the table; and that the President be immediately notified of the Senate's action.

The PRESIDING OFFICER. Without objection, it is so ordered.

SMALL BUSINESS GUARANTEED CREDIT ENHANCEMENT ACT OF 1993

Mr. SARBANES. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1274.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1274) entitled "An Act to reduce the subsidy cost for the Guaranteed Business Loan Program of the Small Business Administration, and for other purposes," do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Small Business Guaranteed Credit Enhancement Act of 1993".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. General authorizations.
Sec. 3. Authority to impose secondary market fees.
Sec. 4. Penalties.
Sec. 5. Authority to reduce loan guarantee percentages.
Sec. 6. Study and report.

Sec. 7. Repealer.
Sec. 8. Microloan program amendments.
Sec. 9. Small Business Development Center Program.
Sec. 10. White House Conference on Small Business.
Sec. 11. National Women's Business Council.

SEC. 2. GENERAL AUTHORIZATIONS.

Section 20 of the Small Business Act (15 U.S.C. 631 note) is amended—

(1) in subsection (g)(2) by striking "$7,030,000,000" and by inserting in lieu thereof "$7,155,000,000";

(2) in subsection (g)(2) by striking "$775,000,000" and by inserting in lieu thereof "$900,000,000";

(3) in subsection (i)(2) by striking "$8,083,000,000" and by inserting in lieu thereof "$8,458,000,000"; and

(4) in subsection (i)(2) by striking "$825,000,000" and by inserting in lieu thereof "$1,200,000,000".

SEC. 3. AUTHORITY TO IMPOSE SECONDARY MARKET FEES.

(a) ADDITIONAL GUARANTEE FEES.—Section 5(g) of the Small Business Act (15 U.S.C. 634) is amended by striking paragraph (4) and by inserting in lieu thereof the following:

"(4)(A) The Administration may collect the following fees for loan guarantees sold into the secondary market pursuant to the provisions of subsection (f): an amount equal to (A) not more than 4/10 of one percent per year of the outstanding principal amount of the portion of such loan guaranteed by the Administration, and (B) not more than 50 percent of the portion of the sale price which is in excess of 110 percent of the outstanding principal amount of the portion of such loan guaranteed by the Administration. Any such fees imposed by the Administration shall be collected by the Administration or by the agent which carries out on behalf of the Administration the central registration functions required by subsection (h) of this section and shall be paid to the Administration and used solely to reduce the subsidy on loans guaranteed under section 7(a) of this Act: Provided, That such fees shall not be charged to the borrower whose loan is guaranteed: and, Provided further, That nothing herein shall preclude any agent of the Administration from collecting a fee approved by the Administration for the functions described in subsection (h)(2).

"(B) The Administration is authorized to impose and collect, either directly or through a fiscal and transfer agent, a reasonable penalty on late payments of the fee authorized under subparagraph (A) in an amount not to exceed 5 percent of such fee per month plus interest.".

(b) Any new fees imposed by the Administration pursuant to the authority conferred by subsection (a) shall be applicable only to loans initially sold in the secondary market pursuant to the provisions of section 5(f) of the Small Business Act after August 31, 1993.

SEC. 4. PENALTIES.

Section 7(a) of the Small Business Act (15 U.S.C. 636(a)) is amended by adding at the end the following new paragraph:

"(22) The Administration is authorized to permit participating lenders to impose and collect a reasonable penalty fee on late payments of loans guaranteed under this subsection in an amount not to exceed 5 percent of the monthly loan payment per month plus interest.".

SEC. 5. AUTHORITY TO REDUCE LOAN GUARANTEE PERCENTAGES.

(a) GUARANTEE PERCENTAGES.—Section 7(a)(2) of the Small Business Act (15 U.S.C. 636) is amended—

(1) by striking from the end of clause (B)(i) the word "and" and by redesignating clause (B)(ii) as (B)(iv) and by inserting the following after clause (B)(i):

"(ii) not less than 75 percent of the financing outstanding at the time of disbursement, if such financing is more than $155,000 and the period of maturity of such financing is more than 10 years, except that the participation by the Administration may be reduced below 75 percent upon request of the participating lender;

"(iii) not less than 85 percent of the financing outstanding at the time of disbursement, if such financing is more than $155,000 and the period of maturity of such financing is 10 years or less, except that the participation by the Administration may be reduced below 85 percent upon request of the participating lender; and";

(2) by striking the words "85 percent under subparagraph (B)" and by inserting in lieu thereof the following: "the above specified percentums";

(3) by striking from paragraph (B) the words "not less than 80 percent, except upon" and by inserting in lieu thereof the following: "not less than 70 percent, unless a lesser percent is required by clause (B)(ii) or upon the"; and

(4) by inserting after the third sentence the following: "The maximum interest rate for a loan guaranteed under the Preferred Lenders Program shall not exceed the maximum interest rate, as determined by the Administration, which is made applicable to other loan guarantees under section 7(a).".

(b) APPLICATION.—Notwithstanding any other provision of law, the amendments made by subsection (a) shall be effective September 1, 1993, but shall not be applicable to loan guarantee applications received by the Administration prior to August 21, 1993. In order to determine the percent of the loan to be guaranteed pursuant to the amendments made by subsection (a), the Administration shall aggregate the outstanding guaranteed principal of multiple loan guarantees issued on behalf of the same borrower.

SEC. 6. STUDY AND REPORT.

The Administration shall study, monitor and evaluate the impact of the amendments made by sections 3 and 5 of this Act on the ability of small business concerns and small business concerns owned and controlled by minorities and women, to obtain financing and the impact of such sections on the effectiveness, viability and growth of the secondary market authorized by section 5(f) of the Small Business Act. Not later than 16 months after the date of enactment, and annually thereafter, the Administration shall submit to the Committees on Small Business of the Senate and the House of Representatives a report containing the Administration's findings and recommendations on such impact, specifically including changes in the interest rates on financings provided to small business concerns and small business concerns owned and controlled by minorities and women, through the use of the secondary market. The Administration shall segregate such findings and recommendations in the study according to the ethnic and gender components in these categories. Solely for the purposes of the study authorized herein, the term "small business concerns owned and controlled by minorities", includes businesses owned and controlled by individuals belonging to one of the designated groups listed in section 8(d)(3)(C) of the Small Business Act.

SEC. 7. REPEALER.

Sections 3 and 5 of this Act are hereby repealed on September 30, 1996.

SEC. 8. MICROLOAN PROGRAM AMENDMENTS.

Section 7(m) of the Small Business Act (15 U.S.C. 636(m)) is amended—

(1) in paragraph (1)(B)(iii), by striking "$15,000" and inserting "$25,000";

(2) in paragraph (5)(A), by striking "6 grants" and inserting "25 grants for terms of up to 5 years"; and

(3) in paragraph (9)(B) by striking "3 percent" and inserting "7 percent".

SEC. 9. SMALL BUSINESS DEVELOPMENT CENTER PROGRAM.

(a) CLEARINGHOUSE.—Section 21(c)(7) of the Small Business Act (15 U.S.C. 648) is amended by striking "system which will" and by inserting in lieu thereof the following: "system. Subject to amounts approved in advance in appropriations acts, the Administration may make grants or enter cooperative agreements with one or more centers to carry out the provisions of this paragraph. Said grants or cooperative agreements shall be awarded for periods of no more than five years duration. The matching funds provisions of subsection (a) shall not be applicable to grants or cooperative agreements under this paragraph. The system shall".

(b) AUTHORIZATION.—Section 25(i) of the Small Business Act (15 U.S.C. 652) is amended by striking "$8,000,000 for fiscal year 1993" and by inserting in lieu thereof "$2,000,000 for each of fiscal years 1993 and 1994".

(c) REGULATIONS.—Section 223 of the Small Business Credit and Business Opportunity Enhancement Act of 1992 (15 U.S.C. 631 note) is amended by striking the last sentence of subsection (b).

SEC. 10. WHITE HOUSE CONFERENCE ON SMALL BUSINESS.

The White House Conference on Small Business Authorization Act (15 U.S.C. 631 note) is amended—

(1) in section 2 by striking from subsection (a) "not earlier than January 1, 1994, and not later than April 1, 1994" and by inserting in lieu thereof "not earlier than May 1, 1995, and not later than September 30, 1995";

(2) in section 2 by striking from subsection (a) "December 1, 1992" and by inserting in lieu thereof "March 1, 1994"; and

(3) in sections 5 by striking the second sentence of subsection (a) and by inserting in lieu thereof the following: "Subsequent to the date of enactment of this Act, but not later than 30 days after the date of enactment of this Act, the President shall select and appoint eleven individuals to the Commission.".

SEC. 11. NATIONAL WOMEN'S BUSINESS COUNCIL.

Section 407 of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note) is amended to read as follows:

"SEC. 407. AUTHORIZATION.

"(a) IN GENERAL.—There are authorized to be appropriated to carry out this title—

"(1) $500,000 for fiscal year 1993; and

"(2) $500,000 for fiscal year 1994.

"(b) LIMITATION ON AUTHORITY.—New spending authority or authority to enter into contracts as authorized in this Act shall be effective only to such extent and in such amounts as are provided in advance in appropriation Acts.

"(c) SUNSET.—This section shall cease to be effective on November 30, 1995.".

Mr. BUMPERS. Mr. President, I urge the Senate to accept the House amendment to S. 1274, which the Senate passed on July 30. The bill as amended by the House is, with the exception of one provision, substantially the same as the bill which was favorably reported by a unanimous vote of the Senate Committee on Small Business on July 28. This legislation is intended to ensure the availability of SBA's Business Loan Guaranty Program by cutting the cost of loan guarantees in half, insofar as the Government and the taxpayer are concerned.

The key difference with the House amendment is section 3 which replaces the Senate's annual fee of one-quarter of 1 percent on the declining principal balance of all 7(a) guaranteed business loans with an annual fee of four-tenths of 1 percent imposed only on the declining principal balance of any such loans sold in the secondary market. The House provision was contained in H.R. 2766, which passed the House on August 2, 1993. I would like the record to show that I was not persuaded that the House provision is the correct one, but I am persuaded that we need a bill and we need one now.

Mr. President, S. 1274 enables the SBA to do more with less and to respond to the markedly increased demand for 7(a) guaranteed business loans. The reforms contained in S. 1274 will reduce the Government's cost of operating the 7(a) program and enable the fiscal year 1994 appropriations to guarantee more than twice the amount of 7(a) business loans as would be the case without this bill. The changes contained in this bill will increase the estimated fiscal year 1994 section 7(a) program level from $3.2 billion to over $7 billion.

In addition, the prompt actions of this body and our House colleagues will enable the cost reductions to take effect in fiscal year 1993, which will increase the fiscal year 1994 guaranteed loan program level by almost $1 billion. Happily, the $8 billion program will be available to the small business community in fiscal year 1994 at no additional cost. Millions of small businesses will benefit from the increased guaranteed loan funds made possible through the changes included in S. 1274.

In the interest of time and in lieu of a report, I have attached a section-by-section analysis of S. 1274 as amended by the House and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1274, THE SMALL BUSINESS GUARANTEED CREDIT ENHANCEMENT ACT OF 1993

(House Amendment to Senate Committee Substitute passed the House of Representatives: 8/4/93)

SECTION-BY-SECTION ANALYSIS

Section 1. Short title, table of contents.

The short title of S. 1274 is "The Small Business Guaranteed Credit Enhancement Act of 1993."

Section 2. General authorizations for fiscal years 1993 and 1994.

This section amends section 20 of the Small Business Act (15 U.S.C. 631 note) to increase the authorizations of appropriations for the Small Business Administration's (SBA's) 504 Development Company program (504 program). The 504 program authorizations are increased for fiscal year 1993 from $775 million to $900 million, and for fiscal year 1994 from $825 million to $1.2 billion. The increases contained in this section are in response to escalating demand for the program during fiscal years 1992 and 1993 due to reluctance on the part of the lenders small business loans in general and small business plant and equipment loans in particular. Indications are that fiscal year 1994 demand for the program will also exceed the program level initially anticipated.

The increased authorization will enable SBA to act on its fiscal year 1993 reprogramming request for the 504 program, which was submitted to Congress in response to the increased program demand.

Section 3. Authority to impose secondary market fees.

This section amends section 5(g) of the Small Business Act (15 U.S.C. 634(g)) to authorize the SBA to collect two fees from lenders who sell the guaranteed portions of their SBA 7(a) guaranteed loans in the secondary market. These fees represent two of the four 7(a) guaranteed business loan program changes intended to reduce the subsidy rate applied to the program under the requirements of the Credit Reform Act of 1990. Reducing the subsidy rate will enable the funds appropriated in fiscal year 1994 and later years to support higher 7(a) program levels. These changes, together with those in section 5 of this act, result from the markedly increased demand for the 7(a) program over the last two years and the likelihood that the high demand will continue or increase further during fiscal 1994 and beyond.

The first program change is the imposition of an annual 40 basis point, or four-tenths of one percent, fee on the outstanding principal of each guaranteed portion sold in the secondary market. The second change authorizes SBA to collect an "excess premium fee" on guaranteed portions of 7(a) loans which are sold in the secondary market at more than 110 percent of their face value. The amount of the fee would be equal to half of the amount of the sale price which exceeds 110 percent of the face value of the portion sold. For example, if the guaranteed portion of a loan were $100 thousand and its sale price on the secondary market were $114 thousand, this section would require the lender selling the guaranteed portion to remit to SBA one half of the amount above $110 thousand, or $2 thousand.

This section also authorizes SBA, either directly or through its Fiscal and Transfer Agent to charge a penalty on late payments of either fee. The amount of the penalty may be up to 5 percent of the fee per month plus interest. The authority to charge a late penalty is intended to assist SBA and its Fiscal and Transfer Agent in collecting timely payments of the newly authorized fees. The fees authorized by this section are effective on guaranteed portions of 7(a) loans sold in the secondary market after August 31, 1993 and expire on September 30, 1996. It is expected the SBA will have the 7(a) program changes implemented by September 1, 1993, including those authorized by section 5 of this Act, so that credit subsidy savings can be obtained in fiscal year 1993.

This section also prohibits the fees to be paid by the borrowers and clarifies that the fees are in addition to any otherwise authorized to be collected by SBA pursuant to section 5(h) of the Small Business Act (15 U.S.C. 634(h)).

Section 4. Penalties.

This section adds a new paragraph (22) to section 7(a) of the Small Business Act (15 U.S.C. 636(a)) which authorizes SBA to collect a reasonable penalty on late payments of loans guaranteed by SBA under section 7(a). On a monthly basis, the late penalty may not exceed 5 percent of the monthly loan payment, plus interest. This authority is to assist SBA in enforcing timely payments by borrowers of 7(a) guaranteed loans.

Section 5. Guaranteed business loan program amendments.

Section 5 amends section 7(a) of the Small Business Act (15 U.S.C. 636(a)) to make two changes to other aspects of the 7(a) guaranteed business loan program. The first change amends section 7(a)(2) of the Small Business Act (15 U.S.C. 636(a)(2)) to decrease the percentage of a 7(a) loan that SBA is authorized to guarantee in cases where the loan amounts exceed $155,000 and the maturities of the loans exceeds ten years. In such cases, SBA is authorized to guarantee up to 75 percent of the loan amount.

The second change also amends section 7(a)(2) of the Small Business Act (15 U.S.C. 636(a)(2)) to reduce the percentage of a 7(a) loan that SBA is authorized to guarantee in cases where the lender making the loan is participating in SBA's Preferred Lender program (PLP). Under this provision, SBA would be authorized to guarantee up to 70 percent of a 7(a) loan made in the PLP program.

Preferred Lenders are those lenders with proven track records in the 7(a) program to whom SBA delegates guarantee authority. SBA does not review each loan made by a preferred lender. In exchange for such delegation, the preferred lenders have traditionally received lower guarantees and consequently have assumed greater risks with respect to the loans made under this program.

In order to ensure that the effect of the lower guarantee percentage for preferred lenders is not passed on to the borrowers, this section also amends section 7(a)(2) to cap the interest rate that may be charged by a preferred lender. Prior to this legislation, there was no ceiling on interest rates in the Preferred Lender Program. This section ties the PLP interest rates to interest rate applicable to so-called "regular" 7(a) loans and those made in the Certified Lender Program. SBA has set those rates by regulation. Should SBA change the interest rates for the regular 7(a) program, the interest rates for PLP loans would change accordingly.

Section 6. Study and report.

This section requires SBA to study, monitor and evaluate the impact of the changes to the 7(a) program on the ability of small businesses and minority-owned and women-owned small businesses to obtain financing. It also requires SBA to study the impact of the changes on the viability and growth of the 7(a) guaranteed loan secondary market. SBA is required to submit a report of its findings on the impact of the changes to the Congressional Committees on Small Business not later than 16 months after the date of enactment of this Act.

Section 7. Repealer.

This section repeals the 7(a) program changes contained in sections 3 and 5 of this Act on September 30, 1996.

Section 8. Microloan program amendments.

This section amends section 7(m) of the Small Business Act (15 U.S.C. 636(m)) to make changes to the Microloan Demonstration Program. One change would increase the maximum loan amount permitted under this program for participants that receive SBA technical assistance grants only, as opposed to grants and loans from the SBA. Participants which borrow loan funds and receive technical assistance grants (often called intermediaries) are currently permitted to make microloans in amounts up to $25,000. Those participants receiving grants only but using their own loan funds to make microloans are limited to microloans of $15,000 or less. This change would make the maximum microloan amount uniform throughout the Microloan Demonstration Program.

Currently six Microloan program participants receive grants only. This section would increase that number to permit SBA to make up to 25 grants each year for terms of up to five years. In the fiscal year 1993 funding cycle, SBA received a large number of applications for this type of Microloan program participation. Since the Microloan program is a demonstration program, this type of program participation should be tested more widely so that it can be appropriately evaluated at the end of the demonstration period.

The last issue addressed by this section is funding of training for microloan intermediaries. As the program has expanded, Congress has authorized and appropriated funds for training of the intermediaries in order to maintain the high level of operations that exists among the most experienced intermediaries after whom the program was modelled. To further that goal, this section would authorize SBA to use 7 percent of the funds appropriated for microloans for intermediary training.

Section 9. Small business development center program.

This section makes three changes to the Small Business Development Center (SBDC program). First it amends section 21(c)(7) of the Small Business Act (15 U.S.C. 648) to authorize SBA to make grants or cooperative agreements with one or more SBDC to operate the SBDC Clearinghouse. The durations of such grants or cooperative agreements may not exceed 5 years, and matching funds, required for other aspects of the SBDC program are not required for grants or cooperative agreements to operate of the Clearinghouse.

Second, this section amends section 25(i) of the Small Business Act (15 U.S.C. 652) which authorizes appropriations for the Central European Small Business Development Center program. For that purpose, this section authorizes $2 million each for fiscal years 1993 and 1994.

Finally, this section deletes the restriction on SBA with respect to publishing regulations for the SBDC program. The restriction is deleted from section 223(b) of the Small Business Credit and Business Opportunity Enhancement Act of 1992.

Section 10. White House conference on small business.

This section amends section 2 of the White House Conference on Small Business Authorization Act (15 U.S.C. 631 note) to change the state date for the local and regional conferences to March 1, 1994 and the time frame for the national conference to be between May 1, 1995 and September 30, 1995.

This section also amends section 5(a) of the same act to require the President to appoint eleven commissioners to the White House Conference on Small Business within 30 days after the enactment of the Small Business Guaranteed Credit Enhancement Act of 1993.

Section 11. National Women's Business Council.

This section amends Section 407 of the Women's Business Ownership Act of 1988 (Pub. L. 100-533) by authorizing $500,000 per year to carry out the activities of the council in fiscal years 1993 and 1994. This authorization will cease to be effective November 30, 1995.

Mr. KOHL. Mr. President, I just want to take a moment to commend Chairman BUMPERS for his work to reform and improve the Small Business Administration's 7(a) loan guarantee program. I was an original cosponsor of the Small Business Credit Reform Act of 1993, and I am pleased that we will soon pass this bill and send it to President Clinton for his signature.

Recognizing the importance of extending credit to American small businesses, Senator BUMPERS has taken this successful program by the horns and made it a better animal. By reducing guarantee costs, the Federal Government will now be able to leverage twice the 7(a) loan volume previously available to small businesses. In other words, we will get more than twice the bang for the buck, $7 billion of loans instead of $3 billion.

Even better, because Senator BUMPERS acted on this legislation so quickly, OMB has agreed to apply the savings to the 7(a) funds remaining from the supplemental appropriations bill we passed earlier this summer. That means small businesses will have access to about $1 billion more in 7(a) loans than would otherwise have been available under the supplementary package.

Twice as many loans, twice as many jobs, without costing taxpayers an extra dime.

As we all know, earlier this year the 7(a) program shut down for 10 weeks because demand for SBA loans has been so great. When we found the program more money, the SBA, under the able leadership of Erskine Bowles, processed the 10-week backlog in just 1 week. Lately, the 7(a) program has been praised so widely that it is hard to find superlatives that have not already been used. So I am not going to try. Instead, let me just say that I think this is a perfect example of how Members on both sides of the aisle can work together to the people's advantage. It is government at its best, and we need more of it.

Mr. PRESSLER. Mr. President, I rise today, as ranking member of the Small Business Committee, to offer tempered support for S. 1274. This legislation accomplishes many important reforms that will help small businesses across the country. However, it also contains some provisions which will need to be reviewed in the future. Before I address these points, I want to applaud the efforts and hard work of the committee's chairman, Senator BUMPERS. He helped identify the need for this legislation and has steered it quickly and effectively through the Senate and Congress.

The centerpiece of S. 1274 is a set of reforms to the Small Business Administration's [SBA] 7(a) Loan Guarantee Program that will help extend the ability of the SBA to meet the expected increase in demand for capital in the small business community. The 7(a) program is a winner in my home State of South Dakota. By mid-July, South Dakota banks already had made 225 7(a) loans. Many of these loans were small, but over one-third were more than $155,000. Clearly the 7(a) program benefits not only South Dakota, but every State across the country.

Recently, action needed to be taken to extend the annual appropriation for the 7(a) loan guarantee program so that it could meet the rising demand for capital in the country. Since the onset of the credit crunch several years ago, many small businesses have found the 7(a) loan guarantee program to mean the difference between keeping their doors open or closing and putting their employees in line to receive unemployment benefits.

Now, just as many companies in the private sector are trimming their overhead, so too does the Federal Government need to do more with less. S. 1274 reduces the subsidy rate for the 7(a) program by roughly half. This will allow the same amount of money to go twice as far. Also, passing these reforms before August recess will allow the Office of Management and Budget [OMB] to rescore the remaining appropriation for this fiscal year and provide around $1 billion in additional loan guarantee authority—some of which can be carried over to next year to keep the 7(a) program running.

There are many different ways to lower the subsidy rate. I preferred a method originally offered by Chairman BUMPERS and passed by the Senate that would have spread a lighter burden across the 7(a) lending community. The House of Representatives preferred to impose a heavier burden only on those banks that sell their loans in the secondary market. I consider this to be an inferior method because it unfairly targets those banks using the secondary market. Some argue this is appropriate because these banks make significant profits by selling loans. In fact, however, banks that hold their loans make a greater profit than those that sell their loans in the secondary market. This profit differential has been demonstrated in testimony before Congress.

Smaller banks generally use the secondary market more than larger banks. Smaller banks choose, or are forced, to sacrifice profits in order to achieve greater liquidity and satisfy Federal capital requirements. I plan to follow how this new fee affects smaller banks, and will consider revisiting this issue the next time we review the 7(a) program. I will not do so now as it is very important we pass this bill prior to the recess so that small businesses can receive the additional $1 billion in funds for the 7(a) program in the immediate future.

It also is important that we pass this bill prior to the recess for another reason. According to the SBA, its 504 program will reach its current authorization limit of $775 million sometime between late this month and early September. We tend not to hear too much about the 504 program, largely because it works so well. However, the certified development companies that make 504 loans are creating one new job for every $8,900 they loan. Indeed, because Government dollars in the program are leveraged by an incredible subsidy rate of 0.54 percent, each new job created by the program costs less than $50 in Federal funds.

We cannot allow such an effective job-creating program to shut down. S. 1274 would raise the program's authorization level for fiscal year 1993 to $900 million and keep the program operating. It would do so without spending any additional money as the SBA plans to reprogram funds from other accounts to meet additional 504 demand. This bill simply gives SBA the authority to do so.

Mr. President, S. 1274 also contains reauthorization for the National Women's Business Council through fiscal year 1994. I am interested in studying this organization further—both its function and accomplishments. This interest is shared by others on this side of the aisle. I believe a hearing on the National Women's Business Council would be an appropriate way to proceed.

This legislation will make a tremendous difference for the small business community across the country. I sincerely hope it will allow us to go an entire year without a supplemental appropriation for the 7(a) program. I believe we owe that to our Nation's small business owners.

Mr. SARBANES. Mr. President, I move that the Senator concur in the House amendment.

The motion was agreed to.

Mr. SARBANES. Mr. President, I move to reconsider the vote by which the motion was agreed to, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL HISTORICALLY BLACK COLLEGES AND UNIVERSITIES WEEK

Mr. SARBANES. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of Senate Joint Resolution 21 to designate the National Historically Black Colleges and Universities Week; that the Senate proceed to its immediate consideration; that the joint resolution be read three times, passed, the motion to reconsider laid upon the table, and the preamble agreed to. Further, that any statements relating to this measure appear in the RECORD at the appropriate place.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the joint resolution (S.J. Res. 21) was passed.

The preamble was agreed to.

The joint resolution and its preamble are as follows:

S.J. RES. 21

Whereas there are 104 historically black colleges and universities in the United States;

Whereas such colleges and universities provide the quality education so essential to full participation in a complex, highly technological society;

Whereas black colleges and universities have a rich heritage and have played a prominent role in American history;

Whereas such institutions have allowed many underprivileged students to attain their full potential through higher education; and

Whereas the achievements and goals of the historically black colleges and universities are deserving of national recognition: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning September 19, 1993, is designated as "National Historically Black Colleges and Universities Week" and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States and interested groups to observe each such week with appropriate ceremonies, activities and programs, thereby demonstrating support for historically black colleges and universities in the United States.

DEVELOPMENTAL DISABILITIES ASSISTANCE AND BILL OF RIGHTS ACT AMENDMENTS OF 1993

Mr. SARBANES. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 178, S. 1284, a bill to amend the Developmental Disabilities Assistance and Bill of Rights Act; that the bill be read three times, passed, the motion to reconsider laid upon the table, and that any statements relating to this measure appear in the RECORD at the appropriate place.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. Mr. President, I rise today in strong support of S. 1284, the Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1993. This is a truly bipartisan, consensus bill. S. 1284 is cosponsored by Senators DURENBERGER, KENNEDY, JEFFORDS, METZENBAUM, SIMON, WELLSTONE, WOFFORD, DOLE, PELL, and HATCH.

I particularly want to acknowledge Senator DURENBERGER, the ranking member of the Subcommittee on Disability Policy, for his wisdom and counsel during this process. He and Susan Heegaard of his staff have worked long and hard on this bill and they deserve credit for their commitment to the consensus building process that made this bill possible. I would also like to thank Senator KENNEDY, the chair of the Committee on Labor and Human Resources, and Senator KASSEBAUM, the ranking member of the full committee for their support. In addition, we enjoyed input from a number of our distinguished colleagues here in the Senate from both sides of the aisle.

I also want to thank my staff, including Bobby Silverstein, Ansley Bacon, and Walter Harp, for their contribution to this legislation. I particularly want to acknowledge Ansley Bacon, who is a congressional fellow with the Subcommittee on Disability Policy. She worked very effectively with the Consortium for Citizens With Disabilities, the Senate staff, and many individuals and organizations to build consensus around this bill. Her experience with the programs authorized under this Act was invaluable during the reauthorization process.

As we worked on the reauthorization of this legislation, we had the assistance of many organizations, groups, and individuals. In particular, I want to express my gratitude to the Developmental Disabilities Task Force of the Consortium for Citizens With Disabilities. This Task Force is made up of 21 organizations with members across the country. Their thoughtful comments and ideas have been so helpful in this process.

On July 26, 1990, the President signed into law the Americans With Disabilities Act of 1990. I am proud to have been the chief sponsor of the ADA. I have referred to the ADA as the 20th century emancipation proclamation for individuals with disabilities. The ADA represents the philosophy of inclusion, empowerment, and elimination of barriers in society that keep persons with disabilities from fully participating in the economic, political, social, cultural, and educational mainstream of American society.

We have just recently celebrated the third anniversary of the ADA, on July 26, 1993. We can all be proud of this landmark legislation, but obviously our work is not done. We cannot rest until we have established a national disability policy that is based on the values and percepts of the ADA: empowerment, inclusion, and independence.

In other words, we need a national disability policy based on the following principles:

Individuals with disabilities are entitled to be treated with dignity and respect;

Individuals with disabilities are entitled to make informed choices and decisions;

Individuals with disabilities are entitled to live in their own homes and communities where they can be fully included in all aspects of American life and make meaningful contributions to their families, community, State, and Nation;

Individuals with disabilities and their families must be provided with the services and supports necessary to transform these goals into realities.

Last year we reauthorized the Rehabilitation Act of 1973, which contains two components of our national disability policy—vocational rehabilitation to provide people with disabilities with the necessary skills and support services to enable them to achieve their career goals and independent living services to ensure that people with disabilities are empowered to control their own lives and be fully included in all aspects of our society.

It is my expectation that Congress will enact legislation this year that addresses the need of people with disabilities for affordable health care, including the elimination of exclusion for preexisting conditions, and for consumer directed personal assistance services.

Today, we are considering the reauthorization of an additional piece of legislation that contains components of our national disability policy—the Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1993. This bill reauthorizes the Developmental Disabilities Assistance and Bill of Rights Act and amends the act to improve programs provided under the Act. The major purpose of this legislation is to assure that individuals with developmental disabilities and their families have access to culturally competent services, supports and other assistance and opportunities that promote independence, productivity, and integration and inclusion into the community.

I urge my colleagues to join me in support of S. 1284. It represents improvements that are essential if we are to see the dream of the Americans with Disabilities Act become a reality—an America where people with disabilities, including those with severe disabilities, are competitively employed in integrated work settings and are making meaningful contributions to their families and communities.

Mr. President, I ask unanimous consent that the following summary analysis of S. 1284 be included in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY ANALYSIS OF S. 1284

The Developmental Disabilities Assistance and Bill of Rights Act is a systemic change, capacity building, and advocacy Act and has four components: the basic State grant program carried out through the State Developmental Disabilities Councils, protection and advocacy systems, university affiliated programs, and projects of national significance.

As approved by the Committee on Labor and Human Resources, S. 1284 reauthorizes this Act and reaffirms the thrust of the four components of the Act and includes several amendments to update, clarify and strengthen the Act. Set out below is a summary of the major changes made by the Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1993.

Throughout the bill there are a number of technical and conforming amendments to accomplish the following purposes. First, the language in the Act is amended so that it is consistent with the language used in other Federal legislation such as the Americans with Disabilities Act, the Rehabilitation Act of 1973, the Individuals with Disabilities Education Act, and the Technology-Related Assistance for Individuals with Disabilities Act. The word "individual" replaces the word "person," and "people first" language is used so that the phrase "individual with a developmental disability" replaces the phrase "developmentally disabled individual." Consistency in the use of language across Federal disability legislation is important in the continued development of a coordinated national disability policy.

Second, the majority of technical and conforming amendments in the bill are intended to make the Act more "user friendly" by adding headings for sections, subsections, paragraphs and subparagraphs, and by grouping related provisions of the Act together.

FINDINGS, PURPOSE, AND POLICY

The bill specifies findings, purpose and policy that are consistent with the principles of the Americans with Disabilities Act, the Rehabilitation Act, and the Individuals with Disabilities Education Act. The findings include a provision that "disability is a natural part of the human experience and in no way diminishes the right of individuals with developmental disabilities to live independently, enjoy self-determination, make choices, contribute to society, and experience full integration and inclusion in the economic, political, social, cultural, and educational mainstream of American Society," and that the Nation's goals include "providing individuals with developmental disabilities with the opportunities and support to make informed choices and decisions; live in homes and communities in which such individuals can exercise their full rights and responsibilities as citizens; pursue meaningful and productive lives; contribute to the life of their family, community, State and Nation; have interdependent friendships and relationships with others; and achieve full integration and inclusion in society." The purpose is to assure that individuals with developmental disabilities and their families have access to culturally competent services, supports and other assistance and opportunities which promote independence, productivity, and integration and inclusion into the community. The policies include recognition of the decision-making roles played by individuals and their families; recognition that individuals with developmental disabilities and their families have competencies, capabilities and personal goals that should be recognized, supported, and encouraged; respect for individual dignity, personal preferences, and cultural differences; and community acceptance and support.

STATE DEVELOPMENTAL DISABILITIES COUNCILS

The bill maintains and strengthens the independence of the State Developmental Disabilities Councils (under the basic State grant program) to carry out systemic change, capacity building and advocacy activities which assist in developing a comprehensive system of services, supports and other assistance for individuals with developmental disabilities and their families. Provisions are included to clarify issues regarding Council membership, rotation of members, Council vacancies and appointments. The bill requires State Developmental Disabilities Councils to coordinate activities with other State councils, committees and programs concerned with individuals with disabilities, and to report systems change activities which affect people with disabilities other than developmental disabilities.

PROTECTION AND ADVOCACY SYSTEMS

The bill adds clarifying provisions regarding the role of protection and advocacy systems in each State to protect the legal and human rights of individuals with developmental disabilities. The bill provides for the opportunity for consumer groups to provide comments on the system as part of a federal review, and the addition of an Advisory Council for Protection and Advocacy Systems that are in State agencies. A new provision is added to provide for the protection and advocacy systems to have access at reasonable times and locations to individuals with developmental disabilities who reside in a facility that provides services, supports and other assistance. The bill creates a process for establishing an American Indian Consortium to provide a system of protection and advocacy to American Indians who live on Indian lands. Finally, the bill includes a provision that authorizes a 2 percent set-aside for technical assistance to Protection and Advocacy Systems, when appropriations increase to $24,500,000.

UNIVERSITY AFFILIATED PROGRAM

The bill strengthens and maintains the part of the legislation concerning university affiliated programs (UAPs) by providing for an updated description of the core activities of a UAP—preparation of personnel, community services (which includes community training and technical assistance and which may include direct services), and dissemination of information. The bill provides an additional topic area—the Americans with Disabilities Act—for UAP training projects. The bill provides for grants periods of up to 5 years for core awards and for training projects. Finally, the priorities for expansion of the network of university affiliated programs are provided as follows: continued support for existing UAPs that meet the requirements; the addition of two new UAPs in States which are unserved by a UAP; funding for training projects in every eligible UAP; an increase in the funding levels for training project awards to UAPs; an increase in the funding levels for core awards to UAPs; and expanding UAP activities into underserved states and regions.

PROJECTS OF NATIONAL SIGNIFICANCE

Finally, the bill authorizes the Secretary to make grants to, or enter into contracts with, public or nonprofit private entities for projects of national significance relating to individuals with developmental disabilities and their families to support ongoing data collection efforts, provide technical assistance, assist States in developing information and referral and service coordination systems, educate policy-makers, pursue federal interagency initiatives, and increasing the participation of individuals from minority groups in the programs authorized under this Act. In addition the bill requires a study of the expansion of Part B to people with disabilities other than developmental disabilities. Authorized projects include a study of State Developmental Disabilities Councils that are currently using an expanded definition, a study by up to five Councils that are considering an expansion of the definition, and a national project to analyze the experiences of the Councils and provide recommendations regarding expansion of the definition.

So the bill (S. 1284) was passed, as follows:

S. 1284

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1993".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. References.

TITLE I—GENERAL PROVISIONS

Sec. 101. Title and part headings.
Sec. 102. Findings and purposes.
Sec. 103. Definitions.
Sec. 104. Federal share.
Sec. 105. Records and audits.
Sec. 106. Recovery.
Sec. 107. State control of operations.
Sec. 108. Reports.
Sec. 109. Responsibilities of the Secretary.
Sec. 110. Employment of handicapped individuals.
Sec. 111. Rights of the developmentally disabled.

TITLE II—FEDERAL ASSISTANCE FOR PRIORITY AREA ACTIVITIES FOR INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES

Sec. 201. Part heading.
Sec. 202. Purpose.
Sec. 203. State plans.
Sec. 204. Habilitation plans.
Sec. 205. Councils.
Sec. 206. State allotments.
Sec. 207. Federal share and non-Federal share.
Sec. 208. Payments to the States for planning, administration, and services.
Sec. 209. Withholding of payments for planning, administration, and services.
Sec. 210. Nonduplication.
Sec. 211. Appeals by States.
Sec. 212. Authorization of appropriations.
Sec. 213. Review, analysis, and report.

TITLE III—PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS

Sec. 301. Part heading.
Sec. 302. Purpose.
Sec. 303. System required.
Sec. 304. Authorization of appropriations.

TITLE IV—UNIVERSITY AFFILIATED PROGRAMS

Sec. 401. Part heading.
Sec. 402. Purpose.
Sec. 403. Grant authority.
Sec. 404. Applications.
Sec. 405. Grant awards.
Sec. 406. Authorization of appropriations and definition.

TITLE V—PROJECTS OF NATIONAL SIGNIFICANCE

Sec. 501. Part heading.
Sec. 502. Purpose.
Sec. 503. Grant authority.
Sec. 504. Authorization of appropriations.

SEC. 2. REFERENCES.

Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6000 et seq.).

TITLE I—GENERAL PROVISIONS

SEC. 101. TITLE AND PART HEADINGS.

(a) TITLE.—The heading of title I of the Act is amended to read as follows:

"TITLE I—PROGRAMS FOR INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES".

(b) PART.—The heading of part A of title I of the Act is amended to read as follows:

"PART A—GENERAL PROVISIONS".

SEC. 102. FINDINGS AND PURPOSES.

Section 101 (42 U.S.C. 6000) is amended to read as follows:

"SEC. 101. FINDINGS, PURPOSES, AND POLICY.

"(a) FINDINGS.—The Congress finds that—

"(1) in 1993 there are more than 3,000,000 individuals with developmental disabilities in the United States;

"(2) disability is a natural part of the human experience and in no way diminishes the right of individuals with developmental disabilities to live independently, enjoy self-determination, make choices, contribute to society, and experience full integration and inclusion in the economic, political, social, cultural, and educational mainstream of American society;

"(3) individuals with developmental disabilities continually encounter various forms of discrimination in such critical areas as employment, housing, public accommodations, education, transportation, communication, recreation, institutionalization, health services, voting, and public services;

"(4) there is a lack of public awareness of the capabilities and competencies of individuals with developmental disabilities;

"(5) individuals whose disabilities occur during their developmental period frequently have severe disabilities that are likely to continue indefinitely;

"(6) individuals with developmental disabilities and their families often require specialized lifelong assistance, provided in a coordinated and culturally competent manner by many agencies, professionals, advocates, community representatives, and others to eliminate barriers and to meet the needs of such individuals and their families;

"(7) a substantial portion of individuals with developmental disabilities and their families do not have access to appropriate support and services from generic and specialized service systems and remain unserved or underserved;

"(8) family members, friends, and members of the community can play a central role in enhancing the lives of individuals with developmental disabilities, especially when the family and community are provided with the necessary services and supports; and

"(9) the goals of the Nation properly include the goal of providing individuals with developmental disabilities with the opportunities and support to—

"(A) make informed choices and decisions;

"(B) live in homes and communities in which such individuals can exercise their full rights and responsibilities as citizens;

"(C) pursue meaningful and productive lives;

"(D) contribute to their family, community, State, and Nation;

"(E) have interdependent friendships and relationships with others; and

"(F) achieve full integration and inclusion in society.

"(b) PURPOSE.—The purpose of this Act is to assure that individuals with developmental disabilities and their families have access to culturally competent services, supports, and other assistance and opportunities that promote independence, productivity, and integration and inclusion into the community, through—

"(1) support to State Developmental Disabilities Councils in each State to promote, through systemic change, capacity building, and advocacy, a consumer and family-centered, comprehensive system, and a coordinated array of services, supports, and other assistance for individuals with developmental disabilities and their families;

"(2) support to protection and advocacy systems in each State to protect the legal and human rights of individuals with developmental disabilities;

"(3) support to university affiliated programs to provide interdisciplinary preservice preparation of students and fellows, community service activities, and the dissemination of information and research findings; and

"(4) support to national initiatives to collect necessary data, provide technical assistance to State Developmental Disabilities Councils, protection, and advocacy systems and university affiliated programs, and support other nationally significant activities.

"(c) POLICY.—It is the policy of the United States that all programs, projects, and activities receiving assistance under this Act shall be carried out in a manner consistent with the principles that—

"(1) individuals with developmental disabilities, including those with the most severe developmental disabilities, are capable of achieving independence, productivity, and integration and inclusion into the community, and the provision of services, supports and other assistance can improve such individuals' ability to achieve independence, productivity, and integration and inclusion;

"(2) individuals with developmental disabilities and their families are the primary decisionmakers regarding the services and supports such individuals and their families receive and play decisionmaking roles in policies and programs that affect the lives of such individuals and their families;

"(3) individuals with developmental disabilities and their families have competencies, capabilities and personal goals that should be recognized, supported, and encouraged;

"(4) services, supports, and other assistance are provided in a manner that demonstrates respect for individual dignity, personal preferences, and cultural differences;

"(5) communities accept and support individuals with developmental disabilities and are enriched by the full and active participation and the contributions by individuals with developmental disabilities and their families; and

"(6) individuals with developmental disabilities have opportunities and the necessary support to be included in community life, have interdependent relationships, live in homes and communities, and make contributions to their families, community, State, and Nation.".

SEC. 103. DEFINITIONS.

Section 102 (42 U.S.C. 6001) is amended to read as follows:

"SEC. 102. DEFINITIONS.

"For purposes of this title:

"(1) AMERICAN INDIAN CONSORTIUM.—The term 'American Indian Consortium' means any confederation of two or more recognized American Indian tribes, created through the official action of each participating tribe, that has a combined total resident population of 150,000 enrolled tribal members and a contiguous territory of Indian lands in two or more States.

"(2) ASSISTIVE TECHNOLOGY DEVICE.—The term 'assistive technology device' means any item, piece of equipment, or product system, whether acquired commercially, modified or customized, that is used to increase, maintain, or improve functional capabilities of individuals with developmental disabilities.

"(3) ASSISTIVE TECHNOLOGY SERVICE.—The term 'assistive technology service' means any service that directly assists an individual with a developmental disability in the selection, acquisition, or use, of an assistive technology device. Such term includes—

"(A) the evaluation of the needs of an individual with a developmental disability, including a functional evaluation of such individual in such individual's customary environment;

"(B) purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by an individual with a developmental disability;

"(C) selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing or replacing assistive technology devices;

"(D) coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;

"(E) training or technical assistance for an individual with a developmental disability, or, where appropriate, the family of an individual with a developmental disability; and

"(F) training or technical assistance for professionals (including individuals providing education and rehabilitation services), employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of, an individual with developmental disabilities.

"(4) CHILD DEVELOPMENT ACTIVITIES.—The term 'child development activities' means such priority area activities as will assist in the prevention, identification, and alleviation of developmental disabilities in children, including early intervention services.

"(5) COMMUNITY LIVING ACTIVITIES.—The term 'community living activities' means such priority area activities as will assist individuals with developmental disabilities to obtain and receive the supports needed to live in their family home or a home of their own with individuals of their choice and to develop supports in the community.

"(6) COMMUNITY SUPPORTS.—The term 'community supports' means activities, services, supports, and other assistance designed to—

"(A) assist neighborhoods and communities to be more responsive to the needs of individuals with developmental disabilities and their families;

"(B) develop local networks that can provide informal support; and

"(C) make communities accessible and enable communities to offer their resources and opportunities to individuals with developmental disabilities and their families.

Such term includes community education, personal assistance services, vehicular and home modifications, support at work, and transportation.

"(7) DEVELOPMENTAL DISABILITY.—The term 'developmental disability' means a severe, chronic disability of an individual 5 years of age or older that—

"(A) is attributable to a mental or physical impairment or combination of mental and physical impairments;

"(B) is manifested before the individual attains age 22;

"(C) is likely to continue indefinitely;

"(D) results in substantial functional limitations in three or more of the following areas of major life activity—

"(i) self-care;

"(ii) receptive and expressive language;

"(iii) learning;

"(iv) mobility;

"(v) self-direction;

"(vi) capacity for independent living; and

"(vii) economic self-sufficiency; and

"(E) reflects the individual's need for a combination and sequence of special, interdisciplinary, or generic services, supports, or other assistance that are of lifelong or extended duration and are individually planned and coordinated,

except that such term, when applied to infants and young children means individuals from birth to age 5, inclusive, who have substantial developmental delay or specific congenital or acquired conditions with a high probability of resulting in developmental disabilities if services are not provided.

"(8) EARLY INTERVENTION SERVICES.—The term 'early intervention services' means services provided to infants, toddlers, young children, and their families to—

"(A) enhance the development of infants, toddlers, and young children with disabilities and to minimize their potential for developmental delay; and

"(B) enhance the capacity of families to meet the special needs of their infants, toddlers, and young children.

"(9) EMPLOYMENT ACTIVITIES.—The term 'employment activities' means such priority area activities as will increase the independence, productivity, and integration and inclusion into the community of individuals with developmental disabilities in work settings.

"(10) FAMILY SUPPORT SERVICE.—The term 'family support service' means services, supports, and other assistance provided to families with members with developmental disabilities, that are designed to—

"(A) strengthen the family's role as primary caregiver;

"(B) prevent inappropriate out-of-the-home placement and maintain family unity; and

"(C) reunite families with members who have been placed out of the home.

Such term includes respite care, rehabilitation technology, personal assistance services, parent training and counseling, support for elderly parents, vehicular and home modifications, and assistance with extraordinary expenses associated with the needs of individuals with developmental disabilities.

"(11) FEDERAL PRIORITY AREAS.—The term 'Federal priority areas' means community living activities, employment activities, child development activities, and system coordination and community education activities.

"(12) INDEPENDENCE.—The term 'independence' means the extent to which individuals with developmental disabilities exert control and choice over their own lives.

"(13) INDIVIDUAL SUPPORTS.—The term 'individual supports' means services, supports, and other assistance that enable an individual with a developmental disability to be independent, productive, integrated, and included into such individual's community, and that are designed to—

"(A) enable such individual to control such individual's environment, permitting the most independent life possible;

"(B) prevent placement into a more restrictive living arrangement than is necessary; and

"(C) enable such individual to live, learn, work, and enjoy life in the community.

Such term includes personal assistance services, rehabilitation technology, vehicular and home modifications, support at work, and transportation.

"(14) INTEGRATION AND INCLUSION.—The term 'integration and inclusion', with respect to individuals with developmental disabilities, means—

"(A) the use by individuals with developmental disabilities of the same community resources that are used by and available to other citizens;

"(B) living in homes close to community resources, with regular contact with citizens without disabilities in their communities;

"(C) the full and active participation by individuals with developmental disabilities in the same community activities and types of employment as citizens without disabilities, and utilization of the same community resources as citizens without disabilities, living, learning, working, and enjoying life in regular contact with citizens without disabilities; and

"(D) having friendships and relationships with individuals and families of their own choosing.

"(15) NONPROFIT.—The term 'nonprofit' means an agency, institution, or organization that is owned or operated by one or more corporations or associations, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

"(16) OTHER ORGANIZATIONS.—The term 'other organizations' means those organizations that are not State agencies or nonprofit agencies, except such organizations may be consulting firms, independent proprietary businesses and providers, and local community groups not organizationally incorporated, and that are interested in supporting individuals with developmental disabilities.

"(17) PERSONAL ASSISTANCE SERVICES.—The term 'personal assistance services' means a range of services, provided by one or more individuals, designed to assist an individual with a disability to perform daily living activities on or off a job that such individual would typically perform if such individual did not have a disability. Such services shall be designed to increase such individual's control in life and ability to perform everyday activities on or off such job.

"(18) PREVENTION.—The term 'prevention' means activities that address the causes of developmental disabilities and the exacerbation of functional limitations, such as activities that—

"(A) eliminate or reduce the factors that cause or predispose individuals to developmental disabilities or that increase the prevalence of developmental disabilities;

"(B) increase the early identification of existing problems to eliminate circumstances that create or increase functional limitations; and

"(C) mitigate against the effects of developmental disabilities throughout the individual's lifespan.

"(19) PRODUCTIVITY.—The term 'productivity' means—

"(A) engagement in income-producing work that is measured by increased income, improved employment status, or job advancement; or

"(B) engagement in work that contributes to a household or community.

"(20) PROTECTION AND ADVOCACY SYSTEM.—The term 'protection and advocacy system' means a protection and advocacy system established in accordance with section 142.

"(21) REHABILITATION TECHNOLOGY.—The term 'rehabilitation technology' means the systematic application of technologies, engineering methodologies, or scientific principles to meet the needs of, and address the barriers confronted by, individuals with developmental disabilities in areas that include education, rehabilitation, employment, transportation, independent living, and recreation. Such term includes rehabilitation engineering, assistive technology devices, and assistive technology services.

"(22) SECRETARY.—The term 'Secretary' means the Secretary of Health and Human Services.

"(23) SERVICE COORDINATION ACTIVITIES.—The term 'service coordination activities' (also referred to as 'case management activities') means activities that assist and enable individuals with developmental disabilities and their families to access services, supports and other assistance, and includes—

"(A) the provision of information to individuals with developmental disabilities and their families about the availability of services, supports, and other assistance;

"(B) assistance in obtaining appropriate services, supports, and other assistance, which may include facilitating and organizing such assistance;

"(C) coordination and monitoring of services, supports, and other assistance provided singly or in combination to individuals with developmental disabilities and their families to ensure accessibility, continuity, and accountability of such assistance; and

"(D) follow-along services that ensure, through a continuing relationship, that the changing needs of individuals with developmental disabilities and their families are recognized and appropriately met.

"(24) STATE.—The term 'State' includes, in addition to each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Republic of Palau (until the Compact of Free Association with Palau takes effect).

"(25) STATE DEVELOPMENTAL DISABILITIES COUNCIL.—The term 'State Developmental Disabilities Council' means a Council established under section 124.

"(26) STATE PRIORITY AREA.—The term 'State priority area' means priority area activities in an area considered essential by the State Developmental Disabilities Council.

"(27) SUPPORTED EMPLOYMENT.—The term 'supported employment' means competitive work in integrated work settings for individuals with developmental disabilities—

"(A)(i) for whom competitive employment has not traditionally occurred; or

"(ii) for whom competitive employment has been interrupted or intermittent as a result of a severe disability; and

"(B) who, because of the nature and severity of their disability, need intensive supported employment services or extended services in order to perform such work.

"(28) SYSTEM COORDINATION AND COMMUNITY EDUCATION ACTIVITIES.—The term 'system coordination and community education activities' means activities that—

"(A) eliminate barriers to access and eligibility for services, supports, and other assistance;

"(B) enhance systems design, redesign, and integration, including the encouragement of the creation of local service coordination and information and referral statewide systems;

"(C) enhance individual, family, and citizen participation and involvement; and

"(D) develop and support coalitions and individuals through training in self-advocacy, educating policymakers, and citizen leadership skills.

"(29) SYSTEMIC ADVOCACY.—The term 'systemic advocacy' means activities that identify, support, and recommend improvements in the planning, design, redesign, structure, delivery, or funding of generic or specialized services and supports.

"(30) UNIVERSITY AFFILIATED PROGRAM.—The term 'university affiliated program' means a university affiliated program established under section 152.".

SEC. 104. FEDERAL SHARE.

Section 103 (42 U.S.C. 6002) is repealed.

SEC. 105. RECORDS AND AUDITS.

(a) SECTION HEADING.—Section 104 (42 U.S.C. 6003) is amended—

(1) by striking "SEC. 104."; and

(2) in the section heading, by striking "RECORDS AND AUDIT" and inserting the following new section heading:

"SEC. 104. RECORDS AND AUDITS.".

(b) RECORDS AND AUDITS.—Section 104 (42 U.S.C. 6003) is amended—

(1) in subsection (a)—

(A) by striking "Each" and inserting "RECORDS.—Each";

(B) by striking "including" and inserting "including—";

(C) by realigning the margins of subparagraphs (A), (B), and (C) of paragraph (1) so as to align with the margins of subparagraphs (A) and (B) of paragraph (27) of section 102;

(D) by realigning the margins of paragraphs (1) and (2) so as to align with the margin of paragraph (30) of section 102;

(E) in paragraph (1), by striking "disclose" and inserting "disclose—"; and

(F) by striking the comma each place such appears and inserting a semicolon; and

(2) in subsection (b), by striking "The Secretary" and inserting "ACCESS.—The Secretary".

SEC. 106. RECOVERY.

Section 105 (42 U.S.C. 6004) is repealed.

SEC. 107. STATE CONTROL OF OPERATIONS.

Section 106 (42 U.S.C. 6005) is amended—

(1) by striking "SEC. 106.";

(2) in the section heading, by striking "STATE CONTROL OF OPERATIONS" and inserting the following new section heading:

"SEC. 106. STATE CONTROL OF OPERATIONS."; and

(3) by striking "facility for persons" and inserting "programs, services, and supports for individuals".

SEC. 108. REPORTS.

(a) SECTION HEADING.—Section 107 (42 U.S.C. 6006) is amended—

(1) by striking "SEC. 107."; and

(2) in the section heading, by striking "REPORTS" and inserting the following new section heading:

"SEC. 107. REPORTS.".

(b) REPORTS.—Section 107 (42 U.S.C. 6006) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1)—

(i) by striking, "By January" and inserting "DEVELOPMENTAL DISABILITIES COUNCIL REPORTS.—By January";

(ii) by striking "the State Planning Council of each State" and inserting "each State Developmental Disabilities Council";

(iii) by striking "a report concerning" and inserting "a report of"; and

(iv) by striking "such report" and inserting "report";

(B) in paragraph (1), by striking "of such activities" and all that follows through "from such activities" and inserting "of activities and accomplishments";

(C) in paragraph (2)—

(i) by striking "such accomplishments" and inserting "accomplishments"; and

(ii) by striking "by the State";

(D) in paragraph (4)—

(i) by striking "Planning" and inserting "Developmental Disabilities";

(ii) by striking "each" each place such term appears;

(iii) by striking "report" and inserting "reports";

(iv) by striking "1902(a)(31)(C)" and inserting "1902(a)(31)";

(v) by striking "plan" and inserting "plans"; and

(vi) by striking "; and" and inserting a semicolon;

(E) by striking paragraph (5); and

(F) by adding at the end the following new paragraphs:

"(5) a description of—

"(A) the trends and progress made in the State concerning systemic change (including policy reform), capacity building, advocacy, and other actions on behalf of individuals with developmental disabilities, with attention to individuals who are traditionally unserved and underserved, including individuals who are members of ethnic and racial minority groups, and individuals from underserved geographic areas;

"(B) systemic change, capacity building, and advocacy activities that affect individuals with disabilities other than developmental disabilities; and

"(C) a summary of actions taken to improve access and services for unserved and underserved groups;

"(6) a description of resources leveraged by activities directly attributable to State Developmental Disabilities Council actions; and

"(7) a description of the method by which the State Developmental Disabilities Council shall widely disseminate the annual report to affected constituencies as well as the general public and to assure that the report is available in accessible formats.";

(2) in subsection (b)—

(A) by striking "By January" and inserting "PROTECTION AND ADVOCACY SYSTEM REPORTS.—By January"; and

(B) by inserting before the period ", including a description of the system's priorities for such fiscal year, the process used to obtain public input, the nature of such input, and how such input was used"; and

(3) in subsection (c)—

(A) by realigning the margins of subparagraphs (A) and (B) of paragraph (1) so as to align with the margins of subparagraph (C) of such paragraph;

(B) by realigning the margins of paragraphs (1) and (2) so as to align with the margin of paragraph (1) of subsection (a);

(C) by striking "(c)" and inserting "(c) SECRETARY REPORTS.—";

(D) by striking "(1) By" and inserting the following:

"(1) IN GENERAL.—By";

(E) in paragraph (1)—

(i) in subparagraph (B)—

(I) by striking "integration" each place such term appears and inserting "integration and inclusion"; and

(II) by striking "persons" and inserting "individuals";

(ii) by striking subparagraph (C) and inserting the following new subparagraph:

"(C)(i) the trends and progress made in the States concerning systemic change (including policy reform), capacity building, advocacy, and other actions on behalf of individuals with developmental disabilities, with attention to individuals who are traditionally unserved and underserved, including individuals who are members of ethnic and racial minority groups, and individuals from underserved geographic areas;

"(ii) systemic change, capacity building, and advocacy activities that affect individuals with disabilities other than developmental disabilities; and

"(iii) a summary of actions taken to improve access and services for unserved and underserved groups;"; and

(iii) in subparagraph (D), by striking "persons" and inserting "individuals"; and

(F) in paragraph (2)—

(i) by striking "use and include" and inserting "include and analyze"; and

(ii) by striking "to the Secretary".

SEC. 109. RESPONSIBILITIES OF THE SECRETARY.

(a) SECTION HEADING.—Section 108 (42 U.S.C. 6007) is amended—

(1) by striking "SEC. 108."; and

(2) in the section heading, by striking "RESPONSIBILITIES OF THE SECRETARY" and inserting the following new section heading:

"SEC. 108. RESPONSIBILITIES OF THE SECRETARY.".

(b) RESPONSIBILITIES.—Section 108 (42 U.S.C. 6007) is amended—

(1) in subsection (a), by striking "The Secretary" and inserting "REGULATIONS.—The Secretary"; and

(2) in subsection (b)—

(A) by striking "Within ninety" and inserting "INTERAGENCY COMMITTEE.—Within 90"; and

(B) by striking "Administration for Developmental Disabilities" and inserting "Administration on Developmental Disabilities,".

SEC. 110. EMPLOYMENT OF HANDICAPPED INDIVIDUALS.

(a) SECTION HEADING.—Section 109 (42 U.S.C. 6008) is amended—

(1) by striking "SEC. 109."; and

(2) in the section heading, by striking "EMPLOYMENT OF HANDICAPPED INDIVIDUALS" and inserting the following new section heading:

"SEC. 109. EMPLOYMENT OF INDIVIDUALS WITH DISABILITIES.".

(b) EMPLOYMENT.—Section 109 (42 U.S.C. 6008) is amended—

(1) by striking "handicapped individuals" and inserting "individuals with disabilities";

(2) by striking "Act of" and inserting "Act of 1973"; and

(3) by striking "which govern" and all that follows through "subcontracts." and inserting the following: "that govern employment—

"(1) by State rehabilitation agencies and community rehabilitation programs; and

"(2) under Federal contracts and subcontracts.".

SEC. 111. RIGHTS OF THE DEVELOPMENTALLY DISABLED.

(a) SECTION HEADING.—Section 110 (42 U.S.C. 6009) is amended—

(1) by striking "SEC. 110."; and

(2) in the section heading, by striking "RIGHTS OF THE DEVELOPMENTALLY DISABLED" and inserting the following new section heading:

"SEC. 110. RIGHTS OF INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES.".

(b) RIGHTS.—Section 110 (42 U.S.C. 6009) is amended—

(1) in the matter preceding paragraph (1) by striking "persons" and inserting "individuals";

(2) in paragraph (1), by striking "Persons" and inserting "Individuals";

(3) in paragraph (2)—

(A) by striking "a person" and inserting "an individual";

(B) by striking "the person" and inserting "the individual"; and

(C) by striking "the person's" and inserting "the individual's";

(4) in paragraph (3), by striking "persons" each place such term appears and inserting "individuals";

(5) in paragraph (4), by striking "persons" each place such term appears and inserting "individuals"; and

(6) in the matter after subparagraph (C), by striking "persons" each place such term appears and inserting "individuals".

TITLE II—FEDERAL ASSISTANCE FOR PRIORITY AREA ACTIVITIES FOR INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES

SEC. 201. PART HEADING.

The heading of Part B of title I of the Act is amended to read as follows:

"PART B—FEDERAL ASSISTANCE TO STATE DEVELOPMENTAL DISABILITIES COUNCILS".

SEC. 202. PURPOSE.

Section 121 (42 U.S.C. 6021) is amended to read as follows:

"SEC. 121. PURPOSE.

"The purpose of this part is to provide for allotments to support State Developmental Disabilities Councils in each State to promote, through systemic change, capacity building, and advocacy, the development of a consumer and family-centered, comprehensive system and a coordinated array of services, supports, and other assistance designed to achieve independence, productivity, and integration and inclusion into the community for individuals with developmental disabilities.".

SEC. 203. STATE PLANS.

Section 122 (42 U.S.C. 6022) is amended to read as follows:

"SEC. 122. STATE PLAN.

"(a) IN GENERAL.—Any State desiring to take advantage of this part shall have a State plan submitted to, and approved by, the Secretary under this section.

"(b) PLANNING CYCLE.—The plan under subsection (a) shall be reviewed annually and revised at least once every 3 years.

"(c) STATE PLAN REQUIREMENTS.—In order to be approved by the Secretary under this section, a State plan shall meet the requirements in paragraphs (1) through (5).

"(1) STATE COUNCIL.—The plan shall provide for the establishment and maintenance of a State Developmental Disabilities Council in accordance with section 124 and describe the membership of such Council.

"(2) DESIGNATED STATE AGENCY.—The plan shall identify the agency or office within the State designated to support the State Developmental Disabilities Council in accordance with this section and section 124(d).

"(3) COMPREHENSIVE REVIEW AND ANALYSIS.—The plan shall contain a comprehensive review and analysis of the extent to which services and supports are available to, and the need for services and supports for, individuals with developmental disabilities and their families. Such review and analysis shall include—

"(A) a description of the services, supports and other assistance being provided to, or to be provided to, individuals with developmental disabilities and their families under other federally assisted State programs, plans, and policies that the State conducts and in which individuals with developmental disabilities are or may be eligible to participate, including programs relating to education, job training, vocational rehabilitation, public assistance, medical assistance, social services, child welfare, maternal and child health, aging, programs for children with special health care needs, children's mental health, housing, transportation, technology, comprehensive health and mental health, and such other programs as the Secretary may specify;

"(B) a description of the extent to which agencies operating such other federally assisted State programs pursue interagency initiatives to improve and enhance services, supports, and other assistance for individuals with developmental disabilities; and

"(C) an examination of the provision, and the need for the provision, in the State of the four Federal priority areas and an optional State priority area, including—

"(i) an analysis of such Federal and State priority areas in relation to the degree of support for individuals with developmental disabilities attributable to either physical impairment, mental impairment, or a combination of physical and mental impairments;

"(ii) an analysis of criteria for eligibility for services, including specialized services and special adaptation of generic services provided by agencies within the State, that may exclude individuals with developmental disabilities from receiving such services;

"(iii) consideration of the report conducted pursuant to section 124(e);

"(iv) consideration of the data collected by the State educational agency under section 618 of the Individuals with Disabilities Education Act;

"(v) an analysis of services, assistive technology, or knowledge that may be unavailable to assist individuals with developmental disabilities;

"(vi) an analysis of existing and projected fiscal resources;

"(vii) an analysis of any other issues identified by the State Developmental Disabilities Council; and

"(viii) the formulation of objectives in systemic change, capacity building, and advocacy to address the issues described in clauses (i) through (v) for all subpopulations of individuals with developmental disabilities that may be identified by the State Developmental Disabilities Council.

"(4) PLAN OBJECTIVES.—The plan shall—

"(A) specify employment, and at the discretion of the State, any or all of the three other Federal priority areas and an optional State priority area that are selected by the State Developmental Disabilities Council for such Council's major systemic change, capacity building, and advocacy activities to be addressed during the plan period and describe the extent and scope of the Federal and State priority areas that will be addressed under the plan in the fiscal year;

"(B) describe the specific 1-year and 3-year objectives to be achieved and include a listing of the programs, activities, and resources by which the State Developmental Disabilities Council will implement its systemic change, capacity building, and advocacy agenda in selected priority areas, and set forth the non-Federal share required to carry out each objective; and

"(C) establish a method for the periodic evaluation of the plan's effectiveness in meeting the objectives described in subparagraph (B).

"(5) ASSURANCES.—The plan shall contain or be supported by the assurances described in subparagraphs (A) through (N), which are satisfactory to the Secretary.

"(A) USE OF FUNDS.—With respect to the funds paid to the State under section 125, the plan shall provide assurances that—

"(i) such funds will be used to make a significant contribution toward enhancing the independence, productivity, and integration and inclusion into the community of individuals with developmental disabilities in various political subdivisions of the State;

"(ii) such funds will be used to supplement and to increase the level of funds that would otherwise be made available for the purposes for which Federal funds are provided and not to supplant non-Federal funds;

"(iii) such funds will be used to complement and augment rather than duplicate or replace services for individuals with developmental disabilities and their families who are eligible for Federal assistance under other State programs;

"(iv) part of such funds will be made available by the State to public or private entities;

"(v) not more than 25 percent of such funds will be allocated to the agency designated under section 124(d) for service demonstration by such agency and that such funds and demonstration services have been explicitly authorized by the State Developmental Disabilities Council;

"(vi) not less than 65 percent of the amount available to the State under section 125 shall be expended for activities in the Federal priority area of employment activities, and, at the discretion of the State, activities in any or all of the three other Federal priority areas and an optional State priority area; and

"(vii) the remainder of the amount available to the State from allotments under section 125 (after making expenditures required by clause (vi)) shall be used for the planning, coordination, administration, and implementation of priority area activities, and other activities relating to systemic change, capacity building, and advocacy to implement the responsibilities of the State Developmental Disabilities Council pursuant to section 124(c).

"(B) STATE FINANCIAL PARTICIPATION.—The plan shall provide assurances that there will be reasonable State financial participation in the cost of carrying out the State plan.

"(C) CONFLICT OF INTEREST.—The plan shall provide assurances that the State Developmental Disabilities Council has approved conflict of interest policies as of October 1, 1994, to ensure that no member of such Council shall cast a vote on any matter that would provide direct financial benefit to the member or otherwise give the appearance of a conflict of interest.

"(D) URBAN AND RURAL POVERTY AREAS.—The plan shall provide assurances that special financial and technical assistance shall be given to organizations that provide services, supports, and other assistance to individuals with developmental disabilities who live in areas designated as urban or rural poverty areas.

"(E) PROGRAM STANDARDS.—The plan shall provide assurances that programs, projects, and activities assisted under the plan, and the buildings in which such programs, projects, and activities are operated, will meet standards prescribed by the Secretary in regulation and all applicable Federal and State accessibility standards.

"(F) INDIVIDUALIZED SERVICES.—The plan shall provide assurances that any direct services provided to individuals with developmental disabilities and funded under this plan will be provided in an individualized manner, consistent with unique strengths, resources, priorities, concerns, abilities and capabilities of an individual.

"(G) HUMAN RIGHTS.—The plan shall provide assurances that the human rights of all individuals with developmental disabilities (especially those individuals without familial protection) who are receiving services under programs assisted under this part will be protected consistent with section 110 (relating to rights of individuals with developmental disabilities).

"(H) MINORITY PARTICIPATION.—The plan shall provide assurances that the State has taken affirmative steps to assure that participation in programs under this part is geographically representative of the State, and reflects the diversity of the State with respect to race and ethnicity.

"(I) INTERMEDIATE CARE FACILITY FOR THE MENTALLY RETARDED SURVEY REPORTS.—The plan shall provide assurances that the State will provide the State Developmental Disabilities Council with a copy of each annual survey report and plan of corrections for cited deficiencies prepared pursuant to section 1902(a)(31) of the Social Security Act with respect to any intermediate care facility for the mentally retarded in such State not less than 30 days after the completion of each such report or plan.

"(J) VOLUNTEERS.—The plan shall provide assurances that the maximum utilization of all available community resources including volunteers serving under the Domestic Volunteer Service Act of 1973 and other appropriate voluntary organizations will be provided for, except that such volunteer services shall supplement, and shall not be in lieu of, services of paid employees.

"(K) EMPLOYEE PROTECTIONS.—The plan shall provide assurances that fair and equitable arrangements (as determined by the Secretary after consultation with the Secretary of Labor) will be provided to protect the interests of employees affected by actions under the plan to provide community living activities, including arrangements designed to preserve employee rights and benefits and to provide training and retraining of such employees where necessary and arrangements under which maximum efforts will be made to guarantee the employment of such employees.

"(L) STAFF ASSIGNMENTS.—The plan shall provide assurances that the staff and other personnel of the State Developmental Disabilities Council, while working for the Council, are responsible solely for assisting the Council in carrying out its duties under this part and are not assigned duties by the designated State agency or any other agency or office of the State.

"(M) NONINTERFERENCE.—The plan shall provide assurances that the designated State agency or other office of the State will not interfere with systemic change, capacity building, and advocacy activities, budget, personnel, State plan development, or plan implementation of the State Developmental Disabilities Council.

"(N) OTHER ASSURANCES.—The plan shall contain such additional information and assurances as the Secretary may find necessary to carry out the provisions and purposes of this part.

"(d) PUBLIC REVIEW, SUBMISSION, AND APPROVAL.—

"(1) PUBLIC REVIEW.—The plan shall be made available for public review and comment with appropriate and sufficient notice in accessible formats and take into account and respond to significant suggestions, as prescribed by the Secretary in regulation.

"(2) CONSULTATION WITH THE DESIGNATED STATE AGENCY.—Before the plan is submitted to the Secretary, the State Developmental Disabilities Council shall consult with the designated State agency to ensure that the State plan is consistent with State law and to obtain appropriate State plan assurances.

"(3) PLAN APPROVAL.—The Secretary shall approve any State plan and annual updates of such plan that comply with the provisions of subsections (a), (b), and (c). The Secretary may not finally disapprove a State plan except after providing reasonable notice and an opportunity for a hearing to the State.".

SEC. 204. HABILITATION PLANS.

Section 123 (42 U.S.C. 6023) is repealed.

SEC. 205. COUNCILS.

Section 124 (42 U.S.C. 6024) is amended to read as follows:

"SEC. 124. STATE DEVELOPMENTAL DISABILITIES COUNCILS AND DESIGNATED STATE AGENCIES.

"(a) IN GENERAL.—Each State that receives assistance under this part shall establish and maintain a State Developmental Disabilities Council (hereafter in this section referred to as the 'Council') to conduct systemic change, capacity building, and advocacy activities on behalf of all individuals with developmental disabilities. The Council shall have the authority to fulfill its responsibilities described in subsection (c).

"(b) COUNCIL MEMBERSHIP.—

"(1) COUNCIL APPOINTMENTS.—The members of the Council of a State shall be appointed by the Governor of the State from among the residents of that State. The Governor shall select members of the Council, at his or her discretion, after soliciting recommendations from organizations representing a broad range of individuals with developmental disabilities and individuals interested in individuals with developmental disabilities, including the non-State agency members of the Council. The Council shall coordinate Council and public input to the Governor regarding all recommendations. To the extent feasible, the membership of the Council shall be geographically representative of the State and reflect the diversity of the State with respect to race and ethnicity.

"(2) MEMBERSHIP ROTATION.—The Governor shall make appropriate provisions to rotate the membership of the Council. Such provisions shall allow members to continue to serve on the Council until such members' successors are appointed. The Council shall notify the Governor and the Secretary, and the Secretary shall contact the Governor regarding membership requirements, when vacancies remain unfilled for a significant period of time.

"(3) REPRESENTATION OF AGENCIES AND ORGANIZATIONS.—Each Council shall at all times include representatives of the principal State agencies (including the State agencies that administer funds provided under the Rehabilitation Act of 1973, the Individuals with Disabilities Education Act, the Older Americans Act, and title XIX of the Social Security Act), institutions of higher education, each university affiliated program in the State established under part D, the State protection and advocacy system established under part C, and local agencies, nongovernmental agencies, and private nonprofit groups concerned with services for individuals with developmental disabilities in the State in which such agencies and groups are located. Such representatives shall—

"(A) have sufficient authority to engage in policy planning and implementation on behalf of the department, agency, or program such representatives represent; and

"(B) recuse themselves from any discussion of grants or contracts for which such representatives' departments, agencies, or programs are grantees or applicants and comply with the conflict of interest policies required under section 122(c)(5)(C).

"(4) REPRESENTATION OF INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES.—Not less than 50 percent of the membership of each Council shall consist of individuals who are—

"(A)(i) individuals with developmental disabilities;

"(ii) parents or guardians of children with developmental disabilities; or

"(iii) immediate relatives or guardians of adults with mentally impairing developmental disabilities who cannot advocate for themselves; and

"(B) not employees of a State agency that receives funds or provides services under this part, and who are not managing employees (as defined in section 1126(b) of the Social Security Act) of any other entity that receives funds or provides services under this part.

"(5) COMPOSITION OF MEMBERSHIP WITH DEVELOPMENTAL DISABILITIES.—Of the members of the Council described in paragraph (4)—

"(A) one-third shall be individuals with developmental disabilities as described in paragraph (4)(A)(i);

"(B) one-third shall be parents of children with developmental disabilities as described in paragraph (4)(A)(ii), or immediate relatives or guardians of adults with mentally impairing developmental disabilities as described in paragraph (4)(A)(iii); and

"(C) one-third shall be a combination of individuals described in paragraph (4)(A).

"(6) INSTITUTIONALIZED INDIVIDUALS.—Of the members of the Council described in paragraph (5), at least one shall be an immediate relative or guardian of an institutionalized or previously institutionalized individual with a developmental disability or an individual with a developmental disability who resides or previously resided in an institution. This paragraph shall not apply with respect to a State if such an individual does not reside in that State.

"(c) COUNCIL RESPONSIBILITIES.—A Council, through Council members, staff, consultants, contractors, or subgrantees, shall have the responsibilities described in paragraphs (1) through (11).

"(1) SYSTEMIC CHANGE, CAPACITY BUILDING, AND ADVOCACY.—The Council shall serve as an advocate for individuals with developmental disabilities and conduct programs, projects, and activities that carry out the purpose under section 121.

"(2) EXAMINATION OF PRIORITY AREAS.—Not less than once every 3 years, the Council shall examine the provision of and need for the four Federal priority areas and an optional State priority area to address, on a statewide and comprehensive basis, urgent needs for services, supports, and other assistance for individuals with developmental disabilities and their families, pursuant to section 122.

"(3) STATE PLAN DEVELOPMENT.—The Council shall develop and submit to the Secretary the State plan required under section 122 after consultation with the designated State agency under the State plan. Such consultation shall be solely for the purposes of obtaining State assurances and ensuring consistency of the plan with State law.

"(4) STATE PLAN IMPLEMENTATION.—The Council shall implement the State plan by conducting and supporting the Federal priority area of employment, not less than one of the remaining three Federal priority areas, and an optional State priority area as defined in section 102, through systemic change, capacity building, and advocacy activities such as those described in subparagraphs (A) through (K).

"(A) DEMONSTRATION OF NEW APPROACHES.—The Council may conduct, on a time-limited basis, the demonstration of new approaches to enhance the independence, productivity, and integration and inclusion into the community of individuals with developmental disabilities. This may include making successful demonstrations generally available through sources of funding other than funding under this part, and may also include assisting those conducting such successful demonstration activities to develop strategies for securing funding from other sources.

"(B) OUTREACH.—The Council may conduct activities to reach out to assist and enable individuals with developmental disabilities and their families who otherwise might not come to the attention of the Council to obtain services, supports, and other assistance, including access to special adaptation of generic services or specialized services.

"(C) TRAINING.—The Council may conduct training for individuals with developmental disabilities, their families, and personnel (including professionals, paraprofessionals, students, volunteers, and other community members) to enable such individuals to obtain access to, or to provide, services, supports and other assistance, including special adaptation of generic services or specialized services for individuals with developmental disabilities and their families. To the extent that training activities are provided, such activities shall be designed to promote the empowerment of individuals with developmental disabilities and their families.

"(D) SUPPORTING COMMUNITIES.—The Council may assist neighborhoods and communities to respond positively to individuals with developmental disabilities and their families by encouraging local networks to provide informal and formal supports and enabling communities to offer such individuals and their families access, resources, and opportunities.

"(E) INTERAGENCY COLLABORATION AND COORDINATION.—The Council may promote interagency collaboration and coordination to better serve, support, assist, or advocate for individuals with developmental disabilities and their families.

"(F) COORDINATION WITH RELATED COUNCILS, COMMITTEES, AND PROGRAMS.—The Council may conduct activities to enhance coordination with—

"(i) other councils or committees, authorized by Federal or State statute, concerning such individuals with disabilities (such as the State Interagency Coordinating Council under part H of the Individuals with Disabilities Education Act, the State Rehabilitation Advisory Council and the Statewide Independent Living Council under the Rehabilitation Act of 1973, the State Mental Health Planning Council under part B of title XIX of the Public Health Service Act and other similar councils or committees);

"(ii) parent training and information centers under part D of the Individuals with Disabilities Education Act and other federally funded projects that assist parents of children with disabilities; and

"(iii) other groups interested in systemic change, capacity building, and advocacy for individuals with disabilities.

"(G) BARRIER ELIMINATION, SYSTEMS DESIGN, AND CITIZEN PARTICIPATION.—The Council may conduct activities to eliminate barriers, enhance systems design and redesign, and enhance citizen participation to address issues identified in the State plan.

"(H) PUBLIC EDUCATION AND COALITION DEVELOPMENT.—The Council may conduct activities to educate the public about the capabilities, preferences, and needs of individuals with developmental disabilities and their families and to develop and support coalitions that support the policy agenda of the Council, including training in self-advocacy, educating policymakers, and citizen leadership skills.

"(I) INFORMING POLICYMAKERS.—The Council may provide information to Federal, State, and local policymakers, including the Congress, the Federal executive branch, the Governor, State legislature, and State agencies, in order to increase the ability of such policymakers to offer opportunities and to enhance or adapt generic services or provide specialized services to individuals with developmental disabilities and their families by conducting studies and analyses, gathering information, and developing and disseminating model policies and procedures, information, approaches, strategies, findings, conclusions, and recommendations.

"(J) PREVENTION.—The Council may conduct prevention activities as defined in section 102.

"(K) OTHER ACTIVITIES.—The Council may conduct other systemic change, capacity building, and advocacy activities to expand and enhance the independence, productivity, and integration and inclusion into the community of individuals with developmental disabilities throughout the State on a comprehensive basis.

"(5) STATE PLAN MONITORING.—Not less than once each year, the Council shall monitor, review, and evaluate the implementation and effectiveness of the State plan in meeting such plan's objectives.

"(6) REVIEW OF DESIGNATED STATE AGENCY.—The Council shall periodically review the appropriateness of the designated State agency and make any recommendations for change to the Governor.

"(7) REPORTS.—The Council shall submit to the Secretary, through the Governor, periodic reports on its activities as the Secretary may reasonably request, and keep such records and afford such access thereto as the Secretary finds necessary to verify such reports.

"(8) BUDGET.—Each Council shall prepare, approve, and implement a budget using amounts paid to the State under this part to fund and implement all programs, projects, and activities under this part including—

"(A) conducting such hearings and forums as the Council may determine to be necessary to carry out the duties of the Council, reimbursing Council members of the Council for reasonable and necessary expenses for attending Council meetings and performing Council duties (including child care and personal assistance services), paying compensation to a member of the Council, if such member is not employed or must forfeit wages from other employment, for each day such member is engaged in performing the duties of the Council, supporting Council member and staff travel to authorized training and technical assistance activities including inservice training and leadership development, and appropriate subcontracting activities;

"(B) hiring and maintaining sufficient numbers and types of staff (qualified by training and experience) and obtaining the services of such professional, consulting, technical, and clerical personnel (qualified by training and experience), consistent with State law, as the Council determines to be necessary to carry out its functions under this part, except that such State shall not apply hiring freezes, reductions in force, prohibitions on staff travel, or other policies that negatively affect the provision of staff support of the Council; and

"(C) directing the expenditure of funds for grants, contracts, interagency agreements that are binding contracts, and other activities authorized by the approved State plan.

"(9) STAFF HIRING AND SUPERVISION.—A Council shall, consistent with State law, recruit and hire a Director of the Council, should the position of Director become vacant, and supervise and annually evaluate the Director. The Director shall hire, supervise, and annually evaluate the staff of the Council. Council recruitment and hiring of staff shall be consistent with Federal and State nondiscrimination laws. Dismissal of personnel shall be for cause only, based on documented performance evaluations and consistent with State law and personnel policies. Council directors and staff who are exempt from State personnel policies may be dismissed based only on documented performance criteria.

"(10) STAFF ASSIGNMENTS.—The staff and other personnel, while working for the Council, shall be responsible solely for assisting the Council in carrying out its duties under this part and shall not be assigned duties by the designated State agency or any other agency or office of the State.

"(11) CONSTRUCTION.—Nothing in this part shall be construed to preclude a Council from engaging in systemic change, capacity building, and advocacy activities for individuals with disabilities other than developmental disabilities, where appropriate.

"(d) DESIGNATED STATE AGENCY.—

"(1) IN GENERAL.—Each State that receives assistance under this part shall designate the State agency that shall, on behalf of the State, provide support to the Council. After the date of enactment of the Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1993, any designation of a State agency shall be made in accordance with the requirements of this subsection.

"(2) DESIGNATION.—

"(A) TYPE OF AGENCY.—Except as provided in this subsection, the designated State agency shall be—

"(i) the Council if such Council may be the designated State agency under the laws of the State;

"(ii) a State agency that does not provide or pay for services made available to individuals with developmental disabilities; or

"(iii) a State office, including the immediate office of the Governor of the State or a State planning office.

"(B) CONDITIONS FOR CONTINUATION OF STATE SERVICE AGENCY DESIGNATION.—

"(i) DESIGNATION BEFORE ENACTMENT.—If a State agency that provides or pays for services for individuals with developmental disabilities was a designated State agency for purposes of this part on the date of enactment of the Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1993, and the Governor of the State (or legislature, where appropriate and in accordance with State law) determines prior to June 30, 1994, not to change the designation of such agency, such agency may continue to be a designated State agency for purposes of this part.

"(ii) CRITERIA FOR CONTINUED DESIGNATION.—The determination at the discretion of the Governor (or legislature as the case may be) shall consider the comments and recommendations of the general public and a majority of the non-State agency members of the Council with respect to the designation of such State agency, and after the Governor (or legislature as the case may be) has made an independent assessment that the designation of such agency shall not interfere with the budget, personnel, priorities, or other action of the Council, and the ability of the Council to serve as an advocate for individuals with developmental disabilities.

"(C) REVIEW OF DESIGNATION.—After October 1, 1993, the Council may request a review of the designation of the designated State agency by the Governor (or legislature as the case may be). The Council shall provide documentation concerning the reason the Council desires a change to be made and make a recommendation to the Governor (or legislature as the case may be) regarding a preferred designated State agency.

"(D) APPEAL OF DESIGNATION.—After the review is completed under subparagraph (C), a majority of the non-State agency members of the Council may appeal to the Secretary for a review of the designation of the designated State agency if Council independence as an advocate is not assured because of the actions or inactions of the designated State agency.

"(3) RESPONSIBILITIES.—The designated State agency shall, on behalf of the State, have the responsibilities described in subparagraphs (A) through (F).

"(A) SUPPORT SERVICES.—The designated State agency shall provide required assurances and support services as requested by and negotiated with the Council.

"(B) FISCAL RESPONSIBILITIES.—The designated State agency shall—

"(i) receive, account for, and disperse funds under this part based on the State plan required in section 122; and

"(ii) provide for such fiscal control and fund accounting procedures as may be necessary to assure the proper dispersement of, and accounting for, funds paid to the State under this part.

"(C) RECORDS, ACCESS, AND FINANCIAL REPORTS.—The designated State agency shall keep such records and afford access thereto as the Secretary and the Council determine necessary. The designated State agency, if other than the Council, shall provide timely financial reports at the request of the Council regarding the status of expenditures, obligations, liquidation, and the Federal and non-Federal share.

"(D) NON-FEDERAL SHARE.—The designated State agency, if other than the Council, shall provide the required non-Federal share defined in section 125A(c).

"(E) ASSURANCES.—The designated State agency shall assist the Council in obtaining the appropriate State plan assurances and in ensuring that the plan is consistent with State law.

"(F) MEMORANDUM OF UNDERSTANDING.—On the request of the Council, the designated State agency shall enter into a memorandum of understanding with the Council delineating the roles and responsibilities of the designated State agency.

"(4) USE OF FUNDS FOR DESIGNATED STATE AGENCY RESPONSIBILITIES.—

"(A) NECESSARY EXPENDITURES OF STATE DESIGNATED AGENCY.—At the request of any State, a portion of any allotment or allotments of such State under this part for any fiscal year shall be available to pay up to one-half (or the entire amount if the Council is the designated State agency) of the expenditures found necessary by the Secretary for the proper and efficient exercise of the functions of the State designated agency, except that not more than 5 percent of the total of the allotments of such State for any fiscal year, or $50,000, whichever is less, shall be made available for the total expenditure for such purpose by the State agency designated under this subsection.

"(B) CONDITION FOR FEDERAL FUNDING.—Amounts shall be provided under subparagraph (A) to a State for a fiscal year only on condition that there shall be expended from State sources for carrying out the responsibilities of the designated State agency under paragraph (3) not less than the total amount expended for carrying out such responsibilities from such sources during the previous fiscal year, except in such year as the Council may become the designated State agency.

"(C) SUPPORT SERVICES PROVIDED BY OTHER AGENCIES.—With the agreement of the designated State agency, the Council may use or contract with agencies other than the designated State agency to perform the functions of the designated State agency.

"(e) 1990 REPORT.—Not later than January 1, 1990, each Council shall complete the reviews, analyses, and final report described in this section.

"(1) COMPREHENSIVE REVIEW AND ANALYSIS.—Each Council shall conduct a comprehensive review and analysis of the eligibility for services provided, and the extent, scope, and effectiveness of, services provided and functions performed by, all State agencies (including agencies that provide public assistance) that affect or that potentially affect the ability of individuals with developmental disabilities to achieve the goals of independence, productivity, and integration and inclusion into the community, including individuals with developmental disabilities attributable to physical impairment, mental impairment, or a combination of physical and mental impairments.

"(2) CONSUMER SATISFACTION.—Each Council shall conduct a review and analysis of the effectiveness of, and consumer satisfaction with, the functions performed by, and services provided or paid for from Federal and State funds by, each of the State agencies (including agencies that provide public assistance) responsible for performing functions for, and providing services to, all individuals with developmental disabilities in the State. Such review and analysis shall be based upon a survey of a representative sample of individuals with developmental disabilities receiving services from each such agency, and if appropriate, shall include such individual's families.

"(3) PUBLIC REVIEW AND COMMENT.—Each Council shall convene public forums, after the provision of notice within the State, in order to—

"(A) present the findings of the reviews and analyses prepared under paragraphs (1) and (2);

"(B) obtain comments from all interested individuals in the State regarding the unserved and underserved populations of individuals with developmental disabilities that result from physical impairment, mental impairment, or a combination of physical and mental impairments; and

"(C) obtain comments on any proposed recommendations concerning the removal of barriers to services for individuals with developmental disabilities and to connect such services to existing State agencies by recommending the designation of one or more State agencies, as appropriate, to be responsible for the provision and coordination of such services.

"(4) BASIS FOR STATE PLAN.—Each Council shall utilize the information developed pursuant to paragraphs (1), (2), and (3) in developing the State plan.".

SEC. 206. STATE ALLOTMENTS.

(a) SECTION HEADING.—Section 125 (42 U.S.C. 6025) is amended—

(1) by striking "SEC. 125."; and

(2) in the section heading, by striking "STATE ALLOTMENTS" and inserting the following:

"SEC. 125. STATE ALLOTMENTS.".

(b) ALLOTMENTS.—Section 125 (42 U.S.C. 6025) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by realigning the margins of subparagraphs (A), (B), and (C) so as to align with the margin of subparagraph (A) of paragraph (4); and

(ii) by realigning the margin of the matter following subparagraph (C) so as to align with the margin of paragraph (3);

(B) by striking "(a)(1) For" and inserting the following:

"(a) ALLOTMENTS.—

"(1) IN GENERAL.—For";

(C) in paragraph (2)—

(i) by striking "(2) Adjustments" and inserting the following:

"(2) ADJUSTMENTS.—Adjustments";

(ii) by striking "may be" and inserting "shall be"; and

(iii) by striking "not less" and inserting "and the percentage of the total appropriation for each State not less";

(D) in paragraph (3)—

(i) by striking "(3)(A) Except" and all that follows through "September 30, 1990." and inserting the following:

"(3) MINIMUM ALLOTMENT.—

"(A) IN GENERAL.—Except as provided in paragraph (4), for any fiscal year the allotment under this section—

"(i) to each of American Samoa, Guam, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, or the Republic of Palau (until the Compact of Free Association with Palau takes effect) may not be less than the greater of—

"(I) $210,000; or

"(II) the greater of the allotment received by such State for fiscal year 1992, or the allotment received by such State for fiscal year 1993, under this section (determined without regard to subsection (d)); and

"(ii) to any State not described in clause (i), may not be less than the greater of—

"(I) $400,000; or

"(II) the greater of the allotment received by such State for fiscal year 1992, or the allotment received by such State for fiscal year 1993, under this section (determined without regard to subsection (d)).''; and

(ii) by striking "(B) Notwithstanding" and inserting the following:

"(B) REDUCTION OF ALLOTMENT.—Notwithstanding";

(E) in paragraph (4), to read as follows:

"(4) MAXIMUM ALLOTMENT.—

"(A) IN GENERAL.—In any case in which amounts appropriated under section 130 for a fiscal year exceeds $75,000,000, the allotment under this section for such fiscal year—

"(i) to each of American Samoa, Guam, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands or the Republic of Palau (until the Compact of Free Association with Palau takes effect) may not be less than the greater of—

"(I) $220,000; or

"(II) the greater of the allotment received by such State for fiscal year 1992, or the allotment received by such State for fiscal year 1993, under this section (determined without regard to subsection (d)); and

"(ii) to any State not described in clause (i) may not be less than the greater of—

"(I) $450,000; or

"(II) the greater of the allotment received by such State for fiscal year 1992, or the allotment received by such State for fiscal year 1993, under this section (determined without regard to subsection (d)).

"(B) REDUCTION OF ALLOTMENT.—The requirements of paragraph (3)(B) shall apply with respect to amounts to be allotted to States under subparagraph (A), in the same manner and to the same extent as such requirements apply with respect to amounts to be allotted to States under paragraph (3)(A).";

(F) in paragraph (5)—

(i) by striking "In determining" and inserting "STATE SUPPORTS, SERVICES, AND OTHER ACTIVITIES.—In determining"; and

(ii) by striking, "section 122(b)(2)(C)" and inserting "section 122(c)(3)(A)"; and

(G) in paragraph (6), by striking "In any case" and inserting "INCREASE IN ALLOTMENTS.—In any case";

(2) in subsection (b), by striking "Any amount" and inserting "UNOBLIGATED FUNDS.—Any amount";

(3) in subsection (c), by striking "Whenever" and inserting "COOPERATIVE EFFORTS BETWEEN STATES.—Whenever"; and

(4) in subsection (d), by striking "The amount" and inserting "REALLOTMENTS.—The amount".

SEC. 207. FEDERAL SHARE AND NON-FEDERAL SHARE.

Part B of title I of the Act is amended by inserting after section 125 (42 U.S.C. 6025) the following new section:

"SEC. 125A. FEDERAL AND NON-FEDERAL SHARE.

"(a) AGGREGATE COSTS.—The Federal share of all projects in a State supported by an allotment to the State under this part may not exceed 75 percent of the aggregate necessary costs of all such projects as determined by the Secretary, except that—

"(1) in the case of projects whose activities or products target individuals with developmental disabilities who live in urban or rural poverty areas, the Federal share of all such projects may not exceed 90 percent of the aggregate necessary costs of such projects or activities, as determined by the Secretary; and

"(2) in the case of projects or activities undertaken by the Council or Council staff to implement State plan priority activities, the Federal share of all such activities may be up to 100 percent of the aggregate necessary costs of such activities.

"(b) NONDUPLICATION.—In determining the amount of any State's Federal share of the expenditures incurred by such State under a State plan approved under section 122, the Secretary shall not consider—

"(1) any portion of such expenditures that are financed by Federal funds provided under any provision of law other than section 125; and

"(2) the amount of any non-Federal funds required to be expended as a condition of receipt of such Federal funds.

"(c) NON-FEDERAL SHARE.—

"(1) IN KIND CONTRIBUTIONS.—The non-Federal share of the cost of any project assisted by a grant or an allotment under this part may be provided in kind.

"(2) CONTRIBUTIONS OF POLITICAL SUBDIVISIONS, PUBLIC, OR PRIVATE ENTITIES.—

"(A) IN GENERAL.—Expenditures on projects or activities by a political subdivision of a State or by a public or private entity shall, subject to such limitations and conditions as the Secretary may by regulation prescribe, be considered to be expenditures by such State in the case of a project under this part.

"(B) STATE CONTRIBUTIONS.—State contributions, including contributions by the designated State agency to provide support services to the Council pursuant to section 124(d)(4), may be counted as part of such State's non-Federal share of allotments under this part.

"(3) VARIATIONS OF THE NON-FEDERAL SHARE.—The non-Federal share required on a grant-by-grant basis may vary.".

SEC. 208. PAYMENTS TO THE STATES FOR PLANNING, ADMINISTRATION, AND SERVICES.

Section 126 (42 U.S.C. 6026) is amended—

(1) by striking "SEC. 126." and inserting "(a) STATE PLAN EXPENDITURES.—";

(2) in the section heading, by striking "PAYMENTS TO THE STATES FOR PLANNING, ADMINISTRATION AND SERVICES" and inserting the following:

"SEC. 126. PAYMENTS TO THE STATES FOR PLANNING, ADMINISTRATION, AND SERVICES.";

and

(3) by adding at the end the following new subsection:

"(b) SUPPORT SERVICES.—Payments to States for support services provided by the designated State agency pursuant to section 124(d)(4) may be made in advance or by way of reimbursement, and in such installments as the Secretary may determine.".

SEC. 209. WITHHOLDING OF PAYMENTS FOR PLANNING, ADMINISTRATION, AND SERVICES.

Section 127 (42 U.S.C. 6027) is amended—

(1) in the matter preceding paragraph (1), by striking "SEC. 127.";

(2) in the section heading by striking "WITHHOLDING OF PAYMENTS FOR PLANNING, ADMINISTRATION AND SERVICES" and inserting the following:

"SEC. 127. WITHHOLDING OF PAYMENTS FOR PLANNING, ADMINISTRATION, AND SERVICES.";

and

(3) in paragraph (1), by striking "sections" and inserting "section".

SEC. 210. NONDUPLICATION.

Section 128 (42 U.S.C. 6028) is repealed.

SEC. 211. APPEALS BY STATES.

Section 129 (42 U.S.C. 6029) is amended—

(1) by striking "SEC. 129."; and

(2) in the section heading, by striking "APPEALS BY STATES" and inserting the following:

"SEC. 129. APPEALS BY STATES.".

SEC. 212. AUTHORIZATION OF APPROPRIATIONS.

Section 130 (42 U.S.C. 6030) is amended—

(1) by striking "fiscal year 1991" and inserting "fiscal year 1994"; and

(2) by striking "years 1992 and 1993" and inserting "years 1995 and 1996".

SEC. 213. REVIEW, ANALYSIS, AND REPORT.

(a) REVIEW AND ANALYSIS.—The Secretary of Health and Human Services shall review and analyze the allotment formula in effect under parts B and C of title I of the Developmental Disabilities Assistance and Bill of Rights Act prior to the date of enactment of this Act, including the factors described in such parts, and the data elements and measures used by the Secretary, to determine whether such formula is consistent with the purpose of the Act.

(b) ALTERNATIVE FORMULAS.—The Secretary of Health and Human Services shall identify alternative formulas for allocating funds, consistent with the purpose of this Act.

(c) REPORT.—Not later than October 1, 1995, the Secretary of Health and Human Services shall submit a report on the review conducted under subsection (a) and a copy of the alternative formulas identified under subsection (b) to the Committee on Labor and

Human Resources of the Senate and to the Committee on Energy and Commerce of the House of Representatives.

TITLE III—PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS

SEC. 301. PART HEADING.

The heading of part C of title I of the Act is amended to read as follows:

"PART C—PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS".

SEC. 302. PURPOSE.

Section 141 (42 U.S.C. 6041) is amended—

(1) by striking "SEC. 141.";

(2) in the section heading, by striking "PURPOSE" and inserting the following:

"SEC. 141. PURPOSE.";

(3) by striking "system" and inserting "Protection and Advocacy system (hereafter referred to in this part as the 'system')"; and

(4) by striking "persons" and inserting "individuals".

SEC. 303. SYSTEM REQUIRED.

(a) SECTION HEADING.—Section 142 (42 U.S.C. 6042) is amended—

(1) by striking "SEC. 142."; and

(2) in the section heading, by striking "SYSTEM REQUIRED" and inserting the following:

"SEC. 142. SYSTEM REQUIRED.".

(b) SYSTEM.—Section 142 (42 U.S.C. 6042) is amended—

(1) in subsection (a)—

(A) by striking "In order" and inserting "SYSTEM REQUIRED.—In order";

(B) in paragraph (1), by striking "persons" and inserting "individuals";

(C) in paragraph (2)—

(i) by striking "persons" each place such term appears and inserting "individuals";

(ii) in subparagraph (A), by striking "minority" and inserting "underserved geographical areas and ethnic and racial minority";

(iii) by striking subparagraph (C);

(iv) in subparagraph (E), by striking "Planning Council" and inserting "Developmental Disabilities Council authorized under part B";

(v) in subparagraph (F), by striking "and" at the end thereof; and

(vi) in subparagraph (G)—

(I) in clause (i), by striking "person" each place such term appears and inserting "individual";

(II) in the matter preceding subclause (I) of clause (ii), by striking "person" and inserting "individual";

(III) in clause (ii)(I), by striking "by reason of the mental or physical condition of such person" and inserting "by reason of such individual's mental or physical condition";

(IV) in clause (ii)(III), by striking "person" and inserting "individual";

(V) in clause (iii), by realigning the margins of subclauses (I), (II), and (III) so as to align with the margins of subclauses (I), (II), and (III) of clause (ii);

(VI) in clause (iii), by striking "(iii) any" and inserting the following:

"(iii) any"; and

(VII) in clause (iii)(III), by striking "person" and inserting "individual";

(D) by redesignating subparagraphs (D), (E), (F), and (G) as subparagraphs (E), (F), (G), and (I), respectively;

(E) by inserting after subparagraph (B) the following new subparagraphs:

"(C) on an annual basis, develop a statement of objectives and priorities for the system's activities; and

"(D) on an annual basis, provide to the public, including individuals with developmental disabilities attributable to either physical impairment, mental impairment, or a combination of physical or mental impairments, and their representatives, as appropriate, non-State agency representatives of the State Developmental Disabilities Council, and the university affiliated program (if applicable within a State), an opportunity to comment on—

"(i) the objectives and priorities established by the system and the rationale for the establishment of such objectives; and

"(ii) the activities of the system, including the coordination with the advocacy programs under the Rehabilitation Act of 1973, the Older Americans Act of 1965, and the Protection and Advocacy for Mentally Ill Individuals Act of 1986, and with other related programs, including the Parent Training and Information Centers, education ombudsman programs and assistive technology projects;";

(F) by inserting after subparagraph (G), as so redesignated in subparagraph (D), the following new subparagraph:

"(H) have access at reasonable times and locations to any resident who is an individual with a developmental disability in a facility that is providing services, supports, and other assistance to such a resident;";

(G) by adding at the end the following new subparagraphs:

"(J) hire and maintain sufficient numbers and types of staff, qualified by training and experience, to carry out such system's function except that such State shall not apply hiring freezes, reductions in force, or other policies that negatively affect the provision of staff support to the system, or restrict travel to training and technical assistance activities funded under this Act;

"(K) have the authority to educate policymakers; and

"(L) provide assurances to the Secretary that funds allotted to the State under this section will be used to supplement and increase the level of funds that would otherwise be made available for the purposes for which Federal funds are provided and not to supplant such non-Federal funds;"

(H) by striking paragraphs (3) and (5);

(I) in paragraph (4)—

(i) by striking "the State" and all that follows through "provided with" and inserting "the State must provide to the system";

(ii) by striking "1902(a)(31)(B)" and inserting "1902(a)(31)"; and

(iii) by redesignating such paragraph as paragraph (3); and

(J) by adding at the end the following new paragraph:

"(4) the agency implementing the system will not be redesignated unless there is good cause for the redesignation and unless—

"(A) notice has been given of the intention to make such redesignation to the agency that is serving as the system including the good cause for such redesignation and the agency has been given an opportunity to respond to the assertion that good cause has been shown;

"(B) timely notice and opportunity for public comment in an accessible format has been given to individuals with developmental disabilities or their representatives; and

"(C) the system has the opportunity to appeal to the Secretary that the redesignation was not for good cause.";

(2) in subsection (b)—

(A) by striking "(b)(1) To" and inserting the following:

"(b) ALLOTMENTS.—

"(1) IN GENERAL.—To";

(B) in paragraph (1)—

(i) by realigning the margins of subparagraphs (A) and (B) so as to align with subparagraphs (A) through (C) of subsection (a)(4);

(ii) in subparagraph (A), to read as follows:

"(A) the total amount appropriated under section 143 for a fiscal year is at least $20,000,000—

"(i) the allotment of each of American Samoa, Guam, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Republic of Palau (until the Compact of Free Association with Palau takes effect) for such fiscal year may not be less than the greater of—

"(I) $107,000; or

"(II) the greater of the allotment received by such State for fiscal year 1992, or the allotment received by such State for fiscal year 1993, under this section (determined without regard to subsection (d)); and

"(ii) the allotment of any State not described in clause (i) for such fiscal year may not be less than the greater of—

"(I) $200,000; or

"(II) the greater of the allotments received by such State for fiscal year 1992, or the allotment received by such State for fiscal year 1993, under this section (determined without regard to subsection (d))."; and

(iii) in subparagraph (B), to read as follows:

"(B) the total amount appropriated under section 143 for a fiscal year is less than $20,000,000—

"(i) the allotment of each of American Samoa, Guam, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Republic of Palau (until the Compact of Free Association with Palau takes effect) for such fiscal year may not be less than the greater of—

"(I) $80,000; or

"(II) the greater of the allotment received by such State for fiscal year 1992, or the allotment received by such State for fiscal year 1993, under this section (determined without regard to subsection (d)); and

"(ii) the allotment of any State not described in clause (i) for such fiscal year may not be less than the greater of—

"(I) $150,000; or

"(II) the greater of the allotment received by such State for fiscal year 1992, or the allotment received by such State for fiscal year 1993, under this section (determined without regard to subsection (d)).";

(C) by realigning the margins of subparagraphs (A) and (B) of paragraph (2) so as to align with subparagraphs (A) through (C) of subsection (a)(4);

(D) by realigning the margins of paragraphs (2) through (4) so as to align with paragraph (4) of subsection (a);

(E) in paragraph (2), by striking "In any case" and inserting "INCREASE IN ALLOTMENTS.—In any case";

(F) in paragraph (3), by striking "A State" and inserting "MONITORING THE ADMINISTRATION OF THE SYSTEM.—A State";

(G) in paragraph (4), by striking "Notwithstanding" and inserting "REDUCTION OF ALLOTMENT.—Notwithstanding"; and

(H) by inserting at the end the following new paragraph:

"(5) TECHNICAL ASSISTANCE AND AMERICAN INDIAN CONSORTIUM.—In any case in which amounts appropriated under section 143 for a fiscal year exceeds $24,500,000, the Secretary shall—

"(A) use not more than 2 percent of the amounts appropriated to provide technical assistance (consistent with requests by such systems for such assistance in the year that appropriations reach $24,500,000) to eligible systems with respect to activities carried out under this title; and

"(B) provide grants in accordance with paragraph (1)(A)(i) to American Indian Consortiums to provide protection and advocacy services.";

(3) in subsection (c), by striking "Any amount" and inserting "UNOBLIGATED FUNDS.—Any amount";

(4) in subsection (d)—

(A) in the matter preceding paragraph (1), by striking "In States" and inserting "GOVERNING BOARD.—In States";

(B) in paragraph (1), by inserting before the semicolon "and include individuals with developmental disabilities who are eligible for services, or have received or are receiving services, or parents, family members, guardians, advocates, or authorized representatives of such individuals"; and

(C) by adding at the end the following new paragraph:

"(4) in States in which the system is organized as a public system without a multimember governing or advisory board, the system shall establish an advisory council that shall—

"(A) advise the system on policies and priorities to be carried out in protecting and advocating the rights of individuals with developmental disabilities; and

"(B) consist of a majority of individuals with developmental disabilities who are eligible for services, or have received or are receiving services, or parents, family members, guardians, advocates, or authorized representatives of such individuals.";

(5) in subsection (e) by striking "As used" and inserting "RECORDS.—As used";

(6) in subsection (f)—

(A) by striking "If the" and inserting "ACCESS TO RECORDS.—If the"; and

(B) in the matter preceding paragraph (1) by striking "persons" and inserting "individuals";

(7) in subsection (g)—

(A) by striking "(g)(1) Nothing" and inserting the following:

"(g) LEGAL ACTION.—

"(1) IN GENERAL.—Nothing";

(B) in paragraph (1), by striking "persons" and inserting "individuals"; and

(C) in paragraph (2), by striking "(2) Amounts" and inserting the following:

"(2) USE OF AMOUNTS FROM JUDGMENT.—Amounts";

(8) in subsection (h), by striking "Notwithstanding" and inserting "PAYMENT TO SYSTEMS.—Notwithstanding";

(9) by redesignating subsections (b) through (h) as subsections (c) through (i), respectively;

(10) by inserting after subsection (a) the following new subsection:

"(b) AMERICAN INDIAN CONSORTIUM.—Upon application to the Secretary, an American Indian consortium, as defined in section 102, established to provide protection and advocacy services under this part, shall receive funding pursuant to subsection (c)(5). Such consortium shall coordinate activities with existing systems."; and

(11) by adding at the end the following new subsections:

"(j) DISCLOSURE OF INFORMATION.—For purposes of any periodic audit, report, or evaluation required under this Act, the Secretary shall not require a program to disclose the identity of, or any other personally identifiable information related to, any individual requesting assistance under such program.

"(k) PUBLIC NOTICE OF FEDERAL ONSITE REVIEW.—The Secretary shall provide advance public notice of any Federal programmatic and administrative review and solicit public comment on the system funded under this part through such notice. The findings of the public comment solicitation notice shall be included in the onsite visit report.".

SEC. 304. AUTHORIZATION OF APPROPRIATIONS.

Section 143 (42 U.S.C. 6043) is amended—

(1) by striking "SEC. 143.";

(2) in the section heading, by striking "AUTHORIZATION OF APPROPRIATIONS" and inserting the following:

"SEC. 143. AUTHORIZATION OF APPROPRIATIONS.";

(3) by striking "$24,200,000 for fiscal year 1991" and inserting "$29,000,000 for fiscal year 1994"; and

(4) by striking "fiscal years 1992 and 1993" and inserting "fiscal years 1995 and 1996".

TITLE IV—UNIVERSITY AFFILIATED PROGRAMS

SEC. 401. PART HEADING.

The heading of part D of title I of the Act is amended to read as follows:

"PART D—UNIVERSITY AFFILIATED PROGRAMS".

SEC. 402. PURPOSE.

Section 151 (42 U.S.C. 6061) is amended to read as follows:

"SEC. 151. PURPOSE AND SCOPE OF ACTIVITIES.

"The purpose of this part is to provide for grants to university affiliated programs that are interdisciplinary programs operated by universities, or by public or nonprofit entities associated with a college or university, to provide a leadership role in the promotion of independence, productivity, and integration and inclusion into the community of individuals with developmental disabilities through the provision of the following activities:

"(1) Interdisciplinary preservice preparation of students and fellows, including the preparation of leadership personnel.

"(2) Community service activities that shall include community training and technical assistance for or with individuals with developmental disabilities, family members of individuals with developmental disabilities, professionals, paraprofessionals, students, and volunteers. Such activities may include state-of-the-art direct services including family support, individual support, personal assistance services, educational, vocational, clinical, health, prevention, or other direct services.

"(3) Dissemination of information and research findings, which may include the empirical validation of activities relevant to the purposes described in paragraphs (1) and (2) and contributions to the development of new knowledge in the field of developmental disabilities.".

SEC. 403. GRANT AUTHORITY.

(a) SECTION HEADING.—Section 152 (42 U.S.C. 6062) is amended—

(1) by striking "SEC. 152."; and

(2) in the section heading, by striking "GRANT AUTHORITY" and inserting the following:

"SEC. 152. GRANT AUTHORITY.".

(b) AUTHORITY.—Section 152 (42 U.S.C. 6062) is amended—

(1) in subsection (a)—

(A) by striking "From appropriations" and inserting "ADMINISTRATION AND OPERATION.—From appropriations"; and

(B) by striking "102(18)." and inserting "151. Grants may be awarded for a period not to exceed 5 years.";

(2) in subsection (b), to read as follows:

"(b) TRAINING PROJECTS.—

"(1) IN GENERAL.—From amounts appropriated under section 156(a), the Secretary shall make grants to university affiliated programs receiving grants under subsection (a) to support training projects to train personnel to address the needs of individuals with developmental disabilities in areas of emerging national significance, as described in paragraph (3). Grants awarded under this subsection shall be awarded on a competitive basis and may be awarded for a period not to exceed 5 years.

"(2) ELIGIBILITY LIMITATIONS.—A university affiliated program shall not be eligible to receive funds for training projects under this subsection unless—

"(A) such program has operated for at least 1 year; or

"(B) the Secretary determines that such program has demonstrated the capacity to develop an effective training project during the first year such program is operated.

"(3) AREAS OF FOCUS.—Training projects under this subsection shall train personnel to address the needs of individuals with developmental disabilities in the areas of emerging national significance described in subparagraphs (A) through (G).

"(A) EARLY INTERVENTION.—Grants under this subsection for training projects with respect to early intervention services shall be for the purpose of assisting university affiliated programs in providing training to family members of children with developmental disabilities and personnel from all disciplines involved with interdisciplinary intervention to infants, toddlers, and preschool age children with developmental disabilities. Such training projects shall include instruction on family-centered, community-based, coordinated care for infants, toddlers, and preschool age children with developmental disabilities and their families.

"(B) AGING.—Grants under this subsection for training projects with respect to aging and developmental disabilities shall be for the purpose of supporting the planning, design, and implementation of coordinated interdisciplinary training programs between existing aging or gerontological programs and university affiliated programs in order to prepare professional staff to provide services for aging individuals with developmental disabilities and their families.

"(C) COMMUNITY SERVICES.—Grants under this subsection for training projects with respect to community services shall be for the purpose of providing training that enhances direct supports and services for individuals with developmental disabilities, including training to community members, families, individuals with developmental disabilities, and community-based direct service providers. The Secretary shall ensure that all grants under this subparagraph are made only to university affiliated programs that involve community-level direct support services in the preparation of the application for such grant and that assure that any training under the university affiliated program will be coordinated with local community services and support systems and with State, local, and regional governmental or private agencies responsible for the planning or delivery of services to individuals with developmental disabilities.

"(D) POSITIVE BEHAVIORAL SUPPORTS.—Grants awarded under this subsection for training projects with respect to positive behavioral supports shall be for the purpose of assisting university affiliated programs in providing training to family members of individuals with developmental disabilities and personnel in methods of developing individual supports that maximize opportunities for independence, productivity, and integration and inclusion into the community for individuals with developmental disabilities and severe behavior problems. Such training projects shall provide training to—

"(i) address ethical and legal principles and standards, including the role of personal values in designing assessments and interventions;

"(ii) address appropriate assessment approaches that examine the range of factors that contribute to problem behavior;

"(iii) address the development of a comprehensive plan that considers the needs and preferences of an individual with a developmental disability;

"(iv) address the competence in the types of skills training, environmental modification, and incentive procedures that encourage alternative behaviors;

"(v) familiarize training participants with crisis intervention approaches and the separate role of such approaches as short-term emergency procedures;

"(vi) familiarize training participants with medical interventions and how to evaluate the effect of such interventions on behavior; and

"(vii) address techniques for evaluating the outcomes of interventions.

"(E) ASSISTIVE TECHNOLOGY SERVICES.—Grants under this subsection for training projects with respect to assistive technology services shall be for the purpose of assisting university affiliated programs in providing training to personnel who provide, or will provide, assistive technology services and devices to individuals with developmental disabilities and their families. Such projects may provide training and technical assistance to improve access to assistive technology services for individuals with developmental disabilities and may include stipends and tuition assistance for training project participants. Such projects shall be coordinated with State technology coordinating councils wherever such councils exist.

"(F) AMERICANS WITH DISABILITIES ACT.—Grants under this subsection for training projects with respect to the provisions of the Americans with Disabilities Act of 1990 shall be for the purpose of assisting university affiliated programs in providing training to personnel who provide, or will provide, services to individuals with developmental disabilities, and to others concerned with individuals with developmental disabilities.

"(G) OTHER AREAS.—Grants under this subsection for training projects with respect to programs in other areas of national significance shall be for the purpose of training personnel in an area of special concern to the university affiliated program, and shall be developed in consultation with the State Developmental Disabilities Council.

"(4) COURSES, TRAINEESHIPS AND FELLOWSHIPS.—Grants under this subsection may be used by university affiliated programs to—

"(A) assist in paying the costs of courses of training or study for personnel to provide services for individuals with developmental disabilities and their families; and

"(B) establish fellowships or traineeships providing such stipends and allowances as may be determined by the Secretary.

"(5) PROHIBITED ACTIVITIES.—Grants awarded under this subsection shall not be used for administrative expenses for the university affiliated program under subsection (a).

"(6) CRITERIA.—Grants awarded under this subsection shall meet the criteria described in subparagraphs (A) and (B).

"(A) APPLICATION.—An application that is submitted for a grant under this subsection shall present evidence that training projects assisted by funds awarded under this section are—

"(i) competency and value based;

"(ii) designed to facilitate independence, productivity, and integration and inclusion for individuals with developmental disabilities; and

"(iii) evaluated utilizing state-of-the-art evaluation techniques in the programmatic areas selected.

"(B) GENERAL PROJECT REQUIREMENTS.—Training projects under this subsection shall—

"(i) represent state-of-the-art techniques in areas of critical shortage of personnel that are identified through consultation with the consumer advisory committee described in section 153(d) and the State Developmental Disabilities Council;

"(ii) be conducted in consultation with the consumer advisory committee described in section 153(d) and the State Developmental Disabilities Council;

"(iii) be integrated into the appropriate university affiliated program and university curriculum;

"(iv) be integrated with relevant State agencies in order to achieve an impact on statewide personnel and service needs;

"(v) to the extent practical, be conducted in environments where services are actually delivered;

"(vi) to the extent possible, be interdisciplinary in nature; and

"(vii) to the extent possible, address the unique needs of individuals with developmental disabilities from ethnic, cultural, and linguistic minority backgrounds.";

(3) in subsection (c)—

(A) by striking "From amounts appropriated under section 154(b)" and inserting "SUPPLEMENTAL AWARDS.—From amounts appropriated under section 156(a)";

(B) in paragraph (1)—

(i) by striking "service-related training to persons" and inserting "interdisciplinary training, community training and technical assistance, community services, or dissemination of information to individuals";

(ii) by striking "integration into the community of persons with developmental disabilities" and inserting "integration and inclusion into the community of individuals with developmental disabilities and not otherwise specified in subsection (b)"; and

(iii) by striking "persons" each place such term appears and inserting "individuals";

(C) in paragraph (2)—

(i) by striking "(A) the" and inserting "the";

(ii) by striking "persons" and inserting "individuals";

(iii) by striking "(B) the" and inserting "the"; and

(iv) by striking "parents" and inserting "family members";

(4) by striking subsection (d);

(5) in subsection (e)—

(A) by striking "(e) From amounts appropriated under section 154(a)" and inserting "(d) FEASIBILITY STUDIES.—From amounts appropriated under section 156(a)"; and

(B) by striking "or a satellite center" each place such term appears; and

(6) by striking subsections (f) and (g).

SEC. 404. APPLICATIONS.

(a) SECTION HEADING.—Section 153 (42 U.S.C. 6063) is amended—

(1) by striking "SEC. 153."; and

(2) in the section heading, by striking "APPLICATIONS" and inserting the following:

"SEC. 153. APPLICATIONS.".

(b) APPLICATIONS.—Section 153 (42 U.S.C. 6063) is amended—

(1) in subsection (a)—

(A) by striking "Not later than six" and inserting: "STANDARDS.—Not later than 12";

(B) by striking "Act of 1984" and inserting "Assistance and Bill of Rights Act Amendments of 1993";

(C) by striking "persons" and inserting "individuals"; and

(D) by striking "section 102(18)" and inserting "section 151";

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking "No grants" and all that follows through "Such an application" and inserting "ASSURANCES.—The application under subsection (a)";

(B) in paragraph (1), by striking "grant will" and all that follows through "level of such funds;" and inserting the following: "grant will—

"(A) not result in any decrease in the use of State, local, and other non-Federal funds for services for individuals with developmental disabilities and for training of individuals to provide such services, which funds would (except for such grant) be made available to the applicant; and

"(B) be used to supplement and, to the extent practicable, increase the level of such funds;";

(C) in paragraph (2), by striking "subsection (a)" each place such term appears and inserting "subsection (b)";

(D) in paragraph (3)—

(i) by striking "persons" each place such term appears and inserting "individuals";

(ii) by striking "treatment, services, or habilitation" and inserting "services"; and

(iii) by striking "the developmentally disabled" and inserting "individuals with developmental disabilities"; and

(E) in paragraph (5)—

(i) by striking "Planning" and inserting "Developmental Disabilities"; and

(ii) by striking "or the satellite center is or will be located";

(3) by striking subsections (c) and (d);

(4) by redesignating subsections (a), (b), and (e) as subsections (b), (c), and (f), respectively;

(5) by inserting after the section heading the following new subsection:

"(a) IN GENERAL.—No grants may be made under section 152(a) unless an application therefor is submitted to, and approved by, the Secretary. Such an application shall be submitted in such form and manner, and contain such information, as the Secretary may require.";

(6) by inserting after subsection (c), as so redesignated by paragraph (4), the following new subsections:

"(d) CONSUMER ADVISORY COMMITTEE.—The Secretary shall only make grants under section 152(a) to university affiliated programs that establish a consumer advisory committee comprised of individuals with developmental disabilities, family members of individuals with developmental disabilities, representatives of State protection and advocacy systems, State developmental disabilities councils (including State service agency directors), local agencies, and private nonprofit groups concerned with providing services for individuals with developmental disabilities, which may include representatives from parent training and information centers.

"(e) FEDERAL SHARE.—

"(1) IN GENERAL.—The Federal share of any project to be provided through grants under this part may not exceed 75 percent of the necessary cost of such project, as determined by the Secretary, except that if the project activities or products target individuals with developmental disabilities who live in an urban or rural poverty area, the Federal share may not exceed 90 percent of the project's necessary costs as so determined by the Secretary.

"(2) PROJECT EXPENDITURES.—For the purpose of determining the Federal share with respect to any project, expenditures on that project by a political subdivision of the State or by a public or private entity shall, subject to such limitations and conditions as the Secretary may by regulation prescribe, be considered to be expenditures made by a university affiliated program under this part.";

(7) in subsection (f), as so redesignated by paragraph (4)—

(A) by striking "(f)(1) The Secretary" and inserting the following:

"(f) PEER REVIEW.—

"(1) IN GENERAL.—The Secretary";

(B) in paragraph (1), by striking "Such peer review" and all that follows through "152(b)(1)(D)";

(C) in paragraph (2)—

(i) by striking "(2) Regulations" and inserting the following:

"(2) REGULATIONS.—Regulations"; and

(ii) by striking "experience or training" and inserting "experience and training";

(D) in paragraph (3), to read as follows:

"(3) APPROVAL.—

"(A) IN GENERAL.—The Secretary may approve an application under this part only if such application has been recommended by a peer review group that has conducted the peer review required under paragraph (1).

"(B) APPLICABILITY.—This paragraph shall apply to the approval of grant applications received for fiscal year 1990 and succeeding fiscal years.";

(E) in paragraph (4)—

(i) by striking "(4) The Secretary" and inserting the following:

"(4) ESTABLISHMENT OF PEER REVIEW GROUPS.—The Secretary"; and

(ii) by realigning the margins of subparagraphs (A) and (B) so as to align with the margin of subparagraph (A) of paragraph (3); and

(F) in paragraph (5), by striking "(5) The Secretary" and inserting the following:

"(5) WAIVERS OF APPROVAL.—The Secretary"; and

(8) by adding at the end the following new subsection:

"(g) REVIEW BY OTHER FEDERAL AGENCIES.—The Secretary shall establish such a process for the review of applications for grants under section 152(a) as will ensure, to the maximum extent feasible, that each Federal agency that provides funds for the direct support of the applicant's program reviews the application.".

SEC. 405. GRANT AWARDS.

Section 154 (42 U.S.C. 6064) is amended to read as follows:

"SEC. 154. PRIORITY FOR GRANT AWARDS.

"(a) IN GENERAL.—In awarding and distributing grant funds under this part, the Secretary, subject to the availability of appropriations, shall award and distribute grant funds in accordance with the following order of priorities:

"(1) EXISTING STATE UNIVERSITY AFFILIATED PROGRAMS.—First priority shall be given, with respect to the provision of grant awards under section 152(a) in the amount of $200,000, to an existing State university affiliated program that meets the requirements under section 153.

"(2) UNSERVED STATES.—Second priority shall be given, with respect to the provision of grant awards under section 152(a) in the amount of $200,000, to a university or public or nonprofit entity associated with a college or university that desires to establish a university affiliated program in a State that is unserved by a university affiliated program as of the date of enactment of the Developmental Assistance and Bill of Rights Act Amendments of 1993.

"(3) TRAINING PROJECTS IN ALL UNIVERSITY AFFILIATED PROGRAMS.—Third priority shall be given, with respect to the provision of grant awards, to each university affiliated program that receives funding under section 152(a) and that meets the eligibility limitations under section 152(b) to the establishment of training projects under section 152(b) in the amount of $90,000 in each such program.

"(4) INCREASED FUNDING FOR TRAINING PROJECTS.—Fourth priority shall be given, with respect to the provision of grant awards, to the provision of an increase in the amount of a training project grant award under section 152(b) to $100,000.

"(5) INCREASED FUNDING FOR UNIVERSITY AFFILIATED PROGRAMS.—Fifth priority shall be given, with respect to the provision of grant awards, to the provision of an increase in the amount of a university affiliated program grant award under section 152(a) to $250,000.

"(6) ADDITIONAL TRAINING.—Sixth priority shall be given, with respect to the provision of grant awards, to an existing university affiliated program in a State that is served by such program under section 152(a) to provide additional training under subsection (b) or (c) of section 152 within such State or other geographic regions, or to a university or public or nonprofit entity associated with a college or university that desires to establish another university affiliated program within such State under section 152(a). All applications submitted to the Secretary for such grant awards shall document plans for coordinating activities with an existing university affiliated program in the State (if applicable) and in consultation with the State Developmental Disabilities Council.

"(b) ADDITIONAL PROGRAMS.—For purposes of making grants under subsection (a)(6), the Secretary shall consider applications for grants for university affiliated programs—

"(1) for States that are currently underserved by a university affiliated program; and

"(2) that are in addition to the total number of university affiliated programs receiving grants under this subsection for the preceding fiscal year.

"(c) SINGLE APPLICATION.—When every State is served by a university affiliated program under section 152(a) in the amount of $200,000 and every such program has been awarded a training grant under section 152(b) in the amount of $90,000, the Secretary may accept applications under such sections in a single application.".

SEC. 406. AUTHORIZATION OF APPROPRIATIONS AND DEFINITION.

Part D of title I (42 U.S.C. 151 et seq.) is amended by adding at the end the following new sections:

"SEC. 155. DEFINITION.

"For purposes of this part, the term 'State' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the United States Virgin Islands.

"SEC. 156. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—For the purpose of making grants under subsections (a), (b), (c), and (d) of section 152, there are authorized to be appropriated $21,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996.

"(b) LIMITATION.—With respect to peer review or other activities directly related to peer review, the Secretary may not use—

"(1) for fiscal year 1994, more than $300,000 of the funds made available under subsection (a) for such review or such other activities;

"(2) for any succeeding fiscal year, more than the amount of the funds made availabe under paragraph (1) adjusted to take into account the increase in the Consumer Price Index for such fiscal year for such review or such other activities.".

TITLE V—PROJECTS OF NATIONAL SIGNIFICANCE

SEC. 501. PART HEADING.

The heading of part E of title I of the Act is amended to read as follows:

"PART E—PROJECTS OF NATIONAL SIGNIFICANCE".

SEC. 502. PURPOSE.

Section 161 (42 U.S.C. 6081) is amended to read as follows:

"SEC. 161. PURPOSE.

"The purpose of this part is to provide for grants and contracts for projects of national significance that support the development of national and State policy to enhance the independence, productivity, and integration and inclusion of individuals with developmental disabilities through—

"(1) data collection and analysis;

"(2) technical assistance to enhance the quality of State Developmental Disabilities Councils, protection and advocacy systems, and university affiliated programs; and

"(3) other projects of sufficient size and scope that hold promise to expand or improve opportunities for individuals with developmental disabilities, including—

"(A) technical assistance for the development of information and referral systems;

"(B) educating policymakers;

"(C) Federal interagency initiatives;

"(D) the enhancement of minority participation in public and private sector initiatives in developmental disabilities; and

"(E) special pilots and evaluation studies to explore the expansion of programs under part B to individuals with severe disabilities other than developmental disabilities.".

SEC. 503. GRANT AUTHORITY.

(a) SECTION HEADING.—Section 162 (42 U.S.C. 6082) is amended—

(1) by striking "SEC. 162."; and

(2) in the section heading, by striking "GRANT AUTHORITY" and inserting the following:

"SEC. 162. GRANT AUTHORITY.".

(b) AUTHORITY.—Section 162 (42 U.S.C. 6082) is amended—

(1) in subsection (a), to read as follows:

"(a) IN GENERAL.—The Secretary—

"(1) shall make grants to and enter into contracts with public or nonprofit private entities for projects of national significance relating to individuals with developmental disabilities to—

"(A) support ongoing data collection on expenditures, residential services and employment, and develop an ongoing data collection system, including data collection on the accomplishments of State Developmental Disabilities Councils, protection and advocacy systems, and university affiliated programs; and

"(B) provide technical assistance (including research, training, and evaluation) that expands or improves the effectiveness of

State Developmental Disabilities Councils under part B, protection and advocacy systems under part C, and university affiliated programs under part D, including the evaluation and assessment of the quality of services provided to individuals with developmental disabilities and other activities performed by programs under parts B, C, and D; and

"(2) may make grants to and enter into contracts with public or nonprofit private entities for projects of national significance relating to individuals with developmental disabilities to conduct other nationally significant initiatives of sufficient size and scope that hold promise of expanding or otherwise improving opportunities for individuals with developmental disabilities, including—

"(A) conducting research and providing technical assistance to assist States to develop statewide, comprehensive information and referral and service coordination systems for individuals with developmental disabilities and their families and improve supportive living and quality of life opportunities that enhance recreation, leisure, and fitness;

"(B) educating policymakers, including the training of self-advocates and family members of individuals with developmental disabilities;

"(C) pursuing Federal interagency initiatives that enhance the ability of Federal agencies to address the needs of individuals with developmental disabilities and their families; and

"(D) expanding or otherwise improving opportunities for individuals with developmental disabilities who are traditionally unserved or underserved (including individuals of ethnic and racial minority groups, and individuals from underserved geographical areas) including projects to encourage members of such groups to participate in the Developmental Disabilities Programs authorized under parts B, C, and D, and increase the involvement of students and professionals of such groups in the provision of services to, supports to, and advocacy for, individuals with developmental disabilities.";

(2) in subsection (b), to read as follows:

"(b) APPLICATION AND OTHER GRANT REQUIREMENTS.—No grant may be made under subsection (a) unless—

"(1) an application has been submitted to the Secretary in such form, in such manner, and containing such information as the Secretary shall by regulation prescribe and such application has been approved by the Secretary;

"(2) each State in which the applicant's project will be conducted has a State plan approved under section 122;

"(3) the application provides assurances that the human rights of all individuals with developmental disabilities (especially those individuals without familial protection) who are receiving services under projects assisted under this part will be protected consistent with section 110 (relating to the rights of individuals with developmental disabilities); and

"(4) the Secretary provides to the State Developmental Disabilities Council in such State an opportunity to review the application for such project and to submit its comments on the application.";

(3) in subsection (c), by striking "Not later" and inserting "PRIORITIES FOR GRANTS.—Not later";

(4) in subsection (d)—

(A) by striking "Payments under" and inserting "GRANT PAYMENTS.—Payments under"; and

(B) by inserting before the period in the second sentence ", except as otherwise provided under section 163";

(5) by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e), respectively;

(6) by inserting after subsection (a) the following new subsection:

"(b) INVESTIGATIONS.—

"(1) IN GENERAL.—Not later than October 1, 1993, there shall be a special initiative to support grants to investigate the expansion of part B activities to individuals with severe disabilities other than developmental disabilities. Such investigations shall be implemented through the following activities:

"(A) A national study of State Developmental Disabilities Councils that are currently mandated under State law or Executive order to focus on individuals with disabilities other than developmental disabilities. Such study shall be completed not later than June 30, 1995.

"(B) Pilot initiatives by not more than five additional State Developmental Disabilities Councils, in consultation with and with the support of the protection and advocacy system and the university affiliated program in such State, to study the implications of such expansion in States in which such Councils are located and to delineate barriers, opportunities, and critical issues. Such initiatives shall be completed not later than January 1996.

"(C) A national study of the process and outcomes of the pilot studies conducted under subparagraph (B). Such study shall be completed not later than May 30, 1996.

"(2) APPLICATION.—No grant may be made under this subsection unless an applicant submits to the Secretary an application, and meets the additional application requirements, under subsection (c)."; and

(7) by adding at the end thereof the following new subsection:

"(f) LIST OF RECIPIENTS.—Not later than September 1 of each fiscal year, the Secretary shall publish in the Federal Register a list of the recipients of grants and contracts in each of the areas authorized in subsections (a) and (b), including a brief description of the project, and the amount of funds granted to each such project. The amounts for such grants and contracts shall total the amount appropriated under this part for such fiscal year.".

SEC. 504. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Section 163(a) (42 U.S.C. 6083(a)) is amended—

(1) by striking "$3,650,000" and inserting "$4,000,000";

(2) by striking "fiscal year 1991" and inserting "fiscal year 1994"; and

(3) by striking "fiscal years 1992 and 1993" and inserting "fiscal years 1995 and 1996".

(b) LIMITATIONS.—Section 163(b) (42 U.S.C. 6083(b)) is amended to read as follows:

"(b) LIMITATIONS.—

"(1) PROJECTS OF NATIONAL SIGNIFICANCE.—At least 8 percent, but in no event less than $300,000, of the amounts appropriated pursuant to subsection (a) shall be used to carry out the provisions of section 162(a)(1)(B).

"(2) INVESTIGATIONS.—

"(A) IN GENERAL.—The additional authority to fund projects under section 162(b) shall not be construed as requiring the Secretary to supplant funding for other priorities described in this part.

"(B) TIME LINE FOR FUNDING.—If amounts are available to carry out subparagraphs (A), (B), and (C) of section 162(b)(1), the Administration shall provide funding to carry out such paragraphs not later than May 1 of the fiscal year in which such funds become available.

"(3) PROGRAMMATIC REVIEWS OR OTHER ADMINISTRATIVE ACTIVITIES.—The Secretary may not use the funds made available under subsection (a) for programmatic reviews as prescribed by regulation or other administrative activities under parts B, C, and D.

"(4) TECHNICAL ASSISTANCE FOR PROTECTION AND ADVOCACY SYSTEMS.—If technical assistance to improve the effectiveness of protection and advocacy systems under part C is provided under section 142(c)(5)—

"(A) no funding for the provision of such technical assistance to protection and advocacy systems shall be provided under this part; and

"(B) the amount set aside for technical assistance under section 162(a)(1)(B) shall be proportionally reduced.".

JENA BAND OF CHOCTAW INDIANS OF LOUISIANA CONFIRMATION ACT

Mr. SARBANES. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 168, S. 1078, a bill to confirm the Federal relationship with the Jena Band of Choctaw Indians of Louisiana; that the bill be deemed read three times, passed, and the motion to reconsider laid upon the table; that any statements regarding this measure appear in the RECORD at the appropriate place.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (S. 1078) was deemed read three times and passed, as follows:

S. 1078

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Jena Band of Choctaw Indians of Louisiana Confirmation Act".

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) In 1903 and 1904, after presenting testimony before the Dawes Commission, ancestors of the Jena Band of Choctaw were identified as "Fullblood Mississippi Choctaw Indians".

(2) More than 60 percent of the membership on the Jena Band of Choctaw roll dated December 1, 1984, and later submitted to the Assistant Secretary, Indian Affairs, on May 2, 1985, can document possessing one-half or more Choctaw Indian blood quantum based on descent from individuals listed as "Mississippi Choctaw" by the Dawes Commission or as "Choctaw" on the Indian Schedules of the 1900 Federal Population Census.

(3) High blood degree such as that demonstrated and documented by the Jena Band of Choctaw, although not a requirement for maintaining a Federal tribal relationship provides exceptional evidence which supports confirmation of that relationship outside the normal administrative process, because a group cannot maintain a high blood degree without a continuity of close and significant social relationships which in themselves demonstrate distinct social community.

(4) The Jena Band of Choctaw has retained a distinct dialect of the Choctaw language on a continuous basis since historic times, thus, providing supporting evidence that the Jena

Band has maintained itself as a separate and distinct historic band of Choctaw.

(5) The Jena Band's Choctaw ancestors resided in close proximity in historic Catahoula Parish, the predecessor to modern Catahoula and La Salle Parishes, according to the 1880, 1900 and 1910 Federal population censuses; Federal documents place the members of the Tribe in this same area in the 1930's and 1950's; 72 percent of the Tribe's current membership still resides in La Salle, and neighboring Grant and Rapides Parishes, thus providing supporting evidence for continuity of membership and location.

(6) The Jena Band of Choctaw can document and identify traditional leaders by name from 1850 to 1968 and elected leaders from 1974 to the present, which in the historical context of their community provides supporting evidence for continuity of political influence.

(7) Confirmation of the Federal relationship with the Tribe is supported by all the federally recognized tribes in Louisiana and by the Mississippi Band of Choctaw Indians.

SEC. 3. DEFINITIONS.

For purposes of this Act:

(1) The term "Tribe" means the Jena Band of Choctaw Indians of Louisiana.

(2) The term "Secretary" means the Secretary of the Interior.

(3) The term "Interim Council" means the Board of Directors of the Jena Band of Choctaw Indians of Louisiana.

(4) The term "member" means an individual who is enrolled on the membership roll of the Tribe.

(5) The term "State" means the State of Louisiana.

SEC. 4. CONFIRMATION OF FEDERAL RELATIONSHIP.

Federal Recognition as a Tribe is hereby confirmed with regard to the Jena Band of Choctaw Indians of Louisiana. All Federal laws of general application to Indians and Indian tribes, including the Act of June 18, 1934 (48 Stat. 984; 25 U.S.C. 461 et seq.), popularly known as the "Indian Reorganization Act", shall apply with respect to the Tribe and to the members.

SEC. 5. RECOGNITION OF RIGHTS.

(a) Existing Rights of Tribe.—Nothing in this Act may be construed to diminish any rights or privileges of the Tribe, or of its members, that existed prior to the date of the enactment of this Act.

(b) Existing Rights and Obligations.—Except as otherwise specifically provided in this Act, nothing in this Act may be construed as altering or affecting—

(1) any rights or obligations with respect to property,

(2) any rights or obligations under any contract,

(3) any hunting, fishing, trapping, gathering, or water rights of the Tribe or its members, or

(4) any obligation to pay a tax levied before the date of enactment of this Act.

SEC. 6. FEDERAL SERVICES AND BENEFITS.

Notwithstanding any other provision of law, and without regard to the existence of a reservation, the Tribe and its members shall be eligible, on and after the date of enactment of this Act, for all Federal services and benefits furnished to federally recognized Indian tribes or their members. In the case of Federal services available to members of federally recognized tribes residing on a reservation, members of the Jena Band of Choctaw Indians of Louisiana residing in La Salle, Rapides, and Grant Parishes, Louisiana, shall be deemed to be residing on a reservation. Notwithstanding any other provision of law, the Tribe shall be considered an Indian tribe for the purpose of the Indian Tribal Government Tax Status Act (26 U.S.C. 7871).

SEC. 7. ECONOMIC DEVELOPMENT.

(a) Plan for Economic Development.—The Secretary shall—

(1) enter into negotiations with the governing body of the Tribe with respect to establishing a plan for economic development for this Tribe;

(2) in accordance with this section and not later than 2 years after the adoption of a tribal constitution as provided in section 10, develop such a plan; and

(3) upon the approval of such plan by the governing body of the Tribe, submit such plan to the Congress.

(b) Restrictions To Be Contained in Plan.—Any proposed transfer of real property contained in the plan developed by the Secretary under subsection (a) shall be consistent with the requirements of section 11 of this Act.

SEC. 8. INTERIM GOVERNMENT.

Until such time as a constitution for the Tribe is adopted in accordance with section 10(a), the Tribe shall be governed by the Interim Council.

SEC. 9. MEMBERSHIP.

(a) Base Roll.—The Jena Band of Choctaw membership list dated December 1, 1984, and submitted to the Assistant Secretary, Indian Affairs, on May 2, 1985, shall constitute the base roll of the Tribe subject to the review and approval of the Secretary.

(b) Eligibility.—(1) Until a tribal constitution is adopted, a person shall be placed on the Jena membership roll, if the individual is living, possesses at least one-fourth or more Choctaw Indian blood quantum derived directly from those Choctaw who lived in the historic Catahoula Parish, and is not an enrolled member of another federally recognized tribe, and if—

(A) that individual's name is listed on the Jena Band of Choctaw membership list dated December 1, 1984, submitted to the Assistant Secretary, Indian Affairs, on May 2, 1985;

(B) that individual is not listed on but meets the requirements established by the Jena Band of Choctaw Indians of Louisiana in its Articles of Incorporation, filed and recorded in the State of Louisiana on May 22, 1974, which had to be met to be included on the Jena Band's list dated December 1, 1984; or

(C) that individual is a lineal descendant of an individual, living or dead, identified by subparagraph (A) or (B).

(2) After adoption of a tribal constitution, such constitution shall govern membership in the Tribe. In addition to meeting any other criteria imposed in such tribal constitution, any person added to the roll must be of Choctaw ancestry derived directly from those Choctaw who lived in the historic Catahoula Parish and cannot be a member of another federally recognized Indian tribe.

SEC. 10. TRIBE CONSTITUTION.

(a) In General.—Upon the written request of the Interim Council, the Secretary shall conduct, by secret ballot, an election to adopt a constitution for the Tribe which is consistent with this Act. Such constitution shall be submitted by the Interim Council to the Secretary no later than 1 year following the date of enactment of this Act. Absentee balloting shall be permitted regardless of voter residence. The election shall be conducted in accordance with section 16 of the Act of June 18, 1934 (48 Stat. 987; 25 U.S.C. 476), as amended.

(b) Election of Tribal Officials.—Not later than 120 days after the Tribe adopts a tribal constitution, the Secretary shall conduct an election by secret ballot for the purpose of electing tribal officials as provided in the constitution. Such election shall be conducted according to the procedures stated in subsection (a) except to the extent that such procedures conflict with the tribal constitution.

(c) Tribal Government.—Notwithstanding any other provision of law, the governing body of the Tribe established under the constitution adopted under subsection (a), shall be treated as an Indian tribal government for purposes of the Internal Revenue Code of 1986, and all other Federal laws of general application to Indians and Indian tribes, including the Act of June 18, 1934 (48 Stat. 984; 25 U.S.C. 461 et seq.), as amended.

SEC. 11. REAL PROPERTY.

(a) Subject to Existing Rights and Obligations.—Any real property taken in trust by the Secretary shall be subject to—

(1) all legal rights and interests in such lands existing at the time of acquisition of such land by the Secretary, including any lien, mortgage, or previously levied and outstanding State or local tax;

(2) foreclosure or sale in accordance with the laws of the State of Louisiana pursuant to the terms of any valid obligation in existence at the time of the acquisition of such land by the Secretary; and

(3) the provisions of the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.).

(b) Tax Exemption.—Any real property held in trust by the Secretary pursuant to this Act shall be exempt from Federal, State, and local taxation on and after the date such property is accepted by the Secretary.

DEPOSITORY INSTITUTIONS DISASTER RELIEF ACT OF 1993

Mr. SARBANES. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1273.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1273) entitled "An Act to enhance the availability of credit in disaster areas by reducing the regulatory burden imposed upon insured depository institutions to the extent such action is consistent with the safety and soundness of the institutions," do pass with the following amendments:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Depository Institutions Disaster Relief Act of 1993".

SEC. 2. TRUTH IN LENDING ACT; EXPEDITED FUNDS AVAILABILITY ACT.

(a) Truth in Lending Act.—During the 240-day period beginning on the date of enactment of this Act, the Board of Governors of the Federal Reserve System may make exceptions to the Truth in Lending Act for transactions within an area in which the President, pursuant to section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, has determined, on or after April 1, 1993, that a major disaster exists, or within an area determined to be eligible for disaster relief under other Federal law by reason of damage related to the 1993 flooding of the Mississippi River and its tributaries, if the Board determines that the exception can reasonably be expected to alleviate hardships to the

public resulting from such disaster that outweigh possible adverse effects.

(b) EXPEDITED FUNDS AVAILABILITY ACT.—During the 240-day period beginning on the date of enactment of this Act, the Board of Governors of the Federal Reserve System may make exceptions to the Expedited Funds Availability Act for depository institution offices located within any area referred to in subsection (a) of this section if the Board determines that the exception can reasonably be expected to alleviate hardships to the public resulting from such disaster that outweigh possible adverse effects.

(c) TIME LIMIT ON EXCEPTIONS.—Any exception made under this section shall expire not later than October 1, 1994.

(d) PUBLICATION REQUIRED.—The Board of Governors of the Federal Reserve System shall publish in the Federal Register a statement that—

(1) describes any exception made under this section; and

(2) explains how the exception can reasonably be expected to produce benefits to the public that outweigh possible adverse effects.

SEC. 3. DEPOSIT OF INSURANCE PROCEEDS.

(a) IN GENERAL.—The appropriate Federal banking agency may, by order, permit an insured depository institution to subtract from the institution's total assets, in calculating compliance with the leverage limit prescribed under section 38 of the Federal Deposit Insurance Act, an amount not exceeding the qualifying amount attributable to insurance proceeds, if the agency determines that—

(1) the institution—

(A) had its principal place of business within an area in which the President, pursuant to section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, has determined, on or after April 1, 1993, that a major disaster exists, or within an area determined to be eligible for disaster relief under other Federal law by reason of damage related to the 1993 flooding of the Mississippi River and its tributaries, on the day before the date of any such determination;

(B) derives more than 60 percent of its total deposits from persons who normally reside within, or whose principal place of business is normally within, areas of intense devastation caused by the major disaster;

(C) was adequately capitalized (as defined in section 38 of the Federal Deposit Insurance Act) before the major disaster; and

(D) has an acceptable plan for managing the increase in its total assets and total deposits; and

(2) the subtraction is consistent with the purpose of section 38 of the Federal Deposit Insurance Act.

(b) TIME LIMIT ON EXCEPTIONS.—Any exception made under this section shall expire not later than April 1, 1995.

(c) DEFINITIONS.—For purposes of this section:

(1) APPROPRIATE FEDERAL BANKING AGENCY.—The term "appropriate Federal banking agency" has the same meaning as in section 3 of the Federal Deposit Insurance Act.

(2) INSURED DEPOSITORY INSTITUTION.—The term "insured depository institution" has the same meaning as in section 3 of the Federal Deposit Insurance Act.

(3) LEVERAGE LIMIT.—The term "leverage limit" has the same meaning as in section 38 of the Federal Deposit Insurance Act.

(4) QUALIFYING AMOUNT ATTRIBUTABLE TO INSURANCE PROCEEDS.—The term "qualifying amount attributable to insurance proceeds" means the amount (if any) by which the institution's total assets exceed the institution's average total assets during the calendar quarter ending before the date of any determination referred to in subsection (a)(1)(A), because of the deposit of insurance payments or governmental assistance made with respect to damage caused by, or other costs resulting from, the major disaster.

SEC. 4. BANKING AGENCY PUBLICATION REQUIREMENTS.

(a) IN GENERAL.—A qualifying regulatory agency may take any of the following actions with respect to depository institutions or other regulated entities whose principal place of business is within, or with respect to transactions or activities within, an area in which the President, pursuant to section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, has determined, on or after April 1, 1993, that a major disaster exists, or within an area determined to be eligible for disaster relief under other Federal law by reason of damage related to the 1993 flooding of the Mississippi River and its tributaries, if the agency determines that the action would facilitate recovery from the major disaster:

(1) PROCEDURE.—Exercising the agency's authority under provisions of law other than this section without complying with—

(A) any requirement of section 553 of title 5, United States Code; or

(B) any provision of law that requires notice or opportunity for hearing or sets maximum or minimum time limits with respect to agency action.

(2) PUBLICATION REQUIREMENTS.—Making exceptions, with respect to institutions or other entities for which the agency is the primary Federal regulator, to—

(A) any publication requirement with respect to establishing branches or other deposit-taking facilities; or

(B) any similar publication requirement.

(b) PUBLICATION REQUIRED.—A qualifying regulatory agency shall publish in the Federal Register a statement that—

(1) describes any action taken under this section; and

(2) explains the need for the action.

(c) QUALIFYING REGULATORY AGENCY DEFINED.—For purposes of this section, the term "qualifying regulatory agency" means—

(1) the Board of Governors of the Federal Reserve System;

(2) the Comptroller of the Currency;

(3) the Director of the Office of Thrift Supervision;

(4) the Federal Deposit Insurance Corporation;

(5) the Financial Institutions Examination Council;

(6) the National Credit Union Administration; and

(7) with respect to chapter 53 of title 31, United States Code, the Secretary of the Treasury.

(d) EXPIRATION.—Any exception made under this section shall expire not later than April 1, 1994.

SEC. 5. STUDY; REPORT TO THE CONGRESS.

(a) STUDY.—The Secretary of the Treasury, after consultation with the appropriate Federal banking agencies (as defined in section 3 of the Federal Deposit Insurance Act), shall conduct a study that—

(1) examines how the agencies and entities granted authority by the Depository Institutions Disaster Relief Act of 1992 and by this Act have exercised such authority;

(2) evaluates the utility of such Acts in facilitating recovery from disasters consistent with the safety and soundness of depository institutions; and

(3) contains recommendations with respect to whether the authority granted by this Act should be made permanent.

(b) REPORT TO THE CONGRESS.—Not later than 18 months after the date of the enactment of this Act, the Secretary of the Treasury shall submit to the Congress a report on the results of the study required by subsection (a).

SEC. 6. SENSE OF THE CONGRESS.

It is the sense of the Congress that the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, and the National Credit Union Administration should encourage depository institutions to meet the financial services needs of their communities and customers located in areas affected by the 1993 flooding of the Mississippi River and its tributaries.

SEC. 7. OTHER AUTHORITY NOT AFFECTED.

Nothing in this Act limits the authority of any department or agency under any other provision of law.

Amend the title so as to read: "An Act to facilitate recovery from the recent flooding of the Mississippi River and its tributaries by providing greater flexibility for depository institutions and their regulators, and for other purposes.".

Mr. SARBANES. Mr. President, I move that the Senator concur in the amendments of the House.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. SARBANES. Mr. President, I move that the vote by which the Senate concurred in the amendments of the House be reconsidered.

Mr. President, I move to table that motion.

The motion to lay on the table was agreed to.

TECHNOLOGY-RELATED ASSISTANCE FOR INDIVIDUALS WITH DISABILITIES ACT AMENDMENTS OF 1993

Mr. SARBANES. Mr. President, I ask unanimous consent that the Senate proceed to Calendar No. 177, S. 1283, a bill to amend the Technology-Related Assistance for Individuals With Disabilities Act.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1283) to amend the Technology-Related Assistance for Individuals With Disabilities Act of 1988, to improve the act, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 772

(Purpose: To amend the Head Start Act to suspend certain proceedings with respect to the purchase of facilities)

Mr. SARBANES. Mr. President, I send an amendment by Senator HATCH to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maryland [Mr. SARBANES], for Mr. HATCH, proposes an amendment numbered 772.

Mr. SARBANES. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following new section:

SEC. . ADMINISTRATIVE REQUIREMENTS UNDER THE HEAD START ACT.

Section 644(f) of the Head Start Act (42 U.S.C. 9839(f)) is amended—

(1) in paragraph (1)—

(A) by inserting ", or to approve a prior purchase of" after "to purchase,"; and

(B) by inserting before the period at the end thereof the following: ", and shall suspend any proceedings pending against any Head Start agency to claim costs incurred in purchasing such facilities until the agency has been afforded an opportunity to apply for approval of the purchase and the Secretary has determined whether the purchase will be approved. The Secretary shall not be required to repay claims previously satisfied by Head Start agencies for costs incurred in the purchase of facilities"; and

(2) in paragraph (2)—

(A) in subparagraph (A), by inserting "or that was previously purchased" before the semicolon; and

(B) in subparagraph (C)—

(i) by inserting ", or the previous purchase has resulted," after "purchase will result" in clause (i); and

(ii) by inserting ", or would have prevented," after "will prevent" in clause (ii).

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 772) was agreed to.

Mr. HARKIN. Mr. President, I rise today in strong support of S. 1283, the Technology-Related Assistance Act Amendments of 1993. This is a truly bipartisan, consensus bill. S. 1283 is cosponsored by Senators DURENBERGER, KENNEDY, JEFFORDS, METZENBAUM, SIMON, WELLSTONE, WOFFORD, DOLE, PELL, and HATCH.

I particularly want to acknowledge Senator DURENBERGER for his wisdom and counsel during this reauthorization process. Senator DURENBERGER and Susan Heegaard of his staff have worked long and hard on this bill and they deserve credit for their commitment to the consensus building process that made this bill possible. In addition, a number of our distinguished colleagues here in the Senate from both sides of the aisle provided critical input on the bill.

I also want to thank my staff, including Bob Silverstein, Linda Hinton, and Walter Harp, for their contribution to this legislation. I particularly want to acknowledge Linda Hinton for her 2 years of distinguished service on the Subcommittee on Disability Policy, as she recently left to become executive director of the Iowa Association of Rehabilitation and Residential Facilities.

During the development of this legislation, we enjoyed the support and constructive guidance of the staff of the Department of Education. The subcommittee and the administration's staffs met numerous times over the past many months to work out the details of the changes to the bill.

As we worked on the reauthorization of this legislation, we had the assistance of many organizations, groups and individuals. In particular, I want to express my gratitude to the Technology-Related Assistance Task Force of the Consortium for Citizens with Disabilities, the State project directors, and the various national, regional, and local organizations, service providers, and professionals, numerous State agency officials and private citizens whose thoughtful commentary and ideas have been so helpful in this process.

Mr. President, 12 member organizations of the Consortium for Citizens with Disabilities signed a letter of support for S. 1283. All of these groups were involved in the dialog that marked the development of the bill. The letter best describes the final results of this productive dialog:

> This is a critical systems change initiative designed to strengthen and enhance America's national disability policy. We are deeply aware that securing access to funding for assistive technology devices and services is not easy for individuals with disabilities and see this reauthorization bill as critical to enhancing such access.

Mr. President, I ask unanimous consent that the entire letter from the Consortium for Citizens with Disabilities supporting the Technology-Related Assistance Act Amendments of 1993 be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection it is ordered.

(See exhibit 1)

Mr. HARKIN. On July 26, 1990, the President signed into law the Americans with Disabilities Act of 1990. I am proud to have been the chief sponsor of the ADA. I have referred to the ADA as the 20th century emancipation proclamation for individuals with disabilities. The ADA represents the philosophy of inclusion, empowerment, and elimination of barriers in society that keep persons with disabilities from fully participating in the economic political, social, cultural, and educational mainstream of American society.

We have just recently celebrated the third anniversary of the passage of the ADA, July 26, 1993. We can all be proud of this landmark legislation, but obviously our work is not done. We cannot rest until we have established a national disability policy that is based on the values and precepts of the ADA; empowerment, inclusion, and independence.

In other words, we need a national disability policy based on the following principles: Individuals with disabilities are entitled to be treated with dignity and respect; individuals with disabilities are entitled to make informed choices and decisions; individuals with disabilities are entitled to live in their own homes and communities where they can be fully included in all aspects of American life and make meaningful contributions to their families, community, State, and Nation; individuals with disabilities and their families must be provided with the services and supports necessary to transform these goals into realities.

Last year we reauthorized the Rehabilitation Act of 1973, which contains two components of our national disability policy—vocational rehabilitation to provide people with disabilities with the necessary skills and support services to enable them to achieve their career goals and independent living services to ensure that people with disabilities are empowered to control their own lives and be fully included in all aspects of our society.

It is my expectation that Congress will enact legislation this year that addresses the need of persons with disabilities for affordable health care, including the elimination of exclusions for preexisting conditions, and for consumer-directed personal assistance services.

Today, we are considering the reauthorization of an additional piece of legislation that contains components of our national disability policy—the Technology-Related Assistance Act Amendments of 1993. This bill reauthorizes the Technology-Related Assistance for Individuals with Disabilities Act of 1988 and amends the act to improve the programs provided under the act. There are seven basic purposes for this legislation. They are:

To ensure the Federal support necessary to allow the States to successfully complete the systemic change process begun under the Technology-Related Assistance Act of 1988;

To require that the State projects include systemic and advocacy activities and clarify that these activities are to be the focus of the projects;

To promote systemic change through individual advocacy by ensuring that individuals with disabilities have access to protection and advocacy services to secure their rights to assistive technology devices and assistive technology services;

To emphasize the importance of consumer involvement in all aspects of the program;

To increase the accountability of the program in the development and implementation of consumer-responsive comprehensive statewide programs of technology-related assistance;

To authorize the necessary technical assistance on a national level to the State projects and to individuals with disabilities and other interested parties;

To provide the basis for improved information systems and data collection on assistive technology through the development of a national classification system and to enhance the skills and competencies of individuals involved in providing assistive technology, consumers, and others.

I urge my colleagues to join me in support of S. 1283. It represents improvements that are essential if we are to see the dream of the Americans with Disabilities Act become a reality—an America where people with disabilities, including those with severe disabilities, are competitively employed in integrated work settings and are making meaningful contributions to their families and communities.

Mr. President, I ask unanimous consent that the section-by-section analysis of S. 1283 also be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION SUMMARY

Set out below is a summary of the major changes made by the Technology-Related Assistance Act Amendments of 1993.

CONTINUATION OF THE PROGRAM

The bill provides for a three-year extension grant after the completion of the three-year development grant and the initial two-year extension grant for States that show significant progress toward the development and implementation of a consumer-responsive comprehensive statewide program of technology-related assistance for individuals of all ages with disabilities, provided evidence that the lead agency meets certain criteria, and describe the steps will be taken to continue the program on a permanent basis.

SYSTEMIC CHANGE AND ADVOCACY ACTIVITIES

Several changes were made to the Act to make it clear that the projects funded under title I must focus their efforts on systemic change and advocacy activities.

The bill reorders the current purposes to emphasize the importance of several of the purposes related to systemic change, consumer responsiveness, interagency coordination, advocacy, and transition of assistive technology between services settings and to clarify that the primary purpose of the projects is to increase the availability of, funding for, access to, and provision of assistive technology devices and assistive technology services.

The bill specifies that the projects shall carry out activities regarding the development, implementation and monitoring of State, regional and local laws, regulations, policies, practices, procedures and organizational structures that will improve access to and funding for assistive technology, the development and implementation of strategies to overcome barriers to such access, and the development and implementation of strategies to enhance the ability of individuals with disabilities and their families to advocate for such access.

The bill includes a new section specifying that the lead agency must provide evidence of its ability to meet certain criteria including its ability to promote and accomplish systemic change.

The bill adds to the application requirements for a grant under the Act that the State set out the systemic change and advocacy activities it will undertake under the grant, including, at a minimum, activities in the areas of access to and funding for assistive technology devices and services, case management or representation, and interagency coordination unless the State demonstrates through the annual progress report to the Secretary that significant progress has been made in the development and implementation of a consumer-responsive comprehensive statewide program and that other systemic change and advocacy activities will increase the likelihood that the program will accomplish the purposes of the Act.

The bill amends the contents of the annual progress reports including the identification of successful systemic change and advocacy activities to increase funding for an access to assistive technology devices and services, with an analysis of laws, regulations, policies, practices, procedures, and organizational structures and other processes or activities that have changed to facilitate the acquisition of assistive technology.

INDIVIDUAL ADVOCACY

The bill adds a policy statement that all programs, projects, and activities receiving assistance under the Act shall be carried out in a manner consistent with certain principles including support for individual and systemic advocacy.

The bill includes a change to promote systemic change through individual legal advocacy through the protection and advocacy systems established in each State under the Developmental Disabilities Assistance and Bill of Rights Act. The bill requires either that the State contact for these services in an amount equal to 10% of the State's grant under title I or $75,000, whichever is less, or, at the State's request, have the Secretary reserve such an amount for this purpose. If the State chooses to have the Secretary reserve the amount, the Secretary shall seek input from the State regarding the provisions of the grant or contract with the protection and advocacy service provider and the provider must provide the State project with an update of its activities at least monthly and must provide the State project with a report of its activities at least once every six months.

SYSTEMIC AND INDIVIDUAL CONSUMER INVOLVEMENT

The bill makes several changes to reiterate that the Act requires the meaningful involvement of consumers in the planning, development, implementation, and evaluation of the program on a systemic level and in the decisions related to the provision of assistive technology on an individual level.

The bill adds two purposes specifying that the purposes include the active involvement of individuals with disabilities and their families at both the systemic and individual level.

The bill adds a policy statement that all programs, projects, and activities receiving assistance under the Act shall be carried out in a manner consistent with certain principles including the inclusion, integration, and full participation of individuals with disabilities.

The bill specifies that the authorized activities include training activities to increase the participation of consumers in the identification, planning, use, delivery and evaluation of assistive technology.

The bill adds to the application requirements that individuals with disabilities and their families are to be actively involved in the development, implementation, and evaluation of the program and in the decisions relating to assistive technology. The bill clarifies that the programs are authorized to use funds under the Act to provide for the expenses of individuals with disabilities in order to ensure their active participation in the program.

The bill specifies that the application for an extension grant must include a description of State actions to determine consumer satisfaction with the degree of consumer involvement, the specific systemic change and advocacy activities, the progress made toward the development of the program, and the ability of the lead agency to provide the evidence of its ability to meet certain requirements.

The bill adds a requirement that the State conduct a public hearing in the last year of a development grant and the last year of an initial extension grant in order to receive input on the program.

TECHNICAL ASSISTANCE

The bill increases the amount reserved to provide nationwide information and technical assistance. In addition to the State projects, the bill specifies that the audience for this information and technical assistance is to include individuals with disabilities, their families, and providers of technology-related assistance, including protection and advocacy providers.

NATIONAL CLASSIFICATION SYSTEM

The bill authorizes a pilot project to develop and test a national classification system for assistive technology devices and assistive technology services, with the goal of obtaining uniform data across public programs and information and referral networks.

The bill specifies that the Secretary is to develop a data collection instrument as part of the pilot project and that the pilot project is to be conducted in consultation with the Interagency Disability Coordinating Council and the National Council on Disability and in coordination with the State programs and technical assistance programs funded under title I, other program data collection activities and systems, and information and referral systems.

The bill requires the Secretary to report to Congress by January 1, 1996, on the feasibility of implementing a uniform data collection system for assistive technology.

EXHIBIT 1

CONSORTIUM FOR
CITIZENS WITH DISABILITIES,
July 26, 1993.

Re: Reauthorization of Public Law 100-407, "Technology-Related Assistance For Individuals With Disabilities Act of 1988" [29 USC 2201]—"the Tech Act".

DEAR MEMBER OF SENATE LABOR & HUMAN RESOURCES COMMITTEE: This letter is written to you on behalf of the members of the Technology Task Force of the Consortium for Citizens with Disabilities (CCD). CCD is the coalition of more than one hundred national disability organizations that advocates on behalf of our nation's 43 million citizens with disabilities, their families and service providers. We strongly support passage of the Senate bill (S. 1283) to reauthorize P.L. 100-407, the "Technology-Related Assistance For Individuals With Disabilities Act of 1988".

This is a critical systems change initiative designed to strengthen and enhance America's national disability policy. We are deeply aware that securing access to funding for assistive technology devices and services is not easy for individuals with disabilities and see this reauthorization bill as critical to enhancing such access.

In particular, we support amendments which address the Act's focus on systemic change and access to funding, including the new definitions in these areas. In addition, we fully support the proposed provisions to require greater accountability by the Title I grant programs and to the federal government. Furthermore, CCD supports the new focus on advocacy activities as this is a critical systems change support for children, youth and adults with disabilities, and their families. Housing this activity within an existing federally-supported advocacy system strengthens overall Congressional commitment in this area.

We ask for your support for the S. 1283 which will go a long way to ensure that individuals with disabilities receive the technology-related assistance they need in order to become more productive, integrated and independent in this rapidly changing America.

Sincerely,

American Association of University Affiliated Programs for Persons with Developmental Disabilities.

American Speech Language Hearing Association.

American Occupational Therapy Association.

Association for Children and Adults With Learning Disabilities.

Council for Exceptional Children.

National Association for the Deaf.

National Association of Developmental Disabilities Councils.

National Association of Protection & Advocacy Systems.

National Easter Seal Society.

Self Help For Hard of Hearing People.

The ARC.

United Cerebral Palsy Associations, Inc.

Mr. HATCH. Mr. President, during the last Congress, the Head Start Act was amended to allow Head Start delivery agencies to purchase buildings and to charge mortgage and interest payments as program costs in lieu of rent in order to reduce program operating costs, generate a savings to the Federal Government, and increase Government and program efficiency. Unfortunately, a handful of Head Start delivery agencies were not covered by the original revision. For that reason, I offer this amendment, designed to correct this very narrow problem. This amendment makes the provisions allowing building purchase costs by nonprofit, Head Start delivery agencies retroactive.

Head Start is a tremendous program serving America's young children. I am eager to assist them in whatever way possible to reduce their operating costs and improve their efficiency.

I sincerely appreciate the support and cooperation of all my colleagues on the Labor and Human Resources Committee, particularly Senators KENNEDY, KASSEBAUM, HARKIN, and DURENBERGER, and Senators DODD and COATS, who are chairman and ranking member, respectively, of the Subcommittee on Children, Family, Drugs and Alcoholism.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1283

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Technology-Related Assistance Act Amendments of 1993".

SEC. 2. REFERENCES.

Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2201 et seq.).

SEC. 3. FINDINGS, PURPOSES, AND POLICY.

(a) SECTION HEADING.—Section 2 (29 U.S.C. 2201) is amended by striking the heading and inserting the following:

"SEC. 2. FINDINGS, PURPOSES, AND POLICY.".

(b) FINDINGS.—Section 2(a) is amended—

(1) in paragraph (3)(C), by striking "nondisabled individuals" and inserting "individuals who do not have disabilities";

(2) by redesignating paragraphs (4) through (8) as paragraphs (5) through (9), respectively;

(3) by inserting after paragraph (3) the following new paragraph:

"(4) The goals of the Nation properly include providing individuals with disabilities with the tools, including assistive technology devices and assistive technology services, necessary to—

"(A) make informed choices and decisions; and

"(B) achieve equality of opportunity, full inclusion and integration in society, employment, independent living, and economic and social self-sufficiency, for such individuals.";

(4) in paragraph (6) (as redesignated in paragraph (2) of this subsection)—

(A) by striking "assistive technology devices and services" and inserting "assistive technology devices and assistive technology services"; and

(B) by striking "families" and inserting "the parents, family members, guardians, advocates, and authorized representatives";

(5) in subparagraph (C) of paragraph (7) (as redesignated in paragraph (2) of this subsection), to read as follows:

"(C) information about the potential of technology available to individuals with disabilities, the parents, family members, guardians, advocates, and authorized representatives of the individuals, individuals who work for public agencies, or for private entities (including insurers), that have contact with individuals with disabilities, educators and related services personnel, employers, and other appropriate individuals;";

(6) in paragraph (8) (as redesignated in paragraph (2) of this subsection) by striking "limited markets" and inserting "a perception that such individuals constitute a limited market"; and

(7) in the second sentence of paragraph (9) (as redesignated in paragraph (2) of this subsection), by striking "to individuals with disabilities" and all that follows and inserting the following: "to individuals with disabilities, the parents, family members, guardians, advocates, and authorized representatives of the individuals, individuals who work for public agencies, or for private entities (including insurers), that have contact with individuals with disabilities, educators and related services personnel, employers, and other appropriate individuals.".

(c) PURPOSES.—Section 2(b) is amended by striking paragraph (1) and inserting the following:

"(1) To provide financial assistance to the States to support systemic change and advocacy activities designed to assist each State in developing and implementing a consumer-responsive comprehensive statewide program of technology-related assistance, for individuals of all ages who are individuals with disabilities, that is designed to—

"(A) increase the availability of, funding for, access to, and provision of assistive technology devices and assistive technology services for individuals with disabilities;

"(B) increase the active involvement of individuals with disabilities, and the parents, family members, guardians, advocates, and authorized representatives of individuals with disabilities in the planning, development, implementation and evaluation of such a program;

"(C) increase the involvement of individuals with disabilities, and, if appropriate, the parents, family members, guardians, advocates, or authorized representatives of individuals with disabilities, in decisions related to the provision of assistive technology devices and assistive technology services;

"(D) increase and promote interagency coordination among State agencies, and between State agencies and private entities, that are involved in carrying out activities under section 101, particularly providing assistive technology devices and assistive technology services, that accomplish a purpose described in another subparagraph of this paragraph;

"(E)(i) increase the awareness of laws, regulations, policies, practices, procedures, and organizational structures, that facilitate the availability or provision of assistive technology devices and assistive technology services; and

"(ii) facilitate the change of laws, regulations, policies, practices, procedures, and organizational structures, that impede the availability or provision of assistive technology devices or assistive technology services;

"(F) increase the probability that individuals of all ages who are individuals with disabilities will, to the extent appropriate, be able to secure and maintain possession of assistive technology devices as such individuals make the transition between services offered by human service agencies or between settings of daily living;

"(G) enhance the skills and competencies of individuals involved in providing assistive technology devices and assistive technology services;

"(H) increase awareness and knowledge of the efficacy of assistive technology devices, and assistive technology services, among—

"(i) individuals with disabilities;

"(ii) the parents, family members, guardians, advocates, or authorized representatives of individuals with disabilities;

"(iii) individuals who work for public agencies, or for private entities (including insurers), that have contact with individuals with disabilities;

"(iv) educators and related services personnel;

"(v) employers; and

"(vi) other appropriate individuals and entities;

"(I) increase the capacity of public entities and private entities to provide and pay for assistive technology devices and assistive technology services, on a statewide basis for individuals of all ages who are individuals with disabilities; and

"(J) increase the awareness of the needs of individuals with disabilities for assistive technology devices and for assistive technology services.".

(d) POLICY.—At the end of section 2, add the following new subsection:

"(c) POLICY.—It is the policy of the United States that all programs, projects, and activities receiving assistance under this Act shall be carried out in a manner consistent with the principles of—

"(1) respect for individual dignity, personal responsibility, self-determination, and pursuit of meaningful careers, based on informed choice, of individuals with disabilities;

"(2) respect for the privacy, rights, and equal access (including the use of accessible formats), of the individuals;

"(3) inclusion, integration, and full participation of the individuals;

"(4) support for the involvement of a parent, a family member, a guardian, an advocate, or an authorized representative if an individual with a disability requests, desires, or needs such support; and

"(5) support for individual and systemic advocacy and community involvement.".

SEC. 4. DEFINITIONS.

Section 3 (29 U.S.C. 2202) is amended—

(1) in paragraph (2)(E), by striking "for an individual" and all that follows and inserting the following "for an individual with a disability, or, where appropriate, the parent, family member, guardian, advocate, or authorized representative of an individual with a disability; and";

(2) by redesignating paragraphs (3) through (8) as paragraphs (6), (7), (9), (10), (12), and (13), respectively;

(3) by inserting after paragraph (2) the following new paragraphs:

"(3) CONSUMER-RESPONSIVE COMPREHENSIVE STATEWIDE PROGRAM OF TECHNOLOGY-RELATED ASSISTANCE.—The term 'consumer-responsive comprehensive statewide program of technology-related assistance' means a statewide program of technology-related assistance developed and implemented by a State under title I that—

"(A) is consumer-responsive; and

"(B)(i) addresses the needs of all individuals with disabilities, including underserved groups, who can benefit from the use of assistive technology devices and assistive technology services;

"(ii) addresses such needs without regard to the age, type of disability, race, ethnicity, or gender of such individuals, or the particular major life activity for which such individuals need the assistance; and

"(iii) addresses such needs without requiring that the assistance be provided through any particular agency or service delivery system.

"(4) CONSUMER-RESPONSIVE.—The term 'consumer-responsive' means, with respect to an entity or program, that the entity or program—

"(A) is easily accessible to and usable by individuals with disabilities and, when appropriate, the parents, family members, guardians, advocates, or authorized representatives of such individuals;

"(B) responds to the needs of individuals with disabilities in a timely and appropriate manner; and

"(C) facilitates the full and meaningful participation of individuals with disabilities in—

"(i) decisions relating to the provision of assistive technology devices and assistive technology services to such individuals; and

"(ii) the planning, development, implementation, and evaluation of the consumer-responsive comprehensive statewide program of technology-related assistance for individuals with disabilities.

"(5) DISABILITY.—The term 'disability' means a condition considered to be a disability or handicap for the purposes of any Federal law other than this Act or for the purposes of the law of the State involved.";

(4) in paragraph (6) (as redesignated by paragraph (2) of this subsection), to read as follows:

"(6) INDIVIDUAL WITH A DISABILITY; INDIVIDUALS WITH DISABILITIES.—

"(A) INDIVIDUAL WITH A DISABILITY.—The term 'individual with a disability' means any individual—

"(i) who is considered to have a disability for the purposes of any Federal law other than this Act or for the purposes of the law of the State in which the individual resides; and

"(ii) who is or would be enabled by assistive technology devices or assistive technology services to maintain a level of functioning or to achieve a greater level of functioning in any major life activity.

"(B) INDIVIDUALS WITH DISABILITIES.—The term 'individuals with disabilities' means more than one individual with a disability.";

(5) in paragraph (7) (as redesignated by paragraph (2) of this subsection) by striking "section 435(b)" and inserting "section 481";

(6) by inserting after such paragraph (7) the following new paragraph:

"(8) PROTECTION AND ADVOCACY SERVICES.—The term 'protection and advocacy services' means services that—

"(A) are described in part C of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6041 et seq.), the Protection and Advocacy for Mentally Ill Individuals Act (42 U.S.C. 10801 et seq.), or section 509 of the Rehabilitation Act of 1973 (29 U.S.C. 794e); and

"(B) assist individuals with disabilities, or the parents, family members, guardians, advocates, or authorized representatives of the individuals, with respect to assistive technology devices and assistive technology services.";

(7) in paragraph (10) (as redesignated by paragraph (2) of this subsection)—

(A) by striking "several States" and inserting "several States of the United States";

(B) by striking "Virgin Islands" and inserting "United States Virgin Islands"; and

(C) by striking "the Trust Territory of the Pacific Islands" and inserting "the Republic of Palau (until the Compact of Free Association with Palau takes effect)";

(8) by inserting after such paragraph (10) the following new paragraph:

"(11) SYSTEMIC CHANGE.—The term 'systemic change' means efforts that result in public or private agencies and organizations having greater capacity or enhanced ability to be consumer-responsive and provide funding for or access to assistive technology devices and assistive technology services, or otherwise increase the availability of such technology, to benefit individuals with disabilities, or the parents, family members, guardians, advocates, or authorized representatives of such individuals on a permanent basis."; and

(9) in paragraph (12) (as redesignated by paragraph (2) of this subsection)—

(A) by striking "functions performed and"; and

(B) by inserting "any of subparagraphs (A) through (J) of" before "section 2(b)(1)".

TITLE I—GRANTS TO STATES

SEC. 101. PROGRAM AUTHORIZED.

(a) GRANTS TO STATES.—Section 101(a) (29 U.S.C. 2211(a)) is amended—

(1) by inserting after "provisions of this title" the following: "to support systemic change and advocacy activities designed"; and

(2) by striking "to develop and implement" and inserting "in developing and implementing".

(b) ACTIVITIES.—Section 101 is amended by striking subsections (b) and (c) and inserting the following:

"(b) ACTIVITIES.—

"(1) USE OF FUNDS.—

"(A) IN GENERAL.—Any State that receives a grant under section 102 or 103 shall use the funds made available through the grant to accomplish the purposes described in section 2(b)(1) by carrying out any of the systemic change and advocacy activities described in paragraphs (2) through (12) in a manner that is consumer-responsive.

"(B) PARTICULAR ACTIVITIES.—In carrying out such systemic change and advocacy activities, the State shall particularly carry out activities regarding—

"(i) the development, implementation, and monitoring of State, regional, and local laws, regulations, policies, practices, procedures, and organizational structures, that will improve access to and funding for assistive technology devices and assistive technology services;

"(ii) the development and implementation of strategies to overcome barriers to funding of such devices and services, with particular emphasis on addressing the needs of underserved groups; and

"(iii) the development and implementation of strategies to enhance the ability of individuals with disabilities, and the parents, family members, guardians, advocates, and authorized representatives of such individuals, to successfully advocate for access to and funding for assistive technology devices and assistive technology services.

"(2) ACCESS TO AND FUNDING FOR ASSISTIVE TECHNOLOGY.—The State may support activities to increase access to and funding for assistive technology, including—

"(A) the identification of barriers to funding of assistive technology devices and assistive technology services for individuals of all ages who are individuals with disabilities, with priority for identification of barriers to funding through State special education services, vocational rehabilitation services, and medical assistance services or, as appropriate, other health and human services; and

"(B) the development, and evaluation of the efficacy, of model delivery systems that provide assistive technology devices and assistive technology services to individuals with disabilities, that pay for such devices and services, and that, if successful, could be replicated or generally applied, such as—

"(i) the development of systems for the purchase, lease, other acquisition, or payment for the provision, of assistive technology devices and assistive technology services; and

"(ii) the establishment of alternative State or privately financed systems of subsidies for the provision of assistive technology devices and assistive technology services, such as—

"(I) a loan system for assistive technology devices (including assistive technology demonstration and recycling centers);

"(II) an income-contingent loan fund;

"(III) a low-interest loan fund;

"(IV) a revolving loan fund;

"(V) a loan insurance program; and

"(VI) a partnership with private entities for the purchase, lease, or other acquisition of assistive technology devices and the provision of assistive technology services.

"(3) REPRESENTATION.—The State may support individual case management or representation of individuals with disabilities to secure their rights to assistive technology devices and assistive technology services.

"(4) INTERAGENCY COORDINATION.—The State may support activities—

"(A) to identify and coordinate Federal and State policies, resources, and services, relating to the provision of assistive technology devices and assistive technology services, for individuals with disabilities, including entering into interagency agreements;

"(B) to support the establishment or continuation of partnerships and cooperative initiatives among public sector agencies and between the public sector and the private sector to facilitate the development and implementation of a consumer-responsive comprehensive statewide program of technology-related assistance for individuals with disabilities;

"(C) to convene interagency work groups to enhance public funding options and coordinate access to funding for assistive technology devices and assistive technology services for individuals of all ages who are individuals with disabilities, with special attention to the issues of transition, home use, and individual involvement in the identification, planning, use, delivery, and evaluation of such devices and services; or

"(D) to document and disseminate information about interagency activities that promote coordination with respect to assistive technology services and assistive technology devices, including evidence of increased participation of State and local special education, vocational rehabilitation, and State medical assistance agencies and departments.

"(5) STATEWIDE NEEDS ASSESSMENT.—The State may conduct a statewide needs assessment, which may be based on data in existence on the date on which the assessment is initiated and may include—

"(A) estimates of the numbers of individuals with disabilities within the State, categorized by residence, type and extent of disabilities, age, race, gender, and ethnicity;

"(B) in the case of an assessment carried out under a development grant, a description of efforts, during the fiscal year preceding the first fiscal year for which the State received such a grant, to provide assistive technology devices and assistive technology services to individuals with disabilities within the State, including—

"(i) the number of individuals with disabilities who received appropriate assistive technology devices and assistive technology services; and

"(ii) a description of the devices and services provided;

"(C) information on the number of individuals with disabilities who are in need of assistive technology devices and assistive technology services, and a description of the devices and services needed;

"(D) information on the cost of providing assistive technology devices and assistive technology services to all individuals with disabilities within the State who need such devices and services;

"(E) a description of State and local public resources and private resources (including insurance) that are available to establish a consumer-responsive comprehensive statewide program of technology-related assistance for individuals with disabilities;

"(F) information identifying Federal and State laws, regulations, policies, practices, procedures, and organizational structures, that facilitate or interfere with the operation of a consumer-responsive comprehensive statewide program of technology-related assistance;

"(G) a description of the procurement policies of the State and the extent to which such policies will ensure, to the extent practicable, that assistive technology devices purchased, leased, or otherwise acquired with assistance made available through a grant made under section 102 or 103 are compatible with other technology devices, including technology devices designed primarily for use by—

"(i) individuals who are not individuals with disabilities;

"(ii) individuals who are elderly; or

"(iii) individuals with particular disabilities; and

"(H) information resulting from an inquiry about whether a State agency or a task force (composed of individuals representing the State and individuals representing the private sector) should study the practices of private insurance companies holding licenses within the State that offer health or disability insurance policies under which an individual may obtain reimbursement for—

"(i) the purchase, lease, or other acquisition of assistive technology devices; or

"(ii) the use of assistive technology services.

"(6) OUTREACH.—The State may provide assistance to statewide and community-based organizations, or systems, that provide assistive technology devices and assistive technology services to individuals with disabilities. Such assistance may include outreach to consumer organizations and groups in the State to coordinate the activities of the organizations and groups with consumer-driven efforts (including self-help, support groups, and peer mentoring) to assist individuals with disabilities, or the parents, family members, guardians, advocates, or authorized representatives of the individuals, to obtain funding for and access to assistive technology devices and assistive technology services.

"(7) PUBLIC AWARENESS PROGRAM.—

"(A) IN GENERAL.—The State may—

"(i) support a public awareness program designed to provide information relating to the availability and efficacy of assistive technology devices and assistive technology services for—

"(I) individuals with disabilities;

"(II) the parents, family members, guardians, advocates, or authorized representatives of such individuals;

"(III) individuals who work for public agencies, or for private entities (including insurers), that have contact with individuals with disabilities;

"(IV) educators and related services personnel;

"(V) employers; and

"(VI) other appropriate individuals and entities; or

"(ii) establish and support such a program if no such program exists.

"(B) CONTENTS.—Such a program may include—

"(i) the development and dissemination of information relating to—

"(I) the nature of assistive technology devices and assistive technology services;

"(II) the appropriateness, cost, and availability of, and access to assistive technology devices and assistive technology services; and

"(III) the efficacy of assistive technology devices and assistive technology services with respect to enhancing the capacity of individuals with disabilities;

"(ii) the development of procedures for providing direct communication among public providers of assistive technology devices and assistive technology services and between public providers and private providers of such devices and services (including employers); and

"(iii) the development and dissemination of information relating to—

"(I) use of the program by individuals with disabilities, the parents, family members, guardians, advocates, or authorized representatives of such individuals, professionals who work in a field related to an activity described in this section, and other appropriate individuals; and

"(II) the nature of the inquiries made by the persons described in subclause (I).

"(8) TRAINING AND TECHNICAL ASSISTANCE.—The State may carry out directly, or may provide support to a public or private entity to carry out, training and technical assistance activities—

"(A) that—

"(i) are provided for individuals with disabilities, the parents, family members, guardians, advocates, and authorized representatives of the individuals, and other appropriate individuals; and

"(ii) may include—

"(I) training in the use of assistive technology devices and assistive technology services;

"(II) the development of written materials, training, and technical assistance describing the means by which agencies consider the needs of an individual with a disability for assistive technology devices and assistive technology services in developing, for the individual, any individualized education program described in section 614(a)(5) of the Individuals with Disabilities Education Act (20 U.S.C. 1414(a)(5)), any individualized written rehabilitation program described in section 102 of the Rehabilitation Act of 1973 (29 U.S.C. 722), any individualized family service plan described in section 677 of the Individuals with Disabilities Education Act (20 U.S.C. 1477), and any other individualized plans or programs;

"(III) training regarding the rights of the persons described in clause (i) to assistive technology devices and assistive technology services under public laws and regulations in existence at the time of the training, to promote fuller independence, productivity, and inclusion in and integration into society of such persons; and

"(IV) training to increase consumer participation in the identification, planning, use, delivery, and evaluation of assistive technology devices and assistive technology services; and

"(B) that—

"(i) enhance the assistive technology skills and competencies of—

"(I) individuals who work for public agencies, or for private entities (including insurers), that have contact with individuals with disabilities;

"(II) educators and related services personnel;

"(III) employers; and

"(IV) other appropriate personnel; and

"(ii) include—

"(I) developing and implementing strategies for including such training within State training initiatives; and

"(II) taking actions to facilitate the development of standards, or, when appropriate, the application of such standards, to ensure the availability of qualified personnel.

"(9) PROGRAM DATA.—The State may support the compilation and evaluation of appropriate data related to a program described in subsection (a).

"(10) ACCESS TO TECHNOLOGY-RELATED INFORMATION.—

"(A) IN GENERAL.—The State may develop, operate, or expand a system for public access to information concerning an activity carried out under another paragraph of this subsection, including information about assistive technology devices and assistive technology services, funding sources and costs of such assistance, and individuals, organizations, and agencies capable of carrying out such an activity for individuals with disabilities.

"(B) SYSTEM.—In developing, operating, or expanding a system described in subparagraph (A), the State may—

"(i) develop, compile, and categorize print, braille, audio, and video materials, and materials in electronic formats, containing the information described in subparagraph (A);

"(ii) identify and classify existing funding sources, and the conditions of and criteria for access to such sources, including any funding mechanisms or strategies developed by the State;

"(iii) identify existing support groups and systems designed to help individuals with disabilities make effective use of an activity carried out under another paragraph of this subsection; and

"(iv) maintain a record of the extent to which citizens of the State use or make inquiries of the system established in subparagraph (A), and of the nature of such inquiries.

"(11) INTERSTATE AGREEMENTS.—The State may enter into cooperative agreements with other States to expand the capacity of the States involved to assist individuals of all ages who are individuals with disabilities to learn about, acquire, use, maintain, adapt, and upgrade assistive technology devices and assistive technology services that such individuals need at home, at school, at work, or in other environments that are part of daily living.

"(12) OTHER ACTIVITIES.—The State may utilize amounts made available through grants made under section 102 or 103 for any systemic change and advocacy activities, other than the activities described in another paragraph of this subsection, that are necessary for developing, implementing, or evaluating the consumer-responsive comprehensive statewide program of technology-related assistance.".

(c) CONFORMING AMENDMENT.—Section 231(b)(1) is amended by striking "section 101(c)(1)" and inserting "section 101(b)(2)(B)".

SEC. 102. DEVELOPMENT GRANTS.

Section 102 (29 U.S.C. 2212) is amended—

(1) in subsection (a)—

(A) by striking "3-year grants" and inserting "3-year grants to support systemic change and advocacy activities described in section 101(b)"; and

(B) by striking "to develop and implement statewide programs" and inserting "in developing and implementing consumer-responsive comprehensive statewide programs";

(2) by striking subsection (b);

(3) by redesignating subsections (c) and (d) as subsections (b) and (c), respectively;

(4) in subsection (b) (as redesignated in paragraph (3) of this section)—

(A) in paragraph (3)(C), by striking "statewide program" and inserting "consumer-responsive comprehensive statewide program"; and

(B) in paragraph (5)—

(i) in subparagraph (A)—

(I) by striking "(A)" and inserting "(A) STATE.—";

(II) by inserting "United States" before "Virgin Islands"; and

(III) by striking "Trust Territory of the Pacific Islands" and inserting "Republic of Palau"; and

(ii) in subparagraph (B)—

(I) by striking "(B)" and inserting "(B) TERRITORY.—";

(II) by inserting "United States" before "Virgin Islands"; and

(III) by striking "Trust Territory of the Pacific Islands" and inserting "Republic of Palau (until the Compact of Free Association takes effect)";

(5) in paragraph (2) of subsection (c) (as redesignated in paragraph (3) of this section) by striking "statewide programs" and inserting "consumer-responsive comprehensive statewide programs";

(6) by inserting after such subsection (c) the following:

"(d) DESIGNATION OF THE LEAD AGENCY.—

"(1) DESIGNATION.—In each State that desires to receive a grant under this section, the Governor shall designate a lead agency responsible for—

"(A) submitting the application described in subsection (e) on behalf of the State;

"(B) administering and supervising the use of amounts made available under the grant;

"(C)(i) coordinating efforts related to, and supervising the preparation of the application;

"(ii) coordinating the planning, development, and implementation of the consumer-responsive comprehensive statewide program of technology-related assistance among public agencies and between public agencies and private agencies, including coordinating efforts related to entering into interagency agreements; and

"(iii) coordinating efforts related to, and supervising, the active, timely, and meaningful participation by individuals with disabilities, the parents, family members, guardians, advocates, or authorized representatives of such individuals, and other appropriate individuals, with respect to activities carried out under the grant; and

"(D) the delegation, in whole or in part, of any responsibilities described in subparagraph (A), (B), or (C) to one or more appropriate offices, agencies, entities, or individuals.

"(2) QUALIFICATIONS.—In designating the lead agency, the Governor—

"(A) may designate—

"(i) a commission appointed by the Governor;

"(ii) a public-private partnership or consortium;

"(iii) a university-affiliated program;

"(iv) a public agency;

"(v) a council established under Federal or State law; or

"(vi) another appropriate office, agency, entity, or individual; and

"(B) shall designate an entity that provides evidence of ability to—

"(i) respond to needs of individuals with disabilities who represent a variety of ages and types of disabilities;

"(ii) respond statewide to the assistive technology needs of individuals with disabilities;

"(iii) promote and accomplish systemic change;

"(iv) promote and accomplish the establishment of public-private partnerships;

"(v) exercise leadership in identifying and responding to the technology needs of individuals with disabilities and the parents, family members, guardians, advocates, and authorized representatives of such individuals;

"(vi) document consumer confidence in, and responsiveness to, the consumer-responsive comprehensive statewide program of technology-related assistance; and

"(vii) exercise leadership in implementing effective strategies for capacity building and training for appropriate entities, and enhancement of interagency coordination of activities related to funding for assistive technology devices and assistive technology services.";

(7) in subsection (e)—

(A) by striking paragraphs (1), (2), and (3) and inserting the following:

"(1) DESIGNATION OF THE LEAD AGENCY.—Information identifying the lead agency designated by the Governor under subsection (d).

"(2) AGENCY INVOLVEMENT.—A description of the nature and extent of involvement of various State agencies, including the State insurance department, in the preparation of the application and the continuing role of each such agency in the development, implementation, and evaluation of the consumer-responsive comprehensive statewide program of technology-related assistance, including a description of the process used by each agency for providing access to and funding for assistive technology devices and assistive technology services.

"(3) INVOLVEMENT.—

"(A) CONSUMER INVOLVEMENT.—A description of procedures that—

"(i) provide for—

"(I) the active involvement of individuals with disabilities, the parents, family members, guardians, advocates, and authorized representatives of the individuals, and other appropriate individuals, in the development, implementation, and evaluation of the program; and

"(II) the active involvement, to the maximum extent appropriate, of individuals with disabilities who use assistive technology devices and assistive technology services, in decisions relating to such devices and services; and

"(ii) shall include—

"(I) mechanisms to provide support for the expenses related to such involvement of individuals with disabilities, including payment of travel expenses, qualified interpreters, readers, personal care assistants, or other similar services and action necessary to ensure participation by such individuals; and

"(II) mechanisms for determining consumer satisfaction and participation of individuals with disabilities who represent a variety of ages and types of disabilities, in the consumer-responsive comprehensive statewide program of technology-related assistance.

"(B) PUBLIC INVOLVEMENT.—A description of the nature and extent of—

"(i) the involvement of—

"(I) individuals with disabilities;

"(II) the parents, family members, guardians, advocates, or authorized representatives of such individuals;

"(III) other appropriate individuals who are not employed by a State agency; and

"(IV) organizations, providers, and interested parties, in the private sector,

in the designation of the lead agency under subsection (d), and in the development of the application; and

"(ii) the continuing role of the individuals and entities described in clause (i) in the program.";

(B) in paragraphs (4) and (5), by striking "statewide program" each place the term appears and inserting "consumer-responsive comprehensive statewide program";

(C) by striking paragraphs (6) and (7) and inserting the following:

"(6) GOALS, OBJECTIVES, ACTIVITIES, AND OUTCOMES.—Information on the program to be carried out under the grant with respect to—

"(A) the goals and objectives of the State for the program;

"(B) the systemic change and advocacy activities described in section 101(b) that the State plans to carry out under the program, including, at a minimum, activities related to access to, and funding for, assistive technology devices and assistive technology services, case management or representation, and interagency coordination as described in section 101(b), unless the State demonstrates through the progress reports required under section 104 that—

"(i) significant progress has been made in the development and implementation of such a program; and

"(ii) other systemic change and advocacy activities described in section 101(b) will increase the likelihood that the program will accomplish the purposes set out in 2(b)(1); and

"(C) the expected outcomes of the State for the program,

consistent with the purposes described in section 2(b)(1).

"(7) DATA COLLECTION AND EVALUATIONS.—A description of—

"(A) the data collection system used for compiling information about the program, consistent with such requirements as the Secretary may establish for such system, and, to the extent that a national classification system is developed pursuant to section 201, consistent with such classification system; and

"(B) the procedures that will be used to conduct evaluations of the program.";

(D) in paragraphs (11)(B)(i) and (12)(B) by striking "individual with disabilities" and inserting "individual with a disability";

(E) in paragraph (16)(A), by striking "families or representatives" and inserting "parents, family members, guardians, advocates, or authorized representatives";

(F) by redesignating paragraph (17) as paragraph (22); and

(G) by inserting after paragraph (16) the following new paragraphs:

"(17) AUTHORITY TO USE FUNDS.—An assurance that the lead agency designated under subsection (d) will have the authority to use funds made available through a grant made under section 102 or 103 to comply with the requirements of section 102 or 103, respectively, including the ability to hire qualified staff necessary to carry out activities under the program.

"(18) PROTECTION AND ADVOCACY SERVICES.—Either—

"(A) an assurance that the State will annually provide, from the funds made available to the State through a grant made under section 102 or 103, not less than an amount equal to the lesser of—

"(i) $75,000; or

"(ii) 10 percent of such funds,

in order to make a grant or enter into a contract to support protection and advocacy services to assist individuals with disabilities in receiving appropriate assistive technology devices and assistive technology services through the systems established to provide protection and advocacy under the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6000 et seq.), the Protection and Advocacy for Mentally Ill Individuals Act (42 U.S.C. 10801 et seq.), and section 509 of the Rehabilitation Act of 1973 (29 U.S.C. 794e); or

"(B) at the discretion of the State, a request that the Secretary annually reserve, from the funds made available to the State through a grant made under section 102 or 103, not less than the amount described in subparagraph (A) in order for the Secretary to make a grant or enter into a contract to support the protection and advocacy services described in subparagraph (A) through entities described in subparagraph (A).

"(19) LIMIT ON INDIRECT COSTS.—An assurance that the State will not use more than 8 percent of the funds made available to the State through a grant made under section 102 or 103 for the indirect costs of the program.

"(20) COORDINATION WITH STATE COUNCILS.—An assurance that the lead agency will coordinate the activities funded through a grant made under section 102 or 103 with the activities carried out by other councils within the State, including—

"(A) any council or commission specified in the assurance provided by the State in accordance with section 101(36) of the Rehabilitation Act of 1973 (29 U.S.C. 721(36));

"(B) the Statewide Independent Living Council established under section 705 of the Rehabilitation Act (29 U.S.C. 796d);

"(C) the advisory panel established under section 613(a)(12) of the Individuals with Disabilities Education Act (20 U.S.C. 1413(a)(12));

"(D) the State Planning Council described in section 124 of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6024);

"(E) the State mental health planning council established under section 1914 of the Public Health Service Act (42 U.S.C. 300x-3); and

"(F) any council established under section 204, 206(g)(2)(A), or 712(a)(3)(H) of the Older Americans Act of 1965 (42 U.S.C. 3015, 3017(g)(2)(A), and 3058g(a)(3)(H).

"(21) COORDINATION WITH OTHER SYSTEMIC CHANGE PROJECTS.—An assurance that the lead agency will coordinate the activities funded through a grant made under section 102 or 103 with the activities carried out by other systemic change projects funded through Federal or State sources."; and

(8) by adding at the end the following:

"(f) PROTECTION AND ADVOCACY REQUIREMENTS.—

"(1) REQUIREMENTS.—A State that, as of June 30, 1993, has provided for protection and advocacy services through a program that—

"(A) is comparable to the program described in subsection (e)(18); and

"(B) is not carried out by an entity described in such subsection,

shall be considered to meet the requirements of such subsection.

"(2) PROTECTION AND ADVOCACY SERVICE PROVIDER REPORT.—

"(A) PREPARATION.—An entity that receives funds reserved under subsection (e)(18)(B) to carry out the protection and advocacy services described in subsection (e)(18)(A) in a State shall prepare reports that—

"(i) describe the activities carried out by the entity with such funds; and

"(ii) contain such additional information as the Secretary may require.

"(B) SUBMISSION.—The entity shall submit the reports to the program described in subsection (a) in the State not less often than every 6 months.

"(C) UPDATES.—The entity shall provide monthly updates to the program described in subsection (a) concerning the activities and information described in subparagraph (A).

"(3) CONSULTATION WITH STATE PROGRAMS.—Before making a grant or entering into a contract under subsection (e)(18)(B) to support the protection and advocacy services described in subsection (e)(18)(A) in a State, the Secretary shall solicit and consider the opinions of the lead agency designated under subsection (d) in the State with respect to the terms of the grant or contract.".

SEC. 103. EXTENSION GRANTS.

Section 103 (29 U.S.C. 2213) is amended to read as follows:

"SEC. 103. EXTENSION GRANTS.

"(a) EXTENSION GRANTS.—

"(1) INITIAL EXTENSION GRANT.—The Secretary may award an initial 2-year extension grant to any State that meets the standards specified in subsection (b)(1).

"(2) ADDITIONAL EXTENSION GRANT.—The Secretary may award an additional 3-year extension grant to any State that meets the standards specified in subsection (b)(2).

"(b) STANDARDS.—

"(1) INITIAL EXTENSION GRANT.—In order for a State to receive an initial extension grant under this section, the designated lead agency of the State shall—

"(A) provide the evidence described in section 102(d)(2)(B); and

"(B) demonstrate that the State has made significant progress, and has carried out systemic change and advocacy activities described in section 101(b) that have resulted in significant progress, toward development and the implementation of a consumer-responsive comprehensive statewide program of technology-related assistance, consistent with sections 2(b)(1), 101, and 102.

"(2) ADDITIONAL EXTENSION GRANT.—In order for a State to receive an additional extension grant under this section, the designated lead agency shall—

"(A) provide the evidence and make the demonstration described in paragraph (1);

"(B) describe the steps the State has taken or will take to continue on a permanent basis the consumer-responsive comprehensive statewide program of technology-related assistance with the ability to maintain, at a minimum, the outcomes achieved by the systemic change and advocacy activities; and

"(C) identify future funding options and commitments for the program from the public and private sector and the key individuals, agencies, and organizations to be involved in, and to direct future efforts of, the program.

"(c) AMOUNTS OF GRANTS.—

"(1) IN GENERAL.—

"(A) STATES.—From amounts appropriated under section 106 for any fiscal year, the Secretary shall pay to each State that receives a grant under this section an amount that is not less than $500,000 and not more than $1,500,000.

"(B) TERRITORIES.—From amounts appropriated under section 106 for any fiscal year, the Secretary shall pay to each territory that receives a grant under this section an amount that is not more than $150,000.

"(C) DEFINITIONS.—For purposes of this paragraph:

"(i) STATE.—The term 'State' does not include the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or the Republic of Palau.

"(ii) TERRITORY.—The term 'territory' means the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Republic of Palau (until the Compact of Free Association takes effect).

"(2) CALCULATION OF AMOUNT.—The Secretary shall calculate the amount described in subparagraph (A) or (B) of paragraph (1) with respect to a State on the basis of—

"(A) amounts available for making grants pursuant to this section;

"(B) the population of the State;

"(C) the types of assistance to be provided in the State; and

"(D) the amount of resources committed by the State and available to the State from other sources.

"(3) PRIORITY FOR PREVIOUSLY PARTICIPATING STATES.—Amounts appropriated in any fiscal year for purposes of carrying out the provisions of this section shall first be made available to States that received grants under this section during the fiscal year preceding the fiscal year concerned.

"(d) APPLICATION.—A State that desires to receive an extension grant under this section shall submit an application that contains the following information and assurances with respect to the consumer-responsive comprehensive statewide program of technology-related assistance in the State:

"(1) INFORMATION AND ASSURANCES.—The information and assurances described in section 102(e), except the preliminary needs assessment described in section 102(e)(4).

"(2) NEEDS; PROBLEMS; STRATEGIES; OUTREACH.—

"(A) NEEDS.—A description of needs relating to technology-related assistance of individuals with disabilities (including individuals from underserved groups), the parents, family members, guardians, advocates, or authorized representatives of individuals with disabilities, and other appropriate individuals within the State.

"(B) PROBLEMS.—A description of any problems that remain with the development and implementation of a consumer-responsive comprehensive statewide program of technology-related assistance in the State.

"(C) STRATEGIES.—A description of the strategies that the State will pursue during the grant period to remedy the problems with the development and implementation of such a program.

"(D) OUTREACH ACTIVITIES.—A description of outreach activities to be conducted by the State, including dissemination of information to eligible populations, with special attention to underserved groups.

"(3) ACTIVITIES AND PROGRESS UNDER PREVIOUS GRANT.—A description of—

"(A) the specific systemic change and advocacy activities described in section 101(b) carried out under the development grant received by the State under section 102, or, in the case of an application for a grant under subsection (a)(2), under an initial extension grant received by the State under this section, including—

"(i) a description of State actions that were undertaken to produce systemic change on a permanent basis for individuals of all ages who are individuals with disabilities;

"(ii) a description of activities undertaken to improve the involvement of individuals with disabilities in the program, including training and technical assistance efforts to improve individual access to assistive technology devices and assistive technology services as mandated under public laws and regulations as in effect on the date of the application; and

"(iii) an evaluation of impact and results of the activities described in clauses (i) and (ii);

"(B) the relationship of such systemic change and advocacy activities to the development and implementation of a consumer-responsive comprehensive statewide program of technology-related assistance; and

"(C) the progress made toward the development and implementation of such a program.

"(4) PUBLIC INVOLVEMENT.—

"(A) REPORT.—In the case of an application for a grant under subsection (a)(1), a report on the hearing described in subsection (e)(1) or, in the case of an application for a grant under subsection (a)(2), a report on the hearing described in subsection (e)(2).

"(B) OTHER STATE ACTIONS.—A description of State actions, other than such a hearing, designed to determine the degree of satisfaction of individuals with disabilities, the parents, family members, guardians, advocates, or authorized representatives of such individuals, public service providers and private service providers, educators and related services providers, employers, and other appropriate individuals and entities with—

"(i) the degree of their ongoing involvement in the development and implementation of the consumer-responsive comprehensive statewide program of technology-related assistance;

"(ii) the specific systemic change and advocacy activities described in section 101(b) carried out by the State under the development grant or the initial extension grant;

"(iii) progress made toward the development and implementation of a consumer-responsive comprehensive statewide program of technology-related assistance; and

"(iv) the ability of the lead agency to carry out the activities described in section 102(d)(2)(B).

"(5) COMMENTS.—A summary of any comments received concerning the issues described in paragraph (4) and response of the State to such comments, solicited through a public hearing referred to in paragraph (4) or through other means, from individuals affected by the consumer-responsive comprehensive statewide program of technology-related assistance, including—

"(A) individuals with disabilities;

"(B) the parents, family members, guardians, advocates, or authorized representatives of such individuals;

"(C) public service providers and private service providers;

"(D) educators and related services personnel;

"(E) employers; and

"(F) other appropriate individuals and entities.

"(6) COMPATIBILITY AND ACCESSIBILITY OF ELECTRONIC EQUIPMENT.—An assurance that the State will comply with guidelines established under section 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794d).

"(e) PUBLIC HEARING.—

"(1) INITIAL EXTENSION GRANT.—To be eligible to receive a grant under subsection (a)(1), a State shall hold a public hearing in the third year of a program carried out under a grant made under section 102, after providing appropriate and sufficient notice to allow interested groups and organizations and all segments of the public an opportunity to comment on the program.

"(2) ADDITIONAL EXTENSION GRANT.—To be eligible to receive a grant under subsection (a)(2), a State shall hold a public hearing in the second year of a program carried out under a grant made under subsection (a)(1), after providing the notice described in paragraph (1).".

SEC. 104. PROGRESS CRITERIA AND REPORTS.

Section 104 (29 U.S.C. 2214) is amended to read as follows:

"SEC. 104. PROGRESS CRITERIA AND REPORTS.

"(a) REGULATIONS.—The Secretary shall by regulation establish criteria for determining, for purposes of this title, whether a State that received a grant under section 102 or 103 is making significant progress in developing and implementing a consumer-responsive comprehensive statewide program of technology-related assistance. Such criteria shall include standards for assessing the impact of the systemic change and advocacy activities described in section 101(b) in the State in achieving the purposes described in section 2(b)(1).

"(b) REPORTS.—Each State that receives a grant under section 102 or 103 to carry out a program shall submit to the Secretary annually a report that—

"(1) documents the significant progress made by the State in developing and implementing the program, consistent with the standards and criteria established under subsection (a); and

"(2) includes information on—

"(A) identification of the successful systemic change and advocacy activities carried out through the program to increase funding for, and access to, assistive technology devices and assistive technology services, including an analysis of laws, regulations, policies, practices, procedures, and organizational structures, that—

"(i) have changed as a result of the program to facilitate the acquisition of assistive technology;

"(ii) the program has attempted to change during the grant period; or

"(iii) need to be changed in the next grant period;

"(B) the degree of consumer involvement of individuals with disabilities who represent a variety of ages and type of disabilities, in terms of—

"(i) the numbers of consumers involved;

"(ii) the activities that the consumers are involved in; and

"(iii) the outreach activities of the State intended to increase consumer participation in the consumer-responsive comprehensive statewide program of technology-related assistance;

"(C) the degree of consumer satisfaction with the program;

"(D) the degree of involvement of various State agencies, including the State insurance department, in the preparation of the application for the program and the continuing role of each agency in the development and implementation of the program, including—

"(i) a description of the process used by each agency for providing access to and funding for assistive technology devices and assistive technology services; and

"(ii) a description of the activities undertaken to enhance interagency coordination of the provision of assistive technology devices and assistive technology services;

"(E) documentation of efforts to collect and disseminate information on successful efforts to secure assistive technology devices and assistive technology services that occurred as a result of systemic change and advocacy activities identified in paragraph (2); and

"(F) identification and documentation of State and local laws, regulations, policies, practices, procedures, and organizational structures that have been developed or changed in order to inform individuals with disabilities, or the parents, family members, guardians, advocates, or authorized representatives of the individuals, of Federal requirements pertaining to assistive technology devices and assistive technology services, particularly under parts B and H of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq. and 1471 et seq.) and title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.).".

SEC. 105. ADMINISTRATIVE PROVISIONS.

(a) REVIEW OF PARTICIPATING STATES.—Section 105(a) (29 U.S.C. 2215(a)) is amended—

(1) in paragraph (1), by inserting before the period the following: ", consistent with the standards and criteria established under section 104(a)";

(2) in paragraph (2), to read as follows:

"(2) ONSITE VISITS.—

"(A) VISITS.—The Secretary shall conduct an onsite visit during the final year of each State's participation in the development grant program. The Secretary shall conduct an additional onsite visit to any State that received an extension grant under section 103 and whose initial onsite visit occurred prior to the date of enactment of the Technology-Related Assistance Amendments of 1993.

"(B) TEAM.—Two-thirds of the onsite monitoring team in each case shall be qualified peer reviewers, who—

"(i) shall not be agency personnel;

"(ii) shall be from States other than the State being monitored; and

"(iii) shall include an individual with a disability, or a parent, family member, guardian, advocate, or an authorized representative of such an individual.

"(C) COMPENSATION.—

"(i) OFFICERS OR EMPLOYEES.—Members of any onsite monitoring team who are officers or full-time employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States, but they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5702 of title 5, United States Code, for individuals in the Government service traveling on official business.

"(ii) OTHER MEMBERS.—Members of any onsite monitoring team who are not officers or full-time employees of the United States shall receive compensation at a rate not to exceed the daily equivalent of the rate of pay for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including traveltime) during which such members are engaged in the actual performance of their duties as members of an onsite monitoring team. In addition, such members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for individuals in the Government service employed intermittently.

"(D) REPORT.—The Secretary shall prepare a report of findings from the onsite visit. The Secretary shall consider the findings in determining whether to continue funding the program either with or without changes. The report shall be available to the public.";

(3) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively;

(4) by inserting after paragraph (2) the following:

"(3) ADVANCE PUBLIC NOTICE.—The Secretary shall provide advance public notice of the onsite visit and solicit public comment through such notice from individuals with disabilities, and the parents, family members, guardians, advocates, and authorized representatives of such individuals, public service providers and private service providers, educators and related services personnel, employers, and other appropriate individuals and entities, regarding the State program funded through a grant made under section 102 or 103. The public comment solicitation notice shall be included in the onsite visit report described in paragraph (2)."; and

(5) in paragraph (4) (as redesignated by paragraph (3) of this subsection) by striking "statewide program" and inserting "consumer-responsive comprehensive statewide program".

(b) CORRECTIVE ACTION PLAN.—Section 105(b) is amended—

(1) in paragraph (2)—

(A) in the heading, by striking "PENALTIES" and inserting "CORRECTIVE ACTIONS";

(B) by striking "or" at the end of subparagraph (B);

(C) by striking the period at the end of subparagraph (C) and inserting "; or"; and

(D) by adding at the end the following:

"(D) required redesignation of the lead agency designated under section 102(d), after notice and an opportunity for comment, in order to continue to receive funds through a grant made under section 102 or 103."; and

(2) in paragraph (3), by striking "subsection (a)(4)" and inserting "subsection (a)(5)".

(c) ADDITIONAL ADMINISTRATIVE PROVISIONS.—Section 105 is amended by adding at the end the following:

"(d) CHANGE OF PROTECTION AND ADVOCACY SERVICES PROVIDER.—

"(1) DETERMINATION.—The Governor of a State, based on input from individuals with disabilities, or the parents, family members, guardians, advocates, or authorized representatives of such individuals, may determine that the entity providing protection and advocacy services required by section 102(e)(18) has not met the protection and advocacy service needs of the individuals with disabilities, or the parents, family members, guardians, advocates, or authorized representatives of such individuals for securing funding for and access to assistive technology devices and assistive technology services, and that there is good cause to provide the required services for the State through a contract with another nonprofit agency, organization or institution of higher education.

"(2) NOTICE AND OPPORTUNITY TO BE HEARD.—On making such a determination, the Governor shall—

"(A) give the agency providing protection and advocacy services—

"(i) 30 days notice of the intention of the Governor to change the agency providing such services, including specification of the good cause for such a change; and

"(ii) an opportunity to respond to the determination that good cause has been shown;

"(B) provide individuals with disabilities, or the parents, family members, guardians, advocates, or authorized representatives of such individuals, with timely notice of the proposed change and an opportunity for public comment; and

"(C) provide the agency with the opportunity to appeal the determination on the basis that the change was not for good cause.

"(3) REVIEW.—At the request of the agency, the Secretary shall review the protection and advocacy services provided by the entity pursuant to section 102(e)(18), based on the criteria for such services set out in the grant or contract to support such services that is described in such section.

"(4) REVIEW.—Based on such review, the Secretary may refuse to change the agency providing the protection and advocacy services.

"(e) ANNUAL REPORT.—

"(1) IN GENERAL.—Not later than December 31 of each year, the Secretary shall prepare, and submit to the President and to the Congress, a report on Federal initiatives, including the initiatives funded under this Act, to improve the access of individuals with disabilities to assistive technology devices and assistive technology services.

"(2) CONTENTS.—Such report shall include information on—

"(A) the demonstrated successes of such Federal initiatives at the Federal and State levels in improving interagency coordination, streamlining access to funding for assistive technology, and producing beneficial outcomes for users of assistive technology;

"(B) the demonstration activities carried out through the Federal initiatives to—

"(i) promote access to such funding in public programs that were in existence on the date of the initiation of the demonstration activities; and

"(ii) establish additional options for obtaining such funding;

"(C) the education and training activities carried out through the Federal initiatives to promote such access in public programs and the health care system and the efforts carried out through such activities to train professionals in a variety of relevant disciplines, and increase the competencies of the professionals with respect to technology-related assistance;

"(D) the education and training activities carried out through the Federal initiatives to train individuals with disabilities, the parents, family members, guardians, advocates, or authorized representatives of individuals with disabilities, individuals who work for public agencies, or for private entities (including insurers), that have contact with individuals with disabilities, educators and related services personnel, employers, and other appropriate individuals, about technology-related assistance;

"(E) the research activities carried out through the Federal initiatives to improve understanding of the cost-benefit results of access to assistive technology for individuals with disabilities who represent a variety of ages and types of disabilities;

"(F) the program outreach activities to rural and inner-city areas that are carried out through the Federal initiatives;

"(G) the activities carried out through the Federal initiatives that are targeted to reach underserved groups; and

"(H) the consumer involvement activities in the programs carried out under this Act.

"(3) AVAILABILITY OF ASSISTIVE TECHNOLOGY DEVICES AND ASSISTIVE TECHNOLOGY SERVICES.—As soon as practicable, and to the extent that a national classification system for assistive technology devices and assistive technology services is developed pursuant to section 201, the Secretary shall include in the annual report required by this subsection information on the availability of assistive technology devices and assistive technology services for individuals with disabilities, and shall report such information in a manner consistent with such national classification system.

"(f) INTERAGENCY DISABILITY COORDINATING COUNCIL.—

"(1) CONTENTS.—On or before October 1, 1995, the Interagency Disability Coordinating Council established under section 507 of the Rehabilitation Act of 1973 (29 U.S.C. 794c) shall prepare and submit to the President and to the Congress a report containing—

"(A) the response of the Interagency Disability Coordinating Council to—

"(i) the findings of the National Council on Disability resulting from the study entitled 'Study on the Financing of Assistive Technology Devices and Services for Individuals with Disabilities', carried out in accordance with section 201 of this Act, as in effect on the day before the date of enactment of this subsection; and "(ii) the recommendations of the National Council on Disability for legislative and administrative change, resulting from such study; and

"(B) information on any other activities of the Interagency Disability Coordinating Council that facilitate the accomplishment of section 2(b)(2) with respect to the Federal Government.

"(2) COMMENTS.—The report shall include any comments submitted by the National Council on Disability as to the appropriateness of the response described in paragraph (1)(A) and the effectiveness of the activities described in paragraph (1)(B) in meeting the needs of individuals with disabilities for assistive technology devices and assistive technology services.".

SEC. 106. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 106(a) (29 U.S.C. 2216(a)) is amended by striking "$9,000,000" and all that follows and inserting "such sums as may be necessary for each of the fiscal years 1994 through 1996.".

(b) RESERVATIONS.—Section 106(b) (29 U.S.C. 2216(b)) is amended to read as follows:

"(b) RESERVATIONS.—

"(1) PROVISION OF INFORMATION AND TECHNICAL ASSISTANCE.—

"(A) IN GENERAL.—Of the funds appropriated for any fiscal year under subsection (a), the Secretary shall reserve 2 percent or $1,500,000, whichever is greater, of such funds, for the purpose of providing information and technical assistance as described in subparagraphs (B) and (C) to States, individuals with disabilities, the parents, family members, guardians, advocates, or authorized representatives of such individuals, community-based organizations, and protection and advocacy agencies.

"(B) TECHNICAL ASSISTANCE TO STATES.—In providing such information and technical assistance to States the Secretary shall consider the input of the directors of consumer-responsive comprehensive statewide programs of technology-related assistance, and shall provide information and technical assistance that—

"(i) facilitate service delivery capacity building, training of personnel from a variety of disciplines, and improvement of evaluation strategies, research, and data collection;

"(ii) foster the development and replication of effective approaches to information referral, interagency coordination of training and service delivery, outreach to underserved groups, and public awareness activities;

"(iii) improve the awareness and adoption of successful approaches to increasing the availability of public and private funding for and access to the provision of assistive technology devices and assistive technology services by appropriate State agencies;

"(iv) assist in planning, developing, implementing, and evaluating appropriate activities to further extend consumer-responsive comprehensive statewide programs of technology-related assistance for individuals with disabilities; and

"(v) promote effective approaches to the development of consumer-controlled systems that increase access to, funding for, and awareness of assistive technology devices and assistive technology services.

"(C) INFORMATION AND TECHNICAL ASSISTANCE TO INDIVIDUALS WITH DISABILITIES AND OTHER PERSONS.—The Secretary shall provide such information and technical assistance to individuals with disabilities, the parents, family members, guardians, advocates, or authorized representatives of such individuals, community-based organizations, and protection and advocacy agencies, on a nationwide basis, to—

"(i) foster awareness and understanding of Federal, State, and local laws, regulations, policies, practices, procedures, and organizational structures, that facilitate, and overcome barriers to, funding for and access to assistive technology devices and assistive technology services, to promote fuller independence, productivity, and inclusion for individuals of all ages who are individuals with disabilities;

"(ii) facilitate effective systemic change activities;

"(iii) improve the understanding and use of assistive technology funding decisions made as a result of policies, practices, and procedures, or through regulations, administrative hearings, or legal actions, that enhance access to funding for assistive technology devices and assistive technology services for individuals with disabilities;

"(iv) promote effective approaches to Federal-State coordination of programs for individuals with disabilities, through information dissemination and technical assistance activities in response to funding policy issues identified on a nationwide basis by organizations, and individuals, that improve funding for or access to assistive technology devices and assistive technology services for individuals of all ages who are individuals with disabilities; and

"(v) promote effective approaches to the development of consumer-controlled systems that increase access to, funding for, and awareness of assistive technology devices and assistive technology services, including the identification and description of mechanisms and means that successfully support self-help and peer mentoring groups for individuals with disabilities.

"(D) COORDINATION.—The Secretary shall coordinate the information and technical assistance activities carried out under subparagraph (B) or (C) with other activities funded under this Act.

"(E) GRANTS, CONTRACTS, OR COOPERATIVE AGREEMENTS.—

"(i) IN GENERAL.—The Secretary shall provide the technical assistance and information described in subparagraphs (B) and (C) through grants, contracts, or cooperative agreements with public or private agencies and organizations, including institutions of higher education, with documented experience, expertise, and capacity to carry out identified activities related to the provision of such technical assistance and information.

"(ii) ENTITIES WITH EXPERTISE IN ASSISTIVE TECHNOLOGY SERVICE DELIVERY, INTERAGENCY COORDINATION, AND SYSTEMIC CHANGE ACTIVITIES.—For the purpose of achieving the objectives described in paragraph (1)(B), the Secretary shall reserve not less than 45 percent and not more than 55 percent of the funds reserved under subparagraph (A) for each fiscal year for grants to, or contracts or cooperative agreements with, public or private agencies or organizations with documented experience with and expertise in assistive technology service delivery, interagency coordination, and systemic change activities.

"(iii) ENTITIES WITH EXPERTISE IN ASSISTIVE TECHNOLOGY SYSTEMIC CHANGE, PUBLIC FUNDING OPTIONS, AND OTHER SERVICES.—For the purpose of achieving the objectives described in paragraph (1)(C), the Secretary shall reserve not less than 45 percent and not more than 55 percent of the funds reserved under subparagraph (A) for each fiscal year for grants to, or contracts or cooperative agreements with, public or private agencies or organizations with documented experience with and expertise in—

"(I) assistive technology systemic change;

"(II) public funding options; and

"(III) services to increase nationwide the availability of funding for assistive technology devices and assistive technology services.

"(iv) ENTITY WITH EXPERTISE IN FUNDING.—The Secretary may reserve funds equally from the amounts reserved under clauses (ii) and (iii) for a fiscal year in an amount up to $300,000 for an additional grant to, or contract or cooperative agreement with, a public or private organization with demonstrated expertise in funding. An organization that receives funding through such a grant, contract, or agreement shall use the funding to provide information and technical assistance specifically related to funding to assist the agencies, and organizations described in clauses (ii) and (iii) in carrying out activities under this paragraph.

"(v) APPLICATION.—The Secretary shall make any grants, and enter into any contracts or cooperative agreements, under this subsection on a competitive basis. To be eligible to receive funds under this subsection an agency, organization, or institution shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

"(2) ONSITE VISITS.—The Secretary may reserve, from amounts appropriated for any fiscal year under subsection (a), such sums as the Secretary considers to be necessary for the purposes of conducting onsite visits as required by section 105(a)(2).".

SEC. 107. REPEALS.

Section 107 (29 U.S.C. 2217) is repealed.

TITLE II—PROGRAMS OF NATIONAL SIGNIFICANCE

SEC. 201. NATIONAL CLASSIFICATION SYSTEM.

Part A of title II (29 U.S.C. 2231 et seq.) is amended to read as follows:

"PART A—NATIONAL CLASSIFICATION SYSTEM

"SEC. 201. CLASSIFICATION SYSTEM.

"(a) PILOT PROJECT.—

"(1) IN GENERAL.—The Secretary shall conduct a pilot project to develop and test a national classification system for assistive technology devices and assistive technology services, with the goal of obtaining uniform data through such a system on such devices and services across public programs and information and referral networks.

"(2) CONTRACTS AND COOPERATIVE AGREEMENTS.—The Secretary may carry out this section directly, or, if necessary, by entering into contracts or cooperative agreements with appropriate entities.

"(b) SINGLE TAXONOMY.—In conducting the pilot project, the Secretary shall develop a national classification system that includes a single taxonomy and nomenclature for assistive technology devices and assistive technology services.

"(c) DATA COLLECTION INSTRUMENT.—In conducting the pilot project, the Secretary shall develop a data collection instrument to—

"(1) collect data regarding funding for assistive technology devices and assistive technology services; and

"(2) collect such data from public programs, including, at a minimum, programs carried out under—

"(A) title I, VI, or VII of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq., 795 et seq., or 796 et seq.);

"(B) part B or H of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq. or 1471 et seq.);

"(C) title V or XIX of the Social Security Act (42 U.S.C. 701 et seq. or 1396 et seq.);

"(D) the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.); or

"(E) the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6000 et seq.).

"(d) CONSULTATION AND COORDINATION.—

"(1) CONSULTATION.—The Secretary shall conduct the pilot project in consultation with the Interagency Disability Coordinating Council established under section 507 of the Rehabilitation Act of 1973 (29 U.S.C. 794c) and the National Council on Disability established under section 400 of such Act (29 U.S.C. 780).

"(2) COORDINATION.—The Secretary shall coordinate activities related to conducting the pilot project with—

"(A) activities carried out through State programs funded under title I;

"(B) the provision of technical assistance under section 106(b);

"(C) data collection activities that are being carried out on the date on which the Secretary initiates the pilot project;

"(D) activities being carried out through data collection systems in existence on such date; and

"(E) activities of appropriate entities, including entities involved in the information and referral field.

"(e) TIMING.—The Secretary shall complete the pilot project not later than 24 months after the date of enactment of this section.

"(f) REPORT TO CONGRESS ON IMPLEMENTATION OF UNIFORM DATA COLLECTION SYSTEM.—Not later than January 1, 1996, the Secretary shall prepare and submit to the appropriate committees of Congress a report containing—

"(1) the results of the pilot project; and

"(2) the recommendations of the Secretary concerning the feasibility of implementing a uniform data collection system based on such a national classification system.

"(g) RESERVATION.—From the amounts appropriated under part D, the Secretary shall reserve $200,000 to carry out this part.".

SEC. 202. TRAINING AND PUBLIC AWARENESS PROJECTS.

Section 221 (29 U.S.C. 2251) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking "institutions of higher education" and inserting "institutions of higher education and community-based organizations";

(ii) in subparagraph (A), by striking "and" at the end;

(iii) by striking the period at the end of subparagraph (B), and inserting the following: ", to enhance opportunities for independence, productivity, and inclusion of individuals with disabilities; and"; and

(iv) by adding at the end the following:

"(C) providing training to develop awareness, skills, and competencies of service providers, consumers, and volunteers, who are located in rural areas, to increase the availability of technology-related assistance in community-based settings for rural residents who are individuals with disabilities.";

(B) in paragraph (2)—

(i) by striking "needs of individuals with disabilities" and all that follows and inserting the following: "needs of individuals with disabilities, the parents, family members, guardians, advocates, and authorized representatives of the individuals, individuals who work for public agencies, or for private entities (including insurers), that have contact with individuals with disabilities, educators and related services personnel, employers, and other appropriate individuals."; and

(C) by adding at the end the following new paragraphs:

"(3) USES OF FUNDS.—An agency or organization that receives a grant under paragraph (1) may use amounts made available through the grant to—

"(A) pay for a portion of the cost of courses of training or study related to technology-related assistance; and

"(B) establish and maintain scholarships related to such courses of training or study, with such stipends and allowances as the Secretary may determine to be appropriate.

"(4) APPLICATION.—

"(A) IN GENERAL.—To be eligible to receive a grant under this section, an agency or organization shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

"(B) STRATEGIES.—At a minimum, any such application shall include a detailed description of the strategies that the agency or organization will use to recruit and train persons to provide technology-related assistance, in order to—

"(i) increase the extent to which such persons reflect the diverse populations of the United States; and

"(ii) increase the number of individuals with disabilities, and individuals who are members of minority groups, who are available to provide such assistance."; and

(2) in subsection (b)—

(A) in paragraph (1), by inserting "public and private agencies and organizations, including" before "institutions of higher education";

(B) in paragraph (2), by striking "preparation of personnel" and all that follows and inserting the following: "interdisciplinary preparation of personnel who provide or who will provide technical assistance, who administer programs, or who prepare other personnel, in order to—

"(A) support the development and implementation of consumer-responsive comprehensive statewide programs of technology-related assistance to individuals with disabilities; and

"(B) enhance the skills and competencies of individuals involved in the provision of technology-related assistance, including assistive technology devices and assistive technology services, to individuals with disabilities.";

(C) in paragraph (3), to read as follows:

"(3) USES OF FUNDS.—An agency or organization that receives a grant under paragraph (1) may use amounts made available through the grant to—

"(A) pay for a portion of the cost of courses of training or study related to technology-related assistance; and

"(B) establish and maintain scholarships related to such courses of training or study, with such stipends and allowances as the Secretary may determine to be appropriate."; and

(D) by adding at the end the following:

"(4) APPLICATION.—

"(A) IN GENERAL.—To be eligible to receive a grant under this section, an agency or organization shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

"(B) STRATEGIES.—At a minimum, any such application shall include a detailed description of the strategies that the agency or organization will use to recruit and train persons to provide technology-related assistance, in order to—

"(i) increase the extent to which such persons reflect the diverse populations of the United States; and

"(ii) increase the number of individuals with disabilities, and individuals who are members of minority groups, who are available to provide such assistance.".

SEC. 203. DEMONSTRATION AND INNOVATION PROJECTS.

Section 231(b)(3) (29 U.S.C. 2261(b)(3)) is amended to read as follows:

"(3) DIRECT LOAN PROJECTS.—Demonstration projects carried out in accordance with regulations issued by the Secretary (which may include a requirement that the Secretary provide not more than 90 percent of the costs of carrying out any such project under this section) to—

"(A) examine alternative direct loan programs, including—

"(i) programs involving low-interest loan funds;

"(ii) programs involving revolving loan funds; and

"(iii) loan insurance programs,

that would provide loans to individuals with disabilities, the parents, family members, guardians, advocates, or authorized representatives of individuals with disabilities, or employers of individuals with disabilities; and

"(B) evaluate the efficacy of the particular loan systems involved.".

SEC. 204. AUTHORIZATION OF APPROPRIATIONS.

Section 241 (29 U.S.C. 2271) is amended to read as follows:

"SEC. 241. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this title such sums as may be necessary for each of the fiscal years 1994, 1995, and 1996.".

SEC. 205. REPEALS AND REDESIGNATIONS.

Title II (29 U.S.C. 2231 et seq.) is amended—

(1) by repealing part B;

(2) by redesignating parts C, D, and E as parts B, C, and D, respectively;

(3) by repealing section 222;

(4) by redesignating sections 221 and 223 as sections 211 and 212, respectively; and

(5) by redesignating sections 231 and 241 as sections 221 and 231, respectively.

TITLE III—REQUIREMENTS UNDER HEAD START ACT

SEC. 301. ADMINISTRATIVE REQUIREMENTS UNDER THE HEAD START ACT.

Section 644(f) of the Head Start Act (42 U.S.C. 9839(f)) is amended—

(1) in paragraph (1)—

(A) by inserting ", or to approve a prior purchase of" after "to purchase,"; and

(B) by inserting before the period at the end thereof the following: ", and shall suspend any proceedings pending against any Head Start agency to claim costs incurred in purchasing such facilities until the agency has been afforded an opportunity to apply for approval of the purchase and the Secretary has determined whether the purchase will be approved. The Secretary shall not be required to repay claims previously satisfied by Head Start agencies for costs incurred in the purchase of facilities"; and

(2) in paragraph (2)—

(A) in subparagraph (A), by inserting "or that was previously purchased" before the semicolon; and

(B) in subparagraph (C)—

(i) by inserting ", or the previous purchase has resulted," after "purchase will result" in clause (i); and

(ii) by inserting ", or would have prevented," after "will prevent" in clause (ii).

[The text of the measure as passed the Senate today will be printed in the next issue of the RECORD.]

Mr. SARBANES. I move to reconsider the vote by which the bill was passed.

Mr. President, I move to table that motion.

The motion to lay on the table was agreed to.

THE TECHNOLOGY-RELATED ASSISTANCE FOR INDIVIDUALS WITH DISABILITIES ACT OF 1988 AMENDMENTS ACT OF 1993

Mr. SARBANES. Mr. President, I now ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 181, H.R. 2339; that all after the enacting clause be stricken and the text of S. 1283 as passed by the Senate be inserted in lieu thereof; that the bill be deemed read three times, passed and the motion to reconsider laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 2339), as amended, was passed as follows:

[The text of the measure as passed the Senate today will be printed in the next issue of the RECORD.]

RECESS UNTIL TOMORROW AT 9:30 A.M.

Mr. SARBANES. Mr. President, if there is no further business to come before the Senate today, I now ask unanimous consent that the Senate stand in recess as previously ordered.

There being no objection, the Senate, at 11:55 p.m., recessed until tomorrow, Friday, August 6, 1993, at 9:30 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate August 5, 1993:

EXECUTIVE OFFICE OF THE PRESIDENT

LIONEL SKIPWITH JOHNS, OF VIRGINIA, TO BE AN ASSOCIATE DIRECTOR OF THE OFFICE OF SCIENCE AND TECHNOLOGY POLICY.

DEPARTMENT OF LABOR

DOUG ROSS, OF MICHIGAN, TO BE AN ASSISTANT SECRETARY OF LABOR.

DEPARTMENT OF TRANSPORTATION

JOLENE MORITZ MOLITORIS, OF OHIO, TO BE ADMINISTRATOR OF THE FEDERAL RAILROAD ADMINISTRATION.

DEPARTMENT OF COMMERCE

LORETTA L. DUNN, OF KENTUCKY, TO BE AN ASSISTANT SECRETARY OF COMMERCE.

MARY LOWE GOOD, OF NEW JERSEY, TO BE UNDER SECRETARY OF COMMERCE FOR TECHNOLOGY.

DEPARTMENT OF TRANSPORTATION

GORDON J. LINTON, OF PENNSYLVANIA, TO BE FEDERAL TRANSIT ADMINISTRATOR.

LOUISE FRANKEL STOLL, OF CALIFORNIA, TO BE AN ASSISTANT SECRETARY OF TRANSPORTATION.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

NELSON A. DIAZ, OF PENNSYLVANIA, TO BE GENERAL COUNSEL OF THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.

DEPARTMENT OF DEFENSE

GRAHAM T. ALLISON, JR., OF MASSACHUSETTS, TO BE AN ASSISTANT SECRETARY OF DEFENSE.

SHEILA E. WIDNALL, OF MASSACHUSETTS, TO BE SECRETARY OF THE AIR FORCE.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

DEPARTMENT OF COMMERCE

BRUCE A. LEHMAN, OF WISCONSIN, TO BE COMMISSIONER OF PATENTS AND TRADEMARKS.

HOUSE OF REPRESENTATIVES—*Thursday, August 5, 1993*

The House met at 10 a.m.

His Eminence Adrian Cardinal Simonis, the Cardinal Archbishop of Utrecht, Primate of the Netherlands, offered the following prayer:

Loving and merciful God, Creator of all that exists, we rejoice and we praise You for the gift of our life and for the freedom we share as a people bound together in unity, peace, and a common longing for true justice.

As a leader of the faithful of the Netherlands, I personally pray in gratitude for the courageous and selfless efforts of those Americans who gave their lives as gifts that my homeland might be forever free from the oppression of war, violence, and injustice. Lord, help us all, especially the Members of this Congress, to work together for those things that, in the end, really matter: Your grace, Your promise, Your peace, and life forever with You. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mrs. LOWEY. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mrs. LOWEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 255, nays 155, not voting 23, as follows:

[Roll No. 402]

YEAS—255

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Archer
Bacchus (FL)
Baesler
Barca
Barcia
Barlow
Barrett (WI)
Bateman
Becerra
Beilenson
Berman
Bilbray
Bishop
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Carr
Chapman
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Dicks
Dingell
Durbin
Edwards (CA)
Edwards (TX)
Engel
English (AZ)
English (OK)
Eshoo
Evans
Farr
Fazio
Filner
Fingerhut
Fish
Flake
Foglietta
Ford (TN)
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gillmor
Gilman
Glickman
Gonzalez
Gordon
Green
Gunderson
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Harman
Hastings
Hayes
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Holden
Houghton
Hoyer
Hughes
Hutto
Inglis
Inslee
Jefferson
Johnson (GA)
Johnson (SD)
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kingston
Kleczka
Klein
Klink
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lehman
Levin
Lewis (GA)
Lipinski
Lloyd
Long
Lowey
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCollum
McCurdy
McDermott
McHale
McInnis
McKinney
McNulty
Meehan
Meek
Menendez
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Murtha
Myers
Nadler
Natcher
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Pombo
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reed
Reynolds
Richardson
Roemer
Rose
Rostenkowski
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Schenk
Schumer
Scott
Serrano
Sharp
Shepherd
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (IA)
Smith (NJ)
Spratt
Stark
Stenholm
Stokes
Strickland
Studds
Stupak
Swett
Swift
Synar
Tanner
Tauzin
Tejeda
Thompson
Thornton
Thurman
Torres
Towns
Traficant
Tucker
Unsoeld
Valentine
Velázquez
Vento
Visclosky
Volkmer
Waters
Watt
Waxman
Wheat
Williams
Wise
Wyden
Wynn
Yates

NAYS—155

Allard
Armey
Bachus (AL)
Baker (LA)
Ballenger
Barrett (NE)
Bartlett
Barton
Bentley
Bereuter
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Clay
Clinger
Coble
Collins (GA)
Cox
Crane
Crapo
Cunningham
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Emerson
Everett
Ewing
Fawell
Fields (TX)
Fowler
Franks (CT)
Franks (NJ)
Gallegly
Gallo
Gekas
Gilchrest
Gingrich
Goodlatte
Goodling
Goss
Grams
Grandy
Greenwood
Hancock
Hansen
Hastert
Hefley
Hobson
Hoekstra
Hoke
Horn
Huffington
Hutchinson
Hyde
Inhofe
Istook
Jacobs
Johnson (CT)
Johnson, Sam
Kim
King
Klug
Knollenberg
Kolbe
Kyl
Lazio
Leach
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Livingston
Machtley
Manzullo
McCandless
McDade
McHugh
McKeon
McMillan
Meyers
Mica
Michel
Molinari
Moorhead
Morella
Murphy
Nussle
Oxley
Paxon
Petri
Porter
Portman
Pryce (OH)
Quillen
Quinn
Ramstad
Ravenel
Regula
Ridge
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Saxton
Schaefer
Schiff
Schroeder
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stump
Sundquist
Talent
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Torkildsen
Upton
Vucanovich
Walker
Walsh
Weldon
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—23

Baker (CA)
Bevill
Blackwell
Brown (CA)
Dixon
Dooley
Dornan
Fields (LA)
Ford (MI)
Herger
Hunter
Johnson, E.B.
Kasich
McCrery
Mfume
Neal (NC)
Packard
Roberts
Torricelli
Washington
Whitten
Wilson
Woolsey

☐ 1024

Mr. STUPAK changed his vote from "nay" to "yea."

So the Journal was approved.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, during rollcall vote No. 402 on the Journal I was unavoidably detained. Had I been present I would have voted "yea."

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore (Mr. MURTHA). Will the gentleman from Florida [Mr. JOHNSTON] please come forward and lead the House in the Pledge of Allegiance.

Mr. JOHNSTON of Florida led the Pledge of Allegiance as follows:

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 631. An act to designate certain lands in the State of Colorado as components of the National Wilderness Preservation System, and for other purposes.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 2667. An act making emergency supplemental appropriations for relief from the major, widespread flooding in the Midwest for the fiscal year ending September 30, 1993, and for other purposes.

The message also announced that the Senate had passed a joint resolution of the following title, in which the concurrence of the House is requested:

S.J. Res. 121. Joint resolution to designate October 6, 1993 and 1994, as "German-American Day."

The message also announced that the Chair announces, on behalf of the majority leader, the appointment of Mr. HOLLINGS and Mr. MATHEWS, as members of the Senate delegation to the British-American Parliamentary Group meeting during the first session of the One Hundred Third Congress, to be held in Edinburgh, Scotland, September 1–5, 1993.

The message also announced that the Chair announces, on behalf of the majority leader, the appointment of Mr. HEFLIN, as chairman of the Senate delegation to the British-American Parliamentary Group meeting during the first session of the One Hundred Third Congress, to be held in Edinburgh, Scotland.

The message also announced that pursuant to Public Law 93–29, as amended by Public Laws 98–459 and 102–375, the Chair, on behalf of the President pro tempore, appoints Rudolph Cleghorn of Oklahoma, reappointed to a 1-year term; Stephen M. Farnham of Maine, reappointed to a 1-year term; and Romaine M. Turyn of Maine, appointed to a 3-year term; to the Federal Council on the Aging.

A WELCOME TO HIS EMINENCE ADRIAN CARDINAL SIMONIS

(Mr. QUINN asked and was given permission to address the House for 1 minute.)

Mr. QUINN. Mr. Speaker, I appreciate the Members' attention for just one brief moment. It is, indeed, a pleasure and honor for me to have introduced to all of the Members in the U.S. Congress this morning Adrian Cardinal Simonis, the Cardinal Archbishop of Utrecht, the Netherlands.

We are particularly honored today that His Eminence has joined us here in the Chamber as the highest ranking Roman Catholic official ever to open the session with a prayer.

I also want to thank Father Arch Smith from Buffalo, NY, who is with His Eminence this week before he visits with the Holy Father in Denver, CO, next week.

Your Eminence, on behalf of all of the Members of the U.S. Congress, we welcome you here to the United States and to our Chambers. We thank you for your opening remarks.

A STUNNING ANNOUNCEMENT

(Mr. MCNULTY asked and was given permission to address the House for 1 minute.)

Mr. MCNULTY. Mr. Speaker, while I was acting as Speaker pro tempore yesterday, I was approached on the podium, first by our colleague, the gentleman from New York [Mr. PAXON], who notified me that during the course of the debate which was ongoing at the time, he had proposed marriage to our colleague, the gentlewoman from New York, [SUSAN MOLINARI], who then came to the podium and told me she accepted.

I wanted to announce that today. They have been longtime friends of mine. I had the opportunity to serve with SUSAN's father—and now with her for several years.

BILLY PAXON and I go way back. We were elected to the New York State Assembly together 6 years before we started service in Congress.

They are both outstanding public officials, and very good friends to everyone in the Chamber.

I want to join with all of my colleagues in wishing them the best of health and happiness.

A HEADS-UP FOR WOULD-BE CANDIDATES FOR CONGRESS

(Mr. RAVENEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RAVENEL. Mr. Speaker, today is the day when the big spenders of this House will seek to indulge their passion by inflicting the largest tax increase the world has ever known upon their people.

Within hours, this Chamber will hear the same tired old noises it heard in 1990 about how the new taxes would bring down the deficit. Of course, the only thing they brought down was President Bush.

Today will also be a great opportunity for many out there in the real world who would like to be elected to Congress next year. They can see and hear those who peddle the Clinton line on C–SPAN shortly, then clip their words from the Journal tomorrow for campaign use.

Win or lose today, all oppressed, frustrated and furious voters will have their chances to get even in the elections of an ever drawing closer tomorrow.

AN OPPORTUNITY FOR MEMBERS TO VOTE FOR THE REAL THING

(Mr. VISCLOSKY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VISCLOSKY. Mr. Speaker, today, we have a historic opportunity to break from the fiscal insanity of the last 12 years by passing President Clinton's economic plan, which includes the largest amount of deficit reduction in history.

The plan will reduce the deficit, create jobs, cut spending, and is the first step toward securing the brightest future for our children and our Nation.

The plan will work because it is the real thing. It is based on real economic assumptions. Its deficit reduction is real. Its spending cuts are real.

For those who truly want deficit reduction and spending cuts, your choice is clear. Voting "yes" is the only option. A "no" vote will not reduce the deficit or cut spending by 1 cent.

I ask my colleagues to ignore the rhetorical flames fanned by the special interests, the rich, and the business-as-usual crowd. Do the right thing: Vote for the real thing.

RETROACTIVE TAXES WILL KILL JOBS

(Mr. RAMSTAD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RAMSTAD. Mr. Speaker, today we will vote on the largest tax increase package in American history.

As if these job-killing tax increases are not bad enough, they were made retroactive to January 1, 1993.

Think of it. Taxpayers who have died since January 1, 1993, will incur greater tax liability for their heirs. Those taxpayers still alive will find out that money already earned, saved, or spent is now subject to retroactive taxation.

One of my constituents called and asked if this means we can make November's election results retroactive.

Mr. Speaker, as today's Wall Street Journal points out, before voting on the retroactive tax increases, Members should take a look at the new Russian Constitution, which states that "laws introducing new taxes * * * are not retroactive."

Members should also read our own Constitution—article 1, section 9—before voting "yes" on retroactive taxes.

I urge my colleagues to say "no" to unconstitutional retroactive tax increases.

Let us show that our own Congress has at least as much respect for the U.S. Constitution as Boris Yeltsin.

THE FOUR HORSEMEN OF THE APOCALYPSE

(Mr. JOHNSTON of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JOHNSTON of Florida. Mr. Speaker, I have never seen anybody ride four horses at the same time, but the minority leader from the Senate and his four points sounded like the Four Horsemen of the Apocalypse Tuesday night.

This prophet of doom tried to convince the American people that doing the right thing and passing an economic plan would somehow cause the sky to fall and trigger a rain of war, famine, pestilence, and death, the Four Horsemen of the Apocalypse.

He tried to convince the American people to turn their backs on the first real economic leadership we have seen in 12 years. And instead give the failed economic policies of the last 12 years just one more chance.

The minority leader in the other body and many of his Republican colleagues will be very disappointed this evening when we pass the Clinton economic plan, and at long last start our country moving in the right direction, and on the road to economic and fiscal recovery.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MURTHA). The Chair will admonish Members not to criticize individual Members of the Senate or the Senate itself in our debate.

CITIZENS OF SOUTH CAROLINA'S FOURTH DISTRICT SAY "CUT SPENDING FIRST"

(Mr. INGLIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. INGLIS. Mr. Speaker, I rise today not so much to tell the Chair and my colleagues what I think, but rather to tell the Members what the people of the Fourth District think and what they have told me.

From the time of the President's speech until 5 o'clock yesterday we received 215 calls in my offices against the plan, and 17 for it. That follows 3,560 letters—3,560 letters against the plan, 177 for it.

That also follows a citizens' resolution that we circulated in the district that garnered 2,331 signatures with a very simple message: "Cut spending first."

Today I am forwarding those originals to the President with a copy to the leadership of the House, and I hope this body hears what the people of the Fourth District of South Carolina believe is obvious: Cut spending first; don't raise taxes.

NOW IS THE TIME

(Mr. PRICE of North Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PRICE of North Carolina. Mr. Speaker, today we face what may be our last best chance to put our fiscal house in order and to secure our country's economic future.

In the course of our debate today we will hear many complaints, and indeed, each Member of this body probably thinks that he or she could have singlehandedly written a better bill than the budget reconciliation bill before us. But we were not sent here merely to complain, merely to register misgivings. At the end of the day it is our obligation to focus on the biggest picture, the longer view, and to reverse 12 years of Government gridlock and voodoo economics.

We are also obligated to tell the truth. Despite the distortions and the overheated rhetoric, the fact is we have a plan that reduces the deficit by $496 billion, mainly through spending cuts, that restores tax fairness, and that lays a solid foundation for economic growth.

□ 1040

There is no alternative plan that even comes close. This is the plan. This is the time. Let us get the job done.

VOTING "NO" IS EASY

(Mr. THOMAS of Wyoming asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. THOMAS of Wyoming. Mr. Speaker, this will be an important vote today, and it will be tough for some Members. It is not hard for me. It is not hard for me to vote no, because I am persuaded and convinced that this bill does not do what needs to be done in this country.

We need to create jobs in the private sector. More taxes and more Government does not do that.

We need to reduce taxes and leave the money in the pockets of Americans. This the largest tax increase in the history of this country.

We need to reduce the size of Government. This bill increases spending and the size of Government.

We need to reduce the Federal debt. The Federal debt will increase $2 billion by 1998 under this proposition.

All the taxes that will be gathered up on gas will be spent on increased welfare in this bill.

So Mr. President, I do not find it difficult at all because this bill does not do what needs to be done for this country.

PRESIDENT'S PLAN MOST SIGNIFICANT ATTACK ON DEFICIT IN DECADES

(Mr. CARDIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CARDIN. Mr. Speaker, this House will have a choice today either to support the President in the most significant attack on the deficit in decades or choose the status quo. The Clinton plan is a well-balanced, fair attack at the deficit of this country. It starts with spending cuts.

The reconciliation bill conference report has discretionary spending caps which will save $102 billion. Mr. Speaker, we have already acted on a good part of that. The spending cuts are now in the appropriation bills that we passed, and in fact there is $11 billion less than the spending caps that are in the legislation. That is action.

The bill includes entitlement cuts of $56 billion in Medicare alone, and yes, there are tax increases, but the tax increases go for deficit reduction. They are fair, 80 percent of which comes from people who make over $200,000 a year.

Mr. Speaker, we have a choice. The choice is either take action now to deal with our fiscal problems or gridlock. I hope we choose action.

PRESIDENT CLINTON IS WRONG

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, if change is the essence of good government, Italy must have the very best government in the world—it has changed 52 times since World War II. Two nights ago, President Clinton made a thinly disguised partisan attack against any who dare oppose his gigantic tax-and-spend budget change, ridiculing the so-called guardians of gridlock. The President said there are only two choices—his way or gridlock. I say wrong, very wrong.

What happened to the specific no-new-tax choice advanced by JOHN KASICH? Where did DAN BURTON's flexible freeze choice disappear to? What about my own list of 50 specific spending cuts that appear to be lost in the White House mail room? There are other choices, better choices for change than Clintonomics. Italy, by the way just made another change—scrapping its whole system of government. I hope we do not have to change our President 52 times before we get it right.

PRESIDENT CLINTON'S DEFICIT REDUCTION PLAN

(Mr. RUSH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RUSH. Mr. Speaker, I rise this morning to urge my colleagues to stay the course.

To stand firm. To have courage.

Don't be swayed by the guardians of gridlock who are still being led by the failed policies of the "just say no," just do nothing, Republican administrations of Ronald Reagan and George Bush.

Theirs were the policies that rewarded the rich, stuck it to the middle class, and turned their backs on the poor.

Right now, the city of Chicago is struggling to balance a budget that has been devastated by the withdrawal of millions of dollars in Federal funds in the past 12 years and whose schools may not open on time in September.

Therefore, I challenge my colleagues to "just say yes" to the future by supporting the President's economic agenda.

It is time we said "yes" to a plan that is evenly balanced between tax increases on the rich, spending cuts in the Federal bureaucracy and focuses on the needs of children and families.

Saying "yes" to this plan means increased funding for the earned income tax credit. In my district, about 40,800 families will receive approximately $61 million. These funds will provide a strong incentive for low-income families to keep choosing work over welfare.

Mr. Speaker, it is time to vote "yes" for the future by supporting the President's economic agenda.

THE KING OF DA'NILE

(Mr. LINDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LINDER. Mr. Speaker, there is a country and western song about a woman who says: "You can call me Cleopatra, because I am the queen of denial."

We should call Bill Clinton King Tut, because he is the King of Denial.

He denies that his tax proposals, when enacted, will kill small business. In fact, he has made the pathetic claim that small businesses will actually prosper under this plan.

He denies that an increased gas tax will hurt working poor and middle-class families, despite his earlier statement against a gas tax.

He denies that more taxes is the last thing our Nation needs right now, despite recent history and the overwhelming sentiments of the American people.

Bill Clinton is the King of Denial and his tax plan will deny this country the economic recovery we all have waited for.

CLINTON PLAN FIRST STEP ON PATH TO ECONOMIC RECOVERY

(Ms. ROYBAL-ALLARD asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROYBAL-ALLARD. Mr. Speaker, President Clinton's budget is a courageous departure from business as usual. By supporting his budget, we have an opportunity to begin our healing recovery from the failed economic policies of the past 12 years. The budget we must pass today offers positive solutions and takes us in a bold new direction. It restores fairness to the tax system. It attacks the Nation's inherited crippling deficit while ensuring that the responsibilities for deficit reduction are not placed upon the backs of senior citizens and the middle class. It includes needed investments in our most valuable resource—our people—and incentives for businesses to create jobs.

We, as Members of Congress, have a moral responsibility to present the country with this positive approach to the economy rather than the gridlock of the past. This budget is the first step on a path of economic recovery which will lead to a better quality of life for all Americans. There is simply no viable alternative than an aye vote on the President's deficit reduction plan.

DEMOCRAT TAX BILL IS DISASTER WAITING TO HAPPEN

(Mr. EWING asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EWING. Mr. Speaker, over the last few days negotiators on the tax bill decided to make the income taxes retroactive back to January 1.

Despite the class warfare rhetoric by the Democrats about soaking the rich, this tax will soak small businesses since 80 percent of businesses pay taxes as individuals. In fact, at least two-thirds of the taxpayers with income over $200,000 are actually small businesses.

The Democrats also like to forget that this bill also soaks senior citizens who are going to get an increase of $400 to $600, and these are not rich senior citizens, they are middle-class Americans. And the President and his supporters claim that no middle-class Americans will be paying any income tax increase. What a shock it will be to these people when they go to pay their tax and find out that they owe tax for 7 or 8 months that have already passed.

Mr. Speaker, this bill is a disaster waiting to happen.

CLINTON PLAN OFFERS HOPE

(Mr. CLYBURN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CLYBURN. Mr. Speaker, I rise today to speak on behalf of those who because of the policies of the last 12 years cannot afford to pay for telephone calls or to purchase postage stamps in order to register their feelings about their current state of affairs, and about the bleakness of their futures.

I rise today to support the President's plan, which I believe provides us with an opportunity to change the course of history. The President's plan provides tax Code fairness. This plan provides that those who make under $180,000 a year as couples and under $140,000 a year as individuals will not see any increase in their taxes.

The President's plan calls for us to undergird the futures of those who make less than $30,000 a year.

Mr. Speaker, I believe the opportunity is here for us to chart a new course for American society.

CONSTITUENTS SAY "NO" TO PRESIDENT'S PLAN

(Mr. BARTLETT of Maryland asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARTLETT of Maryland. Mr. Speaker, we have heard a lot of what might be considered partisan comments. I would like now to bring a totally nonpartisan comment.

What I hold in my hand represents phone calls and faxes from our district. There are 16 from our district that said we ought to support the President's plan. Here are 219 who say please do not support the President's plan.

☐ 1050

Let me read from one of those. This is from Ruth from Manchester, MD. She said, "I do not want to be taxed retroactive to January 1." This is a significant statement. There is a better way. Go back and start over.

Mr. Speaker, this is the message from America. This is a wrongheaded plan. Go back and start over again.

WE WERE ELECTED TO HELP OUR PEOPLE

(Mrs. MEEK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mrs. MEEK. Mr. Speaker, there is a lot of hot air floating around in the Congress today. Cut spending first, they keep saying.

But where have they been all year? The appropriations bills that have already passed the House contain nearly 300 cuts below spending levels for last year. These are real cuts. Many other programs are only funded at 1993 levels which, in many cases, will mean a reduction in services.

Wait until your constituents begin to be cut and there are reductions in services. Then they are going to see who their real friends are.

The conference report which we will consider today is not just a tax bill. In all, more than half of the deficit reduction, $225 billion, comes from spending reductions.

Mr. Speaker, this is shared sacrifice. We must pass this report, the Clinton plan, for the good of this good country. It is time that we started paying our debts instead of talking.

These things have accumulated during the past 12 years, and my friends to the left of me should understand that. They will undermine our Government.

You keep hearing about letters from your people? Remember, they elected you, and you are here to help them.

TELLING THE TRUTH

(Mr. SMITH of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Texas. Mr. Speaker, we all know the tactic of telling part of the truth rather than all of the truth.

Let me give you some examples from the supporters of the President's economic plan:

They say there is a dollar in spending cuts for every dollar in new taxes. But they do not tell you that they count a Social Security tax increase as a spending cut. And they do not tell you that most of the spending cuts occur 4 years from now and are nonbinding on future Congresses.

They say income taxes go up only on the wealthy. But they do not tell you that 1 million small businesses will be hit because they file individual returns. And they do not tell you that taxing the wealthy will cost jobs, not create them.

They say we have to repent of the last two Republican administrations. But they do not tell you that during the 1980's economic growth increased nearly a third and the economy added 18 million jobs.

Mr. Speaker, we need to tell all the truth.

IT IS TIME TO CLIMB OVER THE WALLS OF STAGNATION

(Mr. BISHOP asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BISHOP. Mr. Speaker, I rise today not to do what is popular but to do what is right, right for the Second District of Georgia, my home State, and right for our Nation.

Mr. Speaker, I must vote to create jobs, to help pull our families out of poverty, to protect the small businessman, to preserve the family unit, to immunize our children from disease, to better educate our people, to reduce our Federal deficit by nearly $500 billion.

The President's plan calls for $256 billion in spending cuts. That is a dollar in cuts for every dollar in taxes.

Mr. Speaker, it is time for us to climb over the walls of stagnation that were built over the past 12 years and build a foundation for change. It is time for change.

On the issue of retroactivity, President Reagan signed into law in 1981, in 1984, and in 1986 tax bills that were retroactive over and over again. This business about retroactivity is hot air.

START OVER ON THE BUDGET PLAN

(Mr. PORTMAN asked and was given permission to address the House for 1 minute.)

Mr. PORTMAN. Mr. Speaker, for the last several weeks, Americans in the Second District of Ohio and across our Nation have heard too much partisan rhetoric in the debate over the administration's budget plan.

There is certainly no monopoly on truth, but I have tried hard to understand what is in this bill and what it means for my constituents.

This is what I have discovered: The plan does not really reduce the deficit or the national debt. It only represents a decrease for certain people's projections of what it otherwise would be. By the administration's own numbers, at the end of the 5-year plan, our national debt will be $1 trillion higher. That is an increase in the debt equal to about $10,000 for every working person in America.

The plan raises taxes substantially on certain individuals with high incomes including those whose income is high because it reflects the income generated by job-creating small businesses they operate.

I found out that close to $100 billion of spending cuts in the plan come from double-counting cuts that occurred in 1990 and from assumed savings from low interest payments that may or may not occur.

Mr. Speaker, we can do better. Let us start over. Let us try to produce a serious package that tells the public the truth.

VOTE YOUR CONSCIENCE TODAY

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, our Tax Code penalizes achievement. It discourages investment. It rewards imports, kills exports, closes factories, kills American jobs.

And what has Congress done about it? It raised taxes every year.

Mr. Speaker, I am a Democrat. I helped to elect Bill Clinton. His heart is in the right place, but I was not elected to blindly support any President or turn my voting card over to the Democrat Party.

It is our tax policy. It is a failure. it is killing America, and I am voting "no," and I am urging every Member to vote their conscience today.

RETROACTIVITY NOT ALLOWED IN THE REAL WORLD

(Mr. CALVERT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CALVERT. Mr. Speaker, I once heard Washington, DC, described as 68 square miles surrounded by reality.

Never has that description seemed more true than today.

While the President and leaders of his party twist arms and make promises to gain votes for the so-called deficit reduction bill, the people out there in reality have a different view of his legislation.

Yesterday, my office received 137 calls—15 for the President's plan and 122 against it.

Josephine and David Aragon called from Riverside, CA. They say that they have to live on a budget and the Government should too.

Alvin Roberson called from Perris, CA. He said, "Don't raise taxes. Cut spending first."

Mr. Michel Rosati called from Norco, CA, to tell me that the gas tax will increase the cost of everything he buys.

And another constituent called with a question.

She wanted to know if we could hold a new election for President and make it retroactive so we could undo the policies of the last 6 months.

I am afraid not. Retroactivity is not allowed in the real world, only in Washington.

WEDLOCK, NOT GRIDLOCK!

(Mr. ENGEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ENGEL. Mr. Speaker, on this day of budget reconciliation and partisan bickering, I want to, on a bipartisan basis, congratulate my good friends and our Republican colleagues from New York, BILL PAXON and SUSAN MOLINARI, who announced their engagement.

Now, BILL proposed to SUSAN on the House floor, and I believe this is the first time in the history of the House of Representatives that such a proposal has been made on the House floor. So those of you who say there are no redeeming social values to the House, let me tell you that you are absolutely wrong.

I want to give BILL PAXON a bit of good advice. You know, BILL is the Republican Congressional Campaign Committee chairman, and now that he is married, or will be married, he will have increased responsibilities, so I know that he will not have time to plot and plan against Democrats.

So I really do wish them the best.

Now, I traveled to the Balkans with BILL and SUSAN recently a few months ago, and I wanted to ask them if it was the Moon over Kosovo that made them look into their eyes and decide that they loved each other, or was it the lack of heat and hot water at the Grand Hotel which drove them into each other's arms.

Anyway, the Bible says to be fruitful and multiply. I want to just wish them the very, very best. I wish them, in the future, many, many healthy and happy children, and may they all grow up to be good Democrats.

EFFECTS OF BUDGET ON SENIOR CITIZENS IN FLORIDA

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, by now the American people have heard about the great compromise on the budget.

After all is said and done, we have a package which is the largest tax increase in American history.

I would like to remind the colleagues here this morning and the people that this is going to have a terrible effect on senior citizens. Under this agreement, seniors will face a tax increase on their pensions, their IRA withdrawals, CD's, and other sources of income which place them above a $34,000 threshold.

These taxes were only supposed to hit the rich, right? Wrong. Now the President seems to punish our seniors for being wise with their savings, thinking about their retirement years. Seniors who planned wisely for their retirement now will be slammed with unforeseen taxes.

Let me talk to you about these taxes. In my congressional district, seniors will be forced to cough up $7.6 million in brandnew taxes just this year under this budget agreement. Across the State of Florida, seniors who saved for their future, or who are trying to save for their future, will pay additional taxes of $310 million.

Mr. Speaker, we need to vote this plan down and start anew for the people's sake.

□ 1100

AIDS FUNDING

(Ms. WOOLSEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. WOOLSEY. Mr. Speaker, I rise today in a continuing effort to draw attention to a national emergency—AIDS. Today, well over 1 million Americans are infected with the HIV virus in the San Francisco area, which includes part of my district, across the Golden Gate Bridge where almost 16,000 cases of AIDS have been reported, and over 28,000 men, women, and children are currently infected with HIV.

Mr. Speaker, these figures are staggering, and there is no end in sight. AIDS is a real crisis.

Congress recognized this emergency in 1990 when it passed the Ryan White Care Act. Yet, 3 years later, Congress still has not fulfilled its promise to people with AIDS; 1994 funding for the Care Act fell beneath the President's request by $110 million. We must do better.

I urge Members of the other body to provide $336 million in emergency funding for title I, and fully fund the President's request for the other titles of the act. And, once the appropriations bill goes to conference, it is my sincere hope that the committee will agree upon the higher figures.

Mr. Speaker, it is time to put an end to this tragedy by fully funding the Ryan White Care Act.

STATE FLEXIBILITY TO REFORM MEDICAID

(Mr. HOBSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOBSON. Mr. Speaker, on average, inflation in the Medicaid system grows 11 percent annually. Yet Medicaid is grossly deficient, covering only half the people in poverty and leaving 10 million poor people uninsured.

I know that States are clamoring for the ability to reform their Medicaid programs. Having served 8 years as a State senator and having worked on health issues with the National Conference of State Legislatures, I know there is a solution. It is the Medicaid Health Allowance Act, H.R. 2789.

This proposal helps States use Medicaid funds more efficiently by directing those funds into existing health systems that hold down medical inflation. Cities and States that have secured special waivers to initiate such programs have achieved remarkable savings in health care.

For States that participate, this proposal offers health coverage to everyone under the poverty level and allows people up to 200 percent of poverty to buy in to the program.

With this plan no new taxes or spending is required, States have the tools they need to control medical costs, and more Americans have health insurance.

OUR NATIONAL SECURITY IS THREATENED BY OUR LACK OF ECONOMIC SECURITY

(Mr. DEUTSCH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEUTSCH. Mr. Speaker, today the Congress is going to have the opportunity to reduce the deficit by $496 billion over the next 5 years. Although this legislation is controversial, the national debt at this point in time imperils our future economic and national security. The deficit has become like a cancer on our economy, choking private investment and strangling our Nation's growth. After growing steadily over the last 35 years but significantly over the last 12 years the deficit is beginning to compromise our national security.

As Admiral Crowe recently pointed out, our national security is fundamentally threatened by our lack of economic security at this time. The reality is that the budgets that have been presented, whether it is the Kasich plan which reduces the deficit less, or proposals by Senator BOREN, Senator BREAUX, and Senator DOLE which place a greater burden on seniors and working Americans. This plan that will be before us later today is a plan which is truly the plan that is fairest to most Americans and a plan that finally deals with the deficit.

I urge its support later today.

PEOPLE WHO CARED ENOUGH TO CALL: 9 TO 1 AGAINST

(Mr. GRAMS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GRAMS. Mr. Speaker, I want to say to my democratic colleagues: This is the final hour, this is the point of no return. Think before you vote. If you take the leap, remember, there is no net.

But before you do, I hope you listen to the American people. Poll after after poll shows average Americans clearly understand this massive tax increase is bad for them.

And if you bothered to read your phone messages yesterday, you will find that by 9 to 1, people who cared enough to call, called to oppose the President's plan.

And, you know what, the people will not forget your vote to raise taxes, just ask President Bush.

Mr. Speaker, I know a lot of our Democratic colleagues believe the President needs their vote today to save his job. Well, I hope you remember that to save the President's job, the price will be the lost jobs of millions of working Americans.

Let me say to my colleagues, if you vote for the largest tax increase in history today. If you vote to make it retroactive to January first and if you vote to kill millions of jobs, you will have no cover. Because the people know better. And the people won't forget.

GOP DOUBLE STANDARD ON RETROACTIVITY

(Mr. OBEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OBEY. Mr. Speaker, I must say I am somewhat amused by the crocodile tears I hear from the Republican side about the retroactivity in the tax bill. The fact is, only families who make more than $140,000 a year will be affected by that provision and that same bill cuts taxes for people who make less than $27,000.

I would also point out that some of the same Republicans who cry crocodile tears about retroactive taxes on the rich were all too happy to vote in 1982 for the proposal which provided retroactive taxes on unemployment benefits for people making $13,000 a year.

That should not surprise people. That is consistent with the Republican position of always finding any excuse to protect the rich but sock it to the middle class.

The fact is in the 1980's, under Republican economic plans, the wealthiest people in this country saw their incomes double from about $300,000 to $600,000. Everybody else lost ground. This package is going to turn that around.

SMALL BUSINESSES WILL SUFFER

(Mr. BONILLA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BONILLA. Mr. Speaker, when I cast my vote against this tax plan today, it is going to be on behalf of the small-business workers and small-business owners back in my district: people like Jose Cuevas, who owns Jumburrito restaurant in Midland, TX; people like Richard Thum, running the Comet Cleaners chain in San Antonio; people like Jaime Saenz, who runs an auto parts dealership in Carizo Springs in Crystal City. They are shaking in their boots about retroactive taxes for which they will either have to borrow money or lay people off when the taxes come due.

So, I am asking every Member in this body to listen to the compassion in their hearts for these small-business workers and small business owners, and if you do that, you will also cast a "no" vote against this tax plan.

JOHN F. KENNEDY AND SPENDING

(Mr. SAM JOHNSON of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SAM JOHNSON of Texas. Mr. Speaker, I have a history lesson for this Congress: 1993 was not the first time to hear the American people say cut spending first. In fact, Democrat President John Kennedy developed a plan around, guess what, tax cuts coupled with budget restraint. Kennedy said:

> If Government is to retain the confidence of the people it must not spend more than can be justified. The best means of strengthening demand among consumers and business * * * is to reduce the burden imposed by our tax system.

What a novel thought—cut spending, reduce the tax burden.

The only budget plan this administration can come up with is huge tax increases, expansion of all Federal programs, and, of course, more hidden fees. I think it is time for the Democrats to remember one of their own. Take John Kennedy's advice. America is saying cut spending first.

WATCH WHAT WE DO, NOT WHAT WE SAY

(Mr. ISTOOK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ISTOOK. Mr. Speaker, a message to the voters: "Watch what we do, not what we say." Talk is cheap; it is our votes which really count.

Today, for example, many Members of this Congress will vote to raise the tax on gasoline and on diesel fuel. Yet, only 2 years ago many of them were condemning such a tax. There were 179 current House and Senate Members who were coauthors of House Resolution 41 and Senate Resolution 63, which said, and I quote, "Federal excise taxes on gasoline and diesel fuel shall not be increased to reduce the Federal deficit." Why not? Then they wrote that the gas tax would have a devastating effect on America's economy and would be unfairly regressive upon people with low incomes. Yet today many of those 179 Members who wanted public praise for opposing the gas tax will turn around and vote for that very tax. Pay attention, America, and be sure to take names of just who talks one way but votes another.

AMERICAN TAXPAYERS' DOLLARS AT WORK—THIS IS ART?

(Mr. GALLEGLY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GALLEGLY. Mr. Speaker, this morning on the front page of the Los Angeles Times there is yet another story that very graphically illustrates why the President of the United States and liberal Members of this body feel that we need to increase taxes. It is also very telling about how serious we are about cuts in spending.

The story shows a National Endowment for the Arts project on our U.S. border handing out crisp, new $10 bills to illegal aliens as an art project.

Mr. Speaker, this is the American taxpayers' dollars at work.

□ 1110

THE PRESIDENT'S BUDGET

(Mr. CRAPO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CRAPO. Mr. Speaker, we have heard a lot of talk about how this program is going to reduce the deficit by $496 billion; but what is not said is that we are not voting on that whole package today. Today's vote is on the first year of the 5-year proposal, and that part of the proposal includes the biggest tax increase in the history of America, with spending increases.

The cuts that we hear about are projected for mainly the third, fourth, and fifth years of the plan, and they are not put into effect with this vote.

That plan hopes that Congress and the President, 3, 4, and 5 years from now will have the same willingness that we talk about today to put the cuts into place.

The people of America know this game. They have seen it played before. We want to have the cuts put into place now.

The problem in Washington is not that we do not have enough revenue. It is that we do not have the willingness to cut the budget.

GRAVE ROBBERY—DEMOCRAT STYLE

(Mr. CRANE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CRANE. Mr. Speaker, except in certain midwestern cities, dead people do not vote. That is why dead people are the perfect target for tax increases. This fact has not escaped the Democrats.

Along with all of the other retroactive tax increases in the reconciliation bill, the Democrats would like to increase estate taxes on people who have already died.

I guess I should be fair. In defense of the Democrats, not a single dead person has written in to complain about this retroactive tax increase. Of course their heirs, who will have to see bigger chunks of the family farm or family small business to pay the estate tax, are pretty upset.

The retroactive increase to 55 percent, or 60 percent in certain cases, in the maximum estate tax rate is not the only Democrat proposal to sock it to dead people. The bill also increases the income tax rate on estates to 39.6 percent for estates with income as low as $7,500—and, of course, this too is retroactive.

More ghoulish tax increases on estates may be coming from the Democrats later this year. Last year, the distinguished majority leader introduced legislation to reduce the estate tax exemption from $600,000 to $200,000. As far as I know, the majority leader continues to support this estate tax increase to fund other proposals.

Then there is the possibility of taxing capital gains at death. In December, President Clinton said that is something he would look at. As far as I know, he is still looking at it and may propose it in a future bill to fund one of his proposals.

MEMBERS EXHORTED TO PASS THE PRESIDENT'S BUDGET

(Mr. STUPAK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STUPAK. Mr. Speaker, I rise today in support of American families, small businesses, rural Americans, and the people of my district in Northern Michigan.

Certainly, the first 6 months have not been easy for Members on either side of the aisle. But we are here today, poised to change the economic course of this country for the better.

Mr. Speaker, coming from a State that is facing a crisis in financing its children's education, I know how important it is to pass a budget that will ensure that high school graduates will be able to afford a college education. coming from a district where the unemployment rate is consistently in double digits, I know how important it is to pass a budget that helps small businesses by increasing investment and creating jobs. Coming from a region where people work morning to night, but still must raise their families in poverty, I know how important it is to pass a budget that almost doubles the earned income tax credit, to finally give working families a chance—a chance at economic prosperity.

Mr. Speaker, it is necessary to vote for a package that starts us down the road to fiscal responsibility. Let us pass this package today, and let us continue our economic strategy by reforming our health care system.

Mr. Speaker, I stand ready to take the first today. Support the conference report. Pass the budget.

THE CHOICE IS CLEAR

(Ms. PRYCE of Ohio asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. PRYCE of Ohio. Mr. Speaker, my colleagues on the other side of the aisle will face a big decision today. Should they vote for the largest retroactive tax increase in history or should they vote for the American taxpayer?

I feel like the Wendy's lady, you know, the one that opened up the hamburger and said, "Where's the beef?"

I open up the tax package and say, "Where are the spending cuts?" There are no spending cuts. There is no beef, but there is plenty of pork.

Now, should that not go first?

We see the commercials with flags flying, the bugles blowing, and the implication, of course, is that if we do not vote with the President we are unpatriotic.

Well, it may be a loyal Democrat Party vote to vote for the tax-and-spend plan, but there is nothing in this package that stands by the American taxpayer.

When your constituents ask, "Where's the beef?" Would you not rather say that you cut spending first? Vote "no."

THE TOP 10 LIST

(Mr. DREIER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER. Mr. Speaker, I have some very good news for our colleagues. We have just received from the home office here in Washington, DC, the top 10 reasons as to why Democrats have voted for the Clinton tax plan.

Mr. Speaker, may I have the drum roll now? I thank my colleagues.

Here they are, the top 10 reasons, Mr. Speaker:

No. 10. Lost arm-wrestling bet with Janet Reno.

No. 9. The devil made me do it.

No. 8. Who am I and what am I doing here?

No. 7. President said he'd tear up negatives if I voted for the plan.

No. 6. AL GORE, what a guy.

No. 5. Thought I was voting for the Clinton ax plan.

No. 4. It wasn't me. It was my evil twin Randy.

No. 3. Die you capitalist pigs.

No. 2. I did what?

And, Mr. Speaker, No. 1 reason why Democrats voted for the Clinton tax plan: To make Bill Clinton a one-term President.

TAX DOLLARS TO ILLEGAL IMMIGRANTS

(Mr. DORNAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN. Mr. Speaker, picking up where my California colleague left off, but with one footnote: Notice what the deficit reduction dollar says at the top: "In God We Trust."

I care. I care about this deficit. I have spoken about it for 20 years.

Picking up where I left off, is there not some aspect of this debate that reminds one of the ax killer who smears in blood on the bathroom windows, "Stop me before I tax again"?

What we have here today is taxation without hesitation.

But I want to reemphasize what my other colleague said, the gentleman from California [Mr. GALLEGLY]. Look at this NEA grant again. Let us go over this again. NEA-subsidized artists are giving away money on the border to illegal immigrants. These are your tax dollars, folks, crisp 10 dollar bills. It is called an art rebate.

These three artists are called conceptual artists. They say they back defiant cultural statements.

The gentleman from California [Mr. CUNNINGHAM], our naval ace, ought to be here. He is already in L.A. Times calling it outrageous. It is part of a $250,000 grant to the so-called artists in San Diego for a project called La Frontera Border. Some of these receiving the art are coming across to do nothing, Mr. Speaker, but steal cars. On the way out they stop and get their $10 rebate from contemporary artists.

Enough is enough, Mr. Speaker. Let's kill the NEA once and for all.

PRESIDENT'S TAX PACKAGE BAD DEAL FOR AMERICA

(Mr. DUNCAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DUNCAN. Mr. Speaker, the President's tax increase package that we will take up later today is a bad deal for America. The tax increases come out to almost $1,000 per person.

No one should be fooled into thinking that only the wealthy will pay.

The corporate tax increases will be passed on to the consumer in the form of higher prices. The wealthy will buy tax-free bonds and shelter their incomes in other ways.

Taxes always come back in the end to the middle-income and lower-middle-income people. These will, too.

We will take in approximately 1 trillion $400 billion this year with no new taxes. The problem is not a shortage of Government revenue. It is a surplus of Government spending.

All over this country today people are fed up with wasteful Federal spending. They see a Federal bureaucracy so bloated that even a liberal Democrat like President Clinton says it can be reduced by 100,000 employees.

Families all over this Nation are being hurt because government at all levels is taking so much of their money. These taxes will be seen more in the form of higher prices than on tax returns. Our economy and working people everywhere will be hurt if we pass a massive tax increase now.

SUPPORT PRESIDENT CLINTON'S BOLD ACTION

(Mr. KOPETSKI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KOPETSKI. Mr. Speaker, the new President came to the White House in 1933 facing severe economic times in the world and in our country. He asked for support for this leadership, his ideas. The Nation responded, the Congress responded.

Let me quote from his first inaugural address:

> This great Nation will endure as it has endured, will revive and will prosper, so first of all let me assert my firm belief that the only thing we have to fear is fear itself—nameless, unreasoning, unjustified terror which paralyzes needed efforts to convert retreat into advance.
>
> In every dark hour of our national life, a leadership of frankness and vigor has met with that understanding and the support of the people themselves, which is essential to victory. I am convinced that you will again give that support to leadership in these critical days.

That was Franklin Delano Roosevelt. President Clinton has earned the leadership. He has earned the trust of this Congress and the people by taking bold action. Let us support him today.

□ 1120

GIVE THE PRESIDENT WHAT HE WANTS: LISTEN TO THE PEOPLE

(Mr. WELDON asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. WELDON. Mr. Speaker, it is time to give the President what he wants and what he has asked for. In January, in the inauguration, in February in the State of the Union Address, in May on reconciliation, and on this past Tuesday evening on "Prime Time Live," he said:

> Let's give the Government back to the people. Let's listen to their demands.

The people are responding in overwhelming number. The Capitol has been flooded with phone calls and faxes. In my office and in the offices of my colleagues, it is 10 to 1. In addition, every national poll is consistent. Ross Perot is in agreement. Even Barton Biggs, the CEO of Morgan-Stanley, said on July 19:

> I am embarrassed that I voted for him and contributed money to his campaign.

He was speaking about Bill Clinton.

Mr. Speaker, it is time to put aside partisan politics. It is time to give this President, what he wants. Let us listen to the people. Vote "no" on the Clinton tax plan.

A FORMER DEMOCRATIC PRESIDENT'S VIEWS ON TAXES

(Mr. BURTON of Indiana asked and was given permission to address the House for 1 minute.)

Mr. BURTON of Indiana. Mr. Speaker, let me ask my fellow Democrats if they remember who said this:

> An economy hampered by restrictive tax rates will never produce enough revenue to balance our budget just as it will never produce enough jobs or enough profits. * * * Tax rates are too high today and tax revenues are too low and the soundest way to raise the revenues in the long run is to cut the rates now.
>
> The purpose of cutting taxes now is not to incur a budget deficit, but to achieve the more prosperous expanding economy which can bring a budget surplus.

Then he went on to say this:

> There will be new interest in taking risks, in increasing productivity, in creating new jobs and new products for long-term economic growth.

Do you know who said that, I ask my Democrat friends? It was John F. Kennedy. And because they cut individual tax rates 20 to 30 percent and corporate tax rates 10 to 20 percent, they increased tax revenues from 1963 to 1969 from $118 to $183 billion, a 55-percent increase because they cut tax rates.

If you increase these taxes like you are talking about, you are going to put this country into recession, and that is exactly the opposite of what your hero, John F. Kennedy, would do.

AIR STRIKES REQUIRE CONGRESSIONAL APPROVAL

(Mr. FISH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FISH. Mr. Speaker, this week we have heard a great deal of discussion about the possibility of the United States leading a NATO effort to wage air strikes against Serbian forces in Bosnia and Herzegovina in an attempt to break the stranglehold on Sarajevo and ensure delivery of humanitarian assistance to the people there.

I rise today, as I did in January 1991 before the bombing of Iraq, to emphasize my belief that congressional authorization is constitutionally required before an offensive military action as distinct from responding to an attack can lawfully be taken by U.S. Armed Forces.

The legislative and executive branches share responsibilities in the war powers area. How these powers are properly divided, however, remains ambiguous after 200 years. Under section 6 of the U.N. Participation Act, which governs our treaty obligations under the U.N. Charter, the President is authorized to negotiate "Article 43 agreements" with the Security Council to provide forces to the United Nations subject to approval by the Congress. As was the case with Kuwait, there have not been any article 43 agreements approved by Congress with respect to Bosnia, and the U.N. Participation Act can be read as prohibiting the President from using United States forces for that purpose.

I would hope that the Serbs will heed the threat of airstrikes and retreat. However, if they do not, I believe that the President must request that Congress provide authorization for him to act pursuant to U.N. Security Council resolutions 770 and 836. A Congressional resolution, demonstrating a unified United States position, will strengthen the hand of the President and the Secretary General in their efforts to bring lasting peace to Bosnia.

CLINTON TAX BILL WOULD DEMAND SACRIFICE FROM MANY SMALL BUSINESS ENTITIES

(Mr. HANCOCK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HANCOCK. Mr. Speaker, the Democrats have finally admitted that their tax bill will have a major impact on small businesses conducted as S corporation, partnerships or sole proprietorships. All the Democrats want to do now is argue about how many small businesses must sacrifice under their bill. The Democrats don't think it's a big deal to hurt over a million businesses.

Let us just take a simple example of how the tax bill will affect a business.

The Welbilt Machine Shop is an S corporation employing 15 people. Its owners, two generations of Welbilts, paid income taxes of $155,000 on the $500,000 earned by the company. The Welbilts paid themselves $175,000 from those earnings and had to take another $155,000 out their company just to pay their taxes. This left $170,000 in the company for expanding the business.

Under this tax bill, the Welbilts would owe $210,000 in tax on the company's earnings. This would leave only $115,000 in the company after withdrawing the amounts for the Welbilts and their taxes, $55,000 less than under current law. The Welbilts estimate that this new tax bill will prevent them from hiring two people and maybe they will have to lay off people. Job creation? This tax bill is job destroying.

MORE TAXES, MORE SPENDING, MORE DEFICITS PREDICTED UNDER THE CLINTON TAX PLAN

(Mr. BAKER of California asked and was given permission to address the

House for 1 minute and to revise and extend his remarks.)

Mr. BAKER of California. Mr. Speaker, I appreciate very much the opportunity to have this 1 minute to speak to the Members of the House.

Today is the day we try to make water run uphill. Today is the day we go after the 1990 budget agreement one more time—more taxes, more spending, and more deficits. And the people who run this place are going to be surprised when the result is the same, with a debt that is higher then before we raised taxes.

In 1990 it was $100 billion. This year they are going to raise your taxes $260 billion. Twenty-five years

We are now going to do it with 4.3 cents additionally in the gas tax and a tax on Social Security benefits for those of you who were smart enough to have saved to take care of yourself and have more than $35,000 in income. That is the rich. We are also going to do it with an inheritance tax, increased from 50 to 55 percent, if you want to save for your children. And it is retroactive to January 1. If you have a relative who died between now and January 1, is that excluded? No, they get to pay more even though they are stone cold dead.

Mr. Speaker, I hope this plan dies tonight. If it does not, we are going to have new leadership in California and here in the Nation's Capitol, and they will cut spending first.

TAX FAIRNESS IS MAJOR FEATURE OF CLINTON RECONCILIATION

(Ms. PELOSI asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. PELOSI. Mr. Speaker, Senator DOLE and many Republicans are revising history during this important debate, going from microphone to microphone decrying this vital deficit reduction package as the largest tax hike in history.

Perhaps their history book does not go back to the year 1982, when the Republicans controlled the Senate and they and President Reagan wrote what is truly the largest tax bill in history, containing a whopping $260 billion in 1993 dollars.

Perhaps the saddest chapter in the 1982 history book is the one detailing who paid the taxes. Reagan and DOLE socked it to the middle class and seniors while protecting the wealthiest.

Contrary to Reaganomics, President Clinton, on the other hand, asks those who have the most to pay the most. Over 80 percent of the tax burden will fall on those making more than $200,000 a year.

Families making under $180,000 in adjusted income will not pay a penny more in income taxes.

Twenty million working families will receive a tax cut through an expansion of the Earned Income Tax Credit.

Mr. Speaker, let us make this a happy ending. Pass President Clinton's true deficit reduction package.

DEWINE FAMILY SUFFERS TRAGIC LOSS

(Mr. REGULA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. REGULA. Mr. Speaker, let me state to my colleagues that we have heard the sad news that Mike DeWine, who was a colleague of ours for 8 years, lost his daughter yesterday in an automobile accident. Becky was his third daughter. She had just graduated from college.

This is a wonderful family, and I hope all of us will remember Mike and his family in our prayers.

Mr. Speaker, let me yield to the gentleman from Ohio [Mr. HOBSON], who represents Mike and Becky in that district.

Mr. HOBSON. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, today I rise with a heavy heart and with deep sympathy for my dear friend and former colleague Mike DeWine and his wife, Fran, for the great loss they bear. Yesterday at 11:35 a.m., their daughter, Becky, was pronounced dead at Miami Valley Hospital in Dayton following a tragic car accident.

Becky was a wonderful, bright young woman just graduated from college and meeting life with all the enthusiasm and spirit of a 22-year-old.

Her young life was taken from us yesterday. This tragedy tests our faith, yet we know that God will protect her and her family.

I wanted to take this time to recognize their devastating loss. And I want Mike DeWine and his family to know that his former colleagues share his grief and pain.

□ 1130

NEW TAXES NOT NEEDED

(Mr. SOLOMON asked and was given permission to address the House for 1 minute.)

Mr. SOLOMON. Mr. Speaker, I could not help but listen to my good colleague, the gentlewoman from California [Ms. PELOSI], talk about Ronald Reagan.

Let me set the record straight: in 1981 we debated and passed Reaganomics, which created 23 million new jobs in this country and turned the economy around. Ronald Reagan came to this Member in 1982 and he said, "Jerry, you know, there is a deficit out there, and the Democrats want to pass a tax increase. And they have agreed to give us a spending cut if I agree to the tax increase." He took me up to Camp David and said, "Jerry, I need your vote."

I said, "Mr. President, you are not going to get those spending cuts. You are going to go ahead and agree to the tax increase, they will write it into law, and we won't get any spending cuts at all."

Do you know what? Two years later we spent every nickel of that tax increase, plus 50 percent more, and the deficit went up. No spending cuts were made.

Mr. Speaker, that is why we do not need any new tax increases. Democrats have never met a tax they do not like. We need to make spending cuts, just as we are asking the American people to tighten their belts.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MURTHA). The Chair will ask the gallery not to respond to debate on the floor of the House.

WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 2264, OMNIBUS BUDGET RECONCILIATION ACT OF 1993

Mr. BEILENSON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 240 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 240

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 2264) to provide for reconciliation pursuant to section 7 of the concurrent resolution on the budget for fiscal year 1994. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read. The conference report shall be debatable for six hours, with one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means; twenty minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture; twenty minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Armed Services; twenty minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Banking, Finance and Urban Affairs; twenty minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor; twenty minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce; twenty minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Foreign Affairs; twenty minutes equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary; twenty minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Merchant Marine and Fisheries; twenty minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Natural Resources; twenty minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Post Office and Civil Service; twenty minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Public Works and Transportation; twenty minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Veterans' Affairs; and one hour equally divided and controlled by the chairman and ranking minority member of the Committee on the Budget. The previous question shall be considered as ordered on the conference report to final adoption without intervening motion except one motion to recommit, which may not contain instructions and on which the previous question shall be considered as adopted. After disposition of the conference report, no further consideration of the bill shall be in order except pursuant to a subsequent order of the House.

SEC. 2. House Resolution 235 is hereby adopted.

The SPEAKER pro tempore (Mr. KLECZKA). The gentleman from California [Mr. BEILENSON] is recognized for 1 hour.

Mr. BEILENSON. Mr. Speaker, I yield the customary 30 minutes to the gentleman from New York [Mr. SOLOMON] for the purpose of debate only, pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 240 provides for 6 hours of general debate on the reconciliation conference report, with the time allocated among the committees instructed to report deficit reduction legislation, and the time for each committee equally divided and controlled between the chairman and ranking minority member of each. The conference report will be considered as read. All points of order against the conference report and against its consideration are waived.

The conference report needs a waiver of the three-day layover requirement. The report also exceeds the scope of the conference; for example, the section providing an income tax credit for employees who pay Social Security taxes on their employees' tip income was in neither the House nor Senate bill. To meet the conferees' ambitious deficit reduction target, it was necessary for conferees to exceed scope in order to reach agreement between the Houses.

Mr. Speaker, the rule provides one motion to recommit which may not contain instructions. No further action on this reconciliation measure is in order except by subsequent order of the House. Finally, the rule provides that House Resolution 235 is adopted.

At this point, Mr. Speaker, I would like to explain House Resolution 235. First, the intent is to put in place, in conjunction with the executive order that the President issued yesterday, the entitlement review procedures dropped from the conference report because of the Byrd rule in the Senate. The Executive order directs the Office of Management and Budget to set targets for entitlement spending.

Under that directive, the President must review actual and projected costs for direct spending and revenue legislation and, if actual or projected outlays exceed the target, the President must issue a special direct spending message making recommendations for addressing the overage. The President's special message may include reconciliation directives or may recommend no legislative action.

House Resolution 235 provides for the House to respond to a President's special message issued pursuant to the Executive order. By reference, it incorporates the language from title XVI of the House-passed version of reconciliation. In effect, a resolution incorporating the text of the President's special message would have to be introduced within 10 days of its being issued. If the message is issued before April 15, it would have to be included in the budget resolution reported from the House Budget Committee in a separate title. The separate title would consist either of reconciliation directives, or a recommendation that no legislative changes be made to address an entitlement overage.

If the recommendation is for no action, then the Government Operations Committee would have to report legislation to change the targets and the House would have to adopt the Government Operations measure before considering the budget resolution.

If the Budget Committee failed to report a resolution with the separate entitlement review title, when required, then the Budget Committee would be automatically discharged from consideration of the separate resolution introduced within 10 days of the President's message. Any Member could move that the House proceed to consider the separate discharged resolution.

Under House Resolution 235, a conference report on the budget resolution would not be in order unless it fully addresses the entirety of the entitlement problem specified in the President's message, or it changes the direct spending targets.

Finally, under House Resolution 235, it would not be in order to consider any general appropriation bill until Congress, if required, adopts a budget resolution including the entitlement review problem. The point of order could be waived only by adoption of a single resolution covering all general appropriation bills.

Mr. Speaker, the rule before us today provides ample time to debate what is without a doubt the most important piece of legislation that has come before us during this Congress. I believe that during the course of the next 6 hours, it will become increasingly clear why we must pass this conference report.

The conference report contains a range of legislative changes; all told, they will reduce deficits over the next 5 years by $496 billion, with more than half of the reduction coming from spending cuts. By 1998, the deficit will be about half of the percentage of our Nation's gross domestic product that would be in the absence of this legislation.

We have a great deal at stake today:

Our decision will determine whether we are willing to face up to our responsibilities to the people we represent to stop spending beyond our means—or whether we are going to continue on a course that is bankrupting our country;

Our decision will determine whether we finally take steps to reduce these deficits, and stop piling increasing amounts of debt on our children and grandchildren—or whether we continue to run massive deficits and allow the national debt to continue to soar;

Our decision will determine whether businesses and individuals continue to enjoy the benefits of the lowest interest rates in 20 years, which are providing new and better opportunities to borrow and invest—or whether interest rates creep up again, choking off economic recovery and job creation; and

Our decision will determine whether wealthy Americans are finally asked to pay their fair share of the cost of government programs and services—or whether middle- and lower-income Americans will continue to shoulder more than their fair share of the tax burden.

We must pass this conference report. This measure is the most important step that we can take—in fact, it is our only alternative—to do what we know we need to do, what all Americans know we need to do: reduce the deficit, increase economic growth, create jobs, restore tax fairness, and provide some help to businesses and individuals who are trying to help themselves.

Mr. Speaker, I urge passage of this rule so that we can proceed to the consideration of the conference report.

At this point, I yield to my friend from New York [Mr. SOLOMON] for the purpose of debate only.

Mr. Speaker, I reserve the balance of my time.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I could take all my time on this rule complaining about the procedural situation which it presents to the House:

I could complain about the fact that we are waiving the 3-day layover rule for this massive budget reconciliation conference report—a rule that was designed to allow Members to know what they are voting on.

I would ask every Member in this House here on the floor and back in their offices: who has had time to read this? Look at it. Several thousand pages. Not one Member knows what he or she is voting on here today.

I could complain about the fact that this rule self-executes the adoption of a meaningless new entitlement review process in the House—a matter on which no committee of jurisdiction has ever held hearings or reported out a bill; and here we are today, voting on it blindly.

I could complain about the fact that this rule contains a blanket waiver of points of order—meaning that all manner of House rules violations are being covered-up by this rule; none of us even know what is in it.

I could complain about the fact that a very important prerogative of the minority is being denied by this rule, and that is the motion to recommit this reconciliation bill to conference with instructions.

For 200 years, we have had this right. Why are we being denied it today? Because Democrats are afraid to let their fellow Democrats vote to repeal the 4.3 cent-per-gallon gas tax, to repeal tax on Social Security benefits and on and on and on. Democrats are afraid to let their own Members vote on that issue.

Mr. Speaker, these are all legitimate reasons to complain about this rule and to oppose it. But I will not take the time of this House to elaborate on those procedural objections, as valid as they are.

Instead I want to appeal to this House to oppose this rule for a more important and substantial reason, and that is that it would make in order a bill that is bad for the American people, bad for the American economy, and bad for our representative system of government.

I want to appeal to my colleagues to oppose this rule as a way to say "yes" to deficit reduction, but "no" to going about it the wrong way by raising taxes, raising taxes, raising taxes.

If Members defeat the rule, you can keep the deficit reduction process alive while at the same time registering your strong opposition to the economically devastating aspects of this tax package which has constituents ringing the phones off the hook, asking you to vote against the bill. Are you going to ignore them?

Mr. Speaker, I honestly think the American people want us to succeed at genuine deficit reduction, and I think most Members of this House agree with that. At the same time, the American people are justifiably confused and upset about how we will go about this laudable goal.

Following the President's address to the Nation on Tuesday night, attempting to rally the support of the people behind his package, the calls came in to my office. I sat there until midnight, Tuesday night, and they came in by 10 to 1 opposing this package, opposing it.

The next day, opposition even grew larger. And so did the calls to Senator ALFONSE D'AMATO, who represents the entire State of New York, where I come from.

Why? Very simply, the people correctly perceived it as the same old tax and spend policy they have been getting out of this Congress for the past four decades. They don't think anything has changed, and they are absolutely right.

They don't think Congress and the President are really going to make good on the promised spending cuts, but that Congress will instead take the additional taxes we are laying on the backs of middle-class America and spend it on more government—not deficit reduction—but more government and more government.

Mr. Speaker, I have always had an infinite amount of faith in the down-to-Earth, common sense of the American people.

They might not know all the detailed provisions of this bill or the budget, but they do have a deep-down, gut instinct wheh something isn't quite right.

That is what is generating those phone calls that are jamming the switchboards of the White House and every one of our offices right now. That is what I have been hearing about this bill for some time from my constituents.

They know that the only way the economy will grow is by savings and investment and risk-taking in the private sector by small businesses and more productive workers. And they know that the private sector growth will not occur when $244 billion is taken out of the pockets of the American people and put in the pockets of Government. That only deprives our economy of the capital that is necessary to create all those new jobs that are so necessary.

And the people sure as heck know that we will not get better planning and better investment and more jobs by taxing the private sector retroactively to the beginning of this year. What kind of nonsense and insanity is that? This bill will throw next year's planning and investments out the window. A chairman of the board in an industry that employs 100 people back in my district called me the other day and said, "Gerry, if this bill goes through, I am not going to put on that 50,000 square foot expansion. I am not going to hire those 20 new people. I am going to have to lay off 15."

What kind of insanity is this?

Mr. Speaker, as a former small businessman and as one who now represents a district where thousands and thousands of people have lost their jobs in the last 6 months at IBM and other companies, I know, and my constituents know, that this is the wrong plan at the wrong time for the wrong reasons.

Let us defeat this rule and go back to the drawing board. We can do that, and you have a commitment from this Member of Congress to sit down and work with you about tightening spending.

That is what the people want. That is what the calls coming in here are saying. They do not want retroactive taxes that are bound to retroactivate into a recession.

Vote no on this rule. You can do it, if you have got the guts to do it. And there are about 50 good Democrats over there who are going to vote no on the bill itself. Vote no on this rule.

We will go back upstairs, and we will rewrite this monstrosity into something the American people want. Come on out here and have the guts to do it.

ROLLCALL VOTES IN THE RULES COMMITTEE ON PROPOSED AMENDMENTS TO THE RULE ON H.R. 2264—OMNIBUS BUDGET RECONCILIATION ACT OF 1993 CONFERENCE REPORT

1. Strike the provision that self-executes the adoption of H. Res. 235 (entitlement process review procedures).

Vote (Defeated 4-8): Yeas—Solomon, Quillen, Dreier, Goss; Nays—Moakley, Derrick, Beilenson, Frost, Bonior, Wheat, Gordon, Slaughter. Not Voting: Hall.

2. Strike the self-executed provision referred to above and substitute language providing for a separate debate and vote on H. Res. 235.

Vote (Defeated 4-8): Yeas—Solomon, Quillen, Dreier, Goss; Nays—Moakley, Derrick, Beilenson, Frost, Bonior, Wheat, Gordon, Slaughter. Not Voting: Hall.

3. Strike the provision that denies the minority the traditional motion to recommit the conference report to conference with instructions.

Vote (Defeated 4-8): Yeas—Solomon, Quillen, Dreier, Goss; Nays—Moakley, Derrick, Beilenson, Frost, Bonior, Wheat, Gordon, Slaughter. Not Voting: Hall.

4. Adoption of Rule (Adopted 8-4) Yeas—Moakley, Derrick, Beilenson, Frost, Bonior, Wheat, Gordon, Slaughter; Nays—Solomon, Quillen, Dreier, Goss. Not voting: Hall.

COMMITTEE ON RULES—REPUBLICAN BILL SUMMARY

H. Res. 235—Providing for a required response by the House of Representatives to any special direct spending message submitted by the President. Introduced by Rep. Joe Moakley, August 4, 1993

Purpose: The purpose of H. Res. 235 is to establish procedures for the consideration by the House of resolutions relating to special direct spending messages submitted by the President.

Background and Legislative History: On May 27, 1993, the House adopted H. Res. 186, the rule for the reconciliation bill (H.R. 2264), by a vote of 236-184. The adoption of the rule self-executed into the bill two new titles dealing with the budget process. Title XVI, the "Budget Control Act of 1993," established a new process for addressing overages in direct spending programs. The Senate had no comparable provision in its bill. The matter was dropped in conference rather than risk a "Byrd Rule" point of order which would require 60 votes for a waiver.

To retain the support of fiscally conservative Democrats for the reconciliation package, the Administration, on Wednesday, August 4, 1993, issued Executive Orders to establish both the Deficit Reduction Trust Fund (dropped in conference from Title XV, subtitle C of the House bill), and the direct spending targets of Title XVI. As part of this bargain, the House Democratic Leadership has promised to include in the vote on the reconciliation rule the self-executed adoption of this resolution establishing House procedures for dealing with presidential direct spending messages. Since the rule does not directly include these procedures, as originally contemplated, the Rules Committee will again be avoiding reporting the matter as an original jurisdiction resolution, and will thereby not be required to issue an explanatory report or allow for the filing of additional, supplemental or minority views.

Major Provisions: The Executive Order issued by the President establishes the process for Executive action in connection with the direct spending review process and tracks the language from sections 1602–1604(b) of the House passed reconciliation bill. This includes—

Initial Report by Director—An initial report by the OMB Director within 30-days of enactment of reconciliation setting direct spending targets for fiscal years 1994–97;

Authority to Adjust Targets—Authority for the OMB Director to adjust the direct spending target based on changes in the number of beneficiaries; any increase or decrease in receipts resulting from the enactment of revenue legislation (other than pursuant to a direct spending reconciliation directive); any changes made by the enactment direct spending reconciliation legislation; and any costs of legislation designated as an "emergency" by the President under the Budget Act;

Annual Review by President—Annual review in the President's budget of direct spending and receipts;

Special Direct Spending Message by President—Authority for the President to include in his budget a direct spending message if direct spending in the prior, current or budget year are projected to exceed the targets. The message would include the President's legislative recommendations (and an accompanying direct spending resolution containing reconciliation directives to committees) to address the direct spending overages, in whole or in part, through the enactment of legislation containing offsetting outlay cuts (in either direct or discretionary spending) or revenue increases, or a combination thereof, or to do nothing.

The President's direct spending message in his budget would trigger congressional action (though all special procedures contained in Title XVI, sec. 1604(c)(2), 1605 and 1609, which are adopted by reference in this resolution). These procedures are the following:

Introduction of Resolution—The President's proposed direct spending resolution shall be introduced as a concurrent resolution in the House within 10-days of the receipt of the President's message by the chairman of the Budget committee "without substantive revision." If the chairman does not introduce the resolution within 10-days, any House Member may introduce it. The resolution shall be referred to the House Budget Committee.

Inclusion in Budget Resolution—Whenever the President submits a direct spending message, the Committee on the Budget shall report a budget resolution no later than April 15 containing a separate title that contains reconciliation directives to appropriate committees to reduce outlays or increase revenues * * *. If the separate title recommends no legislative changes, then a statement to that effect shall be set forth in the title.

Separate Vote to Increase Targets—If the separate title recommends that less than the entire overage for the prior, current or budget year be recouped or eliminated, then the Committee on the Budget shall report a resolution directing the House Committee on Government Operations to report legislation increasing the direct spending targets for the applicable year by the amount of the overage not recouped or eliminated. It shall not be in order in the House to consider a budget resolution until the House has voted on the resolution directing the increase in direct spending targets.

Consideration of Budget Resolution Conference Reports—It shall not be in order in the House to consider a conference report on a budget resolution unless if fully addresses the entirety of any overage contained in the applicable report of the President through reconciliation directives requiring spending reductions, revenue increases, or changes in the direct spending targets.

Procedure if Budget Committee Fails to Report—If the Budget Committee fails to report a budget resolution by April 15th containing the required separate title on direct spending if required, the committee shall automatically be discharged from further consideration of the concurrent resolution reflecting the President's recommendations and the resolution shall be placed on the appropriate calendar.

Consideration by the House—Ten days after the Committee on the Budget is discharged of the special direct spending resolution, any Member of the House may move to proceed to its immediate consideration. The provisions of title III of the Budget Act shall apply to special direct spending resolutions, resolutions increasing targets, and reconciliation legislation reported pursuant to directives contained in those resolutions.

Controversies & Comments: Despite the new Rube Goldberg device that is designed to get a handle on the growth in entitlement spending, when all is said and done, there is little if anything in this process that will make a difference from the present process since Congress already reconciles entitlement spending and revenues. Presumably, under the new process, committees will be getting two sets of reconciliation directives to report two kinds of reconciliation bills—one to reduce the deficit, and the other to offset overages in direct spending targets—even though both bills will conceivably be dipping into the same tax or entitlement pots.

The most heralded feature of the new process is the requirement that the House vote on whether it wants to increase the direct spending targets by the amount it does not want to fully offset the direct spending overages. This vote comes in the form of a resolution from the Budget Committee directing the Government Operations Committee to report legislation increasing the direct spending target. But, even if one gets that far, there is no requirement for the Government Operations Committee to actually report legislation increasing the targets or for the House to vote on increasing them.

What if the Budget Committee does not report a directive to Government Operations to report legislation to increase the direct spending target? Presumably, the House cannot consider a budget resolution until it votes on the directive. But, since the House routinely waives all points of order against the consideration of a budget resolution, this penalty is meaningless. Likewise, a conference report on the budget is presumably not in order unless if fully addresses the direct spending issue through reconciliation directives. But again, the House routinely waives all points of order against budget conference reports.

It is interesting to note that while a point of order lies against a budget resolution conference report if it does not include directives to raise the direct spending target, when necessary, there is no requirement that such directives be included in the originally considered budget resolution. Instead, the directive is contained in a separate resolution reported by the Budget Committee to permit a separate vote by the House on whether the Government Operations Committee should be directed to report legislation raising the targets. It is left unclear as to whether the increased targets reported by the Government Operations Committee would be included in an omnibus direct spending reconciliation bill or would be dealt with as separate legislation. The implication is the latter since the initial directive is to report separate legislation.

If the Budget Committee does not include a separate title on direct spending in its budget resolution, then presumably it is discharged of the resolution reflecting the President's direct spending recommendations and any Member may call that up for consideration. But, if the President has recommended no legislative changes, and that is all the resolution says, it is difficult to imagine that any amendment to such a resolution would be germane which recommends legislative changes. Moreover, there is no requirement that the President's direct spending resolution include directives to the Government Operations Committee to report legislation to increase the targets if the President has recommended no legislative changes or only a partial recoupment of the direct spending overages.

The bottom line is that for all newly created procedural hoops designed to get or retain control over "direct spending," Congress can still end up doing nothing more than it now does. When it comes down to it, there is no final enforcement for addressing the so-called overages of entitlement targets. What happens if the Congress fails either to address the overages with legislation or to enact higher direct spending targets? The answer is: Absolutely nothing!

Mr. Speaker, I yield 3 minutes to a very distinguished Member of the Committee on Rules, the gentleman from California [Mr. DREIER].

□ 1150

Mr. DREIER. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, opposition to this plan from this side of the aisle and from those thinking Democrats to which my friend, the gentleman from Glens Falls, NY [Mr. SOLOMON] has referred is really based on a very simple belief. We cannot tax America into prosperity, and we cannot spend the Government out of this deficit.

This morning I was listening to National Public Radio, and one of those Democrats who was wavering, the gentleman from Pennsylvania, RON KLINK, was followed by the NPR reporter.

They talked about the lobbying process that went on, and it ended yesterday with the gentleman from Pennsylvania [Mr. KLINK] saying to his staff, "I would like to see a copy of this measure that we are going to be voting on." His staff said to him, "There are not too many copies around. I have been told that it will be printed in the CONGRESSIONAL RECORD tomorrow."

The gentleman from New York [Mr. SOLOMON] showed the thousand pages there. It actually is a little more concise here in the CONGRESSIONAL RECORD, Mr. Speaker, but as the gentleman from New York has said, how many Members are going to be able to read and develop a grasp of this within the next few hours, as we prepare to cast this vote? This is not the procedure under which we should do this sort of thing.

One of the things that David Broder talked about when he wrote a column earlier on President Clinton is the trust deficit, that being the credibility problem that the President has. Frankly, as we have listened to the arguments on behalf of this measure, that trust deficit has grown dramatically. I would like to give the Members three examples.

They say people who earn less than $30,000 will not pay more taxes. Mr. Speaker, there is an increase in the earned income tax credit, a program which pays the working poor. However, let us be clear. As the Ernst & Young tax guide has said, a couple's earned income and adjusted gross income must be less than $22,370. What I am saying is that anyone who claims this $30,000 figure is really way off base and, frankly, is not telling the truth.

Second, the new high tax rate does not affect people earning less than $180,000. We have been hearing that figure regularly. The President mentioned it the other night. Again, that is not true. Let us be honest with the American people. The new 36-percent tax rate starts at $115,000 in adjusted gross income for singles, and $140,000 in adjusted gross income for couples.

Third, there are as many spending cuts as tax increases. The definition that the tax increasers use for spending cuts is a lot different than what most people think are spending cuts. They double-count $44 billion in spending cuts mandated by the 1990 budget agreement. They would occur without this tax increase. They count as a spending cut the estimated reduction in interest payments on the national debt they hope will occur off into the future. They count the increase in taxes on Social Security benefits as a spending cut.

Real people do not consider these as cuts in Government spending programs. That is why they are just not telling the truth.

Mr. Speaker, let us defeat this rule, go back, as the gentleman from New York [Mr. SOLOMON] has said, and create a package that the American people can support and that a majority in this House can support.

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield 7 minutes to the gentleman from South Carolina [Mr. SPRATT].

Mr. SPRATT. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, by passing this rule, we will add an important new procedure to the deficit-reduction process. We will institutionalize the entitlements enforcement process that the House wrote into the budget reconciliation bill when we first passed it.

Yesterday, the President signed into law his part of the entitlements review process by executive order. Today, we can enact our part of entitlements review, making it a rule of the House by passing this resolution. That is because in this resolution, there are self-executing provisions that would add the following to the rules of the House.

First, they would set up an outlay baseline for direct spending over the next 5 years. We take what the budget economists have projected and make this not just descriptive but prescriptive: We set up an entitlements spending baseline that we will try to track over the next 5 years.

Second, we provide that the President and the House will start the budget process each year with a variance analysis of entitlements, or direct spending. The President, by Executive order, has stipulated that his office will track entitlement spending each year against the baseline. After adjusting the baseline for caseload, or growth in beneficiary population, they will determine the variance over and above the baseline, and if the overage exceeds the baseline by more than 0.5 percent, the President will make specific recommendations in a special budget message to Congress on how to reconcile the overage.

Third, if the President identifies an overage and recommends legislation to recoup or eliminate it, our budget resolution must address the overage through reconciliation spending cuts or revenue increases, and must do at least as much as the President recommends. If the President recommends less than full recoupment or elimination of any overage, the House must vote to raise the outlay targets; and if the House rejects raising the outlay spending target, the budget resolution cannot be considered.

Fourth, though this rule will apply only to the House, the House cannot consider the budget resolution conference report until the overage has been fully addressed, either by increasing the target or by reconciling the overage. And no appropriation bill can be considered until a budget resolution complying with this requirement has been adopted.

Mr. Speaker, we all know that if we are to control the budget and bring down the deficit, we have to control the $750 to $900 billion that we will spend each year on entitlements over the next 5 years. I am convinced that this entitlements review process will help us do that. I am convinced that by putting this process in this rule, we help make this a more credible deficit-reduction package.

Mr. Speaker, I include a statement which elaborates on this process.

Required Action By The President: The President's budget reports actual and projected costs for direct spending (excluding deposit insurance and net interest) and revenues. If costs for direct spending programs exceed the budget resolution levels, the President *must* propose action to address the overage, either through spending cuts or revenue or outlay target increases.

Setting the Outlay Targets: The budget must include total outlays for direct spending programs (actual outlays and projections for the following five FYs), any permissible adjustments and information regarding major categories of fiscal receipts (including variance between projected and actual receipts).

Individual programs are adjusted for changes in the number of beneficiaries for direct spending programs if the number of beneficiaries is a variable in determining costs (i.e., Social Security, Medicare, Medicaid, Unemployment Compensation, Federal Civilian and Military Retirement and Veterans' Compensation). Targets are also adjusted to reflect passage of direct spending or revenue legislation and declarations of "emergency" spending.

Direct Spending Message of President: If the President indicates direct spending is projected to exceed the target, the President must submit a direct spending message to address the actual or projected overage. No action is required if projected outlays exceed the targets by 1/2% estimating margin of error or less.

The message must include an explanation of any adjustment to the outlay projection, the basis of any variance from the projection and a recommendation for addressing the overage. The message may address all, some or none of the overage, and may include legislative changes to reduce outlays or increase revenues.

The President and Congress should "seriously consider" all othe proposals prior to considering means-tested program cuts.

Action in Congress: If the President identifies an overage and recommends legislation to recoup or eliminate it, the budget resolution must address the overage through reconciliation spending cuts or revenue increases, and achieve savings equal to or greater than the President's recommendation.

If the resolution recommends recouping less than the full amount of the overage, the reconciliation must also direct that the outlay target shall be increased by the amount which is not offset. If the targets must be raised, the House must vote directly on the issue by separate vote. If the House rejects raising the target, the budget resolution may not be considered.

The House cannot consider the budget resolution conference report until the overage has been fully addressed (by increasing the target or reporting reconciliation instructions to eliminate the overage). No appropriations bills may be considered unless a budget resolution complying with the requirement is adopted.

Mr. SABO. Mr. Speaker, will the gentleman yield?

Mr. SPRATT. I am glad to yield to the gentleman from Minnesota.

Mr. SABO. Mr. Speaker, I just want to thank the gentleman from South Carolina for his leadership and help in developing this proposal. I truly believe it is a significant addition to our budget process, because as one looks historically, entitlements have tended in years past to exceed their estimates, and we tend to sort of look at it, not do anything for a period of years, and then we have a big problem. Then we need big bills, and those are difficult to do.

As I understand this process, it means that on an annual basis the President has to review those projections that are being made on entitlement programs. If they are exceeding expectations, he has to come back specifically to the Congress with specific recommendations how we deal with them, require us to specifically deal with whether we accept the President's recommendations, and make adjustments of how we fund or what entitlements we have, so we keep up with this problem on an annual basis.

Mr. Speaker, I just think that is a very substantial change in how the Congress and the Executive operates. I thank the gentleman for what I think is a very substantial contribution to how we deal with future fiscal problems in this country. The gentleman has done a very, very outstanding job.

Mr. SPRATT. Mr. Speaker, I thank the gentleman for his compliments, but I have to return the compliment. This would not be in this resolution and it would not have been in the budget reconciliation bill without his support as chairman of the Committee on the Budget.

As a member of the Committee on Appropriations, the gentleman also recognizes we have pretty well fixed the problem of discretionary spending.

□ 1200

And we have not dealt with the problem of entitlement spending and its explosive growth in Medicare and Medicaid that has to be dealt with, and this provision causes us to address it.

Mr. SABO. I thank the gentleman.

Mr. SOLOMON. Mr. Speaker, I yield myself 1 minute to respond to the last two speakers, both of whom I have great respect for. Let me just report what the Library of Congress says about this entitlement process enforcement procedure:

> The BCA does not contain any provisions dealing with the possibility that any of the required measures might not be enacted into law. There is no automatic response, such as sequestration under the GRH Act, to ensure that an overage is recouped or eliminated.

The truth of the matter is that spending cuts are a promise down the road. Congress has to take further action. This House has to take further action, but it is noted for not taking action when it comes to getting control over the costs of these entitlement programs.

I include for the RECORD this entire report on budget process changes in the House-passed Reconciliation Act of 1993 from the Congressional Research Service, as follows:

[Excerpt from CRS Report for Congress]

BUDGET PROCESS CHANGES IN THE HOUSE-PASSED RECONCILIATION ACT OF 1993

(By Robert Keith and Edward Davis, Specialists in American National Government, Government Division, June 14, 1993)

DIRECT SPENDING TARGETS

A new spending control process is set forth in Title XVI, which is referred to as the Budget Control Act (BCA) of 1993. The process, which covers fiscal years 1994 through 1997, is designed to make the President and Congress more accountable for any direct spending in excess of adjustable annual targets.

Although the term "direct spending" is not defined for purposes of the BCA of 1993, the term is defined in Section 250(b)(7) of the GRH Act (as proposed to be amended by Section 15101 of H.R. 2264) to mean: "budget authority provided by a law other than an appropriation Act or by a law that determines amounts needed to fund mandatory appropriations (including the food stamp program). If a law other than an appropriation Act alters the level of discretionary appropriations, that effect shall be treated as direct spending."

Under this definition, direct spending would include such programs as Social Security, Federal military and civilian retirement, unemployment compensation, Medicare, Medicaid, and farm subsidies.[1] The BCA presumably would use the same definition of direct spending as is used under the GRH Act.

Establishment and adjustment of spending targets

The direct spending targets are established initially and adjusted subsequently by the OMB Director. Initial direct spending targets for each of fiscal years 1994 through 1997 are equal to the total outlays for all direct spending programs for each such year, except for net interest and deposit insurance.

Within 30 days of the enactment of OBRA of 1993, the OMB Director must submit to Congress a report setting forth the initial direct spending targets. The OMB Director's report must be based on legislation enacted within 25 days of the enactment of OBRA of 1993 and, to the extent feasible, must use the economic and technical assumptions that underlie the budget resolution for fiscal year 1994 (Section 16002).

Prior to the submission of the President's budget for fiscal years 1995, 1996, and 1997, the OMB Director must adjust the direct spending targets according to rules set forth in the BCA. Adjustments must be made for: (1) Increases in the number of beneficiaries in programs for which this factor affects costs; (2) the enactment of legislation increasing or decreasing revenues (except for legislation considered under the BCA increasing revenues to deal with a direct spending overage); (3) the enactment of a reconciliation bill pursuant to the BCA,[2] and (4) designated emergencies under the PAYGO procedures of the GRH Act (Section 16006).

Responsibilities of the President and Congress

Under the BCA, the President and Congress must carry out certain responsibilities in the second session of the 103rd Congress and in both sessions of the 104th Congress for fiscal years 1994 through 1997.

As part of the submission of his budget for fiscal years 1995, 1996, and 1997, the President must include an "annual review" providing information on direct spending under the targets and receipts, and in the event actual or estimated direct spending exceeds the targets (causing an overage), a Special Direct Spending Message. If a Special Direct Spending Message is included in the President's budget, then Congress must take certain legislative actions.

Several basic rules guide the operation of this process. First, the requirements of the BCA do not apply to the President or Congress if an overage is less than the "estimating margin," which is one-half of one percent of the applicable target (Section 16008). Under current budget projections, the estimating margin for a covered fiscal year probably would be in the range of about $3 billion to $4 billion. Second, any actions by the President and Congress must be based on the direct spending targets as they have been most recently adjusted. Third, the President and Congress are urged to "seriously consider all other alternatives before proposing reductions in means-tested programs" (Section 16010).

Outlay reductions or revenue increases enacted pursuant to the BCA to address a direct spending overage are not taken into account for purposes of the GRH Act (Section 16007).

President's Annual Review. The annual review of direct spending and receipts to be included in the President's budget submissions for fiscal years 1995 through 1997 must include three elements: (1) information supporting adjustments of the direct spending targets made by the OMB Director; (2) total outlays for direct spending programs (except for net interest and deposit insurance) for the prior, current, and five succeeding fiscal years; and (3) for total receipts, a comparison of current projections and those made on the date of enactment of OBRA of 1993 (Section 16003).[3]

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[1] The Social Security trust funds are given off-budget status by Section 13301(a) of the Budget Enforcement Act of 1990 (104 Stat. 1388-623). (Section 15208 of H.R. 2264 proposes to redesignate Section 13301(a) as Section 801 of the Congressional Budget Act of 1974.) It is unclear at this time whether the existing provision exempts the Social Security trust funds from coverage under the proposed Budget Control Act of 1993.

[2] This category provides for two types of adjustment stemming from a reconciliation bill enacted pursuant to the BCA of 1993.

First, the BCA provides for a reconciliation act pursuant to reconciliation directives contained in a separate title of the budget resolution. The direct spending targets must be reduced by the amount of reductions in direct spending enacted in the reconciliation bill. This would seem to result in a "double cut"; if the reconciliation reductions were made to bring direct spending back down to the target level, it is unclear why the target is then reduced by an equivalent amount.

Second, the BCA also provides for a measure raising direct spending targets by stated amounts (which is reported by the House Government Operations Committee). It is unclear that this measure also is a reconciliation act (see discussion in footnote 25); therefore, it is unclear how any stated amounts in such legislation could be applied in the adjustment process.

[3] The provision does not refer to the fiscal years that should be included in the comparison of revenue estimates, but presumably they would include at a minimum fiscal years 1994 through 1997.

President's Special Direct Spending Message. If the President's annual review of direct spending and receipts indicates an actual overage for the prior fiscal year or an estimated overage for the current or budget year (or a combination thereof), he must include a Special Direct Spending Message (SDSM) in his budget (Section 16004(a)). Conversely if the review does not indicate an overage (or an overage less than the estimating margin), then the President need not include a SDSM in his budget.

The prescribed contents of the SDSM are: (1) an explanation of adjustments of the direct spending targets made by the OMB Director; (2) an analysis of why direct spending exceeds the targets; and (3) the President's recommendations for addressing any overages in the "prior, current, or budget year" (Section 16004(b)(1)).[4]

The President's recommendations, required by Section 16004(b)(1), may consist of proposed legislative changes to "recoup or eliminate" all or only part of the overage or a proposal to make no legislative changes at all.[5] In proposing to eliminate all or part of an overage, the President may recommend reductions in direct spending, reductions in discretionary spending limits under Section 601 of the CBA of 1974, increases in revenues, or a combination thereof. Recommendations to eliminate an overage for any year may cover the six-year period consisting of the current, upcoming, and succeeding four fiscal years (Section 16004(b)(2) and (3)).

The President's SDSM must include: (1) the text of a Special Direct Spending Resolution setting forth reconciliation directives to implement the President's recommendations; or (2) if no "reductions" are recommended, the text of a "special resolution" concurring in this position.[6] The Special Direct Spending Resolution (included in the SDSM) must be introduced as a concurrent resolution by the Chairman of the House Budget Committee ten days after the SDSM is submitted (if the Chairman fails to do so, any Member may introduce the measure after the tenth day), which is then referred to the House Budget Committee.

If the President does not recommend legislative changes to recoup or eliminate all of the overage, he must submit a finding explaining why economic conditions or other specified facts make it inadvisable to do so.

Legislative Response by Congress. The BCA provides for a somewhat complicated legislative process by which Congress must respond to a SDSM from the President, even if the SDSM proposes that no legislative changes be made to deal with an overage. (The process is based upon a set of requirements explicitly imposed on the House and two of its committees, but that eventually would involve the Senate as well.)

Congress may respond to a SDSM in two ways: (1) by considering a budget resolution reported in the House by April 15 that contains, in a separate title, reconciliation directives that would require changes in law to recoup or eliminate an overage (or a statement recommending that no changes in law be made);[7] or (2) if the House Budget Committee reports a budget resolution that does not conform to the requirements of the BCA, by considering the Special Direct Spending Resolution (SDSR) following its automatic discharge from the House Budget Committee (Section 16005).

Under the budget resolution approach, the reconciliation directives in the separate title (if included) must in total equal or exceed the "reductions" recommended by the President, up to the amount of the overage. Thus, If the separate title in the budget resolution does not propose to recoup or eliminate the entire overage, the BCA provides a process for increasing the relevant direct spending targets by the full amount of the overage not recouped or eliminated. Under this process, the House Budget Committee must report a resolution directing the House Government Operations Committee to report legislation increasing the direct spending targets by the applicable amounts. The resolution containing the directive to the House Government Operations Committee must be agreed to before the budget resolution can be considered in the House (see discussion of enforcement below). The House (and possibly the Senate) is thereby afforded an opportunity to vote separately on the issue of raising the direct spending targets before taking up the budget resolution.[8]

The second approach involves the consideration of an SDRS that has been automatically discharged. In this case, any Member may move its consideration ten days after it has been discharged and the motion is highly privileged and not debatable.

If the House Budget Committee failed to report the budget resolution by the April 15 deadline set in the BCA, if the SDSR were then automatically discharged, and if the budget resolution process (including reconciliation to recoup or eliminate only part of the overage) were then resumed and brought successfully to completion, five separate measures would have been generated by this process:

A budget resolution (including BCA reconciliation directives);

A reconciliation act (pursuant to BCA reconciliation directives);

A House Budget Committee resolution directing the House Government Operations Committee to increase direct spending targets;

A House Government Operations Committee measure increasing direct spending targets; and

A Special Direct Spending Resolution.

Relevant provisions of Title III of the CBA of 1974 shall apply in the House and Senate during consideration of measures required by the BCA.

The BCA does not contain any provisions dealing with the possibility that any of the required measures might not be enacted into law. There is no automatic response, such as sequestration under the GRH Act, to ensure that an overage is recouped or eliminated.

Enforcement Procedures. The requirements of the BCA for congressional action are enforced in the House by three new points of order. First, it is not in order to consider a budget resolution unless the House has agreed to any required resolution directing the House Government Operations Committee to adjust the direct spending targets (Section 16005(c)). Second, it is not in order to consider a conference report on a budget resolution unless it fully addresses (by means of reconciliation instructions or changes in direct spending targets) any overage identified by the President (Section 16005(d)).

Finally, it is not in order to consider any general appropriations bill unless Congress has adopted a budget resolution that conforms to the requirements of the BCA (Section 16009(a)). Section 16009(b) establishes a procedure under which this point of order may only be waived for all general appropriations bills for the budget year through the adoption of a single resolution.

There are no new points of order established for the Senate, but of course Senate consideration of general appropriations bills and conference reports on budget resolutions could be hindered if the points of order were invoked successfully in the House.

Mr. Speaker, I yield 3 minutes to the very distinguished gentleman from Sanibel, FL, Mr. GOSS, a member of the Committee on Rules.

Mr. GOSS. Mr. Speaker, the President made a plea to Americans to support his plan—because he said it is the only choice we have. That is flatout provably wrong.

The President's plan to tax big now, to spend big now while promising small cuts and deficit reduction later is not the only choice Americans have. There is the Kasich budget—that achieved the same level of deficit reduction as is being discussed here today. There is the Burton 2-percent flexible freeze proposal that actually charts out a plan to achieve a balanced budget—and there was even the Goss suggestion of 50 specific domestic discretionary spending cuts to save $190 billion over 5 years and obviate the need for the onerous Social Security and energy taxes proposed by the President.

The Democrat leadership stifled debate on such proposals when reconciliation came to the floor the first time. They are doing it again today. Most Americans do not favor this plan. The polls are devastating. CNN, Gallop, USA Today, and NBC get the message.

My congressional district calls continue to run heavily opposed to the

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[4] Although the terms "prior year," "current year," "budget year," and "outyears" are not defined in the BCA of 1993, the latter three are defined in Section 250(b)(12)-(14) of the GRH Act (as proposed to be amended by Section 15101 of H.R. 2264). It is likely that these terms as used under the BCA would have the same or similar meanings.

[5] The term "recoup" is not defined in the BCA of 1993 and it is not clear how an overage that has already occurred in the prior fiscal year can be recouped or eliminated.

[6] Section 16004(c)(1) refers to the President's recommendations for "reductions." It is unclear whether this is intended to mean reductions in an overage or spending reductions. If the latter is the case, then presumably the paragraph also should apply to "increases" in revenues that could be recommended to recoup or eliminate an overage. An unclear use of the term "reductions" also occurs in Section 16005(b), which deals with the congressional response to a SDSM.

Further, the Section 16004(c)(1) refers to a "special resolution," as opposed to a "special direct spending resolution," in the case of a recommendation for no legislative action. Unless the framers intended to distinguish between two types of resolutions, this may be a drafting or typographical error.

[7] Section 301 of the CBA of 1974 requires that the budget resolution be adopted by Congress by April 15; it is therefore unclear why the BCA imposes a reporting deadline in the House of the same date. Further, the budget resolution is divided by section rather than by title under the usual practice; however, this presumably would not prohibit the budget resolution from being divided by title if required by the BCA.

[8] The BCA of 1993 seems to imply in some places that the resolution reported by the House Budget Committee directing the House Government Operations Committee (HGOC) to change the direct spending targets, and the resultant legislation reported by the HGOC, is part of the reconciliation process outlined in Section 16005. However, the nature of reconciliation directives and reconciliation legislation as established in the CBA of 1974, Section 16005(c) of the BCA, and other considerations argue strongly against this implication.

President's tax plan. As more time goes by and more people understand what the President really said that ratio is widening. My constituents understand that the only certainty in this plan is $250 billion in new taxes—the single largest tax increase in our history. The spending cuts and the projected deficit reduction are promises that would not be implemented until 3, 4, and 5 years from now.

President Clinton should not be so quick to dismiss opposition to this plan as partisan. In 1990, this Member voted against a President of his own party—and I did it because I knew what my constituents know: Higher taxes don't reduce the deficit; they simply kill jobs and spur a spend-happy Congress to spend more. Whether the request comes from a Republican President or a Democrat President—my vote is still "no" on a plan that raises taxes before cutting spending.

There is another mistruth out there. It is going to cause senior shock like you do not believe. I read from the Heritage report, admittedly based on the House version originally, and this has been improved slightly. The study contends that it is middle-class seniors who will shoulder the majority of this new burden. I said middle-class seniors. A full 57 percent of the Social Security taxes paid under the plan will be paid by seniors making less than $75,000 a year, middle-class seniors, Mr. President.

I also have to point out for the first time we are taking Social Security revenues, and we are taking them out of the system, breaking a pledge to the people who paid into the system and using those funds for other purposes. We are breaking a pledge, a promise that has been made.

If we are breaking that promise, what other promises are going to be broken?

For the rule before us today, once again the Democrat leadership is unabashedly using its total control over the Rules Committee to achieve its political dealmaking. This time we have a rule that self-executes changes to the rules of the House. These are changes that have had to hearings, heard no testimony, and seen no public comment. They are changes that President Clinton had to promise reluctant Members of his own party in order to secure votes for his tax plan. By voting for this rule, Members will be stamping their vote of approval not only on the substance of the changes—which I am willing to bet few if any of us could explain to our constitutents—but also on the process by which these changes are happening.

I don't really know if these changes are good for the country or bad for the country—but the idea of making them law without giving them due consideration and examining them closely is anthema to me. I urge my colleagues to vote "no" on this President Clinton political expediency rule.

Congress spends too much time revisiting issues and going back to fix mistakes that were made in political haste. Let us slow this process down and take a long, careful look at what we are doing. Vote "no" on the rule.

Mr. BEILENSON. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Minnesota [Mr. SABO], chairman of the Committee on the Budget.

Mr. SABO. Mr. Speaker, sometimes things are said very loudly that are simply wrong, and the assertion that this bill contains no spending cuts is simply wrong.

The fact is we have significant regulation of discretionary spending in this bill. It is capped at below the 1993 levels for the next 5 years, in contrast to the 1980's when discretionary spending was growing at an average of $25 billion a year. There are significant entitlement cuts, $56 billion in Medicare, close to $12 billion in retirement savings, significant Medicaid savings, and significant agricultural savings. They flow throughout this entire bill.

So, if Members on the other side want to quarrel about this bill, fine. But let us stick to the facts.

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield 6 minutes to our distinguished whip, the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Speaker, it is time to bite the bullet. It is time to junk the rhetoric. It is time to vote "yes" or "no" on the biggest vote of the Clinton Presidency.

The question simply is: Can we govern? Will gridlock take over again as it has over the last 12 years?

All of our necks are on the line. Let us be responsible and pass the plan.

What are the alternatives? They are basically four.

One, we can stick with the status quo, leave things as they are. But if that happens, the deficit would rise from $300 billion to over $500 billion. Clearly anything is better than doing nothing.

Or we can support the Republican plan which a majority of Republicans did not even vote for. It falls $80 billion short in deficit reduction, $60 billion is unspecified spending cuts. It does not ask the wealthy to pay one dime for deficit reduction, while it hits agriculture, Medicare, and other health programs twice as hard as the President's package.

Or we can go with the Perot plan. That called for a 50-cent gas tax, more than 10 times as large as the plan we are passing. Persons earning $40,000 a year would have paid $37 a month in new taxes as opposed to $10 a month in the plan we are passing. Overall taxes in the Perot plan are $50 billion higher.

Mr. Speaker, this plan cuts $11 billion more than the President proposed. Opponents say where are the cuts. Well here is a list.

Entitlement cuts, over 30 specific cuts in Medicare and Medicaid that reduce the deficit by $38 billion. Agriculture entitlements, $2 billion. Restructuring the Student Loan Program, $4 billion, and in discretionary spending the list is long.

Here are some examples: Reorienting and cutting foreign aid spending, saving $500 billion. Reducing international security assistance, foreign aid programs $1.6 billion. Streamlining Agriculture Department delivery systems, $730 million. Improving management of VA hospitals to save $1 billion. It eliminates programs like highway demonstration projects, saving over $1 billion, special purpose housing grants, National Oceanic and Atmospheric demonstration grants, earmarked SBA grants, agriculture special grant programs, unnecessary Federal commissions.

Mr. Speaker, this plan is also prosmall business. There are lower borrowing costs. Markets have responded to the President's deficit reduction plan. Long-term interest rates are at a 16-year low, and mortgage rates are at a 20-year low. There is increased expensing for small business, a special capital gains tax cut for investments in small business. The President has strongly supported a new provision to cut capital gains taxes for new investments in small business. There is a retroactive extension of the 25-percent deduction for health insurance premiums, retroactive extension of the ability of State and local governments to issue tax-exempt bonds for small business.

☐ 1210

Mr. Speaker, the choice is clear. Are we going to govern, or are we going to resort to gridlock? Do we want health care and welfare reform and many other initiatives that this country needs? Do we want a crime package?

Before we take up any of those initiatives, we must pass an economic plan.

Mr. Speaker, I am inserting in the RECORD a list of 40 businesses, small and large, that have endorsed the plan, and they have sent a letter to every Member of Congress today. It ranges from ARCO to Bethlehem Steel Corp. to the Jim Walter Corp., to Hewlett-Packard to the Mortgage Bankers' Association, to the National Association of Home Builders, the National Association of Realtors, the National Association of Targeted Jobs Tax Credit Companies, the National Apartment Association, the National Realty Committee, the Public Securities Association, Salomon Brothers, Shell Oil Co., the Southland Corp., Tenneco, Valero Energy Co., and Whitten and Diamond.

Mr. Speaker, this is a good plan, good for business, good for the future. It is a responsible plan. Let us pass it.

Mr. Speaker, I am including at this point in the RECORD the list of companies that I referred to, as follows:

AUGUST 4, 1993.

DEAR MR. SPEAKER: The undersigned organizations, representing millions of Americans, support the budget reconciliation act, HR 2264. We believe that it represents an important step to deficit reduction and job creation. We urge the House to vote in favor of final passage.

Advanced Asphalt Technologies
AFLAC
Anheuser-Busch Companies
ARCO
The Arnold Companies
Associated Financial
Audivox
Bethlehem Steel Corporation
H&R Block
CITGO
EDS
Hewlett Packard
Jim Walter Corporation
The Kamber Group
The Keefe Company
McAuliffe, Kelly and Raffaelli
Mentor Graphics Corporation
Mortgage Bankers Association
NRG Barriers
National Association of Home Builders
National Association of Realtors
National Association of Targeted Jobs Tax Credit Companies
National Apartment Association
National Conference of Certified Public Accountant Practitioners
National Employment Opportunities Network
National Multi Housing Council
National Realty Committee
O'Bannon & Company
Public Securities Association
Revlon
Ryder System, Inc.
Salomon, Inc.
Salomon Brothers, Inc.
Shell Oil Company
TDS Healthcare Systems Corporation
The Southland Corporation
Tenneco, Inc.
Valero
Whitten and Diamond

Mr. DREIER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, a number of statements have been made about this whole issue of spending cuts. No one here has claimed there are not spending cuts whatsoever.

The fact of the matter is that these spending cuts are in out years. They clearly are illusory. They are not as specific as the American people want them to be.

Mr. Speaker, I yield 2 minutes to the gentleman from Greensboro, NC [Mr. COBLE], a hard-working Member of Congress who fights for the American taxpayer.

Mr. COBLE. Mr. Speaker, I thank the gentleman from Claremont, CA, for yielding me this time.

Mr. Speaker, some weeks ago I came to the well and compared President Clinton's plan to a locomotive running behind schedule whose engineer, in making up for lost time, recklessly accelerated his train. The train I mentioned that day was the "Fireball Mail," the title of a song recorded by the late Roy Acuff and the Smoky Mountain Boys. In retrospect, however, in lieu of the Fireball Mail, I should have referred to the "Wreck of the Old 97," because it is my fear that the President's plan is a train wreck waiting to occur.

President Clinton calls his plan the deficit reduction plan. But it is primarily a tax increase plan, a retroactive tax increase plan, if you will. It will be devastating, in my opinion, Mr. Speaker, to a favorable employment climate.

Tax increases traditionally have not resolved fiscal problems that plague us here and throughout the country, and neither will this plan at hand. It simply gives the Congress more money to spend.

What we sorely need in the Congress and inside the beltway is discipline and a willingness on the part of Members of Congress and the administration to commit to personal sacrifice. When we are willing to personally sacrifice, our constituents will more willingly sacrifice.

The time has come for us to replace imprudence and recklessness with deliberate discipline and sacrifice in this body and on this Hill.

Meanwhile, Mr. Speaker, I will not be holding my breath.

Mr. BEILENSON. Mr. Speaker, for the purposes of debate only, I yield such time as he may consume to the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Speaker, August 13, 1981, remember that date, August 13, 1981. If that day had not occurred, we would not be here today dealing with a bill like this, because until August 13, 1981, as this chart shows represented by that green line, this country never had a deficit larger than $74 billion.

Then Ronald Reagan walked into this room, galvanized the country, and they got behind the Reagan economics package. We passed it. I did not vote for it. But it was passed unanimously on that side of the aisle except for one vote.

Because military spending was doubled and huge tax cuts were provided to the very rich, the result was that the deficits exploded. They grew from a previous high of $74 billion to well over $200 billion for the rest of the decade.

Who cleaned up in the 1980's? If you take a look at what happened under those policies, if you are the wealthiest 1 percent, if you were in the wealthiest 1 percent, your income more than doubled from not quite $300,000 on average in this country to over $600,000 today. If you were in the middle 20 percent of income-earners in this country, you lost 8 percent in real-dollar terms after inflation, and if you were in the poorest 20 percent of the country, you lost more than 10 percent of your real income over that time.

Mr. Speaker, that is why the package which this rule will enable us to debate today virtually insulates the middle class from any significant tax increase for any working-age family, and if you are making less than $27,0000 a year, there is actually a tax cut.

The only people who get hit are the high rollers, those who make more than $200,000 a year, and those are the people who cleaned up the 1980's.

I make no apology for the fact that we are finally getting the wealthiest 1 percent in this country to pay their fair share for a change, no apology whatsoever.

Now, there are those who say we ought to cut spending first. I would invite you to remember that in the last month on this floor in the 11 appropriation bills which have passed this House, we have had almost 300 individual spending cuts below last year's spending level. That simple, over 300 cuts.

And as the gentleman from Minnesota has indicated, there are billions and billions of dollars more in cuts in the entitlement area in this budget.

Yes, we are getting a lot of phone calls from people, because it is easy for politicians to scare the hell out of people who do not have the full facts, and you ought to be ashamed of yourselves for some of the misinformation that you and your political allies are peddling in this country in the name of free speech. You ought to be ashamed of yourselves. Freedom of speech gives you the right to say anything you want, but if you have a conscience, you will at least keep it honest.

I would make one other point: The architect of the 1981 plan was David Stockman. He was Ronald Reagan's Budget Director. This is what he wrote about what that plan did to the country. He said this:

> By 1984, the White House had become a dreamland. It was holding the American economy hostage to a reckless, unstable fiscal policy based on the politics of high spending and the doctrine of low taxes. Yet, rather than acknowledge that the resulting massive buildup of public debt would eventually generate serious economic troubles, the White House proclaimed a roaring economic success. It bragged that its policies had worked as never before when, in fact, they had produced fiscal excesses that had never before been imagined.

Everybody in this Chamber knows that those misguided policies destroyed the ability of American families to see rising income over the last decade. They devastated farmers. They devastated middle-income people. They benefited only the well-off, and they sent the bill for the party to our grandkids.

Is this bill pleasant today? Of course it is not. But in contrast to the last 12 years where the American people got fed up seeing their Government duck problems, this bill takes those problems on. This bill will produce real deficit reduction. It will for the first time in 12 years admit that we have a basic economic problem that cannot be resolved without making some hard choice.

I congratulate President Clinton for having the guts to take this on.

Is it popular? Of course not, because it has been lied about so much in the country.

But the fact is it is our obligation based on the information we have today to do what we know is right for our constituents and the country.

There is no income tax hit in this package for any working age American family making less than $140,000 a year. You cry about retroactivity. Retroactivity only applies to families making more than $140,000 a year.

□ 1220

You did not cry about it when, in 1982, your majority leader was pushing through a bill which retroactively raised taxes on unemployment insurance for anybody making $13,000 a year. But you cry today about people making over $140,000. I am glad you are doing it; it shows where the Republican Party is really coming from. I am glad that, after 12 years of gutlessness on my side of the aisle, that the Democratic Party at long last has its act together and is going to measure up to its national responsibilities.

It is about time.

Mr. SOLOMON. Mr. Speaker, as I introduce the next speaker, I want to point out that we were just joined on the floor by a very distinguished visitor from the other body, the man who has led the fight against this unbelievable tax package which is going to cost 1.4 million jobs to American workers.

Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. First of all, Mr. Speaker, real briefly, I have to answer the remarks by the fellow who preceded me up here: Does anybody remember Jimmy Carter? Twenty-one percent interest rates, you could not buy a house or a car or anything; 13 percent inflation; double-digit unemployment. And when Ronald Reagan came into office, he had that mess to deal with. And what happened? Over the next decade we created 21 million new jobs; we increased tax revenues from $500 billion to $1.2 trillion, and the economy took off.

They seem to forget that. But when they talk about spending, I hope everybody remembers that they have had control of this House for the last 40 years, and all spending comes out of the Congress. The President could only veto. They have had control of the other body for all but about 5 or 6 years in the last 40.

So, when they start telling America we are responsible for this deficit and all the problems, remember they appropriate the money, they raise the taxes, and they spend it, and they have had control for 40 straight years.

Now let me get back to what I want to say. One of my colleagues from New Mexico said that it is time for us to bite the bullet. Well, in fact they want to bite the taxpayer again, the largest tax increase in U.S. history. The American people are not going to be fooled.

This bill is 1,000 pages of mischief, 1,000 pages. We got it last night. I know a lot of people are speed readers, but can you imagine reading 1,000 pages of legalese, with all kinds of intricacies, in less than 12 hours or 14 hours? There is so much mischief in that bill I guarantee you would not believe it. There is going to be tax breaks on certain individuals, there is going to be hidden tax increases, there is going to be special deals, like parking lots and football stadiums and other things stuck in that bill. We will find out about it in about 6 or 7 weeks. We are not going to have the time to find it today because we cannot read that fast.

I have got my staff working right now trying to get as much of that mischief as possible. And we are going to do our dead level best to bring that to the public's attention before the day is out.

But the American people are not being fooled. I just got from Indiana—I hope my colleagues will listen to this—1,300 signatures against the tax bill, from Mr. Paul Ogden of the Indiana Conservative Forum—1,300 signatures against it.

Well, you say, that is the conservative forum, obviously they would be against the tax increase. But how about a guy who voted for Bill Clinton? Here is a man who voted for Bill Clinton, who runs a market. His name is Steve Knott, of Knotts Market in Greenwood, IN. He voted for Bill Clinton. Here is what he says about the tax bill. He got 10,000 signatures from one city in one county in my district against this package. The American people are against the largest tax increase in history. They want spending cuts first. You have got these spending cuts at the tail end in the 3d, 4th, 5th years of the 5-year plan. Everybody knows they will never materialize. Listen to America; the people who voted for Clinton, they do not want more taxes.

Mr. SOLOMON. I yield 2 minutes to the gentleman from Kentucky, Mr. HAROLD ROGERS, a very distinguished member of the Committee on Appropriations.

Mr. ROGERS. I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise too in strong opposition to this largest tax increase in America's history.

The other night the President told the Nation, "No more something-for-nothing budgets." He says this plan is new, it represents change. I will give him that, Mr. Speaker, his plan is different. In fact, it is so different it is the first plan I know of that offers nothing for something: no economic growth, no middle-class tax cuts, no real spending cuts, no tax fairness. In return for nothing, the President is asking for a whole lot of something, the largest tax increase in America's history; higher taxes on small business, higher taxes on senior citizens, higher taxes on the middle class. The Clinton tax on gas alone will take $100 million out of the pockets of hardworking Kentuckians next year, $100 million in 1 year just for the gas tax increase.

Mr. Speaker, the American people do expect something from the work we do here, things like jobs, better opportunities, and a lower Federal deficit tops their list.

A nothing-for-something budget plan, Mr. Speaker, I urge defeat of this plan. Let us go back to square one. Let us focus first not on tax-and-spend but on cutting wasteful spending first. Let us give the American people something, something they want, and that is cutting wasteful spending first.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan, a distinguished new Member of this House.

Mr. SMITH of Michigan. I thank the gentleman for yielding.

I think we should consider voting against this rule because there is information now available at the Office of Management and Budget and at the Congressional Budget Office that would revise the deficit projections in this bill, significantly lowering deficit projections. It seems to me that if some Members of the Congress knew the claimed deficit reduction estimates were incorrect, some might change their votes. The economy has already deteriorated. I called the OMB and the Council of Economic Advisers and said to them: "Look at what has happened so far this year: in the first quarter we only had a 0.7-percent growth rate; and in the second quarter of this year we only had a 1.6-percent growth rate. Yet, this budget is predicated on 3.1-percent growth in 1993. There is no way that we can achieve that rate, because we cannot jump up to a 5.1 percent growth rate in the last half of the year, up from 1.2 percent in the first half."

So I am concerned, No. 1, that we do not have updated information from the Congressional Budget Office. But I am also very concerned that the President of the United States is not giving us the Midsession Economic Report which, by law he must submit to Congress by July 16. I fear that the reason is that he knows the numbers will disprove his claim of deficit reduction and he does not want to make waves before a very fragile vote on this bill in both the House and the Senate.

So I would hope very much we consider voting against this rule so that Congressmen can have the information they need and should have to make the best vote on this legislation.

Mr. SOLOMON. I thank the gentleman for his remarks.

Mr. Speaker, I yield 2 minutes to the gentleman from Oklahoma [Mr. ISTOOK], another freshman Republican and an outstanding Member.

□ 1230

Mr. ISTOOK. Well, here it is, Mr. Speaker. People are complaining about a tax bill that is retroactive, and they have got a point. But let me tell you what else is going to be rhetoric. That is the disclosure of what is tucked into the fine print of this massive tax bill.

If we followed our own rules, each Member would have 3 days to sift through this massive, giant bill. But, thanks to the way this House is operating, we are being asked to waive time to find out what we are doing, and wait until after we pass the bill before we read it. Pass it now, and read it later. Now that is retroactive.

Right now, what is happening is a giant Washington version of "Let's Make a Deal." The President and congressional leaders have a lot of grabbag goodies they can offer, to make offers to Members who will hold their noses and vote for this, the largest tax bill ever. It will be weeks, maybe months, before all those deals come to light. Maybe all will never be known. And that is wrong.

This is not positive change. This is not helping America. This is not deficit reduction. This is business as usual in Washington. Most Americans recognize this as the same bait-and-switch tactics which were used on the 1990 tax bill. Yogi Berra would tell us, "It's déjà vu all over again." I say it's déjà voodoo all over again. It did not work in 1990; it will not work this time either.

The taxes hit now. In fact, under this bill they started back in January. But almost all the spending cuts are only empty promises, promises of what Congress is promising to do 4 to 5 years in the future. Tax now, cut tomorrow. And tomorrow never comes.

A great example is the fact that $44 billion—$44 billion—of the so-called new cuts are actually cuts that were already promised in the 1990 budget deal; $44 billion are being counted twice—trying to fool people into thinking we are serious.

The American people know the old saying, "Fool me once, shame on you. Fool me twice, shame on me." And that is why they are clogging the phone lines, to tell us in Congress, "Don't do it. Don't pass that tax bill. Instead, get serious about cutting spending. Don't give us more empty promises, pretending you'll cut spending in 4 or 5 years. Cut spending now, and don't kill our jobs, and don't hit our families, with the burden of more taxes."

As usual, the people are right. Vote down this retroactive rule, and the retroactive taxes.

Mr. BEILENSON. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota [Mr. PENNY].

Mr. PENNY. Mr. Speaker, thanks to the leadership for putting tough enforcement in this rule. I rise in support of the rule.

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield 1½ minutes to the gentleman from Oregon [Mr. DEFAZIO].

Mr. DEFAZIO. Mr. Speaker, I thank the gentleman for yielding this time to me.

You can run, but you cannot hide from the responsibility of governing. My colleagues on the other side of the aisle have offered a so-called alternative. That is good, but it has $66 billion in unspecified budget cuts.

They will not tell us where they would make those cuts, but we are just supposed to accept that.

Where will those cuts fall? Well, we do not know, but we know where they will not fall. They will not fall on the people who earn over $200,000 a year, who did so well under Reagan and Bush in the 1980's. They will not fall on the largest and most profitable corporations in America. They will continue the tax shift and the budget burden on the middle class.

The bill before us begins the long, hard road back to fiscal responsibility for our Nation. It will reduce the deficit $496 billion in 5 years. It will begin to restore tax fairness. Ninety percent of the taxes in this bill fall on those who earn over $100,000 a year, those people who did so well in the 1980's.

Families who earn $27,000 a year, or less, will see their taxes decrease under this bill. Most other middle-income families will be held harmless.

I set two bottom line conditions when the bill first passed this House. I said the Btu tax, that 12 percent surtax on every electric bill in the Pacific Northwest, that has got to go. It is not in this bill. We killed the Btu tax.

I said we have to lessen the burden on seniors. No senior citizen couple in this country who earns $44,000 a year or less will pay a penny more in income taxes under this bill. They met that condition.

I also said I need a guarantee for my counties, and we got that by revealing the tax rate for log exporters.

Mr. Speaker, vote for this bill. It is the best alternative.

Mr. SOLOMON. Mr. Speaker, I yield myself the balance of the time.

Mr. Speaker, I am looking at a book. The title of the book is "Putting People First. How We Can All Change America." This book was written by Gov. Bill Clinton and Senator AL GORE.

I look at page 91, where it says:

> We oppose federal excise gas tax increases that would break the backs of middle class America.

That is what President Clinton is proposing in his book.

I turn over to another page, and it says:

> Middle class tax fairness. We will lower the tax burden on middle class Americans.

I could go on here for 20 minutes, reading every page of this book, and we could transform the front page to say, "Putting Taxes First. How We Will Shortchange America," because that is exactly what this bill does.

Mr. Speaker, I urge you to do what your constituents are asking you to do, vote against President Clinton's tax and spend plan that will raise taxes retroactive to last January, increase all gasoline and diesel fuel taxes, make older Americans pay taxes on their Social Security benefits, increase the tax burden of small businesses, and spend every nickel of the $240 billion in newfound tax revenues on new spending programs.

This bill will wreck the economy nationwide.

Please vote "no" on this insane tax-and-spend package that contains these unconstitutional retroactive tax provisions. Please vote "no."

Mr. BEILENSON. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Speaker, I rise today in support of the rule for the consideration of H.R. 2264, the Omnibus Budget Reconciliation Act.

Let me first say that I believe there are legitimate concerns that have been raised here today about the consideration of this enormous bill. Particularly, I am disturbed that there has been insufficient time for anyone to carefully examine the contents of the hundreds of pages of the bill.

A superseding concern for me, however, is the desperate need we have to control entitlement spending. This rule provides that, upon its adoption, the House is deeded to have adopted certain changes in House rules that implement the annual entitlement review process along the lines of the legislative language we had included in the House-passed bill.

These procedures, combined with the Executive order which President Clinton signed yesterday, will take the first steps toward removing entitlement spending from auto-pilot and forcing the President and Congress to take concrete actions dealing with increases in entitlement spending. The underlying premise of these enforcement mechanisms is accountability on the part of Congress and the President. Having enacted a budget which guarantees deficit reduction, we must stand behind our promise. If entitlement spending exceeds the targets, we must vote to take action in response. If we vote to raise the targets, or vote to avoid action by waiving these procedures, all of us here will be held accountable for those votes. If there are legitimate reasons why we choose not to cut spending or raise taxes to respond to the breech, we should be honest about that, admit we are not holding to our deficit reduction, and have the opportunity to explain why. If we are honest with the public, they will decide, based on good information, whether or not they agree with our decisions.

It is important to realize that even with these caps, there still will be an increase of $260 billion in entitlement programs over the next 5 years. I must say that I would prefer to do far better than that in deficit reduction. Nonetheless, the impact of taking entitlement spending off of its auto-pilot path for the first time ever is an accomplishment not to be minimized.

I am extremely disappointed that our efforts to garner bipartisan cooperation on the House-passed entitlement spending discipline were entirely thwarted by Senate Republicans, leaving Byrd rule procedural problems unsurmountable. I applaud both the President, for responding by announcing the Executive order imposing entitlement discipline, and our House Democrat leadership for endorsing the idea of a rules change.

It is clear that the agreement will accomplish only a small portion of our original intent. Although the entitlement discipline included in the Executive order and changes in House rules will be very similar to the statutory language in the House-passed reconciliation bill, it is not possible for an Executive order combined with House rules changes to be as strong as the entitlement discipline passed by the House. Still, Executive order and rules change represent a significant step forward in controlling entitlement spending by taking entitlement spending off of automatic pilot and placing accountability on Congress and the President regarding entitlement spending. Granted, it is a step backward from the House-passed statutory language, which already had represented a significant compromise from our original position. But at this point, it is our only hope for taking the first step toward entitlement discipline. Passage of the rule is necessary for that to happen.

I urge my colleagues to support this rule.

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield the remainder of our time to the gentleman from Kansas [Mr. SLATTERY].

Mr. SLATTERY. Mr. Speaker, I rise today in support of the rule for one important and fundamental reason. This rule contains some important entitlement process reform legislation that is deserving of all our support.

When we look at the budget, I think it is important for us never to lose sight of one basic fact, and that is that the entitlement portion of the budget is currently consuming nearly 50 cents of every $1 that the American taxpayers send to Washington.

In addition to that, it is important for us to realize that if we are ever going to get our deficit under control we have to get entitlements under control.

Real growth in Government spending over the last few years has not been in discretionary spending. It has occurred in the entitlement section of the budget. Many of us worked hard to get an entitlement cap in this deficit reduction package.

Unfortunately, Mr. Speaker, it was the Republican Senators who threatened to filibuster in the other body that prevented us from enacting that and including it in this deficit reduction package. The President has issued an Executive order to implement the entitlement restraint we need. With the passage of this rule the House will have a tool to restrain entitlement spending.

Our leadership has gone on record clearly stating that they are going to be working hard and doing everything necessary coming back after the recess to enact into law the tough entitlement caps that many of us so strongly support.

Mr. CLINGER. Mr. Speaker, in addition to the countless reasons why I will vote against this tax increase legislation, I am also very concerned about provisions in this rule which will, once again, allow a select few individuals on the Rules Committee to turn their backs on the legitimate jurisdiction of the House Committee on Government Operations.

With the passage of this rule, House Resolution 235 is self executed and considered to be adopted by the full House. House Resolution 235 provides for expedited consideration of a message from the President regarding entitlement spending reforms. As it has already been suggested, this resolution provides no guarantees, just more promises. Promises that such future entitlement cuts will come. Perhaps this is a good idea, but who knows. At no time has a committee of this House been given the opportunity to study the provisions included in the President's recently announced Executive orders.

The only time this issue has reached the committee of jurisdiction, the Government Operations Committee, it was pulled from consideration before we even reached a vote. After a relatively brief hearing on budget process reform where entitlement reforms and so-called deficit reduction trust funds were given token consideration, the minority was presented with a draft bill the day before a scheduled markup in the committee. After convening the meeting, the bill was withdrawn and the legislative language was self-executed into the House-passed tax increase bill. The Government Operations Committee once again walked away from its responsibility and no opportunity was given to Members from either side of the aisle to offer amendments.

I was surprised to hear one of the majority Members who sits on the Government Operations Committee, so willingly giving up a major area of our jurisdiction without so much as a hearing. I am calling on my colleagues from both sides of the aisle on the Government Operations Committee to stand up and claim back our jurisdiction. Our right to consider budget process legislation is hanging by a thread due to the willingness of some on the committee to fold to the wishes of the Rules Committee.

Vote against this rule and reclaim the respect of your committee.

Mr. BEILENSON. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SOLOMON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 253, nays 179, not voting 1, as follows:

[Roll No. 403]

YEAS—253

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Barcia
Barlow
Barrett (WI)
Becerra
Beilenson
Berman
Bevill
Bilbray
Bishop
Blackwell
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cardin
Carr
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Engel
English (AZ)
English (OK)
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Glickman
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Harman
Hastings
Hayes
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Holden
Hoyer
Hutto
Inslee
Jacobs
Jefferson
Johnson (GA)
Johnson (SD)
Johnson, E.B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lehman
Levin
Lewis (GA)
Lipinski
Lloyd
Long
Lowey
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCurdy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Murphy
Murtha
Nadler
Natcher
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reed
Reynolds
Richardson
Roemer
Rose
Rostenkowski
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Schenk
Schroeder
Schumer
Scott
Serrano
Sharp
Shepherd
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (IA)
Spratt
Stark
Stenholm
Stokes
Strickland
Studds
Stupak
Swett
Swift
Synar
Tanner
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Valentine
Velazquez
Vento
Visclosky
Volkmer
Washington
Waters

Watt
Waxman
Wheat
Whitten
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NAYS—179

Allard
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barca
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cantwell
Castle
Clinger
Coble
Collins (GA)
Combest
Cox
Crane
Crapo
Cunningham
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Emerson
Everett
Ewing
Fawell
Fields (TX)
Fish
Fowler
Franks (CT)
Franks (NJ)
Gallegly
Gallo
Gekas
Gilchrest
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Goss
Grams
Grandy
Greenwood
Gunderson
Hancock
Hansen
Hastert
Hefley
Herger
Hobson
Hoekstra
Hoke
Horn
Houghton
Huffington
Hughes
Hunter
Hutchinson
Hyde
Inglis
Inhofe
Istook
Johnson (CT)
Johnson, Sam
Kasich
Kim
King
Kingston
Klug
Knollenberg
Kolbe
Kyl
Lazio
Leach
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Livingston
Machtley
Manzullo
McCandless
McCollum
McCrery
McDade
McHugh
McInnis
McKeon
McMillan
Meyers
Mica
Michel
Miller (FL)
Molinari
Moorhead
Morella
Myers
Nussle
Oxley
Paxon
Petri
Pombo
Porter
Portman
Pryce (OH)
Quillen
Quinn
Ramstad
Ravenel
Regula
Ridge
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Santorum
Saxton
Schaefer
Schiff
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stump
Sundquist
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Torkildsen
Upton
Vucanovich
Walker
Walsh
Weldon
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—1

Packard

☐ 1257

Mr. GALLEGLY and Mr. KYL changed their vote from "yea" to "nay."

Mr. HILLIARD and Ms. SHEPHERD changed their vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Pursuant to section 2 of House Resolution 240, House Resolution 235 is adopted. The text of House Resolution 235 is as follows:

H. RES. 235

Resolved, That, for fiscal years 1994 through 1997—

(1) the provisions of, and the procedures and points of order set forth in, sections 16004(c)(2), 16005, and 16009 of H.R. 2264, as passed the House (One Hundred Third Congress), shall, with respect to the House of Representatives, apply to any special direct spending message the President submits pursuant to a presidential order as if that message were submitted pursuant to section 16004(c)(1) of that bill; and

(2) for purposes of this application, any reference in section 16004(c)(2) to paragraph (1) or in section 16005 or 16009 to section 16004 shall be deemed to be to the appropriate provisions of that presidential order.

GENERAL LEAVE

Mr. BEILENSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material on House Resolution 240.

The SPEAKER pro tempore (Mr. MURTHA). Is there objection to the request of the gentleman from California?

There was no objection.

☐ 1300

Mr. SABO. Mr. Speaker, pursuant to House Resolution 240, I call up the conference report on the bill (H.R. 2264) to provide for reconciliation pursuant to section 7 of the concurrent resolution on the budget for fiscal year 1994.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. MURTHA). Pursuant to House Resolution 240, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House for Wednesday, August 4, 1993, at page 18787.)

The SPEAKER pro tempore. Pursuant to the rule, the Committee on Ways and Means and the Committee on the Budget will each control 1 hour of debate, equally divided and controlled by the chairman and ranking minority member; and the following committees will each control 20 minutes of debate, equally divided and controlled by the chairman and ranking minority member: The Committee on Agriculture; the Committee on Armed Services; the Committee on Banking, Finance and Urban Affairs; the Committee on Education and Labor; the Committee on Energy and Commerce; the Committee on Foreign Affairs; the Committee on the Judiciary; the Committee on Merchant Marine and Fisheries; the Committee on Natural Resources; the Committee on Post Office and Civil Service; the Committee on Public Works and Transportation; and the Committee on Veterans' Affairs.

At this time, the gentleman from Minnesota, [Mr. SABO] will be recognized for 30 minutes and the gentleman from Ohio [Mr. KASICH] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. SABO].

Mr. SABO. Mr. Speaker, I ask unanimous consent that following the time allocation for the Committee on Energy and Commerce, 20 minutes be allocated to the Committee on Government Operations to be equally divided and controlled between the chairman and the ranking member.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. SABO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today we can and must break 12 years of gridlock. We can and must put behind us a period when deficits soared and the incomes of average Americans stagnated.

Mr. Speaker, with the passage of this conference report, America will begin to move in a new path of lower deficits, higher investment and higher incomes and a better life for working families. We will regain control of our economic future.

I am proud of our conferees, both House and Senate. They worked in good faith to produce an agreement in the best interests of America.

This package may not have everything for everyone, but it does have what America most needs: Substantial deficit reduction, tax fairness, and investments in our future.

We have achieved $496 billion in deficit reduction over 5 years, and we have achieved it in a fair way. We have restored caps on progressivity lost over the last 12 years. We asked those most able to pay to share in the burden of deficit reduction.

Eighty-one percent of the increased revenues in this package will fall on those making more than $200,000 a year. We have retained a balance of spending cuts and revenues. We have cut $88 billion from entitlements, $102 billion from discretionary spending, and we achieved more than $60 billion in interest and debt management savings.

We have found room for investments that will help the poorest Americans out of poverty and will spur economic development, particularly for small business.

That is what we have to look forward to: An economy healthier and more vibrant than in decades, a better future for all Americans. That is why the conferees could not and this House must not fail.

The alternative is higher deficits, soaring debt, crippling interest rates, a shaken economy and a dark future for our country. I say to my Democratic colleagues, this package represents the opportunity of a lifetime to turn this country around. There will never be a better time to do it. It will get harder, not easier, if we put it off.

I call upon my colleagues to vote yes for action, yes for change, yes for the economic package that will let us step together into a better and brighter future for all Americans.

Mr. Speaker, I reserve the balance of my time.

Mr. KASICH. Mr. Speaker, I yield myself 3 minutes and 30 seconds.

Mr. Speaker, let me just say that from the very beginning of this process, the Republicans in the House on the Committee on the Budget attempted to be constructive. We put a plan together. We took it to the committee. It was an intellectually honest plan.

Even Mr. Broder, last Sunday, defined it as "intellectually honest" and, perhaps, "politically risky."

I liked that definition, "politically risky." It meant we did something. We took a risk. We took a chance. We tried to change the status quo.

Our plan was rejected, party line.

We then tried to take amendments and we offered amendments to try to downsize government and substitute the downsizing of government for the tax increases. And we started a rallying cry around the country called "Cut spending first." And we did not listen a lot, but we listened a little. The plan went from $5 in taxes to every $1 in spending cuts to $2 in taxes to every $1 in spending cuts.

It is not good enough, but it is a little bit better. And it happened because we tried to be constructive.

Let me tell my colleagues why the Republicans feel so passionately about defeating this plan. We feel passionate about defeating this plan not because any of us have an interest in hurting the President of the United States, because we want to have partisan political gain. That is not the reason why the Republicans have been so passionate.

The reason why we have been so passionate is we believe that this program of massive tax increases, devastating cuts in national security, no real cuts until the last 2 years of this program, no control of Federal spending, a bigger Federal Government, what we are concerned about is that prescription will wreck the economy.

I must tell Members that many of the same Republicans who feel passionately in opposing this President's plan felt just as passionately about opposing the plan in 1990 that our own Republican President brought to this floor. We did not believe it made good economic sense to give Americans a brighter economic future in 1990.

□ 1310

We did not believe that that plan that was put forward that increased the size of the Federal Government and taxed Americans more would create jobs in 1990, and we fought our President with passion, our President. We do not believe that same plan, the clone of the 1990 budget act, will work now.

Whether it is McGraw-Hill or Dean-Witter or Goldman-Sachs or the National Association of Manufacturers, they have one bottom line on this plan. That bottom line is the loss of jobs for Americans.

What Republicans offer today is defeat this plan. We will sit down with you, we will craft a 1-year plan that will bring significant reduction to the deficit, and economic growth to America. We stand ready, willing, and able to be constructive, to engage with you to reshape Government, to reform Washington, to downsize the operations of the Federal Government, and to stay out of people's pockets.

I would just like to say at the onset to my Democrat colleagues who are concerned about where we go from here, I can tell them that the members of the House Committee on the Budget, Republican Members, we want to work with them to help America, to fix the crisis we are currently in on this deficit, and to create a brighter economic future for all Americans, so Americans can be assured that they will be working, their kids will be working, and tomorrow will be a brighter future for everybody with a higher standard of living.

Mr. ROSTENKOWSKI. Mr. Speaker, it is my understanding that the Committee on Ways and Means has allocated 1 hour, 1 hour to be divided between the minority and the majority.

The SPEAKER pro tempore (Mr. MURTHA). The gentleman is correct. The Chair would state that only the Committee on the Budget can reserve time, and the other committees will use all their time.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield myself 5½ minutes.

Mr. Speaker, I rise today in strong support of this conference agreement.

As a Member of the House of Representatives for more than 34 years, I have cast thousands of votes, many on matters of profound importance to our Nation's security and economy. But, Mr. Speaker, this vote is one of the most significant votes that we will ever cast.

To reduce the deficit, we must both cut spending and raise revenues. This budget agreement does that. It includes more than $255 billion in spending cuts over the next 5 years.

For purposes of deficit reduction, the conference agreement contains nearly $241 billion in new revenues. It is a significant measure, but balanced and fair.

The guiding principle of this conference agreement is fair taxation. In fact, more than 80 percent of the revenues will come from persons earning more than $200,000 a year, and 90 percent will be raised from those earning more than $100,000. To be precise, the rate increases affect only the wealthiest 1 percent of the population.

Mr. Speaker, I note that many of the tax provisions in this bill are effective January first of this year. That is not unusual. In fact, this legislation contains 14 provisions that are beneficial for taxpayers and are effective for prior periods, including extensions of many expired provisions from July 1, 1992, and the repeal of the luxury tax on boats, airplanes, jewelry, and furs as of January 1, 1993. Taxpayers subject to rate increases will also benefit from these other provisions which are effective for periods prior to enactment of this legislation.

To ensure that even the rate increase does not create any undue hardship for taxpayers, the conference agreement allows the additional tax caused by this year's increase to be paid in installments over 3 years, without interest or penalty.

The conference agreement also increases the top corporate rate by 1 percent for high-income corporations. While no one likes higher taxes, leaders of the corporate community support this package. They understand the long-term benefit that will come from a stronger national economy. Small businesses are held harmless from this increase.

The transportation tax in the agreement raises only about a third of the revenues of the House-passed energy tax. At 4.3 cents per gallon, it is the least we can do if we have any concern for this Nation's finances. In fact, the increase will not even return gas prices to last year's levels—gas prices

The legislation contains reasonable, affordable incentives to create jobs. Under the agreement, significant amounts would be invested in research and development through a 2-year extension of the research tax credit. It would allow small businesses to expense $17,500 of new equipment annually and would spur equity investments in small venture capital firms through a 50-percent exclusion of certain capital gains earned on those investments.

Mr. Speaker, the $21 billion expansion of the earned income tax credit provides renewed hope for 18 million working Americans who are struggling to make ends meet. The credit will guarantee, for the first time, that a family of four with a full-time worker will be lifted out of poverty. A modest new credit for childless workers is also included.

In addition, the agreement extends permanently such important programs as the low-income housing credit, mortgage revenue bonds, and industrial development bonds. Further, the agreement extends, through 1994, the targeted jobs tax credit and the tax benefit for employer-provided educational assistance.

The legislation would also authorize empowerment zones and enterprise communities to help revitalize the most economically distressed regions of our country, and earmarks $1 billion of title XX social services money for use in zones and communities.

The agreement before us also advances a number of other important economic goals, like asking foreign taxpayers to pay their fair share of

U.S. taxes. Tax relief for persons whose residences are damaged in natural disasters is also included, as is help for the hard-hit real estate industry.

The Medicare package stands at $55.8 billion, more than the House bill but less than the Senate amendment. Although this is higher than I would have asked, these Medicare cuts are tough but fair. The conferees worked hard to balance the reductions to ensure that elderly and disabled Americans who rely on the Medicare Program will continue to have access to quality health care services.

I am especially pleased that this Medicare package does not impose new burdens on seniors. Most of the Medicare cuts are achieved by reducing payments to hospitals, physicians and other health care providers. About $21 billion in savings will come from reducing the scheduled inflation updates in payments to hospitals for fiscal years 1994 through 1997. Physician payment reductions will save $9 billion.

The conference agreement also addresses a well-documented problem in the health care system of physicians referring patients for services to entities in which the physicians have a financial interest. Current law prohibits payments under Medicare for clinical laboratory services provided under these arrangements. The conference agreement would extend the prohibition to additional services, and would apply it to the Medicare and Medicaid Programs.

The conference agreement extends the regional floor, which provides additional payments to hospitals in high-cost regions of the country. It also expands Medicare's coverage of immunosuppressive drugs provided to patients following a kidney transplant.

I have reservations about the new Medicare and Medicaid Data Bank established in this package—a provision that was not included in the Ways and Means Committee bill. The data bank is intended to strengthen collection efforts on behalf of the Medicare and Medicaid programs when beneficiaries are also covered by private insurance. I am especially concerned about the burden that these new reporting requirements will place on employers. However, the administration has strongly recommended it, and the Senate and others in the House have endorsed it. Consequently, I have reluctantly agreed to include it in this legislation—since we must determine whether a program like this can work before we enact health reform. I have agreed to test the data bank idea in Medicaid and Medicare now. I will

In addition, Mr. Speaker, I regret that numerous provisions of the House bill reported by the Committee on Ways and Means have been dropped due to the application of the Senate's so-called Byrd rule, as well as other Senate points of order. According to the Senate conferees, all of these provisions had to be dropped to avoid a point of order against the bill in the Senate. At no time did the Senate conferees raise policy objections with respect to these provisions.

These provisions should have been included in the conference report. They are needed to make these programs work the way they should. Many of the proposals are time-sensitive—they need to be enacted as soon as possible.

Chief among these is the provision which increases the tax threshold for domestic employees. The House version of H.R. 2264 would have set a more realistic payroll tax exclusion for payments to babysitters and housekeepers than the current $50 a quarter.

Also deleted were important provisions shoring up the disability insurance trust fund, which is projected to go broke in 1995, and increasing the Federal Insurance Compensation Act exclusion for election workers from $100 to $1,000 annually.

Equally important, 25 Medicare provisions had to be deleted. The provisions include:

Reforms developed by our oversight subcommittee to combat fraud and abuse in the durable medical equipment field and in Medicare's payment systems;

Important changes in the Essential Access Community Hospital Rural Hospital Reorganization Program;

Reforms to protect beneficiaries from additional charges as we reduce Medicare payments to physicians; and

Technical amendments needed to remove barriers to seniors' purchase of Medicare supplemental insurance.

More than two dozen human resource provisions were also dropped, including:

Child welfare system standards, protections and requirements; and

Demonstration projects important to welfare reform, such as those related to early childhood development and the new hope demonstration project.

Mr. Speaker, these provisions are not controversial. They enjoy bipartisan support in both Houses. In fact, every one of the Medicare and human resource proposals has passed the Senate and the House at least once before.

Due to my concern about these provisions, I sought, and received, a commitment from Chairman MOYNIHAN that he will introduce the Social Security, Medicare, and human resources provisions immediately after the August recess, and report clean bills containing these provisions from the Finance Committee as soon as possible. One bill would include all of the provisions agreed to in principle by the Health and Human Resources conferees and dropped solely due to the so-called Byrd rule. A separate bill containing the Social Security items will also be developed. Majority Leader MITCHELL has agreed to schedule these bills for floor action as soon as practicable after it is reported, and to seek prompt passage without controversial amendments by the Senate.

Mr. Speaker, with respect to the human resources matters contained in the conference agreement, the budget deficit is reduced by a net amount of $1.2 billion over 5 years. The agreement incorporates the President's proposed $1.1 billion in budget cuts applied to the aid to families with dependent children, supplemental security income, and child support enforcement programs, and $2.1 billion in revenues from a 2-year extension of the 0.2-percent Federal unemployment surtax. These changes are offset by $1 billion each for

I am pleased to report that this conference agreement finally includes a measured response to the alarming trends in reports of child abuse and neglect by investing $1 billion over 5 years in family support and preservation services. Family support services aim to prevent child abuse and neglect by improving child-rearing skills of young parents, providing respite care, and other supportive services. Family preservation services help children who are already at risk of being placed in foster care because of abuse or neglect. These services help families to solve their problems and avoid family breakup. The agreement also includes a substantial research and evaluation component and State court studies aimed at enhancing their effectiveness.

Mr. Speaker, I would also like to make technical comments on several provisions of the conference agreement.

First, in permanently extending the research tax credit, the Committee on Ways and Means affirmed congressional intent that neither the enactment of the credit in 1981 nor the targeting modifications to the credit in 1986 affected the definition of "research or experimental expenditures" for purposes of section 174. The reasons for passing H.R. 1137 in 1954 were to provide certainty with respect to the tax treatment of research and development expenditures and to encourage taxpayers to carry on research and experimentation. Those reasons for enacting section 174 are even more important today given the increasing global market competition our industries now face.

Toward this end, the newly proposed Treasury regulations under section 174 contain modifications to clarify the broad scope of the section by pointing out that research and experimental expenditures are the costs related to activities intended to obtain data needed to eliminate uncertainty concerning the development or improvement of a product. I believe this action underscores and clarifies that it is Congress' intent that expenditures for the applied engineering required to develop a commercially feasible product and create U.S. jobs are deductible under code section 174.

In addition, the conference agreement includes compressed natural gas [CNG] in the 4.3 cents-per-gallon transportation fuels tax. Because this is the first fuel to be taxed which is not in liquid form, the conference agreement adopts an alternative unit of measurement for CNG. It is my understanding that the U.S. Conference on Weights and Measures is currently considering the establishment of standards of measurement for natural gas. The conference agreement is not intended to create any inference as to the appropriate standard of measurement for purposes other than imposition of this tax.

Finally, section 13261 of the conference agreement provides for 15-year amortization of acquired intangible assets. The legislation applies prospectively, and does not provide taxpayers with an election to settle disputes as if the provisions applied to all prior open taxable years. The statement of managers, however, urges the Internal Revenue Service in the strongest possible terms to expedite the settlement of pending cases. I wish to reiterate that, in settling pending disputes with taxpayers, it would be appropriate for the Internal Revenue Service to allow for amortization of all acquired intangible assets over some uniform period, consistent with the principles of the legislation, rather than requiring a specific life and value for each type of intangible asset acquired. In my opinion, such an approach will produce an appropriate settlement in many pending disputes, may save both taxpayers and the Government the costs normally associated with protracted controversies, and may foster the goal of achieving consistent results for similarly situated taxpayers.

Also with respect to the intangibles provision, the House and Senate committee report language describes the treatment of amounts paid under a covenant not to compete. I wish to clarify that the legislation is not intended to make any change as to what consistutes a contingent payment. If the payments for a noncompete agreement are treated as fixed payments under current law, the amortization provided under the bill is the same as for goodwill and other section 197 intangible assets. The committee report language providing for a deferred, backloaded deduction is intended to apply only to contingent payments.

Mr. Speaker, this agreement may not be the perfect bill—my friends, no bill ever is—but it is, in my estimation, a good product. It is serious deficit reduction, crafted in a responsible manner.

We have balanced spending cuts and tax increases with targeted investments that enjoy broad support. And we have placed the responsibility for deficit reduction squarely on the shoulders of those who are most able to bear the burden.

The American people elected Bill Clinton to lead and change the direction of our country. The President has faced that responsibility squarely and asks us to support this plan. Now it is time to govern. The President has my vote—with pride. He deserves yours too. Vote for the conference agreement.

Mr. Speaker, I reserve the balance of my time.

Mr. ARCHER. Mr. Speaker, I yield such time as he may consume to the gentleman from Louisiana [Mr. LIVINGSTON].

Mr. LIVINGSTON. Mr. Speaker, I rise in opposition to the bill, and especially to the provision that gives special privileges to entertainment and sports stars.

I include for the RECORD two letters from constituents and a letter from the Congressional Research Service regarding these provisions:

METAIRIE, LA, *June 20, 1993.*

Mr. ROBERT L. LIVINGSTON,
Rayburn House Office Building, Washington, DC.

DEAR SIR: Is increasing the tax bill for investors and business men and women while exempting entertainers and athletes an indication of our national priorities? My reactions have moved from dismay to incredulity to a smoldering anger over the so-called economic plan passed by the Senate finance committee this week. You are our voice in Washington. Please, please, please stop this self-destructive plan if you can. The future economic prosperity of the nation is at stake.

Sincerely,
IRENE H. GALLAHER.

METAIRIE, LA, *June 20, 1993.*

Mr. ROBERT L. LIVINGSTON,
Rayburn House Office Building, Washington, DC.

DEAR SIR: The tax measure recently approved by the Senate finance committee would place a surtax on people who are productive while exempting athletes and entertainers. Favoring the people who entertain over those who produce and create jobs can not be justification the basis of good economic policy or fairness.

I am confident that you will do all in your power to prevent this kind of stupidity.

Sincerely,
DALE M. GALLAHER.

[Transmittal from Congressional Research Service, Library of Congress]

To: Hon. Bob Livingston.
Attn: Stan Shocki (Constituent Sigurdson).
From: Arnold Solomon—Reference Specialist, Congressional Reference Division.
Re: Taxing of sports and movie stars in the Senate bill.

Your constituent has expressed interest in the taxing of sports and movie stars in the Senate reconciliation bill. There is a provision in the bill that would limit the deduction for Executive compensation to one million dollars. This provision would generally limit the deduction for compensation paid to the top five officers of a publicly-held corporation to no more than one million dollars per year.

This provision does not effect sports or entertainment stars. The Assistant Secretary for Tax Policy Leslie Samuels, stated that this provision is applicable only to top executives. Many of these officers are setting up their own salaries without maintaining "arms length negotiations" with their shareholders or directors. The Assistant Secretary stated that this provision would not affect sports figures and others because they have "arms length negotiations" with management in the setting of their pay or salary.

The Senate passed this legislation June 25, 1993. The Senate and the House must now meet in conference and decide if they accept or reject this provision. At this time, there is no public law.

Please feel free to contact us for any further assistance in this matter.

Mr. ARCHER. Mr. Speaker, I yield myself 5 minutes and 30 seconds.

Mr. Speaker, President Lincoln must be turning over in his grave. One hundred and thirty-two years ago today, he signed into law the Nation's first income tax—designed as a temporary emergency measure to finance the Civil War. Today, President Clinton is raising taxes to finance his version of a class war.

Of course, the administration is not without admirers. One master of illusion, the Great Houdini, must be smiling down on this Chamber today.

Mr. Speaker, when we blow away the smoke and shatter the mirrors, what we get from President Clinton's tax-and-spend road show is nowhere near what he claims, not the $496 billion in deficit reduction, not if we use the CBO numbers, because CBO, based on their estimates, would score it, at best, at $428 billion in deficit reduction. Even that figure is generous because of the President's illusory claims of slower spending growth 4 or 5 years from now.

☐ 1320

And then that figure is generous because of the President's illusory claims of lower spending in the fourth and fifth years.

This is the President who said we have all got to use Congressional Budget Office estimates, they are the real estimates, and we have got to reject accounting gimmicks. Then he ignored CBO's baselines and had his bookkeepers invent their own, and counted savings from the 1990 budget agreement twice in order to puff up his deficit reduction numbers. And I do not know if that is smoke and mirrors or what, but if an accountant on Main Street did it, he probably would go to jail.

That fact is, this package includes about $120 billion in promises of net spending reductions, almost all in the third, fourth, and fifth year, 255 billion dollars' worth of real net new taxes and user fees, and about $53 billion in questionable debt service claims. That is what you get when you lay this package against CBO's estimates instead of the ones the administration cooked up.

There will be no net spending cuts in the first year, zero, and virtually none in the second year.

This package includes deficit increasing items totaling $62 billion over 5 years. This new spending probably seems odd to the American people in a so-called deficit reduction package. It is one of the reasons why they are nervous about this bill, the largest tax increase in our Nation's history, yes, the largest. By CBO estimates, new taxes in this bill are $275 billion. The Democrats dispute this, and they talk about the 1982 Tax Act, but the CBO scored the 1982 Tax Act as raising $214 billion in new taxes.

Instinctively Americans know these new tax increases are job-killing poison for the economy. They do not believe for one minute that the Democrats' tax increases are going to create jobs, nor do most of the economists in this country.

The President claims the vast majority of these taxes will hurt only the rich, and that is baloney. He must not have read his own bill.

The so-called rich who are targets for massive retroactive tax increases are the small business men and women who create the vast majority of new jobs. Heaping higher taxes on those jobs creators translates into fewer jobs for working people.

Perhaps we should remember the so-called luxury tax from the 1990 budget deal. It is repealed in this bill because that misguided class warfare scheme backfired and killed the boat-building industry.

Try to sock the rich and you drown working men and women.

Simplistic attempts to minimize the impact of the energy tax on American families will not hold water either. When the Democrats tax transportation, they are not just taxing people who pull up to the gas pump, they are taxing everything that has to be transported.

Senior citizens are among the hardest hit in this package, thanks in particular to increased taxes on their benefits. It must make them feel real special to learn that President Clinton's definition of rich people includes seniors with incomes of just $34,000, and that includes half of their Social Security benefits.

Now, that sounds pretty callous, especially since seniors on fixed incomes are the one group of Americans for whom lower interest rates serve as a financial curse rather than a blessing.

Yes, President Clinton would like the American people to believe his own taxes only hurt rich people, but with over 40 tax increases and 16 user fees in this package, no one should seriously buy that story.

Here is what the taxpayers do understand. When he was courting their vote, Clinton promised the middle class a tax cut. Now he is raising their taxes. He promised to create jobs. Now he is promising tax increases on employers that will kill jobs. He promised $500 billion in deficit reduction. He is at least $73 billion short of that at best.

All of the rate increases in the bill, including estate taxes are retroactive to January 1, potentially unconstitutional, and the installment payments gimmick for individuals does not change the bottom line. He is imposing tax increases on people who have already died.

I urge my colleagues in the House to reject this bill today. Let us solve our deficit problem through spending cuts up front, not tax increases.

Mr. GEKAS. Mr. Speaker, will the gentleman yield?

Mr. ARCHER. I yield for a brief comment to the gentleman from Pennsylvania.

Mr. GEKAS. Mr. Speaker, I just want to associate myself with the gentleman's remarks. For weeks he has been preaching about the fact that this package breeds class warfare, and I commend the gentleman, and reiterate that that is exactly what it does, pits one American against another.

Mr. ARCHER. I thank the gentleman for his comments.

I strongly urge a "no" vote on this reconciliation bill.

Mr. Speaker, I reserve the balance of my time.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. STARK].

Mr. STARK. Mr. Speaker, I rise in support of the conference agreement on H.R. 2264, the Omnibus Budget Reconciliation Act of 1993.

I would like to speak about the Medicare provisions included in this agreement.

First, the Medicare agreement will reduce the deficit by $55.8 billion over the next 5 years. This is the highest level of Medicare savings ever achieved, exceeding the previous maximum of $44 billion by nearly 25 percent.

These savings are higher than the $50 billion in savings than I supported, but were a necessary element of the overall agreement. I also tried to split the difference with the Senate at $54 billion, but that too failed.

On the other hand, Medicare costs are growing rapidly, and it is appropriate that this program makes a substantial contribution to deficit reduction. Under this agreement, the annual rate of growth in Medicare will be reduced by 2.3 percent. By 1998, Medicare spending will be $24 billion lower each year than currently estimated.

These savings are spread evenly and broadly across the entire program. Hospitals and other part A providers contribute 62 percent of the reductions in provider payments while physicians and other part B providers account for the remaining 38 percent of provider cuts. These are almost the same proportions that these segments make up of total Medicare spending: 60 percent is part A, and 40 percent is part B.

The agreement protects vulnerable populations and providers. Beneficiaries are protected from rapid increases in their medical costs. Primary care physicians, community health centers, and small rural hospitals also are protected. In addition, the bill includes important expansions that will significantly reduce medical profiteering through physician referrals to entities in which they have a financial interest.

The agreement also includes a small number of spending items. Most significant are the provisions to increase payments to reduce the premium penalty for persons who must buy into part A, and to increase coverage for immunosuppressive drugs for kidney transplant patients.

There are many good provisions in this bill. This is a tough but balanced deficit reduction package. It shares the pain of Medicare budget savings across all providers while protecting the beneficiaries. I urge my colleagues to give it their emphatic support.

Mr. Speaker, unfortunately, I also have to express my grave concerns regarding the other body's so-called Byrd rule. As a result of this procedural rule, policies that would have significantly improved the Medicare Program could not even be considered. Over 80 pages of statutory language were stripped out of the Medicare title. Staff wasted countless hours, scrutinizing every line to ensure that there is nothing that would upset our friends at the other end of the Capitol. Even more absurd is the fact that most of the items stripped were minor and technical provisions that received bipartisan support when they passed both the House and the Senate last year.

I hope that Members on both sides of the aisle share my grave concerns about how this rule has been used, and its impact on reconciliation. I sincerely hope that this rule will be reconsidered before we ever return to the reconciliation process again.

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. SHAW], a respected member of the committee.

Mr. SHAW. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, there is no congressional district in this country that will be more hurt than mine by higher taxes on Social Security benefits. More than 40,000 households in my district alone will have to cough up an average of more than $1,000 per household because of this increased tax on Social Security.

My colleagues, this is possibly one of the most unfair portions of this tax bill. But to make it worse, the President and the proponents of this bill are scoring this $1,000 per household tax on

Social Security as a cost-cutting measure, as a cost-cutting measure. My colleagues, this is a tax on Social Security, and it is an attack on Social Security, something that I have not seen since I have been in this House of Representatives since 1981.

But I would like also to comment on one other portion of this bill. The President talks about the cost cuts. The cost cuts are out after his Presidency. They are going to come after his term in office, and the way he is going he is not going to have a second term, so he can only assume that he is looking at the next Republican President and pushing this cost cut into his term. Eighty percent of the costs do not go into effect until after 4 years.

Most of the taxes, oh yes, the taxes are going the other way, they are retroactive, and they go back to the Bush administration. He is reaching back into the beginning of this year and saying the taxes we are imposing on this bill are going to take effect at the beginning of this year. What could be more unfair? Push the taxes back to the last Republican administration, and push the cost-cutting forward to the next Republican administration.

This bill is a fraud and should be turned down.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Mr. Speaker, soon the House will vote on the most important business to come before us this year—passage of the President's budget plan.

This bill contains the largest deficit reduction ever undertaken—$496 billion. Through the earned income tax credit, it offers the poor a reason to stay off welfare and stay at work. It includes permanent extension of mortgage revenue bonds, perhaps our most important housing program for average Americans. And it asks the very wealthy to pay a fair share.

This morning, the Washington Post published some examples of the budget plan's impact on families. These case studies make clear what many of us have been saying: For the vast majority of Americans, the budget plan means no increase in income taxes, and a small increase in gasoline taxes. For many workers, the plan means that income taxes actually go down. Only for a very few Americans—those who earn the very most—will the plan mean an increase in taxes.

Above all, this plan presents very clear choices. We can choose action—or we can choose inaction. We can be for change—or we can be for the status quo. We can try something or we can do nothing at all.

That is my message to my colleagues. If you really believe that your constituents demand business as usual, then go ahead. Vote "no." If you believe your constituents insist on gridlock, vote "no." If you think your constituents would rather ignore a problem than solve it, then vote "no."

But if you believe that Americans elected a new President because they demanded change, then you have only one choice, and that is to vote "yes" on this package. I urge my colleagues to take the first step on the road to fiscal sanity and support this plan.

☐ 1330

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois [Mr. CRANE], another respected member of the Committee on Ways and Means.

Mr. CRANE. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I think we should bear in mind who is going to get hit specifically and the magnitude of the hits.

In my distinguished chairman's district, there are 13,428 seniors who will pay $12,268,548 in additional taxes as a result of this bill, and in my own district, there are 8,029 senior citizens who will pay $7,457,858 more in taxes.

It is not, I think, in our best interests to punish those who have been productive in a lifetime and given so much as this bill is calculated to do.

Another thing is, in response to an appeal made by one of the distinguished Members on our side of the aisle in the Senate, we know there were many phone calls that came into our offices. I got the breakdown from Republican State offices, and there are approximately 15 or 16 States, all 90 percent and above in opposition, and States like New York, a big State like New York, 72 percent in opposition, a State like Texas, 86 percent in opposition, Pennsylvania, 80 percent opposition. I think this is a reflection, and a fair reflection, of the popular assessment of this tax package.

I think something else to be kept in mind is the injury this package inflicts on small business. It is important to bear in mind that small businesses, and I am talking about partnerships, proprietorships, and subchapter S corporations, and they employ 80 percent of our workers, and they are people who are not legitimately in the classification of being rich and fat cats, and the fact of the matter is those individuals are going to experience a hit of a magnitude of up to 45 percent in their taxes, and that will cost employment.

Mr. Speaker, because time is short, I would like to submit the following statement for the RECORD:

Mr. Speaker, to be perfectly honest, and to quote Yogi Berra, this entire debate certainly seems like "deja vu all over again" to me. This Congress has been here before, and I have stood on this floor in the same circumstances imploring my colleagues not to do what they are apparently hell bent on doing. I must say that this Congress does not learn very well from past mistakes and, instead appears determined to go down the same dead end path which it traveled just 3 short years ago in 1990. Although as a history professor I may have a keener interest in learning the lessons of history than many of my colleagues, that still does not excuse their failure to remember the 1990 budget deal. Indeed, in many ways the 1992 Presidential election was a referendum on the failure of the 1990 budget agreement and President Bush's willingness to agree to the Democrat's offer to cut spending only if Mr. Bush would agree to increase taxes.

In my opinion, this bill is all too similar to the 1990 budget agreement which was supposed to provide significant spending cuts in exchange for substantial tax increases. As many of us predicted, we would get the tax increases, but never see the spending cuts. Sadly we were right, and quite the opposite occurred. The final tally on the 1990 budget deal was a $2.37 increase in spending for every new dollar raised in taxes.

If Bill Clinton really wants to deliver on his so-called mandate for change, one would think the last thing he would want to do was head down that same overused path of tax and spend. Tax and spend has been the rallying cry for the House of Representatives for the past 30 years. Unfortunately, the only thing that Bill Clinton has changed is the size of the tax increase. Indeed, he has proposed the largest tax increase in not only our Nation's history, but in the history of the world.

In fact, Bill Clinton's evolution on the subject of taxes should make any taxpayer more than a little nervous knowing that this man will be in the White House for the next 4 years. During the election, Candidate Clinton said he was going to cut taxes for middle-class Americans. Once elected, President Clinton said that the budget situation was supposedly much worse than he had anticipated and, alas, he would therefore have to forego his promised tax cut. Instead, he promised a budget plan that would cut two dollars in spending for every dollar in new taxes. Later he said he would promise one dollar in spending cuts for every dollar in new taxes. The end result—for every dollar cut in spending, we have a $2.13 increase in taxes. And this is not the end of the story because 80 percent of the spending cuts are supposed to be enacted after the next Presidential election in 1996. Again, if the past is any indication of what this Congress will do, you can forget about the spending cuts.

Over the July 4 recess I participated in a half dozen parades in my district. In nearly every block I traveled on the parade route, whether it was in Rolling Meadows, Palatine, Bartlett, Mount Prospect, Hoffman Estates, or Mundelein, I heard constituents screaming "Cut spending first" and "No new taxes." In the past few days hundreds of calls have been placed to my office from all over my district telling me to vote against Clinton's budget package. Opposition has been overwhelming. As an example of this voter outrage, I can report that yesterday I received 109 calls on the Clinton plan and 104 opposed the bill. In talking to my colleagues I have found that their numbers are comparable to mine.

These people are upset because they know they are getting the short end of the stick.

They know this package will be absolutely counterproductive to the goals of economic growth and job creation, goals which, by the way, Clinton promised to pursue during the campaign. In fact, this package will do nothing but discourage economic activity and will actually result in job losses. You don't have to look far to find the problems, and I will briefly hit the highlights of the package.

IMPACT ON SMALL BUSINESS

By retroactively increasing individual tax rates, the Clinton plan will harm thousands of small businesses. Small businesses are the backbone of this country and a few statistics make this abundantly clear. According to the Small Business Administration, businesses with fewer than 20 employees created 4.1 million new jobs between 1988 and 1990. During the same period, businesses employing more than 500 employees had a net loss of 500,000 jobs. Moreover, from 1987–92, firms with fewer than 20 employees accounted for 78 percent of all new jobs created.

Higher individual tax rates are not the only hit on small businesses. Repeal of the Health Insurance wage base cap, increasing the estate tax rates, increasing the gas tax, and reducing the business meal deduction will all take their toll. Indeed, the National Restaurant Association has estimated that the restaurant industry alone can expect to lose 165,000 jobs due to the dramatic reduction in the business meal deduction.

RETIREES

Taxes on Social Security recipients are going up. In all, Mr. Clinton hopes to extract an additional $24 billion out of Social Security retirees over the next 5 years.

GAS TAX

A 4.3-cent-gas-tax increase combined with the extension of a portion—2.5 cents—of the Federal gas tax that was supposed to expire is not good news for anybody, but particularly not good news for those in the Chicago area. Already Chicago has nearly the highest combined Federal, State, and local gas taxes in the country—55 cents. This bill could be described as piling on.

ESTATE TAXES

Estate tax rates will go up—retroactively. This is not good news for small businesses, farms, or anyone else who has worked hard in the hope of passing something on to their children and grandchildren. Of course, Mr. Clinton may be banking on the fact that dead people don't vote.

CONCLUSION

Mr. Speaker, I cannot believe that this Congress is seriously considering this package. Republicans in the House have offered two very serious and detailed alternatives to this plan which would cut spending and not increase taxes. The Democrats in charge of Congress only allowed us to bring one of these proposals to the House floor for a vote, and they rejected that proposal on a party-line vote.

Mr. Speaker, the course Mr. Clinton wants us to pursue is a course that will lead to economic disaster. The American taxpayer deserves better, and I implore my colleagues to defeat this package and draft a new proposal which cuts spending and spares the taxpayer.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. MATSUI].

Mr. MATSUI. Mr. Speaker, what is really interesting about Members on the other side of the aisle is that for the last 13 years they have been talking about how high the Federal budget deficit is.

In fact, Ronald Reagan ran on the basis that the deficit was extremely high. And bear in mind that in the 4 years of Jimmy Carter, when Jimmy Carter was President from 1976 to 1980, the total deficit accumulated over those 48 months was $200 billion. Under Ronald Reagan in his last year in office, we doubled that, about $400 billion in just 12 months, and they have been complaining about the fact that the deficit has been large. It keeps interest rates high.

Well, this is their time. This is their time to reduce the budget deficit.

But, you know, they will find 120 excuses why they cannot do it. We are not going to get one vote on that side of the aisle, and the reality is they will not take the step to go on the dance floor. You are going to be hearing from them whining and moaning all the way through this 6-hour debate about how the taxes are too high, how we are promoting class warfare.

I have to tell you that when Ronald Reagan was running for President in 1980 and he talked about the welfare queen, we did not hear them say, "You are creating class warfare." When he said the burden on the rich was too great in 1981, when he promoted this big tax cut, he did not say that the middle class was, indeed, an effort; he talked about the wealthy being overtaxed. He did not talk about class warfare then. So then all of a sudden class warfare comes up.

Let me tell you that this bill is a fair plan. Eighty-five percent of the taxes will be paid by those families making $180,000 or more a year. In fact, somebody making between $30,000 and $50,000 a year will only have a $5-a-month increase in their taxes. Somebody making $75,000 to $100,000 a year will only have an increase in their taxes of $27 a month, and it is basically the gasoline tax.

The reason we need these taxes, and by the way there are only $4 in taxes for every $5 in spending cuts, is because we need to reduce the deficit for the future, for our children, for those generations that come after us.

We need an "aye" vote on this resolution and get rid of cynicism within the beltway.

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentleman from Tennessee [Mr. SUNDQUIST], another respected member of the committee.

Mr. SUNDQUIST. Mr. Speaker, to my colleagues let me say there is a reason most of your constituents want to vote "no" on the Clinton tax plan.

To paraphrase the Clinton campaign: "It's the spending, stupid!"

The President claims his plan cuts spending. We say it does not. There is a simple test for this

Get a sheet of paper. On line "A", enter the amount the Federal Government is spending this year. On line "B", enter the amount President Clinton proposes to spend next year. If line "B" is less than line "A", the President has cut spending. If line "B" is larger than line "A", he has not.

That is why this package is a tough sell. Our constituents have told us in no uncertain terms that they want us to cut spending first. And they are smart enough to look at the numbers and figure out that line "B" is greater than line "A".

Our constituents understand shared sacrifice. They are willing to do their share, but they expect Government to match their sacrifice by spending less money.

No one has written or called me to say they are willing to send more so that Bill Clinton can spend more.

This bill does not cut spending, and that is as simple as A-B-C.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. PICKLE].

Mr. PICKLE. Mr. Speaker, I support the deficit reduction plan before us today. The easy political thing to do today would be to vote against this package. However, I believe the responsible vote would be to take this bold step.

Everyone in this body, Democrat or Republican, agrees that the deficit must be reduced. That fact is not disputed. The deficit is so high now that it would take $70,000 for every man, woman, and child in the America to pay off the national debt. We all also agree that there must be spending cuts to achieve deficit reduction. This bill includes over $250 billion in spending cuts and savings in the next 5 years. That is a substantial cut in spending and I believe only the beginning of difficult, painful spending cuts. I would like to see more cuts in spending and I will insist on more cuts in the future.

A majority of the Government spending goes to entitlement programs and entitlements are the fastest growing portion of our spending. That is, checks going out of the U.S. Treasury for Social Security payments, Medicare and Medicaid payments, military and civilian retirements payments, education and agriculture subsidies. These are the programs with incredible growth and they are also the programs which are the hardest to make cuts in. This bill makes some tough cuts in all of these programs and there will be more ahead.

Of course a bill like this is going to be controversial. When you pass legislation that includes $250 billion of spending cuts and almost as much in new revenue, you are going to have great controversy.

I believe that the honest and realistic way to bring down our deficit is with a strong combination of spending cuts and revenue increases. Spending cuts alone will not work. The tragedy of this bill is that there are those who have tried to mislead the public shouting "cut spending first." The fact is that the only people who will see their income tax rates go up are those that make more than $180,000 a year. These are the people who enjoyed the biggest tax breaks over the last decade, and they will now be required to pay a more fair share.

We are fortunate to have a President who is honest enough to make this bold proposal and willing to make the tough choices to reduce the deficit. I believe passing this economic plan is the right thing to do for our future, and that is why I support it.

Mr. ARCHER. Mr. Speaker, I yield myself 15 seconds in order to respond to the gentleman from Texas.

I say to my good friend that the CBO numbers do not support $260 billion in spending cuts, even over 5 years, and what spending cuts are supported by CBO occur, as the gentleman well knows, as promises in the fourth and fifth years.

□ 1340

Mr. Speaker, I yield 2 minutes to the gentleman from Kentucky [Mr. BUNNING], a respected member of the committee.

Mr. BUNNING. Mr. Speaker, I rise in opposition to the President's tax bill and urge my colleagues to join me in defeating this monstrosity, so we can start over on a real deficit reduction plan that will reduce the deficit—one that will cut spending and increase jobs in America.

A couple weeks ago, I sent out a constituent newsletter to the people of the Fourth Congressional District. As you might expect, a good part of that newsletter was dedicated to the President's tax bill and the reasons I felt it was bad for the country and the reasons why I opposed it.

In the original draft of the newsletter, I made a couple light-hearted jabs at the President's tax bill. I mentioned that opposition to the bill was growing as more people learned more about it. I said, people started realizing that Bill Clinton's economic plan is a lot like his haircut—it's much more expensive than it looks.

I also mentioned that the President's Btu tax was a technical energy term—it stands for "Bill tricked you.

Neither of those remarks was in the final version of my constituent newsletter. They were both censored out by the House Franking Commission. The Franking Commission would not approve the newsletter until I removed these two remarks. They said they were too partisan.

But if this bill passes today, and if you vote for this bill today, you will not be able to hide behind smoke or mirrors and you will not be able to censor out the truth.

The Btu tax was dropped in conference. That is one of the few good things that did happen there. But if you vote for this bill today, the term "Btu" still applies—Bill tricked you.

This is not what Bill Clinton promised in the election. This is not what the American people voted for last November. This is not even what Bill Clinton said it was Tuesday night in his Oval Office fireside chat.

He is smooth and he is slick and he is a great teleprompter performer, but regardless of how convincing the President may be, this bill is still tax-and-spend, pure and simple.

It will not cut the deficit. It will not create jobs. And it will not cut spending.

And no matter what you say, you are not going to be able to hide the tax increases in this bill from the American people come next April 15.

We treat criminals better than this bill treats taxpayers. At least criminals are protected, by the Constitution, from laws passed ex post facto. You cannot make an act a crime retroactively and punish someone for it.

This bill punishes taxpayers for success, after the fact. All the way back to January 1993.

It's amazing. A lot of Presidents have raised a lot of taxes. But Mr. Clinton is the first one who has managed to raise taxes before he was even sworn into office. The Clinton tax increases that we are voting on today actually go back and raise people's taxes on income earned before Mr. Clinton was even President.

I guess we should consider ourselves fortunate. He could have made it retroactive even more and tried to tax the money people made when people were still making money—during the Reagan years before the 1990 tax increase.

You can run and you can hide, but even death is no protection against Mr. Clinton's appetite for new taxes.

Like grave robbers in the night, this bill raises the estate taxes on people who had the misfortune of dying since January. It rips open the coffin and steals the silver dollars from the eyes of the dearly deceased.

If that is not punitive taxation, I don't know what is. I am not touching that grave digger's shovel.

You can hide behind the President's assurances that this bill only taxes the rich. But what about the jobs it destroys. Do you really think that small businesses—the real job creators in this country—are going to be able to expand and hire at the same time they are trying to come up with the money to pay their retroactive tax liability.

Most small businesses, partnerships and S corporations are taxed as individual income taxpayers. And yes, some of them are successful enough to be in the category that Mr. Clinton calls the rich.

They are the folks who do the hiring and growing and who create 80 percent or more of the new jobs in this country by plowing their profits back into their business.

But if this tax bill passes, small business won't be plowing back much. They will be paying up. New jobs—do not count on it. The President is definitely right about one thing: the people who do not get those new jobs which are not created because of his tax bill, they definitely will not be paying higher taxes. They will be unemployed.

Retroactive taxation is not the only inequity here. Look at the taxes on senior citizens.

They are not rich—at least most of them. Six million Social Security households are going to be hit with the largest tax increase in the entire bill, by having 85 percent of their Social Security benefits taxed rather than 50 percent. The number will go up to 8 million by 1998 and higher every year after as inflation pushes more and more Social Security recipients over the threshold.

Some 40,000 households in Kentucky will be paying $32 million more in taxes because of this one provision. And we aren't talking about people with incomes over that magic $180,000 level that the President keeps using; 57 percent of the taxes generated by the elderly surcharge will come from seniors with incomes under $75,000.

Even if you hold your nose long enough to get past the punitive, retroactive tax increases and elderly surcharges in the bill, you are left with one simple fact—this bill just will not work. It will not reduce the deficit.

Tax increases won't reduce the Federal deficit. Congress has proven this over and over again. Every time this body raises taxes, it just turns around and raises spending.

Gimmicks like the President's deficit reduction trust fund will not change that reality. The promised spending cuts will not materialize.

And I have never seen a single economic model which even begins to suggest that you can create prosperity with tax increases. It just cannot be done.

I ask you all to listen to the people for a minute. They are saying—and they have been saying—cut spending first. This bill does not do that. It doesn't cut spending today. It raises taxes yesterday. It raises taxes today. It raises taxes tomorrow. But when it comes to spending cuts, it only promises. It only promises cuts some place down the road at some far off tomorrow—a tomorrow that probably will never come.

We have heard those promises before. We heard them in 1990. The taxes are still here but the promised budget cuts never came.

When I say there are no budget cuts in the bill, I am, of course, speaking in relative terms. There are some budget cuts—they are few and far between—but even these are phony and temporary.

The President's bill takes a token slap at Federal employees—cutting manning levels and freezing pay. It slashes defense and it cuts reimbursements to doctors and hospitals.

But the only realistic way to cut Federal employment costs over the long run, is to improve efficiency or to cut the size of the Federal Government and to eliminate unnecessary programs. As long as the Federal Government keeps growing, we are going to need good qualified people to run those programs. Temporary employee cutbacks and pay freezes won't do the job.

But the President's program doesn't cut back the growth of the Government and it doesn't eliminate a single Federal program.

The President does propose slashing defense spending. In fact, he plans to decimate national defense by cutting $127 billion. But is that realistic? I don't think so. If he tries to cut that much, some place along the line, he is going to discover he doesn't even have enough aircraft carriers left for photo opportunities.

If he cuts as much as he proposes from national defense, Mr. Clinton is even going to have to ask Mike Dukakis to return the tank he used in the 1988 campaign.

And, of course, I think everybody—if they tell the truth—realizes we can't keep cutting the reimbursement for doctors and hospitals without destroying the quality of health care. The savings aren't real anyway. The costs are just shifted out of the Government's budget into the private sector.

So, even the few cuts that are included in the President's plan are phony or temporary at best.

So, overall, the President's plan was not improved very much in the conference process. It is still a tax-and-spend bill. The cuts are few. What cuts there are, are phony. And the taxes are very real—retroactive—job killers.

The President would have us believe that he is our Nation's savior, with a plan to heal the sick and raise the dead. Instead, his proposal would sicken the economy and tax the dead.

It didn't have to be this way. The Republicans worked hard to come up with a realistic budget alternative that proposed real cuts in real programs. But our proposal was frozen out early on. The majority never gave it a chance or a second thought.

Maybe, if we defeat this bill, we could get together and work out a real deficit reduction plan. That's what we need to do.

This bill is not going to do the job. You will not be able to hide behind empty promises, backroom deals and censorship if this bill is enacted. When April 15 comes around, people are going to learn the truth. It is a tax bill. There is no fairness here. Just taxes.

Mr. Speaker, I urge my colleagues to join me in defeating this mess.

Mr. ROSTENKOWKI. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland [Mr. CARDIN].

Mr. CARDIN. I thank the chairman for yielding this time to me.

Mr. Speaker, many of us do not like to enact retroactive provisions; it is not the preferred way. But unlike what my Republican colleagues would have us believe, it is not unusual to find retroactive tax provisions in legislation that is passed. In 1981, 1982, 1984, 1986, all included retroactive provisions in the Income Tax Code. The reason is quite simple: It is very difficult to do a rate change in the middle of a calendar year. It would be very hard administratively to do it.

Sure, you can use a blended rate, but that does not really get at the timing of when income is received.

So, many times we will use retroactive provision in order to conform with the tax year. And that is what has been done in this bill.

The constitutional argument that has been made by my colleagues on the Republican side just does not hold true. There has never been a successful challenge to a retroactive tax provision in the U.S. Supreme Court. To the contrary, in United States versus Darusmont, the U.S. Supreme Court held in the 1976 tax bill that a retroactive provision was in fact constitutional. So, it is in fact no surprise to the American people.

Since the end of 1992, the discussions have been about increased tax rates.

I dare say that many of my constituents who have incomes of above $180,000 and would be impacted by it have tax advisers who informed them of the intended changes in our tax laws.

Let me say, as the chairman pointed out earlier, there is an installment provision to make it easier for people to pay the increased taxes by an interest-free, no-penalty payment over a 3-year period.

Not only are the rates retroactive, but also many of the benefits that are included in this bill, tax benefits, are retroactive. We retroactively repeal the luxury taxes, provide for expansion of small-business expensing retroactively, the 25 percent deduction for self-employed insurance premiums is retroactive.

So, it is fair in both respects.

Let me conclude by saying that it is not unusual to have this provision, and certainly those provisions do not prevent us from doing what we need to do in passing this very important economic package.

Mr. ARCHER. Mr. Speaker, I yield 1½ minutes to the gentleman from California [Mr. HERGER], another respected member of the committee.

Mr. HERGER. I thank the gentleman for yielding this time to me.

Mr. Speaker, in 1990, Congress adopted a 5-year plan to reduce the deficit by $500 billion. It included a 5-cent-per-gallon gas tax. Most of the spending cuts were postponed until the final 2 years of the plan.

In 1993, we are considering another 5-year plan to reduce the deficit by about $500 billion. It includes an additional 4.3-cent-a-gallon gas tax increase. Again, 80 percent of the spending cuts will not take place until after the next Presidential election. Does this not sound familiar?

What were the results of the 1990 plan? Our economy slipped into a recession, and 3 years later, the deficit is $100 billion higher than it was in 1990.

Will the outcome be any different this time? According to the Congressional Budget Office, this plan will destroy 1.4 million jobs. At the end of the program, our national debt will have increased by 50 percent. By the plan's own figures, Federal spending will be $306 billion higher than it is today. Only in Washington would this be considered a budget cut.

Mr. Speaker, Congress made a catastrophic mistake in 1990. Let us not adopt a carbon copy of that fiasco again today.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. LEVIN].

Mr. LEVIN. I thank the chairman for yielding this time to me.

Mr. Speaker, this is supposed to be a house of great debate. My guess is the debate here today will not change a single vote. The public has to ask what happened. I think what happened is that the minority very early on opted out of this debate. They now say to start over; they mean do nothing. They say meet us halfway; what they really mean is we will meet you at the OK Corral.

We are focused here on August 5, 1993, the minority is focused on November 1994. Monkey wrench is their emblem.

This is so exemplified by the issue of retroactivity. I went through the debate May 28, just some months ago; we had the same provision on retroactivity. I cannot find any discussion by the minority on this issue. It is a sham issue. It has happened before. Dead people, a deceased person, would have had to earn, if a family member, $180,000 adjusted gross income in just the first months of this year in order to have that provision apply. You are weeping over somebody's estate, $180,000 the first months of this year?

I have been to town meeting after town meeting these last years. I have talked about deficit reduction. This is the day of reckoning, and I intend to live up to my obligation to act.

Let us pass this resolution.

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentleman from Iowa [Mr. GRANDY], a respected member of the committee.

Mr. GRANDY. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I've been here for only 7 years but this is my third 5-year budget deal. So do not tell me this is our only choice, do not say this is the only game in town, the only train leaving the station. Because I have heard that before.

In fact, I have said that before in 1990 when I got up and defended that budget deal as the best product that Republicans and Democrats from uptown and downtown could produce.

Well, now I know better. If experience has taught me anything, it is that these budget debates are not about taxes, they're about timing. They are about accountability. They are about Congress leading by example and not simply explanation.

That means putting the spending cuts up front first and negotiating whatever revenues are needed to make up the deficit shortfall later. Do that and you will have my support. You will have Republican support. Not every Republican to be sure but enough to lend a bipartisan credibility to a process that right now is nothing more than a backroom deal.

Vote "no" today and keep this process alive. Vote "no" and our President will forgive you. Vote "yes" and your constituents may not.

□ 1350

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. RANGEL].

Mr. RANGEL. Mr. Speaker, it is unfortunate that our Republican friends have seen fit to decide in advance of our bill that they were going to vote against it. I do not think recent history has ever seen a situation where someone has decided en bloc to go against the President of the United States and to do absolutely nothing; but the people I have the most sympathy for are the Republicans who do want to participate, do want to make a difference, but because of party line are unable even to come forward and indicate that there is some part of the bill that they like and would want to support.

In any event, we have the responsibility of moving forward. We would like to do it as a united Congress, but since no one appears to be moving to help, we have assumed the responsibility. We have the Presidency and we are moving forward.

One of the exciting things about this bill is recognizing that the poor really in addition to the pain and suffering cost us a great deal in this country. The homeless cost us a lot of money. The drug and alcohol addicts cost a lot of money, and even today our jails are costing us some $40 billion a year.

In order to stop this hemorrhage, we have to be in a position to buttress up our education, to make certain that all our kids have an opportunity not only to create job training, but to create those jobs.

The President has come forward with a way and blueprint to see what happens when we do pay attention to these factors.

You may call them empowerment zones, you may call them enterprise zones, but it is the nine poorest areas of the country that will have the benefit of the uniqueness to invite business there, to invest in human beings and to get this country back on its feet.

Mr. ARCHER. Mr. Speaker, I yield 1½ minutes to the gentleman from Michigan [Mr. CAMP], another respected member of the committee.

Mr. CAMP. Mr. Speaker, from my understanding of what this bill contains, and it was not finished until 7 p.m. last night, it can be summed up this way: higher taxes. Higher taxes on American families, higher taxes on older Americans, American workers and farm families; higher taxes on employers who create jobs, higher taxes on transportation fuels, and that is higher costs for every product that moves by land, sea, or air.

Not only is it the biggest tax increase ever, the increase in individual, estate, and business tax rates will be retroactive to January 1, 1993. Someone correct me if I am wrong, but was President Clinton President on January 1, 1993? Were 110 new Members of this body Members of Congress on January 1, 1993?

This bill does not really cut Government spending and does not really cut the deficit. But it does cut one thing. This bill cuts jobs.

The Congressional Budget office has estimated that if Congress defeats this plan, the current economy, by itself, would create 9.4 million new jobs.

The President and administration claim this legislation must be approved because it will create 8.3 million new jobs. If we enact this tax package, we lose 1.1 million American jobs.

Many small employers pay taxes at the individual rate. Their burden will be increased significantly. And yes, these are the same small employers that have been and are expected to create jobs in our economy.

In Michigan, there are 211,000 small employers. This means 25,400 people in my State could lose their jobs.

Mr. Speaker, I submit we cannot vote for this bill when it raises taxes, raises the national debt, does not cut spending, and costs American jobs.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois [Mr. REYNOLDS].

Mr. REYNOLDS. Mr. Speaker, from 1980 to 1992 the wealthy in this country received the largest tax break in the history of this country. They benefited when others in our society did not have those same opportunities. It is now time for us in America, all of us, including the wealthy, to join in this effort of fairness.

Let us talk about this effort of fairness. In Illinois, the State that I represent, we are going to bring families, both black and white, Hispanic and Asian, up to a respectable level when they work full time. This is not a handout. This is for working families with children and families that work who do not have children, the earned income tax credit.

In my district alone, $48 million will go to 29,000 families who work full time to give them an earned income tax credit.

In the district of the gentleman from Illinois [Mr. LIPINSKI], $29 million to bring those families up, to give them some dignity.

How would you like to work 40 hours a week and still be below poverty? We have millions of families in America today who work 40 hours a week and still are below poverty.

It is time, Mr. Speaker, for us in this country to include everybody in the American dream.

Mr. ARCHER. Mr. Speaker, I yield 1½ minutes to the gentleman from New York [Mr. HOUGHTON], a respected member of the committee.

Mr. HOUGHTON. Mr. Speaker, I reluctantly stand here to oppose this plan. I would rather be standing beside my brothers and sisters on the other side in a nonpartisan way. On the other hand I would like to feel that to disagree is not to engage in class warfare as some suggest.

I have never opted out. The problem in fact is—I was never included in.

But to get to the point, there are three reasons I oppose this plan.

First of all, there is never ever only one plan. How can there possibly be only one way, as the President suggests? If somebody tells me that, I am immediately suspicious.

Second, history says that taxes and spending reductions together never stimulate an economy. They never have, they never will.

Now if that is the case—and our focus is deficit reduction, what will happen is that we still put an immediate drag on the economy. Volume goes down. No amount of subsequent tax increases or spending cuts will within a reasonable time offset the negative trend.

Third, if you have ever been in business, you know one thing. When your customers are in trouble, you do not shove a price increase at them. You wait. You go inside. You try to cut your own costs first.

Now, we all want to fix the deficit. We all want to be part of the solution—not just naysayers. But this is—believe me—a high-risk plan.

I do not agree with it. Why pass something which has been put together by staff intellectuals—when those of us who have lived in the trenches for near

40 years say it's dangerous. I am willing to spend nights, weekends, all of August working with other people to find a different approach—a practical approach.

Yes, Mr. Speaker, we need to fix the economy. But please, let us do it right.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia [Mr. LEWIS].

Mr. LEWIS of Georgia. Mr. Speaker, I want to thank my chairman for his superb leadership in bringing this legislation to us today.

Mr. Speaker, I rise today to speak in support of this plan. This budget proposal will cut the deficit by almost $500 billion. In this plan, we may not have all that we want—no one is suggesting that this plan is a panacea—it is not a cure for our economic ills. But, when we pass this plan it will be a major step down a very long road toward getting our economic house in order.

Too many of our friends and colleagues on the other side of the aisle have given up. They are not engaged, they have withdrawn, they are boycotting the process, they are not saying anything, they are not prepared to vote for reducing the deficit, they are not prepared to vote for cutting spending, they are not prepared to vote for anything. They are prepared to continue to vote for gridlock. They just say "no."

I say to you my colleagues, let us give this plan a chance to work—give this President's program a chance to succeed. I say now is the time to do what is right; now is the time to do what is fair; now is the time for leaders to lead; now is the time for us to have courage, nothing but raw courage. Now is the time to do it right.

I know this is a different vote for all of us, but we were not elected to perform the easy task, we were elected to solve some of the problems facing our Nation. I, for one, did not come to Congress a few years ago to get bogged down in the paralysis of analysis.

Today, we have an opportunity to take a big, a necessary step down what is going to be a very long road. We have not had this opportunity before now. We must take it. Let us vote for this bill. Let us vote for the good of the country, not for the party, not for the President, but for the good of the people. It is the right thing to do.

Support the budget reconciliation plan.

□ 1400

Mr. ARCHER. Mr. Speaker, I yield myself 15 seconds.

Mr. Speaker, once again we have heard the spurious number of $500 billion deficit reduction. The President and his minions think if they say it over and over and over again that the American people will believe it.

By whose estimates?

Not CBO's, not CBO's baseline.

By whose estimates?

Mr. Speaker, I yield 1½ minutes to the gentleman from Louisiana [Mr. MCCRERY], another respected member of the committee.

Mr. MCCRERY. Mr. Speaker, since President Clinton offered his deficit reduction plan, there has been a lot of talk about gridlock and partisan politics. In both cases, the talk has been pejorative in nature. Gridlock can be bad or good, depending on one's perspective. Since Democrats now control both the White House and Congress, there is no excuse for gridlock. If the package passes, I suspect there will be many people in this country, including many Democrats, yearning for the days of gridlock.

But what about partisan politics? I hear all the time, "Why can't Republicans and Democrats put aside partisan politics and do what's best for the country?" as if all of us, Democrats and Republicans, simply came to Washington neutral, then were divided up as shirts and skins, with each team having no goal other than to beat the other. But of course that is not the case. Each of us in Congress freely chooses to affiliate with either major political party. And we make that choice based on our philosophy of government. We then rely on that philosophy to make decisions which we think are in the best interests of the country. Naturally, because we have differing philosophies of government, Republicans and Democrats often reach contrary conclusions as to what is best for the country. That's the way our system works, and it's a good system.

The issue before us today goes to the very heart of the difference in philosophy between Democrats and Republicans. This deficit reduction package relies primarily on tax increases to reduce the deficit. Republicans would prefer a package which relies totally, or at least primarily, on cuts in Government programs to reduce the deficit. The difference is that Democrats don't mind big Government, while Republicans would like to reduce the role of Government.

As I said before, Democrats control both the executive and legislative branches of Government, so this package should, and probably will, pass. As a Republican, I think the proposal is wrongheaded and I intend to vote against it. As an American, if this bill passes, I hope I and my Republican colleagues are wrong. But whatever the outcome, the American people should understand that this is not a game of shirts and skins we're playing here.

The names Republican and Democrat mean something, and if the people of this country want less spending, not more taxes, if they want smaller, not bigger, Government, then they need to remember in the next election which team is which.

Mr. ARCHER. Mr. Speaker, I yield 1½ minutes to the gentleman from Pennsylvania [Mr. SANTORUM], another respected member of the committee.

Mr. SANTORUM. Mr. Speaker, I thank the gentleman from Texas [Mr. ARCHER] for yielding this time to me, and I rise in very strong opposition to this bill because it is bad for America, it does not create jobs, and the people in my district, from what I hear, do not support this bill.

I happen to represent one of the most Democrat districts held by a Republican. I have 71 percent of the people in my district who are registered Democrats, yet yesterday, after the President called for them to let me know how they felt about this bill, we have got 296 people who called my office in opposition to this bill and 47, 47 in support of it. This is a 71-percent Democrat district where President Clinton got 55 percent of the vote. President Bush got 29 percent of the vote. And the number was what? It was 6 to 1 in opposition to this bill.

I say to my colleagues, "Don't you get it? The people do not support this because they know it is bad policy, not bad politics. It is bad politics, too, I will add, but it is bad policy. This is not the medicine they voted for. This district voted for you, but they do not vote for this."

Mr. Speaker, I say to my colleagues, "Go back. Let us do something that is positive for this country that creates jobs, that really will solve the deficit, not just feed this monster of Government with more and more money for it to go out and spend more and more. Let us go back and do what the American public voted for. Let us go back, cut spending first, reform Government, make a difference, and let us do something responsible."

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 1 minute to the gentleman from Virginia [Mr. PAYNE].

Mr. PAYNE of Virginia. Mr. Speaker, I rise in strong support of the conference report which we will vote on later today.

This is the single largest deficit reduction plan ever voted on by the House or Senate—nearly $500 billion.

The spending cuts in this plan are real and exceed the new revenues.

Discretionary spending is frozen to 1993 levels for the next 4 years.

And yesterday for the first time ever in our history, the President signed an Executive order to control entitlement spending over the next 4 years which we have incorporated in our House rules.

As the Roanoke Times said this morning in an editorial endorsing the plan: "It remains the most honest budget submitted by a President in more than a decade."

Each of us in this House was elected to make some tough decisions for the constituents we represent.

Mr. Speaker, it is time to act. I urge my colleagues to support the conference report.

Mr. ARCHER. Mr. Speaker, I yield myself 15 seconds.

Mr. Speaker, the gentleman once again is parroting the largest deficit reduction bill ever voted on in this Chamber. Patently false by CBO estimate. Let us talk about the congressional budget estimates because the other side does not want to do it. They want to use the phony numbers of OMB.

Mr. Speaker, I yield such time as she may consume to the gentlewoman from Florida [Mrs. FOWLER].

Mrs. FOWLER. Mr. Speaker, I rise in strong opposition to the tax bill.

The President says this is a 5-year plan of tax increases and spending cuts.

Let us look at those 5 years.

What will the American people get this year? In 1993, they get a tax increase—a retroactive personal income tax increase. They get a 4.3 cents-a-gallon gas tax that will have a devastating effect on tourism and the economy in my State of Florida. Seniors get the biggest hit with increased taxes on their Social Security and drastic cuts in Medicare.

Let us look to the future:

In 1994, the American people will be paying higher taxes.

In 1995, they will be paying higher taxes.

In 1996, they will still be paying higher taxes.

Then finally, at the end of 1996, the President says there will be spending cuts.

That is right, nearly 80 percent of the proposed spending cuts in this package do not occur until fiscal year 1997 and after. Four years after the American people have been paying the largest tax increase in our history.

Mr. Speaker, my constituents have made it clear to me that they want Congress to cut spending first. This plan simply does not cut spending first.

I urge my colleagues to oppose it.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentleman from Louisiana [Mr. JEFFERSON].

Mr. JEFFERSON. Mr. Speaker, I rise today in support of the budget reconciliation conference report and to ask this House to undertake the dual responsibility of reversing a policy that has led to fiscal and social deficits and to chart a course toward economic stability for the 21st century.

There has been much misinformation about this reconciliation bill. Others on our side have gotten these facts straight, but I am compelled to refute Mr. ARCHER's remarks that senior citizens will be amongst the hardest hit in this bill. That is nonsense. The truth is 88 percent of those who receive Social Security will pay no taxes under this bill and only those who now pay taxes will pay a slightly higher tax, and most of these people who will pay new taxes under this bill have an average net worth of $1 million.

This bill introduces a much-needed policy of investment in our people and our communities. The carefully targeted investment incentives for small businesses in general and for minority-owned or controlled businesses in particular will spur job creation and provide a much needed stimulus to the economic recovery currently under way. The creation of empowerment zones and enterprise communities represents the core of an urban policy that has been too long in the making and upon which we must continue to build in the future to rejuvenate our inner cities.

This bill is historic in that it provides benefits to those who suffered the most deprivation and neglect during the Republican hegemony of the last 12 years—the middle class, the poor, and the working poor—and guarantees for the first time that families with at least one full-time worker need no longer fear living in poverty. In my district in Louisiana, approximately 134,000 households out of a total of 217,000—over 50 percent—will benefit from the expansion of the earned income tax credit [EITC]. Less than 3 percent of the households in my district will see their income tax rates increase and the excise tax on gasoline will cost taxpayers in my district only an additional $28.76 per year.

I wish to emphasize to my colleagues Republican and Democrat alike, that it is imperative that we recognize the solemnity of our decision here today and that we posit the right question. The question is not what will happen if we pass the bill. That question is—what will happen to our country if we fail to act?

If we fail to act, we will see interest rates grow, costing a middle-class family more to buy a car or a home than the modest gasoline tax increases in this bill.

If we fail to act, we will miss the fresh opportunities offered by this bill to small businesses, to real estate investors, and to the larger corporate community to create jobs and stimulate economic growth.

We no longer have the luxury of time to hesitate, to study and to form bipartisan commissions and task forces, time really to abdicate our responsibilities to our constituents and to the Nation. We must act now, and for the first time in a very long time, take the long view of our Nation's destiny. This bill is but a first step in that direction, a most necessary first step and I hope this House will have the courage to take it.

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Connecticut [Mrs. JOHNSON], a respected member of the committee.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I want to make five brief points.

First of all, this is not a 5-year plan. It does not raise enough money to fulfill the commitments in this bill. Look at the tax extender provisions. The R&D tax credit for one expires after 2 years.

I could enumerate other important provisions that expire after 18 months or 2 years, but in 2 minutes I do not have the time.

But mark my words: This bill brings us back to this floor of the House in 2 years for another tax bill to raise the full revenues to fund the programs this bill promises to the American public.

Second, Mr. Speaker, the tax increases are immediate. The spending cuts do not materially develop until the third, fourth, and fifth year, and 60 percent of the cuts take place in years four and five. We have never made it to years four and five. Why would anyone believe we can make spending cuts in those years that we can't make this year?

Third, not only do the tax increases take place immediately, but they are retroactive. Many make the case that the 1986 tax bill which retroactively changed the way we valued real estate was a primary cause of the S&L system collapse.

☐ 1410

Retroactive tax changes are extraordinarily hostile to people in America, to a healthy, growing economy. We have exacerbated, at least, and possibly precipitated, the collapse of the S&L system through similar action in the 1986 bill and must not create such unintended consequences today.

Fourth, this bill hits small business hard. Do you realize that the increase in the Medicare taxes in this bill is greater than the increase in the gas tax? In other words, small business will pay more in increased HI taxes than all of the American people together will pay in increased gas taxes. That is a heavy hit on the only job creators in our Nation.

Mr. Speaker, I would remind Members also that 4 percent of the small businesses create 70 percent of the jobs, and that 4 percent not only get the HI increase, but they also get a more than 10-point increase in their tax burden, from 31 percent, probably for most, up to 44 percent. That is a truly job killing increase in taxes because every one of those dollars could have been used to hire people.

Last, and fifth, and, this is a grossly unfair bill. It will increase taxes on seniors, the retired single woman at $34,000, and not increase taxes on the single working person until $115,000. That is blatantly unfair, to burden our seniors in a unique way when they are beyond the point of being able to expand their incomes through work. In some, this will be a 100-percent increase in taxes, for all its will be at least a 50-percent increase. Such unfairness builds distrust and disrespect for government and compromises our future.

My colleagues, I urge your opposition of this job killing, unfair, building that facts to achieve the fundamental goal of cutting spending first.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentleman from Oregon [Mr. KOPETSKI].

Mr. KOPETSKI. Mr. Speaker, I guess when your arguments are weak, you reach for the can of red herrings. And that is what my colleagues have done on the other side of the aisle with this retroactivity issue.

The fact is in 1982 when there was a tax bill, 22 Republicans in the House today voted for retroactive provisions. In 1984, 34 Republicans who are still in the House today voted for retroactivity, including the distinguished minority leader, the gentleman from Illinois [Mr. MICHEL], and including the gentleman from Tennessee [Mr. SUNDQUIST]. In 1986, the same thing. The facts are right there in the voting records. And I wonder why they are bringing up retroactivity today. I think it is because they have weak arguments.

Second, let me address the small business issue. The fact is 96 percent of the small businesses in America will not be affected by any tax increases as a business. The fact is small businesses will gain from this bill that the President has proposed.

In the bill we raise from $10,000 the expensing provision to $17,500. We extend the research and development tax credit for small businesses. We extend the deduction tax credit for small businesses. We reinstitute the 25 percent tax credit for their health insurance for sole proprietorships and partnerships.

Yes, there are tax cuts in this, and that is what is going to keep the interest rates down so when the retail shop owner goes to borrow money from the bank for his inventory, he is paying a cheaper rate. And those lower rates mean that the homeowner can get a lower refinance rate on their home and pay a lower interest rate on their mortgage. It means local governments, when they go borrow some money for the bonds to build the new school building, that they will pay a cheaper rate of interest so the property taxpayers in that district will pay less money as well.

Yes, we are down to this bill. Either you want to help America reduce the deficit, or you do not. That is what this means. Vote "yes" or "no." Vote yes today to support the President's plan.

Mr. ARCHER. Mr. Speaker, I yield such time as he may consume to the gentleman from Missouri [Mr. HANCOCK], a respected member of the committee.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 1½ minutes to the gentleman from Tennessee [Mr. FORD].

Mr. FORD of Tennessee. Mr. Speaker, today, I stand in strong support of the conference agreement of the Omnibus Budget Reconciliation Act of 1993.

This measure represents the largest deficit reduction package in the history of the U.S. Congress. We cannot stand by and watch our children's future dissolve as the deficit grows at such an astronomical rate.

My Democratic colleagues know that passage of this measure will represent a needed victory for our Democratic President who is working hard to revitalize America and to revive the American dream by restoring the American economy. For this reason too, we must pass the agreement.

We know that the measure reinforces programs that were neglected during the 12 years of Reagan and Bush. We must pass the agreement for this reason, too.

The measure restores tax fairness to this country. Wealthy Americans who benefited from tax cuts and changes during the Republican reign will now pay their share in taxes while helping to cut the deficit. We must pass the agreement for that reason.

But, Mr. Speaker, what we must know is that the Budget Reconciliation Act works in large part to aid our most vulnerable citizens: Children, especially poor children and their families. This agreement is profamily as the President intended, and that is why it should be passed.

As chairman of the Subcommittee on Human Resources of the Committee on Ways and Means, I will be working directly with the President and officials of his administration to end welfare as we know it today. My office has been besieged with questions about when welfare reform will begin. Democrats and Republicans, liberals and conservatives, blacks and whites, the rich and the poor all support welfare reform.

Welfare reform begins here. Right here. A vote for this measure is a vote for welfare reform. A vote for this measure is a vote to begin the end of welfare as we know it today.

The major expansion of the earned income tax credit would lift low income working families out of poverty, and create an economically viable alternative to welfare for single parents to meet the needs of their children. The agreement increases the credit for families with children, taking into account that most welfare recipients want to work, and will work if it pays. Many welfare recipients are employed but not all those employed earn sufficient wages to support their families.

The agreement contains investments unrelated to welfare that help families. The more economic independence families are given, the further away they are able to move from welfare.

The agreement establishes tax and other incentives for empowerment zones to stimulate economic growth and job creation in distressed urban and rural areas.

It extends the Trade Adjustment Assistance Program for 3 years to provide training and income support

The measure enhances child support enforcement, a major component of the proposed welfare reform initiative. It streamlines paternity establishment procedures and strengthens medical support enforcement. Passage of this measure means that fewer children would be forced to rely on Medicaid, or even worse, to go without health insurance when their noncustodial parent is covered by health insurance.

Most important, the reconciliation package includes an additional $1 billion to support families, and to improve the lives of neglected and abused children in the child welfare system.

Child poverty is so widespread that in eight of every nine congressional districts there are more than 10,000 poor children waiting to benefit from these essential services.

Children are the poorest of Americans—child poverty rates have remained above 20 percent throughout the 1980's and into the 1990's, up from 14 percent in 1973. Substance abuse, from alcohol to crack cocaine, is a growing threat to the livelihood of hundreds of thousands of children. Add to this social isolation, the lack of two-parent family formation, and the breakdown of the American extended family, and what do we have?

Children represent our Nation's future. They deserve even more attention than the deficit. Yet, since 1980, reports of child neglect and abuse have tripled. Many of our Nation's child welfare systems—comprised of thousands of State and local governments, and private providers—are considered to be in a state of crisis. The number of children in foster care has grown more than 50 percent in 5 years.

This measure includes important new funds for family support services to help parents nurture and rear their children. The initiative also would fund family preservation services, to help families and children in crisis to address problems and, where possible, avoid or limit long stays in temporary foster care placements. Family support programs are essential because they intervene early with families to enhance child development and family functioning. Some programs are specifically designed to prevent abuse and neglect in targeted, at-risk populations; others provide more general services to a broader population. Do not make children and families pay for the budget problems of this Nation. The children desperately need each Member to agree to this measure.

Mr. ARCHER. Mr. Speaker, I yield the balance of my time to the gentleman from California [Mr. THOMAS], a respected member of the committee.

The SPEAKER pro tempore (Mr. MURTHA). The gentleman from California [Mr. THOMAS] is recognized for 4 minutes.

Mr. THOMAS of California. Mr. Speaker, I thank the gentleman from Texas [Mr. ARCHER], the leader of the Republicans on the Committee on Ways and Means, for yielding.

Mr. Speaker, the American people have patiently watched everyone, from the President on down, explain this plan using charts prepared by economists. I think it is about time that the American people had a chance to show us their chart.

People are wondering why the President dropped in the polls after his TV informercial. If anyone wonders at all, I think they need to know that the American people understand this plan. If you want to know what the American people know, take a look at the chart they would prepare to explain this plan.

Now, every weekend they see an arrow like this—"You are here" in every shopping center around the Nation. You are here, August 1993. According to the official numbers from the Committee on the Budget the tax increases start January 1, 1993. Fifty-seven percent of the taxes start January 1. The promised spending cuts come later.

Tax increases have already started, but the promised spending cuts come later, 30 percent of them after the election of 1994. Sixty-one percent of the spending cuts come after the Presidential election of 1996 assuming the promises are kept.

Spending cuts are supposed to happen later; yet, the tax increases have already started.

Mr. Speaker, this is a dumbbell plan, weighted on one end by a majority—57 percent—of the taxes that have already started, and weighted on the other end by spending cuts—over 60 percent after the 1996 Presidential election—that are promised.

The plan is a dumbbell. The American people are not. That is why they are rejecting this plan.

In addition, the President said in his speech, "It is our plan, or no plan." I think the President is wrong. I think we have an opportunity, as was expressed by several of my colleagues, that if we vote this plan down, we can forge a better plan. We can drop the dumbbell. We do not have to have retroactive tax increases and prospective hoped-for spending cuts. We can drop both ends of the dumbbell, if my colleagues on the other side of the aisle are willing.

The President said the other night, "It is our plan, or no plan." I have to tell Members, that sounds an awful lot like "My way or no way." And I think what we are trying to tell the President and urging you folks to understand is that if it is your way or no way, the American people in 1996 are clearly going to indicate that there is an alternative way, and that is the highway.

□ 1420

Mr. ROSTENKOWSKI. Mr. Speaker, I yield the balance of my time to the gentleman from Wisconsin [Mr. OBEY].

The SPEAKER pro tempore (Mr. MURTHA). The gentleman from Wisconsin [Mr. OBEY] is recognized for 2 minutes.

Mr. OBEY. Mr. Speaker, I simply want to say, in response to the gentleman who says that the spending cuts come later, that the fact is we have already passed 10 appropriations bills this year, which have already passed some almost 300 cuts, which are going to affect not next year, not down the line, but this year, almost 300 cuts. Go back, take a look at the bills.

Second, if we are going to compare performance on deficit reduction, this chart demonstrates, the green bars demonstrate what the Reagan promises were on deficit reduction, if we would pass their plan in 1981.

They promised we would get to zero deficit in 4 years. The red bars show they only missed by $185 billion. So I have had it with listening to their promises or estimates about who is going to hit what on deficit reduction.

With respect to jobs, I do not think we have to take any lectures whatsoever from that side of the aisle on job creation. This chart takes the number of jobs created under every President's 4-year term, going back to the end of World War II, and it arranges them in descending order of job growth.

What the chart demonstrates is that Lyndon Johnson produced the greatest job growth in his term, 16 percent job growth. Carter the next highest, Truman the next highest. Guess who drags up the caboose? Guess who produced the slowest job growth rate in the history of this country going back to 1945? The last 4 years under President Bush.

If we take a look at what happened in the 1980's, in terms of real hourly wages, real hourly wages were going up systematically from 1955 through 1980. We passed the Reagan package in 1981.

We have had flat, flat growth in wages ever since. Middle income is being squeezed. Workers are being squeezed.

My colleagues, we have tried it your way for 10 years. Let us try something new.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas [Mr. DE LA GARZA] will be recognized for 10 minutes and the gentleman from Kansas [Mr. ROBERTS] will be recognized for 10 minutes.

The Chair recognizes the gentleman from Texas [Mr. DE LA GARZA].

Mr. DE LA GARZA. Mr. Speaker, I yield 1 minute to the distinguished chairman of the subcommittee, the gentleman from Missouri [Mr. VOLKMER].

Mr. VOLKMER. Mr. Speaker, I first wish to commend the leadership and the President of the United States for this package that we have before us today for a deficit reduction of $500 billion over the next 5 years. I also wish to commend my chairman, the gentleman from Texas [Mr. DE LE GARZA] for leading us in the Committee on Agriculture to provide for spending cuts.

I have heard on this floor that there were no spending cuts until later years. If Members look at the agriculture portion of this bill, they are going to find spending cuts beginning next year and going on each individual year thereafter. So do not believe them. There are spending cuts in here, starting right away, next year.

I want to say to all of my colleagues that the American farmer is willing to make those cuts in order to bring this country back into an economic condition where everybody can do better. They are willing to do so as long as everybody else does. And under this bill, there are spending cuts.

There is an area of concern that I have with the conference report.

During the conference on this measure, the House conferees reluctantly agreed to include a brief prohibition on the sale of recombinant bovine somatotropin, commonly known as BST. This is a substance that will allow dairy producers to become more efficient if they so choose.

The Food and Drug Administration [FDA] is currently reviewing applications for BST for safety and effectiveness under the Federal Food, Drug, and Cosmetic Act. The House conferees believed that this was the appropriate process for a new product, and we were nearly unanimous in support of stripping the Senate's BST moratorium.

This regrettable provision was included only to overcome the deadlock with Members of the other body who were insisting on some portion of the more onerous moratorium included in the Senate amendment, so that we could avoid continued gridlock. The Senate language placed a 14-month moratorium on the sale, marketing, or use of BST. The conferees ultimately agreed on a prohibition on the sale of BST for 90 days following its approval by FDA.

The conference report limits only the sale of BST, and does not limit a company's ability to use or distribute the product during the 90-day period, or to distribute materials to promote the sale of the product. Producers are not prohibited from using BST nor from continuing to sell milk and meat produced by cows treated with BST.

The conference agreement requires the Secretary of Agriculture to decrease the amount of the reduction in price received by producers under the 1990 Reconciliation Act during the 90-day prohibition period. No other requirement is imposed on the Department of Agriculture or any other Government agency with respect to BST in this bill.

Some have raised concerns that this provision will serve to delay the ongoing review of pending BST applications by FDA. We do not intend or believe this to be the case. By law, FDA reviews animal drug applications only for safety and effectiveness. FDA has no authority to consider social or political agendas, nor should it. The provisions of this conference report are intended to have absolutely no effect on FDA's review of BST.

If BST is found to be safe and effective, I can think of no rational reason to deny its use to dairy producers. It would become another very important tool in their effort to produce a vital food product. Those of us who are concerned about overproduction of agricultural products need to spend our time developing sound policies that address all production, rather than try to prevent improvements in efficiency.

To attempt to deny this technology is to bury one's head in the sand. This country has grown strong through increased efficiency in agriculture, and to suddenly decide now that we want to freeze where we are, to stall further progress, is at best shortsighted and counterproductive. I do not see this misguided effort as a precedent for how Congress will deal with biotechnology in the future, because I do not believe this brief delay is supported by a majority of either House. It is included in this report only because of the peculiar circumstances in which it was considered, and I do not expect similar actions in the future.

I support the bill, and I thank the chairman for his work here today.

Mr. ROBERTS. Mr. Speaker, I yield 1 minute to the gentleman from Missouri [Mr. EMERSON], a distinguished and outstanding member of the committee.

Mr. EMERSON. Mr. Speaker, there are so many things wrong with this tax plan that I cannot begin to list them all in the brief time I have to speak. But there are two things in this package which I particularly oppose. First, I find it difficult to believe that this Congress and this administration is about to hike taxes retroactively. Americans who have been paying their taxes for the past 7 months are about to be told, "Dig deeper! What you've paid us so far is not enough—we're coming back for more!" Never mind the constitutional due process requirement of notice.

The second thing wrong with this package is the effect that it will have on small businesses in America. Most small businesses pay their taxes at the level of the individual owner, partner, or shareholder, and they will be subject to higher individual rates and to the so-called millionaire surtax. With effective rates slated to exceed 40 percent, many small businesses will find themselves subject to marginal rates well above those of the Nation's largest and most profitable corporations. These small businesses will be paying higher taxes, instead of investing in new equipment and creating new jobs. Last year, small businesses comprised about 99 percent of all American employers, hired nearly 60 percent of the work force and created some two-thirds of all new jobs. This tax package, Mr. Speaker, will kill the goose that lays the golden egg.

Mr. ROBERTS. Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey [Mr. SAXTON].

Mr. SAXTON. Mr. Speaker, I rise in strong opposition to the bill.

Today, the Democrat-controlled Congress along with a willing President, are attempting to impose the largest tax increase in the history of this country on our fragile economy.

History teaches us many things. One of the most obvious is that bad tax policy, that is when taxes get too high, causes negative things to happen economically to the American people. And, just as the 1990 budget deal brought this country's longest peacetime expansion—89 consecutive months of economic growth—to an end, I believe the Clinton tax plan will have similar results. A plethora of independent forecasting firms agree. Most analysts predict the economy will falter with the passage of the Clinton plan.

President Clinton ran on the mantle of change. However, this tax bill is a long way from anything new or different. There is little difference between this tax plan and deficit reduction plans of the past. In fact, the Democrat tax plan is very comparable to the Democrat/George Bush failed 1990 budget deal. The similarities are uncanny:

Both claim to cut the deficit by nearly $500 billion.

Both raise income taxes when enacted—well, actually the Clinton tax bill raises taxes retroactively to January 1, 1993, the first time income taxes have been retroactive since the Vietnam war.

The bulk of the claimed spending cuts; that is, spending less than previously planned, are in the later years in both plans. In fact, $44 billion of the claimed Clinton cuts are actually planned cuts from the 1990 budget deal.

In both cases the national debt increases substantially. As acknowledged by the President, his plan will increase the national debt by more than $1,000 billion—$1 trillion—over the next 5 years, and,

Both plans raise the gas tax.

There is little reason to hope that this package will help small business create jobs. Moreover, the profitable small businesses, which usually put their proceeds back into the business to expand and create jobs, will now have to spend their earnings on paying higher retroactive income taxes, higher Medicare taxes, and higher gas taxes.

Just as I objected to a Republican President's budget plan that raised taxes and lacked spending cuts in 1990, I will vote against the tax plan put forward by congressional Democrats and President Clinton. As I have said before, and I will say again, there is no right way to do the wrong thing.

I urge everyone, both Republicans and Democrats, to oppose this destructive plan.

Mr. ROBERTS. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Oregon [Mr. SMITH], who is the ranking member of the Subcommittee on Department Operations and Nutrition.

Mr. SMITH of Oregon. Mr. Speaker, I thank the gentleman for yielding time to me.

This plan is bad for agriculture. It is bad for America.

It cuts $3 billion out of production agriculture. It increases by the same time $2½ billion in food stamps. That is a transfer from production agriculture to food stamps.

I thank that is dead wrong. It cuts the market promotion program that returns $7 for every $1 invested.

That is the way we sell our goods overseas. That is the bright spot in the economy, in agriculture, in export. It carves into the very heart of agriculture.

Finally, in this short time, let me say, this is the largest redistribution-of-wealth plan in our history. It transfers wealth from agriculture to food stamps, from rich to the poor, from county to the city. Class economic warfare, indeed. This is socialism.

Mr. ROBERTS. Mr. Speaker, I yield 1 minute to the distinguished gentleman from California [Mr. POMBO], a member of the committee.

Mr. POMBO. Mr. Speaker, I rise today in opposition to this plan for a number of reasons, the biggest of which is, it is bad for my district.

The gas taxes and the increased income taxes are going to be devastating to small business in my district. They are going to be especially tough on agriculture.

When we look at the high energy use, like agriculture, it drives up the cost of production. Farmers are price takers. They are not allowed to make their own price for what they are going to sell their products for.

They take what the market will bear. Unfortunately, in the situation that we have created with this bill, we have created a situation that farmers cannot get out from under. They are going to have to absorb the taxes right from their bottom line.

Being the only Member of this body who can stand up and say, last year my sole job was that of farming, I can honestly say that this is bad for agriculture.

Mr. ROBERTS. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, I rise in opposition to the President's budget plan.

First, on behalf of my farmers and ranchers and all of those who are involved in agriculture, I want to thank the distinguished chairman of the House Committee on Agriculture, the gentleman from Texas [Mr. DE LA GARZA].

The gentleman from Texas [Mr. DE LA GARZA] has indeed worked overtime to make this budget plan less harmful to rural America. In that regard, the chairman and my colleagues across the aisle were handed a lemon by the Clinton administration, and they have truly labored to produce something called lemonade.

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Both of us Republicans who served on the reconciliation conference worked within those parameters with the chairman. In this regard, I would tell my colleagues, our role was much like riding shotgun on a stage headed in the wrong direction.

Mr. Speaker, I do not have the time to fully go into the latest changes and details that were put into this budget plan as they affect agriculture. The latest 45 pages were received late yesterday. They left little time for study. I am very concerned about extending the farm bill beyond 1995 for some crops and not others, a market promotion program now based on the perception of reform as opposed to results, a food stamp spending increase over and above the cost-of-living adjustment, and welfare reform and changes in other commodity programs.

There is more, there is much more. At the request of one Senator, there is a moratorium on the use of BST that is, a biotechnical breakthrough in dairy, and the moratorium makes about as much sense as putting a moratorium on milking machines. There is less money to help States in regard to food stamp fraud and abuse. We are going to have to deal with those problems as each farm program policy snake crawls out of the budget package, not to mention the increase in the gas tax.

However, my colleagues, let us step back from the individual brambles and thorns in this budget and take a look at the whole briar patch. This budget debate is not between Republicans and Democrats. This debate is whether or not 41 conservative Democrats will join with the Republicans to offer a more realistic and conservative budget plan. This is not deficit reduction, as has been said before. Simply put, if we measure by what we are spending, the level of taxes, the size of the deficit, and the national debt this year and what is going to happen at the end of 5 years, spending goes up, taxes go up, the deficit is not significantly reduced, and the national debt goes up by more than $1 trillion.

Only in Washington do we define a reduction in the amount of increased spending as deficit reduction. The question is, why are we going through all of this hoopla and so-called gridlock to produce a budget package that will increase spending, taxes, the long-term deficit, and the debt? Yet some of my colleagues, some in the press, some who are just listening and watching and reading, say it does not matter; "Just do something. Touch and embrace this hot stove, hug the hot stove, ride the stagecoach, ride the stagecoach off the cliff, mount the posse and ride off in the wrong direction."

My colleagues, stopping the train before a train wreck is a positive step. I have every confidence that a more conservative, bipartisan majority could, and more importantly should, at least get the train headed in the right direction. My Democrat colleagues, vote "no." Help us achieve true deficit reduction.

Mr. Speaker, I rise in opposition to the President's budget plan and ask permission to revise and extend my remarks.

First, in behalf of my farmers and ranchers and all those involved in agriculture, let me thank the distinguished chairman of the House Agriculture Committee. The gentleman from Texas [Mr. DE LA GARZA] has worked overtime to make this budget plan less harmfull to rural America.

In that regard, the chairman and my colleagues across the aisle were handed a lemon by the Clinton administration and they have truly labored to produce lemonade. Those of us Republicans who served on the reconciliation conference worked within those parameters and with the chairman.

In this regard, our role was much like riding shotgun on a stage headed in the wrong direction and out of control. Mr. Chairman, I do not have the time to fully go into the latest changes and deals that were struck in this budget plan as they affect agriculture. The latest 45 pages were received late yesterday, leaving little time for study, but I am very concerned about extending the farm bill beyond 1995 for some crops and not for others, a market promotion program now based on the perception of reform as opposed to results, a food stamp spending increase over and above the cost of living adjustment and before welfare reform, and changes in other commodity programs.

There is more, much more; at the request of one Senator, a moratorium on the use of BST—that is a biotech breakthrough in dairy—and the moratorium makes about as much sense as putting a moratorium on milking machines. And, there is less money to help States prevent food stamp fraud and abuse.

We will have to deal with those problems as each farm program policy snake-crawls out of this budget package. Not to mention the increase in gas taxes.

Let us step back from the individual brambles and thorns in this budget and take a look at the whole briar patch. My colleagues, I know and appreciate with all of the disagreement, diversity, and disorganization within the majority party that this may represent the best you can do.

But, with all due respect, this budget debate is not between Republican and Democrats. The debate is whether or not 41 conservative Democrats will join with Republicans to offer a more realistic and conservative budget package.

Let us use a different yardstick to truly describe what this package is—this is not deficit reduction. Simply put, if you measure by what we are spending, the level of taxes, the size of the deficit and the national debt this year and what will happen at the end of 5 years, spending goes up, taxes go up, the deficit is not significantly reduced and the national debt goes up—by more than a trillion dollars.

Only in Washington do we define a reduction in the amount of increased spending as deficit reduction. The question is, why are we going through all of this hoorah and so called gridlock to produce a budget package that will increase spending, taxes, the long term deficit and the debt?

Yet, my colleagues and some in the press and some who are listening, watching and readying, say it does not matter, just do something. Touch and embrace the hot stove. Ride the stagecoach off the cliff. Mount the posse and ride off in the wrong direction. My colleagues, stopping the train before a train wreck is a positive step.

I have every confidence that a more conservative bipartisan majority could and should at least get the train headed in the right direction. My Democrat colleagues, vote no and help us achieve true deficit reduction.

Mr. Speaker, I would ask how much time I have remaining.

The SPEAKER pro tempore (Mr. MURTHA). The gentleman from Kansas has 3 minutes remaining.

Mr. ROBERTS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Wisconsin [Mr. GUNDERSON], the ranking member on the Subcommittee on Livestock of the Committee on Agriculture.

Mr. GUNDERSON. Mr. Speaker, I will include for the record a rather detailed statement dealing with the whole dairy section of the bill, because I want to talk about something else. I want to follow up on the remarks of our distinguished ranking member, the gentleman from Kansas [Mr. ROBERTS].

Under this conference agreement we will be spending $244 billion more in 1994 than we take in. In 1995, we will have a deficit of $232 billion. In 1996, it will be $209 billion. In 1997, it will be $201 billion. In 1998, it will be $213 billion.

The conference agreement before this Congress and this country at this point in time over the next 5 years, based on the best economic assumptions to date, will add over $1 trillion to the national debt. It does not matter whether we are for or against taxes, whether we think the ratio of spending cuts to taxes is fair or not, whether we believe or do not believe in retroactive taxation, and frankly, whether we support or oppose the BST moratorium.

None of that matters when the bottom line is we are adding $1 trillion to the national debt. The question before this Congress and this Nation today is, can we and should we do better? I plead with my colleagues on both sides of the aisle, but in particular the Democratic side of the aisle, here is one Republican who stands ready to join them the minute we say, "We can do better than this," in a bipartisan way, with absolutely everything on the table, to show the American people we can be on a downward trend in annual deficits and the national debt; that we are not going to bankrupt America's future, that we are going to use this window of opportunity in a bipartisan way to do something real. The agreement before us does not do that. We can all do much better.

Now, if I could take a few moments to address that portion of the conference report for which I was a conferee—Agriculture. From the perspective of the dairy industry and the Federal dairy price support program, I was pleased that we could produce a win—win—win situation with the change in the so-called butter/powder tilt.

Indeed, by removing surplus butter from the market at no more than $.65/pound we not only save $259 million in expenditures on the dairy price support program, but we also make our butter more competitive in the world market. Most importantly, we will use a portion of this savings in 1996 and 1997 to reduce the current assessment on dairy farmers from 11.25 cents/cwt to 10 cents/cwt. That puts $125.00 back in the pocket of a dairy farmer with 50 cows and a 20,000 pound herd average in each of those 2 years.

As pleased as I am with that portion of the conference report, Mr. Speaker, it certainly does not offset the damage done to American public policy on technological innovation and export competitiveness by the meaningless 90-day moratorium on the sale of synthetic BST; that is, bovine growth hormone, included in the reconciliation package.

Since 1985, the National Institutes of Health, the American Medical Association, the American Dietetic Association, the Council on Agricultural Science and Technology, and dozens of other independent, science-based associations have studied synthetic BST and have found that it is safe for human consumption.

Indeed, every drop of milk we drink currently contains BST. Further, there is no chemical difference between naturally occurring BST and that which has been genetically reproduced in the laboratory. In fact, there is no scientific test that can distinguish between BST produced by a cow and BST genetically reproduced in a laboratory when they are mixed together in a glass of milk.

Yet, we have individuals who, for whatever reason, are trying to whip up consumer hysteria over the safety of synthetic BST. In the process, they are compromising the future competitiveness of not only the American dairy industry, but all of American agriculture, in the world market by discouraging technological innovation that helps farmers produce more efficiently.

Some point to an alleged 7-year ban of synthetic BST by the European Community [EC] as justification for an American ban of that product as well. This argument fails for several reasons. First of all, no such ban has been enacted and will not even be considered by the EC ministers until December of this year. Even if that ban is enacted, the EC has dozens of other non-tariff barriers that have kept—and will keep—our dairy products out of the EC market until a GATT agreement is reached. Accordingly, a EC ban on BST is irrelevant.

Second, and of equal importance, is the fact that our major export markets for American dairy products—the countries of the former Soviet Union and Mexico—already have approved BST for sale and use within their borders and, most assuredly, will accept American dairy commodities made from milk produced with synthetic BST.

Mr. Speaker, the decision of whether or not to employ a particular technology in his or her farm operation ought to be left to the farmer. I trust the ability of farmers in my district to make that decision. Apparently not all of my colleagues have the same faith in their constituents that I do in mine.

Finally, Mr. Speaker, let me make a few comments about the frustration that we experienced with the Byrd rule from the other body. From what I can determine, the Byrd rule means that the other body can strike nonmonetary language they do not like from the reconciliation package while keeping similar language they do like. For example, the agriculture portion of the reconciliation package contained language protecting our rural electric cooperatives from losing some of their best customers to other utilities simply by virtue of the exercise of municipal annexation. This would have assisted those cooperatives in remaining competitive and in providing additional rural development opportunities in spite of the loss of 5 percent Government loans. This provision was struck by the Parliamentarian in the other body.

On the other hand, nonbudgetary reforms of the Market Promotion Program for which neither a hearing has been held nor other public testimony received, were left in the package because of their importance to members of the other body. Clearly, there are glaring inconsistencies in the application of the Byrd rule which need to be negotiated and cleaned up prior to our next exercise in reconciliation.

All in all, Mr. Speaker, there is very little in this legislation that we can call good public policy. I, therefore, urge my colleagues to vote against it and to join me in a bipartisan effort to produce a better reconciliation package—not only for our sake, but the sake of future generations of Americans.

Mr. ROBERTS. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Illinois [Mr. EWING], a member of the Committee on Agriculture.

Mr. EWING. Mr. Speaker, I rise in opposition to this bill for the taxpayers and the voters of the 15th District of Illinois.

Mr. Speaker, I rise in opposition to the budget reconciliation conference report. Clintonomics is bad economic policy, and it is policy that will disproportionately affect farmers and other rural residents.

Under this bill, $3 billion is cut from farm programs, on top of $57 billion in cuts over the last 10 years. No area of the budget has contributed more in recent years than agriculture. At a time when spending on other entitlement programs is increasing dramatically, agriculture has shown continual and real reductions. We in agriculture have already given our share, and then some.

I think it is important to point out that farm programs are not welfare. They make our farmers more competitive, protect us against unfair foreign competition, and help us to provide food to the American public that is safer and cheaper than anywhere else in the world.

I am especially concerned about cuts in programs that make our farmers more competitive overseas, including cuts of $405 million over 5 years in the Market Promotion Program. Programs such as MPP help us to crack markets where unfair trading practices have kept U.S. companies from competing. Cuts in these programs will directly affect the bottom line of American farmers.

The cuts in the agriculture portion of the budget are almost directly offset by increases in food stamp spending of $2.5 billion over 5 years. Even without this increase, no new food stamp recipient would be denied benefits, and no existing recipient would be denied cost-of-living increases. Few programs have seen increases of the magnitude of the food stamp program in recent years, and to further increase spending on this program, when welfare reform has not even come before the Congress yet, is truly unconscionable.

The gas tax in this budget will fall especially hard on rural residents. A rural family with two drivers may end up spending several hundred dollars more each year because of this tax increase.

Additionally, the increase in the Federal estate tax from 50 to 55 percent will affect many farm families, and the retroactive nature of this tax will create serious cash flow problems for some families.

I have focused only on those portions of President Clinton's economic plan that will affect farm and rural residents. There are many other onerous provisions in this bill, and no shortage of reasons to oppose it. This bill increases taxes before much in the way of spending cuts, and the spending cuts it does make come disproportionately from agriculture and defense. For these reasons and others I oppose Clintonomics and oppose this bill.

Mr. ROBERTS. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Florida [Mr. LEWIS], the ranking member of the Subcommittee on Specialty Crops and National Resources of the Committee on Agriculture.

Mr. LEWIS of Florida. Mr. Speaker, I thank the gentleman for yielding time and for his work on the agriculture portion of this bill. Due to his hard work most of the Republican concerns have been addressed.

Unfortunately the rest of the bill is a travesty. As I said before, it's not the same old thing, it's even more of the same old thing.

All rhetoric aside, we must ask ourselves one thing, will it work? History tells us the answer is "No."

Time and time again this Congress raises taxes and promises spending cuts. Everytime the same people rise to defend the plan and everytime the spending cuts never come. When will they learn?

Instead of changing plans and cutting spending they just go for more taxes.

This is not a deficit-reduction plan, it is a Government growth plan, and that is not what the American people want. Let us start all over again, and start with spending cuts. Oppose this plan.

The SPEAKER pro tempore. The time of the gentleman from Kansas [Mr. ROBERTS] has expired.

Mr. DE LA GARZA. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Speaker, the Agriculture portion of the Omnibus Reconciliation Act of 1993 contains alarming, precedent-setting language which impacts the future of our Nation's science and technology endeavors. As a budget conferee to the Agriculture Subconference, I signed the report in the spirit of cooperation and compromise—agreeing with an overwhelming majority of the Agriculture Committee's work. However, I am extremely concerned about language—based purely on social and economic claims—prohibiting the commercial sale of bovine somatotropin [BST], an animal drug that is pending approval by the Food and Drug Administration [FDA].

Congress has traditionally avoided legislating requirements for specific products already subject to rigorous standards and regulations. In the case of BST, requirements are in place to thoroughly evaluate its effectiveness and safety before FDA can approve it for commercial use. If ultimately approved, then the marketplace, not Congress, should determine the future of the product.

If Congress preempts FDA on the review of this technology, we will establish a dangerous precedent that Congress knows better than FDA scientists about whether or not a product should be available. Although some argue that economic and social judgment should be taken into account, Congress should not replace the Food and Drug Administration or the marketplace in making decisions about individual products. In so doing, we would unjustifiably hinder critical research and product development. What company will risk the substantial investment involved in researching and developing new technology only to learn that their product is subject to the political whims of Congress? Yet unfortunately, through this budget process, individuals have been allowed, for the first time, to arbitrarily manipulate the rules for approval and introduction of new innovations and technologies.

We should recognize our imprudence and strive to not repeat this type of legislative moratorium on new technology. I otherwise commend the work of the committee chairman for his diligence in addressing these difficult issues.

Mr. DE LA GARZA. Mr. Speaker, I yield such time as he may consume to the gentleman from Oklahoma [Mr. ENGLISH].

Mr. ENGLISH of Oklahoma. Mr. Speaker, the House Agriculture Committee was directed to find savings in the Rural Electrification Administration [REA] Program for purposes of meeting the objective of this budget reconciliation package. I am pleased to say that indeed the House and Senate conferees were able to reach agreement on language that, according to CBO, results in savings of $161 million over the next 5 years.

This provision of the agriculture section of the reconciliation package not only saves money, but results in a substantial and positive change in the REA Program. Specifically, strict criteria has been developed which REA borrowers, both telephone and electric, must meet before qualifying to participate in the program. Like any Federal agency, the REA must continue to wisely utilize our tax dollars. The language originally contained in this reconciliation package would have done just that.

Unfortunately, the extensive REA provisions were deleted because of their inability to comply with the Senate's Byrd rule. However, I rise this afternoon to place in the RECORD the entire REA bill language upon which Agriculture conferees agreed.

In addition to the REA provisions which have been eviscerated by the Byrd rule, the conferees also agreed to language which would require the Secretary of Agriculture to use funds of the Commodity Credit Corporation to fund the Conservation Reserve Program and the Wetlands Reserve Program. Adoption of the provision was a good faith effort by the conferees to keep a commitment that had been made to the environmental community in 1990. This provision, too, has felt the bitter sting of the Byrd rule. The language of both this and the REA provision is as follows:

Subtitle B—Restructuring of Loan Programs

SEC. 1201. ELECTRIC AND TELEPHONE LOAN PROGRAMS.

(a) INSURED ELECTRIC AND TELEPHONE LOANS.—

(1) IN GENERAL.—Section 305 of the Rural Electrification Act of 1936 (7 U.S.C. 935) is amended—

(A) by striking subsections (b) and (d);

(B) by redesignating subsection (c) as subsection (b); and

(C) by inserting after subsection (b) (as so redesignated) the following new subsections:

"(c) INSURED ELECTRIC LOANS.—

"(1) HARDSHIP LOANS.—

"(A) IN GENERAL.—The Administrator shall make insured electric loans, to the extent of qualifying applications for the loans, at an interest rate of 5 percent per year to any applicant for a loan who meets each of the following requirements:

"(i) The average revenue per kilowatt-hour sold by the applicant is not less than 120 percent of the average revenue per kilowatt-hour sold by all utilities in the State in which the applicant provides service.

"(ii) The average residential revenue per kilowatt-hour sold by the applicant is not less than 120 percent of the average residential revenue per kilowatt-hour sold by all utilities in the State in which the applicant provides service.

"(iii) The average per capita income of the residents receiving electric service from the applicant is less than the average per capita income of the residents of the State in which the applicant provides service, or the median household income of the households receiving electric service from the applicant is less than the median household income of the households in the State.

"(B) SEVERE HARDSHIP LOANS.—In addition to hardship loans that are made under subparagraph (A), the Administrator may make an insured electric loan at an interest rate of 5 percent per year to an applicant for a loan if, in the sole discretion of the Administrator, the applicant has experienced a severe hardship.

"(C) LIMITATION.—The Administrator may not make a loan under this paragraph to an applicant for the purpose of furnishing or improving electric service to a consumer located in an urban area (as defined by the Bureau of the Census) if the average number of consumers per mile of line of the total electric system of the applicant exceeds 17.

"(2) MUNICIPAL RATE LOANS.—

"(A) IN GENERAL.—The Administrator shall make insured electric loans, to the extent of qualifying applications for the loans, at the interest rate described in subparagraph (B) for the term or terms selected by the applicant pursuant to subparagraph (C).

"(B) INTEREST RATE.—

"(i) IN GENERAL.—Subject to clause (ii), the interest rate described in this subparagraph on a loan to a qualifying applicant shall be—

"(I) the interest rate determined by the Administrator to be equal to the current market yield on outstanding municipal obligations with remaining periods to maturity similar to the term selected by the applicant pursuant to subparagraph (C), but not greater than the rate determined under section 307(a)(3)(A) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1927(a)(3)(A)) that is based on the current market yield on outstanding municipal obligations; plus

"(II) if the applicant for the loan makes an election pursuant to subparagraph (D) to include in the loan agreement the right of the applicant to prepay the loan, a rate equal to the amount by which—

"(aa) the interest rate on commercial loans for a similar period that afford the borrower such a right; exceeds

"(bb) the interest rate on commercial loans for the period that do not afford the borrower such a right.

"(ii) MAXIMUM RATE.—The interest rate described in this subparagraph on a loan to an applicant for the loan shall not exceed 7 percent if—

"(I) the average number of consumers per mile of line of the total electric system of the applicant is less than 5.50; or

"(II)(aa) the average revenue per kilowatt-hour sold by the applicant is more than the average revenue per kilowatt-hour sold by all utilities in the State in which the applicant provides service; and

"(bb) the average per capita income of the residents receiving electric service from the applicant is less than the average per capita income of the residents of the State in which the applicant provides service, or the median household income of the households receiving electric service from the applicant is less than the median household income of the households in the State.

"(iii) EXCEPTION.—Clause (ii) shall not apply to a loan to be made to an applicant for the purpose of furnishing or improving electric service to consumers located in an urban area (as defined by the Bureau of the Census) if the average number of consumers per mile of line of the total electric system of the applicant exceeds 17.

"(C) LOAN TERM.—

"(i) IN GENERAL.—Subject to clause (ii), the applicant for a loan under this paragraph may select the term for which an interest rate shall be determined pursuant to subparagraph (B), and, at the end of the term (and any succeeding term selected by the applicant under this subparagraph), may renew the loan for another term selected by the applicant.

"(ii) MAXIMUM TERM.—

"(I) APPLICANT.—The applicant may not select a term that ends more than 35 years after the beginning of the first term the applicant selects under clause (i).

"(II) ADMINISTRATOR.—The Administrator may prohibit an applicant from selecting a term that would result in the total term of the loan being greater than the expected useful life of the assets being financed.

"(D) CALL PROVISION.—The Administrator shall offer any applicant for a loan under this paragraph the option to include in the loan agreement the right of the applicant to prepay the loan on terms consistent with similar provisions of commercial loans.

"(3) OTHER SOURCE OF CREDIT NOT REQUIRED IN CERTAIN CASES.—The Administrator may not require any applicant for a loan made under this subsection who is eligible for a loan under paragraph (1) to obtain a loan from another source as a condition of approving the application for the loan or advancing any amount under the loan.

"(d) INSURED TELEPHONE LOANS.—

"(1) HARDSHIP LOANS.—

"(A) IN GENERAL.—The Administrator shall make insured telephone loans, to the extent of qualifying applications for the loans, at an interest rate of 5 percent per year, to any applicant who meets each of the following requirements:

"(i) The average number of subscribers per mile of line in the service area of the applicant is not more than 4.

"(ii) The applicant is capable of producing net income or margins before interest of not less than 100 percent (but not more than 300 percent) of the interest requirements on all of the outstanding and proposed loans of the applicant.

"(iii) The Administrator has approved a telecommunications modernization plan for the State under paragraph (3) and, if the plan was developed by telephone borrowers under this title, the applicant is a participant in the plan.

"(iv) The average number of subscribers per mile of line in the area included in the proposed loan is not more than 17.

"(B) AUTHORITY TO WAIVE TIER REQUIREMENT.—The Administrator may waive the requirement of subparagraph (A)(ii) in any case in which the Administrator determines (and sets forth the reasons for the waiver in writing) that the requirement would prevent emergency restoration of the telephone system of the applicant or result in severe hardship to the applicant.

"(C) EFFECT OF LACK OF FUNDS.—On request of any applicant who is eligible for a loan under this paragraph for which funds are not available, the applicant shall be considered to have applied for a loan under title IV.

"(2) COST-OF-MONEY LOANS.—

"(A) IN GENERAL.—The Administrator may make insured telephone loans for the acquisition, purchase, and installation of telephone lines, systems, and facilities (other than buildings used primarily for administrative purposes, vehicles not used primarily in construction, and customer premise equipment) related to the furnishing, improvement, or extension of rural telecommunications service, at an interest rate equal to the then current cost of money to the Government of the United States for loans of similar maturity, but not more than 7 percent per year, to any applicant for a loan who meets the following requirements:

"(i) The average number of subscribers per mile of line in the service area of the applicant is not more than 15.

"(ii) The applicant is capable of producing net income or margins before interest of not less than 100 percent (but not more than 500 percent) of the interest requirements on all of the outstanding and proposed loans of the applicant.

"(iii) The Administrator has approved a telecommunications modernization plan for the State under paragraph (3) and, if the plan was developed by telephone borrowers under this title, the applicant is a participant in the plan.

"(B) CONCURRENT LOAN AUTHORITY.—On request of any applicant for a loan under this paragraph during any fiscal year, the Administrator shall—

"(i) consider the application to be for a loan under this paragraph and a loan under section 408; and

"(ii) if the applicant is eligible for a loan, make a loan to the applicant under this paragraph in an amount equal to the amount that bears the same ratio to the total amount of loans for which the applicant is eligible under this paragraph and under section 408, as the amount made available for loans under this paragraph for the fiscal year bears to the total amount made available for loans under this paragraph and under section 408 for the fiscal year.

"(C) EFFECT OF LACK OF FUNDS.—On request of any applicant who is eligible for a loan under this paragraph for which funds are not available, the applicant shall be considered to have applied for a loan guarantee under section 306.

"(3) STATE TELECOMMUNICATIONS MODERNIZATION PLANS.—

"(A) APPROVAL.—If, not later than 1 year after final regulations are promulgated to carry out this paragraph, the public utility commission of any State develops a telecommunications modernization plan that meets the requirements of subparagraph (B), the Administrator shall approve the plan for the State. If a State does not develop a plan in accordance with the requirements of the preceding sentence, the Administrator shall approve any telecommunications modernization plan for the State that meets the requirements that is developed by a majority of the borrowers of telephone loans made under this title who are located in the State.

"(B) REQUIREMENTS.—For purposes of subparagraph (A), a telecommunications modernization plan must, at a minimum, meet the following objectives:

"(i) The plan must provide for the elimination of party line service.

"(ii) The plan must provide for the availability of telecommunications services for improved business, educational, and medical services.

"(iii) The plan must encourage and improve computer networks and information highways for subscribers in rural areas.

"(iv) The plan must provide for—

"(I) subscribers in rural areas to be able to receive through telephone lines—

"(aa) multiple voices;

"(bb) video images; and

"(cc) data at a rate of at least 1,000,000 bits of information per second; and

"(II) the proper routing of information to subscribers.

"(v) The plan must provide for uniform deployment schedules to ensure that advanced services are deployed at the same time in rural and nonrural areas.

"(vi) The plan must provide for such additional requirements for service standards as may be required by the Administrator.

"(C) FINALITY OF APPROVAL.—A telecommunications modernization plan approved under subparagraph (A) may not subsequently be disapproved. Notwithstanding paragraphs (1)(A)(iii) and (2)(A)(iii), and section 408(b)(4)(C), the Administrator and the Governor of the telephone bank may make a loan to a borrower serving a State that does not have a telecommunication modernization plan approved by the Administrator if the loan is made less than 1 year after the Administrator has adopted final regulations implementing this paragraph.".

(2) RURAL TELEPHONE BANK LOAN PROGRAM.—Section 408 of such Act (7 U.S.C. 948) is amended—

(A) in subsection (a), by striking ", (2)" and all that follows through "408 of this Act," and inserting ", (2) for the acquisition, purchase, and installation of telephone lines, systems, and facilities (other than buildings used primarily for administrative purposes, vehicles not used primarily in construction, and customer premise equipment) related to the furnishing, improvement, or extension of rural telecommunications service,";

(B) in subsection (b)—

(i) by striking paragraph (4) and inserting the following new paragraph:

"(4) The Governor of the telephone bank may make a loan under this section only to an applicant for the loan who meets the following requirements:

"(A) The average number of subscribers per mile of line in the service area of the applicant is not more than 15.

"(B) The applicant is capable of producing net income or margins before interest of not less than 100 percent (but not more than 500 percent) of the interest requirements on all of the outstanding and proposed loans of the applicant.

"(C) The Administrator has approved, under section 305(d)(3), a telecommunications modernization plan for the State in which the applicant is located and, if the plan was developed by telephone borrowers under title III, the applicant is a participant in the plan.";

(ii) in paragraph (8)—

(I) by inserting "(A)" after "(8)";

(II) by striking "if such prepayment is not made later than September 30, 1988" and inserting "except for any prepayment penalty provided for in a loan agreement entered into before the date of enactment of the Omnibus Budget Reconciliation Act of 1993"; and

(III) by adding at the end the following new subparagraph:

"(B) If a borrower prepays part or all of a loan made under this section, then, notwithstanding section 407(b), the Governor of the telephone bank shall—

"(i) use the full amount of the prepayment to repay obligations of the telephone bank issued pursuant to section 407(b) before October 1, 1991, to the extent any such obligations are outstanding; and

"(ii) in repaying the obligations, first repay the advances bearing the greatest rate of interest."; and

(iii) by adding at the end the following new paragraphs:

"(9) On request of any applicant for a loan under this section during any fiscal year, the Governor of the telephone bank shall—

"(A) consider the application to be for a loan under this section and a loan under section 305(d)(2); and

"(B) if the applicant is eligible for a loan, make a loan to the applicant under this section in an amount equal to the amount that bears the same ratio to the total amount of loans for which the applicant is eligible under this section and under section 305(d)(2), as the amount made available for loans under this section for the fiscal year bears to the total amount made available for loans under this section and under section 305(d)(2) for the fiscal year.

"(10) On request of any applicant who is eligible for a loan under this section for which funds are not available, the applicant shall be considered to have applied for a loan under section 305(d)(2)."; and

(C) by adding at the end the following new subsection:

"(e) Loans and advances made under this section on or after November 5, 1990, shall bear interest at a rate determined under this section, taking into account all assets and liabilities of the telephone bank. This subsection shall not apply to loans obligated before the date of enactment of this subsection. Funds are not authorized to be appropriated to carry out this subsection until the funds are appropriated in advance to carry out this subsection.".

(b) FUNDING.—

(1) LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.—Section 314 of such Act (7 U.S.C. 940d) is amended to read as follows:

"SEC. 314. LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.

"(a) DEFINITION OF ADJUSTMENT PERCENTAGE.—As used in this section, the term 'adjustment percentage' means, with respect to a fiscal year, the percentage (if any) by which—

"(1) the average of the Consumer Price Index (as defined in section 1(f)(5) of the Internal Revenue Code of 1986) for the 1-year period ending on July 31 of the immediately preceding fiscal year; exceeds

"(2) the average of the Consumer Price Index (as so defined) for the 1-year period ending on July 31, 1993.

"(b) FISCAL YEARS 1994 THROUGH 1998.—In the case of each of fiscal years 1994 through 1998, there are authorized to be appropriated to the Administrator such sums as may be necessary for the cost of loans in the following amounts, for the following purposes:

"(1) ELECTRIC HARDSHIP LOANS.—For loans under section 305(c)(1)—

"(A) for fiscal year 1994, $125,000,000; and

"(B) for each of fiscal years 1995 through 1998, $125,000,000, increased by the adjustment percentage for the fiscal year.

"(2) ELECTRIC MUNICIPAL RATE LOANS.—For loans under section 305(c)(2)—

"(A) for fiscal year 1994, $600,000,000; and

"(B) for each of fiscal years 1995 through 1998, $600,000,000, increased by the adjustment percentage for the fiscal year.

"(3) TELEPHONE HARDSHIP LOANS.—For loans under section 305(d)(1)—

"(A) for fiscal year 1994, $125,000,000; and

"(B) for each of fiscal years 1995 through 1998, $125,000,000, increased by the adjustment percentage for the fiscal year.

"(4) TELEPHONE COST-OF-MONEY LOANS.—For loans under section 305(d)(2)—

"(A) for fiscal year 1994, $198,000,000; and

"(B) for each of fiscal years 1995 through 1998, $198,000,000, increased by the adjustment percentage for the fiscal year.

"(c) FUNDING LEVELS.—The Administrator shall make insured loans under this title for the purposes, in the amounts, and for the periods of time specified in subsection (b), as provided in advance in appropriations Acts.

"(d) AVAILABILITY OF FUNDS FOR INSURED LOANS.—Amounts made available for loans under section 305 are authorized to remain available until expended.".

(2) RULE OF INTERPRETATION.—Section 309(a) of such Act (7 U.S.C. 939(a)) is amended by adding at the end the following new sentence: "The preceding sentence shall not be construed to make section 408(b)(2) or 412 applicable to this title.".

(c) MISCELLANEOUS AMENDMENTS.—

(1) LOANS FOR RURAL ELECTRIFICATION.—Section 2 of such Act (7 U.S.C. 902) is amended—

(A) by inserting "(a)" before "The Administrator";

(B) by striking "telephone service in rural areas, as hereinafter provided;" and inserting "electric and telephone service in rural areas, as provided in this Act, and for the purpose of assisting electric borrowers to implement demand side management, energy conservation programs, and on-grid and off-grid renewable energy systems;"; and

(C) by adding at the end the following new subsection:

"(b) Not later than January 1, 1994, the Administrator shall issue interim regulations to implement the authority contained in subsection (a) to make loans for the purpose of assisting electric borrowers to implement demand side management, energy conservation programs, and on-grid and off-grid renewable energy systems. If the regulations are not issued by January 1, 1994, the Administrator shall consider any demand side management, energy conservation, or renewable energy program, system, or activity that is approved by a State agency to be eligible for the loans.".

(2) LOANS FOR ELECTRICAL PLANTS AND TRANSMISSION LINES.—Section 4 of such Act (7 U.S.C. 904) is amended by inserting after "central station service" the following: "and for the furnishing and improving of electric service to persons in rural areas, including by assisting electric borrowers to implement demand side management, energy conservation programs, and on-grid and off-grid renewable energy systems".

(3) CURTAILMENT OR LIMITATION OF SERVICES PROHIBITED.—

(A) IN GENERAL.—Section 7 of such Act (7 U.S.C. 907) is amended—

(i) by striking "SEC. 7. The" and inserting the following:

"SEC. 7. PROPERTY PLEDGED FOR LOANS; CURTAILMENT OF SERVICES.

"(a) IN GENERAL.—The";

(ii) in the second undesignated paragraph, by striking "No borrower" and inserting the following:

"(b) SALE OF PROPERTY BY BORROWER.—No borrower"; and

(iii) by adding at the end the following new subsection:

"(c) CURTAILMENT OR LIMITATION OF SERVICES PROHIBITED.—

"(1) PROHIBITION.—

"(A) IN GENERAL.—Section 306(b) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(b)) shall apply to an electric borrower of a loan made or guaranteed under this Act in the same manner in which such section applies to an association referred to in such section.

"(B) PRIOR LOANS.—

"(i) IN GENERAL.—Subparagraph (A) shall apply only in areas included within the boundaries of any municipal corporation or other public body that include new facilities financed by loans made or guaranteed by the Administrator after the effective date of this subsection, but not including the refinancing of loans made or guaranteed prior to the effective date of this subsection.

"(ii) COMPETITION.—Nothing in this subsection is intended to prevent a State from permitting competition for new consumers in areas affected by this subsection in the same manner that the competition is permitted in areas not included within the boundaries of a municipality.

"(C) PRIOR ACTIONS.—Nothing in this subsection shall apply to any action of an electric utility taken prior to the effective date of this subsection, including an option to purchase facilities of a borrower granted under the law of a State enacted prior to July 1, 1993.

"(D) AUTHORITY OF ADMINISTRATOR.—Nothing in this subsection shall reduce the authority of the Administrator to protect the security for, or any other interest of the Rural Electrification Administration with respect to, any loan made or guaranteed under this Act for distribution, generation, or transmission.

"(2) NOT PROHIBITED.—

"(A) STATE PROVISIONS.—Nothing in this subsection shall prevent a State from enacting and enforcing any provision concerning the curtailment or limitation of services of a borrower that meets or exceeds the requirements of paragraph (1).

"(B) OTHER ACTIONS.—Nothing in paragraph (1) shall prevent—

"(i) a municipality from imposing a usual, customary, and nondiscriminatory fee on a borrower under this Act;

"(ii) a borrower, a municipality, or other electric utility from entering into a voluntary agreement that relates to any prohibition described in paragraph (1); or

"(iii) a municipality from extending the corporate boundaries of the municipality to include an area that receives electric service from a borrower under this Act.".

(B) INTERIM FINAL RULE.—Not later than November 1, 1993, the Secretary of Agriculture shall promulgate an interim final rule to implement section 7(c) of the Rural Electrification Act of 1936 (as added by subparagraph (A)). The rule shall become effective on February 1, 1994.

(C) EFFECTIVE DATE.—Except as provided in subparagraph (B), this paragraph and the amendments made by this paragraph shall become effective on February 1, 1994.

(4) DEFINITIONS.—Section 13 of such Act (7 U.S.C. 913) is amended—

(A) by inserting ", except as provided in section 203(b)," before "shall be deemed to mean any area"; and

(B) by striking "city, village, or borough having a population in excess of fifteen hundred inhabitants" and inserting "urban area, as defined by the Bureau of the Census".

(5) GENERAL PROHIBITIONS.—Section 18 of such Act (7 U.S.C. 918) is amended—

(A) by inserting "(a) NO CONSIDERATION OF BORROWER'S LEVEL OF GENERAL FUNDS.—" before "The Administrator"; and

(B) by adding at the end the following new subsections:

"(b) LOAN ORIGINATION FEES.—The Administrator and the Governor of the telephone bank may not charge any fee or charge not expressly provided in this Act in connection with any loan made or guaranteed under this Act.

"(c) CONSULTANTS.—

"(1) IN GENERAL.—To facilitate timely action on applications by borrowers for financial assistance under this Act and for approvals required of the Rural Electrification Administration pursuant to the terms of outstanding loan or security instruments or otherwise, the Administrator may use consultants funded by the borrower, paid for out of the general funds of the borrower, for financial, legal, engineering, and other technical advice and services in connection with the review of the application by the Rural Electrification Administration.

"(2) CONFLICTS OF INTEREST.—The Administrator shall establish procedures for the selection and the provision of technical services by consultants to ensure that the consultants have no financial or other potential conflicts of interest in the outcome of the application of the borrower.

"(3) PAYMENT OF COSTS.—The Administrator may not, without the consent of the borrower, require, as a condition of processing an application for approval, that the borrower agree to pay the costs, fees, and expenses of consultants hired to provide technical or advisory services to the Administrator.

"(4) CONTRACTS, GRANTS, AND AGREEMENTS.—The Administrator may enter into such contracts, grants, or cooperative agreements as are necessary to carry out this section.

"(5) USE OF CONSULTANTS.—Nothing in this subsection shall limit the authority of the Administrator to retain the services of consultants from funds made available to the Administrator or otherwise.".

(6) DEFINITION OF RURAL AREA.—Section 203(b) of such Act (7 U.S.C. 924(b)) is amended by striking "one thousand five hundred" and inserting "5,000".

(7) INSURED LOANS.—Section 305 of such Act (7 U.S.C. 935) (as amended by subsection (a)(1)) is further amended—

(A) by striking "SEC. 305. INSURED LOANS; INTEREST RATES AND LENDING LEVELS.—(a) The" and inserting the following:

"SEC. 305. INSURED LOANS; INTEREST RATES AND LENDING LEVELS.

"(a) IN GENERAL.—The"; and

(B) in subsection (b), by striking "(b) Loans" and inserting "(b) INSURED LOANS.—Loans".

(8) ELIGIBILITY OF DISTRIBUTION BORROWERS; ADMINISTRATIVE PROHIBITIONS.—Title III of such Act is amended by inserting after section 306B (7 U.S.C. 936b) the following new sections:

"SEC. 306C. ELIGIBILITY OF DISTRIBUTION BORROWERS FOR LOANS, LOAN GUARANTEES, AND LIEN ACCOMMODATIONS.

"For the purpose of determining the eligibility of a distribution borrower not in default on the repayment of a loan made or guaranteed under this Act for a loan, loan guarantee, or lien accommodation under this title, a default by a borrower from which the distribution borrower purchases wholesale power shall not—

"(1) be considered a default by the distribution borrower;

"(2) reduce the eligibility of the distribution borrower for assistance under this Act; or

"(3) be the cause, directly or indirectly, of imposing any requirement or restriction on the borrower as a condition of the assistance, except such requirements or restrictions as are necessary to implement a debt restructuring agreed on by the power supply borrower and the Government.

"SEC. 306D. ADMINISTRATIVE PROHIBITIONS APPLICABLE TO ELECTRIC BORROWERS.

"The Administrator may not require prior approval of, impose any requirement, restriction, or prohibition with respect to the operations of, or deny or delay the granting of a lien accommodation to, any electric borrower under this Act whose net worth exceeds 110 percent of the outstanding principal balance on all loans made or guaranteed to the borrower by the Administrator.

(9) LOANS FROM OTHER CREDIT SOURCES.—Section 307 of such Act (7 U.S.C. 937) is amended by adding at the end the following new sentence: "The Administrator may not request any applicant for an electric loan under this Act to apply for and accept a loan in an amount exceeding 30 percent of the credit needs of the applicant.".

(10) CAPITALIZATION.—Section 406 of such Act (7 U.S.C. 946) is amended by adding at the end the following new subsection:

"(i) The Governor of the telephone bank may invest in obligations of the United States the amounts in the account in the Treasury of the United States numbered 12X8139 (known as the 'RTB Equity Fund').".

(d) EXPANDED ELIGIBILITY FOR LOANS FOR WATER AND WASTE DISPOSAL FACILITIES.—Section 306(a)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(1)) is amended by inserting after the first sentence the following new sentence: "The Secretary may also make loans to any borrower to whom a loan has been made under the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.), for the conservation, development, use, and control of water, and the installation of drainage or waste disposal facilities, primarily serving farmers, ranchers, farm tenants, farm laborers, rural businesses, and other rural residents.".

(e) RURAL ECONOMIC DEVELOPMENT.—Section 364 of such Act (7 U.S.C. 2006f) is amended by adding at the end the following new subsection:

"(g) RURAL ECONOMIC DEVELOPMENT.—

"(1) IN GENERAL.—A borrower of a loan or loan guarantee under the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.) shall be eligible for assistance under all programs administered by the Rural Development Administration.

"(2) PARTICIPATION.—The Administrator of the Rural Development Administration shall encourage and facilitate the full participation of borrowers referred to in paragraph (1) in programs administered by the Rural Development Administration.".

(f) REGULATIONS.—Not later than October 1, 1993, interim final rules shall be issued by—

(1) the Administrator of the Rural Electrification Administration to carry out amendments made by this section to programs administered by the Administrator;

(2) the Administrator of the Rural Development Administration to carry out amendments made by this section to programs administered by the Administrator; and

(3) the Secretary of Agriculture to carry out amendments made by this section to programs administered by the Farmers Home Administration.

(d) USE OF COMMODITY CREDIT CORPORATION.—Section 1241 of such Act (16 U.S.C. 3841) is amended—

(1) in subsection (a)—

(A) by striking paragraph (1) and inserting the following new paragraph:

"(1) During each of fiscal years 1994 through 2000, the Secretary shall use the facilities, services, authorities, and funds of the Commodity Credit Corporation to carry out chapter 1 of subtitle D."; and

(B) in paragraph (2), by striking "subtitle D" and inserting "chapters 2 and 3 of subtitle D"; and

(2) in subsection (b), by striking "subtitles (A) through (E)" and inserting "subtitle A through this subtitle".

Mr. DE LA GARZA. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Missouri [Mr. VOLKMER].

Mr. VOLKMER. Mr. Speaker, just a few minutes ago the other gentleman from Missouri, who spoke from the other side, mentioned the retroactivity of taxes. I want to tell my farmers out there, and every farmer in the United States, that that retroactivity only applies if your adjusted gross income, if you are married, is over $185,000.

I do not know of too many of those farmers in my district. Perhaps the other gentleman does. However, I do have a lot of farmers in my district who are young and just starting out, and they have children. Their income is under $30,000. They are going to be better off under this tax bill and under this plan than they are under present law. They are going to be better off, I will say it again, they are going to be better off under this plan than they are under present law. They are going to be paying less taxes.

Why are the Members opposed to young people getting started on a farm, opposed to them paying less taxes? I feel they should have that opportunity to farm, just like their forefathers did.

Mr. BOEHNER. Mr. Speaker, there are many reasons to oppose this regressive tax plan. Through one small provision, the 75-percent domestic content requirement, Congress is about to do profound damage to tobacco growers and workers.

I believe such a requirement will decrease export cigarette sales and encourage manufacturers to produce cigarettes abroad. The devastating effect will be twofold: First, an effective decrease in the use of U.S. leaf in export cigarettes made abroad; and second, fewer U.S. cigarette manufacturing jobs.

A few well-meaning southern Democrats have included this provision to protect their growers. This provision will ensure growers only 1 or 2 good years. After that, growers will be seriously hurt when manufacturing moves offshore, thereby reducing the demand for domestic tobacco.

U.S. growers depend not only on the actual production of the crop, but also on the downstream activities related to the manufacturing and consumption of the product. Given declining U.S. demand for cigarettes, our only growth opportunities are in expanding our overseas markets. This provision will encourage those manufacturers who can to move overseas to meet their foreign demand. Smaller companies will be forced out of the business all together—further reducing the number of buyers of U.S.-produced tobacco.

While I understand the growers concern about the rising use of imported tobacco by U.S. manufacturers and want to do what is right and reasonable on imports, I believe this proposal will do more harm than good.

Some Members of this body find it hard to understand that trade is a two-way street. This provision is totally inconsistent with our goals in the ongoing trade negotiations. In addition, it could open the door to retaliation by our trading partners. This relation would make it harder for our own farmers to sell U.S. leaf in those countries.

American leaf growers and workers would be better served by having as many cigarettes as possible produced in this country.

While I remain committed to supporting the American tobacco grower and the tobacco industry I believe this provision does more harm than good. The question each of us must ask is will our growers be better or worse off if this provision is enacted. I believe long-term, they will be hurt by this requirement.

I urge my colleagues to vote against this bill so that this, and other small mischievous provisions, do not become law.

Mr. DE LA GARZA. Mr. Speaker, I yield myself such time as I may consume.

Mr. KINGSTON. Mr. Speaker, will the gentleman yield?

Mr. DE LA GARZA. Mr. Speaker, I yield to the gentleman from Georgia.

Mr. KINGSTON. Mr. Speaker, later today the House of Representatives will vote on the budget reconciliation package. This legislation will impose the largest tax increase in history on working men and women of America in return for vague and unenforceable promises of congressional spending cuts 3 to 5 years down the road.

The leadership of the House will force this issue to a vote, even though most Members of Congress have not even been provided with a copy of the final document, and when average Americans will not learn its contents for weeks.

Mr. Speaker, this is government at its absolute worst. If the budget compromise is really as wonderful as the administration and the majority say it is, then nothing would be sacrificed by allowing for a short period of time over the August recess to enable all Members and the American public to fully examine and understand that which is about to be enacted.

Mr. Speaker, what is it that we in Congress are trying to hide from the American people? President Clinton, his Cabinet members, and the Members on your side, assure us this budget package is the greatest thing since sliced bread, that it will set America on the road to elimination of the deficit, reduction of the national debt, while also creating jobs and job opportunities in glorious abundance. Don't worry, be happy! Just be sure to omit the details, the deals, and the fine print.

All I seek is a fair and reasonable opportunity to examine the final package. We should be allowed to determine whether or not the American public is being told the truth or if they are being sold yet another partisan, political bill of goods.

Americans are not afraid of sacrifice, and they certainly want to see a change in the way the Federal Government handles its finances. However, the working women and men in the Georgia First District did not just fall off the back of a turnip truck. They know the difference between sacrifice and suicide.

I do not know how others in this Chamber may feel, Mr. Speaker, but I absolutely refuse to vote in favor of any budget until I have at least seen it, read it, and have had a chance to gather the input on its impacts from the people who sent me here to represent them in Washington.

By the way, the input the President asked for started by phone calls into my office as soon as his televised speech was over. Since then the calls and telegrams have run 215 against the bill and 14 for the bill.

□ 1440

Mr. DE LA GARZA. Mr. Speaker, I rise in support of the conference report.

I support this legislation because it is time for this Government to change the way it does business. It is time to make the hard and difficult choices we have avoided for too many years about tax policies and spending policies.

This legislation will make a real and significant reduction in the Federal deficit. Our actions here will help restore confidence in our economy. This legislation will help keep interest rates and inflation down. This legislation lays the foundation for the economic recovery of rural America and our entire Nation.

AGRICULTURE RECONCILIATION PROVISIONS

Mr. Speaker, I want to briefly describe the provisions agreed to by the agriculture conferees.

To meet the budget resolution, the agriculture conferees had to make at least $2.95 billion worth of reductions in the programs in our jurisdiction. According to the Congressional Budget Office, the provisions in this bill are projected to reduce agriculture spending by a total of more than $3 billion over the next 5 years.

This $3 billion is on top of the $13 billion reduction required under the 1990 budget agreement. The agriculture function of the budget is the only major entitlement until now that has had budget discipline forced upon it.

Let there be no question that agriculture programs are contributing their share to deficit reduction. In fact, since I became the Agriculture Committee chairman in 1981, our committee has cut projected spending in our jurisdiction by $56 billion.

As every one of my colleagues knows, this has been a very, very difficult year for thousands of farmers in the Midwest and in the Southeast.

In the Midwest, those who farmed near the rivers have had their crops—and even their homes—destroyed by the record-setting floods. Millions of acres were never planted at all. And the lucky ones who finally got their crops planted now run the risk of an early frost that could cut short an already too-short growing season.

Just as devastating is the searing drought that has stunted crops in parts of the Southeast. Those farmers got their crops planted but will harvest little or nothing this fall.

Crop insurance and the crop disaster payments to be funded by the midwest flood relief supplemental will help these people recoup some of their losses. But it will be a year before any of these farmers will harvest another crop. Now is not the time to further reduce the primary safety net programs that seek to stabilize farm income.

In this conference report we chose policy options from the House and Senate bills that carry legitimate budget savings, but have a minimal adverse effect on farm income.

We made modifications in the acreage limitation guidelines for the wheat, feed grains, cotton and rice programs. These changes will scale back Government spending by more than $1 billion over the next 5 years.

We cut projected spending under the dairy program by nearly $260 million. The soybean loan rate is lowered by 2 percent. The current assessments on sugar and peanut producers are increased to offset more of the future cost of those programs. Assessments are also levied on the growing amount of tobacco being imported into the United States.

We have reluctantly imposed lower enrollment targets for two of our successful farm-related environmental programs—the Conservation Reserve Program and the Wetlands Reserve Program—that will save nearly $470 million over the next 5 years.

The conference agreement also makes major and significant reforms in several other agricultural programs to cut spending and improve efficiency. These changes will address various criticisms of these programs. These changes also address issues raised in President's Clinton's own budget submission.

We mandate changes and reforms in the crop insurance program. It is time we put this very necessary program on the road to operating in a much more actuarially sound manner.

We reduce the spending ceiling for the Market Promotion Program, one of our export promotion programs. We refocus and reform the program. Participants must now use its assistance to counter unfair trade practices in a foreign country. We also include language to promote the involvement of smaller companies in this program.

Mr. Speaker, this conference report will also require spending reductions and major changes in the operation of the honey, wool, and mohair programs.

This conference agreement will lower the government-guaranteed price floor for honey producers by 9 percent over the next 5 years. This will effectively make the honey program operate at no net cost to taxpayers and still provide producers with a price stabilizing marketing tool.

The conference report also gradually lowers the maximum benefits a honey producer may receive by two-thirds by 1998. These changes are expected to reduce honey program spending by $24 million over the next 5 years.

We use a similar phase-in of lower payment limits for wool and mohair producers too. These changes will save an estimated $48 million in the operation of the wool and mohair programs.

These reforms are good for taxpayers and good for the agricultural producers involved. Federal spending is being reduced. At the same time we are preserving the ability of these programs to provide some semblance of economic stability to producers of these agricultural products.

FOOD STAMP PROGRAM PROVISIONS

I am very pleased the conference agreement endorses the Mickey Leland Act to improve the Food Stamp Program. To fit within the available funding, we have had to scale back many of its original provisions. Nevertheless, this initiative is still an important step forward.

This bill will help poor families afford to both heat their homes and put food on their table. This bill will encourage absent parents to meet their child support obligations. It will provide food assistance to more of the working poor. And it will encourage children to finish school and enroll in adult employment and training programs.

Nothing is more important to our society than ensuring that all Americans have access to a decent diet.

I want to point out that the funds for the food stamp increase do not and cannot come from farm program reductions. The Food Stamp Program is a discretionary account and farm programs are mandatory direct spending.

PROVISION DEALING WITH SALE OF BST

Mr. Speaker, the conference report also has a provision that addresses the sale of a genetically engineered animal drug known as bovine somatotropin (BST). Currently, a number of companies have applications pending before the Food and Drug Administration seeking to have this drug approved.

The Senate bill would have prohibited the sale of BST through September 30, 1993. The House bill included no similar provision. The House conferees on this provision—including members from the Committee on Energy and Commerce—were generally in opposition to intervention in the animal drug approval process.

The conference agreement prohibits the sale of BST during the 90 days following the date on which an application is first approved by the FDA. In addition, during that 90-day period, the assessment on all milk marketings will be reduced by 10 percent. Assessment receipts are used to partially offset the costs of administering the dairy price support program.

No provision in the compromise is intended to change—either directly or indirectly—the processes and procedures governed by the Federal Food, Drug, and Cosmetic Act and regulations thereunder regarding the process of considering any application for a new animal drug.

Mr. Speaker, we find that much of the future's promise for agriculture is grounded in advances in biotechnology. These advances will lead to lower costs of producing food and fiber, benefit our economy by leading to increases in productivity, and help to fend off the effects of famine which afflict so much of our world. I know that my colleagues in the House will join me in embracing scientific advances that show promise for advancing American agriculture.

PROVISIONS DROPPED BECAUSE OF POTENTIAL BYRD RULE OBJECTIONS

I can assure my colleagues that the agriculture title of this conference report has been thoroughly cleansed of extraneous provisions that might be subject to the Byrd rule in the Senate. Of the original 113 pages of agriculture bill language approved by the conferees, only 60 pages are before you today.

I will bring three of these items to the Members' attention. These items were in the House-passed bill.

Out is the entire set of proposed reforms in the loan programs of the Rural Electrification Administration [REA] for rural electric and rural telephone cooperatives. Unfortunately, these changes only affected authorization levels, not direct spending.

Out is a conference agreement to extend the operating authority for all commodity programs through 1997.

Out is the authority to use the Commodity Credit Corporation to ensure funding of enrollments into the Conservation Reserve Program and Wetlands Reserve Program.

OTHER PROVISIONS THAT WILL HELP RURAL AMERICA

Mr. Speaker, I want to commend my colleagues on the Ways and Means Committee for the work they have done on the tax portions of this package.

This legislation asks only a small sacrifice by most of the middle class. The income tax increases will affect only high-income Americans. The 4.3-cent-per-gallon gas tax will cost the average driver less than $30 per year.

The working poor with children will have a tax reduction because of the expansion of the earned income tax credit.

The tax provisions will promote small business growth. It will give people tax incentives to start small businesses. It will allow small businesses to expense more of their depreciable assets. It will relax the passive loss rules. And it will permanently extend housing review tax credits, mortgage revenue bonds and small issue industrial revenue bonds.

The tax provisions are also fair to American farmers. On-farm use of fuel will be exempt from the gas increase. Small farmers will be able to expense a greater amount of their depreciable assets. The 25-percent deduction for health insurance paid by self-employed farmers is extended

Mr. Speaker, the Omnibus Budget Reconciliation Act of 1993 is a comprehensive and balanced approach to deficit reduction. It makes budget cuts in nearly all phases of government operations. It has more spending cuts than revenue increases.

This budget plan will reduce the deficit. This budget plan will help keep interest rates and inflation down—and that means it will help create jobs. That's good for rural America and our entire Nation. I urge my colleagues to support the President and support this conference report.

Mr. Speaker, following this statement, appears a brief summary of the conference agreement on the agriculture title.

SUMMARY OF AGRICULTURE PROVISIONS OF CONFERENCE AGREEMENT ON BUDGET RECONCILIATION

Eliminate "GATT trigger" language on minimum ARPs (Projected 5-year savings = $586 milion):

The Conference Agreement would remove the authority of the Secretary of Agriculture to waive minimum Acreage Reduction Program (ARP) levels, that is, the amount of cropland a farmer must idle in order to qualify for certain farm program benefits. The Conference Agreement does, however, eliminate the minimum ARP levels for grain sorghum and barley. The Conference Agreement retains "GATT trigger" language requiring the use of wheat and feed grain marketing loans.

The "GATT trigger" provisions, included in the Omnibus Budget Reconciliation Act of 1990, give the Secretary of Agriculture authority to waive the minimum ARP rates specified in law if no GATT agreement was reached by June 30, 1992. The Conference Agreement revokes that authority to lower projected government spending.

The Conference Agreement leaves in place the following ARP levels established in 1990: at least a 7.5% ARP for corn, unless the stocks-to-use ratio is projected to be less than 20%; at least a 7% ARP in 1994 and a 5% ARP thereafter for wheat, unless the stocks-to-use ratio is projected to be less than 34%.

Modify Pay/92 programs (Projected 5-year savings = $297 million):

The Conference Agreement would reduce the 0/92 program (for wheat and feed grains) and the 50/92 program (for rice and cotton) to 0/85 and 50/85, respectively. Both modifications would be effective beginning with the 1994 crops. The Conference Agreement would maintain the existing 0/92 and 50/92 options for producers faced with prevented planting or failed acreage, and for minor oilseeds or other alternative crops planted on permitted acres.

Under the proposed 0/85 option, a wheat/feed grains producer may devote all or a portion of their permitted crop acreage to conserving uses and receive deficiency payments on 85% (rather than current 92%) of total payment acres. Under the proposed 50/85 option, a cotton/rice producer may plant between 50–85% of the crop's permitted acreage and receive deficiency payments on 85% of total payment acres.

Adjust cotton stock-to-use target (Projected 5-year savings = $175 million):

The Conference Agreement would reduce the targeted stock-to-use level to 29.5% for the 1995–96 crop years, and 29% for the 1997–98 crop years. Current law mandates that the Secretary set the Acreage Reduction Program (ARP) rate for cotton at a level that would result in a ratio of carryover to total disappearance of 30%.

Lower dairy program costs (Projected 5-year savings = $259 million):

The Conference Agreement sets in statute a readjustment of the purchase prices under the milk price support program for butter (no more than $0.65/pound) and for nonfat dry milk (no less than $1.034/pound). The Conference Agreement would also continue an assessment on milk production, lowered to 10 cents per hundredweight in 1996. The minimum milk support price remains unchanged at $10.10 per hundredweight.

Increase sugar program assessments (Projected 5-year savings = $12 million):

The Conference Agreement would require a 10% increase in the assessment rates established in 1990 on raw cane and beet sugar, beginning with marketings in fiscal year 1995.

Modify oilseed loan program provisions (Projected 5-year savings = $159 million):

The Conference Agreement would (1) reduce the soybean loan rate from current $5.02 per bushel to $4.92 per bushel, and reduce the minor oilseed loan rate from $8.90 per hundredweight to $8.70; both effective with the 1994 crop, (2) eliminate the current 2-percent loan origination fees for soybeans and minor oilseeds beginning with the 1994 crop, and (3) require that soybean and oilseed producers settle all outstanding CCC oilseed loans by September 30 of each year.

Reduce peanut program costs (Projected 5-year savings = $6 million):

The Conference Agreement would require a 10% increase in the current 1% assessment on peanuts, beginning with the 1994 crop.

Reduce honey program costs and maximum payments (Projected 5-year savings = $24 million):

The Conference Agreement would: (1) effectively make the program operate at no net cost to the Federal government by ratcheting down the minimum price support level for honey from 53.8 cents per pound to 47 cents by the 1998 crop year; (2) ratchet down the maximum annual payment a producer may receive from current $150,000, to $125,000 in the 1994 crop year, $100,000 in the 1995 crop year, $75,000 in the 1996 crop year, and $50,000 in the 1997 and following crop years; and (3) eliminate the marketing assessment beginning in crop year 1994.

Reduce wool and mohair program costs and maximum payments (Projected 5-year savings = $48 million):

The Conference Agreement would: (1) ratchet down the maximum annual incentive payments a wool or mohair producer may receive under the programs from current $150,000, to $125,000 in the 1994 marketing year, $100,000 in 1995, $75,000 in 1996, and $50,000 in 1997 and following years; (2) prohibit USDA from deducting marketing charges in determining net sales proceeds for shorn wool and shorn mohair; and (3) eliminate the wool and mohair marketing assessment beginning with marketing year 1993.

Assess tobacco imports to maintain no net cost tobacco program (Projected 5-year savings = $29 million):

The Conference Agreement would: (1) require domestic manufacturers of cigarettes to certify the percentage of domestic tobacco used, with penalties and domestic purchase requirements for any imports in excess of 25%, (2) require assessments on tobacco importers for Federal deficit reduction and to help maintain a no net cost tobacco program, (3) require comparable fees for inspecting imported and domestic tobacco, and (4) extend the Secretary's authority to waive quota reduction floors for the 1995 and 1996 crops.

Reduce and target funding for Market Promotion Program (MPP) (Projected 5-year savings = $405 million):

The Conference Agreement would (1) reduce maximum MPP funding from the current authorized level of $148 million annually to $110 million, beginning with fiscal year 1994; (2) direct the Secretary to implement certain program reforms to target assistance to counter and offset unfair foreign trade practices; and (3) promote greater participation from small entities. MPP is an export promotion program that helps producers and processors of U.S. agricultural products develop export markets.

Limit CRP enrollment; limit and extend WRP enrollment (Projected 5-year savings = $469 million):

The Conference Agreement would cap enrollment of land into the Conservation Reserve program (CRP) at 38 million acres through 1995. This is 2 million acres lower than the minimum enrollment target under current law. The Conference Agreement directs the Secretary to reserve 1 million acres of enrollment during 1995. Currently, there are 36.5 million acres in CRP.

The Conference Agreement would reduce total acreage enrollment into the Wetlands Reserve program (WRP) to a minimum of 330,000 acres through 1995, and a minimum of 975,000 acres through 2000. Enrollment authority would be extended through 2000. Current law requires enrollment of 1 million acres into WRP through 1995.

Increase Forest Service recreation fees (Projected 5-year savings = $44 million):

The Conference Agreement would extend authority of the Secretaries of the Interior and Agriculture to charge admission and user fees for various Forest Service-managed recreation areas and facilities.

Reduce loss ratio for Federal crop insurance (Projected 5-year savings = $501 million):

The Conference Agreement would require the Federal Crop Insurance Corporation to take steps necessary to improve the actuarial soundness of the Federal Crop Insurance program so as to achieve a projected overall loss ratio of no greater than 1.1 by the fiscal year beginning Oct. 1, 1995. These steps include instituting requirements for actual production history records by farm producers, expanding the current "Group Risk" pilot program, creating a nationwide database to track participation according to social security numbers, and other measures under current authority to improve actuarial soundness while maintaining fairness and effective coverage for producers.

Refinancing and prepayment of FFB loans (Projected 5-year outlay savings = $1 million):

The Conference Agreement would modify refinancing and prepayment conditions for electric loans owed by rural electric cooperatives to the Federal Financing Bank (FFB).

Sale of bovine growth hormone (Projected outlay cost = $5.3 million):

The Conference Agreement would (1) delay the commercial sale of bovine growth hormone (BGH)—also called bovine somatotropin (BST)—for 90 days following approval by the Food and Drug Administration, and (2) require a 10% decrease in the assessment levied on all producers during that 90-day period.

Expand Food Stamp benefits to help needy Americans (Projected 5-year cost = $2.5 billion):

The Conference Agreement would provide increased food assistance to low-income individuals through changes in the Food Stamp Program. Among these provisions are:

Families with high shelter expenses.—The Conference Agreement would increase the shelter cap deduction for households in the contiguous 48 states from the current $200 to $231 on July 1, 1994, and to $247 on Oct. 1, 1995. The shelter deduction cap would be removed entirely, effective Jan. 1, 1997. The shelter deduction equals the amount of a household's shelter costs that exceed 50% of its income, currently capped at $200.

Treatment of earned income tax credits.—The Conference Agreement would exclude earned income tax credits received by households from consideration as resources for 1 year following their receipt.

Homeless families in transitional housing.—The Conference Agreement would exclude from food stamp income the full amount of vendor payments for transitional housing for homeless households.

Nutritional assistance to Puerto Rico.—The Conference Agreement would increase nutritional assistance for the Puerto Rico block grant from current $1.091 billion to $1.097 billion for fiscal year 1994, and from current $1.133 billion to $1.143 billion for fiscal year 1995.

Improving access to employment and training.—The Conference Agreement would raise dependent care deductions to the local market rate, but no more than $200 per month for each child under 2 years old and $175 for other dependents.

Vehicle value.—The Conference Agreement would gradually raise the vehicle fair market value from the current $4,500 to $4,550 on Sept. 1, 1994, to $4,600 on Oct. 1, 1995, and a base value of $5,000 on Oct. 1, 1996 (adjusted on that date and annually thereafter to reflect the Consumer Price index).

Vehicles used to carry fuel or water.—The Conference Agreement would exclude from a household's financial resources, used in determining eligibility, any vehicle used to transport the primary water or heating fuel for the household.

Simplify household definition.—The Conference Agreement would make certain changes to simplify the household definition for households with children and others. This provision is to allow adult siblings and their families to be treated as separate households when they are forced by economic circumstances to share a home if they don't purchase or prepare food together.

Disqualification for trading contraband for food stamps.—The Conference Agreement would require a 1 year disqualification of a recipient from the Food Stamp Program for a first occasion of a court finding that the recipient has traded controlled substances for food coupons, and permanent disqualification on a second offense. Trading of firearms, ammunition or explosives for food coupons would bring about permanent disqualification on first offense.

Increased penalty for trafficking in food stamps.—The Conference Agreement would clarify that a retailer can be assessed a civil money penalty of up to $40,000 for selling firearms, ammunition, explosives or controlled substances for violations in a single investigation.

Food stamp quality control system.—The Conference Agreement would streamline the appeals process for quality control claims. The Conference Agreement would require the use of an annual national average and a sliding scale to determine the level of penalties assessed on states for error rates. The Conference Agreement would require that an administrative law judge, instead of the Secretary of Agriculture, determine whether to waive all or part of a state's quality control liability. State agencies would be assessed interest on outstanding liabilities if the appeals process takes more than 1 year.

Implementation dates.—The Conference Agreement would establish various implementation dates, including phase-in dates, to conform the provisions to the available funding.

The SPEAKER pro tempore (Mr. MURTHA). The gentleman from Texas [Mr. DE LA GARZA] has 1 minute remaining.

Mr. DE LA GARZA. Mr. Speaker, I yield 1 minute to the gentleman from South Dakota [Mr. JOHNSON].

Mr. JOHNSON of South Dakota. Mr. Speaker, I thank the gentleman for yielding the time.

Mr. Speaker, I had problems with the earlier, initial version of this bill because of the Btu tax. It seemed to me that it was essential that we get rid of that, that we lighten the burden on the middle class.

That has occurred. We now find ourselves with a deficit reduction bill, the only bill available, there are no other options, which not only keeps the burden light on the middle class, but in fact cuts taxes in a net way for most of my farmers and ranchers and small business people in South Dakota by the time a $20 or $30 gas tax is paid, but then is offset by restoration of health insurance deductibility, and that alone is going to result in a tax cut.

There are crocodile tears being shed over the middle class and small business. But we should not lose sight that in reality those who object to this bill are looking out for those Americans who are making $250,000 a year. They are looking out for the wealthy.

The ordinary American says make it as fair as you can, but for heaven's sake let us make progress on deficit reduction, cut the excuses, cut the explaining, cut the finger pointing and let us get on with it. This bill does it. There is no other alternative, and we have to go forward with this piece of legislation.

The SPEAKER pro tempore. All time for the Committee on Agriculture has expired.

The Chair will next recognize the Committee on Armed Services. The gentleman from California [Mr. DELLUMS] will be recognized for 10 minutes and the gentleman from South Carolina [Mr. SPENCE] will be recognized for 10 minutes.

The Chair recognizes the gentleman from California [Mr. DELLUMS].

Mr. DELLUMS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today I rise to report on the work of the House Armed Services Committee with respect to the reconciliation conference report.

I am pleased to say that our conferees came to an agreement with our Senate colleagues, and together we met the defense target in the reconciliation bill. Our conferees agreed to a 5-year direct spending reduction of $2.357 billion. This savings is a result of a delay in the COLA adjustment for retirees of the uniformed services.

This agreement does not change the percentage of the COLA, only the timing of it. The conferees agreed to delay COLA's for nondisabled retirees for 3 months in fiscal 1994, and by 9 months in fiscal 1995 through 1998.

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Therefore, the fiscal year 1994 COLA would be paid on April 1, 1994. The COLA's in the years 1995 through 1998 would be paid on October 1 in those years.

As I stated, COLA's for disabled retirees and for survivors would not be affected by this provision and will continue to be paid on the dates established in current law.

Mr. Speaker, I realize the provision I just outlined is but one piece of the larger reconciliation bill. Let me take a moment to focus on the larger picture.

Mr. Speaker, we have heard a great deal today and in the days before about the unfairness of the compromise budget before us, and I myself would have done differently, as many of my colleagues know. In fact, I am very proud and very pleased to have been associated over the past several years with my colleagues on the Congressional Black Caucus in its effort each year to bring forward a progressive budget alternative for the past decade.

These initiatives offered a truly progressive and enlightened alternative to settle spending priorities which remain a valuable blueprint worthy of consideration.

The situation we find ourselves facing today would be greatly different, I would submit, if the CBC alternative approach had been adopted during the past decade.

Mr. Speaker, I have my own criticism, as do many of my colleagues here. I share the distaste of many of my colleagues of some of the spending cuts that are proposed, but I intend to support this budget compromise.

Those who do not support it are often heard remarking about how unfair it is, how it raises taxes too much, how it does not cut spending enough, how it takes this country down the wrong road. The irony, Mr. Speaker, is that we are hearing this from many, in many cases, from those who brought us down the road to this crisis.

We must not lose sight of a very important central concept, the deficit causes debt, debt causes borrowing, borrowing costs money, a great deal of money in interest on this debt.

Now, consider the following, Mr. Speaker: In 1981, the Reagan administration inherited a debt just over $900 billion from President Carter. The deficit in the last year of the Carter administration was $73.8 billion. In the 12 years of the Reagan-Bush administrations, the debt skyrocketed to $4.3 trillion.

Mr. Speaker, if you subtract the 0.9 trillion that is the Carter debt, the cost of servicing the Reagan-Bush debt at a median interest rate slightly in excess of 6.9 percent is the whopping $236 billion per year.

Mr. Speaker, remember, and I say to the Members of the House, we are here today trying to find $496 billion over the next 5 years. So let us keep this whole debate in proper perspective so the cost of serving the Reagan-Bush debt for the next 5 years, the period we are now agonizing over on the floor of this House in this budget, will be $1,179.2 billion, or $1.18 trillion.

Mr. Speaker, if we are going down the wrong road in the package that gives us $496 billion in deficit reduction, we might remember who brought us to this intersection in the first place. After 12 years of tragic policies of the two previous administrations, we are now being blamed for trying to find a way to pay their debt.

Finally, Mr. Speaker, let me compliment the chairman of the Committee on the Budget, the gentleman from Minnesota [Mr. SABO], for his tireless work on behalf of this bill.

I am proud to say that I will support this bill and the President as we work together to reduce the deficit while at the same time addressing the investment needs of our Nation.

Mr. Speaker, I reserve the balance of my time.

Mr. SPENCE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the only true cuts in this bill come from defense. My colleagues will all recall that nondefense discretionary spending grew by $30 billion in the 5-year Budget Resolution we adopted earlier this year. Defense spending was reduced $186 billion during the same 5 years. I repeat, under the Budget Resolution, defense spending is cut by $186 billion over the next 5 years.

The proponents of the President's budget plan argue that it is a deficit-reduction plan, but it is really a business-as-usual tax-and-spend plan. It increases spending, it increases taxes, in fact, it proposes the largest tax increase in history. The only true spending cuts in the plan come from defense, it increases corporate taxes, it increases income taxes retroactive to January 1, it taxes Social Security, the tax on gas is increased 4.3 cents per gallon. These taxes will affect all Americans, not just higher income people as the President and his supporters assert.

The bottom line of the President's plan is that if implemented, this alleged deficit-reduction plan will increase our national debt by $1.4 trillion. This is true even with the largest tax increase in our history.

Proponents also call this budget a job-creation plan. It is just the opposite. This plan will destroy more than 1 million jobs over the next several years. In defense alone, at least 250,000 jobs are being lost per year. The defense cuts in this bill will also destroy an additional 1 million private sector defense related jobs by 1997. The numbers are staggering, as is the economic impact.

Mr. Speaker, I call on all my colleagues to vote in opposition to this tax-and-spend plan.

Mr. Speaker, I reserve the balance of my time.

Mr. DELLUMS. Mr. Speaker, I yield 3½ minutes to my distinguished colleague, the gentleman from Missouri [Mr. SKELTON], chairman of the Subcommittee on Military Forces and Personnel.

Mr. SKELTON. Mr. Speaker, I thank the gentleman for yielding me this time.

The budget resolution for fiscal year 1994 provided reconciliation direction to the Armed Services Committee in two areas:

First, the committee was directed to report legislation that saves outlays equal to the amount that would be saved by a freeze on military pay in fiscal year 1994. I should point out that the committee was faced with the requirement this year—for the first time ever—to reconcile pay because of the way the CBO baseline was constructed.

Second, the committee was directed to report legislation to achieve savings in direct spending of $2.4 billion for fiscal years 1994 through 1998. These savings were premised on the notion that all Federal civilian and military retirees would receive only a half-COLA—or cost-of-living allowance—until they reach age 62.

After lengthy and heated debate, the Armed Services Committee reported legislation that achieved the required savings but redesigned the retiree COLA to provide a series of delays over the 5-year period. In the committee's view, this rolling COLA, as we dubbed it, was far more equitable because it did not single out one segment of the retiree population to bear the brunt of the required savings.

In the conference deliberations, the Senate conferees stressed that the question of a pay raise was, under the so-called Byrd rule, extraneous to the reconciliation process and, therefore, subject to a point of order. As a result, the House receded to the Senate, dropping the issue of pay from the bill. Instead, each Armed Services Committee dealt with the military pay raise as a part of the Defense authorization bill.

On the issue of retiree COLA's, the conference agreement meets the required direct spending savings by melding the House and Senate versions of the COLA delay applicable to all retirees, both over and under age 62, while continuing to exempt survivors and the disabled. Here's the payment schedule:

The fiscal year 1994 COLA would be delayed 3 months, from January 1, 1994, until April 1, 1994—this is the same as the COLA delay for Federal civilian retirees included elsewhere in this bill;

For fiscal years 1995 through 1998, the COLA would be delayed until the following October.

I know that a number of Members are starting to get mail from military retirees asking why they seem to have been singled out in the reconciliation process. We have worked with our Senate colleagues to make the Federal civilian and military retiree COLA delays the same for fiscal year 1994. Beyond 1994, the COLA payment dates for military and Federal civilian retirees are not the same because the required savings in the budget resolution for the two groups of retirees were very, very different.

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Mr. SPENCE. Mr. Speaker, I yield 4 minutes to the gentleman from Arizona [Mr. KYL], the ranking member on the Subcommittee on Military Forces and Personnel.

Mr. KYL. I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise in opposition to the reconciliation conference report.

Mr. Speaker, I am pleased that the conferees followed the leadership of the House Armed Services Committee and authorized the 2.2 percent pay raise for active duty military—the bare minimum to keep up with inflation—I am disappointed with the inequitable manner in which military retirees—as compared to all Federal retirees—are treated in the conference agreement.

As described by Chairman SKELTON, the COLA for military retirees is delayed by 3 months in fiscal year 1994 and by 9 months from 1995 to 1998. It will be 1999 before the COLA for military retirees reverts back to current law and be payable on January 1.

The COLA for Federal retirees on the other hand, is delayed by 3 months for 3 years, reverting to current law in 1997.

While I would prefer no COLA delay for either Federal or military retirees be adopted, at the very least, both sets of retirees should be treated equally.

Federal civilian retirees are very deserving of their COLA, but this formula is unfair to the people who our country owes the most: the veterans of WWII, Korea, Vietnam, the Persian Gulf.

It is unfair to the 107 constituents in my district who survived the bombing of Pearl Harbor; it is unfair to my constituent who survived the attack on the Liberty; it is unfair to my constituents who were POWs in Vietnam; it is unfair to the 1.6 million retirees in my home State of Arizona.

For 30 years, military and Federal retirees have received identical COLA's, same date, same percent. There is no reason to change this linkage now.

My office has been flooded with letters and calls opposing the reconciliation conference report and, in particular, the unfair treatment of military retirees.

Let me just read from two or three of these letters.

The gentleman from Apache Junction writes:

> In 1944 I quit High School to volunteer for the draft. I served in combat for my country on three different occasions. I know life isn't always fair and that I was lucky to make it to retirement but it sure makes a fellow cynical to see those in power abuse the old covenants that they made with their servicemen and women.

From Phoenix, a gentleman writes:

> Please tell me why both the House and the Senate favor Federal civilian retirees over military retirees. Is this the thanks we get for putting our lives on the line for our country? I lost part of my air crew in the skies over Germany during World War II. If this sounds like I am bitter, you can certainly believe it.

From Scottsdale, Arizona:

> We can understand that there are measures to be taken in regards to the budget deficit and we only ask that fair treatment be given to all Americans. We who have served in the military, as well as those now serving, do so with honor. We appreciate your review of the above Act and ask your support in this matter.

And finally, a gentleman from Mesa, AZ, writes: "I don't care what you do, but make it equal to all."

Mr. Speaker, I agree with these constituents, and I strongly oppose this conference report.

Mr. Speaker, the way proponents are selling this tax bill would make Joe Isuzu proud. Tax the middle class and senior citizens, and call it soaking the rich. Take $275 billion in taxes out of the economy, and claim it will create jobs. Add a trillion to the national debt, and claim it is the biggest deficit reduction plan in history.

Fortunately, the American people do not need Joe Isuzu's captions to recognize a snow job. Calls and letters into my office have been running about 9 to 1 against the Clinton plan.

Mr. Speaker, the President said the other night that there are only two choices. His plan or no plan. The problem is: his plan is worse than no plan. Based on Congressional Budget Office projections, 1.1 million more jobs will be created if we do nothing—nothing—than if we pass the Clinton plan.

The fact is, there are other choices. The ranking member of the Budget Committee, Congressman JOHN KASICH, offered a credible alternative that was debated twice in the House. The New York Times editorialized, back in March, that the Kasich budget is a deficit reduction plan "that is far more specific than the Democrats are contemplating." It would reduce the deficit by $430 billion, without raising taxes, and without touching Social Security. How? It cuts spending.

What the President wants the American people to believe is that alternatives are gridlock, just as taxes are contributions, spending is investment, and you are rich if you drive a car or are retired. He is peddling the notion that you should be penalized if you are successful, take risks, and create new jobs.

Mr. Speaker, this bill represents everything that is wrong with the Federal Government, the way it does business, and the way it manages the Nation's budget affairs.

That is why the White House has had to scramble and deal and plead for the votes to pass it. It will not work. You cannot increase taxes by the largest amount in history—$275 billion—suck that much out of the economy—and possibly think that it will help people.

What does this bill mean? People struggling just to make ends meet will be hit with another gas tax increase—$301 more for a two-driver family in Arizona over the next 5 years. That is on top of the last gas tax increase in 1990 which was supposed to be their contribution then toward reducing the deficit.

Over 5 million Social Security recipients, with incomes as low as $34,000 a year, will see their taxes rise. That is President Clinton's reward for having lived a frugal life and for prudently planning for their retirement.

On average, Arizona taxpayers will pay an additional $3.1 billion in taxes over the next 5 years—about $2,300 per household. And, somehow, that is supposed to make them better off.

The fastest growing small businesses, which accounted for 70 percent of all new jobs created between 1987 and 1992, are also slated for a big tax increase. Many will pay a higher tax rate than large corporations.

And if all of that were not bad enough, some taxpayers will be hit with retroactive tax increases. Even people who died earlier this year will have their taxes increased; their relatives or estates will pay.

While taxes go up and up, the American people are given only vague promises of

How can anyone buy that when the Clinton bill scraps the out-year spending cuts from the last budget deal just as those spending cuts are coming due? That is right. It scraps the spending caps enacted in 1990 which would require $44 billion in discretionary spending cuts without tax increases. In other words, just as the out-year spending constraint from the 1990 budget deal is about to kick in, the spending cuts are dropped in favor of higher taxes and higher spending in the Clinton plan.

The fact is, the Clinton plan does not cut spending at all. Spending rises $300 billion over the next 5 years. More than $1 trillion will be added to the national debt.

While the plan is short on spending cuts, it is long on gimmicks. Like only temporarily extending certain tax incentives, so that we can assume a revenue increase once they expire. Only everyone knows full well that they will be extended again and again indefinitely. The gimmick allows Congress to spend against revenues it knows will never materialize.

The so-called deficit trust fund, which the President established by executive order to win votes, could really be called the trust deficit fund. It equates to making the minimum payment on a credit card bill, while you keep on charging up to the limit. Only unlike the average American, Congress has the ability to raise its credit limit every time it bumps up against it.

Even the Washington Post just this morning labeled the Deficit Trust Fund symbolic, pointing out that the President cannot order Congress to use the new tax revenue to reduce the deficit. It could be raided for new spending.

And indeed, with $300 billion in new spending and $275 billion in new taxes, Congress has already spent all the additional money, and more.

Then there were the backroom deals to win the votes. We may never know all the deals that were cut, but they all came at a price—a price taxpayers will pay.

Backroom deals. Gimmicks. More spending. Higher taxes. Fewer jobs. It did not work in 1990, and it will not work in 1993.

Mr. Speaker, this bill leads us in the direction of economic decline, and bigger budget deficits. Let us scrap it and start over. We can work together to produce common sense alternatives that will do the job.

Mr. SPENCE. Mr. Speaker, I yield 1½ minutes to the gentleman from Rhode Island [Mr. MACHTLEY].

Mr. MACHTLEY. Mr. Speaker, I rise in strong opposition to the conference report on the budget reconciliation bill—because we can do better.

Brian Dickinson, in a very insightful column appearing in yesterday's Providence Journal-Bulletin entitled, "Of Congress, Sham, Delusion and Budgetary tricks," wrote:

> Sweating and puffing, and beaming with their imagined achievement, the Democratic titans of Congress have hammered together what they trumpet as a deficit-cutting budget. They may consider it a splendid product. It is not. This pact has been so eroded by truckling to the status quo that its enactment would be only marginally better than doing nothing.

Mr. Speaker, we are told that we must enact this package because it is the only option available. We are told that the only choice we have is to pass this admittedly bad package, or pass nothing at all.

Let me say to my colleagues that I take strong issue with this sentiment. We simply can and must do more than enact this bill. We must create a better bipartisan bill.

This package will not solve our fiscal problems. At best, it will only marginally reduce the already huge increases in the growth of our deficit.

Even if the package is enacted, the deficit will grow exponentially after 1997 because we are making no structural change.

For those of you who were here in 1990, you heard the same arguments you are hearing today. For those of you who were not here in 1990, remember this: The promises of the 1990 illusory budget package were never realized, and neither will those of this package.

As Brian Dickinson states, "this package may keep the deficit from ballooning even more wildly out of control, but is far too little to affect the chronic imbalances in the Government's fiscal equation."

Just look at August's Money magazine—this is the biggest tax hike ever, hitting not only the wealthy, but the middle class and 1.2 million small businesses.

This much in taxes taken from the economy will kill any recovery.

On the other hand, the spending cuts are less real—they are delayed—80 percent of them scheduled to take place in 1996. And almost all of these real cuts occur only in armed services, only 70 percent on one line item.

Not one Federal program has been eliminated, and Federal spending will rise from $1.49 trillion to $1.75 trillion.

Rather than being a all-or-nothing proposition, today's vote is much more. It gives Congress an historic opportunity to demonstrate leadership.

Today, we can reject this package, and sit down to talk in a bipartisan way about real deficit reduction, both on the tax and spending side.

So I reject the notion that this package is our only choice. We owe the American people a better answer.

The final paragraph of Mr. Dickinson's editorial reads:

> Yet we elect our leaders to lead, and in difficult situations this can demand something more elevated than chatter about gasoline prices or nervousness about next year's election. We pay these people to make tough choices and to keep the ship of state on a steady course. Lately, however, Congress seems incapable of doing either.

Let us find a better solution by rejecting this bill. Let us sit down and right this ship of state.

Let us lead as we were elected to do together—Democrats and Republicans.

Mr. DELLUMS. Mr. Speaker, as we understand the rules that govern this particular process, this side of the aisle has the opportunity to close debate.

The SPEAKER pro tempore (Mr. MURTHA). The gentleman is correct.

Mr. SPENCE. Mr. Speaker, I yield 1½ minutes to the gentleman from Pennsylvania [Mr. WELDON].

Mr. WELDON. I thank the gentleman for yielding this time to me.

Mr. Speaker, I would like to address my comments to those Members who may be on the fence, those Members who do not want to support their President. Let me tell you I understand how you feel. I was in the same position in 1990. President Bush came to us with a plan that increased income taxes, increased gasoline taxes, promised spending cuts in the out years and slashed defense spending.

Like you all, I was lobbied hard by the President. I voted against that plan and against my President. Today I consider that one of my best votes since I have been here for 7 years. There are two key reasons, from a defense standpoint, why this plan cannot work. No. 1, it relies heavily on defense cuts. Your leaders from your party who are tops in terms of defense initiatives and priorities for this country have said we cannot live with $128 billion in defense cuts over 5 years. So, if those cuts do not come about, the plan falls apart.

The second thing is jobs. Both the Office of Technology Assessment and the Congressional Budget Office have done reports and studies that have shown if we implement those cuts over 5 years, 1.5 million to 2.8 million American people in defense-related jobs will lose their jobs, out of a total of 5.5 million people working in defense-related industries.

So, because this will not be able to be sustained and because the jobs will be lost in the defense areas, I ask you to do what is right, vote against your President. I guarantee you will not regret this vote a year from now.

Mr. SPENCE. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. DORNAN].

Mr. DORNAN. I thank the gentleman for yielding this time to me.

Mr. Speaker, taxation without hesitation. American taxpayers did not create this deficit spending. Politicians in Congress did and, therefore, I rise today in strong opposition to the Clinton tax-hike plan, and I do so for a very simple reason. The problem with our economy is that there is too little employment and too little growth. This plan will do nothing to improve that condition and will actually make it worse. And the fact that it will not reduce the deficit in any significant way, if at all, is another reason to reject this tax monstrosity—the largest redistribution of wealth in our Nation's history.

Suck the life out of defense and then tax, tax. The most destructive part of this plan is the big tax increase on the so-called wealthy. To sell this program of higher taxes, Clinton and his liberal allies here in the House have turned to the standard liberal theme of class warfare, though they have couched it in terms of "progressivity," "fairness," and "equality." But as the great French author and parliamentarian Victor Hugo pointed out, "equity" to politicians is nothing but the "political translation of the word envy." To be sure, envy is this plan's long suit. And it carries with it an unmistakable odor of anticapitalism. But considering that this is the most anticapitalist, antibusiness President to ever serve in the White House, I suppose this should not be a surprise.

How high do these taxes go? Well, the new top marginal rate is slated to rise to 39.6 percent from 31 percent. However, the actual top rate would be much higher for some people due to several hidden provisions in the bill, such as limits on itemized deductions and the phase-out of personal exemptions. Indeed, the accounting firm of Deloitte & Touche found that some self-employed, upper-income taxpayers with large families would wind up paying an effective marginal rate of over 44 percent. That is a 42 percent increase from current law.

Let's be clear. These taxes on the rich will cost jobs, middle and working class jobs. Lots of them. The gentleman from Ohio [Mr. TRAFICANT] made this point in his own inimitable fashion when we previously debated the House version of this bill, saying that he wanted an economic environment in which the rich would hire his constituents.

But don't take my word for that this plan will cost jobs. The Congressional Budget Office, by whose numbers Clinton said he would abide, estimates that if Congress took no action 9.4 million jobs would be created over the next 4 years. Clinton tells us his plan will create 8 million new jobs. In essence then, the Clinton plan will lose 1.4 million jobs.

What is often overlooked in the debate about fairness is that the wealthy are the people who take the risks and do most of the hiring. If the rich all earned their money the same way the Speaker earned, if that is the right word, some of his the past few years; that is, with almost no risk involved, maybe Clinton's animus toward the rich would be justified. But the vast majority of the wealthy are wealthy because they are extraordinarily productive.

Now Clinton likes to say that his taxes will affect only 4 percent of all businesses, or those with incomes of $180,000 or more; that is, the most successful ones. But it is these successful businesses that create the vast majority of the new jobs in this country. Indeed, 10 percent of America's small businesses create 70 percent of the jobs. Why punish the economy's most productive sector, the one that generates the most jobs?

Furthermore, as a Member who represents an area with one of the highest costs of living in the United States, Clinton's tax-the-rich scheme is very bad news. Although Orange County, CA, residents have higher incomes than many Americans, they also pay far more for goods and services. For example, the Clinton plan would tax individuals with adjusted gross income of $115,000 at the 36-percent rate. To have the same purchasing power in Arkansas, however, you would only need to earn $85,000 a year, which puts you at the 31 percent marginal rate. The result? The Arkansan can live as well as the rich Californian without being taxed like one. This provision is patently unfair to those, like my constituents, who live in expensive areas of the country.

The middle class gets hit with more than just job loss in this bill. They are also being asked to pay a 4.3-cent-per-gallon tax on gasoline. To my colleagues who think this is an embarrassingly low figure, like the gentlelady from the District of Columbia who described it as "so modest it gets blushes rather than protest," I would remind them that this is on top of the 5-cent-a-gallon tax levied in the 1990 budget debacle. It is not insignificant and it will have consequences.

The Clinton plan also socks it to senior citizens. Older couples earning as little as $44,000 and single retirees earning as little as $34,000 will see 85 percent of their benefits subject to taxation, up from the current 50 percent. Let that be a lesson to all those who worked, sweated, and planned for a comfortable retirement. It looks like the one thing they didn't plan on was Willie Clinton.

But probably the worst feature of Clinton's tax-hike plan is that the higher tax rates are retroactive to the beginning of this year, 20 days before Clinton was even inaugurated. That means individuals and small business people will have to scramble for the next 5 months to pay their taxes for this year. The Wall Street Journal noted that a lot of taxpayers and small businesses will have to "dig into capital or take out loans on the final installment of their estimated taxes. They'll have to cough up three quarters worth of taxes out of one quarter's income—for that compressed period a tax rate of 75 percent or so." This will have an immediate and negative effect on investment, employment, and consumer spending, all the things we need to get our economy moving.

Incredibly, in the ensuing public uproar over this provision Clinton and the Democrats decided that maybe it wasn't such a good idea after all, and have changed it to allow taxpayers an extra 2 years to come up with the loot. As my Democratic California colleague and bill opponent RICHARD LEHMAN so aptly put it, "That's an admission that it's a foolish policy." And it is still retroactive.

Let me try to put these higher taxes in some perspective. Consider that Clinton hopes to raise in new revenues an amount equal to the gross domestic product of the Netherlands, one of the richest countries in Europe.

Now I have purposely not touched on the deficit reduction aspects of the bill because this package was originally presented as an economic growth package. It only became a deficit-reduction package later on, when it became politically convenient. But it is a dubious proposition that this bill will achieve the deficit reduction targets the President has established. Very dubious. All history works against it.

As I detailed in my remarks when we debated this issue earlier in the year, the rich will not roll over and play dead the moment the Clinton tax-gang puts the arm on them. No siree. They will engage in the time-honored practice of tax evasion, and they have the best accountants and lawyers money can hire. Richard Nixon recognized this reality when he was in the Oval Office. Herb Stein writes in his book "Presidential Politics" that, "Once in 1969 during a discussion of ways to close tax loopholes (Nixon) said that whatever we did would not matter because sophisticated lawyers would find a way to beat the system. He attributed this wisdom to his recent experience practicing law in New York City."

If we want a real life example of the way the truly rich can beat the system we need look no further than the White House. If you recall, First Lady Hillary Clinton made sure all income from her Arkansas law practice through 1993 was paid to her in December 1992, when it would not be subject to her husband's about to be implemented higher taxes. Indeed, one of the reasons growth was so high in the fourth quarter of 1992 was this phenomenon being repeated throughout the country.

Let me now sum up the Clinton deficit-reduction plan. I'll even assume that Clinton's overly optimistic revenue

Government spending will increase by $300 billion.

The national debt will increase by $1 trillion.

Some 80 percent of the President's promised spending cuts will not occur until after the next Presidential election in 1996.

Not a single Federal program will be eliminated. Not a one.

In 1997 the deficit under the best of circumstances will be about where it was in 1989, at just under 3.0 percent of GDP.

After reducing the deficit to $210 billion in 1997 from $285 billion this year, the deficit will begin climbing again, reaching $350 billion 3 years thereafter.

This is success? This is deficit reduction? This is the god of change? One can only wonder what Clinton will propose at that time, assuming he is returned to office, which doesn't look promising at this moment. Will he propose even more taxes? What level of taxation will be enough to quench his insatiable thirst? Taxation without hesitation. A far more likely scenario, one that is shared by most economists and financial analysts, is that the Clinton tax plan will result in a higher deficit, higher interest rates, higher inflation, and much higher Government spending. Which is why Barton Biggs, chairman of Morgan Stanley Asset Management, recently told Forbes magazine—it's on the cover:

> We want to get our clients' money as far away from Bill and Hillary as we can. The President is a negative for the U.S. market. I'm embarrassed that I voted for him and contributed money to his campaign.

Another Wall Street giant, Edward Yardeni, chief economist at C.J. Lawrence, put it this way.

> The best thing (members of Congress) can do for the economy is figure out a politically acceptable way to walk away from the program.

If the Clinton tax hike is passed the media will have a field day with stories about his tremendous victory, "the comeback kiddie", et cetera. But that is the way big media views the world. They look at things solely in terms of winners and losers. The element that is missing in the current coverage of this tax bill is summed up in two simple questions: Will it work? If it doesn't, what then?

I mean, what kind of victory is it to pass a so-called deficit reduction package if it doesn't reduce the deficit? The American people won't view that outcome as victory, but as abject failure.

Personally, I am disappointed that so many Americans apparently see Republican opposition to the Clinton plan as being driven only by politics, when in fact Republican opposition is driven by principle. You only have to look to the 1990 budget deal put forth by a Republican President for proof of that. Only 33 House Republicans reluctantly supported that bill despite some heavy duty arm-twisting by a President of our own party. Only 33. That's it. I was one of those who defied President Bush and his persistent team on that vote. When I did resist their blandishments, no one accused me of doing it for political reasons. I voted "No" in 1990 for the same reason I am going to vote no today. The plan will raise taxes and slow the economy, but it will not cut the deficits year after year.

The Clinton tax plan is so flawed that it is impossible for Republicans to support it. Even our most liberal Republican members won't touch it.

Given Clinton's proclivity to shade the truth, and that is a pathetic euphemism, it is to be expected that he would resort to disinformation and obfuscation to sell his snake oil. But to hear Willie Clinton say that this package is not business as usual, but represents change, well, it is just too much. Let us go

Let me close my remarks with this simple observation. The deficit is not the problem. The size and scope of Government is. Remember, this deficit came about because Government spending increased at a much faster rate than our intake of revenues. Tax cuts had absolutely nothing to do with it.

The solution is obvious. The Federal Government, as our Founders understood, cannot and should not solve all our problems, many of which should be addressed closer to the people, at the local or State level. The Federal Government should only concern itself with those areas under its purview, as defined by our solid Constitution. Unfortunately, these limits have been routinely ignored over the years, and that is the real source of our deficit problem.

Before Congress spends a dime on anything it should ask: Is the activity we are now being asked to fund a legitimate function of the Federal Government? Is it constitutionally sound? Is it?

I think I know what the answer would be for much of the spending that takes place. Which is why I suggest we begin getting a handle on our deficit by eliminating extra-constitutional programs such as the National Endowment for the Arts, the Legal Services Corporation, Amtrak, the Economic Development Administration, the Rural Electrification Administration, the Market Promotion Program, the——

The list goes on and on and on.

After eliminating unnecessary and unwarranted programs we could then implement a cap allowing only 2 percent growth in Federal spending program by program. This common sense, balanced, broadbased approach would balance our budget in 5 years, whereas the Clinton plan seeks to only cut the deficit by less than half. If we defeat this bill today we could get busy on such a plan and pass it before the end of this very fiscal year. But we must defeat this Clinton plan first.

The choice is clear. We can pass this destructive monster the tax whale today and continue to have huge deficits hanging over our heads, or we can do the right thing, the responsible thing, and defeat this bad bill and head back to the drawing board. For my nine grandchildren I plead for a no vote on the reconciliation conference report.

Mr. SPENCE. Mr. Speaker, I yield our remaining time to the gentleman from Maryland [Mr. BARTLETT].

Mr. BARTLETT of Maryland. I thank the gentleman for yielding this time to me.

Mr. Speaker, we cannot have a strong military without a strong economy. What is happening now reminds me of the last days of George Washington, where, after bleeding him once and he still did not get better, his doctors concluded what they needed to do was to bleed him again. He finally died.

We had the first bleeding of our economy recently, in 1990. Our economy did not get better. Now the liberal economic doctors are back, and they figure the right medicine is to bleed it again: we need more taxes, we need more spending, we need more regulation. This kind of medicine did not work for George Washington, it is not going to work now. Let us not have our economy go the way of George Washington.

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Mr. DELLUMS. Mr. Speaker, for the purpose of closing out the debate on this side of the aisle, I am very pleased to yield the remaining time to my distinguished colleague, the chairperson of the Subcommittee on Research and Technology of the Committee on Armed Services, the gentlewomen from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Speaker, I thank the gentleman for yielding this time to me.

I just want to say, I am delighted because finally we are getting some facts out here. It has pained me to listen to people on the other side go on and on about there were no cuts, no cuts. We are now ending the second committee coming down here, and what has the other side been saying? Too many cuts, there are too many cuts.

Mr. Speaker, we have now seen why we have gotten pushed to this point. That is the side of spend and borrow, spend and borrow.

They did it in the Committee on Armed Services because they kept saying, "The threat, the threat."

Let me tell you what the threat is now. The threat is the debt. The threat is the debt because we had 12 years of unrelenting spending and no one had the guts to pay for it on that side.

It is very hard for people here to say we are going to change our ways. We have made some very painful cuts. They have been so big, you have been hearing the other side yell about them; but we have been trying to spend cleverly. If we do not pass this today, the projection is we will go to a $7.5 trillion debt. Now, if you added those up in $1 bills, it would go out in space so far that traveling at 17,500 miles an hour it would take 41½ years to get to the end of that.

There is no way my children, my grandchildren or anyone else is going to do that.

So you have now seen what drove us to this position. Remember this. How wonderful it is when truth finally breaks through all the political rhetoric.

The SPEAKER pro tempore (Mr. MURTHA). All time has expired for the Committee on Armed Services.

The Committee on Banking, Finance and Urban Affairs is next on the schedule.

The chairman of the committee, the gentleman from Texas [Mr. GONZALEZ] is recognized for 10 minutes.

Mr. GONZALEZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Committee on Banking, Housing and Urban Affairs met its over $3 billion in budget savings through a variety of measures. On the banking side, the committee endorsed the practice of 29 States by adopting a Federal deposit preference scheme. Under depositor preference, the FDIC and RTC will have a first claim on the assets of all failed banks and thrifts, thereby increasing the savings to the Federal deposit insurance funds. I note that is no way does this permit Federal deposit insurance funds to be used to pay uninsured depositors. The committee also requires the Federal Reserve to transfer to the Treasury $213 million of accumulated surplus capital.

With respect to housing programs, the committee's language will permit the Government National Mortgage Association to charge fees for REMICS, which are pools of securities backed by mortgages guaranteed by GNMA. This will put GNMA on par with Freddie Mac and Fannie Mae. The legislation also authorizes HUD to utilize IRS tax information to verify the income of participants in assisted housing programs to determine their eligibility for and level of benefits, but contains safeguards to protect the privacy of participants and ensure the accuracy of the information. Finally, the bill requires HUD to accelerate the rate at which the one-time up-front mortgage insurance premium is recognized on an FHA-insured loan.

These measures, adopted by the committee on a bipartisan basis, meet the required goals. I thank the members of Banking Committee and the Budget Committee for their help in achieving these budgetary goals.

The SPEAKER pro tempore. The gentleman from Iowa [Mr. LEACH] is recognized for 10 minutes.

Mr. LEACH. Mr. Speaker, I yield myself 50 seconds.

Mr. Speaker, it is the view of this Member that a plan that raises taxes and cuts jobs is not good for the economy and in this context I would stress the radicalness of the change in the Tax Code that applies to subchapter S corporations. While regular corporations will have top tax rates raised from 34 to 35 percent—or effectively 3 percent—subchapter S corporations will have top tax rates raised from 28 to 41 percent—an almost 50 percent increase in tax burden. Instead of small business being encouraged by Government it will be stifled by the Tax Code. Where does this administration think new jobs will be created? Instead of raising subchapter S taxes, the principal item on the table today should be the indexing of capital gains for inflation. Such an approach would free up capital and free up land. It would create jobs instead of joblessness.

Mr. Speaker, in his State of the Union Address President Clinton sounded a clarion call for deficit reduction. His music was right. Unfortunately, the programmatic script reconciliation—this bill—is more a tragicomedy than romantic thriller. Instead of proposing that Government set an example and tighten its belt, the administration has called for the largest peacetime tax hike in history, a multi-billion-dollar increase in spending, and the postponement of any deficit reduction until the third year of his program.

What we are seeing is the development of one of the great philosophical demarcations of the century. At issue with middle class Americans is whether it's the spending appetite of the Government that should be disciplined or the pocketbook of the taxpayer that should be tapped. The administration is suggesting that the deficit can be reduced tomorrow if we raise taxes and jolt the economy with new spending programs today. Skeptics like myself believe that proposals for bigger Government are likely to deter job creation and that postponing deficit reduction is a prescription for lower economic growth. We believe the challenge is to address the deficit now, primarily by holding the line on spending.

In the context of a plan laid on the table, it is fair for the President to ask critics to outline a precise alternative. Here is a preliminary reaction.

Rather than raise new taxes and increase the size of Government, I would suggest the economy would be better off if Congress reduced, statutorily, Federal spending 2½ percent in fiscal year 1993, 5 percent in 1994 and 1995, with Social Security, Medicare, and Head Start programmatically excepted. Within the context of this budgeting restraint, the President should be given the authority to transfer up to 10 percent of any program's budget to another. In making such programmatic adjustments the case for an increase in education funding, particularly early childhood and postsecondary, is in order, as are modest jobs initiatives along the lines of the old Civilian Conservation Corps, especially as they relate to summer employment—not out of a belief Federal jobs programs lead to the formation of a larger national jobs base but out of concern that pockets of America are ignored at society's peril. As long as the challenge of communism remains on the wane, the primary, but not exclusive, area where old revenue commitments can be reduced is in the defense arena. In addition to reducing spending on weapons systems such as SDI and the Osprey, I would suggest the case for a gigantic fiscal commitment to the space station and super collider lacks persuasiveness.

On the tax side, I would eliminate the new tax break the bill provides for real estate developers as well as the current right of merger suicidalists to deduct interest on debt assumed in large leveraged buyouts [LBO's]. American free enterprise functions best with the widest possible distribution of ownership. Conglomeration should be penalized, not subsidized by the taxpaying public. I also have doubts about tax breaks that are specific to industries, such as intangible drilling writeoffs and the oil depletion allowance. In exchange for eliminating such specific industry tax breaks and what in effect is a conglomeration subsidy, I would lower capital gains taxes, preferably to 15 percent, and index capital gains for inflation.

Putting aside the possibility of such structural changes in the Tax Code, the above macro-economic approach would reduce the deficit over $200 billion in 3 years—$125 billion in spending cuts, $50 billion in projected program increases, and $25 billion in interest costs. In addition, I have little doubt—but here we are dealing with the conjecture of assumptions that go into econometric models—that the spur of lower interest rates with disciplined Federal spending and taxation would produce more tax paying jobs than the Clinton program and thus a larger tax base. Ironically, it is not at all clear, despite the jobs program rhetoric of the new administration, that bigger Government, which is the President's approach, means a bigger number of jobs. What is clear is that a program of deficit reduction without tax increases is most likely to boost the total number of private sector jobs. Hence, the fiscal deficit is likely to be reduced with such an approach substantially more than the figures indicated through spending restraint alone and substantially more than under the Clinton program, in the out years as well as the near term.

Real changes are also needed in the way Congress does business. The case for a line-item veto, balanced budget amendment to the Constitution, and campaign finance reform are overwhelming. These three initiatives are interrelated: The first decreases both the impulse to spend and the unfairness by which Federal dollars are allocated by reducing the influence of legislative power brokers; the second puts restraints on Congress as a whole; and the third reduces the influence of special interest groups, both on spending and tax policy.

The challenge for the new administration is to shift priorities, as it is committed to do, without radically increasing either Federal spending or the deficit. The size of Government may in the long run be a more important variable than the size of the deficit. Nevertheless, while perhaps impossible to graph, I would suggest the existence of Leach's "Law of Disorderly Deficits" whereby at some point a seemingly incremental increase in the deficit, whether precipitated by a tax cut or new program expenditure, has a cyclonic straw-breaking effect, so punishing to market confidence, so strangling of private savings that the cost of all borrowing quantumly escalates. The first casualty of fiscal ill-discipline is the private sector borrower, the second the taxpayer, and the third any financial intermediary which lacks the capacity to hedge or adapt lending rates quickly.

Here, the role of America's banking system cannot be underestimated or President Clinton's good fortune overestimated.

Today, the biggest problem in banking relates more to the role of banks in strengthening the economy, than the role of the economy on the strength of banks.

The Bush years can be characterized as a 4-year retrenchment period in which our Nation's public financing system weakened but our private sector banking system stabilized. By the end of this year, if the legacy of S&L mistakes is finally put behind us, the United States should have the strongest banking system in the world.

President Clinton thus has the unique opportunity to build on a much stronger and more stable financial system than Mr. Bush inherited. While Bush's challenge was to increase the viability if not survivability of our banks, with runs on some banks a real possibility 4 years ago, President Clinton has the luxury of emphasizing ways the banking system can be incentivized to serve more aggressively the economy at large. At issue is not just the creation of community development banks, but, far more importantly, a regulatory climate that emphasizes bank strength—strong capital reserves—and banker discretion—the flexibility to make commercial loans on character as well as financial assessments.

Having gone from a period in which a yellow light on safety-and-soundness concerns has led to a red light on lending, the challenge is to give banks the green light to lend, especially for commercial activities.

If a macroeconomic environment can be established which causes an unleashing of entrepreneurial lending, all of the more ballyhooed public-sector jobs initiatives of the President will pale in significance.

The financial infrastructure is there. The only question is whether public sector leadership is up to the task of disciplining itself and thereby freeing up the private sector to create real jobs for real people.

In this bill each committee was asked to do its part to reduce the deficit. While, overall, the bill increases taxes without cutting spending—except as related to reducing increases in spending which might otherwise occur—the part under the jurisdiction of the Banking Committee cuts spending without raising taxes or tax equivalents—despite the recommendation of the administration that revenues be raised through the mechanics of a whopping increase in fees on banks.

Unlike the tax and spending provisions that comprise the heart of this reconciliation bill, the banking title represents sound public policy. It was developed in a bipartisan fashion with definitive input from the minority. It was premised on the assumption that what the country needs is less regulation, not greater taxation.

A Nation's economy is only as strong as its banking system. And if banks, saddled with excessive regulation or taxes, are unable to provide credit to entrepreneurs, small businesses, exporters, farmers, or consumers, then the economy will shrink, rather than grow.

Under the administration's budgetary parlance their recommendations were characterized as a budget cut, even though they suggested the Federal Government should bring in new revenue from whopping new assessments. The budget resolution passed earlier this year endorsed the administration's proposal and instructed the House Banking Committee to implement fees on banks or pass legislation which would provide budget savings equal to or greater than that provided by such fees.

Fortunately, the House Banking Committee adopted an alternative without new taxes which was agreed to by the Senate and is incorporated in the bill being considered today.

What seems to be lacking in Washington today is simple common sense. Also perspective. Any sense of history would suggest this is no time for America to lose self-confidence or turn with panic to the Government to solve an ever larger percentage of societal problems. There is no reason the 1990's shouldn't become the greatest boom decade in American history. In all but a few areas the United States is leading our industrial competitors. Inflation is down; GNP growth is positive; spending in the nonproductive defense arena is shrinking; world trade is growing; the banking system is secure; and, most importantly, America is at peace with the world, although more than a few societies may not be at peace with their own citizens or neighbors.

The counterbalancing negatives are the weakness of politicians and their failure to rein in budget deficits as well as the existence of stark social dichotomies, largely in inner city areas, where drug and prejudice-based quasi-caste systems flourish. If Government can reestablish a model of fiscal prudence, opportunity fairness, and leadership ethics, the engine of American economic ingenuity should be able to power an awesome recovery. Unhampered by leadership mistakes, the potential of America knows no bounds. Even with a few, the economy should prosper. But if a market economy is robbed of its incentive rationale, the greatest political experience in the history of the world could be sorely tested.

Mr. Speaker, I yield 50 seconds to the gentleman from Nebraska [Mr. BEREUTER].

Mr. BEREUTER. Mr. Speaker, this Member rises today in strong opposition to the conference report on the budget reconciliation bill, H.R. 2264. It is not on the basis of equity that this Member disagrees with this plan. It may be necessary that some groups—wealthy Americans—pay more taxes to bring our House in order. Even the increase in the gasoline tax is not totally unacceptable since there is also an increase in the earned income tax credit to assist more low- and middle-income Americans. However, the legislation is fatally flawed and inconsistent with what most Americans want in its failure to cut spending before enacting increases in taxes and fees. The message should have been clear to the President to cut spending first.

This measure is no solution to our Nation's fiscal or economic growth problems. The imbalanced reliance on additional new taxes, especially those on small business, in combination with the anticipated new costs of health care reform, will probably abort the economic recovery, increase the deficit at the end of 5 years, and reduce the number of jobs in America. Already we see many Americans preparing to invest a larger share of their wealth abroad, and this legislation will accelerate that trend as investors seek to secure higher returns on their capital than will be available in America.

Mr. Speaker, increasing taxes and fees alone are not going to solve our fiscal dilemma. The Congress and the President must listen to our constituents—they want us to cut spending first. This legislation goes the opposite direction with a huge net increase in spending. Yet absent are elements to stimulate our economy and create jobs. Again, the message should have been clear to the President to cut spending first.

The budget reconciliation measure does not go nearly far enough to cut spending, and what little cutting is done, comes not now, but well down the road. The drafters of this legislation had such zeal for raising taxes that they made many increases retroactive.

The measure increases the estate tax retroactive to January 1, 1993. If we pass this measure, families who have already settled the estates of their deceased loved ones, will be forced to recalculate the tax on that estate and pay still more to the Federal Government. However, the retroactive estate tax provisions were not included in the administration's recent concession which graciously allows wealthier Americans an extra 24 months to pay their retroactive income tax increases.

If this measure showed that same zeal for cutting spending rather than for increasing taxes, this Member would have a different view of it.

The administration has said that critics of this measure should provide more specifics regarding cuts. Mr. Speaker, responding to a specific challenge from President Clinton to offer our own additional cuts if we did not believe the spending cuts were sufficient this Member provided specifics. On March 3 of this year, this Member sent President Clinton a list of 27 additional cuts which would save $157.5 billion over 5 years. These cuts are not around the edges; most eliminate whole programs or even whole agencies. The administration would do well to pay more attention—to not just ask for specifics—but to pay attention to specific spending cut plans when they are offered by Members such as myself.

In the event that the administration might still be interested in additional spending cuts, this Member will repeat his fall-back proposal. Since it seems to be so difficult to fund a consensus on spending cuts, I suggest that each agency's budget should be cut by 3 percent for each of the next 3 years, with no cost-of-living adjustments—unless the President asks for an exception for dire humanitarian reasons or in order to respond to emergencies such as natural disasters.

While this Member is strongly opposed to the budget reconciliation measure and requests that his colleagues reject this legislation outright, this Member pledges to begin work immediately with colleagues on both sides to draft a new plan that really cuts spending first. This Member will state his willingness to stay here and work through the August recess until a legitimate budget plan is crafted that really addresses the call of the American people to cut Federal spending, and give us real deficit reductions, job creation, and economic growth.

Furthermore, in this Member's judgment, there are not two dozen Democrats in the Senate or 50 Democrats in the House who, in their hearts, believe this is the right plan. They are supporting this legislation out of partisan loyalty and because of armtwisting by the leadership.

As it stands, Mr. Speaker, the measure before us has all the elements for a man-made fiscal and economic disaster. It should not be passed and this Member urges his colleagues to oppose it.

Mr. LEACH. Mr. Speaker, I yield 50 seconds to the gentleman from California [Mr. MCCANDLESS].

Mr. MCCANDLESS. Mr. Speaker, the biggest problem in this plan is the lack of reality and common sense. Taxes do not hit the country in a vacuum; they are not levied without having a major impact on people and business. This tax bill will have far-reaching and material consequences.

So far this year, we have a six-tenths-of-a-percent and 1.6-percent growth rate in the first two quarters. This bill is relying on a 3.1-percent growth rate for 1993, an unobtainable goal.

The actual growth rate next year, according to Laura Tyson, the President's chairwoman of the Council of Economic Advisors, will probably be 2.5 percent, not 3.1. This six-tenths-of-a-percent change will result in $16.2 billion being added to the deficit in 1 year alone.

A recent report concludes that because of this slower growth, and the likely change in investment patterns by those affected by higher rates, the Federal Government will take in $174 billion less than the administration has projected over 5 years.

The administration knows of these overestimates. That is why OMB has failed to issue an accurate and complete mid-session review of the budget. They do not want us to know the truth.

Mr. Speaker, the math in this bill does not add up.

Mr. GONZALEZ. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. COLEMAN].

Mr. COLEMAN. Mr. Speaker, passage of the Clinton administration's deficit reduction package represents a historic change for the country and El Paso. Congress voted to reverse 12 years of squeeze-the-middle-class policies of the Reagan-Bush years.

Certainly, there are plenty of critics who pan the Clinton administration deficit reduction plan as having done too much or not enough. In comparison to what? I had a front row seat for a decade of the Reagan-Bush years and their initiatives hardly resulted in greater investment or smaller deficits.

When Ronald Reagan moved into the White House the deficit was just over $74 billion and the national debt was just under $1 billion. When George Bush moved out of the White House the deficit was racing past $300 billion and the national debt stood at just over $4 trillion.

The test of the Clinton deficit plan should not be perfection. Rather it should be, does this plan offer a change of direction from failed trickle-down economics that brought us shrinking incomes, record unemployment, soaring debt, and more families living in poverty than in the last 40 years. The Clinton plan delivers that change of direction. Surely, even given its worst assessment, the Clinton plan delivers that change of direction. Surely, even given its worst assessment, the Clinton plan could come nowhere close to the reckless results of the past two Republican administrations.

And what do my Republican colleagues choose to do to set this situation right? Nothing. Not a single member of the party which brought us this debt was willing to begin to reverse the spend now, pay later policies which their party wrought. More than 40 Republican members voted "no" on every plan, even their own party's.

Instead, the Republican Party embarked on an unprecedented campaign of misinformation. Falsely alleging the middle class would get soaked and that small business would be robbed by the Clinton plan. Now the facts.

Not a single family with a gross adjusted income under $180,000 a year will pay a penny more in income taxes. Need I repeat that? Families with higher incomes will pay higher taxes, as they should. During the last decade, the wealthy saw their incomes increase at a rate of about 136 percent as a result of trickle down economics. During this same period, middle-class families' incomes fell.

The Clinton plan restores progressivity and tax fairness and asks that the wealthiest do the most to help reduce the deficit. Middle-class families are asked to pay only about $1 a week in the form of the gas tax. And every penny of that weekly dollar will go directly to reducing the deficit.

But the Clinton plan does more than just reduce the projected deficit by about $500 billion. It also invests in families and in small business.

In El Paso alone, families living in poverty despite both parents' full-time jobs will receive $86 million in assistance to lift them out of poverty and reward their economic contribution. More than one in three of every family in El Paso will see their taxes cut and their incomes increased. Fewer than 1,000 families in the entire county actually have incomes high enough to require that they pay higher income taxes.

Most importantly, the small businessowners of our country are finally going to get their just rewards for having done their best during the long recession to keep their heads above water and create jobs. The Clinton plan will provide some of the most lucrative tax incentives ever offered to small business. To say otherwise is dishonest. Even the Wall Street Journal's analysis of the small business package last week carried a headline that read, "Higher Expenditure Ceiling, Retroactive Too, Promises an Array of Breaks."

The package includes a 50-percent cut in the capital gains tax rate for investment in small business, a 75-percent increase in expensing of investments in equipment, and an extension of the health insurance deduction for the self-employed. In fact, 95 percent of small business, or 6 million entrepreneurs, will see their taxes go down under the Clinton plan.

This is not the largest tax increase in history. It is the largest deficit reduction package in history because it restores tax fairness and cuts $260 billion from projected Government spending. Those are the facts.

Mr. GONZALEZ. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, I want to note that one of the things in here brought forward by the Banking Committee is a provision originally suggested by the gentleman from Texas [Mr. STENHOLM] in the Budget Committee as a deficit-cutting measure.

As the chairman mentioned, it authorizes the use of income tax information to verify the income of people who are in assisted housing.

One of the things we are trying to do is to reduce fraud, to reduce misuse so that we can, as a matter of fact, serve efficiently those who need it.

The point I would make is that while it is controversial with some people, it was the suggestion of the gentleman from Texas [Mr. STENHOLM] that we incorporate it in as part of the reconciliation package and it is to reduce potential fraud and waste and existing fraud or abuse in the housing programs.

All residents who are receiving federally assisted housing, whether public housing or section 8, will now have their income taxes subject to verification.

Finally, Mr. Speaker, I notice Members have been talking about a section that cuts more. I would note that we have voted on many appropriation bills already this year, and I wonder whether people who need a special section to cut were absent during those appropriation bills.

Mr. LEACH. Mr. Speaker, I yield 50 seconds to the gentleman from Georgia [Mr. LINDER].

Mr. LINDER. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, what we learn from history is that we learn nothing from history. Thirty-four months ago this body passed a budget just like this that grew the Government, stalled the economy, and increased the deficit. So will this.

Between 1984 and 1990 the Governments of Mexico, Bolivia, Jamaica, Colombia, and Chile reduced their top tax rates and increased their revenues both relative to gross domestic product and in absolute terms.

□ 1520

Mr. Speaker, we must take lessons from nations that increase their taxes and reduce their revenues, and States that reduce their taxes and increase their revenues. Mr. Speaker, this is precisely the wrong formula.

Mr. LEACH. Mr. Speaker, I yield 50 seconds to the gentleman from Michigan [Mr. KNOLLENBERG].

Mr. KNOLLENBERG. Mr. Speaker, it has been said that those who forget the lessons of the past are condemned to repeat them.

Today I fear that this Congress is going to repeat the same mistake it made in 1990. That year, Congress passed a deficit reduction plan that was supposed to cut deficit spending $496 billion—the exact same amount as today's claim.

The 1990 plan taxed the so-called rich, it raised gas taxes a nickel, and it contained, allegedly, massive spending cuts, all put off until later years. Sound familiar?

Now if the 1990 plan had worked, it would be one thing, but it failed miserably. Under that plan, the deficit was supposed to be cut to $25 billion by 1995, the deficit will in fact be $285 billion.

The 1990 plan lengthened the recession, it increased unemployment, it increased the deficit, it increased Federal spending, and perhaps most striking, despite its massive tax hike, we actually brought in less revenue from the rich.

This 1993 Clinton plan—a plan that no Member in this Chamber has even had time to read—will destroy 1.4 million jobs. This plan will increase spending, it will increase taxes, it will punish success and hard work, and it will not put us on the road to lower deficits.

Defeat this plan, and let us begin tomorrow to put together a plan of $500 billion in spending cuts.

Let me give just one example of why this plan is so foolish. In it, we increase the gas tax on all Americans by 4.3 cents. But this money will not even be used to reduce the deficit. The $24 billion it raises will simply go to pay for more food stamps and an expansion of the earned income tax credit, a spending program which is now being massively increased for the third time in 6 years. This approach makes no sense at all, we are just raising taxes on the middle class so that we can spend more.

This is extremely unfair in a plan that is being advertised as deficit reduction. We should be cutting spending not increasing it.

The American people deserve a better plan, it is time to begin again.

Mr. GONZALEZ. Mr. Speaker, I yield 1½ minutes to the gentleman from Massachusetts [Mr. KENNEDY].

Mr. KENNEDY. Mr. Speaker, all over America today, ordinary people are worried about their jobs. They read about General Motors, IBM, and Boeing laying off tens of thousands of workers.

When we talk about international competition, they worry more about struggling against Mexican workers than the Japanese or Germans.

Our cities are in trouble.

Our children are growing up with violence and drugs.

We overspend our income by $400 billion a year—and the time has come to put a stop to it.

We must not be the first generation of Americans to turn our backs on our responsibilities to our children.

This is not a package liberals are happy with.

This is not a package conservatives are happy with.

This is certainly not a package the Republicans are happy with.

But it is a package that will reduce the deficit, which is a cancer that is killing America.

This isn't a vote about getting reelected.

It's a vote about acting in the best interests of our country.

Vote "aye" on this legislation.

Mr. LEACH. Mr. Speaker, I yield 50 seconds to the gentleman from Minnesota [Mr. GRAMS].

Mr. GRAMS. Mr. Speaker, it is said that those who fail to learn the lessons of history are doomed to repeat it. Well, here we are, just 3 years after the record 1990 tax increase, repeating the mistakes of the past.

Like this tax increase, the 1990 tax package was supposed to dramatically cut the deficit.

And like this tax increase, it was sold to the American people as the way to improve the economy.

Here we are, just 3 years later. We have a record deficit and a sagging economy. Yet, here we are, debating another record tax increase.

Mr. Speaker, there should be no doubt.

If this bill passes, the result will be the same. It will kill millions of jobs, hurt the economy, and even if it works as planned, the deficit will be right back where it is now in just 5 years.

And you know what? I will bet the Democrats in Congress will be just crazy enough to ask us for yet another record tax increase.

Mr. Speaker, I urge my colleagues to vote "no" on this proposed tax-and-spend package.

Mr. GONZALEZ. Mr. Speaker, I yield 1½ minutes to the gentleman from Pennsylvania [Mr. KANJORSKI], a member of the committee.

Mr. KANJORSKI. Mr. Speaker, I rise today to use a chart that was prepared by three of the most able people on my staff: Mike, Carol, and Eva. This chart is important because it answers a very important question that many American people have, which is how this bill will directly impact them.

As chairman of the Subcommittee on Economic Growth of the Banking Committee, I have had the opportunity to talk to the international experts and hear the testimony of the economists who have testified before us. Just last month Al Greenspan told us that, if we do not pass this package, we are going to have a reversal in the markets of interest rates, which will cost the average American hundreds of dollars a month. What is it going to cost us? The American public deserves to know.

In response to the question, I would like to point to my chart. If your family earns under 140,000 taxable dollars a year, you are apt to lose $191 every month if this bill is not passed, because the interest rates will go back to the way they were about 24 months ago. In order to keep that $191 profit, we are asking the average American family to contribute $3 a month. $3 a month, or less than a dime a day, if you are an average, middle class, American driver. I don't think that's too much.

Mr. Speaker, there is one other point that I am going to make for the American people. We have had a lot of hue and cry around here about what this bill is going to cost small business. Let me tell my colleagues what it is not going to cost business. Ninety-six percent of American businesses have no new taxes under this bill. The only 4 percent that will have new taxes are fortunate enough, as Americans, to earn more than $180,000 of income in their small businesses. Small corporations having profits of under $10 million have no tax consequences at all.

For us to sit here today and have misnomer, misstatement, and disinformation dispersed to the America public is a mistake. This is an opportunity to support this President who has the nerve to take the first step, and I urge my colleagues to pass this bill.

Mr. LEACH. Mr. Speaker, I yield 1 minute to the gentleman from Alabama [Mr. BACHUS].

Mr. BACHUS of Alabama. Mr. Speaker, like everyone else in this body, my office has been overwhelmed with constituents calling to express their views on this so-called budget plan. My office answered 440 calls yesterday, and 422 of those said emphatically, "vote 'no' on the budget plan."

Mr. Speaker, we should remember that we are sent here as Representatives. I will heed my constituents' advice and vote "no." I urge my colleagues to listen to their callers, listen to their constituents, have confidence in what they say. Do not violate their trust. They trust us to represent them. Vote "no" on this budget plan.

Mr. LEACH. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. HUFFINGTON].

Mr. HUFFINGTON. Mr. Speaker, as Jim Pinkerton noted today in the Los Angeles Times, "The tax provisions of the bill will make California the big loser if it passes." Currently, Californians file almost 12 percent of all Federal tax returns. With this tax measure in place, we would pay 16 percent of the increased bill. That means $40 billion will be taken out of California's economy over the next 5 years. This tax plan could cost California 359,000 jobs next year. As an added kick in the teeth, the income tax increases will now be retroactive to January 1. I do not know how any of my fellow colleagues from California could vote "yes" on this tax bill.

This tax bill misleads the American people into thinking there are significant cuts in Government spending when all this bill includes is increased spending and higher taxes.

I implore my colleagues to stop this tax boat before it sails away with the American taxpayers' hard-earned 1993 incomes. Our Founding Fathers thought taxation without representation was bad; they would need to look no farther than this tax bill and see that taxation with representation is even worse.

□ 1530

Mr. GONZALEZ. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. FLAKE].

Mr. FLAKE. Mr. Speaker, today we come to a very vital moment in our history as we consider those communities that have historically been neglected. Here we have a President who has moved us beyond rhetoric and moved us beyond historical procrastination which has resulted in nothing more than a situation wherein this body has decided over and over again not to do anything.

Mr. Speaker, we now have an opportunity to do something. We have an opportunity to make sure that earned income tax credits are available for those who need them. We have an opportunity to make sure that immunizations are available for many of our young people who do not have access to them. Those who are living in communities that have been neglected will discover that in this package the enterprise zone legislation allows for the rebuilding of those communities.

Mr. Speaker, it is not time for us to continue with our rhetoric and our constant procrastination. It is time to move forward. Let us stop the talk. Let us get about the business of governing this country. Let us move forward. This bill allows us to do it.

Mr. Speaker, I hope that all Members will join together and say this is the way we will go. We will support this President because we know it is the right thing for the American people.

Mr. GONZALEZ. Mr. Speaker, I yield 1 minute to the gentleman from Vermont [Mr. SANDERS].

Mr. SANDERS. Mr. Speaker, this is a far-from-perfect piece of legislation, and I and other members of the Progressive caucus have fought as hard as we could to make this legislation less onerous and less painful for the working people, the elderly, and the poor of America. We have by no means received all that we wanted. But we have received enough for me to support this bill today.

Mr. Speaker, it is imperative that our country begin to address the horrendous deficit crisis that we face, and this legislation, which would lower deficit spending by $500 billion over a 5-year period, does that. Second, in terms of how the new taxes are raised, this legislation is extremely fair. Eighty percent of the increased tax revenue comes from the wealthiest 2 percent of our population—those families earning

Given the reality that during the last decade the wealthiest people in our country grew much wealthier, while their tax burden declined, it is absolutely appropriate and fair that the wealthiest people pay the lion's share of taxes for deficit reduction.

Further, and very importantly, while the 2 percent of our wealthiest citizens will pay more in taxes, the bottom 21 percent of our citizens, the working poor—the people who are earning $5, $6, $7 an hour—these families, including 26,000 in Vermont, will see a tax reduction. This tax reduction for low-income working families with children will rise, as a result of the expansion of the earned income tax credit, to as much as $2,600. In other words, the richest 2 percent of our population will pay more in taxes, while the bottom 20 percent receive a tax break. I think that's fair. Further, while I opposed any increase in middle-income taxes, the truth of the matter is that the middle class, through a 4.3 cents-per-gallon increase in the gas tax, will see an average tax increase of only $30 a year. That may not be good, but it is hard to describe that tax increase as onerous.

Lastly, Mr. Speaker, this legislation finally begins to address the national disgrace that we experience as the industrialized nation with the highest rate of childhood poverty. Through the expansion of the earned income tax credit, the food stamp program, and other nutritional programs, the Family Preservation Act and the Children's Immunization Program, we begin to address the disgrace of childhood poverty in America.

Mr. LEACH. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. KING].

Mr. KING. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise in strong opposition to the reconciliation report. I oppose this budget because it is bad for my district. More importantly, it is bad for the country.

If this budget is adopted, 21,000 senior citizen families in my district will have their taxes increased. Small businesses throughout my district and throughout the country will have not only their profits impaired, but they will have to cut back on their jobs, cut back on their work force, and this is the most productive work force we have right now. Small business is producing a vast number of new jobs in the country. This budget will only hurt them.

As far as the middle-income person, the gasoline tax is going to hurt all of them: middle income, low income, as well as upper income.

Mr. Speaker, what I oppose most about this budget, though, is it constitutes a repudiation by the President of the main promises he made in his campaign: not to have a gasoline tax and not to raise taxes on the middle class. It is because of budgets such as this that the economy is going to be damaged. But more importantly, it is because of budgets such as this that people lose faith in their Government.

Mr. Speaker, I ask all my colleagues to vote down the reconciliation report.

Mr. LEACH. Mr. Speaker, to conclude for the minority, I yield the balance of my time once again to the distinguished gentleman from New York [Mr. LAZIO].

The SPEAKER pro tempore (Mr. MCNULTY). The gentleman from New York [Mr. LAZIO] is recognized for 1 minute and 20 seconds.

Mr. LAZIO. Mr. Speaker, I congratulate my colleagues on the other side of the aisle for apparently accomplishing a very difficult political feat—obtaining commitments from enough House and Senate Democrats to pass this reconciliation bill without a single Republican vote.

Many of my Republican colleagues are voting "no" for the simple and singular reason they were deliberately and systematically excluded and ignored by the Clinton White House and congressional Democrats. Except at the very end, when Democrats worried that they might not be able to pass this bill without some Republican votes, Republicans could not buy their way into the negotiations on this enormously important legislation.

I say without reservation that, for this Member, this was a frustrating experience. I was elected to represent all of my constituents. I would much prefer to be in the thick of the legislative battle, even if I come up short. Being in the minority is one thing; being closed out is quite another.

I reject the view that if the Democrats choose to exclude Republicans from the process, Republicans are under no obligation to help the Democrats in a problem of their own making; namely, getting enough votes within their congressional caucus to pass a significant deficit-reduction bill. The issue before us is deficit reduction, not politics as usual.

Be that as it may, the fact is I was excluded. And even though I was officially a member of the conference committee, the truth is I had no opportunity to improve this legislation, which I believe is seriously flawed.

I want to start, therefore, with some overarching positions.

I reject the view of some—supplysiders on my side and liberals on the other side—that deficits do not matter. I think they matter a lot. In my view, deficit reduction ought to be our No. 1 economic priority. It is the surest fiscal policy action we can take to get the economy on a path of sustainable high growth and low

I also part company from those who preach the categorical mantra of "no new taxes" under any circumstances. Nor do I join in deriding the 1990 budget agreement on the grounds it didn't cut the deficit. The 1990 budget agreement has serious problems, but lack of deficit reduction is not one of them.

Mr. Speaker, I recognize that these views may place me in the minority of a minority, but I believe better public policies are more likely when they result from a true bipartisan process—when the compromises cross party lines.

Deficit reduction is necessarily a long-run economic strategy with short-run political pain. Especially at a time when economic growth is painfully slow, it is not difficult to appreciate why politicians prefer the vague and nebulous rhetoric of "deficit reduction" to the transparency of actually doing it—of deciding which and whose taxes to raise and which spending and whose economic income to cut. If cutting the deficit were as easy as the antideficit rhetoric, it would ceased to have been a problem long ago.

As if the political obstacles weren't enough, deficit reduction also presents a formidable economic problem, quite apart from the political constraints. The short-run impact of deficit reduction is slower economic growth. And while the fiscal drag of deficit reduction can be accommodated to a degree by a looser monetary policy, the President's economic package is not restricted to deficit reduction. Under the guise of "investment," his overall economic plan also calls for $160 billion of additional, nonfinanced—that is, deficit-increasing—Government spending.

Whether characterized as trying to have it both ways, trying to be all things to all people, or as talking out of both sides of the mouth, the President's overall economic plan is nevertheless at cross purposes with itself.

Internal inconsistency is not the only fly in the ointment. Deficit reduction should not be separated from health policy reform because health policy reform, at least as the President is expected to propose it, is not fiscally neutral even if it is deficit neutral. Yet, the President chose to delay health reform until we finish reconciliation because his health reform proposal is expected to contain significant new taxes, over and above the significant new taxes in this reconciliation bill.

I would also criticize the composition of the deficit-reduction bill. First, the ratio of taxes to spending cuts is not only lopsided, it is in the wrong direction; second, the very high progressivity of the tax proposals is counterproductive; third, the timing of the deficit reduction, as between tax increases and spending reductions, is uneven if not suspicious.

Admittedly, the numbers we have been hearing have an almost random quality, but it is painfully easy to fault the scorekeeping coming from the White House. It is simply dishonest, in my view, to count all interest savings on the spending side of the ledger; it is outrageous to count new user fees as spending cuts; and it defies logic to count increased Social Security taxes as reductions in Social Security benefits.

Depending on who you believe, for every $1 in spending cuts, this legislation will raise from $1 to $8 in new taxes. I'm inclined to take a conservative, and what I think is a more credible figure of $2, making the ratio between new taxes and spending cuts 2-to-1. This is a clear reversal of the 1990 budget agreement.

The President and my Democrat colleagues are proud, even ecstatic, over the progressivity of tax structure in this bill. Yet, they choose to ignore both history and theory. As Yogi Berra says, "It's deja vu all over again." Mr. President, it is, in fact, nothing less than the politics of envy.

I know it's popular to tax the rich—to make the rich pay their fair share. But soak-the-rich policies have failed in the past and there is good reason to expect them to fail again this time. Taxpayers respond to higher tax rates by seeking and finding ways to avoid and evade the taxes.

Both House and Senate tax proposals call for a 28-percent increase in the top marginal tax rate. The number of tax brackets would increase from three to five. At a time when national saving is at nearly an historical low, and when even my friends on the other side of this Chamber acknowledge the need to boost saving, these proposals do just the reverse. As surely as night follows day, they provide those who save the most with the incentive to save less. And with productivity finally on the move, these tax changes will provide the incentive to work less or not as hard.

Finally the timing of the deficit-reduction in this bill does not build confidence in its ability to actually reduce the deficit. With most tax provisions retroactive, the lion's share of the spending cuts are promised in 1997 and 1998. I would simply note that this is conveniently after the 1996 Presidential election.

Mr. Speaker, where I come from—Long Island, NY—people have incomes and tax burdens that are among the highest in the country. But they are not rich. Long Island is still reeling from the recession and continuing defense build-down. Higher and more progressive taxes can only hurt us. Likewise, living on an island makes us heavy users of energy. My constituents will be hit disproportionately high by any increase in gasoline taxes.

Mr. Speaker, I am told you have the votes to pass this package. I hope this information is wrong. If it is wrong, I want to hold out my hand—I disagree with the President that this reconciliation bill is the only option. If this legislation fails, I want you to know that this Member is interested in working on a serious alternative.

Mr. GONZALEZ. Mr. Speaker, I yield 1 minute to the gentleman from Virginia [Mr. MORAN], a gentleman from a great adjoining State and a former stalwart member of the Committee on Banking, Finance and Urban Affairs.

Mr. MORAN. Mr. Speaker, I would like to talk about an aspect of this bill that is designed to reduce everyone's real estate property taxes and improve the quality of their municipal services.

Mr. Speaker, sometimes up on Capitol Hill we lose sight of the fact that the government services the people care most about are the quality of their schools, their police and fire protection, their garbage collection, and the like. But those services are funded by local government, and 70 percent of local government revenue comes from real estate property taxes. That is why we have included several provisions that address the mistakes that were made in the 1986 Tax Reform Act that reduced the value of American real estate by $500 billion.

Mr. Speaker, this will restore the passive loss provision, it will eliminate tax penalties for debt restructuring, it will reform pension fund restrictions on creditworthy real estate investments, and it will authorize more mortgage revenue bonds and low income housing tax credits.

Those provisions, Mr. Speaker, are absolutely essential to break the back of the credit crunch that is strangling this economy. It will reduce the number of properties that have to be seized by failed banks, and it will also reduce the number of bankruptcies that are occurring every day in this country.

Mr. Speaker, it is absolutely necessary that we pass this bill by this body on this day.

Mr. Speaker, despite the improvement of certain economic indicators, a sustained economic recovery and long-term structural growth will remain elusive as long as commercial credit and capital prove difficult to acquire. Many sectors of the business and real estate community continue to be caught in the grips of a credit crunch that has strangled their ability to complete projects, make payrolls, restock inventories, or purchase new equipment.

The causes of the credit crunch are manyfold, but include structural weaknesses within the banking industry, an oversupply of commercial real estate, a more restrictive Federal regulatory climate and an outdated Tax Code that has crippled the secondary market for commercial and small business loans. Combined, these factors have driven the banking industry to invest more in risk-free government debt instruments than in making new loans.

For the first time in recent history, banks hold more in government securities than in business loans. I am pleased to see the Clinton administration and the Congress consider a series of regulatory and tax policy changes that over the long term will restore the incentives for banks to lend to credit worthy borrowers and the capital markets to lengthen their investment horizon. Unfortunately until these changes are implemented, this credit crunch continues to propel what might have been a predictable, and probably necessary, real estate price adjustment into a real estate depression.

Since 1990, the Nation's total real estate wealth has declined by more than $500 billion. This loss has had a negative multiplier effect on our economy, since real estate is used as collateral for most loans. When land and property values decline, banks are forced to call in loans or require more cash, forcing some businesses into bankruptcy and drying up credit for others.

The consequences of declining real estate values is not limited to the private sector. More than 70 percent of the revenues local governments use to finance schools, police, and infrastructure come from real estate property taxes. Declining land and property values invariably mean cuts in vital public services.

Unfortunately, the downward pressure on real estate values will continue as more than $340 billion of construction-miniperm and bullet loans come due. Industry experts estimate that up to $185 billion in commercial mortgages will need to be repriced

Recognizing the devastating impact the credit crunch was having on northern Virginia's economy and all across the country, I worked with the National Realty Committee and successfully offered a sense-of-the-Congress resolution on the credit crunch. The resolution, which ironically was attached to the bank reform bill, outlined steps the Federal Government needed to take to stabilize real estate values and restore credit. Specifically, the resolution called for restoration of the passive loss provision for real estate, liberalization of pension fund investment rules, securitization of commercial loans, removal of the tax penalties for loan restructuring and elimination of mark-to-market liquidation-based appraisals. President Clinton's "Interagency Policy Statement on Credit Availability" looks good on paper. We will now have to wait and see how the agencies are carrying it out in the field.

The Omnibus Budget Reconciliation Act [OBRA] of 1993 (H.R. 2264), which will implement the President's economic stimulus and deficit reduction plans will go a long way to stabilize real estate values by correcting the mistakes of the 1986 tax bill.

PASSIVE LOSS

Perhaps of greatest significance for the owners, investors, and local governments, who are affected by declining real estate values, is the fact that both the House and Senate versions of the President's proposal reject the passive loss rules that were established as a part of the 1986 Tax Reform Act. Since 1986, losses that result from passive business activities such as real estate transactions cannot be deducted against other income.

Beginning in 1981, the Federal Government began to distort the dynamics of the real estate marketplace. The Economic Recovery Act of 1981 provided powerful incentives for significant new real estate investment, while the Federal deregulation of the thrift industry in 1982 flooded the market with massive amounts of unregulated capital. Then, Federal tax policy reversed course with the enactment of the Tax Reform Act of 1986. Congress did the right thing by eliminating the real estate tax shelters that were created in the 1981 act. Unfortunately a number of provisions, including passive loss restrictions for real estate, that were added in the Senate, went too far. As a result of these changes there was a dramatic decrease in foreign investment, and an aversion in this country to placing capital even in worthwhile real estate investments.

Under OBRA, bill, qualifying individuals, that is, those who

PENSION FUND CHANGES

Another source of long-term capital for real estate is pension funds, which hold close to $2 trillion in assets. Given their long-term investment horizons, pensions can weather the cyclical changes in the real estate market and are a logical investment source. Both the House and Senate bills recognize the stabilizing influence pension funds can provide and seek to remove several major obstacles that penalized domestic pension funds from investing in real estate. Today, for example, domestic pension funds are considered as a single individual under the rule that five or fewer investors cannot own more than 50 percent of a real estate investment trust [REIT], the 5/50 rule, whereas foreign funds can consider their contributors as an individual and thus are not restricted by the 5/50 rule. Pension funds must also comply with very cumbersome unrelated business income tax [UBIT] restrictions to ensure that income from debt-financed real estate is tax exempt.

OBRA levels the playing field and treats United States and foreign pension funds in a similar manner. REIT's offer great promise as a way to securitize commercial loans. Efforts to facilitate pension fund investment in REIT's and remove the UBIT liabilities will bring much needed capital back into real estate while offering investors greater liquidity.

To finance the passive loss and pension fund changes, both bills extend the depreciable life on nonresidential structures, including lease-hold improvements, from the current 31.5-year period to 39 years. While I have some concerns about this provision, it is necessary given our current budget deficit problems.

LOAN RESTRUCTURING

OBRA also includes two additional provisions of interest to the real estate industry. One noteworthy provision helps remove the severe tax penalties that affect loan restructuring and cancellation of indebtedness. Under current law cancellation of indebtedness [COD] is treated as taxable income. The tax consequences associated with COD can lead to significant tax liability forcing borrowers to liquidate properties they otherwise would not sell and sometimes forces developers to return the properties to their lenders. The bill would also enable individuals to defer COD as income by reducing the tax basis of the property by the amount of the COD. This deferment would be permitted as long as the debt is incurred in connection with real estate used in a business and the debt is secured by real estate.

Combined, these tax changes will: Stabilize real estate values; enable many property owners to avoid filing bankruptcy; reduce the number of distressed properties held by banks and the Resolution Trust Corporation; and most importantly, ease the credit crunch on businesses.

They do not create any tax shelters but restore the balance real estate was denied in the 1986 Tax Reform Act.

Mr. GONZALEZ. Mr. Speaker, to sum up, I yield 1 minute to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, I join the chairman and others in supporting this part of the package. I now want to address one of the things we have heard, which is there are not enough cuts in this bill and we need to have a special session, another month, a couple more hours, to make cuts. I would like to share with the American people something that some of my friends on the other side do not want them to remember: We have had those sessions. We have voted already this year on almost every appropriations bill.

Mr. Speaker, I would suggest to people a simple rule: If someone gets up and tells you how much he or she really wants to cut, ask them how many amendments to the appropriations bills they put forward and how many they voted for.

No appropriations bill had a closed rule. No appropriations bill prevented Members from voting. So when Members tell you how they cannot wait to have a special session to cut, but they sat through appropriation after appropriation after appropriation and did nothing to cut, be reminded of the person who tells you about the biggest guy in the bar, how he was really going to smack him—3 days later. Because there are an awful lot of "gonnas" on that side, but not many "dids." They are gonna cut this and gonna cut that, but they didn't cut anything.

Mr. Speaker, the fact is we have done every appropriation except two, and one of those two we have not done is the military, and that one they want to spend more on. So all of these arguments about how much they were really dying to cut are disproven by the factual record.

The SPEAKER pro tempore (Mr. MURTHA). All time of the Committee on Banking, Finance and Urban Affairs has expired.

The Chair recognizes the gentleman from Michigan [Mr. FORD], the chairman of the Committee on Education and Labor, for 10 minutes, and the gentleman from Pennsylvania [Mr. GOODLING], the ranking member, for 10 minutes.

The Chair recognizes the gentleman from Michigan [Mr. FORD].

□ 1540

Mr. FORD of Michigan. Mr. Speaker, I yield myself 2 minutes.

Mr. FORD of Michigan. Mr. Speaker, I rise in support of H.R. 2264, the Budget Reconciliation Act. I am here to explain to my colleagues some of the budget cuts achieved by the Committee on Education and Labor.

The conferees met the target of $5.8 billion in savings, largely by moving toward a system of direct loans to replace Government-guaranteed loans. The guaranteed loan system involves 7,800 lenders, 46 guarantee agencies, and numerous servicers and secondary markets.

This exercise has revealed to me, in its full glory and for the first time, the layer after layer after layer of profit making that stands between students borrowing money to go to school and the money they receive. And I can assure my colleagues that we have taken serious steps here to recover some of that profit for the students and for the American taxpayer.

Under this system, the existing system, the Federal Government guarantees lenders against losses that might result from defaults. So it is an entitlement program. The entitlement runs to the lenders.

Under the system that we have put now in place, to ultimately replace this, the entitlement that we are talking about runs to the student, not to the lenders, not to the people who are in this business to make a profit.

Now, I find it very interesting to hear Members on that side of the aisle talking about how much more they wanted to cut. And I had a letter, when I went to conference, signed by 148 Republicans who told me not to take the House-passed version that saved $5.8 billion, but to take the Senate version which saved much less.

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The guaranteed loan system involves 7,800 lenders, 46 guaranty agencies, and numerous servicers and secondary markets. In this complex setup, students directly or indirectly apply for a loan to a bank or other qualified lender; loans are insured by a guaranty agency, reinsured by the Education Department, and frequently resold in secondary markets.

Under this system, the Federal Government guarantees lenders against losses that might result from defaults. The key to making it all work is the Government's generous allowance to the banks: The T-bill rate plus 3.1 percent. Along with loan origination and other fees, that is what students pay for the privilege of borrowing money to help them get an education

Picking up a proposal originally made by the Bush administration—but then disbanded when the money-lenders put pressure on the Republican White House-President Clinton proposed to phase in a system of direct loans to replace guaranteed loans. The system has a number of advantages: It saves the government $2 billion per year when fully implemented, it reduces students' borrowing costs, and it eliminates a system that is open to fraud and abuse by unscrupulous lenders.

President Clinton's proposal and the House bill would have phased in direct loans over 4 years, providing the Education Department time to gear up for the new system and to prove its efficiency and effectiveness. It also would have preserved the guaranteed loan system throughout the phasein of direct loans, maintaining the value of the $60 billion in outstanding loans in the secondary markets and generating another $30 billion in loans before full phasein. It would have produced profits for these lenders well into the 21st century. Thus the basic integrity of the existing system would have been protected while we moved to a better one.

After a protracted conference with the Senate, we have returned with a hybrid. The conference agreement provides a beginning for direct loans. In the 1994–95 school year, 5 percent of the student loan volume will be provided by direct loans, increasing to 40 percent in 1995–96, 50 percent in the following 2 years, and 60 percent in 1998–99. Beginning in 1996–97, educational institutions can choose to opt in to the direct loan system.

Because this slower phasein would provide less savings to the Government, the conference agreement includes a number of fees to banks and guaranty agencies that were approved by the Senate. Some of these fees also were proposed by the gentleman from Tennessee, who I believe hoped to preserve the current system. Ironically, his proposal would have undermined the system by reducing profits to the banks, guaranty agencies and secondary markets, perhaps causing them to leave the market. During the conference, I stressed repeatedly my opposition to these cuts in bank profits because I was concerned about the effect on the availability of loans.

Let me detail these budget cuts and fees. An upfront user fee on lenders of half-percent of their new loan volume saves $585 million. Sallie Mae, the Government-chartered institution that buys student loans will pay fees of 0.3 percent of their outstanding loan volume, savings $755 million.

The 9.5-percent floor on yields on loans made with tax-exempt bonds is eliminated, producing $350 million in savings. The guaranty agency administration cost allowance and reinsurance fees are eliminated, saving $910 million. The guaranty agency reinsurance fee is eliminated, saving $300 million.

Holders of consolidation loans will pay fees equal to 1.05 percent of their outstanding new loan principal, saving $1.255 billion.

Federal loan reinsurance is reduced from 100/90/80 percent to 98/88/78 percent, and the Federal loan guarantee on all holders of loans is reduced from 100 to 98 percent, except for lender-of-last-resort loans, saving $245 million.

The agreement requires multiple disbursement of Plus loans, saving $100 million. It lowers the guaranty agency default collection retention allowance from 30 to 27 percent, saving $215 million.

It reduces the bonuses based on the T-bill rate from 3.1 to 2.5 percent during the prepayment period, reducing Government costs by $495 million. It changes the preclaims payment from $50 per claim to 1 percent of collection, saving $28 million.

Finally, States must share the costs of institutions whose default rate exceeds 20 percent, saving taxpayers $300 million.

The banking lobby put tremendous pressure on some of the conferees and in general on the Congress to maintain their current, highly profitable entitlement. One company in Indiana hired lobbyists in Washington to spend $750,000 to defeat direct lending. The Ohio-based Student Loan Funding Corp. went so far as to establish a front organization ostensibly composed of students to advertise and lobby for the status quo. Members of my committee were deluged with calls from home-district bankers and student loan administrators urging them to maintain what is, after credit cards, the banking industry's second biggest profit center.

The status quo, however, would leave us without the budget savings required of the committee, and that is the main reason we went through this exercise. In the abstract, budget cuts are very popular. But when it comes to specifics, the special interests crawl out of the woodwork. The direct lending proposal is no different.

As a result of their campaign of disinformation, and of the legitimate concerns of people cautious about adopting a new system, the conferees have emerged with a program that may be destabilizing for lenders, which in turn poses risks for students who attend institutions that banks historically have judged as risky. I am concerned that lenders will decline to lend to their students.

My concern is partly relieved because of the provision that allows all institutions to opt in to direct lending in 1996–97. That should ensure that every institution that desires to participate in the direct lending program will have that choice.

I want to note to my colleagues who remain concerned about direct loans that before the 5 years of this agreement have expired, the Congress will reauthorize the Higher Education Act. That review will take place in 1997. Within 4 years, we will have the opportunity to examine the direct loan program.

Ultimately, accepting this hybrid allows us to meet the savings required by the budget resolution. This policy was created in the shadow of the mandate to produce budget cuts. As unfortunate as it is to write policy according to budget requirements, we have been able to initiate a good and workable system of direct loans that in essence the administration sought and the House approved. It lowers costs to taxpayers.

Taxpayers are not the only beneficiaries of direct loans. Throughout this process, the committee, the House and the conferees have sought to promote the interests of all those aspiring to improve their education, the people at the heart of this program. Students' origination and insurance fees—the amount taken off the top—will be cut in half, from a maximum of about $240 to $120. Their interest costs also will be reduced by limiting the rates lenders can charge.

Besides facing lower costs, students will be offered flexible repayment options. They will be able to work out a schedule that increases their loan payments as their income rises, or that are longer than under current law, or that are contingent upon their income.

Observers of Congress tend to become obsessed with the process, or as President Clinton put it in his inaugural address, who's in and who's out, who's up and who's down; did the House or the Senate position win in the conference.

My first concern, as chairman of the Committee on Education and Labor, is to ensure that this budget reconciliation does no harm to the students whose interests guide our policy considerations. The purpose of the Student Loan Program is to make college more affordable for Americans who need help to meet its ever-growing costs. Student loans took a lot of hits under President Reagan. Under President Clinton, with this budget bill and other proposals we are considering this year—school-to-work and national service to name two—we are restarting the long process of investing in our people.

I am most pleased that we are lowering the costs of higher education or job training, which we all agree is a key to a more prosperous economy and better living standards for our people. The essential byproduct is that we are saving the taxpayers money. Again, I must say that I do not like the way we have had to produce these savings—I do not endorse the use of reconciliation to set policy—but the question of cutting the budget was beyond the purview of my committee.

I urge my colleagues to vote for this agreement.

Mr. GOODLING. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. Mr. Speaker, I rise in opposition to the conference report to accompany H.R. 2264, the omnibus reconciliation of 1993.

I stand here as frustrated as I ever have been in my years in this House. Clearly, the budget deficit and our declining position in the global economy require firm action and determined leadership—now. Yet, the package we have before us is more of the same.

I submit that this President and this Congress are wasting a golden opportunity to correct the slide of the U.S. economy. Had this debate been marked more by bipartisanship and cooperation instead of harsh rhetoric and polarization, we could have passed a credible plan that contained real deficit reduction and significant capital investment to create economic growth and jobs in the process.

Certainly, an effort was made toward this road to consensus and bipartisanship with the Solomon amendment. That proposal set down a marker that recognized the need for a balance between spending and taxes, between saving and investing.

THE SPENDING SPIRAL

In structuring a credible deficit reduction and economic growth package, we must first attack the spending spiral. We must significantly cut Government spending before we ask Americans to shoulder a high tax burden.

This is exactly where President Clinton's plan fails. At the beginning of this process, we heard that any deficit reduction plan coming from the White House would contain $2 in spending cuts for every $1 in new taxes. This bill falls far short of that standard.

In fact, this legislation fails to end one single Government program. Many of the so-called spending cuts are actually user fees, interest savings, and cuts enacted in 1990.

And, I would add, that over 80 percent of all the spending cuts in this package occur in fiscal years 1997 and 1998. Those are in the 2 years following the next Presidential election and two congressional elections.

No, this is just more of the same—continuing a dangerous tradition of profligate spending without regard to the long-term consequences.

DIRECT LOANS

A prime example—the ill-conceived, ill-advised move in this legislation to get the U.S. Government into the direct student loan business.

There can be no doubt that the Guaranteed Student Loan Program has had its problems over the years. As a member of the Education and Labor Committee, I have led the charge for years in fighting for new taxpayer protections—measures that will sharply curtail the $3-billion-a-year loan defaut crisis.

This reconciliation bill allows the Department of Education to provide directly over 60 percent of all student loans within 5 years. Why?

CBO claims we will save over $4 billion following this route. I submit that when all the administrative costs are stacked up—when we add the cost to the taxpayers of capitalizing this system—and when we throw in the inevitable inefficiencies of creating another Federal bureaucracy attempting to perform the functions of a financial institution, the taxpayers will pay for our haste.

We should have stuck with the pilot program we authorized last year. This experimental program should have been test marketed.

MEDICARE AND MEDICAID

I am also deeply troubled by the deep cuts we are proposing in Medicare. Once more, we are trying to tell our aging Americans that all we have to do is ratchet down on waste, fraud, and abuse, and cut the fees of those so-called rich doctors and expensive hospitals, and we will be able to cut costs and maintain quality health care. Experience shows us this is just not so. And it is our senior citizens who shoulder the burden of these broad cuts. The last time we enacted cuts as deep as these in Medicare, beneficiaries saw their services and benefits decreased while their financial contributions increased.

This $56-billion Medicare cost shift cannot be examined in a vaccum. We must be mindful of the significant increase in the Social Security tax for many New Jersey residents. Combined, this cut and this tax amount to an unfair burden on the backs of middle-class older Americans.

JOB CREATION?

And then we have the battle of the dueling job-creation estimates. The Clinton administration claims that enactment of this package will result in the creation of 8.3 million jobs. However, last January, the Congressional Budget Office projected that without any change in policy, 9.4 million jobs would be created through 1996.

Clearly, this massive change in policy places new burden on all business, especially small businesses which generate the bulk of new jobs in the country. In fact, many small businesses will see their tax rates jump from 31 percent to nearly 40 percent. How do we expect small business—the entrepreneurial engine of our economy—to continue to create new jobs when carrying the weight of the Clinton tax plan?

This plan flatly fails my "Save and Invest in America" test. The investment incentives in this legislation are mere tokenism—not the investment tax credit, targeted capital gains cut, expansion of R&D that we need to allow American firms to modernize and compete in the global economic wars.

SUMMARY

Mr. Speaker, my opposition to this legislation has never been based on the hollow mantra of "no new taxes." My opposition is much deeper than that.

We must cut spending. We must halt the introduction of new programs. We must protect our older neighbors from unfair Social Security taxes and Medicare cuts. And we must implement a "Save and Invest in America" program.

This is the blueprint that starts us down the road toward genuine deficit reduction and economic growth. We owe it to the American people to take these important steps.

We should defeat the President's tax and spending plan, go back to the drawing board, and stay here in Washington through August—if that's what it takes—to get the job done right.

We can do better. Vote "no".

Mr. FORD of Michigan. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. STRICKLAND], a member of the committee.

Mr. STRICKLAND. Mr. Speaker, the budget we vote on later today will do more to lift working families out of poverty in my district than anything this Government has done in the last 20 years. In my district, 36,000 families represent the working poor and will receive a significant tax benefit under this plan.

Many of these working poor families will get as much as a $2,000 per year refund on their taxes—$2,000 to put toward a better car, to make improvements to a home, or perhaps, to start a savings account.

Mr. Speaker, in my Appalachian district, most families are middle- and low-income people. Only one-half of 1 percent of my constituents will see their income taxes increase. Only one-half of 1 percent. In fact, no one in this country will have their income taxes increased unless their income exceeds $140,000.

Not many people in the 6th Congressional District of Ohio make that kind of money.

And what about the gas tax?—4.3 cents per gallon. For the average family driving 15,000 miles per year and averaging 20 miles per gallon, they will pay $32.25 for the entire year; $32.25 for the entire year.

Mr. Speaker, special interests are fighting tooth and nail against the President's attempts to get this country back on track. They have a selfish interest in maintaining the policies of the last 12 years. They are fighting to the death to hold on to the advantages which they have enjoyed, while middle-class Americans have paid the bills.

What we are hearing from talk show hosts and some disingenuous politicians is the death rattle of Reaganomics.

But, Mr. Speaker, once we pass this budget, the death rattle will be silenced and this country can experience new life. A new life that provides security for our seniors, a future for our children, and a fighting chance for working men and women. I urge my colleagues to support this budget.

Mr. GOODLING. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois [Mr. FAWELL].

Mr. FAWELL. Mr. Speaker, I rise in opposition to the reconciliation bill.

As Yogi Berra would say, "this is deja vu all over again."

This is my ninth year in Congress. My fourth 5-year deficit reduction bill. I've never seen one yet that got by the third year without being junked. They're all the same. When I came to Congress in 1985 the national debt was about $1.4 trillion. Since then Congress has promised literally trillions of dollars of deficit-reductions in fancy 5-year plans. All we have gotten is trillions of dollars of new debt which now totals $4.1 trillion.

In 1990, Congress gave up on Gramm-Rudman deficit reductions and came up with a new 5-year plan. The plan was front loaded with $164 billion of new taxes—which, for Congress is like fighting fire with gasoline—and promised $500 billion of deficit reductions. Sounds nice. What we got though were all-time increases in new debt for 1991 and 1992 totaling $767 billion, and now, in the third year of the 1990 deficit reduction law, we come up with a new $500 billion deficit reduction plan. This time Congress front loads it with $270 billion in new taxes, as well as lots of new spending.

If all the new taxes and new spending promised under this new 5-year plan take place—and we can bet our lives that will happen—and if, against all common sense, we assume that all the tax revenues come in and all the deficit reductions take place—which we know won't occur—the new debt over this 5-year period will be $1.8 trillion. And the deficits for 1999 and subsequent years CBO tells us will be growing.

In other words, Congress has no plan in this century or even the next, to balance the budget. None.

Why do we get trillions of dollars of new debt from these 5-year plans rather than the trillions of dollars of promised deficit reductions?

First, because most of the deficit reductions are decreases of increases in spending, not cuts. We all know that. It's like buying a new car listed at $20,000 but we buy it at $15,000. To Congress that's a $5,000 deficit reduction. To the people it is $15,000 of new debt.

Second, most of our deficit reductions in these 5-year plans are always in the out years, like the fourth and fifth year. And of course we never get to those out years.

Third, we all know that the rules and laws in regard to spending limits can and will be waived, or an emergency can be declared in which event budgets and spending limits don't count.

Fourth, we know that to front load a deficit reduction plan with new taxes has only one sure result—about $1.50 of new spending for each dollar of new taxes.

And, finally, Congress doesn't dare touch entitlements—not really.

Winston Churchill has said that one can always count on the Americans to do the right thing—after they have first exhausted every bloody alternative. Well, this reconciliation plan is just another garden-variety bloody alternative to real deficit reduction—full of blue smoke and mirrors. Until there is a balanced budget amendment to the U.S. Constitution I don't think you will see congressional leadership ever seriously move toward balancing the Federal budget.

Mr. Speaker, I would like to insert in the RECORD a letter from Citizens Against Government Waste which gives an excellent description of why this bill should be defeated.

COUNCIL FOR CITIZENS AGAINST GOVERNMENT WASTE,
Washington, DC, August 4, 1993.

Hon. HARRIS W. FAWELL,
Rayburn House Office Building, Washington, DC.

DEAR MR. FAWELL. As you consider your vote later this week on the Reconciliation Act of 1993, I urge you to review recent history, as well as the provisions of this bill, and decide whether it really will help relieve the huge burden of debt being inherited by future generations.

Taxpayers know that all that's really going on is a reduction in the rate of deficit increases over the next five years. It's no secret that total debt will rise by at least $1.5 trillion (the President's Budget says, on p. 33, that it will go up by $1.8 trillion to an astounding $6.2 trillion). Taxpayers are tired of hearing from legislators say, "we really mean it this time." This was the mantra in 1990, as Congress passed the largest tax increase in history (until this year) and masked it by calling it a deficit reduction package. The results: deficits are spiraling out of control. The Administration and Congress now have the temerity to ask taxpayers to sacrifice, saying they really, really mean it this time.

But spending was not cut as a result of the 1990 deal, and the Reconciliation Act will not work either. In the July 30 Washington Post, James Glassman noted that spending will rise $200 billion, and the deficit at the end of fiscal year 1998 would be $202 billion—a drop of $83 billion from the projected $285 billion, instead of $500 billion. He called baseline accounting "a bipartisan fraud."

And legislators wonder why the American people are skeptical. Perhaps it is because they know many of the spending cuts in the package are masked tax increases and 80% of the spending cuts will not occur until 1996, if ever. Supporters of the budget deal have no laundry list of program terminations; only promises of future "health care" and "other" savings. Americans know that even if his bill passes, the bloated spending-cut promises made by Congress will never materialize and once again, the middle-class will be asked to foot the bill for their profligacy. Many are outraged over the unprecedented and ill-advised retroactive tax increase—which will affect not just the so-called rich, but every middle-class Social Security beneficiary. Finally, taxpayers can't fathom that members of Congress will actually vote on such an important bill without adequate notice and opportunity to review its contents. For example, congressional sources cite new spending of more than $25 billion in the bill, but no one yet knows the details. This is not the kind of change taxpayers had in mind last November.

The only thing that works well in Washington is Congress's ability to spend. Unabated wasteful spending erodes the American people's confidence in their institutions. Passage of the Reconciliation Act will not inspire renewed respect for Washington's efforts to cut the deficit.

I urge you to oppose the Reconciliation Act, knowing it's the right choice, and that we can do better for ourselves and our country.

Sincerely,

THOMAS A. SCHATZ,
President.

☐ 1550

Mr. FORD of Michigan. Mr. Speaker, I sincerely sympathize with the Republicans who stand foursquare for that status quo of the failed past.

Mr. Speaker, I yield 2 minutes to the gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Speaker, when President Clinton came to Washington he inherited a Federal debt that has exploded over the last 12 years; an economy that was killing 50 percent of small businesses, crumbling roads and cities, and a shift in pay that saw the wealthy double their income while middle-class income dropped by 8 percent.

President Clinton confronted these problems head on and now we come to cast a vote on his plan. No other plan offered was as balanced or as fair. The Republican Gramm-Armey plan would have cut Medicare by $57 billion and would have denied student loans to 1.3 million students.

The Republican Kasich plan would have cut the deficit by $141 billion less than the President's plan are eliminated the earned income tax credit to keep low-income working families off welfare. And the Perot plan would have had a gas tax more than 10 times the amount in the President's plan.

Everyone here today knows that this plan is the best alternative. They know that no family making less than $180,000 will pay any additional income tax. And they know that 90 percent of small businesses will be eligible for a tax break. They know that the deficit will be reduced by nearly half a trillion dollars.

Mr. Speaker, this is a courageous plan, a new direction, and a critical moment in the history of this country. I urge my colleagues to look to the future, and vote for this plan

Mr. GOODLING. Mr. Speaker, I yield such time as he may consume to the gentleman from Louisiana [Mr. LIVINGSTON].

Mr. LIVINGSTON. Mr. Speaker, I rise in opposition to the plan, because according to our review of the conference package, in the only 3 years of this administration, over half of the new taxes are assessed in this administration, almost none of the spending reductions are assessed in this administration, and less than one-third of the projected total deficit reduction can be realized in this administration. The rest in each category will come into effect in years 4 and 5. That's after the next Presidential election.

Mr. Speaker, I include for the RECORD this chart demonstrating that outcome.

[In billions of dollars]

	1994	1995	1996	1997	1998
New taxes	32	46	52	64	62
New spending reduction	0	4	20	39	57
Total deficit reduction	32	50	72	103	119

Mr. GOODLING. Mr. Speaker, I yield 2½ minutes to the gentleman from Michigan [Mr. HOEKSTRA].

Mr. HOEKSTRA, Mr. Speaker, the American people asked for change and guess what they are getting—a status quo Presidency and hundreds of status quo men and women in Congress who are happy to stay with the same old failed policies that are driving our Nation's economy into the ground. Most important, the process did not change.

Since the President introduced his budget proposal in February, Republicans have tried to join the President and their Democratic colleagues at the table to develop a credible deficit-reduction program that would be good for America. Unfortunately, the budget negotiations occurred behind closed doors and Republicans were totally shut out of the process. In fact, according to a recent report in the August 9 edition of Newsweek, Vice President AL GORE advised President Clinton to craft a Democrats-only budget deal. And that is exactly what was done.

Little if any consideration was given to the public's pleas to cut spending first, despite the fact that for months and months thousands of Americans have said that they would be willing to pay more in taxes to reduce the deficit if Congress would just cut spending first. Has anyone in this Chamber received a letter or phone call from a constituent saying "tax me first" or "cut spending later"? I doubt it.

This package contains the largest tax package in history, raising over $275 billion of gross taxes in 5 year. The President's plan sticks it to all income levels by raising taxes on virtually everyone who drives a car. Was it my imagination or did President Clinton promise a middle-class tax cut during the campaign? The taxes in the bill are not only harmful in their effect, they are unfair. It is difficult for me to believe that this plan makes the income tax provisions retroactive to January 1, 1993—a full 20 days before President Clinton even took office.

The President's budget package will not reduce the deficit as predicted. The bill is chock-full of budget gimmicks, false promises, and heavy taxes that will rob the taxpayers of their hard-earned dollars and eliminate incentives to work hard and invest in America's future. In addition, the bill does almost nothing to reduce spending by the Government; in fact, the Government will continue to grow steadily under this proposal. And when the Government continues to grow, so does the deficit.

I will vote against the President's tax package because it is the last thing this country needs. It represents more of the same over promising, under delivering politicians with no real change. I urge all of my colleagues to vote against the President's plan so that we can start anew, putting politics as usual behind us. It is time to work together in a truly bipartisan way to develop a better, more balanced budget plan for America that includes institutional reforms like the line-item veto and real spending cuts that will reduce the deficit. I am willing to work with my colleagues to do whatever is necessary to create a meaningful, believable, workable budget plan. Without a serious effort to put partisan politics aside and improve this plan, I am afraid that the status quo is here to stay—at least until the next election. This isn't change, we can do better.

Mr. FORD of Michigan. Mr. Speaker, I would ask, how much time I have remaining.

The SPEAKER pro tempore (Mr. MURTHA). The gentleman from Michigan [Mr. FORD] has 4 minutes remaining, and the gentleman from Pennsylvania [Mr. GOODLING] has 2½ minutes remaining.

Mr. FORD of Michigan. Mr. Speaker, I reserve the balance of my time.

Mr. GOODLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I could respond to some of the cute political jibes and jabs, but I listened to my leader at Paul Henry's funeral, and he fashioned his comments in the eulogy around the word "civility." Therefore, I will merely indicate that I have a message to offer from one of my constituents. I am his servant, and he asked if I would bring the message to all of the Members.

He said,

> About 200 years ago, Thomas Jefferson stated, "I place economy among the first and most important virtues and public debt as the greatest of dangers to pursue our independence. We must not let ourselves load up with perpetual debt. We must make our choice between economy and liberty, or profusion and servitude. If we can prevent the government from wasting the labors of the people under the pretense of caring for them, they will be happy. The same prudence which in private life would forbid our paying our money for unexplained projects, forbids it in the use of public money."

I will not go on to interpret the meaning of Jefferson's counsel to the American people. I am worried about the effects that this package will have on all of our constituents. I would just ask that Members read this message before they vote.

The majority of the savings from our committee were to come from the Federal student loan programs. The administration proposed to move to a direct loan program over the next 4 years. This proposal came on the heels of Congress considering the direct loan idea for 2 years and deciding it was wise to move slowly and first pilot this new approach. The Higher Education Act reauthorization signed into law just last year contained such a direct loan pilot.

So, it should have come as no surprise to anyone that the move to a full blown direct loan program in the reconciliation bill would be controversial. Fortunately, the Senate created a compromise position which allowed for both direct and guaranteed loans to continue until the next Higher Education Act reauthorization. At that time we can study whether the claims of direct loans proponents are true. If not, it will be possible to return to a streamlined system of guaranteed loans.

Nearly two-thirds of the House of Representatives signaled their support for the Senate position in a letter to the conferees. I am happy to report back to you that we have not adopted the House position and the Congress will have an opportunity to revisit this issue during the next reauthorization of the Higher Education Act.

Another provision under our committee's jurisdiction was the ERISA waivers for various health programs in Hawaii, Maryland, New York, and Minnesota. I opposed these ERISA exemptions, as did both organized labor and business, as extraneous to budget reconciliation and subject to the Senate Byrd rule. I am pleased to say that these provisions were stricken in conference. However, I was disturbed to find out this morning that the New York waiver was reinstated in the tax portion of the bill.

Mr. Speaker, the House bill included for waivers from the Federal preemption of State laws affecting employee benefit plans. The Education and Labor portion of the bill, section 4203, contained ERISA waivers for various health programs in Hawaii, Maryland, New York, and Minnesota.

In committee, I opposed these four State health care law exceptions to ERISA preemption as extraneous to budget reconciliation and subject to the Senate Byrd rule.

I am pleased to say that these arguments were heard and that these provisions were stricken in conference.

It is no consolation, however, to discover in this morning's news that the New York waiver was reinserted in the tax portion of the bill using what amounts to budgetary gimmickry.

I would like to reiterate for the record that all of the exemptions are contentious and were opposed by both organized labor and business.

Why shouldn't any of these waivers be included?

I am not persuaded that health care policy decisions of this importance should be decided in a budget bill.

Second, the role that the States should play in achieving overall health care reform is an extremely important subject to be resolved in the context of the national debate we will begin this fall. Even though a 2-year sunset would have applied to these four exceptions, the substance and merits of these proposals should clearly be considered beyond a single perfunctory hearing.

Also, none of the States were in dire need of immediate relief. An ERISA exemption for Hawaii has existed under current law since 1983. Indeed, Maryland has never faced a Federal law challenge to its system. The law that Minnesota recently passed is not yet fully effective. In addition, the New York law has received a stay of the injunction originally imposed on its current tax structure.

I would also point out that passthrough provider taxes are sick taxes that increase with the cost of a lengthy illness and have been rightly criticized as poor public policy. States already have a variety of means to subsidize care for the poor, including taxes of general application spread more fairly across the general tax-paying population. In fact, New Jersey chose this route when a tax similar to Minnesota's was ruled preempted by ERISA.

Finally, exceptions of this type undermine ERISA's preemption protection which provides uniformity in the rules applicable to employer-provided health care coverage. Indeed, they result in additional administrative complexities for health care plans which cover employees in more than one State.

In conclusion, I believe that the issues of ERISA preemption and health care reform should be debated in a careful and deliberate manner whereby all interests are weighted, consensus is formed, and the appropriate national policy is implemented. Therefore, at least with respect to the Education and Labor Committee's exemptions, the conferees took the appropriate steps in removing them from this conference report.

□ 1600

Mr. Speaker, I yield back the balance of my time.

Mr. FORD of Michigan. Mr. Speaker, I yield myself 1½ minutes.

It saddens me to hear what the gentleman from Pennsylvania has just been saying, because it seems to me that my old friend is wallowing in self-delusion.

He sent me a letter which I mentioned a few minutes ago, signed by 148 Republicans saying support the Goodling-Gordon alternative for saving this money. I have it here for anybody who wants to examine it, and I will put it in the RECORD, the savings that were in his proposal we accepted in the conference.

First it is to hit the lenders with a one-half of 1 percent new loan volume fee that saved $585 million, imposed a monthly fee on holders of loans and that saved $1.25 billion, reduced the special allowance on students during the inschool, grace and deferment, which is a payment to the lenders, saving $495 million.

I include for the RECORD these and additional cuts as follows:

LENDERS

Imposes an up-front user fee on lenders of 0.5 percent of their new loan volume; savings: $585 million—effective date: October 1, 1993.

Imposes a monthly fee on holders of consolidation loans equal to 1.05 percent of the outstanding loan principal of consolidation loans (applicable only to new loans); savings: $1.255 billion—effective date: October 1, 1993.

Reduces the special allowance on student loans during the in-school, grace and deferment periods from the 91-day T-bill plus 3.1 percent to the 91-day T-bill plus 2.5 percent; savings: $495 million—effective date: July 1, 1995.

GUARANTY AGENCIES

Eliminates the guaranty agency administrative cost allowance and reinsurance fees; savings: $610 million—effective date: October 1, 1993.

Reduces Federal reinsurance on loans from 100/90/80 percent to 98/88/78 percent, exempting lender-of-last-resort loans; savings: $120 million—effective date: October 1, 1993.

Lowers the guaranty agency default collection retention allowance from 30 percent to 27 percent; savings: $215 million—effective date: October 1, 1993.

SECONDARY MARKETS AND SALLIE MAE

Eliminates the 9.5 percent floor on yields on loans made with tax-exempt bonds; savings: $350 million—effective date: Date of enactment.

OTHER

Requires multiple disbursement of PLUS loans; savings: $100 million—effective date: October 1, 1993.

If Members do not think those are genuine cuts, they are going to hear from the lenders because it is their profit that is going to pay for this. Guarantee agencies in your States are going to tell you how unhappy they are about the outcome, because we were compelled in conference, because we could not go to mandating 100 percent direct student loans over 5 years, we could only get credit for 60 percent, and the rest of the money had to be made up by accepting Mr. GOODLING'S proposals. We accepted eight of those proposals, which make up the difference between 60 and 100 percent of direct loans.

So what we have now is the savings of all of the money we were directed to save, but we have it in a combination of ways so that all of the lenders and people in this program will be affected not in the future when direct loans come into place, but right now, effective as soon as this act becomes law.

It is serious. Members are going to hear a lot of complaining about it, just as they do hear complaining every time we cut anybody. And the people who have been making the profit out of this program have spent a very, very substantial amount of money lobbying me and the members of my committee and the people that Mr. Perot warned us about in the lizard-skin shoes who have been all around the Education and Labor Committee this whole few months we have considered this bill. And the lizard-skin shoes have forced us into a position, unfortunately, of leaving the people who are paying their fees more disadvantaged than they would have been if the President's plan had been adopted.

Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Speaker, again, two simple points. Two or three speakers ago one of the gentlemen on that side of the aisle repeated the same old refrain we have heard for hours. "You should cut spending first." I will repeat the same thing that I have said twice before on this floor. This House, this year in 10 appropriation bills has already made almost 300 specific spending cuts below last year's spending level. We can go back and look at the appropriation bills. It is there in simple English.

Second, when we talk about the taxes in this bill, we all know that the lion's share of the taxes are on those who make more than $140,000 a year, the wealthiest 1 percent of people in this country who in the last 12 years saw their income more than double from about $300,000 on average to over $600,000. The middle bracket, people in the middle 20 percent of income in this country, lost 8 percent, and the poorest lost 12 percent under the Reagan-Bush policies.

We have crocodile tears from the Republican side of the aisle about what is happening to the poor people in the top bracket. They were paying at a 92-percent rate in the 1950's, they were paying 70 percent of their income in taxes as recently as 1977. Then they dropped to 50 percent, then they dropped to 28 percent. This bill still brings them back only to 39 percent. The wealthy are still keeping more than half of the gains that they made in the 1980's, while everybody else was losing ground.

I make no apologies for the fact that President Clinton and Democrats in this Congress have guts enough to try to change that policy. This is reversing the policies of the last decade which squeezed the middle class and rewarded the wealthy.

I think it is the way the country wants to go. It is the way the country will want us to vote, and it is what this bill does, despite all of the fog we have seen from the other side of the aisle today to the contrary.

The SPEAKER pro tempore (Mr. MURTHA). All time for the Committee on Education and Labor has expired.

The Chair recognizes the Committee on Energy and Commerce. The gentleman form Michigan [Mr. DINGELL] will be recognized for 10 minutes, and the gentleman from California [Mr. MOORHEAD] will be recognized for 10 minutes.

The Chair recognizes the gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Massachusetts [Mr. MARKEY], chairman of the Subcommittee on Telecommunications and Finance.

Mr. MARKEY. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I rise today in support of title VI, "Communications Licensing and Spectrum Allocation Improvement," provisions of the Budget Reconciliation Act.

This part of the budget reconciliation proposal is critical to the United States because it raises much needed revenues while also reforming an inefficient means of licensing communications services in our country. And, most significantly, it frees up 200 megahertz of spectrum from the Federal Government and transfers that spectrum to use by the private sector.

The rationale behind this auction proposal is that we must reform and improve the current licensing process, which uses lotteries. In short, there has to be a better way to manage a precious Federal resource than picking names out of a hat. In addition, as the overseers of valuable Federal assets, we have an obligation to get for the taxpayers as much value as possible. This proposal puts in place a better way, true to the principles underpinning the Communications Act, while at the same time raising revenue, over $10 billion, for the public.

By freeing up 200 megahertz of spectrum, this bill is the Alaskan oil strike of the Information Age. The technology of the future will use radio spectrum, in much the same way that the technology of this century relied on oil. To illustrate: The cellular industry, which now generates $8 billion in revenues, $3 billion in exports, and employs 100,000 people, was created by the Government freeing up just 50 megahertz. Personal computers and laptops or palmtops linked by radio waves, smaller and cheaper portable phones, radio-based toll collectors and e-mail—all of these will be made possible by this freed-up spectrum. According to John Sculley and other industry experts, these wireless products and services will generate $1 to $3 trillion over the next 10 years and result in hundreds of thousands of new jobs.

In addition, the legislation also authorizes the FCC to use auctions as a means of awarding spectrum, and that, will generate $10 billion for taxpayers over 5 years. As a result, this proposal is a win for taxpayers, a boon for industry, and holds out a bright future for those seeking jobs.

The jobs created by this modern oil strike will be in large companies like Motorola, IBM, AT&T, Apple, as well as small companies like General Magic in California, RadioMail in California, Mtel in Mississippi, Omnipoint Corp. in Colorado, and dozens of small companies not yet created. Unlike proposals from Bush and Reagan, the benefits will flow to small entrepreneurs because the legislation

The statement of managers provides greater detail about the proposal and the decision made by the conferees. I want to take this opportunity to comment on a few additional matters. First, I want to emphasize that section 6003, which provides for additional communications fees, is similar to H.R. 1674, which passed the House in 1991. As a result, the House Report (H.R. Rept. 102–207) accompanying that bill contains the best explanation of section 6003, and all of its relevant provisions are incorporated by reference in the statement of managers. In particular, the report states that fees shall be assessed on operators of U.S. facilities, consistent with FCC jurisdiction. Hence, these fees will not apply to space stations operated by international organizations subject to the International Organization Immunities Act. Second, I want to note that there is a typographical error in the statement of managers in the part that explains the Conference Agreement concerning section 115. The last paragraph should refer to "interference-free", not "inference-free".

Third, I want to clarify that subsection (c)(2) of section 6002, relating to effective dates, provides a 3-year period during which current providers of private land mobile service will continue to be treated in the same manner. The intent of this transition period is to provide those whose regulatory status is changed as a result of this legislation a reasonable time to conform with the new regulatory scheme.

Finally, I want to emphasize that this legislation gives the FCC flexibility to ensure that those with innovative ideas, the entrepreneurs out there, will be given an opportunity to share in the future communications revolution. The legislation directs the Commission to establish alternative payment mechanisms to encourage widespread participation in the auction process. For those Members who want to offer dreams to young struggling engineers and innovators, wherever they are, these provisions give you that ability.

This specific provision makes certain that those who are rich in ideas and low on cash get a chance to enroll in the future. This provision directs the FCC to consider what alternative payment methods should be used, such as installment payments or royalty payments or some combination, so that all Americans have a chance to participate in the communications revolution.

This legislation also enables the FCC to continue to hold out the promise of a pioneer's preference for the truly genius who catapult technology to another level. In fact, some of that genius is what spawned the entire PCS revolution. Under this legislation those truly genuine technology pioneers will be able to make a run for the roses and get a big payoff if they succeed. As we all know, that is a most powerful incentive, and that is why I think it is vital that we continue the overall thrust of the pioneer's preference program.

Mr. MOORHEAD. Mr. Speaker, I yield 1 minute to the gentleman from Virginia [Mr. BLILEY].

Mr. BLILEY. Mr. Speaker, this Congress just does not seem to get it, or this administration. People want change. They want spending cuts, not increases in taxes.

We have heard a lot of rhetoric about how this only affects a few people. But it will affect an awful lot of people when you take $500 billion out of the economy.

Article 1, section 9.3 says Congress shall not tax retroactively. So what do we do? We take it back to January 1, 1993.

To my friend, the gentleman from Wisconsin, who preceded me a few minutes ago in the well, who said this only affects the top 2 percent, 1 percent or the very wealthy, I would remind him that in my district this bill will tax 12,159 senior citizens to the tune of $11.1 billion.

Mr. Speaker, I strongly object to this tax and spend reconciliation bill which will cost this country hundreds of thousands of jobs and probably lead us into another recession. But today I would like to address my comments to the medicaid provisions of this bill.

First, I would like to take Members on a trip down memory lane by describing what happened the last time we saved money in the medicaid program in OBRA 1990. The official CBO scoring sheet—which I will introduce into the RECORD—told us that the OBRA 90 legislation was going to save the Federal Government $616 million between fiscal years 1991 through 1996.

Now let me tell you what has really happened in medicaid spending during the past 3 years of the 1990 budget agreement. Well, it turns out that one provision of OBRA 90 allowed States to use provider-specific taxes for medicaid financing. This one change, which CBO scored as having no Federal financial impact, allowed hospital disproportionate share payments to grow from $800 million in 1989 to $17.8 billion this fiscal year. Again, the CBO 5-year score for this provision was zero. However, this one provision has lead to approximately $30 billion of Federal spending since 1990.

Let me repeat this again. CBO's official estimate of the OBRA 90 medicaid savings was $616 million over 5 years. But instead of any medicaid savings, OBRA 1990 has lead to at least $30 billion in additional medicaid spending during just 3 years! This is the type of "Alice in Wonderland" budget cuts we have in the current bill.

Now lets take a brief look at the official CBO scoring sheet of this year's medicaid cuts. Although CBO claims approximately $7 billion in savings over 5 years, in fiscal year 1994, this bill will actually spend $43 million for new entitlement expansions. Here we go again.

Additionally, over $4 billion of the so-called medicaid savings is directly attributable to the correction of a drafting error in OBRA 90 concerning an optional medicaid benefit for personal care services. When we passed this provision in 1990, CBO scored it as costing $25 million over 5 years. This little drafting error made it a $4.17 billion benefit, and is why we are now repealing it now. We can only speculate what drafting errors lurk in this new legislation.

Mr. Speaker, I believe that Members on both sides of the aisle are ill served when hundreds of pages are put in front of us at the last possible moment, and CBO numbers jump around wildly. I am afraid this legislation will end up spending more money than it saves.

TABLE IX–11.—PUBLIC LAW 101–508, OMNIBUS BUDGET RECONCILIATION ACT OF 1990, CONGRESSIONAL BUDGET OFFICE ESTIMATES OF CHANGES IN MEDICAID OUTLAYS MADE AT TIME OF ENACTMENT, FISCAL YEAR 1991 TO FISCAL YEAR 1995

[In millions of dollars]

	Fiscal Year—					
	1991	1992	1993	1994	1995	1991–95
Prescription drugs	−70	−330	−415	−505	−610	−1,930
Payment of group health plan premiums and cost-sharing	−85	−160	−205	−250	−305	−1,005
Medicare payments for low-income	35	15	55	85	195	385
Coverage of children	10	55	105	160	230	560
Outreach	9	50	55	55	60	229
Continuation of benefits through pregnancy or first year of life	15	30	35	35	40	155
Hospital payments	6	30	30	35	40	141
Presumptive eligibility	1	1	2	2	2	8
Paternity determinations	....	....	....	....	....	....
Error rate report and transition	....	....	0	0	0	....
Federally qualified health centers	3	4	4	4	4	19
Limitation on disallowance	0	12	0	0	0	12
Frail elderly	40	70	130	160	180	580
Community supported living arrangement services	5	10	20	30	35	100
Disregard of German reparation payments	....	1	1	1	1	4
Minn. personal care	1	1	1	1	0	4
Personal care services	0	0	0	0	25	25
Spenddown option	....	....	....	....	....	....
Frail elderly demonstration waivers	....	....	....	....	....	....
Low-income family coverage demonstrations	12	12	12	4	0	40
Respite care demonstration	2	2	0	0	0	4
HIV positive demonstration	5	12	13	0	0	30
Advance directives	....	1	1	1	1	4
Quality of physicians' services	....	1	1	1	1	4
Nursing home reform technicals	11	1	1	1	1	15

TABLE IX-11.—PUBLIC LAW 101-508, OMNIBUS BUDGET RECONCILIATION ACT OF 1990, CONGRESSIONAL BUDGET OFFICE ESTIMATES OF CHANGES IN MEDICAID OUTLAYS MADE AT TIME OF ENACTMENT, FISCAL YEAR 1991 TO FISCAL YEAR 1995—Continued

[In millions of dollars]

	Fiscal Year—					
	1991	1992	1993	1994	1995	1991-95
Total Medicaid	0	−182	−154	−180	−100	−616

Source: Congressional Budget Office. Unpublished table, Dec. 1990.

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Mr. MOORHEAD. Mr. Speaker, I yield 50 seconds to the gentleman from Texas [Mr. FIELDS].

Mr. FIELDS of Texas. Mr. Speaker, My comments are limited to title VI, which addresses the reallocation of 200 megahertz of Government spectrum and the authorization of the Federal Communications Commission to award new licenses for this spectrum under a competitive bidding system.

This title is the culmination of hours of bipartisan cooperation and hard work by the conferees to this title. I want to pay special tribute to my colleague, the Congressman from Ohio, Mr. OXLEY, who has long been a proponent of spectrum auctions. I also want to commend Mr. DINGELL, Mr. MARKEY, and the other House conferees for their leadership and hard work on this title.

Apart from the obvious revenue-raising benefits of competitive bidding, this title represents the most important communications policy legislation this Congress will pass this year. Under this title, 200 megahertz of Government spectrum will be reallocated for commercial use. This reallocation will permit an explosion of new communications services and will ensure that our telecommunications industry keeps its competitive edge in the global market. The title will also enable the American consumer to receive new and innovative digital technologies, such as personal communications services [PCS] as early as next year.

Mr. Speaker, this title has been carefully crafted to resolve the many complicated policy questions raised by spectrum auctions. For example, it directs the FCC to consider alternative payment schedules in order to ensure that small entrepreneurs can compete with the "deep pockets" in seeking to obtain licenses for their new and innovative services.

As I noted, the title ensures the rapid and efficient deployment of personal communications services [PCS] to the public. Under this title, the FCC is directed to conclude its PCS rulemaking within 180 days and to issue PCS licenses within 270 days of enactment. The title is notable for what it doesn't do: It does not attempt to answer the numerous questions raised in the FCC's proceeding with respect to the licensing of PCS. These questions are appropriately left to the FCC, the expert regulatory agency, to answer.

Finally, this title outlines the regulatory treatment for new commercial mobile services, such as PCS, in order to ensure that like services will be regulated similarly. In short, the title creates a new class of common carriage for these services, that although exempt from State regulation, will be subject to certain common carriage requirements at the Federal level as the FCC deems appropriate.

Again, Mr. Speaker, I commend all the conferees who worked on this important title.

Mr. MOORHEAD. Mr. Speaker, I yield 45 seconds to the gentleman from Ohio [Mr. OXLEY].

Mr. OXLEY. Mr. Speaker, I have been an active and strong proponent of the spectrum action provision for the last two Congresses. It is an excellent method to conserve scarce spectrum resources, while directing funds into the Treasury's coffers from those who will make millions off of the spectrum. This process would encourage the development of new and innovative technology, ensure deployment of contemporary telecommunications to rural areas, and create thousands of jobs.

However, I was surprised and disappointed when yesterday's Washington Post reported an accounting change orchestrated by Democratic negotiators to help reach the deficit reduction target of $500 billion. I would like to point out that the Congressional Budget Office, which is charged with the determination of budget scoring, has not endorsed this increase in scoring for the auction; thus, this is a political change, not an objective scoring practice.

This is precisely the type of budget scoring chicanery that Republicans have been worried about throughout the budget process. If the Democrat negotiators are willing to modify the budget figures so blatantly to make the $500 billion figure, I think Republican concern is well placed.

While I am a strong supporter of the spectrum auction provisions of the bill, it is a shame to see these budget accounting tricks. The American people will not be fooled in the end, and they will let legislators know about it in the next election cycle if similar smoke and mirror methods have been employed in other parts of the bill to make the budget deficit target while real deficit reduction never occurs.

Mr. MOORHEAD. Mr. Speaker, I yield 50 seconds to the gentleman from Florida [Mr. BILIRAKIS].

Mr. BILIRAKIS. Mr. Speaker, it has been argued that this budget package is, in effect, our last chance and our only chance for serious deficit reduction. To quote General McAuliffe during the Battle of the Bulge, "Nuts."

This budget package is a bad deal for the American people. They shouldn't have to accept this. It shouldn't even be suggested that they have to accept this. They have demanded and deserve better.

Slashing a vital health program like Medicare by $56 billion is no way to reduce the deficit—especially when we know that Medicare spending cuts will be real while other savings may never materialize.

Out of the $56 billion in Medicare reductions, $20 billion of these cuts will affect hospitals. The rest includes reductions in physician reimbursements, clinical laboratory payments, and payment for durable medical equipment.

My congressional district has one of the highest concentrations of senior citizens in the country. These reductions, along with the increased taxes on Social Security benefits, will unfairly burden our country's older Americans. Mr. Speaker, we cannot continue to balance our country's budget on the backs of our senior citizens.

In the past months, I have heard from doctors, hospitals, and Medicare beneficiaries throughout my district who are deeply concerned about the aftereffects of this legislation. The message is simple—if this tax bill passes, health care for all Americans will decline. Hospital administrators across my district have expressed fear that they may not be able to continue due to the severe financial restraints.

For many years, Medicare providers have been faced with empty promises that reimbursement rates will

Additionally, it should be noted that this bill creates a new entitlement program for childhood immunizations. While the goals of this initiative are laudable, I do not believe that legislation provides the most desirable method of ensuring that all children will be vaccinated against disease.

Provisions of the bill respecting price caps could have a very serious impact on the development of future vaccines—manufacturers may decide it isn't worth participating in the program or, even worse, manufacturers may decide to eliminate research on future vaccines due to the lack of incentives. This, in turn, could have a substantial, negative effect on the future health of our children.

This package will also delay military retiree COLA's for the next 5 years and effectively give them a lesser COLA than their civilian counterparts—whose own COLA's are delayed in each of the next 3 years.

How can our Government attract bright, hardworking individuals if Congress continues to disproportionately reduce benefits for military and Federal retirees? I believe that Congress has a moral obligation to these retirees to maintain fair and equitable treatment for all.

Under this conference report, our Nation's veteran programs will be cut by a total of $2.6 billion. Over the years, the VA budget has been a victim of the budget deficit. Federal spending on veterans' programs when adjusted for inflation has not increased in more than a decade, and the overall share of Federal spending dedicated to VA programs has been steadily decreasing.

Yet, once again we have been forced to cut veterans' programs. For example, under this conference report we are reducing survivor benefits and raising fees for the Home Loan Guarantee Program.

I cannot support a bill that abrogates our Nation's commitment to our veterans. As Teddy Roosevelt once said, "A man who is good enough to shed his blood for his country is good enough to be given a square deal afterwards."

One commitment that will be kept in this package, however, is taxes, taxes, and more taxes. This budget plan is the largest tax increase in the Nation's history. And opposed to previous rhetoric not one middle-class tax cut is in this plan—not one. Only middle-class tax increases.

In fact, this budget deal raises taxes on all income levels. That's right, there is something for everyone in here: A gas tax increase that will fall most heavily on the poor and middle class—and the increased prices of products shipped across our Nation will hit every American again.

It is also clear that this package will increase the taxes of senior citizens in my district by nearly $13 million a year. In effect, we will cut medical benefits for senior citizens and then tax them more for less.

Seniors will find a tax increase on their Social Security benefits in the administration plan on top of the gas tax increase—and the unemployed will have to pay that gas tax without any substantial offset. Increased taxes on seniors with savings, limitations on a worker's ability to contribute to pension plans, and an increase in tax rates on investment income will dramatically discourage savings.

Despite claims to the contrary, we will see investment and job creation in our Nation crippled by this plan. Again, increased taxes on individuals and businesses will be real, while the promise of out-year spending cuts may remain just that: a promise and nothing more.

Mr. Speaker, all of this will happen while little is done to impede overall Government spending. Five years from now the deficit will not have been reduced—in fact, it will be larger than ever.

So let us not think that this package is merely a matter of an extra buck or two a month for gas—it is a matter of fundamental fairness. This package isn't fair and we should go back to the drawing board—now. There is time. To suggest otherwise is just plain wrong.

Mr. DINGELL. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. WAXMAN], chairman of the Subcommittee on Health and the Environment.

Mr. WAXMAN. Mr. Speaker, I thank the chairman of the committee for yielding me this time.

Mr. Speaker, this bill that is before us is not a perfect plan. It cannot be considered anybody's first choice. As is so often the case, it is the best we could do.

For those concerned about the deficit, we have greater real reductions than any previous legislative effort.

In the area of health care, we designed the reductions in Medicare and Medicaid that will do the least amount of damage under the constraints under which we are operating.

For those concerned about the poor and the disadvantaged, we do have some extremely important programs to help those least fortunate in our society.

I have deep reservations, but passing this plan is for the good of the country, and I urge an "aye" vote.

Mr. MOORHEAD. Mr. Speaker, I yield 50 seconds to the gentleman from Illinois [Mr. HASTERT].

Mr. HASTERT. Mr. Speaker, I rise in opposition to the President's tax package.

There are many components of this bill with which I disagree, but particularly troubling to me is what this will do to senior citizens living in my district in Illinois. In addition to raising their taxes, it will prevent Illinois from making long-term care affordable to seniors.

Currently, the elderly in Illinois have two options if they want long-term care coverage: they can either hide their assets from the Federal Government, or they can sell everything and use their life savings to be covered by Medicaid. This cannot go on.

Illinois, Mr. Speaker, is on the verge of reform. There is a long-term care insurance program that many States have tried and found to be effective. Its benefits are obvious—it not only covers those who need the insurance, but it also saves money.

What concerns me, Mr. Speaker, is that this bill will prevent Illinois, or any other State, from implementing this program that has been tried, and proven effective.

I ask my colleagues, why would we want to pass a bill that will refuse to allow States to implement a plan to care for older Americans and save money?

On a separate issue, I want to voice my support for the Energy and Commerce Committee's reconciliation provisions dealing with spectrum auctions. As an original cosponsor of H.R. 857, I believe auctions should replace the outdated, and often unfair, lottery process. We need to make sure that all qualified bidders will have the opportunity to participate in this new process. That is why I was pleased that Chairmen DINGELL and MARKEY worked with me to add the words "and competition" to section 309(j)(3)(B) of title VI. This language will ensure that the FCC promotes competition during this new procedure thereby giving all potential bidders the opportunity to procure spectrum at auctions.

Mr. MOORHEAD. Mr. Speaker, I yield 50 seconds to the gentleman from Texas [Mr. BARTON].

Mr. BARTON of Texas. Mr. Speaker, the Wall Street Journal has been doing a series of articles called "Doing the Deal" about this pending budget reconciliation bill.

Well, I can tell you from listening to my constituents in Texas that they do not think it is a very good deal. As of 15 minutes ago, 435 had called in to say "vote no," and only 20 had called in to say "vote yes."

Why? All you have to do is look at the details of the deal. The tax increases are real and retroactive's the spending cuts are ephemeral, and are in the outyears. As the attached article from the Wall Street Journal points out, the retroactive tax increases are also unconstitutional.

President Ronald Reagan went to Reykavik, Iceland, for a summit with then Premier Mikail Gorbachev in 1986 on arms control. He was under intense pressure to do the deal. He said no. He walked away. He said that no deal is better than a bad deal.

Mr. Speaker, this is a bad deal, and no deal today is better than a bad deal. Let us vote no, come back in September, take taxes off the table, and really look at spending reductions.

Mr. Speaker, I am including at this point in the RECORD a New York Times article and the referenced Wall Street Journal article, as follows:

[From the New York Times, Aug. 3, 1993]

JUST SAY NO TO CLINTON'S PACKAGE

(By Ronald Reagan)

Have you heard about the new White House "diet" plan? Maybe you've seen the Clinton Administration's television "infomercial" about this miraculous discovery. The diet is quite simple. You can eat anything you want, any time you want, as much as you want. It costs quite a bit more, but they guarantee you'll lose all the weight you want. The only catch is you won't see any weight loss for five years.

Does this diet make sense? Hardly! But it's about as logical as the deficit reduction scheme President Clinton is pitching.

The White House is flooding the airwaves in Washington, D.C., and several states with a slick television infomercial. Through this propaganda masterpiece, it is trying to persuade us to "feel good" and be "proud" about jacking up our taxes and feeding the insatiable Washington spending machine. It's time for the public to send a strong signal to the manipulators at the White House: "We won't be fooled."

The President's "wonder plan" could be cited for deceptive advertising by the Food and Drug Administration. Job-killing taxes come right away, and hazy spending cuts are on the distant horizon. The five-year plan will likely impede economic growth and not come near its claim of $500 billion in deficit reduction. And it will fall far short of its spending cut goal of $250 billion.

Every person in this country realizes the serious need to reduce the Federal deficit. There is no disagreement on this issue. But the tax-and-spend plan being shoved through Congress does not accomplish that goal. It is not a deficit reduction plan. It will only cause the deficit to increase and quite likely wreck any hopes for an economy recovery in the process.

But the White House feels that if it labels it a "deficit reduction plan" and talks as if it will reduce the deficit, somehow Congress will vote for it. And if the Clinton team beats the drum enough about what "political courage" it takes to vote for this "bold" plan, they feel they can make Congress feel good about it.

It has been more than five months since President Clinton's plan was presented to the public. And, as we have learned more about what's in it, public support for it has dropped like a rock. Virtually every economic indicator released since the public has had a chance to react to the plan has been negative. Consumer confidence is down. Despite lower interest rates in place from the last Administration, people are afraid to commit to purchasing homes. And, in poll after poll, Americans say more than ever before that our country is heading down the "wrong economic track."

When candidate Clinton promised to get this country moving, most Americans thought he meant forward. Instead, his Administration has gone backward on the economy, backward on reducing Government and backward on its promises.

All except one, perhaps. Candidate Clinton promised to "raise taxes on the people who did well in the 1980's." Since practically every American benefited from that era of low inflation and strong growth and since President Clinton wants to raise the taxes of nearly every citizen, I guess in a roundabout way this is a promise he's actually trying to keep.

He knows Americans have always been kind and generous. In war and peace, they have been willing to make great sacrifices to serve a greater good. Today, the White House is trying to appeal to this great quality by getting us to go along with the largest tax increase in the history of our country. But we shouldn't.

The fact is, there is no "greater good" in this plan. Despite the slick presentation, talented spin doctors and White House talking heads all over TV, the simple truth is that this plan is bad for America.

Recognizing their predicament, the bill's supporters have resorted to desperate arguments. I have heard from Democratic friends of the heavy pressure on the Democratic senators to vote for this bill because "the President has so much political capital invested in it" and a defeat would have "serious political consequences" for him. Since when does the political standing of any elected official count more than the well-being of our nation? Our economy is too important to be dealt this devastating blow because of White House fears about how a failure could make the President look.

His economic package was bad policy to start with and has only been further worsened by the myriad special-interest concessions added along the way. It is so flawed, the only reasonable alternative is to flatly reject it. Then, with a healthy dose of reality in mind, let the process start again.There is no "fine-tuning" or "refining" that can save this package.

The process must begin anew with real cuts in spending and a reduction in personal and business tax rates. The Democrats should be reminded that sharp reductions in tax rates created growth and prosperity in "our" 1980's and "their" 1960's.

Under the Clinton plan, people will be zapped with new taxes that take the incentive out of saving an investments (assuming they're left with any money to do so). Furthermore, the spending increases are a travesty. They just aren't needed and they are sure to dig us deeper in the deficit hole. Of course, there will always be new needs for Government spending, like Midwestern flood relief, but there are billions of dollars in various other Federal programs that can be redirected.

Over the years, I have been known as an optimist—always believing that better days will lie ahead. But, right now, I have serious concerns about the future of America if this tax-and-spend plan becomes law. I fear for the loss of opportunities that Americans have always had to make better lives for themselves and their families. And I worry about America's place in the world if our economy falls into the deep doldrums that this program will certainly bring.

I urge each member of Congress to reject the White House pressure, refuse the special concessions the White House offers his or her constituents and stand firm in the face of special-interest lobbying. They should vote their conscience. Sometimes saying no can be a great act of statesmanship, not to mention a good way to start a sensible diet.

[From the Wall Street Journal, Thursday, Aug. 5, 1993]

TAX BILL: RETROACTIVE, UNCONSTITUTIONAL . . .

(By Stephen C. Glazier)

As this page went to press, the new budget bill was heading toward passage by Congress. Yet the bill contains provisions that are unconstitutional because they are retroactive. These retroactive provisions need to be debated and corrected. If they are not, and the bill becomes law, we can expect taxpayer litigation to overturn the provisions.

Specifically, the bill contains tax provisions that would raise income tax rates and certain estate tax rates retroactively to Jan. 1 of this year. Yet Article I, Section 9, Clause 3 of the Constitution says that "no . . . ex post facto law shall be passed." The Founders' purpose here was to ensure that laws are general and prospective, rather than specific and retroactive.

Specific, retroactive laws tend to look more like judgments and penalties from juries than like legislation in the national interest. Retroactive laws also would allow a new party taking power after an election to, in effect, legislate history—to undo the past of its opponents. Indeed, the current budget has the flavor of a partisan effort by a new party in the White House to "repeal the decade of greed," i.e., punish the taxpayer for 10 years of economic growth during Republican administrations.

SAME OLD CONSTITUTION

The nation's courts have long wrestled with the issue of retroactivity. An 1878 Supreme Court case, *Burgess* v. *Salmon*, looked at taxes specifically. In that case, a tax increase on tobacco sales was signed into law on the afternoon of March 3, 1875. The court refused to apply the increase to a sale that took place on the morning of that March 3, saying that the (retroactive) imposition of the increase on a sale that took place before the president put pen to paper would subject the taxpayer to a "criminal punishment or penalty [in the amount of the increase]" that would be an ex post facto law. The court went on to say that if the case had been brought by the government as a criminal indictment for violating the tax law, then it would be even more clearly an ex post facto problem.

The Constitution hasn't changed on this issue, but the courts and Congress unfortunately have. In this century, with the invention of income tax and the growth of government intrusiveness, the courts have tended to limit the ex post facto concept mostly to the area of criminal law. Particularly in the case of income taxes, some retroactivity has been allowed. This budget bill's retroactive income and estate taxes, however, go beyond even these new stretched rules.

The more modern cases have allowed some retroactive tax increases but limited them by requiring specific prior notice to the taxpayer. (This is a simple application of the Constitution's procedural due process protection). Specifically, these cases tend to look at the notice of the proposed change that the taxpayer received. If the Senate or House had bills in debate detailing the tax increase by a given date, then, it is argued, the taxpayer still had enough notice to plan his affairs.

But even such stretching of the retroactivity rules has not to date applied to transfer taxes, such as estate taxes. In a 1927 case, *Nichols* v. *Coolidge*, the Supreme Court struck down a retroactive estate tax. The court said that such a law "is arbitrary, capricious and amounts to confiscation" and therefore violates the Constitution. In *Untermeyer* v. *Anderson*, a 1928 case, the Supreme Court struck down a retroactive gift tax. Both taxes were found to be unconstitutional violations of due process. The idea is that no one can properly plan his affairs if actions today can be affected somehow by future law.

Of course, any person who wrote his will in January 1993 planned according to current law. If that person died before August, he could not possibly change his will to accommodate the new law. One practical effect of the current estate tax proposal is that certain wills drafted before August—wills for people who have died this year—may fail to allocate the inheritance among the deceased's children equally—despite the intent of the deceased—because of Congress's attempt at law by surprise. Shirley Peterson, a former commissioner of internal revenue, documented this recently in the New York Times.

In this century, Congress has not succeeded in passing a retroactive estate tax increase. This despite efforts such as those struck down in *Nichols*. Yet this year, Congress is even proposing to tax the dead retroactively.

Under this century's precedents, income tax increases (as opposed to estate tax increases) may have some retroactivity, but not as much as this bill's authors desire. In the 1981 case *U.S.* v. *Darusmont*, the Supreme Court upheld retroactive 1976 increases in the minimum tax and discussed notice requirements. But in that case, the court found that the taxpayer had notice because the specific changes were found in Senate and House reports that appeared prior to the date the law went into effect.

Discussing the same notice test in 1984 (*PBGC* v. *Gray & Co.*), the Supreme Court upheld a retroactive pension law on employers. The retroactive law was designed to prevent employers from taking advantage of lengthy legislative processes and withdrawing from covered pension plans while Congress debated the change. But both the cases set a modern limit to retroactivity for income-tax increases. That limit is the date that the specific increase was first proposed in Congress.

On Jan. 1, the taxpayer had no such specific notice of the tax increases that the President and Congress are currently proposing. Indeed, on that date most Americans were still waiting for the famous "middle-class tax cut." Not until Feb. 18 did the President give his "Jim Florio" speech making it clear that he was going to raise taxes. Looking at the precedents, even that is not enough to provide specific notice. The effective notice could not have happened until April 8, when the language of the budget was actually proposed. This tax-by-surprise leaves the taxpayer in a tight spot. We have been living within a budget and spending money from paycheck to paycheck, based on our take home pay with a certain rate of withholding. Now Congress contemplates telling us that we have spent too much money and next April we must find the extra cash to pay extra taxes that we did not know about.

CONGRESSIONAL RESEARCH

Congress's own in-house law firm, the Congressional Research Service, has even supported this analysis of the notice requirement. In a 1986 report to support the retroactive tax increases of that year, CRS lays out the notice test for due process but argues that the 1986 increases passed muster because their effective date, although retroactive, was after the increases were first proposed in writing in Congress. But the current budget bill fails this test described by Congress' own lawyers. Clearly, this Congress doesn't care who says what about the Constitution, when it comes to taking more of our money.

It is impossible to predict reliably the outcome of any case that might go before the Supreme Court. The larger issue here, though, is not economic or legal—it is political. This type of unconstitutional legislation is the norm that will continue until the current majority of Congress is removed. Self-satisfied incumbents in Washington might like to take a look at the current draft of the new Russian constitution. That document's own Article 57 states that "laws introducing new taxes * * * are not retroactive." It seems that, in this instance, Boris Yeltsin may have more respect for the U.S. Constitution than the majority of our own House of Representatives.

Mr. DINGELL. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Texas [Mr. WASHINGTON].

Mr. WASHINGTON. Mr. Speaker, I thank the distinguished chairman of my committee for yielding me this time.

I am glad that I have an opportunity to follow my friend, the gentleman from Texas, and while he is still here, let me tell you a lot of good reasons why we Texans, my friend, should vote for this package. It is good for America, and it is good for Texas, and as Texans, we have always looked after what is good for America. We are proud to be Texans, but more importantly, we are proud to be Americans.

Most of the calls that I have been getting have come from your congressional district, my friend, and from the district of the gentleman from Texas [Mr. FIELDS] and the district of the gentleman from Texas [Mr. ANDREWS] and districts other than my own. Seventy percent of the people who live in my district are in favor of this. These are the people who have made the sacrifices that make this country great. They are willing to make a sacrifice one more time.

Mr. Speaker, they did not get a ticket to the party during the 1980's when this country got in the position that it is in now. They did not help to borrow the money that got us in the debt we are in now, but they are willing to tighten up and get us out of that debt.

So that is why I am voting in favor of this package.

Mr. MOORHEAD. Mr. Speaker, I yield 50 seconds to the gentleman from Michigan [Mr. UPTON].

Mr. UPTON. Mr. Speaker, there is an old saying that rings true today. There are too many politicians worried about the next election instead of enough statesmen worried about the next generation.

The easy road for us GOP's is to simply vote no, hope that the Democrats break enough arms to pass this package, watch the country go to hell in a hand basket as a result, and elect a lot more Republicans in 1994. Blame game all over again.

But that's not the right course for the country. Vote this package down and work with GOP Members like me that are willing to put substance over politics. A number of us are serious about more deficit reduction, spending cuts first, less taxes, and ensuring new taxes do not go for more spending.

People are correct to trash this budget package. It is an ugly step-sister to the failed 1990 budget agreement. It's like déjà vu all over again. More taxes will go to fund more spending. That is not the way to reduce the deficit.

To my Democrat colleagues who are rightfully concerned about this package, I extend my hand of cooperation across the aisle to put together a better one. I urge you to reject this bad package and hammer out a new bipartisan one. We have an alternative ready to go.

What this country needs and what our people are demanding is real change, not tax-and-spend business as usual. They demand a package:

That does not raise spending;

That cuts spending first and dramatically with real cuts;

That does not raise taxes on hard-working average Americans, small businesses, or seniors;

That raises taxes only on those most able to pay;

That does not raise taxes retroactively; and

That cuts the deficit much more than this one.

To skeptics that might ask whether it is possible to construct a package like this? Is there really an alternative Democrats and Republicans can agree on?

The answer is yes.

Simply look back to rollcall vote No. 82. You will find a package that meets this description. At the time, we called it the consensus package. However, the group of Republicans who put this together were ahead of our time back in March. Democrats had to walk lockstep with the President, and few Republicans were willing to discuss taxes. Now is the perfect time to return to that complete budget alternative and pass it as the consensus of both parties.

We took only about half of the taxes in the plan before us today, added it to the real cuts in the House Republican Kasich plan, added $40 billion in additional spending cuts, and came up with the best of both worlds: the most deficit reduction of any plan offered in either the House or Senate all year—$170 billion more—combined with tax fairness and true spending restraint.

Let us do something good for the country and for our children. Drop this plan, and pass a consensus plan that does what the people want.

Mr. DINGELL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Indiana [Mr. SHARP], chairman of the Subcommittee on Energy and Power.

Mr. SHARP. Mr. Speaker, if we are worried, as we should be, about the next generation of Americans, we cannot wait until the next generation when we make decisions in this Congress or in this country.

We have before us a plan that took time to be developed at the White House. We have a plan that took an extreme amount of time in the House and in the Senate to negotiate in order to come up with something that was acceptable to a majority of the people in the legislative assembly, as the Constitution requires.

□ 1620

And we have it before us now. At no time, at no time in that process was there offered in the House of Representatives, in the Senate or, for that matter, seriously to the public, a plan that reached a half-trillion-dollars' worth of borrowing. Most people that ran for office in this country last year would have said at that time this is a modest goal. But now we hear them saying we cannot vote for this and we have no other alternative that comes anywhere close to half a trillion dollars.

This is a time that we have to put up or shut up for this country; it is now, today. We are going to cut half a trillion dollars' worth of borrowing. We are going to do it with spending cuts and with fair taxes.

The fact on the spending cuts is we have already begun, we have already begun, as Congressman OBEY pointed out, over 300 specific cuts below last year's appropriations that have been approved by the House of Representatives.

We will go forward. We in Congress offered up some of those ourselves. When it comes to taxes, it is very difficult, I know, for the average citizen and even for many of us in this Chamber to know what to believe, with the information being thrown around, with the conflicting claims that are out there. But all of us will be able to tell next April who is telling the truth on this matter. What I think people will discover is the vast majority of citizens will have no tax increase on income taxes.

Mr. MOORHEAD. Mr. Speaker, I yield 50 seconds to the gentleman from Wisconsin [Mr. KLUG].

Mr. KLUG. I thank the gentleman for yielding this time to me.

Mr. Speaker, Rolling Stone writer P.J. O'Rourke said it best: "Giving money to the Government is like giving whiskey and the car keys to teenage boys."

He's right: Give the Government money, and trouble is surely around the next blind curve. Well, watch out for this collision.

Under the Clinton plan we will ship another $250 billion in taxes to Washington and we will not eliminate a single Government program.

And Government spending will not fall from 1993–94, it goes up, and again in 1995, 1996, and 1997.

The cuts in this plan are not severe enough to dismantle any bureaucracy; and the taxes are just high enough to stall out the economy and send it into a free fall.

The Bush administration tried a similar plan in 1990 and it didn't work; so did a Republican Governor in California; and a Democratic Governor in New Jersey. And now, a Democratic President will learn the mistakes first hand.

That car wreck right up around the corner is a brutal three-way collision between taxes, more government spending and the American economy.

Vote "no."

Mr. MOORHEAD. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio [Mr. GILLMOR].

Mr. GILLMOR. I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in opposition to the proposal.

Mr. Speaker, I rise in strong opposition to the conference report of the budget reconciliation legislation.

Ever since the President announced his economic program to the Nation in February, the mail from the Fifth Congressional District of Ohio has run almost 10–1 against new taxation and in support of immediate cuts in Government spending. In the last several months, thousands of constituents from my district, ranging from Van Wert to Bryan to Vermilion, have arrived in my office demanding that Congress cut spending now. It does not give me any degree of pleasure to oppose a newly elected President, but the voters of my district have weighed in with their views and I agree with their opposition to the excessive tax increase proposal.

There are many elements of the budget reconciliation package which disturb me, but one which has strongly upset the voters of my district is the issue of retroactive taxation. Making taxes retroactive by several months is simply not fair to the American taxpayer and I wish to register my deep dismay. It is this kind of legislative trickery which has resulted in the profoundly low opinion which the American people have of the Congress.

The wise approach would be for the House of Representatives to vote down the Clinton tax increase, and go back to the drawing board. The American people will find nothing satisfactory except meaningful and immediate restraints in Government spending and that should be our immediate goal.

Mr. MOORHEAD. Mr. Speaker, I yield 50 seconds to the gentleman from Connecticut [Mr. FRANKS].

Mr. FRANKS of Connecticut. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, this tax-and-spend Democratic budget plan will hurt the State of Connecticut possibly worse than any other State in the Nation. The State of Connecticut and New England went into the recession first, and we are still having a difficult time. I implore my Democratic colleagues from New England to oppose this historic tax bill. As a delegation, we have had a number of meetings on the credit crunch problem. Yet Democrat Members will vote to take more money away from people with this new tax.

Our small business people, our entrepreneurs cannot get money from the banks now. With the money they have, they will have to dig deeper to pay for more Government and more social spending programs; plus this tax bill will be retroactive to January.

We in Connecticut are familiar with the phrase, "throwing gasoline on a fire." This tax-and-spend budget plan for the State of Connecticut will do just that.

Mr. MOORHEAD. Mr. Speaker, I yield 50 seconds to the gentleman from Pennsylvania [Mr. GREENWOOD].

Mr. GREENWOOD. I thank the gentleman for yielding time to me.

Mr. Speaker, my constituents do not want gridlock. They do not want partisan wrangling. They do not want finger pointing. So I would love to be able to join a bipartisan coalition to pass a sensible deficit reduction plan.

But I also know some other things my constituents do not want. They do not want higher taxes. They do not want retroactive taxes. They do not want new taxes on their Social Security. They do not want small businesses taxed to death. They do not want taxes now with only the promise of spending cuts that will come later or not at all.

The people I serve want Republicans and Democrats to balance the budget together—taking the best ideas from each party on how we can cut spending first. They know that the fat is not out of this budget. They know we can do better, and, frankly, so do we.

So I have to vote no. But as I do, I offer my willingness to work in bipartisan spirit for a budget that is truly good for our country and worthy of the reform Congress I came here to join.

Mr. MOORHEAD. Mr. Speaker, I yield 45 seconds to the gentleman from Idaho [Mr. CRAPO].

Mr. CRAPO. Mr. Speaker, I am sure the American people are very confused because they are hearing that spending is going up and they are hearing that cuts are in place all over in this budget. Why don't we just look at the bottom line?

The bottom line is that after all the rhetoric, the spending in 1994 is going up, that is the bottom line. The bottom line is that in this program the taxes are going into place this year if this bill passes, and they will be in place every year thereafter perpetually.

The cuts that are talked about, the majority of them are planned to happen in the out years, in the 3rd, 4th, and 5th years, but those are not bound by this vote today. The spending is not real, the taxes are real, and the American public has seen this proposed before.

We are now in the out year of the 1990 budget deal where we were supposed to be getting the cuts from that tax increase. Let us stop doing business the old way and cut spending first.

Mr. MOORHEAD. Mr. Speaker, I yield myself the balance of my time.

Mr. MOORHEAD. Mr. Speaker, the Energy and Commerce Committee had jurisdiction over three major issues in the Omnibus Budget Reconciliation Act in the areas of telecommunications, energy, and health. By way of summary, I support the energy and telecommunications provisions, I oppose the health provisions, and I oppose the conference report.

The first issue deals with spectrum allocation and licensing improvement. Under this conference report, 200 megahertz of spectrum will be transferred from the Government to commercial use. The conference report also gives the Federal Communications Commission authority to award new licenses for this spectrum under a competitive bidding plan.

I want to commend Chairman DINGELL, Chairman MARKEY, Mr. FIELDS, and the other conferees for their hard work and bipartisan cooperation on this important piece of telecommunications legislation. I also want to give special recognition to Mr. OXLEY who has been a tireless advocate of competitive bidding for spectrum. Mr. Speaker, our telecommunications industry competes in an increasingly competitive global marketplace in which innovation and responsiveness to customer demand will determine who succeeds in the world market. This conference report will ensure that our telecommunications industry remains competitive.

The second issue under our committee's jurisdiction deals with user fees imposed by the Nuclear Regulatory Commission. I want to commend Chairman DINGELL, Chairman SHARP, Mr. BILIRAKIS, and the other conferees for their excellent work on this important piece of legislation.

The conference report extends through 1998 the authority of the Commission to collect 100 percent of its budget through user fees. I support this provision.

I believe user fees are a fair way to pay for the costs of regulation. By allowing the NRC to collect 100 percent of its budget from user fees, only those who benefit from the nuclear industry pay the costs of regulating it. Absent this extension, beginning in 1995, the NRC would only be able to collect 33 percent of its costs through such fees.

With respect to the health issues, there are a number of very troubling provisions, not the least of which are the provisions on childhood immunization. The language before us represents a modified version of the childhood immunization entitlement proposal putDALE BUMPERS, long regarded as the most knowledgeable Member of the Congress on immunization issues, in a June 24 "Dear Colleague" letter:

> First and most important, the proposal assumes that vaccine cost is a significant contributing factor to our Nation's low immunization rates. This is simply not the case. As the Government's own research tells us, the real culprits are more complex and more difficult to address: They include lack of sufficient public education about the need for full immunization, complacency of parents towards fully immunizing their preschool children, and failures of providers in the public and private sectors to use all available opportunities to immunize their pre-school-age patients.
>
> Over 97% of all children are fully immunized by age five when they begin school. . . . Children enrolled in Head Start and licensed day care enjoy immunization rates of over 94%. This success is not a function of Federal and State spending. Rather, it is a clear function of State laws that require full immunization as a condition of enrollment.

Unfortunately, there is nothing in the proposal before us that addresses any of the concerns raised by Senator BUMPERS, nor is there anything that will encourage parents to immunize their children.

Mr. Speaker, I oppose the conference report and I urge my colleagues to vote against it.

Mr. DINGELL. Mr. Speaker, I yield myself such time as remains for purposes of closing the debate.

Mr. Speaker, I rise in strong support of the legislation before us. Twelve years of credit card living have left this country with a $4 trillion national debt, multiplied four times during the years of Mr. Reagan's and Mr. Bush's occupancy of the White House.

Serious deficit reduction is expected of this Congress by the people of this Nation. There is only one way to do that; that is to pass the legislation before us today. No other legislation is in this Congress. The country wants deadlock ended now. They want us to move forward. They want us to lay the basis for further economic growth.

We can carp, we can criticize, or we can participate in resolving the problems that the country faces. I urge my

This is a piece of legislation that makes savage cuts in important programs; $56 billion are cut from Medicare, $7 billion are cut from Medicaid expenditures; other expenditures are cut in the area of defense and in every other area of Government. The cuts, however, have been crafted carefully in order to be fair. Additional revenues are sought from those who are able to give them. The 1 percent of the most wealthy in this country will be called upon to pay a fairer share of the taxes. Those who are at the bottom of the income ladder will not be called upon for any heavy tax burden. Services which are now given free by Government to businesses will be paid for by the recipients who benefit from them.

You have heard a lot of charges today about how this legislation is going to hurt. There is nothing that is going to hurt this country more than not resolving the gridlock that afflicts us here in Washington.

□ 1630

I have asked our colleagues on the Republican side on the Energy and Commerce Committee to participate in the discussion. I told them how distressed I was that they could not, did not, and would not participate with us in the discussion which has brought our committee's part of this legislation to the floor. They made it plain there would be no participation by the Republicans because there are revenue measures in this.

If we were to wipe out all of the Federal Government's discretionary expenditures, we still could not balance the budget. What has to be done is to come forward with a package which moves this country forward, which addresses the problem of the deficit, which brings in the necessary revenues where possible and which makes cuts where possible.

The hard fact is this country is at a moment of decision. We have to decide, are we going to get the country going again? Are we going to do something to get at this huge budget deficit?

Let me remind my colleagues on both sides of the aisle, if this problem is not addressed by this Congress, we are going to find that very shortly interest on the national debt is going to be bigger than the total tax income of this country.

Imagine that. When that occurs, the country implodes. Everyone is going to make sacrifices to get rid of some 12 years of unwise economic judgments, during which the national debt of this country has been multiplied four times.

There will be those who have the means to pay, who will be called upon to make a modest contribution. There will be cuts in goods and services provided by the Government. Every part of this Government is going to see cuts. Federal employees are going to see their retirement benefits reduced. Medicare and Medicaid will be cut. Research will be cut. Construction projects and other programs for the administration of the public lands will be cut. Other programs are going to be cut.

We are going to see a meaningful set of cuts, but an essential set of cuts.

Mr. Speaker, I urge my colleagues to make the wise vote in the public interest for the people of this country. Let us take a step to abate the last 12 years; miseries and begin to move forward.

Mr. Speaker, I rise in support of H.R. 2264, the Omnibus Budget Reconciliation Act of 1993.

President Clinton entered office confronting a budget deficit of approximately $330 billion, and a national debt of more than $4.2 trillion. During the few short months between the time he was elected and inaugurated, deficit projections increased by $50 billion. The situation is so serious that if we continue under present policies, the budget deficit, the national debt, and interest payments on the debt will more than double in 10 years. The amount every American man, woman, and child owes on the publicly held debt will more than double, from $12,941 in 1993 to $26,595 in 2003. Without change, the General Accounting Office estimates that the deficit will exceed all revenues collected by the U.S. Government in the year 2020.

During last year's Presidential campaign much time and attention was focused on reducing the deficit. Since then President Clinton has offered the only serious proposal for consideration in the Congress.

While Ross Perot travels the country blasting the President for proposing increased taxes, he fails to acknowledge that his own proposal would increase taxes on Americans greater than President Clinton's proposal. The Perot plan would also require middle income Americans to shoulder a greater percentage of the tax burden by increasing the gasoline tax by 50 cents.

The minority party in the Congress, too, has failed to offer a serious proposal. The only budget offered for consideration in the House of Representatives by a Republican Member of Congress would decrease the deficit by

$141 billion less than the Democratic proposal based on President Clinton's plan. That plan recommended $40 billion in additional, future entitlement cuts which would fall most heavily on the backs of our Nation's senior citizens. It also included $66 billion in unidentified spending cuts in its last 2 years, raising questions about whether those cuts would, in fact, occur and whether this plan was offered in good faith.

In March, the Congress approved a budget resolution, based on President Clinton's plan, which would reduce the deficit by $496 billion over the next 5 years. Responding to calls for greater spending cuts, the Congress included in that proposal $63 billion more in spending cuts than the President had requested. Under the measure, discretionary expenditures will be kept below current levels for each of the next 5 years.

The conference agreement on the Omnibus Budget Reconciliation Act of 1993 translates the broad guidelines approved in the budget resolution into specific spending cuts. The Committee on Energy and Commerce, which I chair, approved more than $60 billion in specific cuts and revenue increases. This includes changes in health care programs, auctioning portions of the radio spectrum to commercial users, and extending nuclear regulatory licensing fees.

Federal employees, including Members of Congress, are being called upon to set an example by sacrificing to reduce the deficit. The budget will reduce significantly Federal employees' pension benefits. Additionally, legislation which I supported will eliminate the cost-of-living adjustment for Members of Congress in 1994.

Slightly less than half of this package is financed with revenue increases. Additional taxes are included because even if the United States were to terminate all of the $260 billion in discretionary expenditures, the budget deficit would be $70 to $80 billion.

Discretionary expenditures include moneys spent for roads and highways, the Federal Bureau of Investigation, the Customs Service, elementary and secondary education, the courts, medical research, national forests, public lands, veterans benefits, agriculture programs, and so forth.

The majority of the tax provisions are designed to restore fairness to the Tax Code. Since 1982, the burden of taxation in this country has been shifted from the wealthy to people in the low- and middle-income brackets. The Congressional Budget Office estimates that 75 percent of the budget reconciliation package's net tax increases will affect taxpayers with incomes over $100,000. The bill raises the top corporate tax rate to 35 percent, places new limits on deductions by corporations for executive pay, and eliminates deductions for lobbying expenses.

During the development of the President's economic package earlier this year, a plan to reduce the Social Security cost-of-living adjustment was proposed and rejected because it would have harmed, disproportionately, older people who rely on Social Security as their principal form of income.

Instead, the President and Congress agreed on a proposal to increase taxes on less than 13 percent of Social Security beneficiaries—married couples with incomes above $44,000 and individuals with income above $34,000. Under this measure, these individuals would pay taxes either on 85 percent of their Social Security benefits, or 85 percent of the amount exceeding the new income

The budget package includes $55.8 billion in Medicare cuts. The majority of these cuts will be achieved by reducing payments to hospitals, physicians, and other medical providers. I do not like these cuts, and fought actively against greater cuts recommended by many of my Senate colleagues. Rather than addressing the fundamental problem of containing skyrocketing health care costs, these cuts only shift costs from one sector of the economy to another.

Rising health care costs account for almost half the increases in Federal spending and are the fastest rising component of our debt. Without significant and comprehensive reform, unchecked health care costs will compromise any success we hope to achieve in reducing the deficit and bring our economy to a standstill. The only way for our country to address properly our health care problems is to enact comprehensive health care reform. I am hopeful that with new Presidential leadership on this issue, we will correct this problem soon.

In 1981, Ronald Reagan promised prosperity by reducing Government and slashing taxes. He decreased taxes significantly on corporations and the wealthy and ran up a huge debt. After 12 years of supply-side economics and credit card finance, the national debt quadrupled, the size of government grew, our infrastructure was neglected, and a growing disparity arose between the rich and the forgotten middle class. The bill has come due.

I refused to vote for the first Reagan budget because I believed that it was fraught with inequities and misguided assumptions which would result in large deficits. For 12 years, Presidents Reagan and Bush submitted budget proposals with rosy economic scenarios, inaccurate assumptions, and asterisks in the place of specified spending cuts. While both argued for a balanced budget, both left it to the Congress to cut their budget requests every year save one. In fact, the Congress appropriated almost $30 billion less than both Presidents requested.

As the President noted the other night, this package is supported by many small business organizations, from National Small Business United and the National Association of the Self-Employed, to the National Venture Capital Association, because it includes incentives for business growth and investment. It is also supported by many of our Nation's top economists. Their support, and the support of our financial markets, is evidence by significantly lowered long-term interest rates.

Mr. Speaker, regrettably, the portion of the statement of managers accompanying the conference report relating to immunizations inadvertently was omitted from the filed copy of the conference report. Therefore, I would like to take this opportunity to set forth the contents of that statement of managers language for the benefit of my colleagues and any other individuals with an interest in this portion of the legislation.

Sec. 13631. Medicaid pediatric immunization provisions

House Bill

The House bill establishes a new Subtitle 3 of Title 21 of the Public Health Service (PHS) Act dealing with childhood immunizations. It establishes a new entitlement program, under which the Secretary of HHS will provide adequate amounts of vaccine to each State to immunize fully every eligible child within the State. Eligible children are defined to be children eligible for Medicaid, children without any form of health insurance (including indemnity plans, pre-paid plans, and ERISA plans), children with insurance but without coverage under those plans for immunization, and children who are Indians. The Secretary is to ensure the distribution without charge of Federally purchased vaccines to be made available to States and providers. These obligations are undertaken by the Federal government in advance of appropriations acts and are binding regardless of the availability of appropriated funds or of discretely segregated or named funds or accounts. The effective date of the program is October 1, 1994.

The House bill requires that a State or a provider apply to the Secretary in order to participate in the program, and establishes conditions under which providers may participate, including that providers or entities receiving federally purchased vaccines must agree not to charge for the vaccine and not to deny immunization services to persons unable to pay an administration fee.

The bill prohibits States from modifying or repealing, in a manner that reduces the amount of currently required coverage, any State laws in effect as of May 1, 1993, that require insurance plans to provide coverage for immunizations.

The House bill allows the Secretary to enter into, or decline to enter into, contracts with manufacturers of pediatric vaccines for an agreed upon duration and, with the consent of the manufacturers involved, to modify or extend contracts. The Secretary must negotiate a price that includes a reasonable profit for manufacturers and provides for shipping and handling of the vaccine, without subsequent additional charges for delivery of vaccines. Information supplied by a manufacturer for these purposes shall be considered trade secret (under Sec. 552(b)(4) of the U.S. Code) and maintained in a confidential manner by the Secretary. In addition, the bill requires HHS to negotiate for the maintenance of a six-month supply (or a "stockpile") of vaccines to meet unanticipated needs.

The bill requires the Secretary to provide a State that manufactures vaccines an amount equal to the value of the vaccine that otherwise would have been provided to the State under the

The bill establishes a State option regarding vaccine purchases for additional children within the State. The Secretary's obligation to provide vaccine under this option is limited to the vaccine that has been made available under manufacturers' contracts. If multiple contracts with multiple prices are in effect, the Secretary is authorized to determine which contract is available to States electing this option.

The Secretary is required to establish a list of recommended pediatric vaccines, subject to medical contraindications, and a recommended schedule for the administration of such vaccines. Such list and schedule established by the Advisory Committee on Immunization Practices (ACIP) (an advisory committee established by the Secretary acting through the Centers for Disease Control and Prevention) is deemed to be the Secretary's list for purposes of this requirement. The establishment of a list and schedule does not supersede State laws regarding immunizations (including laws relating to religious or medical exemptions).

The bill establishes a Trust Fund in the Treasury of the United States to assist the Secretary in carrying out activities of the program. The Trust Fund will receive funds appropriated, funds directed from the Internal Revenue Code, and any income earned from investment of the Trust Fund.

Finally, the bill terminates this program on such date as may be prescribed in a Federal law that provides for immunization services for all children as part of a broad-based reform of the National health care system.

Senate Amendment

Although the Senate amendment contains no provision comparable to the House bill, it does provide for several changes in immunization programs of the Federal government, including a requirement that State Medicaid programs provide for the establishment of a State vaccine bulk purchase program or a vaccine replacement program for the purchase of pediatric vaccines; limitation on the price for a vaccine purchased through such a program to the price that is in effect in contracts with the Centers for Disease Control and Prevention on the date of enactment, (increased by the consumer price index from the date of the contract); and optional authority for multiple contractors for such purposes.

Conference Agreement

The Conference Agreement is a substitute provision incorporating elements of both the House bill and the Senate amendment and

SUMMARY

In broad terms, the agreement provides for the establishment of a new entitlement program that is a required part of each State's Medicaid plan. Under this program, States are entitled to receive from the Federal government sufficient vaccine to provide fully for a limited class of children (i.e., Medicaid-eligible, uninsured, and Indian children and children receiving immunizations at Federally qualified health centers or rural health clinics). In turn, States must make this free vaccine available both (1) to all public and private health care providers who are authorized to administer vaccines under the laws of the State, who are willing to participate in the program, and who satisfy the Secretary's requirements and (2) to all children who seek such vaccine through a willing health care provider. No charge may be made for the free vaccine, either by the State or by the providers, although providers may charge a limited fee for the administration of the vaccine (subject to prescribed limitations).

To provide the vaccine needed to carry out this program, the Secretary is to negotiate with manufacturers for a consolidated purchase price. For currently recommended vaccines, this price may not exceed the current purchase price under vaccine contracts administered under the Public Health Service Act, adjusted for inflation. For new vaccines, the Secretary is to negotiate a consolidated purchase price and no ceiling is specified. Special rules are provided for States that manufacture their own vaccines.

No change is made in other current law programs regarding immunization, including the program for grants to States for childhood immunization programs (under section 317(j) of the Public Health Service Act). The conferees expect those Federal programs to continue in place. To the extent that discretionary funds provided by grants under these programs—or State immunization program funds—are no longer needed for the purchase of vaccines the Conferees expect that these funds will be used to provide for the important infrastructure for vaccine delivery. Indeed, the Conferees note their believe that the provision of free vaccine must be done together with essential immunization infrastructure improvements (such as longer clinic hours, more outreach workers, better parent education, innovative community-based activities, and improved physician fees).

DESCRIPTION AND INTENT

Subsection (a)—State plan requirement for pediatric immunization distribution program

Subsection (a) creates a new requirement of State Medicaid plans regarding immunizations as Section 1902(a)(61) of the Social Security Act, and makes various conforming amendments.

Under the Conference Agreement, States must establish a pediatric vaccine distribution program as an amendment to their Medicaid plans, although (1) this program is available to a larger class of children than those who receive general Medicaid benefits and (2) the program providers may include a larger class of providers than those who agree to be Medicaid providers. (The Conferees note that providers who have not elected to be Medicaid providers may still participate in this new program.) Other than for those children whose eligibility for the program derives from their status as Medicaid beneficiaries, Medicaid eligibility requirements are not to be applied in determining which children are eligible for free vaccine.

Subsection (b)—Description of required program

Subsection (b) creates a new program for distribution of pediatric vaccines as Section 1928 of the Social Security Act.

"Section 1928(a)—Establishment of Program"

Under the Conference Agreement, each State must establish a program of distribution of free vaccines to certain Federally vaccine-eligible children (defined below). This program may be administered by the State department of health or other agency designated by the State.

To facilitate these State-administered pediatric vaccine distribution programs, the Conference Agreement requires that the Secretary provide for the purchase and delivery for each State (or Indian tribe or tribal organization) sufficient vaccine to immunize certain children within the State (or tribe or tribal organization). This requirement constitutes the creation of a new entitlement and represents an obligation to provide for the purchase and delivery of vaccines that is undertaken by the Federal government in advance of appropriations acts and is binding on the Federal government regardless of the availability of appropriated funds or of discretely segregated or named funds or accounts.

The Conference Agreement provides special rules regarding the administration of this entitlement for situations in which a vaccine is unavailable or in which the State is a manufacturer.

The Conference Agreement also requires that States provide that any willing health care provider in the State, who meets enumerated registration requirements, be entitled to receive free vaccine to administer to Federally vaccine-eligible children. States may not impose additional qualifications or conditions for providers, except those approved by the Secretary to prevent fraud and abuse and for related purposes.

The Conferees intend that this program may be administered within States by the State health department, or by another department, if the State so designates. Because many providers who might see Federally vaccine-eligible children are not Medicaid providers and many Federally vaccine-eligible children are not Medicaid beneficiaries, failure to distinguish between this program and the Medicaid program could create confusion and result in fewer providers and children receiving free vaccine. In most cases immunization programs have been administered within public health programs and thus, the Conferees believe that an administrative location in the public health program will benefit the increased immunization efforts outlined herein.

The Conferees do not intend that this new group (i.e., federally vaccine-eligible children) be treated as Medicaid eligibles for purposes of Medicaid quality control eligibility and reviews.

The Conferees adopted an entitlement approach because they believe that the commitment to provide vaccine against preventable childhood diseases must be constant and certain and that States that come to rely on the Federal promise to provide vaccine must be protected against possible shortfalls. Funding by any other mechanism (such as a reliance on discretionary spending) is inherently less reliable than the guarantee authorized here and could place States and their citizens at risk of outbreaks of serious disease.

The Conferees have provided that States create entitlements for children and providers as a means to ensure that the program reaches all Federally vaccine-eligible children and all willing providers. While providers are not required to take part in the program, States may not restrict the availability of free vaccine if a provider is willing to participate and is otherwise qualified to administer vaccines under applicable law. The Conferees seek to forestall any attempt by a State to require that patients be referred from a qualified, willing provider to another site, because such referrals often result in a postponement of immunization or failure to immunize. The Conferees also seek to assure that Federally vaccine-eligible children are able to choose the provider that they wish to use for this benefit.

The Conferees recognize that the enforcement of the entitlement rights for providers may, in many cases, be of little value to providers, but of great value to the Federally vaccine-eligible children who may wish to be served by that provider. The Conferees intend, therefore, that Federally vaccine-eligible children be allowed to enforce a provider's rights on behalf of the provider.

In the event that available quantities of vaccine are insufficient to cover all children, both Federally and

"Section 1928(b)—Vaccine-Eligible Children"

The Conference Agreement defines children eligible for the provision of free vaccine purchased by this program (known as "Federally vaccine-eligible children") to be those children who are Medicaid-eligible, uninsured, Indians, or children who are administered vaccines in a Federally qualified health center or a rural health clinic and who are not insured for vaccine costs. Any child who meets these criteria is entitled to receive an immunization without charge for the vaccine.

In addition, the Conference Agreement establishes a category of children known as

"State vaccine-eligible children" to be those children who are not Federally vaccine-eligible children but who are children that a State elects to provide with vaccine without charge for the vaccine. Such an optional category will include children in those States that currently purchase vaccines for all children, and potentially other States as well.

"Section 1928(c)—Program-Registered Providers"

Under the terms of the Conference Agreement, to be program-registered providers, health care providers must agree to ask parents if a child is eligible for free vaccine, although the providers are not required independently to verify the answers to these questions. Providers must maintain certain records and comply with applicable State law, including laws relating to religious or other exemptions. Providers must administer vaccines according to the schedule recommended by the Advisory Committee on Immunization Practices (ACIP) of the Centers for Disease Control and Prevention, unless in the provider's medical judgment (subject to accepted medical practice) such compliance is medically inappropriate.

While providers may not charge for the vaccine per se, providers may charge a fee for the administration of the vaccine. Providers may not, however, charge an amount greater than the actual regional costs for such administration, as determined by the Secretary. Providers may not, under any circumstance, turn away a

States are required (1) to encourage a variety of different providers to participate in the program and (2) to administer vaccines in an appropriate cultural context.

The Conferees note that the Conference Agreement's provisions regarding providers are simple and underscore the intent that both the Secretary and the States implement these provisions in a similarly simple manner so as to encourage providers to participate and yet maintain accountability for the program. The Conferees recognize that different States have established a wide variety of distribution programs for vaccines and intend that existing effective distribution systems, including the use of independent wholesale distributors, be left in place.

The Conferees emphasize that this program in no way mandates immunization. This program deals with payment for vaccines. Individual State laws regarding immunization status are preserved, and the exemptions under these State laws for religious, medical, and other reasons are also preserved. The Conferees affirm their support of compliance with such laws and their exemptions. Acting under those laws, providers are to use their best medical judgment regarding an immunization and may decline to administer an immunization if it is medically inappropriate within the range of accepted medical practice.

The Conference Agreement does not require program-registered providers to administer a vaccine to each child seeking to be immunized. The Conferees clearly intend for this program to serve as many children as possible. But the Conferees believe that it is impractical to require that each provider who administers one shot to a vaccine-eligible child in his/her practice to immunize every other child who seeks vaccines whether in his/her practice or not. Such a requirement could quickly serve to drive all providers from the program. The Conferees do intend, however, that the Secretary seek to encourage program-registered providers to participate to the greatest extent possible.

The Conference Agreement provides for some restrictions on the fees that program-registered providers may charge to Federally vaccine-eligible children. Such fees may not exceed a schedule developed by the Secretary. The Conferees have included such a schedule because they believe that the cost of administration may serve as a significant roadblock for families of limited means that are eligible for this program. The Conferees recognize, however, that if fee limits are set too stringently, few providers may be willing to participate in the program and the Conferees intend for the Secretary to establish the schedule with these two problems in mind. The Conferees have not limited the fees for providers

The Conferees have also prohibited program-registered providers from denying vaccine to any vaccine-eligible child (whether State or Federal) because of the child's family's inability to pay for the administration of the vaccine. The Conferees believe that this protection is a fundamental standard to which providers may be reasonably expected to adhere.

Finally, the Conferees note that they have prohibited States from imposing additional qualifications for eligibility as a program-registered provider. The Conferees have done this because, as was discussed above regarding enforcement of entitlement rights, they seek to forestall any attempt by a State to require that patients be referred from a qualified, willing provider to another site. The Conferees also seek to assure that Federally vaccine-eligible children are able to choose the provider that they wish to use for this benefit.

"Section 1928(d)—Negotiation of Contracts with Manufacturers"

The Conference Agreement requires that the Secretary negotiate and enter into contracts with manufacturers of vaccines to meet the requirements of this program. The Secretary is required to consolidate these negotiations and contracts with other such activities. These contracts may be for multiple years.

The Conference Agreement specifies that the Secretary may not agree to a contract for these purposes under which the price of the vaccine would exceed the cost of the vaccine under the contract of the Centers for Disease Control and Prevention on May 1, 1993, adjusted for inflation. If, however, a new vaccine is recommended for routine use in children, the Secretary is required to negotiate for the purchase price of that vaccine and is not bound by prices set for current vaccines. Contract prices are to include the price for shipping and handling. In carrying out these negotiations, the Secretary is to take into account the needs that States have identified (and provided in advance of negotiations to the Secretary) for State vaccine-eligible children under their own programs. The Secretary is also to take into account the need to maintain a 6-month supply of pediatric vaccines to meet unanticipated needs and to consider the potential for disease outbreaks.

The Conference Agreement further provides that the Secretary shall, as appropriate, enter into a contract with each manufacturer of the vaccine that meets the terms and conditions of the Secretary. The Secretary also may have multiple prices.

The Conferees intend that negotiations proceed according to the Federal Acquisition Regulation, subject to specific provisions of this section, including the price ceiling. The Conferees note that the maximum price allowed under the Conference Agreement is intended to be a ceiling and not a floor or a presumptive price. The Conferees understand that in recent years, the increase in the public price on some vaccines has not kept up with the Consumer Price Index. They intend to retain Secretary's ability to negotiate savings below the maximum price that is established in this section.

The Conferees also intend, however, that the Secretary conduct negotiations in a manner that will ensure the continuation of research and development toward new, better, and safer vaccines. The Conferees recognize that most vaccine innovation is conducted in the private sector by manufacturers and intend that the Secretary act to foster such innovation through every means available. While the program provides substantial fiscal relief to the States and is cost-effective for the Federal government and the public at large, the Conferees have not adopted the new vaccine program principally as a cost-cutting measure but rather as a public health measure. To the extent that increases in negotiated prices can be justified as subsidizing research and development necessary for the improvement of public health, the Conferees intend for the Secretary to allow such increases. Indeed, recognizing that research and development in vaccines are vital to public health, the Conferees have not attempted to cap the cost of new vaccines but have chosen to leave such negotiations to the Secretary to be done on an ad hoc basis. Moreover, if the Secretary comes to believe that the statutory limitation on prices for current vaccines does not allow for sufficient research and development subsidies, the Conferees expect her to report that belief to the Congress and to request an amendment to the limitation.

The Conferees intend that vaccine manufacturers retain their ability under these contract provisions to distribute pediatric vaccines through independent drug wholesalers. Manufacturers may elect to subcontract the shipping, handling, and related distribution functions to such wholesalers. Independent drug wholesalers frequently have served these functions in the past and the Conferees do not intend to disrupt such practices. The Conferees further intend that States be allowed to retain their distribution systems.

In carrying out the responsibilities of this subsection, the Secretary is intended to consolidate these negotiations with all others that she carries out for the purchase of vaccine, including those for the use of grants funds under the Public Health Service Act. The Conferees believe that this consolidation is an efficient means of assuring that the largest possible number of children have access to vaccines and do not intend the explicit description of

The Conference Agreement also provides for an emergency stockpile of vaccines to be negotiated and purchased under these provisions. While the Conferees recognize that this is an increased cost in the short run, they believe it is necessary to avoid situations in which potentially life-saving vaccines are unavailable because of natural disasters or manufacturing problems.

The Conference Agreement provides authority for the Secretary to decline to enter into contracts. The Conferees have provided this authority for extreme circumstances only and, again, would emphasize the importance of continuity of vaccine supplies for Federally vaccine-eligible children and States.

Recognizing that the manufacturing process for vaccines is complex and has specific physical plant requirements, the Conferees understand that manufacturers may need the reassurance of contracts for a time longer than the traditional one-year period. The Conferees have, therefore, provided the Secretary with the unusual authority, traditionally reserved for defense issues, to provide multi-year contracts to allow for stability of vaccine supply.

Also recognizing that the Federal market share in the vaccine industry will be increased under the new program, the Conferees have provided that the Secretary shall, as appropriate, enter into a contract with each of the manufacturers that meets the terms and conditions of the Secretary, attempting to ensure that each manufacturer obtains an appropriate share of the contract. The Conferees have adopted this provision to assure that Federal contracts under the program encourage competition, innovation, and efficiency. In order to do so, the Secretary may, at her discretion, also allow for different prices from different manufacturers.

The Conferees intend that manufacturers involved agree to submit to the Secretary such reports as the Secretary determines to be appropriate with respect to compliance with the contract.

"Section 1928(e)—Use of Pediatric Vaccines List"

In carrying out the requirements of this section, the Secretary is to purchase vaccines from the list established, maintained, and revised by the Advisory Committee on Immunization Practices. The Conferees understand that this list includes the guidelines and schedule of appropriate immunization as outlined by the Advisory Committee on Immunization Practices.

The Conferees note that they do not intend that this list and

In carrying our negotiations under this subsection and all duties of this section, the Secretary is to rely on the ACIP list of recommended vaccines. The Conferees intend that the Secretary provide for Federally vaccine-eligible children the same vaccines that are recommended for children with their own source of payment.

The Conferees intend that the Advisory Committee on Immunization Practices be allowed to conduct its work in an objective manner, concerned only with issues of public health and medicine. While decisions regarding the listing of recommended vaccines will, undoubtedly, have some budget implications for the program and the Secretary, it is the Conferees' intention that the ACIP's work be rigorously separated from such concerns. The Conferees are troubled by past examples of budgetary influence in matters of science and has chosen the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention as a committee less vulnerable than some others to such influence. So, for example, if the ACIP were to decide that one vaccine that produces side effects and reactions should be replaced with a more expensive vaccine that does not, neither the Secretary nor any other public officer should attempt to affect that judgment. If proposed changes present a budget implication so serious as to cause the Secretary to question their validity, the Secretary should present that concern and a proposed legislative change to the Congress, but until legislative change is made, the entitlements of States to ACIP-recommended vaccines are to continue in effect.

"Section 1928(f)—Requirement of State Maintenance of Immunization Laws"

The Conference Agreement requires the maintenance of State laws that were in effect on May 1, 1993, that require health insurance policies or plans to provide some coverage with respect to pediatric vaccines. In addition, the Conference Agreement prohibits any group health plan that is covered by the requirements of title XXII of the Public Health Service Act from reducing its coverage for the costs of pediatric vaccines.

In keeping with other provisions in this Act regarding the maintenance of insurance immunization benefits (whether private, ERISA, or State-run), the Conferees have adopted this requirement to forestall any attempts to decrease the amount of private insurance coverage that currently exists for vaccines. The Conference Agreement necessarily includes only a limited pool of eligible children and the Conferees do not intend for States or private insurers to shift costs now borne by private third-party

"Section 1928(g)—Termination"

The Conference Agreement provides that the new plan requirement and this program terminate upon the enactment of additional Federal law providing for immunization services for all children as part of a broad-based reform of the national health care system.

"Section 1928(h)—Definitions"

Section 1928(h) provides definitions for the terms used in the creation of the vaccine distribution program.

Other Provisions Relating to Immunizations

Current Law

(a) Outreach and Education: States participating in Medicaid are required to cover Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) services for all eligible children under 21. States are required to inform all Medicaid-eligible children under age 21 of the availability of EPSDT services.

(b) Schedule of Immunizations under EPSDT: The screening services element of the EPSDT benefit must, at a minimum, include appropriate immunizations according to age and health history, at intervals which meet reasonable standards of medical practice, as determined by each State.

(c) Assuring Adequate Payment Rates for Administration of Vaccines to Children: States are required to reimburse for EPSDT and other pediatric services at levels which are sufficient to enlist enough providers so that care and services are available to Medicaid beneficiaries at least to the extent that they are available to the general population in the geographic area. With respect to pediatric services, States must submit, by April 1 of each year, a State plan amendment that specifies, by procedure, the payment rates to be used for pediatric services in the year beginning the following July 1 and that includes data to assist the Secretary in evaluating the State's compliance with the provider participation requirement.

(d) Denial of Federal Financial Participation for Inappropriate Administration of Single-Antigen Vaccine: Federal Medicaid matching funds are available for the costs of single-antigen vaccines and their administration.

(e) Requiring Medicaid Managed Care Plans to Comply with Immunization and Other EPSDT Requirements: States may contract on a risk basis with managed care plans to deliver covered services,

House Provision (Section 5183)(a)

Outreach and Education: Requires the States to inform all Medicaid-eligible children under age 21 of the need for age-appropriate immunizations against vaccine-preventable conditions. Requires State Medicaid agencies to enter into agreements with State agencies and other institutions or organizations receiving Maternal and Child Health (MCH) Block Grant funds under title V providing for coordination of information and education on childhood vaccinations and to coordinate delivery of immunization services. Requires State Medicaid agencies to provide, or assure the provision of, information and education on childhood vaccinations and the delivery of immunization services with the State's operations under the Special Supplemental Food Program for Women, Infants and Children (WIC).

Effective Date: Enactment.

(b) Schedule of Immunizations Under EPSDT: Requires that States, as part of the screening services element of the EPSDT benefit package, cover appropriate immunizations according to the schedule recommended by the Secretary under the Public Health Service Act.

Effective Date: 90 days after the issuance of the Secretary's recommended schedule of immunizations.

(c) Assuring Adequate Payment Rates for Administration of Vaccines to Children: Clarifies that, for purposes of determining whether pediatric service payment levels are sufficient, pediatric services include the administration of vaccines by health care practitioners.

Effective Date: Applies with respect to State amendments submitted by April 1, 1994.

(d) Denial of Federal Financial Participation for Inappropriate Administration of Single-Antigen Vaccine: The House bill denies Federal Medicaid matching funds for single-antigen vaccines, and the administration of such vaccines, in any case in which the administration of a combined-antigen vaccine was medically appropriate (as determined by the Secretary).

Effective Date: Applies with respect to vaccines administered on or after October 1, 1993.

(e) Requiring Medicaid Managed Care Plans To Comply With Immunization and Other EPSDT Requirements

Requires that a risk contract between a State Medicaid agency and an entity: (1) specify which EPSDT services are to be provided under the contract to children enrolled with the entity; (2) specify, with respect to those EPSDT services that are not to be provided under the contract, the steps the entity will take (through referrals, scheduling appointments with appropriate providers, monitoring the receipt of referred services, or other arrangements) to assure that such individuals will receive such services; and (3) require the entity to submit periodic reports as necessary to enable the State to meet its reporting requirements under sections 1902(a)(43)(D) (relating to EPSDT screening and referral rates and State participation goals) and 506(a)(2) (relating to progress in achieving the national Year 2000 health status objectives relating to mothers and children). Provides for the imposition of a civil monetary penalty in an amount of up to $25,000 for each instance in which an entity fails substantially to provide EPSDT services to the extent specified in its contract with the State.

Effective Date: Applies to contract years beginning on or after October 1, 1993.

Senate Amendment

The Senate amendment contains no comparable provision.

Conference Agreement

(a) Outreach and Education: The Conference Agreement follows the House bill with a modification.

(b) Schedule of Immunizations under EPSDT: The Conference Agreement follows the House bill.

(c) Assuring Adequate Payment Rates for Administration of Vaccines to Children: The Conference Agreement does not contain the House language regarding Medicaid vaccine administration fees. The Conferees agree with the Secretary's view that, under current law, she has the authority and the Conferees understand that it is the Secretary's intent to accomplish what the House bill would have required.

(d) Denial of FFP for Inappropriate Administration of Single-Antigen Vaccines: The Conference Agreement follows the House bill.

(e) Requiring Medicaid Managed Care Plan to Comply with Immunization and Other EPSDT Requirements: The conferees have been informed that a point of order could be raised in the Senate, under the so-called "Byrd rule" (section 313 of the Congressional Budget

Availability of Medicaid Payments for Childhood Vaccine Replacement Programs.

Current Law

States may not make payment for covered care or services provided to Medicaid beneficiaries to anyone other than the beneficiary or the practitioner or institution providing the service, with certain limited exceptions.

House Bill (Section 5184)

Allows States, at their option, to make payments directly to vaccine manufacturers participating in a voluntary replacement program. Under such a program, the manufacturer supplies doses of the vaccine to providers that administer it, periodically replaces the provider's supply of the vaccine, and charges the State the manufacturer's bid price to the CDC, plus a reasonable premium to cover shipping and handling of returns.

Senate Amendment (Sec. 7801)

Require state Medicaid agencies to purchase vaccines directly from manufacturers at prices negotiated by the Centers for Disease Control (plus shipping and handling fees for return doses) and develop a distribution system to deliver the vaccines to all Medicaid providers for inoculation of Medicaid eligible children. Annual price increases under the CDC contract are limited to increases in the CPI beginning in fiscal year 1994 through fiscal year 1998.

Conference Agreement

The Conference agreement follows the House bill with a modification limiting its duration to FY 1994.

Sec. 13632. National Vaccine Injury Compensation Program Amendments.

Current Law

The National Childhood Vaccine Injury Act of 1986 (P.L. 99-660) created a system for compensating children for injuries received from routine pediatric immunizations. The Vaccine Compensation Amendments of 1987 (P.L. 100-203) provided for a source of payment for such compensation and began the implementation of the system.

House Bill

The House bill increases the amount of administrative expenses for Health and Human Services, Department of Justice and the U.S. Claims Court from the Compensation Trust Fund from $2.5 million to $3 million. It allows individuals to file for compensation if the effect of a revision in the Vaccine Injury Table were to increase significantly the likelihood of such individual's obtaining compensation. It extends the time period for suspension of

Senate Amendment

The Senate amendment contains similar provisions. In addition, the Senate amendment increases the direct spending authority for awards for retroactive cases and amendments to the table of injuries for compensation.

Conference Agreement

The Conference Agreement contains the House and Senate provisions regarding extension of time and the Senate provisions regarding increases in direct spending and amendments to the table for compensation.

The Conferees have been informed that a point of order could be raised in the Senate, under the so-called "Byrd rule" (section 313 of the Congressional Budget Act of 1974), to the substance of the remaining House and Senate provisions if included in the Conference Agreement. In order to avoid such a possible point of order, the Conference Agreement does not include these provisions. The Conferees expressed no views on the merits of these provisions.

The Conferees also express their intention that the Administration make substantive proposals to address the serious problems that remain in the vaccine injury compensation system regarding payment of claims for pre-enactment cases. Continued postponement of addressing these issues threatens to work a serious injustice to petitioners, manufacturers, and the program itself.

National System for Monitoring Immunization Status of Children

House Bill (Sec. 5181)

The House bill establishes a new discretionary State grants program (to be administered by the Centers for Disease Control and Prevention) for the purpose of developing and maintaining registries containing information relating to the immunization status of the Nation's children. It requires States as a condition of receiving free vaccine under the free vaccine distribution program to have a registry in place not later than October 1, 1996. The bill also allows for State exemption for the collection of data on any child if a parent of such a child makes such a request. The bill authorizes appropriations for this purpose.

Senate Amendment

The Senate amendment contains similar provisions, although participation in the registry program is not made a condition of participation in the free vaccine distribution program.

Conference Agreement

The Conferees have been informed that a point of order could be raised in the Senate, under the so-called "Byrd rule" (Section 313 of the Congressional Budget Act of 1974), to the substance of both the House and the Senate provisions if included in the Conference Agreement. In order to avoid such a point of order, the Conference Agreement does not include either the House or Senate provision. The Conferees express no views on the merits of these provisions.

House bill

The House bill establishes in Title XXI of the Public Health Service Act a new childhood immunizations grants program. This Program replaces the Centers for Disease Control and Prevention program authorized under Section 317 of the Public Health Service Act, and authorizes all activities previously funded through that program with the exception of the purchase and delivery of vaccines. The bill authorizes appropriations for this purpose.

Senate amendment

The Senate amendment contains similar provisions, although it does not replace Section 317, and focuses on rebuilding the public health infrastructure and outreach activities to enhance the delivery of immunizations. It also contains provisions for better coordination of Federal efforts to improve immunization rates.

Conference agreement

The Conferees have been informed that a point of order could be raised in the Senate, under the so-called "Byrd rule" (Section 313 of the Congressional Budget Act of 1974), to the substance of both the House and Senate provisions if included in the Conference Agreement. In order to avoid such a possible point of order, the Conference Agreement does not include the House or the Senate provision. The Conferees express no view on the merits of the provisions.

Healthy Start for Infants

Current Law

In FY 1993, the Federal Government made $79 million in grants for the purpose of reducing infant mortality in selected communities. There is no statutory authority for the appropriation of funds for

House Bill (Sec. 5185)

The House bill authorizes the Secretary to make grants for the operation of no more than 21 Healthy Start demonstration projects for the purpose of reducing, in the geographic area involved, (i) the incidence of infant mortality and morbidity; (ii) the incidence of fetal deaths; (iii) the incidence of mortality; (iv) the incidence of fetal alcohol syndrome; and (v) the incidence of low-birthweight births. The Secretary is required, in providing for a demonstration project in a geographic area, to seek to meet the applicable Year 2000 Health Status Objectives with respect to each of the four program purposes described above. For each of FY 1994 through 1997, the Program is authorized at an amount of "such sums as may be necessary." The program sunsets on October 1, 1997.

Senate Amendment

The Senate Amendment contains no similar provisions.

Conference Agreement

The Conferees have been informed that a point of order could be raised in the Senate, under the so-called "Byrd rule" (section 313 of the Congressional Budget Act of 1974), to the substance of the House provisions if included in the Conference Agreement. In order to avoid such a possible point of order, the Conference Agreement does not include the House provisions. The Conferees express no views on the merits of the provisions.

Tort Claims Coverage for Health Centers

House Bill

The House bill clarifies that a Community Health Center (or other entity described in section 224(g)(4) of the Public Health Service Act) may elect not to participate in coverage under the Federal Tort Claims Act if the entity establishes that it has been a participant in, and a partial owner of, a nonprofit risk retention group. In addition, the bill clarifies that officers and employees of entities under section 224(g)(4) are covered under the FTCA, even if they are not health care providers.

Senate Bill

The Senate bill made similar changes to the Public Health Service Act, with minor technical differences.

Conference Agreement

The conferees have been informed that a point of order could be raised in the Senate, under the so-called "Byrd rule" (section 313 of the Congressional Budget Act of 1974), to the substance of the provision if included in the conference agreement. In order to avoid such a possible point of order, the conference agreement does not include the provision. The conferees express no views on the merits of the provisions.

Physician Ownership Study

House Bill

The House bill contained no provision.

Senate Bill

The Senate bill required the Secretary of Health and Human Services to study the desirability of mandating that providers not refer patients to entities in which the providers have a financial interest and to evaluate different options, with respect to the

Conference Agreement scope of such prohibition.

The conferees have been informed that a point of order could be raised in the Senate, under the so-called "Byrd rule" (section 313 of the Congressional Budget Act of 1974), to the substance of the Senate provision if included in the conference agreement. In order to avoid such a possible point of order, the conference agreement does not include the Senate provision. The conferees express no views on the merits of the provision.

National Health Service Corps Retirement

House Bill

The House bill contained no such provision.

Senate Bill

The Senate bill required that retirees of the National Health Service Corps be treated the same as military retirees with respect to increases in retirement pay.

Conference Agreement

Senate recedes.

Mr. Chairman, this is the only package of budget changes offered to the Congress which will restore economic prosperity to our Nation, and address in a constructive and sound fashion the problem of bringing down the deficit. It will require sacrifice, but the hard fact in that there are no simple or painless solutions. I urge my colleagues to support this bill.

The SPEAKER pro tempore (Mr. MURTHA). The Chair now recognizes the Committee on Government Operations. The gentleman from Michigan [Mr. CONYERS] is recognized for 10 minutes.

Mr. CONYERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a very important matter, one for which we have waited a considerable period of time.

I would begin by continuing the discussion that was led by the able chairman of the Energy and Commerce Committee, the gentleman from Michigan [Mr. DINGELL].

You see, Mr. Speaker, the fact of the matter is that during the eighties working families received virtually no real wage and salary growth. Weekly earnings for the typical full-time worker are presently 3 percent below 1987 levels, and in the eighties the incomes of the poorest of Americans fell and the middle class themselves barely held on.

The wealthy and the privileged, on the other hand, against whom I have no grudge, some of whom are my friends, and those on the other side of the aisle want to protect with a no vote on this package, have had quite a party. The richest fifth of the population saw their wealth grow nearly a third. The richest 1 percent saw their wealth more than double.

Mr. Speaker, under the rules of the House, the committee which I am proud to chair, the Government Operations Committee, has jurisdiction over budget enforcement matters. The House-passed bill in May included many provisions which would create new rules to insure the deficit reduction numbers and target are adhered to during the course of this 5-year plan. Those rules are in effect guarantees, a compact with the public, if you will, that this ambitious deficit reduction will actually occur. Those provisions include the extension of current provisions of the Budget Enforcement Act that would require sequestration of discretionary spending above certain levels.

The House also passed for the first time a measure to meaningfully review and control entitlements in a meaningful way, the other half of Federal spending. The entitlement review section provides that targets be set for entitlements and that when spending breaches occur, Congress must vote either to cut other spending, to seek additional revenues, or affirmatively raise the target levels.

The gentleman from South Carolina [Mr. SPRATT] was particularly helpful in providing this provision.

Finally, the House passed a deficit reduction trust fund to create a public compact with the American people that the funds generated for deficit reduction in this package would only be used for deficit reduction.

Now, let us be clear about this. They are critical if we want to control reducing the deficit, but because of opposition to these deficit control measures by the other party, the Republican Party, these provisions were dropped, using procedural obstacles in the Senate.

I repeat, because of Republican opposition these most critical provisions to control and reduce the deficit, a product of the Government Operations Committee, were dropped.

Question: Where are the big deficit cutters on the other side of the aisle when it came to this?

This notwithstanding in order to insure that these measures are in fact implemented, the President yesterday signed two Executive orders to create the trust fund and entitlement review mechanism to make it have meaningful controls on future spending.

So we have done, Mr. Speaker, everything we can think of in terms of the legislative process to insure and guarantee a sincere, workable, no-fooling, no smoke and mirrors deficit reduction program. So for that reason it would seem that if anyone had any objection to us not cutting far enough, they would have at least supported the very strong insurance provisions that came out of the Government Operations Committee and were stymied by members of the other party in the other body.

The SPEAKER pro tempore. The gentleman from Pennsylvania [Mr. CLINGER] is recognized for 10 minutes.

Mr. CLINGER. Mr. Speaker, I yield 1½ minutes to the gentleman from New Mexico [Mr. SCHIFF].

Mr. SCHIFF. Mr. Speaker, this proposal is being called President Clinton's deficit reduction plan. It is therefore very significant to point out at this time that President Clinton has changed his deficit reduction goals from when he was a candidate for President. As a candidate for President, Mr. Clinton proposed reducing the Federal deficit by 50 percent in 4 years. Now he has a different goal. The goal now is to reduce the deficit by $500 billion over 5 years.

Now, what is the difference? The difference is that cutting the deficit in half is very finite. We can take what the deficit was at the time of the campaign, figure easily what 50 percent of it is and determine absolutely if the President reaches his goal.

The request to trim $500 billion from the deficit is a trim off projections. This cannot be measured accurately, because there are numerous projections as to what the Federal deficit might be in the future.

By selecting their projections, the administration is in a position after passing this bill of taking whatever deficit figure there is and saying we have met our goal of reducing the deficit from the projection.

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I suggest, Mr. Speaker, that the reason why the President has changed the goal of his deficit reduction plan is because he cannot meet his original goal of cutting the deficit in half, and he cannot meet it because of all the gimmicks and shams in this bill, which is why it should be rejected.

Mr. CONYERS. Mr. Speaker, I yield 2 minutes to the gentlewoman from Florida [Ms. BROWN].

Ms. BROWN of Florida. Mr. Speaker, my constituents sent me to Washington because they knew that I would not stand for the status quo and political gridlock. I am here on a mission to bring economic opportunities and jobs, jobs, jobs, to the folks who were denied them during the last 12 years of Reaganomics—when the rich got richer, the poor got poorer, and the middle class paid for it all.

That is why I will be taking action to end gridlock by supporting the budget conference report. The plan will be good for our economy. Over the next 5 years, 1 million new jobs will be created in Florida. For poor rural and urban areas, there will be enterprise and empowerment zones to spur economic growth and job creation.

This plan is fair, it asks the rich to pay most of the new taxes. In fact, 80 percent of the income taxes will fall on those making over $180,000. The middle class and working families will not pay one extra penny in income taxes. However, the new gasoline tax will mean $36 a year for working families.

Those same working families will benefit from a historic expansion of the earned income tax credit so that every parent who works full time and has a child at home will not have to raise that child in poverty. Almost 47 percent of the families in my district will benefit from it. The plan also includes a new program to enable all poor children to get vaccinations and a new program that helps families stay together.

To my constituents watching from your homes, this plan will improve your lives. To my colleagues watching from your offices, we cannot turn back. If not us, who? If not now, when?

Mr. CLINGER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Ohio [Ms. PRYCE].

Ms. PRYCE of Ohio. Mr. Speaker, America is on the verge of swallowing the largest tax increase in the Nation's history—retroactively.

That is right, January 1, 1993—20 days before President Bill Clinton even took office. Retroactive. One woman mistakenly called in and said, "what are we going to do about President Clinton's radioactive taxes?" Retroactive in radioactive? Which is worse, I don't know. Some people who have worked hard and saved and invested and spent their hard earned dollars for the last 7 months might prefer something radioactive to this.

It's a cruel joke on responsible taxpayers, especially because these tax increases are very real and they are immediate, but the promised spending reductions won't occur, if at all, until after the next presidential election in 1996. I think hardworking taxpayers across the Nation deserve better.

And, they deserve better than the promise of a so-called deficit reduction trust fund. The President cannot do by Executive order what Congress must do for itself, and that is to reduce Government spending. Without meaningful reform of the congressional budget process, most notably through true line item veto authority and a constitutional balanced budget amendment, the President's deficit reduction trust fund will inspire no trust whatsoever.

And it is time to stop the partisan finger-pointing. It is time to get beyond laying blame. The policies of the past are ancient history. I'm new here—I don't care what happened in years past. All I know is that it did not work. The American people want us to focus on the future, to work together to stem the tide of red ink which threatens the financial security of our children.

Mr. Speaker, this budget plan reaches back to punish hard work, initiative, investment, and job creation right at the time when the national economy needs a good shot in the arm.

I urge my colleagues to remember that we cannot tax Americans into greater prosperity and we can't spend ourselves out of this deficit. Vote "no" on the conference report. Let us return to the drawing board to reduce the deficit the correct way: by cutting spending first.

Mr. CONYERS. Mr. Speaker, I am delighted to turn the command of time allotted to me over to the chairman of the Subcommittee on Environment, Energy, and Natural Resources, the gentleman from Oklahoma [Mr. SYNAR].

Mr. SYNAR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, those Members of the House who are regular church goers will remember the promise of the Book of Revelations, that at the end of time there would be a new heaven and a new earth, a place of happiness, eternal life, and the streets of the city paved in pure gold.

I have recently obtained the Republican response to God's plan and it will not surprise the Members who have followed this debate closely that the Republicans have significant objections and cannot in good conscience endorse it.

The Republicans would believe the paving of the streets with gold represents wasteful and abusive Government spending which should be cut before taxes are increased.

The Republicans would believe the promise of eternal life would throw the actuarial assumptions behind Social Security into turmoil.

The Republicans would believe the elimination of sickness, as promised by Saint John, sounds suspiciously like a national health care plan.

The Republicans would object to the "pure river of the water of life, clear as crystal" because they can only result from overly burdensome environmental regulations.

And Republicans would believe eternal peace would surely devastate our industrial and manufacturing base as represented by the defense sector.

I say to my fellow Members that the time for carping, complaining, and criticizing is past.

Now is the time for a budget that is honest, balanced, and fair which will begin to address the problems facing our country.

Now is the time to remember there are two basic truths about democracy.

First, democracy is not a spectator sport and all of us, whether we like it or not, are in this together. And second, democracy sometimes requires bold, courageous decisions.

This is one of those sometimes.

Today, together, with the passage of this bill, we begin the long road to a better future for all Americans.

Mr. Speaker, I reserve the balance of my time.

Mr. CLINGER. Mr. Speaker, I yield 1 minute to the gentleman from Ohio [Mr. PORTMAN].

Mr. PORTMAN. Mr. Speaker, we've heard a lot of speeches here today. Let me take my 60 seconds to allow a couple of my small business constituents to speak, through their unsolicited letters to me.

First, from a successful services company that has gone from 2 employees to almost 500 in 6 years:

> Like many small business people, we risked everything we had to get the business started * * * [and] virtually every dime of profit we've plowed back into the corporation. * * * since profits flow to individuals in subchapter S corporations, the net effect [will be] taxing our company profits at a 42 percent rate. * * * I don't need to tell you what a 42 percent rate would do to our ability to hire new people and reinvest in our future.

And here is a letter from a small manufacturer in my district who said:

> Prior to President Clinton's economic proposal, I had considered building an additional 5,000 feet of manufacturing space onto our current facility, acquiring nearly $100,000 in new manufacturing equipment and adding 3 to 4 new employees. This is all on hold for now.

Mr. Speaker, these are people in my district who are in the trenches creating new jobs. You have heard it straight from them.

Mr. CLINGER. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. COX].

Mr. COX. Mr. Speaker, President Clinton and the liberal big spenders in Congress call this budget deficit reduction. It can only be called deficit reduction in our fantasy theme park of Washington, DC. Instead, the real name for this summer's budget blockbuster from Washington, DC, is—I introduce my colleagues to:

Jurassic pork.

This is, in fact, the largest 5-year deficit spending increase in history.

Mr. Speaker, I serve on the Committee on the Budget, and I am also a conferee appointed to resolve the differences between the House and the Senate versions of this bill. But, as a member of the budget conference, I had to wait in my office while the Democrats worked out, without any invited Republicans, just how much they were going to increase spending and increase taxes.

□ 1650

I was therefore delighted to get yesterday's press release from the Committee on the Budget that told me that outlays, what ordinary Americans call spending, will increase next year under this budget, from $1.4 trillion in fiscal 1993 to $1.5 trillion next year, $1.6 trillion in 1996, and $1.8 trillion in 1998, for a total of over $1 trillion in new spending on top of the existing level of $1.4 trillion in fiscal year 1993. That is, and I am sad to repeat it, the largest deficit spending increase in American history.

Now, if we are cutting defense as deeply as we all know we are, how can spending go up and go up so fast? Well, as chairman of the congressional grace caucus, dedicated to enacting the Grace Commission's cost cutting reforms into law, I can tell you that none of the Grace Commission's recommendations made it into this budget. We still have the National Helium Reserve, which would save us $1.7 billion to privatize. It is there to field a fleet of blimps in time of national emergency. We still have the Rural Electrification Administration. We could save billions by terminating it.

All of this spending is in this budget. Americans are going to be forced to buy a ticket to this Jurassic pork theme park through the largest tax increase in American history.

Mr. CLINGER. Mr. Speaker, I yield 2½ minutes to the gentleman from Connecticut [Mr. SHAYS].

Mr. SHAYS. Mr. Speaker, when we debated the war in the gulf, we put party politics aside and spoke from our hearts. Most Members here today are wrestling with a very difficult issue and are trying to party politics aside.

I do not know if the deficits we have and the national debt that has grown by leaps and bounds over years and years is the fault of the White House or Congress. I do not know if it is the fault of the Republican Party or the Democratic Party. I suspect it is the fault of both. And I think in our hearts each of us realize that is the case.

As I look at it, we are all in this together. So as far as I am concerned we all have to be part of the solution.

I look at this package and say, respectfully, it is not bold, it is not a responsible package. I look at this agreement and say it does not do the job. If we took no action, the national debt would rise 48 percent in the next 5 years. If we did nothing, it would go up 48 percent. I think all of us realize that would be pretty terrible.

If we pass this plan, the national debt goes up 42 percent. It still goes up 42 percent. All this gnashing of teeth, as we debate a heck of a lot of taxes and some spending cuts and the national debt still goes up 42 percent in 5 years.

This agreement doesn't do the job and it is too dependent on taxes. In fact, a bulk of them are retroactive, and spending still goes up 21 percent in the next 5 years. And 60 percent of the cuts in the increase in spending are going to take place in the fourth and fifth years, the last year of the President's first term, and, if reelected, the first year of his next term.

We are telling the next Congress and the Congress after that, that they need to make 60 percent of the spending cuts.

We need to cut spending first, eliminate the superconducting super collider, the space station, increase the retirement age of Federal employees so they retire like everyone else at age 65, not 55 reform agricultural subsidies, make Medicare income-sensitive. We need to cut spending first.

If this budget agreement fails, it will not be the end of the world. It means that we just start over. We have until October 1. It means that maybe Republicans and Democrats can get together and come up with a plan that primarily cuts spending first, and, if it includes some taxes, so be it.

We have got to reduce more than the $500 billion in deficit reduction proposed by President Clinton. It is simply not enough. We have got to get our financial house in order and more our country forward.

Mr. Speaker, I conclude by just asking my colleagues to realize that we can do better.

Mr. CLINGER. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I hope this measure is defeated, because I really think that we have an opportunity here to get a bipartisan reconciliation bill. I think that would be in the interest of the country. This bill we are considering is clearly a very partisan effort. The American people are skeptical of it. They question whether this is really a valid procedure. I would hope this would be defeated so we can have a bipartisan effort to really accomplish the things that we need to accomplish and that the American people will accept.

Mr. Speaker, I am also very concerned about the way in which budget process reforms have been considered in this body. The budget act amendments included in the conference report are probably close to those provisions the minority would have supported had we been asked to participate in the debate over this bill. However, the fact that the House-passed tax increase legislation included budget process changes which were never considered by the appropriate committee of jurisdiction is particularly disappointing.

Although most of those budget provisions were struck during the conference, I cannot help but believe that, had the Committee on Government Operations conducted a serious debate over budget process reform, we would be considering legislation today which would provide for a truthful budget process. Instead, we have been forced to debate phony deficit reduction trust funds and meaningless entitlement caps. This process has cheapened the use of Executive orders and brought into question the ability of the Government Operations Committee to consider budget matters.

Regardless of the success of this bill, it is my hope that the Government Operations Committee will begin asserting its leadership on budget process issues and not simply surrender our jurisdiction on these important matters.

Mr. CONYERS. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Illinois [Mrs. COLLINS].

Mrs. COLLINS of Illinois. Mr. Speaker, today I rise in support of the conference report on H.R. 2264, the Omnibus Budget Reconciliation Act of 1993. No one is absolutely pleased with everything in this bill, which is to say that everyone has had to sacrifice in order for agreement to be reached, and that is exactly the way it should be. In these times of few resources and great needs, we all must contribute to improve the rate of growth of our economy and to address the many problems that would darken our future. This bill accurately reflects this shared sacrifice.

While H.R. 2264 is certainly not all that it should be, it is all that it could be given the uncooperative spirit of some who have allowed politics to guide their actions and votes, rather than the best interest of the Nation at this time of fiscal restraint. In spite of these difficulties, we were able to accomplish many important things in this budget package.

Under this plan, we will reduce the Federal budget deficit by a total of $496 billion over the next 5 years, with more than half of the reduction from cuts in spending. This is a complete reversal of the politics of the past, when Presidents spoke about the budget deficit, but did not act in a way that acknowledged its existence. Today, Bill Clinton, we have a President with a budget plan that will set us on the road to better fiscal management.

Many aspects of this plan address great needs facing our country. I am particularly excited about the earned income tax credit provision. Through this credit we will help working poor people who struggle every day to support their families on incomes that are less than sufficient. In my district alone, which includes the west side of Chicago, and some of its western suburban communities, over 42,000 families will receive needed assistance due to this provision. Instead of the wealthy few, or some business interest, the needy people working hard to take care of their families will get a break in their taxes. With this program, we send an economic signal to ordinary working people that we recognize their struggle and that is it in our national interest that they be able to feed and raise their children properly.

The report includes a provision which would allow HUD to designate nine empowerment zones in which wage credits and other incentives will be given to employers located in certain urban and rural areas which have been decimated by the flight of businesses and industry. Through this program and others, we will finally bring jobs and income to some of these hard hit areas in my community and in others across the country.

Mr. Speaker, certainly there are parts in this economic package of which I am less than pleased. I think of the cuts in the Medicaid disproportionate share payments to hospitals and the allowance of Medicaid formularies at the State level. In my view, these cuts hurt the very citizens who are already underserved by our medical system. I am hopeful that we can remove these problems in the near future when we turn our attention to health reform. In spite of these difficulties, there is no other way to go. For Members of this body who are honestly looking for a way to address the vital needs of our country, and to confront the significant economic problems that are caused by the budget deficit, this is the plan and this is the time. I am going to vote to approve this report and I hope that my colleagues in this House will join me.

Mr. CONYERS. Mr. Speaker, I yield my remaining time to the distinguished gentleman from Texas [Mr. GENE GREEN].

Mr. GENE GREEN of Texas. Mr. Speaker, I would like to thank the gentleman for yielding to me and my colleague of 20 years, the gentleman from Texas [Mr. WASHINGTON], to engage in a brief dialog, as we call it in Texas, and not a colloquy, to discuss the earned income tax credit.

Mr. WASHINGTON. Mr. Speaker, colloquy is a big fancy word. We do not know that in Texas.

Mr. GENE GREEN of Texas. That is right, and its effect on our part of the country.

I understand the gentleman from Texas [Mr. WASHINGTON] is aware that this economic plan is not the large tax increase that its opponents claim.

Mr. WASHINGTON. Mr. Speaker, if the gentleman will yield, I would say to my friend from Houston that is correct. In fact, many of the people in my district, 60,000 families in my district and I think 58,000 in the gentleman's district will actually see their taxes go down, which will mean $108 million in Houston alone.

Mr. GENE GREEN of Texas. Mr. Speaker, I understand that 58,000 families in my district and, again, 60,000 in the gentleman's district, and, even coming from Texas, we may talk slow, but we can understand that.

Mr. WASHINGTON. The gentleman is correct. That is the earned income tax credit, and we understand that, even down in Houston, TX.

The SPEAKER pro tempore (Mr. MURTHA). All time has expired for the Committee on Government Operations.

The chairman of the Committee on Foreign Affairs, the gentleman from Indiana [Mr. HAMILTON] will be recognized for 10 minutes, and the ranking member, the gentleman from New York [Mr. GILMAN], will be recognized for 10 minutes.

The Chair recognizes the gentleman from Indiana [Mr. HAMILTON].

Mr. HAMILTON. Mr. Speaker, I rise in support of the conference report to accompany the Omnibus Budget Reconciliation Act.

Mr. Speaker, the Committee on Foreign Affairs shared jurisdiction over two of the provisions of the conference report with the Committee on Post Office and Civil Service. I would like to first commend the chairman of the Committee on Post Office [Mr. CLAY] for his cooperation and leadership on these provisions.

Mr. Speaker, the provisions within the jurisdiction of the Committee on Foreign Affairs deal with cost of living adjustments and lump sum payments for Foreign Service retirees. With respect to the COLA's the conference report is identical to the House provision, saving $9 million over the next 3 years by deferring COLA's for the first 3 months of each yer for Foreign Service personnel. I would note for my colleagues that all civilian Government employees are treated equally under the conference report. The total savings achieved by delaying COLAs for all civilian government employees is $778 million.

With respect to the termination date for lump sum retirement payments, the conference agreement establishes a termination date of October 1, 1994. This represents a compromise between the House and Senate positions. The savings achieved by terminating lump sum retirement payments for the foreign Service is $51 million over the next 5 years, with a total government-wide savings of $8.716 billion.

Mr. Speaker, these provisions represent true deficit reduction. But the over $9.5 billion represented by these two provisions alone is a real savings in the cost of government to the tax payer.

I urge my colleagues to support this conference report. To vote against it will continue the unacceptable fiscal policies.

Mr. Speaker, I reserve the balance of my time.

□ 1700

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Committee on Foreign Affairs, pursuant to the budget resolution, was instructed to reduce spending within its jurisdiction by $5 million for fiscal years 1994–98.

The conference agreement adopted the House position as worked out between the Committees on Foreign Affairs and Post Office and Civil Service with regard to cost-of-living allowance retirees.

According to CBO, by delaying the payment of COLAs for Foreign Service employees for each of the next 3 years, that recommendation would reduce outlays by $3 million in each fiscal year for a total savings of $9 million over the 3-year period.

The conference agreement terminates the payment of lump sums on retirement effective October 1, 1994, in lieu of the House position which would have terminated them on January 1, 1994. Savings from this provision from Foreign Service employees will be $51 million over the 5-year period of the conference report.

Mr. Speaker, these provisions fulfill the responsibilities of the Committee on Foreign Affairs pursuant to the budget resolution.

However, with respect to the entire reconciliation package, I have much different views. While this package is an improvement over the unrealistic economic proposal placed before the Congress earlier this year, it still includes too many inequities to warrant my support.

This measure is too short on spending cuts to justify the broad tax increases. The increased gasoline taxes will have a severe impact on the mid-Hudson region in New York State.

And we can do more to whittle away the waste, the inefficiency and duplication in many of the existing Federal programs. Burdening our Medicare and Social Security recipients is not the way to do it. These are the people—living on fixed incomes—who most need assistance. They should be the last, not the first, who are asked to alleviate the burdens of our deficit.

Moreover, the proposed higher taxes on corporations will either be passed on to the consumer, or lead to more layoffs.

If this budget proposal is not adopted today in its current form, it would not be the last word.

There are many of us on our side of the aisle who are prepared to work with our colleagues on the other side of the aisle to formulate a bi-partisan budget plan that truly reduces the deficit without jeopardizing economic growth.

The budget package before us is not the only game in town.

Mr. HAMILTON. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from New York [Mr. ENGEL].

Mr. ENGEL. Mr. Speaker, this editorial cartoon in today's New York Daily News and the Atlanta Constitution hits the nail on the head. It portrays the minority leader of the other body reciting his motto: Ask not what you can do for your country, rather ask what you can do to embarrass Clinton.

Since no other viable alternative to this budget deficit-reduction plan has emerged during months of debate, the guardians of gridlock must resort to half-truths, distortion, and scare tactics. They claim to care about working families when they are really out to protect their wealthy friends. They call for deeper spending cuts but offer no specifics. They pretend to be friends of our senior citizens but make proposals that would devastate health care to the elderly.

Let us be clear about the choice we have to make today. The President presented us with a courageous and forward-looking plan, reducing the deficit by $496 billion, and every Member of

Congress has had a chance to review it and offer input. I regret that, unfortunately, the minority has removed itself from the budget process by saying, to a person, that they won't get involved, won't vote for this plan, and won't even negotiate to change or improve it.

Those who say, "let's go back to the drawing board," know that if this budget is defeated, the one that succeeds it will be far more onerous to our elderly, retirees children, and working families.

Who are these naysayers trying to kid? Clearly, the choice is either this plan or no progress at all. The financial world has signaled its approval and is waiting for action. The major CEO's have said this plan is good for business and good for the American economy. The American public has demanded change and is waiting for action. Yet, the soldiers of the status quo still want to march backward instead of forward.

Mr. Speaker, I am pleased to report the majority of calls from my constituents are being made in favor of approving this budget. I believe my constituents have come to understand that just saying "no" is no way to run a loyal opposition.

Let us say "yes" to progress and "yes" to change. Let us pass the budget reconciliation bill today.

Mr. GILMAN. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from Kansas [Mrs. MEYERS], a member of our committee.

Mrs. MEYERS of Kansas. Mr. Speaker, I rise on behalf of our Nation's 20 million small businesses in adamant opposition to this bill.

Those who blindly support this bill have sung the praises of what the bill will do for small business, yet their words are hollow. The three cornerstones of their rhetoric—extending the tax credits that are already law, an equipment expensing provision that is lower than both the House and Senate versions, and the capital gains reduction for investing in very specific kinds of firms—won't stand up to the weight of scrutiny. While helpful to a small, but deserving, handful of small enterprises, their applications are pitifully limited.

From any perspective, having to pay for some very marginal breaks tenfold elsewhere is a bad bargain. Just ask the 800,000 small business owners who will be hit by the income tax increase, or those in the commercial transportation industry who will be slammed by the gas tax.

Ask the people who will have to sell the family farm or business to cover the higher estate tax rate. Ask those who will spend the additional time, money, and energy figuring out this bill and filling out all the forms needed to ensure compliance if this plan represents fairness in the name of deficit reduction.

And while you're at it, ask the unemployed workers who can't find a job, or just lost their jobs, if they think the provisions in this bill have helped the economy.

There are 6 million small businesses that employ one or more workers. There are 9 million people unemployed in our Nation.

If we provide these small and growing firms with the incentives they need to hire just one more worker, we can reduce unemployment by two-thirds.

But if Congress passes this recipe for disaster, we could force them to fire 1 and put 6 million more people out of work.

The question before us is simply this: Hire one or fire one?

I implore the Members on the other side of the aisle to join with us in defeating this bill so that we can all sit down together and forge a better package. Today's vote is not the end of the road—but if this bill passes, it could be the end for America's workers.

Mr. ENGEL. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey [Mr. MENENDEZ], a member of our Committee on Foreign Affairs.

Mr. MENENDEZ. Mr. Speaker, I rise today in support of the budget. This is not the time to revert to business as usual by making the easy, wrong decisions—now is the time to move forward by making the hard, right decisions for the future.

I represent people who work hard, play by the rules and earn a middle-class living. This plan makes great strides toward building a better future for them.

Let us clear some of the mud from the windshield, for the American people.

The deficit reduction in this plan is the largest in history: $496 billion—a 40-percent cut.

The spending cuts in this plan are large: $255 billion—more cuts than taxes. In fact, for the middle-class people I represent, there are $8 in cuts for every $1 in new taxes.

The taxes in this plan are fair: 55,000 low-income and moderate-income families that I represent will have $78 million more in their pockets under the earned income tax credit we are passing in this plan.

In my district, that means that for every 1 person who will have to pay higher income taxes, there are 35 people who will pay less.

This plan is fair for everyone. Senior citizens who do not currently pay taxes on their Social Security benefits will not be affected by this plan and will be able to continue to live without the fear of financial ruin.

The small business incentives in this plan are essential: more than 90 percent of small businesses will benefit from new job-creating tax incentives and tax cuts for investments in these businesses.

The people I represent suffer with a 10.5-percent unemployment rate as a result of 12 years of Republican indifference—relying on those easy, wrong decisions.

Under the President's plan, they can finally see light at the end of the tunnel. With this one vote, we can turn things around for them, for real, everyday, hard-working Americans. After 12 long years, Congress will create the jobs they need, let them keep the money they earn, and give them the honest and forthright deficit reduction they deserve. I urge my colleagues to support the budget.

□ 1710

Mr. GILMAN. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from New York [Mr. MANZULLO], a member of our committee.

Mr. MANZULLO. Mr. Speaker, only those who have graduated from Evelyn Wood's speed-reading course could ever know what is in this bill. Let me fill you in on some of the details.

Mr. Speaker, out of all the programs under the jurisdiction under the Foreign Affairs Committee, this bill only targets the cost-of-living adjustment of foreign service retirees by delaying them 3 months. This supposedly saves $3 million a year. In fact, all Federal retirees will have their COLA's delayed by 3 months. That's interesting: Congress makes the tax increase retroactive, yet delays cost-of-living increases for Federal retirees 3 months.

On top of this, there is a new tax—not a spending cut—on our middle-class seniors. Mr. Speaker, seniors who earn as little as $34,000 per year will have 85 percent of their Social Security check taxed by an ever-growing and ever-expanding Government.

Why does Congress target our retirees when this House voted to give $1.6 billion in aid to Russia while Boris Yelstin turns around and gives $380 million in credits to Cuba? Why can't Congress cut aid to Russia instead of abrogating our contract with Federal retirees?

How can any of you look your constituents in the eye and say we must raise taxes because there's nowhere else to cut? Have we examined every program to make sure that it is truly necessary for the functioning of this Government? This budget package does not terminate one Federal program. Even the honey subsidy, which candidate Clinton promised to end, survives in this bill.

Since January, I have supported 106 times 56.4 billion dollars' worth of spending cuts. Yet, this body as a whole only agreed with $4.78 billion of these reductions. That means there is 51.6 billion dollars' worth of other programs that deserves to be on the chopping block before targeting our retirees.

Mr. Speaker, let me identify more spending cuts that this bill ignores: $63 million to bring 9,000 ex-Iraqi soldiers and their dependents to the United States; $1.4 billion for new Federal programs like national service and the new information highway; $9 million for the National Textile Center and $1.6 million for the Tailored Clothing Technology Corp.;

Mr. Speaker, I think we all get the picture. The people don't want to hear excuses. They don't want new programs. You can't have a government that talks about balancing the budget on one hand, yet insists upon expanding the scope, authority, power and jurisdiction of the Government on the other hand. The American people want a Congress that cuts programs and waste, that will do away with the excesses of a bloated bureaucracy. This budget bill doesn't do it.

Mr. Speaker, the phone calls and letters arriving in my office are resoundingly clear: defeat this budget plan. Congress—reorder your priorities. Go back to the drawing board.

If this bill is defeated, it is not the end of the world. There are still many ideas and plans on the table. Representatives ANDREWS and ZELIFF have a plan to call a special session of Congress to have direct up and down votes on specific spending cuts such as the ones I listed.

Republicans, including myself, are willing to work in a bipartisan fashion to tackle the deficit. But I will not support any new taxes. Defeat this flawed budget plan so that we can all work together as Americans first to reduce the size and scope of the Federal Government.

Mr. ENGEL. Mr. Speaker, I yield 2 minutes to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Speaker, I rise in support of the President's economic plan to reduce the deficit, produce jobs, and put people first. In doing so, I would like to make some observations of the comments made by our colleagues on the Republican side of the aisle.

First, our colleagues say there are not any real cuts in the budget, and then they go on to complain about the cuts.

Our colleague, the gentleman from Oregon [Mr. SMITH] was complaining about the $3 billion cut in the farm programs in the bill.

Our colleague, the gentleman from South Carolina [Mr. SPENCE] complained that the defense budget was taking the biggest hit in the cuts in the bill.

Our colleague, the gentleman from Florida [Mr. BILIRAKIS] was complaining about the cuts in Medicare. He did not point out, and I will, that those cuts come in the providers' share, not any cuts in benefits.

Our colleagues also say this is the largest tax increase in history. Not so, Mr. Speaker. Our Republican colleagues should know that the largest tax increase in history came when Ronald Reagan was President, the Republican controlled the Senate, and Senate DOLE wrote the bill that placed the taxes on low- and middle-income Americans. This economic plan redresses that inequity by taxes, 80 percent of which are coming from those making over $200,000 a year.

Mr. Speaker, I urge our colleagues to support the President's economic plan. The American people voted for change. Let us get on with it.

Mr. GILMAN. Mr. Speaker, I am pleased to yield 1 minute to the gentleman from New York [Mr. LEVY], a member of our committee.

Mr. LEVY. Mr. Speaker, I am not going to repeat the arguments which have been made many times in the Chamber today. Rather, I want to talk about our role vis-a-vis the people we represent.

Every poll I have seen since the President spoke to us on Tuesday night says the same thing. The people oppose this budget plan.

Every Member of Congress I have spoken to—and they include colleagues on both sides of the aisle—say they have been deluged with calls saying, "Please defeat the reconciliation package."

Do we know better than our constituents? Are those Members who support the budget plan so smart that you are comfortable substituting your judgment for that of the American people who overwhelmingly oppose more taxes and more spending?

We like to say round here that this is the people's House.

I fear, Mr. Speaker, that by approving this plan—if that is what we are about to do—we will be operating in the face of the American people and not on their behalf.

I urge my colleagues to vote "no" on the reconciliation package.

There are alternatives to the package which is now before us. I am convinced that, working in a bipartisan way, we can develop a true deficit reduction package that deserves the support of the American people.

Mr. ENGEL. Mr. Speaker, I yield 1 minute to the gentlewoman from California [Ms. WOOLSEY].

Ms. WOOLSEY. Mr. Speaker, I rise today in support of the budget reconciliation conference report. Today we have the opportunity to take an important step in getting our Nation's economy back on track.

I hear some of my colleagues say that they want to reduce the deficit—then they say this bill does not go far enough. They want to make more spending cuts—but they will not tell you which ones. And then they criticize the real cuts the bill does make. What they do not tell us is that despite their rhetoric, they support business as usual and gridlock. This bill is real change. This bill makes difficult and real spending cuts; it reduces the deficit; and it invests in families and children. By passing the plan, we are making the difficult decisions that should have been made years ago.

As a member of the Budget Committee, and as someone who has been involved in this process from the beginning, I am absolutely convinced that this plan is essential to revitalizing our stagnant economy. It contains four elements which are necessary to our economy: $496 billion of deficit reduction; significant short-term spending cuts; tax fairness; and investment in our children and families.

Certainly raising taxes is one of the hardest parts of the deficit reduction plan. But for the last 12 years, Mr. Speaker, the wealthiest Americans became richer, while most Americans got poorer. We are now acting to make our tax system fair and progressive. Seventy percent of all the new taxes will fall on families with incomes over $200,000.

As a member of the progressive caucus, the Democratic freshmen caucus, and the women's caucus, I strongly support the inclusion of programs in the economic package that assist working families and children. These programs that invest in people will save us money in the long run. I am talking about programs like the Mickey Leland Hunger Program, childhood immunization funding, programs that assist families at risk, and the earned income tax credit. In the district I represent, Marin and Sonoma Counties in California, over 33,000 working families will receive the earned income tax credit—helping to ensure that our working families do not live in poverty.

Mr. Speaker, today we have two options: We can do nothing, support the status quo, and let the deficit continue to rise, or we can pass this plan, get the economy moving again, and get on with the business of this Nation. I urge my colleagues to vote for the President's economic plan.

Mr. GILMAN. Mr. Speaker, I am pleased to yield 1 minute to the gentleman from California [Mr. ROHRABACHER], a member of the committee.

Mr. ROHRABACHER. Mr. Speaker, during the last election the Democrat Presidential candidate promised, No. 1, a $400 middle-class tax cut; No. 2, not to touch Social Security; No. 3, not to increase the gas tax. No one is being fooled by fancy charts and carefully worded assertions that only those making over $180,000 are going to pay more taxes.

Eleven thousand Social Security recipients in my district who do not make $180,000 will know they are paying higher taxes. Working people in southern California, and elsewhere, who have to drive long distances to work will know they are paying higher taxes every time they go to the pump.

Right now they know they have been lied to and they know that except for defense, the so-called cuts in this bill are phony, and adding insult to injury, some of these taxes are being hinked retroactively. Maybe we should make the next election retroactive as well. The next election is soon enough for revenge about being lied to, but it will not be soon enough for our economy, to prevent the recession that is going to be created by this bill, especially the hurt that is going to be on those people who are unemployed. They are taxed at 100 percent, because they are going to be taxed out of their jobs.

Mr. GILMAN. Mr. Speaker, I am pleased to yield 1 minute to the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I heard gridlock. I would say to the Members on the other side of the aisle, they have 38 votes in the House, a 12-vote majority in the Senate. If this bill is so great, how can we gridlock it?

I understand that the gentleman from Arizona in the other body has had a couple of arms broken. If the bill is so good, why do they have to fight their own people to pass it?

□ 1720

Second, in 1990 only 33 Republicans voted with President Bush to increase taxes. Why did the rest not? Because they do not believe spending cuts will come.

I heard Members say yes, there are spending cuts; 80 percent of those come after 1996. The rest are out of Defense, which will cost California over 2 million jobs.

Mr. GILMAN. Mr. Speaker, I am pleased to yield such time as he may consume to the gentleman from Colorado [Mr. ALLARD].

Mr. ALLARD. Mr. Speaker, I rise in opposition of the Omnibus Budget Reconciliation Act of 1993.

It's a plan that I am unable to support because of several reasons. First, this proposal increases the size of the Federal Government. Second, it calls for the largest tax increase in the history of America. Third, the majority of spending cuts that are included in this plan do not take effect until 5 years down the road. Finally, under this plan the deficit does not go down; instead it continues to grow and the rate of Government spending continues to grow as well.

I believe in the ability of the private sector to provide new jobs, to stimulate growth in our economy and to prudently invest and provide for a better tomorrow. Unlike the government, the private sector has the ability to live within its means. Because of several components in the President's plan the private sector is going to be crowded out and its growth will be substantially slowed only to give way to the rapid growth of Government. Conservative estimates by various private economic forecasting firms have indicated that more than 700,000 jobs could be lost as a result of the fiscal drag of the Clinton tax increases, even with an accommodating Federal Reserve. It is simple to figure out—those who support this bill are in favor of more Government.

Unfortunately, increasing the size of Government necessitates more spending. That's why the President felt it necessary to propose the largest tax increase in the history of America. What other reason would there be to ask for the tax increase of $255 billion? Every citizen in this Nation will feel the effects of this tax increase in one way or another. The 4.3-cents-a-gallon gas tax is particularly troubling to me because of the rural makeup of my district.

The President falsely claims that the tax increases will go to reducing the deficit. However, as he admits, over the 5 years of the plan the deficit does not go down, instead it increases. If the President is so confident that his plan will succeed in reducing the deficit in the short run, then why has he not released the quarterly economic report as is required by the law? I would suggest that he realizes that his plan is going to fall well short of his goal. Moreover, he will take the credit for the favorable performance of our economy over the past quarter and adjust the proposed cuts accordingly.

To my colleagues I am going to make a prediction—the majority of the cuts that are included in this plan will not see the light of day because they are not scheduled to take effect until the fifth year of the plan. Very similar to the budget deal of 1990 when all the significant cuts were supposed to occur in the outyears but as everyone in this Chamber knows they never occurred. Again, I suggest the taxes in this plan are real while the cuts are not. Higher taxes, bigger Government, increased spending, larger deficits.

In summary, this plan has a fatal flaw—it does not reduce the deficit. Using the Congressional Budget Office baseline, the total spending continues to rise under this plan. Total spending currently stands at $1.4 trillion—in 1998 it will top $1.84 trillion. What this shows is that spending cuts or spending reductions are nothing more than reductions in the increase in Federal spending. Moreover, under the Clinton budget the national debt continues to increase by $1.82 trillion, which averages out to $1 billion of new debt every day over the next 5 years. I am also convinced that this plan will increase the rate that government spends and obligates funds. Remember, the tax increases are immediate and the cuts are delayed.

In closing, I stand in firm opposition to this plan. It is my hope that it will be defeated so that we, in a bipartisan manner, can construct a plan that cuts spending first and actually reduces the deficit and ultimately contributes to paying off the debt of our Nation.

Mr. GILMAN. Mr. Speaker, I am pleased to yield 30 seconds to the gentlewoman from Nevada [Mrs. VUCANOVICH].

Mrs. VUCANOVICH. Mr. Speaker, correct me if I am wrong, but didn't I hear, during last year's Presidential campaign, Bill Clinton promise the people of this country a middle class tax cut? What happened? Make no mistake about it, he has delivered a tax hike to the middle class. His promise has soured into one of the largest tax increases in American history.

To make matters worse, the tax hikes are retroactive to January 1, 1993, while his elusive spending cuts do not trigger until 1996, after the next Presidential election, if then.

So, Mr. Speaker, for the next 4 years the taxpayers of this country will be paying increased taxes to foot the bill for increased Government spending. It is clear the President and the Democrats are living up to their favorite slogan: Tax and spend.

Nevada is known for its gambling. And, in fact, many Nevadans took a chance and voted for Mr. Clinton. They lost.

They also wagered on change but they did not know it was all going to come out of their pockets every time they pulled up at a gas pump.

The gas tax will hit my State of Nevada hard. A motor fuel tax increase will cost the typical Nevada motorist 80 percent more than a New Yorker. Nevada drivers will be paying a total of 42.4 cents per gallon in State and Federal taxes at the gas pump. It is especially hard on seniors and rural Nevadans and it will have a negative impact on tourism in our State.

On another note, Mr. Speaker, what effect will this plan have on a restaurant worker in Nevada? He or she very well might lose their job. The service industry includes more than 210,000 employees in Nevada. Under this plan there will be 4,584 fewer employees because of the change in the deductibility of business entertainment.

Nevada's seniors did not expect the lever on the voting machine to turn into a one-armed bandit robbing their Social Security retirement with increased taxes. In addition, one of Mr. Clinton's so-called cuts comes on the backs of military and Federal retirees. This bill delays their COLA by 3 months in 1994 and for 9 months in fiscal years 1995 thru 1998. Why pick on retirees?

Mr. Speaker, we all want deficit reduction but this is not the time to roll the dice on the economy and gamble on new taxes. It is time to cut our losses on a lot of unnecessary Government spending.

Democrats are the high rollers in this game, and they have the votes to stop the spin of the roulette wheel.

Mr. ENGEL. Mr. Speaker, I yield our remaining 1 minute to the gentleman from Connecticut [Mr. GEJDENSON], a subcommittee chairman.

Mr. GEJDENSON. Mr. Speaker, history here is clear. Under the Bush and Reagan administrations, the budget presented by a Republican President, we quadrupled the national debt.

Now no one is surprised that every Member of the Republican Party is in opposition to this proposal. There is no proposal that the Republicans in this House would vote for that responsibly deals with the deficit. They have tried cuts, they have tried tax cuts for the wealthiest 1 percent for over a decade, and our deficit has done nothing but quadruple.

Now we have a tough choice to make. We have to undo the damage that was wrought on this country by supply-side economics. And they are correct; the solution is not an easy one. But I submit we got here following easy solutions that were going to solve the deficit overnight. This will not reconstruct our economy by itself. We need to invest in conversion, in deficit reduction, we need to help stimulate new jobs, and we need to invest in infrastructure. But this is a start, and it is a start we will make without Republican votes.

The SPEAKER pro tempore (Mr. MURTHA). All time of the Committee on Foreign Affairs has expired.

The Chair now recognizes the Committee on the Judiciary. The gentleman from Texas [Mr. BROOKS] will be recognized for 10 minutes and the gentleman from Minnesota [Mr. RAMSTAD] will be recognized for 10 minutes.

The Chair recognizes the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Speaker, I yield myself such time as I may require.

Mr. Speaker, when we reduce the deficit, we reduce the Treasury's borrowing demands. This reduces interest rates and makes it easier for businesses and homebuyers to borrow and invest. Because interest rates are influenced by investor anticipations, they already reflect anticipated effects of the passage of this deficit reduction conference agreement. If we fail to pass it, interest rates would start to rise again—particularly the long-term rates that are most important for business and homebuyers.

Interest rates on the Treasury's 30-year bonds have dropped from 7.63 percent just before the November 1992 election to 6.54 percent on Wednesday, August 4. Rates charged to private borrowers have dropped in line with Treasury rates; 30-year conventional mortgages, for example, are down from 8.21 percent at the end of October 1992 to 7.25 percent at the end of July 1993. Federal Reserve Chairman Greenspan testified to the Congress on July 20 that:

> In my judgment, the issue of expected credible deficit reduction at the end of this process is the major factor producing the decline in rates and is a major factor in the support of economic activity.

Major businesses throughout this country have refinanced billions of dollars' worth of long-term debt, saving hundreds of millions of dollars for those corporations, and 3¼ million Americans refinanced their mortgage loans totaling 445 billion dollars' worth of paper. This year in 6 months, 1.5 million American homeowners have been able to refinance their homes, totaling 225 billion dollars' worth of paper.

They are refinancing mortgages at a record rate, freeing up income for other purposes. A family refinancing a 10-percent mortgage today could save $2,100 a year, almost $200 a month, by refinancing, of which more than a third reflects the improvement in interest rates just since the election. That makes a big difference in those household budgets.

In the second quarter, sales of existing homes rose 2.9 percent, sales of new homes, 10.2 percent, and housing starts, 6.9 percent. In its survey of economic conditions, the Federal Reserve found that residential construction and real estate activity remained strong in most districts.

Business investment spending—the foundation for higher productivity and real wages—rose at a 13.3-percent rate in the second quarter.

New orders for durable goods rose 3.8 percent in June.

Business failures so far this year are at 11 percent below a year earlier, the first decline since 1989.

Mr. Speaker, if we are concerned about our economic destiny, we will vote in favor of this conference agreement.

Mr. Speaker, I reserve the balance of my time.

Mr. RAMSTAD. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, as a member of the Judiciary Committee, I want to convey to the Members of this House the willingness of ranking Republican HAMILTON FISH and other Republicans on this panel to work with our colleagues for a package that would truly reduce the deficit—unlike the bill before us today.

As a member of the Judiciary Committee, I am also compelled to bring an important constitutional issue to my colleagues' attention.

When we took the oath of office last January, we swore to uphold the Constitution.

But we cannot remain true to our solemn pledge if we vote for the retroactive tax increases in this bill.

I urge my colleagues to pick up a copy of the Constitution and turn to article 1, section 9, clause 3.

As we all know, article 1 sets forth the powers and the limitations of the legislative branch of the Federal Government. The Constitution says, and I quote: "No * * * ex post facto Law shall be passed."

If you look in Webster's Dictionary, you will find that the synonym for "ex post facto" is "retroactive."

Mr. Speaker, retroactive tax increases in this bill fly in the face of the Constitution.

Despite the clear language in the Constitution, my colleagues on the other side of the aisle will argue that courts have permitted some retroactive taxes.

While that's true, there is a major catch that they won't bother to tell you: The due process clause of the fifth amendment requires prior notice to taxpayers.

Mr. Speaker, in order for these retroactive tax increases to be constitutional, Americans must have had notification on January 1 that Uncle Sam was considering taking a bigger bite out of their paychecks.

As we all know, this notice did not occur. In fact, at that time, Americans were still being promised a middle-income tax cut!

According to the Congressional Research Service, due process requires that notice of a retroactive tax must be in writing.

Under the CRS test, April 8—the day the budget was actually introduced—would be the earliest possible date that effective notice could have been given to the American taxpayers. These retroactive tax increases are bad politics and bad economics—and they're also unconstitutional and unfair.

Taxpayers who've died since January 1, 1993 will incur greater tax liability for their heirs.

□ 1730

Those taxpayers still alive will find out that their money already earned, saved, or spent is now subject to retroactive taxation.

I urge my colleagues to say no to these unconstitutional retroactive tax increases.

CONFERENCE REPORT ON H.R. 2010, NATIONAL AND COMMUNITY SERVICE TRUST ACT OF 1993

Mr. FORD of Michigan submitted the following conference report and statement on the bill (H.R. 2010) to amend the National and Community Service Act of 1990 to establish a corporation for national service, enhance opportunities for national service, and provide national service educational awards to persons participating in such service, and for other purposes:

CONFERENCE REPORT (H. REPT. 103-219)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2010) to amend the National and Community Service Act of 1990 to establish a Corporation for National Service, enhance opportunities for national service, and provide national service educational awards to persons participating in such service, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "National and Community Service Trust Act of 1993".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings and purpose.

TITLE I—PROGRAMS AND RELATED PROVISIONS

Subtitle A—Programs

Sec. 101. Federal investment in support of national service.
Sec. 102. National Service Trust and provision of national service educational awards.
Sec. 103. School-based and community-based service-learning programs.
Sec. 104. Quality and innovation activities.
Sec. 105. Public Lands Corps.
Sec. 106. Urban Youth Corps.

Subtitle B—Related Provisions

Sec. 111. Definitions.
Sec. 112. Authority to make State grants.
Sec. 113. Family and medical leave.
Sec. 114. Reports.
Sec. 115. Nondiscrimination.
Sec. 116. Notice, hearing, and grievance procedures.
Sec. 117. Nondisplacement.
Sec. 118. Evaluation.
Sec. 119. Engagement of participants.
Sec. 120. Contingent extension.
Sec. 121. Audits.
Sec. 122. Repeals.
Sec. 123. Effective date.

TITLE II—ORGANIZATION

Sec. 201. State Commissions on National and Community Service.
Sec. 202. Interim authorities of the Corporation for National and Community Service and ACTION Agency.
Sec. 203. Final authorities of the Corporation for National and Community Service.
Sec. 204. Business plan.
Sec. 205. Actions under the national service laws to be subject to the availability of appropriations.

TITLE III—REAUTHORIZATION

Subtitle A—National and Community Service Act of 1990

Sec. 301. Authorization of appropriations.

Subtitle B—Domestic Volunteer Service Act of 1973

Sec. 311. Short title; references.

CHAPTER 1—VISTA AND OTHER ANTI-POVERTY PROGRAMS

Sec. 321. Purpose of the VISTA program.
Sec. 322. Assistant director for VISTA program.
Sec. 323. Selection and assignment of VISTA volunteers.
Sec. 324. Terms and periods of service.
Sec. 325. Support for VISTA volunteers.
Sec. 326. Participation of younger and older persons.
Sec. 327. Literacy activities.
Sec. 328. Applications for assistance.
Sec. 329. Repeal of authority for student community service programs.
Sec. 330. University Year for VISTA.
Sec. 331. Authority to establish and operate special volunteer and demonstration programs.
Sec. 332. Technical and financial assistance.
Sec. 333. Elimination of separate authority for drug abuse programs.

CHAPTER 2—NATIONAL SENIOR VOLUNTEER CORPS

Sec. 341. National Senior Volunteer Corps.
Sec. 342. The Retired and Senior Volunteer Program.
Sec. 343. Operation of the Retired and Senior Volunteer Program.
Sec. 344. Services under the Foster Grandparent Program.
Sec. 345. Stipends for low-income volunteers.
Sec. 346. Conditions of grants and contracts.
Sec. 347. Evaluation of the Senior Companion Program.
Sec. 348. Agreements with other Federal agencies.
Sec. 349. Programs of national significance.
Sec. 350. Adjustments to Federal financial assistance.
Sec. 351. Demonstration programs.

CHAPTER 3—ADMINISTRATION

Sec. 361. Purpose of agency.
Sec. 362. Authority of the Director.
Sec. 363. Political activities.
Sec. 364. Compensation for volunteers.
Sec. 365. Repeal of report.
Sec. 366. Application of Federal law.
Sec. 367. Nondiscrimination provisions.
Sec. 368. Elimination of separate requirements for setting regulations.
Sec. 369. Clarification of role of Inspector General.
Sec. 370. Copyright protection.
Sec. 371. Deposit requirement credit for service as a volunteer.

CHAPTER 4—AUTHORIZATION OF APPROPRIATIONS AND OTHER AMENDMENTS

Sec. 381. Authorization of appropriations for title I.
Sec. 382. Authorization of appropriations for title II.
Sec. 383. Authorization of appropriations for title IV.
Sec. 384. Conforming amendments; compensation for VISTA FECA claimants.
Sec. 385. Repeal of authority.

CHAPTER 5—GENERAL PROVISIONS

Sec. 391. Technical and conforming amendments.
Sec. 392. Effective date.

TITLE IV—TECHNICAL AND CONFORMING AMENDMENTS

Sec. 401. Definitions.
Sec. 402. References to the Commission on National and Community Service.
Sec. 403. References to Directors of the Commission on National and Community Service.
Sec. 404. Definition of Director.
Sec. 405. References to ACTION and the ACTION Agency.
Sec. 406. Effective date.

TITLE V—MISCELLANEOUS PROVISIONS

Sec. 501. Compliance with Buy American Act.
Sec. 502. Sense of Congress; requirement regarding notice.
Sec. 503. Prohibition of contracts with persons falsely labeling products as made in America.

SEC. 2. FINDINGS AND PURPOSE.

(a) IN GENERAL.—Section 2 of the National and Community Service Act of 1990 (42 U.S.C. 12501) is amended to read as follows:

"SEC. 2. FINDINGS AND PURPOSE.

"(a) FINDINGS.—The Congress finds the following:

"(1) Throughout the United States, there are pressing unmet human, educational, environmental, and public safety needs.

"(2) Americans desire to affirm common responsibilities and shared values, and join together in positive experiences, that transcend race, religion, gender, age, disability, region, income, and education.

"(3) The rising costs of postsecondary education are putting higher education out of reach for an increasing number of citizens.

"(4) Americans of all ages can improve their communities and become better citizens through service to the United States.

"(5) Nonprofit organizations, local governments, States, and the Federal Government are already supporting a wide variety of national service programs that deliver needed services in a cost-effective manner.

"(6) Residents of low-income communities, especially youth and young adults, can be empowered through their service, and can help provide future community leadership.

"(b) PURPOSE.—It is the purpose of this Act to—

"(1) meet the unmet human, educational, environmental, and public safety needs of the United States, without displacing existing workers;

"(2) renew the ethic of civic responsibility and the spirit of community throughout the United States;

"(3) expand educational opportunity by rewarding individuals who participate in national service with an increased ability to pursue higher education or job training;

"(4) encourage citizens of the United States, regardless of age, income, or disability, to engage in full-time or part-time national service;

"(5) reinvent government to eliminate duplication, support locally established initiatives, require measurable goals for performance, and offer flexibility in meeting those goals;

"(6) expand and strengthen existing service programs with demonstrated experience in providing structured service opportunities with visible benefits to the participants and community;

"(7) build on the existing organizational service infrastructure of Federal, State, and local programs and agencies to expand full-time and part-time service opportunities for all citizens; and

"(8) provide tangible benefits to the communities in which national service is performed.".

(b) TABLE OF CONTENTS.—Section 1(b) of the National and Community Service Act of 1990 (Public Law 101–610; 104 Stat. 3127) is amended by striking the item relating to section 2 and inserting the following new item:

"Sec. 2. Findings and purpose.".

TITLE I—PROGRAMS AND RELATED PROVISIONS

Subtitle A—Programs

SEC. 101. FEDERAL INVESTMENT IN SUPPORT OF NATIONAL SERVICE.

(a) TRANSFER OF EXISTING SUBTITLE.—Title I of the National and Community Service Act of 1990 (42 U.S.C. 12501 et seq.) is amended—

(1) by redesignating subtitle C (42 U.S.C. 12541 et seq.) as subtitle I;

(2) by inserting subtitle I (as redesignated by paragraph (1) of this subsection) after subtitle H; and

(3) by redesignating sections 120 through 136 as sections 199 through 199O, respectively.

(b) ASSISTANCE PROGRAM AUTHORIZED.—Title I of the National and Community Service Act of 1990 (42 U.S.C. 12501 et seq.) is amended by inserting after subtitle B the following new subtitle:

"Subtitle C—National Service Trust Program

"PART I—INVESTMENT IN NATIONAL SERVICE

"SEC. 121. AUTHORITY TO PROVIDE ASSISTANCE AND APPROVED NATIONAL SERVICE POSITIONS.

"(a) PROVISION OF ASSISTANCE.—Subject to the availability of appropriations for this purpose, the Corporation for National and Community Service may make grants to States, subdivisions of States, Indian tribes, public or private nonprofit organizations, and institutions of higher education for the purpose of assisting the recipients of the grants—

"(1) to carry out full- or part-time national service programs, including summer programs, described in section 122(a); and

"(2) to make grants in support of other national service programs described in section 122(a) that are carried out by other entities.

"(b) AGREEMENTS WITH FEDERAL AGENCIES.—

"(1) AGREEMENTS AUTHORIZED.—The Corporation may enter into a contract or cooperative agreement with another Federal agency to support a national service program carried out by the agency. The support provided by the Corporation pursuant to the contract or cooperative agreement may include the transfer to the Federal agency of funds available to the Corporation under this subtitle.

"(2) MATCHING FUNDS REQUIREMENTS.—A Federal agency receiving assistance under this subsection shall not be required to satisfy the matching funds requirements specified in subsection (e). However, the supplementation requirements specified in section 173 shall apply with respect to the Federal national service programs supported with such assistance.

"(3) CONSULTATION WITH STATE COMMISSIONS.—A Federal agency receiving assistance under this subsection shall consult with the State Commissions for those States in which projects will be conducted using such assistance in order to ensure that the projects do not duplicate projects conducted by State or local national service programs.

"(4) SUPPORT FOR OTHER NATIONAL SERVICE PROGRAMS.—A Federal agency that enters into a contract or cooperative agreement under paragraph (1) shall, in an appropriate case, enter into a contract or cooperative agreement with an entity that is carrying out a national service program in a State that is in existence in the State as of the date of the contract or cooperative agreement and is of high quality, in order to support the national service program.

"(c) PROVISION OF APPROVED NATIONAL SERVICE POSITIONS.—As part of the provision of assistance under subsections (a) and (b), the Corporation shall—

"(1) approve the provision of national service educational awards described in subtitle D for the participants who serve in national service programs carried out using such assistance; and

"(2) deposit in the National Service Trust established in section 145(a) an amount equal to the product of—

"(A) the value of a national service educational award under section 147; and

"(B) the total number of approved national service positions to be provided.

"(d) FIVE PERCENT LIMITATION ON ADMINISTRATIVE COSTS.—

"(1) LIMITATION.—Not more than 5 percent of the amount of assistance provided to the original recipient of a grant or transfer of assistance under subsection (a) or (b) for a fiscal year may be used to pay for administrative costs incurred by—

"(A) the recipient of the assistance; and

"(B) national service programs carried out or supported with the assistance.

"(2) RULES ON USE.—The Corporation may by rule prescribe the manner and extent to which—

"(A) assistance provided under subsection (a) or (b) may be used to cover administrative costs; and

"(B) that portion of the assistance available to cover administrative costs should be distributed between—

"(i) the original recipient of the grant or transfer of assistance under such subsection; and

"(ii) national service programs carried out or supported with the assistance.

"(e) MATCHING FUNDS REQUIREMENTS.—

"(1) REQUIREMENTS.—Except as provided in section 140, the Federal share of the cost of carrying out a national service program that receives the assistance under subsection (a), whether the assistance is provided directly or as a subgrant from the original recipient of the assistance, may not exceed 75 percent of such cost.

"(2) CALCULATION.—In providing for the remaining share of the cost of carrying out a national service program, the program—

"(A) shall provide for such share through a payment in cash or in kind, fairly evaluated, including facilities, equipment, or services; and

"(B) may provide for such share through State sources, local sources, or other Federal sources (other than the use of funds made available under the national service laws).

"(3) COST OF HEALTH CARE.—In providing a payment in cash under paragraph (2)(A) as part of providing for the remaining share of the cost of carrying out a national service program, the program may count not more than 85 percent of the cost of providing a health care policy described in section 140(d)(2) toward such share.

"(4) WAIVER.—The Corporation may waive in whole or in part the requirements of paragraph (1) with respect to a national service program in any fiscal year if the Corporation determines that such a waiver would be equitable due to a lack of available financial resources at the local level.

"SEC. 122. TYPES OF NATIONAL SERVICE PROGRAMS ELIGIBLE FOR PROGRAM ASSISTANCE.

"(a) ELIGIBLE NATIONAL SERVICE PROGRAMS.—The recipient of a grant under section 121(a) and each Federal agency receiving assistance under section 121(b) shall use the assistance, directly or through subgrants to other entities, to carry out full- or part-time national service programs, including summer programs, that address unmet human, educational, environmental, or public safety needs. Subject to subsection (b)(1), these national service programs may include the following types of national service programs:

"(1) A community corps program that meets unmet human, educational, environmental, or public safety needs and promotes greater community unity through the use of organized teams of participants of varied social and economic backgrounds, skill levels, physical and developmental capabilities, ages, ethnic backgrounds, or genders.

"(2) A full-time, year-round youth corps program or full-time summer youth corps program, such as a conservation corps or youth service corps (including youth corps programs under subtitle I, the Public Lands Corps established under the Public Lands Corps Act of 1993, the Urban Youth Corps established under section 106 of the National and Community Service Trust Act of 1993, and other conservation corps or youth service corps that performs service on Federal or other public lands or on Indian lands or Hawaiian home lands), that—

"(A) undertakes meaningful service projects with visible public benefits, including natural resource, urban renovation, or human services projects;

"(B) includes as participants youths and young adults between the ages of 16 and 25, inclusive, including out-of-school youths and other disadvantaged youths (such as youths with limited basic skills, youths in foster care who are becoming too old for foster care, youths of limited-English proficiency, homeless youths, and youths who are individuals with disabilities) who are between those ages; and

"(C) provides those participants who are youths and young adults with—

"(i) crew-based, highly structured, and adult-supervised work experience, life skills, education, career guidance and counseling, employment training, and support services; and

"(ii) the opportunity to develop citizenship values and skills through service to their community and the United States.

"(3) A program that provides specialized training to individuals in service-learning and places the individuals after such training in positions, including positions as service-learning coordinators, to facilitate service-learning in programs eligible for funding under part I of subtitle B.

"(4) A service program that is targeted at specific unmet human, educational, environmental, or public safety needs and that—

"(A) recruits individuals with special skills or provides specialized preservice training to enable participants to be placed individually or in teams in positions in which the participants can meet such unmet needs; and

"(B) if consistent with the purposes of the program, brings participants together for additional training and other activities designed to foster civic responsibility, increase the skills of participants, and improve the quality of the service provided.

"(5) An individualized placement program that includes regular group activities, such as leadership training and special service projects.

"(6) A campus-based program that is designed to provide substantial service in a community during the school term and during summer or other vacation periods through the use of—

"(A) students who are attending an institution of higher education, including students participating in a work-study program assisted under part C of title IV of the Higher Education Act of 1965 (42 U.S.C. 2751 et seq.);

"(B) teams composed of such students; or

"(C) teams composed of a combination of such students and community residents.

"(7) A preprofessional training program in which students enrolled in an institution of higher education—

"(A) receive training in specified fields, which may include classes containing service-learning;

"(B) perform service related to such training outside the classroom during the school term and during summer or other vacation periods; and

"(C) agree to provide service upon graduation to meet unmet human, educational, environmental, or public safety needs related to such training.

"(8) A professional corps program that recruits and places qualified participants in positions—

"(A) as teachers, nurses and other health care providers, police officers, early childhood development staff, engineers, or other professionals providing service to meet educational, human, environmental, or public safety needs in communities with an inadequate number of such professionals;

"(B) that may include a salary in excess of the maximum living allowance authorized in subsection (a)(3) of section 140, as provided in subsection (c) of such section; and

"(C) that are sponsored by public or private nonprofit employers who agree to pay 100 percent of the salaries and benefits (other than any national service educational award under subtitle D) of the participants.

"(9) A program in which economically disadvantaged individuals who are between the ages of 16 and 24 years of age, inclusive, are provided with opportunities to perform service that, while enabling such individuals to obtain the education and employment skills necessary to achieve economic self-sufficiency, will help their communities meet—

"(A) the housing needs of low-income families and the homeless; and

"(B) the need for community facilities in low-income areas.

"(10) A national service entrepreneur program that identifies, recruits, and trains gifted young adults of all backgrounds and assists them in designing solutions to community problems.

"(11) An intergenerational program that combines students, out-of-school youths, and older adults as participants to provide needed community services, including an intergenerational component for other national service programs described in this subsection.

"(12) A program that is administered by a combination of nonprofit organizations located in a low-income area, provides a broad range of services to residents of such area, is governed by a board composed in significant part of low-income individuals, and is intended to provide opportunities for individuals or teams of individuals to engage in community projects in such area that meet unaddressed community and individual needs, including projects that would—

"(A) meet the needs of low-income children and youth aged 18 and younger, such as providing after-school 'safe-places', including schools, with opportunities for learning and recreation; or

"(B) be directed to other important unaddressed needs in such area.

"(13) A community service program designed to meet the needs of rural communities, using teams or individual placements to address the development needs of rural communities and to combat rural poverty, including health care, education, and job training.

"(14) A program that seeks to eliminate hunger in communities and rural areas through service in projects—

"(A) involving food banks, food pantries, and nonprofit organizations that provide food during emergencies;

"(B) involving the gleaning of prepared and unprepared food that would otherwise be discarded as unusable so that the usable portion of such food may be donated to food banks, food pantries, and other nonprofit organizations;

"(C) seeking to address the long-term causes of hunger through education and the delivery of appropriate services; or

"(D) providing training in basic health, nutrition, and life skills necessary to alleviate hunger in communities and rural areas.

"(15) Such other national service programs addressing unmet human, educational, environmental, or public safety needs as the Corporation may designate.

"(b) QUALIFICATION CRITERIA TO DETERMINE ELIGIBILITY.—

"(1) ESTABLISHMENT BY CORPORATION.—The Corporation shall establish qualification criteria for different types of national service programs for the purpose of determining whether a particular national service program should be considered to be a national service program eligible to receive assistance or approved national service positions under this subtitle.

"(2) CONSULTATION.—In establishing qualification criteria under paragraph (1), the Corporation shall consult with organizations and individuals with extensive experience in developing and administering effective national service programs or regarding the delivery of human, educational, environmental, or public safety services to communities or persons.

"(3) APPLICATION TO SUBGRANTS.—The qualification criteria established by the Corporation under paragraph (1) shall also be used by each recipient of assistance under section 121(a) that uses any portion of the assistance to conduct a grant program to support other national service programs.

"(4) ENCOURAGEMENT OF INTERGENERATIONAL COMPONENTS OF PROGRAMS.—The Corporation shall encourage national service programs eligible to receive assistance or approved national service positions under this subtitle to establish, if consistent with the purposes of the program, an intergenerational component of the program that combines students, out-of-school youths, and older adults as participants to provide services to address unmet human, educational, environmental, or public safety needs.

"(c) NATIONAL SERVICE PRIORITIES.—

"(1) ESTABLISHMENT.—

"(A) BY CORPORATION.—In order to concentrate national efforts on meeting certain unmet human, educational, environmental, or public safety needs and to achieve the other purposes of this Act, the Corporation shall establish, and after reviewing the strategic plan approved under section 192A(g)(1), periodically alter priorities as appropriate regarding the types of national service programs to be assisted under subsection (b) or (d) of section 129 and the purposes for which such assistance may be used.

"(B) BY STATES.—Consistent with paragraph (4), States shall establish, and through the national service plan process described in section 178(e)(1), periodically alter priorities as appropriate regarding the national service programs to be assisted under section 129(a)(1). The State priorities shall be subject to Corporation review as part of the application process under section 130.

"(2) NOTICE TO APPLICANTS.—The Corporation shall provide advance notice to potential applicants of any national service priorities to be in effect under this subsection for a fiscal year. The notice shall specifically include—

"(A) a description of any alteration made in the priorities since the previous notice; and

"(B) a description of the national service programs that are designated by the Corporation under section 133(d)(2) as eligible for priority consideration in the next competitive distribution of assistance under section 121(a).

"(3) REGULATIONS.—The Corporation shall by regulation establish procedures to ensure the equitable treatment of national service programs that—

"(A) receive funding under this subtitle for multiple years; and

"(B) would be adversely affected by annual revisions in such national service priorities.

"(4) APPLICATION TO SUBGRANTS.—Any national service priorities established by the Corporation under this subsection shall also be used by each recipient of funds under section 121(a) that uses any portion of the assistance to conduct a grant program to support other national service programs.

"SEC. 123. TYPES OF NATIONAL SERVICE POSITIONS ELIGIBLE FOR APPROVAL FOR NATIONAL SERVICE EDUCATIONAL AWARDS.

"The Corporation may approve of any of the following service positions as an approved national service position that includes the national service educational award described in subtitle D as one of the benefits to be provided for successful service in the position:

"(1) A position for a participant in a national service program described in section 122(a) that receives assistance under subsection (a) or (b) of section 121.

"(2) A position for a participant in a program that—

"(A) is carried out by a State, a subdivision of a State, an Indian tribe, a public or private nonprofit organization, an institution of higher education, or a Federal agency; and

"(B) would be eligible to receive assistance under section 121(a), based on criteria established by the Corporation, but has not applied for such assistance.

"(3) A position involving service as a VISTA volunteer under title I of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4951 et seq.).

"(4) A position facilitating service-learning in a program described in section 122(a)(3) that is eligible for assistance under part I of subtitle B.

"(5) A position for a participant in the Civilian Community Corps under subtitle E.

"(6) A position involving service as a crew leader in a youth corps program or a similar position supporting a national service program that receives an approved national service position.

"(7) Such other national service positions as the Corporation considers to be appropriate.

"SEC. 124. TYPES OF PROGRAM ASSISTANCE.

"(a) PLANNING ASSISTANCE.—The Corporation may provide assistance under section 121 to a qualified applicant that submits an application under section 130 for the planning of a national service program. Assistance provided in accordance with this subsection may cover a period of not more than 1 year.

"(b) OPERATIONAL ASSISTANCE.—The Corporation may provide assistance under section 121 to a qualified applicant that submits an application under section 130 for the establishment, operation, or expansion of a national service program. Assistance provided in accordance with this subsection may cover a period of not more than 3 years, but may be renewed by the Corporation upon consideration of a new application under section 130.

"(c) REPLICATION ASSISTANCE.—The Corporation may provide assistance under section 121 to a qualified applicant that submits an application under section 130 for the expansion of a proven national service program to another geographical location. Assistance provided in accordance with this subsection may cover a period of not more than 3 years, but may be renewed by the Corporation upon consideration of a new application under section 130.

"(d) APPLICATION TO SUBGRANTS.—The requirements of this section shall apply to any State or other applicant receiving assistance under section 121 that proposes to conduct a grant program using the assistance to support other national service programs.

"SEC. 125. TRAINING AND TECHNICAL ASSISTANCE.

"(a) TRAINING PROGRAMS.—The Corporation may conduct, directly or by grant or contract, appropriate training programs regarding national service in order to—

"(1) improve the ability of national service programs assisted under section 121 to meet human, educational, environmental, or public safety needs in communities—

"(A) where services are needed most; and

"(B) where programs do not exist, or are too limited to meet community needs, as of the date on which the Corporation makes the grant or enters into the contract;

"(2) promote leadership development in such programs;

"(3) improve the instructional and programmatic quality of such programs to build an ethic of civic responsibility;

"(4) develop the management and budgetary skills of program operators;

"(5) provide for or improve the training provided to the participants in such programs; and

"(6) encourage national service programs to adhere to risk management procedures, including the training of participants in appropriate risk management practices.

"(b) TECHNICAL ASSISTANCE.—To the extent appropriate and necessary, the Corporation shall make technical assistance available to States, Indian tribes, labor organizations, organizations operated by young adults, organizations serving economically disadvantaged individuals, and other entities described in section 121 that desire—

"(1) to develop national service programs; or

"(2) to apply for assistance under such section or under a grant program conducted using assistance provided under such section.

"SEC. 126. OTHER SPECIAL ASSISTANCE.

"(a) SUPPORT FOR STATE COMMISSIONS.—

"(1) GRANTS AUTHORIZED.—From amounts appropriated for a fiscal year pursuant to the authorization of appropriation in section 501(a)(4), *the Corporation may make a grant in an amount between $125,000 and $750,000 to a State to assist the State to establish or operate the State Commission on National and Community Service required to be established by the State under section 178.*

"(2) LIMITATION ON AMOUNT OF GRANTS.—Notwithstanding the amounts specified in paragraph (1), the amount of a grant that may be provided to a State Commission under this subsection, together with other Federal funds available to establish or operate the State Commission, may not exceed—

"(A) 85 percent of the total cost to establish or operate the State Commission for the first year for which the State Commission receives assistance under this subsection; and

"(B) such smaller percentage of such cost as the Corporation may establish for the second, third, and fourth years of such assistance in order to ensure that the Federal share does not exceed 50 percent of such costs for the fifth year, and any subsequent year, for which the State Commission receives assistance under this subsection.

"(b) DISASTER SERVICE.—The Corporation may undertake activities, including activities carried out through part A of title I of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4951 et seq.), to involve in disaster relief efforts youth corps programs described in section 122(a)(2) and other programs that receive assistance under the national service laws.

"(c) CHALLENGE GRANTS FOR NATIONAL SERVICE PROGRAMS.—

"(1) ASSISTANCE AUTHORIZED.—The Corporation may make challenge grants under this subsection to national service programs that receive assistance under section 121.

"(2) SELECTION CRITERIA.—The Corporation shall develop criteria for the selection of recipients of challenge grants under this subsection, so as to make the grants widely available to a variety of programs that—

"(A) are high-quality national service programs; and

"(B) are carried out by entities with demonstrated experience in establishing and implementing projects that provide benefits to participants and communities.

"(3) AMOUNT OF ASSISTANCE.—A challenge grant under this subsection may provide not more than $1 of assistance under this subsection for each $1 in cash raised by the national service program from private sources in excess of amounts required to be provided by the program to satisfy matching funds requirements under section 121(e). The Corporation shall establish a ceiling on the amount of assistance that may be provided to a national service program under this subsection.

"PART II—APPLICATION AND APPROVAL PROCESS

"SEC. 129. PROVISION OF ASSISTANCE AND APPROVED NATIONAL SERVICE POSITIONS BY COMPETITIVE AND OTHER MEANS.

"(a) ALLOTMENTS OF ASSISTANCE AND APPROVED POSITIONS TO STATES AND INDIAN TRIBES.—

"(1) 33⅓ PERCENT ALLOTMENT OF ASSISTANCE TO CERTAIN STATES.—Of the funds allocated by the Corporation for provision of assistance under subsections (a) and (b) of section 121 for a fiscal year, the Corporation shall make a grant under section 121(a) (and a corresponding allotment of approved national service positions) to each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico that has an application approved by the Corporation under section 133. The amount allotted as a grant to each such State under this paragraph for a fiscal year shall be equal to the amount that bears the same ratio to 33⅓ percent of the allocated funds for that fiscal year as the population of the State bears to the total population of the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

"(2) ONE PERCENT ALLOTMENT FOR CERTAIN TERRITORIES AND POSSESSIONS.—Of the funds allocated by the Corporation for provision of assistance under subsections (a) and (b) of section 121 for a fiscal year, the Corporation shall reserve 1 percent of the allocated funds for grants under section 121(a) to the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands upon approval of an application by the Corporation under section 133. Palau shall also be eligible for a grant under this paragraph from the allotment until such time as the Compact of Free Association with Palau is ratified. The amount allotted as a grant to each such territory or possession under this paragraph for a fiscal year shall be equal to the amount that bears the same ratio to 1 percent of the allocated funds for that fiscal year as the population of the territory or possession bears to the total population of such territories and possessions.

"(3) ONE PERCENT ALLOTMENT FOR INDIAN TRIBES.—Of the funds allocated by the Corporation for provision of assistance under subsections (a) and (b) of section 121 for a fiscal year, the Corporation shall reserve 1 percent of the allocated funds for grants under section 121(a) to Indian tribes, to be allotted by the Corporation on a competitive basis in accordance with their respective needs.

"(4) EFFECT OF FAILURE TO APPLY.—If a State or Indian tribe fails to apply for, or fails to give notice to the Corporation of its intent to apply for, an allotment under this subsection, the Corporation shall use the amount that would have been allotted under this subsection to the State or Indian tribe—

"(A) to make grants (and provide approved national service positions in connection with such grants) to other eligible entities under section 121 that propose to carry out national service programs in the State or on behalf of the Indian tribe; and

"(B) after making grants under subparagraph (A), to make a reallotment to other States and Indian tribes with approved applications under section 130.

"(b) RESERVATION OF APPROVED POSITIONS.—The Corporation shall ensure that each individual selected during a fiscal year for assignment as a VISTA volunteer under title I of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4951 et seq.) or as a participant in the Civilian Community Corps Demonstration Program under subtitle E shall receive the national service educational award described in subtitle D if the individual satisfies the eligibility requirements for the award. Funds for approved national service positions required by this paragraph for a fiscal year shall be deducted from the total funding for approved national service positions to be available for distribution under subsections (a) and (d) for that fiscal year.

"(c) RESERVATION FOR SPECIAL ASSISTANCE.—From amounts appropriated for a fiscal year pursuant to the authorization of appropriation in section 501(a)(2), and subject to the limitation in such section, the Corporation may reserve such amount as the Corporation considers to be appropriate for the purpose of making assistance available under sections 125 and 126. The Corporation may not reserve more than $10,000,000 for a fiscal year for disaster service under subsection (b) of section 126 or challenge grants under subsection (c) of such section.

"(d) COMPETITIVE DISTRIBUTION OF REMAINING FUNDS.—

"(1) STATE COMPETITION.—Of the funds allocated by the Corporation for provision of assistance under subsections (a) and (b) of section 121 for a fiscal year, the Corporation shall use not less than 33⅓ percent of the allocated funds to make grants to States on a competitive basis under section 121(a).

"(2) FEDERAL AGENCIES AND OTHER APPLICANTS.—The Corporation shall distribute on a competitive basis to subdivisions of States, Indian tribes, public or private nonprofit organizations (including labor organizations), institutions of higher education, and Federal agencies the remainder of the funds allocated by the Corporation for provision of assistance under section 121 for a fiscal year, after operation of paragraph (1) and subsections (a) and (c).

"(3) LIMITATION ON DISTRIBUTION TO FEDERAL AGENCIES.—The Corporation may not provide more than ⅓ of the funds available for competitive distribution under paragraph (2) for a fiscal year to Federal agencies under section 121(b).

"(4) PRIORITY LIMITATIONS.—The Corporation may limit the categories of eligible applicants for assistance under paragraph (2) consistent with the priorities established by the Corporation under section 133(d)(2).

"(5) RESERVATION OF FUNDS FOR SUPPLEMENTAL AND OUTREACH GRANTS.—

"(A) RESERVATION.—From amounts appropriated for a fiscal year pursuant to the authorization of appropriation in section 501(a)(2), and subject to the limitation in such section, the Chief Executive Officer shall reserve an amount that is not less than 1 percent of such amounts (except that the amount reserved may not exceed $5,000,000), in order to make supplemental grants as provided in subparagraph (B) and outreach grants as provided in subparagraph (C). The amount reserved pursuant to this paragraph shall be available until expended.

"(B) GRANTS TO ASSIST ENTITIES IN PLACING APPLICANTS WHO ARE INDIVIDUALS WITH A DISABILITY.—

"(i) IN GENERAL.—The Chief Executive Officer shall make grants from a portion of the funds reserved under subparagraph (A) to entities that—

"(I) receive a grant to carry out a national service program under paragraph (1) or (2);

"(II) demonstrate that the entity has received a substantial number of applications for placement in the national service program of persons who are individuals with a disability and who require a reasonable accommodation (as defined in section 101(9) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111(9))), or auxiliary aids and services (as defined in section 3(1) of such Act (42 U.S.C. 12102(1))), in order to perform national service; and

"(III) demonstrate that additional funding would assist the national service program in placing a substantial number of such individuals with a disability as participants in projects carried out through the program.

"(ii) REQUIREMENTS.—Funds made available through such a supplemental grant under clause (i) shall be made available for the same purposes, and subject to the same requirements, as funds made available through a grant made under paragraph (1) or (2).

"(C) GRANTS FOR OUTREACH TO INDIVIDUALS WITH A DISABILITY.—

"(i) IN GENERAL.—From the portion of the funds reserved under subparagraph (A) that is not used to make grants under subparagraph (B), the Chief Executive Officer shall make grants to public or private nonprofit organizations to pay for the Federal share described in section 121(e) of—

"(I) providing information about the programs specified in section 193A(d)(10) to such individuals with a disability who desire to perform national service; and

"(II) enabling the individuals to participate in activities carried out through such programs, which may include assisting the placement of

the individuals in approved national service positions.

"(ii) APPLICATION.—To be eligible to receive a grant under this subparagraph, an organization described in clause (i) shall submit an application to the Chief Executive Officer at such time, in such manner, and containing such information as the Chief Executive Officer may require.

"(e) APPLICATION REQUIRED.—The allotment of assistance and approved national service positions to a State or Indian tribe under subsection (a), and the competitive distribution of assistance under subsection (d), shall be made by the Corporation only pursuant to an application submitted by a State or other applicant under section 130 and approved by the Corporation under section 133.

"(f) APPROVAL OF POSITIONS SUBJECT TO AVAILABLE FUNDS.—The Corporation may not approve positions as approved national service positions under this subtitle for a fiscal year in excess of the number of such positions for which the Corporation has sufficient available funds in the National Service Trust for that fiscal year, taking into consideration funding needs for national service educational awards under subtitle D based on completed service. If appropriations are insufficient to provide the maximum allowable national service educational awards under subtitle D for all eligible participants, the Corporation is authorized to make necessary and reasonable adjustments to program rules.

"(g) SPONSORSHIP OF APPROVED NATIONAL SERVICE POSITIONS.—

"(1) SPONSORSHIP AUTHORIZED.—The Corporation may enter into agreements with persons or entities who offer to sponsor national service positions for which the person or entity will be responsible for supplying the funds necessary to provide a national service educational award. The distribution of these approved national service positions shall be made pursuant to the agreement, and the creation of these positions shall not be taken into consideration in determining the number of approved national service positions to be available for distribution under this section.

"(2) DEPOSIT OF CONTRIBUTION.—Funds provided pursuant to an agreement under paragraph (1) and any other funds contributed to the Corporation to support the activities of the Corporation under the national service laws shall be deposited in the National Service Trust established in section 145 until such time as the funds are needed.

"SEC. 130. APPLICATION FOR ASSISTANCE AND APPROVED NATIONAL SERVICE POSITIONS.

"(a) TIME, MANNER, AND CONTENT OF APPLICATION.—To be eligible to receive assistance under section 121 or approved national service positions for participants who serve in the national service programs to be carried out using the assistance, a State, subdivision of a State, Indian tribe, public or private nonprofit organization, institution of higher education, or Federal agency shall prepare and submit to the Corporation an application at such time, in such manner, and containing such information as the Corporation may reasonably require.

"(b) TYPES OF PERMISSIBLE APPLICATION INFORMATION.—In order to have adequate information upon which to consider an application under section 133, the Corporation may require the following information to be provided in an application submitted under subsection (a):

"(1) A description of the national service programs proposed to be carried out directly by the applicant using assistance provided under section 121.

"(2) A description of the national service programs that are selected by the applicant to receive a grant using assistance requested under section 121 and a description of the process and criteria by which the programs were selected.

"(3) A description of other funding sources to be used, or sought to be used, for the national service programs referred to in paragraphs (1) and (2), and, if the application is submitted for the purpose of seeking a renewal of assistance, a description of the success of the programs in reducing their reliance on Federal funds.

"(4) A description of the extent to which the projects to be conducted using the assistance will address unmet human, educational, environmental, or public safety needs and produce a direct benefit for the community in which the projects are performed.

"(5) A description of the plan to be used to recruit participants, including youth who are individuals with disabilities and economically disadvantaged young men and women, for the national service programs referred to in paragraphs (1) and (2).

"(6) A description of the manner in which the national service programs referred to in paragraphs (1) and (2) build on existing programs, including Federal programs.

"(7) A description of the manner in which the national service programs referred to in paragraphs (1) and (2) will involve participants—

"(A) in projects that build an ethic of civic responsibility and produce a positive change in the lives of participants through training and participation in meaningful service experiences and opportunities for reflection on such experiences; and

"(B) in leadership positions in implementing and evaluating the program.

"(8) Measurable goals for the national service programs referred to in paragraphs (1) and (2), and a strategy to achieve such goals, in terms of—

"(A) the impact to be made in meeting unmet human, educational, environmental, or public safety needs; and

"(B) the service experience to be provided to participants in the programs.

"(9) A description of the manner and extent to which the national service programs referred to in paragraphs (1) and (2) conform to the national service priorities established by the Corporation under section 122(c).

"(10) A description of the past experience of the applicant in operating a comparable program or in conducting a grant program in support of other comparable service programs.

"(11) A description of the type and number of proposed service positions in which participants will receive the national service educational award described in subtitle D and a description of the manner in which approved national service positions will be apportioned by the applicant.

"(12) A description of the manner and extent to which participants, representatives of the community served, community-based agencies with a demonstrated record of experience in providing services, and labor organizations contributed to the development of the national service programs referred to in paragraphs (1) and (2), including the identity of the individual representing each appropriate labor organization (if any) who was consulted and the nature of the consultation.

"(13) Such other information as the Corporation may reasonably require.

"(c) REQUIRED APPLICATION INFORMATION.—An application submitted under subsection (a) shall contain the following information:

"(1) A description of the jobs or positions into which participants will be placed using the assistance provided under section 121, including descriptions of specific tasks to be performed by such participants.

"(2) A description of the minimum qualifications that individuals shall meet to become participants in such programs.

"(d) APPLICATION TO RECEIVE ONLY APPROVED NATIONAL SERVICE POSITIONS.—

"(1) APPLICABILITY OF SUBSECTION.—This subsection shall apply in the case of an application in which—

"(A) the applicant is not seeking assistance under subsection (a) or (b) of section 121, but requests national service educational awards for individuals serving in service positions described in section 123; or

"(B) the applicant requests national service educational awards for service positions described in section 123, but the positions are not positions in a national service program described in section 122(a) for which assistance may be provided under subsection (a) or (b) of section 121.

"(2) SPECIAL APPLICATION REQUIREMENTS.—For the applications described in paragraph (1), the Corporation shall establish special application requirements in order to determine—

"(A) whether the service positions meet unmet human, educational, environmental, or public safety needs and meet the criteria for assistance under this subtitle; and

"(B) whether the Corporation should approve the positions as approved national service positions.

"(e) SPECIAL RULE FOR STATE APPLICANTS.—

"(1) SUBMISSION BY STATE COMMISSION.—The application of a State for approved national service positions or for a grant under section 121(a) shall be submitted by the State Commission.

"(2) COMPETITIVE SELECTION.—The application of a State shall contain an assurance that all assistance provided under section 121(a) to the State will be used to support national service programs that were selected by the State on a competitive basis. In making such competitive selections, the State shall seek to ensure the equitable allocation within the State of assistance and approved national service positions provided under this subtitle to the State taking into consideration such factors as the location of the programs applying to the State, population density, and economic distress.

"(3) ASSISTANCE TO NONSTATE ENTITIES.—The application of a State shall also contain an assurance that not less than 60 percent of the assistance will be used to make grants in support of national service programs other than national service programs carried out by a State agency. The Corporation may permit a State to deviate from the percentage specified by this subsection if the State has not received a sufficient number of acceptable applications to comply with the percentage.

"(f) SPECIAL RULE FOR CERTAIN APPLICANTS.—

"(1) WRITTEN CONCURRENCE.—In the case of a program applicant that proposes to also serve as the service sponsor, the application shall include the written concurrence of any local labor organization representing employees of the service sponsor who are engaged in the same or substantially similar work as that proposed to be carried out.

"(2) PROGRAM APPLICANT DEFINED.—For purposes of this subsection, the term 'program applicant' means—

"(A) a State, subdivision of a State, Indian tribe, public or private nonprofit organization, institution of higher education, or Federal agency submitting an application under this section; or

"(B) an entity applying for assistance or approved national service positions through a grant program conducted using assistance provided to a State, subdivision of a State, Indian tribe, public or private nonprofit organization, institution of higher education, or Federal agency under section 121.

"(g) LIMITATION ON SAME PROJECT IN MULTIPLE APPLICATIONS.—The Corporation shall reject an application submitted under this section

if a project proposed to be conducted using assistance requested by the applicant is already described in another application pending before the Corporation.

"SEC. 131. NATIONAL SERVICE PROGRAM ASSISTANCE REQUIREMENTS.

"(a) Impact on Communities.—An application submitted under section 130 shall include an assurance by the applicant that any national service program carried out by the applicant using assistance provided under section 121 and any national service program supported by a grant made by the applicant using such assistance will—

"(1) address unmet human, educational, environmental, or public safety needs through services that provide a direct benefit to the community in which the service is performed; and

"(2) comply with the nonduplication and nondisplacement requirements of section 177 and the grievance procedure requirements of section 176(f).

"(b) Impact on Participants.—An application submitted under section 130 shall also include an assurance by the applicant that any national service program carried out by the applicant using assistance provided under section 121 and any national service program supported by a grant made by the applicant using such assistance will—

"(1) provide participants in the national service program with the training, skills, and knowledge necessary for the projects that participants are called upon to perform;

"(2) provide support services to participants, such as the provision of appropriate information and support—

"(A) to those participants who are completing a term of service and making the transition to other educational and career opportunities; and

"(B) to those participants who are school dropouts in order to assist those participants in earning the equivalent of a high school diploma; and

"(3) provide, if appropriate, structured opportunities for participants to reflect on their service experiences.

"(c) Consultation.—An application submitted under section 130 shall also include an assurance by the applicant that any national service program carried out by the applicant using assistance provided under section 121 and any national service program supported by a grant made by the applicant using such assistance will—

"(1) provide in the design, recruitment, and operation of the program for broad-based input from—

"(A) the community served and potential participants in the program; and

"(B) community-based agencies with a demonstrated record of experience in providing services and local labor organizations representing employees of service sponsors, if these entities exist in the area to be served by the program;

"(2) prior to the placement of participants, consult with the appropriate local labor organization, if any, representing employees in the area who are engaged in the same or similar work as that proposed to be carried out by such program to ensure compliance with the nondisplacement requirements specified in section 177; and

"(3) in the case of a program that is not funded through a State, consult with and coordinate activities with the State Commission for the State in which the program operates.

"(d) Evaluation and Performance Goals.—

"(1) In general.—An application submitted under section 130 shall also include an assurance by the applicant that the applicant will—

"(A) arrange for an independent evaluation of any national service program carried out using assistance provided to the applicant under section 121 or, with the approval of the Corporation, conduct an internal evaluation of the program;

"(B) apply measurable performance goals and evaluation methods (such as the use of surveys of participants and persons served), which are to be used as part of such evaluation to determine the impact of the program—

"(i) on communities and persons served by the projects performed by the program;

"(ii) on participants who take part in the projects; and

"(iii) in such other areas as the Corporation may require; and

"(C) cooperate with any evaluation activities undertaken by the Corporation.

"(2) Evaluation.—Subject to paragraph (3), the Corporation shall develop evaluation criteria and performance goals applicable to all national service programs carried out with assistance provided under section 121.

"(3) Alternative evaluation requirements.—The Corporation may establish alternative evaluation requirements for national service programs based upon the amount of assistance received under section 121 or received by a grant made by a recipient of assistance under such section. The determination of whether a national service program is covered by this paragraph shall be made in such manner as the Corporation may prescribe.

"(e) Living Allowances and Other Inservice Benefits.—Except as provided in section 140(c), an application submitted under section 130 shall also include an assurance by the applicant that the applicant will—

"(1) ensure the provision of a living allowance and other benefits specified in section 140 to participants in any national service program carried out by the applicant using assistance provided under section 121; and

"(2) require that each national service program that receives a grant from the applicant using such assistance will also provide a living allowance and other benefits specified in section 140 to participants in the program.

"(f) Selection of Participants From Individuals Recruited by Corporation or State Commissions.—The Corporation may also require an assurance by the applicant that any national service program carried out by the applicant using assistance provided under section 121 and any national service program supported by a grant made by the applicant using such assistance will select a portion of the participants for the program from among prospective participants recruited by the Corporation or State Commissions under section 138(d). The Corporation may specify a minimum percentage of participants to be selected from the national leadership pool established under section 138(e) and may vary the percentage for different types of national service programs.

"SEC. 132. INELIGIBLE SERVICE CATEGORIES.

"(a) In General.—Except as provided in subsection (b), an application submitted to the Corporation under section 130 shall include an assurance by the applicant that any national service program carried out using assistance provided under section 121 and any approved national service position provided to an applicant will not be used to perform service that provides a direct benefit to any—

"(1) business organized for profit;

"(2) labor union;

"(3) partisan political organization;

"(4) organization engaged in religious activities, unless such service does not involve the use of assistance provided under section 121 or participants—

"(A) to give religious instruction;

"(B) to conduct worship services;

"(C) to provide instruction as part of a program that includes mandatory religious education or worship;

"(D) to construct or operate facilities devoted to religious instruction or worship or to maintain facilities primarily or inherently devoted to religious instruction or worship; or

"(E) to engage in any form of proselytization; or

"(5) nonprofit organization that fails to comply with the restrictions contained in section 501(c) of the Internal Revenue Code of 1986 (26 U.S.C. 501(c)), except that nothing in this section shall be construed to prevent participants from engaging in advocacy activities undertaken at their own initiative.

"(b) Regional Corporation.—The requirement of subsection (a) relating to an assurance regarding direct benefits to businesses organized for profit shall not apply with respect to a Regional Corporation, as defined in section 3(g) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(g)), that is established in accordance with such Act as a for-profit corporation but that is engaging in nonprofit activities.

"SEC. 133. CONSIDERATION OF APPLICATIONS.

"(a) Corporation Consideration of Certain Criteria.—The Corporation shall apply the criteria described in subsections (c) and (d) in determining whether—

"(1) to approve an application submitted under section 130 and provide assistance under section 121 to the applicant; and

"(2) to approve service positions described in the application as national service positions that include the national service educational award described in subtitle D and provide such approved national service positions to the applicant.

"(b) Application to Subgrants.—

"(1) In general.—A State or other entity that uses assistance provided under section 121(a) to support national service programs selected on a competitive basis to receive a share of the assistance shall use the criteria described in subsections (c) and (d) when considering an application submitted by a national service program to receive a portion of such assistance or an approved national service position.

"(2) Contents.—The application of the State or other entity under section 130 shall contain—

"(A) a certification that the State or other entity used these criteria in the selection of national service programs to receive assistance;

"(B) a description of the jobs or positions into which participants will be placed using such assistance, including descriptions of specific tasks to be performed by such participants; and

"(C) a description of the minimum qualifications that individuals shall meet to become participants in such programs.

"(c) Assistance Criteria.—The criteria required to be applied in evaluating applications submitted under section 130 are as follows:

"(1) The quality of the national service program proposed to be carried out directly by the applicant or supported by a grant from the applicant.

"(2) The innovative aspects of the national service program, and the feasibility of replicating the program.

"(3) The sustainability of the national service program, based on evidence such as the existence—

"(A) of strong and broad-based community support for the program; and

"(B) of multiple funding sources or private funding for the program.

"(4) The quality of the leadership of the national service program, the past performance of the program, and the extent to which the program builds on existing programs.

"(5) The extent to which participants of the national service program are recruited from among residents of the communities in which projects are to be conducted, and the extent to which participants and community residents are

involved in the design, leadership, and operation of the program.

"(6) The extent to which projects would be conducted in the following areas where they are needed most:

"(A) Communities designated as empowerment zones or redevelopment areas, targeted for special economic incentives, or otherwise identifiable as having high concentrations of low-income people.

"(B) Areas that are environmentally distressed.

"(C) Areas adversely affected by Federal actions related to the management of Federal lands that result in significant regional job losses and economic dislocation.

"(D) Areas adversely affected by reductions in defense spending or the closure or realignment of military installations.

"(E) Areas that have an unemployment rate greater than the national average unemployment for the most recent 12 months for which satisfactory data are available.

"(7) In the case of applicants other than States, the extent to which the application is consistent with the application under section 130 of the State in which the projects would be conducted.

"(8) Such other criteria as the Corporation considers to be appropriate.

"(d) OTHER CONSIDERATIONS.—

"(1) GEOGRAPHIC DIVERSITY.—The Corporation shall ensure that recipients of assistance provided under section 121 are geographically diverse and include projects to be conducted in those urban and rural areas in a State with the highest rates of poverty.

"(2) PRIORITIES.—The Corporation may designate, under such criteria as may be established by the Corporation, certain national service programs or types of national service programs described in section 122(a) for priority consideration in the competitive distribution of funds under section 129(d)(2). In designating national service programs to receive priority, the Corporation may include—

"(A) national service programs carried out by another Federal agency;

"(B) national service programs that conform to the national service priorities in effect under section 122(c);

"(C) innovative national service programs;

"(D) national service programs that are well established in one or more States at the time of the application and are proposed to be expanded to additional States using assistance provided under section 121;

"(E) grant programs in support of other national service programs if the grant programs are to be conducted by nonprofit organizations with a demonstrated and extensive expertise in the provision of services to meet human, educational, environmental, or public safety needs;

"(F) professional corps programs described in section 122(a)(8); and

"(G) programs that—

"(i) received funding under subtitle D of this Act, as in effect on the day before the date of enactment of this subtitle;

"(ii) the Corporation determines to meet the requirements of sections 142 (other than subsection (g)), 143, and 148 through 150 of this Act, as in effect on such day, in addition to the requirements of this subtitle; and

"(iii) include an evaluation component.

"(3) ADDITIONAL PRIORITY.—In making a competitive distribution of funds under section 129(d)(2), the Corporation may give priority consideration to a national service program that is—

"(A) proposed in an application submitted by a State Commission; and

"(B) not one of the types of programs described in paragraph (2), if the State Commission provides an adequate explanation of the reasons why it should not be a priority of such State to carry out any of such types of programs in the State.

"(4) REVIEW PANEL.—The Corporation shall—

"(A) establish panels of experts for the purpose of securing recommendations on applications submitted under section 130 for more than $250,000 in assistance, or for national service positions that would require more than $250,000 in national service educational awards; and

"(B) consider the opinions of such panels prior to making such determinations.

"(e) EMPHASIS ON AREAS MOST IN NEED.—In making assistance available under section 121 and in providing approved national service positions under section 123, the Corporation shall ensure that not less than 50 percent of the total amount of assistance to be distributed to States under subsections (a) and (d)(1) of section 129 for a fiscal year is provided to carry out or support national service programs and projects that—

"(1) are conducted in any of the areas described subsection (c)(6) or on Federal or other public lands, to address unmet human, educational, environmental, or public safety needs in such areas or on such lands; and

"(2) place a priority on the recruitment of participants who are residents of any of such areas or Federal or other public lands.

"(f) REJECTION OF STATE APPLICATIONS.—

"(1) NOTIFICATION OF STATE APPLICANTS.—If the Corporation rejects an application submitted by a State Commission under section 130 for funds described in section 129(a)(1), the Corporation shall promptly notify the State Commission of the reasons for the rejection of the application.

"(2) RESUBMISSION AND RECONSIDERATION.—The Corporation shall provide a State Commission notified under paragraph (1) with a reasonable opportunity to revise and resubmit the application. At the request of the State Commission, the Corporation shall provide technical assistance to the State Commission as part of the resubmission process. The Corporation shall promptly reconsider an application resubmitted under this paragraph.

"(3) REALLOTMENT.—The amount of any State's allotment under section 129(a) for a fiscal year that the Corporation determines will not be provided for that fiscal year shall be available for distribution by the Corporation as provided in paragraph (3) of such subsection.

"PART III—NATIONAL SERVICE PARTICIPANTS

"SEC. 137. DESCRIPTION OF PARTICIPANTS.

"(a) IN GENERAL.—For purposes of this subtitle, an individual shall be considered to be a participant in a national service program carried out using assistance provided under section 121 if the individual—

"(1) meets such eligibility requirements, directly related to the tasks to be accomplished, as may be established by the program;

"(2) is selected by the program to serve in a position with the program;

"(3) will serve in the program for a term of service specified in section 139 to be performed before, during, or after attendance at an institution of higher education;

"(4) is 17 years of age or older at the time the individual begins the term of service;

"(5) has received a high school diploma or its equivalent, agrees to obtain a high school diploma or its equivalent (unless this requirement is waived based on an individual education assessment conducted by the program) and the individual did not drop out of an elementary or secondary school to enroll in the program, or is enrolled in an institution of higher education on an ability to benefit basis and is considered eligible for funds under section 484 of the Higher Education Act of 1965 (20 U.S.C. 1091); and

"(6) is a citizen or national of the United States or lawful permanent resident alien of the United States.

"(b) SPECIAL RULES FOR CERTAIN YOUTH PROGRAMS.—An individual shall be considered to be a participant in a youth corps program described in section 122(a)(2) or a program described in section 122(a)(9) that is carried out with assistance provided under section 121(a) if the individual—

"(1) satisfies the requirements specified in subsection (a), except paragraph (4) of such subsection; and

"(2) is between the ages of 16 and 25, inclusive, at the time the individual begins the term of service.

"(c) WAIVER.—The Corporation may waive the requirements of subsection (a)(5)(A) with respect to an individual if the program in which the individual seeks to become a participant conducts an independent evaluation demonstrating that the individual is incapable of obtaining a high school diploma or its equivalent.

"SEC. 138. SELECTION OF NATIONAL SERVICE PARTICIPANTS.

"(a) SELECTION PROCESS.—Subject to subsections (b) and (c) and section 131(f), the actual recruitment and selection of an individual to serve in a national service program receiving assistance under section 121 or to fill an approved national service position shall be conducted by the State, subdivision of a State, Indian tribe, public or private nonprofit organization, institution of higher education, Federal agency, or other entity to which the assistance and approved national service positions are provided.

"(b) NONDISCRIMINATION AND NONPOLITICAL SELECTION OF PARTICIPANTS.—The recruitment and selection of individuals to serve in national service programs receiving assistance under section 121 or to fill approved national service positions shall be consistent with the requirements of section 175.

"(c) SECOND TERM.—Acceptance into a national service program to serve a second term of service under section 139 shall only be available to individuals who perform satisfactorily in their first term of service.

"(d) RECRUITMENT AND PLACEMENT.—The Corporation and each State Commission shall establish a system to recruit individuals who desire to perform national service and to assist the placement of these individuals in approved national service positions, which may include positions available under titles I and II of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4951 et seq.). The Corporation and State Commissions shall disseminate information regarding available approved national service positions through cooperation with secondary schools, institutions of higher education, employment service offices, State vocational rehabilitation agencies within the meaning of the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.) and other State agencies that primarily serve individuals with disabilities, and other appropriate entities, particularly those organizations that provide outreach to disadvantaged youths and youths who are individuals with disabilities.

"(e) NATIONAL LEADERSHIP POOL.—

"(1) SELECTION AND TRAINING.—From among individuals recruited under subsection (d), the Corporation may select individuals with significant leadership potential, as determined by the Corporation, to receive special training to enhance their leadership ability. The leadership training shall be provided by the Corporation directly or through a grant or contract.

"(2) EMPHASIS ON CERTAIN INDIVIDUALS.—In selecting individuals to receive leadership training under this subsection, the Corporation shall

make special efforts to select individuals who have served—

"(A) in the Peace Corps;

"(B) as VISTA volunteers;

"(C) as participants in national service programs receiving assistance under section 121;

"(D) as participants in programs receiving assistance under subtitle D of the National and Community Service Act of 1990, as in effect on the day before the date of enactment of this subtitle; or

"(E) as members of the Armed Forces of the United States and who were honorably discharged from such service.

"(3) ASSIGNMENT.—At the request of a program that receives assistance under the national service laws, the Corporation may assign an individual who receives leadership training under paragraph (1) to work with the program in a leadership position and carry out assignments not otherwise performed by regular participants. An individual assigned to a program shall be considered to be a participant of the program.

"(f) EVALUATION OF SERVICE.—The Corporation shall issue regulations regarding the manner and criteria by which the service of a participant shall be evaluated to determine whether the service is satisfactory and successful for purposes of eligibility for a second term of service or a national service educational award.

"SEC. 139. TERMS OF SERVICE.

"(a) IN GENERAL.—As a condition of receiving a national service education award under subtitle D, a participant in an approved national service position shall be required to perform full- or part-time national service for at least one term of service specified in subsection (b).

"(b) TERM OF SERVICE.—

"(1) FULL-TIME SERVICE.—An individual performing full-time national service in an approved national service position shall agree to participate in the program sponsoring the position for not less than 1,700 hours during a period of not less than 9 months and not more than 1 year.

"(2) PART-TIME SERVICE.—Except as provided in paragraph (3), an individual performing part-time national service in an approved national service position shall agree to participate in the program sponsoring the position for not less than 900 hours during a period of—

"(A) not more than 2 years; or

"(B) not more than 3 years if the individual is enrolled in an institute of higher education while preforming all or a portion of the service.

"(3) REDUCTION IN HOURS OF PART-TIME SERVICE.—The Corporation may reduce the number of hours required to be served to successfully complete part-time national service to a level determined by the Corporation, except that any reduction in the required term of service shall include a corresponding reduction in the amount of any national service educational award that may be available under subtitle D with regard to that service.

"(c) RELEASE FROM COMPLETING TERM OF SERVICE.—

"(1) RELEASE AUTHORIZED.—A recipient of assistance under section 121 or a program sponsoring an approved national service position may release a participant from completing a term of service in the position—

"(A) for compelling personal circumstances as demonstrated by the participant; or

"(B) for cause.

"(2) EFFECT OF RELEASE FOR COMPELLING CIRCUMSTANCES.—If a participant eligible for release under paragraph (1)(A) is serving in an approved national service position, the recipient of assistance under section 121 or a program sponsoring an approved national service position may elect—

"(A) to grant such release and provide to the participant that portion of the national service educational award corresponding to the portion of the term of service actually completed, as provided in section 147(c); or

"(B) to permit the participant to temporarily suspend performance of the term of service for a period of up to 2 years (and such additional period as the Corporation may allow for extenuating circumstances) and, upon completion of such period, to allow return to the program with which the individual was serving in order to complete the remainder of the term of service and obtain the entire national service educational award.

"(3) EFFECT OF RELEASE FOR CAUSE.—A participant released for cause may not receive any portion of the national service educational award.

"SEC. 140. LIVING ALLOWANCES FOR NATIONAL SERVICE PARTICIPANTS.

"(a) PROVISION OF LIVING ALLOWANCE.—

"(1) LIVING ALLOWANCE REQUIRED.—Subject to paragraph (3), a national service program carried out using assistance provided under section 121 shall provide to each participant who participates on a full-time basis in the program a living allowance in an amount equal to or greater than the average annual subsistence allowance provided to VISTA volunteers under section 105 of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4955).

"(2) LIMITATION ON FEDERAL SHARE.—The amount of the annual living allowance provided under paragraph (1) that may be paid using assistance provided under section 121 and using any other Federal funds shall not exceed 85 percent of the total average annual provided to VISTA volunteers under section 105 of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4955).

"(3) MAXIMUM LIVING ALLOWANCE.—Except as provided in subsection (c), the total amount of an annual living allowance that may be provided to a participant in a national service program shall not exceed 200 percent of the average annual subsistence allowance provided to VISTA volunteers under section 105 of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4955).

"(4) PRORATION OF LIVING ALLOWANCE.—The amount provided as a living allowance under this subsection shall be prorated in the case of a participant who is authorized to serve a reduced term of service under section 139(b)(3).

"(5) WAIVER OR REDUCTION OF LIVING ALLOWANCE.—The Corporation may waive or reduce the requirement of paragraph (1) with respect to such national service program if such program demonstrates that—

"(A) such requirement is inconsistent with the objectives of the program; and

"(B) the amount of the living allowance that will be provided to each full-time participant is sufficient to meet the necessary costs of living (including food, housing, and transportation) in the area in which the program is located.

"(6) EXEMPTION.—The requirement of paragraph (1) shall not apply to any program that was in existence on the date of the enactment of the National and Community Service Trust Act of 1993.

"(b) COVERAGE OF CERTAIN EMPLOYMENT-RELATED TAXES.—To the extent a national service program that receives assistance under section 121 is subject, with respect to the participants in the program, to the taxes imposed on an employer under sections 3111 and 3301 of the Internal Revenue Code of 1986 (26 U.S.C. 3111, 3301) and taxes imposed on an employer under a workmen's compensation act, the assistance provided to the program under section 121 shall include an amount sufficient to cover 85 percent of such taxes based upon the lesser of—

"(1) the total average annual subsistence allowance provided to VISTA volunteers under section 105 of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4955); and

"(2) the annual living allowance established by the program.

"(c) EXCEPTION FROM MAXIMUM LIVING ALLOWANCE FOR CERTAIN ASSISTANCE.—A professional corps program described in section 122(a)(8) that desires to provide a living allowance in excess of the maximum allowance authorized in subsection (a)(3) may still apply for such assistance, except that—

"(1) any assistance provided to the applicant under section 121 may not be used to pay for any portion of the allowance;

"(2) the applicant shall apply for such assistance only by submitting an application to the Corporation for assistance on a competitive basis; and

"(3) the national service program shall be operated directly by the applicant and shall meet urgent, unmet human, educational, environmental, or public safety needs, as determined by the Corporation.

"(d) HEALTH INSURANCE.—

"(1) IN GENERAL.—A State or other recipient of assistance under section 121 shall provide a basic health care policy for each full-time participant in a national service program carried out or supported using the assistance, if the participant is not otherwise covered by a health care policy. Not more than 85 percent of the cost of a premium shall be provided by the Corporation, with the remaining cost paid by the entity receiving assistance under section 121. The Corporation shall establish minimum standards that all plans must meet in order to qualify for payment under this part, any circumstances in which an alternative health care policy may be substituted for the basic health care policy, and mechanisms to prohibit participants from dropping existing coverage.

"(2) OPTION.—A State or other recipient of assistance under section 121 may elect to provide from its own funds a health care policy for participants that does not meet all of the standards established by the Corporation if the fair market value of such policy is equal to or greater than the fair market value of a plan that meets the minimum standards established by the Corporation, and is consistent with other applicable laws.

"(e) CHILD CARE.—

"(1) AVAILABILITY.—A State or other recipient of assistance under section 121 shall—

"(A) make child care available for children of each full-time participant who needs child care in order to participate in a national service program carried out or supported by the recipient using the assistance; or

"(B) provide a child care allowance to each full-time participant in a national service program who needs such assistance in order to participate in the program.

"(2) GUIDELINES.—The Corporation shall establish guidelines regarding the circumstances under which child care shall be made available under this subsection and the value of any allowance to be provided.

"(f) INDIVIDUALIZED SUPPORT SERVICES.—A State or other recipient of assistance under section 121 shall provide reasonable accommodation, including auxiliary aids and services (as defined in section 3(1) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102(1))), based on the individualized need of a participant who is a qualified individual with a disability (as defined in section 101(8) of such Act (42 U.S.C. 12111(8))).

"(g) WAIVER OF LIMITATION ON FEDERAL SHARE.—The Corporation may waive in whole or in part the limitation on the Federal share specified in this section with respect to a particular national service program in any fiscal year if the Corporation determines that such a

waiver would be equitable due to a lack of available financial resources at the local level.

"(h) LIMITATION ON NUMBER OF TERMS OF SERVICE FOR FEDERALLY SUBSIDIZED LIVING ALLOWANCE.—No national service program may use assistance provided under section 121, or any other Federal funds, to provide a living allowance under subsection (a), a health care policy under subsection (d), or child care or a child care allowance under subsection (e), to an individual for a third, or subsequent, term of service described in section 139(b) by the individual in a national service program carried out under this subtitle.

"SEC. 141. NATIONAL SERVICE EDUCATIONAL AWARDS.

"(a) ELIGIBILITY GENERALLY.—A participant in a national service program carried out using assistance provided to an applicant under section 121 shall be eligible for the national service educational award described in subtitle D if the participant—

"(1) serves in an approved national service position; and

"(2) satisfies the eligibility requirements specified in section 146 with respect to service in that approved national service position.

"(b) SPECIAL RULE FOR VISTA VOLUNTEERS.—A VISTA volunteer who serves in an approved national service position shall be ineligible for a national service educational award if the VISTA volunteer accepts the stipend authorized under section 105(a)(1) of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4955(a)(1)).".

(c) TABLE OF CONTENTS RELATED TO SUBTITLE C.—Section 1(b) of the National and Community Service Act of 1990 (Public Law 101–610; 104 Stat. 3127) is amended by striking the items relating to subtitle C of title I of such Act and inserting the following new items:

"Subtitle C—National Service Trust Program

"PART I—INVESTMENT IN NATIONAL SERVICE

"Sec. 121. Authority to provide assistance and approved national service positions.
"Sec. 122. Types of national service programs eligible for program assistance.
"Sec. 123. Types of national service positions eligible for approval for national service educational awards.
"Sec. 124. Types of program assistance.
"Sec. 125. Training and technical assistance.
"Sec. 126. Other special assistance.

"PART II—APPLICATION AND APPROVAL PROCESS

"Sec. 129. Provision of assistance and approved national service positions by competitive and other means.
"Sec. 130. Application for assistance and approved national service positions.
"Sec. 131. National service program assistance requirements.
"Sec. 132. Ineligible service categories.
"Sec. 133. Consideration of applications.

"PART III—NATIONAL SERVICE PARTICIPANTS

"Sec. 137. Description of participants.
"Sec. 138. Selection of national service participants.
"Sec. 139. Terms of service.
"Sec. 140. Living allowances for national service participants.
"Sec. 141. National service educational awards.".

(d) LIVING ALLOWANCE UNDER SUBTITLE I.—Section 199M(a) of the National and Community Service Act of 1990 (former section 133(a) of such Act as redesignated in subsection (a)(3) of this section) (42 U.S.C. 12553(a)) is amended by striking paragraphs (1) and (2) and inserting the following new paragraphs:

"(1) LIVING ALLOWANCE REQUIRED.—Subject to paragraph (3), each participant in a full-time youth corps program that receives assistance under this subtitle shall receive a living allowance in an amount equal to or greater than the average annual subsistence allowance provided to VISTA volunteers under section 105 of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4955).

"(2) LIMITATION ON FEDERAL SHARE.—The amount of the annual living allowance provided under paragraph (1) that may be paid using assistance provided under this subtitle, section 121, and any other Federal funds shall not exceed 85 percent of the total average annual subsistence allowance provided to VISTA volunteers under section 105 of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4955).

"(3) MAXIMUM LIVING ALLOWANCE.—The total amount of an annual living allowance that may be provided to a participant in a full-time youth corps program that receives assistance under this subtitle shall not exceed 200 percent of the average annual subsistence allowance provided to VISTA volunteers under section 105 of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4955).

"(4) WAIVER OR REDUCTION OF LIVING ALLOWANCE.—The Corporation may waive or reduce the requirement of paragraph (1) with respect to such national service program if such program demonstrates that—

"(A) such requirement is inconsistent with the objectives of the program; and

"(B) the amount of the living allowance that will be provided to each full-time participant is sufficient to meet the necessary costs of living (including food, housing, and transportation) in the area in which the program is located.

"(5) EXEMPTION.—The requirement of paragraph (1) shall not apply to any program that was in existence on the date of the enactment of the National and Community Service Trust Act of 1993.".

(e) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) REFERENCES.—Subtitle I of title I of the National and Community Service Act of 1990 (as so redesignated by subsection (a)(1) of this section) is amended by striking "Commission" each place it appears in sections 199A, 199C, 199D, 199F, 199I, 199M, and 199N (as redesignated in subsection (a)(3) of this section) and inserting "Corporation".

(2) GENERAL AUTHORITY.—Section 199A of such Act (as redesignated in subsection (a)(3) of this section) (42 U.S.C. 12541) is amended—

(A) by striking "under section 102";

(B) by striking ", to the Secretary of the Interior, or to the Director of ACTION" and inserting "or to the Secretary of the Interior"; and

(C) by adding at the end the folowing new sentence: "To the extent practicable, the Corporation shall apply the provisions of subtitle C in making grants under this section.".

(3) PURCHASE OF CAPITAL EQUIPMENT.—Section 199B of such Act (as redesignated in subsection (a)(3) of this section) (42 U.S.C. 12542) is amended to read as follows:

"SEC. 199B. LIMITATION ON PURCHASE OF CAPITAL EQUIPMENT.

"Not to exceed 10 percent of the amount of assistance made available to a program agency under this subtitle shall be used for the purchase of major capital equipment.".

(4) STATE APPLICATION.—Section 199C of such Act (as redesignated in subsection (a)(3) of this section) (42 U.S.C. 12543) is amended—

(A) in subsection (a)—

(i) by striking "section 122(b)" and inserting "section 199A"; and

(ii) by striking ", including the information required under subsection (b)" before the period at the end thereof; and

(B) by striking subsections (c) and (d).

(5) FOCUS OF PROGRAMS.—Section 199D of such Act (as redesignated in subsection (a)(3) of this section) (42 U.S.C. 12544) is amended—

(A) by striking subsection (b); and

(B) by redesignating subsection (c) as subsection (b).

(6) PUBLIC LANDS.—Section 199F(b) of such Act (as redesignated in subsection (a)(3) of this section) (42 U.S.C. 12546(b)) is amended by striking "section 123" and inserting "section 199C".

(7) PREFERENCE.—Section 199I(a) of such Act (as redesignated in subsection (a)(3) of this section) (42 U.S.C. 12549) is amended by striking "section 123" and inserting "section 199C".

(8) OBSOLETE PROVISIONS.—Such subtitle is further amended—

(A) by striking sections 199H and 199L (as redesignated in subsection (a)(3) of this section) (42 U.S.C. 12548, 12552); and

(B) by redesignating sections 199I, 199J, 199K, 199M, 199N, and 199O (as previosly redesignated) as sections 199H, 199I, 199J, 199K, 199L, and 199M, respectively.

(f) TABLE OF CONTENTS RELATED TO SUBTITLE I.—Section 1(b) of the National and Community Service Act of 1990 (Public Law 101–610; 104 Stat. 3127) is amended by inserting after the item relating to section 195O the following new items:

"Subtitle I—American Conservation and Youth Corps

"Sec. 199. Short title.
"Sec. 199A. General authority.
"Sec. 199B. Limitation on purchase of capital equipment.
"Sec. 199C. State application.
"Sec. 199D. Focus of programs.
"Sec. 199E. Related programs.
"Sec. 199F. Public lands or Indian lands.
"Sec. 199G. Training and education services.
"Sec. 199H. Preference for certain projects.
"Sec. 199I. Age and citizenship criteria for enrollment.
"Sec. 199J. Use of volunteers.
"Sec. 199K. Living allowance.
"Sec. 199L. Joint programs.
"Sec. 199M. Federal and State employee status.".

SEC. 102. NATIONAL SERVICE TRUST AND PROVISION OF NATIONAL SERVICE EDUCATIONAL AWARDS.

(a) ESTABLISHMENT OF TRUST; PROVISION OF AWARDS.—Subtitle D of title I of the National and Community Service Act of 1990 (42 U.S.C. 12571 et seq.) is amended to read as follows:

"Subtitle D—National Service Trust and Provision of National Service Educational Awards

"SEC. 145. ESTABLISHMENT OF THE NATIONAL SERVICE TRUST.

"(a) ESTABLISHMENT.—There is established in the Treasury of the United States an account to be known as the National Service Trust. The Trust shall consist of—

"(1) from the amounts appropriated to the Corporation and made available to carry out this subtitle pursuant to section 501(a)(2), such amounts as the Corporation may designate to be available for the payment of—

"(A) national service educational awards; and

"(B) interest expenses pursuant to section 148(e);

"(2) any amounts received by the Corporation as gifts, bequests, devises, or otherwise pursuant to section 196(a)(2); and

"(3) the interest on, and proceeds from the sale or redemption of, any obligations held by the Trust.

"(b) INVESTMENT OF TRUST.—It shall be the duty of the Secretary of the Treasury to invest in full the amounts appropriated to the Trust. Except as otherwise expressly provided in instruments concerning a gift, bequest, devise, or other donation and agreed to by the Corporation, such investments may be made only in interest-bearing obligations of the United States or *in obligations guaranteed as to both principal and interest by the United States. For such purpose, such obligations may be acquired on original issue at the issue price or by purchase of outstanding obligations at the market price. Any obligation acquired by the Trust may be sold by the Secretary at the market price.*

"(c) Expenditures From Trust.—Amounts in the Trust shall be available, to the extent provided for in advance by appropriation, for payments of national service educational awards in accordance with section 148.

"(d) Reports to Congress on Receipts and Expenditures.—Not later than March 1 of each year, the Corporation shall submit a report to the Congress on the financial status of the Trust during the preceding fiscal year. Such report shall—

"(1) specify the amount deposited to the Trust from the most recent appropriation to the Corporation, the amount received by the Corporation as gifts, bequests, devises, or otherwise pursuant to section 196(a)(2) during the period covered by the report, and any amounts obtained by the Trust pursuant to subsection (a)(3);

"(2) identify the number of individuals who are currently performing service to qualify, or have qualified, for national service educational awards;

"(3) identify the number of individuals whose expectation to receive national service educational awards during the period covered by the report—

"(A) has been reduced pursuant to section 147(c); or

"(B) has lapsed pursuant to section 146(d); and

"(4) estimate the number of additional approved national service positions that the Corporation will be able to make available under subtitle C on the basis of any accumulated surplus in the Trust above the amount required to provide national service educational awards to individuals identified under paragraph (2), including any amounts available as a result of the circumstances referred to in paragraph (3).

"SEC. 146. INDIVIDUALS ELIGIBLE TO RECEIVE A NATIONAL SERVICE EDUCATIONAL AWARD FROM THE TRUST.

"(a) Eligible Individuals.—An individual shall receive a national service educational award from the National Service Trust if the individual—

"(1) successfully completes the required term of service described in subsection (b) in an approved national service position;

"(2) was 17 years of age or older at the time the individual began serving in the approved national service position or was an out-of-school youth serving in an approved national service position with a youth corps program described in section 122(a)(2) or a program described in section 122(a)(9);

"(3) at the time the individual uses the national service educational award—

"(A) has received a high school diploma, or the equivalent of such diploma;

"(B) is enrolled at an institution of higher education on the basis of meeting the standard described in paragraph (1) or (2) of subsection (a) of section 484 of the Higher Education Act of 1965 (20 U.S.C. 1091) and meets the requirements of subsection (a) of such section; or

"(C) has received a waiver described in section 137(c); and

"(3) has received a high school diploma, or the equivalent of such diploma, at the time the individual uses the national service educational award, unless this requirement has been waived based on an individual education assessment conducted by the program; and

"(4) is a citizen or national of the United States or lawful permanent resident alien of the United States.

"(b) Term of Service.—The term of service for an approved national service position shall not be less than the full- or part-time term of service specified in section 139(b).

"(c) Limitation on Number of Terms of Service for Awards.—Although an individual may serve more than 2 terms of service described in subsection (b) in an approved national service position, the individual shall receive a national service educational award from the National Service Trust only on the basis of the first and second of such terms of service.

"(d) Time for Use of Educational Award.—

"(1) Seven-year requirement.—An individual eligible to receive a national service educational award under this section may not use such award after the end of the 7-year period beginning on the date the individual completes the term of service in an approved national service position that is the basis of the award.

"(2) Exception.—The Corporation may extend the period within which an individual may use a national service educational award if the Corporation determines that the individual—

"(A) was unavoidably prevented from using the national service educational award during the original 7-year period; or

"(B) performed another term of service in an approved national service position during that period.

"(e) Suspension of Eligibility for Drug-Related Offenses.—

"(1) In general.—An individual who, after qualifying under this section as an eligible individual, has been convicted under any Federal or State law of the possession or sale of a controlled substance shall not be eligible to receive a national service educational award during the period beginning on the date of such conviction and ending after the interval specified in the following table:

"If convicted of:	*Ineligibility period is:*
The possession of a controlled substance:.	
1st conviction	*1 year*
2nd conviction	*2 years*
3rd conviction	*indefinite*
The sale of a controlled substance:	
1st conviction	*2 years*
2nd conviction	*indefinite*

"(2) Rehabilitation.—An individual whose eligibility has been suspended under paragraph (1) shall resume eligibility before the end of the period determined under such paragraph if the individual satisfactorily completes a drug rehabilitation program that complies with such criteria as the Corporation shall prescribe for purposes of this paragraph.

"(3) First convictions.—An individual whose eligibility has been suspended under paragraph (1) and is convicted of a first offense may resume eligibility before the end of the period determined under such paragraph if the individual demonstrates that he or she has enrolled or been accepted for enrollment in a drug rehabilitation program described in paragraph (2).

"(4) Definitions.—As used in this subsection, the term 'controlled substance' has the meaning given in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)).

"(5) Effective date.—This subsection shall be effective upon publication by the Corporation in the Federal Register of criteria prescribed under paragraph (2).

"(f) Authority To Establish Demonstration Programs.—The Corporation may establish by regulation demonstration programs for the creation and evaluation of innovative volunteer and community service programs.

"SEC. 147. DETERMINATION OF THE AMOUNT OF THE NATIONAL SERVICE EDUCATIONAL AWARD.

"(a) Amount for Full-Time National Service.—Except as provided in subsection (c), an individual described in section 146(a) who successfully completes a required term of full-time national service in an approved national service position shall receive a national service educational award having a value, for each of not more than 2 of such terms of service, equal to 90 percent of—

"(1) one-half of an amount equal to the aggregate basic educational assistance allowance provided in section 3015(b)(1) of title 38, United States Code (as in effect on July 28, 1993), for the period referred to in section 3013(a)(1) of such title (as in effect on July 28, 1993), for a member of the Armed Forces who is entitled to such an allowance under section 3011 of such title and whose initial obligated period of active duty is 2 years; less

"(2) one-half of the aggregate basic contribution required to be made by the member in section 3011(b) of such title (as in effect on July 28, 1993).

"(b) Amount for Part-Time National Service.—Except as provided in subsection (c), an individual described in section 146(a) who successfully completes a required term of part-time national service in an approved national service position shall receive a national service educational award having a value, for each of not more than 2 of such terms of service, equal to 50 percent of value of the national service educational award determined under subsection (a).

"(c) Award for Partial Completion of Service.—If an individual serving in an approved national service position is released in accordance with section 139(c)(1)(A) from completing the full-time or part-time term of service agreed to by the individual, the Corporation may provide the individual with that portion of the national service educational award approved for the individual that corresponds to the quantity of the term of service actually completed by the individual.

"SEC. 148. DISBURSEMENT OF NATIONAL SERVICE EDUCATIONAL AWARDS.

"(a) In General.—Amounts in the Trust shall be available—

"(1) to repay student loans in accordance with subsection (b);

"(2) to pay all or part of the cost of attendance at an institution of higher education in accordance with subsection (c);

"(3) to pay expenses incurred in participating in an approved school-to-work program in accordance with subsection (d); and

"(4) to pay interest expenses in accordance with regulations prescribed pursuant to subsection (e).

"(b) Use of Educational Award To Repay Outstanding Student Loans.—

"(1) Application by eligible individuals.—An eligible individual under section 146 who desires to apply the national service educational award of the individual to the repayment of qualified student loans shall submit, in a manner prescribed by the Corporation, an application to the Corporation that—

"(A) identifies, or permits the Corporation to identify readily, the holder or holders of such loans;

"(B) indicates, or permits the Corporation to determine readily, the amounts of principal and interest outstanding on the loans;

"(C) specifies, if the outstanding balance is greater than the amount disbursed under paragraph (2), which of the loans the individual prefers to be paid by the Corporation; and

"(D) contains or is accompanied by such other information as the Corporation may require.

"(2) Disbursement of repayments.—Upon receipt of an application from an eligible individual of an application that complies with

paragraph (1), the Corporation shall, as promptly as practicable consistent with paragraph (5), disburse the amount of the national service educational award that the eligible individual has earned. Such disbursement shall be made by check or other means that is payable to the holder of the loan and requires the endorsement or other certification by the eligible individual.

"(3) APPLICATION OF DISBURSED AMOUNTS.—If the amount disbursed under paragraph (2) is less than the principal and accrued interest on any qualified student loan, such amount shall be applied according to the specified priorities of the individual.

"(4) REPORTS BY HOLDERS.—Any holder receiving a loan payment pursuant to this subsection shall submit to the Corporation such information as the Corporation may require to verify that such payment was applied in accordance with this subsection and any regulations prescribed to carry out this subsection.

"(5) NOTIFICATION OF INDIVIDUAL.—The Corporation upon disbursing the national service educational award, shall notify the individual of the amount paid for each outstanding loan and the date of payment.

"(6) AUTHORITY TO AGGREGATE PAYMENTS.—The Corporation may, by regulation, provide for the aggregation of payments to holders under this subsection.

"(7) DEFINITION OF QUALIFIED STUDENT LOANS.—As used in this subsection, the term 'qualified student loans' means—

"(A) any loan made, insured, or guaranteed pursuant to title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.), other than a loan to a parent of a student pursuant to section 428B of such Act (20 U.S.C. 1078–2); and

"(B) any loan made pursuant to title VII or VIII of the Public Health Service Act (42 U.S.C. 292a et seq.).

"(8) DEFINITION OF HOLDER.—As used in this subsection, the term 'holder' with respect to any eligible loan means the original lender or, if the loan is subsequently sold, transferred, or assigned to some other person, and such other person acquires a legally enforceable right to receive payments from the borrower, such other person.

"(c) USE OF EDUCATIONAL AWARDS TO PAY CURRENT EDUCATIONAL EXPENSES.—

"(1) APPLICATION BY ELIGIBLE INDIVIDUAL.—An eligible individual under section 146 who desires to apply the individual's national service educational award to the payment of current full-time or part-time educational expenses shall, on a form prescribed by the Corporation, submit an application to the institution of higher education in which the student will be enrolled that contains such information as the Corporation may require to verify the individual's eligibility.

"(2) SUBMISSION OF REQUESTS FOR PAYMENT BY INSTITUTIONS.—An institution of higher education that receives one or more applications that comply with paragraph (1) shall submit to the Corporation a statement, in a manner prescribed by the Corporation, that—

"(A) identifies each eligible individual filing an application under paragraph (1) for a disbursement of the individual's national service educational award under this subsection;

"(B) specifies the amounts for which such eligible individuals are, consistent with paragraph (6), qualified for disbursement under this subsection;

"(C) certifies that—

"(i) the institution of higher education has in effect a program participation agreement under section 487 of the Higher Education Act of 1965 (20 U.S.C. 1094);

"(ii) the institution's eligibility to participate in any of the programs under title IV of such Act (20 U.S.C. 1070 et seq.) has not been limited, suspended, or terminated; and

"(iii) individuals using national service educational awards received under this subtitle to pay for educational costs do not comprise more than 15 percent of the total student population of the institution; and

"(D) contains such provisions concerning financial compliance as the Corporation may require.

"(3) DISBURSEMENT OF PAYMENTS.—Upon receipt of a statement from an institution of higher education that complies with paragraph (2), the Corporation shall, subject to paragraph (4), disburse the total amount of the national service educational awards for which eligible individuals who have submitted applications to that institution under paragraph (1) are scheduled to receive. Such disbursement shall be made by check or other means that is payable to the institution and requires the endorsement or other certification by the eligible individual.

"(4) MULTIPLE DISBURSEMENTS REQUIRED.—The total amount required to be disbursed to an institution of higher education under paragraph (3) for any period of enrollment shall be disbursed by the Corporation in 2 or more installments, none of which exceeds ½ of such total amount. The interval between the first and second such installment shall not be less than ½ of such period of enrollment, except as necessary to permit the second installment to be paid at the beginning of the second semester, quarter, or similar division of such period of enrollment.

"(5) REFUND RULES.—The Corporation shall, by regulation, provide for the refund to the Corporation (and the crediting to the national service educational award of an eligible individual) of amounts disbursed to institutions for the benefit of eligible individuals who withdraw or otherwise fail to complete the period of enrollment for which the assistance was provided. Such regulations shall be consistent with the fair and equitable refund policies required of institutions pursuant to section 484B of the Higher Education Act of 1965 (20 U.S.C. 1091b). Amounts refunded to the Trust pursuant to this paragraph may be used by the Corporation to fund additional approved national service positions under subtitle C.

"(6) MAXIMUM AWARD.—The portion of an eligible individual's total available national service educational award that may be disbursed under this subsection for any period of enrollment shall not exceed the difference between—

"(A) the eligible individual's cost of attendance for such period of enrollment, determined in accordance with section 472 of the Higher Education Act of 1965 (20 U.S.C. 1087ll); and

"(B) the sum of—

"(i) the student's estimated financial assistance for such period under part A of title IV of such Act (20 U.S.C. 1070 et seq.); and

"(ii) the student's veterans' education benefits, determined in accordance with section 480(c) of such Act (20 U.S.C. 1087vv(c)).

"(d) USE OF EDUCATIONAL AWARD TO PARTICIPATE IN APPROVED SCHOOL-TO-WORK PROGRAMS.—The Corporation shall by regulation provide for the payment of national service educational awards to permit eligible individuals to participate in school-to-work programs approved by the Secretaries of Labor and Education.

"(e) INTEREST PAYMENTS DURING FORBEARANCE ON LOAN REPAYMENT.—The Corporation shall provide by regulation for the payment on behalf of an eligible individual of interest that accrues during a period for which such individual has obtained forbearance in the repayment of a qualified student loan (as defined in subsection (b)(6)), if the eligible individual successfully completes the individual's required term of service (as determined under section 146(b)). Such regulations shall be prescribed after consultation with the Secretary of Education.

"(f) EXCEPTION.—With the approval of the Director, an approved national service program funded under section 121, may offer participants the option of waiving their right to receive a national service education award in order to receive an alternative post-service benefit funded by the program entirely with non-Federal funds.

"(g) DEFINITION OF INSTITUTION OF HIGHER EDUCATION.—Notwithstanding section 101 of this Act, for purposes of this section the term 'institution of higher education' has the meaning provided by section 481(a) of the Higher Education Act of 1965 (20 U.S.C. 1088(a)).".

(b) TABLE OF CONTENTS.—Section 1(b) of the National and Community Service Act of 1990 (Public Law 101–610; 104 Stat. 3127) is amended by striking the items relating to subtitle D of title I of such Act and inserting the following new items:

"Subtitle D—National Service Trust and Provision of National Service Educational Awards
"Sec. 145. Establishment of the National Service Trust.
"Sec. 146. Individuals eligible to receive a national service educational award from the Trust.
"Sec. 147. Determination of the amount of the national service educational award.
"Sec. 148. Disbursement of national service educational awards.".

(c) CONFORMING AMENDMENTS.—

(1) FORBEARANCE IN THE COLLECTION OF STAFFORD LOANS.—Section 428 of the Higher Education Act of 1965 (20 U.S.C. 1078) is amended—

(A) in subsection (b)(1)—

(i) by redesignating subparagraphs (W), (X), and (Y) as subparagraphs (X), (Y), and (Z), respectively; and

(ii) by inserting immediately after subparagraph (V) the following new subparagraph:

"(W)(i) provides that, upon written request, a lender shall grant a borrower forbearance on such terms as are otherwise consistent with the regulations of the Secretary, during periods in which the borrower is serving in a national service position, for which the borrower receives a national service educational award under the National and Community Service Trust Act of 1993;

"(ii) provides that clauses (iii) and (iv) of subparagraph (V) shall also apply to a forbearance granted under this subparagraph; and

"(iii) provides that interest shall continue to accrue on a loan for which a borrower receives forbearance under this subparagraph and shall be capitalized or paid by the borrower;"; and

(B) in subsection (c)(3)(A), by striking "subsection (b)(1)(V)" and inserting "subparagraphs (V) and (W) of subsection (b)(1)".

(2) ELIGIBILITY FOR STAFFORD LOAN FORGIVENESS.—Section 428J of the Higher Education Act of 1965 (20 U.S.C. 1078–10) is amended—

(A) in subsection (b)(1), is amended by striking "October 1, 1992" and inserting "October 1, 1989"; and

(B) in subsection (c), by adding at the end the following new paragraph:

"(5) INELIGIBILITY OF NATIONAL SERVICE EDUCATICNAL AWARD RECIPIENTS.—No student borrower may, for the same volunteer service, receive a benefit under both this section and subtitle D of title I of the National and Community Service Act of 1990 (42 U.S.C. 12571 et seq.).".

(3) ELIGIBILITY FOR PERKINS LOAN FORGIVENESS.—Section 465(a) of the Higher Education Act of 1965 (20 U.S.C. 1087ee(a)) is amended by adding at the end the following new paragraph:

"(6) No borrower may, for the same volunteer service, receive a benefit under both this section and subtitle D of title I of the National and Community Service Act of 1990 (42 U.S.C. 12571 et seq.).".

(4) DEFINITION OF INCOME.—Section 480(a)(2) of the Higher Education Act of 1965 (20 U.S.C.

1087vv(a)(2)) is amended by inserting after "by an individual" the following: ", and no portion of a national service educational award or post-service benefit received by an individual under title I of the National and Community Service Act of 1990 (42 U.S.C. 12571 et seq.),".

(5) IMPACT ON GENERAL NEEDS ANALYSIS.—Section 480(j) of the Higher Education Act of 1965 (20 U.S.C. 1087vv(j)) is amended by adding at the end the following new paragraph:

"(3) Notwithstanding paragraph (1), a national service educational award or post-service benefit under title I of the National and Community Service Act of 1990 (42 U.S.C. 12571 et seq.) shall not be treated as financial assistance for purposes of section 471(3).".

SEC. 103. SCHOOL-BASED AND COMMUNITY-BASED SERVICE-LEARNING PROGRAMS.

(a) AMENDMENTS TO SERVE-AMERICA PROGRAMS.—

(1) PURPOSE.—The purpose of this subsection is to improve the Serve-America programs established under part I of subtitle B of the National and Community Service Act of 1990, and to enable the Corporation for National and Community Service, and the entities receiving financial assistance under such part, to—

(A) work with teachers in elementary schools and secondary schools within a community, and with community-based agencies, to create and offer service-learning opportunities for all school-age youth;

(B) educate teachers, and faculty providing teacher training and retraining, about service-learning, and incorporate service-learning opportunities into classroom teaching to strengthen academic learning;

(C) coordinate the work of adult volunteers who work with elementary and secondary schools as part of their community service activities; and

(D) work with employers in the communities to ensure that projects introduce the students to various careers and expose the students to needed further education and training.

(2) PROGRAMS.—Subtitle B of title I of the National and Community Service Act of 1990 (42 U.S.C. 12501 et seq.) is amended by striking the subtitle heading and all that follows through the end of part I and inserting the following:

"Subtitle B—School-Based and Community-Based Service-Learning Programs

"PART I—SERVE-AMERICA PROGRAMS

"Subpart A—School-Based Programs for Students

"SEC. 111. AUTHORITY TO ASSIST STATES AND INDIAN TRIBES.

"(a) USE OF FUNDS.—The Corporation, in consultation with the Secretary of Education, may make grants under section 112(b)(1), and allotments under subsections (a) and (b)(2) of section 112, to States (through State educational agencies), and to Indian tribes, to pay for the Federal share of—

"(1) planning and building the capacity of the States or Indian tribes (which may be accomplished through grants or contracts with qualified organizations) to implement school-based service-learning programs, including—

"(A) providing training for teachers, supervisors, personnel from community-based agencies (particularly with regard to the utilization of participants), and trainers, to be conducted by qualified individuals or organizations that have experience with service-learning;

"(B) developing service-learning curricula to be integrated into academic programs, including the age-appropriate learning component described in section 114(d)(2);

"(C) forming local partnerships described in paragraph (2) or (4) to develop school-based service-learning programs in accordance with this subpart;

"(D) devising appropriate methods for research and evaluation of the educational value of service-learning and the effect of service-learning activities on communities; and

"(E) establishing effective outreach and dissemination of information to ensure the broadest possible involvement of community-based agencies with demonstrated effectiveness in working with school-age youth in their communities;

"(2) implementing, operating, or expanding school-based service-learning programs, which may include paying for the cost of the recruitment, training, supervision, placement, salaries, and benefits of service-learning coordinators, through State distribution of Federal funds made available under this subpart to projects operated by local partnerships among—

"(A) local educational agencies; and

"(B) one or more community partners that—

"(i) shall include a public or private nonprofit organization that—

"(I) has a demonstrated expertise in the provision of services to meet unmet human, educational, environmental, or public safety needs;

"(II) was in existence at least 1 year before the date on which the organization submitted an application under section 114; and

"(III) will make projects available for participants, who shall be students; and

"(ii) may include a private for-profit business or private elementary or secondary school;

"(3) planning of school-based service-learning programs, through State distribution of Federal funds made available under this subpart to local educational agencies, which planning may include paying for the cost of—

"(A) the salaries and benefits of service-learning coordinators; or

"(B) the recruitment, training, supervision, and placement of service-learning coordinators who are participants in a program under subtitle C or receive a national service educational award under subtitle D,

who will identify the community partners described in paragraph (2)(B) and assist in the design and implementation of a program described in paragraph (2); and

"(4) implementing, operating, or expanding school-based service-learning programs involving adult volunteers to utilize service-learning to improve the education of students, through State distribution of Federal funds made available under this part to local partnerships among—

"(A) local educational agencies; and

"(B) one or more—

"(i) public or private nonprofit organizations;

"(ii) other educational agencies; or

"(iii) private for-profit businesses,

that coordinate and operate projects for participants, who shall be students.

"(b) DUTIES OF SERVICE-LEARNING COORDINATOR.—A service-learning coordinator referred to in paragraph (2) or (3) of subsection (a) shall provide services to a local educational agency by—

"(1) providing technical assistance and information to, and facilitating the training of, teachers who want to use service-learning in their classrooms;

"(2) assisting local partnerships described in subsection (a) in the planning, development, and execution of service-learning projects; and

"(3) carrying out such other duties as the local educational agency may determine to be appropriate.

"(c) RELATED EXPENSES.—A partnership, local educational agency, or other qualified organization that receives financial assistance under this subpart may, in carrying out the activities described in subsection (a), use such assistance to pay for the Federal share of reasonable costs related to the supervision of participants, program administration, transportation, insurance, and evaluations, and for other reasonable expenses related to the activities.

"SEC. 111A. AUTHORITY TO ASSIST LOCAL APPLICANTS IN NONPARTICIPATING STATES.

"In any fiscal year in which a State does not submit an application under section 113, for an allotment under subsection (a) or (b)(2) of section 112, that meets the requirements of section 113 and such other requirements as the Chief Executive Officer may determine to be appropriate, the Corporation may use the allotment of that State to make direct grants to pay for the Federal share of the cost of—

"(1) carrying out the activities described in paragraph (2) or (4) of section 111(a), to a local partnership described in such paragraph; or

"(2) carrying out the activities described in paragraph (3) of such section, to an agency described in such paragraph,

that is located in the State.

"SEC. 111B. AUTHORITY TO ASSIST PUBLIC OR PRIVATE NONPROFIT ORGANIZATIONS.

"(a) IN GENERAL.—The Corporation may make grants under section 112(b)(1) to public or private nonprofit organizations that—

"(1) have experience with service-learning;

"(2) were in existence at least 1 year before the date on which the organization submitted an application under section 114(a); and

"(3) meet such other criteria as the Chief Executive Officer may establish.

"(b) USE OF FUNDS.—Such organizations may use grants made under subsection (a) to make grants to partnerships described in paragraph (2) or (4) of section 111(a) to implement, operate, or expand school-based service-learning programs as described in such section and provide technical assistance and training to appropriate persons.

"SEC. 112. GRANTS AND ALLOTMENTS.

"(a) INDIAN TRIBES AND TERRITORIES.—Of the amounts appropriated to carry out this subpart for any fiscal year, the Corporation shall reserve an amount of not more than 3 percent for payments to Indian tribes, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, to be allotted in accordance with their respective needs. The Corporation may also make payments from such amount to Palau, in accordance with its needs, until such time as the Compact of Free Association with Palau is ratified.

"(b) GRANTS AND ALLOTMENTS THROUGH STATES.—The Corporation shall use the remainder of the funds appropriated to carry out this subpart for any fiscal year as follows:

"(1) GRANTS.—Except as provided in paragraph (3), from 25 percent of such remainder, the Corporation may make grants, on a competitive basis, to—

"(A) States and Indian tribes; or

"(B) as described in section 111B, to grantmaking entities.

"(2) ALLOTMENTS.—

"(A) SCHOOL-AGE YOUTH.—Except as provided in paragraph (3), from 37.5 percent of such remainder, the Corporation shall allot to each State an amount that bears the same ratio to 37.5 percent of such remainder as the number of school-age youth in the State bears to the total number of school-age youth of all States.

"(B) ALLOCATION UNDER ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.—Except as provided in paragraph (3), from 37.5 percent of such remainder, the Corporation shall allot to each State an amount that bears the same ratio to 37.5 percent of such remainder as the allocation to the State for the previous fiscal year under chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2711 et seq.) bears to such allocations to all States.

"(3) MINIMUM AMOUNT.—No State shall receive, under paragraph (2), an allotment that is less than the allotment such State received for fiscal year 1993 under section 112(b) of this Act, as in effect on the day before the date of enactment of this part. If the amount of funds made available in a fiscal year to carry out paragraph (2) is insufficient to make such allotments, the Corporation shall make available sums from the 25 percent described in paragraph (1) for such fiscal year to make such allotments.

"(4) DEFINITION.—Notwithstanding section 101(26), for purposes of this subsection, the term 'State' means each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

"(c) REALLOTMENT.—If the Corporation determines that the allotment of a State or Indian tribe under this section will not be required for a fiscal year because the State or Indian tribe does not submit an application for the allotment under section 113 that meets the requirements of such section and such other requirements as the Chief Executive Officer may determine to be appropriate, the Corporation shall, after making any grants under section 111A to a partnership or agency described in such section, make any remainder of such allotment available for reallotment to such other States, and Indian tribes, with approved applications submitted under section 113, as the Corporation may determine to be appropriate.

"(d) EXCEPTION.—Notwithstanding subsections (a) and (b), if less than $20,000,000 is appropriated for any fiscal year to carry out this subpart, the Corporation shall award grants to States and Indian tribes, from the amount so appropriated, on a competitive basis to pay for the Federal share of the activities described in section 111.

"SEC. 113. STATE OR TRIBAL APPLICATIONS.

"(a) SUBMISSION.—To be eligible to receive a grant under section 112(b)(1), an allotment under subsection (a) or (b)(2) of section 112, a reallotment under section 112(c), or a grant under section 112(d), a State, acting through the State educational agency, or an Indian tribe, shall prepare, submit to the Corporation, and obtain approval of, an application at such time and in such manner as the Chief Executive Officer may reasonably require.

"(b) CONTENTS.—An application that is submitted under subsection (a) with respect to service-learning programs described in section 111 shall include—

"(1) a 3-year strategic plan, or a revision of a previously approved 3-year strategic plan, for promoting service-learning through the programs, which plan shall contain such information as the Chief Executive Officer may reasonably require, including information demonstrating that the programs will be carried out in a manner consistent with the approved strategic plan;

"(2) assurances that—

"(A) the applicant will keep such records and provide such information to the Corporation with respect to the programs as may be required for fiscal audits and program evaluation; and

"(B) the applicant will comply with the nonduplication and nondisplacement requirements of section 177 and the grievance procedure requirements of section 176(f); and

"(3) such additional information as the Chief Executive Officer may reasonably require.

"SEC. 114. LOCAL APPLICATIONS.

"(a) APPLICATION TO CORPORATION TO MAKE GRANTS FOR SCHOOL-BASED SERVICE-LEARNING PROGRAMS.—

"(1) IN GENERAL.—To be eligible to receive a grant in accordance with section 111B(a) to make grants relating to school-based service-learning programs described in section 111(a), a grantmaking entity shall prepare, submit to the Corporation, and obtain approval of, an application.

"(2) SUBMISSION.—Such application shall be submitted at such time and in such manner, and shall contain such information, as the Chief Executive Officer may reasonably require. Such application shall include a proposal to assist such programs in more than 1 State.

"(b) DIRECT APPLICATION TO CORPORATION TO CARRY OUT SCHOOL-BASED SERVICE-LEARNING PROGRAMS IN NONPARTICIPATING STATES.—To be eligible to receive a grant from the Corporation in the circumstances described in section 111A to carry out an activity as described in such section, a partnership or agency described in such section shall prepare, submit to the Corporation, and obtain approval of, an application. Such application shall be submitted at such time and in such manner, and shall contain such information, as the Chief Executive Officer may reasonably require.

"(c) APPLICATION TO STATE OR INDIAN TRIBE TO RECEIVE ASSISTANCE TO CARRY OUT SCHOOL-BASED SERVICE-LEARNING PROGRAMS.—

"(1) IN GENERAL.—Any—

"(A) qualified organization that desires to receive financial assistance under this subpart from a State or Indian tribe for an activity described in section 111(a)(1);

"(B) partnership described in section 111(a)(2) that desires to receive such assistance from a State, Indian tribe, or grantmaking entity for an activity described in section 111(a)(2);

"(C) agency described in section 111(a)(3) that desires to receive such assistance from a State or Indian tribe for an activity described in such section; or

"(D) partnership described in section 111(a)(4) that desires to receive such assistance from a State or Indian tribe for an activity described in such section,

to be carried out through a service-learning program described in section 111, shall prepare, submit to the State educational agency, Indian tribe, or grantmaking entity, and obtain approval of, an application for the program.

"(2) SUBMISSION.—Such application shall be submitted at such time and in such manner, and shall contain such information, as the agency, tribe, or entity may reasonably require.

"(d) REGULATIONS.—The Corporation shall by regulation establish standards for the information and assurances required to be contained in an application submitted under subsection (a) or (b) with respect to a service-learning program described in section 111, including, at a minimum, assurances that—

"(1) prior to the placement of a participant, the entity carrying out the program will consult with the appropriate local labor organization, if any, representing employees in the area who are engaged in the same or similar work as that proposed to be carried out by such program, to prevent the displacement and protect the rights of such employees;

"(2) the entity carrying out the program will develop an age-appropriate learning component for participants in the program that shall include a chance for participants to analyze and apply their service experiences; and

"(3) the entity carrying out the program will comply with the nonduplication and nondisplacement requirements of section 177 and the grievance procedure requirements of section 176(f).

"(e) LIMITATION ON SAME PROJECT IN MULTIPLE APPLICATIONS.—No applicant shall submit an application under section 113 or this section, and the Corporation shall reject an application that is submitted under section 113 or this section, if the application describes a project proposed to be conducted using assistance requested by the applicant and the project is already described in another application pending before the Corporation.

"SEC. 115. CONSIDERATION OF APPLICATIONS.

"(a) CRITERIA FOR APPLICATIONS.—In approving applications for financial assistance under subsection (a), (b), (c), or (d) of section 112, the Corporation shall consider such criteria with respect to sustainability, replicability, innovation, and quality of programs under this subpart as the Chief Executive Officer may by regulation specify. In providing assistance under this subpart, a State educational agency, Indian tribe, or grantmaking entity shall consider such criteria.

"(b) PRIORITY FOR LOCAL APPLICATIONS.—In providing assistance under this subpart, a State educational agency or Indian tribe, or the Corporation if section 111A or 111B applies, shall give priority to entities that submit applications under section 114 with respect to service-learning programs described in section 111 that—

"(1) involve participants in the design and operation of the program;

"(2) are in the greatest need of assistance, such as programs targeting low-income areas;

"(3) involve—

"(A) students from public elementary or secondary schools, and students from private elementary or secondary schools, serving together; or

"(B) students of different ages, races, sexes, ethnic groups, disabilities, or economic backgrounds, serving together; or

"(4) are integrated into the academic program of the participants.

"(c) REJECTION OF APPLICATIONS.—If the Corporation rejects an application submitted by a State under section 113 for an allotment under section 112(b)(2), the Corporation shall promptly notify the State of the reasons for the rejection of the application. The Corporation shall provide the State with a reasonable opportunity to revise and resubmit the application and shall provide technical assistance, if needed, to the State as part of the resubmission process. The Corporation shall promptly reconsider such resubmitted application.

"SEC. 115A. PARTICIPATION OF STUDENTS AND TEACHERS FROM PRIVATE SCHOOLS.

"(a) IN GENERAL.—To the extent consistent with the number of students in the State or Indian tribe or in the school district of the local educational agency involved who are enrolled in private nonprofit elementary and secondary schools, such State, Indian tribe, or agency shall (after consultation with appropriate private school representatives) make provision—

"(1) for the inclusion of services and arrangements for the benefit of such students so as to allow for the equitable participation of such students in the programs implemented to carry out the objectives and provide the benefits described in this subpart; and

"(2) for the training of the teachers of such students so as to allow for the equitable participation of such teachers in the programs implemented to carry out the objectives and provide the benefits described in this subpart.

"(b) WAIVER.—If a State, Indian tribe, or local educational agency is prohibited by law from providing for the participation of students or teachers from private nonprofit schools as required by subsection (a), or if the Corporation determines that a State, Indian tribe, or local educational agency substantially fails or is unwilling to provide for such participation on an equitable basis, the Chief Executive Officer shall waive such requirements and shall arrange for the provision of services to such students and teachers. Such waivers shall be subject to consultation, withholding, notice, and judicial review requirements in accordance with paragraphs (3) and (4) of section 1017(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2727(b)).

"SEC. 116. FEDERAL, STATE, AND LOCAL CONTRIBUTIONS.

"(a) SHARE.—

"(1) IN GENERAL.—The Federal share attributable to this subpart of the cost of carrying out a program for which a grant or allotment is made under this subpart may not exceed—

"(A) 90 percent of the total cost of the program for the first year for which the program receives assistance under this subpart;

"(B) 80 percent of the total cost of the program for the second year for which the program receives assistance under this subpart;

"(C) 70 percent of the total cost of the program for the third year for which the program receives assistance under this subpart; and

"(D) 50 percent of the total cost of the program for the fourth year, and for any subsequent year, for which the program receives assistance under this subpart.

"(2) CALCULATION.—In providing for the remaining share of the cost of carrying out such a program, each recipient of assistance under this subpart—

"(A) shall provide for such share through a payment in cash or in kind, fairly evaluated, including facilities, equipment, or services; and

"(B) may provide for such share through State sources, local sources, or Federal sources (other than funds made available under the national service laws).

"(b) WAIVER.—The Chief Executive Officer may waive the requirements of subsection (a) in whole or in part with respect to any such program in any fiscal year if the Corporation determines that such a waiver would be equitable due to a lack of available financial resources at the local level.

"SEC. 116A. LIMITATIONS ON USES OF FUNDS.

"(a) ADMINISTRATIVE COSTS.—

"(1) LIMITATION.—Not more than 5 percent of the amount of assistance provided to a State educational agency, Indian tribe, or grantmaking entity that is the original recipient of a grant or allotment under subsection (a), (b), (c), or (d) of section 112 for a fiscal year may be used to pay for administrative costs incurred by—

"(A) the original recipient; or

"(B) the entity carrying out the service-learning programs supported with the assistance.

"(2) RULES ON USE.—The Chief Executive Officer may by rule prescribe the manner and extent to which—

"(A) such assistance may be used to cover administrative costs; and

"(B) that portion of the assistance available to cover administrative costs should be distributed between—

"(i) the original recipient; and

"(ii) the entity carrying out the service-learning programs supported with the assistance.

"(b) CAPACITY-BUILDING ACTIVITIES.—

"(1) IN GENERAL.—Except as provided in paragraph (2), not less than 10 percent and not more than 15 percent of the amount of assistance provided to a State educational agency or Indian tribe that is the original recipient of a grant or allotment under subsection (a), (b), (c), or (d) of section 112 for a fiscal year may be used to build capacity through training, technical assistance, curriculum development, and coordination activities, described in section 111(a)(1).

"(2) WAIVER.—The Chief Executive Officer may waive the requirements of paragraph (1) in order to permit an agency or a tribe to use not less than 10 percent and not more than 20 percent of such amount to build capacity as provided in paragraph (1). To be eligible to receive such a waiver such an agency or tribe shall submit an application to the Chief Executive Officer at such time, in such manner, and containing such information as the Chief Executive Officer may require.

"(c) LOCAL USES OF FUNDS.—Funds made available under this subpart may not be used to pay any stipend, allowance, or other financial support to any student who is a participant under this subtitle, except reimbursement for transportation, meals, and other reasonable out-of-pocket expenses directly related to participation in a program assisted under this subpart.

"SEC. 116B. DEFINITIONS.

"As used in this subpart:

"(1) GRANTMAKING ENTITY.—The term 'grantmaking entity' means an organization described in section 111B(a).

"(2) SCHOOL-BASED.—The term 'school-based' means based in an elementary school or a secondary school.

"(3) STUDENT.—Notwithstanding section 101(29), the term 'student' means an individual who is enrolled in an elementary or secondary school on a full- or part-time basis.

"Subpart B—Community-Based Service Programs for School-Age Youth

"SEC. 117. DEFINITIONS.

"As used in this subpart:

"(1) COMMUNITY-BASED SERVICE PROGRAM.—The term 'community-based service program' means a program described in section 117A(b)(1)(A).

"(2) GRANTMAKING ENTITY.—The term 'grantmaking entity' means a qualified organization that—

"(A) submits an application under section 117C(a) to make grants to qualified organizations;

"(B) was in existence at least 1 year before the date on which the organization submitted the application; and

"(C) meets such other criteria as the Chief Executive Officer shall establish.

"(3) QUALIFIED ORGANIZATION.—The term 'qualified organization' means a public or private nonprofit organization with experience working with school-age youth that meets such criteria as the Chief Executive Officer may establish.

"SEC. 117A. GENERAL AUTHORITY.

"(a) GRANTS.—From the funds appropriated to carry out this subpart for a fiscal year, the Corporation may make grants to State Commissions, grantmaking entities, and qualified organizations to pay for the Federal share of the implementation, operation, expansion, or replication of community-based service programs.

"(b) USE OF FUNDS.—

"(1) STATE COMMISSIONS AND GRANTMAKING ENTITIES.—A State Commission or grantmaking entity may use a grant made under subsection (a)—

"(A) to make a grant to a qualified organization to implement, operate, expand, or replicate a community-based service program that provides for meaningful human, educational, environmental, or public safety service by participants, who shall be school-age youth; or

"(B) to provide training and technical assistance to such an organization.

"(2) QUALIFIED ORGANIZATIONS.—A qualified organization, other than a grantmaking entity, may use a grant made under subsection (a) to implement, operate, expand, or replicate a program described in paragraph (1)(A).

"SEC. 117B. STATE APPLICATIONS.

"(a) IN GENERAL.—To be eligible to receive a grant under section 117A(a), a State Commission shall prepare, submit to the Corporation, and obtain approval of, an application.

"(b) SUBMISSION.—Such application shall be submitted to the Corporation at such time and in such manner, and shall contain such information, as the Chief Executive Officer may reasonably require.

"(c) CONTENTS.—Such an application shall include, at a minimum, a State plan that contains the information and assurances described in section 117C(d) with respect to each community-based service program proposed to be carried out through funding distributed by the State Commission under this subpart.

"SEC. 117C. LOCAL APPLICATIONS.

"(a) APPLICATION TO CORPORATION TO MAKE GRANTS FOR COMMUNITY-BASED SERVICE PROGRAMS.—To be eligible to receive a grant from the Corporation under section 117A(a) to make grants under section 117A(b)(1), a grantmaking entity shall prepare, submit to the Corporation, and obtain approval of, an application that proposes a community-based service program to be carried out through grants made to qualified organizations. Such application shall be submitted at such time and in such manner, and shall contain such information, as the Chief Executive Officer may reasonably require.

"(b) DIRECT APPLICATION TO CORPORATION TO CARRY OUT COMMUNITY-BASED SERVICE PROGRAMS.—To be eligible to receive a grant from the Corporation under section 117A(a) to implement, operate, expand, or replicate a community service program, a qualified organization shall prepare, submit to the Corporation, and obtain approval of, an application that proposes a community-based service program to be carried out at multiple sites, or that proposes an innovative community-based service program. Such application shall be submitted at such time and in such manner, and shall contain such information, as the Chief Executive Officer may reasonably require.

"(c) APPLICATION TO STATE COMMISSION OR GRANTMAKING ENTITY TO RECEIVE GRANTS TO CARRY OUT COMMUNITY-BASED SERVICE PROGRAMS.—To be eligible to receive a grant from a State Commission or grantmaking entity under section 117A(b)(1), a qualified organization shall prepare, submit to the Commission or entity, and obtain approval of, an application. Such application shall be submitted at such time and in such manner, and shall contain such information, as the Commission or entity may reasonably require.

"(d) REGULATIONS.—The Corporation shall by regulation establish standards for the information and assurances required to be contained in an application submitted under subsection (a) or (b) with respect to a community-based service program, including, at a minimum—

"(1) an assurance that the entity carrying out the program proposed by the applicant will comply with the nonduplication and nondisplacement provisions of section 177 and the grievance procedure requirements of section 176(f);

"(2) an assurance that the entity carrying out the program will, prior to placing a participant in the program, consult with the appropriate local labor organization, if any, representing employees in the area in which the program will be carried out that are engaged in the same or similar work as the work proposed to be carried out by the program, to prevent the displacement of such employees; and

"(3) in the case of an application submitted by a grantmaking entity, information demonstrating that the entity will make grants for a program to—

"(A) carry out activities described in section 117A(b)(1) in two or more States, under circumstances in which the activities carried out under such program can be carried out more efficiently through one program than through two or more programs; and

"(B) carry out the same activities, such as training activities or activities related to exchanging information on service experiences, through each of the projects assisted through the program.

"(e) LIMITATION ON SAME PROJECT IN MULTIPLE APPLICATIONS.—No applicant shall submit an application under section 117B or this section, and the Corporation shall reject an application that is submitted under section 117B or this section, if the application describes a *project proposed to be conducted using assistance requested by the applicant and the project is already described in another application pending before the Corporation.*

"SEC. 117D. CONSIDERATION OF APPLICATIONS.

"(a) Application of Criteria.—The Corporation shall apply the criteria described in subsection (b) in determining whether to approve an application submitted under section 117B or under subsection (a) or (b) of section 117C and to provide assistance under section 117A to the applicant on the basis of the application.

"(b) Assistance Criteria.—In evaluating such an application with respect to a program under this subpart, the Corporation shall consider the criteria established for national service programs under section 133(c).

"(c) Application to Subgrants.—A State Commission or grantmaking entity shall apply the criteria described in subsection (b) in determining whether to approve an application under section 117C(c) and to make a grant under section 117A(b)(1) to the applicant on the basis of the application.

"SEC. 117E. FEDERAL, STATE, AND LOCAL CONTRIBUTIONS.

"(a) Federal Share.—

"(1) In general.—The Federal share attributable to this subpart of the cost of carrying out a program for which a grant is made under this subpart may not exceed the percentage specified in subparagraph (A), (B), (C), or (D) of section 116(a)(1), as appropriate.

"(2) Calculation.—Each recipient of assistance under this subpart shall comply with section 116(a)(2).

"(b) Waiver.—The Chief Executive Officer may waive the requirements of subsection (a), in whole or in part, as provided in section 116(b).

"SEC. 117F. LIMITATIONS ON USES OF FUNDS.

"(a) Administrative Costs.—Not more than 5 percent of the amount of assistance provided to a State Commission, grantmaking entity, or qualified organization that is the original recipient of a grant under section 117A(a) for a fiscal year may be used to pay for administrative costs incurred by—

"(1) the original recipient; or

"(2) the entity carrying out the community-based service programs supported with the assistance.

"(b) Rules on Use.—The Chief Executive Officer may by rule prescribe the manner and extent to which—

"(1) such assistance may be used to cover administrative costs; and

"(2) that portion of the assistance available to cover administrative costs should be distributed between—

"(A) the original recipient; and

"(B) the entity carrying out the community-based service programs supported with the assistance.

"Subpart C—Clearinghouse

"SEC. 118. SERVICE-LEARNING CLEARINGHOUSE.

"(a) In General.—The Corporation shall provide financial assistance, from funds appropriated to carry out subtitle H, to organizations described in subsection (b) to establish a clearinghouse, which shall carry out activities, either directly or by arrangement with another such organization, with respect to information about service-learning.

"(b) Public or Private Nonprofit Organizations.—Public or private nonprofit organizations that have extensive experience with service-learning, including use of adult volunteers to foster service-learning, shall be eligible to receive assistance under subsection (a).

"(c) Function of Clearinghouse.—An organization that receives assistance under subsection (a) may—

"(1) assist entities carrying out State or local service-learning programs with needs assessments and planning;

"(2) conduct research and evaluations concerning service-learning;

"(3)(A) provide leadership development and training to State and local service-learning program administrators, supervisors, service sponsors, and participants; and

"(B) provide training to persons who can provide the leadership development and training described in subparagraph (A);

"(4) facilitate communication among entities carrying out service-learning programs and participants in such programs;

"(5) provide information, curriculum materials, and technical assistance relating to planning and operation of service-learning programs, to States and local entities eligible to receive financial assistance under this title;

"(6) provide information regarding methods to make service-learning programs accessible to individuals with disabilities;

"(7)(A) gather and disseminate information on successful service-learning programs, components of such successful programs, innovative youth skills curricula related to service-learning, and service-learning projects; and

"(B) coordinate the activities of the Clearinghouse with appropriate entities to avoid duplication of effort;

"(8) make recommendations to State and local entities on quality controls to improve the quality of service-learning programs;

"(9) assist organizations in recruiting, screening, and placing service-learning coordinators; and

"(10) carry out such other activities as the Chief Executive Officer determines to be appropriate.".

(b) Higher Education Innovative Projects.—Subtitle B of title I of the National and Community Service Act of 1990 (42 U.S.C. 12531 et seq.) is amended by striking part II and inserting the following:

"PART II—HIGHER EDUCATION INNOVATIVE PROGRAMS FOR COMMUNITY SERVICE

"SEC. 119. HIGHER EDUCATION INNOVATIVE PROGRAMS FOR COMMUNITY SERVICE.

"(a) Purpose.—It is the purpose of this part to expand participation in community service by supporting innovative community service programs carried out through institutions of higher education, acting as civic institutions to meet the human, educational, environmental, or public safety needs of neighboring communities.

"(b) General Authority.—The Corporation, in consultation with the Secretary of Education, is authorized to make grants to, and enter into contracts with, institutions of higher education (including a combination of such institutions), and partnerships comprised of such institutions and of other public or private nonprofit organizations, to pay for the Federal share of the cost of—

"(1) enabling such an institution or partnership to create or expand an organized community service program that—

"(A) engenders a sense of social responsibility and commitment to the community in which the institution is located; and

"(B) provides projects for participants, who shall be students, faculty, administration, or staff of the institution, or residents of the community;

"(2) supporting student-initiated and student-designed community service projects through the program;

"(3) strengthening the leadership and instructional capacity of teachers at the elementary, secondary, and postsecondary levels, with respect to service-learning, by—

"(A) including service-learning as a key component of the preservice teacher education of the institution; and

"(B) encouraging the faculty of the institution to use service-learning methods throughout their curriculum;

"(4) facilitating the integration of community service carried out under the program into academic curricula, including integration of clinical programs into the curriculum for students in professional schools, so that students can obtain credit for their community service projects;

"(5) supplementing the funds available to carry out work-study programs under part C of title IV of the Higher Education Act of 1965 (42 U.S.C. 2751 et seq.) to support service-learning and community service through the community service program;

"(6) strengthening the service infrastructure within institutions of higher education in the United States through the program; and

"(7) providing for the training of teachers, prospective teachers, related education personnel, and community leaders in the skills necessary to develop, supervise, and organize service-learning.

"(c) Federal Share.—

"(1) Share.—

"(A) In general.—The Federal share of the cost of carrying out a community service project for which a grant or contract is awarded under this part may not exceed 50 percent.

"(B) Calculation.—Each recipient of assistance under this part shall comply with section 116(a)(2).

"(2) Waiver.—The Chief Executive Officer may waive the requirements of paragraph (1), in whole or in part, as provided in section 116(b).

"(d) Application for Grant.—

"(1) Submission.—To receive a grant or enter into a contract under this part, an institution or partnership described in subsection (b) shall prepare, submit to the Corporation, and obtain approval of, an application at such time, in such manner, and containing such information and assurances as the Corporation may reasonably require. In requesting applications for assistance under this part, the Corporation shall specify such required information and assurances.

"(2) Contents.—An application submitted under paragraph (1) shall contain, at a minimum—

"(A) assurances that—

"(i) prior to the placement of a participant, the applicant will consult with the appropriate local labor organization, if any, representing employees in the area who are engaged in the same or similar work as that proposed to be carried out by such program, to prevent the displacement and protect the rights of such employees; and

"(ii) the applicant will comply with the nonduplication and nondisplacement provisions of section 177 and grievance procedure requirements of section 176(f); and

"(B) such other assurances as the Chief Executive Officer may reasonably require.

"(e) Priority.—

"(1) In general.—In making grants and entering into contracts under subsection (b), the Corporation shall give priority to applicants that submit applications containing proposals that—

"(A) demonstrate the commitment of the institution of higher education, other than by demonstrating the commitment of the students, to supporting the community service projects carried out under the program;

"(B) specify the manner in which the institution will promote faculty, administration, and staff participation in the community service projects;

"(C) specify the manner in which the institution will provide service to the community through organized programs, including, where appropriate, clinical programs for students in professional schools;

"(D) describe any partnership that will participate in the community service projects, such as a partnership comprised of—

"(i) the institution;

"(ii)(I) a community-based agency;

"(II) a local government agency; or

"(III) a nonprofit entity that serves or involves school-age youth or older adults; and

"(iii) a student organization;

"(E) demonstrate community involvement in the development of the proposal;

"(F) specify that the institution will use such assistance to strengthen the service infrastructure in institutions of higher education; or

"(G) with respect to projects involving delivery of service, specify projects that involve leadership development of school-age youth.

"(2) DETERMINATION.—In giving priority to applicants under paragraph (1), the Corporation shall give increased priority to such an applicant for each characteristic described in subparagraphs (A) through (G) of paragraph (1) that is reflected in the application submitted by the applicant.

"(f) NATIONAL SERVICE EDUCATIONAL AWARD.—A participant in a program funded under this part shall be eligible for the national service educational award described in subtitle D, if the participant served in an approved national service position.

"(g) DEFINITION.—Notwithstanding section 101(29), as used in this part, the term 'student' means an individual who is enrolled in an institution of higher education on a full- or part-time basis.".

(c) TABLE OF CONTENTS.—Section 1(b) of the National and Community Service Act of 1990 (Public Law 101–610; 104 Stat. 3127) is amended by striking the items relating to subtitle B of title I of such Act and inserting the following:

"Subtitle B—School-Based and Community-Based Service-Learning Programs

"PART I—SERVE-AMERICA PROGRAMS

"SUBPART A—SCHOOL-BASED PROGRAMS FOR STUDENTS

"Sec. 111. Authority to assist States and Indian tribes.
"Sec. 111A. Authority to assist local applicants in nonparticipating States.
"Sec. 111B. Authority to assist public or private nonprofit organizations.
"Sec. 112. Grants and allotments.
"Sec. 113. State or tribal applications.
"Sec. 114. Local applications.
"Sec. 115. Consideration of applications.
"Sec. 115A. Participation of students and teachers from private schools.
"Sec. 116. Federal, State, and local contributions.
"Sec. 116A. Limitations on uses of funds.
"Sec. 116B. Definitions.

"SUBPART B—COMMUNITY-BASED SERVICE PROGRAMS FOR SCHOOL-AGE YOUTH

"Sec. 117. Definitions.
"Sec. 117A. General authority.
"Sec. 117B. State applications.
"Sec. 117C. Local applications.
"Sec. 117D. Consideration of applications.
"Sec. 117E. Federal, State, and local contributions.
"Sec. 117F. Limitations on uses of funds.

"SUBPART C—CLEARINGHOUSE

"Sec. 118. Service-learning clearinghouse.

"PART II—HIGHER EDUCATION INNOVATIVE PROGRAMS FOR COMMUNITY SERVICE

"Sec. 119. Higher education innovative programs for community service.".

SEC. 104. QUALITY AND INNOVATION ACTIVITIES.

(a) REPEAL.—Subtitle E of title I of the National and Community Service Act of 1990 (42 U.S.C. 12591 et seq.) is repealed.

(b) TRANSFER.—Title I of the National and Community Service Act of 1990 is amended—

(1) by redesignating subtitle H (42 U.S.C. 12653 et seq.) as subtitle E;

(2) by inserting subtitle E (as redesignated by paragraph (1) of this subsection) after subtitle D; and

(3) by redesignating sections 195 through 195O as sections 151 through 166, respectively.

(c) INVESTMENT FOR QUALITY AND INNOVATION.—Title I of the National and Community Service Act of 1990 (as amended by subsection (b) of this section) is amended by inserting after subtitle G the following new subtitle:

"Subtitle H—Investment for Quality and Innovation

"SEC. 198. ADDITIONAL CORPORATION ACTIVITIES TO SUPPORT NATIONAL SERVICE.

"(a) METHODS OF CONDUCTING ACTIVITIES.—The Corporation may carry out this section directly (except as provided in subsection (r)) or through grants, contracts, and cooperative agreements with other entities.

"(b) INNOVATION AND QUALITY IMPROVEMENT.—The Corporation may undertake activities to improve the quality of national service programs, including service-learning programs, and to support innovative and model programs, including—

"(1) programs, including programs for rural youth, under subtitle B or C;

"(2) employer-based retiree programs;

"(3) intergenerational programs;

"(4) programs involving individuals with disabilities as participants providing service; and

"(5) programs sponsored by Governors.

"(c) SUMMER PROGRAMS.—The Corporation may support service programs intended to be carried out between May 1 and October 1, except that such a program may also include a year-round component.

"(d) COMMUNITY-BASED AGENCIES.—The Corporation may provide training and technical assistance and other assistance to service sponsors and other community-based agencies that provide volunteer placements in order to improve the ability of such agencies to use participants and other volunteers in a manner that results in high-quality service and a positive service experience for the participants and volunteers.

"(e) IMPROVE ABILITY TO APPLY FOR ASSISTANCE.—The Corporation shall provide training and technical assistance, where necessary, to individuals, programs, local labor organizations, State educational agencies, State Commissions, local educational agencies, local governments, community-based agencies, and other entities to enable them to apply for funding under one of the national service laws, to conduct high-quality programs, to evaluate such programs, and for other purposes.

"(f) NATIONAL SERVICE FELLOWSHIPS.—The Corporation may award national service fellowships.

"(g) CONFERENCES AND MATERIALS.—The Corporation may organize and hold conferences, and prepare and publish materials, to disseminate information and promote the sharing of information among programs for the purpose of improving the quality of programs and projects.

"(h) PEACE CORPS AND VISTA TRAINING.—The Corporation may provide training assistance to selected individuals who volunteer to serve in the Peace Corps or a program authorized under title I of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4951 et seq.). The training shall be provided as part of the course of study of the individual at an institution of higher education, shall involve service-learning, and shall cover appropriate skills that the individual will use in the Peace Corps or VISTA.

"(i) PROMOTION AND RECRUITMENT.—The Corporation may conduct a campaign to solicit funds for the National Service Trust and other programs and activities authorized under the national service laws and to promote and recruit participants for programs that receive assistance under the national service laws.

"(j) TRAINING.—The Corporation may support national and regional participant and supervisor training, including leadership training and training in specific types of service and in building the ethic of civic responsibility.

"(k) RESEARCH.—The Corporation may support research on national service, including service-learning.

"(l) INTERGENERATIONAL SUPPORT.—The Corporation may assist programs in developing a service component that combines students, out-of-school youths, and older adults as participants to provide needed community services.

"(m) PLANNING COORDINATION.—The Corporation may coordinate community-wide planning among programs and projects.

"(n) YOUTH LEADERSHIP.—The Corporation may support activities to enhance the ability of youth and young adults to play leadership roles in national service.

"(o) NATIONAL PROGRAM IDENTITY.—The Corporation may support the development and dissemination of materials, including training materials, and arrange for uniforms and insignia, designed to promote unity and shared features among programs that receive assistance under the national service laws.

"(p) SERVICE-LEARNING.—The Corporation shall support innovative programs and activities that promote service-learning.

"(q) NATIONAL YOUTH SERVICE DAY.—

"(1) DESIGNATION.—April 19, 1994, and April 18, 1995 are each designated as 'National Youth Service Day'. The President is authorized and directed to issue a proclamation calling on the people of the United States to observe the day with appropriate ceremonies and activities.

"(2) FEDERAL ACTIVITIES.—In order to observe National Youth Service Day at the Federal level, the Corporation may organize and carry out appropriate ceremonies and activities.

"(3) ACTIVITIES.—The Corporation may make grants to public or private nonprofit organizations with demonstrated ability to carry out appropriate activities, in order to support such activities on National Youth Service Day.

"(r) ASSISTANCE FOR HEAD START.—The Corporation may make grants to, and enter into contracts and cooperative agreements with, public or nonprofit private agencies and organizations that receive grants or contracts under the Foster Grandparent Program (part B of title II of the Domestic Volunteer Service Act of 1973 (29 U.S.C. 5011 et seq.)), for projects of the type described in section 211(a) of such Act (29 U.S.C. 5011) operating under memoranda of agreement with the ACTION Agency, for the purpose of increasing the number of low-income individuals who provide services under such program to children who participate in Head Start programs under the Head Start Act (42 U.S.C 9831 et seq).

"SEC. 198A. CLEARINGHOUSES.

"(a) ASSISTANCE.—The Corporation shall provide assistance to appropriate entities to establish one or more clearinghouses, including the clearinghouse described in section 118.

"(b) APPLICATION.—To be eligible to receive assistance under subsection (a), an entity shall submit an application to the Corporation at such time, in such manner, and containing such information as the Corporation may require.

"(c) FUNCTION OF CLEARINGHOUSES.—An entity that receives assistance under subsection (a) may—

"(1) assist entities carrying out State or local community service programs with needs assessments and planning;

"(2) conduct research and evaluations concerning community service;

"(3)(A) provide leadership development and training to State and local community service

program administrators, supervisors, and participants; and

"(B) provide training to persons who can provide the leadership development and training described in subparagraph (A);

"(4) facilitate communication among entities carrying out community service programs and participants;

"(5) provide information, curriculum materials, and technical assistance relating to planning and operation of community service programs, to States and local entities eligible to receive funds under this title;

"(6)(A) gather and disseminate information on successful community service programs, components of such successful programs, innovative youth skills curriculum, and community service projects; and

"(B) coordinate the activities of the clearinghouse with appropriate entities to avoid duplication of effort;

"(7) make recommendations to State and local entities on quality controls to improve the delivery of community service programs and on changes in the programs under this title; and

"(8) carry out such other activities as the Chief Executive Officer determines to be appropriate.

"SEC. 198B. PRESIDENTIAL AWARDS FOR SERVICE.

"(a) PRESIDENTIAL AWARDS.—

"(1) IN GENERAL.—The President, acting through the Corporation, may make Presidential awards for service to individuals providing significant service, and to outstanding service programs.

"(2) INDIVIDUALS AND PROGRAMS.—Notwithstanding section 101(19)—

"(A) an individual receiving an award under this subsection need not be a participant in a program authorized under this Act; and

"(B) a program receiving an award under this subsection need not be a program authorized under this Act.

"(3) NATURE OF AWARD.—In making an award under this section to an individual or program, the President, acting through the Corporation—

"(A) is authorized to incur necessary expenses for the honorary recognition of the individual or program; and

"(B) is not authorized to make a cash award to such individual or program.

"(b) INFORMATION.—The President, acting through the Corporation, shall ensure that information concerning individuals and programs receiving awards under this section is widely disseminated.

"SEC. 198C. MILITARY INSTALLATION CONVERSION DEMONSTRATION PROGRAMS.

"(a) PURPOSES.—The purposes of this section are to—

"(1) provide meaningful service opportunities for economically disadvantaged youth;

"(2) fully utilize military installations affected by closures or realignments;

"(3) encourage communities affected by such closures or realignments to convert the installations to community use; and

"(4) foster a sense of community pride in the youth in the community.

"(b) DEFINITIONS.—As used in this section:

"(1) AFFECTED MILITARY INSTALLATION.—The term 'affected military installation' means a military installation described in section 325(e)(1) of the Job Training Partnership Act (29 U.S.C. 1662d(e)(1)).

"(2) COMMUNITY.—The term 'community' includes a county.

"(3) CONVERT TO COMMUNITY USE.—The term 'convert to community use', used with respect to an affected military installation, includes—

"(A) conversion of the installation or a part of the installation to—

"(i) a park;

"(ii) a community center;

"(iii) a recreational facility; or

"(iv) a facility for a Head Start program under the Head Start Act (42 U.S.C. 9831 et seq.); and

"(B) carrying out, at the installation, a construction or economic development project that is of substantial benefit, as determined by the Chief Executive Officer, to—

"(i) the community in which the installation is located; or

"(ii) a community located within such distance of the installation as the Chief Executive Officer may determine by regulation to be appropriate.

"(4) DEMONSTRATION PROGRAM.—The term 'demonstration program' means a program described in subsection (c).

"(c) DEMONSTRATION PROGRAMS.—

"(1) GRANTS.—The Corporation may make grants to communities and community-based agencies to pay for the Federal share of establishing and carrying out military installation conversion demonstration programs, to assist in converting to community use affected military installations located—

"(A) within the community; or

"(B) within such distance from the community as the Chief Executive Officer may by regulation determine to be appropriate.

"(2) DURATION.—In carrying out such a demonstration program, the community or community-based agency may carry out—

"(A) a program of not less than 6 months in duration; or

"(B) a full-time summer program.

"(d) USE OF FUNDS.—

"(1) STIPEND.—A community or community-based agency that receives a grant under subsection (c) to establish and carry out a project through a demonstration program may use the funds made available through such grant to pay for a portion of a stipend for the participants in the project.

"(2) LIMITATION ON AMOUNT OF STIPEND.—The amount of the stipend provided to a participant under paragraph (1) that may be paid using assistance provided under this section and using any other Federal funds shall not exceed the lesser of—

"(A) 85 percent of the total average annual subsistence allowance provided to VISTA volunteers under section 105 of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4955); and

"(B) 85 percent of the stipend established by the demonstration program involved.

"(e) PARTICIPANTS.—

"(1) ELIGIBILITY.—A person shall be eligible to be selected as a participant in a project carried out through a demonstration program if the person is—

"(A) an economically disadvantaged individual; and

"(B)(i) a person described in section 153(b);

"(ii) a youth described in section 154(a); or

"(iii) an eligible youth described in section 423 of the Job Training Partnership Act (29 U.S.C. 1693).

"(2) PARTICIPATION.—Persons desiring to participate in such a project shall enter into an agreement with the service sponsor of the project to participate—

"(A) on a full-time or a part-time basis; and

"(B) for the duration referred to in subsection (f)(2)(C).

"(f) APPLICATION.—

"(1) IN GENERAL.—To be eligible to receive a grant under subsection (c), a community or community-based agency shall submit an application to the Chief Executive Officer at such time, in such manner, and containing such information as the Chief Executive Officer may require.

"(2) CONTENTS.—At a minimum, such application shall contain—

"(A) a description of the demonstration program proposed to be conducted by the applicant;

"(B) a proposal for carrying out the program that describes the manner in which the applicant will—

"(i) provide preservice and inservice training, for supervisors and participants, that will be conducted by qualified individuals or qualified organizations;

"(ii) conduct an appropriate evaluation of the program; and

"(iii) provide for appropriate community involvement in the program;

"(C) information indicating the duration of the program; and

"(D) an assurance that the applicant will comply with the nonduplication and nondisplacement provisions of section 177 and the grievance procedure requirements of section 176(f).

"(g) LIMITATION ON GRANT.—In making a grant under subsection (c) with respect to a demonstration program to assist in converting an affected military installation, the Corporation shall not make a grant for more than 25 percent of the total cost of the conversion.

"SEC. 198D. SPECIAL DEMONSTRATION PROJECT.

"(a) SPECIAL DEMONSTRATION PROJECT FOR THE YUKON-KUSKOKWIM DELTA OF ALASKA.—The President may award grants to, and enter into contracts with, organizations to carry out programs that address significant human needs in the Yukon-Kuskokwim delta region of Alaska.

"(b) APPLICATION.—

"(1) GENERAL REQUIREMENTS.—To be eligible to receive a grant or enter into a contract under subsection (a) with respect to a program, an organization shall submit an application to the President at such time, in such manner, and containing such information as the President may require.

"(2) CONTENTS.—The application submitted by the organization shall, at a minimum—

"(A) include information describing the manner in which the program will utilize VISTA volunteers, individuals who have served in the Peace Corps, and other qualified persons, in partnership with the local nonprofit organizations known as the Yukon-Kuskokwim Health Corporation and the Alaska Village Council Presidents;

"(B) take into consideration—

"(i) the primarily noncash economy of the region; and

"(ii) the needs and desires of residents of the local communities in the region; and

"(C) include specific strategies, developed in cooperation with the Yupi'k speaking population that resides in such communities, for comprehensive and intensive community development for communities in the Yukon-Kuskokwim delta region.".

(d) TABLE OF CONTENTS.—

(1) CIVILIAN COMMUNITY CORPS.—Section 1(b) of the National and Community Service Act of 1990 (Public Law 101-610; 104 Stat. 3127) is amended by striking the items relating to subtitle E of title I of such Act and inserting the following:

"Subtitle E—Civilian Community Corps

"Sec. 151. Purpose.
"Sec. 152. Establishment of Civilian Community Corps Demonstration Program.
"Sec. 153. National service program.
"Sec. 154. Summer national service program.
"Sec. 155. Civilian Community Corps.
"Sec. 156. Training.
"Sec. 157. Service projects.
"Sec. 158. Authorized benefits for Corps members.
"Sec. 159. Administrative provisions.
"Sec. 160. Status of Corps members and Corps personnel under Federal law.

''Sec. 161. Contract and grant authority.
''Sec. 162. Responsibilities of other departments.
''Sec. 163. Advisory board.
''Sec. 164. Annual evaluation.
''Sec. 165. Funding limitation.
''Sec. 166. Definitions.''.

(2) QUALITY AND INNOVATION.—Section 1(b) of the National and Community Service Act of 1990 (Public Law 101–610; 104 Stat. 3127) is amended by striking the items relating to subtitle H of title I of such Act and inserting the following:

''Subtitle H—Investment for Quality and Innovation

''Sec. 198. Additional corporation activities to support national service.
''Sec. 198A. Clearinghouses.
''Sec. 198B. Presidential awards for service.
''Sec. 198C. Military installation conversion demonstration programs.
''Sec. 198D. Special demonstration project.''.

(e) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1993.—

(A) Section 1091(f)(2) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484) is amended by striking ''195G'' and inserting ''158''.

(B) Paragraphs (1) and (2) of section 1092(b), and sections 1092(c), 1093(a), and 1094(a) of such Act are amended by striking ''195A'' and inserting ''152''.

(C) Sections 1091(f)(2), 1092(b)(1), and 1094(a), and subsections (a) and (c) of section 1095 of such Act are amended by striking ''subtitle H'' and inserting ''subtitle E''.

(D) Section 1094(b)(1) and subsections (b) and (c)(1) of section 1095 of such Act are amended by striking ''subtitles B, C, D, E, F, and G'' and inserting ''subtitles B, C, D, F, G, and H''.

(2) NATIONAL AND COMMUNITY SERVICE ACT OF 1990.—

(A) Section 153(a) of the National and Community Service Act of 1990 (as redesignated in subsection (b)(3) of this section) (42 U.S.C. 12653b(a)) is amended by striking ''195A(a)'' and inserting ''152(a)''.

(B) Section 154(a) of such Act (as redesignated in subsection (b)(3) of this section) (42 U.S.C. 12653c(a)) is amended by striking ''195A(a)'' and inserting ''152(a)''.

(C) Section 155 of such Act (as redesignated in subsection (b)(3) of this section) (42 U.S.C. 12653d) is amended—

(i) in subsection (a), by striking ''195H(c)(1)'' and inserting ''159(c)(1)'';

(ii) in subsection (c)(2), by striking ''195H(c)(2)'' and inserting ''159(c)(2)''; and

(iii) in subsection (d)(3), by striking ''195K(a)(3)'' and inserting ''162(a)(3)''.

(D) Section 156 of such Act (as redesignated in subsection (b)(3) of this section) (42 U.S.C. 12653e) is amended—

(i) in subsection (c)(1), by striking ''195H(c)(2)'' and inserting ''159(c)(2)''; and

(ii) in subsection (d), by striking ''195K(a)(3)'' and inserting ''162(a)(3)''.

(E) Section 159 of such Act (as redesignated in subsection (b)(3) of this section) (42 U.S.C. 12653h) is amended—

(i) in subsection (a)—

(I) by striking ''195A'' and inserting ''152''; and

(II) in paragraph (2), by striking ''195'' and inserting ''151''; and

(ii) in subsection (c)(2)(C)(i), by striking ''195K(a)(2)'' and inserting ''section 162(a)(2)''.

(F) Section 161(b)(1)(B) of such Act (as redesignated in subsection (b)(3) of this section) (42 U.S.C. 12653j(b)(1)(B)) is amended by striking ''195K(a)(3)'' and inserting ''162(a)(3)''.

(G) Section 162(a)(2)(A) of such Act (as redesignated in subsection (b)(3) of this section) (42 U.S.C. 12653k(a)(2)(A)) is amended by striking ''195(3)'' and inserting ''151(3)''.

(H) Section 166 of such Act (as redesignated in subsection (b)(3) of this section) (42 U.S.C. 12653o) is amended—

(i) in paragraph (2), by striking ''195D'' and inserting ''155'';

(ii) in paragraph (8), by striking ''195A'' and inserting ''152'';

(iii) in paragraph (10), by striking ''195D(d)'' and inserting ''155(d)''; and

(iv) in paragraph (11), by striking ''195D(c)'' and inserting ''155(c)''.

(f) EXTENSION OF AUTHORITY TO CONDUCT CIVILIAN COMMUNITY CORPS.—Section 1092(c) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2534), as amended by subsection (e)(1) of this section, is further amended by adding at the end the following new sentence: ''The amount made available for the Civilian Community Corps Demonstration Program pursuant to this subsection shall remain available for expenditure during fiscal years 1993 and 1994.''.

(g) ADDITIONAL AMENDMENT REGARDING CIVILIAN COMMUNITY CORPS.—Section 158 of the National and Community Service Act of 1990 (as redesignated in subsection (b)(3) of this section) (42 U.S.C. 12653g) is amended by striking subsections (f), (g), and (h) and inserting the following new subsections:

''(f) NATIONAL SERVICE EDUCATIONAL AWARDS.—A Corps member who successfully completes a period of agreed service in the Corps may receive the national service educational award described in subtitle D if the Corps member—

''(1) serves in an approved national service position; and

''(2) satisfies the eligibility requirements specified in section 146 with respect to service in that approved national service position.

''(g) ALTERNATIVE BENEFIT.—If a Corps member who successfully completes a period of agreed service in the Corps is ineligible for the national service educational award described in subtitle D, the Director may provide for the provision of a suitable alternative benefit for the Corps member.''.

SEC. 105. PUBLIC LANDS CORPS.

Public Law 91–378 (16 U.S.C. 1701–1706; commonly known as the Youth Conservation Corps Act of 1970) is amended—

(1) by inserting before section 1 the following:

''TITLE I—YOUTH CONSERVATION CORPS'';

(2) by striking ''Act'' each place it appears and inserting ''title'';

(3) by redesignating sections 1 through 6 as sections 101 through 106, respectively;

(4) in section 102 (as so redesignated), by inserting ''in this title'' after ''hereinafter'' in subsection (a);

(5) in section 104 (as so redesignated), by striking ''section 6'' in subsection (d) and inserting ''section 106''; and

(6) by adding at the end the following new title:

''TITLE II—PUBLIC LANDS CORPS

''SEC. 201. SHORT TITLE.

''This title may be cited as the 'Public Lands Corps Act of 1993'.

''SEC. 202. CONGRESSIONAL FINDINGS AND PURPOSE.

''(a) FINDINGS.—The Congress finds the following:

''(1) Conserving or developing natural and cultural resources and enhancing and maintaining environmentally important lands and waters through the use of the Nation's young men and women in a Public Lands Corps can benefit those men and women by providing them with education and work opportunities, furthering their understanding and appreciation of the natural and cultural resources, and providing a means to pay for higher education or to repay indebtedness they have incurred to obtain higher education while at the same time benefiting the Nation's economy and its environment.

''(2) Many facilities and natural resources located on eligible service lands are in disrepair or degraded and in need of labor intensive rehabilitation, restoration, and enhancement work which cannot be carried out by Federal agencies at existing personnel levels.

''(3) Youth conservation corps have established a good record of restoring and maintaining these kinds of facilities and resources in a cost effective and efficient manner, especially when they have worked in partnership arrangements with government land management agencies.

''(b) PURPOSE.—It is the purpose of this title to—

''(1) perform, in a cost-effective manner, appropriate conservation projects on eligible service lands where such projects will not be performed by existing employees;

''(2) assist governments and Indian tribes in performing research and public education tasks associated with natural and cultural resources on eligible service lands;

''(3) expose young men and women to public service while furthering their understanding and appreciation of the nation's natural and cultural resources;

''(4) expand educational opportunities by rewarding individuals who participate in national service with an increased ability to pursue higher education or job training; and

''(5) stimulate interest among the nation's young men and women in conservation careers by exposing them to conservation professionals in land managing agencies.

''SEC. 203. DEFINITIONS.

''For purposes of this title:

''(1) APPROPRIATE CONSERVATION PROJECT.—The term 'appropriate conservation project' means any project for the conservation, restoration, construction or rehabilitation of natural, cultural, historic, archaeological, recreational, or scenic resources.

''(2) CORPS AND PUBLIC LANDS CORPS.—The terms 'Corps' and 'Public Lands Corps' mean the Public Lands Corps established under section 204.

''(3) ELIGIBLE SERVICE LANDS.—The term 'eligible service lands' means public lands, Indian lands, and Hawaiian home lands.

''(4) HAWAIIAN HOME LANDS.—The term 'Hawaiian home lands' means all lands given the status of Hawaiian home lands under section 204 of the Hawaiian Homes Commission Act, 1920 (42 Stat. 110), or under the corresponding provision of the Constitution of the State of Hawaii adopted under section 4 of the Act entitled 'An Act to provide for the admission of the State of Hawaii into the Union', approved March 18, 1959 (Public Law 86–3; 73 Stat. 5).

''(5) INDIAN.—The term 'Indian' means a person who—

''(A) is a member of an Indian tribe; or

''(B) is a 'Native', as defined in section 3(b) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(b)).

''(6) INDIAN LANDS.—The term 'Indian lands' means—

''(A) any Indian reservation;

''(B) any public domain Indian allotments;

''(C) any former Indian reservation in the State of Oklahoma;

''(D) any land held by incorporated Native groups, regional corporations, and village corporations under the Alaska Native Claims Settlement Act (43 U.S.C. 1701 et seq.); and

''(E) any land held by dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a State.

"(7) INDIAN TRIBE.—The term 'Indian tribe' means an Indian tribe, band, nation, or other organized group or community, including any Native village, Regional Corporation, or Village Corporation, as defined in subsection (c), (g), or (j), respectively, of section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602 (c), (g), or (j)), that is recognized as eligible for the special programs and services provided by the United States under Federal law to Indians because of their status as Indians.

"(8) PUBLIC LANDS.—The term 'public lands' means any lands or waters (or interest therein) owned or administered by the United States, except that such term does not include any Indian lands.

"(9) QUALIFIED YOUTH OR CONSERVATION CORPS.—The term 'qualified youth or conservation corps' means any program established by a State or local government, by the governing body of any Indian tribe, or by a nonprofit organization that—

"(A) is capable of offering meaningful, full-time, productive work for individuals between the ages of 16 and 25, inclusive, in a natural or cultural resource setting;

"(B) gives participants a mix of work experience, basic and life skills, education, training, and support services; and

"(C) provides participants with the opportunity to develop citizenship values and skills through service to their community and the United States.

"(10) RESOURCE ASSISTANT.—The term 'resource assistant' means a resource assistant selected under section 206.

"(11) STATE.—The term 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands of the United States, American Samoa, and the Commonwealth of the Northern Mariana Islands.

"SEC. 204. PUBLIC LANDS CORPS PROGRAM.

"(a) ESTABLISHMENT OF PUBLIC LANDS CORPS.—There is hereby established in the Department of the Interior and the Department of Agriculture a Public Lands Corps.

"(b) PARTICIPANTS.—The Corps shall consist of individuals between the ages of 16 and 25, inclusive, who are enrolled as participants in the Corps by the Secretary of the Interior or the Secretary of Agriculture. To be eligible for enrollment in the Corps, an individual shall satisfy the criteria specified in section 137(b) of the National and Community Service Act of 1990. The Secretaries may enroll such individuals in the Corps without regard to the civil service and classification laws, rules, or regulations of the United States. The Secretaries may establish a preference for the enrollment in the Corps of individuals who are economically, physically, or educationally disadvantaged.

"(c) QUALIFIED YOUTH OR CONSERVATION CORPS.—The Secretary of the Interior and the Secretary of Agriculture are authorized to enter into contracts and cooperative agreements with any qualified youth or conservation corps to perform appropriate conservation projects referred to in subsection (d).

"(d) PROJECTS TO BE CARRIED OUT.—The Secretary of the Interior and the Secretary of Agriculture may each utilize the Corps or any qualified youth or conservation corps to carry out appropriate conservation projects which such Secretary is authorized to carry out under other authority of law on public lands. Appropriate conservation projects may also be carried out under this title on Indian lands with the approval of the Indian tribe involved and on Hawaiian home lands with the approval of the Department of Hawaiian Home Lands of the State of Hawaii. The Secretaries may also authorize appropriate conservation projects and other appropriate projects to be carried out on Federal, State, local, or private lands as part of disaster prevention or relief efforts in response to an emergency or major disaster declared by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

"(e) PREFERENCE FOR CERTAIN PROJECTS.—In selecting appropriate conservation projects to be carried out under this title, the Secretary of the Interior and the Secretary of Agriculture shall give preference to those projects which—

"(1) will provide long-term benefits to the public;

"(2) will instill in the enrollee involved a work ethic and a sense of public service;

"(3) will be labor intensive;

"(4) can be planned and initiated promptly; and

"(5) will provide academic, experiential, or environmental education opportunities.

"(f) CONSISTENCY.—Each appropriate conservation project carried out under this title on eligible service lands shall be consistent with the provisions of law and policies relating to the management and administration of such lands, with all other applicable provisions of law, and with all management, operational, and other plans and documents which govern the administration of the area.

"SEC. 205. CONSERVATION CENTERS.

"(a) ESTABLISHMENT AND USE.—The Secretary of the Interior and the Secretary of Agriculture are each authorized to provide such quarters, board, medical care, transportation, and other services, facilities, supplies, and equipment as such Secretary deems necessary in connection with the Public Lands Corps and appropriate conservation projects carried out under this title and to establish and use conservation centers owned and operated by such Secretary for purposes of the Corps and such projects. The Secretaries shall establish basic standards of health, nutrition, sanitation, and safety for all conservation centers established under this section and shall assure that such standards are enforced. Where necessary or appropriate, the Secretaries may enter into contracts and other appropriate arrangements with State and local government agencies and private organizations for the management of such conservation centers.

"(b) LOGISTICAL SUPPORT.—The Secretary of the Interior and the Secretary of Agriculture may make arrangements with the Secretary of Defense to have logistical support provided by the Armed Forces to the Corps and any conservation center established under this section, where feasible. Logistical support may include the provision of temporary tent shelters where needed, transportation, and residential supervision.

"(c) USE OF MILITARY INSTALLATIONS.—The Secretary of the Interior and the Secretary of Agriculture may make arrangements with the Secretary of Defense to identify military installations and other facilities of the Department of Defense and, in consultation with the adjutant generals of the State National Guards, National Guard facilities that may be used, in whole or in part, by the Corps for training or housing Corps participants.

"SEC. 206. RESOURCE ASSISTANTS.

"(a) AUTHORIZATION.—The Secretary of the Interior and the Secretary of Agriculture are each authorized to provide individual placements of resource assistants with any Federal land managing agency under the jurisdiction of such Secretary to carry out research or resource protection activities on behalf of the agency. To be eligible for selection as a resource assistant, an individual must be at least 17 years of age. The Secretaries may select resource assistants without regard to the civil service and classification laws, rules, or regulations of the United States. The Secretaries shall give a preference to the selection of individuals who are enrolled in an institution of higher education or are recent graduates from an institution of higher education, with particular attention given to ensure full representation of women and participants from historically black, Hispanic, and Native American schools.

"(b) USE OF EXISTING NONPROFIT ORGANIZATIONS.—Whenever one or more existing nonprofit organizations can provide, in the judgment of the Secretary of the Interior or the Secretary of Agriculture, appropriate recruitment and placement services to fulfill the requirements of this section, the Secretary may implement this section through such existing organizations. Participating nonprofit organizations shall contribute to the expenses of providing and supporting the resource assistants, through private sources of funding, at a level equal to 25 percent of the total costs of each participant in the Resource Assistant program who has been recruited and placed through that organization. Any such participating nonprofit conservation service organization shall be required, by the respective land managing agency, to submit an annual report evaluating the scope, size, and quality of the program, including the value of work contributed by the Resource Assistants, to the mission of the agency.

"SEC. 207. LIVING ALLOWANCES AND TERMS OF SERVICE.

"(a) LIVING ALLOWANCES.—The Secretary of the Interior and the Secretary of Agriculture shall provide each participant in the Public Lands Corps and each resource assistant with a living allowance in an amount not to exceed the maximum living allowance authorized by section 140(a)(3) of the National and Community Service Act of 1990 for participants in a national service program assisted under subtitle C of title I of such Act.

"(b) TERMS OF SERVICE.—Each participant in the Corps and each resource assistant shall agree to participate in the Corps or serve as a resource assistant, as the case may be, for such term of service as may be established by the Secretary enrolling or selecting the individual.

"SEC. 208. NATIONAL SERVICE EDUCATIONAL AWARDS.

"(a) EDUCATIONAL BENEFITS AND AWARDS.—If a participant in the Public Lands Corps or a resource assistant also serves in an approved national service position designated under subtitle C of title I of the National and Community Service Act of 1990, the participant or resource assistant shall be eligible for a national service educational award in the manner prescribed in subtitle D of such title upon successfully complying with the requirements for the award. The period during which the national service educational award may be used, the purposes for which the award may be used, and the amount of the award shall be determined as provided under such subtitle.

"(b) FORBEARANCE IN THE COLLECTION OF STAFFORD LOANS.—For purposes of section 428 of the Higher Education Act of 1965, in the case of borrowers who are either participants in the Corps or resource assistants, upon written request, a lender shall grant a borrower forbearance on such terms as are otherwise consistent with the regulations of the Secretary of Education, during periods in which the borrower is serving as such a participant or a resource assistant.

"SEC. 209. NONDISPLACEMENT.

"The nondisplacement requirements of section 177 of the National and Community Service Act of 1990 shall be applicable to all activities carried out by the Public Lands Corps, to all activities carried out under this title by a qualified youth or conservation corps, and to the selection and service of resource assistants.

"SEC. 210. FUNDING.

"(a) COST SHARING.—

"(1) PROJECTS BY QUALIFIED YOUTH OR CONSERVATION CORPS.—The Secretary of the Interior and the Secretary of Agriculture are each authorized to pay not more than 75 percent of the costs of any appropriate conservation project carried out pursuant to this title on public lands by a qualified youth or conservation corps. The remaining 25 percent of the costs of such a project may be provided from nonfederal sources in the form of funds, services, facilities, materials, equipment, or any combination of the foregoing. No cost sharing shall be required in the case of any appropriate conservation project carried out on Indian lands or Hawaiian home lands under this title.

"(2) PUBLIC LANDS CORPS PROJECTS.—The Secretary of the Interior and the Secretary of Agriculture are each authorized to accept donations of funds, services, facilities, materials, or equipment for the purposes of operating the Public Lands Corps and carrying out appropriate conservation projects by the Corps. However, nothing in this title shall be construed to require any cost sharing for any project carried out directly by the Corps.

"(b) FUNDS AVAILABLE UNDER NATIONAL AND COMMUNITY SERVICE ACT.—In order to carry out the Public Lands Corps or to support resource assistants and qualified youth or conservation corps under this title, the Secretary of the Interior and the Secretary of Agriculture shall be eligible to apply for and receive assistance under section 121(b) of the National and Community Service Act of 1990.".

SEC. 106. URBAN YOUTH CORPS.

(a) FINDINGS.—The Congress finds the following:

(1) The rehabilitation, reclamation, and beautification of urban public housing, recreational sites, youth and senior centers, and public roads and public works facilities through the efforts of young people in the United States in an Urban Youth Corps can benefit these youths, while also benefiting their communities, by—

(A) providing them with education and work opportunities;

(B) furthering their understanding and appreciation of the challenges faced by individuals residing in urban communities; and

(C) providing them with a means to pay for higher education or to repay indebtedness they have incurred to obtain higher education.

(2) A significant number of housing units for low-income individuals in urban areas has become substandard and unsafe and the deterioration of urban roadways, mass transit systems, and transportation facilities in the United States have contributed to the blight encountered in many cities in the United States.

(3) As a result, urban housing, public works, and transportation resources are in need of labor intensive rehabilitation, reclamation, and beautification work that has been neglected in the past and cannot be adequately carried out by Federal, State, and local government at existing personnel levels.

(4) Urban youth corps have established a good record of rehabilitating, reclaiming, and beautifying these kinds of resources in a cost efficient manner, especially when they have worked in partnership with government housing, public works, and transportation authorities and agencies.

(b) PURPOSE.—It is the purpose of this section—

(1) to perform, in a cost-effective manner, appropriate service projects to rehabilitate, reclaim, beautify, and improve public housing and public works and transportation facilities and resources in urban areas suffering from high rates of poverty where work will not be performed by existing employees;

(2) to assist government housing, public works, and transportation authorities and agencies;

(3) to expose young people in the United States to public service while furthering their understanding and appreciation of their community;

(4) to expand educational opportunity for individuals who participate in the Urban Youth Corps established by this section by providing them with an increased ability to pursue postsecondary education or job training; and

(5) to stimulate interest among young people in the United States in lifelong service to their communities and the United States.

(c) DEFINITIONS.—For purposes of this section:

(1) APPROPRIATE SERVICE PROJECT.—The term "appropriate service project" means any project for the rehabilitation, reclamation, or beautification of urban public housing and public works and transportation resources or facilities.

(2) CORPS AND URBAN YOUTH CORPS.—The term "Corps" and "Urban Youth Corps" mean the Urban Youth Corps established under subsection (d)(1).

(3) QUALIFIED URBAN YOUTH CORPS.—The term "qualified urban youth corps" means any program established by a State or local government or by a nonprofit organization that—

(A) is capable of offering meaningful, full-time, productive work for individuals between the ages of 16 and 25, inclusive, in an urban or public works or transportation setting;

(B) gives participants a mix of work experience, basic and life skills, education, training, and support services; and

(C) provides participants with the opportunity to develop citizenship values and skills through service to their communities and the United States.

(4) SECRETARY.—The term "Secretary" means the Secretary of Housing and Urban Development or the Secretary of Transportation.

(5) STATE.—The term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands of the United States, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(d) ESTABLISHMENT OF URBAN YOUTH CORPS.—

(1) ESTABLISHMENT.—There is hereby established in the Department of Housing and Urban Development and the Department of Transportation an Urban Youth Corps. The Corps shall consist of individuals between the ages of 16 and 25, inclusive, who are enrolled as participants in the Corps by the Secretary of Housing and Urban Development and the Secretary of Transportation. To be eligible for enrollment in the Corps, an individual shall satisfy the criteria specified in section 139(b) of the National and Community Service Act of 1990. The Secretaries may enroll such individuals in the Corps without regard to the civil service and classification laws, rules, or regulations of the United States. The Secretaries may establish a preference for the enrollment in the Corps of individuals who are economically, physically, or educationally disadvantaged.

(2) USE OF QUALIFIED URBAN YOUTH CORPS.—The Secretaries are authorized to enter into contracts and cooperative agreements with any qualified urban youth corps to perform appropriate service projects described in paragraph (3). As part of the Urban Youth Corps established in the Department of Transportation, the Secretary of Transportation may make grants to States (and through States to local governments) for the purpose of establishing, operating, or supporting qualified urban youth corps that will perform appropriate service projects relating to transportation resources or facilities.

(3) SERVICE PROJECTS.—The Secretaries may each utilize the Corps or any qualified urban youth corps to carry out appropriate service projects that the Secretary involved is authorized to carry out under other authority of law involving public housing projects or public works resources or facilities.

(4) PREFERENCE FOR CERTAIN PROJECTS.—In selecting an appropriate service project to be carried out under this section, the Secretaries shall give a preference to those projects which—

(A) will provide long-term benefits to the public;

(B) will instill in the participant a work ethic and a sense of public service;

(C) will be labor intensive;

(D) can be planned and initiated promptly; and

(E) will provide academic, experiential, or community education opportunities.

(5) CONSISTENCY.—Each appropriate service project carried out under this section in any public housing project or public works resource or facility shall be consistent with the provisions of law and policies relating to the management and administration of such projects, facilities, or resources, with all other applicable provisions of law, and with all management, operational, and other plans and documents which govern the administration of such projects, facilities, or resources.

(e) LIVING ALLOWANCES.—The Secretaries shall provide each participant in the Urban Youth Corps with a living allowance in an amount not to exceed the maximum living allowance authorized by section 140(a)(3) of the National and Community Service Act of 1990 for participants in a national service program assisted under subtitle C of title I of such Act.

(f) TERMS OF SERVICE.—Each participant in the Urban Youth Corps shall agree to participate in the Corps for a term of service established by the Secretary involved, consistent with the terms of service required under section 139(b) of the National and Community Service Act of 1990 for participants in a national service program assisted under subtitle C of title I of such Act.

(g) EDUCATIONAL AWARDS.—

(1) ELIGIBILITY.—Each participant in the Urban Youth Corps shall be eligible for a national service educational award in the manner prescribed in subtitle D of title I of the National and Community Service Act of 1990 if such participant complies with such requirements as may be established under this subtitle by the Secretary involved respecting eligibility for the award. The period during which the award may be used, the purposes for which the award may be used, and the amount of the award shall be determined as provided under such subtitle.

(2) FORBEARANCE IN THE COLLECTION OF STAFFORD LOANS.—For purposes of section 428 of the Higher Education Act of 1965, in the case of borrowers who are participants in the Urban Youth Corps, upon written request, a lender shall grant a borrower forbearance on such terms as are otherwise consistent with the regulations of the Secretary of Education, during periods in which the borrower is serving as such a participant and eligible for a national service educational award under paragraph (1).

(h) NONDISPLACEMENT.—The nondisplacement requirements of section 177 of the National and Community Service Act of 1990 shall be applicable to all activities carried out by the Urban Youth Corps and to all activities carried out under this section by a qualified urban youth corps.

(i) COST SHARING.—

(1) PROJECTS BY QUALIFIED URBAN YOUTH CORPS.—The Secretaries are each authorized to pay not more than 75 percent of the costs of any appropriate service project carried out pursuant to this section by a qualified urban youth corps. The remaining 25 percent of the costs of such a

project may be provided from nonfederal sources in the form of funds, services, facilities, materials, equipment, or any combination of the foregoing.

(2) DONATIONS.—The Secretaries are each authorized to accept donations of funds, services, facilities, materials, or equipment for the purposes of operating the Urban Youth Corps and carrying out appropriate service projects by the Corps. However, nothing in this section shall be construed to require any cost sharing for any project carried out directly by the Corps.

(3) FUNDS AVAILABLE UNDER NATIONAL AND COMMUNITY SERVICE ACT.—In order to carry out the Urban Youth Corps or to support qualified urban youth corps under this section, the Secretaries shall be eligible to apply for and receive assistance under section 121(b) of the National and Community Service Act of 1990.

Subtitle B—Related Provisions

SEC. 111. DEFINITIONS.

(a) IN GENERAL.—Section 101 of the National and Community Service Act of 1990 (42 U.S.C. 12511) is amended to read as follows:

“SEC. 101. DEFINITIONS.

“For purposes of this title:

“(1) ADULT VOLUNTEER.—The term ‘adult volunteer’ means an individual, such as an older adult, an individual with a disability, a parent, or an employee of a business or public or private nonprofit organization, who—

“(A) works without financial remuneration in an educational institution to assist students or out-of-school youth; and

“(B) is beyond the age of compulsory school attendance in the State in which the educational institution is located.

“(2) APPROVED NATIONAL SERVICE POSITION.—The term ‘approved national service position’ means a national service position for which the Corporation has approved the provision of a national service educational award described in section 147 as one of the benefits to be provided for successful service in the position.

“(3) CARRY OUT.—The term ‘carry out’, when used in connection with a national service program described in section 122, means the planning, establishment, operation, expansion, or replication of the program.

“(4) CHIEF EXECUTIVE OFFICER.—The term ‘Chief Executive Officer’, except when used to refer to the chief executive officer of a State, means the Chief Executive Officer of the Corporation appointed under section 193.

“(5) COMMUNITY-BASED AGENCY.—The term ‘community-based agency’ means a private nonprofit organization (including a church or other religious entity) that—

“(A) is representative of a community or a significant segment of a community; and

“(B) is engaged in meeting human, educational, environmental, or public safety community needs.

“(6) CORPORATION.—The term ‘Corporation’ means the Corporation for National and Community Service established under section 191.

“(7) ECONOMICALLY DISADVANTAGED.—The term ‘economically disadvantaged’ means, with respect to an individual, an individual who is determined by the Chief Executive Officer to be low-income according to the latest available data from the Department of Commerce.

“(8) ELEMENTARY SCHOOL.—The term ‘elementary school’ has the same meaning given such term in section 1471(8) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891(8)).

“(9) INDIAN.—The term ‘Indian’ means a person who is a member of an Indian tribe, or is a ‘Native’, as defined in section 3(b) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(b)).

“(10) INDIAN LANDS.—The term ‘Indian lands’ means any real property owned by an Indian ribe, any real property held in trust by the United States for an Indian or Indian tribe, and any real property held by an Indian or Indian tribe that is subject to restrictions on alienation imposed by the United States.

“(11) INDIAN TRIBE.—The term ‘Indian tribe’ means—

“(A) an Indian tribe, band, nation, or other organized group or community, including—

“(i) any Native village, as defined in section 3(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(c)), whether organized traditionally or pursuant to the Act of June 18, 1934 (commonly known as the ‘Indian Reorganization Act’; 48 Stat. 984, chapter 576; 25 U.S.C 461 et seq.); and

“(ii) any Regional Corporation or Village Corporation, as defined in subsection (g) or (j), respectively, of section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602 (g) or (j)),

that is recognized as eligible for the special programs and services provided by the United States under Federal law to Indians because of their status as Indians; and

“(B) any tribal organization controlled, sanctioned, or chartered by an entity described in subparagraph (A).

“(12) INDIVIDUAL WITH A DISABILITY.—Except as provided in section 175(a), the term ‘individual with a disability’ has the meaning given the term in section 7(8)(B) of the Rehabilitation Act of 1973 (29 U.S.C. 706(8)(B)).

“(13) INSTITUTION OF HIGHER EDUCATION.—The term ‘institution of higher education’ has the same meaning given such term in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

“(14) LOCAL EDUCATIONAL AGENCY.—The term ‘local educational agency’ has the same meaning given such term in section 1471(12) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891(12)).

“(15) NATIONAL SERVICE LAWS.—The term ‘national service laws’ means this Act and the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4950 et seq.).

“(16) OUT-OF-SCHOOL YOUTH.—The term ‘out-of-school youth’ means an individual who—

“(A) has not attained the age of 27;

“(B) has not completed college or the equivalent thereof; and

“(C) is not enrolled in an elementary or secondary school or institution of higher education.

“(17) PARTICIPANT.—

“(A) IN GENERAL.—The term ‘participant’ means—

“(i) for purposes of subtitle C, an individual in an approved national service position; and

“(ii) for purposes of any other provision of this Act, an individual enrolled in a program that receives assistance under this title.

“(B) RULE.—A participant shall not be considered to be an employee of the program in which the participant is enrolled.

“(18) PARTNERSHIP PROGRAM.—The term ‘partnership program’ means a program through which an adult volunteer, a public or private nonprofit organization, an institution of higher education, or a business assists a local educational agency.

“(19) PROGRAM.—The term ‘program’, unless the context otherwise requires, and except when used as part of the term ‘academic program’, means a program described in section 111(a) (other than a program referred to in paragraph (3)(B) of such section), 117A(a), 119(b)(1), or 122(a), or in paragraph (1) or (2) of section 152(b), or an activity that could be funded under section 198, 198C, or 198D.

“(20) PROJECT.—The term ‘project’ means an activity, carried out through a program that receives assistance under this title, that results in a specific identifiable service or improvement that otherwise would not be done with existing funds, and that does not duplicate the routine services or functions of the employer to whom participants are assigned.

“(21) SCHOOL-AGE YOUTH.—The term ‘school-age youth’ means—

“(A) individuals between the ages of 5 and 17, inclusive; and

“(B) children with disabilities, as defined in section 602(a)(1) of the Individuals with Disabilities Education Act (20 U.S.C. 1401(a)(1)), who receive services under part B of such Act.

“(22) SECONDARY SCHOOL.—The term ‘secondary school’ has the same meaning given such term in section 1471(21) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891(21)).

“(23) SERVICE-LEARNING.—The term ‘service-learning’ means a method—

“(A) under which students or participants learn and develop through active participation in thoughtfully organized service that—

“(i) is conducted in and meets the needs of a community;

“(ii) is coordinated with an elementary school, secondary school, institution of higher education, or community service program, and with the community; and

“(iii) helps foster civic responsibility; and

“(B) that—

“(i) is integrated into and enhances the academic curriculum of the students, or the educational components of the community service program in which the participants are enrolled; and

“(ii) provides structured time for the students or participants to reflect on the service experience.

“(24) SERVICE-LEARNING COORDINATOR.—The term ‘service-learning coordinator’ means an individual who provides services as described in subsection (a)(3) or (b) of section 111.

“(25) SERVICE SPONSOR.—The term ‘service sponsor’ means an organization, or other entity, that has been selected to provide a placement for a participant.

“(26) STATE.—The term ‘State’ means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands. The term also includes Palau, until such time as the Compact of Free Association is ratified.

“(27) STATE COMMISSION.—The term ‘State Commission’ means a State Commission on National and Community Service maintained by a State pursuant to section 178. Except when used in section 178, the term includes an alternative administrative entity for a State approved by the Corporation under such section to act in lieu of a State Commission.

“(28) STATE EDUCATIONAL AGENCY.—The term ‘State educational agency’ has the same meaning given such term in section 1471(23) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891(23)).

“(29) STUDENT.—The term ‘student’ means an individual who is enrolled in an elementary or secondary school or institution of higher education on a full- or part-time basis.”.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 182(a)(2) of the National and Community Service Act of 1990 (42 U.S.C 12642(a)(2)) is amended by striking “adult volunteer and partnership” each place the term appears and inserting “partnership”.

(2) Section 182(a)(3) of the National and Community Service Act of 1990 (42 U.S.C 12642(a)(3)) is amended by striking “adult volunteer and partnership” and inserting “partnership”.

(3) Section 441(c)(2) of the Higher Education Act of 1965 (42 U.S.C. 2751(c)(2)) is amended by striking “service opportunities or youth corps as

defined in section 101 of the National and Community Service Act of 1990, and service in the agencies, institutions and activities designated in section 124(a) of the National and Community Service Act of 1990" and inserting "a project, as defined in section 101(20) of the National and Community Service Act of 1990 (42 U.S.C. 12511(20))".

(4) Section 1122(a)(2)(C) of the Higher Education Act of 1965 (20 U.S.C. 1137a(a)(2)(C)) is amended by striking "youth corps as defined in section 101(30) of the National and Community Service Act of 1990" and inserting "youth corps programs, as described in section 122(a)(2) of the National and Community Service Act of 1990".

(5) Section 1201(p) of the Higher Education Act of 1965 (20 U.S.C. 1141(p)) is amended by striking "section 101(22) of the National and Community Service Act of 1990" and inserting "section 101(23) of the National and Community Service Act of 1990 (42 U.S.C. 12511(21))".

SEC. 112. AUTHORITY TO MAKE STATE GRANTS.

Section 102 of the National and Community Service Act of 1990 (42 U.S.C. 12512) is repealed.

SEC. 113. FAMILY AND MEDICAL LEAVE.

(a) IN GENERAL.—Section 171 of the National and Community Service Act of 1990 (42 U.S.C. 12631) is amended to read as follows:

"SEC. 171. FAMILY AND MEDICAL LEAVE.

"(a) PARTICIPANTS IN PRIVATE, STATE, AND LOCAL PROJECTS.—For purposes of title I of the Family and Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.), if—

"(1) a participant has provided service for the period required by section 101(2)(A)(i) (29 U.S.C. 2611(2)(A)(i)), and has met the hours of service requirement of section 101(2)(A)(ii), of such Act with respect to a project; and

"(2) the service sponsor of the project is an employer described in section 101(4) of such Act (other than an employing agency within the meaning of subchapter V of chapter 63 of title 5, United States Code),

the participant shall be considered to be an eligible employee of the service sponsor.

"(b) PARTICIPANTS IN FEDERAL PROJECTS.—For purposes of subchapter V of chapter 63 of title 5, United States Code, if—

"(1) a participant has provided service for the period required by section 6381(1)(B) of such title with respect to a project; and

"(2) the service sponsor of the project is an employing agency within the meaning of such subchapter,

the participant shall be considered to be an employee of the service sponsor.

"(c) TREATMENT OF ABSENCE.—The period of any absence of a participant from a service position pursuant to title I of the Family and Medical Leave Act of 1993 or subchapter V of chapter 63 of title 5, United States Code, shall not be counted toward the completion of the term of service of the participant under section 139 of this Act.".

(b) TABLE OF CONTENTS.—Section 1(b) of the National and Community Service Act of 1990 (Public Law 101–610; 104 Stat. 3127) is amended by striking the item relating to section 171 of such Act and inserting the following:

"Sec. 171. Family and medical leave.".

SEC. 114. REPORTS.

Section 172 of the National and Community Service Act of 1990 (42 U.S.C. 12632) is amended—

(1) in subsection (a)(3)(A), by striking "sections 177 and 113(9)" and inserting "section 177";

(2) in subsection (b)—

(A) by striking "REPORT TO CONGRESS"; and inserting "REPORT TO CONGRESS BY CORPORATION"; and

(B) in paragraph (1), by striking "this title" and inserting "the national service laws"; and

(3) by adding at the end the following:

"(c) REPORT TO CONGRESS BY SECRETARY OF DEFENSE.—

"(1) STUDY.—The Secretary of Defense shall annually conduct a study of the effect of the programs carried out under this title on recruitment for the Armed Forces.

"(2) REPORT.—The Secretary of Defense shall annually submit a report to the appropriate committees of Congress containing the findings of the study described in paragraph (1) and such recommendations for legislative and administrative reform as the Secretary may determine to be appropriate.".

SEC. 115. NONDISCRIMINATION.

Section 175 of the National and Community Service Act of 1990 (42 U.S.C. 12635) is amended to read as follows:

"SEC. 175. NONDISCRIMINATION.

"(a) IN GENERAL.—

"(1) BASIS.—An individual with responsibility for the operation of a project that receives assistance under this title shall not discriminate against a participant in, or member of the staff of, such project on the basis of race, color, national origin, sex, age, or political affiliation of such participant or member, or on the basis of disability, if the participant or member is a qualified individual with a disability.

"(2) DEFINITION.—As used in paragraph (1), the term 'qualified individual with a disability' has the meaning given the term in section 101(8) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111(8)).

"(b) FEDERAL FINANCIAL ASSISTANCE.—Any assistance provided under this title shall constitute Federal financial assistance for purposes of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), and the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.), and shall constitute Federal financial assistance to an education program or activity for purposes of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.).

"(c) RELIGIOUS DISCRIMINATION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), an individual with responsibility for the operation of a project that receives assistance under this title shall not discriminate on the basis of religion against a participant in such project or a member of the staff of such project who is paid with funds received under this title.

"(2) EXCEPTION.—Paragraph (1) shall not apply to the employment, with assistance provided under this title, of any member of the staff, of a project that receives assistance under this title, who was employed with the organization operating the project on the date the grant under this title was awarded.

"(d) RULES AND REGULATIONS.—The Chief Executive Officer shall promulgate rules and regulations to provide for the enforcement of this section that shall include provisions for summary suspension of assistance for not more than 30 days, on an emergency basis, until notice and an opportunity to be heard can be provided.".

SEC. 116. NOTICE, HEARING, AND GRIEVANCE PROCEDURES.

(a) DECERTIFICATION OF POSITIONS.—Section 176(a) of the National and Community Service Act of 1990 (42 U.S.C. 12636(a)) is amended—

(1) in paragraph (1), by inserting ", or revoke the designation of positions, related to the grant or contract, as approved national service positions," before "whenever the Commission"; and

(2) in paragraph (2)(B), by inserting "or revoked" after "terminated".

(b) CONSTRUCTION.—Section 176(e) of such Act (42 U.S.C. 12636(e)) is amended by adding before the period the following ", other than assistance provided pursuant to this Act".

(c) GRIEVANCE PROCEDURE.—Section 176(f) of such Act is amended to read as follows:

"(f) GRIEVANCE PROCEDURE.—

"(1) IN GENERAL.—A State or local applicant that receives assistance under this title shall establish and maintain a procedure for the filing and adjudication of grievances from participants, labor organizations, and other interested individuals concerning projects that receive assistance under this title, including grievances regarding proposed placements of such participants in such projects.

"(2) DEADLINE FOR GRIEVANCES.—Except for a grievance that alleges fraud or criminal activity, a grievance shall be made not later than 1 year after the date of the alleged occurrence of the event that is the subject of the grievance.

"(3) DEADLINE FOR HEARING AND DECISION.—

"(A) HEARING.—A hearing on any grievance conducted under this subsection shall be conducted not later than 30 days after the filing of such grievance.

"(B) DECISION.—A decision on any such grievance shall be made not later than 60 days after the filing of such grievance.

"(4) ARBITRATION.—

"(A) IN GENERAL.—

"(i) JOINTLY SELECTED ARBITRATOR.—In the event of a decision on a grievance that is adverse to the party who filed such grievance, or 60 days after the filing of such grievance if no decision has been reached, such party shall be permitted to submit such grievance to binding arbitration before a qualified arbitrator who is jointly selected and independent of the interested parties.

"(ii) APPOINTED ARBITRATOR.—If the parties cannot agree on an arbitrator, the Chief Executive Officer shall appoint an arbitrator from a list of qualified arbitrators within 15 days after receiving a request for such appointment from one of the parties to the grievance.

"(B) DEADLINE FOR PROCEEDING.—An arbitration proceeding shall be held not later than 45 days after the request for such arbitration proceeding, or, if the arbitrator is appointed by the Chief Executive Officer in accordance with subparagraph (A)(ii), not later than 30 days after the appointment of such arbitrator.

"(C) DEADLINE FOR DECISION.—A decision concerning a grievance shall be made not later than 30 days after the date such arbitration proceeding begins.

"(D) COST.—

"(i) IN GENERAL.—Except as provided in clause (ii), the cost of an arbitration proceeding shall be divided evenly between the parties to the arbitration.

"(ii) EXCEPTION.—If a participant, labor organization, or other interested individual described in paragraph (1) prevails under a binding arbitration proceeding, the State or local applicant described in paragraph (1) that is a party to such grievance shall pay the total cost of such proceeding and the attorneys' fees of such participant, labor organization, or individual, as the case may be.

"(5) PROPOSED PLACEMENT.—If a grievance is filed regarding a proposed placement of a participant in a project that receives assistance under this title, such placement shall not be made unless the placement is consistent with the resolution of the grievance pursuant to this subsection.

"(6) REMEDIES.—Remedies for a grievance filed under this subsection include—

"(A) suspension of payments for assistance under this title;

"(B) termination of such payments;

"(C) prohibition of the placement described in paragraph (5); and

"(D) in a case in which the grievance involves a violation of subsection (a) or (b) of section 177 and the employer of the displaced employee is the recipient of assistance under this title—

"(i) reinstatement of the displaced employee to the position held by such employee prior to displacement;

"(ii) payment of lost wages and benefits of the displaced employee;

"(iii) reestablishment of other relevant terms, conditions, and privileges of employment of the displaced employee; and

"(iv) such equitable relief as is necessary to correct any violation of subsection (a) or (b) of section 177 or to make the displaced employee whole.

"(7) ENFORCEMENT.—Suits to enforce arbitration awards under this section may be brought in any district court of the United States having jurisdiction of the parties, without regard to the amount in controversy and without regard to the citizenship of the parties.".

SEC. 117. NONDISPLACEMENT.

Section 177(b)(3) of the National and Community Service Act of 1990 (42 U.S.C. 12637(b)(3)) is amended—

(1) in subparagraph (B), to read as follows:

"(B) SUPPLANTATION OF HIRING.—A participant in any program receiving assistance under this title shall not perform any services or duties, or engage in activities, that—

"(i) will supplant the hiring of employed workers; or

"(ii) are services, duties, or activities with respect to which an individual has recall rights pursuant to a collective bargaining agreement or applicable personnel procedures."; and

(2) in subparagraph (C)(iii), to read as follows:

"(iii) employee who—

"(I) is subject to a reduction in force; or

"(II) has recall rights pursuant to a collective bargaining agreement or applicable personnel procedures;".

SEC. 118. EVALUATION.

Section 179 of the National and Community Service Act of 1990 (42 U.S.C. 12639) is amended—

(1) in subsection (a)(2)—

(A) in the matter preceding subparagraph (A), by striking "for purposes of the reports required by subsection (j)," and inserting "with respect to the programs authorized under subtitle C,"; and

(B) in subparagraph (A), by striking "older American volunteer programs" and inserting "National Senior Volunteer Corps programs";

(2) in subsection (g)—

(A) in the matter preceding paragraph (1), by striking "subtitle D" and inserting "subtitle C"; and

(B) in paragraphs (3) and (9), by striking "older American volunteer programs" and inserting "National Senior Volunteer Corps programs";

(3) by striking subsections (i) and (j); and

(4) by adding at the end the following:

"(i) INDEPENDENT EVALUATION AND REPORT OF DEMOGRAPHICS OF NATIONAL SERVICE PARTICIPANTS AND COMMUNITIES.—

"(1) INDEPENDENT EVALUATION.—

"(A) IN GENERAL.—The Corporation shall, on an annual basis, arrange for an independent evaluation of the programs assisted under subtitle C.

"(B) PARTICIPANTS.—

"(i) IN GENERAL.—The entity conducting such evaluation shall determine the demographic characteristics of the participants in such programs.

"(ii) CHARACTERISTICS.—The entity shall determine, for the year covered by the evaluation, the total number of participants in the programs, and the number of participants within the programs in each State, by sex, age, economic background, education level, ethnic group, disability classification, and geographic region.

"(iii) CATEGORIES.—The Corporation shall determine appropriate categories for analysis of each of the characteristics referred to in clause (ii) for purposes of such an evaluation.

"(C) COMMUNITIES.—In conducting the evaluation, the entity shall determine the amount of assistance provided under section 121 during the year that has been expended for projects conducted under the programs in areas described in section 133(c)(6).

"(2) REPORT.—The entity conducting the evaluation shall submit a report to the President, Congress, the Corporation, and each State Commission containing the results of the evaluation—

"(A) with respect to the evaluation covering the year beginning on the date of enactment of this subsection, not later than 18 months after such date; and

"(B) with respect to the evaluation covering each subsequent year, not later than 18 months after the first day of each such year.".

SEC. 119. ENGAGEMENT OF PARTICIPANTS.

Section 180 of the National and Community Service Act of 1990 (42 U.S.C. 12640) is amended by striking "post-service benefits" and inserting "national service educational awards".

SEC. 120. CONTINGENT EXTENSION.

(a) IN GENERAL.—Section 181 of the National and Community Service Act of 1990 (42 U.S.C. 12641) is amended to read as follows:

"SEC. 181. CONTINGENT EXTENSION.

"Section 414 of the General Education Provisions Act (20 U.S.C. 1226a) shall apply to this Act.".

(b) TABLE OF CONTENTS.—Section 1(b) of the National and Community Service Act of 1990 (Public Law 101-610; 104 Stat. 3127) is amended by striking the item relating to section 181 of such Act and inserting the following:

"Sec. 181. Contingent extension.".

SEC. 121. AUDITS.

(a) IN GENERAL.—Section 183 of the National and Community Service Act of 1990 (42 U.S.C. 12643) is amended to read as follows:

"SEC. 183. RIGHTS OF ACCESS, EXAMINATION, AND COPYING.

"(a) COMPTROLLER GENERAL.—The Comptroller General, or any of the duly authorized representatives of the Comptroller General, shall have access to, and the right to examine and copy, any books, documents, papers, records, and other recorded information in any form—

"(1) within the possession or control of the Corporation or any State or local government, Indian tribe, or public or private nonprofit organization receiving assistance directly or indirectly under this Act; and

"(2) that the Comptroller General, or his representative, considers necessary to the performance of an evaluation, audit, or review.

"(b) CHIEF FINANCIAL OFFICER.—The Chief Financial Officer of the Corporation shall have access to, and the right to examine and copy, any books, documents, papers, records, and other recorded information in any form—

"(1) within the possession or control of the Corporation or any State or local government, Indian tribe, or public or private nonprofit organization receiving assistance directly or indirectly under this Act; and

"(2) that relates to the duties of the Chief Financial Officer.".

(b) TABLE OF CONTENTS.—Section 1(b) of the National and Community Service Act of 1990 (Public Law 101-610; 104 Stat. 3127) is amended by striking the item relating to section 183 of such Act and inserting the following:

"Sec. 183. Rights of access, examination, and copying.".

SEC. 122. REPEALS.

(a) IN GENERAL.—Subtitle F of title I of the National and Community Service Act of 1990 (42 U.S.C. 12631 et seq.) is amended by repealing sections 185 and 186.

(b) TABLE OF CONTENTS.—Section 1(b) of the National and Community Service Act of 1990 (Public Law 101-610; 104 Stat. 3127) is amended by striking the item relating to section 185 of such Act.

SEC. 123. EFFECTIVE DATE.

This title, and the amendments made by this title, shall take effect on October 1, 1993.

TITLE II—ORGANIZATION

SEC. 201. STATE COMMISSIONS ON NATIONAL AND COMMUNITY SERVICE.

(a) COMPOSITION AND DUTIES OF STATE COMMISSIONS.—Subtitle F of title I of the National and Community Service Act of 1990 is amended by striking section 178 (42 U.S.C. 12638) and inserting the following new section:

"SEC. 178. STATE COMMISSIONS ON NATIONAL AND COMMUNITY SERVICE.

"(a) EXISTENCE REQUIRED.—

"(1) STATE COMMISSION.—Except as provided in paragraph (2), to be eligible to receive a grant or allotment under subtitle B or C or to receive a distribution of approved national service positions under subtitle C, a State shall maintain a State Commission on National and Community Service that satisfies the requirements of this section.

"(2) ALTERNATIVE ADMINISTRATIVE ENTITY.—The chief executive officer of a State may apply to the Corporation for approval to use an alternative administrative entity to carry out the duties otherwise entrusted to a State Commission under this Act. The chief executive officer shall ensure that any alternative administrative entity used in lieu of a State Commission provides for the individuals described in paragraph (1), and some of the individuals described in paragraph (2), of subsection (c) to play a significant policymaking role in carrying out the duties otherwise entrusted to a State Commission, including the submission of applications on behalf of the State under sections 117B and 130.

"(b) APPOINTMENT AND SIZE.—Except as provided in subsection (c)(3), the members of a State Commission for a State shall be appointed by the chief executive officer of the State. A State Commission shall consist of not fewer than 15, and not more than 25, voting members, and any ex officio nonvoting members, as described in paragraph (3) or (4) of subsection (c).

"(c) COMPOSITION AND MEMBERSHIP.—

"(1) REQUIRED MEMBERS.—The State Commission for a State shall include as voting members at least one of each of the following individuals:

"(A) An individual with expertise in the educational, training, and development needs of youth, particularly disadvantaged youth.

"(B) An individual with experience in promoting the involvement of older adults in service and voluntarism.

"(C) A representative of community-based agencies or community-based organizations within the State.

"(D) The head of the State educational agency.

"(E) A representative of local governments in the State.

"(F) A representative of local labor organizations in the State.

"(G) A representative of business.

"(H) An individual between the ages of 16 and 25 who is a participant or supervisor in a program.

"(I) A representative of a national service program described in section 122(a), such as a youth corps program described in section 122(a)(2).

"(2) SOURCES OF OTHER MEMBERS.—The State Commission for a State may include as voting members the following individuals:

"(A) Members selected from among local educators.

"(B) Members selected from among experts in the delivery of human, educational, environmental, or public safety services to communities and persons.

"(C) Representatives of Indian tribes.

"(D) Members selected from among out-of-school youth or other at-risk youth.

"(E) Representatives of entities that receive assistance under the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4950 et seq.).

"(3) CORPORATION REPRESENTATIVE.—The representative of the Corporation designated under section 195(c) for a State shall be an ex officio nonvoting member of the State Commission or alternative administrative entity for that State, unless the State permits the representative to serve as a voting member of the State Commission or alternative administrative entity.

"(4) EX OFFICIO STATE REPRESENTATIVES.—The chief executive officer of a State may appoint, as ex officio nonvoting members of the State Commission for the State, representatives selected from among officers and employees of State agencies operating community service, youth service, education, social service, senior service, and job training programs.

"(5) LIMITATION ON NUMBER OF STATE EMPLOYEES AS MEMBERS.—The number of voting members of a State Commission selected under paragraph (1) or (2) who are officers or employees of the State may not exceed 25 percent (reduced to the nearest whole number) of the total membership of the State Commission.

"(d) MISCELLANEOUS MATTERS.—

"(1) MEMBERSHIP BALANCE.—The chief executive officer of a State shall ensure, to the maximum extent practicable, that the membership of the State Commission for the State is diverse with respect to race, ethnicity, age, gender, and disability characteristics. Not more than 50 percent of the voting members of a State Commission, plus one additional member, may be from the same political party.

"(2) TERMS.—Each member of the State Commission for a State shall serve for a term of 3 years, except that the chief executive officer of a State shall initially appoint a portion of the members to terms of 1 year and 2 years.

"(3) VACANCIES.—If a vacancy occurs on a State Commission, a new member shall be appointed by the chief executive officer of the State and serve for the remainder of the term for which the predecessor of such member was appointed. The vacancy shall not affect the power of the remaining members to execute the duties of the State Commission.

"(4) COMPENSATION.—A member of a State Commission or alternative administrative entity shall not receive any additional compensation by reason of service on the State Commission or alternative administrative entity, except that the State may authorize the reimbursement of travel expenses, including a per diem in lieu of subsistence, in the same manner as other employees serving intermittently in the service of the State.

"(5) CHAIRPERSON.—The voting members of a State Commission shall elect one of the voting members to serve as chairperson of the State Commission.

"(6) LIMITATION ON MEMBER PARTICIPATION.—

"(A) GENERAL LIMITATION.—Except as provided in subparagraph (B), a voting member of the State Commission (or of an alternative administrative entity) shall not participate in the administration of the grant program (including any discussion or decision regarding the provision of assistance or approved national service positions, or the continuation, suspension, or termination of such assistance or such positions, to any program or entity) described in subsection (e)(9) if—

"(i) a grant application relating to such program is pending before the Commission (or such entity); and

"(ii) the application was submitted by a program or entity of which such member is, or in the 1-year period before the submission of such application was, an officer, director, trustee, full-time volunteer, or employee.

"(B) EXCEPTION.—If, as a result of the operation of subparagraph (A), the number of voting members of the Commission (or of such entity) is insufficient to establish a quorum for the purpose of administering such program, then voting members excluded from participation by subparagraph (A) may participate in the administration of such program, notwithstanding the limitation in subparagraph (A), to the extent permitted by regulations issued under section 193A(b)(11) by the Corporation.

"(C) RULE OF CONSTRUCTION.—Subparagraph (A) shall not be construed to limit the authority of any voting member of the Commission (or of such entity) to participate in—

"(i) discussion of, and hearing and forums on—

"(I) the general duties, policies, and operations of the Commission (or of such entity); or

"(II) the general administration of such program; or

"(ii) similar general matters relating to the Commission (or such entity).

"(e) DUTIES OF A STATE COMMISSION.—The State Commission or alternative administrative entity for a State shall be responsible for the following duties:

"(1) Preparation of a national service plan for the State that—

"(A) is developed through an open and public process (such as through regional forums, hearings, and other means) that provides for maximum participation and input from national service programs within the State and other interested members of the public;

"(B) covers a 3-year period;

"(C) is updated annually;

"(D) ensures outreach to diverse community-based agencies that serve underrepresented populations, by—

"(i) using established networks, and registries, at the State level; or

"(ii) establishing such networks and registries; and

"(E) contains such information as the State Commission considers to be appropriate or as the Corporation may require.

"(2) Preparation of the applications of the State under sections 117B and 130 for financial assistance.

"(3) Assistance in the preparation of the application of the State educational agency for assistance under section 113.

"(4) Preparation of the application of the State under section 130 for the approval of service positions that include the national service educational award described in subtitle D.

"(5) Make recommendations to the Corporation with respect to priorities for programs receiving assistance under the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4950 et seq.).

"(6) Make technical assistance available to enable applicants for assistance under section 121—

"(A) to plan and implement service programs; and

"(B) to apply for assistance under the national service laws using, if appropriate, information and materials available through a clearinghouse established under section 198A.

"(7) Assistance in the provision of health care and child care benefits under section 140 to participants in national service programs that receive assistance under section 121.

"(8) Development of a State system for the recruitment and placement of participants in programs that receive assistance under the national service laws and dissemination of information concerning national service programs that receive such assistance or approved national service positions.

"(9) Administration of the grant program in support of national service programs that is conducted by the State using assistance provided to the State under section 121, including selection, oversight, and evaluation of grant recipients.

"(10) Development of projects, training methods, curriculum materials, and other materials and activities related to national service programs that receive assistance directly from the Corporation (to be made available in a case in which such a program requests such a project, method, material, or activity) or from the State using assistance provided under section 121, for use by programs that request such projects, methods, materials, and activities.

"(f) ACTIVITY INELIGIBLE FOR ASSISTANCE.—A State Commission or alternative administrative entity may not directly carry out any national service program that receives assistance under section 121.

"(g) DELEGATION.—Subject to such requirements as the Corporation may prescribe, a State Commission may delegate nonpolicymaking duties to a State agency or public or private nonprofit organization.

"(h) APPROVAL OF STATE COMMISSION OR ALTERNATIVE.—

"(1) SUBMISSION TO CORPORATION.—The chief executive officer for a State shall notify the Corporation of the establishment or designation of the State Commission or use of an alternative administrative entity for the State. The notification shall include a description of—

"(A) the composition and membership of the State Commission or alternative administrative entity; and

"(B) the authority of the State Commission or alternative administrative entity regarding national service activities carried out by the State.

"(2) APPROVAL OF ALTERNATIVE ADMINISTRATIVE ENTITY.—Any designation of a State Commission or use of an alternative administrative entity to carry out the duties of a State Commission shall be subject to the approval of the Corporation, which shall not be unreasonably withheld. The Corporation shall approve an alternative administrative entity if such entity provides for individuals described in paragraph (1), and some of the individuals described in paragraph (2), of subsection (c) to play a significant policymaking role in carrying out the duties otherwise entrusted to a State Commission, including the duties described in paragraphs (1) through (4) of subsection (e).

"(3) REJECTION.—The Corporation may reject a State Commission if the Corporation determines that the composition, membership, or duties of the State Commission do not comply with the requirements of this section. The Corporation may reject a request to use an alternative administrative entity in lieu of a State Commission if the Corporation determines that the entity does not provide for the individuals described in paragraph (1), and some of the individuals described in paragraph (2), of subsection (c) to play a significant policymaking role as described in paragraph (2). If the Corporation rejects a State Commission or alternative administrative entity under this paragraph, the Corporation shall promptly notify the State of the reasons for the rejection.

"(4) RESUBMISSION AND RECONSIDERATION.—The Corporation shall provide a State notified under paragraph (3) with a reasonable opportunity to revise the rejected State Commission or alternative administrative entity. At tne request of the State, the Corporation shall provide technical assistance to the State as part of the revision process. The Corporation shall promptly reconsider any resubmission of a notification under paragraph (1) or application to use an alternative administrative entity under paragraph (2).

"(5) SUBSEQUENT CHANGES.—This subsection shall also apply to any change in the composition or duties of a State Commission or an alternative administrative entity made after approval of the State Commission or the alternative administrative entity.

"(6) RIGHTS.—An alternative administrative entity approved by the Corporation under this subsection shall have the same rights as a State Commission.

"(i) COORDINATION.—

"(1) COORDINATION WITH OTHER STATE AGENCIES.—The State Commission or alternative administrative entity for a State shall coordinate the activities of the Commission or entity under this Act with the activities of other State agencies that administer Federal financial assistance programs under the Community Services Block Grant Act (42 U.S.C. 9901 et seq.) or other appropriate Federal financial assistance programs.

"(2) COORDINATION WITH VOLUNTEER SERVICE PROGRAMS.—

"(A) IN GENERAL.—The State Commission or alternative administrative entity for a State shall coordinate functions of the Commission or entity (including recruitment, public awareness, and training activities) with such functions of any division of ACTION, or of the Corporation, that carries out volunteer service programs in the State.

"(B) AGREEMENT.—In coordinating functions under this paragraph, such Commission or entity, and such division, may enter into an agreement to—

"(i) carry out such a function jointly;

"(ii) to assign responsibility for such a function to the Commission or entity; or

"(iii) to assign responsibility for such a function to the division.

"(C) INFORMATION.—The State Commission or alternative entity for a State, and the head of any such division, shall exchange information about—

"(i) the programs carried out in the State by the Commission, entity, or division, as appropriate; and

"(ii) opportunities to coordinate activities.

"(j) LIABILITY.—

"(1) LIABILITY OF STATE.—Except as provided in paragraph (2)(B), a State shall agree to assume liability with respect to any claim arising out of or resulting from any act or omission by a member of the State Commission or alternative administrative entity of the State, within the scope of the service of the member on the State Commission or alternative administrative entity.

"(2) OTHER CLAIMS.—

"(A) IN GENERAL.—A member of the State Commission or alternative administrative entity shall have no personal liability with respect to any claim arising out of or resulting from any act or omission by such person, within the scope of the service of the member on the State Commission or alternative administrative entity.

"(B) LIMITATION.—This paragraph shall not be construed to limit personal liability for criminal acts or omissions, willful or malicious misconduct, acts or omissions for private gain, or any other act or omission outside the scope of the service of such member on the State Commission or alternative administrative entity.

"(3) EFFECT ON OTHER LAW.—This subsection shall not be construed—

"(A) to affect any other immunities and protections that may be available to such member under applicable law with respect to such service;

"(B) to affect any other right or remedy against the State under applicable law, or against any person other than a member of the State Commission or alternative administrative entity; or

"(C) to limit or alter in any way the immunities that are available under applicable law for State officials and employees not described in this subsection.".

(b) TABLE OF CONTENTS.—Section 1(b) of the National and Community Service Act of 1990 (Public Law 101-610; 104 Stat. 3127) is amended by striking the item relating to section 178 and inserting the following new item:

"Sec. 178. State Commissions on National and Community Service.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1993.

(d) TRANSITIONAL PROVISIONS.—

(1) USE OF ALTERNATIVES TO STATE COMMISSION.—If a State does not have a State Commission on National and Community Service that satisfies the requirements specified in section 178 of the National and Community Service Act of 1990, as amended by subsection (a), the Corporation for National and Community Service may authorize the chief executive officer of the State to use an existing agency of the State to perform the duties otherwise reserved to a State Commission under subsection (e) of such section.

(2) APPLICATION OF SUBSECTION.—This subsection shall apply only during the 27-month period beginning on the date of the enactment of this Act.

SEC. 202. INTERIM AUTHORITIES OF THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE AND ACTION AGENCY.

(a) NATIONAL AND COMMUNITY SERVICE ACT OF 1990.—Subtitle G of title I of the National and Community Service Act of 1990 (42 U.S.C. 12651) is amended to read as follows:

"Subtitle G—Corporation for National and Community Service

"SEC. 191. CORPORATION FOR NATIONAL AND COMMUNITY SERVICE.

"There is established a Corporation for National and Community Service that shall administer the programs established under this Act. The Corporation shall be a Government corporation, as defined in section 103 of title 5, United States Code.

"SEC. 192. BOARD OF DIRECTORS.

"(a) COMPOSITION.—

"(1) IN GENERAL.—There shall be in the Corporation a Board of Directors (referred to in this subtitle as the 'Board') that shall be composed of—

"(A) 15 members, including an individual between the ages of 16 and 25 who—

"(i) has served in a school-based or community-based service-learning program; or

"(ii) is or was a participant or a supervisor in a program;

to be appointed by the President, by and with the advice and consent of the Senate; and

"(B) the ex officio nonvoting members described in paragraph (3).

"(2) QUALIFICATIONS.—To the maximum extent practicable, the President shall appoint members—

"(A) who have extensive experience in volunteer or service activities, which may include programs funded under one of the national service laws, and in State government;

"(B) who represent a broad range of viewpoints;

"(C) who are experts in the delivery of human, educational, environmental, or public safety services;

"(D) so that the Board shall be diverse according to race, ethnicity, age, gender, and disability characteristics; and

"(E) so that no more than 50 percent of the appointed members of the Board, plus 1 additional appointed member, are from a single political party.

"(3) EX OFFICIO MEMBERS.—The Secretary of Education, the Secretary of Health and Human Services, the Secretary of Labor, the Secretary of the Interior, the Secretary of Agriculture, the Secretary of Housing and Urban Development, the Secretary of Defense, the Attorney General, the Director of the Peace Corps, the Administrator of the Environmental Protection Agency, and the Chief Executive Officer shall serve as ex officio nonvoting members of the Board.

"(b) OFFICERS.—

"(1) CHAIRPERSON.—The President shall appoint a member of the Board to serve as the initial Chairperson of the Board. Each subsequent Chairperson shall be elected by the Board from among its members.

"(2) VICE CHAIRPERSON.—The Board shall elect a Vice Chairperson from among its membership.

"(3) OTHER OFFICERS.—The Board may elect from among its membership such additional officers of the Board as the Board determines to be appropriate.

"(c) TERMS.—Each appointed member of the Board shall serve for a term of 5 years, except that, as designated by the President—

"(1) 3 of the members first appointed to the Board shall serve for a term of 1 year;

"(2) 3 of the members first appointed to the Board shall serve for a term of 2 years;

"(3) 3 of the members first appointed to the Board shall serve for a term of 3 years;

"(4) 3 of the members first appointed to the Board shall serve for a term of 4 years; and

"(5) 3 of the members first appointed to the Board shall serve for a term of 5 years.

"(d) VACANCIES.—If a vacancy occurs on the Board, a new member shall be appointed by the President, by and with the advice and consent of the Senate, and serve for the remainder of the term for which the predecessor of such member was appointed. The vacancy shall not affect the power of the remaining members to execute the duties of the Board.

"SEC. 192A. AUTHORITIES AND DUTIES OF THE BOARD OF DIRECTORS.

"(a) MEETINGS.—The Board shall meet not less often than 3 times each year. The Board shall hold additional meetings at the call of the Chairperson of the Board, or if 6 members of the Board request such meetings in writing.

"(b) QUORUM.—A majority of the appointed members of the Board shall constitute a quorum.

"(c) AUTHORITIES OF OFFICERS.—

"(1) CHAIRPERSON.—The Chairperson of the Board may call and conduct meetings of the Board.

"(2) VICE CHAIRPERSON.—The Vice Chairperson of the Board may conduct meetings of the Board in the absence of the Chairperson.

"(d) EXPENSES.—While away from their homes or regular places of business on the business of the Board, members of such Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, for persons employed intermittently in the Government service.

"(e) SPECIAL GOVERNMENT EMPLOYEES.—For purposes of the provisions of chapter 11 of part I of title 18, United States Code, and any other provision of Federal law, a member of the Board (to whom such provisions would not otherwise apply except for this subsection) shall be a special Government employee.

"(f) STATUS OF MEMBERS.—

"(1) TORT CLAIMS.—For the purposes of the tort claims provisions of chapter 171 of title 28, United States Code, a member of the Board shall be considered to be a Federal employee.

"(2) OTHER CLAIMS.—A member of the Board shall have no personal liability under Federal law with respect to any claim arising out of or resulting from any act or omission by such person, within the scope of the service of the member on the Board, in connection with any transaction involving the provision of financial assistance by the Corporation. This paragraph

shall not be construed to limit personal liability for criminal acts or omissions, willful or malicious misconduct, acts or omissions for private gain, or any other act or omission outside the scope of the service of such member on the Board.

"(3) EFFECT ON OTHER LAW.—This subsection shall not be construed—

"(A) to affect any other immunities and protections that may be available to such member under applicable law with respect to such transactions;

"(B) to affect any other right or remedy against the Corporation, against the United States under applicable law, or against any person other than a member of the Board participating in such transactions; or

"(C) to limit or alter in any way the immunities that are available under applicable law for Federal officials and employees not described in this subsection.

"(g) DUTIES.—The Board shall—

"(1) review and approve the strategic plan described in section 193A(b)(1), and annual updates of the plan;

"(2) review and approve the proposal described in section 193A(b)(2)(A), with respect to the grants, allotments, contracts, financial assistance, payment, and positions referred to in such section;

"(3) review and approve the proposal described in section 193A(b)(3)(A), regarding the regulations, standards, policies, procedures, programs, and initiatives referred to in such section;

"(4) review and approve the evaluation plan described in section 193A(b)(4)(A);

"(5)(A) review, and advise the Chief Executive Officer regarding, the actions of the Chief Executive Officer with respect to the personnel of the Corporation, and with respect to such standards, policies, procedures, programs, and initiatives as are necessary or appropriate to carry out this Act; and

"(B) inform the Chief Executive Officer of any aspects of the actions of the Chief Executive Officer that are not in compliance with the annual strategic plan referred to in paragraph (1), the proposals referred to in paragraphs (2) and (3), or the plan referred to in paragraph (4), or are not consistent with the objectives of this Act;

"(6) receive any report as provided under subsection (b), (c), or (d) of section 8E of the Inspector General Act of 1978;

"(7) make recommendations relating to a program of research for the Corporation with respect to national and community service programs, including service-learning programs;

"(8) advise the President and the Congress concerning developments in national and community service that merit the attention of the President and the Congress;

"(9) ensure effective dissemination of information regarding the programs and initiatives of the Corporation; and

"(10) prepare and make recommendations to the Congress and the President for changes in this Act resulting from the studies and demonstrations the Chief Executive Officer is required to carry out under section 193A(b)(10), which recommendations shall be submitted to the Congress and President not later than September 30, 1995.

"(h) ADMINISTRATION.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply with respect to the Board.

"(i) LIMITATION ON PARTICIPATION.—All employees and officers of the Corporation shall recuse themselves from decisions that would constitute conflicts of interest.

"(j) COORDINATION WITH OTHER FEDERAL ACTIVITIES.—As part of the agenda of meetings of the Board under subsection (a), the Board shall review projects and programs conducted or funded by the Corporation under the national service laws to improve the coordination between such projects and programs, and the activities of other Federal agencies that deal with the individuals and communities participating in or benefiting from such projects and programs. The ex officio members of the Board specified in section 192(a)(3) shall jointly plan, implement, and fund activities in connection with projects and programs conducted under the national service laws to ensure that Federal efforts attempt to address the total needs of participants in such programs and projects, their communities, and the persons and communities the participants serve.

"SEC. 193. CHIEF EXECUTIVE OFFICER.

"(a) APPOINTMENT.—The Corporation shall be headed by an individual who shall serve as Chief Executive Officer of the Corporation, and who shall be appointed by the President, by and with the advice and consent of the Senate.

"(b) COMPENSATION.—The Chief Executive Officer shall be compensated at the rate provided for level III of the Executive Schedule under section 5314 of title 5, United States Code.

"(c) REGULATIONS.—The Chief Executive Officer shall prescribe such rules and regulations as are necessary or appropriate to carry out this Act.

"SEC. 193A. AUTHORITIES AND DUTIES OF THE CHIEF EXECUTIVE OFFICER.

"(a) GENERAL POWERS AND DUTIES.—The Chief Executive Officer shall be responsible for the exercise of the powers and the discharge of the duties of the Corporation that are not reserved to the Board, and shall have authority and control over all personnel of the Corporation, except as provided in section 8E of the Inspector General Act of 1978.

"(b) DUTIES.—In addition to the duties conferred on the Chief Executive Officer under any other provision of this Act, the Chief Executive Officer shall—

"(1) prepare and submit to the Board a strategic plan every 3 years, and annual updates of the plan, for the Corporation with respect to the major functions and operations of the Corporation;

"(2)(A) prepare and submit to the Board a proposal with respect to such grants and allotments, contracts, other financial assistance, and designation of positions as approved national service positions, as are necessary or appropriate to carry out this Act; and

"(B) after receiving and reviewing an approved proposal under section 192A(g)(2), make such grants and allotments, enter into such contracts, award such other financial assistance, make such payments (in lump sum or installments, and in advance or by way of reimbursement, and in the case of financial assistance otherwise authorized under this Act, with necessary adjustments on account of overpayments and underpayments), and designate such positions as approved national service positions as are necessary or appropriate to carry out this Act;

"(3)(A) prepare and submit to the Board a proposal regarding, the regulations established under section 195(b)(3)(A), and such other standards, policies, procedures, programs, and initiatives as are necessary or appropriate to carry out this Act; and

"(B) after receiving and reviewing an approved proposal under section 192A(g)(3)—

"(i) establish such standards, policies, and procedures as are necessary or appropriate to carry out this Act; and

"(ii) establish and administer such programs and initiatives as are necessary or appropriate to carry out this Act;

"(4)(A) prepare and submit to the Board a plan for the evaluation of programs established under this Act, in accordance with section 179; and

"(B) after receiving an approved proposal under section 192A(g)(4)—

"(i) establish measurable performance goals and objectives for such programs, in accordance with section 179; and

"(ii) provide for periodic evaluation of such programs to assess the manner and extent to which the programs achieve the goals and objectives, in accordance with such section;

"(5) consult with appropriate Federal agencies in administering the programs and initiatives;

"(6) suspend or terminate payments and positions described in paragraph (2)(B), in accordance with section 176;

"(7) prepare and submit to the Board an annual report, and such interim reports as may be necessary, describing the major actions of the Chief Executive Officer with respect to the personnel of the Corporation, and with respect to such standards, policies, procedures, programs, and initiatives;

"(8) inform the Board of, and provide an explanation to the Board regarding, any substantial differences regarding the implementation of this Act between—

"(A) the actions of the Chief Executive Officer; and

"(B)(i) the strategic plan approved by the Board under section 192A(g)(1);

"(ii) the proposals approved by the Board under paragraph (2) or (3) of section 192A(g); or

"(iii) the evaluation plan approved by the Board under section 192A(g)(4);

"(9) prepare and submit to the appropriate committees of Congress an annual report, and such interim reports as may be necessary, describing—

"(A) the services referred to in paragraph (1), and the money and property referred to in paragraph (2), of section 196(a) that have been accepted by the Corporation;

"(B) the manner in which the Corporation used or disposed of such services, money, and property; and

"(C) information on the results achieved by the programs funded under this Act during the year preceding the year in which the report is prepared;

"(10) provide for studies (including the evaluations described in subsection (f)) and demonstrations that evaluate, and prepare and submit to the Board by June 30, 1995, a report containing recommendations regarding, issues related to—

"(A) the administration and organization of programs authorized under the national service laws or under Public Law 91–378 (referred to in this subparagraph as 'service programs'), including—

"(i) whether the State and national priorities designed to meet the unmet human, education, environmental, or public safety needs described in section 122(c)(1) are being addressed by this Act;

"(ii) the manner in which—

"(I) educational and other outcomes of both stipended and nonstipended service and service-learning are defined and measured in such service programs; and

"(II) such outcomes should be defined and measured in such service programs;

"(iii) whether stipended service programs, and service programs providing educational benefits in return for service, should focus on economically disadvantaged individuals or at-risk youth or whether such programs should include a mix of individuals, including individuals from middle- and upper-income families;

"(iv) the role and importance of stipends and educational benefits in achieving desired outcomes in the service programs;

"(v) the potential for cost savings and coordination of support and oversight services from *combining functions performed by ACTION State offices and State Commissions;*

"(vi) the implications of the results from such studies and demonstrations for authorized funding levels for the service programs; and

"(vii) other issues that the Director determines to be relevant to the administration and organization of the service programs; and

"(B) the number, potential consolidation, and future organization of national service or domestic volunteer service programs that are authorized under Federal law, including VISTA, service corps assisted under subtitle C and other programs authorized by this Act, programs administered by the Public Health Service, the Department of Defense, or other Federal agencies, programs regarding teacher corps, and programs regarding work-study and higher education loan forgiveness or forbearance programs authorized by the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.) related to community service; and

"(11) for purposes of section 178(d)(6)(B), issue regulations to waive the disqualification of members of the Board and members of the State Commissions selectively in a random, nondiscretionary manner and only to the extent necessary to establish the quorum involved, including rules that forbid each member of the Board and each voting member of a State Commission to participate in any discussion or decision regarding the provision of assistance or approved national service positions, or the continuation, suspension, or termination of such assistance or such positions, to any program or entity of which such member of the Board or such member of the State Commission is, or in the 1-year period before the submission of the application referred to in such section was, an officer, director, trustee, full-time volunteer, or employee.

"(c) POWERS.—In addition to the authority conferred on the Chief Executive Officer under any other provision of this Act, the Chief Executive Officer may—

"(1) establish, alter, consolidate, or discontinue such organizational units or components within the Corporation as the Chief Executive Officer considers necessary or appropriate, consistent with Federal law, and shall, to the maximum extent practicable, consolidate such units or components of the divisions of the Corporation described in section 194(a)(3) as may be appropriate to enable the two divisions to coordinate common support functions;

"(2) with the approval of the President, arrange with and reimburse the heads of other Federal agencies for the performance of any of the provisions of this Act;

"(3) with their consent, utilize the services and facilities of Federal agencies with or without reimbursement, and, with the consent of any State, or political subdivision of a State, accept and utilize the services and facilities of the agencies of such State or subdivisions without reimbursement;

"(4) allocate and expend funds made available under this Act;

"(5) disseminate, without regard to the provisions of section 3204 of title 39, United States Code, data and information, in such form as the Chief Executive Officer shall determine to be appropriate to public agencies, private organizations, and the general public;

"(6) collect or compromise all obligations to or held by the Chief Executive Officer and all legal or equitable rights accruing to the Chief Executive Officer in connection with the payment of obligations in accordance with chapter 37 of title 31, United States Code (commonly known as the 'Federal Claims Collection Act of 1966');

"(7) file a civil action in any court of record of a State having general jurisdiction or in any district court of the United States, with respect to a claim arising under this Act;

"(8) exercise the authorities of the Corporation under section 196;

"(9) consolidate the reports to Congress required under this Act, and the report required under section 9106 of title 31, United States Code, into a single report, and submit the report to Congress on an annual basis; and

"(10) generally perform such functions and take such steps consistent with the objectives and provisions of this Act, as the Chief Executive Officer determines to be necessary or appropriate to carry out such provisions.

"(d) DELEGATION.—

"(1) DEFINITION.—As used in this subsection, the term 'function' means any duty, obligation, power, authority, responsibility, right, privilege, activity, or program.

"(2) IN GENERAL.—Except as otherwise prohibited by law or provided in this Act, the Chief Executive Officer may delegate any function under this Act, and authorize such successive redelegations of such function as may be necessary or appropriate. No delegation of a function by the Chief Executive Officer under this subsection or under any other provision of this Act shall relieve such Chief Executive Officer of responsibility for the administration of such function.

"(3) FUNCTION OF BOARD.—The Chief Executive Officer may not delegate a function of the Board without the permission of the Board.

"(e) ACTIONS.—In an action described in subsection (c)(7)—

"(1) a district court referred to in such subsection shall have jurisdiction of such a civil action without regard to the amount in controversy;

"(2) such an action brought by the Chief Executive Officer shall survive notwithstanding any change in the person occupying the office of Chief Executive Officer or any vacancy in that office;

"(3) no attachment, injunction, garnishment, or other similar process, mesne or final, shall be issued against the Chief Executive Officer or the Board or property under the control of the Chief Executive Officer or the Board; and

"(4) nothing in this section shall be construed to except litigation arising out of activities under this Act from the application of sections 509, 517, 547, and 2679 of title 28, United States Code.

"(f) EVALUATIONS.—

"(1) EVALUATION OF LIVING ALLOWANCE.—The Corporation shall arrange for an independent evaluation to determine the levels of living allowances paid in all programs under subtitles C and I, individually, by State, and by region. Such evaluation shall determine the effects that such living allowances have had on the ability of individuals to participate in such programs.

"(2) EVALUATION OF SUCCESS OF INVESTMENT IN NATIONAL SERVICE.—

"(A) EVALUATION REQUIRED.—The Corporation shall arrange for the independent evaluation of the operation of subtitle C to determine the levels of participation of economically disadvantaged individuals in national service programs carried out or supported using assistance provided under section 121.

"(B) PERIOD COVERED BY EVALUATION.—The evaluation required by this paragraph shall cover the period beginning on the date the Corporation first makes a grant under section 121, and ending on a date that is as close as is practicable to the date specified in subsection (b)(10).

"(C) INCOME LEVELS OF PARTICIPANTS.—The evaluating entity shall determine the total income of each participant who serves, during the period covered by the evaluation, in a national service program carried out or supported using assistance provided under section 121 or in an approved national service position. The total income of the participant shall be determined as of the date the participant was first selected to participate in such a program and shall include family total income unless the evaluating entity determines that the participant was independent at the time of selection.

"(D) ASSISTANCE FOR DISTRESSED AREAS.—The evaluating entity shall also determine the amount of assistance provided under section 121 during the period covered by the report that has been expended for projects conducted in areas of economic distress described in section 133(c)(6).

"(E) DEFINITIONS.—As used in this paragraph:

"(i) INDEPENDENT.—The term 'independent' has the meaning given the term in section 480(d) of the Higher Education Act of 1965 (20 U.S.C. 1087vv(d)).

"(ii) TOTAL INCOME.—The term 'total income' has the meaning given the term in section 480(a) of the Higher Education Act of 1965 (20 U.S.C. 1087vv(a)).

"SEC. 194. OFFICERS.

"(a) MANAGING DIRECTORS.—

"(1) IN GENERAL.—There shall be in the Corporation 2 Managing Directors, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall report to the Chief Executive Officer.

"(2) COMPENSATION.—The Managing Directors shall be compensated at the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

"(3) DUTIES.—The Corporation shall determine the programs for which the Managing Directors shall have primary responsibility and shall establish the divisions of the Corporation to be headed by the Managing Directors.

"(b) INSPECTOR GENERAL.—

"(1) OFFICE.—There shall be in the Corporation an Office of the Inspector General.

"(2) APPOINTMENT.—The Office shall be headed by an Inspector General, appointed in accordance with the Inspector General Act of 1978.

"(3) COMPENSATION.—The Inspector General shall be compensated at the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

"(c) CHIEF FINANCIAL OFFICER.—

"(1) OFFICE.—There shall be in the Corporation a Chief Financial Officer, who shall be appointed by the President, by and with the advice and consent of the Senate.

"(2) COMPENSATION.—The Chief Financial Officer shall be compensated at the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

"(3) DUTIES.—The Chief Financial Officer shall—

"(A) report directly to the Chief Executive Officer regarding financial management matters;

"(B) oversee all financial management activities relating to the programs and operations of the Corporation;

"(C) develop and maintain an integrated accounting and financial management system for the Corporation, including financial reporting and internal controls;

"(D) develop and maintain any joint financial management systems with the Department of Education necessary to carry out the programs of the Corporation; and

"(E) direct, manage, and provide policy guidance and oversight of the financial management personnel, activities, and operations of the Corporation.

"(d) ASSISTANT DIRECTORS FOR VISTA AND NATIONAL SENIOR VOLUNTEER CORPS.—

"(1) APPOINTMENT.—One of the Managing Directors appointed under subsection (a) shall, in accordance with applicable provisions of title 5, United States Code, appoint 4 Assistant Directors who shall report directly to such Managing Director, of which—

"(A) 1 Assistant Director shall be responsible for programs carried out under parts A and B of

title I of the Domestic Volunteer Service Act of 1973 (the Volunteers in Service to America (VISTA) program) and other antipoverty programs under title I of that Act;

"(B) 1 Assistant Director shall be responsible for programs carried out under part A of title II of that Act (relating to the Retired Senior Volunteer Program);

"(C) 1 Assistant Director shall be responsible for programs carried out under part B of title II of that Act (relating to the Foster Grandparent Program); and

"(D) 1 Assistant Director shall be responsible for programs carried out under part C of title II of that Act (relating to the Senior Companion Program).

"(2) EFFECTIVE DATE FOR EXERCISE OF AUTHORITY.—Each Assistant Director appointed pursuant to paragraph (1) may exercise the authority assigned to each such Director only after the effective date of section 203(c)(2) of the National and Community Service Trust Act of 1993.

"SEC. 195. EMPLOYEES, CONSULTANTS, AND OTHER PERSONNEL.

"(a) EMPLOYEES.—Except as provided in subsection (b), section 194(d), and section 8E of the Inspector General Act of 1978, the Chief Executive Officer shall, in accordance with applicable provisions of title 5, United States Code, appoint and determine the compensation of such employees as the Chief Executive Officer determines to be necessary to carry out the duties of the Corporation.

"(b) ALTERNATIVE PERSONNEL SYSTEM.—

"(1) AUTHORITY.—The Chief Executive Officer may designate positions in the Corporation as positions to which the Chief Executive Officer may make appointments, and for which the Chief Executive Officer may determine compensation, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, to the extent the Chief Executive Officer determines that such a designation is appropriate and desirable to further the effective operation of the Corporation. The Chief Executive Officer may provide for appointments to such positions to be made on a limited term basis.

"(2) APPOINTMENT IN THE COMPETITIVE SERVICE AFTER EMPLOYMENT UNDER ALTERNATIVE PERSONNEL SYSTEM.—The Director of the Office of Personnel Management may grant competitive status for appointment to the competitive service, under such conditions as the Director may prescribe, to an employee who is appointed under this subsection and who is separated from the Corporation (other than by removal for cause).

"(3) SELECTION AND COMPENSATION SYSTEM.—

"(A) ESTABLISHMENT OF SYSTEM.—The Chief Executive Officer, after obtaining the approval of the Director of the Office of Personnel Management, shall issue regulations establishing a selection and compensation system for employees of the Corporation appointed under paragraph (1). In issuing such regulations, the Chief Executive Officer shall take into consideration the need for flexibility in such a system.

"(B) APPLICATION.—The Chief Executive Officer shall appoint and determine the compensation of employees in accordance with the selection and compensation system established under subparagraph (A).

"(C) SELECTION.—The system established under subparagraph (A) shall provide for the selection of employees—

"(i) through a competitive process; and

"(ii) on the basis of the qualifications of applicants and the requirements of the positions.

"(D) COMPENSATION.—The system established under subparagraph (A) shall include a scheme for the classification of positions in the Corporation. The system shall require that the compensation of an employee be determined in part on the basis of the job performance of the employee, and in a manner consistent with the principles described in section 5301 of title 5, United States Code. The rate of compensation for each employee compensated under the system shall not exceed the annual rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

"(c) CORPORATION REPRESENTATIVE IN EACH STATE.—

"(1) DESIGNATION OF REPRESENTATIVE.—The Corporation shall designate 1 employee of the Corporation for each State or group of States to serve as the representative of the Corporation in the State or States and to assist the Corporation in carrying out the activities described in this Act in the State or States.

"(2) DUTIES.—The representative designated under this subsection for a State or group of States shall serve as the liaison between—

"(A) the Corporation and the State Commission that is established in the State or States;

"(B) the Corporation and any subdivision of a State, Indian tribe, public or private nonprofit organization, or institution of higher education, in the State or States, that is awarded a grant under section 121 directly from the Corporation; and

"(C) after the effective date of section 203(c)(2) of the National and Community Service Trust Act of 1993, the State Commission and the Corporation employee responsible for programs under the Domestic Volunteer Service Act of 1973 in the State, if the employee is not the representative described in paragraph (1) for the State.

"(3) MEMBER OF STATE COMMISSION.—The representative designated under this subsection for a State or group of States shall also serve as a member of the State Commission established in the State or States, as described in section 178(c)(3).

"(4) COMPENSATION.—If the employee designated under paragraph (1) is an employee whose appointment was made pursuant to section 195(b), the rate of compensation for such employee may not exceed the maximum rate of basic pay payable for GS-13 of the General Schedule under section 5332 of title 5, United States Code.

"(d) CONSULTANTS.—The Chief Executive Officer may procure the temporary and intermittent services of experts and consultants and compensate the experts and consultants in accordance with section 3109(b) of title 5, United States Code.

"(e) DETAILS OF PERSONNEL.—The head of any Federal department or agency may detail on a reimbursable basis, or on a nonreimbursable basis for not to exceed 180 calendar days during any fiscal year, as agreed upon by the Chief Executive Officer and the head of the Federal agency, any of the personnel of that department or agency to the Corporation to assist the Corporation in carrying out the duties of the Corporation under this Act. Any detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.

"(f) ADVISORY COMMITTEES.—

"(1) ESTABLISHMENT.—The Chief Executive Officer, acting upon the recommendation of the Board, may establish advisory committees in the Corporation to advise the Board with respect to national service issues, such as the type of programs to be established or assisted under the national service laws, priorities and criteria for such programs, and methods of conducting outreach for, and evaluation of, such programs.

"(2) COMPOSITION.—Such an advisory committee shall be composed of members appointed by the Chief Executive Officer, with such qualifications as the Chief Executive Officer may specify.

"(3) EXPENSES.—Members of such an advisory committee may be allowed travel expenses as described in section 192A(d).

"(4) STAFF.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the Chief Executive Officer is authorized to appoint and fix the compensation of such staff as the Chief Executive Officer determines to be necessary to carry out the functions of the advisory committee, without regard to—

"(i) the provisions of title 5, United States Code, governing appointments in the competitive service; and

"(ii) the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

"(B) COMPENSATION.—If a member of the staff appointed under subparagraph (A) was appointed without regard to the provisions described in clauses (i) and (ii) of subparagraph (A), the rate of compensation for such member may not exceed the maximum rate of basic pay payable for GS-13 of the General Schedule under section 5332 of title 5, United States Code.

"SEC. 196. ADMINISTRATION.

"(a) DONATIONS.—

"(1) SERVICES.—

"(A) VOLUNTEERS.—Notwithstanding section 1342 of title 31, United States Code, the Corporation may solicit and accept the voluntary services of individuals to assist the Corporation in carrying out the duties of the Corporation under this Act, and may provide to such individuals the travel expenses described in section 192A(d).

"(B) LIMITATION.—Such a volunteer shall not be considered to be a Federal employee and shall not be subject to the provisions of law relating to Federal employment, including those relating to hours of work, rates of compensation, leave, unemployment compensation, and Federal employee benefits, except that—

"(i) for the purposes of the tort claims provisions of chapter 171 of title 28, United States Code, a volunteer under this subtitle shall be considered to be a Federal employee;

"(ii) for the purposes of subchapter I of chapter 81 of title 5, United States Code, relating to compensation to Federal employees for work injuries, volunteers under this subtitle shall be considered to be employees, as defined in section 8101(1)(B) of title 5, United States Code, and the provisions of such subchapter shall apply; and

"(iii) for purposes of the provisions of chapter 11 of part I of title 18, United States Code, such a volunteer (to whom such provisions would not otherwise apply except for this subsection) shall be a special Government employee.

"(C) INHERENTLY GOVERNMENTAL FUNCTION.—

"(i) IN GENERAL.—Such a volunteer shall not carry out an inherently governmental function.

"(ii) REGULATIONS.—The Chief Executive Officer shall promulgate regulations to carry out this subparagraph.

"(iii) INHERENTLY GOVERNMENTAL FUNCTION.—As used in this subparagraph, the term 'inherently governmental function' means any activity that is so intimately related to the public interest as to mandate performance by an officer or employee of the Federal Government, including an activity that requires either the exercise of discretion in applying the authority of the Government or the use of value judgment in making a decision for the Government.

"(2) PROPERTY.—

"(A) IN GENERAL.—The Corporation may solicit, accept, hold, administer, use, and dispose of, in furtherance of the purposes of this Act, donations of any money or property, real, personal, or mixed, tangible or intangible, received by gift, devise, bequest, or otherwise. Donations accepted under this subparagraph shall be used

as nearly as possible in accordance with the terms, if any, of such donation.

"(B) STATUS OF CONTRIBUTION.—Any donation accepted under subparagraph (A) shall be considered to be a gift, devise, or bequest to, or for the use of, the United States.

"(C) RULES.—The Chief Executive Officer shall establish written rules to ensure that the solicitation, acceptance, holding, administration, and use of property described in subparagraph (A)—

"(i) will not reflect unfavorably upon the ability of the Corporation, or of any officer or employee of the Corporation, to carry out the responsibilities or official duties of the Corporation in a fair and objective manner; and

"(ii) will not compromise the integrity of the programs of the Corporation or any official or employee of the Corporation involved in such programs.

"(D) DISPOSITION.—Upon completion of the use by the Corporation of any property accepted pursuant to subparagraph (A) (other than money or monetary proceeds from sales of property so accepted), such completion shall be reported to the General Services Administration and such property shall be disposed of in accordance with title II of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481 et seq.).

"(3) VOLUNTEER.—As used in this subsection, the term 'volunteer' does not include a participant.

"(b) CONTRACTS.—Subject to the Federal Property and Administrative Services Act of 1949, the Corporation may enter into contracts, and cooperative and interagency agreements, with Federal and State agencies, private firms, institutions, and individuals to conduct activities necessary to assist the Corporation in carrying out the duties of the Corporation under this Act.

"(c) OFFICE OF MANAGEMENT AND BUDGET.—Appropriate circulars of the Office of Management and Budget shall apply to the Corporation.

"SEC. 196A. CORPORATION STATE OFFICES.

"(a) IN GENERAL.—The Chief Executive Officer shall establish and maintain a decentralized field structure that provides for an office of the Corporation for each State. The office for a State shall be located in, or in reasonable proximity to, such State. Only one such office may carry out the duties described in subsection (b) with respect to a State at any particular time. Such State office may be directed by the representative designated under section 195(c).

"(b) DUTIES.—Each State office established pursuant to subsection (a) shall—

"(1) provide to the State Commissions established under section 178 technical and other assistance for the development and implementation of national service plans under section 178(e)(1);

"(2) provide to community-based agencies and other entities within the State technical assistance for the preparation of applications for assistance under the national service laws, utilizing, as appropriate, information and materials provided by the clearinghouses established pursuant to section 198A;

"(3) provide to the State Commission and other entities within the State support and technical assistance necessary to assure the existence of an effective system of recruitment, placement, and training of volunteers within the State;

"(4) monitor and evaluate the performance of all programs and projects within the State that receive assistance under the national service laws; and

"(5) perform such other duties and functions as may be assigned or delegated by the Chief Executive Officer.".

(b) DOMESTIC VOLUNTEER SERVICE ACT OF 1973.—Section 401 of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 5041) is amended by inserting after the second sentence the following: "The Director shall report directly to the Chief Executive Officer of the Corporation for National and Community Service.".

(c) TRANSFER OF FUNCTIONS OF COMMISSION ON NATIONAL AND COMMUNITY SERVICE.—

(1) DEFINITIONS.—For purposes of this subsection, unless otherwise provided or indicated by the context, each term specified in section 203(c)(1) shall have the meaning given the term in such section.

(2) TRANSFER OF FUNCTIONS.—There are transferred to the Corporation the functions that the Board of Directors or Executive Director of the Commission on National and Community Service exercised before the effective date of this subsection (including all related functions of any officer or employee of the Commission).

(3) APPLICATION.—The provisions of paragraphs (3) through (10) of section 203(c) shall apply with respect to the transfer described in paragraph (2), except that—

(A) for purposes of such application, references to the term "ACTION Agency" shall be deemed to be references to the Commission on National and Community Service; and

(B) paragraph (10) of such section shall not preclude the transfer of the members of the Board of Directors of the Commission to the Corporation if, on the effective date of this subsection, the Board of Directors of the Corporation has not been confirmed.

(d) CONTINUING PERFORMANCE OF CERTAIN FUNCTIONS.—The individuals who, on the day before the date of enactment of this Act, are performing any of the functions required by section 190 of the National and Community Service Act of 1990 (42 U.S.C. 12651), as in effect on such date, to be performed by the members of the Board of Directors of the Commission on National and Community Service may, subject to section 193A of the National and Community Service Act of 1990, as added by subsection (a) of this section, continue to perform such functions until the date on which the Board of Directors of the Corporation for National and Community Service conducts the first meeting of the Board. The service of such individuals as members of the Board of Directors of such Commission, and the employment of such individuals as special Government employees, shall terminate on such date.

(e) GOVERNMENT CORPORATION CONTROL.—

(1) WHOLLY OWNED GOVERNMENT CORPORATION.—Section 9101(3) of title 31, United States Code, is amended by inserting after subparagraph (D) the following:

"(E) the Corporation for National and Community Service.".

(2) AUDITS.—Section 9105(a)(1) of title 31, United States Code, is amended by inserting ", or under other Federal law," before "or by an independent".

(f) DISPOSAL OF PROPERTY.—Section 203(k) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(k)) is amended by adding at the end the following:

"(5)(A) Under such regulations as the Administrator may prescribe, the Administrator is authorized, in the discretion of the Administrator, to assign to the Chief Executive Officer of the Corporation for National and Community Service for disposal such surplus property as is recommended by the Chief Executive Officer as being needed for national service activities.

"(B) Subject to the disapproval of the Administrator, within 30 days after notice to the Administrator by the Chief Executive Officer of the Corporation for National and Community Service of a proposed transfer of property for such activities, the Chief Executive Officer, through such officers or employees of the Corporation as the Chief Executive Officer may designate, may sell, lease, or donate such property to any entity that receives financial assistance under the National and Community Service Act of 1990 for such activities.

"(C) In fixing the sale or lease value of such property, the Chief Executive Officer of the Corporation for National and Community Service shall comply with the requirements of paragraph (1)(C).".

(g) INSPECTOR GENERAL.—

(1) SPECIAL PROVISIONS IN INSPECTOR GENERAL ACT OF 1978.—The Inspector General Act of 1978 (5 U.S.C. App.) is amended by redesignating sections 8E and 8F as sections 8F and 8G, respectively, and inserting after section 8D the following new section:

"SPECIAL PROVISIONS CONCERNING THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

"SEC. 8E. (a) Notwithstanding the provisions of paragraphs (7) and (8) of section 6(a), it is within the exclusive jurisdiction of the Inspector General of the Corporation for National and Community Service to—

"(1) appoint and determine the compensation of such officers and employees in accordance with section 195(b) of the National and Community Service Trust Act of 1993; and

"(2) procure the temporary and intermittent services of and compensate such experts and consultants, in accordance with section 3109(b) of title 5, United States Code,

as may be necessary to carry out the functions, powers, and duties of the Inspector General.

"(b) No later than the date on which the Chief Executive Officer of the Corporation for National and Community Service transmits any report to the Congress under subsection (a) or (b) of section 5, the Chief Executive Officer shall transmit such report to the Board of Directors of such Corporation.

"(c) No later than the date on which the Chief Executive Officer of the Corporation for National and Community Service transmits a report described under section 5(b) to the Board of Directors as provided under subsection (b) of this section, the Chief Executive Officer shall also transmit any audit report which is described in the statement required under section 5(b)(4) to the Board of Directors. All such audit reports shall be placed on the agenda for review at the next scheduled meeting of the Board of Directors following such transmittal. The Chief Executive Officer of the Corporation shall be present at such meeting to provide any information relating to such audit reports.

"(d) No later than the date on which the Inspector General of the Corporation for National and Community Service reports a problem, abuse, or deficiency under section 5(d) to the Chief Executive Officer of the Corporation, the Chief Executive Officer shall report such problem, abuse, or deficiency to the Board of Directors.".

(2) TERMINATION OF STATUS AS DESIGNATED FEDERAL ENTITY.—

(A) IN GENERAL.—Section 8F(a)(2) of the Inspector General Act of 1978 (5 U.S.C. App.) (as redesignated by paragraph (1) of this subsection) is amended by striking out "ACTION,".

(B) EFFECTIVE DATE.—This paragraph shall take effect on the effective date of section 203(c)(2).

(3) TRANSFER.—

(A) IN GENERAL.—Section 9(a)(1) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(i) in subparagraph (T), by striking out "and" at the end thereof; and

(ii) by adding at the end thereof the following new subparagraph:

"(V) of the Corporation for National and Community Service, the Office of Inspector General of ACTION; and".

(B) EFFECTIVE DATE.—This paragraph shall take effect on the effective date of section 203(c)(2).

(4) HEAD OF ESTABLISHMENT AND ESTABLISHMENT.—Section 11 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(A) in paragraph (1) by inserting "; the Chief Executive Officer of the Corporation for National and Community Service;" after "Thrift Depositor Protection Oversight Board"; and

(B) in paragraph (2) by inserting ", the Corporation for National and Community Service," after "United States Information Agency".

(5) TECHNICAL AND CONFORMING AMENDMENTS TO THE INSPECTOR GENERAL ACT OF 1978.—The Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(A) in section 4(b)(2)—

(i) by striking out "section 8E(a)(2), and any" and inserting in lieu thereof "section 8F(a)(2), and any";

(ii) by striking out "section 8E(a)(1)" and inserting in lieu thereof "section 8F(a)(1)"; and

(iii) by striking out "section 8E(a)(2)." and inserting in lieu thereof "section 8F(a)(2)."; and

(B) in section 8G (as redesignated by paragraph (1) of this subsection)—

(i) by striking out "or 8D" and inserting in lieu thereof "8D, or 8E"; and

(ii) by striking out "section 8E(a)" and inserting in lieu thereof "section 8F(a)".

(6) POSTAL SERVICE TECHNICAL AND CONFORMING AMENDMENTS.—Section 410(b) of title 39, United States Code, is amended—

(A) in paragraph (8) by striking out "and" after the semicolon;

(B) in the first paragraph (9) by striking out the period and inserting in lieu thereof a semicolon and "and"; and

(C) by striking out the second paragraph (9) and inserting in lieu thereof the following:

"(10) the provisions of section 8F of the Inspector General Act of 1978.".

(h) TABLE OF CONTENTS.—Section 1(b) of the National and Community Service Act of 1990 (Public Law 101–610; 104 Stat. 3127) is amended by striking the items relating to subtitle G of title I of such Act and inserting the following:

"Subtitle G—Corporation for National and Community Service

"Sec. 191. Corporation for National and Community Service.
"Sec. 192. Board of Directors.
"Sec. 192A. Authorities and duties of the Board of Directors.
"Sec. 193. Chief Executive Officer.
"Sec. 193A. Authorities and duties of the Chief Executive Officer.
"Sec. 194. Officers.
"Sec. 195. Employees, consultants, and other personnel.
"Sec. 196. Administration.
"Sec. 196A. Corporation State offices.".

(i) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), or paragraph (2) or (3) of subsection (g), the amendments made by this section shall take effect on October 1, 1993.

(2) ESTABLISHMENT AND APPOINTMENT AUTHORITIES.—Sections 191, 192, and 193 of the National and Community Service Act of 1990, as added by subsection (a), shall take effect on the date of enactment of this Act.

SEC. 203. FINAL AUTHORITIES OF THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE.

(a) NATIONAL AND COMMUNITY SERVICE ACT OF 1990.—

(1) APPLICATION.—

(A) EVALUATION.—Subsections (a), (d), and (e) of section 179 of the National and Community Service Act of 1990 (42 U.S.C. 12639) are amended by striking "this title" and inserting "the national service laws".

(B) CORPORATION.—Subtitle I of the National and Community Service Act of 1990 (as amended by section 202 of this Act) is amended in section 191, paragraphs (5) and (10) of section 192A(g), section 193(c), subsections (b) (other than paragraph (10)), (c) (other than paragraph (7)), and (d) of section 193A, subsections (c) and (e) of section 195, and subsections (a) and (b) of section 196, by striking "this Act" each place the term appears and inserting "the national service laws".

(2) GRANTS.—Section 192A(g) of the National and Community Service Act of 1990 (as added by section 202 of this Act) is amended—

(A) by striking "and" at the end of paragraph (9);

(B) by redesignating paragraph (10) as paragraph (11); and

(C) by inserting after paragraph (9) the following:

"(10) notwithstanding any other provision of law, make grants to or contracts with Federal or other public departments or agencies and private nonprofit organizations for the assignment or referral of volunteers under the provisions of the Domestic Volunteer Service Act of 1973 (except as provided in section 108 of the Domestic Volunteer Service Act of 1973), which may provide that the agency or organization shall pay all or a part of the costs of the program; and".

(3) RECRUITMENT AND PUBLIC AWARENESS FUNCTIONS.—Section 193A of the National and Community Service Act of 1993 (as added by section 202 of this Act) is amended by adding at the end the following:

"(g) RECRUITMENT AND PUBLIC AWARENESS FUNCTIONS.—

"(1) EFFORT.—The Chief Executive Officer shall ensure that the Corporation, in carrying out the recruiting and public awareness functions of the Corporation, shall expend at least the level of effort on recruitment and public awareness activities related to the programs carried out under the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4950 et seq.) as ACTION expended on recruitment and public awareness activities related to programs under the Domestic Volunteer Service Act of 1973 during fiscal year 1993.

"(2) PERSONNEL.—The Chief Executive Officer shall assign or hire, as necessary, such additional national, regional, and State personnel to carry out such recruiting and public awareness functions as may be necessary to ensure that such functions are carried out in a timely and effective manner. The Chief Executive Officer shall give priority in the hiring of such additional personnel to individuals who have formerly served as volunteers in the programs carried out under the Domestic Volunteer Service Act of 1973 or similar programs, and to individuals who have specialized experience in the recruitment of volunteers.

"(3) FUNDS.—For the first fiscal year after the effective date of this subsection, and for each fiscal year thereafter, for the purpose of carrying out such recruiting and public awareness functions, the Chief Executive Officer shall obligate not less than 1.5 percent of the amounts appropriated for the fiscal year under section 501(a) of the Domestic Volunteer Service Act of 1973.".

(b) AUTHORITIES OF ACTION AGENCY.—Sections 401 and 402 of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 5041 and 5042) are repealed.

(c) TRANSFER OF FUNCTIONS FROM ACTION AGENCY.—

(1) DEFINITIONS.—For purposes of this subsection, unless otherwise provided or indicated by the context—

(A) the term "Chief Executive Officer" means the Chief Executive Officer of the Corporation;

(B) the term "Corporation" means the Corporation for National and Community Service, established under section 191 of the National and Community Service Act of 1990;

(C) the term "Federal agency" has the meaning given to the term "agency" by section 551(1) of title 5, United States Code;

(D) the term "function" means any duty, obligation, power, authority, responsibility, right, privilege, activity, or program; and

(E) the term "office" includes any office, administration, agency, institute, unit, organizational entity, or component thereof.

(2) TRANSFER OF FUNCTIONS.—There are transferred to the Corporation the functions that the Director of the ACTION Agency exercised before the effective date of this subsection (including all related functions of any officer or employee of the ACTION Agency).

(3) DETERMINATIONS OF CERTAIN FUNCTIONS BY THE OFFICE OF MANAGEMENT AND BUDGET.—If necessary, the Office of Management and Budget shall make any determination of the functions that are transferred under paragraph (2).

(4) REORGANIZATION.—The Chief Executive Officer is authorized to allocate or reallocate any function transferred under paragraph (2) among the officers of the Corporation.

(5) TRANSFER AND ALLOCATIONS OF APPROPRIATIONS AND PERSONNEL.—Except as otherwise provided in this subsection, the personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, used, held, arising from, available to, or to be made available in connection with the functions transferred by this subsection, subject to section 1531 of title 31, United States Code, shall be transferred to the Corporation. Unexpended funds transferred pursuant to this paragraph shall be used only for the purposes for which the funds were originally authorized and appropriated.

(6) INCIDENTAL TRANSFER.—The Director of the Office of Management and Budget, at such time or times as the Director shall provide, is authorized to make such determinations as may be necessary with regard to the functions transferred by this subsection, and to make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with such functions, as may be necessary to carry out the provisions of this subsection. The Director of the Office of Management and Budget shall provide for the termination of the affairs of all entities terminated by this subsection and for such further measures and dispositions as may be necessary to effectuate the purposes of this subsection.

(7) EFFECT ON PERSONNEL.—

(A) IN GENERAL.—Except as otherwise provided by this subsection, the transfer pursuant to this subsection of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall be to positions in the Corporation subject to section 195(a) of the National and Community Service Act of 1990, as added by section 202(a) of this Act, and shall not cause any such employee to be separated or reduced in grade or compensation, or to have the benefits of the employee reduced, for 1 year after the date of transfer of such employee under this subsection, and such transfer shall be deemed to be a transfer of functions for purposes of section 3503 of title 5, United States Code.

(B) EXECUTIVE SCHEDULE POSITIONS.—Except as otherwise provided in this subsection, any person who, on the day preceding the effective date of this subsection, held a position compensated in accordance with the Executive

Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in the Corporation to a position having duties comparable to the duties performed immediately preceding such appointment shall continue to be compensated in such new position at not less than the rate provided for such previous position, for the duration of the service of such person in such new position.

(C) TERMINATION OF CERTAIN POSITIONS.—Positions whose incumbents are appointed by the President, by and with the advice and consent of the Senate, the functions of which are transferred by this subsection, shall terminate on the effective date of this subsection.

(8) SAVINGS PROVISIONS.—

(A) CONTINUING EFFECT OF LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, agreements, grants, contracts, certificates, licenses, registrations, privileges, and other administrative actions—

(i) that have been issued, made, granted, or allowed to become effective by the President, any Federal agency or official thereof, or by a court of competent jurisdiction, in the performance of functions that are transferred under this subsection; and

(ii) that are in effect at the time this subsection takes effect, or were final before the effective date of this subsection and are to become effective on or after the effective date of this subsection,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Chief Executive Officer, or other authorized official, a court of competent jurisdiction, or by operation of law.

(B) PROCEEDINGS NOT AFFECTED.—The provisions of this subsection shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending before the ACTION Agency at the time this subsection takes effect, with respect to functions transferred by this subsection. Such proceedings and applications shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this subsection had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subparagraph shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this subsection had not been enacted.

(C) SUITS NOT AFFECTED.—The provisions of this subsection shall not affect suits commenced before the effective date of this subsection, and in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this subsection had not been enacted.

(D) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or against the ACTION Agency, or by or against any individual in the official capacity of such individual as an officer of the ACTION Agency, shall abate by reason of the enactment of this subsection.

(E) ADMINISTRATIVE ACTIONS RELATING TO PROMULGATION OF REGULATIONS.—Any administrative action relating to the preparation or promulgation of a regulation by the ACTION Agency relating to a function transferred under this subsection may be continued by the Corporation with the same effect as if this subsection had not been enacted.

(9) SEVERABILITY.—If a provision of this subsection or its application to any person or circumstance is held invalid, neither the remainder of this subsection nor the application of the provision to other persons or circumstances shall be affected.

(10) TRANSITION.—Prior to, or after, any transfer of a function under this subsection, the Chief Executive Officer is authorized to utilize—

(A) the services of such officers, employees, and other personnel of the ACTION Agency with respect to functions that will be or have been transferred to the Corporation by this subsection; and

(B) funds appropriated to such functions for such period of time as may reasonably be needed to facilitate the orderly implementation of this subsection.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), this section, and the amendments made by this section, shall take effect—

(A) 18 months after the date of enactment of this Act; or

(B) on such earlier date as the President shall determine to be appropriate and announce by proclamation published in the Federal Register.

(2) TRANSITION.—Subsection (c)(10) shall take effect on the date of enactment of this Act.

SEC. 204. BUSINESS PLAN.

(a) BUSINESS PLAN REQUIRED.—

(1) IN GENERAL.—The Corporation for National and Community Service (referred to in this section as the "Corporation") shall prepare and submit to Congress a business plan. The Corporation may not provide assistance under section 121 of the National and Community Service Act of 1990 before the twentieth day of continuous session of Congress after the date on which the Corporation submits the business plan to Congress.

(2) COMPUTATION.—For purposes of the computation of the 20-day period referred to in paragraph (1), continuity of a session of the Congress shall be considered to be broken only by—

(A) an adjournment of the Congress sine die; and

(B) the days on which either House is not in session because of an adjournment of more than 3 days to a date certain.

(b) REQUIRED ELEMENTS OF BUSINESS PLAN.—

(1) ALLOCATION OF FUNDS.—The business plan shall contain—

(A) a description of the manner in which the Corporation will allocate funds for programs carried out by the Corporation after October 1, 1993;

(B) information on the principal offices and officers of the Corporation that will allocate such funds; and

(C) information that indicates how accountability for such funds can be determined, in terms of the office or officer responsible for such funds.

(2) INVESTIGATIVE AND AUDIT FUNCTIONS.—The business plan shall include a description of the plans of the Corporation—

(A) to ensure continuity, during the transition period, and after the transition period, in the investigative and audit functions carried out by the Inspector General of ACTION prior to such period, consistent with the Inspector General Act of 1978 (5 U.S.C. App.); and

(B) to carry out investigative and audit functions and implement financial management controls regarding programs carried out by the Corporation after October 1, 1993, consistent with the Inspector General Act of 1978, including a specific description of—

(i) the manner in which the Office of Inspector General shall be established in the Corporation, in accordance with section 194(b) of the National Community Service Act of 1990, as added by section 202 of this Act; and

(ii) the manner in which grants made by the Corporation shall be audited by such Office and the financial management controls that shall apply with regard to such grants and programs.

(3) ACCOUNTABILITY MEASURES.—The business plan shall include a detailed description of the accountability measures to be established by the Corporation to ensure effective control of all funds for programs carried out by the Corporation after October 1, 1993.

(4) INFORMATION RESOURCES.—The business plan shall include a description of an information resource management program that will support the program and financial management needs of the Corporation.

(5) CORPORATION STAFFING AND INTEGRATION OF ACTION.—

(A) TRANSFERS.—The business plan shall include a report on the progress and plans of the President for transferring the functions, programs, and related personnel of ACTION to the Corporation, and shall include a timetable for the transfer.

(B) DETAILS AND ASSIGNMENTS.—The report shall specify the number of ACTION employees detailed or assigned to the Corporation, and describe the hiring activity of the Corporation, during the transition period.

(C) STRUCTURE.—The business plan shall include a description of the organizational structure of the Corporation during the transition period.

(D) STAFFING.—The business plan shall include a description of—

(i) measures to ensure adequate staffing during the transition period with respect to programs carried out by the Corporation after October 1, 1993; and

(ii) the responsibilities and authorities of the Managing Directors and other key personnel of the Corporation.

(E) SENIOR EXECUTIVE SERVICE.—The business plan shall include—

(i) an explanation of the number of the employees of the Corporation who will be paid at or above the rate of pay for level 1 of the Senior Executive Service Schedule under section 5382 of title 5, United States Code; and

(ii) information justifying such pay for such employees.

(6) DUPLICATION OF FUNCTIONS.—The business plan shall include a description of the measures that the Corporation is taking or will take to minimize duplication of functions in the Corporation caused by the transfer of the functions of the Commission on National and Community Service, and the transfer of the functions of ACTION, to the Corporation. This description shall address functions at both the national and State levels.

(c) DEFINITION.—The term "transition period" means the period beginning on October 1, 1993 and ending on the day before the effective date of section 203(c)(2).

SEC. 205. ACTIONS UNDER THE NATIONAL SERVICE LAWS TO BE SUBJECT TO THE AVAILABILITY OF APPROPRIATIONS.

No action involving the obligation or expenditure of funds may be taken under one of the national service laws (as defined in section 101(15) of the National and Community Service Act of 1990 (42 U.S.C. 12511(15))) unless and until the Corporation for National and Community Service has sufficient appropriations available at the time such action is taken to satisfy the obligation to be incurred or make the expenditure to be made.

TITLE III—REAUTHORIZATION

Subtitle A—National and Community Service Act of 1990

SEC. 301. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Section 501 of the National and Community Service Act of 1990 (42 U.S.C. 12681) is amended to read as follows:

“SEC. 501. AUTHORIZATION OF APPROPRIATIONS.

“(a) TITLE I.—

“(1) SUBTITLE B.—

“(A) IN GENERAL.—There are authorized to be appropriated to provide financial assistance under subtitle B of title I, $45,000,000 for fiscal year 1994 and such sums as may be necessary for each of the fiscal years 1995 through 1996.

“(B) PROGRAMS.—Of the amount appropriated under subparagraph (A) for a fiscal year—

“(i) not more than 63.75 percent shall be available to provide financial assistance under subpart A of part I of subtitle B of title I;

“(ii) not more than 11.25 percent shall be available to provide financial assistance under subpart B of part I of such subtitle; and

“(iii) not more than 25 percent shall be available to provide financial assistance under part II of such subtitle.

“(2) SUBTITLES C, D, AND H.—

“(A) IN GENERAL.—There are authorized to be appropriated to provide financial assistance under subtitles C and H of title I, to provide national service educational awards under subtitle D of title I, and to carry out such audits and evaluations as the Chief Executive Officer or the Inspector General of the Corporation may determine to be necessary, $300,000,000 for fiscal year 1994, $500,000,000 for fiscal year 1995, and $700,000,000 for fiscal year 1996.

“(B) PROGRAMS.—Of the amount appropriated under subparagraph (A) for a fiscal year, up to 15 percent shall be made available to provide financial assistance under section 125, under subsections (b) and (c) of section 126, and under subtitle H of title I.

“(3) SUBTITLE E.—There are authorized to be appropriated to provide financial assistance under subtitle E of title I, such sums as may be necessary for each of the fiscal years 1995 through 1996.

“(4) ADMINISTRATION.—

“(A) IN GENERAL.—There are authorized to be appropriated for the administration of this Act $40,000,000 for fiscal year 1994, $60,000,000 for fiscal year 1995, and $70,000,000 for fiscal year 1996.

“(B) CORPORATION.—Of the amounts appropriated under subparagraph (A) for a fiscal year—

“(i) up to 60 percent shall be made available to the Corporation for the administration of this Act; and

“(ii) the remainder shall be available to provide financial assistance under section 126(a).

“(b) TITLE III.—There are authorized to be appropriated to carry out title III $5,000,000 for each of the fiscal years 1994 through 1996.

“(c) AVAILABILITY OF APPROPRIATIONS.—Funds appropriated under this section shall remain available until expended.

“(d) SPECIFICATION OF BUDGET FUNCTION.—The authorizations of appropriations contained in this section shall be considered to be a component of budget function 500 as used by the Office of Management and Budget to cover education, training, employment, and social services, and, as such, shall be considered to be related to the programs of the Departments of Labor, Health and Human Services, and Education for budgetary purposes.”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1993.

Subtitle B—Domestic Volunteer Service Act of 1973

SEC. 311. SHORT TITLE; REFERENCES.

(a) SHORT TITLE.—This subtitle may be cited as the “Domestic Volunteer Service Act Amendments of 1993”.

(b) REFERENCES.—Except as otherwise specifically provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4950 et seq.).

CHAPTER 1—VISTA AND OTHER ANTI-POVERTY PROGRAMS

SEC. 321. PURPOSE OF THE VISTA PROGRAM.

The last sentence of section 101 (42 U.S.C. 4951) is amended to read as follows: “In addition, the objectives of this part are to generate the commitment of private sector resources, to encourage volunteer service at the local level, and to strengthen local agencies and organizations to carry out the purpose of this part.”.

SEC. 322. ASSISTANT DIRECTOR FOR VISTA PROGRAM.

(a) IN GENERAL.—Section 102 (42 U.S.C. 4952) is amended by striking “The Director” and inserting “This part shall be administered by one of the Assistant Directors appointed pursuant to section 194(d)(1)(A) of the National and Community Service Act of 1990. Such Director”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the effective date of section 203(b).

SEC. 323. SELECTION AND ASSIGNMENT OF VISTA VOLUNTEERS.

(a) VOLUNTEER ASSIGNMENTS.—Section 103(a) (42 U.S.C. 4953(a)) is amended—

(1) in the matter preceding paragraph (1), by striking “a public” and inserting “public”;

(2) in paragraph (2), by striking “and” at the end;

(3) in paragraph (3), by striking “illiterate or functionally illiterate youth and other individuals,”;

(4) in paragraph (5), by striking “and” at the end;

(5) in paragraph (6)—

(A) by striking “or the Community Economic” and inserting “the Community Economic”;

(B) by inserting “or other similar Acts,” after “1981,”; and

(C) by striking the period and inserting “; and”; and

(6) by adding at the end the following new paragraph:

“(7) in strengthening, supplementing, and expanding efforts to address the problem of illiteracy throughout the United States.”.

(b) RECRUITMENT PROCEDURES.—Section 103(b) (42 U.S.C. 4953(b)) is amended—

(1) in paragraph (2)—

(A) by amending subparagraph (A) to read as follows:

“(2)(A) The Director shall establish and maintain within the national headquarters of the ACTION Agency (or any successor entity of such agency) a volunteer placement office which shall be responsible for all functions related to the recruitment and placement of volunteers under this part. Such functions and activities shall be carried out in coordination or in conjunction with recruitment and placement activities carried out under the National and Community Service Trust Act of 1993. Upon the transfer of the functions of the ACTION Agency to the Corporation for National and Community Service, the office established under this subparagraph shall be merged with the recruitment office of such Corporation. At no time after such transfer of functions shall more than one office responsible primarily for recruitment exist within the Corporation.”;

(B) by striking subparagraph (C); and

(C) by redesignating subparagraph (D) as subparagraph (C);

(2) by striking paragraphs (4) and (6); and

(3) by redesignating paragraphs (5) and (7) as paragraphs (4) and (6), respectively.

(c) PUBLIC AWARENESS AND RECRUITMENT.—Subsection (c) of section 103 (42 U.S.C. 4953(c)) is amended—

(1) in paragraph (1)—

(A) in the 1st sentence by striking “regional or State employees designated in subparagraphs (C) and (D) of subsection (b)(2)” and inserting “personnel described in subsection (b)(2)(C)”;

(B) in the second sentence, by striking “shall include” and inserting “may include”;

(C) by redesignating subparagraphs (F) and (G) as subparagraphs (G) and (H), respectively; and

(D) by inserting after subparagraph (E) the following new subparagraph:

“(F) publicizing national service educational awards available under the National and Community Service Trust Act of 1993;”;

(2) by striking paragraphs (4) and (5); and

(3) by redesignating paragraph (6) as paragraph (4).

(d) COORDINATION WITH OTHER FEDERAL AGENCIES.—Section 103 (42 U.S.C. 4953) is amended by adding at the end the following new subsection:

“(h) The Director is encouraged to enter into agreements with other Federal agencies to use VISTA volunteers in furtherance of program objectives that are consistent with the purposes described in section 101.”.

SEC. 324. TERMS AND PERIODS OF SERVICE.

(a) CLARIFICATION AND PERIODS OF SERVICE.—Subsection (b) of section 104 (42 U.S.C. 4954(b)) is amended to read as follows:

“(b)(1) Volunteers serving under this part may be enrolled initially for periods of service of not less than 1 year, nor more than 2 years, except as provided in paragraph (2) or subsection (e).

“(2) Volunteers serving under this part may be enrolled for periods of service of less than 1 year if the Director determines, on an individual basis, that a period of service of less than 1 year is necessary to meet a critical scarce skill need.

“(3) Volunteers serving under this part may be reenrolled for periods of service in a manner to be determined by the Director. No volunteer shall serve for more than a total of 5 years under this part.”.

(b) SUMMER PROGRAM.—Section 104 (42 U.S.C. 4954) is amended by adding at the end the following new subsection:

“(e)(1) Notwithstanding any other provision of this part, the Director may enroll full-time VISTA summer associates in a program for the summer months only, under such terms and conditions as the Director shall determine to be appropriate. Such individuals shall be assigned to projects that meet the criteria set forth in section 103(a).

“(2) In preparing reports relating to programs under this Act, the Director shall report on participants, costs, and accomplishments under the summer program separately.

“(3) The limitation on funds appropriated for grants and contracts, as contained in section 108, shall not apply to the summer program.”.

SEC. 325. SUPPORT FOR VISTA VOLUNTEERS.

(a) POSTSERVICE STIPEND.—Section 105(a)(1) (42 U.S.C. 4955(a)(1)) is amended—

(1) by inserting “(A)” after “(a)(1)”; and

(2) by striking the second sentence and inserting the following:

“(B) Such stipend shall not exceed $95 per month in fiscal year 1994, but shall be set at a minimum of $100 per month, and a maximum of $125 per month assuming the availability of funds to accomplish such maximum, during the service of the volunteer after October 1, 1994. The Director may provide a stipend of a maximum of $200 per month in the case of persons who have served as volunteers under this part for at least 1 year and who, in accordance with standards established in such regulations as the Director shall prescribe, have been designated volunteer leaders on the basis of experience and special skills and a demonstrated leadership among volunteers.

“(C) The Director shall not provide a stipend under this subsection to an individual who

elects to receive a national service educational award under subtitle D of title I of the National and Community Service Act of 1990.".

(b) SUBSISTENCE ALLOWANCE.—Section 105(b) (42 U.S.C. 4955(b)) is amended—

(1) in paragraph (3)—

(A) by striking subparagraph (A);

(B) in subparagraph (B), by striking the subparagraph designation; and

(C) by adding at the end the following new sentence: "The Director shall review such adjustments on an annual basis to ensure that the adjustments are current."; and

(2) by striking paragraph (4).

(c) CHILD CARE.—Section 105 (42 U.S.C. 4955) is amended by adding at the end the following:

"(c)(1) The Director shall—

"(A) make child care available for children of each volunteer enrolled under this part who need such child care in order to participate as volunteers; or

"(B) provide a child care allowance to each such volunteer who needs such assistance in order to participate as volunteers.

"(2) The Corporation shall establish guidelines regarding the circumstances under which child care shall be made available under this subsection and the value of any child care allowance to be provided.".

SEC. 326. PARTICIPATION OF YOUNGER AND OLDER PERSONS.

Section 107 (42 U.S.C. 4957) is amended to read as follows:

"SEC. 107. PARTICIPATION OF YOUNGER AND OLDER PERSONS.

"In carrying out this part and part C, the Director shall take necessary steps, including the development of special projects, where appropriate, to encourage the fullest participation of individuals 18 through 27 years of age, and individuals 55 years of age and older, in the various programs and activities authorized under such parts.".

SEC. 327. LITERACY ACTIVITIES.

Section 109 (42 U.S.C. 4959) is amended—

(1) in subsection (g)—

(A) by striking paragraph (1); and

(B) by striking the paragraph designation of paragraph (2); and

(2) in subsection (h)—

(A) in paragraph (1) by striking "paragraphs (2) and (3)" and inserting "paragraph (2)"; and

(B) by striking paragraph (3).

SEC. 328. APPLICATIONS FOR ASSISTANCE.

Section 110 (42 U.S.C. 4960) is amended to read as follows:

"SEC. 110. APPLICATIONS FOR ASSISTANCE.

"In reviewing an application for assistance under this part, the Director shall not deny such assistance to any project or program, or any public or private nonprofit organization, solely on the basis of the duration of the assistance such project, program, or organization has received under this part prior to the date of submission of the application. The Director shall grant assistance under this part on the basis of merit and to accomplish the goals of the VISTA program, and shall consider the needs and requirements of projects in existence on such date as well as potential new projects.".

SEC. 329. REPEAL OF AUTHORITY FOR STUDENT COMMUNITY SERVICE PROGRAMS.

Section 114 (42 U.S.C. 4974) is repealed.

SEC. 330. UNIVERSITY YEAR FOR VISTA.

(a) PROGRAM TITLE.—Part B of title I (42 U.S.C. 4971 et seq.) is amended—

(1) in the part heading, to read as follows:

"PART B—UNIVERSITY YEAR FOR VISTA";

(2) by striking "University Year for ACTION" each place that such term appears in such part and inserting "University Year for VISTA";

(3) by striking "UYA" each place that such term appears in such part and inserting "UYV"; and

(4) in section 112 (42 U.S.C. 4972) by striking the section heading and inserting the following new section heading:

"AUTHORITY TO OPERATE UNIVERSITY YEAR FOR VISTA PROGRAM".

(b) SPECIAL CONDITIONS.—Section 113(a) (42 U.S.C. 4973(a)) is amended—

(1) by striking "of not less than the duration of an academic year" and inserting "of not less than the duration of an academic semester or its equivalent"; and

(2) by adding at the end the following new sentence: "Volunteers may receive a living allowance and such other support or allowances as the Director determines to be appropriate.".

SEC. 331. AUTHORITY TO ESTABLISH AND OPERATE SPECIAL VOLUNTEER AND DEMONSTRATION PROGRAMS.

Section 122 (42 U.S.C. 4992) is amended to read as follows:

"SEC. 122. AUTHORITY TO ESTABLISH AND OPERATE SPECIAL VOLUNTEER AND DEMONSTRATION PROGRAMS.

"(a) IN GENERAL.—The Director is authorized to conduct special volunteer programs for demonstration programs, or award grants to or enter into contracts with public or nonprofit organizations to carry out such programs. Such programs shall encourage wider volunteer participation on a full-time, part-time, or short-term basis to further the purpose of this part, and identify particular segments of the poverty community that could benefit from volunteer and other antipoverty efforts.

"(b) ASSIGNMENT AND SUPPORT OF VOLUNTEERS.—The assignment of volunteers under this section, and the provision of support for such volunteers, including any subsistence allowances and stipends, shall be on such terms and conditions as the Director shall determine to be appropriate, but shall not exceed the level of support provided under section 105. Projects using volunteers who do not receive stipends may also be supported under this section.

"(c) CRITERIA AND PRIORITIES.—In carrying out this section and section 123, the Director shall establish criteria and priorities for awarding grants and entering into contracts under this part in each fiscal year. No grant or contract exceeding $100,000 shall be made under this part unless the recipient of the grant or contractor has been selected by a competitive process that includes public announcement of the availability of funds for such grant or contract, general criteria for the selection of recipients or contractors, and a description of the application process and application review process.".

SEC. 332. TECHNICAL AND FINANCIAL ASSISTANCE.

Section 123 (42 U.S.C. 4993) is amended to read as follows:

"SEC. 123. TECHNICAL AND FINANCIAL ASSISTANCE.

"The Director may provide technical and financial assistance to Federal agencies, State and local governments and agencies, private nonprofit organizations, employers, and other private organizations that utilize or desire to utilize volunteers in carrying out the purpose of this part.".

SEC. 333. ELIMINATION OF SEPARATE AUTHORITY FOR DRUG ABUSE PROGRAMS.

Title I (42 U.S.C. 4951 et seq.) is amended—

(1) by repealing section 124; and

(2) by redesignating section 125 as section 124.

CHAPTER 2—NATIONAL SENIOR VOLUNTEER CORPS

SEC. 341. NATIONAL SENIOR VOLUNTEER CORPS.

(a) TITLE HEADING.—The heading for title II is amended to read as follows:

"TITLE II—NATIONAL SENIOR VOLUNTEER CORPS".

(b) REFERENCES.—

(1) Section 200(1) (42 U.S.C. 5000(1)) is amended by striking "Older American Volunteer Programs" and inserting "National Senior Volunteer Corps".

(2) The heading for section 221 (42 U.S.C. 5021) is amended by striking "OLDER AMERICAN VOLUNTEER PROGRAMS" and inserting "NATIONAL SENIOR VOLUNTEER CORPS".

(3) Section 224 (42 U.S.C. 5024) is amended—

(A) in the section heading by striking "OLDER AMERICAN VOLUNTEER PROGRAMS" and inserting "NATIONAL SENIOR VOLUNTEER CORPS"; and

(B) by striking "volunteer projects for Older Americans" and inserting "National Senior Volunteer Corps projects".

(4) Section 205(c) of the Older Americans Amendments of 1975 (Public Law 94–135; 89 Stat. 727; 42 U.S.C. 5001 note) is amended by striking "national older American volunteer programs" each place the term appears and inserting "National Senior Volunteer Corps programs".

SEC. 342. THE RETIRED AND SENIOR VOLUNTEER PROGRAM.

(a) PART HEADING.—The heading for part A of title II is amended by striking "RETIRED SENIOR VOLUNTEER PROGRAM" and inserting "RETIRED AND SENIOR VOLUNTEER PROGRAM".

(b) REFERENCES.—Section 200 (42 U.S.C. 5000) is amended by striking "retired senior volunteer program" each place that such term appears in such section and the Act and inserting "Retired and Senior Volunteer Program".

SEC. 343. OPERATION OF THE RETIRED AND SENIOR VOLUNTEER PROGRAM.

Section 201(a) (42 U.S.C. 5001(a)) is amended—

(1) in the matter preceding paragraph (1) by striking "retired persons" and inserting "retired individuals and working older individuals"; and

(2) in paragraph (2)—

(A) by striking "aged sixty or over" and inserting "55 years of age or older"; and

(B) by inserting ", and individuals 60 years of age or older will be given priority for enrollment," after "enrolled".

SEC. 344. SERVICES UNDER THE FOSTER GRANDPARENT PROGRAM.

Section 211(a) (42 U.S.C. 5011(a)) is amended by striking ", including services" and all that follows through "with special needs." and inserting a period and the following: "Such services may include services by individuals serving as foster grandparents to children who are individuals with disabilities, who have chronic health conditions, who are receiving care in hospitals, who are residing in homes for dependent and neglected children, or who are receiving services provided by day care centers, schools, early intervention programs under part H of the Individuals with Disabilities Education Act (20 U.S.C. 1471 et seq.), Head Start agencies under the Head Start Act, or any of a variety of other programs, establishments, and institutions providing services for children with special or exceptional needs. Individual foster grandparents may provide person-to-person services to one or more children, depending on the needs of the project and local site.".

SEC. 345. STIPENDS FOR LOW-INCOME VOLUNTEERS.

Section 211(d) (42 U.S.C. 5011(d)) is amended—

(1) in the second sentence by striking "Any stipend or allowance provided under this subsection shall not be less than $2.20 per hour until October 1, 1990, $2.35 per hour during fiscal year 1991, and $2.50 per hour on and after October 1, 1992," and inserting "Any stipend or allowance provided under this section shall not be less than $2.45 per hour on and after October 1, 1993, and shall be adjusted once prior to December 31, 1997, to account for inflation, as determined by the Director and rounded to the nearest five cents,"; and

(2) by adding at the end the following:

"In establishing the amount of, and the effective date for, such adjustment, the Director, in

consultation with the State Commissions on National and Community Service (as established under section 178 of the National and Community Service Act of 1990) and the heads of the State offices established under section 195 of such Act, shall consider the effect such adjustment will have on the ability of non-Federally funded volunteer programs similar to the programs under this title to maintain their current level of volunteer hours.''.

SEC. 346. CONDITIONS OF GRANTS AND CONTRACTS.

Section 212 (42 U.S.C. 5012) is repealed.

SEC. 347. EVALUATION OF THE SENIOR COMPANION PROGRAM.

Section 213(c) (42 U.S.C. 5013(c)) is amended by striking paragraph (3).

SEC. 348. AGREEMENTS WITH OTHER FEDERAL AGENCIES.

(a) PROMOTION.—Section 221(a) (42 U.S.C. 5021(a)) is amended—

(1) by striking ''(a)'' and inserting ''(a)(1)''; and

(2) by adding at the end the following:

''(2) To the maximum extent practicable, the Director shall enter into agreements with—

''(A) the Department of Health and Human Services to—

''(i) involve retired and senior volunteers, and foster grandparents, in Head Start programs;

''(ii) involve retired and senior volunteers, and senior companions, in providing services authorized by title III of the Older Americans Act of 1965; and

''(iii) promote the recognition of such volunteers who are qualified to provide in-home services for reimbursement under title XVIII of the Social Security Act for providing such services;

''(B) the Department of Education to promote intergenerational tutoring and mentoring for at-risk children; and

''(C) the Environmental Protection Agency to support conservation efforts.''.

(b) MINIMUM EXPENDITURE.—Section 221(b)(3) (42 U.S.C. 5021(b)(3)) is amended by striking ''$250,000'' and inserting ''$375,000''.

SEC. 349. PROGRAMS OF NATIONAL SIGNIFICANCE.

Section 225 (42 U.S.C. 5025) is amended—

(1) in subsection (a)(2)(B) by striking ''paragraph (10)'' and inserting ''paragraphs (10), (12), (15), and (16)'';

(2) in subsection (b), by adding at the end the following new paragraphs:

''(12) Programs that address environmental needs.

''(13) Programs that reach out to organizations (such as labor unions and profitmaking organizations) not previously involved in addressing national problems of local concern.

''(14) Programs that provide for outreach to increase participation of members of ethnic groups who have limited English proficiency.

''(15) Programs that support criminal justice activities and juvenile justice activities.

''(16) Programs that involve older volunteers working with young people in apprenticeship programs.

''(17) Programs that support the community integration of individuals with disabilities.

''(18) Programs that provide health, education, and welfare services that augment the activities of State and local agencies, to be carried out in a fiscal year for which the aggregate amount of funds available to such agencies is not less than the annual average aggregate amount of funds available to such agencies for the period of 3 fiscal years preceding such fiscal year.'';

(3) in subsection (c)(1), by striking ''under this title''; and

(4) in subsection (d), by striking paragraph (1) and inserting the following new paragraph:

''(1) Except as provided in paragraph (2), from the amounts appropriated under subsection (a), (b), (c), or (d) of section 502, for each fiscal year there shall be available to the Director such sums as may be necessary to make grants under subsection (a).''.

SEC. 350. ADJUSTMENTS TO FEDERAL FINANCIAL ASSISTANCE.

Section 226(b) (42 U.S.C. 5026(b)) is amended—

(1) in paragraph (1)—

(A) by striking ''(1)''; and

(B) by striking ''annually'' and inserting '', once every 2 years''; and

(2) by striking paragraph (2).

SEC. 351. DEMONSTRATION PROGRAMS.

Title II (42 U.S.C. 5000 et seq.) is amended by adding at the end the following new part:

''PART E—DEMONSTRATION PROGRAMS

"SEC. 231. AUTHORITY OF DIRECTOR.

''(a) IN GENERAL.—The Director is authorized to make grants to or enter into contracts with public or nonprofit organizations, including organizations funded under part A, B, or C, for the purposes of demonstrating innovative activities involving older Americans as volunteers. The Director may support under this part both volunteers receiving stipends and volunteers not receiving stipends.

''(b) ACTIVITIES.—An organization that receives a grant or enters into a contract under subsection (a) may use funds made available through the grant or contract for activities such as—

''(1) linking youth groups and older American organizations in volunteer activities;

''(2) involving older volunteers in programs and activities different from programs and activities supported in the community; and

''(3) testing whether older American volunteer programs may contribute to new objectives or certain national priorities.

"SEC. 232. PROHIBITION.

''The Director may not reduce the activities, projects, or volunteers funded under the other parts of this title in order to support projects under this part.''.

CHAPTER 3—ADMINISTRATION

SEC. 361. PURPOSE OF AGENCY.

Section 401 (42 U.S.C. 5041) is amended—

(1) by inserting after the first sentence the following: ''Such Agency shall also promote the coordination of volunteer efforts among Federal, State, and local agencies and organizations, exchange technical assistance information among such agencies and organizations.''; and

(2) by striking ''Older American Volunteer Programs'' each place the term appears and inserting ''National Senior Volunteer Corps''.

SEC. 362. AUTHORITY OF THE DIRECTOR.

Section 402 (42 U.S.C. 5042) is amended in paragraphs (5) and (6) by inserting ''solicit and'' before ''accept'' in each such paragraph.

SEC. 363. POLITICAL ACTIVITIES.

Section 403 (42 U.S.C. 5043) is amended—

(1) by redesignating subsections (b)(2) and (c) as subsections (c) and (d), respectively;

(2) in subsection (c), as so redesignated, by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively; and

(3) by striking subsection (b)(1) and inserting the following:

''(b)(1) Programs assisted under this Act shall not be carried on in a manner involving the use of funds, the provision of services, or the employment or assignment of personnel in a manner supporting or resulting in the identification of such programs with—

''(A) any partisan or nonpartisan political activity associated with a candidate, or a contending faction or group, in an election for public or party office;

''(B) any activity to provide voters or prospective voters with transportation to the polls or similar assistance in connection with any such election; or

''(C) any voter registration activity;

except that programs assisted under this Act may make voter registration applications and nonpartisan voter registration information available to the public on the premises of such programs.

''(2) In carrying out any voter registration activity permitted under paragraph (1), an individual who is affiliated with, or employed to carry out, a program assisted under this Act shall not—

''(A) indicate a preference with respect to any candidate, political party, or election issue; or

''(B) seek to influence the political or party affiliation, or voting decision, of any individual.''.

SEC. 364. COMPENSATION FOR VOLUNTEERS.

Section 404 (42 U.S.C. 5044) is amended—

(1) in subsection (c), by inserting ''from such volunteers or from beneficiaries'' after ''compensation'';

(2) by striking subsection (f); and

(3) by redesignating subsection (g) as subsection (f).

SEC. 365. REPEAL OF REPORT.

Section 407 (42 U.S.C. 5047) is repealed.

SEC. 366. APPLICATION OF FEDERAL LAW.

Section 415(b)(4)(A) (42 U.S.C. 5055(b)(4)(A)) is amended by striking ''a grade GS–7 employee'' and inserting ''an employee at grade GS–5 of the General Schedule under section 5332 of title 5, United States Code''.

SEC. 367. NONDISCRIMINATION PROVISIONS.

Section 417 (42 U.S.C. 5057) is amended to read as follows:

"SEC. 417. NONDISCRIMINATION PROVISIONS.

''(a) IN GENERAL.—

''(1) BASIS.—An individual with responsibility for the operation of a program that receives assistance under this Act shall not discriminate against a participant in, or member of the staff of, such program on the basis of race, color, national origin, sex, age, or political affiliation of such participant or member, or on the basis of disability, if the participant or member is a qualified individual with a disability.

''(2) DEFINITION.—As used in paragraph (1), the term 'qualified individual with a disability' has the meaning given the term in section 101(8) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111(8)).

''(b) FEDERAL FINANCIAL ASSISTANCE.—Any assistance provided under this Act shall constitute Federal financial assistance for purposes of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), and the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.).

''(c) RELIGIOUS DISCRIMINATION.—

''(1) IN GENERAL.—Except as provided in paragraph (2), an individual with responsibility for the operation of a program that receives assistance under this Act shall not discriminate on the basis of religion against a participant in such program or a member of the staff of such program who is paid with funds received under this Act.

''(2) EXCEPTION.—Paragraph (1) shall not apply to the employment, with assistance provided under this Act, of any member of the staff, of a program that receives assistance under this Act, who was employed with the organization operating the program on the date the grant under this Act was awarded.

''(d) RULES AND REGULATIONS.—The Director shall promulgate rules and regulations to provide for the enforcement of this section that shall include provisions for summary suspension of assistance for not more than 30 days, on an emergency basis, until notice and an opportunity to be heard can be provided.''.

SEC. 368. ELIMINATION OF SEPARATE REQUIREMENTS FOR SETTING REGULATIONS.

Section 420 (42 U.S.C. 5060) is repealed.

SEC. 369. CLARIFICATION OF ROLE OF INSPECTOR GENERAL.

Section 422 (42 U.S.C. 5062) is amended—

(1) in subsection (a), by inserting "or the Inspector General" after "Director"; and

(2) in subsection (b), by inserting ", the Inspector General," after "Director" each place that such term appears.

SEC. 370. COPYRIGHT PROTECTION.

Title IV is amended by adding at the end, the following new section:

"SEC. 425. PROTECTION AGAINST IMPROPER USE.

"Whoever falsely—

"(1) advertises or represents; or

"(2) publishes or displays any sign, symbol, or advertisement, reasonably calculated to convey the impression,

that an entity is affiliated with, funded by, or operating under the authority of ACTION, VISTA, or any of the programs of the National Senior Volunteer Corps may be enjoined under an action filed by the Attorney General, on a complaint by the Director.".

SEC. 371. DEPOSIT REQUIREMENT CREDIT FOR SERVICE AS A VOLUNTEER.

(a) CIVIL SERVICE RETIREMENT SYSTEM.—

(1) CREDITABLE SERVICE.—Section 8332(j) of title 5, United States Code, is amended—

(A) in paragraph (1)—

(i) in the first sentence, by inserting "the period of an individual's service as a full-time volunteer enrolled in a program of at least 1 year's duration under part A, B, or C of title I of the Domestic Volunteer Service Act of 1973," after "Economic Opportunity Act of 1964,";

(ii) in the second sentence, by inserting ", as a full-time volunteer enrolled in a program of at least 1 year's duration under part A, B, or C of title I of the Domestic Volunteer Service Act of 1973," after "Economic Opportunity Act of 1964"; and

(iii) in the last sentence—

(I) by inserting "or under part A, B, or C of title I of the Domestic Volunteer Service Act of 1973" after "Economic Opportunity Act of 1964"; and

(II) by inserting "or the Chief Executive Officer of the Corporation for National and Community Service, as appropriate," after "Director of the Office of Economic Opportunity"; and

(B) by adding at the end the following new paragraph:

"(3) The provisions of paragraph (1) relating to credit for service as a volunteer or volunteer leader under the Economic Opportunity Act of 1964, part A, B, or C of title I of the Domestic Volunteer Service Act of 1973, or the Peace Corps Act shall not apply to any period of service as a volunteer or volunteer leader of an employee or Member with respect to which the employee or Member has made the deposit with interest, if any, required by section 8334(l).".

(2) DEDUCTIONS, CONTRIBUTIONS, AND DEPOSITS.—

(A) IN GENERAL.—Section 8334 of title 5, United States Code, is amended by adding at the end the following new subsection:

"(l)(1) Each employee or Member who has performed service as a volunteer or volunteer leader under part A of title VIII of the Economic Opportunity Act of 1964, as a full-time volunteer enrolled in a program of at least 1 year's duration under part A, B, or C of title I of the Domestic Volunteer Service Act of 1973, or as a volunteer or volunteer leader under the Peace Corps Act before the date of the separation on which the entitlement to any annuity under this subchapter is based may pay, in accordance with such regulations as the Office of Personnel Management shall issue, an amount equal to 7 percent of the readjustment allowance paid to the employee or Member under title VIII of the Economic Opportunity Act of 1964 or section 5(c) or 6(1) of the Peace Corps Act or the stipend paid to the employee or Member under part A, B, or C of title I of the Domestic Volunteer Service Act of 1973, for each period of service as such a volunteer or volunteer leader.

"(2) Any deposit made under paragraph (1) more than 2 years after the later of—

"(A) October 1, 1993; or

"(B) the date on which the employee or Member making the deposit first becomes an employee or Member,

shall include interest on such amount computed and compounded annually beginning on the date of the expiration of the 2-year period. The interest rate that is applicable in computing interest in any year under this paragraph shall be equal to the interest rate that is applicable for such year under subsection (e).

"(3) The Director of the Peace Corps and the Chief Executive Officer of the Corporation for National and Community Service shall furnish such information to the Office of Personnel Management as the Office may determine to be necessary for the administration of this subsection.".

(B) CONFORMING AMENDMENT.—Section 8334(e) of title 5, United States Code, is amended in paragraphs (1) and (2) by striking "or (k)" each place that such term appears and inserting "(k), or (l)".

(b) FEDERAL EMPLOYEES' RETIREMENT SYSTEM.—

(1) CREDITABLE SERVICE.—Section 8411 of title 5, United States Code, is amended—

(A) in subsection (b)(3), by striking "subsection (f)" and inserting "subsection (f) or (h)"; and

(B) by adding at the end the following new subsection:

"(h) An employee or Member shall be allowed credit for service as a volunteer or volunteer leader under part A of title VIII of the Economic Opportunity Act of 1964, as a full-time volunteer enrolled in a program of at least 1 year's duration under part A, B, or C of title I of the Domestic Volunteer Service Act of 1973, or as a volunteer or volunteer leader under the Peace Corps Act performed at any time prior to the separation on which the entitlement to any annuity under this subchapter is based if the employee or Member has made a deposit with interest, if any, with respect to such service under section 8422(f).".

(2) DEDUCTIONS, CONTRIBUTIONS.—Section 8422 of title 5, United States Code, is amended by adding at the end the following new subsection:

"(f)(1) Each employee or Member who has performed service as a volunteer or volunteer leader under part A of title VIII of the Economic Opportunity Act of 1964, as a full-time volunteer enrolled in a program of at least 1 year's duration under part A, B, or C of title I of the Domestic Volunteer Service Act of 1973, or as a volunteer or volunteer leader under the Peace Corps Act before the date of the separation on which the entitlement to any annuity under this subchapter, or subchapter V of this chapter, is based may pay, in accordance with such regulations as the Office of Personnel Management shall issue, an amount equal to 3 percent of the readjustment allowance paid to the employee or Member under title VIII of the Economic Opportunity Service Act of 1964 or section 5(c) or 6(1) of the Peace Corps Act or the stipend paid to the employee or Member under part A, B, or C of title I of the Domestic Volunteer Service Act of 1973, for each period of service as such a volunteer or volunteer leader.

"(2) Any deposit made under paragraph (1) more than 2 years after the later of—

"(A) October 1, 1993, or

"(B) the date on which the employee or Member making the deposit first becomes an employee or Member,

shall include interest on such amount computed and compounded annually beginning on the date of the expiration of the 2-year period. The interest rate that is applicable in computing interest in any year under this paragraph shall be equal to the interest rate that is applicable for such year under section 8334(e).

"(3) The Director of the Peace Corps and the Chief Executive Officer of the Corporation for National and Community Service shall furnish such information to the Office of Personnel Management as the Office may determine to be necessary for the administration of this subsection.".

(c) APPLICABILITY AND OTHER PROVISIONS.—

(1) APPLICABILITY.—

(A) AMENDMENTS RELATING TO CSRS.—

(i) IN GENERAL.—The amendments made by subsection (a) shall apply with respect to any individual entitled to an annuity on the basis of a separation from service occurring on or after the effective date of this subtitle.

(ii) RULES RELATING TO ANNUITIES BASED ON EARLIER SEPARATIONS.—An annuity under subchapter III of chapter 83 of title 5, United States Code, payable to an individual based on a separation from service occurring before the effective date of this subtitle shall be subject to the provisions of paragraph (2).

(B) AMENDMENTS RELATING TO FERS.—

(i) IN GENERAL.—The amendments made by subsection (b) shall apply with respect to any individual entitled to an annuity on the basis of a separation from service occurring before, on, or after the effective date of this subtitle, subject to clause (ii).

(ii) RULE RELATING TO ANNUITIES BASED ON EARLIER SEPARATIONS.—In the case of any individual whose entitlement to an annuity is based on a separation from service occurring before the effective date of this subtitle, any increase in such individual's annuity on the basis of a deposit made under section 8442(f) of title 5, United States Code, as amended by subsection (b)(2), shall be effective beginning with the annuity payment payable for the first calendar month beginning after the effective date of this subtitle.

(2) SPECIAL RULES.—

(A) OLD-AGE OR SURVIVORS INSURANCE BENEFITS.—Subject to subparagraph (B), in any case in which an individual described in paragraph (1)(A)(ii) is also entitled to old-age or survivors insurance benefits under section 202 of the Social Security Act (or would be entitled to such benefits upon filing an application therefor), the amount of the annuity to which such individual is entitled under subchapter III of chapter 83 of title 5, United States Code (after taking into account any creditable service as a volunteer or volunteer leader under the Economic Opportunity Act of 1964, the Domestic Volunteer Service Act of 1973, or the Peace Corps Act) which is payable for any month shall be reduced by an amount determined by multiplying the amount of such old-age or survivors insurance benefit for the determination month by a fraction—

(i) the numerator of which is the total of the wages (within the meaning of section 209 of the Social Security Act) for service as a volunteer or volunteer leader under the Economic Opportunity Act of 1964, the Domestic Volunteer Service Act of 1973, or the Peace Corps Act of such individual credited for years before the calendar year in which the determination month occurs, up to the contribution and benefit base determined under section 230 of the Social Security Act (or other applicable maximum annual amount referred to in section 215(e)(1) of such Act for each such year); and

(ii) the denominator of which is the total of all wages described in clause (i), plus all other wages (within the meaning of section 209 of such Act) and all self-employment income (within the meaning of section 211(b) of such Act) of such individual credited for years after 1936 and before the calendar year in which the determination month occurs, up to the contribution and benefit base (or such other amount referred to in section 215(e)(1) of such Act for each such year.

(B) LIMITATIONS.—

(i) REDUCTION IN ANNUITY.—Subparagraph (A) shall not reduce the annuity of an individual below the amount of the annuity which would be payable to the individual for the determination month if the provisions of section 8332(j) of title 5, United States Code, relating to service as a volunteer or volunteer leader, applied to the individual for such month.

(ii) APPLICATION.—Subparagraph (A) shall not apply in the case of an individual who, prior to the date of enactment of this Act, made a deposit under section 8334(c) of title 5, United States Code, with respect to service as a volunteer or volunteer leader (as described in subparagraph (A)).

(iii) DETERMINATION MONTH.—For purposes of this paragraph, the term "determination month" means—

(I) the first month the individual described in paragraph (1)(A)(ii) is entitled to old-age or survivors benefits under section 202 of the Social Security Act (or would be entitled to such benefits upon filing an application therefor); or

(II) the first calendar month beginning after the date of enactment of this Act, in the case of any individual entitled to such benefits for such month.

(iv) RULE RELATING TO ANNUITIES BASED ON EARLIER SEPARATIONS.—Any increase in an annuity which occurs by virtue of the enactment of this paragraph shall be effective beginning with the annuity payment payable for the first calendar month beginning after the effective date of this subtitle.

(3) FURNISHING OF INFORMATION.—The Secretary of Health and Human Services shall furnish such information to the Office of Personnel Management as may be necessary to carry out this subsection.

(4) ACTION TO INFORM INDIVIDUALS.—The Director of the Office of Personnel Management shall take such action as may be necessary and appropriate to inform individuals entitled to credit under this section for service as a volunteer or volunteer leader, or to have any annuity recomputed, or to make a deposit under this section, of such entitlement.

CHAPTER 4—AUTHORIZATION OF APPROPRIATIONS AND OTHER AMENDMENTS

SEC. 381. AUTHORIZATION OF APPROPRIATIONS FOR TITLE I.

Section 501 (42 U.S.C. 5081) is amended to read as follows:

"SEC. 501. NATIONAL VOLUNTEER ANTIPOVERTY PROGRAMS.

"(a) AUTHORIZATIONS.—

"(1) VOLUNTEERS IN SERVICE TO AMERICA.—There are authorized to be appropriated to carry out parts A and B of title I, excluding section 109, $56,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996.

"(2) LITERACY ACTIVITIES.—There are authorized to be appropriated to carry out section 109, $5,600,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996.

"(3) SPECIAL VOLUNTEER PROGRAMS.—There are authorized to be appropriated to carry out part C of title I, excluding section 125, such sums as may be necessary for each of the fiscal years 1994 through 1996.

"(4) LITERACY CHALLENGE GRANTS.—There are authorized to be appropriated to carry out section 125, such sums as may be necessary for each of the fiscal years 1994 through 1996.

"(5) SPECIFICATION OF BUDGET FUNCTION.—The authorizations of appropriations contained in this subsection shall be considered to be a component of budget function 500 as used by the Office of Management and Budget to cover education, training, employment, and social services, and, as such, shall be considered to be related to the programs of the Departments of Labor, Health and Human Services, and Education for budgetary purposes.

"(b) SUBSISTENCE.—The minimum level of an allowance for subsistence required under section 105(b)(2), to be provided to each volunteer under title I, may not be reduced or limited in order to provide for an increase in the number of volunteer service years under part A of title I.

"(c) LIMITATION.—No part of the funds appropriated to carry out part A of title I may be used to provide volunteers or assistance to any program or project authorized under part B or C of title I, or under title II, unless the program or project meets the antipoverty criteria of part A of title I.

"(d) AVAILABILITY.—Amounts appropriated for part A of title I shall remain available for obligation until the end of the fiscal year following the fiscal year for which the amounts were appropriated.

"(e) VOLUNTEER SERVICE REQUIREMENT.—

"(1) VOLUNTEER SERVICE YEARS.—Of the amounts appropriated under this section for parts A, B, and C of title I, including section 124, there shall first be available for part A of title I, including sections 104(e) and 109, an amount not less than the amount necessary to provide 3,700 volunteer service years in fiscal year 1994, 4,000 volunteer service years in fiscal year 1995, and 4,500 volunteer service years in fiscal year 1996.

"(2) PLAN.—If the Director determines that funds appropriated to carry out part A, B, or C of title I are insufficient to provide for the years of volunteer service required by paragraph (1), the Director shall submit a plan to the relevant authorizing and appropriations committees of Congress that will detail what is necessary to fully meet this requirement.".

SEC. 382. AUTHORIZATION OF APPROPRIATIONS FOR TITLE II.

Section 502 (42 U.S.C. 5082) is amended to read as follows:

"SEC. 502. NATIONAL SENIOR VOLUNTEER CORPS.

"(a) RETIRED AND SENIOR VOLUNTEER PROGRAM.—There are authorized to be appropriated to carry out part A of title II, $45,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996.

"(b) FOSTER GRANDPARENT PROGRAM.—There are authorized to be appropriated to carry out part B of title II, $85,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996.

"(c) SENIOR COMPANION PROGRAM.—There are authorized to be appropriated to carry out part C of title II, $40,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996.

"(d) DEMONSTRATION PROGRAMS.—There are authorized to be appropriated to carry out part E of title II, such sums as may be necessary for each of the fiscal years 1994 through 1996.".

SEC. 383. AUTHORIZATION OF APPROPRIATIONS FOR TITLE IV.

Section 504 (42 U.S.C. 5084) is amended to read as follows:

"SEC. 504. ADMINISTRATION AND COORDINATION.

"(a) IN GENERAL.—For each of the fiscal years 1994 through 1996, there are authorized to be appropriated for the administration of this Act as provided for in title IV, 18 percent of the total amount appropriated under sections 501 and 502 with respect to such year.

"(b) EVALUATION.—For each of the fiscal years 1994 through 1996, the Director is authorized to expend not less than 2½ percent, and not more than 5 percent, of the amount appropriated under subsection (a), for the purposes prescribed in section 416.".

SEC. 384. CONFORMING AMENDMENTS; COMPENSATION FOR VISTA FECA CLAIMANTS.

Section 8143(b) of title 5, United States Code, is amended by striking "GS–7" and inserting "GS–5 of the General Schedule under section 5332 of title 5, United States Code".

SEC. 385. REPEAL OF AUTHORITY.

Title VII (42 U.S.C. 5091 et seq.) is repealed.

CHAPTER 5—GENERAL PROVISIONS

SEC. 391. TECHNICAL AND CONFORMING AMENDMENTS.

The Domestic Volunteer Service Act of 1973 (42 U.S.C. 4950 et seq.) is amended by striking "That this Act" and all that follows through the end of the table of contents and inserting the following:

"SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

"(a) SHORT TITLE.—This Act may be cited as the 'Domestic Volunteer Service Act of 1973'.

"(b) TABLE OF CONTENTS.—The table of contents is as follows:

"Sec. 1. Short title; table of contents.
"Sec. 2. Volunteerism policy.

"TITLE I—NATIONAL VOLUNTEER ANTIPOVERTY PROGRAMS

"PART A—VOLUNTEERS IN SERVICE TO AMERICA

"Sec. 101. Statement of purpose.
"Sec. 102. Authority to operate VISTA program.
"Sec. 103. Selection and assignment of volunteers.
"Sec. 104. Terms and periods of service.
"Sec. 105. Support service.
"Sec. 106. Participation of beneficiaries.
"Sec. 107. Participation of younger and older persons.
"Sec. 108. Limitation.
"Sec. 109. VISTA Literacy Corps.
"Sec. 110. Applications for assistance.

"PART B—UNIVERSITY YEAR FOR VISTA

"Sec. 111. Statement of purpose.
"Sec. 112. Authority to operate University Year for VISTA program.
"Sec. 113. Special conditions.

"PART C—SPECIAL VOLUNTEER PROGRAMS

"Sec. 121. Statement of purpose.
"Sec. 122. Authority to establish and operate special volunteer and demonstration programs.
"Sec. 123. Technical and financial assistance.
"Sec. 125. Literacy challenge grants.

"TITLE II—NATIONAL SENIOR VOLUNTEER CORPS

"Sec. 200. Statement of purposes.

"PART A—RETIRED AND SENIOR VOLUNTEER PROGRAM

"Sec. 201. Grants and contracts for volunteer service projects.

"PART B—FOSTER GRANDPARENT PROGRAM

"Sec. 211. Grants and contracts for volunteer service projects.

"PART C—SENIOR COMPANION PROGRAM

"Sec. 213. Grants and contracts for volunteer service projects.

"PART D—GENERAL PROVISIONS

"Sec. 221. Promotion of National Senior Volunteer Corps.
"Sec. 222. Payments.
"Sec. 223. Minority group participation.
"Sec. 224. Use of locally generated contributions in National Senior Volunteer Corps.
"Sec. 225. Programs of national significance.

"Sec. 226. Adjustments to Federal financial assistance.
"Sec. 227. Multiyear grants or contracts.

"PART E—DEMONSTRATION PROGRAMS

"Sec. 231. Authority of Director.

"TITLE IV—ADMINISTRATION AND COORDINATION

"Sec. 403. Political activities.
"Sec. 404. Special limitations.
"Sec. 406. Labor standards.
"Sec. 408. Joint funding.
"Sec. 409. Prohibition of Federal control.
"Sec. 410. Coordination with other programs.
"Sec. 411. Prohibition.
"Sec. 412. Notice and hearing procedures for suspension and termination of financial assistance.
"Sec. 414. Distribution of benefits between rural and urban areas.
"Sec. 415. Application of Federal law.
"Sec. 416. Evaluation.
"Sec. 417. Nondiscrimination provisions.
"Sec. 418. Eligibility for other benefits.
"Sec. 419. Legal expenses.
"Sec. 421. Definitions.
"Sec. 422. Audit.
"Sec. 423. Reduction of paperwork.
"Sec. 424. Review of project renewals.
"Sec. 425. Protection against improper use.
"Sec. 426. Center for Research and Training.

"TITLE V—AUTHORIZATION OF APPROPRIATIONS

"Sec. 501. National volunteer antipoverty programs.
"Sec. 502. National Senior Volunteer Corps.
"Sec. 504. Administration and coordination.
"Sec. 505. Availability of appropriations.

"TITLE VI—AMENDMENTS TO OTHER LAWS AND REPEALERS

"Sec. 601. Supersedence of Reorganization Plan No. 1 of July 1, 1971.
"Sec. 602. Creditable service for civil service retirement.
"Sec. 603. Repeal of title VIII of the Economic Opportunity Act.
"Sec. 604. Repeal of title VI of the Older Americans Act.".

SEC. 392. EFFECTIVE DATE.

This subtitle shall become effective on October 1, 1993.

TITLE IV—TECHNICAL AND CONFORMING AMENDMENTS

SEC. 401. DEFINITIONS.

Section 421 of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 5061) is amended—

(1) by striking "and" at the end of paragraph (6);

(2) by striking the period at the end of paragraph (7) and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

"(8) the term 'Corporation' means the Corporation for National and Community Service established under section 191 of the National and Community Service Act of 1990;

"(9) the term 'foster grandparent' means a volunteer in the Foster Grandparent Program;

"(10) the term 'Foster Grandparent Program' means the program established under part B of title II;

"(11) except as provided in section 417, the term 'individual with a disability' has the meaning given the term in section 7(8)(B) of the Rehabilitation Act of 1973 (29 U.S.C. 706(8)(B));

"(12) the term 'Inspector General' means the Inspector General of ACTION;

"(13) the term 'national senior volunteer' means a volunteer in the National Senior Volunteer Corps;

"(14) the term 'National Senior Volunteer Corps' means the programs established under parts A, B, C, and E of title II;

"(15) the term 'Retired and Senior Volunteer Program' means the program established under part A of title II;

"(16) the term 'retired or senior volunteer' means a volunteer in the Retired and Senior Volunteer Program;

"(17) the term 'senior companion' means a volunteer in the Senior Companion Program;

"(18) the term 'Senior Companion Program' means the program established under part C of title II;

"(19) the terms 'VISTA' and 'Volunteers in Service to America' mean the program established under part A of and

"(20) the term 'VISTA volunteer' means a volunteer in VISTA.".

SEC. 402. REFERENCES TO THE COMMISSION ON NATIONAL AND COMMUNITY SERVICE.

(a) NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1993.—

(1) Section 1092(b) of the National Defense Authorization Act for Fiscal Year 1993 (42 U.S.C. 12653a note) is amended—

(A) in paragraph (1)—

(i) by striking "Commission on National Community Service" and inserting "Corporation for National and Community Service"; and

(ii) by striking "Commission shall prepare" and inserting "Board of Directors of the Corporation shall prepare"; and

(B) in paragraph (2), by striking "Board of Directors of the Commission on National and Community Service" and inserting "Board of Directors of the Corporation for National and Community Service".

(2) Section 1093(a) of such Act (42 U.S.C. 12653a note) is amended by striking "the Board of Directors and Executive Director of the Commission on National and Community Service" and inserting "the Board of Directors and Chief Executive Officer of the Corporation for National and Community Service".

(3) Section 1094 of such Act (Public Law 102–484; 106 Stat. 2535) is amended—

(A) in the title, by striking "**COMMISSION ON NATIONAL AND COMMUNITY SERVICE**" and inserting "**CORPORATION FOR NATIONAL AND COMMUNITY SERVICE**";

(B) in subsection (a)—

(i) in the heading, by striking "COMMISSION" and inserting "CORPORATION";

(ii) in the first sentence, by striking "Commission on National and Community Service" and inserting "Corporation for National and Community Service"; and

(iii) in the second sentence, by striking "The Commission" and inserting "The Chief Executive Officer of the Corporation"; and

(C) in subsection (b)—

(i) in paragraph (1), by striking "Board of Directors of the Commission on National and Community Service" and inserting "Chief Executive Officer of the Corporation for National and Community Service"; and

(ii) in paragraph (2), by striking "the Commission" and inserting "the Chief Executive Officer of the Corporation for National and Community Service".

(4) Section 1095 of such Act (Public Law 102–484; 106 Stat. 2535) is amended in the heading for subsection (b) by striking "COMMISSION ON NATIONAL AND COMMUNITY SERVICE" and inserting "CORPORATION FOR NATIONAL AND COMMUNITY SERVICE".

(5) Section 2(b) of such Act (Public Law 102–484; 106 Stat. 2315) is amended by striking the item relating to section 1094 of such Act and inserting the following:

"Sec. 1094. Other programs of the Corporation for National and Community Service.".

(b) NATIONAL AND COMMUNITY SERVICE ACT OF 1990.—

(1) Sections 159(b)(2) (as redesignated in section 104(b)(3) of this Act) and 165 (as redesignated in section 104(b)(3) of this Act), subsections (a) and (b) of section 172, sections 176(a) and 177(c), and subsections (a), (b), and (d) through (h) of section 179, of the National and Community Service Act of 1990 (42 U.S.C. 12653h(b)(2), 12653n, 12632 (a) and (b), 12636(a), 12637(c), and 12639 (a), (b), and (d) through (h)) are each amended by striking the term "Commission" each place the term appears and inserting "Corporation".

(2) Sections 152, 157(b)(2), 162(a)(2)(C), 164, and 166(1) of such Act (in each case, as redesignated in section 104(b)(3) of this Act) (42 U.S.C. 12653a, 12653f(b)(2), 12653k(a)(2)(C), 12653m, and 12653o(1)) are each amended by striking "Commission on National and Community Service" and inserting "Corporation".

(3) Section 163(b)(9) of such Act (as redesignated in section 104(b)(3) of this Act) (42 U.S.C. 12635l(b)(9)) is amended by striking "Chair of the Commission on National and Community Service" and inserting "Chief Executive Officer".

(4) Section 303(a) of such Act (42 U.S.C. 12662(a)) is amended—

(A) by striking "The President" and inserting "The President, acting through the Corporation,";

(B) by inserting "in furtherance of activities under section 302" after "section 501(b)"; and

(C) by striking "the President" both places it appears and inserting "the Corporation".

SEC. 403. REFERENCES TO DIRECTORS OF THE COMMISSION ON NATIONAL AND COMMUNITY SERVICE.

(a) BOARD OF DIRECTORS.—

(1) Section 159(a) of such Act (as redesignated in section 104(b)(3) of this Act) (42 U.S.C. 12653h(b)) is amended—

(A) by striking "BOARD.—The Board" and inserting "SUPERVISION.—The Chief Executive Officer";

(B) by striking "the Board" in the matter preceding paragraph (1), and in paragraph (1), and inserting "the Chief Executive Officer"; and

(C) by striking "the Director" in paragraph (1) and inserting "the Board".

(2) Section 159(b) of such Act (as redesignated in section 104(b)(3) of this Act) (42 U.S.C. 12653h(b)) is amended by striking "(b)" and all that follows through "Commission on National and Community Service" and inserting "(b) MONITORING AND COORDINATION.—The Chief Executive Officer".

(3) Section 159(c)(1) (as redesignated in section 104(b)(3) of this Act) (42 U.S.C. 12653h(c)(1)) is amended—

(A) in subparagraph (A), by striking "the Board, in consultation with the Executive Director," and inserting "the Chief Executive Officer"; and

(B) in subparagraph (B)(iii), by striking "the Board through the Executive Director" and inserting "the Chief Executive Officer".

(4) Section 166(6) (as redesignated in section 104(b)(3) of this Act) (42 U.S.C. 12653o(6)) is amended—

(A) by striking paragraph (6); and

(B) by redesignating paragraphs (7) through (11) as paragraphs (6) through (10), respectively.

(b) DIRECTOR OF CIVILIAN COMMUNITY CORPS.—Sections 155(a), 157(b)(1)(A), 158(a), 159(c)(1)(A), and 163(a) (in each case, as redesignated in section 104(b)(3) of this Act) of the National and Community Service Act of 1990 (42 U.S.C. 12653d(a), 12653f(b)(1)(A), 12653g(a), 12653h(c)(1)(A), and 12653l(a)) are amended by striking "Director of the Civilian Community Corps" each place the term appears and inserting "Director".

SEC. 404. DEFINITION OF DIRECTOR.

Section 421 of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 5061) is amended by striking paragraph (1) and inserting the following new paragraph:

"(1) the term 'Director' means the Chief Executive Officer of the Corporation for National and Community Service appointed under section 193 of the National and Community Service Act of 1990;".

SEC. 405. REFERENCES TO ACTION AND THE ACTION AGENCY.

(a) Domestic Volunteer Service Act of 1973.—

(1) Section 2(b) of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4950(b)) is amended—

(A) by striking "ACTION, the Federal domestic volunteer agency," and inserting "this Act"; and

(B) by striking "ACTION shall" and inserting "the Corporation for National and Community Service shall".

(2) Section 103(b)(2)(A) of such Act (as amended by section 323(b)(1)(A) of this Act) is amended by striking "the ACTION Agency" the first place that such term appears and inserting "the Corporation".

(3) Section 103(b)(4) of such Act (as redesignated by section 323(b)(3) of this Act) is amended by striking "the ACTION Agency" each place that such appears and inserting "the Corporation".

(4) Section 103(c)(1)(D) of such Act is amended by striking "the ACTION Agency" and inserting "the Corporation".

(5) Section 124(b) of such Act (as redesignated by section 333(2) of this Act) is amended by striking "the ACTION Agency" and inserting "the Corporation".

(6) Section 225(e) of such Act (42 U.S.C. 5025(e)) is amended by striking "the ACTION Agency" and inserting "the Corporation".

(7) Section 403(a) of such Act (42 U.S.C. 5043(a)) is amended—

(A) by striking "the ACTION Agency" the first place such term appears and inserting "the Corporation under this Act"; and

(B) by striking "the ACTION Agency" the second place such term appears and inserting "the Corporation".

(8) Section 408 of such Act (42 U.S.C. 5048) is amended by striking "the ACTION Agency" and inserting "the Corporation".

(9) Section 416(f)(1) of such Act (42 U.S.C. 5056(f)(1)) is amended by striking "ACTION Agency" and inserting "Corporation".

(10) Section 421(12) of such Act (as added by section 401 of this Act) is amended by striking "ACTION" and inserting "the Corporation".

(11) Section 425 of such Act (as added by section 370 of this Act) is further amended by striking "ACTION" and inserting "the Corporation".

(b) Civil Service Retirement System.—Section 8332(j)(1) of title 5, United States Code (as amended by section 371(a)(1)(A)(iii)(II) of this Act) is amended by striking "the Director of ACTION" and inserting "the Chief Executive Officer of the Corporation for National and Community Service".

(c) Public Housing Security.—Section 207(c) of the Public Housing Security Demonstration Act of 1978 (Public Law 95–557; 92 Stat. 2093; 12 U.S.C. 1701z–6 note) is amended—

(1) in paragraph (3)(ii), by striking "ACTION" and inserting "the Corporation for National and Community Service"; and

(2) in paragraph (4), by striking "ACTION" and inserting "the Corporation for National and Community Service".

(d) National Forest Volunteers.—Section 1 of the Volunteers in the National Forests Act of 1972 (16 U.S.C. 558a) is amended by striking "ACTION" and inserting "the Corporation for National and Community Service".

(e) Peace Corps.—Section 2A of the Peace Corps Act (22 U.S.C. 2501–1) is amended by inserting after "the ACTION Agency" the following: ", the successor to the ACTION Agency,".

(f) Indian Economic Development.—Section 502 of the Indian Financing Act of 1974 (25 U.S.C. 1542) is amended by striking "ACTION Agency" and inserting "the Corporation for National and Community Service".

(g) Older Americans.—The Older Americans Act of 1965 is amended—

(1) in section 202(c)(1) (42 U.S.C. 3012(c)(1)), by striking "the Director of the ACTION Agency" and inserting "the Corporation for National and Community Service";

(2) in section 203(a)(1) (42 U.S.C. 3013(a)(1)), by striking "the ACTION Agency" and inserting "the Corporation for National and Community Service"; and

(3) in section 422(b)(12)(C) (42 U.S.C. 3035a(b)(12)(C)), by striking "the ACTION Agency" and inserting "the Corporation for National and Community Service".

(h) VISTA Service Extension.—Section 101(c)(1) of the Domestic Volunteer Service Act Amendments of 1989 (Public Law 101–204; 103 Stat. 1810; 42 U.S.C. 4954 note) is amended by striking "Director of the ACTION Agency" and inserting "Chief Executive Officer of the Corporation for National and Community Service".

(i) Aging Resource Specialists.—Section 205(c) of the Older Americans Amendments of 1975 (Public Law 94–135; 89 Stat. 727; 42 U.S.C. 5001 note) is amended—

(1) in paragraph (1)—

(A) by striking "the ACTION Agency," and inserting "the Corporation for National and Community Service,"; and

(B) by striking "the Director of the ACTION Agency" and inserting "the Chief Executive Officer of the Corporation";

(2) in paragraph (2)(A), by striking "ACTION Agency" and inserting "Corporation"; and

(3) in paragraph (3), by striking subparagraph (A) and inserting the following new subparagraph:

"(A) the term 'Corporation' means the Corporation for National and Community Service established by section 191 of the National and Community Service Act of 1990.".

(j) Promotion of Photovoltaic Energy.—Section 11(a) of the Solar Photovoltaic Energy Research, Development, and Demonstration Act of 1978 (42 U.S.C. 5590) is amended by striking "the Director of ACTION,".

(k) Coordinating Council on Juvenile Justice.—Section 206(a)(1) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5616(a)(1)) is amended by striking "the Director of the ACTION Agency" and inserting "the Chief Executive Officer of the Corporation for National and Community Service".

(l) Energy Conservation.—Section 413(b)(1) of the Energy Conservation and Production Act (42 U.S.C. 6863(b)(1)) is amended by striking "the Director of the ACTION Agency,".

(m) Interagency Council on the Homeless.—Section 202(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11312(a)) is amended by striking paragraph (12) and inserting the following new paragraph:

"(12) The Chief Executive Officer of the Corporation for National and Community Service, or the designee of the Chief Executive Officer.".

(n) Anti-Drug Abuse.—Section 3601 of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11851) is amended by striking paragraph (5) and inserting the following new paragraph:

"(5) the term 'Director' means the Chief Executive Officer of the Corporation for National and Community Service,".

(o) Administration on Children, Youth, and Families.—Section 916(b) of the Claude Pepper Young Americans Act of 1990 (42 U.S.C. 12312(b)) is amended by striking "the Director of the ACTION Agency" and inserting "the Chief Executive Officer of the Corporation for National and Community Service".

(p) National and Community Service.—

(1) Subsection (i) of section 178 of the National and Community Service Act of 1990 (as amended by section 201 of this Act) is further amended by striking "ACTION, or of the Corporation," and inserting "the Corporation".

(2) Subsection (r) of section 198 of such Act (as amended by section 104(c) of this Act) is further amended by striking "ACTION Agency" and inserting "Corporation".

SEC. 406. EFFECTIVE DATE.

(a) Commission.—The amendments made by sections 401 through 402 will take effect on October 1, 1993.

(b) Action.—The amendments made by sections 404 and 405 shall take effect on the effective date of section 203(c)(2).

TITLE V—MISCELLANEOUS PROVISIONS

SEC. 501. COMPLIANCE WITH BUY AMERICAN ACT.

No funds appropriated pursuant to this Act (including the amendments made by this Act) may be expended by an entity unless the entity agrees that in expending the assistance the entity will comply with sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a–10c, popularly known as the "Buy American Act").

SEC. 502. SENSE OF CONGRESS; REQUIREMENT REGARDING NOTICE.

(a) Purchase of American-Made Equipment and Products.—In the case of any equipment or product that may be authorized to be purchased with financial assistance provided under this Act (including the amendments made by this Act), it is the sense of the Congress that entities receiving such assistance should, in expending the assistance, purchase only American-made equipment and products.

(b) Notice to Recipients of Assistance.—In providing financial assistance under this Act (including the amendments made by this Act), the Secretary of Education shall provide to each recipient of the assistance a notice describing the statement made in subsection (a) by the Congress.

SEC. 503. PROHIBITION OF CONTRACTS WITH PERSONS FALSELY LABELING PRODUCTS AS MADE IN AMERICA.

If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a "Made in America" inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, the person shall be ineligible to receive any contract or subcontract made with funds appropriated to carry out this Act, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

And the Senate agree to the same.

From the Committee on Education and Labor:

William D. Ford,
Austin J. Murphy,
Dale E. Kildee,
M.G. Martinez,
Major R. Owens,
Steve Gunderson,

Additional conferees from the Committee on Government Operations:

John Conyers, Jr.,
Cardiss Collins,
Henry A. Waxman,

Additional conferees from the Committee on the Judiciary:

Jack Brooks,
John Bryant,
Robert C. Scott,

Additional conferees from the Committee on Natural Resources:

George Miller,
Bruce F. Vento,

Additional conferees from the Committee on Post Office and Civil Service:

William L. Clay,
Pat Schroeder,
Frank McCloskey,
John T. Myers,
Connie Morella,

Additional conferees from the Committee on Public Works and Transportation:

Norman Y. Mineta,
Nick J. Rahall,
James A. Traficant, Jr.,
Managers on the Part of the House.

From the Committee on Labor and Human Resources:

Edward M. Kennedy,
Claiborne Pell,
Howard M. Metzenbaum,
Christopher J. Dodd,
Paul Simon,
Tom Harkin,
Jeff Bingaman,
Paul Wellstone,
Harris Wofford,
Jim Jeffords,
Dave Durenberger,

From the Committee on Governmental Affairs (with respect to those provisions within the jurisdiction of that Committee):

John Glenn,
David Pryor,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2010) to amend the National and Community Service Act of 1990 to establish a Corporation for National Service, enhance opportunities for national service, and provide national service educational awards to persons participating in such service, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon the managers and recommended in the accompanying conference report:

The Senate amendment struck all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment that is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clerical changes.

The House bill is entitled "The National Service Trust Act." The Senate bill is entitled "The National and Community Service Trust Act." The House recedes.

The findings of the Senate bill, but not the House bill, include the goal of transcending gender, age, and income, in addition to race, religion, disability, and region. The House recedes.

The purposes of the Senate bill, but not the House bill, include certain additional provisions. The Senate recedes.

TITLE I—PROGRAMS AND RELATED PROVISIONS

The House bill, but not the Senate bill, retains Subtitle C of the National and Community Service Act and renames it Subtitle I. The Senate recedes with amendments conforming Subtitle I to the new legislation.

SUBTITLE C—NATIONAL SERVICE TRUST PROGRAM

The Senate bill, but not the House bill, references labor organizations and community action agencies as a modifier of public and private not-for-profit organizations. The Senate recedes here and throughout and consolidates the references into the definitions.

The Senate bill, but not the House bill, requires Federal agencies to enter into contracts with local providers where appropriate. The House recedes.

The Senate bill requires a 50 percent matching requirement from Federal agencies, while the House bill exempts agencies from matching requirements. The Senate recedes.

The definition of youth corps in the Senate bill refers only to economically disadvantaged youths. The definition in the House bill refers to other disadvantaged youths. The Senate recedes.

The definition of specialized training programs in the House bill, but not the Senate bill, qualifies with "if appropriate" the requirement of bringing participants together periodically. The Senate recedes.

The definition of professional corps in the Senate bill, but not the House bill, includes reference to other health care providers in addition to nurses, and to engineers. The House recedes.

The definition of youth corps in the Senate bill includes youth ages 16–25, while in the House bill it includes youth ages 16–24. The House recedes.

The definition of certain programs in low-income areas in the Senate bill, but not the House bill titles them "Communities in Action programs." The House bill, but not the Senate bill, requires a "board composed in significant part of low-income communities. The Senate recedes with an amendment providing for after-school 'safe places' including schools.

The House bill, but not the Senate bill, includes programs to assist rural communities and programs to eliminate hunger on the list of model programs. The Senate recedes.

The Senate bill, but not the House bill, requires program applicants to list job descriptions and minimum qualifications for national service participants. The House recedes.

The House bill, but not the Senate bill, allows the Corporation to consult with experts in the delivery of certain services in addition to those with extensive experience in developing and administering national service programs. The Senate recedes.

The Senate bill, but not the House bill, requires States to establish in their State plans State priorities. The House recedes, with an amendment stating that State priorities are subject to approval as part of the application process under section 130.

The Senate bill, but not the House bill, requires the Corporation to treat existing grantees equitably when priorities change. The House recedes.

The Senate bill, but not the House bill, allows subgrantees not to follow national priorities. The Senate recedes. Subgrantees who receive funding under the formula portion of the program must follow priorities consistent with national priorities. It is the Conferees' intent that the Corporation ensure that programs meet clear priorities, in order to ensure that national service program meet the most significant and urgent needs.

The House bill requires "appropriate" technical assistance while the Senate bill requires technical assistance "where necessary." The Conference Substitute requires technical assistance "where appropriate and necessary."

The House bill, but not the Senate bill, allows the Corporation to provide technical assistance to assist with risk management procedures. The Senate recedes.

The House bill, but not the Senate bill, establishes in section 126 for aid to State Commissions a maximum of $17.5 million and an individual State cap of $500,000. The Senate recedes, with an amendment raising the State cap to $750,000, and establishing a small-State minimum of $125,000 in 1994 and $175,000 in 1995 and 1996. Other provisions governing administrative costs are contained in title III.

The Senate bill, but not the House bill, allows disaster service to be provided through the VISTA program. The House recedes.

The House bill, but not the Senate bill, specifically references the Stafford Disaster Relief Act. The Senate recedes.

The House bill allocates one-third of funds by formula to States. The Senate bill allocates 40 percent by formula in the first year, 45 percent in the second year, and 50 percent in the third year. The Senate recedes.

The Senate bill reserves one percent of funds for territories and Indian tribes. The House bill reserves one percent for the territories and an additional one percent for Indian tribes. The Senate recedes.

The House bill, but not the Senate bill, contains punitive provisions concerning a State's failure to limit liability. The House recedes.

The Senate bill, but not the House bill requires that the Corporation determine an equitable procedure for providing post-service educational awards during the transition period. The Senate recedes.

The House bill allocates one-third of funds on a competitive basis to States. The Senate bill allocates 30 percent on a competitive basis in the first year, 27.5 percent in the second year, and 25 percent in the third year. The Senate recedes.

The House bill reserves one-third of funds for the Corporation to allocate directly. The Senate bill allocates 30 percent on this basis in the first year, 27.5 percent in the second year, and 25 percent in the third year. The Senate recedes.

The House bill allows up to one-third of Federal funds to be allocated to Federal agencies, while the Senate bill allows up to 30 percent. The Senate bill recedes.

The Senate bill, but not the House bill, specifies that in the Federal allocation of funds, if State applicants and nonprofit applicants are of equal value, the Corporation shall select the nonprofit applicant. The Senate recedes.

The House bill, but not the Senate bill, specifies that the State does not have to specify its selection process if so doing would conflict with State or local law or policy. The House recedes.

The Senate bill, but not the House bill, requires the Corporation to set aside not less than 2 percent and not more than 5 percent of funds up to $10,000,000 to assist individuals with disabilities to participate in national service programs. The House recedes with an amendment requiring that not less than 1 percent and not more than $5,000,000 be allocated for these purposes.

The House bill and the Senate bill contain slightly different potential application requirements, including information concerning efforts to reduce reliance on Federal funds. The House recedes.

The House bill, but not the Senate bill, requires that States take into account the location of programs, population density and economic distress. The Senate recedes.

The House bill, but not the Senate bill, defines a service sponsor for the purpose of the written concurrence requirement from local labor organizations. The Senate recedes.

The Senate bill, but not the House bill, requires that programs offer assurances that they will provide structured opportunities for reflection to participants. The House recedes with an amendment limiting the role of reflection to instances "where appropriate."

The House bill, but not the Senate bill, requires union consultation only if unions exist in the area to be served by the program. The Senate recedes.

The House bill, but not the Senate bill, requires the Corporation to develop evaluation criteria and performance goals applicable to all national service programs. The Senate recedes.

The House bill, but not the Senate bill, allows the State, when agreeing to select participants from national or State lists, to select applicants only from within the State. The House recedes.

The Senate bill, but not the House bill, prohibits the use of assistance to provide instruction as part of a program that includes mandatory religious education or worship, or to construct, operate or maintain facilities devoted to religious instruction or worship. The House recedes, with an amendment specifying that it is only facilities primarily or inherently devoted to religious instruction or worship. It is the intent of the conferees that this provision not preclude participants from engaging in activities as part of a program separate from and supplemental to the regular program of an organization engaged in religious activities, such as government-funded programs like chapter 1 of Title I of the Elementary and Secondary Education Act and the Individuals with Disabilities Education Act, so long as there is no mandatory instruction or worship as part of that separate and supplementary program.

The Senate bill, but not the House bill, includes provisions to ensure that assistance is not used to promote political activities. The Senate recedes. The Conferees note that Section 174(b) already prohibits use of assistance to finance activities designed to influence the outcome of elections.

The Senate bill, but not the House bill, prohibits programs to be operated by entities that spend more than 20 percent of their budgets, or aim primarily, to influence public policy or lobby the government. The Senate bill also States that these provisions are not designed to discourage individuals from engaging in advocacy undertaken at their own initiative. The House recedes, with an amendment conforming prohibitions to the tax code governing 501(c)(3) nonprofit organizations.

The Senate bill, but not the House bill, specifies that certain Native Regional Corporations will not be considered ineligible to benefit from service programs. The House recedes.

On the list of areas where projects are needed most, the House bill references rural areas adversely affected by unfair trading, while the Senate bill references areas experiencing a substantial reduction in population and having a high percentage of disadvantaged older adults. The House recedes.

On the list of areas where projects are needed most, the House bill, but not the Senate bill, references areas adversely affected by Federal actions relating to the management of Federal lands and areas with above-average unemployment rates. The Senate recedes.

The Senate bill, but not the House bill, allows State Commissions to request that the Corporation waive priorities to assist State programs if they are of greater quality. The House recedes.

The Senate bill, but not the House bill, requires a peer review panel to address applications valued at greater than $100,000. The Senate recedes with an amendment setting the minimum at $250,000.

The Senate bill, but not the House bill, allows Subtitle D demonstration corps under the 1990 National and Community Service Act to apply directly to the Corporation for funding under the final year of that demonstration authority. The House recedes.

The Senate bill, but not the House bill, targets all of the areas needing projects most for 50 percent of funds. The House recedes.

The House bill, but not the Senate bill, includes a report concerning the economic and demographic characteristics of participants. The House recedes, with an amendment incorporating this report in other reports required under section 202.

The Senate bill, but not the House bill, requires that national service participants meet eligibility requirements directly related to the tasks to be accomplished. The House recedes.

The House bill, but not the Senate bill, allows United States nationals and lawful permanent resident aliens to participate. The Senate recedes.

The Senate bill, but not the House bill, allows a waiver of the high school diploma or GED requirement in instances in which individuals are demonstrated to be incapable of obtaining a high school diploma or GED. The House recedes.

The House bill, but not the Senate bill, allows participation by an individual without a GED but enrolled in a post-secondary institution on an ability-to-benefit basis. The Senate recedes.

The House bill, but not the Senate bill, requires the Corporation and State recruiting system to include positions under title II of the Domestic Volunteer Service Act. The Senate recedes, with an amendment stating that recruiting efforts may, but need not, include such positions.

The Senate bill, but not the House bill, references State vocational rehabilitation agencies within the meaning of the Rehabilitation Act of 1973. The House recedes.

The House bill, but not the Senate bill, includes as priority participants in national leadership pool participants in subtitle D programs of the National and Community Service Act of 1990 and honorably discharged members of the Armed Forces. The Senate recedes.

The House bill, but not the Senate bill, requires evaluation of participants prior to their acceptance for second term of service. The Senate recedes.

The House bill establishes an award for part-time service and requires 1,700 hours per part-time term. The Senate bill establishes an award with half the value of the House award for part-time service and requires 900 hours per part-time term. The House recedes.

The House bill, but not the Senate bill, gives an individual released from service for compelling personal reasons the option to receive a portion of the educational award or to return within two years to complete service and receive the entire award. The Senate recedes.

The House bill, but not the Senate bill, requires a stipend no less than the VISTA living allowance and establishes a waiver for lower stipends. The Senate recedes.

The House bill, but not the Senate bill, requires a study concerning minimum living allowances. The House recedes, with an amendment incorporating the study in reports required under section 202.

The Senate bill, but not the House bill, ensures that only those needing child care in order to participate receive it. The House recedes.

The House bill, but not the Senate bill, requires the provision of individualized support services to qualified individuals with disabilities. The Senate recedes, with an amendment requiring reasonable accommodation.

The House bill, but not the Senate bill, applies the new living allowance requirements to the American Conservation and Youth Corps, and also requires an evaluation of the living allowance in this subtitle. The Senate recedes with an amendment to include the evaluation in reports required under section 202.

SUBTITLE D—NATIONAL SERVICE TRUST AND PROVISION OF NATIONAL SERVICE EDUCATIONAL AWARDS

The House bill, but not the Senate bill, sets the date of March 1 for submission of annual reports on the financial status of the National Service Trust. The Senate recedes.

The House bill requires United States nationals and lawful permanent resident alien status for receipt of an education award, while the Senate requires lawful admission for permanent residence. The Senate recedes.

The Senate bill, but not the House bill, specifically requires enrollment at an eligible institution of higher education for receipt of an educational award. The House recedes.

The House bill, but not the Senate bill, allows lawful permanent resident aliens to receive educational awards. The Senate recedes.

The Senate bill, but not the House bill, requires that individuals not receive stipends for more than two terms of service. The House recedes.

The House bill allows use of an educational award for up to seven years, the Senate bill for up to five years, after the completion of service. The Senate recedes.

The Senate bill, but not the House bill, limits the percentage of students at an educational institution who are receiving national service educational awards to 15 percent. The House recedes.

The House bill, but not the Senate bill, suspends the eligibility of drug-related offenders to use educational awards. The Senate recedes.

The House bill, but not the Senate bill, provides an authority for the Corporation to establish demonstration programs. The Senate recedes.

The House bill and the Senate bill establish identical educational awards. The award is to $4725 per year, and is equal to 90 percent of the veterans' benefit for two-year enlistment less individual contribution, under the Montgomery GI Bill (90 percent of $325 multiplied by 36 months, less $1200, divided by two). The Conferees note that the benefit for the two year enlistment is dispersed over 36 months.

The House bill allows an individual to select which loans to pay off first; the Senate bill requires the individual to pay off the principal first. The Senate recedes.

The Senate bill allows the Corporation to pay for interest during an individual's period of forbearance; The House bill requires the Corporation to pay. The Senate recedes.

The House bill and Senate bill contain minor drafting differences concerning the treatment of educational awards for purposes of determining eligibility for educational aid. The Conferences Substitute clarifies this issue.

SUBTITLE B—SCHOOL-BASED AND COMMUNITY-BASED SERVICE-LEARNING PROGRAMS

The House bill, but not the Senate bill, specifies that grants under the Serve-America program shall be made to State Educational Agencies. The Senate recedes.

The House bill, but not the Senate bill, lists the duties of the service-learning coordinator. The House recedes with an amendment shortening the list of duties. It is the intent of the conferees that service learning coordinators should provide services to local educational agencies as indicated in the Senate bill as reported, in section 111(b).

The Senate bill, but not the House bill, requires applications under section 114 to reflect programs carried out in more than one State. The Senate recedes.

The Senate bill, but not the House bill, limits multiple applications for a single project. The House recedes.

The Senate bill, but not the House bill, creates a waiver so that programs may utilize not less than 10 percent and not more than 25 percent of their assistance under section 112 for capacity-building activities. The Committee substitute includes the waiver, with a maximum of 20 percent for such activities.

The Senate bill, but not the House bill, requires "grantmaking entities" under section 117 to have experience with service-learning. The Senate recedes.

The Senate bill, but not the House bill, allows the Corporation to establish other criteria to define grantmaking entities. The House recedes.

The House bill, but not the Senate bill, indicates local application requirements. The House recedes. It is the intent of the Conferees that the Corporation request the information indicated in the Senate bill, as reported, in section 113(b).

The House bill, but not the Senate bill, requires certain information in local applications. The House recedes. It is the intent of the conferees that the Corporation should require the information indicated in the Senate bill as reported, in section 114(d).

The Senate bill, but not the House bill, requires for assistance under section 117 assurances related to consultation with local labor organizations. The House recedes, with an amendment that restricts the assurance to instances when appropriate.

The Senate bill, but not the House bill, contains a limitation on the same project in multiple applications under section 117. The House recedes.

The House bill, but not the Senate bill, contains a list of application requirements for States or Indian tribes to receive assistance to carry out community-based service programs under section 117. The House recedes. It is the intent of the Conferees that the Corporation require the information indicated in the Senate bill as reported, section 117(d).

The House bill, but not the Senate bill, includes in the list of functions of a clearinghouse providing information relating to service-learning programs for individuals with disabilities. The Senate recedes.

The Senate bill, but not the House bill, includes authority to strengthen the leadership and instructional capacity of teachers among the authorities under the Higher Education Innovative projects. The House recedes.

The Senate bill, but not the House bill, requires grant applicants to provide participants with an opportunity to reflect on their service experience. The House recedes.

SUBTITLE H—QUALITY AND INNOVATION ACTIVITIES

The Senate bill, but not the House bill, authorizes assistance under Subtitle H for National Youth Service Day. The House recedes.

The House bill, but not the Senate bill, authorizes grants to the Foster Grandparent Program to support Head Start projects. The Senate recedes.

The Senate bill, but not the House bill, authorizes a special demonstration project for the Yukon-Kuskokwim Delta of Alaska. The House recedes.

Additional subtitles and provisions

The Senate bill, but not the House bill, authorizes a military installation conversion demonstration program. The House recedes. The House recedes, with amendments requiring the demonstration program to provide meaningful "service opportunities" rather than "training and paid employment" and "stipend" rather than "salary." It is the intent of the conferees that the 25 percent requirement referred to in subsection (g), "limitation on grant," refer to the total cost of the base conversion and not the total cost of the demonstration programs.

The House bill authorizes a Public Lands Corps, a youth conservation corps program within the Departments of Interior and Agriculture. Participants would carry out conservation projects located on federal public lands, Indian lands, or Native Hawaiian home lands. The Public Lands Corps would also be authorized to carry out disaster prevention and relief efforts on federal, state, local or private lands in response to a disaster or emergency declared by the President. In addition, the Secretaries of the Interior and Agriculture would be authorized to enter into contracts or cooperative agreements with other qualified youth or conservation corps to carry out appropriate conservation projects. The Secretaries of the Interior and Agriculture would be eligible to apply for grants and assistance from the Corporation and use their own appropriated Departmental funds to carry out the provisions of the Public Lands Corps. For projects carried out by non-federal conservation corps, a 25 percent match must be provided from non-federal sources in the form of funds or in kind assistance. The Senate amendment was nearly identical to the House bill. The Senate recedes with an amendment conforming titles.

The House bill, but not the Senate bill, creates an Urban Youth Corps. The grants are to be made available for service projects carried out by a qualified youth corps established by the Secretaries of Housing and Urban and Transportation. The Conferees do not intend to require the establishment of a separate agency within the Departments to implement the youth corps program. The Urban Youth Corps program is designed to offer meaningful, full-time work for individuals ages 16 to 25 in an urban public works, public housing, or transportation project. The program must, in addition to the work, give the participants the opportunity to acquire greater citizenship values, basic life experiences, education, training and support services. It is the intent of the Conference that the urban youth corps be established by the Secretaries of Housing and Urban Development (HUD), and Transportation with appropriate Congressional approval and consultation with the Corporation. It is the belief of the Conference that the Departments of Housing and Urban Development and Transportation can provide significant projects, including reclamation of, rehabilitation of, and enhancement of low income housing stock, local streets and highways, and other public spaces funded in whole or in part by Federal monies. The Department of Transportation and HUD programs established under this section may utilize those existing urban youth corps that have proven records of success in providing services in low income communities through opportunities for inner city poor and disadvantaged youth. Departments and agencies establishing urban youth corps are eligible to apply for grants from the Corporation in the same manner as any other Federal agency. The Senate recedes with an amendment conforming titles.

The House bill, but not the Senate bill, specifies that a "community-based agency" may include a church or other religious entity and that it may be representative of a "significant segment" of the community. The Senate recedes.

The House and Senate bills differ in their definitions of Indian lands. The House recedes.

The House and Senate bills differ in their definitions of school-age youth. The House recedes.

The Senate bill, but not the House bill, contains an independent evaluation and report on the demographics of national service participants and communities. The House recedes.

The Senate bill, but not the House bill, requires a report by the Secretary of Defense on the effect of programs on recruitment for the Armed Forces. The House recedes.

The Senate bill, but not the House bill, specifies certain requirements with respect to audits. The House recedes.

The House bill, but not the Senate bill, specifies that the absence of a participant pursuant to certain laws shall not be counted toward the completion of the term of service. The Senate recedes.

TITLE II—ORGANIZATION

The Senate bill refers to "State Commissions on National and Community Service," while the House bill refers to "State Commissions on National Service." The House recedes.

The House bill requires throughout Section 201 that an alternative administrative entity included all of the individuals listed as required and eligible under Section 201, while the Senate bill only requires certain of those individuals. The House recedes.

The Senate bill, but not the House bill, includes throughout Section 201 references to a State Commission "or alternative administrative entity". The House recedes.

The Senate bill requires State Commissions to include not less than 7 voting members and not more than 25 voting members. The House bill requires not less than 15 voting members. The Conference Substitute requires not less than 15 and not more than 25 voting members.

The House and Senate bills include different lists of required members of the State Commissions. The Conference Substitute includes the following members: individuals with expertise regarding disadvantaged youth, an individual with experience concerning voluntary action by older Americans, a representative of community-based agencies or organizations, the head of the State educational agency, a representative of local governments, a representative of local labor organizations, a representative of business, an individual between the ages of 16 and 25 who is a program participant or supervisor, and a representative of a national service program.

The House and Senate bills include different lists of optional members. The Conference Substitute includes members selected from among local educations, experts in delivering certain services, representatives of Indian tribes, members selected from among out-of-school or at-risk youth, and representatives of entities receiving assistance under DVSA.

The Senate bill makes the Corporation representative to the State Commission an ex officio non-voting member, while the House bill makes the representative a voting member. The House recedes, with an amendment allowing a State to designate the member as voting if it so chooses.

The Senate bill requires, while the House bill allows, the State to appoint any additional Corporation employee responsible for programs in the State. The Senate recedes.

The House bill requires that the Governor achieve diversity in the State commission, while the Senate bill requires diversity to the maximum extent practicable and mentions diversity of disability characteristics. The House recedes.

The Senate bill, but not the House bill, names outreach to diverse community-based agencies among the duties of the State Commission. The Senate recedes.

The House bill, but not the Senate bill, requires State Commissions to engage in an open and public process. The Senate recedes.

The House bill, but not the Senate bill, contains provisions governing conflict of interest by the State Commission members. The Senate recedes.

The Senate bill, but not the House bill, specifies certain criteria for including a program within the State application. The Senate recedes.

The House bill, but not the Senate bill, states that the State Commission shall make recommendations regarding priorities under the Domestic Vounteer Service Act and shall make technical assistance available to applicants. The Senate recedes.

The Senate bill, but not the House bill, provides for full equal treatment of an alternative administrative entity. The House recedes with an amendment deleting specific references to parity in benefits and support.

The Senate bill establishes an effective date for section 201 of October 1, while the House establishes the date of enactment as effective date. The House recedes.

The Senate bill allows a transitional entity to operate for 36 months, while the House bill allows such an entity for 12 months. The Conference Substitute allows for a period of 27 months.

The Senate bill, but not the House bill, indemnifies State Commission members for claims arising out of actions within the scope of their service. The House recedes.

The Senate bill establishes a "Corporation for National and Community Service, while the House bill establishes a "Corporation for National Service." The House recedes.

The House bill establishes a single Chairperson of the Corporation, while the Senate bill establishes a Chairperson and a President. The House recedes, with an amendment renaming the "President" as the "Chief Executive Officer."

The Senate bill requires that the Chairperson be appointed by the Board, while the House requires that the Chairperson be appointed by the President of the United States. The Conference Substitute requires that the Corporation Chief Operating Officer and the first Chairperson be appointed by the President of the United States, with subsequent Chairpersons appointed by the Board from within the Board.

The Senate bill establishes a Board consisting of 15 members, while the House bill establishes a Board consisting of not less than 15 members. The House recedes, with an amendment including the Chief Executive Officer of the Corporation among the 15.

The Senate bill, but not the House bill, makes the Secretary of Veterans Affairs an ex officio member of the Board. The House recedes.

The Senate bill establishes three years terms, but the House bill five year terms, for the Board of the Corporation. The Senate recedes.

The House bill, but not the Senate bill, requires that the Board conduct public hearings throughout the United States. The House recedes.

The House bill, but not the Senate bill, requires the Board to establish an Inspector General Oversight Committee. The House recedes.

The Senate bill, but not the House bill, states that a Board member shall be considered a Federal employee for purposes of tort claims. The House recedes.

The House bill requires the Board to prepare the strategic plan, while the Senate bill requires the Board to review and approve the strategic plan. The House recedes.

The House bill requires the Board to disseminate information; the Senate bill requires effective dissemination. The House recedes.

The Senate bill, but not the House bill, requires the Board to prepare recommendations to the Congress and President of the united States under section 193A(b)(10). The House recedes.

The House bill, but not the Senate bill, prescribes rules governing conflict of interest by Board members. The Senate recedes with an amendment conforming the rules to standard ethics provisions.

It is the indent of the Conferees that the Chairman of the Board shall receive the report of the Inspector General at the same time as such report is delivered to the Chief Executive of the Corporation.

The Senate bill, but not the House bill, exempts the Board from the Federal Advisory Committee Act. The House recedes.

The House bill, but not the Senate bill, requires the Corporation to coordinate its activities with those of Federal agencies dealing with communities participating in or benefiting from service programs. The Senate recedes.

The Senate bill, but not the House bill, requires the Senate to consolidate functions of the Corporation. The House recedes, with an amendment deleting specific instances of functions.

The House bill, but not the Senate bill, provides the Corporation with explicit authority to delegate functions. The House recedes.

The Senate bill, but not the House bill, requires the Director to consolidate the reports to Congress required under the Act. The House recedes.

The House bill, but not the Senate bill, authorizes the Corporation to spend funds for construction, without regard to other law, and to spend funds, without regard to other law, for rent or buildings. The House recedes.

The Senate bill, but not the House bill, requires a series of studies and demonstrations, concerning administration, priorities, educational awards, stipended service, and other matters. The House recedes with an amendment to include certain other reports within this section.

The House bill, but not the Senate bill, contains provisions relating to full funding of costs to State and local governments. The House recedes.

The House and Senate bills authorize managing directors with different responsibilities and establish corporation divisions with different authorities. The Conference Substitute allows the Corporation to determine the responsibilities of the directors and the authorities of the divisions.

The House bill makes the Inspector General subject to agency appointment, while the Senate bill makes the Inspector General subject to Presidential appointment and Senate confirmation. The House recedes.

The Senate bill, but not the House bill, amends the Inspector General Act. The House recedes.

The Senate bill, but not the House bill specifies the access of the Chief Financial Officer to information available within the Corporation. The House recedes.

The House bill and the Senate bill contain different provisions concerning personnel, in particular with regard to the transfer of employees from the ACTION agency. The Senate recedes. It is the intent and expectation of the Committee that the bargaining unit shall be transferred substantially intact to the Corporation. It is also the Conferees' intent that these transferred employees be considered an appropriate unit for the purpose of collective bargaining. It is further the intent of the Conferees that none of the authorities conferred upon the Chief Executive Officer by this Act be used in a manner that would adversely affect the bargaining rights of any employee transferred to the Corporation who, on the date of enactment, is covered by a collective bargaining agreement in a bargaining unit.

The Senate bill, but not the House bill, exempts the Corporation representative in each State from the provisions of title V of the United States Code. The Conference Report provides that individuals reported as Corporation representatives appointed under the Corporation's alternative personnel system not be paid more than the equivalent rate under GS-13. Individuals appointed under standard civil service rules will have their pay governed by the civil service classification system.

The Senate bill, but not the House bill, includes certain provisions governing the use of volunteers by the Corporation. The House recedes.

The Senate, but not the House, specifies that appropriate OMB Circulars apply to the Corporation. The House recedes. It is the intent of the Conference that this applies specifically to the Single Audit Act Circulars, and that the Corporation determine which OMB circulars are appropriate.

The House bill, but not the Senate bill, requires that the Corporation receive concurrence in certain building activities from certain congressional committees. The Senate recedes.

The Senate bill, but not the House bill, requires the Corporation to submit a business plan to Congress prior to the issue of any grants. The House recedes with minor amendments.

TITLE III—REAUTHORIZATION

The House bill, but not the Senate bill, specifies that authorizations are subject to the availability of appropriations. The Senate recedes.

The Senate bill authorizes $300 million in fiscal year 1994, $500 million in fiscal year 1995, and $700 million in fiscal year 1996. The House bill authorizes $394 million in fiscal year 1994 and such sums in fiscal years 1995 and 1996. The House recedes.

The Senate bill authorizes for administration 15 percent of appropriations for subtitles B, C, D, and H in the first year and 10 percent in subsequent years, with 50 percent of such funds for the Corporation and 50 percent for State Commission. The House bill authorizes such sums for administration, with a limit of $17.5 million for State Commissions (in section 126). The House recedes, with an amendment authorizing for administration $40 million in 1994, $60 million in 1995, and $70 million in 1996, stating that not more than 60 percent of funds may be made available to the Corporation, with the remainder of State Commissions.

The House bill, but not the Senate bill, specifies that the authorizations of appropriations come under budget function 500 as used by the Office of Management and Budget to cover education, training, employment and social services. The Senate recedes. The Conferees note that since the initial submission of the Administration's budget request for a national service initiative, funding for the programs authorized by this bill have been classified by the Office of Management and Budget as being displayed within budget function 500—Education, Training, Employment and Social Services. The Conferees further note that the Committees on Appropriations determined that the appropriate jurisdiction for National Service Trust programs would be the VA/HUD Subcommittee, and that this controlling decision is, unaffected by this amendment. The Conferees note that the ACTION programs are under the jurisdiction of the Labor/HHS Subcommittee.

The House bill, but not the Senate bill, has a provision in section 321A that requires the Assistant Director of VISTA have authority to administer the VISTA provision. The Senate recedes.

The House bill, but not the Senate bill, retains a volunteer placement office for VISTA. The Senate recedes, with an amendment requiring that upon integration of ACTION into the Corporation, any placement office shall be merged into the Corporation.

The House bill, but not the Senate bill, maintains the minimum funding set-aside of 1.5% for recruitment. The Senate recedes.

The House bill, but not the Senate bill, requires publicity about education awards. The Senate recedes.

The Senate bill, but not the House bill, requires that service opportunities be provided for returned Peace Corps volunteers. The Senate recedes.

The House bill mandates a minimum monthly post-service stipend of $100 for VISTA volunteers and a maximum of $200 for VISTA leaders; the Senate provides for a minimum of $125 for volunteers and $200 for volunteer leaders. The Senate recedes, with an amendment allowing for a maximum stipend of $125 for volunteers assuming the availability of funds to accomplish the increase.

Both the House bill and the Senate bill reduce the minimum age to 55. The House bill, but not the Senate bill, requires a priority in the Retired Senior Volunteer Program for individuals 60 years of age and older. The Senate recedes.

The Senate bill, but not the House bill, deletes a State Agency review provision. The Senate recedes.

The House bill, but not the Senate bill, requires consultation with states to consider the impact of stipend adjustments on non-Federally funded programs. The Senate recedes.

The Senate bill, but not the House bill, revises guidelines governing participation of non low-income persons. The Senate recedes.

The Senate bill, but not the House bill, removes certain State agency and community action agency project review authorities. The House recedes.

The House bill, but not the Senate bill, increases the minimum to be spent on promotion of Older Americans' programs from $250,000 to $500,000. The Committee substitute establishes a minimum of $375,000.

The Senate bill, but not the House bill, deletes a requirement that one-third of new monies be devoted to programs of national significance. The Senate recedes.

The House bill, but not the Senate bill, adds to the list of programs of national significance programs providing certain services augmenting the activities of State and local activities in years when those agencies have limited funds. The Senate recedes.

The House bill, but not the Senate bill, permits programs assisted under DVSA to make voter registration applications and information available on the premises of such programs. The Senate recedes.

The Senate bill, but not the House bill, provides a specific authority for a center for research and training. The Senate recedes.

The House bill, but not the Senate bill, restores a civil service retirement credit for former Peace Corps volunteers. The Senate recedes.

The House bill authorizes, to carry out parts A and B of title I, excluding section 109, $56,000,000 for 1994 and such sums for subsequent years. The Senate bill authorizes, to carry out part A of title I, excluding sections 104E and 109, $45,800,000 for 1994 and such sums for subsequent years. The Senate recedes.

The Senate bill, but not the House bill, establishes an independent authorization for the VISTA Summer Program. The Senate recedes.

The Senate bill authorizes $5,600,000 for literacy activities, while the House bill authorizes such sums. The House recedes.

The Senate bill authorizes $37,054,000 for the Retired and Senior Volunteer Program, while the House bill authorizes $53,100,000. The Conference Substitute authorizes $45,000,000.

The Senate bill authorizes $71,284,000 for the Foster Grandparent Program, while the House bill authorizes $98,200,000. The Conference Substitute authorizes $85,000,000.

The Senate bill authorizes $32,509,000 for the Senior Companion Program, while the House bill authorizes $48,700,000. The Conference Substitute authorizes $40,000,000.

The Senate bill authorizes 15 percent of the amount appropriated under sections 501 and 502 for administration and coordination. The House bill authorizes 21 percent. The Conference Substitute authorizes 18 percent. The managers have been informed that there have been problems in certain parts of the country regarding the payment of administrative costs by ACTION for expenses related to volunteers in local programs. This confusion arises particularly with respect to requests for payments related to expenses under federally approved cost allocation plans. The managers urge that ACTION review its policies regarding the payment of administrative costs covering program expenses consistent with federally approved cost allocation plans and determine whether administrative adjustments requested by local sponsors for program expenses consistent with such federally approved cost allocation plans should be permitted.

The House bill contains an authorization for funds for evaluation in the amount of not less than 2.5 percent of the amounts appropriated for administration. The Senate bill contains an authorization of one-half of one percent to 1 percent from the overall appropriation for evaluation and the center for research and training. The Senate recedes.

The Senate bill, but not the House bill, establishes a Rural Community Service Program. The Senate recedes.

The House bill, but not the Senate bill, includes a prohibition of contracts with persons falsely labeling products as Made in America and encouragement to the Corporation to follow Buy American practices. The Senate recedes.

From the Committee on Education and Labor:

WILLIAM D. FORD,
AUSTIN J. MURPHY,
DALE E. KILDEE,
M.G. MARTINEZ,
MAJOR R. OWENS,
STEVE GUNDERSON,

Additional conferees from the Committee on Government Operations:

JOHN CONYERS, Jr.,
CARDISS COLLINS,
HENRY A. WAXMAN,

Additional conferees from the Committee on the Judiciary:

JACK BROOKS,
JOHN BRYANT,
ROBERT C. SCOTT,

Additional conferees from the Committee on Natural Resources:

GEORGE MILLER,
BRUCE F. VENTO,

Additional conferees from the Committee on Post Office and Civil Service:

WILLIAM L. CLAY,
PAT SCHROEDER,
FRANK MCCLOSKEY,
JOHN T. MYERS,
CONNIE MORELLA,

Additional conferees from the Committee on Public Works and Transportation:

NORMAN Y. MINETA,
NICK J. RAHALL,
JAMES A. TRAFICANT, Jr.,
Managers on the Part of the House.

From the Committee on Labor and Human Resources:

EDWARD M. KENNEDY,
CLAIBORNE PELL,
HOWARD M. METZENBAUM,
CHRISTOPHER J. DODD,
PAUL SIMON,
TOM HARKIN,
JEFF BINGAMAN,
PAUL WELLSTONE,
HARRIS WOFFORD,
JIM JEFFORDS,
DAVE DURENBERGER,

From the Committee on Governmental Affairs (with respect to those provisions within the jurisdiction of that Committee):

JOHN GLENN,
DAVID PRYOR,
Managers on the Part of the Senate.

CONFERENCE REPORT ON H.R. 2264, OMNIBUS BUDGET RECONCILIATION ACT OF 1993

Mr. BROOKS. Mr. Speaker, I yield 1 minute to the gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, from February 17 when just behind me where I am speaking from now, President Clinton announced his plan, we have come a very far piece. We have come so far that I think it would be profligate on our part, wasteful on our part, not to seize this moment and not to take the next step and pass the conference report on reconciliation.

The bill we have before us tonight is a better bill than the President presented to us on February 17. It is not perfect. It does have deficit reduction, it has business investment, it has human investment.

I would say, in the last analysis, the only thing worse than passing a bill which may not be the perfect bill is to come this far and do nothing. So the only thing worse than to take action, I believe, is to be inactive.

I hope, therefore, tonight when we reach the vote in a few hours that the vote on the part of this assembly is to vote up the conference report and take that next step into the future of deficit reduction and a stronger economy.

Mr. RAMSTAD. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Florida [Mr. CANADY], an outstanding new member of the committee.

Mr. CANADY. Mr. Speaker, I wish that every Member of this House would read the headline in this morning's Tampa Tribune.

That headline sums up the message coming to this House from the American people.

Don't do it.

Don't do it. Don't pass this tax and spend package over the protest of the American people.

Don't trample on fundamental fairness by imposing retroactive income tax increases.

Don't slap middle-class retirees in the face by increasing the taxes they pay on their hard-earned Social Security benefits.

Don't increase the gas tax, and raise the cost of everything purchased by American families.

Don't penalize thrift and hard work by increasing the tax burden on savings.

Don't attack the small businesses of America by piling onerous punitive taxes on them.

Don't destroy jobs and opportunity for Americans by taking away the incentive for businesses to invest and expand.

Don't squeeze the families of America to provide more money for big Government.

Don't delay spending cuts for years and years and try to bamboozle the taxpayers of this country.

My Democratic colleagues, I appeal to you:

Don't do it. Don't pass this destructive, dishonest, debilitating reconciliation package.

Listen to the American people, vote no.

[From the Tampa Tribune, Aug. 5, 1993]

DON'T DO IT

If Bill Clinton's budget package is passed, the national debt will increase by more than a trillion dollars over the next five years. The cynically misnamed "spending cuts" in the measure are merely reductions in the amount of anticipated spending increases. The government will be spending billions upon billions more every year.

Here are some numbers: The total federal budget for 1993 is $1.46 trillion. It will rise to $1.51 trillion in 1994, $1.57 trillion in 1995, $1.62 trillion in 1996, $1.69 trillion in 1997, and $1.78 trillion in 1998.

The annual deficits for 1994 through 1998 will come to almost $1.2 trillion.

The deficits may actually be greater as the Clinton tax hikes drag down the economy. Why does the White House deny this inevitable result? How the devil can Democratic congressional leaders look into the television camera and say—without winking or blushing—that the President's program will create jobs? The chief source of new jobs is small business, which would take the heaviest blow from this disastrous scheme. Higher taxes mean higher costs of doing business: Does an employer facing higher operating costs feel more or less inclined to expand his work force?

And then there's the 4.3-cent boost in gasoline taxes. This means the average Florida motorist would spend another $27 a year for gas, not a dreadful burden for most people. But think of what would happen to the motor-vehicle fuel bill of corporations that operate dozens of hundreds of huge trucks and fleets of company cars. You can expect almost every item in the supermarket or department store to cost more.

Well, you might say, Americans should sacrifice for the good of the country. Very true. But why make sacrifices that absolutely will not produce the happy consequences so grandly advertised by the Clinton administration?

The President is going about this the wrong way, and a shameful number of his fellow Democrats fully understand this but are prepared to jump off the cliff anyhow—all in the name of saving Mr. Clinton's political skin. It's a depressing disgusting exercise.

Unless the federal government commits itself to cutting entitlement programs and other income-transfer devices, the prospect of making genuine cuts in the deficit is dim indeed.

Dim? Hopeless is more like it.

How much wiser it would be to cap increases in spending to 2 percent a year and then let the natural growth of the economy gradually dry up the red ink.

If Mr. Clinton were capable of deep thought, which he apparently isn't, he would take steps to lift the confidence of business and consumers. He would understand, as President Kennedy understood, that by lowering taxes he could cause the economy to grow at a faster rate, thus boosting government revenues while contributing to the optimism of the people.

The critical moment is at hand. Either Congress rejects this destructive budget or the national economy will be stalled for years to come.

Mr. BROOKS. Mr. Speaker, I yield 1 minute to the gentlewoman from New York [Ms. VELÁZQUEZ].

Ms. VELÁZQUEZ. Mr. Speaker, I rise today in support of this conference report. I would certainly have preferred a package that invested more in our poor families, our hungry children, and our devastated cities. But make no mistake, this is the first serious attempt in 12 long years to cut our crippling deficit while also helping our needy communities.

I have listened all day to Members on the other side of the aisle label this package as a tax bill and condemn the Democrats for our reluctance to cut spending. Let me set the record straight with two simple points.

Point No. 1, more than 50 percent of every dollar going to deficit reduction comes from spending cuts. Point No. 2, only the top 1.2 percent of Americans will experience an increase in their income taxes. So when we hear the Republican Members oppose this bill because of tax increases, they are protecting those individuals who make over $180,000 a year—the only people who benefited from the hit-and-run economics of the Reagan-Bush years.

Mr. Speaker, this debate clearly outlines the difference between Democrats and Republicans. We support cutting the deficit and investing in our future. They support protecting the wealthy and the privileged. It is as simple as that. I hope all my Democratic colleagues will prove themselves worthy of their party by supporting this landmark legislation.

Mr. RAMSTAD. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. MCCOLLUM], the distinguished ranking member of the Subcommittee on International Law, Immigration, and Refugees.

Mr. MCCOLLUM. Mr. Speaker, I think that what we face here with this bill is a very simple fact. It is a fraud. It is designed to be something that it is not.

Supposely we are going to get control over our deficits, and we are going to make some big hunk of reduction in everything out there.

At the end of the 5-year period that we are talking about, after this bill takes effect, if you gave every, every benefit of the doubt to those who are advocating it, you are going to have added over a trillion dollars to the total public debt. You are still going to have over $200 billion in deficits in the 5 years out from now. In addition to that, you do not have nay spending cuts in the bill, not true cuts. You have some reductions in the growth of spending, but Federal programs, domestic spending programs, all of them as they have for the last umpteen years, continue to grow.

We do not really cut spending. We play games with the word "cut." We are only reducing the growth. When are we going to get around to actually cutting some programs? When are we going to get around to eliminating some programs in this place? That is when we are really going to solve the deficit. That is when we are going to gain control over the budget that we have here today. Instead what we have is a fraud on the American public. We have the hugest tax increase in American history going into this reconciliation bill, and we do not have any spending cuts at all, and the ones they say that are in here, the ones that reduce the growth of spending, do not even take effect, for the most part, until this President finishes his entire administration.

I suggest to my colleagues that we ought to vote down this fraud and eliminate this bill right now, go back and start our homework, get together and have a real summit between Republicans and Democrats to decide where we can eliminate programs and where we can really get at this absolutely incredible runaway public debt and deficit that we have that is skyrocketing not only to $4 trillion but $5 trillion and on out with this particular bill.

Let us reject it, and let us get on with doing what the public wants us to do, and put some common sense into this body.

Mr. BROOKS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from California [Mr. MATSUI].

Mr. MATSUI. Mr. Speaker, I am really disappointed to hear Members who would call this legislation a fraud. It was worked by 13 committees including the Committee on Ways and Means.

You know, it is amazing that 62 major corporations that create hundreds of thousands of jobs in America support this legislation because it will result in lower interest rates and a stable economy.

But more than that, you know, we have had to go with the accelerator and the brake on this bill; the accelerator in order to deal with some of the inner-city problems that I think most Americans are aware of, the Lost Angeles riots, what happens in New York and Chicago and Detroit, and at the same time go on the brakes to try to reduce the deficit.

In terms of some of the accelerated areas, we have a number of programs, the earned income tax credit for one. You know, Republicans have always said that we want to keep people

In addition, we inoculate hundreds of thousands of children that are low income that will have measles and diphtheria and create problems for other children in the public school system. This is in that legislation.

Of course, the family preservation bill which basically will hopefully be a first start in preventing the 8,000 children who are abused within their own family every day, or 2.5 million children who are abused in this country every year.

This legislation is one that must pass, and I do not think we can forget about the unmet needs of many of the children who will benefit by this legislation.

So I urge adoption of this bill.

Mr. RAMSTAD. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Virginia [Mr. GOODLATTE], another new member of the committee.

□ 1740

Mr. GOODLATTE. I thank the gentleman from Minnesota for yielding to me so that I may rise in opposition to this tax-and-spend rehash of the last 40 years of policies of this House. This is not hundreds of pages of the tax—the spending cuts that the voters of this country want, these are hundreds of pages of tax increases and spending increases, including new spending programs.

A great deal has been said on the other side of the aisle about a bipartisan approach. I would welcome one, but the fact of the matter is that this side of the aisle has been shut out of this process from start to finish. The only true bipartisan approach has been that of those opposed to this plan because dozens of Democrats, along with all of the Republicans in this House, oppose this plan, along with the vast majority of the American people.

My office has received close to 400 calls already yesterday and today and better than 90 percent of those people are opposed to this plan. Ninety percent of the people I represent are not Republicans. I received letters from people like this gentleman from Lynchburg, who tells me he has been a Democrat all his life but Clinton is making him change to be a Republican.

And here, from a lady in Roanoke, she has been a Democrat all her life but she urges me to oppose this legislation because they know that it is an enormous tax increase, an enormous spending increase, and does not solve the deficit problem and is going to leave us saddled with problems for our children and grandchildren.

I would urge the Members of this body to take a truly bipartisan approach, which would be to throw out this bad bill and start again. Editorial boards across this country and a number in my district have called for and a number of people on both sides of the aisle, including Senator BOREN, Senator BREAUX and Senator DOLE, have called for throwing this out, studying it afresh and doing what the American people want, and that is to cut spending now.

Mr. BROOKS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I wanted to observe at this time that roughly 60 percent of the spending cuts in the Democratic plan that we now have before us occurs in the last 2 years, granted, that is correct. This is the natural result of spending cuts growing about the same amount each year. According to the Congressional Budget Office, in DOLE's own plan—and I saw him here earlier this afternnon—75 percent of the spending cuts occur in the last 2 years. The spending cuts in the Democratic plan are locked in by enacting the entitlement cuts in the bill, by the extension of discretionary spending, caps enforced by sequestration, by the entitlement review procedures to be established by the House and by the President and by the Deficit Reduction Trust Fund being established by the President.

Mr. HEFNER. Mr. Speaker, would the gentleman yield?

Mr. BROOKS. I yield to the gentleman from North Carolina.

Mr. HEFNER. I thank the gentleman for yielding to me.

Mr. Speaker, you know, Republicans have talked about they need to put together a coalition to put together a package that the American people support. I would remind the people that are watching this debate that there was a package that was put together, two different packages put together on this side; 37 of our friends from this side did not vote for anything. They did not vote for the Kasich package, they did not vote for the Republican substitute, and they certainly did not vote for the Democratic package. 37 said, "We don't want to do anything. We are against everything."

The packages that were offered had $66 billion of unspecified cuts. I can give you $150 billion of unspecified cuts or $500 billion of unspecified cuts today. And they were not within $90 billion of the $500 billion deficit reduction that is in this package.

I might say this: They are saying that people are unhappy with this package. Certainly people are unhappy with this package. Certainly people are unhappy with this package from what they are hearing on the radio and television.

Mr. RAMSTAD. Mr. Speaker, I yield myself such time as I may consume.

I would urge every Member of the body before voting today to read the article from today's Wall Street Journal entitled "Tax Bill: Retroactive, Unconstitutional," an article by Mr. Glazier, a Washington lawyer, who says:

> Washington incumbents might take a look at the draft of the new Russian constitution, which states that laws introducing new taxes cannot be retroactive.

Let's prove this author wrong when he says that Boris Yeltsin may have more respect for the U.S. Constitution than the majority of our own House of Representatives.

On the retroactivity ground alone, I urge a "no" vote.

Mr. Speaker, I yield to the gentleman from Michigan [Mr. SMITH].

Mr. SMITH of Michigan. Mr. Speaker, the reason I am voting no on this bill is because it redistributes existing wealth and discourages job expansion. The deficit in this bill is higher than ever before in history, spending goes up faster than inflation, and despite the largest tax increase in history, this country's public debt goes from $4.3 trillion to $6.2 trillion.

The increase in transportation costs and business taxes will be ultimately passed on to middle-class America. Seventy percent of the spending cuts are simply political promises that might happen 4 to 5 years from now, while tax increases will be retroactive to January 1, 1993. The way to help America is to cut spending first.

The SPEAKER pro tempore (Mr. MFUME). The Chair announces that all time for debate for the Committee on the Judiciary has expired and as such is prepared to recognized at this point in the debate the Committee on Merchant Marine and Fisheries, which is to be recognized for 20 minutes, equally divided. The gentleman from Massachusetts [Mr. STUDDS] will be recognized for 10 minutes, and the gentleman from Texas [Mr. FIELDS] will be recognized for 10 minutes.

The Chair recognizes the distinguished gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. STUDDS. Mr. Speaker, in its guidance to my committee, the Budget Committee recommended that we extend vessel tonnage fees through fiscal year 1998, the effect of which would produce $205 million over the 5-year period covered by the budget resolution.

What are tonnage duties? They are duties imposed on the gross tonnage of any vessel entering the United States from a foreign port or operating a so-called "voyage to nowhere."

Under current law, a vessel arriving from a foreign port in the northern Western Hemisphere—Canada, Mexico, Central America, the West Indies, and northern South America—or a vessel returning from a "voyage to nowhere" pays a tonnage duty of 9 cents per ton; the maximum for any 1 year set at 45 cents per ton.

A vessel arriving from a foreign port anywhere else in the world pays 27 cents per ton, not to exceed $1.35 per ton in a single year.

Before the 1990 Reconciliation Act was enacted, the tonnage duties were 2 cents per ton, not to exceed 10 cents per ton, in a single year for vessels entering from the northern Western Hemisphere and "voyages to nowhere", and 6 cents per ton, not to exceed 30 cents per ton, for all other arriving ships. These rates had been unchanged since 1909. The Merchant Marine and Fisheries Committee, in the face of another Coast Guard user fee proposal in 1990, instead raised the tonnage duties to their present levels and made them effective through fiscal year 1995.

In our report to the Budget Committee this year, we extend the current higher rates through fiscal year 1998 which, according to CBO, will result in $67 million, $68 million, and $70 million in each of the "out years", thus totaling the $205 million requested by the Budget Committee. The Senate included practically identical language in its amendment and, of course, the conference agreement contains this tonnage duty extension in section 9001.

Mr. Speaker, the Committee on Merchant Marine and Fisheries also reported a sense of Congress resolution which expressed our intention that the inland waterways fuel tax should not be further increased beyond those increases already mandated by law. This language had no fiscal impact and, as I understand it, was caught by the now quite famous—or infamous—Byrd rule. The sense of Congress resolution was dropped from the conference agreement.

Our committee was also a conference participant in section 9004 of the House bill requiring the Secretary of the Interior to establish a water surcharge on individuals and non-Federal entities that receive water from Federal reclamation projects. Surcharge receipts were to go into a natural resources restoration fund and be available for the benefit of fish and wildlife resources. This admirable provision originated in the Committee on Natural Resources and I commend Chairman MILLER and his colleagues for crafting an extremely reasonable and worthy measure; unfortunately, because of certain appropriation-related problems in the Senate, this was dropped from the conference agreement. I will defer to Chairman MILLER, who follows us in this debate, to provide the details on this particular matter.

Mr. Speaker, I now yield 2 minutes to the distinguished gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY. Mr. Speaker, as we vote on this package, I ask my colleagues to look to the future—not November 1994, but to the long-term future of our Nation. I, for one, care deeply about the kind of Nation we pass on to the next generation. I want it to be the best Nation possible, one that offers real opportunity to all: A strong economy; affordable, quality health care; safe streets; and schools where children flourish and don't have to dodge bullets.

But I am a realist. We will never be able to achieve those goals if we don't first establish a sound fiscal base on which to build. After more than a decade of tax and borrow policies, we have to take bold, tough steps to reduce the deficits that have a stranglehold on our economy.

That is why I rise in support of the conference report on H.R. 2264, legislation to begin the long-delayed task of taking back control of our Nation's economic future. The choice that confronts this House today is between this plan and no plan, between action and gridlock, between positive change and business as usual. For the past 6 months, Congress has done as the Framers of our great democracy intended when an issue as important as our economic future is at stake: We have debated, we have caucused, we have conferred, and finally we have produced a bill. The legislative process has run its course. Now it is time to act.

To those who urge defeat of this bill and call, instead, for a budget summit, I can only say that changing the process will not bring us the fundamental change this Nation needs. Past budget summits have done little to improve our fiscal discipline. If they had worked, this Nation would not be in this fiscal mess today. We cannot seek refuge from hard fiscal and economic realities in another round of closed-door meetings. The American people have seen enough process, now they demand and deserve results.

It would be easy for any of us to vote no, because we object to specific parts of this plan. I am deeply troubled by certain components of this bill, in particular the higher tax on a portion of Social Security benefits. I fought for additional cuts in order to avoid raising taxes on some seniors, and I assure you that I will continue to fight that tax—which falls on many middle-class seniors in my part of New York—and replace it with specific spending cuts.

I also object to the retroactive nature of some of the bill's tax provisions. It is simply unjust and unnecessarily disruptive to make tax changes applicable before the date of enactment. While the need for increased revenue to reduce the deficit must be met, it should be done in a way that is nonpunitive and that treats taxpayers as fairly as possible. There are also concerns that a retroactive tax increase of this magnitude could severely harm the recovery. The administration's plan to allow payments of taxes due to be made over the next 2 years, without penalty, is a help, but I remain very much opposed to the retroactive aspects of this package.

All of that notwithstanding, further delay on action to bring down the deficit will do far greater harm to our economic future. Mr. Speaker, the most unproductive tax in the history of our Nation is that $1,100 that, on average, each taxpaying American sends the IRS to pay the interest on our Nation's accumulated debt. This money comes out of our paychecks and does absolutely nothing to address any of the compelling problems facing our Nation. This legislation is a first step toward ending this onerous and unproductive tax.

The American people understand that unless we restore our Nation's fiscal integrity, we will not be able to rebuild our economic strength. This is an honest budget plan that will

If we do not act today to slow the growth of Government, we will foreclose our Nation's future. Large persistent deficits rob our economy of the capital that is essential to growth and job creation. Our massive debt burden makes it impossible for the Government to make vital investments in the common elements of economic growth—research and development, economic infrastructure, and training and education.

If we truly believe in change, we must have the courage to act on that conviction by addressing, head-on, the greatest obstacle to change: The budget deficit. If we want to reform our Nation's health care system * * * if we want to end welfare as we know it and put people to work * * * if we want to make our Nation's schools once again the best in the world, then we must bring Government spending under control.

If we want to free up private capital for investment in job-creation and economic growth, then we must slow the rate of Government spending so that it does not exceed the growth of our economy. If we want to reinvent Government, the place to start is by cutting the fat. This plan cuts over $60 billion from the Government payroll and reduces administrative expenses by $11 billion. It makes a total of $255 million in spending cuts.

As a member of the House Appropriations Committee, I am committed not only to meeting, but to exceeding, the deficit reduction targets for discretionary spending in the President's plan. And we have already begun. The appropriations bills that have already passed the House this year contain almost 300 cuts below spending levels for the previous year. These include a $1.3 billion cut in foreign aid, a $206 million cut in loan guarantees to the World Bank, and a $500 million cut in home ownership grants, as well as many others.

By eliminating wasteful spending, we will also make it possible to address the toughest and most serious problems facing our country. Today, we can take an important first step in reforming the welfare system by expanding the earned income tax credit so that working families do not have to live in poverty. We can transform millions of welfare recipients into working taxpayers by ensuring that work pays as this bill seeks to do.

This legislation differs from past efforts to control spending in that it recognizes that only with a growing economy can we bring the deficit down. While it includes over 200 specific cuts in Government spending, it also includes a series of measures designed to help American business expand investments in plants and equipment, in research and development, and in job training. These are changes that will enable our economy to compete in the global marketplace.

This plan includes one of the most significant incentive packages ever for small business job creation and capital formation. More than 90 percent of small business will benefit or be eligible for new job-creating tax incentives and tax cuts, while only 4 percent of business owners will pay any higher taxes.

In particular, the plan will increase the amount that small businesses are allowed to expense or deduct from $10,000 to $17,500 of the cost of new equipment put in service. The plan also allows investors in small businesses to exclude one-half of the capital gains earned from investment in the stock of a qualified small business when held at least 5 years. These and other provisions in the package recognize that small businesses are the most potent job-creators in our economy. This package will give these companies the boost they need to make our economy grow.

Over the past 4 years, the champions of gridlock have stood in the way of fundamental change, and the result has been fewer jobs created during that period than any time since the Great Depression. The opponents of the President's plan say that they're looking out for the taxpayer, for the small business owner, and for the retiree. With friends like this, Americans don't need enemies.

Every day, Americans are paying the price of gridlock in the form of stagnant wages, diminished job opportunities, and lost economic security and don't forget that $1,100 average yearly interest payment on the debt. What the opponents of this bill ignore is that the President's plan includes $255 billion in spending cuts and provides $8 in spending cuts for every $1 in new taxes on the middle class. What they refuse to acknowledge in that this plan is fair to the middle class.

The major tax increases in this plan fall on those who have benefited from the dramatic tax cuts of the last decade. And even for those people, their taxes will still be lower than they were in 1980. The only tax increase on middle-class working people is the gas tax, which would cost an average person $35 per year or about 10 cents a day.

Mr. Speaker, for over a decade the American agenda has been on hold because the Federal Government has failed to get its fiscal house in order. This is the first honest attempt to reign in the budget deficit in over a decade. Gone from this plan are the rosy economic scenarios, delayed budget obligations, entitlement caps, and other phoney budget devises which have allowed previous plans to claim deficit reduction while running up a debt at the rate of $1 trillion every 4 years.

Opponents of the plan are not proposing credible alternatives. The proposals they brought to this floor, fell far short of the deficit reduction that this country and this economy so desperately need and they would have imposed a heavy cost on vulnerable populations, especially seniors. These proposals are cynical retreads of the false budgets we saw in the 1980's, the same budget gimickery which got us into this mess in the first place.

We simply cannot afford to let this opportunity to restore our Nations fiscal integrity pass us by. If cutting the deficit were easy, we would have done so long ago. We must keep faith with the people who sent us there by doing what is hard. It's time to lead, it's time to govern, it's time to pay the bills. And it is time to look to the future.

Mr. FIELDS of Texas. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, I want to spend just a moment talking about this plan's impact on my State of Texas. A complete examination of the proposed budget package shows that approximately 41,000 Texans could be put out of work because of this budgetary plan. Despite claims by supporters of the plan, it is heavily weighted toward tax increases, calling for nearly $3 in tax hikes or fees for every $1 promised in future spending cuts.

□ 1750

The $250 billion in net tax hikes contained in the plan would cost taxpayers an additional $16 billion over the next 5 years, or $2,654 per household.

The proposed 4.3 cent per gallon tax increase on gasoline and other transportation fuels alone would cost Texas consumers $2.2 billion over the next 5 years, or $315 more for a two-driver family, 11.8 percent more than the national average. Texas consumers already pay 20 cents per gallon in State gasoline taxes.

It hits the State of Texas extremely hard.

However, Mr. Speaker, there is one aspect of the conference report that does not offend me. Despite the fact that the President proposed an increase of 525 percent on inland barge fuel, Congress made it clear this is an unacceptable increase. The conference committee has stricken any increase other than already scheduled to take place under current law.

This action reflects the concerns raised by members of the Committee on Merchant Marine and Fisheries which has jurisdiction over the inland waterways industry.

In considering that portion of the reconciliation bill, the Merchant Marine and Fisheries Committee adopted a Sense of Congress provision opposing any further increase in the inland waterways fuel tax. The proposal to increase this tax was foolhardy and if enacted would have caused hundreds of barge companies to go out of business, costing countless jobs. I am pleased that outrageous tax was removed from the conference report.

Mr. STUDDS. Mr. Speaker, I yield 2 minutes to the gentlewoman from Washington [Mrs. UNSOELD].

Mrs. UNSOELD. Mr. Speaker, I rise today to strongly support the President's deficit reduction package. A "Yes" vote on the President's plan will result in a better life and a better future for the American people. Here is why:

It includes the largest deficit reduction in our history—nearly $500 billion over 5 years.

Jobs, jobs, jobs. This plan will create 8 million jobs—an estimated 324,000 in my State of Washington alone.

It means low-interest rates. The rates are as low as they have been in 20 years because financial markets know this is a serious plan to reduce the deficit. Millions of Americans are refinancing their home and car loans and saving thousands of dollars, money in their pockets every month.

It rewards struggling families. If you work full-time and have children at home, the Federal Government will be there to help you help yourself out of poverty.

It includes incentives for small business. Nine out of 10 small business owners throughout the U.S. will qualify for a tax cut with this plan.

The package is fair. Nearly 80 percent of all the new taxes in this plan would be paid by the wealthiest Americans in this Nation, and no working family earning less than $180,000 will pay more in income taxes.

It includes investments in programs that put dislocated workers, like those in the timber communities of the Northwest, back to work. Programs that provide immunizations for children and that give 3- and 4-year-olds the head start they need to come to school ready to learn.

Mr. Speaker, perhaps the best reason to support this plan is to ask, "What's the alternative?"

The question for the American people is, will you be better off a year from now? If we pass the President's plan, I strongly believe the answer will be yes.

Mr. FIELDS of Texas. Mr. Speaker, I yield 2 minutes to the dynamic gentlewoman from Maryland [Mrs. BENTLEY], the conscience of the Committee on Merchant Marine and Fisheries.

Mrs. BENTLEY. Mr. Speaker, today's budget proposal seems like "deja vu" once again to those of us who opposed the Budget Reconciliation Act of 1990.

I point to only two of the 1990 taxes—the harbor tax and the luxury boat tax. Not only has neither tax resulted in the anticipated revenues being collected, but both have cost jobs.

The U.S. harbor tax adds $1,250 overhead per container. Therefore, shippers now are bypassing Northeast American ports by routing cargo to the United States via Canadian ports. It is a practical business decision with Northeast U.S. ports losing both tonnage and jobs. People out of work do not pay taxes. We should remember this today—and when we consider NAFTA.

And, the luxury boat tax effectively has shut down luxury boat manufacturing in the United States with 30,000 persons having been laid off as a result. Closed businesses do not pay taxes.

We have been down this road before—tax now, save later. It has not worked before because all the savings are in the out years.

For Americans who do not know what that means—out years are those years after the next election—or those years for which this Congress has no direct responsibility.

In March, Congressman BURTON and I proposed a flat freeze plus 2 percent, which would have saved $848 billion without raising taxes; but the Democrat-controlled Rules Committee would not allow us to bring that budget to this floor for a vote. We had to sneak our budget on the floor by means of a parliamentary maneuver. Many of those 37 Members mentioned by Mr. HEFNER, who did not vote for any budget, were among the 122 who voted for our parliamentary motion.

During this year's budget process, Americans have been denied all nontax alternatives.

The way this bill has been handled reminds me of motor voter earlier this year. If you remember, Mr. LIVINGSTON was not even permitted to raise an amendment to strike those persons from the voters' rolls who had not voted in 100 years.

As a result, some of us did oppose motor voter because it would allow the dead to vote.

But this is not a cause to despair. These are the days of the politics of inclusion. In this budget with its retroactivity of estate taxes, the dead now will have to pay taxes.

It is only right: If the dead can vote, the dead should pay their fair share of taxes too.

Eighty-four-year-old Eva Grasso asks why this Congress insists on robbing the dead like taking the pennies from a dead man's eyes.

Mr. STUDDS. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from California [Ms. ESHOO].

Ms. ESHOO. Mr. Speaker, I want to talk about truth and mission.

Each of us were sent here with a mandate to restore the economic health of this country. We promised our constituents that we would make the hard choices; put our country's well-being ahead of our political safety; face the pressure and do the right thing.

It is time to face the music that 12 years of economic irresponsibility have produced. It is time to pass an honest budget.

Let me tell you what a "no" vote on this budget means—no action; no growth; no hope; no guts.

Mr. Speaker, as my colleague from Texas said earlier, people have fought and died for our country. As one of my constituents so humbly said, "my country's future is worth more than a nickel."

Now, I would like to talk bout truth.

The truth is that this budget reduces the deficit by a half a trillion dollars and does it with more spending cuts than tax revenue.

The truth is this budget does not hurt the middle class. Over 95 percent of Americans do not have their income taxes raised. Yes, those making over $180,000 a year will pay more, but our Nation has always been about fairness.

The truth is this budget protects small business. I am a daughter of a small businessman. I know how hard small business people work to make a future for their families. And the truth is 96 percent of small

And Mr. Speaker, the truth is large businesses, like Hewlett-Packard, TRW, and others in my district endorse the plan. They know that the reduction in our deficit is vitally important for the Nation's long-term economic health.

And finally, Mr. Speaker, the truth is this Nation will be judged on how we care for our children. This plan will immunize them. It will provide family preservation, hunger relief, and it will bring about an earned income tax credit.

Mr. Speaker, I stand here as an American citizen sent by my constituents with the responsibility of casting a vote on their behalf, and on the Nation's behalf. I am going to vote, not as a Democrat, not as a freshman Member worrying about next's year's election, but as a U.S. Representative. Our mission is to get on with the business of governing and pass an honest budget which will restore the economic health of this country.

That is why we should pass this budget—and that Mr. Speaker, is the truth of it.

Mr. FIELDS of Texas. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Speaker, I would like to enter into the RECORD this statement that says, "Will California vote to cut its own throat?" And it tells exactly how this Clinton tax plan works.

First of all, the Clinton tax bill will drive a stake into the heart of California's economy.

Beyond the broken promises to seniors and the middle class, the Clinton tax bill is a California killer. How does it do that?

Governor Wilson says the Clinton tax plan will kill 395,000 California jobs. He adds that 12 percent of the Nation's taxes are paid by the State of California, over 12 percent of the total, and 16 percent of the Clinton tax increases will come from California. That equates to over $40 billion that will go out of the State of California, a State that has a $10 billion deficit.

□ 1800

In addition $127 billion in defense cuts, which are the now cuts in the Clinton budget, will cost us 2 million jobs. I hate to see people when base closures come in the State of California and point to who is killing their jobs. Job conversion; will it keep up? Absolute not.

I stated in 1990 that only 33 Republicans voted with President Bush to raise taxes. The rest of them did not because they knew that those spending cuts will not. In the Clinton plan, 80 percent of the cuts that they are talking about comes after 1996, and I do not want "President Jack Kemp" to have to deal with them.

In 1986 Gramm-Rudman was supposed to cut the spending cuts. In 1990, the caps were firewalls. How did we do it? Emergency spending, continuing resolutions, and in 1993, a President's word to cut spending that does not come until after 1996.

The American people just do not believe it, Mr. Speaker.

Mr. Speaker, I include the article referred to as follows:

[From the Los Angeles Times, Aug. 5, 1993]

WILL CALIFORNIA VOTE TO CUT ITS OWN THROAT?

(By James Pinkerton)

If its congressional team helps pass the Clinton budget plan, the state will be the big loser.

Californians should be calling the tune on the "deficit reduction" bill scheduled for a vote in the House today. The Golden State produced nearly one-third of Bill Clinton's popular-vote majority last year. Three senior members of the Clinton economic team—the director of the Office of Management and Budget, the chairman of the Council of Economic Advisers and the special trade representative—are Californians. Its congressional delegation, the largest for any state in U.S. history, includes two Democrats in the Senate and 30 in the House.

Yet, the tax provisions of the bill will make California the big loser if it passes. Californians file about 12 percent of all federal tax returns, but with the new higher income-tax rates, they would pay 16 percent of the increased tax bill. That's an extra $40 billion sucked out of the state economy over the next five years.

Other states aren't hit as hard by the Clinton tax package. For example, Arkansas. Data from the spring, 1993, Statistics of Income Bulletin, published by the IRS, are revealing. Although Razorbacks filed 0.85 percent of 1991 tax returns, we can extrapolate, based on reported income, that they will pay only 0.4 percent of the new tax. Put differently, Californians file about 14 times as many returns as Arkansans, but they will be paying nearly 40 times as much of Clinton's tax increase.

Nobody blames Arkansans for looking out for their kinfolk. What's mystifying is why Californians would want to help them. To their credit, all 22 California Republican congressmen voted "no" in the first legislative go-round on the Clinton package last May, but their votes were swamped by California's Democrats. Both Sens. Barbara Boxer and Dianne Feinstein voted for Clinton's plan, as did all but two Democratic members of the House.

Californians can thus claim the dubious distinction of being largely responsible for the Clinton program getting this far: It passed by just six votes in the House, and by one vote—Vice President Al Gore's tiebreaker—in the Senate.

Ah, but the tax increases only hit "the rich," Clinton supporters say. Compared to the rest of the country, a lot of struggling Californians are "rich." California's per-capita income is substantially higher than the national average, even if its ranking is heading south. However, the cost of living is also higher—something the tax bill doesn't take into account. Consider housing costs: According to the National Assn. of Home Builders, California has seven of the 10 "least affordable" housing markets in the nation. In Los Angeles, even after the real-estate slump, the median price of a home is 70 percent above the nation's median. Real estate in Orange and Ventura counties is even more expensive.

As if California didn't have enough problems, here comes Bill Clinton, wanting to open a vein in the California economy and drain away more purchasing power. Few rich people stash their money away in mattresses. They spend it—on the rest of us. We sell them everything from cars to clothes to newspapers. So it's hard to see how working Californians will be better off with $40 billion gone from circulation on the West Coast. Gov. Pete Wilson, who knows something about raising taxes and further damaging a weak economy, predicts that the Clinton package will cost 359,000 jobs a year.

So what does the California delegation do with its Washington clout? Not much. The Times reported last week that Feinstein helped win a $366-million tax break for real-estate developers. Great. So now a few big campaign contributors get taken care of, while the state's cash flow to Washington is reduced from $40 billion to a mere $39.6 billion. Meanwhile, changes that could really help California are ignored, such as an across-the-board, inflation-adjusted capital-gains tax cut to spur high-tech investment and entrepreneurship.

The only possible argument for the Clinton program is that California's sacrifice is necessary for the long-term fiscal health of the country. But the Clinton budget will raise annual spending another $300 billion by 1998. All the wasteful programs you've read about—the honey subsidy, the mohair program, the space station—have survived.

As an added kick in the teeth, the income-tax increases will now be retroactive to Jan. 1. So this December, when retail stores—and the people who work in them—are hoping for a big holiday shopping season, the crowds will be thinner as "the rich" lay money away until April 15, to pay for Uncle Sam's bees, goats, and military-industrial complex boondoggles.

Mr. STUDDS. And now for another view from California, Mr. Speaker, I yield 2½ minutes to the distinguished gentleman from California [Mr. TUCKER].

Mr. TUCKER. Mr. Speaker, there is a war that is raging, and it is not only in Bosnia-Herzegovina. It is right here on Capitol Hill. It is a war of words. It is a war of truth. It is a war that is being waged by my colleagues on the other side of the aisle of misrepresentation.

That is why I rise today, Mr. Speaker, to set the record straight about the reconciliation bill and the conference report, for my colleagues on the other side of the aisle would use in this war the middle class as a scapegoat, using the middle class to say that this tax bill is wrong because it will hurt the middle class. They must do that and say that because they need the middle class to support their position, the position of those whose incomes doubled in the 1980's under the supply side voodoo economics of Reagan and Bush.

This is a war of truth, Mr. Speaker, and the truth is that this tax bill will hurt the top 1 percent, of the people in this country. Over 90 percent of small businesses will benefit from this tax plan. The gas tax that we hear so much about, $3 a month, $36 a year; that is going to kill the middle class? No.

Mr. Speaker, it is a war on words. It is a war against truth. But we on this side of the aisle have a war to redeem the direction and the future of this country and to provide economic development, and recovery and tax fairness for all. The EITC, earned income tax credit, is going to allow people who have been on welfare to move into workfare. Child immunization is going to allow for $580 million of money to go to young kids who need to be immunized, and still we will retain a $496 billion mark of deficit reduction. There are $102 billion of spending cuts for discretionary spending, $88 billion of entitlement cuts.

These are real cuts, and, yes, people have to suffer from these cuts. Do not talk to me about the cuts that are going to be felt in 1996 because they are going to be felt by real people.

The truth must come out, and the truth must come out tonight, Mr. Speaker. There is a war of truth, and our side will win.

Mr. FIELDS of Texas. Mr. Speaker, I yield 1½ minutes to the gentleman from Maryland [Mr. GILCHREST].

Mr. GILCHREST. Mr. Speaker, I rise today in opposition to the conference report, and I would like to make one comment to the gentleman from California [Mr. TUCKER] who just spoke.

If I thought that this plan would balance the Federal budget and begin to reduce the national debt, regardless of the tax structure, I would vote for it. But I am convinced that this will do nothing to the budget deficit, nor will it decrease the national debt. It will increase the national debt, and it will keep the same budget deficit, and, if we want to do something for the people of this country, we need a plan, a bipartisan plan, that is going to impact the budget deficit and the national debt, and there are enough of us in this room to accept the fact that

And there are people in this room that said a no vote means gridlock for this country, a no vote is the easy vote, a no vote is something that will be against the American people, or the veterans, or the poor people.

Mr. Speaker, I am pleading with my colleagues that a no vote means that we can get together as a group of people when we come to the fork in this road, which either is right or left, leftwing, rightwing. Let us, together, build a new road. If we have to have tax increases, yes, maybe 1 percent of the highest tax bracket will be taxed with 70 percent of these revenues. Well, that is O.K. if we do it the right way. Have the cuts sooner, and we will be successful.

So, Mr. Speaker, in my opinion a no vote means:

"Let's get together and work harder."

Mr. FIELDS of Texas. Mr. Speaker, I yield 1 minute to the gentleman from Delaware [Mr. CASTLE].

Mr. CASTLE. Mr. Speaker, many of my distinguished colleagues, from both sides of the aisle, have acknowledged that the budget plan before us today is not the best we can do. So, let's go back to the drawing board, in a bipartisan manner, and redraft a budget bill that cuts spending first and reorganizes and reduces the bloated Federal bureaucracy.

Several bipartisan groups in this Chamber have expressed a willingness to sit down together and draft a plan that slashes unnecessary, outdated Government programs, reprioritizes Federal spending and sets forth guiding principles for deficit reduction on which we all can agree.

As Governor of Delaware for the last 8 years—in prosperous times and lean times, I worked together with members of the general assembly to balance the State's budget, in the best interests of the citizens of our State.

Mr. Speaker, this bipartisan cooperation must be our goal in drafting a budget that is in the best interests of this country.

I believe we can agree that there are two fundamental concerns of the American people: They do not want to pay higher taxes * * * and they are tired of gridlock in Washington.

So, let us live up to our titles and truly represent the people. We should reject this budget bill and get to work immediately on a bipartisan measure that focuses our efforts on cutting spending and reducing the deficit.

Mr. STUDDS. Mr. Speaker, I yield our remaining minute to the gentleman from Pennsylvania [Mr. COYNE].

Mr. COYNE. Mr. Speaker, I want to note my strong support for the Omnibus Budget Reconciliation Act of 1993.

There has been a great deal of talk about this budget package, but I would like to present a few facts. First, this budget plan crafted by President Clinton and the House and Senate provides the largest deficit reduction ever voted upon by the House. Reducing the Federal deficit by $496 billion over 5 years will benefit every American by promoting increased private investment and by helping to keep interest rates low.

Achieving this historic level of deficit reduction has not been easy. It has required many Members to make tough decisions on which programs to cut and how revenues should be increased in the fairest manner possible. Careful examination of this budget package shows that over 200 specific budget cuts have been approved. The end result is that budget cuts will outnumber new revenues, with $255 billion in spending cuts compared to $241 billion in new revenues.

The $496 billion deficit reduction package being voted on today honors the spirit of President Clinton's original deficit reduction plan. Deficit reduction is a means to an end, which is to produce a stronger U.S. economy. This budget plan does that by ensuring that probusiness investment incentives and tax fairness provisions were maintained as essential elements of the final bill.

Expansion of the earned income tax credit will provide a tax cut for working parents whose family incomes are under $30,000. This budget agreement rewards moderate-income Americans who work week after week but still find it difficult to make ends meet. Approval of an expanded earned income tax credit will be one of the strongest profamily provisions ever approved by Congress. It is an essential element of any effort to help Americans move from welfare to the workplace and will help most those working Americans who are struggling still to escape poverty. I am pleased to report that the expanded earned income tax credit program will benefit over 22 percent of the families in my congressional district, and will help over 16 percent of working families across the Commonwealth of Pennsylvania.

Other steps have been taken to address the needs of the American people. This package includes funding for family preservation programs to help keep a family intact instead of placing a child in a foster home. The bill also pays for an expansion of childhood immunization programs, which will reduce the number of children in our country who suffer from dangerous and costly illnesses.

There are a number of important incentives for business investment in this budget agreement. I want to note in particular permanent extension of the targeted jobs tax credit and the mortgage revenue bond program, and continuation of the tax credit for research and experimentation and the income tax exclusion for employer-provided educational assistance. The final conference agreement also provides for enactment of empowerment zone incentives for investment in urban and rural areas hardest hit by the lack of sustained economic growth over the past several years.

I want to comment on the pro-small-business provisions of the conference agreement in particular because there has been so much disinformation on this subject. Over 90 percent of American small business will be eligible to receive a tax break as a result of the 1993 Omnibus Deficit Reduction Act. Small firms will be able to see their tax deduction for new equipment purchases almost doubled, rising from $10,000 annually to $17,500 annually. In addition, a targeted small business capital gains relief will allow long-term investors in small firms to exclude 50 percent of the capital gains from that investment. Real estate professionals will also obtain relief from 1986 passive loss restrictions.

While over 90 percent of small business owners will have a chance to reduce their tax payments, only 4 percent of the most well-off small businessmen and women will see an increase in their taxes. The opponents of this deficit reduction plan have attempted to obscure this fact, but the reality is that only about 300,000 out of 7 million small businessmen and women will see any increase in their tax rates. This relatively small group of individuals with incomes from partnerships, S corporations, or sole proprietorships have an average income of $560,000 each year. Americans can see through all the rhetoric to know that we are not talking about the Mom and Pop corner grocery.

I am pleased to report that the final conference agreement maintains the House position of permanent extension for the small issue industrial development bond program. This provision is identical to the bill I introduced at the beginning of this year and which has been cosponsored by over 100 Members of the House. Continuation of the industrial development bond program will allow State and local governments to proceed with hundreds of jobcreating bond issues. The result will be a quick jumpstart to a number of business expansion plans which have been on hold since the expiration of this program.

Industrial development bonds [IDB's] are a perfect example of the public-private partnerships which are often the key to success in our modern economy. Nationwide, between 1987 and 1992, IDB's have created an estimated 182,000 new manufacturing jobs and facilitated the retention of 169,000 jobs through the financing of roughly 3,800 projects. My own State of Pennsylvania has financed 224 projects between 1987 and 1992 which served to create 8,975 new jobs and helped to retain 17,724 jobs that might have otherwise been lost.

The budget conference agreement also includes a provision which will promote the development of high speed/mag-lev rail systems by State and local governments. This provision was approved by the House earlier this year and will allow State and local governments to make effective use of tax-exempt bond financing for the construction of government-owned high speed/mag-lev rail facilities. I commend the House conferees for maintaining the House position on this issue. The result will be the advancement of our Nation's ability to compete internationally in the commercial development of high speed/mag-lev rail systems.

As the Congressman whose district includes the Port of Pittsburgh, America's most active inland port, I am also pleased that the final budget conference agreement has eliminated entirely the proposed increase in the inland waterway fuel tax. The House Ways and Means Committee took a major step in this direction by cutting in half the proposed increase, and I want to note my appreciation for Chairman ROSTENKOWSKI working with House and Senate conferees to find a way to accept the complete elimination of this proposed fuel tax. The elimination of this proposed inland waterway fuel tax will provide great relief for the U.S. barge industry, which has been suffering economically along with the millions of Americans affected by the floods in the Midwest.

All of these provisions are paid for while still achieving $496 billion in deficit reduction over 5 years, and this is done in the fairest manner possible. The inescapable fact is that this deficit reduction plan is the most progressive revenue provisions considered by the Congress in the past 12 years. I can support this bill because I know that this budget package is the fairest bill possible for the average taxpayer in my district and across this country.

Over 80 percent of the new revenue in this budget package will come from those making over $200,000 annually. Only the top 1.2 percent of all Americans will see their income tax rates increased. These are the same individuals who saw their incomes grow the fastest over the past decade while their taxes were being reduced.

This budget plan closes tax loopholes that have favored special interests and a fortunate few. The House will have a chance today to eliminate the tax deduction for lobbying and will limit the tax writeoff for $1 million corporate salaries and expensive business lunches and entertainment.

Every American is being asked to play a role in reducing the deficit. This is vital if our country is to make the tough decisions needed to control the growth of the Federal debt being passed onto future generations. While middle class Americans will see a 4.3-cent-per-gallon increase in the Federal tax on gasoline, it is important to note that this will cost the average driver in Pennsylvania only about $23.60 a year. Keep in mind that average pump price of gas is lower today than it was at the end of World War II when inflation is taken into consideration.

It is vital that the House approve this $496 billion deficit reduction package. Failure to do so would show that the House is unwilling to make the hard decisions needed to control the deficit. The result of doing nothing would be a rapid jump in interest rates and the end of any hope for economic recovery.

Finally, I must note that the opponents of this package have failed to present any responsible alternative. The Republican plan was $100 billion short in meeting the deficit reduction target set by Congress, and would have achieved even these savings only by devastating programs for seniors, veterans, and moderate-income Americans. The opponents of this package are up in arms because they want to protect the top 1 percent of taxpayers in this country from paying their fair share. They are upset that the failed trickle down policies of the past decade are being reversed finally, after helping to increase the Federal debt from $908 billion in 1980 to over $4.5 trillion in 1992.

Mr. Speaker, I urge that the House approve this balanced program of spending cuts and revenue provisions. This action is essential if the Congress is to control the growth of the Federal debt and promote the investment needed to provide economic opportunities for the American people.

Mr. FIELDS of Texas. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, let me just point out that, if the entire Congress had acted as the Committee on Merchant Marine and Fisheries would have acted, then we would be talking about an entirely different budgetary package today, but we are not.

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They are not. And it is important for the American people to understand that for every $3 in tax hikes, there is only $1 in promised future spending cuts, the $1 that will never show up. Eighty billion dollars in new spending is in this program, the largest tax increase in our Nation's history. Those are facts. Increased taxes on Social Security.

Now, if one looks at the State of Texas alone, the State of Texas, my constituents, my friends, will be paying $16 billion more in taxes under this particular plan. Texans pay $2 billion over the next 5 years for the 4.3-cent-per-gallon gasoline tax. The average Texas family that drives two automobiles will be spending $315 more. Each family in Texas who drives two cars can just write a check for $315 under this plan and send it to the Federal Government.

This is a bad plan. We should reject this plan, reject tax increases, and come up with a true spending reduction program. That is one which I would support.

The SPEAKER pro tempore (Mr. MFUME). The Chair announces that all time set-aside for the Committee on Merchant Marine and Fisheries has expired.

The Chair now calls upon the Committee on Natural Resources, to be recognized for 20 minutes, equally divided and controlled by the distinguished gentleman from California [Mr. MILLER], and the distinguished gentleman from Alaska [Mr. YOUNG].

The Chair recognizes the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Speaker, for the purpose of debate only, I yield myself 4 minutes.

Mr. Speaker, I rise in support of this critical plan to restore integrity to our Nation's economy by making significant and historical reductions in the deficit over the next 5 years.

Mr. Speaker, I would like to take time to point out what I think is the most important part of this program, and that is the extent to which children benefit, especially children who are living in families at risk, under this program.

I would like to take a moment to acknowledge the tremendous achievements of the gentleman from Illinois [Mr. ROSTENKOWSKI], the chairman of the Committee on Ways and Means, including the family preservation program within this deficit reduction package, as well as the provisions for the expansion of the earned income tax credit.

Mr. Speaker, some 5 years ago a number of us who were Members of Congress at that time went to Chairman ROSTENKOWSKI and told him that without his help and without his influence and the strength of his committee, children in this country were not going to be able to do terribly well, given the economic changes that were taking place in families under stress and the increased numbers of families that needed help.

As a result of that conversation and the skills of the gentleman from Illinois [Mr. ROSTENKOWSKI], in that time we have seen the Family Assistance Act passed on a bipartisan basis and sent to the President of the United States, the expansion of title XX, child care provisions for working families and people in job training so they could provide for the economic well-being of their families, the family preservation program that is included in this program, the funding for the Mickey Leland Child Nutrition Program for both families and children, and expansion of that program, other child nutrition programs, and the funding for child immunization.

Children of this Nation are in fact the biggest winners in this package. They are so because of the Committee on Ways and Means and the efforts of the chairman of that committee, the gentleman from Illinois [Mr. ROSTENKOWSKI], to secure funding for these important programs.

Mr. Speaker, some Members of the House and the Senate have been having a great deal of fun criticizing and denouncing this deficit reduction plan. Curiously, many of them are the exact same people who, over a decade ago, vigorously promoted the dubious Reagan budget strategy which tripled our national debt.

Their partisan, derogatory motives are blatantly apparent.

They have no alternative, because there is no alternative to this legislation. This isn't perfect legislation, but it is the best we can do given the multitudinous interests, agendas, and concerns of this Congress and the American people themselves.

It does not solve every problem. But it does impose significant spending reductions that are serious and that will be enforceable.

It does raise taxes, but in the most progressive and compassionate manner in recent American history. How curious that many of those who denounce this progressive tax plan are the very same people who couldn't wait to vote for the regressive Reagan tax scheme that lavished tens of billions on the wealthiest of Americans while sending the bill to middle income, working families.

Mr. Speaker, the guru of gridlock, Senator BOB DOLE, has a new attack line against our deficit reduction bill.

And what really bothers me, Senator DOLE said Tuesday night, is that they've made the income tax increase retroactive.

Never before in American history has the Government increased taxes retroactively.

Senator DOLE, let me introduce you to Chairman DOLE—the Senate Finance Committee chairman who time after time raised taxes—retroactively.

The 1981 tax bill, written by Chairman DOLE, signed by Ronald Reagan in August, retroactive effective to June.

The 1982 tax bill, written by that same Chairman DOLE, signed by Ronald Reagan in September, retroactive effective to January.

Want more?

The 1984 tax bill, written by Chairman DOLE, again signed into law in July, retroactive effective to January.

And the 1986 tax bill, written by—guess who?—and retroactive nearly a full year, from October to January.

Tax legislation is usually made retroactive. Senator DOLE surely knows that; and Chairman DOLE did it, time after time.

Mr. Speaker, the opponents of this plan are betting all their chips on the slender hope that the American people can be fooled into thinking that nothing is better than something, that gridlock is better than progress, and that the inequitable status quo is better than responsible change.

To those who, offering no substantive plan for national economic renewal, demean our efforts, I recall the words of Senator Robert F. Kennedy:

> Each of us can work to change a small portion of events, and in the total of all those acts will be written the history of this generation.

Mr. Speaker, as chairman of the Committee on Natural Resources, I wish to inform the House of the provisions of this conference report that are the product of the work of the committee.

RECREATIONAL USER FEES

The House sought to avoid adding new fees to the users of our public lands, preferring instead to raise additional fees from those who commercially benefit from the public domain. In some respects we were successful, although this report includes the imposition of entrance fees at congressionally designated forest service and BLM areas and at up to 21 areas of concentrated public use administered by the Secretary of Agriculture.

GOLDEN AGE PASSPORT

The report also includes the House provision that imposes a one-time processing fee of $10 for the purchase of the passport.

USER FEES

The conference agreement raises a number of fees including swimming areas, boat ramps, and managed parking lots on Department of the Interior, Department of Agriculture, and Army Corps of Engineers outdoor recreation sites. The final agreement prohibits charging fees for visitor centers and or solely for the use of picnic tables.

COSTS OF COLLECTION

The report authorizes the Secretaries of Interior and Agriculture to retain all direct costs of collection associated with existing and additional fee revenues, but caps the amount that may be retained at 15 percent of the fee revenues collected for that year. Many of those involved with the current collection of fees at national parks and other sites tell us that they must often forego mandated collection efforts because they simply cost more than they collect. This provision, without raising new fees, provides a necessary mechanism for increasing revenues collections.

COMMERCIAL TOUR FEES

As part of our effort to require that commercial users of public resource pay reasonable fees for their use of the public lands, our bill authorizes commercial tour use fees for vehicles and aircraft entering National Park System units for the sole purpose of providing commercial tour services. The conference agreement authorizes commercial tour use fees for vehicles and aircraft at certain Park System units with high levels of overflight activity.

NON-FEDERAL GOLDEN EAGLE PASSPORT SALES

Many experts in the tourism and recreation industry have told us that the Government could significantly increase revenues from the sale of the golden eagle passport, which allows unlimited visitation of National Parks and other sites, if we allowed private entities to sell the passport for a small profit. The conference agreement allows such sales, when approved by the Secretary, and permit the non-Federal entities to retain 8 percent of gross receipts, with proceeds to be divided among agencies based on a share of entrance fee revenues.

We compound the benefits of this initiative by expending the revenues derived from the non-Federal sale of the golden eagle passport for resource protection, rehabilitation, and conservation projects carried out by conservation corps, to provide employment and important education about resource management and restoration.

COMMUNICATION SITE FEES

The conference agreement provides that the fees assessed and collected in fiscal year 1994 by the Secretaries of the Interior and Agriculture for the utilization of radio, television, and commercial telephone transmission communication sites located on Forest Service and BLM lands, will be 10 percent above the fee assessed and collected during fiscal year 1993. I had hoped to bring these fees up to fair market value, but we could not persuade the Senate to adopt that position. We specifically rejected any proposal to lock permanently into place any plan that would limit the Secretaries' abilities to charge true fair market price for these sites.

HARDROCK MINING CLAIM MAINTENANCE FEE

Mr. Speaker, this House will soon have an opportunity to consider long overdue reform of the Mining Act of 1872. In the meantime, this reconciliation bill continues some interim reforms we began last year to at least reduce the loss of vast amounts of revenue from the mining program. These issues are going to be readdressed in the debate over mining reform, and I would hope for a far more comprehensive solution to the numerous concerns involving the financial, environmental, and public health issues raised by the outdated mining laws of this Nation.

In the meantime, the conferees agreed to extend the $100 claim maintenance fee for fiscal years 1994–98, and provided the Secretary with discretion to waive the fee for claimants holding 10 or fewer claims. The conference agreement also imposes the $25 location fee for new claims.

MINERAL RECEIPTS

The report amends the Mineral Leasing Act of 1920 to direct the Secretary of the Interior to deduct 50 percent of the Federal costs of administering the onshore mineral leasing programs prior to disbursement to the States and Federal Treasury. For the benefit of several States which, under the general formula, could lose significantly more than the annual cost of the program, the reduction would be computed on the basis of actual costs.

FEDERAL WATER SURCHARGE

Mr. Speaker, we were not able to include in this report a proposal initiated by the administration and strongly supported by the Committee on Natural Resources that would have created a fish and wildlife restoration program to mitigate the impacts of Federal water project construction and operation. We did enact a similar plan last year for the Central Valley project in California, and given the severity of damage from water projects throughout the West, we though a modest surcharge that would be applied to restoration and enhancement activities was a reasonable initiative.

Unfortunately, although all the conferees agreed that a surcharge to finance fish and wildlife restoration was desirable, we were not able to develop a mechanism for outlaying the funds without running afoul of the Byrd rule and other procedural obstructions. This is just one instance, among many, when the limitations of this rule, selectively imposed, have unfairly and adversely affected the legislating process.

My counterpart in the other body, Senator J. BENNETT JOHNSTON, has indicated his support for moving this

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Many Members of Congress, the press, and the public have been outraged by recent reports of chronic abuses in garment factories and other industries in the Commonwealth of the Northern Mariana Islands [CNMI], to which our Government provides over $27 million in special assistance on an annual basis.

The reports have detailed the virtual slavery of thousands of so-called temporary workers, their denial of living wages or decent housing, abominable working conditions, and the immoral purposes to which some of the most unfortunate have been driven.

The clear preference of Members of the House was to end the CNMI funding outright, and the certification of substantive reforms before considering whether to reestablish some assistance plan. The Senate and the administration had proposed providing the CNMI with an additional $120 million in funding.

In our discussions, we made some progress toward conditioning the release of funds on reform in the CNMI. But ultimately, the Senate negotiators were unable to agree to sound conditions and reliable enforcement to end the well-documented abuses.

As a result, we dropped the CNMI section entirely, allowing the program to revert to current law which provides funding only on an annual basis, not the longer 7-year guarantee contained in the administration's proposal.

Frankly, I am not pleased with that conclusion. But it is far preferable to agreeing to modest reforms whose implementation could not be effectively enforced. That alternative would have been unfair to the workers of the Marianas and the U.S. taxpayers.

Mr. Speaker, that concludes the report from the Committee on Natural Resources on the historic and crucial legislation.

I would, however, like to take a moment to acknowledge the great achievement of Chairman ROSTENKOWSKI and the Ways and Means Committee in including the family preservation program in this package.

Family preservation programs represent an early and concentrated investment in helping families cope with the stress and challenges that often produce violence, crime, and dependence. It is a preventive alternative to welfare, to jail, and to foster care that personifies the cost effective approach long recommended by the House Select Committee on Children, Youth and Families.

In my own district, family preservation is working. It is saving families and saving money for taxpayers, too. The program served 71 families with 107 children during the last half of 1992, and only 22 percent of those children ended up being removed from their homes. That is an 80-percent success rate that will save our country $1 million a year in avoided long-term placement costs.

Much of the credit for this achievement, after many years of very hard work, goes to our former colleague, Tom Downey of New York who, as acting chairman of the Human Resources Subcommittee, first promoted and supported the notion of family preservation, as well as authoring major changes in child support enforcement and the E.I.T.C. alternative to welfare plan.

It is very unfortunate that Mr. Downey is not a member of this body as his dream becomes law. But it is a testament to the soundness of that dream that it has carried on beyond his service in Congress to become a reality.

I also want to pay tribute to Chairman ROSTENKOWSKI and Chairman HAROLD FORD, as well as former Acting Chairman BOB MATSUI, all of whom share great credit for this victory on behalf of children and families.

With that, I urge a "yes" vote to pass the Clinton deficit reduction package.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, this body is addressing the issue of the budget deficit in the wrong manner. There is nothing in this package that creates any real jobs. This is another package where the Government collects money from people that earn that money and redistributes that wealth. It does not create new jobs for new workers and those people that can contribute to the economy of this country.

Mr. Speaker, I am saying this package is flawed because it is a tax package. If you go back through history, every tax package this Congress has passed has put the country into a recession.

Mr. Speaker, may I stress again, unless you develop new wealth, new growth, and do not just redistribute what you have, you can never solve the budget problem. Under this package we will be $4.5 trillion in debt at the end of 5 years. So I am asking my colleagues to vote no on this package. It is not a good package for America, it will not solve the economic problems of this country, and it is not a budget deficit package. It does not reduce the deficit at all.

Mr. Speaker, I suggest, respectfully, let us address the issue of new wealth and new jobs that will broaden the tax base. When we do that, we will solve that problem.

Mr. Speaker, I reserve the balance of my time.

Mr. MILLER of California. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. OWENS].

Mr. OWENS. Mr. Speaker, I rise in support of the conference report on H.R. 2264, the Omnibus Budget Reconciliation Act.

I am proud of the critical role that the Congressional Black Caucus has played in preserving provisions benefiting low-income families and children that were originally included in the House reconciliation bill. Through the leadership of the caucus, the attack launched on these provisions by conservatives in both parties and in both legislative bodies has been repulsed. The people won out. On balance, this legislation represents a progressive step forward—a small step, but a step nonetheless. We are on our way toward fulfilling President Clinton's promise to "put people first" in Washington again.

Though many of the provisions benefiting low-income people that were in the original House bill have been watered down and scaled back in this conference report, this legislation still provides significant gains for low-income families. An increase of $1 billion is provided for the title XX Social Services Block Grant Program which supports child care and other social services; some of these additional resources will be targeted to empowerment zones designated in high-poverty communities. It establishes a new $500 million childhood immunization program to provide free immunization to all children who are enrolled in Medicaid and to any child whose family does not have health insurance. An additional $2.5 billion is provided to expand food stamp benefits for the needy. Allowable deductions from incomes for shelter and child care

Most significantly, this legislation provides for a major $20.8 billion expansion of the earned income tax credit for low-income working families. Under this bill, many more families, including families without children, will be eligible for the credit and they will receive substantially greater assistance, generally between $200 and $500 depending on the family situation. These provisions are expected to put an additional $68 million in the pockets of more than 39,000 working families in the 11th Congressional District who are struggling to make ends meet.

I am also pleased that the conference agreement does not impose the burden of deficit reduction on the backs of poor-and middle-class Americans. Families earning less than $30,000 annually would actually see their tax bill reduced. Working families earning less than $180,000 annually would see no increase in their income taxes. The increased tax burden of the higher gas tax for families earning between $30,000 and $50,000 annually would be less than $10 a month. Overall, fully 82 percent of the tax increases set out in this legislation would be paid by persons earning more than $200,000 a year.

The corporate tax increases set out in this legislation are also targeted on the largest and wealthiest corporations. Many small businesses will actually see their tax bill reduced as a result of this legislation; some 90 percent of them will be eligible for an array of new and expanded tax credits and deductions.

There are a great many provisions of this legislation with which I adamantly disagree. The cuts it makes in Medicaid and Medicare are steep and will be extraordinarily difficult for the hospitals and other health care providers in Brooklyn to absorb. Increases in the Medicare part B premium paid by participants are not, as they should be, limited to the annual percentage increase in Social Security benefits. This already excessive premium will continue to race out of control. My hope, however, is that both of these issues can be addressed when the Congress takes up health care reform later this year. The legislation also preserves far too many agricultural subsidies which President Clinton had sought to cut or eliminate. Producers of honey, tobacco, and mohair would continue to remain on the Federal dole. I am also extremely concerned about the impact that the legislation's mandated spending caps will have on our ability to provide necessary funding increases for Federal education programs. A massive new federal reinvestment in these programs is essential to our economic competitiveness; the budget caps in this bill must not deter us from making that investment. If necessary, we must shift funds from other lower priority programs to finance it.

I also oppose the higher income taxes the bill would impose on middle- and upper-income Social Security recipients. I am pleased that these tax increases have been scaled back from what was originally set out in the House bill and would not levy taxes on any Social Security recipients who are not already paying taxes on their benefits. I remain opposed to these higher taxes, however, because I know that they will hit many of my senior citizen constituents very hard. Social Security recipients have earned every penny of their benefits; they are not some gift or extra frill that can be taken or taxed away by the Government with impunity. Morever, individuals with incomes of $34,000 are not well-off by any stretch of the imagination and they should not be asked to shoulder such a large share of the deficit reduction burden. In my view, higher corporate and individual income taxes and deeper cuts in agricultural subsidies should have been substituted for the Social Security tax provisions in this bill.

Despite these misgivings, I believe that H.R. 2264 is, on balance, a fair and progressive piece of legislation. It represents just a tiny step forward toward reordering our Federal priorities to put the people first, but it is a step worth taking. I will, however, continue to work alongside my colleagues in the Congressional Black Caucus to press the Congress and the President to go the full distance. We will not rest until they do.

Mr. MILLER of California. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Speaker, I rise in strong support of the conference report on the Budget Reconciliation Act and of the Natural Resources Committee portion of that bill. Today is the day we end a decade of budget gridlock. President Clinton was dealt a lousy hand when he took over the reigns of government in January. The enormous national debt, the legacy of the Reagan-Bush era didn't leave any room for the new administration to propose new investments and programs to meet pressing human needs. And to make matter more difficult the American public is very skeptical of the over promising that has sprung from the economic hyperpole of the 1980's and as I listen today again to the "sky is falling" forecasts from the GOP defenders of the status quo trying to conjure up fears not satisfied with the substance of the issue. It is no wonder people are confused. Yet the Clinton administration and this Congress have been able in spite of this political bombast, to produce a fair and progressive economic plan today which will create jobs, stimulate the economy, provide tax fairness, give hope to those forgotten by the past decade and take a significant step toward reducing the budget deficits which are crippling our ability to govern and reach our potential as a nation.

The Natural Resources Committee achieved $300 million in budget savings through a combination of increased user fees at areas managed by the Departments of Interior, Agriculture, and the Army Corps of Engineers and the implementation of fair-market value charges on certain commercial uses of the national parks and forests lands. While the conference report did not keep as many of the fees on commercial users of Federal lands as the original House bill, I can report that the conference agreement did not have to resort to steep increases in park entrance fees for American families. It is important to note that the recreation fee receipts that are a result of this agreement will be deposited in special accounts and available to the collecting agencies for resource protection and outdoor recreation projects on national parks, forests and Federal lands that the public uses and enjoys.

The Natural Resources Committee title includes fair and reasonable fee provisions including increased user fees for overnight camping and boat launching; authority to charge new entrance fees at a limited number of Forest Service and BLM areas; An increased incentive for entrance and user fee collections, by the agencies authority for nongovernmental entities to sell the golden eagle passport; a small fee on commercial tour services in national parks. I regret that the conference agreement only has a token increase of fees paid by users of communication facilities on Federal lands. For too long—in some cases over 40 years—these commercial users especially TV and radio broadcasters using public lands and forests have avoided paying fair market value for such use. It is unfortunate that the conference agreement postpones the day when these commercial uses of the American people's lands pay their fair share.

While two other committees did report recreation fee provisions, the Natural Resources Committee has always been the primary committee of jurisdiction over recreation fee policy. For 28 years, the Land and Water Conservation Fund Act has been the vehicle for Federal recreation fee policy and agencies implementing new fees must be consistent with the amendments to that act contained in title X of the conference report.

One of the areas the conference report did not get into was changes in mining law and grazing fee reform. These budget

Mr. Speaker, I would not be remiss if I did not mention the insidious influence of the so-called Byrd rule on the conference agreement before us today. In our small section of the conference agreement the Byrd rule was invoked twice and several important provisions were arbitrarily removed from the agreement text of the bill. This occurred after agreements were reached on the basis of many hours of long and intricate negotiations. The House should never enter into negotiations with the other body with our hands tied behind our backs as has happened in this process. We can't let the nameless, the faceless Members of the Senate, treated as a star chamber, dictate at their whim what is extraneous and what is not in the reconciliation process. Mr. Speaker, if this Parliamentary procedure persists it will debilitate the ability of the Congress to do its job. I would suggest our problem is that we are too often barred by archaic rules and procedures of the Senate already, without new impediments being put in place in 1993.

Mr. Speaker, I urge my colleagues in the House to support the conference report.

This is an important step, a down payment on our future. We have much to do in this session. And it is important that we put in place an economic foundation today and build upon it tomorrow. Vote "yes" on the plan, pass the Clinton economic plan.

□ 1820

Mr. YOUNG of Alaska. Mr. Speaker, I yield 3 minutes to the gentleman from Wyoming [Mr. THOMAS].

Mr. THOMAS of Wyoming. Mr. Speaker, we have heard it all today. Imagine if someone were home watching this on TV and had not had much exposure to it, what they must think. They must be terribly confused about what is going on.

I am not naive enough to think that not a lot of it is partisan, and there is really nothing wrong with being partisan. There is a difference between the parties. There is a difference in what we believe.

We believe that less Government is better than more. We believe that less taxes are better than more. We believe that individual responsibility is the strength of this Nation and not giving it away. There is a difference.

On the other hand, I suspect there is a lot of it hooked up with the idea that we have got to vote for the President. He is going to make some change.

Well, it is going to be a change all right. We have all talked about constituents from home writing, and we all use the last one that fits this the best.

I just got a call from a contractor from Cheyenne who said, "I would have hired six more folks this summer, but I am not going to do it. Why should I do, when it is all going to be taken away in taxes?"

Interesting notion. I did not make that up. He called, has that idea, and he is the one that has the investment that provides jobs.

It is interesting to me that the liberals here are always talking about changing the money from one person to another, and then wonder why there are not any jobs around. People who invest in jobs are the ones that do that.

I am also interested in my friend from Colorado who keeps saying that there are great cuts. Let us take a look at the cuts.

There are some reductions in one place and additions in another. There are not cuts. We are spending 1.4 trillion this year, and in 1998, we will be spending $1.7 trillion. That is a cut? That is not a cut in Wyoming, folks.

Let us talk a little bit about the bill in general. It does not do what needs to be done. What we need to do is reduce the size of Government. This does not do that.

We spend more. We will have more Government in 1998 than we do now.

We need to strengthen the economy and jobs. This does not do that. It takes the money out of the pockets of the people who live here, who invest in jobs. Biggest tax increase we have had.

What we need to do is reduce the deficit. Does it reduce the deficit? No. The deficit, if you include inside borrowing, that is, from Social Security and the other trust funds, there will be a $2 trillion increase between now and the end of this 5-year period.

This bill does not do the things that need to be done for the country.

Mr. MILLER of California. Mr. Speaker, I yield 1 minute to the gentlewoman from Michigan [Miss COLLINS].

Miss COLLINS of Michigan. Mr. Speaker, I rise today to commend the President for his diligence and persistence. The President has spent more time on Capitol Hill in 6 months than the Republican Presidents spent on the Hill in more than 12 years. I would also like to commend the chairman of the Post Office and Civil Service Committee and the conferees for all the hard work that made this budget a reality.

I am proud to speak today, for this is a historic moment. Faced with the crucial consequences and long-term economic effects of a growing deficit, this committee has worked to bring the budget under control by examining broad strategies to maximize government resources and cut government spending while continuing to improve on the delivery of government services. We have embarked on a new course to change the direction of the country that was established over the past 12 years.

Mr. Speaker, I am proud to have been part of the process that set this country on a new course. I would be the first to admit that this budget is not perfect. However, I cannot remember a time in the history of this country when there was the amount of debate and inclusiveness that has become the hallmark of this budget.

My office has been bombarded with calls for and against this budget, but it's the citizens that have not called who are pleased with this budget because they know we have done our best. I realize that we are asking our constituents to make, in some cases, incredible sacrifices, but I assure you that none of these decisions has been made without many hours of painstaking deliberation.

When I see a budget that will provide immunizations for every child in the country not covered by insurance; when I know that food stamps will continue to feed those that would not otherwise eat; when I see money for empowerment zones that will focus on the cities most in need; when I know that we have done all we can to hold the line on Medicare and Social Security; when we have a provision in the budget like the earned income credit which takes into account the average citizen who is trying to make ends meet and is still facing difficult times; then I know that in the final analysis, the American people will appreciate the difference this budget will make in the greatest country in the world.

Mr. YOUNG of Alaska. Mr. Speaker, I yield 2 minutes to the gentleman from Alabama [Mr. CALLAHAN].

Mr. CALLAHAN. Mr. Speaker, the American people must feel like they are watching a ping-pong match. On Tuesday night the President came on national television. He said one thing. Then the minority leader of the Senate came on, and he said another thing.

The next day, yesterday, we had half the newspapers in the country saying this is a great deal, and half of the newspapers saying it is a bad deal. And today, we have seen Member after Member, come to the floor, most of the Members on this side saying it is a good bill and most of the Members on the other side saying it is a bad bill.

But let's put some simple logic into our thought. We talk about the amount of taxation for gasoline, for example. We tell a truck driver we are going to increase his gasoline or diesel fuel 4.3 cents per gallon so it is going to cost him $500 a year to operate that truck. Do Members think he is going to eat that cost? No; he is going to pass it on to the consumer, and the American consumer is going to pay for it.

Do Members think if we increase corporate taxes that corporate America is going to say, "Well, we will just share this sacrifice and have less profits for our stockholders"? No; they will pass it on to the consumer, and the American consumer will pay for that tax.

There are $270 billion in new taxes in this proposal. Simple logic will tell Members that somebody has got to pay it. The people that are going to pay it are the people who buy the products that manufacturers make and trucks deliver.

Let us not try to fool ourselves. Let us recognize that every American is going to have to pay more than just a simple tax rate increase.

There are five basic known absolutes in this package that we know are facts. First, we know that this measure increases taxes. Second, we know that it is going to increase the cost-of-living. Third, we know that it is going to increase the national debt. Fourth, we know that we are going to have bigger government and more bureaucracy and fifth, we're going to increase Government spending.

Let us just insert a little logic into our thought. Let us put this thing off for 45 days, go back, talk to our constituents, and then come back and vote on this measure.

Mr. MILLER of California. Mr. Speaker, I yield 1 minute to the gentleman from Arizona [Mr. PASTOR].

Mr. PASTOR. Mr. Speaker, I have been here a very short time, but they have talked about balanced budget amendments, line-item vetoes. Today we have an opportunity to vote for deficit reduction.

My peers on the other side of the aisle, some on this side of the aisle, are turning their back.

This bill will lower the deficit. All Americans want that. This bill also will bring tax fairness. The poor now will have an opportunity to have some income, and the rich will have to pay what is their due.

Also, this bill will also invest in our children, in our children's future.

For those reasons, Mr. Speaker, I stand in support of the President's bill.

Mr. YOUNG of Alaska. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. CALVERT].

Mr. CALVERT. Mr. Speaker, there is an old story about a politician from down south who was addressing a group of his constituents.

Impressed with the large turnout, he began by saying, "I 'shore' am pleased to see such a dense crowd here this morning."

Before he could continue, a man in the back of the room yelled out, "Don't be too pleased; we ain't all dense."

Mr. Speaker, there must be some members of the California congressional delegation who believe that their constituents are dense.

How else could they support a bill that will require 12 percent of the Nation's taxpayers to pay 16 percent of the increased tax bill?

How else could they support a bill that will drain $40 billion from California's economy—during a recession?

Mr. Speaker, anyone in the California delegation who votes for this plan shouldn't be too pleased if it passes—because, believe me, their constituents ain't all dense.

Mr. YOUNG of Alaska. Mr. Speaker, I yield the balance of my time to the workingman's Congressman, the gentleman from Ohio [Mr. TRAFICANT].

The SPEAKER pro tempore. (Mr. MFUME). The gentleman from Ohio [Mr. TRAFICANT] is recognized for 3 minutes.

□ 1830

Mr. TRAFICANT. Mr. Speaker, there has not been a Republican that supports the bill. There are Democrats that oppose the bill. Not one has spoken. There are Democrats that will be mad with me, but I think the American people should know that there are a group of Democrats that want to see us change the core of our Tax Code.

Mr. Speaker, I am voting no. I think there will be a reduction in taxes for many middle-income people, because they will lose their jobs and they will pay no taxes. The 1990 bill, it taxed the rich, too, Today we will repeal most of the taxes that were levied against the rich in 1990. The truth of the matter is, they went overseas and they bought their boats and the people, the working people in America who worked in the factories that built the boats, lost their jobs. For the first time we go at Social Security, and even though the purpose is noble, we use it for something else. I say Congress should keep its hands off Social Security. It is the people's money not Congress'.

What bothers me is, there is more debate on party loyalty. I helped elect Bill Clinton. To tell you the truth, this is not the plan Bill Clinton explained to me, I am going to tell it like it is, when he was a candidate. I am not so sure Bill Clinton even likes it. I think we have got an entrenched group in Washington that writes these policies and you cannot break into them. We are rearranging the deck chairs on the next Titanic.

We have an income tax. I say why don't we at least study combining the income taxes with a consumption tax. We have a whole underground economy we are subsidizing with taxpayer dollars. Let us raise revenue from it.

I support the needy. I support the poor. How do we help the poor and the needy by losing jobs in America and chasing the investments out of our country? I heard this "mother of all votes" business for 12 years. These are nothing more than the mother of all taxes.

I think the Democrat Party has a responsibility. The Democrat Party could sit down with one of the best, most personal Presidents this country could have and work out a better agreement. Are there good things in here? Yes, I commend the Congress. But let me tell the Members, an x ray machine is never going to solve cancer, and there is basic cancer. It is our Tax Code. It is time to change it. It is a loser big time, and we had better start reading the scoreboard.

I want to commend everybody and all the Democrats that were concerned about party loyalty, but I think our loyalty should be to the American people first, and the party will take care of itself.

Mr. MILLER of California. Mr. Speaker, I yield 1 minute to the gentleman from Illinois [Mr. GUTIERREZ].

Mr. GUTIERREZ. Mr. Speaker, let me just suggest that this is not about loyalty to a party but to the American people. Let us understand that, clearly, here tonight.

In the Fourth Congressional District in Illinois 40,000 families will receive an expanded earned income tax credit, poor working families, families that work 40 hours a week, two families working there, and they are still below the poverty level, Mr. Speaker.

There are those that say, "Should we do this?" Absolutely; we should give them incentives to continue to work. What we are going to do today is historical, because we are going to say no to 12 years of trickle-down economics, economics that say we should give tax breaks to the rich, that they will be kind and benevolent with us and our communities and create jobs. They will not buy yachts with their riches, they will not buy new cars or vacations, they are going to give the working people an opportunity to work in this country.

It has not worked. Let us have some tax fairness and pass this budget, and central to it is giving poor working people a chance and tax fairness, for once, Mr. Speaker.

The SPEAKER pro tempore (Mr. MFUME). The Chair recognizes the gentleman from California [Mr. MILLER] to close this portion of debate.

Mr. MILLER of California. Mr. Speaker, I yield 1 minute to the gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN. Mr. Speaker, a lot has been said on the floor of the House today, but I ask the Members to consider this. All politicians hate taxes, so why would a gifted politician like Bill Clinton even include taxes on the rich in his plan? Because Bill Clinton and those of us supporting the Clinton plan believe that the future of this country is worth taking a little heat for. President Clinton had the courage to lead, and tonight we answer the question whether Congress has the courage to lead.

We know there will not be a single Republican vote to support this deficit reduction plan. It is up to the Democrats to come together and lead this Nation, put an end to the Reagan-Bush legacy of debt, bring real change and a real future. Real change in Washington starts with Congressmen facing the real problems facing our country and our kids.

The SPEAKER pro tempore. The Chair announces that all time for debate under this committee's allotment has expired.

CALL OF THE HOUSE

Mr. MILLER of California. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members responded to their names:

[Roll No. 404]

MEMBERS PRESENT

Abercrombie
Ackerman
Allard
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Archer
Armey
Bacchus (FL)
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barca
Barcia
Barlow
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bateman
Becerra
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis

Bishop
Blackwell
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burton
Buyer
Byrne
Callahan
Calvert
Camp
Canady
Cantwell
Cardin
Carr
Castle
Chapman
Clay
Clayton
Clinger
Clyburn
Coble
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Coppersmith
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cunningham
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
DeLay
Dellums
Derrick
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Durbin
Edwards (CA)
Edwards (TX)
Emerson
Engel
English (AZ)
English (OK)
Eshoo
Evans
Everett
Ewing
Farr
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Fingerhut
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Fowler
Franks (CT)
Franks (NJ)
Frost
Furse
Gallegly
Gallo
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Grams
Grandy
Green
Greenwood
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings
Hayes
Hefner
Herger
Hilliard
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoekstra
Hoke
Holden
Horn
Houghton
Hoyer
Huffington
Hughes
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Inslee
Istook
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E.B.
Johnson, Sam
Johnston
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klein
Klink
Klug
Knollenberg
Kolbe
Kopetski
Kreidler
Kyl
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Leach
Lehman
Levin
Levy
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Long
Lowey
Machtley
Maloney
Mann
Manton
Manzullo
Margolies-Mezvinsky
Markey
Matsui
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McHale
McHugh
McInnis
McKeon
McKinney
McMillan
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Nadler
Natcher
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Orton
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quillen
Quinn
Rahall
Ramstad
Rangel
Ravenel
Reed
Regula
Reynolds
Richardson
Ridge
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal-Allard
Royce
Rush
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Schenk
Schiff
Schroeder
Schumer
Scott
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shepherd
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (IA)
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stark
Stearns
Stenholm
Stokes
Strickland
Studds
Stump
Stupak
Sundquist
Swett
Swift
Synar
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Upton
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Waters
Weldon
Whitten
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

MEMBERS NOT PRESENT

Beilenson
Brooks
Clement
de Lugo (VI)
Faleomavaega (AS)
Frank (MA)
Gunderson
Gutierrez
Hefley
Martinez
Murphy
Neal (MA)
Norton (DC)
Nussle
Owens
Oxley
Packard
Romero-Barcelo (PR)
Shuster
Underwood (GU)
Valentine

☐ 1857

The SPEAKER pro tempore (Mr. MURTHA). On this rollcall, 412 Members have recorded their presence by electronic device, a quorum.

Under the rule, further proceedings under the call were dispensed with.

CONFERENCE REPORT ON H.R. 2264, OMNIBUS BUDGET RECONCILIATION ACT OF 1993

The SPEAKER pro tempore. The Committee on Post Office and Civil Service is now recognized.

The Chair recognizes the gentleman from Missouri [Mr. CLAY] for 10 minutes.

☐ 1900

Mr. CLAY. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I urge my colleagues to vote for this conference agreement. Last fall, when this Nation elected a new President, it bet on the future and on a young man with a vision for a better America. But 12 years of reckless Republican rule left this Nation and this new President a pile of debt as high as the eye can see. If America is to realize his vision, reducing this debt must be the first order of business.

Voting for this agreement is the only responsible thing to do. The spending cuts are real. There are no smoke and mirrors. It will result in $496 billion in serious deficit reduction over the next 5 years. The conference agreement could be better. There are parts I don't like. But better isn't before us today. What is before the House is a credible, responsible deficit reduction package that I can support.

Let me remind my colleagues: a lot is riding on the outcome of this vote. Enactment of this package will demonstrate to the American people that the Democratic Party can govern this Nation. We have proven we can win elections. Now it's time for all Democrats to put short-term political considerations aside and begin governing.

Enactment of this package will mean we can begin solving the problems that the people sent us here to solve. People want a better life for themselves and their children. They are tired of children living in poverty. They are fed up with a health care system that denies access and charges too much. They are tired of schools that do not teach and workers who cannot work. But this country will never even begin to address these problems unless it deals with the deficit. It has sapped our strength and made us timid.

The conference agreement contains a number of provisions within the jurisdiction of the Post Office and Civil Service Committee. We were instructed to cut direct spending by $10.6 billion over fiscal years 1994 through 1998. The committee worked hard to ensure that the required spending reductions were made in the fairest and most responsible manner.

Approving this agreement is the first step toward creating the economic prosperity that will create jobs and improve the standard of living of all Americans. President Clinton and this Congress were elected to restore prosperity and fairness to our Nation. To vote for this conference agreement is to do what the American people sent us here to do.

Mr. Speaker, I reserve the balance of my time.

Mr. MYERS of Indiana. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I rise in opposition to this tax bill this afternoon. I guess that comes as no surprise. But I all say I also voted against the Reagan tax package in 1982, the so-called Bush tax package in 1990.

It is always strange to me that every time we talk about balancing the budget, which we all recognize we must do, we always say, "Let's raise taxes." Cutting spending is the last thing anyone wants to talk about around here.

If rhetoric could balance the budget, we would have it balanced a long time ago, with all the rhetoric around here. Rhetoric is not going to pay this high tax bill for the taxpayers of this country; they will have to.

I can understand the loyalty that Democrats have to their President, and I understand the loyalty that they have to their party. But the first loyalty comes to the American taxpayer, or it should, the working people who have to pay these taxes.

Mr. Speaker, several of the Democrats have said that we are already cutting spending.

I am on the Committee on Appropriations, and I went back and checked. I thought maybe I made a miscalculation here. So I added up the 11 appropriation bills plus the one supplemental appropriation that has already passed.

I think Members have already made their mind up and they are just in conversation now.

But this talk about spending cuts, there have not been any. Of the 12 appropriation bills, 11 regular and one supplemental, which I added up, we are almost $30 billion more than last year's spending. Is that cutting spending? It must be that new math, if it is.

Then they say, "We are only going to tax the rich. It is only the wealthy people, and they should not have the money. They have worked hard, but let us take it away from them, they have no right to it, let's tax them."

But tell that to the senior elderly widow trying to stay in her home, tell her that because she has saved and scrimped all through her life and is able to have some investments now and has an income of $35,000 that she is going to have to have 85 percent of her Social Security taxed. Tell her she is not going to pay any more taxes. Or tell the family who have worked together to build up a farm or a small business and their heirs have to buy it back from the Government—never a friendly ally. And they are going to have to pay estate taxes now, higher estate taxes. Tell them, "You are not going to be affected," when they start to borrow money in order to pay those taxes.

Mr. Speaker, this is not just taxing the wealthy, this is taxing America. And this is something we should not be doing. This is the time for us today to say let's freeze everything at last year's level and let revenues catch up to it.

Mr. CLAY. Mr. Speaker, I yield 30 seconds to the gentleman from North Carolina [Mr. ROSE].

Mr. ROSE. I thank the chairman of the committee for yielding this time to me.

Mr. Speaker, I would like to ask a question of the gentleman from California [Mr. STARK], the chairman of the Subcommittee on Health of the Committee on Ways and Means:

Mr. Speaker, I ask the chairman this question: In Section 1877 (42 USC 1395nn)(h)(6)(k) the physician self-referral ban enumerates "inpatient and outpatient hospital services." It is my understanding that this provision is not intended to apply to physician owned lithotripsy facilities that furnish services under contract with a hospital. Is this correct?

Mr. STARK. Mr. Speaker, will the gentleman yield?

Mr. ROSE. I yield to the gentleman from California.

Mr. STARK. I thank the gentleman for yielding.

Mr. Speaker, the gentleman is correct.

Mr. ROSE. Mr. Speaker, I thank the gentleman for his response.

Mr. MYERS of Indiana. Mr. Speaker, I yield 2 minutes to the gentlewoman from Maryland [Mrs. MORELLA], a member of the committee.

Mrs. MORELLA. I thank the gentleman for yielding this time to me.

Mr. Speaker, a budget which lacks credibility is a budget which I cannot support.

This budget package is quick to tax and loathe to cut. It is replete with questionable accounting and even more questionable economic assumptions.

Take, for instance, the fact that the tax increases contained in this budget would begin retroactively—

In addition, this package does not acknowledge reality. It ignores the fact that Congress and the President annually extend a variety of popular tax credits—such as the targeted jobs tax credit, the research and experimentation tax credit, and the educational assistance tax credit. These costs are not reflected for the full 5 years of the plan.

Mr. Speaker, knowing that they will be extended, honest accounting would reduce the deficit reduction target a minimum of $12 billion. This is an example of the lack of credibility of this budget.

Mr. Speaker, during his national television address on Tuesday evening, the President claimed that there were only two choices in this budget debate—this plan or no plan. Take it or leave it.

And yet, there is an alternative. Republicans and Democrats can and should start working together today to fashion an honest bipartisan agreement—one in which the American people can have confidence. Only when both sides of the aisle work together can we create results worthy of our responsibility. I look forward to participating.

Our Nation's economic future is too critical to be debated through "take it or leave it."

□ 1910

In this Chamber, we do not rule by decree. We conduct meaningful discourse and vigorously debate options.

We do have a choice. We can do much better in this budget. Indeed, we must do much better in this budget.

Mr. CLAY. Mr. Speaker, I yield 2 minutes to the delegate from the District of Columbia [Ms. NORTON].

Ms. NORTON. Mr. Speaker, the Republicans are doing it again. They play the game by moving the goal posts. We have met their mantra of $1.00 in spending cuts for every dollar in new taxes and still they whine on.

Federal workers alone are giving back $10.6 billion in benefits, greatly disproportionate to the share borne by other Americans. That comes out of one of five workers who live in my district.

But the tremendous breaks for small businesses, the earned income tax credit for working people and the other modest investments, they will help others in my district.

In effect, lots of my constituents are taking cuts in benefits for those who are most starved for investment. It is how a Federal compact is supposed to work.

This package is paid for, but too many in this House are locked in the logic of the eighties, "Buy now, pay never."

What has been in shortest supply on this floor today is courage, yet the American people seem unafraid. The last recession jolted them out of the feel-good Reagan-Bush years and hurled them into the reality of a decade that serves no free lunch for most and no lunch at all for many.

In a classic case of role reversal, a Democratic President and a Democratic Congress are cutting, not spending.

It may not be a magic moment, but this is an historic day. It took guts to get this far.

Remember the words of the immortal Jessie Owens, "Please don't fail me now." Let us not faint at the finish line. Pass this package.

Mr. MYERS of Indiana. Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. BOEHLERT].

Mr. BOEHLERT. Mr. Speaker, we call this a reconciliation bill, but truly that is a misnomer of monumental proportions. This bill does nothing to reconcile Congress to following the will of the American people.

What the American people want is for the two parties to work together to solve the Nation's problems. What the American people want is for spending to be cut—truly cut—before they are asked to ante up more taxes. And what the American people want is for Congress to reduce the deficit—not the targets for deficit reduction.

But are we accomplishing what the American people want? I think the answer clearly is no. We are doing quite the opposite.

We are doing the opposite because this year's budget process has been flawed from the outset. There was no attempt to craft a bipartisan consensus. The administration never reached out to this side of the aisle in developing its budget proposals. Polarization starts when one side gets frozen out—and that is exactly the way this year started—and, unfortunately, that is the way it seems to be continuing.

The decision to raise taxes retroactively—mind you, retroactively—and cut most spending years later is not likely to warm many hearts. It fails the emotional and intellectual tests of acceptability.

I am not one of those sanctimonious sermonizers who says no taxes ever, under any conditions. In fact, I think deficit reduction will require some tax increases. Failure to see this is to enter the process with blinders on.

But we cannot ask the American people to send more money to Washington until we have shown them that their money is being used wisely. And we cannot expect the American people to pay all sorts of new fees and levies until we have demonstrated that the new taxes fairly distribute the tax burden.

We have not done that yet; we have not persuaded the American people. And that is not a failure of salesmanship, it is a failure of statesmanship. We have not yet fulfilled our responsibilities, and the American people know that.

Voting today to kill this package is a necessary first step toward fulfilling those responsibilities. With this package dead and buried, we can go back to the negotiating table, we can work together, we can agree on real and immediate spending cuts, and then—and only then—we can look at equitable tax increases. That would be true reconciliation. And that would not look anything like what we have gone through, or come up with, so far this year.

I urge my colleagues to vote against this measure.

Mr. CLAY. Mr. Speaker, I yield 1½ minutes to the gentleman from Virginia [Mr. MORAN].

Mr. MORAN. Mr. Speaker, after 4 hours of Republican rhetoric, I think it is still a fair question to ask our friends on the other side of the aisle, what is your real problem with this bill?

Surely it cannot be retroactivity, when most Republicans voted for President Reagan's 1981, 1984, 1986 retroactive tax provisions. President Ford's 1976 Tax Reform Act increased the alternative minimum tax by 50 percent, and yet when it passed in October it was retroactive to the previous January.

Certainly it cannot be out of concern for small businesses, when you know that as many as 90 percent of the small businesses in this country could see their taxes cut as much as five different ways.

It cannot be out of concern for a 4.3 cent gasoline tax, when by shopping around between service stations you can save more than 5 cents. Even if you do not shop around, we are only talking about $30 a year for the average household.

And surely it cannot be because it hurts the elderly with incomes over $44,000. Your plan would have cut much more from health care for the elderly, and not to mention military and civilian retirement pay.

It cannot be because it balances budget cuts with tax increases. President Bush understood the need for balance. In fact, most of the Republicans on this side voted for that balanced deficit reduction bill, and in fact it did reduce potential deficits by up to $500 billion.

And it cannot be because it affects only those with incomes over $180,000 instead of the middle class.

I think the real reason is because it took a Democratic President to do what a Republican President did not have the guts to do to act fiscally responsible.

Mr. MYERS of Indiana. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia [Mr. WOLF].

Mr. WOLF. Mr. Speaker, after hearing that last speech, let me just say that I rise in strong opposition to the budget reconciliation plan.

The reason that many Members on this side and on the other side are opposed to it, I will tell my colleague, the gentleman from Virginia, one, it does not cut spending.

No. 2, it increases spending.

No. 3, it increases taxes retroactively.

No. 4, it does not even get us near a balanced budget.

Clearly, this bill is an indication if it passes of how far out of touch the White House and the Congress is with the American public.

We should be debating here today how much we are going to cut and we should also be debating here today a bill to increase the personal exemption for children from $2,300 to $3,500 to allow moms and dads to spend more time with their kids, middle class families to take care of them.

Mr. Speaker, this bill is not a good bill.

Mr. Speaker, I rise in opposition to the budget reconciliation plan. If this plan passes, it will show how much this White House and Congress are out of touch. In my office calls about this plan are running 9 to 1 against. What we are hearing is cut spending first.

I share the concern of many citizens regarding the size of the Federal budget deficit. Controlling spending and balancing the budget are among the most critical issues facing Congress today. Continued high deficits harm our Nation's economy. We must work to keep the economy growing. We must keep inflation under control, interest rates low, and investor confidence high to create new jobs.

My concern, however, is with the direction we are moving under the deficit reduction plan as proposed by President Clinton. Under the best of circumstances, this plan over 5 years would reduce the deficit by only one third of the estimated nearly $300 billion deficit today and that's with $275 billion in new taxes proposed in the plan.

This is even if the promised spending cuts in the future come to pass. Billions of promised cuts have fallen by the wayside over the past decade while the upfront tax increases are immediately enacted. Now with this budget we have the novelty of retroactive tax increases. Taking even more money out of the private sector will only increase the current lag in economic growth.

In addition, contrary to claims that the President's deficit reduction program will create jobs and grow the economy, the plan is void of incentives to save, invest, or start up new businesses and saddles small businesses, which are expected to create 75 percent of new jobs, with devastating tax increases that will result in small businesses paying a higher tax rate than large multinational corporations.

This is not the kind of change Americans are demanding; it is more of the same tax and spend status quo. A budget bill which forces middle-income Americans, senior citizens, small-businesses and farmers in this country to send more tax money to the Federal Government so that Washington can continue its spending spree is not legislation which will get my vote.

Americans are not taxed too little; the Government spends too much. Cut spending first.

Mr. CLAY. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana [Mr. MCCLOSKEY].

Mr. MCCLOSKEY. Mr. Speaker, hopefully, come passage of this landmark legislation, demagoguery, partisan bomb throwing, and knee-jerk talk radio anti-tax tirades, will subside into relative calm.

The simple fact is if we fail to get the deficit under control, we sacrifice our future, and our children's future.

This bill is not perfect. We would all like to change something. But this is fundamentally fair, cuts the deficit by nearly $500 billion and seeks to establish a foundation for real economic growth.

This credible plan contains over 200 real and specific spending cuts. These include reducing the size of the Federal workforce by over 100,000 to reducing unproductive crop subsidies by over $2 billion. Discretionary spending is frozen for the next 5 years.

As chairman of the Subcommittee on Civil Service, I can say that this plan is fair to Federal employees. Retiree's survivor benefits will not be cut, and retiree COLAs will not be reduced, instead they will be delayed for 3 months.

No one likes to increase taxes. After 12 years of phony budgets and pie-in-the-sky rhetoric from past administrations, there are no easy votes when it comes to the Federal budget. If we're here to avoid tough choices, and keep everyone happy, ultimately Government cannot function and our democracy will collapse.

This plan, a great step forward for the working poor, significantly expands the earned-income tax credit. More than 35,000 working families in the 8th District of Indiana will benefit.

This change could save a single working mother with two young children who earns $21,000 a year, over $250, in taxes when it is fully in place in 1994. Nobody's on a tirade for them.

Expansion of the Food Stamps Program, a new Family Preservation Program, and a major expansion of the Child Immunization Program are also included in the package. If the poor had lobbyists, our phones would be ringing off the hook.

This plan is not anti-small business. In fact, it will help the vast majority of small businesses. Even the Wall Street Journal has written that foes of the tax proposals in this plan have misled the public about the small business aspects of this plan.

Only 4 percent of small businesses will be affected by increases in marginal income tax rates, while over 90 percent will benefit from tax incentives, many of which are retroactive. Small businesses that invest in equipment and that use profits to create jobs will benefit from this program.

The plan contains tax incentives that will lead to economic growth and more jobs, including incentives for purchases of new equipment, a 50 percent reduction in the capital gains tax rate for stock in a small business held for more than 5 years, a retroactive extension of the research and development tax credit, a retroactive extension of the Tax-Exempt Small-Issue Development Bond Program, retroactive exclusion from income for employer-provided educational assistance, and retroactive extension of the targeted jobs tax credit.

The only tax increase that will be paid by families with taxable income below $140,000 is the 4.3-cent-per-gallon increase in the tax on gasoline. Residents of Indiana who drive an average of 15,700 miles-per-year will pay about $34 a year more in tax.

I know my office has received a barrage of mail and phone calls from backers of Ross Perot who oppose the tax increases in this package. I want to remind those people that Mr. Perot has called for a 50-cent-per-gallon gas tax increase. In addition, Mr. Perot will not identify the billions of dollars of spending cuts he proposed.

Last weeks' NBC/Wall Street Journal poll indicates that more Americans favor the economic plan than oppose it. Moreover, 54 percent of people view this plan as a step in the right direction. The people are right. This plan is the beginning of realistic and comprehensive Federal budget policy. Unlike previous budgets, this is based on conservative and obtainable economic growth projections.

Some of the provisions that my constituents were most vehemently opposed to are not in this plan. Foremost is the Btu tax, and a provision that would have increased the barge tax on inland waterways. As a Representative of a district with agriculture and coal producers, both of whom use our rivers for transporting their goods, this is good news.

Some Members argue that we should start all over, and convene a summit to draft a new deficit reduction plan from scratch. This is disingenuous to say the least. Most of these same people have opposed the President's plan since February, and want gridlock to drag on endlessly.

The bottom line is that if you want real deficit reduction, you must vote for this plan. It is not the last time we will have to face the deficit in tough budget votes, and nobody is claiming it is. We must, however, pass this plan in order to get our fiscal house in order, and move on to the many critical issues our constituents elected us to face such as health care, welfare reform, crime, and job creation.

□ 1920

Mr. MYERS of Indiana. Mr. Speaker, I yield such time as he may consume to the gentleman from Indiana [Mr. BURTON].

Mr. MYERS of Indiana. Mr. Speaker, I yield myself the remaining time.

The SPEAKER pro tempore (Mr. MURTHA). The gentleman from Indiana [Mr. MYERS] is recognized for 2 minutes.

Mr. MYERS of Indiana. Mr. Speaker, it is a shame today that we are even addressing this budget reconciliation, almost 2,000 pages that no one in this House got to see except a very few members of the conference. We see it here today, and, to my knowledge, I have not received it in my office. Almost 2,000 pages we had to read in less than 3 or 4 hours, and, from the discussion here on the floor, there was very little discussion about the actual content of this bill. So, we are being asked here to vote on something that even as a conferee we met about a month ago. I was a conferee, met on time, but we Republicans, or at least I as a Republican, was never invited back for another conference, yet we are voting on it here today, voting on something that we listen to with the knowledge that we have. We have had to read about it in the newspaper, which, as we know, is sometimes reliable and sometimes is not. They are on the same schedule as we are, but they have more people, and we had to read this report.

But, Mr. Speaker, it is very simple what we might do here. If we could just freeze every appropriation at last year's level, and keep it there for maybe as much as 3 or 4 years, let the revenue catch up, we would not be tinkering with a very fragile economy we have in the country. The economy is trying to recover.

Now we are doing everything we can do here to take money out of the public's pocket, tax them, bring it down here to Washington so that we can spend it for them, taking money out of their pocket that they would be buying shoes for their children, food for their stomach, send them to school. Every time a consumer out there gets to spend their own dollar, they buy a product or a service someone has to produce. That person will pay taxes on it. Well, if we bring it here, we will have to create jobs out of that tax dollar instead of creating jobs in the private sector.

So, Mr. Speaker, this is not the way to stimulate the economy. It is not the way we ought to be doing business.

Just freeze everything at last year's level, and let revenue catch up to it, and let the economy continue to recover.

One last thing:

We will probably see a tax increase or an increase on postage because we, once again, have come back and hit the postal system for over a billion dollars additional this year that is going to be passed on to the consumer. I say, "Don't forget that when your rates go up. Thank the people who voted aye today."

Mr. CLAY. Mr. Speaker, I yield the balance of our time to the gentlewoman from Colorado [Mrs. SCHROEDER].

The SPEAKER pro tempore. The gentlewoman from Colorado [Mrs. SCHROEDER] is recognized for 2 minutes.

Mrs. SCHROEDER. Mr. Speaker, I thank the gentleman from Missouri [Mr. CLAY] for yielding this time to me, and I just want to lay some facts out here because they seem to have a lot of factlessness on the other side.

Fact No. 1: The fiscal year ends the same time this year it has ended every year, the end of next month. The people who are saying, "Oops, 8 months got away, and we never got around to making a budget. Let's all sit around and talk about it now." Please. The calendars are the same. This is no surprise.

Fact No. 2: The President of the United States has fed and watered more Republicans in his first 7 months at the White House than Bush and Reagan did in their entire 12 years. He has put out all sorts of olive branches, and his hand has been bit every time he put it out. As my colleagues know, the first time it is bit it is OK, but to a certain point one finally says that they do not want to play.

We have got many Members who have not voted for any budget, any budget at all, and the only thing worse than having a budget that one is not particularly 100 percent in love with is having no budget at all. Imagine a government without a budget.

Fact No. 3: People keep talking about there are no cuts in here. I am surprised to see some of the other party on this committee saying there are no cuts. In this area there are probably more cuts proportionately than there are in any other area. Ten billion dollars we are laying on top of Federal employees, and I guess the only fault was they were just such good soldiers that they did not yell loud enough. But they bit their lip because they realized the real problem is the debt, the threat of the debt, and they understand that it is the future, stupid, and we got to do something about getting that debt down.

So, Mr. Speaker, I say to my colleagues, "If you believe it's the future and we got to do something about the future, and you've been sitting around for 7 months and haven't gotten a budget or anything else, I really wish that we would face up to it and move on. No, it's not perfect, but the hour is late, and I resent very much almost a political cleansing going on here where people want to sit and throw barbs back and forth."

Let us get a budget, and let us get the facts.

The SPEAKER pro tempore. All time has expired for the Committee on Post Office and Civil Service.

The Chair recognizes the Committee on Public Works and Transportation. The gentleman from California [Mr. MINETA] is recognized for 10 minutes.

Mr. MINETA. Mr. Speaker, I yield my 10 minutes to the gentleman from Nebraska [Mr. HOAGLAND], and I ask unanimous consent that he be permitted to yield blocks of time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. HOAGLAND. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, I thank the gentleman from Nebraska [Mr. HOAGLAND] for yielding this time to me. I want to talk about one of those terrible spending things we have in here.

It is interesting the way language evolves. Government spending has come to be a very unpleasant phrase for people on the other side to some extent, that some Government spending is a big mistake. I have tried to reduce some of it myself. But some Government spending seems to me to be quite necessary, and I think, when we reach a point where there is an undifferentiated attack on anything that is called Government spending, we are making a big mistake.

One of the significant increases, and it is an increase, in Government spending in this bill is a $20 million increase in something known as the earned income tax credit, and the fundamental premise of that proposal is this:

If you are working, and because you are in such a low-wage job because of your own lack of skills, historically, because imports have depressed the wage level in the area in which you work, if you are a full-time worker, and you have got a family, and you are under the poverty line because the wages you get for that 40-hour week are so low, we are going to, if we pass this bill, bring you out of poverty.

This is not a benefit for people on welfare, many of whom are quite deserving. It is not a benefit for people who do not work. It is not even a benefit for the unemployed. It is a benefit solely, and it is a $20 million spending increase, those bad words, but one, I would hope,

Now I will confess that is an increase in Government spending, and it is one I am very proud to support. I hope this bill is passed because it is an increase that has been conspicuously absent from the Republican versions.

□ 1930

The SPEAKER pro tempore (Mr. MURTHA). The gentleman from Pennsylvania [Mr. SHUSTER] is recognized for 10 minutes.

Mr. SHUSTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Napoleon was defeated at Waterloo not because of some grand strategic error, but because he made one bad choice. In the fog of war, he looked through his spy glass at the advancing troops and thought they were his own French troops in blue uniform, and it turned out instead they were in the black uniforms of the Hessian mercenaries. Because of that one bad choice, he was defeated and his brilliant career went down.

Mr. Speaker, I fear that some in this Chamber today are putting themselves in a similar kind of position based on the choices that are going to be made. Napoleon could not hide. He had to bear the responsibility for the choice he made. And I fear, particularly because this vote is going to be so close here today, that some of our fine colleagues, particularly on the other side of the aisle, are going to put themselves in a similar kind of position based on the choice that they make here today.

Mr. Speaker, I certainly would not want to go home and try to explain why I voted for such a massive tax increase, from a transportation point of view. I certainly would not want to have to go home and explain voting for a tax increase of 4.3 cents per gallon, which, for Pennsylvania, for example, one State, adds up to $234 million a year taken out of the pockets of Pennsylvanians. Not to build highways or transit systems or bridges, but to send to Washington. Two hundred thirty-four million dollars.

Yes, if you are middle class, this transportation tax hits you four times as hard as it does the wealthy in terms of your share of your income. If you are poor, it hits you eight times as hard as if you were healthy.

So I do not think this is the kind of a vote that many people should want to go back home to explain. Indeed, I am told by many people that this is a bonanza for the Republican Party. We should look with glee upon our Democratic colleagues voting yes for this massive tax increase.

But I say, and not always do we think this way, I suppose, but tonight, because this is so important to the history of our country, I say to my friends, do not do what is best for the Republican Party; do what is best for America.

Mr. Speaker, I urge my colleagues on the other side of the aisle to vote against this massive tax increase, to vote it down so we can sit down together and craft a bipartisan solution that does not impose a massive tax increase on the American people, but rather deals with this deficit problem by reducing spending.

Mr. HOAGLAND. Mr. Speaker, I yield 2 minutes to the gentleman from West Virginia [Mr. WISE].

Mr. WISE. Mr. Speaker, in my office today and yesterday because of the campaign of misperception and misunderstanding that has been spread, I have gotten families calling me with incomes of $20,000 to $40,000 a year saying how unfair it is, about this retroactivity, and afraid and scared to death they are going to have a tax liability going back to January 1.

Mr. Speaker, let us set the record straight on retroactivity. First of all, if you have under $180,000 a year in family income—that is right, $180,000 a year—you do not have a dog in this fight. This does not apply to you. In fact, those who will be paying, the 1 million people who will be paying back to January 1 of 1993, are those whose average incomes are $300,000 per year.

Second, what is not being revealed in all this campaign of folderol around here is that the tax cuts, as well as the tax increases on those making over $180,000 per year, are retroactive, 14 of them, including repealing the luxury tax, increasing small business expensing, restoring some passive loss for real estate, and favorable alternative minimum tax treatment. And, yes, 90 percent of small businesses in this country will benefit from these provisions, including the retroactive tax cut provisions.

Mr. Speaker, what is also not told is how the people who will be subject to this liability, those earning over $180,000 per year, have 3 years to pay, without interest and without penalty, that increased liability.

Finally, there have been retroactive provisions in the past. Since 1976 there have been five tax bills with 15 provisions, all made retroactive. The Reagan Deficit Reduction Act of 1984 had nine provisions alone. The Tax Reform Act of 1986 had retroactive provisions dealing with investment tax credits. Finally, in 1982, when they retroactively taxed 5.3 million drawing unemployment benefits.

Mr. Speaker, let us set the record straight on retroactivity.

Mr. SHUSTER. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania [Mr. CLINGER].

Mr. CLINGER. Mr. Speaker, I hope this bill is defeated for a lot of reasons, but certainly a primary one and a major one is this increase in the gas tax that we are contemplating.

Mr. Speaker, the Highway Trust Fund was set up more than 30 years ago for the sole purpose of financing the Federal Aid Highway System with money from the gas tax. We have used the money exceedingly well, financing the construction and repair of these roads through gas taxes, which set up a clear relationship in the minds of most people between the gas tax and improvements in our national standard of living.

Under this bill, however, the new gas taxes will be permanently dedicated to deficit reduction. The linkage between the gas tax and roads will be broken, broken forever, both in fact and in the minds of the American people.

Mr. Speaker, not only does this new tax break faith with the concept of the trust fund, it places a disproportionate share of the burden on the transportation industry and on rural America. Under this bill rural Americans will be asked to make a disproportionately large contribution to deficit reduction in comparison to their urban compatriot. So I urge defeat of this bill.

Mr. SHUSTER. Mr. Speaker, I yield 45 seconds to the gentleman from New Hampshire [Mr. ZELIFF].

Mr. ZELIFF. Mr. Speaker, there are many reasons why I will vote against the President's tax and spend bill. Tax increase will reduce growth in the economy, which will create more unemployment. Budget cuts, using phony baseline budget estimates, are not realistic. A deficit reduction program that increases our debt over $1 trillion over the next 5 years is a farce. The soak the rich program will remove incentives for the risk takers to take risks and create jobs. Raiding our Social Security trust fund is a road to disaster, and the same thing applies to the highway trust fund. The restaurant tax will destroy 165,000 jobs.

Mr. Speaker, 80 percent of the cuts are in defense. We need to cut spending first. The President's plan does not cut it. Vote "no."

Mr. HOAGLAND. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland [Mr. CARDIN].

Mr. CARDIN. Mr. Speaker, middle-income taxpayers listening to this debate have to be confused by listening to the differences among the different speakers. So I am going to ask the middle-income taxpayers to do their own calculations to see how they are impacted by the taxes in this proposal. I think they will find the Clinton tax proposal, the Deficit Reduction Act, is a fair proposal.

On income taxes, if you as an individual have taxable income under $115,000, you do not pay any new taxes. If you are a couple with taxable income under $140,000, no new income taxes. That equates to about $180,000 of income. And unless you make $250,000 of taxable income, you are not subject to the 10-percent surtax. So 98 percent of our income taxpayers are not going to pay any new income taxes.

On the Medicare tax, if your salary from one employer is not over $135,000, you are not going to pay any more taxes.

On Social Security, seven out of eight elderly who receive Social Security are not going to pay any more taxes. If your income is below $44,000 as a couple or $34,000 as an individual, you do not pay any more taxes.

The gasoline tax is the only broad-based tax. For people in Maryland on average that will mean an extra $28 a year. There is also the earned income tax credit offering people with $28,000 a year or less in income tax rebates.

Mr. Speaker, when you add it up, 80 percent of the taxes come from people who make over $200,000 a year. All of the new taxes go for deficit reduction, along with the spending cuts. That is good news for middle-income taxpayers: lower interest rates, more money for investment, and jobs for our economy.

Mr. Speaker, I urge my colleagues to support the Deficit Reduction Act.

□ 1940

Mr. SHUSTER. Mr. Speaker, I yield 45 seconds to the distinguished gentleman from Georgia [Mr. COLLINS].

Mr. COLLINS of Georgia. Mr. Speaker, as a Member of this body, I have heard a lot to talk about small business. Well, I am a small businessman. For the last 30 years I have experienced the ebb and flow of the economy.

I have dealt with the effects of increased taxation and the effects of decreased taxation.

Today, I have fewer employees than I had 2 years ago. I have less equipment than I had 2 years ago, the result of a flat economy due to the 1990 tax increase.

This tax increase is no different. It too will again affect the economy. Small business costs will go up. Profits will go down. Jobs will be cut. Tax revenues will decline. Passage of this tax increase is a repeat of the 1990 tax deal. Again, the people's government will lose.

Mr. HOAGLAND. Mr. Speaker, I yield 30 seconds to the gentleman from Kansas [Mr. SLATTERY].

Mr. SLATTERY. Mr. Speaker, I am also a small business person. I want the gentleman to know that I called the Kansas Department of Revenue today, and I learned something.

There are 32,000 corporations in Kansas that file an income tax return. Only 30 of them, three zero, are going to experience an income tax increase under this legislation according to the Kansas Department of Revenue.

As a small business person, I will tell Members what hammered me. It was high interest rates.

This bill is designed to keep interest rates down. The Chairman of the Federal Reserve System has given us a very difficult choice. Pass tough deficit reduction, interest rates stay down. If we fail to pass deficit reduction, interest rates are going up. If interest rates go up it will gobble up the profits of small business all over America.

Mr. SHUSTER. Mr. Speaker, I yield 45 seconds to the distinguished gentleman from New Jersey [Mr. FRANKS].

Mr. FRANKS of New Jersey. Mr. Speaker, this budget process began with high hopes and ends tonight in broken promises. Being from New Jersey, I am in a unique position to know what the imposition of an enormous tax hike can do to a faltering economy.

It can destroy jobs, ruin families, and destroy economic opportunity.

To paraphrase from my friends in New Jersey, the action we are about to take tonight, Mr. Speaker, "Clinton taxes plus Florio taxes, devastating together."

Mr. SHUSTER. Mr. Speaker, I yield 45 seconds to the gentleman from California [Mr. BAKER].

Mr. BAKER of California. Mr. Speaker, I am honored to be speaking on this important day. I thought I would just read a paragraph from a constituent who wrote to me on July 26.

> I thought it might be of interest to know how the pending legislation will affect me and my wife. In essence, we have embarked on a "tax-saving" plan. We are foregoing home improvements, so that we will be able to pay Mr. Clinton's taxes. That means that people in the building trades industry are not getting the jobs they would have. Further, people that supply those craftspeople are not getting the sales. And, both California and the U.S. government are not getting tax revenues (both income and sales), that those companies and people would have paid. It's simple. Money is spent directly on taxes or is used to create employment, which produces people with earnings—which produces tax revenues!

Cut spending first.

Mr. Speaker, the omnibus budget reconciliation package is just the wrong medicine for this economy. It has been said, "those who do not learn from history are doomed to repeat it."

The history lesson is a recent one. Just 3 years ago in 1990, George Bush and the Democratic Congress passed what was then the largest tax increase in history. Both Democrats and Republicans voted for it in 1990, and George Bush lost his job because of it.

The 1993 tax and spend plan is even worse than 1990. The taxes are retroactive. Money earned between January 1, 1993 and today will be taxed—even though most of it has been spent or budgeted.

This tax plan includes a gas tax which will hurt anyone who drives a car, uses any form of transportation, or buys any product that involves shipping. Seniors on fixed incomes will be hurt by the gas tax in addition to the increase in the Social Security tax.

Like 1990, the taxes come first and will hit hard. The spending cuts are projected to 3 or more years in the future and, similar to 1990, probably will never come. Furthermore, while the President claims that his plan will reduce the deficit by $500 billion, after 5 years, the national debt will actually be increased by over $1 trillion.

This is not deficit reduction—this is a hoax, and, like 1990, the American people won't forget it.

Mr. HOAGLAND. Mr. Speaker, I yield 2 minutes to the gentleman from Colorado [Mr. SKAGGS].

Mr. SKAGGS. Mr. Speaker, small business people of America, please take note. We salute you. We respect you. We know that you are the engine creating the growth of this economy and jobs for Americans. That is why this bill includes unprecedented incentives for you. You are going to be able to expense out, during the first year, $17,500 of new equipment purchases, rather than $10,000 under current law. You will be the beneficiary of investments induced by a new capital gains tax cut to 50 percent for investments in small firms, a provision that has the NFIB's support. And we will extend the deduction of health insurance for self-employed. All of that, not to mention the extraordinary importance and benefit to small business of lower interest rates and credit availability.

The small business provisions in this bill have been subjected to false attacks that are shameless. What is the truth about the impact of the tax provisions on small business?

Four percent of small businesses in this country—those with average incomes of over a half million dollars a year—will be subjected to some increased taxes. Ninety percent of small businesses will benefit from these incentives and be eligible for tax decreases.

Finally, Mr. Speaker, let us remember to whom we are obliged as Representatives. I cannot state it better than was stated over 200 years ago by the great Irish parliamentarian from Bristol, Edmund Burke, who said to his constituents:

> It ought to be the happiness and glory of a representative to live in the strictest union with his constituents. * * * But his unbiased opinion, his mature judgment, his enlightened conscience he ought not sacrifice to you. * * * They are a trust from providence for the abuse of which he is deeply answerable. * * * Your representative owes you not his industry only but his judgment, and he betrays, instead of serving you, if he sacrifices to your opinion.

My colleagues, we owe America our best judgment. This bill serves the national interest. It is our earnest and difficult duty to support it.

Mr. SHUSTER. Mr. Speaker, I yield 45 seconds to the gentleman from Massachusetts [Mr. BLUTE].

Mr. BLUTE. Mr. Speaker, I rise in strong opposition to this huge tax increase on the productive sector of our economy. I was not a Member of this House in 1990, but I was an interested observer who heard the promises made by those who cut the infamous 1990 budget deal. They are the exact same promises made today by the proponents of this bill. Tax now and we'll cut later.

The fact is that raising taxes never reduces deficits. Rather, in a perverse way, they cause deficits to grow larger.

The taxes in this plan will cost the people of my State of Massachusetts $7 billion over the next 5 years. These are resources that won't be available in my State to invest in new technologies, to create new jobs, to send kids to college or to simply help a family make ends meet.

This isn't change at all. It is the same old Washington, DC tax and dance routine, that will ultimately weaken our economy and sadly hurt real people. I urge a no vote on the tax plan.

Mr. SHUSTER. Mr. Speaker, I yield 45 seconds to the distinguished gentleman from New York [Mr. QUINN].

Mr. QUINN. Mr. Speaker, I rise today in strong opposition to the tax-and-spend plan before the House today because I was sent to Congress by the people of western New York to reduce the staggering budget deficit by cutting spending first.

Unfortunately, this plan raises taxes first and foremost.

There are many families in Buffalo and Erie County who are struggling to make ends meet and cannot afford to pay new taxes on gas.

There are many senior citizens in our area who cannot afford to pay new taxes on Social Security benefits.

There are many small businesses in western New York that employ thousands of hard-working men and women and cannot afford to pay higher income taxes.

Supporters of this budget claim the higher tax rates will only affect the rich—or those who earn over $180,000 a year—but two-thirds of those people are small businessowners who employ many of the working men and women in western New York.

This tax plan does not hit just the rich—the taxes also hit small businesses, the fastest growing sector of our economy that creates the most new jobs.

By taxing the small-business sector, Congress' new gas taxes and income taxes will cost jobs in Buffalo, Erie County, and the rest of the United States.

The budget plan raises taxes first and promises to enact some savings in the so-called "out years"—the problem is that no one has ever lived in an "out year."

In fact, we are just about to enter an "out year" from the 1990 budget deal in which spending cuts are supposed to take effect, but Congress is preparing to scrap the deal and start again with a new tax increase.

Instead of cutting spending first, the budget plan raises taxes first and postpones spending cuts—in fact, it even increases spending in many areas.

Last election day, the people of Buffalo and Erie County, just like people across this country, sent a message to Washington that was loud and clear—we want a change, and a change for the better.

This tax-and-spend budget is business as usual. That's why I oppose it, and that's why I supported the Kasich alternative plan that would have reduced the budget by cutting spending first—not raising taxes.

Mr. HOAGLAND. Mr. Speaker, I yield myself the balance of my time.

The SPEAKER pro tempore (Mr. MURTHA). The gentleman from Nebraska [Mr. HOAGLAND] is recognized for 1½ minutes.

Mr. HOAGLAND. Mr. Speaker, let me first address myself to the comments of the gentleman from Pennsylvania [Mr. SHUSTER], when I think he said words to the effect that this gas tax increase is a massive tax increase on the middle class.

Let me remind everyone that this is 4.3 cents a gallon. For the average working family in America, it is about 70 cents a week, 70 cents a week dedicated to the twin goals of deficit reduction and getting this economy moving again.

I think that is unreasonable to call it a massive tax increase on the middle class. I do not think it will wash.

Most important, Mr. Speaker, I would like to show everyone this graph here which shows the hard freeze that this bill contains on what we call the domestic discretionary portion of the budget. Now, a hard freeze means that in the next 5 years there is going to be no increase for inflation of any kind. And Members can see from the graph here, the red line is what will happen if we do nothing, as we have for so many years in terms of allowing the domestic discretionary portion of the budget to drift upward. And the blue line is what is going to happen, if we enact this legislation. So we see there are considerable savings, and this difference, by the way, is enforced through a sequestration process. If Congress appropriates more than what this statute requires, that across-the-board cuts be made.

So beginning today, for this and other reasons, looking for the 5-year period that this bill incorporates, this is the largest deficit reduction package ever voted on by the House or the Senate.

□ 1950

Mr. SHUSTER. Mr. Speaker, I am surprised at my friend, the gentleman from Nebraska [Mr. HOAGLAND] thinking this gas tax is a pittance. In Pennsylvania, this gas tax is going to take

$237 million out of the pockets of Pennsylvanians every year. That may not be significant to my friend, the gentleman from Nebraska, but it is significant to Pennsylvanians.

However, it goes beyond the question of dollars. It also goes to the question of trust. Candidate Clinton said in South Dakota he was against a gas tax. Candidate Clinton said on the Super Tuesday debate that he was against a gas tax. Candidate Clinton said in the Chicago primary debate that he was against the gas tax. Candidate Clinton wrote in his book, "Putting People First," that he was against the gas tax. Candidate Clinton in Santa Monica, CA, said he was against the gas tax. In Everett, WA, candidate Clinton said he was against the gas tax, and in Cleveland, OH, candidate Clinton said he was against the gas tax.

This is a question of trust. Let us help President Clinton keep his promise. Let us oppose this massive tax increase on the American people, a part of which is a very significant increase in the gas tax.

The SPEAKER pro tempore (Mr. MURTHA). All time has expired for the Committee on Public Works and Transportation.

The Chair now recognizes the gentleman from Kansas [Mr. SLATTERY] for 10 minutes on behalf of the Committee on Veterans' Affairs.

Mr. SLATTERY. Mr. Speaker, I yield myself such time as I may consume. Mr. Speaker, title XII of H.R. 2264, the veterans' programs, is the section that I wanted to address.

Mr. Speaker, title XII of the bill contains the agreement reached with the other body on the provisions which relate to veterans' programs. Our target was $2.58 billion over the 5-year period. The agreement our conferees reached with the other body would reduce Federal expenditures for veterans programs by $2.55 billion.

Mr. Speaker, I thank the distinguished chairmen of the House and Senate Veterans' Affairs Committee, the Honorable G.V. "SONNY" MONTGOMERY and the Honorable JAY ROCKEFELLER, for their candor and cooperation in working out the compromise

I am not totally happy with the agreement we have reached on the veterans' issues, but given the deficit we face, it is a reasonable response to the wishes of the House and Senate.

Make no mistake about it, this agreement will cost some veterans. It will reduce some veterans benefits over the next 5 years. However, other options would have required us to reduce some service-connected benefit programs. Given the alternatives, we selected the changes in law which would have the least harmful effect on service-disabled veterans.

The committee report contains a full explanation of all provisions in the agreement. Briefly, the conference agreement would make the following changes to existing law.

First, the bill would extend through the end of fiscal year 1998 a number of provisions that are now law but which would expire between now and 1998.

Second, the bill would increase the various fees payable by veterans using the VA Home Loan Program. Most fees would increase by three-fourths of 1 percent, from 1.25 to 2 percent. Persons using their home loan benefit for the second or subsequent time, and who do not make a downpayment, would see their fees rise to 3 percent. The bill also extends through the end of fiscal year 1998 the procedure used by the Veterans Administration when there is a foreclosure on a VA-guaranteed loan.

Finally, the bill would eliminate the COLA payable during fiscal year 1994 to veterans attending school under the Montgomery GI bill and reduce the 1995 COLA by one-half.

None of the members of the Veterans' Committee enjoy looking for ways to reduce veterans' benefits. However, several of these changes simply improve the integrity of veterans' programs, and the other cuts, while painful, are necessary if we are going to get this deficit down. Our committee has done its share. As the national commander of the DAV said when he appeared before our committee earlier this year, "the DAV does not object to VA's inclusion in the President's deficit-reduction effort. * * * Priorities have to be set and painful, unpopular decisions have to be made." Mr. Speaker, veterans have always been willing to do their fair share when it comes time to put our fiscal house in order. This bill does not call for them to do more than their fair share.

I also want to thank all of the House conferees who contributed so much during our negotiations. I am grateful to the gentleman from Arizona [Mr. STUMP], ranking minority member of the full committee, the gentleman from Illinois [Mr. EVANS], the gentleman from Georgia [Mr. ROWLAND], and the gentleman from Illinois [Mr. SANGMEISTER], our subcommittee chairmen, and the gentleman from New Jersey [Mr. SMITH], and the gentleman from Indiana [Mr. BURTON], two of our subcommittee ranking minority members. Each of them played an important role in our negotiations with the other body. I deeply appreciate their support.

Mr. Speaker, I reserve the balance of my time.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Arizona [Mr. STUMP] on behalf of the Committee on Veterans' Affairs.

Mr. STUMP. Mr. Speaker, I yield such time as he may consume to the gentleman from Alabama [Mr. CALLAHAN].

Mr. CALLAHAN. Mr. Speaker, I rise once again in opposition to this 15-pound package.

Mr. Speaker, like many Americans, I, too, watched President Clinton's speech Tuesday night. And when it was over, I listened to Senator DOLE of Kansas, as he gave our party's response.

Mr. Speaker, while I did not vote for President Clinton that does not mean I do not want him to succeed. I probably will not vote for him in 1996 either, but the time to fight a political battle is during the election, and I will reserve that fight until that time.

The Presidency is the most important and most powerful political position in the entire world. And whether it is a Republican in the White House or a Democrat, after the election, we should all pull together and work on the vast issues which face this country.

Many a time over the history of this country, Americans have gathered around the radio, and in more recent years, the television set, to listen to our President as he has challenged the greatness of our people to do even more.

And during these times, his plea for our help has won over not just our support, but usually additional dollars from our paychecks, and in many cases, the very lives of our sons and daughters as we sent them off to serve in another war or conflict.

Had I known better, after listening to the President speak Tuesday night, I, too, would have called my Congressman and asked him to vote for this plan. It sounded so good, and he was so convincing.

But, Mr. Speaker, I do know better, and I hope and believe the rest of America knows better, too. The President's bill isn't a bad bill only because it raises more than $260 billion in new taxes, but it's the wrong medicine for our economy and the wrong prescription for our future.

To be certain, the President talks a good talk.

He said in 1991 and again in 1992, that in his administration he would offer a middle-income tax cut that would cut rates on the middle class. That sounds good.

Unfortunately, there is no middle-class tax cut in this bill, only middle-class tax increases.

Last year, he also said the only people who will pay more with income taxes are the wealthiest 2 percent, those living in households making over $200,000 a year.

Unfortunately, under the President's plan, income tax increases on Social Security benefits applies to people with only $34,000 of income.

And income tax rate increases apply to single people with taxable income of $115,000. The President's "millionaire surtax" begins at $250,000. And, as Senator DOLE pointed out last night, these taxes are retroactive to January 1 of this year.

Finally, the President says the 4.3 cents per gallon increase in the gas tax will cost us less than a dime a day or $3 a month. I would gladly give the President a check right now for $36 for the entire year, and I'm sure many other Americans would too.

But you tell the truckdriver who's currently making his living on a razor-thin margin of profit, that an extra 4.3 cents per gallon isn't going to affect them and that in turn, isn't going to affect the rest of us, and let me tell you, somebody is living in a dream world. Unfortunately, this is one bad dream.

But, perhaps, the most troubling thing I heard from the President last night wasn't about taxes or the deficit. No, as I listened to the President talk about the need to end welfare as we now know it, which, again, is something most Americans can agree on, he went on to say, and I quote, "We have got to revolutionize government itself * * * have government work better, and put it back in charge of the people who are paying the bill."

Mr. Speaker, I hope this was a Freudian slip on the part of the President. Because if it was not, then he didn't get the same message from last November's election results that I did.

Yes, the American people want government to be more efficient and responsible. Sure we do. But we don't want the Government put even more in charge over our lives, and that's exactly what this bill would do. If we transfer one welfare recipient from one government check to another, simply by creating a new government program, which his plan does repeatedly, then we haven't solved the problem of welfare reform; we've just created another layer of bureaucracy.

Since last night, my phone has been ringing off the hook. People are crying out for more cuts and less spending, not new taxes. Unfortunately, the President's bill does just the opposite.

Let me urge my colleagues to vote no on this bill when it comes to the floor, and by doing so, we'll be saying yes to the will of the American people.

Mr. STUMP. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong opposition to the conference report on H.R. 2264, the Omnibus Budget Reconciliation Act of 1993. This so-called deficit reduction measure imposes the largest tax increase in world history on the American people and fails to eliminate even one Federal program. It is part of an economic plan which will see the national debt increase by $1 trillion—from $4 to $5 trillion—over the next 4 years. Why? Because it ignores the real cause of the deficit—too much spending.

I also rise in strong opposition to this measure for what it does to the veterans of this Nation. America's veterans have a deserved expectation that, in return for military service to their country, sufficient resources would be provided to ensure delivery of earned benefits. Unfortunately, such resources are not being provided.

Federal spending on veterans' programs in inflation-adjusted dollars has not increased in more than a decade and its overall share of the Federal budget has been steadily decreasing. Spending in constant dollars for all Federal social programs has increased by 361 percent since 1965, while spending for veterans programs increased by only 36 percent. Since fiscal year 1988, discretionary spending on veterans' health care has been inadequate to maintain current services.

Over recent years of runaway Federal spending and budget crises, and despite chronic underfunding and veterans programs, veterans have expressed a willingness to contribute to deficit reduction efforts. However, veterans have also stated the belief that spending cuts in veterans programs should go to deficit reduction, not increased spending in other programs.

Yet, it is veterans including military retirees—the people most responsible for winning the cold war—who are bearing the brunt of the President's deficit reduction efforts. Veterans programs are being cut by over $2.5 billion over 5 years in this reconciliation bill—despite chronic underfunding. Additionally, military retirees COLA's are being reduced and delayed. But those cuts are not going solely to deficit reduction. In fact, the bill contains $28 billion in new spending over 5 years—virtually none of which benefits veterans programs.

If it is true that to the victor goes the spoils, then the victors of the cold war must be food stamp recipients who will get an extra $2.5 billion over 5 years, even though there has been no reform of the welfare system. We are cutting veterans' COLA's but giving welfare recipients double COLA's.

Mr. Speaker, President Clinton on Tuesday evening went on national television in this efforts to convince Americans to support his economic plan. In his speech, he stated:

> In a comprehensive economic plan, there are always places for give and take, but from the first day to this day, I have stood firm on certain ideas and ideals that are at the heart of this plan. Tonight I can report to you that every one of those principles is contained in the final version of the plan.

His slick assertion is followed by his statement of principles, including one designed for veterans' consumption: "The third principle is that we must protect older Americans from punitive cuts in Social Security, Medicare, and veterans' benefits that some have proposed."

Well, there is a big problem with what the President said. The proposals to cut veterans benefits have come from him, to the tune of $2.58 billion.

President Clinton's 5-year budget plan proposes a cut of 9,000 employees in the Department of Veterans Affairs, with 7,000 of them from VA hospitals, which are already woefully understaffed. The President's 5-year budget plan also cuts $1 billion in discretionary funding for veterans' health care. This is protecting veterans?

The cuts in veterans' funding I have just mentioned are not in the reconciliation package before us today, they are elsewhere in the President's proposed 5-year budget. What was in President Clinton's specifically proposed initial reconciliation cuts for veterans were the following, not counting his proposed extensions of cuts already made in the Omnibus Budget Reconciliation Act of 1990:

Home Loan Guarantee Fees: Would raise the fee for use of the VA home loan guarantee by 0.75 percentage points.

Establish 1:9 Ratio for GI bill benefits: Under the Montgomery GI bill, service members pay in $1,200 of their own money to the program. The contribution would be increased to $1,600.

Fee and down payments for multiple use of VA home loan guarantee: This provision would require a 2.5-percent fee and a 10-percent downpayment for the second and subsequent uses of the VA Home Loan Guarantee.

Pay Insurance Administration from Excess Funds: Under this proposal, administrative costs in three of the five VA life insurance programs would be financed from surpluses in the insurance funds. The funds come from policy holder premiums, and dividend payment would be reduced. The proposal raises constitutional questions as an interference in existing insurance contracts.

Mr. Speaker, this is not protecting veterans. It is a cruel deception of veterans and the American people to lead them to believe veterans benefits are being protected. President Clinton's credibility gap grows ever larger.

Mr. Speaker, while I oppose the conference report, I want to acknowledge the work of Chairman MONTGOMERY in crafting a reconciliation measure which protects veterans as much as possible. The bottom line of 42.58 billion in cuts was not his. It was mandated by the budget resolution. He succeeded in knocking out the most objectionable provision in the other body's veterans reconciliation package. The unfair cut proposed for GI bill benefits is gone as a result of his steadfast opposition. I commend my good friend for doing his best for veterans under the worst of circumstances.

However, this Nation has no greater obligation than to deliver on its commitments to its veterans. This reconciliation measure fails in meeting this obligation. I urge my colleagues to vote against the conference report.

Mr. Speaker, I reserve the balance of my time.

Mr. SLATTERY. Mr. Speaker, I yield 2 minutes to the gentleman from South Carolina [Mr. CLYBURN], a member of the committee.

Mr. CLYBURN. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I rise to speak on behalf of those who have been victimized by the policies of the last 12 years and cannot afford to pay for telephone calls or purchase postage stamps to register their feelings about the hopelessness they are experiencing and the bleak futures their children and grandchildren are facing.

Tonight, we have an opportunity to change their lives and our Nation's course. The President's deficit reduction plan will bring about fiscal responsibility, social stability, and economic recovery.

There are many reasons this plan ought be supported. It represents the largest deficit reduction in history, $496 billion over the next 5 years.

More than half of deficit reduction comes from spending cuts, the remainder from revenue increases, 80 percent of which to be borne by those earning more than $200,000 per year.

Moreover, a working family earning less than $180,000 adjusted gross income will not pay a single penny more in income taxes.

Under this plan, one-child families eligible for earned income tax credit will receive up to $2,038, and families with two children up to $2,527. For the first time, working families without children will be eligible.

This is a direct benefit to 32.8 percent of the families in South Carolina and 43.5 percent of the households in the 6th Congressional District. That represents, Mr. Speaker, over 63,000 households and a total dollar amount of $101,000,000.

Finally, Mr. Speaker, this plan means job creation. In South Carolina alone, over 100,000 jobs will be created in the next 3 years. That is 61 percent more jobs than were created from 1989 through 1992.

In light of the severe economic blow to my State and many others due to the most recent round of base closures, the extension of the targeted jobs tax credit, and the creation of empowerment zones and enterprise communities provide new incentives for new industry and new business.

The President's plan for deficit reduction and economic growth will greatly benefit the American people and move this country toward economic recovery and social stability.

□ 2000

Mr. STUMP. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia [Mr. LINDER], a member of the committee.

Mr. LINDER. Mr. Speaker, I thank the gentleman for yielding the time.

Mr. Speaker, someone said there are only two certain things in life, and that is death and taxes. But death does not get worse every time Congress meets; taxes seem to.

This is the fifth tax increase in the last 11 years specifically for deficit reduction, the fifth time we have said we will take these taxes and reduce the deficit. None has worked. This will not work either. And the taxes in this program take effect 21 days before Bill Clinton was elected President. Eighty percent of the spending cuts that are promised occur after he has been kicked out of office.

That is not a new story. In each of the other four cases we were promised tax increases and spending cuts. The tax increases occur today and the spending cuts occurred in the outyears. That happened in 1982, it happened in 1984, and every time the outyears occur we have a new tax bill with new spending cuts in the outyears.

Ladies and gentlemen, the outyears for the 1990 budget agreement is 1993, and being unwilling to make the cuts and unable to exercise discipline we have come up for the second time with a $500 billion deficit reduction, new taxes now and spending cuts later.

We can only bind this Congress. We hope future Congresses will make the spending cuts we promise and urge them to make.

This program will not work. We will have higher deficits, Mr. Speaker, and I urge everyone to defeat this package.

Mr. SLATTERY. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Michigan [Mr. LEVIN].

Mr. LEVIN. Mr. Speaker, I would say to seniors, please listen. The misinformation and mistrust combination of the minority was addressed to you a few hours ago, and the majority's approach was attacked because it touched beneficiaries as well as providers.

But listen to two facts. First of all, all that our plan does is to extend the 25-percent payment on part B to 1996, 1997, and 1998. In a word, all it does is extend current law.

Second, and most importantly, the Republican plan that was voted on here would have hit beneficiaries $18 billion as distinguished from the $7 billion here, and would have hit Medicare $72 billion as distinguished from about $56 billion. And the plan in the Senate would have hit Medicare $91 billion.

What cynicism it is for anybody on the minority side to stand up here and tell seniors they should be against this plan because it hurts the seniors. What it does is to help seniors by preserving Medicare and making sure that for the future we have a decent deficit reduction plan.

I urge support of this plan by all of the seniors of America.

Mr. STUMP. Mr. Speaker, I yield 2 minutes to the gentleman from Arkansas [Mr. HUTCHINSON], a member of the Committee on Veterans' Affairs.

Mr. HUTCHINSON. Mr. Speaker, $200 billion deficits as far as the eye can see. That is what David Stockman said when he sought to shock America with that prediction, but now under the biggest tax plan in history it is a reality.

It is doublespeak and accounting tricks.

Eighty percent of the spending cuts come after the next Presidential election, $16 billion in higher user fees that are called spending cuts, and not one, I say not one Federal program eliminated.

There are higher corporate taxes, higher personal income taxes, higher Social Security taxes, higher estate taxes, higher gasoline taxes, and many of these retroactive to January 1. Deja vu, it is Arkansas all over again.

I think we need to heed John Kennedy's words 30 years ago, when speaking to the Economic Club of New York, where he said we ought to cut taxes across the board, top to bottom, personal and corporate. He said reduce personal as well as corporate income taxes for those in the lower brackets who are certain to spend their additional take-home pay, for those in the middle and higher brackets who can thereby be encouraged to undertake additional efforts and be enabled to invest more capital.

We are doing just the opposite under this plan. Let us take the advice of chief economist at C.J. Lawrence, Ed Yardin, who advised us that, "The best thing they can do for the economy is to figure out a politically acceptable way to walk away from the program."

That is good advice. We need to walk away from this program.

America deserves better. We can do better and, ladies and gentlemen, we must do better.

Mr. STUMP. Mr. Speaker, I yield 3 minutes to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Speaker, I get a big kick out of my colleagues coming over here and saying boy, I have got to give you folks the facts. Let me just tell you what some of the facts really are.

The first year of this plan they say is going to cut spending. We are going to raise taxes $10.66 for every one dollar in spending cuts. Now get that, everybody in America, $10.66 in taxes for every $1 in spending cuts. Does that sound like we are doing the job? It does not to me.

Then let us talk about the spending cuts. They say they are going to have $255 billion in spending cuts. But when you take out the smoke and mirrors, and tax and fee increases that they are calling spending cuts, you end up with only $37 billion in spending cuts, and those are in the outyears, in the third, fourth and fifth year, which simply means that they will never materialize. We will not see the spending cuts, but we will see the largest tax increase in the U.S. history.

And what does that mean to everybody? It means higher deficits, a higher national debt, deficits running $350 billion a year, more unemployment, higher interests rates and higher inflation. It is going to be just like the Carter years all over again.

So my friends, we need to get that message out tonight. We need to have those calls keep coming in to my colleagues. Hundreds of thousands of people across this country are calling, saying we do not want more taxes; we want spending cuts first.

Finally, I would just like to say about seniors, President Clinton said when he was running he was not going to tax seniors. Millions of seniors across this country are going to pay much higher taxes than they have in the past, and the President has violated that promise, just like he did the no new tax promise.

I say to my colleagues across the aisle, if you vote for this tonight, and it passes, I predict that many of you will not be back here in 1994, and we will get control of the Senate, and maybe even this place.

Mr. SLATTERY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would just briefly respond to the previous speaker. I would observe that at some time I hope that we are willing to set aside our own personal political futures and do what is in the best interests of the country.

I want to talk about taxes and spending for the next few minutes. On the tax issue, let us be abundantly clear with the American public. Middle-class America is going to face a 4.3 cent per gallon gasoline tax increase. That is going to cost the normal drivers in my part of the country probably about a dollar per week.

Now beyond that, and we have to be absolutely clear about this because there has been so much political rhetoric spread over the last few weeks about this plan. In my State, and this is typical of across the country, and I did not rely on CBO but I called the Kansas Department of Revenue, only one-half of 1 percent of individual income tax payers in my State that file a single return are going to see their income taxes go up, the one-half of 1 percent who make more than $110,000 a year in taxable income. For those filing a joint return only 3 percent of taxpayers in my State, and this is typical of other States, will see their income taxes go up, because only 3 percent are making more than $140,000 a year in taxable income, which is approximately $180,000 in gross income.

□ 2010

Only 30, 30 corporations in my State are going to see their income taxes go up out of 32,000 that file income tax returns.

Why? Because only 30 corporations are making more than the $10 million that triggers the tax increase under this legislation.

I will tell my friends I do not enjoy raising taxes on anyone, and the people that will be paying these additional taxes are some of the most productive, good, hard-working people in America, and when we talk to them, we should not be treating them like we are punishing them, for goodness sakes. They have chased the American dream. They have been successful. They have created jobs, and we must ask them, for the good of this country, to help us solve the problems that this country is facing.

Mr. STUMP. Mr. Speaker, I yield the remainder of my time, 1½ minutes, to the gentleman from New York [Mr. SOLOMON], the ranking member on the Committee on Rules.

Mr. SOLOMON. Mr. Speaker, you know, I could not help but listen carefully to the last speaker.

I am looking at a report here, because he seems to say that this is not going to hurt anybody in his district, but the gentleman from Kansas [Mr. SLATTERY] has 8,499 senior citizens in his district who are going to end up paying new Social Security taxes to the tune of about $7 million.

There was another speaker, the gentleman from Michigan [Mr. LEVIN], and he has 11,426 senior citizens in his district that are going to pay $9.5 million, and I looked at the gentleman from Virginia [Mr. MORAN], who was down here speaking with his rhetoric earlier, and I am sure he was sincere about it, but he has over 18,000 senior citizens who are going to pay over $19 million.

You know, the truth of the matter is that this bill, this tax-and-spend bill before us, will raise taxes retroactively to last January. It will increase gasoline taxes, diesel fuel taxes, it will make older Americans pay more taxes, it will increase the tax burden on small business. Maybe you guys do not have any small business in your district, but I have literally tens of thousands of them. They are all going to pay through the nose retroactively.

That is why you ought to defeat this bill. Defeat it now, like your constituents are asking you to do.

The SPEAKER pro tempore (Mr. MURTHA). All time has expired for the Committee on Veterans' Affairs.

At this time the gentleman from Minnesota [Mr. SABO] will be recognized for 20 minutes, and the gentleman from Ohio [Mr. KASICH] will be recognized for 26.5 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. SABO].

Mr. SABO. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio [Mr. STOKES].

Mr. STOKES. Mr. Speaker, I thank the gentleman for yielding me this time.

I rise in support of the conference report on H.R. 2264, the Omnibus Budget Reconciliation Act of 1993.

Mr. SABO. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. BLACKWELL].

Mr. BLACKWELL. Mr. Speaker, I rise in strong support of H.R. 2264, the Budget Reconciliation Act. This bill will put our Nation on the road to recovery and on the path to progress.

The words of a well known writer are instructive. "Dream, but don't make dreams your master. Think, but don't make thought your aim."

It appears that there are some in Congress who would rather dream about economic recovery and think about putting people back to work.

These dreamers and thinkers would have us do nothing while 16 million Americans remain either out of work or underemployed, while poverty in this Nation continues to rise, and while homelessness and hunger grows.

It is amazing, and it should be unacceptable that working families can find themselves forced to live on the streets of America because they do not earn an adequate income to afford decent housing.

The conference report on the budget reconciliation bill offers, a fair and progressive tax policy, important social investments, and deficit reductions that look to the future.

The dreamers and the thinkers like to talk about the largest tax increase in history, but, Mr. Speaker, they gave us the largest deficit in history. This bill offers a chance for America.

It offers jobs for the jobless, hope for the homeless and hungry, services for the sick and downtrodden and support for those among our citizens who need support.

Most importantly, the bill is balanced.

For the low income, the bill provides $21 billion in expanded earned income tax credits. For fragile families, the bill provides $1 billion for family preservation.

For Medicaid eligible children who lack health insurance, the bill provides $585 million for immunizations. And as an offset to the gas tax for poor families, the bill provides $2.7 billion in food stamp benefits.

The tax package is fair. More than 80 percent of the taxes will be shouldered by those best able to pay, taxpayers with incomes of $200,000 or more. Those least able to pay, taxpayers with incomes below $25,000 would get a tax cut.

Mr. Speaker, the same writer I referred to earlier also instructs us that "we must meet triumph and disaster and treat those two impostors just the same." It took us 12 years to create the record deficit we face.

That was the disaster and while this bill is not the triumph, it can lead us to a triumphant and great America, the kind of nation we dream about and think about. But, to get there, we must act. And, we must act now.

I urge, my colleagues, Democrats and Republicans, to do what we were sent here to do, to lead this Nation, to take hard action, to make decisions, to do what is right for America. Support the President's program.

Mr. SABO. Mr. Speaker, I yield 5 minutes to the gentleman from North Carolina [Mr. PRICE].

Mr. PRICE of North Carolina. Mr. Speaker, it is important tonight not to get lost in the opposition's misleading rhetoric. Speaker after speaker on the other side has gotten up here and said with a perfectly straight face that there are no spending cuts in this plan. Our opponents say with a straight face, as though repeating it would make it so, no spending cuts. But let us focus, Mr. Speaker, on the real choices we have already made in this year's budget process and that we can lock in by passing this bill tonight.

In the House Committee on the Budget, we added $63 billion in spending cuts to the budget resolution, beyond those proposed by the President. We froze discretionary spending with no adjustment for inflation over a 5-year period.

In the Committee on Appropriations we cut the President's overall budget request by more than $8 billion, and, Mr. Speaker, here on this floor on bill after bill we have added billions more in cuts.

Let me take just a minute to talk about the specifics. Here they are, real specific cuts already passed by this House and locked in by this bill tonight. I am not talking simply about cuts from the inflation-adjusted baseline. I am talking about cuts from the 1993 funding level, below the level of a hard freeze:

A $20 million cut from the market promotion program; $973 million cut in foreign aid; $9 million cut in House staff expenses; $7.7 million cut in congressional mail costs; $2.1 million cut in the office of the Architect of the Capitol; $1.9 million cut in Library of Congress expenses; $4.3 million cut in the General Accounting Office of the Congress; again, this is not from the current services baseline. It is a cut from the 1993 funding level.

Two hundred and six million dollars cut in loan guarantees for the World Bank; $15 million cut in the Enterprise for the Americas Fund; $60 million cut eliminating funding for the European Development Bank; $222 million cut in foreign aid development assistance; $305 million cut in AID economic support funds; $48 million cut in international narcotics operations; $21 million cut in foreign military training; $102 million cut in foreign military loans; $57 million cut in the Export-Import Bank; $2 million cut in office expenses for former Presidents; $97 million cut in the Office of National Drug Policy; $48 million cut in the Federal Drug Control Forfeiture Fund; $30 million cut in the Postal Service. And our opponents say with a straight face that there are no spending cuts!

These are cuts from the 1993 funding level: a $60 million cut in the Customs Service; $13 million cut in new Federal court house projects; $12 million cut in the Secret Service; a $400 million cut on this floor in the superconducting super collider; a $25 million cut on this floor eliminating the nukes in space part of Star Wars; a $32 million cut eliminating the Liquid Metal Reactor.

More cuts: $66 million cut in State aid for education. As we have said often, we

A $70 million cut off the 1993 level in the crop insurance program; a $28 million cut in the loan program for telephone cooperatives; a $24 million cut in generation and transmission co-op loans; a $45 million cut in domestic food assistance programs; a $54 million cut in foreign food aid; a $157 million cut in Superfund; a $2.6 million cut eliminates the Council on Environmental Quality; a $30 million cut in air and water pollution control. And our opponents say with a straight face there are no spending cuts.

A $45 million cut in national parks construction; a $29 million cut in the land and water conservation fund; a $72 million cut in the Fish and Wildlife Service; a $70 million cut in the foreign timber sales and roads programs; a $36 million cut in Indian Health Service facilities; a $552 million cut in the HOPE housing program; a $41 million cut in assistance for the homeless; a $109 million cut in Federal Housing Administration programs; a $24 million cut eliminates the Selective Service System; a $5.2 million cut eliminates six health and education commissions; a $95 million cut in the Job Training Partnership Act; a $34 million cut in the substance abuse block grant program; a $21 million cut eliminates the pediatric AIDS demonstration program, and on and on and on.

Mr. Speaker, there is page after page of cuts. These cuts, under these tight spending caps imposed and enforced by this bill, and three more pages of cuts directly imposed by this legislation. Let's end the posturing for next year's campaign ads. Let's face our fiscal situation honestly and get past the voodoo economics and governmental gridlock of the last 12 years. Let's cut the deficit and secure our economic future. Let's pass the plan.

Mr. FAZIO. Mr. Speaker, I rise in strong support of H.R. 2264, the President's deficit reduction plan. This is the bill that delivers on the President's promise to bring economic change to America. It lays the foundation for rebuilding our economy and restoring the American dream.

This is the largest deficit reduction in our history. As a result of the spending cuts and revenue-generating provisions in this package, the deficit that is choking our economy will be reduced by nearly $500 billion. And every new tax dollar that comes in will be met with over a dollar in spending cuts. Spending cuts outpace revenue increases by $14 billion over the next 5 years under this plan. Plus, all savings from the plan will be locked away in a trust fund that is specifically earmarked for deficit reduction.

Republicans are claiming that this package does not really reduce spending. They say that the spending cuts are delayed and only promised for sometime in the future. But let's look at the facts.

For the first time in history, Congress has frozen Federal spending for 5 years and, for the first year of the plan Congress is cutting spending more than the package requires. The House-passed fiscal year 1994 appropriations bills cut spending 42 percent more than required in the deficit reduction package—$17.3 billion rather than $12.2 billion. Additionally, the $17.3 billion in cuts in our appropriations bills already account for 52 percent—over half—of the package's fiscal year 1994 spending cuts.

These spending cuts are not promises that remain to be kept. We have already taken the first step toward keeping our promise to the American people by cutting spending and cutting it deeply. And finally, when we look beyond this year at the entire 5-year, $500 billion deficit reduction package, we see that 20 percent of the total deficit reduction and over 40 percent of all spending cuts will come from appropriations.

The package is disciplined, balanced, financially sound, and, as the President has said, it is fair. It does not place the burden on our senior citizens. Instead of cutting benefits for Medicare recipients, the plan cuts payments to Medicare providers. And it keeps faith with middle income, working Americans who, for the fist time in years, will not have to

In addition, the package expands the earned income tax credit [EITC], the tax break for low-income working families with children. This gives responsible, poor, tax-paying families who work full time the support they need in order to lift themselves out of poverty. Expanding the EITC will reward these workers and help insure that they do not have to raise their children in poverty.

Investment is a cornerstone of the package. Although new job-creating tax incentives will benefit over 90 percent of small businesses, only 4 percent of business owners will pay higher taxes. The empowerment zone provisions will provide incentives for private sector investment in distressed areas, generating economic activity in our rural and urban communities. The new family preservation provisions will provide support services for families threatened with breakup—keeping families together and avoiding unnecessary foster care and other out-of-home placements.

The plan makes good financial sense. It balances prudent cuts in spending with wise, long-term investments. Government will borrow less and business will invest more. The effects of the plan are already being felt around the country. Faith in the President's package has caused our interest rates to drop and job creation to climb.

Our economic health is at stake. If we do not pass this bill, the deficit will continue to rise, and our economy will continue to sag. But if we follow the President's lead and invest in our people, our communities, and our businesses, we can help him fulfill his long-term commitment to America. We can increase our productivity and renew our financial credibility, both at home and abroad. Here at home, this credibility will continue to cause lower interest rates, and the businesses that create jobs and the hard-working middle income families who need them will have lower borrowing costs. Worldwide, we will be able to compete more effectively in international markets.

The President has had the courage to meet the challenge that he has inherited. He has offered us a bold, realistic plan for getting out from under the tremendous national debt that flourished over the previous 12 years. And through compromise and consensus, and by making hard choices, Congress has developed the package that is now before us.

This plan gives us the means to face the financial challenge that is before us today. And through deficit reduction and wise, long-term investment, it prepares us to meet those that follow.

□ 2020

Mr. KASICH. Mr. Speaker, I yield myself 6 minutes.

Mr. Speaker, we are going to talk about spending cuts, and we are going to talk about the bill, and we are going to explain to you why Republicans are so upset that we have in fact not cut spending first.

In fact, when I show you these numbers, you are not going to believe them. It is going to cause a lot of people to think twice about voting for this bill.

You see, the Democrats claim that you make $250 billion in spending cuts in this bill. But let me tell you where these spending cuts come from.

The first thing you do is you claim $44 billion in defense cuts, but, you see, they are double counted because those were provided for under the 1990 Budget Act. You are double counting your defense savings by $44 billion.

Extension of the 1990 OBRA provision, let me give you an example: If you are a veteran and you pay a $2 copayment that is due to expire. What you do in your bill is you just extend it for a few more years and you claim the cuts. Do you know what that adds up to? $25 billion.

That is a provision under the 1990 Budget Act.

Medicaid drafting error: You claim $4 billion in spending cuts under a correction of the 1990 budget deal where we were paying money that was never intended, and you correct it to make it as it was in the 1990 act. But, unbelievably, you claim $4 billion in spending cuts.

PAYGO leftovers: PAYGO was established in the 1990 Budget Act. If you cut back on entitlements and you save money, that was a provision of the 1990 Budget Act. What you did was you took the savings under PAYGO and you claimed them as your cuts. And do you know what that totals? Another $4 billion.

And then you say that you are going to count user fees as spending cuts, that when you raise the taxes in user fee form on Americans who go to a national park to pay more in user fees, you call that a spending cut. Nobody else in America does. You count that as an $18 billion spending cut.

Now, you have COLA time-shifts: What you do is you delay the cost-of-living benefits to Federal retirees. But do you know what? Come 1999, you give them two COLA's. You do not have any savings there. But that is not the way you count it. You count it as a $3 billion spending cut.

And then you actually try to say that interest savings, debt management, and other is a spending cut, believe it or not. And you claim, believe it or not—it is like a telethon—$53 billion of spending cuts by calling interest savings a spending cut. Come on, folks.

Now, the other area where you claim spending cuts is in the area of what we call unspecified discretionary cuts. You see, the President, when he came up here, he said, "If you don't like my program, give me your specifics." We are still waiting for yours. Do you know what you said about unspecified spending? Spending cuts have not worked in the past because real cuts are hard to make and the estimated caps usually are unrealistic, wishful thinking. Unless you have the guts to say what you will cut in the end, you have no realistic chance of actually succeeding in reducing spending.

I am going to take your words, and I have got to subtract $66 billion from what you call a spending cut in your package but you label as phony baloney when it is unspecified in our package.

Now, you add all of that together, these phony spending cuts, most of which flow from the 1990 Budget Act or are calculated savings because of lower interest payments, and do you know what your number is in phony spending cuts: $217 billion in phony spending cuts.

Now, what you do over 5 years is you have done something pretty good. Out of a $7.5 trillion pot of money, you are going to cut a $7.5 trillion pot of money, you save $38 billion, $38 billion. And do you know what you are doing? You are taxing people first and the Republicans at every turn of the bend offered their specific reforms of Government and downsizing of Government to reduce the deficit and to eliminate your tax increases. And you gridlocked us on every single effort that we made to cut spending, reform the Federal Government, downsize Washington, DC, you said, "Drop dead."

Do you know what? This is now your package. We will come back here next year and try to help you when this puts the economy in the gutter. And virtually every major economic estimating firm in this country says your bill is going to kill jobs. That is why we are passionate about it.

We are not passionate about it because it is your plan or our plan or Clinton's plan; we are passionate about it because we want Americans to work, we want a brighter financial future, a brighter financial picture; we want job security for you, your children, and our constituents. Vote this down; we will work together, we will downsize Government, and we will fix this country.

Cut spending first.

Mr. SABO. Mr. Speaker, I would simply observe that my good friend, the gentleman from Ohio [Mr. KASICH], counted everything he is complaining about as a spending cut in his own amendment. There are spending cuts, and there are many more in the proposal.

Mr. Speaker, I yield 6 minutes to the gentleman from Missouri [Mr. SKELTON].

Mr. SKELTON. I thank the gentleman for yielding this time to me.

Mr. Speaker, in your mind's eye, stand with me at the Missouri State Capitol in Jefferson City, and look north. Weeks ago, you would have seen one of the most scenic sights in America. The Missouri River, beautiful bluffs, green fields. Today, you see water and water and more water. All along the district that I represent, which borders the Missouri River, from Napoleon to Chamois, I have seen farms become lakes, homes devastated, and businesses ruined.

Besides the emotional loss in our State, as well as 24 lives, this flood will be a major cost to the Federal Treasury for farm and business loans, for family grants, for water systems, for roads, and bridges. The price of this disaster could well reach $20 billion. And the Treasury will pay this, and borrow money to do so.

I have given this reconciliation measure now before us a great deal of thought and study. Frankly, I would rather see Treasury moneys go toward helping flood victims in Missouri than paying additional interest on the deficit. Now, we have the opportunity to substantially lower the Federal deficit. And the interest saved by passing this deficit reduction bill—$29 billion—is more than the projected cost of flood reconstruction.

I voted against this measure when it first came to the House in May. It was just not good legislation. Since that time, several of us moderate to conservative Democrats have been heard:

The Btu tax, especially harmful to rural America, has been dropped;

The President signed an Executive order requiring a more disciplined handling of entitlements, to be followed by a comparable vote in Congress;

We were able to obtain additional spending cuts;

We will soon have the opportunity to rescind an additional $10 billion in nondefense spending; and

Some entitlement spending was reduced.

Further, this bill is merely the first step in deficit reduction. The Damoclean sword that hangs over America is the Federal deficit, and we must continue to work toward reducing it. Otherwise, our grandchildren will pay a horrendous price.

The purpose of the Reconciliation Act is to provide for $496 billion in deficit reduction. Unless deficit reduction is accomplished now, interest rates will rise again and cut short the current improvement in the economy. Without deficit reduction the financial markets will again become unsteady and the potential gains from lower interest rates—housing starts, home mortgages, and business investments—will be lost. America must control its economic destiny.

I have done my homework on this bill. It is far from perfect, but much better than the one I voted against in May. This plan has 200 specific spending cuts totaling $255 billion. Small business will be given a list with incentives targeted toward small business growth. The average family of four will not pay higher income taxes, unless they have an adjusted gross income of over $180,000. These facts are nearly overlooked in much of the rhetoric.

Were I to write this bill by myself, there would be more spending cuts.

Regrettably, there is no alternative. I had hoped that my colleagues on the other side of the aisle would work with those of us moderate and conservative Democrats to produce a bill with fewer taxes and deeper spending cuts. But, that did not happen, leaving us with no credible alternative.

I have experienced difficult votes before today. In past years, I voted against the common situs picketing bill, a heavily lobbied issue; I voted against the Reagan tax cut, because I knew that large Federal budget deficits would result; I voted for the Reagan proposal to aid the Contras in Nicaragua, for the sake of freedom; I voted for the Bush budget summit agreement in 1990, to end the legislative gridlock; and more recently, I voted to send American troops to war in the Middle East, which was the right thing to do.

Leadership is a matter of conscience. On the tough and divisive issues, one must decide—in the long term—what is best for the people of our country and the people at home.

Edmund Burke said, "Nobody ever made a greater mistake than he who did nothing because he could do only a little." The price of doing nothing because we cannot do everything is too high.

We should not forget the main purpose of today's effort is to reduce the deficit, so that when catastrophes come along, such as the flooding in my home State, the Federal Treasury will be more able to respond. I would rather see assistance go to flood victims than to unnecessary interest payments.

This measure is a major step in the right direction. When the shouting and tumult have ended, the only question will be: Did we help put America's financial house back in order?

I will vote for this reconciliation bill.

□ 2030

Mr. KASICH. Mr. Speaker, I yield 3 minutes to the very distinguished gentleman from North Carolina [Mr. MCMILLAN].

Mr. MCMILLAN. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, this is no stimulus package, it is no jobs bill.

What is worse, it is no compromise deficit-reduction plan, it is more of the same.

It raises taxes by $258 billion, double the increase in the 1990 budget agreement. It adds net reductions in the built-in increases in baseline spending of at best $140 billion, most of which is in defense and interest costs.

And in claiming $498 billion in deficit-reduction, it counts about $100 billion in previously agreed-upon cap levels in the discretionary accounts from the 1990 budget agreement, the only thing that worked in that package.

The 1990 agreement failed because it failed to control the double-digit rate of growth in existing entitlement programs. This plan has the same flaw. In fact, by means of the Presidential order, it effectively accepts double-digit increases in Medicare and Medicaid which are contained in CBO baseline projections and calls it a cap. Some cap.

Finally, this bill makes few cuts for the first two years but promises to make cuts in years 4 and 5, 2 years after the next Presidential election and after the next two congressional elections. Some cuts.

In the end, the annual deficit will be greater than now and our national debt will be over $1 trillion higher than today. Americans are prepared to sacrifice, but not in vain.

We can do better—much better.

Republicans offered in committee and on this floor a budget package with over $450 billion in specific spending reductions and no tax increases, none of which were accepted; perhaps because we emphasized "cutting spending first." I say to my colleagues, let us defeat this package and go back to the drawing boards in a manner that captures the center with a bipartisan proposal that solves the problem.

Mr. KASICH. Mr. Speaker, I yield 2 minutes to the very distinguished gentleman from Arizona [Mr. KOLBE], a member of the Committee on the Budget.

Mr. KOLBE. Mr. Speaker, almost 6 months have passed since President Clinton set sail on his maiden economic voyage to convince the Congress and the American people that massive tax increases would lead to economic prosperity and deficit reduction.

He presented his "Vision for Change" to an American public that had clearly shown its willingness to make sacrifices in the name of fiscal responsibility. But his economic voyage, once out in the open seas, was beset by storms. The public and many Members of Congress, including some from his own party, saw the plan for what it is: Its grand vision merely a grand illusion; this ship of dreams actually a ship of folly, run aground on the harsh reality of economic truth.

Why we find ourselves on this voyage today is especially puzzling, because President Clinton campaigned as a new Democrat, opposed to the status quo, business as usual, gridlock in Congress. Yet you would need a genetics examination to determine the difference between this budget and its failed progeny.

The truth is that "Vision for Change" is not new, it is the same slop served up to the taxpayers in the galleys of six deficit reduction shipwrecks since the early 1980's. Under the guise of deficit reduction, combinations of major tax hikes and promised spending cuts were agreed to by Congress in 1982, 1984, 1985, 1987, 1989, and 1990. Each time the results were the same: Greater tax burdens, increased spending and larger deficits. Another shipwreck.

In the famous words of the Spanish philosopher, George Santayana: "Those who cannot learn from history are condemned to repeat it." We ought to listen to history's clear admonition: Massive tax increases will diminish, not enhance, national savings; massive tax increases will increase, not decrease, interest rates; GNP will plummet, not rise, under this plan; jobs will be lost, not gained, from this folly; and, sadly, the deficit will only continue to grow.

The history lesson is clear. Tax increases matched with promised spending cuts have not reduced the deficit. Promised spending cuts never materialized or have been overrun by new spending elsewhere. Yet, President Clinton sails forth with this deal to taxpayers one more time—under the banner of change. But the only real change under the President's plan will be the zeroes added to our national debt.

Besides being bad economic policy, this plan is patently unfair. Its higher tax rates are retroactive to January 1, 1993—weeks

Moreover, retroactive taxes will actually result in less Federal revenue by punishing industry, initiative, and investment. And it will be a hardship for the thousands of small businesses who file individual tax returns and who have been relying on tax rates established in law to make all sorts of business decisions. Now, the President wants to change the rules in the middle of the game. He calls this fairness.

Clinton said his plan was bold and new and, at least here, he is correct. Not in modern times, have income tax rates been increased retroactively. This may be a ship of fools, but like pirates of old, they know how to plunder. Even Captain Hook could take a lesson from this high seas robbery.

The plan will hurt seniors and others not able to absorb the tax increases on Social Security and gasoline. Unless people making $35,000 per year are considered rich, the Clinton plan hits these seniors—hard.

How do you tax the middle class hard and call it fair? Well, Bill Clinton's answer is to provide illusory spending cuts to prevent the mutiny that would certainly follow. Some of the "cuts" in the bill are double-counted from past years, others mere extensions of current law, and the vast majority are waiting to be enacted in the outyears—by another administration.

The real tragedy is that this ship did not have to run so far off course. A Republican plan, rejected by congressional Democrats last May, would have spurred economic growth by cutting the deficit without raising taxes. Perhaps that is why Mr. Clinton keeps insisting a Republican plan never existed. Full speed ahead, man the decks, batten down the hatches, look for safe passage while avoiding genuine deficit reduction.

Tuesday night, the President again in a nationally televised address shows his memory is selective. The President said that the choice is between his plan or no plan: This is a false choice: there is an alternative plan and its called Cutting Spending First.

The President forgot to tell the American people that I, along with other House Budget Committee Republicans, offered a specific proposal to put the ship on the right course by reducing the deficit by $38 billion in fiscal year 1994 and more than $430 billion over 5 years—with no new taxes.

Our proposal is based on honest budget projections, no smoke and mirrors, no gimmicks, no fools gold. It is built on basic

Our plan was developed after reviewing hundreds of programs, targeting special and local interests and it made more than 160 detailed recommendations to cut the deficit.

Savings were accomplished through innovative steps such as placing Medicaid recipients in managed-care programs, like Arizona's programs; gradually raising the retirement age of federal workers from 55 to 62; by asking seniors with incomes over $100,000 to pay a larger share of their medicare costs; by eliminating foreign aid to countries when it is not in our best interest to assist them, and by making deep cuts in government overhead items such as travel, supplies, printing, and contracts for work and services.

Our budget proposal included budget process reforms, like the line-item veto, the balanced budget amendment and requiring supermajority votes on tax increases, as well.

But even when he sails into these unchartered waters, some landmarks cannot be avoided. By the President's own admission, 1.4 million Americans will lose their chance—directly or indirectly—to have jobs because of this tax increase. Last February, this administration estimated 9.4 million jobs would be created in the next 4 years; on Tuesday night, the number was 8 million. What do we say to the young high school and college graduate whose job we have just sacrificed on the alter of higher taxes?

The national debt and deficit are this country's most pressing problems. All of us—Democrats, Republicans, and all citizens—must come together for the common good. Future generations will judge us by this single legacy. We must not let our children down.

The House Budget Committee Republicans are still waiting for a response to our first invitation to work with the new administration for meaningful deficit reduction and budget reform. We are optimistic that the simple truth will reveal itself to liberal democrats and the President. When it does, we will be quick to join any administration—Democrat or Republican—to work together side by side on these problems. We stand ready to work together—but we cannot countenance this fraud on the American people.

My position remains unequivocal: The Nation cannot tax itself into prosperity and it cannot spend itself out of the deficit. This bill is a ship of fools. Sink it. The world will not come to an end. The voyage of true reform is just beginning.

Mr. SABO. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Maryland [Mr. HOYER].

□ 2040

Mr. HOYER. Mr. Speaker, I thank the gentleman from Minnesota [Mr. SABO] for yielding this time to me.

Mr. Speaker, it is time to pass this plan for America.

Today, thousands of our fellow Americans in the Midwest are underwater, victims of the worst flooding in our history. This is a terrible disaster. But as has been the case before in our history. Americans have faced this crisis by rolling up their sleeves and going to work to fight the forces of nature and rebuild their lives, homes and family farms.

But our country is facing an even more devastating disaster than this, even as we speak. There is a vast tide of red ink that threatens to swamp our economy, crush our future greatness and rob from our children and grandchildren the ability to pay for the simple basic operations and services that they will need in the future.

Many in this Chamber will vote "no." Let no one mistake that this is a phenomenon. At least four times either Mr. Reagan's budget or Mr. Bush's budget were put on this floor, their economic programs untouched, and on this side of the aisle, in the 102d Congress, 46 percent of his own party voted no on the President's economic plan. In the 100th Congress, Mr. Speaker, 85 percent of his own party voted no on the President's program. And in the 99th Congress 99 percent of President Reagan's own party voted no on his economic plan. So, voting no on economic plans is no secret.

Mr. Speaker, it will take courage to vote yes to solve tough problems with tough solutions. The crisis is clear, and the American people want action. They do not want to hear more talk about the problem and platitudes of "its just that simple" about solving it. They do not need more flow charts and graphs. They want to roll up their sleeves and get to work.

This plan accomplishes true deficit reduction by cutting every area of the budget: Discretionary spending is frozen for 5 years. Entitlement programs and administrative costs of running the Government are cut back by over $88 billion. And pay-as-you-go will force entitlement and tax changes to be offset rather than add to the deficit.

But we cannot merely bail our way out of the deficit mess that America has run up in the past 12 years with cuts alone. Everybody knows that. Part of that mess was created by the largest tax breaks, not for average Americans, but for the wealthiest of America. They continue to defend the rich just as George Bush vetoed a millionaire tax and a middle-class tax 2 years ago.

Well, trickled on was just what happened to the middle class, who saw their families swallowed up by rising taxes, bailing and working harder and faster only to see the debt rise higher and higher.

This package restores tax fairness by having the wealthiest share their fair burden in this effort.

President Clinton has shown courage. This plan invests in our people by leading people off welfare and into the work force. Let us support this plan for America, our children and our grandchildren.

Mr. KASICH. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. STEARNS].

Mr. STEARNS. Mr. Speaker, I rise in opposition to this budget agreement.

Mr. Speaker, this is not a deficit reduction bill. It has a lot of smoke and mirrors.

But it is very simple to break through the fog. These supposed savings are not real. I repeat, these savings are not real. First, after reviewing some of the provisions in this bill, the public will find that double claims are being made with respect to the alleged savings here. If you look carefully, you will see that approximately $44 billion in so-called savings were already saved under the 1990 budget agreement, $44 billion. This is not my opinion but from the nonpartisan watch dog group called Committee for a Responsible Federal Budget.

This group took a look at the auctioning of radio frequency. During the Energy and Commerce markup of this provision, we were told that this would raise $7.2 billion in revenue. Now all of a sudden, we have a projection of $10 billion in revenues. This is especially hard to buy since the $7.2 billion figure was widely accepted by both sides of the aisle. But that's not really that much after all now is it to quibble over. All right.

Let us take a look at the projected revenues we're going to be taking in under these tax hikes. It appears that the President and Democrats have overestimated how much revenue they can take in as a result of these taxes on the so-called wealthy Americans. I don't know what formulas they are using to tally up the revenue but it does not take into account or factor in human behavior. Once the American people realize that they are going to be taxed to the hilt, once again, they will seek legitimate shelters and report less to the Internal Revenue Service. The Institute for Research on

But wait, here's the real smoke and mirrors in this package. And the grand illusion I refer to is the use of baseline budgeting. Through this faulty accounting method, the President and the Democrats are able to create deficit reduction while actually increasing the Federal spending.

The Congressional Budget Office [CBO] has projected that Federal spending will increase by hundreds of billions of dollars over the next 5 years. Furthermore, a trillion dollars will be added to the national debt. The deficit in 1998 will only be reduced by about $90 billion than it currently is now. Mr. Speaker, that's not much reduction to achieve or show after all these massive tax hikes and so-called spending cuts. By allowing Congress to measure savings against projected future spending as opposed to last year's spending, the President is technically able to claim deficit reduction. But if you really really really want to get true deficit reduction, I respectfully suggest that the Congress and the President should look at this year's spending compared to last year's spending and Mr. Speaker, this bill does not do that. Why? Because baseline budgeting makes spending increases automatic.

For example, Medicare is cut by $55.8 billion in this package. All this means is that its costs will rise less rapidly because baseline budgeting allowed for an increase of 14 percent a year. They were very deceptive about this. The advocates of this budget have purposely overestimated the future costs of programs,and in doing so, the cuts they claim are only paper savings. They are not real, but the taxes are real. Mr. Speaker, the proponents have been distorting the facts and the size of these savings to the American people. We've seen a lot of pie charts about how the taxes are going to hit the American people. Let's see some real genuine cuts here. Where are the charts and line-by-line explanations of these cuts?

This bill is not a deficit reduction package. Therefore, it deserves a "no" vote.

Mr. KASICH. Mr. Speaker, I yield 1 minute to the gentleman from Ohio [Mr. HOBSON], a very distinguished member of the Committee on Appropriations.

Mr. HOBSON. Mr. Speaker, Americans know a bad budget when they see one. They have seen the President's budget, and an overwhelming majority of Americans—about 90 percent—oppose it. People back home have serious problems with this bill, and for good reason.

The President's budget is a flawed budget. Given the magnitude of government waste, it is a disgrace to go back to Americans and demand more taxes, moreover, to demand more taxes from a time predating this administration.

Retroactive taxes are irresponsible and inflationary, and they will only serve to slow our recovering economy.

This budget seeks to reduce the deficit with about a 50/50 mix of taxes and spending cuts. Or should I say imaginary spending cuts. The President wants to reduce the deficit with cuts in the future, 4 or 5 years from now. But if a majority of Members in Congress refuse to accept cuts now, what makes the President think they will be willing to do so 5 years from now?

The majority has excluded Republicans during the budget process. As a member of the House Budget Committee, I know that Republicans worked very hard to be included. We offered over 30 amendments to the President's tax bill, many of which were praised by Democrats, but none of which were accepted.

During that time absolutely no effort was made by the majority to secure Republican support or to incorporate our suggestions which would have made this bill acceptable. Because Democrats cannot deny that they shut us out, their only defense is to portray out opposition as gridlock.

I strongly support deficit reduction, and so does every member here who opposes this bill. But the responsibility of Congress is to remain responsive to the American people, and today on this vote, the majority in Congress has forgotten who they represent.

If we do not have a clear majority today to pass this bill, that's not a failure on the part of Congress or the President. It is an opportunity to reconsider this issue and work to develop a truly bipartisan bill that responds to what American people want—to cut spending first.

Mr. KASICH. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Ohio [Mr. HOKE], a distinguished member of the Committee on the Budget.

Mr. HOKE. Mr. Speaker, this vote is on the budget. Budgets are about numbers. We have all heard more numbers today than we care to remember. But I am going to share with my colleagues the very most important numbers that there are in this budget, and these are the ones for anyone who takes seriously the meaning of the title: "Representative."

The day after the State of the Union Address calls into my office were three to one against the President's program. The day after the Budget Act and during the debate of the Budget Act, early April, it was four to one against the President's program. Budget reconciliation, late May, five to one against the reconciliation program. Conference report, the last 3 days, over a thousand phone calls, seven to one against.

The President seems to think that if he could just communicate this clearly, people would understand it. If he could just get inside their living rooms, sit down with them, have a cup of coffee, make them understand, they would buy into this.

Then he got a better communicator. He communicated it brilliantly.

The fact is, Mr. Speaker, the more they understand, the less they like.

Mr. KASICH. Mr. Speaker, I yield 1 minute to the gentlewoman from the State of Maine [Ms. SNOWE], a member of the Committee on the Budget.

Ms. SNOWE. "This package is better than doing nothing"

Mr. Speaker, I have heard this time and time again from the other side of the aisle as they defend this tax package. Mr. Speaker, I say we can and must set a higher standard than, "better than nothing". Don't we owe that to the American people?

I say we can do better than retroactive income taxes, retroactive estate taxes, and retroactive corporate taxes. I say we can do better in 1994 than $29.5 billion in tax increases as opposed to little or no spending cuts. I say we can do better than adding $1.5 trillion to the deficit as opposed to a mere $119 billion in spending cuts over 5 years. And we can do better than burden the American people with another gas tax hike.

Don't we have within us the leadership and ability to say "enough is enough", and to work together to craft proposals which reach across partisan lines and provide the best proposal for all Americans? Wasn't that the message Americans gave us last year?

Yes, Republicans do have legitimate objections to this package. But the fact is, we also had legitimate alternatives, alternatives that were offered right here in the well of the House.

As a member of the Budget Committee I know we provided specific alternatives. We reasoned. We offered over 30 amendments to this bill. We crafted two detailed budget alternatives in which we achieved $450 billion in deficit reductions over 5 years through real spending cuts. We imposed no new taxes on the middle class in the form of the gas tax. We did not increase the tax on Social Security benefits. We placed caps on additional spending and cut current spending by $333 billion more than this plan. This alternative is more in line with what the American people wanted. We offered these plans once before; we'll offer them again. We continually offered to meet with the leadership to get this country and this process back on track.

But the issue here today is this: are we willing to work together? Are we willing to meet half-way to make the tough decisions? Are we willing to put aside partisan difference, and show the courage and leadership we were elected here to practice?

I challenge all of you across the aisle to meet with us, look at our proposals, and let us finally cooperate to set a higher standard than just better than nothing. We cannot afford the alternative.

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Mr. KASICH. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. COX].

Mr. COX. Mr. Speaker, "For working families making less than $180,000 a year there will be no income tax increase." Thus spoke Bill Clinton Tuesday night in the most disingenuous speech of his recent career.

In truth, Clinton's income tax increases will kick in for some families earning as little as $35,000 a year. For example: The Clinton budget now poised for final passage in Congress includes a 70-percent income tax increase on the Social Security benefits of low-income senior citizens. If the Clinton plan becomes law, working Social Security recipients over 70 years old who earn $35,000—or as little as $22,000 of joint income per spouse—will pay 70 percent more in new taxes on the Social Security portion of their income.

On the House floor, I sought to eliminate the Clinton income tax increases on low-income seniors. My effort was rejected in a straight part-line vote.

In an even more obvious way, President Clinton flat-out fibbed when he asserted that "for working families making less than $180,000 a year there will be no income tax increase." The Clinton tax bill increases the top rate from 31 to 36 percent for a family making $115,000—not $180,000. And for families in which both spouses work, their taxes increase by 16 percent even if neither makes more than $70,000.

Here's another example: Clinton's income tax increases will fall on persons in any tax bracket who have to move to a new job. Currently, moving expenses are legitimate business costs. Clinton eliminates the tax deductibility for away-from-home meals, temporary living expenses, rent, and other real estate costs. For a low-wage worker who makes, say, $25,000 a year, that can mean a huge income tax increase.

Clinton's 5-year tax plan also imposes a seriously unfair marriage penalty tax. As a result of the Clinton income tax hikes, middle-income mothers and fathers who are married to each other will be forced to pay dramatically higher income taxes than if they were not married. For Mary and David, both schoolteachers in San Diego who earn $40,000, their tax bill as a married couple will be $1,285 higher than if they live together.

Like all class-warfare economic schemes, the Clinton tax bill aims for the rich and leaves the working poor reeling. Raising taxes on club members by eliminating the deduction for dues is a populist political gimmick worthy of James Carville at the height of his powers. But for every Bel Air or Riviera club member it aims to punish, it hurts scores of regular folks.

How so? Volunteers in Kiwanis, Rotary, Lions, and other service clubs who make as little as $20,000 per year will also have their income taxes raised by this particular provision. Sadly, creating new disincentives for charity and voluntary community service seems to be what Clinton has in mind when he preaches that all Americans must share some pain.

When DICK GEPHARDT and Dick Darman got together in the 1990 budget deal to impose a populist luxury tax on boats, the boat industry left our shores. Did millionaires suffer pain when they flew to Europe or Asia to buy their new yachts? Of course not. But boatyard workers from Maine to California now suffer the pain of unemployment as a direct result of this tax.

By the same token, DICK GEPHARDT and Leon Panetta's new populist tax hikes on business meals won't cause any hardship for tycoons. Instead, laid-off minimum wage workers—cooks, dishwashers, waiter—will pay a 100 percent tax when they lose their jobs.

The Clinton tax bill includes some 25 new tax increases, most of which affect ordinary people who make far less than $180,000 per year. None of these tax hikes curbs Government's spending habits, the real cause of deficits. None of these aids economic growth. None of the Clinton tax hikes gives any new incentive to lift the aspirations of Americans who want to work and enjoy the fruits of their imagination and labor.

Instead, Clinton's tax increases on people with incomes far less than $180,000 will punish senior citizens and cost millions of ordinary working Americans the opportunities of jobs, promotions, and added family income. He didn't tell us that Tuesday night—perhaps because like his tax plan, the truth hurts.

Mr. SABO. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan [Mr. BONIOR].

Mr. BONIOR. Mr. Speaker, we are approaching the closing moments of a long and wrenching national debate.

This vote is about just one thing—do we have the courage to stand up and take control of our economic future and to get our Nation's house in order?

We will summon that courage here tonight. I know this isn't an easy decision.

We in public life are often asked to do difficult things. And this is one of those difficult times.

There's no easy way to make record reductions in a $4 trillion debt, to cut $250 billion in spending, to create jobs, and to ensure that the wealthy pay their fair share.

The last two Presidents have just passed the buck, passed the buck to the next generation.

Too many times in the past 12 years, we have taken the easy way out, done the popular thing, done what is most comfortable.

We are here today because our children can't cast a vote to cut the deficit, because working people themselves can't cut Federal spending, and all the good intentions in the world can't move people from welfare to work.

Only we can vote to do that.

This is the first plan in 12 years that uses real numbers to achieve real results.

It's a fair plan, it's responsible, and it deserves a chance to work.

We know the bold details of this plan: A record $496 billion deficit cut that will create jobs; over 200 specific spending cuts; 80 percent of the new taxes paid by the wealthiest 1 percent; and 90 percent of small businesses eligible for tax reduction, to name a few.

But we have to remember that there are faces behind these numbers and stories behind these statistics. Real lives of real people.

Deficit reduction will create jobs that will move autoworkers from the unemployment lines to the assembly lines.

Low interest rates will put an extra $175 a month in the pockets of working families able to refinance their homes.

The earned income tax credit will give millions of working parents dignity and respect.

And small businesses will use tax credits to buy new plants and equipment that will make them more competitive.

That's what this plan will do. That's what it will do for America. That's what it will do for working people.

It's what we are fighting for tonight against all the cynicism, distortions, and outright falsehoods.

We had all hoped, Mr. Speaker, that this could be a bipartisan cause. America's future is not a partisan issue.

But instead of making the President a partner, Republicans have tried to use him as a punching bag.

And listening to their rhetoric today, I think it's clear that the Republicans must have left their spending cuts in the same drawer as those lists Ross Perot always forgets to bring.

Let's tell it like it is: They don't have an alternative. We know it, they know it, and the American people know it.

And now the choice has come down to our plan or no plan.

The American people want change, they voted for change, and it's time we get on with that change.

That is what we were sent here to do. And if Democrats have to carry the weight alone—like we did on unemployment benefits, like we did on family and medical leave, like we did on national service—then we don't shrink from the challenge, we welcome it.

We are going to be proud of this bill. When America's economy is standing tall again, historians will look back to this day and this vote, and say, "that is where it started. That is where it turned around. That is where America's renewal began."

So say "no" to gridlock. Say "no" to the status quo. Don't pass the buck—pass the plan.

Mr. KASICH. Mr. Speaker, I yield 1½ minutes to the gentleman from South Carolina [Mr. INGLIS], a member of the Committee on the Budget.

Mr. INGLIS of South Carolina. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I come back to the floor today to update some numbers. Following some of my earlier freshman mentions of representative democracy and how that should work, let me tell you this: Earlier today I reported there were 247 calls against the President's plan in my office and 17 for. I have got new numbers: It is 534 against, 43 for.

That is what the people of the Fourth District of South Carolina think. Let me tell you why I think they think that. They are worried about two things:

First, they are worried that this is a repeat of the 1990 budget deal, where they saw taxes, but no spending cuts. The second thing is, and I hope all my colleagues can hear this, they are worried about their jobs.

They are worried that this tax package will mean that they will lose their jobs. That is a legitimate fear that they have, and probably the worst fear that they face.

Mr. Speaker, we must defeat this plan and go back to the drawing board and get a plan that starts with cuts in year one, not in 1997 and 1998.

Mr. Speaker, I yield back the balance of my time.

The CHAIRMAN. The gentleman yields back 15 seconds.

Mrs. MALONEY. Mr. Speaker, I rise this evening in support of H.R. 2264, the Omnibus Budget Reconciliation Act.

I am proud to be a part of passing a historic deficit reduction plan tonight. This plan is significantly better than the reconciliation bill that I voted against last May.

This Nation is in an economic crisis. President Clinton didn't get us into this mess, but he's trying to get us out. The negotiations are over. It's time for all Americans to rally behind our President, and ask what we can do for our country.

When I voted against the House bill in May, I intended my vote to be constructive, not divisive. I knew we could do better. And my constituents didn't elect me to settle for less. I offered several suggestions on how to improve the package. Many of those suggestions have been adopted, which I consider a major victory.

Tonight's plan basically equalizes the ratio of spending cuts and revenue increases. It is much fairer to senior citizens, who will pay less in taxes on their Social Security benefits than under the House or even the Senate package.

The Btu tax, which would have hit seniors and the middle class hard, is dead. A modest gas tax will replace it, which is much better for New York City and less expensive for all Americans. It will cost the average New Yorker only a nickel a day more than what they are now paying in taxes. That's a contribution that most Americans will be happy to make to reduce the deficit.

This improved package still cuts the deficit nearly $500 billion. But the package also contains important, progressive initiatives. Expanding the earned income tax credit will reward work over welfare and help bring poor working families out of poverty. Family Preservation Act funding will help reverse the disintegration of the American family. The bill will also create jobs through generous tax incentives for investment in small business. These programs restore the old-fashioned American values of free enterprise and personal responsibility.

This bill represents progress, not perfection. I was deeply disappointed that new income taxes will be retroactive to January 1993. The Senate package called for a July 1993 start date. Together with several of my colleagues, I intend to explore legislation that would prohibit future retroactive tax bills, which I think are terribly unfair.

The President initiated two important programs yesterday through Executive orders. I strongly support the creation of a deficit reduction trust fund that guarantees that our spending cuts and revenue increases go to reduce the deficit, not for more pork. I also support the entitlement review program which begins to put the brakes on the spiraling cost of entitlements, which already constitute two-thirds of our annual budget.

Last, while I continue to oppose retroactive taxes, President Clinton took an important step by allowing our taxpayers to have 3 years, without penalty, to pay for these retroactive increases.

This is not a perfect package, but it's an honest one. It is the first genuine, viable attempt to slash the massive debt created by 12 years of fiscal irresponsibility in the White House and in Congress. And this time, the numbers are provided by the nonpartisan Congressional Budget Office. So they are based in reality, not politics.

The voters demanded last fall that we break the gridlock and bring change. It's easy to be against everything. It is more difficult to be for something. And I am for this revised plan.

I urge my colleagues to pass this historic deficit reduction program.

Mr. BARCIA of Michigan. Mr. Speaker, today I cast perhaps the most necessary, and certainly one of the most difficult votes in my time of public service. Voting in support of this reconciliation bill is not something that I take lightly. I have talked extensively with many of my constituents. I have called upon friends and family for their views. I have received so much conflicting reaction that I know that no matter how I vote, there will be some people who will be upset, and they will be upset for some time, not just for the moment.

But, Mr. Speaker, I see no real alternative to what we have before us today. We need spending cuts. We need responsible and fair tax programs. We need to keep our economy moving. We need to make priority choices, even if that means that some of our favorite programs are losers.

I have spent a great deal of time reviewing the impact of this bill on my constituents. So many people are concerned that they will be harshly hit with additional taxes. This just is not true. In fact, according to census data, 29,987 families within my district will actually receive a tax cut due to the earned income tax credit provisions in this conference report. Only 1,022 families in my district will pay higher income taxes, and these are families where total income exceeds $180,000 per year. The overwhelming majority of people in my district—more than 200,000 families—will see no change in income taxes. I know that many senior citizens are concerned about the increase in the taxable portion of Social Security benefits, and I wish this provision had not been included in the conference report. But again 90 percent of all Social Security recipients will see no change in the taxes on their benefits since this provision applies only to individuals whose total income exceeds $34,000 and couples whose income exceeds $44,000.

Farmers and small businessmen have told me that they need to continue the deductibility of portion of their health insurance premiums. This conference agreement does that. The agreement also increases the expensing of new equipment from $10,000 to $17,500 something many small businessmen have wanted.

My district has over 600 miles of shoreline. Boating is a major activity. A number of boat dealers have told me that the luxury tax on boats has hurt sales and forced layoffs of people. They have worked to repeal this provision for the last 2 years. The agreement gives them the repeal they want.

And another provision in this agreement will allow Saginaw Community Hospital to continue as a Medicaid eligible facility. Without this provision, many people would have to change their health care provider, and it would cost the Government even more because the expense at Saginaw Community Hospital is below the averages for care of its kind.

People tell me that they want the Federal Government to straighten out its budget mess, and to make some real cuts in spending. This bill cuts 200 programs. It freezes domestic discretionary spending for 5 years.

Some people do not want any tax increases, or they do not want tax increases that apply to them. Some people are willing to pay more in taxes, but they want guarantees that the tax increases will be used for deficit reduction. The President has taken action that has never been taken before—he has signed an Executive order mandating that any additional taxes that are collected are set aside for budget deficit reduction and absolutely nothing else.

As I said when I voted in support of the House version of the reconciliation bill, it would be very easy to vote "no." I could wash my hands of the matter and say "its not my problem—don't blame me." The same holds true of today's vote. But such a vote would be irresponsible.

People around this Nation and in my congressional district voted for change in the last election. I don't believe they merely voted to change the names of those people in this Chamber. They voted to change the conduct of this Chamber. Sooner or later we need to take decisive action to correct the Federal budget situation, and I look upon today as the benchmark in that effort.

I say benchmark because today's action alone will not solve our budgetary problems. We need to move toward a balanced budget. I have cosponsored a constitutional amendment calling for a balanced Federal budget. Many States, including my State of Michigan, have such a requirement and I believe that we need to impose the same discipline on the Federal level. But, Mr. Speaker, how can any of us who support a balanced budget amendment oppose a measure that moves us in that direction? Saying one wants a balanced budget and then voting against programs to move in that direction is, in my view, hypocritical.

Most people, I believe, do not understand that even if we eliminated every last penny of discretionary domestic spending, we would still have a

And if we eliminated this spending, we would certainly have many adverse consequences in the communities where this spending occurs. I urge my colleagues to think of the anguish that they are facing as they try to deal with the economic ramifications of closing military bases in their districts. I know first hand of this problem because of the community concern I encounter in Oscoda, MI, where we are experiencing the effects of closing Wurtsmith Air Force Base. The first question that people ask me is "what will the Government do to help us?" If we do nothing but cut spending, then the answer to that question is "nothing".

So we have to deal with taxes. The bill before us raises corporate income taxes by 1 percent on those companies with taxable income of over $10 million per year. Only 4 percent of business owners will pay higher income taxes, with this plan having been endorsed by over 80 top CEOs of major companies and a number of business associations. It raises taxes on those individuals with incomes of more than $115,000 and couples with incomes of over $140,000. Only the top 1.2 percent of all taxpayers will see an increase in income taxes. It increases the portion of Social Security benefits that are subject to income tax for those individuals who earn more than $34,000 and couples who earn more than $44,000 per year when Social Security benefits are included. This increase in Social Security benefits subject to income tax is one of those provisions that I would certainly oppose if there was a separate vote available, but there is not. It does raise gasoline taxes by 4.3 cents per gallon, and I know that nobody wants to pay more taxes.

But if people want services from their government, then they have to be willing to pay the bills. We must achieve a balance between the demands people place on their government and the revenues that the government receives.

Moving towards this balance, Mr. Speaker, is why I say today that if we are to restore credibility to the budget process, we must make some commitments today to a long-term plan. I believe that if we are going to tell the American people that we are serious about deficit reduction that today we also need to say "no" to new programs unless new programs are revenue neutral. Some would like to say vote no on every new program, but that is not responsible. Some new programs are needed. They will help improve the economy by offering incentives for new jobs in new industries. They will help to improve the training and retraining we provide to our workers. The best way to raise revenue is to have the government share in the increase of wealth that our entire Nation experiences through growth.

But other new programs will have to wait. I cannot support programs that will add additional taxes beyond those we are talking about today. I cannot support increases in many existing programs if those increases are not among the most essential things for our Nation. I cannot support increases in some programs unless they are offset by reductions in others. This will mean that I will be voting at times against programs that some of my constituents support. I have already done that this year, and I have taken the heat for it. I know it will get much hotter, but if we are serious about our budget situation, if we are serious about change, if we are serious about seeing some of the most important portions of the President's agenda moving forward, then we have to be willing to take the heat for making responsible decisions, even if they are unpopular.

Some will say that I am changing a longtime policy of voting against taxes with my vote today. The situation is worse than had been expected last year, so while today's vote is not one that I like, I can see no realistic alternative if we to both begin to achieve a balanced budget and meet the demands that people put on their government. I have a longer policy of doing what needs to be done and I will ask people to withhold judgment until they see the totality of my actions as I have described them here today. We need spending cuts. We need responsible and fair tax programs. We need to keep our economy moving. We need to make priority choices, even if that means that some of our favorite programs are losers. That is the policy to which I commit today. That is why I am voting "yes" on budget reconciliation.

Mr. BORSKI. Mr. Speaker, I rise in strong support of the conference report on H.R. 2264, the Omnibus Budget Reconciliation Act of 1993. This plan will reduce the deficit, reinvigorate our economy, create jobs and restore fairness to our tax system.

For the 11 years that I have been a Member of this body, I have been frustrated by the previous administrations' policies of tax cuts for the wealthy, increased taxes on middle and lower incomes and decreased public investment. These policies have left a legacy of staggering Federal deficits, a national debt of over $4 trillion, a huge growth in the disparities of wealth and an economy struggling to recover from recession. Obviously, Mr. Speaker, these policies have failed this country miserably. It is time to change the course.

Fortunately, Mr. Speaker, today, we have a President with the courage and vision to turn these policies around. For the first time in my career, we have a credible deficit reduction plan that asks those who benefited most from the past policies to pay their fair share, protects middle and lower income people and provides incentives for small businesses and investment that will help grow this economy and create over 8 million jobs over the next 5 years.

H.R. 2264 will cut the deficit by nearly $500 billion over the next 5 years. More than half of this deficit reduction is achieved through real and specific spending cuts, including cuts in agricultural programs, administrative costs and entitlements.

While I would definitely not like to raise taxes at all, I have looked at all other alternatives and there is absolutely no other way to get the deficit under control. This plan does raise taxes; however, it does so in a way that is fair and equitable. The overwhelming majority of taxes fall on those who benefited most from the tax breaks of the 1980's. Eighty percent of the taxes fall on those making over $200,000 a year. Families making under $140,000 a year will not pay one penny more in income taxes. The only tax that will affect middle income Americans is a modest 4.3 cent gas tax. I believe that the gas tax, which will cost most Americans only $3.00 a month, is a small price to pay for ensuring our future economic growth and vitality.

Through the expansion of the earned income tax credit, families making under $25,000 will actually receive a tax break. In addition, this strong antiwelfare measure will give low income people incentives to work and pull themselves out of poverty.

H.R. 2264 provides incentives and investment to get this economy growing. The financial markets, recognizing the credibility of this deficit reduction plan, have already responded favorably and interest rates have dropped. Because of lower interest payments, businesses and individuals now have more money to save and invest for their future. In addition, under this plan, 90 percent of small businesses will be eligible for tax credits for their investments. Helping businesses grow will create millions of jobs for Americans.

The bill also invests in children through Head Start and childhood immunization and expands worker training and education so that American workers have the skills they need to get high-skill, high-wage jobs.

Opponents of this plan claim that there are too many tax increases and not enough spending cuts. However, their alternatives would replace the tax increases on upper income Americans with deep cuts in Social Security, Medicare and other entitlements. Their proposals place an unfair burden on the backs of seniors and working people.

I have heard from many constituents who were concerned that middle income seniors would be hurt by the increased tax on Social Security benefits. While I would prefer that this plan included no tax increase on Social Security recipients, let me emphasize that anyone whose adjusted gross income is less than $34,000 for individuals or $44,000 for couples will not pay any new taxes on their Social Security.

Mr. Speaker, we must pass this plan now. This is the only deficit reduction package before us. The alternative is to do nothing, which would allow deficits to grow unchecked and continue to impede our economic growth and recovery. We cannot allow the failed policies of the past to continue destroying our future. It is time to turn these policies around and get this country on the right track.

Ms. FURSE. Mr. Speaker, I am really tired of hearing vague charges against this bill—mostly from those who oversaw the largest deficit in history.

I feel the people of Oregon should know exactly what to expect from the plan, and these are the facts:

According to Office of Economic Policy, Oregon will gain 63,364 over the next 3 years under the Clinton plan. This is 75 percent more jobs than were created over the last 3 years.

This bill includes over $205 million in business tax breaks for Oregon alone.

The expansion of the earned-income tax credit will give 24,000 working families in the First District of Oregon an additional $40 million in buying power.

The expansion of the earned-income tax credit will give 145,000 Oregon families—nearly 20 percent of all Oregon families—an additional $240 million in buying power.

The plan includes $230 million in worker training to help supplement any funds in the forest plan for dislocated workers.

The plan also includes money to assist localities in Oregon who are trying to deal with Clean Water Act requirements.

Mr. Speaker, the fear of every American is not that their taxes will go up. The fear of every American is that this plan will not work and the deficit will grow until it absorbs all of our future wealth. Americans are not afraid to do the difficult thing, they are afraid we will do nothing.

My district in Oregon is a beautiful place, Mr. Speaker. We have families who have fished for years, urban professionals, high technology workers, virtually every type of American you could imagine. I pledge to my constituents today my tireless efforts to make this plan work and actually reduce the deficit. I also pledge to work to continue to reduce Federal spending—this plan is just the beginning.

But from Cannon Beach to Washington County, from Astoria to downtown Portland, everyone agrees that the deficit needs to be cut. And we have to start somewhere. The 5-year deficit reduction plan before us today makes a real, genuine effort to address our budget deficit, while also providing a number of important incentives for our community in Oregon.

I urge my colleagues to support the conference report on H.R. 2264, the Omnibus Budget Reconciliation Act.

Mrs. CLAYTON. Mr. Speaker, I rise to express my support for this budget reconciliation conference report.

This conference report represents a movement away from the borrow and spend politics of the past decade to a more responsible way of decreasing the Nation's debt. This is a balanced approach between spending cuts and raising revenues through a fair and progressive tax plan.

This budget we are voting on today reverses the decade of trickle-down economics. This legislation includes $241 billion in tax increases and $255 billion in spending cuts. Eighty percent of the tax burden falls on those who make more than $200,000 a year. Only the top 1 percent of all taxpayers will experience an increase in their income taxes. In the First District of North Carolina, less than one-half of 1 percent of families earned more than $180,000. Most of my constituents will be required to pay a gas tax of approximately $32 a year which will be committed totally to deficit reduction.

There are substantial spending cuts—more than 300 cuts were made and all domestic budgets are frozen at 1992 levels for the next 5 years. All of us will make some sacrifice: $3 billion will be cut from farmer programs over the next 5 years; cost of living adjustments for Federal and military retirees will be delayed; Medicare will be reduced by $55.8 billion; and the Guaranteed Student Loan Program will be partially phased into a direct loan program. Many of the programs we liked that have proven to be effective were also cut.

However, this legislation speaks to the social deficit as well as financial deficit. Low- and moderate-income working families will receive a tax cut due to the expansion of the Earned Income Tax Credit Program. A family of four with full-time minimum wage earnings, less than $26,750, will receive a tax credit that will surpass what they have paid in gas taxes. The EITC will lift many families to the poverty line. Last year in North Carolina, over 485,000 working families received this credit, totaling $414 million. In the First District of North Carolina, where the average income for a family of three is $8,900, this credit will be significant to improving the economic quality of life for many families.

This budget reconciliation bill will substantially reduce the financial deficit and will not do so by overburdening the middle class or the disadvantaged. This bill is fair. It is balanced and progressive. While we do not look forward to the sacrifices we are asked to make, we must recognize that we need to make these hard choices now in order to get this country back on its feet.

Mr. TAYLOR of North Carolina. Mr. Speaker, I rise in opposition to the Clinton tax and spend budget plan.

We have before us a choice. We can stand up for the American people and reject the policies of tax and spend or we can drive this country back into recession by passing this bill.

We must reject yet another tax on the middle class. We must refuse the attempt to try to balance the Federal budget on the backs of the elderly. And we must repudiate another tax on small businesses, which has had the additional burden of unfunded mandates and Federal regulations thrust upon them year after year. How can we expect small business, the backbone of job creation in this country, to create jobs if money is being taken from them just because they are successful?

Mr. Speaker, this is a bad bill. In the first year, it increases taxes by $10 for every $1 it cuts in spending. In the second year, it increases taxes by $3 for every $1 it cuts in spending. It increases taxes on the middle class and poor by $33 billion in the form of a new gas tax. It increases taxes on the elderly by some $25 billion. And it increases taxes on our small businesses.

In my district alone, this tax bill will cost 10,128 senior citizens over the age of 65 8.3 million additional tax dollars. We cannot and should not balance the budget on the backs of the elderly of this country. It will cost the poor and the middle class an additional $21 million in increased gas taxes. If you include the current surtax on the elderly, this is a total of $40 million taken out of western North Carolina's economy. And this doesn't include what this bill will do to our small businesses.

We have a President who has twisted and broken the arms of our colleagues in the other body trying to pass this bill. But when we in the Appropriations Committee were trying to cut spending in the Appropriations Committee, we couldn't get him to pull a pinky. Our constituents have spoken: cut spending first, reject higher taxes and spending. Vote against this bill.

Mr. BONILLA. Mr. Speaker, I rise today in strong opposition to the President's tax package and in defense of the working men and women of Texas, especially the people of the 23d District.

President Clinton took to the airwaves Tuesday to try and sell his tax plan to the American people. Since then, my office has been flooded with calls strongly opposing this job killing plan. People are tired of the same old tax and spend talk here in Washington. Cut spending first is what they want. No more taxes. No more class warfare rhetoric. And, most of all, no more antibusiness policies. Americans are drowning in over taxation and overregulation. The policies in this package do nothing to alleviation the pressures felt by Americans today. This tax plan only exacerbates the current situation. It will not lead us to the promised land as some would have you believe.

The retroactive income tax increases will hurt the small business people who are our Nation's leaders in job creation. The regressive gas tax will continue to hurt those low-income families who do not lose their jobs because of the high business taxes. And the retroactive increases in Social Security taxes will hurt those elderly people whose only crime was to have saved enough for retirement.

Mr. Speaker, you will soon receive a letter that I have signed with a bipartisan group requesting that we set aside 10 working days to consider spending cuts—not tax increases. Therefore, I urge my colleagues to vote down this job reduction plan. America will be better off for this. I urge my colleagues to put partisan politics aside and work toward a substitute budget which avoids taxes and only cuts spending. This should not be about saving the President. It should be about saving Americans. So let's cut spending first and quit taxing Americans.

Mr. STENHOLM. Mr. Speaker, it is with genuine remorse that I rise today to oppose H.R. 2264. I am remorseful for numerous reasons, first because of my heartfelt respect for my Budget Committee chairman, MARTY SABO, and the tremendous job he has done in shepherding this unwieldy bill through its lengthy process in a very fair way. I say this not in the obligatory way in which one might pay homage to his chairman, but with genuine respect and affection.

Second, I am remorseful because there are good things which have come out of this process, most notably the Executive order and House rules change dealing with entitlement spending discipline. While this particular issue was not resolved in the way I would have preferred, we have, nonetheless, moved the peg forward in a meaningful way.

Third, I feel remorse because, quite frankly, I hate to be associated with some folks voting "No" today who simply want to see nothing positive happen for the next 4 years. Unlike some of those people, I do want to see our President succeed and, furthermore, I want to be part of giving the American people the end of gridlock that they want.

Finally, and most importantly, however, I feel saddened because I feel we have squandered a unique opportunity for genuine deficit reduction which puts much more emphasis on reducing spending than on raising taxes but acknowledges the need for both, an opportunity for boosting our country's economy, and an opportunity for all sectors of our society to contribute to the economic well-being of our children and grandchildren.

In the 6 months since President Clinton released his budget proposals, I dedicated myself to working with the administration and my colleagues in Congress to develop a serious deficit reduction package that could win the support of Members across the ideological spectrum and, more importantly, citizens across America. My conservative Democratic colleagues and I attempted to make constructive contributions to the package as it worked its way through each step of the congressional budget process. During House consideration, many of us voted to keep the bill moving precisely because of our hopes that the positive elements within the package could be enhanced. At that time, however, many of us also made it clear that the package needed to be substantially improved to gain our support of a conference report.

In discussions with the President and the House leadership, conservative and moderate Democrats outlined three basic goals that a reconciliation conference report must address to gain our support: First, including a meaningful agreement on entitlement spending discipline; second, eliminating the gas tax included in the Senate version of the reconciliation bill and replacing it with spending cuts; and third, improving the ratio of spending cuts to tax increases from the Senate version. Driven by concern about deficit reduction and the relationship of spending to taxes, we have done more than simply criticize; we have suggested numerous proposals for spending cuts that have widespread support and that could be added to the package. If today's package should happen not to pass, we stand ready to begin fighting immediately for those alternative proposals.

I am extremely disappointed that our efforts to garner bipartisan cooperation on the House-passed entitlement spending discipline were entirely thwarted by Senate Republicans, leaving Byrd rule procedural problems unsurmountable. We applaud the President for responding by signing an Executive order and our House leadership for approving a change in the House rules, both of which use the language of the House-passed entitlement discipline provision. It is clear that these changes will accomplish only a small portion of our original intent. Although the entitlement discipline included in the Executive order and changes in House rules will be very similar to the statutory language in the House-passed reconciliation bill, it is not possible for an Executive order combined with House rules changes to be as strong as the entitlement discipline passed by the House. Still, the Executive order represents a significant step forward in controlling entitlement spending by taking entitlement spending off of automatic pilot and placing accountability on Congress and the President regarding entitlement spending. Nonetheless, it is a step backward from the House-passed statutory language, which already had represented a significant compromise from our original position.

The inability to enact entitlement discipline as strong as the House-passed reconciliation bill makes the fact that the other two goals have been completely unmet even more troubling. The agreement fails to address the concerns expressed by a large number of Democrats about the Senate-passed gas tax and the desire for deeper spending cuts. We believe that it is unwise for substantive as well as political reasons for us to raise taxes on middle-class working men and women in order to pay for increased spending as this conference report does. Rather, any new spending initiatives should be paid for by other spending cuts.

Finally, I am disappointed by last minute changes in this agreement which produce savings which are hard to decipher at best and impossible to substantiate at worst. I have taken pride in the fact that based on realist projections and credible assumptions, this year's budget has been the most honest effort that I have seen in my entire congressional career. I am not certain that I can continue to make that claim about this package and I find that very regrettable.

I regret that I cannot support this agreement, which loses ground from the reconciliation bill that passed the Senate. I continue to believe that the gas tax, as well as all tax retroactivity, should be entirely eliminated from the package and replaced with spending cuts. Furthermore, the sum of numerous other provisions, including the disincentive to agricultural technological development and the move away from job-creating tax incentives, further tilts the balance of this package toward a negative result. Unfortunately, it now appears that the only option available to those of us who wish to change the package in a way that holds middle-class working taxpayers harmless and includes greater spending restraint is to defeat the bill and work to put together a second conference report that can gain the support of a majority of the House and Senate.

Mr. MAZZOLI. Mr. Speaker, today in the House of Representatives, we are here to make an important decision. The decision before us today is whether to move forward on serious and credible deficit reduction by passing the budget reconciliation conference report, or to remain grounded in today's economic quagmire filled with red ink and joblessness throughout America.

There has been much apocalyptic rhetoric this summer about passage or defeat of the President's economic recovery/deficit reduction plan. I am quite frankly not sure how the financial markets will react to the passage or defeat of this plan. All I know is that we have come too far not to do anything.

More importantly, Mr. Speaker, this House and this Congress should pass this conference report because it is meritorious. It is balanced and fair with specific regard to the ratio of tax increases to spending cuts and with asking the wealthiest Americans to pay their fair share.

There are certainly items in the conference report I wish could have been left on the cutting room floor. I dislike the January 1, 1993, effective date for the new tax rate applicable to high-income taxpayers, although now the agreement allows affected taxpayers two additional years to pay the retroactive taxes. I also prefer a broader-based energy tax and additional spending cuts and fewer taxes to achieve more deficit reduction.

Mr. Speaker, I was very encouraged by the President's address from the Oval Office some nights ago. And, I would like to pick up on two important themes he invoked on why we cannot afford to turn our back on this plan.

First, this conference report is profamily. It includes a provision expanding the earned income tax credit [EITC], which provides a credit against income tax for low-income working families with and without children. It includes the Mickey Leland Childhood Hunger Relief Act, which provides food assistance and promotes self-sufficiency for participants in the Food Stamp Program. The agreement also includes the Family Preservation and Support Act, which aims to keep families together by providing supportive services thereby avoiding unnecessary foster care and other out-of-home placements. And, finally, the bill establishes an immunization program to provide free immunization to needy children.

Second, the conference report is probusiness. It provides for the creation of 9 empowerment zones and 95 enterprise zones in both urban and rural areas. The agreement also permanently extends several tax credits which have the potential for extensive use by cities across the Nation, including my hometown of Louisville and Jefferson County. They are: The low-income housing tax credit and the Mortgage Revenue Bond Program.

Allowing companies to expense or deduct nearly double the amount of new equipment put in service permitted today is another valuable business incentive. Furthermore, the conference report extends through June 30, 1994 other tax credits used by businesses: The employer-provided educational assistance program and the targeted jobs tax credit. The research and development tax credit is extended through June 30, 1995.

One small business provision in the bill with which I have concerns—and which I hope Congress can address at a later time—affects subchapter S corporations, partnerships, and sole proprietorships. Under the bill, these small business are subject to the higher personal income tax rates. Although I dislike this approach, the other investment incentives I have mentioned should help ease the effect of this change.

With regard to the revenues in the conference report, I believe most Americans are willing to pay some additional taxes if they know the taxes—and the savings from reduced Government spending—are going to reduce the deficit. In fact, this is where the deficit reduction trust fund and the entitlement enforcement language of the agreement comes in.

The deficit reduction trust fund, which the President has created by Executive order, would be established within the Department of Treasury, and it would ensure that all savings in the budget plan be permanently set aside for deficit reduction. The savings would not be available for increased spending. And, the entitlement enforcement language requires the President and Congress to annually address the issue of spending on entitlement programs which exceeds target levels.

The trust fund and the enforcement language guarantee that the spending cuts and higher taxes are earmarked for deficit reduction. And, as I have said previously, these sacrifices will result in a lower debt, more jobs, lower interest rates, and an overall healthier economy.

Mr. Speaker, I want to commend the President of the United States for tackling the most important economic problems facing us today: The budget deficit. I also commend those of my colleagues on the House Budget, Ways and Means, and Appropriations Committees who labored mightily to develop this conference report. It was not an easy task.

I hope this conference report passes. If America is to remain strong economically and militarily, we must reduce our Nation's heavy and dampening debt in order to invest in education, health, families, and our communities. Let us support the conference report and move forward into the new era.

Mr. STOKES. Mr. Speaker, I rise today in strong support of the conference report on H.R. 2264, the Omnibus Budget Reconciliation Act of 1993. This legislation is the largest deficit reduction package in the entire history of the United States. The conference report on H.R. 2264 includes measures which will help reduce the deficit by $496 billion over the next 5 years, balanced equally between spending cuts and revenue increases.

We have heard a tremendous amount of rhetoric from the other side of the aisle in recent weeks and months, with a steady escalation over the last few days. It is amazing that with all this talk from my colleagues on the other side of the aisle, that they all ignore one simple matter in their broadsides and diatribes launched at the President and this package—the truth. Time after time we have heard from one Member or another that this package is the largest tax increase in history; or how this bill will hurt the middle-class American and ruin small businesses; or that this is the only time in U.S. history that tax increases have been effective retroactively. All of these assertions are demonstrably false. The 1982 tax increase was actually larger in real dollar terms; no American who earns less than $180,000 a year will have their income taxes raised; and only 4 percent of small businesses will be affected by the income tax increase.

Mr. Speaker, when we shine the light of day on the spectres raised by the opponents of this package, they vanish into thin air. The true facts regarding the conference report on H.R. 2264 are that it is a serious attempt at deficit reduction, with realistic plans based on a balance between real spending cuts and targeted revenue increases. Many Members who have risen to voice their opposition to this package were here during the last 12 years or continually, and rapidly escalating budget deficits. Many of these Members have paid lip service to the cause of deficit reduction. Well, Mr. Speaker, I am proud that our new President has taken the courageous step to tackle this problem with an honest, serious plan. I am also proud to stand with him, and all my colleagues who will join in supporting our President's efforts tonight, in enacting a realistic, reasonable deficit reduction bill.

Passage of the conference report on H.R. 2264 will meet the basic goal set in President Clinton's economic agenda submitted in February, and in the congressional budget resolution adopted in April—deficit reduction of roughly $500 billion over a 5-year period. The legislation contains entitlement spending cuts, establishment of discretionary spending caps, savings realized from improvements in government debt management policies, and tax increases which fall predominantly on the wealthiest Americans and corporations. Also, the bill includes investment provisions to encourage long-term investments in small businesses, the prime engines of economic growth in our Nation. In addition, H.R. 2264 expands the earned income tax credit for low-income families by $21 billion to offset the effect of the gasoline tax, and provides tax incentives for economically distressed areas to increase business activity and create jobs.

Mr. Speaker, I stand here today, representing the people of the 11th District of Ohio, the residents of the city of Cleveland, and suburban areas of Cuyahoga County. I believe that the people of Cleveland, the people of Ohio, and the American people as a whole want to see the budget deficit reduced. President Clinton's plan is the first step toward achieving this goal, and this plan will reduce the deficit. President Clinton was elected by the American people because he promised a change from the failed policies, empty promises, and cynical rhetoric of the last dozen years. I urge all my colleagues to stand with the President, to stand with the American people, and vote in favor of the conference report on H.R. 2264, the Omnibus Budget Reconciliation Act of 1993.

Mr. BUYER. Mr. Speaker, it has been my position that Congress spends too much. Since day one, I have asked my colleagues to consider spending cuts before raising taxes. Instead, Congress is passing one of the largest tax increases in history, over $275 billion, before considering ways to cut government waste. If the 103d Congress had any mandate it was to cut spending. We are missing a great opportunity.

The centerpiece of the President's package is one of the largest tax increases in history, and most important it is retroactive to January 1, 1993. Once again, it is tax now and cut spending later. Over 80 percent of the spending cuts don't occur until late 1996. This budget will have a devastating effect on long-term economic growth, while reducing savings and investment, thus crippling the Nation's ability to create new jobs and increase wages. The Congressional Budget Office has estimated that without any plan, the economy will create 9.4 million jobs while the President's plan is estimated to create 8 million jobs. So, by passing this plan, the country will lose 1.4 million jobs.

By the President's own numbers, this budget will result in approximately $1.7 trillion in new debt by 1998. In fact, automatic interest payments on the public debt is $295 billion this year—roughly 60 percent of the personal income tax revenue. Furthermore, this budget will cause the debt to go from $4.3 to $6.2 trillion by 1998 with interest payments about $450 billion a year.

The energy tax, 4.3 cents per gallon, is regressive as it has a greater effect upon low- and moderate-income families and those who live in rural America, like Indiana's 5th District. Once again rural America is being asked to shoulder a greater burden than the big metropolitan areas. It will hurt Indiana's business and manufacturing companies from Marion, to Kokomo, to Logansport when they ship their products around the State and country. It will hurt the worker who drives to the workplace.

Our seniors are being asked to sacrifice so that Congress can spend more. In the fifth district alone over 6,800 so-called wealthy seniors households who have an annual income over $35,000, will be taxed up to 85 percent of their Social Security benefits. Individual seniors with income over $34,000 and retired couples with income over $44,000.

Congress has been a copilot on a journey of politics as usual. A few months ago I held 21 town meetings all over the fifth district. Time and time again I was told to cut spending before raising taxes. This bill does not do that, therefore, it is a budget I cannot support.

Mr. SMITH of New Jersey. Mr. Speaker, I rise today to express my strong opposition to the Clinton tax package, the largest tax increase in American history.

I will cast my vote against this $275 billion gross tax increase since I remain convinced that the plan will jobs and never reduce the deficit. I also find it outrageous that Mr. Clinton's plan is retroactive and imposes taxes on income earned before he was even President.

Mr. Speaker, the so-called savings in the package are a sham and are likely to never occur. Many are doubled-counted from other bills, user fees shamelessly labeled as tax cuts, or spending cuts that begin in the outyears. Since 80 percent of the cuts occur after the 1996 election, one must wonder whether a future Congress will still approve these cuts. The taxes, however, are retroactive and are here to stay.

The 5-year ratio of taxes to spending cuts is $2.13 of taxes for every $1 in cuts. The package also fails to terminate even one single program.

The Clinton tax increases will undoubtedly cost our economy jobs. The economic forecasts are chilling: DRI/McGraw Hill predicts that 700,000 jobs will be lost and the National Center for Policy Analysis estimates 1.4 million jobs will vanish. This is not the solution to our economic problems. History has shown that we cannot tax ourselves into prosperity.

Contrary to the President's claims, Mr. Speaker, the middle class will not be spared from these tax hikes. The 4.3 cent per gallon gas tax and the vastly expanded Social Security taxes will pick the pockets of New Jersey residents. In a state like New Jersey which has a high cost of living, $34,000 per year is not wealthy. The income tax rate hikes will also harm small businesses since 80% of businesses pay personal income tax rates rather than corporate.

Mr. Speaker, the class warfare championed in this package will not produce the revenues promised by the administration. Soaking the rich never works. This very bill includes an admission of this fact. In one of the only wise actions in the conference report, the misguided luxury tax will be repealed. In New Jersey, we learned how the luxury tax—designed to tax the rich—failed miserably. Instead of raising revenues by hitting the wealthy yacht buyers, the tax destroyed the jobs of the middle-class Americans who built yachts. I knew that this type of class warfare would fail and I voted against it in 1990. We should take a lesson from the luxury tax experience and abandon this new call for class warfare.

The President's historic tax increase will not cure our ills—it will only make matters worse.

Mr. Speaker, I remain committed to cut spending first and will continue to vote against wasteful programs so that we may put our fiscal house in order.

Mr. Speaker, I urge my colleagues to vote against this package and to pledge to initiate a new attempt at cutting spending and reducing the deficit.

Mr. PORTER. Mr. Speaker, I rise with sadness tonight because I feel we have yet again lost the opportunity to address the deficit with courage and take the real steps necessary to save our economy. This legislation is, according to the President, a once in a decade milestone. By that standard, however, its provisions are grossly insufficient to the task at hand.

The deficit, Mr. Speaker, is a national problem—it is our national crisis. The budget deficit drains our economy of capital and hurts all Americans. And there is perhaps no one more injured by the deficits' effect on the economy than those in our society who exist at the margins.

For a national problem, what is required is a national solution—a solution that calls on every American to contribute and to sacrifice for the betterment of all of us. In fact, any plan that doesn't require the participation of everyone—requiring everyone to give up something—will fail in its essential goal of reducing the deficit.

The President, in his speech on Tuesday, told us that this was such a bill—that all Americans were making a contribution. Mr. Speaker, this is simply not true. In truth, it is a plan that asks only a handful of Americans to contribute to the solution, and that is what is so tragically disappointing about it.

Despite all the rhetoric, this legislation's basic feature is a significant tax increase on the wealthy. Beyond this group, no other members of our society are being asked to make any significant contribution. Indeed, not one single Federal program is terminated by this legislation. Thus, we know already that this plan will not do what the President says it will—it simply does not contain any serious spending reductions or other deficit reduction proposals.

Compounding this failing will be the effect on our economy of the large and punitive taxes contained in this legislation. The wealthy, Mr. Speaker, will invest less, they will purchase less and they will move their money into unproductive ventures for tax avoidance purposes. The result, Mr. Speaker, in that middle class and lower income Americans will pay a terrible price. As the economy continues its sluggish performance, it is the working people that will lose their jobs, that will see their wages fall behind, and that will see the American dream slip a little further from their grasp.

The taxes in the President's plan are huge, permanent, and retroactive. The spending cuts are small, focused only on defense and health providers, and to come mostly in the last 2 years when, history tells us, they probably won't materialize.

Bringing down the deficit is promised, not guaranteed, and most of the new taxes, even if the promises are kept, will support new and increased spending, not deficit reduction. A guarantee I proposed earlier that every penny of new taxes would be applied to reduce the deficit or the taxes would be automatically and instantly repealed, was jettisoned by the Rules Committee and not even allowed to be considered.

The President has had every opportunity to truly address the deficit and be a "different" Democrat. Unfortunately, he has been captured by the economic liberals of his party and the only difference is the packaging.

Mr. Speaker, I think the American people are ahead of the President on this issue. They would support a plan that called on everyone to sacrifice if sacrifice led to real deficit reduction. They would support new taxes if the Democrats had first committed to large, real spending cuts and if they knew the taxes would be applied to actually bring down the deficit.

But this is not such a plan. Unfortunately, what the President has provided is symbolism without substance, a tax bill masquerading as a deficit reduction package, weakness instead of resolve.

Mr. BALLENGER. Mr. Speaker, I am opposed to the conference report on H.R. 2264, the Omnibus Budget Reconciliation Act of 1993. The bottom line is that the Clinton tax and spending bill fails its most fundamental goal: deficit reduction. The original goal of $500 billion over 5 years was lowered to $427.5 billion to gain political support. The spending cuts of only $38.2 billion are too small, too few, and too vague. These spending cuts will not produce the savings claimed be the Administration. The tax increases of $275 billion will not produce desired deficit reduction either. History shows that Congress spends $1.59 for every $1 collected in taxes. Because most of the President's spending cuts occur in future years, the tax increases imposed immediately on working Americans will only serve to feed more Government spending rather than reduce the deficit. I believe the American taxpayer has given enough and Congress should cut spending, not increase taxes.

I remain opposed to this type of phony deficit reduction. Congress tried this in 1990. The tax increases were put into effect immediately, and we have yet to see any of the promised spending cuts. This policy is what sent our economy into the recession we are still trying to pull out of.

I am particularly concerned about the effect of the tax hikes on North Carolinians. A study by the Citizens for a Sound Economy shows that approximately 19,200 North Carolina residents could be out of jobs. In addition, the $275 billion tax hike could cost North Carolina taxpayers an additional $5.7 billion over the next 5 years, or $2,248 per household.

Finally, the proposed 4.3 cents per gallon tax increase on gasoline adds $295 to the average two-driver family in the tarheel State. North Carolina citizens already pay 22.3 cents per gallon in State taxes. The Clinton tax increase means that North Carolina drivers will pay a total of 40.7 cents per gallon in State and Federal taxes.

I believe there is a better way to reduce the deficit. The proper solution to spiraling deficits is to control Federal spending. To that end, I accept certain fundamental ideas; that Federal resources are limited, that we must make the tough choices on spending priorities, and that unaccountable spending can not go unchecked. We can reduce the deficit, without tax increases or touching Social Security, and continue economic growth.

House Republicans have a plan that presents a common-sense approach to reduce the deficit. The plan simply cuts spending by eliminating out-dated programs and reforming or reducing new others. The Republican plan includes no tax increases, no spending increases, $60 billion in defense cuts, $409 billion in domestic spending cuts, and produces $478 billion in deficit reduction.

The solution is simple: cut spending first! To borrow a popular sologan, "Just Do It!"

Mr. COLEMAN. Mr. Speaker, passage of the Clinton administration's deficit reduction package represents a historic change for the country and El Paso. Congress voted to reverse 12 years of "squeeze the middle class" policies of the Reagan-Bush years.

Certainly, there are plenty of critics who pan the Clinton administration deficit reduction plan as having done too much or not enough. In comparison to what? I had a front row seat for a decade of the Reagan-Bush years and their initiatives hardly resulted in greater investment or smaller deficits.

When Ronald Reagan moved into the White House the deficit was just over $74 billion and the national debt and just under $1 billion. When George Bush moved out of the White House the deficit was racing past $300 billion and the national debt stood at just over $4 trillion.

The test of the Clinton deficit plan should not be perfection. Rather, it should be does this plan offer a change of direction from failed trickle-down economics that brought us shrinking incomes, record unemployment, soaring debt and more families living in poverty than in the last 40 years. The Clinton plan delivers that change of direction. Surely, even given its worst assessment, the Clinton plan could come nowhere close to the reckless results of the past two Republican administrations.

And what do my Republican colleagues choose to do to set this situation right? Nothing. Not a single Member of the party which brought us this debt was willing to begin to reverse the spend now, pay later policies which this party wrought. More than 40 Republican Members voted "no" on every plan, even their own party's.

Instead, the Republican Party embarked on an unprecedented campaign of misinformation. Falsely alleging the middle class would get soaked and that small business would be robbed by the Clinton Plan. Now the facts.

Not a single family with a gross adjusted income under $180,000 a year will pay a penny more in income taxes. Need I respect that? Families with higher incomes will pay higher taxes, as they should. During the last decade, the wealthy saw their incomes increase at a rate of about 136 percent as a result of trickle down economics. During this same period, working class families' incomes fell.

The Clinton plan restores progressivity and tax fairness and asks that the wealthiest do the most to help reduce the deficit. Middle class families are asked to pay only about $1 a week in the form of the gas tax. And every penny of that weekly dollar will go directly to reducing the deficit.

But the Clinton plan does more than just reduce the projected deficit by about $500 billion. It also invests in families and in small business.

El Paso alone, living in poverty despite both parents full-time jobs will receive $86 million in assistance to lift them out of poverty and reward their economic contribution. More than one-in-three of every family in El Paso will see their taxes cut and their incomes increased. Fewer than 1,000 families in the entire county actually have incomes high enough to require that they pay higher income taxes.

Most importantly, the small business owners of our county are finally going to get their just rewards for having done their best during the long recession to keep their heads above water and create jobs. The Clinton plan will provide some of the most lucrative tax incentives ever offered to small business. To say otherwise is dishonest. Even the Wall Street Journal's analysis of the small business package last week carried a headline that read, "Higher Expenditure Ceiling, Retroactive Too, Promises an Array of Breaks."

The package includes a 50-percent cut in the capital gains tax rate for investment in small business, a 75-percent increase in expensing of investments in equipment, and an extension of the health insurance deduction for the self-employed. In fact, 95 percent of small business, or six million entrepreneurs, will see their taxes go down under the Clinton plan.

This is not the largest tax increase in history. It is the largest deficit reduction package in history because it restores tax fairness and cuts $260 billion from projected government spending. Those are the facts.

Mr. DIXON. Mr. Speaker, as we close these budget negotiations, I would like to commend my colleagues for the close attention and diligence paid to the daunting task of balancing our Nation's needs and resources. Meeting the increased demand for human services, particularly those of children, and the common sense strategy of investing in American families and communities, are worthy goals, and I am pleased that these issues remained on the front burner in these negotiations. In this regard we have done better than some expected, though perhaps not as well as we would have liked.

It is clear, however, that the needs will not be adequately met, nor the resources readily at hand, unless we become more aggressive about identifying funding sources that increase revenues without creating more debt. Given the state of our economy, the increased demand for expenditures and the compelling need to reduce the Nation's deficit, we need a new budget perspective—one that makes it a priority to bring resources as well as requests to the budget table.

I want to bring to your attention a proposal that arose very late in these budget proceedings but that, nevertheless, raises the possibility of capturing tax dollars that have eluded us for several years. A group called the Coalition to Close the Loophole and Put Our Kids First proposes to close a loophole in the Tax Code that would provide $1.2 billion annual revenues. The coalition wants that money used for children's programs—a need that is unarguable. We should examine this proposal and weigh its merits. If we can gain substantial new revenue by curtailing what would appear to be an unintended tax advantage, we should do so. And put that money where it is needed most.

Mr. STARK. Mr. Speaker, today I will vote to support the President's budget reconciliation package as a first step to putting our financial house in order.

I am not pleased with all the provisions in this package. I am troubled at the $55.8 billion burden borne by Medicare right as Congress begins the task of healthcare reform. I also see this package as a break from the tenets of the Tax Reform Act of 1986 in which rates were lowered for individuals and businesses in return for fewer tax breaks.

I will support this package for the following reasons: First, it is the only serious deficit reduction package to gain a majority of votes and second, it contains a much needed expansion of investment in our human resources through the earned income tax credit [EITC], enterprise zones, Childhood Immunizations and the Family Preservation Act.

The conference agreement reduces the deficit by approximately $496 billion from fiscal year 1994–98, with more spending reduction $255 billion than revenue increases $241 billion.

The income tax rate increase will affect only high income Americans—the top 1% of the population. No family of four will pay higher income taxes unless they have an adjusted gross income of above $180,000.

Working families with children in the lower-income ranges will have a tax reduction as a result of the expanded EITC. The maximum credit will be approximately $2,000 for families with 1 child and, when fully phased in, well over $3,000 for families with more than one child.

For the first time, there will be an EITC for childless workers as well. Besides increasing the size of the credit, the expanded EITC will cover about 18 million workers as opposed to 12 million workers under current law. The credit promotes the policy that it pays to work.

About 18 million workers will be covered by this expanded EITC. In the 13th Congressional District, approximately 24,200 families will qualify for the EITC.

The bill creates nine empowerment zones which will get enhanced tax benefits for businesses operating in pockets of poverty designated by the federal government. In addition, ninety five enterprise zones will receive a combination of tax benefits and title XX funds.

Tax relief is included in the conference report for individuals who have lost their homes and possessions in a Presidentially declared federal disaster. The conference report includes the language of my bill, HR 406, and applies to taxpayers who lost their homes in the East Bay fire of 1991 and to all disaster loss victims across the country.

The bill makes permanent the low-income housing credit, small issue IDBs and mortgage revenue bonds. There is a twenty-four month extension for the R&D tax credit and eighteen month extension for targeted jobs tax credit and education assistance. All of these tax benefits will be applied retroactively to June, 1992, when they expired.

Passive loss relief is provided for real estate professionals so that losses from real estate activities would not be subject to limitation if most of the taxpayers professional work is in the rental real estate business.

An increase in expensing from $10,000 to $17,500 is in the bill to help create a stimulus to business investment.

The luxury tax on furs, jewelry, airplanes, and boats is repealed effective January 1, 1993. The conference report indexes cars for the $30,000 threshold and exempts equipment installed for use by disabled persons.

The bill includes a modest gas tax for deficit reduction. For the average California driver, the 4.3 cents a gallon tax increase will cost $27.83 a year.

Revenues are also raised through increasing the corporate rate 1% for business with income in excess of $10 million (this affects only 1% of all businesses), reducing the deduction for business meals from 80% to 50%, limiting deductions for lobbying and for million dollar compensation packages and for US corporations sheltering income by operating in Puerto Rico, and a proposal I authored which removes tax incentives for the export of raw logs.

Entitlement spending is reduced by cutting Medicare expenditures with no new cuts affecting beneficiaries, increasing the taxation of Social Security benefits next year for couples earning over $44,000 and singles earning $34,000, along with welfare savings.

The Medicare agreement will reduce the deficit by $55.8 billion over the next 5 years. This is the highest level of Medicare savings ever achieved, exceeding the previous maximum of $44 billion by nearly 25 percent.

These savings are higher than the $50 billion in savings that I supported, but were a necessary element of the overall agreement. These savings are spread evenly and broadly across the entire program. Hospitals and other Part A providers contribute 62% percent of the reductions in provider payments while physicians and other Part B providers account for the remaining 38% of the cuts. These are almost the same proportions that these segments make up of total Medicare spending: 60% is Part A, and 40% is Part B.

The agreement protects vulnerable populations and providers. Beneficiaries are protected from rapid increase in their medical costs. Primary care physicians, community health centers, and small rural hospitals are also protected.

In sum, this is a tough but balanced deficit reduction package. No one else has a better one—and to do nothing is to drift mindlessly into larger and larger deficits.

Mrs. LLOYD. Mr. Speaker, today we pass judgment on 4 months of hard work, deliberation, conference, and consensus. The debate surrounding the reconciliation bill has been unusually spirited and comprehensive and the public has been active in voicing their thoughts on the process and the final product.

Mr. Speaker, the bill before us represents a compromise. It is not expected that every Member is in support of every provision of this comprehensive agreement. The question that is before us is, are there enough positive features of the bill to win our support. Regrettably, for this Member, the answer is no. I believe Congress and the President can do better with more spending cuts.

When we passed the House version of the budget, my support was contingent on several factors, including the inclusion of entitlement caps, elimination of retroactive tax provisions and the Btu tax. While the House-passed Btu tax is gone, my concerns on the two former provisions have not been met.

Entitlements in this country now account for over 50 percent of Government spending and are on the rise. A head-on approach to confronting the growth of entitlements is needed if we are serious about our commitment to deficit reduction. The entitlement caps included in the House bill are precisely the direction we should be moving in. They would have forced both the President and Congress to make the tough decisions on mandatory spending. Due to the provisions of the Byrd rule, entitlement caps have been stricken from the bill before us. While I support the entitlement review contained in the rule, I don't believe it goes far enough. Entitlement caps should be rule of law, not rule of the House.

Mr. Speaker, I have also expressed concern over the retroactivity of the tax increases in the bill. This will unfairly burden many of those people affected by depriving them of needed time to adjust to the tax increase. Many could find themselves unable to meet their new tax burden under the retroactive provisions in this bill.

I applaud the conferees for deleting the onerous and insidious Btu tax. This tax never had my support although it was included in the House-passed budget which I supported for other reasons. Unfortunately, a distant relative of the Btu tax—the gas tax—has materialized in its place. While the overall effect of the gas tax on the individual is substantially lower than the Btu, the fact is it hits the financially strapped middle and lower classes.

I have briefly touched on three concerns that I have with the legislation. Let me make mention of one other. The spending provisions included in this bill are admirable; but I feel these proposals are premature. Presumably we in Congress will be tackling welfare reform sometime next year. Changes to assistance programs should be deferred until we can take a more comprehensive approach to welfare reform.

Mr. Speaker, I feel it would not be fair for me to vote against this bill without applauding and supporting its overall goal of deficit reduction—it is the means toward that end that I object to. The fact is this is the largest deficit reduction package ever to come before Congress. The effort that has been expended to bring this legislation before us should not go unappreciated. Members will make up their own minds on how to vote on this package based on what is important to them and their districts. Whether you vote yea or nay, I hope we can all respect and honor the goal of deficit reduction and continue our commitment to bringing Government spending under control.

Mr. FRANKS of Connecticut. Mr. Speaker, this tax and spend Democrat budget plan will hurt the State of Connecticut possibly worse than any other State in the Nation. The State of Connecticut and New England went into the recession first, and we are still having a difficult time. I implore my Democrat colleagues from New England to oppose this historic tax bill.

As a delegation we have had a number of meetings on the credit crunch problem. Yet Democrat Members will vote to take more money away from people with this new tax. Our small business people, our entrepreneurs, cannot get money from the banks now, and under this plan they will have to dig deeper into their pockets to pay for more Government and more social spending programs.

President Clinton has asked Congress to support his budget today because he claims that it will reduce the deficit while increasing jobs, investment, and economic growth. I would be inclined to agree if the so-called deficit reduction in this bill was achieved through prudent and needed spending cuts. However, this budget has been designed and approved by those who feel that greater Government intervention in the economy will benefit the Nation. These people neglect to consider whether taking money away from the people and plowing it into bureaucracies will spark economic growth.

I urge my colleagues to consider whether a $250 billion tax increase will help our Nation. Before I was elected to Congress, a budget agreement was approved that contained tax increases and was proclaimed to be the key to deficit reduction. Now, with the deficit larger than ever, Congress is being asked once again to approve tax increases for deficit reduction. Mr. Speaker, tax increases do not encourage Congress to make spending cuts. Tax increases just encourage more spending.

Let us take a specific look at the aspects of the bill that really make it a tax monstrosity, First, there will be an excise tax of 4.3 cents per gallon on gasoline, diesel, and most other transportation fuels. This energy tax achieves two goals of the Clinton administration: It raises more money to spend on new Government programs, and it discourages Americans from driving their motorized vehicles. A two-driver family will pay an additional $247 a year in gas taxes alone—the equivalent of 2 weeks worth of groceries—unless they adjust their lifestyles to fulfill the whims of the President and Vice President GORE. This budget also extends the 2.5 cent gas tax enacted in 1990 for additional years. Once a tax is enacted, the big spenders in Congress can take it for granted. Americans will be reminded of candidate Clinton's promise for middle-class tax cuts every time they fill their tank.

A second tax that will be detrimental to the economy is the increase in the highest marginal income tax rate from 31 to 36 percent. Because 40 percent of small firms file under the personal income tax, this tax is likely to hurt small businesses. How will small businesses pay this additional tax burden? They

A third objection I have to this bill is the tax increase on the personal savings of retired Americans. This budget increases the so-called elderly surtax on pensions, IRA withdrawals, interest from municipal bonds, certifications of deposit, and other income over a $34,000 threshold for single retirees and $44,000 for married retired couples. In my district, the Government will take an estimated 11 million additional dollars from the pockets of the elderly constituents I represent. Fortunately for them, I have heard their voices of concern. I will not vote to punish the responsibility of senior citizens who have wisely planned to supplement their Social Security benefits with investment income. This new tax seems to send a message to Americans: it's best if you let the Government fully support you.

Perhaps the most pernicious aspect of this budget is the retroactive nature of some of the tax increases. The top tax rate for income, estate, and the gift taxes will be applied retroactively to January 1, 1993—back to before Bill Clinton was President. The Constitution prevents Congress from passing a law that make an activity illegal even before the law was passed. This principle should be applied to tax laws as well. There will be a lot of scrambling by individuals and businesses to find ways to pay their back-taxes to the Government. These retroactive taxes also create a bad precedent and yet another way for the big spenders in Congress to grab some extra money. I hope my constituents have saved their tax records from the 1980's.

Tax increases have never reduced the deficit and will not now. An alternative budget plan, which I voted for in March and in May, would have achieved genuine deficit reduction solely through spending cuts and without tax increases. President Clinton inexplicably denies that such a plan exists.

I wonder why President Clinton is so adamant about passing this particular plan without any sort of bipartisan input or consideration. I think economist Thomas Sowell may be on the right track when he stated about the Clinton budget in the August 16 Forbes magazine: "It is, in fact, not an economic program at all, but a political program to get more money and more power over the economy." President Clinton wants control over even more of the economy than he currently has. He doesn't realize that he and his youthful advisers already have enough on their hands.

We in Connecticut are familiar with the phrase, "throwing gasoline on a fire." Well, this tax and spend budget plan will do just that for the State of Connecticut. I encourage my colleagues, not just from my State, but from all States, to vote against this flawed budget so Congress and the President can start again from scratch.

Mr. DOOLEY. Mr. Speaker, I rise to express my opposition to Section 1105(c) of H.R. 2264, the Omnibus Budget Reconciliation Act. Section 1105(c) provides for a 90-day moratorium on the sale of recombinant bovine growth hormone, commonly referred to as BST.

The Senate-passed reconciliation bill included a 1-year moratorium on the sale, marketing or use of BST. I strongly opposed this provision because it was an unprecedented attempt by a handful of Senators to exert congressional control over the approval process of a regulated drug. The moratorium was not sought on the basis of scientific rationale regarding the health or safety of milk produced with BST, but on irrational fears in a small sector of the dairy industry about the possible economic impacts of a tool to increase the efficiency of dairy farmers. Mr. Speaker, I cannot predict the impact that the use of BST may have on the dairy industry, but I strongly believe that Congress should not decide which products may or may not be brought to the market because of a fear of upsetting the status quo.

I am a strong supporter of the biotechnology industry. This relatively new industry is at the brink of introducing many products in the agricultural and pharmaceutical industries that have the potential to change the way we grow crops and treat disease in the United States. I am very excited about these discoveries and future products.

However, the 90-day moratorium on the sale of BST included in the budget reconciliation bill sends a negative message to these companies. What this moratorium says is—Don't spend time or money researching a product that may face opposition because you can count on Congress to place a moratorium on the sale of your product. This is the wrong message to be sending to these small entrepreneurial companies. Congress should stay out of these decision, and let the regulatory agencies, such as the Food and Drug Administration, make decisions on the safety of products.

I think it is important to point out what the 90-day moratorium does not do. It does not in any way influence the approval process at the FDA for BST or any other biotechnology product. The FDA must proceed on the approval of BST based on considerations of health and safety alone. The FDA is free to make that decision according to its own time table.

The votes in the conference, and the history of this provision, clearly demonstrate that there is almost no support in Congress for a moratorium of any length. There is virtually no support for political interference in the FDA on behalf of any economic or social agenda.

The continued competitiveness of U.S. agricultural lies in the continued advancement of technology to make farmers more efficient. Biotechnology is the key to our future productivity. I hope in the future that Congress will not be held hostage by a small, special interest and that bad policy, like the 90-day moratorium, will be rejected.

Mr. ROGERS. Mr. Speaker, in February, the President announced his intentions to enact a budget bill that would promote jobs, cut spending, and reduce the deficit. Sadly, H.R. 2264, the President's budget conference agreement falls short of all counts. It should be rejected. It will not create jobs, not cut spending, and not reduce the deficit.

First, the heart of this deficit reduction package is a $275 billion tax increase directed to the very people that the President said he wanted to help—middle-class families, seniors, and small business.

One of the biggest revenue raisers—$23 billion comes from the 4.3-cent increase in the Federal gas tax. Despite the call for tax fairness, this tax increase is a direct hit for rural States, particularly Kentucky. The conference agreement will mean that Kentuckians will be paying $100 million a year to the Federal Treasury or about two times more for deficit reduction than people in New York or Washington, DC, on a per capita basis. Not only will the gasoline tax mean higher prices at the pump for families across the State, but it will mean higher prices for all types of goods and services because transportation costs account for about 20 percent of all product costs. But, that is just the beginning.

For seniors, the burden is especially unfair. The gas tax, the income tax rate increases, and the tax increases on Social Security will mean that almost 5 million seniors on fixed incomes will see more of their benefits taxed away, while prices rise on medicine, food, and almost all products. The $25 billion in new revenues to the Federal Government will come directly from seniors who have saved for retirement. If a senior makes more than $34,000 a year, then the Federal Government will tax 85 percent of their Social Security benefits. Incredibly, the plan actually penalizes people who have scrimped and saved for retirement.

Small business fairs even worse under the Clinton tax package. Although the President has said he wants the rich to pay their fair share by raising the individual rate from 31 to 36 percent, a full 80 percent of business pay taxes as individuals. It is no secret that small business is the engine of job growth. While jobs have been lost in larger companies, small businesses have been the number one job creator in the Nation. In my own State of Kentucky, 60 percent of new jobs created in the last year were produced by small business. Ironically, the tax on these proprietorships, partnerships, and S corporations will mean that small businesses will be taxed at a higher rate than corporate America—going from 31 percent tax rate to 39.4 percent—and contributing over $50 billion in new revenues to Washington.

Despite the calls for new job creation, the President's plan is actually a jobs loser, with just over 1 million jobs at risk if the tax provisions go into effect. And, the final blow for small business—the income tax increases are retroactive to January 1, 1993, placing an additional unfair burden on small business.

What about the spending cuts? The bill counts spending reductions on the order of $240 billion. If only that were true. The ostensible spending reductions in the Clinton tax bill relay largely on double counting, extensions of current law, time-shift gimmicks, and unspecified spending cuts that the administration itself has called illegitimate.

For example, the conference agreement counts $44 billion worth of cuts that have been achieved as part of the 1990 Budget Agreement. The authors then claim another $52 billion worth of spending cuts, from interest savings. Still another $4 billion in spending cuts is counted from a Medicaid drafting error—simply by changing a discretionary service to mandatory, then changing it back again to discretionary—the conferees have magically cut $4 billion from health care costs. All told, there are less than $5 billion in spending cuts in fiscal year 1994. These claimed savings total $217.2 billion over 5 years. But without the smoke and mirror provisions, the reconciliation conference report actually contains only $37.8 billion of real savings over 5 years, and much of those cuts occur after the next election.

Finally, the bill calls for new spending on a number of programs. At least $300 million is targeted for health care for illegal aliens. So, it should come as no surprise that the deficit after 5 years actually goes up under this budget proposal—from a projected low of $202 billion in fiscal year 1997 to $350 billion in just 3 short years.

Mr. Speaker, I urge my colleagues to vote "no" on this tax bill. It will not create jobs, will not cut spending, and will not reduce the deficit. It deserves to be defeated.

Mrs. UNSOELD. Mr. Speaker, we may think our debate over the budget is something new, but it's not. In millions of American homes, families have been having the kind of budget discussions for years that we're having right now.

Families figure out how to pay for what they really need—the mortgage on the house, the utility bill, the phone bill, the car to get to work and back. They make money available for the investments that are too important to do without: the college education for a son or daughter; the trip to the hospital for an operation or a test; or the night classes that can help further a career. After doing all this, they try to set aside enough for the extras—a 3-day weekend at the beach, a camping trip, shoes for growing feet, or a winter coat. But if the money isn't there, they know they can't spend it. And if they've met each month's expenses by using plastic, they know they must eventually discipline themselves to pay down those credit card charges.

Well, it's time for our Federal Government to start managing its budget the way American families manage theirs. That means cutting our deficits without losing sight of creating jobs and paying our bills without losing sight of important investments. We have a package that does all that—the President's.

It includes the largest deficit reduction in our history—nearly $500 billion over 5 years.

It creates as many as 8 million jobs—an estimated 324,000 in Washington State alone.

It reprioritizes spending to help the working poor, rewards small businesses, and invests in proven programs that will save us several dollars tomorrow for each dollar we put in today.

The guardians of gridlock will continue to carp and criticize because they want to see the President and his plan fail. They say the President offers taxes now and spending cuts later—but the President's plan cuts $50 billion in spending the first year and phases in spending cuts much sooner than the alternative plan put forth by the opposition in the other body. The President's package is also lambasted for not doing enough to cut spending—but the Dole plan included $100 billion less in deficit reduction than the President's plan. Finally, the Republicans complain that the income tax increase on the wealthiest 1.2 percent of Americans is retroactive to January 1—without mentioning that some of the tax cuts for small businesses in this plan are retroactive to mid-1992.

The fact is that the President's plan means a better life and a better future for millions of Americans. Here's why:

Low interest rates.—Interest rates are as low as they've been in 20 years because financial markets know this is a serious plan to reduce the deficit. Millions of Americans are refinancing their home and car loans and saving thousands of dollars. If you're paying 10 percent interest on your home, refinancing at a 7.5-percent rate puts an extra $175 a month into your pocket.

It rewards struggling families.—Low-income families will receive an earned income tax credit that allows them to support their children without going on welfare. Finally we will end the despair of millions of working parents in Washington State and across America and replace it with a message of hope: If you work full time and have children at home, we will help you help yourself out of poverty.

Jobs.—When this President took office, he made a commitment to reduce the deficit, create jobs, and put this nation back on track. In the first 5 months of this administration, 740,000 people landed new jobs in the private sector. That rate of job creation is seven times the rate achieved by the previous administration.

Small business incentives.—If small businesses invest in job growth, they will be rewarded with tax cuts. The President's plan calls for deductions in capital gains taxes, increased expensing and extending a deduction on health insurance premiums for the businesses which create most of the jobs in this country. Nine out of ten small business owners in Vancouver, Olympia, Longview, and throughout the United States will qualify for a tax cut with this plan.

Fairness.—This plan ends a decade-long trend that saw millions of working Americans pay more and get less while the wealthy got wealthier. Nearly 80 percent of all the new taxes in this plan would be paid by the wealthiest Americans in this Nation, and no working family earning less than $180,000 will pay more in income taxes. The average family will pay only one tax—less than a dime a day in an energy tax that's devoted entirely to deficit reduction and represents only a fraction of the amount advocated by Ross Perot.

Investment.—The President's budget plan recognizes that it makes sense to invest in those who suffered the most over the past decade by enhancing programs that save us several dollars for every one we spend. Programs that put dislocated workers—like those in our timber communities—back to work. Programs that provide immunizations for children. Programs that give 3- and 4-year-olds the Head Start they need to come to school ready to learn.

Perhaps the best reason to support this plan is to ask yourself, "What's the alternative?" We can have a real plan or no plan, real change or a return to the status quo and gridlock with which American people are fed up. The question is, "Will you—will southwest Washington and the Nation—be better off a year from now?" I strongly believe the answer is "yes."

Mr. GALLO. Mr. Speaker, during the course of this debate, we have heard some of our colleagues on the other side of the aisle dismiss the public's overwhelming outpouring of opposition to this bill as nothing more than the ravings of uninformed people hoodwinked by the message of the Republican minority.

I do not understand how any of my Democrat colleagues—all of whom were elected by the people they now believe can be easily fooled by cheap political propaganda—can so readily dismiss the views of those they represent.

I have received some very thoughtful and illuminating messages from my constituents over the past several days. I would like to share with my colleagues some of the people's wisdom.

A constituent in Randolph, NJ who knows her history and is concerned that the President's plan would hurt economic growth and cost American jobs, sent me a copy of a statement issued by the executive council of the American Federation of Labor in 1940. This statement concluded:

> We urge that all Government actions that tend unnecessarily to discourage business expansion cease and that a positive effort be made to encourage greater industrial activity. We have learned the lesson that when opportunities for profit diminish opportunities for jobs likewise disappear.

Another constituent, a resident of Livingston, NJ, wrote to urge me to review President Kennedy's December 14, 1962, speech to the Economic Club of New York in which he describes in detail the reasons why tax rate increases will not stimulate a peacetime economy, and why rate reductions will result in a stronger economy, higher employment, larger revenues, and a lower deficit.

I did review that speech, and found that Bill Clinton is no Jack Kennedy. In that speech, President Kennedy said:

> It is increasingly clear that no matter what party is in power * * * an economy hampered by restrictive tax rates will never produce enough revenue to balance our budget just as it will never produce enough jobs or enough profits.

A third constituent, a voter in Flanders, NJ, wrote in direct response "to President Clinton's request that I contact you with my view on how you should vote this week on the compromise tax package. Vote no," he said. He then expressed his concern about the President's efforts to divide our country through class warfare:

> The current president continues to sound like a broken cassette machine stuck on an idiotic sound byte * * * get the rich, make them pay, people that work hard and make money are evil. . . . Class warfare is a fool's paradise. . . . People that have capital and earn capital invest or spend it. That is how a free market economy works. That process creates real private sector employment.

A fax from another constituent said:

> Please be secure in the knowledge that the People are both intelligent and thoughtful. We recognize the inertia which continues to carry our Government deeper and deeper into debt. We understand the difficulties involved in changing that basic direction. Moreover we are willing to make the sacrifices necessary to effect that change. The spending cuts have to come first, however.

I could go on. Since yesterday morning, more than 400 people have called, faxed, and sent telegrams to me. Of that number, more than 92 percent have urged me to oppose the President's plan. I do not remember any other issue during my service in Congress that has generated as great a response as this.

Mr. Speaker, each of us who has the honor to serve in this House, this people's House, has an obligation to, at the very least, respect the thoughts and concerns of those we represent. You do not have to agree with them. But neither should you dismiss them as ill-informed or ignorant. After all, they are the ones who sent you here.

Mr. SENSENBRENNER. Mr. Speaker, President Clinton's televised appeal to the American public backfired because the majority of taxpayers know when to call a spade a spade. Americans have correctly perceived the Clinton program as the same old tax and spend. The largest tax increase in American history, $275 billion, coupled with imaginary and deceptive spending cuts, prompts memories of the 1990 disaster. But this time around the stakes are much higher. This tax bill is a job killer, the fuel tax is regressive, inflationary, and punishes the middle-class Americans promised a tax cut by candidate Clinton.

President Clinton makes history in more than one way in his tax plan. For the first time in history, the tax hikes imposed on small businesses and individuals will apply retroactively to January 1, 1993. Twenty days prior to being sworn in, Bill Clinton had already raised taxes. I must give credit to the President for initiating his tax and spend agenda while still blowing up balloons for the inaugural ball. Retroactive taxation is outrageously unfair. Small businessmen and hard working Americans will discover that money already earned, saved, or spent, is now to be taxed. President Clinton is truly the nemesis of American entrepreneurs and job providers.

Social Security recipients of modest means will face a tax hike, not to go toward deficit reduction, but to feed the congressional spending spree and lavish more taxpayer dollars on new Federal spending.

There is no question that the tax increases in the bill are real. Sadly, the spending cuts are phony. The alleged $255 billion in spending cuts are made up of cuts already approved under the 1990 bill, projected interest savings assuming the deficit will go down, and billions in unspecified reductions. Eighty percent of the cuts take place after the 1996 Presidential election.

I have received a resounding message from my constituents since the President outlined his program in February—cut spending first. This bill fails that test and many others. It is time to go back to the drawing board and craft a budget that does not punish American taxpayers, one that shrinks our bloated federal government and embraces the principles of economic independence for working Americans. I am convinced the Clinton plan is the same failed experiment of past Democratic administrations on a scale that could wreck the American economy.

Mr. MENENDEZ. Mr. Speaker, I rise in support of the conference agreement. This is not the time to go back to business as usual by making the easy, wrong decisions—now is the time to move forward by making the hard, right decisions for the future.

Voting for this conference agreement is a hard decision. But it is the right decision for the working people of my district.

I represent people who work hard, play by the rules, and earn a middle class living. This plan is designed to be fair to them now and to help them build a better future. The people of my district will benefit under this plan.

They will benefit first and foremost from the largest deficit reduction plan in history. This plan locks into place $496 billion of deficit reduction and will reduce our massive debt by some 40 percent over the next 5 years. Already we are seeing the positive effects of passing this plan—we have the lowest interest rates in two decades and a stronger economy that is generating new jobs at seven times the monthly rate of the previous administration.

People told me, Mr. Speaker, cut spending before you raise my taxes to show me that our

Government is serious about getting its finances in order.

I listened and that's exactly what this package does. We cut spending by $255 billion first, and only then did we increase taxes on those most able to bear the burden. There is more than $1 in spending cuts for each $1 in new taxes. There are 200 specific spending cuts and discretionary spending is frozen for 5 years—a 13.5 percent cut in real terms.

Most importantly, this plan is fair to the people that I represent—there are $8 in spending cuts for every $1 in new taxes on the middle class. For every $10 of deficit reduction, $5 comes from spending cuts, $4 comes from people making over $200,000 a year, and only $1 from all other taxpayers.

This plan is fair for everyone. Senior citizens who do not currently pay taxes on their Social Security benefits will not be affected by this plan and will be able to continue to live without fear of financial ruin.

Only the top 1.2 percent of the Nation's taxpayers will be asked to pay more income taxes. In the 13th Congressional District, only 1,560 families will be subject the higher income tax. No working family making less than $180,000 a year will pay higher income taxes. The only new taxes that 99 percent of my constituents are asked to pay amounts to approximately $22 a year through the increased tax on gasoline.

On the other hand, 54,535 low- and moderate-income families from Jersey City to Perth Amboy, Union City to Elizabeth will benefit by receiving $78 million from the expanded earned income tax credit once it is fully phased in. We will be rewarding people who work hard by making sure that no working family will have to live in poverty, and for the first time we will help thousands of childless workers in my district escape poverty by extending them the credit as well.

They will benefit from the food stamp and immunization initiatives. For the first time, poor families with children that do not live in public or subsidized housing, and who pay more than half of their income for housing, will be eligible to receive food stamps. These families will no longer have to choose between paying rent and utility bills and providing their families with enough food throughout the month.

This plan also preserves the section 936 tax credit program for businesses operating in Puerto Rico. By doing so, we will keep our historic commitment to Puerto Rico, and prevent an additional influx of unemployed workers from seeking to compete with our families and friends for jobs here in the United States.

My district suffers 10.5 percent unemployment as a result of 12 years of Republican indifference—relying on those easy, wrong decisions. Under the President's plan, they will benefit from the numerous small business incentives, empowerment zones for distressed urban areas, and job training investments that will help create new and better-paying jobs in my urban district.

Small businesses are a vital source of jobs for the 13th Congressional District. While less than 4 percent of these small businesses will pay any higher taxes, more than 90 percent of small businesses will benefit from new job-creating tax incentives or tax cuts, including a major expansion of the provisions that allow for annual expensing of business investments, and a new targeted capital gains tax credit for investment in small business.

In conclusion, Mr. Speaker, Americans have always shown the willingness to work hard today in order to make better tomorrow. This plan honors that spirit. The overwhelming majority of the people I represent will pay no increase in income taxes or will actually receive a tax cut. After 12 long years, Congress will create the jobs they need, let them keep the money they earn, and give them the honest and forthright deficit reduction they deserve.

This is the only credible plan before us—to vote against it would be easy, but irresponsible and wrong. It is time to take our problems head on and make the hard and right decisions. I urge my colleagues to support the conference agreement.

Mr. FOGLIETTA. Mr. Speaker, there have been so many words, so many statistics, so many charts. But this storm of rhetoric has complicated an issue that is really pretty simple. We need to talk plainly.

When you spend more than you take in, you have a deficit.

And there are only two ways to reduce a deficit. Cut spending or bring in more money.

This plan makes deep, deep cuts in spending: 200 specific cuts totaling $250 billion over 5 years.

Others talk about harsher cuts, but let's get specific. Some say, for example, you can cut defense spending. I spent 12 years on the Armed Services Committee—fighting to make deep cuts in the military. With that experience, I don't believe we can make any more deeper cuts without seriously endangering our national interest.

Ross Perot and others talk and talk about spending cuts, but they never, ever give you specifics on how to cut spending—without hurting senior citizens and children in desperate ways. Like at home, there's a limit on how much you can save by cutting spending—before your children go around with clothes that don't fit or before you can't put food on the table.

Having cut spending as much as we can, we have no alternative, we have to look at bringing in more money—increasing taxes. Who can we tax?

We can't tax the poor. That doesn't make sense.

We can't tax working men and women any further. They paid for the trickle down economics of the 1980's.

That leaves the well off. This plan puts the brunt of the tax burden on the wealthiest Americans; 80 percent of the tax burden falls on people making more than $200,000 a year. And isn't that the way it should be? Asking those who have the very most to contribute their fair share.

Further, the tax burden cannot fall on senior citizens—and it does not.

A flat-out lie was told the other night: that all senior citizens would be getting a tax increase. That's just not true. I ask all senior citizens to listen to me: Unless you have an average net worth of $1 million or your joint income is $44,000, $34,000 if single, your Social Security will not be affected. If you don't now pay taxes on your benefits, you won't under this agreement.

These are the facts. I say to my colleagues on the other side of the aisle, let's stop clouding the truth, let's stop trying to make this more complicated than it really is, let's stop trying to scare the American people.

This is a good plan. It is fair. It will lead to growth and more jobs.

The alternative is to do nothing, leave it for another day, leave it for our grandchildren to solve. That would be irresponsible. This is the job we were sent to do. Let's do it.

Mr. REED. Mr. Speaker, I rise in support of the President's plan to reduce the budget deficit by $496 billion over the next 5 years, and to restore fairness to our tax system.

This legislation is not perfect, but it is the fairest and most realistic proposal put forward. Indeed, it is really the only credible plan to reduce the deficit and begin to put our economic house in order. It is a plan that makes significant cuts in Federal programs and places the burden of revenue increases on the wealthiest Americans while shielding, to a significant degree, the tax burden on middle income Americans.

While some of my colleagues believe we should do nothing or merely demagog about make believe spending cuts, the President's plan makes the tough choices about reducing the budget deficit. Moreover, the President recognizes that we need to correct the economic policies of the last 12 years which favored the few over the many and generated ever and ever greater budget deficits.

Indeed, over the last decade, the tax burden of America's corporations and top income earners dropped, while the majority of hardworking Americans like the welder at Electric Boat, the nurse at RI Hospital, the assembler at Hasbro, and the teacher at Coventry High School received no lasting benefits from the "1980's economic miracle."

As we now know, tax cuts for those who make the most and excessive defense spending combined with the lack of a national health care system quadrupled the national debt and brought us to our current position.

Today, we have the opportunity to do something about the deficit and the economic fears of our constituents. We can support this plan and reduce the deficit by $496 billion or we can continue the past policy of gridlock and inaction.

The President's plan achieves this goal by cutting Government spending by $255 billion and raising $241 billion in revenue—That's over 1 dollar of cuts for each dollar of taxes.

If you want spending cuts this package has them: $542 million from the Rural Electrification Administration, $894 million from outdated overseas broadcasting programs, $3 billion from agriculture subsidies like the peanut marketing program, $10.7 billion from Federal employee retirement programs, $48 billion from Medicare and Medicaid cuts in payments to hospitals, physicians, and other medical providers, and most importantly a freeze on discretionary spending which will save $102 billion.

Many of my colleagues have called for more cuts—and during this year's appropriation debates we have answered this call with cuts above and beyond those in the President's plan. Indeed, House-passed appropriations bills are $10 billion under budget, and I will continue to vote for further reductions.

The other hallmark of the President's plan is tax fairness—fairness for the ordinary American. Although many of my colleagues claim this plan will raise taxes on most American families, their definition of the ordinary family is certainly very different from the one I have. Indeed, 90 percent of the taxes in this plan will affect those individuals and corporations with the highest incomes. Families earning less than $140,000 in adjusted gross income will have no change in their income tax. Only 10 percent of the taxes will come from the gas tax which is the only tax that effects the vast majority of Americans, and the contribution made by the average American wage earner to reducing the deficit will be less than $1 a week. Furthermore, less than 2 percent of Americans will see any increase in their income taxes.

For example, in my State of Rhode Island, the median income is approximately $32,000. Now, some Rhode Islanders might earn more and some earn considerably less, but I am hard pressed to believe that the majority of people I know in Rhode Island will see any change in their taxes other than a dollar a week. In addition, thousands of Rhode Islanders will save hundreds of dollars from the drop in interest rates which has occurred since President Clinton was elected—their mortgage rates are lower, their car loans cost less, and educational loans are cheaper.

The family of a factory worker in Providence, or a teacher in Westerly, or a secretary in Cranston, or a cook in Glocester does not typically have an adjusted gross income above $140,000. Most of the families I know are struggling to get by on far, far less than the $140,000 that my colleagues on the other side of the aisle consider the average family income. In fact, 14 percent of Rhode Island families would qualify for the expanded earned income tax credit which gives tax breaks to families with adjusted gross income under $23,760 and keeps them out of poverty and in their jobs.

There have also been many misstatements that this plan will hurt small businesses. However, only 4 percent of small businesses will see any increase in their taxes, and 90 percent of small businesses will actually be eligible for tax cuts. The small business incentives in this plan include a repeal of the luxury tax on boats and jewelry which means jobs for Rhode Islanders, a research and experimentation tax credit which means jobs in Rhode Island's emerging high-technology industries, increased equipment expensing so small businesses can write off the cost of new equipment which means greater productivity and jobs, a capital gains tax cut for people willing to invest in new small companies which means jobs, a 25 percent deduction for health care costs for the self-employed, empowerment zones which mean jobs in our cities, incentives to revive the real estate industry which means jobs, and a reduction in the deficit which means lower interest rates for business loans which means jobs. This plan is not just about taxes—it's about the issues of greatest concern to our constituents—jobs and the economy.

I think it is important to consider what happens if the President's plan does not pass. Failure to pass this plan means more than supporting the status quo of gridlock and hoping that market forces will perform a miracle. Failure means more than a financial crisis and rising interest rates. Failure means the continued deterioration of our standard of living and a loss of jobs. It means a continuation of economic fear and a loss of the American dream for millions of families. When I talk to Rhode Islanders, they may have a job, but unlike 5 or 10 years ago, they are not sure they will keep it. They see falling wages and massive layoffs, while corporate profits and executive compensation soar. They want action on the economy which the short-term philosophy of the market will not take.

If we fail to pass this plan, we will fail ourselves and the next generation. Unlike our parents who sacrificed during the Great Depression and fought to win the Second World War, we will have failed to answer the call. We will have surrendered to self-interest and abandoned our dedication to the dream of opportunity in this Nation. We will have failed to forthrightly and responsively address the great challenge of this time. I trust that we will not fail. I trust that we will summon our courage and our common sense and pass this plan.

If there was a way to reduce the deficit painlessly and effortlessly, it would have been done years ago. Unfortunately, reducing the deficit is not easy nor is it painless, but the time to begin this process is certainly now, and I believe the President's plan is the most fair and realistic proposal to reduce our deficit. I urge my colleagues to join me in supporting this plan.

Mr. PACKARD. Mr. Speaker, Abe Lincoln once said: "You may fool all the people some of the time; you can even fool some of the people all the time; but you can't fool all of the people all of the time."

President Bill Clinton and the Democratic-controlled Congress are out to prove honest Able Lincoln wrong. President Clinton through his false gimmick packaging is trying to sell the American people into believing that his huge tax hike, the largest in American history, will go towards reducing the Federal deficit.

President Clinton and the Democrats are conning the American people, and this is why I checked with my doctors yesterday to get their approval to cast my vote against President Clinton's budget. This vote is the first I have made since I underwent triple by-pass surgery on July 16 to remove arterial blockage. I believe this vote is crucial to my constituents and the country and this is why I am here before you instead of at home recuperating.

The Democratic leadership claim that the goal of the Clinton's tax package is to pare $500 billion from the Federal debt over the next 5 years. What President Clinton and the Democrats fail to say is that even if they pass the President's budget, the Nation's debt will still increase by a staggering $1.2 trillion.

If this doublespeak is not insulting enough to the intelligence of taxpayers, Clinton and the Democrats are trying to pull a fast one on American families and businesses by front-loading $275 billion of gross tax increases, without significant spending cuts. The Clinton tax package heaps taxes on Americans already struggling to provide a decent standard of living for themselves and their families. Rather than making Americans pay their fair share, the Clinton tax plan will ensure that Americans will be sharing most of their income with the Federal Government.

Maybe the President and the Democratic leadership in Congress have convinced themselves of this, but my constituents are not persuaded. History has demonstrated to us time and time again that increasing taxes does not reduce the deficit. Higher taxes means increased spending. I ask you my colleagues, the question my constituents have asked me, how can these tax increases be justified with the knowledge that no mechanisms exist to cut spending in the budget.

Three parts of this budget represent a particularly onerous tax burden that will affect the middle class, seniors, and anyone else in America who breathes: The gas tax, the Social Security tax, and surprising new retroactive taxes.

First, the gas tax. This Federal gasoline tax of 4.3 cents per gallon will be more burdensome to families living in the large States of the West and South. California will not escape the affect of this tax. This increase will tax gasoline, diesel, compressed natural gas, and noncommercial aviation fuel.

California will be hit extremely hard since it has a large population that utilizes various forms of transportation. Transportation costs will inevitably increase. The Clinton energy tax is inflationary and will escalate the already spiralling tax burden passed on to American families.

The energy tax will stifle the economic recovery we see occurring right now. According to the Tax Foundation, it is estimated that 54,299 jobs will be lost in my State of California. Behind every number, there is a human face, a family, someone who can blame their unemployment on Clinton's tax package.

Next, the tax on Social Security benefits, or if you listen to the President: a spending cut. Seniors will be penalized for working and saving for their retirement under the Clinton tax plan. Even though in his manifest, "Putting People First," candidate Clinton promised to "protect the integrity of the Social Security Trust Fund," he has decided to balance the budget on backs of seniors.

Clinton's proposal will affect seniors with incomes of over $32,000 or couples' incomes over $44,000 by increasing the tax on 85 percent of their Social Security benefits. In addition to this, these taxes increase the elderly surtax on pensions, IRA withdrawals, interest from municipal bonds and certificates of deposit. The tax revenues generated by these new taxes on seniors will then be used to fund other programs, rather than going into the Social Security trust fund. The President should not wonder, as he pillages senior's benefits to pay for other programs, why in addition to the budget deficit, he also must contend with the "trust fund."

This elderly surtax is anything but fair. The increase in the elderly surtax hits the prudent and frugal who live on fixed incomes. According to the Heritage Foundation, it is estimated that in California 566,328 households over 65 with incomes greater than $35,000 will be hit, and more specifically, in my district 13,884 households affected.

The $29 billion Clinton hopes to raise at the expense of our seniors could easily be achieved by implementing just a handful of seniors waste-cutting recommendations that have been put before him. Seniors should be appalled that a President who was not even born while many of them were fighting in World Wars to make the world safe for democracy, and working to feed their families, is now trying to pick their pockets to pay for his new spending programs.

And speaking of new taxes, Mr. Speaker, I'd like to call my colleagues attention to language tucked away in the budget reconciliation bill. The measure imposes an unfair rate increase in estate, gift and generation-skipping taxes that would be retroactive to January 1, 1993. The proposed increase which would raise the top rate from 50 percent to 55 percent would hit many estates and beneficiaries, including many owners of family-owned businesses and farms.

This change is a radical departure from tradition. No retroactive change has been imposed since the estate tax was enacted in 1916. President Clinton and the Democrats are not satisfied with the amount of revenue raised through the largest tax increase in American history, they still want to rob the American people of more money. American taxpayers are discovering they do not have much left to tax, and to make matters worse President Clinton's so called budget cuts will not take effect until he is out of office. The Clinton administration is raising taxes retroactive to January 1, 1993, and prolonging spending cuts for 4 years. I truly doubt that this is the type of change that Americans voted for in November.

Eighty percent of small businesses who file as individuals will be hit by these taxes. President Clinton conceded that up to 1.25 million small business men and women could be paying this increased tax. This is a huge sacrifice for the most vibrant facet of our economy. The President and the Democrats should follow the lead of every previous Congress that has considered the issue and change the budget reconciliation bill to eliminate retroactive taxes.

When you add it all up, Clinton's budget reconciliation bill cannot possibly shave $500 billion from the Federal debt. He may fool some of the American people into believing that it will, but certainly not all, and probably not even most. The American people will remember this as they watch more and more of their paycheck go toward Federal taxes.

President Clinton portrays this package as change for America, saying that it is time the rich pay their fair share. However, President Clinton is robbing everyone in America to pay for the Congress' insatiable appetite for spending. The most common sentiment of the 100's get well cards and letters was "cut spending before raising taxes—vote "no" on the Clinton tax package."

Mr. COOPER. Mr. Speaker, every family, every business, and every nation must have a budget in order to be successful.

I think President Clinton should have cut spending first. That's why I voted for the spending-cuts-only budget offered by the Republicans. It failed by a vote of 138 to 295. Forty Republicans refused to support it, and only six Democrats were willing to cross party lines.

The Republican plan is the closest Congress has come to an alternative budget. So the question is whether to support Clinton's budget or have no budget at all.

I think our Nation must have a budget.

I would have drafted a very different plan than Clinton did. I am a strong supporter of the line-item veto, the balanced budget amendment, entitlement caps, spending freezes, and all manner of spending cuts. I've even called for a special session of Congress to deal with the deficit. I have received awards from the U.S. Chamber of Commerce and the National Federation of Independent Business for my fiscal conservatism.

The Clinton plan cuts the growth of the Federal deficit by almost $500 billion over the next 5 years. This is not enough, but it is a start. Half are spending cuts and half are tax increases. I intend to make sure that all the spending cuts are enacted. In fact, Congress has already cut spending this year by $10 billion more than the President requested. The tax increases fall primarily on those with taxable income over $115,000, with the exception of the gasoline tax, which will cost the average Tennessee driver about $30 a year. Farmers are exempt from the gas tax.

This means that 90 percent of the tax increases will be paid by Tennesseans with incomes over $100,000. The vast majority of our fellow citizens will face no income tax increase.

The easy political vote is "no." I could still pretend that I was for deficit reduction. But I think the right vote is "yes," even though it is a flawed plan. Some budget is better than no budget. Every day that we wait we are spending $800 million that we do not have. Tennesseans want to cut the deficit and cut it now so that we stop mortgaging our future. The American people voted for change in the last election, not gridlock.

Pass the Budget—Critics Have No Chance To Agree on Alternative

President Clinton is right about the one budget issue that matters most right now: Congress has a choice between his plan and no plan.

Congress should pass the President's budget. The nation can't afford more months of haggling and feuding. Businessmen need some idea of what's going to happen to them, even if it's not entirely to their liking.

To be honest, a lot of people find little to like in what the President proposes. The big problem they have is that they can't do anything about it.

Sen. Bob Dole of Kansas, speaking for the Republican opposition, urged Congress to reject the Clinton budget and promised that Republicans then would work with Democrats to forge the right kind of budget for the nation.

That's rank politics—or daydreaming.

Dole and his Republican colleagues favor lower taxes to stimulate the economy and less spending to cut the deficit. They're not going to pass that budget, however. They couldn't even do it with a Republican in the White House.

Clinton and the leadership in Congress face a harsh test, both political and economic.

Two of the three pillars of Clinton's original budget vision have collapsed. He had to give up on his economic stimulus package, which depended heavily on a broad energy tax, because of congressional resistance. His goal of dramatic increases in jobs has succumbed to the prospects of much slower economic growth than the administration had predicted.

That leaves the pillar of reducing the deficit. He has a chance to do it, although the public will eventually become disenchanted with the claims of cutting $496 billion from the deficit. The less exhilarating facts are that the cuts won't really start to take effect for a few years and that the annual deficits will still be large enough to keep the nation's overall federal debt growing. That debt will take much longer and many more sacrifices to reduce and, meanwhile, it will continue to cost a depressing percentage of the budget just to service the interest payments.

Then there's the infamous practice of "baseline budgeting," in which cuts are figured not from what was spent last year but from what an agency projects it would need to cover inflation, pay increases and other normal growth. Cuts become cuts in the rate of growth, not in actual spending. Clinton's deficit reduction of $496 billion may turn out to be a much more modest amount.

The promised cuts could even fall victim to congressional second thoughts or politicking. Congress could increase spending for the traditional purposes of pork, reelection, political payoffs and ideological fantasies—purposes that Clinton blasted in his televised speech Tuesday night.

Will Clinton and the leadership stick together on the deficit goal? Will they control the Democratic majority? Clinton promised his TV audience that he would make any correction necessary to keep on target, but he could end up without the necessary clout.

For the President—as for the nation—a great deal rides on the outcome. If his promises disintegrate, he won't have a second term to patch and mend and blame congressional gridlock. A bad economy and angry population would clean out the White House. Perhaps the Congress, too.

Critics of the Clinton budget—from both sides of the aisle—have some sound points.

They complain, for instance, that the tax increases can slow growth by reducing funds available for both consumer purchases and investments. How can the public be encouraged to save, they argue, when more is taken from wages and other income?

Higher taxes on business, they say, will cool down plans for expansion and cost jobs that otherwise would have been created. On that score, Clinton's health reform plans, which he's expected to submit to Congress this fall, could really hurt job creation by requiring employers to finance expensive insurance coverage for every new employee.

Some members of Congress are bitter about last-minute changes that are meant to win a few key, undecided votes. There probably is considerable public unrest, too, over the decision to make income tax increases retroactive to Jan. 1—the first retroactive tax hike since the 1960s.

Other critics say that Clinton should place his first priority on new jobs. To do that, they say, the budget should include deeper cuts in spending and greater incentives for savings. Sen. Bob Kerrey (D-Neb.) has proposed a special session of Congress to consider nothing but spending cuts.

The criticisms, however, don't make a budget. Congress has been agonizing over these issues for months (and, before Clinton, for 12 years under two Republican presidents). It's not any closer to a consensus on its own.

What Clinton has managed to pry out of Congress—and he had to make numerous compromises in what he first proposed—won't solve the nation's economic problems. But it will provide some movement, which is far better than the current stagnation and uncertainty.

There will be chances to add and improve. But first there has to be a budget. Pass it.

CALL OF THE HOUSE

Mr. SABO. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members responded to their names:

[Roll No. 405]

Ackerman
Allard
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Armey
Bacchus (FL)
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barca
Barcia
Barlow
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bateman
Becerra
Beilenson
Bentley
Bereuter
Berman
Bevill
Bilirakis
Bishop
Blackwell
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burton
Buyer
Byrne
Callahan
Calvert
Camp
Canady
Cantwell
Cardin
Carr
Castle
Chapman
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Coppersmith
Costello
Cox
Coyne
Cramer
Crane
Crapo
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
DeLay
Dellums
Derrick
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Durbin
Edwards (CA)
Edwards (TX)
Emerson
Engel
English (AZ)
English (OK)
Eshoo
Evans
Everett
Ewing
Farr
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Fingerhut
Fish
Flake
Ford (MI)
Ford (TN)
Fowler
Franks (CT)
Franks (NJ)
Frost
Furse
Gallegly
Gallo
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Grams
Grandy
Green
Greenwood
Gunderson
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings
Hayes
Hefley
Hefner
Herger
Hilliard
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoekstra
Hoke
Holden
Horn
Houghton
Hoyer
Huffington
Hughes
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Inslee
Istook
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E.B.
Johnson, Sam
Johnston
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kim
King
Kingston
Klein
Klink
Klug
Knollenberg
Kolbe
Kopetski
Kreidler
Kyl
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Leach
Levin
Levy
Lewis (CA)
Lewis (GA)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Long
Lowey
Machtley
Maloney
Mann
Manton
Manzullo
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCollum
McCrery
McCurdy
McDade
McHale
McHugh
McInnis
McKeon
McKinney
McMillan
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Mica
Michel
Miller (FL)
Mineta
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Nadler
Natcher
Neal (MA)
Neal (NC)
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quillen
Quinn
Rahall
Ramstad
Rangel
Ravenel
Reed
Regula
Reynolds
Richardson
Ridge
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Rowland
Roybal-Allard
Royce
Rush
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Schenk
Schiff
Schroeder
Schumer
Scott
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shepherd
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (IA)
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stearns
Stenholm
Strickland
Studds
Stump
Stupak
Sundquist
Swett
Swift
Synar
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thompson
Thornton
Thurman
Torkildsen
Torres
Towns
Traficant
Tucker
Unsoeld
Upton
Valentine
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Waters
Watt
Waxman
Weldon
Wheat
Whitten
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (FL)
Zeliff
Zimmer

□ 2118

The SPEAKER pro tempore (Mr. MURTHA). On this rollcall, 410 Members have recorded their presence by electronic device, a quorum.

Under the rule, further proceedings under the call were dispensed with.

□ 2120

CONFERENCE REPORT ON H.R. 2264, OMNIBUS BUDGET RECONCILIATION ACT OF 1993

The SPEAKER pro tempore (Mr. MURTHA). The Chair will announce that the gentleman from Ohio [Mr. KASICH] has 11 minutes and 15 seconds remaining and the gentleman from Minnesota [Mr. SABO] has 10 minutes remaining. The Chair will be liberal in its calculation of time for all of the leadership.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The Chair would ask the gallery not to make any demonstration of applause for or against the legislation or for or against the speakers as they make their presentations.

Mr. KASICH. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Texas [Mr. ARMEY].

Mr. ARMEY. Mr. Speaker, I thank the gentleman for yielding the time.

Mr. Speaker, this debate defines the difference between Republicans and Democrats. I am not done yet. Democrats believe prosperity comes from a bigger government. Republicans know it comes through ordinary people acting on behalf of themselves and their families.

Mr. Speaker, tonight we see the change that President Clinton and congressional Democrats have promised since election day. Unfortunately, it is a change for the worse. It is a return to the policies of high taxes and economic stagnation. It is a plan for growing government. It is a plan that says "Americans can't, the Government can." It breaks faith with the spirit of enterprise that made America great in the first place.

Taxes will go up. The economy will sputter along. Dreams will be put off and all this for the hollow promise of deficit reduction and magical theories of lower interest rates.

Like so many of the President's past promises, deficit reduction will be another cruel hoax. Tax revenues will lag because the economy will fall. Government spending will increase at least another $300 billion a year. And the deficit will reach another record high.

To sell this plan, the Democrat leadership tells us that we must pass it or face the consequences of higher deficits; exactly what they told us 3 years ago when they were peddling the failed budget deal that cost George Bush the White House. In 1990 they told us that their plan would make the economy stronger and reduce the deficit by $500 billion. What happened? We went into a recession and the deficit shot higher than ever.

Well, here we are 3 years later about to make the same mistake.

What are you Democrats going to tell your constituents after you fail them again?

I'm sorry your tax bill went up?

I'm sorry your business failed?

I'm sorry you lost your job?

I'm sorry the deficit isn't better?

I'm sorry it didn't work for George Bush and it won't work for you.

Without apology, Republicans oppose this plan. Not because of politics. We oppose it on principle. We oppose it because George Bush tried it with you in 1990 and it failed.

We oppose this plan because it's a giant tax on the American dream and on America's future.

You Democrats don't see things happen unless you see the Government do them. You don't understand that jobs aren't created in committee rooms, Government agencies, or White House staff meetings. Jobs are created when Americans take risks and dare to chase their dreams.

This plan is not a recipe for new jobs, more opportunities for our young people, or more secure retirement for our parents. It is a recipe for disaster. Democrats may give your President a political victory today, but it's a defeat for our economy and the wellbeing of the American people.

Vote for your constituents tonight. Vote against this failed plan.

Save this Nation's economy and save your President's presidency.

Mr. KASICH. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Georgia [Mr. GINGRICH], the Republican whip.

Mr. GINGRICH. Mr. Speaker, I thank the gentleman for yielding the time, and I want to take just a second to thank the gentleman from Pennsylvania [Mr. MURTHA] for the extraordinary skill he has brought to presiding over this debate.

Mr. Speaker, at a time when this House needs help in restoring the legitimate reputation of parliamentary democracy and of the process of the legislative bodies, this debate today, the way in which it has presided and the way in which both sides engaged is in fact an example of what free people should do and how we should be functioning. And I think whichever side you are on, we can all be proud that this was the right kind of debate to create the right kind of environment for the American people to see what self-government should be.

In that framework, frankly, if I were only a Republican partisan, I would hope that this tax increase bill would pass by one or two votes so that every Democrat who voted yes would bear the responsibility for a massive tax increase and the job-killing recession it will lead to.

However, patriotism is far more important than partisanship, and on behalf of America and the American people, I would appeal to all of my colleagues on both sides of the aisle to reject this conference report and ask the conference to start over.

Americans listened the other night. The President said call and let the Congress know what you think. In my district it was 9 to 1. In district after district across the country it was 5 to 1, 8 to 1, 3 to 1, 2 to 1, and every once in a while I heard a Democrat say well, mine were running even. But for the bulk of the country, in polling data, in phone calls, the American people have answered the President. They have said not this bill, not this increase, not now.

Let us look at why they might have said that. As the gentleman from Ohio [Mr. KASICH] points out, there is only $38 billion in truly new defined spending cuts out of $7 trillion. The Kasich plan that we offered earlier this year had $38 billion in real spending cuts the first year.

Now, there is $24 billion in higher taxes on the middle class, and $25 billion in higher spending on the welfare state.

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So that is not cutting the deficit.

But consider the problems of the Midwest, of Minnesota, of Iowa, of Missouri, every new piece of equipment, every new piece of furniture, everything brought in to help with the flood will pay a higher barge tax and a higher gasoline tax. The people trying to dig out from that flood will be taxed by this Congress if this bill passes. So their recovery will be more difficult and more of their money will go to Washington.

And in that sense, the barge tax and the gasoline tax will be disproportionately levied on the people of the flooded areas.

Consider one last thing, this is the first time in American history that we have reached back in a massive way to a broad class of taxpayers and said, "This Government has the right to raise your taxes retroactively."

One colleague laughed and said, "Why don't we make it retroactive to 1789 and pay off the entire national debt?"

But what are you going to say to the widow who thought she had taken care of her husband's estate? What are you going to say to the small business that thought it had paid its taxes? What are you going to say to the family farm that thought it had a contract with its Government that it could trust?

Because retroactivity is the most dangerous precedent we could set, because it says this Government can steal your money after the fact anytime it gets a majority willing to go out and take the money out of your family to send it to Washington. And in that sense, the principle of retroactivity is a threat to every American who ever intends to earn a dime at any level in this country.

Let me paraphrase Lincoln: If you can do it to one person because they happened to have one amount of money in their wallet, then you can do it to another person who has much less money; if you can do it on a particular tax, you could retroactively raise the gasoline tax and have the IRS decide how many miles the average American must have driven and then send them a bill.

Once you set this principle, you will have established a precedent that will threaten every American at every level that their Government is their fiscal enemy.

Let me say this one last thing. I saw today the wonderful fig leaf. I thought it was remarkable, the wonderful fig leaf issued by the Speaker and the majority leader of the new promises of the new opportunities to someday later on save the spending that they did not save in this bill.

First of all, anybody who has been in this Congress any length of time has seen these come and go. They always mean you will get a fig leaf, but you will not get anything to happen, and later on you will be able to hope that people do not remember.

But let me make two points: First, it is an admission that there are not enough spending cuts in this bill for the Democratic leadership to have had to make that concession, even though it is all procedural and no substance.

Second, let us remind the country that the Democrats on the Committee on Rules blocked 31 amendments this year which could have cut spending additionally by $97 billion this year alone. They would not even let the House vote on $97 billion in this year's spending cuts, $97 billion.

I simply say to my friends, this is not the best bill we can write. This is not the right approach. We should cut spending first. We should help the economy grow.

If we will defeat this tax increase, we can work together to design a spending-cut-first budget, we can put together a coalition, and we can have, I think, something much better for America and the American people.

Mr. SABO. Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, once the rhetorical smog clears, I think the American public will see very clearly that the right vote is in favor of this package. I intend to support it.

Mr. HUGHES. Mr. Speaker, I rise today in support of the conference report on House Resolution 2264, the Omnibus Budget Reconciliation Act of 1993.

It was not an easy decision. Indeed, it would be much easier for me to pick out several of the most objectionable provisions in the bill, and use that as an excuse for voting against the entire package.

That might be the smart political vote, but where would it leave us? More importantly, where would it leave our country?

Our national debt is already $4.3 trillion, and results in annual debt service of over $300 billion. How much longer can we put off the hard choices to reduce the debt, while the deficit just grows and grows?

And what kind of message would it send to the American people, to Wall Street, and to the international economic community, if we defeat this package and once again become bogged down in gridlock and paralysis?

Make no doubt about it. This vote is the proverbial fork in the road. It is the choice between continuing the meaningless, feel-good policies of the past which sugar-coated our economic problems, or embarking on a real action plan to confront the deficit honestly and fairly.

It is the test of our willingness and ability to look beyond our own political self-interests, and do what is best for our country: To provide real leadership, and not just take the easy way out: To chart a new course for

America, or to return to the failed fiscal policies of the past.

I am convinced that the consequences of doing nothing, and simply prolonging the deficit dilemma, are far worse than standing up now and beginning to make the tough choices to cut spending and increase taxes to get the deficit under control—even where those choices are not always easy or politically popular.

I do not want to be remembered as a Member of Congress who, through lack of courage, moved our Nation closer to bankruptcy, or denied our children and grandchildren the promise of a better life.

In my heart, I know that an aye vote is the right one for our country. My constituents expect me to use my very best judgment and do right by them, and in a manner which keeps faith with my oath of office.

I also believe that the plan now before us is a significant improvement over what left the House. Two of the three major concerns I had with the House bill have been addressed, with the elimination of the Btu tax and the increase in the earnings threshold for taxing Social Security benefits.

The plan still does not go as far as I had hoped in terms of spending cuts, but we can address that separately through the appropriations process. Indeed, we are already doing so.

But let us be honest with one another. While this plan is not perfect, it is a good starting point for real deficit reduction. The deficit will be reduced by some $496 billion over the next 5 years, through a combination of spending cuts, tax increases mostly on the wealthy, and tax breaks for business to stimulate new economic growth.

The economic assumptions are realistic, and the President will sign an Executive order today which dedicates the revenues to deficit reduction.

Can we do better? Well, we have tried for almost 4 months to fashion a compromise that will attract enough votes. Starting all over again will not make the choices any easier, and if history is any guide, it might only result in a worse product.

Most important, there is nothing in this plan which precludes us from working through the appropriations process to impose additional spending cuts beyond the targets outlined in this bill. This budget bill simply provides a framework for deficit reduction, which we can and will improve upon in the years ahead.

Indeed, the appropriations bills which have already passed the House this year contain nearly 300 additional cuts below last year's spending levels. We have already achieved $10 billion in spending cuts beyond this plan's level of funding.

Let me repeat that. We have already this year cut spending by $10 billion more than contemplated by this budget plan. And we can and should do more.

For instance, I voted in the last few weeks alone to cut funding for the $30 billion space station and the $10 billion super conducting supercollider, which we just cannot afford.

I also voted against four entire appropriations bills because they were too expensive. Thus, we can continue to make further cuts through the appropriations process, where we are not satisfied with the larger spending levels.

Now, let us take a look at just what this bill does.

On the spending side, it provides for some $255 billion in net spending cuts. That means more than half of the total deficit reduction will be achieved through direct spending cuts.

Included in these cuts are a $125 billion reduction in military spending over 5 years; $60 billion in spending cuts from the Federal payroll; $11 billion in federal administrative cost reductions; and more than $1 billion in unnecessary public housing programs, just to mention a few.

The bill also addresses the problem of skyrocketing entitlement costs—which are the fastest growing part of the budget—by restraining some $56 billion in future Medicare payments to providers, and another $7 billion in Medicaid expenditures. Again, I agree that it does not go far enough.

I would like to take these cuts one step further by imposing means testing on recipients of Medicare part B. There are multimillionaires receiving Medicare reimbursements which the government subsidizes to the tune of 75 cents on the dollar. That is simply outrageous. But, the votes are not there to change that right now.

For those who claim we can eliminate the entire deficit simply by eliminating waste and cutting spending, I say show me how. While we surely have waste and inefficiency in government and have to work harder to eliminate it, such sincere but simplistic suggestions are just cop-outs.

Let us get down to basics. There are four categories of Federal spending: entitlements, defense, interest on the debt, and domestic discretionary programs. Entitlements, such as Social Security and other income security programs, make up 51 percent of all Federal outlays. We can do little about entitlements because they are a matter of right to the beneficiaries. We are bound by contract to make these payments.

Interest payments on the national debt account for another 14 percent of the budget. These payments are also mandatory and cannot be reduced without lowering the debt. That takes care of 65 percent of the budget.

Defense spending has already been scaled down from 26 percent to 20 percent. While there is still room for additional cuts in defense, to better reflect our changing military priorities in the post-cold war era, we cannot go too much farther without putting our national security at risk. That totals 85 percent of the budget.

What is left is the fourth and final category of Federal spending: discretionary programs, which account for only 15 percent of the budget. Included in this category is the funding for education, health care, law enforcement, nutrition, Coast Guard, environmental protection, housing, transportation and so forth.

We could eliminate—yes eliminate—every single domestic program in the discretionary budget and still not eliminate the deficit. The money just is not there. Moreover, it is unrealistic to think we could simply eliminate the FBI, Coast Guard, Park Service, Veterans' Administration and so many other domestic programs which are critical to the security, health and well-being of the American people.

While it does not go as far as I would like, I am satisfied that, on balance, this reconciliation bill meets the test on the spending side of the equation. It addresses every category of spending, and distributes the cuts in a fair and reasonable way without disrupting the very fragile economic recovery which is currently underway.

So let us move on to the tax side of the bill.

This bill contains a host of provisions which I strongly support to stimulate the economy by providing major business and investment incentives.

For example, it repeals the so-called luxury tax on boats, which has virtually destroyed the American boat building industry, especially in my own State of New Jersey, and put thousands of people out of work.

The bill also restores certain passive loss deductions for the real estate sector, to help spur new investment and growth. Housing is a core industry in America, and any improvements we make in real estate will have a dramatic ripple effect throughout the economy.

The bill establishes targeted capital gains provisions for people who invest in small business ventures, to encourage new investment in the critical small business sector. It also extends the targeted jobs tax credit, the low-income home tax credit, mortgage revenue bonds and small-issue development bonds, all of which benefit the economy.

In addition to these tax incentives, the bill seeks to rebuild our revenue base by requiring the wealthiest individuals and corporations to pay their fair share of taxes.

Except for the increase in the taxable portion of Social Security, no couple with gross income under $180,000 will pay any additional income tax. No corporation with less than $10 million of income will pay more income tax.

The plan, in essence, targets the tax increases at those in the top bracket, who had a relatively free ride through the 1980's and not the middle class, which has borne the brunt of the tax burden under the economic policies of the last two administrations.

I have heard this bill characterized by its opponents as the largest tax increase in history. That is nonsense. The fact is, some 98.9 percent of the American people will experience no increase in their income taxes under this bill. The tax increase represents less than one percent of our GDP.

The one exception is the 4.3 cent a gallon increase in the Federal gasoline tax. But this increase is very modest, and is more than offset by the increase in the earned income tax credit for families earning less than $30,000 a year.

Moreover, it is a great improvement over the so-called Btu tax, which was a part of the original House bill. I am also pleased that the conference report retains the current levels of taxation for Social Security benefits until income reaches $44,000 for couples and $34,000 for individuals, instead of the lower thresholds passed by the House. This is a much more fair and reasonable compromise than was contained in the House bill.

While I am pleased with these improvements, however, I am disgusted with some of the concessions which were made in conference to attract the votes of individual Senators.

If this deficit reduction plan was not so essential to the welfare of our country, I would be tempted to cast a protest vote against it. It is most unfortunate that the Administration yielded to such tactics.

Mr. Speaker, let us not forget how we got into this mess in the first place. It started with the 1981 tax bill, which drained the Treasury of more than $2 trillion, and more than quadrupled the national debt.

I voted against that bill, and warned then that it would leave our country with a legacy of debt. Unfortunately, that is just what has happened.

What followed over the next decade were a series of feel-good economic proposals, such as the Gramm-Rudman law and the balanced budget constitutional amendment. These proposals were designed to make it look like we were doing something about the deficit, although they really did not. They only put off the hard choices to cut spending, while the deficit grew and grew.

I voted against these gimmicks, just as I voted against the 1990 budget agreement, which piled more taxes on the middle class without cutting spending or reducing the deficit, because it was based on phony assumptions.

Mr. Speaker, it is time to cut through the gimmicks and rhetorical fog once and for all, and face up to the fact that we have an economic crisis in our country. It is not a Republican crisis or a Democratic crisis, but an American crisis. The American people are looking to us, their elected leaders, for solutions, not more excuses, or feel-good slogans or wishful thinking.

The time has come to do what is best for our country. That means standing up now and voting to cut spending, to reduce the deficit and to put us on the road to economic recovery. It is a beginning of that journey that we must start now.

I urge my colleagues to support the bill.

Mr. FRANKS of New Jersey. Mr. Speaker, this budget process began with high hopes and ends today with broken promises.

This budget calls for new taxes on gasoline and on Social Security, and yet President Clinton as a candidate condemned such taxes.

Supporters say this budget reduces spending and will begin to get a handle on the national debt, yet even the President acknowledges that under this budget Federal spending will actually increase more than 20 percent over the next 5 years. And worse, the national debt will actually grow by $1 billion a day. But most importantly, this budget is a job killer—pure and simple.

Those of us in New Jersey have already learned what an enormous tax hike can do to a fragile economy. Three years after the largest tax hike in our State's history, New Jersey has yet to regain its economic health. To paraphrase my State's tourism slogan: Clinton's taxes and Florio's taxes—devastating together.

Mr. Speaker, we don't need any more empty promises. The American people deserve a better budget.

Mr. LIGHTFOOT. Mr. Speaker, this tax plan is the direct result of electing a man President who has never worked in the private sector. President Clinton claims that by enacting the largest tax increase in our history we will create jobs and strengthen the economy. In other words, he believes the Federal Government spends money more efficiently than the private sector.

The American people already pay enough taxes: income tax, property tax, sales tax, capital gains tax, inheritance tax, gas tax, to name a few. But today, we are offered a new and dangerous tax: a tax on history.

President Clinton reaches into the past to take your money but into the future, after the next Presidential election, for the spending cuts. What kind of new direction is this? How is this different from Gramm-Rudman, Gramm-Rudman II, the Budget Enforcement Act?

We are elected to govern and that means tough choices. It means telling some people no, it is a great idea but we can't afford it this year. This plan takes the coward's way out. Tax the American people this year and make future Congresses and the next administration responsible for the cuts. Congress must take responsibility and cut spending now.

President Clinton says it is time for a change, but a tax on the past is not positive change. This plan boils down to more taxes, more spending, and promises of future cuts that have never, and will never, materialize.

President Clinton has said he wants to go in a new direction. Mr. Speaker, if this tax and spend package is passed, the American people will tell him where to go.

Mr. COSTELLO. Mr. Speaker, 12 years ago, our Nation gambled with trickle-down economics by giving huge tax breaks to the very wealthy, expecting the money they spent to trickle down to the rest of society. At the same time the wealthy were paying less, defense spending doubled from $150 billion to $300 billion and spending on entitlement programs continued to increase without control.

In November, the people elected a new President demanding change and a new direction for the country. Opinion polls clearly indicate that people want their Government to reduce the deficit and cut spending, and have said they are willing to pay more to accomplish these goals.

President Clinton submitted his budget to the Congress several weeks ago. His plan contained a goal of reducing the deficit by $500 billion, $255 billion from spending cuts and $230 billion from revenue increases—90 percent of which would be paid by those making more than $100,000 per year—and set new priorities for the Federal Government.

I objected to several items in the President's original plan: First, I did not want a Btu tax that affected every household in our district regardless of income; second, I opposed the inland waterways tax that affected the cost of shipping agriculture and other products; and third, I wanted more spending cuts, a mechanism to control spending on entitlement programs and a trust fund to apply all new revenues to deficit reduction.

After many versions proposed by liberal, moderate, and conservative Democrats in the House and the Senate, the final plan passed by the Congress eliminates the Btu tax and the inland waterways tax. In addition, the President has issued Executive orders putting control mechanisms in place to control entitlement spending and set up a trust fund for deficit reduction.

In addition to the revenue increases and spending cuts, the bill contains many other items that restrict and in some cases eliminate tax benefits for business lunches, entertainment, country club dues, and other expenses used by lobbyists.

In this limited space, I will do my best to explain how this plan will affect the people of our congressional district.

First, you should know that the median household income in our district is approximately $26,000 annually. Under the President's plan, the average household in our district will get a tax cut of $37 per year, primarily due to the earned income tax credit for working families.

In addition, about 43,000 working families in our district will receive approximately $71 million in tax benefits as a result of the Expanded Earned Income Tax Credit Program. That is a dramatic boost in EITC benefits.

Over 99 percent of the people of our district will not be affected by the higher income tax rates. The remaining 1 percent or less that earn $140,000 individually, or $180,000 for a couple filing jointly, will see their tax rate increase from 31 percent to 36 percent. That is far short of the 70 percent rate that the wealthy once paid.

Almost 90 percent of our Social Security recipients will not be affected by the increase in taxes on Social Security benefits. About 10 percent of our recipients—those paying taxes on their benefits now—will pay an additional tax. Social Security recipients earning more than $34,000 or $44,000 for a couple will be taxed on 80 percent of their income in excess of these earnings. They will not pay taxes on Social Security benefits if their income is less than $34,000 or $44,000 per couple.

Second, everyone who drives a vehicle will pay 4.3 cents per gallon more into the deficit reduction trust fund. This amounts to about 10 cents per day for the average family in our district, with some exemptions for farm machinery and a phased in tax for airlines, to help cushion the cost—a helpful provisions for us.

Third, 97 percent of the small businesses in our district will not be affected by the higher tax rates. The remaining 3 percent that will be affected have owners making an average profit of $560,000. In addition, small businesses will see a solid benefit under the bill—an almost doubling of their tax deduction for equipment purchases, from $10,000 to $17,500.

Fourth, the Chairman of the Federal Reserve, Alan Greenspan, has stated that a $500 billion deficit reduction package passed by the Congress will keep interest rates low. Without such a plan, Mr. Greenspan said interest rates would increase, affecting everyone's ability to borrow money and cut loan amounts.

Fifth, there are over 200 specific spending cuts in the President's plan. In addition, funds that the Congress has discretionary control over to spend as it sees fit will be frozen for the next 5 years. The President has issued an Executive order that places a mechanism on runway spending for entitlement programs that make up over one-half of all Federal spending.

This country has tried trickle down economics for the past 12 years. Clearly it failed. This plan is not perfect by any means. However, it is the only plan that could address some of the concerns of the liberals, moderates, and conservatives in order to get 218 votes in the House and 51 votes in the Senate.

It is clear that no other plan would pass the Congress—not the President's original plan with the Btu tax, or Ross Perot's plan to raise gas taxes by 50 cents per gallon and make unspecified spending cuts, or BOB DOLE'S plan to cut the budget but without saying how. It was either this plan to reduce the deficit or a return to gridlock and business as usual.

Finally, we all have our own view as to which programs should be cut and who should pay additional taxes. As a member of the House Budget Committee, I proposed eliminating the space station and superconducting super collider, at a savings of over $10 billion this year. However, a colleague of mine from Taxes proposed in return that we shut down Scott Air Force Base and the Mel Price Army Support Center. In a democracy, we are forced to compromise until we reach a consensus on legislation that is acceptable to 218 Members of the House and 51 Senators.

This bill is only a beginning to get our Federal budget spending and deficit under control. Without meaningful health care reform, we will never get our budget problems solved. I will continue to vote in Congress to cut spending—in the past several weeks I have voted against the leadership in my party by voting to cut billions from programs that have come before the Congress. I will also continue to push for a balanced budget amendment in Congress.

While this bill is not the answer to all of our problems, I believe that is fair to the majority of the people in our congressional district. It will accomplish what our Nation must do, which is to reduce the Federal budget deficit, for the sake of our children and grandchildren. That is why I support it.

Mr. VALENTINE. Mr. Speaker, today we reach the end of a long and painful process. As I study the final product of that process, I cannot hide my disappointment.

Like many House Members, I began the budget process with high hopes that this would be the year that we toss aside business as usual and tackle the deficit head on. Unfortunately, we have missed numerous opportunities to demonstrate that we have conquered the borrow and spend mentality that has hung a huge debt around the necks of our citizens.

Business as usual has continued to be the rule of the day. A good example of this attitude can be found in the recent flood relief bill. That bill was a perfect opportunity to say to the American people that we have kicked the borrowing habit—that we are ready and willing to face even our most urgent needs honestly. How amazed and impressed would the American people be—to see a Congress willing to actually cut spending in other areas to pay for the flood relief.

Instead, we met the crisis the same way we confronted the earthquake in San Francisco, the hurricanes in Florida, Louisiana, and the Carolinas, and even the Persian Gulf war—by increasing the deficit.

Mr. Speaker, I do not mean to make light of the desperate needs of the people of the Midwest who have been stricken by the floods. But, I am disappointed that we have not done more to fight an even bigger flood—the Federal deficit.

In the early eighties, we built a levee and called it Gramm-Rudman, and it fell at the first wave of red ink. So we built a new levee and called it Gramm-Rudman II, and we tore it down to save the elections downstream. So we constructed a flood wall and called it the 1990 Budget Summit Agreement. But the red ink just continues to wash right over us.

Our efforts to hold back the flood have failed. Our task ahead is not only to control it, but to stop the flow as well. Our lost opportunities should be put behind us. Today, we must focus on the deficit reduction bill before us.

The bill we have before us today is certainly not perfect. Every one of us would have written it differently.

But it provides real deficit reduction—nearly a half-trillion dollars. It is the only legislation of that magnitude that was offered and it is the only bill that has any chance of passage.

I have spent the last decade trying to hold back the flow of deficit spending. I have seen a lot of efforts fail. But those in this body and across this land who use past failures as examples of a future lack of success are cheating not only us, but the next generation. We cannot let this historic opportunity pass.

Mr. Speaker, the bill before us today is not perfect, but it represents a good first step toward changing the way we do business—toward stopping the flow of red ink. If the bill is defeated, I am convinced that the next one will not be better, only smaller—increasing the chance that we will once again be clamoring for sandbags to stop the flow in just a few years. I intend to vote for the only bill that can put us on the road toward a balanced budget and economic justice for our grandchildren.

Mr. Speaker, I began by saying we have reached the end of a painful process. We are also beginning another, even more painful, process. This deficit reduction plan is a beginning, but our most difficult decisions still lie ahead. The toughest spending cuts are yet to come. If this wall is to control the flood, we must continue to build on it—to guard it, until we get the flood under control.

And, just as success in the Midwest depended on the participation of everyone, this country will be much better off if everyone in the Congress participates in the tough decisions which lie ahead. I understand the short-term political attractiveness of standing on the sidelines and pointing out the errors of those who govern, but the country cannot afford elected officials who limit their involvement to rhetoric and criticism.

The time has come to stop debating and act. I urge my colleagues to vote for this bill, to once again take up the fight against red ink and begin the process of eliminating the deficit.

Mr. DE LA GARZA. Mr. Speaker, I will vote "yes" for this budget plan because I am committed to reducing the Federal deficit. I am committed to seeing this Government balance its budget.

The American people want us to act. That has been the unequivocal message I have been hearing from the people of my district.

That is why I am here today. My colleagues, we must have the courage to address the issue of deficit reduction.

There are no easy, painless choices anymore. There are people who are telling me—no, don't do it this way or that way.

There are others who say—whatever you do, just don't touch me. And you know what—we tried that for 12 years and look where it got us.

This bill includes a lot of provisions that conservatives in both parties have been urging. I supported and worked for inclusion of these provisions in the negotiations for this budget plan.

We do not need income tax increases on the middle class. This bill will not raise income taxes on 98 percent of Americans.

We need to give people tax incentives to invest in small businesses. This bill does that.

We need to allow small businesspeople to expense more of their depreciable assets. This bill does that.

We need to relax the passive loss rules on rental real estate to help the depressed real estate markets. This bill does that.

We need to give tax incentives to businesses to locate in low-income communities. This bill does that.

We need to give poor people a reason to work rather than stay on welfare. This bill does that.

We need to cut entitlements. This bill does that. For agriculture alone, we reduced spending by $3 billion. That's $3 billion on top of the $13 billion reduction required under the 1990 budget agreement.

My friends, the agriculture function of the budget is the only major entitlement that until now has had budget discipline forced upon it.

Mr. Speaker, I cannot believe the misinformation the opponents of this bill are putting out. I have received orchestrated calls from my district from people who have challenged my loyalty.

I have been accused of not being a real Texan. I'm beginning to wonder what that means. Does that mean you vote against tax increases while protecting Texas projects?

If there is going to be a VA hospital built in south Texas, we need this bill. If the Corpus Christi Naval Air

This conference report also makes major changes and significant, cost-saving reforms in several agriculture programs. We reform crop insurance and the Market Promotion Program. We cut the honey, wool, and mohair programs and reduce the amount of benefits an individual can receive.

Mr. Speaker, I am pleased to say the agriculture conferees included the Mickey Leland provisions to improve the Food Stamp Program. The funds being spent for the Food Stamp Program increases do not come out of farm programs.

Mr. Speaker, I would also point out that the tax provisions of this legislation will promote small business growth. The tax provisions in this bill are good and fair for American farmers.

Mr. Speaker, this budget plan will reduce the deficit. This budget plan will help keep interest rates and inflation down. This plan will help our economy grow and create jobs for Americans.

This vote takes courage, my friends. But you know, that is the American way. I look back through history and I wonder:

What if the brave men at Valley Forge had said it's too cold, let's go home?

What if the brave men at Normandy had said, this is too dangerous, let's go back? What if they said, we don't believe Eisenhower, this won't end the war?

What if the brave men and women of Desert Storm had said, let's go home?

This vote should transcend party. This vote should transcend region. What we speak about today is the future of America. The future of our children, my grandchildren—for the generations not yet born. Is this too large a sacrifice to ask for?

Even the tax increases on the wealthy are not really that much. For example, in yesterday's Wall Street Journal, there was a chart that showed under this plan a couple with an income of $185,000, filing jointly, will pay an additional $251 per year in income taxes. Is this too much sacrifice for a couple earning $185,000 a year?

My friends, this vote is about the future. I don't want to look back and have the American people say we failed them. This is not about party or standing by the President. The sacrifice is minimal. The potential returns for our country are limitless.

This vote is about our country and our future. A "yes" vote is the most responsible vote for our Nation's future.

Mr. SKAGGS. Mr. Speaker, the House will make history today. We'll either take a big step toward putting our country back on a sane economic path and help the President bring our country out from the shadow of a growing debt, or we will demonstrate tragically how difficult it is for a democracy like ours to impose discipline on itself. For the sake of our children and our grandchildren, I pray that we will have the courage to take that big step in the right direction.

We're caught in a vicious cycle: If we take drastic steps to quickly wipe out the debt, we risk throwing the country into a recession. But if we reduce the debt too slowly, it will continue sucking vital resources from the economy and will eat further into the ability of Government to afford vital services.

It has taken 12 years to quadruple the national debt and to get ourselves into this mess. It will take several years for us to extricate ourselves. But we must begin.

The first step toward restoring our economic health—and it is only a first step—is to start reducing the gap between what the Government takes in and what it spends. We have to take a rational, long-term approach, and we're doing that today, with a budget and economic plan that cuts deficits over 5 years by $500 billion. And please note: On average, Federal spending as a percentage of gross domestic product will be less over the next 5 years than during the Reagan-Bush era.

We're proceeding by cutting spending and raising taxes—in equal amounts. The spending cuts are real, they total $255 billion, and they start in 7 weeks when the new fiscal year begins. When we combine them with the tax increases, the annual budget gap will be 40 percent less in 5 years. And the debt will be $100 billion less than it would have been under the plans that Republicans have proposed as alternatives.

The spending cuts come in three forms. First, we're freezing all discretionary spending for 5 years at or below the amount we're spending this year. That's the spending that Congress must take action on each year to pay for almost all Governmental activity, from food inspectors to the Coast Guard to national parks. It will save $102 billion.

This is a hard freeze, with no adjustment for inflation or population growth. In real terms, it's a cut in spending. And we've gone even farther in the bills we're working on right now to fund the Government for the fiscal year starting on October 1. The House has already passed 11 spending bills that contain over 300 cuts—totalling over $12 billion—below this year's levels.

I'll give you one specific example I've been working on that

And there are many similar items in the Federal budget that Congress has to cut—both in the interest of sound government and to comply with the tough ceilings we've put on spending.

Next, we're cutting entitlements—the benefits Americans are eligible for because they're veterans or active-duty military or old or sick or farmers or unemployed or poor with kids. And we're reducing them by $88 billion.

Third, we're cutting the interest payments we'll have to pay on the massive debt we've been accumulating. When we cut the amount of money the Government has to borrow each year, we also save on interest costs, and that will total $65 billion.

This plan also raises taxes. That's not a pleasant task; no one likes to do it. But there is absolutely no way to get the kind of deficit reduction we need and preserve our fragile economy without raising taxes.

The Republicans tried to come up with a plan that didn't raise taxes, and succeeded. But they came up with $100 billion less in deficit reduction, and even to get to that point they had to make up for the lack of increased revenues by making the elderly pay much more for their health care. It's worth noting how important it seemed to be to the Republicans to protect the wealthiest among us from any tax increases and how ready they were to hit the elderly and less well-to-do. The President's plan also asked for significant sacrifice from the elderly, in the form of some reduced programs. But instead of trying to make the elderly and the sick shoulder still more of the burden of deficit reduction, we've tried to do it a fairer way. And so we've assigned some responsibility to the more fortunate, raising income taxes on the top 1½ percent—an approach that also brings more progressivity to the Tax Code. This plan restores the progressivity that was lost in the 1980's, when the top 1 percent of taxpayers saw their effective tax rate drop almost 25 percent.

The bill also makes a major contribution to social and economic progress by encouraging the working poor to stay at work and off welfare. This budget, through the expansion of the earned income tax credit, says to low-income working Americans, "We want to help you support your family if you're bringing home a paycheck."

The head of a family who works full time and still has income below the poverty line will get a tax credit to bring the family out of poverty. The average family making less than $30,000 a year will see its income taxes go down under this bill.

This is a tax cut for over 22,000 families in my congressional district, and one out of every five families in Colorado. The Treasury Department tells me that only around 2,400 families in the area I represent will have to pay the new tax rates for the wealthy, and they all have incomes above $180,000 a year.

We've talked about the rich and the poor. How about the middle class? The only tax increase for 98.8 percent of all American working families will be the 4.3 cents-per-gallon gas tax. The American Automobile Association says that will cost the average family $3 per month—less than a dime a day.

But these same families will benefit from reduced interest rates when they buy a car or refinance a mortgage or charge purchases on their credit cards—interest rates that have stayed low because the financial markets have confidence that we're doing the right thing. The average household will, as a result of this budget bill, save $191 a month in interest payments. So these families on the average will pay $3 more a month for gas and save $191 a month in interest payments. That's $188 more each month in the pockets of average working Americans.

Who else pays higher taxes? One-eighth of Social Security beneficiaries—individuals with incomes over $34,000 and couples with incomes over $44,000. Instead of counting half of their Social Security benefits as income, we'll count 85 percent. That gives their Social Security benefits roughly the same tax treatment as other pension benefits, government or private. There's one key fact to keep in mind: if a retiree is not paying taxes on Social Security benefits now, he or she won't pay them as a result of this bill.

For almost 99 percent of Americans—including retirees—the new rates don't start until next January.

That brings us to the subject of retroactivity. The only people whose tax bills start going up effective January 1, 1993, are the top 1 percent of families with more than $180,000 in gross income. The President stated clearly and directly from the beginning of his campaign that he intended to take this step, so it should certainly have come as no surprise. In addition, these taxpayers can pay the additional 1993 tax in three annual installments, starting in 1994, without interest or penalty.

This budget is also a shot in the arm for small business. Only 4 out of every 100 small business owners will be affected by higher income tax rates, and that group has an average income above $500,000. Meanwhile, 90 of every 100 will benefit from several tax cuts that start on January 1 of this year or earlier.

The one that will probably have the biggest impact is the provision that allows businesses to deduct the cost of buying equipment the same year it's purchased, instead of depreciating it over several years. Prior to this bill, the annual limit was $10,000. We're raising that limit to $17,500—a 75-percent increase. This rewards job-producing investment and will spur economic growth.

Another cuts capital gains taxes in half for stock investments in small firms that's held for at least 5 years. And all businesses will be able to take advantage of several provisions that are retroactive to June 30 of last year:

tax credits for research and development, for building low-income housing, and for providing jobs for the poor; and tax deductions for their health care and for education assistance they give their workers.

In short, this should be a very positive stimulus for small business growth. It uses tax breaks to help the biggest job-creating force in our economy. And the fastest-growing businesses that are providing the most jobs won't be affected much anyway, because they're reinvesting their profits in expansion—not taking them out in taxable income.

The hard-nosed, conservative people who make a living in the financial markets know we're making a serious effort today. That's why interest rates—the interest rates that have an impact on every business owner—are staying low. Does anyone doubt that if the analysts and economists of Wall Street were skeptical about this budget bill, it wouldn't be reflected in the financial markets?

What, in summary, does this bill do for America and for Colorado?

It cuts the deficit by $496 billion over 5 years through balanced and reasonable steps. It makes $255 billion in specific and tough spending cuts—including entitlements. An it raises an almost equal amount in taxes, in the process putting more fairness and equity into our tax code.

Our country works on consensus and compromise; we have to balance the competing demands of a huge and diverse Nation and this bill does that. President Clinton inherited a terrible burden, and he has taken on the responsibility of dealing with it. I commend him for trying to do a job that has been shirked for much too long, and I commend my Democratic colleagues for supporting him.

Mr. SABO Mr. Speaker, I yield 5 minutes to the distinguished majority leader, the gentleman from Missouri [Mr. GEPHARDT].

Mr. GEPHARDT. Mr. Speaker, I am glad we could finally agree on something tonight, but I am not quite sure what it is.

Mr. Speaker, I rise in support of this economic plan. Many of us were here in 1981 when Ronald Reagan's budget was approved. Many of us were here again in 1990 when George Bush's economic summit was approved.

You may say on this side that your economic plan was not completely in place over the last 2 years, but I would submit that it was substantially in place, and now after the election on November 1992 it is time to give the economic plan of Bill Clinton a chance.

Over the past weeks I have been deeply impressed by the people in my district and in the Midwest who have been fighting the flood. I have seen neighbors who have stopped speaking to one another for years fighting together, sandbagging together to protect their property. I have seen businessmen who rarely talk to their employees working with them in the hot sun for hours to protect their common business. I have seen old people, young people, disabled people, wealthy people, and poor people bound together fighting for a common purpose against a common threat.

In short, I have seen all of the attributes that have made this a great country, discipline, responsibility, sacrifice, community, family, people, all kinds of people, rising to the occasion.

Ladies and gentlemen of the House, tonight we must rise to the occasion to make common purpose, to meet a great danger. All of us know that this deficit cannot be in our common interest. It is a dagger pointed at our economic heart.

This plan, while not perfect, is good. It reduces the deficit by $500 billion over 5 years. It has real cuts and real hard estimates, conservative estimates, of what the economy will do. It is fair. It asks Americans, families who earn over $180,000 a year, yes, to again pay their fair share. It also asks common Americans to pay an energy tax, about a dollar a week, about $50 a year.

It is a first step. It is a step in the direction of getting Americans to go to work, an incentive for families who have been stuck on welfare to be able to say, "Yes, I can get off welfare. I can work."

And there is an inducement, an incentive, to be off welfare and to work.

I have been heartened by seeing all of the parts, all of the beliefs in our Democratic Party come together to work on this plan. I have seen liberal members of our party and moderate members and conservative members give and take, compromise, sacrifice, be willing to take positions that they did not know or think they could take, but took them because they knew the common good of the country was at stake.

And each who has voted for this plan in committee or on the floor has done it knowing that there is no way in the world that we can attack this great deficit without making tough, hard choices that no one really wants to take.

All of our constituents and all of us suffer from what I call the same schizophrenia; all of us want cuts in general, but it is harder when the cuts get very specific.

□ 2140

And I am proud of the members of my party who have come together, taken the choices, made the decisions, and risen to the occasion.

To Members here tonight who are still undecided, let me say this is a challenge, this deficit; this plan is a challenge to our generation that we must meet. As a great American recently said, young Americans are inheriting some 4.5 million miles of roadway, 3,500 colleges, 7,000 hospitals, 110,000 schools, 360,000 churches, He said, "you don't have to pay for them. They are part of your national inheritance. But you can hand them down with what you add yourself to your children and to your grandchildren."

Ladies and gentleman of the House, surely after all that has been done for us, all that has been given to us by our fathers and our mothers, surely we who have been so benefited by their sacrifice and their responsibility, surely tonight we can take the responsibility ourselves to see that the country we hand to the next generation is not as good but is better than the country that was handed to us.

Mr. KASICH. Mr. Speaker, I yield the balance of my time to the very distinguished Republican leader, the gentleman from Illinois [Mr. MICHEL].

Mr. MICHEL. Mr. Speaker, may I thank all the Members of the House for your respectful applause to your leaders on both sides of the aisle tonight. May I first thank my Members for the way you have acquitted yourselves all during the course of this day in this very historic debate.

Yes, as the whip indicated, a credit to all, the entire House, for the manner in which this debate has been conducted.

Mr. Speaker, I will be relatively brief on the measure, as I sense Members are somewhat weary of hearing the same arguments all day long and our listening audience must be somewhat overwhelmed with all of the figures being bandied about. I think it is fair to say the die is cast here in the House tonight, but it will be close. I noted in the majority leader's comments a last-moment appeal to the undecided.

Yes, we are solid against the President's plan on our side of the aisle because of our basic philosophical difference with the Democratic majority on the issues of taxes and spending cuts. But we will be joined by some discerning Democrats who feel as we do, and we applaud you for your independence.

That is the important point: The differences here are philosophical, they are real, profound, differences over fundamentals that transcend partisanship.

I might say parenthetically when we get to welfare reform, health care reform, anticrime legislation, NAFTA, and the rest of the agenda later in this Congress, we Republicans will be participating players because we do have constructive alternatives to offer that neither the President nor the Democratic majority can ignore.

And over in the other body, in the Senate, I will predict a very tight vote on that measure that is before us here tonight, with probably the Vice President having to cast the deciding vote. It will be that close.

And these close votes suggest strongly that the President's plan is not all that popular with the American people, as borne out by the overwhelming number of calls and letters against it coming into our offices, particularly within the last few days.

We will concede, with all the pressure brought to bear by the present leadership on the Democratic side, that you will probably have your way for this day, but we will be back another day to remind you of your folly.

Remember this package will not create any new jobs beyond the norm because you are taxing away the incentives of the small entrepreneurs who create three-fourths of all the new jobs that are created in this country. You have been so obsessed with this $500 billion figure that you have lost your marbles attempting to achieve it.

To raise so many taxes is not enough, but to make them retroactive just to satisfy this mystifying figure is unconscionable. And even if you want to admit it being bad public policy at this late hour by giving people 3 years to make up the difference, I would call upon you to think about the long-range disastrous effects of what you are doing. And by the way, have you thought of how confusing this will be for taxpayers in the States where local, State income taxes are predicated, in part, upon what one's Federal tax might be?

You might even give a passing thought to next April 15. Do you actually believe the American people will not be taking notice then? They may not be today because they simply are not aware of what skullduggery you have cooked up for them. But they will remember, oh, how they will remember next April—I might even add, November.

Mr. Speaker, I strongly urge a vote against this harmful, ill-conceived conference report that taxes today or taxes yesterday, taxes today and, yes, taxes tomorrow.

Mr. SABO. Mr. Speaker, I yield the balance of my time to the distinguished Speaker of the House, the gentleman from Washington [Mr. FOLEY].

Mr. FOLEY. Mr. Speaker, one important thing has happened today, and important as it was, a more important thing is about to happen.

The important thing that has already happened was not a reconciliation but an engagement, and all of us wish our two colleagues on the Republican side, SUSAN MOLINARI and BILL PAXON, the best of futures and the warmest of best wishes.

May they enjoy every happiness.

And perhaps it would not be unfair to say that how happy their future and how happy the future of all Americans to a very significant degree may depend upon the other thing we do tonight.

Whether we decide at long last, after many years of indulgence and avoidance and delay and excuse, take a hard road back to fiscal responsibility and a sound economic future for all of our people.

□ 2150

We all know the facts. It took 191 years from George Washington to the Presidency of Jimmy Carter to amass a deficit of $794 billion.

Now we have a deficit of $4,500 billion, $4.5 trillion. If we do nothing tonight to take a course of responsibility, we will add in the next 5 years an additional $1½ trillion to that debt.

The American people elected this Congress, Democrat, Republican, and Independent, to do better, to do more, to take action.

This is not an easy bill. We have all noted that. The easy things to do in Congress are to cut taxes and raise spending. That is what we did for the last 12 years for the most part, and that is what has placed our economy and our future in jeopardy.

There are those who say that the bill does not go far enough, that it goes too far, that it has too many taxes, that they are not the right taxes, that they are retroactive taxes.

In 1981, 1984, 1985, the tax system was the same. It does not have enough cuts. The cuts are too great. They are not in the right place. They could be put over here with greater effect and purpose.

We could all of us, each one of us, design a better bill than the distinguished Committee on the Budget and the other committees of reconciliation have brought us. We all know that, but it would be our choice, our judgment, not the judgment of this body.

Benjamin Franklin said at the time of our Constitutional Convention that when you bring legislators together, you bring their common wisdom together. You also bring their prejudices, their passions, their interests, even their selfish views. We all know that it exists more or less to some degree in every legislative body, but we must go beyond our individual interests, our individual concerns, our own pride, our sense of infallibility, if it has found its way into any of our hearts, and go for a common purpose and common result that rises above that.

The most important thing to note with this bill tonight is that it will not by itself accomplish what we need to do. That must be made clear, but it is a critical beginning, an essential beginning on that difficult road back.

We must do more. We must cut more spending, and we will. We must reallocate our priorities, and we will. We must continue the process of deficit reduction, and we will.

This is not the end of the fight. It is not even the middle. It is the beginning, but it is a crucial beginning that we must make.

I hope that in future debates and in future decisions we will have the assistance of our Republican friends, and if I may I say to my good friend, the leader, I hope we will find a few more Independents on the Republican side than I fear we will find tonight.

The Republican Party will march in lockstep, so we on this side of the aisle must bear the burden of responsibility. We are ready to do it. We are anxious to do it, and we will do it.

The Bible says that there is a time for everything. Tonight is the time to decide. Tonight is the time for courage. Tonight is the time to put away the old easy ways. Tonight is the time for responsibility. Tonight is the night to vote.

Let us not break faith with our people. Let us pass this plan. Let us move forward to a better day for our country.

The SPEAKER pro tempore (Mr. MURTHA). Pursuant to House Resolution 240, the previous question is ordered on the conference report.

The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. KASICH. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 218, noes 216, not voting 0, as follows:

[Roll No. 406]

AYES—218

Abercrombie
Ackerman
Andrews (ME)
Andrews (TX)
Applegate
Bacchus (FL)
Barca
Barcia
Barlow
Barrett (WI)
Becerra
Beilenson
Berman
Bevill
Bilbray
Bishop
Blackwell
Bonior
Borski
Boucher
Brooks
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Carr
Clay
Clayton
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Cooper
Costello
Coyne
Cramer
Darden
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Dicks
Dingell
Dixon
Durbin
Edwards (CA)
Engel
English (AZ)
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Glickman
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamburg
Hamilton
Harman
Hastings
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Holden
Hoyer
Hughes
Jacobs
Jefferson
Johnson (GA)
Johnson (SD)
Johnson, E.B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klink
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Levin
Lewis (GA)
Lowey
Maloney
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Moran
Murphy
Murtha

Nadler
Natcher
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Owens
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Pickle
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reed
Reynolds
Richardson
Rose
Rostenkowski
Roybal-Allard

Rush
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Schenk
Schroeder
Schumer
Scott
Serrano
Sharp
Shepherd
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (IA)
Spratt
Stark
Stokes
Strickland
Studds
Stupak
Swift
Synar

Tanner
Tejeda
Thompson
Thurman
Torres
Torricelli
Towns
Tucker
Unsoeld
Valentine
Velazquez
Vento
Visclosky
Volkmer
Washington
Waters
Watt
Waxman
Wheat
Whitten
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOES—216

Allard
Andrews (NJ)
Archer
Armey
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Brewster
Browder
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chapman
Clement
Clinger
Coble
Collins (GA)
Combest
Condit
Coppersmith
Cox
Crane
Crapo
Cunningham
Danner
Deal
DeLay
Diaz-Balart
Dickey
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Edwards (TX)
Emerson
English (OK)
Everett
Ewing
Fawell
Fields (TX)
Fish
Fowler
Franks (CT)
Franks (NJ)
Gallegly

Gallo
Gekas
Geren
Gilchrest
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Goss
Grams
Grandy
Greenwood
Gunderson
Hall (TX)
Hancock
Hansen
Hastert
Hayes
Hefley
Herger
Hobson
Hoekstra
Hoke
Horn
Houghton
Huffington
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Inslee
Istook
Johnson (CT)
Johnson, Sam
Kasich
Kim
King
Kingston
Klein
Klug
Knollenberg
Kolbe
Kyl
Laughlin
Lazio
Leach
Lehman
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Long
Machtley
Mann
Manzullo
McCandless
McCollum
McCrery
McCurdy

McDade
McHugh
McInnis
McKeon
McMillan
Meyers
Mica
Michel
Miller (FL)
Minge
Molinari
Montgomery
Moorhead
Morella
Myers
Nussle
Orton
Oxley
Packard
Pallone
Parker
Paxon
Peterson (MN)
Petri
Pickett
Pombo
Porter
Portman
Pryce (OH)
Quillen
Quinn
Ramstad
Ravenel
Regula
Ridge
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Rowland
Royce
Santorum
Saxton
Schaefer
Schiff
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stenholm
Stump
Sundquist
Swett
Talent

Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Thornton

Torkildsen
Traficant
Upton
Vucanovich
Walker
Walsh

Weldon
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

□ 2216

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SABO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on H.R. 2264 and the conference report thereon.

The SPEAKER pro tempore (Mr. STUDDS). Is there objection to the request of the gentleman from Minnesota?

There was no objection.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 2010, NATIONAL AND COMMUNITY SERVICE ACT OF 1990

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 103-220) on the resolution (H. Res. 241) waiving points of order against the conference report to accompany the bill (H.R. 2010) to amend the National and Community Service Act of 1990 to establish a Corporation for National Service, enhance opportunities for national service, and provide national service educational awards to persons participating in such service, and for other purposes, which was referred to the House Calendar and ordered to be printed.

MAKING IN ORDER ON TODAY OR ANY DAY THEREAFTER CONSIDERATION OF RESOLUTION PROVIDING FOR DISPOSITION OF SENATE AMENDMENTS TO H.R. 2667, EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR RELIEF FROM THE MAJOR, WIDESPREAD FLOODING IN THE MIDWEST ACT OF 1993

Mr. NATCHER. Mr. Speaker, I ask unanimous consent that it be in order on today or any day thereafter to consider in the House, any rule of the House to the contrary notwithstanding, a resolution providing for the disposition of the Senate amendments to the bill (H.R. 2667) making emergency supplemental appropriations for relief from the major, widespread flooding in the Midwest for the fiscal year ending September 30, 1993, and for other purposes; that the resolution be considered as read; that the resolution be debatable for 1 hour, equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations, or their designees; that the resolution not be subject to a demand for division of the question; and that the previous question be considered as ordered on the resolution to final adoption without intervening motion except one motion to commit.

Mr. Speaker, I want to commend my distinguished friend, the ranking member on the Committee on Appropriations, the gentleman from Pennsylvania (Mr. McDADE), for his help, all down through the days, yesterday and today especially.

□ 2220

The SPEAKER pro tempore (Mr. STUDDS). Is there objection to the request of the gentleman from Kentucky?

Mr. McDADE. Mr. Speaker, reserving the right to object, I am not objecting, I simply want the House to know that from our perspective on this side of the aisle, the distinguished gentleman from Kentucky has always kept us totally, completely and fully informed. I support his request. We are grateful to him, Mr. Speaker.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 559

Mr. INGLIS of South Carolina. Mr. Speaker, I ask unanimous consent that my name be withdrawn as a cosponsor of H.R. 559.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

LEGISLATIVE PROGRAM

Mr. MICHEL. Mr. Speaker, I have asked unanimous consent to proceed for 1 minute that I might inquire of the distinguished majority leader of the program for tomorrow.

I yield to the gentleman from Missouri [Mr. GEPHARDT], the distinguished majority leader.

Mr. GEPHARDT. Mr. Speaker, I thank the gentleman for yielding to me.

Obviously, the votes are finished for today.

Tomorrow, the House will meet at 10 a.m., and we will be considering four matters that we would like to finish before the beginning of the August District Work Period:

First, the flood supplemental, and we would like to consider it first in the day, if it will be available, and we think it will be. Second, the National

Service conference. That has a rule already. Third, the legislative appropriations conference and, fourth, the agriculture appropriations conference.

As the gentleman knows, the Senate now will take up the reconciliation bill conference. They have a 10-hour debate requirement, and I doubt that they are going to begin tonight. I do not think they will. They will probably begin tomorrow.

The gentleman also knows that we cannot adjourn until they have finished that, and some of these other conference reports that we will be taking up.

We, obviously, hope and want to finish our work tomorrow night. That is our intent. It may be late into the night in order to get finished, but that is our intention.

Mr. MICHEL. Mr. Speaker, I am wondering if any thought has been given to dispensing or limiting 1-minutes in the morning that we might get involved with the real legislative program and then maybe, later in the day, while we are spinning our wheels, doing the special orders; would that be in order?

Mr. GEPHARDT. Mr. Speaker, if the gentleman will continue to yield, yes, we would be happy to engage in an agreement with the gentleman to limit the 1-minutes substantially.

Mr. GINGRICH. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Georgia.

Mr. GINGRICH. Mr. Speaker, I just want to comment. I want to clarify, as I understand it, we will tomorrow be bringing up the flood aid to the Midwest.

As I understand it, the Senate did take out the Waters provision. We will, on our side, be enthusiastically supportive in urging all of our Members to get the flood aid to the Midwest as rapidly as possible.

Is that a correct understanding of the form in which the aid is coming to the floor?

Mr. GEPHARDT. Mr. Speaker, if the gentleman will continue to yield, I must say to the gentleman, I do not know at this point whether or not there will be a conference or whether the bill comes as it was passed in the Senate. I do not know the answer to that.

Mr. GINGRICH. Mr. Speaker, I would say that on the Republican side, we would certainly hope that as quickly as possible tomorrow we could bring up what I understand is a substantially larger bill than left the House, and we could ensure, before we leave, that we have sent all of that money to the Midwest to help all those folks.

I would hope that the need on the Democratic side to try to get additional money to Los Angeles would not block or in any way slow down the flood aid.

I would simply like to work with the majority leader on achieving that.

Mr. GEPHARDT. Mr. Speaker, I agree with the gentleman.

Mr. MICHEL. Mr. Speaker, might I ask the gentleman one more question. Would we do the three appropriation bills first in that sequence and then the National Service Training conference report last?

Mr. GEPHARDT. Mr. Speaker, if the gentleman will continue to yield, our intention is to do the flood bill first, the National Service bill second, then Legislative, then Agriculture.

Mr. MICHEL. Mr. Speaker, I thank the gentleman.

EXPRESSING THE SENSE OF CONGRESS RESPECTING 80TH ANNIVERSARY OF ANTI-DEFAMATION LEAGUE

Ms. BYRNE. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the concurrent resolution (House Concurrent Resolution 109) expressing the sense of the Congress respecting the 80th anniversary of the Anti-Defamation League, and ask for its immediate consideration in the House.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Virginia?

Mr. GILMAN. Mr. Speaker, reserving the right to object, I do not object, and I am pleased to be a cosponsor of this measure and to rise in support of H. Con. Res. 109, a resolution commending the Anti-Defamation League [ADL] on its 80th anniversary, and congratulating the ADL for its contribution toward greater tolerance in our Nation and throughout the world.

One only has to turn to the evening news to note how much hatred and bigotry there is in our world today. However, there is hope as expressed by such devoted organizations as the ADL, which steadfastly have spoken out against prejudice, bigotry, and hate whenever those ugly traits appear.

Mr. Speaker, it is with a great deal of confidence in man's inner good that I commend the ADL on 80 years of diligent devotion to brotherhood. Let us hope that in years to come, there will be no further need for organizations such as the ADL.

Mr. PORTER. Mr. Speaker, I rise in strong support of the resolution to commemorate the 80th anniversary of the Anti-Defamation League.

The ADL is one of the Nation's oldest civil rights and human relations organizations. Since 1913, the ADL has tirelessly dedicated itself to ensuring that this country's rich heritage of democratic ideals becomes a reality for all Americans.

The ADL has been the leader in fighting anti-Semitism, prejudice and bigotry and, in the process, has developed groundbreaking educational materials and programs. The ADL has built communication and understanding and respect among and between the diverse faiths and peoples of our country, and this resolution is a most appropriate commemoration.

Mr. HOYER. Mr. Speaker, as the original sponsor of House Concurrent Resolution 109, I rise in support of this resolution which honors the Anti-Defamation League [ADL] for 80 years of service to America.

The ADL is one of the Nation's premier civil rights and human relations organizations. The league is dedicated to exposing and combating anti-Semitism, prejudice, and bigotry of all kinds—so that all people may live out the dream that is America. It has been a significant leader in the fight against discrimination and in our Nation's quest for justice and fair treatment for all individuals in the workplace, on the campus, and throughout society.

Over the past decade, ADL has become a leading resource in responding to criminal activity motivated by prejudice. ADL's efforts have focused on fact-finding and exposure of hate groups and it has encouraged effective law enforcement responses to hate crimes. ADL also fights intolerance through education. The league has developed a variety of educational materials, programs, and services that build bridges of communication, understanding, and respect among diverse faiths as well as racial and ethnic groups.

ADL's activities are a constant reminder that the Holocaust and the horrors of genocide must never be forgotten, nor its lessons neglected. Rather, we must have those lessons before us as we participate in public policy debates both here and abroad and factor this historical perspective into our decisionmaking process.

ADL's fight against anti-Semitism and intolerance is global. As cochairman of the Helsinki Commission, I am particularly concerned over growing ethnic tensions, rooted in intolerance, which threaten to escalate into armed conflict in Europe today. I applaud the ADL for its work in the promotion of democracy and the protection of human rights.

Mr. Speaker, the ADL's outstanding record of service to this country is long, distinguished, and inspiring. I commend the league's professionals and leadership for their dedication and tireless efforts over the past eight decades in helping to preserve democratic ideals by fighting the evils of prejudice and racism, and promoting tolerance and equality in their stead.

Mr. Speaker, I am pleased to sponsor House Concurrent Resolution 109 and urge the adoption of this resolution in recognizing the Anti-Defamation League's good works as it celebrates 80 years of service to the Nation.

Mr. GILMAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Virginia?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 109

Whereas the Anti-Defamation League (ADL) is celebrating the 80th anniversary of its founding in 1913;

Whereas ADL has been a major leader in our Nation's quest for justice and fair treatment for all individuals alike by fighting bias, bigotry, and racism and promoting understanding and respect;

Whereas in purpose and program, ADL espouses and fulfills the highest ideals and aspirations of people of all faiths, races, and backgrounds, by countering hatred and violence through the promotion of tolerance;

Whereas ADL's activities are a constant reminder to the world community never to forget the Holocaust and to incorporate its lessons into political systems and decision-making;

Whereas ADL has been a leading contributor to the cause of democracy, respect for human rights and human dignity of all peoples, and the security of Jewish communities around the world and of the State of Israel;

Whereas ADL's record of achievement sets an inspiring example of leadership and participation in the struggle for justice;

Whereas ADL continues to grow in strength and scope while maintaining its founding priority of educating the public about anti-Semitism and other manifestations of prejudice; and

Whereas racism and other forms of intolerance still exist and in too many instances lead to hate-inspired violence: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that the Anti-Defamation League should be congratulated on its 80th anniversary and commended for effectively pursuing the goal of promoting greater tolerance throughout the world.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

□ 2230

NATIONAL SCLERODERMA AWARENESS MONTH

Ms. BYRNE. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 220) to designate the month of August as "National Scleroderma Awareness Month," and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore (Mr. VISCLOSKY). Is there objection to the request of the gentlewoman from Virginia?

Mr. GILMAN. Mr. Speaker, reserving right to object, and I do not object, I would simply like to inform the House that the minority has no objection to the legislation now before the House.

Mr. Speaker, I withdraw my reservation of objection.

Ms. ESHOO. Mr. Speaker, I would like to thank the chairman of the committee, Mr. CLAY, and the ranking minority, Mr. MYERS, for bringing this important resolution to the floor tonight.

This legislation designates August, 1993 and 1994, as National Scleroderma Awareness Month.

Most people have no idea what scleroderma is—yet it is a disease which afflicts 350,000 Americans of all ages, and affects women four times more than men.

I became familiar with the disease because of the pioneering research that is being conducted by some of the bay area's finest researchers.

Scleroderma is an auto-immune vascular disease affecting the connective tissues. It causes overproduction of collagen, causing tissues to become inelastic and immobile.

Hence the word, scleroderma, which means hard skin.

As the disease progresses, it turns internal organs into tissues so densely fibrous, they no longer function.

Doctors and scientists still do not know what causes the disease or how to cure it or halt the devastation of its symptoms.

But because of the extraordinary scientists at the Scleroderma Research Center and the efforts of the Scleroderma Research Foundation, the victims of this disease now have the hope that a treatment may be developed to ease the symptoms of this painful and disfiguring disease.

In years past when this body passed similar resolutions, the activities and events organized around a nationally recognized month helped heighten public awareness of scleroderma and facilitate support for much needed medical research.

It is my hope that this resolution continues to heighten awareness of this disease and that it will be Congress' expression to scleroderma patients that we all care about each victim of the fatal disease because they deserve nothing less.

Again, I thank the chairman for bringing this resolution to the floor and all of my colleagues who cosponsored this legislation to make scleroderma awareness month a reality.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Virginia?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 220

Whereas scleroderma is a disease caused by the excess production of collagen, the main fibrous component of connective tissue, causing hardening of the skin or internal organs, or both, such as the esophagus, lungs, kidney, and heart;

Whereas approximately 300,000 people in the United States suffer from scleroderma, with women of childbearing age outnumbering men 4 to 1;

Whereas scleroderma, a painful, crippling, and disfiguring disease, is most often progressive and can result in premature death;

Whereas the symptoms of scleroderma are variable which can complicate and confuse diagnosis;

Whereas the cause and care of scleroderma are unknown; and

Whereas scleroderma is an orphan disease that requires intensive research to improve treatment as well as find the cause and cure: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the months of August 1993 and August 1994 are designated as "National Scleroderma Awareness Month". The President is authorized and requested to issue a proclamation calling on the people of the United States to observe each such month with appropriate activities that will enhance awareness of the disease and the need for a cure.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

COMMODORE JOHN BARRY DAY

Ms. BYRNE. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 157) to designate September 13, 1993, as "Commodore John Barry Day," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Virginia?

Mr. GILMAN. Mr. Speaker, reserving the right to object, I do so to say that I am pleased to rise today to thank my colleagues for their support of House Joint Resolution 157, a measure I introduced earlier this year designating September 13, 1993, as Commodore John Barry Day.

Commodore John Barry, one of the great heroes of the American Revolutionary War and one of many immigrants who defended our Nation, was a native of Ireland's County Wexford. My resolution recognizes Commodore Barry's contributions to our Nation, both in fighting for our independence and for assuring our fledgling Nation's survival.

As a Catholic and nationalist in English-ruled Ireland during the days of the penal laws, young John Barry faced a bleak future. Accordingly, he and his family emigrated to America, settling in Philadelphia.

John Barry, who loved the sea, first shipped out as a cabin boy. However, by adulthood, John Barry was the captain of his own ship in the American Merchant Marine. After the commencement of hostilities between the British and the American Forces, then Cpt. John Barry offered his services to General Washington and the Congress for the cause of liberty.

John Barry gave the Revolutionary Forces their first victory in the war at sea with the capture of the Royal Navy Sloop *Edward*. On one occasion, John Barry sailed into Philadelphia with a prize ship loaded with overcoats, a desperate commodity needed in General Washington's army in order to survive the cold winter. Another mission safely delivered a shipment of gold from France which paid the French and American armies in the Yorktown campaign.

Furthermore, John Barry was principally responsible for organizing the Marblehead sailors and boats to effect Washington's famous crossing of the Delaware, which led to General Washington's victory at Trenton during the Christmas of 1776.

Upon the conclusion of the War for Independence, the Congress recognized Capt. John Barry as the premier naval hero of that conflict.

Following the war, when the Pennsylvania Assembly could not achieve a quorum for the essential adoption vote, John Barry organized the compellers, so-called because they sought out and compelled the attendance of sufficient numbers of delegates to assure the calling of the convention and ratification of the Constitution of the United States.

When, under the new Constitution, Congress authorized President Washington to create and operate a U.S. Navy, President Washington turned to John Barry and conferred "Commission No. 1", dated June 14, 1794 upon him. Commodore John Barry then built and commanded the U.S. Navy including his flagship, the U.S.S. *United States* and the U.S.S. *Constitution*, popularly known as "Old Ironsides". John Barry then served as the head of the U.S. Navy under three Presidents, Washington, Adams, and Jefferson.

A resolution proclaiming September 13, 1993, as Commodore John Barry Day would be a fitting tribute to the sacrifices and contributions of this great American hero and would honor our Navy veterans and Irish-Americans who have sacrificed so much for our country. John Barry's life exemplified the patriotic virtues that we in this Nation hold dear.

Mr. Speaker, again I would like to express my appreciation to my colleagues who have cosponsored this measure.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Virginia?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 157

Whereas the United States of America is a nation of immigrants and the contributions of Irish immigrants and their descendants to the defense of the public liberty has been a hallmark of Irish Americans.

Whereas during the War for Independence Captain John Barry, a native of County Wexford, Ireland, achieved the first victory for the Continental Navy while in command of the ship "Lexington" by capturing the British ship "Edward", organizing General George Washington's crossing of the Delaware River which led to the victory at Trenton in 1776, transported gold from France to America while in command of the ship "Alliance", and achieved the last victory of the war for the Continental Navy while in command of "Alliance" by defeating the British ship HMS "Sybille";

Whereas during the War for Independence Captain John Barry rejected British General Lord Howe's offer to desert the Continental Navy and join the British Navy, stating: "Not the value and command of the whole British fleet can lure me from the cause of my country.";

Whereas after the War for Independence the United States Congress recognized John Barry as the premier American naval hero of that war;

Whereas in 1787 Captain John Barry organized the compulsory attendance of members of the Pennsylvania Assembly in Philadelphia, thus ensuring the quorum necessary to call a Convention and recommend the ratification of the Constitution;

Whereas on June 14, 1794, pursuant to "Commission No. 1", President Washington commissioned John Barry as commodore in the new United States Navy;

Whereas Commodore John Barry helped to build and lead the new United States Navy which included his command of the U.S.S. "United States" and the U.S. "Constitution" ("Old Ironsides");

Whereas Commodore John Barry is recognized along with General Stephen Moylan in the Statue of Liberty Museum as one of six foreign-born great leaders of the War for Independence;

Whereas in 1991 and 1992 President George Bush proclaimed September 13 as "Commodore John Barry Day"; and

Whereas designating a day to commemorate Commodore John Barry would be important to United States Navy veterans, Irish Americans, and to all the people of the United States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That September 13, 1993, is designated as "Commodore John Barry Day", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL D.A.R.E. DAY

Ms. BYRNE. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 99) designating September 9, 1993, and April 2, 1994, each as "National D.A.R.E. Day," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Virginia?

Mr. GILMAN. Mr. Speaker, reserving the right to object, I do so in order to commend the gentleman from California [Mr. WAXMAN] for recognizing the wonderful objectives and the work of the D.A.R.E. organization that has helped to clean up our communities throughout the Nation, clean up our communities from the ravages of narcotics abuse and narcotics trafficking. If we had more organizations like D.A.R.E., our Nation would be better off. It would be safer from the problems of drug abuse.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Virginia?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 99

Whereas Drug Abuse Resistance Education (in this joint resolution referred to as "D.A.R.E.") is the largest and most effective drug-use prevention education program in the United States, and is now taught to 25,000,000 youths in grades K–12;

Whereas D.A.R.E. is taught in more than 250,000 classrooms reaching all 50 States, Australia, New Zealand, American Samoa, Canada, Puerto Rico, the Virgin Islands, Costa Rica, Mexico, Brazil, Hungary, and Department of Defense Dependent Schools worldwide;

Whereas the D.A.R.E. core curriculum, developed by the Los Angeles Police Department and the Los Angeles Unified School District, helps prevent substance abuse among school-age children by providing students with accurate information about alcohol and drugs, teaching students decision-making skills, educating students about the consequences of certain behaviors, and building students' self-esteem while teaching them how to resist peer pressure;

Whereas D.A.R.E. provides parents with information and guidance to further the development of their children and reinforce the decisions of their children to lead drug-free lives;

Whereas D.A.R.E. is taught by street-wise veteran police officers with years of direct experience with people whose lives were ruined by substance abuse, giving them unmatched credibility;

Whereas each police officer who teaches D.A.R.E. completes 80 hours of specialized training in areas such as child development, classroom management, teaching techniques, and communication skills;

Whereas independent research has found that D.A.R.E. substantially impacts students' attitudes toward substance use, contributes to improved study habits, higher grades, decreased vandalism and gang activity, and generates greater respect for police officers; and

Whereas 1993 marks the 10th year that D.A.R.E. has provided students with the skills they will need as young adults to resist the temptations of drug abuse: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That September 9, 1993, and April 21, 1994, are each designated as "National D.A.R.E. Day", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such days with appropriate ceremonies and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Ms. BYRNE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the several joint resolutions just considered and passed.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Virginia?

There was no objection.

□ 2230

THE PRESIDENT'S ECONOMIC PLAN OFFERS NO NEW TAXES FOR MOST AMERICANS

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks and to include extraneous matter.)

Mr. RICHARDSON. Mr. Speaker, there is an incredible disinformation campaign of smoke and mirrors by the opponents of the President's plan going on. Here are the facts: 80 percent of the tax burden will fall on those making more than $200,000 a year. Only the top 1.2 percent of all taxpayers will experience an increase in their income taxes. Those who file joint returns and making less, less than $180,000 will not pay higher income taxes. We repeat, if you are a family and you make under $180,000 of adjusted gross income, you will not pay a penny more in taxes.

There are no income tax increases for the middle class. Working families, again, making less than $180,000 will not pay an extra penny.

The average working family will pay about $3 a month, or $36 a year, and that is in the gasoline tax. Mr. Speaker, 20 million American working families and households will get a tax cut through the earned income tax credit.

KEY POINTS AND FACTS ON THE CONFERENCE REPORT ON PRESIDENT CLINTON'S ECONOMIC GROWTH AND DEFICIT REDUCTION

The conference report meets President Clinton's goals for putting our economic house in order and bringing about real change. It has the largest deficit reduction in history, it has real spending cuts, it restores fairness, includes the investments needed for long-term growth, and is good for the economy.

1. HISTORIC DEFICIT REDUCTION

Largest deficit reduction in history—nearly $500 billion in deficit reduction. All of the savings are locked away in a Deficit Reduction Trust Fund.

More than $1 in spending cuts for each $1 in new taxes.

$8 in spending cuts for $1 in new taxes on the middle class.

$255 billion in spending cuts.

For every $10 of deficit reduction, $5 comes from spending cuts, $4 comes from people making over $200,000 and only $1 from all other taxpayers.

2. THE PLAN IS GOOD FOR THE ECONOMY

Positive results of deficit reduction are already taking effect.

We have the lowest interest rates in two decades. Millions of American families are refinancing mortgages, interest rate sensitive industries are growing, and the economy is creating jobs at seven times the monthly rate of the previous Administration. This commitment to deficit reduction helped the President exert renewed international economic leadership at the Tokyo Summit.

3. ASKING THOSE WHO HAVE THE MOST TO PAY THE MOST

Reverses over a decade of trickle-down economics

80% percent of the tax burden will fall on those making more than $200,000.

Only the top 1.2 percent of all taxpayers will experience an increase in their income taxes.

Those who file joint returns and making less than $180,000 will not pay higher income taxes; individual filers making less than $140,000 will not pay higher income taxes. We repeat: if you are a family and you make under $180,000 of adjusted gross income, you will not pay a penny more in income taxes.

The package closes loopholes and unnecessary deductions by limiting write-offs for the cost of lobbying, for CEO pay of more than $1 million, and expensive business lunches and entertainment.

4. FAIRNESS FOR THE MIDDLE CLASS

No income tax increase for the middle class. Working families making less than $180,000 a year will not pay one extra penny in income taxes.

The average working family will pay about $3 a month—or about $36 a year—for the only new tax that will affect them a 4.3 cent a gallon gasoline tax.

Twenty million working families and households—with a full-time worker—will receive a tax cut through an expansion of the Earned Income Tax Credit that rewards work and responsibility.

5. INCENTIVES FOR PRIVATE SECTOR INVESTMENT, SMALL BUSINESS AND JOB CREATION

Includes one of the most significant incentive packages ever for small business job creation and capital formation.

More than 90 percent of small businesses will benefit or be eligible for new job-creating tax incentives, while only 4% of business owners will pay any higher taxes.

More than 90 percent of small businesses are eligible for a tax cut through, among other incentives, a major expansion of the provision that allow for annual expensing of business investments, and a new targeted capital gains tax credit for investment in small business.

Over 80 top CEOs of major companies have endorsed the President's plan and eight small groups, major groups have announced their support for the President's plan including the National Small Business United, National Association for the Self Employed, and the National Venture Capital Association.

The plan includes a new and innovative empowerment zone proposal to spur economic growth and job creation in distressed rural and urban areas.

The plan also includes incentives for research and development—a key incentive for long-term productivity growth and competitiveness.

6. CUTTING SPENDING WHILE STILL REWARDING WORK AND INVESTING IN OUR PEOPLE

Every tax dollar raised goes to deficit reduction, and even after paying for all the investments in the plan, there are still $255 billion in spending cuts that go to deficit reduction.

A historic expansion of the Earned Income Tax Credit so that every parent who works full-time and has a child at home will not have to raise that child in poverty.

A new family preservation program to help parents and a major expansion of immunization for children.

A dramatic reform of the student loan program that will save $4 billion, cut borrowing costs for students, and give students new repayment options that will help open the doors of college opportunity.

Key investments in defense conversion, and worker training that will increase productivity and raise the standard of living.

7. ENSURING THAT DEFICIT REDUCTION DOES NOT COME ON THE BACKS OF SENIOR CITIZENS AND THE MIDDLE CLASS

The President refused alternatives that would replace taxes on the top 1 percent with severe benefit cuts for more than 34 million Medicare beneficiaries or with cost-of-living cuts for millions of Social Security recipients living just barely above the poverty line.

The plan cuts payments to Medicare providers, but avoids proposals that would cut benefits to Medicare recipients.

AUGUST 4, 1993.

DEAR MR. SPEAKER: The undersigned organizations, representing millions of Americans, support the budget reconciliation act, HR 2264. We believe that it represents an important step to deficit reduction and job creation. We urge the House to vote in favor of final passage.

Advanced Asphalt Technologies.
AFLAC.
Anheuser-Busch Companies.
ARCO.
The Arnold Companies.
Associated Financial.
Audiovox.
Bethlehem Steel Corporation.
H&R Block.
CITGO.
EDS.
Hewlett Packard.
Jim Walter Corporation.
The Kamber Group.
The Keefe Company.
McAuliffe, Kelly and Raffaelli.
Mentor Graphics Corporation.
Mortgage Bankers Association.
NRG Barriers.
National Association of Home Builders.
National Association of Realtors.
National Association of Targeted Jobs Tax Credit Companies.
National Apartment Association.
National Conference of Certified Public Accountant Practitioners.
National Employment Opportunities Network.
National Multi Housing Council.
National Realty Committee.
O'Bannon & Company.
Public Securities Association.
Revlon.
Ryder System, Inc.
Salomon, Inc.
Salomon Brothers, Inc.
Shell Oil Company.
TDS Healthcare Systems Corporation.
The Southland Corporation.
Tenneco, Inc.
Valero.
Whitten and Diamond.

RE-ALLOCATION OF SPECIAL ORDER TIME

Mr. McINNIS. Mr. Speaker, I ask unanimous consent that I may be permitted to take the 60 minute special order allocated to the gentleman from Michigan [Mr. UPTON] today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

GENERALS IN THE WAR ON DRUGS NEED OUR SUPPORT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey [Mr. PALLONE], is recognized for 5 minutes.

Mr. PALLONE. Mr. Speaker, I would like to draw attention this evening to an issue that is tearing at the fabric of our society, particularly in urban communities: the war on drugs. This is an issue that has certainly been debated for hours on the floor of this House, and in cities and towns across America. I would like to share with you a view from the front in the war against drugs in one community, Long Branch, NJ, a city of approximately 30,000 residents along the oceanfront. Long Branch is located in the Sixth Congressional District, which I represent, and it also happens to be my home town.

Recently, the Asbury Park Press, one of the major newspapers in New Jersey, did a major story entitled "Generals in the Drug War." The article cited the work done by Jean Hastings and Brenda Bouldin, who both live in the Garfield Court area of the city, and Craig Reeves of Grant Court. These "generals" are well known to Long Branch residents as community leaders, advocates for better conditions in public housing and all-round good neighbors. As tenants and as parents, all three have witnessed first-hand the ravages of drugs on our young people's lives and on the safety of our communities. All three have resolved this summer to fight against the drug dealers, and associated crime and violence, in our city. They are the "points of lights" that President Bush used to speak of, the "portraits of hope" that President Clinton now invokes.

Jean, Brenda and Craig, and many other parents and concerned citizens, know that there is no magic formula for keeping kids away from drugs. Even with a range of activities for young people, the danger of drugs always lurks not far from our homes. What is clear, however, is that kids with nothing to do are far more likely to fall prey to drugs than those who are stimulated, productive and instilled with a sense of personal and community responsibility. By reducing the demand for drugs, we hope to be able to eliminate the supply—that is, the drug dealers who have set up shop in public housing.

But dedicated community volunteers can't do it all. True, drug abuse is in large part a social and an economic problem that dedicated community leaders can work to overcome.

I have sent the Asbury Park Press article about Long Branch's "Generals In The Drug War" to HUD in order to bolster our case for funding.

In the longer term, I believe that places like Long Branch and Asbury Park, relatively small communities with big city problems, will benefit from HUD's stated intention of restoring, next year, the preference for communities that have previously been funded. The elimination of this preference has cost us in Long Branch and Asbury Park. Furthermore, HUD's funding request, which has been approved by the House, was increased to $265 million, over the $175 million currently available.

Mr. Speaker, it is truly a pleasure to pay tribute to Jean Hastings, Brenda Boudlin and Craig Reeves, those three Long Branch residents who, through their dedicated work day-in and day-out, stand out as great examples of Americans taking the leadership role to make their communities better places. We should applaud such role models at the grass roots level.

BUDGET RECONCILIATION BILL

The SPEAKER pro tempore [Mr. VISCLOSKY]. Under a previous order of the House, the gentleman from Illinois [Mr. HASTERT] is recognized for 60 minutes.

Mr. HASTERT. Mr. Speaker, tonight we witnessed a very, very close vote in this House, and some who witnessed that on national TV, and certainly in the press tomorrow and the media will say boy, that was a close one. But when we really start to analyze it, it was more than that. It was a one-vote switch which could have changed the whole course of tax history in the country. A one-vote switch would have relieved American taxpayer from a retroactive tax that reaches not just back into the Clinton Administration, but reaches back all the way into the Bush administration.

It was also a retroactive tax that when the IRS starts to figure this on October 15 or the 1st of November and starts to give notice to American taxpayers and makes people realize that they have to dig into their pocket, or go out and get a small business loan, or a loan to pay their taxes, all of a sudden it will start to shut down purchases by Americans, start to shut down Christmas purchases, and it will probably be known as the Grinch that stole Christmas, this tax increase of 1993.

Just a one-vote switch would have saved seniors in my district, just in my district in Illinois $7.4 million in what they have to pay extra. Those seniors earning $25,000 as an individual and $32,000 as a couple will have to pay $7.4 million more because of that one vote that we did not get switched in this race.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. HASTERT. I am happy to yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I thank the gentleman for making this point. It might be helpful to people to understand why the gentleman is saying this is a one-vote switch.

Many people looking at the board will see that the vote was 218 to 216, and they will say well, that was a two-vote margin. But as the gentleman points out, if one person switched from yes to no, that would make the vote 217 to 217. What people need to understand about the rules of the House is on a tie vote the proposition loses.

So the gentleman is absolutely right. Every person who voted for the tax bill cast a deciding vote for more taxes and for retroactive taxes, for more spending, for more debt. And every one of those people is personally responsible for casting the deciding vote on the package, because had they voted no instead of yes, every yes vote

So the gentleman makes an excellent point, and I think it is one which is going to be brought home to the American people over and over again, that if their Congressman voted yes on the proposition, their Congressman or Congresswoman cast the decision vote that imposed additional taxes on them.

Mr. HASTERT. That is exactly right, and I am glad the gentleman from Pennsylvania helped point that out.

Can you imagine the small business man who just made an investment in a computer to upgrade his business that has to go out and cancel that order tomorrow? Not only does it affect his business, but it affects the businesses of thousands and thousands of other small businesses, and I might add probably large businesses. Those are the same businesses that have created 75 percent of the jobs in the economic sector in the last year. And a one-vote switch makes that difference.

Mr. WALKER. If the gentleman will yield further, people may want to understand that when they go to their gas pump and see the gas go up 4.3 cents, that each individual "yes" vote is what shoved their gasoline prices, that each individual "yes" vote is responsible for the increased debt that will flow out of this program. And that is not even debatable. They themselves on their charts admit that this program is going to cause more debt.

So every individual "yes" vote is an individual "yes" vote who will cause the economic damage yet to come.

Mr. HASTERT. Can you imagine, we are into August, and about the middle or end of August school starts, and school districts have to get the buses out on the streets, and here is a provision where even the school buses, the municipalities have to start paying this tax, and they are not exempted from it.

Mr. WALKER. And the airlines are nearly broke in this country. This imposes additional fuel fees on them, maybe as much as $500 million a year on the airlines. Where are they going to come up with that cash? We are likely to see the collapse of a major industry in the country just as a result of the increased fuel prices.

Mr. HASTERT. I appreciate the gentleman from Pennsylvania joining me. It is amazing what one vote can do, and I thank the gentleman and yield back the remainder of my time.

SOLUTIONS TO THE NATION'S DEBT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Colorado [Mr. McINNIS] is recognized for 60 minutes.

Mr. McINNIS. Mr. Speaker, I yield to the gentleman from Missouri [Mr. HANCOCK].

OUR NATION IS THE FINEST

Mr. HANCOCK. Mr. Speaker, I thank the gentleman for yielding. This may be somewhat unusual in the normal procedures of the House, but I have been looking for an opportunity to introduce into the RECORD of the House a poem that I happened to find about 4 or 5 months ago that my father wrote, a gentleman by the name of John Hancock, a great American. He wrote this sometime in 1952.

□ 2250

I think this poem, especially following what happened today, a lot of people will relate to the great Americans, a lot of the people that went on before us and the Founding Fathers. It is entitled "Our Nation Is the Finest."

OUR NATION IS THE FINEST

(By John Hancock)

'Tis a grand and glorious country
We inherited from our Dads
And our nation is the finest
As we've known since we were lads.

If you want to know the reason—
Look around and you can see
It's because our wise forefathers
Made good laws to keep us free.

First there was the Declaration
That made us independent,
Said, "That men were free and equal"
In our kind of government.

Then these wise old men kept planning
Ways and means to keep us free.
First we had to have a charter—
One that everyone could see.

So they wrote the Constitution
As the bed rock of our laws
It's a safe and sure foundation
And it's really free from flaws.

It's the basis of our union
Grants the right of justice free
Makes arrangements to defend us
It's our hope of liberty.

It assures the general welfare
Of us, and posterity
We must keep it and defend it
If we want to remain free.

Tho' it's stood the test of ages
And been ample all the time
Still there are some men who'd scrap it
Take away our plan sublime.

So we've always got to watch them
With an ever cautious eye
Or they'll take away our freedoms
As they tell us all a lie.

Oh, it may be hard to think it
For their stories seem so fine
It is clever propaganda
Though it is the Socialist line.

You should listen with precaution
Keep your head and mind so clear,
That you'll know it when you hear it,
Then we never need to fear.

They can paint a pretty picture
But it's evident they've lied
For it's never been a success
In the lands where its been tried.

Sure, they promise that they'll keep you
From the cradle to the grave
But, they do forget to tell you
That they'll tax 'till you can't save.

When they talk about the taxes,
It is just to "soak the rich"
But be careful, Oh! my brother
Or they'll land you in the ditch.

You can always spot the buzzard
If you'll just keep this in mind
Something does not come from nothing
As it's certain you will find.

When the guys a 'cussin "profits"
And a'waving of his fist,
You can bet your bottom dollar
That he is a communist.

Did you ever stop to wonder
Just how long your job would last
If the company made no profit—
It would vanish very fast.

But the Socialist will tell you
How much better off you'd be,
If the people owned the factories
So that "me" could work for "me".

Now, let's take a look at this one
Just to see how it would work.
Would our Boss be any better,
If he was a Socialist jerk?

If the "planners" ran the factories,
And they told us what to like,
What would happen to our unions
If we tried to pull a strike?

Would you want the politicians
Running everything for you
Do you think that they could figure
What was best for all to do.

If you don't—you'd better listen
To a truth that keeps us free
For the constitutional system
Is the best for you and me.

Mr. Speaker, I thank the gentleman for yielding to me.

Mr. McINNIS. Mr. Speaker, I say to the gentleman from Missouri, I thought that the poem was well put, and it was a privilege to go ahead and yield to him.

Mr. Speaker and Members, let me say that regardless of whether you are a Republican, a Democrat, or an Independent, you are still a citizen of a country that is running into debt at a rate of $44 million an hour.

Now, tonight we have been able to witness different ideas and different solutions, or at least one different proposed solution. As you can see, the vote that passed that in was extremely close. In the next few days, you are going to see a lot of whooping and hollering and a lot of cheering about what a great victory that was.

But I think all of us across this country, that it is incumbent upon all of us to take a look beyond the surface of the water and look and see what rests underneath it. I think, folks, that we have an iceberg that sits ahead of us. I think that this body tonight just addressed the top part of the iceberg and did not look under the water. The biggest part of that iceberg, as we all know, lies under the water.

This plan that we talked about this evening, it did some. I obviously do not agree with the tax increases, and I am going to talk about the tax increases here in a few moments. But this plan is not what anguished me so much, about the taxes, although I am very opposed to that. What they put into the plan, what bothers me about the plan, is what the plan did not include.

And what did it not include? It did not include real significant budget cuts, real significant cuts in spending.

We cannot get ahead of this problem, we cannot sail around that iceberg unless we begin to cut spending first. We have got to cut spending first. In my opinion, I think that this plan will simply hold the status quo and send in more dough, simply hold the status quo to send in more dough.

Let me take just a couple of minutes to talk about tax. What is a tax? First of all, we all know that a tax is not creation of capital. You do not create capital with a tax. A tax is simply a transfer of wealth. Individuals and the citizens of this country go out and, in fact, spend the first 2 hours and 50-some minutes, the first 2 hours and 50-some minutes of every work day of a year to pay their taxes, and those taxes are a transfer. They are transfers from the pockets of the working people of this country to the pockets of the Government.

In large part, what you are doing is taking money from those people who work and are giving money to those who do not. When you transfer the money, for example, in Colorado, let us talk about the gasoline tax that has just been passed out of this House this evening. That 4-cent gasoline tax will take approximately $60 million to $80 million every year out of the pockets of the citizens of the State of Colorado. And where will that money go? Well, we know one thing for certain, actually two things. The first thing is that the citizens of Colorado will not be able to spend that money out of their pockets.

The second thing is that money, instead of being spent in Colorado, will be transferred to Washington, DC, to be filtered down through a bureaucracy.

Now, you tell me, based on the record of this Government, based on the record of the people that have been elected to run this Government in an efficient fashion, who performs better? The people who hold that money in their pockets and spend that money in the State of Colorado or any other State in this Union, or the bureaucracy that we have got in Washington, DC? Who do you think can be more wise in the expenditure of that money?

Let us talk a little more about taxation. In 1948, in

The typical American family pays more in Federal taxes than it spends on food, clothing, transportation, insurance, pensions, and recreation, all combined.

The average American will have to work 123 days of this year, of every year, to pay their Federal, State, and local taxes. Well, what do they do? Do we raise more revenue?

To my colleagues and to the citizens of this country, let me tell you that the problem in this country is not a revenue problem. Raising the taxes is not the answer. Our problem in this country is a spending problem.

Now, some of the viewers tonight, and, excuse me, some of the people in this audience, you all know others that have had trouble with credit cards. They overspend their credit cards. They run up a debt on their credit cards that they cannot pay, so they go to a financial consultant.

What is the first thing that that financial consultant does? That financial consultant says to the person who has put too much on, or run up too much credit or too much debit on that card, the first thing they say is, "Give me the credit cards. We will have to cut the credit cards in half. We have got to control your usage of the credit cards, and we have got to put you on a pay-as-you-go status."

The plan this evening does not do that. The U.S. Congress is not doing that. And the administration is not doing that.

But do not for 1 minute think that you as a family are not expected to do that. The Government of this country expects every family and every citizen of this country to balance their budget. Just try, for example, to run the kind of debt ratios that we run in this country and see where you end up. It does not work.

Some would say, "Look, you need to raise taxes. You need to bring in more revenue, because if you raise taxes, you are going to reduce the deficit."

Well, let us take a look at history. Let us take a look at the record of this U.S. Congress, and let us take a look at the record of the administration, both of them combined.

Since 1947, since 1947, for every dollar that they have raised in taxes, they have spent an additional $1.59, they being the Government.

□ 2300

For every dollar they spent an additional $1.59. There has never been a time in history where there has been a bill passed by this House and signed by the administration under the promise that it is going to reduce the deficit, there has never been a bill in this country that has actually reduced the deficit based on that promise.

Do you think tonight is going to be any different? It is not. I think we have asked the taxpayers for too much. I think we have to introduce discipline into the congressional offices and into the administration. Let me say the Congress of the United States, we in this body, we could not tax enough to keep up with the spending habits that come out of these Chambers. You could not tax enough to keep up with it.

What do we do? We need to look at that spending, as I mentioned and mentioned and mentioned. Are there ways to cut

I think the U.S. Congress should immediately invoke a 25-percent cut in congressional staffs. Some people are going to tell you that is not going to work, it puts too much of a burden on the Members, that we cannot handle our constituent contacts. Let me say—and I am not boasting, but just to give you an example and just to set an example in front of all of you—I have one of the largest congressional districts in the United States. It is one of the toughest congressional districts in the United States to travel. We operate our office with more than a 25-percent cut in staff. It can be done, and Congress needs to step forward and do it immediately.

Our congressional staff is 10 times the size of the next closest country.

Now, the reduction in congressional staff, is it a big drop in the bucket as compared to the overall deficit? The answer to that, of course, is "no." But symbolically it shows we are willing to step forward and cut spending first.

We have other solutions that we can take a look at. I think we need to look at a model put forward by some of the States. For example, in the State of Colorado—why do I bring up Colorado? Of course, I am from Colorado, and I have worked in the State government in Colorado. I have worked in the State government in Colorado, and I am aware of how they control their budget. In Colorado there is a constitutional amendment that you cannot spend more money than you bring in. That is called a balanced budget. Colorado also has a line-item veto. Colorado has term limitations.

Let us talk, can we at the Federal level, can we have a concept of a budget? Is there a way, without increasing taxes, to cut spending? The answer to that is "yes." Do you know that if we took the amount of money this year, the amount of money that the U.S. Congress is spending this year and we did not spend any additional funds next year, in other words, we took that bottom-line figure, let us say it was $10. Then we said to the American people we are not going to cut one penny in spending; in fact, all we are going to do is to ask that the Federal Government not spend any more money next year than they spend this year. In other words, if they spent $10 this year, we are not going to ask them to spend $9 next year. We are going to ask them to just keep the expenditures next year at the same level. What would be the result? The result is that we would balance the budget, the annual deficit by the year 1998. Why is that? Because do you remember when I said earlier revenue was not our problem in this country? In the last 10 years the revenues to our country have doubled. It is the expenses which have skyrocketed. If we could control the expenses and if the revenue continues to grow even at the rate of 1 percent, we could balance the annual budget by the year 1997. That is going to require a lot of tough decisions. But I think the people of America are demanding of the U.S. Congress and of the administration that we make some tough decisions. I think for the first time in a long time the American people as a whole are willing to make the kind of sacrifices that are necessary to continue the greatness of this country and the economic model that this country has set forth in the free world.

Let me say that we have got to have discipline. One of the ways that we can do discipline is that we can take away the very incentives which give congressional people the motivation to look out for their self-interest instead of the interests of the country. And that is term limitations.

I have never been more convinced of the need for term limitations than in my few short months here in the U.S. Congress. We have term limitations in the State of Colorado. The State of Colorado has term limitations; the State of Washington has term limitations. Let me say to all of you that it will work.

We need term limitations in the U.S. Congress. We need to reform Congress. We need to say that if Congress has a bill, if Congress introduces a bill, that amendments to that bill have to fit under the title. What does that mean?

Let me give you an example. Not long ago we had the flood relief bill. The good Lord knows many people in the Midwest suffered horrible tragedy. It is the responsibility of every citizen and a responsibility that every citizen in this country has accepted, to step forward and help the victims in the Midwest of those floods. So a bill in excess of $3 billion now $5 billion bill, has been put together to assist these people. But do you know what happened when that bill got to the House floor, to these Chambers? There was an amendment put on that that had absolutely, absolutely nothing to do with the flood disaster in the Midwest. It rode on the coattails of tragedy and allotted funds for a program in Los Angeles, CA. Thank goodness that program, that bad amendment, was stripped on the Senate side. But it is not right for the people to be able to put an amendment under a bill that has nothing to do with the bill. In Colorado you cannot do that. In Colorado we have the Sunshine Act. All meetings have to be held in the open.

If we could get some basic reform, not reform that penalizes Congress, not reform that penalizes the Administration or penalizes the Republicans or penalizes the Democrats, but basic wholesome reform, we can bring this Congress back to the respect level that it needs to be. And we can, I know we can cut the spending and take care of the deficit which is crippling this country at this point.

Let me continue and just say that in regard to a couple of other issues that I think we have got to address: One of them is entitlement programs. Let me show you this book right here, it is just entitlement programs. Take a look at that, just entitlement programs.

I can say that the plan that we just voted on a few hours ago does not eliminate one Federal program, not one.

To my colleagues, our program is we got too many people riding the wagon, we do not have enough people pulling the wagon.

We need to streamline our Federal agencies. We need to take a look at illegal immigration. I read an editorial not long ago in the Rifle newspaper in Rifle, CO. We have HUD housing. We have a real housing shortage in Colorado, in western Colorado.

And in that particular editorial they pointed out how the local HUD officials are prohibited, prohibited from asking or determining what an applicant's citizenship status is. They cannot ask somebody if they are a citizen of the United States before they lease them Government-subsidized housing.

What about the Americans? What about the Americans first? We need to take care of this country. Our country became great by offering a home for many immigrants. But we have to have some kind of guideline on the illegal immigration facing this country.

It is a drain on our deficit.

We have other programs we need to look at, the pork-barrel programs, I mean the tree-planting program in the Small Business Administration.

The point I am coming back to is that regardless of whether you are a Republican, unaffiliated, a Democrat, take a look at the history of this country, take a look at the last 10 years. I do not mean to be repetitive, but these points are so important. Look at the last 10 years, it is a revenue problem; we have got more money than we have had in our history coming into the coffers of the U.S. Government. It is a spending problem.

Take a look at what this Government is doing. Our forefathers never imagined, never imagined the kind of programs that our Government would be sponsoring and paying for. And we know that a lot of programs are good programs. And in my opinion, we have plenty of resources in this country to take care of the truly needy. But we have to have enough guts to stand up to the people who do not need those proceeds, who do not need that kind of assistance, and take them off the program. We have to have enough guts to stand up and say that we need welfare reform in this country. We have got to have enough guts to stand up and say to people on welfare that are able to work, "You are going to go to work." We have to have enough guts to say to the people on welfare that, "You are going to go to school, you are going to learn, you are going to be a contributor, not a drain to society, but a contributor to society." We have to be able to stand up and have enough guts to take a look at those parents who are not paying child support and say, "You are going to pay the child support, or the penalty is going to be very severe."

□ 2310

The Government is not going to continue to subsidize the children that you have a legal responsibility to do.

Let me conclude by reading a quotation that I think says it very well:

> You cannot bring about prosperity by discouraging thrift. You cannot strengthen the weak by weakening the strong. You cannot help the wage earner by pulling down the wage maker. You cannot further the brotherhood of man by encouraging class hatred. You cannot keep out of trouble by spending more than you earn. You cannot build character and courage by taking away a man's initiative and independence. You cannot help men permanently by doing for them what they could do and should do for themselves.

About 3 weeks ago I had a rancher come up. We were talking about the spending problems in this country and the tax, and whether tax was the right answer. He and I both agreed that you do not tax. Tax is not the answer. You need to introduce discipline in this process.

His concluding remarks to me will be my concluding remarks to you:

> Before you put any more water in the bucket, plug the holes.

ECONOMIC FACTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin [Mr. OBEY] is recognized for 60 minutes.

Mr. OBEY. Mr. Speaker, I ordinarily do not take special orders, because I think that 9 times out of 10 they are stupid, and I do not take them normally because I think that in most cases nobody is here, as is the case tonight; but I have heard so much nonsense over the past few months about the economic situation this country is in that I think it is useful to trace for the record, even if no one else is in the Chamber, and they are not, and in contrast to some people who pretend that they are talking to an audience, I am not, but I am talking to set the record straight in terms of history.

I think it is important to trace why the budget that we passed tonight had to be passed.

I was here in 1981 when we passed the Reagan package that began the supply side revolution that put this country into incredible debt for years to come.

This chart, as I said in debate today, demonstrates that before 1980, represented by this green line on this chart, this country had never had a deficit larger than $74 billion. Then Ronald Reagan was elected. He proposed a package which doubled military spending, which provided huge tax cuts for the rich. It was talked about at the time as being a supply side

> For six months I have been explaining to the left-wing guys that their numbers just didn't add.

He explained that he got his deficit budget projections for the administration program down to $31 billion by hook or by crook, mostly the latter. Those are his words, not mine.

> We didn't think it all the way through,

he said.

> We didn't add up the numbers. We should have designed those pieces to be more compatible, but the pieces were moving on independent tracks. They didn't quite mesh. That is what happened, but for a month-and-a-half we got away with it because of the novelty of it all.

He then described that when the tax bill was passed, the Kemp-Roth tax bill was described as a supply side approach to get the economy moving, he admitted when he wrote his book that

> Kemp-Roth was always a Trojan horse to bring down the top rate. It is kind of hard to sell trickle-down so the supply side formula was the only way to get a tax policy that was really supply side trickle-down theory.

Again, Stockman's words, not mine.

When he described the special interest tax gimmicks that were in the budget at that time, he said:

> The hogs were really feeding. The greed level, the level of opportunism just got out of control.

Now, that is what David Stockman wrote the same year that the Reagan package was passed.

Now, as we talked about in debate today, that package promised that if we just adopted Ronald Reagan's supply side elixir, that the deficit as represented by these green bars which were then $55 billion, that the deficits would go down to zero by 1984—4 years.

As a practical fact, Mr. Speaker, the red bar shows that they missed by $185 billion. We heard a lot of lectures from the Republican side of the aisle tonight about whose predictions about budget deficit reduction were accurate. I would suggest the record demonstrates that they have not been able to add for 12 years.

Now, after 4 years of producing huge deficits, when they promised zero deficits, they produced the first of their magic process fixes, called Gramm-Rudman I. Under that, pushed by the Reagan White House, the deficits, as shown by the green bars here, were promised to go down in nice neat $36 billion increments down to zero by 1990. As the red bars indicate, they only missed by $220 billion.

So then halfway through, they said, well, we better cover our tracks again, so we will produce another magic fix-up. So this time they passed their Gramm-Rudman II. And what did it do?

Again, the green lines show what they promised. They promised to get the deficit down to zero by 1992. That time they only missed by $290 billion.

Yet they are talking and have talked tonight about the fact that they know how to measure deficits. They know how to cut deficits.

I think the facts recognize that the last thing in the world any Republican in this House who was here in 1981 can lecture anybody in this country about is deficit reduction. They have long since forfeited their claim.

Now, President Clinton was elected, in my view, for the same two reasons Ronald Reagan was elected in 1981. The public wanted President Clinton to get the economy moving again and they wanted him to get the deficit down. So the President produced

The reason he did that can be shown by this chart. This chart demonstrates and the red piece here is the key, the chart demonstrates that the investment portion of the budget, what we invest in kids by way of education, what we invest in health research, what we invest in community infrastructure, sewage treatment plants, highways, and things that make communities an effective place to conduct a business and raise a family, the investment portion of the budget was 16 cents out of every dollar when Ronald Reagan walked into the White House. Today it is 9 cents out of every dollar. It has dropped 40 percent as a percentage of Federal outlays.

□ 2320

Mr. Speaker, President Clinton proposed his investment package, his stimulus package, because he recognized that this economy needed a short-term jobs boost. This House passed it, but it went to the Senate, and it was killed, not because it did not have the votes. It did. It had a majority. But it did not have the votes to get 60 percent, and under Senate rules, because of the filibuster, if you do not get 60 percent, you lose. Majority does not win.

Now, I believe that our Republican friends in the other body had a perfect right to oppose that package if they disagreed with it. I believe they had absolutely no right to prevent that bill from coming to a vote. But that is what they did, and I would predict that continued weakness in the economy will require the Senate and this House, sooner or later, to review that jobs package. That is what the President tried to do in the short term for job creation.

He also produced a long-term budget deficit package, the second piece of which we voted on tonight. It requested that we cut the budget deficit projected over the next 5 years by $500 billion. Now why $500 billion? Why not more than $500 billion? For two reasons: No. 1, you do not want to promise what the economy will not be able to deliver, and, second, deficit reduction is a delicate balancing act. If you do not cut enough, you send a huge bill to our kids and grandkids. If you slam on the brakes too hard, you throw the economy into a recession. If that happens, people lose jobs, Government income goes down, not up. Government costs go up, not down because unemployment compensation, welfare, food stamps and the rest raise Government expenses. The result can be an unintended decrease in that deficit.

Mr. Speaker, that is exactly what happened in 1980, in President Carter's last year. In that year Paul Volcker, Chairman of the Federal Reserve, came to us and told us if we did not cut $16 billion out of the budget immediately in spending, that the deficit would raise to $35 billion. So, we cut it by $16 billion. The deficit, however, did not decline. It rose to almost $50 billion because the economy went to pot.

Mr. Speaker, that is what we are trying to avoid this time. Deficit reduction in the neighborhood of $500 billion is what most key economists tell us is about the amount that can be achieved without tipping the economy into a recession. The test is to achieve the maximum deficit reduction you can without shrinking the economy. Whether we exceed our target or fall short of it will be determined by the performance of the economy, and many events will impact on that over the next 5 years. But the budget proposal which we passed tonight is based on far more sober economic estimates than was the case in the 1980's.

Now how was the deficit cut? Well, as people asked, first we cut spending.

We heard many Members on the Republican side of the aisle parrot the observation that there needed to be spending cuts first. Well, the fact is that the President's plan had $115 billion in military spending cuts over 5 years beyond the reductions proposed in detail by President Bush. It had $11 billion in Federal administrative cost reductions, $60 billion in spending cuts from the Federal payroll, $1 billion more by eliminating waste in public housing programs, over $1 billion more in spending cuts from hidden subsidies for nuclear utilities, $56 billion reduction in allowable payments to doctors and hospitals under Medicare, and $17 billion additional savings in Medicaid.

In addition, as I pointed out three times on the floor today, this House has already passed almost 300 specific spending cuts for next year alone in the appropriation bills which have passed the House, and I will insert a

Now how did we achieve the deficit reduction in the package that was passed tonight? The fact is that for every $10 of deficit reduction slightly more than $5 comes from spending cuts, $4 comes from taxes on the most well-off people in this country, families making $140,000 a year or more after deductions and exemptions and individuals making more than $140,000 gross, gross income, and they took less than $1 out of every $10 in taxes from anybody who makes less than $115,000. In contrast to the 1980's, Mr. Speaker, I think that is a pretty fair distribution.

So, who will pay, and how will working Americans be affected? More than 80 percent of the total revenues will come from the richest 6 percent in order to minimize taxes on middle Americans. First there is a 10-percent surtax which is applied to the new tax rates for those with taxable income above $250,000. That raises their rates from 31 to 39½ percent. We need to make no apology for that. The wealthiest 1 percent of Americans saw their income rise in the 1980's by more than 100 percent while everyone else in the population lost ground. We need make no apology about asking the wealthiest people in this country to finally again begin paying their fair share.

Second, families with before-tax incomes of more than $180,000 and individuals with before-tax incomes of more than $140,000 will see their tax rates increase from 31 to 36 percent. Corporations with taxable income above

I say to my colleagues, "That means, if you drive 100 miles a day, 5 days a week, that means you will pay approximately a buck and a quarter more in gas taxes as a contribution to deficit reduction. It would be nice if that could be avoided by all, but you have to make reasonable choices, and it's reasonable when you're getting 80 percent of the total revenues from those who are the very wealthiest to ask for that small a contribution from everyone else."

The bill also eliminates many tax deductions for lobbying expenses. That will disappoint a lot of people who can afford to hire expensive lobbyists. I do not think it will disappoint the American people.

It also eliminates tax deductions for club dues, including country club membership. I am not going to cry about that one. I do not think the taxpayers will either.

Now it has also been alleged by our Republican friends tonight that they are oh so concerned about the fact that middle-income taxpayers are experiencing any increase in

I would also suggest that the two charts I am about to demonstrate show the difference between the Republican approach to taxation in the 1980's and President Clinton's approach to tax fairness in the 1990's. This chart demonstrates what the tax increase would have been by income group in the original budget summit recommendations of President Bush in 1980. If you made less than $10,000 a year, you can see you are asked to see your taxes raised by far the most.

□ 2330

If you made between $20,000 and $50,000, you were asked to see your taxes raised by about 3 percent. But if you made over $200,000, your taxes went up by about half that amount.

Now, that is backward, and that is why, in contrast to this tax distribution, the bottom chart represents the distribution of tax contributions under the President's plan passed tonight.

The fact is, if you make below $27,000, there is a tax cut. If you make between $20,000 and $50,000, you pay perhaps $1 a week. It is only after you get to the over $200,000 families that you see any real major tax increase. And, as I said, I make no apology for that, after the record of the eighties. I think it is about time that those above $200,000 start paying their fair share of taxes so that people below that amount do not have to pay more than their fair share.

In contrast to the economics of the eighties that squeezed the middle class and pampered the rich, this plan puts Government back on the side of the middle class, despite the crocodile protestations of Republican voices in this House tonight. This chart demonstrates that the tax touch on the middle class is tiny in comparison to the tax touch on the wealthy.

The fact is that we are trying to provide a new direction for this country. We got a lot of lectures tonight about what this package would do to economic growth. I do not believe that any Republican who served here the last 4 years has any lesson to give anyone in terms of ability to promote economic growth.

This chart demonstrates what the history of economic growth has been in this country under every President's 4-year term since the end of World War II. It shows under Harry Truman's 4-year term, a 25-percent increase in real economic growth; under Kennedy's term, completed by LBJ after the Kennedy assassination, a 20-percent increase in 4 years in real economic growth; Johnson's full term, 19.4 percent real economic growth.

You go all the way down the line until you get to the slowest economic growth in any 4-year period since World War II. And under whom did it occur? President Bush. About 1 percent economic growth for over 4 years. And, as we know, a major recession in the last year and a half of his administration.

So that is basically the record of those who are giving us lectures about deficit control and about job growth and about economic growth from the Republican perspective during today's debate.

Now, what about small business? Well, before I get to that, what were the alternatives. I think we ought to take a look at the alternatives.

There were basically three alternatives. We could have stuck with the status quo, left things as they were. But if that happens, deficits would just as surely as we serve here rise from $300 billion today to over $500 billion early in the next century. Clearly anything is better than nothing.

Second, we could have passed the Republican plan. That fell $80 billion short of the Democratic plan in terms of deficit reduction. I was amused today to hear the first 10 Republican speakers lecture the Democrats because we did not cut enough spending. Then when the defense budget was presented and the agriculture budget was presented, we heard a succession of Republicans lecture us that in fact the cuts were too deep.

Well, you cannot have it both ways, especially on national television. But an awful lot of Members here on that side of the aisle tried to do it today, and I doubt that they were very persuasive. But I think they demonstrated what we are up against in trying to clean up the mess left by the policies of the eighties.

Well, we could have passed a third alternative, which is the Perot plan. I would simply make the point that despite all of the protestations about the gas tax today, for instance, the 4.3-cent gas tax, the Perot plan called for a 50-cent gas tax, more than 10 times as large as the plan that the House passed tonight. Persons earning $40,000 a year would have paid $37 a month in new taxes, as opposed to the tiny amount, a buck and a half a week, in the plan that just passed. Overall taxes in the Perot plan were $50 billion larger than in the House-passed plan tonight.

I should also point out that the Republican plan did not ask the wealthy to pay one thin dine for deficit reduction, while it clobbered agriculture, clobbered Medicare, and clobbered other programs twice as hard as the President's package.

What about small business? This plan recognized that most jobs are created not by big business, but by small business. So it provided many small business tax cuts. Even the Wall Street Journal, which on its editorial page is the premier defender of big business in the country, even the Wall Street Journal ran a newspaper article saying that the Republican attacks on this plan for being antismall business were fallacious. The reason that that article said that is because they looked at the facts, and the facts are these:

That plan expands the tax deduction for small businesses which invest in equipment from $10,000 to $17,000. That can be of major help to farmers. It cuts in half the long-term capital gains tax rates for investments in small startup companies. The corporate tax increase does not touch most small companies. It only applies to corporations with taxable income of more than $10 million. And, as one of the charts showed today that we used, only 4 percent of the subchapter S small businesses that were cried about so much on this floor today, only 4 percent of those businesses are covered by the increase in income taxes, and their average income is $500,000.

So I would say in terms of recognizing the specific needs of small business, this package leaned over backward to do that.

Now, what is the benefit of what we did today? Well, in the short term the benefit is lower interest costs. Since

In terms of long-term benefits, the principal long-term benefit which we want to see out of this plan is job growth. The President's plan aims to help the private sector to create 8 million jobs over the next 4 years.

Again, we heard Republican cries today that this bill would not create enough jobs. That comes after the last 4 years in which the Bush administration had lower job growth in its 4-year term in office than any other 4-year period under any President from the end of World War II.

We need not take any lectures from the princes and princesses of failure on the job front, as we heard here today. We need not take any lectures on that score. They have demonstrated that they do not know how to create jobs. They have demonstrated that they do not know how to create income growth, except for the very wealthiest people in this country.

□ 2240

But the President's plan is aimed at trying to create 8 million jobs. The misguided economic policies of the 1980's have created a huge overhang of debt. That debt makes it much more difficult economically and politically for government to boost the economy and to speed up job growth.

It took 12 years to get into this mess; it will take at least 3 or 4 to begin to move out of it in a major way. But this package was the beginning. And without it, that first step could not occur.

The job growth is also being held back by a deep worldwide recession, especially in Japan, Germany, and other countries, which is hurting our ability to

The historic flood in the Midwest will also depress the economy for a while. Those problems can make it more difficult to hit our deficit reduction targets as well. But there was no real alternative to acting tonight.

Economically, if the President's plan had been defeated, interest rates would have shot up, choking off the economy and shattering public confidence. We also had no moral choice but to act.

For 12 years, since the passage of the 1981 Reagan plan, which defined the 1980's, Government leaders have swept our economic problems under the rug. As I said earlier, David Stockman, the architect of this plan, wrote in his famous book the most scathing indictment of what was done in the 1980's. This is what he said:

> By 1984, the White House had become a dreamland. It was holding the American economy hostage to a reckless, unstable fiscal policy based on the politics of high spending and the doctrine of low taxes. Yet, rather than acknowledge that the resulting massive build up of public debt would eventually generate serious economic troubles, the White House proclaimed a roaring economic success. It bragged that its policies had worked as never before, when, in fact, they had produced fiscal excesses that had never before been imagined.

Again, those are not my words. They are the words of the architect of the Reagan economic revolution in 1981, the Budget Director, David Stockman.

I congratulate him for his candor. Those misguided policies destroyed fairness for working families. They devastated farmers. They benefited only the wealthy. They sent the bill to our grandkids. Hardworking people became angry in this country, because they could see that Government was not on their side. It was on the side of the high rollers.

At long last, that is about to change. This plan is far from perfect. It is still being impeded and opposed by many of the same people in this Congress and out whose votes in 1981 passed the program which defined the 1980's in the first place, that 1981 Reagan budget package which sapped this country's economic strength and even today limits our ability to respond to the legacy of that policy.

But even with this plan's imperfections, it takes an historic first step in cleaning up the economic mess left over from the 1980's and restoring our long-term economic strength. It begins to put government on the side of average working families again.

This is not enough. Much more still needs to be done. We need a new national strategy on the trade front that stands up for America and keeps good-paying jobs at home. We have an urgent need to strengthen investments in education, worker training, transportation, science and technology to expand economic opportunity, especially for people who have not gone to college.

We need to reform our health care system, to give Americans the security that their health insurance will always be there and that we will get a handle on costs. That is what we must tackle next.

Mr. Speaker, I had not intended to speak tonight, but in light of so much that was said today, I felt it was necessary to come here simply to lay out in a short period of time what the reasons were that made action tonight necessary. You cannot understand why what was done tonight was necessary until you understand what happened in the 1980's.

Mr. Speaker, I am going to submit for the RECORD a copy of a newsletter which I circulated to every household in my district in 1981, after the passage of the Reagan plan. It spells out at that time what that package did, what concerns I had about it at the time, why I not only voted against it but offered a comprehensive alternative to it, because of my belief that if it was adopted, it would lead to catastrophic deficits, because of my belief that it would lead to an erosion of economic strength in this country, a reduction in economic fairness, a split between the haves and the have-nots in this society and lead to added cynicism.

I would also say that I congratulate those Members who voted yes tonight on this package, especially those new Members who had courage enough to vote their convictions, to vote their conscience, who had courage enough to vote to support the only package on the table that had a prayer to bring us back to fiscal sanity.

It is not an easy vote. It is never an easy job to serve as a cleanup crew. It is far easier to strike off on some other fantasy mission. But the fact is that before we can get about dealing with health care, before we can get about dealing with welfare reform, before we can get about dealing with strengthening ourselves on the trade front, we needed to take a first step on deficit reduction.

I think history will judge what has happened in the 1980's as being one of the most tragic times economically and socially in our country's history, because those actions buried this country and this Government in debt that will take literally a decade to recover from.

That is why it was so difficult today to find the votes to begin that cleanup job, because many Members recognized that the job is so immense that whatever we did tonight would take a long time before it could have the needed, constructive effect on the economy.

But we took the step. The project has begun. It is now up to the Senate. And if they do their duty, we can get on to the business of tackling other problems that face America.

Mr. Speaker, I include for the RECORD the newsletter to which I referred:

ECONOMIC POLICY: WHAT HAVE WE LEARNED?

Democracy does not work if politicians do not make decisions on the basis of their honest judgment about the needs of the country and then honestly state their views to the people they are both supposed to represent and lead.

If politicians do anything else, if they allow political decisions to warp policy decisions in major ways, policy gets screwed up.

If they don't state their views honestly, the American people have no basis on which to judge those views and the country's politics gets screwed up because the public decides after a while that it doesn't trust anybody.

On the Level

I remember a senior Democrat speaking to a class of incoming freshmen Congressmen in 1974.

After answering several questions he said to one of the questioners, "Oh, now I understand you—you think this place is on the level."

That makes a funny story. The man who said it was a good man with a wicked sense of humor.

But there is nothing funny about what happens to this country's capacity to preserve a democratic system which makes our political liberties mean something to its families if the system and the people who run it are not on the level.

The President Began a Healthy Debate

Over the last year, the Reagan Administration generated a historic debate in Washington and around the country about the economic direction America should take.

That debate has been healthy. Out of it has come broad bipartisan agreement in and out of Congress on the need to do 4 things: cut wasteful spending; shrink government deficits; provide greater incentives for savings, investment and modernization of an industrial base; and stimulate more competition and self-reliance on the part of both business and individuals.

Mistakes of Liberalism

The now famous Atlantic Monthly article which revealed Office of Management and Budget Director David Stockman's behind the scene thoughts throughout the debate shows he began with 2 premises which were right on target:

(1) He thought that "liberal politics in its later stages had lost the ability to judge claims on the Government and so yielded to all them, creating a constituency based choice making which could no longer address larger national interests including fiscal control."

(2) He said the way to change that was to curtail "weak claims rather than weak clients."

He correctly observed that the key to political and economic success was to demonstrate that the Administration would not just attack weak clients. "We have to show that we are willing to attack powerful clients with weak claims" as well.

He was right.

So we debated the President's plan, designed and promoted principally by Mr. Stockman and Treasury Secretary Regan. The debate was not over whether we needed economic change, but how we would get it.

On Government spending, Congress had 3 alternatives. It chose the one backed by the President.

On taxes, it has 3 alternatives. It chose the President's.

So the President's economic policy is now in place.

THREE PROBLEMS

As you know, I tried to achieve significant changes in the plan. I took the position that there were 3 things wrong with it. First, it was inflationary and would create huge deficits; second, it was unfair; and third, it would damage productivity.

I. How Could It Be Inflationary?

How could a program that had big cuts in social spending cause deficits and more inflation?

Because while it was advertised and sold to the American people as being something radically new, it was, at least in one sense, carbon copy Lyndon Johnson.

Why do I say that?

In the 1960's, Johnson tried to fight a war without paying for it. He concealed (first from himself through wishful thinking, and then from the public) the economic cost of that war.

Because he wouldn't raise the taxes to pay for the big military buildup that war required, inflation went from 2 percent before the war to 6 percent at its end.

That inflation was built into the economy. It is still with us. And it has grown even worse in the wake of 2 oil price shocks and other forces at work in the economy.

Today, this Administration is doing the same thing.

Look at the 3 numbers that sum up its program:

(1) $180 billion in increased military spending over the next 5 years. The military budget will double over that time.

(2) $140 billion in domestic spending cuts over that same period. Well, you might say, that doesn't seem too bad. It only adds $40 billion to the deficit.

But then add the third number—

(3) $750 billion in tax cuts.

With those 3 numbers, how do you get anything other than record high deficits? How do you do it without changing the computer results, as Mr. Stockman said in the Atlantic Monthly article, he did?

For the last 8 months, in unpopular speech after unpopular speech, a number of us have tried to raise that question. But when we did, we were told by the Administration in Washington and its political soul mates at home that we were just being obstructive and partisan.

The Stockman Admissions

Now we have the admission of the principal architect and spokesman for the Administration's program that for 6 months he had been explaining to "the West Wing guys that these numbers just didn't add."

He explained that he got his budget deficit projections for the Administration-backed Gramm-Latta budget "down to $31 billion by hook or by crook, mostly the latter."

"We didn't think it all the way through," Mr. Stockman said in his Atlantic Monthly interview: "We didn't add up all the numbers. We should have designed those pieces to be more compatible. But the pieces were moving on independent tracks. It didn't quite mesh. That's what happened. But, you see, for about a month and a half we got away with that because of the novelty of it all."

So now the Administration admits that even using their own numbers, their program will produce 4 years of back-to-back deficits larger than Jimmy Carter's.

To put it in perspective, consider the following. It took this country from 1776 to 1968 to run up a national debt of $370 billion—192 years. The Reagan Administration plan will do it in 4.

Projected deficits that large have created an inflationary mind set in the nation's money markets and they are significantly responsible for the excruciating interest rates that are choking the economy.

The Federal Reserve has seen those deficits coming. It has been trying to compensate for them in fighting inflation by imposing tight money. The resulting high interest rates themselves add unnecessary inflation to economic sectors like the housing market.

II. Why is the Program Unfair?

Putting aside for the moment the question of how evenly the budget cuts fall on the poor and the well-off, let us look at what happened on the tax bill.

The Tax Cut Auction

The great tax debate began as a legitimate effort to reform the economy by encouraging savings, and stimulating investments to modernize our industrial base. But economic policy quickly took a back seat to politics.

Both Parties Failed

As the Atlantic Monthly article describes it: The Tax lobbyists of Washington, when they saw the outlines of the Reagan tax bill, mobilized the business community, the influential economic sectors from oil to real estate. in a matter of days, they created the political environment in which they flourish best—a bidding war between the two parties."

At the point, to restore the original goal of economic reform, Congressmen Morris Udall, Henry Reuss and I offered our own alternative. It provided major assistance to business and individuals. But it stripped away the expensive gimmicks which had been added to both the other plans to gain votes.

We provided over $300 billion in tax relief for business and individuals but we had no artificial sweeteners.

Our alternative was limited to the amount that could be provided without borrowing money.

We got 144 votes—a majority of Democrats and 5 courageous Republicans. The President won.

The bill that passed provided $120 billion in basic business tax relief over 5 years to modernize plants and equipment. There was not much argument about that.

But the goodies added along the way were expensive. For instance: a new $17 billion tax gift to the oil industry; a new $27 billion welfare program for corporations. Above and beyond basic depreciation reform, the bill allows corporations like Ford Motor Company to sell excess tax credits to corporations like IBM which convert them into cash.

In addition, the individual tax cuts were so big they added astronomically to the deficit and they were grossly skewed to favor the rich.

Examples:

(1) A family of 4 making $15,000 a year will get a tax cut in 1982 of $2 to $3 a week. The same family making $100,000 a year will get back about $2,200. They make 7 times as much but they will get back 14 times more and by 1984, they will get back 21 times more.

It was a new demonstration of something an old colleague of mine from my State legislative days, Harvey Dueholm, had often observed. "The trouble with government," Harvey said, "is that all too often the poor and the rich get the same amount of ice but the poor get theirs in the wintertime."

(2) Persons making $50,000 a year make up 5.6 percent of the population. They account for 1 in every 20 Americans but they will get back $1 in every $3 of tax relief.

(3) The cost of giving a tax cut to those making $50,000 or more a year which is larger than the cut given the average taxpayer will add $160 billion in red ink to the national debt over the next 5 years.

When some of us said that was unfair and too expensive, the Administration said the Kemp-Roth tax cut was necessary to stimulate the economy.

But what does Mr. Stockman now say about supplyside economics? He said: "Kemp-Roth was always a Trojan horse to bring down the top rate. It's kind of hard to sell trickle down so the supply-side formula was the only way to get a tax policy that was really trickle down. Supply-side is trickle down theory."

It seems that Harvey Deuholm was right again.

The Hogs Were Really Feeding

What did Mr. Stockman say about the tax bill produced by the bidding war we warned was happening? He said, "The hogs were really feeding. The greed level, the level of opportunism just got out of control."

And what of Mr. Stockman's original goal of curtailing "weak claims" rather than "weak clients? Did the tax and budget changes really result in attacking powerful clients with weak claims or did they wind up shooting the sick?

As the Atlantic Monthly article states: "What had changed fundamentally were the list of winning clients, not the nature of the game."

I ask you if it is decent public policy * * *

* * * to wipe out job training for unemployed black teenagers while protecting export subsidies for "truly needy" corporations like Boeing, Westinghouse and GE.

* * * to slash nutrition programs for pregnant mothers and double-dipping third-graders who receive both food stamps and school lunch benefits while not laying a glove on the tax deductible business lunch.

* * * to continue millions of dollars of subsidized water for irrigation to landholders like Tenneco Corp., while the average Wisconsin dairy farmer with 40 cows faces huge interest payments and frozen milk checks.

A divinity school graduate other than Mr. Stockman, John the XXIII, gives us quite a different version of how economic policy should be designed. He said: "Economic prosperity is to be assessed not so much from the sum total of goods and wealth possessed, as from the distribution of goods according to the norms of justice."

Some might say, with some legitimacy, that if we can expand productivity to achieve economic growth there will be more for everyone to share. While that may be true, Pope John Paul II had a fitting observation: "The present economic difficulties must not become a pretext for giving in to the temptation to make the poor pay for the solutions to the problems of the rich."

And I would further suggest that the present economic program will hurt, not help, economic productivity.

III. How Will It Damage Productivity?

Let me demonstrate by describing the budget choices the Administration has made. The budget for fiscal 1982 is about $700 billion.

¼th is for military spending. Under the Administration's plans, that will double in 5 years.

Another ¼th is for retirement programs. Even with the Administration's planned Social Security cutbacks, this portion of the budget will rise over the next 5 years because our population is aging rapidly.

15 percent is for interest on the debt. This year interest on the national debt will go up from $80 billion to $110 billion.

A number of areas have been declared "off limits" to budget cuts by the President. These include the Immigration Service, the FBI and the IRS.

So far we have covered about 75 percent of the budget and under the Administration's plan, that portion will go up, not down over the next 5 years. That means the lion's share of the budget cuts will be concentrated on 2 areas.

The Non-Elderly Poor

First, support for the non-elderly poor makes up 6 percent of the budget. One-third of that assists blind and disabled persons.

Even if you eliminate all direct support for able-bodied non-elderly poor, you would not offset the increases planned for 1 year in the military budget because those increases are so huge. But that will not happen because the cuts in this area have already been severe. That means then that most of the cuts will be focused on the remaining 20 percent of the budget.

Threat to Investment

That remaining 20 percent is the portion of the budget directed at investment. It contains human investment areas like education, worker training, science research and development, and physical investment such as soil conservation, bridge construction and sewage treatment.

Research and Productivity

We all remember Sputnik. I remember the day it went up. Across the country the cry went up: "We have to beef up education. We have to beef up math and science education. We have to beef up our investment in science research."

So what happened to U.S. basic science research since Sputnik? It has declined as a percentage of our national income by 20 percent. In Germany it has gone up by 20 percent; in France it has gone up 30 percent; and in Japan it has gone up 40 percent. I suspect that difference has as much to do with our inability to compete in international markets as any other set of numbers you can find.

But what does the Administration's budget do to basic science research? It cuts basic science R&D for health, education, energy and food growth technology by 13 percent.

And what is happening to physical investment in our local communities—investment in sewage treatment systems, bridges and highways—without which we cannot have new housing or successful commerce?

According to Business Week, there is a backlog of:

$41 billion to replace or repair 2 out of every 5 bridges in the country that are defective;

$31 billion in sewer and water systems, without which new housing construction will not occur in many areas of the country; and

$100 billion just to maintain water systems for the 756 urban areas with populations over 50,000.

Without adequate investment in water, sewage and transportation systems, industry cannot expand or compete. But the new tax policies, with all their gimmicks, are crippling the ability of local governments to borrow at reasonable interest rates.

As Business Week points out, while grants to cities and states represent only 14 percent of the federal budget, they are the target of one-third of the Administration's sweeping budget cuts.

Education and Productivity

Next to cuts in research, the most crippling of the cuts in terms of future economic productivity is education. I do not understand people who recognize the need to increase capital investment in machines, but do not understand the need to accompany that investment with capital investment in people.

The key to social stability and economic progress in this country has always been the belief that individuals have an opportunity to better their lot in life if they are willing to work hard enough. We have never guaranteed equality of outcome, but we have always tried to guarantee equality of opportunity—that is what has held our society together. It is what has prevented class division and class welfare—upward mobility based on effort and merit.

The key to that opportunity—that is what has held our society together. It is what has prevented class divisions and class welfare—upward mobility based on effort and merit.

The key to that opportunity has always been education. We have always believed that educational opportunity should be based on how much talent and brains you have in your head and how much determination you have in your heart and not how much money your old man has in his bank account.

This Administration has retreated from that commitment and has embraced a crude economic Darwinism.

That is wrong in economic terms because it wastes talent. It is wrong in human terms because it short-changes human potential for growth. It is not sustainable politically because it runs counter to the decent instincts of our people. It puts at risk the emerging national consensus for true economic reform.

Equity Ornaments

In the Atlantic Monthly article, Mr. Stockman describes a $20 billion package of tax and subsidy changes he was promoting inside the White House to provide a greater degree of equity in the Administration's program as "equity ornaments."

But in my 19 years of public service, I have seen demonstrated time and time again that equity is not an ornament in the American system. It is a core ingredient, and if the American people do not perceive the policies you are promoting as equitable and fair, they will not support or sustain those policies very long.

The American people believe and so do I that Felix Rohatyn was right when he said, "Care and compassion can live alongside a balanced budget, a strong defense and a vigorous fight against crime."

WHAT NOW?

We need to have further cuts in the budget and tax subsidy items that escaped the axe the last time around like the cost ineffective water projects, and the Clinch River Breeder Reactor boondoggle among others.

We need to attack the $10 to $30 billion swamp of waste Mr. Stockman admits is at the Pentagon.

We need to strip the recently passed tax cuts of special interest rip-offs that erode public support for economic reform every bit as surely as they erode the nation's tax base.

We need to limit the size of the tax cut for high-income persons to the amount we can afford without borrowing money.

We must have a comprehensive across-the-board investment policy that truly meets the nation's needs.

We need to get beyond slogans to deal with some of the basic cultural attitudes in this country which stand in the way of real economic progress.

Most of all, we need an honest presentation of our problems by the elected leaders and representatives of the American people. We cannot be prisoners of political theory or dogma, and above all, we must have a debate on economic policy this time that is truly on the level. We have to discard a lot of slogans and ask 2 questions:

What works?

What is fair?

And then do our best to find and support the honest answers.

Until next time,

DAVE OBEY,
Your Congressman.

December, 1981.

MORE THOUGHTS ON THE BUDGET RECONCILIATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. WELDON] is recognized for 60 minutes.

Mr. WELDON. Mr. Speaker, I took out this special order to discuss a personal and national tragedy, and I will do that. But before I get into that issue, I do want to make some comments about the vote that just occurred on this House floor.

Mr. Speaker, we had an intense debate in the House today on this issue, and a very close vote. In my feelings, and I said this in a national press conference a few moments ago, we won the issue. The majority stole the vote.

Let me explain what I mean by that, because they are pretty strong words.

When President Clinton went on national TV

☐ 2350

It was pretty evident that the American people did not want to see this plan passed. All the major polls showed that after the President's speech the American people were opposed to the plan in overwhelming numbers. It was not even close. Here was a President who told us we should listen to the American people. Ross Perot, who garnered almost 20 percent of the vote last November, opposed the plan. Even former Clinton supporters came out and openly supported the plan.

What happened on the House floor today? An intense debate. The final vote came, Mr. Speaker, 15 minutes on the clock. As the clock ticked down, Democrats who were opposing the plan held back, and I might say, this was not a plan that was opposed only by Republicans. In the end 41 Democrats opposed this tax-and-spend plan.

As the minutes ticked down on the final 15 minutes of the vote and the time expired, there were still a few who had not voted. In fact, Mr. Speaker, there was one individual who came down and voted about 5 minutes after all time had expired. I have to talk about this incident, because several of these people were neighbors of mine back in Pennsylvania.

In fact, one of the ones who cast the deciding vote this evening after the time on the clock had run out and there was no time left, in the Philadelphia Inquirer today had a feature story with a headline saying that the Members of Congress would, in fact, oppose the President's plan. Yet when the vote came here and we were, in fact, down and needed just one vote to defeat this tax plan, the vote was, in fact, not delivered as this individual had said it would be in today's edition of the Philadelphia Inquirer.

Mr. Speaker, there is no doubt in my mind if this would have been a secret ballot vote I would know how the outcome would have been. It would not have been the outcome that we now have before us, a one-vote win. It would have been defeated overwhelmingly, but the kinds of activities and techniques that were used to convince Members to vote for this plan were outrageous. I will have more to say about this tomorrow to my local press in the Philadelphia region.

It is a great disappointment to me, coming from the Philadelphia area, especially in the suburban counties where the people I know are not in favor of the kinds of taxes in this plan, to have someone come out and say, "I am going to vote the interests of my constituents, I am going to vote on principle," as this Member of Congress said in the paper today, and then to come down here in the well after time had expired and cast the deciding vote to pass this huge tax burden on the American people. It was no resounding win for the leadership of the Democratic Party. It was anything but that.

In effect, Mr. Speaker, what I am saying is what I started out with, we won the issue in a bipartisan sense. The American people won the issue, but the majority stole the vote from us.

To the American people who are listening tonight, rest assured that your calls had an impact. You did make an impact on all of us, and I would hope, Mr. Speaker, that in fact those same people would make contact with their Senators, because the fight is yet to be fought in that body.

Now, Mr. Speaker, let me get to the issue that I wanted to speak about tonight, which is a very serious one both for me personally and for our country. It has to do with an aircraft, Mr. Speaker, a C-130 cargo plane that was on a mission that was supposedly providing relief supplies in Angola and in fact had a crew of people, three of whom were Americans. They crashed in Rwanda back in a situation where everyone involved thought this plane was on a relief mission providing aid for individuals in that troubled part of the world, in Angola, and the crew was led to believe that they in fact were flying a relief mission that in fact was going to provide food and other assistance to the people of Angola.

When the plane crashed and burned and all of the crew members and the passengers were killed, a lot of unanswered questions were left. I want to talk about them this evening.

The incident occurred on June 10, 1991. The incident involved three Americans, one of whom was my nephew, Robbie Weldon. Rob had been in the Air Force as a career member or a career flight crew chief and was on this mission.

Mr. Speaker, before I get into this issue, I would ask my colleague, does he want to say a few words? Before I get into my personal special order, I see my friend and colleague, the gentleman from Pennsylvania [Mr. WALKER], has arrived, and I know what he wants to talk about, so before I get into this, I yield to the gentleman.

Mr. WALKER. Mr. Speaker, I appreciate the gentleman yielding, because he has taken the time, I know, for a personal item.

I was listening with interest to the gentleman from Wisconsin [Mr. OBEY], who preceded my colleague, the gentleman from Pennsylvania [Mr. WELDON], discuss the vote here this evening and his interpretation of history from the 1980's. I thought to myself as I heard that, that that view of history and particularly of economic history leaves a lot to be desired, and that perhaps some other reflections might also be worthwhile.

The gentleman from Wisconsin in his remarks, and he brings along his charts and does a lot of different things to try to claim that somehow the decade of the 1980's under Ronald Reagan was a decade that America should not OBEY] said, the debt went up during that period of time. Debt went up because Government got bigger, Government spent more money. Government spent more money because we had a President who was trying to win the cold war and who ultimately did, but every time he tried to get the resources by which to win the cold war, the Democrats on Capitol Hill insisted on more and more and more social welfare spending.

In order to get the money that he needed to win the cold war and defeat the slave masters in the Soviet Union, Ronald Reagan was forced to accept compromises that he did not like but which did in fact expand the debt. I think it is also important to understand that during the 1980's we created more jobs in that decade than any other period in the history of this Nation. We also during that period had more people working than any other decade.

The gentleman from Wisconsin [Mr. OBEY] in his presentation says that this is all terrible. I would submit to the Members that creating jobs, not in Government, see, that is the problem, they are not Government jobs we created, we created real jobs in the private sector. The gentleman suggests that there is something wrong with that.

The fact is that every income class in the country was a little bit better off along the way. He thinks that is a terrible thing, because some of the people at the top did very, very well, but the fact is everyone did better. He would claim that that is not the case, and he has charts all the time that say that that is not the case.

If we always look at the gentleman's charts, he goes

Why 1982? Because that is when the Reagan economic program kicked in. If we look at that 8-year period, what we find is every income class in America benefited, because we had in place a growth economic agenda that really worked. What we are headed back to right now, and I was pleased to hear my colleague begin to talk about the vote we had here tonight, we are headed back to Carter economics.

There was absolutely nothing in the plan that passed tonight that Jimmy Carter would not have put his personal stamp on, because the thing that drove us into the pattern that became the Carter economic debacle was higher taxes, bigger debt, more spending, and more Government. That is precisely what the plan represented. It was more debt, more spending, more Government, and more taxes. That is the whole plan. That is the Carter economic program.

That is why some of us can confidently predict that if this plan goes into effect, if we are unfortunate enough for the U.S. Senate to pass it, we will go right back to the period of time when Jimmy Carter and the Democrats in Congress almost wrecked the economy.

The one thing the American people have not tried is, they have not tried putting a Republican in the White House and Republicans in the House of Representatives. They have not tried that for 40 years. What they have done is, they have put the Government in the hands of one party a couple of times, and it has always been Democrats in the White House and Democrats in the Congress, and they have destroyed the economy every time that has happened.

□ 2400

I think the American people better look for a new solution, because the one that was picked tonight, the one every Democrat that voted yes is responsible for, is going to be a repeat of the Carter years, which were a terrible economic tragedy where jobs dropped and where debt took off, and where the end was a pattern of unbelievably bad inflation and recession at the same time.

So it is always interesting to listen to the liberal Democrats when they come and try to explain historical and economic revisionism, and try to explain away their failures.

But I am going to take a close look at Mr. OBEY's newsletter that he wrote back in 1981 that he claims was a prediction of what was coming, because my guess is I will find a number of things in that newsletter that will indicate that the Reagan program, for instance, was going to be inflationary, because that is what they were all claiming at that time. And it turns out that the Reagan program stopped inflation, and we still do not have inflation. The Reagan program brought down interest rates. Interest rates are still down. The Reagan program was in fact a program that expanded the amount of wealth available in the country not to a few, but to everyone.

And the liberal Democrats wanted to wipe away that record and suggest there was something wrong with all of that. I suggest their program will be a reverse of those policies, and America will pay a terrible price for it, and I thank the gentleman very much for yielding.

Mr. WELDON. I thank my colleague for coming over. And I agree with him wholeheartedly. I would just say to him

Let me say one more thing to my colleague. You know, I think the American people, as indicated by the polls, and by the calls that we had this week, over 10 million to the Capitol, see through what the leadership of the majority and the liberal wing of the Democratic Party has been saying. For 7 of the 8 years that Ronald Reagan was in office, one of the reasons why spending increased was the Democrats did not want to give him a chance to veto the 13 appropriation bills that appropriate the money. So what do they do? They stopped passing the appropriation bills and lumped all of the spending into one massive continuing resolution.

Mr. WALKER. That included both their social welfare spending and the defense spending that he knew was necessary if we were going to take this historic opportunity to defeat the most evil empire that the world has ever known.

Mr. WELDON. So one of the ways the Democrats during the Reagan and Bush years were able to avoid having Ronald Reagan veto their spending plans was to simply not pass the appropriation bills. And when the fiscal year

Mr. WALKER. Some of the people who stand on the floor and lecture us about spending and debt are people who the National Taxpayers Union consistently pick as the single biggest spenders in the Congress. These are the people who have no qualms about spending money as though it comes to us in buckets. And yet, they come here, and they lecture us about debt and the deficit.

There is only one way you get government debt. You get government debt when you spend too much. Government debt is not created because you tax too little. Government debt is created because you spend too much.

Any Democrat, and believe me there are an awful lot of them who believe that the American people are truly undertaxed. I have colleagues on that side tell me they believe the American people are paying too few taxes. We do not pay nearly as much taxes as the rest of the world so, therefore, we should be paying more. I tell you, I do not think there is a place in America that believes that they are undertaxed. And the middle-class families in my district know that they are overtaxed. They know that they cannot afford the things that they want for their children, they cannot afford to do the things that they want around their homes, they cannot do the kinds of things they would like to in their

Tonight what we had was a plan to raise taxes. They claim that it will not hit the middle class. They are just plain wrong. It will hit the middle class. It by definition will be something that will hit the middle class.

Mr. WELDON. My colleague, I think the American people understand that, and I think the overwhelming and outrageous response of the American people that we saw this week is evidence that they are not behind what the majority wing, the liberal wing of the Democratic Party did.

And I want to say the liberal wing, because I want to pay compliments to those 41 Democrats who stood up and voted with the Republicans and said this is unacceptable. This was not a partisan vote tonight. These 41 Democrats and 175 Republicans were representing America and what America was saying. It truly was a bipartisan effort, and as I said before, we won the issue. There is no doubt in my mind. I do not care what the Speaker says, what the majority leaders say or what the President says, we won the issue and the majority stole the votes.

Mr. WALKER. The gentleman is absolutely right. And I hope that the same kind of wide-angle camera that is now panning the Chamber was looking at the well during those last few minutes, and they saw the spectacle of the Democratic leadership leading people up to the desk, and taking the card for them, and showing them the way that they were to vote. Because what the American people expected is that the vote would be cast for them, not for the powerful leaders of the Congress.

Mr. WELDON. Or if they would have seen the many lobbyists lining the hallway, all of them in favor of passing this plan, lobbyist after lobbyist, and here is the President on national TV saying that the special interests want to defeat my plan. And it was the lobbyists all along the hallway who were saying to us, vote for this plan, and they were the lobbyists from all of the special interests down there in Washington, and you saw them as well as I did.

Mr. WALKER. These are lobbyists contributing heavily to the Democratic Congressional Committee these days that we all hear are so bad, but we keep watching them take the money while they are claiming they are so bad. And of course, they are lining up out here in the hallway.

But I would say to the gentleman I think the worst spectacle though in all of this is the fact that people who really wanted to vote their conscience, really wanted to vote their district, really did feel that the President was right when he told the American people to call in, and that we ought to listen to those phone calls. And when the calls went against the Democratic leadership, these people continued to want to vote their constituents, and they were forced to do something they did not want to do right in the well of the House. If the television cameras were focused on that, they would have seen one of the spectacles of legislative bodies, which is the legislative body at its worst.

A number of people commented during debate that the debate was the legislative body at its best, we were debating the issues. We may disagree, and in fact, there were major philosophical disagreements between us as we debated the issues. But that is what legislative bodies do.

Mr. WELDON. But the vote was this legislative body at its worst.

Mr. WALKER. That is right. But the votes went up, and when it got close, and when it looked like the Democrats might lose because the American people had sent a message in here that was clear, then the arm-twisting began, then the people were forced to do things that they did not want to do.

Mr. WELDON. But the media saw that. There were at least 80 or 100 representatives of the media, and the room was packed with people who saw what was going on here. And so the legacy of this evening is, as I said earlier, and I think my colleagues agree with me, we won the issue in a bipartisan manner. The majority stole the vote.

Mr. WALKER. I think that is a very apt description.

Mr. WELDON. That was not a win for President Clinton.

Mr. WALKER. That is an apt description of what happened. Let us hope that things happen a little bit better over on the Senate side, and that this plan does not become a plan that destroys the American economy.

Mr. WELDON. I thank the gentleman. And I ask the Speaker if he could pass on the word to all of our constituents that they should call the Senate at 1–202–226–3121 and use their influence to affect that vote as it comes up tomorrow.

The SPEAKER pro tempore (Mr. KLEIN). The gentleman should not make references of that nature to the Senate. That is inappropriate.

Mr. WELDON. I apologize, Mr. Speaker.

Mr. WALKER. What they can do is they can call the Capitol, and they can call——

The SPEAKER pro tempore. First of all, the gentleman should not address the television. Second, I think that the references——

Mr. WALKER. Well Mr. Speaker, you are invited to call the Capitol at 202–224–3121. Or Mr. Speaker, I mean the American——

The SPEAKER pro tempore. That reference is inappropriate, and it is simply circumventing the rules. The gentleman from Pennsylvania [Mr. WALKER] is very familiar with the House rules and, therefore, he is the person the Chair would least expect to be circumventing.

Mr. WALKER. Parliamentary inquiry, Mr. Speaker. If you are going to admonish me, Mr. Speaker I am entirely within my rights under the rules to address the Chair, and I say what I want to the Chair as long as I have been yielded time from the gentleman from Pennsylvania. I was addressing the Chair. The Chair has no right to lecture me based upon it. The Chair does not understand the rules. The gentleman from Pennsylvania addressed the Chair and told the Chair that he was entitled to make the call to 202-224-3121. It is entirely appropriate for the gentleman from Pennsylvania on this floor to address the Chair. In fact, that is what the rules say I should do. So, I would say to the Chair, the Chair has improperly admonished the gentleman, and the Chair ought to apologize.

The SPEAKER pro tempore. The gentleman may proceed.

Mr. WELDON. Mr. Speaker, I thank my colleague for his comments.

I would like to get back to my original intention of the special order this evening, which is to discuss a situation that is a national tragedy. It is also a personal tragedy for me dating back to 1991 when a C-130, supposedly delivering relief supplies in Luwanda, Angola, went down on June 10 and killed all of the crew, including three Americans, Robert Thomas Snellgrove, born in Alabama; Stefano Paolletti, who was the co-pilot; the flight engineer, Robert William Weldon II, who was my nephew; and the load master, Hendricks Charles who was also from America.

These individuals were killed in a plane crash, and following that plane crash in Angola, what we went through in trying to get information about what happened there has led to intrigue and mystery.

□ 0010

Mr. Speaker, what I think is that this is something that should be investigated by the appropriate committees of this Congress and by our investigative agencies.

What happened following that accident as we tried to recover the bodies of those who were killed instantly in that crash was nothing but stonewalling. Our CIA was reluctant to give us information because we found out that the plane had been owned by someone who had done CIA work, especially in flying arms in the Iran/Contra situation. The fellow's name is Dietrich Reinhardt. We found out that Mr. Reinhardt, who was a principal in this operation, had flown missions involving carrying goods for governments which America has not dealt with, in this case the Angolan Government and the Cuban Government.

We found out that Mr. Reinhardt had been running operations of this kind around the world, and what offended me most was the stonewalling that has continued to take place in the 2½ years since this accident which is about to come to a head in a lawsuit this October.

What is so outrageous to me is that we have just asked for these families to be allowed to have access to all the information about that June 10 incident. What was the mission that plane was on? Why was Dietrich Reinhardt and Peter Turkelson, both of whom have Washington connections and former CIA connections, why were they chartering a flight to the Angolan Government when we did not recognize the Angolan Government, working with the TAAG airline, a representative of Cuba and Angola? Why were these young American men recruited off of Air Force bases down in North Carolina and told they would make big money flying cargo in the form of help for the Angolan people in terms of food and U.N. necessities when, in fact, they were flying missions for the Angolan Communist Government?

All of this happened, and none of it has been explained. I have met with the CIA. I have asked the Angolan Government to respond. I have met with our Intelligence Committee members. I have asked the President of the United States, I have asked everyone I know to investigate this accident, and get to the bottom of what occurred.

Jack Anderson did a special column on this accident back on December 30, 1991. The headline is "Angola Plane Crash Tangled In Mystery."

Mr. Speaker, I would like to enter this into the CONGRESSIONAL RECORD along with several other articles about this incident describing the intrigue, the mystery, and the international dealer, Dietrich Reinhardt, who has a habit of contracting with anyone that he can contract his planes to, and at the same time risk the lives of young Americans.

Mr. Speaker, what really even infuriated me more than that is that after the crash occurred, Mr. Reinhardt and Mr. Turkelson, who employed these Americans including my nephew, would not even take care of the back pay for the loved ones. In the case of my nephew, Robbie, his young widow and two children received no back pay due to them from the missions that they were flying, that he was flying on behalf of this individual. In fact, in court in Florida in October, Mr. Reinhardt and his colleagues are suing Lloyds of London, the insurance carrier that insured the seats on that plane, for the proceeds, the proceeds of the insurance on those five seats that should go to the families of those who were killed in that plane. He is suing to obtain that money for himself and the other principals who own the plane. It is absolutely outrageous.

Mr. Speaker, if you go through the detailed analysis of Mr. Reinhardt's involvement and former CIA activities, Mr. Reinhardt's involvement in the Iran/Contra incident where he was the one who transported arms, Mr. Reinhardt's contracting with any country in the world that would pay him a high figure, and then going to our military bases and recruiting young Air Force personnel and young people who had worked in the military, promising them high pay, promising them an opportunity to travel around the world but doing things on behalf of the U.N. and flying missions of relief, and then not realizing they, in fact, were flying for a fly-by-night subservient operation is, to me, absolutely outrageous.

So, Mr. Speaker, I take this special order tonight to ask this Government and its agencies to find out what really happened with the June 10 accident of the C-130 in Luanda. I ask the Intelligence Committee, I ask the CIA to come clean if there is other information that we have not been provided.

I am very upset also to find out that in the files for the court proceeding coming up in October, one of our former colleagues and a friend of mine, Congressman "Buz" Lukens, had in fact sent a letter of support to Dietrich Reinhardt, and in fact had said to him that he encouraged them to carry on these activities and on the bottom of the letter in his personal handwriting, the note says, "Good luck to you and Turk," and I assume that is a reference to Mr. Turkelson.

Mr. Speaker, there is something that stinks in this incident. I do not have the investigative staff to find out what happened to these three young Americans. I do not have the resources to go over to Angola to see what occurred over there on the ground to see why they were flying these missions day after day on behalf of the Communist Government that we did not recognize at that time. I do not have the resources to go down to Florida and over to Germany to see all the buildings and facilities Mr. Reinhardt owns around the world. I do not have the ability to subpoena Mr. Turkelson to see what other young people he is recruiting in our military sites.

Mr. Speaker, I am outraged at what happened here. This is not America; this should not be allowed to go on.

People like Reinhardt and Turkelson should be stopped, and I want to take the floor of this House to say that as long as I am in this institution I will use every ounce of energy in my body to expose what they are all about. And if they are still involved with the CIA, I will expose that, too. And I have put the CIA on warning in that regard.

Mr. Speaker, this incident is a terrible American tragedy. It is a terrible personal loss to my family, to me personally and my brother and his wife and their other son who has lost their young son and his brother, and to the widow and children involved as well as the families of the other American who were lost. They all want answers.

Mr. Speaker, I am inserting in the RECORD a series of questions that the family has submitted that this Government needs to answer. We need to do more to protect the lives of our young people than to let fly-by-night fleabag operations like the one run by Mr. Reinhardt and Mr. Turkelson continue to go on risking the lives of Americans, and who knows what in terms of undermining our American foreign policy.

Mr. Speaker, I am inserting these records and these items at this point in the RECORD, as follows:

[From the Washington Post, Dec. 30, 1991]

ANGOLA PLANE CRASH TANGLED IN MYSTERY

(By Jack Anderson and Dale Van Atta)

The crash of a C-130 cargo plane in Angola last summer has launched Charles and Clara Hendricks of Mena, Ark., on a mysterious search for the truth.

The couple's 34-year-old son, Chuck, an airplane mechanic, was on the plane when it went down June 10, shortly after takeoff from Luanda International Airport. The crash killed 10 people. Three were Americans, including Chuck Hendricks and the nephew of Rep. Curt Weldon (R-Pa.).

Hendricks had told his parents he was flying famine relief missions for the Angolan government and the United Nations. But when the Hendrickses got official notification of his death, they were told that the plane was bound for a diamond mine in Angola and that it was loaded with whiskey, cigarettes and other provisions.

That wasn't the only puzzle for the Hendrickses to solve.

An eyewitness said the plane's left wing exploded shortly after the takeoff. And when the Hendrickses began asking around, they found that the plane was owned by someone alleged to have ties to the Central Intelligence Agency, a man alleged at one time to have ferried arms to Iran as part of the Iran-contra arms-for-hostages fiasco.

Six months after the crash, there has been no formal accident investigation. Why the plane went down and what was really on board remain a mystery.

The Hendrickses have sent queries to President Bush, Vice President Quayle, the National Transportation Safety Board and three members of Congress. The only response they have received from their government is that the United States cannot investigate a plane crash in a country with which it has no diplomatic relations.

The NTSB told the Hendrickses to contact Lockheed Corp., which manufactured the plane, and encourage the company to investigate the crash. They did, but a Lockheed crash investigator reported that he had been told by superiors that he could not look into the incident.

The Hendrickses and the families of the other American victims hired attorneys and welcomed the help of a private investigator who has tried to trace the plane's roots. It was owned by CZX Productions Inc., a Delaware firm. It was leased to Carib Air Transport Corp. of the West Indies and Europe. Unitrann International of Frankfurt, Germany, hired the crew. Majus Aviation of Colorado was another company that communicated with the families of the victims.

The familiar name that emerges from this list is Dietrich Reinhardt, a partner in CZX and the reputed head of Unitrann. He received notoriety during the Iran-contra hearings when it was alleged that an airline he owned, St. Lucia Airways, carried shipments of Hawk antiaircraft missiles to Iran in 1985. During those hearings, St. Lucia Airways was referred to as a "CIA proprietary" airline. The airline also was alleged to have run arms to Angolan "freedom fighters" on a mission for the CIA.

The C-130 that crashed in Angola had an expired tail number that was once assigned to St. Lucia Airways, according to British press reports.

Reinhardt, who reportedly lives in Florida, has consistently denied any involvement with CIA covert activities but will not elaborate beyond that, except to say that the purpose of the flights in question in the 1980s was classified. Rep. Weldon told us that the CIA confirmed Reinhardt had done some work for it in the past but emphatically denied that he was engaged in any CIA missions when the plane went down in Angola.

The parents of the crash victims have tried without success to reach Reinhardt. They have had limited contact with one of his business associates, attorney Morris Turkelson of Lakewood, Calif. Turkelson did not return our phone calls.

"Nobody can find Reinhardt. Turkelson won't talk to us," Charles Hendricks told our associate Jim Lynch. Hendricks said he would like to put the companies "out of business." But more than that, he said, he just wants to know the truth about what happened to his son.

Weldon, whose nephew was an Air Force pilot when he left to work for Reinhardt, will ask for a congressional hearing on the crash. Among the things Weldon wants to know is why a former CIA operative was allowed to recruit a pilot from the Air Force for questionable overseas work.

The State Department recently established an informal office in Angola, and the Hendrickses hope the new outpost will help them find some answers.

WE NEED ANSWERS

Was there any official investigation of crash?

1. None of the families were notified of details of crash and cause.

2. Kubicek says the investigation continued thru Saturday after the crash on Monday. (Fax on 6-20-91 to Weldons)

3. Peter Meyer said a full investigation was being made by our Government Officials as well as Angolan Officials.

4. Turkelson said after investigation complete, all details would be given to all families.

Was there an explosion on board prior to the crash? Kurt Hinson, the ground mechanic, says there was.

Why wasn't our NTSB able to make an investigation?

Why wasn't Lockheed allowed to investigate?

Why didn't Lloyd's of London investigate?

Who put a lid on the whole case and a veil of secrecy on details?

Was our U.S. Government involved in a covert action of some kind involving this plane and/or its owners and operators?

Why wasn't our boys denied working in Angola for its government at the time the U.S. was backing the opposition (Unita Rebels?) These men went into Portugal and Angola without Visas.

Why was this plane (C130) allowed to leave the U.S.? From Florida to Iceland, to Austria, to Angola.

1. Kimberly Paoletti says her husband, Co-Pilot Stephano Paoletti, was with the plane in Punta Gorda, Florida when it was checked by FAA and Customs Dept. and allowed to depart. It was checked again in Austria by Customs and allowed to proceed.

This plane left the U.S. 8/90 to Iceland then to Austria. On 1-7-91 the plane left Austria, VIA Agidar, Morocco to TAAG Airlines in Luanda, Angola, Africa. Plane damaged on landing. On 3/91 plane registered to Unitrann International N9724V and fake tail # J6SLQ.

Did the plane have a good Air Worthiness Certificate other than the R&D experimental certificate given to us by our FAA Dept.?

Was our boys involved in hauling illegal loads, illegal passengers, arms, fuel or cargo of any kind that would endanger their lives?

Who profited by the crash?

1. Who now owns or controls the diamond mine?

2. Was there insurance on crew and passengers that enriched some-one?

3. Was there an on board explosion or missile hit?

4. Did Reinhardt hold insurance policies on the individual crew members?

5. What about Hull, Liability and Crew Seat insurance, who gets it?

How many perished in the crash—Our reports were four crew and six passengers. Alan George says; total of seven. Were there any survivors?

Where is Deitrich Reinhardt? Does he return to his home in Florida?

Does Angola receive aid from U.S.? If so, why can't we get answers from Angolan government?

Who was the relief missions going to? Unita Rebels or Angolan government?

Who was the Broker in Portugal that negotiated the deal between Reinhardt and Angolan government? Caribe Air Transport, Unitrann International and TAAG Airlines?

Why was our boys used as couriers to deliver cash money to Juan Costa Corvu in Lisbon, Portugal? Our boys also carried parts for the C-130 from the U.S. and Germany.

Was the diamond mine being used as a staging point for the rebel operation? The load that crashed supposedly was 15 tons of beer, cigarettes and Scotch whiskey for the diamond mine owner. TAAG Airlines insisted that our crew take this load which wasn't theirs.

1. Was the diamond mine owner a target of someone?

Was Reinhardt associated with the CIA and/or BCCI?

Who and what is Questline—a Florida corporation?

Why aren't our Congressmen investigating and helping the families?

Congressman Hammerschmidt
Congressman Curt Weldon
Congressman Andy Ireland

Corporations involved: CZX Productions, Caribe Air Transport, Unitrann International, Majus Aviation, Questline.

Major players: Reindardt, Turkelson, Kubicek, Peter Meyer, Henry Gallagher, Jr., Juan Costa Corvu, Jerry Dobby, All lein holders (see organization chart).

Insurance companies involved:

S&L Insurance Assoc., Inc., Ft. Meyers, Florida.

London International Group, St. Petersburg, Florida.

Kiln Syndicate (Underwriter), London, England.

Nelson, Hurst Aviation, Ltd. (Broker), London, England.

Robins, Davies Aviation Ltd. (Adjuster), London, England.

(Lloyd's Attorneys) Thornton, Davis & Murray, Miami, Florida.

Florida Insurance Commissioner: Tom Gallagher and Mrs. McCall, Tallahassee, Florida.

Continuation of questions listed below:

Why is Kerstin Weldon withholding diary information of her husband (Bob Weldon)?

How was Kimberly Paoletti able to obtain back pay and/or compensation after crash on Stephano? All other crew members that perished had back pay owed and no compensation yet. Other employees also unable to obtain back pay.

Why no autopsy? This could have determined if explosion occurred on board before crash.

Flt. Jnt. Mag. 11-21-91 by Alan George

Please run check on Juan Costa Corvu—Lisbon, Portugal.

SPE Company—Portuguese investment company.

Frame Air—Curacao company.

Transporte Aeronoves de Curacao.

Endiama—Angola State Mining Company.

Angolan Defense Ministry for connection of above.

(Aviation Daily News—6-19-91)

When did Southern Air Transport (a CIA propriatory airline) arrive back in Angola? Did its personnel arrive prior to crash on 6-10-91?

Did Southern Air Transport pick up work that Caribe Air Transport was doing prior to crash?

Did Southern Air Transport profit by crash of Caribe Air Transport?

Is Southern Air Transport still a CIA operation?

Sincerely,

CHARLES H. & CLARA V. HENDRICKS.

QUESTIONS AND STATEMENTS

Still no official investigation report to the families.

Paoletti family in Italy was able to obtain the Angolan report (in Portuguese) from the Italian Embassy in Luanda. They forwarded the Portuguese Angolan report to us and to Kimberly Paoletti.

We sent out the report to the State Department, U.S. Customs, U.S. Congressmen, investigators and the news media. (15 locations) Then we received a translated version and sent out to above locations (19 locations), then we received the Snellgrove translation. Only one (1) out of the fifteen (15) and no response from the others.

U.S. Customs Department, Ft. Myers, Florida—Mr. Tony Muellins, is now doing an investigation and questioning previous employees. Why wasn't this investigation done prior to the crash? Our son wasn't contacted when he was home on leave even though he was expecting a call from Customs, as word had come down that he would be contacted. (If they only had, the incident might never have occurred)

CAA Eastern Caribbean States, W.I., very un-cooperative and refused to divulge information pertaining to paper work issued on the crashed plane to Caribe Air Transport. (Refer to faxes and phone records).

Where is Peter Myer? Rumored that he was in Somalia, joined by his wife and both left for Jordan. Where are the other crew members that was in Angola? Andreg, Floyd, Gaski, Nicholas and Ferman?

First C-130 lost in Angola November 1989—CIA Operation. Tepper Airlines, Crestview, Florida, employees involved. Pharies Bernard (Bud) Petty killed in mysterious crash—one of several. Is/was Tepper a part of Reinhardt's operations?

Bob Malloy, Private Investigator in Florida doing some research in conjunction with a law firm in Sarasota and Venice, Florida. Supposedly working for a family member of our mysterious crash. They will not divulge who they are working for but he is giving me lots of information about Reinhardt, Turkelson and Peter Myer.

Our FAA Department, Oklahoma City, still states they have no information in their Accident/Incident file pertaining to this crash of June 10, 1991. Lockheed Aircraft Investigation Department says the same.

Our NTSB still refuses to tell us anything about the crash or an investigation even after requesting with F.O.I.A. All departments act as if the crash never happened.

With the Liaison Office in Angola and a Peace Keeping Team on site in Luanda since the day of the crash, certainly some information could be obtained from there.

Suggest the following be questioned and/or subpoenaed.

Deitrich Reinhardt.
Morris Turkelson.
Peter Myer.
Harold Kubicek.
Nereida (Secretary in Florida).
Ers Andreg.
Jay Floyd.
Chris Ferman.
Curt Hinson.
Van Nicholas.
Jerry Dobby.
Florida Insurance Agents.
Lloyds of London Underwriters (London).
Henry (Hank) Gallagher.
All Lien Holders of plane.
John & Sharon Gasho.
Bob Malloy—Investigator in Sarasota, Florida.
Tony Muellins—U.S. Customs in Ft. Myers, Florida.
CIA.
U.S. State Department.
NTSB.
FAA.
Lockheed.
Juan Costa Corvu—Lisbon, Portugal.

SUMMATION

1. Answers to all of our questions.
2. Prosecution of guilty parties if sabotage proven.
3. Wrongful death suits possible if sabotage is proven.
4. Prevention of this type of incident happening to other families.
5. Make the companies pay with P.A. (Seat Insurance) and Key Man Insurance. Compensation for death.
6. Check Lienholders and amounts of Liens. Were Lienholders paid off? If so, by whom?

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. McINNIS) to revise and extend their remarks and include extraneous material:)

Mr. GOSS, for 5 minutes, today.

Mr. HASTERT, for 5 minutes, today.

(The following Member (at the request of Ms. BYRNE) to revise and extend her remarks and include extraneous material:)

Mr. GONZALEZ, for 60 minutes, on August 6.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. McINNIS) and to include extraneous matter:)

Mr. SOLOMON.
Mr. McINNIS.
Mr. BUYER.
Mr. MACHTLEY.
Mr. CRANE.
Mr. YOUNG of Alaska.
Mr. HASTERT.
Mr. COMBEST.
Mr. ROTH in two instances.
Mr. PORTER.
Mr. BAKER of Louisiana.
Mr. LAZIO.
Mr. DORNAN.
Mr. GOODLING in two instances.
Mr. CLINGER.
Mr. GALLEGLY.
Mr. RAMSTAD.
Mr. PORTMAN.
Mr. GUNDERSON.
Mr. TAYLOR of North Carolina.
Mr. DUNCAN in two instances.
Mrs. ROUKEMA.
Mr. BLILEY.
Mr. ROYCE.
Mr. LIVINGSTON.
Mr. KING.
Mr. GILLMOR.

(The following Members (at the request of Ms. BYRNE) and to include extraneous matter:)

Mr. WAXMAN.
Mr. DINGELL.
Mr. STUPAK in two instances.
Mr. BLACKWELL.
Mr. ENGEL.
Mr. STARK in three instances.
Mr. EDWARDS of California.
Mr. MARKEY.
Mr. HOAGLAND.
Mr. ORTON.
Mr. RICHARDSON.
Mr. HOCHBRUECKNER.
Mrs. MALONEY.
Mr. NEAL of Massachusetts.
Mr. LAFALCE.
Mr. PAYNE of New Jersey in three instances.
Mr. MAZZOLI.
Mr. KOPETSKI in two instances.
Mr. TOWNS.
Ms. BYRNE.
Mr. MOAKLEY.
Mr. WHITTEN.
Mr. HOYER.
Mr. RANGEL.
Mr. CONYERS.
Mr. DELLUMS.
Mr. MENENDEZ in two instances.
Mrs. SCHROEDER.
Mr. RAHALL.

Mr. BARCIA.

Mr. OBERSTAR.

SENATE JOINT RESOLUTION REFERRED

A joint resolution of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S.J. Res. 121. Joint resolution to designate October 6, 1993 and 1994, as "German-American Day"; to the Committee on Post Office and Civil Service.

ADJOURNMENT

Mr. WELDON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 17 minutes, a.m.), the House adjourned until today, August 6, 1993, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1714. A letter from the Secretary of Education, transmitting a copy of final regulations—Early Intervention Program for Infants and Toddlers With Disabilities, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

1715. A letter from the Secretary of Health and Human Services, transmitting the Department's annual report on the status and accomplishments of the runaway and homeless youth centers for fiscal year 1991, pursuant to 42 U.S.C. 5715(a); to the Committee on Education and Labor.

1716. A letter from the Secretaries of Labor and Education, transmitting a draft of proposed legislation to establish a national framework for the development of School-to-Work Opportunities systems in all States, and for other purposes; to the Committee on Education and Labor.

1717. A letter from the Acting Assistant Secretary for Environment, Safety and Health, Department of Energy, transmitting a report on the chemical plant area of the Weldon Spring site; to the Committee on Energy and Commerce.

1718. A letter from the Comptroller General, General Accounting Office, transmitting the list of all reports issued or released in June 1993, pursuant to 31 U.S.C. 719(h); to the Committee on Government Operations.

1719. A letter from the Executive Secretary, Federal Reserve Employee Benefits System, transmitting a copy of the annual report for the retirement plan for employees of the Federal Reserve System, pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Operations.

1720. A letter from the Secretary of Labor, transmitting a report of activities under the Freedom of Information Act for calendar year 1992, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

1721. A letter from the Secretary of Transportation, transmitting the annual report of activities of the Department's administration of the Deepwater Port Act, pursuant to 33 U.S.C. 1519; to the Committee on Public Works and Transportation.

1722. A letter from the Comptroller General of the United States, transmitting the seventh report on the assignment or detail of General Accounting Office employees to congressional committees as of July 9, 1993; jointly, to the Committees on Government Operations and Appropriations.

1723. A letter from the Secretary of Health and Human Services, transmitting the annual report, covering fiscal year 1991, of actions taken to recruit and train Indians to qualify for positions which are subject to preference under Indian preference laws, pursuant to 25 U.S.C. 472a(d); jointly, to the Committees on Natural Resources and Post Office and Civil Service.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. CONYERS: Committee on Government Operations. Look Who's Minding the Forest: Forest Service Reforestation Program Due For A Major Overhaul (Rept. 103–218). Referred to the Committee of the Whole House on the State of the Union.

Mr. FORD of Michigan: Committee of Conference. Conference Report on H.R. 2010. A bill to amend the National and Community Service Act of 1990 to establish a Corporation for National Service, enhance opportunities for national service, and provide national service educational awards to persons participating in such service, and for other purposes (Rept. 103–219). Order to be printed.

Mr. BEILENSON: Committee on Rules. H. Res. 241. Resolution waving points of order against the conference report to accompany the bill (H.R. 2010) to amend the National and Community Service Act of 1990 to establish a Corporation for National Service, enhance opportunities for national service, and provide national service educational awards to persons participating in such service, and for other purposes (Rept. 103–220). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BROWN of California:

H.R. 2876. A bill to promote and support management reorganization of the National Aeronautics and Space Administration; jointly, to the Committee on Science, Space, and Technology and Post Office and Civil Service.

By Mr. BARLOW:

H.R. 2877. A bill to require the Secretary of the Interior to determine the impact of leasing Federal lands for coal mining, on the existing mining industry prior to issuing Federal coal mining leases, and for other purposes; to the Committee on Natural Resources.

By Mr. BRYANT:

H.R. 2878. A bill to require that stock option compensation paid to corporate executives be recorded as a compensation expense in corporate financial statements; to the Committee on Energy and Commerce.

By Mr. BUYER (for himself, Mr. FAWELL, Mr. LIVINGSTON, Mr. QUINN, Mr. ISTOOK, Mr. HUFFINGTON, Mr. HORN, Mr. EVERETT, Mr. HUTCHINSON, Mr. GREENWOOD, Mr. BARTLETT of Maryland, Mr. PORTMAN, Mr. CRAPO, Mr. CALVERT, Mr. GRAMS, Mr. TORKILDSEN, Mr. MANZULLO, Mr. MCINNIS, Mr. MILLER of Florida, Mr. INGLIS of South Carolina, Ms. PRYCE of Ohio, Mr. MCKEON, Mr. SAM JOHNSON, Mr. CUNNINGHAM, Mr. GOODLATTE, Mr. BOEHLERT, Mr. SOLOMON, Mr. DOOLITTLE, Mrs. MEYERS of Kansas, Mr. GOSS, Mr. ZIMMER, Ms. FOWLER, Mr. SCHIFF, Mr. LINDER, Mr. PETRI, Mr. MCHUGH, Mr. HERGER, Ms. SNOWE, Mr. SANTORUM, Mr. GALLEGLY, Mr. RAVENEL, Mr. RAMSTAD, Mr. BONILLA, Mr. QUILLEN, Mr. BACHUS of Alabama, Mr. CANADY, Mr. BALLENGER, Mr. MCCOLLUM, Mr. HOKE, and Mr. TALENT):

H.R. 2879. A bill to amend the Congressional Budget Act of 1974 to require a three-fifths vote in the House of Representatives to waive the applicability of any provision of that act to the House of Representatives, and for other purposes; to the Committee on Rules.

By Mr. COX:

H.R. 2880. A bill to permit the prevailing party in a civil action in Federal court to recover attorneys' fees from the losing party; to the Committee on the Judiciary.

By Mr. CRANE:

H.R. 2881. A bill to transfer a portion of Fort Sheridan, IL, to the Department of Veterans Affairs for use as a National Cemetery; jointly, to the Committees on Veterans' Affairs and Armed Services.

By Mr. DUNCAN:

H.R. 2882. A bill to amend section 615(e) of the Individuals with Disabilities Education Act to limit the award of attorneys' fees under the section to fees incurred for or in connection with the commencement and prosecution of a civil action; to the Committee on Education and Labor.

By Mr. ENGEL (for himself and Mr. SERRANO):

H.R. 2883. A bill to amend the Elementary and Secondary Education Act of 1965 to provide for the establishment of a National Environmental Education Center; to the Committee on Education and Labor.

By Mr. FORD of Michigan (for himself, Mr. GEPHARDT, Mr. MILLER of California, Mr. MURPHY, Mr. KILDEE, Mr. WILLIAMS, Mr. MARTINEZ, Mr. OWENS, Mr. SAWYER, Mr. PAYNE of New Jersey, Mrs. UNSOELD, Mrs. MINK, Mr. ANDREWS of New Jersey, Mr. REED, Mr. ROEMER, Mr. ENGEL, Mr. BECERRA, Mr. GENE GREEN of Texas, Ms. WOOLSEY, Mr. ROMERO-BARCELO, Mr. KLINK, Mr. STRICKLAND, Mr. DE LUGO, Mr. GOODLING, Mr. GUNDERSON, Ms. MOLINARI, Mr. RANGEL, Mr. MCCURDY, Ms. PELOSI, Ms. LOWEY, Mr. SERRANO, Ms. DELAURO, Mr. CLAY, Mr. BAESLER, and Mrs. ROUKEMA):

H.R. 2884. A bill to establish a national framework for the development of School-to-Work Opportunities systems in all States, and for other purposes; to the Committee on Education and Labor.

By Mr. GIBBONS:

H.R. 2885. A bill to amend the Caribbean Basin Economic Recovery Act to clarify certain rules of origin; to the Committee on Ways and Means.

By Mr. GOODLING (for himself, Mr. FAWELL, Mr. SANTORUM, and Mr. DEUTSCH):

H.R. 2886. A bill to amend the Higher Education Act of 1965 to exempt Federal family education loans from the Federal Trade Commission's holder rule; jointly, to the Committees on Education and Labor and Energy and Commerce.

By Mr. GENE GREEN of Texas:

H.R. 2887. A bill to amend the Controlled Substances Act to provide authority for the transfer of forfeited property to State and local fire departments; jointly, to the Committees on Energy and Commerce and the Judiciary.

By Mr. MARKEY (for himself, Mr. DINGELL, Mr. FIELDS of Texas, Ms. MARGOLIES-MEZVINSKY, Mr. OXLEY, Mr. SLATTERY, Mr. HASTERT, Mr. COOPER, Mr. GILLMOR, Mr. SYNAR, Ms. SHEPHERD, Mr. GLICKMAN, Ms. SCHENK, and Mr. TOWNS):

H.R. 2888. A bill to require new television sets to have built-in circuitry to allow viewers to block the display of programs rated violent; to the Committee on Energy and Commerce.

By Mr. HALL of Texas:

H.R. 2889. A bill to amend title XVIII of the Social Security Act to provide for coverage of certain chiropractic services under part B of the Medicare Program; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. HOYER (for himself, Mr. GILMAN, and Mr. FISH):

H.R. 2890. A bill to amend the Foreign Assistance Act of 1961 to promote recognition of the human rights of people with disabilities and elimination of discrimination against such people; to the Committee on Foreign Affairs.

By Mr. MARTINEZ:

H.R. 2891. A bill to amend the Job Training Partnership Act to establish a demonstration grant program for the purpose of establishing an employment information network to provide job search services to unemployed individuals, underemployed individuals, and economically disadvantaged individuals; to the Committee on Education and Labor.

By Mr. MCCOLLUM:

H.R. 2892. A bill to provide for Federal-State partnerships in order to provide sufficient prison space for particularly dangerous State offenders; to the Committee on the Judiciary.

By Mr. MOAKLEY (for himself, Mr. WAXMAN, and Mr. STUDDS):

H.R. 2893. A bill to amend the Federal Trade Commission Act to require nutritional claims in food advertising to meet the requirements applicable to nutritional claims for food and for other purposes; to the Committee on Energy and Commerce.

By Mr. MURPHY:

H.R. 2894. A bill to expand the Southwestern Pennsylvania Heritage Preservation Commission, and for other purposes; to the Committee on Natural Resources.

By Mr. NEAL of North Carolina:

H.R. 2895. A bill to amend the Social Security Act to provide for timely review of disability claims and to provide for presumed disability in cases of delayed disposition of such claims; to the Committee on Ways and Means.

By Mr. RAMSTAD:

H.R. 2896. A bill to amend the International Revenue Code of 1986 to permit penalty-free distributions from qualified retirement plans for umeployed individuals; to the Committee on Ways and Means.

By Mr. REYNOLDS:

H.R. 2897. A bill to suspend temporarily the duty on the personal effects of participants in, and certain other individuals associated with, the 1994 World Cup soccer games; to the Committee on Ways and Means.

By Mr. RICHARDSON (for himself, Mr. WAXMAN, Mr. STOKES, Ms. MCKINNEY, Ms. BYRNE, Mr. ROMERO-BARCELO, Mr. BROWN of California, Mr. EVANS, Ms. FURSE, Mr. HAMBURG, Mrs. SCHROEDER, Ms. NORTON, and Mr. BERMAN):

H.R. 2898. A bill to amend the Clean Water Act to eliminate certain discharges of chlorine compounds into navigable waters, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. ROYCE:

H.R. 2899. A bill to require each State to undertake a comprehensive examination of the State's criminal sentencing practices and to adopt a sentencing system consistent with that review and to help fund additional space in State prison programs as needed; to the Committee on the Judiciary.

By Mr. DINGELL (for himself, Mr. WAXMAN, Mr. MOOREHEAD, and Mr. BLILEY):

H.R. 2900. A bill to clarify and revise the small business exemption from the nutrition labeling requirements of the Federal Food, Drug, and Cosmetic Act and for other purposes; to the Committee on Energy and Commerce.

By Mr. SCHUMER:

H.R. 2901. A bill to amend title 18, United States Code, with respect to terms of imprisonment and supervised release following revocation of a term of probation or supervised release; to the Committee on the Judiciary.

By Mr. STARK (for himself, Ms. NORTON, Mr. MCDERMOTT, and Mr. WHEAT):

H.R. 2902. A bill to amend the District of Columbia Self-Government and Governmental Reorganization Act to revise and make permanent the use of a formula based on adjusted District General Fund revenues as the basis for determining the amount of the annual Federal payment to the District of Columbia, and for other purposes; to the Committee on the District of Columbia.

By Mr. TALENT:

H.R. 2903. A bill to amend the Internal Revenue Code of 1986 to provide that the percentage limitations on the charitable deduction shall not apply to contributions for purposes of disaster relief, and for other purposes; to the Committee on Ways and Means.

By Mr. TOWNS:

H.R. 2904. A bill to protect home ownership and equity through enhanced disclosure of the risks associated with certain mortgages, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. TUCKER (for himself, Mr. FILNER, Mr. NADLER, Mr. MCDERMOTT, Ms. CANTWELL, Mr. KREIDLER, Mr. HORN, and Mr. BERMAN):

H.R. 2905. A bill to amend the Federal Water Pollution Control Act to require the Administrator of the Environmental Protection Agency to make grants to the cities of New York, Los Angeles, and San Diego, the county sanitation districts of Los Angeles County, the municipality of metropolitan Seattle, and the Massachusetts Water Resources Authority for the construction of wastewater treatment works; to the Committee on Public Works and Transportation.

By Mr. TUCKER (for himself, Mr. DIXON, Mr. MARTINEZ, Mr. MFUME, Mr. REYNOLDS, Mr. MINETA, Mr. HORN, Mr. EDWARDS of California, Mr. SERRANO, Mr. TORRES, Mr. DELLUMS, Mr. STOKES, Mr. LEWIS of California, Miss COLLINS of Michigan, and Mr. FAZIO):

H.R. 2906. A bill to amend the Internal Revenue Code of 1986 to allow a credit for charitable contributions made by businesses to public elementary and secondary schools located in poverty areas; to the Committee on Ways and Means.

By Mr. WHITTEN:

H.R. 2907. A bill to revive and extend through December 31, 1996, a temporary reduction of duty on certain disposable surgical gowns and drapes; to the Committee on Ways and Means.

By Mr. GILCHREST (for himself, Mr. KNOLLENBERG, Mr. SUNDQUIST, Mr. HYDE, Mr. RAMSTAD, Mr. HASTERT, Mr. HEFLEY, Mr. PORTER, Mr. HANCOCK, Mr. ROGERS, Mr. HOBSON, Mr. EWING, Mr. THOMAS of Wyoming, Mr. CALLAHAN, Mr. KINGSTON, Mr. SANTORUM, Mrs. MORELLA, Mrs. JOHNSON of Connecticut, Ms. DUNN, Mr. ALLARD, Mr. QUINN, Mr. SMITH of New Jersey, Mr. BILIRAKIS, Mr. LEWIS of Florida, Mr. BALLENGER, Mr. WELDON, Mr. HAYES, Mr. SPENCE, Mr. EMERSON, Mr. GALLO, Mr. DELAY, Mrs. BENTLEY, Mr. BUNNING, Mr. HANSEN, Mr. BARTON of Texas, Mr. BLUTE, Mr. GILLMOR, Mr. OXLEY, Mr. GEKAS, Mr. SCHAEFER, Mr. REGULA, Mr. FRANKS of Connecticut, Mr. FIELDS of Texas, Mr. LEWIS of California, Mr. KING, Mr. INHOFE, Mr. SAM JOHNSON, Mr. BLILEY, Mr. LIVINGSTON, Mr. STUMP, Mr. MOORHEAD, Mr. BOEHNER, Mr. GOSS, Mr. QUILLEN, Mr. COMBEST, Mr. HUTCHINSON, Mr. ARMEY, Mr. SKEEN, Mr. LIGHTFOOT, Mr. SENSENBRENNER, Mr. CLINGER, Mr. MCHUGH, Mr. CAMP, Mr. UPTON, Mr. COBLE, Mr. KASICH, Mr. MCCRERY, Mr. SOLOMON, Mr. EVERETT, Mr. MCMILLAN, Ms. PRYCE of Ohio, Mrs. MEYERS of Kansas, Mr. ROBERTS, Mr. ZELIFF, Mr. TRAFICANT, Mr. CUNNINGHAM, Mr. YOUNG of Alaska, Mr. SAXTON, Mr. DORNAN, Mr. TAYLOR of North Carolina, Mr. PACKARD, Mr. BARTLETT of Maryland, Mr. INGLIS of South Carolina, Mr. MCINNIS, Mr. DUNCAN, Mr. GINGRICH, Mr. GRAMS and Mr. GREENWOOD:)

H.J. Res. 249. Joint resolution proposing an amendment to the Constitution of the United States to prohibit retroactive income taxation; to the Committee on the Judiciary.

By Mr. ROTH:

H.J. Res. 250. Joint resolution requiring the President to obtain authorization under the War Powers Resolution prior to introducing United States Armed Forces into hostilities in the former Yugoslavia; to the Committee on Foreign Affairs.

By Mr. ROSE (for himself and Mr. THOMAS of California):

H. Con. Res. 133. Concurrent resolution providing for the printing of a collection of statements made in tribute to the late Justice Thurgood Marshall; to the Committee on House Administration.

By Mr. PETE GEREN of Texas (for himself, Mr. BURTON, Mr. CONDIT, Mr. FLAKE, Mr. HUNTER, Mr. ROHRABACHER, Mr. COX, Mr. TUCKER, Mr. CRANE, Mr. UNDERWOOD, Mr. JEFFERSON, Mr. LIPINSKI, and Mr. WILSON):

H. Con. Res. 134. Concurrent resolution expressing the sense of the Congress that the Sikh nation should be allowed to exercise the right of self-determination for the independence of their homeland, Punjab, Khalistan; to the Committee on Foreign Affairs.

By Mr. YOUNG of Alaska (for himself, Mr. STUDDS, Mr. MANTON, Mr. FIELDS of Texas, and Mr. SAXTON):

H. Con. Res. 135. Concurrent resolution calling for the United States to take further steps to establish an international fishery agreement for conservation and management of living marine resources in international waters of the Bering Sea known as the Donut Hole; to the Committee on Merchant Marine and Fisheries.

By Mr. BUYER (for himself, Mr. FAWELL, Mr. LIVINGSTON, Mr. QUINN, Mr. ISTOOK, Mr. HUFFINGTON, Mr. HORN, Mr. EVERETT, Mr. HUTCHINSON, Mr. GREENWOOD, Mr. BARTLETT of Maryland, Mr. PORTMAN, Mr. CRAPO, Mr. CALVERT, Mr. GRAMS, Mr. TORKILDSEN, Mr. MANZULLO, Mr. MCINNIS, Mr. MILLER of Florida, Mr. INGLIS of South Carolina, Ms. PRYCE of Ohio, Mr. MCKEON, Mr. SAM JOHNSON, Mr. CUNNINGHAM, Mr. GOODLATTE, Mr. BOEHLERT, Mr. SOLOMON, Mr. DOOLITTLE, Mrs. MEYERS of Kansas, Mr. GOSS, Mr. ZIMMER, Ms. FOWLER, Mr. SCHIFF, Mr. LINDER, Mr. PETRI, Mr. MCHUGH, Mr. HERGER, Ms. SNOWE, Mr. SANTORUM, Mr. GALLEGLY, Mr. RAVENEL, Mr. RAMSTAD, Mr. BONILLA, Mr. QUILLEN, Mr. BACHUS of Alabama, Mr. CANADY, Mr. BALLENGER, Mr. SMITH of New Jersey, and Mr. TALENT):

H. Res. 242. Resolution amending the Rules of the House of Representatives respecting waivers of rules; to the Committee on Rules.

H. Res. 243. Resolution amending the Rules of the House of Representatives to require a three-fifths vote to adopt a rule disallowing germane amendments to a bill or resolution; to the Committee on Rules.

By Mr. BUYER (for himself, Mr. FAWELL, Mr. LIVINGSTON, Mr. QUINN, Mr. ISTOOK, Mr. HUFFINGTON, Mr. HORN, Mr. EVERETT, Mr. HUTCHINSON, Mr. GREENWOOD, Mr. BARTLETT of Maryland, Mr. PORTMAN, Mr. CRAPO, Mr. CALVERT, Mr. GRAMS, Mr. TORKILDSEN, Mr. MANZULLO, Mr. MCINNIS, Mr. MILLER of Florida, Mr. INGLIS of South Carolina, Ms. PRYCE of Ohio, Mr. MCKEON, Mr. SAM JOHNSON, Mr. CUNNINGHAM, Mr. GOODLATTE, Mr. BOEHLERT, Mr. SOLOMON, Mr. DOOLITTLE, Mrs. MEYERS of Kansas, Mr. GOSS, Mr. ZIMMER, Ms. FOWLER, Mr. SCHIFF, Mr. LINDER, Mr. PETRI, Mr. MCHUGH, Mr. HERGER, Ms. SNOWE, Mr. SANTORUM, Mr. GALLEGLY, Mr. RAVENEL, Mr. RAMSTAD, Mr. BONILLA, Mr. QUILLEN, Mr. BACHUS of Alabama, Mr. CANADY, Mr. BALLENGER, Mr. BLUTE, Mr. CASTLE, Mr. KLUG, Mr. MCCOLLUM, Mr. SCHAEFER, Mr. SMITH of New Jersey, and Mr. TALENT)

H. Res. 244. Resolution amending the Rules of the House of Representatives to require that the membership of the Committee on the Rules reflect the ratio of majority to minority party Members of the House at the beginning of the Congress; to the Committee on Rules.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

232. By the SPEAKER: Memorial of the Legislature of the State of California, relative to vehicle inspection and maintenance; to the Committee on Energy and Commerce.

233. Also, memorial of the General Assembly of the State of Maryland, relative to designating a building the "Thurgood Marshall United States Courthouse"; to the Committee on the Judiciary.

234. Also, memorial of the Legislature of the State of California, relative to Cesar Chavez Day; to the Committee on Post Office and Civil Service.

235. Also, memorial of the Legislature of the State of California, relative to housing; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BALLENGER:

H.R. 2908. A bill for the relief of Peggi M. Houston; to the Committee on the Judiciary.

By Mr. GENE GREEN of Texas:

H.R. 2909. A bill to provide that section 6248 of title 10, United States Code, shall not apply to an award of the Medal of Honor to Richard G. Perez; to the Committee on Armed Services.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 44: Mr. BEVILL, Mr. BISHOP, Ms. BROWN of Florida, Mr. CLYBURN, Mr. COOPER, Mr. ENGLISH of Oklahoma, Ms. ESHOO, Mr. FLAKE, Mr. FOGLIETTA, Mr. JACOBS, Mr. MOLLOHAN, Mr. REGULA, Mr. SHARP, and Ms. SLAUGHTER.

H.R. 70: Mr. JOHNSTON of Florida, Mr. LEWIS of Florida, Mr. MACHTLEY, Mr. HUGHES, Mr. OWENS, Mr. POSHARD, Mr. SANDERS, Mr. SYNAR, Mr. MEEHAN, and Mr. ISTOOK.

H.R. 93: Mr. UPTON, Mr. TORKILDSEN, and Mr. WELDON.

H.R. 103: Mr. GEKAS.

H.R. 144: Mr. ROYCE.

H.R. 291: Mrs. UNSOELD, Mr. MINGE, Mr. WALSH, Mr. HYDE, Mr. RAHALL, Mr. HINCHEY, and Mr. WYDEN.

H.R. 299: Mrs. UNSOELD.

H.R. 302: Mr. TEJEDA and Mr. UNDERWOOD.

H.R. 326: Mr. REYNOLDS, Mr. SARPALIUS, Mr. BARCA of Wisconsin, Mr. DARDEN, and Ms. BROWN of Florida.

H.R. 441: Mr. ISTOOK.

H.R. 509: Mr. ROYCE.

H.R. 521: Mr. ROSE, Mr. BILIRAKIS, Mr. POMEROY, Mr. WISE, Mr. BLACKWELL, Mr. BAKER of California, Ms. MARGOLIES-MEZVINSKY, Mr. STUDDS, Mr. BACCHUS of Florida, Mr. MCCRERY, Mr. RICHARDSON, Mr. TORRES, and Mr. FARR.

H.R. 535: Mr. WOLF.

H.R. 581: Mr. OLVER and Mr. FIELDS of Louisiana.

H.R. 688: Mr. BUNNING, Mr. KIM, Mr. SHUSTER, Mr. GUNDERSON, Mr. BALLENGER, Mr. SKEEN, Mr. PORTER, Mr. GRANDY, Mr. HANSEN, Mr. STEARNS, Mr. SUNDQUIST, Mr. SAXTON, Mr. HOBSON, Mr. KLUG, Mr. WALKER, Mr. GILMAN, Mr. GALLEGLY, Mr. RAMSTAD, Mr. HEFLEY, Mr. SOLOMON, Mr. HANCOCK, Mr. DORNAN, Mr. HASTERT, Mr. BURTON of Indiana, Mr. HERGER, Mr. BLILEY, Mr. ARMEY, Mr. RAVENEL, Mr. DOOLITTLE, Mr. DREIER, Mr. ROBERTS, Mr. MYERS of Indiana, Mr. SPENCE, Mr. FIELDS of Texas, Mr. CONYERS, and Mr. LEWIS of California.

H.R. 703: Ms. PRYCE of Ohio and Mr. SHAYS.

H.R. 786: Mr. POMEROY.

H.R. 864: Mrs. MEYERS of Kansas.

H.R. 883: Mr. SPENCE and Mr. CRANE.

H.R. 911: Mr. SANDERS.

H.R. 1017: Mr. RANGEL, Ms. THURMAN, and Mr. PARKER.

H.R. 1048: Mr. SPRATT, Mr. DELLUMS, and Mr. CLYBURN.

H.R. 1086: Mr. COMBEST.

H.R. 1120: Mr. GEKAS.

H.R. 1123: Mr. HASTERT.

H.R. 1124: Mr. HASTERT.

H.R. 1126: Mr. HASTERT.

H.R. 1129: Mr. HASTERT.

H.R. 1130: Mr. HASTERT.

H.R. 1141: Mr. GORDON.

H.R. 1164: Mr. GENE GREEN of Texas, Mr. SHAYS, Mr. BECERRA, Mr. BARRETT of Wisconsin, and Mr. GILCHREST.

H.R. 1173: Mr. VENTO, Mr. FRANK of Massachusetts, Ms. ESHOO.

H.R. 1190: Mr. BURTON of Indiana.

H.R. 1394: Mr. GILLMOR.

H.R. 1399: Mr. KIM.

H.R. 1402: Mr. GEJDENSON.

H.R. 1432: Ms. ESHOO.

H.R. 1500: Mr. LANCASTER and Mr. SHAYS.

H.R. 1505: Mr. BAKER of Louisiana.

H.R. 1530: Mr. OWENS and Mr. BARRETT of Nebraska.

H.R. 1552: Mr. GORDON.

H.R. 1560: Mr. MACHTLEY.

H.R. 1624: Ms. THURMAN, Mr. ANDREWS of Texas, Mr. BROWN of Ohio, and Mr. FIELDS of Texas.

H.R. 1682: Mr. ISTOOK.

H.R. 1697: Mr. OBERSTAR and Mr. REED.

H.R. 1749: Mr. ROMERO-BARCELO.

H.R. 1928: Mrs. VUCANOVICH, Mr. ZELIFF, Mr. TALENT, and Mr. ZIMMER.

H.R. 1986: Mr. HOEKSTRA.

H.R. 2043: Mr. TORRICELLI and Mr. KILDEE.

H.R. 2144: Mr. FALEOMAVAEGA and Mr. DE LUGO.

H.R. 2153: Mr. KOPETSKI, Mr. ZIMMER, Miss COLLINS of Michigan, Ms. SLAUGHTER, Mr. VALENTINE, Mr. FALEOMAVAEGA, Mr. NEAL of North Carolina, Mr. KLECZKA, and Mrs. LLOYD.

H.R. 2157: Mr. FISH.

H.R. 2307: Mr. ISTOOK.

H.R. 2317: Mr. KINGSTON, Mr. ZIMMER, and Mr. KYL.

H.R. 2353: Mr. FIELDS of Louisiana.

H.R. 2355: Mr. LANCASTER, Mr. BACHUS of Alabama, and Mr. SENSENBRENNER.

H.R. 2357: Mr. COOPER.

H.R. 2394: Ms. ESHOO and Ms. ROYBAL-ALLARD.

H.R. 2395: Ms. ESHOO and Ms. ROYBAL-ALLARD.

H.R. 2406: Mr. COLLINS of Georgia, Mr. BLUTE, Mr. KIM, and Mr. HERGER.

H.R. 2420: Mr. GUTIERREZ and Mrs. THURMAN.

H.R. 2434: Mr. RAVENEL.

H.R. 2443: Mr. LANCASTER, Mr. CRAMER, Mr. GALLEGLY, Mr. APPLEGATE, Mr. GLICKMAN, Mr. LANTOS, Mr. MORAN, Mr. PICKETT, Mr. BOEHNER, Mr. MCCANDLESS, Mr. FIELDS of Texas, Mr. JACOBS, Mr. HAMILTON, Mr. MACHTLEY, and Mr. SWETT.

H.R. 2501: Mr. KOPETSKI, Mr. REED, Mrs. ROUKEMA, Mr. STARK, and Mr. TORRICELLI.

H.R. 2521: Mr. BUYER, Mr. BAKER of Louisiana, and Mr. BALLENGER.

H.R. 2529: Mrs. CLAYTON.

H.R. 2553: Mr. CLYBURN.

H.R. 2640: Mr. GEKAS.

H.R. 2641: Mr. SMITH of New Jersey.

H.R. 2676: Mr. RANGEL, Mr. GIBBONS, and Mr. PASTOR.

H.R. 2707: Mr. CLAY, Mr. TOWNS, Mr. FIELDS of Louisiana, Mr. PAYNE of New Jersey, and Mr. BEREUTER.

H.R. 2735: Mr. BARRETT of Wisconsin.

H.R. 2807: Mr. APPLEGATE.

H.R. 2816: Mr. HOBSON.

H.R. 2862: Mr. EMERSON and Mr. ROGERS.

H.J. Res. 50: Mr. SOLOMON.

H.J. Res. 75: Mr. FAZIO.

H.J. Res. 111: Mr. KOPETSKI, Mr. LEWIS of California, Mr. ANDREWS of New Jersey, Mr. TAYLOR of North Carolina, Ms. ESHOO, Mr. FIELDS of Texas, Mr. PORTER, Mr. SAM JOHNSON, Mr. PASTOR, Mr. BATEMAN, and Mr. DICKS.

H.J. Res. 131: Mr. BACCHUS of Florida, Mr. ANDREWS of New Jersey, Mr. SMITH of Oregon, Mr. CAMP, and Mr. SAM JOHNSON.

H.J. Res. 157: Mr. NEAL of North Carolina, Mr. FAWELL, Mr. YOUNG of Alaska, Mr. ANDREWS of Maine, Mr. RAVENEL, Mrs. MORELLA, Mr. CRAPO, Mr. TRAFICANT, Mr. MOAKLEY, Mr. KANJORSKI, Mr. WELDON, Mr. KNOLLENBERG, Mr. SMITH of Texas, Mr. QUINN, Mr. FISH, Mr. SMITH of Michigan, Mr. MILLER of Florida, Mr. HUTCHINSON, Mr. BOUCHER, Mr. WALSH, Mr. CHAPMAN, Mr. HASTERT, Mr. DUNCAN, Mr. GENE GREEN of Texas, and Mr. DINGELL.

H.J. Res. 185: Ms. BYRNE, Mr. JOHNSON of South Dakota, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. MOORHEAD, Mr. NEAL of North Carolina, and Mr. SHUSTER.

H.J. Res 206: Mr. KING, Mr. CHAPMAN, Mr. ANDREWS of Maine, Mr. DURBIN, Mr. MURTHA, Ms. PELOSI, Mr. BARRETT of Wisconsin, Mr. MATSUI, Mr. BATEMAN, Mr. CONYERS, Mr. NEAL of North Carolina, Mr. DE LUGO, Ms. LOWEY, Mr. BACCHUS of Florida, Mr. MARKEY, Mr. DICKS, Mr. HAMILTON, Mrs. MINK, Ms. MARGOLIES-MEZVINSKY, Mr. ABERCROMBIE, Mr. GLICKMAN, Mr. FRANK of Massachusetts, Mr. TALENT, Mr. FOGLIETTA, Mr. SLATTERY, Mr. GEJDENSON, Mr. COBLE, Mrs. COLLINS of Illinois, Mr. POSHARD, Mr. MACHTLEY, Mr. STUDDS, Mr. WOLF, Mr. BECERRA, Mr. MOAKLEY, Mr. COYNE, and Ms. PRYCE of Ohio.

H.J. Res 214:, Mr. NEAL of North Carolina, Mrs. MEEK, Mr. HOUGHTON, Mr. HAMBURG, Mr. STARK, Mr. JOHNSON of Georgia, Mr. GOODLATTE, Ms. FOWLER, Mr. SCHIFF, Mr. BUYER, Ms. PELOSI, Mr. KILDEE, Mr. MOLLOHAN, Mr. BONIOR, Ms. BYRNE, Mr. GONZALEZ, Mrs. MORELLA, Mr. CAMP, Mr. PETRI, Mr. BISHOP, Mr. HOEKSTRA, Mr. LEHMAN, Mr. ROTH, Mr. HUTTO, Mr. KASICH, Ms. ESHOO, Mr. MATSUI, Mr. DIXON, Ms. SCHENK, Mr. KENNEDY, Mr. BERMAN, Mr. LEWIS of California, Mr. OBERSTAR, Mr. WYDEN, Ms. LOWEY, Mr. LIPINSKI, Mr. ACKERMAN, Mr. SPRATT, Mr. BROWN of Ohio, Mr. ABERCROMBIE, Mr.ROMERO-BARCELO, Mr. BRYANT, Mr. STUDDS, Mr. PRICE of North Carolina, Mr. MARKEY, Mr. MINGE, and Mr. CONDIT.

H.J. Res. 219: Mr. MCCANDLESS, Mr. OWENS, Mr. HAMILTON, Mr. FROST, Mr. REED, Mr. PARKER, Mr. SPENCE, Mr. SKEEN, Mr. SLATTERY, Mr. MARTINEZ, Mr. PORTMAN, Mrs. MEYERS of Kansas, Ms. SNOWE, Mr. SISISKY, Mr. LIPINSKI, Mr. OBERSTAR, Mr. HAMBURG, Mr. KLEIN, Mr. THOMAS of Wyoming, Ms. ESHOO, Mr. WOLF, Mr. EVANS, Mr. SUNDQUIST, Mr. MCNULTY, Mr. EWING, Mr. APPLEGATE, Mr. BALLENGER, Mr. HILLIARD, Mr. SOLOMON, and Ms. DANNER.

H.J. Res. 244: Mr. INHOFE, Mr. QUINN, and Mr. HUNTER.

H. Con. Res. 3: Mr. DICKEY, Mr. EMERSON, Mr. MCCRERY, Mr. GRAMS, and Mr. TORKILDSEN.

H. Con. Res. 61: Mrs. COLLINS of Illinois, Mr. FAZIO, Mr. VENTO, Mr. DE LUGO, Mr. MCNULTY, and Mr. PALLONE.

H. Con. Res. 69: Mr. BISHOP and Mr. MCDERMOTT.

H. Con. Res. 103: Mr. HAMBURG and Ms. SCHENK.

H. Con. Res. 109: Mr. DICKS, Mr. UNDERWOOD, Mr. RIDGE, Mr. LAROCCO, Mr. LAFALCE, Mr. LIGHTFOOT, Mr. TOWNS, Mr. BLILEY, Mr. BATEMAN, Mr. SLATTERY, Ms. DELAURO, Mr. COLLINS of Georgia, Mr. DIAZ-BALART, Mr. VOLKMER, Mr. HAYES, Ms. KAPTUR, Mr. HOAGLAND, Mr. OLVER, Mr. STOKES, Mr. MONTGOMERY, and Mr. EVANS.

H. Con. Res. 129: Mr. LANTOS and Mr. BATEMAN.

H. Res. 53: Mr. BEREUTER.

H. Res. 134: Mr. MCMILLAN, Mr. MCCRERY, Mr. HAYES, and Mr. SMITH of New Jersey.

H. Res. 156: Ms. MOLINARI, Mr. KIM, and Mr. PAXON.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 559: Mr. INGLIS of South Carolina.

EXTENSIONS OF REMARKS

TRIBUTE TO WILLIAM R. PEARCE

HON. JIM RAMSTAD

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1993

Mr. RAMSTAD. Mr. Speaker, I rise today to pay special tribute to William R. Pearce on his retirement this June after a highly distinguished career with Cargill, Inc., in my district.

During his 40-year tenure, Bill not only influenced the course that Cargill took as a company, but he also profoundly impacted U.S. domestic and foreign affairs.

Bill Pearce began his career at Cargill in 1952. He helped build Cargill into the country's largest privately held business, one that buys, sells, transports, and processes grain.

Because of his strong efforts for Cargill, Bill also successfully lobbied for U.S. agriculture policies to keep food prices low for consumers and export markets open for U.S. goods.

Bill took a leave of absence from Cargill in the 1970's to serve as Assistant U.S. Trade Representative. During his tenure, he was highly successful in maneuvering a major trade bill through Congress that has set the stage for U.S. international trade policy for generations.

Upon his return to Cargill, Bill Pearce performed a near impossible feat by fundamentally restructuring the company.

As vice chairman of the board, Pearce pushed for a new board of directors, dealt with the desires of the many owners and instituted an employee stock option plan [ESOP] that served to turn the company around.

Mr. Speaker, for his efforts not only in the private sector, but also his strong influence on U.S. agricultural and trade policy, I highly commend Mr. Pearce for his efforts.

I also ask permission to enter the full text of an article that appeared in the June 29 edition of the Minneapolis Star-Tribune concerning Bill's retirement.

[From the Star-Tribune, June 29, 1993]

PEARCE: A QUIET NAVIGATOR—LEAVES CARGILL AFTER CHARTING ITS NEW COURSE

(By John J. Oslund and Tony Kennedy)

In 1973, as the Watergate scandal swirled around Washington, D.C., crippling the Nixon administration, William R. Pearce was at work where he is most comfortable—behind the scenes.

Diplomat, problem-solver and string-puller extraordinaire, the soft-spoken Pearce was on leave from Cargill Inc. to serve as assistant U.S. trade representative. Maneuvering quietly, as is his style, he steered a major trade bill through a hostile Congress, setting the stage for U.S. international trade policy for a generation.

President Richard Nixon was appreciative, but baffled.

"Nixon told me he did not understand how it happened," Pearce said in a recent interview. "It's the only thing that worked for him [at that time]."

Pearce, 65, has made a lot of things work during his 40 years of a mostly private career, and perhaps has had more influence on public policy than most elected officials, save presidents.

But despite a lifetime spent influencing the private affairs of Cargill Inc., the domestic affairs of U.S. agriculture and the foreign affairs of the United States' most powerful friends and enemies, most Minnesotans have never heard of Cargill's retiring vice chairman.

But the right people have. Hubert Humphrey was a friend. So is Walter Mondale, former vice president and soon-to-be U.S. ambassador to Japan.

"Nothing created more suspicion of me in the White House in those days than that [Mondale] thought it was important that I get the job" as assistant trade rep. Pearce said.

Articulate and witty, clear-minded and empathetic. Pearce became the consummate broker of competing interests by listening, laughing, learning and then leading.

"He had an easy way of getting things done," said former Secretary of State George Shultz. "And he got them done the way he wanted them done."

Perhaps Pearce's most enduring contribution has been made in the past few years as the architect of a restructuring plan at privately held Cargill where, until recently, fewer than 90 heirs controlled a company with sales of $47 billion, and profits of $450 million.

During the 80s, tensions mounted as third- and fourth-generation heirs of the founding Cargill and MacMillan families wondered what there might be at the big company for them. Answers to those questions were needed, and the sooner the better.

Cargill Chairman Whitney MacMillan asked Pearce to negotiate a solution that would satisfy the heirs, some of whom wanted management roles and others who wanted to cash in their stock. Truth was, no one with the name "Cargill" or "MacMillan" was ready to take on top operating responsibility.

"He has always been our outside person," MacMillan said. "If your ox is being gored, well, that's his job."

Shultz, who worked with Pearce, in the '70s, was not surprised that MacMillan placed such a delicate matter in Pearce's hands.

"Did you ever see Joe DiMaggio play baseball?" Shultz asked. "Did you ever see him catch a fly ball? He just sort of drifts under that ball, he makes it look easy. Then you'll see other people out there, and all sorts of antics that they go through to catch the same fly ball.

"Well, [Pearce] made the hard ones look easy."

In 1952, Cargill Inc. recruited a class of management trainees including a freshly minted attorney named William R. Pearce. He graduated from Faribault High School before attending the University of Minnesota and the university's law school.

It was (and still is) Cargill's strategy to pick the best people and promote primarily from within. Pearce's contemporaries included Whitney MacMillan, who eventually would become chairman.

But Pearce would not make his career in Cargill's legal department. By the mid-1950s, a much more challenging assignment beckoned—public relations.

Decades of controversy combined with an unbending passion for secrecy at the highest levels left the company unknown by most people and despised by a vocal few—including influential senators and congressmen.

The company's policy of meeting fiery criticism with icy silence was, in the end, bad for business.

"One of the costs of choosing not to say much about yourself is that you are pretty much at the mercy of other people who are quite willing to characterize you," Pearce said. "It became a serious handicap in trying to defend ourselves.

With Pearce at the public relations helm over the next several decades, positive stories about Cargil began to appear in small-town weeklies, farm magazines and larger dailies that featured some aspect of Cargil's business—which was buying, selling, transporting and processing grain. Negative stories continued, but the public record on Cargil began to approach equilibrium.

Meanwhile, Pearce pressed the company's message in Washington, D.C., that U.S. agricultural policy hobbled efficient traders like Cargill in export markets while protecting inefficient domestic while protecting inefficient domestic producers. As a result, Cargil scored several major public policy victories in the 1960's and 1970s that bolstered export opportunities.

As always, the company's success bred suspicion. The Cargill name is still associated in some minds with corporate in some minds with corporate arrogance, market manipulation, secrecy and unholy power over U.S. agricultural policy.

Former Minnesota Agriculture Commissioner Jim Nichols still harbors scorn for the company and views Pearce as an enemy of family farming. For the past 20 years, with Pearce as a principal lobbyist, Cargill has advocated U.S. agricultural policies that have kept farm prices low, Nichols said.

While Cargill pushed for lower U.S. grain prices ostensibly to boost exports, the company's true interest was low prices for the benefit of its immense livestock feeding and grain processing businesses in the United States, said Nichols, who describes Pearce as "very smooth and very much behind-the-scenes."

"They used exports as a front to get lower grain prices," Nichols said.

Pearce does not apologize for being an effective advocate.

"We had the capacity to expand exports . . . so our public relations efforts were very importantly tied to the role that we played in building markets for U.S. farmers abroad."

Pearce also is known for straight talk.

"My sense from the beginning of this work is that the first thing to do is put your own self-interest on the table because it is often perceived to be something different than it is, actually. The process begins by saying, This is what we do and this is how this issue affects our business. And this is why it does

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

not make sense for us—or for anyone else. And here is a better way to do it."

But Cargill certainly didn't win every battle. Take the 1980 grain embargo, for example. When the Soviet Union invaded Afghanistan in 1979-80, the Carter administration, scratching for a way to punish Moscow, finally settled on a trade embargo.

Cargill and the other big U.S. grain companies were stunned. Suddenly eliminating the Soviets from the market left the U.S. grain companies exposed to hundreds of millions in potential losses.

Pearce argued, successfully, for the U.S. government to buy the grain already on order that was destined for the Soviet Union. The government agreed on the condition that only the companies' costs would be covered—not anticipated profits.

"We advanced the idea . . . but it had a lot of support," Pearce said. Then-President Jimmy Carter, through Agriculture Secretary Bob Bergland, asked Cargill to halt all grain sales to Moscow through its foreign subsidiaries.

The request posed a classic tradeoff: Legally, the company's foreign units could trade with the Soviets. But that would be seen as undermining the president in a time of crisis.

After rigorous internal debate led by Pearce, Cargill subsidiaries from Canada to Argentina honored the embargo.

Why? "The administration was in an extremely difficult position with respect to the issues that surrounded our relationship with Russia," Pearce recalled. "And I have never found it very helpful to go out of our way to embarrass people who are trying to deal with difficult issues. It's not productive."

Bergland gives the company high marks. ". . . [Pearce] and his company did what they said they would do. They never once attempted to cheat the U.S. government, never withheld information. No games played. It was absolutely above-board, straight-arrow and honest."

The freshest evidence of Pearce's effectiveness is a new board of directors at Cargill and an Employee Stock Option Plan (ESOP)—two gargantuan accomplishments.

Whitney MacMillan, the 63-year-old chairman of Cargill Inc. and a member of one of the richest families in the United States, put his finger squarely on the issue: "If you don't solve the liquidity issue, you can get into a lot of trouble.

With any family-owned company, there is the danger for disruption as the pool of heirs grows. In Cargill's case, some stockholders of the company stock weren't satisfied with dividend checks and wanted cash for some of their shares.

Professional managers, in turn, get nervous when owners get anxious. How would this business with 68,000 employees fare in the future? With no obvious family successor, MacMillan turned to Pearce for a solution.

"We needed a way of managing the transition from older to younger," said new board member Lucy MacMillan Stitzer, daughter of W. Duncan MacMillan.

"I am not going to say that without Bill the board restructuring never would have happened, because it would have happened some way or the other. But Bill was really a driving force behind it."

Along with other top officers of the company, including Whitney MacMillan, Pearce championed the ESOP as a safety valve for family financial pressures.

In the minds of some, the idea of sharing ownership with employees was revolutionary. But Pearce sold the idea as an incentive tool to improve corporate performance—as owners themselves, employees would be more motivated.

In total, family members tendered 17 percent of their shares for $730.5 million, or an average of $8.3 million per family member.

In the process, ownership ranks swelled from fewer than 90 family members to nearly 20,000 when the shares held in trust for employees in the ESOP are included. The family still controls the company. The board of directors, however, divides power among the family, corporate management and, for the first time, outside directors.

As painful as it was for some heirs, plans for the immediate future did not call for any of them to occupy management roles. Instead, two younger family members—both women—were added to the board of directors.

"There were some very tense times" creating the ESOP, Stilzer said.

"We weren't fighting, but people have differences of opinion. And Bill was always there to kind of smooth things over."

Mike Bonsignore, chief executive of Honeywell, Inc. and one of the five outside directors named to the restructured Cargill board, said Pearce "was the only one perhaps of sufficient 'lack of bias.' If I can use that word, to represent all the parties involved. That's why everyone was anxious to see this governance process completed before Bill Pearce left."

June 10 was Pearce's last day on the job at the Minnetonka mansion that serves as Cargill's headquarters.

The company he left, perhaps the world's pre-eminent commodities trader, is sailing smoothly on a course charted by an extraordinary navigator who, incidently, never bought or sold a bushel of grain in his life.

FARM FAMILY OF THE YEAR

HON. MICHAEL J. KOPETSKI

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1993

Mr. KOPETSKI. Mr. Speaker, I rise today to recognize the Josi family of Tillamook, OR. The Josi family has been selected for the 1993 Oregon State Fair's Farm Family of the Year Award. This award goes to a family which is strongly involved in all phases of farm management, uses innovative management or production techniques, and is active in the community, agricultural associations, and agricultural youth programs.

The Josis more than qualify for this award. Their 240-acre Wilsonview Dairy Farm provides them with 100 percent of their income. There, each of the 12 family members does her or his share to keep the farm running smoothly. Whether it's Julie, who does bookkeeping and secretarial work, Don, who milks and manages the herd, or Carolin, who, along with her five younger siblings, cleans and beds calves, all members of this extended family contribute to the overall success and livelihood of the farm.

In the past few years, the Josis have started an embryo transfer program. The international demand for semen and embryo means that the Josis now have a spot in the foreign market. As a result, the Josis host between 50 and 100 visitors a year, who represent countries such a Australia, New Zealand, Germany, Japan, Switzerland, England, and Brazil. The Josis also benefit directly from their innovative embryo transfer program; their production has increased at home due to the genetically improved offspring that result from these transfer animals.

The Josis farm with an environmental conscience. They belong to 1,000 Friends of Oregon, Oregon Environmental Council, Nature Conservatory, and the National Soil and Water Society of America. They have begun a no-till plot of land, which, if it improves the pasture, will keep loose soil from eroding into the river. They built the dry-storage barn and above-ground-liquid tank to reduce runoff into the river, and to comply with the Clean Water Act, which they strongly supported. They no longer use commercial fertilizer, and now have a dry-manure storage shed.

The family belongs to countless agricultural organizations and trade groups, and many members of the family hold or have held positions as director, chair, vice chair, and secretary of these organizations. In addition to all of this, each member of the Josi family still finds time to give to many community groups. Ernie and Josie are 4-H leaders, members of the Catholic Church, Knights of Columbus, Elks, Swiss Society, Chamber of Commerce, and County Ambassadors. Their children, Don and Desi, Bill and Linda, are involved in similar organizations. The six grandchildren—ranging from 17-year-old Carolin to 10-year-old Derrick—are busy with extra curricular school activities: cheerleading, student council, football, basketball, OSSUM club, Boy Scouts, dancing, speech team, golf, and editing the school paper.

That each member of the Josi family can be committed to so many organizations—those that do and those that don't pertain to their family farm—and at the same time smoothly run this dairy farm by themselves, is why they are receiving the Farm Family of the Year Award and my recognition today. The Josis are committed to teaching each other, generation to generation, how to care for others and the land. They are concerned citizens who work hard for their own good and for the good of others. Mr. Speaker, I am proud to acknowledge this exemplary family from my district.

PAULETTE BROWN AT THE HELM

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1993

Mr. PAYNE of New Jersey. Mr. Speaker, I would like to bring to the attention of my colleagues an event that took place last weekend. It was the installation of Paulette Brown as president of the National Bar Association [NBA], the Nation's oldest and largest minority bar association. Ms. Brown, a long-time acquaintance and resident of New Jersey, is sure to become one of the organization's more notable leaders and continue to serve as a role model for many.

As a young girl growing up in Baltimore in the late 1960's, she saw lawyers as mere images on television and in books. She didn't know any lawyers personally. Now she heads New Jersey's largest minority law firm—Brown, Lofton, Childress and Wolf.

The National Bar Association was founded in 1925 by 12 black lawyers. At that time, the American Bar Association did not accept black lawyers, and would not admit them until the 1950s. Consequently, black lawyers founded their own bar association. Today, the organization has 82 affiliate chapters nationwide and a professional network of more than 16,000 lawyers, judges, educators, and law students. It recently joined the Society of Black Lawyers of England and Wales to establish the International Black Bar Association, made up of attorneys representing Indian, Hispanic, South African, Asian, African-American, Canadian, European, Pacific, Pakistani, Native American, and Caribbean bars.

Ms. Brown is a graduate of Seton Hall University School of Law. She is involved in community service and is affiliated with several local and national bar organizations including the Garden State Bar, the State affiliate of the NBA; the American Bar Association; the Association of Black Women Lawyers of New Jersey; and the New Jersey State Bar Association. She has received many awards including the New Jersey State Bar Association's Young Lawyer of the Year. She is a former Plainfield, NJ, municipal court judge. Before going into private practice she served as an attorney for Bucks Consultants, Prudential Insurance Co., and National Steel Corp.

Ms. Brown is known as a true renaissance woman who worked her way up the ladder. Her professionalism, acuity, leadership ability, boundless energy, and capacity to care, will serve her well as she charts the course of the NBA. Mr. Speaker, I am sure my colleagues will want to join me as I offer my congratulations and best wishes to the National Bar Association for a progressive and successful year and to Ms. Paulette Brown of whom I am extremely proud.

TRIBUTE TO SISTER THEO FURNISS, IN HONOR OF HER GOLDEN JUBILEE IN THE ORDER OF THE SISTERS OF CHARITY

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1993

Mr. MENENDEZ. Mr. Speaker, I am pleased and honored to take this opportunity to recognize the accomplishments of Sister Theo Furniss, who is being honored this year by the Sisters of Charity as she celebrates a remarkable 50 years of dedicated and devoted service to her community.

Born in Jersey City, NJ, she is the daughter of the late Dr. and Mrs. T. Benedict Furniss, and the brother of Frank and the late Father John Furniss, S.J. Her lifelong dedication to education began with her own schooling at St. Paul's Grammar School and St. Aloysius Academy of Jersey City. She received a bachelor of arts in mathematics from the College of St. Elizabeth. In her graduate work at the University of Notre Dame, she received a grant from the National Science Foundation, and again for her work at the service institute in mathematics at St. Peter's College in Jersey City.

Sister Theo entered the Sisters of Charity on September 8, 1943. After her profession she was assigned to Epiphany in Grantwood, NJ, and later returned to her old school, St. Aloysius in Jersey City.

In 1965, Sister Theo arrived at Mother Seton High School with her degree in mathematics, and the certification to teach high school mathematics and science. Since then she has taught physics and imparted to her students her knowledge of mathematics in classes which range from algebra I to calculus. She has done extensive graduate work at Fordham University, the University of Notre Dame and the Newark College of Engineering in the fields of mathematics and physics, and has offered several courses of study as an instructor at her alma mater, the College of St. Elizabeth. She has also offered her expertise in her service on the Union County Curriculum Council and as a member of both the New Jersey and National Councils of Teachers of Mathematics.

Sister Theo's teaching expertise goes beyond mathematics. She has instructed Mother Seton students in behind-the-wheel driver's education, and has put in long hours of work as school play coordinator since Mother Seton's first production, "The Sound of Music," in 1967.

Sister Theo shares her love not only with the Mother Seton community, but extends it to others. She has aided many people through her missionary work, in the Mother Seton Mission Club, with the McCoy Mission Club and the Jesuit Mission Bureau in New York.

It is for these and the countless other examples of her remarkable dedication over the past 50 years that I rise in tribute to Sister Theo today. I am certain that my colleagues join me in wishing her many more years in which to share her love and her knowledge with the community.

CHANGE THE WAY CONGRESS DOES BUSINESS

HON. STEPHEN E. BUYER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1993

Mr. BUYER. Mr. Speaker, today, I am introducing legislation to bring reform to the House of Representatives. While I believe there is no magic bullet to enhance our performance as an institution, I believe my legislation provides needed improvements to make the Congress more democratic and receptive to the exchange of ideas and opinions of all Members.

Over the last few weeks, I have held over 21 town meetings in my rural Indiana district. The turnout at these meetings was excellent. The people are genuinely concerned with the issues facing our country.

A constant theme at all of these town meetings was one of a trust deficit between the Government and its people. The people are disillusioned and angry—very angry.

They don't know who they can trust with their tax dollars. They perceive a Congress that is too quick to spend money. A Congress that is unwilling or unable to cut spending. A Congress that is unwilling or unable to terminate programs. They perceive a Government and a Congress that has an insatiable appetite for tax dollars and they are working harder and harder but getting farther and farther behind.

My legislation, a series of bills to change the Rules of the House, is aimed to change our procedures to encourage more cooperation and comity among Members of Congress; to improve the end product of legislation; and to have more democracy in our proceedings. Such reforms will give our constituents a greater voice in their Government and address the trust deficit between the people and their Government.

Let me quote from former-Speaker Sam Rayburn—

> It is in the Congress that out of the clash of contending opinions is forged the democratic unity of a democratic people. * * * Not all measures which emerge from the Congress are perfect, not by any means, but there are very few which are not improved as a result of discussion, debate, and amendment.

While I respect the right of the majority to set the legislative agenda, the House of Representatives as it currently functions does not have the discussion, debate, and amendment that lead to quality legislative products. It is to address this need that my legislation is geared.

Prior to my swearing in, as I anticipated carrying out my new responsibilities, I envisioned being able to hear, and perhaps participate in, debates on national issues—debates where there would be great give and take, debates that would bring out the broad and fine points of an issue. And from these informed debates, I expected to be able to weigh the facts and come to decisions that best represented the views of my constituents.

This does not happen in the House of Representatives. In the 95th Congress, 1977–78, 85 percent of the rules were open rules, which meant that bills were open to amendments pursuant to the general rules of the House. In the 102d Congress, 34 percent of the rules were open.

There is no give and take. There is not even the opportunity to offer a germane amendment because of closed rules. Rules also waive points of order, even those that are in the rules to enforce the Budget Act.

Thomas Jefferson recognized the need for defined procedures as a foundation to conducting our business:

> It is much more material that there should be a rule to go by than what the rule is; that there may be a uniformity of proceeding in business not subject to the caprice of the Speaker or captiousness of its members. It is very material that order, decency and regularity be preserved in a dignified public body.

Jefferson, in his work "Jefferson's Manual of Parliamentary Practice," which is still included as a part of the House Rules, goes even further to endorse the concept that orderly procedure is necessary to the protection of the rights of the minority. He quotes Speaker Onslow of the House of Commons:

> Nothing tended more to throw power into the hands of the administration, and those

> who acted with a majority of the House of Commons, than a neglect of or departure from the rules of proceedings: that these forms, as instituted by our ancestors, operated as a check and control on the actions of the majority, and that they were, in many instances, a shelter and protection to the minority, against the attempts of power.

By constantly waiving our rules through Rules Committee actions, minority rights, regardless of party, are being abrogated and the result is poor legislation and ill-will among Members.

The proposals I am introducing today are an attempt to foster debate, enhance minority right to be constructive participants in the legislative process, and improve our standing with our constituents.

I am introducing three amendments to the House rules. First, require the membership of the Rules Committee to reflect the ratio of majority to minority party Members of the House at the beginning of the Congress.

Second, require a three-fifths vote on the House floor to adopt a rule that waives the ability to offer germane amendments.

Third, if the rules of the House require a supermajority to waive a requirement or point of order, that same supermajority would be required to adopt a rule making such a waiver.

My third bill addresses the situation which arose during consideration of the family leave bill. We adopted a rule by majority vote that waived a requirement for a two-thirds vote to bring up the conference report. We violated a supermajority requirement by a majority vote.

Finally, I am introducing a bill to require a three-fifths vote to waive points of order under the Budget Act. The Senate has a similar requirement. My bill would amend the Budget Act to impose the same requirement on the House.

All Members of Congress, constitutionally speaking are the same; we represent equal quantities. Our districts are the same, roughly, numerically speaking. We should all have the same right to have our voices heard. We should all have the same ability to have access to the legislative process.

THE NUTRITION ADVERTISING COORDINATION ACT OF 1993

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1993

Mr. WAXMAN. Mr. Speaker, I am pleased to join as a cosponsor of the Nutrition Advertising Coordination Act of 1993.

Mr. Speaker, as you know, in 1990 Congress enacted the Nutrition Labeling and Education Act or the NLEA. Mr. MOAKLEY was a key supporter of that bill, as were you, Mr. Speaker.

In May 1994, the regulations to implement the NLEA will become effective. After that time, virtually all food sold in this country will have information about calories, fat, and other nutrients.

Equally important, the NLEA will require that claims made on food labels be truthful. As I am sure you remember, Mr. Speaker, prior to 1990, food labeling was out of control. Consumers could not possibly understand terms such as "light" or "low fat" since their meaning varied from product to product. Manufacturers were allowed to make claims such as "fiber prevents cancer" without having first presented their scientific evidence to the Food and Drug Administration. In order to present a false picture of health, fiber was added to unhealthy products, including some brands of potato chips.

The NLEA will prohibit such false claims on food labels. Food manufacturers will not be able to use terms such as "light" unless they comply with the FDA definition of those terms. Disease claims are prohibited unless the FDA has found that the claim is supported by a significant scientific agreement.

The one flaw in this scheme is that it does not apply to advertising. The FDA has exclusive jurisdiction over food labels on all products, except meat and poultry which are regulated by the U.S. Department of Agriculture under similar labeling rules. However, under a memorandum of understanding, the Federal Trade Commissioner has jurisdiction over food advertising. Chaos will reign if the FTC's advertising rules are different from the FDA labeling rules. Yet the signals from the FTC indicate that there will be significant differences unless Congress acts.

The purpose of the Nutrition Advertising Coordination Act of 1993 is to achieve this consistency. Under the bill, the FTC is required to prescribe health claim rules that are consistent with FDA's health claim rules "to the fullest extent feasible."

With respect to disease claims, this standard will require the FTC to follow the FDA. The bill will prohibit a claim that a food cures a disease unless the FDA has found that claim meets the standard of the NLEA. Similarly, under the bill, terms such as "light" would have to comply with the FDA's definitions, regardless of whether they are used in advertising or on a food label.

There are obvious format differences between labeling and advertising, and certain disclosures required in labeling may not be feasible in advertising. The bill gives the FTC this flexibility. It does not require the FTC to follow the FDA exactly. Instead, it requires that the FTC follow the FDA "to the fullest extent possible."

Mr. Speaker, I wish to congratulate Mr. MOAKLEY for his leadership on this bill. I also want to congratulate Mr. STUDDS for the contribution he has made to it. This is an important piece of legislation, and it is my hope that it can be enacted expeditiously.

NUTRITION ADVERTISING COORDINATION ACT OF 1993

HON. JOHN JOSEPH MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1993

Mr. MOAKLEY. Mr. Speaker, I am very pleased today to reintroduce my legislation from the 102d Congress known as the Nutrition Advertising Coordination Act. I also want to thank my colleagues HENRY WAXMAN and GERRY STUDDS for joining with me in sponsoring the legislation. This bill, although slightly modified from the original bill, still has the same goal, to ensure that the Federal Trade Commission [FTC] in its oversight of advertising for Food and Drug Administration [FDA] food products, abide by the standards, definitions and regulations developed by the Food and Drug Administration pursuant to the requirements of the Nutrition Education and Labeling Act [NLEA] and accepted by the Department of Agriculture for meat and poultry products with regard to nutrition and health claims on food labels. The bill does not require the duplication of nutrition information or across the board compliance with the NLEA, but simply adherence to the requirements for health and nutrition claims.

Unlike my legislation from the 102d Congress, this bill requires that the FTC write regulations which abide by the standards developed in the NLEA for health and nutrition claims. But by implementing these regulations, it will give the FTC a solid foundation from which to judge compliance with the law and from which to enforce such rules in the courts. It will also send a consistent message to consumers who now must sort through a maze of mixed labeling and advertising messages.

It has been almost 3 years since the Congress overwhelmingly approved and enacted into law the NLEA. This landmark legislation authorized the FDA to develop new rules and regulations governing nutrition labeling for foods under the jurisdiction of the FDA. The NLEA empowered the FDA to reformulate the list of nutrition information on the back of a food label and to present this list in a more understandable format. It also required that the FDA develop regulations to assure that nutrition and health claims on the front panel of food labels are accurate and responsible. These new labels, which will for the first time be required on virtually all FDA regulated food products—as well as processed meats and poultry—will help consumers choose foods in the context of a total daily diet without the confusing and even misleading information that is all too often found on food labels. The FDA has done an exemplary job in this most difficult and complex task. Last winter, they published final regulations for these new labels which will be required on all covered products by May 1, 1994. Additionally, the Agriculture Department has said it will use the FDA labeling requirements for the labeling of processed meat and poultry products which are under the jurisdiction of the Department of Agriculture.

Unfortunately, however, in spite of the excellent work at the FDA and the support from Agriculture, it has become painfully clear to me that the NLEA by itself cannot guarantee that food advertising, which is under the jurisdiction of the Federal Trade Commission, will follow the same standards regarding health and nutrition claims as does the FDA in food labeling. Even under this new law, advertisements may still be able to use claims that will not be allowed on the labels of the exact same products. So it appears that the efforts of the past 3 years may not be enough to fully protect consumers from being subjected to misleading, inaccurate, and confusing messages in advertising.

Therefore, one of my top legislative initiatives for the 103d Congress will continue to be the Nutrition Advertising Coordination Act. I believe the only way to ensure consistent, accurate, and responsible information in advertising as well as on labels, is through a legislative route, to bring the FTC into compliance with the FDA on this issue. Additionally, the FTC will be required to write regulations which are in compliance with the NLEA with regard to health and nutrient claims. However, the bill does call for such regulations to be developed on an expedited rulemaking procedure that will not impose the otherwise lengthy and cumbersome Magnuson-Moss rulemaking process generally required at the FTC.

Currently the FTC, under a memorandum of understanding with the FDA, retains primary authority over good advertising. Although passage of the NLEA establishes a clear and concise prohibition against misleading nutrition and health claims on food labels, the FTC has not proposed any guidelines or restrictions on such claims with regard to food advertising. The FTC continues to evaluate these claims on a lengthy, case by case, piecemeal basis using, by its own admission, weaker standards than those currently followed by FDA. Furthermore, cases that are settled by the FTC usually take many months, even years to be finalized—during which time the manufacturer is not required to pull the deceptive advertisement or to run a retraction. By that time, the ads have run their course and the public is never the wiser. If fines are imposed, and most often they are not, the amounts are generally very low and certainly not a deterring factor to the violator.

The evidence for allowing health claims on labels of foods regulated by the FDA requires basic agreement from many significant scientific sources. The FTC has allowed health claims based on some reliable sources—in some cases research resulting from a business sponsored project. All that has been required by the FTC is that the source be cited in the advertisement. In effect, the potential for use of unreliable data as a source for a claim is far too great. The FTC, under this legislation, would be required to include in their regulations that health claims in food advertising be consistent with the FDA and there must also be supported by significant scientific agreement. If a health claim is made about a product and then later found to be incorrect or even overstated in its impact, it serves no helpful purpose and only further confuses an already suspicious public.

The FTC continues to justify its noncompliance with FDA rules by asserting that advertising and labeling are very different and should not be judged by the same standard. While I agree that there are differences between the two, I do not agree that they are so far apart that the requirements for claims on labels do not need to be applied to advertising. Since the late eighties when the Reagan administration allowed manufacturers to put health and nutrition claims on foods labels, labels became essentially synonymous with advertisements for the same products. In fact, during that same period in the eighties, the Federal Trade Commission advocated that the same standards should apply to labels and advertisements.

The dissemination of accurate and complete nutrition information to the American people is my goal in helping to ensure a healthier, better educated public with regard to nutrition and its significant impact on health. I continue to be impressed at the number of major scientific studies and statistical findings that directly linked the eating habits and patterns of Americans with this country's top health problems, particularly the number one and two killers, heart disease and cancer. The NLEA was created in large part to help people better educate themselves on the major role that nutrition plays in our lives. It makes sense that the agency that is responsible for monitoring the products with these new labels should hold the advertisements to the same standards.

FTC Commissioner Janet Steiger has stated that the potential benefit of advertising is enormous. I agree—used responsibly and in an accurate and complete format, advertising is a wonderful source of information and education for consumers. However, when information in advertising is incomplete, inaccurate, or tells a partial truth, it can be very damaging. Consumers can either become completely confused and misled into thinking certain products are beneficial or harmful, or they can simply become so disenchanted with advertising that they don't believe anything they see or hear and make no effort to change or improve their eating habits. This is my biggest fear, that the skepticism from mixed, blurred messages will discourage the average consumer from trying to understand or learn more about the foods they eat and the potential impact of diet on a healthier life.

As the importance of diet on our health continues to grow, it is extremely critical that consumers have access to accurate and consistent information regarding the foods we eat. Almost on a monthly basis new studies and research findings clearly indicate that diet is a very significant factor in our overall good health. We need to have accurate information regarding the foods we eat if we are to plan a truly healthy diet for our families and ourselves. Yet, two of our Government agencies which are primarily responsible for controlling much of the information on our foods have different standards and policies about these products. My legislation would help ensure that Federal policies and regulations regarding food and nutrition are consistent throughout all agencies of the Government. I hope the House will move forward with this legislation so that these agencies' guidelines regulating health and nutrition claims will complement and not compete with each other and ultimately serve the best interests of the consumer.

LEGISLATION TO EXEMPT THE FFELP FROM THE FTC HOLDER RULE

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1993

Mr. GOODLING. Mr. Speaker, today, I am introducing legislation to exempt loans made under the Federal Family Education Loan Program [FFELP] from a Federal Trade Commission [FTC] regulation, commonly referred to as the holder rule.

The FTC holder rule is designed to ensure that a consumer—student—is protected against seller—for-profit institution and lender—misconduct. The rule applies to only for-profit entities. While this rule may be appropriate with regard to some commercial transactions, in my opinion it is entirely inappropriate in the case of loans made under the FFELP.

Earlier this year the Department of Education made a decision to include the FTC holder rule on the common student loan application form and promissory note mandated by the Higher Education Amendments of 1992. The rule, when applied to student loans, essentially requires banks, who make loans under the program, to take on the responsibility as the absolute guarantor of the school's educational quality. I believe that lenders are unwilling to accept this role because they are not equipped for the task and to do so would not be economical.

One of the major accomplishments of last year's reauthorization of the Higher Education Act was the inclusion of a significant new section of the law to address the oversight and monitoring of a school's eligibility to participate in the Student Loan Program. Under this authority, the Department of Education, State Postsecondary Review Entities, guaranty agencies, and accrediting commissions are all charged with evaluating and overseeing the quality of institutions who participate in the FFELP Program. Only after each of these entities have given approval are institutions eligible to participate in the FFELP Program. Given that we have this elaborate system for monitoring FFELP institutional participation, I question whether there is a need to conduct an additional level of scrutiny. More importantly, lenders are not well equipped to provide much more than a superficial review of educational quality.

I fear that the application of the FTC holder rule to the FFELP will create a powerful disincentive for lenders to serve students at for-profit institutions. Students attending for-profit institutions are typically noncollege bound individuals who are seeking job skills. Their loan balances tend to be low and they provide a higher degree of risk than students attending traditional educational institutions—these factors make their loans less profitable than most.

The final budget reconciliation bill with regard to the FFELP contains a substantial phase-in of direct Government lending and a sharp reduction in lender profits. Given these factors, lenders will likely be more cautious than ever to guard against making unprofitable loans.

In recent years, I have joined my colleagues in seeking to rid the Student Loan Program of shoddy, fly-by-night schools. Applying the FTC holder rule is not just another means to this end, it erects a barrier to loan access for noncollege bound students.

I urge my colleagues to join me in supporting this legislation.

CONSERVATION AND MANAGEMENT OF FISHERY RESOURCES IN AN AREA OF THE BERING SEA KNOWN AS THE DONUT HOLE

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1993

Mr. YOUNG of Alaska. Mr. Speaker, today I am introducing a concurrent resolution calling for the United States to take further steps to establish an international fishery agreement for conservation and management of living marine resources in international waters of the Bering Sea known as the Donut Hole.

The Donut Hole is a small enclave comprising less than 10 percent of the Bering Sea. The 200-mile exclusive economic zones of the United States and Russia encompass the Donut Hole. The total Bering Sea area contains an important commercial fishery, the Aleutian Basin pollock stock. The fishery spawns only in the exclusive economic zones of Russia and the United States but straddles not only these zones but also the Donut Hole. While the location of the resource makes it particularly important for the people of Alaska, the fishery has provided nourishment for anyone who has ever eaten a fish stick.

Unfortunately, this valuable fishery resource has suffered extreme declines from overharvesting in the Donut Hole by non-coastal nations. The fishery first developed in the mid-1980's when 360,000 metric tons were harvested by foreign fishermen. In 1989, that amount dramatically increased to 1.4 million metric tons. In 1992, as a result of the overutilization of the stock, only 10,000 metric tons could be harvested. If we fail to take appropriate action now, the Aleutian Basin pollock stock will never recover.

Actions taken by the United States and the Russian Federation have failed to achieve satisfactory resolution of the issues. The U.S. first imposed strict regulations and subsequently suspended the Aleutian basin pollock fishery. The Russian Federation has also passed similar rules for its exclusive economic zone. Yet these conservation efforts have little success if similar measures are not taken for the Donut Hole.

Despite numerous attempts at negotiations with those distant-water fishing nations which have harvested pollock in the Donut Hole, no long-term solution has been found. Currently, a temporary suspension of fishing in the Donut Hole is in effect for 1993 and 1994. A long-term agreement is needed before the temporary suspension expires.

it is clear that international agreements must be reached soon. All users of the fishery must understand the need to protect the resource through appropriate conservation and management. Furthermore, they must be willing to enter into serious negotiations to ensure the possible commercial viability of the fishery.

It is vital that the Congress of the United States provides a clear statement of its determination to protect this resource. This concurrent resolution will establish a firm foundation to foster cooperation among all users of Donut Hole fishery. I urge you to support its contents in their entirety.

TRIBUTE TO RON HILKEY

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1993

Mr. McINNIS. Mr. Speaker, today I rise to commend Ron Hilkey, an individual whose name has become synonymous with law enforcement in Rio Blanco County, in Colorado's Third Congressional District.

For the last 15 years, Ron has provided excellent service as the Sheriff of Rio Blanco County. Beginning with informal law enforcement training he has developed recognized in all aspects of law enforcement and during his career has shown exceptional investigative abilities.

Ron Hilkey's law enforcement career began in 1967 when he was appointed undersheriff of the Rio Blanco County Sheriff's department. He served in this capacity until 1973 when he entered the private sector. After 2 years in private industry, Ron became the chief of police for Meeker, CO. He was elected Rio Blanco County Sheriff in 1978 and has continued to serve in this capacity.

In these days of fiscal restraint for all levels of government—municipal to Federal—Ron deserves special commendation for always being conservative with his fiscal requests and accurate in the fiscal needs of the Sheriff's department.

While serving as Rio Blanco County Sheriff, Ron has taken part in some very interesting investigations. For example, he is credited with saving the life of a young woman who had nearly froze to death in 1968. A more recent highlight involved the discovery of the skeletal remains of a Ute Indian near the Rio Blanco Store. Finally, he has solved all the murder cases within his jurisdiction.

I commend Ron Hilkey for his outstanding service to the people of Rio Blanco County, and wish him the best of luck in his future endeavors. Thank you, Mr. Speaker.

WEFA STUDY MEANS MORE JOBS, ENHANCED COMPETITION AND LOWER TELEPHONE RATES

HON. J. DENNIS HASTERT

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1993

Mr. HASTERT. Mr. Speaker, last month, the Nobel Prize recipient, Wharton Econometric Forecasting Associates [WEFA] Group released a study predicting that more than 3.6 million jobs would be created over the next 10 years if the line-of-business restrictions were lifted on the seven Bell companies. More than 160,000 of those jobs—mostly non-Bell jobs—would be created in my home State of Illinois.

Increased competition and lower long-distance and local rates will benefit consumers if these restrictions are lifted. It's noteworthy that within the last 2 weeks the three largest U.S. long-distance companies have each raised their prices by nearly 4 percent. Where is the competition in pricing among these oligopolies? Even an FCC Commissioner, this week, raised concerns about these companies' lockstep price increases. Enhanced price competition will not occur until the seven Bell companies are free to offer all long-distance services. Local telephone rate increases will be minimized and long-distance rates would be 50 percent lower with full Bell competition before the turn of the 21st century.

Finally, Mr. Speaker, these millions of new jobs and lower telephone rates would be accomplished without spending one Federal, State or local red cent. Now that's an economic recovery plan we can all support. If it takes the administration and Congress to bring these new benefits to the American public, let's get on with it.

THE 30TH ANNIVERSARY OF LIMITED TEST BAN TREATY

HON. MICHAEL J. KOPETSKI

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1993

Mr. KOPETSKI. Mr. Speaker, today, we commemorate one of President John F. Kennedy's greatest achievements. Thirty years ago today President Kennedy completed successfully the Limited Test Ban Treaty.

For nearly 50 years, world citizens have suffered the existence and use of nuclear bombs. Each of those years at least one bomb exploded, in fact, on average nations and especially the United States, detonated 20 nuclear bombs.

Different from David's slingshot, the French lance, the English arrow, the Winchester rifle, or even precision aerial bombardment, a nuclear bomb can destroy planet Earth.

Now the bombs are silent. They've been silent for almost a year. They are silent because organizations like Parliamentarians for Global Action and individuals throughout the world cried, "Silence!, Enough!" . . . and forced Congress, President Bush, President Clinton and world leaders to bring silence.

Thirty years ago today President Kennedy led the world to the signing of the LTBT. Let's hope that within 30 months, through the leadership of President Clinton, we will have achieved a comprehensive test ban and nuclear bombs will be forever silent.

A VETERANS' CEMETERY AT FORT SHERIDAN

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1993

Mr. CRANE. Mr. Speaker, the United States has always been a country which honors its veterans before all others. As a nation which has had to fight for freedom, we recognize the sacrifices made by those patriots who choose to serve in uniform. From the frozen fields of Valley Forge to the desert dunes of Kuwait, our Nation's Armed Forces have served admirably, and from Arlington National Cemetery, just a stone's throw from the Capitol, to the hundreds of Department of Veterans Affairs cemeteries scattered across the country, we honor those veterans.

Unfortunately, veterans in the Chicagoland area do not have the opportunity to be buried in a VA cemetery near their homes. To receive this honor, veterans must elect to be buried either in Milwaukee, or as much as 150 miles from their homes. Because of this hardship, the VA has made Chicago one of its priorities for a cemetery, but has been unable to actually produce a location. I believe those who call Chicago home and who have so gallantly served their country deserve better.

As a result, I have introduced legislation which would direct the Secretary of the Army to transfer as much as 200 acres of Fort Sheridan, which was closed as part of the 1988 base closure and realignment proceedings, to the Department of Veterans Affairs for use as a veterans cemetery. This bill is substantively identical to an understanding that has been previously worked out, but which fell apart over the issue of how much the Pentagon would be compensated for the transfer. Under my proposal, no such roadblock could sidetrack the bill because the transfer would be executed without compensation to the Department of Defense.

This legislation would resolve a great injustice that is being visited upon veterans from northeastern Illinois, and I urge my colleagues and this administration to support my proposal.

CUT SPENDING FIRST

HON. LARRY COMBEST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1993

Mr. COMBEST. Mr. Speaker, supporters of the tax bill have been saying that special interest will cause its defeat. They are right. I am not ashamed to admit that my vote against this bill is due to special interest. The special interest of the 566,217 people who elected me. The people of the 19th district who have made their views loud and clear—cut spending first.

This farce of a deficit reduction bill contains the largest tax increase in history and will still result in a trillion dollar increase on our national debt. The real kicker is taxes will be retroactive to January 1, 1993. Where are the spending cuts? They aren't retroactive that's for sure. They are years down the road with 80 percent of cuts coming after the 1996 presidential elections.

The sad truth is Congress doesn't have a clue how to read a map and gets lost before the route to spending cuts are found.

No wonder the American people have lost faith in this institution. This bill is a slap in the face to the taxpayers of this country. This isn't the change the American people had in mind last November and this isn't responsible fiscal policy. We cannot continue to run to the taxpayers to bail out Congress for their fiscal mismanagement—they will not stand for the continued misuse of their hard earned dollars. Now is the time to do what the American taxpayers have demanded—cut spending first.

DISABILITY RIGHTS IN AMERICAN FOREIGN POLICY

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1993

Mr. HOYER. Mr. Speaker, it was just 3 years ago that the Congress passed, and President Bush signed into law, the Americans with Disabilities Act. With ADA, this Nation fortified its commitment to a national policy based on equality of opportunity, full participation, and inclusion. Today, with my good friend and colleague BEN GILMAN, ranking minority member on the House Foreign Affairs Committee, I am introducing a bill to extend this commitment to our foreign policy as well.

Our bill will direct the Secretary of State to include an examination of discrimination against people with disabilities as part of the Department's annual reporting on human rights. The text of the bill is simple, but its message is profound. This bill tells the world that America holds dear the rights of all people, including those people with disabilities. It tells the world that we will consider the respect for the human rights of people with disabilities as an important component of human rights policy. It reaffirms our conviction that people with disabilities can and should be full, contributing participants in society all across the globe.

As chairman of the Commission on Security and Cooperation in Europe, I have seen the way international attention and concern can speed the promotion and protection of human rights. The CSCE process, by setting human rights standards and commitments for persons belonging to national minorities, migrant workers, Roma (Gypsies), and others who suffer persecution or discrimination, has helped focus both governmental and nongovernmental efforts on improving the lives of hundreds of thousands of people.

At the CSCE Moscow meeting in 1991, I advocated and achieved the establishment of CSCE commitments on the human rights of persons with disabilities. For the first time in CSCE history, the participating states agreed to take steps to ensure the equal opportunity of persons with disabilities to participate fully in the life of their society. They agreed to promote the appropriate participation of such persons in decisionmaking in fields concerning them, and to encourage favorable conditions for the access of persons with disabilities to public buildings and services, housing, transportation and cultural and recreational activities. They also agreed to encourage services and training of social workers for the vocational and social rehabilitation of persons with disabilities. Commitments like these, now an established component of CSCE human rights standards, can be an important yardstick against which to measure performance.

Mr. Chairman, the issue of human rights is one that transcends all boundaries. It is an issue that unites, rather than divides, bringing diverse people and groups under one grand umbrella of humanity, dignity, and respect. In our own Congress, we have forged tremendous partnerships to champion this cause, because it is one that strikes a chord in all Americans, whatever their political beliefs or geographical backgrounds. I want to commend the minority leader in the Senate, our colleague BOB DOLE, who has played a strong leadership role on this issue, spearheading the Senate version of this legislation and rallying impressive bipartisan support.

This bill gives us a chance to make a positive contribution to the cause of human rights around the world, one that concerns not only the 500 million individuals with disabilities, but every single member of society. Prohibiting discrimination and promoting inclusion are practices that benefit us all. In a world too often torn by division and hatred, let us take a moment to remember and affirm that each individual matters.

I urge my colleagues to join me in support of this bill.

IN CELEBRATION OF INDIAN INDEPENDENCE DAY

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1993

Mr. MENENDEZ. Mr. Speaker, I rise today in celebration of what has become an annual tradition for the Indian-American community in Jersey City, NJ: the hoisting of the Indian flag with the American flag on Indian Independence Day.

This annual event is sponsored by the Federation of Indian Associations, NJ, an umbrella organization dedicated to nonprofit, nonpolitical, educational, social, and charitable representation of the interests of the Indian-American community in the State of New Jersey. The federation is funded by the International Mahatma Gandhi Association, founded by Mr. Hardyal Singh of Jersey City in 1980.

This year, on August 16, at 2 p.m., the member organizations of the federation will gather at city hall in Jersey City for this event, celebrating the contributions and achievements of the Indian-American community, and our continuing friendship with the world's most populous democracy.

I am sure that my colleagues join me in extending our best wishes to those who will be joining in the festivities on Indian Independence Day.

SALUTE TO VENTURA TODAY

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1993

Mr. GALLEGLY. Mr. Speaker, I rise today to honor "Ventura Today," Ventura County, CA's, first weekly television program that highlights topical issues and prominent people in business, government, and the media.

Public affairs television programming plays a major role both nationally and locally in helping the American people better understand the issues of the day. Indeed, at its best, such programming helps shape those issues.

Since its inception last October, "Ventura Today" has striven to do just that by educating and informing the public on the aims and goals of community leaders as Ventura County nears a new century. The show also seeks to project a favorable image for the business community, as well as help business succeed in order to create jobs and create a stable and growing tax base.

I would like to recognize some of the people who have made "Ventura Today" possible—O.C. Jenkins, the founder and moderator; executive producer Kathryn Tanis; and producer Alan Putter.

I would also like to recognize a number of volunteers who have been instrumental in furthering the goals of the program—Stan Seavey, Priscilla McDaniel, Anne Hubbard, Nancy S. Cloutier, Joseph Gallo, Marilyn Woods, Nancy Williams, Pat and Dee Plew, John Irby, editor of the Ventura County Star-Free Press; John Bowman, editor and publisher of the Simi Valley Enterprise; Julia Wilson, editor of the Ventura County editions of the Los Angeles Times; and Karen Magnusson-Richards, editor of the Oxnard Press Courier.

Mr. Speaker, I ask my colleagues to join me in recognizing these outstanding individuals, and in wishing great success to "Ventura Today."

TRIBUTE TO COL. CASMIER JASZCZAK

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1993

Mr. DELLUMS. Mr. Speaker, I rise today to recognize Col. Casmier Jaszczak—affectionately known as Cash—for his exceptionally distinguished and patriotic service to the U.S. Air Force, this House, and this great Nation as chief of the House Liaison Office from May 23, 1991 to August 30, 1993. It is not often we have the pleasure of being touched by such as exemplary individual. I have come to know Cash on both a professional and personal level. His professional competence is unequaled. He has provided me, as chairman of the House Armed Services Committee, advice and counsel which have been critical to the formulation of national policy objectives on a wide range of issues from military intervention in Bosnia, Somalia, and the Middle East to developing the Armed Forces of the future. He has framed the debate on force structure. His personal combat experience in Desert Storm and Southern Watch proved invaluable to us. His comprehension of the difficult geopolitical climate and its relationship to the establishment of national military policy and objectives is extraordinary. He has been of great service to me as chairman; my predecessor, Secretary Aspin; and all the members and staff of the HASC. His charisma, wit and character have deeply touched all of the Members of this institution, and he will be truly missed. Cash makes things happen, and, believe me, that is a difficult thing to do over here. Cash is an officer of unlimited potential, and I sincerely hope the senior military leadership recognizes his myriad of accomplishments. On a personal level, his warmth, compassion, and sincerity are not often found in such a resolute combat warrior. Cash is what I hope all military officers aspire to be—an honest, courageous protector of those liberties and freedoms upon which our Founding Fathers felt strongly enough to build our Nation. Cash is a role model for our armed services. We wish him, his lovely wife, Marilyn, and his children, Leah, Charles, Janelle, Renee, Elizabeth, and Drew our very best. Godspeed.

THE SHAQ ATTACK

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1993

Mr. PAYNE of New Jersey. Mr. Speaker, this time last year I had the pleasure to congratulate Shaquille O'Neal on being selected NBA No. 1 draft pick. Shaquille R. O'Neal is a native of Newark, NJ. He was a resident of the city's central ward where he lived with his parents, Philip Harrison and Lucille O'Neal Harrison. Shaquille's father is a career military officer and Shaquille has had the opportunity to live in many cities and towns in the United States as well as overseas. He has lived in Bayonne, NJ; Athens, GA; San Antonio, TX; and Wildflacken, Germany where he was spotted by coach Dale Brown of Louisiana State University. And as they say, the rest is history.

As a student at Cole High School in Texas, Shaquille played in the McDonald Basketball Classics where he started as center. As a student at Louisiana State University, he attended an Olympic festival in Minneapolis in July 1990. In the four games he participated in, he scored 98 points, had 55 rebounds, and 27 blocks. They called him a man among boys.

As an LSU sophomore, he was named "Player of the Year" by Tanqueray. Never forgetting his hometown he donated the cash award that accompanied the Tanqueray honor to the Boys' and Girls' Clubs of Newark. At the end of his junior year, Shaquille elected to enter the NBA draft where he was chosen the No. 1 draft pick in the Nation and joined the Orlando Magic.

Over the past year, Shaquille has grown professionally and civically. He has taken his talent and resources to help better the lives of many, including the homeless and the young.

Mr. Speaker, I am sure my colleagues would like to join me as I thank Shaquille "Shaq" O'Neal for being the type of role model our young people need and to encourage him to keep the "Shaq Attack" alive.

TRIBUTE TO JOSEPH FLAKNE

HON. LESLIE L. BYRNE

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1993

Ms. BYRNE. Mr. Speaker, I rise today to pay tribute to an individual who has devoted his life to helping people who needed help and fighting for people who needed a fighter on their side. Joseph Flakne never passed up an opportunity to make life a little better for his fellow Americans, whether it was pioneers in our Nation's hinterlands, or women in our Nation's workplaces and voting booths.

The Alaskan Territories were a cold and foreboding place when Joe Flakne first arrived there in 1929. The son of a Norwegian immigrant, he hitchhiked from his native Minnesota to study the Arctic. He paid his way through school by driving an 11-dog team through the barren tundra, caring for and feeding reindeer, caribou and mountain sheep for the U.S. Biological Survey.

When he graduated from the University of Alaska at Fairbanks, Joe went to work for the Agricultural and Forestry Experiment Station, helping settlers cultivate farmland and raise livestock in the Matanusak Valley near Anchorage, so that they could survive Alaska's brutal winters.

After serving his country during World War II as President Roosevelt's Alaska Specialist for the War Manpower Commission, Joe and his wife Irene came to Washington, where he ran the Interior Department's Alaskan Territories Office. In 1953, he left government service to join the Arctic Institute for North America, where he fought to make his adopted State of Alaska our Nation's 49th State. In 1964, Joe settled in northern Virginia in a log cabin he built along the banks of the Potomac, a permanent reminder of his days in the Arctic.

But protecting the Alaskan wilderness was not Joe's only passion. Long before it was fashionable, he fought for the rights of women. Joe learned early in life that women can do anything that men can do. In hard economic times, while the Flakne's moved from the prairie to Minneapolis and back to the country looking for work, it was his mother who held the family together through sheer determination and courage.

Joe demonstrated his commitment to the aspirations of women by marrying Irene, a schoolteacher from the Pacific Northwest who would not marry him until he received his college diploma. He demonstrated his commitment to the working rights of women when, as President Roosevelt's Alaska Specialist, he worked tirelessly to provide women with more responsibilities and duties. And he demonstrated his commitment to the voting rights of women by spearheading a campaign to place a historic marker in Lorton, VA, to designate the sight where suffragists were jailed over 70 years ago for picketing the White House.

Joe Flakne joined the League of Women Voters as soon as it went co-ed. It is through this wonderful organization that I had the pleasure of first meeting Joe and hearing firsthand his tales of caring for wildlife in the Matansuka Valley and his experiences fighting to give women under his wartime command job opportunities they never had before.

It has been a privilege and a joy to know Joe Flakne, and I am proud to say that, 2 weeks ago, the University of Alaska at Fairbanks—Joe's alma mater—awarded him their highest tribute, an honorary doctorate of laws. I ask my colleagues to join me on the floor of the House of Representatives to congratulate a truly great American, Doctor Joseph Flakne.

HARLEM YOUTH MARINES, INC., APPLAUDED

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1993

Mrs. MALONEY. Mr. Speaker, I rise today to bring to the attention of my colleagues the outstanding achievements of the Harlem Youth Marines, Inc., which has served countless young men and women throughout the city of New York and the tristate area. As a Representative from that area, I can personally attest to the importance of this group to our community.

The Harlem Youth Marines, Inc., provides youth in our city with alternatives to negative peer influence by immersing them in community-based activities. It channels young peoples' energies in a positive direction.

By sponsoring such programs as community safety patrol and home shopping, the Harlem Youth Marines, Inc., brings much needed aid to senior citizens in the community and forms a generational bridge which instills a sense of personal responsibility in its young participants. In addition, the Harlem Youth Marines, Inc., maintains an Emergency Response Youth Force in readiness which has successfully assisted the Red Cross in providing natural disaster relief to those who suffered in the recent winter storms which have rocked our area. During the gulf war, the Harlem Youth Marines, Inc., participated in support services for families of National Guardsmen who were called away to serve their country in combat.

The Harlem Youth Marines, Inc., encourages the scholastic achievement of New York City's youth. By giving young people a way to make a difference right now, it provides them with a direction for future success. The U.S. Marine Corps has officially recognized the achievements of this important organization, and I ask my colleagues to join with me in applauding all of their efforts on behalf of our Nation's youth.

MEMBERSHIP IN THE UNITED NATIONS

HON. ROB PORTMAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1993

Mr. PORTMAN. Mr. Speaker, Article 4 of the United Nations Charter states that "membership in the United Nations is open to all * * * peace loving states which accept the obligations contained in the present Charter * * *" Today, the United Nations comprises 184 members: almost all the nations of the world. Unfortunately, Taiwan is one of the handful of countries that is not a member of the United Nations.

Among the nations of the world, Taiwan ranks 41st in population with over 21 million people. Taiwan ranks 13th in world trade and 25th in per capita income. Taiwan is the United States sixth largest trading partner and is the largest holder of foreign reserves worldwide.

Why is Taiwan not a member? On October 25, 1971, the U.N. General Assembly expelled "the representatives of Chiang Kai-shek from the place which they unlawfully occupy at the United Nations and in all the organizations related to it." The consequent restoration to the People's Republic of China of its seat in the United Nations was considered "necessary in order to strengthen the authority and prestige of the U.N. for "no important international problem could be solved without the participation of the PRC."

Since then the people of Taiwan have not been represented in the United Nations, although their legislators have expressed the desire of the people of Taiwan to join the United Nations. As a Member of the United States House of Representatives, I believe that the 21 million people of Taiwan deserve membership in the United Nations, just as the People's Republic of China does.

But, for Taiwan to be taken seriously by the international community in general and by the members of the United Nations in particular, the Taiwan Government must give up its claims on the mainland. A separate Taiwan seat in the United Nations would help confirm the reality of Taiwan's independence.

In 1972 it was necessary that the People's Republic of China be seated in the United Nations in order to strengthen the authority and prestige of the United Nations. Now, in 1993 it is necessary to grant Taiwan membership in the United Nations in order to strengthen the authority and prestige of the United Nations.

A TRIBUTE TO REV. HENRY H. HONG

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1993

Mr. TOWNS. Mr. Speaker, we are all aware of the strained social and economic relations that exist between minority groups in America, particularly African-Americans and Korean-Americans. I am very concerned about this situation. That is why I am leading a delegation of African-American Members of Congress and religious leaders to Seoul, Korea, to see how we can promote cross-cultural understanding and economic cooperation. One person who has played a vital role in serving as a bridge between our two cultures is Rev. Henry H. Hong.

Reverend Hong has consistently been involved in efforts to promote harmony and mutual understanding between two proud cultures. He was responsible for organizing a food bank that distributed food and fruits to poor people donated by Korean-Americans in 1992. He has also organized a prayer service to honor black veterans of the Korean conflict. And he has led black pastors to Seoul, Korea. One of his many, and most important contributions is his creation of the Cross Cultural Pastors' Association.

Reverend Hong has demonstrated his commitment to peace and harmony. Recently, he brought a group of African-American high school students to Seoul, Korea, with the Korea Society. In a time when there is so much strife, I am pleased to commend the efforts of a pastor of peace. In the aftermath of Korean shop boycotts in New York, and riots in Los Angeles that targeted Korean businesses, it is vitally important to build bridges of friendship. Reverend Hong is clearly serving as an architect and builder of positive relations. I am very pleased to introduce my colleagues in the House of Representatives to Rev. Henry H. Hong—a living example of the Christian principle of "love thy neighbor."

HOUSE SALUTES WILLIAM URBAETIS, OLDEST SURVIVING CREWMEMBER OF THE USS "NEW YORK"

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1993

Mr. SOLOMON. Mr. Speaker, as you know, some of the proudest ships in the U.S. Navy are named after the various States. And some of our proudest sailors are those who have served on those ships.

Today I would like to salute and wish a belated but very happy 99th birthday to one of those sailors, William Urbaetis of Mechanicville, NY. Mr. Urbaetis is the oldest living crewmember of the U.S.S. *New York*.

Mr. Urbaetis was born on July 19, 1894. The U.S.S. *New York* (BB 34) was commissioned in 1915. Mr. Urbaetis joined the U.S. Navy on July 26, 1917, served on the U.S.S. *Rondo* and the U.S.S. *Madawaska* before assignment aboard the *New York* in 1918. There he remained until his discharge on September 6, 1919.

After leaving the service Mr. Urbaetis worked for the West Virginia Paper and Pulp Mill for 45 years until his retirement.

He and his wife, the former Freda Kokosky, raised a daughter and five sons, all of whom are still alive.

Mr. Urbaetis is a life member of the Veterans of Foreign Wars and American Legion. He is an avid stamp collector, and until recently was a beekeeper.

Mr. Speaker, I hardly need remind you of my interest in veterans. There are many reasons for that interest. Our veterans have made enormous sacrifices to preserve our freedoms since this country was founded. And many of them are walking chronicles of our history to preserve those freedoms. Mr. Urbaetis fits into both categories, and I am very proud to represent him in Congress.

Mr. Speaker, I would ask you and other Members to join me in expressing happy birthday, with many returns, to a good sailor and great American, William Urbaetis of Mechanicville, NY.

LOCAL FLEXIBILITY ACT WOULD ENCOURAGE BETTER COORDINATION OF FEDERAL PROGRAMS

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1993

Mr. CONYERS. Mr. Speaker, on August 3, Mr. CLINGER and I introduced the Local Flexibility Act of 1993, H.R. 2856, to achieve better coordination of Federal programs at the local level.

According to the General Accounting Office, local governments are now eligible to receive assistance from over 350 separate Federal programs. Each of these programs makes sense when viewed in isolation from Washington. But testimony from local not-for-profit group and public officials demonstrates that at the local level the requirements of these multiple Federal programs cause confusion and inefficiency.

The bill, the Local Flexibility Act of 1993, creates a Federal Interagency Review Council, comprised of the heads of 10 Federal agencies—the Secretaries of Agriculture, Commerce, Education, Health and Human Services, Housing and Urban Development, Interior, Labor and Transportation; the Attorney General and the Administrator of the Environmental Protection Agency. The Council will be able to grant waivers from Federal regulations, other than anti-discrimination requirements, to local governments and not-for-profit organizations in six areas—education, employment training, health, housing, nutrition, or other social services—if the Council approves the plan submitted by the local government that is designed to help its poor residents.

Local governments and not-for-hire organizations will also receive priority in the review of their applications for Federal funds in these six areas if the Council has approved the local governments' plan.

This is a 5-year demonstration program that would enable local governments and not-for-profit organizations to use amounts under certain Federal assistance programs based on an integrated assistance plan prepared locally. The plan would provide the basis for the integration of Federal assistance and would require the involvement of low-income people in developing the plan.

The provisions of this bill would provide a basis for testing an approach to better coordination and efficiency in the use of Federal programs. The program would sunset after 5 years, and the bill directs the GAO to evaluate the program after 4 years and recommend to Congress whether it should be continued.

I urge my colleagues to support this bipartisan legislation.

TRIBUTE ON THE RETIREMENT OF SISTER MARY CARITAS

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1993

Mr. NEAL of Massachusetts. Mr. Speaker, I pay tribute today to one of the truly special and outstanding women in the field of health care administration in our country, Sister Mary Caritas. Sister Mary Caritas has committed her entire life to the service of others, showering the people around her with warmth and fondness. Her forthcoming retirement as President of Mercy Hospital will be a tremendous loss to the citizens of western Massachusetts.

Sister Mary Caritas' career in the health care field began with the attainment of her nursing degree from the Mercy Hospital School of Nursing. She continued her education with graduate degrees in the field of medical administration at such prestigious schools as Regis College, Tufts University, and St. Louis University, to name a few.

The enormous impact Sister Mary Caritas has had on the health care field in Hampden County is evident. Very recently I was fortunate enough to work in a project with Sister Caritas regarding Medicare reimbursements to local hospitals, including Mercy Hospital. Because of Sister Caritas' dedication and leadership on this issue, millions of dollars in Medicare funds will be coming back to western Massachusetts. These funds will be used to provide jobs and better health care services to the people in western Massachusetts.

Prior to becoming President of Mercy Hospital in 1977, Sister Mary Caritas worked in administrative positions at the Sisters of Providence, the Berkshire Medical Center, and St. Lukes Hospital. She also served as the chair of the Massachusetts Hospital Association, Caritas Christi Health System of Boston, and the Catholic Health Association, as well as being a member of the board of the American Hospital Association, several colleges, charitable associations, and local businesses.

All who know Sister Mary Caritas are fully aware of her inspiring work and dedication in health care and service to the Greater Springfield community. She has taken an active role in her community, and her lifelong leadership has set a standard which will be difficult for her successor to emulate. She has developed a record which has not gone unnoticed.

Sister Caritas received the most distinguished William Pynchon award in 1983, the honor of Woman of the Year from the Greater Springfield Chamber of Commerce in 1990, and was recognized by Business West magazine as the Business Person of the Year in 1992. She also received honorary degrees from the College of Our Lady of the Elms and Western New England College.

With all of her impressive accomplishments, hard work, and dedicated service to the community, it is not difficult to understand why Sister Mary Caritas will be greatly missed upon her retirement. But I am convinced that her service to the public is far from over. I am certain that she will continue to play a significant role in protecting the health and well-being of the residents of western Massachusetts. Her interest and involvement in her religious and civic communities will only serve to embellish the truly remarkable reputation which she has so justifiably earned.

Mr. Speaker, I ask all of my colleagues to join me in honoring Sister Mary Caritas, who faithfully served her community with integrity, for a lifetime of achievements.

MEDICINE THAT DIDN'T WORK: NOT AGAIN

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1993

Mr. STARK. Mr. Speaker, the pharmaceutical industry has a proposal pending before the Justice Department. Basically they say, "Let us collude on drug prices, and we in the industry will then voluntarily control our horrendous record on price increases." Others in the health industry—insurers and provider groups alike—have similarly suggested to the administration, "Don't worry. On a voluntary basis, we—the industry that has been driving up costs at greater and greater rates over the past decades—will stop this cost spiral." A member of this camp has even suggested that they will sue the Government if anything stronger than a "presidential please" is requested of them.

History proves instructive when considering these proposals.

History has proven a voluntary approach to hospital cost containment to be a fiasco. Direct regulatory approaches have proven successful. Back in the early eighties, the ill-founded notion of a price-competitive hospital industry under Medicare was put aside by none other than the Reagan administration. A regulatory approach was introduced.

The results with hospital cost containment under Medicare have been telling. Prior to the institution of Medicare's DRG system, the tremendous industry-wide hospital cost increases were exceeded only by the increases in hospital costs under Medicare. The costs of hospital services in the 1970–80 period rose more than 50 percent faster under Medicare than in the private sector. But by the 1985–91 period when the DRG system was fully phased in, the situation reversed. Hospital costs under Medicare were increasing at one-third their previous rate and 40 percent slower than the rate in the private sector.

In some areas, voluntarism is great. In the area of health care cost containment, experience has shown that benevolence is not a sufficient force to slow an industry growing $90 billion a year. To suggest that it is, ignores history.

I'd like to insert an article into the RECORD that has great relevance today. John Iglehart, the editor of the quarterly Health Affairs, had a few interesting things to say about health care cost containment back in 1982. What he had to say was on the mark then and is even more so today.

His January 25, 1982 article in the Washington Post follows:

[From the Washington Post, Jan. 25, 1982]

MEDICINE THAT DIDN'T WORK

(By John K. Iglehart)

President Reagan is perhaps the foremost advocate of voluntarism—the belief that if Americans are left to their own devices, they will find solutions to the ills that afflict society. He recently established a commission to encourage it in the private sector.

In some areas of the society, no doubt, voluntarism packs potential as an agent of change. But in health care, a four-year national experiment with voluntarism as the chief weapon against soaring costs has proven a failure.

The proof was well documented by the principal advocates of voluntarism in the health sector—the American Hospital Association, the American Medical Association and the Federation of American Hospitals—at a recent public hearing. These private interests created the "Voluntary Effort to Contain Health Care Costs" in late 1977 when they faced the prospect that President Carter's hospital cost-containment legislation would impose mandatory controls.

The voluntary effort began with promise. During 1978 and 1979, while Congress debated Carter's legislation, the voluntary effort substantially met or exceeded the major goals that it set in December 1977. These early successes formed the basis for the most persuasive argument used against Carter's hospital-cost bill on the day in November 1979 when the House killed it.

Once the threat of government action died, however, the exhortations of the voluntary effort proved no match for the powerful economic incentives that relentlessly drive the health-cost spiral.

Once before in the 1970s, after the demise of President Nixon's economic stabilization program, a similar phenomenon occurred. Addressing this issue Dec. 15 while testifying before the House Energy and Commerce subcommittee on health and the environment, John Alexander McMahon, president of the American Hospital Association, said: "I think in the short run, very clearly, we got the attention of the hospitals and the physicians to hold the line, and they did. However, they did it more, it looks like, out of some postponement of things than would have otherwise been the case . . . than came this constant hammering . . . the pressures on the demand side were stronger than our preachments."

In 1980, total national health expenditures totaled $247.2 billion—$1,067 for every man, woman and child in America. In a single year from 1979 to 1980, total health spending rose 15.2 percent, the sharpest increase in any year over the 50-year period for which statistics have been compiled. And the 1981 increase will be greater than 15.2 percent. In other words, at a time when the general economy is slowing, medical-care costs are rising at an unprecedented rate.

The record of the voluntary effort fell shortest in moderating hospital cost increases. In 1979, hospital costs exceeded the industry's goal by 1.8 percent. In 1980, the hospital industry's performance was 5 percentage points above its own voluntarily established goal. In 1981, the voluntary effort set a goal of simply lowering the 16.8 percent increase registered the year before. Through the first nine months of 1981, hospital in-patient expenses climbed at an annual rate of 18.8 percent.

Taking the voluntary effort to task, Karen Davis, a professor of economics at Johns Hopkins University who was a deputy assistant secretary of health and human services in the Carter administration, testified Dec. 15: "In short, the hospital industry has broken promise after promise—failing to meet even modest targets. Instead, hospital costs have skyrocketed since Congress took the voluntary effort at its word and dropped action to impose mandatory controls."

The need for compulsion in some form seems the inevitable conclusion from this failure of voluntarism, unless society suddenly decides that medical care is so valuable that no limits should be placed on its cost. Clearly, there is no consensus on what form compulsion might take. The anti-regulatory mood of the country makes it highly unlikely that Congress would approve anytime soon something similar to Carter's hospital cost-containment legislation.

The Reagan administration seems to favor development of a health-care model based on marketplace principles. But Reps. Richard A. Gephardt (D-Mo.) and Edward R. Madigan (R-Ill.), both advocates of the marketplace model, suggested at the Dec. 15 hearing that short-term regulatory steps would have to be taken first to stem the cost spiral.

In whatever direction the system ultimately moves, it seems time to declare dead as the prime policy choice a reliance on voluntarism to check health costs that are squeezing government budgets and corporate profits.

INTRODUCTION OF LEGISLATION REGARDING DISPOSABLE GOWNS AND DRAPES

HON. JAMIE L. WHITTEN

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1993

Mr. WHITTEN. Mr. Speaker, I am introducing legislation today to restore duty parity among the competing producers of disposable gowns and drapes. This legislation would reinstate the temporary reduction of import duties on certain disposable surgical gowns and drapes through December 12, 1996, and would allow manufacturers such as Kimberly-Clark Corp., a maker of these products in my district, to compete on an equal basis.

A similar provision was in effect from 1984 to 1992 reducing the duty on imports of disposable surgical gowns and drapes made of manmade, bonded-fiber fabric to 5.6 percent ad valorem and providing equal tariff treatment with competing products. Without this temporary tariff legislation, these products are subject to rates of 17 percent ad valorem for surgical gowns and 9 percent ad valorem for surgical drapes.

Unlike Kimberly-Clark's products, which are made entirely of manmade fiber, its competitors' products are about 45 percent polyester and 55 percent wood pulp. As a result of Customs Service rulings, imports of those products are subject to a duty rate of 5.6 percent. Without renewal of the temporary duty reduction, Kimberly-Clark will continue in a disadvantaged position against almost identically manmade products.

While in effect, the provision had a favorable impact on U.S. industry and employment by supporting and expanding the demand for the component fabric and raw materials produced by Kimberly-Clark and its suppliers. The bonded-fiber fabric for Kimberly-Clark's gowns and drapes is produced in my district in Corinth, MS, and throughout the country at LaGrange, GA; Lexington, NC; and Nennah, WI. Altogether these plants employ over 1,000 people with an investment of over $200 million. In addition, Kimberly-Clark's facilities in Tucson, AZ, employing over 200 people, cut and prepare the fabric and other materials for assembly in Mexico, as well as preparing the packaging of special packs containing surgical gowns and other items. Following importation, the finished gowns and drapes undergo sterilization and, in some cases, packaging in the United States prior to sale.

This legislation needs to be enacted in order to ensure that all companies producing disposable surgical gowns and drapes compete on an equal basis. I urge my colleagues to support this bill and insert a copy of the bill in the RECORD:

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF REDUCTION OF DUTY ON CERTAIN DISPOSABLE SURGICAL GOWNS AND DRAPES.

Heading 9902.62.10 of the Harmonized Tariff Schedule of the United States is amended by striking out "12/31/92" and inserting "12/31/96".

SEC. 2. EFFECTIVE DATE.

(A) IN GENERAL.—Except as provided in subsection (b), the amendment made by section 1 applies with respect to goods entered, or withdrawn from warehouses for consumption, on or after the 15th day after the date of the enactment of this Act.

(b) RETROACTIVE PROVISION.—Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law to the contrary, upon a request filed with the appropriate customs officer before the 180th day after the date of the enactment of this Act, any entry or withdrawal from warehouse for consumption of goods to which the amendment made by section 1 applies and that was made—

(1) after December 31, 1992; and

(2) before the 15th day after the date of the enactment of this Act;

and with respect to which there would have been a lower duty if the amendment made by section 1 had applied to such entry or withdrawal, shall be liquidated or reliquidated as though such entry or withdrawal had occurred on such 15th day.

TRIBUTE TO DOMINIC PAUL DIMAGGIO

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1993

Mr. MACHTLEY. Mr. Speaker, I rise today to pay tribute to a gifted athlete and talented entrepreneur, Dominic Paul Dimaggio. Born February 12, 1918, Dom, younger brother of hall-of-famer Joe Dimaggio, had a stellar career in professional baseball. All Boston Red Sox fans, myself included, revered his grace and speed as he caught long drives in Fenway Park's deep center field, his strength and accuracy of arm used to throw out courageous, or foolish, runners who dared to try and tag up on fly balls hit to Dom's territory, and his ability to stroke base hits with a consistency unmatched by the vast majority of baseball players.

While his professional baseball career has ended, it is useful to the sports enthusiast to review his 10 seasons with the Red Sox, which were interrupted by 3 years of dedicated service in the U.S. Navy. Dom achieved great statistical success at the plate and in the field. His keen mind and sports acumen have seldom been matched. A .298 lifetime batting average, a team record of 31 consecutive games with at least one hit—1949—and an American League record for an outfielder of 503 putouts in one season—1948—are all examples of his considerable skill. Dom's career in baseball exemplifies excellence of the highest order.

This tribute, however, is not just to a former great baseball player. In addition to his distinguished record as an athlete, Dom has also achieved great success in business. By his profitable involvement with textile-type manufacturing plants, sand and gravel companies, banks, and restaurants, he has demonstrated a natural talent for business equal to his natural gifts in athletics. He is truly a man of whom all Americans, and Italian-Americans in particular, should be proud.

Forty years after his retirement from baseball in 1953, I am pleased to recognize and honor this fine individual who has distinguished himself as a superior athlete, an adroit businessman, and an outstanding person.

EMANUEL PIETERSON HISTORICAL SOCIETY HONORED FOR WORK IN PRESERVING HERITAGE OF NEW YORK CITY AND THE NATION

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1993

Mr. RANGEL. Mr. Speaker, I rise today to commend the Emanuel Pieterson Historical Society for their diligent efforts over the past 10 years to have two historically significant New York City churches in my district designated as city landmarks. This designation was recently granted by the New York City Landmarks Commission.

The Mother African Methodist Episcopal Zion and Abyssinian Baptist churches together are an extraordinary part of the African-American chronicle, and our Nation's history. Mother Zion was founded in 1796 by James Varick, a veteran of the Revolutionary War. In 1809, Abyssinian Baptist organized on the same lower Manhattan street. The two churches offered a religious voice more applicable to the African-American experience and struggle. Today they sit around the corner from each other in Harlem. Mother Zion is the mother church of an international religious organization. Abyssinian Baptist is a strong community institution with an active voice.

The Mother A.M.E. Zion Church is the oldest African-American church in New York City. Members of the church have played an important role in American history. Harriet Tubman and Frederick Douglas to name a few. The church's founder, James Varick, was an abolitionist himself. Today, his remains are in a crypt in the basement of Mother Zion.

Mother Zion is the mother church of the African Methodist Episcopal Zion Church. This denomination has churches from coast to coast and over half a million members. The first A.M.E. Zion church in Africa was founded in Liberia in 1878. There are now A.M.E. Zion churches and schools in Ghana and Nigeria as well. In addition, there are churches and schools in several Caribbean countries. The A.M.E. Zion Church maintains Livingston College, located in Salisbury, N.C. Livingstone College is a 4 year accredited college, founded in 1879 by Joseph C. Price.

Mother Zion was erected at its present site in 1924, on West 137th Street, between Lenox Avenue and Adam Clayton Powell, Jr. Boulevard. Prior to this, it was located on West 136th Street, between Lenox Avenue and Adam Clayton Powell, Jr. Boulevard. This site is currently occupied by the James Varick Community Center, which is sponsored by Mother Zion.

The Abyssinian Baptist Church was organized in 1808, when slavery was a fact of life in America. Though slavery had been flickering in New York, the early church members were the survivors of the half freedom status of the New York Colony. A few black Americans and members of the First Baptist Church, then located on Gold Street, refused to accept racially segregated seating for worship. Out of this protest, Rev. Thomas Paul, a minister from Boston, founded the Abysinnian Baptist Church on what was then Anthony Street, now Worth Street. It was the first African American Baptist Church in New York State.

Uner the pastorate of Reverend Paul, the Worth Street property was purchased and retained for several years. It was later sold and the church moved to Broadway Tabernacle, then to Thompson Street and Spring Street Hall.

In 1856, the Rev. A.B. Spellman became church pastor, serving nearly 30 years. It was during his pastorate that the church again sought a permanent place of worship and purchased property on Waverly Place.

In 1885, Rev. Robert D. Wynn, from Norwich, CT became pastor, serving until 1902, when another move took the church to West 40th Street. Reverend Wynn was succeeded by Rev. Charles Morris. In 1908, he was succeeded by the first of the legendary Powells. Under the administration of Rev. Adam Clayton Powell, Sr. from the Immanuel Baptist Church of New Haven, CT, ground was broken at the church's present site, 132 West 138th Street.

The present gothic and Tudor structure with a pulpit of imported Italian marble, and featuring European stained glass windows, had a construction cost of $400,000.

In 1937 Dr. Powell, Sr. was succeeded by his son, Adam Clayton Powell, Jr. His passion for justice and social change led him to combine a political career with his ministry, He served in the U.S. Congress for 14 terms with distinction.

After Dr. Powell, Jr.'s death in 1972, Dr. Samuel S. Proctor, an educator and administrator, became pastor. Renovation of the church under his leadership included installation of a new organ, dedicated on November 12, 1978.

The Abyssinian Baptist Church has stood through slavery, through the civil rights movement, and through every American war since the War of 1812. It has always contributed it's piece to the history of our country. It has been and continues to be a beacon reflecting the religious freedom and independence embodied by the Constitution. It is synonymous with the glory of the Harlem community.

Despite this, it took 10 years of hard work by the Emanuel Pieterson Historical Society, under the inspiring leadership of its founder and President, Mr. Horace Carter. The society was chartered by the New York State Department of Education Board of Regents on August 1, 1975. Their mandate has been to work for a better popular understanding of the contributions made by African-Americans to the Nation's history. The society is not-for-profit and functions with a modest budget, but with great commitment.

There were two additional sites in my district designated as landmarks in which the society played an important role. The Theresa building, a work of the late architect Vertner Tandy, and the St. Philips's Episcopal Church are acclaimed for their architecture.

Mr. Carter is the recipient of the second annual Elliot Wilensky Award, a prestigious honor presented by the New York City Landmarks Commission to those giving outstanding effort to historical preservation. The award is named after one of the commission's former vice chairmen. As testimony to Mr. Carter's dedication and achievement, I would like to submit for the record a portion of the text of the speech made by New York City Landmarks Commission Chair Laurie Beckelman upon the presentation of the award to Mr. Carter on June 2, 1993:

> This year, we've chosen a recipient who exemplifies that part of Elliot that fought for preservation, persevered doggedly, and never wavered in his beliefs. Horace Carter founded the Emanuel Pieterson Historical Society twenty years ago, at a time when cultural history had not achieved anything like the prominence it has today. But his dedication to African-American history goes back years before that, to his early collecting of memorabilia, artifacts, clippings, art and works of all kinds by and about Americans of African descent.
>
> Horace Carter's advocacy of historic preservation dates to the early sixties, when he became involved in the attempt to save the original Bridge Street Church, the home of Brooklyn's oldest African-American congregation and a link in the Underground Railroad, with cubicles in the basement used to hide runaway slaves. Though the church was lost, he went on to struggle for the protection of other sites important to the history of African-Americans in this city, using his position both as President of the Emanuel Pieterson Historical Society and as a member and Chairman of Harlem's Community Board 10. Among the sites he has fought to preserve, now recognized as official city landmarks are the Harlem River Houses, the Langston Hughes House, the Schomburg Library, the Metropolitan Baptist Church, the Astor Row Houses, the 369th regiment Armory, and the Adams House on 128th Street, all in Harlem, and Sandy Ground, the African-American burial ground in Staten Island. Even more influential has been his work with schools, bringing a knowledge of and appreciation for black history to the city's students.
>
> In honor of all his long-standing efforts, his tireless work, and simply his refusal to give up the good fight, it is my pleasure to present the Elliot Wilensky Award to Horace Carter.

I wish to congratulate the Abyssinian Baptist Church and the Mother A.M.E. Zion Church for receiving this deserved recognition. I also wish to applaud Mr. Carte and the Emanuel

Pieterson Historical Society for their most recent victory and to thank them for their continuing work to preserve New York City's African-American heritage.

MATHIAS TOWNSHIP CELEBRATES 100TH ANNIVERSARY

HON. BART STUPAK

OF MICHIGAN
IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1993

Mr. STUPAK. Mr. Speaker, I rise today to pay tribute to Mathias Township, located in the heart of Michigan's Upper Peninsula, in Alger County, which I represent. The year 1993 represents a landmark as the residents of Mathias Township celebrate the 100th anniversary of their township's founding.

The rich history of Mathias Township begins in 1883 with John A. Mathias, who ventured alone into the untamed wilderness and set the foundation for the future. Joined by others in 1885, Mathias began cultivating the fertile land in the summer and working in logging or shingle mills by winter. With the promise of acres of fertile land, more and more settlers arrived. The advent of the new settlers brought a need for a local government. On April 1, 1893, the township of Mathias was formed, dawning a new era of dedication and workmanship toward the American way.

The industry in Mathias Township is deeply rooted in the industrial base of America. Logging camps, saw mills, and shingle mills, the first industries developed in the township, have been a mainstay of Mathias ever since. A testament to diligence, the timber industry has withstood hardships, adapting with the changing times. Today, the timber industry remains one of the top employers in Mathias Township.

Farming has provided a livelihood for residents for years in Mathias Township. From the beginning, farmers of Mathias have tirelessly tilled the land, making an honest living for their families. The number of farmers declined with the grasshopper plague in the 1930's, but the farmers persevered, maintaining the lifestyle that has supported their families over the years. Today, farmers produce mainly dairy beef and strawberries to promote their livelihood.

Over the century of history Mathias Township has been part of, the residents remain the focus of the plot. They are model citizens, working tirelessly to make their township, and at the same time, America, a better place to live. While the residents of Mathias Township constantly look toward the future, they will never forget their ancestors who chiseled out of the rocky wilderness the township they know today. Mathias has grown, and times have changed, but the ideals of the residents remain the same: dedication to the job at hand, pride in a job completed, and knowledge that the family comes first. I am grateful that the residents of Mathias Township are my constituents and would like to congratulate them on the 100th anniversary of their township.

IN HONOR OF WHIRLEY INDUSTRIES, WARREN, PA

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA
IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1993

Mr. CLINGER. Mr. Speaker, I rise today to honor Whirley Industries of Warren, PA for their outstanding commitment to the physically and mentally challenged. For over 20 years, Whirley has dedicated itself to employing challenged individuals, not as a symbolic gesture, but as a genuine attempt to incorporate these talented individuals into their team. In recognition of these efforts, they will be honored at MECA's annual meetings in September. MECA is an organization which itself has served the mentally and physically challenged for 20 years. I am pleased to have this opportunity to congratulate Robert Sokolski, president, Harry Conarro, vice president, and everyone in the Whirley operation on this special occasion.

Previously honored in 1991 with the Organization Distinguished Service Award from the Pennsylvania Association of Rehabilitative Facilities, this fine organization has established itself as an integral part of its community, and its efforts have had positive effects across State borders as well. In 1993, through contracted work operations with 14 vocational facilities in northwestern Pennsylvania and southwestern New York, Whirley Industries will provide work for approximately 1,000 challenged individuals, yielding $1,800,000 in wages and revenues. In addition, the company has made generous financial contributions to these facilities, including donations, interest-free loans, and production materials such as fork lifts and air-driven tools.

Manufacturers of advertising and promotional items such as pens and cups, Whirley has been successful in national and international markets and has always been committed to values over and above the bottom line. Its involvement with vocational facilities in the area and beyond has given people the sense of accomplishment that comes with being part of such a quality organization.

Mr. Speaker, Whirley Industries is an excellent selection for the MECA business recognition. I congratulate everyone at Whirley and offer them my best wishes for continued success.

WE MUST DEMAND JUSTICE FOR OUR SERVICEMEN KILLED IN EL SALVADOR

HON. ROBERT K. DORNAN

OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1993

Mr. DORNAN. Mr. Speaker, I rise today to urge my colleagues and all the citizens of this country to join me in voicing outrage over the travesty of justice with regards to the cold-blooded murder of two American servicemen, Lt. Comdr. David H. Pickett and Pfc. Earnest Dawson, Jr., in El Salvador on January 2, 1991.

On January 2, Lieutenant Commander Pickett and his crew were returning to Honduras after a logistics support mission to El Salvador when suddenly their helicopter was shot down by a FMLN patrol. One of the crew CWO Dan Scott, was killed in the crash. However, both Lieutenant Commander Pickett and Private First Class Dawson survived and were seen by witnesses walking around the crash site asking for water and aid. When discovered by the FMLN patrol, they were executed without trial nor reason. Forensic experts confirmed the murders with the following details:

> Dawson died of a single, small caliber gunshot wound to the head * * * the shot being fired from within 1 or 2 feet although I am inclined to think the gun was directly in contact with Dawson's head. Pickett was hit by 10 gunshots from at least two bursts of automatic fire but he died as a result of four shots directly into his face from a range of 2 to 3 feet while he was lying on his back.

After first denying these murders, the FMLN arrested two individuals, "Porforio"—Ferman Hernandez—and "Aparicio"—Severino Fuentes—who later surrendered to the El Salvador Government. Then, in what can only be described as a corrupt sense of justice, amnesty was granted to these murderers as part of an overall agreement between Government and rebel officials.

I urge my colleagues and every citizen in this country in the strongest terms possible to call upon both our Government and the Government of El Salvador to bring these murderers to justice now. Lieutenant Commander Pickett and Private First Class Dawson were not the victims of war; they were the victims of cold-blooded murder. Their families and comrades in arms deserve no less than swift and fair justice.

KEEP FEDERAL AGENCIES IN THE DISTRICT OF COLUMBIA

HON. FORTNEY PETE STARK

OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1993

Mr. STARK. Mr. Speaker, today I am introducing a bill to protect employment and the economy in the District of Columbia. My bill, the District of Columbia Economic Impact Notification Act, proposes to keep most Federal agencies right here where they belong, in the District of Columbia.

The Congress and executive agencies are a large reservoir for employment in the District of Columbia. That steady source of jobs feeds the local economy quite abundantly. This bill seeks to ensure, through the submission of District of Columbia economic impact statements, that Federal workers, the local government, and affected businesses are put on notice that a Federal agency plans to relocate to another jurisdiction. The bill requires that information about a proposed transfer involving 50 or more employees is gathered and prepared well in advance. Congress would have to approve such a move.

In addition, the bill requires that all Federal agencies maintain their headquarters functions in the District of Columbia. Virtually every agency currently does so, and the bill would simply maintain the status quo.

In 1988, Congress passed the Worker Assistance and Retraining Notification Act, requiring private employers to grant notice to communities and employees before relocating their businesses elsewhere. Federal agencies in the District of Columbia are analogous to the employers covered in that act. The impact of the planned transfer of Federal jobs from the District of Columbia is no less threatening to the economy and employment of this city than the relocation of an auto manufacturing plant out of any community in America.

Mr. Speaker, the District of Columbia Government is struggling to shrink the size of its work force. The loss of those jobs presents a real hardship for many D.C. government workers and their families. An endangered local economy makes those tough choices critical. The exportation of Federal jobs from the District could exacerbate hardship and have a domino effect on the entire economy of the District of Columbia. I urge my colleagues to support this proposal.

VILAS COUNTY CENTENNIAL

HON. TOBY ROTH

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1993

Mr. ROTH. Mr. Speaker, I rise today in celebration of the centennial of Vilas County in the North Woods of Wisconsin. The people of Vilas County will host a weekend-long festival on August 13, 14 and 15 to commemorate the first 100 years of their great county.

The celebration kicks off Friday, August 13, at the Vilas County Fair. On Saturday, we will line the streets for the Centennial Parade. The festivities conclude Sunday with a fireworks display. Other activities over the 3-day gala include a horseshoe tournament, a native American pow wow, and numerous musical and cultural demonstrations.

Vilas County has always been a special place for me. Over the years I have fished its lakes and strolled its forests many times. But the county's most precious resource, Mr. Speaker, is the hard-working and good-hearted people who call Vilas home.

Vilas County has a long and fascinating history. The first pioneers from the East Coast settled in the area in the 1850's, where they found virgin pine timber and plenty of streams and lakes to drive logs down to the mills in the middle of the State. Many more entrepreneurs followed and founded logging, sawmilling and trading towns in Eagle River, Lac du Flambeau, Maintowish Waters, Winchester, Presque Isle, Arbor Vitae, Boulder Junction, St. Germain, Sayner, Land 'O Lakes, Conover and Phelps.

Among these first pioneers was William Freeman Vilas (1840–1908). Mr. Vilas built a prosperous timber, business and served as a University of Wisconsin professor, a cabinet member in the Grover Cleveland administration and a United States Senator. The county was named for Mr. Vilas upon its creation in 1893.

The natural splendor of the sparkling lakes and pine forests of the North Woods draw another industry to Vilas: tourism. Vilas offers vacationing families and dedicated sporting enthusiasts boundless opportunities for hunting, fishing, boating, water and snow skiing, snowmobiling and countless other recreational activities.

Historians believe the Thomas family on Lac Vieux Desert opened the area's first resort in 1882. Once the first vacationers fell under the North Woods' charm, resorts and lodges sprung up all over the county.

Today, logging and tourism are still the driving force behind Vilas' economy. I take great pride in knowing the timber from Vilas goes to every corner of the world, and that pleasure seekers from every corner of the world go to Vilas.

During this anniversary we will look back with pride on the outstanding achievements of the people who made Vilas County the jewel of the North Woods. We will also make this celebration the starting point for another century of progress for all who call Vilas home. Mr. Speaker, I ask my colleagues to join me in honoring Vilas County for its first 100 years and in wishing for a second century of unbounded success.

RESTORATION OF THE HOME OFFICE DEDUCTION

HON. PETER HOAGLAND

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1993

Mr. HOAGLAND. Mr. Speaker, I am deeply concerned about the adverse effect that the recent Supreme Court ruling, Commissioner versus Soliman, will have on the ability of entrepreneurs to deduct legitimate home office expenses. I am in the process of developing legislation to establish a test to determine the eligibility for the deduction that is more reasonable than the test imposed by the Supreme Court. I hope to have the legislation ready for introduction when Congress returns from the August recess, and I intend to press for its inclusion in the first available appropriate legislative vehicle.

I am pleased to see that several Members have already introduced bills to address this issue. Specifically, Representative MFUME, Representative ALLARD, and Representative GRAMS have each taken a different approach to the issue. I look forward to working with them in this effort in developing a consensus position which can be reasonably enforced.

Prior to the Soliman ruling, in order to qualify for the home office deduction, taxpayers had to prove that the home office was the only office, essential to the business, and used regularly—meaning continually and year round—and used exclusively for business. In light of the Soliman ruling, the Internal Revenue Service will now apply three additional criteria: where the most important work of the business is performed, where the most contact is made with clients or customers, and where a majority of the taxpayer's business time is spent.

The effect of these additional restrictions will be to deny the home office deduction for many taxpayers who legitimately operate businesses from their homes. A May 30, 1993 article by Rhonda M. Abrams carried by the Gannett news service illustrates some of the problems:

> A gardener, whose only office is in her home, who spends 20 hours a week there making appointments, ordering supplies, and paying bills, would not be allowed to take a deduction. Neither would a plumber, seminar leader, contractor, or housecleaner, because the most important part of the business, the actual work, is performed outside the home office.
>
> But even if you actually produce your work in your home office, there's still bad news.
>
> If you meet with clients and sell your products outside the office, you may not qualify for a tax deduction, as the IRS may consider sales the most important part of your business.
>
> So watch out—particularly if you're a craftsperson, bookkeeper, or writer.

There have been volumes written and spoken about how vital small businesses, including home businesses, are to economic growth and job creation. Encouraging entrepreneurs to operate their own business, including making allowance for home businesses, is sound economic policy.

Denying deductions for home office expenses is unfair. If a business rents office space, the rent is deductible. But if a business person chooses to operate from an office in the home, performing the same work, then the expenses are not deductible. The Tax Code should not discriminate against home offices.

Home offices are a crucial part of the economy now more than ever. As our economy responds to international competitive pressures and defense budget reductions, large companies are trying to find ways to operate more efficiently. While this is good for the economy in the long term, it the short run it often means a painful loss of jobs. It seems as if every day the news has another story about major employers laying people off. Those people must then turn their talents to another job. Many decide to go into business themselves. The Tax Code must make a reasonable allowance for people who are just getting off the ground and use a part of their home as a place of business.

In most families, both parents work. This is a source of significant stress on the family, both in terms of the financial burden of finding adequate child care, as well as the emotional stress that comes from struggling to make ends meet. Some parents choose to operate a business in the home, which can substantially mitigate those stresses. For working mothers who feel as if they are forced to choose between the career track and the mommy track, a home office may allow them to choose both. Home offices may also provide opportunity for women who are frustrated by glass ceilings. For these and other reasons, one effect of restricting the home office deduction will be to hurt the working families that work at home.

In some cases, a disabled person may choose to operate a home business because their home already affords the facilities to accommodate their disability, whereas establishing an office with the same facilities may be prohibitively expensive. We should not make the Tax Code another obstacle to disabled entrepreneurs.

We must restore a reasonable standard for the home office deduction. There are as many reasons to do so as there are individuals who operate offices in their homes. Preliminary data from the IRS statistics of income for 1991 indicates over 1.6 million taxpayers claimed a deduction for their home office. I urge my colleagues to join me in this effort.

NEARING PASSAGE

HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1993

Mr. DUNCAN. Mr. Speaker, I would like to bring to the attention of my colleagues and other readers of the RECORD an editorial which appeared in the Knoxville News Sentinel today.

NEARING PASSAGE—TOUTED AS DEFICIT-REDUCING, BUDGET WILL INCREASE FEDERAL SPENDING

Under the budget nearing final passage by Congress, federal spending will rise from $1.4 trillion next year to $1.7 trillion in 1998. During that same period the government will, in Lloyd Bentsen's memorable phrase, write $1 trillion in hot checks.

Nevertheless, this is the budget the president and congressional Democrats brazenly tout for its deficit reduction, even though they project deficits of $200 billion and growing five years out. If Washington would just freeze federal spending, the budget would be balanced by 1996.

Of course, Washington won't freeze spending. It can't philosophically or politically or practically. The bulk of the budget consists of mandatory outlays, required by law—such payments as Social Security benefits and health care for the poor and elderly and farm subsidies and military retirement, and what have you. As eligible populations grow, expenditures bulge.

Bowing to the culture of spending, the Democrats' budget trims few nondefense programs; even the infamous honey subsidy and helium reserve survive. And where this budget does purport to slow the growth of programs, such cuts are mostly postponed until the end of the five-year budget plan—until after the end of President Clinton's term.

By contrast, expensive new programs and a 4.3-cent-per-gallon gas tax kick in at once. Sharp income tax increases on the top bracket are actually retroactive to Jan. 1, an unusual if not unprecedented measure. Advertised as fairness by the president, his new taxes will shift billions from private pockets to public coffers, presumably on the theory that government invests and hires more wisely than families and corporations and the many small businesses that file under the income tax code.

The president's budget asks citizens to sacrifice now and to take it on faith that government will grow less later, producing deficits lower than they otherwise would have been. The other benefit the president holds out is a restored economy. But with growth now a sluggish 1.6 percent, tax increases will dampen enterprise and channel energies into sheltering income.

The president maintains that his budget is the first serious attempt to rein in the federal deficit. This too is false. He prefers to forget that deficits were declining in the last Reagan years—and that as recently as 1990 a bipartisan budget summit raised the gas tax and top income tax rates but failed to deliver the projected jobs and deficit reduction.

Americans recognize inflated claims and retread promises. The only way out of the deficit is spending discipline combined with private-sector growth. Tax increases should be the last resort.

THE 1993 NAHRO AWARD OF MERIT WINNERS

HON. BILL ORTON

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1993

Mr. ORTON. Mr. Speaker, since coming to Congress, I have spent a great deal of time and energy working on the issue of affordable housing. Last Congress, as a member of the Housing Subcommittee, I was proud to work with my colleagues to pass a housing bill designed to encourage more flexibility and autonomy at the local level, and to design better Federal programs to meet the overwhelming needs of low and moderate income families and individuals in finding decent housing.

At the same time, as a member of the Budget Committee and as someone greatly concerned about our Federal deficit, I recognize that we have limited Federal resources to address the many housing problems we have. It is becoming increasingly obvious that we must rely on the dedication and innovation of local housing officials and non-profit organizations to use limited resources to solve our problems.

Therefore, I would like to take this opportunity to acknowledge the Housing Authority of the County of Salt Lake and the Utah Department of Community and Economic Development for being 1993 NAHRO Award of Merit winners. NAHRO, the National Association of Housing and Redevelopment, makes these annual awards to recognize the innovative solutions which local housing authorities and community development agencies are using to address their community's special and unique situations.

The State received an award for their Villa Maria project. This project was developed to meet the needs of homeless pregnant women. The State's Department of Community and Economic Development initiated this project by buying an abandoned and boarded-up house from HUD at 40 percent below appraised value. The City's Redevelopment Agency provided a rehabilitation loan, and Catholic Community Service took responsibility for day-to-day operation of the home. Intermountain Health Care provides prenatal care and other services to the women living in the home. In the last year, twenty homeless women have lived in the Villa Maria, 9 babies were born, and 13 women have found permanent housing.

The Housing Authority of the County of Salt Lake was cited for two different activities. Under their Building and Apartment Maintenance Apprenticeship Program, nine housing authority maintenance employees completed classwork and training necessary to achieve journeyman status. This education program was carried out in conjunction with the Utah Home Builders Association and the Salt Lake Community College. As a result of the higher skill level of maintenance employees, the housing authority is more efficient and saves money.

The Housing Authority also received a separate award for their efforts to involve residents of housing authority complexes in ongoing maintenance. As a result, regular call-in and emergency work orders have decreased 20 percent.

What is striking about each of these projects is the participation of a number of sources—public, non-profit and for profit—working together to make the Salt Lake area a better place to live. I applaud these efforts and encourage everyone here in Congress to study how we can direct Federal resources more efficiently to complement these excellent local efforts. In this way, I believe that we can leverage limited Federal resources to the greatest degree possible to meet our serious housing problems.

A CONGRESSIONAL VIEW OF MFN FOR CHINA

HON. EDWARD R. ROYCE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1993

Mr. ROYCE. Mr. Speaker, I would like to insert in the CONGRESSIONAL RECORD a speech DANA ROHRABACHER made on July 29, 1993, at the Heritage Foundation, Washington, DC.

A CONGRESSIONAL VIEW OF MFN FOR CHINA

(By Dana Rohrabacher)

Good afternoon, it is a pleasure to be here with you. I am always happy to participate in gatherings like this one which play such an important role in shaping the debate on issues and ultimately, our policies.

I have been asked to give you my view of Most Favored Nation status for China. Since the Tiananmen massacre, the Congress has essentially split into two camps on how to best approach Beijing, with both sides claiming that their method is the best way to encourage freedom and foster positive change in China.

The two positions can be generally thought of as—an "either-or" debate in which one side favors encouraging China to stop its gross human rights abuses by opposing MFN, and the other side supports MFN in the hope that economic engagement will eventually expand human freedom—this through increased interaction and cross pollination with the West, not to mention economic interdependence that gives the West leverage over decision makers in China.

Both positions are theoretically honest, but these "either-or" alternatives may not provide the best answer.

As you are aware, I have been outspoken in condemning China for its human rights abuses. I have voted against MFN each and every time it has come up. I don't believe that since Tiananmen in 1989, the policy of economic engagement has worked. Tyranny, human rights abuses, continue unabated.

Profits as usual and lipservice to human rights don't count in my book or in their book either. America has to be more than a congregation of 250 million people trying to make a buck. We must stand for freedom as well as profit. My approach so far, confrontation with the hardliners, could well be disruptive—I admit that. Is there a third alternative to "either-or?"

China's economic vitality and potential can't be ignored. I understand that and I realize the positive effect economic development is having on millions of people in China. But new dynamics are being created. The economy of Southern China is growing faster than any other area of the world—in direct contrast to Northern China. In fact, there appears to be the distinct possibility of a split in China, perhaps precipitated by the reversion of Hong Kong. In short, Hong Kong may end up taking over Southern China rather than China taking over Hong Kong.

The fall of this great commercial and financial center will not be tolerated by the party officials and military officers in Southern China. They know that Southern China's economic future depends on a vibrant Hong Kong. You see, the Party bosses and their families run many of the private companies and the Army is involved in capitalism up to its rifle butt.

I appreciate the damage that revoking China's MFN status would do to our own business community, as well as to that of our friends, especially in Hong Kong and Taiwan. And with 8% growth rates and higher—the pain of eliminating MFN would be even more excruciating. Yet, tyranny and oppression also exists on the mammoth scale in China. Decent people cannot turn their heads, even as they put their hands in pockets.

The threat of revoking MFN is essential in keeping their attention during human rights sessions. We have been going through these sessions for over a decade, nevertheless political repression, forced abortions, slave labor, torture, genocide in Tibet and all the rest keep going, on and on. Will China "develop out of it" as many recommend? Certainly, as I say, the threat of revoking MFN has forced these issues to be addressed. But do we have other leverage?

No one can forget that it was President Nixon who altered the nature of the U.S.-China relationship. One should remember that it was done in the context of the Cold War, and during the Cold War there was no need to justify playing one tyrant off against another. Today, of course, those circumstances have changed.

China is a permanent Member of the UN Security Council, a nuclear power, and so on . . . and has to be considered in proportion to its considerable power to affect our interests. China remains one of the top international players on the planet, but we no longer need "the China card" as leverage against a belligerent communist enemy in the Soviet Union. So times have changed, and its time we bring a new card to play. I am suggesting we play the "China card" . . . "The Free China Card."

I am suggesting today that there is an alternative to the "either-or" debate. I believe a strategy for promoting freedom in China must include a new approach to Taiwan, which has made the transition to democracy, and whose 20 million people do twice as much business with the United States as do all of China's billion.

To the degree that the Mainland is less important for strategic reasons, in the wake of the collapse of the Soviet Union, and to the degree that Taiwan has successfully transitioned to democracy—while developing its economy—marks the degree to which we should improve our bilateral relationship with The Republic of China and cool our ties with Red China.

What I am suggesting is that the United States officially move closer to Taiwan as a means of leveraging progress on human rights and democratic reform on the mainland. It is a message that will be understood.

For example, we should support Taiwan's efforts to reclaim a seat in the United Nations, under its policy of "One nation, two seats." We should invite high-level Taiwanese officials to visit Washington. I personally would like to see President Lee make an official trip to the United States. While we do not see China as our enemy, we should openly call Taiwan our friend, and sell it the weapons needed for its defense.

The United States may continue to do business in China, but at high-level meetings our officials can let the communists know that as long as the human rights situation in their country continues as it is, the U.S. will continue to warm our relationship with Taipei.

The Mainland's retaliation, perhaps on a key vote in the Security Council, perhaps in nuclear proliferation, or perhaps on some other matter critical to our interests, must be anticipated, weighed, and taken into consideration as part of our total policy approach to China. As I said just a moment ago, we respect China's power, and we would not jeopardize the critical interests of the United States. But expanding liberty is one of America's interests.

This middle approach of "leverage by degree" through a new flavor in our relationship with Taiwan has great appeal to many of my colleagues in Congress. Taiwan has new friends in Congress, especially the liberal democrats who no longer see it as some kind of pariah, who now, at long last, join conservative Republicans in actively opposing communist tyranny.

Mr. Speaker, let me amplify one of the points Mr. ROHRABACHER made in his remarks above, that is Taiwan's current exclusion from the United Nations. It is an oddity that a nation of 21 million people and a democratically elected government is excluded from the United Nations. The Republic of China is a major economic power, a country with the 20th largest GNP in the world and the 14th largest trader in the world.

The People's Republic of China doesn't represent all the Chinese people. Since the Republic of China was forced to withdraw from the UN in 1971, 22 years ago, there has been no representative in the United Nations to represent the 21 million Chinese people living on Taiwan.

Since 1971 things have dramatically changed. As Mr. ROHRABACHER mentioned in his remarks at the Heritage Foundation, the Soviet Union no longer exists, and the PRC is thought of more as a place where students are massacred than as a counterweight to Soviet imperialism. The Republic of China, on the other hand, is thought of as a beacon of hope, democracy, and prosperity.

I believe that democratic Republic of Taiwan is entitled to UN membership. Re-admitting the Republic of China to the United Nations is consistent with the principle of universality of the United Nations' Charter.

Moreover, the membership precedent set by the two Germanys and the two Koreas clearly pave the way for both the People's Republic of China and the Republic of China to be full-fledged members of the United Nations.

Mr. Speaker, I urge my colleagues to consider the new realties in Asia now that the cold war is over, and to support the Republic of Taiwan's rightful bid to reclaim its seat in the United Nations.

GAYLORD HIGH SCHOOL SYMPHONY BAND HONORED

HON. BART STUPAK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1993

Mr. STUPAK. Mr. Speaker, I rise today to pay tribute to the Gaylord High School Symphony Band, from Gaylord, MI, in Michigan's First District, which I represent. On July 15, 1993, the Symphony band was awarded the "Ehrenpreis der Wien", "Price of the City of Vienna", as the best band at the 22d International Youth and Music Festival in Vienna, Austria. This extraordinary group of individuals came together as one harmonic unit to claim their place among the elite as one of the world's best.

The International Youth and Music Festival is held annually in Vienna, Austria, where countries from around the world area represented. This year's festival included bands, orchestras, and choirs from the United States, Austria, England, Germany, Japan, Scotland, South Africa, and Sweden. Invitations are awarded based on reputation for excellence in performances, earned over a period of many years. The Gaylord Symphony Band has truly earned their reputation as one of the world's elite, winning honors that include: First Division ratings at M.S.B.O.A. District and State Band Festivals, a Superior (First Division) rating at the National Adjudicators Invitational Concert Band Festival in St. Louis, MO in 1989, a Superior—First Division—rating and first place trophy as best band in their division at the Grand National Adjudicators Invitational Concert Band Festival in 1991, an invitation to perform at the American School Band Directors Association's National Concert Band Festival in 1984 and 1985, and, an invitation to perform at the annual Concert Band Symposium at Central Michigan University in 1991. In Vienna, the symphony band, conducted by Ralph Schweigert, received 282 out of 300 possible points, finished ahead of 8 other bands and claimed the grand prize. The band won the additional honor of performing a full-length broadcast concert in the studios of ORF (Austrian National Radio).

Mr. Speaker, the Gaylord High School Symphony Band made not only the community of Gaylord proud, but all of America as well. Ambassadors to the world of music, they stand as a shining example of the success possible in our great nation. I am proud to call these outstanding young individuals my constituents and wish them continuing success in their musical careers.

INTRODUCTION OF CHLORINE ZERO DISCHARGE ACT OF 1993

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1993

Mr. RICHARDSON. Mr. Speaker, today I am introducing legislation that if enacted will, within 5 years, eliminate the use of chlorine and chlorinated compounds as bleaching agents in the production of pulp and paper.

My bill, the Chlorine Zero Discharge Act of 1993, would amend the Clean Water Act to require a reduction to absolute zero of the discharge or release into water of any organochlorine compounds, byproducts, or metabolites formulated as a result of the use of chlorine or any other chlorinated oxidizing agents in the pulp and paper manufacturing process.

I am pleased to introduce this legislation today with the support of my colleagues Henry Waxman, Louis Stokes, Cynthia McKinney, Leslie Byrne, Carlos Romero-Barcelo, George Brown of California, Lane Evans, Elizabeth Furse, Dan Hamburg, Patricia Schroeder, Eleanor Holmes Norton, and Howard Berman.

The use of chlorine and chlorine compounds in the pulp and paper industry is the second largest use of chlorine in the United States and Canada. Chlorine and its compounds are used as bleaching agents to remove residual lignins from wood pulp to make the resulting paper white.

The use of chlorine as a bleaching agent in the production of pulp and paper results in the release of an estimated 1,000 organochlorines in the waste water of pulp and paper mills. The average pulp mill releases 35 tons of toxic organochlorines each day. However, only three of the 1,000 organocholines released are currently regulated by the EPA: dioxin, furan and chloroform. Only the State of Oregon regulates organochlorines as a class of pollutants.

The use of chlorine in the pulp and paper industry is clearly a hazard that must be controlled. We can no longer afford the environmental and economic effects the use of chlorine produces.

A recent report in the Journal of the National Cancer Institute on organochlorines produced as a result of pesticide use found that "environmental chemical contamination with organochlorine residues may be an important etiologic factor in breast cancer."

The increased use of chlorine-free paper by our European economic competitors is decreasing the American share of the paper market and seriously threatening our future economic competitiveness.

Despite claims to the contrary, only chlorine-free paper processes will achieve maximum pollution prevention. Chlorine dioxide, and other chlorine compounds that reduce the levels of dioxin released, still allow 60 percent of organochlorine toxins to pollute rivers, lakes and ground water. A 1992 report issued by the international Joint Commission on the Great Lakes Basin concluded that "the use of chlorine and its compounds should be avoided in the manufacturing process."

Fortunately, alternatives to chlorine and chlorinated compounds do exist. These alternatives include oxygen and hydrogen peroxide pre-bleaching and oxygen-based bleaching including oxygen, ozone and hydrogen peroxide.

In addition to eliminating the environmental havoc wreaked by chlorinated pollutants, eliminating its reliance on chlorine to bleach paper will save industry money. According to industry estimates, installing closed loop bleaching processes that use less water than current chlorinated processes will allow mills to produce paper products for 30 percent less than chlorinated processes. If every paper mill in America had eliminated chlorine and installed closed loop bleaching processes in 1991, industry could have saved 94 billion gallons of water in that year alone.

The oxygen-based alternatives to chlorine bleaches, in addition to being non-toxic, also require approximately one-eighth as much energy to produce. In 1992, 4.8 billion kiloWatt hours of energy were consumed producing chlorine for the bleaching process, much of which could have been saved had the industry been chlorine-free.

In fact, many of these methods are now in use in mills throughout the world for production of numerous types and grades of pulp and paper, including the highest quality market pulp. Twenty-six mills worldwide are now producing totally chlorine-free market pulp, including 17 that make kraft pulp for paper production. Although the majority of these facilities are in Scandinavia, three mills in Canada are now producing totally chlorine-free market pulp, and the Louisiana-Pacific kraft mill in Samoa, California is now producing 250 tons of totally chlorine-free paper per day. Remarkably, two other major American papermakers hold patents for chlorine-free production processes, but have never used them.

Commercial use of chlorine-free paper is slowly rising: the General Services Administration has begun to issue commercial item descriptions which stipulate the use of chlorine-free paper and the State of Texas is currently using a totally chlorine-free paper product as a standard for eight of their procurement standards. In addition, McDonald's has begun to use chlorine-free paper bags for its french fries, and Time Magazine has announced plans to use chlorine-free paper when a suitable supply is available in this country.

By eliminating the use of chlorine and its compounds in the bleaching process, the Chlorine Zero Discharge Act provides a responsible, effective solution to the environmental and economic degradation of chlorine use in the pulp and paper industry. Federal intervention to ensure that the use of these unnecessary, dangerous chemicals is eliminated is necessary to protect the public from potential life-threatening health and environmental impacts.

I urge all of my colleagues to join me in supporting this important health and environmental protection legislation.

FEDERAL PAYMENT FORMULA REVISION ACT

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1993

Mr. STARK. Mr. Speaker, today I am introducing legislation to revise and make permanent the Federal payment formula for the District of Columbia. Unfortunately, since enactment of the legislation that established the Federal payment formula in 1991, the formula has been a matter of confusion and varying interpretation. That is so unfortunate; the intent of that law was to set an equitable and predictable formula for determining the proper compensation to the local government for limitations imposed on the District because of the continuing Federal presence. Undeniably, those restrictions deprive the city of valuable potential revenue.

A Federal payment for the District of Columbia is not a novel concept. Since 1790, the Federal Government has provided funds to support the operation of the local government. For many years that payment amounted to more than 40 percent of the local government's expenditures.

At the advent of Home Rule nearly 20 years ago, the Federal payment stood well over 30 percent. However, throughout the Home Rule era, the percentage steadily declined to roughly 14 percent in 1990. Despite efforts to set formula payment at 30 percent when the 1991 law was debated, in line with recommendations of the Rivlin Commission and others, the Congress settled on a 24 percent figure, helping ensure passage of the bill.

Despite expectations that the 1991 Federal payment formula law would yield a fair and reliable annual Federal payment, it has not. Disagreements over the terms of the law have led to disparate estimates of the amount of the Federal payment. For fiscal year 1994, for instance, calculations have ranged from a low of less than $630 million to a high $800 million. Ultimately the only figure that really counts is the one set in the DC appropriations bill: $630 million.

My legislation seeks to remedy and prevent uncertainty in the future; these are its highlights:

Authorizes Federal payments to the District of Columbia based on a percentage of adjusted District General Fund revenues from other than Federal sources.

The revenue base would be determined from adjusted District General Fund revenues for the second fiscal year preceding the fiscal year at issue, same as current law.

The formula would be permanent, with a sliding scale beginning in fiscal year 1995 to raise the current percentage, 24 percent, 1 percent each year for 6 years, until it reaches 30 percent.

To preclude wild fluctuations in the authorization, caused by local revenue reductions, a floor would be set so that the Federal payment authorized for any given year is no less than the average appropriations for the preceding 3 years.

The District will be required to prepare its annual report so that adjusted District General Fund revenues from other than Federal sources would be identified. The report would be included in the annual independent audit of the District required under current law since 1976.

GAO would continue to review the audited report and certify its findings, as required under current law.

Mr. Speaker, let me emphasize that the Federal payment is not a gift to the District of Columbia. Rather, it reflects the Federal Government's obligation to the local citizenry for services and burdens that go hand-in-hand with this city hosting the seat of National Government. Finally, the formula law merely authorizes funds. The appropriators must balance the authorization against other competing authorizations of Federal dollars. The Federal Payment Formula Revision Act of 1993 proposes to make calculation of that authorization permanent, fair, and more predictable.

ABOLISH MANDATORY MINIMUM SENTENCES

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1993

Mr. EDWARDS of California. Mr. Speaker, the Washington Post has it exactly right in its editorial on August 4, 1993. According to the U.S. Sentencing Commission, mandatory minimum sentences are inconsistent with the Federal sentencing guidelines and they create uncertainty, inequities, and disparities in sentencing. Moreover, they are applied in a racially discriminatory fashion. This is especially true when it comes to crack versus powder cocaine. I have introduced H.R. 957 to repeal all Federal mandatory minimum sentences, and I urge my colleagues to cosponsor it.

The article follows:

[From the Washington Post, Aug. 4, 1993]

SAME DRUG; DIFFERENT PENALTIES

Possession of five grams of crack cocaine carries a federal mandatory minimum sentence of five years without parole for a first offender. But possession of cocaine in the form of powder carries no mandatory minimum sentence at all; offenders could get off with probation. This sentence disparity, mandated by Congress in 1988, is even more egregious than it appears. Crack is the preferred form of the drug in black communities, while powder is more widely used by whites. Three times as many Americans use cocaine in its powdered form as use crack, which is smoked, but there are far more prosecutions for the latter. A representative sample of 1992 federal drug cases prepared by the U.S. Sentencing Commission revealed that all defendants convicted of simple possession of crack during the time studied were black.

What possible justification is there for this tremendous variation in penalty for what is essentially the same offense? Some claim that because the onset of cocaine effects is slower when it is sniffed in powdered form than when it is smoked as crack or injected as liquid cocaine, it is less dangerous. But the substances are pharmacologically the same. In addition, any injectable drug like liquid cocaine carries the risk of HIV infection. There is no logic in making the penalty greater because crack is cheaper and easier to obtain. Nor is the mandatory minimum justified by the fact that crack users commit more violent crimes than cocaine sniffers. Drug possession is one thing, violent crime another.

A more plausible explanation for the disparity lies in crack's emergence as a frightening phenomenon in the mid-'80s. Much attention was focused on its socially disruptive aspects, such as crack mothers—as if coke sniffers were model parents. Crack was new, its use was increasing, and social workers and law enforcement personnel were still mobilizing to address it. Congress took notice and accorded it special treatment.

It's time to reconsider the fairness of the mandatory minimum sentence and to correct it if no justification can be found. The courts are already being asked to intervene on equal-protection grounds. A conference scheduled this month by reform advocates is expected to prompt congressional action. It is not being soft on crime to insist on parity in penalties for the use of what is essentially the same drug in different forms. The statute as written is discriminatory in operation and unjustifiable on its face.

IMMIGRATION REFORM NEEDED

HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1993

Mr. DUNCAN. Mr. Speaker, we are facing a tremendously growing problem in this Nation with illegal immigration. In fact, President Clinton recently announced his support for an immigration reform package, and the House just passed, and I supported, an increase in funding for the Border Patrol.

I do not suppose I have ever spoken in favor of an amendment to increase spending, but I supported this because illegal immigration is at a very serious point now and is going to grow in the future.

An Immigration and Naturalization Service official told me that 187,000 illegal aliens were apprehended at the Mexican border in 1 month alone. There are some estimates that there are three of four times as many coming across as are apprehended. We must correct this very serious problem.

Another situation that I find troubling is that the INS recently conducted a citizenship ceremony in Tucson, AZ primarily in Spanish. This is ridiculous. We must require the Immigration and Naturalization Service to conduct their citizenship ceremonies in English.

In addition, a high school student in San Diego, CA, who recently won a $28,000-a-year scholarship to the University of Chicago, could not produce proof of citizenship to the university admissions office.

It was revealed that the student came to the United States from Mexico 13 years ago and has never been documented.

INS officials have said that because of the student's good grades, he will likely be allowed to stay in the United States. And the university is saying that it will guarantee his scholarship regardless of what INS does.

This student is taking away a scholarship from an American student because the INS is not enforcing the laws that it has sworn to uphold. What kind of message are we sending to the world? Are we saying that it does not matter if you break the law, just as long as you make good grades?

It is just ridiculous that we are spending so much taxpayer money on illegal aliens. A professor at Rice University presented a recent study which shows that we spend at least $12.5 billion on the approximately 5 million illegal immigrants here now. Some estimates are even higher.

We need immigration reform, and we need it now. Hardworking U.S. taxpayers as well as the millions of immigrants who have entered this Nation through the legal process deserve nothing less.

WESTCHESTER COUNTY PRESS HONORED

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1993

Mr. ENGEL. Mr. Speaker, it is with great pleasure that I recognize today the 65th anniversary of the Westchester County Press, which provides issue-oriented coverage of African-American concerns to many residents of my district.

By reporting the news with its unique style and point of view, the Westchester County Press has developed into an integral part of the political and social landscape in Westchester County. The week is surely not complete without reading "Snoopy Allgood" or "M. Paul Tells All".

The current publisher of the paper, M. Paul Redd, purchased the Westchester County Press from Alger L. Adams in November 1968. When Mr. Adams passed away last year, the community lost a man of great spirit and insight.

Thankfully, that spirit lives on within the pages of Westchester County Press, where Mr. Redd and his wife, Orial, have continued and enhanced the legacy of Alger L. Adams.

I congratulate all those who have contributed to the 65 years of success being celebrated at the Westchester County Press, and I wish them many more years of prosperity.

ELSIE GIBBS—PERTH AMBOY HIGH SCHOOL HALL OF FAMER

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1993

Mr. PAYNE of New Jersey. Mr. Speaker, it is not often that we find individuals who have dedicated their entire lives to excellence, caring, and understanding. I am fortunate to know such an individual. On April 30, 1993, Elsie F. Gibbs became the first African-American woman to be inducted into the Perth Amboy, NJ, High School Hall of Fame. Ms. Gibbs' life has included many firsts. She was the first woman chairman of the Perth Amboy Citizens Advisory Board to the Planning Board, first black member of the Perth Amboy League of Women Voters, first black member of the Perth Amboy Planning Board.

Ms. Gibbs has spent most of her life learning about her heritage and sharing what she has learned with family and friends. Although Ms. Gibbs formally retired in 1981 from the YMCA with 32 years of service, she has remained active. She is the volunteer coordinator of the Schomburg Center for Research in Black Culture, where she supervises its 130-member volunteer staff. She was appointed a commissioner of the Schomburg Center by the New York Public Library in 1991. She has been an active member of the NAACP for more than 40 years. I first met Ms. Gibbs through my involvement with the NAACP youth and college chapters when she served as youth advisor. I was pleased when we were reacquainted through our involvement with the YMCA's of America. Her work involved extensive national and international travel to Europe; the Caribbean; and Africa, where she received an award from the YMCA of Uganda for her contributions.

She is a member of the National Urban League, the United Negro College Fund, the National Council of Negro Women, and the National Black Child Development Institute. She also serves on the executive council of the New York Public Library Volunteers. She has received numerous awards including recognition from the Samuel Fraunces Tavern Museum in New York for dedicated service and a certificate of appreciation in 1986 from Hands Across America for taking a stand against hunger and homelessness.

Mr. Speaker, as you can see Ms. Gibbs' successes in her career have been paralleled by her involvement in civic, cultural, and social organizations. These accomplishments were the results of her strong commitment to and deep concern for her community and for the preservation and strength of family life. I am sure my colleagues will want to join me as I congratulate Elsie F. Gibbs on her accomplishments.

INTRODUCTORY STATEMENT BY THE HON. STEVE GUNDERSON THE PRESIDENT'S "SCHOOL-TO-WORK TRANSITION ACT OF 1993"

HON. STEVE GUNDERSON

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1993

Mr. GUNDERSON. Mr. Speaker, I am happy to join Chairman Ford, and others, in the introduction of President Clinton's "School-to-Work Transition Act of 1993." Similar to legislation that Mr. Goodling and I introduced earlier this Congress, this bill is designed to establish high quality, work-based learning programs throughout the United States, that train youth for skilled, high wage careers which do not require a 4-year college degree. As I stated when we introduced our bill in March of this year, establishment of such a school-to-work transition system in this country, would address a serious inadequacy in this Nation's educational system, as well as significantly improve the quality of the U.S. workforce, enabling the United States to better compete in the global marketplace.

Demographic trends, technological change, increased international competition, and inadequacy of U.S. education and training systems have resulted in shortages of skilled workers, and an excess of unskilled, hard-to-employ individuals. Such a mismatch must not be allowed to continue. To add to this problem, a significant proportion of youth graduate from high school with inadequate basic skills and totally lacking in work-readiness competencies. An estimated 17 million workers need remedial education each year. Employers are so concerned, they are spending nearly a billion dollars a year just in basic skills education for their workers. Yet the United States is the only major industrial nation lacking a formal system for helping youth make the transition from school to work. Very little attention is paid in our United States educational system to preparing youth for the workplace.

Like our earlier legislation, the bill being introduced today has the goal of expanding the range of education and career options for the 70 to 75 percent of American youth who will not complete a 4-year B.A. degree. By providing a broad degree of flexibility in establishment of school-to-work systems in States and localities, the legislation builds on successful efforts undertaken by innovative States and communities, while providing Federal guidance on the establishment of a national school-to-work policy. The legislation calls for the development of local partnerships of educators, employers, workers, and students to build high quality school-to-work programs. Under the proposal, school-based and work-based learning are integrated, with students participating in school-to-work programs gaining valuable work experience, under the guidance of a workplace mentor. Finally, students completing this program would receive a high school diploma, a certificate of competency in an occupation, entry into appropriate postsecondary education—where appropriate—and/or entry into a skilled, high-paying job with career potential.

I commend the President and the Secretaries of Labor and Education on their development of this legislation. And, I look forward to continuing our bipartisan work to improve our U.S. work force preparation system.

TAYLOR LAUDS RUTHERFORD COUNTY "EARNING BY LEARNING" PILOT PROGRAM

HON. CHARLES H. TAYLOR

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1993

Mr. TAYLOR of North Carolina. Mr. Speaker, I would like to take this time today to praise the Earning by Learning program in Forest City, Rutherford County, NC, its director Betty Hollifield, the volunteers who helped Betty administer the program, and the children who participated in it.

The Earning by Learning pilot program paid 3d and 4th graders at Forest City Elementary School and Dunbar Elementary $2.00 for each book that they read.

We have seen this program work in other areas of the country and we saw that the children of western North Carolina respond in a positive way, too. I am very proud of each and every child who participated in this program.

Mr. Speaker, almost $3,000 was donated to this program for the 1,396 books that were read by 57 youngsters. Businesses and civic organizations, like the Republican Women of Rutherford County, Haynes-Jones Furniture Co., Liberty Press, and Sara Lee Knit Products also participated in the program.

Reading is one of the most important skills a youngster must have in order to survive in today's world. Adults should act as role models to encourage today's children to be tomorrow's leaders.

The program was administered by Betty Hollifield of Bostic and ran from June 14 until July 23. A monitor quizzed each child after they read a book. If the child passed the quiz, he or she was given $2.00 for each book they read. Betty oversaw the 15 volunteers who helped with this program and oversaw the entire administration of the Earning by Learning program.

My hat is off to Betty Hollifield and the other volunteers without whom this program would not have survived. These folks unselfish efforts went above and beyond the call of duty. They are to be commended by all members of the community for their outstanding efforts.

I encourage other Members of Congress to institute programs similar to this in their districts. I will certainly be encouraging pilot programs like this throughout my district. There is no better experience that we impart on the youngsters of our communities than that of knowledge. We must encourage our children to ready, for they hold the future of our country in their minds.

Mr. Speaker, I have included a list of the volunteers and the participants in this program and the number of books they read. I again commend these unselfish volunteers and these ambitious youngsters.

LIST OF VOLUNTEERS

STUDENTS

Aisha Baxter, Summer Boykins, Crystal Brendle, David Brendle, Roni Bristol, Quentin Bristol, Randi Burns, Robert Carson, Ruth Daniels, Lenny Forman, Alex Gainza, Brandon Hamilton, Sophia Hamilton, Crystal Hamrick, Bucky Higgins, LaKeisha Hill, Shynese Hill, Kellie Hudson, Kandy Isenhour, Christopher Jackson, Danny Jackson, Montray Jackson, Reico Jackson, Tabitha Jackson, Miyako Jones, Scottie Jones, Shan Laney, Christopher Lavendar. Iaisha Littlejohn, Jay Littlejohn, Kevin Logan, Corey Lynch, Shara McEntyre, Kathy McKinney, Kenya Miller, Candra Moore, Brandon Price, Stencil Robinson, Christopher Scruggs, Donta Shelton, Anita Simmons, Brandon Simmons, Kevin Smith, Christy Stott, Christopher Thompson, "Gazz" Thompson, Tyler Thompson, Scotty Turner, Brandon Twitty, Jason Walker, Ashley Watkins, Wendy Whitesides, Maurice Wilkins, Denisa Williams, Don Williams, Josh Williams, Aaron Yelton.

STUDENT VOLUNTEERS

Sherekka Baxter, Tijwana Baxter, Latoya Bradley, John Clements, Julius Hamilton, Melanie Higgins, Shaneeka Lattimore, Claudishu Miller, Dazja Miller, DeWonda Shelton, Lashaad Shelton, Vanessa Ransom.

ADULT VOLUNTEERS

Nichole Allen, Lathelma Becknell, Erma Benedict, Faye Bishop, Lynn Black, Sarah Blanton, Ann Boyd, Jeanna Brooks, Pat Burgin, Philip Byers, Wendell Camp, Deborah Clements, Pat Cowan, Lamar Crisp, Carolyn Gardner, Larry Gardner, Betty Gettys, Gail Good, Dan Gold, Janet Hill, Alice Herring, Betty Lynn Hollifield, Emily Hollifield.

Kate Hughes, Missy Hughes, Latasha Jackson, Amy Jenkins, Susan Lloyd, Peggy McFarland, Herb Myers, Diane Norville, Hicks Norville, Nelda Oalkers, Sheila Padgett, Dana Parkes, Mary Ann Ransom, Joyce Rivard, Jane Ronan, Jane Rucker, Judy Scott, Kristy Scruggs, Vivian Sitton, Dori Taratoot, Lois Toney, Lin Venhuizen, Jerry Whiteside, Carroll Whitesides.

A special thanks to the many people who contributed of their time, money and effort.

A special thanks to: BB&T, Forest City Housing Authority, Supt. of Schools "Buck" Petty and Staff, Dunbar Elementary School, First Industrial Supply, Forest City Elementary School, Haynes-Jones Furniture Co., Liberty Press, Norris Public Library, Rutherford County Transit Administration, Sara Lee Knit Products, The Red Cross Safety Clowns.

TRIBUTE TO MARSHALL UNIVERSITY'S MEDICAL SCHOOL AND ITS STUDENTS

HON. NICK J. RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1993

Mr. RAHALL. Mr. Speaker, I would like to take a moment to recognize Marshall University's medical school and its recent graduates who entered primary care fields. According to an Association of American Medical Colleges report, Marshall's medical school ranked fifth nationally in the percentage of students who became primary care physicians. Twenty-three of Marshall's 54 graduates, or 43 percent, went into primary care fields such as pediatrics, internal medicine, and family practice. Nationwide, only 30 percent of doctors in the United States are in primary care fields.

Given the current health care crisis, the value of general practitioners cannot be underestimated. Because primary care physicians perform regular check-ups and simple in-office procedures, with a focus on preventing health problems, they can provide high quality care while reducing the overall costs of health care. General practitioners are the first line of defense against costly specialized treatments; compare a cardiologist's fee for clearing your clogged arteries on the surgical table to the cost of a preemptive visit to a family doctor who checks your cholesterol and teaches you how to lower it.

Equally important as the Marshall graduates who are primary care doctors, are those who choose to practice in rural areas. A recent survey showed that 25 percent of all Marshall medical graduates practice in towns of less than 10,000 people. These doctors are helping to ease the shortage of doctors in rural areas.

The doctors graduating from Marshall are the kind this Nation and southern West Virginia need. I salute them and Marshall's medical school. I hope that many of these doctors choose to stay and practice in southern West Virginia.

THE AMERICAN WORKPLACE BECOMES FAMILY FRIENDLY TODAY

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1993

Mrs. SCHROEDER. Mr. Speaker, today, the Family and Medical Leave Act goes into effect.

Starting today, American workers will no longer have to choose between their work and families.

Starting today, American workers will have a right under the law to take a job-guaranteed leave without pay in the case of the birth or adoption of a child, or in the case of a family medical emergency.

I would like to alert both workers and employers to learn your rights and responsibilities under the law.

For workers, the group Nine to Five will be sponsoring a hotline to answer any questions about workers' rights and how the law works. That tollfree number is 1-800-522-0925.

For employers, Secretary of Labor Robert Reich is leading the Department of Labor in an extensive public education effort to educate employers on the law and its regulations.

Mr. Speaker, when I first introduced the Family and Medical Leave Act in 1985, workers were afraid to mention family responsibilities, for fear they would be stigmatized as poor or second-rate workers. In fact, workers were more apt to complain about parking spaces than childcare problems.

Today, that all changes and we begin an era in the American workplace where being family friendly is good for business, good for employees, and good for families.

No doubt, over the next weeks, constituents will be asking Members of Congress questions about the family and medical leave law. I am inserting information, prepared by 9 to 5, Working Women Education Fund, to help answer those questions.

FAMILY AND MEDICAL LEAVE—UNDERSTANDING YOUR NEW RIGHTS

The Family and Medical Leave Act, passed by Congress and signed by President Clinton in February 1993, takes effect on August 5, 1993.

Am I eligible?

If you work for a company with 50 or more local employees, have been on the job at least 12 months and worked at least 1,250 hours (about 25 hrs/week), you are eligible. All State, local and Federal employees are covered, as well as anyone who works for Congress.

The law allows companies to exempt the highest paid 10% of employees.

Companies don't have to provide leave to employees in an area where there are less than 50 employees in a 75 mile radius. This means small regional offices of large companies may be exempt. Many companies will want to have uniform policies for all employees, so check with your personnel department if this is your situation.

When can I take this leave?

When you get a new child by birth, adoption or foster care; when you need to care for a spouse, child or parent who has a serious health condition; when you're so sick yourself that you can't perform your job. (see below)

How long a leave can I take?

Twelve weeks per year. For a new child, you have to take the leave all at once unless your employer agrees to a different schedule. For medical problems however, you can work out a more flexible arrangement, if a doctor certifies that is what is needed. You may be able to take a day or week when needed or reduce your workweek or workday.

If you and your spouse work for the same employer and have a new child, you will get a single 12 week period, to split between the two of you any way you like.

How sick does someone have to be to qualify for this leave?

The law defines "serious health conditions" as an illness, injury, physical or mental condition that requires: An overnight stay in a hospital; an absence of more than 3 calendar days of work, school or other regular activities; or continuing treatment by a health care provider. Your employer may require certification of the need for medical leave for yourself or a family member.

Do I get any pay during leave or qualify for unemployment?

The leave is unpaid, so your paycheck will stop. There is no federal government compensation such as unemployment. (Five states do and Puerto Rico do, however, have Temporary Disability Insurance, which provides partial income during your own medical leave; they are Rhode Island, New York, California, New Jersey and Hawaii).

Your employer must continue to pay your health care premiums while you're on leave. If you have a co-pay system, each party continues to pay their part. Employers can opt to continue your group life insurance, accrued vacation and other benefits, but are not required to do so.

If any company already gives me 2 weeks sick leave, do I get an additional 12 weeks?

No. Your employer can count your accrued paid vacation, sick leave and personal-leave days toward the 12 weeks of family leave. If you use three weeks vacation leave and another week sick leave, you're left with only 8 weeks of job protected family leave. Some employers may let you decide whether to include paid leave time as part of unpaid family leave if you prefer, but they are not required to do so.

What happens if I decide not to come back to work after having a baby or being ill?

Your employer can require you to reimburse them for the health insurance premiums they paid during the time you were on leave unless a serious medical problem or other circumstances beyond your control prevent you from returning to work.

What if my state also has a family leave law?

You may use whichever law offers you the greatest benefit. For example Vermont law covers companies with as few as 10 employees to give up to 12 weeks for serious illness. Connecticut offers 16 weeks every 24 months. If you have a baby in 1994, you may be able to take leave under federal law. You'll need to know your rights to get the best arrangement.

Where do I call if my employer denies me leave or a job to come back to?

When you are ready to return from leave, your employer is required to give you the same or equivalent position, in terms of pay, conditions of employment and benefits.

If you are denied leave or return to employment, contact the nearest office of the Wage and Hour Division of the US Dept. of Labor. Look in the government listings of your phone book under US Government, Dept. of Labor, Employment Standards Admin. You also have the right to bring a civil case against your employer in state court to get reinstatement, lost wages and attorney's fees.

CONSERVATIONISTS MOURN THE LOSS OF TWO OF THE WORLD'S LEADING TROPICAL BIOLOGISTS

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1993

Mr. PORTER. Mr. Speaker, I rise today to give tribute to Theodore A. Parker III and

Alwyn Gentry, Ph.D., two of the world's preeminent field biologists, who died in an airplane crash in Ecuador on August 3. Parker and Gentry, founders of Conservation International's Rapid Assessment program [RAP], were on a RAP reconnaissance trip when the crash occurred. They were doing an aerial survey of the coastal area of Ecuador, 350 miles southwest of Quito. Two other people died in the crash, including Eduardo Aspiazu, president of the Guayaquil Chapter of Fundación Natura. Three others survived.

Parker, 40, was the RAP team leader and a senior scientist for Conservation International. Considered the world's leading field ornithologist, Parker was known for his unique ability to identify nearly 4,000 species of birds by their sound alone. His knowledge was not limited to birds; he was an expert on all neotropical biodiversity.

Gentry, 48, senior curator of the Missouri Botanical Garden, was equally revered for his botanical knowledge of South America. He collected an unprecedented 70,000 herbarium specimens during his lifetime. His understanding of woody tropical plants, a subject about which he had recently published a major volume, was unsurpassed.

In the words of Conservation International president Russell Mittermeier, Ph.D. "Ted and Al carried two-thirds of the unpublished knowledge of neotropical biodiversity, especially the tropical Andes, in their heads. We have lost friends and colleagues whose invaluable biological and conservation knowledge is irreplaceable. Ted and Al knew firsthand what others only theorized." Mittermeier had known both men for more than 20 years.

"Both men were conservation pioneers. Together, they were an unmatchable reservoir of knowledge. Their contribution to science has long been recognized. But what made them special was how they applied their knowledge to the cause of conservation. Their deaths are an enormous setback for the world's wild places." said Peter Seligmann, Conservation International's chief executive officer and chairman of the board.

The Rapid Assessment Program, started 4 years ago at Conservation International to inventory the biodiversity of previously unmapped areas in the tropics, was the perfect platform for Parker's and Gentry's talents. Their findings and recommendations in the countries where they worked as RAP team members have already resulted in major conservation programs. For example, the World Bank, the U.S. Agency for International Development and several developing country governments have used their assessments as the basis for the creation of new protected areas.

Mr. Speaker, these men were true conservation leaders and will be sorely missed by their colleagues and the scientific community as a whole. Their legacy to the world is the knowledge they shared and the passion they inspired in all of us to protect the future of both man and nature.

INTRODUCTION OF THE NUTRITION LABELING AND EDUCATION ACT AMENDMENTS OF 1993

HON. THOMAS J. BLILEY, JR.

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1993

Mr. BLILEY. Mr. Speaker, I am pleased to join my colleagues in introducing this bill to provide a limited exemption from the Nutrition Labeling and Education Act [NLEA] for small food manufacturers. This bill is the results of months of negotiation with members of both the House and the Senate and the affected members of the small business community. While the bill does not go as far as I had hoped, it does remedy an important oversight in the crafting of the original statute. It provides an appropriate balance between making nutrition information available to consumers and the ability of small businesses to provide this information.

In 1990, the Nutritional Labeling and Education Act [NLEA] was enacted into law requiring nutrition labeling on the vast majority of food products. The NLEA does not provide for any exemption from the nutrition labeling requirements for small manufactures. The labeling requirements of the law go into effect on May 8, 1994. While the NLEA does provide an exemption for only small retailers, the FDA did issue regulations extending it to small manufacturers. Thus, it is important that this matter be addressed very quickly in order to protect those companies who have reasonably relied on this regulation.

Preliminary FDA data suggests very small firms will bear nearly half the cost of nutrition labeling—approximately 45 percent. Hearings conducted by FDA on this subject provided substantial testimony that small firms which produce low volume products, with multiple product lines, will not be able to afford nutrition labeling on a per product basis. This is especially true for confectioners and for the speciality food industry where most of the marketing and advertising is done via their labeling and packaging. The initial average cost of labeling a product is about $3,000. These companies have argued that they intend to nutrition label their products eventually for competitive reasons, but simply need more time to comply.

A brief description of the bill is outlined below:

Until May 8, 1995, the exemption as described by FDA stands—thus, manufacturers as well as retailers with gross annual sales of less than $500,000 qualify for the exemption. As a result, manufacturers who have reasonably relied on FDA's statements will not be disadvantaged. After May 8, 1995, this exemption is only available to retailers.

A new phased in exemption from the requirements of NLEA will be made available on an annual basis for small manufacturers based on the number of employees and the number of units of a particular product that is sold. After May 8, 1997, the Exemption will be fully phased in on a product-by-product basis for persons that employ fewer than an average of 100 full-time equivalent employees and that sold less than 100,000 units in the United States in the preceding 12-month period. For new products, manufacturers need only reasonably anticipate that they will sell fewer than 100,000 units during the exempt period. The exemption will be phased in as follows beginning on May 8, 1994:

> For the 12-month period preceding May 8, 1994, the person claiming the exemption for the product employs fewer than an average of 300 full-time equivalents and sold fewer than 600,000 units of the product in the U.S.
>
> For the 12-month period preceding May 8, 1995, the person claiming the exemption for the product employs fewer than an average of 300 full-time equivalents and sold fewer than 400,000 units of the product in the U.S.
>
> For the 12 month period preceding May 8, 1996, the person claiming the exemption for the product employs fewer than an average of 200 full-time equivalents and sold fewer than 200,000 units of the product in the U.S.

If during the 12-month period, the person claiming the exemption exceeds either the unit or employee limit, the person will have 18 months in which to come into compliance with the statute.

Companies claiming the exemption must file a notice with FDA; the exemption is not contingent on any FDA action or approval. An exemption from the Notice requirement is provided for individuals if they are not importers, have fewer than 10 full-time equivalent employees, and sell fewer than 10,000 units of any food product in any year.

The exemption notice must include: the average number of full-time equivalent employees in the prior 12 months; and the approximate number of units sold in the United States—or if a new product, a reasonable estimate of what number is expected to be sold.

Numerous highly technical changes to the Food, Drug and Cosmetics Act which make no substantive modifications in law.

TELEVISION VIOLENCE REDUCTION THROUGH PARENTAL EMPOWERMENT ACT OF 1993

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1993

Mr. MARKEY. Mr. Speaker, I rise today to introduce the Television Violence Reduction Through Parental Empowerment Act of 1993 which will give parents the power to block from their homes, and from their children's viewing, television programs which contain harmful depictions of violence. I am very pleased to be joined in the introduction of this most important piece of legislation by Mr. DINGELL, Mr. FIELDS, Ms. MARGOLIES-MEZVINSKY, Mr. OXLEY, Mr. SLATTERY, Mr. HASTERT, Mr. COOPER, Mr. GILLMOR, Mr. SYNAR, Mr. SHEPHERD, and Ms. SCHENK.

Televised violence is ubiquitous and insidious. Even the most conscientious parents are often powerless to monitor their children's viewing all week long, leaving them susceptible to the excessive level of murder and mayhem that comes over the air and through the cable. Not only are young children exposed to graphic images of violence and death, but they see these images over and over and over again. By the time they finish elementary school, the average child has witnessed over 100,000 acts of violence and 8,000 murders according to the American Psychological Association.

And make no mistake about it, the violence children watch on television is anything but benign. The scientific evidence is in and is indisputable: Watching television violence as a child leads to increased aggression and violent behavior, and the effects last over a lifetime. In fact, three Surgeons General, the National Institute of Mental Health, and the Centers for Disease Control, American Medical Association, and the American Academy of Pediatrics have concurred for nearly 20 years as to the deleterious effects of television violence on children.

It is time for Congress to act. Parents are demanding action. They want the television industry to reduce the level of violence, on broadcast, cable, and satellite television. But this time they want more than promises. They want the power to protect their own children, in their own homes. And they want the power to do so even when they are not at home.

Parents want to counter a violence-laden ratings sweep, such as the one we had in May, with a sweep of their own. The V-chip technology proposed in this legislation allows parents to sweep out the excessive violence images from the TV screens at home, to screen their children from the harmful effects of televised violence.

In this way, parents are given the power to send a message directly to the industry. The Government will not be involved. This is the most democratic of initiatives—it gives the heartland the power to combat the excessive violence contained in programs like "Murder in the Heartland."

Today, with the introduction of the Television Violence Reduction Through Parental Empowerment Act, a broad bipartisan coalition of Members of Congress are acting to empower parents to protect their children from the tide of violent images that invades their living rooms every night.

This legislation contains two requirements:

First, TV sets must be capable of blocking programs based on a violence rating or advisory sent electronically by the broadcasters or cablecaster on line 21 of the vertical blanking interval; and

Second, TV sets must be capable of blocking the display of programs or time slots as well as channels so that parents can block any individual program even if it does not carry an advisory.

It is a fact of life that millions of kids no longer come home to mom or dad and a peanut butter and jelly sandwich after school. Millions of children in this country do not have direct parental supervision for a good portion of the day. Often they fill this time watching television. This is a fact of life. We need to deal with the situation as it really exists, not as we might like it to be. The television industry has a responsibility to help parents block violence—and to stop blocking parents.

Today we are calling on the broadcast, cable, and satellite industries to assist parents by sending, electronically, the advanced parental advisory for violence. This is the only way that parents can simply, easily, and effectively block out all programs rated violent by the industry and protect their children from watching these programs even if the parents are not in the room to supervise.

This legislation will fully protect the First Amendment rights of producers, writers and directors; and it will also protect the rights of parents to decide what their children watch on television. The Television Violence Reduction Through Parental Empowerment Act strikes the proper balance between these delicate interests.

This legislation is not a substitute for other important efforts to reduce epidemic levels of violence in society. There are many complex factors that contribute to the violence that invades our culture. Research has shown, however, that television plays a very significant part in creating this culture of violence—a culture where children learn that violence is no longer a last resort, but a first response to resolving conflicts and solving problems.

Television violence is only one part of the problem—and it can only be one part of the solution. But we can make progress on this remedy with the bill I am introducing today, the Television Violence Reduction Through Parental Empowerment Act of 1993.

The proposal for V-chip technology has received widespread support from television industry leaders, newspapers editors, public health professionals, and civic organizations as is indicated in the following statements I am including in my remarks. In particular, I would like to call to the attention of my colleagues the supportive comments of Newton N. Minow, former FCC Chairman, in the August 3, 1993, edition of the Wall Street Journal. I have also included the full text of this article in my remarks.

WHAT PEOPLE ARE SAYING ABOUT REP. MARKEY'S V-CHIP PROPOSAL

FORMER FCC CHAIRMAN

Newton Minow, the Wall Street Journal, August 3, 1993: "Today, a simple, inexpensive and readily available computer chip, if built into a TV set, could provide a technological answer * * * The Chip would exponentially expand the power of the remote control, making it possible for parents to lock out programs unsuitable for children. But if millions of other parents chose to block out [programming rated as violent], what concern is that of broadcasters, who for years have insisted that the public interest is whatever interests the public? * * * It is time we used the First Amendment to protect and nurture our children, rather than as an excuse to ignore them."

TELEVISION INDUSTRY LEADERS

Ted Turner, Chairman, Turner Broadcasting System, Inc.: "We are happy to strongly support your call for industry-developed violence ratings combined with a chip in television sets that would allow parents to block out violent programming. This approach will give parents a realistic chance to control their children's viewing."

John Hendricks, Chairman and CEO, Discovery Communications, Inc.: "Our company supports your two-pronged approach to addressing the problem of violence exposure to children. Your approach is not to, in any way, censor our cherished right to free expression but it is simply to devise effective methods that enable and empower parents to use television more responsibly for the ultimate benefit of our society."

Winston Cox, Chairman and CEO, Showtime Networks, Inc. and Chairman of the NCTA's Satellite Network Programmers Committee: "What we are talking about here is the presence of violence on television, because as television expands to 500 channels it becomes a much more pervasive delivery medium. We must provide adequate controls over access, and that is why I am very supportive of your proposal. The proposal recommends that the television industry adopt and implement a unified ratings system to give viewers the information they need to make informed viewing choices. The proposal would also mandate that new television sets contain technology capable of blocking out selected programs or channels. We support these two concepts."

Nickolas Davatzes, President and CEO, A&E Network: "You can be assure the A&E is prepared to participate in the development of an industry-wide ratings system * * * and also support the implementation of "blocking chip" technology that would enable parents to prevent their children from viewing violent programming."

EDITORIALS

Mortimer Zuckerman, Editor-in-Chief, U.S. News and World Report, August 2, 1993: "The alert system is no more than a beginning, a recognition but not a resolution. The minimum next step is to take advantage of the technical capacity to manufacture TV sets with a computer chip that will allow parents, unilaterally, to block off programs carrying the V ratings—just as we now mandate sets to help the deaf. And with that should go an earnest effort by the creative controllers to take the V out of much more of their television."

Chicago Tribune, July 6, 1993: "The network's advisory system addresses only one-half of a solution to the TV violence dilemma: the need for information * * * Congress can supply the essential second half of the solution, however, by requiring manufacturers to give parents the power to block out shows they feel are unhealthy. After that, the consumers must let broadcasters and cable companies know, by their viewing choices, if indeed they want less violence on TV."

The Miami Herald, July 1, 1993: "The warnings will give viewers, especially parents, a modicum of control over what comes into their homes. The better solution would be a technological means for parents to block out offensive programs and channels. If viewers zap enough overly violent programs, broadcasters will have even stronger reason to zap them first—before the mayhem and gore get on the air."

The New York Times, July 1, 1993: "Mr. Markey says he'll continue to press for the installation of a computer chip in all new television sets. In this age of the two-paycheck family, parents aren't always around to monitor their youngsters. With that chip they could block out shows they didn't want their children to see. Mr. Markey is right to pursue. "Some things aren't suitable for children' may be an old saw, but it still cuts true."

PUBLIC HEALTH PROFESSIONALS AND OTHERS

Dr. Robert E. McAfee, President-Elect, American Medical Association: "Measures which should be considered [by Congress] include requiring newly manufactured television sets, to the extent technologically feasible, to be equipped with a microchip that would give parents the ability to block out violent programs."

Mr. Williams S. Abbott, President, National Foundation to Improve Television:

"We strongly support this initiative of Chairman Markey. The introduction of such an industry-initated ratings system and the accompanying technology would allow millions of concerned, but not omnipresent, parents to exercise more responsibility in their supervision of their children's viewing."

Joe M. Sanders, Jr., Executive Director, American Academy of Pediatrics: Rep. Markey's measure, in conjunction with increased educational and instructional programming and continued parental supervision, should help control the hazardous effects of violent television on children * * * we support the concept as an innovative solution that is consistent with our goal to increase parental control of television.

[From the Wall Street Journal, Aug. 3, 1993]

HOW TO ZAP TV VIOLENCE

(By Newton N. Minow)

Television producers, writers and network executives met yesterday in Beverly Hills with parents, psychologists and public officials to talk about television violence and its effect on children. This meeting of warring camps came after both houses of Congress held hearings on the subject this spring, and only a month after the television networks announced that they will begin labeling programs to alert parents to their violent content.

As expected, this "consciousness-raising" seminar, led by ABC's Jeff Greenfield, was strong on hand-wringing and soul-searching, was studiously polite and unusually educational. But it didn't go far enough. Few people seriously believe that the proposed warning system is equal to the problem, and most people think it will make the problem worse by drawing attention to especially offensive programs.

Nonetheless, the conference participants managed to tiptoe around the prospect of further action. And little wonder. Anyone who proposes doing anything more to curb violence is almost certain to be shouted down as a censor. This refrain is already de rigueur in the television industry, and Congress is understandably reluctant to get into the standards-and-practices side of television programming. Even many parents who think television violence is excessive are uncomfortable with judging speech.

They shouldn't be. If we really cared about our children, invocations of the First Amendment would mark the beginning, not the end, of such discussions. For more than a quarter century the Supreme Court has recognized the need to protect children from expression intended exclusively for adults. But providing such protection has proved especially difficult in broadcasting, which, unlike the magazine rack or the video store, cannot be partitioned or its contents hidden in a plain brown wrapper. Commenting on the broadcast industry's cynical demand that parents be ever vigilant against offense. Justice John Paul Stevens once wrote: "To say that one may avoid further offense by turning off the radio when he hears indecent language is like saying that the remedy for an assault is to run away after the first blow."

Today, a simple, inexpensive and readily available computer chip, if built into a TV set, could provide a technological answer to this old constitutional dilemma. The chip would exponentially expand the power of the remote control, making it possible for parents to lock out programs unsuitable for children, provided only that such programs are transmitted with a code that labels them as such. When Massachusetts Rep. Edward Markey suggested that the chip be a required component of all television sets, broadcasters disdainfully dubbed this lock-out technology the "v-chip" and equated it with censorship.

More likely is that the v-chip might chip into advertising revenues. After all, these are the same broadcasters who for generations have insisted that the responsibility for children's television belongs with parents, whose sole power resides in their control of the on-off switch. Now that a truly effective switch exists, the entertainment industry is indignant. "I'm opposed to a single button that can block out a whole program day or a single program week," said Motion Picture Association of America President Jack Valenti. Fox TV Chairman Lucie Salhany argues: "Quite frankly, the very idea of a v-chip scares me. I'm also very concerned about setting a precedent. Will we have an 's-chip' [for sex]?"

The real question is what kind of programming is appropriate for children, especially the millions who watch with little or no adult supervision. The best answer is simply to rate all programs in much the same way motion pictures are rated, thereby notifying parents of a program's suitability for children. Such ratings should apply to all broadcasters and all cable programmers.

Rating programs is not censorship—far from it. Indeed, when combined with lock-out technologies, a ratings system would actually extend the reach of free expression on television, allowing adults to watch whatever suited them while effectively eliminating children from the audience. Parents would still have to go to the trouble of locking out undesirable programs, and doubtless many would continue to neglect their primary responsibility of monitoring what their children watch. But if millions of other parents chose to block out "America's Most Wanted" or "NYPD Blue" (ABC's steamy new police drama), what concern is that of broadcasters, who for years have insisted that the public interest is whatever interests the public?

At bottom, the v-chip controversy is illustrative of the fact that while the "public interest" is supposed to be the guiding principle behind television regulation, neither Congress, the television industry nor the public itself has ever been clear on just where that interest lies. The debate over televised violence offers an opportunity to rethink the question at a propitious time, as television is being transformed into a new, interactive medium.

Those meeting yesterday in Beverly Hills had the first opportunity to address these essentially moral questions in a serious way. Even if their effort fell short, the discussion they began must not be allowed to close with the conference. It is time we used the First Amendment to protect and nurture our children, rather than as an excuse to ignore them.

PHILADELPHIA AMBASSADOR'S CHORALE AND ENSEMBLE WELCOME TO THE NATION'S CAPITOL

HON. LUCIEN E. BLACKWELL

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1993

Mr. BLACKWELL. Mr. Speaker, on Thursday July 15, 1993, the American Folklife Center at the Library of Congress presented an outstanding program of African American sacred music that was performed by the Philadelphia Ambassadors Chorale and Ensemble, under the direction of Ms. Evelyn Simpson-Curenton. The program was part of the Library's Annual Neptune Plaza Concert Series. I have learned that gospel concerts have been among the most popular in the series each year.

I am proud to inform my colleagues that the Library graciously invited me to meet, greet and introduce the Ambassadors. As a long time champion of black sacred music traditions, I accepted the invitation and was welcomed to the concert by the Librarian of Congress, Dr. James Billington; Deputy Librarian, Danielle Mulhollan; and by Associate Librarian for Cultural Affairs, Carolyn Brown. Mr. Speaker, the Ambassadors were warmly received by a standing room only audience, including Library staff, other Capitol Hill employees and visitors from near and far. In fact, one family visiting from Czechoslovakia attended the entire concert.

Mr. Speaker, I think it is especially important for the Federal Government to promote and celebrate culture and artistic traditions.

My remarks given at this exhilarating concert and the program commentary produced by the Library of Congress' American Folklife Center follows:

STATEMENT OF CONGRESSMAN LUCIEN E. BLACKWELL, JULY 15, 1993

Dr. Billington and friends, it is a pleasure for me to present the Philadelphia Ambassadors Chorale and Ensemble. This group, from my home town, is directed by a composer; an arranger; a pianist; an organist and vocalist; and a graduate of Temple University, Ms. Evelyn Simpson Curerton. You are about to be treated to delightful musical offerings by an outstanding and remarkable group of young adult musicians. Their music is not just entertaining, it is informative and educational. From the dark days of slavery, through the highs and lows of the twentieth century, to modern day, these multi-talented musicians trace the history and development of African-American sacred music, like none other. You will hear the rhythm of African chants; be inspired by soulful spirituals; be amazed by the a capella harmonies; and tap your feet to the gospel selections.

Spiritual songs have always been a part of the African-American heritage. They have carried us through good times and bad.

It is, therefore, with great pleasure that I ask you to join me in a warm welcome of the Philadelphia Ambassadors Chorale and Ensemble. Thank you.

THE PHILADELPHIA AMBASSADORS CHORALE AND ENSEMBLE

African slaves taken from their homeland retained and passed on to their descendants many of their cultural expressions, among them the rhythmic patterns of the music from their homeland. In the United States, these patterns were combined with Christian imagery and European hymnody to create one of the oldest forms of African-American sacred music, the spiritual. The spiritual dates back to the period of the Great Awakening (the 1790s), when traveling Baptist and Methodist ministers held large camp meetings throughout the countryside in an effort to reach poor whites and blacks. The spiritual grew directly from the camp-meeting song tradition. When the first black churches were formed during the late eighteenth and early nineteenth centuries, spiritual songs become an important part of the services.

Spirituals gained a broad appeal and recognition during the mid-nineteenth century with the publication of several collections of slave music and the performances of black college choirs like Fisk University's Jubilee Singers, who brought spiritual songs to the concert halls. Yet as the spirituals were gaining popularity in the secular world, in the black Christian church they were being replaced by gospel.

Gospel's development is linked to the great migration of blacks from the rural South to the urban centers in the North during the later part of the nineteenth century and the early twentieth centuries. Gospel rose out of a religious fundamentalism that developed in urban centers to address the spiritual need of southern transplants. It combined the characteristics of spirituals and jubilee (songs of celebration) with the rhythms, scales, and instrumentation of jazz and blues.

The popularity of this musical form is largely attributed to Thomas Dorsey and his mentor, Rev. Charles Albert Tindley. Thomas Dorsey, often referred to as the "father of Gospel," was a Georgia-born blues pianist who blended blues, ragtime, and church songs into what he called "gospel music." Reverend Tindley was a charismatic and influential Methodist minister who was very active in Philadelphia during the early part of this century. Tindley and many of the members of his congregation were among the thousands of southern rural blacks who migrated to northern cities in search of new opportunity. Reverend Tindley wrote his sermons and music to inspire his people to persevere through the day-to-day struggle and hardships of urban life. After hearing Tindley's music, Thomas Dorsey devoted the next seventy years to composing and promoting gospel music.

African-American sacred music has always been an integral part of the Neptune Plaza Concert Series. Through the performances of talented artists such as the late Pearl William Jones, the late Mattie Johnson and the Stars of Faith, Prophecy: Cops for Christ, the Southneers, and the McCollough King's of Harmony, the series has presented a variety of sacred music styles from spirituals to contemporary gospel. On July 15, the series will present the Philadelphia Ambassadors Chorale and Ensemble, whose performance will trace the history and development of African American sacred music from slavery to modern times. Under the direction of musician and composer Evelyn Simpson-Curenton, the Philadelphia Ambassadors will perform a range of African-American sacred musical traditions, including rhythmic African chants, soulful spirituals, and capella harmonies of jubilee, and inspiring gospel selections by composers Charles Albert Tindley and Thomas A. Dorsey.

The performers include: Director, Evelyn Simpson-Curenton, Sheila Booker, Marla Cornell, Diane B. Davis, Constance Dorsey, H. Walter Early, Sharon Green, Gloria Ingram, Marie Jervay, Leamon Monk, Carolyn B. Payne, Joseph Simpson, Melvin Simpson, Sr., Robert Washington, and Frank Wells.

TRIBUTE TO BENJAMIN MEAGROW

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1993

Mr. GILLMOR. Mr. Speaker, it is a special pleasure to rise today to pay tribute to 15-year-old Benjamin Meagrow, of Norwalk, OH, who has earned the rank of Eagle Scout and will have a presentation ceremony in September.

I wanted to particularly mention Benjamin's Eagle Scout project which was remarkable for its scope and usefulness. His work, which had to benefit his school or community, consisted of wire brushing off loose paint and totally repainting the metal support structure and boards on seven sets of bleachers at Norwalk Middle School. After the repainting was finished, Benjamin and his father replaced boards in the bleachers which were rotted or broken. His project took 5 weeks to complete and accounted for 226 hours of manpower donated by 41 fellow Boy Scouts, friends and family members, including his grandparents.

Benjamin is now an honor roll student at Norwalk High School and is taking advanced courses. He also plays on the school golf and tennis teams. At a time when we so often read negative news of our young people, it is a pleasure to bring to the attention of my colleagues Benjamin's splendid example of thoughtful citizenship.

I offer his parents, Terry and Sandra Meagrow, my very best wishes on their son's achievements. And to Benjamin himself, I wish I could be there personally as you receive the coveted Eagle Scout Award for your hard work and dedication to your community.

PRESIDENT POISED TO BEGIN OFFENSIVE MILITARY OPERATIONS

HON. TOBY ROTH

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1993

Mr. ROTH. Mr. Speaker, the President is poised to begin offensive military operations in the Balkans. U.S. air, naval and ground forces are assembled in the Adriatic. Hundreds of Americans are already in Bosnia, Croatia, and Macedonia. Thousands more are close by, ready for military action.

At NATO Headquarters in Brussels, our diplomats and military planners are hammering out the final details of when and where to attack. Although the British, French, Germans, and our other allies have been consulted, the Congress has been told very little about the military operation that is being prepared. There was a briefing yesterday, but we learned very little, other than to confirm our worst suspicions.

There is no more serious business than going to war. And make no mistake, if we start hostile military operations in the Balkans, it will drag us into that war. But the President has not consulted Congress. In a few hours, Congress will adjourn for a month. If the President orders an attack while Congress is gone, the Congress will not be able to speak up for the American people, whose sons and daughters, husbands and wives, fathers and mothers will carry out this operation. If offensive military action starts next week, or any time later this month, the American people will have no way to affect the decision. That is the job of Congress—to speak and act for the people.

But next week, we will be silenced by the recess. To send a signal to the President, today I have introduced legislation requiring him to obtain specific congressional approval for any offensive military action in the Balkans, before it commences. Specifically, it requires an act of Congress before any U.S. military personnel are sent into hostile action in any part of the former Yugoslavia.

Last night, some of us tried to open the debate on the President's Balkan policy, but the majority leadership blocked this effort. By introducing this bill, I am giving voice to all those Members, and all those Americans, who do not want us involved in the Balkan civil war without a full debate in Congress and a vote by the people's representatives.

If we are going to war in the Balkans, then the President owes the American people a clear statement of why this is justified, what he wants to achieve, and how he expects to get us out of the Balkans. This is the time to debate the President's policy in the Balkans.

As the House meets here today, American officials, acting under the guise of NATO, are ready to launch air strikes against the Serbian forces around Sarajevo and in parts of Bosnia. But there will be no debate in this House.

What happens during the next 4 weeks, when Congress is out of session? How will the Congress be able to debate this policy once the airstrikes begin?

Supposedly, the President's policy is aimed at breaking the siege of Sarajevo. But anyone with any military background knows that airstrikes alone cannot protect a city—you need ground troops. The President's men claim there is no plan to send in ground forces. If that is true, what do the airstrikes really accomplish?

Serbia has 235,000 men under arms, with 10,000 encircling Sarajevo, armed with artillery, tanks, and other heavy weapons. So, we are about to become directly engaged in this civil war, just as the Serbs are about to complete their conquest of Bosnia.

What can the President hope to accomplish? The truth is, our Government has no clear goals, no strategy for success, and no plan for getting out, once we are in. Those were the preconditions that the Secretary of State established in April for any United States role in the Balkans. Has he forgotton his own advice, or did the President just not listen?

Meanwhile, there are some 700 Americans in the Balkans—in Croatia, in Bosnia, and in neighboring Macedonia, which is the next likely target for the Serbian Army. In Macedonia, the President has deliberately put 300 American soldiers in as a tripware, presumably to trigger a bigger military involvement if the Serbs attack. At the same time that our troops sit in the mountains of Macedonia, we are moving to cut Macedonia's trade with Serbia.

Now, when the airstrikes begin and the Macedonian border is sealed, what do my colleagues think will be the Serbian response?

American troops will be the targets, and after we suffer casualties, we will either have to pull them out, or we will have to send more troops. If we pull out, we leave our allies committed militarily, after we dragged them in. What, then, will be their attitude toward President Clinton and the United States? But if we sent more troops, it will become America's war. This policy is a prescription for disaster. Macedonia is as much a danger zone as Bosnia. Serbian leaders are claiming that Macedonia is part of Serbia.

Some of us have been pushing for clear answers to some basic questions about what we are doing in Macedonia: If the mission of our 300 troops is to be a tripwire, what exactly does that mean? Does the President want them to be attacked, so he can send in reinforcements? If not, then who will defend our troops? What are the rules of engagement for our troops? Are they allowed to defend themselves if challenged, or are they supposed to surrender as the U.N. commander—a Danish general—has stated publicly?

Recently, I wrote to President Clinton, asking these questions. I was surprised to get a direct response from the President, but his letter raised even more questions. The President wrote to me that he has a plan to defend our troops in Macedonia if they are threatened.

Well, what is that plan? Does the President intend to send more Americans to reinforce our troops in Macedonia? Doesn't that get us more involved in the Balkans? Won't we then become responsible for defending Macedonia? And why are we committed to defending a country that we don't even formally recognize as independent?

Mr. Speaker, for many of us, the memory of the Beirut massacre of 241 Marines is still fresh and painful.

Some of us have read the history of how the Balkans triggered World War I. Some of us recall Bismark's remark that a world war would be caused by some problem in the Balkans. Our Government should not prove him right again. Today, we have hundreds of Americans in the Balkans, and we have thousands more ready for military action. Our forces have been drawn together, just like the guns of August 1914. The President's course is fraught with peril, without any clear goal or strategy. There is now a real chance that we will see a repetition of the Beirut tragedy, and perhaps a wider war in Europe.

The American people want and deserve a complete debate by their Congress, before Americans enter the Balkans civil war. The President must submit his plan to Congress and obtain its approval before getting us into the Balkan civil war.

That is the purpose of my resolution. If the President allows us to be dragged into a war in the Balkans, many Americans will be killed, the cost will be great, and whatever chance there is for peace in that troubled region will be lost.

To me, there is only one sensible course for the United States: stay out of the Balkans. For the country's sake, the President should come to Congress and make his case, so the American people's voice can be heard.

THE 1973 HIGHWAY SAFETY ACT: ONE OF CONGRESS' FINEST HOURS REMEMBERED

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1993

Mr. OBERSTAR. Mr. Speaker, August 13 marks the 20th anniversary of the enactment of the Highway Safety Act of 1973 (P.L. 93–87). As one present at the creation, I don't want this date to pass unnoticed. We heirs and custodians of the Highway Safety Act can take justified pride in celebrating this anniversary of one of Congress' finest hours.

It is astonishing to realize that only one member of the Public Works and Transportation Committee who participated in that historic bill is still in Congress. I served here then as a member of the staff, the committee's administrator. All the other principal players and prime movers in the conception, drafting, debate, passage, and enactment of the 1973 Safety Act are long gone from Capitol Hill. They are the heroes whose names I will call in a moment.

But first, I want to point out to this body why the Highway Safety Act is such a remarkable piece of legislation, and why all who shared in its creation have reason to be proud.

To begin with, the 1973 act was not the product of the executive branch, then under President Nixon. It did not spring from the expertise of the Federal Highway Administration or the Department of Transportation. Nor was it the handiwork of the highway safety community or of industry. Rather, it was 100 percent the product of the 93d Congress and specifically of the Public Works and Transportation Committee.

And, even though it was initially drafted by Bill Harsha (R–OH), ranking Republican on our then-diminutive 37-member committee, the bill had full bipartisan backing from the very beginning.

To put this pioneering legislation in context, until the Highway Safety Act became law, almost 60,000 Americans were dying on our highways every year. Despite the carnage, Congress had never even considered, much less enacted, a systematic program to fund and fix hazards and obstacles and bad road conditions on and off the Federal-Aid system.

This landmark measure was literally loaded with breakthrough provisions, but the first one, perhaps, was the astonishing revelation that not all highway accidents were the driver's fault. The committee Investigations and Oversight Subcommittee, chaired from its inception by my predecessor, John A. Blatnik, documented case after case of unforgiving highways: of misleading and difficult-to-read signs; of dangerous highway design features resulting in brutal gore areas, and areas that collected water, sending cars hydroplaning out of control; of projecting guard rails that literally speared the drivers of cars that veered off the highway lanes; and of light and sign poles which highway crews assiduously strengthened into death traps every time they were hit.

Now we have far more forgiving highways, where signs are brightly lit or reflective, and far more instructive and useful; of highways designed with safety in mind; of buried guardrail ends; and break-away light and sign poles. And many, many more safety features and ideas, including:

For the first time, Highway Trust Fund monies were allocated to finance the cost of highway safety improvements. Before then, general revenue moneys had to be appropriated separately, and suffered accordingly.

For the first time, a balance of authorizations was struck between highway construction and highway safety, to ensure that the legitimate needs of both would be taken care of.

For the first time, States were required to identify and establish inventories of roadway and roadside hazards and obstacles. Thereafter, they had to eliminate or correct more hazards based on cost-effective evaluations which were built into the programs.

The Federal contribution for these road safety improvements was 90 percent.

In addition, programs were established to place reflective center and edge lines on all highways nationwide, both on and off the Federal-Aid system; to provide financial incentives to encourage the States to adopt safety-belt-use laws; and to initiate research to develop new road safety devices to make driving conditions safer in all weather conditions. The curb ramps for the handicapped proposal, which today make it so much easier for wheelchair-bound people to get around, was added to the act by Bella Abzug (D–NY).

Mr. Speaker, any program's worth is measured not by what its proponents promise, but by what it actually produces.

On that score, the 1973 act's accomplishments have been outstanding.

To assess performance, the act required the Federal Highway Administration, working with the States, to evaluate results and submit annual reports to Congress. FHWA's Office of Highway Safety has done that each year starting in 1974. According to its latest estimates, to date—almost 100,000 lives have been saved: 1.7 million injuries have been prevented; and a truly staggering $350 billion in societal damages have been averted.

But the true bottom line is that, even with the millions more vehicles on the road today than there were in 1973; even with the billions more miles driven, the death toll on our highways have fallen from almost 60,000 in 1973 to under 40,000 last year. Other measures passed since 1973 have surely contributed to this dramatic reduction, but the pioneering road safety programs of the Highway Safety Act of 1973 charted and set the course.

Looking back to that time, it is clear that every member of the Committee on Public Works and Transprotation—Democrat and Republican—was a hero. Absent the committee's rock-solid bipartisan commitment, it might never have seen the light of day.

A few names stand out: William H. Harsha (R–OH), the act's father; John A. Blatnik (D–MN), its godfather; James C. Wright, Jr. (D–TX), James J. Howard (D–NJ), and Robert A. Roe (D–NJ), its indefatigable champions; and that grand elder statesman in the other body, Senator Jennings Randolph (D–WV).

And I also want to credit the staff of the committee for their skill in crafting the bill, and the Citizens for Highway Safety, created in 1974 after the Nixon administration impounded the funds, to guide, support, oversee, and force when they had to, the act's implementation.

Mr. Speaker, I urge my colleagues to consider the extraordinary accomplishments of the Highway Safety Act of 1973. In these days of partisan wrangling, we need to reflect on what good things we can accomplish for all Americans when we work together on a bipartisan basis. This anniversary of the Highway Safety Act should remind us that, when we work together, Congress can accomplish work of noble purpose and lasting value, of which the Highway Safety Act is a shining example.

We need to remind ourselves, and the American people, that a united and purposeful Congress can still get the job done.

A TRIBUTE TO WILLIAM ALAN HYMES, M.D.

HON. PETER T. KING

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1993

Mr. KING. Mr. Speaker, I rise to recognize the hard work and outstanding accomplishments of a good friend and native Long Islander, Dr. William Alan Hymes.

Earlier this month, the eminent surgeon, Dr. William C. Devries of Louisville, KY, announced his association with Dr. Hymes for the practice of cardiovascular and thoracic surgery. For Dr. Hymes, this represents the official beginning of what promises to be an outstanding career of service to his fellow man.

To be sure, this new opportunity also marks the culmination of 15 years of dedicated and determined study. In fact, those who know Bill, know just what the word "commitment" means. He has worked tirelessly in pursuit of knowledge. He has worked selflessly to master skills that have no equal in their difficulty. In doing so, he has maintained a unique sense of humor and close bonds with family, friends, and community. Bill Hymes has proven to be the kind of outstanding young American who merits the recognition and appreciation of the Members of this institution.

Dr. William A. Hymes completed his residency in thoracic and cardiovascular surgery at Baylor College of Medicine, Houston, TX. He received his medical degree from the State University of New York, Syracuse, NY and completed his residency in general surgery at the State University of New York Sciences Center at Stony Brook. Dr. Hymes is a diplomate, American board of surgery and a candidate for the American board of thoracic surgery.

Bill is also an honors graduate of Williams College, Williamstown, MA and of Long Beach Senior High School, Long Beach, NY. Dr. Hymes is the son of Mr. and Mrs. Robert Hymes of Lido Beach, NY.

Mr. Speaker, on behalf of the people of the Third Congressional District of New York, I congratulate Bill and wish him, his wonderful wife Dena, and their beautiful daughter Kelly all the best as they make their new life in Louisville.

INTRODUCTION OF THE NUTRITION LABELING AND EDUCATION ACT AMENDMENTS OF 1993

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1993

Mr. WAXMAN. Mr. Speaker, I am pleased to cosponsor the Nutrition Labeling and Education Act Amendments of 1993.

I believe that the Nutrition Labeling and Education Act of 1993 will be a great success. On May 8 of next year, the Food and Drug Administration's regulations to implement the NLEA will become effective. After that time, virtually all food labels will have the essential nutrition information that consumers want.

However, Mr. Speaker, during the past several months it has become apparent that certain small businesses will have extreme difficulty complying with the NLEA by May 8, 1994. The problem is that it can cost several thousand dollars to change the label of a food product to bring it into compliance with the NLEA. If the product has a small volume of sales, then this cost can severely disadvantage the small business that is selling the product.

The NLEA Amendments of 1993 will address this problem. Under the amendments, qualifying businesses will be given 1 to 3 additional years to comply with the NLEA. After May 8, 1997, any business with fewer than 100 employees can qualify for an exemption for any products for which it sells fewer than 100,000 cans or other units per year. However, after May 8, 2002, the Food and Drug Administration may lower the employee or unit requirements of the law if a lower requirement will not place an undue burden on small business. The bill contains no authority to administratively raise the requirements.

Mr. Speaker, this is a bipartisan bill. It has the support of key members of the minority and the majority in both the House and the Senate. In drafting the legislation, we consulted with organizations representing small businesses, organizations representing large food processing companies, consumer groups and with the Food and Drug Administration.

There is widespread support for this bill. A significant number of small businesses believe that it is essential to their survival, and for that reason I am committed to working to obtain its enactment as soon as possible.

INTRODUCTION OF THE NUTRITION LABELING AND EDUCATION ACT AMENDMENTS OF 1993

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1993

Mr. DINGELL. Mr. Speaker, I am pleased today to introduce the Nutrition Labeling and Education Act Amendments of 1993.

When Congress passed the Nutrition Labeling and Education Act [NLEA] in 1990, we did so in the interest of providing consumers with accurate and clear information about the nutritional content of their food. The act already has prompted a great deal of change. Publicity about this legislation has contributed greatly to a high level of consumer interest in the food label. Consumers care more than ever about the nutritional content of their food, and they are reading labels. Thanks to the NLEA and to the overwhelming positive response to the act by the food industry, when the final FDA regulations go into effect in May 1994, essentially every product in the American market basket will be nutritionally labeled.

Over the last 2 years, it has become evident that, unfortunately, the NLEA exemption for small businesses was too limited. It became clear that many small food businesses simply could not comply with the law's requirements in the timeframe allowed. Some very small businesses may have great difficulty complying at all. Concerns about this matter have been raised to FDA's attention and ours. They are legitimate concerns and they should be addressed. The bill we are introducing today addresses companies with small numbers of employees and products sold in relatively small quantities.

Under the NLEA amendments, small businesses will be given an additional 3 years to comply with NLEA nutrition labeling requirements. A sliding scale related to product quantity and number of employees is established, until May 8, 1997. After that date, an exemption remains in place for companies with fewer than 100 employees and products with sales of fewer than 100,000 units. The amendments allow the Secretary of Health and Human Services to reduce the exemption after the year 2002, if the Secretary determines that a reduction will not create an undue financial burden on small businesses.

The bill establishes a notification system, whereby the FDA will receive notice from a business claiming an exemption for a product. The system is a simple one that does not require complicated reporting or a response from FDA. Businesses with fewer than 10 employees, with product sales of fewer than 10,000 units, are not required to file this notice.

These amendments will provide greatly needed help to small businesses for whom a more realistic deadline for NLEA compliance is essential. Small specialty food manufacturers and retail confectioners, many of whom rely on low-volume sales of seasonal products, will be able to spread the cost of product analysis and printing over a 2- or 3-year period. This literally will allow them to stay in business. According to the Retail Confectioners Association, for example, a 1-year delay in NLEA implementation saves hundreds of millions of dollars.

This legislation has been developed in consultation with the administration and with both Democrats and Republicans in the House and Senate. There has been discussion not only with representatives of small businesses, but also with importers, representatives of large food companies, and consumer groups. This is a broadly supported concept, and the bill establishes a systematic, responsible approach to dealing with a problem faced by small businesses. This bill solves a nationwide dilemma, and deals with problems faced by small companies in virtually every State in the United States.

I am committed to working with my colleagues in the House and Senate to achieve speedy enactment of this legislation. If we fail to act promptly, we will jeopardize the future of small food companies all over the country.

Mr. Speaker, the text of the bill I am introducing today is reprinted below.

H.R.—

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Nutrition Labeling and Education Act Amendments of 1993".

SEC. 2. SMALL BUSINESS EXEMPTION.

(a) APPLICATION OF EXISTING EXEMPTION.—

(1) BEFORE MAY 8, 1995.—Before May 8, 1995, the exemption provided by section 403(q)(5)(D) of the Federal Food, Drug, and Cosmetic Act shall be available in accordance with the regulations of the Secretary of Health and Human Services published at 21 CFR 101.9(j)(1)9i)(1993).

(2) AFTER MAY 8, 1995.—After May 8, 1995, the exemption provided by section 403(q)(5)(D) of the Federal Food, Drug, and Cosmetic Act shall only be available with respect to food when it is sold to consumers.

(b) NEW EXEMPTION.—Section 403(q)(5) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343(q)(5)) is amended by redesignating clauses (E) and (F) as clauses (F) and (G), respectively, and by adding after clause (D) the following:

"(E)(i) During the 12-month period for which an exemption from subparagraphs (1) and (2) is claimed pursuant to this subclause, the requirements of such subparagraphs shall not apply to any food product if—

"(I) the labeling for such product does not provide nutrition information or make a claim subject to paragraph (r),

"(II) the person who claims for such product an exemption from such subparagraphs employed fewer than an average of 100 full-time equivalent employees,

"(III) such person provided the notice described in subclause (iii), and

"(IV) in the case of a food product which was sold in the 12-month period preceding the period of which an exemption was claimed, fewer than 100,000 units of such product were sold in the United States during such preceding period, or in the case of a food product which was not sold in the 12-month period preceding the period for which such exemption is claimed, fewer than 100,000 units of such product are reasonably anticipated to be sold in the United States during the period for which such exemption is claimed.

"(ii) During the 12-month period after the applicable date referred to in this sentence, the requirements of subparagraphs (1) and (2) shall not apply to any food product which was first introduced into interstate commerce before May 8, 1994, if the labeling for such product does not provide nutrition information or make a claim subject to paragraph (r), if such person provided the notice described in subclause (iii), and if—

"(I) during the 12-month period preceding May 8, 1994, the person who claims for such product an exemption from such subparagraphs employed fewer than an average of 300 full-time equivalent employees and fewer than 600,000 units of such product were sold in the United States,

"(II) during the 12-month period preceding May 8, 1995, the person who claims for such product an exemption from such subparagraphs employed fewer than an average of 300 full-time equivalent employees and fewer than 400,000 units of such product were sold in the United States, or

"(III) during the 12-month period preceding May 8, 1996, the person who claims for such product an exemption from such subparagraphs employed fewer than an average of 200 full-time equivalent employees and fewer than 200,000 units of such product were sold in the United States.

"(iii) The notice referred to in subclauses (i) and (ii) shall be given to the Secretary prior to the beginning of the period during which the exemption under subclause (i) or (ii) is to be in effect, shall state that the person claiming such exemption for a food product has complied with the applicable requirements of subclause (i) or (ii), and shall—

"(I) state the average number of full-time equivalent employees such person employed during the 12 months preceding the date such person claims such exemption,

"(II) state the approximate number of units the person claiming the exemption sold in the United States,

"(III) in the exemption is claimed for a food product which was sold in the 12-month period preceding the period for which the exemption was claimed, state the approximate number of units of such product which were sold in the United States during such preceding period, and, if the exemption is claimed for a food product which was not sold in such preceding period, state the number of units of such product which such person reasonably anticipates will be sold in the United States during the period for which the exemption was claimed, and

"(IV) contain such information as the Secretary may require to verify the information required by the preceding provisions of this subclause if the Secretary has questioned the validity of such information.

If a person is not an importer, has fewer than 10 full—time equivalent employees, and sells fewer than 10,000 units of any food product in any year, such person is not required to file a notice for such product under this subclause for such year.

"(iv) In the case of a person who claimed an exemption under subclause (i) or (ii), if, during the period of such exemption, the number of full-time equivalent employees of such person exceeds the number in such subclause or if the number of food products sold in the United States exceeds the number in such subclause, such exemption shall extend to the expiration of 18 months after the date the number of full-time equivalent employees or food products sold exceeded the applicable number.

"(v) For any food product first introduced into interstate commerce after May 8, 2002, the Secretary may by regulation lower the employee or units of food products requirement of subclause (i) if the Secretary determines that the cost of compliance with such lower requirement will not place an undue burden on persons subject to such lower requirement.

"(vi) For purposes of subclauses (i), (ii), (iii), (iv), and (v)—

"(I) the term 'unit' means the packaging or, if there is no packaging, the form in which a food product is offered for sale to consumers,

"(II) the term 'food product' means food in any sized package which is manufactured by a single manufacturer or which bears the same brand name, which bears the same statement of identity, and which has similar preparation methods, and

"(III) the term 'person' in the case of a corporation includes all domestic and foreign affiliates of the corporation.".

SEC. 3. TECHNICAL AMENDMENTS TO FEDERAL FOOD, DRUG, AND COSMETIC ACT.

(a) REFERENCE.—Whenever in this section an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Food, Drug, and Cosmetic Act.

(b) SECTION 201.—Paragraphs (w), (x), (y), (z), (aa), (bb), (cc), (dd), (ee), and (ff) of section 201 (21 U.S.C 321) are redesignated as paragraphs (v), (w), (x), (y), (z), (aa), (bb), (cc), (dd), and (ee) respectively.

(c) SECTION 301.—Section 301 (21 U.S.C. 331) is amended—

(1) in subsection (j), by striking out "721, or 708" and inserting in lieu thereof "708, or 721"; and

(2) in subsection (s), by striking out "412(d)" and inserting in lieu thereof "412(e)".

(d) SECTION 302.—Section 302 (21 U.S.C. 332) is amended

(1) in subsection (a), by striking out ", and subject to" and all that follows through "381),", and

(2) in subsection (b), by striking out the second sentence.

(e) SECTION 303.—Section 303 (21 U.S.C. 333) is amended by redesignating the second subsection (e) and subsection (f) as subsections (f) and (g), respectively.

(f) SECTION 304.—Section 304 (21 U.S.C. 334) is amended—

(1) in subsection (a)(1), by striking out ": *Provided, however*, That no" and inserting in lieu thereof a period and "No", and

(2) in subsection (d)(1)—

(A) by striking out ": *Provided*, That after" and inserting in lieu thereof a period and "After",

(B) by striking out ": *Provided, however*, That the" and inserting in lieu thereof a period and "The",

(C) by striking out ": *And provided further*, That where" and inserting in lieu thereof a period and "Where", and

(D) by striking out "the foregoing proviso" and inserting in lieu thereof "the preceding sentence"

(g) SECTION 307.—Section 307(b)(3)(A) (21 U.S.C. 337(b)(3)(A)) is amended by striking out "Act" and inserting in lieu thereof "section".

(h) SECTION 401.—Section 401 (21 U.S.C. 341) is amended by striking out "and/or reasonable standards of fill of container: *Provided*, That no" and inserting in lieu thereof "or reasonable standards of fill of container. No".

(i) SECTION 402.—Section 402 (21 U.S.C. 342) is amended—

(1) by striking out "; or" at the end of subparagraphs (1) and (2) of paragraph (a) and inserting in lieu thereof a period and by striking out "if it" at the beginning of subparagraph (3) of such paragraph and inserting in lieu thereof "If it",

(2) in paragraph (d)(1), by striking out ": *Provided*, That this clause" and inserting in lieu thereof ", except that this subparagraph", and

(3) in paragraph (d)(3), by striking out ": *Provided*, That this clause" and inserting in lieu thereof ", except that this subparagraph" and by striking out ": *And provided further*, That the Secretary may, for the purpose of avoiding or resolving uncertainty as to the application of this clause" and inserting in lieu thereof ", except that the Secretary may, for the purpose of avoiding or resolving uncertainty as to the application of this subparagraph".

(j) SECTION 403.—Section 403 (21 U.S.C. 343) is amended—

(1) in paragraph (e), by striking out "': *Provided*, That" and inserting in lieu thereof "', except that",

(2) in paragraph (i), by striking out "', other than those sold as such" and inserting in lieu thereof "unless sold as spices, flavorings, or such colors" and by striking out "': *Provided*, That, to the extent" and inserting in lieu thereof a period and "To the extent",

(3) in paragraph (k), by striking out "': *Provided*, That" and inserting in lieu thereof "', except that",

(4) in paragraph (l), by striking out "': *Provided*, *however*, That" and inserting in lieu thereof "', except that";

(5) in paragraph (r)(1)(B), by striking out "5(D)" and inserting in lieu thereof "(5)(D)"; and

(6) in paragraph (r)(4)(B), by striking out "subsection" and inserting in lieu thereof "paragraph".

(k) SECTION 408.—Section 408 (21 U.S.C. 346a) is amended—

(1) in subsection (a)(1), by striking out "Secretary of Health and Human Services" and inserting in lieu thereof "Administrator of the Environmental Protection Agency (hereinafter in this section referred to as the 'Administrator')",

(2) in subsection (d)(5), by striking out "section 7(c) of the Administrative Procedure Act (5 U.S.C., sec. 1006(c))" and inserting in lieu thereof "section 556(c) of title 5, United States Code",

(3) in subsection (l), by striking out "It the event" and inserting in lieu thereof "In the event",

(4) in subsection (n), by striking out "of the Federal Food, Drug, and Cosmetic Act",

(5) in subsection (o), by striking out "Secretary of Health and Human Services" each place it occurs and inserting in lieu thereof "Administrator", and

(6) by striking out "Secretary" each place it occurs except when followed by "of Agriculture" and inserting in lieu thereof "Administrator".

(l) SECTION 412.—Section 412(h) (21 U.S.C. 350a(h)) is amended by striking out "(c)(1)(B)," and inserting in lieu thereof "(e)(1)(B)".

(m) SECTION 502.—Section 502 (21 U.S.C. 352) is amended—

(1) in paragraph (e)(3), by striking out "': *Provided further*, That" and inserting in lieu thereof "', except that",

(2) in paragraph (f), by striking out "': *Provided*, That" and inserting in lieu thereof "', except that",

(3) in paragraph (g), by striking out "': *Provided*, That the method" and inserting in lieu thereof a period and "The method" and by striking out "': *Provided further*, That," and inserting in lieu thereof "', except that", and

(4) in paragraph (n), by striking out "': *Provided*, That" and inserting in lieu thereof "', except that".

(n) SECTION 505.—Section 505 (21 U.S.C. 355) is amended—

(1) in subsection (j)(6)(A)—

(A) by striking out "Secretry" in clause (ii) and inserting in lieu thereof "Secretary", and

(B) by inserting a comma after "Secretary" the first time it appears in clause (iii).

(2) in subsection (k)(1), by striking out "': *Provided*, *however*, That regulations" and inserting in lieu thereof a period and "Regulations".

(o) SECTION 506.—Section 506(a) (21 U.S.C. 356(a)) is amended by striking out "Federal Security Administrator" and "Administrator" each place it appears and inserting in lieu thereof "Secretary".

(p) SECTION 507.—Section 507 (21 U.S.C. 357) is amended—

(1) in subsection (a), by striking out "Federal Security Administrator" and "Administrator" each place it appears and inserting in lieu thereof "Secretary",

(2) in subsection (e)—

(A) by striking out "section 507" each place it occurs and inserting in lieu thereof "this section",

(B) by striking out "or 507" and inserting in lieu thereof "or this section", and

(C) by striking out "': *Provided*, That, for purposes" and inserting in lieu thereof a period and "For purposes",

(3) in subsection (g)(1), by striking out "': *Provided*, *however*, That regulations" and inserting in lieu thereof a period and "Regulations".

(4) in subsection (h), by striking out "507".

(q) SECTION 508.—Subsections (c) and (e) of section 508 (21 U.S.C. 358) are each amended by striking out "section 4 of the Administrative Procedure Act (5 U.S.C. 1003)" and inserting in lieu thereof "section 553 of title 5, United States Code".

(r) SECTION 512.—Section 512 (21 U.S.C. 360b) is amended—

(1) in subsection (c)(2)(A)(ii), by inserting "in" after "provided",

(2) in subsection (c)(2)(F)(i), by striking out "(C)(iii)" and inserting in lieu thereof "(D)(iii)",

(3) in subsection (c)(2)(H), by striking out "subclause" the first time it appears and inserting in lieu thereof "subclauses",

(4) in subsection (d)(1), by striking out "subparagraphs (A) through (G)" and inserting in lieu thereof "subparagraphs (A) through (I)", and

(5) in subsection (n)(1)—

(A) by striking out "201(w)" in subparagraphs (B)(ii)(II) and (C)(ii)(I) and inserting in lieu thereof "201(v)", and

(B) by striking out in the last sentence "(H)" and inserting in lieu thereof "(I)".

(s) SECTION 513.—Section 513(b)(3) (21 U.S.C 360c(b)(3)) is amended by striking out "5703(b)" and inserting in lieu thereof "5703".

(t) SECTION 515.—Section 515(c)(2)(A) (21 U.S.C. 360e(c)(2)(A)) is amended by striking out "refer such application".

(u) SECTION 519.—Section 519(a) (21 U.S.C. 360i(a)) is amended by striking out "paragraph (4)" and inserting in lieu thereof "paragraph (7)".

(v) SECTION 527.—Section 527(b) (21 U.S.C. 360cc(b)) is amended—

(1) by striking out "507,," and inserting in lieu thereof "507,", and

(2) in paragraph (1), by striking out "The" and inserting in lieu thereof "the".

(w) SECTION 534.—Section 534(f)(2) (21 U.S.C. 360kk) is amended by striking out "this Act" and inserting in lieu thereof "the Public Health Service Act".

(x) SECTION 601.—Section 601(a) (21 U.S.C. 361) is amended by striking out "': *Provided*, That this" and inserting in lieu thereof "', except that this".

(y) SECTION 701.—Section 701 (21 U.S.C. 371) is amended—

(1) in subsection (e)(1), by striking out the period after "Regulations)" the second time it occurs, and

(2) in subsection (f)(4), by striking out "sections 239 and 240 of the Judicial Code, as amended" and inserting in lieu thereof "section 1254 of title 28, United States Code".

(z) SECTION 703.—Section 703 (21 U.S.C. 373) is amended—

(1) by striking out "': *Provided*, That" and inserting in lieu thereof "', except that",

(2) by striking out "': *Provided further*, That" and inserting in lieu thereof "', and except that"

(aa) SECTION 704.—Section 704(a)(1) (21 U.S.C. 374(a)(1) is amended—

(1) by striking out the semicolon after "materials" and inserting in lieu thereof a comma, and

(2) by striking out "(j)" the first time it appears and inserting in lieu thereof "(k)".

(bb) SECTION 721.—Section 721(b)(5)(D) (21 U.S.C. 379e(b)(5)(D)) is amended by striking out "5703(b)" and inserting in lieu thereof "5703".

(cc) SECTION 801.—Section 801(b) (21 U.S.C. 381(b) is amended—

(1) by striking out "Administrator" the first time it occurs and inserting in lieu thereof "Secretary of Health and Human Services",

(2) by striking out "Administrator" the second and third time it occurs and inserting in lieu thereof "Secretary",

(3) by striking out "Administrator's" and inserting in lieu thereof "Secretary's", and

(4) by striking out "Federal Security Agency" and inserting in lieu thereof "Department of Health and Human Services".

(dd) AGRICULTURE.—

(1) Sections 201(c), 201(d), 701(b), and 801(a) (21 U.S.C. 321(c), 321(d), 371(b), and 381(a) are each amended by striking out "Agriculture" each place it appears and inserting in lieu thereof "Health and Human Services".

(2) Sections 702(c) and 706 (21 U.S.C. 372(c) and 376) are each amended by striking out "of Agriculture" each place it appears.

SEC. 4. TECHNICAL AMENDMENTS TO AMENDATORY ACTS.

(a) SAFE MEDICAL DEVICES ACT OF 1990.—

(1) Section 18(b) of the Safe Medical Devices Act of 1990 (Public Law 101–629) is amended by striking out "(b)(4)(B)" and inserting in lieu thereof "(b)",

(2) Section 19(a)(4) of the Safe Medical Devices Act of 1990 (Public Law 101–629) is amended—

(A) by striking out "as amended by paragraphs (1) and (2)" and inserting in lieu thereof "as amended by paragraphs (1), (2), and (3)",

(B) by striking out "530" and inserting in lieu thereof "531", and

(C) by striking out "354" and inserting in lieu thereof "355".

(b) MEDICAL DEVICE AMENDMENTS OF 1992.—Section 6(a) of the Medical Device Amendments of 1992 (Public Law 102–300) is amended by inserting "wherever appearing" after "'any of its principal'".

(c) NUTRITION LABELING AND EDUCATION ACT OF 1990.—Section 8 of the Nutrition Labeling and Education Act of 1990 is amended by striking the period at the end and inserting close quotation marks and a period.

HEALTH CARE REFORM

HON. BOB LIVINGSTON

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1993

Mr. LIVINGSTON. Mr. Speaker, as this administration continues to deliberate on how to present and package their health care reform legislation, I hope they do not continue to rely on the Federal Government to administer every aspect of our health care delivery system. As the story by Doc. Peter Gott that appeared in the July 11 New Orleans Times Picayune indicates, we cannot afford to pass more laws that put patient decisions in the hands of bureaucrats:

MEDICARE REFUSES A DYING MAN

(By Peter H. Gott, M.D.)

I had known my patient, an 82-year old man, for more than 20 years. When he came to the office because he felt weak, I was surprised; he ordinarily avoided medical attention—except for routine checkups a couple of times a year. He enjoyed his retirement and prided himself in enjoying good health. In fact, he believed that life's aches and pains were too trivial to need "doctoring." Nonetheless, he had subjected himself to the necessary medical supervision since having had a colon cancer removed six years before.

On examination, he was pale and had a prominent abdomen. Because his liver was enlarged, I obtained blood tests and discovered that his anemia was complicated by liver damage. Therefore, I chose to admit him to hospital on May 4; he was too unsteady on his feet for homecare. By May 6, I had discovered the cause of his problem: His colon cancer had spread to his liver, right shoulder blade and brain.

After reviewing the case, my cancer-specialist colleague confirmed the hopelessness of the situation. My patient had untreatable, metastatic cancer. We agreed that a comfort-oriented approach was appropriate and made plans to transfer my patient to a nursing home as soon as possible.

On May 7, a representative of the hospital utilization review committee informed me that my patient's hospitalization would be "denied," meaning that Medicare would not pay.

"Here is a man with advanced cancer who cannot function at home," I explained. "Why are his hospital benefits going to be denied?"

"Because he is not receiving acute care commensurate with that offered by a general hospital," the representative replied. "He is not getting physical therapy or a feeding tube, for example."

On May 10, the patient's sons arrived, one from Florida, the other from Colorado. We met with the patient and the four of us held a strategy session, during which I explained the situation in detail. The patient and his family agreed that life-saving measures would be inappropriate and would only add to his discomfort. The patient insisted that he did not want intravenous fluids (which were unnecessary) or transfusions. We settled on pain medicine (when needed) and a liquid diet. He was made comfortable.

During the week, the patient's clinical state steadily deteriorated. He slept much of the time but was able to visit with his sons, whom he had not seen since their mother's death several years before.

Finally, on May 14, thanks to the superhuman efforts of the hospital's Social Service department, he was transferred to a nursing home for terminal care.

On May 16, he quietly died in his sleep. Two days later, I received official notification from the Medicare authorities that his hospital benefits were denied because he "didn't need" the care offered in the hospital.

This is not a rare case. This sort of unjust decision is made—probably many times a day—by non-M.D. insurance and Medicare personnel. And it isn't going to improve under any future health-care plan. Rather, I suspect it will get worse. As the cost cutters strive to reduce medical bills, many sick patients—even the terminally ill—will be deprived of hospital benefits to which they assumed they were entitled.

Of course, I could have played the game by plugging my patient to IV feedings and performing heroic acts that would merely have postponed death. But these actions wouldn't have been in his best interests. My patient died after less than two weeks of hospitalization, with dignity and with minimal suffering. As I reflect on this unhappy event, I am troubled by two rhetorical questions:

Was Hillary Rodham Clinton's father denied Medicare benefits? And if he had been, would the new health-care proposals reflect this?

You see, in today's cut-throat, cost-containment feeding frenzy, it's not so much what you have as who you are that determines what you get.

COSPONSORING H.R. 962, BANKING REGULATORY RELIEF

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1993

Mrs. ROUKEMA. Mr. Speaker, today I am joining many of my House colleagues in cosponsoring H.R. 962, the Financial Institutions Regulatory Paperwork Reduction Act. I do so out of concern for the amount of paperwork and costs associated with the regulation of our financial institutions, and the expanded role the agencies have been given as part of their regulatory responsibilities.

In addition to creating unnecessary paperwork, we may have, in our efforts to re-regulate our institutions in the wake of the S&L crisis, gone farther than necessary. In many cases, our regulatory agencies are no longer just examining our banks for the overall financial condition of the institution. They are, in fact, examining the day-to-day operations and business decisions of the banks which add to the paperwork and the regulatory burden.

As a member of the House Banking Committee, and a strong supporter of tough capital and regulatory standards, I have decided to cosponsor this legislation after careful review of current banking laws to see if there are specific statutes or regulations which are overly burdensome and costly to the banks and which do not enhance the safety and soundness of our financial institutions or serve to protect the general public.

After reviewing this legislation and after extensive communication with the New Jersey Bankers Association and many of our local banks in an attempt to understand the exact nature of the problem, I believe that there are such burdensome laws and that they should be considered for revision. Many of the provisions of H.R. 962 take this important step.

Unnecessary burdensome regulation do probably impose a cost on our financial institutions. But while the exact cost may be debatable any unnecessary cost does result in diminished earnings, does impair the ability of banks to raise capital and, in some cases, may limit lending capacity.

Now, I hold a rather healthy skepticism with respect to the argument that this regulatory and paperwork burden has somehow contributed to the credit crunch. The availability of credit was a problem long before the banking industry made regulatory relief their top priority. The fact is, banks and other institutions, over the past 3 or 4 years have been attempting to rebound from the enormous losses they incurred in real estate and other lending. In addition, the general state of the economy has, in the view of several in the Federal Reserve, lessened the demand for loans. Nevertheless, there is a credit availability problem especially with respect to the small business community and industries such as the homebuilding industry which must be addressed.

While recognizing the need to address the issues of regulatory reform and paperwork reduction my cosponsorship of H.R. 962 does not mean that I endorse all of the provisions of the bill. In fact, I have specific concerns with several provisions which I believe have very little to do with regulatory relief or paperwork reduction and a lot to do with the safety and soundness of our financial institutions.

First, FDICIA requires bank regulatory agencies to develop capital standards to account for interest rate risk, concentration of credit risk and the risk of nontraditional activities. H.R. 962 would delay the phasein of those standards until similar international capital standards are implemented. As a strong supporter of tough capital standards, I do not support this delay because there is no indication when those international standards will be agreed to.

Second, H.R. 962 would repeal the FDICIA requirement that banks disclose the true market value of their assets. This mark-to-market provision serves to give a truer estimate of the banks net exposure and should not be repealed.

Third, H.R. 962 would repeal current statutory limitations on the amount of loans banks may make to their own officers and directors. Abuses involving insider lending played a key role in many of the problems of our banks and thrifts. These sensible restrictions serve to protect the banks from abuse and should not limit the ability of banks to hire officers and directors.

Fourth, the legislation would modify the current annual examination requirements to allow certain banks to be examined every 2 years instead of every year. While the examination process is often long and cumbersome, the requirement for an annual exam should not be weakened.

Fifth, the legislation would amend the Truth in Lending Act and the Electronic Fund Transfer Act to place a higher burden of liability on consumers to pay for unauthorized charges to their credit cards or unauthorized use of ATM cards.

Finally, H.R. 962 attempts to create a safe harbor from the provisions of the Community Reinvestment Act by aggregating the ratings of subsidiary institutions of a bank holding company. While CRA paperwork should be reduced and performance goals substituted, the basic requirements of CRA should not be eliminated.

Mr. Speaker, in conclusion, I am cosponsoring H.R. 962 because I believe that unnecessary and costly rules and regulations should be eliminated or revised. The general thrust of this legislation would accomplish this goal. However, I believe the larger and more important issues which must yet be addressed are the issues of interstate banking and branching and the careful revision of Glass-Steagall laws.

I have reservations about this bill which I have highlighted. These concerns have more to do with the safety and soundness of the banking industry than with paperwork reduction.

I look forward to working with the authors of this legislation, the gentleman from Nebraska, Mr. BEREUTER and the gentleman from Florida, Mr. BACCHUS, and others to craft a regulatory burden relief bill which can move through the Banking Committee and will result in regulatory relief while not impairing the safety and soundness of our institutions.

TRIBUTE TO WILLIAM F. ANDERSON

HON. WILLIAM P. BAKER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1993

Mr. BAKER of California. Mr. Speaker, William F. Anderson, 80, has been a Contra Costa County resident since childhood. He began his real estate career in 1936 in Walnut Creek and, except for military service from 1942–45, has been an active realtor for 50 years.

Bill Anderson has served on the Contra Costa Association of Realtors board of directors for over 10 years, serving as its president in 1948. Mr. Anderson has also been active in the California Association of Realtors, chairing many committees and serving on its executive committee 8 years. He was awarded the honorary presidency in 1978. Anderson has also served the real estate profession as a National Association of Realtors director for 10 years.

William F. Anderson is a community leader dedicating much of his time to charitable, civic, religious, and political organizations. He has served on the Walnut Creek planning commission plus Chamber of Commerce president in past years.

The Contra Costa Association of Realtors are honoring Bill Anderson with a testimonial dinner on August 6, 1993, and the County Board of Supervisors have proclaimed that day as William F. Anderson Day in his honor. The Congress of the United States is privileged to acknowledge the accomplishments of William F. Anderson as a civic and community leader and bringing the American dream of home ownership to thousands of Contra Costa residents.

THE PRESIDENT'S "SCHOOL-TO-WORK TRANSITION ACT OF 1993"

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1993

Mr. GOODLING. Mr. Speaker, I am pleased to join with Chairman FORD, others today, in the introduction of President's School-to-Work Transition Act Of 1993. This legislation is designed to bring together partnerships of employers, educators, and others for the purpose of building a high quality school-to-work system in the United States. Such a system would prepare this Nation's youth for careers in high-skill, high-wage jobs. For this reason, I look forward to working with the administration, in a bipartisan manner, to further develop this legislation, and to see the establishment of such a comprehensive school-to-work system in this country.

It has become a well-known statistic in recent years, that only about 50 percent, or approximately 1.4 million of this Nation's youth enter some form of postsecondary education the fall after they graduate high school. Of these, only about half successfully complete a baccalaureate degree. For the remainder, representing three out of four U.S. youth, a rough and often painful transition to a career begins. Yet our U.S. educational system continues to be disproportionately geared to meeting the needs of college-bound youth. There is simply no mechanism in our schools to link young people to employers. As a result, youth unemployment stays consistently at three times the level of adult unemployment. For minority youth, it is often five times that of the adult level. Yet good jobs do exist.

Seventy-five percent of the jobs in the United States do not require a 4 year college education. However good jobs, with career potential, do require a strong foundation in academic, technical, and employability skills, and many require some form of postsecondary education or training.

While not identical, the legislation we are introducing today, shares many of the key components of a bill that Representative STEVE GUNDERSON and I introduced earlier this year to create a system of school-to-work transition and youth apprenticeship programs in the United States. Both measures provide considerable flexibility at the State and local levels—allowing local communities to develop programs that meet their individual economic and labor market needs. Both are built around partnerships at the local level, that bring employers, schools, workers, and students together to design the system. Both bills require the integration of school-based and work-based learning. And both bills are designed so that the successful completion of a school-to-work program will lead to a high school diploma, a portable certificate of competency in an occupation, a certificate or diploma from a postsecondary institution, if appropriate, and employment in a high-skill, high-paying job.

There is growing consensus in this country that U.S. competitiveness is directly dependent on the skills levels of our work force. While I do not necessarily agree with every minute detail this legislation, and I look forward to working with the administration on these points of difference, I strongly agree with the overall thrust of the bill—that of moving our educational system into the 21st century.